

EXHIBIT H

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DONNA CURLING, et al.,)
)
 Plaintiffs,)
)
vs.)
)
)
BRAD RAFFENSPERGER, et al.,)
)
 Defendants.)

CIVIL FILE ACTION

NO. 1:17-cv-02989-AT

DEPOSITION OF

JENNIFER DORAN

June 28, 2019

10:04 a.m.

Hall Booth Smith, PC

440 College Avenue

Suite 120

Athens, Georgia

Marsi Koehl, CCR-B-2424



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1 Q. You don't know the cost or how much the
2 State is going to pay of it?

3 A. Correct.

4 Q. Do you know how many machines you will get
5 ultimately? You said five for training, but what's
6 the total number for Morgan County, plus or minus?

7 A. Somewhere between 50 and 70.

8 Q. Is that about how many DREs you have?

9 A. That is.

10 Q. How many registered voters are there in
11 Morgan County?

12 A. We currently have a little over 14,100
13 registered voters.

14 Q. Let me ask you some questions about the work
15 that your office does for municipalities.

16 A. Okay.

17 Q. Just by way of background, there's --
18 municipalities will conduct their own elections in
19 some instances; correct?

20 A. Correct.

21 Q. And in Morgan County, there are a lot of
22 municipalities, but which ones do their own elections
23 from time to time in Morgan County?

24 A. Currently, we have -- we have four
25 municipalities and all four municipalities have IGAs

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1 with our Board for us to conduct their elections.

2 Q. That's Madison. Who else?

3 A. Madison, Bostwick, Buckhead and Rutledge.

4 Q. By "IGAs," you mean intergovernmental
5 agreements?

6 A. Correct.

7 Q. So you by contract run their elections?

8 A. Yes, sir.

9 Q. Okay. Your staff -- as if it were a county
10 election, you're just doing it through contract with
11 the municipalities; is that correct?

12 A. Yes, sir.

13 Q. And would that continue as far as you know
14 with the BMDs?

15 A. Yes, sir. They have not made any
16 indications -- I think most of our IGAs are 40 years
17 unless there are any changes.

18 Q. Stepping back to the implementation of the
19 new system, have any plans been made for how the
20 county is going to audit the election results?

21 A. Currently, there are no steps that we've
22 taken to set up an audit system. I know that the
23 Secretary of State will be setting up the required
24 audit.

25 So we've been waiting -- obviously, we have

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1 A. They would, yes.

2 Q. Because you have scanners now that feed into
3 your county GEMS database; correct?

4 A. Right. We do.

5 Q. So you would just be adding precinct
6 scanners to handle the additional paper ballots that
7 would be coming in if you switch to paper ballots.
8 Fair to say?

9 A. Yes, sir.

10 Q. Did you price ballots themselves?

11 A. I did. Currently, our paper ballots -- of
12 course, we only print paper ballots for absentee and
13 provisionals. It's not a very large number. We
14 don't have a large population.

15 We pay 40 cents -- we pay 40 cents a ballot,
16 so I priced it at that.

17 Q. Did you suggest that you might get a better
18 deal if you -- was it your suggestion you might get a
19 better deal if you had more volume or do you know if
20 you would?

21 A. I remember when I was compiling the
22 information for the subpoena that I had asked our
23 ballot printer if we would get a per-ballot discount
24 for a larger -- and he had called me to talk to me
25 and, as I recall, he never gave me an answer.

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1 Q. -- would be the thinking that you would use?

2 A. Yes, sir.

3 Q. You would need those at the start -- by the
4 start of early voting, you need to have your stock
5 already printed? Right? You'd have your whole
6 carton of ballots by the start of early voting?

7 A. We would.

8 Q. Did you consider any other sort of
9 logistical issues in moving to hand-marked paper
10 ballots other than the cost of the scanners and the
11 price of the ballots?

12 A. The actual procedure. Right now we have a
13 set procedure that is guided by the Secretary of
14 State of how you handle a voter from the time he
15 walks in to the time he walks out. Like every
16 procedure we do is dictated already. Every poll
17 worker in the state knows that you do this, this and
18 this.

19 There is no real procedure that I am aware
20 of of how you do paper ballots, how you make sure
21 that you're getting the right district combo so that
22 you have the right ballot style; that you make sure
23 that somebody is not bringing in their own ballot
24 already made up or that they are putting more than
25 one in.

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1 We don't have that procedure in place, so we
2 would have to have some type of procedure and
3 guidance on the actual procedure and logistics of
4 that.

5 Q. One option is -- just to sort of cut to the
6 chase, is the option that we're advocating in our
7 lawsuit is that the -- at least preliminarily for
8 this year and for next year, that the GEMS system,
9 ballot building, GEMS database, delivery to the
10 counties, ballot printing; and then on the other side
11 of the vote, the scanning and tabulation remain the
12 same but that the interface with the voter change
13 from the electronic machine to the tender of a paper
14 ballot.

15 So that's -- in broad strokes, that's the
16 relief that we're seeking. And I want to focus on
17 that particular relief.

18 If done that way, there would be many steps
19 that would be the same; correct?

20 A. Correct.

21 Q. Today, you receive from the Secretary of
22 State the GEMS database with -- with the
23 information -- wait, wait. Let me back up a second
24 because I had the wrong understanding of this.

25 Today the Secretary of State will actually

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1 A. I believe it was after that.

2 Q. Okay. We'll find it.

3 A. It is in the document --

4 Q. In your production?

5 A. Yes.

6 Q. Okay, great.

7 Focusing just on the DRE system, not new
8 proposals from any source, have -- has Morgan County
9 undertaken any effort to improve the DRE system in
10 terms of security or vulnerability?

11 A. Can I ask for clarification?

12 Q. Sure.

13 A. Security like cyber security or physical
14 security?

15 Q. Both.

16 A. Cyber security and vulnerability we have
17 not. Physical security, the Department of Homeland
18 Security offered all our counties a physical security
19 assessment which we took advantage of. He came out
20 and did an assessment.

21 Q. Did he give you some advice? Did he or she
22 give you some advice as to how you could improve?

23 A. As he said, they do not give advice; they
24 give options, which we have reviewed. Yes.

25 MR. BROWN: Off the record.

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1 (Discussion ensued off the record.)

2 BY MR. BROWN:

3 Q. Did you follow any of the options and change
4 your procedure -- physical security procedures?

5 A. We have adopted some of those options.

6 Q. What were those?

7 A. Umm...

8 Q. If you feel free in disclosing that.

9 A. The document where he gave us all that
10 information has been listed as a critical
11 infrastructure that is protected information.

12 Q. Okay. And so you don't feel comfortable
13 disclosing it?

14 A. I do not.

15 MR. BROWN: I understand. Fair enough.

16 Let me get some things on the record.

17 Did we get a number yet? What number are we
18 on?

19 (Discussion ensued off the record.)

20 (Plaintiff's Exhibit 32 was marked for
21 identification.)

22 BY MR. BROWN:

23 Q. Let me hand you what's been marked as
24 Plaintiff's Exhibit No. 32.

25 Is that a copy of the subpoena that you

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1 before, the number today is not of consequence?

2 A. They are not.

3 (Plaintiff's Exhibit 34 was marked for
4 identification.)

5 BY MR. BROWN:

6 Q. Let me hand you what has been marked as
7 Exhibit 34. And I'll represent to you this is not
8 from your production.

9 A. Yes.

10 Q. But do you know what that is?

11 A. A ballot image report.

12 Q. And what is a "ballot image report"?

13 A. It's a vote cast record that shows what a
14 voter chose for each race.

15 Q. Is there a way, looking at that particular
16 document, to determine who the voter was?

17 A. No. There's not.

18 Q. Does that document disclose any information,
19 which if combined with other information, would
20 disclose the identity of the voter?

21 A. Not that I'm aware of.

22 Q. Are you aware of the position stated by some
23 people that a ballot image report printed out does
24 disclose the identity of the voter? Are you aware of
25 that position?

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1 (Plaintiff's Exhibit 37 was marked for
2 identification.)

3 BY MR. BROWN:

4 Q. Let me hand you what has been marked as
5 Exhibit 37. And I'll represent to you this is
6 something from Rockdale County not Morgan County.
7 And the purpose of this is to highlight an issue that
8 some people have identified in the 2018 vote -- and
9 that is, if you look at the second row of this table
10 corresponding to unit four and then you'll see also
11 the third row and the fourth row and then down in the
12 middle of the page, half a dozen or so instances in
13 which the voter complained that the ballot was cast
14 before the voter had the opportunity to review the
15 summary screen or to hit the cast-ballot button.

16 First of all, in your testing, did you
17 observe that problem in any of the L&A or other
18 testing that you did before the election?

19 A. I did not see that problem.

20 Q. Would you have seen it in the steps that you
21 go through in the logic and accuracy testing?

22 A. As -- one of the tests that we do is we
23 actually go through and just make choices. And then
24 go to -- right before you hit "cast ballot" is the
25 summary screen, which it appears that that's where

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1 this was happening. We would have -- we would have
2 been at that point on the machines, so that would
3 have been when it happened, but we did not have that
4 issue.

5 Q. Did you get reports of that issue from poll
6 managers, poll workers or voters?

7 A. We did not. We had one woman who wanted to
8 review everything and she kept hitting and hit "cast
9 ballot," but she actually hit the "cast ballot." But
10 we did not have any complaints that it cast before
11 they hit the "cast ballot."

12 Q. Did you have complaints about just goofy
13 machines that were -- the display not being proper or
14 racing ahead or stalling or anything like that?

15 A. No.

16 Q. Did you -- not that you should have, but did
17 you prepare a report like that that summarizes the
18 problems, if any, that you encountered in the
19 election?

20 A. We did not. We had one issue and it was
21 a -- that we did document because it was -- and I'll
22 go ahead and explain it to you. It happened with
23 older women in early voting. I'm not sure how, but
24 they were using their fingertips or fingernails to
25 press and it wasn't registering.

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1 When we told them to use the pad of it, it
2 would register. But it was -- it was a common issue
3 with only -- and I don't know why but only older
4 women that were doing it basically with their
5 fingernails or the tip of it. And as soon as they
6 started pressing like this with the pad, it would
7 read it.

8 Q. I guess younger women or younger men with
9 fingernails are more used to maybe --

10 A. -- using the pad.

11 Q. -- using the pad.

12 Did you receive an FBI news flash -- that is
13 before she got there probably.

14 (Discussion ensued off the record.)

15 BY MR. BROWN:

16 Q. Do you recall receiving a forwarded FBI news
17 flash about the targeting of state board election
18 systems?

19 A. I do not.

20 Q. In one of the earlier meetings, did you
21 discuss with the Board the threat of a cyber-attack
22 from foreign countries?

23 A. During -- there was some report, a federal
24 report, and I don't remember where it was. It was in
25 the summer or fall of '18, that it said that they

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1 A. My understanding is generally there is a
2 procurement process. However, because the State
3 certifies only certain vendors or certain companies,
4 that we would only get it from them.

5 Q. Is there more than one vendor, do you know,
6 for optical scanners?

7 A. I'm sure there are, but since we only use
8 the one, that's where I got the quote from.

9 Q. If you needed to obtain optical scanners,
10 could you go to that one vendor to receive more
11 optical scanners or would you have to go through the
12 procurement process to obtain the optical scanners if
13 you were making the switch? Does that make sense?

14 A. Yes. I think right now they are the only
15 vendor that sells the ones that are certified for the
16 state of Georgia. So you would have to use them.

17 Q. Okay. Do you know about how long of a
18 turnaround time it would take to obtain all of the
19 optical scanners if you moved to the hand-marked
20 paper ballots?

21 A. I had ordered two new express polls, which I
22 know are very different equipment, because two of
23 ours had died and it was just cheaper to buy them
24 than get them fixed.

25 To go through the process of buying them and

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1 getting them -- they had to go to the State so that
2 they are certified and tested before they're sent to
3 us was about two months.

4 Q. Would it be a similar process for optical
5 scanners?

6 A. They do have to go through the State. So
7 even if we purchased them, they don't come directly
8 to us. Even if they were going to ship them that
9 day, they have to go to the State and the State has
10 to certify -- they have to do their testing and
11 certification.

12 Q. As you know, there are two separate
13 plaintiffs here, the Coalition plaintiffs and then
14 you also have the Curling plaintiffs.

15 The Curling plaintiffs have requested that
16 instead of using DREs for ADA purposes for a
17 preliminary injunction -- I believe Mr. Brown
18 discussed this earlier generally. But the Curling
19 plaintiffs suggested or seek to have BMDs to be used
20 for the upcoming municipal election for ADA purposes.

21 Do you know if that would even be possible
22 for the County to purchase BMDs before the upcoming
23 municipal elections?

24 A. I don't think it's possible because I think
25 there is a rollout in place. And the 10 to

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1 12 counties who are getting them, they are getting
2 them for the municipal elections in November.

3 Q. And I know you've mentioned about having
4 certified vendors through the State.

5 Are there any vendors currently certified
6 for the use of BMDs?

7 A. Because the Secretary of State has not
8 certified them, no.

9 MS. ANDERSON: I believe that's all I
10 have.

11 MR. BROWN: I just have one follow-up
12 question.

13 FURTHER EXAMINATION

14 BY MR. BROWN:

15 Q. You -- you testified that you'd have to buy
16 10 scanners. It would cost about \$1300. But you
17 could do a central count scanner, right, at your
18 office? You don't have to have a scanner in every
19 precinct?

20 A. When we discussed it back at the end of
21 2018, when the board was batting around the idea, my
22 suggestion, just for security, is that they get
23 scanned at the precinct.

24 Not only security, people kind of do crazy
25 things with their ballots. Sometimes they circle

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1 them; they scratch them out and do that. If they
2 make a mark and our scanner is not going to read it,
3 it's better, in my opinion, to have the voter fix it
4 then. Otherwise, if it doesn't get scanned at the --
5 my office, we have to do a vote review panel. And
6 you have three people who have to make a
7 determination of what you intended.

8 So to me a precinct scanner not only where
9 you're dropping it in after it's scanning, you
10 have -- you know that your ballot has already been
11 scanned and there's not going to be a three-person
12 panel that decides how you voted.

13 Q. Have you looked at the pricing or the
14 potential of purchasing used scanners of these
15 AccuVote scanners?

16 A. I have not looked at those. I just went
17 ahead and got the quote from ES&S.

18 Q. For the new ones?

19 A. Mm-hmm.

20 Q. You mentioned --

21 A. Vote review panel.

22 Q. Before -- there was something you said in
23 one of your answers that I didn't understand before
24 and it was in connection with the different types of
25 voters or elections. And you said -- I think you

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CERTIFICATE

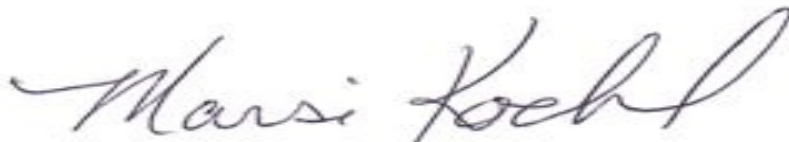
STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the colloquies, questions, and answers were reduced to typewriting under my direction; that the transcript is a true and correct record of the evidence given upon said proceeding.

I further certify that I am not a relative or employee or attorney of any party, nor am I financially interested in the outcome of this action.

This the 5th day of July, 2019.



Marsi Koehl, CCR-B-2424

