IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JILL STEIN, ET AL PLAINTIFFS	:	CIVIL CASE NUMBER
VERSUS	:	16-6287
PEDRO A. CORTES, ET AL, DEFENDANTS	:	

ORIGINAL

FEBRUARY 18, 2020
COURTROOM 14A
PHILADELPHIA, PA 19106

BEFORE THE HONORABLE PAUL S. DIAMOND, J.

EVIDENTIARY HEARING - DAY 1

FILED
MAR 02 2020
KATE BARKMAN, Clerk
Dep. Clerk

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(CLERK OPENS COURT.)

THE COURT: PLEASE BE SEATED, EVERYBODY. GOOD MORNING.

ALL COUNSEL: GOOD MORNING, YOUR HONOR.

THE COURT: OKAY. MR. MAAZEL, I BELIEVE YOU ARE UP.

MR. MAAZEL: GOOD MORNING, YOUR HONOR. DO YOU WANT APPEARANCES FROM THE PARTIES OR --

THE COURT: NO, NO. I THINK WE HAVE THAT ALL DOWN, BUT IF YOU WOULD LIKE TO.

MR. MAAZEL: NO, I JUST WANTED TO CHECK, YOUR HONOR.

WE JUST, AS A COUPLE OF HOUSEKEEPING MATTERS, WE HAVE THE PLAINTIFFS/DEFENDANTS JOINT EXHIBIT BINDERS UP THERE FOR THE COURT, AS WELL AS FOR THE WITNESSES, WHOEVER THE WITNESSES ARE.

THE COURT: OKAY. GREAT.

MR. MAAZEL: AND I BELIEVE WE HAVE AGREEMENT AMONG THE PARTIES THAT ALL OF THE EXHIBITS IN THOSE BINDERS, WITH THE EXCEPTION OF PX 1016, ARE AUTHENTIC. WE DON'T HAVE AGREEMENT ON THE ADMISSIBILITY BUT WE DO ON THE AUTHENTICITY OF THE DOCUMENTS, RIGHT?

MR. WIYGUL: YES.

MR. MAAZEL: YOUR HONOR, TO START OUR PRESENTATION, WE WANTED TO SIMPLY MOVE A NUMBER OF

EXHIBITS INTO EVIDENCE, WHICH WE THOUGHT WOULD STREAMLINE THE PROCESS.

THE COURT: OKAY.

MR. MAAZEL: AND I'LL GET A LIST. THOSE ARE JOINT EXHIBITS 1, 7 --

THE COURT: HOLD ON.

MR. MAAZEL: SURE.

THE COURT: IS THIS WHAT I ALREADY HAVE? THE JOINT EXHIBIT 1 IS A SETTLEMENT AGREEMENT. THAT'S THE RIGHT BINDER? THANK YOU, MR. LIEB. WRONG BINDER?

MR. MAAZEL: YES. THERE SHOULD BE ANOTHER BINDER THAT SAYS JOINT EXHIBITS THAT I THINK DEFENSE PROVIDED TODAY. JOINT EXHIBIT 1 SHOULD BE FEBRUARY 9, 2018 DIRECTIVE.

THE COURT: I HAVE IT. OKAY.

MR. MAAZEL: WE WOULD LIKE TO MOVE INTO EVIDENCE, YOUR HONOR, JOINT EXHIBIT 1.

THE COURT: WE CAN DO THESE ONE-BY-ONE AND IF THE DEFENDANTS OR THE INTERVENORS HAVE ANY OBJECTION, THEY CAN DO IT DOCUMENT BY DOCUMENT.

MR. MAAZEL: JOINT EXHIBIT NUMBER 1.

MR. WIYGUL: NO OBJECTION, YOUR HONOR.

MR. MAAZEL: 7.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 10.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 11.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 19.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 23.

MR. WIYGUL: WE DO OBJECT TO THAT ONE, YOUR HONOR.

THE COURT: ON WHAT GROUND?

MR. WIYGUL: I BELIEVE THAT THIS IS PURPORTED TO BE A COPY OF A CONFIDENTIAL SETTLEMENT CONFERENCE MEMO THAT PLAINTIFF SENT ON AN EX PARTE BASIS TO THE MAGISTRATE JUDGE. IT WAS NEVER SENT TO US. IT WASN'T SOMETHING THEY COMMUNICATED TO US AS PART OF THE SETTLEMENT DISCUSSIONS. SO WE BELIEVE IT'S IRRELEVANT, IT DOES NOT INFORM THE QUESTION FOR THE COURT IN TERMS OF THE INTERPRETATION OF THE SETTLEMENT AGREEMENT.

THE COURT: I WILL OVERRULE THAT. IT WILL BE ADMITTED. GO AHEAD.

MR. MAAZEL: 24.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 25.

THE COURT: I'M SORRY?

MR. MAAZEL: 25.

THE COURT: OKAY.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 26.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 27.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 29.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 30.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 34.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 38.

MR. WIYGUL: IT'S A LONG E-MAIL CHAIN. I THINK WE NEED TO KNOW MORE ABOUT HOW YOU ARE USING IT.

THE COURT: I'M SORRY, WHAT WAS THAT?

MR. WIYGUL: WE DON'T OBJECT TO CERTAINLY THE AUTHENTICITY, YOUR HONOR. IT'S A LONG, I THINK IT'S LIKE A 14-PAGE E-MAIL CHAIN.

THE COURT: ARE YOU OBJECTING?

MR. WIYGUL: NO, NO, YOUR HONOR.

THE COURT: OKAY. IT WILL BE ADMITTED.

MR. MAAZEL: 40.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 41.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 42.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 43.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 44.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 45.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 46.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 47.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 48.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 49.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 50.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 51.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 52.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 57.

MR. WIYGUL: NO OBJECTION.

THE COURT: HOLD ON. GO AHEAD.

MR. MAAZEL: 60.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: AND THEN WE WOULD ALSO LIKE TO MOVE INTO EVIDENCE A FEW OF THE EXHIBITS IN THE PLAINTIFF'S EXHIBIT BINDER, YOUR HONOR.

THE COURT: YES.

MR. MAAZEL: PX 1001.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 1002.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 1006.

MR. WIYGUL: WHICH ONE?

MR. MAAZEL: 1006.

MR. ARONCHICK: YOUR HONOR, I DON'T KNOW. ON 1002 AND 1006, WE DON'T BELIEVE THESE ARE RELEVANT, BUT YOU CAN'T DETERMINE THAT NOW IN THE CONTEXT OF MOVING IN THESE EXHIBITS. SO WE RESERVE OUR RELEVANCE OBJECTION, I GUESS, WHEN THEY TRY TO USE THEM.

THE COURT: OKAY.

MR. MAAZEL: 1010.

MR. ARONCHICK: SAME. WE OBJECT TO THIS. IT'S NOT ONLY NOT -- ON RELEVANCE, IT'S NOT CONNECTED TO ANYTHING. IT'S NOT A DOCUMENT THAT WAS EVEN INVOLVED IN THE SETTLEMENT NEGOTIATIONS.

THE COURT: WHO CREATED THIS DOCUMENT?

MR. MAAZEL: RIGHT. SO, YOUR HONOR, THIS IS -- AND PERHAPS WE SHOULD RESERVE THIS FOR WHEN WE GET TO THE WITNESS.

THE COURT: THAT'S FINE.

MR. MAAZEL: MAYBE THAT MAKES MORE SENSE. 1012.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: 1013.

MR. WIYGUL: NO OBJECTION.

MR. MAAZEL: AND THAT'S IT FOR NOW, YOUR HONOR.

(JOINT EXHIBITS 1, 7, 10, 11, 19, 23-30, 30, 34, 38, 40-52, 57, 60 ADMITTED INTO EVIDENCE.)

(PLAINTIFFS' EXHIBITS PX 1001, 1002, 1006, 1010, 1012, 1013 ADMITTED INTO EVIDENCE.)

THE COURT: OKAY.

MR. MAAZEL: YOUR HONOR, WOULD YOU LIKE ME TO QUESTION FROM HERE OR --

THE COURT: WHEREVER. YOU CAN REMAIN SEATED, IT'S OKAY. WHEREVER YOU'RE MOST COMFORTABLE.

MR. ARONCHICK?

MR. ARONCHICK: JUST IN THE NATURE OF HOUSEKEEPING.

THE COURT: YES.

MR. ARONCHICK: WE BROUGHT AN ELECTION

MACHINE HERE. WE INTEND TO USE IT WHEN THE ES&S WITNESS IS ON THE STAND, WHICH WILL BE LATER, BUT WE JUST WANTED TO LET YOU KNOW IT WAS HERE.

THE COURT: I ASSUMED THAT'S WHAT IT WAS. OKAY.

MR. MAAZEL: WE CALL AS OUR FIRST WITNESS SECRETARY KATHY BOOCKVAR, YOUR HONOR.

THE COURT: VERY WELL.

(WITNESS SWORN.)

THE CLERK: PLEASE STATE AND SPELL YOUR NAME FOR THE RECORD.

THE WITNESS: SURE. IT'S KATHY BOOCKVAR, K-A-T-H-Y, B-O-O-C-K-V, LIKE IN VICTORY, A-R.

THE COURT: GOOD MORNING.

THE WITNESS: GOOD MORNING, YOUR HONOR.

DIRECT EXAMINATION

BY MR. MAAZEL:

Q. GOOD MORNING, SECRETARY BOOCKVAR.

A. GOOD MORNING.

Q. NICE TO SEE YOU AGAIN.

A. YOU AS WELL.

Q. YOU WERE APPOINTED THE ACTING SECRETARY OF THE COMMONWEALTH ON JANUARY 5, 2019, IS THAT CORRECT?

A. THAT'S CORRECT.

Q. AND YOU WERE APPOINTED SECRETARY OF THE

COMMONWEALTH ON NOVEMBER 19, 2019, CORRECT?

A. I WAS CONFIRMED, CORRECT.

Q. AND THAT'S YOUR CURRENT POSITION?

A. CORRECT.

Q. AT THE TIME OF THE SETTLEMENT AGREEMENT, WHEN THE SETTLEMENT AGREEMENT WAS SIGNED, YOU WERE A SENIOR ADVISOR TO GOVERNOR WOLF, IS THAT CORRECT?

A. THAT'S CORRECT.

Q. SO YOU WERE NOT PART OF THE DEPARTMENT AT THAT TIME?

A. I WAS IN THE DEPARTMENT OF STATE, THAT'S WHERE I WORKED, SO I WAS PART -- I'VE WORKED AS A PART OF THE TEAM AT DEPARTMENT OF STATE. BUT MY BOSS WAS THE GOVERNOR.

Q. AND YOU ATTENDED THE SETTLEMENT CONFERENCE WITH JUDGE RICE IN THAT CAPACITY, CORRECT?

A. I DID.

Q. NOW, AS ACTING SECRETARY OR SECRETARY, DO YOU SIGN ALL OF THE CERTIFICATIONS FOR VOTING SYSTEMS?

A. I DO.

Q. AND DO YOU HAVE TO PERSONALLY APPROVE THOSE VOTING SYSTEMS?

A. I DO.

Q. OKAY. AS YOU KNOW, WE HAD A SETTLEMENT IN THIS LITIGATION, CORRECT?

A. CORRECT.

Q. AND HAVE YOU HAD A CHANCE TO REVIEW THAT SETTLEMENT AGREEMENT?

A. I HAVE.

Q. COULD YOU TURN TO JOINT EXHIBIT 30, WHICH IS IN EVIDENCE?

THE COURT: I'M SORRY, WHAT IS THAT?

MR. MAAZEL: 30.

THE COURT: JOINT EXHIBIT?

MR. MAAZEL: 30, YOUR HONOR.

THE COURT: 30. OKAY.

BY MR. MAAZEL:

Q. SECRETARY BOOCKVAR, IS THIS THE SETTLEMENT AGREEMENT IN THIS CASE?

A. YES.

Q. AND THIS WAS SIGNED BY ALL PARTIES, CORRECT?

A. YES.

Q. AND IS IT FAIR TO SAY THAT THIS SETTLEMENT AGREEMENT WAS THE RESULT OF A CAREFUL NEGOTIATION AND DRAFTING PROCESS AMONG THE PARTIES?

A. YES.

Q. THIS IS OBVIOUSLY AN IMPORTANT AGREEMENT, YES?

A. YES.

Q. IT AFFECTS THE ENTIRE COMMONWEALTH?

A. YES.

Q. AND IT'S AN AGREEMENT THAT THE DEFENDANTS LOOKED AT VERY CAREFULLY BEFORE SIGNING AND APPROVING, CORRECT?

A. YES.

Q. AND AM I CORRECT THAT AMONG THE PEOPLE WHO HAD TO APPROVE THE SETTLEMENT AGREEMENT ON THE DEFENSE SIDE WERE THE ATTORNEY GENERAL'S OFFICE?

A. CORRECT.

Q. AND MR. GATES, WHO WAS THE CHIEF COUNSEL FOR THE DEPARTMENT OF STATE?

A. CORRECT.

Q. AND SECRETARY CORTES, THE THEN SECRETARY OF THE COMMONWEALTH?

A. HE IS ACTUALLY NOT A SIGNATORY TO THIS.

Q. BUT HE WAS A DEFENDANT AND COUNSEL SIGNED ON HIS BEHALF, CORRECT?

A. CORRECT.

Q. AND SO DID HE HAVE TO APPROVE THIS AGREEMENT, TO YOUR KNOWLEDGE?

A. TO MY KNOWLEDGE.

Q. AND DID THE GOVERNOR ALSO HAVE TO APPROVE THIS AGREEMENT?

A. I CERTAINLY WAS INVOLVED ON THE GOVERNOR'S BEHALF TO APPROVE THE AGREEMENT.

Q. AND SO DID YOU PERSONALLY REVIEW THIS AGREEMENT CAREFULLY BEFORE IT WAS SIGNED AND APPROVED?

A. I DID.

Q. IF WE COULD LOOK AT PARAGRAPH 2 OF THE AGREEMENT. DO YOU HAVE THAT IN FRONT OF YOU?

A. I DO.

Q. AND ON THE HEADING OF THIS IS: VOTER-VERIFIABLE PAPER BALLOTS FOR EVERY VOTER, CORRECT?

A. CORRECT.

Q. AND IT SETS FORTH A NUMBER OF REQUIREMENTS UNDER THE SETTLEMENT AGREEMENT, CORRECT?

A. CORRECT.

Q. AND SO PARAGRAPH 2 READS: THE SECRETARY WILL ONLY CERTIFY NEW VOTING SYSTEMS FOR USE IN PENNSYLVANIA IF THEY MEET THESE CRITERIA, RIGHT?

A. CORRECT.

Q. AND THE FIRST CRITERION IS THAT THE BALLOT ON WHICH EACH VOTE IS RECORDED IS PAPER, CORRECT?

A. YEP.

Q. AND THE SECOND CRITERION IS THAT THEY PRODUCE A VOTER-VERIFIABLE RECORD OF EACH VOTE, YES?

A. YES.

Q. AND A THIRD IS THAT THEY ARE CAPABLE OF SUPPORTING THE ROBUST PRECERTIFICATION AUDITING PROCESS, CORRECT?

A. CORRECT.

Q. AND THOSE ARE THREE -- WELL, WITHDRAWN.

THERE IS AN "AND" THERE BETWEEN 2B AND 2C, RIGHT?

A. YES.

Q. SO THESE ARE THREE SEPARATE REQUIREMENTS, CORRECT? A, B AND C?

A. YES. THEY'RE INTERRELATED SEPARATE REQUIREMENTS.

Q. BUT A AND B AND C ARE EACH SEPARATE REQUIREMENTS THAT THE DEFENDANTS MUST MEET, CORRECT?

A. YEP.

Q. AND ALTHOUGH THEY MAY BE INTERRELATED, THEY ARE DIFFERENT REQUIREMENTS, CORRECT?

A. THEY EACH ADD A DIFFERENT PART TO THE PROCESS. AND, YOU KNOW, THEY WERE A CONTINUATION OF THE PATH THAT WE WERE ALREADY ON.

Q. OKAY. WELL, WE'LL GET TO THAT IN A MINUTE.

BUT, FOR EXAMPLE, YOU CAN HAVE A VOTER-VERIFIABLE RECORD OF A VOTE THAT IS NOT A PAPER BALLOT, CORRECT?

A. PRESUMABLY.

Q. BUT THE SETTLEMENT AGREEMENT REQUIRES BOTH PAPER BALLOT AND A VOTER-VERIFIABLE RECORD OF THE VOTE, CORRECT? A AND B, CORRECT?

MR. ARONCHICK: OBJECTION.

THE COURT: SUSTAINED. I CAN READ.

MR. MAAZEL: OKAY.

BY MR. MAAZEL:

Q. NOW, ONE OF THE CERTIFICATIONS THAT YOU APPROVED AS ACTING SECRETARY WAS SOMETHING CALLED THE CLEARBALLOT CLEARVOTE 1.5.

MR. ARONCHICK: OBJECTION.

MR. MAAZEL: WHICH IS --

THE COURT: THIS IS WHAT YOU OBJECTED TO PREVIOUSLY?

MR. ARONCHICK: YES.

MR. MAAZEL: NO, THIS IS NOT. HE DIDN'T OBJECT, YOUR HONOR.

THE COURT: WELL, LET ME -- I AM NOT SURE WHERE YOU ARE GOING WITH THIS, BUT I WILL LET YOU START.

MR. MAAZEL: OKAY.

BY MR. MAAZEL:

Q. COULD YOU PLEASE TURN TO PLAINTIFF'S EXHIBIT 1002?

A. THAT IS TAB 2?

Q. YES.

AND THIS IS A REPORT OF THE SECRETARY DATED MARCH 22, 2019 THAT YOU SIGNED, CORRECT?

A. CORRECT.

Q. AND WHEN YOU ANALYZED THESE REPORTS, YOU USED CERTAIN TERMINOLOGY BASED ON THE TYPE OF VOTING SYSTEM

YOU ARE REVIEWING, CORRECT?

A. YES.

Q. SO DIFFERENT BALLOT-MARKING DEVICES CREATE DIFFERENT TYPES OF PAPER, IS THAT FAIR?

A. SURE.

Q. AND SOME BALLOT-MARKING DEVICES PRODUCE A PIECE OF PAPER THAT SHOWS CONTEST OPTIONS.

A. YOU ARE SAYING SOME?

Q. GENERALLY.

A. HAVE ALL THE DIFFERENT CHOICES, YES.

Q. YES.

OTHER BALLOT-MARKING DEVICES LIKE THIS XL SYSTEM AT ISSUE IN THIS MOTION DO SOMETHING A LITTLE DIFFERENT, RIGHT? THEY DON'T SHOW CONTEST OPTIONS?

A. THEY SHOW THE SELECTIONS THAT THE VOTER HAS MADE.

Q. SO THEY'RE DIFFERENT TYPES OF PAPER THE DIFFERENT BALLOT-MARKING DEVICES PRODUCE, RIGHT?

A. CORRECT.

Q. AND THEN IN YOUR CERTIFICATION REPORTS, DEPENDING ON THE TYPE OF PAPER THAT IS PRODUCED, YOU USED DIFFERENT TERMINOLOGY TO DESCRIBE WHAT THAT PAPER IS, RIGHT?

A. WELL, SOMETIMES -- OFTENTIMES IT'S WHAT THE MANUFACTURER REFERS TO IT AS. SO YOU OFTEN SEE

DIFFERENT TERMINOLOGY USED FOR WHAT MAY ACTUALLY LOOK VERY SIMILAR.

Q. SO I WANT TO FOCUS ON THIS CLEARBALLOT, WHICH YOUR OFFICE APPROVED, WHICH IS EXHIBIT 2, YES?

A. YES.

MR. MAAZEL: AND I WOULD LIKE TO MOVE THIS INTO EVIDENCE, YOUR HONOR, TO SHOW THE TERMINOLOGY THAT WAS USED FOR A DIFFERENT BALLOT-MARKING DEVICE, WHICH IS AN ADMISSION AS TO WHAT THE DEFENDANTS --

THE COURT: I KNOW WHAT YOUR OBJECTION IS, MR. ARONCHICK, AND I THINK IT GOES MORE TO WEIGHT THAN ADMISSIBILITY. I WILL CONSIDER IT FOR WHATEVER IT IS WORTH.

MR. MAAZEL: OKAY.

BY MR. MAAZEL:

Q. SO THIS IS AN OFFICIAL CERTIFICATION, IS THAT RIGHT?

A. IT IS.

Q. AND THIS WAS PREPARED CAREFULLY BY THE SECRETARY, I ASSUME?

A. IT WAS PREPARED BY SOMEBODY OTHER THAN THE SECRETARY, BUT I DID REVIEW IT.

Q. YES. AND THIS IS AN ACCURATE DOCUMENT, TO YOUR KNOWLEDGE?

A. IT IS.

Q. AND IT'S AN OFFICIAL DOCUMENT?

A. IT IS.

Q. NOW, THIS -- IF WE CAN TURN TO PAGE 6 OF THE EXHIBIT, THE END OF THE FIRST PARAGRAPH. DO YOU SEE THAT THE DEPARTMENT REFERRED TO THE PIECE OF PAPER PRODUCED BY THIS MACHINE AS, QUOTE, A MARKED PAPER BALLOT?

A. I DO. WE USE THAT TERMINOLOGY A LOT.

Q. WELL, I AM JUST ASKING ABOUT THIS DOCUMENT.

AND SO IT SAYS THAT THE OUTPUT IS A MARKED PAPER BALLOT, CORRECT?

A. IT DOES.

Q. AND IN THE NEXT PARAGRAPH, YOU WROTE, QUOTE: THE CLEARCAST TABULATOR IS A PRECINCT COUNT BALLOT SCANNING SOLUTION THAT PROCESSES HAND-MARKED PAPER BALLOTS, YES?

A. YES.

Q. AND ON PAGE 21 --

A. IT ALSO SAYS IN BALLOTS PRINTED BY CLEARACCESS.

THE COURT: I'M SORRY?

THE WITNESS: SORRY. HE READ ONE PART OF THE SENTENCE, SO I JUST WANTED TO MAKE SURE THE WHOLE SENTENCE WAS MENTIONED.

THE COURT: WHICH SENTENCE?

THE WITNESS: HE SAID IT MENTIONS

PROCESSES HAND-MARKED PAPER BALLOTS. SO I JUST WAS CONTINUING THE REST OF THE SENTENCE. AND BALLOTS PRINTED BY CLEARACCESS ACCESSIBLE BALLOT-MARKING DEVICE.

THE COURT: OKAY.

BY MR. MAAZEL:

Q. AND THEN AT PAGE 21, IN THE TOP PARAGRAPH, YOUR OFFICE WROTE, QUOTE: THE TYPICAL VOTING EXPERIENCE INVOLVES THE VOTER MAKING SELECTIONS ON CLEARACCESS TO MARK THEIR BALLOT, PRINTING THEIR BALLOT, USING AN OKI 1432 PRINTER, AND THEN SCANNING THEIR PRINTED BALLOT ON CLEARCAST TO CAST THE BALLOT, CORRECT?

A. CORRECT.

Q. AND THIS IS A DEVICE WHERE YOU MAKE YOUR SELECTIONS ON A SCREEN AND THEN IT PRINTS A BALLOT, RIGHT?

A. CORRECT.

Q. AND THAT'S WHAT YOU CALLED IT?

A. YEAH. AGAIN, WE CALLED IT THAT ALL THE TIME.

Q. OKAY.

A. IN LOTS OF DIFFERENT MACHINES IN EVERY PRESS RELEASE WE EVER PUT OUT AND EVERY TESTIMONY WE EVER GAVE.

Q. AND I THINK I WILL SPARE US EVERY REFERENCE TO BALLOT OR PRINTED BALLOT, BUT THERE ARE MANY REFERENCES TO BALLOTS OR PRINTED BALLOTS IN THIS DOCUMENT, CORRECT?

MR. ARONCHICK: OBJECTION.

THE COURT: IS THAT CORRECT?

THE WITNESS: I MEAN, I'D HAVE TO GO THROUGH THE ENTIRE DOCUMENT, BUT SO FAR --

THE COURT: IT'S ALL RIGHT. YOU DON'T HAVE TO GUESS. MOVE ALONG.

BY MR. MAAZEL:

Q. I'LL JUST GIVE YOU ONE MORE EXAMPLE. ON PAGE 23, IN THE MIDDLE PARAGRAPH, IT SAYS: ALL VOTERS USE CLEARACCESS TO MARK THEIR BALLOT AND PRINT THEIR BALLOT USING THE OKI 1432 PRINTER, RIGHT?

A. YES.

Q. NOW, IF WE COULD LOOK AT WHAT IS NOW IN EVIDENCE, I BELIEVE, THAT IS JOINT EXHIBIT 52. AND IN CONNECTION TO THAT, SECRETARY, IF YOU COULD ALSO LOOK AT NUMBER 99 OF THE STIPULATION, WHICH I BELIEVE YOU HAVE THE STIPULATIONS IN FRONT OF YOU. SHOULD BE IN THE POCKET OF THE JOINT EXHIBITS BINDER. THIS WILL JUST HELP ORIENT YOU TO THIS EXHIBIT.

A. I'M SORRY, WHICH BINDER AM I IN?

Q. IF YOU LOOK AT THE JOINT EXHIBITS BINDER, THERE SHOULD BE A POCKET THAT HAS THE STIPULATIONS. DO YOU SEE THAT?

A. YES.

THE COURT: DOES THIS SAY MARKED AS

EXHIBIT JX 52 AS AN EXAMPLE OF THE PAPER DOCUMENT USED WITH THE CLEARBALLOT VOTING SYSTEM?

MR. MAAZEL: YES, YOUR HONOR.

THE COURT: OKAY.

BY MR. MAAZEL:

Q. AND SO WHAT I AM GETTING AT IS, JOINT EXHIBIT 52 IS AN EXAMPLE OF THE BALLOT PRODUCED BY THE CLEARBALLOT DEVICE, RIGHT?

A. IT APPEARS TO BE SO, YES.

Q. AND THIS DOCUMENT CONTAINS CHOICES, CONTEST OPTIONS, RIGHT?

A. YES.

Q. AND THAT IS ACTUALLY PRINTED OUT BY THE CLEARBALLOT-MARKING DEVICE, YES?

A. YES.

Q. OKAY. IF YOU COULD NOW TURN TO PLAINTIFF'S EXHIBIT 1006.

A. WHAT TAB?

Q. TAB 6 OF THE PLAINTIFF'S BINDER. AND THIS IS A SEPARATE SYSTEM THAT YOU, AS ACTING SECRETARY, APPROVED ON JUNE 13, 2019?

A. YES.

Q. AND IT INCLUDES AN APPROVAL FOR SOMETHING CALLED THE VERITY TOUCH WRITER, A HART SYSTEM?

A. OKAY.

Q. IS THAT RIGHT?

A. I MEAN, IT'S A LARGER SYSTEM, IT'S THE VERITY VOTING 2.3.4.

Q. OKAY. WHICH IS A HART SYSTEM?

A. YES.

Q. WHICH IS A DIFFERENT MANUFACTURER FROM ES&S, FOR EXAMPLE?

A. CORRECT.

Q. AND THE SUITE OF PRODUCTS DESCRIBED IN THIS CERTIFICATION INCLUDES THE HART VERITY TOUCH WRITER, RIGHT?

A. YES.

Q. AND THAT'S ANOTHER BALLOT-MARKING DEVICE?

A. YES.

Q. THAT'S ANOTHER DEVICE WHERE A MACHINE -- YOU MAKE SELECTIONS ON A MACHINE AND IT PRINTS OUT A DOCUMENT, RIGHT?

A. YES.

Q. AND ON PAGE 6 OF THIS CERTIFICATION, IN THE END OF THE SECOND FULL PARAGRAPH, IT SAYS, QUOTE, THE PRINTED BALLOT WITH VOTER SELECTION IS SCANNED BY THE VERITY SCAN USING THE SAME ALGORITHM USED FOR TABULATING HAND-MARKED PAPER BALLOTS.

DO YOU SEE THAT SENTENCE?

A. I DO.

MR. ARONCHICK: YOUR HONOR, SAME OBJECTION.

THE COURT: SAME RULING. I'LL TAKE IT FOR WHAT IT'S WORTH.

BY MR. MAAZEL:

Q. AND SO HERE AGAIN YOU ARE REFERRING TO THE DOCUMENT PRODUCED BY THE BALLOT-MARKING DEVICE AS, QUOTE, A PRINTED BALLOT, YES?

A. YES. AGAIN, CONSISTENT WITH WHAT WE DID REGULARLY.

Q. AND IF WE LOOK AT JOINT EXHIBIT 60.

MR. MAAZEL: AND IF YOU NEED TO LOOK AT THE STIPULATION, THIS WOULD BE 107, YOUR HONOR.

THE COURT: AND IT'S STIPULATED THAT THIS IS THE --

MR. MAAZEL: THE HART.

THE COURT: -- THE HART EXAMPLE OF A BALLOT?

MR. MAAZEL: YES.

BY MR. MAAZEL:

Q. AND SO, SECRETARY, THIS IS THE DOCUMENT, JOINT EXHIBIT 60, THAT IS THE BALLOT PRODUCED BY THIS HART VERITY BALLOT-MARKING DEVICE, YES?

A. OKAY. YES.

Q. AND THIS, AGAIN, CONTAINS CONTEST OPTIONS?

A. YES.

Q. IT LOOKS LIKE A TRADITIONAL PAPER BALLOT USED BY PEOPLE WHEN THEY DON'T USE A BALLOT-MARKING DEVICE AT ALL, YES?

MR. ARONCHICK: OBJECTION.

THE COURT: SUSTAINED.

BY MR. MAAZEL:

Q. NOW, YOU ALSO HAVE A RECERTIFICATION REPORT FOR THE ES&S EXPRESSVOTE XL THAT IS THE ISSUE OF THIS MOTION, RIGHT?

MR. ARONCHICK: OBJECTION.

THE COURT: IF SHE KNOWS. DO YOU KNOW?

THE WITNESS: I MEAN, MY UNDERSTANDING IS THAT THIS CASE IS NOT SPECIFICALLY RELATED TO THE RECERTIFICATION. THAT THIS IS RELATED TO THE SETTLEMENT AGREEMENT.

THE COURT: WHY DON'T YOU ASK A DIFFERENT QUESTION.

MR. MAAZEL: SURE.

BY MR. MAAZEL:

Q. IF YOU COULD TURN TO JOINT EXHIBIT 45, WHICH IS, I BELIEVE, IN EVIDENCE. IS THIS A CERTIFICATION OR A RECERTIFICATION FOR THE EXPRESSVOTE XL?

A. IT IS.

Q. AND DID YOU SIGN THIS AS ACTING SECRETARY OF THE

COMMONWEALTH ON SEPTEMBER 3RD, 2019?

A. I DID.

Q. AND THIS IS AN OFFICIAL DOCUMENT?

A. IT IS.

Q. AND IT IS A TRUTHFUL AND ACCURATE DOCUMENT?

A. IT IS.

Q. AND THIS WAS THE DOCUMENT THAT ALLOWED COUNTIES SUCH AS PHILADELPHIA TO USE THE XL SYSTEM, CORRECT?

MR. ARONCHICK: OBJECTION.

THE COURT: IF SHE KNOWS.

THE WITNESS: NO. THEY WERE ALREADY USING THE SYSTEM.

BY MR. MAAZEL:

Q. WELL --

A. OR THEY HAD ALREADY SELECTED THE SYSTEM. SORRY.

Q. IN THIS REPORT, YOU HAD DECERTIFIED THE XL SYSTEM, THEN NO COUNTY COULD USE IT, IS THAT RIGHT?

A. NO. WE HAD NEVER DECERTIFIED THE SYSTEM.

Q. I UNDERSTAND. BUT IF, IN THIS REPORT, THE SECRETARY DID DECERTIFY THE SYSTEM, THEN PHILADELPHIA AND OTHER COUNTIES COULD NOT USE IT, CORRECT?

A. THAT'S CORRECT. IF WE HAD DECERTIFIED, THAT WOULD BE CORRECT.

Q. AND SO IF WE TURN TO PAGE 3 OF YOUR CERTIFICATION, RECERTIFICATION, THERE'S A PARAGRAPH

CALLED EXPRESSVOTE XL?

A. YES.

Q. AND IN THE FIFTH LINE -- I'M SORRY, THE FOURTH LINE, YOU WROTE, QUOTE, THE INTEGRATED THERMAL PRINTER PRINTS THE VOTER'S CHOICES ON A VOTER-VERIFIABLE PAPER VOTE SUMMARY RECORD AND THE SYSTEM SCANS AND SAVES AN IMAGE OF THE PRINTED VOTE SUMMARY RECORD.

THAT'S WHAT YOU WROTE?

A. I DIDN'T WRITE IT, BUT, YES.

Q. THAT'S WHAT YOU SIGNED?

A. CORRECT.

Q. THAT'S WHAT YOUR OFFICE APPROVED?

A. CORRECT.

Q. AND SO IN THIS CASE YOU REFERRED TO THE PIECE OF PAPER THAT COMES THROUGH THE XL AS A, QUOTE, PAPER VOTE SUMMARY OF RECORD, YES?

A. YES. AND, AGAIN, AS I MENTIONED --

Q. THAT'S A YES OR NO QUESTION.

A. -- EARLIER, IT'S BECAUSE THAT'S WHAT ES&S CALLS IT IN THEIR SYSTEM.

THE COURT: SHE CAN EXPLAIN HER ANSWER AFTER SHE ANSWERS YES OR NO, WHICH IS WHAT SHE DID.

MR. MAAZEL: I UNDERSTAND, YOUR HONOR.

BY MR. MAAZEL:

Q. AND IN THE NEXT LINE, YOU REFERRED -- OR YOUR

OFFICE, AGAIN, REFERRED TO THE DOCUMENT AS A VOTE SUMMARY RECORD, YES?

A. I'M SORRY. IN THE FOLLOWING LINE, IS THAT WHAT YOU SAID?

Q. YES.

A. YES.

Q. AND ON PAGE 7, IN THE SIXTH LINE FROM THE TOP, I BELIEVE, YOUR OFFICE WROTE, QUOTE, THE XL PRINTS THE VOTER'S CHOICES ON A PAPER VOTE SUMMARY RECORD USING A THERMAL PRINTER, YES?

A. AGAIN, YES. THE SAME LANGUAGE THAT THE ES&S SYSTEM DESCRIBES IT AS.

Q. BUT THIS DOCUMENT WAS CREATED BY YOUR OFFICE, NOT BY ES&S, YES?

A. YES.

Q. AND YOUR OFFICE DESCRIBED THIS PIECE OF PAPER AS A VOTE SUMMARY RECORD ABOUT 23 TIMES IN THIS DOCUMENT, IS THAT RIGHT?

MR. ARONCHICK: OBJECTION.

THE WITNESS: I HAVEN'T COUNTED.

THE COURT: WOULD IT BE FAIR TO SAY YOU REFER TO IT SEVERAL TIMES?

THE WITNESS: YES.

THE COURT: IN THAT WAY?

THE WITNESS: YES, THANK YOU.

BY MR. MAAZEL:

Q. AND NOT ONCE IN THIS ENTIRE DOCUMENT DOES YOUR OFFICE EVER CALL THIS PIECE OF PAPER A PAPER BALLOT, ISN'T THAT RIGHT?

A. I'D HAVE TO REVIEW THE ENTIRE DOCUMENT.

Q. OKAY.

A. HOWEVER, WHEN WE PUT OUT OUR PRESS RELEASE ABOUT PHILADELPHIA SELECTING THIS SYSTEM, WE REFER TO IT AS A VOTER-VERIFIABLE PAPER BALLOT.

MR. MAAZEL: I JUST OBJECT TO THAT AS NONRESPONSIVE.

THE COURT: OVERRULED.

BY MR. MAAZEL:

Q. THE XL PRODUCES A PIECE OF PAPER THAT, UNLIKE THE HART AND UNLIKE THE CLEARBALLOT THAT WE LOOKED AT A MINUTE AGO, DOES NOT SHOW CONTEST OPTIONS, AM I RIGHT?

A. CORRECT. THE PAPER BALLOT OF MANY OF OUR SYSTEMS DOES NOT SHOW THE CONTEST OPTIONS.

Q. I AM JUST REFERRING TO THE XL SPECIFICALLY DOES NOT SHOW CONTEST OPTIONS?

A. CORRECT. LIKE I SAID, LIKE MANY OTHER SYSTEMS.

Q. AND, NOW, YOU HAVE TESTIFIED THAT YOU CALLED THIS PIECE OF PAPER A VOTE SUMMARY RECORD BECAUSE THAT'S WHAT ES&S CALLS THEM?

A. I BELIEVE ES&S CALLS IT SOMETHING LIKE VOTE

SUMMARY RECORD.

Q. ARE YOU REQUIRED IN YOUR OFFICIAL CERTIFICATION TO USE THE TERMINOLOGY OF THE MANUFACTURER?

A. REQUIRED, NO. I MEAN, STATUTORILY IT'S NOT THAT EXPLICIT.

Q. YOU CAN USE THE LANGUAGE THAT YOU BELIEVE IS APPROPRIATE IN YOUR OWN OFFICIAL DOCUMENT, RIGHT?

A. WELL, I TRUST OUR VOTING SYSTEMS ANALYST TO USE THE LANGUAGE THAT SHE THINKS IS CONSISTENT WITH THE SYSTEM.

Q. OKAY. WHO WAS YOUR VOTING SYSTEMS ANALYST?

A. WHO IS IT? SHE IS A STAFF PERSON.

Q. WHO WAS YOUR VOTING SYSTEMS ANALYST FOR THIS RECERTIFICATION OF THE XL?

A. THE SAME PERSON THAT HAS BEEN THE VOTING SYSTEM ANALYST FOR THE LAST -- FOR ALL THESE SYSTEMS. HER NAME IS SINDHU.

Q. SINDHU?

A. SINDHU RAMACHANDRAN.

Q. AND YOU TRUST MS. RAMACHANDRAN'S WORK?

A. I DO.

Q. AND YOU APPROVE OF IT?

A. I DO.

Q. AND SO WHEN SHE CALLED IT A VOTE SUMMARY RECORD, YOU APPROVED THAT AND YOU HAD NO QUALMS ABOUT DOING SO,

CORRECT?

A. AGAIN, WHAT MATTERED WAS THE THINGS THAT WERE REQUIRED FOR CERTIFICATION AND THAT WE REQUIRED UNDER OUR DIRECTIVES. SO IT WAS A VOTER-VERIFIABLE PAPER BALLOT VOTING SYSTEM THAT MET SECURITY STANDARDS AND ACCESSIBILITY TESTING. SO YES.

Q. OKAY. ARE YOU FAMILIAR WITH THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY?

A. YES.

Q. WERE YOU FAMILIAR WITH THAT BACK WHEN THE SETTLEMENT AGREEMENT WAS SIGNED?

A. FAMILIAR WITH IT AS AN ORGANIZATION, SURE.

Q. AND IT'S A FEDERAL AGENCY?

A. IT'S -- IS IT AN AGENCY? WHAT IS THE DEFINITION OF AGENCY?

Q. WELL, WHAT DO YOU UNDERSTAND THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY TO BE?

A. TO BE HONEST WITH YOU, I AM NOT REALLY SURE WHAT THE SCOPE OF WHAT THEY DO IS. I KNOW THAT THEY ARE INVOLVED IN TECHNOLOGY IN SOME REGARDS. BUT HONESTLY, I DON'T KNOW.

Q. WHAT DID YOU UNDERSTAND THAT -- AND IT'S ALSO REFERRED TO AS NIST, YES?

A. YES.

Q. DID YOU UNDERSTAND THAT NIST DEVELOPS GUIDELINES

AND BEST PRACTICES FOR ELECTION SECURITY?

A. AGAIN, I AM NOT FAMILIAR WITH WHAT THEIR EXACT SCOPE IS, NO.

Q. WELL, DID YOU KNOW THAT THEY WERE A FEDERAL AGENCY THAT CERTIFIED VOTING SYSTEMS FOR THE FEDERAL GOVERNMENT?

A. WELL, THE EAC DOES CERTIFICATION OF VOTING SYSTEMS FOR THE FEDERAL GOVERNMENT, SO I'M NOT AWARE OF NIST DOING THEIR OWN CERTIFICATIONS, BUT --

THE COURT: THE EAC?

THE WITNESS: SO THE FEDERAL ELECTION ASSISTANCE COMMISSION IS THE FEDERAL AGENCY -- SORRY, YOUR HONOR -- THAT DOES THE ACTUAL CERTIFICATIONS OF VOTING SYSTEMS. SO PENNSYLVANIA LAW REQUIRES BOTH FEDERAL EAC CERTIFICATION AS WELL AS PENNSYLVANIA CERTIFICATION.

BY MR. MAAZEL:

Q. AND ARE YOU AWARE THAT NIST ADVISES THE EAC IN THEIR WORK?

A. I WAS NOT AWARE OF THAT.

Q. OKAY. WERE YOU FAMILIAR WITH THE NIST ELECTION GLOSSARY DEFINING TERMS?

MR. ARONCHICK: OBJECTION.

THE COURT: IF SHE WAS FAMILIAR WITH IT?

MR. MAAZEL: THAT'S MY QUESTION.

THE WITNESS: AT THE TIME OF THE SETTLEMENT AGREEMENT, NO.

BY MR. MAAZEL:

Q. WHEN DID YOU BECOME FAMILIAR WITH THAT?

A. WITHIN THE LAST COUPLE OF WEEKS.

Q. DOES PENNSYLVANIA USE ABSENTEE BALLOTS?

A. WE DO.

Q. AND THOSE ARE FOR PEOPLE WHO CANNOT MAKE IT TO THE POLLS FOR VARIOUS REASONS?

A. SO ABSENTEE, YES. WE DID JUST PASS ACT 77 IN THE FALL, WHICH ALSO ALLOWS MAIL-IN VOTING FOR PEOPLE WHO DON'T -- WITHOUT AN EXCUSE.

Q. AND THOSE ARE PAPER BALLOTS?

A. THEY ARE.

Q. AND THOSE CONTAIN CONTEST OPTIONS?

A. THEY DO.

Q. IF WE CAN SHOW YOU JOINT EXHIBIT 57.

MR. MAAZEL: WHICH, YOUR HONOR, CONNECTS TO STIPULATION 104.

BY MR. MAAZEL:

Q. JOINT EXHIBIT 57, SECRETARY, IS THE VOTE SUMMARY CARD GENERATED BY THE XL, CORRECT?

A. CORRECT.

Q. AND IS THAT THE TYPE OF DOCUMENT YOU WOULD EVER SEND TO AN ABSENTEE VOTER?

A. I DON'T SEND BALLOTS TO ABSENTEE VOTERS, BUT THIS DOES NOT LOOK LIKE ABSENTEE BALLOTS.

Q. OKAY. I MEAN, PLAINLY, A PIECE OF PAPER LIKE THIS, AN ABSENTEE VOTER CANNOT VOTE ON IT, RIGHT?

A. WELL, IT'S A DIFFERENT THING. THERE'S --

Q. LET ME ASK A DIFFERENT QUESTION.

DO YOU USE PROVISIONAL BALLOTS IN PENNSYLVANIA?

A. WE DO.

Q. AND, JUST BRIEFLY, WHAT IS A PROVISIONAL BALLOT?

A. A PROVISIONAL BALLOT IS FOR CIRCUMSTANCES WHERE THE, FOR EXAMPLE, IF A VOTER GOES INTO A POLLING PLACE AND THEIR NAME IS NOT IN THE DISTRICT REGISTER AND THEY CANNOT IDENTIFY, FOR EXAMPLE, THE RIGHT PRECINCT WHERE THEY SHOULD GO TO, THEY HAVE THE OPPORTUNITY TO VOTE ON A PROVISIONAL BALLOT, WHICH MAY OR MAY NOT BE COUNTED LATER, DEPENDING ON WHETHER THEY WERE DETERMINED ELIGIBLE OR NOT.

Q. AND IS A PROVISIONAL BALLOT A PAPER BALLOT?

A. IT IS.

Q. AND IT CONTAINS CONTEST OPTIONS?

A. IT DOES.

Q. NOW, WE DISCUSSED AT THE BEGINNING OF YOUR TESTIMONY THAT ONE OF THE REQUIREMENTS, IN ADDITION TO THE PAPER BALLOT REQUIREMENT, IS VOTER VERIFIABILITY OF

THE VOTE. DO YOU REMEMBER THAT?

A. I'M SORRY, CAN YOU ASK THAT QUESTION AGAIN?

Q. LET'S LOOK AGAIN AT JOINT EXHIBIT 30. AND SO PARAGRAPH 2A REQUIRES THAT ANY VOTING SYSTEM PRODUCE A, QUOTE, VOTER-VERIFIABLE RECORD OF EACH VOTE, YES?

A. THAT'S 2B.

Q. I'M SORRY, 2B?

A. YES.

Q. AND VOTER-VERIFIABLE MEANS VERIFIABLE BY THE VOTER, YES?

A. CORRECT.

Q. IT DOES NOT MEAN VERIFIABLE BY SOME AUDITOR IF EVER, IT MEANS VERIFIABLE BY THE ACTUAL VOTER, YES?

A. CORRECT.

Q. AND WHAT THE VOTER IS SUPPOSED TO VERIFY UNDER THE SETTLEMENT AGREEMENT IS THEIR VOTE, YES?

A. CORRECT. OR AT LEAST THEIR SOON-TO-BE-VOTE. TECHNICALLY IT'S NOT A VOTE UNTIL THEY CAST IT.

Q. THE XL -- THE VOTE SUMMARY RECORDS THAT THE XL PRODUCES CONTAINS BARCODES, YES?

A. IT DOES.

Q. AND IT ALSO CONTAINS WORDS?

A. YES.

Q. AND IF WE COULD JUST LOOK AGAIN AT JOINT EXHIBIT 57. THE BARCODES ARE AT THE TOP AND THE WORDS

ARE BELOW, YES?

A. CORRECT.

Q. AND THE WORDS ARE SUPPOSED TO BE THE SELECTION THAT THE VOTER MADE. IN THIS CASE, REPRESENTATIVE KIMBERLY JONES AND JAMES COLLINS, YES, AND OTHERS.

A. THOSE ARE THE TWO AT THE TOP, YES.

Q. BUT AM I CORRECT THAT THE XL ACTUALLY TABULATES AND COUNTS AS THE VOTE THE BARCODES?

A. SIMILAR TO EVERY VOTING SYSTEM CERTIFIED IN PENNSYLVANIA, WHICH ALL USE, EXCEPT FOR ONE CONFIGURATION OF ONE SYSTEM, THEY ALL USE EITHER BARCODES, QR CODES OR TIMING MARKS OR SENSORS, YES.

Q. SECRETARY, DOES THE XL COUNT THE BARCODES OR THE WORDS AS THE VOTE?

A. I JUST ANSWERED, YES.

MR. ARONCHICK: OBJECTION.

BY MR. MAAZEL:

Q. BARCODES?

A. YES. CONSISTENT WITH WHAT EVERY SINGLE VOTING SYSTEM EXCEPT FOR ONE CONFIGURATION OF ONE SYSTEM DOES.

Q. AND CAN A VOTER READ A BARCODE?

A. NOT WITHOUT A BARCODE READER.

Q. OKAY. DO YOU PROVIDE BARCODE READERS TO VOTERS WHEN THEY COME TO THE POLLS?

A. WE DON'T. WE ALSO DON'T PROVIDE QR CODE READERS

OR TIME MARK READERS OR SENSOR READERS.

Q. CAN A VOTER UNDERSTAND A BARCODE?

A. SIMILAR TO QR CODE OR TIMING MARKS OR SENSORS, NO.

Q. CAN THE VOTER VERIFY THAT THE BARCODE REFLECTS THAT VOTER'S VOTE?

A. WITHOUT A READER, NO.

Q. NOW, SOMETIMES YOUR DEPARTMENT HAS TO DECERTIFY A VOTING SYSTEM, YES?

A. YES.

Q. AND WHAT ARE THE VARIOUS REASONS THAT YOUR DEPARTMENT WOULD HAVE TO DECERTIFY A VOTING SYSTEM?

A. WELL, IF IT WAS DETERMINED, FOR EXAMPLE, IN ANOTHER STATE TO BE THAT IT'S NOT MEETING ONE OF -- SO IF IT'S NOT CAPABLE OF ACCURACY, IF IT'S DECERTIFIED BY THE FEDERAL EAC, I MEAN, IT COULD BE A HOST OF REASONS THAT IT NO LONGER CAN BE SAFELY USED BY THE VOTERS OF PENNSYLVANIA.

Q. SOMETIMES DECERTIFICATION MUST HAPPEN VERY QUICKLY, YES?

A. INFREQUENTLY, THANK GOODNESS, BUT YES.

Q. AND WOULD YOU AGREE THAT, IN THOSE SITUATIONS, THAT IT'S IMPORTANT FOR COUNTIES TO BE RESILIENT AND FLEXIBLE IN THEIR RESPONSE TO YOUR DECERTIFICATION ORDER?

A. IT'S ALWAYS IMPORTANT.

Q. WOULD IT BE ACCEPTABLE FOR A COUNTY TO SAY TO YOUR OFFICE, IF YOU DECERTIFY A SYSTEM, WE NEED 18 TO 24 MONTHS TO GET A NEW SYSTEM IN PLACE? IS THAT ACCEPTABLE?

A. NOT IF IT WAS SOMETHING THAT REQUIRED IMMEDIATE DECERTIFICATION.

Q. IN FACT, THERE HAVE BEEN EXAMPLES IN PENNSYLVANIA WHERE YOUR DEPARTMENT DECERTIFIED SYSTEMS, YES?

A. CORRECT.

Q. FOR EXAMPLE, IN DECEMBER 2007, THERE WAS A SYSTEM THAT YOU DECERTIFIED THAT WAS USED IN NORTHAMPTON, LACKAWANNA AND WAYNE COUNTIES, YES?

A. YES. AND WE HAD HAD NOTICE BACK IN AUGUST, AND THE COUNTIES HAD NOTICE BACK IN AUGUST OF THAT YEAR THAT THIS WAS LIKELY COMING.

Q. THE DECISION TO DECERTIFY THAT SYSTEM OCCURRED IN DECEMBER 2007, YES?

A. IT DID, BUT I THINK IT WAS TEMPORARILY SUSPENDED EARLIER.

Q. AND THOSE THREE COUNTIES WERE ABLE, IN TIME FOR A PRESIDENTIAL PRIMARY IN APRIL OF 2008, TO ACQUIRE NEW EQUIPMENT AND TRAIN THEMSELVES AND THEIR POLL WORKERS IN TIME FOR A PRESIDENTIAL PRIMARY, CORRECT?

A. YES. OF COURSE, THE LARGEST OF THOSE THREE COUNTIES WAS MAYBE 200-AND-SOME-ODD THOUSAND VOTERS.

Q. WE WILL GET TO THE SIZE OF THE COUNTIES IN A MOMENT.

BUT IT IS A FACT THAT BETWEEN DECEMBER 2007, WHEN YOUR OFFICE MADE THE DECISION, AND APRIL OF 2008, THAT THOSE THREE COUNTIES ALL DECERTIFIED ONE SYSTEM AND TOOK A NEW SYSTEM AND TRAINED THEIR POLL WORKERS AND DID A PRESIDENTIAL PRIMARY. THAT IS A FACT, YES?

A. YES.

Q. FOUR MONTHS, YES?

A. NO. AGAIN, I THINK IT'S AUGUST WAS WHEN WE TEMPORARILY SUSPENDED USE OF THE SYSTEM. SO THEY HAD ABOUT EIGHT MONTHS.

Q. THOSE THREE COUNTIES COLLECTIVELY CONTAIN ABOUT 40 PERCENT OF THE POPULATION OF PHILADELPHIA, YES?

A. I'M SORRY?

Q. THOSE THREE COUNTIES, NORTHAMPTON, LACKAWANNA AND WAYNE, COLLECTIVELY ARE ABOUT 40 PERCENT OF THE POPULATION OF PHILADELPHIA, YES?

A. I'M NOT -- I DON'T WANT TO CONFIRM THAT WITHOUT DOING THE MATH.

Q. THERE WAS ANOTHER EXPERIENCE WHERE THE VERY SAME SYSTEM, VOTING SYSTEM WAS DECERTIFIED IN VIRGINIA, YES?

MR. ARONCHICK: OBJECTION.

THE COURT: WHICH VERY SAME VOTING SYSTEM?

MR. MAAZEL: THE SAME -- I'M SORRY. THE SAME SYSTEM THAT WAS DECERTIFIED IN NORTHAMPTON, LACKAWANNA AND WAYNE.

THE COURT: AND YOU ARE SAYING THE SAME THING HAPPENED IN VIRGINIA?

MR. MAAZEL: I MEAN, THAT'S --

THE COURT: THAT'S YOUR QUESTION?

MR. MAAZEL: THAT'S MY QUESTION.

THE COURT: GIVE ME AN IDEA OF WHEN.

MR. MAAZEL: OKAY.

BY MR. MAAZEL:

Q. SECRETARY BOOCKVAR, WHICH PROGRAM ARE WE TALKING ABOUT THAT WAS DECERTIFIED IN NORTHAMPTON, LACKAWANNA AND WAYNE?

A. IS THAT THE WINVOTE?

Q. I'M ASKING YOU.

A. I -- YOU KNOW, YES, I BELIEVE IT WAS THE WINVOTE.

Q. AND WAS THAT SAME SYSTEM, THE WINVOTE, DECERTIFIED IN VIRGINIA IN THE SAME TIME PERIOD?

A. SO I AM NOT SURE OF THE EXACT TIME PERIOD. AND I WAS NOT IN VIRGINIA AND I WAS NOT EVEN IN THE

DEPARTMENT OF STATE. BUT TO MY KNOWLEDGE, I BELIEVE THAT IT HAD HAPPENED IN VIRGINIA PREVIOUSLY.

Q. OKAY. AND YOU ACTUALLY GAVE TESTIMONY IN A 2019 SENATE STATE GOVERNMENT HEARING ABOUT VIRGINIA, DIDN'T YOU?

A. I THINK I SAID THAT IT HAD ALSO BEEN DECERTIFIED IN WRITTEN TESTIMONY.

Q. YES. AND THAT SYSTEM WAS DECERTIFIED IN VIRGINIA TWO MONTHS BEFORE AN ELECTION, CORRECT?

A. TO MY KNOWLEDGE, YES.

Q. THAT WAS YOUR TESTIMONY TO THE SENATE, YES?

A. CORRECT.

Q. SO WITHIN TWO MONTHS, VIRGINIA MANAGED TO DECERTIFY THAT WIN SYSTEM AND GET A NEW SYSTEM UP AND RUNNING IN TIME FOR THE ELECTION, CORRECT?

A. SO, AGAIN, I DON'T WANT TO -- THEY MAY HAVE ALSO HAD A PERIOD WHERE THEY TEMPORARILY SUSPENDED, BUT I THINK TECHNICALLY FROM THE TIME THAT THEY DECERTIFIED IT, YES. AND AGAIN, IT WAS DECERTIFIED BY THE EAC AND THERE WERE SEVERE PROBLEMS. SO THIS IS NOT SOMETHING THAT WE RECOMMEND. BUT IN EMERGENCIES, YES, THERE HAVE BEEN CIRCUMSTANCES LIKE THAT WHERE THEY HAVE HAD TO DO IT.

Q. YOU SIGNED A DECLARATION IN THIS CASE, YES?

A. YES.

Q. I MEAN IN THIS MOTION, AS PART OF THIS MOTION?

A. YES.

Q. AND I PRESUME YOU PREPARED THAT DECLARATION CAREFULLY?

A. YES.

Q. AND YOU SIGNED THAT UNDER OATH, OBVIOUSLY?

A. I'M SORRY?

Q. AND YOU SIGNED THAT UNDER OATH?

A. YES.

Q. AND YOU CHOSE YOUR WORDS CAREFULLY, BECAUSE YOU WANTED TO BE TRUTHFUL AND ACCURATE WITH THE COURT, YES?

A. YES.

Q. AND YOU REPRESENTED TO THE COURT IN YOUR DECLARATION --

A. CAN YOU TELL ME WHAT TAB WE ARE ON, PLEASE?

Q. IF I COULD JUST ASK YOUR MEMORY OF THIS, AND THEN IF WE NEED TO WE'LL SHOW YOU THE DOCUMENT TO REFRESH YOUR RECOLLECTION.

BUT YOU TOLD THE COURT THAT YOU BELIEVED IT WAS TOO LATE TO REPLACE THE EXPRESSVOTE XL IN TIME FOR THE 2020 PRIMARY IN APRIL 28TH OF 2020, YES?

A. SO I DON'T REMEMBER THE EXACT WORDS THAT I USED, BUT SOMETHING TO THE EFFECT OF THAT.

Q. IF YOU COULD --

A. IT WOULD BE GOOD FOR ME TO LOOK AT IT.

Q. SURE. IF YOU COULD LOOK AT DEFENDANT EXHIBIT Y.

A. I'M SORRY, WHICH ONE?

Q. DEFENDANT EXHIBIT Y. AND IF YOU COULD LOOK AT YOUR PARAGRAPH 80 TO REFRESH YOUR RECOLLECTION.

A. I'M SORRY, WHICH PARAGRAPH?

Q. PARAGRAPH 80.

A. YES.

Q. AND SO YOU REPRESENTED TO THE COURT THAT IT WOULD NOT BE POSSIBLE TO REPLACE THE XL MACHINES IN TIME FOR APRIL 28, 2020, YES?

A. YES.

Q. YOU DID NOT SAY TO THE COURT THAT IT WOULD BE IMPOSSIBLE TO REPLACE THOSE XL MACHINES IN TIME FOR THE GENERAL ELECTION, DID YOU?

A. DID I SAY THAT?

Q. IT'S NOWHERE IN YOUR DECLARATION, IS IT?

A. I DON'T THINK IT'S IN MY DECLARATION. I DO BELIEVE IT, THOUGH.

Q. SECRETARY, YOU ALSO SAID IN YOUR DECLARATION THAT NORTHAMPTON COUNTY SELECTED THE XL ON MARCH 6, 2019, YES?

THE COURT: PARAGRAPH 77.

THE WITNESS: THANK YOU, YOUR HONOR. YES, THAT'S WHEN THEY TOOK THEIR OFFICIAL VOTE.

BY MR. MAAZEL:

Q. AND NORTHAMPTON USED THE SYSTEM ON NOVEMBER 4TH, YES?

A. YES. BUT, AGAIN, NORTHAMPTON COUNTY WAS STUDYING ITS OPTIONS AND IN THE PROCESS OF SELECTION LONG BEFORE THEY TOOK THEIR VOTE.

Q. SECRETARY, THAT'S APPROXIMATELY EIGHT MONTHS FROM WHEN NORTHAMPTON SELECTED THE SYSTEM TO WHEN THEY USED IT IN A GENERAL ELECTION, CORRECT?

A. FROM WHEN THEY TOOK THEIR OFFICIAL VOTE, YES.

Q. IT'S ACTUALLY MORE THAN EIGHT MONTHS. BUT IN ANY EVENT, IF WE COULD ALSO LOOK AT STIPULATION NUMBER 60.

A. ACTUALLY, THEY USED IT IN NOVEMBER OF 2019, NORTHAMPTON COUNTY. SO THAT'S NOT FAR MORE THAN EIGHT MONTHS, OR WHATEVER IT WAS THAT YOU SAID. BUT REGARDLESS, THEY HAD STARTED LONG BEFORE THAT. SO, YOU KNOW, IT TOOK THEM PROBABLY A YEAR FROM WHAT -- THE TIME THAT THEY STARTED STUDYING IT TO WHEN THEY ACTUALLY USED IT.

Q. I UNDERSTAND THAT COUNTIES STUDY ALL SORTS OF SYSTEMS. BUT THE ACTUAL SELECTION, WE CAN AGREE, WAS MARCH 6TH, YES?

A. YES. THAT'S WHEN THEY VOTED.

Q. AND THEN STIPULATION 60, IF YOU COULD LOOK AT

THAT.

A. I'M SORRY, STIPULATION 60?

Q. YES.

A. IN A DIFFERENT BINDER?

Q. THAT'S THE LIST OF STIPULATIONS YOU HAVE THERE SEPARATELY.

A. WHICH BINDER?

Q. IT'S THAT DOCUMENT THERE.

A. OKAY.

Q. PARAGRAPH 60.

AND SO IT IS STIPULATED THAT THE CITY OF PHILADELPHIA SIGNED A CONTRACT WITH ES&S FOR THE XL ON MAY 13, 2019, YES?

A. YES.

Q. AND ELECTION DAY LAST YEAR WAS NOVEMBER 5, 2019?

A. YES.

Q. AND I THINK IT'S ALSO STIPULATED AT PARAGRAPH 86 THAT THAT WAS -- THE ELECTION OCCURRED 176 DAYS AFTER PHILADELPHIA SELECTED THE ES&S SYSTEM?

A. I'M SORRY, I'M LOST. WHICH DOCUMENT ARE WE IN?

Q. SURE. IF YOU CAN JUST LOOK AT STIPULATION 86.

A. OKAY.

Q. SO IT WAS 176 DAYS FROM THE DAY THAT PHILADELPHIA SIGNED THE ES&S CONTRACT TO WHEN THEY USED THE SYSTEM IN GENERAL ELECTION. THAT IS STIPULATED. DO

YOU UNDERSTAND THAT?

A. I UNDERSTAND THAT.

Q. AND DO YOU ALSO UNDERSTAND THAT IT'S 258 DAYS FROM TODAY UNTIL THE GENERAL ELECTION THIS YEAR?

A. I ALSO UNDERSTAND THAT IT TOOK A YEAR FOR PHILADELPHIA TO GET TO THE POINT OF SIGNING THAT CONTRACT, SO --

Q. IF YOU COULD ANSWER MY QUESTION, SECRETARY.

A. YES.

Q. IT'S 258 DAYS FROM TODAY UNTIL THE GENERAL ELECTION IN NOVEMBER, YES?

A. IF THAT'S BEEN STIPULATED TO, THEN YES.

THE COURT: IT HASN'T. AND I DON'T EXPECT YOU TO SIT THERE AND COUNT.

BUT IF YOU REPRESENT IT, I WILL ACCEPT IT.

MR. MAAZEL: THAT IS MY REPRESENTATION, YOUR HONOR.

THE COURT: ALL RIGHT.

BY MR. MAAZEL:

Q. IN ANY EVENT, WE CAN CERTAINLY AGREE THAT WE ARE IN FEBRUARY AND NOT MAY, AND SO WE HAVE A FEW MORE MONTHS AT LEAST BETWEEN TODAY AND THE GENERAL ELECTION AS BETWEEN MAY 2019 AND NOVEMBER 2019. THAT'S --

THE COURT: YOU ARE MAKING ARGUMENT

THROUGH THE WITNESS. AND THE WITNESS IS MAKING ARGUMENT BACK THROUGH YOU. SO PERHAPS --

MR. MAAZEL: ALL RIGHT.

BY MR. MAAZEL:

Q. IN ADDITION, IT IS STIPULATED THAT WE FILED THIS MOTION NOVEMBER 26, 2019. IT WAS LAST NOVEMBER WE FILED THIS, YES?

MR. ARONCHICK: OBJECTION.

THE COURT: SUSTAINED.

MR. MAAZEL: OKAY.

BY MR. MAAZEL:

Q. DO YOU HAVE CONFIDENCE IN THE COMPETENCE OF THE PHILADELPHIA BOARD OF ELECTIONS?

A. I DO.

Q. DO YOU BELIEVE THEY KNOW HOW TO RUN AN ELECTION?

A. I DO.

Q. DO YOU BELIEVE THEY KNOW HOW TO SWITCH SYSTEMS WHEN NECESSARY?

A. WITH ADEQUATE TIME, YES.

MR. MAAZEL: I HAVE NO FURTHER QUESTIONS. THANK YOU.

THE COURT: MR. ARONCHICK.

CROSS EXAMINATION

BY MR. ARONCHICK:

Q. SECRETARY BOOCKVAR, WOULD YOU, FOR A START, TURN

TO PLAINTIFF'S EXHIBIT -- I'M SORRY, JOINT EXHIBIT 34. AND CAN WE PUT --

MR. ARONCHICK: YOUR HONOR, COULD MS. FERRARI JUST PUSH THE BUTTON ON THE SCREEN?

THE COURT: SURE. DO YOU NEED THE LIGHTS DIMMED?

MR. ARONCHICK: I DON'T THINK SO.

THE COURT: WE HAVE BEEN SITTING FOR AN HOUR. WHY DON'T WE TAKE A SHORT BREAK AND WE WILL GET THE MACHINE RUNNING.

(SHORT RECESS TAKEN.)

THE COURT: PLEASE BE SEATED.

MR. ARONCHICK: YOUR HONOR?

THE COURT: MR. ARONCHICK.

MR. ARONCHICK: YES. FOR EFFICIENCY, CAN WE MOVE OUR EXHIBITS IN NOW?

THE COURT: SURE.

MR. ARONCHICK: I KNOW IT'S NOT OUR CASE YET. BUT MR. WIYGUL IS GOING TO GO THROUGH THE LIST AND I WILL PICK UP WITH THE EXAMINATION.

THE COURT: OKAY. THAT'S FINE. LET ME JUST GET THE RIGHT LINE.

MR. WIYGUL: MOSTLY JX, YOUR HONOR.

THE COURT: PARDON?

MR. WIYGUL: MOSTLY JX, IT WILL BE. I'M

SORRY.

THE COURT: YES. OKAY.

MR. WIYGUL: YOUR HONOR, WE MOVE INTO EVIDENCE, JX 4.

MR. MAAZEL: OBJECTION TO THAT, YOUR HONOR.

THE COURT: I'M NOT SURE. IS THIS THE RIGHT BINDER, DXAA 2?

MR. WIYGUL: NO. IT SHOULD BE JX.

MR. ARONCHICK: JOINT EXHIBITS.

THE COURT: OH, THE JOINT EXHIBITS. I'M SORRY.

MR. WIYGUL: YES.

THE COURT: I'M SORRY. 4?

MR. WIYGUL: JX 4 WAS OUR FIRST ONE.

THE COURT: HOLD ON. PENNSYLVANIA DEPARTMENT OF STATE INVITES BIDS ON NEW PAPER RECORD VOTING SYSTEMS?

MR. WIYGUL: YES.

THE COURT: AND YOU'RE OBJECTING?

MR. MAAZEL: YES, YOUR HONOR.

THE COURT: ON WHAT GROUNDS?

MR. MAAZEL: RELEVANCE.

THE COURT: OVERRULED. IT WILL BE ADMITTED.

MR. WIYGUL: JX 5.

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

MR. WIYGUL: I BELIEVE JX 7 HAS ALREADY BEEN ADMITTED, SO I MOVE TO JX 8.

THE COURT: 8. ANY OBJECTION?

MR. MAAZEL: WE OBJECT, YOUR HONOR. IT'S A DIFFERENT VOTING SYSTEM. I JUST DON'T UNDERSTAND THE RELEVANCE.

THE COURT: GEE, I DO. OVERRULED.

MR. WIYGUL: JX 12, YOUR HONOR.

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

MR. WIYGUL: JX 13.

THE COURT: OKAY. ANY OBJECTION?

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

MR. WIYGUL: JX 14.

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

MR. WIYGUL: JX 15.

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

MR. WIYGUL: JX 16.

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

MR. WIYGUL: JX 17.

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

MR. WIYGUL: JX 18.

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

MR. WIYGUL: JX 19 -- I'M SORRY. THAT HAS ALREADY BEEN -- JX 20.

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

MR. WIYGUL: JX 21.

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

MR. WIYGUL: JX 33.

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

MR. WIYGUL: AND THEN, YOUR HONOR, MOVING TO THE DX EXHIBITS, D AS IN DAVID.

THE COURT: YES.

MR. WIYGUL: MOVE FOR ADMISSION OF DX F, YOUR HONOR.

THE COURT: F AS IN FRED?

MR. WIYGUL: YES.

THE COURT: SECURING THE VOTE FOR

PROTECTING AMERICAN DEMOCRACY, THE NATIONAL ACADEMY PRESS. ANY OBJECTION?

MR. MAAZEL: YEAH. THE SAME REASON THEY OBJECTED, I ASSUME, TO THE NIST.

THE COURT: AND I OVERRULED THEIRS?

MR. WIYGUL: NO, I DON'T THINK --

MR. ARONCHICK: YOU RESERVED ON THAT, BUT I THINK THIS IS MUCH MORE RELEVANT, AND I CAN CONNECT THEM.

THE COURT: I WILL OVERRULE BOTH OBJECTIONS. THEY WILL BE ADMITTED.

GO AHEAD.

MR. WIYGUL: DX M AS IN MARY, YOUR HONOR.

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

MR. WIYGUL: WE MAY HAVE MORE LATER, YOUR HONOR, BUT THAT'S ALL FOR NOW. THANK YOU.

THE COURT: OKAY.

(JOINT EXHIBITS 4, 5, 8, 12-18, 20, 21, 33 ADMITTED INTO EVIDENCE.)

(DEFENSE EXHIBITS DX F AND M ADMITTED INTO EVIDENCE.)

MR. ARONCHICK: OKAY.

BY MR. ARONCHICK:

Q. SECRETARY BOOCKVAR, WILL YOU TURN TO JOINT

EXHIBIT 34, JX 34?

A. YES.

Q. OKAY. MY COLLEAGUE IN HIS EXAMINATION REFERRED YOU TO CERTAIN CERTIFICATIONS, DO YOU RECALL THAT, OF THE CLEARVOTE AND THE HART VERITY AND THE RE-EXAMINATION OF THE XL, RIGHT?

A. YES.

Q. OKAY. HE DID NOT SHOW YOU THE ACTUAL CERTIFICATION OF THE XL SYSTEM, DID HE?

MR. MAAZEL: OBJECTION.

THE WITNESS: NO.

BY MR. ARONCHICK:

Q. ALL RIGHT. IS THIS THAT CERTIFICATION?

A. YES.

Q. ALL RIGHT. WHAT IS THE DATE OF THE CERTIFICATION?

A. NOVEMBER 30, 2018.

Q. IS THAT TWO DAYS AFTER THE SETTLEMENT AGREEMENT WAS SIGNED?

A. YES.

Q. WAS THIS CERTIFICATION POSTED ONLINE?

A. YES.

Q. WAS IT --

MR. MAAZEL: OBJECTION TO THE LEADING, YOUR HONOR.

THE COURT: OVERRULED. GO AHEAD.

BY MR. ARONCHICK:

Q. WAS IT AVAILABLE TO THE PUBLIC?

A. YES.

Q. OKAY. AND THIS IS A CERTIFICATION YOU REVIEWED AND APPROVED?

A. CORRECT.

Q. OKAY. WOULD YOU TURN TO PAGE 32.

THE COURT: I RECOGNIZE THAT IN THE EYES OF THE LAW IT IS HIS WITNESS. AND IF IT COMES TO SOMETHING OTHER THAN THESE KINDS OF HOUSEKEEPING QUESTIONS AND YOU OBJECT, I WILL LIKELY SUSTAIN.

MR. MAAZEL: I UNDERSTAND.

BY MR. ARONCHICK:

Q. PAGE 32. AT THE TOP OF THE PAGE THERE'S A DESCRIPTION THERE, IS THERE NOT, OF THE EXPRESSVOTE XL?

A. YES.

Q. WOULD YOU PLEASE READ IT?

A. EXPRESSVOTE XL ALLOWS THE VOTER TO VALIDATE THE PAPER BALLOT THROUGH A GLASS WINDOW BEFORE CASTING.

Q. AND WHY IS THE WORD "PAPER BALLOT" USED THERE?

A. AS I WAS TESTIFYING EARLIER, WE USE THE WORD ALL THE TIME TO DESCRIBE THE PAPER, THE VOTER-VERIFIABLE PAPER, AND THIS EVIDENCES THAT.

Q. WOULD YOU TURN TO EXHIBIT 56 THAT YOUR -- 57,

I'M SORRY, THAT WAS SHOWN TO YOU ON DIRECT.

A. I'M SORRY?

Q. JX 57.

A. 56 OR 57?

Q. 57, I'M SORRY.

A. YES.

Q. THAT'S IT ON THE SCREEN THERE?

A. YES.

Q. ALL RIGHT. IS THIS THE PAPER BALLOT THAT YOU ARE REFERRING TO ON PAGE 32 OF YOUR CERTIFICATION?

A. YES.

Q. IS THIS THE RECORD THAT THE XL MACHINE PRODUCES FOR VOTER VERIFICATION?

A. YES.

Q. OKAY. NOW, WOULD YOU GO TO -- WOULD YOU TURN TO -- LET ME START WITH THIS.

YOU WERE AT THE SETTLEMENT CONFERENCE OF OCTOBER 11, 2018?

A. I WAS.

Q. BEFORE THAT SETTLEMENT CONFERENCE, DID THE PLAINTIFFS SEND A TERM SHEET OR A PROPOSED TERM SHEET FOR THE SETTLEMENT?

A. I WAS NOT SHOWN A TERM SHEET UNTIL WE WALKED IN TO THE SETTLEMENT CONFERENCE.

Q. THEY BROUGHT IT TO THE CONFERENCE?

A. CORRECT.

Q. I'M SORRY.

OKAY. TURN TO JX 24.

A. YES.

Q. IS THAT THE TERM SHEET YOU RECALL SEEING AT THE CONFERENCE?

A. YES.

Q. OKAY. AND WE HAVE THAT UP. NOW, AFTER THE CONFERENCE, DO YOU RECALL THAT THE PLAINTIFFS SENT A REVISED TERM SHEET OR A TERM SHEET REFLECTING SOME OF THE DISCUSSIONS AT THE CONFERENCE?

A. YES.

Q. AND THAT IS JX -- WOULD YOU TURN TO JX 25. IS THAT THE TERM SHEET THAT WAS SENT SHORTLY AFTER THE CONFERENCE?

A. YES.

Q. ALL RIGHT. I WANT TO FOCUS ON JUST ONE PORTION, FOR THE MOMENT. WE WILL COME BACK TO THE OTHER PARTS OF THIS DOCUMENT, OR AT LEAST THE FINAL DOCUMENT LATER, BUT ONE PORTION. DID THE DEPARTMENT HAVE A PRIMARY OR CENTRAL GOAL THAT THEY -- AND A PRINCIPLE THAT THEY WANTED TO ACHIEVE IN CONNECTION WITH THIS SETTLEMENT?

A. YES.

Q. WHAT WAS IT?

A. SO WE WERE -- WE HAD ALREADY, EARLIER THAT YEAR,

STARTED ON A PATH TO REQUIRE THAT ALL COUNTIES REPLACE THEIR AGING VOTING SYSTEMS WITH NEW SYSTEMS THAT EMPLOYED A VOTER-VERIFIABLE PAPER BALLOT SYSTEM AND ALSO MET UPDATED SECURITY STANDARDS AND ACCESSIBILITY TESTING AS WELL. AND SO OUR GOAL WAS, IF WE COULD SETTLE THE CASE CONSISTENT WITH THE PATH THAT WE WERE ALREADY ON, THAT WAS A GOOD GOAL. THAT WAS THE PRIMARY GOAL.

Q. OKAY. SO LOOK AT THE TERM SHEET THAT THE PLAINTIFFS PROVIDED AT THAT CONFERENCE, PARAGRAPH 3.

MR. ARONCHICK: CAN YOU HIGHLIGHT PARAGRAPH 3 ON THE SCREEN, PLEASE.

THE COURT: THIS IS DOCUMENT 24?

MR. ARONCHICK: I'M SORRY, YES, 24, JX 24.

BY MR. ARONCHICK:

Q. ALL RIGHT. AND THEN THE CORRESPONDING PARAGRAPH, WOULD THAT BE, IN THE NEXT TERM SHEET THAT CAME OUT, PARAGRAPH 2 ON JX 25?

A. YES.

MR. ARONCHICK: CAN YOU HIGHLIGHT THAT, BOTH OF THOSE? NO, NO, PARAGRAPH 3 ON JX 24. ALL RIGHT. AND THEN PARAGRAPH 2 FROM JX 25.

BY MR. ARONCHICK:

Q. SECRETARY BOOCKVAR, WAS A CHANGE MADE FROM THE LANGUAGE THE PLAINTIFFS PROPOSED TO THE LANGUAGE THAT

THE DEPARTMENT -- OR THE COMMONWEALTH INSISTED ON IN THIS PARAGRAPH?

A. YES.

Q. WOULD YOU EXPLAIN TO THE COURT WHAT THAT CHANGE IS AND WHY IT WAS MADE?

A. YES. SO AS YOU COULD SEE, IT'S THE CHANGE "WILL REQUIRE" TO "WILL CONTINUE TO DIRECT." AGAIN, THERE WAS ONLY ONE WAY THAT WE WERE GOING TO ENTER INTO THIS SETTLEMENT AGREEMENT. AND THAT WAS TO CONTINUE ON A PATH THAT WE HAD ALREADY STARTED EARLIER THIS YEAR IN APRIL. WELL, REALLY, TECHNICALLY, DECEMBER THE PREVIOUS YEAR, BUT OFFICIALLY IN APRIL. SO WE REQUIRED THAT THIS CHANGE BE MADE TO INDICATE, CONSISTENT WITH OUR DISCUSSIONS, THAT WE WERE CONTINUING ON A PATH WE HAD ALREADY SET.

Q. AND IS THAT LANGUAGE, OF WILL CONTINUE TO DIRECT, AND WE CAN TURN TO IT IF YOU WANT, WAS THAT IN THE FINAL SIGNED AGREEMENT?

A. YES.

Q. OKAY. AND THE FINAL SIGNED AGREEMENT IS JX 30?

A. CORRECT.

Q. ALL RIGHT. SO I WANT TO THEN ASK YOU SOME QUESTIONS ABOUT THIS PATH.

BUT LET US START HERE: DO YOU RECALL, ON OR ABOUT ROUGHLY THE DATE THAT THE DEPARTMENT ENTERED

INTO -- OR AT LEAST APPROACHED THE PLAINTIFFS ABOUT SETTLEMENT IN THE STEIN LITIGATION?

A. SO I THINK AFTER THE MOTION IN SEPTEMBER -- IN LATE SEPTEMBER, I THINK WAS WHEN.

Q. OF 2018?

A. OF 2018, YES.

Q. DID YOU -- WERE YOU IN CHARGE OF THAT SETTLEMENT PROCESS AS A CLIENT?

A. I WAS THE PRIMARY CLIENT INVOLVED IN THE PROCESS. THE ACTING SECRETARY WAS ALSO INVOLVED.

Q. AND YOU HAD LAWYERS THAT WERE WORKING FOR YOU IN CONNECTION WITH THAT SETTLEMENT?

A. CORRECT.

Q. AND THAT WOULD BE MR. GATES AND MS. KOTULA?

A. CORRECT.

Q. AND THEY WERE WORKING WITH THE ATTORNEY GENERAL'S OFFICE, MS. UNGER?

A. CORRECT.

Q. ALL RIGHT. DID YOU GIVE ANY DIRECTION TO THE LAWYERS AS TO WHAT THEY SHOULD INFORM THE PLAINTIFFS ABOUT THIS INITIATIVE THAT YOU HAD GOING THAT WAS GOING TO BE PART OF THE SETTLEMENT DISCUSSIONS?

A. YES.

Q. AND WHAT WAS THAT DIRECTION THAT YOU TOLD THE LAWYERS?

A. SO I WANTED TO BE VERY CLEAR WHAT THE PATH WAS THAT WE WERE ALREADY ON. AND SO WE PROVIDED -- SO WE WERE -- I DIRECTED THE ATTORNEYS TO PROVIDE TO THE PLAINTIFFS INFORMATION THAT WOULD MAKE IT CLEAR WHAT THAT PATH ENTAILED.

DO YOU WANT ME TO CONTINUE?

Q. CAN YOU TURN TO JX 14.

THE COURT: 14?

MR. ARONCHICK: 14.

BY MR. ARONCHICK:

Q. DO YOU RECOGNIZE THIS E-MAIL?

A. I DO.

Q. AND WHAT IS IT? EXPLAIN TO THE COURT WHAT IS GOING ON HERE.

A. SO THIS IS THE E-MAIL THAT SUE ANN UNGER FROM THE ATTORNEY GENERAL'S OFFICE --

MR. ARONCHICK: I'M SORRY, DO YOU HAVE JX 14?

THE COURT: I BEG YOUR PARDON?

MR. ARONCHICK: DO YOU HAVE JX 14?

THE COURT: I'M ON JX 14.

MR. ARONCHICK: OKAY. YOU WERE LOOKING, AND I COULD NOT TELL IF YOU WERE THERE.

THE COURT: NO, NO, I AM THERE.

THE WITNESS: THANK YOU FOR GIVING ME

THAT OPPORTUNITY TO TAKE THAT DRINK.

SO THIS IS THE E-MAIL FROM SUE ANN UNGER FROM THE ATTORNEY GENERAL'S OFFICE TO PLAINTIFFS' COUNSEL WITH FIVE -- SORRY, FIVE ATTACHMENTS THAT WERE, YOU KNOW, KIND OF PIECES OF THE STORY TO HELP EXPLAIN WHAT WE WERE REQUIRING OF THE COUNTIES, WHAT PATH WE WERE ON, WHAT THE TIMELINE WAS, THAT THEY WOULD FULLY UNDERSTAND WHAT WE WERE SEEKING IN THE SETTLEMENT.

BY MR. ARONCHICK:

Q. AND LOOK AT THE FIRST SENTENCE OF THE FIRST PARAGRAPH.

A. YES.

Q. COULD YOU -- WHY WAS IT PHRASED THIS WAY? WHY DID YOU WANT MS. UNGER TO SAY THIS?

A. SO, YOU KNOW, WE WERE ALL -- WE WERE HOPING THAT WE WOULD -- THAT THE PATH WE WERE ALREADY ON WOULD BE SUFFICIENT FOR SETTLEMENT. THERE WAS GOING TO BE -- THERE WERE GOING TO BE SETTLEMENT DISCUSSIONS THE FOLLOWING WEEK. SO WE WANTED TO MAKE SURE THAT THE DOCUMENTS WERE FORWARDED IN ADVANCE OF THOSE DISCUSSIONS SO THAT THERE WAS CLARITY ABOUT THE PIECES OF THE DISCUSSION FOR SETTLEMENT PURPOSES.

Q. OKAY. NOW, THIS PATH, OR THIS INITIATIVE, WHEN DID IT START FROM THE COMMONWEALTH'S POINT OF VIEW?

A. SO APPROXIMATELY DECEMBER OF 2017 THERE WAS A

VOTING SYSTEM VENDOR FORM WHERE THE DEPARTMENT OF STATE INVITED VOTING SYSTEM VENDORS TO COME TO HARRISBURG WHO WERE INTERESTED IN SUBMITTING SYSTEMS FOR CERTIFICATION IN PENNSYLVANIA AND FOR THE DEPARTMENT OF STATE TO ANSWER QUESTIONS. AND THIS WAS ALSO, YOU KNOW, ANNOUNCED TO COUNTIES SO THEY UNDERSTOOD THAT THIS WAS -- COUNTY ELECTION DIRECTORS AND PERSONNEL, SO THAT THEY UNDERSTOOD THAT THIS DISCUSSION WAS HAPPENING.

Q. ALL RIGHT. SO WHAT WAS THE GOAL OF THIS NEW INITIATIVE STARTING IN AROUND DECEMBER 2017?

A. SO THE GOAL WAS THAT ALL OF PRIOR VOTING SYSTEMS IN THE FIELD, WHICH ALL WERE 10, 15, IN SOME CASES 30 YEARS OLD, WOULD BE UPGRADED, WOULD BE REPLACED BY NEW VOTING SYSTEMS MEETING NEW CERTIFICATION STANDARDS. AND ALL PROVIDING A VOTER-VERIFIABLE PAPER BALLOT.

Q. AND WHAT KIND OF ELECTRONIC SYSTEMS WERE IN THE FIELD AT THAT POINT?

A. SO -- IN USE? SO IN 50 COUNTIES, THEY WERE USING DRE MACHINES.

Q. WHAT IS A DRE MACHINE?

A. DIRECT RECORDING ELECTRONIC MACHINES. THOSE ARE -- DO YOU WANT ME TO EXPLAIN?

Q. BRIEFLY.

A. DRE MACHINES ARE SYSTEMS THAT THE VOTE -- SO IT'S AN ELECTRONIC MACHINE THAT THE VOTE IS BOTH

REGISTERED AND RECORDED ELECTRONICALLY. SO THE OFFICIAL VOTE OF RECORD IS AN ELECTRONIC CAPTURE OF THE VOTE.

Q. AND WHAT WAS THE DEPARTMENT'S CHANGE? WHAT WAS THE FOCUS OF THE NEW INITIATIVE?

A. THE NEW INITIATIVE, WE REFUSED TO CERTIFY DRE'S ANY LONGER. SO NO DRE'S WERE EVEN CONSIDERED FOR CERTIFICATION AFTER THAT. EVERY VOTING SYSTEM THAT WAS CERTIFIED IN PENNSYLVANIA HAD TO EITHER BE ONE OF TWO DIFFERENT TYPES. EITHER HAND-MARKED PAPER BALLOT SYSTEMS THAT THEN WERE FED INTO A SCANNER, OR WHAT ARE CALLED BALLOT-MARKING DEVICES, WHICH ARE -- USE A MACHINE TO PRINT A PAPER AND THE PAPER IS THE OFFICIAL VOTE OF RECORD.

Q. SO THEY WERE THE TWO TYPES OF MACHINES THAT WERE PART OF THIS INITIATIVE?

A. CORRECT.

Q. APPROXIMATELY, IF YOU REMEMBER, HOW MANY VENDORS WERE THERE AT THAT TIME THAT WERE DEMONSTRATING THOSE MACHINES?

A. FIVE.

Q. AND WHAT ARE THEIR NAMES?

A. DOMINION, ES&S, HART, UNISYN AND CLEARBALLOT.

Q. NOW, IN THE MS. UNGER E-MAIL, ONE OF THE ITEMS, BULLET NUMBER 2, COULD YOU READ THAT AND EXPLAIN -- JUST READ IT FOR THE MOMENT. THIS IS ONE OF THE ITEMS THAT

WAS SENT OVER TO MR. MAAZEL'S GROUP.

A. E-MAIL DATED FEBRUARY 9, 2018, FROM COMMISSIONER MARKS TO THE COUNTY BOARD OF ELECTIONS WITH A DIRECTIVE INFORMING THEM THAT ALL VOTING SYSTEMS PURCHASED ON OR AFTER FEBRUARY 9, 2018, MUST BE OF THE TYPE THAT EMPLOYS A VOTER-VERIFIABLE PAPER BALLOT OR A VOTER-VERIFIABLE PAPER RECORD OF THE VOTES CAST BY A VOTER.

Q. ALL RIGHT. WOULD YOU TURN TO JX NUMBER 3 -- I'M SORRY, NUMBER 1. SORRY, NUMBER 1. IS THIS THE DIRECTIVE THAT WAS SENT OVER TO MR. MAAZEL?

A. YES.

Q. AND WOULD YOU READ WHAT THIS DIRECTIVE IS DIRECTING IN CONNECTION WITH THE PURCHASE OF NEW MACHINES?

A. SURE. IT SAYS: PURCHASE OF RESILIENT ELECTRONIC VOTING SYSTEMS OR ON AFTER FEBRUARY 9, 2018. TO ENSURE THAT THE NEXT GENERATION OF THE COMMONWEALTH'S VOTING SYSTEMS CAN CONFORM TO ENHANCED STANDARDS CONCERNING RESILIENCY, AUDITABILITY AND SECURITY, ALL VOTING SYSTEMS PURCHASED ON OR AFTER FEBRUARY 9, 2018 MUST BE OF THE TYPE THAT EMPLOYS A VOTER-VERIFIABLE PAPER BALLOT OR A VOTER-VERIFIABLE PAPER RECORD OF THE VOTES CAST BY A VOTER.

Q. ALL RIGHT. LET'S STOP THERE. WHY IS THERE AN OR BETWEEN THOSE TWO CONCEPTS, VOTER-VERIFIABLE PAPER

BALLOT OR A VOTER-VERIFIABLE PAPER RECORD?

A. SO THE WORDS ARE USED INTERCHANGEABLY. AND WE WANTED TO BE CLEAR THAT THERE WAS -- YOU KNOW, THAT PART OF THIS SYSTEM WERE BALLOT-MARKING DEVICES, HAND-MARKED PAPER BALLOTS, BUT THEY ALL PRODUCE THE PAPER THAT IS THE OFFICIAL VOTE OF RECORD.

Q. OKAY. AND WOULD YOU TURN TO -- AFTER MS. UNGER'S E-MAIL --

THE COURT: JUST A SECOND. WHAT DO YOU MEAN BY RESILIENCY?

THE WITNESS: SO RESILIENCY REFERS -- REALLY THE PAPER ALLOWS FOR RESILIENCY IN MANY CASES, BUT IT'S AT LEAST ONE EXAMPLE OF RESILIENCY. SO IF THERE IS A BLACKOUT AND THERE'S -- THE BATTERY BACKUP FOR THE MACHINE RUNS OUT, THAT THERE IS THE ABILITY TO UTILIZE PAPER, YOU KNOW, THERE'S A BALLOT BOX THAT'S PART OF THE SYSTEMS THAT CAN BE USED TO ACTUALLY REGISTER THE VOTES. THE OLD SYSTEMS WERE REALLY BREAKING DOWN, NOT HAVING THAT RESILIENCY THAT WE WERE LOOKING FOR.

THE COURT: OKAY. THANK YOU. I'M SORRY, MR. ARONCHICK.

MR. ARONCHICK: NO PROBLEM.

BY MR. ARONCHICK:

Q. BACK TO MS. UNGER'S E-MAIL OF SEPTEMBER 28, 2018

SENDING THE INFORMATION TO MR. MAAZEL. WOULD YOU LOOK AT THE THIRD BULLET POINT. WHAT IS THIS ITEM THAT WAS SENT TO MR. MAAZEL? COULD YOU READ IT AND EXPLAIN WHAT IT IS?

A. E-MAIL DATED APRIL 12, 2018, FROM COMMISSIONER MARKS TO COUNTY BOARDS OF ELECTIONS WITH A PRESS RELEASE INFORMING COUNTIES THAT THEY MUST HAVE VOTER-VERIFIABLE PAPER RECORD VOTING SYSTEMS SELECTED NO LATER THAN DECEMBER 31, 2019, AND PREFERABLY IN PLACE BY THE NOVEMBER 2019 GENERAL ELECTION.

Q. WOULD YOU TURN TO JX NUMBER 6 -- I'M OFF AGAIN. NUMBER 5. WHAT IS THIS?

A. THIS IS THE E-MAIL REFERRED TO IN THAT E-MAIL OR IN THAT LETTER, WHICH COMMISSIONER JONATHAN MARKS, WHO IS NOW DEPUTY SECRETARY, SENT TO ELECTION DIRECTORS AND PERSONNEL IN PENNSYLVANIA ANNOUNCING THAT WE WERE NOW SETTING A TIMELINE FOR THAT VOTING SYSTEM UPGRADE. SO WE, AS IT MENTIONED IN THAT LETTER, WE DIRECTED ALL COUNTIES THAT THEY NEEDED TO SELECT NEW VOTING SYSTEMS THAT ALL HAD VOTER-VERIFIABLE PAPER BALLOTS, PAPER RECORDS, AS -- IN ADVANCE OF -- THEY HAD TO MAKE THEIR SELECTIONS BY DECEMBER 31, 2019, EMPLOY THEM BY APRIL OF 2020, BUT PREFERABLY BY NOVEMBER OF 2019. AND IT ALSO MAKES NOTE THAT WE HAD GOTTEN FEDERAL FUNDS, THAT WE WERE ALLOCATING 100 PERCENT OF THEM TO THE COUNTIES FOR

THIS PURPOSE. AND WE WERE ALSO GOING TO BE HOLDING AN OPEN-TO-THE-PUBLIC VENDOR DEMO ON APRIL 26TH.

Q. WHO WERE ALL OF THE E-MAIL RECIPIENTS ON THIS LONG LIST ON THIS E-MAIL?

A. THESE ARE ELECTION DIRECTORS AND VARIOUS ELECTION PERSONNEL THROUGHOUT PENNSYLVANIA.

Q. AND TURNING TO THE SECOND PAGE. THE SECOND PARAGRAPH REFERS TO A VENDOR DEMONSTRATION OCCURRING ON APRIL 26TH?

A. CORRECT.

Q. OF 2018?

A. YES.

Q. WAS THAT OPEN TO THE PUBLIC?

A. IT WAS.

Q. AND WHAT -- AND DID THAT ACTUALLY HAPPEN?

A. YES.

Q. AND WHO PRESENTED? DO YOU RECALL WHO -- WHICH COMPANIES CAME AND PRESENTED MACHINES?

A. ALL FIVE CAME.

Q. THE FIVE YOU MENTIONED BEFORE?

A. CORRECT.

Q. AND THIS FOURTH PARAGRAPH REFERS TO DISCUSSIONS WITH YOU OVER THE PAST SEVERAL MONTHS. CAN YOU JUST BRIEFLY EXPLAIN WHAT THAT IS REFERRING TO?

A. SURE. SO AS I MENTIONED, DECEMBER 2017 WAS SORT

OF, YOU KNOW, MANY WAYS THE FIRST OFFICIAL KICKOFF OF THIS TRANSITION INITIATIVE TO NEW VOTING SYSTEMS, BUT THERE WERE MANY CONVERSATIONS AND MEETINGS AND DISCUSSIONS WITH THE COUNTIES ABOUT THE PLANS FOR THIS, THAT WE HADN'T SET AN ACTUAL DATE FOR THE TIMELINE UNTIL THIS TIME. BUT, FOR EXAMPLE -- DO YOU WANT ME JUST TO GIVE YOU SOME EXAMPLES OF --

Q. JUST BRIEFLY.

A. SO, FOR EXAMPLE, IN MARCH, THE END OF MARCH 2018, THERE WAS A -- THE ELECTION DIRECTORS IN PENNSYLVANIA ARE SORT OF SPLIT INTO TWO CONFERENCES, THE EASTERN CONFERENCE AND WESTERN CONFERENCE. THERE WAS, YOU KNOW, A WESTERN CONFERENCE AT THE END OF MARCH THAT I WAS AT, AND MULTIPLE OTHER PEOPLE FROM THE DEPARTMENT OF STATE, WHERE WE TALKED TO THE COUNTIES ABOUT THE PLANS, ABOUT THE TIMELINE, WHAT TIMELINES WOULD BE FEASIBLE, WHAT WAS PART OF THIS, SO THAT WAS --

Q. DID YOU EXPLAIN TO THE COUNTIES AT THESE MEETINGS THE TYPES OF VOTING MACHINES THAT THE DEPARTMENT WANTED TO SEE THEM CONSIDER?

A. YES.

Q. BOTH THE OPTICAL SCAN MACHINES AND THE DRE MACHINES.

MR. MAAZEL: OBJECT TO THE LEADING, YOUR HONOR.

THE WITNESS: CORRECT. WE TALKED ABOUT HAND-MARKED PAPER BALLOTS AND BALLOT-MARKING DEVICES, YES.

BY MR. ARONCHICK:

Q. NOW, BY THE WAY, AT THIS POINT IN TIME, WERE YOU IN CHARGE OF THIS INITIATIVE?

A. YES.

Q. TURN TO THE NEXT PAGE. THERE IS AN ACTUAL PRESS RELEASE. DO YOU SEE THAT?

A. YES.

Q. READ THE FIRST PARAGRAPH.

A. ACTING SECRETARY OF STATE ROBERT TORRES TODAY INFORMED PENNSYLVANIA'S COUNTIES TO HAVE VOTER-VERIFIABLE PAPER RECORD VOTING SYSTEMS SELECTED NO LATER THAN DECEMBER 31, 2019, AND PREFERABLY IN PLACE BY THE NOVEMBER 2019 GENERAL ELECTION.

Q. ALL RIGHT. I SEE A REFERENCE TO VOTER-VERIFIABLE PAPER RECORD VOTING SYSTEMS. THAT'S DIFFERENT WORDS THAN WERE USED IN THE PREVIOUS DIRECTIVES THAT WE READ. WOULD YOU EXPLAIN WHY THOSE WORDS WERE USED?

A. SURE. AGAIN, PAPER RECORD, PAPER BALLOT, PAPER TRAIL, YOU WILL FIND, IF YOU EXAMINE PRESS RELEASES, TESTIMONY, YOU KNOW, ANY NUMBER OF CONVERSATIONS THAT WE HAD THROUGHOUT THE LAST TWO YEARS, THEY WERE USED

INTERCHANGEABLY.

Q. OKAY. GO BACK TO MS. UNGER'S E-MAIL JX 14. ANOTHER DOCUMENT THAT WAS SENT TO MR. MAAZEL IS THE FOURTH BULLET POINT. CAN YOU READ THAT AND EXPLAIN BRIEFLY WHAT THAT IS, WHAT WAS SENT TO MR. MAAZEL?

A. REVISED EXAMINATION DIRECTIVE TO VOTING SYSTEM VENDORS ABOUT THE TYPES OF VOTING SYSTEMS THAT WILL BE ACCEPTED FOR EXAMINATION, SEE PARAGRAPH THREE OF DIRECTIVE, WHICH INCLUDES A NEW SECURITY STANDARD, ATTACHMENT E, THAT REINFORCES THE FEBRUARY 9TH DIRECTIVE THAT ALL VOTING SYSTEMS PURCHASED ON OR AFTER FEBRUARY 9TH, 2018 IN PENNSYLVANIA MUST BE OF THE TYPE THAT EMPLOYS A VOTER-VERIFIABLE PAPER RECORD OR VOTER-VERIFIABLE -- SORRY. SEE, THERE I GO -- BALLOT OR RECORD OF THE VOTES CAST BY A VOTER.

DO YOU WANT ME TO EXPLAIN WHAT THAT IS?

Q. YES.

A. SO WE PUT OUT -- SO THIS WAS THE REVISED VERSION, BUT BACK EARLIER IN APRIL, WE HAD PUT OUT THE INITIAL VERSION OF WHAT IS CALLED AN IFB, WHICH IS INVITATION FOR BID, WHICH IS LIKE AN RFP. AND IT'S BASICALLY A STATEWIDE CONTRACT THAT ALLOWS -- AND A STATEWIDE PROCUREMENT PROCESS THAT ALLOWS THE COUNTIES NOT TO HAVE TO DO THEIR OWN RFP PROCESS. SO WE HAD MADE SOME REVISIONS TO THE ORIGINAL VERSION THAT INCLUDED

EXPANDED PROTECTIONS ON FOREIGN OWNERSHIP AND OTHER THINGS TO MAKE IT EASIER FOR COUNTIES TO PROCURE THROUGH THIS VEHICLE SHOULD THEY CHOOSE.

AND THIS PARAGRAPH MAKES REFERENCE TO THE FACT THAT THAT -- YOU KNOW WHAT, I'M SORRY. I MAY BE THINKING ABOUT THE THING THAT COMES THE FOLLOWING MONDAY. I APOLOGIZE. I TAKE ALL THAT BACK.

THIS WILL APPLY TO WHAT COMES NEXT PROBABLY IN YOUR LINE OF QUESTIONING.

Q. I WAS GOING TO STOP YOU THERE. BUT WOULD YOU EXPLAIN WHAT THE DOCUMENT IS --

A. YES. WHAT ACTUALLY THIS IS?

Q. -- NUMBER --

THE COURT: WAIT, WAIT, WAIT. LET HIM FINISH THE QUESTION.

THE WITNESS: I'M SORRY. OKAY.

BY MR. ARONCHICK:

Q. EXPLAIN THE FOURTH BULLET POINT DOCUMENT AND THEN WE'LL TURN TO IT SO THAT WE CAN ACTUALLY LOOK AT THAT.

A. APOLOGIES. SO THIS ACTUALLY REFERS TO, WE CREATED A NEW SECURITY STANDARD IN PENNSYLVANIA. AS I MENTIONED EARLIER, UNDER PENNSYLVANIA LAW ALL VOTING SYSTEMS NEED TO BE CERTIFIED, BOTH BY THE FEDERAL EAC AND BY THE STATE. SO IN THE STATE, WE CREATED NEW

SECURITY STANDARDS TO UPGRADE THE TESTING THAT WAS INVOLVED FOR EVERY NEW SYSTEM TO BE CERTIFIED. AND THIS REFERS TO THE DIRECTIVE THAT WENT TO ALL VENDORS THAT ATTACHED THE NEW SECURITY STANDARD.

Q. WOULD YOU TURN TO JX EXHIBIT 7. IS THIS THE DIRECTIVE THAT WAS SENT OVER TO MR. MAAZEL ON SEPTEMBER 28, 2018?

A. IT IS.

Q. AND IT'S THE ONE THAT WAS -- THAT IS REFERRED TO IN THE FOURTH BULLET POINT, CORRECT?

A. CORRECT.

Q. IS THIS A PUBLIC -- WAS THIS A PUBLICLY AVAILABLE DOCUMENT?

A. YES.

Q. WHERE WAS IT POSTED?

A. IT WAS POSTED ON OUR WEBSITE. IT WAS ALSO E-MAILED OUT TO COUNTIES, TO VENDORS, TO STAKEHOLDERS. LOTS OF FOLKS.

Q. ALL RIGHT. AND THIS -- WAS THIS DOCUMENT GOING TO GOVERN THE SECURITY REVIEWS OF THE NEW VOTING SYSTEMS?

MR. MAAZEL: OBJECTION, LEADING.

THE WITNESS: YES.

THE COURT: YEAH.

BY MR. ARONCHICK:

Q. WHAT WAS THE RELATIONSHIP OF THIS DOCUMENT TO THE SECURITY REVIEWS IN YOUR INITIATIVE?

A. SO --

THE COURT: GO AHEAD. HE JUST ASKED THE SAME QUESTION A LITTLE DIFFERENTLY TO SATISFY ALL THE LAWYERS IN THE ROOM. GO AHEAD.

THE WITNESS: THANK YOU, YOUR HONOR.

THIS -- AGAIN, THIS LAYS OUT THE DIRECTIVE TO THE VOTING SYSTEM VENDORS TO INFORM THEM THAT FROM THERE FORWARD, ALL EXAMINATIONS WERE GOING TO SET THESE STANDARDS FOR TESTING, SECURITY TESTING.

BY MR. ARONCHICK:

Q. NOW, THE BULLET IN THE E-MAIL TO MR. MAAZEL REFERS TO AN ATTACHMENT E IN THIS DIRECTIVE. WOULD YOU TURN TO ATTACHMENT E?

MR. ARONCHICK: WHICH, YOUR HONOR, IS ABOUT IN THE MIDDLE OF THE DOCUMENT. AND IT STARTS WITH PAGE NUMBER 1 IN THE MIDDLE.

THE COURT: IS IT THE BLANK FORM?

MR. ARONCHICK: LET'S SEE IF WE CAN ALL GET TO THE SAME PLACE. THERE IS MAYBE --

THE COURT: I SEE IT. THAT'S ATTACHMENT B. I'M SORRY. I HAVE IT. IT BEGINS WITH A SUMMARY?

MR. ARONCHICK: YES.

THE COURT: OKAY.

BY MR. ARONCHICK:

Q. DO YOU HAVE THAT?

A. YES, THANK YOU.

Q. OKAY. WHAT IS THIS, FOR EXAMPLE? WHAT IS THAT? FOR STARTERS, WHAT IS ATTACHMENT E?

A. I'M SORRY, WHAT IS EXHIBIT E OR ATTACHMENT E?

Q. ATTACHMENT E, WHAT IS IT?

A. SO THIS IS THE ACTUAL SECURITY STANDARD THAT WAS -- THE NEW SECURITY STANDARD THAT WAS ATTACHED TO THE DIRECTIVE.

Q. WOULD YOU TURN TO PAGE 2, NUMBER 2, ASSUMPTIONS.

A. YES.

Q. READ THE SECOND ASSUMPTION THAT IS IN THIS DOCUMENT.

A. ALL VOTING SYSTEMS PURCHASED ON OR AFTER FEBRUARY 9, 2018, IN PENNSYLVANIA MUST BE OF THE TYPE THAT EMPLOYS A VOTER-VERIFIABLE PAPER BALLOT OR A VOTER-VERIFIABLE PAPER RECORD OF THE VOTES CAST BY A VOTER.

Q. AND THIS WAS PART OF THE INITIATIVE THAT YOU'VE BEEN TESTIFYING TO?

A. CORRECT.

Q. ALL RIGHT. AND TURN TO PAGE 5. THERE IS A SERIES OF CONFIRMATIONS. WOULD YOU GO TO CONFIRMATION -- WHAT HAS TO BE CONFIRMED?

A. CONFIRM THAT THE VOTING SYSTEM PROVIDES A MECHANISM FOR THE VOTER TO VALIDATE THE CONTENTS OF THE BALLOT BEFORE IT IS CAST, IRRESPECTIVE OF THE MECHANISM USED FOR CASTING THE VOTE.

KEEP GOING?

Q. KEEP GOING.

A. THE SYSTEM MUST SUPPORT A VOTER-VERIFIABLE PAPER BALLOT OR VOTER-VERIFIABLE PAPER RECORD WHICH CAN BE USED BY ELECTION OFFICIALS TO VERIFY THE ELECTION RESULTS.

Q. WOULD YOU EXPLAIN WHY THIS CONFIRMATION WAS WORDED IN THIS FASHION?

A. AGAIN, YOU KNOW, AS YOU CAN SEE, IN THE FIRST SENTENCE, IT ACTUALLY USES THE WORD BALLOT FOR BOTH. SO IT'S -- WE WANTED TO BE CLEAR THAT ANY MECHANISM CAN BE USED, WHETHER IT'S A BALLOT-MARKING DEVICE, HAND-MARKED PAPER BALLOT. SO IRRESPECTIVE OF THE MECHANISM USED, IT NEEDS TO PROVIDE AN OPPORTUNITY FOR THE VOTER TO VERIFY THE VOTE BEFORE IT'S CAST.

Q. OKAY. NOW, LET'S GO BACK -- ONE OTHER THING I WANTED TO BRING TO THE COURT'S ATTENTION. WOULD YOU TURN TO APPENDIX A, WHICH IS PAGE 19, APPENDIX TO THIS ATTACHMENT. DO YOU SEE THAT'S A RISK ASSESSMENT PLAN?

A. YES.

Q. WOULD YOU EXPLAIN WHAT THIS IS?

A. SO THIS IS, YOU KNOW, A DETAILED DOCUMENT THAT GOES THROUGH -- IT'S A TOOL USED TO HELP PROTECT THE ACCURACY, INTEGRITY AND SECURITY OF ELECTIONS OF A PARTICULAR VOTING SYSTEM. SO TO EVALUATE THE SEVERITY OF RISK, IT LOOKS AT CALCULATED RISKS, IT DESCRIBES THOSE RISKS. IF YOU SEARCH THROUGH IT, YOU CAN SEE IT HAS QUALITATIVE VALUES ABOUT WHETHER IT'S VERY HIGH RISK, HIGH, MODERATE, LOW, VERY LOW. THE DESCRIPTIONS. YOU KNOW, IT HAS YOU LOOK AT PROBABILITY, IMPACT, ADVERSE IMPACT. AND, YOU KNOW, AGAIN, AS TO WALK THROUGH THE PROCESS OF EVALUATING EVERY SYSTEM AND HOLDING IT TO THESE HIGHER STANDARDS.

Q. IS THERE A DIFFERENCE BETWEEN CALCULATED RISK AND THEORETICAL RISK?

A. ABSOLUTELY. I MEAN, THERE IS --

Q. CAN YOU EXPLAIN?

A. SURE. I MEAN, CALCULATED RISKS ARE I THINK DEFINED HERE. CALCULATED RISKS ARE RISKS THAT THE EXAMINER CAN DETERMINE THE SYSTEM'S GREATEST VULNERABILITIES IN ACTUALITY. HYPOTHETICAL RISKS COULD BE ANYTHING, RIGHT? I MEAN, YOU KNOW, THERE'S ANY NUMBER OF THEORIES THAT SOMEBODY COULD COME UP WITH THAT -- IT'S LITERALLY IMPOSSIBLE TO IDENTIFY EVERY SINGLE THEORETICAL POSSIBLE RISK THAT COULD EXIST. AND SO THIS WAS A VERY SPECIFIC WAY TO GUIDE THE EXAMINER THROUGH

CALCULATED RISKS, RISKS THAT COULD BE IDENTIFIED, ASSESSED, YOU KNOW, QUALITATIVELY, AND HOW TO GO THROUGH THAT PROCESS.

Q. ALL RIGHT. LET'S GO BACK TO MS. UNGER'S E-MAIL TO GO TO ANOTHER BULLET POINT OF INFORMATION YOU WERE BRINGING TO MR. MAAZEL'S ATTENTION IN SEPTEMBER OF 2018 ABOUT YOUR INITIATIVE.

WOULD YOU GO TO THE FIRST BULLET POINT?

A. I FOUND IT.

Q. EXHIBIT JX 14.

A. YES.

Q. WHAT IS THE FIRST BULLET? WHAT IS THAT DOCUMENT THAT YOU ARE SENDING TO MR. MAAZEL?

A. SO THE STATUS, SO -- IF THIS IS THE PENNSYLVANIA VOTING SYSTEM AND E POLL BOOK STATUS REPORT. SO THIS WAS A REGULAR STATUS REPORT THAT THE DEPARTMENT OF STATE PUT OUT THAT IDENTIFIED ALL THE SYSTEMS THAT WERE -- HAD PUT THEMSELVES FORTH FOR EITHER BEING INTERESTED IN CERTIFICATION OR WERE IN THE PROCESS OF CERTIFICATION OR HAD BEEN CERTIFIED, AND IDENTIFIED THE STATUS OF THOSE EXAMINATIONS, BOTH WITH THE FEDERAL EAC AND WITH THE STATE.

Q. OKAY. WOULD YOU TURN TO JX 12.

A. YES.

Q. THIS IS A SEPTEMBER 21, 2018 DOCUMENT?

A. YES.

Q. WHAT IS THIS DOCUMENT?

A. SO THIS IS THAT STATUS REPORT THAT I WAS JUST DESCRIBING. THIS IS THE ONE -- WE PUT IT OUT APPROXIMATELY MONTHLY. IT WAS POSTED ON OUR WEBSITE, IT WAS DISTRIBUTED TO COUNTIES, IT WAS DISTRIBUTED TO STAKEHOLDERS, PUBLICLY AVAILABLE TO WHOMEVER WANTED IT.

DO YOU WANT ME TO TALK THROUGH IN MORE DETAIL?

Q. I WANT TO JUST GO THROUGH EACH OF THE SECTIONS BRIEFLY. THE MIDDLE OF THE FIRST PAGE, IT SAYS: CERTIFIED SYSTEMS AND SYSTEMS UNDER TEST.

DO YOU SEE THAT?

A. YES.

Q. WOULD YOU EXPLAIN WHAT IT IS THAT'S UNDER THAT HEADING AND THEN FOLLOWING IT?

A. SO THIS WAS TO MAKE IT CLEAR THAT FOR -- IN ADDITION TO WHATEVER IS IN THIS STATUS REPORT, THAT THERE IS LOTS OF OTHER ADDITIONAL INFORMATION AVAILABLE. SO IT SAYS, FOR INFORMATION ABOUT VOTING SYSTEMS AND E POLL BOOKS THAT HAVE BEEN CERTIFIED, YOU COULD CLICK ON THAT LINK, WHERE IT SAYS HERE, AND IT WOULD BRING YOU TO THAT VOTING SYSTEMS PAGE ON OUR WEBSITE.

IN ADDITION, AS YOU CAN SEE, UNDERNEATH IT, IT SAYS: FOR THOSE UNDERGOING CERTIFICATION TESTING

AT THE FEDERAL LEVEL, YOU COULD CLICK ON THOSE LINKS AND IT WOULD GIVE YOU, IN GREAT DETAIL, INFORMATION ABOUT THOSE -- THE SYSTEMS AND ALL THEIR COMPONENTS AS WELL, AND THE STATUS OF CERTIFICATION.

Q. ALL RIGHT. AND THEN THE SNAPSHOT, THE DEPARTMENT OF STATE'S SYSTEMS UNDER TEST SNAPSHOT.

A. YES.

Q. WHAT ARE THESE ITEMS THAT ARE LISTED IN THESE BOXES?

A. SO AS YOU CAN SEE, IT SHOWS YOU THE MANUFACTURER OF THE VOTING SYSTEM THAT IS EITHER EXPRESSED AN INTEREST IN CERTIFICATION OR UNDERGOING THE TESTING PROCESS. IT SHOWS YOU THE MODEL NUMBERS, THE EXACT MODEL NUMBER THAT HAS BEEN SUBMITTED FOR CONSIDERATION IN PENNSYLVANIA. AND THEN IT SHOWS YOU THE STATUS UPDATE OF WHAT'S CURRENTLY HAPPENING.

Q. ALL RIGHT. AND THE SECOND ONE IS THE ES&S SYSTEM?

A. CORRECT.

Q. WHAT IS THAT MODEL NUMBER?

A. SO THAT'S THE EVS 6000/6021.

Q. WHAT IS THAT?

A. SO IT WAS ORIGINALLY SUBMITTED TO PENNSYLVANIA FOR THE EVS 6000. AND THEN DUE TO BASICALLY UPGRADES THAT THEY HAD TO DO TO THE SYSTEM, AS IT SAYS HERE,

FIXES TO ANOMALIES, THEY RESUBMITTED THE SYSTEM AS 6021. SO IT'S BASICALLY THE SAME SYSTEM BUT JUST WITH SOME -- THEY SAY NOT TO USE THE WORD FIX IN ELECTIONS, SO SOME IMPROVEMENTS TO THE SYSTEM.

THE COURT: OR LITIGATION, IT'S A BAD WORD TO USE. I'M SORRY.

THE WITNESS: AND SO THIS -- SO THAT'S THE CURRENT SYSTEM THAT'S SUBJECT OF LITIGATION TODAY.

BY MR. ARONCHICK:

Q. AND WOULD YOU TURN TO THE THIRD PAGE. DEPARTMENT OF STATE UPCOMING ACTIONS IS ANOTHER SECTION?

A. CORRECT.

Q. WHAT IS THIS SECTION MEANT TO TELL THE READER?

A. SO THAT TELLS YOU WHAT'S COMING NEXT. SO AS YOU COULD SEE, THE ES&S EVS 6021 WAS GOING TO BE -- HAD A DUE DATE, WAS BEING SCHEDULED FOR EXAMINATION SEPTEMBER 24TH TO 28TH. AND IT WAS IN THE TEST PLANNING PROCESS. AND YOU CAN SEE THE DESCRIPTION OF THAT UNDERNEATH.

Q. DOES -- WHAT IS A SUITE OF VOTING SYSTEMS, WHEN THAT WORD IS USED, A SUITE OF VOTING SYSTEMS?

A. SO A SUITE OF VOTING SYSTEMS CAN MEAN SLIGHTLY DIFFERENT THINGS FOR EACH SYSTEM OR SUITE THAT'S SUBMITTED FOR CERTIFICATION. BUT ESSENTIALLY IT'S A NUMBER OF DIFFERENT CONFIGURATIONS THAT CAN BE USED FOR

VOTING. SO, FOR EXAMPLE, YOU MIGHT HAVE A PAID-FOR-HOUR SCENARIO. IN PENNSYLVANIA, YOU MIGHT HAVE A SYSTEM THAT ALLOWS FOR HAND-MARKED PAPER BALLOT VOTING. I MEAN, ALL OF THEM WOULD HAVE SOME COMPONENT THAT ALLOWED FOR HAND-MARKED PAPER BALLOT VOTING. AND SCANNERS, YOU WOULD SOME BALLOT-MARKING DEVICES. SOME MIGHT HAVE MULTIPLE CHOICES OF BALLOT-MARKING DEVICES OR MULTIPLE CHOICES OF SCANNERS, BUT ALL OF THOSE DIFFERENT CONFIGURATIONS ARE PART OF ONE SYSTEM OR SUITE.

Q. AND HOW WOULD A READER DETERMINE WHAT ARE THE COMPONENTS OF, SAY, THE EVS 6021 SUITE?

A. SO IF YOU GO BACK TO THAT FIRST PAGE AGAIN, THE LINKS THAT ARE THERE WILL TAKE YOU -- YOU COULD DO THAT ON THE, YOU KNOW, IF YOU'RE TALKING ABOUT ES&S, YOU CAN DO IT ON THE ES&S WEBSITE, YOU CAN DO IT ON DEPARTMENT OF STATE WEBSITE, YOU CAN DO IT ON EAC WEBSITE, LOOK AT THE DIFFERENT COMPONENTS, YOU COULD LOOK AT DETAILS OF THE DIFFERENT COMPONENTS OF THE CONFIGURATIONS AND FIND OUT EVERYTHING YOU WANT TO KNOW.

Q. AND IF THE READER WANTED TO GO -- TO DETERMINE WHAT WAS IN THE EVS 6021 SUITE AT THIS TIME, DO YOU KNOW IF THEY WOULD HAVE SEEN THAT ONE OF THE ITEMS WAS THE EXPRESSVOTE XL?

A. YES.

Q. WAS THAT PART OF THE SUITE?

A. IT WAS.

Q. NOW, LOOKING AT PAGE 3, THERE IN THE MIDDLE COLUMN OF UPCOMING ACTIONS, THERE IS -- THERE ARE A SERIES OF DATES OF EXAMINATIONS FOR EACH OF THE SYSTEMS REFERENCED. WHAT WERE THESE DATES? WHAT WAS HAPPENING ON EACH OF THESE DATES?

A. I'M SORRY, WHICH TAB ARE YOU ON?

Q. I'M SORRY, NUMBER 12, PAGE 3, MIDDLE COLUMN.

A. YOU ARE ASKING ME -- I'M SORRY, WHAT THE DATES WERE THAT --

Q. YEAH. WHAT IS THE SIGNIFICANCE OF THESE DUE DATES THAT WERE IN THAT COLUMN?

A. OH. SO THE TESTING WAS I THINK LITERALLY HAPPENING -- WHAT'S THE DATE OF THE E-MAIL?

Q. MS. UNGER'S E-MAIL IS SEPTEMBER THE 28TH.

A. OKAY. SO IT WAS -- IT HAD JUST HAPPENED THAT WEEK, THE TESTING.

Q. FOR THE ES?

A. FOR THE ES&S 6021.

Q. AND THEN THE FOLLOWING DATES FOR THE OTHER SYSTEMS WERE GOING TO HAPPEN IN THE SUBSEQUENT WEEKS?

A. CORRECT.

Q. AND THIS WAS INFORMATION RELAYED TO MR. MAAZEL ON SEPTEMBER 28, 2018?

A. CORRECT.

Q. LET'S GO BACK TO THE -- THAT E-MAIL, JX 14. THE FIFTH BULLET POINT OF INFORMATION GIVEN TO MR. MAAZEL'S TEAM.

A. YES.

Q. WHAT IS THAT?

A. SO THAT'S WRITTEN TESTIMONY FROM SEPTEMBER 25, 2018, SO THAT SAME WEEK, THAT COMMISSIONER MARKS PRESENTED TO THE SENATE STATE GOVERNMENT COMMITTEE, WHICH CONTAINED AN OVERVIEW OF THE STATE PROCESS AND TIMELINES FOR VOTING SYSTEM REPLACEMENT.

Q. AND WOULD YOU TURN TO JX 13. WHAT IS THIS?

A. THIS IS THAT WRITTEN TESTIMONY REFERRED TO.

Q. SEPTEMBER 25, 2018 TESTIMONY?

A. CORRECT.

Q. TO THE SENATE STATE GOVERNMENTS COMMITTEE?

A. CORRECT.

Q. DID YOU REVIEW THIS TESTIMONY BEFORE MR. MARKS' TESTIMONY?

A. I DID.

Q. DID YOU REVIEW THIS ACTUAL DOCUMENT?

A. THE WRITTEN TESTIMONY?

Q. MR. MARKS' TESTIMONY?

A. YES.

Q. OKAY. I WANT TO JUST POINT OUT A COUPLE OF THINGS IN YOUR -- ASK YOU TO POINT OUT A COUPLE OF

THINGS. LOOK AT THE FIRST PAGE, THE LAST PARAGRAPH ON THE FIRST PAGE. WHAT IS BEING CONVEYED TO THE STATE SENATE ABOUT THE TYPES OF MACHINES AND RECORDS INVOLVED IN THE STATE'S INITIATIVE?

A. SO --

MR. MAAZEL: OBJECTION, YOUR HONOR. SHE IS NOT THE WITNESS WHO TESTIFIED HERE, SO SHE IS JUST TALKING ABOUT WHAT SOMEONE ELSE --

THE COURT: OVERRULED.

THE WITNESS: SO THIS -- WE WERE -- WE BASICALLY WANTED TO -- WE WERE TRYING TO --

BY MR. ARONCHICK:

Q. FIRST READ IT.

A. OKAY, SORRY.

THESE EXPERTS, INCLUDING PROFESSIONALS IN NATIONAL SECURITY INTELLIGENCE, COMPUTER SCIENCE, ELECTIONS AND MORE, HAVE URGED STATES TO ACT AS QUICKLY AS POSSIBLE TO REPLACE OLDER VOTING MACHINES WITH VOTING SYSTEMS THAT PRODUCE A PAPER RECORD THAT VOTERS CAN VERIFY, WHICH ENABLE ROBUST POST-ELECTION AUDITS.

DO YOU WANT ME TO KEEP GOING?

Q. NO, THAT'S FINE.

AND AGAIN, WHAT VOTING SYSTEMS WAS MR. MARKS REFERRING TO?

A. SO THIS WAS, AGAIN, WHAT -- THEY WERE ALL --

WHETHER IT WAS HAND-MARKED PAPER BALLOTS OR BALLOT-MARKING DEVICES, AS LONG AS IT PRODUCED A PAPER RECORD THAT WAS THE OFFICIAL RECORD OF THE VOTE, THE VOTER CAN VERIFY AND THAT ENABLED THE AUDITS AFTER THE FACT, THAT WAS WHAT MATTERED.

Q. OKAY. AND GO TO THE TOP OF THE NEXT PAGE. AND TAKE YOUR TIME. SLOWLY READ THROUGH THIS PARAGRAPH, IF YOU WILL.

A. THE STEM SECTOR AND OTHER PROFESSIONAL FIELDS ALSO STRONGLY URGE THESE ACTIONS. THIS MONTH THE NATIONAL ACADEMIES OF SCIENCES, ENGINEERING AND MEDICINE ISSUED A REPORT SECURING THE VOTE PROTECTING AMERICAN DEMOCRACY. THE REPORT ASSESSES CURRENT TECHNOLOGY AND STANDARDS FOR VOTING AND RECOMMENDS STEPS THAT FEDERAL, STATE AND LOCAL GOVERNMENTS' ELECTION ADMINISTRATORS, AND VENDORS OF VOTING TECHNOLOGY SHOULD TAKE TO IMPROVE THE SECURITY OF ELECTION INFRASTRUCTURE, INCLUDING THAT ALL ELECTIONS SHOULD BE CONDUCTED WITH PAPER BALLOTS BY 2020 AND STATES SHOULD MANDATE RISK-LIMITING AUDITS WITHIN A DECADE. ADDITIONALLY --

DO YOU WANT ME TO KEEP GOING?

Q. YES.

A. ADDITIONALLY, MULTIPLE COURTS HAVE ISSUED DECISIONS IN RECENT WEEKS INDICATING THAT STATES AND COUNTIES HAVE FAILED TO HEED THESE CHANGED STANDARDS FOR

SECURITY AND CONTINUE TO EMPLOY PAPERLESS DRE VOTING MACHINES, MAY VIOLATE VOTERS' FEDERAL CONSTITUTIONAL RIGHTS. PENNSYLVANIA IS ONE OF ONLY A HANDFUL OF STATES REMAINING THAT USE ALL OR PRIMARILY PAPERLESS VOTING SYSTEMS.

Q. OKAY. WHAT IS THE POINT OF CONVEYING THIS INFORMATION TO THE STATE SENATE?

A. SO WE WERE AT THIS POINT, YOU KNOW, I GUESS CLOSE TO SIX MONTHS IN SINCE WE HAD SET THE TIMELINE. AND WE REALLY WANTED TO BUILD SUPPORT IN THE LEGISLATURE FOR THIS INITIATIVE. AND THEREBY ALSO HOPE TO BUILD SUPPORT FOR FUNDING FOR THE INITIATIVE FROM THE LEGISLATURE, SO WE WERE -- AND ALSO WITH THE COUNTIES AS WELL.

SO THIS -- AT THIS PARTICULAR HEARING, THERE WAS ALSO A COUNTY ELECTION DIRECTOR WHO WAS TESTIFYING AS WELL. AND SO WE WANTED TO MAKE IT CLEAR THAT THIS WAS A NATIONAL MOVEMENT, THIS WAS NOT ISOLATED IN PENNSYLVANIA, THIS WAS WELL FOUNDED BASED ON NATIONAL SECURITY, YOU KNOW, EXPERTS IN LAW, TECHNOLOGY, COMPUTER SCIENCE AND SO FORTH, WHO WERE ALL ADVISING THAT, BY 2020, VOTERS BE VOTING ON VOTING SYSTEMS THAT PROVIDED A VOTER-VERIFIABLE PAPER BALLOT SYSTEM. AND THAT IT BE AUDITABLE AS WELL.

Q. NOW, THE SECURING THE VOTE REPORT THAT YOU

REFERRED TO HERE, WHY DID YOU REFER TO THAT PARTICULAR REPORT?

A. WELL, IT WAS, YOU KNOW, IT'S -- THE NATIONAL ACADEMIES, YOU KNOW, HAVE A REALLY STRONG MIX OF COMPUTER SCIENCE, LAW, ELECTIONS, OTHER TECHNOLOGY EXPERTS, WHO ALL CAME TOGETHER TO MAKE THIS RECOMMENDATION. AND WE TOOK IT SERIOUSLY.

Q. AND WAS THE DEPARTMENT FOLLOWING THESE RECOMMENDATIONS FROM THIS REPORT IN ITS INITIATIVE?

A. WE WERE.

MR. MAAZEL: OBJECTION, LEADING, YOUR HONOR.

BY MR. ARONCHICK:

Q. WHAT WAS THE RELATIONSHIP BETWEEN THIS REPORT AND THE DEPARTMENT'S INITIATIVES?

A. WE USED IT A LOT AS -- IN OUR ADVOCACY. BECAUSE, AGAIN, ANY OPPORTUNITY WE HAD TO MAKE IT CLEAR THAT WE WERE NOT MAKING THIS UP, THIS WASN'T SOMETHING THAT, YOU KNOW, WASN'T NECESSARY, THAT THERE WERE EXPERTS ACROSS THE COUNTRY WHO WERE DEMONSTRATING WHY THIS NEEDED TO BE THE SCENARIO, THAT WE UPGRADE IN PENNSYLVANIA, AND THAT'S WHY WE WERE FOLLOWING IT.

Q. RIGHT. AND WOULD YOU TURN TO DX -- THIS IS A DIFFERENT BOOK -- DX F. DO YOU HAVE THAT?

A. I DO.

Q. ARE THESE EXCERPTS FROM THE SECURING THE VOTE REPORT THAT YOU JUST REFERRED TO?

A. YES.

Q. YOU REFERRED TO EXPERTS IN LAW AND TECHNOLOGY THAT WERE PART OF THIS REPORT?

A. YES.

Q. WOULD YOU TURN TO SMALL VII?

A. YES.

Q. COMMITTEE ON SCIENCE, TECHNOLOGY AND LAW?

A. YES.

Q. WHO WERE THE CO-CHAIRS OF THAT COMMITTEE?

A. DAVID BALTIMORE, PRESIDENT EMERITUS, AND ROBERT ANDREWS MILLIKAN, PROFESSOR OF BIOLOGY AT CALTECH. AND DAVID TATEL, JUDGE OF THE U.S. COURT OF APPEALS FOR THE D.C. CIRCUIT.

Q. AND THEN THE OTHER NAMES, I GUESS, THEY CAN SPEAK FOR THEMSELVES THERE.

DID THIS REPORT ADDRESS THE ROLE OF PAPER IN ELECTIONS?

A. YES.

Q. WOULD YOU TURN TO WHAT IS PAGE 42. IT'S -- AT THE TOP OF THE PAGE IT SAYS 42, OR ALSO PAGE 151 AND 167. DO YOU HAVE THAT?

A. I DO.

Q. A COUPLE OF PAGES IN?

A. YES.

Q. ALL RIGHT. AND THIS IS ABOUT THE ROLE OF PAPER IN ELECTIONS?

A. YES.

Q. WOULD YOU READ THE DEFINITION OF PAPER BALLOTS THAT THE SECURING THE VOTE REPORT ISSUED, THE REPORT THAT YOU ARE TELLING THE SENATE ABOUT AND THAT YOU TOLD MR. MAAZEL ABOUT? READ THE DEFINITION ON PAPER BALLOTS.

A. SO IT SAYS: PAPER BALLOTS DEFINED. BECAUSE RECORDS OF BALLOTS MAY TAKE MANY FORMS, IT IS IMPORTANT TO CLEARLY DEFINE WHAT IS MEANT BY PAPER BALLOT. FOR THE PURPOSES OF THIS REPORT, REFERENCES TO PAPER BALLOTS REFER TO ORIGINAL RECORDS THAT ARE PRODUCED BY HAND OR A BALLOT-MARKING DEVICE WHICH ARE HUMAN READABLE IN A MANNER THAT IS EASILY ACCESSIBLE FOR INSPECTION AND REVIEW BY THE VOTER WITHOUT ANY COMPUTER INTERMEDIARY, I.E., VOTER-VERIFIABLE, ACCOUNTABLE BY MACHINE, SUCH AS A SCANNER OR BY HAND, AND WHICH MAY BE RECOUNTED OR AUDITED BY MANUAL EXAMINATION OF THE HUMAN READABLE PORTION OF THE BALLOT.

DO YOU WANT ME TO KEEP READING?

Q. SURE.

A. A PAPER BALLOT-BASED VOTING SYSTEM MAKES THE PAPER BALLOT THE OFFICIAL BALLOT OF RECORD OF THE VOTER'S EXPRESSED INTENTIONS. OTHER REPRESENTATIONS,

E.G., AN ELECTRONIC REPRESENTATION PRODUCED BY A SCANNER, ARE DERIVATIVE AND ARE NOT VOTER-VERIFIABLE. THE HUMAN READABLE PORTION OF THE CAST PAPER BALLOT PROVIDES THE BASIS FOR AUDITS AND RECOUNTS.

Q. AND WAS -- WHAT WAS THE SIGNIFICANCE OF THIS DEFINITION IN THE DEPARTMENT'S INITIATIVE?

A. SO THIS WAS CONSISTENT WITH HOW WE WERE -- WITH OUR INITIATIVE. SO WE WERE CERTIFYING SYSTEMS THAT INCLUDED BOTH HAND-MARKED PAPER BALLOTS AND BALLOT-MARKING DEVICES, WHICH IS CONSISTENT WITH THIS. AND, AGAIN, AND EVERY BALLOT HAD TO HAVE THE HUMAN READABLE COMPONENT OF THE BALLOT, SO THAT THE VOTER -- NOT ONLY THE VOTER COULD VERIFY THE HUMAN READABLE COMPONENT, BUT ALSO THE ELECTION OFFICIALS FOR THE AUDIT AFTER THE FACT. AND THAT THIS WOULD BE THE OFFICIAL VOTE OF RECORD, WAS THE PAPER.

Q. AND SO EARLIER WHEN I ASKED YOU RIGHT AT THE BEGINNING TO READ THE ACTUAL CERTIFICATION OF THE ES&S MACHINE THAT INCLUDED THE XL, THE NOVEMBER 30 CERTIFICATION, EXHIBIT 34. DO YOU RECALL THAT?

A. YES.

Q. AND WE READ THAT THE XL HAD A PAPER BALLOT MATERIAL BEHIND THE GLASS?

A. CORRECT.

Q. IS THAT CONSISTENT WITH THIS DEFINITION?

A. IT IS.

Q. AND WOULD YOU LOOK AT EXHIBIT 57 ONCE MORE, JX-57?

A. YES.

Q. WOULD YOU EXPLAIN TO THE COURT HOW THIS DOCUMENT RELATES TO THE DEFINITION OF PAPER BALLOT THAT YOU JUST READ FROM THE SECURING THE VOTE REPORT?

A. SURE. SO THIS IS AN ORIGINAL RECORD PRODUCED BY -- AND I AM JUST KIND OF LOOKING AT THE WORDS IN THE MAAZEL REPORT -- IT'S AN ORIGINAL RECORD PRODUCED BY A BALLOT-MARKING DEVICE, WHICH, AS YOU CAN SEE, IS HUMAN READABLE. AND AS IT IS DESCRIBED IN THE CERTIFICATION REPORT, IT COMES BEFORE THE GLASS FOR THE VOTER TO VERIFY. AND IT'S THE HUMAN READABLE TEXT THAT'S THE OFFICIAL VOTE OF RECORD. SO FOR AUDITS OR RECOUNTS, THE WORDS WOULD BE COMPARED TO THE TABULATED RESULTS FROM ELECTION NIGHT.

Q. OKAY. AND ONE MORE QUESTION ABOUT SECURING THE VOTE EXCERPT. TURN TO THE PAGE JUST BEFORE THE ONE YOU JUST READ, THIS WOULD BE PAGE 41, OR 150 AND 167 AT THE TOP. DO YOU SEE THAT?

A. YES.

Q. ARE THERE DEFINITIONS HERE FOR HAND-MARKED PAPER BALLOT SYSTEMS?

A. YES.

Q. AND COUNTING PAPER BALLOT SYSTEMS?

A. YES.

Q. COULD YOU REFER THE COURT AND READ WHAT THE DEFINITIONS ARE IN THIS REPORT AND HOW THE WORDS ARE USED?

A. STARTING FROM WHICH ONE?

Q. START WITH MACHINE MARKED PAPER BALLOT.

A. OKAY. MACHINE MARKED PAPER BALLOT SYSTEMS. A GROWING NUMBER OF JURISDICTIONS ARE USING ELECTRONIC BALLOT MARKING DEVICES, BMD'S, WHICH USE ELECTRONIC DEVICES TO MARK PAPER BALLOTS ACCORDING TO VOTER'S INSTRUCTIONS. THE PAPER BALLOTS ARE USUALLY COUNTED BY OPTICAL SCANNERS.

HAND-COUNTED PAPER BALLOTS. A SMALL NUMBER OF JURISDICTIONS CONTINUE TO MANUALLY COUNT PAPER BALLOTS CAST IN POLLING PLACES.

Q. NOW, GOING BACK TO MS. UNGER'S E-MAIL, WHICH WAS DX -- JX, I'M SORRY, 14. YOU'VE NOW ADDRESSED THE FIVE BULLET POINTED ITEMS THAT WERE SENT TO THE PLAINTIFF'S TEAM IN ADVANCE OF THE SETTLEMENT DISCUSSIONS?

A. YES.

Q. DID -- WAS THERE ALSO ANOTHER DOCUMENT THAT WAS PROMISED TO BE SENT TO THE PLAINTIFF'S TEAM A COUPLE OF DAYS LATER?

A. YES.

Q. WHAT IS THAT?

A. THAT'S THE IFP THAT I STARTED TO DESCRIBE EARLIER?

Q. WOULD YOU POINT TO THE PART OF THE DOCUMENT THAT YOU ARE REFERRING TO?

A. SURE. AT THE VERY BOTTOM, IT SAYS: I ALSO EXPECT TO OBTAIN A CONTRACT TO FORWARD ON MONDAY TO WHICH COUNTIES CAN BUY VOTING SYSTEMS. IT CONTAINS SOME REQUIREMENTS THAT WE EXPECT THAT PLAINTIFFS WOULD SUPPORT.

Q. AND THEN WOULD YOU TURN TO JX 17 --

A. YES.

Q. -- AND 18, BOTH OF THEM.

A. OKAY.

Q. WHAT ARE THESE DOCUMENTS?

A. SO 17 IS THE COVER E-MAIL.

Q. THIS IS THE FOLLOWING MONDAY?

A. CORRECT, SORRY. MONDAY, OCTOBER 1ST. AND THIS IS THE E-MAIL THAT SUE ANN UNGER SENT TO PLAINTIFF'S COUNSEL WITH THAT COOPERATING PURCHASING AGREEMENT REFERRED TO AT THE BOTTOM OF THE PRIOR LETTER.

Q. OKAY. AND NOW, THIS WOULD BE THE PLACE WHERE YOU COULD PERHAPS BRIEFLY EXPLAIN TO THE COURT WHAT IS THIS DOCUMENT.

A. SURE. SO THIS IS THE IFB THAT I WAS REFERRING

TO, INVITATION FOR BIDS, THAT'S LIKE AN RFP PROCESS. AND THIS SETS UP WHAT'S REFERRED TO AS A COSTARS AGREEMENT, SO IT'S A STATEWIDE CONTRACT THAT ALLOWS COUNTIES, RATHER THAN GOING THROUGH THEIR OWN PROCUREMENT PROCESS, HAVE THE OPTION OF PROCURING THROUGH THE STATEWIDE CONTRACT INSTEAD. AND WE -- DO YOU WANT ME TO KEEP DESCRIBING?

Q. YEAH, SURE.

A. SO THIS IFB ALSO INCLUDED E POLL BOOKS, BUT THAT'S NOT RELEVANT FOR THE CURRENT LITIGATION. BUT IT ALSO ESTABLISHED, YOU KNOW, TECHNICAL REQUIREMENTS, YOU KNOW, PROTECTIONS TO THE COUNTIES FOR PARTICULAR -- LIKE MAINTENANCE COVERAGE. AS I MENTIONED EARLIER, WE HAD IN THERE INFORMATION ABOUT FOREIGN OWNERSHIP. SO IT HAS A LOT IN THERE. BUT PRIMARILY, IT WAS A VEHICLE FOR VENDORS AND COUNTIES TO UNDERSTAND. AND ALL THE COMPONENTS THAT WERE REQUIRED OF THE VOTING SYSTEMS AND HOW THEY COULD PROCURE IT THROUGH THIS STATEWIDE CONTRACT.

Q. WOULD YOU TURN TO PAGE 7 OF 29, WHICH IS IN THE MIDDLE, AGAIN, I MEAN THE FIRST, I DON'T KNOW, 15 OR SO PAGES AREN'T NUMBERED AND THEN THERE'S A NUMBERING THAT STARTS -- I'LL TRY TO GET EVERYBODY THERE -- AFTER THE TERMS AND CONDITIONS. IT'S CALLED COSTARS CONTRACT, SPECIAL CONTRACT TERMS AND CONDITIONS. STARTS PAGE 1 OF

29, SORT OF ABOUT 15 PAGES IN.

A. GOT IT.

Q. DO YOU SEE THAT?

A. YES.

Q. OKAY. SO I JUST WANT TO GO OVER A COUPLE OF ITEMS IN HERE. AGAIN, THIS WHOLE CONTRACT WAS SENT TO MR. MAAZEL'S TEAM?

A. CORRECT.

Q. ALL THE DETAILS?

A. CORRECT.

Q. AND IT WAS ALSO PUBLIC, MADE PUBLIC?

A. YES.

Q. POSTED PUBLICLY?

A. YES.

Q. OKAY. SO PAGE 7 OF 29, SECTION B, BID RESPONSIVENESS REQUIREMENTS. DO YOU SEE THAT?

A. YES.

Q. WOULD YOU READ THE 1A MINIMUM TECHNICAL REQUIREMENT THAT BIDDERS HAVE TO MEET?

A. BIDDERS MUST PROVIDE VOTING SYSTEM SOLUTIONS THAT INCLUDE A VOTER-VERIFIABLE PAPER RECORD. THE BIDDER MUST DESCRIBE AND PROVIDE DOCUMENTATION OF ITS ABILITY TO SUPPLY AND SERVICE ITS VOTING SYSTEM FOR THE DURATION OF THE SYSTEM'S LIFE EXPECTANCY.

Q. ALL RIGHT. AND THEN THERE'S SOME DETAILS. BUT

GO TO PAGE 10. THE VOTING SYSTEM AND EPB REQUIREMENTS?

A. YES.

Q. WHAT IS THE REQUIREMENT UNDER 1A, SMALL II?

A. ONLY TOUCH SCREEN UNITS WITH A VOTER-VERIFIABLE PAPER RECORD ARE ALLOWED.

Q. AND WHY ARE YOU USING THESE WORDS, THE MINIMUM AND THE TECHNICAL REQUIREMENTS?

A. AGAIN, THE -- I MEAN THIS USES -- THIS USES THE WORD RECORD, WHICH IS USED INTERCHANGEABLY WITH BALLOT. WHAT MATTERS HERE IS THAT THE VOTER IS PRESENTED WITH THE OPPORTUNITY TO VERIFY THEIR VOTE BEFORE THE VOTE IS CAST.

Q. THEN PAGE 11, THERE'S ANOTHER VOTING SYSTEM REQUIREMENT IN 2C.

A. I'M SORRY, WHICH PAGE?

Q. PAGE 11.

A. OKAY.

Q. 2C?

A. YES.

Q. RESILIENCY, THE COURT ASKED ABOUT RESILIENCY. WHAT IS THAT REQUIREMENT?

A. SO THE VOTING MACHINE MUST ADHERE TO THE STANDARDS CONCERNING RESILIENCY, AUDITABILITY AND SECURITY, AND MUST BE OF THE TYPE THAT EMPLOYS A VOTER-VERIFIABLE PAPER BALLOT OR VOTER-VERIFIABLE PAPER

RECORD OF THE VOTES CAST BY A VOTER.

Q. OKAY. SO THIS DOCUMENTATION, ALL OF THIS DOCUMENTATION WAS SENT OVER TO MR. MAAZEL ON OR -- BY, ON OR OCTOBER 1, 2018, CORRECT?

A. CORRECT.

Q. NOW, I'M NOT GOING TO GO THROUGH THE DETAILS WITH YOU OF THE BACK AND FORTH OF THE NEGOTIATIONS THAT ENSUED, BECAUSE YOU HAD LAWYERS THAT DID THAT, RIGHT?

A. CORRECT.

Q. MR. GATES, MS. KOTULA, WHO WILL TESTIFY SHORTLY. I WANT TO MOVE FORWARD TO THE OCTOBER 11TH SETTLEMENT CONFERENCE WITH MAGISTRATE RICE THAT YOU WERE AT, CORRECT?

A. CORRECT.

Q. ALL RIGHT. DID -- AT THE CONFERENCE YOU WERE AT, DID ANY MEMBER OF THE PLAINTIFFS' TEAM SAY TO YOU, WE ARE NOT GOING TO SETTLE ON THE BASIS OF AN INITIATIVE THAT INCLUDES BALLOT-MARKING DEVICES?

A. NEVER.

Q. DID THEY EVER SAY TO YOU, WE ARE NOT LOOKING AT ANY BROAD DEFINITION OF PAPER BALLOT, WE HAVE A VERY NARROW DEFINITION AND THAT'S THE BASIS WE ARE GOING TO SETTLE?

MR. MAAZEL: OBJECTION, LEADING.

THE COURT: OVERRULED. THAT'S A KEY

QUESTION. I DON'T KNOW HOW ELSE HE CAN ASK IT.

THE WITNESS: SO WE VERY CLEARLY DEFINED THE MEANING OF THE TERMS IN THE CONTRACT, BOTH WHAT IT INCLUDED AND WHAT IT DIDN'T INCLUDE. THAT WAS ALL-INCLUSIVE. SO WHAT WAS DISCUSSED WAS THAT THE PATH WE WERE ALREADY ON WAS ACCEPTABLE TO ALL PARTIES INVOLVED. AND AGAIN, WE MADE THAT VERY CLEAR BY THE USE OF THE WORD CONTINUE TO DIRECT. AND BY PROVIDING THE PLAINTIFFS LOTS AND LOTS OF INFORMATION ABOUT EXACTLY WHAT WAS INCLUDED ON THAT PATH.

SO WHAT WAS KEY -- AND, AGAIN, THIS IS SPELLED OUT IN THE SETTLEMENT AGREEMENT, IS THAT EVERY SYSTEM HAD TO EMPLOY PAPER. THE PAPER WAS THE OFFICIAL VOTE OF RECORD THAT THE VOTER COULD VERIFY, THAT THIS WAS AGAIN -- AND MAYBE I SHOULD PULL UP THE ACTUAL AGREEMENT, SO I'M USING THE --

THE COURT: I'M SORRY. YOUR ANSWER TO THE QUESTION IS NO, THEY NEVER SAID THIS IS THE DEFINITION OF BALLOT?

THE WITNESS: SORRY, YOUR HONOR, YES.

THE COURT: OKAY.

BY MR. ARONCHICK:

Q. YES, THE ANSWER IS NO.

A. YES, THE ANSWER IS NO. SORRY. THE ANSWER IS NO. WHAT WAS DISCUSSED IS WHAT IS -- WHAT ARE THE

TERMS. ONLY -- THE ONLY THINGS THAT WERE DISCUSSED ARE THE LANGUAGE IN THE SETTLEMENT AGREEMENT, NOT ANY OTHER DEFINITION OF PAPER BALLOT.

Q. ALL RIGHT. DID -- AT THE SETTLEMENT CONFERENCE THAT YOU WERE AT, DID THE PLAINTIFFS -- ANY MEMBER OF THE PLAINTIFF TEAM SAY, WE ARE USING THE DEFINITION OF PAPER BALLOT IN THE ELECTION CODE AS THE BASIS OF OUR SETTLEMENT?

A. NEVER.

Q. WAS THE DEFINITION IN THE ELECTION CODE EVEN DISCUSSED AT THIS SEPTEMBER 11TH -- I'M SORRY -- OCTOBER 11TH SETTLEMENT CONFERENCE?

A. NO.

Q. WERE YOU EVER TOLD IN ANY WAY AT THE OCTOBER 11TH SETTLEMENT CONFERENCE THAT THE XL MACHINE WAS A PROBLEM?

A. NEVER. NEVER AT THE SETTLEMENT CONFERENCE.

Q. WERE YOU EVER TOLD AT ANY FASHION AT THE SETTLEMENT CONFERENCE THAT THEY WILL ONLY SETTLE ON THE BASIS OF HAND-MARKED PAPER BALLOTS OR PAPER BALLOTS THAT HAVE CHOICES ON THE FACE OF THE PAPER DOCUMENT?

A. NO.

Q. WERE YOU EVER TOLD THAT -- WAS THERE EVER ANY DISSENT REGISTERED TO YOU ABOUT THE DEPARTMENT'S INITIATIVE AS YOU HAVE EXPLAINED IT THAT WAS GOING ON

FOR ABOUT NINE OR TEN MONTHS AT THAT POINT?

A. NO. IT WAS COMPLETELY AGREED UPON THAT THE PATH WE WERE ON, WHICH AGAIN INVOLVED BALLOT-MARKING DEVICES AND HAND-MARKED PAPER BALLOTS, BOTH WERE INCLUDED AS PART OF THE PATH, AND THAT AS LONG AS THERE WAS A VOTER-VERIFIABLE PAPER RECORD THAT WAS AUDITABLE, REVIEWABLE BY THE VOTER BEFORE THEY CAST THEIR VOTE AND AUDITABLE AFTER THE FACT, THAT THERE WAS NO DISAGREEMENT WHATSOEVER ABOUT THOSE TERMS.

Q. WAS THERE ANY MENTION IN ANY WAY AT THAT OCTOBER CONFERENCE THAT YOU WERE AT, OCTOBER 11TH, THAT THE PAPER RECORD THAT WE SAW, JX EXHIBIT 57, WOULD NOT BE DEEMED A PAPER BALLOT BY THE PLAINTIFFS FOR THE PURPOSE OF THEIR SETTLEMENT AGREEMENT?

A. SO THE EXHIBIT YOU REFERRED TO IS THE ES&S XL PAPER BALLOT?

Q. YES.

A. THERE WAS NEVER AN INDICATION BY PLAINTIFFS THAT THAT WOULD NOT BE ACCEPTABLE, NO.

Q. AND AT THIS OCTOBER 11TH CONFERENCE, OR ANY TIME THEREAFTER, DID THE PLAINTIFFS EVER TELL YOU, WE WANT TO DISCUSS THE TERMS THAT ARE USED BY NIST, THE NATIONAL INSTITUTE OF SCIENCE AND TECHNOLOGY?

A. NO. THE FIRST I HEARD OF THAT WAS IN CONNECTION WITH THIS LITIGATION IN THE LAST COUPLE OF WEEKS WHEN I

SAW THE EXHIBIT LIST.

Q. OKAY. NOW, AFTER THE OCTOBER 11TH SETTLEMENT CONFERENCE, DID THERE COME A TIME THAT THE SETTLEMENT AGREEMENT WAS ACTUALLY SIGNED?

A. YES.

Q. AND THAT WAS NOVEMBER 28, 2018?

A. YES.

Q. AND THAT IS EXHIBIT 30?

A. YES.

Q. OKAY. BETWEEN OCTOBER 11TH AND NOVEMBER 28TH, DID THE DEPARTMENT POST ANOTHER VOTING SYSTEMS REPORT, AT LEAST ANOTHER VOTING SYSTEMS REPORT?

A. I BELIEVE SO.

Q. ALL RIGHT. WOULD YOU TURN TO DX M, DEFENSE EXHIBIT M. IS THIS A REPORT THAT WAS POSTED BEFORE THE SIGNING OF THE SETTLEMENT AGREEMENT?

A. YES.

Q. WHAT IS THE DATE?

A. OCTOBER 31, 2018.

Q. ALL RIGHT. AND THIS IS IN THE SAME FORMAT AS THE ONE WE PREVIOUSLY LOOKED AT?

A. CORRECT.

Q. AND IT WAS GIVEN TO MR. MAAZEL'S TEAM?

A. CORRECT.

Q. ALL RIGHT. SO LET'S TURN TO THE FIRST PAGE.

WHAT DOES IT SAYS ABOUT THE ES&S SYSTEM?

A. IT SAYS THE ES&S 6021, IT SAYS: TESTING, COMPLETE. AND FINAL CERTIFICATION REPORT AND PAPERWORK IN PROGRESS.

Q. OKAY. THE TESTING THAT WE ARE REFERRING TO, WHAT IS THAT TESTING?

A. SO THAT'S THE -- IN THE PRIOR STATUS REPORT, WHEN IT SAID TESTING WAS SCHEDULED FOR, I THINK SEPTEMBER 24TH TO 28TH, THAT'S THE STATE TESTING TO THE -- BY THE EXAMINER.

Q. ALL RIGHT. TO YOUR KNOWLEDGE, DID THE PLAINTIFFS EVER ASK YOU FOR ANY -- BEFORE THE SETTLEMENT AGREEMENT WAS SIGNED, FOR ANY RECORD OF WHAT HAPPENED AT THE TESTING?

A. NOT TO MY KNOWLEDGE, NO.

Q. FOR ANY VIDEO RECORDING OF THE TESTING?

A. BEFORE THE SETTLEMENT?

Q. BEFORE THE SETTLEMENT WAS SIGNED?

A. NO.

Q. THE 6021 SYSTEM WHERE THE TESTING IS COMPLETE, DID THAT INCLUDE THE XL?

A. YES.

Q. THAT'S THE SUBJECT OF THIS CASE?

A. CORRECT.

Q. AND BY THE WAY, THE DEPARTMENT WENT ON TO

DESCRIBE ON PAGE 2 AND 3 PREVIOUS ACTIONS BY THE DEPARTMENT OF STATE SINCE THE PREVIOUS STATUS REPORT?

A. YES.

Q. AND YOU GO ON TO TALK ABOUT ALL THE OTHER SYSTEMS THAT ARE UNDER REVIEW OR HAVE BEEN COMPLETED?

A. CORRECT.

Q. THERE'S A WHOLE LIST OF COMPLETIONS IN THE COLUMN THERE, IS THAT CORRECT?

A. YES.

Q. ALL OF THIS INFORMATION ABOUT WHAT SYSTEMS WERE REVIEWED, TESTED, COMPLETED, ALL OF THAT WAS AVAILABLE TO THE PLAINTIFFS BEFORE THEY SIGNED THE SETTLEMENT AGREEMENT?

A. CORRECT.

Q. IS THAT CORRECT?

A. YES.

Q. DID THE PLAINTIFFS EVER SAY, WE ARE NOT SIGNING THIS SETTLEMENT AGREEMENT IF THE XL IS PART OF THIS SYSTEM?

A. NEVER.

Q. OR PART OF THE INITIATIVE?

A. NO.

Q. LET'S TURN TO ANOTHER DOCUMENT. GO TO JX 29 -- 28, I'M SORRY.

MR. ARONCHICK: YOUR HONOR, THIS IS NOT

IN EVIDENCE. CAN I MOVE THIS IN EVIDENCE AT THIS POINT? THIS IS AN EAC OFFICIAL DOCUMENT OF THE ES&S EVS 6021 CERTIFICATION.

THE COURT: MR. MAAZEL?

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

(JOINT EXHIBIT JX 28 ADMITTED INTO EVIDENCE.)

BY MR. ARONCHICK:

Q. FIRST OF ALL, WHAT IS THE DATE OF THIS DOCUMENT?

A. NOVEMBER 12, 2018.

Q. ALL RIGHT. AND I AM REFERRING TO JX 28. DO YOU HAVE THAT THERE?

A. I DO.

Q. OKAY. WHAT IS THIS?

A. SO THIS IS THE -- AS I MENTIONED EARLIER, PENNSYLVANIA LAW REQUIRES BOTH FEDERAL EAC CERTIFICATION AS WELL AS STATE CERTIFICATION. THE STATE CAN'T CERTIFY THE SYSTEM UNTIL AFTER THE FEDERAL GOVERNMENT HAS DONE SO. SO THIS WAS THE ES&S CERTIFICATION BY THE EAC.

Q. OKAY. AND WOULD YOU TURN TO PAGE 2. IS THERE A REFERENCE TO THE EXPRESSVOTE XL AS PART OF THE CERTIFICATION?

A. YES. ON THE TOP OF PAGE 2.

Q. ALL RIGHT.

A. IT SAYS: EXPRESSVOTE XL. EXPRESSVOTE XL IS A HYBRID PAPER-BASED POLLING PLACE VOTING DEVICE THAT PROVIDES A FULL FACE TOUCHSCREEN VOTE CAPTURE THAT INCORPORATES THE PRINTING OF THE VOTER'S SELECTIONS AS A CAST VOTE RECORD AND TABULATION SCANNER INTO -- SCANNING INTO A SINGLE UNIT.

Q. OKAY. AND IS THIS A PUBLIC DOCUMENT?

A. YES.

Q. WAS IT POSTED ON OR AROUND THE TIME OF NOVEMBER 12, 2018, BEFORE THE SETTLEMENT AGREEMENT WAS SIGNED?

A. IT WAS.

Q. WAS IT AVAILABLE TO THE PLAINTIFFS?

A. YES.

Q. AND DID YOU EVER GET -- BEFORE THE SETTLEMENT AGREEMENT WAS SIGNED, EVER ANY DISCUSSION YOU RECALL AT ANY POINT THAT, EVEN THOUGH THE EAC HAS NOW CERTIFIED THE EXPRESSVOTE XL, THEY ARE NOT SETTLING ON THE BASIS OF THAT CERTIFICATION?

A. NO.

Q. NOW, THE SETTLEMENT AGREEMENT OF SEPTEMBER -- I'M SORRY -- NOVEMBER 28TH, CAN WE GO TO THE EXHIBIT 30, JX 30. YOU ADDRESSED TO THE COURT WHAT IS NOW PARAGRAPH 3 EARLIER IN THIS SETTLEMENT AGREEMENT. DO YOU SEE PARAGRAPH 3?

A. YES.

Q. AND IT HAS THE SAME LANGUAGE: THE SECRETARY WILL CONTINUE?

A. CORRECT.

Q. THAT WAS -- CONTINUED TO BE PART OF THE SETTLEMENT AGREEMENT, CORRECT?

A. YES.

Q. WOULD THE -- WOULD YOU HAVE SETTLED IF THERE WAS NOT THAT LANGUAGE?

A. ABSOLUTELY NOT.

Q. WHY?

A. BECAUSE WE WERE ALREADY WELL INTO THIS INITIATIVE. WE HAD -- THE COUNTIES WERE WORKING ON THIS INITIATIVE, WE WERE WORKING ON FUNDING FOR THIS INITIATIVE. WE HAD PROVIDED THE EAC FOR THE FEDERAL FUNDING OUR, YOU KNOW, PROGRAM NARRATIVE, EXPLAINING THE INITIATIVE. WE WERE WELL ALONG THE WAY. AND WE STRONGLY BELIEVED IN THE INITIATIVE AND WHAT IT CONTAINED. SO WE WERE NOT GOING TO SETTLE.

Q. SECTION 2. SECTION 2 HAS THE THREE ITEMS THAT MY COLLEAGUE ADDRESSED TO YOU ON DIRECT?

A. CORRECT.

Q. DO THOSE THREE ITEMS COVER THE PAPER RECORDS THAT WERE IN THE MACHINES THAT WERE PART OF THIS INITIATIVE?

A. YES.

MR. MAAZEL: OBJECTION, LEADING.

THE COURT: OVERRULED.

BY MR. ARONCHICK:

Q. AND IN SPECIFIC, DO THEY COVER THE XL PAPER RECORD?

A. THEY DO.

Q. WOULD YOU GO THROUGH AND EXPLAIN TO THE COURT HOW THAT IS SO?

A. SURE. SO, AGAIN, THE BALLOT IS ON PAPER, SO WE HAVE SEEN THE BALLOT. IT IDENTIFIES THE SELECTIONS MADE BY THE VOTER. WELL, THAT KIND OF GOES TO B, WHICH, AGAIN, EXPLAINS THE INTERRELATEDNESS OF THIS DESCRIPTION. THEY PRODUCE A VOTER-VERIFIABLE RECORD OF EACH VOTE. AND I'LL NOTE THAT WE USE BALLOT IN THE FIRST SENTENCE, RECORD IN THE SECOND SENTENCE. AGAIN, THEY ARE USED INTERCHANGEABLY. AND THAT THESE PAPER RECORDS OR PAPER BALLOTS ARE CAPABLE OF SUPPORTING A ROBUST PRECERTIFICATION AUDITING PROCESS.

Q. ALL RIGHT. IS THERE AN EXCEPTION TO THE CONCEPT OF A PAPER BALLOT IN THIS SETTLEMENT AGREEMENT?

A. YES.

Q. AND WHAT IS THAT EXCEPTION?

A. SO THE FOOTNOTE, YOU COULD SEE, SAYS: THE ONE EXCEPTION IS A VVPAT RECEIVED GENERATED BY A DRE MACHINE

IS NOT A PAPER BALLOT.

Q. WOULD YOU EXPLAIN THAT ONE EXCEPTION?

A. SURE. SO DRE -- SOME DRE MACHINES, SOMEWHERE ALONG THE WAY, THEY STARTED ADDING, YOU KNOW, COMPONENTS TO IT THAT ALLOWED FOR -- VVPAT STANDS FOR VOTER VERIFIED PAPER AUDIT TRAIL. AND SO IT, BASICALLY, IS A PAPER COPY OF THE ELECTRONIC VOTE. BUT THE OFFICIAL VOTE OF RECORD IS ELECTRONIC. AND THE PAPER IS NOT A BALLOT. AND IT'S NOT THE OFFICIAL VOTE OF RECORD, IT'S BASICALLY A RECEIPT. WE NEVER USED THE SYSTEM IN PENNSYLVANIA. AND WE HAD ALREADY DECIDED WE WERE NOT CERTIFYING ANY DRE'S AGAIN, BECAUSE WE DIDN'T WANT THE VOTE TO BE ELECTRONIC, WE WANTED THE VOTE TO BE PAPER. SO THIS WAS NOT AT ALL CONTROVERSIAL, BECAUSE WE HAD ALREADY DECIDED WE WERE NOT CERTIFYING DRE MACHINES AT ALL WITH OR WITHOUT VVPATS.

Q. NO OTHER EXCEPTIONS TO THE CONCEPT OF PAPER BALLOT IN THIS SETTLEMENT AGREEMENT?

A. CORRECT.

THE COURT: IF I MAY. THIS FOOTNOTE, FOOTNOTE 4, DO YOU REMEMBER WHO SUGGESTED -- IF YOU REMEMBER, WHO, IF ANYONE, SUGGESTED THAT YOU EXCLUDE THE DRE RECEIPT?

THE WITNESS: FOR THE PURPOSE OF THE SETTLEMENT CONVERSATIONS? I BELIEVE IT WAS PLAINTIFFS.

I THINK THAT WAS IN THERE FROM THE PLAINTIFF.

THE COURT: SO THEY SAID THEY DIDN'T WANT -- THEY WANTED IT CLEAR THAT THIS WAS NOT A BALLOT AS REFERRED TO IN PARAGRAPH 2A, WHICH IS WHERE THE FOOTNOTE IS.

THE WITNESS: CORRECT. THAT WAS THE ONE EXCEPTION THAT THEY REQUESTED AND WE AGREED TO.

BY MR. ARONCHICK:

Q. OKAY. NOW, AFTER --

THE COURT: MR. ARONCHICK, IT'S -- WE WILL GO AS LATE AND AS LONG AS WE NEED TO, INCLUDING ANOTHER DAY IF WE NEED TO. CAN YOU ESTIMATE, ONLY ESTIMATE, HOW MUCH MORE TIME YOU WILL NEED WITH THIS WITNESS?

MR. ARONCHICK: YES. PROBABLY 15 MINUTES.

THE COURT: AND I ASSUME THAT YOU HAVE RECROSS?

MR. MAAZEL: YES, YOUR HONOR.

THE COURT: WOULD IT BE PRUDENT FOR US TO BREAK FOR LUNCH NOW? I WILL BE GUIDED BY THE PARTIES.

MR. ARONCHICK: I DON'T EAT LUNCH. I MEAN, I WOULD PREFER, I MEAN, IF WE COULD USE AS MUCH OF THE COURT'S TIME AS POSSIBLE.

THE COURT: FINE. AND I WOULD PREFER NOT

TO HAVE THE SECRETARY HERE ANYWAY. ARE YOU ALL RIGHT WITH THAT, MR. MAAZEL? DO YOU EAT LUNCH?

MR. MAAZEL: I DO EAT LUNCH, YOUR HONOR. I THINK IT WOULD BE A GOOD IDEA TO TRY TO FINISH THIS WITNESS.

THE COURT: I THINK THAT'S GREAT. OKAY. PLEASE GO ON.

BY MR. ARONCHICK:

Q. SO EARLIER I ASKED YOU ABOUT JX 34, THE CERTIFICATION OF THE XL?

A. YES.

Q. AND JUST SINCE IT HAS BEEN A LITTLE WHILE, JUST TO REFRESH, PAGE 32. DO YOU SEE THE REFERENCE TO THE EXPRESSVOTE XL?

A. YES.

Q. I WILL READ IT. IT ALLOWS THE VOTER TO VALIDATE THE PAPER BALLOT THROUGH A GLASS WINDOW.

DO YOU SEE THAT?

A. YES.

Q. OKAY. DID YOU, AFTER THIS CAME OUT, RECEIVE -- GET -- DID IT COME TO YOUR ATTENTION ANY OBJECTION FROM THE PLAINTIFFS ABOUT THIS CERTIFICATION DOCUMENT THAT CAME OUT TWO DAYS AFTER THE SETTLEMENT AGREEMENT?

A. NO.

Q. ALL RIGHT. NOW, TURN TO JX 33. ARE YOU

FAMILIAR WITH THIS PRESS RELEASE FROM THE EMERY CELLI FIRM?

A. I AM.

Q. THAT'S MR. MAAZEL'S FIRM?

A. YES.

Q. THE THIRD PARAGRAPH HAS A QUOTATION FROM MR. MAAZEL HIMSELF. DO YOU SEE THAT?

A. YES.

Q. I WILL READ IT. IT SAYS: WE WILL BE WATCHING CLOSELY TO ENSURE THAT PENNSYLVANIA IMPLEMENTS EVERY ONE OF THESE IMPORTANT ELECTION REFORMS.

DO YOU SEE THAT?

A. YES.

Q. WE WILL BE WATCHING CLOSELY.

DID MR. MAAZEL, TWO DAYS LATER, CALL YOU UP AND SAY, UH-UH, THERE IS SOMETHING WRONG WITH THIS CERTIFICATION REPORT?

A. NO, NEVER.

Q. WHEN IS THE FIRST TIME YOU HEARD FROM MR. MAAZEL'S FIRM ABOUT THIS CERTIFICATION REPORT?

A. IT WAS FOLLOWING THE REQUEST FOR RECERTIFICATION OR RE-EXAMINATION OF THE VOTING SYSTEM THE FOLLOWING SUMMER BY OTHER PARTIES.

Q. AND THEN AFTER THAT, MR. MAAZEL'S FIRM?

A. CORRECT.

Q. APPROXIMATELY NINE OR TEN MONTHS LATER?

A. YES, CORRECT.

Q. OKAY. NOW, I WANT TO GO TO -- IN YOUR TESTIMONY TO MR. MAAZEL, YOU TALKED ABOUT QR CODES, TIMING MARKS. DO YOU REMEMBER THOSE CONCEPTS?

A. YES.

Q. AND HE WAS -- YOU WERE ADDRESSING THEM. I WOULD LIKE TO -- FOR THE -- BRIEFLY, FOR THE COURT'S UNDERSTANDING, WHAT YOU MEANT BY THOSE CONCEPTS. SO CAN WE START OFF AND GO TO EXHIBIT JX 55.

A. YES.

Q. WHAT IS THIS?

A. THIS IS AN AGREED-UPON STIPULATION.

Q. THIS IS -- IN THE STIPULATION, IT'S AGREED THAT THIS IS A HAND-MARKED PAPER BALLOT FOR THE ES&S SYSTEM.

A. OKAY.

Q. OKAY?

A. YES. 102.

MR. ARONCHICK: ALL RIGHT. YOUR HONOR, ONCE MORE, THIS WE HAD NOT YET MOVED INTO EVIDENCE. CAN I MOVE IT INTO EVIDENCE AT THIS TIME?

MR. MAAZEL: WHAT IS IT?

MR. ARONCHICK: 55.

MR. MAAZEL: NO OBJECTION, YOUR HONOR.

THE COURT: IT WILL BE ADMITTED.

(JOINT EXHIBIT JX 55 ADMITTED INTO EVIDENCE.)

BY MR. ARONCHICK:

Q. SO THIS IS THE HAND-MARKED PAPER BALLOT, RIGHT?

A. CORRECT.

Q. OKAY. YOU TESTIFIED BEFORE THAT EVEN HAND-MARKED PAPER BALLOTS WITHOUT THE SCAN MACHINES, VOTES ARE TABULATED ELECTRONICALLY, IS THAT CORRECT?

A. CORRECT.

Q. ALL RIGHT. CAN YOU EXPLAIN, LOOKING AT THIS DOCUMENT, HOW THAT IS SO AND WHAT ARE THE MARKS ON THIS DOCUMENT THAT DEMONSTRATE THAT?

A. SURE. AND CAN I GIVE A LITTLE CONTEXT AS WELL?

Q. YES.

A. SO AS I WAS DESCRIBING EARLIER, EACH VOTING SYSTEM OR SUITE HAS SEVERAL COMPONENTS THAT CAN BE USED. SO, IN PENNSYLVANIA, WE HAVE, YOU KNOW, IF YOU TAKE THE FIVE DIFFERENT -- WE CERTIFIED EIGHT VOTING SYSTEMS WITH MULTIPLE CONFIGURATIONS, SO SAY THERE'S SOMEWHERE BETWEEN 20 AND 25 DIFFERENT CONFIGURATION COMPONENTS THAT COULD BE USED. SO EVERY ONE OF THE SYSTEMS IN PENNSYLVANIA, WHETHER IT'S HAND-MARKED PAPER BALLOT OR BALLOT-MARKING DEVICE, EXCEPT FOR ONE OF THOSE 20 TO 25-SOME-ODD CONFIGURATIONS, EVERY ONE UTILIZES EITHER BARCODES, QR CODES OR TIMING MARKS TO TABULATE THE

VOTES.

SO, FOR EXAMPLE, THIS BALLOT, YOU COULD SEE THE LINES AROUND THE BALLOT. SO PICTURE -- FROM THE TABULATOR POINT OF VIEW, THE TABULATOR DOES NOT SEE ANY OF THOSE WORDS. IT'S AS IF IT'S A BLANK PAGE. THE WORDS ARE LITERALLY NOT SEEN BY THE MACHINE. WHAT THE MACHINE SEES OR READS IS, IT'S KIND OF LIKE A GRID. SO WHERE THE CIRCLE IS MARKED, THIS BALLOT DOES NOT SHOW ACTUALLY THE MARKING, BUT THE INTERSECTION OF THE TOP GRID AND THE BOTTOM GRID, I THINK OF IT AS LIKE, YOU KNOW, WHEN YOU'RE IN HIGH SCHOOL AND, YOU KNOW --

THE COURT: ALGEBRA OR GEOMETRY.

THE WITNESS: YEAH. MY DAUGHTER IS A MATH MAJOR, NOT ME.

BY MR. ARONCHICK:

Q. WE ARE GOING TO POINT TO JUST AN OPEN CIRCLE.

A. YOU MISSED THE THEATRICAL.

THE COURT: THE BOTTOM, THE LOWER LEFT.

THE WITNESS: SO, BASICALLY -- OH, THERE YOU GO. SO THAT DOT AND THE DOT BELOW IT MEANS SOMETHING TO THE COMPUTER THAT THEN KNOWS TO ALLOCATE A VOTE FOR THIS CASE, THIS IS WHEN WE STILL HAD STRAIGHT PARTY TICKET IN PENNSYLVANIA, SO THEY WERE VOTING STRAIGHT PARTY DEMOCRAT.

THE COURT: SO IT TAKES THE VOTER'S MARK

AND DETERMINES ITS COORDINATES AND RECORDS THE VOTE BASED ON THE COORDINATES?

THE WITNESS: CORRECT.

BY MR. ARONCHICK:

Q. AND NOW -- SO THAT'S A HAND-MARKED PAPER BALLOT. LET'S TURN TO 56 AND 57, JX 56 AND JX 57. ONCE MORE, WHAT ARE THESE DOCUMENTS?

A. SO 56 IS THE PAPER DOCUMENT AS PART OF THE EXPRESSVOTE 2.1. AND 57 IS THE PAPER DOCUMENT AS PART OF THE EXPRESSVOTE XL.

Q. ALL RIGHT. WOULD YOU EXPLAIN -- ONE OF THE COURT'S QUESTION FOR THIS HEARING WAS --

MR. MAAZEL: I'M SORRY, 56 IS NOT IN EVIDENCE.

MR. ARONCHICK: I'M SORRY. THANK YOU.

CAN WE MOVE 56 INTO EVIDENCE ALSO?

MR. MAAZEL: NO OBJECTION.

THE COURT: ALL RIGHT. SINCE YOU SUGGESTED IT, YES, IT WILL BE ADMITTED.

(JOINT EXHIBIT JX 56 ADMITTED INTO EVIDENCE.)

BY MR. ARONCHICK:

Q. ONE OF THE COURT'S QUESTIONS IN LEADING UP TO THIS HEARING WAS HOW VOTES ARE TABULATED AND COLLECTED. YOU JUST EXPLAINED THAT ON THE HAND-MARKED PAPER BALLOT,

HOW THEY ARE TABULATED. HOW ARE THEY TABULATED ON THESE DOCUMENTS?

A. SO ON THESE DOCUMENTS, IT'S THE BARCODE. SO EACH OF THESE BARCODES -- SO THE TOP BARCODE IS WHAT IS CALLED A MASTER BARCODE. AND THAT HAS INFORMATION ABOUT THE ELECTION, THE PRECINCT, THE -- YOU KNOW, TELLS IT SORT OF THE CONTEXT WITH WHICH TO READ. AND THEN EACH OF THESE INDIVIDUAL BARCODES CORRESPONDS TO A VOTE SELECTION BY THE VOTER. SO WHERE IT SAYS: REPRESENTATIVE KIMBERLY JONES FOR PRESIDENT, VICE-PRESIDENT OF THE UNITED STATES, THAT CORRESPONDS TO ONE OF THESE BARCODES AND SO FORTH.

Q. OKAY. NOW, THAT'S HOW THE VOTES ARE TABULATED. WHAT IS THE OFFICIAL RECORD OF THE VOTE?

A. SO THE HUMAN READABLE PLAIN TEXT IS THE OFFICIAL VOTE OF RECORD. SO FOR A RECOUNT OR AN AUDIT, AND, YOU KNOW, PHILADELPHIA ACTUALLY DID THIS THIS YEAR AS A PILOT, AND EVEN FOR THEIR STATUTORY AUDIT, THEY WENT THROUGH AND PULLED THE BALLOTS REQUIRED AND WENT THROUGH AND HAND READ THE NAMES SELECTED BY THE VOTERS TO AUDIT THE BALLOTS.

Q. ALL RIGHT. AND THEN WOULD YOU TURN TO JX 54.

THE COURT: IF I CAN --

MR. ARONCHICK: I'M SORRY.

THE COURT: YOU MEAN THAT THEY COMPARED

THE LINGUISTIC VOTE WITH WHAT THE COMPUTER RECORDED?

THE WITNESS: CORRECT.

THE COURT: WAS THERE ANY DISCONNECT? DID THEY FIND ANY MARGIN OF ERROR?

THE WITNESS: THE AUDIT CONFIRMED THE OUTCOME OF THE ELECTION. AND THE AUDIT -- SO THERE WERE TWO AUDITS THIS YEAR. SO THERE'S A STATUTORY -- IT'S NOT TECHNICALLY CALLED AN AUDIT. IT'S A STATISTICAL -- NOW I'M FORGETTING THE EXACT LANGUAGE.

MR. ARONCHICK: RECOUNT.

THE WITNESS: RECOUNT. BUT IT REQUIRES THE LESSER OF 2 PERCENT OR 2000 BALLOTS. SO THAT'S STILL ON THE BOOKS IN THE STATUTES. AND SO THEY DID THAT BY LOOKING AT THE WORDS ON THE BALLOTS. AND THEN THEY ALSO VOLUNTEERED TO PILOT WHAT WE REFER TO AS RISK-LIMITING AUDITS, WHICH IS ONE OF THE THINGS THAT WE ARE EXPLORING IN PENNSYLVANIA FOR FUTURE ELECTIONS. AND SO PHILADELPHIA AND MERCER COUNTY WERE BOTH PART OF THE FIRST VOLUNTEERS FOR THIS PILOT. SO THEY -- THERE'S A -- THIS IS, YOU KNOW, KIND OF FUN, MATHEMATICAL, STATISTICIAN STUFF, BUT THERE'S MATHEMATICAL CALCULATIONS THAT ARE DONE BASED ON HOW MUCH THE WINNER WINS AN ELECTION, AND SO IT BASICALLY TELLS YOU HOW MANY BALLOTS ARE NEEDED TO BE A STATISTICALLY SIGNIFICANT SAMPLE.

SO IN ADDITION TO THE 2 PERCENT STATUTORY AUDIT, THEY ALSO PILOTED THIS RISK-LIMITING AUDIT. AND BOTH CONFIRMED THE OUTCOME OF THE ELECTION AS RECORDED ON ELECTION NIGHT.

DOES THAT MAKE SENSE?

THE COURT: OKAY.

BY MR. ARONCHICK:

Q. ALL RIGHT. WOULD YOU TURN TO JX 54. THIS IS STIPULATED TO BE A DOCUMENT FROM THE DOMINION BALLOT-MARKING DEVICE.

A. YES.

Q. WOULD YOU EXPLAIN HOW VOTES ARE TABULATED ON THIS DOCUMENT?

A. SO THIS QR CODE ON THE TOP LEFT.

MR. ARONCHICK: I'M SORRY, ONE MORE TIME. MY COLLEAGUE HAS REMINDED ME THAT I HAVE NOT YET MOVED THIS INTO EVIDENCE EITHER.

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

(JOINT EXHIBIT JX 54 ADMITTED INTO EVIDENCE.)

BY MR. ARONCHICK:

Q. GO AHEAD.

A. SO THIS QR CODE IS WHAT IS READ BY THE MACHINE.

Q. WHERE IS THE QR CODE?

A. THE SQUARE THING IN THE UPPER LEFT.

Q. ALL RIGHT. AND HOW DOES THAT WORK?

A. SO, AGAIN, IT HAS THE MATERIALS NEEDED TO INFORM THE MACHINE. WHAT ARE THE -- WHAT THE BALLOT STYLE IS, THE PRECINCT AND THE SELECTIONS MADE BY THE VOTER.

Q. OKAY. AND THEN TURN TO --

THE COURT: I'M SORRY, YOU'RE SAYING THAT THE DOMINION MACHINE RECORDS THE VOTE BASED ON WHAT'S IN THE QR CODE?

THE WITNESS: CORRECT.

THE COURT: OKAY.

THE WITNESS: SO -- YEAH. AND IF I MAY, JUST TO ELABORATE. SO, AGAIN, WHEN I WAS SAYING EARLIER THAT ONLY ONE CONFIGURATION OF ONE SYSTEM, SO LITERALLY THERE'S ONE PIECE OF ONE SYSTEM IN PENNSYLVANIA THAT IS CERTIFIED THAT ACTUALLY LOOKS AT ALL AT THE HUMAN READABLE TEXT. AND NO COUNTY IN PENNSYLVANIA SELECTED THAT SYSTEM. SO EVERY SYSTEM IN USE IN PENNSYLVANIA USES EITHER A CODE, WHETHER IT'S A QR CODE, A BARCODE OR TIMING MARKS OR SENSOR, THAT BASICALLY RELATES TO A GRID.

BY MR. ARONCHICK:

Q. BY THE WAY, THE SYSTEM THAT YOU ARE REFERRING TO, THAT WOULD BE JX 59, THAT'S THAT DOCUMENT, THE HART?

A. CORRECT. THIS IS -- SO THIS -- FOR THIS -- THIS

IS THE ONE, HART IS, AGAIN, DIFFERENT CONFIGURATIONS OF THE HART SYSTEM. THIS PARTICULAR CONFIGURATION ALLOWS FOR WHAT IS CALLED OPTICAL CHARACTER RECOGNITION. BUT NO COUNTY SELECTED THIS. AND, IN PART, THAT'S BECAUSE THE MANUFACTURER ACTUALLY HAS LESS CONFIDENCE IN THE ACCURACY OF THE OPTICAL CHARACTER RECOGNITION. THE TABULATION OF THE BARCODES AND QR CODES AND TIMING MARKS IS -- HAS BEEN SHOWN, AT LEAST TO DATE, TO BE MORE ACCURATE THAN ANY OPTICAL CHARACTER RECOGNITION. AND THIS PARTICULAR SYSTEM WOULD ONLY WORK IN A COUNTY THAT CHOSE TO USE ALL ABOUT MARKING DEVICES, BECAUSE IT DOES NOT READ HAND-MARKED PAPER BALLOTS. AND SO IF YOU WANTED -- SO BASICALLY IF YOU WANTED TO ALLOW SOME VOTERS TO USE HAND-MARKED PAPER BALLOTS, AND ONLY HAVE BALLOT-MARKING DEVICES FOR PEOPLE WITH DISABILITIES, YOU WOULD NEED TO HAVE TWO SEPARATE SCANNERS IN EVERY POLLING PLACE. SO IT'S JUST NOT A FEASIBLE SOLUTION FOR COUNTIES AS HAS BEEN INDICATED BY THE FACT THAT NOBODY CHOSE IT.

MR. ARONCHICK: ALL RIGHT. AND CAN WE MOVE THIS INTO EVIDENCE WITH NO OBJECTION?

MR. MAAZEL: 59?

MR. ARONCHICK: YES.

MR. MAAZEL: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

(JOINT EXHIBIT JX 59 ADMITTED INTO EVIDENCE.)

BY MR. ARONCHICK:

Q. AND THEN ONE MORE. WOULD YOU TURN TO JX 62, WHICH ALSO I WOULD LIKE TO MOVE INTO EVIDENCE. THIS IS --

MR. MAAZEL: NO OBJECTION.

MR. ARONCHICK: THIS IS FROM THE UNISYN SYSTEM.

THE COURT: IT WILL BE ADMITTED.

(JOINT EXHIBIT JX 62 ADMITTED INTO EVIDENCE.)

MR. ARONCHICK: THANK YOU.

BY MR. ARONCHICK:

Q. SECRETARY BOOCKVAR, WOULD YOU PLEASE EXPLAIN TO THE COURT THIS DOCUMENT, WHICH IS FROM THE UNISYN SYSTEM, HOW ARE VOTES TABULATED -- THIS IS A DIFFERENT METHOD -- HOW ARE VOTES TABULATED FROM THIS DOCUMENT?

A. SO YOU CAN SEE THE CODES -- WAIT. THIS IS -- I'M SORRY, THIS IS WHICH ONE?

MR. ARONCHICK: PUT THE WHOLE DOCUMENT ON.

THE WITNESS: THIS IS 62? THIS IS THE UNISYN. YEAH. SO THESE CODES AT THE BOTTOM, THE COMBINATION OF CODES ARE WHAT IS READ.

BY MR. ARONCHICK:

Q. IS THAT CALLED AN INCA VOTE?

A. I BELIEVE SO, YES.

Q. A DIFFERENT SYSTEM FOR TABULATING?

A. RIGHT.

Q. OKAY. SO BY THE WAY, I WANT TO TURN TO MY LAST AREA OF QUESTIONING TO YOU, BUT ONE QUESTION THAT I FORGOT.

UNDER HAVA, HELP AMERICA VOTE ACT?

A. YES.

Q. ARE BALLOT-MARKING DEVICES REQUIRED IN ALL JURISDICTIONS?

A. YES. EVERY PRECINCT HAS TO HAVE AT LEAST ONE ADA ACCESSIBLE UNIT, WHICH ARE BALLOT-MARKING DEVICES IN THIS CASE. IT HISTORICALLY HAS A LOT --

Q. AND THE XL IS ALSO HAVA COMPLIANT?

A. CORRECT. SO ONE OF THE ADVANTAGES OF THE XL IS THAT IT PROVIDES THE SAME SYSTEM FOR EVERY VOTER, WHICH REALLY CAN'T BE OVERSTATED, I GUESS, BECAUSE THE -- I MEAN, HONESTLY, THE -- HAVA MEANT WELL, RIGHT? THEY WANTED TO MAKE SURE THAT VOTERS WITH DISABILITIES HAD ACCESSIBLE VOTING SYSTEMS. BUT THE SYSTEM THAT WAS SET UP, WHERE THERE WOULD BE SEPARATE MACHINES THAT WERE FOR PEOPLE WITH DISABILITIES, HAS NEVER BEEN EFFECTIVE FOR VOTERS WITH DISABILITIES.

FIRST OF ALL, BECAUSE YOU HAVE TO SELF IDENTIFY AS HAVING TO A DISABILITY, WHICH A LOT OF VOTERS DON'T WANT TO DO. IT POTENTIALLY VIOLATES SECRECY, BECAUSE IF YOU ONLY HAVE, SAY, ONE PERSON IN A PRECINCT OR TWO PEOPLE IN A PRECINCT WHO ARE USING THE SYSTEM, EVERYBODY KNOWS HOW THOSE PEOPLE VOTE. AND, YOU KNOW, FOR THOSE OF US WHO, LIKE MY EYESIGHT IS NOT WHAT IT USED TO BE, I WOULD LIKE TO USE A BALLOT-MARKING DEVICE. BUT I DON'T ACTUALLY HAVE THAT OPTION, BECAUSE IF I DON'T SELF IDENTIFY AS A PERSON WITH DISABILITY, THEN I AM USING MACHINES THAT ARE NOT EASY FOR ME TO USE.

SO THERE'S A LOT OF REASONS WHY HAVING ONE VOTING SYSTEM THAT POLL WORKERS ARE TRAINED ON, THAT VOTERS UNDERSTAND HOW TO USE, AND EVERYBODY CAN USE, SUPPORTS SECRECY FOR EVERY VOTER, ACCESSIBILITY FOR EVERY VOTER, AND, YOU KNOW, USABILITY FOR EVERY VOTER.

Q. AND THAT WAS AN OPTION BUILT INTO THE COMMONWEALTH'S INITIATIVE?

A. CORRECT.

Q. NOT REQUIRED -- BY THE WAY, CAN THE COMMONWEALTH DIRECT THE COUNTIES TO PURCHASE CERTAIN SYSTEMS?

A. NO. THAT'S THE COUNTY'S AUTHORITY.

Q. SO YOU GAVE THE COUNTY CHOICES IN YOUR INITIATIVE?

A. CORRECT. SO WE CERTIFY THE SYSTEMS AND THEN THEY CAN CHOOSE AMONG THE CERTIFIED SYSTEMS.

Q. OKAY. NOW, MY COLLEAGUE ASKED YOU A SERIES OF QUESTIONS ABOUT THE FEASIBILITY OF PHILADELPHIA IN PARTICULAR HAVING DIFFERENT VOTING DEVICES OR VOTING MACHINES FOR THE UPCOMING 2020 GENERAL ELECTION. FIRST OF ALL, YOU ARE NOW THE SECRETARY OF THE COMMONWEALTH, IS THAT POSSIBLE?

A. I THINK IT WOULD BE VERY, VERY, VERY DIFFICULT. EXTREMELY DIFFICULT. AND --

Q. WOULD YOU EXPLAIN WHY?

A. SO -- WELL, FIRST OF ALL, YOU KNOW, NO NEED TO SAY THIS, BUT PHILADELPHIA IS THE LARGEST COUNTY IN THE STATE, HAS OVER 1 MILLION VOTERS, IN ADDITION HAS SOME 1,700-SOME-ODD PRECINCTS, APPROXIMATELY 8,000 POLL WORKERS. SO THE IMMENSE SIZE OF THIS ENDEAVOR IS OVERWHELMING. AND I HAVE TO SAY, I WAS -- WE DID THIS -- WE STARTED THIS PROJECT IN 2018 VERY INTENTIONALLY SO THAT COUNTIES COULD HAVE THE OPTION OF GETTING THIS DONE IN 2019. AND PHILADELPHIA REALLY EXPEDITED, IN EVERY WAY IT POSSIBLY COULD, ITS RESEARCH PROCESS, ITS RFP, EVERY STEP THEY TOOK THEY DID AS QUICKLY AS THEY COULD. AND IT STILL TOOK THEM 18 MONTHS TO DO IT. AND THAT'S IN A NON-PRESIDENTIAL YEAR. AND THAT'S IN A YEAR BEFORE ACT 77 TOOK PLACE.

Q. LET'S BREAK THAT DOWN FOR THE COURT.

A. OKAY.

Q. FIRST OF ALL, WHAT'S THE SIGNIFICANCE THAT THEY TOOK 18 MONTHS IN A NON-PRESIDENTIAL YEAR FOR THE ABILITY TO CHANGE SYSTEMS IN A PRESIDENTIAL YEAR?

A. SO, I MEAN, EVERYTHING TAKES LONGER, TAKES MORE RESOURCES, TAKES MORE PREPARATIONS IN A PRESIDENTIAL YEAR THAN ANY OTHER YEAR. SO 2019 WAS THE LEAST -- YOU KNOW, WAS THE SORT OF -- NO DISRESPECT TO ANYBODY THAT WAS ON THE BALLOT IN 2019, BUT IT'S A VERY DIFFERENT MAGNITUDE, BOTH FOR THE NUMBER OF VOTERS THAT ARE SHOWING UP AND THE AMOUNT OF ATTENTION BEING PAID, THE AMOUNT OF PRESSURE THAT IS PUT ON THE POLL WORKERS, THE VOTERS, THE INFORMATION NEEDED IS FAR GREATER IN A PRESIDENTIAL YEAR.

SO IN ADDITION, THIS YEAR IS ESPECIALLY HUGE BECAUSE ON OCTOBER 31ST THE GOVERNOR SIGNED ACT 77 INTO LAW, WHICH MAKES MORE CHANGES TO VOTING LAWS IN PENNSYLVANIA THAN ANY LAW IN OVER 80 YEARS. SO WE CHANGED THE VOTER REGISTRATION DEADLINE. WE NOW ALLOW FOR BY -- MAIL-IN VOTING, WHICH ALLOWS ANYBODY TO VOTE BY PAPER, YOU KNOW, WHETHER OR NOT THEY HAVE AN EXCUSE, AS IT USED TO BE FOR ABSENTEE. WE REQUIRE THAT EVERY COUNTY ALLOW IN-PERSON MAIL-IN -- MAIL-IN IS SORT OF THE WRONG EXPRESSION IN THIS TERM, BUT EVERY COUNTY NOW HAS

TO ALLOW VOTERS TO WALK IN TO THEIR ELECTION OFFICES, WHETHER IT'S A WEEK, TWO WEEKS, THREE WEEKS, FOUR WEEKS BEFORE AN ELECTION DAY, AND CAN IN PERSON VOTE BEFORE ELECTION DAY.

IT ELIMINATES STRAIGHT-PARTY TICKET VOTING. I MEAN, A WHOLE HOST OF THINGS THAT ARE REQUIRED BY THE PRIMARY STATE, BY EACH COUNTY, THAT FOR THE FIRST TIME ARE TAKING EFFECT THIS APRIL. AND IT IS A TREMENDOUS AMOUNT OF WORK TO BE DONE AND IS TAKING A LOT OF ATTENTION, AS IT SHOULD BE, BY THE COUNTIES AND THE DEPARTMENT OF STATE.

Q. ALL RIGHT. AND JUST BRIEFLY, MY COLLEAGUE STARTED YOUR -- A TIME CLOCK WHEN PHILADELPHIA ACTUALLY SIGNED A CONTRACT FOR VOTING MACHINES IN MAY OF LAST YEAR. WHAT IS THE ACTUAL -- FROM YOUR EXPERIENCE IN PHILADELPHIA, WHEN DOES THE ACTUAL TIME CLOCK TICKING IN SELECTING A NEW SYSTEM START?

A. SO FOR PHILADELPHIA IN PARTICULAR?

Q. YES.

A. SO THEY -- SO WHEN WE ANNOUNCED IN APRIL THE TIMELINE --

Q. APRIL 2018?

A. -- APRIL 12, 2018, YES. SO I STARTED TRAVELING AROUND THE STATE LITERALLY THAT DAY MEETING WITH COUNTIES TO WALK THEM THROUGH WHAT WE WERE INVOLVING,

YOU KNOW, WHAT THE INITIATIVE ENTAILED AND SO FORTH. PHILADELPHIA, I THINK, WAS -- WITHIN A WEEK OF THAT APRIL 12TH THAT I MET WITH THEM. AND, YOU KNOW, AND SO I WOULD SAY, IN MANY WAYS, THEIR KIND OF ACTIVE PROCESS STARTED THEN, FOR ME TO WALK THROUGH THIS IS WHAT IS INVOLVED, THIS IS WHAT WE ARE LOOKING FOR. THEY IMMEDIATELY TURNED AROUND AND BY JUNE HAD ISSUED AN RFI TO GET INFORMATION FROM VENDORS WHO WERE INTERESTED. I KNOW THAT I WENT TO A PUBLIC MEETING -- WELL, ACTUALLY, I DON'T EVEN KNOW IF IT WAS PUBLIC. I WAS INVITED TO SPEAK AT A MEETING IN AUGUST WHERE THEY HAD REPRESENTATIVES OF -- YOU KNOW, THEY NEEDED TO EXPLORE STORAGE AND, YOU KNOW, COST, PRETTY MUCH EVERYTHING INVOLVED THAT GOES INTO HAVING A NEW SYSTEM OF DIFFERENT SHAPES, SIZES, MANNERS, POLL WORKER TRAINING, ALL THAT.

AND I WAS THERE TO KIND OF GIVE THE STATE'S PERSPECTIVE ON WHERE IT SHOULD BE GOING. THEN BY, I THINK NOVEMBER OR DECEMBER OF 2018, I THINK NOVEMBER THEY HAD ISSUED AN RFP. AND AS I RECALL, THEY WERE REQUIRING THAT SYSTEMS BE AVAILABLE BY THE FOLLOWING FEBRUARY SO THAT THEY COULD THEN VOTE IN FEBRUARY TO SELECT THE SYSTEM, WHICH THEN THEY IMPLEMENTED IN NOVEMBER. SO BETWEEN FEBRUARY -- SO, YOU KNOW, IF YOU ARE STARTING APRIL OF 2018, FEBRUARY OF 2019 IS WHEN THEY ACTUALLY VOTED. AND THEN BETWEEN

FEBRUARY OF 2019 AND NOVEMBER OF 2019, THERE WERE HUNDREDS, THAT I COULD TELL, OF POLL WORKER TRAININGS, PUBLIC EDUCATION, YOU KNOW, FIGURING OUT STORAGE, ALL OF THE COMPONENTS THAT GO INTO IT. IT WAS A HUGE, HUGE, HUGE AMOUNT OF WORK.

Q. ALL RIGHT. AND SINCE THAT TIME, THE COMMONWEALTH HAS CERTIFIED NEW SYSTEMS, IS THAT CORRECT?

A. CORRECT.

Q. SYSTEMS THAT PHILADELPHIA WASN'T EXAMINING AT THAT TIME?

MR. MAAZEL: OBJECTION, LEADING, YOUR HONOR.

BY MR. ARONCHICK:

Q. OR DO YOU KNOW IF PHILADELPHIA WAS EXAMINING AT THAT TIME?

A. WELL, WHY DON'T I SAY IT THIS WAY. ADDITIONAL SYSTEMS WERE CERTIFIED AFTER THE TIME THAT THEY WERE -- THAT THEY VOTED, SO I CAN'T --

THE COURT: THE PHILADELPHIA VOTE? THE ELECTION COMMISSIONERS VOTED TO SELECT THE MACHINE?

THE WITNESS: CORRECT.

THE COURT: THAT'S THE VOTE YOU ARE REFERRING TO?

THE WITNESS: CORRECT, CORRECT. SORRY.

BY MR. ARONCHICK:

Q. MONTGOMERY COUNTY, IN THE STIPULATIONS -- ALTHOUGH YOU WEREN'T ASKED, BUT THEY ARE IN THE STIPULATIONS. THERE WAS SOME REFERENCE THAT MONTGOMERY COUNTY PICKED THE SYSTEM AND HAD, YOU KNOW, A SMALL NUMBER OF DAYS, OR LESS DAYS THAN FROM NOW TO NOVEMBER AND THEN PUT THE SYSTEM IN PLACE. WHAT ACTUALLY HAPPENED IN MONTGOMERY COUNTY?

A. SO MONTGOMERY COUNTY ACTUALLY HAD DECIDED BEFORE WE ISSUED OUR APRIL 12TH DIRECT MANDATE TO THE COUNTIES. THEY HAD ALREADY DECIDED THAT THEY WANTED TO CHANGE THEIR VOTING SYSTEMS. SO THEY HAD -- SO AS I MENTIONED, THE APRIL 12TH WAS THE DATE THAT WE ISSUED THE MANDATE. THEY HAD ALREADY, IN FEBRUARY OF 2018, DONE AN OPEN HOUSE FOR THE VENDORS, FOR THE FIVE VENDORS WHO WERE INTERESTED IN POSSIBLY BIDDING IN MONTGOMERY COUNTY. SO THEY HAD STARTED IN FEBRUARY OF 2018. THEY WERE ORIGINALLY HOPING TO ACTUALLY ROLL OUT THE NEW SYSTEMS IN NOVEMBER OF 2018, BUT WEREN'T ABLE TO GET IT DONE IN TIME. SO THEY ENDED UP DOING IT IN THE PRIMARY, MAY OF 2019.

SO -- AND MONTGOMERY COUNTY NOT ONLY HAS HALF THE NUMBER OF VOTERS OF PHILADELPHIA, BUT, MORE IMPORTANTLY, HAS A QUARTER OF THE NUMBER OF PRECINCTS, SO APPROXIMATELY A QUARTER OF THE NUMBER OF POLL WORKERS, WHICH, AGAIN, CAN'T BE OVERSTATED HOW DIFFERENT

THAT IS. BECAUSE IF YOU'RE TALKING ABOUT OUTFITTING 430-SOME-ODD POLLING PLACES, WHICH IS WHAT MONTGOMERY COUNTY HAS, VERSUS 1700 THAT PHILLY HAS, THAT THAT'S THAT MANY MORE POLL WORKERS NEED TO BE EDUCATED, THAT MANY MORE -- YOU KNOW, THERE'S ALL KINDS OF QUEUEING THEORIES IN EVERY POLLING PLACE, YOU KNOW, POLL WORKER TRAINING THAT NEEDS TO BE -- THEY NEED TO BE SET UP IN CERTAIN WAYS. SO, OBVIOUSLY, HAVING FOUR TIMES AS MANY POLLING PLACES IS A SIGNIFICANTLY HIGHER BURDEN.

MR. ARONCHICK: ALL RIGHT. THANK YOU, SECRETARY. I HAVE NO FURTHER QUESTIONS.

THE COURT: MR. ARONCHICK ASKED YOU WHETHER IT WOULD BE POSSIBLE FOR PHILADELPHIA TO, IF YOU DECERTIFIED THE SUBJECT MACHINES, 6021 MACHINE, WOULD IT BE POSSIBLE FOR PHILADELPHIA -- WHAT EFFECT IT WOULD HAVE, ACTUALLY PUT IT THAT WAY, BUT HE ASKED WHETHER IT WOULD BE POSSIBLE TO CERTIFY A NEW MACHINE AND PUT IT IN PLACE, TRAIN PERSONNEL BY THE NOVEMBER ELECTION. I DON'T WANT TO PUT WORDS IN YOUR MOUTH, BUT I HEARD YOU SAY IT WOULD BE EXCEEDINGLY DIFFICULT --

THE WITNESS: IT WOULD BE -- AND, HONESTLY, I DON'T EVEN KNOW WHETHER IT'S FEASIBLE, BECAUSE I DON'T KNOW WHETHER THE -- I'M SORRY, DID I INTERRUPT YOU?

THE COURT: YOU DIDN'T. WHAT ABOUT THE

PRIMARY ELECTION?

THE WITNESS: OH. I MEAN, NO QUESTION. BUT EVEN FOR --

THE COURT: NO QUESTION WHAT?

THE WITNESS: NO QUESTION IT WOULD NOT BE POSSIBLE.

THE COURT: SO IF YOU DECERTIFY THE MACHINE, IF I ORDERED YOU TO DECERTIFY THE MACHINE AND THAT ORDER DOES NOT STAY, IT WAS ACTUALLY -- YOU ACTUALLY HAD TO DO IT, SO LET'S SAY IN A WEEK OR TWO I ORDERED YOU TO DECERTIFY THE MACHINE AND YOU DID, WOULD THERE BE A PRIMARY ELECTION IN THE CITY?

THE WITNESS: YOU KNOW, I MEAN, THERE WOULD HAVE TO BE SOMETHING THAT MADE IT HAPPEN. BUT, YOUR HONOR, THE -- I CAN'T OVERSTATE THE -- HOW MUCH I -- REALLY, THE CHAOS THAT WOULD ENSUE, FRANKLY. THE VOTERS WHO JUST LEARNED A NEW MACHINE, THEY WOULD HAVE TO HAVE SOME -- SOMETHING -- SOME ABILITY TO VOTE.

THE COURT: WHEN IS THE PRIMARY?

THE WITNESS: APRIL 28TH.

THE COURT: AND TODAY IS FEBRUARY 18TH. SO THAT IF MARCH 1ST YOU DECERTIFIED THE MACHINES, AGAIN I ASK, WOULD WE HAVE A PRIMARY ELECTION IN THE CITY?

THE WITNESS: I DON'T KNOW HOW THAT WOULD WORK. BUT THERE WOULD HAVE TO BE SOME ABILITY FOR

VOTERS TO VOTE.

THE COURT: HOW? THE CITY, PRESUMABLY, WOULD HAVE TO GO THROUGH, IF YOU KNOW, WOULD HAVE TO GO THROUGH ITS BIDDING PROCESS? IT WOULD HAVE TO BID OUT NEW MACHINES? IS THAT A YES OR A NO?

THE WITNESS: I THINK MAYBE IT'S A BETTER QUESTION FOR PHILADELPHIA, BECAUSE WE ARE NOT DIRECTLY INVOLVED IN THEIR PROCUREMENT PROCESS.

THE COURT: JUST AS FAR AS YOU KNOW. IF YOU DON'T KNOW, YOU CAN SAY YOU DON'T KNOW.

THE WITNESS: YES, MY ASSUMPTION IS THAT THEY WOULD HAVE TO GO THROUGH A NEW PROCUREMENT PROCESS.

THE COURT: AND THE MACHINES THAT PHILADELPHIA WOULD BE AT LIBERTY TO BID OUT WOULD BE MACHINES THAT YOU HAVE APPROVED OR CERTIFIED?

THE WITNESS: CORRECT.

THE COURT: AND AS YOU HAVE DESCRIBED IT, AS LEAST AS I HEARD YOUR TESTIMONY, ALL THE MACHINES THAT ARE BEING USED RIGHT NOW BY COUNTIES THROUGHOUT THE COMMONWEALTH SUFFER FROM THE SAME FAILING OR FAILINGS THAT THE EXPRESS XL MACHINE APPARENTLY SUFFERS FROM, THEY HAVE THE SAME -- THEY DO THE SAME THING, THEY DON'T READ PRINT, THEY READ A GRID OR THEY READ A BARCODE OR A QR CODE OR SOMETHING LIKE THAT.

THE WITNESS: CORRECT. I WOULDN'T CALL

THEM FAILINGS, BUT I UNDERSTAND WHY YOU DO. SO THAT CHARACTERISTIC IS SHARED BY ALL OF THE VOTING SYSTEMS.

THE COURT: SO WHAT COULD YOU REPLACE THEM WITH THAT WOULD NOT BE SUBJECT TO THE SAME COMPLAINT THAT I AM HEARING HERE TODAY?

THE WITNESS: WELL, YOU KNOW, I THINK UNDER -- YOU KNOW, UNDER ACT 77, TECHNICALLY, REGARDLESS OF THE SCENARIO, PEOPLE CAN VOTE BY MAIL-IN BALLOT, BUT THAT'S NOT --

THE COURT: THAT WOULD BE IT? THAT'S WHAT WE WOULD HAVE TO DO? HAND COUNT THE MAIL BALLOTS?

THE WITNESS: IT'S A GOOD QUESTION, YOUR HONOR. IT'S -- IT'S -- YOU KNOW, AND EVEN JUST FROM -- AND, AGAIN, THIS IS ANOTHER -- THIS WOULD BE A QUESTION FOR THE MANUFACTURERS. I DON'T KNOW THAT ANY MANUFACTURER COULD EVEN PRODUCE THE MACHINES, AND THIS IS IN TIME FOR NOVEMBER, FORGETTING ABOUT APRIL.

THE COURT: NO, I'M TALKING ABOUT THE PRIMARY.

THE WITNESS: YEAH, YEAH. I DON'T KNOW THAT ANY MANUFACTURER AT THIS POINT COULD PRODUCE THE NUMBER OF SYSTEMS THAT WOULD NEED TO BE HAD BY PHILADELPHIA.

THE COURT: HOW MANY MACHINES DO WE HAVE IN THE CITY, GIVE OR TAKE?

THE WITNESS: I DON'T RECALL. LET'S SEE, IF WE HAVE 1700, I THINK 1700 POLLING PLACES. THIS MAY BE A BETTER QUESTION FOR THE CITY, BUT I THINK IT'S PROBABLY ABOUT TWO PER AND THEN THEY PROBABLY ORDERED A NUMBER MORE, SO --

THE COURT: 10,000, 15,000?

THE WITNESS: I DON'T KNOW. I AM GOING TO HAVE TO DEFER THIS QUESTION, I'M SORRY, TO THE CITY.

THE COURT: MR. FIELD?

MR. FIELD: I BELIEVE THE NUMBER IS 3,850.

THE COURT: 3,850. YOU CAN CHALLENGE THAT, MR. MAAZEL, I JUST WANTED A BALL PARK.

MR. MAAZEL: OKAY.

THE COURT: MR. MAAZEL, DO HAVE ANY QUESTIONS FOR THIS WITNESS?

MR. MAAZEL: COULD WE JUST HAVE A FIVE-MINUTES BREAK BEFORE THE REDIRECT?

THE COURT: ABSOLUTELY.

(BRIEF RECESS.)

THE COURT: PLEASE BE SEATED. HAVE A SEAT.

LET'S RESUME. MR. MAAZEL.

MR. MAAZEL: THANK YOU, YOUR HONOR.

REDIRECT EXAMINATION

BY MR. MAAZEL:

Q. SECRETARY BOOCKVAR, YOU TESTIFIED IN RESPONSE TO YOUR COUNSEL'S QUESTIONING ABOUT A NUMBER OF DOCUMENTS YOU SENT IN ADVANCE OF THE SETTLEMENT CONFERENCE. DO YOU REMEMBER THAT QUESTIONING?

A. YES.

Q. AND YOU INCLUDED THE E-MAIL FROM MS. UNGER?

A. YES.

Q. AND SOME DIRECTIVES YOU DESCRIBED.

A. YOU WANT TO DESCRIBE WHAT WAS SENT?

Q. AND YOU WENT OVER SOME DIRECTIVES AS WELL THAT WERE SENT IN ADVANCE, YES?

A. THERE WERE LIKE FIVE OR SIX DIFFERENT DOCUMENTS THAT WERE SENT, YES.

Q. AND IF WE JUST START WITH JX 14, MS. UNGER'S SEPTEMBER 28, 2018 E-MAIL.

A. YES.

Q. YOU NOTED THAT, IN THE SECOND BULLET POINT, SHE REFERRED TO A DIRECTIVE FROM COMMISSIONER MARKS REQUIRING A VOTER-VERIFIABLE PAPER BALLOT OR A VOTER-VERIFIABLE PAPER RECORD OF VOTES, CORRECT?

A. SO THE DIRECTIVE IS NOT FROM COMMISSIONER MARKS. BUT -- THE E-MAIL IS FROM COMMISSIONER MARKS. BUT THE DEPARTMENT OF STATE DIRECTIVE THAT REQUIRED FROM THERE FORWARD VOTER-VERIFIABLE PAPER RECORD VOTING SYSTEMS,

YES.

Q. WELL, IN MS. UNGER'S E-MAIL AND IN THE DIRECTIVE, YOU ALWAYS USED THE TERM "VOTER-VERIFIABLE PAPER BALLOT" OR A "VOTER-VERIFIABLE PAPER RECORD," CORRECT?

A. SO THEY ARE MENTIONED AS EQUIVALENTS.

Q. SECRETARY, I AM JUST ASKING IF THE WORDS YOU ARE USING --

A. YES, AND I AM ANSWERING. THEY'RE MENTIONED AS EQUIVALENTS.

THE COURT: WAIT, WAIT, WAIT. SECRETARY, IT'S A YES OR NO QUESTION. IF YOU WANT TO EXPLAIN YOUR ANSWER AFTER YOU SAY YES OR NO, THAT'S FINE.

ASK THE QUESTION AGAIN.

MR. MAAZEL: THANK YOU, YOUR HONOR.

BY MR. MAAZEL:

Q. MS. UNGER WROTE THAT THE DIRECTIVE REQUIRED, QUOTE, A VOTER-VERIFIABLE PAPER BALLOT OR A VOTER-VERIFIABLE PAPER RECORD OF VOTES CAST, RIGHT?

A. CORRECT.

Q. AND IN THE DIRECTIVE SHE REFERRED TO, WHICH IS JX 1, IF YOU COULD TURN TO THAT. THIS WAS THE FEBRUARY 9, 2018 DIRECTIVE, CORRECT?

A. CORRECT.

Q. AND IT USES THE LANGUAGE THAT THE SECRETARY WAS

REQUIRING, QUOTE, A VOTER-VERIFIABLE PAPER BALLOT OR A VOTER-VERIFIABLE PAPER RECORD, CORRECT?

A. CORRECT.

Q. AND THAT "OR" LANGUAGE WAS CONSISTENTLY USED BY THE SECRETARY BEFORE THE SETTLEMENT AGREEMENT, CORRECT?

MR. ARONCHICK: OBJECTION.

THE COURT: SUSTAINED. I'M AWARE OF THAT. AND WHAT THE USE OF THE DISJUNCTIVE MEANS IS SOMETHING YOU WOULD -- AND I GUESS MR. ARONCHICK DISAGREES, BUT IT'S GOING TO BE MY INTERPRETATION IN THE END THAT CONTROLS. YOU'RE FREE TO ASK HER WHAT SHE MEANT. SHE'S ALREADY SAID WHY THEY USE THE DISJUNCTIVE. I DON'T THINK YOU'LL AGREE WITH THAT INTERPRETATION OF THE USE OF THE DISJUNCTIVE.

MR. MAAZEL: I WILL MOVE ON TO MY FINAL QUESTION IN THIS LINE.

BY MR. MAAZEL:

Q. WHICH IS, IN THE SETTLEMENT AGREEMENT, WHICH IS JX 30, IF YOU CAN PUT THAT IN FRONT OF YOU, SECRETARY, IN PARAGRAPH 2, AND THIS IS THE ACTUAL AGREEMENT SIGNED BY THE PARTIES. IN PARAGRAPH 2, THERE IS NO "OR" LANGUAGE, IS THERE? INSTEAD IT'S AN "AND," AM I CORRECT?

A. YOU ARE SAYING BETWEEN A, B AND C?

Q. THAT'S RIGHT. THE SETTLEMENT AGREEMENT, AS

OPPOSED TO THE DIRECTIVE AND EVERYTHING AND ALL OF THOSE E-MAILS THAT WERE SENT BEFORE THE SETTLEMENT CONFERENCE, THE ACTUAL SETTLEMENT AGREEMENT SIGNED BY OUR SIDE AND YOUR SIDE DOES NOT HAVE AN "OR," DOES IT?

A. WELL, YOU ARE TALKING ABOUT A, B AND C, WHICH ARE DIFFERENT THAN THE WORDS "PAPER BALLOT" OR "PAPER RECORD," BUT --

THE COURT: I CAN READ IT DOES NOT HAVE THE WORD "OR" IN THERE.

BY MR. MAAZEL:

Q. CAN YOU POINT US TO A SINGLE DOCUMENT, SECRETARY, PREDATING THE SETTLEMENT IN WHICH THE COUNTIES WERE DIRECTED THAT THEY NEEDED PAPER BALLOTS, QUOTE, PAPER BALLOTS ONLY? CAN YOU POINT ME TO A SINGLE DIRECTIVE THAT DID NOT HAVE THAT "OR" LANGUAGE, YES OR NO?

A. I AM SURE THAT I COULD. CAN I DO IT RIGHT NOW WHILE I AM ON THE STAND? NO.

Q. AND YOU DID HAVE AN OPPORTUNITY TO PREPARE FOR TODAY'S TESTIMONY WITH COUNSEL, YES?

A. DO I -- WILL I HAVE TIME TO LOOK THROUGH THE BINDERS SO I CAN IDENTIFY THE LOCATIONS?

YES, I HAD TIME TO PREPARE. AND YES, I THINK THERE WERE MANY, MANY TIMES THROUGHOUT THE COURSE OF THIS INITIATIVE BEFORE, DURING AND AFTER, THAT WE

HAVE USED JUST THE WORD PAPER BALLOT. FOR EXAMPLE, THE PRESS RELEASE ABOUT MONTGOMERY COUNTY AND PHILADELPHIA COUNTY, SAME PRESS RELEASE, ONE HAND-MARKED PAPER BALLOT SYSTEM, ONE XL SYSTEM, BOTH USED THE WORDS "PAPER BALLOT."

VARIOUS TESTIMONY. VARIOUS -- I DID COUNTLESS POWERPOINT PRESENTATIONS WHERE I USED THE WORD "PAPER BALLOT" AND OTHER PRESENTATIONS WHERE I USED THE WORD "PAPER RECORD." OTHER PRESENTATIONS WHERE I USED THE WORD "PAPER TRAIL." THESE ARE USED INTERCHANGEABLY.

Q. SECRETARY, CAN YOU POINT US TO A SINGLE DIRECTIVE --

A. DIRECTIVE?

Q. -- ISSUED BY THE SECRETARY THAT SAID YOU MUST USE PAPER BALLOTS ONLY, AS OPPOSED TO PAPER BALLOTS OR VOTER-VERIFIABLE PAPER RECORDS? IS THERE A RECORD, TO YOUR KNOWLEDGE?

A. NOT AT THIS TIME, I CANNOT POINT YOU TO THAT.

Q. WE CAN AGREE THAT THE PIECE OF PAPER IN THE VOTE SUMMARY CARD, IT COMES OUT OF AN XL --

THE COURT: WOULD YOU TAKE A LOOK, MR. MAAZEL, AT -- I GUESS IT'S JOINT EXHIBIT 13. YES, JOINT EXHIBIT 13, PAGE 2. THIS IS A STATEMENT OR WRITTEN TESTIMONY OF YOUR PREDECESSOR, IS THAT RIGHT, MADAM SECRETARY?

THE WITNESS: THIS IS JONATHAN MARKS, WHO IS THE CURRENT DEPUTY SECRETARY, WHO AT THE TIME WAS COMMISSIONER.

THE COURT: OH, SORRY.

THE WITNESS: YEAH. THAT'S OKAY.

THE COURT: AND DID YOU TESTIFY YOU REVIEWED THIS BEFORE IT WAS SUBMITTED?

THE WITNESS: YES, AND I WROTE SOME OF THIS AS WELL.

THE COURT: AND WHO WROTE, SHOULD BE CONDUCTED WITH PAPER BALLOTS BY 2020?

THE WITNESS: I BELIEVE I WROTE THAT PARAGRAPH, WHICH, AGAIN, THIS WAS LANGUAGE THAT WE WERE USING IN MULTIPLE DIFFERENT -- LIKE WE HAD PROVIDED INFORMATION TO THE LEGISLATURE, AS WELL -- VOTER-ASSISTIVE LEGISLATURE, AS WELL, BUT TO COUNTIES AND SO FORTH. SO THIS WAS LANGUAGE I TOOK FROM OTHER DOCUMENTS AS WELL.

THE COURT: OKAY.

BY MR. MAAZEL:

Q. WE AGREE THAT YOU ARE FAMILIAR WITH THE PENNSYLVANIA ELECTION CODE, YES?

A. YES.

Q. AND YOU KNOW WHAT A PAPER BALLOT IS UNDER THE PENNSYLVANIA ELECTION CODE?

A. I KNOW THAT THERE'S A DEFINITION OF PAPER BALLOT THAT IS UNDERNEATH THE ELECTRONIC VOTING SYSTEMS, IF THAT'S WHAT YOU ARE REFERRING TO.

Q. AND DO WE AGREE THAT THE DOCUMENT JX 57 PRODUCED BY XL IS NOT A PAPER BALLOT WITHIN THE MEANING OF THE PENNSYLVANIA ELECTION CODE?

A. SO THE LANGUAGE -- THE DEFINITION THAT IS IN THE ELECTION CODE IS VERY VAGUE AND BROAD. SO, YES, IT'S NOT TREATED -- THE XL PAPER BALLOT IS NOT TREATED AS THOSE WORDS ARE USED UNDER THE ELECTION CODE.

Q. SO JUST SO I HAVE A CLEAR ANSWER. IS THE XL DOCUMENT THAT WE SAW, JX 57, IS THAT A PAPER BALLOTS UNDER THE PENNSYLVANIA ELECTION CODE?

A. SO ELECTRONIC VOTING SYSTEMS DON'T ACTUALLY HAVE TO HAVE PAPER BALLOT UNDER THE ELECTION CODE. SO THE XL -- AND THAT'S PART OF WHAT, YOU KNOW, THE BANFIELD CASE ESTABLISHED AS WELL. SO DOES IT -- IS THE XL PAPER BALLOT USED IN THE WAY THAT THOSE WORDS ARE USED ON THE ELECTION CODE? NO.

Q. AND IT WAS THE DEFENDANTS WHO DRAFTED THE SETTLEMENT AGREEMENT, YES?

A. THE DEFENDANTS? WHO --

Q. YES.

A. OH, THE SETTLEMENT AGREEMENT OR THE TERM SHEET?

Q. THE SETTLEMENT AGREEMENT. THAT'S STIP NUMBER

37.

A. THAT I DON'T KNOW. I MEAN, I KNOW THE TERM SHEET IS BASICALLY THE -- WHAT THE SETTLEMENT AGREEMENT IS BASED ON.

THE COURT: WHO DRAFTED THE TERM SHEET, AS FAR AS YOU KNOW?

THE WITNESS: THE PLAINTIFFS.

BY MR. MAAZEL:

Q. AND THEN THE SETTLEMENT AGREEMENT WAS DRAFTED, I THINK WE HAVE IN STIP NUMBER 37, BY THE DEFENDANTS, YES?

A. I DON'T KNOW THE ANSWER TO THAT QUESTION.

THE COURT: IF YOU SAY THAT'S THE STIPULATION, THAT'S FINE.

BY MR. MAAZEL:

Q. AND STIPULATION NUMBER 37 REFERS TO THE DRAFT SENT BY MS. UNGER, WHICH IS JX 29. CAN WE TURN TO THAT FOR A MOMENT? AND THAT IS THE FIRST DRAFT OF THE SETTLEMENT AGREEMENT SENT BY DEFENSE COUNSEL, CORRECT?

A. I DON'T KNOW WHETHER IT'S THE FIRST DRAFT. IT DOES APPEAR TO BE A DRAFT SENT BY SUE ANN UNGER TO YOU.

Q. AND IF WE TURN TO PARAGRAPH 23?

THE COURT: PARAGRAPH 23.

BY MR. MAAZEL:

Q. PARAGRAPH 23 OF THE SETTLEMENT AGREEMENT, THE DRAFT.

THE COURT: WHAT EXHIBIT NUMBER?

MR. MAAZEL: I'M SORRY, IT'S EXHIBIT 29, JOINT EXHIBIT 29, PARAGRAPH 23.

THE COURT: THANK YOU.

BY MR. MAAZEL:

Q. PARAGRAPH 23 CONTAINS A CHOICE OF LAW PROVISION, CORRECT, SECRETARY?

A. YES.

Q. AND THAT IS A CHOICE OF LAW REQUIRING THAT THE LAW OF PENNSYLVANIA CONTROL, YES?

A. YES.

Q. AND THAT WAS A PARAGRAPH THAT WAS INSERTED BY THE DEFENDANTS, YES?

A. I CAN'T ANSWER THAT QUESTION.

Q. WELL, THERE WAS NO CHOICE OF LAW PROVISION IN THE TERM SHEET. CAN WE AGREE ON THAT OR SHOULD WE LOOK AT THE TERM SHEET?

A. WE WOULD HAVE TO LOOK AT THE TERM SHEET.

THE COURT: IF YOU TELL ME THERE WAS NONE, I WILL ACCEPT THAT.

MR. MAAZEL: THERE WAS NONE, YOUR HONOR.

BY MR. MAAZEL:

Q. NOW, MY COLLEAGUE OR COUNSEL MR. ARONCHICK POINTED OUT TO YOU ONE OF THE CERTIFICATION DOCUMENTS FOR THE XL WHICH WAS JOINT EXHIBIT 34. COULD YOU LOOK

AT THAT?

A. YES.

Q. AND I POINT OUT TO YOU THE RE-EXAMINATION OR RECERTIFICATION REPORT, WHICH WAS JX 45, YES?

A. YES, IF YOU SAY SO.

Q. AND YOU REMEMBER THAT IN YOUR RECERTIFICATION REPORT, YOUR OFFICE CALLED THIS PIECE OF PAPER A VOTE SUMMARY CARD OVER 20 TIMES, YES?

A. THAT'S WHAT YOU ASKED ME TODAY.

Q. IN ANY EVENT, A NUMBER OF TIMES?

A. YES, I THINK THAT'S WHAT YOU --

Q. AND IN PLAINTIFF'S EXHIBIT 34, WHICH YOUR COUNSEL SHOWED YOU, I JUST WANT TO POINT OUT A PAGE THAT HE DID NOT POINT OUT TO YOU, WHICH IS PAGE 5. HAVE WE LOOKED AT THAT YET TODAY?

A. NO.

Q. AND IT'S THE DESCRIPTION OF THE EXPRESSVOTE XL, YES?

A. YES.

Q. AND IN PART IT'S YOUR OFFICE'S DESCRIPTION, YES?

A. IT'S -- YEAH. IT'S PART OF THE CERTIFICATION REPORT. SO I DON'T KNOW WHETHER IT'S OUR OFFICE'S DESCRIPTION OR IF IT CAME FROM DOCUMENTS IN THE XL DOCUMENTATION.

Q. WELL, BUT THIS IS YOUR DOCUMENT. THIS IS YOUR

OFFICIAL RECORD.

A. YOU ASKED WHETHER IT WAS OUR DESCRIPTION. AND I AM TELLING YOU, IT'S IN OUR REPORT.

Q. ALL THE WORDS IN THIS DOCUMENT ARE WRITTEN BY REPRESENTATIVES OF THE SECRETARY OF THE COMMONWEALTH, YES?

A. SO, AGAIN, THESE EXACT WORDS, I DON'T KNOW IF THEY COME DIRECTLY FROM AN ES&S DOCUMENT OR WHETHER THEY'RE WRITTEN BY AN EMPLOYEE. I CAN TELL YOU THEY ARE IN OUR CERTIFICATION REPORT, WHICH IS AN OFFICIAL REPORT.

Q. AND IN LINE 5, YOUR OFFICE WROTE, QUOTE: THIS DEVICE CAN SERVE ALL VOTERS, INCLUDING THOSE WITH SPECIAL NEEDS, ALLOWING ALL VOTERS TO CAST VOTE SUMMARY CARDS ANONYMOUSLY, CORRECT?

A. THAT'S WHAT THIS SAYS, YES.

Q. AND FOUR LINES FROM THE BOTTOM OF THAT PARAGRAPH, YOUR OFFICE WROTE, QUOTE: THE VOTER CAN PRINT THE VOTE SUMMARY CARD ONCE THEY ARE READY TO CAST THEIR VOTE, YES?

A. CORRECT.

Q. AND THEN YOU WROTE, QUOTE: ONCE PRINTED, THE EXPRESSVOTE XL INTERNALLY PROCESSES THE VOTE SUMMARY CARD FOR TABULATION, YES?

A. YES.

Q. SO IN BOTH THE ORIGINAL CERTIFICATION AND THE RECERTIFICATION OF THE XL, YOUR OFFICE REPEATEDLY REFERRED TO THAT PIECE OF PAPER, JX 57, AS A VOTE SUMMARY CARD, YES?

A. AGAIN, THAT'S THE LANGUAGE USED BY ES&S TO DESCRIBE THE PIECE OF PAPER.

Q. I AM JUST SHOWING YOU YOUR DOCUMENT. IT'S NOT --

A. AND I AM ANSWERING YOUR QUESTION.

Q. OKAY. YOUR COUNSEL POINTED TO, I BELIEVE IT WAS DEFENDANT F, A SECURING THE VOTE DOCUMENT, YES?

A. YES.

Q. AND NOW, THE DEFENDANTS NEVER ACTUALLY PRODUCED THIS DOCUMENT TO THE PLAINTIFFS AT ANY POINT, RIGHT?

THE COURT: IF YOU KNOW.

THE WITNESS: I DON'T KNOW.

MR. MAAZEL: OKAY.

BY MR. MAAZEL:

Q. I MEAN, YOU REFERRED TO IT, BUT DO YOU HAVE ANY KNOWLEDGE THAT THE DEFENSE COUNSEL EVER SAID, BY THE WAY, THIS IS THE DEFINITION OF PAPER BALLOT THAT WE ARE USING? DO YOU HAVE ANY KNOWLEDGE OF THAT?

A. I DON'T KNOW.

Q. IF I COULD SHOW YOU NOW PX 1010 AND 1011.

MR. MAAZEL: WHICH I BELIEVE ARE IN

EVIDENCE. THIS IS THE NIST DOCUMENTS, YOUR HONOR.

THE WITNESS: I'M SORRY --

THE COURT: WHERE ARE WE?

MR. MAAZEL: PX 1010 AND 11, WHICH ARE TABS 10 AND 11 IN THE PLAINTIFFS' BINDER.

THE COURT: 1010 AND 11. I GOT IT.

MR. ARONCHICK: YOUR HONOR, I RENEW MY OBJECTION TO --

THE COURT: I WOULD LIKE TO KNOW WHAT 10 IS. WHO AUTHORED IT?

MR. MAAZEL: NIST, THIS ORGANIZATION NIST, I BELIEVE THIS IS. AND SO IF WE TURN TO 1011 --

MR. ARONCHICK: YOUR HONOR --

THE COURT: I WILL LET HIM QUESTION HER ON IT.

MR. ARONCHICK: I JUST --

THE COURT: SHE SAID SHE DOESN'T KNOW ABOUT THIS, BUT I WILL STILL LET HIM QUESTION HER ON THIS.

MR. ARONCHICK: THIS IS A DRAFT. HE SAID WHO AUTHORED IT --

THE COURT: IT SAYS: ELECTION TERMINOLOGY GLOSSARY - DRAFT. AGAIN, YOUR OBJECTION I THINK CORRECTLY GOES TO THE WEIGHT.

BY MR. MAAZEL:

Q. AND IF WE LOOK AT EXHIBIT 1011, THIS NATIONAL INSTITUTE OF SCIENCE AND TECHNOLOGY ADVISES EAC, WHICH YOU REFERRED TO IN YOUR TESTIMONY BEFORE, YES?

MR. ARONCHICK: OBJECTION.

THE COURT: THAT'S NOT, I BELIEVE, WHAT SHE SAID. I THINK SHE SAID THAT SHE HAD NEVER HEARD OF THE NIST AND DIDN'T KNOW.

MR. MAAZEL: I'M SORRY, I SAID IT WRONG.

BY MR. MAAZEL:

Q. YOU UNDERSTAND WHAT THE EAC IS AND YOU TESTIFIED ABOUT THE EAC, CORRECT?

A. CORRECT.

Q. OKAY. AND IF WE COULD TURN TO THE NIST ELECTION TERMS GLOSSARY DOCUMENT, WHICH IS PLAINTIFF'S EXHIBIT 1010. IF YOU CAN TURN TO PAGE 27 OF 43, THE DEFINITION OF PAPER BALLOT.

THE COURT: YOU MEAN SETTLEMENT 44? I HAVE 44.

THE WITNESS: I DO TOO.

BY MR. MAAZEL:

Q. IN ANY EVENT, IT'S WHERE THE DEFINITION OF PAPER BALLOT IS. DO YOU SEE THAT?

A. I SEE IT.

Q. OKAY. AND IT SAYS, QUOTE: A PIECE OF PAPER OR MULTIPLE SHEETS OF PAPER ON WHICH ALL CONTEST OPTIONS OF

A GIVEN BALLOT STYLE ARE PRINTED.

DO YOU SEE THAT DEFINITION?

A. I SEE IT. I HAVE NEVER HEARD IT BEFORE.

Q. AND IS, USING THAT DEFINITION OF PAPER BALLOT, IS THE DOCUMENT GENERATED BY THE XL A PAPER BALLOT?

THE COURT: THAT'S AN ARGUMENT YOU ARE MAKING TO ME. AND IT IS NOT, UNDER THIS DEFINITION.

MR. MAAZEL: OKAY.

BY MR. MAAZEL:

Q. BY THE WAY, THIS DEFINITION HERE, DO YOU UNDERSTAND THIS DEFINITION, THIS NIST DEFINITION TO BE -- WITHDRAWN.

THE COURT: I MAY NOT HAVE HEARD HER SAY IT BECAUSE YOU WERE TALKING OVER EACH OTHER, BUT SHE SAID SHE'S NEVER SEEN IT BEFORE.

MR. MAAZEL: I UNDERSTAND.

BY MR. MAAZEL:

Q. YOU GAVE SOME TESTIMONY ABOUT THE SETTLEMENT CONFERENCE. DO YOU REMEMBER THAT TESTIMONY?

A. I DO.

Q. THERE WAS NO DISCUSSION ABOUT THE XL SYSTEM AT THE CONFERENCE, WAS THERE?

A. NO.

Q. THERE WAS NO DISCUSSION ABOUT ANY SPECIFIC VOTING SYSTEM AT THE CONFERENCE, WAS THERE?

A. CORRECT. ASIDE FROM THAT FOOTNOTE EXCEPTION OF THAT TYPE OF SYSTEM.

Q. OKAY. THERE WAS MENTION OF BARCODES IN THE SETTLEMENT CONFERENCE, WAS THERE?

A. NO.

Q. THERE WAS NO MENTION OF VOTE SUMMARY CARDS AT THE CONFERENCE, WAS THERE?

A. NO.

THE COURT: WAS THERE ANY MENTION OF THE EFFORT THAT THE COMMONWEALTH HAD BEGUN SOME MONTHS BEFORE AND WORKING THIS INTO THAT EFFORT?

THE WITNESS: YES, ABSOLUTELY. THAT WAS THE WHOLE BASIS OF WHAT THE SETTLEMENT WAS CONDITIONED UPON.

THE COURT: I UNDERSTAND THAT THAT WAS, AND YOU'VE TESTIFIED TO THAT, BUT DID YOU OR ANYBODY ON YOUR SIDE MAKE CLEAR THAT THE SETTLEMENT HAD TO WORK INTO WHAT THE COMMONWEALTH HAD ALREADY STARTED TO DO IN THE WAY OF REPLACING VOTING MACHINES?

THE WITNESS: YES, YOUR HONOR. IN FACT, THAT'S WHY I WAS THERE. I INSISTED ON BEING AT THAT SETTLEMENT CONFERENCE BECAUSE I WANTED TO MAKE SURE IT WAS VERY CLEAR EXACTLY THE PATH THAT WE WERE ALREADY ON, AND THAT IT WAS COMMUNICATED TO THE PLAINTIFFS. AND IT WAS. AND WE REACHED AGREEMENT BASED ON THE COMMON

UNDERSTANDING OF THOSE TERMS.

BY MR. MAAZEL:

Q. BY THE WAY, THE VAST MAJORITY OF THIS CONFERENCE WAS WITH BOTH SIDES IN DIFFERENT ROOMS, RIGHT?

A. MOST OF IT, YES.

Q. YOU WERE IN THE COURTROOM OF JUDGE RICE AND WE WERE IN ANOTHER ROOM?

A. CORRECT.

Q. MAYBE A JURY ROOM OR SOME OTHER ROOM, YES?

A. CORRECT. BUT MOST OF THAT ACTUALLY WAS RELATING TO THE OTHER PIECES OF THE SETTLEMENT AGREEMENT. WE WENT INTO THE POST-ELECTION AUDITS. WE CAME TO AN AGREEMENT ABOUT THE PATH WE WERE ALREADY ON WITH THE VOTING SYSTEMS UPGRADE MOSTLY BEFORE THAT POINT WHEN WE WERE SEPARATED.

Q. OKAY.

THE COURT: IF I DIDN'T KNOW BETTER, I'D SAY YOU WERE TESTIFYING, MR. MAAZEL.

MR. ARONCHICK: YOUR HONOR, I WAS GOING TO OBJECT, BUT I FIGURED --

MR. MAAZEL: I AM JUST ASKING LEADING QUESTIONS, YOUR HONOR.

THE COURT: OKAY.

BY MR. MAAZEL:

Q. CAN YOU LOOK AT THE STIPULATION PARAGRAPH 34,

PLEASE?

A. WHAT TAB?

Q. THE STIPULATIONS.

THE COURT: THE STIPULATIONS?

MR. MAAZEL: YES. I'M SORRY, STIPULATION NUMBER 44.

THE COURT: WHAT TAB NUMBER IS THAT?

MR. MAAZEL: I AM NOT POINTING TO AN EXHIBIT NOW, YOUR HONOR, JUST THE STIPULATIONS.

THE COURT: YEAH, WHAT TAB NUMBER IS IT?

MR. MAAZEL: IT'S NOT A TAB NUMBER. IT'S THE SEPARATE STIPULATIONS. DOES YOUR HONOR HAVE THOSE?

THE COURT: IT'S ALL RIGHT, IF YOU COULD JUST READ IT.

MR. MAAZEL: OKAY. SO STIPULATION 44 SAYS: DEFENDANTS -- QUOTE, DEFENDANTS DID NOT COMMUNICATE THE CERTIFICATION OF THE EVS 6021 SYSTEMS TO PLAINTIFF.

THE WITNESS: OKAY. MY PARAGRAPH 34 IS DIFFERENT. AM I ON THE WRONG DOCUMENT?

BY MR. MAAZEL:

Q. 44.

A. 44. OKAY, SORRY. ASK AWAY.

Q. SO IT IS A STIPULATED FACT THAT, QUOTE, DEFENDANTS DID NOT COMMUNICATE THE CERTIFICATION OF THE

EVS 6021 SYSTEM TO PLAINTIFFS, CORRECT?

A. THAT'S WHAT IT SAYS HERE.

Q. AND THAT IS TRUE, YES?

A. I DID NOT PERSONALLY COMMUNICATE THE CERTIFICATION OF THE 6021 SYSTEM TO PLAINTIFFS.

Q. OKAY. AND THAT SYSTEM INCLUDES THE XL, YES?

A. CORRECT.

Q. AND SO DEFENDANTS NEVER TOLD THE PLAINTIFFS THAT THEY HAD CERTIFIED THE XL, CORRECT?

A. THERE HAVE BEEN MULTIPLE DISCUSSIONS, INCLUDING THE REPORTS, THE STATUS REPORTS, THAT SAID WE WERE ON THE VERGE, LITERALLY --

THE COURT: ALL YOU CAN DO IS SAY WHAT YOU KNOW. DID YOU EVER COMMUNICATE IT?

THE WITNESS: I DID NOT.

THE COURT: THAT IT WAS CERTIFIED?

THE WITNESS: NO.

THE COURT: OKAY.

BY MR. MAAZEL:

Q. ARE YOU AWARE OF ANYONE ON THE DEFENSE SIDE WHO EVER SAID IN NOVEMBER 2018, DECEMBER 2018, JANUARY 2019, FEBRUARY 2019, ARE YOU AWARE OF ANYONE ON THE DEFENSE SIDE WHO SAID TO THE PLAINTIFFS, BY THE WAY, WE CERTIFIED THE 6021 SYSTEM?

A. I DID NOT.

Q. ARE YOU AWARE OF ANYONE ELSE WHO DID?

A. I DON'T KNOW. I KNOW THAT THERE WAS A LOT OF INFORMATION COMING OUT, A LOT OF MATERIALS, A LOT OF PRESS RELEASES. YOU PRETTY MUCH HAVE TO BE LIVING UNDER A ROCK TO NOT HAVE SEEN THAT THIS WAS CERTIFIED.

Q. I AM ASKING A SPECIFIC QUESTION.

THE COURT: I THINK HER ANSWER IS NO, SHE DOES NOT KNOW.

BY MR. MAAZEL:

Q. OKAY. AND THE SETTLEMENT AGREEMENT AT JX 30 --

A. WHICH ONE?

THE COURT: EXHIBIT 30.

BY MR. MAAZEL:

Q. IN PARAGRAPH 4, IT SETS FORTH THE WAY IN WHICH PLAINTIFFS WERE SUPPOSED TO BE ABLE TO MONITOR WHAT THE SECRETARY WAS DOING WITH RESPECT TO THE CERTIFICATION OF SYSTEMS, CORRECT?

A. IT SETS FORTH -- DO YOU WANT TO POINT ME TO A PARTICULAR PARAGRAPH?

Q. WELL, LET ME FINISH.

DEFENDANTS WERE SUPPOSED TO ALLOW THE PLAINTIFFS -- DESIGNATE THE PLAINTIFFS TO OBSERVE THE CERTIFICATION PROCESS.

MR. ARONCHICK: OBJECTION, BEYOND THE SCOPE.

THE COURT: NO. I WILL LET HIM DO IT, BUT I -- AS I INDICATED, I DON'T WANT TO HAVE TO BRING HER BACK.

CAN YOU ASK THE QUESTION AGAIN? I THINK YOU ARE ASKING HER TO STATE YOUR READING OF THIS PARAGRAPH. AND IT'S ONE I HAPPEN TO SHARE, BUT I AM NOT SURE WHAT YOU ARE ASKING HER, BUT GO AHEAD.

MR. MAAZEL: OKAY. I CAN MOVE TO MY NEXT LINE. YOU ARE THE FACT FINDER, YOUR HONOR, SO...

THE COURT: YES.

BY MR. MAAZEL:

Q. YOU TESTIFIED IN RESPONSE TO YOUR COUNSEL'S QUESTIONS THAT -- I BELIEVE YOU TESTIFIED THAT THE WORDS ON THE XL DOCUMENT ARE THE OFFICIAL VOTE OF RECORD.

A. CORRECT.

Q. OKAY. BUT ON MY DIRECT, YOU ADMITTED THAT THE MACHINE COUNTS THE BARCODES, CORRECT?

A. ON ELECTION NIGHT, ALL THE SYSTEMS IN PENNSYLVANIA THAT ARE BEING USED BY THE COUNTIES ARE TABULATED BY EITHER A BARCODE, A QR CODE, TIMING MARKS OR SENSORS.

Q. I AM TALKING ABOUT THE XL.

A. THAT IS ONE OF THE ALL.

Q. SO FOR THE XL --

THE COURT: I BELIEVE THE SECRETARY'S

TESTIMONY WAS, IN THE EVENT OF AN AUDIT OR RECOUNT, THE ACTUAL VOTE IS THE TEXTUAL VOTE, IS THAT RIGHT?

THE WITNESS: CORRECT.

THE COURT: SO THAT'S THE ACTUAL VOTE. WHEN YOU SAY YOUR -- AND THIS IS OBVIOUSLY THE HEART OF THE DISPUTE. YOU ARE SAYING THAT, AS FAR AS YOU KNOW, THE BARCODE REFLECTS THE ACTUAL VOTE?

THE WITNESS: I'M SORRY, ARE YOU ASKING ME, YOUR HONOR?

THE COURT: YES.

THE WITNESS: SO YOU ARE ASKING ME IF THE BARCODE REFLECTS THE --

THE COURT: WHEN YOU SAY THE ACTUAL VOTE IS THE LISTED VOTE.

THE WITNESS: CORRECT.

THE COURT: MR. MAAZEL POINTS OUT, WELL, WHAT'S ACTUALLY COUNTED IS THE BARCODE.

THE WITNESS: SO ON ELECTION NIGHT --

THE COURT: THERE IS NO QUESTION.

THE WITNESS: YEAH.

THE COURT: THAT IS CORRECT. WHAT IS COUNTED IS THE BARCODE, CORRECT?

THE WITNESS: CORRECT.

THE COURT: SO THAT'S WHAT'S ACTUALLY COUNTED UNLESS THERE IS A CAUSE FOR THERE TO BE A

RECOUNT?

THE WITNESS: PLUS THE MANDATORY STATUTORY AUDITS.

THE COURT: AND THE VARIOUS AUDITS.

THE WITNESS: YES.

THE COURT: AND HAVE YOU SEEN ANY EVIDENCE AT ALL THAT SUGGESTS THERE IS A DISCONNECT BETWEEN THE BARCODE -- THAT THE BARCODE INACCURATELY REFLECTS WHAT -- THE CANDIDATES THE VOTER VOTED FOR?

THE WITNESS: NO, I HAVEN'T.

BY MR. MAAZEL:

Q. AND FOR EVERY VOTE THAT IS NOT AUDITED, WHICH IS THE VAST MAJORITY OF VOTES, CORRECT?

A. SO IF YOU ARE LOOKING AT THE STATUTORY AUDIT, IF YOU'RE TALKING ABOUT 2 PERCENT, THEN YES.

Q. SO THE VAST MAJORITY OF VOTES NEVER MAKE IT TO AN AUDIT. THEY ARE JUST COUNTED BY THE MACHINE, YES?

A. CORRECT.

Q. AND IN THAT CASE, THE BARCODE IS THE VOTE IN EVERY SINGLE CASE, RIGHT?

THE COURT: YOU ARE MAKING ARGUMENT AND I UNDERSTAND. I UNDERSTAND.

MR. MAAZEL: OKAY.

THE COURT: IT'S NOT THAT I DIDN'T BELIEVE YOU AND MR. ARONCHICK WHEN YOU DESCRIBED HOW

MUCH TIME YOU WERE GOING TO NEED, BUT IT IS NOW AN HOUR-AND-A-HALF AFTER I ASKED THE QUESTION, BUT GO AHEAD.

MR. MAAZEL: I AM ON MY LAST AREA, YOUR HONOR.

THE COURT: IT WILL BE DINNER SOON FOR YOU.

THE WITNESS: I DO EAT LUNCH.

THE COURT: AS DO I.

IT'S THE SECRET TO MR. ARONCHICK'S SUCCESS IS THAT HE DOESN'T EAT LUNCH.

MR. ARONCHICK: I TOOK 17 MINUTES. THE REST IS ALL HIM.

THE COURT: ALL RIGHT.

BY MR. MAAZEL:

Q. YOU WERE ASKED, IS IT POSSIBLE FOR PHILADELPHIA TO -- IF YOU WERE TO DECERTIFY THE SYSTEM TOMORROW, WOULD IT BE POSSIBLE FOR PHILADELPHIA TO HAVE A NEW SYSTEM UP BY GENERAL ELECTION. DO YOU REMEMBER THAT QUESTION?

A. I DO REMEMBER THE QUESTION.

Q. AND YOU SAID -- YOU DIDN'T SAY IT WOULD BE IMPOSSIBLE, YOU SAID IT WOULD BE DIFFICULT. THAT WAS YOUR WORD.

A. NO. I THINK I SAID EXTREMELY OR SOME VERY

STRONG ADJECTIVE DIFFICULT.

Q. VERY DIFFICULT, BUT NOT IMPOSSIBLE, CORRECT?

A. SO THEN I THINK LATER CONTINUED THAT HONESTLY, I WASN'T EVEN SURE IF THE MANUFACTURERS COULD PRODUCE THE SYSTEMS IN TIME FOR NOVEMBER. SO I DON'T KNOW THAT IT IS FEASIBLE.

Q. EVERYTHING YOU TESTIFIED TO TODAY ABOUT THE NUMBER OF POLLING PLACES, THE NUMBER OF VOTERS, EVERYTHING YOU TESTIFIED TO THAT MIGHT MAKE IT DIFFICULT TO REPLACE THE SYSTEM, YOU KNEW ALL OF THAT WHEN YOU SIGNED YOUR DECLARATION IN OPPOSITION TO THIS MOTION, CORRECT?

A. YES.

Q. IF THE SECRETARY DECERTIFIED THE XL TOMORROW, WHEN, IN YOUR VIEW, SHOULD PHILADELPHIA BE ABLE TO USE A DIFFERENT SYSTEM?

A. I MEAN, I WOULD PROBABLY RECOMMEND ANOTHER 18 MONTHS.

Q. SO GENERAL ELECTION 2021?

A. YES.

Q. AND, IN FACT, THE VERY FIRST TIME YOU EVER EVEN MENTIONED THE POSSIBILITY OF GETTING NEW SYSTEMS TO PHILADELPHIA, YOU SAID IN YOUR TESTIMONY, WAS IN FEBRUARY -- I'M SORRY, WAS IN APRIL OF 2018, YES?

A. I'M SORRY, CAN YOU ASK THAT --

Q. THE VERY FIRST MEETING YOU EVER HAD WITH PHILADELPHIA SUGGESTING THAT THERE MIGHT BE SOME NEW REQUIREMENT IN THE FUTURE WAS APRIL 2018.

A. CORRECT.

Q. AND BY NOVEMBER 2019, THEY HAD A NEW SYSTEM, THEY VOTED, THEY HAD PROCUREMENT, THEY HAD A NEW SYSTEM, THEY TRAINED PEOPLE AND THEY USED THE XL IN NOVEMBER 2019, CORRECT?

A. I THINK I ALREADY TESTIFIED TO THAT.

MR. MAAZEL: I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

MR. ARONCHICK: NO FURTHER QUESTIONS, YOUR HONOR.

THE COURT: SECRETARY BOOCKVAR, THANK YOU VERY MUCH.

THE WITNESS: THANK YOU, YOUR HONOR.

THE COURT: WE WILL RESUME AT 3 O'CLOCK. I WOULD ASK -- I WILL BE GUIDED BY THE PARTIES AS TO HOW LATE YOU WANT TO GO TODAY. I DON'T KNOW HOW MANY MORE WITNESSES. I AM NOT HOLDING YOU, I THINK YOU NAMED SIX OR SEVEN WITNESSES. I DON'T KNOW HOW MANY YOU ARE ACTUALLY GOING TO CALL. BUT WE WILL SEE. I DON'T KNOW IF, BY THE END OF THE DAY TODAY, WHETHER ANOTHER DAY IS NECESSARY. AND IF SO, IF THE PARTIES CAN TELL ME WHEN THAT DAY IS, I WILL ADJUST MY SCHEDULE ACCORDINGLY.