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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DONNA CURLING, ET AL., :
 :
 :
 PLAINTIFFS, :
 :
 vs. : DOCKET NUMBER
 : 1:17-CV-2989-AT
 BRAD RAFFENSPERGER, ET AL., :
 :
 :
 DEFENDANTS. :

TRANSCRIPT OF BENCH TRIAL - VOLUME 6A PROCEEDINGS
BEFORE THE HONORABLE AMY TOTENBERG
UNITED STATES DISTRICT SENIOR JUDGE
JANUARY 17, 2024

MECHANICAL STENOGRAPHY OF PROCEEDINGS AND COMPUTER-AIDED
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(...CONT'D...)

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P R O C E E D I N G S

(Atlanta, Fulton County, Georgia; January 17, 2024.)

THE COURT: Morning. Have a seat.

I heard you had some electric excitement.

THE WITNESS: He had some electric excitement. That would be Mr. Belinfante.

THE COURT: Oh, not you. I see.

MR. TYSON: Your Honor, if I could do just a couple of logistical things. I just wanted to, for the record, clarify when Mr. Sterling took the stand this morning, the notes that we discussed yesterday afternoon, a copy of them was apparently still on the stand from last night.

As I understand, the courtroom was locked all night. Mr. Sterling asked what they were. I took them and gave them to Mr. Sparks. I just wanted to be clear nothing else happened with that.

THE COURT: All right. Thank you.

MR. TYSON: Other logistical detail. We were notified last night Dr. Halderman may be testifying today. I just wanted to flag we will want to talk about how we are going to handle examination of Dr. Halderman on some of those same points if there is an opportunity on that before he takes the stand.

THE COURT: Is that still so? Because I understand that Mr. Cross cannot be here and that there was some personal

1 emergency.

2 MS. KAISER: That's correct, Your Honor. I think it
3 is very unlikely that we get to Dr. Halderman. If we did, it
4 would be last this afternoon. I think we will fill the day.

5 THE COURT: If we -- we can always end early, believe
6 it or not, if we need to do so, and give everyone pleasure.
7 But we could also talk at that point about -- I assume that
8 you're authorized to --

9 MS. KAISER: Yes, Your Honor.

10 THE COURT: -- speak on the Curling Plaintiffs'
11 behalf --

12 MS. KAISER: Yes.

13 THE COURT: -- about this? So -- so we will -- if we
14 are -- at that point, I think it would be better just to talk
15 about protocols unless we're at 2:00 in the afternoon or
16 something like that. Then that would be a waste of time.

17 MS. KAISER: Thank you, Your Honor.

18 MR. TYSON: Last item for us -- and I apologize, I
19 have not talked to Ms. Kaiser about this yet. I'm just looking
20 at all of the details for us this morning.

21 The order the Court entered this morning on our
22 stipulation for additional designations for Mr. Beaver and
23 Mr. Sterling in order to shorten their testimony ended up being
24 over 550 separate entries for us. We are working as quickly as
25 we can to turn that around in the 24 hours. We may need

1 slightly a bit more time. We can work with that. We just
2 wanted to flag that for the Court as well. That was of larger
3 volume than we were expecting, but we're working on it.

4 MS. KAISER: Understood. Yeah, we'll work together
5 on that, Your Honor. You may recall, I think there were about
6 1,000 pages of transcript from Mr. Sterling's two depositions.
7 So we have all been working on the volume of that, but that is
8 okay.

9 THE COURT: All right. So are you designating -- I'm
10 sorry. I'm just trying to catch up with what you are saying.

11 You are designating other pages in the deposition
12 also to be considered in the record?

13 MS. KAISER: Yes. And it is noncumulative, nothing
14 that he testified to on the stand.

15 THE COURT: I see. All right.

16 MR. TYSON: I believe that is all to address at the
17 moment, Your Honor. I think some other things we can talk
18 about as we get to other designations and things like that.

19 I did also want to flag just for the Court, I think
20 we still have six will call witnesses after the witnesses for
21 today. So if we can get some direction, we can talk on a break
22 about are all of those will calls being called or are some not
23 going to be called, and help us with our resource allocation.
24 We can figure that out.

25 THE COURT: All right. Mr. Oles, I was about -- go

1 ahead.

2 MR. TYSON: I'm so sorry, Your Honor. There's one
3 other issue I was just reminded of.

4 Some designations we received last night from the
5 plaintiffs related to some other additional witnesses,
6 Ms. Johnston, Dr. Shamos, and Dr. Gilbert. Those were not
7 designations that were in the pretrial order. We were not
8 planning to offer counter-designations on those, but we will
9 need to spend time doing that.

10 So again, I apologize, Ms. Kaiser. We haven't had a
11 chance to talk about these pieces, but those were not
12 designations in the pretrial order, so we didn't want to spend
13 our effort trying to do counter-designations because we would
14 object to those coming in as designations.

15 MS. KAISER: Your Honor, with respect to
16 Ms. Johnston, that was the result of a stipulation that we
17 reached.

18 MR. TYSON: I don't think she was part of the
19 stipulation, yeah.

20 MS. KAISER: I'll double-check on that, Your Honor.
21 And I think we disclosed the --

22 THE COURT: You know, you are talking to each other
23 but not -- for --

24 MS. KAISER: I'm sorry, Your Honor.

25 THE COURT: The court reporter can't catch what you

1 are saying.

2 MS. KAISER: Apologies, Your Honor. We'll confer on
3 this.

4 THE COURT: Thank you.

5 Mr. Oles, but for the -- some of the issues that one
6 of the members of the team here had regarding his presence, we
7 were just about to begin without you. There was no
8 communication from you that you were late or that there was a
9 problem sent to the Court. And, you know, Mr. Martin is always
10 accessible by emailing him.

11 So I just -- you know, I'm going to let you proceed,
12 but I just want to express my concern. And I notice that, you
13 know, Mr. Favorito is here every day to give you notes and to
14 consult with you, apparently, but your client hasn't been here,
15 your actual client, for days on end. And Mr. Favorito is not
16 your client.

17 So I'm just wondering what -- if you could just
18 explain to me what is going on.

19 MR. OLES: Yes, Judge --

20 COURT REPORTER: Come up to the mic, please.

21 THE COURT: Can you come up to the mic? Yeah.

22 MR. OLES: Thank you, Judge.

23 Yes. I was actually out in the hall, Judge. I have
24 been here since -- for quite some time.

25 THE COURT: All right.

1 MR. OLES: When we didn't see you on the bench, I
2 just took advantage of the opportunity to consolidate some of
3 my stuff for today.

4 THE COURT: All right.

5 MR. OLES: Yes, that's right. Mr. Davis is my
6 client. Mr. Davis is working today. Unfortunately, he could
7 not take off.

8 THE COURT: Right. But he hasn't been here for days.

9 MR. OLES: Yes, that's correct, Judge.

10 And you're correct, Mr. Favorito is not my client.
11 He is a consultant for Mr. Davis whom I have engaged in the
12 purposes of assisting me to be prepared for this trial, which,
13 admittedly, is complex and has been ongoing for six years, and
14 which he himself has followed a lot more closely than I had
15 during those intervening years.

16 So it has been of invaluable assistance to me in
17 order to be prepared to have access to the knowledge that he
18 brings to the table, yes.

19 But I do understand, Judge, he is not my client.

20 THE COURT: Is your client planning to attend any
21 part of the trial?

22 MR. OLES: Yes, he will, Your Honor. And I was
23 speaking with him -- well, I don't want to get into
24 attorney-client privilege, but you may reply upon the fact that
25 I have impressed upon him that he does need to be present.

1 THE COURT: All right. All right. So you may
2 commence your questioning.

3 MR. OLES: Thank you, Judge.

4 THE COURT: Harry, just so I don't lose these.

5 **(There was a brief pause in the proceedings.)**

6 THE COURT: Good morning. I just want to remind you
7 that you are still under oath.

8 THE WITNESS: Yes, Your Honor.

9 **THE PLAINTIFFS' CASE (Continued).**

10 Whereupon,

11 ROBERT GABRIEL STERLING,

12 after having been first previously sworn, testified as
13 follows:

14 CROSS-EXAMINATION

15 BY MR. OLES:

16 **Q.** Good morning, Mr. Sterling. My name is David Oles, and I
17 represent the plaintiff, Ricardo Davis. Thank you for coming
18 back today.

19 **A.** Of course.

20 **Q.** I want to make sure I have one point from yesterday
21 correctly.

22 You discussed for a little bit about how -- you explained
23 how cybersecurity responsibilities divided up among a number of
24 different people and groups?

25 **A.** Yes.

1 Q. But my interest is specifically with respect to the
2 Dominion election preparation server that the Secretary has.

3 Who is responsible for the cybersecurity on that server?

4 A. The one that -- are you referring to the one that's at the
5 Center for Elections?

6 Q. Can you say that again, please?

7 A. Are you referring to the one at the Center for Elections?

8 Q. Yes.

9 A. Okay. The physical and the cybersecurity surrounding that
10 would be the responsibility of Michael Barnes and his team
11 there --

12 Q. Okay.

13 A. -- in conjunction with our IT department.

14 Q. Okay. So if Mr. Barnes had previously told us that he is
15 not responsible for cybersecurity and that lies with someone
16 else under your direction, that would be inaccurate?

17 A. No. What I said was, it falls to Michael Barnes and his
18 team for the physical security, as well as the cybersecurity
19 with the IT team. They build out a air-gapped environment
20 there.

21 Q. And when you say the IT team, sir, who would
22 specifically -- is there someone over that team?

23 A. We have gone through some personnel changes, and we just
24 hired a new CIO, so I'm not sure whose responsibility it is as
25 I sit here right this second, no.

1 Q. Thank you, sir.

2 A. But CIO started two weeks ago.

3 THE COURT: And before that time?

4 THE WITNESS: Before that time, would have been
5 Merritt Beaver, and our cybersecurity manager would have been
6 Kevin Fitts. He is still in that role. Although his title
7 right now is moving around because the CIO is doing some
8 reorganization.

9 BY MR. OLES:

10 Q. Mr. Sterling, do you recall having contact within email
11 exchanges with Joe Rossi in regard to the posting of tally
12 sheets from the 2020 presidential race audit?

13 A. Yes, sir.

14 Q. Okay.

15 MR. OLES: May I approach, Your Honor?

16 THE COURT: Yes.

17 If this is a document you're going to be referencing,
18 do you have a copy for the Court?

19 MR. OLES: Yes.

20 I think we're up to Number 3.

21 BY MR. OLES:

22 Q. Mr. Sterling, do you recognize that document?

23 A. Yes, sir.

24 Q. And what is it, sir?

25 A. It is an exchange between Mr. Joseph Rossi and myself

1 starting with his final response to me on February 9th of 2021.

2 **Q.** Okay. And do you see, sir, in that email where it says,
3 we know with 100 percent certainty that the ballots were not
4 tallied multiple times because the hand re-tally showed that?

5 Do you see that, sir?

6 **A.** I don't see it, but I know I have said that before. I'm
7 not sure what line it would be on.

8 **Q.** Okay. And just so that we're clear, this is the part of
9 the email -- this is where you were responding to Mr. Rossi;
10 correct?

11 **A.** Again, I don't see it, but I have said that before.

12 So can you tell me what line it is on, which number it is
13 under, any of those things?

14 **Q.** Just a moment.

15 **A.** I found it. It is under Section 3.

16 **Q.** So in this email of February 9, 2021, you were assuring
17 Mr. Rossi that there was 100 percent certainty that ballots had
18 not been tallied multiple times; correct?

19 **A.** Yes.

20 **Q.** Okay.

21 MR. OLES: Your Honor, I would like to move -- I
22 would like to tender Davis Exhibit 3 into the record.

23 MR. BELINFANTE: Your Honor, we object to the extent
24 that there is hearsay -- excuse me.

25 We object to the extent that there is hearsay in the

1 document which would be anything from Mr. Rossi. Mr. Oles has
2 not quoted from that yet, so there may not be an objection to
3 that, but Mr. Sterling's responses we don't have an objection
4 to.

5 MR. OLES: I have no problem with that, Judge.

6 THE COURT: Any objections from the other plaintiffs?

7 MS. KAISER: Your Honor, we don't believe this is
8 relevant to any of our claims in the case.

9 THE COURT: You're going to just have to speak up
10 louder.

11 MS. KAISER: Apologies, Your Honor.

12 We don't see the relevance of this to any of our
13 claims in the case.

14 THE COURT: Was this on the pretrial list?

15 MS. KAISER: No, Your Honor.

16 THE COURT: Well, let me review it.

17 So the Paragraph Number 3 is the one on Page 1 that
18 you were asked about?

19 THE WITNESS: Yes, ma'am. That's where the question
20 was from.

21 THE COURT: Was this document provided to any of the
22 other parties in advance of today?

23 MR. MCGUIRE: Not to us, Your Honor.

24 MR. OLES: Not to my knowledge, Judge.

25 THE COURT: Well, I'm reluctant to have -- to allow

1 it to be introduced when it hasn't -- wasn't on a pretrial list
2 and no one was even provided it in advance.

3 You can ask questions about it as you have, but I
4 think that -- but it would set an unfortunate precedent if we
5 were to start having all sorts of documents coming in for the
6 first time without their having even been shown to the other
7 plaintiffs or potentially also to the opposing party.

8 MR. BELINFANTE: Your Honor, if I may, just for
9 future, there have been several documents that have been
10 entered that were not part of the pretrial order for purposes
11 of cross-examination.

12 I just want to make sure that we would have the same
13 opportunities as others have going forward in light of the
14 Court's ruling.

15 THE COURT: Right. I guess the question I have -- I
16 mean, there have been several ones because they were used for
17 impeachment, and I guess it wasn't anticipated, but -- and what
18 I don't know is whether they were shown -- they were in front
19 of -- the problem I have here is I allowed late appearance of
20 new counsel on behalf of Mr. Davis, and there are some degree
21 of inconsistencies in the positions of the plaintiffs, and so
22 it is a difficult situation.

23 It is one thing to bring up a document that was not
24 anticipated before because you have -- because it is used for
25 impeachment. I'm not clear what the impeachment is here. That

1 is -- I mean, that is my problem here.

2 So it is true that they have been used for
3 impeachment or they have been used to clarify something, but
4 I'm not sure where you are going. So I, at minimum, have to
5 wait before I hear that, and I would say, in the future, if
6 you're planning to introduce a document that you should at
7 least share it with your -- that is for -- you think is for
8 impeachment purposes, please share it in advance in enough time
9 with your -- with the other plaintiffs, that they can indicate
10 whether they have a concern about your use of it, whether it,
11 in fact, is consistent with the position that has been
12 articulated by the plaintiffs through six years of litigation
13 up until this point.

14 MR. OLES: Yes, Judge.

15 THE COURT: But what I'm going to do right here is I
16 need to understand what you're getting at before I allow it to
17 be in. I don't really have any idea. Because I'm not sure it
18 is impeachment. If it is impeachment, that is one thing, but
19 I'm not -- I'm trying to understand what this is really -- what
20 you are contending this is demonstrating.

21 MR. OLES: Okay. Well, I hope that will be clear.

22 THE COURT: All right. Well, I'll just hold off on
23 admitting it or ruling on it for now.

24 BY MR. OLES:

25 Q. And, in fact, Mr. Sterling, you had said in your email --

1 again, Paragraph 4 -- that all of the tally sheets have been
2 available online on the Secretary of State's website for nearly
3 two months.

4 Do you see that, sir?

5 **A.** Yes.

6 **Q.** And you said that?

7 **A.** Yes.

8 **Q.** Okay.

9 THE COURT: Are the questions -- do I have the
10 questions in front of me that he's responding to?

11 MR. OLES: I'm not quite sure I understand your
12 question.

13 THE COURT: All right. So Mr. Sterling is responding
14 to questions that Mr. Rossi posed.

15 Have you gone over those questions with me or shown
16 me the document?

17 Maybe I have lost my attention span.

18 MR. OLES: I do not have those questions in front of
19 me, Judge. No, I do not have those questions in front of me.

20 THE COURT: Mr. Sterling, do you recall what the
21 question -- you have been asked questions about your responses
22 in Number 3 and 4.

23 Do you recall what the question was being posed here?

24 THE WITNESS: From the answer -- pardon me. From the
25 answers, I can assume but I couldn't tell you specifically what

1 the questions were based on the answers alone.

2 I know that Mr. Rossi had several questions, and we
3 did our best to try to answer them.

4 BY MR. OLES:

5 **Q.** Mr. Sterling, this is -- Mr. Rossi's questions were
6 well-known, were they not?

7 **A.** At this point I do not believe they were as publicly
8 known, no.

9 **Q.** But because, eventually, the Governor responded and
10 directed the Secretary of State to respond to the issues that
11 Mr. Rossi had raised; correct?

12 **A.** I had to look at what the letter actually said because I
13 was following under the purview of the State Election Board,
14 which the Secretary does not run, and also to the -- you are
15 saying broad questions. I'm sure Mr. Rossi has lots of
16 different questions about different things.

17 So to specifically say I know exactly what these two were
18 would not be a correct statement.

19 **Q.** Thank you, sir.

20 My question was really devoted to -- intended to show that
21 these are issues that Mr. Rossi had raised that went to the
22 Governor, and the Governor directed that responses be given to
23 him on these issues.

24 **A.** I don't know --

25 **Q.** Including the issues in your email here.

1 **A.** I don't believe the Governor's letter said respond to the
2 Governor. I don't believe that's -- I would have to read the
3 letter again from the Governor.

4 **Q.** You are saying that the -- that Mr. Kemp was not Governor
5 at the time?

6 **A.** No, sir.

7 MS. KAISER: Your Honor, just before Mr. Oles asks
8 any questions again, we have a similar concern. He's not
9 shared this document ahead of time. It appears to be a 40-page
10 document, so we may need some time to review this to determine
11 if we have objections to it.

12 MR. OLES: Your Honor, this is a letter that I will
13 maintain is well-known to all of the parties. This letter was
14 issued by Governor Brian Kemp on November 17, 2021, in regard
15 to the issues raised by Mr. Rossi, which are the subject of my
16 cross-examination.

17 There is no question that everyone in this room
18 already knows -- is already well-familiar with this letter, but
19 I certainly have no trouble if counsel needs a little bit of
20 time to be able to take a look at it.

21 THE COURT: You are saying the letter -- the 40-page
22 letter is what Mr. Sterling's responses purportedly are to?

23 MR. OLES: The 40-page letter deals with the 36
24 inaccuracies that Mr. Rossi brought to the attention of the
25 Secretary -- or to the attention of the Elections Division and

1 bubbled up to Governor Kemp's office and Governor Kemp then
2 directed that they be directed via State Elections Board to
3 then make inquiry into the issues that were raised by
4 Mr. Rossi.

5 THE COURT: All right. I asked a very specific
6 question because we've got to do one thing at a time.

7 Is the letter -- Mr. Sterling, let me ask you this.

8 Was your letter in response to a 40-page letter to
9 the Governor, or was it in response to something else? Do you
10 know?

11 THE WITNESS: I haven't seen the specific one he's
12 talking about, but he asked me -- the reason this is coming up,
13 I say the reason I reviewed the letter --

14 THE COURT: Just slow down a little again.

15 THE WITNESS: The reason I had to read the letter was
16 he said the letter -- Governor directed the Secretary of State
17 to do something. And I said I don't think that is what the
18 letter said. I think it might have gone to the State Election
19 Board to do something.

20 We don't control State Election Board. That is what
21 I was trying to clarify.

22 THE COURT: But your answers and whatever you
23 provided in this February 9, 2021, letter, was that in response
24 to this 40-page --

25 THE WITNESS: No, ma'am. I believe, Your Honor, the

1 timeline Mr. Rossi started emailing our office -- I'm not sure
2 when. After the -- not too long after the election, not too
3 long after the certification, and not too long after the hand
4 tally was done, which was the audit.

5 This was a response from me to him on February 9th.
6 He subsequently was not satisfied with those responses and
7 lobbied or went to the Governor's office. And months later,
8 the Governor's office issued the letter the attorney is
9 referring to --

10 THE COURT: All right.

11 THE WITNESS: -- in November of 2021.

12 THE COURT: Well, I'm going to put aside Davis 3
13 because I cannot -- putting aside any of the issues of late
14 production, I think it is difficult to construe without the
15 questions, so I'm putting that aside for now.

16 But I understand the sequence now. So now the
17 40-page -- let me just say, I know nothing about this 40-page
18 document so -- while I have been involved in this case for
19 six years, so I can't comment on it. But I will give
20 plaintiffs' counsel an opportunity to review it.

21 Did you share it with them in advance of today's
22 hearing?

23 MR. OLES: No, Judge. This just -- I just obtained
24 this.

25 THE COURT: All right.

1 MR. OLES: And that is purely a function of the fact
2 that I have only been involved in the case as long as I have,
3 Judge, working within the time frame that I have.

4 THE COURT: Right. I understand that. But your
5 client has his own responsibilities. If he felt uncomfortable
6 with his representation, this -- he also had a responsibility
7 to make sure that he could -- whatever he was interested in
8 addressing that he bring it to your attention rapidly.

9 MR. McGUIRE: Your Honor, just to -- so the Court is
10 aware, we believe it is in the record at 1569-42. So we have
11 seen it, but not in the context of being aware it was coming up
12 in this final question.

13 THE COURT: 1569-2 [sic] is -- are you talking about
14 in the docket, or are you talking about as an exhibit?

15 MR. McGUIRE: It is on the docket at 1569-42.

16 THE COURT: 42.

17 And what is the context of it there?

18 MR. McGUIRE: I believe it was an attachment to a
19 declaration of Philip Stark, our expert.

20 THE COURT: Okay. And has it been identified as an
21 exhibit for Mr. Stark -- Dr. Stark to introduce or not?

22 MR. McGUIRE: We have not identified it as an
23 exhibit.

24 THE COURT: All right.

25 MR. McGUIRE: Let me just qualify that.

1 We may have disclosed it as part of the exhibits, but
2 we have not given notice that we were going to discuss it with
3 the --

4 THE COURT: Did you include it in the pretrial order
5 or not?

6 MR. McGUIRE: We're checking.

7 THE COURT: Okay.

8 MR. McGUIRE: Your Honor, we don't believe that we
9 did disclose it in the pretrial order or in connection with the
10 pretrial order.

11 **(There was a brief pause in the proceedings.)**

12 THE COURT: Did Curling counsel want more time to
13 take a look at what this 40-page document is?

14 MS. KAISER: Your Honor, we don't object, I guess, to
15 this coming in. Again, we're not clear on the relevance of
16 this and where Mr. Oles is going with it. But we don't, I
17 think, object to this document.

18 MR. BELINFANTE: I think we're in the same spot.
19 We're not certain what the relevance is, and so we would object
20 to it being admitted at this time until there is more of a
21 foundation that can be laid.

22 THE COURT: All right. Well, let's see what the
23 foundation is.

24 Go ahead. Again, I don't have the document, so --

25 MR. OLES: Sorry, Judge.

1 THE COURT: Go ahead and proceed, sir.

2 MR. OLES: Thank you, Judge.

3 BY MR. OLES:

4 **Q.** Mr. Gabriel [sic], subsequent to the email that you sent
5 to Mr. Rossi on February 9th that you just -- we were just
6 discussing, you subsequently changed your response to that, did
7 you not, sir?

8 **A.** I would need more context to understand what -- there is a
9 lot of responses on here.

10 **Q.** Okay.

11 MR. OLES: May I approach, Judge?

12 THE COURT: Yes.

13 BY MR. OLES:

14 **Q.** Mr. Sterling, I direct your attention to what I have just
15 marked as Davis Exhibit 5 for identification.

16 Can you identify that document, sir?

17 **A.** It looks as an email from me to Mr. Rossi.

18 THE COURT: I'm sorry?

19 THE WITNESS: It looks as an email to Mr. Rossi from
20 me on February 26th.

21 BY MR. OLES:

22 **Q.** Could you review that for a moment, please, sir.

23 **A.** (The witness complies.)

24 THE COURT: Thank you.

25 And this has been marked as Davis Exhibit 5?

1 MR. OLES: Yes, Judge.

2 MS. KAISER: Your Honor, I think we object on the
3 basis that this looks like an incomplete document. It looks
4 like just part of an email chain. Above, it looks like there
5 is another response that has been cut off.

6 In addition, there's some handwriting in this email,
7 underlining and notes that we have no idea whose notes those
8 appear to be.

9 MR. OLES: Judge, it is not our intention to rely
10 either upon the handwritten comments or the underlining.

11 THE COURT: Do you have the rest of the email chain?

12 MR. OLES: I do not have the rest of that in front of
13 me, Judge.

14 THE COURT: Well, I will let you ask questions about
15 this. I'm not sure the document itself is -- in this
16 incomplete form is or is not at this juncture admissible, and I
17 gather it has not been identified before either, is that right,
18 as an exhibit?

19 MR. OLES: Not to my knowledge, Judge.

20 May I continue, Judge?

21 THE COURT: You can ask him a question, yes.

22 BY MR. OLES:

23 Q. Now, Mr. Sterling, after having reviewed that email, does
24 that refresh -- well, I'll pose you the same question again.

25 Did you subsequently change the answer that you had given

1 to Mr. Rossi concerning the vote tallies that were originally
2 addressed in your February 9th email?

3 **A.** Under Number 4 where it said, all tally sheets have been
4 available, yes, I did change that because Fulton did not give
5 us all their tally sheets.

6 **Q.** So the answer that you had given concerning the tally on
7 February 9th turned out to be incorrect; is that correct?

8 **A.** Information was updated, and I was subsequently able to
9 correct that, yes.

10 **Q.** Okay. And is it the case that in your subsequent email
11 here on February 24th you were referring to the tally sheets
12 from the 2020 hand-count audit?

13 **A.** I think you're referring to the email of February 26th,
14 not the 24th; correct?

15 **Q.** 26th, yes.

16 **A.** This is discussing the batches from the hand tally audit;
17 correct.

18 **Q.** Thank you.

19 Are you not aware that the tally -- that tally sheets
20 representing over 50,000 Fulton County ballots had also --
21 well, had not been scanned to digital files as of that email
22 four months after the audit had been conducted?

23 **A.** No, sir.

24 MR. BELINFANTE: Objection. Presumes facts not in
25 evidence.

1 THE COURT: Assumes facts not in evidence?

2 MR. BELINFANTE: Yes, Your Honor.

3 THE COURT: I'm just -- I'm having a lot --
4 struggling with having -- understanding the questions because,
5 basically, I don't have a foundation for understanding what you
6 are asking about. I don't know whether in particular, for
7 instance, this is about all of the audit in Fulton County in an
8 example, or is it hand-marked ballots only, or is it every
9 single ballot.

10 I mean, there is -- I mean, because you're putting
11 it -- whatever anyone else knows, I mean, I still have to make
12 a decision, and I don't have a clear record of what this is
13 about. And I realize that may not be your responsibility
14 personally because you came new to this. Although I just --
15 there seemed to be enough intellectual energy to get together a
16 petition in front of the Eleventh Circuit.

17 But I'm just -- I find it a very difficult thing to
18 follow as it is being presented.

19 MR. OLES: Judge, if I may ask Mr. Sterling another
20 question or two, possibly.

21 THE COURT: All right.

22 BY MR. OLES:

23 Q. Mr. Sterling, are you aware as you are sitting here today
24 whether this was simply a subset of problems in that audit, or
25 was this -- do you recall whether this was the entirety of the

1 tallies in that audit?

2 **A.** I'm not following your question, sir.

3 **Q.** Okay. Do you have a recollection after having reviewed
4 both of these whether this represented an entire miscount in
5 that hand re-count or whether or not this was simply a subset?

6 **A.** I am not trying to be dense. I apologize. I'm just not
7 following what you are actually trying to get to on your
8 question.

9 **Q.** Do you have a -- can you explain to the Judge what -- in
10 greater detail what this was in response to?

11 **A.** As I understand it, and from my memory --

12 MR. BELINFANTE: Objection. One moment. I'm sorry.

13 So could you just clarify which letter we're talking
14 about when you ask him that question.

15 MR. OLES: Well, we're referring to both of the
16 emails because they --

17 MR. BELINFANTE: The emails. Okay.

18 MR. OLES: Yes.

19 MR. BELINFANTE: I didn't know if we were still on
20 the State, the letter from --

21 THE COURT: You're talking about Davis Exhibit 3 and
22 Davis Exhibit 5; right?

23 MR. OLES: Yes, Judge.

24 MR. BELINFANTE: Thank you.

25 THE COURT: Okay.

1 BY MR. OLES:

2 **Q.** And my question was, can you explain further what it was,
3 the nature of the issue that was being discussed?

4 **A.** I'm -- not completely, honestly, because Mr. Rossi's
5 questions at times -- there is a fundamental misunderstanding,
6 I believe, Mr. Rossi had about how audits work, and the
7 basis -- we have explained this.

8 It is not just Mr. Rossi. It is other people who have had
9 problems with the outcome of the 2020 election. There is an
10 expectation that a hand tally will match perfectly and
11 essentially recreate the election as done.

12 The intention of the audit is to see that the machines
13 counted the ballots as presented properly. And you take it in
14 the aggregate, and there's essentially, you know, human errors
15 sort of baked into the cake, for lack of a better word, which
16 is why if you look at the university study from Rice basically
17 talking about hand tallies, you can anticipate a one to
18 two percent deviation from the actual ballots. That's just a
19 normal thing in a hand count. We saw a similar thing in the
20 statewide re-count in Michigan.

21 You take it in the aggregate. This was the first time we
22 were doing this, and let's remember the environment we were in.
23 We were still in COVID. It was a situation where we had to do
24 the hand tally in five days.

25 And one of the things that Mr. Rossi views as issues, and

1 you didn't correct the issues, Fulton County posted their
2 raw -- the raw tally sheets. That was the intention we had was
3 trying to being transparent, which was to show this -- showing
4 your work. This was everything.

5 We anticipated there would be errors. Fulton is an
6 extremely large county. They have the highest number of human
7 beings doing these tallies. You can expect the biggest number
8 of those things to happen there.

9 Now, if -- I would need to totally -- I would prefer the
10 opportunity to refresh my memory. But if I remember correctly,
11 even if the hand tally of the -- overall in Fulton County, I
12 think it was off about half a percent, and inside the
13 hand-marked paper, which is most problematic to hand-count, I
14 think they were only off less than two percent overall, and it
15 wouldn't have changed the outcome on those.

16 So people have a thing, saying in the Ardalyt software,
17 it doesn't even track by precinct. You're doing your ballot
18 manifest, doing your batches that way. There were some issues
19 that had been subsequently corrected in terms of the Ardalyt
20 software where you can't name the same thing twice. And that
21 was a problem in Fulton.

22 And yes, this is the first time they are doing it. It was
23 a gigantic logistical exercise. We anticipated there would be
24 issues with this. And people stacking one count one way, some
25 people decided instead of doing by the batches, they would take

1 an entire section and do all Trump ballots and put those into a
2 batch and all Biden ballots and put those into a batch.

3 And I was trying to explain to Mr. Rossi at the time,
4 you're not trying to get an exact replica of the election
5 because that's impossible. You're trying to get it on the
6 aggregate in a statewide way. Not even within a county did the
7 ballots essentially match.

8 And if you look at answer Number 3 at the end, the
9 statewide hand-count yielded a difference in ballots of
10 .1053 percent and a difference of the margin of .0099 percent,
11 and that showed us that the machines did correctly count the
12 ballots as presented.

13 That is what we're trying to explain through this. Are
14 there going to be specific errors and specific counties on
15 specific batches? Absolutely, which is why you show that work.
16 And if you go back to, quote-unquote, correct the work, you are
17 violating the rules of how you do audits.

18 Another things he asks here in Question Number 4 was why
19 didn't you just have them aggregate the amount -- the tallies
20 as they went.

21 You don't want to do that because human nature is to try
22 to count to the tally point you're trying to reach so it
23 matches. So that would actually get in the way of doing an
24 audit properly to show those things.

25 So a lot of this comes from a fundamentalist

1 misunderstanding of what an audit does. The audit is not the
2 certified election result. The certified election result was
3 the second scan done due to the re-count that was requested by
4 President Trump.

5 So I'm -- I think that gives a greater sense, Judge, do
6 you have an understanding of what the questions here are about.
7 That is what I'm trying to get to.

8 THE COURT: The questions in Exhibit 3 or these
9 questions that are in the Governor's letter?

10 THE WITNESS: They are some -- I'm talking
11 specifically here of Mr. Rossi's questions.

12 THE COURT: Okay. Thank you.

13 Which we don't actually fully have.

14 But yes, you are remembering them as you look at
15 this?

16 THE WITNESS: As best I can. The specifics of the
17 question, I couldn't say.

18 THE COURT: All right.

19 BY MR. OLES:

20 **Q.** Mr. Sterling, not to be cavalier, but the point that we
21 are here today is because it is perceived that there are
22 problems with this election system that arise to a level that
23 it becomes a constitutional infirmity.

24 And would you agree with me that this Mr. Rossi's inquiry
25 and your response indicate that, despite your assurances to him

1 of 100 percent counting, there was subsequently a significant
2 error that occurred in Fulton County for the reasons that you
3 have articulated?

4 MR. BELINFANTE: Objection, Your Honor. I would --
5 at this point, Mr. Sterling has testified that the audit was
6 conducted by Fulton County. It is a county responsibility, not
7 that of the State, and therefore would be irrelevant to the
8 very question Mr. Oles has asked.

9 MR. OLES: Judge, we're not saying specifically the
10 State. What I understand here, what we're talking about is
11 this election system that the State has mandated that the
12 counties purchase and implement and use. And they don't have
13 any choice in that matter.

14 And the fact that there is a significant -- the fact
15 that there is a significant discrepancy here and that, even on
16 inquiry, the citizens of the State of Georgia cannot even rely
17 upon the statement of Mr. Sterling when he assures them of
18 accuracy, and yet, by his own admission, there was a
19 significant inaccuracy that occurred in this document. That is
20 the point.

21 MR. BELINFANTE: I think whatever inaccuracy was or
22 was not there, it is a county act and a county decision, not
23 one of the State, and not -- and the counties are no longer
24 here. Not only would you then have a relevance problem, you
25 have a proper party problem to the extent that we're looking at

1 acts of third-party counties in the audit process and this
2 audit process in particular.

3 THE COURT: Does other plaintiffs' counsel have
4 anything they want to add at this time?

5 MR. BROWN: Your Honor, Bruce Brown.

6 For the record, I don't have an objection to the
7 specific question beyond what has already been mentioned.
8 Quite frankly, I'm not tracking the testimony because it is not
9 something that percolated through the summary judgment and
10 other discovery.

11 However, we are now at 41 minutes. Mr. Oles promised
12 last night 10 minutes; this morning 30 minutes. And I don't
13 know where this testimony is going. Your Honor has already
14 addressed the situation with Mr. Favorito supplying the
15 questions. The disconnect between these questions and
16 relevancy in large part is the bending of these questions to
17 Mr. Favorito's agenda, not the plaintiffs'.

18 And so we would object to further examination of
19 Mr. Sterling on those grounds. We do that with respect to the
20 Court and Your Honor's fair -- fairness to Mr. Oles and to
21 Mr. Davis but believe that this has gone far enough.

22 MR. OLES: Judge, I'm going to stop with Mr. Sterling
23 here. I'm going to reserve on Davis for a subsequent witness.

24 THE COURT: All right. Thank you.

25 Well, with respect to the objections, as it is a

1 bench trial, I will see whether they can connect anything up.
2 I'm not admitting Exhibit 3 because I don't have the questions.
3 I simply can't -- I can't -- if they want to supplement with a
4 question, then I'll at least tangentially think about it. I
5 think that, though, that -- the witness has responded to the
6 questions, and I can consider that testimony to the extent that
7 it is relevant. I don't have enough at this point to hook it
8 all up. I understand the argument of Mr. Davis' counsel as to
9 why they believe it is relevant.

10 And I'm going to have to have more -- I will let the
11 testimony come in for that -- for the purpose he has indicated
12 he has elicited it, but whether it has any weight under the
13 circumstances and also -- is another matter.

14 Since Exhibit 1569- -- was it 12 or 2?

15 MR. McGUIRE: Your Honor, it is 1569-42.

16 THE COURT: 42.

17 MR. McGUIRE: And we have looked at it. It actually
18 was in the pretrial disclosures as Curling Exhibit 208.

19 THE COURT: Okay. Well, then I will allow it in, and
20 then I can later on consider what really is relevant or not.
21 Some of it is not relevant, but I think because I haven't seen
22 it and it hasn't been argued before exactly or connected up, it
23 is a little hard for me to fully assess. I mean, the other
24 plaintiffs have made clear that they are not here to determine
25 who won, ultimately.

1 But anyway, with that said, I have listened to the
2 testimony, and the witness has explained what the questions
3 were about, so I think that -- and we understand the time
4 sequence that has been elicited about the audits and correction
5 of the audit from the witness' testimony, so that is
6 established. Thank you.

7 May the witness -- are you going to be examining the
8 witness at all?

9 MR. BELINFANTE: We reserve our examination of
10 Mr. Sterling to our case in chief, Your Honor.

11 THE COURT: All right. Very good. Thank you.

12 THE WITNESS: Thank you.

13 THE COURT: Thank you for coming in this morning.

14 THE WITNESS: Yes, ma'am.

15 MR. McGUIRE: Coalition plaintiffs, Your Honor, are
16 going to call Matthew Mashburn.

17 MR. BELINFANTE: Your Honor, while Mr. Mashburn comes
18 to the stand, I just want to re-clarify something that was a
19 discussion about specifically involving the documents not on
20 the pretrial order.

21 The agreement that was reached between at least the
22 defense counsel, the Curling plaintiffs, and the Coalition
23 plaintiffs was -- and I've got an email that I can present the
24 Court with. I don't think there will be disagreement on it.

25 If it is not on the pretrial order, it is not limited

1 to impeachment. It just needs to be relative -- I think
2 reasonably publicly available, so internet, things of that
3 nature.

4 I just wanted to get that --

5 THE COURT: Thank you. That is helpful and
6 clarifying. Thank you very much.

7 MR. BELINFANTE: Thank you, Your Honor.

8 THE COURT: There's a lot of paper, and it is
9 certainly not easy for me to know what all the understandings
10 were of the parties, and that makes complete sense.

11 COURTROOM DEPUTY CLERK: Please raise your right
12 hand.

13 **(Witness sworn)**

14 COURTROOM DEPUTY CLERK: Please have a seat. If you
15 would, state your name and spell your complete name for the
16 record.

17 THE WITNESS: Thank you.

18 My name is Thomas Matthew Mashburn, T-H-O-M-A-S,
19 M-A-T-T-H-E-W, M-A-S-H-B-U-R-N.

20 Whereupon,

21 THOMAS MATTHEW MASHBURN,

22 after having been first duly sworn, testified as follows:

23 CROSS-EXAMINATION

24 BY MR. MCGUIRE:

25 Q. Good morning, Mr. Mashburn.

1 **A.** Good morning.

2 **Q.** My name is Robert McGuire, and I represent the Coalition
3 for Good Governance, which is one of the plaintiffs in the
4 lawsuit.

5 **MR. MCGUIRE:** Your Honor, to clarify, this is -- we
6 expect this to be an adverse direct examination.

7 **THE COURT:** All right.

8 **BY MR. MCGUIRE:**

9 **Q.** Mr. Mashburn, you're an attorney by profession, yes?

10 **A.** Correct.

11 **Q.** You also currently serve as a member of the State Election
12 Board?

13 **A.** Correct.

14 **Q.** And in that capacity, you are a defendant in this lawsuit?

15 **A.** I don't know.

16 **Q.** You don't know if you're a defendant?

17 **A.** No.

18 **Q.** Okay. When were you appointed to the board?

19 **A.** I was appointed by the Lieutenant Governor in January of
20 2020.

21 **Q.** And did you have --

22 **THE COURT:** That was a gift to you?

23 **THE WITNESS:** Exactly. Yes, exactly.

24 **BY MR. MCGUIRE:**

25 **Q.** Have you served on the board previous to your most recent

1 appointment or this appointment?

2 **A.** Not prior to the Lieutenant Governor appointing me, no.

3 **Q.** So 2020 is when you first served on the board?

4 **A.** The State Election Board; correct.

5 **Q.** You have been acting chair since October of 2023?

6 **A.** Let's see. No. I think Judge Duffey's resignation was
7 effective September 1st, so I think -- well, as we think about
8 it, we didn't have an acting chair until we voted for one. So
9 that would have been at the meeting, so I think you are right.
10 I think I agree to that, yeah.

11 **Q.** The board voted to make you acting chair?

12 **A.** Correct.

13 **Q.** And are any other members of the State Election Board,
14 have they been on there longer than you?

15 **A.** Not currently, no.

16 **Q.** So for the current members of the board, you're the person
17 with the most tenure on the board?

18 **A.** Correct.

19 **Q.** I take it you've heard Secretary Raffensperger does not
20 intend to testify at this trial?

21 **A.** I think I read in the paper there was some sort of ruling,
22 but I didn't pay close attention to it.

23 **Q.** If he does not, in fact, testify, you are the highest
24 ranking official of the state of Georgia that this Court is
25 going to hear from; right?

1 **A.** Oh, I don't know about that, but thank you for the nice
2 compliment. I appreciate that.

3 **Q.** Is there someone else you think would be more higher
4 ranked in the state of Georgia than you who is going to come
5 testify?

6 **A.** Well, my -- the way I always treated the board was we were
7 very equal, and so the -- I didn't give the chairman any great
8 esteem above the other members. The chair had to do duties,
9 but -- so if you have heard from any current member of the
10 board, you have heard from very high-ranking and very
11 experienced people.

12 **Q.** As the acting chair, you do all the duties of a regular
13 chair?

14 **A.** Yes.

15 **Q.** And the regular chair does have additional
16 responsibilities compared to other members of the board; right?

17 **A.** Correct.

18 **Q.** And so I know one of those is you set the agenda; is that
19 right?

20 **A.** Correct.

21 **Q.** Anything else that you do as acting chair that other
22 members wouldn't do?

23 **A.** The chair will make rulings during meetings on -- say a
24 witness wants -- or a witness wants to talk about something and
25 they want to talk about something that is unrelated to the

1 matter. The chair will make a ruling on that, and the members
2 can vote to overrule the chair, question the chair, but the
3 chair will make rulings on that.

4 The chair sets the agenda. The chair gives most of the
5 press interviews. Like, most interviews from the press will
6 come in and say, we want to talk to the chair.

7 So usually, we'll get that. Those -- that's all that
8 comes to my mind right now.

9 **Q.** Are you aware, Mr. Mashburn, that the plaintiffs in this
10 lawsuit are seeking to enjoin or stop the required use of BMDs
11 as the standard voting method for in-person voters?

12 **A.** I'll accept that if you represent that, yeah.

13 **Q.** Do you have a different understanding of what the case is
14 about?

15 **A.** No.

16 **Q.** Now, you and the State Election Board oppose the relief
17 the plaintiffs are requesting; correct?

18 **A.** Yes.

19 **Q.** And is that because you and the SEB believe the State of
20 Georgia has interests that justify requiring people who vote in
21 person to use BMDs?

22 **A.** Say that again.

23 **Q.** Do you oppose the relief requested because you and the SEB
24 believe the State of Georgia has certain interests that justify
25 requiring in-person voters to use BMDs?

1 **A.** Yes.

2 **Q.** And is one of those interests achieving compliance with
3 state law?

4 **A.** Yes.

5 **Q.** Now, I'm not -- I'm going to ask you a few questions about
6 Georgia law. And for the record, I'm not asking for a formal
7 legal opinion, but only for your understanding of Georgia law.

8 **A.** Sounds fair.

9 **Q.** Okay. So if I ask you about a statute and you don't know
10 the statute, just let me know. We'll try and show it to you.

11 But you're familiar with OCGA Section 21-2-; right?

12 **A.** By -- not by number, no.

13 MR. MCGUIRE: Let me ask our -- Tony, if you can put
14 that up.

15 BY MR. MCGUIRE:

16 **Q.** Can you see that on your screen there?

17 **A.** Yes, sir.

18 **Q.** So what you should be looking at, hopefully, is
19 Section 21-2-300.

20 Do you see that?

21 **A.** Yes, sir. That's what it says; correct. I agree.

22 **Q.** And do you see Subsection (a)(1)?

23 **A.** Yes, sir.

24 **Q.** Subsection(a)(1) requires the State to provide a uniform
25 statewide voting system; right?

1 **A.** It doesn't use the word uniform, but it says, shall be the
2 same. I agree.

3 **Q.** And I should clarify I'm just paraphrasing it.

4 **A.** Fair enough.

5 **Q.** Is that your understanding of what that section does?

6 **A.** Yes, sir.

7 MR. MCGUIRE: And if I could ask you to put up
8 (a) (2), please.

9 BY MR. MCGUIRE:

10 **Q.** Let's see. Subsection 300(a) (2), which should come up in
11 a second, that requires in-person voting at federal, state, and
12 county elections to be conducted using scanning ballots marked
13 by ballot-marking devices and tabulated by using scanners; is
14 that fair?

15 **A.** Let's see.

16 Okay. Ask me that again, please.

17 **Q.** I'm sorry.

18 So Subsection (a) (2) requires in-person voting --
19 in-person voters, basically, at federal, state, and county
20 elections to use ballots marked by BMDs and tabulated using
21 scanners.

22 **A.** It doesn't say those exact words, but the concept is the
23 same, yes, I agree.

24 **Q.** Right.

25 MR. BOYLE: Your Honor, please, I have an objection

1 to this line of questioning. It appears counsel is just trying
2 to get law in front of the Court. There are other ways to get
3 law in front of the Court, obviously, with briefing and
4 opportunities in this case.

5 Having the witness read through a statute that he
6 said at the beginning he wasn't necessarily familiar with by
7 number is a waste of time, at least, and improper, and I think
8 it is asking for legal conclusions despite what counsel said at
9 the outset.

10 THE COURT: Well, I don't know that it is legal
11 conclusions. I just don't know why we're having to go through
12 this process.

13 MR. MCGUIRE: I am building up to a question based on
14 showing him some statutes.

15 THE COURT: All right. Well, how many are you going
16 to be showing him?

17 MR. MCGUIRE: I've got, I think, one more.

18 THE COURT: Go ahead with the other one.

19 MR. MCGUIRE: Two more, actually.

20 THE COURT: Well --

21 BY MR. MCGUIRE:

22 Q. Well, let me just ask you, Mr. Mashburn, on this one,
23 there is a carve-out there, (a)(2), that says unless otherwise
24 authorized by law.

25 Do you see that?

1 **A.** Yes, I did see that. Uh-huh (affirmative).

2 **Q.** And that section also says that BMDs shall produce paper
3 ballots which are marked with the elector's choices in a format
4 readable by the elector; right?

5 **A.** I think you read it correctly, uh-huh (affirmative).

6 **Q.** Okay. So I have one more I want to ask you about -- well,
7 I have one more that I want to ask you about. It is statute
8 OCGA Section 21-2-383. And I want to direct you down,
9 actually, to the bottom of that page, Subsection (c). I think
10 we went -- there we go.

11 The bottom of that page, that first page there, do you see
12 Subsection (c)?

13 **A.** Yep.

14 **Q.** This is another State statute; right?

15 **A.** It is 20 -- it purports to be 21-2-383(c). I agree.

16 **Q.** And I'm going to paraphrase Subsection (c), and you tell
17 me if it sounds right to you.

18 This subsection says, if you use BMDs in a polling place
19 on election day, then you have to use them for early voting in
20 person also.

21 **A.** Let me read it.

22 It doesn't mention early voting by name, but I think that
23 is what it is talking about. So I think I agree. I'm not --

24 **Q.** I'm not trying to pin you down --

25 **A.** I'm not 100 percent.

1 Q. I'm just trying to get an understanding of -- you said
2 earlier that the State has an interest in complying with the
3 law; right?

4 A. Sure. Yeah.

5 Q. And so what I have shown you is a few laws that apply to
6 BMDs; right?

7 A. It always calls it electorate ballot markers and not BMDs,
8 but I think it is the same thing.

9 Q. Do you think that could be something else besides a BMD?

10 A. Not to my knowledge. I think we're talking about the same
11 thing.

12 Q. I think we are too, so let's pretend that it means BMD.
13 Does that make sense?

14 A. Sure.

15 Q. Now, if the State has an interest in complying with these
16 laws about BMDs, you would say that is the reason why you --
17 why the State and the State Election Board opposes what the
18 plaintiffs want in this case; right?

19 A. I didn't really follow the question. I'm sorry.

20 Q. Well, you said that the State opposes the relief the
21 plaintiffs are requesting.

22 A. That's why we're having a trial. Okay. I'm with you.

23 Q. Right. And what we're asking is for in-person voters not
24 to be required to use BMDs?

25 A. I'll accept -- I'll accept your statement that that is

1 true.

2 **Q.** And the reason the State opposes that is because the State
3 wants to follow these laws?

4 **A.** The State does want to follow the law, I agree.

5 MR. BOYLE: Your Honor, objection. Asking for legal
6 conclusions.

7 MR. MCGUIRE: Your Honor, one of the prongs of the
8 Anderson-Burdick balancing test is that the State has an
9 interest that outweighs the burdens it places on voters. I'm
10 just trying to ask the witness about the State's interests.

11 THE COURT: All right. Well, get to it.

12 BY MR. MCGUIRE:

13 **Q.** Let me show you one more, and I'll be done with the
14 statutes.

15 MR. MCGUIRE: Can we put up 379.22?

16 THE WITNESS: 21-2-379.22 is what I'm looking at.

17 BY MR. MCGUIRE:

18 **Q.** The first sentence there of that statute says, no
19 electronic ballot marker shall be adopted or used in primaries
20 or elections in this state unless it shall at the time satisfy
21 the following requirements.

22 Did I read that right?

23 **A.** I agree that you read that correctly, yes, sir.

24 **Q.** And then I would like you to look at Subsection 5 there.
25 Subsection 5 says, permit voting in absolute secrecy so that no

1 person can see or know any other elector's votes except when he
2 or she has assisted the elector in voting as prescribed by law.

3 **A.** You read that correctly. I didn't let you finish. I'm
4 sorry. My bad.

5 **Q.** So is it fair to say that the State has an interest in
6 following this law as well as the other laws?

7 MR. BOYLE: Your Honor, objection on relevance.
8 Ballot secrecy is not an issue in the case.

9 MR. MCGUIRE: Your Honor, the issue is not so much
10 ballot secrecy as it is the inconsistent -- the inconsistent
11 enforcement of the law. And if the State has an interest in
12 following the law, then it is relevant that the State is not
13 following all laws equally; it is picking and choosing.

14 THE COURT: I'm going to -- that hasn't exactly been
15 articulated before, though, as your theory, but I'm going to
16 let you proceed.

17 But let's get on to how you really -- something that
18 is going to actually be productive here more. I mean, I
19 understand that you wanted to lay a foundation, and I have let
20 you lay your foundation. But go ahead.

21 MR. MCGUIRE: I'll wrap it up.

22 BY MR. MCGUIRE:

23 **Q.** So, Mr. Mashburn, if the State wants to follow the policy
24 preferences of the legislature as they are expressed in law,
25 you would agree with me that the State shouldn't pick and

1 choose which laws matter; right?

2 **A.** The State Election Board tries to -- tries to apply all
3 the laws; correct.

4 **Q.** And would you agree that in addition to following State
5 law, the State also has an interest in seeing the Georgia
6 Constitution complied with?

7 **A.** Sure.

8 **Q.** You're aware that Article 2, Section 1 of the Georgia
9 Constitution provides that elections by the people shall be by
10 secret ballot?

11 **A.** I would have to read it.

12 MR. BOYLE: Objection. Legal conclusion. Asking for
13 legal conclusion.

14 MR. MCGUIRE: I'm just asking if he is aware of what
15 it says.

16 THE WITNESS: I don't have it memorized, no.

17 BY MR. MCGUIRE:

18 **Q.** Would you -- do you have reason to believe it doesn't say
19 that?

20 **A.** I'll accept your representation.

21 **Q.** The State has an interest in complying with federal law;
22 right?

23 **A.** Sure.

24 **Q.** And federal law includes the Help America Vote Act?

25 **A.** Sure.

1 Q. And the Help America Vote Act requires that all voting
2 systems have to permit voters to be able to verify in a private
3 and independent manner the votes selected by the voters on the
4 ballot before that ballot is cast and counted?

5 A. I don't -- I don't know that. I would have to look it up.

6 Q. You're not aware?

7 A. I don't have it memorized, no.

8 Q. Are you aware of that requirement of HAVA?

9 A. I have to look it up.

10 Q. You agree the State has no interest in requiring voters to
11 use a voting system that violates HAVA; right?

12 A. I can't -- I'm having trouble hearing you.

13 Q. I'm sorry.

14 You would agree with me that the State has no interest in
15 requiring voters to use a voting system that violates HAVA;
16 right?

17 MR. BOYLE: Objection. Relevance, Your Honor. There
18 is no HAVA claim in the case.

19 THE COURT: Well, I think the question is not about
20 whether he has a HAVA claim, but -- whether there is a HAVA
21 claim asserted, but whether they have -- the State has an
22 interest in following federal law or not in connection with
23 elections.

24 MR. MCGUIRE: That's right.

25 THE WITNESS: Yeah, the State Election Board tries to

1 follow the law. Yeah.

2 BY MR. MCGUIRE:

3 **Q.** Now, if I told you that this Court recognized on
4 September 17, 2018, that democracy has a critical need for
5 transparent -- that democracy has a critical need for
6 transparent, fair, accurate, and verifiable election processes
7 that guarantee each citizen's fundamental right to cast an
8 accountable vote, you would agree that providing those
9 processes is a State interest; right?

10 **A.** I don't recall that particular sentence, but if the Judge
11 stated it, I'm perfectly willing to accept the Judge's
12 statement as to why as a wise and respectable jurist.

13 **Q.** And you would agree that providing the processes that the
14 Court said was a critical need is a State interest; right?

15 **A.** We try and do things that judges tell us to do, yeah,
16 sure.

17 **Q.** Does the State have an interest in preventing voter
18 intimidation?

19 **A.** Oh, yes.

20 **Q.** Does the State have an interest in preventing voter
21 coercion?

22 **A.** Yes.

23 **Q.** Does the State have an interest in preventing voting
24 fraud?

25 **A.** Preventing voter fraud?

1 Q. Yes.

2 A. It sounded like you said granting.

3 But preventing voter fraud, yes, we want to prevent voter
4 fraud, yes.

5 Q. Does the State have an interest in providing a voting
6 system secure from hacking?

7 A. Yeah, sure.

8 Q. Does it have an interest in minimizing the vulnerability
9 of the voting system to tampering?

10 A. Yes. The State Election Board does take efforts to
11 prevent tampering, yes, sure.

12 Q. Does the State have an interest in having a voting system
13 that can be tested for accuracy prior to an election, such as
14 through logic and accuracy testing that is meaningful?

15 A. That seems to make sense, yeah.

16 Q. Does the State have an interest in having auditable
17 election outcomes?

18 A. Yeah. There's different types of audits, and the State
19 has to pick and choose which ones -- the policymakers of the
20 State legislature and the Governor will pick and choose what
21 they mean by that and authorize the State Election Board to
22 pass rules.

23 But sure. Depending on what you mean by audit, there's a
24 lot of people that means different things to.

25 Q. So you would agree that the State has no interest in

1 keeping voters from being able to read the votes that they are
2 actually casting?

3 **A.** I can't hear you. I'm sorry.

4 **Q.** Would you agree that the State has no legitimate interest
5 in keeping voters from being able to read the votes that they
6 are actually casting?

7 **A.** No. We ask the voters to read the votes that they are
8 casting. In fact, I gave a speech at GAVREO that reminded the
9 counties to make sure their people at the scanners told the
10 voters to review the ballots and to make sure they did that
11 with every single one.

12 **Q.** And --

13 **A.** That was important.

14 **Q.** -- when you say that with respect to BMD ballots, you're
15 talking about the human readable portion of the ballot?

16 **A.** What gets printed out and before they scan it, yeah.

17 **Q.** But you're not talking about the QR code; right?

18 **A.** I haven't met anybody yet that read a QR code on the fly,
19 but I assume somebody might be out there that can.

20 But yeah, I'm talking about did the ballot accurately
21 capture what you voted and make sure you look at that.

22 **Q.** So the SEB has pretty broad powers; right?

23 **A.** I'm sorry?

24 **Q.** The SEB has pretty broad powers; right?

25 **A.** Pretty raw?

1 Q. Broad.

2 A. Broad. Broad.

3 We have some things that the legislature gives us broad
4 authority, and there are other things that we don't have any
5 authority at all. And so it comes -- it comes from either the
6 legislature or the Governor.

7 For COVID, we had a Governor declaration, but we act
8 within what the General Assembly gives us. And sometimes they
9 give us broad discretion. Sometimes they don't.

10 Q. Some of the powers that you -- hopefully, this is a little
11 louder.

12 A. Much better.

13 Q. I pulled the microphone closer.

14 A. I apologize to the people in the courtroom. It is much
15 better for me.

16 Q. I hear myself very loudly, but --

17 A. Thank you very much.

18 Q. Yeah, of course.

19 So the SEB has power to issue orders requiring compliance
20 with election laws; right?

21 A. Say that again.

22 Q. The SEB has power to issue orders requiring compliance
23 with election laws?

24 A. Yeah.

25 Q. And it has power to require parties to cease and desist

1 from violating election laws?

2 **A.** Yeah.

3 **Q.** You can assess civil penalties?

4 **A.** Yes.

5 **Q.** You can issue public reprimands to violators of State
6 election law?

7 **A.** Yes.

8 **Q.** You have the power to require the payment of restitution
9 by violators?

10 **A.** Yes.

11 **Q.** You have the power to require training?

12 **A.** Yes.

13 **Q.** You have the power to assess investigative costs?

14 **A.** Yes.

15 **Q.** And you have the power to issue a complaint and have the
16 Attorney General bring a court action for an injunction and
17 civil penalties; right?

18 **A.** I don't recall ever doing that, so I don't know about that
19 one.

20 **Q.** Currently, you have the power to suspend county
21 superintendents; right?

22 **A.** I don't know. I would have to look that up.

23 **Q.** The SEB has full power to subpoena persons and papers and
24 to compel witnesses to answer under oath; right?

25 **A.** That is true. We do have subpoena power.

1 Q. And if people defy an SEB subpoena, they can be held in
2 contempt; right?

3 A. I have never seen that happen, so I don't know. I would
4 have to look it up.

5 Q. Now, in addition to its powers, the State Election Board
6 also has certain duties under law?

7 A. I would assume so, yeah.

8 Q. You have a duty to promulgate rules and regulations to
9 obtain uniformity in election practices?

10 A. I don't have it memorized. I would look it up. But I'll
11 accept that what you are saying is true.

12 Q. You have the duty to investigate or authorize the
13 Secretary of State to investigate fraud and irregularities?

14 A. The first part -- I don't know frauds and irregularities.
15 I don't have that memorized, but the first part, I'm very
16 familiar -- I'm pretty familiar with.

17 Q. Which is the first part?

18 A. The investigator authorized the Secretary of State to
19 investigate because that is a big issue that we've got going on
20 right now is, do we have the power to investigate the Secretary
21 of State?

22 So we have looked at that part of the statute a lot
23 lately.

24 Q. And the board also has the duty to make recommendations to
25 the General Assembly that it deems advisable relative to the

1 conduct and administration of elections; right?

2 **A.** That is true.

3 **Q.** Now, since the adoption -- let me back up.

4 The BMD system was adopted in 2019; right?

5 **A.** I don't recall.

6 **Q.** It was House Bill 316.

7 Do you recall that?

8 **A.** I don't recall.

9 **Q.** Okay. You have a general awareness of when it was -- when
10 BMDs were adopted; right?

11 **A.** Generally, but not --

12 **Q.** Not specifically?

13 **A.** -- not specific dates.

14 **Q.** Since they were adopted, do you have a reason to believe
15 it is not 2019?

16 **A.** Yeah, I really don't know. I don't know.

17 **Q.** Well, since --

18 **A.** It was before -- it was before the 2020 election because
19 those were -- that was the first election on the new BMDs, and
20 I think we did it -- I'm pretty sure we did it for the primary
21 of 2020, so somewhere between the 2018 elections and the 2020
22 elections.

23 **Q.** So since BMDs were adopted, the SEB acting as a body
24 hasn't made any written recommendations to the Secretary of
25 State or the General Assembly about logic and accuracy testing,

1 has it?

2 **A.** I don't know if we have or haven't.

3 **Q.** Since 20 -- well, since the BMD system was adopted, the
4 State Election Board hasn't enforced any violations of logic
5 and accuracy testing requirements, has it?

6 **A.** None come to mind, but that is not to say we haven't.

7 **Q.** The SEB has made no written recommendations in that period
8 about improving ballot secrecy, has it?

9 **A.** None that I recall, but that is not to say that it hasn't.
10 But none come to mind.

11 **Q.** And a new audit law, SEB 129, was adopted last year.

12 Do you recall that?

13 **A.** No.

14 **Q.** Okay. So you're not aware of that -- of Senate Bill 129
15 last year?

16 **A.** Not by name, no.

17 **Q.** Do you -- are you aware that an audit law was passed last
18 year?

19 **A.** I would have to look it up.

20 **Q.** Has the SEB -- since BMDs came into -- came into use, has
21 the SEB made any written recommendations to the General
22 Assembly regarding the conduct of re-counts?

23 **A.** Not that I recall.

24 **Q.** So I want to ask you about Athens-Clarke County.

25 Do you recall an enforcement action against Athens-Clarke

1 County?

2 **A.** Yes.

3 **Q.** And in 2020, the board levied penalties on Athens-Clarke
4 County's Board of Elections and Registration because that board
5 moved to hand-marked paper ballots because of privacy concerns;
6 right?

7 **A.** Generally, that is -- generally, that is about right.
8 They -- Athens-Clarke County decided they were going to have
9 their own system of elections rather than what everybody else
10 was doing.

11 **Q.** And that system was in-person voters could use hand-marked
12 paper ballots; right?

13 **A.** I don't recall the particular -- I don't recall the
14 particular.

15 MR. MCGUIRE: Your Honor, may I approach, please?

16 THE COURT: Yes.

17 THE WITNESS: Thank you.

18 BY MR. MCGUIRE:

19 **Q.** Mr. Mashburn, I have handed you what is marked as Curling
20 Plaintiffs' Exhibit 525.

21 Do you see that?

22 **A.** Yes, sir. I see mine is marked 525, yes.

23 **Q.** Now, you can take a second to familiarize yourself with
24 that, just see what it is. Let me know when you are ready.

25 **A.** It purports to be a transcript of the proceedings before

1 the State Election Board, March 11, 2020, in re Athens-Clarke
2 County Board of Elections and Registration Respondent, SEB Case
3 2020-005.

4 **Q.** Now, this is the -- this is the transcript of that hearing
5 that we were just talking about with Athens-Clarke County;
6 right?

7 **A.** I'll accept that it is. Uh-huh (affirmative).

8 **Q.** Okay.

9 MR. McGUIRE: Your Honor, I would move to admit 525.

10 MR. BOYLE: Your Honor, we object, as we did in the
11 pretrial order, to this entire transcript coming into evidence
12 based on lack of foundation. There hasn't been any testimony
13 or where it came from.

14 Hearsay. Obviously, there is a lot of different
15 statements in it.

16 And relevance, can't all be relevant to the issues in
17 the case.

18 THE COURT: Well, are you zeroing in on particular
19 pages? I mean, I -- if the -- the State has had this for a
20 substantial period of time. It has all the indicia of
21 reliability as a real transcript.

22 So the question is really only if you are contending
23 that there is only portions of it that may be relevant, then
24 you should identify those for us.

25 MR. McGUIRE: Well, we're not introducing it for the

1 truth of what witnesses say in here. What we are introducing
2 it for is evidence of what the SEB did with respect to
3 Athens-Clarke County in terms of holding a hearing and ruling.

4 THE COURT: All right. For that purpose, you may
5 proceed.

6 BY MR. MCGUIRE:

7 Q. So, Mr. Mashburn, when the State Election Board found out
8 that Athens-Clarke County was not using BMDs for early voting,
9 this hearing in this transcript was convened; correct?

10 A. I don't know that I agree with all the lead-up to it, but
11 there was an issue of Clarke County -- Athens-Clarke County
12 deciding they wanted to run the election their own way rather
13 than the way everybody else was doing it, so we had a hearing.

14 I agree with that, yeah.

15 Q. And what were they doing different from everyone else?

16 A. They wanted to do away with the BMDs.

17 Q. And what were they using instead of BMDs?

18 A. I assume hand-marked paper ballots, but I don't exactly
19 recall.

20 Q. Now, this hearing happened during early voting in that
21 election; correct?

22 A. I don't recall.

23 Q. Okay.

24 A. Well, we can extrapolate our way to that because we told
25 them they -- the question came up, how fast can you change back

1 and put in place what you are supposed to do? And they said
2 the next day. And we said, the next day? They said, yeah, the
3 next day.

4 So something was going on. I don't know what, but
5 something was going on.

6 **Q.** It makes sense that it was early voting; right?

7 **A.** Yeah. Yeah, I agree with that.

8 **Q.** And if this transcript shows that this happened during
9 early voting, you wouldn't dispute that?

10 **A.** I wouldn't dispute it. I just don't remember.

11 **Q.** If this transcript shows that the SEB convened an
12 in-person meeting to have this hearing within seven days of the
13 violation, you wouldn't dispute that?

14 **MR. BOYLE:** Objection, Your Honor. Counsel is
15 clearly now offering the transcript for the truth, and that
16 is -- my understanding is the Court's ruling was that was not
17 what was supposed to happened.

18 **MR. MCGUIRE:** Well, we're only offering it for the
19 truth of what the SEB did, what it shows the SEB did. We're
20 not offering it for the truth of any testimony at this hearing
21 or for any hearsay purpose. It is purely a record of what the
22 SEB did.

23 **THE COURT:** Are you trying to -- the witness was at
24 the hearing?

25 **MR. MCGUIRE:** He was at the hearing, yes.

1 THE WITNESS: I was definitely there, Your Honor.

2 THE COURT: Are you trying to refresh his
3 recollection, or are you trying to get -- just simply to
4 describe what happened, and then if he fails to remember, you
5 can -- he can review the transcript.

6 MR. MCGUIRE: Yeah. He testified that he was a
7 little unclear on some of the details, so I was asking him, if
8 it is in here, would you deny it?

9 And that was maybe a shortcut.

10 THE COURT: That is too much of a shortcut.

11 MR. MCGUIRE: Okay. All right.

12 THE COURT: I mean, it doesn't tell me either
13 anything.

14 MR. MCGUIRE: Yes.

15 BY MR. MCGUIRE:

16 **Q.** Mr. Mashburn, is it your recollection you just testified
17 that you -- that in this hearing you or some of the other
18 members asked Athens-Clarke County if -- how quickly they could
19 change back to using BMDs?

20 **A.** Yeah. I don't remember who asked the particular question,
21 but the question came up, how fast can you go back to what you
22 are supposed to do?

23 And they said, we can do it tomorrow.

24 I remember that.

25 **Q.** And the SEB, do you recall, imposed a civil penalty of

1 \$5000 per day until they did switch back?

2 **A.** That's correct.

3 **Q.** And they switched back pretty quickly?

4 **A.** Well, they did do it the next day, so there was never any
5 penalty assessed.

6 **Q.** Now, how quickly does the SEB usually act on violations?

7 **A.** Some, we act within minutes. We'll get a call in that
8 some county is doing something, and we'll be on the phone
9 within minutes to the county attorney saying, did y'all really
10 do this? And the county attorney goes, no, no, the news
11 reports are wrong. That didn't happen. We're like okay.

12 So sometimes it is within minutes. Sometimes we have
13 cases that linger for -- we had one from Sparta that lasted
14 eight years maybe. So it is all different ones, but some we
15 respond within minutes.

16 **Q.** You would agree that Athens-Clarke County got a quick
17 response; right?

18 **A.** Yeah. That was a good -- that was a good response, yeah.
19 I agree.

20 **Q.** And the SEB currently has quite a backlog of complaints on
21 other matters that date back for years, doesn't it?

22 **A.** There's not as much of a backlog as there used to be. We
23 work very hard to clear the backlog. But there's some cases
24 that have languished for a long period of time. We're really
25 caught up compared to when I got on the board. We're much more

1 caught up, but there's some cases that just still -- still
2 there.

3 **Q.** And you would agree that, at least in some circumstances
4 when cases languish, that reflects the fact that the SEB
5 prioritizes them less highly than other cases?

6 **A.** Well, no. We don't do the investigations. The Secretary
7 of State's office does the investigation, so we're usually
8 waiting for them to say something is ready. We don't -- we
9 don't tell them how to investigate.

10 **Q.** So in Athens-Clarke's case, were you responding to the
11 Secretary of State's investigation when you had this hearing --

12 **A.** I don't recall. I didn't let you finish. I'm sorry.

13 **Q.** Well -- that's fine.

14 **A.** I don't recall. I don't recall how it all came about.

15 **Q.** So let me switch to a different county.

16 As of today, the SEB has not adopted any rules or
17 amendments addressing the breach of Georgia's election system
18 in Coffee County, has it?

19 **A.** I don't know. I don't know. I can't recall if we've had
20 a case or not.

21 **Q.** And have you proposed any rules or adopted any regulations
22 related to that breach?

23 **A.** Not that I recall.

24 **Q.** So no real requiring reporting by county officials of
25 security incidents like in Coffee County?

1 **A.** No rule. I don't recall a rule having been passed, no.

2 **Q.** Have you considered or adopted a rule requiring mitigation
3 of cybersecurity incidents like happened in Coffee County?

4 **A.** Considered, as a board in a formal meeting, I don't think
5 so, but I know each member of the board has been very concerned
6 about it.

7 **Q.** Have you taken any action requiring mitigation of physical
8 security compromises like in Coffee County?

9 **A.** Again, our opinion -- sorry. Sorry. Our opinion -- our
10 opinion has been asked. I don't recall any formal actions,
11 formal rule-making, but we've certainly -- I've certainly made
12 my opinion known as to that I was very distressed about it.

13 **Q.** You've made your opinion known informally to people?

14 **A.** I would imagine I probably talked to -- probably talked to
15 Ryan Germany about it, probably talked to Judge Duffey about
16 it.

17 **Q.** Was that when Judge Duffey was the chair?

18 **A.** Yeah. Correct.

19 **Q.** Has there been any rule requiring the reporting of voting
20 system security vulnerabilities that counties may discover?

21 **A.** I didn't follow the question. I'm sorry.

22 **Q.** Has the SEB adopted any rule requiring the reporting of
23 voting system vulnerabilities that counties may discover?

24 **A.** I don't recall any rule, no.

25 **Q.** Okay. You're aware of the report by Professor Alex

1 Halderman into the Dominion voting system used in Georgia?

2 **A.** Yes, sir.

3 **Q.** Has the SEB adopted any rules in response to the
4 vulnerabilities identified in that report?

5 **A.** I don't recall any particular rules directly related to
6 that report, no.

7 **Q.** And are you aware that the cybersecurity the -- federal
8 Cybersecurity Infrastructure Security Agency issued a report
9 confirming many of the vulnerabilities in the Halderman report?

10 **A.** They have a -- well, I disagree -- I don't want -- well, I
11 am going to quibble a little bit.

12 Potential vulnerabilities. I don't think they have said
13 that anything had ever -- I don't think they have any proof
14 that it actually happened. I think they said there is a
15 potential vulnerability. So I think I quibble a little bit
16 with you on vulnerabilities because it is not -- nobody has
17 ever said it happened. They said it could happen. So
18 potential vulnerabilities. And that organization has an
19 acronym.

20 Is it CISA or something like that?

21 **Q.** Yeah, it is CISA.

22 **A.** Okay. Yeah.

23 **Q.** Are we talking about the same thing?

24 **A.** Yeah. I read the CISA report, yeah.

25 **Q.** So in response to whatever CISA put out about the

1 Halderman report, has the SEB done anything about that?

2 **A.** We studied -- well, I don't know the board as a board, but
3 I studied both reports very carefully.

4 THE COURT: What's the other report? I mean -- you
5 mean the Halderman report?

6 THE WITNESS: Halderman and CISA, Your Honor.

7 So I read both Halderman and CISA reports very
8 carefully and thoroughly and kind of thought about, well, are
9 these potential vulnerabilities things that we have already in
10 place?

11 Because one of the things the CISA report said is
12 moderate protections that are normally in place or sufficient
13 to protect against this. I'm like, are we -- are our
14 protections sufficient against this?

15 And in particular with regard to the one that
16 Halderman mentions about an individual coming in with a card
17 reader and switching out cards. And I'm like, okay, so how is
18 this going to happen?

19 So give it grave thought to how likely that is, if
20 that is going to occur.

21 BY MR. MCGUIRE:

22 **Q.** So you agree, though, that the things that are identified
23 in the Halderman report and in the CISA document, those are
24 serious concerns?

25 **A.** They are serious potential -- there are serious

1 potentialities. Now, how practical they are to put in place is
2 a different question.

3 For example, the one that I'm talking about, about the
4 individual, it is presented in the press as an average person
5 with average skills with no particular training can go in and
6 hack the vote. I was like, okay, well, is that -- how
7 practical is that?

8 And it was like, well, he's got to sneak in a -- smuggle
9 in a card reader, and he's got to switch the cards in and out
10 of the machines three or four times between three or four
11 different cards. I'm like, all right, you know, there's
12 certain -- you know, that is just not likely.

13 So do I need to stop everything that I'm doing of
14 everything else to protect against that potential
15 vulnerability?

16 No, that is not a practical vulnerability.

17 **Q.** So you've considered it yourself, and you've kind of
18 concluded that it is just not realistic?

19 **A.** Correct.

20 **Q.** And if it were realistic, though, you would agree it is a
21 very serious issue?

22 **A.** Well, yeah. If you could -- if you could scale that so
23 that you're dealing with more than one machine and one precinct
24 at a time and you could actually put it in place, yeah, we
25 would worry about it, yeah. But once I read it and got away

1 from what the press reports were and actually read it, I was
2 like, that is not very practical. That is not scalable. It is
3 not practical. You can't adjust it in realtime. You can't
4 tell the computer how much you need to switch.

5 So it just wasn't something that I thought was drop
6 everything else that we're doing and deal with this because I
7 just didn't think it was realistic.

8 **Q.** Fair to say your focus is on whether this is feasible for
9 someone to do to affect the outcome of an election?

10 **A.** Yeah. Yeah, our concern is -- our concern is, will
11 this -- in conjunction with everything else that you've got to
12 weigh, is this something that is going to switch -- that is
13 likely to flip an election?

14 **Q.** Now, if someone did it on just one BMD, would you be
15 concerned about the voters who used that BMD being deprived of
16 their individual rights to vote?

17 **A.** Yeah. And our -- the board has always been very harsh
18 when voters get disenfranchised. So when a case comes along
19 that a voter got disenfranchised, we'll always tell the
20 county -- I said this is the worst one.

21 So it is something that we're always concerned about, but
22 then you have also got another concern of practicalities of
23 putting systems in place. So we would partially deal with the
24 wrongdoer, but, you know, is it something you've got to change
25 the whole system for?

1 So it is a lot of different considerations going on. But
2 yeah, if a voter is disenfranchised, the board has always dealt
3 with the wrongdoer very harshly.

4 **Q.** Because individual rights matter just as much as the
5 outcome of an election; right?

6 **A.** Yeah, they are all very important. Yeah.

7 **Q.** Mr. Mashburn, the SEB receives rule proposals from the
8 public from time to time; right?

9 **A.** Not very frequently. Ms. Marks is probably number one on
10 the list. But not very frequently. I think she's got three or
11 so, but I think she's number one on the list.

12 **Q.** And Ms. Marks, you mean the executive director of
13 Coalition for Good Governance, my client?

14 **A.** Yeah. Marilyn Marks right here.

15 **Q.** So Ms. Marks has submitted -- on behalf of Coalition,
16 she's submitted a few rules proposals?

17 **A.** Yes.

18 **Q.** And has the SEB ever adopted any of those rules proposals?

19 **A.** The SEB has probably used some of hers. I don't recall
20 hers ever being adopted at a meeting, but I'm -- I would
21 think -- I would think we've used parts of things that she's
22 proposed.

23 **Q.** When the SEB declines to adopt a rule proposal by the
24 public, it issues a letter explaining that action; right?

25 **A.** Yes.

1 MR. BOYLE: Your Honor, objection on relevance as to
2 this line of questioning as to policy recommendations by the
3 public. It is not an issue in the case.

4 MR. MCGUIRE: Your Honor, again, we're still talking
5 about, at least on this point, the weight of the State's
6 interest. And the weight of the State's interest that is put
7 forward in opposition to the burden on voting, the Court
8 doesn't -- the State doesn't just have to identify it, but the
9 Court has to weigh it.

10 And so we believe that in weighing the State's
11 interest, the Court is entitled to and should know about the
12 degree to which the State is consistent in enforcing all laws
13 versus only some laws and the degree to which --

14 THE COURT: You mean the State board of -- the state
15 of Georgia?

16 I mean, we're talking about all laws. That would be
17 a range beyond what this case is about.

18 MR. MCGUIRE: Well, we're talking about the law
19 specific to use of BMDs, yes.

20 THE COURT: All right.

21 MR. MCGUIRE: And so in this particular context,
22 we're about to get into just a couple of questions about
23 proposals that deal with that the State Election Board has
24 handled.

25 THE COURT: All right. Well, I'll allow you some

1 latitude, but let's -- because I don't know what you're
2 specifically going to be dealing with.

3 MR. MCGUIRE: May I approach the witness?

4 THE COURT: Yes.

5 MR. MCGUIRE: Thank you.

6 THE WITNESS: Are you done with this one?

7 MR. MCGUIRE: You can close that.

8 THE WITNESS: Thank you.

9 Do you want it back?

10 BY MR. MCGUIRE:

11 **Q.** Mr. Mashburn, I have put in front of you Coalition
12 Plaintiffs' Exhibit 59, which is already admitted into
13 evidence.

14 Do you see it?

15 **A.** Yeah. What you've handed me is one, two, three pages
16 marked Coalition Plaintiffs' Exhibit 59; correct.

17 **Q.** Yes.

18 And have you looked over it? You obviously saw it is
19 three pages?

20 **A.** Yeah.

21 **Q.** So this is a letter that -- it is signed by you; right?

22 **A.** Yes.

23 **Q.** And this is a letter you sent to Marilyn Marks and Jeanne
24 Dufort --

25 **A.** I'm sorry to interrupt you.

1 Q. Sure.

2 A. Back on my previous answer, I used a script signature. I
3 didn't -- that is not my physical signature, but I used a
4 script signature.

5 Q. You put that there, though?

6 A. Yeah, yeah, yeah. Absolutely.

7 Q. And that is meant to be your signature on -- official
8 signature --

9 A. That is meant to be my signature, exactly. Exactly. I
10 just wanted to be real clear. Sorry.

11 Q. Thank you for that.

12 This is a letter you sent to Marilyn Marks and Jeanne
13 Dufort earlier this month communicating the SEB's rejection of
14 two petitions that they had filed for rule-making; right?

15 A. Yeah. This is what the board sent. I was the mechanism
16 by which the board sent it, but this is the board's letter.

17 Q. All right. Is that one of your duties as acting chair, to
18 sign that stuff?

19 A. Yes. Yes.

20 Q. Both -- there were two rule-making petitions addressed by
21 this letter?

22 A. Yeah, and I think this is the second one. So I think this
23 was the second time it got proposed, if I'm not mistaken. So
24 this is the second letter or the second petition, but the
25 second petition had a lot of the first petition in it, so it is

1 kind of like the first letter rolls into this one.

2 So it is better to read them both, but I don't want to
3 tell you how to present your case, but it is just better to
4 read them both.

5 **Q.** Okay. Well, you were -- and I'm sorry.

6 When in 2020 did you become part of the board?

7 **A.** It was January, February, March area. I don't remember
8 the exact days. I got sworn in, I think, like February 1st
9 maybe. I don't remember exactly.

10 **Q.** Okay. So were you -- I'm going to represent to you that
11 Ms. Marks filed a petition in February of 2020.

12 Were you on the board in time for that?

13 **A.** I'm pretty sure I voted on that one. I'm pretty sure I
14 did. Pretty sure I did.

15 **Q.** Do you recall that the board voted to table that 2020
16 petition on ballot secrecy?

17 **A.** If I recall, there were like six parts to it. And
18 David -- if I recall correctly, David Worley moved to table it,
19 table the first one, and then we rejected all the other ones
20 because I didn't -- I didn't think we had the right to table
21 it, and there is still a discussion as we did, but I thought we
22 were to give it a straight rejection rather than table it.

23 So I think David got one tabled, and then the rest of them
24 I think I moved to reject, if I remember correctly.

25 **Q.** And the rationale at the time, if you remember, was to

1 table it so the board could do further study?

2 **A.** Tabling is usually the way you kill something.

3 **Q.** Did the board express that it intended to do further study
4 on the ballot secrecy issue?

5 **A.** I don't recall.

6 **Q.** So in this -- you said this Exhibit 59 is best reviewed
7 with -- in connection with the other letter as well in the
8 other petition?

9 **A.** Yeah, I think so. Yeah.

10 **Q.** Do you see where you say -- I'm going to ask you to turn
11 to Page 3. There is a Paragraph 9 there that says, even though
12 the petition was declined, the board restates its serious
13 commitment to ballot secrecy.

14 Do you see that?

15 **A.** Yeah, I agree with that.

16 **Q.** Okay. Is that kind of just form language, or is that a
17 genuine sentiment?

18 **A.** No. That is a genuine sentiment.

19 **Q.** And then down there under the Petition 2, it says the same
20 thing about logic and accuracy testing; right?

21 **A.** Yeah. No. Especially particular board members
22 particularly -- have particular expertise. As Sara Ghazal is
23 always most concerned, she's probably the number one for logic
24 and accuracy testing of concern.

25 But everybody is concerned about it. I even go -- I have

1 even gone and witnessed some because I wanted to see it. I'm
2 almost positive Dr. Johnston has as well.

3 So the board is very serious about it.

4 **Q.** So do you recall that this Court in October of 2020 issued
5 an order that addressed deficiencies in Georgia's logic and
6 accuracy testing processes for BMD elections?

7 **A.** I don't recall it off the top of my head, no.

8 **Q.** Do you recall whether that order was attached to the most
9 recent petition that is dealt with in this Exhibit 59?

10 **A.** To the petition? The petition -- again, we read it in the
11 context of the first. It was like 300 pages. So I don't
12 recall what was in the 300 pages, but I read it in great
13 detail. So whatever was included, I read it.

14 **Q.** So if the Court's order from October of 2020 was attached
15 to the petition, you would have read it?

16 **A.** Absolutely.

17 **Q.** And had you -- would you have read it before then?

18 **A.** Before when?

19 **Q.** Well, let me ask you: After the Court issued its
20 October 2020 order that dealt with logic and accuracy testing
21 in part, did you read that order?

22 **A.** If it was embedded in a Mark Niese article, I absolutely
23 read it.

24 **Q.** So if it was in the press, you read it?

25 **A.** Well, Mark Niese, God bless him for it -- he -- whenever

1 he writes about an order, he attaches the order to it. And so
2 when that -- when he is writing about that order, I pull up
3 those orders and read them very, very carefully.

4 **Q.** So as you sit here, are you -- are you recalling anything
5 about that order?

6 **A.** No.

7 **Q.** So if I told you that the order urged the SEB to
8 expeditiously review what modifications could be made to logic
9 and accuracy testing before the January 2021 elections and
10 runoffs, that doesn't ring a bell?

11 **A.** Those particular words don't ring a bell, but my reaction
12 is to it we're already doing that. We're already looking at it
13 every -- all the time.

14 **Q.** You are already expeditiously reviewing those
15 modifications?

16 **A.** Yeah. Yeah.

17 **Q.** And so then is it your testimony that the SEB has followed
18 the Court's recommendations or not?

19 **A.** The Court's recommendations --

20 MR. BOYLE: Judge, calling for a legal conclusion,
21 Your Honor.

22 THE COURT: Well, I don't think it is. I think it is
23 asking what he -- what the board has done to follow the Court's
24 directives.

25 THE WITNESS: My recollection and impression is that

1 the Court's recommendation in that regard would have comported
2 with what the board's feelings already were. We would be in
3 simpatico with the Court.

4 BY MR. MCGUIRE:

5 **Q.** Do you recall the SEB adopting any rules on audits since
6 2020?

7 **A.** Not that I recall. But that doesn't mean we haven't. It
8 just means I don't recall them.

9 **Q.** Now, the SEB's rules currently call for auditing of one
10 contest per county before an election is certified; right? One
11 contest on the ballot per county?

12 **A.** I would have to look it up.

13 **Q.** If that is, in fact, what you -- what your rules call for,
14 why would auditing one county on a ballot -- one contest on a
15 ballot be enough?

16 **A.** Well, I don't recall that that is -- I don't recall that
17 is the requirement. I would have to look it up.

18 But assuming what you're telling me is true, an audit is
19 to find out whether within a statistical probability the
20 correct winner was declared. It is not intended to re-count or
21 reproduce the count of the vote. That is done separately.

22 So it is -- do we have within a statistical possibility
23 that the vote count was -- correctly identified the person who
24 got the most votes?

25 I don't know if I answered the question exactly.

1 Q. Well, let me --

2 A. I'm trying to.

3 Q. Let me -- I appreciate it.

4 Let me ask you this: So if you audit one race on a
5 ballot, that doesn't tell you anything about the other races on
6 the ballot, does it?

7 A. Yeah. There could be other races with errors. I agree
8 with that. If you audit a Governor's race, there could be a
9 State representative race that has an error. But again, the
10 General Assembly is making policy choices on cost benefit
11 analysis and tons of different variables, so that was a choice
12 made by the people's representatives.

13 Q. Under current law, is it fair to say it is your
14 understanding that counties decide what contests to audit
15 before certifying elections?

16 A. Yeah. I don't know. I would have to look it up. I don't
17 remember.

18 Q. Do you have any understanding whether the Secretary of
19 State has a role at this point in coordinating multicounty
20 audits?

21 A. No, not that I recall.

22 Wait a minute. I don't recall. I would have to look it
23 up. I don't recall what the rules are. I always go to look it
24 up.

25 Q. Would you say the SEB has a serious commitment to

1 protecting Georgia's elections through post election
2 precertification audits?

3 **A.** Post certification -- pre or post certification?

4 **Q.** Precertification.

5 **A.** Precertification. The position of the board,
6 precertification is the counties can count as many different
7 ways as they want to. If they want to use an abacus, they can
8 use an abacus. They can do anything they want to,
9 precertification, as long as they meet their deadlines. They
10 are free to do whatever they want to do as long as they meet
11 their deadlines.

12 **Q.** But they are not --

13 **A.** The more the merrier -- and, in fact, the more the
14 merrier.

15 **Q.** But they are not required to do more than -- audit one
16 race on the ballot?

17 **A.** Sorry?

18 **Q.** But they are not required to audit more than one race on
19 the ballot?

20 **A.** I would have to look it up, what they are required to do.
21 But our position is count away, please count. Because up in
22 Bartow County, the Director Kirk, he has been very good about
23 doing precertification counts. And like, all these people
24 showed up to the first one and there was nothing wrong, and
25 then they checked again, and now there's three people that show

1 up.

2 So the more counts, the more people believe in the system.
3 So the board has never objected to precertification counts that
4 I recall. We encouraged it.

5 **Q.** You just said it.

6 But you agree that people believing in the system is
7 critical State interest; right?

8 **A.** Yes, it's very important for people to trust the system.

9 **Q.** We heard some testimony earlier about something called
10 sleepovers.

11 Is that a term you're familiar with?

12 **A.** No.

13 **Q.** In the context of election equipment?

14 **A.** No.

15 **Q.** If I told you that we heard that term used to describe
16 when election equipment is left unsecured or accessible in a
17 polling place in the period before or during an election while
18 voting is going on, like overnight or on a weekend before the
19 voting, that people call that a sleepover.

20 Do you understand what I mean?

21 **A.** I don't -- I don't -- I don't understand that term.

22 We just had a case in the last board meeting about
23 equipment that was left in a basketball court, and we sent them
24 off, I think, to the Attorney General for that.

25 **Q.** And that was Cherokee County, wasn't it?

1 **A.** I think that's right.

2 **Q.** And in that case, equipment had been left in a basketball
3 court while an election was being run?

4 **A.** I think that's right.

5 **Q.** And somebody came in to play basketball?

6 **A.** I think that's right.

7 **Q.** And they moved the equipment? They moved the equipment?

8 **A.** I don't recall that part of it, no.

9 **Q.** Do you --

10 **A.** I don't know that it did or didn't. I just don't recall
11 that part of it.

12 **Q.** Do you recall that some of the seals were broken on the
13 equipment?

14 **A.** I don't recall that.

15 **Q.** Did you recall hearing from the county in the course of
16 conducting a hearing on that incident that small counties can't
17 afford to monitor their voting equipment when it is put in
18 polling places?

19 **A.** I don't recall that. I remember them speaking, but I
20 don't recall them saying those particular words. But I'm not
21 saying they didn't. I just don't recall.

22 **Q.** But you do recall that the SEB issued a technical
23 violation and a letter of instruction to the county?

24 **A.** Yeah. I thought we sent them to the Attorney General.
25 But if you are saying we sent a letter of instruction, I'll

1 believe you.

2 **Q.** But you don't know otherwise? You just don't remember?

3 **A.** I don't remember.

4 **Q.** Do you recall another incident involving physical security
5 in Muscogee County?

6 **A.** It doesn't come to mind.

7 **Q.** Let me see.

8 Have you heard of an incident about Columbus Technical
9 College Student Center where machines were left in there over
10 the weekend unsecured?

11 **A.** Doesn't come to mind.

12 **Q.** So you do remember the Cherokee County case, though?

13 **A.** Yes.

14 **Q.** And is there any reason to believe that the Cherokee
15 County case is an especially isolated incident?

16 **A.** I would hope so.

17 **Q.** But it is possible that that kind of thing happens in
18 other counties also?

19 **A.** Well, one of the good things that happens in our board
20 hearings is that the counties will listen in to the hearing,
21 and so hopefully the word has gotten out that to the extent
22 people are doing it, that people are fixing that.

23 **Q.** But it is possible that incidents occur in other counties;
24 right?

25 **A.** Anything is possible.

1 Q. And there is no reason to believe --

2 A. But we hope it would be very isolated, especially when
3 people are getting in trouble for it.

4 Q. Sure. Sure. That is part of the reason why you have
5 hearings; right? To send a signal?

6 A. That has been -- that has been a nice byproduct that we've
7 been able to use. I think the primary purpose of the hearing
8 is to protect their due process rights. But it has been a nice
9 byproduct.

10 Once we heard the counties were listening in, a board
11 member will frequently say, this is for the people listening
12 in, I want you to know this.

13 Q. The purpose of enforcement action is to sort of send a
14 signal as well as to deal with the specific incident; right?

15 A. No. It is a nice byproduct, but it is not the purpose.

16 Q. Okay. Is there any reason to believe that the State
17 Election Board hears about every physical security violation
18 like the one in Cherokee County?

19 A. I would hope we hear the majority of them.

20 Q. But some you might not?

21 A. It is conceivable. I would hope we hear the majority --
22 the vast majority of them.

23 Q. Now, even if you did hear about every incident that
24 occurred in real world like Cherokee County, issuing a
25 technical violation and letter of instruction wouldn't do

1 anything to actually mitigate any potential breaches of that
2 equipment, would it?

3 **A.** After the fact, that particular equipment?

4 I don't know -- I don't remember 100 percent, but I
5 thought that that equipment got taken out of service, if I'm
6 not mistaken. It seems -- that seems to be what I recall about
7 that.

8 **Q.** When equipment is taken out of service, is it taken out of
9 service for good, like forever?

10 **A.** I don't know.

11 **Q.** So it could just be put back into service the next
12 election?

13 **A.** I don't know.

14 **Q.** So you were deposed in this case on November 4th, 2021.

15 Do you recall that?

16 **A.** No.

17 **Q.** You recall being deposed; right?

18 **A.** Not in this case. I don't have an independent memory of
19 this case, but I assume that -- we get sued a lot, so there is
20 a lot of cases.

21 But I don't recall this particular case, no.

22 **Q.** All right. Would it refresh your recollection if I were
23 to show you a copy of a deposition transcript?

24 **A.** Yeah. Yeah.

25 MR. McGUIRE: Your Honor, may I approach?

1 THE COURT: Yes.

2 BY MR. MCGUIRE:

3 Q. Did that refresh your recollection?

4 A. No.

5 Q. So at this point you don't recall that you were deposed in
6 this case?

7 A. No.

8 Q. And you don't have any -- I mean, do you have reason to
9 believe you weren't deposed in the case?

10 A. No. I have no reason to believe that I was not, but I
11 just don't have any independent recollection of it.

12 Q. Well, let me ask you this: If you can think back to
13 November of 2021 as best you can -- all right?

14 A. Okay.

15 Q. You didn't know anything about Alex Halderman at that
16 time, did you?

17 A. I don't recall. I don't know. I mean, I don't know.

18 Q. Well, when did you first read the Halderman report?

19 A. Once it was released from the eyes-only order.

20 Q. Okay. Not before then?

21 A. No.

22 Q. So if that happened after November 2021, you wouldn't have
23 read it at that point?

24 A. I only read it once it was released from the eyes-only
25 order.

1 Q. And so fair to say you didn't know before you read it any
2 of the recommendations in it?

3 A. Yeah, I wouldn't have known anything in it. I didn't read
4 it.

5 Q. And at some point you did read it after it was unsealed or
6 if it was released from attorneys' eyes only?

7 A. Once it was released from the eyes only, I read it as
8 quickly as I could.

9 Q. And so you would have probably read it -- if that happened
10 in November of 2021, you would have read it by May 2022; right?

11 A. I mean, I don't have any context. I put it in the context
12 of once it was released from eyes only, I read it as quick as I
13 could right after that. So when that happened, I have no idea.

14 Q. Dates are hard.

15 A. Well --

16 Q. I completely understand dates are hard.

17 But if the Court released it in November of 2021, and you
18 say you would have read it as soon as possible after that, you
19 would have certainly read it within six months, right, of it
20 being released?

21 A. Yeah. As soon as they told us we could read it -- as soon
22 as I learned we could read it, I read it.

23 Q. So in May of 2022, you talked with 11Alive's reporter Doug
24 Richards about how the SEB was going to respond to the
25 revelation that Coffee County's entire voting system had been

1 imaged.

2 Do you remember talking -- you probably talk to the press
3 a lot. But do you remember that particular time?

4 **A.** He stopped me after a hearing. I think I remember that,
5 yeah.

6 **Q.** Do you recall telling Mr. Richards at 11Alive in May 2022
7 that what happened in Coffee County would not prompt the SEB to
8 take any emergency actions to change how voting was conducted
9 for the November 2022 midterms?

10 **A.** I don't know what was put on the air, but my context for
11 that is the board is not set up to do things on an emergency
12 basis. And I think he said, well, what is set up for emergency
13 basis? And I said, courts are set up to issue TROs on an
14 emergency basis. So if I was trying to get something done on
15 an emergency basis, I would go to a court and ask for a TRO.

16 **Q.** And a court like this one?

17 **A.** Well, any court with jurisdiction, yeah.

18 **Q.** And so the plaintiffs here are doing what you essentially
19 would have recommended?

20 **A.** They should --

21 MR. BOYLE: Objection, Your Honor.

22 THE WITNESS: Yeah. I don't know what they are -- I
23 don't know.

24 THE COURT: Okay. Move on.

25 THE WITNESS: I assume so. I don't know.

1 BY MR. MCGUIRE:

2 **Q.** A sort of technical question just to clarify what the law
3 requires as you understand it.

4 For ballot-marking device ballots, the printout that comes
5 out of the ballot after you do the touch screen, when you
6 re-count those ballots, what part of the ballot gets counted?

7 **A.** Well, if it is a re-count -- go ahead. Sorry.

8 MR. BOYLE: Well, I was objecting to the question.
9 The counties do the re-counts, not the SEB.

10 MR. MCGUIRE: Your Honor, this is governed by an SEB
11 rule, so I'm just asking him about that.

12 THE COURT: Go ahead.

13 BY MR. MCGUIRE:

14 **Q.** Let me just make it easier.

15 So I know a lot of people don't refer to the SEB rules by
16 their number, but I'm going to give the number for the record.

17 But --

18 **A.** Okay.

19 **Q.** -- I'm going to refer right now to Rule 183-1-15-.031(b).
20 That rule governs re-counts and requires that the QR code be
21 counted -- that the ballots be scanned and counted in a
22 re-count looking at the QR code; correct?

23 **A.** I'll -- I assume that you have read it correctly.

24 MR. BOYLE: Your Honor, again, I object to these
25 questions about what laws and regulations state.

1 THE COURT: Well, he has to provide a context for
2 what he is asking about. So overruled.

3 Go ahead.

4 THE WITNESS: Yeah. In a re-count, if you won, you
5 are trying to get it done exactly precisely the way it was done
6 on election night. The challenger or the person who lost is
7 going to be trying to change anything they can possibly change
8 or they are going -- presumably, they are going to lose again.

9 So they will ask Courts to change things, they will
10 ask the board to change things. They'll ask the county
11 commissioner to change things. But the law is that on a
12 re-count, you're supposed to count it exactly the way you
13 counted it on election night.

14 BY MR. MCGUIRE:

15 **Q.** So on election night, you're counting for BMD ballots,
16 you're counting by scanning and the tabulators are using the QR
17 code?

18 **A.** In the re-count, that is the way you should do it, yeah.

19 **Q.** So same thing as election night and in a re-count?

20 **A.** Yeah. The re-count you want it precisely exactly done the
21 way it was done election night.

22 **Q.** I just want to make sure I understand how you -- what you
23 understand as being counted, both on election night and in a
24 re-count.

25 That is the QR code; correct?

1 **A.** In a re-count, you want to do it exactly the way you did
2 it on election night. But in -- if you're doing it like an
3 audit and you're hand-counting, you are counting the human
4 readable portion, so there's two -- there's all kinds of
5 different ways that you're looking at it.

6 **Q.** Okay. So we have heard both in this case, and so I just
7 want to clarify.

8 Your understanding is that the initial count in a re-count
9 are scans and the QR code counts?

10 **A.** That is the way -- that is the way I understand it is you
11 run it through the machines the same way you did it on election
12 night.

13 **Q.** And then when you do an audit, you look at the human
14 readable text?

15 **A.** Right.

16 **Q.** And that's an SEB rule that provides for that?

17 **A.** I would have to look it up, but I assume that is right.

18 **Q.** And for the record, I'm asking about SEB rule for the
19 audits 183-1-15-.04(2)(4).

20 And I think you said the SEB hadn't adopted any rules on
21 audits since 2020?

22 **A.** I don't recall any, but that is not to say that they
23 haven't.

24 **Q.** Okay.

25 MR. McGUIRE: I have no further questions on direct,

1 Your Honor.

2 THE COURT: Any other plaintiffs have -- counsel have
3 questions?

4 MR. MCGUIRE: You know what, Your Honor? May I just
5 confer with my colleague? I've got a note. Just a moment.

6 THE COURT: All right.

7 **(There was a brief pause in the proceedings.)**

8 MR. MCGUIRE: Thank you for your patience. I just
9 have one more question.

10 THE WITNESS: Certainly.

11 BY MR. MCGUIRE:

12 **Q.** So remember we talked about the Court issuing an order
13 that addressed logic and accuracy testing?

14 **A.** Yeah, I remember the question. I don't recall the order
15 off the top of my head, but I recall the question, yeah.

16 **Q.** Well, do you recall the board responding in any way to the
17 Court's order about logic and accuracy testing?

18 **A.** I thought we talked about that, and I said that the board
19 members would have reviewed it, and my impression was that I
20 was in simpatico with the Court, that the Court's impression
21 was similar to mine, and so we were kind of in agreement.

22 **Q.** But no action --

23 **A.** I don't recall any rules, but that is not to say there
24 weren't any. But I don't recall any.

25 **Q.** Thank you.

1 **A.** Sure.

2 MR. FISHER: Your Honor, I just have one brief
3 question.

4 CROSS-EXAMINATION

5 BY MR. FISHER:

6 **Q.** Good to meet you.

7 **A.** I'm sorry?

8 **Q.** Good to meet you.

9 **A.** Good to meet you.

10 **Q.** Thanks for being here.

11 **A.** Thank you.

12 **Q.** Sir, you would agree that --

13 THE COURT: You'll get a chance.

14 MR. OLES: Judge, I'm just checking.

15 Are we still on direct or are we on cross now?

16 THE COURT: No. We're on direct. The witness has
17 been called as an adverse witness.

18 MR. FISHER: Thank you, Your Honor.

19 BY MR. FISHER:

20 **Q.** Sir, would you agree that hand-marked paper ballots are a
21 scalable and reliable solution?

22 **A.** To what?

23 **Q.** A scalable and reliable way for voters to cast their votes
24 here in Georgia?

25 **A.** No.

1 Q. You do not agree with that?

2 A. No.

3 Q. That is the emergency procedure that the board has in
4 place; correct?

5 A. That the Court has in place?

6 Q. That the board has in place.

7 A. The board -- it is available in an emergency situation,
8 but the state of Georgia is not prepared to handle 8 million
9 paper ballots. We don't have the infrastructure. We haven't
10 done the testing. We haven't put it in place. Georgia is
11 nowhere near ready for that.

12 Q. And, sir, you would oppose a system that could be hacked
13 by a random person in the wild; right?

14 A. I didn't understand you. I'm sorry.

15 Q. I'll ask it slower.

16 You would oppose a system, a voting system that could be
17 hacked by a random person in the wild; right?

18 A. Yeah. Hacking -- we're always on -- we're always on the
19 search for hacking.

20 One of the very first cases that I did when I became the
21 tabulation director for the party, I walked into the Fulton
22 County Courthouse, and I came across a lady and she was sitting
23 at a table filling out hand-marked paper ballots all by
24 herself.

25 And I said, what are you doing? She says, well, I'm

1 duplicating the ballots that got torn up that won't go through
2 the machine. I said, well, where is your counterpart? And she
3 said, well, she's gone to the bathroom, but I want to get done.
4 And I said, well, why don't we wait until she gets back? She
5 said, well, that would be best.

6 And I said, well, what are all these ballots over here?
7 What are these? And she said, oh, those are the ones I've
8 messed up. And I said, well, aren't those supposed to go in
9 the burn bag? And she goes, well, I was just accumulating
10 them, and I was going to put them in the burn bag all at one
11 time. I said, well, why don't we put them in the burn bag now?
12 And she said, well, perhaps that would be best.

13 But, I mean, that was my very first experience as
14 tabulation counsel for the parties, somebody hacking in the
15 wild hand-marked paper ballots sitting there all by herself at
16 the tabulation center filling out ballots, so --

17 **Q.** And if a voter could walk into a voting booth and hack a
18 BMD, you would not support that system; right?

19 **A.** Well, there is a lot of -- there is a lot of -- you know,
20 I don't believe -- I just don't believe that is very likely.
21 It is possible, but it is not very likely. So are you
22 comparing it to whatever else?

23 So we have people in the precincts for these machines that
24 are designed to shut down. If anybody tampers with them or
25 anybody tries to insert anything with them, the machine will

1 shut down and people are watching, people whose jobs it is to
2 watch versus something else.

3 I'm like, that's a pretty good system. I'm happy with
4 that.

5 MR. FISHER: Nothing further. Thank you.

6 THE COURT: Okay. Mr. Oles?

7 MR. OLES: Yes, Judge. I have just a few questions.

8 CROSS-EXAMINATION

9 BY MR. OLES:

10 **Q.** Good morning, Mr. Mashburn. My name is David Oles. I
11 represent Ricardo Davis, one of the plaintiffs in the case.

12 **A.** Hello. Good morning.

13 **Q.** Thank you.

14 Mr. Mashburn, do you recall a complaint that was filed
15 with the State Election Board on July 8, 2002 [sic], numbered
16 SEB 2023-025 and the complainant was Mr. Joseph Rossi and a
17 Ms. Moncla or Mr. Kevin Moncla? Do you recall that complaint?

18 **A.** I'm familiar with 2023-025, yes.

19 **Q.** All right. Thank you.

20 And is that still currently an active complaint before the
21 board?

22 **A.** I believe so.

23 **Q.** And that has been pending for over 18 months now.

24 Sound right?

25 **A.** Whatever you say. You have done the math. I believe that

1 you have done the math.

2 No. Wait a minute. 2023 can't be pending for 18 months
3 or else it wouldn't have a 2023 number.

4 **Q.** Oh, I'm sorry, sir. Yeah.

5 Well, let me show you this. This may help.

6 MR. OLES: May I approach?

7 BY MR. OLES:

8 **Q.** Does that help you recall the complaint that I'm referring
9 to?

10 **A.** I've got very numerous pages marked Davis 7. It is dated
11 July 8, 2022. It is labeled official complaint, but I don't
12 have any independent recollection of this.

13 **Q.** You said, sir, that you did -- you do recall the complaint
14 that was filed by Messrs Rossi and Moncla?

15 **A.** I'm familiar with 2023-025 -- 025. But yeah.

16 **Q.** Now, in that complaint, do you recall that they are
17 alleging that there were irregularities that took place in the
18 electronic vote counts that were published in Fulton County in
19 the 2020 election?

20 **A.** I don't know.

21 **Q.** You don't recall.

22 Are you aware that there are presently pending before the
23 board complaints that are alleging that there were problems
24 with the vote counts in the 2020 election?

25 **A.** Yeah. I think we've been hearing cases, and there's some

1 that are complete, there are some that are still going, yeah.

2 **Q.** Have you reached a determination, to your knowledge, in
3 any of them whether or not those allegations of vote count
4 irregularities were substantiated?

5 **A.** I don't know. I don't recall any off the top of my head.

6 **Q.** Okay.

7 **MR. OLES:** That is all I have at the time, Judge.

8 **THE COURT:** Are there any questions from defense
9 counsel?

10 DIRECT EXAMINATION

11 BY MR. BOYLE:

12 **Q.** Good afternoon, Mr. Mashburn.

13 **A.** Yes, sir. Good afternoon.

14 **Q.** So as I heard from your testimony, you've been on the
15 board for about four years now?

16 **A.** Yes. I think I'm just finishing up four years.

17 **Q.** Okay. Do you take your job seriously on the board?

18 **A.** Absolutely.

19 **Q.** As acting chair, do you take your position as seriously as
20 acting chair?

21 **A.** Oh, absolutely.

22 **Q.** Are you proud of the service you've held on the State
23 Election Board?

24 **A.** Yes, sir.

25 **Q.** Would you explain to the Court what makes you especially

1 proud of that service.

2 **A.** I think what we've done is serve as a voice of reason in
3 the tempest that has swirled around us and tried to reach fair
4 and reasonable and prudent decisions through some very, very
5 difficult and the times where emotions are really, really high
6 and have been for a long time.

7 So we -- I thought we've done a very good job. I'm very
8 proud of this board.

9 **Q.** Thank you.

10 MR. BOYLE: No further questions.

11 THE COURT: May this witness be excused?

12 MR. McGUIRE: Yes.

13 THE COURT: Is the witness going to be subject to
14 recall?

15 MR. TYSON: And, Your Honor, I believe Mr. Mashburn
16 is in the same situation as some of the other State witnesses.
17 We don't expect to recall him, but it is possible we will.

18 THE COURT: All right. Thank you.

19 THE WITNESS: Thank you, Your Honor.

20 THE COURT: Because there's some possibility that you
21 might be recalled, please don't discuss your testimony with
22 anyone until this trial is through. Thank you.

23 THE WITNESS: Thank you, Your Honor.

24 THE COURT: Okay. Let's resume at 1:00.

25 Are there any matters we should address beforehand?

1 MR. BROWN: Not from us, Your Honor.

2 THE COURT: Anything from the defense?

3 MR. BELINFANTE: No, Your Honor.

4 THE COURT: And who is the next witness?

5 MR. FISHER: It would be Paul Maggio.

6 THE COURT: Very good. All right. We'll start then.

7 Thank you.

8 COURTROOM SECURITY OFFICER: All rise.

9 **(A lunch break was taken.)**

10 THE COURT: Well, are you going to be, I assume,
11 questioning this witness about these -- do you want to get --

12 MR. FISHER: It is also going to be on the screen,
13 Your Honor, when I ask some questions about it. But --

14 THE COURT: The problem is it's right now here. Is
15 he going to be testifying initially about matters other than
16 the Coffee County players?

17 MR. FISHER: No. I mean, he's going to be testifying
18 about Coffee County from the second he sits down.

19 THE COURT: All right. That's fine then.

20 Has -- have all the other counsel had an opportunity
21 to look at this?

22 MR. BOYLE: Well, we did see it in opening, Your
23 Honor. But thank you. Let me just take a quick look.

24 MR. FISHER: Your Honor, plaintiffs call Paul Maggio.

25 COURTROOM DEPUTY CLERK: Please raise your right

1 hand.

2 **(Witness sworn)**

3 COURTROOM DEPUTY CLERK: All right. Please have a
4 seat.

5 If you would, state your name and spell your full
6 name for the record.

7 THE WITNESS: My name is Paul Maggio.

8 Whereupon,

9 PAUL MAGGIO,

10 after having been first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. FISHER:

13 Q. Good afternoon, sir.

14 A. Good afternoon.

15 Q. Thanks for being here.

16 Sir, have we met before?

17 A. No, sir.

18 Q. Have we ever talked on the phone?

19 A. No, sir.

20 Q. Okay. And are you here pursuant to a subpoena?

21 A. Yes, sir.

22 THE COURT: Why don't you introduce yourself.

23 BY MR. FISHER:

24 Q. My name's Ramsey Fisher. I'm an attorney for the
25 plaintiffs in this case. Good to meet you.

1 Are you currently employed?

2 **A.** Yes, sir.

3 **Q.** Where?

4 **A.** I'm chief operating officer for SullivanStrickler.

5 **Q.** What is SullivanStrickler?

6 **A.** It is a data archive, forensics, e-discovery firm in
7 Atlanta.

8 **Q.** And what are some of the -- your roles and
9 responsibilities as chief operating officer?

10 **A.** Day-to-day operations. Financial responsibilities.
11 Managing projects. Also be involved in -- in projects as well.
12 And in the data archive, e-discovery, and forensic space.

13 **Q.** Do you also coordinate with your clients that -- who have
14 hired you to perform that work?

15 **A.** Yes, sir.

16 **Q.** Have you ever performed forensic collection work in Coffee
17 County, Georgia?

18 **A.** Yes, sir.

19 **Q.** All right. Let's talk about that.

20 Who engaged you?

21 **A.** We were initially engaged to go there and we have a signed
22 statement of work by Sidney Powell.

23 **Q.** Sidney Powell.

24 Who is Sidney Powell?

25 **A.** She was an attorney that hired us.

1 Q. Okay. Do you know anything else about her at the time she
2 hired you?

3 A. At the time we were hired, other than she was an attorney
4 with a law firm, no.

5 Q. What about now?

6 A. Obviously there has been a lot more information that has
7 become available, and I do know more about her now.

8 Q. Is that -- you see the board there. Is she on that board?

9 A. Yes, sir.

10 Q. Where is she?

11 A. In the upper right-hand corner.

12 Q. Okay. You have two binders in front of you. We're going
13 to be referring to them quite a bit today. So one of them says
14 your name on it. Can you pull that binder up --

15 A. Yes, sir.

16 Q. -- and go to Tab 1?

17 All right. Let's go to Page 15 and 16. There are some
18 page numbers on the bottom there.

19 A. Okay.

20 Q. See that bottom email there is from Jim Penrose?

21 A. On bottom of Page -- yes, I see it.

22 Q. Okay. Who is Jim Penrose?

23 A. Jim Penrose is the person who initially called us about
24 this type of work. He -- we didn't know much about him when he
25 called, other than from his email address he worked for --

1 well, he said email domain of "Fight Back Law."

2 **Q.** Okay. And he says that he's connecting you with the lead
3 attorney in NV, Jesse Binnall.

4 Do you see that?

5 **A.** Yes, sir.

6 **Q.** All right. First, who is Jesse Binnall?

7 **A.** Jesse Binnall was another attorney. And this was an
8 opportunity where we went to Nevada.

9 **Q.** Nevada.

10 Is that what NV stands for in that email?

11 **A.** Yes, sir.

12 **Q.** Okay. And he was connecting you with Mr. Binnall.

13 Had you ever met Mr. Binnall before?

14 **A.** No, sir.

15 **Q.** Okay. I believe you said Jim -- what did you know about
16 Jim Penrose before he connected you with Jesse Binnall?

17 **A.** I didn't know much, if anything. He called in to the
18 office, and I talked to him initially when he called in our
19 place of work.

20 **Q.** What did he say?

21 **A.** That he was representing -- asked me if we could do work
22 doing collections of election machines. He had worked for a --
23 different attorneys and -- who were looking to do collections
24 of this type of computers.

25 **Q.** Okay.

1 **A.** And we indicated we could do that.

2 **Q.** Did he say why he was interested in doing these
3 collections from computers?

4 **A.** I cannot recall.

5 **Q.** Okay. Did he say what type of computers he was interested
6 in --

7 **A.** He definitely did say they were -- that they were election
8 computers; correct.

9 **Q.** Election computers in Nevada, in the first call?

10 **A.** The first call was more in general.

11 **Q.** Okay. In general nationwide or -- just trying to get a
12 sense of where he was interested --

13 **A.** Just in general. He didn't mention specifically here or
14 there. He just mentioned in general would you be able to
15 collect computer -- you know, do a forensic image of an
16 election computer, and we said yes.

17 **Q.** Okay. And then at that point, did he reference a
18 particular place he wanted you to do this forensic collection
19 in?

20 **A.** The first place we went to was in Las Vegas, Nevada.

21 **Q.** All right. Go ahead and -- do you see in this email, the
22 next email up, Jesse Binnall says, send me an agreement.

23 Do you see that on Page 15?

24 **A.** On Page 15, send me an agreement.

25 **Q.** On Monday, November 30th, 2020.

1 **A.** Yeah. I see that.

2 **Q.** Okay. Did you send him an agreement, sir?

3 **A.** We sent an agreement to Jesse Binnall. Yes, sir.

4 **Q.** All right. Go ahead and take a look at Tab 2 in your
5 binder. This is marked as Exhibit 321.

6 Do you see that?

7 **A.** I see the agreement.

8 **Q.** Is this the agreement that you sent him?

9 **A.** Yes, sir.

10 **Q.** And is it standard practice at SullivanStrickler to issue
11 engagement letters before performing work?

12 **A.** On most occasions, yes, especially when we do not have an
13 existing relationship with the client.

14 **Q.** And as chief operating officer, is it part of your normal
15 responsibilities to issue such engagement letters?

16 **A.** Yes, sir.

17 **Q.** All right. And did you issue this engagement letter in
18 the normal course of your responsibilities?

19 **A.** Yes, sir.

20 MR. FISHER: Your Honor, at this point we offer
21 PX 321 into evidence.

22 THE COURT: Any objections?

23 MR. BOYLE: Only insofar as it also relates to Nevada
24 work, which I think has nothing to do with any issues in the
25 case.

1 THE COURT: I can ignore that to the extent that it
2 is there, unless it becomes relevant for some reason.

3 MR. BOYLE: Thank you, Your Honor.

4 THE COURT: It is admitted.

5 BY MR. FISHER:

6 Q. All right. Well, let's talk about that. Go ahead and
7 turn to Page 3 of this.

8 A. Okay.

9 Q. All right. Do you see that it is labeled Exhibit 1 there?

10 A. Yes, sir.

11 Q. All right. In the last sentence it says, state of Nevada
12 and subsequent work in the State of Georgia?

13 A. That is correct.

14 Q. Okay. So did this engagement letter cover work both in
15 Nevada and in Georgia?

16 A. At the time, on November 30th when he wrote that, that was
17 our understanding, yes.

18 Q. Okay. And the Nevada work you referenced was Las Vegas?

19 A. Yes, sir.

20 Q. Anywhere else in Nevada?

21 A. No, sir.

22 Q. What county is Las Vegas in?

23 A. Pretty sure it is Clark County.

24 Q. All right. Is this the engagement letter under which you
25 performed work in Coffee County?

1 **A.** No, sir.

2 **Q.** It was a different one?

3 **A.** Yes, sir.

4 **Q.** Okay. We'll get to that in a moment.

5 Which work did you turn to first? The work in Nevada or
6 the work in Georgia?

7 **A.** The work in Nevada was the first one we did.

8 **Q.** Okay. And you said election computers earlier.

9 Can you be more specific about what you were planning to
10 collect there?

11 **A.** Well, we learned more information as we did -- we had more
12 conversations. But in terms of our initial conversation, it
13 was just election equipment.

14 Main thing -- what we normally do for a forensic
15 collection, it is any type of computer equipment that has the
16 ability for us to do a forensic collection of.

17 **Q.** Okay. What sort of election equipment?

18 Maybe I'll ask you a specific question. How about that?

19 **A.** Yes.

20 **Q.** Did you try to collect from a BMD?

21 **A.** If one was made available, yes, sir.

22 But we did not collect anything in Nevada.

23 **Q.** Oh, you didn't.

24 Why not?

25 **A.** Well, when we got there, we were -- we were brought into

1 the election -- the county office where the election equipment
2 was. And while we were about to, there was conversations and
3 either -- I'm not sure of all the legal details behind it. But
4 when we got there, we were told we were not allowed to do any
5 collection.

6 So we ended up actually not doing any collections outside
7 of just seeing a lot of the equipment and how it was set up and
8 worked, but we did not do any physical computer collections in
9 Nevada.

10 **Q.** Okay.

11 MR. BOYLE: Your Honor, please, we object to any
12 further questioning about Nevada. I don't know how much
13 farther this is going to go, but it has obviously got nothing
14 to do with the issues in the case.

15 MR. FISHER: Your Honor, I very much disagree with
16 that and I'm happy to be heard on that if you like.

17 THE WITNESS: Just move forward and we'll see whether
18 it is relevant or not.

19 BY MR. FISHER:

20 **Q.** You said that you saw how the election equipment in Nevada
21 worked.

22 How did you see how it worked?

23 **A.** There was discussions across everybody who was there in
24 terms of this is what a voting machine is. This is what a
25 polling pad is. This is where the -- the information was kept.

1 These are thumb drives that it was collected to, that type of
2 information.

3 **Q.** Okay. Did you touch any of the equipment?

4 **A.** No, sir.

5 **Q.** Okay. Did you need a court order to gain access to that
6 equipment?

7 **A.** That was my understanding, but I couldn't be specific
8 about that.

9 **Q.** What about Coffee County? Did you need a court order in
10 Coffee County?

11 **A.** I don't know the law in terms of what would allow us to
12 come in or not, other than we were let into Coffee County.

13 **Q.** Okay. Well, didn't you think that you did need a court
14 order at one point?

15 MR. BOYLE: Objection. Leading.

16 THE WITNESS: It was our understanding that we were
17 hired by an attorney, and then if we were allowed to -- then
18 all that information, all that approvals would have happened at
19 that point.

20 So when we do a collection of a regular forensic
21 computer, we don't go and look for the legal order to say, hey,
22 can we collect this computer, we have an order by an attorney
23 that has hired us to collect the computer.

24 BY MR. FISHER:

25 **Q.** Did you think that a judge would have to issue an order in

1 order to let you touch any machines in Coffee County, Georgia?

2 **A.** I do not know.

3 MR. BOYLE: Object, Your Honor. Calls for legal
4 conclusion.

5 MR. FISHER: I'm asking about what he thought.

6 THE COURT: All right. I think the objections are
7 excessive, frankly. We're trying to move forward.

8 I don't think that the -- I understand why you are
9 making the objections. And if you wish to keep on making them
10 for the record, that's fine.

11 But I'm just -- at this point, we're just trying to
12 get -- find out what happened.

13 MR. BOYLE: Thank you, Your Honor.

14 BY MR. FISHER:

15 **Q.** Can you repeat your answer, sir?

16 **A.** I don't recall if I thought we needed a court order or
17 not. It wasn't part of my -- our process.

18 **Q.** Would it refresh your recollection to see some text
19 messages you sent?

20 **A.** Yes, sir.

21 **Q.** Why don't you go ahead and turn to Tab 3.

22 MR. FISHER: Leave this one off, Tony.

23 BY MR. FISHER:

24 **Q.** And you see there's small numbers at the bottom. I
25 apologize about that.

1 But can you go to the one that ends in 34 -- 0034?

2 **A.** Yes, sir.

3 **Q.** Are you there?

4 **A.** Yes, sir.

5 **Q.** All right. Take a look at that first message from you and
6 then look up at me when you are done.

7 Does that refresh your recollection about whether you
8 thought you needed a court order?

9 **A.** Yes, sir.

10 **Q.** Okay. Did you need a court order?

11 **A.** That was my understanding; correct.

12 **Q.** You can put that down.

13 Did you get a court order?

14 **A.** Not -- me personally, no.

15 **Q.** Okay. Do you have an understanding for how you gained
16 access to the election equipment at Coffee County?

17 **A.** We were informed by the team we were working with that we
18 were allowed to go there, and that team consisted of -- headed
19 up by an attorney. We were told who our contacts were and who
20 to reach out to. And we were let in.

21 **Q.** Okay. You didn't ask any follow-up questions though?

22 **A.** In terms of seeing an example of a court order, no, sir.

23 **Q.** Okay. All right. Before we get into the details of that
24 day, I just want to talk about payment briefly here.

25 THE COURT: I'm sorry. Was that Sidney Powell who

1 told you this or somebody else?

2 THE WITNESS: It was somebody else, ma'am.

3 BY MR. FISHER:

4 Q. Who was it?

5 A. Either Jim Penrose or -- all right. Now I've got to
6 read -- I guess probably see an email real quick.

7 Q. Well, maybe I'll just ask you. How about that?
8 Was it Jesse Binnall?

9 A. No, sir.

10 Q. Okay. So it wasn't Jim Penrose or Jesse Binnall?

11 A. No, sir.

12 Q. And it wasn't Sidney Powell?

13 A. No, sir.

14 Q. Okay. Who else --

15 A. It was either Jim Penrose or -- if I can see an email, I
16 can probably remember his name real quick.

17 Q. All right. Was it Bryan -- I'll find his last name for
18 you in a second.

19 Does that name ring a bell?

20 A. No, sir.

21 Q. Okay. Well, let me ask you this, Mr. Maggio. Who were
22 your clients?

23 A. Our clients in the Coffee County scenario?

24 Q. Yes.

25 A. Our main client was Sidney Powell.

1 Q. Okay. Who else were your clients?

2 A. People that were representing her, many -- Jim Penrose --
3 I really want to find out this -- remember this other name. I
4 should remember it. Doug Logan.

5 Q. Doug Logan?

6 A. Jim Penrose and Doug Logan were our main contacts.

7 Q. Okay. Who is Doug Logan?

8 A. Somebody who worked with Jim Penrose.

9 Q. That's all you know about him?

10 A. In terms they worked together; correct.

11 Q. Okay. Is he a lawyer?

12 A. I don't think so.

13 Q. Okay. Is he on that board there?

14 A. Yes, sir.

15 Q. Okay. Where is he?

16 A. Upper right-hand corner, the bottom left of the right-hand
17 corner group.

18 Q. Had you worked with Doug Logan prior to Coffee County?

19 A. Yes, sir.

20 Q. Where did you work with Doug Logan prior to Coffee County?

21 A. We worked with him, talked with him during the -- over
22 since -- not in Nevada but in Michigan.

23 Q. Okay. We'll talk about Michigan in a moment.

24 So did Doug Logan tell you that you could access the
25 election equipment in Coffee County?

1 **A.** I don't remember if it was Doug Logan or Jim Penrose, but
2 it was one of those -- those two were our main contacts and we
3 were given the approval to go here and then we were given the
4 contact name in Coffee County to go in.

5 **Q.** Okay. Do you know if that was in writing?

6 **A.** It was not in writing.

7 **Q.** Is this over the phone?

8 **A.** Yes, sir.

9 **Q.** So they called you and said you have access to Coffee
10 County?

11 **A.** It more would have been along the lines of, you're allowed
12 to go to Coffee County, here's your contacts.

13 **Q.** Got it.

14 All right. Let's talk about payment for a second. Go
15 back to Tab 1.

16 MR. FISHER: Your Honor, I should have noted earlier,
17 this is Exhibit 114. I'm not offering it into evidence yet.

18 THE COURT: Okay.

19 BY MR. FISHER:

20 **Q.** Go to Page 5, Mr. Maggio.

21 You see this email from Sidney Powell?

22 **A.** Yes, sir.

23 **Q.** Okay. And she says, Nevada must be paid by the campaign.

24 THE COURT: I'm sorry. Which page of 114?

25 MR. FISHER: Page 5, Your Honor.

1 THE COURT: Thank you.

2 BY MR. FISHER:

3 Q. What did you understand the word "campaign" to mean?

4 A. We understood it to be a Trump campaign.

5 Q. What about Coffee County? Who paid for that?

6 A. Sidney Powell and her firm.

7 Q. Her firm, okay.

8 Take a look at Tab 5.

9 THE COURT: I'm sorry to slow you up --

10 MR. FISHER: No problem.

11 THE COURT: -- but are we referring to -- when you
12 say Page 5 at the very bottom number, Plaintiffs' Exhibit 114?

13 MR. FISHER: Yes, Curling Plaintiffs' Exhibit 114 and
14 then the comma, that page number, that's what I'm referring to.

15 THE COURT: Thank you.

16 BY MR. FISHER:

17 Q. Mr. Maggio, turn to Tab 5. This is marked as PX 349.

18 A. Yes, sir.

19 Q. Is this the check from Sidney Powell's organization?

20 A. This is the check from Sidney Powell's organization, yes.

21 Q. Okay. This is paying you for the work in Coffee County?

22 A. No, sir.

23 Q. What is this paying you for?

24 A. This is paying for a previous invoice that -- because this
25 invoice is dated -- this check is dated 1/6. We did not go to

1 Coffee County until 1/7.

2 **Q.** What is this paying you for?

3 **A.** If I could see invoice 4205, that is what it is referring
4 to. I'm assuming you have that invoice somewhere in this book.

5 **Q.** I probably do, if I can find it. We'll come back to that.

6 MR. FISHER: You can take that down, Tony.

7 BY MR. FISHER:

8 **Q.** Did you negotiate payment for Coffee County with
9 Ms. Powell directly?

10 **A.** Yes, sir.

11 **Q.** Okay. All right. Now, you referenced Michigan earlier.
12 What was the work that you performed in Michigan?

13 **A.** We went to -- we went to Michigan to do a collection there
14 when we actually did a collection of election machines,
15 computers, and the like in Michigan.

16 **Q.** Okay. What election equipment did you do work with in
17 Michigan?

18 **A.** It would have been the election servers. It would have
19 been the -- as best we could have the touch screens, if that
20 was possible. There would have been thumb drives and the like.
21 I don't have a complete inventory. But I'm sure if we do have
22 an inventory, that may even be somewhere in this booklet.

23 **Q.** Okay. Did you image BMDs?

24 MR. BOYLE: Your Honor, I'm sorry. I mean, I
25 understand. I'm trying to keep my objections to a minimum.

1 But I think I need -- I think our side needs to hear an
2 explanation from counsel on how Michigan -- work by this
3 witness who is a fact witness, not an expert -- how his work in
4 Michigan for an unrelated party has any relevance to the case.

5 MR. FISHER: It is all part of the context of the
6 Coffee County incident, Your Honor. Whether they reused
7 equipment in other places before coming to Coffee County, what
8 the degrees of access were in other places compared to Coffee
9 County, the engagement for Coffee County and how that was
10 connected to engagements in other places, it is all part of the
11 picture of the Coffee County story.

12 And that is relevant for the Court to consider when
13 deciding what the Coffee County story says about the burden on
14 the right to vote and the State's response.

15 So it is part of the whole package here. I'm happy
16 to give a proffer about what I think the evidence is going to
17 show. But if we do that, I would ask that the witness be
18 excused from the room.

19 THE COURT: All right. Let's excuse the witness for
20 a moment so we just get an idea because I don't know whether
21 we're talking about an hour or we're talking about three hours.
22 If we're talking about an hour, then you can just ask the
23 questions.

24 MR. FISHER: We're not talking about an hour. I'm
25 almost done with this section on Michigan.

1 THE COURT: Then why don't you just proceed.

2 MR. FISHER: Okay.

3 BY MR. FISHER:

4 Q. So you mentioned touch screens, Mr. Maggio.

5 Did you image BMDs in Michigan?

6 A. What does BMD stand for?

7 Q. The ballot-marking device.

8 A. If it had a -- if it had a hard drive or some sort of
9 place where, you know, either random memory or data could be
10 collected off of, we would have attempted to.

11 Q. Do you know if you succeeded in collecting from everything
12 you attempted to collect in Michigan?

13 A. No, we did not. There were some devices that the --
14 either the flash or the technology did not allow it.

15 Q. Okay. Do you know which devices you did not succeed with?

16 A. No, sir.

17 Q. Okay. But you attempted with every device there?

18 A. Yes, sir.

19 Q. All right. Go ahead and turn to Tab 6. This is PX 344.

20 THE COURT: We're talking about a particular
21 jurisdiction in Michigan; is that right?

22 MR. FISHER: That's where I'm going.

23 THE COURT: All right.

24 BY MR. FISHER:

25 Q. Now, what -- this is another engagement agreement; right?

1 **A.** Correct.

2 **Q.** Okay. What is this engagement agreement for?

3 **A.** This is for -- an engagement agreement for doing a
4 collection in Michigan.

5 **Q.** Okay.

6 MR. FISHER: Your Honor, we offer it.

7 THE COURT: Okay.

8 MR. BOYLE: Your Honor, unless I'm mistaken, this
9 exhibit doesn't even have the word "Georgia" in it. It talks
10 about Michigan and Arizona on Page 5.

11 THE COURT: He's already said he's going to try to
12 connect everything up. So I'm conditionally allowing it.

13 If you don't hook it up, that is something else.

14 BY MR. FISHER:

15 **Q.** Where in Michigan did you perform the work pursuant to
16 this agreement?

17 **A.** Antrim County.

18 **Q.** Okay. Do you recall when you did that work?

19 **A.** I don't recall the day. But it is in early December.

20 **Q.** Okay. Would it refresh your recollection to see a sign-in
21 sheet from Antrim County?

22 **A.** Yes, sir.

23 **Q.** Why don't you look at Tab 12.

24 Look up at me when you're done.

25 Does that refresh your recollection?

1 **A.** Yes, sir.

2 **Q.** Okay. When did you do your work in Antrim County?

3 **A.** December 6, 2020.

4 **Q.** Okay. All right. So did you do work for Penrose, Powell,
5 and Binnall anywhere else, other than Coffee County, Georgia,
6 Antrim County, Michigan, and the attempted work in Las Vegas,
7 Nevada?

8 **A.** We also traveled to Detroit, Michigan.

9 **Q.** Okay. Where else?

10 **A.** That was all.

11 **Q.** And Detroit, same thing, you attempted to image every
12 device there?

13 **A.** We did not even get to an election office in Detroit. We
14 just went -- went and arrived in Detroit. We were not given
15 access. Then we returned home.

16 **Q.** Were you told that you were going to be given access?

17 **A.** Yes, sir.

18 **Q.** By Doug Logan and Jim Penrose?

19 **A.** Correct.

20 **Q.** Okay. And then you weren't?

21 **A.** And then we weren't; correct. They were both in Detroit
22 with us.

23 **Q.** This was before they told you that you had access in
24 Coffee County; right?

25 **A.** Yes, sir.

1 Q. Okay. And when they told you you had access in Coffee
2 County, you didn't follow up and ask a question?

3 MR. BOYLE: Your Honor, leading questions on direct.

4 THE COURT: All right. Rephrase your question.

5 BY MR. FISHER:

6 Q. When they told you that you were going to have access in
7 Coffee County, did you ask a follow-up question to ensure that
8 the same thing wouldn't happen there that happened in Detroit?

9 A. No, sir.

10 Q. Okay. What about Arizona? Any work there?

11 A. Did we do any work in Arizona? We did not collect any
12 data in Arizona.

13 Q. Did you attempt to collect data in Arizona?

14 A. We did not physically lay hands on any equipment. We were
15 prepared to, but we were told -- basically at the last minute
16 we didn't -- whereas, in Detroit, we didn't even arrive on
17 site. In Arizona, we were on site and then we were told that
18 we were not allowed to collect the equipment.

19 Q. So you actually got into an elections office in Arizona?

20 A. Yes, sir.

21 Q. Where in Arizona?

22 A. At the Clark County election office.

23 Q. Okay. And you are in the election office and then -- walk
24 me through what happened. So you get in the elections office.

25 A. Election office. We were walking. We were with a large

1 group of people. People from all different groups. I
2 didn't -- I don't have -- my feeling was there were people from
3 both sides, if I can say it like that.

4 And we were walked into the election office where the
5 computers were. And we were prepared to start doing any --
6 some collections and we were told we were not allowed to.

7 **Q.** Who told you you had access in Arizona?

8 **A.** We were told to go to Arizona. But in terms of who gave
9 us access, we were walked in. But we were -- we did not get
10 access.

11 **Q.** Who told you to go to Arizona?

12 **A.** Jim Penrose.

13 **Q.** Doug Logan?

14 **A.** It wasn't Doug Logan involved at that time.

15 **Q.** Just --

16 **A.** Jim and Jesse.

17 **Q.** Okay. And you said you were like escorted into the
18 office?

19 **A.** Yes, sir.

20 **Q.** By whom?

21 **A.** I do not recall.

22 **Q.** Okay.

23 THE COURT: Remind me who Jesse is.

24 THE WITNESS: Jesse Binnall is an attorney out of the
25 Washington, D.C., area, and he's the one who signed our first

1 statement of work.

2 BY MR. FISHER:

3 **Q.** So just to make sure I got this right, before you
4 performed work in Coffee County for Sidney Powell, you
5 performed work for some combination of Jim Penrose, Jesse
6 Binnall, and Doug Logan and Sidney Powell in Michigan? You
7 actually collected stuff from Michigan; right?

8 **A.** We actually collected stuff from Michigan, but it was not
9 for Jesse Binnall.

10 **Q.** Who was that for?

11 **A.** Sidney Powell.

12 **Q.** Okay. And you attempted to collect data from election
13 equipment in Nevada?

14 **A.** We didn't attempt anything. We were not given access to
15 the machines. We were given access to the building and the
16 room, but not the machines.

17 **Q.** Okay. And same thing in Arizona?

18 **A.** That is Nevada.

19 **Q.** What about Arizona?

20 **A.** Okay. My misunderstanding.

21 We were never in Arizona.

22 **Q.** Okay.

23 **A.** Only Las Vegas, Nevada, and Michigan twice, then Coffee
24 County.

25 I apologize. We were never in Arizona.

1 Q. All right. Go ahead and turn to Tab 1 and go to Page 7.
2 See that first email on that page? It says, please do not
3 communicate about any additional forensics work in AZ.
4 Do you see that, sir?
5 A. Yes, sir.
6 Q. What does AZ refer to?
7 A. Arizona.
8 Q. Okay. What -- and then the next part of that sentence
9 says, to other legal teams, keep that in confidential channels
10 with me, Sidney, and Doug only.
11 Do you see that?
12 A. Yes, sir.
13 Q. All right. Sidney is Sidney Powell?
14 A. Yes, sir.
15 Q. And who is Doug?
16 A. Doug Logan.
17 Q. Okay. So what is this talking about?
18 A. This is talking about a possible collection in Arizona.
19 Q. Okay. Why did it need to be confidential?
20 A. I do not know.
21 Q. Okay. All right. Turn to the top of this email thread.
22 This email chain, is this how you coordinated the logistics of
23 the collection work and payment for that work that you either
24 performed or attempted to perform or were engaged to perform in
25 Nevada, Michigan, and Georgia?

1 **A.** I'm just going back to look --

2 **Q.** Take your time. Take your time.

3 **A.** -- at the prior chain.

4 This chain, while it has a lot of the communications, it
5 is not all the communications.

6 **Q.** Okay. But this chain is how you coordinated the logistics
7 of the collection and the payment -- strike that.

8 This chain is how you coordinated the logistics of the
9 work you either performed or attempted to perform or were
10 engaged to perform in Nevada, Michigan, and Georgia?

11 **A.** This email chain contains a majority of it but not all of
12 it.

13 **Q.** Sorry.

14 **A.** But we did -- this was the email that we used to do the
15 communications, that is correct. But there's other
16 communications as well.

17 **Q.** Got it.

18 And did you communicate in this email in sort of the
19 ordinary course of your work?

20 **A.** Yes, sir.

21 MR. FISHER: All right. Your Honor, we offer this,
22 PX 114, as a business record.

23 MR. BOYLE: Your Honor, we object as to the portions
24 as to other states. I've still heard nothing about why the
25 other states are relevant in this case.

1 THE COURT: I'm going to treat it the same way I have
2 told you. We'll see whether it is hooked up or not. So it is
3 going to be admitted subject to his actually explaining the
4 significance.

5 BY MR. FISHER:

6 **Q.** All right. Let's talk --

7 THE COURT: Just for ease, I'm going to say this is a
8 standing objection on your part. I will recognize it is as
9 such.

10 At the conclusion of the testimony, I'll see where
11 we're at.

12 MR. BOYLE: Thank you, Your Honor.

13 BY MR. FISHER:

14 **Q.** All right. Let's talk about Coffee County in particular.

15 So I know we have touched on it a little bit. But what
16 were the services, the specific services that you were engaged
17 to perform in Coffee County?

18 **A.** We were engaged to do a forensic collection of all the
19 available election equipment that was at the Coffee County
20 election office.

21 **Q.** Okay. And as part of doing that forensic collection, is
22 the goal -- what is the goal of a forensic collection, kind of
23 at a high level?

24 **A.** Think of it as drawing a yellow tape around a scene or
25 evidence and then collecting it as is so it can't be changed at

1 a later date.

2 **Q.** As is, so you want a pristine copy?

3 **A.** Yes, sir.

4 **Q.** Okay. Do you leave any footprint behind when you do this
5 collection work?

6 **A.** The goal was not to. But obviously there's records about
7 when computers are turned on or turned off, that we do
8 everything we can not to leave any traces so we don't change
9 any of the evidence.

10 **Q.** Okay. We'll come back to that.

11 Were you lead on this project in Coffee County?

12 **A.** Yes, sir.

13 **Q.** Okay. What does being a lead mean?

14 **A.** Being the primary person doing the logistics and
15 coordinating. Being the liaison with the client.

16 **Q.** Are you in charge of a particular -- were you in charge of
17 a particular collection in Coffee County?

18 **A.** I was in charge -- I personally did the collection of part
19 of the equipment, yes.

20 **Q.** Which part?

21 **A.** The polling pads.

22 **Q.** Okay. And when you are doing that, you can't see what
23 other people on your team are doing; right?

24 **A.** Not specifically as in terms of key strokes. I can see
25 where they are sitting, but that is basically about it.

1 Q. What if they are in another room? You can't see them?

2 A. Obviously I couldn't see them. They are behind a wall.

3 Q. Okay. Now, who came with you from the SullivanStrickler
4 team to Coffee County?

5 A. Three others.

6 Q. Who are they?

7 A. Jim Nelson, Karuna Naik, and Jennifer Jackson.

8 Q. Okay.

9 MR. FISHER: Tony, can we put up Slide 34? Blow up
10 that one portion.

11 Can you blow up of the SullivanStrickler team there
12 on the bottom? Perfect.

13 BY MR. FISHER:

14 Q. All right. So let's talk about a couple of these people
15 first, and then we'll come back to Jim Nelson.

16 First, Greg Freemeyer, he wasn't one of the names you
17 mentioned. Was he involved in Coffee County?

18 A. He was -- he did not go to Coffee County with us to do the
19 collection, no.

20 Q. Okay. Was he involved in coordinating the collection?

21 A. He was involved in the communications.

22 Q. Okay. Communications with whom?

23 A. Probably Jim and Doug.

24 Q. Okay. That is Jim Penrose?

25 A. Doug Logan.

1 Q. Thank you.

2 All right. What about Jennifer Jackson? Who is she?

3 A. She is our chief relationship officer at the company.

4 Q. And what does she do? What are her roles and
5 responsibilities?

6 A. Her main responsibility is customer relations, sales and
7 marketing, and the relationships with our main clients.

8 Q. And she was on site at Coffee County?

9 A. Yes, sir.

10 Q. Okay. What role did she perform on site at Coffee County?

11 A. Predominantly she performed the role of logging and
12 itemizing the items that were collected.

13 Q. Okay. How did she do that?

14 A. Everything from taking pictures to making labels and
15 keeping an updated spreadsheet with the items that were
16 collected.

17 Q. Okay. Take a look at Tab 13. It is PX 347.

18 It is an email from Ms. Jackson to you?

19 A. That is correct.

20 Q. All right. And you see there's an attachment to this
21 email?

22 A. Correct.

23 Q. Turn to three -- Tab 14, the next one.

24 MR. FISHER: You can take that down, Tony.
25

1 BY MR. FISHER:

2 Q. Is this that spreadsheet that you were talking about?

3 A. Yes, sir.

4 Q. The one that Ms. Jackson created?

5 A. Yes, sir.

6 Q. Okay. She created that in the ordinary course of her
7 roles?

8 A. Yes, sir.

9 MR. FISHER: Your Honor, we offer PX 348, which is
10 the attachment, and PX 347, the original email.

11 THE COURT: It is admitted.

12 MR. BOYLE: We have no objection, Your Honor.

13 MR. FISHER: All right. Can you put up Slide 34
14 again, that first one we were looking at?

15 Go back. Perfect.

16 BY MR. FISHER:

17 Q. Karuna -- I don't know how to pronounce her last name.
18 How do you --

19 A. Naik.

20 Q. Naik. Okay.

21 What was her role?

22 A. She was -- she performed the majority of the collections
23 along with Jim Nelson.

24 Q. Okay. Did she have a particular collection that she was
25 in charge of?

1 **A.** She probably touched most of them. She was probably the
2 main collector. She is the one with the most experience.
3 So -- but it would have ranged from the thumb drives to the EMS
4 server to the other computers that were there as well.

5 MR. FISHER: All right. You can take this down.

6 BY MR. FISHER:

7 **Q.** Jim Nelson, what about him?

8 **A.** Him and Karuna did basically the same items. Karuna was
9 the lead, and Jim also did collections as well.

10 **Q.** Sorry. I didn't hear that last part. What did you say?

11 **A.** Jim did collections as well.

12 **Q.** Okay. All right. Where is SullivanStrickler based?

13 **A.** We have a -- our office, our main office, our business
14 office is in Atlanta. And we have a lab that we're in -- a
15 vault that is in Forest Park, Georgia.

16 **Q.** How did you guys get from Atlanta or where the lab is down
17 to Coffee County?

18 **A.** We drove.

19 **Q.** So you, Ms. Naik, Mr. Nelson, and Ms. Jackson drive down
20 from Atlanta the morning -- the morning of January 7th?

21 **A.** We drove down the morning; correct.

22 **Q.** Okay. Who were you coordinating the details of your
23 arrival with?

24 **A.** Cathy Latham.

25 **Q.** Who is Cathy Latham?

1 **A.** She was the name we were given as a person who was from
2 the election office in Coffee County.

3 **Q.** Someone told you she was from the elections office?

4 **A.** Somebody told us that she was the person to coordinate
5 with.

6 **Q.** Okay. Did they say she was from the elections office?

7 **A.** I do not recall.

8 **Q.** Did you think she was from the elections offices?

9 **A.** That was the impression I was given. Or that was
10 impression that I had that she worked at the -- runs the
11 election office.

12 **Q.** Got it.

13 Okay. Did you coordinate with Scott Hall?

14 **A.** He was also involved. But the primary contact was Cathy,
15 but I also had Scott Hall's text information and we -- and I
16 communicated with him briefly.

17 **Q.** Okay. Who is Scott Hall?

18 **A.** He was another name we were given to coordinate with.
19 Other than that, I wasn't given any details in terms of what
20 his background or overall role was. But it was -- it was our
21 impression that he was somebody that was in charge and
22 responsible.

23 **Q.** Your impression was he was in charge of the elections
24 office or --

25 **A.** That he was in charge of coordinating the collection.

1 Q. Okay. The collection within the elections office?

2 A. Yes, sir.

3 Q. But he wasn't your client?

4 A. He was not our client, correct.

5 Q. So did you think he was associated with the elections
6 office?

7 A. We did not know. We were to get -- two names we were
8 given was Scott Hall and Cathy Latham.

9 Q. Who gave you those names?

10 A. Jim Penrose and Doug Logan.

11 Q. Okay. Are Scott Hall and Cathy Latham on that board
12 there?

13 A. Yes, they are.

14 Q. Okay. Where are they?

15 A. They are in the upper right-hand group on the upper left
16 and the upper middle of the right-hand group.

17 Q. I want to go through the details of this day. We have
18 some videos from surveillance footage to help us with that.

19 MR. FISHER: So let's pull up Clip 3.

20 You can just go ahead and play it, Tony.

21 **(Playing of the videotape.)**

22 BY MR. FISHER:

23 Q. Who is that?

24 A. That is Cathy Latham.

25 Q. Okay. Here she's going in.

1 What building is she going into?

2 **A.** Well, looking right there, the elections and registration.

3 **(Playing of the videotape.)**

4 BY MR. FISHER:

5 **Q.** Okay. Is that the door that you remember going into that
6 day as well?

7 **A.** Yes, sir.

8 **Q.** Okay. And did they arrive before or after you?

9 **A.** She arrived before us.

10 **Q.** Okay.

11 MR. FISHER: All right. Let's go to Clip 4.

12 **(Playing of the videotape.)**

13 MR. FISHER: You can go ahead and play it.

14 BY MR. FISHER:

15 **Q.** Is this your team arriving here?

16 **A.** Yes, sir.

17 MR. FISHER: Pause it, Tony.

18 BY MR. FISHER:

19 **Q.** Who is that in the sort of pink coat?

20 **A.** That is Jennifer Jackson.

21 **Q.** Okay. And who is behind Jennifer Jackson over there?

22 **A.** That is Jim Nelson and myself.

23 **Q.** Which one is which?

24 **A.** Okay. Jim Nelson is in the blue short sleeve shirt. And
25 I'm in the gray pullover.

1 Q. Great.

2 Okay. What about Ms. Naik? She's not on screen here?

3 A. She came in a separate car.

4 Q. Came in a separate car. Okay.

5 Now, do you know approximately when you arrived at the
6 elections office?

7 A. Approximately between 11:00 A.M. and noon.

8 Q. Okay. Would it refresh your recollection to look at the
9 timestamp of this video?

10 A. That would be great.

11 Q. Okay. Go ahead and take a look. Look up at me when
12 you're done.

13 A. There you go. 11:43. Right between 11:30 and noon.
14 Correct.

15 MR. FISHER: All right. Go ahead and play it.

16 **(Playing of the videotape.)**

17 BY MR. FISHER:

18 Q. So at this point when Ms. Latham opens the door for you,
19 literally opens the door for you, at that point was it your
20 impression that she worked for the elections office?

21 A. Whatever impression I had, nothing was changed by her
22 letting us in.

23 Q. Okay. So did you have that impression before you arrived?

24 A. Yes, sir.

25 Q. Okay. So where did you get that impression?

1 **A.** Between -- we were given her name as the person in charge
2 to coordinate with. And the fact that she let us in. And then
3 when I -- we communicated with her, she responded back, here is
4 the office. Here's where you're going to come in. So she was
5 definitely familiar with the environment.

6 **Q.** Did you ever ask her what her role was?

7 **A.** No, sir.

8 **Q.** Did you ever ask Scott Hall what his role was?

9 **A.** No, sir.

10 **Q.** Okay.

11 MR. FISHER: Let's pull up Clip 5.

12 **(Playing of the videotape.)**

13 BY MR. FISHER:

14 **Q.** Where is this video taking place?

15 MR. FISHER: You can pause it here.

16 THE WITNESS: This is inside that elections office
17 that we just saw us walking in the front door.

18 MR. FISHER: Okay. Go ahead and play it.

19 **(Playing of the videotape.)**

20 BY MR. FISHER:

21 **Q.** All right. I want to go through and identify some of
22 these other people.

23 So who is wearing the sort of camo sweatshirt thing?

24 **A.** I do not know his name.

25 **Q.** You don't know -- okay.

1 Well, he was -- did you meet him that day?

2 **A.** Yes, we did.

3 **Q.** Okay. You don't know his name?

4 **A.** I don't remember his name.

5 **Q.** Would it refresh your recollection to look at the board?

6 **A.** I don't want to misname him. That's where I'm at. I have
7 heard a lot of names. I know I'm shaking his hand right now.
8 And I'd just be -- I'll just be guessing.

9 **Q.** That's fine.

10 Did you think he worked for the elections office?

11 **A.** No, I did not.

12 **Q.** Okay. What did you think -- why did you think he was
13 there?

14 **A.** He was there as part of the group that was letting us in,
15 that was welcoming us. I didn't -- did not have -- besides
16 Misty, I did not have any concrete information of who actually
17 worked there or didn't.

18 **Q.** Okay. So did it cross your mind that people who had
19 nothing to do with the elections office may have been there on
20 the date you were doing your forensic collection of election
21 equipment?

22 **A.** It did not cross my mind that these two people had nothing
23 to do with the election office. They had something to do with
24 the election office. I just didn't know that.

25 **Q.** Okay. And you didn't ask?

1 **A.** Correct.

2 **Q.** Okay. But you thought he had something to do with the
3 elections office?

4 **A.** Yes, sir.

5 **Q.** Okay. Who is the person shaking Ms. Jackson's hand in
6 this video?

7 **A.** I'm going to have to -- I don't -- do not remember his
8 name either.

9 **Q.** Okay. Did you think he had something to do with the
10 elections office?

11 **A.** Yes, sir.

12 **Q.** What was that?

13 **A.** He was there when we walked in.

14 **Q.** Okay. So suffice it to say, do you know what all of these
15 people's roles were when you -- did you know that when you
16 showed up?

17 **A.** No, sir.

18 **Q.** Okay.

19 MR. FISHER: Can we play this a little longer, Tony,
20 or is this it?

21 **(Playing of the videotape.)**

22 MR. FISHER: All right. You can pause it there.

23 BY MR. FISHER:

24 **Q.** We'll see her in plenty other videos, but this person
25 standing in the doorway, who is that?

1 **A.** That is Misty Hampton.

2 **Q.** Okay. What did you understand her role to be?

3 **A.** Our understanding, her role was that she worked in the
4 election office because she had an office and a desk in the
5 elections office.

6 **Q.** Got it.

7 Where was that office and a desk?

8 **A.** Probably right behind where she's standing. She
9 probably -- she is standing in a doorway of what I believe to
10 be her office.

11 **Q.** Okay. Do you know, was there election equipment that you
12 had to image that was behind that doorway?

13 **A.** Yes, there was.

14 **Q.** What was that election equipment?

15 **A.** There was at least the EMS server and other computers as
16 well as thumb drives that were back there.

17 MR. FISHER: All right. Let's go to Clip 7.

18 Go ahead and press play.

19 **(Playing of the videotape.)**

20 BY MR. FISHER:

21 **Q.** What is happening here?

22 **A.** We're bringing in our equipment.

23 **Q.** Okay.

24 MR. FISHER: Let's pause for a second.

25

1 BY MR. FISHER:

2 Q. That was a big black box. What equipment was in there?

3 A. In that Pelican case, we would have brought in our
4 computers. We would have brought in hard drives to copy the
5 images to. We also would have had different wiring and
6 connections to connect our equipment to the election -- the
7 election equipment.

8 That's probably the majority of it.

9 Q. Okay. You said you would have brought your computers.
10 What do you mean by "computers"?

11 A. So a lot of times when we would connect to their computer,
12 to a computer we're going to collect via a wire or a fiber
13 connection or some sort of connection through the back of the
14 computers, then we would initiate the commands through our
15 computers, as opposed to logging on to theirs.

16 And then we also do a lot of audit checking and verifying
17 on our computers.

18 Q. Got it.

19 Okay. Understanding that there's sort of slightly
20 different processes that you use to image different election
21 equipment, at a high level can you just teach us the basic
22 steps you use to image a piece of election equipment?

23 A. Okay. Essentially we would connect to it either via a
24 thumb drive, our own thumb drive, our own computers. We would
25 plug into their computer and then initiate a command that would

1 not impact the host computer and the host hard drive, and we
2 would essentially make a bit-for-bit copy of an -- in terms of
3 an image of the destination computer onto a blank source drive.

4 **Q.** Okay. So let's break that down.

5 You mentioned that you use your own drive that you plug
6 into their computer; is that right?

7 **A.** That's correct. Yes.

8 **Q.** Okay. What is on your own drive?

9 **A.** It would be some software that -- some forensic software
10 that would initiate the commands to kick off that collection.
11 For example, think of a thumb drive or another connection that
12 we would attach to the computer and the internal computer would
13 be the C drive, so to speak. And then we would copy that to
14 another external drive.

15 **Q.** Okay. Is that first drive we're talking about, the one
16 that you plug in, is that something you would have brought with
17 you?

18 **A.** Yes, sir.

19 **Q.** Okay. And is that something you would have used at other
20 collections?

21 **A.** That specific one, yes, sir.

22 **Q.** Okay. And then the computer that we're talking about that
23 you plug that first drive into, is that something that you
24 brought with you or is that something that you picked up in
25 Coffee County?

1 **A.** Can you repeat the question?

2 **Q.** Yeah.

3 What do you plug that drive that we're talking about into?

4 Let's just start there. What do you plug that into?

5 **A.** We plug it into the host computer.

6 **Q.** The host computer?

7 **A.** So think of the computer that we're collecting the data
8 from as the host computer and we make a bit-for-bit copy onto
9 another destination hard drive.

10 **Q.** So you plug directly into that host computer?

11 **A.** Correct.

12 **Q.** Okay. And then that bit-for-bit copy to an external hard
13 drive, that external hard drive is that something you brought
14 with you?

15 **A.** Yes, sir.

16 **Q.** And is that also plugged directly into the host computer?

17 **A.** Yes, sir.

18 **Q.** And is that external hard drive something you may have
19 reused from other collections?

20 **A.** No, sir, it would be a brand-new drive.

21 **Q.** Do you know what collections you performed directly before
22 the Coffee County collection?

23 **A.** No, sir.

24 **Q.** You said the Michigan one earlier was on December 6?

25 **A.** Yes, sir.

1 Q. Do you know if you performed one in between the Michigan
2 collection and the Coffee County collection?

3 A. Our company did collections between those times, yes, sir.

4 Q. Do you know if that first drive that we're talking about
5 that gets plugged into the host computer was used in Michigan?

6 A. I do not know.

7 Q. Do you know if it was used in another collection in
8 between the Michigan collection and the Coffee County
9 collection?

10 A. I do not know.

11 Q. Do you know how many collections it was used on?

12 A. It is a drive where it basically has a program on it. We
13 use it multiple times.

14 Do I know if we used it between December 6 and January 7?
15 No, sir. But we used it multiple times.

16 Q. Multiple times before the Coffee County collection?

17 A. Yes, sir.

18 Q. Okay. Now, is it -- it is not -- is it standard practice
19 at SullivanStrickler to test the pieces of equipment you bring
20 to a collection to determine whether they have been compromised
21 in some way before you complete a collection?

22 A. We don't test to see if they have been compromised, but we
23 do test to make sure they are working properly.

24 Q. You don't test for malware or anything?

25 A. No. Any type of -- there's virus checks on all of our

1 computers. So it would -- a malware would have been picked
2 up -- a known malware would have been picked up before we even
3 left.

4 **Q.** Okay.

5 **A.** When it was put on the computer, whenever that was.

6 **Q.** On that loadable drive?

7 **A.** It would have been detected there as well.

8 **Q.** Okay. Why would -- how would it have been detected there?

9 **A.** Because we basically program that drive repeatedly with
10 updated software on a regular occasion. And if it had malware
11 on it, when we do the update to the program, the forensic
12 program that is used to collect it, it would have been picked
13 up then.

14 **Q.** Do you remember testing that drive before you arrived in
15 Coffee County?

16 **A.** No, sir.

17 **Q.** Okay. You didn't personally do it?

18 **A.** No, sir.

19 **Q.** Okay. Do you know how often that sort of testing is done?

20 **A.** No, sir. I do know -- but I do know that the software is
21 regularly updated and evaluated or -- and tested to make sure
22 everything is working okay on a regular occurrence.

23 **Q.** Now, earlier you testified you didn't know, that it is not
24 standard practice to test to see if the equipment you bring
25 with you is compromised?

1 **A.** Correct.

2 **Q.** Okay. How is that different from testing whether there is
3 malware?

4 **A.** Any time a device with malware is plugged into one of our
5 computers, if there is malware on it, it will be detected.

6 **Q.** Go ahead.

7 **A.** It will be detected as part of a standard procedure of
8 owning a computer. If you have a malware on your thumb drive
9 and you plug it into your laptop right now and you're running a
10 antivirus software, it will pick that up.

11 **Q.** Do you know what antivirus software SullivanStrickler
12 uses?

13 **A.** We use a combination of several different things.

14 **Q.** Do you --

15 **A.** Microsoft Defender, Kapersky, to name two.
16 I'm sorry, I couldn't even spell Kapersky.

17 **Q.** Neither could I.

18 Any others?

19 **A.** Those are the two main ones that I know of.

20 **Q.** Okay. And you don't know -- strike that.

21 MR. FISHER: Let's go to Clip 8.

22 **(Playing of the videotape.)**

23 MR. FISHER: All right. Let's go ahead and play
24 this.

25 **(Playing of the videotape.)**

1 MR. FISHER: Let's pause it there.

2 BY MR. FISHER:

3 Q. So first, take another shot at it. The guy wearing the
4 camo and the hat, still don't recognize him?

5 A. Not as -- I don't have any more information than I had
6 before.

7 Q. Okay. What about the dog? What is the dog's name?

8 A. I don't -- while I remember the dog, I do not remember the
9 dog's name.

10 Q. I've been wondering that for a long time.

11 MR. FISHER: All right. Go ahead and press play.

12 (Playing of the videotape.)

13 BY MR. FISHER:

14 Q. Now, who is handling the Poll Pads in this video?

15 A. That is Misty Hampton.

16 Q. Okay. Do you know what she is doing?

17 MR. FISHER: Let's pause there for a second.

18 BY MR. FISHER:

19 Q. Guy wearing the camo, he is showing you something. What
20 is he showing you?

21 A. I do not know. I do not recall.

22 Q. Okay. He's hanging around. I mean, at this point no
23 question in your mind whether he worked for the elections
24 office?

25 A. I had no information that he worked at the elections

1 office. I know he didn't have an office there.

2 **Q.** Okay. What is in all those green boxes on the table?

3 **A.** Those are where the polling pads were kept.

4 **Q.** Okay.

5 MR. FISHER: Go ahead and press play.

6 **(Playing of the videotape.)**

7 MR. FISHER: Actually, Tony, can we rewind it a
8 little bit?

9 That is good.

10 BY MR. FISHER:

11 **Q.** Okay. Where is Misty -- is Misty Hampton in this video?

12 **A.** Yes, she is.

13 **Q.** Where is she?

14 **A.** She's the lady wearing the light blue shirt with the
15 arrows on her right now.

16 **Q.** Okay. And what is she doing?

17 **A.** She looks like she's showing me a polling pad.

18 **Q.** Is she showing anybody else a polling pad?

19 **A.** Looks like Scott Hall as well.

20 **Q.** Okay. And do you know what she was showing you about that
21 polling pad?

22 **A.** Other than how it worked or what was on it, I do not know.

23 **Q.** Okay. Do you remember approximately when in the day this
24 was occurring?

25 **A.** Approximately 12:34.

1 Q. Okay. So about an hour after you arrived?

2 A. Yes, sir.

3 Q. Okay.

4 MR. FISHER: Let's pull up Clip 9.

5 **(Playing of the videotape.)**

6 MR. FISHER: Let's pause.

7 BY MR. FISHER:

8 Q. Who is this sitting down here?

9 A. I don't recall his name.

10 Q. Is he with your firm?

11 A. No, sir.

12 Q. Do you know if he is with the elections office?

13 A. He did not have an office there. He came with Scott Hall.

14 Q. With Scott Hall. Okay.

15 Now, who else is in this video clip right here?

16 A. Cathy Latham.

17 Q. Do you know what he's showing Cathy Latham?

18 A. No, I do not.

19 Q. Okay.

20 MR. FISHER: Go ahead and press play.

21 **(Playing of the videotape.)**

22 BY MR. FISHER:

23 Q. He wasn't performing any collection work on your behalf?

24 A. No, sir.

25 Q. Okay.

1 MR. FISHER: Let's pause there.

2 BY MR. FISHER:

3 Q. Do you see that sort of gray looking box next to -- on the
4 table there?

5 A. Gray looking box?

6 Yes, sir.

7 Q. Okay. Do you know what that is?

8 A. That looks to be an external hard drive.

9 Q. Do you know if that is a hard drive that he got from the
10 elections office?

11 A. I do not know.

12 Q. Okay.

13 MR. FISHER: Let's pull up Clip 10.

14 MR. BROWN: Mr. Ramsey, can you reference the
15 timestamp so the record -- the transcribed record matches the
16 witness's testimony?

17 MR. FISHER: Sure. Let's go back.

18 BY MR. FISHER:

19 Q. Do you remember approximately when this was happening?

20 A. At 1:10 in the afternoon.

21 Q. Okay. Great.

22 MR. FISHER: Go ahead and press play.

23 **(Playing of the videotape.)**

24 MR. FISHER: All right. Pause it here.

25

1 BY MR. FISHER:

2 Q. Are you in this video, sir?

3 A. Yes, sir.

4 Q. Where are you?

5 A. I'm in the bottom left-hand corner sitting down where the
6 arrow is.

7 Q. And who else is in this video?

8 Let's just kind of go around.

9 A. Well, the only names I know right now are Jennifer
10 Jackson, the blonde hair, to my right. There's Misty leaning
11 over the desk looking at the computer. There is Scott Hall in
12 the gray blazer.

13 Q. Okay. Do you know who the man in the back wearing the
14 black cap is?

15 A. I do not recall.

16 Q. Okay. And what is the -- approximately what time was this
17 happening at?

18 A. At 1:49 P.M.

19 Q. Okay. So about an hour after that last clip we were
20 looking at; right?

21 A. Correct.

22 Q. Okay. And there's -- what is Misty Hampton doing in this
23 video?

24 MR. FISHER: You can press play, Tony.

25 THE WITNESS: Just look -- the only thing I can tell

1 is she's looking at a computer, a laptop.

2 BY MR. FISHER:

3 Q. And you don't know whose computer that is?

4 A. No, I do not.

5 Q. Okay.

6 A. I don't recall his name.

7 Q. Ms. Jackson is also looking at the laptop; right?

8 A. That is correct.

9 Q. Did she ever -- you have no idea what she's doing right
10 now?

11 A. I know she's looking at the computer. That's all I know.

12 Q. You don't know what she's looking at?

13 A. No, sir.

14 Q. You don't know if this is part of your collection or not?

15 A. It is not part of our collection.

16 Q. Okay.

17 MR. FISHER: Let's go to Clip 11.

18 Press play.

19 **(Playing of the videotape.)**

20 MR. FISHER: Pause there.

21 BY MR. FISHER:

22 Q. So first, where did this -- you don't know who this person
23 is; right?

24 A. I don't recall his name.

25 Q. Okay. And do you know where he is coming from in this

1 video?

2 **A.** He's coming from Misty's office.

3 **Q.** Okay.

4 MR. FISHER: Go ahead and press play.

5 **(Playing of the videotape.)**

6 BY MR. FISHER:

7 **Q.** Do you know what he has got in his hand there?

8 **A.** No, I do not.

9 **Q.** Let's just wait a moment.

10 **(Playing of the videotape.)**

11 MR. FISHER: Pause it there.

12 BY MR. FISHER:

13 **Q.** Now do you know?

14 **A.** I can guess. That would be purely a guess.

15 **Q.** I don't want you to speculate, but --

16 **A.** Well, then I do not know what it is.

17 **Q.** Let me ask you this: Did you ever see any ballots on that
18 day when you were in the elections office?

19 **A.** Yes, sir.

20 **Q.** Okay. What were you guys doing with ballots?

21 **A.** We had worked with Misty to scan some of the ballots.

22 **Q.** Real ballots from real elections?

23 **A.** Yes, sir.

24 **Q.** Okay. Do you know which election?

25 **A.** The one that occurred on November of 2020.

1 Q. And did you take those scanned ballots with you?

2 A. Not the physical ballots, no. We took the scanned images
3 with us, yes.

4 Q. How many ballots did you scan?

5 A. Several hundred. And it was Misty who scanned them. But
6 we took the PD -- we scanned them to a PDF and then we took
7 that -- those PDFs with us.

8 Q. Did you ever see this person in the video holding a
9 ballot?

10 A. Since I was in the room when this was happening, then yes,
11 I would have seen him hold the ballot.

12 Q. Okay. And you don't know whether he works for the
13 elections office?

14 A. I do not know.

15 Q. Okay. And he doesn't work for your team?

16 A. He does not work for our team.

17 Q. To this day do you know who this person is?

18 A. I know that I met him on -- over two years ago. But I
19 don't remember his name.

20 Q. All right.

21 MR. FISHER: Go ahead and -- could we go back to Clip
22 10 for a second.

23 **(Playing of the videotape.)**

24 MR. FISHER: Pause it there.

25

1 BY MR. FISHER:

2 **Q.** Now, this person wearing camo, would it refresh your
3 recollection to see a Twitter profile?

4 **A.** I'm not sure it would refresh my memory, but --

5 **Q.** Do you think it would refresh your recollection of who
6 this person is if you saw a Twitter profile?

7 **A.** If I saw a picture of him with his name behind it.

8 MR. FISHER: Your Honor, permission to approach?

9 THE COURT: Yes.

10 MR. BOYLE: Your Honor, we object to this as improper
11 refreshing recollection. I'm not sure the -- I don't believe I
12 heard the witness say that he did know the person's identity,
13 but has forgotten, but rather maybe he never knew the witness's
14 identity. I think counsel may just be suggesting something to
15 him improperly with this document.

16 THE COURT: I think he's entitled to determine
17 whether the witness is able to give us any further information
18 about the individual or if he recognizes him.

19 BY MR. FISHER:

20 **Q.** Does that refresh your recollection of who this person is?

21 **A.** This person looks -- that has Eric Chaney on the Twitter
22 profile is -- looks very similar to the person in the camo
23 right now.

24 And I did meet him. And I know I met an Eric Chaney.
25 Putting two and two together this would be Eric Chaney.

1 Q. Got it.

2 MR. FISHER: All right. Let's go to Clip 13.

3 **(Playing of the videotape.)**

4 BY MR. FISHER:

5 Q. All right. Now, this -- the time on this clip is
6 2:43 P.M.

7 Are you with me?

8 A. Yes, sir.

9 Q. All right. And who is in this video?

10 A. Misty Hampton and myself.

11 Q. This is about two hours after you arrived at the county
12 elections office?

13 A. Yes, sir. Or no, three.

14 Q. Three hours.

15 MR. FISHER: All right. Go ahead and press play.

16 **(Playing of the videotape.)**

17 BY MR. FISHER:

18 Q. What is Misty doing in this video?

19 A. She is clipping -- cutting a -- looks like a tie off of
20 the polling pad case.

21 Q. Okay. And do you know why she was cutting a tie off a
22 polling pad case?

23 MR. FISHER: Go ahead and pause it.

24 THE WITNESS: That was the only way I was going to
25 get into the polling pad was if those were cut.

1 BY MR. FISHER:

2 Q. And you were going to image the polling pad; right?

3 A. Correct.

4 Q. And you see there is a large stack of polling pads on the
5 ground there. She went in and cut the tags on every single one
6 of them?

7 A. Yes, sir.

8 Q. Okay. So I want to walk through the process you used to
9 image these Poll Pads.

10 A. Okay.

11 Q. So is that different from the process we described -- you
12 described earlier for imaging election equipment in general?

13 A. At a high level, no. But it is -- essentially a polling
14 pad is very similar to a phone. Actually, the polling pads are
15 very similar to iPads. So it is like collecting an Apple
16 phone.

17 Q. How do you do it?

18 A. My computer there in front, it has -- it has a couple of
19 USB ports, and I would plug in through the USB port to the
20 iPad. I have software on my computer. It would initiate the
21 collection, and it would copy the collection to a hard drive
22 that is through my computer.

23 Q. Okay.

24 MR. FISHER: Let's pull up Clip 14.

25 **(Playing of the videotape.)**

1 BY MR. FISHER:

2 Q. What is the time on this clip?

3 A. It is three minutes later at 2:46.

4 Q. Great. Okay.

5 MR. FISHER: And go ahead and press play.

6 **(Playing of the videotape.)**

7 MR. FISHER: Pause it.

8 BY MR. FISHER:

9 Q. So you are putting a Poll Pad back in the case?

10 A. That is correct.

11 Q. Is that after you had completed imaging it?

12 A. Yes, sir.

13 Q. So how long did it take you to image a Poll Pad?

14 A. It only took three minutes.

15 Q. Okay.

16 MR. FISHER: Go ahead and press play.

17 **(Playing of the videotape.)**

18 MR. FISHER: Pause it.

19 BY MR. FISHER:

20 Q. What is Ms. Jackson doing?

21 A. She is just putting the -- closing up the case that
22 contains the Poll Pad that I just imaged.

23 Q. Okay.

24 MR. FISHER: Go ahead and press play, Tony.

25 **(Playing of the videotape.)**

1 BY MR. FISHER:

2 Q. Now, does she put a security tag back on the case?

3 A. No.

4 Q. Okay. Where does she take it?

5 A. It looks like a room off to my left.

6 Q. Okay. Do you know -- did you see the Poll Pads ever get
7 security tags put back on them?

8 A. No, I did not.

9 Q. Okay. And you imaged every single one of these that we
10 see here in this video?

11 A. Yes, sir.

12 Q. Do you know approximately how many you imaged?

13 A. I want to say 20.

14 Q. Okay.

15 MR. FISHER: Let's pull up Clip 15.

16 **(Playing of the videotape.)**

17 BY MR. FISHER:

18 Q. What is the timestamp on this one?

19 A. 3:59.

20 MR. FISHER: Go ahead and press play. Yep.

21 **(Playing of the videotape.)**

22 BY MR. FISHER:

23 Q. Now, are you in the room in this clip, sir?

24 A. Yes, sir.

25 Q. Okay. Who else is in the room?

1 **A.** It's myself, Jim Nelson, Cathy Latham, Eric Chaney. I
2 can't tell who is in the blue and -- blue top and the shorts.
3 And then Jennifer Jackson.

4 **Q.** Okay. Do you know what Cathy Latham is doing in this
5 video?

6 **A.** Other than looking over the individual's shoulder at his
7 computer.

8 **Q.** Okay. And is Jim Nelson looking at the same image?

9 **A.** Same image. Same -- it is the same computer.

10 **Q.** Do you know -- you don't know what they were doing on this
11 computer?

12 **A.** I don't know what they are looking at, no, sir.

13 **Q.** Okay. Did you ever figure out what this person that you
14 can't identify was doing on that computer on that day?

15 **A.** No, sir.

16 **Q.** Okay.

17 THE COURT: I'm sorry. Which one is Jim Nelson? The
18 one in the --

19 THE WITNESS: In the blue and white. The checks.
20 Yes, sir -- yes, ma'am.

21 MR. FISHER: Let's pull up Clip 16.

22 **(Playing of the videotape.)**

23 BY MR. FISHER:

24 **Q.** What is the timestamp on this video?

25 **A.** It is 4:35.

1 Q. Do you know who is in this video?

2 A. Misty Hampton and the other individual's name I do not
3 recall.

4 Q. Okay. Was this the same individual that you couldn't
5 identify earlier?

6 A. Yes, sir.

7 Q. The individual that was looking at that laptop that we
8 saw?

9 A. That is correct.

10 Q. Okay. And you don't know what he was doing on that
11 laptop?

12 A. No, sir.

13 Q. Okay. What is he doing in this room?

14 A. Looks like he's taking a picture.

15 Q. Do you know where in the elections office this is?

16 A. Not exactly. Other than a back room. It is not Misty's
17 office. And it is not the office that we were in.

18 Q. Do you know what he is taking a picture of?

19 A. No, sir.

20 Q. Do you see all those black cases in the room?

21 A. Yes, sir.

22 Q. What are those?

23 A. Other than black cases, I do not know.

24 Q. You don't know what is inside those?

25 A. I can assume or guess, but that is -- it would be strictly

1 an assumption or a guess.

2 **Q.** Do you remember imaging ballot-marking devices in Coffee
3 County?

4 **A.** No.

5 **Q.** Do you remember attempting to image ballot-marking devices
6 in Coffee County?

7 **A.** If there was one in Misty's office, we would have
8 attempted one. But I don't think we were ever successful in
9 doing it.

10 **Q.** Okay. How would you have attempted to image a
11 ballot-marking device?

12 **A.** Very similar to the way we would have done the polling
13 pads. We would have tried to use a software and to do a
14 collection.

15 **Q.** Would you have plugged that -- a drive that you brought
16 with you to Coffee County into the ballot-marking device?

17 **A.** We would have either plugged the drive or with an
18 application, but more or less would have been like you saw in
19 the polling pad that I used. We would have plugged a USB
20 connection from our computer into the polling pad through
21 another USB device and tried to use forensic software to
22 collect it.

23 **Q.** So what would have been connected to the ballot-marking
24 device?

25 **A.** Either one of our -- most likely one of our computers.

1 Q. Okay. That you brought with you?

2 A. Yes, sir.

3 Q. Okay.

4 MR. FISHER: Let's pull up Clip 17.

5 **(Playing of the videotape.)**

6 BY MR. FISHER:

7 Q. What is the timestamp on this video?

8 A. It is 4:36 P.M.

9 Q. And is this in the same room that we were just looking at?

10 A. That's what it looks like, yes, sir.

11 Q. Do you know where this --

12 THE COURT: Excuse me.

13 THE WITNESS: I still don't know where this is.

14 MR. FISHER: Okay. Press play.

15 **(Playing of the videotape.)**

16 BY MR. FISHER:

17 Q. What is occurring in this video?

18 A. It looks like he is taking another picture.

19 Q. Still don't know who this person is?

20 A. No, sir.

21 Q. Do you know what he is taking a picture of?

22 A. No, sir.

23 MR. FISHER: Let's pull up Clip 18.

24 **(Playing of the videotape.)**

25

1 BY MR. FISHER:

2 Q. Okay. What is the timestamp on this clip?

3 A. 5:48 P.M.

4 Q. And where is this clip taking place?

5 A. This is in the election office in that main room that we
6 have been in most of the time.

7 Q. Who is in it?

8 A. Jim Nelson, Jennifer Jackson, and Cathy Latham.

9 MR. FISHER: Go ahead and press play.

10 **(Playing of the videotape.)**

11 MR. FISHER: Pause there.

12 BY MR. FISHER:

13 Q. What is Jim Nelson doing?

14 A. He is typing on his computer.

15 Q. Is he imaging anything?

16 A. It does not look like it.

17 Q. Do you know what he is typing?

18 A. No, sir.

19 **(Playing of the videotape.)**

20 BY MR. FISHER:

21 Q. Okay. What about Jennifer Jackson? What is she doing?

22 A. It looks like she's updating her log of the information
23 that was collected or the items that were collected.

24 Q. Okay.

25 MR. FISHER: Pause there.

1 BY MR. FISHER:

2 Q. Did you see that she just touched something?

3 A. Yes, sir.

4 Q. What did she just touch?

5 A. It looks like a thumb drive. And that yellow manila tag
6 underneath it would have been an indicator of what is on
7 that -- or what that thumb drive represented.

8 Q. And do you know where you were when all of this was
9 happening?

10 A. I think I just gave her that bag two -- about five seconds
11 ago.

12 Q. What is in that bag?

13 A. It looks like some more hard drives and some more labels.

14 Q. Stuff to be added -- is that -- the contents of that bag,
15 were those to be added to the log that she was building?

16 A. That was my assumption, yes.

17 Q. Okay. After you handed her the bag, did you walk away?

18 A. Yes.

19 Q. Where did you go?

20 A. Outside the picture. I don't know.

21 Q. Okay. Did you watch her build the log step by step?

22 A. No, sir.

23 Q. Okay.

24 MR. FISHER: Let's pull up Clip 20 -- or 21. Sorry.

25 21.

1 BY MR. FISHER:

2 Q. What is the timestamp on this video?

3 A. 7:06 P.M.

4 Q. Okay. Who is in it?

5 A. It looks like, working from the top center and going
6 counterclockwise, it goes Misty Hampton, Jim Nelson, myself,
7 and then the two individuals that, even though I met them on
8 January 7, I don't recall their names.

9 Q. Okay. But is the man wearing --

10 A. That is -- probably with the camo that is going to be Eric
11 Chaney.

12 Q. Got it.

13 MR. FISHER: All right. Go ahead and press play.

14 **(Playing of the videotape.)**

15 MR. FISHER: Okay. Pause there.

16 BY MR. FISHER:

17 Q. Did Misty Hampton just hand you something in this video?

18 A. Yes, sir, she did.

19 Q. Do you know what she handed you?

20 A. It looks like a thumb drive.

21 Q. All right. At this point in the day, 7:06 P.M., had you
22 completed imaging, everything that you needed to image?

23 A. If we hadn't, we were just wrapping up.

24 Q. Okay. So do you know what was on this thumb drive that
25 she just handed you?

1 **A.** No, sir.

2 **Q.** Do you know if you were going to image it?

3 **A.** I probably would not be the one who -- I -- I would not
4 have been the one that would have imaged it. If it was to be
5 imaged, I would have given it to Jim or somebody else. But I
6 don't recall.

7 MR. FISHER: Go ahead and press play.

8 **(Playing of the videotape.)**

9 BY MR. FISHER:

10 **Q.** Okay. Do you know where you put that thumb drive?

11 **A.** I do not recall right now. But if you hit play ...

12 **Q.** I think that is the end of the clip.

13 Did you take anything with you, sir?

14 **A.** With me?

15 **Q.** Yes.

16 **A.** With me where?

17 **Q.** Outside -- when you left the county elections office, did
18 you take anything with you that you didn't bring in?

19 **A.** No. We -- anything that we would have brought in, we
20 brought out. And we brought in. We did not take anything that
21 was there originally.

22 **Q.** Okay. Do you know why Misty was holding that thumb drive?

23 **A.** No, I do not.

24 **Q.** Okay.

25 MR. FISHER: Tony, can you go back to Clip 17 for a

1 second? Press play.

2 **(Playing of the videotape.)**

3 MR. FISHER: Okay. Pause it here.

4 BY MR. FISHER:

5 **Q.** Now, this is one of the individuals who you weren't able
6 to identify; right?

7 **A.** That is correct.

8 **Q.** Would it refresh your recollection to see a post from this
9 individual?

10 **A.** My recollection is that I never -- and though I met him on
11 that day, I do not recall his name.

12 **Q.** Okay. Would it refresh your recollection of what his name
13 was to see something that that this individual posted online?

14 **A.** If that somehow would show me a picture of his face and
15 then that would be his name.

16 MR. BOYLE: Objection, Your Honor. I mean, this is
17 like a criminal lineup with one guy. I mean ...

18 THE COURT: Either he does or doesn't know. I mean,
19 if he is not certain, he knows how to say. So ...

20 MR. FISHER: Permission to approach?

21 THE COURT: Yes.

22 BY MR. FISHER:

23 **Q.** Does this refresh your recollection of who this person is?

24 **A.** It does not reflect -- refresh my recollection. But this
25 looks like the person that is in the picture. And according to

1 this document you just handed me this is Alex Cruce.

2 Q. Okay. You can put that down.

3 MR. FISHER: All right. Let's go to Clip 22.

4 **(Playing of the videotape.)**

5 BY MR. FISHER:

6 Q. What is the timestamp on this clip?

7 A. 7:42 P.M.

8 Q. Okay.

9 MR. FISHER: Pause it there for a second.

10 BY MR. FISHER:

11 Q. This man wearing a button-up behind the door, do you see
12 him?

13 A. Yes, sir.

14 Q. Okay. It is kind of far away. Do you remember what his
15 name was?

16 A. I do not recall.

17 Q. Would it refresh your recollection to see a closeup of
18 this person?

19 A. A closeup image?

20 Yes.

21 MR. FISHER: Your Honor, permission to approach?

22 THE COURT: Yes.

23 MR. BOYLE: Your Honor, same objection to this method
24 of refreshing recollection.

25 THE COURT: So noted.

1 BY MR. FISHER:

2 Q. Does that refresh your recollection of this person's name?

3 A. These two are the same people. I do not know his name.

4 But this is the same person.

5 I do remember him from the time we were at Coffee County.

6 But I do not recall his name.

7 Q. Okay.

8 MR. FISHER: All right. Go ahead and press play.

9 **(Playing of the videotape.)**

10 BY MR. FISHER:

11 Q. What is happening in this video, sir?

12 A. It looks like we're packing up and getting ready to go.

13 Q. All right. What -- you said the timestamp was what?

14 A. 7:42 P.M.

15 Q. All right. So in total how many hours were you in this
16 elections office?

17 A. That would be eight hours.

18 Q. All right. Go ahead and turn to Tab 8 in your binder.

19 THE COURT: I'm going to take a five-minute break.

20 MR. FISHER: Sure.

21 THE COURT: If anyone needs to use the restroom, this
22 is the time.

23 COURTROOM SECURITY OFFICER: All rise.

24 **(A brief break was taken at 2:25 PM.)**

25 THE COURT: Mr. Boyle, as a matter of courtesy,

1 relative to the issues of counsel asking do you know who that
2 person is, will it help if I gave you this to identify him, the
3 record is a lot easier to read, and I'm going to have to read
4 it again, if I know who somebody is rather than man in gray.
5 And so even if it is not the right name in the end, it is -- it
6 is something for purposes of reviewing it again.

7 And the witness certainly is in the position to say
8 he doesn't know or he is not sure. That will be clear.

9 MR. FISHER: Thank you, Your Honor.

10 BY MR. FISHER:

11 **Q.** All right. Let's go to Tab 8, Mr. Maggio.

12 Why don't you just take a spin through these photos here
13 and look up at me when you are done.

14 MR. BOYLE: I'm sorry, Counsel. What are we looking
15 at?

16 MR. FISHER: Tab 8.

17 MR. BOYLE: Okay. Thank you.

18 MR. FISHER: PX 166.

19 MR. BOYLE: Got it.

20 BY MR. FISHER:

21 **Q.** Are these pictures that your team took on that day in
22 Coffee County?

23 **A.** Yes, sir.

24 MR. FISHER: All right. Your Honor, we offer PX 166.

25 MR. BOYLE: No objection, Your Honor.

1 THE COURT: Admitted.

2 BY MR. FISHER:

3 Q. Let's take a look at this first picture here.

4 Mr. Maggio, what are these -- excuse me.

5 What are these squares, boxes in this photo?

6 A. These are compact flash discs and from the different
7 precincts.

8 Q. What is on a compact flash disc?

9 A. Information from each of the precincts in terms of -- I
10 can't say specifically it is all the votes or the votes, but
11 there is information from each of the locations that was
12 tabulated at the county office.

13 Q. Okay. And how did you learn what was on these compact
14 flash drives?

15 A. By reading the labels that were on them.

16 Q. Sorry. That day how did you learn what was on these
17 particular things?

18 A. We were told that this is what they were from Misty
19 Hampton.

20 Q. Okay. And did you image these flash drives?

21 A. We made a forensic image of each one of these, yes.

22 Q. Okay. How did you do that?

23 A. We have a compact flash reader that was connected to our
24 computer and then we used our forensic software to access that
25 compact flash reader to collect the data and a forensic image

1 on to a destination drive.

2 **Q.** Okay. Is the reader something that you brought with you?

3 **A.** Yes, sir.

4 **Q.** Is that something you used in other collections?

5 **A.** Yes, sir.

6 **Q.** Okay. Other collections before the Coffee County
7 collection?

8 **A.** Yes, sir.

9 **Q.** And who provided these drives to you, these compact flash
10 drives?

11 **A.** I don't recall exactly who provided them to you. They
12 were made available to us.

13 **Q.** By individuals there on January 7 at the elections office?

14 **A.** Yes, sir.

15 **Q.** Do you know what elections these cards contained data
16 from?

17 **A.** Outside of what was written on them, on the labels, no.

18 **Q.** Do you know who wrote these labels?

19 **A.** No, I do not.

20 **Q.** Okay. And who was responsible for imaging these?

21 **A.** Karuna Naik would have been the primary person. But Jim
22 Nelson probably could have done some of them as well.

23 THE COURT: Counsel, would you just clarify for me,
24 when we're talking about labels, are we talking about the ones
25 that say -- that are in small boxes or are we talking about the

1 labels that are the manila color?

2 MR. FISHER: That's fair.

3 THE WITNESS: The manila folder tabs would have been
4 done by our team, SullivanStrickler. The white printed labels
5 would have been on the compact flash disc before we arrived.

6 BY MR. FISHER:

7 Q. Okay. Go to -- why don't you go to Page 10.

8 Are these more compact flash drives?

9 A. Yes, sir.

10 Q. Okay. And actually -- sorry to make you flip back and
11 forth, but go back to the first page for a moment.

12 Do you see on the manila tabs there is a number after CF
13 on each of these labels?

14 A. Correct.

15 Q. Okay. Now, is that numbering that the SullivanStrickler
16 team did?

17 A. That is correct.

18 Q. Okay. And do you see on this first picture -- what is the
19 highest number on this first picture here?

20 A. CF 14.

21 Q. Okay.

22 A. No. CF 15 I can see in the upper right-hand corner.

23 Q. All right. Then go back to Page 10.

24 A. Okay.

25 Q. All right. And what is the highest number on this page?

1 **A.** CF 18.

2 **Q.** Okay. Does that refer to the number of compact flash
3 drives that you imaged in Coffee County?

4 **A.** That we have pictures of right here, yes, sir.

5 **Q.** Okay. Did you image compact flash drives beyond what you
6 took pictures of?

7 **A.** I would like to refer to the log that we made.

8 **Q.** All right. Let's --

9 **A.** That we talked about earlier.

10 **Q.** We can look at that.

11 MR. FISHER: Let's pull up PX 348.

12 BY MR. FISHER:

13 **Q.** That is Tab 14 in your binder, sir.

14 **A.** Okay.

15 **Q.** So is this the complete list of compact flash drives that
16 you imaged?

17 **A.** What tab, sir?

18 **Q.** Tab 14 in your binder, sir.

19 **A.** Okay.

20 Yes, sir.

21 **Q.** Now, you didn't see Ms. Jackson personally create this
22 list; right?

23 **A.** No, I did not.

24 **Q.** Okay. So is it possible that she missed one?

25 **A.** It is possible.

1 Q. All right. Let's go back to Tab 8.

2 Now, who told you that these needed to be imaged?

3 A. I don't recall specifically who. It was our instructions,
4 understood, that we were to image and collect everything we
5 could. And this was part of that.

6 Q. You said earlier you didn't know if everybody that was
7 there that day worked for the county elections office; right?

8 A. That is correct.

9 Q. So do you know if people who did not work for the county
10 elections office had access to these flash drives, other than
11 your team?

12 A. I do not know.

13 Q. Okay. All right. Let's go to Page -- the last page in
14 Tab 8.

15 A. Okay.

16 Q. What are these?

17 A. These are thumb drives.

18 Q. Okay. Did you image these thumb drives?

19 A. Yes, sir.

20 Q. And how did you know you needed to image these thumb
21 drives?

22 A. They were part of the information that was made -- part of
23 the items that were made available to us to image.

24 Q. Okay. Do you know if people who did not work for the
25 county elections office and who are not part of your team had

1 access to these thumb drives?

2 **A.** No, I do not.

3 **Q.** Now, the second thumb drive here says, on the manila
4 label, TD02 ICX istall.

5 Do you see that?

6 **A.** Yes, I do.

7 **Q.** And is that something that your team would have written
8 down?

9 **A.** Yes, it would have.

10 **Q.** Okay. Do you know what the ICX istall is referring to?

11 **A.** Well, I want to say istall is an incorrect spelling of
12 install, but I'm not sure. And ICX probably refers to either
13 the system or the name of the box or the other -- that this
14 thumb drive could have been attached to.

15 **Q.** Okay. Do you know what a -- do you know what an ICX is?

16 **A.** I'm sure at one time I have or I do. But I can't recall
17 right now.

18 **Q.** Do you have -- excuse me.

19 Do you have an understanding of what an ICX install file
20 would allow someone to do?

21 **A.** No, sir.

22 **Q.** All right. Let's go to Page 26.

23 These are five more USB drives?

24 **A.** Five more thumb drives. Yes, sir.

25 **Q.** Did you image these?

1 **A.** Our team did, yes, sir.

2 **Q.** Okay. How did you know you needed to image these?

3 **A.** These were made available along with the other thumb
4 drives.

5 **Q.** Okay. Do you know if anyone who was not a member of the
6 county elections office or your team had access to these thumb
7 drives?

8 **A.** No, I do not.

9 **Q.** Do you know what these thumb drives contain?

10 **A.** Not specifically, no, other than the handwritten labels on
11 four of the five of them.

12 **Q.** Okay. One of them says Doug.

13 Do you see that?

14 **A.** Yes, sir.

15 **Q.** Do you know what that is referring to?

16 **A.** No, sir.

17 **Q.** And the first one says, GE Coffee 2020.

18 Do you see that?

19 **A.** Yes, sir.

20 **Q.** Do you know what that is referring to?

21 **A.** Purely speculation, no, sir.

22 **Q.** Okay. The second one says, Coffee GP.

23 Do you see that?

24 **A.** Yes, sir.

25 **Q.** Do you know what that is referring to?

1 **A.** No, sir.

2 **Q.** And the third one says, Coffee 1/5/20.

3 Do you see that?

4 **A.** Yes, sir.

5 **Q.** Do you know what that is referring to?

6 **A.** No, sir.

7 **Q.** Okay. Let's go to Pages 7 and 8.

8 THE COURT: And just TD -- to go back for one second.

9 Thank you.

10 Is -- TD means to do or it means something else?

11 THE WITNESS: Thumb drive.

12 THE COURT: Thumb drive. All right.

13 THE WITNESS: Yes, ma'am.

14 BY MR. FISHER:

15 **Q.** And while we're here, actually, this top part of these
16 manila labels, SSA 17 and a 22.

17 Do you see that?

18 **A.** Yes, sir.

19 **Q.** What is that referring to?

20 **A.** That is our internal job number at SullivanStrickler.

21 **Q.** All right. Let's go to Pages 7 and 8 right next to each
22 other.

23 **A.** Okay.

24 **Q.** What is in this picture? What is in these pictures, sir?

25 **A.** This is a picture of a Dell laptop.

1 Q. Okay. Did you image the hard drive of this laptop?

2 A. Yes, sir.

3 Q. Okay. So is this a laptop that was provided to you by the
4 county elections office?

5 A. Yes, sir.

6 Q. Okay. Do you know what this laptop is used for?

7 A. I do not recall.

8 Q. Did someone explain to you what it was used for on that
9 day in Coffee County?

10 A. Most likely, yes.

11 Q. Okay. Do you remember someone explaining it to you?

12 A. I did not do the collection of this device.

13 Q. Who did?

14 A. Either Karuna or -- Naik or Jim Nelson.

15 Q. Okay. And they didn't explain to you what it was you were
16 imaging on this device?

17 A. They most likely did. Either I was not in the room when
18 they explained it or I just don't recall.

19 Q. Okay. Do you remember being in the room when they imaged
20 it?

21 A. I was most likely in and out of the room.

22 Q. Say that one more time.

23 A. I was most likely in and/or out of the room.

24 Q. Okay. And how did you know that you needed to image the
25 hard drive of this laptop here?

1 **A.** Because we were told to collect all of the election
2 equipment that we could via computer image or collection. This
3 was part of that collection.

4 **Q.** Do you know if people who were not members of the county
5 elections office or your team had access to this laptop on that
6 day on January 7?

7 **A.** No, sir.

8 **Q.** Okay. Let's go to Page 15.

9 Do you know what this is a picture of?

10 **A.** Yes.

11 **Q.** What is that?

12 **A.** It looks like the tabulation computer.

13 **Q.** Okay.

14 **A.** It looks like it is a side of a computer.

15 **Q.** Okay. Do you know what this computer was used for?

16 **A.** Other than the tabulation of votes, that would be it.

17 **Q.** Okay. And how -- did you take an image of this computer?

18 **A.** Not me personally. But our team did, yes, sir.

19 **Q.** Do you know how they took an image of this computer?

20 **A.** We would have done -- followed the same practices we did
21 on the other computers. We would have attached a -- either a
22 device or a computer to it and then we would have initiated a
23 command that would have made a forensic image of the local hard
24 drive onto a destination drive.

25 **Q.** And the device that you would have attached to it is

1 something you would have brought with you to Coffee County?

2 **A.** Yes, sir.

3 **Q.** And what is that device? Is that the thumb drive you were
4 referencing --

5 **A.** Thumb drive or another computer.

6 **Q.** Okay. Both of those things were used in prior
7 collections?

8 **A.** Yes, sir.

9 **Q.** Okay. Who told you that this was something that needed to
10 be imaged?

11 **A.** The people that we were -- that were in charge in terms
12 of -- the three people, main people, were Misty Hampton, Cathy
13 Hampton, Scott Hall.

14 **Q.** You said Cathy Hampton. I think you meant --

15 **A.** Misty Hampton. Cathy Latham.

16 **Q.** Okay. And Scott Hall?

17 **A.** Yes, sir.

18 **Q.** And Scott Hall and Cathy Latham -- strike that.

19 Do you remember Scott Hall or Cathy Latham specifically
20 telling you to image a particular piece of election equipment?

21 **A.** No, sir.

22 **Q.** Okay. Do you know if anybody who is not a member of the
23 elections office or your team had access to this tabulator on
24 January 7?

25 **A.** No, sir.

1 Q. Let's go to Page 13.

2 Do you know what this is a picture of?

3 A. Yes, sir.

4 Q. What is it a picture of?

5 A. It looks like the election management server. It is a
6 Dell computer.

7 Q. What is the election management server?

8 A. It essentially is the primary election server that was
9 used to tabulate and run the election system.

10 Q. Okay. And where in the elections office was this server
11 located?

12 A. This computer was right off of Misty Hampton's office --
13 I'm sorry. Yeah. Misty Hampton's office.

14 MR. FISHER: So we can all get oriented, Tony, can
15 you go back to Clip 8 and just pause it for a second?

16 That's good.

17 BY MR. FISHER:

18 Q. Okay. So can you just orient us --

19 A. Okay. The --

20 Q. -- where in this -- where in this video is where someone
21 would have to go to access the election management server?

22 A. On the right-hand side, the dark door, right in there. So
23 that -- and right inside there would have been Misty's office.
24 And then back and to the right alongside the -- so inside
25 there, if you were to turn left -- I'm sorry, if you would have

1 gone inside, turned left, to the upper right-hand corner of
2 this orientation would have been another office where the
3 majority of the election equipment -- this EMS server,
4 electronic management server, as well as the tabulation server
5 and other equipment were kept.

6 **Q.** Okay. And the timestamp on this video that we're looking
7 at right now is --

8 **A.** 12:34.

9 **Q.** Okay.

10 MR. FISHER: Can you go back to the prior screen we
11 were on?

12 Thank you.

13 BY MR. FISHER:

14 **Q.** Did you personally image the EMS, sir?

15 **A.** No, sir.

16 **Q.** Who did?

17 **A.** It was either Jim Nelson or Karuna Naik.

18 **Q.** Okay. Now, on that day on January 7 in Coffee County, how
19 many people did you see go through that door and into the room
20 where this server is placed?

21 **A.** I saw everybody that was in our office in that office do
22 that.

23 **Q.** Okay. Now, walk us through the process for actually
24 imaging the EMS server.

25 **A.** It would be very similar to the process by which we imaged

1 the tabulation server. We would have connected to the server
2 either via thumb drive or one of our computers. And then we
3 would have initiated a command or a program or forensic program
4 that would have made a forensic image of the local hard drives
5 within the EMS server on to a destination server, destination
6 hard drive.

7 **Q.** Okay. When we're talking about the word server, how many
8 actual devices are connected -- are involved in this server?
9 Is it just a computer or is there something separate in
10 addition to that?

11 **A.** In this one, in this electronic -- the election management
12 server, it is just one system.

13 **Q.** Okay. Mr. Maggio, are you aware that SullivanStrickler
14 had a representative testify in deposition in this case?

15 **A.** Yes, sir, I am.

16 **Q.** Okay. So the second binder in front of you contains a
17 transcript of that deposition.

18 Go ahead and turn to Page 154.

19 THE COURT: There are two binders?

20 MR. FISHER: Permission to approach.

21 THE COURT: Just give it to Mr. Martin.

22 Thank you.

23 BY MR. FISHER:

24 **Q.** Okay. Do you see on Page 154 starting on Line 17?

25 **A.** Yes, sir.

1 Q. Question: So there's two devices associated with the EMS
2 server. There's a server itself and then there is a computer
3 that connects to the server; right?

4 Answer: Yes.

5 So is it your testimony today that that testimony is
6 wrong, sir?

7 A. I'm reading the entire context.

8 Q. Take your time.

9 MR. BOYLE: Your Honor, I would like to interpose an
10 objection at this time as to use of the -- again, I object,
11 Your Honor, please at this time to the use of this deposition
12 in this manner. It is not Mr. Maggio's deposition and
13 shouldn't be used in this way. It is not an impeachment.

14 MR. FISHER: You can impeach with anything, Your
15 Honor. I'm just trying to understand how many devices are
16 connected to this server. The corporate representative said
17 one thing. He said something different on the stand.

18 THE COURT: All right. I'll permit it.

19 THE WITNESS: What I can say, if there was a hard
20 drive in either device, we would have made an image of it. I
21 do not recall if whether there was one or two or three
22 different systems as associated with the EMS server. But I can
23 say if anyone had a hard drive, we would have made an image of
24 it.

25

1 BY MR. FISHER:

2 Q. Okay. And you would have made an image of it by plugging
3 one of your devices directly into it?

4 A. That had access to the hard drive, yes, sir.

5 Q. Okay. So what I'm trying to get at is -- I mean, did you
6 plug one of the devices that you were using to image election
7 equipment directly into the server to image the server or did
8 you plug it into something else?

9 A. I do not know at this time. I just do know we plugged our
10 device into something that had access to all of the available
11 hard drives. So if there was a hard drive on a system that was
12 next to it but it was connected to the main system, we would
13 have accessed it through that way.

14 Q. Okay.

15 A. Any hard drive that was on either of those we would have
16 gotten to -- now, whether we connected to both of them or just
17 one that had access to both of them, I do not know.

18 Q. Okay. So you don't know exactly how you guys imaged the
19 EMS?

20 A. That is correct.

21 Q. Okay. Let's go to Page 11.

22 A. On --

23 Q. On --

24 A. -- Tab 11 or Page 11?

25 Q. -- Tab 8, Page 11.

1 MR. FISHER: Tony, this is 166.

2 BY MR. FISHER:

3 Q. The version in your binder is kind of turned around. So
4 you can look at the one on the screen.

5 All right. Who is in this photo here?

6 A. Jim Nelson and Karuna Naik.

7 Q. And where are they?

8 A. They are in that offset room from Misty Hampton's office.

9 Q. Are they accessing the EMS?

10 A. Without zooming in, I cannot tell.

11 Q. What would you need to zoom in on?

12 A. The top.

13 Q. Of the computer screen?

14 A. No. The top of the computer in the middle.

15 That is the monitor.

16 Q. Oh, where the -- yeah, that.

17 A. Right there. So if I'm comparing that top label to the
18 picture that we looked at earlier, that was the EMS server --
19 EMO that is on Page 13. That would be the only way I could
20 tell if that is the same device -- if that is the EMS or not.

21 Q. Okay. So you don't have a -- you don't have a
22 recollection of when they imaged the EMS or how they imaged the
23 EMS?

24 A. I know how they -- they imaged the EMS by the way they are
25 doing right now, that thumb drive that is plugged in right now.

1 Q. Okay. So this is them imaging the EMS?

2 A. I am -- that is the wrong thumb drive. The thumb drive is
3 above it.

4 Q. The one with the manila tag, that one?

5 A. There you go.

6 I'm assuming that it is the EMS server because the label
7 that is on this computer is -- that is in the picture on
8 Page 13 is on the top very similar to the computer there. So I
9 am making the assumption that this is the EMS server and they
10 are imaging the hard drive with an EMS server right now.

11 Q. Okay.

12 MR. FISHER: You can zoom out, Tony.

13 BY MR. FISHER:

14 Q. Sir, you weren't in this room all day?

15 A. No, sir.

16 Q. So you weren't observing them start to finish?

17 A. No, sir. I was not.

18 Q. You didn't see everything they were doing?

19 A. No, sir, I did not.

20 Q. You can't know for a fact whether they altered anything on
21 the server or not?

22 A. I know they did not alter anything on the server.

23 Q. How do you know that?

24 A. Because that is not our practice to do so.

25 Q. You don't know for a fact that they didn't?

1 **A.** That is correct.

2 **Q.** Okay. Do you know whether anyone who is not a member of
3 the elections office or your team had access to the EMS on that
4 day?

5 **A.** No, sir, I do not.

6 **Q.** Okay. But you saw everybody who was in the office on
7 January 7 go into the EMS server room?

8 **A.** I'm not sure if it is the EMS server room, but it is
9 the -- it's that room back there. Everybody was in and out of
10 there, that is correct.

11 **Q.** Say that one more time.

12 **A.** Everybody was in and out of that room, yes, sir.

13 **Q.** Okay. Let's go to Page 24.

14 Do you know what this is?

15 **A.** Yes, sir.

16 **Q.** What is it?

17 **A.** That was a password that was provided.

18 **Q.** Just to clarify, which one is a password?

19 **A.** Correct.

20 **Q.** There's two -- which of the two labels holds the password?

21 Are they both passwords?

22 **A.** I want to say they are both passwords, yes, sir.

23 **Q.** Okay. Is this something that your team wrote down or
24 something that existed before you arrived?

25 **A.** This would have been existing before we arrived.

1 Q. Okay. Where did you find this Post-it note containing two
2 passwords?

3 A. I do not know.

4 Q. Do you know what the passwords are used for?

5 A. No, sir.

6 Q. Is this you in the picture, by the way, holding it?

7 A. Yes, sir.

8 Q. Okay. Do you know who gave you this Post-it note?

9 A. Misty Hampton.

10 Q. Do you know if she wrote these passwords down for you guys
11 or were these Post-it notes the way that they maintained
12 passwords?

13 A. I do not know.

14 Q. Okay. Let's go to Page 19.

15 What about the Post-it note in this photo? Do you know
16 what that is?

17 A. That looks like a password as well. I'm just not sure
18 what that -- that E would represent before votes.

19 Q. Okay.

20 MR. FISHER: Let's zoom out for a second, Tony.

21 BY MR. FISHER:

22 Q. What is this Post-it note taped to?

23 A. A computer.

24 Q. A computer at the elections office?

25 A. Yes, sir.

1 Can we go back and look at --

2 **Q.** I think you want -- why don't you take a look at Page 13.

3 **A.** Page -- yeah. 19 and 13. This is the same computer that
4 we tagged as EMS 01.

5 **Q.** Was this Post-it note taped in that way when you arrived?

6 **A.** I do not know. But I'm going to say no because we
7 wouldn't have covered it up with our label tag on the right,
8 which it would have to have been -- I'm sorry. Yes. It is --
9 it is the same one. It was there when we got there. There it
10 is. Yep.

11 **Q.** It was there when you got there?

12 **A.** Correct.

13 **Q.** Okay.

14 MR. FISHER: You can take that down, Tony.

15 BY MR. FISHER:

16 **Q.** So, sir, you're aware that a subpoena was served on
17 SullivanStrickler in this case?

18 **A.** Yes, sir.

19 **Q.** Okay. And did you produce all of the data that you
20 collected from the images you took of the election equipment in
21 Coffee County pursuant to that subpoena?

22 **A.** Can you be more specific about which subpoena?

23 **Q.** Sure. There were -- let me just ask it this way.

24 Did you produce the data that you collected from Coffee
25 County's election equipment to the plaintiffs in this case?

1 **A.** Yes, sir.

2 **Q.** All of it?

3 **A.** Yes, sir.

4 **Q.** Okay. All right. Let's go back to Tab 1 of your binder,
5 PX 114. This is the first page.

6 Now, the date on this email is January 8th, 2021?

7 **A.** Yes, sir.

8 **Q.** That is the day after you went to Coffee County and took
9 images of the election equipment?

10 **A.** That is correct.

11 **Q.** All right. In this email you tell Ms. Powell that you're
12 consolidating all of the data collected and will upload it to a
13 secure site.

14 Do you see that?

15 **A.** Yes, sir.

16 **Q.** Okay. What was that secure site?

17 **A.** It was a ShareFile site. It is a third-party software
18 that can be used to upload and download data.

19 **Q.** Do you remember the name of it?

20 **A.** ShareFile.

21 **Q.** ShareFile. And how were people able to access that
22 ShareFile site?

23 **A.** A user name and password was created.

24 **Q.** Okay. Are those the only credentials needed to access the
25 ShareFile?

1 **A.** An email address and a password. Correct.

2 **Q.** Okay. No two-factor authentication?

3 **A.** Two-factor authentication was -- could have been put in
4 place. It was up to the individual users to initiate that.
5 But two -- there was a two-factor authentication.

6 Now within ShareFile today it is mandated; whereas, back
7 then it was -- I'm pretty sure it was optional.

8 **Q.** Okay. And you guys didn't require, SullivanStrickler did
9 not require two-factor authentication in order to access the
10 data it put on the ShareFile?

11 **A.** That is correct.

12 **Q.** All right. Only needed a user name and a password?

13 **A.** That is correct.

14 **Q.** And is the password something that SullivanStrickler
15 provided?

16 **A.** No. It was automatically generated. Then the user would
17 have generated and created their own password.

18 **Q.** Okay.

19 **A.** So a link would have been sent to an email address. And
20 then that email address would have accessed the ShareFile
21 application via web browser. And they would have been asked to
22 create a password. So we did not know their password.

23 **Q.** Did they have to enter -- did they have to enter anything
24 that SullivanStrickler provided in order to access the
25 ShareFile site?

1 **A.** We would have given them a link.

2 **Q.** Okay. Just a link?

3 **A.** Just a link.

4 **Q.** Got it.

5 All right. Let's turn to Tab 9. This is PX --

6 **A.** Let me correct that.

7 **Q.** Yep.

8 **A.** We would just provide that they have an account. We would
9 get their email. We would set up an account. And then the
10 ShareFile application would automatically send that person an
11 email. So it would not come from us. It would be generated by
12 the ShareFile site.

13 **Q.** Let's go to Tab 9, PX 115.

14 Do you recognize this, sir?

15 **A.** Yes, sir.

16 **Q.** What is this?

17 **A.** This looks like an upload or download activity report.

18 **Q.** Okay. Is this something that was created by a computer?

19 **A.** This was created by the ShareFile application.

20 **Q.** Okay.

21 MR. FISHER: Your Honor, we offer it.

22 MR. BOYLE: Your Honor, we object to this document
23 coming in. I don't believe it has been authenticated. And it
24 is not clear that it is -- all of it is relevant. Some of it
25 may even include hearsay.

1 THE COURT: Why don't we have you lay a foundation
2 for it with the witness. I mean, maybe I missed something.
3 But -- and then if counsel wants to ask questions, he may.

4 BY MR. FISHER:

5 Q. What is this -- you said this was an access log?

6 A. That is correct.

7 Q. Okay. What is it showing?

8 A. It shows the access activity that was to this -- the
9 information that was uploaded to the ShareFile site.

10 Q. Okay. And the information uploaded to the ShareFile site
11 was the data you collected in Coffee County?

12 A. That is correct.

13 MR. FISHER: Your Honor, we offer it.

14 THE COURT: I think he's indicated what it is. So if
15 you want to ask any questions, you may, but --

16 MR. BOYLE: All right.

17 THE COURT: But he has verified what it is. And he
18 was obviously vitally involved in it. So ...

19 MR. BOYLE: All right. Thank you.

20 THE COURT: All right. It is admitted subject to if
21 there is something that is -- modification or change in
22 decision based on cross-examination.

23 BY MR. FISHER:

24 Q. Now, sir, is this something that was produced pursuant to
25 that subpoena or pursuant to the subpoena that was served on

1 SullivanStrickler in this case?

2 **A.** Yes, sir.

3 **Q.** Okay. Do you recall the date you produced documents in
4 response to that subpoena?

5 **A.** No, sir. It was over a period of time. I don't remember
6 the exact date.

7 **Q.** Would it refresh your recollection to see an email
8 transmission of the documents you produced in response to that
9 subpoena?

10 **A.** Yes, sir, it would help.

11 **Q.** Why don't you review those documents and look at me when
12 you are done.

13 **A.** (The witness complies.)

14 **Q.** Does that refresh your recollection of when you produced
15 documents in response to the subpoena served on
16 SullivanStrickler in this case?

17 **A.** Yes, sir.

18 **Q.** Okay. When did you produce documents in response to the
19 subpoena served on SullivanStrickler in this case?

20 **A.** We produced documents from on August 12th as well as on
21 August 15th.

22 **Q.** All right. Let's go back to the --

23 MR. BROWN: What year?

24 THE WITNESS: Of 2022.

25 MR. FISHER: Thank you.

1 BY MR. FISHER:

2 Q. Let's go back to Tab 9, PX 115.

3 So does this log show everyone who accessed the data you
4 uploaded to the secure site as of August 2022?

5 A. Yes, sir.

6 Q. Okay. Now, everyone on this list would have received
7 access to the secure site at the direction of one of your
8 clients; correct?

9 A. That is correct.

10 Q. All right. And there is no way of knowing whether the
11 people on this list downloaded the data; right?

12 A. No. We can tell if they downloaded the data.

13 Q. You can tell if they downloaded it.

14 A. Somebody logged in with their account, logged in,
15 downloaded the data, yes, sir, we can tell that.

16 Q. Okay. Can you tell if they shared that data with others?

17 A. No, sir, we cannot.

18 Q. Okay. And can you tell whether the people that they
19 shared the data with shared the data with more people?

20 A. No, sir, we cannot.

21 Q. And so on down the chain?

22 A. No, sir, we cannot.

23 Q. Okay. So there is no way of knowing how many people have
24 access to the data you collected in Coffee County?

25 MR. BOYLE: Objection. Leading.

1 BY MR. FISHER:

2 Q. Do you know how many people have access to the data you
3 collected in Coffee County?

4 A. No, sir.

5 Q. Okay. Is there a way to determine that number?

6 A. No, sir.

7 Q. Now, did you also provide the data you collected in hard
8 copy form?

9 A. No, sir.

10 Q. Why don't we --

11 A. Correction. We made a copy of the images and provided the
12 images but not in hard copy as in a printout. Images on a --
13 on hard drives, we provided that.

14 Q. Let's take a look at PX 162, which is Tab 10 in your
15 binder.

16 Do you recognize this, sir?

17 A. Yes, sir.

18 Q. What is it?

19 A. This is a FedEx label.

20 Q. And what is the FedEx label indicating?

21 A. It is a FedEx label to a Stefanie Lambert. We were
22 instructed by Jim Penrose to send a copy of the collected data
23 to her. Made a copy to a hard drive and shipped that hard
24 drive to her.

25 Q. And is this FedEx label the label that was used to ship

1 that hard drive to her?

2 **A.** We sent her two hard drives. We sent her one for the
3 Michigan data and one the Coffee County data. I would have to
4 go back and look at the emails to see when the request came in.

5 **Q.** Why don't you keep looking at -- in your binder this same
6 tab. There is an email behind it.

7 Okay. Go to the last email in the chain. It is on
8 Page 4.

9 **A.** I see it.

10 **Q.** The date is April 22nd, 2021?

11 **A.** That is correct.

12 **Q.** Okay. And who is this email from?

13 **A.** It is from JP Comms, which is Jim Penrose.

14 **Q.** Okay. And what is Jim Penrose asking you to do in this
15 email?

16 **A.** Please FedEx all the forensic material from the Coffee
17 County acquisition to the same address as before.

18 **Q.** What address is that?

19 **A.** That is the address for Stefanie Lambert. So this
20 forensic -- this FedEx label was the label used to ship the
21 Coffee County data to Stefanie Lambert.

22 MR. FISHER: Your Honor, we offer PX 162.

23 MR. BOYLE: No objection, Your Honor.

24 THE COURT: It is admitted.

25

1 BY MR. FISHER:

2 Q. Do you know if Ms. Lambert made a copy of the images you
3 provided her on this hard drive that you mailed her?

4 A. No, I do not.

5 Q. Okay. Do you know if she shared that copy with anybody?

6 A. No, I do not.

7 Q. Do you know if she shared this hard drive with anybody?

8 A. No, I do not.

9 Q. Do you know if she downloaded the image on the hard drive?

10 A. Or copied?

11 Q. Or copied it.

12 A. No, I do not.

13 Q. Do you know how many people gained access to the images on
14 this hard drive as a result of you mailing it?

15 A. No, sir.

16 Q. Okay. Mr. Maggio, let's go back to Tab 2, PX 321, which I
17 believe is already in evidence.

18 THE COURT: Can you remind me for the record who
19 Stefanie Lambert was, is?

20 THE WITNESS: Ma'am, other than the instructions from
21 Jim Penrose saying to send the copy of the forensic images to
22 her, I do not know her any other way.

23 THE COURT: Okay. You just knew that you were
24 supposed to send it to her? You don't know what she did or
25 what her responsibilities were?

1 THE WITNESS: No, ma'am.

2 THE COURT: Okay. Thank you.

3 BY MR. FISHER:

4 Q. Let's go to Page 3.

5 Now, this engagement letter says that it is for subsequent
6 work in the state of Georgia.

7 Do you see that?

8 A. Yes, sir.

9 Q. Okay. Now, just to clarify, is this the engagement letter
10 that work in Coffee County was performed under?

11 A. No, sir.

12 Q. Okay. Was there subsequent work in the state of Georgia?

13 A. Not under this contract, no, sir.

14 Q. Was there subsequent work in the state of Georgia under
15 another contract?

16 A. The one for Sidney -- from Sidney Powell.

17 Q. Where did you perform subsequent work?

18 A. In Coffee County.

19 Q. Oh, excuse me. Other than Coffee County?

20 A. No, sir.

21 Q. Okay.

22 MR. FISHER: You can take this down, Tony.

23 BY MR. FISHER:

24 Q. Did you look at performing work in other counties?

25 A. No, sir.

1 Q. Did you consider performing work in other counties?

2 A. Internally, but nothing --

3 Q. Did your clients -- did your clients tell you that they
4 were interested in you performing work in other counties?

5 A. No, sir.

6 Q. Okay. Why don't you turn to Tab 3 in your binder and go
7 to Page 33.

8 Do you see this text message from Jennifer Jackson?

9 A. Correct.

10 Q. You're correct he wants us for Monday in Fulton.

11 Do you see that?

12 MR. BOYLE: I'm sorry. I don't mean to -- did you
13 say Page 33?

14 MR. FISHER: Yeah. At the bottom there is a little
15 Bates number.

16 MR. BOYLE: Carry on. Thanks.

17 BY MR. FISHER:

18 Q. Do you see that text from Jennifer Jackson?

19 A. That's correct.

20 Q. Okay. And then Mr. Freemeyer responds, I think Coffee
21 County is a maybe. And then also says, and now Fulton.

22 A. Yes, sir.

23 Q. Were you ever considering doing work in Fulton County?

24 A. Internally, yes, sir.

25 Q. Okay. What about Spalding County?

1 **A.** We had -- we considered that as well.

2 **Q.** Did you sign an engagement letter for Spalding County?

3 **A.** We created one but it was never signed.

4 **Q.** Turn to Tab 11. This is PX 186.

5 Is this the engagement letter you were referring to?

6 MR. FISHER: Go to the next page, Tony.

7 One more.

8 There we go.

9 THE WITNESS: Yes, sir.

10 MR. FISHER: Your Honor, we offer it.

11 MR. BOYLE: We object on the grounds of relevance as
12 to 186.

13 THE COURT: Why don't you --

14 MR. BOYLE: Just an internal document that was never
15 executed or perhaps even shown to another party.

16 THE COURT: Why don't you try to hook it up, if
17 that's what you're seeking.

18 BY MR. FISHER:

19 **Q.** Who was this engagement letter shared with?

20 **A.** Internally it was shared with myself, obviously Greg
21 Freemeyer, Karuna. It was also sent to a Roy McClain.

22 **Q.** Who is Roy McClain?

23 **A.** An individual who called us from Spalding County.

24 **Q.** And why did you forward this engagement letter to Roy
25 McClain?

1 **A.** He had called and asked for an engagement letter.

2 **Q.** Sorry. Did you say we had called or he had called?

3 **A.** He had called.

4 **Q.** He had called you and asked for an engagement letter?

5 **A.** Our office.

6 That is correct.

7 **Q.** Okay. To perform work similar to what you did in Coffee
8 County?

9 **A.** Similar, yes, sir.

10 MR. FISHER: Your Honor, we offer it.

11 MR. BOYLE: Well, I mean, the same objection, Your
12 Honor. It was never executed. Not relevant.

13 THE COURT: All right. Can you tell me where you are
14 going or can you re-lay that foundation with the --

15 MR. FISHER: It goes to show that Coffee County was
16 not an isolated incident. There were -- we've already laid the
17 foundation for other places where they performed this sort of
18 work. And after Coffee County, they were attempting to get
19 into other counties in Georgia.

20 MR. BOYLE: Your Honor, if I may. SullivanStrickler
21 is not on trial in this matter.

22 MR. FISHER: It is not about SullivanStrickler. It
23 is about access to election equipment. This shows that another
24 county in Georgia was considering having SullivanStrickler come
25 and perform the exact same work. It gets to the access --

1 THE COURT: Do you know who wrote -- can you
2 establish you know who Roy McClain is?

3 BY MR. FISHER:

4 **Q.** Sir, do you know who Roy McClain is?

5 **A.** Outside somebody who called from Spalding County, no, I do
6 not.

7 **Q.** Is he a representative of Spalding County?

8 **A.** Yes, sir.

9 MR. FISHER: Your Honor, we offer it again.

10 THE COURT: All right. It is admitted for whatever
11 value it may have, limited or substantive. I understand what
12 you are arguing. At least you want to be able to show that
13 there was activity elsewhere.

14 MR. FISHER: You can take this down, Tony.

15 BY MR. FISHER:

16 **Q.** Sir, has anyone from the Georgia Secretary of State's
17 office --

18 THE COURT: Just if you could -- do you know what
19 capacity Mr. McClain was with the county or an officer of the
20 county?

21 THE WITNESS: Ma'am, I do not recall.

22 BY MR. FISHER:

23 **Q.** What were the circumstances of the phone call?

24 **A.** Which one, sir?

25 **Q.** Roy McClain's phone call.

1 **A.** He called in to our office and it came to me. He asked if
2 we could do forensic collections. I gave him -- and then it
3 was -- it was predominantly with images. Also with cell
4 phones. We gave him a statement of work quote and that was the
5 last time we heard from him.

6 **Q.** Did he say you were referred to him by anybody?

7 **A.** I do not recall.

8 MR. BOYLE: Objection. That calls for hearsay, Your
9 Honor.

10 THE COURT: Sustained.

11 BY MR. FISHER:

12 **Q.** Do you know how he got your number?

13 **A.** No, sir.

14 **Q.** Okay.

15 Sir, did anybody from the -- have you ever -- strike that.

16 Have you ever been in contact with anybody from the
17 Secretary of State's office concerning Coffee County?

18 **A.** No, sir.

19 **Q.** Have you ever talked to Gabe Sterling about Coffee County?

20 **A.** No, sir.

21 **Q.** What about Frances Watson? Did you ever talk to her about
22 Coffee County?

23 **A.** I'm not sure who Frances Watson is. So not that I recall.

24 **Q.** Anybody from the investigative division of the Secretary
25 of State's office? Did you ever talk to them about the work

1 you performed in Coffee County?

2 **A.** Not that I recall.

3 **Q.** What about anybody from the State Election Board? Did you
4 ever speak with anybody from there about your work in Coffee
5 County?

6 **A.** No, sir.

7 **Q.** What about Robert Sinners? Did you ever speak to him
8 about Coffee County?

9 **A.** I'm not familiar with him. So no, sir.

10 **Q.** Have you ever met Robert Sinners?

11 **A.** Not that I recall.

12 **Q.** On that day, on January 7, did his name ever come up? Did
13 you ever hear his name come up?

14 **A.** Whose name, sir?

15 **Q.** Robert Sinners.

16 **A.** Robert Sinners? Not that I recall.

17 **Q.** Now, sir, we talked about --

18 THE COURT: Can we just go back again to 186? I just
19 want to clarify. There is correspondence between Mr. McClain
20 that ultimately is back and forth with Mr. Maggio.

21 Are you introducing that as well as the engagement
22 agreement?

23 MR. FISHER: No, Your Honor. I mean, we would be --
24 we're introducing the email starting at August 17, 2021, at
25 4:25 P.M., that bottom email where he then receives the

1 engagement letter.

2 THE COURT: Just not the top one. Are you doing
3 it -- are you introducing the one on the flip side of it as
4 well?

5 MR. FISHER: That is just a duplicate copy. So we
6 can ensure that the copy the Court receives when it is admitted
7 into evidence is squared away.

8 THE COURT: Okay. So you're just -- you're doing
9 just this one email of August 17 at 4:25.

10 MR. FISHER: Attaching the engagement letter.

11 THE COURT: Okay. All right. Thank you.

12 Well, it is admitted with that. It is just a little
13 confusing. It might be better to try to -- when you clean this
14 up and delete the others, the other emails.

15 MR. FISHER: Okay. I mean, we can certainly just
16 have one -- we can have one copy of this. And maybe we can
17 redact the top email. That is how it was produced.

18 THE COURT: Okay. All right.

19 BY MR. FISHER:

20 **Q.** Now, sir, we talked about a number of people who were
21 there on January 7.

22 Do you know if anybody who you met that day has faced
23 criminal charges pertaining to their involvement at the county
24 elections office on January 7?

25 **A.** I know several -- three people who were indicted.

1 Q. Okay. Who was indicted?

2 A. Misty Hampton, Cathy Latham, and Scott Hall.

3 Q. Do you know if Scott Hall pled guilty?

4 A. Let's see.

5 Q. Without looking at that board.

6 A. I know that he came to a plea agreement.

7 Q. What about Sidney Powell? Has she faced criminal charges?

8 A. Yes, sir.

9 Q. Has she pled guilty?

10 A. She came to a plea agreement as well is my understanding.

11 Q. Okay. And that was in relation to the work that was
12 performed in Coffee County?

13 A. That is my understanding, yes, sir.

14 MR. FISHER: Thank you.

15 **(There was a brief pause in the proceedings.)**

16 BY MR. FISHER:

17 Q. Sir, can you go back to Tab 5?

18 Earlier I think you were asking -- you wanted to link this
19 check up to the invoice; right?

20 A. That is correct.

21 Q. Okay. Go to Tab 1 in your binder. Very last page.

22 Go to the very last page.

23 A. Okay.

24 Q. There we go.

25 Now, what is the invoice here?

1 **A.** Invoice number here is 4205.

2 **Q.** All right. And then go back to Tab 5.

3 **A.** Okay.

4 **Q.** What is the invoice number on that check?

5 **A.** It also references 4205.

6 **Q.** So is this check for the work pertaining to this invoice?

7 **A.** Yes, sir.

8 **Q.** The amounts match?

9 **A.** The amounts match, yes, sir.

10 **Q.** Okay. Now, is this invoice referencing work you performed
11 in Coffee County?

12 **A.** Yes, sir.

13 **Q.** Okay. So is this check for the work you performed in
14 Coffee County?

15 **A.** Yes, sir.

16 MR. FISHER: Your Honor, we offer PX 349.

17 MR. BOYLE: No objection, Your Honor.

18 THE COURT: It is admitted.

19 MR. FISHER: One moment, Your Honor.

20 **(There was a brief pause in the proceedings.)**

21 BY MR. FISHER:

22 **Q.** Go back to Tab 10 for a moment, PX 162. It is already in
23 evidence.

24 And turn to Page 4.

25 **A.** Okay.

1 Q. Do you see this email -- you said this email was from Jim
2 Penrose?

3 A. The email at the bottom dated April 22nd, 2021, at 1:42?

4 Q. Correct.

5 That is from Jim Penrose?

6 A. Yes, sir.

7 Q. All right. And you see he asked you, can you please FedEx
8 all of the forensics material from the Coffee County
9 acquisition to the same address as before. Please include the
10 VMs on your download site as well.

11 Do you see that?

12 A. Yes, sir.

13 Q. Does VM refer to virtual machine?

14 A. Yes, sir.

15 Q. Okay.

16 MR. FISHER: Thank you, Your Honor.

17 THE COURT: What does that mean?

18 THE WITNESS: A virtual machine is a way to set up
19 one computer to act as multiple computers. So a single system
20 can be a virtual machine and representing three or four or more
21 computers.

22 THE COURT: Okay. Thank you.

23 DIRECT EXAMINATION

24 BY MR. BROWN:

25 Q. Mr. Maggio, good afternoon. My name is Bruce Brown.

1 **A.** Good afternoon.

2 **Q.** Do you recall the first inquiry you received after the
3 Coffee County work that you did from anyone outside your
4 company about what you did in Coffee County?

5 **A.** Other than my communications with Jim Penrose or other
6 items?

7 **Q.** Yes, sir.

8 **A.** Yes, I can.

9 **Q.** And what was that?

10 **A.** They were predominantly press inquiries.

11 **Q.** And do you recall what organizations those were from?

12 **A.** Definitely the Washington Post.

13 **Q.** And do you know approximately when that was?

14 **A.** It would have been late '21 through '22 and '23.

15 **Q.** But it would have started perhaps late '21?

16 **A.** I'm not entirely sure with the dates, sir. But I do know
17 it was significantly after the Coffee County events.

18 **Q.** And then you received the subpoena from the plaintiffs;
19 correct?

20 **A.** Correct. That subpoena was received in '22.

21 **Q.** And at no point during any of that time did you or to your
22 knowledge anyone associated with your company hear anything
23 from the Secretary of State or the State Election Board;
24 correct?

25 **A.** That is correct.

1 Q. Did you or to your knowledge did anyone in your
2 organization talk to the Coffee County's attorney about the
3 January 7 activities?

4 A. Do you have a name, sir?

5 Q. Yes. Hall Booth Smith.

6 A. No, sir.

7 Q. Tony Rowell?

8 A. I do not recall.

9 Q. Are you aware of anyone seeking or discussing the need to
10 seek a court order for access to the equipment in Coffee
11 County?

12 A. No, sir.

13 Q. Do you know Bob Cheeley or ever speak to him?

14 A. Bob Cheeley?

15 Q. Cheeley, C-H-E-E-L-E-Y.

16 A. I do not recall.

17 Q. Do you know or have you ever spoken with Preston
18 Haliburton?

19 A. I know of Preston Haliburton.

20 Q. How do you know him?

21 A. I couldn't even put my finger on it. I just recognize the
22 name, sir.

23 Q. Did you speak with Mr. Haliburton about the work that you
24 did in Coffee County --

25 A. No, sir.

1 Q. -- either before or after you did it?

2 A. No, sir.

3 MR. BROWN: That's all I have, Your Honor.

4 THE COURT: Thank you.

5 Any other questions?

6 MR. BOYLE: Your Honor, I wonder, could we have a
7 five-minute break before I begin my cross?

8 THE COURT: Of course.

9 MR. BOYLE: Thank you.

10 COURTROOM SECURITY OFFICER: All rise. Court stands
11 in recess.

12 **(A brief break was taken at 3:42 PM.)**

13 THE COURT: Have a seat.

14 Ready, Mr. Boyle?

15 CROSS-EXAMINATION

16 BY MR. BOYLE:

17 Q. Mr. Maggio, hello. My name is Don Boyle, counsel for the
18 defendants in the case.

19 A. Good afternoon.

20 Q. I have a few questions for you.

21 Did SullivanStrickler go to Coffee County in January of
22 2021 on behalf of the Secretary of State's office?

23 A. No, sir.

24 Q. Did anyone at the Secretary of State ever request
25 SullivanStrickler to do any work in Coffee County?

1 **A.** No, sir.

2 **Q.** I believe you testified -- did I hear you right at the
3 outset of your initial testimony, you said that when you were
4 doing a collection -- I believe you used the phrase like
5 putting a tape around the scene, is that the phrase you used?

6 **A.** Yes, sir.

7 **Q.** And do I understand that to mean you're trying to preserve
8 those computers and other devices in the state that they're in
9 when you encounter them; right?

10 **A.** Exactly. Yes, sir.

11 **Q.** You don't want to make any changes to them whatsoever?

12 **A.** That is correct.

13 **Q.** Okay. And is that what you believe your team did when you
14 were in Coffee County in January 2021?

15 **A.** Yes, sir.

16 **Q.** But you were not able to image a BMD --

17 **THE COURT:** All right. You had a lot of objections
18 to leading questions. But these are leading questions too. So
19 he's not either of your --

20 **MR. BOYLE:** I thought this was a cross-examination
21 since --

22 **THE COURT:** It is not -- they called him. But it is
23 not like he is an adverse witness to you.

24 **MR. BOYLE:** All right then. Thank you, Your Honor.
25 Thank you, Your Honor. I'll rephrase. I'll rephrase.

1 BY MR. BOYLE:

2 Q. Were you able to image a BMD when you were there?

3 A. No, sir.

4 Q. Let's see. Could we look at -- do you still have the
5 notebook in front of you with the tabs?

6 A. Yes, sir.

7 Q. Okay. Let's look at that ShareFile log, Tab 9.

8 And am I correct ShareFile is a third-party software;
9 right? That is not something developed by SullivanStrickler?

10 A. That is correct.

11 Q. Is it pretty widely used?

12 A. Yes, sir.

13 Q. Okay. Is it generally considered dependable?

14 A. Yes, sir.

15 Q. Okay. But is this -- is this a printout that
16 SullivanStrickler generated?

17 A. That is correct. It is a log that's generated by the
18 ShareFile application that we printed out.

19 Q. Okay. And it is small print, and I've got my glasses on
20 so I can try to read it.

21 Does each line on this log indicate one file?

22 A. That is correct.

23 Q. And I noticed the second column under activity it says
24 download most of the time, but then I see sometimes it says
25 upload; right?

1 **A.** That is correct.

2 **Q.** Okay. And then the fourth or the middle column -- I'll
3 say it is the fifth, fifth column, says email. Is that
4 supposed to indicate a unique user of the ShareFile?

5 **A.** That's the email address for the user, yes, sir. And
6 those are unique.

7 **Q.** Okay. And then where it says location, is that -- is that
8 a pretty reliable -- is that reliable data as to where that
9 user actually is?

10 **A.** Not 100 percent, no, sir.

11 **Q.** Okay.

12 **A.** That location is based off of the IP address that is in
13 the column directly to the left of it. And that is the IP
14 address by which the person who logged on using that account
15 accessed the internet.

16 There's many ways to access the internet in a different
17 location than where you are actually at.

18 **Q.** Did the Georgia Bureau of Investigation ever contact
19 SullivanStrickler about the work in Coffee County?

20 **A.** Yes, sir.

21 **Q.** Tell the Court about the circumstances regarding that
22 contact.

23 **A.** They reached out to us looking for the information in
24 terms of what we collected. We provided them an updated copy
25 of the information we collected.

1 I would say the vast majority of the communications with
2 the GBI was about the -- these images. And while they had the
3 images, they weren't complete. So we gave them a complete copy
4 of all of the collection images from the Coffee County
5 collection.

6 **Q.** Were you personally interviewed by the GBI?

7 **A.** I was not.

8 **Q.** Was anybody in your firm interviewed by the GBI?

9 **A.** No, sir.

10 **Q.** Have you been a witness in any civil or criminal
11 proceedings other than this particular matter relating to the
12 Coffee County work?

13 **A.** Yes, sir.

14 **Q.** What -- describe all of those, please.

15 **A.** Primarily the Fulton County indictments of -- that the
16 special grand jury was brought to -- brought up. I testified
17 in front of that grand jury on two occasions.

18 **Q.** And when was that?

19 **A.** I think August 15th, 2023, and then in -- I'm not sure
20 about that date in August. Then again in -- it was -- I think
21 September, October of '23 as well. It was the day the
22 indictments came down.

23 **Q.** Did anybody else from SullivanStrickler testify in that
24 proceeding?

25 **A.** No, sir.

1 Q. Let me just switch gears a little bit.

2 There were -- you were shown a lot of both still photos
3 and videos related to Coffee County in your direct testimony.

4 Do you remember that?

5 A. Yes, sir.

6 Q. At the time you were there, did you know that there was a
7 surveillance camera taking video?

8 A. No, sir.

9 Q. Had you ever seen any of those photos or video before
10 today?

11 A. Yes, sir.

12 Q. Do you have any reason -- well, strike that.

13 Other than your recollection that you drove from Atlanta
14 to Coffee County in the morning, do you have any other specific
15 recollection of exactly what time it was when you were doing
16 particular acts during that day?

17 A. No more specific than what is on the video with the
18 timestamps.

19 Q. Okay. And you're just taking the timestamps as -- you're
20 just assuming them to be accurate?

21 A. Yes, sir.

22 Q. Okay. Have you ever heard of Marilyn Marks?

23 A. Yes, sir.

24 Q. Would you recognize her?

25 A. Not from -- maybe from a picture but not in person. I

1 have never met her.

2 **Q.** Okay. What do you know about her?

3 **A.** Other than she's part of a group that is -- that is
4 looking into are the voting machines secure or not.

5 **Q.** Has she contacted you?

6 **A.** No, sir.

7 **Q.** Or SullivanStrickler?

8 **A.** No, sir.

9 **Q.** When you were in Coffee County on January 7 of 2021, did
10 you install any malware on any of the Coffee County equipment?

11 **A.** No, sir.

12 **Q.** To your knowledge, did any member of your team install any
13 malware on that equipment on that date?

14 **A.** No, sir.

15 **Q.** Is SullivanStrickler in the business of installing malware
16 on client's equipment?

17 **A.** No, sir.

18 MR. BOYLE: Those are all the questions I have.

19 Thank you, sir.

20 THE WITNESS: Thank you.

21 REDIRECT EXAMINATION

22 BY MR. FISHER:

23 **Q.** Hello again, Mr. Maggio.

24 **A.** Hello again.

25 **Q.** Briefly, Tab 9, Exhibit 115, do you see that column that

1 says company?

2 **A.** Yes, sir.

3 **Q.** What does that refer to?

4 **A.** That refers to the company that the user entered when they
5 created their account.

6 MR. FISHER: All right. You can take that down.

7 BY MR. FISHER:

8 **Q.** Do you know when the GBI reached out to you?

9 **A.** It was in the second -- the second half of 2023. I don't
10 know an exact date.

11 MR. FISHER: Nothing further.

12 MR. BOYLE: I have nothing further, Your Honor.

13 THE COURT: Mr. Brown, did you have anything else?

14 MR. BROWN: I do. I have one follow-up question to
15 his answer.

16 REDIRECT EXAMINATION

17 BY MR. BROWN:

18 **Q.** You testified about the documents you gave to the GBI or
19 the files that you gave to the GBI?

20 **A.** Yes, sir.

21 **Q.** And I believe you said it wasn't complete.

22 In what ways -- what did you leave out?

23 **A.** We did not leave anything out. What they had was
24 incomplete.

25 **Q.** What the GBI already had was incomplete?

1 **A.** Yes, sir.

2 **Q.** And so you sort of filled it up?

3 **A.** We -- instead of filling up, trying to figure out what
4 they didn't have, we just gave them everything.

5 **Q.** Okay. The same thing that you had many months before
6 given to the plaintiffs; right?

7 **A.** Yes, sir.

8 **Q.** Okay. Thank you.

9 And do you recall what they didn't have?

10 **A.** Essentially a -- an image is broken up into multiple
11 pieces, different parts one, two, three, and four. It seemed
12 to us that they only -- they were missing some parts of the
13 overall images that they received. So we just gave them
14 complete images.

15 **Q.** Do you recall what parts they were missing?

16 **A.** No, sir.

17 MR. BROWN: Thank you. No further questions.

18 THE COURT: What does ASOG stand for?

19 THE WITNESS: I do not know, ma'am. It's the -- that
20 is 100 percent user controlled or input.

21 THE COURT: All right. Because it has -- the company
22 line has, I'm reading this right, both ASOG and then also
23 SullivanStrickler.

24 THE WITNESS: Those are entries for Greg Freemeyer
25 who works for our company.

1 THE COURT: So you are just saying you don't know
2 what ASOG references -- who that is?

3 THE WITNESS: No, ma'am.

4 THE COURT: Okay. Thank you.

5 May this witness be excused?

6 MR. FISHER: Yes, Your Honor.

7 THE COURT: Please don't discuss your testimony until
8 the trial is complete.

9 Thank you very much.

10 THE WITNESS: Yes, ma'am.

11 MR. BROWN: Your Honor, the plaintiffs would call
12 Joshua Blanchard.

13 COURTROOM DEPUTY CLERK: Please raise your right
14 hand.

15 **(Witness sworn)**

16 COURTROOM DEPUTY CLERK: Please have a seat.

17 If you would loudly and clearly state your name and
18 please spell your complete name for the record.

19 THE WITNESS: My name is Josh Blanchard. It is -- or
20 Joshua Blanchard. J-O-S-H-U-A, B-L-A-N-C-H-A-R-D.

21 Whereupon,

22 JOSHUA BLANCHARD,

23 after having been first duly sworn, testified as follows:

24 CROSS-EXAMINATION

25 BY MR. BROWN:

1 Q. Mr. Blanchard, good afternoon. My name is Bruce Brown. I
2 represent the Coalition plaintiffs in this case.

3 A. Yes, sir.

4 Q. By whom are you currently employed?

5 A. The Investigations Division of the Georgia Secretary of
6 State's office.

7 Q. And what is your title or position there?

8 A. Investigator.

9 Q. How long have you had the position of investigator for
10 the --

11 A. Since 2017.

12 Q. 2017.

13 And could you just describe generally your
14 responsibilities as an investigator for the Secretary --

15 A. Yes, sir.

16 Q. You need to -- hang on. I'm sorry. But you need to wait
17 until I finish my question before you start your answer. I
18 appreciate it.

19 Could you describe your responsibilities for the Secretary
20 of State.

21 A. Yes, sir.

22 I investigate potential violations of Georgia Election
23 Code and violations of the State Election Board rules.

24 Q. And do you have a particular geographic area that you
25 typically work in Georgia?

1 **A.** Our office in Macon handles about Henry County south. So
2 we handle the south region of Georgia.

3 **Q.** And you work out of the Macon office; is that right?

4 **A.** Yes, sir.

5 **Q.** And going back to the 2020 time frame, to whom did you
6 report?

7 **A.** My direct supervisor was Pam Jones.

8 **Q.** And then who did Pam Jones report to?

9 **A.** That was Frances Watson.

10 **Q.** And then who did Frances Watson report to?

11 **A.** That would have been Chris Harvey, I believe.

12 **Q.** Okay. And between 2020, which was the question I asked
13 you, and today, has that reporting chain changed?

14 **A.** Yes, sir.

15 **Q.** And what has changed in there?

16 **A.** None of those individuals are with the Secretary of
17 State's office anymore.

18 **Q.** Okay. So to who do you report now?

19 **A.** My direct supervisor is Glenn Archie.

20 **Q.** And how long has Mr. -- is it Mr. Archie?

21 **A.** Yes, sir.

22 **Q.** How long has Mr. Archie been in that position?

23 **A.** I believe Pam Jones left -- don't quote me -- 2021. I
24 believe that is correct.

25 **Q.** And he replaced her -- he started right after she left?

1 **A.** Yes, sir. He was an investigator with our office already.

2 **Q.** I see.

3 And then Ms. Watson, when did she leave, to the best of
4 your recollection?

5 **A.** It was before Pam Jones. I believe maybe 2021 or end of
6 2020. I'm not 100 percent sure on that.

7 **Q.** And who replaced Ms. Watson?

8 **A.** Eventually it was Sara Koth. She is the chief.

9 **Q.** And was there someone in between Ms. Watson and Ms. Koth?

10 **A.** No. There was nobody that was chief.

11 **Q.** Do you recall when Ms. Koth -- am I saying it correctly?

12 **A.** K-O-T-H, Koth.

13 **Q.** When did she start then?

14 **A.** She took over as chief -- I want to say it was 2020 or
15 2021, shortly after Ms. Watson left.

16 **Q.** Could you describe generally how the subject matter of an
17 investigation gets assigned to you.

18 **A.** Yes, sir. There is a complaint process, either via email,
19 I believe they have the ability to call in via phone and also
20 the Georgia Secretary of State's website.

21 After the complaint is filed with our office, it goes
22 through a process. There's individuals I believe that are in
23 the Elections Division that look at those complaints and then
24 they come down to our supervisors who ultimately assign them to
25 us.

1 Q. Are there some -- it sounded like you were describing
2 complaints that came in from the public. Is that correct?

3 A. Yes.

4 Q. Are there other complaints or allegations of things that
5 need to be investigated that don't come in from the public?

6 A. There could be. I mean, if somebody comes in from our
7 election supervisors throughout the state of Georgia, it could
8 be assigned, yes, sir.

9 Q. Okay. And do these complaints get numbers in your
10 tracking system?

11 A. Yes, sir. Typically they start with the designation SEB
12 for State Election Board, and then the first four digits are
13 the year. So for this year it would be 2024. And then the
14 last series of numbers as well.

15 Q. Okay. And does -- would every investigative report
16 generated result in some kind of written report as to the
17 designation of the -- as to the disposition of the matter?

18 A. Yes, sir. If it is an assigned case to an investigator,
19 it would have a report. Yes, sir.

20 Q. Okay. Let's shift gears a little bit and ask you some
21 general questions on Coffee County, which is one of the
22 subjects of this litigation.

23 I'm going to come back through more of your experience,
24 but I want to get an overview first.

25 So that we're clear on our terminology, I'm going to

1 define the phrase January 2021 Coffee County breaches, and what
2 I'm referring to are three separate things. The first was what
3 we would call a breach led by the SullivanStrickler team on
4 January 7, 2021. The next was by Doug Logan and Mr. Lenberg on
5 January 18 and 19, 2021. And the third is Mr. Lenberg,
6 January 25th to January 29, 2021.

7 So the way we're characterizing those is three separate
8 but they are all a part of what I'm going to call the
9 January 21 Coffee County breaches.

10 Are you with me?

11 **A.** Yes, sir.

12 **Q.** When did you first learn anything about the January 2021
13 Coffee County breaches?

14 **A.** It was assigned, I believe -- a case was opened with the
15 Investigations Division for the Secretary of State in 2022. I
16 believe it was April of 2022.

17 **Q.** And had you not heard about anything about any of these
18 breaches before that case was assigned in April of 2022?

19 **A.** Not in our office, no, sir.

20 **Q.** Outside of the office?

21 **A.** I may have heard something in the media. I'm not
22 100 percent sure on that.

23 **Q.** Do you recall the media that you saw it in or the
24 newspaper?

25 **A.** It would have probably been an internet news source. I

1 don't really watch a lot of media.

2 **Q.** And would that have been shortly before it was assigned to
3 you as a case in April of '22?

4 **A.** Around about, yes, sir.

5 **Q.** Okay. Do you recall the case number that the Coffee
6 County breaches was assigned?

7 **A.** Originally, it was assigned to a case that had already
8 been closed. It was SEB 2020-250. That case was originally
9 assigned to me in 2020, but it had nothing to do with those
10 allegations. And later on it was -- a new case number was
11 created as 2022-207, I believe.

12 **Q.** And was a report of investigation ever issued for
13 2020-250, the first one?

14 **A.** The report of investigation was, but it was totally
15 separate allegations. It was something that happened in 2020.

16 **Q.** Was there ever a report associated with Case Number 207?

17 **A.** It is still an open case. It has actually been handed
18 over to the GBI.

19 **Q.** So no report from the Secretary of State on the case
20 involving the January 2021 Coffee County breaches; correct?

21 **A.** No, sir. Not at this time.

22 **Q.** When you -- in April of 2020 -- I'm sorry. In April of
23 2022, when you first learned of the Coffee County breaches, who
24 assigned the matter to you?

25 **A.** That would have been my direct supervisor, Glenn Archie.

1 Q. And did Mr. Archie describe to you what you were supposed
2 to do?

3 A. At that particular time, we were told to hold off.

4 Q. Did he tell you why you were supposed to hold off?

5 A. I believe they were doing an analyst -- or they were
6 analyzing the Coffee County server, I believe.

7 Q. And what was the relation between them analyzing the
8 server and you doing your normal investigative work? Why did
9 that hold you up?

10 A. That particular time we didn't have a lot of information
11 that was given to us.

12 Q. You didn't have enough -- you didn't have enough
13 information to do much of an investigation in April of 22 --
14 2022?

15 A. I was told to hold off moving forward with an
16 investigation.

17 Q. And who told you to hold off?

18 A. That came from our supervisors. It would have been Glenn
19 Archie and above.

20 Q. And when you say above, what do you mean?

21 A. It was someone within the election division. I got the
22 information from Glenn Archie. And he had spoken with Sara
23 Koth.

24 Q. And who had she spoken to, if you know?

25 A. I do not.

1 THE COURT: Sara Calg is C-A-L-G? How do you spell
2 her name? How do you spell Ms. Koth's last name?

3 THE WITNESS: Koth, K-O-T-H.

4 THE COURT: K-O-T-H.

5 BY MR. BROWN:

6 **Q.** Mr. Blanchard, I'm going to hand to you a copy of Curling
7 Plaintiffs' Exhibit 40.

8 MR. BROWN: Your Honor, this may already be admitted
9 into evidence. But I'm going to go ahead and start asking him
10 questions on it just in case.

11 BY MR. BROWN:

12 **Q.** What is Exhibit 40, Mr. Blanchard?

13 **A.** It is a report of investigation of SEB 2020-250.

14 **Q.** And this was written by you; is that correct?

15 **A.** That is correct.

16 **Q.** And I believe you testified earlier that the matters that
17 are in this particular bucket of complaints does not include
18 the Coffee County January 2021 breaches; correct?

19 **A.** No, sir.

20 **Q.** And it is your understanding that the Coffee County
21 breaches were originally put into this or put under this matter
22 number but then carved out; is that right?

23 **A.** This case was originally -- I'm sorry. It was originally
24 submitted for the election board, I believe, in 2021. And it
25 was then later reopened and that allegation was -- was put

1 under this case number originally.

2 **Q.** And do you know why it was put into a case number that had
3 already been closed?

4 **A.** I do not.

5 **Q.** And then at some point it got its own case number;
6 correct?

7 **A.** That's correct.

8 **Q.** And you drafted Exhibit 40; correct?

9 **A.** I did, yes, sir.

10 **Q.** And this reflects the work and the investigation that you
11 did to respond to complaints that arose in 2020; correct?

12 **A.** Yes, sir.

13 **Q.** And I'm not being critical or anything. But do you recall
14 why it took nine months to complete the report?

15 **A.** We have quite a large caseload. I was working other
16 cases.

17 **Q.** Okay. In this investigative report, you make some
18 comments on your visit to Coffee County in December of 2020.

19 Do you recall that?

20 **A.** I do.

21 **Q.** And when you went to Coffee County, you met with Misty
22 Hampton; correct?

23 **A.** That's correct.

24 **Q.** And was a Dominion representative with you in the first
25 meeting then?

1 **A.** Yes, sir, I believe there were two.

2 **Q.** And why were they there also?

3 **A.** To provide assistance with trying to figure out why there
4 was a difference in the ballot count.

5 **Q.** And that issue was resolved while you were there?

6 **A.** Yes, sir.

7 **Q.** And then another complaint was that Ms. Hampton had posted
8 that YouTube video; correct?

9 **A.** Yes, sir.

10 **Q.** And in dealing with Ms. Hampton, did you find her to be
11 cooperative and credible or not that cooperative and not that
12 credible?

13 **A.** She was a little standoffish.

14 **Q.** And did you find her credible?

15 **A.** Yes, sir.

16 **Q.** Okay. Then in December you actually made a visit -- you
17 visited Coffee County, correct, for this investigation?

18 **A.** Yes, sir.

19 **Q.** And then when was the next time you went to Coffee County?

20 **A.** It would have been January of 2021. I was there
21 conducting investigation on a separate investigation. And I
22 was trying to do some interviews with potential witnesses and
23 respondents.

24 **Q.** And what was that investigation about?

25 **A.** I don't recall all the details. But it was an absentee

1 ballot complaint is the way it came in.

2 **Q.** It didn't have anything to do with what I call the Coffee
3 County breaches?

4 **A.** No, sir.

5 **Q.** And do you recall the -- you have a good memory for the
6 case numbers.

7 Do you recall the case number that that referred to?

8 **A.** I believe it was -- I'm thinking maybe 140-something. I'm
9 not 100 percent sure on that.

10 **Q.** Okay. Fair enough.

11 MR. BROWN: Tony, can we show the videotape from
12 January -- the encounter?

13 **(Playing of the videotape.)**

14 MR. BROWN: If you would stop it right there.

15 BY MR. BROWN:

16 **Q.** Mr. Blanchard, I'm showing you a video that we obtained
17 from Coffee County.

18 Have you seen this video before?

19 **A.** I have not.

20 MR. BROWN: If you could back up a little bit, Tony.

21 BY MR. BROWN:

22 **Q.** And do you see the date stamp there January 26, 2021?

23 **A.** I do.

24 **Q.** And that is consistent with your memory of when you
25 visited Coffee County again on that separate matter involving

1 absentee ballots; correct?

2 **A.** I thought it was January 20th. I may be incorrect.

3 **Q.** Do you have any reason to think that this is incorrect?

4 **A.** No, I have nothing to say that.

5 **Q.** And that is you in this video; correct?

6 **A.** That is me.

7 **Q.** And that is Misty Hampton; correct?

8 **A.** That is.

9 **Q.** Okay.

10 MR. BROWN: If you would continue playing it.

11 **(Playing of the videotape.)**

12 BY MR. BROWN:

13 **Q.** Do you see the man --

14 MR. BROWN: If you could stop it right there.

15 BY MR. BROWN:

16 **Q.** Do you see the man that came out of that room right after
17 you went in?

18 **A.** I do.

19 **Q.** And do you know who he is?

20 **A.** No, I don't.

21 **Q.** Well, let me ask it two ways just to make sure. Did you
22 know at the time who that was?

23 **A.** No, sir.

24 **Q.** And do you know now who he was?

25 **A.** If I could see his face. I didn't -- could you back that

1 up.

2 **(Playing of the videotape.)**

3 THE WITNESS: He looks familiar. I don't recall his
4 exact name. But I think he has affiliation with either
5 SullivanStrickler or Cyber Ninjas. I'm not sure 100 percent
6 sure on that.

7 BY MR. BROWN:

8 **Q.** Sure. But did you speak to him when you were down there?

9 **A.** Not that I recall, no, sir.

10 **Q.** Well, when you saw a man coming out of Misty Hampton's
11 office, did you ask either him or Misty Hampton what the man
12 was doing there?

13 **A.** No.

14 MR. TYSON: Objection, Your Honor. I believe that
15 Mr. Brown is assuming that Mr. Blanchard saw him. I think
16 there needs to be a foundation for that.

17 BY MR. BROWN:

18 **Q.** The video shows you crossing paths. Do you recall seeing
19 him in the office?

20 **A.** I don't recall. I was there to get a statement from her.

21 **Q.** And so he might have slipped past you, is that what you
22 are saying?

23 **A.** No, I'm not saying I did not see him. I just don't recall
24 him being there. I was not focused on him.

25 **Q.** Okay. So you don't recall seeing him. You might have,

1 you might not have. You don't recall speaking with him. You
2 might have or might not have. You don't recall --

3 THE COURT: Is that -- just so far; is that true?

4 THE WITNESS: I don't recall ever having a
5 conversation with him.

6 BY MR. BROWN:

7 Q. Okay. And do you recall asking Ms. Hampton who the man
8 was who was coming out of her office or there?

9 A. I do not.

10 Q. Okay. And at this time in January -- late January 2021
11 there wasn't an election going on in Coffee County; right?

12 A. No, sir.

13 Q. And it was -- the office was otherwise empty; correct?

14 A. Yes, sir.

15 Q. And the office that you go into was where the EMS server
16 is; correct?

17 A. I believe that is correct, yes, sir.

18 Q. And you are familiar with the office because this is part
19 of your geographic territory; correct?

20 A. I have been there before, yes, sir.

21 Q. And would you be alarmed if there was an unidentified man
22 in the EMS server room when there was no election going on and
23 he didn't have any sort of credentials for being there?

24 A. I had no reason to believe that he didn't have a reason to
25 be there. I wasn't there looking into anything with the EMS

1 server.

2 MR. BROWN: May I approach, Your Honor?

3 THE COURT: Yes.

4 BY MR. BROWN:

5 Q. Mr. Blanchard, let me hand you Document 143, which is
6 already in evidence.

7 A. Yes, sir.

8 Q. Have you seen this document before?

9 A. Not that I know of, no, sir.

10 Q. You don't recall receiving a copy of this in or around
11 May 2021?

12 A. No, sir.

13 Q. Okay. Let me hand to you what has been marked and
14 admitted Plaintiffs' 145.

15 MR. BROWN: And Your Honor and Counsel, for
16 convenience I'm going to also hand the witness Exhibit 78,
17 which is -- also is admitted.

18 THE COURT: Okay.

19 BY MR. BROWN:

20 Q. And, Mr. Blanchard, to get you oriented, I believe 78 and
21 145 are two overlapping emails, if you get what I'm saying.

22 A. Yes, sir.

23 Q. And 78 -- well, let me focus your attention on Exhibit 145
24 first. Okay?

25 A. Yes, sir.

1 Q. Exhibit 145 is an email. It contains an email to you from
2 Pamela Jones; correct?

3 A. Yes, sir.

4 Q. And as we can see from the balance of 78, if you flip it
5 over, it is started from an email from James Barnes.

6 Do you see that?

7 A. I do.

8 Q. So Barnes emails Chris Harvey, who at the time was the
9 director of elections; is that right?

10 A. That's correct.

11 Q. And do you recall that -- two things about Mr. Barnes'
12 email. First, he refers to the Dominion notification. The
13 Dominion email.

14 Do you see that?

15 A. Yes, sir.

16 Q. And do you have any reason to believe that that wasn't
17 what has been marked as 143, the Dominion memo?

18 MR. TYSON: Objection, Your Honor. I don't think
19 there is any basis to tie these two for this witness in the
20 exhibits at least.

21 THE COURT: Why don't you ask the witness if he has
22 any knowledge of Mr. Barnes' memo or concerns. And then we'll
23 see whether --

24 BY MR. BROWN:

25 Q. Mr. Blanchard --

1 THE COURT: -- where we go.

2 BY MR. BROWN:

3 Q. -- do you now or did you then have any understanding of
4 the source of Mr. Barnes' concerns?

5 A. Now that I see that, yes. I see what you are -- what you
6 were saying in the email. I see what he is referring to.

7 Q. And what is your understanding of what he was referring
8 to?

9 A. Well, just reading the email, it looks like that -- he was
10 talking about where he found a Cyber Ninjas business card and
11 was concerned about what had happened in Arizona.

12 Q. And if you look at email -- Exhibit 78, the last page of
13 that contains -- it is hard to see on my copy. But it contains
14 a photocopy of Douglas Logan's Cyber Ninjas business card;
15 correct?

16 A. Yes, sir.

17 Q. And so just to sort of recap, James Barnes is the
18 elections director in Coffee County, the new elections director
19 in Coffee County; right?

20 A. Yes, sir.

21 Q. And he replaced Misty Hampton; correct?

22 A. That's correct.

23 Q. He came in a couple -- it wasn't end to end, but he was
24 the next elections director; correct?

25 A. That's correct.

1 Q. And to your understanding, Barnes, because of the Dominion
2 email and the Cyber Ninjas business card, emails Chris Harvey;
3 right?

4 A. That's correct.

5 Q. And then Chris Harvey, following the normal channels,
6 emails that to the then head of investigations, Frances Watson;
7 correct?

8 A. That's correct.

9 Q. And then she assigns it to Pamela Jones, your direct
10 report, and she assigns it to you; correct?

11 A. Assigns? It was not a case, if that is what --

12 Q. So no -- no case was assigned because of this?

13 A. No, sir.

14 Q. Okay. And so what was your understanding of what you were
15 supposed to do?

16 A. To contact Mr. Barnes.

17 Q. And then -- and do what?

18 A. It was to follow up to see if he had any additional
19 information in addition to the business card. And I'm -- can I
20 read what I --

21 Q. You may.

22 A. Okay. I just put, Pam, I spoke with Mr. Barnes. He said
23 he and his board have not been able to locate anything showing
24 where Cyber Ninjas did any consulting for Coffee County --

25 THE COURT: You have got to go slower so that we can

1 get all your words in. Okay?

2 THE WITNESS: I apologize.

3 THE COURT: It's all right.

4 THE WITNESS: Would you want me to start over?

5 THE COURT: Just read it again. Just a little
6 slower.

7 THE WITNESS: Okay.

8 Pam, I spoke with Mr. Barnes who said he and his
9 board have not been able to locate anything showing where Cyber
10 Ninjas did any consulting for Coffee County. Mr. Barnes said
11 he was going to contact the county IT department and have them
12 review Misty's emails to see if there was any correspondence.

13 BY MR. BROWN:

14 **Q.** The speed at which you responded to Pamela Jones' email is
15 remarkable. It looks like you responded within about half an
16 hour.

17 Do you see that?

18 **A.** I did.

19 **Q.** And so when you call Mr. Barnes, had he already spoken
20 with the board to see if they could locate anything?

21 **A.** Yes. I believe he had already followed up after his
22 conversation with Mr. Harvey is what I'm --

23 **Q.** Did you know about this business card or this issue prior
24 to it being assigned to you by Pamela Jones?

25 **A.** I did not.

1 Q. Okay. But when you called Mr. Barnes, he already said,
2 you know, I have spoken to the board and they didn't hire these
3 folks, something to that effect; right?

4 A. Yes, sir.

5 Q. Now, was your concern that Cyber Ninjas was legitimately
6 in Coffee County and had a contract with the county, on the one
7 hand, or whether they might have been doing something untoward,
8 on the other? Which one was it?

9 MR. TYSON: Objection, Your Honor. I don't believe
10 there is any basis for Mr. Blanchard having a concern here.

11 BY MR. BROWN:

12 Q. What did you think -- you were given a task to find out
13 more. And did you believe that you were looking for authorized
14 access or unauthorized access that Dominion was warning about?

15 A. I was following up in reference to a business card to find
16 out -- you know, to see if they had any additional information
17 in reference to that business card.

18 Q. And the second thing that Mr. Barnes -- or in your email
19 you say that you talked to the board. They didn't know
20 anything. And then Mr. Barnes said he was going to contact the
21 county IT department and have them review Misty's emails to see
22 if there was any correspondence.

23 Do you see that?

24 A. I do.

25 Q. And did Mr. Barnes ever follow up with you to let you know

1 whether or not the IT department had reviewed Misty's emails?

2 **A.** No, sir.

3 **Q.** Did you ever follow up with Mr. Barnes to determine
4 whether or not he had followed up with the county IT
5 department?

6 **A.** No, sir.

7 **Q.** At that time did you consider whether it would be
8 advisable to look at any of the security video that the
9 elections offices have?

10 **A.** I did not. There was no case opened at the time, sir.

11 **Q.** Well, you hadn't opened a case?

12 **A.** A case had not been opened, no, sir.

13 **Q.** No one had opened a case?

14 **A.** That's correct.

15 **Q.** Okay. And so -- but you knew at the time, and it is
16 generally well-known in your organization, that the elections
17 offices, all of them have security cameras in the inside of the
18 elections office; correct?

19 **A.** For the most part, yes, sir.

20 **Q.** And that if you want to get the security footage, you
21 better ask quick because it overwrites the footage pretty
22 quickly, right?

23 MR. TYSON: Objection, Your Honor. I don't think
24 there is any basis for how -- what the speed of the overwrite
25 was of any particular security camera system.

1 MR. BROWN: He can say he doesn't know.

2 THE COURT: Tell me what knowledge you have as to how
3 frequently or how fast these are typically overwritten.

4 THE WITNESS: I have no knowledge of that.

5 THE COURT: One way or the other?

6 THE WITNESS: No, ma'am.

7 MR. BROWN: Thank you.

8 BY MR. BROWN:

9 Q. So looking at Exhibit 45, which is similar to this page of
10 it as it goes further, but 78 starts at 78. The -- you write
11 to -- back to Ms. Jones, give her the report that you have
12 read; right?

13 And then she flips it on to Frances Watson who says
14 thanks; correct?

15 A. Correct.

16 Q. All in a period of about an hour and 15 minutes; right?

17 A. Yes, sir.

18 Q. And did you do anything after May 11 to follow up on
19 unauthorized contact by the Cyber -- well, any attempt by the
20 Cyber Ninjas or people associated with the Cyber Ninjas to
21 obtain equipment in Coffee County?

22 A. No, sir.

23 Q. Okay. At any point in time in your investigation, did you
24 have cause to understand why Misty Hampton had been terminated
25 or resigned?

1 **A.** I believe it was for payroll -- I believe is what was
2 told.

3 **Q.** And who told you that?

4 **A.** I believe it was -- I don't know if I heard it from
5 Mr. Barnes or if it was from one of our supervisors. I'm not
6 sure.

7 **Q.** I showed the email or notice from Dominion that was dated
8 in May of 2021 alerting customers to the danger of people
9 trying to get access to election equipment.

10 Had you heard before then of any attempts by unauthorized
11 people to try to make copies of election equipment?

12 **A.** Before 2021?

13 **Q.** Yes.

14 **A.** Not that I can recall.

15 **Q.** Okay. At the time, Mr. Blanchard, were you aware that
16 several weeks after the inquiry into the Cyber Ninjas card in
17 June of 2021 that the Secretary of State replaced the EMS
18 server in Coffee County?

19 Did you know that?

20 **A.** I know that the server had been replaced, yes, sir.

21 **Q.** The ICC was also replaced; correct?

22 **A.** I wasn't sure about anything else, except for the server.

23 **Q.** And do you know -- were you told why it was replaced?

24 **A.** I believe it was Mr. Barnes was locked out of it or
25 couldn't access it.

1 Q. And you learned that from Mr. Barnes or somebody at the
2 Secretary of State?

3 A. I think it was just within our office.

4 Q. And it wasn't just to be on the safe side in case the
5 Cyber Ninjas had gone in there and done something?

6 MR. TYSON: Objection, Your Honor. I don't think
7 there is any basis for that.

8 MR. BROWN: With that prompting, can you answer the
9 question?

10 THE WITNESS: I'm sorry. Can you ask that again?

11 BY MR. BROWN:

12 Q. Did it have any relation to the Cyber Ninjas?

13 A. I have no knowledge of that.

14 Q. Okay. By this time the Secretary of State had engaged a
15 cybersecurity expert named Jim Persinger.

16 Did you ever have any dealings with him?

17 A. I've heard the name. I never had any dealings with him.

18 Q. Mr. Blanchard, can you identify Coalition Plaintiffs'
19 Exhibit 45?

20 A. It looks like an email from James Barnes to myself.

21 MR. BROWN: I move to admit, Your Honor.

22 MR. TYSON: Your Honor, we would object on the basis
23 of hearsay. I don't believe there is any basis for Mr. Barnes'
24 statement, which are out-of-court statements being offered --
25 I'm assuming for their truth. This was an email apparently

1 received by Mr. Blanchard but doesn't indicate that he said
2 anything about this.

3 MR. BROWN: Your Honor, couple of things about this
4 document. One, is that it was not produced by the Secretary of
5 State in response to discovery. And instead, plaintiffs
6 obtained it by other means. And so we did not have it when we
7 deposed James Barnes.

8 However, we are not asserting it for the truth of the
9 assertions in Mr. Barnes' to whom it may concern memo. But
10 simply to have him authenticate that and to admit it as
11 information, true or not, that he did receive from Mr. Barnes.

12 MR. TYSON: And, Your Honor, I don't see how a
13 witness who -- I don't see how Mr. Blanchard could authenticate
14 this if it is not his document. I guess that's --

15 THE COURT: All right. Well, I think he's entitled
16 to ask. And since it was also -- seems to have been sent to
17 Mr. Blanchard, it is an appropriate question to direct to him.

18 BY MR. BROWN:

19 **Q.** Mr. Blanchard, do you -- this -- this email was sent to
20 you; right?

21 **A.** That is my work email address.

22 **Q.** Right.

23 And you remember getting it; right?

24 **A.** I do not.

25 **Q.** Okay. And do you remember the attachment to this?

1 **A.** I don't recall ever seeing that, no, sir.

2 **Q.** Do you recall what -- have you had a chance to review
3 this?

4 **A.** Can I take a minute?

5 **Q.** Yes. I'm sorry. Please. Go ahead.

6 Do you remember this memorandum from James Barnes?

7 **A.** I don't recall receiving this memorandum. But I recall
8 speaking with him about the disarray of the office. I do
9 remember that.

10 **Q.** And did -- to the best of your recollection, did that
11 conversation result in him writing up the statement about the
12 condition of the office?

13 **A.** It may have. I just don't recall ever receiving this.

14 **Q.** In this memorandum, Mr. Barnes details a number of
15 conditions, which if truthful would constitute a number of
16 violations of election regulations; correct?

17 **A.** Yes, sir.

18 **Q.** And upon receiving this, if you read it you would have
19 reported this so that an actual investigation could be
20 initiated into Coffee County; right?

21 MR. TYSON: Objection, Your Honor. I think we're
22 speculating upon speculating now. If he received it, if he did
23 this.

24 THE COURT: Well --

25 MR. BROWN: Your Honor, let me go at this another

1 way, if I might.

2 BY MR. BROWN:

3 **Q.** You testified that you do recall speaking to Mr. Barnes
4 about the conditions in Coffee County when he arrived to take
5 over for Misty Hampton; correct?

6 **A.** No, sir. Can I -- I remember trying to find documentation
7 in reference to a different case. And I remember not being
8 able to find the documentation when I provided a subpoena.

9 And I think he was mentioning other issues within that
10 office. And I believe that there was a cite in reference to
11 another case. I do not recall the case number. But it was a
12 failure to retain documentation for the 24-month period is -- I
13 believe is what the violation was.

14 **Q.** And did that result in an actual case being assigned to
15 Coffee County?

16 **A.** It was an already existing case.

17 **Q.** Okay.

18 THE COURT: So was this soon after Mr. Barnes had
19 come in that you talked with him?

20 THE WITNESS: I believe so, yes, ma'am.

21 BY MR. BROWN:

22 **Q.** And to the best of your recollection, what was the name of
23 that case or number of that case?

24 **A.** I would have to look. I don't recall.

25 **Q.** But your testimony is that that other matter did not

1 relate to Coffee County breaches that we've been discussing?

2 **A.** It was a separate matter, yes, sir.

3 **Q.** Do you know Deborah Cox, Lowndes County election
4 supervisor?

5 **A.** Yes. I'm sorry.

6 **Q.** Did you ever talk to Deborah Cox about the election office
7 in Coffee County, about what they were doing, the problems they
8 had encountered?

9 **A.** No, I don't recall that.

10 **Q.** Do you recall discussing with Mr. Barnes the reasons why
11 the EMS server was replaced?

12 **A.** I don't recall ever discussing that with him.

13 **Q.** Mr. Blanchard, can you identify Curling Plaintiffs'
14 Exhibit 148?

15 **A.** Yes, sir. It is a case list from what is -- a program
16 called SharePoint.

17 **Q.** And this is something that the Secretary of State --
18 Secretary of State's office keeps in the ordinary course of its
19 business?

20 **A.** Yes, sir.

21 MR. BROWN: Move to admit.

22 MR. TYSON: Your Honor, I think our only objection
23 would be on relevance in terms of other investigations that are
24 unrelated to the claims in this case.

25 THE COURT: Well, I don't know whether they are or

1 not. So I'm just -- for now I'm going to admit it. And we'll
2 see what -- whether Mr. Brown can connect up why it is here.

3 MR. BROWN: Sure.

4 THE COURT: I can always, again, say it is not -- I
5 admit it conditionally subject to his being able to show its
6 relevance.

7 BY MR. BROWN:

8 Q. Mr. Blanchard, do you see that the last row on this page
9 on 148 is matter number SEB 2022-207?

10 Do you see that?

11 A. Yes, sir, I do.

12 Q. And that was the new case number in which the 2021 Coffee
13 County breaches was assigned to; correct?

14 A. That's correct.

15 Q. And it is shown at least -- and you still have that case
16 as open; correct?

17 A. Yes, sir.

18 Q. Okay. And no report of investigation has been generated;
19 correct?

20 A. No, sir.

21 Q. And then just for the record, right up from there we see
22 the other investigation, SEB 2020-250. It is also shown as
23 still open.

24 Do you see that?

25 A. Yes, sir.

1 Q. Okay. But that didn't have to do with -- you say it
2 didn't have to do with the Coffee County breaches, correct?

3 A. No, sir.

4 Q. Okay. And both of those matters were assigned to you?
5 You were the assigned investigator; right?

6 A. That is correct.

7 Q. Okay. You have testified that --

8 THE COURT: Could you just remind me what the
9 miscellaneous -- so-called miscellaneous one was.

10 MR. BROWN: Let me try to help you there.

11 THE COURT: Okay.

12 BY MR. BROWN:

13 Q. Mr. Blanchard, do you have Exhibit 40, I think it is in
14 front of you, the report of investigation?

15 A. Yes, sir, I do.

16 Q. And does the report of investigation SEB 2020-250 track to
17 this miscellaneous investigation shown here?

18 A. Yes, sir.

19 Q. Okay. But, you know, why -- I'm not sure this matters.
20 But why isn't that one closed yet?

21 A. To my understanding, it is closed.

22 Q. Okay. But it is shown open on this report dated -- what
23 is the date of that report?

24 Do you have it?

25 A. At the bottom it says 9/20/2022.

1 Q. But you believe by now it is closed?

2 A. I believe it is, yes, sir.

3 Q. Okay. Fair enough.

4 A. Okay.

5 Q. I want to get back to the Coffee County investigation.

6 A. Yes, sir.

7 Q. Now, you testified that in April of 2022 that the matter
8 was opened; is that right?

9 A. To the best of my knowledge, yes, sir.

10 Q. It says here September 7, 2022. Do you know whether it
11 was April 2022 or September 7?

12 A. It may be September. I could be incorrect.

13 Q. Okay. But you said you knew about it in April 2022;
14 correct?

15 A. Yes, sir.

16 Q. And that this shows that a formal investigation number was
17 not assigned until September 7, 2022; correct?

18 A. Yes, sir.

19 Q. And you testified that you were instructed to hold off on
20 your investigation of Coffee County; correct?

21 A. Yes, sir.

22 Q. And then at some point, were you given the instruction to
23 quit holding off, for lack of a better expression, to get going
24 on it?

25 A. No, sir. Ultimately it was assigned to the GBI. They

1 took over the case.

2 **Q.** So you really never had an active investigation into
3 Coffee County?

4 **A.** Myself, no, sir. I initially assisted somewhat. But that
5 is an open case with the GBI currently.

6 **Q.** Okay. But tell me everything you did on the
7 investigation.

8 **A.** That is an open case -- criminal case with the GBI.

9 **Q.** Okay. Are you not answering --

10 THE COURT: Let me just say: You have been asked
11 about what you did prior to the GBI taking over.

12 THE WITNESS: I apologize.

13 MR. TYSON: Your Honor, I think the concern is since
14 there's still an open investigation, there may be investigative
15 privilege over what Mr. Blanchard did. I think given the fact
16 the GBI report, at least in redacted form, has been released,
17 it would be okay for him to discuss that, if he is comfortable
18 with that.

19 But I think that is the issue we're dealing with
20 right now from his perspective. I'm guessing.

21 BY MR. BROWN:

22 **Q.** Can you answer my question?

23 What did you do to investigate Number 207, the Coffee
24 County 2021 breaches?

25 **A.** What I did to assist the GBI was I provided some

1 background as far as like TLO searches, which is a search
2 program. It is TLO. And then also a program we used to use
3 called eNet, which I provided. And he asked for, you know,
4 updated addresses and phone numbers, if I knew of any. So that
5 is what I provided him.

6 **Q.** Okay. So some addresses and what was the other?

7 **A.** It was two programs called eNet and TLO, which is a -- I
8 don't remember the exact name of the program. But it is
9 basically a program we use to help locate potential addresses
10 and phone numbers and stuff like that.

11 **Q.** Did you give them any actual information?

12 **A.** No, sir.

13 **Q.** Okay. So --

14 THE COURT: I just want to be clear. Is that in
15 April of '22? Did you do anything -- any investigation then?

16 THE WITNESS: No, sir -- I mean, no, ma'am.
17 Apologies.

18 THE COURT: When did you start doing any
19 investigation?

20 THE WITNESS: I didn't investigate. It was turned
21 over to the GBI.

22 THE COURT: All right. When did you start assisting
23 the GBI?

24 THE WITNESS: That would have been probably around
25 September or a little thereafter.

1 BY MR. BROWN:

2 Q. So is it fair to say that you were never actively
3 investigating the Coffee County breaches?

4 A. Not the actual -- no, sir.

5 Q. That is not a true statement?

6 A. No. No, sir. I never investigated the breaches --
7 actively investigated.

8 Q. Okay. So it is a true statement that you never actively
9 investigated it?

10 A. Yes, sir.

11 Q. Okay. Thanks.

12 And to your knowledge, did anyone else in the Secretary of
13 State's office actively investigate the Coffee County 2021
14 breaches?

15 A. Not that I'm aware of.

16 Q. And when was the case sent over to the GBI?

17 A. I don't recall the exact date. But it would have been
18 after September.

19 Q. Okay. After September '22?

20 A. Yes. Yes, sir.

21 Q. Okay.

22 MR. BROWN: Your Honor, it will actually speed things
23 up if I can take a break and collect my notes --

24 THE COURT: All right. Fine.

25 MR. BROWN: -- and speak with my --

1 THE COURT: You need five minutes?

2 MR. BROWN: Five minutes would be great.

3 Thank you, Your Honor.

4 COURTROOM SECURITY OFFICER: All rise. Court stands
5 in recess.

6 **(A brief break was taken at 5:05 PM.)**

7 THE COURT: Have a seat.

8 MR. BROWN: Thank you, Your Honor.

9 As predicted, it did save some time to be able to go
10 over notes. And we have no further questions, except for
11 housekeeping. I wanted to make sure that -- well, I wanted to
12 get Exhibit 45 into evidence. And that is the one -- that is
13 the email from James Barnes to Mr. Blanchard dated August 24,
14 2021, that contains the memo from James Barnes about the
15 condition of the Coffee County office when he got there after
16 Misty Hampton left.

17 THE COURT: Well, I think there is a standing
18 objection to it, but -- that was asserted. So how are you
19 wanting to address that, or are you wanting Mr. Barnes to come
20 back to authenticate it? I mean, I don't know what --

21 MR. BROWN: Well, let me just ask you again.

22 BY MR. BROWN:

23 Q. Do you -- after going through --

24 MR. BROWN: Let me ask the witness again.

25

1 BY MR. BROWN:

2 Q. Mr. Blanchard, after talking about the issues involving
3 Exhibit 45, do you recall receiving this?

4 A. I do not recall receiving it, but I recall having the
5 conversation generally about some of the stuff. That is it.

6 MR. BROWN: Okay. Your Honor, I'll withdraw it.

7 THE COURT: Mr. Barnes?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: And was that conversation in or around
10 the summer of 2021?

11 THE WITNESS: It possibly could have been. I'm not
12 exactly sure.

13 MR. BROWN: Your Honor, I would move to admit in
14 terms of the weight of this evidence. Of course, that is up to
15 Your Honor.

16 MR. TYSON: Same objection, Your Honor.

17 THE COURT: Well, you've gotten in that there was a
18 conversation. I mean, I'm going to -- I would allow you to
19 re-call Mr. Barnes if you wanted to to verify that this was
20 sent. I can't -- I don't know that he can indicate -- I don't
21 know whether he has the facts to indicate it. I have no reason
22 to disbelieve him. But I at least need to have him testify to
23 that. But you could do that, if you wanted, by Zoom so he
24 wouldn't have to drive.

25 MR. BROWN: Thank you, Your Honor. We'll proceed if

1 we need to. Appreciate it.

2 Thank you, Mr. Blanchard.

3 MR. OLES: Judge, I have just a couple of questions,
4 if I may.

5 THE COURT: Yes.

6 CROSS-EXAMINATION

7 BY MR. OLES:

8 **Q.** Good afternoon, Investigator. My name is David Oles. I
9 represent Ricardo Davis, one of the plaintiffs in the case.

10 I have just a very couple of quick questions for you.

11 Were you involved in an investigation of a report of
12 counterfeit or duplicate or what I call pristine ballots that
13 were allegedly to have been received as part of the 2020
14 general election?

15 Do you recall that?

16 It would have been Fulton County.

17 **A.** No, sir.

18 **Q.** Okay. So you had no involvement in that?

19 **A.** No, sir.

20 **Q.** All right. Thank you.

21 MR. TYSON: I have a few questions, Your Honor.

22 DIRECT EXAMINATION

23 BY MR. TYSON:

24 **Q.** Good afternoon, Mr. Blanchard. Thank you for your
25 patience. I know this is the second day you have been here

1 waiting to testify, so hopefully we can finish with you today.

2 I wanted to begin, just to clarify, is Michael Barnes
3 different than James Barnes?

4 **A.** Yes.

5 **Q.** And who are those two individuals?

6 **A.** Michael Barnes is the director of CES. And then James
7 Barnes was -- now, at this time, a former election supervisor
8 for Coffee County.

9 **Q.** Mr. Blanchard, are you a sworn law enforcement officer?

10 **A.** I am.

11 **Q.** How long have you been a sworn law enforcement officer?

12 **A.** A little over 19 years.

13 **Q.** You were asked about some phone calls related to the Cyber
14 Ninjas card.

15 Do you recall that?

16 **A.** The email thread?

17 **Q.** Yes.

18 **A.** Yes, sir.

19 **Q.** In your role as an investigator, are you often asked to
20 look into things in an election office without opening a formal
21 investigation?

22 **A.** It happens from time to time.

23 **Q.** Okay. So if you could turn to Plaintiffs' Exhibit 145,
24 the longer of the two email threads.

25 MR. TYSON: Mr. Martin, if Mr. Montgomery can have

1 access, we can get that on the screen.

2 BY MR. TYSON:

3 **Q.** So you recall testifying about this exhibit?

4 **A.** I do.

5 **Q.** Okay. Based on the email at the -- from Mr. Harvey, when
6 you first learned about the Cyber Ninjas business card, was
7 there anything that alerted you to the idea that there might
8 have been unauthorized access to the Coffee County election
9 system?

10 **A.** No, sir.

11 **Q.** In your role as a law enforcement officer, would you
12 consider an elections director finding a business card from
13 Cyber Ninjas to be an indication of attempted access of an
14 election system?

15 **A.** No, sir.

16 **Q.** Based on your initial calls regarding the Cyber Ninjas
17 card, did anything in your professional experience or training
18 indicate that further investigation was needed beyond what you
19 described in Exhibit 145?

20 **A.** No, sir. I was just doing what my supervisor had asked me
21 to do.

22 **Q.** In your role as an investigator --

23 THE COURT: Who was your supervisor again?

24 THE WITNESS: Pam Jones. Full name Pamela Jones.

25

1 BY MR. TYSON:

2 **Q.** In your role as an investigator, would you typically ask
3 for security footage from an elections office when inquiring if
4 someone had contacted that particular county elections office?

5 **A.** No, sir.

6 **Q.** There was some discussion with Mr. Brown about your
7 awareness in April 2022 of the Coffee County January breaches
8 and then the number being assigned later.

9 Can you just walk the Court through what the sequence of
10 events was with the case numbers from when you first learned
11 about the January breaches in that April 2022 timeline?

12 **A.** I think in April it was assigned under 250, if I'm
13 correct -- SEB 2020-250. I did not make that decision. That
14 happens above me.

15 And then later on a new case number was assigned to it,
16 which was SEB 2022-207. And that -- I don't exactly recall who
17 made that decision. But I know that it happened.

18 **Q.** And so the September 2022 date in Plaintiffs' Exhibit 148
19 was not the start of an investigation but was the date of the
20 assignment of a new number?

21 **A.** That would be what I would believe would have happened.
22 Because I do believe it was originally assigned under 250 in
23 April. That is to the best of my knowledge.

24 **Q.** You were also asked about efforts to actively investigate
25 the Coffee County breaches starting in that April 2022

1 timeline.

2 Do you recall that?

3 **A.** I do.

4 **Q.** Are you aware if any other part of the Secretary's office
5 was taking any steps regarding investigating those breaches
6 between April and September of 2022?

7 **A.** I do remember they were analyzing the server. And I don't
8 know if CES was involved with that or not. I'm not sure.

9 **Q.** As an investigator in the Secretary's office, would it
10 have helped you to know about the January 2021 breaches in
11 Coffee County earlier than April 2022?

12 **A.** I'm sorry. What are you asking?

13 **Q.** Let me ask it this way: If someone knew about
14 unauthorized access to Coffee County election equipment in
15 2021, should they have reported that to the Secretary's office?

16 **A.** Yes.

17 **Q.** And if you had gotten a phone call or learned there had
18 been unauthorized access --

19 THE COURT: Don't lead the witness. This is still an
20 agent of the State.

21 MR. TYSON: I'm sorry, Your Honor.

22 THE COURT: Thank you.

23 MR. TYSON: Certainly.

24 BY MR. TYSON:

25 **Q.** Mr. Blanchard, if you had gotten a call or learned that

1 there had been third-party access to Coffee County election
2 equipment, what steps would you have taken?

3 **A.** I would have reported it to my supervisor.

4 MR. TYSON: Let me check one moment. I may be
5 finished with questions.

6 **(There was a brief pause in the proceedings.)**

7 BY MR. TYSON:

8 **Q.** Mr. Blanchard, did anyone inform you of a phone call
9 regarding the Coffee County breaches before April of 2022 that
10 you recall?

11 **A.** A phone call? No, sir.

12 MR. TYSON: That's all the questions I have.

13 I just want to thank you. I know you do service for
14 all of us as an investigator with the Secretary's office.
15 Thank you for that. And as a law enforcement officer, we
16 appreciate your service. Thank you.

17 THE WITNESS: Yes, sir.

18 MR. BROWN: No further questions, Your Honor.

19 THE COURT: I have a few questions.

20 EXAMINATION

21 BY THE COURT:

22 **Q.** Mr. Blanchard, did you know who the Cyber Ninjas were --

23 **A.** No, ma'am.

24 **Q.** -- when you conducted this -- these inquiries?

25 **A.** No, ma'am. I wasn't aware.

1 Q. Did you have any idea that they were associated with
2 seeking to -- working to access election information and were
3 reviewing that information as to elections either in Georgia or
4 in Arizona or other places in Michigan?

5 A. At the time, no, ma'am.

6 Q. So you made this phone call. You did one thing in
7 response, essentially, to the inquiry that started with
8 Mr. Harvey as election director that he sent to try to get --
9 to Ms. Watson and Mr. Barnes -- Michael Barnes, to get further
10 information about what was the story with the Cyber Ninjas card
11 being found.

12 And -- but you didn't even know what the Ninjas was when
13 you were making these inquiries?

14 A. I just knew about the business card, yes, ma'am.

15 Q. But business card for something you knew nothing about the
16 business about?

17 A. I did not.

18 Q. And you didn't ask anyone about what was this?

19 A. At the time, no, I did not.

20 Q. And did you find -- make any inquiries as to did this have
21 something to do with the election system, because there was
22 references, obviously, to the election system inherently
23 because of Mr. Harvey's inquiry about this when he wrote to
24 Ms. Watson?

25 Isn't Ms. Watson head of the unit that you reported to?

1 **A.** She was the chief, yes, ma'am.

2 **Q.** Yes.

3 And you didn't ask your supervisor to help you find out
4 what that was all about?

5 **A.** I didn't ask her, no, ma'am.

6 **Q.** And were you aware in any way that there had been also a
7 security alert within the election system about the -- because
8 there -- a Cyber Ninja warning from the -- from CISA?

9 **A.** At that time I was not, no, ma'am.

10 **Q.** When did you become aware of that?

11 **A.** I heard about it, you know, through the media afterwards.

12 **Q.** So basically you're asked to follow up on something that
13 you really had no idea -- anything about the background of, is
14 what you are telling me?

15 **A.** I was just asked to follow up, if there was anything else
16 surrounding the business card that was located, yes, ma'am.

17 **Q.** And the last information that was provided by you about
18 this was -- let me just see -- if anything -- well, let me ask
19 you this: Do you recall receiving copies of the emails, by any
20 chance, that were sent by Mr. Harvey to Ms. Watson and
21 Mr. Barnes?

22 Did you ever get any of those?

23 **A.** This email, yes, ma'am, I was --

24 **Q.** You were -- that was shared with you?

25 **A.** 145, yes, ma'am. I did have that.

1 Q. And did you get that back in -- in May of 2021 or only
2 recently?

3 A. No. I remember the email.

4 Q. Okay. So Mr. Harvey is looking to find out whether there
5 has been any contact with -- or relationship between the person
6 on the card or anyone in your office or if they have had any
7 access to your equipment. This is to James Barnes.

8 And you got that?

9 A. The -- yes, ma'am.

10 Q. Okay. And the last thing that we see here in this chain
11 of emails is Ms. Jones I guess writing based on the information
12 you provided her two minutes earlier, that she writes to
13 Ms. Watson, apparently they are still trying to determine if
14 there was any contact. But as far as they can tell so far,
15 there was none.

16 But you knew as well that Mr. Barnes said he was going to
17 contact the county IT department and have them review Misty's
18 emails to see if there was any correspondence.

19 Did you follow up on that?

20 A. I did not, no, ma'am.

21 Q. So this was a pretty cursory check on this, wasn't it?

22 A. I'm sorry?

23 Q. This was a pretty -- from a law enforcement perspective or
24 even a bureaucratic perspective, this was a cursory look into
25 what Mr. Harvey expressed concern about and wanted some

1 follow-up on, wasn't it?

2 **A.** I just -- I reached out to James Barnes like my supervisor
3 asked me to.

4 **Q.** And he told you, according to your email, that again
5 Mr. Barnes said he was going to contact the county IT
6 department and have them review Misty's emails to see if there
7 was any correspondence.

8 And that was on -- two minutes before you wrote to your
9 supervisor, Pamela Jones, and then two minutes later at 4:11 on
10 May 11th, 2021, then you wrote -- she wrote to Ms. Watson and
11 that was the end of it? No one followed up again with -- in
12 connection with the very deep concern that Mr. Barnes
13 expressed?

14 **A.** I did not follow up. I'm not sure if anybody else did.

15 THE COURT: Okay. Thank you.

16 MR. TYSON: Could I ask one follow up, Your Honor?

17 THE COURT: Yes.

18 REDIRECT EXAMINATION

19 BY MR. TYSON:

20 **Q.** Mr. Blanchard, Judge Totenberg asked you about following
21 up with Mr. Barnes after the county IT was going to look into
22 Ms. Hampton's emails.

23 Do you recall that?

24 **A.** I do.

25 **Q.** If the county IT department had found something in

1 Ms. Hampton's emails, would you have expected Mr. Barnes to
2 reach back out to you?

3 **A.** I would have.

4 MR. TYSON: Thank you. Nothing further, Your Honor.

5 REEXAMINATION

6 BY THE COURT:

7 **Q.** So what did you think later on when there was a
8 significant set of problems relating to even getting access
9 into the server in Coffee County?

10 **A.** At the time all I knew about was the card. I mean, I
11 understand that something happened afterwards. I do understand
12 that. But at the time all we had is a card.

13 **Q.** Did you ever put that together in your own mind, maybe I
14 need to follow up on that myself?

15 **A.** I expected, like I said, that they would follow up with me
16 if they found anything.

17 **Q.** When you talked to Mr. Barnes, did you ask him what he
18 was -- what he was concerned about when he mentioned the
19 situation in Arizona with the Department of Justice in
20 connection with the Cyber Ninjas?

21 **A.** I just asked them if they had any further information.

22 **Q.** But you didn't even think to understand -- to try to
23 understand what this referenced, this whole concern about the
24 Cyber Ninjas and the DOJ situation with -- in Arizona?

25 **A.** I didn't.

1 THE COURT: Okay. All right. Thank you very much,
2 sir.

3 I think we're through for today. It is 5:35.

4 Who is -- sir, is this witness excused?

5 MR. BROWN: Yes, Your Honor.

6 MR. TYSON: Yes, Your Honor.

7 THE COURT: You are excused. Thank you very much for
8 your patience and waiting to be called.

9 Please don't discuss your testimony with anyone else
10 until the trial is complete.

11 THE WITNESS: Yes, ma'am.

12 THE COURT: Thank you.

13 Who is the next witness that the plaintiffs plan to
14 call?

15 MR. BROWN: Your Honor, we had planned to call
16 Ms. Frances Watson to be our next witness, and it would be fine
17 for that to be in the morning.

18 THE COURT: All right.

19 MR. BROWN: And then the next witness after that will
20 be named plaintiff Megan Missett.

21 THE COURT: All right. Very good.

22 Anything else? We're hoping that Mr. -- yes.

23 MR. SPARKS: Sorry, Your Honor. At the tail end of
24 yesterday's proceeding with only certain counsel present, you
25 asked for an update.

1 Do you still wish to have that?

2 THE COURT: Yes.

3 So I'm going to just excuse everyone else.

4 Is there anything else we need to address at this
5 moment?

6 MR. TYSON: Not for the State, Your Honor.

7 MR. BROWN: Not from plaintiffs, Your Honor.

8 THE COURT: All right. Well, everyone is excused
9 other than those who signed off on the confidentiality and
10 security issue.

11 **(The public proceedings were thereby adjourned**
12 **at 5:37 PM.)**

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C E R T I F I C A T E

UNITED STATES OF AMERICA
NORTHERN DISTRICT OF GEORGIA

I, SHANNON R. WELCH, RMR, CRR, Official Court Reporter of the United States District Court, for the Northern District of Georgia, Atlanta Division, do hereby certify that the foregoing 276 pages constitute a true transcript of proceedings had before the said Court, held in the City of Atlanta, Georgia, in the matter therein stated.

In testimony whereof, I hereunto set my hand on this, the 17th day of January, 2024.

Shannon R. Welch

SHANNON R. WELCH, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT

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