

IN THE IOWA DISTRICT COURT IN AND FOR MONTGOMERY COUNTY

STATE OF IOWA, Plaintiff, vs. JOSEPH NORRIS, Defendant.	CASE NO. FECR012514 UPDATED APPENDIX IN SUPPORT OF MOTION TO DISMISS
---	--

Statement of observer Dan Billington	2
Absentee and Special Voters Presinct Board Guide	5
10/31/2024 email from Auditor to Board.....	26
10/29/2024 email exchange between Auditor and Mr. Norris	28
Jill Ozuna deposition transcript	31
Deputy Drew Askey deposition transcript.....	103
Jeanice Lester deposition transcript.....	139
William Lester deposition transcript.....	168
Julie Rubey deposition transcript	189

Daniel D. Bullington

November 13th, 2024

712-621-4999

PO Box 227

2396 Boxelder Ave

Red Oak, IA 51566

At the request of the County Auditor, Jill Ozuna, herein is my statement upon the on going's of the November 5, 2024 election while participating as a poll watcher for the absentee precinct of Montgomery County Iowa which occurred in the basement of the Montgomery County courthouse meeting room. It is also important to note that this is my first time ever being a poll watcher therefore what is normal is not a consideration for me.

1st I was out of the room during the climax of reason I'm writing this statement as I just went to the bathroom and just caught the tail end of the discrepancy between Joey Norris and the Auditor Jill Ozuna.

2nd I consider both Jill and Joey to be friends of mine and good upright people. I cannot judge intentions of individuals.

3rd I do believe this was a instance of one person (Joey Norris) trying to perfect perceived flaws in the system with little to no regard for timing and time constraints and the other person (Jill Ozuna) from their perspective doing the job properly but with the impending deadline encroaching upon them and things going much slower than anticipated or required.

I arrived at the County courthouse basement meeting room shortly after 9 AM to participate as a poll watcher for the Republican Party, I noticed Will Lester, Jeanice Lester, Clint Rubey, Julie Rubey, Joey Norris, and Jill Ozuna and Jan Norris in the room. All of them I personally know, they were waiting for someone else to show up in a few minutes later a Angie Brown did arrive as she had walked to the courthouse from her home on the end of Coolbaugh Street in Red Oak Iowa. Upon hearing conversation between Jill and Angie I realize I had met her sometime ago as a real estate broker showing her property that she ended up purchasing close to Jill.

Jill started the process by swearing-in the election officials who were everyone mentioned before apart from myself and Jan Norris who were watchers, I for the Republican Party and Jan for the Democrat party. Jill then gave Jan Norris and I the rules for us as poll watchers.

Apparently the turnout for election had quite substantial and they had 8 ballot boxes to go through. I believe the 1st ballot box was started around 9:40 AM with the box being opened, seal number read off & ballots removed and sorted into piles of 25. From my understanding it was the Election Officials job to sort the ballots into stacks of 25 and make sure the ballot envelope was signed and sealed. Once the total ballot count was made of 303 ballots the Election Officials started opening the envelopes taking the ballots out and removing the ballots from the secrecy folder and stacking the ballots in stacks of 25 and envelopes in stacks of 25 and removing the secrecy covers to be reused in the future. Somewhere in this process Joey Norris made the suggestion that the ballots should be removed from a the envelope containing the signature and not separating the ballot from the secrecy envelope so that someone could not see who that person voted for and stacking the envelopes in stacks of 25 and the ballot with the secrecy cover still in place being stacked in a pile of 25 and then after the set of 25 ballots with secrecy covers in place the Election Official would do the next set and remove the ballot form the secrecy cover as the final step, therefore there was no way for the Election Official to see who a person voted for. This suggestion from Joey was received well by the overall group of Election Officials and Auditor Jill, a couple of the Election Officials grumbled to themselves about the regimented process being suggested. But in the end Joey's process was adhered to and thereafter adapted (Personal Note: I think this was a good safety measure to keep a person's vote secret even though everyone had taken the oath) Somewhere in

the course of this first ballot box I thought Joey Norris was the chairman of the Election Officials as he mentioned something about the "Chairman" or being the "Chairman" looking back at this statement I believe it to have been sarcasm? The ballots were counted by the scanner with Julie, Jeanice & Jill operating the scanner and computer together. There were some issues with the documents feeding into the scanner and getting the system up and going and what I remember a count had been accepted only to have to be rejected and redo the first box again due to some issue. Jeanice is a member of the Republican Party and Julie is a member of the Democrat party, and of the Auditor Jill is a member of the Republican Party.

As we approached the noon hour, and Joey Norris informed everyone that he had a zoom meeting that he had to attend. I believe the zoom meeting was at Joey's office with someone from Des Moines this meeting was supposed start at 12 noon and end around 12:45. Joey said when he left the room he believes that someone from the Republican Party should leave the room as well as the numbers would be out of balance in the room in his absence. Joey asked Clint to leave the room; Clint informed him he was going to sit right where he was at and eat his sandwich. No one else offered to leave the room from the Republican Party. At that point if I remember correctly I believe but am not certain that Joey asked that everyone leave the room and the room to be locked. (I do not remember the exact details as I was going to leave the room anyways as I had to run to my office real quick & had brought no lunch) So I left the room prior to the remainder of Election Officials leaving, during this whole scenario of the vacating of the counting room I do not remember Auditor Jill being in the counting room or not as she was back and forth between the Auditor's office on the 1st floor and this Basement meeting room. Upon my return to the courthouse I do not remember if the Basement meeting room was open or still locked up?

During the course of the afternoon there were several issues that the election officials would talk about concerning a ballot. I remember Will Lester found a ballot that had what looked like a small pencil mark in the signature box this ballot was set aside for review a.k.a. rejected from ballots being counted. There was also issues with unsealed envelopes on the ballot envelopes these were also set aside a.k.a. rejected from the count and set aside for review ,I remember Angie Brown (Independent / no declared party affiliation) had an instance that an envelope that had been unsealed and was placed on the bottom of a stack of 25 ballots and therefore now appear to be sealed, so there was discussion on how to deal with those in the future. There was a couple of times that Joey challenged how things are being done and referred to the instruction manual that the election officials were provided, one of those times was when Joey notice that a ballot had an X through a oval that should've been filled in indicating what he thought was the person's vote, according to Joey's interpretation of the rules he thought Jill should fill that X in, Jill insisted that she could not do that she did not know what the person's intent was and that it was the job of the scanner to read the vote. At that point Joey referred to the instruction manual on how the area should be filled in, Jill said that was not correct and asked that the ballot be placed aside a.k.a. rejected to be dealt with later, Joey didn't accept that answer and continued to visit about it, I don't know how long it was but Jill went out of the room and brought back a printout of Iowa law that showed how the ballot with the X should be handled and that was to run it through the scanner and let the scanned determined if the ballot would be counted or rejected, the scanner did count the ballot. The part of the instruction manual that Joey was referring to was on a hand count, I believe. So what Joey said was true, just wasn't true to the situation they were in. (A Personal note Joey had mentioned that the vote with the X wasn't even for someone he was cheering for but that someone Dan / myself would be voting for)

I believe it was around 3 PM in the afternoon and they were still working on finishing the 1st or 2nd box of ballots to count? I went to the bathroom and returned to find Jill and Joey having a discussion on contacting people on their questionable ballots (aka rejected aka ballots for review that were either unsealed or unsigned). I believe Joey wanted the process or someone in the process to stop right then and contact the people that had made mistakes on the ballot **versus** counting properly done ballots and then contacting the people that had made errors after the ballots with no errors were counted. There had only been a handful of ballots that had had issues and were set aside from my remembrance. And I believe that the end of the day around 10 ballots total had been set aside for review to be dealt with later.

When I returned from the bathroom Joey & Jill were discussing the ballots of people who did not follow the rules on signing or sealing their ballots and were being held for review. I believe Joey wanted someone to try & contact those people right now versus counting the ballots that had no issues first & then contacting the ballots with errors / concerns? Jill asked Joey to stop as he was talking from what I remember Jill said "Joey you have to stop we have to get these counted" Joey replied "we have to get it done right" & Joey continued to talk. I remember Jill saying to Joey "Joey will give you 5 seconds to stop talking" at which point Joey continued to talk / debate and after the 5 count Jill stated "Joey you are dismissed" From what I remember Joey said he wasn't going anywhere. From what I remember Jill told Joey you are being disruptive and asked Joey to leave & sign out on his time sheet, Joey responded something like **being disruptive because he wanted to do it right?** Jill again asked Joey to leave, Joey said he would not leave without the Sheriff removing him and then asked for a vote from the Election Officials Board about him being dismissed to which Jill responded: that she put him on the board & she can take him off and that he was being disruptive to the process. Joey called for a vote of the Election Officials Board members concerning his removal. I remember both Will and Clint making several comments, like they couldn't believe what was going on and that it had been ridiculous thus far. Will Lester had some rather choice words to say to Joey about him being hard to work with the no wonder nobody wants to work with him. The election board did not hold a vote concerning his dismissal.

At this point Jan Norris (Joey's mom who was the Democrat Poll watcher sitting by me) turned to me and asked me "can you believe what is going on" I replied, I don't know the rules for Election Officials as I was a poll watcher not an Election Official and she had a copy of the rules that she tried to hand to me, which I refused. I replied to Jan that was not my job I'm here is a poll watcher.

Shortly thereafter the sheriff deputy Drew Askey showed up and escorted Joey out of the room.

I'm a real estate agent in the area with over 5000 contacts in my phone Joey being one of them as well as Jill, Clint & Angie. At 3:09 PM I received a text from Joey after he'd been dismissed "I might need some support as to how that all went down in there" I responded "I was in the bathroom and only caught the last minute of what happened" "so I will not be a good resource" Joey responded "was I being unreasonable throughout the day" which I replied "this was my first time being an observer"

The remainder of the day moved forward without incident that I know of. Jan Norris, Joey's Mom & Democrat Poll watcher, was respectful but looked to be shaken by the events of the day.

The votes were counted and I believe they finished at shortly after 9pm

11/06/2024 Jill texted me ask me to give her a call which I did she stated that the Sheriff's office may want to statement, with another text that followed up on 11/08/2024 that hopefully statements could be turned into the Sheriff's office by 11/12/2024.

This is my statement as I remember it. As a real estate broker for over 22 years and selling over thousand houses and dealing with many people, I've learned to ask if someone is hungry, hurting or tired if they are it may impact the way they act or react.

A handwritten signature in blue ink that reads "Dan Bullington" followed by the date "Nov 13th/2024".

Daniel D. Bullington

Absentee and Special Voters Precinct Board Guide

Table of Contents

Overview	1
Absentee and Special Voters Precinct (ASVP)	1
What is the ASVP Board?	1
Board Responsibilities.....	1
Board Membership	1
Meeting Times.....	1
General Election.....	2
ASVP Initial Meeting Times and Reconvening Times	3
Ballots and Supplies.....	3
Persons Allowed While Board is Meeting.....	4
When Counting is not Taking Place	4
When Counting is Taking Place	4
Political Party Observers	5
Challenging Absentee Ballots	5
Reviewing Envelopes	6
Envelopes Overview	6
Reviewing Affidavit Envelopes	7
Six Steps	7
Removing the Ballot and Counting the Votes.....	9
Eight Steps.....	9
Counting Absentee Ballots on Monday	12
After Election Day	14
Overview	14

Absentee Ballots Received After Election Day	14
Special Write-In Ballot (aka submarine ballot, special ballot) – General Elections Only	14
Federal Write-In Absentee Ballots (FWAB) – Federal Elections Only	15
Provisional Ballots and Challenged Absentee Ballots	15
What is a Provisional Ballot?	15
Absentee Voters with Provisional Ballots	15
Why are Voters Challenged?	16
Rejecting Ballots	16
Sealing Ballots	17

Overview

Absentee and Special Voters Precinct (ASVP)

The absentee and special voters precinct (ASVP) is one precinct that includes ballots from the entire county. The precinct is established for the counting of all absentee and provisional ballots and for delivering absentee ballots to residents and patients in health care facilities. All elections will have an ASVP board. The precinct is sometimes referred to as the “absentee precinct” or the “special precinct.”

What is the ASVP Board?

The ASVP board is comprised of precinct election officials appointed by the auditor to carry out the duties of the precinct. It is also referred to as the “absentee board” or “counting board.”

Board Responsibilities

The ASVP board is responsible for reviewing and rejecting or counting absentee and provisional ballots. The board also delivers ballots to voters in health care facilities. This guide explains the process of reviewing and rejecting or counting absentee and provisional ballots.

Board Membership

The number of board members will vary based on the election. The board must consist of at least three but can be expanded if the auditor determines that is necessary. The board must be large enough to ensure all absentee ballots received before the polls close are counted by 10 p.m. on election night.

In a partisan election, the board as a whole must have an equal number of Democrats, Republicans, and no-party or NPPO affiliated PEOs. The board cannot be out of balance by more than one. If the board is divided into smaller groups to consider ballots, the groups must consist of no fewer than three officials and cannot be out of party balance by more than one.

Meeting Times

- **Before Election Day:** The board may be called to review affidavit envelopes.
 *At the direction of the auditor only, the board may begin counting absentee votes. This is the only circumstance in which ballots can be counted before election day under Iowa law.
- **Election Day:** All ballots received before the polls close must be counted by 10 p.m.
- **After Election Day:** The board will reconvene after election day at the direction of the auditor to consider any provisional ballots, challenged absentee ballots, or absentee ballots that arrived in time to be considered for counting. *

*Absentee ballots must be received by the county auditor by 8:00 pm on election day for the ballot to count, with an exception for the following cases:

- Ballots from participants in the Safe at Home program received by the Secretary of State in time to be transmitted to the County Auditor by noon on the Monday following the election (or the time of the canvass, if earlier).
- Ballots from uniformed and overseas citizens received by noon on the Monday following the election (or the time of the canvass, if earlier).

General Election

For the general election, the ASVP Board can meet any time beginning at noon on Thursday, two days after the election. However, you will be required to schedule the Board to meet on Monday afternoon six days after the election in the following situations:

- 1) Voters who have cast provisional ballots have the right to present information as to why the voter is eligible by noon on Monday. This deadline moves to noon on Tuesday if Monday is a federal holiday.
- 2) Any outstanding Safe at Home or UOCAVA absentee ballots that you receive from the Post Office by noon on Monday must be reviewed and counted if they meet one of the exceptions outlined above. Again, this deadline moves to noon on Tuesday if Monday is a federal holiday. All other untimely, and therefore ineligible, ballots must be rejected.

Some counties will choose to have the ASVP Board meet twice, for example, first on Thursday afternoon, and again on Monday afternoon. Others will choose to wait until Monday afternoon to consider all late Safe at Home and UOCAVA absentees and provisional ballots. The benefit of meeting earlier is to approve and count those late-absentee and provisional ballots that the Board determines are valid. The drawback would be the Board cannot reject provisional ballots until after the Monday noon deadline and would need to meet again to do so.

ASVP Initial Meeting Times and Reconvening Times

Election	County Canvass Date	Reconvene ASVP Board
School	First Monday or Tuesday after election [§277.20, 50.24]	No earlier than noon on Thursday following election [§50.21]
City Primary	Thursday following election no earlier than 1 p.m. [§376.7]	Noon on Wednesday following election [§50.21]
Regular City without runoff provisions	First Monday or Tuesday after election [§50.24]	No earlier than noon on Thursday following election [§50.21]
Regular City with runoff provisions	First Monday or Tuesday after election [§376.9, 50.24]	No earlier than noon on Thursday following election [§50.21]
City Runoff	Thursday following election no earlier than 1 p.m. [§50.24]	Noon on Wednesday following election [§50.21]
Primary	First Monday or Tuesday after election [§43.49]	No earlier than noon on Thursday following election [§50.21]
General	First Monday or Tuesday after election [§50.24]	No earlier than noon on Thursday following election [§50.21]

Important Note: If the canvass is scheduled to be earlier than the Monday following the election, the ASVP board must be reconvened at noon on the day following the election.

Ballots and Supplies

Each day the board meets, the auditor will deliver the ballots and supplies needed. Some supplies you will need include:

- Absentee and Provisional Ballot Chain of Custody Log

This form helps both the auditor and the board keep track of ballots. Verify the number of ballots upon receiving them from the auditor and before returning them to the auditor.

- Ballot Rejection Tally Sheet

Use this tally sheet to keep track of the number of ballots rejected. The auditor must report this information to the Secretary of State (SOS) after the general election.

- Ballot Rejection Letter Template

When absentee ballots are rejected, voters must be notified by the ASVP board of their ballot's rejection. The auditor may be able to provide you with a sample letter.

- Counting Votes Guide

This guide will help you navigate the process of counting write-in votes or counting votes if the auditor has chosen to use hand-counted ballots for the election. It explains the election laws relating to counting votes and provides examples of possible situations.

- Challenger's Statement

Use this form when challenging the qualifications of a voter.

Persons Allowed While Board is Meeting

When Counting is not Taking Place

On the Monday before the election and after the polls are closed on election day, meetings of the ASVP board are open to the public.

When Counting is Taking Place

The only people who are allowed by law to be in the room when the ASVP board is counting ballots on Monday or Tuesday before the polls are closed are:

- Auditor or auditor's designee
- The members of the ASVP board
- Five challengers representing each political party
- One observer representing any non-party political organization or any candidate nominated by petition
- One observer representing any non-partisan candidate appearing on the ballot in city and school elections
- One observer representing support for a public measure on the ballot
- One observer representing opposition for a public measure on the ballot

[\[§53.23\(4\)\]](#)

Interference

No observer may interfere with the duties of the ASVP board. Interference includes but is not limited to handling ballots and, while the board is counting ballots, communicating, or attempting

to communicate information regarding the progress of the count. Observers may report the names of voters' whose ballots were rejected without being opened. This is not a violation of the secrecy required for the progress of the count.

[\[§53.23\(3\)\(b\)\(1\), IAC 721—21.359\(5\)\(a\)\]](#)

Political Party Observers

Political party observers are not required to be present when the ASVP board meets; however, the auditor must notify the parties of the meeting.

If either or both parties fail to appoint an observer, the process continues without the observers.

[\[§53.23\(3\)\]](#)

Challenging Absentee Ballots

Absentee ballots may be challenged before the affidavit envelope is opened.

Board members and observers may challenge the qualifications of a person who cast an absentee ballot. By law, a board member must challenge the absentee ballot of any person the board member knows or suspects is not a duly qualified voter.

Challenges may be made at any time before the polls close on election day. The deadline for challenges by persons who are neither members of the board or observers is the Friday before the election.

All challenges, including those made by members of the ASVP board, must be made in writing and state the reason(s) for the challenge. The challenger must sign the form. The challenger's statement form is used for this purpose.

[\[§53.31\]](#)

Reviewing Envelopes

Counting votes is only one of the responsibilities of the ASVP board. The majority of the board's time will be spent reviewing and sorting the ballots.

Envelopes Overview

There are always two envelopes and sometimes three envelopes involved in the return of an absentee ballot. Members of the ASVP need to be familiar with all of the envelopes involved. The envelopes are records of the election that need to be kept for a specified time period after the election. Never throw away any envelopes.

From the outside in, the envelopes are:

1. **Return Envelope** (larger envelope)

This is the envelope the voter uses to return the ballot to the auditor. After the election, the ASVP board may need to review the postmark on this envelope if the ballot is from a Safe at Home or UOCAVA voter. Depending on when the ballot was received by the auditor's office, the board may receive ballots whose return envelope has been opened and removed by the auditor's office so that the affidavit envelope could be checked for errors.

Important Note: The affidavit envelope and return envelope may be combined into one envelope.

[\[§53.8\(1\)\]](#)

2. **Affidavit Envelope** (medium envelope)

The affidavit envelope contains the ballot. The outside of the envelope contains the voter's affidavit. Completing the affidavit on the envelope is the equivalent of the voter's declaration of eligibility at the polls on election day. This envelope must be inspected for potential problems. Depending on when the ballot was received by the auditor's office, the board may receive ballots whose affidavit envelope has already been reviewed and either approved or flagged as a problem by the auditor's office.

Important Note: The affidavit envelope and return envelope may be combined into one envelope.

[\[§53.8\(1\)\]](#)

3. **Secrecy Envelope** (smaller envelope)

This envelope may or may not have been provided to the voter and if provided, may or may not have been used by the voter. The purpose of the secrecy envelope is to protect the voter's right to a secret ballot. Like all other envelopes, these envelopes must be carefully accounted for.

Reviewing Affidavit Envelopes

Whether you are a member of the ASVP board who is processing ballots the Monday before election day or on election day, the process of opening the return envelope (if a combined return/affidavit envelope was not used) and reviewing the affidavit envelope will be the same. The instructions below apply to all meetings of the ASVP Board.

The difference between the board's work before election day and on or after election day is where the work stops. The auditor may or may not have the board open affidavit envelopes on the Monday before the election. Counting votes before election day is not at the board's discretion but is only at the direction of the auditor and in limited circumstances. Ensure the board has received clear instructions regarding its duties before work begins.

Six Steps

- 1. Complete the Absentee and Provisional Ballot Chain of Custody Log.**

Verify the number of ballots upon receiving them from the auditor.

- 2. Check the postmark.** (when necessary)

If you are reviewing envelopes before election day, you may skip this step (because you know the ballot is on time).

If you are reviewing envelopes after election day, you must reject ballots received after the polls close **UNLESS** they are from a Safe at Home or UOCAVA voter.

Remember that absentee ballots which were hand delivered to the auditor's office will not have a postmark. (Skip this step if affidavit envelopes have already been removed a return envelope and reviewed by the auditor's office.) In this situation, the auditor should have time-stamped the envelope with the time the ballot was delivered to the office. Hand-delivered ballots are on time if they arrive before the polls close on election day.

- 3. Open return envelopes (if a combined return/affidavit envelope was not used).**

The return envelopes may be opened either manually or with an automatic letter opener.
[\[IAC 721—21.353, 21.354\]](#)

- 4. Remove the affidavit envelopes from return envelopes (if a combined return/affidavit envelope was not used).**

Stack the return envelopes, which must be kept with other records of the election.

5. Sort the affidavit envelopes into three piles.

Pile #1: Rejected

Reject the ballot without opening the affidavit envelope if any of the following conditions exist:

- The ballot arrived too late to be counted
- Affidavit lacks the voter's signature
- Applicant is not a duly registered voter in the precinct in which the ballot was cast
- Voter has a pending status or voter was made inactive after casting their absentee ballot and has not provided §48A.8 ID by the time the ASVP board meets to consider provisional ballots
- Affidavit envelope is open or the affidavit envelope has been opened and resealed
- Affidavit envelope contains more than one ballot of any kind
- Voter voted in person at the polls
- Voter submitted an absentee ballot request electronically and the original request form was not postmarked by the absentee mail request deadline (15 days before all elections) and was not received in the auditor's office by the time the polls closed on election day.

[\[§53.25, IAC 721—21.2\(2\), 21.354, 21.361\]](#)

Pile #2: Challenged ballots

Put all challenged ballots together. A ballot may be challenged by a precinct official or an observer. A ballot may also be challenged by any registered voter in the county if the challenge is received by the auditor no later than 5:00 PM the Friday before the election. See "Challenging Absentee Ballots" earlier in this guide.

Pile #3: Ballots that are accepted for counting

Put all ballots that are accepted for counting together. Stack the envelopes with the affidavit facing down.

[\[IAC 721—21.359\(3\)\]](#)

6. Complete processing of rejected absentee ballots.

- a. Flip the affidavit envelope over so the back of the envelope is facing you.

- b. Write the following on the back of the envelope “Rejected because (insert the reason for rejection).”
- c. All rejected ballots must be sealed in an envelope marked “defective ballots.” The envelope must be marked with “absentee precinct.” Include the date of the election at which the ballots were cast. All board members must sign the sealed envelope.
- d. Record the number of rejected ballots on the absentee and provisional ballot chain of custody log. The envelope marked “defective ballots” containing the rejected ballots must be returned to the auditor.
[\[§53.25, 53.26, 53.27, IAC 721-21.361\]](#)
- e. Prepare rejection notices for voters whose ballots must be rejected. These notices must be prepared by either the auditor or the board but must be initialed by a board member.

A sample rejection notice is available on the SOS website.

Mail the notices immediately. The notices must be sent by the time of the county canvass.

[\[§53.25\]](#)

Removing the Ballot and Counting the Votes

At the direction of the auditor, affidavit envelopes can be opened and ballots removed from them on the Monday before election day. The board may also be directed to count votes before election day. Below are the instructions for opening the affidavit envelope, removing the ballot, and counting the votes. Ensure the board has clear instructions regarding its duties before work begins.

On election day, the board will open the affidavit envelopes (if they haven’t already done so) and count absentee ballots. The board must complete counting all absentee ballots received before the polls close by 10 p.m. on election day.

Eight Steps

1. Open the affidavit envelopes.

Stack affidavit envelopes of ballots accepted for counting upside down. Open the affidavit envelopes using either a manual or automatic letter opener.

2. Remove the ballots from the affidavit envelope.

It is very important to preserve the secrecy of each voter’s ballot during this process.

When opening on the Monday before election day (but not counting votes):

- Remove ballots from affidavit envelopes one at a time.
- If the ballot is not in a secrecy envelope, two board members, one from each of the parties, must place the ballot in a secrecy envelope without examining the ballot.
- Stack the empty affidavit envelopes and set them aside for storage.
- Verify the number of secrecy envelopes matches the number of empty affidavit envelopes before the ballots are stored. The secrecy envelopes containing ballots may be bundled and sealed in groups of a specified number to make counting easier. Any discrepancies between the number of empty affidavit envelopes and secrecy folders must be resolved at this time.
- Organize the ballots for overnight storage and complete the absentee and provisional ballot chain of custody log verifying that the number of ballots you are returning to the auditor is the same number of ballots you were given by the auditor, and stop. You will continue your work on election day.

[\[§53.23, IAC 721—21.359\]](#)

When opening on the Monday before election day (and counting votes), on election day, or after election day:

- Remove ballots from affidavit envelopes one at a time.
- It is not necessary to put ballots that are not in secrecy envelopes into secrecy envelopes when ballots will be counted the same day.
- Stack the empty affidavit envelopes and set them aside for storage.
- Mix or shuffle the secrecy envelopes (or ballots) so they are no longer in the same sequence as the affidavit envelopes.

[\[§53.23, IAC 721—21.359\]](#)

3. Remove the ballots from the secrecy envelopes.

If affidavit envelopes were opened on Monday, but the ballots were not counted, the number of secrecy envelopes present on Tuesday must be recorded before any ballots are removed from secrecy folders to make sure it matches the number from Monday.

[\[§53.23, 53.24, IAC 721—21.359\]](#)

4. Inspect the ballots.

Reject if there is more than one. If the affidavit or secrecy envelope contains more than one ballot, you must reject both ballots.

[\[§53.25, IAC 721-21.361\(5\)\]](#)

Reject if there is an identifying mark. Do not count ballots that are marked or signed in any way identifies the voter.

Reject if the affidavit envelope does not contain any ballot.

[\[IAC 721—26.14\(50\)\]](#)

5. Process rejected ballots.

If the board does not count a ballot, write the reason on the back of the ballot: “Rejected because (insert reason for rejection).”

All rejected ballots must be sealed in an envelope marked “Defective ballots.” The envelope must be marked with “absentee precinct,” include the date of the election at which the ballots were cast and be signed by the board members.

Record the number of rejected ballots on the absentee and provisional ballot chain of custody log. The envelope with the rejected ballots must be returned to the auditor.

[\[§53.26\]](#)

6. Count the votes.

Insert the ballots in the optical scan voting machine or begin hand-counting as directed by the auditor. The count of absentee ballots received before the polls close must be completed by 10 p.m. If ballots are counted by hand, count them according to the standards in the Counting Votes Guide.

It is illegal for anyone to communicate or attempt to communicate information about the progress of the count at any time before the polls are closed.

[\[§53.23\(4\)\]](#)

Write-Ins and Optical Scanners

Tabulate any write-in votes cast and recognized by the optical scanner. Refer to the Counting Votes Guide to determine how to count write-in votes.

Damaged Ballot

If a ballot is damaged and cannot be read by the voting machine, you may make a true duplicate of the ballot. Write “ORIGINAL” on the original ballot and “DUPLICATE” on the substitute ballot. Label the duplicate ballot and the original, damaged ballot with the same serial number. (Example: O1 on original and D1 on duplicate.)

[\[§52.37 \(1\)\(a\)\]](#)

Machine Cannot Read Ballot

If a ballot cannot be read by the optical scanner because it was marked by an unreadable marker, you may make a true duplicate of the ballot. Write “ORIGINAL” on the original ballot and “DUPLICATE” on the substitute ballot. Label the duplicate ballot and the original ballot with the same serial number.

The auditor may instruct the board to mark over the unreadable marks with a pen or pencil that can be read by the voting machine. If a ballot's marks are enhanced by the ASVP board, leave part of the original mark made by the voter. If it is impossible to mark over the original mark without completely obliterating the mark, duplicate the ballot.

[\[§52.37\(1\)\(c\)\]](#)

If you are counting ballots on the day before election day, see the next page for procedures to follow at the end of the day.

7. Announce the results.

Announce both the results tallied by the optical scanner and the tallied write-in votes only after the polls are closed.

[\[§50.11, 52.37\(2\)\]](#)

8. Seal the ballots.

After counting is complete, seal the counted ballots into containers. A seal must be placed over the opening of the container so the container cannot be opened without breaking the seal. All members of the board must sign across the seal.

[\[§50.12\]](#)

Counting Absentee Ballots on Monday

Follow these security procedures when you are finished counting at the end of the day before election day:

1. Seal and label the voted ballots in an envelope or other container.

The board must seal all counted ballots in a voted ballot envelope or other container. Label the envelope or other container with the date the ballots were counted. A seal must be placed on the envelope or other container making it evident if the envelope or container is opened. All members of the board must sign across the seal.

2. Return all ballots to auditor.

Return all absentee ballots to the auditor when finished for the day. The auditor must store all absentee ballots in a secure location until counting is resumed on election day.

3. Secure memory cards.

The board must secure the memory cards in one of the following ways:

- Leave the memory card in the optical scan machine with a tamper evident seal affixed over the memory card in a manner making it evident if the seal is removed.
- Remove the memory card from the optical scan machine and store it in an envelope. A seal must be placed on the envelope making it evident if the envelope is opened.

4. Secure optical scan machine.

The optical scan machine must be stored in a secure location until counting resumes on election day.

5. Do not print a results tape from the optical scan machine on the day before the election.

6. Do not upload or input results into tabulating software on the day before the election.

Before resuming counting on election day, verify the seals on the optical scan machine, memory card(s), and memory card port(s) have not been obviously tampered with overnight.

Resume counting using one of the following methods:

- Using the same memory card(s) used on Monday and resuming counting
- Using a new memory card(s) and compiling the results contained on the memory card(s) used on election day and Monday

[\[§53.23, IAC 721—21.359\]](#)

After Election Day

Overview

After election day, the board will consider any provisional ballots, challenged absentee ballots, and any Safe at Home or UOCAVA absentee ballots that were postmarked before election day and received before the deadline. If no provisional ballots were cast and no absentee ballots were challenged, the board will be reconvened only if there are absentee ballots to be counted before the canvass. See page 2 to determine when the board must meet after election day if there are additional ballots to be considered.

The number of members on the board when reconvened after the election may increase or decrease depending on the number of provisional and challenged absentee ballots to be considered.

The board may divide itself into panels of no less than three members each to consider provisional and challenged absentee ballots. Each panel must include a Democrat and a Republican. Not more than a simple majority of the members of a panel may be from the same political party.

[\[§50.21, 50.22\]](#)

Absentee Ballots Received After Election Day

The board must not count absentee ballots received after the polls close on election day, unless they are from a Safe at Home or UOCAVA voter.

[\[§50.22, 53.17\]](#)

For both FWABs and special write-in ballots, the auditor will either direct you to hand-tally the ballot or make a duplicate ballot following the instructions on page 11.

Special Write-In Ballot (aka submarine ballot, special ballot) – General Elections Only

Special write-in ballots are used by members of the military and overseas citizens when they cannot receive and return their absentee ballot by normal mail delivery during the usual absentee voting period. Voters will use a form provided by the auditor and will write the names of the candidates they wish to vote for on the special write-in ballot and if they oppose or support the public measure(s).

The auditor should only deliver special write-in ballots to the ASVP board after the deadline to receive regular absentee ballots. This type of ballot may be counted only if the voter's regular absentee ballot was not received before the deadline to receive absentee ballots.

Process and canvass votes on the special write-in ballots in the same manner as is done with other absentee ballots.

[\[§53.45\]](#)

Federal Write-In Absentee Ballots (FWAB) – Federal Elections Only

A FWAB is used by members of the military and overseas citizens. It is a completely blank write-in ballot that does not contain any offices or candidates. FWABs may be used if a voter requested a regular absentee ballot more than 14 days prior to election day but did not receive it or does not believe they have time to receive the ballot and return it in order for it to be counted. The voter must be outside the U.S. or on active duty outside the voter's county of residence to use a FWAB.

The auditor should only deliver FWABs to the ASVP board after the deadline to receive regular absentee ballots. FWABs should only be counted if the voter's regular or a special write-in ballot is not received before the deadline to receive regular absentee ballots.

Process and canvass votes on the FWAB in the same manner as with other absentee ballots.

If a FWAB is not counted, the voter must be notified that the FWAB was not counted and the reason why.

[\[§53.53\]](#)

Provisional Ballots and Challenged Absentee Ballots

The board must review all the information on the provisional ballot envelopes and all of the evidence submitted regarding the qualifications of each provisional and challenged absentee voter. The decision to count or reject each ballot must be made by the ASVP board based on the information on the envelope containing the provisional ballot, the evidence concerning the challenge, and any pertinent voter registration documents.

[\[§50.22\]](#)

All provisional and challenged absentee ballots counted by the board must be counted in the same manner as all other ballots tabulated for the election. If voting equipment was used, these ballots must be run through the ballot scanners.

[\[IAC 721—26.4\]](#)

What is a Provisional Ballot?

A provisional ballot is used by voters whose qualifications to vote were challenged at the polls, by voters who could not prove they are qualified to vote by showing ID when requested, and by some absentee voters at the polls.

Absentee Voters with Provisional Ballots

If you receive a timely absentee ballot and a provisional ballot from the same voter, the absentee ballot should be considered for counting. This means that provisional ballots cast by absentee voters at the polls should be considered by the ASVP board after the absentee receipt deadline or immediately prior to the canvass, whichever is applicable.

If the absentee ballot must be rejected for any reason, the ASVP board should then consider the provisional ballot for counting.

Why are Voters Challenged?

A challenge may be brought against a voter by claiming the voter is one of the following:

- Not a citizen of the United States,
- Less than 18 years of age on Election Day,
- Not a resident at the address where the person is registered,
- Not a resident of the precinct where the person is offering to vote,
- Falsifying information on a registration form or on a declaration of eligibility,
- Convicted of a felony and voting rights have not been restored,
- Adjudged incompetent to vote and no later ruling has found the person once again competent, or
- Deceased.

[\[§49.79, 49.80, 49.81\]](#)

Rejecting Ballots

Provisional and challenged absentee ballots may only be rejected when the:

- Voter did not provide ID and/or proof of residence and was required to do so,
- Voter was not registered in the precinct on election day,
- Voter already returned an absentee ballot that was counted (provisional voters),
- Voter is not qualified to vote, or
- Voter has a pending status or voter was made inactive after casting their absentee ballot and has not provided §48A.8 ID by the time the ASVP board meets to consider provisional ballots

Rejected ballots must be marked “Rejected because (insert reason of rejection).” All rejected ballots must be sealed in an envelope marked “Defective ballots.” The envelope must be marked with “absentee and special voters precinct” and the date of the election at which the ballots were cast. The seal on the envelope must also be signed by the precinct election officials.

The board must record the number of rejected ballots on the absentee and provisional ballot chain of custody log. The envelope with the rejected ballots must be returned to the auditor.

[\[§53.25, 53.26, 53.27\]](#)

The auditor or the board needs to prepare notices to send to voters whose ballots were rejected by the time of the county canvass. A board member must initial or sign the notices. A sample notice is available on the SOS website.

[\[§53.25\]](#)

Sealing Ballots

After counting is completed, seal the counted ballots into containers. A seal must be placed over the opening of the container so the container cannot be opened without breaking the seal. All members of the board must sign across the seal.

[\[§50.12\]](#)



Joey Norris <norrisjojo@gmail.com>

November 5 Election Day ASVB Team

3 messages

Jill Ozuna <jozuna@montgomerycountya.gov>

Thu, Oct 31, 2024 at 8:59 AM

To: "angelas0810@gmail.com" <angelas0810@gmail.com>, Joey Norris <norrisjojo@gmail.com>, Julie Rubey <julierubey@rubeyrealty.com>, Jeanice Lester <jeanicel@mchsi.com>

Hello all and thank you so much for being a part of the Absentee Voting Board for the upcoming 2024 General Election. We have over 1600 absentee ballots so far. 😊

The **2024 General Election ASVB "Dream" Team** includes **Julie and Clint Rubey, Jeanice and Will Lester, Angela Brown, and Joey Norris.**

Since we have a few new members and some of the planning has already started, this email is meant to provide each of you with contact information for any additional planning/scheduling changes or updates. You all typically set your schedule as a group so, if you need to make changes just communicate with each other.

ASVB Team will begin Tuesday November 5th at 9 a.m. Joey has a meeting from 12-1 so, that may be a great time to break for lunch. The plan is to continue after lunch to get through the batch of absentee ballots and then break and come back at 8:00 pm when the polls close to count any ballots that may have been dropped off at the auditor's office or the USPS. For this election, the USPS will have the postmaster onsite until 8:00 pm to make sure we receive all ballots.

I have attached the **ASVB guidebook, Poll Watcher Guidebook, and Poll Watcher Poster** – Please take a few minutes to read through these before Tuesday.

There are usually poll watchers, media for the ASVB counting so, it's good to brush up on those rules.

The Lester's and Rubey's have been on the Absentee Voter Board, and Public Testing for many years, Joey and Angela have both been on the Post Election Audit Board.

Please bring drinks, snacks, and layers of clothing. If you have any questions, please feel free to reach out to me or each other.

Here's to a smooth and successful 2024 General Election!

Jill Ozuna

Montgomery County

Auditor & Commissioner of Elections



Phone: 712-623-5127

Email: jozuna@montgomerycountya.gov

105 E. Coolbaugh St.

Red Oak, IA 51566

<https://montgomerycountya.gov/>

‘The dignity of labour depends not on what you do, but how you do it’ – Edwin Osgood

3 attachments

 **asvpboard guidebook iowa code.pdf**
268K

 **pollwatcherguidebook (2).pdf**
128K

 **pollwatcherposter (1).pdf**
201K

Jeanice Lester <jeanicel@mchsi.com>

Thu, Oct 31, 2024 at 6:42 PM

To: Jill Ozuna <jozuna@montgomerycountya.gov>, "angelas0810@gmail.com" <angelas0810@gmail.com>, Joey Norris <norrisjojo@gmail.com>, Julie Rubey <julierubey@rubeyrealty.com>

Thanks for the email and info. For everyone concerned, please change Will and my email addresses as these will go away soon. Mine is jeanicelester@gmail.com and Will's is willdlester@gmail.com. Thanks a bunch.

Jeanice

Sent from my U.S.Cellular® Smartphone

[Quoted text hidden]

Joey Norris <norrisjojo@gmail.com>

Mon, Nov 4, 2024 at 12:32 PM

To: Jill Ozuna <jozuna@montgomerycountya.gov>

Cc: "angelas0810@gmail.com" <angelas0810@gmail.com>, Julie Rubey <julierubey@rubeyrealty.com>, Jeanice Lester <jeanicel@mchsi.com>

All,

I am looking forward to helping tomorrow with one of our most sacred processes in America!

As Jill mentioned, I have a meeting from 12-1p tomorrow. I'll need to leave the courthouse at 11:45a and expect to return by 1:00p. I hope this will not prove too much of an inconvenience for anyone else, or our dogged pace to count our ballots!



Joey Norris <norrisjojo@gmail.com>

ASVB Board Election Day

Joey Norris <norrisjojo@gmail.com>

Thu, Oct 31, 2024 at 10:08 AM

To: Jill Ozuna <jozuna@montgomerycountya.gov>

Received! Thanks

On Thu, Oct 31, 2024 at 9:00 AM Jill Ozuna <jozuna@montgomerycountya.gov> wrote:

Oh sorry, Joey. It was a late night with PEO training, and I just finished up that email and sent it out. Let me know if you don't receive it!!



Jill Ozuna

Montgomery County

Auditor & Commissioner of Elections

Phone: 712-623-5127

Email: jozuna@montgomerycountya.gov

105 E. Coolbaugh St.

Red Oak, IA 51566

<https://montgomerycountya.gov/>

‘The dignity of labour depends not on what you do, but how you do it’ – Edwin Osgood

From: Joey Norris <norrisjojo@gmail.com>

Sent: Thursday, October 31, 2024 8:11 AM

To: Jill Ozuna <jozuna@montgomerycountya.gov>

Subject: Re: ASVB Board Election Day

Jill,

I did not receive an email with details last night. Just want to make sure I wasn't left off the list.

Looking forward to helping in my small way with such an important process. Good luck in the next couple of weeks!

On Wed, Oct 30, 2024 at 5:29 PM Jill Ozuna <jozuna@montgomerycountya.gov> wrote:

Hi Joey,

I think that will be fine. I'll be sending an email tonight with all of you on it with a little more information.

Jill

Get Outlook for iOS

From: Joey Norris <norrisjojo@gmail.com>
Sent: Tuesday, October 29, 2024 8:00:26 AM
To: Jill Ozuna <jozuna@montgomerycountya.gov>
Subject: Re: ASVB Board Election Day

Jill,

Sorry for the delay. I am available to help next Tuesday (11/5) for the absentee board so long as I'm able to leave for a Zoom meeting from noon-1p. Will that work?

If that does not work, Barb Nelson (barbn52@gmail.com) volunteered to take my place.

Thanks!

On Wed, Oct 23, 2024 at 11:08 AM Jill Ozuna <jozuna@montgomerycountya.gov> wrote:

Okay. Thank you.



Jill Ozuna
Montgomery County
Auditor & Commissioner of Elections

Phone: 712-623-5127
Email: jozuna@montgomerycountya.gov
105 E. Coolbaugh St.
Red Oak, IA 51566
<https://montgomerycountya.gov/>

‘The dignity of labour depends not on what you do, but how you do it’ – Edwin Osgood

From: Joey Norris <norrisjojo@gmail.com>
Sent: Wednesday, October 23, 2024 10:57 AM
To: Jill Ozuna <jozuna@montgomerycountya.gov>
Subject: Re: ASVB Board Election Day

Jill,

I'd love to help, however I may have a meeting in Des Moines that day. I will know by Friday (10/25) and will get back to you.

Thanks!

On Tue, Oct 22, 2024 at 4:59 PM Jill Ozuna <jozuna@montgomerycountya.gov> wrote:

Hello Joey,

Would you be available on Election Day to work with the absentee board? It will depend on how many absentee ballots we have closer to election day on the time they will convene. Leaning on the safe side possibly 10am until at least 9pm or until they are done. This is a paid position like the audit board.



Jill Ozuna
Montgomery County
Auditor & Commissioner of Elections

Phone: 712-623-5127
Email: jozuna@montgomerycountya.gov
105 E. Coolbaugh St.
Red Oak, IA 51566
<https://montgomerycountya.gov/>

1 IN THE IOWA DISTRICT COURT FOR MONTGOMERY COUNTY

2 STATE OF IOWA,) CASE NO. FECR012514

)

3 Plaintiff,)

4 vs.) DEPOSITION OF

)

5 JOSEPH NORRIS,) JILL OZUNA

)

6 Defendant.)

)

7
8 THE DEPOSITION OF JILL OZUNA, taken

9 before Roxann Zuniga, Certified Shorthand

10 Reporter, Registered Professional Reporter, and

11 Notary Public for the State of Iowa, commencing at

12 9:04 a.m., August 31, 2026, at the Montgomery

13 County Courthouse, Red Oak, Iowa.

14 A P P E A R A N C E S

15 Plaintiff by: JOSHUA DUDEN
16 Assistant Attorney General
17 1305 East Walnut Street
Des Moines, Iowa 500319
josuha.duden@ag.iowa.gov

18 Defendant by: GINA MESSAMER
19 Attorney at Law
20 2910 Grand Avenue
Des Moines, Iowa 50312
gmessamer@parrishlaw.com

21 Also present: Joseph Norris

22
23
24
25 Reported by: Roxann Zuniga, CSR, RPR

INDEX OF EXAMINATION

<u>Examination by</u>	<u>Page</u>
Ms. Messamer	3, 64, 69
Mr. Duden	62, 68

INDEX OF EXHIBITS

<u>Exhibit</u>	<u>Referred to on page</u>
1	7, 8, 21, 25, 27
2	13
3	16, 17, 63
4	22
5	47
6	69, 70

1 JILL OZUNA,
2 called as a witness, having been first duly sworn,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MS. MESSAMER:

6 Q. Can you state and spell your last name for
7 the record, please.

8 A. My name is Jill Ozuna. Just the last name?

9 Q. Sure.

10 A. O-z-u-n-a.

11 Q. How long have you been the auditor?

12 A. I was appointed August 1 of 2022.

13 Q. And what was your career before you became
14 an auditor?

15 A. I worked for the railroad.

16 Q. When you became an auditor, what's the
17 training like for that?

18 A. There's a lot of training. There's ISAC
19 training, real estate, elections. I can't tell
20 you how many. I traveled a lot.

21 Q. Who provided the training?

22 A. Different entities, our auditor's
23 affiliates, ISAC, secretary of state. Those are
24 the main ones.

25 Q. For an election specifically, who would

1 provide that training?

2 A. Secretary of state and our SEAT board.

3 Q. What's that?

4 A. SEAT is S-E-A-T. I don't remember what all
5 it stands for. But it's from our ISAC, auditor's
6 affiliates, and through secretary of state. It's
7 a very intense long training. It takes two and a
8 half years, sometimes three --

9 Q. How did you get --

10 A. -- to be fully certified.

11 Q. Do you go somewhere and do this, or it's
12 online?

13 A. Some of it is online. Most of it you have
14 to go.

15 Q. Where do you go for it?

16 A. Sometimes Denison, sometimes Cedar Rapids,
17 sometimes Fort Dodge, sometimes Des Moines.

18 Q. Is there like a certification or something
19 at the end?

20 A. Uh-huh.

21 Q. And have you ever done a deposition before?

22 A. No.

23 Q. Okay. Just to kind of go over some of the
24 basic rules, so the court reporter is taking
25 everything down, so you have to be sure to say

1 things verbally. So uh-huh, huh-uh, she can't
2 write that down, so just be sure to do that.
3 Another one of the main things is I'll try to
4 wait until you're done talking before I start,
5 and same for you. Wait until I'm done with my
6 question.

7 A lot of people, you know, know where the
8 question is going and will jump in. But you want
9 to be sure just so she can get everything down
10 that we have a space in between both of us
11 talking, that sort of thing. Okay?

12 A. Understood.

13 Q. And if you have a question about anything
14 I'm asking or something, feel free, you know, to
15 clarify things. But this isn't like a trick
16 situation.

17 A. I gotcha.

18 Q. So -- okay. For this case obviously it was
19 the 2024 general election. How many elections
20 had you gone through at that point?

21 A. Let's see. I had -- in '22 for that
22 election, I was on the ballot to fill a vacancy.
23 So there was the general gubernatorial. We had
24 city school election the year after that. We had
25 a special election for the City of Coburg. Then

1 we had the primary and then the general.

2 Q. So this would have been your fourth?

3 A. Uh-huh.

4 Q. And for the court reporter, you have to say
5 yes.

6 A. Fourth, yes. Yes.

7 Q. Okay. In terms of this absentee ballot
8 commission, how do you generally refer to that
9 commission? I know there's like an acronym that
10 people use, but what's normal for you?

11 A. I called it absentee board.

12 Q. Okay. Absentee board? So for that board,
13 like where would you have gotten the training on
14 how absentee ballot counting is done?

15 A. It's spread out between our SEAT training
16 and -- there's SEAT one, SEAT one, SEAT three.
17 So you have to pass SEAT one before you can go to
18 SEAT two, SEAT two to SEAT three.

19 So SEAT one is more generic basic education
20 of all elections. SEAT two gives a little bit
21 more depth. SEAT three is advanced.

22 Q. Had you gone through all those before the
23 2024 general?

24 A. I don't recall, but I know I was at least
25 SEAT two.

1 Q. And what made you want to be an auditor
2 anyway?

3 A. I'd been with the railroad for five years
4 since I'd moved back from Texas. It was -- I
5 don't really know what to call what I did there,
6 but it was kind of a sales driven consultant
7 manager. And I worked probably 70, 80 hours a
8 week, and I was ready for a change.

9 I built my team, and I could finally pass
10 that talent on, so I was ready to move on. And
11 it just so happened that Stephanie had resigned,
12 and I kind of went through the credentials of
13 what she did here. And I felt my past would kind
14 of fit those needs.

15 Q. Did you know Stephanie?

16 A. In general. Not real well.

17 Q. Okay. So for the absentee board, is there
18 written guidance on the rules that govern the
19 absentee board?

20 A. Yes.

21 Q. I know that there is this precinct board
22 guide.

23 MS. MESSAMER: If you'll mark this as an
24 exhibit. I'll have it marked 1.

25 (Deposition Exhibit No. 1 was marked for

1 identification by the court reporter.)

2 BY MS. MESSAMER:

3 Q. Okay. So I'm handing you Exhibit 1, this is
4 the Absentee and Special Voters Precinct Board
5 guide. Do you recognize this?

6 A. Yes.

7 Q. Is this like the main written guidance that
8 you have?

9 A. Yes.

10 Q. Is there any other written guidance besides
11 this?

12 A. No.

13 Q. And in terms of how people get on the
14 absentee board, how does that work? Like how
15 many do you need? How do you choose them?

16 A. Well, we try to keep it as party balanced as
17 possible. Kind of we do -- we treat it the same
18 as we do all our county precinct election
19 officials. We call them PEOs. So we try to pick
20 however many we're going to need for that
21 specific election. The general obviously was
22 huge, so we -- I wanted as many as possible of
23 course, and we always try to be as party balanced
24 as possible. However, the deeper the county, it
25 is not easy.

1 And we -- basically it's just kind of word
2 of mouth. We put notices out on our website. A
3 lot of times, the people who started working for
4 us will know someone, and they'll refer somebody.
5 So that's -- typically, once we find our PEOs,
6 they kind of work in that precinct, and we keep
7 them.

8 They're kind of -- we jokingly call them
9 forever part of that board. Like there's just --
10 once you're there, you're there.

11 Q. How many precinct officials total do you
12 have to get for a general election roughly?

13 A. I think we had -- I don't recall the exact
14 number, but I'm guessing it was closer to 40, 45
15 maybe.

16 Q. So for the absentee board in the 2024
17 general, was that the first time you had an
18 absentee board, or did you have to have it for --

19 A. No.

20 Q. -- other elections?

21 A. We have to have an absentee board for every
22 election.

23 Q. All right. So for the 2024 general --

24 A. I take that back.

25 Q. Okay.

1 A. Except specific -- I don't believe we needed
2 an absentee board for -- well, I think we did.
3 Yes, we did have an absentee board for every
4 election, even the City of Coburg special.

5 Q. Prior to 2024 general, was it the same group
6 of people, or is that different every time?

7 A. It's the same group of people. I added
8 Angela Brown as another party, opposite party. I
9 don't remember when. I think in '23. I don't
10 recall honestly. I'd have to get back to you on
11 when Angela started.

12 Q. And prior to that -- like was Angela
13 replacing anyone, or she was just an additional
14 member?

15 A. Let me take that back. Angela, I think,
16 began as a postelection audit. She was on our
17 postelection audit board first.

18 Q. And was that the same as Joey?

19 A. I don't remember if it was the same one or
20 if it was her second one.

21 Q. But Joey was on postelection --

22 A. Yes.

23 Q. -- audit?

24 A. Joey was on postelection audit on the
25 primary for '24.

1 Q. But you think Angela was on it too?

2 A. I thought she was on that.

3 Q. Were these other people, like the Rubeyes and
4 the Lesters, were they on that post --

5 A. No.

6 Q. -- election audit?

7 A. No. Postelection audit, I try to have
8 whoever -- whatever precinct the secretary of
9 state pulls, I try to have one of the PEOs,
10 preferably the chair, be part of that board. And
11 then I try to ask people from the public to come
12 and at least one of each party.

13 Q. So in terms of the 2024 postelection audit,
14 do you recall how Joey came to be a part of that?

15 A. I believe our IT referred Joey.

16 Q. And what's that process like? Like how long
17 does that take?

18 A. To refer somebody?

19 Q. No. The postelection audit.

20 A. Oh, it depends. If I recall, that was a
21 small precinct and one race. That was one race.
22 There weren't that many ballots as I recall.

23 Q. How was your experience with Joey on that?

24 A. It was very good.

25 Q. Like how so?

1 A. It went smoothly, asked questions but moved
2 right along. And, yeah, it went really well.

3 Q. And then how did he come to be a part of the
4 absentee board for the 2024 general?

5 A. For the general, I technically had enough to
6 be party balanced. But I knew we had a lot of
7 absentee ballots, more than usual. I wanted to
8 make sure that we had extra hands on deck to
9 handle it all, and I thought Joey would be a
10 great asset to be a part of that team.

11 Q. And if he hadn't been on, do you have to be
12 exact party balanced?

13 A. No.

14 Q. How -- how far off can you be, or I guess do
15 you have to have both parties?

16 A. You should do everything you can to have as
17 many of both parties to be party balanced, but
18 it's not always possible.

19 Q. Is it --

20 A. So you have to do everything in your power
21 to try, but that's as far as it goes on that.

22 Q. Okay. So even if you didn't have any
23 Democrats, that is allowed as long as you make an
24 effort?

25 A. Yes.

1 Q. Or do you even have to make an effort?

2 A. You have to make an effort.

3 Q. And if you end up with all Democrats, for
4 example, then that's just the way it goes?

5 A. It's just the way it goes, yep. But they
6 all swear an oath, so they're -- everybody is
7 bound, no matter what party you're under, to
8 fulfill the same duty.

9 (Deposition Exhibit No. 2 was marked for
10 identification by the court reporter.)

11 BY MS. MESSAMER:

12 Q. So this is marked as Exhibit 2. Is this the
13 oath you just were referring to?

14 A. Yes.

15 Q. And that's the same for either a precinct
16 official or the absentee board?

17 A. Yes.

18 Q. When you get absentee ballots, is there
19 anything that your office has to do with them
20 before the day of the count?

21 A. Keep them sealed and locked in our vault
22 until the board is ready.

23 Q. Is there any like precheck of these to make
24 sure they're done correctly?

25 A. They're kept on a log chain. They have

1 seals on them so we have -- we have
2 identification on our log.

3 Q. Anything else that your office does with
4 them prior to the day of the count?

5 A. Well, what do you -- can you specify?

6 Q. Yeah. I guess I'm just wondering -- I know
7 you log them. Is there any kind of check for,
8 you know, if people filled them out correctly,
9 things like that?

10 A. So when we receive an absentee ballot either
11 by mail or by person, yes, we go through iVoters
12 and log that it was received.

13 Q. Is there any -- I know the absentee board,
14 like they're looking for things like the seal and
15 like if somebody signed it. Any other flaws like
16 that the board looks for?

17 A. It has to be sealed and signed and it has --
18 should -- obviously, it would have the bar code
19 from -- from, you know, iVoters.

20 Q. Is that ever an issue that somebody is
21 missing a bar code?

22 A. No. Not since I've been here.

23 Q. So sealed and signed are the main things?

24 A. Uh-huh.

25 Q. For her you have to indicate yes or no.

1 A. Yes.

2 Q. Okay. And your office isn't checking any of
3 that prior to the day of the count with the
4 board; is that right?

5 A. Other than receiving it, no.

6 Q. Okay. I'm just trying to, I guess,
7 understand. Like if somebody didn't have one
8 signed or sealed correctly --

9 A. Well --

10 Q. -- does your office contact anybody before
11 the day of the count, or that all happens kind of
12 the day of the count?

13 A. Okay. Let me understand your question.

14 Q. Uh-huh.

15 A. Are you asking me if we receive -- if we go
16 to the mail, pick up all the absentee ballots,
17 and we have some that aren't sealed?

18 Q. Yeah.

19 A. We contact that voter.

20 Q. Okay. Anything else that you would contact
21 a voter about?

22 A. And we always would probably put it in an
23 envelope because then we don't know if that's
24 even a ballot that should be in there. We
25 don't -- we don't touch the ballot. We don't do

1 anything. We just put it in a sealed envelope.

2 Q. And contact the voter?

3 A. Uh-huh.

4 Q. Got to say yes for her.

5 A. Yes.

6 Q. Same for if it's not signed correctly on the
7 affidavit? Do you contact the voter then, or is
8 that something the board has to handle?

9 A. The board typically handles that, I believe.
10 I'd have to -- I don't recall. I'd have to go
11 back and check my -- my team. I don't recall.

12 Q. How big is your team?

13 A. I have three staff members.

14 Q. Who is -- is there one person in charge of
15 absentee ballots?

16 A. There's not one person that's in charge of
17 absentee ballots. We all work as a team. Karen
18 is my elections deputy.

19 Q. Would she be the main one that would be
20 checking absentee ballots in advance of the board
21 meeting?

22 A. Not necessarily. We all do.

23 (Deposition Exhibit No. 3 was marked for
24 identification by the court reporter.)

25 BY MS. MESSAMER:

1 Q. Okay. Handing you Exhibit 3 here. This is
2 just a couple pages from that document that Karen
3 sent through the open records request. So this
4 is like a report that tracks all the ballots you
5 get; right?

6 A. Yes.

7 Q. And let's see here. So on this first page,
8 it's Page 1 of the PDF you gave me?

9 A. Uh-huh.

10 Q. I note that this -- Joyce Abbott, her ballot
11 was rejected. Do you see that? It's the next up
12 from the bottom.

13 A. Yes.

14 Q. Are you able to tell from this like why that
15 was rejected?

16 A. Not from this. I would have to go back
17 through and find those notes.

18 Q. And where are the notes relating to this?
19 Like is there another system where those are kept
20 in?

21 A. Not another system. I would have to go back
22 through the -- what we call the brain box where
23 we keep all our election stuff in.

24 Q. Would it just be a handwritten note saying
25 the kind of thing we're talking about?

1 A. I don't recall. I'd have to check.

2 Q. And then if we flip to the back page of
3 this, this was Page 133 of the PDF you sent me.

4 A. Typically, we keep notes on there, but if it
5 wasn't written, maybe --

6 Q. And when you say brain box, is that just
7 kind of like a container of all your materials
8 from that election?

9 A. Yeah. The brain box is where we keep
10 voided -- anything that was voided, anything that
11 was canceled and later redone, any -- any of that
12 kind of documents.

13 Q. Okay. All right. Then flipping to the back
14 side, like -- okay. This one for Beaty,
15 B-e-a-t-y, it says rejected, not a resident of
16 registration address. So tell me just how that
17 is processed or what that means.

18 A. I don't recall. I'd have to go back and
19 look at that. But it sounds like they were not
20 an actual resident. Maybe they had another
21 residency somewhere else.

22 Q. In terms of the absentee ballots, do you
23 usually get most of those pretty far in advance,
24 or do they come in like the day before the count?

25 A. There's only 15 days before the election

1 that absenteeism even starts, so it's kind of
2 toward the end.

3 Q. All right. Let's maybe go ahead and talk
4 about the day of this count then. So let me just
5 ask you, what have you done to kind of refresh
6 your memory and prepare to come in and talk to me
7 today?

8 A. Normally, I'm very good at being prepared.
9 But, to be honest, I was up last night at
10 ten o'clock trying to go back through e-mails.
11 And this morning before I came in, I went back
12 and reread my statement. That's about as much
13 prep as I could do. I didn't have a whole lot of
14 time to get through this.

15 Q. For your report, like how did it come to be
16 that you typed up this report? Did somebody ask
17 you to do this?

18 A. Yes.

19 Q. Who?

20 A. The attorney general.

21 Q. Who at the attorney general's office?

22 A. Well, I don't know if it was the attorney
23 general. It was -- I was asked by the sheriff
24 to -- they provide us an incident report form.

25 Spray nozzles I have the worst handwriting, so I

1 typed it.

2 Q. So it wasn't somebody from the AG's office?

3 It was the sheriff?

4 A. The directive for the incident report, I
5 believe, comes from the attorney general's
6 office.

7 Q. Did you talk to somebody at the attorney
8 general's office at that time?

9 A. The day of or when?

10 Q. Prior to doing your report.

11 A. I don't recall.

12 Q. All right. So the day of this count, looks
13 like they took the oath at 9:15. Were they all
14 supposed to gather at nine o'clock? Is that
15 correct?

16 A. Correct.

17 Q. Anybody who was late?

18 A. No.

19 Q. Okay. For these people who had been on the
20 absentee ballot committee before, that would be
21 the Rubeyes and the Lesters; correct?

22 A. Correct.

23 Q. And this was Angela Brown's first on this
24 particular committee; is that right?

25 A. I believe so.

1 Q. Okay. Did you provide any training to the
2 Rubeyes or the Lesters?

3 A. No.

4 Q. Okay. And I know you had sent Joey the
5 Exhibit 1.

6 A. I sent the whole team all the same
7 documents.

8 Q. Okay. To your knowledge, was there anything
9 that had changed with the absentee board from the
10 prior election cycle to the 2024 election cycle?

11 A. No.

12 Q. Okay. So just this guide. Any other
13 training that you provided, I suppose, to anybody
14 that was on the committee?

15 A. No.

16 Q. Okay. So when they get there, I guess,
17 what -- what do you tell them when they get
18 there? What kind of directions do you give
19 versus they just know what they're doing?

20 A. We after the oath, they also, you know, sign
21 their time slip and go over basic general rules.
22 I provide the poll watcher poster, go over those
23 rules, just general housekeeping stuff.

24 Q. And you mentioned they have a time slip. Do
25 they get paid for?

1 A. Yes.

2 Q. What are they paid?

3 A. I believe it's 14 or \$15 an hour.

4 Q. Do you think anybody's doing this for the
5 money?

6 A. No. Several of the absentee board
7 members -- actually, several of our PEOs write
8 their checks back to the County because they want
9 to donate their time.

10 Q. Do you know if Joey was ever paid for that
11 day?

12 A. Yes.

13 (Deposition Exhibit No. 4 was marked for
14 identification by the court reporter.)

15 BY MS. MESSAMER:

16 Q. Okay. Just to kind of visualize how this is
17 set out, so this is marked Exhibit 4. And is
18 this kind of an accurate -- I mean obviously
19 rough, but just how the room is laid out and
20 where people were in the room?

21 A. What does CR mean?

22 Q. I think that would be Clint Rubey. JN would
23 be --

24 A. So we're --

25 Q. -- Joey. AB would be Angela Brown.

1 A. I see. This is backwards.

2 Q. Which one is backwards?

3 A. Wait. Is that Dan Bullington?

4 Q. Yes.

5 A. Dan was there. Jan was there. There's no
6 ballot machine here. There's the optical
7 scanner.

8 Q. What's the difference?

9 A. A ballot machine is the like -- the Freedom
10 Vote scan that we have when you're at your
11 precinct and you sign your -- or complete your
12 ballot. And then it goes through the machine
13 into the box.

14 Q. And what's the difference between a scanner
15 then?

16 A. The optical scanner is for absentee. We
17 have a computer, a laptop, and it's connected to
18 a scanner, like a scanner, a scan console reader,
19 and it processes the ballots.

20 Q. Is it the same type where you feed it in and
21 it sucks it through?

22 A. Yes.

23 Q. Okay. And who -- I guess it seems like
24 people kind of had different roles in the room;
25 is that correct?

1 A. Correct.

2 Q. And who was in charge of the ballot machine
3 -- or the optical scanner? Sorry.

4 A. Typically, that was Joey and Jeanice and
5 Julie.

6 Q. The Js?

7 A. Yeah.

8 Q. Okay. And just basically walk me through.
9 What do the people sitting on the outside of the
10 room do versus the people who are running the
11 optical scanner do?

12 A. They -- so the first process is they bring
13 the sealed box down, open the sealed box.
14 Everybody has to count so the -- the box seal
15 will -- everybody has to count how many was in
16 that box so they can document how many were
17 there.

18 Q. And they each have their own box?

19 A. No. We bring one box at a time. Then we
20 separate them into 25. Everybody gets stacks of
21 25 so they can then unseal them, separate them,
22 then in stacks of 25 they come and get ran
23 through the scanner.

24 Q. Okay. Did you have to give any other
25 instruction about that, or did people know what

1 they were doing already?

2 A. We gave instruction on that.

3 Q. And when you say we, is there somebody else
4 there giving instruction besides you?

5 A. I don't recall who gave the instruction.

6 Q. Is there anybody else on your team in the
7 room at that point?

8 A. No. Jeanice and Julie had been doing it for
9 so long, and as long as they're doing things in
10 the correct legality, I allow them to kind of
11 dictate their flow.

12 Q. And you had worked with them before because
13 they had been in the absentee --

14 A. Yes.

15 Q. -- board before any of these other three
16 elections you had done?

17 A. Yes.

18 Q. In those prior elections with this group of
19 people, had you ever had to like retrain them on
20 anything or correct how they were doing anything?

21 A. No.

22 Q. In terms of these guidebooks, this No. 1, do
23 they have those in the room that day?

24 A. I don't know if they brought them with them
25 or not. I know that Joey had his with him.

1 Q. And -- sorry. Go ahead and finish.

2 A. I commended the fact that he even had his
3 highlighted. That was great.

4 Q. Did you notice if anybody else had their
5 guidebook with them?

6 A. No.

7 Q. In terms of the observers that are in the
8 room, are they allowed to speak at all during the
9 day?

10 A. No.

11 Q. Even if --

12 A. Not -- not commence with the board, no.

13 Q. Even if it's just chitchat about other
14 things?

15 A. No chitchat.

16 Q. Is there like a rule on that, or is that
17 just your practice?

18 A. It's in the poll watchers guidebook to not
19 converse with the election team.

20 Q. Okay. Can you find that for me?

21 A. Do you have a poll watchers?

22 Q. That's a different book?

23 A. Yeah. I don't know if it's in the
24 absentee -- it would be in the poll watchers
25 instruction.

1 Q. And does that kind of look like Exhibit 1?
2 It's just another thing from the secretary of
3 state?

4 A. Uh-huh, yes.

5 Q. Okay. After you kind of gave their initial
6 directions, did you stick around that room or did
7 you go back to your office or whatever other
8 duties you had that day?

9 A. I stick around because I helped Joey and
10 Jeanice with the computer part of it. It's a
11 very complicated process.

12 Q. So in terms of your plan for the day, do you
13 plan to actually just be in that room all day?

14 A. Yes.

15 Q. Okay. I understand there's some discussion
16 early in the morning about how everyone was
17 opening the ballots and protecting the secrecy of
18 them. Do you recall that?

19 A. Yes.

20 Q. What do you recall about that?

21 A. I vaguely recall comments being made about
22 voters and just things that you shouldn't observe
23 when you're opening -- doing the process,
24 reminded everybody that we're not looking at
25 ballots, we're not looking at the envelopes.

1 We're opening them, pulling them apart, and
2 moving on. We don't -- we don't look at them
3 other than obviously if there's no signature,
4 unsealed.

5 Q. Was anybody doing it wrong initially?

6 A. Not necessarily.

7 Q. What do you mean by that?

8 A. Other than the comment that was being made
9 about details on a ballot or an envelope that
10 shouldn't be brought up.

11 Q. And who was saying a comment? What are you
12 referring to?

13 A. For example, if you're in that process and
14 you're saying this ballot only has an X and you
15 should fix it, well, first of all, you shouldn't
16 notice that there's an X because that's not the
17 purpose of what you're doing right now.

18 And then when you go on and make another
19 comment, then, well, you should fix this because
20 otherwise the scanner is not going to read it,
21 and I say I have no idea how someone intends to
22 vote on the ballot, and it's not our job to mark
23 a ballot. It is the machine's job to count
24 whether to count that vote or not.

25 And then to go on and make the comment that

1 well, I would be correct -- this would be
2 correcting a ballot not even in my party tells me
3 that they saw who was on -- who was in the
4 envelope associated with that ballot which is
5 completely against the rules.

6 Q. Are you referring to Joey right now and
7 this?

8 A. Yes.

9 Q. Okay. All right. Besides that conversation
10 with Joey, in the morning was there ever any
11 conversation about the envelopes and the ballots
12 needing to be separated and decoupled because you
13 need to get the person's identity away from the
14 ballot in order to keep the secrecy?

15 A. That's the general rule. I don't recall in
16 the past if they made reference to whether they
17 were up or down or whatever. Typically, the
18 people never paid any attention. They just went
19 through the motions and did those things.

20 And I do think that it was either Joey or
21 Angela or somebody else who said we should put
22 them facedown which I -- everybody agreed that
23 was certainly a great idea, maybe would help
24 prevent looking at them.

25 Q. All right. And you don't know who brought

1 that up?

2 A. I don't recall. I do recall the
3 conversation, though.

4 Q. Did you have any issues with Dan Bullington
5 in terms of his role as a poll watcher?

6 A. Not that I recall.

7 Q. When do you recall that you had your first
8 rejected ballot? Was it morning or afternoon?

9 A. I don't recall. Can you clarify what you
10 mean by rejected?

11 Q. I guess my understanding is that they get
12 rejected if the affidavit has an uncompleted
13 directive or unsigned or if it was unsealed.

14 A. To clarify, the process is it goes into the
15 rejected tote, and those get handled after all
16 the others have been done. That way they can --
17 the team will actually go back through those. If
18 there's not a signature, if it wasn't sealed,
19 something with -- if it's something we can
20 contact the voter and get them to come in and
21 make a correction, we'll do that.

22 If it's open, then the absentee board,
23 that's their role. They decide whether or not
24 that's going to be rejected or counted.

25 Q. Okay.

1 A. So they're not -- they're not technically
2 rejected. They just go in the rejected tote
3 until we're done with the rest of the process.

4 Q. Okay.

5 MR. NORRIS: I appreciate that.

6 BY MS. MESSAMER:

7 Q. So when do you recall the first ballot was
8 placed into the rejected tote? Would that have
9 been morning?

10 A. I'm sure --

11 Q. Midday?

12 A. I'm sure. Probably.

13 Q. Do you have any specific recollection of
14 what that initial one was flagged for? What was
15 wrong with it?

16 A. I don't recall.

17 Q. Do you remember who found this one that had
18 something wrong with it?

19 A. I don't recall.

20 Q. Do you remember any discussion about that
21 initial one?

22 A. Yes.

23 Q. Okay. But you don't know what time of day
24 it was exactly?

25 A. I know that it was morning.

1 Q. Okay. So what do you recall then about
2 anything related to that initial one?

3 A. I believe when the initial one came -- and I
4 don't recall if it was unsealed or if it was
5 unsigned -- it was to be put in the box. I don't
6 know that there was much conversation after that
7 other than I explained the process that we would
8 apply to those after.

9 Then there was -- I think then there was
10 another -- another -- there was, at some point
11 there was -- Joey was talking with -- to Jan
12 about letting her come up and go through those
13 and start making phone calls to have people go
14 vote provisional.

15 I explained that's not the process right
16 now. We need to get through all of them first,
17 then get through the tote last.

18 Q. Okay. So the initial conversation was just
19 about allowing an observer to see the names in
20 order to have the observer be able to contact the
21 person; is that correct?

22 A. Uh-huh.

23 Q. You have to say yes for her.

24 A. Yes.

25 Q. And at that point your response was what?

1 A. That's not the process. They're welcome to
2 come and look. There shouldn't be conversations
3 happening and just move forward with the process.

4 Q. And in terms of the observers being able to
5 come and look, could they see the names of the
6 people in that --

7 A. Typically.

8 Q. -- rejected pile?

9 A. Typically, yeah. Yes.

10 Q. Was -- were the observers allowed to come up
11 and see those?

12 A. If they wanted to.

13 Q. Did they?

14 A. Not that I recall.

15 Q. And if somebody's ballot ends up being
16 rejected or has an issue, and you mentioned they
17 could vote provisional, they have to get that
18 done by the end of the day?

19 A. They don't even have to vote provisional
20 depending on what the issue was. For instance,
21 if there were some that -- there were a few that
22 were unsigned, so my staff contacted them to let
23 them know that their ballot was unsigned, it was
24 in the rejected tote. If they were able to come
25 up before eight o'clock and get it signed, we

1 could get it through the scanner so that it would
2 be counted.

3 Q. If somebody wasn't able to come and fix the
4 problem, are they able to fix it after that day?

5 A. No.

6 Q. Okay. So the deadline is the end of that
7 day at 8 p.m.?

8 A. That's correct.

9 Q. I believe in your report you mention that
10 there was a damaged ballot that couldn't be run
11 through the scanner. Do you recall that?

12 A. Yes.

13 Q. Roughly what time of day was that? Morning
14 or afternoon?

15 A. I want to the say it was late morning.

16 Q. Who discovered that ballot?

17 A. I don't recall.

18 Q. Do you recall who suggested the process to
19 fix that ballot?

20 A. I don't recall.

21 Q. Would you say it was not Joey?

22 A. I honestly don't recall. I believe there
23 was also a ballot that the team had accidentally
24 shredded all the way through when they were
25 opening.

1 Q. And do you recall who suggested the process
2 for changing that?

3 A. I don't recall. I do know what the process
4 is, though.

5 Q. In terms of the people's roles in the room,
6 so it sounds like you bring a box down, everybody
7 sorts it into the piles of 25, and then the
8 people feed that through the optical scanner;
9 right?

10 A. Correct.

11 Q. So while that, say, first box is getting fed
12 through the optical scanner, do the other people
13 in the room start going through the second box?

14 A. No. We do not go through the second box
15 until everybody has gone through and we verify
16 that our counts match.

17 Q. And do you remember how many boxes you had
18 that day?

19 A. My -- if I need to do a best guess, I think
20 maybe four or five. I think we had a little over
21 2,000, about 2,100. I think about 500 fit in a
22 box, so that would be about five.

23 Q. That was my next question. Do all the boxes
24 have the same number in them?

25 A. I don't recall exactly, so it would be a

1 guess. But by best guess is about five.

2 Q. So they're going through about 500 at a
3 time?

4 A. I believe so.

5 Q. All right. So then the people who are doing
6 the counting sit and wait while the scanner runs
7 the 500 after that? And you've got to say yes or
8 no for her or whatever your answer is. So you
9 have to say it out loud?

10 A. Trying to think. So yes and no. We're
11 scanning as they're stacking and sorting. And
12 so, yes, there's a lag where they timely get done
13 and have to wait for us, yes.

14 Q. How long would you say that lag usually is?

15 A. At most 15 minutes to a half an hour.

16 Q. Okay. I understand that there was a problem
17 with the first batch that you scanned because one
18 ended up being deleted that shouldn't have been;
19 is that right?

20 A. No. What happened was when a batch runs
21 through, it will give you the count of how many
22 there was. It will also give you an invalid if
23 something wasn't read correctly.

24 When that happens, you're supposed to -- I
25 don't remember what button you push. You don't

1 accept the ballot. You -- I think you reject
2 that batch so you can scan it through again. And
3 I think in the -- kind of the argumentative state
4 that we were in, Jeanice had accidentally hit
5 accept instead of reject, so we had to figure out
6 how to correct that.

7 Q. Were you in the room when she hit that
8 button?

9 A. Uh-huh. I believe I was sitting about right
10 here having an argument.

11 Q. What was your argument about?

12 A. I don't recall. There was lots of them.

13 Q. Who were you talking to?

14 A. Joey.

15 Q. Okay. So you're certain at the time that
16 she hit the wrong button, you were talking to
17 Joey?

18 A. I was talking to Joey at the same time
19 helping with the process.

20 Q. I know, but I'm talking about specifically
21 the time that Jeanice hit that wrong button.

22 A. Uh-huh.

23 Q. You specifically recall talking to Joey at
24 that time?

25 A. Yes.

1 Q. And was this -- this was early in the
2 morning; is that correct?

3 A. Yes.

4 Q. Was it getting close to lunchtime?

5 A. I don't recall.

6 Q. Okay. So after Jeanice hit this wrong
7 button, what was the plan for how that was going
8 to be handled or corrected?

9 A. I contacted our support from Atkins who
10 handles our software to find out if I had to --
11 if I could somehow delete that batch, start a new
12 one, or if I needed to start a whole new run.

13 Q. And when you say a batch, what is in a
14 batch? Like how many?

15 A. So we do a batch of 25 at a time. But if
16 you accept that batch, then it's part of that
17 run.

18 Q. And the run is the whole day?

19 A. Uh-huh.

20 Q. You have to say yes.

21 A. Yes.

22 Q. Okay. So was it like immediately after this
23 happened you stepped out to talk to the Atkins
24 rep?

25 A. Yes.

1 Q. Were you able to get in touch with them
2 right away?

3 A. Yes. I believe so.

4 Q. Did you -- and their advice was that you had
5 to start over; is that right?

6 A. Correct.

7 Q. Do you recall how many batches you had gone
8 through at that point?

9 A. I don't recall.

10 Q. Was it like this was your first batch?

11 A. Oh, it was -- we had several.

12 Q. Were you still in your first box, or had you
13 moved on to next box?

14 A. I don't recall, but I think it was not the
15 first box.

16 Q. Do you think it was even like the third box?

17 A. It's possible.

18 Q. So that meant you had to start over kind of
19 halfway through --

20 A. Uh-huh.

21 Q. -- is that correct?

22 A. Yes.

23 Q. Was it after lunch then when you started
24 back over?

25 A. I don't recall exactly what time we had to

1 start over.

2 Q. Okay. Later in the morning or afternoon?

3 Can you say at all roughly what time it was?

4 A. I don't recall. I really don't recall.

5 Q. In terms of having to start that over, did
6 people have to recount and put them in groups of
7 25 again?

8 A. They were already in stacks of 25 because
9 they just alternate them. So we had to start a
10 new run and basically start scanning those all
11 over again.

12 Q. Have you ever had that happen before?

13 A. Not that I'm aware of, no.

14 Q. So then sounds like it would just be you,
15 Jeanice, and Julie that had to redo all that
16 work. Is that fair?

17 A. Yes.

18 Q. And the other people in the room --
19 Mr. Lester, Joey, Angela, and Clint -- they would
20 have just sat and waited while that happened?

21 A. Correct.

22 Q. But they can't move on to a new box until
23 you are done?

24 A. Correct.

25 Q. What's your recollection of how long it took

1 you then to catch back up to where you had been
2 at the point you had to start over?

3 A. I think normally it would have gone through
4 quickly, but I don't think it went quickly
5 because there was lots of constant discussion.

6 Q. And in terms of who actually was doing the
7 work at the computer, is there a role for each of
8 you? Like every single ballot, each one of you
9 has to do something; Jeanice, Joey, and Jill?

10 A. No. I typically get the computer set up and
11 started because that's the hard part. Then
12 Jeanice and Julie typically take over, and I just
13 assist when needed.

14 Q. Okay. So you're saying set out the computer
15 at the beginning of the day?

16 A. Yes.

17 Q. You don't have to set it up for like each
18 individual ballot?

19 A. No.

20 Q. Okay. So you're just kind of in there to
21 troubleshoot for them?

22 A. Correct.

23 Q. Okay.

24 A. I left many times to go up and contact the
25 secretary of state, Grant Veeder, Black Hawk

1 County auditor who was also just someone we
2 considered the Iowa code auditor of Iowa because
3 she's just remarkable. And I would contact them
4 when Joey didn't understand process. I'd go back
5 and consult with them over my -- my decision, my
6 thoughts of how it should go, make sure I was
7 doing the right thing so maybe I could relate
8 things better to Joey.

9 But there was constant interruption,
10 constant arguing over Jan getting names so that
11 she could start calling people and having them go
12 vote provisional or having -- marking. We had so
13 much arguments over marking ballots.

14 Q. Okay. So you have to start back over with
15 these three boxes or so. Did anything go wrong
16 with the scanner from that point on?

17 A. I don't believe so.

18 Q. So how long did you -- I can't remember if I
19 asked you this, but how long was it until you got
20 caught up? Was that before Joey had left, like
21 before 2:30, or after?

22 A. I don't believe so. I don't believe we
23 started rescanning again until after lunchtime.
24 Because after -- I believe after I had come back
25 down after talking to Atkins, everybody was

1 locked out. They were all gone. And I found
2 Jeanice, Will, and Clint in the break room. And
3 when I asked where everybody went, they said that
4 Joey had a Zoom meeting, and he didn't feel
5 comfortable with anybody in the room. He made
6 them all leave.

7 Q. Okay. So you were not actually there for
8 that conversation, though?

9 A. No. I had no idea that Joey was going to
10 make everybody leave and lock the door.

11 Q. How long do you think you were upstairs
12 talking to the Atkins rep?

13 A. Probably at least 15, 20 minutes.

14 Q. Is this room that we're in right now where
15 they counted the ballots?

16 A. Correct.

17 Q. Who has a key to this room?

18 A. I do. Maintenance.

19 Q. And I understand -- was the room locked when
20 you got back?

21 A. Yes.

22 Q. Who had locked it?

23 A. Joey.

24 Q. Joey had a key to the room?

25 A. Joey shut the door. It locks.

1 Q. So you unlocked the door when you got back
2 down?

3 A. I did not.

4 Q. Why not?

5 A. Because we only had Will, Jeanice, and
6 Julie. And Angela had gone for a walk to get a
7 sandwich or something. And they said they didn't
8 want to do anything that would make Joey feel
9 like they weren't doing something correct, so
10 they just were going to do what he wanted to and
11 wait.

12 Q. Did you tell them they needed to start
13 again?

14 A. I advised it would be best if we started
15 again. But they were hoping that maybe after
16 lunch they could just maybe move smoother, so I
17 decided to let it go.

18 Q. Technically, could you have started
19 counting --

20 A. Yes.

21 Q. -- again with -- you've got to wait for me
22 to finish just for her.

23 A. Sorry.

24 Q. So with Jeanice, Will, and Clint, you still
25 could have kept going. Under the rules that

1 would have been okay still?

2 A. Correct.

3 Q. Do you, you said -- do you have keys to the
4 room?

5 A. Yes, I do.

6 Q. Okay. So you were able to unlock it at that
7 point?

8 A. Yes, I was.

9 Q. What time do you think it was that you got
10 back down there? Like had they started eating
11 lunch?

12 A. They didn't have their lunch. They -- it
13 was -- my best guess was maybe five or 10 minutes
14 after noon.

15 Q. Did they just not eat lunch?

16 A. They typically like to just keep going until
17 they're done and then break because they have to
18 come back just before eight o'clock for any --
19 any more absentee ballots that may have come
20 back.

21 Q. So did you hang around then, or did you go
22 do something else during the lunch hour?

23 A. I don't recall. But I believe I went back
24 to my office and sat with my staff.

25 Q. What time did you come back down?

1 A. When Joey got back at one or 1:15 or
2 whatever time it was.

3 Q. How did you know he was back?

4 A. I don't recall but probably saw him on
5 camera.

6 Q. Yeah. What do you have for surveillance?

7 A. We have Verkada for cameras. It's the name
8 of the camera system.

9 Q. Okay. And where do those cameras pick up?
10 Is there one in this room?

11 A. No. There's one in the hall there, and
12 there's one in the -- that shows the entryway,
13 the south entryway and --

14 Q. Does it have audio?

15 A. No.

16 Q. Is there any other audio recording in the
17 courthouse?

18 A. No.

19 Q. Okay. You don't have any audio kind of
20 surveillance or recording system for your
21 auditor's office?

22 A. No.

23 Q. So with that Verkada system, could we have
24 seen this interaction in the hallway with Joey
25 and the other members?

1 A. Yes.

2 Q. Okay. Did you preserve that?

3 A. I didn't see -- and I honestly didn't go
4 back and look. I believe the conversation
5 happened in here.

6 Q. Who do you recall was the last to get back
7 to the room after lunch?

8 A. I don't recall.

9 Q. Had you given the members any instruction on
10 what was supposed to happen over the lunch hour?

11 A. No.

12 Q. And I understood from an e-mail you sent --
13 let's see here.

14 (Deposition Exhibit No. 5 was marked for
15 identification by the court reporter.)

16 BY MS. MESSAMER:

17 Q. So we marked this Exhibit 5. And do you
18 recognize this as an e-mail you sent to the board
19 members?

20 A. Yes, I do.

21 Q. And halfway down the page, there's a
22 paragraph that notes Joey had a meeting from 12
23 to one. That may be a great time to break for
24 lunch.

25 A. Correct.

1 Q. And then continue after lunch; right?

2 A. Correct. With the key wording there being
3 may.

4 Q. Okay. So you just left that up to the
5 board?

6 A. Correct.

7 Q. But if they wanted to break for lunch, that
8 was okay?

9 A. Yes.

10 Q. Did you have any conversation with the board
11 members in the morning about if they all had to
12 be together or if some of them could leave for
13 different things at various periods?

14 A. I don't recall that.

15 Q. Was the expectation that they would all stay
16 in here all day but for the lunch hour?

17 A. It was my expectation that they would all be
18 there the whole day except for Joey who had to do
19 his Zoom meeting.

20 Q. But that wasn't ever explicitly discussed
21 with anyone?

22 A. No. I just never in a million years
23 expected he would kick everybody out, especially
24 without my presence or talking to me about it
25 first.

1 Q. Was Joey involved at all with the problem of
2 the ballot being rejected or accepted with the
3 optical scanner?

4 A. I'm quite certain there was a lot of
5 conversation about that, but I don't recall the
6 exact conversation.

7 Q. Was there any discussion of just like noting
8 that it was off by one and correcting it at the
9 end of the day?

10 A. No.

11 Q. You don't recall Jeanice or Julie suggesting
12 that?

13 A. I do recall -- I do recall the conversation
14 about the one. I believe that was the one where
15 we had to restart.

16 Q. And they -- and that's what, I guess, I'm
17 getting at too. When you had to restart, did
18 they want to just keep going and you wouldn't
19 have to restart and just manually --

20 A. Well, we always wanted to keep going, but we
21 have to make sure that all of them -- all are
22 counted, so that's why we had to restart.

23 Q. And my question is did Jeanice or Julie want
24 to keep going and instead manually correct it at
25 the end?

1 A. I don't believe so, no.

2 Q. You don't recall any conversation about like
3 sticking a Post-it note on there and then fixing
4 it later?

5 A. No, I don't.

6 Q. Then as I understand it, kind of the main
7 point of disagreement between you and Joey
8 throughout the day was how these provisionally
9 rejected ballots were going to be handled. Is
10 that fair?

11 A. That and marking ballots.

12 Q. How many did Joey -- or how many ballots
13 were there that Joey thought needed to be marked
14 differently?

15 A. I know we had the conversation at least
16 twice, if not three times.

17 Q. And what was wrong with the ballots that
18 Joey -- or just tell me about these ballots that
19 you're referring to.

20 A. There was the instance where one had an X
21 instead of the oval filled in. I believe there
22 was another instance where it just had a line
23 through it and not an oval filled in.

24 Q. Anything else?

25 A. Just similar things like that.

1 Q. Do you have any specific memory of another
2 ballot like that?

3 A. No. Not particularly.

4 Q. And then the issue with the provisionally
5 rejected ones that were in the rejected box, was
6 that another kind of main discussion point with
7 Joey?

8 A. Yes.

9 Q. The observers wouldn't be allowed to contact
10 those people; right?

11 A. Yes.

12 Q. Is there a reason you wouldn't do that
13 earlier in the day?

14 A. Considering how many ballots there are to
15 get through, it's -- most important, most
16 effective is to get through all the ones that are
17 correct first and then handle the ones that
18 are -- we consider problem children, handle them
19 last.

20 Q. But it wouldn't slow anything down to allow
21 an observer to contact these people; right?

22 A. It would -- if the observer is going to call
23 them and tell them to go vote provisional at the
24 poll instead of coming to like correct their
25 ballot, then that just creates more work because

1 then the absentee team has to -- could possibly
2 be counting that ballot at the end of the day but
3 then there's also now a provisional ballot that
4 they're going to have to count and decide what to
5 do with after the election.

6 Q. So if an observer was to be helpful here,
7 they would have the people actually come in and
8 fix the problem?

9 A. Correct.

10 Q. Not tell them to vote provisional?

11 A. The only reason they would want to vote
12 provisional is if the ballot was going to be
13 rejected, if it was unsealed, something that
14 could not be corrected. Typically, if it's
15 unsealed, we don't really know if that's their
16 ballot that was in that envelope --

17 Q. And in terms of the unsealed ballot --

18 A. -- is why that would reject it.

19 Q. And in terms of the unsealed ballot, people
20 don't come in to like verify that it's correct
21 and then you would accept that one? They would
22 have to do a new provisional.

23 A. If they don't remember exactly how they
24 voted on their ballot, yes, I suppose they could
25 do that.

1 Q. Okay. And it sounds like you're kind of
2 testifying as a hypothetical. I take it you
3 didn't actually have any people come in that had
4 them unsealed that you allowed them to look at
5 their ballots and say yeah, that's right.

6 A. We let them know why their ballot is
7 rejected and with the option to correct it.

8 Q. Okay. And so for the ones that actually
9 were rejected that day, it sounds like there were
10 some that were in open envelopes.

11 A. Uh-huh.

12 Q. And you have to say yes out loud.

13 A. Yes, yes.

14 Q. And sounds like you contacted all the people
15 at the end of the day.

16 A. Correct.

17 Q. For the people that had the open envelopes,
18 what -- did any of them come in to take any
19 action?

20 A. I don't recall. I know there were two
21 people that came in to correct their ballots.
22 And I don't recall if it was signatures or for
23 unsealed.

24 Q. And you don't know the process that they
25 would have taken for the unsealed ones?

1 A. I don't recall that.

2 Q. I thought I saw somewhere that you ended up
3 with seven ballots that had flaws with them; is
4 that correct?

5 A. I don't recall. It's possible.

6 Q. I can't remember where I read this, but I
7 feel like I read that there were seven and maybe
8 two people came in and fixed theirs. Does that
9 sound right to you?

10 A. Yes. That's possible.

11 Q. So you did end up with five that weren't
12 counted then?

13 A. It's possible, yes. I do recall getting
14 phone calls the next day from two people thanking
15 us for contacting them and giving them the
16 opportunity.

17 Q. And just from reading the Iowa code, I know
18 there was some mention of if you reject someone's
19 ballot, you have to send them a notice before the
20 canvas.

21 A. Correct.

22 Q. But that's just to give them notice. They
23 don't get to fix it at that point?

24 A. Correct.

25 Q. Okay. So I understand it was around 3:20 or

1 so that you had kind of the final conflict with
2 Joey where then he -- you had him leave the
3 board; is that right?

4 A. Correct.

5 Q. In terms of that final conversation, was it
6 more escalated than the prior ones?

7 A. Not really.

8 Q. It was kind of just the same in tone?

9 A. I believe so. I basically just said this
10 has to stop, and I'm not going to argue with you
11 or keep talking about the same thing over and
12 over again, you need to take five seconds and
13 decide if you really want to be on this team or
14 not.

15 Q. Was Joey more aggressive or more louder at
16 that particular time of day?

17 A. I don't know that he was louder. Just
18 argumentative.

19 Q. Did Joey ever do anything physical, like
20 physically inappropriate, ever seem threatening
21 physically to you?

22 A. I don't know that it was threatening, but I
23 think he tried to be intimidating.

24 Q. Verbally?

25 A. Uh-huh.

1 Q. You have to say yes out loud.

2 A. Yes, yes.

3 Q. Okay. So nothing physical, only verbal?

4 A. Correct.

5 Q. And then you did end up getting done well
6 before your deadline; is that correct?

7 A. Correct.

8 Q. And sounds like you were done around 6:40,
9 and people were allowed to take dinner, and then
10 come back to do the final accounting.

11 A. Correct.

12 Q. Do you have any relationship with Bailey
13 Kelley at secretary of state?

14 A. Other than professional, no.

15 Q. What about any conversations you had with
16 her about this case?

17 A. Yes.

18 Q. What would those be?

19 A. She contacted me, I believe, the day she got
20 the request from your office asking about who the
21 individual was because she didn't recall.

22 Q. Any other contact with her about the case?

23 A. No.

24 Q. In terms of -- so I had submitted an open
25 records request to you, and I understand you may

1 have two cell phones; is that right?

2 A. I have one cell phone. I have two cell
3 phones right now, but at that time I had one.

4 Q. And in terms of you having two now, one is a
5 work one, and one is private?

6 A. Correct.

7 Q. But back then you only had one?

8 A. Correct. It was years ago. The board
9 approved to have work phones.

10 Q. So in terms of this getting reported to law
11 enforcement, I understand the officers came, and
12 then Joey left the room. Did you have any
13 contact with law enforcement after that to like
14 report that something wrong had happened?

15 A. I believe, yes. I think Drew Askey advised
16 that there would be incident report forms. He
17 gave -- I think he e-mailed them to me or brought
18 them over. I don't recall that. Everybody will
19 need to fill out and get back to him.

20 Q. Anybody else from AG's office or the
21 secretary of state that you would have reported
22 this to?

23 A. Yes.

24 Q. Who?

25 A. The attorney general's office. I don't

1 recall who I spoke with. I don't recall if it
2 was Kerry Feldmann or if it was Josh. I don't
3 recall who I spoke with.

4 Q. And when was that? Like back when this
5 happened or recent?

6 A. Right when it happened. Right after it
7 happened. And then I contacted secretary of
8 state. I contacted my county attorney first, I
9 think.

10 Q. And what feedback did you get from the
11 county attorney?

12 A. County attorney advised to contact secretary
13 of state and attorney general.

14 Q. Were you reporting this as a crime at that
15 time?

16 A. No. Just reporting it as an incident.

17 Q. Was it your understanding that it was a
18 crime?

19 A. No.

20 Q. Any contact that you had with the AG in
21 between like back then and now?

22 A. I believe I e-mailed the attorney general's
23 office back in February or March last year to see
24 if there was anything ever happening with the
25 case.

1 Q. What was your understanding of like what
2 would happen with it?

3 A. I have no idea. I had no idea.

4 Q. Do you have any relationship with Brenna
5 Bird?

6 A. No.

7 Q. When Kash Patel went with Brenna Bird a
8 couple days before the charges were filed in this
9 case, were you present, or did you attend that
10 meeting at the AG's office?

11 A. I don't know who Kash Patel is, and I didn't
12 know there was a meeting. I didn't even know
13 charges were filed until I heard about it after
14 it was in the paper. Not the paper. The news.

15 Q. So in terms of a board member's
16 responsibility, they have the obligation to
17 follow the Iowa code sections that pertain to
18 elections; is that correct?

19 A. Yes.

20 Q. And you have that same responsibility as the
21 auditor; right?

22 A. Yes.

23 Q. But your responsibilities are even greater
24 because you're considered the election official.

25 A. Correct.

1 Q. And in terms of the object of the law,
2 generally speaking, it's to make sure everybody's
3 vote is counted and that the votes are not
4 fraudulent. Is that fair?

5 A. Correct.

6 Q. For your process would you say it's more
7 important to get it done by the deadline or get
8 it done correctly?

9 A. To get it done correctly and by the
10 deadline.

11 Q. Okay. You wouldn't say one is more
12 important than the other?

13 A. No.

14 Q. Do you think in terms of the process that
15 you can take shortcuts just for the sake of
16 efficiency?

17 A. Absolutely not.

18 Q. And for your role in monitoring the absentee
19 board, your job is to make sure that they're also
20 following the rules; correct?

21 A. Correct.

22 Q. And they have to know the rules in order to
23 follow them; right?

24 A. Correct.

25 Q. If you were doing something wrong, would you

1 expect the board members to speak up about it?

2 A. Correct.

3 Q. Because they have an obligation to follow
4 the rules too; right?

5 A. Yes.

6 Q. And that's independent of your duty as well;
7 right?

8 A. Yes.

9 Q. And Joey's role on this board, was he
10 allowed to give orders to anyone else?

11 A. No.

12 Q. Is there anyone on the board that has, I
13 guess, more authority than anyone else?

14 A. No.

15 Q. He couldn't make anybody do something. He
16 didn't have that authority. Is that fair?

17 A. That's very fair.

18 Q. So for this -- this issue that you had with
19 the ballot being deleted or accepted and then
20 rescanned of all the boxes, how long would you
21 say that that set you back time wise?

22 A. A couple hours. Maybe an hour.

23 Q. Well, you started over after lunch and you
24 started at nine. More like three hours maybe?

25 A. Normally, though, it wouldn't take that

1 longer to get that far. It's just lots of
2 arguing making it longer than it needed to be.

3 Q. Did Jeanice and Julie stop scanning while
4 arguing?

5 A. No. But I have to repeatedly go to my
6 office, contact secretary of state, contact
7 Bradley, have conversation, come back down. If
8 they had to -- went through the process and
9 needed help or my assistance, they had to wait
10 for me to come back.

11 Q. Did that ever happen that they needed
12 assistance from you with the computer or they
13 were waiting for you to get back?

14 A. Quite likely, but I don't recall.

15 MS. MESSAMER: I think that's all the
16 questions I have. The county attorney may have
17 some questions for you.

18 MR. DUDEN: Just briefly.

19 CROSS-EXAMINATION

20 BY MR. DUDEN:

21 Q. You completed a witness statement in this
22 case.

23 A. Yes, I do.

24 Q. And that would have been completed shortly
25 after the election or the incident that occurred

1 on November 5. Is that fair?

2 A. Correct.

3 Q. For portions that you remember or don't
4 remember, do you defer to your witness statement
5 that would have been closer in time?

6 A. Yes.

7 Q. And was that witness statement and the
8 statements you made therein true and accurate to
9 the best of your knowledge:

10 A. Yes.

11 Q. Did you complete it honestly?

12 A. Yes.

13 Q. As for what is Defendant's Depo Exhibit
14 No. 3, is that the absentee voting list?

15 A. Correct.

16 Q. Ms. Messamer mentioned that it's Page 81 and
17 Page 133. Is that fair?

18 A. I believe so.

19 Q. The whole document was provided as well;
20 correct?

21 A. Correct.

22 Q. And was any consideration given to the
23 rejected ballots as to their party affiliation
24 specifically?

25 A. Never.

1 Q. Did you, in fact, reject ballots that were
2 both Republican cast?

3 A. Yes.

4 Q. As well as Democrat cast as well?

5 A. Yes.

6 MR. DUDEN: I don't have anything further.
7 Thank you.

8 REDIRECT EXAMINATION

9 BY MS. MESSAMER:

10 Q. Regarding your report, you said you reviewed
11 it before you came in today; right? Or --

12 A. My witness statement?

13 Q. Your witness statement.

14 A. Yes.

15 Q. And it's five pages long. Did you write
16 down every negative interaction that you had with
17 Joey?

18 A. No.

19 Q. Why wouldn't you have written down every
20 negative interaction you had with Joey in this
21 report?

22 A. Honestly, there were so many, I don't even
23 recall, and they were repetitive.

24 Q. Would you say your report is all accurate?

25 A. To the best of my knowledge, yes.

1 Q. And you went through in your report going up
2 to talk to Adkins and talking to the Black Hawk
3 County attorney --

4 A. Auditor.

5 Q. -- auditor. And then you noted that after
6 Joey was removed, you had calls from someone from
7 the Democratic party, the attorney general, and
8 Bailey Kelley; correct?

9 A. Correct.

10 Q. Anyone else that you spoke with that day?

11 A. I don't believe so.

12 Q. Okay. So no other phone calls that you
13 would have gone up to your office and made
14 regarding this absentee board?

15 A. I didn't make any other phone calls.

16 Q. And if you would have had a question or
17 there was some kind of question and you had to go
18 to your office, was there anything else in your
19 office you were doing to try to answer the
20 questions besides just going and having calls?

21 A. Can you elaborate on what you mean by that?

22 Q. Yeah. I'm trying to understand if you would
23 have left your office for any other reason
24 besides to make a call for advice.

25 A. No.

1 Q. So it sounds like at least during the period
2 when Joey was there, the two times you would have
3 left would have been to talk to Atkins and talk
4 to Grant Peter; correct?

5 A. Yes.

6 Q. Did you have your own copy of the absentee
7 guide --

8 A. No.

9 Q. -- down there with you in the room?

10 A. No.

11 Q. Where did you have yours?

12 A. In my office.

13 Q. Did you go back and reference it at all?

14 A. Yes.

15 Q. Is there a reason you didn't bring it with
16 you into the room?

17 A. Mine is in a giant binder with all the other
18 manuals that are -- or guides that are associated
19 with elections.

20 Q. What do you recall referencing in the guides
21 that day?

22 A. I know that I referred to the section about
23 marking ballots but that was a conversation we
24 had a lot.

25 Q. I appreciate that. Anything else?

1 A. Not that I recall.

2 Q. Okay. And I think we kind of touched on
3 this, but you said in terms of Joey's tone of
4 voice, he wasn't necessarily loud. He was just
5 being persistent?

6 A. Argumentative is how I would put it.

7 Q. Okay. Would you say he was loud or not?

8 A. Not loud.

9 Q. And when you say argumentative, what does
10 that mean to you?

11 A. Typically, you can give somebody -- if
12 somebody asked a question and needed an answer,
13 maybe a redirect question, an answer, you need to
14 be very thorough not only giving my own
15 explanation but getting guidance from people like
16 Grant Veeder, who I consider experts in the
17 field, and getting further -- getting the same
18 answer or in a different tone -- not tone but
19 maybe explaining in a different way but then
20 still getting the same -- getting drilled and
21 drilled and drilled. To me that's argumentative.

22 Q. Did he ever call anybody names?

23 A. No.

24 Q. Use any expletives?

25 A. No.

1 MS. MESSAMER: That's all I have then.

2 Thank you.

3 MR. DUDEN: Just briefly on the AG aspect
4 for communication.

5 RECROSS-EXAMINATION

6 BY MR. DUDEN:

7 Q. Is it your understanding that the attorney
8 general's office had an on-call assistant
9 attorney general on the day of the election?

10 A. Yes. I do believe so, yes.

11 Q. Would that likely have been who you'd be in
12 contact with?

13 A. Yes.

14 Q. And I believe we've had discussions about it
15 before, but I took over the docket in April of
16 this year. Knowing that, do you believe it was
17 me that you contacted back in 2024?

18 A. Knowing that it was you?

19 Q. Knowing that I hadn't taken it over until
20 this year --

21 A. Oh, yeah.

22 Q. -- just clarifying that. But we hadn't had
23 conversations since the case's commencement?

24 A. Yes.

25 Q. Fair?

1 A. I don't recall who I've spoken to, to be
2 honest.

3 MR. DUDEN: I don't have anything further.
4 Thank you.

5 MS. MESSAMER: All right. I forgot one
6 thing. Can you mark this?

7 (Deposition Exhibit No. 6 was marked for
8 identification by the court reporter.)

9 FURTHER REDIRECT EXAMINATION

10 BY MS. MESSAMER:

11 Q. In terms of people that were on the board,
12 are there any people that you socialize with
13 outside of your role as an auditor?

14 A. Not really, no.

15 Q. Anybody you would consider a friend?

16 A. Describe what you mean by friend.

17 Q. You can define it.

18 A. I don't hang out with anybody. I do not go
19 to events with anyone in particular.

20 Q. Okay. So you would not consider these
21 people your friends? Any of them?

22 A. I consider them my friends.

23 Q. Okay. Which ones would you say are your
24 friends?

25 A. I would consider all of them my friends.

1 Q. Including Joey?

2 A. Yes.

3 Q. And Angela Brown?

4 A. Yes.

5 Q. And I understand you maybe share a driveway
6 with her.

7 A. I did until she moved.

8 Q. When was that?

9 A. Last fall -- last spring, I believe.

10 Q. Okay. And then I'll give you Exhibit 6. So
11 this was an open records that you provided to the
12 AG's office. Do you recall that?

13 A. Yes.

14 Q. And are these true and accurate copies of
15 your text messages between yourself and Jeanice
16 Lester?

17 A. Yes, they are.

18 Q. On this first page, I was wondering -- I
19 believe it's Jeanice sent you this message that
20 says did you hear from Drew, and I should call
21 Aaron. Who are those people?

22 A. That would be Drew Askey, and she was
23 referring to Aaron West from KSCI.

24 Q. KCC --

25 A. KSCI.

1 Q. Who are these people?

2 A. Local news station.

3 Q. And who is the -- Drew, what's his role?

4 A. Drew Askey, he's the sheriff.

5 Q. Do you know if Jeanice did, in fact, contact
6 the news?

7 A. I don't know if she contacted the news.

8 Q. Have you ever had any contact with the news
9 about this topic?

10 A. Yes. Aaron called me.

11 Q. Was that closer to when it happened or more
12 recently?

13 A. No. It was right after it happened.

14 Q. Did you give a statement to him?

15 A. Yes.

16 MS. MESSAMER: Okay. That's all I have.

17 Thank you.

18 THE COURT: Nothing on my end.

19 (Deposition concluded at 10:25 a.m.)

20

21

22

23

24

25

C E R T I F I C A T E

I, Roxann Zuniga, a Certified Shorthand Reporter of the State of Iowa and Registered Professional Reporter, do hereby certify that there came before me at the time, date, and place hereinbefore indicated, the witness named on the caption sheet hereof, who was by me duly sworn to testify to the truth of said witness's knowledge, touching and concerning the matters in controversy in this cause; that the witness was thereupon examined under oath, the examination taken down by me in shorthand, and later reduced to printed form under my supervision and direction, and that the deposition is a true record of the testimony given and of all objections interposed.

I further certify that I am neither attorney or counsel for, or related to or employed by any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

Dated at Des Moines, Iowa, this 21st day of September, 2026.



CERTIFIED SHORTHAND REPORTER,
REGISTERED PROFESSIONAL
REPORTER, AND NOTARY PUBLIC

14:10:41

1 IN THE IOWA DISTRICT COURT
2 IN AND FOR MONTGOMERY COUNTY
3 STATE OF IOWA,)
4 Plaintiff,) CASE NO.
5) FECR012514
6))
7 vs.) ZOOM
8) VIDEO-RECORDED
9 JOSEPH NORRIS,)
10) DEPOSITION OF
11 Defendant.)
12) DREW ASKEY
13 -----)

14 THE ZOOM VIDEO-RECORDED
15 DEPOSITION OF DREW ASKEY, taken before
16 Gale Sweeney Christensen, Certified Shorthand
17 Reporter, Registered Professional Reporter,
18 and Notary Public of the State of Iowa,
19 commencing at 2:11 p.m., September 15, 2026,
20 being taken by Zoom platform with all parties
21 being present remotely.
22
23

24 Reported by: Gale Sweeney Christensen,
25 CSR, RPR

A P P E A R A N C E S

REMOTE APPEARANCES:

State of Iowa

by:

JOSHUA DUDEN

Assistant Attorney General

Hoover State Office Building

2nd Floor

1305 East Walnut Street

Des Moines, Iowa 50319

joshua.duden@ag.iowa.gov

Defendant by: GINA MESSAMER

Attorney at Law

Parrish Kruidenier, L.L.P.

2910 Grand Avenue

Des Moines, Iowa 50312

gmessamer@parrishlaw.com

Also present: Joseph Norris

1 INDEX OF EXAMINATION

2 Examination by Page

3 Ms. Messamer 4

4

5

6

7 INDEX OF ATTORNEY REQUESTS

8 Request by Page Line

9 Ms. Messamer 32 22

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 DREW ASKEY,
2 called as a witness, having been first duly
3 sworn, testified as follows:

4 DIRECT EXAMINATION

14:11:13 5 BY MS. MESSAMER:

14:11:13 6 Q. Hi, Deputy Askey. Thanks for being
14:11:22 7 available today. I know this is short
14:11:23 8 notice.

14:11:23 9 A. Yeah, no problem.

14:11:24 10 Q. Could you start off by telling me what
14:11:28 11 your current employment is.

14:11:29 12 A. I currently am employed with the
14:11:32 13 Montgomery County Sheriff's Office. Now I'm
14:11:34 14 a deputy there.

14:11:35 15 Q. How long have you been with them?

14:11:36 16 A. Since January of 2019.

14:11:38 17 Q. Were you in law enforcement before that
14:11:42 18 too?

14:11:42 19 A. I was.

14:11:42 20 Q. Where did you work before this?

14:11:44 21 A. Red Oak Police Department.

14:11:46 22 Q. How long were you with Red Oak?

14:11:49 23 A. Five years. I was hired there in
14:11:51 24 September of 2014.

14:11:50 25 Q. Has law enforcement been your whole

14:11:54 1 career, or have you had other jobs too?

14:11:56 2 A. Just small jobs when I was in high
14:11:58 3 school. This has been my first actual
14:12:01 4 career.

14:12:01 5 Q. Can you tell me about your education
14:12:03 6 that led up to this.

14:12:05 7 A. I have my high school diploma, and I was
14:12:08 8 in college at Iowa Western for criminal
14:12:11 9 justice for one year before I was hired
14:12:13 10 full-time at Red Oak Police Department.

14:12:16 11 Q. And then, I assume, was it after you
14:12:18 12 joined Red Oak that you went through ILEA?

14:12:21 13 A. That's correct.

14:12:21 14 Q. And tell me again when it was that you
14:12:24 15 joined Red Oak. Sorry.

14:12:25 16 A. September of 2014.

14:12:29 17 Q. All right. So in your role with the
14:12:32 18 County, do you have any particular
14:12:34 19 assignments?

14:12:34 20 A. Patrol, and I'm also a canine handler.

14:12:39 21 Q. Besides those, any like specialties that
14:12:42 22 you have within law enforcement?

14:12:44 23 A. I'm a State firearms instructor.

14:12:47 24 Q. With the canine handler, what does that
14:12:52 25 involve, or are there special

14:12:53 1 responsibilities that go along with that?

14:12:55 2 A. Yep. So my canine is with me 24/7/365.

14:13:01 3 We have certain amount of training hours that

14:13:04 4 we have to meet every month with our canines.

14:13:12 5 He's certified. Him and I are both certified

14:13:15 6 in patrol, narcotics.

14:13:17 7 Q. Do you have any special assignments,

14:13:19 8 like any task force with your canine?

14:13:23 9 A. No, just for patrol use.

14:13:25 10 Q. So in terms of coming in and talking to

14:13:27 11 me today, was there anything that you did to

14:13:29 12 prepare yourself and refresh your memory

14:13:31 13 about anything?

14:13:31 14 A. Just looking over my case file.

14:13:34 15 Q. And in terms of your case file, could

14:13:36 16 you tell me what's in it.

14:13:37 17 A. Yes. It is the initial incident report,

14:13:42 18 the incident narrative and then the arrest

14:13:46 19 report and then the complaint and affidavit,

14:13:52 20 the original misconduct email from the

14:13:58 21 Attorney General's Office and then the

14:14:01 22 witness statements.

14:14:09 23 Q. I'm going to share my screen here so I

14:14:12 24 can show you a couple things that I got in

14:14:14 25 discovery and just talk to you about these.

14:14:16 1 A. Okay.

14:14:17 2 Q. Okay. Can you see my screen there that
14:14:23 3 says this election misconduct form?

14:14:25 4 A. Yes.

14:14:26 5 Q. So this is something I got in discovery.
14:14:33 6 Is this a form that you would have filled
14:14:35 7 out, or is this something that was filled out
14:14:38 8 and then sent to you from the AG's Office?

14:14:41 9 A. This was sent to me from the AG's
14:14:44 10 office, filled out by me, and then sent back
14:14:45 11 to the AG's Office.

14:14:47 12 Q. Let me actually back up a little bit.
14:14:49 13 Like how do you even remember this coming to
14:14:51 14 your attention after the day when it actually
14:14:53 15 happened? Like how do the communications
14:14:55 16 start between you and the AG's Office?

14:14:57 17 A. The AG's Office reached out to me the
14:15:00 18 day of the incident.

14:15:02 19 Q. All right. Maybe I should just start
14:15:08 20 there. So let's talk about the day this
14:15:09 21 happened. What was the first thing that
14:15:11 22 brought this to your attention?

14:15:12 23 A. We were called to the courthouse to have
14:15:18 24 Joseph removed from the courthouse, but I
14:15:23 25 came in after the fact of that. Deputy

14:15:26 1 Stephens had been handling that call.

14:15:27 2 Q. Did you know Joey Norris prior to that
14:15:34 3 day?

14:15:34 4 A. Yes.

14:15:34 5 Q. How did you know him?

14:15:36 6 A. I've known him pretty much my whole
14:15:38 7 life. I grew up here as well as Joey.

14:15:41 8 Q. Were you guys in school together? Are
14:15:43 9 you close in age?

14:15:44 10 A. He's older than me. He was my sister's
14:15:48 11 age.

14:15:48 12 Q. And so how did it come to be that you
14:15:51 13 were then the officer assigned to this case
14:15:54 14 versus like Officer Stephens being the one
14:15:56 15 who was working on it for follow-up?

14:15:58 16 A. I was just the deputy that was on duty
14:16:01 17 at the time when the AG's Office called here.
14:16:04 18 We're a pretty small department, so at that
14:16:06 19 point I had to take it from there. Deputy
14:16:11 20 Stephens was already off shift.

14:16:12 21 Q. All right. So you go to the courthouse.
14:16:18 22 Kind of what was your understanding of the
14:16:19 23 nature of the call or what you needed to do?

14:16:21 24 A. I'll be honest with you. At the
14:16:23 25 courthouse I had very little involvement. I

14:16:25 1 just knew that we had been called there to
14:16:28 2 have Joey removed from the courthouse during
14:16:32 3 the absentee ballot committee meeting, and
14:16:37 4 Deputy Stephens had removed him while I was
14:16:40 5 walking into the building. Joey left. I
14:16:44 6 left. That was pretty much my initial
14:16:46 7 encounter.

14:16:47 8 Q. Did you have any communication with Joey
14:16:49 9 when you responded to the courthouse?

14:16:51 10 A. No.

14:16:52 11 Q. Was there anybody else at the courthouse
14:16:55 12 that you talked to then during that first
14:16:57 13 trip?

14:16:57 14 A. I did not talk to anybody.

14:17:01 15 Q. All right. So then the AG calls you
14:17:03 16 later then that day?

14:17:04 17 A. That's correct.

14:17:04 18 Q. Any idea like roughly when that was?

14:17:07 19 A. It would have been later in the evening.
14:17:11 20 I do not have an exact time.

14:17:13 21 Q. And what then was the nature of that
14:17:18 22 call, or what did you learn from that?

14:17:20 23 A. The AG's Office at that time -- I -- I
14:17:23 24 do not remember who I spoke with -- just
14:17:25 25 advised me that they were contacted by Jill,

14:17:32 1 expressing her concerns of the incident that
14:17:35 2 occurred earlier in that day. And then she
14:17:39 3 suspected that there was possibly misconduct
14:17:45 4 during this. The AG's Office then reached
14:17:48 5 out to me.

14:17:49 6 Q. And what did you do from there?

14:17:51 7 A. I gave witness statements to the
14:17:56 8 absentee ballot board members that were there
14:17:59 9 during this incident, and then that was it
14:18:04 10 that day.

14:18:05 11 Q. But you think it was actually the day
14:18:09 12 that this happened that you got the statement
14:18:11 13 forms to the people that were on the board?

14:18:12 14 A. Two that night, and then the -- the
14:18:18 15 following day I took the rest to the
14:18:21 16 courthouse.

14:18:21 17 Q. Did you have any conversation with
14:18:26 18 anybody about what had happened?

14:18:27 19 A. No. Jill -- again, just Jill reached
14:18:34 20 out to me and advised me that she had
14:18:36 21 contacted the Attorney General's Office and
14:18:40 22 referenced the incident, but we did not speak
14:18:42 23 in detail of the incident.

14:18:44 24 Q. Like how did you even know who you
14:18:46 25 needed to give statement forms to?

14:18:48 1 A. Because I got a -- I got a list from
14:18:52 2 Jill when I brought her the witness
14:18:54 3 statement.

14:18:54 4 Q. And I understand there were some
14:18:59 5 observers in the room too; is that right?

14:19:01 6 A. I believe so.

14:19:01 7 Q. Do you recall their names off the top of
14:19:06 8 your head?

14:19:06 9 A. I do not.

14:19:07 10 Q. I have a statement from Dan Bullington,
14:19:10 11 who was an observer. And my understanding
14:19:12 12 was that Jill {sic} Norris, Joey's mom, was
14:19:17 13 also an observer. Do you recall that?

14:19:18 14 A. I do, yes.

14:19:19 15 Q. Was she someone that you provided a
14:19:21 16 witness form to as well?

14:19:22 17 A. I did not, no.

14:19:23 18 Q. Did anyone ask you not to give her a
14:19:29 19 witness form?

14:19:30 20 A. No.

14:19:30 21 Q. So that was just your decision not to
14:19:32 22 get a witness statement from Jill {sic}
14:19:35 23 Norris?

14:19:35 24 A. I provided a -- I provided witness
14:19:39 25 statements to be filled out from the list

14:19:42 1 that was given to me.

14:19:44 2 Q. Okay. So are you saying then that
14:19:47 3 Jill -- or not Jill -- Jan, Jan Norris was
14:19:52 4 not on the list that Jill Ozuna gave you?

14:19:57 5 A. Not that I recall.

14:19:59 6 Q. Did you ever learn that Jan Norris was
14:20:02 7 an observer?

14:20:03 8 A. Yes.

14:20:08 9 Q. How do you recall that that came up?

14:20:09 10 A. What's that?

14:20:10 11 Q. How do you remember learning that?

14:20:12 12 A. Because I believe it's in one of the
14:20:14 13 witness statements.

14:20:15 14 Q. Did they return those directly to you,
14:20:21 15 or was it Jill Ozuna who collected the
14:20:25 16 witness statements?

14:20:26 17 A. Jill did.

14:20:27 18 Q. And when she got them all, you just
14:20:30 19 picked them up from her?

14:20:31 20 A. That's correct.

14:20:31 21 Q. Was there any other follow-up that you
14:20:33 22 did?

14:20:34 23 A. There was not.

14:20:36 24 Q. Did you personally review those witness
14:20:40 25 statements?

14:20:40 1 A. I did.

14:20:42 2 Q. Any questions that you had after reading
14:20:46 3 those?

14:20:47 4 A. I had no questions, no.

14:20:49 5 Q. Did you have any conversation with the
14:20:54 6 Secretary of State's office about this?

14:20:56 7 A. No.

14:20:59 8 Q. In terms of the rules governing the
14:21:05 9 absentee board, I guess, how did you, you
14:21:09 10 know, figure out what the rules were?

14:21:11 11 A. Rules of what, ma'am?

14:21:14 12 Q. Just of how that committee was supposed
14:21:16 13 to operate.

14:21:19 14 A. I'll be fully honest with you. I'm not
14:21:22 15 a hundred percent certain how it's supposed
14:21:25 16 to operate as far as in great detail. The
14:21:29 17 only thing that I know about operationwise is
14:21:32 18 how the Code read that was filed, and that is
14:21:39 19 what was chosen to be filed at that time, was
14:21:41 20 just from what I learned from the misconduct
14:21:44 21 charge.

14:21:45 22 Q. All right. So after you collected these
14:21:50 23 statements, then what happened from there?

14:21:52 24 Do you send these on to the AG, or what?

14:21:55 25 A. That's correct, yep. My entire case

14:21:59 1 file that you probably have as well is what
14:22:01 2 was sent to the Attorney General's Office.

14:22:03 3 Q. Did anybody follow up with you about
14:22:05 4 anything at that point?

14:22:07 5 A. I had received emails from the AG's
14:22:12 6 Office, requesting my case file. And I had
14:22:16 7 sent it -- I had sent it twice because I
14:22:20 8 believe it got lost in an email. So I had
14:22:23 9 sent my entire case file again, and then
14:22:26 10 there was no further follow-up.

14:22:27 11 Q. Did you ever have any conversations with
14:22:29 12 anybody on the phone about the nature of this
14:22:33 13 charge and the evidence supporting it?

14:22:36 14 A. As far as the charge goes, no. That --
14:22:40 15 that came later. The only communication I
14:22:42 16 had was collecting the -- the necessary
14:22:47 17 paperwork that I needed from the AG's Office
14:22:51 18 as far as -- as far as the investigation side
14:22:57 19 goes, as far as getting the incident put
14:23:00 20 together. That was the -- the only contact I
14:23:02 21 had with them, and then I received an -- an
14:23:04 22 email from the AG's Office and referenced the
14:23:12 23 charge.

14:23:13 24 Q. Like this year? Is that what you're
14:23:14 25 talking about, the email?

14:23:15 1 A. Yes.

14:23:16 2 Q. And what was the nature of that email?

14:23:18 3 A. That email was that they had reviewed

14:23:21 4 the case file and reviewed -- reviewed the

14:23:23 5 witness statements, and they found fit to

14:23:26 6 file the charges against Joey.

14:23:31 7 Q. Not being in law enforcement, I don't

14:23:33 8 know. But is that kind of normally how this

14:23:35 9 works, is that you would do the legwork on an

14:23:37 10 investigation, and then the AG's Office would

14:23:40 11 make the determination on whether there was

14:23:42 12 sufficient evidence for a charge?

14:23:44 13 A. I'll be fully honest with you, ma'am.

14:23:47 14 This is the first case that I've had that I

14:23:49 15 worked directly with the AG's Office, so I

14:23:52 16 can't speak on that, if this would be usual

14:23:54 17 or not.

14:23:55 18 Q. How about even with just your local

14:23:59 19 county attorney? Would that be normal, you

14:24:01 20 would do the investigation, and then they

14:24:02 21 would give you the green light for you to

14:24:04 22 file the complaint?

14:24:05 23 A. There is times of that when we do send

14:24:09 24 cases to the county attorney for review.

14:24:10 25 That is very common.

14:24:11 1 Q. And then, if they give you the thumbs
14:24:13 2 up, then it's you that files the complaint,
14:24:16 3 though? It's not like the county attorney
14:24:18 4 files the Trial Information?

14:24:20 5 A. That is correct.

14:24:21 6 Q. All right. So in terms of your review,
14:24:24 7 one thing, while I have you, I'm going to
14:24:27 8 have you look at something for me because I
14:24:30 9 was having a hard time with it. I'll share
14:24:32 10 my screen again.

14:24:41 11 So this was a statement I got that
14:24:43 12 says it's from Clinton Rubey. Can you see
14:24:46 13 that okay?

14:24:46 14 A. I can.

14:24:47 15 Q. I might just have you read this whole
14:24:49 16 thing. It would be kind of hard to pick up
14:24:54 17 in the middle. So I just had a hard time
14:24:56 18 deciphering this whole thing. I think it
14:24:58 19 might be helpful if I could just have you
14:24:58 20 read it to me.

14:24:59 21 A. Let me see if I can move these screens
14:25:02 22 so I can see the whole thing better.

14:25:04 23 Q. Is there anything you need me to do on
14:25:06 24 my end?

14:25:07 25 A. Not right now:

14:25:07 1 The incident occurred during the
14:25:10 2 election day count of absentee board. The
14:25:13 3 absentee committee is appointed by the
14:25:16 4 Montgomery County Auditor, Jill Ozuna, the
14:25:23 5 commissioner of election. She appointed
14:25:26 6 Jeanice Lester, Julie Rubey, Will Lester, me,
14:25:31 7 Joey Norris, Angela. I was the first asked
14:25:33 8 to serve on the committee by Joni Ernst and
14:25:40 9 have served ever since.

14:25:41 10 On election day we were instructed
14:25:43 11 to report at 9 a.m. Soon after 9 a.m. on
14:25:48 12 11/5/2024, the committee began to open the
14:25:55 13 absentee mail and walk in early votes.
14:26:02 14 Jeanice and Julie take the open ballots and
14:26:06 15 put them through the counting machine.
14:26:10 16 Angela, Will, Joey and I open the sealed
14:26:14 17 envelopes and stick them for -- hold on.
14:26:26 18 I'll wait till you're done moving there --
14:26:26 19 and stack them for putting through the
14:26:29 20 counting machine.

14:26:31 21 Joey, Jan, Angela were both helping
14:26:34 22 for the first time. Almost immediately, Joey
14:26:40 23 began criticizing the process. Jill was
14:26:44 24 under a lot of pressure on election day.
14:26:48 25 She -- I can't understand the word in

14:26:52 1 between -- oh, she asked Joey to be quiet
14:27:00 2 several times. Eventually, as Joey would not
14:27:05 3 be quiet, she fired him and told him to
14:27:08 4 leave.

14:27:11 5 He refused and challenged her
14:27:14 6 authority. She called for Sheriff -- she
14:27:19 7 called to Sheriff and had him removed. He
14:27:23 8 refused to leave, and the deputies -- I can't
14:27:31 9 read the part that's in between, where he
14:27:34 10 signed on the by signing this statement. I
14:27:36 11 can't understand that part.

14:27:43 12 The only other person in the room
14:27:45 13 were Jan Norris, Jan Bullington. After Joey
14:27:49 14 left, things calmed down -- and hold on. I
14:27:51 15 have to move this deal here -- things calmed
14:27:54 16 down, and we completed the count.

14:27:57 17 Q. Thank you. That was helpful. You got
14:28:00 18 more words than I did.

14:28:01 19 A. I'm also a very bad hand-writer, so --

14:28:07 20 Q. So was that statement from Clint Rubey
14:28:11 21 consistent with the other statements you had
14:28:12 22 gotten?

14:28:13 23 A. His was in shorter term, but it is
14:28:15 24 similar.

14:28:16 25 Q. And in terms of the basis for the

14:28:20 1 charge, I guess, what were the actions by

14:28:22 2 Joey that you thought were criminal?

14:28:26 3 A. Can I look at my notes here --

14:28:28 4 Q. Yeah.

14:28:29 5 A. -- or not my notes but my case file?

14:28:31 6 Q. Sure.

14:28:32 7 A. So on -- in the Code what fit was it

14:28:46 8 seemed like Joseph was disruptive during --

14:28:50 9 during the counting of the ballots. And in

14:28:53 10 the Code there -- I'll get to the exact part

14:29:02 11 of the Code -- as an election official it was

14:29:12 12 that he hindered or disregarded the object of

14:29:17 13 the law and then made the counting not

14:29:23 14 orderly or efficient during the

14:29:26 15 administration of the election.

14:29:28 16 Q. Did you get any training from the AG's

14:29:32 17 Office or anywhere else on this statute?

14:29:35 18 A. No, I received no training.

14:29:37 19 Q. Like when it was decided that this was

14:29:41 20 going to be charged, did they talk through

14:29:44 21 with you anything about the law? Or like

14:29:45 22 there really was no conversation between you

14:29:48 23 and the AG about the charge? It was just

14:29:51 24 that letter?

14:29:51 25 A. That's correct, what I received, which

14:29:53 1 I'm assuming you have as well, the email that
14:29:56 2 I received from the AG's Office.

14:29:58 3 Q. I don't think I got that from the AG. I
14:30:08 4 might have got it in open records. I'm not
14:30:13 5 sure that I have that.

14:30:23 6 MR. DUDEN: I was just saying that
14:30:27 7 I don't know if you got it from me or from
14:30:29 8 the open records information, Gina, but
14:30:32 9 certainly, I think, at one point you did. If
14:30:35 10 you need it again, just let me know.

14:30:37 11 BY MS. MESSAMER:

14:30:37 12 Q. Okay. In any event, from your point of
14:30:41 13 view, were there any specific actions or
14:30:44 14 disruptive actions that you thought were
14:30:51 15 criminal specifically?

14:30:52 16 A. Per what was in the statements, yes, it
14:30:55 17 seemed like he was disruptive during the
14:30:59 18 commission of those duties. But as far as
14:31:02 19 what happened in that room, I cannot -- I
14:31:05 20 cannot testify to. I wasn't there. I'm
14:31:06 21 going off what I read on paper.

14:31:08 22 Q. Sure. And I guess that's -- I'm just
14:31:11 23 trying to kind of be able to zero in on what
14:31:16 24 the people just think was annoying and what
14:31:19 25 to your mind rises to the level of criminal

14:31:23 1 behavior, if that makes sense.

14:31:25 2 So like what in these statements
14:31:27 3 did you think that was an action that was a
14:31:31 4 violation of the statute?

14:31:32 5 A. When he was disrupting the counts and
14:31:38 6 seemed to be causing a scene by multiple
14:31:43 7 statements in the witness statements, where
14:31:46 8 they would have to restart count. And when
14:31:50 9 he was not allowing people back into a room
14:31:53 10 to continue counting, he is disrupting --
14:31:57 11 disrupting the flow of how that is supposed
14:32:01 12 to occur.

14:32:02 13 Q. In terms of restarting the count, what's
14:32:10 14 your memory of Joey's involvement with that,
14:32:16 15 or if there is a certain statement you're
14:32:18 16 thinking of?

14:32:19 17 A. I would have to go back in the
14:32:23 18 statements and remember which one it was in.
14:32:25 19 I just believe that it was stated, due to the
14:32:28 20 disruptive behavior, that counts had to be
14:32:32 21 redone, or possibly Joey was not pleased with
14:32:37 22 the manner of some count, so he wanted things
14:32:40 23 to be recounted.

14:32:42 24 Q. In terms of the issue about leaving and
14:32:49 25 the door being locked, who, to your

14:32:52 1 knowledge, actually shut and locked the door?

14:32:56 2 A. I am not aware.

14:32:57 3 Q. What's your understanding of Joey's

14:33:03 4 involvement with that then?

14:33:04 5 A. That he had a meeting to go to, and he

14:33:06 6 said that no actions are to be carried

14:33:09 7 forward without him present.

14:33:12 8 Q. Do you know what the rules are about

14:33:15 9 that?

14:33:16 10 A. Nope.

14:33:17 11 Q. Okay. So any idea on whether Joey was

14:33:23 12 correct about that or not?

14:33:24 13 A. Correct about what?

14:33:26 14 Q. About that the count needed to stop

14:33:29 15 while he was gone.

14:33:30 16 A. I -- rephrase the question. I'm sorry.

14:33:36 17 Q. Yeah. I guess my understanding from

14:33:39 18 these witness statements is that Joey told

14:33:43 19 the others that they needed not to count

14:33:45 20 while he was gone for the lunch hour. Is

14:33:48 21 that your understanding too?

14:33:48 22 A. Correct.

14:33:49 23 Q. And that that was his understanding

14:33:52 24 because he thought there needed to be party

14:33:55 25 balance for the count? Is that also your

14:33:57 1 understanding from the statements?

14:33:58 2 A. I believe so.

14:33:59 3 Q. And I'm trying to just determine if Joey
14:34:03 4 was correct about that or not.

14:34:04 5 A. I don't know if he was correct.

14:34:06 6 Q. Did you have any discussion with anybody
14:34:10 7 about whether that was correct, that they
14:34:15 8 couldn't continue counting when a member was
14:34:17 9 absent?

14:34:18 10 A. I am unaware. Are you -- are you
14:34:20 11 talking like in formal writing, like this is
14:34:24 12 how it's supposed to work when counting
14:34:26 13 elections, like officially like State
14:34:30 14 regulations, or are you just talking like
14:34:32 15 word of mouth?

14:34:33 16 Q. Really anything. I just want to know,
14:34:35 17 you know, what information you were working
14:34:38 18 off of when you decided that Joey had acted
14:34:42 19 criminally.

14:34:42 20 A. The information I was working off of is
14:34:45 21 they have a certain time that they have to
14:34:47 22 have these elect -- these ballots counted by,
14:34:53 23 and that time was being prolonged due to his
14:34:56 24 actions.

14:34:57 25 Q. In terms of your investigation, were you

14:35:02 1 aware of Joey doing anything physical, any
14:35:07 2 physical interactions with these board
14:35:09 3 members that were inappropriate?

14:35:11 4 A. Nothing physical to my knowledge.

14:35:15 5 Q. Was it your understanding that it was
14:35:17 6 all just verbal between Joey and these other
14:35:19 7 committee members?

14:35:20 8 A. That is correct.

14:35:21 9 Q. Did you personally have any input on
14:35:26 10 whether Joey should be charged or not?

14:35:30 11 A. I had no input. I was working with --
14:35:33 12 alongside the AG's Office.

14:35:36 13 Q. In terms of like chain of command, is
14:35:40 14 the AG in your chain of command?

14:35:44 15 A. No, my chain of command is inside the
14:35:48 16 sheriff's office.

14:35:49 17 Q. If you disagreed with the charge, could
14:35:52 18 you decline to file it?

14:35:55 19 A. I do have -- I do have discretion, but
14:36:04 20 with this type of situation, this isn't
14:36:07 21 something that I deal with on a regular
14:36:11 22 basis. I am going to go off of -- go off the
14:36:14 23 assistance of the AG's Office there. This
14:36:17 24 isn't a normal -- a normal thing that we deal
14:36:20 25 with on a day-to-day basis.

14:36:22 1 Q. But if you wanted to, you could have
14:36:25 2 declined to file this charge, even if the AG
14:36:27 3 told you they thought it was appropriate; is
14:36:30 4 that fair?

14:36:30 5 A. That -- that is fair. Every officer in
14:36:32 6 the State has discretion.

14:36:35 7 Q. Is this something that you talked about
14:36:37 8 like with your own sheriff or anybody in your
14:36:40 9 chain of command about the basis for this
14:36:42 10 charge?

14:36:42 11 A. I spoke with my sheriff. That is
14:36:45 12 correct.

14:36:45 13 Q. What did you guys talk about in the
14:36:48 14 context of this case?

14:36:49 15 A. He advised me to continue to work
14:36:52 16 alongside the Attorney General's Office and,
14:36:56 17 if they found fit that charges should be
14:36:59 18 filed, then we would file charges.

14:37:00 19 Q. Did your sheriff direct you to file the
14:37:05 20 charges?

14:37:05 21 A. No. I filed the charges.

14:37:09 22 Q. At the point you heard from the AG that
14:37:14 23 they thought there was sufficient cause to
14:37:15 24 move forward with the charge, did you go back
14:37:18 25 to your sheriff and say, hey, the AG is

14:37:20 1 telling me to do this, what do you think I
14:37:22 2 should do?

14:37:23 3 A. I did ask his opinion, yes.

14:37:24 4 Q. And his opinion at that point was do
14:37:27 5 what the AG says?

14:37:28 6 A. That is correct.

14:37:29 7 Q. In terms of with this statute, I know it
14:37:39 8 says that a person violates the law if they
14:37:41 9 hinder or disregard the object of the law.
14:37:44 10 Is it your understanding that someone could
14:37:46 11 hinder or disregard the object of the law
14:37:49 12 just solely by verbal conduct?

14:37:51 13 A. Yes.

14:37:51 14 Q. In terms of Joey's verbal conduct, did
14:37:58 15 you hear from anybody that he was like
14:38:00 16 yelling or cursing, anything like that?

14:38:02 17 A. I do not recall cursing; yelling, yes,
14:38:06 18 or amplified.

14:38:08 19 Q. And that would just be from the witness
14:38:13 20 statements, if that was correct?

14:38:15 21 A. That is correct.

14:38:16 22 Q. And in terms of your understanding of
14:38:25 23 the statute too, with the hinder or disregard
14:38:28 24 the object of the law, if a person like Joey
14:38:32 25 was talking about like how the election

14:38:35 1 procedure should happen, is it your
14:38:37 2 understanding that could still violate the
14:38:39 3 statute?

14:38:39 4 A. How it should happen?

14:38:42 5 Q. Yeah. I mean, that wasn't a great
14:38:45 6 question. So my understanding from the
14:38:48 7 statements is that Joey is just complaining
14:38:51 8 about how things were being done and he
14:38:52 9 thought things were maybe supposed to be done
14:38:56 10 differently. Is that also your
14:38:57 11 understanding?

14:38:57 12 A. Slightly.

14:39:00 13 Q. But in any event, like this all had to
14:39:02 14 do with how the board was operating and how
14:39:04 15 the auditor was operating; is that fair?

14:39:07 16 A. That's a portion of it.

14:39:08 17 Q. What would you say the other portions
14:39:11 18 are?

14:39:12 19 A. Where the count was not being
14:39:15 20 sufficiently taking place.

14:39:18 21 Q. What do you mean by that?

14:39:21 22 A. The door was closed, where they cannot
14:39:23 23 continue the count. There was multiple
14:39:26 24 verbal, I wouldn't say altercations, but
14:39:29 25 disagreements throughout the count that was

14:39:32 1 drawing out the length of time and causing a
14:39:35 2 hindrance to the count. That is what I will
14:39:38 3 say.

14:39:38 4 Q. And that's what I -- I guess what I'm
14:39:41 5 trying to get to is, in terms of the disputes
14:39:43 6 that were going on this day, it all had to do
14:39:45 7 with the count? It wasn't like Joey was
14:39:48 8 arguing with somebody about, I don't know, a
14:39:52 9 property line dispute or, you know, you said
14:39:54 10 something to me about my sister and I'm mad
14:39:57 11 at you? It was all having to do with the
14:40:00 12 election procedures and the count; right?

14:40:02 13 A. Possibly.

14:40:03 14 Q. Are you aware of there being any
14:40:06 15 disagreements where they were saying Joey was
14:40:10 16 hindering things where he was talking about
14:40:12 17 something unrelated to the election?

14:40:14 18 A. Not to my knowledge.

14:40:17 19 Q. And that's -- okay. So kind of coming
14:40:19 20 back to, the bottom line here is your
14:40:22 21 understanding is somebody could be talking
14:40:24 22 about the election itself and how it should
14:40:27 23 be happening and objecting to things that
14:40:29 24 were going on, and you still think that that
14:40:31 25 could be considered illegal under this

14:40:33 1 statute; is that right?

14:40:34 2 A. Yes.

14:40:35 3 Q. For your training as an officer, have
14:40:43 4 you gotten any training on the First
14:40:45 5 Amendment?

14:40:45 6 A. Some.

14:40:47 7 Q. Tell me about the nature of that
14:40:49 8 training.

14:40:50 9 A. It was at the Law Enforcement Academy
14:40:53 10 when we were taught that type of stuff.

14:40:57 11 Q. And just give me generally what you
14:40:59 12 remember from that training.

14:41:00 13 A. Free speech.

14:41:02 14 Q. That like speech can't be criminalized?

14:41:07 15 A. Can't be criminalized?

14:41:11 16 Q. Yeah.

14:41:12 17 A. Speech is criminalized every day.

14:41:14 18 Q. How so?

14:41:15 19 A. There -- there are things that happen
14:41:18 20 every day from speech that people go to jail
14:41:21 21 for, harassment being one of them.

14:41:24 22 Q. What's your understanding of how the
14:41:27 23 harassment statute and the First Amendment
14:41:31 24 kind of interact?

14:41:33 25 A. Due to speech.

14:41:36 1 Q. Do you think there are any limitations
14:41:40 2 on harassment just based on the First
14:41:43 3 Amendment?

14:41:43 4 A. There -- yeah, there could be. There is
14:41:48 5 limitations in everything.

14:41:49 6 Q. Do you have any thoughts on if there is
14:41:52 7 any limitation to this election statute, the
14:41:56 8 39A.21(g), if there are any concerns that you
14:42:01 9 have about the First Amendment in that
14:42:03 10 statute?

14:42:03 11 A. I would have to read more on the Code,
14:42:07 12 but yes, there is limitations everywhere.
14:42:11 13 Again, I -- I am going to be very transparent
14:42:14 14 here. This is not a Code that I deal with
14:42:17 15 often. Okay? So I -- if you want me to
14:42:21 16 review the Code more so we can get in more
14:42:24 17 detail about the First Amendment and this
14:42:26 18 Code, I would be more than happy to do so.

14:42:28 19 Q. In your training did you learn that,
14:42:31 20 generally speaking, it's not supposed to be
14:42:36 21 criminal for somebody to just express their
14:42:39 22 opinion? Is that fair?

14:42:41 23 A. That is fair.

14:42:42 24 Q. And for harassment, it has to be --

14:42:47 25 A. Cause annoyance.

14:42:50 1 Q. There you go. You know that off the top
14:42:51 2 of your head. Yeah, so there has to be kind
14:42:55 3 of like a bad purpose of the person; is that
14:42:57 4 fair?

14:42:58 5 A. Yes.

14:43:00 6 Q. Are you aware if there is any security
14:43:09 7 footage inside of the courthouse?

14:43:12 8 A. Where -- where the -- where that was
14:43:15 9 taking place or just in the courthouse in
14:43:18 10 general?

14:43:18 11 Q. Let's just talk about the bottom of the
14:43:21 12 courthouse, the basement.

14:43:22 13 A. I'm sure there is cameras down there,
14:43:24 14 absolutely.

14:43:25 15 Q. Who maintains that?

14:43:26 16 A. The IT department.

14:43:28 17 Q. Like the judicial branch, or who? The
14:43:32 18 County?

14:43:33 19 A. The County, yeah.

14:43:35 20 Q. Is that something that you would be able
14:43:37 21 to get access to, if you needed something?

14:43:40 22 A. As far as like the camera footage?

14:43:43 23 Q. Yeah.

14:43:44 24 A. Yeah, yeah.

14:43:45 25 Q. And it sounded like, from talking to the

14:43:50 1 auditor, that there is surveillance camera in
14:43:54 2 that downstairs like hallway area? Are you
14:43:57 3 familiar with that?

14:43:57 4 A. Yeah, the hallway, sure.

14:43:59 5 Q. For this case did you do anything to
14:44:02 6 secure that surveillance footage?

14:44:04 7 A. I did not.

14:44:06 8 Q. Is it possible to go back and get that
14:44:11 9 surveillance footage now?

14:44:12 10 A. No.

14:44:13 11 Q. Do you know what the retention period
14:44:15 12 is?

14:44:15 13 A. I do not, but two years is very
14:44:18 14 unrealistic, but I would be happy to look
14:44:21 15 into that.

14:44:22 16 Q. Because, to my knowledge, none of these
14:44:25 17 statements actually identify the person who
14:44:28 18 shut and locked the door. And tell me if you
14:44:30 19 have some other information, if you do know.

14:44:32 20 A. No, I agree with you. I am not aware of
14:44:35 21 who actually shut and locked the door.

14:44:37 22 Q. And my understanding is that
14:44:39 23 surveillance footage would have depicted
14:44:42 24 that. And so it would be nice to have that,
14:44:44 25 if we could get ahold of that.

14:44:46 1 A. Yeah, I will look into that.

14:44:47 2 Q. Is there a reason you didn't get that
14:44:50 3 back when this originally happened?

14:44:52 4 A. No, there is no reason.

14:44:54 5 Q. Oh, another thing I was going to ask.
14:45:03 6 Did you ever reach out to Joey Norris about
14:45:05 7 this incident?

14:45:07 8 A. Just when I advised him that the charges
14:45:10 9 were filed.

14:45:11 10 Q. You never attempted to interview Joey or
14:45:15 11 give him a witness statement?

14:45:17 12 A. Nope.

14:45:18 13 Q. Is there a reason you did not attempt to
14:45:20 14 get Joey's side of the story?

14:45:22 15 A. Because the AG's Office requested the
14:45:25 16 witness statements and did not request one
14:45:28 17 from Joey at that time.

14:45:31 18 Q. When you are doing a typical
14:45:33 19 investigation that you're in charge of, do
14:45:35 20 you normally like to get both sides of the
14:45:37 21 story?

14:45:37 22 A. Yes.

14:45:38 23 Q. Did they specifically direct you not to
14:45:40 24 get Joey Norris's side of the story?

14:45:42 25 A. No, no.

14:45:55 1 MS. MESSAMER: I think that's
14:45:56 2 probably it. I'm just going to maybe put
14:45:57 3 Joey and I in a side room here and just chat
14:46:00 4 with him briefly, and then we might be done
14:46:03 5 here. Although, the AG might have some
14:46:05 6 questions for you. So one second.

14:46:05 7 (A recess was taken.)

14:49:13 8 BY MS. MESSAMER:

14:49:13 9 Q. All right. So just a couple more
14:49:18 10 questions to follow up. In terms of the
14:49:21 11 internal decision-making by the sheriff, did
14:49:23 12 the sheriff want to file this charge, or did
14:49:26 13 the sheriff think that this was kind of
14:49:31 14 frivolous?

14:49:32 15 A. We were just going what was -- what was
14:49:34 16 recommended by the AG's Office.

14:49:36 17 Q. Okay. Since this has been filed, have
14:49:39 18 you talked to any of the witnesses?

14:49:41 19 A. No.

14:49:41 20 Q. Has anybody reached out to you to follow
14:49:46 21 up on the sufficiency of the charge?

14:49:48 22 A. Nope. I have not had anybody reach out
14:49:52 23 to me and reference this case except the AG's
14:49:56 24 Office.

14:49:56 25 MS. MESSAMER: All right. That's

14:49:57 1 all I have. And Mr. Duden might have some
14:49:59 2 questions for you.

14:50:01 3 MR. DUDEN: I don't have anything
14:50:03 4 further.

14:50:07 5 THE COURT REPORTER: Would you both
14:50:10 6 like transcripts?

14:50:12 7 MS. MESSAMER: I would.

14:50:13 8 MR. DUDEN: Sure.

9 (Deposition concluded at 2:50 p.m.)
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, Gale Sweeney Christensen, a
Certified Shorthand Reporter of the State of
Iowa and Registered Professional Reporter, do
hereby certify that there came before me at
the time, date, and place hereinbefore
indicated, the witness named on the caption
sheet hereof, who was by me duly sworn to
testify to the truth of said witness's
knowledge, touching and concerning the
matters in controversy in this cause; that
the witness was thereupon examined under
oath, the examination taken down by me in
shorthand, and later reduced to printed form
under my supervision and direction, and that
the deposition is a true record of the
testimony given and of all objections
interposed.

I further certify that I am neither
attorney or counsel for, or related to or
employed by any of the parties to the action
in which this deposition is taken, and
further that I am not a relative or employee
of any attorney or counsel employed by the
parties hereto or financially interested in
the action.

Dated at Des Moines, Iowa, this 18th
day of September, 2026.



CERTIFIED SHORTHAND REPORTER,
REGISTERED PROFESSIONAL
REPORTER, AND NOTARY PUBLIC

IN THE IOWA DISTRICT COURT FOR MONTGOMERY COUNTY

STATE OF IOWA,	)	CASE NO. FECR012514
	)	
Plaintiff,	)	
vs.	)	DEPOSITION OF
	)	
JOSEPH NORRIS,	)	JEANICE LESTER
	)	
Defendant.	)	
_____	)	

THE DEPOSITION OF JEANICE LESTER, taken
before Roxann Zuniga, Certified Shorthand
Reporter, Registered Professional Reporter, and
Notary Public for the State of Iowa, commencing at
10:28 a.m., August 31, 2026, at the Montgomery
County Courthouse, Red Oak, Iowa.

A P P E A R A N C E S

Plaintiff by: JOSHUA DUDEN
Assistant Attorney General
1305 East Walnut Street
Des Moines, Iowa 500319
josuha.duden@ag.iowa.gov

Defendant by: GINA MESSAMER
Attorney at Law
2910 Grand Avenue
Des Moines, Iowa 50312
gmessamer@parrishlaw.com

*
Also present: Joseph Norris

Reported by: Roxann Zuniga, CSR, RPR

INDEX OF EXAMINATION

<u>Examination by</u>	<u>Page</u>
Ms. Messamer	3

INDEX OF EXHIBITS

<u>Exhibit</u>	<u>Referred to on page</u>
1	27
5	15
7	14
8	22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JEANICE LESTER,

called as a witness, having been first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MS. MESSAMER:

Q. Hello there, Mrs. Lester. Can you start by
stating and spelling your name for the court
reporter.

A. Sure. J-e-a-n-i-c-e, L-e-s-t-e-r.

Q. And have you ever had your deposition taken
before?

A. No.

Q. Okay. So the basic rules are we have a
court reporter here who's taking everything down,
so we have to be sure not to talk at the same
time because she can't write down two people
talking. So you have to be sure to let me finish
before you answer and --

A. Okay.

Q. -- even if you know what I'm going to ask.

A. Okay.

Q. And I have to let you answer before I start
back in.

A. Okay.

Q. Another main rule is she can't do uh-huhs or

1 huh-uhs. She can't do head nods. So you have to
2 be sure everything is verbal --

3 A. Okay.

4 Q. -- when you have your answer. So let's
5 start off with I understand you've been on the
6 absentee board for a long time.

7 A. Yes.

8 Q. How long?

9 A. I would say over 10 years. I probably
10 started when Joni Ernst was here. So I did not
11 look up to see exactly, but it's been a long
12 time.

13 Q. Okay. How many elections would you estimate
14 you've done?

15 A. If -- I'll just say if I've done 12 years,
16 there's elections, what, every other year. Every
17 election I'm there.

18 Q. Okay. And the other people who were on the
19 board with you, have they been on it for quite a
20 while too?

21 A. Julie and Clint, yes. Will, since he
22 retired, yes.

23 Q. How long has that been roughly?

24 A. Ten years.

25 Q. Have Julie and Clint been on it since the

1 beginning with you?

2 A. Right.

3 Q. In terms of this 2024 election, Angela Brown
4 and Joey, Joe Norris, were they new, or were they
5 replacing someone.

6 A. They were replacing someone.

7 Q. Who did they replace?

8 A. Jack and -- I can tell you the names later.

9 Q. That's okay.

10 A. Okay.

11 Q. Are you friends with anybody that's on the
12 board with you?

13 A. Yes.

14 Q. Who would that be?

15 A. Mostly Julie and Clint Rubey.

16 Q. In terms of the training that you got to be
17 on the board, like when you originally started,
18 who would have given you the training?

19 A. Back then it would have been Joni Ernst.

20 Then we went through Stephanie Berk. I think Ted
21 Schoonover is in that mix too. And then Jill.

22 Q. Is there any kind of regular periodic
23 training that you do, or is it more just when the
24 election happens?

25 A. When the election happens.

1 Q. Is there like a formal -- I don't know --
2 like PowerPoint or some video presentation?

3 A. No.

4 Q. In terms of the 2024 general election, any
5 training that you got specifically that year?

6 A. It would have been with the handouts --

7 Q. What handouts --

8 A. -- that I got.

9 Q. Okay. And what handouts do you get?

10 A. The ones that explain the whole process.
11 And I don't have one with me. I never kept
12 anything.

13 Q. Is it more than one handout, or is there
14 just one thing?

15 A. It would be several pages.

16 Q. Okay. And how is that provided to you?

17 A. I don't recall.

18 Q. Anything you're aware that would have
19 changed in, say, the 2022 election to the 2024
20 elections?

21 A. I don't think so.

22 Q. Since you have started here, has the process
23 been pretty much the same the entire time?

24 A. Yes.

25 Q. And I understand that you ran the computer

1 along with Jill; is that right?

2 A. Yes.

3 Q. And that was kind of your main
4 responsibility?

5 A. Yes.

6 Q. Have you done that before the 2024 election?

7 A. Yes.

8 Q. Is that usually your role?

9 A. Yes.

10 Q. And as I understand it, the other people in
11 the room, they're responsible for opening the
12 ballots, separating them from the envelopes,
13 putting them in piles of 25.

14 A. Yes.

15 Q. And then they sit and wait while the
16 scanners scan all those in; is that right?

17 A. Yes.

18 Q. For the 2024 election, do you remember how
19 many boxes you would have had of ballots?

20 A. Four, possibly five. But I believe the most
21 accurate would be four.

22 Q. And I know it's been a couple years. Did
23 you do anything to prepare to come and talk to me
24 today to refresh your memory?

25 A. Just read e-mails.

1 Q. Okay.

2 A. So I mean, no, not really. I mean I just
3 had to think back because two years is a long
4 time.

5 Q. Have you read your statement since the time
6 it happened?

7 A. Yes.

8 Q. When is the last time you read that?

9 A. Two days ago.

10 Q. Anyone you talked to to prepare to come in
11 and testify today?

12 A. No.

13 Q. Have you had any conversations about this
14 incident with any of the other board members who
15 were there?

16 A. Well, Will, you know. That's kind of hard
17 not to, just -- but not any detail. Just, you
18 know --

19 Q. Have you talked to the Rubeyes about it, say,
20 in the last couple of months?

21 A. Yes. Just that it was coming up.

22 Q. Any discussion of your memories of what
23 happened back then?

24 A. Please clarify.

25 Q. Yeah. In terms of talking to people more

1 recently, have you talked to them about what had
2 actually happened back in 2024?

3 A. No.

4 Q. Okay. So as I understand it, you were all
5 supposed to start at nine o'clock that morning;
6 is that right?

7 A. Correct.

8 Q. Okay. Do you remember if you had to wait
9 for anybody to get started?

10 A. I don't believe so.

11 Q. And I know that there was an issue pretty
12 early on in the morning about Joey making a
13 suggestion about how the ballots were being
14 opened. Do you --

15 A. Yes.

16 Q. -- rail that?

17 A. I do.

18 Q. What do you recall about that?

19 A. I believe Joey suggested because he had
20 noticed that -- he suggested that -- again, you
21 know, because that wasn't my main point. But I
22 believe that he suggested that you open them,
23 separate them, and then go on.

24 Q. How had it been handled?

25 A. To my knowledge it had, but that is not my

1 focus so --

2 Q. Did people seem to agree with that
3 suggestion by Joey?

4 A. I believe so.

5 Q. In terms of the observers that are in the
6 room, I know it was Dan and Jan that year; right?

7 A. Correct.

8 Q. Had they ever been observers before?

9 A. I don't believe Dan had. I don't -- I
10 honestly don't believe so, but 10 years is a long
11 time to know who's there and who isn't.

12 Q. For Dan and Julie, do you remember there
13 being any issues with how they behaved that day?

14 A. One of the rules is that even the observers
15 are supposed to be quiet and not -- I believe
16 there were a couple times that Jan spoke some,
17 but we just went on.

18 Q. Like totally silent?

19 A. Uh-huh. You're not supposed to interact
20 with -- at least interact with the committee.

21 Q. Not even just chitchat about nonelection
22 topics?

23 A. Once it starts, there's not supposed to be
24 any conversation.

25 Q. Do you remember Dan having any conversation

1 with --

2 A. I don't.

3 Q. -- anybody? Just be sure to wait until --

4 A. Sorry. Sorry.

5 Q. You're going to have to be quicker. Do you
6 recall that you had an issue with a ballot that
7 was torn?

8 A. We -- what do I want to say? We usually --
9 it wouldn't be the first time that there would be
10 one. I don't recall if that was particularly
11 that time, but there are issues that come through
12 with ballots. You know that.

13 Q. And I understand back in 2024 that Jill, the
14 auditor, was in the room with you for probably
15 the majority of the day; is that right?

16 A. More than normal.

17 Q. Is she usually in the room the whole time?

18 A. She's always available, but not as much as
19 then.

20 Q. All right. So it's usually not a big deal
21 if she's not present with you. Just you need
22 to --

23 A. Correct.

24 Q. -- be able to have contact with her if you
25 need it?

1 A. Correct.

2 Q. And in terms of running the ballots through
3 the optical scanner, she's not the one doing
4 that. It's actually you and Julie who are doing
5 it?

6 A. Correct.

7 Q. She's more just observing and helping out if
8 something becomes an issue?

9 A. Correct.

10 Q. For the 2024 general election, do you
11 remember her stepping out to contact anybody?

12 A. No.

13 Q. Okay. If she was out of the room, would you
14 just continue on with your job like normal?

15 A. Correct.

16 Q. And so her leaving didn't necessarily slow
17 you down in any way?

18 A. No.

19 Q. Is that correct?

20 A. Yes.

21 Q. All right. Sometimes I ask a negative
22 question, and it kind of gets confusing with the
23 negative answer. All right. Then I understand
24 that there was an issue with a ballot that didn't
25 scan correctly and then how it was like processed

1 in the computer got messed up. Do you recall
2 that?

3 A. There are -- there are times when -- like
4 when you run batches of 25, it will tell you
5 there are batches of 25. But if there's one that
6 doesn't run right, then if it only reads 24, then
7 you have to go back and try it again to make sure
8 that you get your 25. It's always very accurate
9 from what we put in.

10 Q. Okay. So if it reads 24, you don't even
11 know when one is rejected necessarily?

12 A. Not necessarily, but you can usually tell by
13 a crinkle or a tear, whatever. But usually you
14 can figure it out. But normally we'd leave that
15 little batch and start over with the same 25.

16 Q. And that's kind of the whole point of why
17 you're doing them in small batches is so if you
18 have a problem, you don't have to start all the
19 way over?

20 A. Yes. For sure.

21 Q. All right. But I understand that there was
22 an issue with a batch that got accepted even
23 though it wasn't right; is that correct?

24 A. Oh, I don't recall.

25 Q. Okay. So talking to Jill and then looking

1 at her report, she said there was a ballot --
2 okay. I got it. Maybe I'll just show you, show
3 you one of these reports.

4 (Deposition Exhibit No. 7 was marked for
5 identification by the court reporter.)

6 MR. DUDEN: Your goal is to cross-examine
7 her using Joey's report? Just wanted to check.
8 Are we marking this as Exhibit 7?

9 MS. MESSAMER: This is Exhibit --

10 MR. NORRIS: It's 7.

11 MS. MESSAMER: -- 7.

12 BY MS. MESSAMER:

13 Q. Okay. That report I've marked, can you just
14 read that and see if it refreshes your memory at
15 all?

16 MR. DUDEN: Where are we? Like right here?

17 MS. MESSAMER: On Page 2.

18 MR. DUDEN: Two?

19 BY MS. MESSAMER:

20 Q. Does that ring a bell?

21 A. It does. I'm not as detailed as her, but I
22 do remember the contact with Atkins to find out
23 the proper way. I mean we did not go on until
24 that one issue was solved.

25 Q. Okay. And as Jill remembered it, it was

1 maybe after lunch that you dealt with that
2 problem.

3 A. I don't know.

4 Q. All right. Okay. And I'll direct you to --
5 okay. This is Exhibit No. 5. I'll give you a
6 chance to look at this. But it's an e-mail from
7 Jill to the board members. And so she had
8 e-mailed you all that Joey has a meeting from 12
9 to one, and that may be a great time to break for
10 lunch. The plan is to continue after lunch.
11 When you were there that morning, what was your
12 understanding of what was going to happen over
13 the lunch hour?

14 A. If I remember correctly, Joey stated that he
15 had a meeting that he had to go to. So he was
16 pretty adamant about it would happen at this
17 time. Before we've always been kind of flexible.
18 It could be 11:45. It could be one, wherever in
19 the process you were. So he was pretty demanding
20 that we do it exactly then.

21 Q. In prior years when you have lunch breaks,
22 do people bring their lunch and they're supposed
23 to eat there, or do people leave for lunch? Is
24 there any standard?

25 A. Usually we leave for lunch.

1 Q. And when you leave for lunch, do you leave
2 part of the team back to keep working on ballots
3 while like half the team goes to lunch and you
4 take shifts?

5 A. No. We lock the door and we all leave.

6 Q. Okay. And then so on the November 5,
7 2024 -- maybe I should do this. What's your
8 understanding of the party balance? Do you need
9 to have all the board members present to do your
10 work, or can some people be gone? What's your
11 understanding of that?

12 A. Clarify. Like for the actual counting?

13 Q. Yes. For when you're doing your counting,
14 can it be only some board members that are there
15 and other board members can be absent?

16 A. I don't know that answer because we've
17 always been --

18 Q. Do you know anything about party balance and
19 what needs to happen with party balance?

20 A. Some, yes. I mean I know you have to have
21 some Democrats and Republicans.

22 Q. Anything more specific that you've been
23 trained on in terms of the party balance you need
24 have in the room?

25 A. As far as numbers, no.

1 Q. Okay. And I understand then that Joey
2 planned to leave at noon. How do you remember
3 kind of what happened leading up to the lunch
4 break?

5 A. It was very tense.

6 Q. Was everyone planning to leave for lunch at
7 a certain time?

8 A. No.

9 Q. Did you have to cut off in the middle of
10 anything?

11 A. That being said, we always -- I'm going to
12 say I don't recall how that actually went but we
13 always used to be -- when you're done with a box
14 or whatever, give or take a few minutes, then
15 that was when we would go to lunch.

16 Q. Do you remember anything else about the
17 lunch break that day and how people made
18 decisions on leaving for lunch?

19 A. I think we were kind of forced to.

20 Q. Well, you were planning to take a lunch,
21 though, anyway.

22 A. Right. But it was pretty adamant that Joey
23 had control over that one, when we were going.

24 And it was always my understanding that if you're
25 going to do absentee ballots or whatever, you

1 cleared your whole day.

2 Q. So you just didn't really appreciate that he
3 had another conflict that day. Is that fair? Or
4 like another thing he needed to do over the lunch
5 hour.

6 A. That's fair.

7 Q. Okay. So I understand everybody broke for
8 lunch. Do you recall what time you got back
9 together?

10 A. I do not.

11 Q. Do you remember who was the last one to get
12 there?

13 A. No, I do not.

14 Q. Did you set a certain time when everybody
15 was supposed to reconvene?

16 A. Yes.

17 Q. So -- and so as far as you remember,
18 everybody did come back at the agreed time to
19 start again?

20 A. Yes.

21 Q. And in terms of leaving the room and locking
22 it, that's what you've done in prior years too?

23 A. Correct.

24 Q. All right. And do you have then any memory
25 of in the afternoon having to start back over to

1 rescan everything from the beginning?

2 A. I don't remember the exact time, but I
3 remember that we -- one box in particular we had
4 to redo.

5 Q. In terms of Joey's behavior that day, did he
6 ever yell at Jill?

7 A. I don't believe so.

8 Q. Was there ever a time when you had to stop
9 scanning ballots because of something Joey did?

10 A. I don't recall. That being said, I will say
11 the constant questioning made it difficult to
12 focus.

13 Q. And as I understand it, at the -- it was
14 maybe around 3:20 or so when Joey was asked to
15 leave. While that was going on, did you still
16 continue scanning ballots during that period too?

17 A. I believe so.

18 Q. In your prior years when you've been on this
19 committee, I understand throughout the day there
20 might be ballots that have something wrong with
21 them and they're set aside. And some of those
22 problems can be kind of fixed by the voters so
23 that their vote can still end up counting;
24 correct?

25 A. Correct.

1 Q. In prior years have you ever notified people
2 before the end of the day?

3 A. Yes.

4 Q. In prior years like what was your practice
5 for handling those?

6 A. We would just -- for example, if there were
7 four, when we got later in the day, we would --
8 if the committee actually determines whether
9 they're viable to be accepted or not accepted,
10 it's a vote. But we will contact those people
11 and most people will come in if it's appropriate
12 for them to do so.

13 Q. And is it your committee that contacts --
14 has contacted people in the past?

15 A. We set them aside and then I believe that --
16 I don't recall totally, but I believe that Jill's
17 office then contacted the people.

18 Q. And for like prior auditors that you have
19 worked with before Jill, would they contact
20 people earlier in the day?

21 A. I'm going to say I would assume so, but I
22 don't recall.

23 Q. For this 2024 election, do you recall if all
24 the people who could have come in and fixed their
25 ballots did fix them?

1 A. I'm going to say yes, but that hasn't always
2 been the case.

3 Q. So in 2024 you don't think there were any
4 ballots that you ultimately were not able to
5 count?

6 A. I don't believe so. Can I add --

7 Q. Sure.

8 A. Can I say something? If there was one that
9 was rejected, there is a letter that goes out to
10 those people with an explanation of why.

11 Q. But they couldn't then fix their ballot. It
12 had to be fixed day of the count?

13 A. Correct.

14 Q. Okay. For the ones in the November 2024
15 election that were put into the rejected bin, are
16 the observers allowed to go up and see the names
17 so they can contact these people right away?

18 A. Good question. I'm going to say I don't
19 recall totally, but I would say yes, that it's --
20 because a lot of people know a lot of people type
21 thing that can reach out and say -- as long as
22 they don't touch them.

23 Q. Are they able to see the names --

24 A. Uh-huh.

25 Q. -- when they're put in the bin?

1 A. I believe so.

2 Q. In terms of Joey's contact -- conduct, was
3 he ever like physically aggressive with anybody
4 in the room?

5 A. No.

6 Q. Did he use expletives or call anybody names,
7 something like that?

8 A. I don't believe so.

9 Q. So in terms of his conduct, it was all
10 verbal?

11 A. Correct.

12 Q. And it wasn't shouting or raised voices?

13 A. No.

14 Q. Is that correct?

15 A. Yes.

16 (Deposition Exhibit No. 8 was marked for
17 identification by the court reporter.)

18 BY MS. MESSAMER:

19 Q. I'm handing you what's been marked as
20 Exhibit 8. Do you recognize these text messages?

21 A. Yes.

22 Q. And you would have provided these to, I
23 think, an attorney who sent them in an open
24 records request.

25 A. Yes.

1 Q. Charla -- is it Sharla(ph) or Charla?

2 A. Charla.

3 Q. Charla Schmid, who is she in relation to
4 this matter?

5 A. She would be a supervisor, a board
6 supervisor for the county. But she is not
7 involved with the actual votes and such.

8 Q. And she was on the board back in
9 November 2024?

10 A. I believe so.

11 Q. Was the board of supervisors involved in
12 anything with regard to this issue?

13 A. Not that day, no.

14 Q. Since then?

15 A. I don't know that answer.

16 Q. On Page 9 there are messages between you and
17 Tim Fridolph.

18 A. Fridolph.

19 Q. Fridolph? Who is he?

20 A. He is a -- he's actually the mayor. I don't
21 believe he would have been the mayor then, and he
22 is on some committees with me.

23 Q. Does he have any involvement with the
24 November 2024 issue?

25 A. No.

1 Q. And Shawwna, who is that?

2 A. She is the former mayor.

3 Q. Is this just kind of essentially just people
4 chitchatting about this issue?

5 A. Correct.

6 Q. Page 10, I think this is -- is it still Tim
7 Fridolph?

8 A. Fridolph, yes.

9 Q. And in terms of who extended an olive branch
10 to Joey, is that anything -- I don't know. What
11 was your understanding of why he would do that?

12 A. It was not from the absentee. It was from
13 another issue.

14 Q. What was the other issue?

15 A. Well, guessing, I would say it would have to
16 do with MCDC which is Montgomery County
17 Development Corporation. That would be my guess.

18 Q. When were these messages on Page 10
19 exchanged?

20 A. It would have been after he was arrested. I
21 can't tell you what day for sure.

22 Q. And this MCDC, what is this?

23 A. Montgomery County Development Corporation.

24 Q. And what's that have to do with Joey?

25 A. He actually applied for the position of

1 heading that, and that's where I think that --
2 that's my guess. That's where that conversation
3 came from.

4 Q. And so his screenshot references involvement
5 with H & S. Do you know what H & S is?

6 A. I do not.

7 Q. Did you know Joey prior to when he was on
8 the absentee board in 2024?

9 A. Yes.

10 Q. What was your interaction with him?

11 A. I was not actually a member of the
12 committee, but I actually went to some of his
13 meetings that have -- that he was on.

14 Q. Like what? MCDC or something different?

15 A. He used to visit that, and then we actually
16 didn't have to be -- it was not a city-nominated
17 committee. It doesn't have to require the open
18 meetings law. So then we -- he wasn't there
19 anymore. And then also with some committees
20 around town that he's involved with.

21 Q. Prior to November 2024, were you on good
22 terms with Joey?

23 A. Yes.

24 Q. Have you personally had any contact with the
25 attorney general's office about this case?

1 A. No. Just my e-mail that came through.

2 Q. Were you involved -- three days, I believe,
3 before Joey was charged, Kash Patel visited Iowa
4 and the AG's office. Were you involved in that
5 meeting?

6 A. I don't believe so.

7 Q. It was June 29 of this year.

8 A. Run that by me again. So who was -- who was
9 it again?

10 Q. Kash Patel met with the attorney general's
11 office, like Brenna Bird's office, and several
12 people there. Were you --

13 A. No.

14 Q. -- involved in it?

15 A. No, no.

16 Q. In terms of your responsibility on the
17 absentee board, your job there is ultimately to
18 make sure everyone's ballot gets counted
19 correctly; right?

20 A. Correct.

21 Q. And in doing so, you have to follow the Iowa
22 rules that apply to the counting process; right?

23 A. Yes.

24 Q. And that's the same for Jill Ozuna; right?

25 A. Yes.

1 Q. And if she's not doing something right, you
2 have to speak up; is that correct?

3 A. Yes.

4 Q. It would be incorrect to just go along with
5 her the wrong way of doing things even if Jill
6 told you to do it; right?

7 A. Yes.

8 Q. And how do you know if Jill is doing things
9 the right way or another board member is doing
10 things the right way?

11 A. Unless it's obviously, I don't know that you
12 would.

13 Q. Did you personally bring your absentee guide
14 with you to the counting day in November of 2024?

15 A. I did not, but there was one beside me on
16 the table.

17 Q. Okay. The same kind of -- like this?

18 A. Yes.

19 Q. Exhibit 1, this --

20 A. Yes.

21 Q. -- little PDF?

22 A. Yes.

23 Q. Okay. So you had that for a reference? Do
24 you recall referencing it for anything throughout
25 the day?

1 A. As a rule, no. But if I had a question on
2 something, I would actually send a message to
3 Jill or the office.

4 MS. MESSAMER: I think that's all I have for
5 you. Thank you?

6 THE WITNESS: Thank you very much.

7 MR. DUDEN: I don't have anything.

8 (Off-the-record discussion took place.)

9 BY MS. MESSAMER:

10 Q. Angela Brown that was on the commission with
11 you, what party was she?

12 A. Oh, I don't know if I can answer that for
13 sure. I counted on the office having some sort
14 of balance.

15 Q. Do you know the party affiliations of the
16 other people?

17 A. Not 100 percent.

18 Q. So you weren't necessarily like introduced
19 at the beginning by your party affiliation?

20 A. No.

21 MS. MESSAMER: All right. That's all I
22 have. Thank you.

23 (Deposition concluded at 10:59 a.m.)

24

25

C E R T I F I C A T E

I, Roxann Zuniga, a Certified Shorthand Reporter of the State of Iowa and Registered Professional Reporter, do hereby certify that there came before me at the time, date, and place hereinbefore indicated, the witness named on the caption sheet hereof, who was by me duly sworn to testify to the truth of said witness's knowledge, touching and concerning the matters in controversy in this cause; that the witness was thereupon examined under oath, the examination taken down by me in shorthand, and later reduced to printed form under my supervision and direction, and that the deposition is a true record of the testimony given and of all objections interposed.

I further certify that I am neither attorney or counsel for, or related to or employed by any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

Dated at Des Moines, Iowa, this 21st day of September, 2026.



CERTIFIED SHORTHAND REPORTER,
REGISTERED PROFESSIONAL
REPORTER, AND NOTARY PUBLIC

IN THE IOWA DISTRICT COURT FOR MONTGOMERY COUNTY

STATE OF IOWA,	)	CASE NO. FECR012514
	)	
Plaintiff,	)	
vs.	)	DEPOSITION OF
	)	
JOSEPH NORRIS,	)	WILLIAM LESTER
	)	
Defendant.	)	
_____	)	

THE DEPOSITION OF WILLIAM LESTER, taken
before Roxann Zuniga, Certified Shorthand
Reporter, Registered Professional Reporter, and
Notary Public for the State of Iowa, commencing
at 11:04 a.m., August 31, 2026, at the Montgomery
County Courthouse, Red Oak, Iowa.

A P P E A R A N C E S

Plaintiff by: JOSHUA DUDEN
Assistant Attorney General
1305 East Walnut Street
Des Moines, Iowa 500319
josuha.duden@ag.iowa.gov

Defendant by: GINA MESSAMER
Attorney at Law
2910 Grand Avenue
Des Moines, Iowa 50312
gmessamer@parrishlaw.com

Also present: Joseph Norris

Reported by: Roxann Zuniga, CSR, RPR

INDEX OF EXAMINATION

<u>Examination by</u>	<u>Page</u>
Ms. Messamer	3, 19
Mr. Duden	16

INDEX OF EXHIBITS

<u>Exhibit</u>	<u>Referred to on page</u>
1	11, 17, 20
4	8
5	17

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 WILLIAM LESTER,

2 called as a witness, having been first duly
3 sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. MESSAMER:

6 Q. Mr. Lester, have you ever had your
7 deposition taken before?

8 A. No.

9 Q. All right. So kind of the basics of how it
10 works, our court reporter is typing everything
11 down.

12 A. Uh-huh.

13 Q. So the main thing is you have to be sure
14 that I finish my question before you start
15 answering.

16 A. Sure.

17 Q. Even if you know where I'm going with
18 something, you have to be patient until I'm all
19 the way done. And the other main thing is you
20 have to be sure to answer verbally because she
21 can't type down uh-huh, huh-uh, head nods --

22 A. Okay.

23 Q. -- shakes of the head, things like that that
24 are more mumbling, that type of thing. Okay?

25 So, first off, what did you review in order to

1 prepare to come in here today?

2 A. My statement and then the notice to appear
3 today.

4 Q. In terms of your statement, who asked you to
5 prepare this?

6 A. I don't know. I think it was Jill.

7 Q. Have you spoken with anybody from law
8 enforcement about this matter?

9 A. No.

10 Q. How long have you been on the absentee
11 board?

12 A. We discussed that. I think I retired going
13 on 11 years, so I think about ten years.

14 Q. And you --

15 A. Not positive about that, but I think so.

16 Q. And so then you have served under different
17 auditors?

18 A. No. I think it's always been Jill, I
19 believe.

20 Q. In terms of how you learned what your job is
21 with the absentee board, what was that like?

22 A. The other folks that served at that time had
23 done it, you know, before I appeared with them,
24 and it was just a learning experience. It went
25 pretty smooth. It was pretty simple, I thought,

1 but learned from the other members.

2 Q. Were you ever given any specific training
3 from the auditor that you had to come in for?

4 A. Well, she come in the day of and would
5 instruct us on procedures and where to start and
6 what's next and things like that.

7 Q. Are you aware if there were any changes
8 between the 2022 election and the 2024 election
9 in terms of your role with the board?

10 A. I don't believe so.

11 Q. Did you get any training materials from
12 anyone?

13 A. No.

14 Q. In terms of the rules of how things were
15 done with the board, did you get any materials
16 about that?

17 A. Not really. It was more instructed as we
18 went.

19 Q. And did you -- I guess, as I understand your
20 answer, you got instruction from the other board
21 members who had --

22 A. Other board members and office of the
23 auditor.

24 Q. And what did you understand your role with
25 the board to be? Basically just to make sure all

1 the votes got counted correctly?

2 A. Uh-huh.

3 Q. And you have to be sure to say that out
4 loud.

5 A. For the most part, yeah, it was a simple
6 procedure. Counts, make sure they were signed,
7 things of that nature.

8 Q. Do you recall any issue at the beginning of
9 the day where there was a suggestion made that
10 maybe the way you were opening the ballots and
11 separating them needed to be changed?

12 A. I think Joey suggested a different way of
13 doing it. I don't really recall the details for
14 sure. We'd never had problems before and the
15 auditors were always -- always on time, always
16 accurate, never had any mistakes, and that was
17 always their goal, of course.

18 Q. In terms of privacy, does the auditor
19 committee have any kind of guidelines in terms of
20 privacy?

21 A. Privacy for what?

22 Q. For the voters.

23 A. For the voters? You mean the ballots we
24 were opening?

25 Q. Yes.

1 A. Well, there was instruction on not to read
2 them, just to open them, make sure they were
3 signed, and move on as I remember. I mean --

4 Q. Do you recall -- you mentioned that Joey
5 made a suggestion about how they were being
6 opened. Do you remember why that was?

7 A. Not really.

8 Q. Did people go along with that suggestion?

9 A. I think there was one thing that -- that
10 might have been the one thing that we did change.

11 Q. Based on Joey's suggestion?

12 A. Probably.

13 Q. In terms of how the board is organized, I
14 understand that Julie and Jeanice are the ones
15 that ran the computer.

16 A. Uh-huh.

17 Q. You have to say yes.

18 A. Yes. Sorry.

19 Q. And everyone else's responsibility was
20 opening and counting and stacking the ballots; is
21 that right?

22 A. That sounds accurate. Yep.

23 Q. And so you would open a stack and then have
24 some downtime while they ran everything through
25 the computer; is that right?

1 A. Uh-huh.

2 Q. Have to say yes.

3 A. Yes. Bad habit, I guess.

4 Q. It's very common. It's very common. Is
5 there a designated leader of your commission?

6 A. Julie and Jeanice had the most knowledge, I
7 would say. And they were very comfortable with
8 the procedure and how -- what to do next.

9 Q. Are they -- do they have any like official
10 titles with the board?

11 A. I couldn't tell you that.

12 Q. In that stack there, can you find -- I can
13 find it for you. All right. This is Exhibit 4
14 that we've looked at before with some witnesses,
15 and this is kind of like how the room was laid
16 out.

17 And so my understanding is that this would
18 be Angela, that would be Joey, the CR is Clint,
19 and the WL would be you.

20 A. Okay.

21 Q. And is that kind of how you remember the
22 room being situated?

23 A. Probably. I don't -- I guess I didn't pay a
24 lot of attention. Joey was over on the other
25 side. That's probably pretty accurate.

1 Q. Do you know Dan Bullington well?

2 A. I know who he is. I'm not a personal friend
3 of him but have gotten to know him because of his
4 business.

5 Q. Did you know him back in 2024?

6 A. Yes. I knew who he was.

7 Q. Do you remember having any chitchat with him
8 that day?

9 A. Not much.

10 Q. Did you have any direct conversation with
11 Joey that day?

12 A. Not much.

13 Q. Do you remember anything at all?

14 A. He wanted me to back him on something at one
15 point.

16 Q. Do you remember what it was?

17 A. It was regarding something Jill had said or
18 something. He goes don't you back me on this.

19 No.

20 Q. But you don't remember what the actual issue
21 was?

22 A. Not really.

23 Q. In terms of when you've done this in the
24 past before 2024 -- I was talking to your wife
25 about this -- my understanding is over the lunch

1 hour, you all would take lunch just at a good
2 stopping point, and everybody would leave for
3 lunch, and they would lock the door so all the
4 ballots were safe in here during lunch. Is that
5 your recollection of how it's been in years past?

6 A. Yeah. I think so. I think we usually went
7 to a restaurant for lunch.

8 Q. As a group?

9 A. I don't know if the whole group went
10 together. That might have been afterwards too.
11 I can hardly remember some of that.

12 Q. Sure. Do you have any knowledge of what the
13 party balance is supposed to be of the members on
14 the absentee board?

15 A. As far as Republican, Democrat --

16 Q. Yes.

17 A. -- or independent?

18 Q. Yes.

19 A. I don't what it's supposed to be. I know, I
20 think, the one gal was independent, which I
21 didn't know. I thought she was democratic when
22 she first, you know, sat down and stuff. But she
23 was independent, I guess, and --

24 Q. How did you learn that?

25 A. I think it was spoken.

1 Q. That day?

2 A. Yeah. And then the Democrat was Julie, and
3 she might have been the only one. I don't know.
4 I can't remember who the other one used to be. I
5 think years ago, Clint might have been years ago.
6 But he had switched, I think, a few years ago to
7 Republican the last I knew. It's not something
8 we chitchat about.

9 Q. I'm going to show you what we've marked as
10 Exhibit 1.

11 A. Okay.

12 Q. Have you ever seen something like this
13 before?

14 A. I don't think so.

15 Q. Okay. And you can flip through it and see
16 if it -- that jogs your memory at all, if it's
17 something you've seen. And if not, that's just
18 fine. Ring a bell?

19 A. No. I've never received papers like this.

20 Q. In terms of how the day went back in
21 November 2024, I understand there was an issue
22 where a ballot was maybe accepted by the computer
23 that was supposed to be rejected, and they had to
24 redo a bunch of scanning. Do you remember that?

25 A. I remember there was -- they spent some time

1 with one ballot in particular. And I don't
2 remember the details. That was more Jeanice and
3 Julie's duties. I mean they knew what to do.

4 Q. Do you remember having a lot of downtime in
5 the afternoon because they had to rescan a lot of
6 ballots?

7 A. The one in particular, I think, was -- took
8 some time.

9 Q. In terms of your role as a counter, do you
10 generally have a lot of downtime throughout the
11 day while there's scanning going on?

12 A. Some, some. I don't know what you would
13 consider a lot but some.

14 Q. Like how long would you say you generally
15 have to wait kind of each round while they scan
16 them in?

17 A. Oh, gosh. I don't know. I'm not very good
18 at keeping track of that, I guess.

19 Q. That's just fine.

20 A. I don't know. Fifteen, 20 minutes maybe. I
21 don't know.

22 Q. Was there ever a time where Jeanice and
23 Julie stopped scanning to wait for anything?

24 A. I don't think so.

25 Q. So talking to Jill and Jeanice, it sounds

1 like Joey was fairly persistent with some of the
2 concerns he had that day. Is that fair?

3 A. He was constantly talking.

4 Q. Did he ever yell at anyone?

5 A. He did towards the end to Jill. They did
6 not see eye to eye.

7 Q. That's like right before he would have been
8 removed?

9 A. Uh-huh.

10 Q. You have to say that out loud.

11 A. Yes.

12 Q. Did Joey ever use any expletives?

13 A. What do you mean?

14 Q. Any cuss words, curse words.

15 A. I don't remember any.

16 Q. Do you remember him calling anyone any
17 names?

18 A. I don't think so.

19 Q. And in terms of his conversation with Jill
20 at the end of the day, on a scale of one to 10,
21 if one is, you know, a whisper and 10 is shouting
22 at the top of your lungs, where would you put
23 Joey's volume?

24 A. Well, when he refused to leave, when she
25 asked him to leave, he was pretty loud and vocal

1 about it that he would not leave. So I don't
2 know. I suppose not screaming at the top of your
3 lungs but pretty loud. Six, eight.

4 Q. In terms of being a member of this board,
5 you've got an obligation to follow the laws that
6 apply --

7 A. Uh-huh.

8 Q. -- to the absentee board; is that right?

9 A. Uh-huh.

10 Q. Got to say it out loud.

11 A. Yes.

12 Q. And that's also the auditor's role too;
13 correct?

14 A. I would assume so, yeah.

15 Q. And in your role on the board, if you
16 recognize something that the auditor was doing
17 wrong, would you have an obligation to speak up
18 about it?

19 A. If I had a -- if I would -- I would
20 certainly ask.

21 Q. But what if the auditor was not following
22 the rules? Would you speak up about it?

23 A. I wouldn't know the detailed enough rules to
24 speak.

25 Q. In terms of your responsibility on the

1 commission, in doing your duty, if you don't know
2 the rules, then how are you able to discharge
3 your duties correctly?

4 A. Well, being trained by the rest of the
5 committee and Jill, I assumed it was correct --

6 Q. And you would have no idea --

7 A. -- the way we were trained.

8 Q. And you would have no idea if it was
9 incorrect because you don't know the rules; is
10 that right?

11 A. I suppose.

12 Q. So you don't actually know if Joey Norris
13 was correct or incorrect about any of the issues
14 he was raising, do you?

15 A. No.

16 Q. Do you think that maybe would be important
17 to know whether he was correct or incorrect?

18 A. Possibly. But he challenged her all day
19 long.

20 Q. What if he was right all day long? You
21 don't know, do you?

22 A. But what if he was wrong all day?

23 Q. You don't know, do you?

24 A. I don't know.

25 Q. And you didn't bother to read the rules, did

1 you?

2 A. Didn't have them.

3 Q. Nobody ever gave them to you?

4 A. Huh-uh.

5 Q. You have to say that out loud.

6 A. No. Not that I recall.

7 MS. MESSAMER: No further questions.

8 CROSS-EXAMINATION

9 BY MR. DUDEN:

10 Q. Mr. Lester, are you married to Jeanice
11 Lester?

12 A. Yes, I am.

13 Q. And you both served on the committee?

14 A. Yes.

15 Q. At the time were you going through an e-mail
16 change around the time of the election in 2024?

17 A. We did change. We dropped Mediacom. I
18 don't remember the exact date when that all
19 happened.

20 Q. For your wife's prior e-mail, would she ever
21 receive e-mails regarding the absentee board?

22 A. I don't know.

23 Q. Would you have shared the materials if they
24 were provided to her via e-mail, for instance?

25 A. Well, I don't check her e-mails. She

1 doesn't check mine. I mean I don't know what she
2 receives.

3 Q. At the time with your rollover for your
4 e-mail, though, which I believe was just
5 mentioned in what was previously marked as
6 Deposition Exhibit No. 5, would this have been
7 available to you if it was being referred to
8 throughout the day, for instance, the Absentee
9 and Special Voters Precinct Board Guide which is
10 marked as Exhibit 1?

11 A. I'm not sure what you're talking about
12 actually.

13 Q. Sure. And I can show you if that helps.

14 A. Is it in one of these? This one?

15 Q. I believe so, yes. So you're looking for
16 No. 5.

17 A. Okay. Bear with me.

18 Q. No problem.

19 A. Page 5?

20 Q. It's Exhibit 5. It says Gmail at the top.

21 A. Sorry.

22 Q. Here's this one.

23 A. I'm sorry.

24 Q. I'm just referring to what is the second
25 page. There you go.

1 THE WITNESS: Pardon my reach there.

2 A. I'm looking. Yes. That's when we were
3 still with Mediacom.

4 BY MR. DUDEN:

5 Q. And so knowing that your e-mail was
6 switching over, I believe, is what that e-mail
7 confirms; right?

8 A. And what's the -- what are you asking me?

9 Q. Was your e-mail switching over at that time?

10 A. Well, it hadn't yet because it's still on
11 Mediacom. Since then we have changed.

12 Q. Is that your current e-mail?

13 A. Mine is not on here. Jeanice's is.

14 Q. Mentioned in the body of her e-mail.

15 A. Here it is up here, yes. That is my e-mail,
16 Gmail.

17 Q. Perfect. And so that e-mail provided --

18 A. And this is -- this is up here. Okay. I
19 see it now.

20 Q. Would your wife being the chair of the board
21 ring a bell to you?

22 A. She could be. We didn't discuss things like
23 that. She's on a lot of committees around town,
24 and I don't ask a lot of details about her
25 duties. She's on city council and hotel/motel

1 tax. She's an adviser in that group, and I just
2 don't ask.

3 MR. DUDEN: I understand. Well, I
4 appreciate it, and thank you very much. I don't
5 have anything else.

6 THE WITNESS: Thank you.

7 REDIRECT EXAMINATION

8 BY MS. MESSAMER:

9 Q. Did anyone else in the room say that they
10 were the chairperson or any other kind of leader
11 of the group?

12 A. Well, I think Joey kind of thought he was.

13 Q. Did he say that, or --

14 A. Yeah.

15 Q. What did he do?

16 A. Yeah.

17 Q. When did he say that?

18 A. Matter of fact, Jill, when he was talking
19 about something, I says well, that's not
20 really -- that's Jill. He says she doesn't lead
21 this group. I said well, Joey, she's in charge
22 of what we're doing. No, she's not. And that's
23 how that all went.

24 And him being the new guy in here, I was
25 stunned that he thought that. That's just my

1 opinion but --

2 Q. So he didn't say he was the leader? He just
3 said Jill was not in charge of what you were
4 doing?

5 A. And he said he was.

6 Q. What did he say specifically that you
7 remember?

8 A. What's that?

9 Q. What specifically did he say about that?

10 A. That he was the leader of the group. I says
11 what. No, you're not. I don't know if I said
12 anything back, but I was done talking to him at
13 that point.

14 Q. When was that in terms of what part of the
15 day?

16 A. Probably midpart.

17 Q. Do you recall if anybody had this Exhibit 1
18 with them during the day?

19 A. No, I don't.

20 Q. Okay.

21 A. No.

22 MS. MESSAMER: No further questions.

23 MR. DUDEN: I don't have anything else.

24 (Deposition concluded at 11:25 a.m.)

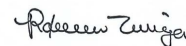
25

C E R T I F I C A T E

I, Roxann Zuniga, a Certified Shorthand Reporter of the State of Iowa and Registered Professional Reporter, do hereby certify that there came before me at the time, date, and place hereinbefore indicated, the witness named on the caption sheet hereof, who was by me duly sworn to testify to the truth of said witness's knowledge, touching and concerning the matters in controversy in this cause; that the witness was thereupon examined under oath, the examination taken down by me in shorthand, and later reduced to printed form under my supervision and direction, and that the deposition is a true record of the testimony given and of all objections interposed.

I further certify that I am neither attorney or counsel for, or related to or employed by any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

Dated at Des Moines, Iowa, this 21st of September, 2026.



CERTIFIED SHORTHAND REPORTER,
REGISTERED PROFESSIONAL
REPORTER, AND NOTARY PUBLIC

1 IN THE IOWA DISTRICT COURT FOR MONTGOMERY COUNTY

2 STATE OF IOWA,) CASE NO. FECR012514

)

3 Plaintiff,)

4 vs.) DEPOSITION OF

)

5 JOSEPH NORRIS,) JULIE RUBEY

)

6 Defendant.)

)

7
8 THE DEPOSITION OF JULIE RUBEY, taken

9 before Roxann Zuniga, Certified Shorthand

10 Reporter, Registered Professional Reporter, and

11 Notary Public for the State of Iowa, commencing

12 at 11:26 a.m., August 31, 2026, at the Montgomery

13 County Courthouse, Red Oak, Iowa.

14 A P P E A R A N C E S

15 Plaintiff by: JOSHUA DUDEN
16 Assistant Attorney General
17 1305 East Walnut Street
Des Moines, Iowa 500319
josuha.duden@ag.iowa.gov

18 Defendant by: GINA MESSAMER
19 Attorney at Law
20 2910 Grand Avenue
Des Moines, Iowa 50312
gmessamer@parrishlaw.com

21 Also present: Joseph Norris

22
23
24
25 Reported by: Roxann Zuniga, CSR, RPR

INDEX OF EXAMINATION

<u>Examination by</u>	<u>Page</u>
Ms. Messamer	3

INDEX OF EXHIBITS

<u>Exhibit</u>	<u>Referred to on page</u>
5	15

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 JULIE RUBEY,

2 called as a witness, having been first duly
3 sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. MESSAMER:

6 Q. And just for the record I'll have you spell
7 your name again for the court reporter.

8 A. Okay. My name is Julie Rubey, J-u-l-i-e.
9 Last name is Rubey, R-u-b-e-y.

10 Q. Have you ever given a deposition before?

11 A. I have not.

12 Q. Okay. So the ground rules are this is our
13 court reporter. She's typing everything down.

14 A. Uh-huh.

15 Q. And so it's really important that we take
16 turns talking.

17 A. Surely.

18 Q. It's very normal to kind of jump in before
19 one person is done, if you know --

20 A. Gotcha.

21 Q. -- where I'm going. You just did it. And
22 so you have to be sure to let me finish my
23 question before you respond so that she can type
24 both of us. The other thing is to make sure that
25 you say yes or no instead of just uh-huh, huh-uh,

1 that type of thing because she can't write
2 down --

3 A. Uh-huh.

4 Q. -- the more just grunting type language that
5 we commonly use. So I'll start off. It sounds
6 like you've been on the absentee board for quite
7 a while; is that right?

8 A. Yes.

9 Q. How long?

10 A. I'm absolutely not sure, but over 10 years.

11 Q. So you served under different auditors?

12 A. Correct.

13 Q. In terms of how you learned how to do the
14 job, is there some formal training that you go
15 through?

16 A. Yes. The auditor had trainings. We came to
17 meetings and trained. We have a -- there's a
18 booklet that you get, and then it's trial by fire
19 too.

20 Q. Okay. And so in the November 2024 election,
21 did you -- had you been given any information
22 that any new laws had changed between 2022 and
23 2024?

24 A. I honestly can't remember. I don't know.

25 Q. Before the November '22 election -- or '24,

1 I should say, election, is there anything you did
2 to prepare yourself to go that day, or do you
3 just kind of know the drill?

4 A. I sort of know the drill, but I do read the
5 pamphlet that's given to us.

6 Q. The day of the counting, did you bring your
7 pamphlet with you?

8 A. I did not.

9 Q. Do you recall if anyone had it?

10 A. Joey. I don't know about anybody else.

11 Q. In terms of Joey's involvement on the board,
12 I understand this was his first year.

13 A. That's correct.

14 Q. Was he just a new member, or was he
15 replacing someone?

16 A. He was a new -- well, I think he was a new
17 member. I don't really know.

18 Q. How about Angela Brown?

19 A. I had worked with her previously.

20 Q. Had you ever -- did you do the -- I think
21 it's election audit committee?

22 A. Probably. I have in years past. Not every
23 time.

24 Q. Did you cover that with Joey?

25 A. No.

1 Q. Did you know Joey prior to November --

2 A. Yes.

3 Q. -- 2024?

4 A. Sorry. Yep.

5 Q. How did you know him?

6 A. I've known his family for a long time and
7 just by -- at the coffee shop or walking down the
8 street or, you know --

9 Q. What would you say your relationship with
10 Joey was going into that day?

11 A. We just knew each other, knew who we were.

12 Q. As to the other members on the commission,
13 is there anyone that you're socially friends
14 with?

15 A. Yes. Probably everybody.

16 Q. Including Angela Brown?

17 A. I didn't know Angela well, but I had worked
18 with her one other election. Will and Jeanice
19 Lester are friends.

20 Q. In terms of what happened that day and the
21 criminal case, have you talked to the Lesters
22 about those matters?

23 A. No.

24 Q. Why not?

25 A. I didn't think it was appropriate to discuss

1 something like that when we were going to be
2 probably coming in here and talking. There are
3 many things political that we don't discuss
4 because we're sort of on the other side of the
5 ball. So we're really good friends, but there's
6 things that we just don't talk about.

7 Q. So on the day of this count, I understand
8 you were supposed to get there at nine o'clock;
9 right?

10 A. No. We weren't there at nine. We were
11 there at like in the afternoon. I think the last
12 one we did was the first time we started at nine.

13 Q. I'm talking about the November 2024.

14 A. Yeah. We had -- we did -- we did absentee
15 ballots this last primary, and I think that was
16 the first time we started at nine. I thought we
17 started in the afternoon honestly.

18 Q. Okay.

19 A. Maybe I'm totally -- I don't remember.

20 Q. Yeah. We'll just go off your memory.

21 A. Okay.

22 Q. That's why I'm here; to find out what you
23 know.

24 A. Okay.

25 Q. In terms of how things went that day, do you

1 recall there maybe being some issue at the
2 beginning of the day where Joey made a suggestion
3 about how the ballots were being opened?

4 A. Yes.

5 Q. What do you recall about that?

6 A. He just had a concern that we shouldn't see
7 the name on the envelope and the ballot. And so
8 we thought that was a really good idea, and so we
9 changed that way we did it.

10 Q. In terms of the observers that are there --

11 A. Uh-huh.

12 Q. -- for the day, are they kind of allowed to
13 chitchat with you?

14 A. No. They're not supposed to. As I
15 understand it, we may talk with them, but they
16 aren't supposed to talk with us.

17 Q. Even if it's about a nonelection-related
18 thing?

19 A. I -- yeah.

20 Q. Do you remember there being any issues with
21 that with Dan or Jan?

22 A. I think that Jan was a little chatty, but we
23 just decided that we wouldn't visit with her
24 unless we had something we wanted. And I do
25 remember a couple of times that we had something

1 we wanted to share because it was a process. And
2 we thought it was important for poll watchers to
3 know so we would share that with whoever was
4 watching.

5 Q. In your prior experience before 2024, if you
6 had a ballot that had an issue with the signature
7 or with the seal --

8 A. Uh-huh.

9 Q. -- would you contact that person early in
10 the day or wait until the very --

11 A. No.

12 Q. -- end of the day?

13 A. We always waited until the end of the day.

14 Q. That was just kind of the standard practice?

15 A. That was standard procedure.

16 Q. I'll just -- we're kind of starting to talk
17 on top of each other.

18 A. Sorry.

19 Q. Sure. That's fine.

20 A. I'm sorry.

21 Q. Just wait a beat after me.

22 A. I'm sorry.

23 Q. And what's your understanding on the rule on
24 that of when people are supposed to be contacted?

25 A. I'm not sure I can speak to the rule. But

1 that's how we were trained is to put those
2 ballots aside, and when everything was counted,
3 then deal with those ballots and have -- contact
4 the people.

5 Actually, we did not contact the people. It
6 was the gals in the office that would call them
7 and have them come and change it if they wanted
8 to.

9 Q. In terms of the observers, are they allowed
10 to look and see whose ballots are being put in
11 the rejection box early on?

12 A. Yes, they are.

13 Q. That day did Dan or Jan look in the box?

14 A. I don't recall.

15 Q. Do you remember any discussion or dispute
16 about that?

17 A. I know that Joey wanted to contact those
18 people right away, and we were concerned with
19 getting the ballots -- there's a time constraint,
20 so we are concerned with getting the ballots
21 counted and then deal with that. But I'm sure
22 that's just because that's the way we always did
23 it.

24 Q. And was there anything, I guess, stopping
25 you from giving those names to the staff members

1 of the auditor's office to have them call
2 earlier?

3 A. No.

4 Q. Would that have slowed you down in terms of
5 the scanning of the ballots?

6 A. Probably somewhat.

7 Q. How so?

8 A. Just because you're focused, you're counting
9 ballots, you're running them through the machine,
10 you're -- you've got a thing going, we're
11 counting 20 at a time. And when you break that
12 focus, then it takes time to get back into the
13 groove again.

14 Q. And as I understand it, the people who are
15 counting in the room, they kind of have some
16 downtime after they're done with their -- I
17 should say this differently.

18 The people who are opening the ballots and
19 stacking them, they have some downtime then while
20 you and Jeanice are scanning them. Is that fair?

21 A. That's true. That's fair, uh-huh.

22 Q. So if they talked to the audit staff about
23 calling people with possibly rejected ballots,
24 that wouldn't slow you down?

25 A. No. That's correct.

1 Q. Do you remember there just being some
2 debates between Joey and the auditor throughout
3 the day?

4 A. I think we were all under a bit of pressure,
5 I would say. It was pressure that we weren't
6 used to, being interrupted. Joey is a very smart
7 guy but he is exuberant. And we were just
8 interrupted a lot, taking a lot of time dealing
9 with questions and things that he wanted to talk
10 about rather than doing our jobs.

11 Q. And in terms of his questions, was that
12 mostly to Jill, the auditor?

13 A. Oh, no. He had questions of all of us.

14 Q. And when you're doing this count, is the
15 auditor always in the room with you?

16 A. Always in the room, uh-huh.

17 Q. Is it typical for her to just be somewhere
18 else but you're just available to contact her if
19 you have --

20 A. That's --

21 Q. -- a problem?

22 A. -- correct.

23 Q. And that day do you remember her stepping
24 out to call anybody about any issues?

25 A. Yes. I think that she did call the State

1 several times.

2 Q. And as I understand it, you had an issue
3 where it sounded like that Jeanice hit the wrong
4 button on the machine, and so one of the groups'
5 count was wrong. And there was like a discussion
6 where you had to kind of start over or start that
7 batch over?

8 A. Oh, okay. We count ballots in groups of 20.
9 Okay. And so that's why we can easily find one
10 that's rejected or if there's a problem, which,
11 you know, technology, there can be problems.

12 So I believe there was a box that we counted
13 that -- this was two years ago, so I can't
14 honestly swear to this. But there was a box that
15 we counted that we didn't have the right numbers.
16 It happens, and so we just counted over.

17 Our job is to make sure all the numbers
18 match. Every vote that is eligible is counted,
19 and the machine will tell us whether a vote is
20 rejected or not.

21 And then you have -- if one is rejected, you
22 have to look at it, see if there's a problem. A
23 lot of times it will reject something and you run
24 it through again and it accepts it, so that's
25 just the process.

1 So I felt like -- I mean I don't know if
2 something was rejected. I don't really know that
3 Jeanice would press a wrong button because she's
4 very OCD, but that may have happened. I can't
5 talk to that. I don't remember that.

6 But I do know that we counted one box over,
7 and that's what we're supposed to do to make sure
8 that everything -- everything is right. Our job
9 is to have a free and fair election where every
10 vote that can be counted is counted.

11 Q. And so in terms of if you have to redo a
12 box, how long does it take to scan a box?

13 A. Oh, gosh. Let me think. I don't know.
14 Some of them take maybe 15 minutes. Some of them
15 might -- I mean I've had some that have taken an
16 hour because you can't find what's wrong. You
17 have to do it until you find what's -- what
18 hasn't been counted.

19 Q. And you don't have any particular memory of
20 the recount of that box or when it happened or
21 anything like that?

22 A. Well, vaguely, I guess. I mean I know we
23 have recounted a box. That's about what I can
24 tell you.

25 Q. In terms of Joey's conversations with the

1 board members and with Jill, did he ever yell at
2 anybody?

3 A. No. I think he maybe got a little louder.
4 But yelling, no. We don't yell at each other.

5 Q. Any name calling or --

6 A. Oh, no.

7 Q. -- curse words?

8 A. No. Huh-uh.

9 Q. Any kind of physical aggression?

10 A. No.

11 Q. So this was just all verbal?

12 A. It was all verbal, yes.

13 Q. And just kind of a debate about what the
14 procedures were?

15 A. Correct. A debate about what the procedures
16 were.

17 Q. Do you personally ever consult the rule book
18 on whatever topic was being discussed?

19 A. I may have looked at his with him once, but
20 I really don't remember.

21 Q. I'm handing you what we've looked before as
22 Exhibit 5. Do you recognize this e-mail?

23 A. From?

24 Q. From Jill to the board.

25 A. We did start at 9 a.m. then. We must have.

1 I don't recognize it, no, but I'm sure I got it
2 and read it.

3 Q. Okay. In terms of the past years for the
4 lunch break, my understanding is that you all
5 would kind of break as a group, everyone would
6 leave at a certain point where it seemed natural
7 in the process, people would get lunch, the door
8 would be locked, and you would come back.

9 A. I don't remember that to be true. We just
10 worked through lunch.

11 Q. Okay.

12 A. And sometimes we brought our own lunches.
13 Sometime they brought us candy. I don't remember
14 ever breaking for lunch except for this
15 experience and locking the door and leaving.

16 Q. If Jeanice and Will had a different memory,
17 do you think that they're incorrect?

18 A. Oh, no. I can't -- I'm 75 years old. I
19 can't remember what I did yesterday so --

20 Q. I guess do you have any memory of in the
21 November 2024 counting if there were any
22 particular lunch plans?

23 A. I know that Joey said that definitely he had
24 a meeting, and we were just going to keep on
25 going. He insisted that we quit and lock the

1 door, and we finally just did it because we
2 didn't want to make him mad.

3 Q. Do you have any understanding or training on
4 the party balance that's supposed to be in the
5 room during a count?

6 A. Well, I know that we have to have a balance
7 there, which I believe we did, because Clint is a
8 registered Republican, Will and Jeanice. The gal
9 and I and Joey were both Democrats. But I can't
10 remember her name.

11 Q. Angela?

12 A. Angela, maybe she was independent. No. I
13 think she was -- I think she was registered
14 Democrat.

15 Q. Someone mentioned that she was independent.

16 A. I think she -- we were having that
17 discussion, and I think she said she was mostly
18 an independent but she was -- I think that Jill
19 liked that she was a registered Democrat. I
20 could be wrong about that.

21 Q. I think I kind of interrupted you. So your
22 understanding of the party balance for the board?

23 A. It's supposed to be -- I think you can have
24 two/three. That's what -- and so I think we
25 would have had two/three if we would have had

1 one -- just kept on going. That's the way I
2 would think.

3 Q. Okay. And in the e-mail from Jill, she
4 mentions Joey had a meeting from 12 to one, so
5 that may be a great time to break for lunch. The
6 plan is to continue after lunch.

7 A. Okay.

8 Q. Do you recall the board then that day
9 talking and saying we're not going to break for
10 lunch, we're going to do something different?

11 A. We wanted to. That's what we wanted to do,
12 but we did not do that. We broke for lunch and
13 locked the door.

14 Q. Who do you all remember talking about the
15 plans for the lunch hour?

16 A. I think all of us were.

17 Q. Any other conversation -- Do you remember
18 what Joey said about the need to leave?

19 A. I think he had a meeting which I found
20 interesting that he would have -- yeah. But I
21 think both he and his mother expressed an opinion
22 that he had to leave, so we needed to quit, which
23 we did.

24 Q. Did anybody dispute that with him?

25 A. I think we probably said we'd rather not,

1 we'd just rather keep going, but in the end we
2 did what he wanted to do.

3 Q. Did he mention anything about the party
4 balance?

5 A. Yes, he did.

6 Q. Do you remember what the discussion was
7 there?

8 A. That he had to be here.

9 Q. Do you remember anybody looking at the rules
10 about that?

11 A. We did not.

12 Q. You just kind of thought well, it would be
13 nice, and it's not a big deal?

14 A. Correct.

15 Q. And then what did you end up doing for
16 lunch? Did you leave or stay here?

17 A. I stayed here in a different room. I think
18 we locked the room and left.

19 Q. Do you remember who stayed in the building
20 versus who left the building?

21 A. I think everyone stayed except for -- I
22 think that's true. Maybe somebody wouldn't have
23 lunch maybe. Angela went and got lunch. I just
24 remember we sat in the other room over there.

25 Q. Do you remember who was the last to get

1 back?

2 A. I do not.

3 Q. And at the time you just thought if this
4 makes Joey more comfortable, it's okay, it's not
5 a big deal?

6 A. That's correct.

7 Q. Would you say there's like -- is there a
8 normal time for you to get done counting ballots,
9 or does it just really depend?

10 A. It really just depends, but we usually are
11 done long before we need -- I mean maybe several
12 hours before we should be.

13 Q. Do you recall how many ballots you ended up
14 with that had problems at the end of the day?

15 A. That may be six. Maybe six. I don't know.
16 Boy, that's -- yeah. I don't know. I don't deep
17 track.

18 Q. Any memory of how many people came in to fix
19 the ballots so they could be counted.

20 A. I think there were at least four, but I'll
21 tell you that was two years ago. I don't
22 remember. I know there were several people that
23 came in to fix their ballot.

24 Q. Do you recall if there were any that the
25 people were not able to make it in before the

1 deadline?

2 A. I think that there maybe were one or two
3 that did not -- and I think there was one, if I
4 remember correctly, which -- that's stretching
5 it -- didn't want to come in and one that was not
6 in town. I think that's -- but that's really
7 pulling it out of the air.

8 Q. Okay. So more of just a guess?

9 A. Yeah. A real guess, yeah.

10 Q. In terms of Joey's conversations he was
11 having with people throughout the day, was his
12 tone kind of consistent or did he get more
13 aggravated, or did anyone else get more
14 aggravated?

15 A. Well, I think the rest of us were getting
16 more aggravated. I think his tone was
17 consistent, but it was just more of a challenging
18 like thought that maybe he knew more than we did
19 which he may have. I don't know. It was just, I
20 guess, aggravation.

21 Q. The other board members? Everyone?

22 A. Yes.

23 Q. In terms of the box that you had to recount,
24 did that slow things down a little bit?

25 A. Yeah. It might have slowed us down 15, 20

1 minutes probably.

2 Q. Does it ring a bell that there was something
3 wrong with the count, the way something may have
4 been rejected with a certain --

5 A. Uh-huh.

6 Q. -- batch, and there was talk of maybe just
7 picking a new machine and correcting that later?

8 A. I don't remember that. I mean I'm not
9 saying it couldn't have happened, but I do not
10 recall that.

11 Q. Was your impression from Joey was he seemed
12 to have a strong opinion based on the rules that
13 he had read?

14 A. Oh, I think so. I think -- yeah.

15 Q. And he had his packet there that he was
16 trying to show people the rules?

17 A. Correct.

18 Q. And Jill just seemed to disagree with him
19 about what the rules were?

20 A. I don't think I can answer that. I don't
21 know that.

22 Q. In terms of your role with the committee,
23 generally speaking, you would agree your job is
24 to make sure these ballots get counted in
25 according to Iowa law; right?

1 A. Absolutely.

2 Q. And that's also the auditor's role; right?

3 A. That is true.

4 Q. And if the auditor were doing something
5 wrong, would you say you have a duty to try and
6 correct that?

7 A. Yes.

8 Q. And if you were taking that duty seriously,
9 where would you get your information to know what
10 the rules were?

11 A. Well, probably I would call the State if I
12 really thought the auditor was doing something
13 wrong. I would ask to talk to someone an the
14 State.

15 Q. But for the most part, you deferred to
16 Jill --

17 A. Correct.

18 Q. -- on that day?

19 A. Correct.

20 Q. Without independently verifying things
21 yourself?

22 A. That's correct.

23 Q. And I understand that Jill as the auditor
24 has responsibilities because she's the elected
25 official; right?

1 A. Correct.

2 Q. But she's still an elected official that is
3 ultimately responsible to the public; right?

4 A. That's correct.

5 Q. And so if she wasn't doing something right,
6 that's kind of part of your role as the board is
7 to make sure that she would know the right way to
8 do it?

9 A. I don't think we've ever looked at it that
10 way. I think you're correct, but I don't know
11 that that's a tenant that we've ever followed,
12 you know.

13 Q. And I guess my kind of understanding after
14 talking to a few people is that this board had
15 been doing this for several years and everybody
16 was pretty comfortable with the way things had
17 been done --

18 A. Correct.

19 Q. -- knew each other, was very friendly with
20 each other; right?

21 A. Correct.

22 Q. And it seems that Joey, being the new person
23 who maybe thought things should be done a little
24 bit more by the book, was not well received by
25 the other board members. Is that fair?

1 A. I don't think that's fair. I think that we
2 tried. I just think Joey, he just -- I can't --
3 how do I -- how can I express this? It's a
4 little difficult with him. I don't want to
5 offend him at all.

6 But I will just say that he was very
7 exuberant and really excited and just wouldn't
8 stop with the questions. It was just ongoing,
9 and we just felt like we couldn't get our jobs
10 done because some of the questions were -- I just
11 think he was looking for things to find wrong and
12 he just wanted to find something wrong, and we're
13 just doing our best job we can.

14 Q. But --

15 A. We were aggravated. I can tell you that.
16 We were aggravated, didn't have anything to do
17 with Joey. I like Joey a lot. It was just the
18 process, what we felt was being dragged down
19 and -- yeah, just a difference of two opinions.

20 Q. And in terms of his opinion, they seemed to
21 be based on the pamphlet that he's been given.
22 Is that fair?

23 A. Sometimes. Sometimes I think things just
24 popped into his head, and he wanted to discuss it
25 so --

1 Q. Can you think of anything in particular that
2 you're referencing?

3 A. No. I really can't so --

4 Q. I understand you're a Democrat so maybe this
5 is -- I'm barking up the wrong tree. But were
6 you, by any chance, involved with a meeting with
7 Kash Patel and the attorney general's office that
8 occurred three days before Joey was criminally
9 charged?

10 A. No.

11 Q. Okay.

12 A. I wouldn't be in the same room as Kash
13 Patel.

14 Q. I thought that might be your answer, but I
15 thought I would ask. Have you heard anything
16 about that meeting three days before Joey was
17 criminally charged?

18 A. I have not.

19 MS. MESSAMER: I think that's all I have.

20 THE WITNESS: Is it possible for me to say
21 something or not?

22 MS. MESSAMER: Is it something to Joey you
23 mean, something you want to say to Joey?

24 THE WITNESS: Well, I just -- it's about how
25 I feel about this situation.

1 MS. MESSAMER: Sure.

2 THE WITNESS: Okay. I don't think Joey did
3 anything criminally wrong, and I will stand in
4 court and say that because he didn't. He was
5 just like -- kind of like a little gnat that --
6 sorry, Joey.

7 But he was like a little gnat that just
8 wasn't going to let us get our job done. And we
9 tried to -- we tried to do our best to explain
10 things, and we tried to do our best to continue
11 doing what we felt was right.

12 But as far as any criminality or any -- he
13 should not have -- I mean it's my opinion that
14 this is -- the whole thing that he was charged is
15 crazy. It's just crazy. And so that's my
16 opinion.

17 BY MS. MESSAMER:

18 Q. Have you expressed that opinion to anyone
19 from law enforcement?

20 A. I have not.

21 Q. Did the AG's office or any attorney ever
22 contact you about this?

23 A. No.

24 Q. Okay. So that's kind of your first chance
25 you've had to express --

1 A. That's the first chance that I've had to
2 express that this is ridiculous. I mean if I
3 thought he was a criminal, I'd be saying -- I'm
4 pretty flat out there. But he's not a criminal.
5 He didn't do anything wrong aside from drive us
6 nuts, so that's it.

7 Q. Okay.

8 THE WITNESS: Sorry, Joey.

9 MS. MESSAMER: I appreciate that. Thank
10 you.

11 MR. DUDEN: Anything else?

12 MS. MESSAMER: No.

13 MR. DUDEN: I don't have any questions.
14 Thank you.

15 (Deposition concluded at 11:54 a.m.)

16

17

18

19

20

21

22

23

24

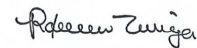
25

C E R T I F I C A T E

I, Roxann Zuniga, a Certified Shorthand Reporter of the State of Iowa and Registered Professional Reporter, do hereby certify that there came before me at the time, date, and place hereinbefore indicated, the witness named on the caption sheet hereof, who was by me duly sworn to testify to the truth of said witness's knowledge, touching and concerning the matters in controversy in this cause; that the witness was thereupon examined under oath, the examination taken down by me in shorthand, and later reduced to printed form under my supervision and direction, and that the deposition is a true record of the testimony given and of all objections interposed.

I further certify that I am neither attorney or counsel for, or related to or employed by any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

Dated at Des Moines, Iowa, this 21st
day of September, 2026.



CERTIFIED SHORTHAND REPORTER,
REGISTERED PROFESSIONAL
REPORTER, AND NOTARY PUBLIC