

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM FRENCH, ET. AL.

No. 3:23-cv-538-MEM

Plaintiffs

v.

LUZERNE COUNTY, ET. AL.

Defendants

**PLAINTIFFS' CONCISE STATEMENT OF  
UNDISPUTED MATERIAL FACTS**

Under Local Rule 56.1, plaintiffs submit this concise statement of undisputed material facts.

**A. THE PARTIES**

1. The County of Luzerne (the "County") is a county of the third class organized and existing under the law of the Commonwealth of Pennsylvania. Compl., ECF No. 1 at ¶ 11; Ans., ECF No. 39 at ¶ 11,

2. The Luzerne County Board of Elections and Registration is a county board of elections organized under 25 P.S. § 2641 and the Luzerne County Home Rule Charter. Compl., ECF No. 1 at ¶ 12; Ans., ECF No. 39 at ¶ 12.

3. Plaintiff, William French, is a qualified and registered voter in the Commonwealth of Pennsylvania who resides in Luzerne County. Compl., ECF No. 1 at ¶ 9; Ans., ECF No. 39 at ¶ 9.

4. French was a registered voter in Luzerne County in 2022 and was qualified to vote in Luzerne County in the 2022 General Election on November 8, 2022. *Id.*

5. Plaintiff, Melynda Anne Reese, is a qualified and registered voter in the Commonwealth of Pennsylvania who resides in Luzerne County. Compl., ECF No. 1 at ¶ 10; Ans., ECF No. 39 at ¶ 10.

6. Reese was a registered voter in Luzerne County in 2022 and was qualified to vote in Luzerne County in the 2022 General Election on November 8, 2022. *Id.*

**B. BALLOT PAPER AND THE BALLOT PAPER SHORTAGE.**

7. 25 P.S. § 2967(a) requires the County to have enough ballot paper for 100% of the registered voters within a voting district minus the number of registered voters within a voting district who requested mail-in or absentee ballots. Defs.' Ans. to Plts.' Int. 9 at Ex. 1.

8. Ballot paper is a critical election supply. Deposition of Jennifer Pecora (“Pecora dep.”), 91:4-7 at Ex. “2.”

9. Preventing ballot paper shortages from occurring is a high priority for the County. *Id.*, 91:8-11.

10. Elections must be properly administered so that people are not denied the right to vote. Deposition of Emily Cook (“Cook dep.”), 31:12-15 at Ex. “3.”

11. It is never acceptable for someone to be denied the right to vote because an election is not properly administered. *Id.*, 31:16-19.

12. If an election is properly administered, there should never be a ballot paper shortage. Pecora dep., 91:12-14.

13. It is obvious that without sufficient ballot paper voters might not be able to vote. Declaration of Beth Gilbert f/k/a Beth Gilbert McBride (“Gilbert dec.”) at ¶ 44 at Ex. 4.

14. In November 2022, the County did not supply each polling location with a sufficient amount of ballot paper for 100% of the registered voters within a voting district minus the number of registered voters within a voting district who requested mail-in or absentee ballots. Def. Ans. to Int. at ¶ 9 at Ex. 1.

15. This ballot-paper shortage affected between 35-40 polling locations in the Luzerne County. Cook dep., 76:22-25, 77:1, 167:9-14 at Ex. “3.”

16. The ballot-paper shortage caused voters in Luzerne County, through no fault of their own to be disenfranchised. *See* Order of the Luzerne County Court of Common Pleas dated November 8, 2022, ECF No. 1-1; *In Re: Extension of Time for the Polls to Remain Open in the 2022 General Election*, No. 09970-2022, N.T. 7:8-13 at Ex. “5.”

**C. THE COUNTY’S FAILURE TO TRAIN ELECTION OFFICIALS AND TO ADOPT POLICIES AND PROCEDURES REGARDING BALLOT PAPER AND THE ADMINISTRATION OF ELECTIONS.**

17. The Director of Elections is “the highest-ranking official within the Bureau of Elections who is tasked with overseeing all aspects of election administration with Luzerne County and supervisions of all full-time, part-time, and seasonable employees of the Elections Bureau.” Ans., ECF No. 39 at ¶ 59.

18. The Director of Elections is the person who is ultimately responsible for administering elections in the County. Pecora dep. at 30:15-20 at Ex. “2”; Defs.’ Ans. to Int. 11 at Ex. 1.

19. From July 15, 2022 to June 27, 2023, Beth Gilbert, f/k/a Beth Gilbert McBride (“Gilbert”), was employed by County and worked in the Bureau of Elections. Gilbert dec. at ¶ 1 at Ex. “4.”

20. Gilbert was initially hired to serve as the deputy Director of Elections for the County. *Id.*, ¶ 2.

21. The deputy Director of Elections supports the Director of Elections. *Id.*, ¶ 3.

22. In August 2022, the County’s Director of Elections, Michael Susek, resigned. Ans., ECF No. 39 at ¶ 85.

23. To replace him, the County appointed Gilbert the acting Director of Elections for the County. *Id.* at ¶ 81.

24. Therefore, Gilbert was the acting Director of Elections for the November 2022 general election. Compl., ECF No. 1 at ¶ 57, Ans., ECF No. 39 at ¶ 57.

25. As the acting Director of Elections, Gilbert was responsible for, among other things, ordering ballot paper for the November 2022 general election. Defs.’ Ans. to Plts.’ Int. 5 at Ex. “1.”

26. Gilbert decided not to order ballot paper for the November 2022 general election. Cook dep., 121:14-16, 121:21-25 at Ex. “3.”

27. Before she was hired by the County as deputy Director of Elections, Gilbert had no experience in administrating elections for a county and had received no training concerning the same. Gilbert dec. at ¶ 4 at Ex. “4.”

28. Before she was hired, she had two interviews with County officials. *Id.* at ¶ 5.

29. During both interviews, she made abundantly clear to the interviewers that she had no experience or training in administration of elections. *Id.* at ¶ 6.

30. After she was hired, the County did not train Gilbert in any of her responsibilities and did not train her on how to properly administer an election. *Id.* at ¶ 7.

31. Before Gilbert appointing her acting Director of Elections, the County neither offered Gilbert nor provided Gilbert with any training on the administration of elections. *Id.* at ¶ 12.

32. While serving as acting Director of Elections, the only election related instruction Gilbert received was from Dominion Voting Systems on how the County’s voting machines operated. *Id.* at ¶ 14.

33. From September 2022 until January 2023, Cook was the acting deputy Director of Elections. Cook dep. at 24:1-4 at Ex. “3.”

34. Before being named acting deputy Director of Elections, Cook had very limited experience with federal election laws and limited experience with the Pennsylvania Election Code. *Id.* at 37:3-7.

35. Before the November 2022 general election, Cook had never taken any coursework related to the administration of elections. *Id.* at 16:1-20.

36. Before naming her as acting deputy Director of Elections, the County was aware of Cook’s lack of experience administering elections. *Id.* at 37:15-19.

37. Before naming her as acting deputy Director of Elections, the County and the Bureau did not provide Cook with any formal training necessary for her to fulfil her job duties related to administration of elections. *Id.* at 37:20-24.

38. While she was acting deputy Director of Elections, the County never provided Cook any training necessary for her to fulfil her job duties, on the Pennsylvania Election Code, or federal election law. *Id.* at 38:8-13, 38:24-25, 39:1-6.

39. The Director of Elections reports to the Administrative Services Division Head and the Luzerne County Manager. Ans., ECF No. 39 at ¶ 59.

40. The Division Head of Administrative Services oversees the Bureau of Elections, among other departments. Pecora dep. at 21:15-18 at Ex. “2.”

41. Between September 2022 and November 2022, Jennifer Pecora (“Pecora”) was the County’s Administrative Services Division Head. *Id.* at 21:9-12.

42. The County has never provided Pecora with any training on the administration of elections. *Id.* at 36:14-16.

43. The County has never provided Pecora with any training on Pennsylvania Election Code. *Id.* at 36:17-19.

44. The County has never provided Pecora with any training on federal elections laws. *Id.* at 36:20-21.

45. Between September 2022 and November 2022, Pecora and Gilbert met almost daily to discuss the November 2022 general election. *Id.* at 33:18-25, 34:1-9.

46. However, Pecora and Gilbert did not discuss ordering ballot paper during those meetings. *Id.* at 35:6-9.

47. Before the November 2022 general election, the County never provided any training to election officials regarding how much ballot paper to order for an election. Cook dep. at 124:3-6 at Ex. “3.”

48. Before the November 2022 general election, the County never adopted written policies and procedures regarding how much paper to order for each election. *Id.* at 124:7-10.

49. Before the November 2022 general election, the County had not adopted any policies and procedures to make certain that an adequate supply of ballot paper was on hand for each election. *Id.* at 124:11-16.

50. For the November 2022 general election, the County had not adopted any written policy and procedure regarding what to do if a polling location ran low or out of paper. Cook dep. at 94:6-10; 138:19-25, 139:1-11; Gilbert dec. at ¶ 37.

51. In November 2022, the County had not provided any training regarding what to do if a polling location ran out of ballot paper. Cook dep. at 94:11-15.

52. For the November 2022 general election, the County did not maintain any specific policy or procedure concerning how ballot paper was dispatched to polling locations throughout the County. Gilbert dec. at ¶ 33.

53. For the November 2022 general election, the County did not maintain any specific policy or procedure to assure that each polling location had adequate ballot paper. *Id.* at ¶ 34.

54. For the November 2022 general election, the County did not maintain any specific policy or procedure regarding dispatching ballot paper to polling locations that needed it. *Id.* at ¶ 35.

55. For the November 2022 general election, the County did not maintain any specific policy or procedure for replacing ballot paper or maintaining adequate voting related supplies. *Id.* at ¶ 36.

56. The County maintained a “Seal Team,” whose responsibilities included assuring voting machines were properly operating, loaded with supplies, including ballot paper, and sealed before the machines were delivered to polling locations. *Id.* at ¶ 38.

57. Emily Cooke, Jennifer Pecora, Harry Hanson, Dan Reese, Randy Shaw, Jonathan O'Dell were the members of the "Seal Team." *Id.*, at ¶ 39; Defs.' Ans. to Int. No. 13 at Ex. "1."

58. The County had adopted no written policies and procedures that the "Seal Team" was to follow to fulfil their duties. Gilbert dec. at ¶ 41 at Ex. "4," Cook dep. at 94:1-6 at Ex. "3."

59. Before the November 2022 general election, the County had not adopted policies and procedures regarding the stocking of paper in voting machines before they were sealed and delivered to polling locations. Cook dep. at 82:12-16.

60. Cook was the de facto leader of the Seal Team. *Id.* at 87:17-21.

61. The County did not provide the Seal Team with any training necessary for the team to fulfil their duties, did not adopt policies and procedures that the Seal Team should follow, and did not tell the Seal Team to make sure the voting machines had adequate paper before sealing them. *Id.* at 89:3-15.

62. The County provided no training to the “Seal Team” to assist the “Seal Team” in performing their duties. Gilbert dec. at ¶ 40; Cook dep. at 94:1-6.

63. During the November 2022 election, there were no specific and clear policies and procedures on how to administer elections in the County. Gilbert dec. at ¶ 32 at Ex. “4.”

64. The lack of training of County election staff caused at least some voters to be turned away from the polls on election day in 2022. *Id.* at ¶ 42.

65. The lack of formal policies and procedure by the County in how to properly administer elections caused the ballot paper shortage that is the subject matter of this litigation to occur. *Id.* at ¶ 43.

**D. DEFENDANTS’ FAILURE TO TRAIN AND TO ADOPT ADEQUATE POLICIES AND PROCEDURES CAUSED PLAINTIFFS TO BE DENIED THE RIGHT TO VOTE OR SIGNIFICANTLY BURDENED THEIR RIGHT TO VOTE.**

66. Since 2011, French has been disabled, completely unable to work, and has received disability income. Deposition of William French (“French dep.”) at 13:11-25; 14:1-2.

67. On the morning of November 8, 2022 (Election Day), French went to his local polling place at the Freeland Ambulance Association,

417 Johnson Street, Freeland, PA 18224 to cast his vote in person. Compl., ECF No. 1 at ¶ 34; Deposition of Rule 30(b)(6) Designee of Luzerne County Board of Elections (“Williams dep.”) at 81:9-19. A copy of the deposition transcript is attached at Exhibit “6.”

68. But, upon arrival at his polling place, election officials and workers employed by the defendants told French he could not vote because the polling place did not have ballots on which he could cast a vote. Compl. at ¶ 10 and Williams dep. 81:24-25, 82:1-18.

69. Election officials and poll workers employed by the defendants told French he was to come back later in the day to attempt to vote. Compl. at ¶ 36, 82:19-25, Williams dep., 83:1-4.

70. As instructed, French returned to the same polling place at approximately 3:30 p.m. on election day. Compl. at ¶ 37; Williams dep. 83:6-12.

71. But, again, election officials and workers told French he could not vote because there were still no ballots available. Compl. at ¶ 38; Williams dep. 83:13-23; Deposition of William French (“French dep.”) at 43:5-15 at Ex. “7.”

72. Election officials and workers told the location will still wait-  
ing for ballots to be delivered and that there would be extended polling  
hours. French dep. at 43:8-15.

73. When French asked the official when the official believed he  
would be able to vote and the official responded, “I don’t know.” *Id.* at  
45:8-15.

74. However, French’s disability left him unable to return yet  
again to attempt to exercise his right to vote. *Id.* at 56:2-18.

75. Because of his disability, French uses a cane to help him walk.  
*Id.* at 34:1-14.

76. The sidewalks leading from French’s home to his polling place  
are deteriorated and destroyed. *Id.* at 56:10-18.

77. Walking at night on these sidewalks created a risk of a fall  
and injury. *Id.*

78. So, French was not able to return to the polls to attempt to  
vote a third time. *Id.*

79. Reese is employed as a corrections officer. Declaration of  
Melynda Anne Reese (“Reese dec.”) at ¶ 1 at Ex. “8.”

80. Reese is also the primary care giver for her husband who, as of November 8, 2022, had recently suffered two cardiac arrests and a stroke. *Id.* at ¶ 2.

81. Due to his condition, Reese is not able to leave the house for extended periods of time when her husband will be unattended. *Id.* at ¶ 3.

82. On the morning of November 8, 2022, Reese went to her polling place located at 248 State Route 4012, Shickshinny, Pennsylvania 18655 with her husband. Compl., ECF No. 1 at ¶ 42, Williams dep., 84:1-11.

83. Upon arrival, election officials and workers informed Reese that only her husband could vote because the polling location had only a limited number of ballots remaining and that Reese would have to return later in the day to cast her vote. Compl., ECF No. 1 at ¶ 43, Williams dep., 84:13-25.

84. At 4:00 p.m., Reese returned to vote. Compl., ECF No. 1 at ¶ 44, Williams dep., 85:1-12.

85. When she returned, she was told there was still a waiting time. *Id.*

86. But her husband's physical condition made him unable to wait in the line for a long period of time. *Id.*

87. Reese again returned with her husband to cast her vote later in the day at approximately 6:30 p.m. Compl., ECF No. 1 at ¶ 45, Williams dep., 85:14-25.

88. Once again, however, Reese saw the length of the line was so long that she would not be able to wait with her husband for that long to vote. Reese dec. at ¶ 7.

89. On November 8, 2022, at approximately 9:15 p.m., an election official employed by defendants called Reese and told her that ballots were finally available, and she could come to her polling place to vote. Compl., ECF No. 1 at ¶ 46, Williams dep., 86:3-15.

90. But Reese's husband had already taken his sleeping medication and it was impossible to leave the home with him at this time to attempt to vote a fourth time. Reese dec. at ¶ 9.

Respectfully submitted,

Dated: April 15, 2024

/s/ Walter S. Zimolong

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- (a) all objections as to competency, relevancy, materiality, privilege and admissibility of evidence for any purpose in any subsequent proceeding or the trial of this or any other action;
- (b) the right to object on any ground at any time to a demand for further answer relating to the subject matter of these interrogatories;
- (c) the right to further supplement and/or amend these objections and answers based upon the discovery of additional information or interrogatories; and
- (d) Defendants' attorney-client and work-product privileges and, accordingly, any inadvertent production thereof shall not constitute a waiver of said privileges.

### **GENERAL OBJECTIONS**

1. Defendants object to each interrogatory to the extent that Plaintiffs seek (a) attorney work product; (b) privileged information, including, but not limited to, information or documents protected by the attorney-client privilege and executive privilege; (c) documents and tangible things prepared in anticipation of litigation or for trial by Defendants or their attorneys, agents or representatives; or (d) information or documents otherwise not discoverable under the Federal Rules of Civil Procedure.

2. Defendants object to each interrogatory to the extent that the interrogatories are neither relevant to the subject matter involved in this litigation nor reasonably calculated to lead to discovery of admissible evidence.

3. Defendants object to each interrogatory to the extent that it is overly broad, unduly burdensome, or vague.

4. Defendants object to each interrogatory to the extent that the interrogatories are already in Plaintiffs' possession, custody or control.

5. Defendants object to the instructions in the interrogatories to the extent that Plaintiffs seek to impose duties upon Defendants beyond those imposed by the Federal Rules of Civil Procedure.

**INTERROGATORIES – FIRST SET**

Subject to and without waiver of the foregoing general objections, Defendants respond to Plaintiffs' interrogatories as follows:

1. Identify the name, address, and telephone number of the person supplying answers to these interrogatories and explain that person's relationship to the defendant in this action.

**RESPONSE:** **OBJECTION:** Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

**Eryn Harvey, Luzerne County Director of Elections.  
Emily Cook, Luzerne County Deputy Director of Elections.  
Jennifer Pecora, Administrative Services Division Head (department oversees the Bureau of**

**Elections). All may be contacted through undersigned counsel.**

2. Identify the name(s), address(es), and telephone numbers of all persons that have knowledge of your claims and defenses and the subject matter of what each person knows.

**RESPONSE:**      **OBJECTION:** Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

**See Initial and Supplemental Disclosures, pursuant to Federal Rule of Civil Procedure 26 which were provided on June 20, 2023 and July 10, 2023, respectively.**

3. Identify the number of paper ballots or pieces of ballot paper were ordered for the 2022 General Election.

**RESPONSE:**      **OBJECTION:** Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

As detailed in the Luzerne County District Attorney's Office Investigative Report, based upon documents and information supplied by Luzerne County, please review BATES 005-008; also id. Exhibit B, BATES 026-037 (cataloguing purchase orders and invoices for 80-lb. paper to be used in the electronic voting machines).

4. Identify the number of paper ballots or pieces of ballot paper that were ordered for the 2020 general election.

**RESPONSE:** **OBJECTION:** Defendants object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

**See** Luzerne County District Attorney's Office Investigative Report, based upon information and documents provided by Luzerne County, Exhibit C, BATES 038-047 (cataloguing invoices for 2020 Election for historical comparison).

5. Identify the name, address, and telephone number of the person (or persons if more than one) that was responsible for ordering ballots or ballot paper for the 2022 General Election.

**RESPONSE:** **OBJECTION:** Defendants object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

By virtue of the position, the Luzerne County Director of Elections was the sole person who had

authority and responsibility for ordering ballots and/or ballot paper for the November 2022 general election. During 2022, Michael Susek held this position until his resignation became effective in August of 2022. Afterward, Beth Gilbert McBride assumed this responsibility as the acting Director of Elections. Furthermore, the Luzerne County District Attorney's Office confirmed through their investigation that paper ballot orders were typically handled by the Director of Elections. See Luzerne County District Attorney's Office Investigative Report, BATES 015; Id. Exhibit C, BATES 038-049.

6. Identify the name, address, and telephone number of the vendor or vendors from whom Defendants acquired ballots or ballot-paper for the 2022 General Election.

**RESPONSE:** **OBJECTION:** Defendants object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

As detailed in the Luzerne County District Attorney's Office Investigative Report, based upon documents and information supplied by Luzerne County, please review BATES 005-008; also id. Exhibit B, BATES 026-037 (cataloguing purchase orders and invoices for 80-lb. paper to be used in the electronic voting machines).

7. Identify the number of registered voters in the County as of November 8, 2022.

**RESPONSE:**      **OBJECTION:** Subject to and without waiver of the foregoing general objections, Defendants respond as follows:

**See attached documents, BATES 102-107.**

8. Identify the manner and means in which ballots or ballot-paper for ballots were delivered to polling places in the County for the 2022 General Election.

**RESPONSE:**      **OBJECTION:** Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

In advance of the November 2022 general election, Matheson Trucking was the primary transport vendor for all of the electronic voting and tabulation machines. Once the machines are diagnostically tested and then sealed, Matheson Trucking begins delivery of the voting machines to all Luzerne County polling places. Those machines are initially loaded with ballot paper as a part of the sealing process. On November 8, 2022, once the paper-shortage problem became apparent, Luzerne County District Attorney's Office detectives and other members of local law enforcement assisted with delivery of additional paper ballots to polling locations across Luzerne County.

**See Luzerne County District Attorney's Investigative Report, BATES 003-007.**

9. Identify the number of ballots or pieces of ballot paper supplied to each polling location in the County for the 2022 General Election.

**RESPONSE:** **OBJECTION:** Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

Consistent with the Pennsylvania Election Code, the County is required in a general election, to have a sufficient amount of ballot paper for 100% of the registered voters within a voting district minus the number of registered voters who requested mail-in or absentee ballots. See 25 P.S. § 2967(a)(8). Based upon past practice, as a part of the diagnostic testing process, electronic voting machines were supposed to be restocked with paper before being sealed and delivered. As detailed in the Luzerne County District Attorney's investigative report, this did not occur in the lead-up to the November general election. See BATES 005-008; 013-019. However, there was no conscious decision to do so. Instead, due to a high-volume of staff turnover, which cost the County valuable institutional memory, the electronic ballot marking devices were tested, sealed, and delivered, without confirming that an adequate number of ballot paper was initially sealed inside of each machine. See BATES 003-004; also BATES 013-015 (“...the evidence shows that the failure to provide paper to polling places was not a deliberate act, but rather a catastrophic oversight.”) The issue first came to light

on the morning of Election Day when poll workers began unsealing and setting up the electronic voting machines. Currently, all electronic voting machines are fully stocked with paper and two (2) extra reams of paper are provided for each polling location.

Once paper shortage issues emerged on November 8, 2022, the Luzerne County Bureau of Elections responded to polling locations on an as needed basis. For more details regarding delivery of ballot paper on November 8, 2022, please review Luzerne County District Attorney's Investigative Report, BATES 003-007 (detailing Luzerne County detectives and other law enforcement officers' efforts to deliver paper to affected polling locations across the county.)

10. Identify the address of the location where ballots and paper for ballots were stored for the 2022 General Election.

**RESPONSE:**

**OBJECTION:** Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

Paper utilized in conjunction with the electronic ballot marking devices and voting tabulation machines is stored—along with the devices themselves—in a County owned storage facility located on Water Street in Wilkes-Barre, Luzerne County. This facility is secured with limited key access held by a select few individuals. Moreover, the facility is protected by surveillance video cameras both inside and outside of the facility to ensure that no unauthorized entry occurs. There is also a sign-in

**and sign-out sheet that documents who enters and exits the facility and for what purpose.**

11. Identify the name, address, and telephone number of the person (or persons if more than one) responsible for overseeing the storage of the ballots or the paper for the ballots from the time the ballots or the paper for the ballots arrives in the custody and control of County until the time it is transported to polling places.

**RESPONSE:      OBJECTION: Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:**

**Primary responsibility for overseeing all aspects of administering an election in Luzerne County rests with Luzerne County's Director of Elections. The Deputy Director of Elections and/or the Operations Manager of the Luzerne County Bureau of Elections also play a role in overseeing diagnostic testing of electronic voting machines, storage and loading of paper into the printers associated with the ballot marking devices, and overseeing sealing and transport of the devices by Matheson Trucking. Luzerne County's Administrative Services Division Head oversees the Bureau of Elections (which is just one department under her purview); however, day to day administration and oversight of elections is entrusted to the Elections Director. Consistent with the Luzerne County Home Rule Charter, day-to-day operations of the Luzerne County Election Bureau**

**and administration of elections—including but not limited to supervision of employees and volunteers—falls under the purview of the Executive Branch of the County government and not the independent Board of Elections.**

12. Identify the process for the distribution of ballots or ballot paper from the location in which ballots and paper for ballots were stored to the polling places for the 2022 General Election.

**RESPONSE: OBJECTION: Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:**

**According to an internal checklist, prepared by Luzerne County's former elections consultant, supplies necessary for the fall general election should be inventoried and additional supplies ordered—if necessary—by July 31, 2022. See Luzerne County District Attorney's Office Report, BATES 017. According to the same checklist, by October 25, 2022, Luzerne County election workers should have packed all supplies including paper for the electronic ballot marking devices. Id., BATES 018-019.**

**No later than one (1) week prior to Election Day, the electronic voting machines (ballot selection devices and voting tabulation devices) undergo diagnostic testing. Ballot paper is then loaded into the devices and the machines are sealed. See Luzerne County District Attorney's Office Investigative Report, BATES 015-016 (“...it appears the parties preparing**

delivery and actually delivering the machines (sometimes referred to as the ‘seal team’ as they are responsible for loading and sealing the cabinets before delivery) also have a duty to ensure the paper is available and loaded in the cabinet.”)

Matheson Trucking handles transport and delivery of the machines to each polling location in Luzerne County. During the November of 2022 general election, each voting machine was diagnostically tested and sealed without verifying the quantity of paper inside or restocking it. Currently, the voting machines are fully loaded with paper and each polling location is provided two (2) extra reams of paper in case of emergency. This is completed on every machine as a part of the diagnostic and sealing process—before delivery of the machines.

13. Identify the name, address, and telephone number of all people involved in the distribution of ballots or paper for ballots from the place in which ballots or paper were stored to the polling places for the 2022 General Election.

**RESPONSE:** **OBJECTION:** Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

According to the Luzerne County District Attorney’s Office Investigative Report, Elections Bureau personnel designated to handle supplies, in descending order, include the Elections Director, Deputy Director of Elections, Operations Manager, Election Tech, as well as other administrative staff

and poll workers. See Luzerne County District Attorney's Office Investigative Report, BATES 019. Furthermore, the individuals involved in the sealing of the electronic ballot marking devices (a.k.a. the "Seal Team") for the November 2022 general election were Jen Pecora, Eric Garcia, Dan Reese, Randy Shaw, Harry Hanson, Emily Cook, Jonathon O'Dell. All may be contacted through counsel.

14. Identify the name, address, and telephone number for judges of election and minority inspectors or any other poll worker for each polling location for the 2022 General Election.

**RESPONSE:**      **OBJECTION:** Subject to and without waiver of the foregoing general objections, Defendants respond as follows:

See Excel Spreadsheet, which was provided electronically along with the foregoing responses and objections.

15. Identify the specific amounts of ballots or paper for ballots that were delivered to each individual polling place for the 2022 General Election.

**RESPONSE:**      **OBJECTION:** Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

Consistent with the Pennsylvania Election Code, the County is required in a general election, to have a sufficient amount of ballot paper for 100% of the registered voters within a voting district minus the number of registered voters who requested mail-in or absentee ballots. See 25 P.S. § 2967(a)(8). Based upon past practice, as a part of the diagnostic testing process, electronic voting machines were supposed to be restocked with paper before being sealed and delivered. As detailed in the Luzerne County District Attorney's investigative report, this did not occur in the lead-up to the November general election. See BATES 005-008; 013-019. However, there was no conscious decision to do so. Instead, due to a high-volume of staff turnover, which cost the County valuable institutional memory, the electronic ballot marking devices were tested, sealed, and delivered, without confirming that an adequate number of ballot paper was initially sealed inside of each machine. See BATES 003-004; also BATES 013-015 (“...the evidence shows that the failure to provide paper to polling places was not a deliberate act, but rather a catastrophic oversight.”) The issue first came to light on the morning of Election Day when poll workers began unsealing and setting up the electronic voting machines. Currently, all electronic voting machines are fully stocked with paper and two (2) extra reams of paper are provided for each polling location.

16. Identify the date and time which the ballots or paper for ballots was delivered to each individual polling place for the 2022 General Election.

**RESPONSE:** **OBJECTION:** Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically objects to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible

evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

The County did not keep a formal log of the precise time that supplemental paper deliveries occurred on November 8, 2022. Matheson Trucking retains a delivery schedule for the electronic voting machines—including the paper necessary for the machines to work—in the run-up to the election; however, County officials are unaware if Matheson Trucking records the precise time of delivery of the machines. Furthermore, the County is unaware if Luzerne County detectives or other members of local law enforcement noted the precise time that paper was delivered to each individual polling place on November 8, 2022. These would not be records within the possession of Defendants.

17. Identify the process by which the decision was made which determined the number of ballots or paper for ballots to be delivered to each individual polling place for the 2022 General Election.

**RESPONSE:** **OBJECTION:** Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically objects to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

Consistent with the Pennsylvania Election Code, the County is required in a general election, to have a sufficient amount of ballot paper for 100% of the registered voters within a voting district minus the number of registered voters who requested mail-in or absentee ballots. See 25 P.S. § 2967(a)(8). Based upon

past practice, as a part of the diagnostic testing process, electronic voting machines were supposed to be restocked with paper before being sealed and delivered. As detailed in the Luzerne County District Attorney's investigative report, this did not occur in the lead-up to the November general election. See BATES 005-008; 013-019. However, there was no conscious decision to do so. Instead, due to a high-volume of staff turnover, which cost the County valuable institutional memory, the electronic ballot marking devices were tested, sealed, and delivered, without confirming that an adequate number of ballot paper was initially sealed inside of each machine. See BATES 003-004; also BATES 013-015 ("...the evidence shows that the failure to provide paper to polling places was not a deliberate act, but rather a catastrophic oversight.") The issue first came to light on the morning of Election Day when poll workers began unsealing and setting up the electronic voting machines. Currently, all electronic voting machines are fully stocked with paper and two (2) extra reams of paper are provided for each polling location.

18. Identify the address of the location where extra ballots and paper for ballots were stored on November 8, 2022.

**RESPONSE:** **OBJECTION:** Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

The majority of paper ordered by Luzerne County on November 8, 2022 for use in the electronic voting machines was delivered to the County's main office

building, located at 20 N. Pennsylvania Avenue, Wilkes-Barre, PA 18711. Also, and as detailed in the Luzerne County District Attorney's Office investigative report, a significant delivery of paper was picked-up by Luzerne County D.A.'s Office detectives in Pittston Township and Taylor, Pennsylvania and then transported directly to polling locations throughout the county. See BATES 006-007.

19. Identify all evidence that led the county to file a petition with the Luzerne County Court of Common Pleas on November 8, 2022 stating "In the immediate instance electors in Luzerne County may be deprived of their opportunity to participate because of circumstances beyond their control if the time for closing polls is not extended.

**RESPONSE:**     **OBJECTION:** Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically object to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

During a chaotic and consequential day, Luzerne County officials, specifically the Luzerne County Election Bureau, were dealing with an evolving situation and had to seek court action based upon the information at its disposal at the time. For example, please review the Luzerne County District Attorney's Office Investigative Report, BATES 010, n. 8 ("While the reports (30 reports to Bureau of Elections that polling locations were 'out of paper')...investigators later determined that the phrase was very loosely interpreted from being out of extra paper to being low

on paper. Nearly all precincts still had paper and were actively voting as detectives were delivering the newly received paper.”)

Moreover, Luzerne County had already begun to purchase and secure additional supplies of paper from multiple vendors with varying estimates of delivery later in the day and early evening of November 8, 2022. Given that the paper supply shortages would not be resolved until the early evening, the County decided to petition the Court to extend voting hours from 8:00 p.m. until 10:00 p.m. The County believed that providing voters more time to get to the polls would allow people sufficient time to vote. See also November 8, 2022 transcript of hearing before Honorable Lesa J. Gelb, BATES 108-114.

20. Identify the name, address, and telephone number of the person (or persons if more than one) responsible for training election day poll workers for the 2022 General Election.

**RESPONSE:** **OBJECTION:** Defendants object to this interrogatory to the extent that it seeks documents protected by the work-product doctrine and/or attorney client privilege. Furthermore, Defendants specifically objects to this interrogatory on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the foregoing objections, Defendants respond as follows:

Logan Buglio, Judge of Elections in Butler Township, Luzerne County, was hired by the Luzerne County Bureau of Elections to conduct training of Election Day workers in the lead-up to the November of 2022 general election. He retains that position currently. Mr. Buglio may be contacted through counsel; however, his contact information (as a JOE in Butler

**Township) was previously provided in the Excel Spreadsheet responsive to Interrogatory No. 14.**

Respectfully submitted,

*/s/ Drew P. McLaughlin*

Drew P. McLaughlin

I.D. No. 324430

Kristyn Giarratano Jeckell

I.D. No. 327284

Keighlyn Oliver

I.D. No. 330372

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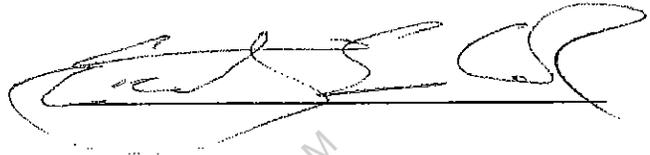
*Attorneys for Defendants*

DATED: September 5, 2023

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**VERIFICATION**

I, Emily Cook, certify and affirm that the statements contained in the foregoing answers to Plaintiffs' first set of interrogatories are true and correct to the best of my knowledge, information and belief, and are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsifications to authorities.

A handwritten signature in black ink, appearing to read "Emily Cook", written over a horizontal line.

DATED: September 14, 2023

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**CERTIFICATE OF SERVICE**

I, Drew P. McLaughlin, hereby certify that I have caused to be served this day a true and correct copy of the foregoing Defendants objections and responses to Plaintiffs' First Set of Interrogatories via email as follows:

Walter S. Zimolong, III, Esq.  
James Fitzpatrick, Esq.  
Zimolong, LLC  
PO Box 552  
Villanova, PA 19085-0552  
*Attorneys for Plaintiffs*

*/s/ Drew P. McLaughlin*  
Drew P. McLaughlin

DATED: September 5, 2023

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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Case No. 3:23-cv-538-MEM

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DEPOSITION OF: JENNIFER PECORA - December 22, 2023  
(via Zoom Videoconference)

---

WILLIAM FRENCH and MELYNDA ANNE REESE,

Plaintiffs,

v.

LUZERNE COUNTY, LUZERNE COUNTY BOARD OF ELECTIONS AND  
REGISTRATION, and LUZERNE COUNTY BUREAU OF ELECTIONS,

Defendants.

---

PURSUANT TO NOTICE, the deposition of  
JENNIFER PECORA was taken on behalf of the Plaintiffs,  
by remote means, on December 22, 2023, at 9:54 a.m.,  
before Stacy L. Armstrong, Certified Merit Reporter,  
and Notary Public within Pennsylvania, appearing  
remotely from Wayne County, Pennsylvania.

1 REMOTE APPEARANCES

2 For the Plaintiffs:

3 WALTER S. ZIMOLONG III, ESQ.  
4 Zimolong, LLC  
5 P.O. Box 552  
6 Villanova, Pennsylvania 19085  
7 215.665.0842  
8 wally@zimolonglaw.com

9 For the Defendants:

10 DREW P. MCLAUGHLIN, ESQ.  
11 Elliott Greenleaf, P.C.  
12 15 Public Square, Suite 210  
13 Wilkes-Barre, Pennsylvania 18701  
14 570.606.3966  
15 dpm@elliottgreenleaf.com

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## I N D E X

## EXAMINATION OF JENNIFER PECORA: PAGE

By Mr. Zimolong 4, 95

By Mr. McLaughlin 79

## DEPOSITION EXHIBITS:

INITIAL  
REFERENCE

Exhibit 8 Memorandum to Luzerne County Councilmembers from McBride, 7/28/22 Re: Election Integrity Grant Application 43

## DEPOSITION EXHIBITS: (Previously marked)

INITIAL  
REFERENCE

Exhibit 1 Luzerne Election Guide Draft Version 5 Bates 375 - 485 53

Exhibit 3 2022 Polling Place Procedures Bates 337 - 374 70

Exhibit 6 Associated Press article by Cassidy 75

1           WHEREUPON, the following proceedings were  
2 taken pursuant to the Federal Rules of Civil  
3 Procedure.

4                           \*       \*       \*       \*       \*

5           (Deposition Exhibit 8 was premarked by  
6 Attorney Zimolong.)

7           THE REPORTER: Do the attorneys stipulate  
8 that I may swear in the deponent remotely?

9           MR. MCLAUGHLIN: Yes.

10          MR. ZIMOLONG: So stipulated.

11                           JENNIFER PECORA,  
12 having been first duly sworn to state the whole truth,  
13 testified as follows:

14           (Deponent's reply to oath: I do.)

15                           EXAMINATION

16 BY MR. ZIMOLONG:

17          Q.    Good morning, Ms. Pecora. Can you hear me  
18 okay?

19          A.    I can. Good morning.

20          MR. MCLAUGHLIN: And just for the record,  
21 we'll reserve all stipulations [sic] except as to the  
22 form of the question until the time of trial?

23          MR. ZIMOLONG: Okay. That's fine.

24          Q.    (BY MR. ZIMOLONG) Good morning, Ms. Pecora.  
25 My name is Wally Zimolong. I represent the

1 plaintiffs, Melynda Reese and William French, in  
2 litigation against the County of Luzerne in a matter  
3 pending in the United States District Court for the  
4 Middle District of Pennsylvania, and we're here today  
5 to take your deposition.

6 Have you ever given a deposition before in  
7 any sort of litigation matter?

8 A. I have not.

9 Q. Well, I'm going to give you some  
10 instructions, and I'd ask you to follow them. The  
11 first is you were just placed under oath. And you  
12 understand that the oath you have just given has the  
13 same force and effect as if it were given before a  
14 judge and a jury in a courtroom?

15 A. I do.

16 Q. I would ask that you provide full, verbal  
17 responses to all of my questions. No hand gestures or  
18 nods of the head, shakes of the head. I need full  
19 sentences or words in response to my questions. Is  
20 that understood?

21 A. Yes.

22 Q. If you don't understand a question that I  
23 ask, please let me know; I will do my best to rephrase  
24 the question. Will you do that for me?

25 A. Yes.

1 Q. I'll ask you not to utterly guess or  
2 completely speculate when giving an answer. Educated  
3 guesses, educated estimates are fine, but, unless you  
4 tell us that you are testifying based fully on  
5 speculation or it's a complete guess, we're going to  
6 assume that your answer is based upon some personal  
7 knowledge that you have. Is that understood?

8 A. Yes.

9 Q. Please do your best not to talk over me;  
10 allow me to finish my question before you answer it.  
11 It's very important for the court reporter. It's also  
12 important because we're proceeding in this remote  
13 fashion. Do you understand that?

14 A. Yes.

15 Q. If at any time you need to take a break  
16 during this deposition, so long as a question's not  
17 pending, just let us know. Okay?

18 A. Okay.

19 Q. Now, could you tell me everything you did to  
20 prepare for your deposition here today?

21 A. I spoke with counsel. We met prior to the  
22 deposition just to go over the case, primarily.

23 Q. Okay. And how many -- And by "counsel," do  
24 you mean Mr. McLaughlin?

25 A. Correct. Yes.

1 Q. And he's in the room with you right now,  
2 correct?

3 A. Yes.

4 Q. How many times did you meet with  
5 Mr. McLaughlin to prepare for your deposition?

6 A. Once last week and prior to our meeting  
7 today, this morning.

8 Q. When you met with Mr. McLaughlin last week,  
9 how long did the meeting last, approximately?

10 A. An hour and a half, give or take.

11 Q. And when you met with him this morning, how  
12 long did that take?

13 A. About half an hour.

14 Q. When you met with him last week, did you  
15 review any documents?

16 A. It was just questioning on facts, discovery  
17 of what had happened leading up to election day.

18 Q. Did Mr. McLaughlin give you any documents to  
19 review?

20 A. Nothing specific. I had the case documents  
21 prior and reviewed those.

22 Q. And when you use the term "case documents,"  
23 what specifically are you referring to?

24 A. The documentation that was sent through the  
25 court, the suit.

1 Q. Are you talking about --

2 MR. MCLAUGHLIN: You mean the Complaint?

3 THE DEPONENT: Yeah, the Complaint.

4 Q. (BY MR. ZIMOLONG) So the Complaint in this  
5 case?

6 A. Mm-hmm.

7 Q. Is that a yes?

8 A. Yes. Sorry.

9 Q. Any other documents that you reviewed?

10 A. No.

11 Q. Did you review any notes or other files that  
12 you personally maintained?

13 A. No.

14 Q. Do you -- Do you maintain a personal journal  
15 or personal notebook of your daily activities?

16 A. I do.

17 Q. Do you still have that?

18 A. I do.

19 Q. And is this personal notebook of your daily  
20 activities, is it in handwritten form, or is it stored  
21 electronically?

22 A. Handwritten form.

23 Q. And do you have notes -- do you have your  
24 handwritten notes for your daily activities for 2022  
25 still?

1 A. I do.

2 Q. And where do you maintain those?

3 A. They are in an office, my prior office, at  
4 Penn Place; it's a locked office.

5 Q. And is Penn Place a location owned by the  
6 County?

7 A. Correct.

8 Q. And what's your custom and practice for  
9 maintaining notes of your daily activities? How  
10 frequently -- Do you do it daily?

11 A. I do.

12 Q. What do you -- Could you give me an example  
13 of the type of information that you record on a daily  
14 basis?

15 A. So in my position at the County, I oversee  
16 several departments. So we engage in a lot of regular  
17 meetings, so we take notes. It's common practice for  
18 most of our staff to take notes in whatever meetings  
19 we're engaged in.

20 Q. So in your -- Do you keep -- Is it a  
21 notebook, would I be correct in assuming that?

22 A. Yeah.

23 Q. So it's not, like, a yellow legal pad type  
24 of documentation?

25 A. No. It's a spiral-bound notebook.

1 Q. Okay. And you would keep records of your  
2 meetings in that notebook?

3 A. Yes.

4 MR. ZIMOLONG: Okay. And, Drew, I'll put on  
5 the record, and I'll follow up in writing, a request  
6 that the notebook or notebooks that Ms. Pecora  
7 maintained for 2022 be produced.

8 MR. MCLAUGHLIN: Yeah. This is the first  
9 I've heard of it, so, yeah, I'll look into that. Are  
10 you requesting the physical book be produced or that  
11 notes that are from the 2022 time period be copied and  
12 produced, just so I'm clear?

13 MR. ZIMOLONG: Let's just put on the record  
14 now that I'm asking for any and all notebooks  
15 maintained by Ms. Pecora for 2022 be produced, and we  
16 can talk about logistics of that, given that's a  
17 spiral-bound notebook and the difficulties of copying  
18 it. Perhaps we can inspect them and decide what we  
19 want copied out of that.

20 So I just wanted to put that on the record  
21 now that I'm -- you know, I want that produced. I'll  
22 send a formal written request for production of those  
23 documents, and then you and I can work out logistics.

24 MR. MCLAUGHLIN: Okay. Duly noted.

25 Q. (BY MR. ZIMOLONG) And did you review the

1 notes that you maintained for 2022 in any way in  
2 preparation of your deposition here today?

3 A. I have not. I have since changed positions  
4 with the County, and I have -- I had given my keys  
5 back to the building and grounds crew who -- the  
6 County manager was using that space. So they are on a  
7 bookshelf in that office.

8 Q. They're in a bookshelf in that office, and  
9 that's your old office?

10 A. Mm-hmm. Yes.

11 Q. And that's not the office you have now,  
12 right?

13 A. No.

14 Q. And you don't have keys to the old office?

15 A. I can obtain keys to the old office. I can  
16 certainly get those.

17 Q. Okay. Great.

18 I want to shift gears, talk to you about  
19 your personal and professional and educational  
20 background. What's your date of birth?

21 A. September 24, 1981.

22 Q. And what's your current address?

23 A. 146 Brookhill Road, Sugarloaf, Pennsylvania  
24 18429.

25 Q. And how long have you lived there for?

1 A. About a year and a half.

2 Q. Do you rent or own that property?

3 A. I own it.

4 Q. Do you live there with anyone?

5 A. My two children and my mother.

6 Q. Have you ever been convicted of a crime?

7 A. No.

8 Q. Have you ever been sued?

9 A. No.

10 Q. What's the highest level of education you've  
11 obtained?

12 A. A bachelor's degree.

13 Q. And where did you obtain that bachelor  
14 degree from?

15 A. Penn State University.

16 Q. In what year?

17 A. 2005.

18 Q. And was there a specialization for that  
19 degree?

20 A. Business administration.

21 Q. Do you maintain any professional licenses?

22 A. I had a professional license as a building  
23 code official. I believe it has recently expired or  
24 is about to expire. I have not been using it since I  
25 took on my role at the County; that was something I

1 obtained through previous employment.

2 Q. For how long, approximately, did you have  
3 the building code official licensure?

4 A. I believe I obtained it in 2020.

5 Q. Any other professional licenses that you  
6 maintain or maintained other than the building code  
7 official license?

8 A. I'm a certified yoga instructor, but I don't  
9 know if that's relevant, but it is a certification.

10 Q. Anything else?

11 A. No.

12 Q. Have you told me everything you can recall  
13 about professional licensure that you have?

14 A. Yes.

15 Q. Okay. And how about any accreditations,  
16 professional accreditations, other than official  
17 licenses, do you have any accreditations?

18 A. No.

19 Q. Do you have any -- Besides the certificate  
20 for yoga instruction, do you have any other -- have  
21 you ever -- have you ever obtained any other  
22 professional certification?

23 A. I was a licensed insurance producer, so I  
24 had a license to sell insurance for property and  
25 casualty.

1 Q. Any other professional certifications?

2 A. Not that I recall.

3 Q. Okay. Have you ever taken any coursework  
4 related to the administration of elections?

5 A. I have not.

6 Q. Have you ever taken any coursework related  
7 to state or federal election laws?

8 A. I have not.

9 Q. What year did you graduate high school?

10 A. 1999.

11 Q. And did you immediately enroll in college  
12 when you graduated high school?

13 A. Yes. Yes, I enrolled in community college  
14 and obtained my associate's degree from Luzerne County  
15 Community College.

16 Q. And then was that a two-year program?

17 A. I was there for -- I graduated in 2002. I  
18 had some stuff that was going on in my life with my  
19 family, so there was a delay.

20 Q. So you obtained an associate's degree three  
21 years after graduating high school in 1999?

22 A. Yeah, May of 2002.

23 Q. And you obtained that associate's degree  
24 from Luzerne County Community College?

25 A. An associate's degree in business

1 management.

2 Q. And that was from Luzerne County Community  
3 College?

4 A. Yes.

5 Q. And from Luzerne County Community College,  
6 did you then enroll in Pennsylvania State University?

7 A. Correct. Yes.

8 Q. And then that period of education at  
9 Pennsylvania State would have been in or around the  
10 2002 time period?

11 A. August of 2002.

12 Q. And then when did you obtain your bachelor's  
13 degree from Penn State?

14 A. 2005.

15 Q. So it was a three-year period of -- of  
16 study?

17 A. Yes.

18 Q. Were you more or less a full-time student  
19 during those three years?

20 A. Yes. I worked a lot too.

21 Q. When you say you worked a lot, what were you  
22 doing while you were also studying at Penn State?

23 A. Mostly working retail jobs. I held a few  
24 jobs. I've the oldest of six kids, and I put myself  
25 through school, and I had lost a sibling during that

1 time, so it was a little -- it was a little difficult  
2 for me.

3 Q. So would I be safe to assume that, while you  
4 were enrolled at Penn State, the work you had was  
5 part-time in nature?

6 A. Yeah.

7 Q. Okay. When you graduated from Penn State,  
8 what did you do next?

9 A. I started managing at a small local dairy  
10 store, and I worked on marketing, visiting different  
11 customers, trying to -- I marketed new business for  
12 them to grow our account base.

13 Q. What was the name of that dairy store?

14 A. Pecora's Dairy.

15 Q. Is that a family --

16 A. Yes.

17 Q. Is there a family connection?

18 A. Yes. It's my ex-husband's family.

19 Q. Your ex-husband's family store, and you were  
20 the store manager?

21 A. Yes.

22 Q. Okay. And I asked if you were -- By the  
23 way, your answer suggests that you were divorced at  
24 some point?

25 A. Yes.

1 Q. What year were you divorced?

2 A. My divorce decree came in February of 2021.

3 Q. Okay.

4 A. '22. I'm sorry, '22.

5 Q. Was there divorce proceedings filed in  
6 Luzerne County related to your divorce?

7 A. Yes.

8 Q. So that would have been some sort of civil  
9 action you would have been involved with at some  
10 point?

11 A. I had filed for the divorce, and we did it  
12 amicably; we used the same lawyer, and he filed the  
13 paperwork.

14 Q. Okay. But that was all done in Luzerne  
15 County?

16 A. Correct.

17 Q. Okay. Okay. So, from 2005, when did you  
18 stop working at your ex-husband's family store?

19 A. Actually, I did work retail sales before  
20 there. I'm sorry. I worked for AT&T doing sales in  
21 Sugarloaf Township. I don't know if it's Hazle  
22 Township there, it's right on the border, but I did  
23 sales there, actually, for almost a year. And then  
24 they needed me at the store. I had since had a child,  
25 and it was convenient for me, for our family, that I

1 took on the management position.

2 Q. Okay.

3 A. I'm sorry about that.

4 Q. What were the years you worked as the store  
5 manager for your ex-husband's store?

6 A. 2005, 2006. And then the business closed in  
7 August of 2007.

8 Q. And then in August 2007, what did you start  
9 to do?

10 A. I was a stay-at-home mom.

11 Q. Okay. How long were you a stay-at-home mom?

12 A. Until 2012.

13 Q. Okay. And then what -- what happened in  
14 2012 regarding your employment?

15 A. I took a position as a payroll processor for  
16 Stroehmann Bakeries. I believe it's Bimbo Bakeries  
17 now, in Hazle Township. We then -- Our office then  
18 moved to Hanover Township. I was there until 2014.

19 Q. Okay. And then what happened in 2014 with  
20 your employment?

21 A. I had -- Someone had reached out to me to  
22 get into insurance sales. So I was working part-time  
23 getting -- doing all of my studying for my insurance  
24 license. And once I obtained my license, I took a  
25 position selling insurance, first for Nationwide and

1 then for State Farm.

2 Q. And how long did you work for Nationwide, or  
3 when did you -- what years did you work for  
4 Nationwide?

5 A. 2013, 2014. And then eventually -- That was  
6 more of a remote position, and it really wasn't a good  
7 suit for me, so I took a position with State Farm, and  
8 I worked there for 2014 into 2015. And then my  
9 ex-husband had lost his job, and we needed health  
10 insurance, so I worked at Hazleton Area School  
11 District.

12 Q. What did you do for the Hazleton Area School  
13 District?

14 A. Finance for their maintenance department.

15 Q. And what were the years you were employed by  
16 the school district?

17 A. 2015 and 2016. I was not there very long.  
18 An opportunity presented itself for a lead financial  
19 management position with Butler Township, so I left at  
20 the beginning of 2016 and worked at Butler Township as  
21 the financial director from 2016 until 2018, and then  
22 I was promoted to Township manager in 2018 through  
23 August of 2022.

24 Q. And then, in August 2022, did you start  
25 working for Luzerne County?

1           A.     I didn't start working for Luzerne County  
2 until September. I had to give a 30-day notice to the  
3 Township, so there was a little bit of a time period  
4 in between there.

5                     I was allowed -- Because they -- they had a  
6 delay in finding a replacement for me at Butler, I  
7 stayed on and helped them on a very part-time capacity  
8 while they were bringing in new management, to just  
9 kind of guide them along.

10           Q.     So the immediate position that you had  
11 before being hired by the County was the Township  
12 manager for Butler Township?

13           A.     Correct. And I was also the tax collector  
14 for Sugarloaf Township, which was an elected position.  
15 I started that in 2016 -- no, I'm sorry, 2018, from  
16 2018 until August of 2022. I had to resign as tax  
17 collector to assume my position with the County.

18           Q.     Okay. In your capacity as Butler Township  
19 manager, did you perform any duties that were  
20 election-related?

21           A.     No.

22           Q.     Did you receive any training on elections by  
23 Butler Township?

24           A.     No.

25           Q.     And am I right the official name is Butler

1 Township?

2 A. Butler Township, Luzerne County, yes.

3 Q. Did Butler Township provide you with any  
4 training on state or federal election laws?

5 A. No.

6 Q. Okay. When you were hired by Luzerne  
7 County, what was the position you were hired for?

8 A. Division head for administrative services.

9 Q. Okay. And you started with Luzerne County  
10 as division head for administrative services in  
11 September of 2022?

12 A. Correct.

13 Q. What were your job duties as division head  
14 of administrative services for the County?

15 A. So it was -- My position was to oversee -- I  
16 had eight departments: elections, human resources,  
17 information technology, mapping, purchasing,  
18 licensing, community development, and tourism.

19 Q. Before you started as the division head for  
20 administrative services, did the County provide you  
21 with any job training to perform your duties?

22 A. No.

23 Q. Are you currently the division head for  
24 administrative services?

25 A. No.

1 Q. What is your current position with the  
2 County?

3 A. Interim operational services division head.

4 Q. When did you obtain that position?

5 A. It went -- My first effective -- I've been  
6 doing it for two weeks. The official paperwork went  
7 through last Friday, which would be the 15th.

8 Q. Did you have any titles or positions other  
9 than division head of administrative services and  
10 interim operational services division head?

11 A. With the County? No, just tax collector,  
12 which, technically, made me an employee of the County  
13 even though I was an elected official.

14 Q. So you went -- In other words, the position  
15 that you held immediately prior to your current  
16 position was the division head of administrative  
17 services?

18 A. Correct.

19 Q. Okay. You said that you -- Oh. Did you  
20 interview with anyone in the County before you were  
21 offered the job as division head of administrative  
22 services?

23 A. I did.

24 Q. Who did you interview with?

25 A. The HR director, the IT director, the

1 mapping director, a gentleman from -- an outside  
2 panelist came in from the United Way, and the County  
3 manager, to my recollection.

4 Q. All right. So I have you interviewed with  
5 the HR director, the IT director, someone from the  
6 mapping division, someone from the United Way, and the  
7 County manager?

8 A. Correct.

9 Q. Did I miss anyone?

10 A. No. No, you did not. And that was my  
11 first -- that was the first round of interviews.

12 Q. The first round of interviews, was it one  
13 interview, or did you interview with the individuals  
14 that you identified at different times?

15 A. No, it was -- they were the panel; I  
16 interviewed with all of them at the same time.

17 Q. All right. So there was one interview, and  
18 the panel consisted of the HR director, the IT  
19 director, the mapping individual, the United Way  
20 person, and the County manager, correct?

21 A. Correct.

22 Q. All right. Did they tell you what your job  
23 duties would be during that interview?

24 A. Yes.

25 Q. What did they tell you your job duties would

1 be -- What did the panel tell you your job duties  
2 would be in relation to overseeing the Bureau of  
3 Elections?

4 A. They -- They had instructed me that it was a  
5 very difficult department. There's a lot of  
6 personality clashes in there. I would need to be  
7 present in my role with them for team building and  
8 leadership. The priority of that department at the  
9 time was to find a director. The prior director had  
10 left in July, prior to my arrival, and it was vacant  
11 since.

12 Q. And was that individual Mr. Susek?

13 A. Correct.

14 Q. So when you interviewed for the division  
15 head position, the director's position of the Bureau  
16 of Elections was vacant?

17 A. Correct.

18 Q. Can you describe for me -- Did they give you  
19 any -- Did you have any questions for the panel as to  
20 why they described the Bureau of Elections as a  
21 difficult department?

22 A. Well, they really didn't have to. The  
23 Bureau of Elections was notorious for being in the  
24 newspaper and media with the struggles that they've  
25 been facing for the past few years.

1 Q. Could you give me some examples of what you  
2 mean by "notorious for being in the media"?

3 A. Well, with the ever-changing climate in  
4 elections and the introduction to the paper ballots,  
5 there was a lot of disagreement, especially with our  
6 election board. They are very opinionated on both  
7 sides of whether we should have mail-in voting or  
8 whether we shouldn't have mail-in voting. Upon my  
9 arrival, the County had purchased -- agreed to  
10 purchase the Agilis machine from Runbeck, which was  
11 the machine that processes the mail-in ballots as they  
12 arrive to the Bureau.

13 Q. Okay. I'm talking about the instances that  
14 you were aware of that they were notorious in the  
15 media for. Can you give me some specific examples of  
16 what you recall in the media that you consider  
17 notorious?

18 A. Within the County, it was the machine that  
19 we were buying. Because individuals on council or on  
20 the election board personally wanted or didn't want  
21 mail-in ballots, they struggled to make a decision to  
22 purchase the machine.

23 Q. So when you said "struggles in the media"  
24 and "notorious in the media," you're relating only to  
25 locally?

1 A. Locally, yes.

2 Q. You're relating only to the purchase of a  
3 sorting machine?

4 A. Well, and just the nature of elections  
5 nationwide.

6 Q. And that led -- that led you to -- that  
7 led -- Is that what the panel told you was the reason  
8 they felt that the Bureau of Elections was a difficult  
9 department, or is that what you surmised?

10 A. Well, that was the climate coming -- I'm not  
11 understanding what you're trying to ask me.

12 Q. Okay.

13 A. If you could start over, maybe.

14 Q. Sure. If I understand your testimony  
15 correctly, the panel told you that the Bureau of  
16 Elections was a difficult department. Did I  
17 understand that testimony correctly?

18 A. The County manager at the time --

19 Q. Okay. And who was that?

20 A. -- told me that it was a difficult  
21 department. And coming in there --

22 Q. And who --

23 A. Randy Robertson was the County manager.

24 Q. Let me stop you right there. Randy  
25 Robertson, the County manager, told you that the

1 Bureau of Elections was a difficult department. Do I  
2 have that correct?

3 A. Correct.

4 Q. Okay. And did you ask him, Mr. Robertson,  
5 why he believed that the County -- I'm sorry, that the  
6 Bureau was a difficult department?

7 A. Yes. He explained to me that there was lack  
8 of leadership within the Bureau. The staff was all  
9 new, as in the deputy at the time had just started a  
10 few months before I had. The longest person in  
11 leadership was Emily Cook, who had been there about a  
12 year. And the administrative team, the union  
13 employees, most of them had been there under two  
14 years, with the exception of two who had been there 20  
15 years or more. So there was a struggle internally  
16 with young people coming in telling veteran employees  
17 what to do.

18 Q. And did Mr. Robertson tell you this during  
19 your interview?

20 A. Yes, and it was discussed upon my arrival as  
21 well.

22 Q. When Mr. Robertson told you that during your  
23 interview, did he give you any specific examples of  
24 difficulties that had arisen in the Bureau of  
25 Elections?

1 A. Mostly the lack of leadership.

2 Q. So Mr. Robertson was aware in -- Let me back  
3 up. When did you interview with the panel, including  
4 Mr. Robertson?

5 A. I believe it was in July.

6 Q. So, in July of 2022, Mr. Robertson was aware  
7 of a lack of leadership in the Bureau?

8 A. Yes.

9 Q. And he was aware of a lack of experience  
10 with employees of the Bureau?

11 A. Yes.

12 Q. Did you have any questions for Mr. Robertson  
13 based upon what he said about the difficulty of the  
14 department?

15 A. No.

16 Q. And when you started working for the County,  
17 can you tell me specifically what you did to oversee  
18 the department of elections or the Bureau of  
19 Elections?

20 A. Upon my -- On my first day, they were  
21 signing the contract to make the purchase for the  
22 Agilis machine, which is the ballot-sorting machine.  
23 So they were -- that was a priority purchase. Because  
24 it was such a large purchase, they needed to execute  
25 the documentation that day to ensure that it would be

1 up and running and training would be provided on the  
2 machine in order to start processing ballots for the  
3 2022 election. There was some back-and-forth with the  
4 contract, but we ended up getting it signed that day,  
5 and made the purchase in a timely manner to use it for  
6 the 2022 election.

7 Q. Have you described for me what your job  
8 duties were in overseeing the election -- I'm sorry,  
9 overseeing the Bureau of Elections?

10 A. Okay. So at that point -- And I'll kind of  
11 lay it out on a real-time basis. Because everyone was  
12 new, I had asked them --

13 Q. Hold on. I don't think you understand my  
14 question, Ms. Pecora.

15 If I understood your testimony correctly,  
16 one of your job duties as division head of  
17 administrative services of the County was to oversee  
18 eight departments. Did I hear that testimony  
19 correctly?

20 A. Correct.

21 Q. One of those departments was the Bureau of  
22 Elections, correct?

23 A. Correct.

24 Q. And the Bureau of Elections is charged with  
25 administering elections in the county, correct?

1 A. Correct.

2 Q. Okay. What specifically did you do to  
3 oversee the Bureau of Elections while you were the  
4 division head of administrative services?

5 A. I offered them support. We met regularly.  
6 Oversight of the department heads. Anything that they  
7 needed, I would make myself available for them in  
8 support of their efforts for the election.

9 Q. So, if they came to you with a need, you  
10 would fulfill the need?

11 A. I would do my best to fulfill the need. I  
12 would help them. If they had problems that they could  
13 not figure out on their own, I would be there to offer  
14 support and things of that nature.

15 Q. The person within the Bureau of Elections  
16 that was ultimately responsible for administering  
17 elections in the county would be the director of  
18 elections or the acting director of elections,  
19 correct?

20 A. Correct.

21 Q. Okay. And for the November 2022 election,  
22 that individual would have been Beth Gilbert, correct?

23 A. Correct.

24 Q. I think she may have been known as Beth  
25 McBride at the time, correct?

1 A. Correct. Yes.

2 Q. Now, so the buck stopped with Ms. Gilbert  
3 for the November 2002 election, correct?

4 A. Yes.

5 Q. She didn't need to come to you and get  
6 permission from you to fulfill her job duties,  
7 correct?

8 A. As long as she was following policies and  
9 procedures by the administrative code or our  
10 purchasing policy, no.

11 Q. Are there policies and procedures in the  
12 County's administrative code relating to the  
13 administration of elections?

14 A. Yes. It's -- It lays out the roles and  
15 responsibilities of the director as it falls under my  
16 division.

17 Q. So when you refer to policies and procedures  
18 in the administrative code, you are referring to a  
19 section of the County administrative code that sets  
20 forth the job duties of the director of the Bureau of  
21 Elections?

22 A. It's guidelines.

23 Q. Guidelines as to her job duties or his job  
24 duties?

25 A. The job duties and responsibilities are in

1 the job description.

2 Q. Okay.

3 A. We don't list each job description in the  
4 administrative code.

5 Q. Okay. What I'm trying -- You referred to  
6 the administrative code. I'm trying to understand  
7 what you are referring to as policies and procedures  
8 in the administrative code. In other words, what do  
9 these policies and procedures say about administering  
10 elections in the county?

11 A. I don't have it in front of me. I would  
12 have to reference it.

13 Q. Do you know where in the administrative code  
14 we can find the policies and procedures you're  
15 referring to?

16 A. It's on our website, LuzerneCounty.org.

17 Q. Okay. But where?

18 A. Under "Government" and "Codes."

19 Q. And there's a section on elections?

20 A. There's a breakdown of each department --  
21 each division and what departments are included in  
22 each division throughout the County.

23 Q. So it's a hierarchy of how the County is  
24 organized?

25 A. Yes.

1 Q. But I just want to be clear. If we went  
2 there, does the administrative code give instructions  
3 to the Bureau of Elections about what to do in  
4 fulfilling whatever it is it's supposed to do  
5 regarding elections?

6 A. Like I say, I would have to reference it.

7 Q. But, sitting here today, you're not aware of  
8 any?

9 A. No.

10 Q. Now, between November -- Sorry. Between  
11 September 2022, which is when you started in your  
12 position as division head, and the November 2022  
13 general election, how frequently did you meet with  
14 Ms. Gilbert?

15 A. I saw the election team every day. We were  
16 meeting on a pretty regular basis just getting  
17 prepared for the election.

18 Q. Okay. When you say you saw them, you mean  
19 you looked at them, or you actually sat down and met  
20 with the team and had a formal meeting?

21 A. We were together -- Yeah, we would -- we  
22 were practically meeting every single day.

23 Q. Okay. So you practically met -- Between  
24 September -- I just want to understand this testimony.  
25 Between September 2022 and the November 2022 general

1 election, you practically met every day with  
2 representatives of the Bureau of Elections?

3 A. Yes. To my recollection, I could reference  
4 back to my notes as I did have other duties in other  
5 departments that needed help, but issues were coming  
6 up every day with elections. We were having regular  
7 board meetings that we needed to attend. So very  
8 frequently. I guess it would be fair to say very  
9 frequently.

10 Q. Okay. And you would have kept notes of  
11 those meetings, correct?

12 A. Yes.

13 Q. And the notes that you kept of those  
14 meetings would be in the notebooks that you have,  
15 right?

16 A. Correct.

17 Q. What were the topics that you would discuss  
18 at the meetings with representatives of the Bureau of  
19 Elections in the September to November 2022 time  
20 period?

21 A. Most of my topics of discussion were based  
22 upon the mail-in ballot machine, drop boxes throughout  
23 the county. I was driving through the county finding  
24 alternate locations as we were getting pushback from  
25 municipalities, that they didn't want them in their

1 municipalities, certain places didn't want them in  
2 their buildings. The Board was pushing -- Some of the  
3 Board members were pushing very hard for it. I was  
4 trying to be helpful in, you know, accomplishing this  
5 task, finding alternate locations for drop boxes.

6 Q. During these meetings in the September to  
7 November 2022 time frame, did you discuss ordering  
8 ballot paper?

9 A. No.

10 Q. Ms. Pecora, would you agree with me that  
11 it's important that elections are properly  
12 administered so that people are not denied the right  
13 to vote?

14 A. I agree.

15 Q. Would you agree with me that it's never  
16 acceptable for someone to be denied the right to vote  
17 because an election is not properly administered?

18 A. I agree.

19 Q. Do you know if the County interviewed any  
20 other candidates for the position of division head for  
21 administrative services?

22 A. I am not --

23 MR. MCLAUGHLIN: Object to the form. You  
24 may answer if you know.

25 A. I don't know. I'm sure they interviewed

1 others; I do not know who the individuals are.

2 Q. (BY MR. ZIMOLONG) Before the November 2022  
3 election, did the County provide you with any training  
4 on administering elections?

5 A. No.

6 Q. Before the November of 2022 general  
7 election, did the County provide you with any training  
8 regarding the Pennsylvania Election Code?

9 A. No.

10 Q. Before the November 2022 general election,  
11 did the County provide you with any training on  
12 federal election laws?

13 A. No.

14 Q. Has the County ever provided you with any  
15 training on administering elections?

16 A. No.

17 Q. Has the County ever provided you with any  
18 training on the Pennsylvania Election Code?

19 A. No.

20 Q. And has the County ever provided you with  
21 any training on federal election laws?

22 A. No.

23 Q. During the interview process, did those that  
24 interviewed you ask you about your experience in  
25 administering elections?

1 A. Yes.

2 Q. Do you remember what they asked you?

3 A. What experience I had in elections, and my  
4 answer was I had experience in elections as a  
5 candidate, and I did work as a poll worker probably  
6 ten years prior.

7 Q. Do you remember who asked you that question?

8 A. I do not; I just know the topic was  
9 discussed.

10 Q. And what you just told me was discussed at  
11 your interview with the panel of individuals you  
12 previously told me about?

13 A. I believe so, yes.

14 Q. And your response was you had experience  
15 with elections as a candidate and as a poll worker ten  
16 years ago, correct?

17 A. Yeah.

18 Q. And that was -- Before you were hired, that  
19 was your full experience with elections, correct?

20 A. Yes.

21 Q. Is my understanding correct that Ms. Gilbert  
22 was named acting director of elections for the Bureau  
23 in September of 2022?

24 A. Yes.

25 Q. And Ms. Gilbert had ultimate and final

1 decision-making authority to fulfill her  
2 responsibilities to administer the 2022 general  
3 election, correct?

4 A. Yes.

5 Q. Before the November 2022 general election,  
6 the County didn't provide Ms. Gilbert with any  
7 training, correct?

8 A. Not to my knowledge.

9 Q. Did Ms. Gilbert ever request any training  
10 from you, you personally?

11 A. Not me personally.

12 Q. Who did she request training from?

13 A. County Council, through her budget  
14 presentation.

15 Q. And that was before the November 2022  
16 general election?

17 A. No. The budget was passed in December. I  
18 don't have a recollection of the date when she  
19 presented to council.

20 Q. Okay. So before the November 2022 election,  
21 Ms. Gilbert never asked you personally for any  
22 training related to the administration of elections.  
23 Do I understand that correctly?

24 A. Not that I recall.

25 Q. Okay. But she may have asked County Council

1 for training on administering elections before the  
2 November 2022 general election, correct?

3 A. I believe it was after.

4 Q. You believe it was after. Okay.

5 A. After, yes.

6 Q. And you personally never offered Ms. Gilbert  
7 any training on administering elections before the  
8 November 2022 general election, correct?

9 A. Correct.

10 Q. And you're not aware of anyone else from the  
11 County that offered her any training on the  
12 administration of elections before the November of  
13 2022 election, correct?

14 A. Emily Cook was doing trainings on the Agilis  
15 machine, and she was doing training with the Dominion  
16 systems.

17 Q. Okay. But I'm asking if anyone from the  
18 County offered Ms. Gilbert any training on the  
19 administration of elections before the November 2022  
20 general election.

21 A. I believe Emily Cook did.

22 Q. You believe Emily Cook offered  
23 Ms. Gilbert --

24 A. Yes.

25 Q. -- training? Okay. Before the November of

1 2022 general election, correct?

2 A. I believe so.

3 Q. And you believe -- And is my understanding  
4 correct, do you believe that the training that  
5 Ms. Cook offered her was on the Agilis machine?

6 A. Yes. The Agilis machine was new, so Emily  
7 was learning the process and procedures for utilizing  
8 the machine. And she had brought the staff in, myself  
9 included, to teach us how to use the Agilis machine.  
10 And she did have system training on the Dominion  
11 systems because everyone was new. I did not  
12 participate in the Dominion trainings at that time, so  
13 I'm not sure -- when Emily offered it, I'm not sure if  
14 Beth -- I don't think Beth participated.

15 Q. Have you told me all of the training you  
16 believe that Ms. Cook offered Ms. Gilbert before the  
17 November 2022 election?

18 A. Yes. That I recall, yes.

19 Q. Okay. And, as I understand it, it would  
20 have been -- the training that she offered would have  
21 been on the Agilis machine and on the Dominion voting  
22 machines, correct?

23 A. Correct.

24 Q. Okay. Did Ms. Gilbert ever make any  
25 complaints to you about employees in the Bureau?

1 A. Yes.

2 Q. What kind of complaints did she make?

3 A. It was mostly about the admins, personality  
4 conflicts, them complaining about having to do certain  
5 tasks.

6 Q. Did Ms. -- Could you give me any specific  
7 examples that you recall that Ms. Gilbert made  
8 regarding complaints of those not wanting to do  
9 specific tasks?

10 A. Each week they're assigned certain tasks,  
11 whether it'd be mail, phones, counter, things of that  
12 nature, backup on phones, backup on counter. And  
13 mostly it was that the team didn't work well together.

14 Q. Was it causing problems for Ms. Gilbert?

15 A. Yes.

16 Q. Was it making her job to administer the 2022  
17 general election difficult?

18 A. I guess to some capacity, yes.

19 Q. What did Ms. Gilbert ask you to do about it?

20 A. We had talked about -- you know, I had  
21 talked to her about leadership and team building,  
22 meeting with them regularly. I didn't want to step in  
23 and overstep on the director; I'm her boss, but she is  
24 ultimately their boss. She did try lunch-and-learns  
25 and things like that, but wasn't very successful.

1 Q. Were you concerned by Ms. Gilbert's  
2 complaints?

3 A. I was concerned with her leadership.

4 Q. What did you do about those concerns?

5 A. Well, I talked to the County manager about  
6 it. There really wasn't -- My hands were tied.

7 Q. When you say you were concerned about her  
8 leadership, were you concerned about her fulfilling  
9 her job duties as director of the Bureau of Elections?

10 A. No.

11 Q. Were you concerned with her ability to  
12 effectively administer the November 2022 general  
13 election?

14 A. No.

15 Q. Were you concerned that the complaints she  
16 made to you would make it difficult for the Bureau to  
17 properly administer the 2022 general election?

18 A. No.

19 Q. Just so I understand your testimony  
20 correctly, Ms. Gilbert made complaints to you that  
21 certain administrative staff in the Bureau would not  
22 perform certain tasks, correct?

23 A. Not that they -- They were doing their job,  
24 but there was pushback, complaining, gossip among the  
25 group; it was just making for a toxic work

1 environment.

2 Q. Okay. Just so I'm clear, Ms. Gilbert made  
3 complaints to you that described the toxic work  
4 environment within the Bureau, correct?

5 A. Yes.

6 Q. And those complaints were made prior to the  
7 November 2022 general election, correct?

8 A. Yeah.

9 Q. And notwithstanding complaints that caused  
10 you to believe that there was a toxic work environment  
11 in the Bureau of Elections, you were not concerned  
12 that that toxic work environment was going to impede  
13 the ability of the Bureau to administer the  
14 November 2022 general election?

15 A. Their tasks were being completed on time. I  
16 had no reason to believe that it would impact the  
17 election. There was extra administrative staff  
18 brought in through a temp agency, and their deadlines  
19 were being met.

20 Q. I'm going to show you a document. We can  
21 zoom in on this, but I just want to display it first  
22 so that the court reporter, primarily, can see the  
23 exhibit tab. And I'll just describe this document for  
24 you. Ms. Pecora.

25 Ms. Pecora I've displayed for you on the

1 screen a document we've marked as Plaintiffs'

2 Exhibit 8. It's a memorandum from Beth McBride, also  
3 known as Beth Gilbert, deputy director of elections,  
4 dated 28 July 2022.

5 Can you see the document I've displayed on  
6 the screen?

7 A. Yes.

8 Q. Would you like me to enlarge it?

9 A. Yes.

10 Q. Have you seen this memorandum before,  
11 Ms. Pecora?

12 A. I do not believe so. I'm not sure.

13 Q. Okay. I understand that and I appreciate  
14 that. I have some questions about some of the  
15 contents of this memorandum. Okay?

16 A. Okay.

17 Q. Now, I think one of the -- you said one of  
18 the responsibilities you had as the administrative  
19 head was procuring things that the department that you  
20 oversaw needed, correct?

21 A. Correct.

22 Q. And if a division head or department head  
23 came to you and said that they needed something, you  
24 would do your best to try to get it for them, correct?

25 A. Correct.

1 Q. Okay. Now, in Ms. Gilbert's memorandum,  
2 identified as Plaintiffs' Exhibit 8, it talks about an  
3 appropriation of \$1,041,396.09 being made to the  
4 County. Do you see that next to my pointer here?

5 A. Yes.

6 Q. And if you go up to the first paragraph, it  
7 talks about it being related to an election integrity  
8 grant program. Do you see that?

9 A. Yes.

10 Q. Okay. Are you familiar with the, roughly,  
11 \$1 million appropriation through the election  
12 integrity grant that was allocated to the County for  
13 the 2022 general election?

14 A. Yes.

15 Q. Okay. And, to the best of your knowledge,  
16 did the County receive this appropriation?

17 A. Yes.

18 Q. And it looks like, if we go down to the  
19 bottom of Plaintiffs' Exhibit 8, you'll see  
20 Ms. Gilbert writes here, "Elections has begun  
21 discussions on how best to utilize this funding should  
22 the Luzerne County Council formally allow the bureau  
23 to move forward with the application process. The  
24 preliminary plan for the allocation of these funds is  
25 as follows." Did I read that correctly?

1 A. Yes.

2 Q. So it would appear that, as of the date of  
3 Plaintiffs' Exhibit 8, the funds were available but  
4 had not actually been allocated yet, correct?

5 A. Yes. I believe they received the funding on  
6 December 1 of last year.

7 Q. Of last year. Okay. So this would appear  
8 to be Ms. Gilbert's plan for the use of that funding,  
9 correct?

10 A. Correct.

11 Q. Okay. Now, the first item on here is "Hire  
12 30-40 seasonal and temporary staff members to aid our  
13 full-time employees during Election season, Election  
14 Day, and to aid in pre-canvassing and canvassing of  
15 ballots and post-election audits." Do you see that?

16 A. Yes.

17 Q. Did the County hire 30 to 40 seasonal and  
18 temporary staff with the funding it received?

19 A. Yes.

20 Q. It did. Okay. And the 30 to 40 seasonal  
21 and temporary staff it hired, what were they doing?

22 A. So three of them came in prior to the  
23 election; I believe it was three. Two or three of  
24 them came in prior to the election, and they worked in  
25 the Bureau on the day-to-day tasks to support the

1 admin team. I want to say approximately 30 of them  
2 came in on just election day. And I think it may have  
3 been less than 30. They came in just for election day  
4 to help with the pre-canvassing and canvassing.

5 Q. When you say "pre-canvassing and  
6 canvassing," of the mail ballots?

7 A. Yes.

8 Q. So approximately 30 people were hired to  
9 pre-canvass and canvass the mail ballots, and two or  
10 three were hired to work within the Bureau?

11 A. Yeah. And their tasks within the Bureau  
12 would have been, basically, data entry and things of  
13 that nature.

14 Q. Data entry?

15 A. Yeah.

16 Q. The third bullet point here is "Explore  
17 options for permanent training workspace appropriate  
18 for our business needs." Do you see that?

19 A. Yes.

20 Q. Do you know what Ms. Gilbert's referring to  
21 there?

22 MR. MCLAUGHLIN: Object to the form. You  
23 may answer.

24 A. She wanted to find an area for training -- a  
25 space dedicated to training. The poll workers that

1 we -- Let me start over. She wanted to find a  
2 permanent training space for poll workers and judges  
3 of elections.

4 Q. (BY MR. ZIMOLONG) And was that space found?

5 A. We actually did acquire a space within the  
6 County; a space became available due to other  
7 departments moving, so we've been utilizing that  
8 space.

9 Q. And when did that occur? When did you start  
10 using that space?

11 A. 2023.

12 Q. So before the November 2022 election, there  
13 wasn't a permanent space for training, correct?

14 A. Correct.

15 Q. And none was obtained between the date of  
16 this memorandum, July 28, 2022, and the November 2022  
17 general election, correct?

18 A. Not a permanent space. There was a training  
19 space available, they rented it from the YMCA, it was  
20 the community building in Wilkes-Barre. And they --

21 Q. And -- Go ahead. Sorry.

22 A. They also had a training space in the  
23 southern part of the county that they were able to use  
24 at no cost.

25 Q. And that would have been training space for

1 poll workers?

2 A. Correct, and judges of elections.

3 Q. Not for Bureau personnel, correct?

4 A. Correct.

5 Q. As far as you know, there was no training  
6 given to Bureau personnel, correct?

7 A. Correct.

8 Q. Before the November 2022 general election,  
9 did the County maintain any written policies and  
10 procedures regarding the administration of elections,  
11 to your knowledge?

12 A. Yes.

13 Q. Okay. What is your understanding of the  
14 written policies and procedures that the County  
15 maintained?

16 A. They had an election group come in prior to  
17 my arrival on a consultant basis, and helped develop  
18 policies and procedures -- standard policies and  
19 procedures for the election.

20 Q. And before the November 2022 general  
21 election, had you seen these written policies and  
22 procedures?

23 A. It wasn't anything that I specifically  
24 looked at. There was a lot of technical information,  
25 to my understanding, that was within these procedures.

1 That was something that the director and the deputy  
2 referenced; that was, basically, their tool.

3 Q. Okay. So you don't know -- The document  
4 you're referring to, you're not sure the first time  
5 you saw it?

6 A. I'm not sure, no.

7 Q. Okay. It -- Could -- Could the first time  
8 that you saw the written policies and procedures  
9 you're referring to have been after the November 2022  
10 general election?

11 A. I believe I referenced them at different  
12 periods as we were adding training information -- not  
13 training information, procedures in with the Agilis  
14 machine. And since I had been working with the Agilis  
15 machine, I was referencing the guide.

16 Q. So my question was, could it have been after  
17 the November of 2022 election the first time you saw  
18 this material?

19 A. No.

20 Q. Okay. It would have been before the  
21 November 2022 election?

22 A. Correct.

23 Q. And where was the -- where were the policies  
24 and procedures maintained?

25 A. In the election bureau.

1 Q. Was it in hard copy or electronic form?

2 A. I believe both.

3 Q. So there was a hard copy in electronic form  
4 of these written policies and procedures maintained  
5 within the bureau?

6 A. I can't say for sure if there were both.

7 Q. Okay. Do you recall ever seeing a written  
8 copy of the written policies and procedures you're  
9 referring to?

10 A. Yes.

11 Q. Okay. And do you recall seeing that before  
12 the November 2022 general election?

13 A. Yes.

14 Q. And where do you recall seeing it?

15 A. In the bureau.

16 Q. How was it -- Was it in a binder? Was it --

17 A. I believe it was in a binder, yes.

18 Q. Okay. And what was contained in these  
19 written policies and procedures?

20 A. Well, I didn't specifically reference them  
21 as they were a tool that Emily and Beth used.

22 Q. All right. You never looked at them?

23 A. No.

24 Q. You never read them?

25 A. No.

1 Q. You're not sure what was in there?

2 A. No.

3 Q. And your understanding was the document  
4 you're referring to was drafted by a consultant?

5 A. Yes.

6 Q. And it was drafted before you were employed?

7 A. Correct.

8 Q. And what was the name of the consultant that  
9 drafted them?

10 A. The elections group.

11 Q. Do you still have a copy of these -- Does  
12 the County still maintain a copy of the document or  
13 the procedures that the elections group prepared?

14 A. Yes.

15 MR. ZIMOLONG: I'd put on the record that  
16 those policies and procedures be produced to me, Drew.

17 MR. MCLAUGHLIN: I believe they already  
18 have. I think what she's referring to is the  
19 elections guide, but I will certainly clarify that. I  
20 don't believe there are independent policies and  
21 procedures that were developed. But, to the extent  
22 that there are, certainly I would supplement those,  
23 but I believe her recollection may just be different  
24 than Ms. Cook's recollection, but I will look into  
25 that.

1 Q. (BY MR. ZIMOLONG) Well, Ms. Pecora, I've  
2 displayed for you a document on the screen. It's a  
3 111-page document. It was marked as Plaintiffs'  
4 Exhibit 1 at Ms. Cook's --

5 MR. MCLAUGHLIN: There's a hard copy right  
6 there for you.

7 MR. ZIMOLONG: Thank you.

8 Q. (BY MR. ZIMOLONG) It was marked as  
9 Plaintiffs' Exhibit 1 at Ms. Cook's deposition. It's  
10 a 111-page document. It's labeled -- In the lower  
11 right-hand corner you'll see numbers. It's labeled  
12 375 to 486. And I believe your attorney says you have  
13 a hard copy of this document before you; is that  
14 correct?

15 A. Yes.

16 Q. Okay. Have you seen this document before?

17 A. Yes.

18 Q. What is this document?

19 A. The election guide.

20 Q. It's the election guide that you were just  
21 referring to in your testimony?

22 A. Yes.

23 Q. And this was the election guide that you  
24 believe was prepared by the elections group?

25 A. I believe so. I think it may have been

1 tailored -- yes.

2 Q. Ms. Cook testified that she prepared this  
3 document. Would you have any reason to dispute that  
4 testimony?

5 A. No.

6 Q. And Ms. Cook testified that the copy that  
7 you have before you is the latest iteration of a guide  
8 she started drafting in February of 2022. Do you have  
9 any reason to dispute that?

10 A. No.

11 Q. And Ms. Cook testified that she would add  
12 and edit this document based upon each successive  
13 election since February of 2022. Do you have any  
14 reason to dispute that?

15 A. No.

16 Q. So when you're talking about the policies  
17 and procedures, you're talking about the election  
18 guide marked as Plaintiffs' Exhibit 1 or some earlier  
19 version of it, correct?

20 A. Yes.

21 Q. And, as far as you know, did the County  
22 provide any training to County employees regarding the  
23 content of the Luzerne Election Guide?

24 A. Within the Bureau, I believe Emily, she was  
25 training other staff members based upon her election

1 guide.

2 Q. And why do you believe that?

3 A. I remember her referencing or talking about  
4 it.

5 Q. During the meetings you had with her?

6 A. In passing.

7 Q. Do you know of any -- Do you know of any  
8 records that were maintained of these sessions that  
9 Ms. Cook had in training individuals within the Bureau  
10 on the election guide?

11 A. I'm not sure.

12 Q. Okay. Would -- In the almost-daily meetings  
13 that you had with members of the Bureau of Elections  
14 between September 2022 and the November 2022 general  
15 election, at any point did discussions regarding  
16 trainings regarding what was contained in the election  
17 guide come up?

18 A. I believe -- Yeah. I believe Emily  
19 discussed them with the admins.

20 Q. You believe she discussed them with the  
21 admins or --

22 A. Yes.

23 Q. My question was, did you have discussions --  
24 did that topic come up in discussions that you had in  
25 these daily meetings in the November to -- sorry, the

1 September to November 2022 time frame?

2 A. I believe so.

3 Q. Okay. And if they did, your notes would  
4 reflect that, wouldn't they?

5 A. They should.

6 Q. Okay. They should. And if there's nothing  
7 in the notes regarding those trainings, it would  
8 indicate that it probably wasn't discussed, right?

9 A. I guess.

10 Q. You did your -- In keeping notes, you did  
11 your best to keep a record of what occurred, correct?

12 A. Correct.

13 Q. During the meetings that you had in the  
14 September to November of 2022 time frame, did any of  
15 the discussions concern what to do if polling  
16 locations run out of the ballot paper?

17 A. No, I don't believe it was discussed. We  
18 did have --

19 Q. Go ahead.

20 A. We did deploy rovers with additional  
21 supplies for every election, and paper would have been  
22 something that they had.

23 Q. My question didn't ask about whether you  
24 deployed rovers.

25 A. I'm sorry.

1 Q. It talked about whether or not these -- the  
2 topic was discussed, and you said you don't believe  
3 so, correct?

4 A. I don't recall.

5 Q. Okay. Did -- During these meetings that you  
6 had with representatives of the Bureau of Elections  
7 between September 2022 and November 2022, was there  
8 any discussion about what to do if a polling location  
9 called in and said they were short or out of ballot  
10 paper?

11 A. I don't recall.

12 Q. But, if it was discussed, it should be in  
13 your notes, correct?

14 A. I don't know.

15 Q. Are you familiar with the ballot paper  
16 shortage during the November 2022 general election?

17 A. Yes.

18 Q. Tell me everything you remember about what  
19 happened on election day in Luzerne County regarding  
20 ballot paper in 2022.

21 A. We started getting calls as polling  
22 locations were beginning to open and they were getting  
23 set up for the day. We were getting calls that the  
24 poll workers had concerns that they didn't have enough  
25 paper to make it through the day.

1 Q. And when you said "we started receiving  
2 calls," would that have been polling locations were  
3 calling the Bureau?

4 A. Correct.

5 MR. MCLAUGHLIN: Just keep in mind, for the  
6 stenographer, let the question finish so that we can  
7 get an accurate record of your testimony. Okay?

8 THE DEPONENT: Sorry.

9 Q. (BY MR. ZIMOLONG) So, as I understand,  
10 polling locations started calling the Bureau of  
11 Elections on election day in 2022, correct?

12 A. Correct.

13 Q. Okay. Does the County maintain a log of the  
14 calls it received on election day?

15 A. Yes.

16 Q. Where is that log located?

17 A. There's a call center in the back. It's  
18 mostly notes that the election day workers keep when  
19 they're getting calls in.

20 Q. Okay. So, within the Bureau on election  
21 day, were there individuals that were assigned to  
22 answer phones?

23 A. Yes.

24 Q. Ms. Cook said there weren't any individuals  
25 that had specific assigned duties to answer phones; it

1 would just be whoever was available to answer the  
2 phone. Do you know why she said that?

3 MR. MCLAUGHLIN: Object to the form. You  
4 may answer.

5 A. Every -- When the calls start coming in, if  
6 a line's busy, they roll over. So it's not a specific  
7 person; it's the team answering calls within the  
8 Bureau.

9 Q. (BY MR. ZIMOLONG) Did the Bureau have  
10 people whose primary responsibilities were to answer  
11 phones, fielding calls, on election day in 2022?

12 A. We had, I believe, two or three people  
13 assigned in the back, in our call area. They're  
14 usually utilized for technical questions, if a rover  
15 needs to be deployed, things like that.

16 Q. Okay. And then, if those folks' lines were  
17 busy, the call would roll to other individuals within  
18 the office to answer?

19 A. I believe that's how it's set up.

20 Q. Okay.

21 A. I could be mistaken because I know there  
22 were some changes to the phones, but, to my  
23 understanding, that's the way they were set up.

24 Q. And when I asked you about call logs, you  
25 indicated that it would be in the form of some sort of

1 handwritten notes maintained by the individuals that  
2 answered the phones?

3 A. I believe so, yes.

4 Q. Okay. And where are those notes maintained?

5 A. I am not sure.

6 Q. Have you ever seen them before?

7 A. Just on election day.

8 Q. Okay. So you, on election day, saw  
9 handwritten notes maintained by individuals that were  
10 fielding calls?

11 A. I believe so, in the -- in the call area  
12 specifically.

13 MR. ZIMOLONG: And, Drew, I ask, again --

14 MR. MCLAUGHLIN: Yeah, we're efforting [sic]  
15 that, you know, as we speak. It's my understanding  
16 that they may have been turned over to the district  
17 attorney's office where they remain. But I'm working  
18 on that, and I'll update --

19 Q. (BY MR. ZIMOLONG) Ms. Pecora, besides --  
20 that's one form of log. But, besides the handwritten  
21 logs, does -- from a -- Trying to think of the best  
22 way to describe this.

23 In an official capacity, is there any sort  
24 of, to your knowledge, log that is kept of incoming  
25 calls to the Bureau of Elections?

1 A. I don't believe so.

2 Q. So there's no database that captures the  
3 phone numbers that call and the length of the call,  
4 that sort of thing?

5 A. I believe it could be tracked through our IT  
6 system, but I'm not sure how long that would be  
7 maintained or how long it would stay on file.

8 Q. You used to work for AT&T, right?

9 A. Correct.

10 Q. Did you sell cell phones?

11 A. Correct.

12 Q. Okay. Do you have a cell phone now?

13 A. I do.

14 Q. And you get a cell phone bill every month,  
15 right?

16 A. Technically, yes.

17 Q. Okay. And when you get your cell phone  
18 bill, it has a log of all calls that were received and  
19 were made, right?

20 A. Correct.

21 Q. And it's got the number, and it's got the  
22 incoming number, it's got the outgoing number, that  
23 sort of thing, correct?

24 A. Correct.

25 Q. And it's got the date, correct?

1 A. Yes. Can I -- I guess, can I clarify what I  
2 was trying to say?

3 Q. No. In a second.

4 A. Okay.

5 Q. And it's got the -- On your cell phone bill,  
6 it's got how long the call took, right?

7 A. Correct.

8 Q. So what I'm asking is, is there a database  
9 in the IT department or somewhere in the County that  
10 would have that similar type of information for calls  
11 that were made and received within the Bureau of  
12 Elections on election day in 2022?

13 A. I believe so.

14 Q. Okay. And that's something I would need to  
15 get from the IT department, that's your understanding?

16 A. Correct.

17 MR. ZIMOLONG: Okay. Drew, again, I'm going  
18 to make a request for the IT department call log for  
19 election day in 2022.

20 MR. MCLAUGHLIN: Yeah, if it exists, but  
21 I'll look into that.

22 Q. (BY MR. ZIMOLONG) What was your  
23 understanding of the standard operating procedure  
24 within the Bureau to do if a polling location called  
25 and said that they were low or out of paper ballots?

1           A.     To prioritize the need for paper based on  
2 what they were reporting that they had left or  
3 available on site. So, if three polling locations  
4 called and one said, "I have one ream of paper," one  
5 said, "I have a half a ream of paper," and another  
6 said, "I'm almost out," obviously, we would prioritize  
7 and send the paper to the location that had the most  
8 need.

9           Q.     Okay. So first thing was that there would  
10 be a triage done?

11          A.     Correct.

12          Q.     Okay. And then, once the triage was done,  
13 paper would be dispatched?

14          A.     Correct.

15          Q.     And would paper have been dispatched with  
16 the rovers?

17          A.     Yes.

18          Q.     So the paper to -- to address the paper  
19 needs at the polling location would first come from  
20 the rovers, correct?

21          A.     Yes.

22          Q.     And on election day the rovers didn't have  
23 enough paper to supply each precinct or location that  
24 was reporting low or shortages on paper, correct?

25          A.     Correct.

1 Q. Okay. And was there training given to the  
2 workers that were answering the phones on election day  
3 about this triage process?

4 A. I don't recall because everything happened  
5 so fast and the calls were coming in rapidly.

6 Q. So it was being done ad hoc, correct?

7 A. Pretty much.

8 Q. It was chaos, and you were doing the best  
9 you could?

10 A. Correct.

11 MR. MCLAUGHLIN: Object to the form. You  
12 may answer.

13 A. Correct.

14 Q. (BY MR. ZIMOLONG) So there weren't any  
15 standard operating procedures, correct?

16 MR. MCLAUGHLIN: Object to the form. You  
17 may answer.

18 A. Not for -- Not for a problem this large.

19 Q. (BY MR. ZIMOLONG) My understanding is that  
20 you were a member of the so-called seal team for the  
21 2022 general election.

22 A. I had only -- Yes, to the capacity that I  
23 was only there for about an hour, maybe. I had got  
24 called away to something else, I don't specifically  
25 remember what, but I was not there for a very long

1 period of time. An hour may even be a stretch.

2 Q. When you say an hour there may be a stretch,  
3 an hour where?

4 A. At the warehouse, where the machines are  
5 located and the sealing process takes place.

6 Q. So you're familiar with the seal team,  
7 correct?

8 A. Correct.

9 Q. And you were identified as a member of  
10 the -- Are you aware that the County has identified  
11 you as a member of the seal team for the November 2022  
12 general election?

13 A. Yes.

14 Q. Okay. And your participation, if I  
15 understand your testimony correctly, was on one day  
16 for one hour?

17 A. If that, yes.

18 Q. Okay. So, at most, your participation as a  
19 member of the seal team for the November 2022 general  
20 election was one hour on one day?

21 A. At best.

22 Q. At best. What did you do, at best, for that  
23 one hour on that one day for the seal team?

24 A. I arrived to the warehouse. We were  
25 instructed that the machines -- the L&A testing was

1 done, and they were ready to go; we had to go in and  
2 seal them.

3 Q. And you didn't receive any training on what  
4 you were to do as a member of the seal team before the  
5 November of 2022 general election, right?

6 A. Right. I was told to go in and seal the  
7 machines.

8 Q. Who told you that?

9 A. I don't know if Beth or Emily had said that  
10 I was needed down there and asked if I could go help,  
11 and I did.

12 Q. So it would have been either Beth or Emily  
13 that told you that your help was needed to seal the  
14 machines?

15 A. Correct.

16 Q. And they told you they were ready to go and  
17 you could start sealing them?

18 A. Correct.

19 Q. And there wasn't -- the County never placed  
20 a person in charge of overseeing the seal team, right?

21 A. Not to my knowledge. That was a function  
22 under operations.

23 Q. What do you mean it was a function under  
24 operations?

25 A. So it fell under the operations position

1 within the Bureau.

2 Q. And who was --

3 A. The operations manager.

4 Q. And who was the operations manager in the  
5 Bureau for the November 2022 general election?

6 A. Well, Emily was acting -- that was Emily's  
7 position, but she was in the acting deputy capacity  
8 while Beth was in the acting director capacity.

9 Q. Was there an acting or formal operations  
10 manager for the November of 2022 general election?

11 A. No.

12 Q. So the position that was in charge of  
13 overseeing the seal team was unfilled in the  
14 November 2022 general election, correct?

15 MR. MCLAUGHLIN: Object to the form. You  
16 may answer.

17 A. Correct.

18 Q. (BY MR. ZIMOLONG) And the County was aware  
19 of that, correct?

20 A. Correct.

21 Q. Before the November 2022 general election,  
22 did the County ever give you any written procedures to  
23 follow as a member of the seal team?

24 A. No.

25 Q. Ms. Pecora, did you attend any poll-worker

1 training sessions prior to the November 2022 general  
2 election?

3 A. No.

4 Q. Do you have any personal knowledge about the  
5 topic -- regarding the topics that were discussed at  
6 any poll-worker training sessions that were held prior  
7 to the November of 2022 general election?

8 A. To my understanding, the topics that were  
9 discussed were opening and closing the machines, what  
10 to do with provisional ballots, the paperwork that  
11 needed to be completed.

12 Q. And this is -- your knowledge is based upon  
13 what?

14 A. In the trainings that I have attended after  
15 the 2022 election, that was the standard information  
16 that was given.

17 Q. I'm talking about the training that was  
18 given before the 2022 general election. I'm not  
19 asking about what you learned afterwards.

20 A. Could you ask me the question again?

21 Q. So it's my understanding you didn't attend  
22 any poll-worker training -- you personally did not  
23 attend poll-worker training before the November 2022  
24 general election, correct?

25 A. Correct.

1 Q. And do you have any personal knowledge about  
2 the topics that were discussed at any poll-worker  
3 training prior to the November 2022 general election?

4 A. Yes.

5 Q. Okay. And what is that personal knowledge  
6 based on?

7 A. When we called in the consultant, Logan  
8 Buglio, we had discussed different areas of training  
9 that would be covered.

10 Q. Okay. So you discussed with Logan Buglio  
11 what training would be discussed at these -- for  
12 poll-worker training before the November 2022 general  
13 election?

14 A. Yes. In our initial meeting we talked about  
15 what would be included in the training.

16 Q. Okay. Did you discuss with Mr. Buglio in  
17 that initial meeting any training regarding what a  
18 polling location is to do if it ran out of paper?

19 A. I don't believe so.

20 Q. Did you discuss any training related to what  
21 a polling location should do if it was low on paper?

22 A. Not specifically paper, I don't believe.

23 Q. I'm going to show you a document.

24 MR. ZIMOLONG: Could you give the witness  
25 Plaintiffs' Exhibit 3?

1 MR. MCLAUGHLIN: It should be in order in  
2 that stack right there, Ms. Pecora.

3 Q. (BY MR. ZIMOLONG) Ms. Pecora, before you --  
4 you've been handed a document; we marked this as  
5 Plaintiffs' Exhibit 3 for identification at Ms. Cook's  
6 deposition. It's a document, "2022 Polling Place  
7 Procedures," Bates-labeled 337 to -- and I think the  
8 contents of the document should be Bates-labeled 369.

9 Do you have that before you? Do you have  
10 that before you, Ms. Pecora?

11 A. Yes.

12 Q. Okay. Have you seen this document before?

13 A. Yes.

14 Q. When was the first time you saw it?

15 A. I don't recall.

16 Q. Was it before or after the November of 2022  
17 general election?

18 A. I would say before.

19 Q. Are you guessing?

20 A. Yes.

21 Q. Did you have any role in drafting this  
22 document? Did you have any role in drafting the  
23 document, Ms. Pecora?

24 A. No.

25 Q. When you interviewed with the County for

1 your position, did the County or anyone on that panel  
2 advise you of any problems that had arisen in  
3 administering elections in the county before you were  
4 employed?

5 A. It was just maybe an overall statement from  
6 the County manager.

7 Q. Did the County manager ever give you any  
8 examples?

9 A. Nothing specific.

10 Q. Did the County manager tell you that the  
11 district attorney had investigated numerous complaints  
12 regarding the 2021 primary election?

13 A. It really wasn't a topic of discussion.

14 Q. Well, it really not being a topic of  
15 discussion is different than him telling you that.

16 A. I guess I'm not clear on it because I was  
17 aware of the situation, being a county resident and it  
18 being talked about. I was a candidate on the 2021  
19 ballot. So I can't specifically say who, what, where,  
20 or when I talked to someone about it because it was --  
21 I was aware of the issues.

22 Q. You were aware of the issues from the media,  
23 correct?

24 A. Correct.

25 Q. And you were aware of the issues from being

1 a candidate yourself, correct?

2 A. Correct.

3 Q. Did any of the issues in the May 2021  
4 primary affect you personally as a candidate?

5 A. No.

6 Q. Were you aware of an incident where -- in  
7 the November 2020 general election where ballots were  
8 discarded?

9 A. I have heard of that, yes.

10 Q. How did you hear of that?

11 A. The media.

12 Q. And did you hear that before you were hired  
13 by the County?

14 A. Yes.

15 Q. Did Mr. -- Did anyone during your interview  
16 ever remark to you that that incident was related to  
17 the Bureau being difficult?

18 A. I don't -- I don't -- I don't think so.

19 Q. Did you ever give any interviews -- Have you  
20 ever given any interviews to any reporters regarding  
21 the November 2022 election in Luzerne County?

22 A. I do not believe I spoke to the media on the  
23 2022 election.

24 Q. At any point?

25 A. No.

1 Q. Did you ever speak to a reporter by the name  
2 of Christina A. Cassidy from the Associated Press?

3 A. Yes.

4 Q. Okay. And you would have spoken to her  
5 about the November 2022 general election, correct?

6 A. Yes.

7 Q. And when did you speak to her?

8 A. Maybe -- Summer of 2023.

9 Q. And what did you speak to her -- what did  
10 you tell her?

11 A. I believe we spoke about the mind-set of  
12 the -- kind of what our mind-set was on the 2022  
13 election with running out of paper, in regard to  
14 running out of paper.

15 Q. Did you tell her that there was a feeling of  
16 panic within the Bureau on election day in  
17 November 2022?

18 A. I believe so.

19 Q. And there was -- And there was panic within  
20 the Bureau on election day in 2022, right?

21 MR. MCLAUGHLIN: Object to the form. You  
22 may answer.

23 A. Yes.

24 Q. (BY MR. ZIMOLONG) And the reason there was  
25 panic was that there weren't any policies and

1 procedures in place to handle the situation, correct?

2 MR. MCLAUGHLIN: Object to the form. You  
3 may answer.

4 A. Not on a case this large.

5 Q. (BY MR. ZIMOLONG) That's one of the things  
6 that contributed to the panic, correct?

7 MR. MCLAUGHLIN: Object to the form. You  
8 may answer.

9 A. Yes.

10 Q. (BY MR. ZIMOLONG) Have you ever had an  
11 opportunity to read Ms. Cassidy's article that she  
12 interviewed you for?

13 A. I believe -- I believe so, yes.

14 Q. Did you ever request Ms. -- After the  
15 article was published, did you ever make a request of  
16 Ms. Cassidy to change anything that appeared in the  
17 article?

18 A. I did not.

19 Q. Do you know who Al Schmidt is?

20 A. I'm not sure.

21 Q. Never heard the name?

22 A. It doesn't sound familiar.

23 Q. There's a comment in the article -- I'll  
24 display this for you. I'm going to represent to  
25 you -- I've displayed for you a portion of a document

1 we marked as P-6 at Ms. Cook's deposition. It's a  
2 copy of Ms. Cassidy's article in the Associated Press  
3 that she interviewed you for.

4 And at one point in the article Ms. Cassidy  
5 remarks, "There's no one reason for why the county has  
6 experienced so much turnover in its election office,  
7 but there is little doubt the churn has added to  
8 problems confronting the department. Staffers  
9 reported finding instructions about important election  
10 procedures written on scraps of paper." Do you see  
11 that sentence?

12 A. Yes.

13 Q. Do you know what Ms. Cassidy is referring to  
14 there?

15 MR. MCLAUGHLIN: Object to the form. You  
16 may answer.

17 A. I believe it was notes that were jotted down  
18 during -- during election day.

19 Q. (BY MR. ZIMOLONG) Okay. Why do you believe  
20 that?

21 A. Everyone was taking notes as things were  
22 happening; it was happening really fast.

23 Q. Okay. So remembering my instruction, do you  
24 know what Ms. Cassidy is referring to there, or are  
25 you speculating as to what she's referring to there?

1           A.    I'm not sure what she's specifically  
2 referring to.

3           Q.    Okay. No one ever told you that staffers --  
4 In other words, were you ever told that staffers  
5 within the Bureau had found important election  
6 procedures written on scraps of paper?

7           A.    No, not that I recall.

8           Q.    Do you believe mistakes were made in the  
9 administration of the 2022 general election in Luzerne  
10 County?

11          A.    Yes.

12          Q.    What mistakes do you believe were made?

13          A.    Oversight of ordering appropriate supplies  
14 for the election.

15          Q.    And whose responsibility was that?

16          A.    The election bureau.

17          Q.    And who within the election bureau  
18 ultimately had responsibility for that?

19          A.    The director.

20          Q.    And that was Ms. Gilbert?

21          A.    Correct.

22          Q.    Okay. And when you say there was a mistake  
23 in oversight, what should have Ms. Gilbert done and  
24 what did she do that was a mistake?

25          A.    What should she have done?

1 Q. Yes.

2 A. Ensured that there were adequate supplies.

3 Q. And how was she to do that?

4 A. To check the stock that was on hand in the  
5 warehouse.

6 Q. Okay. And she didn't do that?

7 A. I don't believe so.

8 Q. Were there any other mistakes made?

9 A. In regard to the paper?

10 Q. Yes, in regard to the -- Yeah, in regard to  
11 the paper.

12 A. Prior to the election there was paper on  
13 hand in the warehouse that was the wrong weighted  
14 paper, that couldn't be used in this election.

15 Q. Any other things that you believe are  
16 mistakes?

17 A. This being the main one; I think it  
18 overshadows anything else.

19 Q. Did you personally answer any calls within  
20 the Bureau on election day?

21 A. I did, but I'm not sure -- I don't know --  
22 Yes, I did answer calls.

23 Q. Did you ever tell any of the polling  
24 locations to purchase paper at office supply stores?

25 A. I don't recall if I told anyone specifically

1 to do that. I know that was discussed, but we were  
2 concerned about the availability of 80-pound paper at  
3 retail stores.

4 Q. So it's not --

5 A. There was a topic of discussion about being  
6 able to purchase it at retail stores, but I don't -- I  
7 don't remember if we advised that to anyone because of  
8 the weights specific for the machines.

9 Q. But it's entirely possible that the Bureau  
10 did advise polling locations to get paper at office  
11 supply stores, correct?

12 MR. MCLAUGHLIN: Object to the form. You  
13 may answer.

14 A. I guess it's a possibility.

15 Q. (BY MR. ZIMOLONG) Because it was discussed,  
16 correct?

17 A. Yes.

18 Q. Did you -- Did you appear in court on  
19 election day in 2022?

20 A. No.

21 Q. Are you aware of any incidents or any cases  
22 where paper that was procured from local office supply  
23 stores was delivered to polling places to be used as  
24 ballot paper?

25 A. On election day? No. Not that I recall. I

1 think post election we received information that  
2 polling locations may have used regular paper.

3 Q. Do you dispute that regular paper was used  
4 at certain polling locations on November 2022 -- on  
5 the November 2022 election day?

6 A. No, I don't dispute it; I think it's a  
7 possibility. I believe it was used at some.

8 MR. ZIMOLONG: Bear with me. Drew, that's  
9 all I have right now.

10 MR. MCLAUGHLIN: Okay. You want to take a  
11 break? I just have a few questions.

12 THE DEPONENT: Sure.

13 MR. MCLAUGHLIN: I'm asking, do you want to  
14 just go right through, or do you want to take a break?

15 THE DEPONENT: I guess just go right  
16 through.

17 MR. MCLAUGHLIN: Okay.

18 EXAMINATION

19 BY MR. MCLAUGHLIN:

20 Q. Let's just pick up right there about this  
21 80-pound paper, and I just want to clarify your  
22 testimony there.

23 You said that you learned some information  
24 post election that some polling precincts, you're not  
25 sure how many, might have utilized paper that they got

1 at regular office supply stores?

2 A. I think so, yes.

3 Q. Okay. Would that or would that not have  
4 been as a result of a directive specifically from the  
5 Bureau of Elections or another County official?

6 A. Not necessarily. To my recollection, we  
7 were not instructing anyone to go purchase paper; we  
8 were working on procurement of the paper.

9 Q. And by "the paper," you mean specifically  
10 80-pound paper?

11 A. Correct.

12 Q. So, to the extent you testified that there  
13 was conversation about procuring paper from, like,  
14 Office Max or Staples, --

15 A. And that --

16 Q. Just let me finish the question.

17 A. Sorry.

18 Q. -- that would have been as part of an effort  
19 to identify 80-pound paper?

20 A. Correct.

21 Q. You would not have been directing people to  
22 just go to your nearest store and get any paper you  
23 can to put through those machines?

24 A. No, we would not.

25 Q. On election day was there any communication

1 that you were aware of between the Bureau of Elections  
2 and the Department of State regarding how to respond  
3 to this paper ballot shortage on November 8, 2022?

4 A. They were assisting in the triage of the  
5 paper shortage. They had instructed us to make sure  
6 we were getting the correct paper for the machines  
7 and, you know, instructed us to prioritize.

8 Q. Prioritize what?

9 A. The need for paper at the locations that  
10 were running low.

11 Q. Was there any discussion or consideration of  
12 utilizing the 100-pound paper that had been in storage  
13 at the County warehouse?

14 A. Yes.

15 Q. And what directives, if any, did you receive  
16 from either, let's say, Dominion Voting Systems and/or  
17 the Department of State regarding delivering that  
18 100-pound paper to respond to the situation?

19 A. So the concern with the 100-pound paper,  
20 Dominion advised us that it was too heavy a weight,  
21 that it could cause problems with the scanners and  
22 could damage them or the printers. So they advised  
23 not to use it. And there had been some issues in the  
24 warehouse with temperature control, that humidity --  
25 there were concerns that the humidity could have

1 affected the paper as well.

2 Q. Now, there's been testimony this morning  
3 about your oversight of the elections Bureau between  
4 your hiring in September of 2022 up to and through the  
5 November 8, 2022, general election. Do you recall  
6 testifying to these things?

7 A. Yes.

8 Q. And I believe, to summarize your testimony  
9 that you were meeting practically every day or at  
10 least very frequently with elections Bureau staff  
11 directly, correct?

12 A. Yes.

13 Q. Those would have been sort of organized,  
14 formal meetings?

15 A. No.

16 Q. Okay. How would these meetings occur?

17 A. Usually Beth and Emily would show up at my  
18 office. We would sit down and discuss what tasks were  
19 going to be done today, things of that nature.

20 Q. You also testified this morning that, in  
21 addition to these interactions with primarily Beth and  
22 Emily Cook, you had the opportunity to see and observe  
23 how the elections Bureau was preparing for that  
24 election. Do you recall that?

25 A. Yes.

1 Q. And I think we kind of skipped over this,  
2 but could you explain how you were able to observe the  
3 daily functions of the office during this time period  
4 outside of these meetings that occurred?

5 A. So, just basically, upon arrival to the  
6 office, I had access within the Bureau. So, just  
7 basically, visual observation.

8 Q. Very generically, why were you able to  
9 observe the Bureau from your office? Could you just  
10 state for the record where you were working from?

11 A. Okay. I had been placed in the director's  
12 office shortly after my employment with the County.  
13 They figured that that's where I would need to be.

14 Q. So you were working from the elections  
15 Bureau --

16 A. Correct.

17 Q. -- between September and November 8 of 2022?

18 A. Correct.

19 Q. Okay. So while you were supervising the  
20 other departments other than the elections Bureau,  
21 you, obviously, had the opportunity to see what was  
22 going on?

23 A. Right.

24 Q. You testified that, in your interviews for  
25 the position of the division head of administrative

1 services, it had been stated to you that one of the  
2 Bureau's priorities was identifying and hiring a  
3 full-time director.

4 A. Correct.

5 Q. Could you explain what efforts, if any, were  
6 taken to hire a full-time elections director between  
7 September of 2022 and November 8 of 2022?

8 A. We received applications; they were provided  
9 to me upon employment with the County. And we had  
10 interviewed three candidates for the position.

11 Q. Do you remember who those three candidates  
12 were?

13 A. Beth Gilbert, Emily Cook, and a woman named  
14 Erin from Connecticut; I do not recall her last name.  
15 There was a panel. It was -- The HR director, myself,  
16 and the deputy director from York County participated  
17 as panelists in those interviews.

18 Q. Was there just one round of interviews?

19 A. Two rounds.

20 Q. One with the panel?

21 A. One with the panel.

22 Q. And then who was the second round with?

23 A. The County manager participated with the HR  
24 director and myself.

25 Q. Okay. After those interviews, was an offer

1 extended for the full-time director of elections  
2 position between September and November 8 of 2022?

3 A. Yes.

4 Q. Who was it extended to?

5 A. The woman from Connecticut.

6 Q. And what happened?

7 A. We offered her the position, and shortly  
8 thereafter -- I want to say we offered it to her on a  
9 Thursday or Friday, and by Monday she called, and she  
10 said she wasn't going to be taking the position.

11 Q. After that, what did the County do next  
12 regarding the vacancy of the director of elections  
13 position?

14 A. The County manager had advised me that he  
15 was going to be putting Beth in as the acting director  
16 and Emily in as the acting deputy director.

17 Q. If you know, was the full-time director of  
18 elections job reposted?

19 A. Yes.

20 Q. Do you know when that would have occurred?

21 A. I'm not sure. It may have also been a  
22 continuous posting; they may not have taken it down,  
23 just depending on how the interview process was going.

24 Q. If you know, was there ever a decision to  
25 keep the job open until after the election, given the

1 time period in the calendar year?

2 A. The position was still open and posted so  
3 that we could still receive applications for it, but  
4 the County manager made the decision to fill it on an  
5 acting capacity in the interim.

6 Q. Were you a part of those discussions about  
7 making the acting appointments?

8 A. No. It was told to me that that's what the  
9 plan was.

10 Q. Okay. You were also asked at several points  
11 about trainings offered by the County to you and to  
12 other members of the election Bureau. Do you recall  
13 that?

14 A. Yes.

15 Q. If you know, were there any trainings  
16 offered by the Department of State?

17 A. I believe they have office-hour calls  
18 that -- that Beth and Emily would participate in.  
19 That was generally something I wouldn't participate  
20 in.

21 Q. Okay. What about post November 8, 2022,  
22 have there been any trainings that you have personally  
23 attended related to election administration?

24 A. No.

25 Q. What about the director and deputy director

1 of elections, have they been sent by the County for  
2 any trainings?

3 A. They have gone to conferences where election  
4 topics are discussed. And in those trainings it's a  
5 lot of discussion about campaign finance,  
6 right-to-know request laws, things like that. I don't  
7 think it's anything specific to the election process  
8 or technical components.

9 Q. And those are trainings that, I presume,  
10 have a cost associated to it?

11 A. I think it's a minimal cost for them to  
12 attend.

13 Q. But there is a cost?

14 A. Yes.

15 Q. And the County bears that cost, correct?

16 A. Correct.

17 Q. You were asked a couple questions about  
18 individual Bureau of Elections employees' knowledge  
19 and I think even your own knowledge of applicable  
20 state or federal election laws. Do you recall that?

21 A. Yes.

22 Q. Prior to the November 8, 2022, general  
23 election, were there legal counsel made available to  
24 the Bureau of Elections who could consult and advise  
25 on any legal-related matters that might come about?

1 A. Yes.

2 Q. And who would those attorneys be?

3 A. At the time, our election solicitor was  
4 Paula Radick.

5 Q. And she would be employed in the solicitor's  
6 office of Luzerne County?

7 A. Correct.

8 Q. The Office of Law?

9 A. Correct.

10 Q. Essentially, in-house counsel for the County  
11 government, correct?

12 A. Yes.

13 Q. In your interactions with Beth Gilbert  
14 during the period in which you supervised her, prior  
15 to the November 8, 2022, general election, did she  
16 have an independent knowledge of election law?

17 A. Yes.

18 Q. And how -- how did she display that to you,  
19 I guess I'll ask?

20 A. She would make -- Nothing specific, but she  
21 would make references to the election code when we  
22 were in conversations, if there were disagreements  
23 between the Bureau and the Board. Not that she was  
24 referencing them verbatim, but she had -- she clearly  
25 had knowledge of the election laws.

1 Q. Prior to being hired with the Bureau of  
2 Elections, was she an elected official anywhere?

3 A. Yes, Wilkes-Barre City Councilwoman.

4 Q. While she was working with the Bureau of  
5 Elections, did she maintain that elected position?

6 A. She did.

7 Q. You were asked several questions about  
8 whether or not there was dedicated space or spaces for  
9 training of judges of elections and poll workers,  
10 correct?

11 A. Yes.

12 Q. And you answered that, at some point in  
13 2023, the County was able to designate certain space  
14 in County buildings for that purpose, correct?

15 A. Yes.

16 Q. However, it would be correct -- although you  
17 didn't personally attend them, are you aware that  
18 there were trainings provided to poll workers and  
19 judges of elections prior to November 8, 2022?

20 A. Yes.

21 Q. You were also asked about whether or not an  
22 acting operations manager was appointed, given that  
23 Emily Cook was designated as the acting deputy  
24 director of elections.

25 A. Yes.

1 Q. And your answer was that no one was  
2 appointed to fill that acting position, correct?

3 A. Correct.

4 Q. Is there any reason why?

5 A. The directive to appoint the acting  
6 positions within the Bureau came from the County  
7 manager, Robertson, and that was not something that he  
8 had instructed me to fill.

9 Q. Would it be correct that Emily Cook  
10 continued to fulfill those job duties and  
11 responsibilities regardless of her title at that  
12 point?

13 A. Correct.

14 Q. So it wasn't that no one was doing that job,  
15 correct?

16 A. Correct.

17 Q. One person was then doing two jobs?

18 A. Correct.

19 Q. You were asked and you testified earlier  
20 about were contingencies discussed in any preplanning  
21 meetings about paper shortages should they occur on  
22 election day. Do you recall that?

23 A. Yes.

24 Q. And your testimony, and correct me if I'm  
25 wrong, was, essentially, you don't recall that

1 specifically being a topic of discussion, correct?

2 A. Yes. Paper -- Paper specifically was not  
3 named as an issue; it would be supplies.

4 Q. Okay. And you'd agree with me, obviously,  
5 that ballot paper is a critical supply for election  
6 day?

7 A. Correct.

8 Q. And you would also agree with me that  
9 preventing paper shortages from ever occurring is a  
10 high priority, correct?

11 A. Correct.

12 Q. So, if an election is done well, there  
13 shouldn't be paper shortages, period, correct?

14 A. Correct.

15 Q. And that is the department's focus and goal?

16 A. Yes.

17 Q. Even though it didn't happen here?

18 A. Correct.

19 Q. From your standpoint, what is the role of  
20 these roving teams or rovers, what purpose do they  
21 serve?

22 A. They are available to polling locations  
23 should they have any technical issues with their  
24 equipment. Should there be anything faulty with their  
25 equipment, they can offer replacements. And they can

1 deliver any supplies if there's a shortage. There is  
2 many different supplies that go into the machines,  
3 whether it's the thermal rolls, the paper, depending  
4 on what kind of election it is, many pens, ballot  
5 stock, things like that. So, really, the supplies  
6 vary.

7 Q. So identifying and providing supplies to the  
8 rovers, that would be part of the preplanning and  
9 fulfillment of contingencies for an election, correct?

10 A. Yes.

11 Q. And were the rovers provided 80-pound paper  
12 to supply polling locations should they need  
13 additional paper?

14 A. Yes.

15 Q. And that was done prior to November 8, 2022?

16 A. Yes.

17 Q. Were you involved at all with the decision  
18 to petition Luzerne County court to extend voting  
19 hours from 8 p.m. to 10 p.m. on November 8, 2022?

20 A. Yes.

21 Q. How was that decision made?

22 A. Well, I knew we were running out of time  
23 with -- not running out of time, we were losing time.  
24 And should any place need to stay open for people to  
25 come back, we wanted to at least grant them an extra

1 time period. So I had asked the Office of Law if that  
2 was something that we could do.

3 Q. And they responded by preparing a petition  
4 and presenting it to court?

5 A. Yes.

6 Q. Do you know what time of day that would have  
7 been on November 8?

8 A. Approximately 1 o'clock, I believe.

9 Q. So, like, midday?

10 A. Yes.

11 Q. Were you personally involved with procuring  
12 additional 80-pound paper to be delivered on  
13 November 8 of 2022?

14 A. I had given the directive to the purchasing  
15 department that we needed to reach out to various  
16 vendors that an emergency purchase would need to be  
17 done.

18 Q. So you weren't personally making phone calls  
19 to these vendors?

20 A. No.

21 Q. Are you aware if those efforts were  
22 successful?

23 A. They were successful. There was a local  
24 vendor that was able to provide paper fairly quickly.  
25 And then our vendor for our mail-in ballots had

1 provided paper later in the afternoon.

2 Q. Okay. So by the end of the afternoon, was  
3 there sufficient 80-pound paper that could be  
4 delivered to polling places to respond to paper  
5 shortages?

6 A. It was on its way, yes.

7 Q. There's been some testimony today about  
8 notebooks that you may have maintained of your daily  
9 activities leading up to the November 8, 2022,  
10 election. Are these stenographic notebooks?

11 A. No.

12 Q. In other words, they would accurately record  
13 your notes and reflections of your daily activities  
14 during that time frame, correct?

15 A. Correct.

16 Q. But they would not be exhaustive of  
17 everything and anything that was discussed that day?

18 A. It's just shorthand notes, kind of reminders  
19 to look back -- You know, if I need to do something,  
20 I'll take a note, remind myself when reviewing it, you  
21 know, that I have a task to complete, for example.

22 Q. So, just hypothetically, if something was  
23 discussed in a meeting but it does not appear in your  
24 notes, that does not mean it wasn't discussed at that  
25 meeting, it just doesn't appear in your notes; is that

1 correct?

2 A. Yes.

3 MR. MCLAUGHLIN: I have nothing further. I  
4 don't know if you have any additional questions off of  
5 what I asked.

6 MR. ZIMOLONG: Yeah, I do. First thing I  
7 want to put on the record is that I am not going to  
8 close this deposition because of the testimony given  
9 about Ms. Pecora's notebooks. And it would be fair  
10 that, once the notebooks are produced, in particular  
11 Ms. Pecora's testimony that some of it may be in  
12 shorthand, we reserve the right to recall Ms. Pecora  
13 to testify about the contents of the notebooks. So  
14 we'll see about that.

15 EXAMINATION

16 BY MR. ZIMOLONG:

17 Q. Ms. Pecora, you talked about the woman from  
18 Connecticut that was interviewed to be the director of  
19 the Bureau of Elections. Do you remember that  
20 testimony?

21 A. Yes.

22 Q. And you participated in that interview  
23 process?

24 A. Yes.

25 Q. And you participated in deliberations

1 whereby a decision was made to offer her the position?

2 A. Yes.

3 Q. And that was before the November 2022  
4 election?

5 A. Yes.

6 Q. And another -- And the -- Besides the woman  
7 from Connecticut -- By the way, do you have her name?

8 A. I don't recall her last name. First name  
9 was Erin.

10 Q. All right. So when you interviewed Erin  
11 from Connecticut about the position, you also -- you  
12 also interviewed Ms. Gilbert, right?

13 A. Correct.

14 Q. And you interviewed Ms. Cook?

15 A. Correct.

16 Q. Okay. But a decision was made to offer it  
17 to Ms. -- the Erin from Connecticut?

18 A. Correct.

19 Q. And the reason you didn't offer it to  
20 Ms. Cook or Ms. Gilbert was the individual from  
21 Connecticut was more experienced?

22 MR. MCLAUGHLIN: Object to the form. You  
23 may answer.

24 A. She had leadership qualities that we were  
25 looking for. She had experience with -- some

1 experience with elections, mostly on the registration  
2 side of things, and she was familiar with the election  
3 code.

4 Q. (BY MR. ZIMOLONG) And neither Ms. Cook nor  
5 Ms. Gilbert had that requisite level of experience?

6 MR. MCLAUGHLIN: Object to the form. You  
7 may answer.

8 A. During the interview process, the panelists  
9 all confirmed that Erin was what we were looking for  
10 based upon the leadership that we felt she could  
11 provide to the County, to the Bureau.

12 Q. (BY MR. ZIMOLONG) But you also considered  
13 her experience with the election code, didn't you?

14 A. Correct.

15 Q. And you considered her experience with  
16 administering elections, correct?

17 MR. MCLAUGHLIN: Object to the form.

18 A. To some -- To some capacity.

19 Q. (BY MR. ZIMOLONG) And that factored into  
20 a decision to offer her the position rather than  
21 Ms. Gilbert, correct?

22 A. Correct.

23 Q. And it factored into the decision to offer  
24 Erin the position, not Ms. Cook, correct?

25 A. Correct.

1 Q. Why did the County interview for a full-time  
2 director and not offer the position to Ms. Gilbert  
3 immediately?

4 MR. MCLAUGHLIN: Object to the form. Do you  
5 want to clarify the time frame?

6 Q. (BY MR. ZIMOLONG) So Mr. Susek resigned in  
7 July or announced he was going to resign in July 2022,  
8 correct?

9 A. Yes.

10 Q. And the County therefore knew that it was  
11 going to need to fill his position, correct?

12 A. Correct.

13 Q. And his position was the director of  
14 elections, correct?

15 A. Correct.

16 Q. And one option would have just been to  
17 elevate Ms. Gilbert to that position, correct?

18 A. No, that's not an option.

19 Q. Why not?

20 A. Our personnel code states that, once a  
21 position is vacated, it needs to be posted for  
22 advertisement for two weeks to take applicants, and  
23 then interviews can begin after the posting closes.

24 Q. Okay. But you don't have to interview every  
25 applicant, correct?

1 A. Correct.

2 Q. So you could have just interviewed  
3 Ms. Gilbert -- the County could have interviewed  
4 Ms. Gilbert and offered her the full-time position if  
5 they wanted to, correct?

6 A. No.

7 Q. Okay. Why not?

8 A. Because, when applicants apply, before any  
9 information is released to the panelists, they go  
10 through HR, and some of them will not meet the minimum  
11 qualifications. And if they do meet the minimum  
12 qualifications, they are entitled to an interview.

13 Q. So the three individuals that applied for  
14 the job that met the minimum qualifications were  
15 Ms. Cook, Ms. Gilbert, and Erin from Connecticut?

16 A. Correct.

17 Q. Two were employees of the department -- the  
18 Bureau, correct?

19 A. Correct.

20 Q. And you were familiar with their  
21 capabilities, correct?

22 MR. MCLAUGHLIN: Object to the form.

23 A. Correct.

24 Q. (BY MR. ZIMOLONG) And the lady from  
25 Connecticut, she had never worked for the County,

1 correct?

2 A. Correct.

3 Q. And you weren't familiar with her  
4 capabilities, correct?

5 A. Correct.

6 Q. And yet a decision was made to offer her the  
7 job over Ms. Cook and Ms. Gilbert, correct?

8 A. Correct.

9 Q. Who were the election day rovers on election  
10 day in November 2022?

11 A. Who are they?

12 Q. Who were they?

13 A. I don't know their names specifically. I'm  
14 familiar with one because I knew him personally prior  
15 to my employment here, but --

16 Q. How many rovers did the County have on  
17 election day in 2022?

18 A. I believe seven.

19 Q. Okay. And they would cover the whole  
20 county, correct?

21 A. Yes.

22 Q. Seven rovers. How many polling locations  
23 are there in Luzerne County, approximately?

24 A. 186.

25 Q. And what's the process by which someone goes

1 about -- What was the process by which someone went  
2 about becoming a rover for election day in 2022?

3 A. Basically, phone calls were made by one of  
4 the admins to recruit them. So some of them were  
5 people personally known, you know, to staff members.  
6 There isn't an official process. It's, you know, "Can  
7 we get you to help us out on election day?"

8 Q. There was no official process to recruit  
9 rovers, correct?

10 A. Not that I'm aware of. Some of the rovers  
11 had been in place for quite some time prior to my  
12 arrival --

13 Q. What --

14 A. -- called upon when needed.

15 Q. What criteria did the County utilize to  
16 determine whether someone should be recruited as a  
17 rover?

18 A. I don't know that there's anything specific  
19 for that.

20 Q. Just --

21 A. I've never gone through the process of doing  
22 that, so I'm not familiar with it.

23 Q. You're not aware of any formal criteria  
24 that's needed to be a rover -- You are not aware of  
25 any formal criteria that the County maintained to

1 serve as a rover on election day in 2022; is that  
2 right?

3 A. Are you talking about recruiting them or --  
4 I'm not clear on what you're asking.

5 Q. Well, could anybody be a rover on election  
6 day in 2022?

7 A. I believe so.

8 Q. You needed a car and a driver's license,  
9 that's about it, right?

10 A. Yeah.

11 Q. You didn't need prior experience, right?

12 A. No.

13 Q. The County didn't provide the rovers any  
14 training, correct?

15 A. I believe there is rover training that was  
16 done, but most of the rovers that were on the  
17 November 2022 election, I believe they had been rovers  
18 that had been in place; they had worked prior  
19 elections, so they were familiar with --

20 Q. Who provided the rover training for the  
21 November 2022 election?

22 A. I'm uncertain if it was the admin or Bureau  
23 leadership. I'm not sure specifically.

24 Q. How do you know that it was done?

25 A. I don't.

1 Q. So you don't -- you don't know one way or  
2 another whether there was rover training given before  
3 the November 2022 election specifically for that  
4 election, do you?

5 A. Specifically, no, because the rovers that  
6 worked that election had all been rovers prior to that  
7 election.

8 Q. So you're speculating as to whether or not  
9 there was training given, you're uncertain?

10 A. Yes.

11 Q. Was there any technical training given to  
12 the rovers prior to the November 2022 election?

13 A. I believe they attended the poll-worker  
14 training for the technical end of things.

15 Q. How do you know that?

16 A. I don't. I would have to refer back to the  
17 sign-in sheets as to who and when they attended.

18 Q. So you're unsure whether or not the rovers  
19 received technical training as part of the poll-worker  
20 training, correct?

21 A. I don't manage the day-to-day of if they're  
22 fine whether poll workers do their training or  
23 assigned to the administrative team who oversees that.

24 Q. I didn't ask you --

25 A. So no.

1 Q. -- whether -- I didn't ask you whether  
2 that's what you did.

3 A. No. No.

4 Q. Let me finish my question, Ms. Pecora. My  
5 question is, do you know whether or not for certain  
6 they received technical training, the rovers?

7 A. No, I do not.

8 Q. Okay. Does the County maintain the names of  
9 these rovers?

10 A. Yes.

11 Q. Where are the names maintained?

12 A. In the Bureau.

13 Q. And who determined the supplies each rover  
14 would get?

15 A. One of the admins is assigned with supplying  
16 the rovers with their bags for election day.

17 Q. What were the policies and procedures given  
18 to the admins as to what to supply the rovers?

19 A. I believe they have a list; I'm not certain.  
20 I know they're provided with a rover bag with  
21 additional supplies and materials in there, and I  
22 believe they provide extra screens and hardware for  
23 the machines as well.

24 Q. Okay. Ms. Pecora, remember my instruction;  
25 I'm not asking you to guess. Okay? Are you guessing

1 when you just told me that?

2 A. I'm -- I'm telling you what I have seen go  
3 out.

4 Q. Okay. I didn't ask you what you've seen go  
5 out.

6 A. Okay.

7 Q. Okay? So, apparently, you're not following  
8 my instruction about understanding my questions. So  
9 let me start over.

10 On election day in 2022, the rovers were  
11 given supply bags, correct?

12 A. Correct.

13 Q. And in those bags were supplies, right?

14 A. Correct.

15 Q. And the person or individual that put the  
16 supplies in the bag was an admin within the Bureau,  
17 correct?

18 A. Correct.

19 Q. How did the admin know what supplies to put  
20 in the bag?

21 A. I don't know.

22 Q. Okay. And you don't know whether or not the  
23 County maintains any written policies and procedures  
24 regarding -- at least at the time of the November 2022  
25 election, you don't know whether or not the County

1 maintained any written policies and procedures  
2 regarding what the admin should put in the supply bag,  
3 do you?

4 A. Correct.

5 Q. And you never saw any, did you?

6 A. No.

7 Q. You talked about training, where folks in  
8 the Bureau went to conferences to get some training.  
9 Do you remember that testimony you gave shortly ago to  
10 your attorney?

11 A. Yes.

12 Q. The conferences you're talking about, that's  
13 all after the November 2022 election, correct?

14 A. Yes.

15 Q. Now, Paula Radick was an individual that you  
16 identified, right?

17 A. Yes.

18 Q. Is she still employed by the County?

19 A. She is.

20 Q. Okay. And was Ms. Radick's job within the  
21 solicitor's office to serve in the capacity as special  
22 elections counsel?

23 A. Solicitor for elections.

24 Q. And that's all she did?

25 A. I'm not sure what other duties or tasks she

1 would have been assigned by her boss.

2 Q. Was Ms. Radick's office within the Bureau of  
3 Elections?

4 A. It was within the same building but not in  
5 the Bureau.

6 Q. Okay. The meetings that you had on a daily  
7 basis between September and November 2022, did  
8 Ms. Radick attend those meetings with you?

9 A. Not on a regular basis. She participated  
10 mainly in the election board meetings.

11 Q. Was Ms. Radick within the election office on  
12 election day?

13 A. Yes.

14 Q. Was Ms. Radick in the Bureau office -- How  
15 frequently was Ms. Radick in the Bureau office before  
16 election day?

17 MR. MCLAUGHLIN: Object to the form. You  
18 may answer.

19 A. Before election day?

20 Q. (BY MR. ZIMOLONG) Yeah.

21 A. I -- I couldn't say.

22 Q. Now, on election day, you said you had -- in  
23 response to a question from your attorney, you said  
24 you had discussions with the Office of Law.

25 A. Yes.

1 Q. Is the Office of Law different than the  
2 solicitor's office?

3 A. Well, the Office of Law is the office which  
4 our solicitor works out of.

5 Q. Who did you have discussions with there?

6 A. Paula Radick and Harry Skene, our chief  
7 County solicitor, with the request to extend the  
8 polling hours.

9 Q. What did you discuss with them?

10 MR. MCLAUGHLIN: Object to the form.  
11 Instruct the witness not to answer because it  
12 infringes on the attorney-client privilege.

13 MR. ZIMOLONG: You opened the door, Drew.  
14 You asked about discussions she had with them. I'm  
15 allowed to ask about the discussions now.

16 MR. MCLAUGHLIN: No, I didn't. I asked,  
17 "Were you part of the decision in order to petition  
18 the County court to extend the voting hours?" And she  
19 said she was, and she stated who was present for that.  
20 I did not ask her what she discussed with her  
21 attorneys.

22 MR. ZIMOLONG: Well, she testified she had  
23 discussions, and you asked her about being part of the  
24 decision. That opens the door for me to ask about the  
25 decision-making process.

1 MR. MCLAUGHLIN: You can answer about the  
2 decision-making process, but not specifically what you  
3 talked about with your attorneys.

4 MR. ZIMOLONG: All right. We'll have to  
5 bring it before the judge. I'm not going to hold up  
6 the deposition for that. I'll keep that as another  
7 reason to keep the deposition open. We'll have to  
8 either work that out or -- I mean, obviously, she's  
9 going to testify about her notes. We can either work  
10 it out in the interim or we can go to the court on  
11 that one.

12 That's all I have, again, Ms. Pecora, with  
13 the understanding that your deposition's being kept  
14 open.

15 MR. MCLAUGHLIN: I have nothing further  
16 right now.

17 THE REPORTER: Do you want to order a copy,  
18 Mr. McLaughlin?

19 MR. MCLAUGHLIN: Yes, please.

20 THE REPORTER: And read and sign?

21 MR. MCLAUGHLIN: What that means is you  
22 would have an opportunity to review a transcript of  
23 today's testimony. You'd have an opportunity to  
24 review it, and then sign and verify that it is  
25 completely accurate or you could waive that right.

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THE DEPONENT: Okay. What do you suggest I do?

MR. MCLAUGHLIN: Most witnesses waive it. All you're able to do is verify that your answers are accurate. In my experience, the stenographic record is accurate. You're not able to change answers or supplement answers or anything like that. It's just merely, if you're asked a question, to your recollection was your answer taken down accurately, so.

THE DEPONENT: Yeah, I'll waive it.

MR. MCLAUGHLIN: Okay.

WHEREUPON, the within proceedings were concluded at the approximate hour of 12:15 p.m. on the 22nd day of December, 2023.

\* \* \* \* \*

1 REPORTER'S CERTIFICATE

2 STATE OF PENNSYLVANIA )  
3 ) SS.  
4 COUNTY OF WAYNE )

5 I, STACY L. ARMSTRONG, Certified Merit  
6 Reporter and Notary Public ID 1429250, State of  
7 Pennsylvania, do hereby certify that, previous to the  
8 commencement of the examination, the said JENNIFER  
9 PECORA was duly sworn or affirmed by me to testify to  
10 the truth in relation to the matters in controversy  
11 between the parties hereto; that the said deposition  
12 was taken in machine shorthand by me at the time and  
13 place aforesaid and was thereafter reduced to  
14 typewritten form; that the foregoing is a true  
15 transcript of the questions asked, testimony given,  
16 and proceedings had.

17 I further certify that I am not employed by,  
18 related to, nor counsel for any of the parties herein,  
19 nor otherwise interested in the outcome of this  
20 litigation.

21 IN WITNESS WHEREOF, I have affixed my  
22 signature this 1st day of January, 2024.  
23 My commission expires November 22, 2026.

24 \_\_\_\_\_  
25 Stacy L. Armstrong  
Certified Merit Reporter

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

WILLIAM FRENCH, ET. AL. :  
 : No. 3:23-cv-538-MEM  
 Plaintiffs :  
 :  
 v. :  
 :  
 LUZERNE COUNTY, ET. AL. :  
 :  
 Defendants :  
 \_\_\_\_\_

**DECLARATION OF BETH GILBERT**

I, Beth Gilbert, make this declaration and aver as follows:

1. From July 15, 2022 to June 27, 2023, I was employed by Luzerne County (the “County”) and worked in the Bureau of Elections.
2. I was initially hired to serve as the deputy Director of Elections for the County.
3. The deputy Director of Elections supports the Director of Elections, who is responsible for the administration of all aspects of elections in the County.
4. Before I was hired by the County as deputy Director of Elections, I had no experience in administrating elections for a county and had received no training concerning the same.
5. Before I was hired, I had two interviews with County officials.
6. During both interviews, I made abundantly clear to the interviewers that I had no experience or training in administration of elections.

7. After I was hired, the County did not train me in any of my responsibilities and did not train me on how to properly administer an election.

8. Two days after I started working as the deputy Director of Elections, the Director of Election, Michael Susek (“Susek”), told me he would be resigning in August 2022.

9. In August 2022, upon Susek resignation, I became the acting Director of Elections for the County.

10. As acting Director of Elections, my job duties including making sure the 2022 general election was properly administered and overseeing staff within the Bureau of Elections to make sure the 2022 general election was properly administered.

11. Proper election administration is required to assure that all eligible and registered voters can vote.

12. Before I became acting Director of Elections, the County neither offered me nor provided me with any training on the administration of elections.

13. I anticipated that Susek would provide me with some level of training before his resignation, but he told me he did not have time to train me.

14. While serving as acting Director of Elections, the only election related instruction I received was from Dominion Voting Systems on how the County’s voting machines operated.

15. When I was named acting Director of Elections, the County named Emily Cook (“Cook”) deputy Director of Elections.

16. As deputy Director of Elections, Cook was responsible in assisting me with all aspects of administration of the 2022 general election.

17. Before the County named Cook deputy Director of Elections, Cook was an administrative assistant.

18. Before becoming deputy Director of Elections, Cook had no formal training on the proper administration of elections.

19. After she was named deputy Director of Elections, the County provided Cook with no training on the proper administration of elections.

20. On numerous occasions, Cook would refuse to perform critical election related tasks that I instructed her to perform.

21. Cook's refusal to perform these critical tasks impacted my ability to properly administer the 2022 general election.

22. As acting Director of Elections, I reported to Jennifer Pecora ("Pecora"), the County's Division Head of Administrative Services.

23. To my knowledge, Pecora has no training or experience in administration of elections.

24. I made formal complaints to Pecora about what I perceived to be Cook's insubordination and its affect on my ability to administer the 2022 general election and to otherwise perform my job duties.

25. However, to my knowledge, Pecora did nothing about Cook's insubordination.

26. Moreover, I made repeatedly complaints to Pecora about inadequate staffing within the Bureau of Election and its affect on my ability to properly administer the 2022 general election and to perform my job duties.

27. For example, during my tenor of as acting Director of Elections, the position of operations manager of the Bureau of Elections remained unfilled.

28. Also, in September 2022, when the county received a election integrity grant from the state, she recommended that funding be used to hire additional staff.

29. However, Pecora did not heed my concerns.

30. I also repeatedly made requested to Pecora that the County provide me with training so that I could perform my job duties.

31. But the County offered me no training.

32. While I was employed by the County, there were no specific and clear policies and procedures on how to adminster elections in the County.

33. While I was employed by the County, the County did not maintain any specific policy or procedure concerning how ballot paper was dispatched to polling locations throughout the County.

34. While I was employed by the County, the County did not maintain any specific policy or procedure to assure that each polling location had adequate ballot paper.

35. While I was employed by the County, the County did not maintain any specific policy or procedure regarding dispatching ballot paper to polling locations that needed it.

36. While I was employed by the County, the County did not maintain any specific policy or procedure for replacing ballot paper or maintaining adequate voting related supplies.

37. While I was employed by the County, the County did not maintain a specific policy or procedure concerning what to do if polling places ran out of paper.

38. The County maintained a "Seal Team," whose responsibilities included assuring voting machines were properly operating, loaded with supplies, including ballot paper, and sealed before the machines were delivered to polling locations.

39. While I was employed by the County, Cooke, Pecora, Harry Hanson, and Dan Reese were the members of the "Seal Team."

40. While I was employed by the County, I was not aware of any formal training from the County provided to the "Seal Team" to assist the "Seal Team" in performing their duties.

41. While I was employed by the County, I was not aware of any specific policies and procedures that the "Seal Team" was to follow.

42. The lack of training of County election staff caused at least some voters to be turned away from the polls on election day in 2022.

43. The lack of formal policies and procedure by the County in how to properly administer elections caused the ballot paper shortage that is the subject matter of this litigation to occur.

44. It is obvious that without sufficient ballot paper voters might not be able to vote.

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

*Beth Gilbert*

Beth Gilbert (Dec 12, 2023 14:03 EST)

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BETH GILBERT

Dec 12, 2023

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# Gilbert Declaration-rev

Final Audit Report

2023-12-12

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By:	Walter ZImolong (wally@sigzim.com)
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## "Gilbert Declaration-rev" History

 Document created by Walter ZImolong (wally@sigzim.com)

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 Document emailed to bethgilbertt@gmail.com for signature

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 Signer bethgilbertt@gmail.com entered name at signing as Beth Gilbert

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 Document e-signed by Beth Gilbert (bethgilbertt@gmail.com)

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**IN THE COURT OF COMMON PLEAS  
OF LUZERNE COUNTY, PENNSYLVANIA**

IN RE: : CIVIL ACTION - LAW  
: :  
: :  
EXTENSION OF TIME FOR : :  
POLLS TO REMAIN OPEN IN THE : :  
2022 GENERAL ELECTION : No. 09970-2022  
: :

**TRANSCRIPT OF PROCEEDINGS**

**BEFORE:**

**THE HONORABLE LESA S. GELB**  
Luzerne County Courthouse  
200 North River Street  
Wilkes-Barre, Pennsylvania 18711-1001  
Third Floor

**Commencing, Tuesday, November 8, 2022**

**APPEARANCES:**

- On behalf of the Luzerne County Board and Bureau of Elections:  
Paula Radick, Esquire
- On behalf of the Democratic Party:  
Neil T. O'Donnell, Esquire
- On behalf of the Republican Party:  
Gene M. Molino, Esquire
- On behalf of Jim Bognet:  
William J. Watt, III, Esquire

1 (Whereupon, the following occurred on Tuesday,  
 2 November 8, 2022, at 1:06 p.m.):  
 3 THE COURT: I'd like to welcome everyone. Shall we  
 4 get started?  
 5 MR. O'DONNELL: Your Honor, shall we enter  
 6 appearances?  
 7 THE COURT: We should.  
 8 MR. O'DONNELL: Neil O'Donnell and Kathy Bozinski,  
 9 and I'm appearing on behalf of the Luzerne County Democratic  
 10 Party with its chair, Ms. Bozinski.  
 11 THE COURT: Okay. Welcome.  
 12 MR. O'DONNELL: Thank you, Your Honor.  
 13 MR. MOLINO: Attorney Gene Molino on behalf of the  
 14 Republican Party of Luzerne County and its Chairman, Patrick  
 15 Pribula.  
 16 MS. RADICK: Paula Radick on behalf of both Luzerne  
 17 County Board and Bureau of Elections.  
 18 MR. O'DONNELL: Your Honor, it's the Bureau's  
 19 petition, and we could turn it over to Ms. Radick.  
 20 MS. RADICK: Yes, Your Honor. I have Ms. McBride  
 21 here if you'd like to hear it from her. We had an issue this  
 22 morning with paper at the polling places leading to polling  
 23 places not having enough paper so that when people go to the  
 24 machine and they use it and they need to print out their ballot  
 25 to be scanned, there wasn't enough paper. Therefore, they were

1 we're keeping track of for deployment.  
 2 THE COURT: I think in the past I've had the  
 3 attachments of which ones are affected. So I can, but that  
 4 would be, I think, useful.  
 5 MR. MOLINO: We would like to know that, Your  
 6 Honor.  
 7 MR. O'DONNELL: So would the Democratic Party, Your  
 8 Honor. Perhaps Ms. McBride can find out from her office the  
 9 specific 35 precincts we're talking about and we can narrow the  
 10 scope of the order for relief on those 35 precincts.  
 11 THE COURT: It would be helpful.  
 12 MS. McBRIDE: Okay.  
 13 THE COURT: Because they're essentially closed down  
 14 for four hours.  
 15 MS. McBRIDE: Yes. And we're not sure what other  
 16 polling locations are going to run out of paper in the meantime.  
 17 It might be more widespread.  
 18 MR. MOLINO: So I think we should find out which  
 19 ones are affected right now. I think Ms. McBride's last  
 20 statement probably would mean that doing a restricted order like  
 21 that would not work because something may happen over the next  
 22 several hours that we're unaware of now.  
 23 THE COURT: No. It has to be a widespread one but  
 24 we can at least know --  
 25 MR. MOLINO: Right. Yes. And on behalf of the

1 given either provisional or emergency ballots. Provisional  
 2 ballots could also be used as emergency ballots in a situation,  
 3 like this, but there's not enough of those either.  
 4 So because of that we've had to -- people have told  
 5 us they weren't able to stay, they had to go to work, situations  
 6 like that. So we're asking that the Court grant a two-hour  
 7 extra window for people to vote as a result of that.  
 8 We also have paper coming from a distributor, but  
 9 my belief is it's like a four-hour time turnaround, which is  
 10 going to further cause problems, obviously.  
 11 MR. O'DONNELL: Four hours from when?  
 12 MR. RADICK: I'm going to ask Ms. McBride to come  
 13 up here, please.  
 14 (Whereupon, BETH McBRIDE, was duly sworn.)  
 15 MS. McBRIDE: So about a half an hour ago we got an  
 16 update that the paper would be here in roughly four hours.  
 17 THE COURT: For that time frame no one is going to  
 18 be able to vote?  
 19 MS. McBRIDE: At certain polling locations. We've  
 20 identified 35 polling locations that are being affected by the  
 21 paper shortage.  
 22 THE COURT: So in the past I've had attachments of  
 23 those locations. Do we have those attachments?  
 24 MS. McBRIDE: I don't have a separate attachment.  
 25 We just have a white board in our office, quite candidly, that

1 Republican party, yes, we would like to know which precincts are  
 2 affected right now.  
 3 THE COURT: Is two hours enough? I mean, if it's 8  
 4 p.m. and we do it until 10, is 11 just too late?  
 5 MR. O'DONNELL: From our prospective, Your Honor,  
 6 we think that 11 is too late. And, historically, we've been in  
 7 these situations with extended polling hours and there's not a  
 8 lot of activity to begin with from people coming back.  
 9 Many times when people are turned away they don't  
 10 come back. Hopefully, the Bureau is in a position to identify  
 11 the folks that were turned away and call them and let them know  
 12 the relief is available.  
 13 Your Honor, one other point is when your order is  
 14 finally decided and you've issued your decision, the Democratic  
 15 Party would ask that your order be hand-delivered to each of the  
 16 176 precincts so there's a clear understanding of what the  
 17 relief is and there's an effort to identify people at the  
 18 precinct level that were turned away.  
 19 THE COURT: That doesn't seem unreasonable. In the  
 20 past we've notified the appropriate election officials  
 21 immediately by phone or otherwise, and we've also -- what I've  
 22 done in the past is we put it out in the media immediately. And  
 23 I know some of the media is here.  
 24 MR. MOLINO: Your Honor, while we're waiting for  
 25 the Bureau to obtain those affected precincts, if I can address

1 two quick issues. Number one, in the County's petition it is  
2 paragraph 15, and this is no one's fault, we actually had a  
3 telephone conference coming in here today where we were  
4 discussing things off the record. But the Republican Party of  
5 Luzerne County does not support the relief sought today.

6 After the phone conference and consultation with  
7 our party chairman and with state party officials, we are not  
8 concurring with this relief. We're taking no position. We are  
9 leaving it to Your Honor's discretion. So I want, essentially,  
10 that to be stricken from the filing.

11 MS. RADICK: That was not my understanding when we  
12 left the meeting so that's why that's in there, but you can  
13 certainly have that stricken.

14 MR. MOLINO: Yes. That's fine. Like I said, it is  
15 not Attorney Raddick's fault. At that point I was on the  
16 conference call without talking to party officials. Subsequent  
17 to the call, I was able to speak with Chairperson Prebula with  
18 our State Party Chairman, Lawrence Tabas, as well as State  
19 Counsel.

20 MR. O'DONNELL: Your Honor, on behalf the  
21 Democratic Party, we always encourage the maximum participation  
22 of voters. Even though the order that we discussed earlier was  
23 limited to one hour, we would certainly be willing to live with  
24 two hours if that's Your Honor's ultimate decision. We just  
25 want people that have come out to vote be able to vote.

1 THE COURT: We want to protect the integrity of the  
2 election as best as possible.

3 MR. O'DONNELL: Yes.

4 MS. RADICK: Your Honor, we put the two hour limit  
5 in there with the understanding that the Court or the parties  
6 may have a different -- an hour, three hours, two hours,  
7 whatever was decided.

8 THE COURT: These voters have been disenfranchised  
9 through no fault of their own.

10 MS. RADICK: Correct.

11 THE COURT: We all are in agreement with that. We  
12 want to protect the integrity of the election as best we can.

13 MR. O'DONNELL: Agreed. Thank you.

14 MR. MOLINO: Your Honor, one other request if I may  
15 make it. If Your Honor is so inclined to grant such an Order,  
16 on behalf of the Republican Party of Luzerne County we're  
17 requesting that your order restrict that extra window, the 8 to  
18 10 p.m. block, to provisional voting only, voting by provisional  
19 voting only.

20 We believe the election code supports that, section  
21 3046. One of the main reasons for that is if there were to be a  
22 challenge to this down the road, if we allow these voters to  
23 vote on the regular voting machines, that's it, there is no way  
24 to challenge anything. At least with the provisional ballots  
25 there is a record. We will know who voted provisional. Again,

1 I'm not anticipating there's going to be an issue. I'm not  
2 suggesting there will be some sort of challenge, but that is the  
3 way that it should be done is the 8 to 10:00 hour it would be by  
4 provisional ballot only.

5 THE COURT: I'll take a look at the code, but I  
6 think in the past I've taken -- this goes back 15 years. This  
7 goes back 10 years, and I don't think I've seen that when we've  
8 had to extend voting hours for whatever reason and the hours are  
9 extended.

10 MR. O'DONNELL: That has not been the relief  
11 requested in past extensions.

12 MS. RADICK: If I may speak, Your Honor, we will  
13 probably have a problem with that because we would not have  
14 enough provisional ballots to be able to do that if we have a  
15 deluge of people who decide that they are going to vote between  
16 8 and 10, or 8 and whatever hour you extend it to.

17 THE COURT: Well, I think it's -- I suspect that it  
18 would have to be 8 and 10 because I don't think people will come  
19 out past 10:00. So any other discussion?

20 MR. O'DONNELL: Will the Bureau make a showing of  
21 what are the 35 precincts at issue?

22 MS. McBRIDE: I have a picture on my phone of the  
23 precincts. I can provide that. Do you want me to read them  
24 off?

25 MR. MOLINO: Read them into the record.

1 MR. O'DONNELL: Yes. Thank you.

2 MS. McBRIDE: Kingston, Fairview, Ashley, Hanover,  
3 Lake Township, Salem 01 and 02, Harvey's Lake, Exeter, Lehman 01  
4 and 02, Wilkes-Barre Township, Wyoming Borough, West Wyoming,  
5 Huntington, Hazleton 05, Swoyersville, West Hazleton 01 and 02,  
6 Dallas Borough 01, 02, 03, 04, and 05, Jenkins Township,  
7 Pittston Township, Pittston, Forty Fort, Jackson, Rice Township,  
8 Dennison, Dorrance, Fairmont, Duryea, White Haven, Wright  
9 Township, West Pittston 01, 02, and 03, Dallas Township,  
10 Kingston Township, Larksville, and Huntington Township.

11 MR. O'DONNELL: When you say Pittston, is it all of  
12 Pittston or Pittston City?

13 MS. McBRIDE: That's our understanding.

14 MR. O'DONNELL: And there's no reference in there  
15 to Wilkes-Barre City?

16 MS. McBRIDE: No, not yet. Those are confirmed  
17 reports, though. It's possible.

18 MR. O'DONNELL: Your Honor, I think your initial  
19 instinct was correct that you get a county-wide order.

20 THE COURT: It would have to be a county-wide  
21 order. I'm happy to have an understanding of the scope of the  
22 issue.

23 MR. MOLINO: Your Honor, separate from this issue,  
24 and if you still wanted to hear more on this issue, I won't say  
25 anything yet. If we're done with this issue --

1 THE COURT: I believe we are.  
2 MR. MOLINO: -- but I wanted to raise something  
3 else then.

4 THE COURT: Okay.  
5 MR. MOLINO: It was discussed yesterday, and  
6 Attorney O'Donnell knows about this as well, and it's part of a  
7 public record. It's been in news reports that there were 937  
8 duplicate ballots. This has been known since last week.

9 I had discussions, and Director McBride was  
10 gracious enough to speak with me by conference call yesterday  
11 and Attorney Radick to try to understand how those were going to  
12 be caught, if you will, and sequestered.

13 The Republican Party of Luzerne County and the  
14 State Party is satisfied with that explanation. However, we  
15 were requesting a list of those 937 voters. It is our  
16 understanding that that list does exist and it has already been  
17 disseminated to the Judges of elections throughout the County.

18 We are requesting a copy of that list. Not solely  
19 for us. That same list should be provided to the Democratic  
20 Party, as well. We believe it's a matter of public record. All  
21 of the election materials are to be available to all -- just any  
22 interested voter. So this should be nothing that's secret. Any  
23 average citizen would be able to request this tomorrow or any  
24 other day post-election. I think it is section 2649. It calls  
25 for all documents, papers, records in the office to be

1 MS. RADICK: Ms. McBride, how many ballots to your  
2 knowledge have been rejected by the system because they're  
3 duplicates?

4 MS. McBRIDE: Two.  
5 MS. RADICK: So our position, Your Honor, and as I  
6 spoke with -- as he said, with Mr. Molino yesterday is I'm not  
7 sure why we would disseminate that list to the public of those  
8 voters who through no fault of their own got two ballots in the  
9 mail. For what purpose does that serve?

10 The Board of Elections will be adjudicating those  
11 ballots. They are segregated. The two so far that have come  
12 back. They will be reviewing those and will make a  
13 determination, a final determination, as to whether they are  
14 doubles, and if they are doubles they will not be counted.

15 So I'm not sure why we would be providing a list of  
16 people who did what they were supposed to do, sent their ballot  
17 back and destroyed the other one or sent the other one, returned  
18 sender the other one, or however they did it so that they didn't  
19 vote twice. And I'm not saying that wouldn't be perhaps a right  
20 to know request later, but I'm not sure that at this time those  
21 voters could potentially be harassed because they got two  
22 ballots in the mail through no fault of their own.

23 MR. MOLINO: Our response is simply because it's  
24 provided for in the election code. I do not challenge the  
25 explanation just provided by counsel and Director McBride. That

1 preserved. So this isn't sensitive material. It's not some  
2 type of protected or privilege material, and we are simply  
3 asking for the list that, again, every Judge of elections in  
4 this County already has in their possession.

5 MR. O'DONNELL: We join in the request, Your Honor,  
6 and on behalf of the Democratic Party we note we weren't  
7 included in the call yesterday. We're not objecting to that by  
8 any means, but we would reserve all of our rights on those nine  
9 hundred plus duplicate ballots.

10 MS. RADICK: Judge, I would like for Ms. McBride to  
11 explain to you the processes that are in place for those  
12 duplicate ballots and then I can further address their concerns.

13 MS. McBRIDE: So if a voter were to return both  
14 ballots by mail they would go through our mail ballot sorting  
15 system and the machine would automatically reject one of the  
16 duplicate ballots and accept one of them. So that's already one  
17 of the safeguards that we have in place.

18 And then whichever duplicate ballot is rejected  
19 from the system, those are then segregated and reviewed by our  
20 Board of Elections after the election. And then the Judges of  
21 election were all issued a list of all the duplicate ballots so  
22 that if someone brings in a ballot to vote provisionally and  
23 their name is on the list, they were instructed to call the  
24 Bureau immediately to seek guidance. So there are some  
25 safeguards that we have in place to ensure that --

1 was the exact same explanation we were provided yesterday. We  
2 are satisfied with that, how this system can safeguard and check  
3 if there is a potential second ballot where an individual might  
4 be trying to vote for a second time.

5 I totally accept the explanation, so does the  
6 party, so does the state party. All we're talking about is the  
7 list. That's it. And, again, I believe the election code  
8 provides for it.

9 MR. O'DONNELL: Your Honor, with due respect to the  
10 Board, we're here on what appears to be --

11 THE COURT: This is a separate -- quite frankly,  
12 it's a separate issue than what we're here for, and we're going  
13 down a different kind of rabbit hole. I don't mind if you both  
14 are in agreement and it can be done, but, quite frankly, it's  
15 not what we're here about.

16 We're here to see if we can fix a major problem  
17 that's disenfranchising our citizens in Luzerne County through  
18 no fault of their own. So we got to fix that problem before we  
19 figure out getting lists. And we can do that, but we need to  
20 take care of this other issue first.

21 I'm not against getting you the lists that you  
22 want, and we can deal with that, but that's not what we're here  
23 about right now. So let me just figure out that last issue of  
24 the provisional ballots for 8 to 10.

25 MR. MOLINO: Correct, Your Honor.

1 THE COURT: I want to check the code about whether  
2 you're actually necessarily required to get it. Honestly, I  
3 have to take a look.

4 MS. RADICK: I can read that section to you, Your  
5 Honor. It just says when an individual is seeking a judicial  
6 order to vote, the Court shall, pursuant to the provisions of  
7 the Help America Vote Act, inform the individual of the  
8 provisional ballot process set forth in section 1210(a.4) and  
9 shall direct the individual to follow the procedure. And it  
10 goes on.

11 So my reading of this is that that would be if the  
12 person filed a court order because they weren't allowed to vote,  
13 not in a situation like this where it is an entire mass of  
14 people who are having a problem as a result through no fault of  
15 their own.

16 THE COURT: My understanding is that the Court has  
17 a right under the duties of the Common Pleas Judge that we can  
18 if need be, if there's an issue, we can extend the hours.  
19 That's what my understanding is. So let me check it out. Maybe  
20 there's another provision that fits and I'll be right back.

21 MR. MOLINO: If I can just take ten seconds.

22 THE COURT: Of course you can.

23 MR. MOLINO: That is the section I cited and it's  
24 probably just a different interpretation. Our position is that,  
25 no, an individual did not come here, the County actually

1 time for polls to remain open until 10 p.m., for Luzerne County  
2 until 8 p.m. for the November 8th, 2022 general election.

3 Parties having had opportunity to make oral  
4 argument, and this Court having made a finding of fact that  
5 assuring the Constitutional right to vote requires an extension  
6 of the voting hours, and it is hereby ordered that to the voting  
7 hours in Luzerne County are hereby extended to 10 p.m.

8 The parties and the Clerk of Courts are to notify  
9 the appropriate election officials immediately by hand-delivery  
10 of these hours of extension. Plaintiffs and Defendants -- I  
11 guess there's no defendants -- may release this Order to the  
12 media immediately.

13 MR. WATT: Your Honor, on behalf of Bognet for  
14 Congress, they ask that I put my entry of appearance on the  
15 record, Attorney William Watt. We concur with the GOP's  
16 position, but for any future findings I will enter my appearance  
17 on his behalf.

18 THE COURT: What we're doing is -- so we're going  
19 to make copies for everyone.

20 MR. O'DONNELL: Thank you, Your Honor.

21 THE COURT: So make a list.

22 MS. RADICK: Your Honor, also the Department of  
23 State also contacted me and said they would also help us with  
24 getting it out to the public.

25 THE COURT: That's going to be our challenge, but

1 petitioned the Court on behalf of individuals all over the  
2 County, but the same process would apply. Individuals have been  
3 denied the right to vote, and I think that section is triggered.  
4 Now we're saying yes you can vote between 8 and 10 but it should  
5 be by provisional ballot.

6 MR. O'DONNELL: And, Your Honor, I, in part company  
7 on that interpretation, Your Honor. That's for individual  
8 ballot determinations under Help America Vote Act. This is  
9 within the inherent discretion of the Court.

10 THE COURT: I believe it is, and I'm not sure I'm  
11 going to be in agreement with you.

12 MR. MOLINO: Understood, Your Honor.

13 THE COURT: Let me check and I'll be right back and  
14 it will be quickly.

15 (Whereupon, a brief recess was taken.)

16 THE COURT: This is regarding extension of time for  
17 polls to remain open in the 2022 general election November term.  
18 It's docketed to 2022-9970.

19 Voters in Luzerne County through no fault of their  
20 own were disenfranchised and they've denied the fundamental  
21 right to vote. In an effort to protect and maintain the  
22 integrity of the 2022 general election and to protect the voters  
23 of this County, this matter having come before this Court on an  
24 Emergency Petition of Luzerne County Bureau of Elections in  
25 Luzerne County Board of Elections requesting an extension of

1 that's your challenge.

2 MR. MOLINO: Your Honor, one additional concern  
3 that I raised with my colleagues, counsel for the Bureau and  
4 counsel for the Democratic Party, were the workers, the poll  
5 workers. And I don't know what your authority is. This is just  
6 something that concerned us, that you have now extended the  
7 voting time until 10 p.m., what if some of these workers in some  
8 these precincts say, hey, I have another commitment. I have to  
9 be out of here at 8. What we don't want is a free-for-all in  
10 some of these precincts where maybe there are people in line  
11 waiting to vote and workers just get up and leave.

12 THE COURT: That's the election bureau -- I think  
13 that has to be their issue. So I think you're going to have to  
14 speak with the acting director for that.

15 MS. RADICK: They will be notified that they have  
16 to stay. I think he's just worried if they don't listen. If  
17 that happens, we can't address that right now.

18 THE COURT: Right. I don't know that I can order  
19 them to stay. That would be great if that was my power, but I  
20 don't have that power. I mean, it's ironic that we don't have  
21 paper here in Luzerne County, the home of the office, but, hey,  
22 we do our best.

23 MR. O'DONNELL: Your Honor, thank you. You've been  
24 gracious with your time today. Thanks for hearing us.

25 MR. MOLINO: Thank you, Your Honor.

1 THE COURT: We'll get you an order.  
2 We'll make a copy for everyone. If you want a  
3 copy, name and address, everyone.  
4 Anything else we can take care of today?  
5 MR. O'DONNELL: Nothing from the Democratic Party,  
6 Your Honor. Thank you.  
7 MR. MOLINO: You know what I was going to ask, the  
8 other issue about the list.  
9 THE COURT: I'm not sure. You mean --  
10 MR. MOLINO: The duplicative ballot list.  
11 THE COURT: I have to say, I don't know if that  
12 falls under a right to know request. I honestly don't know  
13 where that falls. I don't know so I have to -- I think that's  
14 another --  
15 MR. MOLINO: That's fine. I made the request, and  
16 I know the Board is going to be dealing with that tomorrow  
17 anyway, am I right?  
18 MS. RADICK: During their adjudication process. I  
19 don't know if it will be tomorrow but that could go on for  
20 several days.  
21 MR. MOLINO: Right, but that process begins  
22 tomorrow at noon.  
23 THE COURT: I'm going to be here all week. Just  
24 come visit me all week. I will be here.  
25 MR. MOLINO: Thank you, Your Honor.

1 THE COURT: All right, everybody, a pleasure as  
2 always.  
3 MS. RADICK: Thank you for your time.  
4 (Whereupon, the proceedings concluded at 2:00 p.m.)  
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C E R T I F I C A T E

I HEREBY CERTIFY that the proceedings and evidence are contained fully and accurately in the notes of testimony taken by me in the proceedings of the above cause, and that this is a true and correct transcript thereof.

/S/ Kimberly Hearity  
Kimberly M. Hearity,  
Official Court Reporter

The foregoing record of the proceedings of the above cause is hereby approved and directed to be filed.

DATE: 8/17/2023

/S/  
Lesa S. Gelb,  
Judge