STATE 30

IN THE FOURTEENTH JUDICIAL DISTRICT COURT

IN AND FOR THE PARISH OF CALCASIEU

STATE OF LOUISIANA

MICHAEL "MIKE" KOONCE,
AS A CANDIDATE FOR THE
OFFICE OF COUNCILMAN FOR
CITY OF SULPHUR,
DISTRICT 2

VERSUS **NO. 2022-1323**

HONORABLE ROBERT KYLE
ARDOIN, SECRETARY OF
STATE, STATE OF LOUISIANA
and NICHOLAS NEZAT

TRIAL ON PETITION TO CONTEST ELECTION

Evidence adduced and proceedings had in the above numbered and entitled matter held on April 8, 2022, commencing at 9:00 a.m., before the Honorable Kendrick Guidry, District Judge, Fourteenth Judicial District Court, in and for the Parish of Calcasieu, State of Louisiana.

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1 **WITNESS INDEX**

2 **WITNESS** **PAGE**

3 **NICHOLAS NEZAT:**

4 Direct Examination by Mr. McHale 9

5

6 **KIM FONTENOT:**

7 Direct Examination by Mr. McHale 36
8 Cross-Examination by Mr. Johnson 77
9 Re-Direct Examination by Mr. McHale 117
10 Direct Examination by the Court 140
11 Cross-Examination by Mr. McHale 141
12 Direct Examination by Mr. Johnson 170
13 Cross-Examination by Mr. McHale 181
14 Re-Direct Examination by Mr. Johnson 194

15

16 **HONORABLE HORACE LYNN JONES, II:**

17 Direct Examination by Mr. McHale 128
18 Cross-Examination by Mr. Johnson 133

19

20 **MICHAEL KOONCE:**

21 Direct Examination by Mr. McHale 143
22 Cross-Examination by Mr. Landry 159
23 Re-Direct Examination by Mr. McHale 167

24

25 **SHERRY HADSKEY**

26 Direct Examination by Ms. Cangelosi 196

27
28
29
30
31
32

1 **EXHIBITS**

2 **THE COURT:**

3 **C-1: Email Strings**

4 **C-2: Phone List (re: Voters contacted on election day)**

5 **C-3: Map**

6

7 **PLAINTIFF:**

8 **P-1: List of Matthew Street and S. Irwin Street Voters**

9 **P-2: ROV Redistricting Checklist**

10 **P-3: Street Ward Precinct List, Louisiana Secretary of State**

11 **P-4: Precinct Register Correction**

12

13

14 **DEFENDANT:**

15 **D-1: Unofficial Election Results**

16 **D-2: KPLC TV Article**

17 **D-3: Handwritten Notes (re: Kim Fontenot)**

18 **D-4: City Council Meeting Minutes**

19

20

21

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1 **PROCEEDINGS:**

2 **THE COURT:**

3 This is Michael Koonce 2022-1323 versus
4 Honorable Kyle Ardoin, Secretary of State,
5 Nicholas Nezat, Clerk of Court, Calcasieu.
6 Parties, please make your appearances.

7 **MR. MCHALE:**

8 Your Honor, Michael McHale on behalf of
9 Michael Koonce. And at this time, Your
10 Honor, I would just like to formally enter a
11 Motion to Enroll.

12 **THE COURT:**

13 You're Michael Koonce?

14 **MR. KOONCE:**

15 Yes, sir.

16 **THE COURT:**

17 Mr. Landry?

18 **MR. LANDRY:**

19 Good morning, Your Honor. Kilburn
20 Landry and Adam Johnson on behalf of
21 Nicholas Nezat. And, Judge, we thought it
22 may be useful to have our --

23 **THE COURT:**

24 It may be what?

25 **MR. LANDRY:**

26 We thought it may be useful for the
27 Court to have a short pre-trial conference.
28 I believe every counsel is in agreement with
29 doing that if Your Honor is so inclined.

30 **THE COURT:**

31 Briefly, if the parties are wanting a
32 pre-trial. Where's the Secretary of State?

1 Are they here?
2 **MR. MCHALE:**
3 Yes, sir. And, Your Honor, we --
4 **MS. CANGELOSI:**
5 We're here, Your Honor.
6 **THE COURT:**
7 Let the parties all finish making their
8 appearances.
9 **MS. CANGELOSI:**
10 I'm Celia Cangelosi representing the
11 Secretary of State along --
12 **THE COURT:**
13 Hang on one second. I think I hit the
14 microphone when you were talking. Start
15 over.
16 **MS. CANGELOSI:**
17 Okay. My name is Celia Cangelosi. I
18 represent Secretary of State along with
19 Jennifer Bollinger who is also present.
20 Also, present is our client, the -- a
21 representative of our client, Ms. Sherry
22 Hadskey who is the Commissioner of
23 Elections.
24 **THE COURT:**
25 Anybody else?
26 **MS. CANGELOSI:**
27 Thank you, Your Honor.
28 **THE COURT:**
29 Yes, ma'am. Oh, you're the
30 representative?
31 **MS. HADSKEY:**
32 Yes.

1 **THE COURT:**
2 All right.
3 **MS. HADSKEY:**
4 Thank you, sir.
5 **THE COURT:**
6 Did y'all sue the Clerk of Court,
7 Calcasieu Clerk of Court?
8 **MR. MCHALE:**
9 No, sir. They -- no, sir, the only two
10 parties --
11 **THE COURT:**
12 All right.
13 **MR. MCHALE:**
14 But they are here, Your Honor, and I
15 know that they have counsel here as well.
16 **THE COURT:**
17 They're not a party so they're not
18 gonna come to this party, so.
19 **[RECESS]**
20 **THE COURT:**
21 Parties ready to proceed.
22 **MR. MCHALE:**
23 One thing, Your Honor, we had issued a
24 subpoena duces tecum to the Registrar of
25 Voters and I believe the attorneys for the
26 AG -- from the Attorney General's Office are
27 representing the Registrar of Voters. And
28 we would ask that they respond to the
29 subpoena.
30 **THE COURT:**
31 You're standing up so come forward.
32 You've got to tell me something.

MR. JONES:

Let me get near a microphone. I can't talk loud anymore. The Registrar was served with a subpoena for documents yesterday. And I would like to make the return on the subpoena.

My name is Tom Jones. I'm from the Attorney General's Office and we are statutory counsel for the Registrar.

And with that, I have a packet of documents for all of the parties and would like to make that return at this point.

THE COURT:

All right. Serve the return. I hope they have a copy for the Court.

MR. JONES:

I have a copy for the Court, Your Honor. I didn't know if you would want to look at it before the documents are introduced but I do have a copy.

THE COURT:

I will when they get entered. You're not introducing them, you're just serving them, right?

MR. JONES:

I'm not introducing them. I'm just returning the documents that were subpoenaed.

THE COURT:

Yeah. Is there -- is there a reason that they're just now being introduced in Court versus serving the parties?

1 **MR. JONES:**
2 The reason, Your Honor, is --
3 **THE COURT:**
4 Enough time to prepare for this
5 hearing when you're being subpoenaed.
6 **MR. JONES:**
7 I wanted to make the return on the
8 record. She didn't get the subpoena until
9 yesterday. So, she had to put together the
10 documents and we brought them to Court this
11 morning.
12 **THE COURT:**
13 All right.
14 **MR. JONES:**
15 At the time they were subpoenaed.
16 **MR. LANDRY:**
17 Judge, is this an extra copy for us?
18 **THE COURT:**
19 Yeah. Any other returns you're
20 looking for Mr. McHale, any other subpoenas?
21 **MR. MCHALE:**
22 No, sir. Although, Your Honor -- and
23 I'll need to review them before my first
24 witness. But after that I may ask for a
25 short recess just to give me time --
26 **THE COURT:**
27 You don't need to ask. The Court is
28 gonna return at one o'clock. We will
29 commence during that one o'clock -- during
30 the hour-and-a-half, I would hope the
31 attorneys would choose to review the
32 subpoena documents and not eat lunch.

1 **MR. MCHALE:**
2 Yes, sir. Thank you, Your Honor.
3 **THE COURT:**
4 All right. One o'clock.
5 **MR. LANDRY:**
6 Thank you, Judge.
7 **[RECESS]**
8 **THE COURT:**
9 You may proceed, Mr. McHale.
10 **MR. MCHALE:**
11 Your Honor, at this time, I would call
12 Nicholas Nezat to the stand.
13 **[WITNESS SWORN]**
14 **NICHOLAS NEZAT**
15 Having been called as a witness after
16 having been previously duly sworn, did
17 testify as follows:
18 **DIRECT EXAMINATION**
19 **BY MR. MCHALE:**
20 **Q** Mr. Nezat, for the record, can you state your
21 name and address, please?
22 **A** Yes, sir. Nicholas Nezat, 1305 W. Cocker Street,
23 Sulphur, Louisiana 70663.
24 **Q** And, Mr. Nezat, you were a candidate for the City
25 Council race in Sulphur, District 2; is that correct?
26 **A** Correct.
27 **Q** All right. And that election was held on March
28 26th; is that correct?
29 **A** Correct.
30 **Q** All right. During that day, I believe you were
31 the first -- or did you -- was there -- did something
32 go wrong during the election on that day?

1 **A** Can you specify going wrong?
2 **Q** Did -- did you file a complaint with the -- or
3 did you feel the need to contact the Registrar of
4 Voters because something seemed to be wrong at the
5 polls?
6 **A** Yes.
7 **Q** Okay. And what time of day was that?
8 **A** I don't know an exact time; it was before lunch.
9 **Q** Okay. Between 11 and 12; is that fair to say?
10 **A** That's fair.
11 **Q** Okay. And what did you call the Registrar of
12 Voters to complain about?
13 **A** There was an issue with a resident that said she
14 was not able to vote. And there was [sic] complaints
15 that the candidate -- or the incumbent was at the
16 polling station with signs asking people questions
17 about who they're voting for.
18 **Q** That was at eleven o'clock?
19 **A** Rough -- no, maybe. I don't remember -- I don't
20 recall.
21 **Q** Okay. And so, you contacted the Registrar of
22 Voters Office? Do you know who you talked to at the
23 Registrar of Voters Office?
24 **A** I believe the first time, the first and only time
25 that I was really able to get through was with Ms. Kim
26 Fontenot.
27 **Q** Okay. And, to your knowledge, is Ms. Fontenot
28 the Registrar of Voters?
29 **A** Yes.
30 **MR. MCHALE:**
31 Your Honor, speaking with Mr. Johnson,
32 and I don't have any objection, he would

like to put the witnesses under the rule.

THE COURT:

Absolutely. Any other witnesses in the courtroom that have been notified that will be testifying?

MR. MCHALE:

Your Honor, the only two that I have would be Ms. Fontenot, and Mr. Jones, and Mr. Koonce will probably testify but since he's a party.

THE COURT:

Anybody else?

MS. CANGELOSI:

Your Honor, on behalf of the Secretary of State, I have Heather Myers who may testify, who is present.

I have Elise Babin who may testify, who is present.

And I have Ms. Hadskey, the Commissioner of Elections, who may testify, who is present. But I'll ask that she be not put under the rule because she's the representative of the client.

THE COURT:

I'm fine with that. Parties, I'll hear you on that if there's an objection.

MS. CANGELOSI:

Thank you, Your Honor.

THE COURT:

All right. Anybody else? All of your witnesses you have identified, they -- I didn't get a chance to tell them what they

can't talk about since they all left. But you accomplished your goal, Mr. Johnson.

So, just for the record, all of the witnesses are sequestered under the rule.

MR. MCHALE:

Do you have any other witnesses that you're planning on --

MR. JOHNSON:

No, not that we -- I haven't told to leave.

MR. MCHALE:

Okay.

THE COURT:

Okay. All right. Go ahead and proceed, Mr. McHale.

MR. MCHALE:

All right. I don't remember where we were. All right. So --

THE COURT:

The Registrar -- you talked to the Registrar.

MR. MCHALE:

Yeah.

THE COURT:

He believes that's the only one he can remember talking to.

MR. KOONCE:

After -- I apologize, Your Honor. I'm sorry. And just -- at the Registrar's Office --

THE COURT:

I'm only fussing at them. Not at

1 folks that's not used to coming to testify.
2 Just the lawyers get fussed at. Go ahead,
3 Mr. Nezat.
4 **DIRECT EXAMINATION CONT'D**
5 **BY MR. MCHALE:**
6 **A** And then if you want to repeat the question
7 again, just --
8 **Q** Well, I guess, can you tell me, what did you tell
9 the Registrar of Voters?
10 **A** That there was an issue with someone saying that
11 she wasn't able to vote.
12 **Q** Okay. And who was that someone?
13 **A** Cindy Desselle.
14 **THE COURT:**
15 Say that again. I didn't hear that.
16 **A** Cindy Desselle.
17 **THE COURT:**
18 All right.
19 **MS. CANGELOSI:**
20 I'm sorry. I couldn't -- I couldn't
21 hear the last name.
22 **A** Desselle. I'm not sure of spelling.
23 **Q** And had -- Ms. Desselle had contacted you?
24 **A** Yes.
25 **Q** Okay. Were you contacted by anyone else who was
26 told they couldn't vote?
27 **A** I'm not sure. I had so many people calling.
28 That's why when you say there was a -- when I talked to
29 Kim at the Registrar's, I had so many people calling me
30 that day from the Secretary of State at the Clerk's
31 Office that I didn't know exactly who I may have been
32 talking to at the time.

1 **Q** Okay. So, after you -- so, you just called
2 specifically about Ms. Desselle?
3 **A** That's it, correct.
4 **Q** Okay. Did you call and complain about anybody
5 else who was not allowed to vote?
6 **A** Not to my knowledge, no, sir.
7 **Q** Okay. And was Ms. Desselle allowed to vote?
8 **A** Yes.
9 **Q** Okay. Do you know if Ms. Desselle properly lived
10 in the district?
11 **A** Yes.
12 **Q** Okay. You believe that she did?
13 **A** Yes.
14 **Q** Okay. Did you know that -- let me just find the
15 documentation.
16 **THE COURT:**
17 What are you looking for?
18 **MR. MCHALE:**
19 The specific thing regarding Ms.
20 Desselle.
21 **THE COURT:**
22 That's from the Registrar of Voters --
23 **MR. MCHALE:**
24 Yes, sir.
25 **THE COURT:**
26 -- subpoenaed records that weren't
27 turned in until we started trial. Okay.
28 **MR. MCHALE:**
29 Right.
30 **THE COURT:**
31 Okay.
32 **Q** And what precinct did Ms. Desselle vote at?

1 **A** The precinct would -- well, I believe we would
2 normally vote -- if I'm not mistaken, she's in 402. We
3 would normally vote at Frasch Park. But that one may
4 be under construction, so she had to vote at Frasch
5 Elementary.
6 **Q** Okay.
7 **A** I'm not sure because I didn't vote that day. I
8 early voted so I'm not sure how they had it set up.
9 **Q** Okay. Do you know that Ms. Desselle actually
10 voted in Precinct 403, but she should have been
11 registered in 402?
12 **A** No, sir, I was not aware of that.
13 **Q** Okay. But if according to the Registrar of
14 Voters records that's what it said, you wouldn't have
15 any reason to dispute that?
16 **A** Not me. I'm --
17 **Q** Okay. When did you find out -- or so is that the
18 only problem you knew about?
19 **A** As far as problems, like I said, I don't know
20 that --
21 **THE COURT:**
22 Do you need him to clarify the
23 question "problems?"
24 **A** Well, yeah, because there's -- the problems --
25 **THE COURT:**
26 Clarify the question, Mr. McHale, what
27 you mean by problems.
28 **MR. MCHALE:**
29 Okay. Let me see if I can rephrase
30 that, Your Honor.
31 **Q** Did you have a social media account during the
32 campaign?

1 **A** Yes, sir.
2 **Q** All right. And did you use that fairly
3 regularly?
4 **A** Yes, sir.
5 **Q** And did you use that on election day?
6 **A** I did.
7 **Q** Okay. On election day, you posted, "Registrar of
8 Voters admitted to illegally turning away voters in --
9 **MR. JOHNSON:**
10 Objection, Your Honor.
11 **THE COURT:**
12 Basis for the objection.
13 **MR. JOHNSON:**
14 What's the relevance?
15 **THE COURT:**
16 Well, I mean, the petition is for me
17 to decide whether the election stands, or I
18 overturn it. So, I find it relevant to
19 find out -- now, I would prefer Mr. McHale
20 asking more direct questions instead of
21 going through the whole set up here. But I
22 find it relevant to the Court's inquiry.
23 So, your objection is overruled.
24 **MR. JOHNSON:**
25 I would raise one more objection, Your
26 Honor.
27 **THE COURT:**
28 All right.
29 **MR. JOHNSON:**
30 I would object to the leading form of
31 the question. I think he can -- I think
32 we're reading off of a cell phone to the

1 question.
2 **MR. MCHALE:**
3 Your Honor, I had the documents
4 printed out, Your Honor, but --
5 **THE COURT:**
6 Objection overruled.
7 Mr. McHale, if you just -- how about
8 just ask him what you really want to ask
9 him.
10 **MR. MCHALE:**
11 Certainly.
12 **THE COURT:**
13 And then we can back up if we need to.
14 **MR. MCHALE:**
15 Certainly.
16 **DIRECT EXAMINATION CONT'D**
17 **BY MR. MCHALE:**
18 **Q** Did the Registrar of Voters tell you that they
19 had illegally turned away voters?
20 **A** I don't believe, no, sir.
21 **Q** Okay. Would you have said that in a post on
22 social media?
23 **A** I -- as far as what you stated a second ago? I
24 don't know if we even finished what you were saying.
25 **Q** Okay. Well, what I'm asking you --
26 **THE COURT:**
27 That's because I -- that's because I
28 asked him to ask a more direct question.
29 **A** Yes, sir.
30 **THE COURT:**
31 The Court -- and let me just tell the
32 parties, the Court has read the petition in

1 this case. And I've briefly went over the
2 delayed response to the subpoena by the
3 Registrar of Voters, that information. So,
4 I have some familiarity, you know, what the
5 point of the -- why we're here and what the
6 Court has to decide. So, I'm trying to get
7 to the point.
8 **A** Right. Yes, sir.
9 **THE COURT:**
10 Sometimes lawyers just -- Mr. Nezat, I
11 know you just got elected according to the
12 results, and sometimes we like to talk.
13 **A** Right.
14 **THE COURT:**
15 Instead of just asking the obvious
16 questions, ask him what you want to ask
17 him, Mr. McHale, so we can move along with
18 some expediency.
19 **Q** Let me just -- did you tell your supporters on
20 social media that -- that the Registrar of Voters had
21 illegally turned away voters?
22 **A** If that's what it said then, yes.
23 **Q** Okay.
24 **THE COURT:**
25 See there, phew, we took --
26 **MR. MCHALE:**
27 All right.
28 **THE COURT:**
29 All right. Go ahead, Mr. McHale.
30 **Q** All right. Did you tell -- on social media did
31 you tell your supporters that they want everyone to go
32 back and fill out paperwork?

1 **A** Yes.
2 **Q** Okay. Did you say that they were out of papers
3 and that it would take a few hours for them to get the
4 paperwork?
5 **A** Yes.
6 **Q** Okay. Where did you get that information that
7 they were out of papers?
8 **A** From Ms. Cindy.
9 **Q** Okay. All right.
10 **MS. CANGELOSI:**
11 I'm sorry, I didn't hear the answer.
12 **A** From Ms. Cindy.
13 **Q** Whose --
14 **A** Ms. Desselle. The young lady you asked about
15 earlier that came to me after she was turned away.
16 **Q** Okay.
17 **THE COURT:**
18 If you got -- if you can't hear, Ms.
19 Cangelosi, and trust me don't take offense
20 to that because I've been having trouble
21 all week because of the echo. Feel free to
22 move closer to the witness.
23 **MR. MCHALE:**
24 If you will, move the microphone a
25 little bit. Yeah. Right in front of you,
26 that may make it better as well.
27 **MR. NEZAT:**
28 Is that better for everyone?
29 **MR. MCHALE:**
30 All right.
31 **DIRECT EXAMINATION CONT'D**
32 **BY MR. MCHALE:**

1 **Q** Did you tell your supporters that the election is
2 messed up beyond repair?
3 **A** If -- if that's what's there.
4 **Q** Okay. Did you tell your supporters, "No matter
5 who wins the election is compromised?"
6 **A** Yes.
7 **Q** Did you tell your supporters, "No telling how
8 many voters have left not knowing that they should have
9 been allowed to vote?"
10 **A** If -- if -- yes, sir. I'm not gonna deny
11 anything if --
12 **Q** Okay.
13 **A** -- if it's on the social media.
14 **Q** All right. And did you tell your voters that
15 also, "No telling how many of them had told someone
16 else like their neighbors, don't waste your time?"
17 **A** Yes, if it's there. I'm not gonna deny any --
18 **Q** Okay. Did you also ask your supporters that if
19 they were told they could not vote, no matter who they
20 went to vote for to please call, or text, or message
21 you ASAP?
22 **A** Correct.
23 **Q** All right. Did you receive any responses to
24 that?
25 **A** I did, but I'm not sure I -- I don't remember if
26 it was in regards to, yes, they were able to vote.
27 **Q** Okay. So did several people contact you and say,
28 look, I was turned away?
29 **A** No.
30 **Q** Nobody contacted -- all right. In response to
31 that text, whenever someone asked you what was going
32 on, did you state that the integrity of the election is

1 gone, no matter who wins, it's done?
2 **A** Correct.
3 **Q** All right. Do you still believe that?
4 **A** Yes. I -- I believe there was an issue, yes.
5 **Q** Okay. And do you believe that the election that
6 happened on March 26th that the integrity of that
7 election is done? That people probably would not have
8 faith in that election because of what happened?
9 **A** I believe there was something that may have cast
10 doubt, yes.
11 **Q** Okay. So, do you think that the safest and
12 fairest thing to do is just do it over?
13 **A** No. Because I don't believe the outcome would be
14 different.
15 **Q** Okay. So, because you won, then everything is
16 fine?
17 **MR. JOHNSON:**
18 Objection, Your Honor, that's
19 argumentative and clearly argumentative.
20 That's not what he said.
21 **THE COURT:**
22 Objection overruled. He's not -- he
23 just read out several Facebook or social
24 media posts about him -- I'm gonna allow
25 the question. Go ahead, Mr. McHale.
26 **A** The answer is -- can you repeat it, I'm sorry.
27 Do I think because I won that that all changes? I'm
28 sorry.
29 **Q** Well, obviously at that time, and you said you
30 still feel that way, there's no integrity in that
31 election because of the problems that they had?
32 **A** Well, yes, because -- and I think I spoke on my

news interview that the outcome would not have been the same, but there were some things that needed to be looked into.

A candidate being at the polls after I had called and complained.

You know, someone being turned away but was ultimately allowed to go vote. You know, those are things that need to be remedied in the future.

Q Did you file a complaint about Mr. Koonce being at the polls?

A I made an attempt to call several different people and I know I spoke to a few citizens that said they were gonna follow up but that's all.

Q Okay. Well, you --

A I don't know how to formally --

Q -- haven't followed up or anything like that?

A -- I'm sorry.

Q But you haven't followed up or anything like that? And do you think him being there --

THE COURT:

Wait. I didn't hear an answer to the question.

MR. MCHALE:

Oh, I'm sorry.

THE COURT:

Unless you just was --

MR. MCHALE:

No. No. I'm sorry.

A Sir, repeat it, I'm sorry.

Q Have you followed up on that at all?

A Well, after this started taking place, I didn't know who I could or couldn't talk to. So, I just -- I

1 didn't know what was going on.
2 **Q** All right. But ultimately -- but you did know
3 that the -- that there were questions about the result
4 of the election; correct?
5 **A** There were questions in regards --
6 **Q** Because of the --
7 **A** The chaos.
8 **Q** Yes.
9 **A** That took place. Yes. Yes, sir. I'm sorry. I
10 didn't mean to cut you off.
11 **Q** That's all right. When did you -- when did you
12 find out that the problem was Matthew Street?
13 **A** I didn't know it was just Matthew Street.
14 **Q** Okay. So, in your opinion -- well, were you told
15 at a certain point in time that day? What did the
16 Registrar --
17 **THE COURT:**
18 Hang on, Mr. McHale.
19 **MR. MCHALE:**
20 I'm sorry.
21 **THE COURT:**
22 Think about your questions. You
23 started like --
24 **MR. MCHALE:**
25 Okay.
26 **THE COURT:**
27 You did like -- you did like me, you
28 started three questions at once.
29 **MR. MCHALE:**
30 Yeah. I'm sorry, Your Honor.
31 **THE COURT:**
32 That's all right. Well, we don't --

1 this is a little bit different; I agree.
2 Because we just -- a very short time.
3 **MR. MCHALE:**
4 Yes, sir.
5 **THE COURT:**
6 For everyone to file pleadings and
7 respond and all of that stuff. So, take
8 your time and just -- and we don't have the
9 privilege -- well, there's just not a lot
10 of time to do a lot of discovery.
11 **MR. MCHALE:**
12 Yeah.
13 **THE COURT:**
14 So, I know it's -- so, go ahead.
15 **Q** Were you told by the Registrar of Voters on
16 election day that there was a problem regarding the
17 voters on Matthew Street?
18 **MR. JOHNSON:**
19 Objection, Your Honor, hearsay.
20 **THE COURT:**
21 Yeah, I guess it is hearsay. I'll
22 sustain the objection.
23 **Q** Did the --
24 **THE COURT:**
25 But let me be very clear to both
26 parties, the Court's decision today is
27 whether there were substantial
28 irregularities in this election. That's
29 the standard the Court is looking for. And
30 if not, then the remedy -- the remedy is
31 clear in the statutes. So, the Court wants
32 to get to the facts and nothing but the

1 facts as expedient as possible. So, I
2 instruct both sides to keep that in mind.
3 That's all I feel like I'm tasked to do.
4 That's all I plan on doing. So, go ahead,
5 Mr. McHale.
6 **MR. MCHALE:**
7 I'll try to --
8 **THE COURT:**
9 Objection sustained. Ask him a
10 question that doesn't require him to --
11 **Q** Were you made aware --
12 **THE COURT:**
13 -- testify to hearsay.
14 **Q** -- that there was a problem with voters on
15 Matthew Street?
16 **A** I believe at some point, yes, there was a phone
17 call.
18 **Q** I don't recall who, whether it was the secretary,
19 the Registrar, or the man on the moon, I had so many --
20 so many people calling me that day.
21 **A** Okay. Do you remember what they told you?
22 **Q** Not verbatim, no, sir, but that there was an
23 issue with Matthew.
24 **A** All right. You filed an answer and
25 reconventional demand in this -- in this matter, didn't
26 you?
27 **THE COURT:**
28 Stop. May I see a copy. The Court
29 does not -- is not aware -- does not -- it
30 has not been served with an Answer in this
31 proceeding.
32 **MR. JOHNSON:**

1 Okay. Sure. Do you have a copy?
2 **MR. MCHALE:**
3 I have my copy. I don't have an extra
4 copy.
5 **MR. JOHNSON:**
6 We will get you one, Judge, right now.
7 **THE COURT:**
8 Yeah, I would just like to -- thank
9 you. You may proceed.
10 **Q** In your Answer and Reconventional Demand, did you
11 say that you went and walked that street?
12 **THE COURT:**
13 What paragraph, Mr. McHale, if you've
14 got a specific paragraph?
15 **MR. MCHALE:**
16 Your Honor, I just gave you my copy.
17 Do y'all have an extra copy, Adam?
18 **THE COURT:**
19 That's all right.
20 **MR. JOHNSON:**
21 We're working on it.
22 **MR. MCHALE:**
23 Okay.
24 **THE COURT:**
25 That's all right. Go ahead. Go ahead
26 and ask the question. Go ahead and ask the
27 question.
28 **MR. MCHALE:**
29 All right.
30 **Q** Okay. Did -- in your Answer and Reconventional
31 Demand, did you say that after you were made aware that
32 you went and walked on that street and knocked on

1 doors?
2 **A** Yes, sir. I walked it twice.
3 **Q** Okay.
4 **A** Before I found out and after.
5 **Q** Before you found out what?
6 **A** That there may have been an irregularity on
7 Matthew.
8 **Q** So, when did you walk it before? Are you talking
9 about on election day you walked it?
10 **A** Correct, yes, sir.
11 **Q** Okay. So, you walked that street twice on
12 election day?
13 **A** Yes, sir.
14 **Q** All right. Did you walk every street twice on
15 election day?
16 **A** No, sir.
17 **Q** All right. What other streets did you walk on
18 election day?
19 **A** The immediate surrounding areas around my house,
20 Matthew is one of them that's in the back. I started
21 there and worked around my neighborhood.
22 **Q** Okay. When did you find out that the people on
23 Matthew Street were not on the voter rolls?
24 **A** I'm not sure. When -- like the time or the date?
25 Like, I found out that day. I don't know an exact
26 time.
27 **Q** Okay. So, and you don't know who would have told
28 you that, that there was a problem with Matthew Street?
29 **A** No. Because, like I said, I had so many people
30 calling I --.
31 **Q** Okay. Were you told that there was a problem
32 with any other streets?

1 **A** I believe South Irwin was brought up.
2 **Q** Okay. And on South Irwin -- what was told to you
3 about South Irwin?
4 **A** That it may have been placed in District 2 but
5 shouldn't have been.
6 **Q** Okay. So, the people who -- from South Irwin
7 weren't supposed to be allowed to vote in the election;
8 correct?
9 **A** That --
10 **MR. JOHNSON:**
11 Your Honor, just --
12 **THE COURT:**
13 Repeat the question.
14 **MR. JOHNSON:**
15 I'm just going to object to the
16 leading nature of the question. The only
17 reason I say this is because he's called
18 this witness under direct. He should be
19 required to follow the rules of evidence
20 and not lead the witness and ask him what
21 --
22 **THE COURT:**
23 But he filed a -- I'm -- you can treat
24 him as a hostile -- he filed a
25 reconventional demand. So, you may lead,
26 Mr. McHale.
27 **MR. MCHALE:**
28 Yes, sir. Thank you, Your Honor.
29 **Q** So --
30 **THE COURT:**
31 Are there any other pleadings besides
32 the Petition, the Answer and Reconventional

Demand? No other motions? Nothing? So, I have everything? All right. Go ahead, Mr. McHale.

DIRECT EXAMINATION CONT'D

BY MR. MCHALE:

Q So, were you told -- were you told that people on Irwin Street may be on the voter rolls, but they should not be allowed to vote?

A I was told that there was an issue on Irwin. I don't recall.

Q Okay. Do you know if anyone from Irwin Street actually voted in the election?

A No, sir, I'm not aware of who voted and who didn't.

Q Okay. So, you don't know that two people who were registered on Irwin Street were allowed to vote?

A No, sir.

Q Okay. Do you know as far as the thirty voters on -- do you know if they were contacted on election day by anyone else besides you knocking on their doors?

A Going knocking on the doors?

Q Or besides -- besides knocking, were they contacted in any way?

A I believe the Registrar may have told me that they were gonna make an attempt to call all the voters and it would be on the news.

Q Okay. And do you know if it was on the news?

A I believe so because I believe I shared the link to let people know they could go back and vote.

Q Okay. Is that whenever -- do you know -- what time did you put your social media post saying that the election was screwed up?

1 **A** Not off the top of my head, no, sir. If you have
2 it I --.
3 **Q** According to your Answer and Reconventional
4 Demand, and this is in Paragraph 17(E), it says, "Both
5 candidates were informed of the results of the
6 complaint and given permission to walk the location
7 where the voters had been left off the roll."
8 So, at some point in time, you were informed that
9 those voters had been left off the roll?
10 **A** Yes, sir. Like I said, I just don't remember who
11 told me.
12 **THE COURT:**
13 So, that Matthew Street you were
14 allowed to --
15 **MR. MCHALE:**
16 Yeah. I'm sorry.
17 **THE COURT:**
18 So, Matthew Street, you were allowed
19 to walk on election day and advise them;
20 you got permission from who?
21 **A** Well, we were advised that they would need notice
22 to go back.
23 **THE COURT:**
24 Who advised you?
25 **A** Honestly, Your Honor, I don't remember. I spoke
26 with the Secretary of State and the Registrar, so I
27 don't want to say it was one or the other because I
28 don't know.
29 **THE COURT:**
30 Okay. All right.
31 **Q** And do you know if any other -- other than the
32 one person who contacted you, are you aware of any

1 other voters who were turned away from the polling
2 place?
3 **A** No, sir.
4 **Q** Nobody else contacted you?
5 **A** As far as being turned away?
6 **Q** Yeah.
7 **A** Other than Ms. Desselle, no.
8 **Q** Okay. Did you ask if any other voters had been
9 turned away?
10 **A** I believe I asked the Registrar if she knew how
11 many people had been turned away. I don't recall.
12 **Q** Okay. Do you remember what she said?
13 **A** No, sir.
14 **Q** Okay. But you felt that it was more than just --
15 more than just the one person?
16 **A** I'm not -- I mean, I would have say [sic], yes.
17 **MR. JOHNSON:**
18 Your Honor, just for the record, I
19 object to what he felt at the time --
20 **A** Right.
21 **MR. JOHNSON:**
22 -- as completely irrelevant.
23 **THE COURT:**
24 Object. We don't need long speaking
25 objections. Objection is sustained.
26 Mr. McHale, he already testified. I'm
27 sustaining basically on ask and answered.
28 He's already testified that he only heard
29 from Ms. Cindy Desselle with regard to her
30 inability to vote. That ground has been
31 covered.
32 **MR. MCHALE:**

Okay.

Q Is it -- do you have any information that Mr. Koonce raised any complaints about what was going on at the polls?

A No, sir, I'm not aware if Mr. Koonce made any.

Q Do you know if he was made aware?

A Personally, I didn't contact him. So, I don't know. I was told that both parties were made aware.

Q Okay. All right. So, you -- all right. And at the time I guess it was going on, you let the Registrar of Voters and the Secretary of State's Office know that obviously you were not happy with what was going on; correct?

A Correct. That something needed to be looked into what was happening.

Q All right. In your -- again, in your Answer and Reconventional Demand, in an affirmative defense you state in Paragraph 16 that "The Plaintiff's complaints regarding the irregularities and conduct of the election are waived insofar as the complaints made herein were known to the Plaintiff and had the Plaintiff exercised due diligence, the complaints made herein could have been raised at the polls. And Plaintiff did not do so despite Plaintiff being present at the polls and able to do so."

What do you base this on that he didn't raise any complaints?

A I'm not sure if he did.

Q Okay. But in your --

A I was -- when -- sorry. I'll let you finish.

Q Just -- but in your -- in the Answer and Reconventional Demand it says -- and I guess this is

1 based on your information and belief and the
2 information you gave to your attorneys?
3 **A** Correct.
4 **THE COURT:**
5 Hang on. Hang on, Mr. McHale. Hang
6 on. Don't answer that question yet.
7 **A** Yes, sir.
8 **THE COURT:**
9 Rephrase that question.
10 **MR. MCHALE:**
11 All right.
12 **THE COURT:**
13 You already asked him about the
14 paragraph and the Court took his answer as
15 he doesn't have -- he didn't say it exactly
16 that way, but he's got no evidence and his
17 attorneys can fix that if they want to fix
18 that. If they re-direct or if they have
19 him on their direct case. But you got
20 anything to back up what -- that paragraph?
21 You don't have any firsthand knowledge of
22 what Mr. Koonce did or didn't do?
23 **A** Filing a complaint? No, sir.
24 **THE COURT:**
25 All right. He answered it. Go ahead.
26 Move on to the next point, Mr. McHale.
27 **Q** So, the results of the election were that you won
28 by twenty-six votes; is that correct?
29 **A** Yes, sir. I believe so.
30 **Q** All right. But we know that at least twenty-five
31 people were left off the rolls, is that your
32 understanding; or at least thirty people were left off

1 the roll and five of those came back and voted?
2 **A** I -- I've heard different numbers so I don't know
3 --
4 **THE COURT:**
5 You don't know firsthand?
6 **A** Firsthand exactly how many.
7 **THE COURT:**
8 He doesn't know firsthand, Mr. McHale.
9 **Q** All right. And also, you testified earlier that
10 you complained because Mr. Koonce had been at the
11 polling place?
12 **A** Correct.
13 **Q** Do you know what time you filed that complaint?
14 **A** No, sir.
15 **Q** Do you think that was in with the original phone
16 call you made at eleven o'clock?
17 **A** I don't believe so.
18 **Q** Okay.
19 **A** Because it was a chain reaction of chaos at that
20 point.
21 **Q** So that day you probably made -- is there any way
22 you could estimate approximately how many phone calls
23 you made to the Registrar of Voters' Office and the
24 Secretary of State's Office?
25 **A** More than I would normally.
26 **Q** Okay. And they were calling you back as well?
27 **A** I would get random phone calls throughout the day
28 updating me. So, yes, sir, I would say I had phone
29 calls returned.
30 **Q** Okay. Whenever Ms. Desselle went to vote, did
31 she have anyone else with her or -- that you know of?
32 **A** I'm not sure.

1 **Q** Okay. And do you know -- or did you know then,
2 or do you know now, how many people from Matthew Street
3 actually voted?
4 **A** No, sir.
5 **Q** Okay.
6 **MR. MCHALE:**
7 I tender the witness, Your Honor.
8 **MR. JOHNSON:**
9 We reserve our questioning, Your
10 Honor, for our case.
11 **THE COURT:**
12 All right. Thank you, sir. You may
13 step down.
14 **A** Thank you, Your Honor.
15 **MR. MCHALE:**
16 Your Honor, at this time I call Ms.
17 Kim Fontenot.
18 **[WITNESS SWORN]**
19 **THE COURT:**
20 Right here, Ms. Fontenot. Before you
21 start, Ms. Fontenot, my question is, you
22 received a subpoena from Mr. Koonce's
23 attorney with regard to records?
24 **MS. FONTENOT:**
25 Yes, sir.
26 **THE COURT:**
27 All right. When were these finalized
28 and ready to be responded to the attorney?
29 **MS. FONTENOT:**
30 This morning.
31 **THE COURT:**
32 All right. What time?

1 **MS. FONTENOT:**
2 Around nine o'clock.
3 **THE COURT:**
4 All right. Were you asserting any
5 objection in producing these records to the
6 --
7 **MS. FONTENOT:**
8 No, sir.
9 **THE COURT:**
10 -- subpoena?
11 **MS. FONTENOT:**
12 No, sir.
13 **THE COURT:**
14 Okay. All right. Go ahead, Mr.
15 McHale.
16 **KIM FONTENOT**
17 Having been called as a witness after
18 having been previously duly sworn, did
19 testify as follows:
20 **DIRECT EXAMINATION**
21 **BY MR. MCHALE:**
22 **Q** Can you state your -- I guess, your name,
23 occupation, and professional address for the record
24 please.
25 **A** Kim Fontenot, Registrar of Voters, Calcasieu
26 Parish.
27 **Q** And -- Ms. Fontenot, how long have you been the
28 Registrar of Voters?
29 **A** 2019.
30 **Q** Okay. And what did you do -- before you were the
31 Registrar of Voters what did you do?
32 **A** Chief Deputy.

1 **Q** Okay. So, you worked in the Registrar of Voters
2 Office for how long?
3 **A** Eighteen years.
4 **Q** Okay. And part of your duties as the Registrar
5 of Voters is, I guess, maintaining the voter rolls and
6 making sure that elections are conducted properly?
7 **A** And other things, yes, sir.
8 **Q** Okay. And --
9 **THE COURT:**
10 You've got to ask more direct
11 questions, Mr. McHale.
12 **MR. MCHALE:**
13 I'm --
14 **THE COURT:**
15 This is not --
16 **MR. MCHALE:**
17 Yes, sir. I understand.
18 **THE COURT:**
19 All right.
20 **MR. MCHALE:**
21 I'll try to speed it along.
22 **Q** Every ten years do districts change, or some
23 districts change?
24 **A** Some, yes, sir.
25 **Q** Because of the census?
26 **A** Yes, sir.
27 **Q** All right. Was that the case in 2020?
28 **A** Yes, sir.
29 **Q** Okay. So -- and whenever a district is changed,
30 or the parameters of a district is changed, as the
31 Registrar of Voters, what are your duties?
32 **A** Once I get the information I go and do -- there

1 was [sic] five districts, so I go back and make sure
2 all districts have the street ranges completed for
3 those districts where the lines have changed.
4 **Q** So, it --
5 **THE COURT:**
6 Hang on, Mr. McHale, this is for the
7 Court so I can catch up a little bit. This
8 election was on what date, ma'am?
9 **A** March 26th.
10 **THE COURT:**
11 March 26th. And this District 2, City
12 Council seat was redistricted before this
13 election?
14 **A** Correct.
15 **THE COURT:**
16 All right.
17 **A** Yes, sir.
18 **THE COURT:**
19 And that is done every ten years?
20 **A** Yes, sir, due to the census.
21 **THE COURT:**
22 Yes, ma'am. Okay. So -- all right.
23 Go ahead, Mr. McHale.
24 **Q** Can you tell the Court -- or do you know, when
25 did you get the information regarding the new districts
26 in Sulphur?
27 **A** December 8th.
28 **Q** December 8th. All right. And was that from Ms.
29 -- did you become aware of it through an email from the
30 Secretary of State's Office?
31 **A** Yes, sir.
32 **Q** All right. And in that email -- and that email

1 was from Elise Babin?
2 **A** Yes, sir.
3 **Q** All right. And did y'all discuss getting moving
4 on it after the December 11th election?
5 **A** Correct.
6 **Q** Okay. And that was on December 8th?
7 **A** Correct.
8 **Q** All right. And then, according to the emails
9 that I was provided in the discovery, on January 5th,
10 did you receive another email from Ms. Babin?
11 **A** Yes, sir.
12 **Q** All right. And on January 5th, did she ask if
13 you were ready to start on the Sulphur redistricting
14 plan?
15 **A** Yes, sir.
16 **MR. JOHNSON:**
17 Objection, Your Honor.
18 **THE COURT:**
19 Basis?
20 **MR. JOHNSON:**
21 Hearsay.
22 **THE COURT:**
23 You provided these records?
24 **A** Yes, sir.
25 **THE COURT:**
26 All right. Objection overruled.
27 Proceed, Mr. McHale.
28 **Q** And did she contact you on January 5th about
29 starting to work on the Sulphur redistricting plan?
30 **A** Correct.
31 **Q** All right. And on January 5th, did you respond
32 that you're as ready as you're gonna be?

1 **A** Yes, sir.
2 **Q** All right. And the next email I have -- or --
3 well, on January 6th, did Ms. Babin send you their
4 office plan for Sulphur?
5 **A** Yes, sir.
6 **Q** All right. Once --
7 **THE COURT:**
8 What date was that?
9 **A** January 6th.
10 **THE COURT:**
11 6th?
12 **A** Yes, sir.
13 **Q** All right. Once she sent you that, what do you
14 have to do with that information?
15 **A** I go street by street, by street, by street for
16 each district.
17 **Q** Okay.
18 **A** And try to make sure that they're all in the
19 right -- since -- let's say Precinct 402, they had
20 three different City Council Districts that changed.
21 **THE COURT:**
22 That's this precinct here, 402?
23 **A** Yes, sir.
24 **THE COURT:**
25 All right. Go ahead.
26 **A** So, I had three of them. So, I have to go by
27 each street and make sure the street ranges are correct
28 and put it into the system.
29 **Q** Okay. How long does that process normally take
30 you?
31 **A** It takes a while. I'm doing it by myself. So,
32 it takes a long time.

1 **Q** Okay. Is it -- when were these due? When did
2 you have to have these changes done and into the system
3 by?
4 **A** January 19th.
5 **Q** Okay. In past years for the census would you
6 normally have more time than like two weeks?
7 **A** Normally.
8 **Q** Okay. How much time would you normally have?
9 **A** A couple of months.
10 **THE COURT:**
11 Did you have them all in by January
12 19th?
13 **A** Yes, sir.
14 **THE COURT:**
15 Okay.
16 **Q** And on -- the next email I have is from January
17 18th again from Ms. Babin saying, "The deadline to have
18 your plan applied for municipality is tomorrow, January
19 19th. I am here to assist you in any way I can."
20 Did you contact her and ask her for any
21 assistance?
22 **A** Not at the time, no, sir.
23 **Q** And you submitted your plan?
24 **A** Correct.
25 **MR. MCHALE:**
26 Your Honor --
27 **THE COURT:**
28 What kind of plan? What are you --
29 and the Court is not -- this is all brand
30 new to me.
31 **A** Yes.
32 **THE COURT:**

1 So, when you submit a -- I assume
2 you've got to comply. So what plan are you
3 submitting? Is it something other than, I
4 will comply for the new streets or new
5 district?
6 **A** What it is, is there's a system, our airing
7 system, which is Secretary of State, has all the
8 streets. And so, it just states that she has a plan
9 that's not into the normal live airing that we're doing
10 every day. This is a plan that she has off to the
11 side.
12 **THE COURT:**
13 Who is she?
14 **A** Elise. Secretary of State.
15 **THE COURT:**
16 Okay. Well, okay. All right.
17 **A** Yeah. So, she -- she does that part and so --
18 **THE COURT:**
19 Got you.
20 **A** We work off --
21 **THE COURT:**
22 Whatever you submit, she's got to put
23 it in?
24 **A** Correct.
25 **THE COURT:**
26 Okay. All right.
27 **A** I submit part -- you know, I do my part, and then
28 she just does her part after that.
29 **THE COURT:**
30 But you're telling her what streets?
31 **A** Exactly.
32 **THE COURT:**

All right.

A Yes, sir.

THE COURT:

Okay. Go ahead, Mr. McHale.

DIRECT EXAMINATION CONT'D

BY MR. MCHALE:

Q All right. The next email I have is on Monday, January 31st where you sent an email to Becky Pool.

A Uh-huh.

THE COURT:

You've got to respond.

A Yes, sir.

Q With Calcasieu Parish?

A Yes, sir.

Q Okay. And you were asking about the City Council Districts being ready to add to mapping?

A Yes, sir.

Q Can you tell me what is that -- what does that mean?

A DIS Mapping, that's all of Calcasieu Parish. So, that's what I use to do the redistricting. Well, I use that mapping for everything. But that's what I was using for the redistricting. The only part they had was from the last census. So, I just asked them to go ahead and plug in the new ones. Was it ready for them to do? Which they said it was ready.

Q Okay. Were these -- the work that you did on the City of Sulphur, I guess, was it -- were they late in getting you the information to do this?

A Who?

Q Like the State, whenever you originally got the information saying that it had been served that there

1 were new districts, you got them in January or
2 December; correct?
3 **A** Correct.
4 **Q** Would normally you have gotten them much earlier?
5 **A** I mean, the census was delayed. So, I mean, I
6 would have gotten them if they would have done the
7 census correct -- I mean earlier.
8 **Q** Okay.
9 **A** But that was pushed back. So, we got pushed
10 back.
11 **Q** So, it would have been delayed, or it was delayed
12 because of the census and the federal government; is
13 that correct; the census not finishing on time?
14 **A** To my best knowledge, yes, sir.
15 **Q** All right. Was it also perhaps delayed because
16 of the pandemic?
17 **A** I -- I have no idea. I assume.
18 **Q** Okay. Do you -- could it have possibly been
19 delayed because of the hurricanes that had affected
20 Southwest Louisiana?
21 **A** I assume. Yes, sir.
22 **Q** All right. Do you know --
23 **THE COURT:**
24 Hang on, Mr. McHale, before you were
25 Registrar, did you handle any
26 redistricting?
27 **A** Ten years ago I did help with the Registrar.
28 **THE COURT:**
29 So back then, if we wouldn't have had
30 all of the circumstances that have
31 occurred, plus you got them, you said,
32 late, you would have had more time to put

1 this in?
2 **A** Correct.
3 **THE COURT:**
4 All right. The fact that you put them
5 in within this deadline, were they
6 incorrect when you put them in?
7 **A** Well, everything was put in correctly, but I
8 guess I second guessed myself. So, just those two
9 streets are the only ones we found that I hadn't done
10 correctly.
11 **THE COURT:**
12 That's -- yeah, the Court's trying to
13 get to the point. I can get she --
14 **MR. MCHALE:**
15 Okay.
16 **THE COURT:**
17 I got delay.
18 **MR. MCHALE:**
19 Sure.
20 **THE COURT:**
21 That's in evidence. And that's on the
22 record. It was delayed. I'm just trying
23 to figure out what's the significance of --
24 what if -- so, the whole point is there was
25 a mistake made?
26 **MR. MCHALE:**
27 Yes, sir.
28 **THE COURT:**
29 All right. Let's get to that part.
30 **MR. MCHALE:**
31 All right.
32 **Q** All right. Let's talk about the mistake that was

made. Can you tell us, what was the mistake that was made?

THE COURT:

And you don't have to use that word, that was my word.

A I'm like, okay. It was my mistake, yes.

THE COURT:

Use whatever you want to use. That's just my interpretation. Go ahead, Mr. McHale.

A Whenever I --

THE COURT:

Would you repeat the question?

MR. MCHALE:

Oh, I -- certainly.

Q Were there mistakes made as far as the voter list for District 2?

A Correct.

Q Okay. What were the mistakes?

A Due to Precinct 402 had three different City Councils, City Council 2 had split streets where Logan runs north -- east and west. Matthew runs north and south. There's a split with City Council 3 and City Council 2. It was normally all of City Council 2. Where the split was, I didn't make the split for 3 and 2.

Q Okay. So, some of the people on Matthew Street, who, I guess, should have remained in District 2 were removed from District 2?

A Correct.

Q Okay. And do you know how many people that was?

A Approximately thirty.

1 Q Okay. According to one of the lists that I
2 looked at that was provided to me in discovery, I
3 counted thirty-one; is it possible there's thirty-one
4 voters?
5 **THE COURT:**
6 Which -- I know it's not -- can you
7 kind of give me an idea of what you're
8 referring to. I know it's not exhibit
9 stickers or whatever.
10 **MR. MCHALE:**
11 Yes, sir.
12 **THE COURT:**
13 Like middle of the stack, top of the
14 stack, just to kind of --
15 **MR. MCHALE:**
16 Middle of the stack, Your Honor.
17 **THE COURT:**
18 All right. Or whatever the document
19 you're referring to is called, that would
20 help the Court.
21 **MS. CANGELOSI:**
22 Yeah. I need to identify it so I can
23 look at it.
24 **THE COURT:**
25 Say that again.
26 **MS. CANGELOSI:**
27 I want to know what it is so we can
28 look at it with you, too.
29 **THE COURT:**
30 You too, huh.
31 **MS. CANGELOSI:**
32 Yeah.

1 **THE COURT:**
2 Oh, good. All right.
3 **MS. CANGELOSI:**
4 Thank you.
5 **THE COURT:**
6 And that's no problem with you, Mr.
7 McHale. I know you just got these.
8 **MR. MCHALE:**
9 Oh, no, sir, I understand.
10 **THE COURT:**
11 They just got plopped on you.
12 **Q** All right. In the --
13 **MR. MCHALE:**
14 May I approach the witness, Your
15 Honor?
16 **THE COURT:**
17 Ward Precinct List, that's what you're
18 reading from?
19 **MR. MCHALE:**
20 Yes, sir.
21 **THE COURT:**
22 All right. Thank you, sir. Go ahead.
23 **MS. CANGELOSI:**
24 Can I see what it looks like, the
25 first page?
26 **MR. MCHALE:**
27 Yeah.
28 **MS. CANGELOSI:**
29 The first page of it.
30 **MR. MCHALE:**
31 The one that -- it was marked "Matthew
32 Street."

MS. CANGELOSI:

I don't have post-it notes on mine. Can I see the list?

THE COURT:

You've got post-it notes on your side? You've got a stack. Okay.

MS. CANGELOSI:

Can I see this?

MR. MCHALE:

Sure.

MS. CANGELOSI:

Street, Ward, Precinct.

THE COURT:

You didn't get a stack at all?

MS. CANGELOSI:

Yes, sir, I did.

THE COURT:

Okay.

MS. CANGELOSI:

But I don't have any blue post-it notes.

THE COURT:

Okay.

MS. CANGELOSI:

I'm just looking for the document.

THE COURT:

Gotcha.

A I do have -- but, thank you.

THE COURT:

All right.

MR. MCHALE:

May I approach, Your Honor.

1 **THE COURT:**
2 Yes, you may.
3 **Q** I'm gonna show you. Now you remember the
4 document?
5 **A** Yes. Uh-huh.
6 **Q** That we're talking about.
7 **A** Yes, sir.
8 **MS. CANGELOSI:**
9 Can you tell us what page? I'm sorry
10 but it's like --
11 **MR. MCHALE:**
12 The pages aren't numbered.
13 **MS. CANGELOSI:**
14 It has a blue tag that says, "Matthew
15 Street?"
16 **MR. MCHALE:**
17 Yes.
18 **A** Yes.
19 **MS. CANGELOSI:**
20 Okay. Thank you.
21 **Q** All right. And the voters in question are
22 starting about halfway down this page?
23 **A** Yes, sir.
24 **Q** Okay. And then continue on to the next page.
25 **MR. JOHNSON:**
26 Your Honor?
27 **THE COURT:**
28 Yes, sir.
29 **MR. JOHNSON:**
30 I would just ask that we mark this as
31 --
32 **THE COURT:**

1 The Court's gonna admit all -- the
2 whole stack is going in the record. The
3 whole stack.
4 **MR. JOHNSON:**
5 Okay.
6 **THE COURT:**
7 Because that's what -- that's what was
8 produced. So, if y'all want to refer to it
9 -- if you want to -- now, if you -- I guess
10 I'm mindful of costs. If you don't feel
11 like the whole stack needs to go in, but
12 certainly everything that's referenced.
13 All of the email stack is going in because
14 we've talked about it and I allowed
15 testimony regarding it. So that's going
16 in. And I -- we can call that "C-1". To
17 the extent you want to just do pages, we
18 could do that.
19 **MR. JOHNSON:**
20 I just want to know if I --
21 **MR. MCHALE:**
22 Your Honor, I can identify it for the
23 record. This is a page, the top says,
24 Louisiana Secretary of State, Street
25 Address List. Above that in handwriting
26 there is "S3/S2." And to the right it
27 says, "Need to check address." The last
28 file --
29 **THE COURT:**
30 Is that your question, Mr. Johnson,
31 which page?
32 **MR. JOHNSON:**

I know what page he's on, Your Honor. What I'm thinking about is the record evidence, how are we going to be referring to this such that like the --

THE COURT:

Yeah.

MR. JOHNSON:

-- any court in the future could potentially look and know what we're talking about with any --

THE COURT:

We're gonna do the *in globo*, the email, paper clip, not paper clip, staple. We'll do that as "C-1". Mark that, the Court's -- subject to whatever objection y'all may have, we can put that on the record. But the Court is making that "Exhibit C-1". And then the page that -- we're gonna identify that as --

[COURT'S EXHIBIT "C-1" RECEIVED INTO EVIDENCE]

MR. MCHALE:

And I would -- I'm gonna ask that the entire packet identified as "Street Ward Precinct List" and I'm gonna say it's probably approximately a hundred pages, that this be entered into the record as "C-2".

THE COURT:

That will take all my exhibits, you do your own.

MR. MCHALE:

Oh, I'm sorry.

1 **THE COURT:**
2 That was just -- it's your question.
3 So, I just want to be clear.
4 **MR. MCHALE:**
5 It's "P-1", Your Honor.
6 **THE COURT:**
7 That's fine.
8 **MR. MCHALE:**
9 And this is the one that specifically
10 has to do with Matthew Street.
11 **THE COURT:**
12 And I'll let you mark that just so you
13 know --
14 **MS. CANGELOSI:**
15 Your Honor, I would just object to the
16 admissibility of this document because it's
17 got a lot of handwritten notes on it that
18 haven't been identified as whose
19 handwritten notes.
20 The document itself is a document from
21 the Louisiana Secretary of State's Office.
22 But as far as the handwritten notes and
23 numbers, those haven't been identified.
24 **THE COURT:**
25 Objection overruled. Ms. Fontenot is
26 the Registrar of Voters. This is a
27 response from the Registrar of Voters.
28 She's identified her documents. She's
29 testified that she's prepared these
30 documents, submitted to her attorney. So,
31 she's testifying from those documents. The
32 source is immaterial for the Court. It's

her documents. She's adopted -- she's identified that particular document.

The packet will come in as any parties feel like the packet should come in. But as specifically as to "C-1" that's in, and now "P-1" is in.

You may proceed, Mr. McHale.

[PLAINTIFF'S EXHIBIT "P-1" RECEIVED INTO EVIDENCE]

MR. MCHALE:

Okay.

Q And also the -- let me just ask you, the handwritten notes that are on this?

A Yes, sir.

Q Do you know whose handwriting that is?

A That is mine.

Q That's your handwriting?

A Yes, sir.

Q Okay. All right. And I guess it appears that any street on Matthew Street that was above 1000 in the address was to be in District 2; is that correct?

A Above?

Q Yeah. Like -- at 1000 --

A Below Logan Street.

Q Okay. Well, I'm just saying as far as the number, the street number?

A Correct. Where it starts at 1000.

Q Yeah. So, like 824 --

A Should be in --

Q -- Matthew Street is in District 3?

A Three, correct.

Q And 1000 Matthew Street is in District 2?

A Correct.

1 Q Okay.
2 **THE COURT:**
3 And that's the corrected, or the
4 correct information, Ms. Fontenot?
5 A Correct.
6 **THE COURT:**
7 Okay.
8 Q And do you know how many voters are on this list?
9 A Well, this one is from -- the list you're looking
10 at is from January 7th. So that's what I started out
11 with, yes, sir.
12 Q Okay.
13 A Now, the one that I pulled on March 26th, there's
14 thirty voters.
15 Q But the list from January 7th is thirty-one
16 voters; is that correct?
17 A They should be the same. I guess, I would have
18 to sit here and count, I mean.
19 Q Okay. Well, at the bottom you have written the
20 number thirty-one.
21 A Yes. That was on January 7th, correct.
22 Q Okay. So, this would have -- do you know what
23 voter was removed between January 7th and the later
24 date?
25 A I'm missing -- uh, let's see. Okay. If -- from
26 January 17th, if you look at McClure, is it Francoise.
27 Francoise McClure on address 1101.
28 Q Mr. McClure was removed?
29 A Yes.
30 Q Why was she removed?
31 A I'd have to go back and look, but I assume that
32 she moved out of the parish -- out of the district.

1 **Q** Okay. How often are these updated like the voter
2 list?
3 **A** What do you mean?
4 **Q** Well, like if she was here on January 7th, but
5 then on January 17th she was --
6 **A** No, on March 26th.
7 **Q** Or March 26th -- I'm just asking --
8 **A** I don't print these every day. But they're
9 updated whenever a voter moves out of this precinct or
10 out of parish.
11 **Q** Okay. And, I guess, you wouldn't necessarily
12 know when somebody moved or if somebody registers some
13 place else and that comes back to you, they're now
14 registered some place else. Then is that something
15 that happens like --
16 **A** Daily.
17 **Q** -- automatically, like daily?
18 **A** Uh-huh(yes).
19 **Q** If you get something in. It's not just like
20 every two weeks we go through and --
21 **A** No.
22 **Q** -- make changes?
23 **A** It's daily.
24 **Q** All right. So, we're talking about there were
25 thirty voters who were left off the voting rolls for
26 the election on March 26th?
27 **A** Yes, sir.
28 **Q** All right. Now, there's also a problem with
29 Irwin Street; is that correct?
30 **A** Yes, sir.
31 **Q** All right. Irwin Street, those voters should
32 have been removed?

1 **A** Correct.
2 **Q** All right. And how many voters should have been
3 removed?
4 **A** One, two, three four -- eighteen.
5 **Q** Okay. And do you know, did any of the voters on
6 Irwin Street who should not have been allowed to vote,
7 were any of them allowed to vote in the March 26th
8 election?
9 **A** Yes, sir, two voters.
10 **Q** Okay. And we know who those two people are?
11 **A** Yes, sir.
12 **Q** Okay. But we don't know how they voted?
13 **A** No, sir.
14 **Q** There's no way for us to know that?
15 **A** No, sir.
16 **Q** But those two votes were in the calculation for
17 the results of the election?
18 **A** Yes, sir.
19 **Q** Even though they shouldn't have been?
20 **A** Correct.
21 **Q** Okay. When did you discover -- or when did you
22 first find out that there was a problem with the
23 election?
24 **A** Saturday morning of the election when Mr. Nezat
25 called.
26 **Q** Okay. Do you know what time that was?
27 **A** It was between eleven and noon.
28 **Q** Okay. And what did he tell you?
29 **A** That he had a voter that was turned away at the
30 polling place on Matthew Street.
31 **Q** Okay. Had there been other voters turned away
32 from the polling place that day, or do you know?

1 **A** Turned away?
2 **Q** Yeah. Had other people gone out to vote and they
3 said, look, you're not on the list, you can't vote?
4 **A** Yes.
5 **Q** Do you know how many?
6 **A** No, sir.
7 **Q** Okay. Do you have any way to know how many?
8 **A** No, sir.
9 **Q** Okay.
10 **THE COURT:**
11 No particular street, these voters, or
12 just --
13 **A** I don't know which street they were on. I can't
14 say they were on Matthew Street. They were just voters
15 that were turned away. They weren't in the district on
16 the register.
17 **Q** So, you have no way of knowing if other voters
18 who lived on Matthew Street showed up to vote and were
19 turned away?
20 **A** I only know the one that Mr. Nezat told us about.
21 **Q** Okay. All right. And how did you realize --
22 when did you realize, oh, man, the people from Matthew
23 Street were left off the voter rolls?
24 **A** When Mr. Nezat called.
25 **Q** Okay. Did you have to do research first to find
26 that out?
27 **A** Yes, sir.
28 **Q** Okay. How long did that take?
29 **A** Not long. Once I realized what street I was
30 working on.
31 **Q** Okay.
32 **A** I went to it.

1 **Q** How did you find out about Irwin Street?
2 **A** I don't know if that was Nezat or Koonce that
3 informed us of that one.
4 **Q** Okay. But one of the two candidates had informed
5 you of that?
6 **A** Yes, sir.
7 **Q** Do you -- and let me ask you, since the election,
8 have you gone back and checked to make sure there's no
9 other streets that were left off or no other problems?
10 **A** To the best of my knowledge, yes, sir.
11 **Q** Okay.
12 **THE COURT:**
13 To the best of your knowledge, you
14 checked?
15 **A** Oh, I checked all of them. No, I'm sorry, I
16 checked every street.
17 **THE COURT:**
18 Okay.
19 **Q** Okay. And the process that you did to check
20 every street, is that the same process that you should
21 have done or, I guess, maybe you did and missed these
22 before the voting books were put out?
23 **A** Correct.
24 **Q** Okay. How did -- if you know, how did you miss
25 these streets the first time?
26 **A** Well, I didn't realize I had missed them. But
27 whenever I had to do five different precincts, I mean,
28 five different city districts and it was approximately
29 619 streets, 13 precincts, and like 12,000 voters.
30 **Q** Yeah.
31 **A** I missed those two streets.
32 **Q** I gotcha. Well, and since then have you gone

1 back and checked like all of those streets in all of
2 Sulphur?
3 **A** Yes, sir.
4 **Q** Okay.
5 **MR. MCHALE:**
6 Let me -- if I can approach again,
7 Your Honor?
8 **THE COURT:**
9 Yes.
10 **Q** I'd like to show you a document that I've
11 provided through discovery. Can you tell me what that
12 document is?
13 **MS. CANGELOSI:**
14 I'm sorry. Can you let me know what
15 the document is?
16 **MR. MCHALE:**
17 I'm sorry. This is the ROV
18 Redistricting Certification-Municipality
19 form.
20 **MS. CANGELOSI:**
21 Checklist?
22 **MR. MCHALE:**
23 Yeah, checklist.
24 **MS. CANGELOSI:**
25 Okay. Thank you.
26 **THE COURT:**
27 Are you marking that as -- let's mark
28 it at least?
29 **MR. MCHALE:**
30 Your Honor, I would -- I'm gonna offer
31 and introduce this as -- am I on "P-2"?
32 **THE COURT:**

"P-2".

MR. MCHALE:

"P-2".

THE COURT:

Mr. Johnson?

MR. JOHNSON:

Your Honor, if that was a part of the packet my understanding is that the Court's gonna allow in the entire packet if he wants, so.

THE COURT:

Yeah. If y'all want. I just -- cost wise if y'all don't need all of this other stuff -- but if you feel like we need to do the whole thing then we can mark it "P-2".

[PLAINTIFF'S EXHIBIT "P-2" RECEIVED INTO EVIDENCE]

Q Can you explain to the Court what that document is?

A This is a checklist that's sent from the Secretary of State.

Q Okay. Is that the checklist that you're supposed to -- are those the things that you're supposed to do on that checklist to make sure that there weren't any mistakes?

A Yes, sir.

Q Okay. And according to that checklist, on January 11th, at least, you didn't think there were any mistakes?

A Correct.

Q Okay. And -- but, I guess, now we know there were mistakes; correct?

A Correct.

1 **Q** All right.
2 **THE COURT:**
3 You got that, Mr. McHale. Mistakes
4 were made.
5 **MR. MCHALE:**
6 Sir?
7 **THE COURT:**
8 I said, you got that, mistakes were
9 made.
10 **MR. MCHALE:**
11 Yes, sir.
12 **THE COURT:**
13 All right. I'm just letting you know
14 that's in the record.
15 **Q** Do you know -- what was the change of voters in
16 District 2 from what it was before to what it was with
17 this election? Do you know how many voters were either
18 taken out of District 2 or added into District 2?
19 **A** For that particular street or --
20 **Q** No, for whole District 2?
21 **A** I -- I don't have that number in front of me. I
22 don't -- like I said, I had so many.
23 **Q** Okay. I'll show you another document. And I
24 don't know if -- this is a document that, again, was
25 provided to me through discovery. And it looks like
26 this one was ran on December 23rd, '21. And there's
27 some handwritten notes on there; is that your
28 handwriting again?
29 **A** Right. This is the sheet that shows that --
30 where I started doing the changes.
31 **Q** Okay. All right. And there's some notes on the
32 righthand corner?

1 **A** Uh-huh (yes).
2 **Q** And I don't -- I think that's what you mean but
3 does --
4 **A** Correct.
5 **Q** -- that say how many --
6 **A** Approximately, I had 500 --
7 **Q** voters?
8 **A** Yes. Correct.
9 **Q** Okay.
10 **MR. JOHNSON:**
11 What?
12 **Q** So, approximately, there's 570 voters in that
13 precinct?
14 **A** Uh-huh (yes).
15 **Q** And how many were there before? Is that the 6 --
16 the number that's scratched out?
17 **A** 653?
18 **Q** Yeah.
19 **A** No, I just miscounted.
20 **Q** Okay.
21 **A** That's my thing. I just miscounted and did the
22 570.
23 **Q** All right. So, and that's for Precinct 402?
24 **A** 420 -- 402, yes, sir.
25 **Q** 402. Okay.
26 **A** Uh-huh (yes).
27 **Q** All right.
28 **THE COURT:**
29 But Precinct 402 has three different
30 City Council seats, so this is not 570 of
31 the eligible voters for District 2 that
32 day?

1 **A** Correct.
2 **THE COURT:**
3 Okay.
4 **Q** Now, also on this sheet there is handwritten
5 notes where -- it says, Irwin Street where it says, "16
6 voters". And where it says, Matthew Street, it says,
7 "30 voters." Were those notes made in December when
8 this was printed out?
9 **A** Uh-huh. Yes.
10 **Q** Okay. So --
11 **A** I had eighteen, yes. Right.
12 **Q** Okay. So -- all right. So, even though in
13 January we counted that there were thirty-one voters on
14 Matthew Street, but then one moved. But in December
15 you had that -- and actually you have thirty voters,
16 minus five, equals twenty-five. Are you --
17 **A** Oh, I see. I see what you're saying.
18 **Q** Yes.
19 **A** I'm sorry. Yes.
20 **Q** When were those notes made?
21 **A** I assume after the --
22 **Q** Were they made after the election?
23 **THE COURT:**
24 Wait, Mr. McHale, you're not giving
25 her a chance to answer your question.
26 **MR. MCHALE:**
27 I'm sorry, Your Honor, I was just
28 trying to clarify the question.
29 **THE COURT:**
30 I understand.
31 **A** Yes, after the election.
32 **Q** Okay.

1 **A** I mean, after I found out about the mistake.
2 **Q** Okay.
3 **A** And then that's when I went back to my original
4 report and seen, yes, it should have been split.
5 **Q** Okay.
6 **A** Which I have my original right here.
7 **MS. CANGELOSI:**
8 Did you put that in evidence?
9 **MR. MCHALE:**
10 Oh, I'm sorry. Your Honor, I would
11 like to offer and introduce as "P-3", and
12 this, again, comes in the discovery. To
13 further identify it, it is Louisiana
14 Secretary of State's Street Ward Precinct.
15 In the top left corner it says, "S1, S2,
16 S3" and then "402."
17 And the print date on it at the bottom
18 is 12/23/21.
19 To further identify it, it has
20 handwritten notes from Ms. Fontenot saying,
21 "570 approximately changed votes." There
22 were "39 streets" and that "Logan is the
23 dividing line."
24 **MS. CANGELOSI:**
25 And how many pages is it?
26 **MR. MCHALE:**
27 This is -- there are four pages total.
28 But at the bottom each one says, "Page 1."
29 **MR. JOHNSON:**
30 My third page says, "Page 2", Judge,
31 just to point that out.
32 **MR. MCHALE:**

1 Oh.
2 **THE COURT:**
3 Your third one of that little small
4 one has "Page 2".
5 **MR. JOHNSON:**
6 That is correct, Your Honor.
7 **Q** They should be all stapled together.
8 **Q** Once you became --
9 **THE COURT:**
10 Hang on. Let's make sure we got the
11 right --
12 **MR. MCHALE:**
13 I'm sorry.
14 **THE COURT:**
15 I marked "P-3" this document. So,
16 y'all can look at this document and decide
17 if you've got an objection. That was in my
18 stack. It's what I thought he was
19 referring to. And perhaps I might have
20 picked the wrong document, I don't know.
21 **[PLAINTIFF'S EXHIBIT "P-3"]**
22 **MS. CANGELOSI:**
23 Is that the only copy you have of that
24 page?
25 **MR. MCHALE:**
26 It's the only copy that I have.
27 **A** Can I go back and clarify his question he just
28 asked about the numbers?
29 **THE COURT:**
30 Yes, ma'am.
31 **A** Where he sees the thirty voters and the sixteen
32 voters, that was done on that Saturday because I had to

1 immediately go back to my redistricting, which was done
2 on the -- December 23rd where I had the streets. And I
3 wrote right there the thirty voters and the sixteen
4 voters for that Saturday. Then I came and I printed
5 out on that same day at 12:52 the streets.
6 **THE COURT:**
7 Okay.
8 **A** Because all I had to go by was the redistricting
9 that I had done to find out what my mistake was. So, I
10 started with December 23rd and then January 7th.
11 That's my packet there.
12 **Q** When you realized that there was a mistake, what
13 did you do?
14 **A** We immediately made the list of the voters that
15 were on that street and called every one of those
16 voters.
17 **Q** Okay. What else did you do?
18 **A** We informed KPLC.
19 **Q** Okay. How did you inform KPLC?
20 **A** Mr. Nezat had called KPLC and they had contacted
21 me.
22 **Q** Okay. So, you just called them back?
23 **A** Uh-huh (yes).
24 **Q** All right.
25 **THE COURT:**
26 So, let me clarify, because I reviewed
27 the packet on our lunch break. And I saw
28 the document that had a bunch of phone
29 calls. So, your testimony is that those
30 calls were made the day of the election?
31 **A** Yes, sir. We did it as soon as we found out.
32 **THE COURT:**

1 Oh, okay.
2 **MR. JOHNSON:**
3 Judge, what document are you --
4 **THE COURT:**
5 It's just two or three pages. It's a
6 phone list. It's got calls and who was
7 there. Left messages, some voted in
8 person. They got --
9 **MR. JOHNSON:**
10 Sure. I have -- I have that document,
11 Your Honor. I'm just suggesting --
12 **THE COURT:**
13 Oh.
14 **MR. JOHNSON:**
15 -- is it in the record evidence or --
16 yet?
17 **THE COURT:**
18 No. I was just asking her a question.
19 **MR. JOHNSON:**
20 Okay.
21 **THE COURT:**
22 No. To be consistent, we're gonna
23 make that "C-2" -- "C-2" since I asked her
24 a question about it.
25 **[COURT'S EXHIBIT "C-2" RECEIVED INTO EVIDENCE]**
26 **MR. JOHNSON:**
27 Okay. Thank you, Judge. That helps.
28 **Q** And with the phone list that you had, several of
29 the numbers on the phone list were no longer valid?
30 **A** Correct.
31 **Q** Okay. Is that pretty common that the numbers --
32 the phone number the Registrar of Voters has a lot of

1 times aren't necessarily good numbers?
2 **A** Correct.
3 **Q** Okay. It doesn't necessarily -- does it mean the
4 people have moved or just maybe they're now using a
5 cell phone instead of a landline or --
6 **A** Well, if you notice that some of the voters
7 hadn't voted since 1988 and those are the ones that the
8 phone numbers weren't good were the ones that were
9 older.
10 **Q** Okay.
11 **A** So they didn't answer, or the phone has been
12 disconnected.
13 **THE COURT:**
14 But did y'all go -- did anyone from
15 your office, or anyone that you know of, go
16 -- actually go to these homes directly and
17 inform them directly?
18 **A** From my office, no, sir.
19 **THE COURT:**
20 Okay. From your office, no. From
21 anyone that you know of?
22 **A** I'm assuming Mr. Nezat did.
23 **THE COURT:**
24 Okay. You don't know that firsthand?
25 **A** No, sir.
26 **THE COURT:**
27 And I meant -- let me rephrase --
28 speaking of questions. I meant from any
29 governmental agency.
30 **A** No, sir.
31 **THE COURT:**
32 Okay. All right. Thank you, ma'am.

1 **A** You're welcome.
2 **Q** And, again, if any of these people would have
3 shown up before you got the complaint from Mr. Nezat,
4 and they would have been turned away, you wouldn't have
5 necessarily known about that?
6 **A** When we found out the error had been made, we
7 immediately contacted the precinct and let them know
8 they were not to turn anybody away from there.
9 **Q** Okay.
10 **A** Before they called us.
11 **Q** But before then, you don't know how many people
12 had been turned away?
13 **A** No, sir.
14 **Q** And you don't know if any of the people who had
15 been turned away were residents of Matthew Street?
16 **A** No, sir.
17 **THE COURT:**
18 Did -- I have a question.
19 **A** Yes, sir.
20 **THE COURT:**
21 Did your office, or any governmental
22 agency that you know of, reach out to any
23 of these voters to determine if they --
24 even though they -- because you made a
25 comment earlier and I just want to -- for
26 my analysis, they hadn't voted since 1988.
27 Did anyone -- government -- your office or
28 any governmental agency make a
29 determination whether, for example, number
30 three on the list, whether she would choose
31 to exercise her right to vote despite not
32 voting since 1988?

1 **A** No. She's still on the roll. She's still
2 eligible to vote.
3 **THE COURT:**
4 Okay.
5 **A** But that was the last time she voted.
6 **THE COURT:**
7 All right.
8 **MR. MCHALE:**
9 Just a second, Your Honor.
10 **Q** Did you receive any complaints about Mr. Koonce
11 on election day?
12 **A** Me personally? No, sir.
13 **Q** Okay.
14 **THE COURT:**
15 Is that something I need to decide
16 today?
17 **MR. MCHALE:**
18 No, sir.
19 **THE COURT:**
20 Whether Mr. Koonce -- is that
21 something that Mr. Nezat is seeking a
22 decision from the Court with regard to
23 whether Mr. Koonce did any violation of the
24 election laws or irregularities?
25 **MR. JOHNSON:**
26 No, we're not seeking a decision on
27 that, Your Honor.
28 **THE COURT:**
29 Okay. All right. The Court -- that's
30 in evidence. I don't need to spend any
31 time --
32 **MR. MCHALE:**

1 All right.
2 **THE COURT:**
3 -- on whether your client did anything
4 wrong in this election.
5 **Q** And just to clarify, the final results of the
6 election, there was -- how many people voted?
7 **A** On election day?
8 **Q** Yes. Or how many people voted in the election,
9 I'm sorry?
10 **THE COURT:**
11 For this precinct only, right, is what
12 you're asking?
13 **MR. MCHALE:**
14 No, I want to know for the -- for the
15 whole election.
16 **THE COURT:**
17 Okay.
18 **MR. MCHALE:**
19 For the -- yeah, for this City Council
20 District.
21 **THE COURT:**
22 Oh, that's what I thought you were --
23 all right.
24 **MR. MCHALE:**
25 Yeah.
26 **A** For the City Council? Okay. Well, you had a
27 total for Koonce 143 and Nezat 169.
28 **Q** Okay. So, what is the vote difference between
29 the two of them?
30 **A** Twenty-six.
31 **Q** Okay. And we know that two people who should not
32 have been allowed to vote were allowed to vote;

1 correct?
2 **A** Correct.
3 **Q** All right. And we know that at least -- well, we
4 know that thirty people were originally left off the
5 polls and that after the mistake was discovered, five
6 of those thirty people got to vote?
7 **A** Correct.
8 **Q** Okay. But we don't know if any of those other
9 people showed up any time before that?
10 **A** I have no idea.
11 **Q** Okay. Because if somebody shows up to vote and
12 they're turned away from the polls, they don't normally
13 keep a record of that; correct?
14 **A** Who keeps a record?
15 **Q** If somebody shows -- if somebody shows up and
16 wants to vote and they say, look, you're not on the
17 rolls, we're not gonna let you vote, normally they
18 don't write down this person showed up to vote?
19 **A** Correct.
20 **Q** Even though they're -- all right.
21 **A** Correct.
22 **Q** So, we don't know how many people could have been
23 turned away before you told the commissioners, look, if
24 anybody shows up don't turn them away, call me first?
25 **A** I have no idea.
26 **Q** Okay. After you told them that, do you know if
27 other people showed up who were not eligible to vote?
28 **A** On that street or just in --
29 **Q** No, in general? Did other people show up -- did
30 the commissioners from that precinct call you
31 afterwards --
32 **A** Yes.

1 **Q** -- and say, hey, look this person --
2 **A** Yes.
3 **Q** -- is here --
4 **A** They questioned --
5 **THE COURT:**
6 Wait. Wait. Wait. Finish your
7 question.
8 **MR. MCHALE:**
9 Sorry.
10 **THE COURT:**
11 And hang on.
12 **A** Sorry.
13 **Q** One problem, she is taking everything we say, so
14 whenever we talk over each other it makes it really
15 hard on her. And I apologize, I know I'm the worst
16 about that.
17 **THE COURT:**
18 No. I'm only joking. Go ahead.
19 **Q** So, after -- did you receive --
20 **THE COURT:**
21 Finish asking your question you
22 originally -- I broke your train of
23 thought.
24 **MR. MCHALE:**
25 Yeah. I'm getting back to the --
26 **THE COURT:**
27 Okay. All right.
28 **MR. MCHALE:**
29 I guess kind of restating the original
30 --
31 **THE COURT:**
32 Hang on Mr. -- Ms. Fontenot.

1 **A** Okay.
2 **Q** After the complaint was made, and after you told
3 the commissioners, don't turn anybody away without
4 contacting me first, did they contact you?
5 **A** Yes.
6 **Q** Okay. Do you know how many times they contacted
7 you?
8 **A** Not off hand.
9 **Q** Okay. And was there anybody else who showed up
10 who was not on the -- who was not on the rolls who
11 should have been on the rolls?
12 **A** No, sir.
13 **Q** Okay. So, the five people who voted, do you know
14 -- who were allowed to vote, were they all there
15 together or do you know?
16 **A** Were they together?
17 **Q** Yeah.
18 **A** I have no idea. I wasn't there.
19 **Q** Okay.
20 **A** I don't know.
21 **Q** Well, they all -- did they all have to fill out
22 paperwork to be able to vote?
23 **A** The five did. They had to fill out a Precinct
24 Correction.
25 **Q** Okay. And if all those people -- do you know
26 what address all those people lived at?
27 **A** What all --
28 **THE COURT:**
29 You got --
30 **Q** Do you know what address those people lived at?
31 **A** The ones that did the Precinct Correction?
32 **Q** Yeah.

1 **THE COURT:**
2 Oh, there's a document for that?
3 **A** Y'all have that.
4 **THE COURT:**
5 Must be this --
6 **A** Two of --
7 **THE COURT:**
8 This document here (referring to
9 document).
10 **MR. MCHALE:**
11 Yes, sir.
12 **A** Yes, sir.
13 **MR. MCHALE:**
14 And, Your Honor, I would offer --
15 **THE COURT:**
16 Precinct Register Correction?
17 **A** Uh-huh (yes).
18 **MR. MCHALE:**
19 I would offer and introduce these as
20 "P-4".
21 **THE COURT:**
22 All right.
23 **[PLAINTIFF'S EXHIBIT "P-4" RECEIVED INTO EVIDENCE]**
24 **MR. MCHALE:**
25 And these are the Precinct Register
26 Correction forms.
27 **Q** These were three people from 1201 Matthew Street
28 and two people from 1200 Matthew Street; is that
29 correct?
30 **A** Hold on one second, I have -- there's three on
31 1201?
32 **Q** According to the records I'm looking at.

1 **A** And then two on 1200?
2 **Q** Right.
3 **A** Correct.
4 **Q** Good. And the original -- and one of those is
5 Cynthia Desselle, and that was the original person who
6 contacted you?
7 **A** She did not -- that was Nezat.
8 **Q** Or she was who you were contacted by Mr. Nezat on
9 behalf of?
10 **A** Correct.
11 **Q** All right. And according to this, she voted at
12 Precinct 403?
13 **A** Correct.
14 **Q** Okay. Where is 403? Is it in the same building?
15 **A** Correct. They're in the same precinct.
16 **Q** Okay.
17 **A** Building.
18 **Q** But she should have been voting in 402?
19 **A** Correct. They're right next to each other.
20 **Q** Okay.
21 **MR. MCHALE:**
22 Your Honor, I tender the witness.
23 **THE COURT:**
24 Mr. Johnson?
25 **CROSS-EXAMINATION**
26 **KIM FONTENOT - BY MR. JOHNSON:**
27 **Q** Good afternoon, Ms. Fontenot. My name is Adam
28 Johnson. I have a few questions for you; is that okay?
29 **A** Yes, sir.
30 **Q** Okay. Matthew Street, we know that there were
31 thirty possible voters; correct?
32 **A** Yes, sir.

1 **Q** That were left off the rolls?
2 **A** Correct.
3 **Q** Is that right?
4 **A** Correct.
5 **Q** Okay. Five of those people voted in the
6 election; correct?
7 **A** Correct.
8 **Q** That brings us down to twenty-five --
9 **A** Correct.
10 **Q** Correct? Sorry.
11 **A** Correct.
12 **Q** Okay. In addition, in your -- during your
13 efforts to contact every single one of those voters,
14 you spoke -- in addition to those five people who
15 voted, you spoke directly to five of the voters;
16 correct?
17 **A** Correct.
18 **MR. MCHALE:**
19 I'm gonna object, Your Honor.
20 Hearsay. I don't think she testified that
21 she spoke to -- to any of those voters.
22 **THE COURT:**
23 That's not helping the Court.
24 Objection overruled. The Court is just
25 trying to get to -- proceed Mr. Johnson.
26 **MR. JOHNSON:**
27 Thank you.
28 **THE COURT:**
29 It cuts both ways.
30 **A** Correct.
31 **Q** They were directly contacted; correct?
32 **A** Correct.

1 **Q** Meaning you got them on the phone?
2 **A** Correct?
3 **Q** Right. Not having to leave a voicemail, you got
4 them on the phone; correct?
5 **A** Correct.
6 **Q** All right. And they were told, hey, you can come
7 back and vote; correct?
8 **A** They weren't told to come back to vote. They
9 were telling them they were eligible to vote in this
10 election.
11 **Q** Right.
12 **A** Uh-huh (yes).
13 **Q** But they were told you can come back and vote.
14 That's what that meant -- or not come back and vote,
15 they were told you can vote; correct?
16 **A** Correct.
17 **Q** Okay. All right. And from your records, they
18 did not come back -- or come and vote; correct?
19 **A** Correct.
20 **Q** All right. So that brings us down to twenty;
21 right?
22 **A** Yes, sir.
23 **Q** Okay. Now --
24 **THE COURT:**
25 I got lost at twenty-five. Where did
26 you get the other five to twenty?
27 **MR. JOHNSON:**
28 The five that they contacted who
29 didn't come back and vote -- or come back,
30 I'm sorry, didn't come and vote. I'll
31 start --
32 **THE COURT:**

1 I got you.
2 **MR. JOHNSON:**
3 If you --
4 **THE COURT:**
5 I got you.
6 **MR. JOHNSON:**
7 All right. All right.
8 **Q** So, we're down to twenty. Okay. You also spoke
9 to one of the voters' spouses; correct?
10 **A** Correct.
11 **Q** Okay. And that person didn't vote; correct?
12 **A** Correct.
13 **Q** Even though they were told several hours before
14 the polls closed, they were eligible to vote; correct?
15 **A** Yes, sir.
16 **Q** Okay. Now, that brings us to nineteen; correct?
17 **A** Correct.
18 **Q** All right. Assuming a hundred percent voter
19 turnout, and a hundred percent of those votes going to
20 Mr. Koonce, that would not have made any difference in
21 the election; isn't that correct?
22 **A** Correct.
23 **Q** Okay. Adding the two votes that were from Irwin
24 -- Irwin Street, that would not have made any
25 difference in the election; correct?
26 **A** No, sir.
27 **Q** Okay. Of those nineteen voters that I'm
28 referring to that are left, you had previously sent all
29 thirty of the voters voter identification information;
30 correct?
31 **A** Correct.
32 **Q** Right. And three of those cards were returned;

1 isn't that correct?
2 **A** Correct.
3 **Q** Okay. And you also verified that those people
4 had not voted since 1988; is that correct?
5 **MR. MCHALE:**
6 Your Honor, I'm gonna object. He's
7 taking -- stating things that aren't in
8 evidence.
9 **THE COURT:**
10 Well, she's getting ready to answer
11 the question and Ms. Fontenot is doing a
12 fine job. She's getting ready to correct
13 Mr. Johnson on his recitation of her prior
14 testimony, aren't you, Ms. Fontenot? So,
15 you may proceed and answer the question.
16 Objection overruled.
17 **A** Okay. The three, they hadn't voted since 2012.
18 **Q** Okay.
19 **A** 2020 was the other one.
20 **Q** Okay.
21 **A** Uh-huh (yes).
22 **Q** Their voter identification cards were returned?
23 **A** Correct.
24 **Q** Okay. All right. So, they were sent notice of
25 their precinct information?
26 **A** Correct.
27 **THE COURT:**
28 So, hang on, I missed that. So,
29 earlier when you testified when you got the
30 new rolls you mailed cards to everybody?
31 **A** Uh-huh (yes).
32 **THE COURT:**

1 Of the new precincts?
2 **A** The ones that were changed. The ones that were
3 on Matthew Street.
4 **THE COURT:**
5 So, these thirty -- oh, okay. Matthew
6 Street got told you now will vote in
7 Precinct -- in 402? Excuse me, yeah.
8 **A** Uh-huh (yes).
9 **THE COURT:**
10 In 402. When did those go out?
11 **A** All the changes, let's see, January 19th and the
12 cards were mailed out the following week, the 26th,
13 when we get them from the printers.
14 **THE COURT:**
15 All right. Go ahead, Mr. Johnson.
16 **Q** Okay. And three of those were returned; correct?
17 **A** Correct.
18 **Q** All right. Now, you were also -- in your efforts
19 to call all of these people, left several voicemails;
20 is that correct?
21 **A** Correct.
22 **Q** Okay. How many bad numbers did you have?
23 **A** Approximately seven.
24 **Q** Okay. The rest you were able to leave a
25 voicemail on their voicemail; correct?
26 **A** Correct.
27 **Q** Okay. All right. So, out of the thirty on
28 Matthew Street, five voted; right?
29 **A** Yes, sir.
30 **Q** Five were personally contacted and told they were
31 eligible to vote and they didn't vote; correct?
32 **A** Correct.

1 **Q** Three of them who were told prior to -- were sent
2 mail prior to, you got returned service; correct?
3 **A** Correct.
4 **Q** Okay. And then eight -- you left voicemails on
5 the other ones, and then the other seven you didn't
6 have a good phone number?
7 **A** Correct.
8 **Q** And you were aware at the time that Mr. Nezat was
9 walking those streets; correct?
10 **A** I assumed, yes.
11 **Q** Right. But you were informed of that; correct?
12 **A** Right.
13 **Q** Okay. And -- both before and after the alleged
14 issue; correct?
15 **A** I assumed he walked before because he was
16 campaigning. So, I assumed that, but I knew he was
17 doing it on Saturday.
18 **Q** Right.
19 **A** Right.
20 **Q** You knew he was doing it afterwards. You were
21 aware that he was doing it after the issue as well?
22 **A** Correct.
23 **Q** Right.
24 **A** Yes.
25 **Q** And so, in addition to that, you put it out on
26 the news?
27 **A** Yes.
28 **Q** Correct?
29 **A** Yes.
30 **Q** So, you broadcast it on the news. You tried to
31 contact every single one of them; right?
32 **A** Yes, sir.

1 **Q** Nick's making the rounds; right? And tell me,
2 so, five out of the thirty voted; is that -- let me
3 catch myself. Five out of the thirty voted, what's --
4 do you know what five divided by thirty is? If I said
5 16.6 percent would that be accurate?
6 **A** That's accurate enough, yes.
7 **Q** Okay. So, just -- let's just be gracious. You
8 take the twenty votes -- take the thirty minus the five
9 that voted, minus the five people you directly
10 contacted and told they were eligible and who didn't
11 come vote. You take those twenty, add the two from
12 Irwin, assume they were cast, you know, incorrectly for
13 my client, and there's no change in the outcome of this
14 election; isn't that correct?
15 **A** Correct.
16 **Q** Right. So, it's certainly not your testimony
17 that there was a substantial irregularity in this case;
18 isn't that correct?
19 **A** Correct.
20 **Q** You're not suggesting that there is any reason,
21 right -- any reason to contest the legitimacy of this
22 election; isn't that right?
23 **A** Yes.
24 **Q** Right. You're acknowledging that there was some
25 irregularity; isn't that right?
26 **A** Yes, sir.
27 **Q** You even put out a Notice of Irregularity?
28 **A** Yes, sir.
29 **Q** Isn't that right?
30 **A** Yes, sir.
31 **THE COURT:**
32 I've got a question while Mr. Johnson

1 -- you mailed out these cards about the new
2 precinct January 26th. So, when are you
3 saying the mistake was made then? If they
4 got the cards, then you already had the
5 information, they were in Precinct 402?
6 **A** They were in Precinct 402 but they were in the
7 wrong City District.
8 **THE COURT:**
9 I'm sorry. Okay. So, the cards they
10 mailed out on January 26th, you -- did you
11 inform them they were in District 2, or the
12 cards were wrong?
13 **A** The cards were wrong.
14 **THE COURT:**
15 Oh.
16 **A** So -- when they went out. Yes, sir.
17 **THE COURT:**
18 All right. That's what I -- all
19 right. Go ahead, Mr. Johnson.
20 **Q** It is --
21 **A** We have it corrected now.
22 **THE COURT:**
23 So, if they got the card and read the
24 card, oh, I'm not in the district and they
25 relied just on the card.
26 **A** If they got them, yes, sir.
27 **THE COURT:**
28 You don't know that?
29 **A** I don't know.
30 **THE COURT:**
31 All right. And did you advertise
32 anywhere other than the TV? Radio?

1 **A** We had radio. We had the American Press.
2 **THE COURT:**
3 Did you ever do anything official on
4 social media? Do you even have a social
5 media page?
6 **A** No. No sir.
7 **THE COURT:**
8 All right. Go ahead, Mr. Johnson.
9 **Q** Right. Now, you indicated that it was Mr. Nezat
10 that brought this to your attention; isn't that
11 correct?
12 **A** Correct.
13 **Q** And it was Mr. -- you testified earlier you were
14 made aware that it was Mr. Nezat that was making the
15 rounds; correct?
16 **A** Yes, sir.
17 **Q** On Matthew Street and other places; correct?
18 **A** Correct.
19 **Q** All right. And you informed Mr. Koonce of the
20 issue as well?
21 **A** Uh-huh.
22 **Q** Okay.
23 **THE COURT:**
24 Yes?
25 **A** Yes, sir. Sorry.
26 **Q** Now, you have a breakdown in the packet of
27 documents that you gave, or that we were provided.
28 **A** Yes, sir.
29 **Q** You have a breakdown from the election, isn't
30 that correct, of each precinct?
31 **A** Yes, sir.
32 **Q** And the voter turnout; correct?

1 **A** Yes, sir.
2 **Q** Okay. Isn't it true that on the election day in
3 question, that my client, Mr. Nezat, outperformed Mr.
4 Koonce at every precinct?
5 **MR. MCHALE:**
6 Your Honor, I'm gonna object to the
7 relevance.
8 **THE COURT:**
9 Objection sustained. That's an
10 irrelevant question for the Court to
11 determine. He won the election on election
12 day. The Court has that. That's in the
13 record. The numbers have been testified to
14 twice now. That's in the record.
15 **MR. JOHNSON:**
16 Just for the record, Your Honor,
17 earlier your ruling was that the entire
18 packet is gonna come into evidence. Now, I
19 asked questions related to that packet of
20 the witness and the Court's determined it's
21 not relevant?
22 **THE COURT:**
23 What paper are you referring to?
24 **MR. JOHNSON:**
25 I'm referring to the -- I'll show you.
26 **THE COURT:**
27 You didn't identify the paper. You
28 didn't say anything. You just asked a
29 question.
30 **MR. JOHNSON:**
31 Sure.
32 **THE COURT:**

1 Describe it so y'all can find it
2 because these weren't provided any kind of
3 exhibit or --
4 **MR. JOHNSON:**
5 Sure.
6 **THE COURT:**
7 -- broken down, or --
8 **MR. JOHNSON:**
9 Your Honor, I'd like to mark and
10 identify this as "D-1".
11 **THE COURT:**
12 What's the -- what's --
13 **MADAME CLERK:**
14 Yes, I'm sorry.
15 **MR. JOHNSON:**
16 As "D-1".
17 **MADAME CLERK:**
18 "D-1"?
19 **THE COURT:**
20 Sure. And it's Louisiana Secretary of
21 State Summary of Unofficial Results. You
22 know what I'm talking about?
23 **MR. MCHALE:**
24 Yeah.
25 **MS. CANGELOSI:**
26 This is --
27 **MR. JOHNSON:**
28 It is.
29 **MS. CANGELOSI:**
30 Thank you.
31 **THE COURT:**
32 I know I have it. I've seen it. But

1 go ahead, I will catch up with it.
2 **Q** Now, that's unofficial and there's an official
3 breakdown in there. We'll talk about that in a second.
4 But --
5 **THE COURT:**
6 So, hang on, let me -- toward the
7 bottom of the stack?
8 **A** Yes, sir. Keep going. Keep going.
9 **THE COURT:**
10 All right. I got it. All right. Go
11 ahead. Ask -- well, restate your objection
12 -- who made the -- oh, okay. You marked
13 this as what now?
14 **MR. JOHNSON:**
15 "D-1", Your Honor.
16 **THE COURT:**
17 You're still 0 for 2 over here but
18 I'll go --.
19 **Q** That document shows that my client outperformed
20 Mr. --
21 **THE COURT:**
22 Well, let's go back because Mr.
23 McHale, I want to redo my -- reconsider my
24 overruling -- sustaining the objection.
25 You objected to what -- what's your basis?
26 **MR. MCHALE:**
27 To the relevance, Your Honor. It
28 doesn't matter what happened in every
29 single precinct, we know what the totals
30 are. So, I mean, what's the point of going
31 over every precinct?
32 **THE COURT:**

1 I'm gonna allow it. Objection
2 overruled. This is admitted as "D-1", it's
3 a document. For the same reasons I've
4 already stated on the record, as stated by
5 Mr. Johnson, this whole packet is coming
6 in. This is the -- and the basis for that,
7 and I'll just be very very clear. These
8 election procedure laws proceedings are
9 rapid. And the delivery of the documents,
10 in the Court's opinion, even holding for
11 two hours, two-and-a-half hours, deprive
12 the parties of time to review these
13 documents. And so, these questions and
14 this analysis of the documents are on the
15 fly. I appreciate that. I understand
16 that. So, if it's in the record, Ms.
17 Fontenot has already testified these are
18 the records she produced. I'm gonna allow
19 the question. I find it's relevant right
20 now until we get to a point where it's not
21 relevant.
22 Proceed, Mr. Johnson.
23 **[DEFENDANT'S EXHIBITS "D-1" RECEIVED INTO EVIDENCE]**
24 **MR. JOHNSON:**
25 Thank you, Your Honor.
26 **Q** That breakdown suggests that my client
27 outperformed Mr. Koonce at every single precinct that
28 day; isn't that correct?
29 **A** Correct.
30 **Q** Okay. And that with respect to 402, he
31 outperformed him roughly 60 to 40; correct?
32 **A** Correct.

1 **Q** Now, you testified earlier that my client was the
2 one that brought your attention to this issue because
3 he apparently had gotten a call saying somebody, you
4 know, wasn't allowed to vote; is that right?
5 **A** Yes.
6 **Q** It's a legitimate issue he brings to your
7 attention; right?
8 **A** Yes.
9 **Q** Affecting at max thirty voters; right?
10 **A** Yes.
11 **Q** We already went through the math where five voted
12 and all of that stuff. I'm not gonna go through that
13 again.
14 **THE COURT:**
15 You went through the math but go
16 ahead.
17 **MR. JOHNSON:**
18 Thank you, Judge.
19 **THE COURT:**
20 I couldn't keep up. Go ahead.
21 **MR. JOHNSON:**
22 Right.
23 **THE COURT:**
24 I got the point.
25 **Q** But -- and then you find out it's Mr. Nezat that
26 -- you testified earlier that it was Mr. Nezat that let
27 KPLC know; correct?
28 **A** Correct.
29 **Q** All right. It was Mr. Nezat that was walking
30 around Matthew Street; right?
31 **A** Yes, sir.
32 **Q** In your opinion, Mr. Nezat was being extremely

diligent; isn't that correct?

A Yes, sir.

Q He was working extremely hard; isn't that right?

A Yes, sir.

Q What were you told Mr. Koonce was doing?

MR. MCHALE:

Your Honor, I'm -- I'm gonna object --

THE COURT:

Objection is sustained. Move on to a different point, Mr. Johnson. The effort -- work effort that either party exhibited to notify voters is immaterial to the governmental -- the election agency, the Secretary of State, the Clerk of Court, the Registrar of Voters' Office with regard to notifying voters for this election proceeding.

So, the efforts of the candidates on the day of the election is immaterial for the Court's decision. Move on to a different point.

MR. JOHNSON:

Your Honor, can I --

THE COURT:

Objection is sustained.

MR. JOHNSON:

I understand and respect the Court's ruling. Can I place some brief argument on the record as to why I think that is incorrect?

THE COURT:

You can make -- yeah, you can make --

1 well, not argument. Put on your reason for
2 why you want to ask the question so the
3 record will be clear.
4 **MR. JOHNSON:**
5 Sure, Your Honor. We filed an Answer
6 and Reconventional Demand. In that Answer
7 and Reconventional Demand we specifically
8 stated that efforts were not made, as they
9 should have been, as due diligence requires
10 under the law, by Mr. Koonce on the day in
11 question. And that as a result of his
12 failure of due diligence, and failure to
13 raise these objections, even despite the
14 witnesses testimony that he was
15 specifically informed of the problem, that
16 that waives his right for all of us to be
17 here now on the Petition to Contest the
18 Election. And for that reason, Your Honor,
19 I think it is absolutely relevant.
20 **THE COURT:**
21 He has nine days to contest the
22 election under the statute. Am I
23 incorrect, Mr. Johnson?
24 **MR. JOHNSON:**
25 You are not incorrect that he has nine
26 days to challenge it. Your Honor, it also
27 -- the statute also says that he waives his
28 right if he does -- if the objection could
29 have been raised on the day in question
30 wasn't raised by him and with due
31 diligence, it could have been raised by
32 him.

1 **MR. MCHALE:**
2 Your Honor, if I may respond to that?
3 **THE COURT:**
4 Sure, you may respond.
5 **MR. MCHALE:**
6 Mr. Nezat testified whenever I asked
7 him about that specific line in their
8 Reconventional Demand that he didn't know
9 anything about that. He didn't know what
10 Mr. Koonce was doing on that day. He
11 doesn't know if Mr. --
12 **THE COURT:**
13 Well, that was his testimony. That
14 was -- you had him on cross. So, he had
15 not presented his case yet. Mr. Johnson
16 has Ms. Fontenot on cross. So, that
17 particular objection to his argument is
18 overruled. Are you finished putting your
19 reasons on?
20 **MR. JOHNSON:**
21 Yes, Your Honor, but because we put
22 that answer in our Reconventional Demand
23 and are making an argument that Mr. Koonce
24 waived his right for us to be here because
25 he didn't exercise due diligence and raise
26 an objection on the day in question, that
27 that's entirely relevant line of
28 questioning. And for the same reasons --
29 **THE COURT:**
30 What part of the statute are you
31 quoting?
32 **MR. LANDRY:**

1 Your Honor, I believe it's Louisiana
2 Revised Statute 18:1434. That's a separate
3 statute that says --
4 **THE COURT:**
5 I read that case about the efforts.
6 **MR. LANDRY:**
7 Going off memory, and I don't trust my
8 memory right this moment, but it is black
9 letter law, Your Honor.
10 **MR. MCHALE:**
11 Your Honor, I believe I have the case.
12 **THE COURT:**
13 You got -- well, give me the statute
14 first before you start doing cases. I
15 remember that. I read that. You've got
16 the statute, Mr. McHale. I was under the
17 impression you had your statute.
18 **MR. MCHALE:**
19 Yes, sir. Yes, sir.
20 **THE COURT:**
21 Oh, you wanted to read it before you
22 gave it to me?
23 **MR. MCHALE:**
24 If I can just --
25 **THE COURT:**
26 Yeah, go ahead.
27 **MR. MCHALE:**
28 Yeah. And, Your Honor, this statute I
29 do not believe is applicable.
30 **THE COURT:**
31 Is that 18:1434?
32 **MR. MCHALE:**

1 Yes, it's 18:1434. Is that the one
2 you're talking about?
3 **MR. LANDRY:**
4 That is the one. I'm surprised my
5 memory was correct.
6 **THE COURT:**
7 The Court will be in recess until I
8 call it back. So y'all can take a bathroom
9 break or whatever.
10 **MS. CANGELOSI:**
11 Thank you, Your Honor.
12 **[RECESS]**
13 **THE COURT:**
14 All right. Come back up. Objection
15 is overruled. I'm gonna allow the line of
16 questioning. You may proceed.
17 **MR. JOHNSON:**
18 Thank you, Judge.
19 **CROSS EXAMINATION CONT'D**
20 **BY MR. JOHNSON:**
21 **Q** You weren't aware of -- I was talking about all
22 of the efforts that Mr. Nezat was doing that you became
23 aware of; correct?
24 **A** Correct.
25 **Q** Putting it in the news; right?
26 **A** Right.
27 **Q** Going door to door?
28 **A** Yes.
29 **Q** Ane even bringing the problem to your attention
30 initially; correct?
31 **A** Yes.
32 **Q** But you weren't made aware of any objection or

1 anything like that by Mr. Koonce; right?
2 **A** No, not until he called about Irwin Street, I
3 believe.
4 **Q** Right.
5 **A** Yeah.
6 **THE COURT:**
7 Say that again, until what, now?
8 **A** Mr. Koonce had called in about Irwin Street, I
9 believe.
10 **Q** Right.
11 **THE COURT:**
12 Say that again. Until what, now?
13 **A** Mr. Koonce had called in about Irwin Street.
14 **Q** So, Mr. Koonce --
15 **THE COURT:**
16 Wait. Wait.
17 **MR. MCHALE:**
18 I'm sorry.
19 **THE COURT:**
20 It's my job, Mr. McHale.
21 **MR. MCHALE:**
22 Oh, I'm sorry, Your Honor.
23 **THE COURT:**
24 Say that -- what street again?
25 **A** I guess it was Irwin. I'm sorry.
26 **THE COURT:**
27 Oh, Irwin.
28 **A** Oh, Irwin Street. I'm sorry.
29 **THE COURT:**
30 Okay. The same two streets.
31 **A** Yes, sir.
32 **THE COURT:**

1 All right. Go ahead.
2 **A** I don't have the other one.
3 **Q** Right. All right.
4 **THE COURT:**
5 So, Mr, Koonce called in about Irwin
6 Street?
7 **A** Correct.
8 **THE COURT:**
9 What did he call in about? What did
10 he say?
11 **A** I -- he was at the -- I believe he was at the
12 precinct and saying that --
13 **THE COURT:**
14 If you don't remember that's fine.
15 **A** Yeah. I can't recall exactly what he was calling
16 about. He did mention Irwin Street.
17 **THE COURT:**
18 Something was going on with Irwin
19 Street and he called in to you about it to
20 complain?
21 **A** He was saying that he thought people were voting
22 that couldn't -- that weren't supposed to. And that's
23 when we jumped on that one.
24 **THE COURT:**
25 So, earlier you testified Mr. Nezat
26 called in about Matthew Street.
27 **A** Uh-huh (yes).
28 **THE COURT:**
29 But you didn't start working on Irwin
30 Street until Mr. Koonce called in?
31 **A** Correct.
32 **THE COURT:**

1 All right.
2 **A** Which was like maybe five or ten minutes in
3 between they both called.
4 **THE COURT:**
5 All right. Thank you, ma'am. Go
6 ahead, Mr. Johnson.
7 **Q** Okay.
8 **THE COURT:**
9 Just so y'all know at 3:30 I will be
10 taking a break to do two weddings as y'all
11 know, this was put on my docket. So, we're
12 gonna get those two couples married and
13 I'll come back. So, we're still good.
14 **MR. JOHNSON:**
15 May I approach, Your Honor?
16 **THE COURT:**
17 Yes, you may. You got a copy for me
18 unless that's something different?
19 **MR. JOHNSON:**
20 I do have a copy for you, Your Honor.
21 **MS. CANGELOSI:**
22 And can you tell me what it is?
23 **THE COURT:**
24 Oh, it's part of the packet.
25 **MR. JOHNSON:**
26 No. No, Your Honor.
27 **THE COURT:**
28 No.
29 **MS. CANGELOSI:**
30 Okay.
31 **Q** You recognize that?
32 **A** KPLC, yes.

1 **Q** Okay.
2 **A** Yes.
3 **MR. JOHNSON:**
4 Your Honor, I'd like to mark that as
5 "D-2". All right. It's the KPLC News
6 Article.
7 **MR. MCHALE:**
8 Your Honor, I'm -- I'm gonna object
9 that I don't think this was ever in the
10 Lake Charles American Press and there's no
11 one from the American --
12 **THE COURT:**
13 He said KPLC.
14 **MR. MCHALE:**
15 Oh, I'm sorry. All right. Well,
16 okay. I had seen the thing in KPLC.
17 That's fine, Your Honor, I withdraw.
18 **THE COURT:**
19 All right.
20 **MR. JOHNSON:**
21 Sure. I don't have a problem. The
22 evidence is "D-2", Your Honor.
23 **THE COURT:**
24 Whoa, hang on. I don't know, what is
25 it?
26 **MR. JOHNSON:**
27 Oh, it's the KPLC article, Your Honor.
28 I thought I gave you a copy. I never
29 handed you your copy. I'm sorry, Judge. I
30 handed them out to everybody though, Your
31 Honor. You're the only one that I forgot.
32 **THE COURT:**

I just thought it was a mystery. I thought you were trying to impress me. But I figured --

MR. MCHALE:

And, Your Honor, just to keep the record clear, this is part of --

THE COURT:

Lay a little bit more foundation.

MR. JOHNSON:

Sure.

THE COURT:

Is my point, I guess, is what I'm --

MR. MCHALE:

Yeah.

THE COURT:

You were gonna say something, Mr. McHale?

MR. MCHALE:

Well, yes, sir. I was just gonna say that this is a nine-page document that I was just handed. The pertinent part is on Page One. Everything else is -- I think is just ads that they had from KPLC and I don't think there's any reason to clog up the record with that. So I would just say just the first page.

MR. JOHNSON:

Agreed, Your Honor. No objection to that being -- that's -- but I'm happy to lay a foundation as well.

THE COURT:

Yeah. Let's do that.

1 **MR. JOHNSON:**
2 Sure.
3 **Q** Ms. Fontenot, you testified previously that it
4 was put out on the news on KPLC?
5 **A** Correct.
6 **Q** Is that correct?
7 **A** Yes.
8 **Q** After Mr. Nezat brought it to your attention, it
9 was also, you know, put on KPLC and that you were -- it
10 was your understanding that Mr. Nezat was responsible
11 for getting that out there; correct?
12 **A** Correct.
13 **Q** And your notes also reflect that you spoke to
14 Jonathan Manning from KPLC as well and, you know,
15 updated him on the situation; correct?
16 **A** Correct.
17 **Q** The purpose of that being to advertise this issue
18 so that these people, if they had been turned away,
19 could come back and vote. And also just to let people,
20 you know, understand and just fully inform them;
21 correct?
22 **A** Correct.
23 **Q** To handle the situation; right?
24 **A** Correct.
25 **Q** To exercise due diligence; right?
26 **A** Correct.
27 **Q** And that article that I've handed you, that I
28 marked as "Defense Exhibit 2", that accurately reflects
29 the article as you remember it posted that day;
30 correct?
31 **A** Correct.
32 **Q** Okay.

MR. JOHNSON:

Your Honor, I would like to offer, file, and introduce into evidence "Defense Exhibit 2".

THE COURT:

"2" is admitted, "D-2" is admitted.

[DEFENDANT'S EXHIBIT "D-2" RECEIVED INTO EVIDENCE]

Q Now --

MR. JOHNSON:

You want me to wait, Your Honor?

THE COURT:

Yes. You may proceed, Mr. Johnson.

MR. JOHNSON:

Thank you, Judge. May I approach, Your Honor?

THE COURT:

Yes.

Q I mentioned notes earlier, can you identify those two pages?

A Yes, sir.

Q Are those your notes?

A Yes, sir.

Q Okay. And those were included in the packet previously that -- that was a response to the subpoena duces tecum filed by Mr. McHale; is that correct?

A Yes.

Q Okay. So, going back to due diligence, what --

MR. JOHNSON:

I'm gonna mark that as "D-3". I'm gonna mark that as "D-3", Your Honor. I'll still lay a little bit more foundation but just marking it for the record as "D-3".

1 **THE COURT:**
2 Oh, that's her notes. I'm good on
3 that.
4 **MR. JOHNSON:**
5 Okay.
6 **THE COURT:**
7 So, "D-3" is admitted.
8 **[DEFENDANT'S EXHIBIT "D-3" RECEIVED INTO EVIDENCE]**
9 **MR. JOHNSON:**
10 Sure. I'd like to offer -- it's
11 admitted. Thank you, Judge.
12 **Q** Those are your notes that you kept after you
13 learned of the discrepancy; correct?
14 **A** Correct.
15 **Q** Now, those notes reflect that you spoke to Mr.
16 Nezat on -- at eleven o'clock; isn't that correct?
17 **A** Correct.
18 **Q** Those notes are also the notes that you began to
19 take after you gave strict instruction to the people at
20 the polls not to turn anybody away for any reason
21 whatsoever, right, without checking with you first;
22 correct.
23 **A** Correct.
24 **Q** And so, what those notes represent are
25 documentation of each time you received an inquiry
26 where typically they might turn that person away from
27 the poll for a various reason, all right. And you made
28 note of whether it was, you know, legitimate or not; is
29 that correct?
30 **A** Correct.
31 **Q** And of all the people that you notated as you
32 having to make inquiries on, who were being -- or going

1 to be told to be turned away; correct?
2 **A** Correct.
3 **MR. JOHNSON:**
4 Can I see that evidence real quick?
5 **Q** All the people that you notated, the only person
6 from -- and this is after eleven o'clock; correct?
7 **A** Correct.
8 **Q** Okay. The only person on there is Ms. Desselle;
9 correct?
10 **A** Correct.
11 **Q** And the notation suggests that she attempted to
12 vote at 403; right? It has 403 next to her name?
13 **A** That's precinct.
14 **Q** Precinct, right.
15 **A** Precinct.
16 **Q** What did I say?
17 **A** Time 4:03.
18 **Q** No. Sorry. No. No. No.
19 **A** But it's Precinct 403.
20 **Q** I mean Precinct 403; right?
21 **A** Correct.
22 **Q** And that she was allowed to vote; isn't that
23 correct even though she voted at 403; correct?
24 **A** Because she voted, yes. Yes.
25 **Q** Right.
26 **A** I'm thinking --
27 **Q** And that note also reflects that she spoke to Mr.
28 Nezat?
29 **A** Correct.
30 **Q** Which is consistent with how he informed you that
31 he came to learn about the discrepancy; correct?
32 **A** Correct.

1 **Q** Now, of all the people who after 11 a.m. -- what
2 time do the polls open?
3 **A** 7 a.m.
4 **Q** Okay. So, after eleven, y'all documented every
5 single person that you turned away; correct.
6 **A** The ones that called in.
7 **Q** Right.
8 **A** Correct.
9 **Q** Every single person, right?
10 **A** Correct.
11 **MR. MCHALE:**
12 Your Honor, I'm gonna object. I think
13 he's stating things that aren't in
14 evidence.
15 **MR. JOHNSON:**
16 She answered the question, Judge.
17 **THE COURT:**
18 I mean, she's testifying to her
19 document. Objection overruled.
20 **Q** And everybody that contacted you on an inquiry,
21 correct, after they were told don't turn anybody away;
22 right.
23 **A** Corrct.
24 **Q** Okay. And there's no evidene in there suggesting
25 that anybody after eleven, okay, was turned away,
26 correct -- regarding Matthew Street; correct?
27 **A** Correct.
28 **Q** The only issue is one person voted for Matthew
29 Street; correct.
30 **A** Correct.
31 **Q** Right. Now, prior to eleven o'clock, you
32 testified, I believe on direct, but there's no way of

1 knowing, you know, whether any of the -- let's say
2 twenty-five voters that didn't vote were turned away
3 between, you know, seven and eleven; correct?
4 **A** Correct.
5 **Q** All right. But there's a way; right? We're in a
6 courtroom, aren't we?
7 **A** Yes.
8 **Q** Lawsuit was filed; right?
9 **A** Yes.
10 **Q** Okay. Documents were subpoenaed from the
11 Secretary of State; isn't that correct?
12 **A** Yes.
13 **Q** So, I mean, one way potentially could be to
14 subpoena those people?
15 **THE COURT:**
16 Secretary of State or from the
17 Registrar of Voters documents subpoenaed?
18 **MR. MCHALE:**
19 Documents were subpoenaed from the
20 Registrar of Voters, Your Honor.
21 **THE COURT:**
22 All right.
23 **MR. JOHNSON:**
24 Oh, okay. I'm sorry. That's right,
25 AG. I thought he was with the Secretary of
26 State when he showed up. He was with the
27 AG's Office representing the Registrar.
28 Sorry, I apologize, Your Honor.
29 **Q** So, documents were subpoenaed from your office;
30 correct?
31 **A** Correct.
32 **Q** You were subpoenaed to be here; correct?

1 **A** Correct.
2 **Q** We could have subpoenaed the people who lived on
3 this road and asked them, were you turned away; isn't
4 that right?
5 **A** Correct.
6 **Q** That's one way to find out; right?
7 **A** Yes, sir.
8 **Q** But to your knowledge, that's not been done; has
9 it?
10 **A** To my knowledge, no, sir.
11 **Q** So, in a way, Mr. Koonce, again, kind of is
12 failing to get people to show up where they need to be;
13 right?
14 **A** Yeah.
15 **Q** And you have no documentation at all suggesting
16 anybody who lived on Matthew Street was turned away
17 between seven and eleven; isn't that correct?
18 **A** Correct.
19 **Q** And only one person had any issue at all after 11
20 a.m.; correct?
21 **A** Correct.
22 **Q** Which was caught by you guys and remedied;
23 correct?
24 **A** Correct.
25 **Q** And for which you issued -- isn't this right, a
26 notice of irregularity; isn't that right?
27 **A** Correct.
28 **Q** Saying, hey, she voted at 403, right? She should
29 have been able to vote at 402. But we caught that and
30 we're gonna count that vote; correct?
31 **A** Okay. You have to understand, they're in the
32 same building.

1 **Q** Right.
2 **A** Same precincts.
3 **Q** Right.
4 **A** I mean, two different things. So, she went to
5 the wrong precinct.
6 **Q** Right.
7 **A** With all the confusion, yes, they let her vote in
8 403 instead of 402.
9 **Q** Right.
10 **A** But it still counted.
11 **Q** They caught it.
12 **A** Exactly.
13 **Q** Right.
14 **A** We did. Yes, sir.
15 **Q** Okay. So then -- we had a -- we had a cinch on
16 this problem at 11 a.m.; right?
17 **A** Yes, sir.
18 **Q** We had a cinch on that problem because it was
19 brought specifically to your attention by Nick Nezat;
20 correct?
21 **A** Correct.
22 **Q** And there's no documentation suggesting anytime
23 afterwards anybody from Matthew Street was turned away;
24 isn't that correct?
25 **A** Correct.
26 **Q** There is documentation showing though that five
27 people out of the thirty voted; correct?
28 **A** Correct.
29 **Q** Five were called, told you're eligible to vote;
30 did not vote; correct?
31 **A** Correct.
32 **Q** Eight people you called and left voicemails for;

1 right?
2 **A** Correct.
3 **Q** Seven had bad numbers; right?
4 **A** Correct.
5 **Q** And it was broadcasted on the news?
6 **A** Correct.
7 **Q** Other than you physically, you or someone from
8 your office physically going door to door to let these
9 people know, which, again, we know Nick in his due
10 diligence did that; was there anything else that you
11 could have done to remedy this problem at that exact
12 point?
13 **A** At that time, no, sir.
14 **Q** Sure. And the only -- again, from the thirty,
15 getting rid of the five that actually voted, down to
16 twenty-five, and getting rid of the five that you
17 specifically called; taking those twenty votes, adding
18 to it the two from Irwin Street. Assuming every single
19 one of those people had voted for Mr. Koonce, he's
20 still the loser in this election; isn't that correct?
21 **A** Correct.
22 **Q** And it is for that reason that in your opinion
23 the results of this election are 100 percent correct?
24 **A** Correct.
25 **Q** And that this election is legitimate; right?
26 **A** Yes, sir.
27 **Q** And that although life from time to time happens
28 in elections where you have irregularities that --
29 **A** Correct.
30 **Q** -- in this case they were not significant nor
31 substantial; isn't that correct?
32 **A** Correct.

1 **Q** Now, you -- briefly, I'm almost done even though
2 that's a terrible thing like Mike said that lawyers are
3 supposed to say. You talked about redistricting, the
4 process of redistricting. That redistricting as far as
5 you know was done in November; is that correct?
6 **A** That's with the City of Sulphur; correct?
7 **A** Correct.
8 **Q** What did you say?
9 **A** The City of Sulphur, correct.
10 **Q** Right. And you're aware that -- it was actually
11 Mr. Koonce that moved to adopt the map; isn't that
12 correct?
13 **A** If he's -- if he's on City Council, I assume he
14 was there.
15 **THE COURT:**
16 Before you move to your next point,
17 did you admit this --
18 **MR. JOHNSON:**
19 I did, Your Honor. You said it was
20 admitted, just the first two pages. It's
21 just the first two pages by the way.
22 **MADAME CLERK:**
23 No, I don't have it.
24 **THE COURT:**
25 Oh, that's what I thought. Okay. All
26 right. Sorry. Go ahead.
27 Now, you have asked a question. I was
28 concentrating on something about
29 redistricting, Mr. Koonce on City Council,
30 he voted for the redistricting map.
31 **A** I don't know if he did or not. I wasn't --
32 **THE COURT:**

1 Oh, okay.
2 **Q** Okay.
3 **A** I don't have anything -- notation on that.
4 **MR. JOHNSON:**
5 May I approach, Your Honor?
6 **THE COURT:**
7 Yes, you may.
8 **[COUNSEL APPROACHES WITNESS]**
9 **MR. JOHNSON:**
10 I'd like you to review those documents
11 first if you don't mind. I'm gonna mark
12 those as "D-4", Your Honor.
13 **[WITNESS REVIEWS DOCUMENTS]**
14 **Q** Got that?
15 **A** Yes, sir.
16 **MR. JOHNSON:**
17 Your Honor, I'd offer, file, and
18 introduce "D-4", it's -- they're self-
19 authenticating. They're certified records.
20 Ordinary, you know, records from
21 municipality. Those are minutes -- they're
22 certified from --
23 **MR. MCHALE:**
24 I have no objection, Your Honor.
25 **THE COURT:**
26 Minutes of what?
27 **MR. JOHNSON:**
28 The City Council Meeting.
29 **THE COURT:**
30 Okay. I probably missed that part.
31 All right. "D-4" is admitted.
32 **[DEFENDANT'S EXHIBIT "D-4" RECEIVED INTO EVIDENCE]**

1 **MR. JOHNSON:**
2 Sure.
3 **Q** Can you -- call your attention to -- okay. I'm
4 gonna call that the back of Page 3. And I want to
5 bring your attention --
6 **THE COURT:**
7 Are you gonna ask Ms. -- the Registrar
8 of Voters about City -- Sulphur City
9 Minutes?
10 **MR. JOHNSON:**
11 Sure, Your Honor, you talked about
12 expedience.
13 **THE COURT:**
14 All right. Go ahead.
15 **Q** Right here, you see that sentence?
16 **A** Yes.
17 **Q** Do you see it on yours?
18 **A** Yes.
19 **Q** Okay. Read it real quick, that one sentence.
20 Beginning with the next item.
21 **A** "The next item --
22 **MR. MCHALE:**
23 Your Honor, I would object --
24 **THE COURT:**
25 Is there a page number?
26 **MR. MCHALE:**
27 -- that the document speaks for
28 itself.
29 **MR. JOHNSON:**
30 Your Honor, with all due respect, we
31 allowed him to read Facebook posts from my
32 client prior to today's hearing.

1 **THE COURT:**
2 Well, hang on, gentlemen, and I use
3 that -- well, anyway, just reference the
4 page for me.
5 **MR. JOHNSON:**
6 Sure. It is the back of Page 3, I
7 believe.
8 **THE COURT:**
9 Because we've already spent more time
10 than probably the sentence she's about to
11 read.
12 **MR. JOHNSON:**
13 Yes, it's the -- Page 3, Your Honor.
14 **THE COURT:**
15 Back of Page 3.
16 **MR. JOHNSON:**
17 That's correct, Your Honor, it's the
18 back of Page 3.
19 **THE COURT:**
20 All right. It's in evidence. I'm
21 gonna allow whatever sentence you're
22 referencing. Go ahead.
23 **Q** Sure. Can you read starting from the next item?
24 **A** "The next item on the agenda is a public hearing
25 and adoption on redistricting plan for the City of
26 Sulphur."
27 **Q** And read the next sentence.
28 **A** "Motion was made by Mr. Koonce, seconded my Ms.
29 Thompson, that the following ordinance be adopted to-
30 wit:"
31 **Q** Okay. And I'm not gonna ask you to read that
32 next paragraph. But that next paragraph describes the

1 redistricting plan; correct?
2 **A** Correct.
3 **Q** And then on Page 4 that follows, that actually is
4 the exact area that's to be covered by the change in
5 the maps; isn't that correct?
6 **A** Correct.
7 **Q** Right. So, before you had any notice of this,
8 Mr. Koonce was the one that had notice; right?
9 **A** Correct.
10 **Q** He ever contact you in between November and March
11 to make sure the rolls were correct?
12 **A** No, sir.
13 **Q** Right. And then on the day of the election, it's
14 not Mr. Koonce but Mr. Nezat that brings the problem to
15 your attention; isn't that right?
16 **A** Correct.
17 **Q** Do you think it's fitting that a circumstance
18 like that that Mr. Nezat wins the election?
19 **THE COURT:**
20 Don't answer that question. Where are
21 the two streets, Matthew and Irwin, in
22 relation to the map. Just -- I'm visual.
23 **[COURT REVIEWS THE MAP]**
24 **THE COURT:**
25 Oh, I'm sorry. I'm having a
26 conversation. We're referencing -- we're
27 going to call this "C -- whatever my next
28 one is. I'm asking questions. I'm just
29 using this top penciled "402 streets," that
30 document.
31 **MR. JOHNSON:**
32 Your Honor, I'm just gonna introduce

"D-4".

THE COURT:

Yeah, that's fine. Say that again -- okay, I've got Matthew. All right.

A Where you see the lines drawn, the green line.

THE COURT:

Yes.

A That was the dividing lines.

THE COURT:

Oh, okay.

A Precinct 402 to the north.

Q Gotcha.

A And the lower streets would be District 3. City Council 3 and below that it says number 2.

THE COURT:

I gotcha. But still all Precinct 402?

A Correct.

THE COURT:

I got you. And where is Irwin again, tell me?

A [Inaudible].

THE COURT:

So, it's a little bitty part of Irwin?

A Correct.

THE COURT:

All right. And this is "D-4". The packet -- the City Councilman -- people. "D-4," yeah, "D-4."

MR. JOHNSON:

Your Honor, the -- Judge, are the polling locations located on that map that you're introducing? Just a question for --

1 **THE COURT:**
2 Oh, yeah, it is not on that --
3 **A** No, sir.
4 **THE COURT:**
5 No. No, but they got the record of
6 everybody who voted that day on this last
7 batch of the documents.
8 **MR. JOHNSON:**
9 Okay. Thank you, Your Honor. That's
10 -- I just wanted that clarification.
11 You tendered, Ms. Fontenot?
12 **MR. JOHNSON:**
13 Yes, Your Honor.
14 **THE COURT:**
15 Okay. Re-direct, Mr. McHale?
16 **MR. MCHALE:**
17 Yes, sir.
18 **THE COURT:**
19 I thought I was waiting on y'all.
20 **MR. MCHALE:**
21 No, Your Honor, you -- re-direct may
22 be a while. I know you've got the weddings
23 at 3:30. You want me to go ahead and get
24 started?
25 **THE COURT:**
26 Yes, sir.
27 **MR. MCHALE:**
28 Okay.
29 **RE-DIRECT EXAMINATION**
30 **KIM FONTENOT - BY MR. MCHALE:**
31 **Q** All right. Ms. Fontenot, you just testified that
32 you believe that this election was a hundred percent

1 legitimate; correct?
2 **A** I mean, to my knowledge, yes, sir.
3 **Q** Okay. Two people voted who shouldn't have been
4 allowed to vote; is that correct?
5 **A** Correct.
6 **Q** Okay. So, it's still a legitimate election if
7 people who aren't -- shouldn't be allowed to vote
8 aren't allowed to vote?
9 **A** Correct. Yes.
10 **Q** Okay. Why -- how is that still legitimate if
11 people who shouldn't be voting are voting?
12 **A** You're correct. I --
13 **Q** Okay. So, all right. So, I'm correct.
14 **A** You are correct. Yes, sir.
15 **Q** It's not a hundred percent legitimate election?
16 **A** It's not a hundred percent.
17 **Q** Okay. Regarding the ordinance that was just
18 introduced, was there anything wrong with the
19 ordinance?
20 **A** Not that I know of.
21 **Q** Okay. So, it was -- no mistakes were made with
22 the ordinance; correct?
23 **A** Not -- no, sir. The lines --
24 **Q** And it correctly laid out who should be in the
25 district; right?
26 **A** Correct.
27 **Q** All right. So, by Mr. Koonce moving to approve
28 that, he didn't make any mistakes; correct?
29 **A** No, sir.
30 **Q** Okay.
31 **A** Not that I know of.
32 **Q** But there were mistakes made whenever all of this

1 was entered. Whenever it got to your office; right?
2 **A** Correct.
3 **Q** Okay. So, it wasn't Mr. Koonce who made the
4 mistake, it was your office that made the mistake?
5 **A** Correct.
6 **Q** Okay.
7 **THE COURT:**
8 That's -- that's -- all right. Let's
9 get to the point.
10 **MR. MCHALE:**
11 Okay.
12 **THE COURT:**
13 That's not rebuttal for me because
14 that's not a point that -- brought up by
15 defense.
16 **MR. MCHALE:**
17 I -- I -- I understand, Your Honor.
18 **Q** Now, after the -- and do you remember -- if you
19 remember, did Mr. Koonce contact you or did you contact
20 Mr. Koonce?
21 **A** Mr. Koonce contacted me.
22 **Q** Okay. So, Mr. Koonce contacted you because he
23 was getting reports of problems?
24 **A** Correct.
25 **Q** Okay. Whenever you realized that the problem was
26 Matthew Street and at that time you hadn't realized the
27 problem with Irwin Street; correct?
28 **A** Correct.
29 **Q** Okay. When you realized the problem with Matthew
30 Street, did you inform both candidates?
31 **A** I was on the phone with Nezat and then that's
32 when Koonce called. I got off the phone with him and

1 let him know that I had just talked to Nezat about
2 Matthew Street.
3 **Q** Okay.
4 **A** And he was telling me about --
5 **Q** All right. So, at the same time you let both
6 candidates know. So, both candidates had called to
7 complain about irregularities in the election?
8 **A** Correct.
9 **Q** Okay. So -- and to your knowledge, you don't
10 know if Mr. Koonce went out and walked the streets or
11 anything like that after you let him know?
12 **A** I have no idea. No, sir.
13 **Q** All right. So, do you remember specifically
14 speaking with Mr. Koonce?
15 **A** Yes.
16 **Q** Okay. Was Mr. Koonce upset about the problems in
17 the election?
18 **A** Upset?
19 **Q** Did he yell at you?
20 **A** Did he yell at me?
21 **Q** Yeah.
22 **A** No, sir.
23 **Q** Okay. Did anybody yell at you that day?
24 **A** Yes, sir.
25 **Q** Okay. Did Mr. Nezat yell at you?
26 **MR. JOHNSON:**
27 Objection, Your Honor, relevance and
28 -- and I didn't go into this on cross.
29 **THE COURT:**
30 You asked about questions of whether
31 Koonce called and you opened the door
32 because I actually had overruled you even

1 going there. You opened the door and
2 before the door was opened, I didn't even
3 realize Koonce had called to complain about
4 any irregularities. So, I'm gonna allow
5 briefly but this does not help me.
6 **MR. MCHALE:**
7 Yes, sir, I --
8 **THE COURT:**
9 I could --
10 **MR. MCHALE:**
11 I understand.
12 **THE COURT:**
13 -- assure you would get to substantial
14 irregularities about who got loud and who
15 did what on the phone.
16 **MR. MCHALE:**
17 I got you, Your Honor.
18 **Q** Did you speak with both candidates more than once
19 that day?
20 **A** No.
21 **Q** Okay.
22 **A** I don't recall.
23 **Q** And have you ever had to deal with a situation
24 like this in an election before?
25 **A** Yes.
26 **Q** Okay. And what did you do at that time?
27 **A** Immediately took actions and took care of it.
28 **Q** Okay. What kind of action?
29 **THE COURT:**
30 Can you go back and clarify what
31 situation we were talking about?
32 **MR. MCHALE:**

1 Oh, I'm sorry.
2 **Q** Yeah. Take -- if you can, tell us about the
3 problem you had in the election before.
4 **A** That was ten years ago. They had another -- it
5 was a street, two residents were left off.
6 **Q** Okay. Two residents?
7 **A** Yes.
8 **Q** Okay. And at that time did y'all inform those
9 residents that they could vote?
10 **A** Correct.
11 **Q** Okay. Start and -- I think you first heard from
12 somebody around eleven o'clock. The thing from the
13 KPLC was timed at 2:53, which is -- let's say three
14 o'clock in the afternoon. And the polls closed at
15 seven; is that correct?
16 **A** Yes. Wait -- seven to eight.
17 **Q** Oh, all right. So the polls closed at eight?
18 **A** Correct.
19 **Q** All right. So, as far as the -- and they opened
20 at six; right?
21 **A** Seven.
22 **Q** Oh, they open at 7. Okay. I'm sorry. So, they
23 open at 7 a.m. So, between 7 a.m. and say 3 p.m.,
24 whenever this appeared on KPLC, then there wasn't any
25 notice or -- to the public -- to the public that there
26 was a problem?
27 **A** Wait. Ask again?
28 **Q** The first notice that the public that was put out
29 in the public that -- to them that, hey, you know, if
30 you're on this street did you go vote.
31 **A** Right.
32 **Q** It wasn't until 3:00 p.m.?

1 **A** Correct.
2 **Q** Okay. And --
3 **A** Or the ones that we had called before that.
4 **Q** Okay. And you started calling people at -- do
5 you know what time y'all started calling people?
6 **A** It was right at noon, I guess.
7 **Q** Okay.
8 **A** Little after noon.
9 **Q** All right. Now, and according to your notes, the
10 only person listed on your notes is Cynthia Desselle.
11 But there are four other people who -- from Matthew
12 Street that voted as well; correct?
13 **A** Correct.
14 **Q** All right. But those aren't in your notes?
15 **A** Correct.
16 **Q** All right. So -- and these are your notes?
17 **A** Correct.
18 **Q** All right. If they would have had somebody -- if
19 they would have called the office, would they have
20 talked to anybody else but you?
21 **A** Yes.
22 **Q** Okay. So, if they talked to somebody else about
23 something and somebody else looked it up, that wouldn't
24 necessarily show up in your notes?
25 **A** Not on my notes.
26 **Q** Okay. So, there could -- besides just these
27 people here, there could have been other people but
28 they may have talked to other people in the Registrar
29 of Voters Office; correct?
30 **A** We checked their notes, and they didn't have
31 anybody on Matthew Street.
32 **Q** Okay. But they had other people?

1 **A** Correct.
2 **Q** Okay. Do you know for the whole office the
3 Registrar of Voters, do you know about how many people
4 they had that afternoon?
5 **A** Right off hand, no, sir.
6 **Q** Okay. But it was more than just --
7 **A** I didn't get their --
8 **Q** -- what you have in your notes.
9 **A** Oh, yes, sir.
10 **Q** Okay.
11 **A** Yeah, we didn't get any calls until about eleven.
12 **Q** Okay. And after that the phone just --
13 **A** Same -- I mean, it wasn't horrible.
14 **Q** Okay.
15 **A** But people started waking up and going to the
16 polls.
17 **Q** Okay. Now, the -- you realized there was a
18 problem, so you feel you did everything within your
19 power to kind of correct the problem once you became
20 aware of it; correct?
21 **A** To correct the problem, yes, sir.
22 **Q** Okay. Isn't that kind of closing a barn door
23 after the cow is already gone?
24 **THE COURT:**
25 Is that a question or --
26 **MR. MCHALE:**
27 Well, I get that she testified to Mr.
28 Johnson that she felt that this was a
29 legitimate election even though -- because
30 they tried to do --
31 **Q** Do you think doing your due diligence, trying to
32 alert all of these people after they've already been

1 left off the rolls, did that take away the mistake of
2 leaving the people off the rolls?
3 **A** No.
4 **Q** Okay.
5 **THE COURT:**
6 That will read better on the record.
7 **MR. MCHALE:**
8 Okay. Thank you.
9 **Q** And also, again, just to kind of go back, before
10 that -- before eleven o'clock we got no records of
11 anybody who might have been turned away?
12 **A** No, sir.
13 **Q** Okay.
14 **MR. MCHALE:**
15 I have no further questions, Your
16 Honor.
17 **THE COURT:**
18 Thank you, Ms. Fontenot. Is she
19 released or is she subject to her subpoena?
20 Who subpoenaed her?
21 **MR. MCHALE:**
22 I subpoenaed her, Your Honor.
23 **THE COURT:**
24 Oh, never mind, that's -- yeah. Did
25 you subpoena her? Okay. All right. Is
26 she free to go or what --
27 **MR. MCHALE:**
28 I don't know are you --
29 **MR. JOHNSON:**
30 I have no objection to her leaving us
31 a phone number, Your Honor.
32 **MR. MCHALE:**

1 Yeah. If something comes up -- I
2 doubt anything will come up, but we may
3 need to call her back, Judge.
4 **THE COURT:**
5 Let me just do this, you're still
6 under the rule. You cannot talk to anybody
7 about your testimony. I'm gonna keep you
8 under the rule, but you're free to go about
9 your day. Just stay available by your
10 phone. We have your phone number?
11 **A** I can give it.
12 **THE COURT:**
13 Yeah, just --
14 **MR. JOHNSON:**
15 Just give it to them.
16 **THE COURT:**
17 Yeah, just write it down.
18 **MR. JOHNSON:**
19 The press right there, just read it
20 out loud.
21 **THE COURT:**
22 Just write it down.
23 **MR. JOHNSON:**
24 You want me to give her something,
25 Judge?
26 **THE COURT:**
27 What's that?
28 **MR. JOHNSON:**
29 I was gonna give her something to
30 write with.
31 **THE COURT:**
32 Oh, I thought you had something to

1 write with. All that paper we gave you and
2 you don't have --
3 **A** I don't have a pen.
4 **THE COURT:**
5 And I'm really probably doing it for
6 me in case I have some questions after I
7 finish hearing all of this -- the other
8 testimony. Man, you must be giving me more
9 than one number, huh.
10 **A** Well, make sure y'all get a hold of me.
11 **[WITNESS PROVIDES TELEPHONE NUMBER TO COURT]**
12 **MADAME CLERK:**
13 "D-1".
14 **THE COURT:**
15 "D-1" was the very first Defense --
16 this is not it, I know. Remember you had
17 "D-1" -- what "D-1" was, Mr. Johnson?
18 **MR. MCHALE:**
19 "D-1" was the Summary of Election
20 Results, Your Honor.
21 **MR. JOHNSON:**
22 That's right, the unofficial summary.
23 **THE COURT:**
24 Do you remember which paper that was,
25 Mr. Johnson?
26 **MR. JOHNSON:**
27 That's it.
28 **THE COURT:**
29 Oh, yeah, I had it in my hand at one
30 point. I don't -- I might have kept it.
31 I've still got these two for you. All
32 right. Thank you, Ms. Fontenot.

1 **MADAME CLERK:**
2 Is "P-1" --
3 **THE COURT:**
4 Ma'am?
5 **MADAME CLERK:**
6 Do you have "P-1"?
7 **THE COURT:**
8 I still have "P-3" and P -- yes,
9 ma'am. All right. Court will be in recess
10 about 15 minutes.
11 **[RECESS]**
12 **MR. MCHALE:**
13 Your Honor, I would call the Honorable
14 Lynn Jones.
15 **MADAME CLERK:**
16 I've got you where I want you now.
17 **MR. JONES:**
18 Yeah, you got me.
19 **MADAME CLERK:**
20 Mr. McHale, can I go first.
21 **[WITNESS SWORN]**
22 **HONORABLE HORACE LYNN JONES, II**
23 Having been called as a witness after
24 having been previously duly sworn, did
25 testify as follows:
26 **MADAME CLERK:**
27 I've got some questions for you, too.
28 You can go ahead.
29 **DIRECT EXAMINATION**
30 **BY MR. MCHALE:**
31 **Q** Mr. Jones, can you state your name, occupation,
32 and your business address for the record, please.

1 **A** Yes. Horace Lynn Jones, II, Calcasieu Parish
2 Clerk of Court, 1000 Ryan Street, Lake Charles,
3 Louisiana 70601. That's -- you said business address,
4 correct?
5 **Q** Yeah. Yeah, that's fine. Mr. Jones, can you
6 tell the Court what the duties are of the Clerk of
7 Court's Office in relation to elections?
8 **A** Sure. Well, we're considered the --
9 **THE COURT:**
10 Give us a summary. Court is --
11 **A** Okay. Will do. So, the Clerk of Court is
12 considered the head election official of the parish.
13 Basically, our job is to recruit and train
14 commissioners to really election day issues as far as
15 anything that goes on election day is involved in our
16 purview.
17 Really, anything except registration of voters
18 and those type of things. Really, all the way around,
19 though, we're involved.
20 **Q** All right. Are you aware that there was an
21 election conducted in Calcasieu Parish on March 26th?
22 **A** I am. Yes, sir.
23 **Q** And that there was also an election in Sulphur
24 for the City Council, District 2?
25 **A** Yes.
26 **Q** All right. And are you aware that there were
27 some discrepancies in that election?
28 **A** Yes.
29 **Q** All right. Can you tell us what your
30 understanding of the discrepancies were?
31 **A** My understanding is that certain voters on
32 Matthew Street that were supposed to be in District 2

1 did not -- were not moved into District 2 and there
2 was, I think, thirty voters. And then there was two
3 other voters on Irwin Street that were not supposed to
4 be in the district, but they were moved into the
5 district.
6 **Q** And did you receive any complaints on election
7 day?
8 **A** I did. I had several phone calls. I had a
9 couple of elected officials that were getting calls
10 wondering what was going on. My first response to them
11 was that's kind of a normal situation. Because they
12 were saying their voters were being turned away. And I
13 said, well, in a -- especially after redistricting that
14 happens because they might not be in the district. But
15 then I followed through and found out that there was
16 potentially a problem.
17 **Q** Okay. Do you know around what time you first
18 started received phone calls?
19 **A** Somewhere after noon. And during that time, I
20 was also handling an issue with the electricity out in
21 the other City Council race. We had two precincts and
22 so I was kind of scrambling on that. But after 12:30,
23 I would say, when I started receiving complaints.
24 **Q** Okay. Do you remember, did you speak with Mr.
25 Koonce at all that day?
26 **A** I did. And that was a little bit after the first
27 few phone calls. So, I'm saying it's after one,
28 something like that. I did talk to Mr. Koonce. He did
29 call me.
30 **Q** Okay. And do you -- did y'all -- do you remember
31 exactly what y'all spoke about or what the problem was?
32 **A** Yeah. He was -- he was also expressing the

1 concern that I was getting the other phone calls on. I
2 had talked to Ms. Fontenot by that time to understand
3 kind of what the situation was. And he was just asking
4 me what -- what would happen? And I said, you know, I
5 don't know for sure. But, you know, there is a
6 possibility of a contesting of election if there's
7 issues. And he specifically asked me, so, if -- it
8 doesn't matter if I win or lose, I would have the
9 opportunity to do that? I said, it depends on the
10 circumstances.
11 **Q** Okay. Did you tell him that it would be a
12 possibility that the election could be redone?
13 **A** Yes. If it went through the court system,
14 correct.
15 **Q** Are you familiar with any similar problems to
16 this happening in previous elections?
17 **A** Yes.
18 **Q** Okay. When did it happen before?
19 **A** Oh, probably about ten years ago in the City of
20 Sulphur.
21 **THE COURT:**
22 What's the relevance of that question,
23 Mr. McHale?
24 **MR. MCHALE:**
25 Pardon?
26 **THE COURT:**
27 What's the relevance of that question
28 about whether it happened before?
29 **MR. MCHALE:**
30 Just it's --
31 **THE COURT:**
32 Help orient the Court so I --

1 **MR. MCHALE:**
2 Oh, yes, sir. I just -- as far as to
3 what remedies were done at that time, or
4 what -- what they did to address the
5 problem in the -- if you want, in the
6 interest of time, I will withdraw --
7 **THE COURT:**
8 Well, no. No. No. No. Hold on.
9 We're making a record.
10 **MR. MCHALE:**
11 All right.
12 **THE COURT:**
13 I'm gonna be very very clear. Don't
14 -- don't back off a point if nothing's on
15 the table. I'm just trying to get the
16 relevance so I can foretell what I'm gonna
17 do. I'm trying to focus on the meat and
18 potatoes of the case. And if what they did
19 in the past has some bearing on today,
20 whether it was a substantial irregularity,
21 then I'll allow that kind of testimony.
22 But, if not, historical lessons, I don't
23 think helps the record.
24 **MR. MCHALE:**
25 I'll withdraw the question, Your
26 Honor.
27 **Q** There were -- as far as to your knowledge, how
28 many votes were in dispute?
29 **A** The best that I understand it, as I said, that --
30 that is more of Registrars' situation. But I -- when I
31 --
32 **THE COURT:**

1 Do you have firsthand knowledge -- can
2 you give the Court -- swear to the Court
3 for the record how many votes were actually
4 in dispute? Do you know that?
5 **A** I -- I know what I've been told. And I can swear
6 that. And that is thirty votes on Matthew Street,
7 three voters on Irwin Street. Two of the voters -- and
8 the Irwin Street were supposedly not able -- shouldn't
9 have been able to vote. One voted by mail so that was
10 challenged. So those two voters and --
11 **THE COURT:**
12 Who challenged that one? Who
13 challenged the mail in --
14 **A** Board Election Supervisors.
15 **THE COURT:**
16 Okay.
17 **A** And so, that leaves thirty with five voting. So
18 that's twenty-five on Matthew Street.
19 **Q** Okay.
20 **A** And that's what I understand.
21 **Q** And two voting who shouldn't have been able to --
22 allowed to vote?
23 **A** Correct.
24 **Q** Okay.
25 **MR. MCHALE:**
26 I tender the witness, Your Honor.
27 **THE COURT:**
28 Mr. Landry -- Johnson, I don't know
29 which one?
30 **MR. JOHNSON:**
31 It's me, Your Honor.
32 **THE COURT:**

1 Okay. That wasn't so bad, huh.
2 **MR. JONES:**
3 That wasn't.
4 **CROSS-EXAMINATION**
5 **HORACE LYNN JONES, II - BY MR. JOHNSON:**
6 **Q** Good afternoon.
7 **A** Good afternoon.
8 **Q** Mr. Jones, how are you?
9 **A** I'm great.
10 **THE COURT:**
11 Ask him that after you finish.
12 **Q** Thirty voters on Matthew Street is what you
13 testified to; correct?
14 **A** Correct.
15 **Q** Five of whom, it's your understanding, voted;
16 correct?
17 **A** That's correct.
18 **Q** That brings us to twenty-five; correct?
19 **A** Correct.
20 **Q** You're also aware that five of those voters --
21 five additional voters of those remaining twenty-five
22 were contacted by phone?
23 **A** Correct. I did see that list.
24 **Q** Right. And specifically told, you're eligible to
25 come vote?
26 **A** Correct.
27 **Q** Okay. And they did not vote; that's your
28 understanding?
29 **A** That's my understanding.
30 **Q** Okay. And so, taking those twenty votes,
31 remaining twenty votes, and the two that voted on
32 Irwin, your understanding of the election numbers

breakdown is that if we assumed a hundred percent of those voters would have appeared, would have shown up, and a hundred percent of them would have all voted for Mr. Koonce, that that would have made no difference in the election results?

A If you -- if we're using those numbers, that's correct. Yes.

Q Right. And the election turnout as far as you understand it was what?

A 13.1 -- 13.2 percent.

Q Okay. And have you seen the election -- you're aware of the election breakdown in terms of per precinct; correct?

A Correct.

Q And you're aware that on election day at every single precinct, my client outperformed Mr. Koonce; isn't that correct?

A That's what I did see.

Q Sure. And it's your testimony that at no time prior to twelve o'clock did you receive any, you know, phone call or complaint regarding an election issue?

A I did not personally, no.

Q Right. When the election issue was brought to the -- to your attention, you're aware that efforts were made to tell commissioners not to turn away anyone for any reason; right?

A That's correct. When there was -- when the problem was discovered, then not only my staff, but also the Registrar's staff contacted our commissioners to say, hey, look, if they come in to vote, you call the Registrar's Office to double check.

Q Right.

1 **A** Yes.
2 **Q** And the purpose of that was, one, to document and
3 make sure no one was improperly turned away; correct?
4 **A** Correct.
5 **Q** It was also to get a hold of this issue as soon
6 as possible?
7 **A** Well, that's correct. Because, you know, in a
8 normal situation that -- it's not abnormal to say to a
9 voter, you're not in the book, you cannot vote in this
10 election. But when -- when the issue was discovered,
11 then their marching orders were, you call in no matter
12 what.
13 **Q** Correct. And of the thirty contested voters who
14 lived on Matthew Street, obviously minus the five that
15 were -- you know, actually voted, you're not aware of
16 any information suggesting that any one of those people
17 was turned away are you?
18 **A** I don't know specifically, no.
19 **Q** Correct. You're also aware that in addition to
20 the five people who were personally contacted, you were
21 made aware of efforts by Mr. Nezat to be walking the
22 Matthew Street to notify voters directly; isn't that
23 correct?
24 **A** Repeat that, I'm sorry.
25 **Q** You were aware that Mr. Nezat, after, you know,
26 he discovered this issue, was walking door to door --
27 **A** Yes.
28 **Q** -- to alert the voters.
29 **A** Yeah. And I spoke with Mr. Nezat that day, too.
30 **Q** Right. And it was also put out on the news;
31 correct?
32 **A** That's correct.

1 **Q** And that's part of, you know, I guess, the
2 procedure in such a circumstance designed, you know --
3 **A** Sure.
4 **Q** -- to cure the issue; correct?
5 **A** Yes. As far as the news goes, of course,
6 everybody has my cell phone, so. And they started
7 getting complaints and so they call me. Took me a few
8 minutes to find out what the situation was. And then I
9 informed them that, yes, there was a situation, I guess
10 you would say.
11 **Q** Exactly. Right. And not the first time you
12 testified that y'all dealt with a situation; correct?
13 **A** It's not the first time, no.
14 **Q** Okay. And once it was discovered, you're not
15 suggesting that anyone, you know, acted in terms of Ms.
16 Fontenot or anyone on your staff acted with any, you
17 know, without due diligence; correct?
18 **A** Oh, absolutely.
19 **Q** Right.
20 **A** I mean, due diligence as soon as it was
21 discovered.
22 **Q** Right.
23 **A** Was moved forward, yes.
24 **Q** And, again, prior to twelve you had not received
25 any calls or anything like that?
26 **A** Prior to twelve I had not personally received any
27 calls, yeah.
28 **Q** Okay. And you're also aware that in addition to
29 the five -- I may have already asked this, but I might
30 just be forgetting things.
31 In addition to the five people who voted of the
32 thirty, right? Correct? In addition to the five

1 people who were called directly and that actually --
2 they actually spoke with those voters.
3 **A** Right.
4 **Q** You're aware -- are you also aware that eight
5 people were called -- left voicemails? You were aware
6 of that?
7 **A** Yes. Yes.
8 **Q** And that's, I think approximately seven had bad
9 numbers; is that correct?
10 **A** Yes.
11 **Q** And you're also aware that numerous people in
12 those -- that final twenty were not chronic voters to
13 say the least; is that correct?
14 **A** Yes, that's what it shows. Yes.
15 **Q** And is it your -- certainly, your position that
16 based on all of these, that the election, while it may
17 have had some irregularities, that you do not believe
18 that there was enough to change the outcome of this
19 election; isn't that correct?
20 **A** Well, it's -- that would be for the Court to
21 decide.
22 **THE COURT:**
23 Thank you, Mr. Jones, somebody is
24 paying attention. Go ahead. You can keep
25 answering.
26 **A** Okay.
27 **Q** Sure, that's for the Court to decide.
28 **THE COURT:**
29 I will be calling Ms. Fontenot back,
30 just to let the parties know.
31 **MR. JOHNSON:**
32 What did you say, Judge?

1 **THE COURT:**
2 I will be calling Ms. Fontenot back
3 just to let the parties know.
4 **Q** Are you aware of whether Mr. Koonce filed a
5 formal objection in this case?
6 **A** Yes. I mean, that's why we're here today.
7 **Q** Right. Okay. So, that's your understanding, is
8 that the lawsuit is a formal objection. You're not
9 aware of anything he filed on the date of the election?
10 **A** No.
11 **Q** Okay. Okay.
12 **A** Not that I'm aware of.
13 **Q** Okay.
14 **BAILIFF:**
15 She's outside. She didn't leave.
16 **THE COURT:**
17 Smart lady.
18 **MR. JOHNSON:**
19 No further questions, Your Honor.
20 **THE COURT:**
21 Re-direct?
22 **MR. MCHALE:**
23 I have nothing further, Your Honor.
24 **THE COURT:**
25 Thank you, Mr. Jones.
26 **A** Thank you.
27 **THE COURT:**
28 And you are -- are you subpoenaed?
29 **MR. MCHALE:**
30 Yes, sir.
31 **A** Yes.
32 **THE COURT:**

1 Is he released from his subpoena?
2 Well, everybody has your number so if I
3 need you, we will call you.
4 I'm gonna ask Ms. Fontenot -- I want
5 to get her called on this phone record. So
6 y'all can start looking at it.
7 **MR. JOHNSON:**
8 Do you mind if he stays in here, Your
9 Honor?
10 **MR. JONES:**
11 Can I stay in?
12 **THE COURT:**
13 Yeah, you can stay in.
14 **MR. JONES:**
15 Okay. Thank you.
16 **THE COURT:**
17 So, if you want to start looking at it
18 before I call her in, you can start looking
19 at it.
20 **BAILIFF:**
21 Are you ready for her?
22 **THE COURT:**
23 I'm ready for her, yeah. Oh, I'm
24 sorry. Yeah.
25 **MADAME CLERK:**
26 [Inaudible].
27 **THE COURT:**
28 No, because I never released her from
29 her -- I'll just remind her.
30 You're still under oath, Ms. Fontenot.
31 Come up. The Court has a question for you.
32 **[WITNESS RECALLED BY THE COURT]**

THE COURT:

The parties may ask Ms. Fontenot questions off of my question only.

KIM FONTENOT

Having been called as a witness after having been previously duly sworn, did testify as follows:

DIRECT EXAMINATION

BY THE COURT:

Q Ms. Fontenot, if you --

THE COURT:

Are y'all ready?

MR. MCHALE:

Yes, sir.

Q Okay. Ms. Fontenot, if you testified to this point, I missed it, so I apologize. But since I'm receiving the facts, I need to ask you. The three -- I'm asking you particularly on your phone list.

A Yes, sir.

Q The three voters, number 5, 6, and 7, are marked "I" as "Inactive"; what does that mean for the record, please?

A They're still on the rolls. But we've mailed them the ID Cards. So, when it's returned back to us we make the inactive and we send out another address confirmation card to that residence.

Q So, it still could mean they live there, they just have not returned the card back; is that what you're saying?

A It could, yes, sir. The post office sent back stating no one at that address, so.

Q So it -- so it then means it doesn't -- they

don't live there; is that --

A We assume that they -- I mean, we're going by what the post office tells us. But even though we got it back, we still make them inactive.

Q Okay.

THE COURT:

Any questions from my question?

MR. MCHALE:

Just --

CROSS-EXAMINATION

KIM FONTENOT - BY MR. MCHALE:

Q If one of these people did show up at the polls, though, they would be allowed to vote?

A Yes, sir. Definitely.

Q Okay.

A They would just have to fill out an address confirmation form.

Q Okay.

A To change their address and let us know their new address if it's still the same.

Q Or if they're still at that -- or they could still be --

A Correct.

Q -- at that address?

A They just have to verify.

Q They just need to tell you, we're still at that address?

A Correct.

Q So, technically, they're still eligible to vote?

A Correct.

MR. MCHALE:

That's all I have.

1 **THE COURT:**
2 Mr. Johnson?
3 **MR. JOHNSON:**
4 No, Your Honor.
5 **THE COURT:**
6 Thank you, ma'am.
7 **A** That's it.
8 **THE COURT:**
9 All right. Next witness, Mr. McHale?
10 **MR. MCHALE:**
11 Your Honor, I would call Mr. Michael
12 Koonce.
13 **[WITNESS SWORN]**
14 **MR. TOM JONES:**
15 Judge, is Ms. Fontenot released from
16 her subpoena?
17 **THE COURT:**
18 No, sir.
19 **MR. TOM JONES:**
20 Just wanted to make sure.
21 **THE COURT:**
22 You get to stay all day.
23 **MICHAEL KOONCE**
24 Having been called as a witness after
25 having been previously duly sworn, did
26 testify as follows:
27 **DIRECT EXAMINATION**
28 **BY MR. MCHALE:**
29 **Q** Mr. Koonce, for the record, can you state you
30 name and address, please.
31 **A** Mike Koonce, 403 Navarre, Sulphur, Louisiana
32 70663.

1 **Q** And, Mr. Koonce, well, I guess, are you presently
2 City Councilman for the City of Sulphur?
3 **A** Yes, sir.
4 **Q** Okay. And that's District 2?
5 **A** Yes, sir.
6 **Q** All right. And were you a candidate for
7 reelection on April the 26th [sic]?
8 **A** March 26th.
9 **Q** Oh, March 26th, I'm sorry. And to your
10 knowledge, were there some discrepancies in that
11 election?
12 **A** Yes, sir.
13 **Q** All right. Can you tell the Court, when did you
14 first find out that there were problems regarding the
15 election?
16 **A** It must have been about one o'clock. I got a
17 call from Cindy Desselle saying that she got turned
18 away from voting. And seven or eight people in front
19 of her got turned -- turned away.
20 **MR. JOHNSON:**
21 Objection, Your Honor, that's hearsay.
22 **THE COURT:**
23 Objection overruled. I'll allow the
24 testimony.
25 **Q** All right. And what did you do whenever you got
26 that phone call from Ms. Desselle?
27 **A** I went to her house. She wasn't home at the
28 time. I knocked on the neighbor's door on the side,
29 two across the street. The one on the side told me she
30 didn't vote and two or three across the street wasn't
31 -- wasn't home.
32 So, about that time, she drove up and I asked her

1 what happened. She said, "Mike I got to vote." She
2 just had to sign another form.
3 **Q** Okay.
4 **A** But I was concerned about the seven or eight
5 people --
6 **THE COURT:**
7 Answer just the question that's asked
8 by your counsel, sir. You can't just
9 narrate. You've got to answer his
10 question.
11 **A** Okay. What was your question?
12 **Q** All right. So --
13 **THE COURT:**
14 Oh, you answered it. You just can't
15 -- you can't keep talking.
16 **A** Oh, okay.
17 **THE COURT:**
18 He's gotta -- he knows what he's gotta
19 do.
20 **Q** So, after she contacted you, did you contact --
21 and you went to her house and talked to her, did you
22 contact anyone else?
23 **A** I talked to -- I went back to the voting place
24 and talked to Ms. Fontenot.
25 **Q** Okay. And --
26 **A** Called her and told her what -- what I was
27 concerned about.
28 **Q** Okay. So, you went to the polling place?
29 **A** Yes, sir.
30 **Q** Okay. And -- well, did you talk to the poll
31 workers there first?
32 **A** Yes, sir.

1 **Q** And what did you ask the poll workers?
2 **A** I asked them what the problem was? What was
3 going on? And she said, they had turned away in excess
4 of thirty people --
5 **MR. LANDRY:**
6 Objection, hearsay.
7 **THE COURT:**
8 This is somebody different?
9 **A** Yes, sir. It's the poll commissioner.
10 **THE COURT:**
11 All right. Y'all come see real quick.
12 **MADAME COURT REPORTER:**
13 Off the record?
14 **THE COURT:**
15 Yes.
16 **[UNRECORDED BENCH CONFERENCE]**
17 **THE COURT:**
18 Now, refresh my memory, there was an
19 objection on the table. Do you have that
20 Ms. Callie, or do y'all remember the
21 objection?
22 **MR. LANDRY:**
23 It was to hearsay to Mr. Koonce
24 testifying about what the commissioners at
25 the polling station told him in response to
26 him showing up and talking to them.
27 **THE COURT:**
28 Sustained. Go ahead, Mr. -- ask the
29 question.
30 **Q** All right. From the polling location, you phoned
31 Ms. Fontenot?
32 **A** Yes, sir.

1 **Q** All right. And what did you complain to Ms.
2 Fontenot about?
3 **A** About the eight -- seven or eight people that was
4 turned away.
5 **Q** Okay.
6 **MR. JOHNSON:**
7 Your Honor, just for the -- just for
8 the record, I'd like to point out just very
9 quickly --
10 **THE COURT:**
11 Uh-huh.
12 **MR. JOHNSON:**
13 That under 803, hearsay testimony is
14 testimony -- is out-of-court statements
15 introduced for the purpose of proving the
16 truth of those out-of-court statements.
17 Earlier we objected to hearsay from him
18 testifying about what Ms. Desselle said to
19 him about the seven or eight people.
20 Now we see him relying now on that
21 hearsay evidence to suggest that it is, in
22 fact, true. So, I just want to make sure
23 we reassert our hearsay objection for
24 purposes of the record because he's
25 literally saying an out-of-court statement.
26 And now, it's -- you know, he's relying on
27 it like it's a fact in evidence and that's
28 just not true.
29 **THE COURT:**
30 Sure. The one he's -- the objection
31 is overruled as to the extent that he's
32 testifying with regard to his conversation

with Desselle. She's -- that name has been bantered back and forth by both parties. By different witnesses as to what Mr. Nezat did or did not do with that particular phone call and she called Mr. Koonce as a party.

I'm not receiving the testimony with regard to -- which is why I had my off-the-record conversation with the parties. I'm not receiving that testimony with regard to any proof of what Ms. Desselle asserted. It is to the extent of what Mr. Koonce may have or may not have done with that information.

MR. JOHNSON:

Thank you for the clarification, Your Honor.

THE COURT:

So -- so, it's a part of -- if we want to continue taking and receiving effort testimony, then I'm allowing that.

If there's a point conceded on effort -- but I know you can't, but if we're not gonna hear any more effort testimony, then I don't need to know a whole lot more about what Mr. Koonce did or did not do with the information. The Court is very aware now with the evidence already testified by -- so far, the most critical would be Ms. Fontenot. There was a discrepancy. We've used different terms. She's admitted to that. It's on the record. It's in

1 evidence. We have a big stack of notes and
2 papers of everything she's done and what --
3 not done. The Court knows.
4 I don't know if this helps you, I'm
5 just telling you, the Court knows at issue
6 is two streets, thirty on Matthews --
7 Matthew and two on Irwin. The Court has
8 that.
9 So, the Court, as far as I'm
10 concerned, as far as for me to make a
11 decision, would like to receive more
12 testimony, if the parties like, about those
13 discrepancies and what they may or may not
14 mean. Not so much about what efforts and
15 phone calls. That's -- that's in evidence.
16 I have that and I think if anyone looks at
17 the record, they have that already too.
18 But the record is already put in.
19 But if you want to keep putting on
20 more of the same information, I will allow
21 just a little bit, not a whole lot.
22 **MR. JOHNSON:**
23 Thank you for the clarification,
24 Judge.
25 **THE COURT:**
26 All right. Mr. McHale, with all that
27 I just said, ask your next question.
28 **MR. MCHALE:**
29 Yes, sir.
30 **DIRECT EXAMINATION CONT'D**
31 **BY MR. MCHALE:**
32 **Q** Mr. Koonce, when did you find out about the

1 problems with Irwin Street?
2 **A** I have a lady from Baton Rouge who is helping me
3 prepare my petition. And I didn't find about -- find
4 out about Irwin Street until I got that petition.
5 **Q** Okay. So, you didn't know about the problems on
6 Irwin Street on election day?
7 **A** No, sir.
8 **Q** Okay. But you did know about the other problems
9 on election day?
10 **A** Yes, sir.
11 **Q** All right. And do you -- did you receive several
12 phone calls from concerned citizens about the election?
13 **A** A couple.
14 **Q** Okay.
15 **A** But I -- well, I can't say --
16 **Q** And do you feel --
17 **MR. JOHNSON:**
18 Objection on how he feels, Your Honor.
19 **THE COURT:**
20 Well, let's hear the question first
21 before you object. I mean, I may very well
22 be with you, Mr. Johnson, I just -- I need
23 to know the question to know what I'm
24 ruling on.
25 **MR. MCHALE:**
26 I have a very specific question, Your
27 Honor. I just want to make sure I get the
28 wording right.
29 **THE COURT:**
30 And knowing he's about to object,
31 you've got more time to ask a more
32 appropriate question.

1 Q And do you feel that you raised your objections
2 to the problem with the election on the day of the
3 election?
4 **MR. JOHNSON:**
5 Ojbection, Your Honor.
6 **MR. LANDRY:**
7 Objection, relevance.
8 **MR. MCHALE:**
9 Your Honor --
10 **THE COURT:**
11 Hang on. Hang on.
12 **MR. MCHALE:**
13 I'm sorry.
14 **THE COURT:**
15 You don't need to -- if I'm about to
16 rule in your favor you don't need to make a
17 bunch of argument. The objection is
18 overruled. I feel it's relevant. I just
19 think that's something he alleged in -- it
20 really don't matter what anybody else
21 thinks about the law, the Judge is gonna
22 make a decision on the law. So, y'all can
23 do what you want with that. But go ahead
24 and let him answer the question.
25 I don't want to take up time with
26 questions that's not gonna help me make up
27 my decision.
28 **MR. MCHALE:**
29 I understand, Your Honor.
30 **THE COURT:**
31 I'm trying to give -- I'm trying to
32 give y'all signals and clues about that.

1 **MR. MCHALE:**
2 I understand, Your Honor. There's a
3 Reconventional Demand that they filed
4 against my client asking for attorney's
5 fees and damages. And one of the things
6 that they allege is that -- and just to
7 make a record of that, I think I need to
8 ask him --
9 **THE COURT:**
10 Are you entitled to attorney's fees
11 and damages on election law?
12 **MR. MCHALE:**
13 Under -- if it is proven that a
14 frivolous claim for election law was filed,
15 then, yes, they could be entitled to --
16 **THE COURT:**
17 All right. Well --
18 **MR. MCHALE:**
19 And that's the reason why I'm
20 addressing this, Your Honor. I -- I
21 understand. But just to make a record --
22 **THE COURT:**
23 Well, you ask him how he feels about
24 the interpretation and that's not his --
25 his determination.
26 **MR. MCHALE:**
27 Yes.
28 **THE COURT:**
29 That's the Court's determination. So,
30 you need to rephrase the question because
31 you're asking -- just like what was asked
32 earlier, Mr. -- and I stopped and I did it

1 comical, I guess, with Mr. Johnson. He was
2 trying to ask Mr. Jones' opinion about --
3 that's not Mr. Jones' decision.
4 **MR. MCHALE:**
5 Yes, sir.
6 **THE COURT:**
7 And your client doesn't determine the
8 outcome. If not, he would have signed his
9 own judgment. So, go ahead.
10 **MR. MCHALE:**
11 All right.
12 **Q** Mr. Koonce, did you know, or in the exercise of
13 due diligence, do you feel you should have known that
14 your objections to the irregularities in the election
15 should have been raised at the polls? Or do you feel
16 that you raised your objections by speaking with the
17 Registrar of Voters and the Clerk of Court?
18 **A** Yes, sir. I feel that I passed it on to them.
19 **THE COURT:**
20 Don't -- don't tell me what you feel.
21 **A** Sir?
22 **THE COURT:**
23 Just tell me what you did.
24 **A** When I talked to Mr. James [sic] and Ms.
25 Fontenot, I -- I didn't call them to say, good day. I
26 called them to complain about the irregularities that
27 were going on and people being turned away and stuff
28 like that. If that's the answer to your question.
29 **Q** Yes, sir. Do you -- do you -- are the number of
30 voters at issue, do you think they are sufficient to --
31 where they would have changed the results of the
32 election?

1 **THE COURT:**
2 Don't answer that question. I'm
3 determining that. Ask him a different --
4 but don't answer that question. If you can
5 figure out a different way to ask that
6 question, you can.
7 **MR. MCHALE:**
8 All right. Just the language and in
9 the Reconventional Demand, Your Honor,
10 states that Koonce knew that the number of
11 voters at issue were insufficient to change
12 the results of the election and chose to
13 file the instant action, nonetheless.
14 **THE COURT:**
15 Fair enough. Ask the question.
16 **Q** All right. So, in refute to the Reconventional
17 Demand, were the number of voters at issue -- were they
18 insufficient to change the results of election?
19 **A** I'm not sure how they -- they come up with those
20 numbers. To me, they're assuming numbers because once
21 you --
22 **THE COURT:**
23 What part of that do you question
24 before you give the math -- what part of
25 that -- are you saying that Ms. Fontenot is
26 not telling the truth when she testified?
27 **A** No. No. No. I do question some other things
28 she said.
29 **THE COURT:**
30 Did you look at -- I'm only worried
31 about the numbers, sir. The question on
32 the floor is the numbers. You can make

your argument through your counsel about whatever else you object to.

A Okay. The numbers -- I really don't understand how they come up with this stuff. They assume people wouldn't have voted. Am I getting out of line?

THE COURT:

No. No. You answered my question. Oh, I'll let -- I don't have no problem letting you know even if you -- you City Council, that -- hey, I don't mind. I tell other people higher than me they out of line. You go ahead, that don't bother me.

A I just think they're assuming that this is the way it would have turned out but if --

THE COURT:

But, Mr. Koonce, the question that I have is even assuming, as you were asked -- you weren't asked, somebody else was asked, would go with the thirty. Because I think between the attorneys they got it down, as I understand, so, if I'm incorrect, the parties need to correct it. My perception in how I received this, thirty votes that were -- that were at jeopardy on Matthew Street, and two that shouldn't have voted on Irwin.

So, here's the question, two on Irwin, you take -- and you agree there's twenty-six vote difference, right?

A That's what I've been told.

THE COURT:

Okay. Well, you got the results. Are

you questioning the actual result of the calculations?

A No, sir, that's what I -- I said.

THE COURT:

Okay.

A But I don't --

THE COURT:

You don't what? Go ahead. I'm --

A I really don't understand how they come up with these twenty-five, minus five, three, two.

THE COURT:

I had to slow down, I had to do it over the lunch break. So, I get it.

A What I don't understand is, you know, if there's eight people turned away, hearsay or not, if they're turned away --

THE COURT:

Well, follow my question. I think I know where you're going. Follow my question, because I'm -- I'm -- thirty people, let's start with Irwin Street. Here's my question, and I think that's the question your attorney is asking. I just want to try to get to the point and not take as long in my own mind.

Let's -- the two that Irwin shouldn't have voted, let's assume -- let's take those away. The difference is twenty-four votes, right? If you use the twenty-six; right?

A Yeah.

THE COURT:

1 Okay. And assuming that all thirty --
2 well, excuse me, we're down to basically
3 twenty that is in question. Five voted,
4 however they voted, five chose not to vote
5 but they were informed. All right.
6 Those twenty, and I think the question
7 your attorney is asking, is those twenty
8 would have made a difference of twenty-four
9 votes. You still would have lost by four
10 votes if my math is right according to the
11 evidence. I think that's what he's asking
12 you.
13 **A** If I can assume that the numbers that they come
14 up with are credible. I mean, there's a lot could
15 happen if eight people were there and left the voting
16 place and they tried to call them. They went somewhere
17 else. They didn't come vote.
18 **THE COURT:**
19 But in my question, all eight voted
20 for you, in my question, all eight voted
21 for you. That's part of that twenty number
22 that --
23 **A** Yes, sir. But that's still assuming.
24 **THE COURT:**
25 I'm -- well, the assumption gives you
26 the best outcome, sir.
27 **A** Yeah. I'm saying, but it -- win or lose that
28 would not be -- to me that's -- that's just assuming
29 that people didn't vote, or wanted to vote, didn't want
30 to vote. But when things go on during the day, and you
31 get --
32 **THE COURT:**

1 But the assumption is they all voted,
2 and they all voted for you in my question.
3 So, that's twenty votes to your slot, to
4 your side, you still lose by four votes, is
5 what your attorney is asking you, as I
6 interpret his question.
7 Repeat your question, knowing that the
8 difference from my question is four votes.
9 What's your question?
10 **MR. MCHALE:**
11 Well, and, Your Honor, I disagree with
12 your math.
13 **THE COURT:**
14 Uh-huh. Well, you better put on some
15 evidence to challenge my math because
16 that's the math I've got in my head.
17 **MR. MCHALE:**
18 I understand that.
19 **THE COURT:**
20 All right.
21 **MR. MCHALE:**
22 And, Your Honor, if thirty votes on
23 Irwin Street, five of them voted.
24 **Q** So, we've got twenty-five votes right there that
25 are unaccounted for; correct?
26 **A** I'm assuming?
27 **Q** All right. Now -- and we have two votes on Irwin
28 Street. And let's just say, for the sake of argument,
29 like if they both voted for Mr. Nezat, so we take those
30 out. Then there's a twenty-four-vote difference
31 between you and Mr. Nezat; correct?
32 **A** I guess so.

1 **Q** So, now those five people, even if they contacted
2 them, they may have tried to go vote that morning and
3 been turned away, and maybe in the afternoon they had
4 something else to do. But with a twenty-five-vote
5 difference, and if you take away the other two, so
6 we're talking about -- that would make it a twenty-
7 four-vote difference. If those twenty-five people
8 would have voted, then that could have changed the
9 election; correct?
10 **A** I think so.
11 **Q** All right. Now, also, because there was a
12 controversy, and because it went out into the public
13 that there was a problem and that people were getting
14 turned away to vote, there's a possibility that that
15 may have turned off some people from voting?
16 **MR. JOHNSON:**
17 Your Honor --
18 **THE COURT:**
19 Yes, sir.
20 **MR. LANDRY:**
21 Objection. Leading.
22 **Q** What was the question, sir.
23 **THE COURT:**
24 You answered it.
25 **MR. MCHALE:**
26 Yeah.
27 **THE COURT:**
28 Objection overruled.
29 **Q** All right. Do you believe there's some people
30 who, because of the controversy and that it was going
31 out on social media may not have -- may have decided
32 just not to go vote period?

1 **A** Yes, sir.
2 **MR. MCHALE:**
3 I tender the witness, Your Honor.
4 **THE COURT:**
5 Mr. Landry?
6 **CROSS-EXAMINATION**
7 **MICHAEL KOONCE - BY MR. LANDRY:**
8 **Q** Mr. Koonce, my name is Kilburn Landry. I have a
9 few questions for you. I'm dovetailing on that last
10 question by your counsel asked you. Did you subpoena
11 anybody to testify today who decided not to vote
12 because of the social media issues?
13 **A** Ask me that question again.
14 **Q** Sure. Did you bring anybody here today with you
15 who decided not to vote because of what happened on
16 social media?
17 **A** No, sir.
18 **Q** You didn't subpoena any of those witnesses --
19 **A** I'm sorry. I can't understand him.
20 **Q** Did you subpoena any of those -- any of those
21 individuals to come testify today?
22 **A** Yes, sir. We tried. I talked to a commissioner.
23 Can I say more?
24 **MR. LANDRY:**
25 Judge, I don't think that's responsive
26 to my question.
27 **THE COURT:**
28 He -- I think it is. Back up a little
29 bit, Mr. Koonce. You're on top of the --
30 pick up the microphone a little bit.
31 **A** Oh, I'm sorry.
32 **THE COURT:**

1 There you go. You asked him the
2 question, so you opened the door for his
3 answer. He wants to finish and give his
4 answer. He can give -- finish and give his
5 answer.
6 **A** When I went -- I'm gonna get a little long here.
7 But when I went to --
8 **THE COURT:**
9 No, don't -- no, don't get that long.
10 **A** Well, when I went to the thing and called Ms.
11 Fontenot, they -- the commissioners, when I went
12 inside, I had her -- I had Ms. Fontenot on the speaker
13 phone and that's when she told them, if you turn thirty
14 people away, do not -- do not turn anybody else away.
15 That was on the speaker phone. I had run two -- an
16 errand for her. She had -- I had some cousins that
17 were in there trying to vote for me. And they were in
18 the wrong precinct, the wrong district.
19 So, Ms. Fontenot was on the phone. I got in my
20 truck and went to their house; they live by Sulphur
21 High. And I come back and told Ms. Fontenot, don't
22 worry about them. They're not in my district. So,
23 that's what I asked the -- I think we tried to subpoena
24 Ms. Ceasar. And you told -- they told you they didn't
25 want to get their name out --
26 **THE COURT:**
27 No, don't do that. No, don't do that.
28 **A** Well, that --
29 **THE COURT:**
30 No. Just about your efforts.
31 **A** Well --
32 **THE COURT:**

1 You're pointing at your attorney?
2 **A** Yes, sir.
3 **THE COURT:**
4 No.
5 **A** When I called -- when I called Ms. -- well, I
6 didn't want to call Ms. Ceasar.
7 **THE COURT:**
8 You answered the question. Go ahead.
9 **A** I need to have this --
10 **THE COURT:**
11 Next question.
12 **MR. LANDRY:**
13 Thank you, Judge.
14 **A** Can I go ahead?
15 **Q** Mr. Koonce --
16 **A** I'm through?
17 **THE COURT:**
18 Yes, sir, with that answer to that
19 question.
20 **A** I needed to say this.
21 **Q** Mr. Koonce, is it correct that prior to the March
22 26th, '22 election, you've been a Council Member for
23 District 2 for three terms?
24 **A** Yes, sir.
25 **Q** Okay. And in that time, you knew who Kim
26 Fontenot was?
27 **A** No, sir.
28 **Q** You didn't know who the Registrar of Voters for
29 the parish was?
30 **A** I never go up there. I see Mr. -- Mr. Jones once
31 in a while. But I didn't know who she was. I had seen
32 Angie Quienalty before.

1 **Q** You knew how to reach the Registrar of Voters
2 Office?
3 **A** Sir?
4 **Q** Did you know, prior to March 26th, 2022, how to
5 reach the Registrar of Voters Office?
6 **A** I guess I could. I went up there and registered
7 for the election three or four times.
8 **Q** Right. You knew also that redistricting that had
9 been voted on in November would apply for the March
10 26th, 2022 election; correct?
11 **A** Yes.
12 **Q** And in that time, did you check with Kim Fontenot
13 or anybody with the Registrar of Voters office between
14 November 8th and March 26th to ensure that the rolls
15 were correct?
16 **A** I didn't know that was my job.
17 **Q** Did you buy a copy of the voter rolls?
18 **A** Yes, sir.
19 **Q** Okay. And you checked them?
20 **A** We checked everything.
21 **Q** And you never brought any irregularity up before
22 the day of the election?
23 **A** No, sir. But on my map, Matthew was on my map,
24 and I walked it for the fifth time.
25 **Q** I asked you about the rolls, though. Did you buy
26 the rolls from the Secretary of State?
27 **A** My daughter got them online.
28 **Q** Okay. And --
29 **A** What does that --
30 **Q** When you got those rolls was Matthew Street --
31 **THE COURT:**
32 No. Don't -- don't do that. Just

1 answer his question.
2 **A** What, sir?
3 **THE COURT:**
4 Don't do that.
5 **Q** When you got the rolls, was Matthew Street --
6 **A** Do what?
7 **Q** When you got the rolls, were the Matthew Street
8 voters on the rolls or not?
9 **A** I didn't catch it.
10 **Q** You didn't catch it?
11 **A** It was on my map. That's what I went by.
12 **Q** Okay. You didn't go by the rolls that you got
13 from the Secretary --
14 **A** When I'm by myself --
15 **THE COURT:**
16 Hang on. One at a time. Go ahead,
17 Mr. Koonce.
18 **A** When I --
19 **THE COURT:**
20 Wait. Wait. He was answering your
21 question. Hang on, Mr. Landry. Go ahead,
22 Mr. Koonce.
23 **MR. LANDRY:**
24 I apologize, Judge.
25 **A** I walked almost every street in my district by
26 myself, maybe eight or nine I had some help. I don't
27 check off that list every time I walk a street by
28 myself. My daughter checked them off when I walked
29 with her and a couple of people that helped me. But
30 Matthew Street was on there. I've walked that street I
31 think five elections and I never have had a problem
32 with it. I knocked on doors, left cards, and

everything. So, where is it my responsibility to make that thing as right?

THE COURT:

Next question, Mr. Landry.

MR. LANDRY:

All right, Judge.

THE COURT:

He can't answer any questions, sir. All you can do is answer the questions. Okay.

A Okay.

THE COURT:

I know it's a frustrating experience. But you filed the lawsuit, you're on the witness stand.

A Yes, sir.

THE COURT:

Just answer the attorney's questions and we'll get -- we'll get to the end sooner.

Q You didn't allege in your lawsuit that any challenge to the procedure --

A Sir, I can't understand him.

Q I apologize. I'll speak up and more slowly.

A My throat is messed up too.

Q That's okay. Did you allege in your lawsuit that the challenge to the procedure at the polls was raised on or before midday of the election?

A One more time?

Q Sure. Did you allege in your lawsuit that you filed on I believe Monday, that you raised a formal objection at the polls?

1 **A** I don't think so. I questioned -- I questioned
2 the numbers.
3 **Q** I understand. Before today --
4 **THE COURT:**
5 Where did you -- where did you
6 question the numbers at?
7 **A** When they told me what they were. You know, I
8 didn't understand --
9 **THE COURT:**
10 No, at the polls. He asked you at the
11 polls. You're talking about while the
12 election is going on?
13 **MR. LANDRY:**
14 Right. I'm asking if the objection
15 was raised.
16 **THE COURT:**
17 Did you go to the polls and object
18 with anyone at the polls is the question?
19 **A** No, sir. No, sir.
20 **Q** Before today, did you have the ability to find
21 out what Kim Fontenot would testify about in Court
22 today?
23 **A** No, sir. I did go to talk to her to explain some
24 stuff to me a couple of times, but she was off after
25 the election. I never got -- never got to speak to
26 her.
27 **Q** So, your testimony is that you had no way in the
28 nine days between the election and when you filed the
29 lawsuit to find out the information about the number of
30 voters that were actually at issue?
31 **MR. MCHALE:**
32 Your Honor, I'm gonna object to asked

and answered. He said that he went to the Clerk of Court --

THE COURT:

Sustained. Asked and answered. Go ahead, Mr. Landry.

MR. LANDRY:

All right. Judge, in fact, I think I'm gonna tender the witness.

THE COURT:

Shoot, I done lost track. Oh, Mr. -- re-direct, Mr. McHale?

MR. MCHALE:

Let me just look at my notes.

THE COURT:

No, you called -- I'm sorry. Wait. I done got confused.

MR. MCHALE:

I called --

THE COURT:

You called your own client. All right. Go ahead. Go ahead.

MR. MCHALE:

Yeah. Re-direct, Your Honor.

RE-DIRECT EXAMINATION

MICHAEL KOONCE - BY MR. MCHALE:

Q Just -- on the day of the election, did you -- whenever you found out that there were problems, did you try to get to the bottom of those problems?

A Yes, sir. That's why I went to the voting place.

Q And did you express your displeasure to the Registrar of Voters and to the Clerk of Court?

A Yes, sir. I didn't -- I didn't holler and scream

at 'em but I let 'em know that I was concerned.
Q Got you. And your petition in this matter was filed by 4:30 on the ninth day after the election; is that correct?
A Yes, sir.
Q All right. So, it was filed timely?
A Yes, sir. I tried to get it a couple of days earlier, but I couldn't get any information on how to do it.
Q Okay. And, as far as -- you had a map of your district?
A Yes, sir.
Q All right. And is that what you used whenever you decided what streets you needed to walk and --
A Yes, sir.
Q All right.
A And I highlighted 'em as I walked 'em.
Q All right. And, as far as the voter list, that was a secondary thing. Basically, you went by the map.
A Yes, sir.
Q Okay.
MR. MCHALE:
I have no further questions, Your Honor.
THE COURT:
All right. Next witness. You can step down, Mr. Koonce.
A Oh, I have a lot more to say.
THE COURT:
Well, it's not my job to pull it out of you.
A Yeah.

1 **MR. MCHALE:**
2 If I could have just a --
3 **THE COURT:**
4 Sure.
5 **MR. MCHALE:**
6 Your Honor, we rest at this time.
7 **THE COURT:**
8 All right. Mr. Nezat?
9 **MR. LANDRY:**
10 Judge, before we move on to
11 presentation of evidence for the defendant,
12 we would file a motion under Code of Civil
13 Procedure Article 1672 for involuntary
14 dismissal given that the plaintiff has
15 failed to meet the burden of proof.
16 **THE COURT:**
17 That voluntary dismissal -- that
18 motion is denied. The Court is stuck on
19 math and whether the vote count would have
20 made a difference. I think that's subject
21 to either additional evidence or argument.
22 Because sometimes when I count in my head,
23 I come up with twenty-four. And sometimes
24 when I count in my head, I come up with
25 twenty-five.
26 So, for those reasons, I think
27 sufficient proof has been put on with
28 regard to forcing the defendant, if they so
29 choose, to put on their evidence. And for
30 those reasons, your motion is denied.
31 **MR. LANDRY:**
32 Understood, Judge. Thank you. Judge,

could we have a moment to confer?

THE COURT:

Sure. Sure.

MR. JOHNSON:

Judge, at the risk of a short questioning session of Ms. Kim Fontenot, would be considered by Your Honor to be a waste of time, I would like to call her back to the witness stand.

THE COURT:

No, I don't think it's a waste of time.

MR. JOHNSON:

No, I wasn't -- it was my thoughts.

THE COURT:

Oh, you were just talking out loud.

MR. JOHNSON:

I guess so but on the record.

THE COURT:

Okay.

MR. JOHNSON:

Sorry, Judge.

BAILIFF:

She's still outside.

THE COURT:

Come on up, Ms. Fontenot. You're popular today. You're still under oath, ma'am.

[WITNESS RECALLED TO THE STAND]

THE COURT:

You're calling your case in chief though?

1 **MR. JOHNSON:**
2 Correct, Your Honor.
3 **THE COURT:**
4 All right.
5 **KIM FONTENOT**
6 Having been called as a witness after
7 having been previously duly sworn, did
8 testify as follows:
9 **DIRECT EXAMINATION**
10 **BY MR. JOHNSON:**
11 **Q** Ms. Fontenot, you met with me and Mr. McHale;
12 correct?
13 **A** Correct.
14 **Q** And -- regarding the numbers that we discussed,
15 your testimony -- not testimony, but in speaking with
16 us, the numbers worked out the same way?
17 **A** Correct.
18 **Q** As you testified here today; correct?
19 **A** Correct.
20 **Q** And as you understood it, Mr. McHale was
21 representing Mr. Koonce at that time; correct?
22 **A** Correct.
23 **Q** Right. And that was, again, prior to today;
24 correct?
25 **A** Correct.
26 **Q** Okay. And nothing in your testimony with respect
27 to the actual numbers has changed since then, has it?
28 **A** No.
29 **Q** You didn't give us any different information, did
30 you?
31 **A** No.
32 **Q** Okay. And so, if Mr. Koonce testified that he

1 didn't have an opportunity over the last nine days to
2 find out, you know, the information with respect to the
3 numbers from you, that would be inaccurate; correct?
4 **A** Correct.
5 **Q** Because his attorney met with you, specifically;
6 right?
7 **MR. MCHALE:**
8 Your Honor, I'm gonna object. I think
9 he's -- the question doesn't represent the
10 facts. We met with her two days ago and
11 that was well after nine days after the
12 election and after the petition was filed.
13 **THE COURT:**
14 Objection overruled. This is one of
15 those where I -- I want to get to the
16 numbers again. I want to revisit the
17 numbers.
18 **MR. JOHNSON:**
19 Sure.
20 **THE COURT:**
21 Just to let y'all know that.
22 **MR. JOHNSON:**
23 Sure.
24 **Q** Let's revisit the numbers just so everybody can
25 be clear.
26 **THE COURT:**
27 No, probably just the Court, but go
28 ahead.
29 **Q** There were thirty voters on Matthew Street
30 affected; correct?
31 **A** Correct.
32 **THE COURT:**

1 And I think this is important for the
2 record to be very very clear. So, all
3 right, I got --
4 **Q** Five of those voters, even though there was the
5 discrepancy with respect to the district, five of those
6 voters actually voted; correct?
7 **A** Correct.
8 **Q** Okay. You actually contacted five additional
9 voters of the thirty; correct?
10 **A** Correct.
11 **Q** And spoke to them directly and told them that
12 they were eligible to come and vote in this election?
13 **A** Correct.
14 **THE COURT:**
15 All right. Let's stop right there.
16 So, I do have that correct. Twenty-five
17 voters were eligible to vote on election
18 day.
19 **A** Yes.
20 **THE COURT:**
21 Out of the -- out of that number.
22 **A** Yes.
23 **THE COURT:**
24 Okay. I thought I -- all right.
25 **Q** Five of those twenty-five were specifically
26 contacted and told they were eligible to come and vote;
27 correct?
28 **A** Correct.
29 **Q** They were done -- that was done approximately
30 shortly after lunch; is that correct?
31 **A** Correct.
32 **Q** All right. They did not come and vote; correct?

1 **A** Correct.
2 **Q** An additional voter, Mr. -- I believe it was
3 McNabb, you spoke to his wife; is that correct?
4 **A** I don't recall speaking to her. I --
5 **Q** Okay.
6 **MR. JOHNSON:**
7 May I approach?
8 **THE COURT:**
9 Yes, you may.
10 **MR. MCHALE:**
11 Your Honor, if I can just enter an
12 objection for the record while they're
13 doing that. It was my understanding that
14 Ms. Fontenot did not directly speak with
15 these people.
16 **A** Each one of them, yeah.
17 **MR. MCHALE:**
18 It was members of her staff.
19 **MR. JOHNSON:**
20 Let me rephrase the question, Your
21 Honor.
22 **THE COURT:**
23 Fair enough. So, I'll sustain the
24 objection.
25 **Q** Your office spoke with Ms. McNabb; correct?
26 **A** Correct.
27 **Q** Okay. And that was notated; correct?
28 **A** Correct.
29 **Q** And that was put on this list?
30 **A** Correct.
31 **Q** Okay. And so, Ms. McNabb being the wife of Mr.
32 McNabb; correct?

1 **A** Correct.
2 **Q** Okay. And the other -- you testified previously
3 that prior to the election, they were -- all of the
4 people on Matthew Street were sent voter identification
5 cards; correct?
6 **A** Correct.
7 **Q** And those -- two of those cards were returned as
8 the post office informed you, they no longer live
9 there; correct?
10 **A** Three were -- well, yeah, we had three that were
11 returned.
12 **Q** Okay. Three. Were you informed someone --
13 nobody lives there anymore?
14 **A** Correct.
15 **Q** Correct?
16 **A** Uh-huh (yes).
17 **Q** And when you do that, you still send them another
18 card, just out of an abundance of caution; correct?
19 **A** Yes.
20 **Q** Okay. And --
21 **THE COURT:**
22 They're still eligible voters, though,
23 right?
24 **A** Correct.
25 **Q** Right. But not necessarily eligible voters to
26 vote in the District 2 election if they don't live on
27 Matthew Street anymore; correct?
28 **A** We have them registered on Matthew Street.
29 **Q** Right.
30 **A** Correct.
31 **Q** But if they don't live on Matthew Street, if they
32 now live in District 3, right?

1 **A** Correct.
2 **Q** Those people wouldn't vote in the District 2
3 race; right?
4 **A** I have no idea they're in -- we have them go --
5 **Q** I'm talking about hypothetically. I'm talking
6 about hypothetically. The post office said nobody
7 lives there anymore, correct, on three of the voter
8 identification --
9 **A** With those names.
10 **Q** Correct. Right?
11 **A** Correct.
12 **Q** Okay. Those -- it said nobody lived there. It
13 didn't say they didn't live there, it said nobody lived
14 there.
15 **MR. MCHALE:**
16 Your Honor, I'm gonna object. We
17 don't have what the post office said. We
18 don't have any of the return cards. We
19 don't know if they said, "Undeliverable."
20 We don't know if they said --
21 **THE COURT:**
22 Objection sustained.
23 **MR. JOHNSON:**
24 And, Judge, just for the record, I
25 guess my concern is, is I really don't know
26 what that objection was.
27 **THE COURT:**
28 I took it as --
29 **MR. JOHNSON:**
30 Was it a lack of foundation?
31 **THE COURT:**
32 I took it as relevancy.

1 **MR. JOHNSON:**
2 Okay.
3 **THE COURT:**
4 And argumentative. I sustained it on
5 those two bases.
6 **Q** The --
7 **MR. JOHNSON:**
8 All right. One second, Your Honor.
9 **Q** Are you aware of any information when the five
10 people that we know were talked to specifically, right?
11 **A** Okay.
12 **Q** The five people that were contacted directly, --
13 do you have any information suggesting, or aware of any
14 information that whenever they were -- they talked to
15 them, when your office talked to these people, that
16 they said, hey, I was turned away from the polls
17 earlier, I can't vote again.
18 **MR. MCHALE:**
19 Your Honor, I'm gonna object.
20 Hearsay.
21 **THE COURT:**
22 Sustained.
23 **Q** Do you have any records suggesting that?
24 **MR. MCHALE:**
25 Your Honor --
26 **THE COURT:**
27 You can ask her a different way, Mr.
28 Johnson, but you can't ask her -- we want
29 to play by the rules. We're gonna start
30 playing strictly by the rules. You cannot
31 ask her what anyone told her.
32 Objection sustained.

1 **MR. JOHNSON:**
2 Okay.
3 **Q** Do you have any records suggesting that that
4 information was given to you?
5 **THE COURT:**
6 Are you -- I'm sorry -- I apologize.
7 You can answer the question.
8 **A** No.
9 **Q** Okay.
10 **THE COURT:**
11 Any evidence, Ms. Fontenot, the five
12 that you did speak to, or your office spoke
13 to, that they did or did not -- well,
14 obviously, they didn't vote. But they
15 didn't come vote, do you know their
16 reasons? You just know that you talked to
17 five, your office talked to five, and they
18 didn't vote. You just know that that's all
19 you know?
20 **A** [Non verbal response].
21 **THE COURT:**
22 Is that, yes?
23 **A** Yes.
24 **THE COURT:**
25 Or are you thinking about the
26 question?
27 **A** Well, okay. You're asking if we knew why they
28 didn't go?
29 **THE COURT:**
30 Correct.
31 **A** They weren't aware that there was an election was
32 one of them. The other ones didn't care to vote.

1 **THE COURT:**
2 Okay.
3 **MR. MCHALE:**
4 Again, Your Honor, and even though
5 you're asking the question, I still have to
6 object as far as hearsay because if you --
7 if she's saying what those people felt
8 there's no way to know that.
9 **THE COURT:**
10 How do you know how they felt and why
11 they didn't come in?
12 **A** Uh --
13 **THE COURT:**
14 Or where did you get that information
15 from?
16 **A** From the voter themself, from the person we
17 talked to.
18 **THE COURT:**
19 And that's from those cards you turned
20 in?
21 **A** The list?
22 **THE COURT:**
23 Oh, okay, you're going off what's
24 already an exhibit as "C-2". So, you're
25 testifying from "C-2"?
26 **A** The ones that were spoken to?
27 **THE COURT:**
28 Excuse me, you're testifying from this
29 list that come with your subpoenaed
30 records.
31 **A** Yes, sir.
32 **MR. MCHALE:**

1 And, again, Your Honor, I want to
2 object because she already testified, she
3 wasn't necessarily the one who even spoke
4 to these people, it was someone else from
5 her office. So, this is double hearsay.
6 **THE COURT:**
7 I'm allowing the questions. Not
8 double -- it's not double hearsay. It's a
9 record that she provided that you
10 subpoenaed that was responded to, there's a
11 listing of thirty people. We've been
12 talking about thirty people since probably
13 eleven o'clock today. And it's on here
14 with regard to messages left and who she
15 spoke to. So, we're asking questions about
16 who she spoke to and what they said. So,
17 I'm allowing it because that's part of what
18 the Court is looking at. I'm looking at
19 numbers and whether that's pertinent why
20 they didn't come vote may be pertinent to
21 the Court. So, I'm allowing that
22 testimony.
23 **DIRECT EXAMINATION CONT'D**
24 **BY MR. JOHNSON:**
25 **Q** So, just to be clear, Ms. Fontenot, I just want
26 to put this in context the best I can. Assuming all
27 twenty-five people that weren't directly contacted,
28 right, out of thirty. Five were contacted, you
29 testified to them just now, the Court asked you some
30 questions. The other twenty-five, the only way that
31 Mr. Koonce could have won this election, right, is if
32 all twenty-five of those people showed up and all of

1 them voted for him; right?
2 **A** Correct.
3 **Q** In an election that had 13.1 percent turnout;
4 right?
5 **A** Correct.
6 **Q** In a polling location that consisted with other
7 polling locations Mr. Koonce outperformed -- I'm sorry
8 Mr. Nezat outperformed Mr. Koonce; correct?
9 **A** Correct.
10 **Q** In complete defiance of the 58 percent to 42
11 percent breakdown for the final outcome; correct?
12 **A** Correct.
13 **Q** And only if in addition to those twenty-five
14 votes, we also assume that the two votes for -- on
15 Irwin Street were for Mr. Nezat; correct?
16 **A** Either one.
17 **Q** Right.
18 **A** Right.
19 **Q** Because he needs at least twenty-six; right?
20 **A** Correct.
21 **Q** Right. So, I guess if we assume the impossible,
22 then possible becomes possible; correct?
23 **MR. MCHALE:**
24 Your Honor, I'm gonna object to
25 argumentative.
26 **THE COURT:**
27 That has no influence on the Court's
28 decision. And I will still -- quite
29 frankly looking at "C-2". So, I'm gonna
30 overrule the objection. Move on to a
31 different point, Mr. Johnson.
32 **Q** It's for those reasons that you believe, despite

1 the irregularities that the outcome of this election in
2 determining Mr. Nezat won that election is accurate;
3 correct?
4 **A** The people spoke. That's how it turned out.
5 **Q** Thank you.
6 **CROSS-EXAMINATION**
7 **KIM FONTENOT - BY MR. MCHALE:**
8 **Q** Not all the people spoke, though, did they?
9 **A** No.
10 **Q** At least twenty-five people who were left off the
11 polls, they didn't speak.
12 **A** [Non verbal negative response by witness - shakes
13 head.]
14 **Q** And if twenty-five more votes --
15 **THE COURT:**
16 Wait. Are you waiting for an answer?
17 **MR. MCHALE:**
18 Oh, I'm sorry.
19 **THE COURT:**
20 Or are just arguing?
21 **MR. MCHALE:**
22 I'm sorry. She shook her head, Your
23 Honor. I should have waited for her.
24 **A** Twenty-five did not vote.
25 **Q** Okay. If twenty-five more people would have
26 voted in this election, would that have brought up the
27 turnout from 13 percent to what, like 15 percent
28 turnout?
29 **A** If that.
30 **Q** Okay. That's not that big of a jump, is it?
31 **A** No.
32 **Q** So, another twenty-five votes could have easily

1 been cast.
2 **THE COURT:**
3 Is that a question for Ms. Fontenot or
4 are you supplementing?
5 **MR. MCHALE:**
6 Well, I'm getting to a question.
7 **THE COURT:**
8 You're practicing your summation.
9 **MR. MCHALE:**
10 I'm sorry.
11 **Q** Let's get back to the math. So, the election --
12 the results of the election was a twenty-six-vote
13 difference?
14 **A** Correct.
15 **Q** All right. Two people voted who shouldn't have
16 voted; correct?
17 **A** Correct.
18 **Q** All right. For the sake of argument, let's say
19 that both of those people voted for Mr. Nezat. So, if
20 we threw those two out, then we're talking about a
21 twenty-four vote difference; correct?
22 **A** Correct.
23 **Q** All right. There are twenty-five people who were
24 on -- who were left off the ballot who had an
25 opportunity -- who should have had an opportunity to
26 vote; correct?
27 **A** The opportunity was still there.
28 **Q** Okay. The opportunity wasn't there at ten
29 o'clock in the morning, was it?
30 **A** Well, if they would have went in and they would
31 have called us
32 **Q** All right.

1 **A** -- we would have double checked it.
2 **Q** If --
3 **THE COURT:**
4 Y'all look at each other. When one
5 stops speaking --
6 **MR. MCHALE:**
7 Yes, sir.
8 **THE COURT:**
9 -- then the other one starts speaking.
10 **MR. MCHALE:**
11 I'm sorry. A bad habit of mine.
12 **THE COURT:**
13 Well, we've been in the bad habiting
14 for a while. So, we should have that
15 knocked out.
16 **MR. MCHALE:**
17 Yes, sir. I apologize.
18 **Q** So, but most of the time whenever people show up
19 to vote and they're not on the ballot, or they're not
20 on the list, and the poll workers say, sorry, you're
21 not on the list, you can't vote. They don't call the
22 office; do they?
23 **A** The poll -- yes, they will call us.
24 **Q** Okay. Did they call you that morning?
25 **A** We didn't have anybody go in.
26 **Q** Okay.
27 **A** That we knew of.
28 **Q** Okay. That you knew of?
29 **A** Correct.
30 **Q** So --
31 **A** I didn't have calls.
32 **Q** But earlier you testified that if somebody was

1 turned away earlier that morning for not being on the
2 -- you wouldn't have any way of knowing that?
3 **A** I wouldn't.
4 **Q** Okay. Hypothetically, and just hypothetically,
5 if all twenty-five -- if all the remaining twenty-five
6 people who lived on Irwin Street [sic], if all twenty-
7 five of them went in to vote that morning --
8 **THE COURT:**
9 Matthew Street.
10 **Q** Matthew Street, I'm sorry.
11 **A** Yeah.
12 **Q** Matthew Street went in to vote that morning and
13 they were told you're not in this district, you can't
14 vote, and they left, then you wouldn't have -- you
15 wouldn't know that would you?
16 **A** I wouldn't know. No.
17 **Q** Okay.
18 **A** I wasn't there.
19 **Q** And the calls that were made to your office, you
20 didn't -- or the calls that were made from your office
21 to the people who lived on Matthew Street, did you make
22 those phone calls?
23 **A** I made several of them, yes, sir.
24 **Q** Okay. Did you -- how many people did you speak
25 to?
26 **A** Let's see. Vice. I spoke to Mr. Vice that was
27 there and his wife, he was speaking to his wife letting
28 her know.
29 **Q** Okay. So, you spoke to Mr. Vice. So, that's one
30 person you spoke to; correct?
31 **A** Mr. Vice and the wife.
32 **Q** Okay. Did you ask Mr. Vice if he was gonna go

1 vote?
2 **A** Well, I just told him he had the opportunity to
3 go vote to let him know.
4 **Q** Did you ask him if he was gonna do it?
5 **A** No. I just told him he was eligible to go vote.
6 **Q** Okay. Did you ask him, if you're not gonna go
7 vote, why wouldn't you go vote?
8 **A** No. Didn't ask any of that.
9 **Q** But you just testified a few minutes ago that the
10 people said they weren't going to vote because --
11 **A** I did not ask them --
12 **THE COURT:**
13 Hang on.
14 **A** Sorry.
15 **THE COURT:**
16 They got thicker skin; I didn't mean
17 to -- I wasn't fussing at you. Just wait,
18 Mr. McHale until she --
19 **MR. MCHALE:**
20 Yes, sir.
21 **THE COURT:**
22 All right. And then try to watch Mr.
23 McHale, Ms. Fonetnot. Go ahead.
24 **Q** All right. So, you didn't -- earlier you
25 testified that the people said, well, they just -- they
26 just didn't care about the election, or they didn't
27 know there was an election that day. Nobody told you
28 that.
29 **A** Told me that?
30 **Q** Did anybody personally tell you, oh, I didn't
31 know there was an election, or I don't want to go vote?
32 **A** I only spoke to the Vices, and they didn't say

1 that.
2 **Q** Okay. But you just testified whenever the other
3 lawyer was questioning you, you said, well, you know
4 several of them testified because they let us know that
5 --
6 **A** Correct. The other one that was making the phone
7 call.
8 **Q** Okay.
9 **A** And then when she got off the phone, she said,
10 well, they didn't even want to go vote.
11 **Q** Okay.
12 **A** And I'm like -- well, we did what we were
13 supposed to do.
14 **Q** All right. Nobody said that to you.
15 **A** To me personally?
16 **Q** Right?
17 **A** No.
18 **Q** Okay. So, whenever you're saying that, you're
19 saying what somebody else -- what someone said -- what
20 somebody supposedly said to someone else, who then said
21 it to you?
22 **A** Correct.
23 **Q** Okay.
24 **A** Sitting next -- we were sitting next to each
25 other.
26 **Q** Okay.
27 **A** And when I made my phone call, she made hers.
28 **Q** Okay. Were you aware that there was a lot of
29 uproar on social media on the day of the election?
30 **A** It was later in the afternoon. Once I was -- I
31 was trying to take care of this.
32 **Q** Okay.

1 **A** I didn't look at -- I mean, I didn't look it up.
2 **Q** All right. Do you think the fact that some
3 people were left off the polls, do you think people
4 hearing about that would have -- could have discouraged
5 some people from going to vote?
6 **A** I have no idea.
7 **Q** Okay. But is that possible?
8 **A** I guess.
9 **Q** Okay. So, we got a twenty-six-vote difference.
10 We know two votes were cast illegally. So that gives
11 us twenty-four-vote difference. And there's twenty-
12 five people who should have been on the polls from the
13 beginning but weren't; is that correct?
14 **A** Correct.
15 **Q** Okay. And you find out about that around midday.
16 And you did everything within your power to try to
17 correct that; right?
18 **A** Correct.
19 **Q** Okay. But not -- but it was already -- the
20 damage was already done, though, correct? If those
21 people would have shown up that morning and they
22 weren't on the polls, then they didn't get a vote?
23 **MR. JOHNSON:**
24 Objection, Your Honor, asked and
25 answered.
26 **THE COURT:**
27 Sustained. It's -- yeah, that's --
28 **MR. MCHALE:**
29 I'm just trying -- I was just trying
30 to clarify the question.
31 **THE COURT:**
32 Yeah. I was trying to help y'all.

1 Just -- yeah, all right, go ahead. Next
2 question, Mr. McHale.
3 **MR. MCHALE:**
4 Give me just one second, Your Honor.
5 **Q** And assuming, for the sake of argument, that the
6 possibility that that those twenty-five people, again,
7 could have gone and voted -- or gone and tried to vote
8 and were turned away because they weren't on the polls,
9 knowing that, is it then -- is it impossible to figure
10 out exactly how the election would have turned out?
11 **MR. JOHNSON:**
12 Objection, Your Honor. I object to
13 the form of the question. I think it was a
14 three-part question. Assumed on the first
15 part and then countered on the second part.
16 **THE COURT:**
17 Objection sustained. Rephrase your
18 question.
19 **MR. MCHALE:**
20 Your Honor, to -- and I'm trying to go
21 by the law --
22 **THE COURT:**
23 And all I said was rephrase your
24 question.
25 **MR. MCHALE:**
26 Yes, sir. I am.
27 **THE COURT:**
28 All right.
29 **MR. MCHALE:**
30 I was just explaining. So -- all
31 right.
32 **Q** There were certain people who were denied the

1 right to vote originally, because they weren't on the
2 ballot; correct?
3 **MR. JOHNSON:**
4 Objection, Your Honor, object to the
5 form of the question.
6 **THE COURT:**
7 No, I just --
8 **MR. JOHNSON:**
9 That's testimony.
10 **THE COURT:**
11 I'm sustaining your objection for a
12 different reason. That is asked and
13 answered.
14 **MR. MCHALE:**
15 All right.
16 **THE COURT:**
17 That is --
18 **MR. MCHALE:**
19 Again --
20 **THE COURT:**
21 That is so -- that's on so many pages
22 of this record.
23 **MR. MCHALE:**
24 Your Honor, I understand. I'm trying
25 to -- I'm trying to -- I'm trying to go by
26 the letter of law. I'm reading from the
27 statute and I --- the statute that would
28 affect the remedies that would be entitled
29 to --
30 **THE COURT:**
31 What statute number are you reading
32 from?

1 **MR. MCHALE:**
2 18:1432, which is the possible
3 remedies in something like this. And I'm
4 just trying to go by -- these are the
5 elements that have to be met. And I'm just
6 trying to prove that those elements have
7 been met.
8 **THE COURT:**
9 Through the witness called by the
10 defendant in his case in chief.
11 **MR. MCHALE:**
12 Well, you -- yes, Your Honor.
13 **THE COURT:**
14 All right. Go ahead.
15 **MR. MCHALE:**
16 All right.
17 **Q** So --
18 **THE COURT:**
19 When I said, go ahead, I meant try to
20 rephrase your question.
21 **MR. MCHALE:**
22 I understand.
23 **Q** There were certain voters that -- or originally,
24 there's a potential of twenty-five voters who were
25 denied their right to vote?
26 **MR. JOHNSON:**
27 Objection, Your Honor. I just
28 objected to that same question. I think
29 you sustained it and said the question --
30 **THE COURT:**
31 And now the Court is reading the
32 question, reading Statute 18:1432, that I

have highlighted as to the remedies of the Court. I find that question relevant. I find Ms. Fontenot a critical witness in this matter. So that objection now is overruled. You may proceed, Mr. McHale.

MR. MCHALE:

Thank you.

Q There were also a number of unqualified voters who were allowed to vote; correct?

A Right.

Q That was two?

A Uh-huh (yes).

Q Okay.

THE COURT:

Yes?

A Yes.

Q Now, would the combination of those two factors, the ones who were denied their right to vote, and the ones who illegally voted, if you put those together, would that number be -- so, we're talking about twenty-five, well, we're talking about twenty-six, minus two, which is twenty-four. So, we're saying that's the difference. And then twenty-five voters, would that be sufficient to change the results of the election, twenty-five votes if there was a twenty-four-vote difference?

A By one vote?

Q Yeah.

A Yes.

Q Okay.

THE COURT:

That was a yes?

1 **A** Yes.
2 **THE COURT:**
3 All right.
4 **Q** If you assume those facts to be correct, that
5 twenty-five people could have voted and were
6 disenfranchised and two people who shouldn't have voted
7 did, then if all that's true then it kind of makes it
8 impossible to determine who would have won the
9 election; is that correct?
10 **MR. JOHNSON:**
11 Objection, Your Honor.
12 **THE COURT:**
13 That's a fair question. Objection
14 overruled. You may answer the question,
15 ma'am, if you know the answer.
16 **MR. JOHNSON:**
17 Can I -- Your Honor, may I please --
18 just put some argument on the objection on
19 the record.
20 **THE COURT:**
21 You can make it for the record.
22 **MR. JOHNSON:**
23 I've -- I have literally asked I
24 believe at the end of my examination of her
25 that if you assumed the impossible, then
26 the possible becomes possible. And the
27 Court said that absolutely makes no
28 difference to my, you know, understanding.
29 He's asking the same -- essentially
30 the same question, which is a question of
31 law the Court is called on to decide. In
32 my opinion, like making different finding

as to the relevance. But I -- I'm just -- Your Honor, I accept the ruling. I just wanted to put that on the record. That's all.

THE COURT:

And I was getting ready to say that. You've made your record. Proceed with the -- she answered the question, Mr. McHale.

MR. MCHALE:

Okay. All right. That's all the questions, I have, Your Honor.

THE COURT:

All right. I lose track because it's the same witness for everybody. Mr. Johnson, re-direct? You probably forgot, too, you had her on re-direct.

MR. JOHNSON:

He just testified -- I mean, I'm sorry.

RE-DIRECT EXAMINATION

BY MR. JOHNSON:

Q Well, Mr. McHale said that twenty-five people were denied the right to vote? Did you hear him say that in a question to you?

A Yes.

Q Five people, you specifically -- that your office specifically called and told them they were eligible to vote; is that correct?

A Correct.

Q Okay. Twenty-five people were not denied the right to vote; isn't that correct?

A Correct.

1 **MR. JOHNSON:**
2 No further questions, Your Honor.
3 **THE COURT:**
4 Thank you, Ms. Fontenot. Oh, Ms.
5 Fontenot is wearing down, look at that
6 face.
7 **MS. FONTENOT:**
8 It's just over and over and over.
9 **[WITNESS EXITS THE STAND]**
10 **THE COURT:**
11 That's what lawyers do. Next, Mr. --
12 defense.
13 **MR. JOHNSON:**
14 We rest, Your Honor.
15 **THE COURT:**
16 Well, I thought I saw a whole bunch of
17 other witnesses file out of here. You're
18 not calling them?
19 **MR. JOHNSON:**
20 They were possible, Your Honor, but
21 not necessary.
22 **THE COURT:**
23 Okay. Well, you filed reconventional,
24 too. So, well, let me just do it this way.
25 Rebuttal witnesses, Mr. McHale?
26 **MR. MCHALE:**
27 None, Your Honor.
28 **THE COURT:**
29 Oh. Shoot, the Secretary of State is
30 still here. I forgot.
31 **MR. MCHALE:**
32 Oh, I'm sorry.

1 **MS. CANGELOSI:**
2 Yes, Your Honor, I just want to put
3 the witness, Commissioner of Elections, on
4 the stand to ask her two questions. One,
5 is in the event this court would order a
6 new election --
7 **THE COURT:**
8 Well, you're a party so you can --
9 don't tell me what you're gonna ask her.
10 Just put her on and ask her.
11 **MS. CANGELOSI:**
12 Okay. I call the Commissioner of
13 Elections, Sherry Hadskey.
14 **[WITNESS SWORN]**
15 **SHERRY HADSKEY**
16 Having been called as a witness after
17 having been previously duly sworn, did
18 testify as follows:
19 **DIRECT EXAMINATION**
20 **BY MS. CANGELOSI:**
21 **Q** Good evening, Ms. Hadskey.
22 **A** Good evening.
23 **Q** Would you state your name for the record and tell
24 us where you're employed.
25 **A** Certainly. Sherry Wharton Hadskey, Commissioner
26 of Elections, Louisiana Secretary of State.
27 **Q** Okay. And how long have you been employed as
28 Commissioner of Elections?
29 **A** As Commissioner of Elections, since 2017.
30 **Q** Okay. And just in a one sentence, general
31 statement, what does Commissioner of Elections do?
32 **A** Commissioner of Elections oversees the elections

1 process for the State of Louisiana.
2 **Q** Okay. Thank you. And prior to the time you were
3 Commissioner of Elections, did you also work for the
4 Secretary of State and its predecessor organization,
5 which was then Jerry Fowler, Commissioner of Elections?
6 **A** Correct. I've worked in elections for a total of
7 36 years. I was the Elections Director prior to being
8 Commissioner of Elections.
9 **Q** And do you know all that has to be done in order
10 to prep, prepare for, and set up, and hold an election?
11 **A** I do.
12 **Q** Okay. So, in the event that Judge Guidry were to
13 decide this suit and declare a new election --
14 **THE COURT:**
15 And before you answer that question,
16 what does the cost of the election have to
17 do with whether or not there are
18 substantial irregularities in this
19 election.
20 **MS. CANGELOSI:**
21 It's not the cost, Judge.
22 **THE COURT:**
23 Okay.
24 **MS. CANGELOSI:**
25 One of the things, if you order a new
26 election, you order it on a certain date.
27 **THE COURT:**
28 Okay.
29 **MS. CANGELOSI:**
30 And so, I'm just gonna ask her, what's
31 the earliest date she could be ready?
32 **THE COURT:**

1 All right. Go ahead. That's fine.
2 **MS. CANGELOSI:**
3 Okay. Thank you, Your Honor.
4 **THE COURT:**
5 Thank you.
6 **Q** So --
7 **THE COURT:**
8 Some people try to scare me off with
9 costs. And that doesn't scare me, so I
10 just wanted to let you know that --
11 **MS. CANGELOSI:**
12 No. No. No. No. No.
13 **THE COURT:**
14 -- had nothing to do with anything.
15 **MS. CANGELOSI:**
16 No.
17 **DIRECT EXAMINATION CONT'D**
18 **BY MS. CANGELOSI:**
19 **Q** So, you studied the calendar when you knew about
20 this election suit and what's the earliest date in your
21 opinion that the State can be ready to hold a new
22 election if the Judge were to order a new election for
23 District 2, City Council Seat, City of Sulphur?
24 **A** It would be June 4th with early voting beginning
25 on May 21st and ending on May 28th.
26 **Q** Okay. And then I want to ask you one more
27 question because --
28 **THE COURT:**
29 And I'll shut up.
30 **MS. CANGELOSI:**
31 Huh?
32 **THE COURT:**

1 I'm gonna shut up and let you ask the
2 question.
3 **Q** One more question because we saw a list in
4 evidence today that had thirty-one people on Matthew
5 Street and another list that had thirty people on
6 Matthew Street.
7 **A** Correct.
8 **Q** And so, for the purpose of an election held on
9 May 26th [sic], what is the date that the last day that
10 people can register or the last date to determine the
11 number of voters?
12 **THE COURT:**
13 March 26th or am I wrong?
14 **MS. CANGELOSI:**
15 March 26th.
16 **THE COURT:**
17 Okay.
18 **MS. CANGELOSI:**
19 I'm sorry.
20 **THE COURT:**
21 That's all right.
22 **A** So, March 26th the deadline for in-person
23 registration would have been -- which is close of
24 books, and that would have been February the 23rd.
25 **Q** Okay.
26 **A** Which is thirty days prior to the election.
27 **Q** Okay. And what about if people registered
28 online?
29 **A** Online registration is twenty days prior to the
30 election and I believe that that was the 13th. I'd
31 have to double check. It was twenty days prior to the
32 26th of March.

1 **Q** Okay. So, any list put in evidence today that
2 was dated December 23rd would not reflect the number of
3 people qualified to -- necessarily reflect the number
4 of people qualified to vote in the March 26th election.
5 **A** That's correct. Close of books is what -- after
6 the thirty-day close of books is what sets the voters
7 in the election.
8 **THE COURT:**
9 Was it -- is -- does the question
10 purpose of asking a question for the
11 Court's -- is the testimony you're saying
12 that that's in "C-8", no, "C-2"? Are you
13 saying that's -- the thirty number is not
14 accurate, what we've been talking about all
15 day? I'm missing the point of the
16 question.
17 **MS. CANGELOSI:**
18 No. No. No. There was a -- there
19 was a list with thirty-one that was put in
20 earlier and I didn't know if that number
21 was confusing you or not.
22 **THE COURT:**
23 Oh, I've been -- I'm stuck on thirty.
24 So, if I'm wrong y'all need to fix that
25 number.
26 **MS. CANGELOSI:**
27 Okay, then. Then that's okay. Then my
28 question wouldn't be necessary.
29 **THE COURT:**
30 No. Okay.
31 **MS. CANGELOSI:**
32 Okay.

1 **THE COURT:**
2 Yeah. I've been using this all day.
3 So, if it's wrong --
4 **MS. CANGELOSI:**
5 Yeah, that's -- no, that's okay.
6 **THE COURT:**
7 All right.
8 **MS. CANGELOSI:**
9 Thanks, I don't have any more
10 questions, Ms. --
11 **THE COURT:**
12 So, thirty is the number?
13 **MS. CANGELOSI:**
14 Yes, sir.
15 **THE COURT:**
16 All right. I thought you were getting
17 ready to change my number.
18 **MS. CANGELOSI:**
19 No. No. No. No, sir. No, Your
20 Honor. Thanks, Ms. Hadskey.
21 **A** Thank you.
22 **THE COURT:**
23 Wait. Hang on. You're forgetting.
24 We didn't forget you so we -- these other
25 attorneys may have some questions of the
26 Commissioner of Elections.
27 **MS. CANGELOSI:**
28 Yeah. I was just going to sit down.
29 Oh, yeah.
30 **THE COURT:**
31 We don't get to see the Commissioner
32 of Elections this way that much.

1 **MR. MCHALE:**
2 I have no questions, Your Honor.
3 **MR. LANDRY:**
4 None, Your Honor.
5 **THE COURT:**
6 Thank you, sir.
7 **MS. HADSKEY:**
8 Thank you.
9 **THE COURT:**
10 Thank you, ma'am, I'm sorry.
11 **MS. HADSKEY:**
12 Oh, no worries, thank you.
13 **THE COURT:**
14 She's only polite because she hasn't
15 been on the stand all day like Ms.
16 Fontenot, huh.
17 I was about to tender rebuttal. I
18 don't know if you gave me a rebuttal
19 response, witness response.
20 **MR. MCHALE:**
21 Nobody on rebuttal, Your Honor.
22 **THE COURT:**
23 So, everybody's put on their direct
24 evidence. You put on your direct evidence
25 as to plaintiff-in-reconvention.
26 **MR. JOHNSON:**
27 Your Honor, based on the way we have
28 conducted these hearings and addressed the
29 waiver argument, I would just ask that the
30 same record be adopted for the purposes of
31 that hearing, especially given the fact
32 it's a Judge Trial. I don't see a reason

1 to put on an entirely separate record
2 especially at this hour in the day.
3 **THE COURT:**
4 So ordered. Closing arguments, Mr.
5 McHale? Five minutes.
6 **MR. MCHALE:**
7 Yes, sir. Your Honor, I'll try not to
8 take all five.
9 Your Honor, as the Court has correctly
10 stated, this is a matter of math. And the
11 math is, there were thirty voters who were
12 left off the voting rolls improperly. And
13 that's obviously an irregularity because
14 that's not supposed to happen.
15 There's also uncontroverted evidence
16 that there were people who were illegally
17 left on the voter roll, and that's not
18 supposed to happen. So that's an
19 inconsistency.
20 And we know that of the people who are
21 left on the voting roll, we know that two
22 of them voted and should not have been
23 allowed to vote. For the -- and, Your
24 Honor, that the burden of proof here is to
25 show that it's impossible to determine if
26 -- if every, you know, considering
27 everything that went wrong, it's impossible
28 to determine clearly who would have won
29 this election. And it's clearly done.
30 And I understand that the Registrar of
31 Voters Office and the Clerk's Office,
32 whenever they realized they made a mistake,

1 and they admit that they made a mistake,
2 we're not alleging any kind of fraud here
3 on behalf of anybody. I think because the
4 delays with the census, because of getting
5 the information late, and having to do two
6 months' worth of work in a period of two
7 weeks, mistakes happen. But when mistakes
8 happen regarding elections, that gets
9 really serious.
10 And, Your Honor, if we -- again, if we
11 take the thirty votes, minus the five who
12 voted, that's twenty-five votes. Even if
13 they contacted every single person on that
14 list after twelve noon that day, the polls
15 would open at six. Again, as I stated
16 before, that's closing the barn door after
17 the cow has already escaped.
18 Your Honor, there's clearly
19 substantial -- substantial irregularities
20 in this election. And, I think, because of
21 those, and even in Mr. Nezat's own words,
22 the integrity of this election was shot,
23 that no matter who won.
24 And I have no doubt in my mind that if
25 the shoe were on the other foot, and we
26 would have won by twenty-six votes under
27 the same circumstances, we would still be
28 here having this same argument.
29 I think because of the mistakes of the
30 Registrar of Voters, that this was not a
31 free and fair election. Our country is
32 based on free and fair elections. That is

1 the ground stone of democracy. And I don't
2 believe that we had that here. I think the
3 only remedy for this is to, look, let's tee
4 it up and do it again.
5 The Secretary of State's Office has
6 testified that they could do it as soon as
7 June 4th. We're talking about four
8 precincts in Sulphur. So, it's not a major
9 undertaking. But I think to assure the
10 public that, not only do we have free
11 elections, but that we have fair elections
12 and that everybody follows the rules. The
13 only thing that we can do in this is void
14 the election and have them tee it up and do
15 it over again.
16 **THE COURT:**
17 Thank you, Mr. McHale.
18 **MR. MCHALE:**
19 Yes, sir.
20 **THE COURT:**
21 Mr. Landry?
22 **MR. LANDRY:**
23 Judge, there's about two thousand
24 people out there who deserve to know who
25 their Councilman is going to be. They
26 deserve to know that the election in March
27 of this year was fairly run by the
28 candidates, fairly held by the officials,
29 and fairly decided by the voters.
30 What the citizens of Sulphur,
31 Calcasieu Parish, and the State don't
32 deserve, is an unfair challenge to that

1 election. They don't deserve to have their
2 trust in the electoral process eroded.
3 And it's true, our system is based on
4 integrity and at the end of the day that's
5 all we've got. And if it goes away, we
6 don't really have anything left.
7 Our legislature put the rule in place
8 that if there's a problem with the
9 procedure of an election, then it has to be
10 raised before the election or at the polls.
11 If you learned about it at the time of the
12 election, or in the exercise of diligence,
13 you could have raised the objection.
14 That's a good rule. It encourages getting
15 the right people involved to fix a problem
16 so you can prevent exactly this kind of
17 challenge.
18 Your Honor, the evidence is that Mr.
19 Koonce was involved in the redistricting
20 months before.
21 The evidence is that he made no effort
22 during the four months before that the
23 rolls were correct despite having it in his
24 possession and walking the district by his
25 testimony.
26 The day of the election, Mr. Koonce
27 was made aware of the problem. He didn't
28 file an objection. He testified he was at
29 the polling place at Frasch. He could have
30 filed his objection. He didn't. Instead,
31 we are here today.
32 Simply put, Judge, it is our position

1 that Mr. Koonce's objections are waived
2 because you cannot sit on a problem and
3 wait to see if you win before you do
4 anything about it. That's what -- that's
5 not what Nick Nezat did. He tried to get
6 the voters to the polls.
7 The fact of the matter is, Judge,
8 there was a mistake made with those voters.
9 And when it was discovered, everything
10 possible was done to get those voters to
11 the polls.
12 Twenty-five people were not denied the
13 right to vote; that's not accurate.
14 All thirty of the voters who were
15 mislabeled were attempted to be contacted
16 and five of them voted.
17 So, the Plaintiff's burden here is to
18 show that it's impossible and [inaudible]
19 the result or show that the number of
20 mistaken votes was enough to swing the
21 election. And it's not impossible. Mr.
22 Koonce can't show enough votes.
23 I know Your Honor has been dealing
24 with the math all day. And so, I think
25 it's important to go through the math just
26 one more time.
27 The election results were that Mr.
28 Nezat won by twenty-six votes.
29 Take two of those off because two of
30 the votes from Irwin were improperly cast.
31 So, we would have twenty-four vote break.
32 Thirty people on Matthew Street

1 weren't listed properly. Five of those
2 people actually went and voted. We have
3 oodlums [ph] of testimony about that.
4 So, we're down to twenty-five. Five
5 more of those people were reached and did
6 not vote.
7 So, then we are down to twenty and
8 we're already under the line at that point,
9 Judge. At that point, there's not enough
10 votes.
11 But then there are three more people
12 whose -- whose ID Cards came back because
13 they did not live at that address, and we
14 don't know where they live.
15 That brings the number down to
16 seventeen, Judge. Seventeen is factually
17 unequivocally not enough votes to have
18 swung this election. So, the Plaintiff
19 cannot meet their burden of proof.
20 But, more importantly, Judge, there's
21 another number that you've got to consider.
22 It's zero. That's how many people there
23 was evidence from Matthew Street attempted
24 to vote and were not allowed to vote.
25 Zero.
26 Your Honor, no evidence today that any
27 of those people attempted to vote and were
28 not allowed to. You can't overturn an
29 election when exactly zero people are shown
30 to have been denied the ability to vote.
31 And here's the thing, Judge, before
32 today, the evidence is that Mr. Koonce knew

all of this. Because we've already sat down with Ms. Fontenot a couple of days ago and all of the information that was presented today in Court by Ms. Fontenot was presented such that we shouldn't have been here today.

Mr. Koonce had nine days to figure out these facts before filing the lawsuit. Apparently, he didn't do it. He sure knew about it before today but we're still here. You can't sit on it, wait until you lose, and then challenge unfairly.

So, what message should we send here, Judge. Because the press is here, we've got a courtroom full of people, the community is gonna hear about this. And Judge --

THE COURT:

Is that supposed to intimidate the Court or what is -- what's --

MR. LANDRY:

Absolutely not, Judge.

THE COURT:

What's the point of that comment? I've been looking at Ms. Schmidt all day. What's the point of that comment?

MR. LANDRY:

Judge, I think it's important that the message that's gonna go out in the community about whether or not the -- this parish will tolerate unfair challenges to elections because we have more elections

1 coming up.
2 **THE COURT:**
3 Will this parish be -- will this
4 parish be upset about unfair election
5 results?
6 **MR. LANDRY:**
7 I'm sure they will be, Judge.
8 **THE COURT:**
9 Okay.
10 **MR. LANDRY:**
11 And there is evidence in this Court
12 today is that this election result was fair
13 based on the numbers.
14 **THE COURT:**
15 That's your argument.
16 **MR. LANDRY:**
17 Certainly, Judge.
18 **THE COURT:**
19 All right.
20 **MR. LANDRY:**
21 And those are the facts that were
22 presented in Court today.
23 Judge, we're not talking about a
24 Motion to Compel, where we're asking for
25 attorney's fees, we're talking about the
26 confidence in our elections being eroded.
27 And so, we believe that if Your Honor
28 finds that the challenge was frivolous,
29 you've got to award attorney fees. It's
30 the only way you can unring the bell and
31 restore the public confidence if you find
32 that the suit was brought frivolously.

1 Because all of the information presented
2 today was known before we came in this room
3 today and we still had to come here.
4 We have a duty to not only defend the
5 confidence in our elections, but to bolster
6 it with these proceeding, Judge. Every
7 contested vote, had it gone to the
8 plaintiff, wouldn't have made a difference
9 in this election. When we know that and
10 have all of the information that shows it
11 in advance of being here, we shouldn't have
12 to be here.
13 Anything less undermines the
14 confidence, not only in the election, but
15 in the Court as well.
16 **THE COURT:**
17 One more minute.
18 **MR. LANDRY:**
19 Thank you, Your Honor.
20 **THE COURT:**
21 Rebuttal, Mr. McHale? A two-minute
22 rebuttal.
23 **MR. MCHALE:**
24 Very quickly, Your Honor, regarding
25 the reconventional demand. Your Honor,
26 this is obviously not a frivolous lawsuit.
27 We've gone back and forth, and it's not a
28 mistake that my client made. We're here
29 because of a mistake that was made by the
30 Registrar of Voters. They've already
31 announced that, or they've admitted to
32 that. That's what we've been talking about

all day long.

I think that -- I think their numbers are wishful thinking. I think you have to go by the numbers that we know, and that's thirty, minus five who voted, and then minus two. And that gives us a twenty-four-vote difference and we have twenty-five voters who were originally left off the polls. And although I understand and I appreciate the Registrar of Voters trying to correct the situation, Your Honor, this election was flawed from the beginning and you can't -- you can't make flowers out of manure, Your Honor.

THE COURT:

One minute.

MR. MCHALE:

This was a flawed election. There's obviously to me no basis whatsoever to their reconventional demand.

And I think that the only fair thing to do in this case, Your Honor, and according to remedies allowed to the Court by law, is to void the election and call a new one.

THE COURT:

Thank you.

MR. MCHALE:

Thank you, Your Honor.

THE COURT:

Oh, closing argument, Secretary of State? You've been so quiet.

1 **MS. CANGELOSI:**
2 Nothing, Your Honor, except to remind
3 you, and I'm sure the Court already knows,
4 that under Title 18, Section 1409(C), it
5 says, "That the trial judge shall render
6 judgment within twenty-four hours after the
7 case is submitted to him and shall indicate
8 the date and time on the rendered
9 judgment."
10 So, in the twenty-four hours, it's
11 twenty-four hours --
12 **THE COURT:**
13 Is right now within the twenty-four
14 hours?
15 **MS. CANGELOSI:**
16 Yeah.
17 **THE COURT:**
18 Okay.
19 **MS. CANGELOSI:**
20 Yeah. It's twenty-four hours from
21 whenever you deem it submitted. So, if
22 it's submitted at 6 p.m., you know, or
23 5:45, you gotta render jugdment by 5:45
24 tomorrow.
25 **THE COURT:**
26 I know, that's what I was asking. I
27 wasn't being funny. I mean, the case is
28 over, it's submitted, right? Am I missing
29 something?
30 **MS. CANGELOSI:**
31 Yes.
32 **MR. JOHNSON:**

1 Judge, do we get rebuttal on the
2 Answer and Reconventional Demand as the
3 plaintiffs in that?
4 **THE COURT:**
5 You don't -- you didn't put on any
6 additional evidence with regard to --
7 **MR. JOHNSON:**
8 I just adopted the same record.
9 **THE COURT:**
10 Yeah.
11 **MR. JOHNSON:**
12 I was just talking about argument --
13 rebuttal argument.
14 **THE COURT:**
15 We argued with -- yeah, I'll allow it.
16 But let's -- let Ms. Cangelosi finish.
17 **MR. JOHNSON:**
18 All right.
19 **MS. CANGELOSI:**
20 That's the only thing I wanted to
21 remind the Court because --
22 **THE COURT:**
23 I'm gonna rule when the case -- I'm
24 gonna rule today, right now.
25 **MS. CANGELOSI:**
26 Okay. Thank you, Your Honor.
27 **THE COURT:**
28 Okay. And, I guess, depending how I
29 rule, that's who prepares the actual
30 written -- but you need an actual written
31 judgment; correct?
32 **MS. CANGELOSI:**

1 Not for the appeal. The appeal has
2 got to be within twenty-four hours.
3 **THE COURT:**
4 Right.
5 **MS. CANGELOSI:**
6 Not from the written judgment, from
7 when you render judgment on the record.
8 **THE COURT:**
9 Right. Okay. All right. I'm about
10 to render judgment.
11 Go ahead, Mr. Johnson.
12 **MR. JOHNSON:**
13 Sure.
14 **THE COURT:**
15 Two minutes.
16 **MR. JOHNSON:**
17 Three hundred and twelve votes on
18 election day. If you take even the higher
19 number, the twenty-five, right. Ignoring
20 the fact that five of those people were
21 contacted, right, and decided not to vote,
22 and were given at least five hours to do
23 so, according to the testimony.
24 If Your Honor overturns this election,
25 you are going to decide to vote for twenty-
26 five people. That is an eight percent
27 shift in this election.
28 **THE COURT:**
29 Isn't the law that if one -- if the
30 one vote changes the outcome that -- that
31 is what you're saying, twenty-five, I'm
32 deciding for twenty-five. But my question

1 back to you as part of your rebuttal
2 argument, isn't law one?
3 **MR. JOHNSON:**
4 I'm sorry?
5 **THE COURT:**
6 Isn't the law one, if there's one
7 difference; isn't that the law?
8 **MR. JOHNSON:**
9 If there's a one difference?
10 **THE COURT:**
11 One vote difference. You're saying
12 I'm deciding for twenty-five voters.
13 **MR. JOHNSON:**
14 That's exactly right. If you decide
15 one, we still win. You decide two, we stil
16 win. If you decide three, we still win.
17 You have to give all twenty-five voters, an
18 eight percent shift in the election, all
19 right. All twenty-five you've got to give
20 to Mr. Koonce.
21 **THE COURT:**
22 What case you got for that
23 proposition, Mr. Johnson?
24 **MR. JOHNSON:**
25 What are you suggesting? I'm saying
26 that's what you would have to do. That's
27 -- if a ruling to overturn the election
28 would give -- the only way that he could
29 win is if we -- you have thirty votes, five
30 voted, you then have twenty-five, right.
31 If you -- five of those were contacted;
32 right. Decided not to vote.

1 Twenty without any evidence that any
2 of those -- from any of those people, not
3 subpoenaed, not brought here to say, hey,
4 we were turned away from the polls and we
5 really wanted to vote. Without any
6 evidence, we would be assuming, okay, we're
7 gonna still take twenty-five even though
8 five were contacted and no evidence. We're
9 gonna take the two and you give every
10 single vote, assume all twenty-seven of
11 those people would vote for one person,
12 even though that -- it would --
13 **THE COURT:**
14 Is your reconventional argument on the
15 math or was that on other issues. Didn't
16 you make -- that's not -- your
17 reconventional argument with regard to
18 whether there's effort and something else;
19 right?
20 **MR. JOHNSON:**
21 That's right. He said you can't make
22 flowers out of manure.
23 **THE COURT:**
24 All right.
25 **MR. JOHNSON:**
26 But you can sure -- you can -- if you
27 overturn an election, assuming that all
28 twenty -- you know -- seven people would
29 have voted for the other person. Then, I
30 guess, if you assume the impossible it
31 makes, you know, it makes this possible,
32 even though every statistic from that day,

1 Your Honor, every piece of information that
2 we have is contradicted by such a
3 conclusion. And there's been no evidence
4 from any single voter who suggested they
5 were turned away from the polls. None.
6 Thank you, Your Honor.
7 **THE COURT:**
8 All right. Thank y'all. I'll come
9 back with my decision.
10 **MS. CANGELOSI:**
11 Thank you, Your Honor.
12 **MR. MCHALE:**
13 Thank you, Your Honor.
14 **[RECESS]**
15 **THE COURT:**
16 You got your reconventional -- your
17 petition, did you leave me a copy of that?
18 **MR. JOHNSON:**
19 I can get you one, Judge.
20 **MR. LANDRY:**
21 May I approach?
22 **THE COURT:**
23 Sure. Yes.
24 **MR. LANDRY:**
25 Thank you.
26 **THE COURT:**
27 Everybody is here. I'm declaring the
28 March 26th, District 2, Sulphur City
29 Council Race Election null and void for
30 these reasons and will order a new election
31 according to the dates outlined by the
32 Secretary of State -- yes, the Commissioner

1 of Elections, excuse me, in her testimony.
2 Here are my reasons:
3 The Court cites to the original
4 standard with regard to -- under LA.R.S.
5 18:1401, with regard to substantial
6 irregularities.
7 The key and critical testimony is from
8 Ms. Kim Fontenot, the Registrar of Voters,
9 who testified with regard to making a
10 mistake and not including -- we've spoken
11 and what's in evidence is Matthew Street
12 and South Irwin Street.
13 Two voters from South Irwin that voted
14 in the election that should not have voted.
15 The margin of difference is twenty-six
16 votes, which would leave a twenty-four gap
17 between Mr. Nezat and Mr. Koonce.
18 The testimony from the Registrar of
19 Voters in "Exhibit C-2" where the Court
20 asked many many questions about, with
21 regard to the listing of thirty voters who
22 were disenfranchised, and five who voted,
23 which left a twenty-five potential vote,
24 which makes it a one-vote difference if you
25 were to assume that all twenty-five would
26 have voted for Mr. Koonce.
27 Now, a lot of argument was made with
28 regard to assumptions, and percentages, and
29 numbers. That is not what the Court feels
30 is the standard of proof. In these
31 election cases is, could that number
32 difference could have resulted in a

1 different outcome?
2 It could have resulted in a different
3 outcome, yes, with a lot of assumptions.
4 However, this is an election, and I asked
5 the questions on argument, this is an
6 election where the people need to have
7 faith in the outcome of the election.
8 We can't -- and the Court did not
9 start assuming votes and percentages
10 because in the old days it used to be said,
11 if you win early voting, you're probably
12 gonna win the election outcome. In this
13 case, Mr. Koonce won the early voting, he
14 did not win the outcome of this election.
15 I believe the irregularity is
16 substantial in that we have the Registrar
17 of Voters who openly admitted an honest
18 mistake. A lot of factors went into why
19 Matthew Street was not listed. I feel that
20 once the -- and the remedy is not trying to
21 correct on election day. We put the burden
22 on the Registrar of Voters to try to
23 correct the mistake by making the phone
24 calls on election day, well after elections
25 started.
26 The Court has reviewed some cases and
27 it is not aware that that's a standard for
28 the remedy. The remedy is a new election,
29 not trying to fix it on election day by
30 calling some voters who may or may have
31 heard on the -- on social media. Who also
32 may have been discouraged because of social

1 media, and not going to vote from that.
2 And I think the only fair way to remedy
3 that is order the new election, which the
4 Court has just done.
5 As to -- you know, there was a time
6 when folks had their votes disenfranchised,
7 the remedy -- they didn't have the
8 opportunity to even come to court to even
9 fix that.
10 Under 18:1432, the Court also finds
11 that it is impossible to determine the
12 result of the election as to what those
13 twenty-five voters would have done. As to
14 whether all twenty-five would have voted is
15 immaterial to the Court that five may -- or
16 four of the five contacted, may have
17 decided, or not decided, to go vote. I
18 don't think that is for the Court to decide
19 whether that changes the number. It's the
20 fact that they weren't notified until that
21 day. Cards with regard to the election put
22 them out of the election district
23 erroneously before the election. I think
24 that is a substantial irregularity that
25 needs to be corrected in a proper election.
26 I also find that twenty-five votes are
27 sufficient to change the outcome of this
28 election because the vote count difference
29 would be twenty-four. I think that's
30 pertinent, and I think that's squarely on
31 point with 18:1432. It doesn't result or
32 matters to the Court that only 13.1

1 percent, whatever the percentage 13
2 percent. It's sad that it's a low voter
3 turnout, but that -- the low voter turnout
4 is not the standard of proof with regard to
5 what the Court has to look at with regard
6 to substantial irregularity.
7 I found all witnesses forthright. I
8 found all witnesses credible. They can
9 only testify as to what they know. I feel
10 Mr. Koonce met his burden of proof through
11 the testimony of Ms. Fontenot. She was
12 made aware of these irregularities. She
13 attempted to correct that. She testified
14 with regard to that. She also testified
15 Mr. Koonce -- she had a conversation with
16 Mr. Koonce and -- with regard to --
17 actually, she testified as to -- that him
18 calling in with regard to Irwin Street, she
19 was already aware of the issues Matthew
20 Street.
21 And so, the argument and concern that
22 he didn't do anything, he sat on his feet,
23 or just sat on his hands and didn't do
24 anything, I did not find that compelling
25 argument.
26 It's -- I do not find that he waived
27 his right to object to these proceedings,
28 object to this election.
29 With sufficient effort to the
30 Registrar of Voters notifying of an issue
31 and was already made aware of the -- and
32 the Registrar of Voters already made aware

that Matthew Street was an issue and already in social media and out on TV with regard to the Matthew Street issue.

And that causes a lot of concern to the Court that this went out in the media and may have dispelled interest of certain voters. And I think that that fact that that was just made public and aware affected the outcome of this case -- of this -- of this election, one way or the other.

The Court's only stand is whether it would have made a difference and that's what I'm bearing it on. Now how, whether Mr. Koonce still would have won, still would have lost, or what have you.

There was also testimony with regard to Mr. Koonce's effort with -- regarding to walking in the neighborhood the day of the election. He testified with regard to that. And that's a further finding for the Court and I just want to put that -- put that on the record.

I also feel an effect to the outcome of this election with regard to the short time that the Registrar of Voters had with regard to redistricting and getting the proper polls in place. That affected the outcome. And I find that to be a substantial irregularity.

So, the new election for City Council will be June 4th with early voting

beginning May 21st, if I have that correctly, and ending on May 28th.

Also citing into the record cases that the Court has reviewed to form a basis of the Court's decision of the Janzen, J-A-N-Z-E-N vs. Stickell, S-T-I-C--K-E-L-L, that's 691 So.2d, 683.

Dawsey, D-A-W-S-E-Y, vs. Boone, 646 So.2d, 1188.

Lipsey, L-I-P-S-E-Y, v Dardenne, D-A-R-D-E-N-N-E, that's 970 So.2d 1237.

Wright, W-R-I-G-H-T, v. Williams, that's 720 So.2d 763.

I also cite to LA 18:1434, with regard to due diligence, the Court makes a factual finding, due diligence was exhibited by Mr. Koonce with regard to objecting to the election on election day.

I do not find as a fact that this was a frivolous filing. I think the fact that we've been here since eleven o'clock talking about numbers, and percentages, and vote outcomes, and phone calls, and citing statutes, and interpretations, and the various arguments of counsel, is indicative that this was not a frivolous lawsuit. It doesn't matter whether Mr. Koonce would have prevailed or not. I do not find it frivolous as a matter of fact.

I order each party to pay their own court costs. I'm not ordering attorney fees in this matter.

Any questions or clarifications needed in my ruling that y'all need for the record?

MR. MCHALE:

No, sir.

MR. JOHNSON:

No, Your Honor.

THE COURT:

I do cite to the Election Code and other statute -- I apologize. Also reviewed is 18:1409 and various cases interpreting that particular statute.

Yes, Ms. Cangelosi?

MS. CANGELOSI:

There's a statute somewhere, and I don't -- I can't find it right away. It says that the Commissioner of Elections can't be ordered to pay court costs in election contests. I'll see if I can find that one for you.

THE COURT:

Oh, you mean, for her not to be able to pay the --

MS. CANGELOSI:

I mean the Secretary of State can't be ordered to pay costs. I can find it for you, Judge, in an election contest. I don't have it right in my fingertips.

THE COURT:

Did the Secretary of -- did y'all incur costs in this matter?

MS. CANGELOSI:

We didn't file anything, so.

THE COURT:

Okay.

MS. CANGELOSI:

So, probably we don't have any.

MR. MCHALE:

Your Honor, I think it's a moot point, Your Honor.

THE COURT:

Yeah.

MR. MCHALE:

I don't think y'all filed anything, so I think it's a moot point.

THE COURT:

But you're saying, as a matter of fact, if the Judgment that Mr. McHale is going to prepare, based on my ruling --

MR. MCHALE:

Sure.

THE COURT:

-- about me ordering that that's illegal to even say each party to bear their own costs because you're a party and you can't bear your own costs.

MS. CANGELOSI:

I think, yeah, I'm pretty sure I have a section in the law, but I'll find it.

THE COURT:

Well --

MS. CANGELOSI:

But I don't think I have any costs because I didn't file anything.

1 **THE COURT:**
2 Yeah. Each party bear their own
3 costs, Mr. McHale. If I'm wrong, you can
4 fix it and take it out.
5 **MS. CANGELOSI:**
6 Okay. Thank you, Your Honor.
7 **MR. MCHALE:**
8 Sure.
9 **MR. JOHNSON:**
10 Your Honor, just note our objection
11 for record.
12 **THE COURT:**
13 Yes. Any other questions or
14 clarifications needed?
15 **MR. JOHNSON:**
16 No, Your Honor.
17 **THE COURT:**
18 All right. Thank you.
19 **MR. JOHNSON:**
20 Thank you, Judge.
21 **MR. MCHALE:**
22 Thank you, Judge.
23 **MR. LANDRY:**
24 Thank you, Judge.
25 **[PROCEEDINGS CONCLUDED]**
26
27
28
29
30
31
32

1 CERTIFICATE

2 I, RONDA C. TAYLOR, CDR, Official
3 Court Reporter in and for the State of
4 Louisiana, employed as an Official Court
5 Reporter for the 14th Judicial District
6 Court, Calcasieu Parish, Lake Charles, do
7 hereby certify that this testimony was
8 prepared and transcribed by me, and is a
9 true and correct transcript to the best of
10 my ability and understanding, that the
11 transcript has been prepared in compliance
12 with the transcript format guidelines
13 required by statute or by the rules of the
14 Board or by the Supreme Court of Louisiana,
15 and that I am not related to counsel or to
16 the parties herein, nor am I otherwise
17 interested in the outcome of this matter.
18 I do certify that the preceding
19 transcript is a true and correct copy of
20 the proceedings held on the date set forth
21 on Page 1 hereto, according to my digital
22 recordings of the proceedings held on said
23 date.
24 In witness whereof, I have hereto
25 affixed my signature and certification
26 stamp on this 25th day of April, 2022.
27 Ronda C. Taylor
28 RONDA C. TAYLOR, CDR/CCR
14th Judicial District
29 LA CDR Certification No. 1042021/2021013
30
31
32