

# **EXHIBIT 105**

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

4 DONNA CURLING, ET AL.,

5 Plaintiffs,

6 vs.

CIVIL ACTION FILE  
NO. 1:17-CV-2989-AT

7 BRAD RAFFENSPERGER, ET AL.,

8 Defendants.

9  
10  
11 VIDEOTAPED ZOOM DEPOSITION OF  
MICHAEL BARNES

12 February 11, 2022

13 9:04 A.M.

14  
15 Lee Ann Barnes, CCR-1852B, RPR, CRR, CRC  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 are off the record.

2 (Off the record.)

3 VIDEOGRAPHER: The time is 9:12 a.m.

4 We're on the record.

5 BY MR. CROSS:

6 Q. All right. Mr. Barnes, you have  
7 Exhibit 1?

8 A. Yes, sir, I do.

9 Q. All right. So take a look at Exhibit 1 in  
10 front of you.

11 And do you understand that you are  
12 designated to testify today on Topic 1?

13 A. Yeah, I remember seeing a list of topics  
14 in which I was designated as being the one that  
15 would speak.

16 Q. Okay. So just read through Topic 1, the  
17 subparts a through h, and tell me if you're prepared  
18 to testify on that topic today.

19 MS. LaROSS: And, David, we're going to be  
20 reserving all objections except those to the  
21 form of the question or responsiveness of the  
22 answer until trial; is that correct?

23 MR. CROSS: Yeah, that's the default under  
24 the federal rules, yeah.

25 MS. LaROSS: Sure. And I just -- you

1 know, we go into each deposition and often say  
2 it or don't, but I just wanted to clarify --

3 MR. CROSS: Okay.

4 MS. LaROSS: -- we just have that standing  
5 agreement with you guys. That's -- I just  
6 wanted the record to be clear.

7 MR. CROSS: Okay.

8 THE WITNESS: I've looked at the items in  
9 point 1a through h, and those are the items I  
10 am familiar with, yes, sir.

11 BY MR. CROSS:

12 Q. Okay. Then go on to Topic 2, please, and  
13 let me know if you're prepared to testify on that  
14 today.

15 MS. LaROSS: David, I believe David  
16 Sterling is designated for 2c.

17 MR. CROSS: Okay. Great. That's right.  
18 Sorry.

19 BY MR. CROSS:

20 Q. So, Mr. Barnes, just look at 2a, b, and d.

21 A. 2a, b, and d, I -- I believe I'm prepared  
22 to testify on those items.

23 Q. Okay. And then look at Topics -- just to  
24 make sure -- yeah, look at Topics 7 through 11, so  
25 7, 8, 9, 10, and 11, and let me know if you're

1 prepared to testify on those topics today.

2 A. Yes, sir, I believe I'm prepared.

3 Q. And then the last one is Topic 18, the  
4 last one in the list, and let me know if you're  
5 prepared to testify on that, too, please.

6 MS. LaROSS: It's my understanding, David,  
7 that that one -- that topic was -- we  
8 designated David Sterling, Merritt Beaver, and  
9 Chris Harvey.

10 MR. CROSS: Sorry.

11 MS. LaROSS: And some of the topics in the  
12 7 --

13 MR. CROSS: Yeah, that's right. Sorry.  
14 Yeah.

15 MS. LaROSS: Okay. No -- no worries.

16 And some of the topics in 7 through 11 we  
17 also designated either Mr. Sterling or  
18 Mr. Beaver, but there is certainly overlap with  
19 Mr. Barnes.

20 MR. CROSS: Yeah. Okay.

21 MS. LaROSS: Great. Thank you.

22 BY MR. CROSS:

23 Q. Mr. Barnes, what did you do to prepare to  
24 testify on these topics today?

25 A. I have met with our attorneys.

1 Management System, and then media created and then  
2 the testing executed.

3 Q. And who decided on that process today?

4 A. It was -- I was involved in that decision,  
5 along with attorneys in the Secretary of State's  
6 office.

7 Q. What attorneys?

8 A. When we set it up last was Ryan Germany  
9 and Kevin Rayburn, when he was deputy general  
10 counsel.

11 Q. When the new system was implemented with  
12 BMDs, was there any discussion of Mr. --  
13 Dr. Shamos's testimony and about the need to test a  
14 whole lot more than a single BMD and printer?

15 THE WITNESS: I --

16 MS. LaROSS: Objection to the form of the  
17 question.

18 THE WITNESS: I do not recall.

19 BY MR. CROSS:

20 Q. As the head of CES, is it your view that  
21 testing a single BMD and printer on election day is  
22 a reliable way of assessing the security and  
23 reliability of some 30,000 BMDs and printers across  
24 the state?

25 A. When we enter into the testing, the way

1           that the project files are built in regards to  
2           programming a BMD, when you're within a single  
3           jurisdiction, there's only one data file created  
4           from that jurisdiction's data election project  
5           that's used to program a BMD. So the same data file  
6           is used to program all BMDs within a single county.

7                        So if we randomly select a county, have  
8           them create a backup, bring that backup into  
9           Atlanta, install that into a Dominion Election  
10          Management computer, then create the election file  
11          that's used to program a BMD, we would be putting  
12          the same file on one BMD or 500 BMDs. So it's an  
13          expectation that if one BMD shows proper operation,  
14          that others would as well.

15                    Q.    So is the answer to my question yes, you  
16          think that is a reliable method?

17                    A.    We have found to be -- we have found it to  
18          be reliable in the past.

19                    Q.    You've found it to be reliable because  
20          it's never shown malware or a glitch with whatever  
21          equipment you tested?

22                    A.    We --

23                    MS. LaROSS:  Objection to the form of the  
24          question.

25                    You may answer.

1 THE WITNESS: We have never encountered  
2 any situation where the system did not operate  
3 as expected.

4 BY MR. CROSS:

5 Q. Do you have a background in statistics?

6 A. I took some statistical classes in  
7 graduate school, yes, sir.

8 Q. So why doesn't the State test a  
9 statistically representative sample of voting  
10 equipment, instead of 1 out of some 30,000 pieces?

11 MS. LaROSS: Objection to the form of the  
12 question.

13 THE WITNESS: As you speak, there are  
14 30,000 pieces of equipment. Depending upon  
15 what sampling you were to set up, you would  
16 then have to have access to that amount of  
17 equipment and a location to set all of that  
18 equipment up for testing purposes and manpower  
19 to go through that testing exercise.

20 BY MR. CROSS:

21 Q. And that's not something the State can do?

22 A. The State, of course, has resources. My  
23 office has a total of seven individuals, and that  
24 would be a hard task for us to execute on a single  
25 day.



1 Q. Are you aware that there are USB ports in  
2 the current voting equipment, the BMDs and the  
3 printers, that are accessible to voters in the  
4 voting booth?

5 A. I am aware that there are USB ports on the  
6 devices. However, accessible by the voter on  
7 election day, I would -- I would raise question of  
8 that.

9 Because the B -- the D -- the BMDs on  
10 election day, the -- the panels where you would find  
11 those USB ports are behind sealed mechanisms. There  
12 are seals that are attached on the sides of the BMD,  
13 there are seals that are attached on the sides of  
14 the printers, to prohibit access to those locations.

15 Q. So it's your understanding that all the  
16 USB ports on the printers and BMDs are covered by  
17 seals on election day?

18 A. It is my understanding, yes, sir.

19 Q. But you haven't inspected those; right?

20 A. I have not been out into a county on  
21 election day, no, sir.

22 Q. And who is responsible for inspecting all  
23 of the seals on all of the voting equipment? Is  
24 that at the county level?

25 A. The counties are responsible for

1 maintaining the security of their voting equipment.

2 Q. But you're aware that it's happened on  
3 numerous occasions the counties have used BMDs in  
4 elections where the seals were broken on election  
5 day; right?

6 MS. LaROSS: Objection to the form of the  
7 question.

8 THE WITNESS: Any notification that we  
9 have obtained with a county saying that they  
10 had a unit that the seal was broken, our  
11 direction has always been, well, that needs to  
12 be resealed or the unit taken out of operation,  
13 preferably take the unit out of operation if it  
14 is election day.

15 BY MR. CROSS:

16 Q. And under what circumstances would you  
17 tell a county to just go ahead and reseal a broken  
18 seal on a BMD on election day, rather than remove it  
19 for testing?

20 A. To be honest, I don't believe I would ever  
21 tell a county just to reseal it. And if it's in the  
22 midst of election day, you're going to turn that  
23 machine off and you're going to set it aside.

24 Q. And why is that?

25 A. Because we want to try to -- also try to

1           has brought that to me.

2           BY MR. CROSS:

3           Q.     Are you aware that Dr. Halderman prepared  
4           a report that was submitted to the Secretary's  
5           office -- or to their counsel, I should say, on  
6           July 1 of 2021, where he did a further inspection of  
7           the Fulton County voting equipment?

8           MS. LaROSS:  Objection to the form of the  
9           question.

10          THE WITNESS:  The only thing I'm aware of  
11          is a report that was referenced in a news  
12          article of a couple of weeks ago.  But that is  
13          all the knowledge I have of that.

14          BY MR. CROSS:

15          Q.     So before that news article, you had not  
16          heard anything about this report from Dr. Halderman  
17          regarding the Fulton County voting equipment?

18          A.     No, sir, I had not.

19          Q.     So no one in the Secretary's office ever  
20          told you that a -- an expert had prepared a nearly  
21          100-page report detailing numerous security  
22          vulnerabilities in the voting equipment that you're  
23          responsible for as the head of CES?

24          MS. LaROSS:  Objection to form of the  
25          question.

1 THE WITNESS: No, sir, they had not.

2 BY MR. CROSS:

3 Q. Do you have any insight into why the  
4 decision was made at the Secretary's office not to  
5 share anything about the fact that Dr. Halderman had  
6 found these vulnerabilities with you, with David  
7 Hamilton, with James Oliver, with Merritt Beaver?  
8 Do you know why that is?

9 MS. LaROSS: Objection to the form of the  
10 question.

11 THE WITNESS: No, sir, I do not.

12 BY MR. CROSS:

13 Q. Does that strike you as odd?

14 MS. LaROSS: I object to the form of the  
15 question.

16 THE WITNESS: I'm sure that members of the  
17 Secretary of State's office are doing the  
18 things that they feel are necessary need to be  
19 done.

20 BY MR. CROSS:

21 Q. Who would you ask if you wanted to know  
22 why the decision was made not to share any  
23 information, including that Dr. Halderman had found  
24 vulnerabilities, with you and others in the office?  
25 Who would you ask?

1           A.    My question would probably be asked of  
2    general counsel.

3           Q.    Mr. Germany?

4           A.    Yes, sir.

5           Q.    Would you expect the Secretary's office to  
6    take measures to mitigate vulnerabilities that were  
7    identified in the current voting system?

8           MS. LaROSS:  Object to the form of the  
9    question.

10          THE WITNESS:  It's my expectation that the  
11        Secretary of State's office would do what it  
12        needs to do to make sure that the voting system  
13        is functioning properly.

14        BY MR. CROSS:

15          Q.    Properly and securely; right?

16          A.    Yes, sir.

17          Q.    And including taking measures to mitigate  
18        any vulnerabilities that were identified with that  
19        system; right?

20          MS. LaROSS:  Objection to the form of the  
21        question.

22          THE WITNESS:  Again, I can't speak to what  
23        may or may not be in the item that you're  
24        discussing, so I -- I -- I don't know what the  
25        State would need to do to address them.

1 BY MR. CROSS:

2 Q. Fair enough.

3 You don't know the specifics, but you  
4 would expect the State to take some measures to  
5 mitigate vulnerabilities, whatever those measures  
6 might be; right?

7 MS. LaROSS: Objection to form of the  
8 question.

9 THE WITNESS: I have confidence that the  
10 State would continue doing its job as the --  
11 you know, we are the elections division for the  
12 State. We're part of the elections division,  
13 and I would -- I would have a belief that the  
14 Secretary of State's office would continue  
15 doing its due diligence.

16 BY MR. CROSS:

17 Q. Well, given none of the senior leadership  
18 in the Secretary's IT department and you, as the  
19 leader of CES, were informed about anything that  
20 Dr. Halderman had found, including even that he had  
21 found vulnerabilities at all, who is it you believe  
22 in the Secretary's office is actually dealing with  
23 those vulnerabilities, if anyone?

24 MS. LaROSS: Objection to form of the  
25 question.

1 THE WITNESS: I do not know.

2 BY MR. CROSS:

3 Q. Who would you ask if you wanted to know?

4 A. Again, the people -- the person that I ask  
5 the most questions of in our office is our general  
6 counsel.

7 Q. Mr. Germany?

8 A. Yes, sir.

9 Q. As you sit here, though, you're not aware  
10 of any specific measures -- there are no measures  
11 you can point me to that have been adopted since  
12 July 1 of 2021 to address the vulnerabilities of  
13 Dr. Halderman's report; right?

14 MS. LaROSS: Object to the form of the  
15 question.

16 THE WITNESS: That is correct.

17 BY MR. CROSS:

18 Q. And you can't point me to any measures  
19 that have been adopted since September 2020 taken by  
20 the Secretary's office to address the hack that he  
21 demonstrated in that hearing; right?

22 MS. LaROSS: Object to the form of the  
23 question.

24 THE WITNESS: I cannot.

25

1 BY MR. CROSS:

2 Q. Have you participated in any discussions  
3 with anyone in the Secretary's office regarding  
4 Dr. Halderman generally or his work?

5 A. No, sir, I -- I can't recall any direct  
6 conversations with anybody in the Secretary of  
7 State's office in relation to Dr. Halderman.

8 Q. Are you familiar with the name Dr. Juan  
9 Gilbert.

10 A. I believe he is associated with the  
11 University of Florida, or -- or was at some point in  
12 time.

13 Q. And have you worked with him at all or had  
14 any communications with him about his work in this  
15 case? Just yes or no.

16 A. No.

17 Q. Are you aware that he has -- he was  
18 retained and offered testimony on behalf of the  
19 Secretary's office as an election security expert in  
20 this case?

21 A. I am not aware.

22 Q. Were you aware that Dr. Gilbert testified  
23 in his deposition that if he wanted to have a  
24 cybersecurity assessment done of voting equipment  
25 like that used in Georgia, he would turn to two



1 experts, Dr. Alex Halderman and Dr. Andrew Appel?

2 MS. LaROSS: Object to the form of the  
3 question.

4 THE WITNESS: I am not aware of what  
5 Dr. Gilbert may have said in his deposition.

6 BY MR. CROSS:

7 Q. Are you aware that Dr. Gilbert had access  
8 to Dr. Halderman's full July 2021 report on the  
9 Fulton County voting equipment?

10 A. No, sir, I am --

11 MS. LaROSS: Object to the form of the  
12 question.

13 THE WITNESS: No, sir, I am not aware.

14 BY MR. CROSS:

15 Q. Were you aware that Dr. Gilbert testified  
16 under oath that he did not disagree with any of the  
17 technical vulnerabilities identified in that report?

18 MS. LaROSS: Object to the form of the  
19 question.

20 THE WITNESS: No, sir, I'm not aware.

21 BY MR. CROSS:

22 Q. All right. Take a look at Topic 9,  
23 please, if you would.

24 A. Sure.

25 Q. Looking at Topic a, are you aware of any

1           suspected or actual unauthorized access to software  
2           or data on any component of the -- of Georgia's  
3           Dominion system?

4           A.    No, sir, I'm not.

5           Q.    Are you aware of any suspected or actual  
6           unauthorized copying or alteration of software or  
7           data on any component of Georgia's Dominion system?

8           A.    No, sir, I'm not.

9           Q.    Did you undertake any investigation or any  
10          research in preparation for today to determine  
11          whether that happened?

12          A.    No, sir, I have not.

13          Q.    Looking at Topic 9c -- I'm sorry, just  
14          actually before we leave 9a, if you were to do some  
15          research or some sort of investigation on 9a, who  
16          would you ask? Who would you expect to know the  
17          answer to that?

18          A.    I really don't know where I would start  
19          with that.

20          Q.    Would the current elections director be a  
21          good start?

22          A.    I have discussions with him on a weekly  
23          basis, if not more than weekly, about our voting  
24          system. But any time that we feel like we would  
25          need to start looking into something, he would be

1 workers were not successful in powering on the  
2 equipment as they should have been.

3 BY MR. CROSS:

4 Q. And that's just one of the problems.  
5 There were also problems where the BMD equipment,  
6 even when powered on, didn't function as it was  
7 supposed to. That happened in some cases; right?

8 A. I'm -- I suspect that was the case, but I  
9 can't think of a direct example. But I will say  
10 yes.

11 Q. Okay. What emergency paper back- --  
12 strike that.

13 What plan did the Secretary adopt as an  
14 emergency paper backup for the 2020 election, if  
15 any?

16 MS. LaROSS: Objection as to form of the  
17 question.

18 THE WITNESS: It's my understanding that  
19 they had -- Secretary of State's office had  
20 instructed counties that as a cause of  
21 emergency, that if something were to transpire  
22 where the BMD was not operational, that they  
23 should have preprinted copies of hand-marked --  
24 hand-fillable ballots available to poll workers  
25 for distribution to the voters.

1           Those hand-marked paper ballots can be  
2           scanned by the ICP scanners that are in place  
3           at the polling locations on election day.

4           BY MR. CROSS:

5           Q.    Did you at some point see a written plan  
6           for using emergency paper ballot backups for the  
7           2020 election, the June 2020 election?

8           A.    I don't recall seeing very much of the  
9           instructional documentation for process of managing  
10          polls that was being sent out from the elections  
11          division to counties to try to get them ready for  
12          the first rollout.  There was a -- a high number of  
13          training materials and official election  
14          notifications and such that went from Mr. Harvey's  
15          office to the counties to get them ready for that  
16          election.

17                So I'm sure that there were those things,  
18                but I can't remember -- I can't say to a fact that I  
19                saw every single one of those.

20           Q.    If someone were to ask you for a copy of a  
21           emergency paper ballot backup plan for the June 2020  
22           election, is there a document that you could put  
23           your hands on and say, "Here it is"?

24           MS. LaROSS:  Objection to the form of the  
25           question.

1 private computer and key the information in.

2 Q. Okay. And one last question.

3 Are you aware of any forensic examination  
4 that's ever been done of the computers or the server  
5 that sits on the Dominion private network to  
6 determine whether it's ever been compromised in any  
7 way or -- or accessed in any unauthorized fashion?

8 MS. LaROSS: Objection to form of the  
9 question.

10 THE WITNESS: The Dominion -- the  
11 Dominion-maintained system?

12 BY MR. CROSS:

13 Q. Yeah. Let me be clear.

14 So the -- the private network that now  
15 exists as of the summer of 2020 that's used to  
16 main- -- run the Dominion system at the Secretary's  
17 office. That's what we're talking about.

18 A. Okay. All right. So -- so state the  
19 question again, please.

20 Q. Are you aware of any forensic examination  
21 of any of that equipment, meaning the computers, the  
22 server, any part of the equipment that makes up that  
23 private network, to determine whether there's ever  
24 been any compromise or unauthorized access?

25 A. I am not aware of one.

1           are in place for counties to execute on their  
2           equipment.

3           BY MR. CROSS:

4           Q.     That's not my question, Mr. Barnes.

5                     My question is: In 2020, were you under  
6           the belief that the logic and accuracy testing that  
7           you've described would detect malware or any other  
8           compromise of the voting equipment in Georgia?

9                     MS. LaROSS: Object to the form of the  
10          question.

11                    THE WITNESS: It was my belief that the  
12          tests that the counties were undertaking would  
13          give them some level of confidence that the  
14          voting system was matching to what had been  
15          certified for use by the State previously.

16          BY MR. CROSS:

17                    Q.     So is that a "yes" or a "no" to my  
18          question?

19                    A.     That's a yes.

20                    Q.     All right. Grab Exhibit 23, please.

21                             (Plaintiffs' Exhibit 23 was marked for  
22          identification.)

23          BY MR. CROSS:

24                    Q.     Just let me know when you've got that.

25                    A.     I am looking at it.

1 BY MR. CROSS:

2 Q. Mr. Barnes, let me come back to the  
3 question I asked you.

4 Do you have a personal view --  
5 irrespective of what any jurisdiction is doing  
6 around the country, as someone who's been working  
7 with elections for two decades, do you have a  
8 personal view on whether hand-marked paper ballots  
9 are a reliable method of voting?

10 MS. LaROSS: I object to the form of the  
11 question.

12 THE WITNESS: I think any system that  
13 jurisdictions use, whether it's a BMD system  
14 that's been through federal testing and state  
15 testing, whether it's an optical scan system  
16 that's been through federal testing and state  
17 certification testing, a hand-marked paper  
18 ballot system that's been through levels of  
19 testing, I believe all of those voting systems  
20 are reliable for use by whatever jurisdiction  
21 chooses to use them.

22 BY MR. CROSS:

23 Q. In fact, Georgia does currently process  
24 millions of hand-marked paper ballots through its  
25 absentee voting system; right?

1 A. It does.

2 Q. And you certainly would not suggest  
3 there's anything unreliable about that system;  
4 right?

5 A. I would not suggest that. I believe it is  
6 very reliable.

7 Q. Are you aware that the current Dominion  
8 system can process, scan, tabulate hand-marked paper  
9 ballots at the precincts on election day?

10 MS. LaROSS: Objection as to form of the  
11 question.

12 THE WITNESS: The -- the ICP scanner that  
13 is sent out to a polling location on election  
14 day has the ability to process either a  
15 hand-marked paper ballot or a BMD-generated  
16 ballot.

17 BY MR. CROSS:

18 Q. Are you aware that BM- -- sorry. Strike  
19 that.

20 Are you aware that Georgia is the only  
21 state in the country that uses BMDs as the primary  
22 means of voting statewide?

23 MS. LaROSS: I object to the form of the  
24 question.

25 THE WITNESS: I am not certain on that.



1           said. Okay. I wish I got an errata. That's  
2           embarrassing.

3           BY MR. CROSS:

4           Q. Okay. All right. So the question I was  
5           asking you, Mr. Barnes, was: If the ballot has a QR  
6           code that is of the type that the scanner is  
7           designed to tabulate, but it captures different  
8           selections than the voter actually cast on the BMD,  
9           the scanner would still -- would still tabulate  
10          that; right?

11          MS. LaROSS: Object to the form of the  
12          question.

13          THE WITNESS: The scanner is designed to  
14          tabulate what is contained within the QR code.

15          BY MR. CROSS:

16          Q. Based on your experience with elections  
17          over the years and what you know about the current  
18          environment of -- of threats -- sophisticated  
19          threats to U.S. elections, would you personally be  
20          more comfortable with an election system that does  
21          not use QR codes, where voters can actually read  
22          what's going to get tabulated?

23          MS. LaROSS: I object to the form of the  
24          question.

25          THE WITNESS: What I can speak to is I do

1 human -- I'm sorry -- scanning hand-marked paper  
2 ballots; right?

3 MS. LaROSS: I object to the form of the  
4 question.

5 THE WITNESS: Yes, I have confidence that  
6 our system is scanning hand-marked paper  
7 ballots properly and reflecting the intent of  
8 the voter.

9 We have a system that actually gives us  
10 both options and we are currently using both  
11 options, and I have confidence in both options.

12 BY MR. CROSS:

13 Q. Well, under the -- under the new Georgia  
14 statute, it's not as easy to vote absentee as it  
15 used to be; right?

16 MS. LaROSS: Objection to the form of the  
17 question.

18 THE WITNESS: There have been changes to  
19 the election statute in Georgia in reference to  
20 when absentee ballots -- the length of time  
21 absentee ballots can be issued prior to an  
22 election, the amount -- how those absentee  
23 ballots are returned to the county elections  
24 office for tabulation purposes. There have  
25 been changes to the election statute, yes.

1           that it's accessible to our voters, and that it  
2           is reflective of what the voters wish to purvey  
3           to the State when an election takes place.

4           BY MR. CROSS:

5           Q.     Can you identify one cybersecurity  
6           election expert that has endorsed the current  
7           Georgia system as a reliable voting system?

8           A.     I cannot.

9           Q.     Is voter confidence in that system  
10          important?

11          A.     Voter confidence in all that we do as the  
12          elections divisions important. It's important that  
13          they have confidence in the people that run  
14          elections. It's important that they have confidence  
15          in the systems that we use. It's important that  
16          they have confidence in the voter registration  
17          system.

18                 And we work day in and day out doing what  
19          we can to secure the system that we have.

20          Q.     But if you're confident that the system is  
21          secure, particularly in an environment now where  
22          there have been extraordinary claims made about the  
23          reliability of that system, why not just have an  
24          election security expert analyze it, examine it, and  
25          offer an opinion on whether it's reliable?

1 MS. LaROSS: I object to the form of the  
2 question.

3 THE WITNESS: I'm sure if the  
4 Secretary of State decided that he wanted to do  
5 that, that that would get done.

6 BY MR. CROSS:

7 Q. And as you sit here, you don't know why  
8 he's not decided that; right?

9 MS. LaROSS: I object to the form of the  
10 question.

11 THE WITNESS: I do not.

12 BY MR. CROSS:

13 Q. Do you think voters would have more  
14 confidence in a system that did not use QR codes,  
15 where what was getting tabulated, they could  
16 actually read for themselves?

17 MS. LaROSS: I object to the form of the  
18 question.

19 THE WITNESS: I don't know. Voters have  
20 confidence in systems, and it seems like in  
21 today's environment, voters only have  
22 confidence in systems that -- where the people  
23 that they supported in the election won and  
24 they don't have -- they don't have good  
25 confidence in systems when their candidate of

1 BY MR. CROSS:

2 Q. You understand that during the audit that  
3 you've just talked about, there was never any effort  
4 made when reading the human-readable portion of a  
5 particular ballot to see whether the QR code on that  
6 ballot captured the same selections? Are you aware  
7 of that?

8 MS. LaROSS: Objection to form of the  
9 question.

10 THE WITNESS: I am aware that during the  
11 audit, that they focused on the text on the  
12 ballot solely, that they were not correlating  
13 back the text to the QR code at the time.

14 BY MR. CROSS:

15 Q. So the ballot would -- sorry. Strike  
16 that.

17 The audit that we're talking about would  
18 not catch a situation where the human-readable text  
19 had different selections than the QR code on a  
20 particular ballot. That would not be captured;  
21 right?

22 A. It's my understanding that the audit that  
23 they undertook was solely looking at the text and  
24 were not engaging the QR code at that time.

25 Q. Do you know why a decision was made not to

1           conduct at least some reliable statistical sampling  
2           of ballots to compare the QR codes to the  
3           human-readable text to make sure that they actually  
4           correspond?

5                       MS. LaROSS:  Objection to the form of the  
6           question.

7                       THE WITNESS:  I was not privy to the  
8           discussions outlining how the audit was going  
9           to be performed, so I don't know if those -- if  
10          those discussions were discussed or not.

11       BY MR. CROSS:

12                    Q.    If you wanted to know, who would you ask?

13                    A.    I believe the people that were involved in  
14          that discussion at the time, I believe Kevin  
15          Rayburn, who was the deputy general counsel for the  
16          Secretary of State's office at the time was the --  
17          was the preeminent audit person in the Secretary of  
18          State's office at the time.  So I believe he was  
19          involved with the discussions on the steps that  
20          would be taken in that process.

21                    Q.    And --

22                    A.    I don't think he had left the Secretary of  
23          State's office yet at that time.  I know he is now  
24          working for EAC, but I'm -- I might be tying up my  
25          calendar a little bit.

1 Q. And that's Kevin Rayburn you're talking  
2 about?

3 A. Yes, sir.

4 Q. Mr. Barnes, do we agree that the fact that  
5 there has not been any known compromise or  
6 widespread fraud in Georgia elections to date, that  
7 that does not mean that that can never happen in the  
8 future? Are we agreed on that?

9 MS. LaROSS: Object -- objection as to  
10 form of the question.

11 THE WITNESS: We never know what can  
12 happen in the future. If something bad can  
13 happen -- I think Murphy's Law is if something  
14 bad can happen, it can happen.

15 So that's why we have the procedures and  
16 protocols in place to try to prevent bad things  
17 from happening, but none of us can see into the  
18 future.

19 BY MR. CROSS:

20 Q. Were you aware that Theresa Payton, the  
21 head of Fortalice, testified in this case that it's  
22 not a question of when a U.S. election will get  
23 hacked, but if?

24 MS. LaROSS: Object to the form of the  
25 question.

1 THE WITNESS: I am not aware of that  
2 testimony.

3 MR. CROSS: All right. Sorry I took you a  
4 little longer than you asked. I apologize  
5 about that. Let me let you get out of here.

6 And we will -- we'll keep it open. I'm  
7 not going to litter the transcript. I'm going  
8 to let him out. We'll send you a letter,  
9 Diane, on -- on how to proceed.

10 VIDEOGRAPHER: Okay. This suspends the  
11 deposition. The time is 5:04 p.m. and we are  
12 now off the video record.

13 (Deposition suspended at 5:04 p.m.)

14 (Pursuant to Rule 30(e) of the Federal  
15 Rules of Civil Procedure and/or O.C.G.A.  
16 9-11-30(e), signature of the witness has been  
17 reserved.)

18

19

20

21

22

23

24

25



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

C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing pages represent a true, complete, and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.



LEE ANN BARNES, CCR B-1852, RPR, CRR, CRC

## 1 COURT REPORTER DISCLOSURE

2  
3 Pursuant to Article 10.B. of the Rules and  
4 Regulations of the Board of Court Reporting of the  
5 Judicial Council of Georgia which states: "Each  
6 court reporter shall tender a disclosure form at the  
7 time of the taking of the deposition stating the  
8 arrangements made for the reporting services of the  
9 certified court reporter, by the certified court  
10 reporter, the court reporter's employer, or the  
11 referral source for the deposition, with any party  
12 to the litigation, counsel to the parties or other  
13 entity. Such form shall be attached to the  
14 deposition transcript," I make the following  
15 disclosure:

16 I am a Georgia Certified Court Reporter. I am here  
17 as a representative of Veritext Legal Solutions.  
18 Veritext Legal Solutions was contacted to provide  
19 court reporting services for the deposition.  
20 Veritext Legal Solutions will not be taking this  
21 deposition under any contract that is prohibited by  
22 O.C.G.A. 9-11-28 (c).

23 Veritext Legal Solutions has no contract/agreement  
24 to provide reporting services with any party to the  
25 case, any counsel in the case, or any reporter or  
reporting agency from whom a referral might have  
been made to cover this deposition. Veritext Legal  
Solutions will charge its usual and customary rates  
to all parties in the case, and a financial discount  
will not be given to any party to this litigation.

*Lee Ann Barnes*

LEE ANN BARNES, CCR B-1852B, RPR, CRR, CRC