

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

SETH LEIBSOHN, et.al.,)	
)	
Plaintiffs,)	
)	
vs.)	CV 2022-009709
)	
KATIE HOBBS, et.al.,)	
)	
Defendants.)	
)	
_____)	

Phoenix, Arizona
August 12, 2022

BEFORE THE HONORABLE JOSEPH P. MIKITISH

REPORTER'S TRANSCRIPT OF PROCEEDINGS

(Trial to the Court)

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Phoenix, Arizona
August 12, 2022

P R O C E E D I N G S

(Whereupon, the following proceedings
commenced in open court.)

THE COURT: Good morning, everyone.

MR. BENDOR: Good morning.

THE COURT: All right. This is the matter of
Leibsohn versus Hobbs. And that's Leibsohn, et. al.
versus Hobbs, with the Real Party at Interest, Voters
Right to Know Initiative Committee, CV 2022-009709.

Counsel for the plaintiffs, would you state
your appearance.

MR. LANGHOFER: Good morning, your Honor.
Kory Langhofer and Tom Basile for the plaintiffs.

THE COURT: All right. Thank you. And
counsel for the committee.

MR. BENDOR: Good morning, your Honor. Josh
Bendor, Travis Hunt and Annabel Barraza for the
Committee.

THE COURT: Okay. Thank you. And as I
recall, the Secretary stipulated to not be here today.
Is my recollection correct?

MR. LANGHOFER: That's correct, your Honor.

1 THE COURT: Okay. So the Secretary's
2 appearance is waived for today.

3 A preliminary matter -- couple of preliminary
4 matters. First of all, I received the pretrial
5 statements, as well as the pretrial position papers.
6 Thank you, very much. Those were very helpful in
7 getting ready for today. I appreciate the effort and
8 time that goes into those. It makes my job a lot
9 easier to get through a lot of material in a short
10 amount of time.

11 The second matter is that, in preparing for
12 today and going through all of those materials, I
13 recognize that Mr. Goddard is a member of the
14 Committee is a co-chair of the Committee. I just
15 wanted to put on the record that I was an Assistant
16 Attorney General for a period of 15 years. I served
17 under four separate attorneys general during that
18 timespan. One of those was Mr. Goddard.

19 He was the Attorney General from 2000 -- he
20 took office in 2003 and was Attorney General
21 through 2011 when he left office. During that time, I
22 had occasion where I worked directly with him, but I
23 was a line attorney. I had a -- I rose to the
24 position of a unit chief during his tenure, but I was
25 not involved with him directly on a daily basis in any

1 respect.

2 There were a few matters in the area that I
3 covered that I would keep him apprised of, sought his
4 input on; and sometimes he would make decisions on
5 those cases. But in every respect, I was somebody who
6 had come in before his tenure and continued after his
7 tenure. I was not directly hired by him or fired by
8 him for that matter.

9 So in that respect, I wanted to put that on
10 the record. I don't believe that will affect my
11 ability to participate. I don't believe it's a basis
12 for me to recuse myself, but I did want to make
13 everyone aware of that fact.

14 I did see Mr. Goddard in the courtroom --
15 hello, Mr. Goddard -- and wanted to give everyone an
16 opportunity -- I did not realize that fact until I was
17 going through the materials yesterday. So I would
18 have put it on the record earlier if I had known.

19 With that, are there any objections to me
20 moving forward as the presiding judge in this matter
21 for the plaintiffs?

22 MR. LANGHOFER: No, your Honor. Thank you.

23 THE COURT: All right. For the defense?

24 MR. BENDOR: No, your Honor.

25 THE COURT: All right. Very good. With that

1 matter, is there anything else that we need to address
2 before we proceed with the trial today?

3 MR. LANGHOFER: A few preliminary matters,
4 your Honor.

5 First, we've got stipulations as to nearly all
6 the exhibits. And it may be easier to list the ones
7 we are not stipulating. But if you prefer, just the
8 ones we are stipulating.

9 THE COURT: All right. Why don't you go ahead
10 and do the ones that we are stipulating. And I will
11 let you know in advance, you can stipulate to
12 everything that you like to stipulate to.

13 I am not going to consider an exhibit though,
14 unless you put it in the record before me through some
15 presentation, some stipulation that lets me know the
16 contents of that document and how it's relevant to
17 today's proceedings. Don't anticipate that, just
18 because it's part of the stipulation, that I'm going
19 to spend time reviewing that or it's going to be a
20 part of my decision.

21 With that, Mr. Langhofer.

22 MR. LANGHOFER: So the exhibits that are
23 stipulated are 1 through 129. And the first 100 --
24 yeah, those 129 are all circulator registration forms,
25 plus -- one form per exhibit, plus Google Earth images

1 of the addresses that are disputed.

2 Then we have 131 through 146. These are all
3 records from the Secretary of State.

4 THE COURT: 131 through 1 --

5 MR. LANGHOFER: Forty-six.

6 THE COURT: -- 46, okay.

7 MR. LANGHOFER: We then have, for the defense
8 Exhibits, 150 through 178. And I'm sure he will
9 describe those when the time comes. And, finally,
10 183.

11 THE COURT: Is the -- I always call them the
12 defendant, but it's probably more like the respondent.
13 Is the respondent in agreement with those?

14 MR. BENDOR: Yes, your Honor, that's correct.

15 THE COURT: All right. Very good. Anything
16 else?

17 MR. LANGHOFER: We additionally have some
18 factual stipulations that were, for the most part, in
19 the pretrial -- Joint Pretrial Statement.

20 THE COURT: All right.

21 MR. LANGHOFER: And we had a couple last night
22 that we also, I think when I get before your Honor --
23 Josh, did you want to speak to those, or did you want
24 me to take a crack at it?

25 MR. BENDOR: Sure. There's one I have in

1 mind. And if I'm missing one -- Michael McCool is one
2 of the circulators who is challenged. And based on
3 evidence exchanged most recently, the plaintiffs have
4 agreed to withdraw their objection to him solely on
5 their 4(a) objection.

6 THE COURT: Okay.

7 MR. LANGHOFER: And just so you have all of
8 them, your Honor, I think we have six withdrawals
9 total. It's Michael McCool on 4(a), Lindsey Kaiser on
10 4(a) -- I'm pretty sure that's in the Joint Pretrial
11 Statement -- Daniel Scott on 3(a), Michael Trusk,
12 T-r-u-s-k, on 3(a), Whitney Manas on 4(a), and Monica
13 Mercer on 4(b).

14 And we, of course, are tracking those. And if
15 there's -- if it's necessary to do calculations after
16 the trial we will, of course, get those to you.

17 THE COURT: All right. Very good. What else?

18 MR. BENDOR: The one other thing is that, in
19 the Joint Pretrial Statement, the parties stated they
20 were invoking the Rule. But after consultation, the
21 parties have agreed not to invoke the rule.

22 THE COURT: All right. Very good. So we will
23 note that witnesses may stay in the courtroom during
24 the course of this proceeding. You don't need to step
25 out prior to your testimony. And anyone who is

1 testifying online can be online throughout the course
2 of this proceeding, even if you are testifying.

3 MR. LANGHOFER: With that, your Honor, I think
4 we are ready to begin witnesses. I am willing to
5 waive openings. I think we have so few witnesses, it
6 may not be necessary.

7 And we've spent a lot of time going through
8 exhibits and reaching stipulations to whittle us down
9 to one Plaintiff witness and perhaps 5 or 6 on the
10 defense. And so this is, happily, I think a very
11 self-contained case here.

12 THE COURT: All right. Very good.

13 MR. LANGHOFER: So with your permission, we
14 will call Zack Alcyone as our first witness.

15 THE COURT: Well, let me just make sure the
16 respondent is in the agreement.

17 Are you agreeing to waive openings and proceed
18 directly to the evidence presentation.

19 MR. BENDOR: I think it would be useful to
20 have some legal argument. I don't have a preference
21 for whether it is at opening or closing.

22 THE COURT: Okay.

23 MR. BENDOR: I don't think it needs to be
24 both.

25 THE COURT: Okay. Why don't we save it for

1 closing. And that way it will be in the context of
2 all the evidence.

3 All right. With that, Mr. Langhofer.

4 MR. LANGHOFER: Thank you, your Honor. We
5 call Zack Alcyone as the Plaintiff witness.

6 THE COURT: All right.

7 MR. LANGHOFER: And he should be connected
8 already online.

9 THE COURT: All right. Very good. Alcyone?

10 MR. LANGHOFER: The E is silent, Alcyone.

11 THE COURT: Alcyone, all right.

12 Mr. Alcyone, I'm going to have you sworn in.
13 If you would stand and raise your right hand, I am
14 going to have the clerk come up here so you can see
15 her. And she will swear you in. Hold on.

16 THE CLERK: Mr. Alcyone, can you see me okay?

17 MR. ALCYONE: Actually, the video seems to be
18 frozen on my end, so I can't really see anybody.

19 THE CLERK: Can you hear me okay?

20 MR. ALCYONE: I can hear you fine.

21 THE CLERK: Great. Can you please raise your
22 right hand and state and spell your name for the
23 record.

24 MR. ALCYONE: My first name is Zack, Z-a-c-k.
25 Last name is Alcyone, A-l-c-y-o-n-e.

1 THE CLERK: Thank you.

2 THE COURT: All right. Thank you. You may be
3 seated, Mr. Alcyone. Has the video corrected itself
4 yet, Mr. Alcyone?

5 MR. ALCYONE: Unfortunately not, your Honor.

6 THE COURT: Still frozen, huh. Okay.

7 MR. ALCYONE: Yes.

8 THE COURT: Is he going to need to be seeing
9 exhibits and having some type of visual connection in
10 order to proceed with testimony?

11 MR. LANGHOFER: We have already sent him the
12 exhibits we will be asking about and that the defense
13 plans to ask him about, so I think he has what he
14 needs.

15 THE COURT: Okay. So we can see you,
16 Mr. Alcyone. I'm sorry that your video connection is
17 not functioning properly at this time. Sometimes it
18 just clears up on its own. Sometimes we can do some,
19 what I like to call IT magic and make things happen.

20 But if you're okay, in order to save time, we
21 can proceed without you needing to see us at this
22 point if you're comfortable with that. Would that be
23 okay with you, Mr. Alcyone?

24 MR. ALCYONE: That is fine with me, your
25 Honor.

1 THE COURT: All right. Very good. Counsel
2 says you have all the exhibits with you and can
3 proceed. So if you have those ready to go, I'm going
4 to turn it over to the plaintiff's counsel -- or the
5 petitioner's counsel.

6 Mr. Langhofer, you may proceed.

7 MR. LANGHOFER: Thank you, your Honor.

8

9

ZACK ALCYONE,
10 called as a witness herein, having been first duly
11 sworn, was examined and testified as follows:

12

13

DIRECT EXAMINATION

14 BY MR. LANGHOFER:

15 Q. Mr. Alcyone, good morning. And thank you for
16 making time for this. Will you please take a moment
17 and introduce yourself to the Court and give your
18 educational background?

19 A. Sure. I got my bachelors degree at the
20 University of Southern California. And after that, I
21 got my JD from Yale Law School. And ever since then,
22 I've been in technology businesses, ran several
23 companies. And currently, I am cofounder of
24 Signafied, which is petition signature validation.

25 MR. LANGHOFER: Your Honor, I don't think this

1 is relevant, but I don't want to be seen as hiding the
2 ball. I'm also a co-owner of Signafied. And I don't
3 want you to be surprised by that later on.

4 THE COURT: All right. Thank you.

5 Q. BY MR. LANGHOFER: Mr. Alcyone, can you
6 describe for us the business of Signafied?

7 A. Sure. Signafied validates signatures on
8 petitions, ballot measures, candidate petitions, et
9 cetera. And our system is an automated way of
10 speeding up the process of validation. So the system
11 itself has several machines arrange their automated
12 functionalities. But the main point is it helps human
13 reviewers review petitions with much more efficiency
14 and accuracy.

15 Q. Does Signafied work for just "no" side
16 campaigns?

17 A. No. We work for both "yes" and "no" side of
18 the campaign.

19 Q. Are the --

20 A. No.

21 Q. Excuse me for talking over you. Are the
22 reviewers at Signafied compensated for finding defects
23 in petitions?

24 A. They are compensated for being accurate in
25 whatever information they put into the system. So

1 it's not about finding defects. It's about making
2 sure that whatever they put in is completely accurate.

3 Q. Did Signafied conduct a partial review of the
4 petitions for the Voters Right to Know Initiative in
5 this case?

6 A. Yes, we did.

7 Q. Do you know what the Voters Right to Know
8 Initiative is, personally?

9 A. I mean, apart from that it's a job for
10 Signafied, I don't know anything else about it. I
11 know the details of the sheets and rows and such, but
12 I don't know what it's about.

13 Q. Have you read the Initiative?

14 A. No, I have not.

15 Q. All right. Now, Mr. Alcyone, can you describe
16 for us the scope of the review that Signafied
17 conducted on the petition sheets in this case?

18 A. Sure. If I remember correctly, it's -- we
19 reviewed the circulator names to see which circulators
20 submitted which sheets. And then I think we also
21 looked at the rows for each sheet to see which of them
22 were blank and which of them had signatures on them.
23 And, also, we looked at the dates of the voter's
24 signatures for each of the rows in this petition.

25 Q. Let's -- I'd like to walk through those one by

1 one. Let's start with just the number of signatures
2 on every page.

3 Do you use artificial intelligence or
4 humans for that task?

5 A. We use both. So the initial -- in order to
6 make it easier and more accurate, the system initially
7 identifies what it believes to be blank or non-blank
8 rows. And then it provides that analysis to
9 reviewers. And then human reviewers go through and,
10 you know, ensure that the system has made accurate
11 determinations and correct it wherever it has not.

12 Q. Is every row checked by a human?

13 A. Every single row is checked by a human, yes.

14 Q. What's the system that you use for identifying
15 circulator names?

16 A. For circulator names, there is no automated
17 process for by which we identify circulator names. So
18 the circulator names are imported from the Secretary
19 of State's website. And then human reviewers go
20 through on each sheet and compare the names, and then
21 the system suggests which names are from the
22 circulator database. And the human reviewers choose
23 the appropriate name to match the sheet.

24 Q. Do you have a quality control process to find
25 errors in circulator name data entry?

1 A. Yes. We have a pretty significant quality
2 control for that. So after each reviewer chooses it's
3 circulator name, then it's then double-checked by
4 somebody else, another reviewer. And after that
5 process is done, it -- which that process eliminates
6 quite a few issues.

7 And then there's also a -- another level of
8 review where we ensure that if you have, for instance,
9 circulators who haven't written their names correctly,
10 that they are not marked as separate circulators. So
11 there's a significant amount of quality control by
12 different levels of personnel to ensure that they are
13 making accurate determinations.

14 Q. In that process, if there's an illegible
15 circulator name, is there other information on the
16 sheets that you can reference to determine the
17 identity of the circulator?

18 A. Yes. So the -- there is -- there is the
19 circulator's registration number with the Secretary of
20 State which we can use, as long as that registration
21 is valid for the petition in question.

22 Q. Now let's talk, finally, about circulator --
23 or excuse me -- signature dates. Is that process
24 automated or run by humans?

25 A. That process is completed completely run by

1 humans. So every date on every ballot signature line
2 is entered by a person into the system.

3 Q. Do your reviewers receive training on how this
4 process works and how the data entry should be done?

5 A. Yes, they do. They, since -- since the dates
6 are -- well, a lot of this information pretty much is
7 very important. But the dates specifically are very
8 crucial. So they receive a significant amount of
9 training to make sure that they are doing it
10 correctly.

11 Q. And these tasks you've just described, how are
12 they different if you are doing a project on the "yes"
13 side versus the "no" side?

14 A. They aren't.

15 Q. Have you used this process in other measures
16 in Arizona?

17 A. Yes. Both on the "yes" side and on the "no"
18 side.

19 Q. And have you used it in other states?

20 A. Yes, in several other states, as well.

21 Q. "Yes" side or "no" side?

22 A. Both.

23 MR. LANGHOFER: Mr. Alcyone, you have in front
24 of you -- or in your inbox, at least -- a copy of
25 what's been marked for identification as Exhibit 147.

1 And I'd like to talk to you about this exhibit a bit.
2 The -- your Honor, for your orientation, this is
3 similar to, but a little bit different than Exhibit A
4 to the First Amended Complaint. The last four columns
5 have changed, but we will get to that in a moment.

6 THE COURT: All right. And what number was it
7 again?

8 MR. LANGHOFER: 147.

9 THE COURT: 147, all right. Thank you.

10 And is Mr. Langhofer, is he showing up on any
11 of the videos for folks who are observing online?

12 JUDICIAL ASSISTANT: Not from the lectern,
13 Judge. Only if we turn the iPad on that.

14 THE COURT: Well, I don't want it to get in
15 back of him. It always stays at the desk; is that
16 right?

17 JUDICIAL ASSISTANT: No. I can move it to the
18 front, to the lectern.

19 THE COURT: Okay. Why don't we do that just
20 for the sake of the people who are observing online.

21 THE JUDICIAL ASSISTANT: And will you be
22 displaying the exhibits on the screen?

23 MR. LANGHOFER: I think that would be helpful.
24 Should I pause, your Honor?

25 THE COURT: How long do you need, Joel.

1 JUDICIAL ASSISTANT: Not very long, Judge.

2 THE COURT: All right. Give us just a moment,
3 Mr. Langhofer.

4 JUDICIAL ASSISTANT: There we go.

5 MR. LANGHOFER: All right. And we are back.

6 THE COURT: Perfect. Thank you. You may
7 proceed.

8 Q. BY MR. LANGHOFER: Mr. Alcyone, do you have
9 Exhibit 147 in front of you?

10 A. I do.

11 Q. And do you recognize this document?

12 A. Yes.

13 Q. Let's start with the first one, two, three,
14 four, five, six, seven columns. Where do the data in
15 those columns come from? This is ID number through
16 date unregistered.

17 A. All of that information came from spreadsheets
18 that were provided by the Secretary of State.

19 Q. And have you verified that personally?

20 A. Yes, I have.

21 Q. Have you worked with those spreadsheets on
22 matters before this one?

23 A. With this -- I'm sorry. Which spreadsheets
24 are you referring to?

25 Q. The ones from the Secretary of State.

1 A. Yes. So the -- the Secretary of State's List
2 of Registered Circulators, I have worked with that
3 extensively pretty much on every measure we've done in
4 Arizona.

5 The -- this spreadsheet -- this Exhibit 147
6 that we are looking at also incorporates two other
7 spreadsheets, which are for -- that provide the upload
8 and approval dates of the affidavits. And that's
9 something that I have only used in this -- this
10 go-around.

11 MR. LANGHOFER: Your Honor, for your
12 reference, the underlying materials are already
13 stipulated into evidence.

14 THE COURT: All right. Very good.

15 Q. BY MR. LANGHOFER: Mr. Alcyone, I'd like to
16 turn to the last four columns on this spreadsheet
17 where it gives signature counts for the circulators.

18 And could you explain to the Court the
19 fourth from the last column, since that's the
20 simplest. What is that calculation reflecting?

21 A. Okay. So that is a -- it might be easier to
22 look at, you know, an example. But if you go to
23 page 2, for instance, under Allen Rodman at the bottom
24 there, where it says 455, that is the count of the
25 number of signatures that are not blank rows that were

1 submitted by this circulator.

2 But that number also incorporates the
3 spreadsheet -- so additional spreadsheets that were
4 provided by the Secretary of State which indicated
5 sheets and rows which were invalidated by the
6 Secretary of State.

7 The invalidations could be for either being
8 blank rows or crossed out or they were rejected for
9 some other reason. And so those would not be in that
10 number. So that's the number -- that 455 would be
11 signature rows that were not invalidated by the
12 Secretary of State and were non-blank.

13 Q. So does that 455 number, that number in the
14 fourth from the left -- fourth from the right column,
15 does that combine Signafied data with the Secretary of
16 State's invalidation data?

17 A. The -- correct. So that's the -- the
18 information that is in there is the Signafied count of
19 the rows that were non-blank and also the non-blank or
20 non-crossed out and non-rejected rows that were
21 counted as valid from the Secretary of State.

22 Q. Okay. Now the third from the right column has
23 a different caption; Signature Before Registration
24 Date.

25 What does that reflect?

1 A. So that is the -- I'm sorry -- the date of the
2 registration that was provided from the Secretary of
3 State's main spreadsheet, if you will, which should be
4 the column that's marked "Date Registered." And
5 the -- that's the number of signatures that were --
6 that were -- the vote -- the voter put the date down
7 as being before the date that was registered,
8 according to the Secretary of State.

9 Q. The next column, can you explain that?

10 A. That's referring again to the same date, the
11 date registered column. And that includes all the
12 voter signatures that were dated on or after the date
13 of registration as recorded by the Secretary of State.

14 Q. And the final column?

15 A. The final column is based on the date that you
16 will find in the column that's after "Date Registered"
17 marked "Date Unregistered". And so those are if there
18 are any signatures where the voter marked a date that
19 fell after the -- the date unregistered that you will
20 find a count there.

21 MR. LANGHOFER: Thank you, your Honor. That's
22 all the questions we have for this witness.

23 THE COURT: All right. Thank you.

24 MR. LANGHOFER: I should though move into
25 evidence as a summary exhibit, Exhibit 147.

1 MR. BENDOR: We would object, your Honor.

2 THE COURT: Okay.

3 MR. BENDOR: And I would -- on the basis of
4 foundation, I would like the opportunity to voir dire
5 the witness.

6 THE COURT: All right. You may.

7

8 VOIR DIRE EXAMINATION

9 BY MR. BENDOR:

10 Q. Mr. Alcyone, I would like to ask you some
11 questions about what's been marked for identification
12 as Exhibit 147, the spreadsheet that Mr. Langhofer was
13 just asking you about.

14 A. Sure.

15 Q. And I want to focus on the last four columns,
16 okay?

17 A. Uh-huh.

18 Q. All four of those columns reflect Signafied
19 data, at least in part, correct?

20 A. In part, yes.

21 Q. And you did not personally enter that data
22 yourself, correct?

23 A. No, I did not.

24 Q. And you do not personally validate that data
25 yourself, correct?

1 A. What do you mean by validate?

2 Q. Well, did you do -- personally, yourself do
3 anything to confirm that the data in those last four
4 columns is accurate?

5 A. Well, if you're -- the only thing -- in terms
6 of the data that's coming from Signafied, the -- what
7 we are talking about is that the -- the information
8 there is -- so we have the voter date and we have
9 blank rows and such. I am in charge of the system
10 that ensures that that information is reported
11 correctly. So from that sense, I did do that. But I
12 didn't enter the information myself, if that's what
13 you mean.

14 Q. And the data is based on the review of humans
15 employed or contracted by Signafied, correct?

16 A. Correct.

17 Q. And who are those people?

18 A. We -- they are reviewers that we hire for this
19 purpose.

20 Q. Do you know their names?

21 A. There are several hundred of them. So we know
22 the people who -- who manage them, and we have good
23 long-term relationships with them. So we do know the
24 people who manage them, but don't know the individuals
25 by name.

1 Q. And you do not personally manage them,
2 correct?

3 A. I was involved in talking to them and that
4 kind of thing. But I did not personally manage them,
5 no.

6 Q. And are any of those people available to
7 testify today?

8 A. No, I don't think so.

9 MR. BENDOR: All right. That's all I have on
10 this exhibit.

11 THE COURT: All right. Mr. Langhofer, did you
12 want to ask any questions in response to the voir dire
13 that just occurred?

14 MR. LANGHOFER: I don't believe so, your
15 Honor. I will give you a legal citation.

16 THE COURT: Okay.

17 MR. LANGHOFER: Rule 1006 is the rule on
18 summation evidence or summary evidence. And there's a
19 case, *Rayner v. Stauffer Chemical Company*. It's an
20 appellate case here from 1978.

21 And it says, the witness may summarize -- this
22 is a quote: The witness may summarize the information
23 contained in voluminous reports or records -- 36,000
24 pages here that are already in the record -- as long
25 as the information contained in the documents would be

1 admissible and the documents are made available to the
2 opposing party for their inspection.

3 THE COURT: Okay. Mr. Bendor.

4 MR. BENDOR: Your Honor, the problem is not
5 the first set of columns on the spreadsheet, which are
6 based on the Secretary's. It's the last four columns
7 which are based on the review of people who are not
8 present to testify. And it's clear the witness has no
9 personal knowledge as to the accuracy of the data in
10 those last four columns.

11 We simply don't know if those individuals
12 entered the data correctly, read the names correctly,
13 read the dates correctly. There's no evidence on
14 that, so those last four columns shouldn't come into
15 evidence.

16 THE COURT: All right. Very good. I'm going
17 to overrule the objection. I believe this is an
18 appropriate summary. You were provided with all of
19 the underlying information. You've got a copy of all
20 the petitions and the circulator sheets, correct?

21 MR. BENDOR: We have the Secretary's data,
22 your Honor. We don't have any work product that has
23 led to the calculations of the last four columns other
24 than the Secretary's.

25 THE COURT: But it all came from the

1 Secretary's -- all of that information could be
2 deduced, based upon the testimony that I just heard,
3 from the Secretary's information.

4 Do you disagree with that?

5 MR. BENDOR: Assuming that the Signafied
6 reviewers accurately reviewed the Secretary's
7 information, yes.

8 THE COURT: And you could do your own analysis
9 to determine whether you had any dispute with that,
10 correct?

11 MR. BENDOR: Well, I believe we received a
12 copy of this via Excel less than a week ago today.
13 And as you heard the testimony, there are several
14 hundred reviewers. I don't think it would be a
15 realistic burden on the Committee to retain and set
16 that up that structure in that period of time.

17 THE COURT: Obviously, these are tough cases
18 and short timeframes. I know that as well as everyone
19 else. But I believe it does comport with the
20 requirements of the Rule, so I am going to overrule
21 the objection.

22 All right. So 147 comes in, in total.

23 (Whereupon, Exhibit No. 147 was admitted into
24 evidence.)

25 THE COURT: In terms of the stipulated

1 documents, I don't think I closed the loop on those.
2 I'm willing to admit them all in total based upon your
3 stipulations. But, again, I am not going to consider
4 them as a part of my decision, unless they are
5 discussed in some way today and made -- and it's made
6 known why they are relevant.

7 All right. Are we ready for the next witness?

8 MR. BENDOR: Well, I do want to conduct some
9 cross examination.

10 THE COURT: Very good. Mr. Bendor, you may
11 proceed.

12 MR. BENDOR: Thank you.

13

14 CROSS EXAMINATION

15 BY MR. BENDOR:

16 Q. Good morning, Mr. Alcyone. Your company --

17 A. Good morning.

18 Q. Your company, Signafied is partly in the
19 business of helping clients disqualify opponents from
20 the ballot, correct?

21 A. Correct. As well as partly to qualify them.

22 Q. And one of the things that Signafied reviews
23 for is fraud, correct?

24 A. Correct.

25 Q. And you believe that Signafied's methods for

1 fraud detection are unmatched, I believe is what you
2 say in your documents?

3 A. Yes.

4 Q. You do not identify any fraud in the Voters
5 Right to Know petition sheets, correct?

6 A. I don't think we ran any of the tasks which
7 are fraud detention tasks in this -- in this petition,
8 if I am not mistaken.

9 Q. Okay. Did you identify any fraud?

10 MR. LANGHOFER: We'd stipulate that --

11 THE WITNESS: Not --

12 MR. LANGHOFER: I don't want to get in the way
13 of his answer, your Honor.

14 THE COURT: All right. So why don't you
15 answer the question, Mr. Alcyone.

16 THE WITNESS: So that's not really my area of
17 expertise. That's not what I am involved with. So
18 my -- my job is to ensure that the data is correct and
19 that the information that we are gathering is as
20 accurate as possible. The -- any kind of information
21 about fraud or the conclusions which can be drawn,
22 that's not my domain.

23 THE COURT: Mr. Langhofer, did you want to put
24 something on the record?

25 MR. LANGHOFER: I would stipulate that there's

1 no allegation of fraud in the case. And there's no
2 evidence of fraud that we are holding back either.

3 THE COURT: All right. Thank you.

4 Q. BY MR. BENDOR: On your website, Signafied
5 states that every signature gatherer makes mistakes.
6 Are you aware of that.

7 A. Yes.

8 Q. And would you please take a look at what's
9 been marked for identification as Exhibit 181.

10 A. Yeah.

11 Q. Is that a true and accurate copy of a part of
12 the Signafied website?

13 A. I think so.

14 Q. Any reason to think otherwise?

15 A. No reason to think otherwise. But the only
16 way I can know that it's a true and accurate copy is
17 to see the website that's online, which I know cannot
18 be modified. But this is a PDF, which can be
19 modified.

20 MR. BENDOR: I'll offer Exhibit 181, your
21 Honor.

22 THE COURT: All right. Any objection?

23 MR. LANGHOFER: Relevance, your Honor. We
24 have no objection. That's fine.

25 THE COURT: All right. 181 comes in.

1 (Whereupon, Exhibit No. 181 was admitted into
2 evidence.)

3 Q. BY MR. BENDOR: And if you look at the third
4 page of this exhibit, you see the statement, "Every
5 signature gatherer makes mistakes"?

6 A. Yes.

7 Q. Okay. Do you believe that to be accurate?

8 A. I think so, yes, absolutely. They are human
9 beings. They make mistakes.

10 Q. And your company is in the business of using
11 the fact that every signature gatherer makes mistakes
12 to assist your clients in disqualifying opponents from
13 the ballot when hired to do so, correct?

14 A. That is not an accurate statement because many
15 of our clients -- in fact, in the last cycle, the
16 majority of our clients were on the "yes" side. And
17 so we were trying to help the "yes" side ensure that
18 the signatures that they were submitting were valid
19 signatures. So they were -- in those cases, we were
20 trying to ensure that they would qualify for the
21 ballot. So that would not be accurate to say that our
22 job is to help them disqualify.

23 Q. Understood, but that's why I qualified the
24 statement. So let me ask it again. When hired by a
25 "no" side, your company is in the business of using

1 the fact that every circulator makes mistakes to
2 assist your clients in disqualifying a measure or
3 candidate from the ballot, right?

4 A. Our job at Signafied is to ensure that we
5 provide our clients with the most accurate and
6 reliable data that they can use to do whatever they
7 need to do. So that would be the more accurate way of
8 representing what Signafied does.

9 Q. I'd like to look at a couple things in
10 Exhibit 147, which was just admitted. And the first
11 question is about the second to last column on the
12 right, which refers to "Signature On or After
13 Registration Date."

14 Do you see that?

15 A. Yes.

16 Q. Do you know why you used "on or after
17 registration date"?

18 A. Yes. If you take the third to last column and
19 the second to last column, the combination of those
20 two columns would provide a complete set of the
21 signatures gathered by the circulator. So, for
22 instance, if you were to say "signatures before" and
23 "signatures after," then all the signatures that were
24 gathered on the registration date would be ignored.

25 Q. But why did you choose to put signatures

1 gathered on the registration date in the latter
2 category? It could have been before or on, as opposed
3 to the way did you it, right?

4 A. It could have. It's -- that was not my
5 determination.

6 Q. All right. And I want to look at one example
7 with you. If you would go to page 78 of the document,
8 please.

9 A. Okay.

10 Q. And I want you to look at the circulator named
11 Yusuff Olowoeshin. Which is towards --

12 A. Okay.

13 Q. -- the top.

14 A. Uh-huh.

15 Q. The fourth circulator down, if you can blow
16 that up for me. Now -- and let's blow up actually the
17 four columns on the right for this circulator.

18 All right. So do you see that, for this
19 circulator, it lists 400 signatures on or after the
20 registration date of April 7th, 2022?

21 A. Yes.

22 Q. And then there's --

23 A. 410.

24 Q. Thank you. And then there is also, on the
25 second row for this circulator, the last column, is

1 signatures after the deregistration date.

2 Do you see that?

3 A. Yes.

4 Q. And the deregistration date referred to in
5 that row is the same as the registration date in the
6 row we were just looking at, April 7, 2022, correct?

7 A. Uh-huh.

8 THE COURT: Is that a yes?

9 THE WITNESS: Yes.

10 THE COURT: All right. We just need to have
11 verbal responses with actual words just to have a
12 clear record.

13 Q. BY MR. BENDOR: So why is --

14 A. I'm sorry.

15 THE COURT: No worries. Everyone forgets.
16 I'll remind you.

17 Q. BY MR. BENDOR: Why is there a difference
18 between those two figures we were just looking at, the
19 410 on or after the registration date and the 368
20 after the deregistration date?

21 A. So the -- that is -- actually, in terms of
22 the -- my -- my role in this -- in the creation of
23 this sheet -- so what I did was used the dates that
24 were in those columns and ensure that the data that
25 was in the last four columns was an accurate

1 reflection of what -- the data that is in our system
2 and a compilation of the data that was provided to me
3 by the Secretary.

4 So in terms of the, you know, details of what
5 is in -- you know, why was this represented this way,
6 where there's a registration date and there is a
7 deregistration date, I am not -- that is not something
8 that I'm able to answer.

9 Q. And you're not able to answer whether those
10 two numbers that we were just looking at should match?

11 A. So -- oh, I see what you are saying. So you
12 are saying, why did the numbers on the date
13 registered -- signatures on or after registration
14 date, and why is the -- I would have to -- oops.
15 That's a -- you know, that is something I am sure I
16 could answer. It would require more time than a few
17 seconds.

18 MR. BENDOR: All right. I don't have any
19 further questions for this witness, your Honor.

20 THE COURT: All right. Thank you. Any
21 redirect?

22 MR. LANGHOFER: Yes, your Honor, briefly.

23

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REDIRECT EXAMINATION

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BY MR. LANGHOFER:

Q. Mr. Alcyone, the dates that we are talking about here are both April 7th, 2022, correct, the deregistration date and the reregistration date for Yusuff -- Mr. O, we will call him.

A. Yes. Oh, yes, I -- I can see, yes.

Q. Okay.

A. I think I know where you are going with this but, yes.

Q. So in the second to top column for Mr. O -- sorry -- second to top line, but the far right column, it looks like 368 signatures were after the 7th, right?

A. After correct, yes.

Q. And then three rows down, there's 410. Why is that not 368?

A. It's on or after. I failed to notice that earlier. I'm sorry.

Q. So the difference between 410 and 368 is presumably the number of signatures he gathered on 4/7/2022?

A. That would be a reasonable assumption, yes.

Q. Let's talk about this fraud stuff. If you are working on the "yes" side and you find fraud, would

1 that help your client?

2 A. Yes.

3 Q. Why?

4 A. So from my understanding of it, this -- you
5 know, the signature gathering or the signature
6 gathering firms, they have personnel issues where the
7 signature gatherers try to defraud their employer.
8 And often, the -- so they are paid often by the number
9 of signatures they gather.

10 So our clients who are the signature
11 gatherers, the companies, they want to make sure that
12 they are paying for valid signatures and not
13 fraudulently-gathered signatures.

14 MR. BENDOR: Your Honor, I will move to strike
15 that testimony for lack of foundation and relevance.

16 THE COURT: Tell me about lack of foundation.

17 MR. BENDOR: He hasn't laid any foundation for
18 how he knows about how circulator companies work.

19 THE COURT: I'm going to overrule that
20 objection, given his role with the company Signafied.
21 I'm not sure exactly how it's relevant, but I will
22 give you a little bit of leeway. Since it was -- the
23 door was opened as to fraud by the Real Party in
24 Interest, I will give you a little bit of leeway and
25 then you can move on.

1 MR. LANGHOFER: Thank you, your Honor. I
2 think we are done here. And I will also just say for
3 the record there's no allegation that, in this case,
4 that they were paying per signature. I think he's
5 talking generally. And with that, the plaintiffs
6 rest.

7 THE COURT: All right. Very good.

8 All right. Thank you, Mr. Alcyone. You may
9 be excused from the proceedings at this time.

10 THE WITNESS: Thank you, your Honor.

11 THE COURT: Have a good day now.

12 All right. And that's it for the plaintiff's
13 witnesses; is that correct?

14 MR. LANGHOFER: That's correct, your Honor.
15 We had -- we had, you know, initially, an extensive
16 list. But because of the factual stipulations we've
17 reached, I think that's all the evidence we need to
18 present today.

19 THE COURT: All right. Very good.

20 For the respondent.

21 MR. BENDOR: Your Honor, the Real Party in
22 Interest calls Terry Goddard.

23 THE COURT: All right. Very good.

24 Mr. Goddard, if you would come on up to the witness
25 stand.

1 MR. BENDOR: Your Honor, may I ask, as
2 Mr. Goddard approaches just to --

3 THE COURT: Come over to the side there,
4 Mr. Goddard.

5 MR. BENDOR: Just to make the testimony more
6 efficient, we submitted a declaration for Mr. Goddard;
7 and there were documents with that. And I can go
8 through those documents with him. But if your Honor
9 has had a chance to review the documents that were
10 attached, then I might not go through all of the
11 documents.

12 THE COURT: I haven't. But if you tell me
13 where they are in the declaration, we can probably
14 shorten it up quite a bit.

15 All right. Very good. If you would remain
16 standing, Mr. Goddard, I will have you sworn in.

17 Elizabeth.

18 THE CLERK: Can you please raise your right
19 hand and stay and spell your name for the record,
20 please.

21 MR. GODDARD: My name is Terry Goddard.
22 T-e-r-r-y, G-o-d-d-a-r-d.

23 THE CLERK: Thank you.

24 THE COURT: Thank you. You may be seated.

25 MR. GODDARD: Thank you, your Honor.

1 THE COURT: Mr. Bendor, you may provide.

2

3

TERRY GODDARD,

4 called as a witness herein, having been first duly

5 sworn, was examined and testified as follows:

6

7

DIRECT EXAMINATION

8

BY MR. BENDOR:

9

Q. Good morning, Mr. Goddard.

10

A. Good morning.

11

Q. What is your profession?

12

A. I'm a lawyer.

13

Q. And what is the address of your law office?

14

A. 502 West Roosevelt, Phoenix, Arizona.

15

Q. Do you have experience with petition efforts

16

before your work on dark money issues?

17

A. Yes, I have. I -- actually, my first

18

experience in politics was with a petition drive in

19

1980. We did a referendum on a gas tax passed by the

20

Legislature and gathered over 50,000 signatures,

21

qualified for the ballot.

22

Ultimately, it was not voted on because the

23

Legislature reconsidered their folly, I would say, and

24

changed the statute -- reenacted it. And, therefore,

25

the referendum didn't go forward.

1 After that, two years later, in 1982, I was
2 part of an effort to change the charter of the city of
3 Phoenix to move from an all at large council to a
4 district council. We got on the ballot and were
5 successful in that effort.

6 So I -- I've -- well, I believe in the -- the
7 initiative process, and I guess I've been a
8 practitioner of it for white a while.

9 Q. Have you worked on petition efforts related to
10 dark money issues before this initiative?

11 A. Well, sadly, yes. I think it's a total of
12 four now with the one that is before the Court today.
13 In 19 -- in 2016, there was a proposition that -- I
14 refer to our miss -- miscarriages, I guess you would
15 say, as the four Cs.

16 The first one was the lack of cash. We had to
17 withdraw because the major funder -- it was a late --
18 late filing and the funder withdrew, and we weren't
19 able to continue.

20 In 1918 -- 2018, excuse me, that was the Court
21 issue, the second C. And it was -- it was determined
22 that we were just below the line in terms of the
23 number of signatures necessary to qualify for the
24 ballot.

25 And in 2020, it was COVID. It was the last C.

1 We were on track, doing very well with -- in March of
2 2020, with three months to go to gather signatures.
3 COVID hit in the middle of the month, as everybody
4 would recall. And we had first to suspend and then,
5 ultimately, to stop our effort because the law
6 requires that signatures be person to person.

7 And we felt that that was irresponsible to our
8 volunteers and to the general public. So we -- I
9 still have in storage 300,000 signatures from the 2020
10 petition, but we were never able to file them.

11 Q. What are the steps that go into enacting an
12 initiative?

13 A. Well, it's -- I think it's far more
14 complicated than many people would consider. It's --
15 it's a -- it's a big deal. And I have to admit, in my
16 first couple of efforts, I underestimated. I started
17 too late, for example. So the volunteers never
18 could get mobilized.

19 And to get, in the case of a legislative
20 initiative, 237,000 signatures is -- is massive in
21 terms of money, in terms of people. So you need to
22 mobilize. You're asking for the steps in terms of
23 getting an initiative to the ballot.

24 Q. Yeah, the steps of work that you have to go
25 through.

1 A. Okay. Well, I would say the first one is
2 legal. You have to draft sometimes a very difficult
3 statute, either constitutional amendment or a
4 legislation. So that takes -- I've got in my file, I
5 think -- I went through all through the alphabet in
6 terms of drafts with a team of lawyers before we got
7 one that we were finally ready to put forward.

8 Organization has to be done. And so there's
9 some early work that has to be done to get your
10 committee together and to get the initial fundraising
11 started. You have to -- bank accounts, obviously.
12 Offices have to be established.

13 And all of this is before the -- the critical
14 step of applying for a serial number so that you can
15 actually have a petition ready to go. That has to be
16 done twice in Arizona. First, you file. And then you
17 go to ledge counsel. They have 30 days to review what
18 you have written. Then you can change and modify.
19 And then after that, you go for the real effort, and
20 then you get a serial number.

21 And then the petition drive starts, and that
22 usually is in two tracks. You have a volunteer effort
23 which, for us, was very significant; over a thousand
24 people were carrying our petitions in this last
25 go-round. And then usually -- and I would say almost

1 everyone has a paid portion, where you have a
2 contractor who hires people to -- to actually go out
3 and get signatures, as well.

4 That is a rush to the day of filing. We
5 started on May the 4th of 2021, ended up on May the --
6 excuse me, July the 7th of this year. So almost a
7 year and a half of -- of hard work and diligent
8 efforts.

9 Then the petition drive is over on the 7th,
10 the day you turn it in. And then the validation
11 process starts with the Secretary of State. That's in
12 process right now for the current one. If that is
13 successful and if you survive legal challenges, then
14 there's a campaign.

15 And the committee that has started way back
16 when, two years before, hopefully works through the
17 campaign. And, ultimately, in November, there's a
18 vote. So those are the -- those are the big picture
19 pieces that go into having an initiative.

20 MR. BENDOR: Let me just pause for a moment.
21 I don't see Mr. Goddard on my screen. Obviously, I
22 can see him. But for the public, I don't know if he's
23 visible.

24 THE WITNESS: Is there a public?

25 THE COURT: All right. Do we have the ability

1 to get a camera in front of the witness.

2 JUDICIAL ASSISTANT: We can, Judge. I would
3 just have to move your camera, sir.

4 MR. BENDOR: That's fine.

5 THE COURT: All right. Let's go ahead and do
6 that.

7 MR. BENDOR: You wanted it for the other
8 witness or --

9 THE COURT: I appreciate it. It was actually
10 for the other counsel, since the witness was already
11 since he was appearing remotely. But I think that
12 makes sense. I appreciate the thought.

13 We do have folks who are available from the
14 public who can log in virtually to observe the
15 proceedings, so we've got cameras around the courtroom
16 so we can capture that.

17 THE WITNESS: Thank you, your Honor.

18 THE COURT: All right. You're welcome.

19 THE WITNESS: Looks like a Zoom call.

20 MR. BENDOR: And I'm sorry for interrupting
21 the flow.

22 Q. In your experience, are different locations
23 often used for various aspects of the work on an
24 initiative campaign?

25 A. Oh, almost invariably from my experience. And

1 for very good reason. You have got a, necessarily, an
2 administrative center where you have the financial
3 records. Ultimately, you have secure storage for your
4 petitions.

5 And you basically have the committees
6 headquarters in a location that is, frankly, very,
7 very secure. You have a volunteer headquarters. And
8 I, in the past, have tried to do both together. And I
9 have learned that that's -- that's a recipe for
10 disaster because the volunteer effort necessarily
11 grows if you've got a successful effort.

12 And as I mentioned, we had, in this particular
13 Stop Dark Money effort, over a thousand people were
14 carrying our petitions. That's a lot going around the
15 state of Arizona. And so we -- I feel it's critical
16 to have a place for the volunteers where they can
17 work, where they can pick up and drop off petitions,
18 where they can have them notarized, which is another
19 important part of this process.

20 And then the paid circulators, the contractor
21 necessarily -- and they insist on this -- are
22 completely separate from everything else. They run
23 their own shop. In this case, our experience was they
24 had two separate offices because they have one for
25 validating signatures. And the other one is for

1 managing the people who were in the field. So I would
2 say a minimum of three locations is important and
3 necessary.

4 Q. And I should ask, what is your role in the
5 Voters Right to Know Campaign?

6 A. Well, this last go-round, the one we are
7 currently before the Court, I guess I was the chief
8 cook and bottle washer.

9 I mean, I was the volunteer -- I should
10 emphasize that -- who basically helped to get the
11 legal work together at the beginning and was --
12 participated in it; who did most of the contracting,
13 if not all of the contracting. I set up the financial
14 reports with the Secretary of State and did the
15 fundraising and collected the checks, such as we could
16 find; set up the PayPal account.

17 And I guess there are probably a lot of other
18 things I am leaving out. But I've been involved day
19 to day in this campaign from way before the filing of
20 the serial number application.

21 And I'm the landlord. I own both properties
22 that the campaign has used vigorously for its -- for
23 its headquarters for the location of the committee.

24 Q. Is there a paid campaign manager for the
25 campaign?

1 A. In two of the previous efforts that I
2 described, yes. But in this one, no. I basically try
3 to fill that role.

4 Q. I'd like to show you some pictures. Let's
5 please put up what's been marked and admitted as
6 Exhibit 152.

7 Mr. Goddard, can you please tell us what these
8 two buildings are?

9 A. These are -- on the right, 502 West Roosevelt,
10 which is my law office. And on the left is 514 West
11 Roosevelt, which is the volunteer headquarters for
12 this campaign and has, over the years, had other --
13 other tenants.

14 Q. And what's the sign pictured on -- at the
15 front of your law office, 502?

16 A. That says "Stop Dark Money." That was the
17 logo of the petition drive.

18 Q. Okay. Let's go to the next page of the same
19 exhibit, please.

20 And what do we see in this picture here,
21 Mr. Goddard?

22 A. Well, these are the two buildings. Again, you
23 will note that there's a common driveway, a common
24 parking lot. The buildings are very close together.
25 And there's no -- there's nobody in between.

1 And I probably should give you a little
2 history. This property before I purchased it many
3 years ago was the original location of Terros, the
4 drug treatment center in Phoenix. Just before I owned
5 it, it was something called Okay Community.

6 Okay Community was an effort to counsel teens
7 that were either in trouble with the law or were on
8 the verge of it. And so it was a training and
9 residential component. So the residents were on the
10 left at 514, and the training was on the right at 502.

11 And they -- they designed it as a compound.
12 The two buildings are surrounded by a wall. It's not
13 a normal set of neighborhood buildings. It was
14 designed and is still being operated as a unity.

15 MR. BENDOR: Let's go to the next page of the
16 same exhibit, please.

17 THE COURT: I'm sorry. What exhibit number is
18 this?

19 MR. BENDOR: This is 152.

20 THE COURT: 152, thank you.

21 Q. BY MR. BENDOR: And go to the next picture,
22 please.

23 All right. And Mr. Goddard, tell us what
24 we are seeing here?

25 A. Well, this is -- basically, 514 is on your

1 left. You see the steps up to the front. If you look
2 carefully on the right, you see the steps, the
3 mirrored steps going up to 502 and the short distance
4 between the two buildings.

5 Q. How long does it take you to walk from 502 to
6 514?

7 A. It's 30 steps, takes about 20 seconds.

8 Q. And how does the security system --

9 A. And I don't walk all that fast.

10 Q. Is there a relationship in the security
11 cameras between the two buildings?

12 A. Yes, there is. We provide security for both
13 properties. From 502, you can just actually see it.
14 There's, at the peak of the roof, there's a security
15 camera that focuses down on 514.

16 Q. And is there -- if you ring the doorbell at
17 514, what happens?

18 A. It rings at 502.

19 Q. Let's go to Exhibit 153, please, which has
20 been admitted on stipulation.

21 And can you tell us what we are looking at
22 here Mr. Goddard?

23 A. This is an aerial of the same properties, 514
24 on the left, 502 on the right.

25 Q. And --

1 A. And you can sort of see how it -- it's
2 combined as a, I would call it a complex. Very small,
3 but that's -- that's what it is.

4 Q. And you begin to -- you began to testify about
5 this, but can you tell us how each of these two
6 buildings were involved in the Voters Right to Know
7 Campaign?

8 A. Well, we started from the very beginning. And
9 this -- actually, you asked me about previous
10 campaign. So the Outlaw Dirt Money Campaign, which
11 was the predecessor to Voters Right to Know with very
12 similar language in terms of proposition, basically
13 was housed at 502.

14 When the early work that I described was being
15 done on Voters Right to Know, it was -- it was
16 headquartered at 502. Pretty much virtual because all
17 the lawyers communicated by Zoom. But it was -- the
18 central documents were at 502 and still are.

19 514 started a little later in terms of its
20 involvement with the committee; largely, because there
21 was a different tenant there. When they moved out,
22 the idea that we could use it as a volunteer center
23 emerged. And by the time we filed the application for
24 serial number, 514 was being -- was about to be
25 used -- was ready to be used as a volunteer center for

1 our campaign.

2 Q. And which was the management and
3 administrative headquarters?

4 A. That would be 502. That was -- that was
5 maintained from before the petition drive got
6 certified, and it maintains today now that the
7 petition drive is over.

8 Q. Where did you keep financial records?

9 A. Financial records are all at 502.

10 Q. And where were contributions processed?

11 A. Contributions processed at 502.

12 Q. Where were the final notarized petitions kept
13 for safekeeping?

14 A. For safekeeping, in the area we had the best
15 security, at 502.

16 Q. And was there any time period during the
17 campaign when 502 was not used by the campaign?

18 A. No.

19 Q. On what documents did the committee use 502
20 West Roosevelt as the address for the committee?

21 A. Let's see. The original statement of
22 organization used 502. The bank account is 502. The
23 original -- the first financial report is 502. The
24 Federal Employee Registration is 502. I'm sure there
25 are others. You probably have them on the list. But

1 it's a -- it's all the administrative financial
2 organizational activities for the campaign.

3 MR. BENDOR: And your Honor, those documents
4 are Exhibits 155 to 167, which have been admitted.
5 Similar copies are also attached by stipulation.

6 THE COURT: All right. Thank you.

7 Q. BY MR. BENDOR: Did you host any events at 502
8 West Roosevelt for the Committee?

9 A. Well, yeah. There were two events I can think
10 of that were -- that involved both properties. They
11 were telethons. It was a -- modeled loosely on the
12 Jerry Lewis Telethon idea that -- we had a 24-hour
13 marathon. And people came in and spoke about the
14 initiative, enjoyed a lot of coffee, and went around
15 the clock.

16 They did it from the porch at 502. But the
17 center was actually the parking lot between the two
18 buildings where we had entertainment. And people came
19 in, dropped off their petitions, picked up new ones,
20 get them notarized. We tried to make it sort of a
21 festival activity, and it did involve both buildings.

22 Q. What address did you initially list on the
23 Committee's website and Facebook page?

24 A. Committee's website and Facebook page, I'm
25 pretty sure it was 514. Because when those were set

1 up, we were thinking about the public face of the
2 petition drive. And that -- that was where we very
3 much wanted to make a distinction between the
4 administrative head and the volunteer head of the
5 campaign activities.

6 And 514 was always the campaign head. So we
7 didn't direct people through the website to the law
8 office, to 502, to the administrative headquarters.

9 Q. At some point, did you change the address that
10 was listed on the website and the Facebook page?

11 A. Yes, we did.

12 Q. And why did you --

13 A. Yes, we did.

14 Q. -- do that?

15 A. Well, as I mentioned, you have a -- you have a
16 finite term of the petition drive. It's defined by
17 when you get the serial number approved initially at
18 the Secretary of State's office. Now you are
19 authorized to put that on a petition, go out and get
20 signatures.

21 And then there's a final date. July the 7th
22 was the date. And they are turned in at that point.
23 And without -- heartlessly, the Secretary of State
24 rips the back off of them and produces the signature
25 page and the kind of thing we are discussing now.

1 And at that point, the volunteer effort to get
2 signatures -- which is massive and is really moving,
3 very, very aggressively in the last couple of
4 months -- is over. And so we had no further need to
5 direct people to 514. In fact, another campaign came
6 in and is using that space.

7 So it is not -- it's not -- it's not
8 appropriate anymore to tell people that, if they got a
9 question or if they want to -- to contact us, to go to
10 514 because they wouldn't know what you are talking
11 about. So 502 is now on both the Facebook page and
12 the website.

13 Q. The campaign contracted with a page circulator
14 company called AMT, right?

15 A. Yes.

16 Q. And did you tell AMT which address the
17 circulators should list for service of process?

18 A. Yeah. I suggested strongly that, based on our
19 experience in the 2018 situation involving service of
20 process, that I wanted to have my law office be the
21 service process address.

22 Q. And what was that prior experience that
23 informed your decision?

24 A. Well, without getting into controversies that
25 have been settled years ago, I think I can just

1 describe it quickly; that it was a controversy that
2 involved whether or not the petition in 2018 would get
3 on the ballot. And it came down to a matter of 14
4 subpoenas that were served on the prior location of
5 the contractor who had contracted for paid
6 circulators.

7 And trying not to get argumentative here, the
8 fact is that the plaintiffs in that case served
9 subpoenas -- or said they served subpoenas on the
10 building that used to be occupied by the contractor.
11 And the bottom line is, I didn't know, our committee
12 didn't know, our lawyers didn't know that those
13 subpoenas had been served. We didn't get the return
14 of service.

15 And the first we knew was at the hearing, when
16 attorney for the plaintiffs basically called 14 people
17 who were not there. And the judge struck all of the
18 signatures, over 8,000 signatures that those
19 individuals had collected. And without trying to
20 reargue the case, the bottom line was it was
21 devastating to our petition drive. I mean, we were
22 done.

23 I mean, that was -- that was subsequently
24 affirmed by the Supreme Court. And that was -- that
25 was the end of that effort, which had been a massive

1 effort; a lot of people engaged. And I found it
2 devastating to get to the end of it and made the
3 resolution right there, if I ever did one of these
4 again, I would be personally responsible for the
5 service of process.

6 And I would make my law office the center
7 because then I would know. You know, there wouldn't
8 be something served on another office building
9 somewhere in town where I didn't get personal
10 knowledge.

11 Q. And why did -- I gather you determined that
12 502 West Roosevelt was a better address for service of
13 process than 514?

14 A. Well, for a lot of reasons, yes. I -- A, I
15 would have personal knowledge of it, and I thought
16 that was important.

17 B, I knew that the campaign would end, as I
18 just described. That on July the 7th or shortly
19 thereafter, there wouldn't be a Voters Right to Know
20 presence at 514.

21 So if we were going to accommodate the -- what
22 I understand to be the very important idea that, if
23 you want to have somebody come and testify, you need
24 to get to them. And the law says that you need to
25 provide a service of process address. I wanted to

1 make sure that it was a service of process address
2 throughout the campaign. And so today, when --
3 process that went to 514, we'd be frustrated. 502, we
4 will definitely know that it's happened.

5 And the nature of these challenges, as we are
6 experiencing here today, is that they come after the
7 filing of the petition, substantially after the filing
8 of the petition. So we -- I never felt that it would
9 be responsible to put 514 on as the service of process
10 address.

11 Q. What address did you put for the Committee on
12 the Serial Number Application?

13 A. 514.

14 Q. And why did you do that?

15 A. Well, a number of reasons. I researched it as
16 carefully as I could through the statutes and through
17 the handbook that the Secretary of State puts out for
18 petition passing. I couldn't find any -- if a
19 committee had multiple addresses, I couldn't find any
20 advice as to which one took priority or which one you
21 should put in place.

22 And there's a note in the manual that says
23 that the address that used for the committee on the
24 serial application is going to be published on the
25 Secretary of State's website. So I -- as I said I

1 think earlier, 514 was always going to be the public
2 face of our campaign. That was where the volunteers
3 were going to be welcomed and where they could get the
4 information on the petitions that they needed.

5 So I felt that it was appropriate to -- to say
6 that the 514 was the address of the Committee for the
7 purposes of the volunteers, for the purpose of the
8 petition drive. And that was -- as I mentioned, that
9 was also the address that we used on all our public
10 facing efforts at that time; on our website, on our
11 Facebook page. And that's where the volunteers came.

12 I had previous experience that -- we used 502
13 as the address of the Committee on previous filings.
14 And volunteers would show up, and we'd have to
15 redirect them. Well, across the parking lot may not
16 seem like a big deal. But in the previous campaigns,
17 our volunteer centers were not across the parking lot.
18 They were quite a ways away.

19 Q. Now have you become aware that the Committee's
20 finance filings after April 15, 2021, used the 514
21 West Roosevelt address?

22 A. Yeah. I understand that that's the case. And
23 I have looked into that in some detail.

24 Q. Do you know how that came to be?

25 A. I don't. And, frankly, neither does the

1 Secretary of State. We -- when I went in to make an
2 adjustment to that one, as we mentioned trying to
3 consolidate the addresses at 502, I was unable to do
4 anything.

5 And the Secretary of State's -- although I'm
6 supposed to be the Administrator for that particular
7 page, it took them a couple of hours online to -- to
8 actually give me -- I am told I now have the ability
9 to make a change. It apparently was changed on the
10 same day that the application for serial number was
11 submitted.

12 So it might have been done by the Secretary of
13 State. They don't know. Their logs can't verify who
14 did it. So it was changed, but I'm not -- I do not
15 have any recollection of having changed it. I don't
16 think -- I don't think I am the one that did it.

17 Q. To the best of your recollection, were there
18 any official filings for the Committee, other than the
19 Serial Number Application on which you intentionally
20 used the 514 West Roosevelt address?

21 A. Was there any other application? No. When we
22 filed the organizational documents, it was for 502.
23 The change, as I said, is still a mystery wrapped in
24 an enigma. I just -- nobody is able to give us an
25 answer on that one.

1 And for everything -- just to emphasize, I'm
2 not quite sure I can cover every single document. But
3 for any things -- bank accounts, federal filings, the
4 whole list the things that involve the administration,
5 those were all for 502.

6 Q. I'd like you to take a look at Exhibit 178,
7 please. And let's go to the last page of that
8 document. And starting at the beginning --

9 A. It's not in front of me.

10 Q. Yeah. We are pulling it up. Just a moment.
11 Sorry.

12 Do you recognize what this document is?

13 A. Oh, yes.

14 Q. What is it?

15 A. Arizona Petition Circulator Training Guide
16 from -- it's dated June of 2022.

17 Q. And who is it published by?

18 A. The Secretary of State.

19 Q. Let's go to the last page, please. It should
20 be 19 or 20.

21 And what is this, Mr. Goddard?

22 A. This is the attachment to the description as
23 to how paid circulators should -- should be
24 registered. So it's the registration page for -- for
25 any circulator who's check's paid on -- on the front

1 page of the petition.

2 Q. And do you see the line that says, "Service of
3 Process Address"?

4 A. About four down, yes.

5 Q. All right. And does that say anything about a
6 committee address or which committee address?

7 A. No, it doesn't. It doesn't. And this is the
8 form that a circulator -- and there were hundreds of
9 them -- would see when -- when it's being filled out.
10 It's, filled out online, I believe. But that's --
11 what they are asked for here is the service of process
12 address.

13 And, actually, the statute is somewhat
14 different. The statute says, the organization's
15 address. I mean, we get -- we can get all confused as
16 to which address is right.

17 MR. BENDOR: And, finally, let's look at
18 Exhibit 177, please. Both of these are admitted, your
19 Honor.

20 Q. Mr. Goddard, what is this document,
21 Exhibit 177?

22 A. This is an Application for Serial Number, same
23 thing I was talking about. In this case, it's for one
24 of the plaintiffs in this case, I believe.

25 Q. Do you see the committee name?

1 A. Where is the committee name?

2 Q. On the right hand column. I will pull that up
3 a little higher.

4 A. All I see is a number.

5 Q. Do you see the committee?

6 A. Oh, Arizonans for Voter ID. I'm sorry.

7 Sponsored by the Arizona Free Enterprise Club.

8 Q. And the Arizona Free Enterprise Club is a
9 plaintiff in this case?

10 A. They are a plaintiff in this case, yes. And
11 their committee address here is a PO Box which, as I
12 have read the statute, is perfectly appropriate. I
13 mean, it's very general as to what the committee
14 address can be. And I don't think there's any
15 exclusion for a PO Box.

16 MR. LANGHOFER: Objection, your Honor. The
17 witness shouldn't testify about what's legally
18 appropriate. There's one legal expert in this
19 courtroom.

20 THE WITNESS: Yes, that's true. I apologize.
21 But what I found interesting is that the
22 circulators --

23 THE COURT: Hold on. Let me rule on the
24 objection, Mr. --

25 THE WITNESS: I'm sorry.

1 THE COURT: -- Mr. Goddard.

2 THE WITNESS: My apologies.

3 THE COURT: That's all right. I'm going to
4 overrule the objection. We are talking about legal
5 details from a lot of different perspectives. I
6 understand what my role is.

7 You may proceed. Next question.

8 THE WITNESS: And I apologize to the Court. I
9 got carried away.

10 THE COURT: That's all right.

11 Mr. Bendor.

12 MR. BENDOR: I have no further questions at
13 this time.

14 THE COURT: All right. Very good.

15 Mr. Langhofer.

16 Actually, before we continue, we need to take
17 a break for the court reporter's benefit and maybe for
18 all of our benefit. So we are going to take break at
19 this point.

20 I'm going to let everybody know, I also need
21 to take a break for an online appointment at 10:45.
22 So we are going to have somewhat of a -- back-to-back
23 breaks. But at this point we are on a break for
24 15 minutes. Thank you.

25 (Recess taken.)

1 THE COURT: Thank you. You may be seated.
2 The record will note the presence of Plaintiff's
3 counsel, Defense counsel.

4 Mr. Goddard is back on the witness stand.
5 You may continue with questioning.

6 MR. LANGHOFER: Thank you, your Honor.

7 THE COURT: And we are on cross examination.
8 Mr. Langhofer.

9

10 CROSS EXAMINATION

11 BY MR. LANGHOFER:

12 Q. Good morning, Mr. Goddard.

13 A. Good morning, Mr. Langhofer.

14 MR. LANGHOFER: Can I publish my laptop?

15 JUDICIAL ASSISTANT: Yes.

16 Q. BY MR. LANGHOFER: Mr. Goddard, the parcels at
17 514 and 502 are separate parcels, correct?

18 A. They are -- you mean, the tax records?

19 Q. Correct.

20 A. Yes.

21 Q. And the property records, they are separate
22 lot numbers with the County Recorder?

23 A. We pay taxes on them separately, yeah.

24 Q. And the function of 502 is not your law
25 office?

1 A. I'm sorry?

2 Q. 502, rather, is your law office. 514 is not
3 your law office, right?

4 A. Correct.

5 Q. And your office has never occupied 514?

6 A. Actually, yes, but it's many years ago.

7 Q. Not during the relevant time period?

8 A. That is true.

9 Q. Okay. I'd like to show you Exhibit 136. And
10 this is the petition serial number that you were
11 talking about with Mr. Bendor.

12 That's your signature, isn't it?

13 A. That is correct.

14 Q. And this lists the Committee's address as 514
15 West Roosevelt?

16 A. For the reasons I stated, yes.

17 Q. Was that correct when you signed it?

18 A. Yes. The Committee's volunteer operations
19 were at 514 West Roosevelt.

20 Q. You --

21 A. And this is a public facing document.

22 Q. It says the Committee's address. You said
23 514, and that was correct when you signed it?

24 A. Yes. It was the address of the Committee.
25 And it was the critical address for the Committee for

1 the purpose of collecting signatures. This is a --
2 this is a document -- as it says at the top, it's a
3 serial number for the petition. So I focused on the
4 petition.

5 Q. And all right. So let's -- let's go beyond
6 the petition. Let's look at the campaign finance
7 filings that you referenced. I want to start with
8 Exhibit 141. And this is the Q2 filing for 2021. It
9 looks like it was filed July 15th.

10 So this is the first filing after your serial
11 number application, correct?

12 A. That's correct.

13 Q. And the address on this one is also 514 West
14 Roosevelt?

15 A. That's correct.

16 Q. Did I -- were you suggesting on direct
17 examination that the Secretary of State changed your
18 campaign finance information without your approval?

19 A. It's possible. What I said -- and I hope I
20 said it clearly -- was, I don't know. I made the
21 original filing on February 22nd of the organizational
22 documents. And I used 502 West Roosevelt as the
23 appropriate center for the campaign.

24 Q. Are you aware of any other instances of the
25 Secretary of State changing someone's campaign finance

1 filings without their approval?

2 A. I understand -- without their approval, no.

3 Q. Okay.

4 A. No. And I am not meaning to cast aspersions.
5 I just didn't do it. And right now, the reason I can
6 say that with some confidence is that I have spent
7 hours with the IT people at the Secretary of State
8 trying to get the credentials to make the change.

9 I was identified as the Administrator. And so
10 I am not saying, Mr. Langhofer, that I know what
11 happened. The address was changed. I just -- I don't
12 know how it was, and I have no recollection of doing
13 it myself. And it appears that I didn't have the
14 power to do it.

15 Because when we went back in, in this last
16 couple of weeks and try tried to make the change to
17 502, I was unable do it.

18 Q. And we can agree though, you have never heard
19 of another instance where a Secretary of State --

20 A. I have never heard, no. And I have -- I just
21 am mystified as to how the change took place. And the
22 log simply says it happened. It doesn't say who did
23 it.

24 Q. All right. Let's look at Exhibit 142. This
25 is your Q3 filing. What address is on that filing?

1 A. It's an automatic -- and the Treasurer can
2 speak to that. It's still 514 West Roosevelt, right.

3 Q. Let's look at Q3. What address is on that
4 filing?

5 A. 514.

6 Q. And Q4 of last year -- Q1, excuse me, of this
7 year?

8 A. The same.

9 Q. Q2 this year?

10 A. The same.

11 Q. What about your preprimary report filed just
12 right before you -- actually, shortly after you filed
13 the petition signatures here?

14 A. It's the same. But I had no power to change
15 it.

16 Q. Your website now says that the address for the
17 organization is 502.

18 Are you aware of that?

19 A. Yes.

20 Q. That was changed after this lawsuit was filed,
21 wasn't it?

22 A. It may have been approximately the same. It
23 was changed for the reason that we no longer had an
24 operation at 514.

25 Q. Are you aware of the Campaign's Twitter

1 account?

2 A. I was not aware that we had a Twitter account,
3 no.

4 Q. Who would run that if someone did run it?

5 A. I have no idea.

6 Q. All right. Did you talk to Laurie Roberts
7 about her article on June 26th telling people to come
8 to turn in their petitions?

9 A. I was interviewed, yes.

10 Q. Do you know which address she used for that?

11 A. Used for what?

12 Q. You read her column?

13 A. I've read the column, yes.

14 Q. And she urges people to turn in their petition
15 signatures?

16 A. I'm sorry. Which column are you talking
17 about?

18 Q. Laurie Roberts testified to have many columns
19 of about this. On June 27th, she had a column that
20 urged folks to come drop off their petition
21 signatures?

22 A. Right.

23 Q. Did you give her the address that was in that
24 column?

25 A. Don't recall whether I did or not.

1 Q. Do you recall that she gave the address as
2 514?

3 A. I am sorry. I don't.

4 Q. All right.

5 A. But that would have been the right place to
6 turn in the signatures.

7 Q. When you filed that serial number application,
8 the one with your signature on it, you agree it wasn't
9 a false filing?

10 A. Yes. It was a very deliberate filing. I
11 mean, I put a lot of thought into what the public
12 facing address for the Committee should be. And this
13 is the headquarters that we use for our public facing,
14 and we have been completely consistent on that.

15 Q. So let me see if I understand this correctly.
16 Is it your position there's one address for the
17 Committee for public purposes and one address for the
18 Committee for legal purposes?

19 A. No. My position is there are a number of
20 addresses for the Committee, and some serve a very
21 public role. I mean, there's no intent to deceive or
22 to hide anything.

23 Q. What are the other --

24 A. We've been as straightforward as we possibly
25 can. When it comes to service of process, I hope I

1 have made clear we put my personal law office as the
2 service address, which is also the administrative
3 headquarters for the campaign, because I wanted to
4 make sure that this statute gets fulfilled.

5 Q. You said specifically you were worried about
6 subpoenas being served elsewhere?

7 A. Absolutely, as they were in 2018.

8 Q. Are you aware that the Arizona Supreme Court
9 said: The record belies the Committee's claim of
10 inadequate notice and unfair delay with the subpoenas
11 you say you are worried about?

12 A. Mr. Langhofer, do you want to seriously
13 reargue the facts in that case? I know --

14 Q. I --

15 A. -- what I had I experienced. And it was, we
16 had no knowledge that those subpoenas had been served.
17 You did tell the Court -- and August 10th, if I recall
18 correctly -- that you might serve them. You were
19 thinking about serving them. And you held up a stack
20 of papers.

21 And I personally watched the location where
22 the circulators had put down as their service of
23 process address to see if anything showed up. And it
24 didn't. It finally got served to a security guard on
25 the weekend.

1 Q. The Court found that the record belied your
2 claim that there was inadequate notice and unfair
3 delay of the subpoenas, did it not?

4 This was litigated and there was a finding,
5 was there not?

6 MR. BENDOR: Objection. If he wants him to
7 look at the document.

8 THE WITNESS: I don't have the Court's
9 decision in front of me. I'd be happy to look at it.

10 MR. LANGHOFER: May I approach, your Honor.

11 THE COURT: You can approach.

12 THE WITNESS: The issue of whether or not
13 there was a return of service was --

14 MR. LANGHOFER: You can read the document and
15 answer the question, please.

16 THE COURT: So at this point, I have to
17 understand why this is relevant.

18 MR. LANGHOFER: Mr. -- our view is that it's
19 irrelevant. Our view of the case is that the
20 Committee picks an address. The statute calls for
21 them to put the Committee's address on the
22 registration forms.

23 Their argument is, because of these concerns
24 from a previous case, they can have one address for
25 service purposes. They can have another address for

1 the serial number purposes. Our view is the entire
2 line of questioning with them is irrelevant.

3 But you know, if we are going to be arguing
4 about these facts, I want to show that --

5 THE COURT: I think it gets into a point of
6 intent. I don't know whether -- I haven't made any
7 rulings as to whether that's relevant or not. But
8 regardless of intent, I don't know the actual finding
9 of the Supreme Court makes a difference as to his
10 intent.

11 Can you tell me why that's wrong?

12 MR. LANGHOFER: The statute says their -- the
13 Committee's address is required. Mr. Goddard is
14 arguing that -- he said a moment ago, we have many
15 addresses. We will get to what the other ones are in
16 a moment.

17 And the -- if their position is any one of the
18 addresses at which they have a physical presence is
19 acceptable, I guess we'd like -- I'd like to make that
20 clear. But if their position is it was correct on the
21 serial number application when filed, and it has now
22 changed, I want to get to, you know, when it changed
23 and exactly why.

24 THE COURT: Again, I -- and that's all fair
25 game. But I don't understand how that plays in

1 with --

2 MR. LANGHOFER: I will move on.

3 THE COURT: All right.

4 Q. BY MR. LANGHOFER: Mr. Goddard, were you
5 saying that, for service purposes, you want to use
6 502; but for public purposes, you want to use 514?

7 A. I am saying that the campaign committee had
8 multiple real addresses where it was operating for the
9 volunteer portion, for the petition drive portion of
10 the total campaign. In other words, the petition
11 drive is just part of the campaign. And for the
12 petition drive, we had a public facing address, which
13 was 514. That's what we used.

14 I mean, if somebody asked me what my address
15 is with nothing more, I've got at least three that are
16 perfectly legal answers to that question: My home, my
17 office, and my post office box.

18 Q. Are there -- is there a third address for the
19 committee?

20 A. Not that I'm aware of. But there are two
21 very, very vigorously occupied addresses. And the
22 statute is unclear as to what -- and I spent a lot of
23 time trying to figure out, okay, is there a specific
24 address they are looking for? Is there -- it's not a
25 corporation.

REDIRECT EXAMINATION

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BY MR. BENDOR:

Q. I want to clarify some of the questions and answers regarding the campaign finance filings that Mr. Langhofer was asking you about.

You are not suggesting that the Secretary of State went in after you made campaign finance filings and changed them, right?

A. I hope I made that clear. I don't know how it happened. It did get changed.

Q. And do you know -- and this may be a question for another witness. But do you know -- the address on those campaign finance filings, does the user enter those each time, or are they prepopulated?

A. They are prepopulated, I believe, and -- and that portion of the form just comes out. There's no -- I know Mr. Barrett, who I think is going to speak later, doesn't have any authority to change that part of the form.

Q. And when you were talking about the Secretary of State's office potentially changing something, is it correct that you were talking about the address in their file that prepopulates?

A. Uh-huh. Yes, that is correct. Excuse me. A hum does not count. But I want to make it very clear,

1 I don't -- I don't have any knowledge that anybody
2 else changed it. It got changed. Nobody can answer
3 that question. I've tried to get to the bottom of it.
4 If I have -- if I did it, I have no recollection of
5 it.

6 Q. And do the campaign finance filings say
7 anything about that same address being used for
8 service of process of circulators for subpoena
9 purposes?

10 A. No, they don't.

11 MR. BENDOR: No further questions, your Honor.

12 THE COURT: All right. Thank you.

13 Thank you, Mr. Goddard. You may be excused.

14 THE WITNESS: Thank you, your Honor.

15 THE COURT: Mr. Bendor, you can call your next
16 witness. Or co-counsel.

17 MR. HUNT: Yes, your Honor. The Real Party
18 in Interest calls Diane McQueen.

19 THE COURT: All right. Ms. McQueen, if you
20 would come up to the witness stand. There's a ramp
21 over on your right side.

22 Good morning. Thank you for being here. If
23 you remain standing, our clerk will swear you in.

24 Elizabeth.

25 THE CLERK: Please raise your right hand. And

1 can you state and spell your name for the record,
2 please.

3 MS. MC QUEEN: Diane McQueen, D-i-a-n-e,
4 M-c-Q-u-e-e-n.

5 THE CLERK: Thank you.

6 THE COURT: All right. Thank you. You may be
7 seated. Counsel is going to start questioning. I'm
8 just going to acknowledge again, I apologize for any
9 interruption that may occur. I have an appointment to
10 get to. I am just going to be notified when it's
11 going to be ready to go.

12 So whenever that happens, I will need to take
13 a brief recess. So it may occur during your
14 testimony, ma'am. It may not. But just a heads up.
15 It's nothing that you are causing to have happen, but
16 it may occur.

17 All right. Counsel, with that, you may
18 proceed.

19 MR. HUNT: Thank you, your Honor.

20

21 DIANE MC QUEEN,
22 called as a witness herein, having been first duly
23 sworn, was examined and testified as follows:

24

25 ///

1 DIRECT EXAMINATION

2 BY MR. HUNT:

3 Q. Good morning, Ms. McQueen.

4 A. Good morning.

5 Q. Can you please state your professional
6 background?

7 A. I'm sorry. What?

8 Q. Can you please state your professional
9 background?10 A. I am retired. Before I retired in 2017, I
11 spent 30 years as an IT systems engineer.12 Q. And what is your connection to the Voters
13 Right to Know Initiative?14 A. I'm working on the current campaign. I
15 actually worked on the past two campaigns; the Outlaw
16 Dirty Money, 2018 and 2019-20. My involvement in the
17 current campaign, Voters Right to Know is at a much
18 higher level. I am a volunteer, but that's only by
19 choice. And I have a multiple -- multitude of
20 responsibilities.21 In addition to being the territory organizer
22 for -- volunteer organizer for Mohave County, Yavapai
23 County and the Payson area.24 I also co-wrote the design specifications for
25 our volunteer and volunteer petition tracking system,

1 secured the developer, worked with the developer to
2 bring the application online, worked with the
3 webmasters to connect it to our public website, wrote
4 the technical documentation, did the database training
5 for our staff.

6 I also worked very closely with Terry. I
7 manage our Google G Suite emails and our Google
8 shares. I do -- train coordinators. I do public
9 speaking engagements, both state -- both in public and
10 on Zoom and have worked with volunteers all over the
11 state.

12 Q. Okay. And when you do your work for the
13 Initiative, at what address do you do that work?

14 A. 502.

15 MR. HUNT: Okay.

16 THE COURT: I'm having a little difficulty
17 hearing you. I think your notebook there is kind of
18 in front of the microphone. If you could, just move
19 it off to the side a little bit.

20 THE WITNESS: Thanks. I thought it was me.

21 MR. HUNT: I'm sorry about that, your Honor.

22 THE COURT: It might just be that --

23 MR. HUNT: And I'll try to speak a little bit
24 louder.

25 THE COURT: All right. We will see if we can

1 adjust that volume. Joel if you could turn up the
2 volume on the microphone, as well.

3 JUDICIAL ASSISTANT: Sounds good, Judge.

4 THE COURT: Thank you.

5 THE WITNESS: So 502 West Roosevelt.

6 MR. HUNT: And the question there, just to be
7 clear for the record -- and I think that's a little
8 bit better.

9 THE COURT: Yes.

10 Q. BY MR. HUNT: Is, when you did your work for
11 the Initiative, where did you do it? And your answer
12 was?

13 A. Well, I did it -- one, remotely. I live in
14 Dewey. But every time I went down to Phoenix to
15 either staff -- in-person staff meetings, staff
16 database training, one-on-one with Terry, deliver my
17 completed petitions, including mine and my cohorts
18 from Coconino County, it was always at 502.

19 Q. Okay. And can we pull up Exhibit 152, please.
20 And can you identify from this picture the two
21 buildings?

22 A. Yeah. The one -- the mustard-colored building
23 on the right is 502. The white building is the
24 volunteer office, 514.

25 Q. Okay. And can you describe the difference

1 between the work that was done at 502 versus the work
2 done at 514?

3 A. 502 was all the background work. I actually
4 started working on this campaign with Terry back in
5 October, November of 2020 when we decided we were
6 going to do this again. That included meeting him
7 down there. We use that office to meet with some of
8 our top volunteers.

9 And like I say, every time I go down there,
10 that's the office. In fact, if -- you know, I saw
11 when you had a shot of the parking up above. When you
12 pull into the driveway, there is parking on the right
13 for 502. There's parking on the left for 504 (sic).
14 I mean, I just always parked at 502.

15 I very rarely went over to 514 because my
16 territory didn't include Maricopa County. But there
17 were a few times I went over there, either to pick up
18 blank petitions -- on the day we submitted, I was at
19 502 doing work in there with our completed petition.
20 Somebody had a question.

21 I walked over. So I -- that was the
22 volunteer -- that was, to me, the public-facing hub
23 where local folks could come in and get petitions,
24 blank petitions, get petitions notarized. We had
25 volunteers staffing that office.

1 That office also happened to be the public
2 depot for the other initiatives that were out there
3 and for the referendums from last fall. So it was a
4 very public area. But 502 was the secure area. And
5 we -- where we did all in-person, for me, back-end
6 campaign work.

7 Q. And I believe you mentioned that you -- the
8 Initiative, the Committee that works for the
9 Initiative uses G Suite for email and for --

10 A. Right.

11 Q. -- other updated services?

12 A. And Google shares.

13 Q. Which address is used for G Suite?

14 A. 502. In fact, in previous campaigns, somebody
15 else had set it up. And the bill used to go to this
16 other guy, and he'd bill Terry. Way before -- it was
17 back, late 2020, early 2021 that I switched the
18 registration to Terry's name at 502 because he gets
19 billed monthly for the cost of the G Suite.

20 Q. So, Ms. McQueen, when you think of the address
21 for the Committee for the Initiative, which address do
22 you think of?

23 A. Well, to me, for the work I do and we do, it's
24 502.

25 MR. HUNT: Okay.

1 THE WITNESS: Thank you.

2 MR. LANGHOFER: No questions, your Honor.

3 THE COURT: All right. Very good. Thank you,
4 Ms. McQueen. You may step down.

5 THE WITNESS: Great. Thank you.

6 THE COURT: Does the Committee have their next
7 witness.

8 MR. HUNT: Yes, your Honor. The Committee
9 will call Patrick Barrett.

10 THE COURT: Was it Barrett?

11 MR. HUNT: Barrett, B-a-r-r -- well, I'll let
12 him spell it.

13 THE COURT: All right. Very good. Come on
14 up, Mr. Barrett. You can remain standing there for
15 just a moment. I will have our clerk swear you in.

16 THE CLERK: Can you please raise your right
17 hand. And can you state and spell your name for the
18 record, please?

19 MR. BARRETT: Patrick Barrett, P-a-t-r-i-c-k,
20 B-a-r-r-e-t-t.

21 THE CLERK: Thank you.

22 THE COURT: All right. Thank you. You may be
23 seated.

24 And, Counsel, you may proceed.

25 MR. HUNT: Thank you, your Honor.

1 PATRICK BARRETT,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4

5 DIRECT EXAMINATION

6 BY MR. HUNT:

7 Q. Good morning, Mr. Barrett.

8 A. Good morning.

9 Q. What is your professional background?

10 A. I am a Govern Affairs and Political
11 Consultant.

12 Q. And what's your connection to the Voters Right
13 to Know Initiative?

14 A. I am serving as the Treasurer for the
15 Campaign. And I have been previously been involved in
16 other iterations of this. In the 2020 campaign, I
17 served as the manager of the campaign. And -- but for
18 the Voters Right to Know, the 2022 effort, as the
19 treasurer in my capacity, I have dealt with handling
20 contributions, filing finance reports, and helping set
21 up aspects of the Committee.

22 Q. Okay. And how long have you been involved
23 with the Initiative or prior initiatives?

24 A. Prior initiatives, I was a volunteer for the
25 2018 Campaign. I served as paid staff in 2020. And

1 then once again in a volunteer capacity for the 2022
2 effort.

3 Q. And when you do work related to the
4 Initiative, where do you perform that work?

5 A. At 502 West Roosevelt.

6 Q. Can we pull up 152 again. And can you
7 identify the buildings in this picture?

8 A. The building on the right, the yellow -- or
9 mustard-colored as I just heard -- that's 502 West
10 Roosevelt. And the building on the left, I believe is
11 514 West Roosevelt, the white-colored building.

12 Q. And how would you describe the difference
13 between the work that's done at 502 West Roosevelt
14 versus 514 West Roosevelt?

15 A. 502 West Roosevelt is where I did all the
16 work. It's the administrative hub for the Campaign.
17 In the 2022 effort, I was working -- as I said -- on
18 reports and official documents. That's where I did
19 all the work. That's where I held meetings.

20 The building on the left, I believe to be the
21 volunteer effort building. I have known Mr. Goddard
22 for almost a decade now, and I have only been in that
23 building on the left one time to pick up a blank
24 petition in late June 2022.

25 Q. Can we pull up trial Exhibit 157.

1 Mr. Barrett, I believe you mentioned a few
2 different times your work in preparing a campaign
3 finance report like this one; is that correct?

4 A. Correct.

5 Q. So what -- how do you fill out this report?

6 A. So with the online reporting portal, the
7 process for filing a report is -- you know, for
8 background, I have an MBA with a concentration in
9 finance.

10 So we just -- we take the ledger and we input
11 the data. All that you are really allowed to do on
12 this form -- and I've been -- I've been doing campaign
13 finance forms for the better part of a decade here.
14 But with the -- previously, you filled the whole thing
15 out. With the -- with the current system, all that
16 you are really allowed to do is input income and then
17 report expenses.

18 You input a transaction as income, a check
19 came in from a -- you know, Mr. Smith or Mrs. Smith.
20 You report that. You put their address and their
21 occupation, their employer. You click, "submit," and
22 that populates on the income side.

23 Similarly, for expenses, you will go in and
24 you will say -- for instance, if someone gave via
25 PayPal, there's a processing fee. And you input the

1 processing fee as an expense. Or the printer sent a
2 bill, and here's the expense. And you input that once
3 again with the address, with a description, what the
4 expense was for, and you hit, "submit."

5 Once you input -- the only real options we
6 have on there is to input income or expenses. It then
7 generates this report that -- that populates the
8 totals for items on the report. And it populates the
9 reporting period, what -- you know, which report it
10 is. And it populates, you know, as I said, the
11 information at the very top there.

12 Q. Okay. Yeah. So I want to call your attention
13 to that. There is an address that's listed on this --
14 on this report. When you assisted in filling out the
15 report, did you fill in any of that information?

16 A. No.

17 Q. What is the address on that -- on this report?

18 A. 502 West Roosevelt.

19 Q. So at least as of Q1 -- and can you go back
20 and look at the face of the report. As far as Q1 2021
21 goes, 502 West Roosevelt is listed?

22 A. Correct.

23 Q. Okay. Is there anything on this report that
24 talks about service of process?

25 A. Not to my knowledge.

1 Q. Okay. I'm going to pull up a similar report.
2 Can you go -- I'm going to go to Exhibit Number 145.

3 Mr. Barrett, are you -- are you familiar with
4 this document?

5 A. Yes. It's very similar to the Q1 that you
6 just showed me.

7 Q. And I want to call your attention to the
8 address listed on this report, as well. Is the same
9 true as it was in the other report, that there was no
10 ability to input the address for this report?

11 A. Correct.

12 Q. If you want to go about changing the address
13 that's listed for this report, do you know how to do
14 that?

15 A. I don't have the ability do that. I have
16 looked through the system high and low, you know,
17 especially after finding out that -- you know, I did
18 ask questions about this today, and there's no ability
19 to do that.

20 Q. Okay. Mr. Barrett, when you think of the
21 address for the Committee for the Initiative, which
22 address do you think of?

23 A. 502 West Roosevelt Phoenix, Arizona 85003.

24 MR. HUNT: Thank you.

25 ///

1 CROSS EXAMINATION

2 BY MR. LANGHOFER:

3 Q. Mr. Barrett, that address you just gave,
4 that's not the address on the serial number
5 application, is it?

6 A. For the -- for what now?

7 Q. The address you just gave, that's not the
8 address that's on the serial number application, is
9 it?

10 A. For the Initiative?

11 Q. Correct.

12 A. Yes, I believe that to be correct.

13 Q. And how many campaign finance reports do you
14 think you've filed in your life?15 A. I -- I would have to think about that. I
16 started in 2012 doing them.

17 Q. Hundreds?

18 A. Likely.

19 Q. How many of those have you seen the Secretary
20 of State modify without your permission?21 A. I don't -- I don't -- can you repeat the
22 question?23 Q. How many of those reports that you filed has
24 the Secretary of State modified without your
25 permission?

1 A. It's a tough question to answer. I don't
2 believe I have ever seen them intentionally go and
3 modify things. Or you know -- you know, reports will
4 get amended and things like that. It's a tough
5 question to answer. But I don't think I've ever seen
6 them go in and change someone's without their
7 permission.

8 Q. The modification here in the Campaign's
9 address appeared on your Q2 report for 2021 for the
10 first time, right?

11 A. Correct.

12 Q. And let's just assume for purposes of
13 conversation that that was done by the Secretary of
14 State and not by you or Mr. Goddard or someone else at
15 the Committee. If that's the case, that would have
16 been the first report after Mr. Goddard signed the
17 form telling the Secretary of State that the
18 Committee's address was 514, right?

19 A. The -- the -- in 2021, there would be
20 quarterly reports. The first one would be due between
21 July 1st and July 15th.

22 Q. And the second one, the Q2 report --

23 A. Uh-huh.

24 Q. -- is the first time that the address for the
25 Committee appears as 514 instead of 502, correct?

1 A. I believe that to be true.

2 Q. And that's also the first report that was
3 filed after Mr. Goddard signed and submitted the
4 Serial Number Application saying the Committee's
5 address is 514, correct?

6 A. I believe that to be correct.

7 MR. LANGHOFER: Thank you, your Honor.
8 Nothing else.

9 THE COURT: Thank you. Any redirect?

10 MR. HUNT: Yes, your Honor. Can we pull up
11 Exhibit 151?

12

13

REDIRECT EXAMINATION

14 BY MR. HUNT:

15 Q. Now, Mr. Barrett, counsel for the plaintiff I
16 believe just referenced this form in questioning you,
17 correct?

18 A. Correct.

19 Q. Are you familiar with this form?

20 A. Yes.

21 Q. And I just wanted to ask you a question. Now
22 there are two addresses listed on this form, correct?

23 A. Correct.

24 Q. There's 514 West Roosevelt listed on the
25 right, correct?

1 A. Could you repeat that?

2 Q. 514 West Roosevelt listed on the right -- on
3 the right side of the screen on the form we are
4 looking at?

5 A. Correct.

6 Q. And then on the left side, it also lists 502
7 West Roosevelt?

8 A. That's correct.

9 Q. So both of the addresses that we've been
10 talking about related to the Committee were listed on
11 this form, correct?

12 A. Correct.

13 Q. The fact that 514 West Roosevelt is listed on
14 this form, does that change any of your testimony
15 about the 502 West address -- the 502 West Roosevelt
16 and the work did you there?

17 A. No, it doesn't.

18 MR. HUNT: Okay. Thank you. No further
19 questions.

20 THE COURT: All right. I have got a question
21 or two, and I will give counsel an opportunity to ask
22 follow-up questions.

23 How long -- well, let me ask it this way. In
24 Quarter 1 in 2021, the Committee's address was listed
25 as 502 West Roosevelt. Did I understand that correct?

1 THE WITNESS: On the Quarter One Report, that
2 is what the system populated.

3 THE COURT: Okay. Where did that come from?

4 THE WITNESS: It comes from some record at the
5 Secretary of State's office. I don't have -- as the
6 Treasurer, I don't have the ability to input that
7 information, especially for -- for an initiative like
8 this, I don't have any control over that. I have
9 looked high and low, and I can't find it.

10 As I have mentioned, I have done work for
11 candidates. For a candidate to change the address,
12 you would go into what's called the Candidate Portal.
13 They are separate systems. They have separate
14 log-ins, separate passwords. And you would have to go
15 into that, and that's where you would change an
16 address.

17 And somewhere between the Candidate Portal
18 system and the Beacon Campaign Finance system -- and
19 Beacon is just the name of it on the Secretary of
20 State's website. I believe it's a software company.
21 Somewhere in between the Candidate Portal and the
22 Beacon system, they communicate, and that's where it
23 gets populated.

24 But for the Secretary of State, you know,
25 where we have access to, there's -- there's nowhere

1 that -- that you can edit the address. And like I
2 say, if you were to edit the address, it would be
3 somewhere completely different.

4 THE COURT: Was the Quarter One, 2021 Campaign
5 Finance Report, was that the first finance report for
6 the Committee?

7 THE WITNESS: I would have to double check,
8 but I believe so. But I would have to -- I would have
9 to look.

10 THE COURT: Okay. When did you become a part
11 of this particular committee?

12 THE WITNESS: Some time -- I would say it
13 would have been some time in early 2021. There was
14 some scoping -- or late 2020 -- scoping at the
15 potential. As Mr. Goddard testified, I wasn't --
16 there was the 2020 effort that was interrupted by
17 COVID. And I believe there, you know, there was an
18 appetite to continue the effort, just not the ability
19 to do so in that environment.

20 So it was always -- there was always
21 background discussion of, we want to go and do this
22 again. And I -- I can't be certain, but I -- you
23 know, I stay in contact with Terry on a regular basis.
24 But I believe more, kind of formal discussions about
25 scoping had started sometime either late 2020 or early

1 2021. Just, is it feasible in a kind of a, just
2 conversational manner.

3 THE COURT: Is this a new committee started in
4 2021? Or was it a continuation from the prior effort
5 in 2020?

6 THE WITNESS: I believe it was a new committee
7 formed.

8 THE COURT: All right. Thank you. That's my
9 questions.

10 Counsel for the Committee, do you have any
11 follow-up questions based on what I asked?

12 MR. HUNT: No, your Honor.

13 THE COURT: All right. For the Plaintiffs?

14 MR. LANGHOFER: No, your Honor. Thank you.

15 THE COURT: All right. Thank you. Thank you.
16 You may step down, Mr. Barrett.

17 THE WITNESS: Thank you.

18 THE COURT: All right. The Committee can call
19 your next witness.

20 MR. HUNT: Okay. Thank you, your Honor. The
21 Committee calls Chris Pilgrim.

22 THE COURT: Good morning, Ms. Pilgrim. You
23 can come on up to the witness stand. Thank you for
24 being here this morning.

25 MS. PILGRIM: Good morning.

1 THE COURT: Good morning. If you would remain
2 standing for just a moment, I will have our clerk
3 swear you in.

4 MS. PILGRIM: Thank you.

5 THE COURT: Thank you.

6 THE CLERK: Please raise your right hand. And
7 can you state and spell your name for the record,
8 please.

9 MS. PILGRIM: Leslie Christina Pilgrim.
10 Leslie, L-e-s-l-i-e. Christina, C-h-r-i-s-t-i-n-a.
11 Pilgrim, P-i-l-g-r-i-m.

12 THE CLERK: Thank you.

13 THE COURT: Thank you. You may be seated.

14 MS. Pilgrim: Thank you.

15 THE COURT: Counsel, you may proceed.

16 MR. HUNT: Thank you, your Honor.

17

18 LESLIE CHRISTINA PILGRIM,
19 called as a witness herein, having been first duly
20 sworn, was examined and testified as follows:

21

22 DIRECT EXAMINATION

23 BY MR. HUNT:

24 Q. Good morning, Ms. Pilgrim.

25 A. Good morning.

1 Q. What is your professional background?

2 A. Well, my professional background currently is
3 I am retired. Prior to that, I have approximately
4 35 years in telecommunications in various capacities,
5 nine of which I was a regulatory consultant for small
6 and rural local exchange carriers.

7 Q. And what is your connection to the Voters
8 Right to Know Initiative?

9 A. I am one of the key volunteers. I am a
10 notary. I was preparing the filing, which basically
11 is putting the completed notarized petitions into the
12 appropriate county boxes for the actual filing.

13 THE COURT: Ms. Pilgrim, could you just turn
14 that iPad towards you a little bit. You are off
15 camera. There you go. Perfect.

16 THE WITNESS: Did that work?

17 THE COURT: Yeah.

18 THE WITNESS: Did it come undone?

19 THE COURT: No. You're fine.

20 THE WITNESS: Okay. Sorry.

21 THE COURT: That's okay. Perfect. Thank you.
22 Counsel, you may proceed.

23 MR. HUNT: Thank you, your Honor.

24 Q. And when you did your work for the Initiative,
25 where did you do that work at?

1 A. I did my work for the filing at 502 West
2 Roosevelt.

3 Q. And why did you do the work there?

4 A. Because that is where the petitions that were
5 secured were at that I would need to put into the
6 appropriate county boxes.

7 Q. And did you ever have any dealings at 514 West
8 Roosevelt?

9 A. The only time I went to 514 was to pick up
10 blank petitions that I would distribute. I'm from
11 Ahwatukee, so I was operating in the eastside. So if
12 people called and they needed a petition, I could get
13 that to them. Or if somebody asked me to notarize
14 something, then I could do it there. That, basically,
15 is the only time I would do that.

16 And the last day that we filed, basically,
17 they needed notaries. And then I was also doing some
18 data input into Diane's database so we could kind of
19 keep track of how many signatures we have had.

20 Q. And how would you describe the difference
21 between the work that was done at 502 West Roosevelt
22 versus 514 West Roosevelt?

23 A. I considered 502 as the administrative head
24 where the management of the actual initiative was
25 taking place, where the strat planning -- strategic

1 planning in the very beginning was done; how Diane and
2 Terry would operate for the databases; also, where the
3 filing would be put together.

4 And 514, that was the public-facing building
5 that people would come in. They would sign the
6 petitions. They would get the notarization. Those
7 petitions would then be walked over to the 502 where
8 they would be put into a secure box. And then we
9 would then separate them by county and put them in the
10 appropriate filing box.

11 Q. And Ms. Pilgrim, when you think of the address
12 for the Committee for the Initiative, what address is
13 that?

14 A. I would look at 502 West Roosevelt.

15 MR. HUNT: Okay. Thank you. No further
16 questions.

17 THE COURT: All right. Thank you.

18 MR. LANGHOFER: No questions, your Honor.

19 THE COURT: All right. Thank you.

20 Thank you, Ms. Pilgrim.

21 THE WITNESS: Thank you.

22 THE COURT: Next witness, Counsel.

23 MR. BENDOR: Yes, your Honor. Real Party in
24 Interest calls Nicki Kirkeby.

25 THE COURT: Good morning, ma'am.

1 MS. KIRKEBY: Good morning.

2 THE COURT: You can come on up to the witness
3 stand. If you would, remain standing while our clerk
4 swears you in.

5 THE CLERK: Thank you. Can you please state
6 and spell your name for the record, please.

7 MS. KIRKEBY: Yes. Nicki Marie Kirkeby,
8 N-i-c-k-i, M-a-r-i-e, K-i-r-k-e-b-y.

9 THE CLERK: Thank you.

10 MS. KIRKEBY: Uh-huh.

11 THE CLERK: Thank you.

12 THE COURT: Thank you. You may be seated.

13 MS. KIRKEBY: Thank you.

14 THE COURT: Counsel, you may proceed.

15 MR. HUNT: Thank you, your Honor.

16

17 NICKI MARIE KIRKEBY,
18 called as a witness herein, having been first duly
19 sworn, was examined and testified as follows:

20

21 DIRECT EXAMINATION

22 BY MR. HUNT:

23 Q. Good morning.

24 A. Good morning.

25 Q. Ms. Kirkeby, can you please state your

1 professional background?

2 A. I worked -- I just recently retired in April.
3 And before that, I did 36 years with the airline
4 industry. And now I'm -- I'm working at Trader Joe's
5 for fun.

6 Q. Okay. And -- and how long have you been
7 involved with the Voters Right to Know Initiative?

8 A. I got involved, I believe, around April of
9 this year -- of this year with the Voters Right to
10 Know.

11 Q. And can you describe what your role is for the
12 Initiative?

13 A. I would say that I'm a very passionate
14 volunteer who really strongly desires to see the
15 Voters Right to Know be on the November ballot, so I
16 was working on the petition drive.

17 Q. Okay. And what did that work include?

18 A. Well, I would go to the location at 514 West
19 Roosevelt, and I'd pick up my petitions. And then I
20 would work them. I carried my own table with me in my
21 car at all times, and I would work my neighborhood. I
22 worked our local Royal Palm Park. I worked the Burton
23 Barr Library. And then I would hang out a lot at the
24 Changing Hand bookstore.

25 And then once my petitions -- when I had quite

1 a few of them, then I would bring them into the 514
2 location. And there, I would have them notarized and
3 leave them with the notarized ones. And then I would
4 pick up more petitions.

5 Q. And so how would you describe the work that
6 went on at 502, to your knowledge?

7 A. Well, I believe it was administrative. I
8 didn't really have an opportunity much to -- I didn't
9 have a reason to go in there. But I knew it was the
10 brains of the organization, basically.

11 Q. And how would you describe the general
12 atmosphere from your time at 514 West Roosevelt?

13 A. Very busy, yes. People coming and going, a
14 bevy of activity sometimes. Especially towards the
15 end of the campaign, it was very busy.

16 Q. If you had to say what the address for the
17 Committee for the Initiative was, what would you say?

18 A. Well, I would say it was the 502 location,
19 Terry Goddard's office.

20 MR. HUNT: Thank you.

21 THE COURT: All right. Thank you. Any cross
22 examination?

23 MR. LANGHOFER: No, your Honor.

24 THE COURT: All right. Thank you. Thank you,
25 ma'am.

1 THE WITNESS: Thank you.

2 THE COURT: All right. Counsel, you can call
3 your next witness.

4 MR. HUNT: Yes. Real Party in Interest calls
5 Dr. Wil Counts.

6 THE COURT: All right. Good morning, sir.

7 DR. COUNTS: Yes.

8 THE COURT: You can come on up to the witness
9 stand over there on your right.

10 DR. COUNTS: Okay.

11 THE COURT: Thank you for being here today.

12 DR. COUNTS: Thank you.

13 THE COURT: If you would remain standing, our
14 clerk will swear you in.

15 THE CLERK: Can you please state and spell
16 your name for the record.

17 DR. COUNTS: It's Wil Counts, W-i-l,
18 C-o-u-n-t-s.

19 THE COURT: Your first name, as well.

20 DR. COUNTS: Wil, W-i-l.

21 THE CLERK: W-i-l. So sorry about that.
22 Thank you.

23 DR. COUNTS: Uh-huh.

24 THE CLERK: Thank you.

25 THE COURT: All right. Thank you. You may be

1 seated there.

2 DR. COUNTS: Sure.

3 THE COURT: All right. Counsel, you may
4 proceed.

5 MR. HUNT: Thank you, your Honor.

6

7

WIL COUNTS,

8 called as a witness herein, having been first duly
9 sworn, was examined and testified as follows:

10

11

DIRECT EXAMINATION

12

BY MR. HUNT:

13

Q. Good morning, Dr. Counts.

14

A. Yes.

15

Q. Can you please state your professional

16

background?

17

A. Sure. I have a doctors degree in pharmacology

18

and psychology. And I am currently a psychologist for

19

the NFL and a licensed pharmacist in Arizona.

20

Q. Thank you, Dr. Counts. What is your

21

connection to the Voters Right to Know Initiative?

22

A. Basically, two roles. I volunteer and I

23

coordinate the petition drive in the inner city.

24

Q. Okay. How long have you known Terry Goddard?

25

A. About 40 years.

1 Q. And in your role for the Initiative, what did
2 your work entail? What does your work entail for the
3 Initiative? Can you describe that in some --

4 A. Basically, I coordinated the collection of
5 signatures.

6 Q. Yeah.

7 A. And I also set up the petition drive locations
8 at the Martin Luther King celebrations, both this
9 drive and the previous drive, as well as the
10 Juneteenth celebration.

11 Q. And did you ever have meetings with
12 Mr. Goddard related to the Initiative?

13 A. Yes, I did.

14 Q. Where did those meetings occur?

15 A. At 502 West Roosevelt.

16 Q. And when you did your work for the Initiative,
17 where did that happen?

18 A. 502 West Roosevelt.

19 Q. And how would you describe the general
20 activities, to your knowledge, that happened at 502
21 West Roosevelt?

22 A. Everything that I was involved in took place
23 there. Pretty much all of the administrative work was
24 handled there. And I only met Mr. Goddard at 502.

25 THE COURT: And, sir, I'm having a little

1 difficulty hearing you, Dr. Counts. Is there a
2 microphone? Do you see a long horizontal bar in front
3 of you? That's a microphone. If you can pull that up
4 a little bit, that will be great. And we will try to
5 adjust the volume there, as well.

6 All right. Thank you. You may proceed,
7 Counsel.

8 MR. HUNT: Thank you, your Honor. Could we
9 pull up trial Exhibit 152.

10 Q. Dr. Counts, can you identify from this picture
11 where your work for the Initiative happened?

12 A. At the 502 buildings, which is the beige
13 building on the right.

14 Q. And did you ever have any occasion to go to
15 the 514 West Roosevelt?

16 A. Actually, I did one time. And I think the
17 building at 502 was closed for lunch or something.
18 And I stopped by there to drop off a few petitions and
19 to pick some up and to also meet with one of his
20 volunteers who was interested in becoming a
21 psychologist in Arizona.

22 Q. And can you describe what kind of activities
23 happened at 514 West Roosevelt?

24 A. I don't know. When I was there, there was
25 nothing going on, other than there was -- I think

1 Ramona was there and, also -- I forget the volunteer's
2 name, but they were just there.

3 Q. So there were volunteers --

4 A. Volunteers.

5 Q. -- for the Initiative --

6 A. Sure.

7 Q. -- at that location?

8 A. Right.

9 Q. Okay.

10 A. Yes.

11 Q. And when you think of the address for the
12 Committee for the Initiative, what address do you
13 think of?

14 A. 502. I use 502 in all of my correspondence
15 with Mr. Goddard and all the forms that I completed.

16 MR. HUNT: Okay. Thank you, Dr. Counts. No
17 further questions.

18 THE COURT: All right. Thank you. Any cross
19 examination?

20 MR. LANGHOFER: No questions, your Honor.

21 THE COURT: All right. Thank you.

22 Thank you, Dr. Counts. You may step down.

23 MR. BENDOR: The Committee calls Joshua
24 Gordon.

25 THE COURT: All right. Mr. Gordon.

1 MR. BENDOR: He is going to be joining on
2 Teams. I am inviting him to do so now, so he should
3 be signing on.

4 THE COURT: All right. Very good.

5 MR. BENDOR: This will be our last witness,
6 your Honor.

7 THE COURT: All right. Very good.

8 Welcome. We are here in open court. I am
9 going to have our clerk swear you in for your
10 testimony. Bear with me for just a moment. She will
11 come on screen.

12 MR. GORDON: Okay.

13 THE CLERK: Good morning. Can you hear and
14 see me okay?

15 MR. GORDON: Yes, I can.

16 THE CLERK: Thank you. And can you please
17 raise your right hand. And can you state and spell
18 your name for the record, please.

19 MR. GORDON: Joshua Gordon, J-o-s-h-u-a,
20 G-o-r-d-o-n.

21 THE CLERK: Thank you.

22 THE COURT: Thank you, Elizabeth.

23 THE CLERK: You're welcome.

24 THE COURT: All right. We will proceed with
25 questions.

1 Counsel for the Committee.

2

3

JOSHUA GORDON,

4 called as a witness herein, having been first duly

5 sworn, was examined and testified as follows:

6

7

DIRECT EXAMINATION

8

BY MR. BENDOR:

9

Q. Mr. Gordon, for what company do you work?

10

A. Advanced Micro Targeting.

11

Q. How long have you worked there?

12

A. Fifteen years.

13

Q. What's your job title currently?

14

A. I'm the field -- I'm the logistics director.

15

Q. What are your responsibilities?

16

A. I book flights, hotels, rental cars. I ship
17 supplies to the staff. And I help with office setup,
18 leases, stuff like that.

19

Q. And you mentioned that you ship things to the
20 staff. Does that include shipping things to the
21 circulators in the field?

22

A. Yes, it does.

23

Q. And what kinds of things do you ship to
24 circulators in the field?

25

A. Supplies, anything they need. We might need

1 to send nametags. We can send clapboards, pens, any
2 types of supplies they need to circulate. You know,
3 for COVID stuff, we were sending pens, masks,
4 sanitizer.

5 Q. And are you involved in arranging where
6 circulators who are from out of state will stay?

7 A. Yes, I am.

8 Q. And do they often stay in hotels?

9 A. Yes, they do.

10 Q. What hotels do you use most often in Arizona?

11 A. In Extended Stay America I would say is our
12 biggest one that we use in Arizona. We sometimes will
13 use Red Roof and a couple of other chains from
14 Hotels.com. But 90 percent of the time, we are in
15 Extended Stay America.

16 Q. And before you ship supplies to circulators
17 who are staying in a hotel like Extended Stay America,
18 do you let them know to expect a shipment?

19 A. Yes, I do.

20 Q. And when you ship supplies to circulators
21 staying in hotels, do you usually use the room number?

22 A. No, I don't.

23 Q. Why not?

24 A. We -- it never seemed like it was necessary to
25 use the room number. Our staff usually gets

1 everything we send. So the front desk will hold it
2 and let them know that they received something at the
3 front desk.

4 Q. And when you ship supplies to circulators
5 staying in hotels, do you have any trouble -- ever
6 have any trouble with supplies getting to the
7 circulators?

8 A. No, not typically. Every once in a while,
9 there's, like, a FedEx shipping issue. And then we
10 resend and they get it.

11 Q. To your knowledge, have you ever had a
12 circulator not receive a package due to the fact that
13 you didn't list a room number?

14 A. No.

15 MR. BENDOR: No further questions. Thank you,
16 Mr. Gordon.

17 THE COURT: All right. Thank you.

18 MR. LANGHOFER: No questions, your Honor.

19 THE COURT: All right. Thank you.

20 Thank you, Mr. Gordon. You may --

21 THE WITNESS: Thank you.

22 THE COURT: You may be excused. Have a good
23 day.

24 All right. That was our last witness; is that
25 correct?

1 MR. BENDOR: That's correct.

2 THE COURT: Are there any rebuttal witnesses?

3 MR. LANGHOFER: No, your Honor.

4 THE COURT: So why don't we take our break
5 before we start closing arguments.

6 Thank you. We will be back on in about ten
7 minutes.

8 (Recess taken.)

9 THE COURT: All right. We are back on the
10 record. Counsel for each party is present.

11 It is time -- unless there's something else
12 that we need to address, it's time for closing
13 arguments. Anything to address before we go to
14 closings for the petitioners?

15 MR. LANGHOFER: Just one thing that I probably
16 should have said at the beginning, your Honor.

17 THE COURT: Sure.

18 MR. LANGHOFER: I had really meant to thank
19 your staff and Elizabeth, in particular, for dealing
20 with all of these exhibits. She had upload problems
21 with flash drives, and she's been so helpful. And I
22 wanted to thank you. Thank you.

23 THE COURT: I appreciate that. Our staff -- I
24 am very blessed to have the staff that I do. They
25 work very hard for all of us here at the court and for

1 the public purpose that we serve. I am very grateful
2 and I appreciate the kind words.

3 Anything to address for the -- for the
4 respondents before we get started with closing?

5 MR. BENDOR: No. Other than to echo
6 Mr. Langhofer's kind words.

7 THE COURT: All right. Very good. Thank you.
8 With that, the petitioners may proceed.

9 MR. LANGHOFER: Thank you, your Honor.
10 Mr. Bendor and I were just saying -- I am about to
11 begin the argument of objection one. And I'm
12 wondering whether if, at the end of objection one, I
13 should pause and let him argue and we can sort of
14 trade back and forth over the four. Or whether you
15 would prefer to just go through all four with me and
16 then switch attritionally.

17 THE COURT: I think I'd prefer to go through
18 all four. And --

19 MR. LANGHOFER: Okay.

20 THE COURT: -- I will take notes on all four.
21 And I think that it will just be more compact that
22 way.

23 MR. LANGHOFER: Great. Thank you, your Honor.

24 THE COURT: You're welcome.

25 MR. LANGHOFER: I guess I would like to start

1 by speaking to strict compliance. And I want to talk
2 about the way the Supreme Court has handled it since
3 the 80s. And there are three Supreme Court cases --
4 all the Arizona Supreme Court, of course.

5 The first is the *Cottonwood* case. That starts
6 in 1982. And the issue there was that, when you are
7 circulating the -- at that time, it was a referendum
8 petition -- you are supposed to staple to it -- or it
9 has to be permanently affixed -- it doesn't have to be
10 a staple, I suppose -- a copy of the text. And they
11 had not attached that text.

12 There was not proof, it seems, that voters had
13 been misled about the nature of the referendums. It
14 just hadn't been attached, so it's out. Strict
15 compliance.

16 The next one from 1991, *Western Devcor*. It's
17 a Scottsdale measure. And in the caption -- I want to
18 show this, I guess. This is a petition from the
19 current case. But in the caption of these petitions,
20 there's language from the statutes. This is -- we are
21 looking at the very first page in Exhibit 136 here.

22 There's some language about how everyone's a
23 resident of the state for our measure. But in
24 Scottsdale, in the *Western Devcor* case, it said, we
25 are all residents of the state of Arizona. It didn't

1 say, "city of Scottsdale." Now you can see, of
2 course, there are registrations. You can see they are
3 from the city of Scottsdale. But it didn't have the
4 word "Scottsdale" in the caption. All of them are
5 out. Strict compliance.

6 The most recent one from the Arizona Supreme
7 Court is *Morales v. Archibald*. And that was a recall
8 campaign -- also under the strict compliance
9 standard -- for the City of Phoenix. And it was
10 Michael Nowakowski who was being recalled. And what
11 they had not attached to the petition this time --
12 also they failed to staple it -- was the serial number
13 application they had there.

14 It's same document that Mr. Goddard signed,
15 except just for a different measure. They hadn't
16 attached it. All of them out. There was no question
17 they had enough signatures, but they didn't follow the
18 right process by attaching it. Strict compliance is
19 meaning strict in the Supreme Court's opinion.

20 So if we look at the Court of Appeals, there's
21 two cases relatively recent. One is the *Riffel* case,
22 2006. And in there, what had happened was you are
23 supposed to put in the caption of the petition up here
24 near the top a summary of what it's about. And what
25 they had done is they had stapled it to the petitions.

1 They had the information. They were just stapled
2 instead of in it. Out.

3 In 2015, the *Arrett* case from the Court of
4 Appeals. This one -- this one really is something.
5 In the bottom right-hand corner of these petitions,
6 there's supposed to be this -- well, here, it says
7 serial number. Or it says number, but it's the serial
8 number you get when you apply. You are supposed to
9 print that on the bottom right-hand corner on the
10 front and back. They hadn't done that. There was no
11 evidence people were confused by that. All of them
12 are out.

13 Strict compliance is a different standard than
14 substantial compliance. Candidates get substantial
15 compliance. Initiatives used to get substantial
16 compliance, but now it's strict. The question isn't,
17 can you figure it out. You know, can you look at the
18 document, read between the lines, and figure it out.
19 It is, did the campaign strictly comply.

20 And perhaps a little bit defensively, the
21 *Western Devcor* case, the Arizona Supreme Court talks
22 about this. It reads a little bit defensively, but I
23 do think it makes the point: It is not "nit-picking"
24 to require compliance with the express command of a
25 statute.

1 And as a policy matter, I think that the
2 concern here is that, after the VPA has been adopted
3 and initiatives are quasi-constitutional -- they are
4 obviously not -- this one wouldn't be in the
5 constitution, but it is above the power of the
6 legislation to amend. So it's quasi-constitution. It
7 has the effect of the constitution. You can't touch
8 it without it going back to the voters.

9 You know, there are some exceptions to that,
10 but I think those are beyond the scope. So this is
11 why we have a strict compliance standard and this is
12 why it's so demanding. In that context -- well, I
13 guess one more point.

14 When you are examining -- I understand the
15 plaintiff's to be -- or the defense -- respondent's to
16 be raising sort of a constitutional argument about the
17 burden that's imposed by strict compliance. And
18 the -- the doctrinally correct way of thinking about
19 that sort of burden is not, is the penalty burdensome?
20 Of course, penalties are burdensome by their
21 definition. By their nature, a penalty is burdensome.
22 The question is, would compliance be particularly
23 burdensome or unduly burdensome? And the issues we
24 are talking about here, I think manifestly compliant
25 is not difficult.

1 With that in mind, I want to talk about the
2 particular objections. We will start with objection
3 one, of course, and just walk through them.

4 For objection one. I am going to show
5 Exhibit 147 here. I have lost my -- Exhibit 147 is
6 the summary exhibit that exists in many other places
7 in the record already, but this puts the helpful
8 information into one page.

9 And I want to just talk about Jane Taylor, in
10 particular. Jane Taylor is a circulator. She's got a
11 Circulator ID number over here from the Secretary of
12 State. And we can see in these columns the timeline
13 of her activity. The first thing we see is, in
14 December of 2019, she registered for a couple -- three
15 measures there. And she filed an affidavit with the
16 Secretary of State. And so that affidavit is already
17 here in the record, your Honor. That is Exhibit 131.

18 So she dated this September 16th, 2019. And
19 she swears this under penalty of perjury. I, under
20 penalty of a Class 1 misdemeanor, acknowledge I'm
21 eligible to register as a circulator in the state; all
22 of the information provided is correct to the best of
23 my knowledge; that I read and understand the election
24 laws.

25 We know that she signed this because it's

1 notarized. The point of a notarization is a
2 definitive confirmation of identity. Someone who's
3 trained by the Secretary of State, they are licensed
4 by the state, they say, I sat with this person. I sat
5 with Ms. Taylor, Jane Taylor. Tori Dade sat down,
6 checked her ID, presumably filled out her little, you
7 know, notary notebook. We know that Jane Taylor
8 signed this form, and we are pretty confident she did
9 it on that day. It's been notarized.

10 Now when we go back to the timeline here, that
11 all happened -- apparently, it was uploaded, you know,
12 not until December, even though it was signed in
13 September. And she registers for those measures,
14 right. A couple days later, she uploads her
15 Circulator Registration Form. Fine. She's
16 registered, starts gathering petitions.

17 What we have in this case though is, 22 months
18 later, she registers for this petition. It's been
19 22 months. And that document -- let's just take a
20 look at it. It's Exhibit 133. It says page 413 of
21 Exhibit 133. Here's her registration form. The
22 signature that's here is electronic. This is just a
23 web form.

24 Someone submitted this for her about 22 months
25 later. And why do I say someone? I say someone

1 because this was never notarized. There is no other
2 affidavit for Ms. Taylor in this campaign or any
3 other. The only affidavit she ever submitted was
4 22 months before she registered for this campaign.

5 Now at that time, when she -- when she filled
6 out this affidavit, when she submitted it, if the
7 testimony we heard from the Treasurer is correct, the
8 Committee didn't exist at the time. The Initiative
9 certainly didn't exist at the time. It didn't come
10 into being until -- what is that -- a year and a half
11 later? It could be seven or eight months later. It
12 didn't even exist.

13 The other information she puts in here, her
14 employer -- this is her registration for our
15 particular measure -- Advanced Micro Targeting. She
16 hadn't been hired by them yet when she did the
17 notarization. The campaign didn't exist. They didn't
18 have a budget, I'm certain.

19 So she couldn't have been notarizing in 2019
20 her employment status and the measure that she is
21 working for in 2021. None of those things were true
22 yet. You can't notarize a document that doesn't
23 exist. This document, the one that we are really at
24 issue -- the one that's at issue here, the
25 registration statement didn't exist when she did the

1 notarization. The people -- the entity she was
2 working for didn't exist. The measure didn't exist.
3 You can't notarize that.

4 There are a couple of statutes on this point.
5 I think they are really worth a read. I think it's
6 really good language for us. 41-328, what that says
7 is a notary can't notarize a document that's
8 incomplete. You can't let them fill it in later.

9 And 41-313, if you are going to attach a
10 document to a notary form, you have to describe it
11 with particularity. You can't -- you couldn't have a
12 notary form that says, all documents attached hereto
13 and henceforth are verified. You can't do that.

14 If you are to get a car loan or a mortgage,
15 and you said to the bank, I don't want to notarize
16 this one. I did my last one. The last time I bought
17 a house, I got the form notarized. I don't want to
18 notarize this one. It's still good. It's all still
19 true. It doesn't work, right.

20 You can -- the notarization -- the function of
21 notarization is to confirm your identity when signing
22 a particular document. It has to be filled out and
23 attached to something that's clearly described. In
24 this case, that didn't happen. We just can't say that
25 the notarization from 2019 applied to this.

1 Now the sequence of events here on the law
2 side is this. This requirement came about for a
3 particular purpose. And that is, in 2018, there was a
4 big ballot measure challenge. It was *Leach v. Reagan*.
5 It eventually went up to the Arizona Supreme Court.
6 And they were making similar arguments about incorrect
7 that was in circulator registration forms.

8 The Supreme Court ultimately said, we are not
9 going to invalidate these circulator registration
10 forms because they are not notarized. There was no
11 notarization requirement at the time.

12 So the next session, early in the 2019
13 session, there was legislation to say, okay, now you
14 have to notarize your registrations. The law came
15 about to make sure that there was a concrete oath, a
16 notarization attached to a registration.

17 And in that context, there was a specific
18 legislative fix to make sure people are notarizing
19 their registrations. To let Ms. Taylor just extend
20 that one notarization all the way throughout, you
21 know, all time. According to the respondents, she
22 will never have to get another notarization. That's
23 incorrect. That's not fulfilling the purpose of the
24 statute.

25 So that, your Honor, is the essence of

1 objection one.

2 THE COURT: Let me just ask you while we are
3 on that objection, the affidavit process in this case
4 was adopted by the Secretary of State; is that
5 correct?

6 MR. LANGHOFER: It was.

7 THE COURT: And the Secretary of State's
8 process essentially says that the process that was
9 followed by some of the notaries -- or some of the
10 registrants here was valid to have earlier affidavits
11 serve the purpose of verifying information that's
12 submitted later for later petitions.

13 MR. LANGHOFER: That's the Secretary's
14 position.

15 THE COURT: All right. And that's a part of
16 the Secretary's handbook that she publishes and a part
17 of her internal document, IT system for verifying
18 registrants; is that correct?

19 MR. LANGHOFER: It's not part of the handbook.
20 The handbook says what the statute says. You have to
21 upload an affidavit. It doesn't say one affidavit to
22 rule them all. For all time, you know, we only need
23 to make sure you have sworn to something once.

24 The IT system though does -- for many
25 circulators, only allows one upload. The exception to

1 that -- this sounds unprincipled or capricious. They
2 actually have a reason for this. But if you
3 registered for the first time before September 29,
4 2021, then you can upload a second affidavit. But no
5 one can upload a third or fourth, et cetera.

6 So there's a group of people who -- who can do
7 multiple ones. Jane Taylor is actually in that group,
8 right. Her first affidavit predates the cutoff, which
9 is September 29th of 2021. She could have uploaded a
10 second affidavit and didn't. So she could have done
11 it for this one or any other one.

12 And on that point -- I want to get back to the
13 law on this in a moment. But on that point, if we
14 were to treat as material the Secretary's distinction
15 between September 29, 2021, and the people who came
16 after that, a certain number of circulators like Jane
17 Taylor, could have, but failed to file a second form.
18 So they would still have a valid objection.

19 Some other people, if you were to say we can't
20 require them to file -- to upload what the system
21 doesn't allow them to upload, right. We won't strike
22 someone if they just couldn't upload it. There are a
23 certain number of objections in Category 1 that fall
24 away. And in Exhibit 147, we have marked those. We
25 have subdivided the ones with -- that come away for

1 that factual issue.

2 Now before we go charging down that
3 exceptional path though -- the path of the
4 exception -- I want to say something about the law on
5 that point. And it's this: The Secretary does not
6 decide. The statute controls here.

7 And if we do a thought experiment here to
8 tease out the limits of that, I think it makes the
9 point. We are about to have an election for a new
10 Secretary of State. And let's assume that there's a
11 write-in candidate who wins. I don't want to talk
12 about the current nominees. With the examples, it
13 will seem unfair.

14 So imagine someone gets elected. And just
15 imagine the two extremes ends of this write-in
16 candidate. Someone comes in and they say, I'd like to
17 register as a circulator. And they slide across the
18 table a Post-It note with a smiley face on it, and
19 they say, this is my application. And the Secretary
20 says, congratulations, you are registered. No, he is
21 not. That doesn't count. The Secretary doesn't
22 decide.

23 And, likewise, if -- if on the other extreme,
24 if someone comes in and it's notarized, it's
25 perfectly -- by stipulation, it's a fantastic

1 application and the Secretary says, thank you, we are
2 not accepting applications right now, you are not
3 registered, well, man, I bet if someone sues, the
4 Secretary is losing. The Secretary doesn't decide.

5 And the fact that the Secretary has this
6 system that's poorly designed doesn't mean that the
7 affidavits can't be submitted. They can be mailed in.
8 They can be dropped off. You can email them if you
9 want to. There's any number of ways of doing this.
10 You could create the documents and just hold them, not
11 the give them to the Secretary. None of that happened
12 here though, right.

13 The Secretary's system doesn't let them upload
14 it. And if the Secretary -- and you know, there are
15 ways around that, right. Mercifully, uploading is not
16 the only way of getting documents. This week, I had
17 to not upload some documents.

18 So there's also a lot of case law on this, and
19 not just in Arizona. This is national. Election law,
20 a very common defense to problems is, the Secretary
21 told me I could, or someone at the Secretary's off
22 told me I could.

23 Campaign finance reports. Someone doesn't
24 form a campaign committee. And they say, well, I
25 talked to Jane at the office, and she said I didn't

1 have to. The Secretary, you cannot rely on their
2 advice. That's true in Arizona and everywhere, as far
3 as I can tell.

4 If they tell you your petition's good and you
5 have enough signatures, and you get sued and you
6 don't, the Secretary doesn't decide. It's --
7 obviously, it's a useful place for -- a repository for
8 information, and these conversations are helpful. It
9 is not dispositive.

10 And the fact is Jane Taylor never notarized
11 these statements. That's what the statute requires.
12 And there were ways around this that just weren't
13 factually pursued in this case.

14 THE COURT: But in this case, it's not a
15 matter of a case by case seeking approval or advice
16 from the Secretary. It's a systemic issue that the
17 Secretary has created to say these types of
18 applications are going to be submitted, correct?

19 Would you agree with me on that?

20 MR. LANGHOFER: What they -- the way the
21 system works is -- and they have a systemic rule.
22 It's not individual to circulators. And what it is --

23 THE COURT: Right. And let me pause you there
24 because I'm going to keep going. It's a systemic
25 rule. Was it adopted officially? Is there some

1 starting date where everyone knew this is how you
2 register or become a circulator in this stage? For
3 people the people who have to be registered, was there
4 a process that the Secretary undertook to let
5 everybody know, this is the -- this is the way we do
6 it now.

7 MR. LANGHOFER: There, the -- what the
8 Secretary does is, together with the Attorney General
9 and the governor -- well, the secretary drafts, and
10 the Attorney General and the governor hopefully
11 approve the Elections Procedures Manual. The EPM in
12 this case does not address this issue. It says you
13 have to upload an affidavit, but it doesn't say any
14 one will do.

15 THE COURT: And it doesn't say when though,
16 correct?

17 MR. LANGHOFER: It says that -- correct, it
18 doesn't say.

19 THE COURT: Okay. But they created an IT
20 system, for lack of a better term, a portal to
21 institute their interpretation of what the
22 requirements are. And that came live at some point;
23 is that correct?

24 MR. LANGHOFER: Correct.

25 THE COURT: Okay. So isn't the challenge

1 really against the Secretary of State for doing it
2 wrong? Because we are now down the path of this
3 system being installed, and you've got several
4 initiatives -- not just this one -- who have used the
5 system created by the Secretary, relied on this system
6 that's created by the Secretary.

7 And if the Secretary dot got it wrong, we've
8 got a whole host of problems for people who had no
9 idea that they were -- that they got it wrong. They
10 could read the statute and, you know, I think there's
11 a -- there's certainly arguments on your behalf. I
12 think there's arguments on the other side. But
13 they've got a system that they are following that's
14 created by the Secretary of State.

15 Why isn't the process, if you think the
16 Secretary got it wrong, to go and challenge the
17 Secretary's action in a separate lawsuit?

18 MR. LANGHOFER: Because the Secretary was
19 never elected to be a judge. She was never elected to
20 decide what that statute means and that, if you want
21 to disregard a strict application -- a strict --
22 construction with strict compliance, which is the
23 standard here -- if she wants to disregard it, she has
24 never been authorized by the voters or the statutes to
25 do that.

1 So saying Katy Hobbs has decided gives her a
2 power that she has absolutely no constitutional
3 entitlement to exercise. This court decides that.
4 And our clients are entitled to not have something go
5 on the ballot and be adopted as a quasi constitutional
6 measure that can't be amended when the circulators --
7 well, who filled out Jane Taylor's application? We
8 don't know. It's an online form. AMT could have the
9 passwords. I would be surprised if they don't. They
10 have to manage, you know, hundreds of circulators.

11 We don't know -- no one has ever sworn that
12 what she is saying is correct in this application in
13 this registration. The one she did in 2019, sure,
14 that's fine. No one has ever done that. That is a
15 statutory requirement. And the standard isn't, is it
16 fair to the committee? Does this kind of feel like
17 rough justice?

18 *Western Devcor* isn't rough justice. That's
19 strict compliance. That's the Arizona Supreme Court,
20 right. You left a serial number off in all of your
21 signatures which are, as far as we can tell for other
22 reasons, perfectly valid -- are thrown out. It's not
23 rough justice. The question is strict compliance.
24 And Katie Hobbs doesn't have the authority to do
25 something this Court can't override.

1 THE COURT: So the Secretary's actions, you're
2 saying, are irrelevant --

3 MR. LANGHOFER: They are.

4 THE COURT: -- to the process.

5 MR. LANGHOFER: They are, yeah. And if they
6 were relevant, if they had some bearing here, what do
7 we do with the smiley face application or the write-in
8 who just doesn't take applications at all? We are a
9 system of rules. The rules are passed by the
10 Legislature. They are interpreted by this Court.

11 The Secretary gets to administer it. And
12 that's usually a pretty good starting point in a
13 conversation. Just like, okay, what's happening so
14 far? Has it been working for a long time? This is
15 relatively new. It has not been working well.
16 Certainly, no deference is appropriate here
17 constitutionally or just as a practical matter.

18 THE COURT: But for the -- and I'll make this
19 a final point because I think we have beaten this
20 horse pretty well.

21 But if someone were to come in with the smiley
22 face, and someone let it be know that that was the
23 acceptable practice of the Secretary of State,
24 wouldn't someone who is concerned be able to come
25 forward and say the Secretary of State is, by way of

1 special action, mandamus, is not following her legal
2 obligations and must stop that practice.

3 MR. LANGHOFER: So, yes, someone could have
4 done that. The Committee could have done that.

5 In October 2018, there was another iteration
6 of the same argument brought in court. It was very
7 public, Judge Cooper. And she didn't even need to
8 reach the merits of the case. It was resolved on
9 other issues.

10 But you know, if we can spot the issue, the
11 Committee can spot the issue. It's not right for us
12 to sue before the signatures are filed. All of these
13 claims are litigated after signatures are filed when
14 they are brought by opponents.

15 The proponents should have taken a hard look
16 at this and said, Jane, did you notarize this? It
17 looks like you notarized this two years ago. Like, we
18 didn't exist then. You know, they should have had
19 sued. They should have sought mandamus relief or
20 special -- I guess special action is a form of --
21 mandamus is a form of special action. They could have
22 solved it. They could have just had her notarize some
23 other form and not upload it, kept it. They didn't do
24 those things.

25 What, and what -- if our clients would have

1 said then, we are really fired up about this, we want
2 you to sue right now, I don't think they would have
3 had standing. So there's a -- you know, this measure
4 Mr. Goddard testified started as a constitutional
5 initiative. You fill out an application. Well, I
6 think said this is the fourth iteration. But there
7 was more than four because sometimes they filed
8 constitution initiatives. And most of those didn't go
9 somewhere.

10 You know, the constitutional initiative he
11 filed earlier this year for this cycle, they didn't
12 get enough signatures for. They ended up moving on.
13 They don't have to formally withdraw if they just move
14 on. They don't have to say publicly where they are on
15 the signature process.

16 So if it were up to our clients to sue over
17 people who may drop a measure, may not gather enough
18 signatures, may fail for other reasons, that doesn't
19 look like quite right to us because there are -- I
20 want to say there's roughly 30 or 40 applications
21 every year. All the opponents are going to be rushing
22 into court.

23 The Secretary's manual itself -- here's a
24 better way of thinking about this. The Secretary's
25 manual itself says, it's your job to make sure your

1 forms are ready. The content is up to you. It says
2 that. I think it's attached to one of our -- I think
3 it's in our -- it's attached to our trial memo, your
4 Honor, so you can see it.

5 And I mean, is it the Secretary's job to check
6 the affidavit and make sure that it was filed or
7 assigned the day before or two years before? No.
8 It's their -- it's their job to file the right
9 paperwork.

10 Now if the Secretary's not accepting uploads,
11 they could have a conversation and tell you about
12 that. They can sue. They can mail them. They can
13 drop them off in person. There are any number of
14 solutions here. And to say the one solution that's
15 not acceptable is for our clients to sue, now that
16 there are finally signatures on it, and insist on
17 strict enforcement of the statutes, that seems
18 incorrect to me.

19 THE COURT: All right. Then let's go to
20 the -- one other point. The notary -- the affidavit
21 is supposed to notarize that all information provided
22 is true and accurate.

23 What is all information provided?

24 MR. LANGHOFER: So, yeah, there's a
25 grammatical question there. It's either a past

1 participle or it's, you know, is it describing the
2 information already provided or all information that
3 will be provided in the future?

4 Well, 41-328 says it can't be the latter. You
5 can't notarize a document that is incomplete. So if
6 information hasn't already been provided, a notary's
7 not allowed to notarize it.

8 THE COURT: All right. I think I have
9 exhausted my questions as to objection number one.

10 MR. LANGHOFER: Thank you. Objection number
11 two, your Honor. The statute says -- well, look, let
12 me -- let's start with this.

13 The Committee gets to pick. What's your
14 address? You got to put it on a serial number
15 application. No one forced their hand. They can use
16 the address that they want. And they chose 514. They
17 have their reasons for that, but they chose.

18 This idea that you can have two or, at some
19 point, he said many addresses. Is not what the
20 statute says. The statute says, put the Committee's
21 address.

22 THE COURT: But is it says more than that,
23 doesn't it?

24 MR. LANGHOFER: Oh, it's a long statute,
25 but --

1 THE COURT: But just that sentence says more
2 than that, doesn't it?

3 MR. LANGHOFER: It does. I don't recall the
4 differences being material, but --

5 THE COURT: Okay.

6 MR. LANGHOFER: -- your Honor may have
7 something in mind.

8 THE COURT: If you go to the -- and I
9 apologize. I don't have the language in front of me.
10 And I may be able to get it.

11 It's something to the effect of all the
12 information -- I'm sorry, not all the information.
13 But the address that -- for which the circulation
14 committee -- do you have it in front of you now?

15 MR. LANGHOFER: I do.

16 THE COURT: All right. Do you want to read it
17 out loud.

18 MR. LANGHOFER: The address of the committee
19 in this state, for which the circulator is gathering
20 signatures, and at which the circulator will accept
21 service of process related to disputes concerning
22 circulation of that circulator's petitions.

23 THE COURT: So it's not -- it's not just that
24 there are multiple addresses for a committee. It's
25 not any of the addresses, but the ones that fulfill

1 those requirements. Would you agree with me on that?

2 MR. LANGHOFER: Yes, yes.

3 THE COURT: Okay.

4 MR. LANGHOFER: If -- if we are in a world
5 where multiple, a committee can have multiple
6 addresses.

7 THE COURT: In terms of a world where a
8 committee can -- what would prevent a committee from
9 having multiple addresses?

10 MR. LANGHOFER: Well, the documents they filed
11 with the Secretary of State. There are official
12 filings with the governor saying who the committee was
13 and what their address was. For the entire duration
14 of this campaign, it was always and only 514.
15 That's -- no one forced this. They got to pick and
16 they picked 514.

17 Now if that's not right -- in fact, the
18 testimony seemed to suggest overwhelmingly, you know,
19 514 was an afterthought. All the leadership, all the
20 finances, all the administrative work was being done
21 in 502. I don't know that I heard anyone say that
22 they thought 514 was really where the campaign was
23 happening. Obviously, there were some volunteers
24 there. But the headquarters was apparently never at
25 514. I don't know that there was any disagreement on

1 that. Maybe Mr. Bendor remembers more than me.

2 No one forced them to say 514 was the address.

3 Mr. Goddard signed it saying, this is our address.

4 That's not the address they put on as the service of
5 process address. It's a mismatch. Strict compliance.

6 That's the argument, your Honor.

7 THE COURT: All right. So what numbers --
8 were there affidavits that had both 514 and 502?

9 MR. LANGHOFER: They were -- if I recall
10 correctly -- and I'm pretty sure about this -- I think
11 they were all 514 -- 502, rather.

12 THE COURT: Okay.

13 MR. LANGHOFER: 514 was the only serial number
14 application. And everything had 502 as a service
15 address.

16 THE COURT: And if that was the address where
17 the committee was located for this petition, and they
18 could receive service of process at that address,
19 what's your argument?

20 MR. LANGHOFER: So, what they put as the
21 service address on their registration forms was the
22 Committee's lawyer's address. They put 502. He is
23 apparently willing to accept service there. That
24 seems clear.

25 But it doesn't say put, you know, any of the

1 addresses at which you are willing to accept service.
2 It says, put the Committee's address. The Committee's
3 address has been defined by the Committee for the
4 relevant period of time in their official filings
5 always and only as 514.

6 So I guess -- perhaps what you are teasing out
7 is, if they are allowed to have multiple addresses, at
8 least one of which is undeclared to the Secretary of
9 State, right, would that count? Yeah, if that's true.
10 If you can have many addresses and, you know, the one
11 that you declared to the Secretary of State is
12 immaterial, yes. Then -- then -- if they have
13 provided one of those addresses as their service of
14 process address and on the registration form.

15 THE COURT: Okay.

16 MR. LANGHOFER: Objection number three. This
17 is the unit number objection. And your Honor will
18 remember from before we started the trial, there were
19 two withdrawals in this category. The rest of the
20 factual allegations are admitted. I guess there are
21 two exceptions. I will get to those in a moment.

22 The problem here is a number of the
23 circulators put -- list as their address a large
24 apartment building or a hotel. Some of these hotels,
25 the aerial photos show multi -- it's not just one

1 building. There are multiple buildings, all of which
2 have the same address. No unit number.

3 So, okay, let's say we are going to send out a
4 private investigator to talk to John Smith and say --
5 there are any number of reasons you want to talk to a
6 circulator. Sometimes it's, this looks like you got
7 300 signatures in a day. Did you really get 300
8 signatures in a day? We want to talk to these people
9 for some reasons.

10 Sometimes you have to look them up. You don't
11 have to find them in person. You have to look them up
12 to see if they have a criminal history. You need a
13 number for that, to do that to do it efficiently,
14 okay. So if you want to go knock on John Smith's door
15 and ask him about the signatures, you show up to the
16 hotel, there's no unit number.

17 Do you knock on door 101, try that and then
18 102? That's not a real address. It's not a complete
19 address. Let me put it that way. It's gotten you to
20 the right building or, in some cases, the complex is a
21 building. That is inadequate. The *Ruiz v. Lopez* case
22 is not a petition case, but it's on the -- it
23 addresses the issue of what a full address is. It
24 says you have to have the apartment number to sue.

25 Judge Gates is the only decision in Arizona on

1 this issue -- that's a petition case but, of course,
2 it's unpublished. But it's the closest thing there is
3 but it's unpublished.

4 There are a couple of factual nuances here for
5 two of the witnesses -- or two of the circulators,
6 rather. Bonnie Stanley has -- she's Exhibit 114. I
7 think we have stipulated to what's true here, but
8 there's a question about whether -- the effect that it
9 would have.

10 For Bonnie Stanley, actually, I think -- here
11 we go. Now that I've got it up, I will just show you
12 as an example. This is Homewood Suites. This is the
13 address, the temporary residential address that
14 Ms. Stanley has on her petition. There's no unit
15 number.

16 Where do you find Bonnie? Do you wait at the
17 front desk? Are you Bonnie? Are you Bonnie? Do you
18 have to ask the front desk and hope that they will
19 give a stranger the number for Bonnie Stanley's room?
20 It's not a complete address. It's not enough to
21 locate here.

22 Actually, I want to come back to Bonnie
23 Stanley in a moment because I think the real issue
24 there is objection number four.

25 Chanz Calderon, he's in Exhibits 13 and 14.

1 What we have stipulated to here is that Mr. Calderon
2 lives in an RV park. What we don't have evidence of
3 is whether there's a unit number required at this RV
4 park. So our position is, if you go to with this RV
5 park, it always seems to have the same address. It is
6 more likely than not that he has a lot number.

7 And I believe Mr. Bendor will argue we don't
8 know that and so you shouldn't -- you shouldn't assume
9 it. But we do agree that he lives in this RV park.
10 This is the address that he listed. That's
11 Exhibit 14.

12 Questions on objection three, your Honor?

13 THE COURT: No.

14 MR. LANGHOFER: Objection number. Four this
15 is nonresidential. The problem here is that
16 circulators would list on their registration forms an
17 address as their permanent residence or their
18 temporary residence that appears to be nonresidential.

19 So going back to Bonnie Stanley now. This is
20 the facility that she's listed as her residential
21 address. It's a mailbox store and -- or, you know,
22 basically, a PO Box facility in rural New Mexico.

23 THE COURT: In rural New Mexico, is that what
24 you said?

25 MR. LANGHOFER: It is.

1 THE COURT: Okay.

2 MR. LANGHOFER: And I think we put in our
3 Joint Pretrial Statement that -- or they've got,
4 rather, a declaration to which we stipulated to avoid
5 her having to dial in for this. She lives in rural
6 New Mexico. She says they don't deliver mail out to
7 her house, and so she seeks mail -- or she gets her
8 mail at this facility.

9 Our objection to these sorts of addresses is,
10 it's got to be your residential address. That's what
11 the statute says -- or form says. If you are going to
12 list a mailing address, it's inadequate.

13 THE COURT: It's?

14 MR. LANGHOFER: Inadequate.

15 THE COURT: Inadequate, okay.

16 MR. LANGHOFER: Now there are two wrinkles in
17 this category. Cory Woods -- Cory with a C, standard
18 spelling -- and Nik Beganovic -- N-i-k is the first
19 name (sic). These two gentlemen have the same
20 problem. This is also in our Joint Pretrial
21 Statement, but I will mention it here.

22 They each wrote an address that was omitting
23 the last digit. And if you look up the address that
24 they wrote, it's not -- it's not residential. It's an
25 intersection or a -- you know, there's nothing there.

1 If you look up the address with the extra digit added,
2 it's a hotel, but there's no unit number.

3 So we stipulate to those facts. We agree that
4 those circulators meant to write a full address, but
5 left out a digit. And we just disagree about what
6 that means, right. So our position is strict
7 compliance. They wrote this address. They don't live
8 there. So that's objection four.

9 So even if we were to credit what they tried
10 to write, then we are back into objection three or the
11 missing unit number. So that's a little bit nuance.
12 One final -- the facts there are -- relative nuance, I
13 should say. The -- most of this case -- of course, we
14 streamlined the facts, but we've just got these few
15 disagreements remaining.

16 Procedurally, I'll say something about what we
17 do next. The -- you have the information that you
18 would need to reach a final signature count in
19 Exhibit 178 for -- or 147. And so, if you were to
20 say -- you know, hopefully we win on one or more
21 categories. If you were to go through and find the
22 people with that particular objection, you can take
23 this number of signatures from the four right hand
24 columns and do the math yourself.

25 I don't -- I am not asking your Honor to do

1 that. I think that's a long task. There's a lot of
2 pages in that exhibit. And if you were to say that,
3 you know, the following categories would be sustained,
4 we could, I think quickly give you back, hopefully, a
5 stipulation on what the math would be. It's
6 relatively fast to do on our end. But of course,
7 we've got to get to there first. That's the hard
8 part. Thank you.

9 THE COURT: All right. Very good. I
10 appreciate that. And I appreciate the fact that the
11 details can be -- I can receive some assistance on the
12 details because that's -- sometimes that's difficult
13 to put together.

14 All right. Thank you.

15 Mr. Bendor.

16 MR. BENDOR: Thank you, your Honor. I want to
17 start with what the Plaintiffs have not alleged. They
18 have not alleged any fraud. In fact, you heard
19 Mr. Langhofer stipulate there's no fraud.

20 They haven't alleged there is anything
21 misleading in the Initiative's hundred word summary or
22 that any circulators failed to register. Instead,
23 they have alleged that the Initiative Campaign's
24 registered circulators made a certain hypertechnical
25 errors in their registration form.

1 And they are wrong about this. The
2 circulators strictly complied with the statute. But
3 it's also worth noting that the Plaintiffs have not
4 alleged any harm from any of these supposed errors.
5 They haven't alleged that they were unable to serve
6 any subpoenas on any circulators. They haven't
7 alleged that they were unable to contact any
8 circulators. They haven't alleged that they were
9 unable to verify the identity of any circulators. You
10 heard some hypotheticals, but they haven't alleged or
11 proven any of those.

12 Now our constitution says that, under the
13 initiative power, ten percent of qualified electors
14 shall have the right to propose any measure. The
15 Plaintiffs have not disputed that ten percent of the
16 qualified electors sought to propose the Voters Right
17 to Know after the ballot.

18 Instead, they are simply trying to prevent
19 those electors from exercising that right through what
20 is honestly a game of Gotcha. But even under this
21 game of Gotcha, the Plaintiffs got the rules wrong.
22 The circulator registration statutes simply don't
23 contain the requirements they say they do.

24 I want to talk about strict compliance very
25 briefly. I don't think there's a lot to say about

1 this because I do think we strictly comply with the
2 statute.

3 THE COURT: Okay. But let me stop you and ask
4 a question. In terms of the no harm argument, what
5 should I do with that?

6 I find that you -- that the Committee did not
7 strictly comply, but yet there is no harm, is that --
8 where does that leave me? Does the strict compliance
9 give me any avenue to address whether there's harm in
10 the case?

11 MR. BENDOR: Well, the cases cited -- we cited
12 in our brief, strict -- strict compliance requires
13 nearly perfect compliance, but not perfect compliance.
14 And the cases also say that you don't ignore the
15 general rules of statutory interpretation just because
16 we have strict compliance. So we interpret statutes
17 the same way we normally do. We look to text. We
18 look to other sources. We look to purpose.

19 THE COURT: What case tells me that?

20 MR. BENDOR: That is --

21 THE COURT: And if you've cited it in the
22 brief, I can find it. But --

23 MR. BENDOR: Yeah. No. I -- well, one such
24 case is *Homebuilders Association of Central Arizona v.*
25 *City of Scottsdale*, and that is 186 Ariz. 642.

1 THE COURT: 642.

2 MR. BENDOR: And I may be able to get you a
3 pincite in just a moment, your Honor.

4 THE COURT: All right. Very good.

5 MR. BENDOR: And so you -- you treat statutes
6 the way you normally would, right. And I believe it's
7 that case, as well -- and I will confirm this, your
8 Honor -- that says, courts should -- it's like normal
9 statutes -- try to avoid absurd results. You try to
10 adopt sensible interpretations of the statute, just
11 like we normally do.

12 Well, the law also says -- and this is the --
13 I believe it's the Healthy Arizona case from the
14 Arizona Supreme Court in 2000 -- that when you are --
15 the Legislature is regulating the constitutional right
16 to initiative, it should not unreasonably hinder or
17 restrict the constitutional provision.

18 And it has to -- it's regulations has it
19 reasonably supplement the statute -- the purpose in
20 the constitution, right. So these shouldn't just be
21 "gotcha" statutes. And we are not arguing that any of
22 these statutes are actually "gotcha" statutes. But I
23 would argue that the way Plaintiffs seek to read some
24 of the statutes would result in that -- that result
25 and would not further any constitutional purpose. And

1 the Court should keep that principle in mind when it's
2 reading the statutes and deciding how to interpret
3 them.

4 So let's talk about objection one, the
5 affidavit. The registration statute requires each
6 circulator to sign, quote, an affidavit, with certain
7 statutory language. The statute lists the language
8 put in the affidavit. That language is then put in
9 the Secretary's sample affidavit and the form we have
10 put in as Exhibit 154. That's the sample affidavit.

11 And it's undisputed that every circulator who
12 is challenged in that case used that same -- that
13 exact same language that comes in from the statute and
14 is in the Secretary's book.

15 Now Plaintiff's main complaint seems to be
16 that they don't like the statutory language. They
17 think it doesn't make a lot of sense because it refers
18 to some things, and it doesn't remember refer to them
19 clearly. And that's fine. They can not like the
20 statutory language. But if they don't like the
21 statutory language, they should go talk to their
22 friends in the Legislature and see if they want to
23 change the statutory language. But the statute simply
24 doesn't say do an affidavit every time you update your
25 information.

1 And in fact, you also heard the argument from
2 Plaintiffs and in their briefs that the statute
3 contemplates one registration each time. You have to
4 do a full-blown registration each time you provide any
5 information, but that's also not all the statute
6 contemplates.

7 And I think the best evidence of that from the
8 statutes is 19-118(C). And what that provision says
9 is -- so (B) says what you do to register. And then
10 (C) says, after you register -- after circulator
11 registers, the Secretary gives them a circulator
12 registration number.

13 Now we all know and it makes common sense that
14 each circulator gets one registration. They don't get
15 a registration number for each time they register.
16 They get one registration number per circulator, and
17 they are supposed to put it on the petitions that they
18 circulate.

19 That suggests that the statute contemplates
20 one of these full-blown registration processes per
21 circulator resulting in that number, and then there
22 may be additional information that they have to
23 update. But that doesn't necessarily require the
24 full-blown process, which leads to the circulator
25 registration. And as your Honor pointed out, that's

1 how the Secretary of State has interpreted and
2 implemented the statute.

3 And I think there's important things that
4 Mr. Langhofer left off when he was talking about the
5 Secretary's authority here. So I want to look at
6 19-118(A). And that says -- the third sentence
7 down -- the Secretary of State shall establish, in the
8 Instructions and Procedures Manual issued pursuant to
9 Section 16-452, a procedure for registering
10 circulators.

11 So the statute expressly delegates to the
12 Secretary, using the Elections Procedures Manual
13 process, the authority to decide how circulators can
14 get registered. Now the Election Procedures Manual
15 process isn't just the Secretary. It's actually a
16 complex process that involves the governor and AG
17 side.

18 Now it's undisputed -- well, I don't want to
19 say its' undisputed because I have some disagreements
20 with Mr. Langhofer on this. The Elections Procedures
21 Manual -- and this is Exhibit 176 -- the relevant
22 excerpt says that circulator registration must be
23 conducted as prescribed by the Secretary of State
24 through the Electronic Circulator Portal.

25 So the statute delegates to the Secretary. It

1 says, put it in the Elections Procedures Manual. And
2 then the Elections Procedures Manual says, we are
3 incorporating by reference the circulator portal. And
4 as I think the parties agree, the circulator portal
5 only requires one affidavit per circulator.

6 So if you look at Exhibit 178, that is the
7 training guide that the Secretary of State puts out
8 for circulators. And on page 9 of that exhibit, it
9 discusses affidavits. And, clearly -- and it says, if
10 you are registering to circulate, you must know submit
11 a notarized affidavit of eligibility.

12 And then, if you go to the last page -- oh,
13 yeah the last page. So Mr. Langhofer says, we have no
14 idea if these people actually submitted these
15 registrations. They never swore anything. That's
16 just not true. So, actually, let's call this up.
17 Let's call up Exhibit 178 and go to the last page.

18 This is the circulator registration form. And
19 this is the registration form without any affidavit,
20 right. And if you look at the bottom on the last page
21 and blow up the declaration "under penalty of
22 perjury," the circulator declares under penalty of
23 perjury. That's a declaration. And we use those
24 kinds of declarations of all the time, right, and it's
25 authorized by law.

1 So, yeah, they are not notarizing every single
2 piece of paper they submit. But that's the circulator
3 registration form, and there's a declaration of
4 penalty -- under penalty of perjury.

5 So on the -- you know, factually on the
6 affidavit, Mr. Langhofer gave you some examples of
7 people who did affidavits in 2019, but their challenge
8 is actually a lot more than that. And a lot of their
9 people who they are challenging are people who gave
10 affidavits in -- in 2021 and submitted their
11 circulator registration form within days of -- of
12 submitting their affidavit.

13 Or the only change they made was they updated
14 their address or something like that. We identified
15 those folks in the brief. And I can walk through
16 those, but -- if the Court wants me to. But if not,
17 for the interest of time, I won't walk through those
18 individual examples.

19 Mr. Langhofer says you can't notarize a
20 document that's incomplete or -- you know, the
21 reference documents to be attached in the future. But
22 the statutory language of what's supposed to be in the
23 affidavit, it doesn't say, you know, I'm hereby
24 affirming the truth of these other attached documents.
25 It just doesn't say that. So the problem he has is

1 really a conceptual problem with the statutory
2 language, not a problem with what the circulators
3 actually did there because they used the exact
4 statutory language.

5 And you heard him acknowledge that lots of
6 people couldn't file a second affidavit, and no one
7 could file more than two affidavits with the Secretary
8 of State. We heard the smiley face example. The
9 reason the smiley face example doesn't work for
10 registering a circulator is because it's not
11 consistent with the circulator registration processes
12 set for in the Secretary of State's Election
13 Procedures Manual. It's not like the Secretary gets
14 to make whimsical decisions. She is has a rulemaking
15 process, essentially, and that's what happened.

16 That's all I want to say about the affidavit
17 issue, unless the Court has any questions.

18 THE COURT: Yeah. So the language in the
19 statute indicates that affiant is swearing to all of
20 the information -- to the accuracy of all the
21 information provided. So what is all of the
22 information provided if it's not the information
23 that's provided as to this particular petition.

24 MR. BENDOR: Well, look, it's -- that's the
25 statutory language. I think it's not the best

1 statutory language, and the Legislature perhaps should
2 consider revising it. I don't think the circulator
3 should be blamed for using the exact language that's
4 there.

5 I think one fair way to read it is they are
6 affirm the information that they have submitted to
7 date. That's the best that they can do. And if the
8 Legislature wants to require them to do an affidavit
9 each time they update their address, fine, put that in
10 the statute. But the present statute just doesn't say
11 to do that.

12 THE COURT: So they are affirming the accuracy
13 of the information that they have provided in the
14 past.

15 MR. BENDOR: Yeah, up until that point in
16 time.

17 THE COURT: Up until they sign that affidavit
18 of correction.

19 MR. BENDOR: I think that's the best way to
20 read it.

21 THE COURT: Okay. And then what about the
22 information that happened in the future; in this case,
23 the information related to this particular initiative
24 petition? They are not -- you don't believe the
25 requirement is to make any avowal as to that

1 information?

2 MR. BENDOR: Not in a notarized affidavit.
3 The Circulator Registration Form, which we just looked
4 at, has a declaration of a penalty under perjury on
5 it. The Legislature simply hasn't said that any time
6 a circulator updates their information, they need to
7 do a new affidavit. The Legislature can do that, but
8 they haven't. And so we shouldn't be dinged for not
9 doing something they didn't tell us to do.

10 THE COURT: All right.

11 MR. BENDOR: Just going back briefly, we were
12 talking about a page cite for the *Homebuilders* case
13 with regard to statutory interpretation in the context
14 of strict compliance. And the page cite there is 650.

15 THE COURT: All right. Thank you.

16 MR. BENDOR: All right. Objection two, and
17 this is the service of process address. So the
18 statute requires each circulator, when registering, to
19 list the address of the committee at which the
20 circulator agrees to accept service of process. And
21 each of the circulators did that. They listed 502
22 West Roosevelt, which is where they agreed to accept
23 services of process.

24 And you heard extensive testimony, and we've
25 submitted documents from people, who were intimately

1 involved with the Initiative campaign, showing that
2 502 West Roosevelt was the administrative headquarters
3 of the campaign. I don't think there's any factual
4 dispute. There's no evidence to the contrary. So the
5 administrative headquarters was the management
6 headquarters.

7 Rather than going through all of them, I will
8 refer your Honor to the documents at Exhibit 155 to
9 166. And those include bank records, mail records,
10 the Committee's checkbooks, its initial statement of
11 organization, a filing related to federal tax issues,
12 all of which use 502 West Roosevelt.

13 Now the Plaintiffs contend that the Committee
14 had to use a different address because they used a
15 different address on the serial number application,
16 which is required by ARS 19-111. But as you heard,
17 the Committee did its work in multiple places. And it
18 did its management and administrative work in 502 West
19 Roosevelt. And it did its volunteer work in 514 West
20 Roosevelt.

21 And the reason it listed 502 West Roosevelt
22 for the Committee's circulators is it understood that
23 514 was going to be closed down by the time this
24 litigation would ensue -- if it ensued -- because the
25 volunteer's work is done. So there wouldn't have been

1 someone at 514 to accept service of process. But
2 Mr. Goddard would have been at 502 West Roosevelt to
3 accept service of process, so we could know if any
4 subpoenas were served.

5 Now in this case, there was only one subpoena.
6 And it was -- I accepted service of it by email. And
7 then we agreed on some factual stipulations and it was
8 withdrawn. So it's not like there's any, you know,
9 attempted service of process that didn't work. But if
10 there had been service of process, the right address
11 would have been 502 West Roosevelt, which is the
12 address that the circulators put on their forms. So
13 they registered properly.

14 Now Mr. Langhofer's argument really assumes
15 statutory language that doesn't exist. He assumes
16 that, when the registration statute, 19-118 says the
17 address of the committee in this state, it means the
18 same address referenced in 19-111, which is the serial
19 number application. And then, sure, again, the
20 Legislature could require that. They could say you
21 have to list the same address. But they didn't,
22 right.

23 And so the natural way to read the statute is
24 you should list the address of the committee -- it has
25 to be the real address of the committee. We've

1 established that. And it should be the address at
2 which the circulator will accept service of process.
3 And we've established that, as well.

4 Now there's an argument from the other side
5 that, you know, a political committee can't have more
6 than one address. Look, obviously, it's absurd,
7 right. Entities all the time have more than one
8 address. You know, if you ask what is Apple's
9 address, well, it has lots of offices and stores
10 throughout the world. It doesn't have just one
11 address. And that's true of governmental entities and
12 non profits and corporations around the world.

13 Entities exist and do their work in multiple
14 places. And there's no reason political committees
15 can or should be any different. Of course, the
16 statute could have asked for the Committee's primary
17 address. But, A, that's not what the statute says.
18 And, B, I think the evidence shows that 502 West
19 Roosevelt was the Committee's primary address, so they
20 fulfilled that.

21 Mr. Langhofer says that the Committee picks,
22 and they chose 514 West Roosevelt. But they chose
23 that the for the serial number application. You heard
24 Mr. Goddard's testimony about why he did so and why
25 that made sense for that form and not for some other

1 forms. And the serial number application doesn't say,
2 this is the only address you can ever use. It doesn't
3 say this is your address for all time. It doesn't say
4 this has to be your address for the purpose of
5 accepting service of process of subpoenas. It's just
6 the address that gets the serial number, and then it's
7 posted online.

8 Mr. Langhofer also sudden that somehow the
9 address that was used -- 502 West Roosevelt -- was
10 undeclared through the Secretary. Actually, it was
11 declared through the Secretary in numerous circulator
12 registration forms that were filed with the Secretary
13 that are publically available and are evidence in this
14 case.

15 Okay. That's all I have on objection two,
16 unless the Court has a question.

17 THE COURT: So the statutory language that the
18 Plaintiffs point to talk about "the" address for the
19 Committee. When it's as specific with an article that
20 appears to contemplate one address, what's your
21 response?

22 MR. BENDOR: Well, so I think the best
23 argument for them on that would be, so it's the
24 primary address. But I think the evidence we've shown
25 with the witnesses today and the documents is that 502

1 West Roosevelt was the primary address. But not only
2 was it the primary address generally, it was the
3 primary address for the purpose that the statute is
4 contemplating, which is, if we are going to serve
5 service of process, where is an organized place where
6 administrative functions take place and managerial
7 functions took place.

8 So this 502 West Roosevelt is "the" address of
9 the Committee if you had to say there is one address
10 of the Committee. And that's what multiple witnesses
11 testified to, and there's no rebuttal to that.

12 I also think, you know -- frankly, the
13 statute, again, is not totally clear. But I think
14 what the statute is saying it's supposed to be a real
15 address for the Committee and it's supposed to be
16 where you get service process. And that's what it is.

17 THE COURT: All right. Thank you.

18 MR. BENDOR: All right. Objection three is
19 about circulators who didn't list their room or
20 apartment numbers on their registration forms.

21 First of all, most of the signatures in this
22 category relate to circulators who did not list an
23 apartment or room number on their temporary address.
24 And that's important because the statute, 19-118 does
25 not require circulators to list a temporary address at

1 all. The Secretary just puts that in the form for
2 administrative convenience. And we cited some things
3 in our brief about this.

4 So a circulator who listed a temporary address
5 without an apartment or room number simply cannot have
6 failed to comply with the statute because they weren't
7 required to put anything there at all. In addition,
8 most of the circulators who listed temporary addresses
9 without room numbers were staying at Extended Stay
10 America or other hotels.

11 And you heard that from the testimony of Josh
12 Gordon, the logistics director from the circulating
13 company, AMT. And his tomorrow showed that, when his
14 company is sending things to people, they don't use
15 their room numbers because they don't need to. And
16 when you send something to someone in that situation,
17 they receive it without the room number.

18 That's corroborated by Exhibit 183, which is
19 stipulated in evidence and -- or, no. I'm sorry. Not
20 183. I'm thinking of 173, which is stipulated in --
21 okay, last correction. I'm talking about 174, which
22 is Frequently Asked Questions from the Extended Stay
23 America website. And that's stipulated in evidence.
24 There's no dispute about its authenticity.

25 It says: Our hotels allow packages to be

1 delivered to guests who have an existing reservation
2 or are currently residing with us. Packages can be
3 retrieved at the front desk with proper
4 identification.

5 You don't need to send it to their room
6 number. You don't need their room number. And we
7 also put in a couple affidavits from circulators which
8 are admitted as 172 and 173 where they say, yeah, I'm
9 able to get mail without putting in my apartment
10 number or room number.

11 Now the Plaintiffs like to cite this -- the
12 decision from Judge Gates, but I think they are
13 missing a really important part of that. Her decision
14 said that a registration doesn't comply if an
15 apartment or room number is not included. And the
16 following is a quote: "Where such number was
17 necessary to ensure that the individual could be
18 contacted or questioned."

19 So then we have an evidentiary question. Have
20 the Plaintiffs proved -- have they put on any evidence
21 that the apartment or room number was necessary to
22 ensure that the individual could be contacted or
23 questioned? And the answer is they have put on zero
24 evidence of that.

25 There is no investigator who went up on the

1 stand and testified that they tried to find a
2 circulator at a certain Extended Stay America or a
3 certain apartment, and they were unable to do so
4 because they didn't have their apartment number or
5 room number. There's no evidence like that
6 whatsoever. And in fact, we have a lot of contrary
7 evidence, which I just recited.

8 Moreover, frankly, it's not really clear if
9 they are supposed to be contacting these folks
10 individually. There are potentially 4.2 issues if
11 they do. And what the statute says is that they are
12 supposed to be contacting them via a subpoena served
13 on the service of process address, which all of these
14 circulators listed and at which they could have been
15 contacted if they needed to be.

16 I want to briefly just mention Exhibit 183
17 that is stipulated into evidence. And that is simply
18 a spreadsheet from the Secretary's website showing the
19 circulator affiliation of each circulator. So if
20 there's any question about the testimony of Mr. Gordon
21 from AMT -- and, you know, it shows basically that a
22 lot, you know, almost all these circulators were from
23 his company. And, therefore, his testimony pertains
24 to them.

25 Just a couple loose ends. Chanz Calderon is

1 the gentleman who lives in mobile home park. And the
2 Plaintiffs assert, you know, he didn't -- we agree, he
3 didn't list a room number or a unit number. And the
4 Plaintiffs say that he should have. But they have no
5 evidence that they were unable or hypothetically would
6 have been unable to contact him without that room
7 number.

8 And in fact, there's no evidence that there
9 actually are unit numbers at that RV park, nor is
10 there any evidence that there are at RV parks
11 generally. So it's the Plaintiff's burden of proof to
12 prove their case. And they simply haven't put on any
13 evidence that he missed a unit number that actually
14 existed or that was necessary.

15 Last individual I want to talk about is Bonnie
16 Stanley. She lives in rural Nevada, not New Mexico, I
17 believe, not that that's material. And she is so far
18 out, she doesn't get mail where she lives. And so we
19 put in an affidavit that says she doesn't get mail
20 there, so she uses the mailbox company to get mail.

21 And it's not just like that's what she put on
22 her registration form. She put on her driver's
23 license. And her driver's license is Exhibit 169.
24 And her driver's license uses the exact same address
25 that's on her Circulator Registration Form. So you

1 know, if that's not an official address, she clearly
2 was trying to provide the address at which folks could
3 reach her.

4 Again, there's no evidence that the Plaintiffs
5 hired some investigator to go out to Nevada and they
6 tried to go to Bonnie Stanley's home and they couldn't
7 go there because they went to the mailbox company
8 instead, right. There's none of that. So there's no
9 evidence that they actually needed a different address
10 in order to contact her. And in the absence of such
11 evidence, I would say that, under Judge Gates'
12 decision, they haven't met their burden to prove that
13 her registration was invalid.

14 Those are all -- oh, okay, well, I do have one
15 last note here I wanted to say.

16 You know, Mr. Langhofer said, you know,
17 they -- that maybe they want room numbers because they
18 might want to send investigators out to an apartment
19 or a hotel, and what would that investigator do?
20 Well, you know, they could ask at the front desk and
21 say, hey, do you know who this is? Do you know where
22 is this person staying? Can we talk to them? Would
23 it work? We don't know because there's no evidence.
24 They didn't put on an investigator who tried to do
25 that and wasn't able to do that.

1 He also said that, you know, you might want to
2 use their address to look at criminal history. I
3 would think you probably want to use their permanent
4 address for that, not their temporary address, which
5 has been -- the temporary address is most of what the
6 fight is about here. But, again, there's no evidence
7 that they tried to do criminal history checks on
8 people and were unable to do so because they lacked
9 these addresses, right. They didn't put on a witness
10 who said they tried run those checks and they needed
11 the apartment number.

12 So those are all the points I wanted to make.
13 I thank the Court for the time. Any further
14 questions?

15 THE COURT: No further questions from me.
16 Thank you, very much.

17 MR. BENDOR: Thank you, your Honor.

18 THE COURT: Last few minutes for rebuttal.

19 MR. LANGHOFER: I will be, I think mercifully
20 brief. Let's start with the standard.

21 Mr. Bendor has given an excellent description
22 of the substantial compliance standard, but it's not
23 the strict compliance standard. This idea that
24 there's no harm, that's -- it's sort of a lay
25 description of the substantial compliance standard.

1 You know, like, if you're going to mess up the
2 caption in your candidate petitions, you know, lower
3 the standard to substantial compliance, you have to
4 mess it up so badly that the voter couldn't figure it
5 out. That's harm. Harm is the standard for
6 substantial compliance. This is not the standard for
7 strict.

8 In fact, there are two cases that talk about
9 this. So -- well, there are more than two, but two
10 that I have here at my fingertips. The -- one of them
11 is the case where the serial number in the lower
12 right-hand corner was omitted. No evidence that it
13 affected anyone's perception of the measure. No
14 evidence of confusion. And the Court said, that's not
15 the question. The question is, did you strictly
16 comply. It's a simpler analysis because we are
17 dealing with something here that will be a quasi
18 constitutional remedy.

19 Now that also applies to what role -- what is
20 the Secretary's proper role here? So now I'm
21 switching to the second issue. I should say clearly,
22 moving on from substantial compliance and strict
23 compliance. And now we are talking about what -- how
24 much respect do we give her decisions here?

25 The Committee has it both ways -- they want to

1 have it both ways. When we are talking about the
2 affidavits, they say, it's the Secretary. You have
3 got to defer to her. She's got a whole system, right.
4 That's just got a great system. You have got to defer
5 to that. And then, when the Secretary puts in the
6 registration form, "temporary address," they say
7 that's totally unimportant. You don't have to -- you
8 can omit it. You can get it wrong. It doesn't matter
9 at all.

10 Well, okay, let's pick one rule. How about
11 that? And I propose the rule that's in the
12 constitution where the Secretary's not a judge. She
13 doesn't decide the law. She doesn't make binding
14 decisions. She doesn't get to amend statutes.
15 Certainly, she doesn't get to amend that. The
16 Secretary is an administrator of what the Legislature
17 does and the courts decide. That's a great rule.

18 And in fact, there are two cases on this. One
19 is from *Western Devcor*. This is the Arizona Supreme
20 Court. And here in section three, the problem is they
21 screwed up their filing, but they did it because they
22 relied on the Secretary's sample form.

23 They went to the Secretary. They got the form
24 from the Secretary. They filled it out and submitted
25 it, got sued, and it was thrown out because the Court

1 says: Intervenors cannot rely on the Secretary of
2 State's sample form any more than they can rely on the
3 statute that conflicts with the constitution. That is
4 the Secretary's role. She is not allowed to muddle up
5 the statutes. She is not allowed to make binding
6 legal decisions. It's just not her role.

7 Another case, the -- this is the *Threadgill*
8 case. This one is from the Court of Appeals though,
9 footnote one: It is settled that circulators may not
10 rely on a form.

11 This is the affidavit issue, right. They want
12 to say, you've got to defer to her. She's got this --
13 now it's not a paper form. It's a big electronic
14 form. She's developed that. That's great. Of course
15 it's great when the Secretary develops it and says
16 we're registered. That's just not what the cases
17 cite.

18 Now I want to add though this. I -- of
19 course, I understand the pause that it gives you when
20 you are told they can't upload a second affidavit. Of
21 course, I understand that reaction. And I want to
22 say, we don't know how many signatures will be
23 invalidated through the County Recorder's invalidation
24 process. They are checking that. We don't know that
25 number yet.

1 But using every reasonable range that -- you
2 know, I can -- just my own -- I'm not -- I don't want
3 to turn myself into an expert witness here. But my
4 own understanding is the difference between the people
5 who could not upload the form and therefore, you know,
6 couldn't -- you have this objection. If we just take
7 them out, that will be an immaterial number, right.

8 This is a factual defense that we can't
9 over-read. It doesn't affect that many signatures --
10 circulators. Like, the Jane Taylor, she doesn't have
11 that defense. She could always upload the second
12 form. She could have done it at any point in 22
13 months before she registered, and she never did it.
14 She did not notarize the facts that she submitted.

15 And I want just to be very clear. The statute
16 doesn't say just that you have to swear to your
17 registration, but that it has to be before a notary.
18 And it didn't happen with her. And this -- this
19 problem with the Secretary's system, there's no
20 defense there, right. So that's why we subdivided
21 Objection A into two columns, so you can see the
22 difference between the people who have that issue.

23 On the last point, constitutional standard,
24 the statutes cannot unreasonably burden or
25 unreasonably hinder the right to petition. That is

1 the correct standard. The question is not whether the
2 penalty is burdensome, but whether the compliance is
3 burdensome. Would it be burdensome to notarize your
4 affidavit? Sure. It's some non zero burden.

5 But let's remember, there has been for many
6 decades a requirement that they notarize every single
7 petition sheet. Every single one has to be notarized.
8 And if they are not, the Secretary herself will kick
9 them out -- well, her staff.

10 Is it burdensome to get one document notarized
11 when everything you submit must also be notarized?

12 No, it is not.

13 I'm happy to answer any questions, Judge, but
14 those are my points.

15 THE COURT: All right. Very good. Thank you,
16 Counsel. Thank you everyone here. This was
17 well-presented. I'm going to take the matter under
18 advisement and get a decision out just as quickly as I
19 can, which is pretty quickly, given the timelines
20 required by law.

21 So my decision will put forth the law, the
22 legal decisions and the facts as best as I have them
23 available and presented here. It likely will not get
24 into a line-by-line assessment of who falls into what
25 category. I am depending on the parties to address

1 that, just to be clear on that point.

2 So it will be back to you at the point that I
3 get that to indicate how that has an impact on the
4 particular circulators and petitions in this
5 particular case. And then there will be some
6 follow-up order or judgment after that point that will
7 be kind of the final ruling, so -- final ruling.

8 So any questions about that process? Any
9 concerns about being able to put different people and
10 come to stipulations about who is in what category?

11 MR. LANGHOFER: I a thought on it, your Honor.
12 If it may be good to have 54(B) language on the law so
13 that whoever is unhappy -- perhaps both of us -- can
14 appeal. And we could keep the rest of the case
15 here --

16 THE COURT: Okay.

17 MR. LANGHOFER: -- so that the Supreme Court
18 can start its process, but we can still work out the
19 facts between us.

20 THE COURT: Okay. Any objection to that,
21 Mr. Bendor?

22 MR. BENDOR: I think that probably makes
23 sense, depending on what the decision is; whether it
24 really is sort of ripe for appeal or whether it -- we
25 need to have a bit more on the record before we

1 present something sensible to the Supreme Court. It
2 is a little hard to say to without knowing what's in
3 the decision, but I think probably makes sense.

4 THE COURT: All right. Very good. As a
5 practical matter, I don't think there's going to be
6 time for any additional presentation. So whatever the
7 facts are that are presented are the ones that are
8 going to have to be moving forward in this process,
9 given the time frames that we have.

10 So just to be clear on that, I think this is
11 the end of the road as to factual presentation of the
12 case. And I'm going to have to deal with whatever I
13 have in front of me to make the decisions that I have
14 got.

15 MR. BENDOR: Understood.

16 THE COURT: All right. Very good.

17 All right. With that, I think we are
18 adjourned today. Have a good day, everyone.

19 MR. LANGHOFER: Thank you, your Honor.

20 (Matter concluded.)

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C E R T I F I C A T E

I, MICHELE KALEY, do hereby certify that the proceedings had upon the hearing of the foregoing matter are contained fully and accurately in the shorthand record made by me thereof, and that the foregoing typewritten pages of said transcript contain a full, true and correct transcript of my shorthand notes taken by me as aforesaid, all to the best of my skill and ability.

DATED this 17th day of August, 2022.

Michele Kaley /S/
MICHELE KALEY, RPR
CERTIFIED COURT REPORTER
CERTIFICATE NO. 50512

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