

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Arizona Alliance for Retired)	
Americans, et al.,)	No. 22-cv-01823-PHX-MTL
)	
Plaintiffs,)	22-cv-08196-PCT-MTL
)	(Consolidated)
vs.)	
)	
Clean Elections USA, et al.,)	Phoenix, Arizona
)	November 1, 2022
Defendants.)	12:15 p.m.
)	

BEFORE: THE HONORABLE MICHAEL T. LIBURDI, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EVIDENTIARY HEARING

Official Court Reporter:
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Sandra Day O'Connor U.S. Courthouse, Suite 312
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Proceedings Reported by Stenographic Court Reporter
Transcript Prepared by Computer-Aided Transcription

I N D E X**WITNESSES FOR THE PLAINTIFFS:****PAGE**

Pinny Sheoran	
Direct Examination by Mr. Danjuma	27
Cross-Examination by Ms. Lucero	43
Redirect Examination by Mr. Danjuma	54
Complainant 240	
Direct Examination by Mr. Danjuma	58
Cross-Examination by Ms. Lucero	86
Redirect Examination by Mr. Danjuma	96
Recross-Examination by Ms. Lucero	99
Leslie Hanson	
Direct Examination by Ms. Homer	103
Cross-Examination by Ms. Lucero	107
Redirect Examination by Ms. Homer	108
Lois Hansen	
Direct Examination by Ms. Homer	112
Cross-Examination by Ms. Lucero	118
Lorna Banister	
Direct Examination by Ms. Homer	120
Cross-Examination by Ms. Lucero	127
Donald Clark Overlock	
Direct Examination by Mr. Bendor	129
Cross-Examination by Ms. Lucero	133
Daniel Maldonado Rivera, Jr.	
Direct Examination by Mr. Delgado	136
Cross-Examination by Ms. Lucero	141

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>REC'D</u>
1	Bannon's War Room 10/17	69
2	MG Show 10/18	69
3	Bannon's War Room 10/15	72
4	Bannon's War Room 10/21 A	80
5	Bannon's War Room 10/21 B	--
6	@TrumperMel Tweet 9/8/22	143
7	Alice Bagley Mercer Tweet ECF 11-2, Ex. D	97
8	@TrumperMel Tweet, ECF 11-2, Ex. E	98

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P R O C E E D I N G S

(Court was called to order by the courtroom deputy.)

(Proceedings commence at 12:15 p.m.)

THE COURT: Be seated.

THE COURTROOM DEPUTY: Civil Case 22-1823, Arizona Alliance for Retired Americans and others vs. Clean Elections USA and others. This is the time set for evidentiary hearing on Plaintiff League of Women Voters of Arizona's motion for a temporary restraining order and preliminary injunction.

Counsel, please announce your presence for the record starting with the plaintiff.

MR. DANJUMA: Good morning, Your Honor. Orion Danjuma on the plaintiffs, League of Women Voters of Arizona.

MS. HOMER: Richer Homer on behalf of plaintiff, League of Women Voters of Arizona.

MR. DELGADO: Brandon Delgado. And Josh Bendor's walking in right now.

MR. ARELLANO: Good afternoon, Your Honor. Daniel Arellano and Austin Yost for Plaintiffs Arizona Alliance -- or Austin Marshall -- excuse me -- Austin Marshall -- excuse me -- for plaintiffs Arizona Alliance for Retired Americans and Voto Latino.

MS. LUCERO: Good afternoon, Your Honor. Veronica Lucero for defendants.

MR. KOLODIN: Good afternoon, I suppose it is now,

1 Your Honor. Alexander Kolodin also for defendant.

2 THE COURT: Okay. Thank you, everybody. Good -- good
3 afternoon.

4 You'll have to give me one moment, because my computer
5 isn't up, and I might need to establish a LiveNote connection.

6 (Brief pause.)

7 THE COURT: That was a false alarm.

8 Thank you all for working together on the agreements.
9 I had a chance to read what Mr. Kolodin filed. And my
10 apologies to all of you. I thought that was somewhat of a --
11 of a joint filing, but, Mr. Danjuma, I was wrong in that
12 regard.

13 MR. DANJUMA: Yes, Your Honor. I think just -- and
14 this was not, you know, an issue of bad faith. I think there
15 were crossed wires. We had mentioned yesterday that we were
16 close on a number of issues but that we had -- our
17 understanding is that we would work out the final details with
18 the Court. And I think -- but I had mentioned that -- that
19 opposing counsel could -- could file something if they desired
20 to, and I think they did.

21 But I'm -- that was the reason why it may have
22 appeared to be a joint agreement. But it -- but there are --
23 there is agreement in large part on many of the relevant
24 components. And I think we appreciate the Court's narrowing of
25 the issues, because I think that has helped us make a lot of

1 progress. And we're happy to summarize, I think, together.

2 THE COURT: All right. Very good. Thank you.

3 Mr. Kolodin?

4 MR. KOLODIN: Yes, Your Honor. We -- and I apologize
5 for being a few minutes late, but I assure the Court it's a
6 good purpose. We actually do have now a partial agreement with
7 client consent.

8 I believe, Josh, you have the language of it with
9 the -- with the wording that you want to move?

10 MR. BENDOR: Yes, Your Honor. Did Your Honor see the
11 notice of compliance that we filed regarding the filing with
12 the Ninth Circuit?

13 THE COURT: I did. And, thank you, everybody, for --
14 for endeavoring to get that on file with the Circuit.

15 MR. BENDOR: So Exhibit A to the Ninth Circuit
16 filing -- and I have a copy of, if Your Honor would like it --
17 contains the parties' partial agreement with one change that we
18 have subsequently agreed to, which is a very minor wording
19 change. There are some issues still to be decided.

20 MR. KOLODIN: I'm not sure if the language is exactly
21 the same. You may just want to give the Court what you have --
22 what you have so that -- because I know -- I know we've been
23 tweaking this all morning.

24 MR. BENDOR: May I approach, Your Honor?

25 THE COURT: You may hand it to the courtroom deputy.

1 MR. BENDOR: I am pretty sure that but for the change
2 to paragraph 1 --

3 THE COURTROOM DEPUTY: Did you see this?

4 MR. KOLODIN: Yes, I've seen this.

5 MR. BENDOR: -- this is the same as what's in
6 Exhibit A.

7 THE COURT: Okay.

8 MR. KOLODIN: And that language that we noted for Your
9 Honor that we were still trying to work out, we -- we all sort
10 of mutually decided that, actually, the language was fine. So
11 that footnote that says we're still working on it, you know,
12 we'll actually keep that -- that final language.

13 And I appreciate Mr. Bendor and the League working
14 with us. You know, if I had been hired ab initio to set some
15 rules for this program, these are probably very similar to what
16 I'd set. So I think it would be useful for the State to have
17 them in the record so that other people can look at what
18 reasonable guidelines might look like.

19 THE COURT: Okay. Is paragraph 3, about the name of
20 Clean Elections USA, a response to the Clean Election
21 Commission's demand?

22 MR. KOLODIN: It is, Your Honor.

23 THE COURT: Okay. Response perhaps -- potentially
24 wasn't the right word, I guess. The word should be is a
25 consideration of or -- or maybe takes into account that demand?

1 MR. KOLODIN: Yes. That's exactly the reason for the
2 language.

3 THE COURT: What -- can you -- is there any
4 information you can give me about that controversy?

5 MR. KOLODIN: Correct me if I'm wrong, Veronica,
6 because I know you were closer to it than I was, but I seem to
7 remember the Clean Elections Commission didn't like -- that
8 they thought that Clean Elections USA's name was confusingly
9 similar, so they wanted the name to be changed to make it more
10 distinct. And I believe that was agreeable to our client, so
11 at some point they will be changing their name. Whether they
12 get it done before or after the election, I don't know.

13 THE COURT: I see.

14 MR. KOLODIN: Yeah.

15 THE COURT: Okay. Thank you, Mr. Kolodin.

16 Okay. At the end of the hearing today, I will enter
17 the agreed-upon temporary restraining order, and it just
18 remains to be said -- remains to be seen if some other -- other
19 components of -- of plaintiffs' requested relief will be
20 included.

21 And, Mr. Danjuma, why don't you go over with me
22 what -- what the areas are that we're going to cover today.

23 MR. DANJUMA: Yes, Your Honor. And the -- the
24 remaining areas of -- of difference between the parties, and
25 opposing counsel can join me in this statement, are over the

1 issue of whether or not Ms. Jennings can be required to refrain
2 from making false statements about voter eligibility; a narrow
3 set of false statements about voter eligibility in the future;
4 whether or not the -- Ms. -- Ms. -- whether or not the TR --
5 the temporary restraining order would contain a provision
6 related to video -- videotaping and photography.

7 Just to be clear, we've -- we've moved on that. We've
8 presented them with a narrower version, but our understanding
9 is that they -- that opposing -- defendants will not agree to
10 any term that --

11 THE COURT: And tell me what the most recent position
12 is of your client. I -- I understand that you have somewhat of
13 a fallback position in -- in the supplemental brief that was
14 filed yesterday. Is it -- is it -- has that changed?

15 MR. DANJUMA: Yes. So -- so the -- the current
16 language we're suggesting is that -- that the temporary
17 restraining order would enjoin defendants and their agents,
18 et cetera, from taking photos or otherwise recording
19 individuals who are within 75 feet of a ballot drop box. And I
20 can explain the basis for that -- that request.

21 The -- the reason why we think that -- so we
22 obviously -- we understand that the Court has concerns about
23 the constitutionality of -- of a restraining order that affects
24 videotaping and photography. We take that very seriously, and
25 we've essentially crafted an injunction that would be drawn

1 against these defendants that would treat drop box locations as
2 akin to a voting location, a traditional voting location, and
3 would prevent photography of individuals within those --
4 within -- within that 75-foot limit by defendants and their
5 agents. That the injunction is not meant to apply broadly to
6 the public. It's meant to apply to the defendant and their --
7 and their agents.

8 And the reason why the factual circumstances we think
9 warrant an injunction like this in a case like this is because
10 the photography and video of the defendants is -- is an
11 essential component of -- of why voters are intimidated. If
12 there were no provision that affected that, it would -- it
13 would -- it would miss a -- a crucial component of why voters
14 are affected.

15 We have testimony that will -- that we plan to present
16 you with that -- that will show the effect of -- of photography
17 and videoing on the -- on voters generally. And in addition to
18 that, the defendants themselves have stated -- Ms. Jennings has
19 stated several times that the purpose of this photography is to
20 intimidate people. It's to intimidate mules. It's her -- her
21 selected target is mules, but basically we have a situation
22 where both voters are being intimidated. And I think the
23 defendant is -- is -- is essentially conceding that the purpose
24 of that videotaping is to intimidate. And under those
25 circumstances, a restriction like this, that maps very closely

1 onto the normal buffer zone around voting location is
2 appropriate when drawn against the defendant.

3 THE COURT: Okay. So then the two remaining issues
4 are --

5 MR. DANJUMA: Oh, and --

6 THE COURT: Oh.

7 MR. DANJUMA: Your Honor, I apologize. There is one
8 additional issue --

9 THE COURT: Okay.

10 MR. DANJUMA: -- which is about doxxing, and we do
11 have a proposed revised order. And I could -- I can present
12 this to you at -- with highlighted portions. I don't know if
13 it'd be easier for us to present you with our proposed
14 language, but the error -- the issue area involves doxxing, the
15 use of personal information by defendants and their agents, the
16 publication of personal identifying information as a -- as a
17 mode of harassment.

18 Would it be helpful if we presented -- the way we've
19 prepared these documents is we've just presented the Court with
20 the -- the agreed-upon language by both parties. We have a
21 version that essentially has the agreed-upon language plus our
22 proposed additions.

23 THE COURT: Okay. I'd like to see that. Just make
24 sure Ms. Lucero and Mr. Kolodin --

25 MR. DANJUMA: Surely.

1 THE COURT: -- have a copy.

2 MR. DANJUMA: Yes. Just one moment.

3 MR. ARELLANO: Your Honor, may I make a brief point
4 while counsel gets the papers ready?

5 THE COURT: Yes, sir.

6 MR. ARELLANO: I'll use the microphone. Excuse me.

7 So Daniel Arellano, Your Honor, counsel for Plaintiffs
8 Arizona Alliance and Voto Latino.

9 I just want to make clear that the agreement that the
10 League has reached with defendants is purely as between the
11 League and defendants. The Alliance and Voto Latino have not
12 reached any agreement that would resolve or in any way moot or
13 change the status of their claims either as they are pending
14 before this Court or on appeal before the Ninth Circuit.

15 THE COURT: Okay. Thank you, Mr. Arellano.

16 MR. DANJUMA: We're delivering these papers now.

17 But just to summarize, the -- the areas of
18 disagreement between the parties contain the injunction over --
19 against defendant over narrow or false statements about voter
20 eligibility.

21 MR. KOLODIN: I'd like to see this. I -- are you --

22 MR. DANJUMA: Well --

23 MR. KOLODIN: Are you saying --

24 MR. DANJUMA: -- yeah, we're presenting -- we've got a
25 copy. We're going to give it to you right now.

1 So, Your Honor, again, the three areas that remain
2 open relate to doxxing, video and photography, and false
3 statements.

4 THE COURT: Okay.

5 MR. KOLODIN: I'd like to take a moment to review
6 this, Your Honor, before we respond.

7 THE COURT: Of course.

8 MR. KOLODIN: So I -- I don't actually believe that
9 the language in here, even as to the points that are not at
10 issue, exactly lines up with the language of -- of the
11 agreement, you know. Putting that aside, I have a couple of
12 responses to these points. I'll take the -- the legal side,
13 and Veronica will take the factual side.

14 The -- the first is they -- they -- they say that they
15 seek to restrain Ms. Jennings from making a narrow set of false
16 statements or what they consider to be false statements about
17 Arizona law, but -- and they say that they have a sort of
18 delineated and defined list of what those statements are that
19 they see -- that they seek a prior restraint for, but I don't
20 see --

21 THE COURT: Tell -- tell me which section you're --
22 you're reading from --

23 MR. KOLODIN: Okay.

24 THE COURT: -- or at least referring to.

25 MR. KOLODIN: Mr. Danjuma, would you -- would you say

1 which one of these is the prior restraints? It's not
2 immediately clear to me.

3 MR. DANJUMA: It's the --

4 MR. KOLODIN: Oh, cease and desist. Here we go.
5 Okay. It's number 5.

6 MR. DANJUMA: 5.

7 MR. KOLODIN: Shall cease and desist from making false
8 statements about Arizona Revised Statute 16-1005 immediately
9 through the close of voting on election day.

10 So, Your Honor, I went back and looked at the
11 statements, as -- as Your Honor noted, and this was in the
12 bench brief, looked at the statements that plaintiffs were
13 claiming are false. They're not false. What they -- what they
14 are is incomplete. Ms. Jennings correctly stated the default
15 rule and one of the exceptions but failed to list the -- some
16 of the other exceptions.

17 And to hold private citizens to a standard -- to a
18 standard where they're speaking in -- in the public arena about
19 election law, issues that are core to the First Amendment, the
20 administration of elections and ongoing election, and to hold
21 them to the standard of they will be violating a Court order if
22 they get the law wrong or even incomplete, that would have an
23 incredible chilling effect on the public discourse.

24 You know, in fact, when we were going back and forth
25 last night, I think us and certainly -- or certainly us, and

1 perhaps the other side, made minor errors that we each had to
2 correct of one another what 16-1005 said, because it's hard
3 even for lawyers to get the law precisely and completely
4 correct sometimes.

5 And so we would -- we would view such a prior
6 restraint, one, is prior restraint just generally being
7 unconstitutional about an issue that's core to the First
8 Amendment protections, but certainly this one having a massive
9 chilling effect on discourse, because this is a standard
10 private citizens could never really be expected to meet,
11 otherwise they would be lawyers.

12 The second issue is -- is on the videotaping and
13 photography. So here's the divergence, to flush it out for the
14 Court. What the complaint -- what we're saying is we won't
15 have anybody -- and this is -- this is what the stipulated
16 order is. We won't have anybody go within 75 feet of a drop
17 box, period. What plaintiffs are seeking with this additional
18 requirement is to say, but even if you're standing outside of
19 the 75 feet, you can't photograph what goes on within the
20 75 feet. And they -- they -- they state that Arizona law
21 already contains such a prohibition for the polling places, but
22 there's -- there's two problems with that.

23 One, that's not true; right? You can take a picture
24 of what's going on within 75 feet of the polls from outside of
25 75 feet of the polls. Arizona law doesn't prohibit that at

1 all. What it prohibits is taking a photograph within 75 feet
2 of the polls. And that is what we're willing to abide by,
3 right, those same strictures applied to drop boxes.

4 But the other -- the other issue, of course, is that
5 on the -- on drop boxes and photography, the legislature has
6 not spoken. The legislature has actually chosen to carve out
7 certain methods of voting from the 75-foot limit at all. For
8 example, if you cast your ballot from home or from a political
9 rally, if you're a vote-by-mail voter, you're certainly
10 allowed, and actually Arizona law contains express carve-out,
11 you're allowed to take a picture of those ballots. People in
12 that room are allowed to photograph you. People at that rally
13 are allowed to photograph you. The legislature has chose to
14 limit this to the area around the polls, where people go to
15 cast a ballot. And as the U.S. Supreme Court has repeatedly
16 said and the Ninth Circuit's repeatedly said, state
17 legislatures have extremely wide discretion as to how to strike
18 the balance, because ultimately, right, these sorts of
19 restrictions are a balance between competing interests:
20 Competing interests in one hand and voter privacy; competing
21 interests in the other hand of First Amendment protection,
22 being able to comment on issues of political discourse. And
23 the public ability to observe the election process, as even
24 this District has noted the last time a suit like this did not
25 succeed. And that's -- that balance is not for litigants to

1 strike. That balance is for the legislature to strike so it
2 can weigh the competing interests in society. What they're
3 essentially trying to obtain with this is -- is a change in the
4 law that has to take place through the legislative process.

5 In addition, in the bench brief that we submitted last
6 night to Your Honor, we gave three examples -- and they're just
7 examples. There are many more -- of -- of media stories that
8 have photography of what's happening within 25 -- within
9 75 feet of the drop boxes. Indeed, it was happening right at
10 the drop boxes along with voter faces visible, along with voter
11 vehicles visible. And these media stories contain extensive
12 commentary about that process and use the photo as an aide in
13 that discussion.

14 And, unfortunately, from our client's perspective,
15 right, those -- those stories and that commentary tends to be
16 fairly negative towards their -- their points of view. And
17 they have a right, just as the Washington Post does or a blog
18 like the Daily Beast does, to take photographs and comment on
19 what they think they are observing.

20 If a -- if a private individual -- and I don't -- I
21 haven't seen any evidence that our client has done this, but
22 if -- if they were to defame a private individual and accuse
23 them of committing a crime which they didn't have good reason
24 to -- to -- to believe they committed, there'd be a cause of
25 action and tort for that. They would -- they would be liable

1 for defamation. And they, like the media, have to refrain from
2 that. But they, like the media, also have a right to take
3 these pictures, to use these pictures to tell their story. So
4 that's very important.

5 THE COURT: Okay. Mr. Kolodin, let me just jump in
6 here. Just remember we're going to put on evidence --

7 MR. KOLODIN: Oh, sure.

8 THE COURT: -- and I'm -- and I'm going to hear
9 argument after.

10 MR. KOLODIN: Of course. I will let Veronica then --

11 THE COURT: Can you --

12 MR. KOLODIN: -- briefly --

13 THE COURT: -- refer to folks as like Ms. Lucero
14 and --

15 MR. KOLODIN: I'm so sorry, Your Honor. I will allow
16 Ms. Lucero to address the factual issues.

17 THE COURT: Okay. And, Ms. Lucero, just remember,
18 we -- we're going to have more facts presented here in just a
19 moment. So do you -- do you want to give me an overview right
20 now or --

21 MS. LUCERO: I think --

22 THE COURT: -- or just reserve until after --

23 MS. LUCERO: Yeah, I would --

24 THE COURT: -- to --

25 MS. LUCERO: I would reserve most of it, but just --

1 just to refute one point from the plaintiffs, the League.

2 We do not agree that the -- the purpose of -- of
3 the -- the speeches to -- or, I'm sorry -- the -- we do not
4 concede that -- that the defendants are intending to intimidate
5 anyone. We've -- we don't agree that that's the purpose of any
6 of their activities.

7 THE COURT: Okay. Well, let's -- let's move forward.

8 Are the -- oh, let's -- let's talk about the -- the
9 witness issue. Tell me what you've been able to agree upon, if
10 anything.

11 MR. DANJUMA: Your Honor, this is a situation where
12 the parties have not been able to come to an agreement.

13 THE COURT: Okay.

14 MR. DANJUMA: The -- the -- the defendants have agreed
15 to an attorneys' eyes -- I'm sorry. The defendants -- we have
16 proposed that the -- the witness testify as proposed by the
17 Court, with an attorneys' eyes only requirement for that
18 testimony, but defendant has refused to agree to that without
19 allowing them to identify the witness to the -- to
20 Ms. Jennings.

21 And for us, that is -- is -- is unacceptable
22 because -- and we -- we have evidence, we plan to show evidence
23 that she has directly executed on an attempt to dox this
24 individual, to find and identify that person. The only reason
25 that defendants provided is that they said that Ms. Jennings

1 might know the person and might have some sort of information
2 about them that -- that they would like to know. But this
3 individual has never met Ms. Jennings, never knew anything
4 about Ms. Jennings before this incident. It's a random voter
5 who got caught up in -- in -- in a -- in an incident here.

6 And the risk to the witness, given Ms. Jennings'
7 direct statements, is -- is very high. And we don't see any
8 reason why it'd be important for her to know that. This is not
9 a criminal case where there's a confrontation clause issue.
10 It's -- it's a voter.

11 THE COURT: Okay. And the defendants' response?

12 MR. KOLODIN: Our -- our response is -- is twofold.
13 First of all, the -- the face of this witness is already
14 plastered all over myriad news reports. And, in addition, what
15 we had been agreeable to was a protective order saying counsel
16 eyes only and Ms. Jennings' eyes only, and she may not
17 disseminate the name of this person to anybody.

18 And we -- we disagree with the characterization of the
19 prior statements. Obviously that'll be in the evidence
20 portion. But that's -- it's neither here nor there, because
21 obviously if Ms. Jennings is bound by an order of the Court not
22 to divulge the name, then she's not going to be able to divulge
23 the name or she's taking a very significant risk.

24 But the problem is -- and the reason that the -- the
25 federal rules are so restrictive on -- on filing witnesses

1 under seal and witness declarations under seal is because of
2 the enormously prejudicial effect it has -- it has on parties.

3 THE COURT: Well, I think -- I think, though, the
4 issue is narrowed to whether the witness is required to provide
5 his or her name.

6 MR. KOLODIN: Well, it --

7 THE COURT: Is that right, Mr. Danjuma?

8 MR. DANJUMA: Yes, Your Honor. We've provided all the
9 information we have and -- and obviously are preparing the
10 witness for cross-examination by opposing counsel.

11 THE COURT: Okay. So that -- that's what it's limited
12 to, Mr. Kolodin.

13 MR. KOLODIN: I understand, Your Honor -- Honor. What
14 I had -- I had told Mr. Danjuma yesterday is barring having the
15 name yesterday -- as Your Honor ordered, there's a reasonable
16 notice requirement. Barring having that yesterday and being
17 able to discuss with our client who that is, does she know
18 them, what's the back story, might this person have any
19 motivations, et cetera, and being able to do that research
20 using the name, we would object to the presentation of this
21 witness at all because of the prejudicial effect of not being
22 able to do any diligence on them to -- to prepare.

23 MR. DANJUMA: Your Honor, if I may?

24 We repeatedly offered to provide opposing counsel with
25 the individual's identity if they could agree to an attorneys'

1 eyes only designation, which is a standard practice in
2 protective orders.

3 THE COURT: Okay. I'm going to impose an attorneys'
4 eyes only requirement here. Counsel for plaintiffs, I think
5 you could -- you could provide the name of the witness to
6 counsel for defendants. Counsel for defendants are -- are
7 required under my order to treat it as attorneys' eyes only.
8 When the witness is -- when the witness testifies, shall we
9 refer to the witness in a manner other than -- and is it a man
10 or a woman?

11 MR. DANJUMA: The witness is a man, and I -- I think
12 we -- we can -- obviously for the initial swearing, we need to
13 have a name that could be redacted from the record, but the
14 rest we can -- we can avoid by referring to the individual as
15 Complainant 240.

16 THE COURT: Okay. 240. Okay. So what we'll do is
17 we'll bring the witness up to the microphone. They'll be sworn
18 in -- one moment.

19 (The Court and the courtroom deputy confer.)

20 THE COURT: All right. We're going to do this: We're
21 going to swear the witness in at the sidebar. So counsel --
22 one counsel from both sides can approach.

23 MR. KOLODIN: Your Honor, we'd also invoke the rule of
24 exclusion of --

25 THE COURT: That's my next --

1 MR. KOLODIN: Yeah.

2 THE COURT: That's my next thing. Thank you. I
3 appreciate it, but I -- typically I have an agenda I go through
4 here.

5 So what we're going to do is we call this witness,
6 who's the second witness, I would --

7 MR. DANJUMA: Right.

8 THE COURT: -- note. We're going to call them up to
9 sidebar. Some static will come on. We'll -- and so that way
10 the court reporter can hear the name of the witness. And then
11 I'll order the portion of the transcript with the name under
12 seal.

13 MR. DANJUMA: And --

14 (The Court and the courtroom deputy confer.)

15 THE COURT: All right. And another thing that -- that
16 Ms. Richter's recommending is we'll -- we'll need to have a
17 version of the witness list with this person's name on it. And
18 so what we'll do is we'll file -- we'll file that under seal --

19 MR. DANJUMA: Under seal.

20 THE COURT: -- and then we can file the -- a redacted
21 version on the public docket.

22 MR. DANJUMA: That makes sense, Judge Liburdi.

23 So just two additional elements, is just that we'd ask
24 for that -- that provision -- that portion for the courtroom to
25 be closed except for attorneys and also for the dial-in number

1 to just be muted for that.

2 THE COURT: I would prefer not to do -- to do that. I
3 think this person needs to testify in public.

4 MR. DANJUMA: Oh, I see. So, in other words, the --
5 the audio, except for the sidebar portion, would be --

6 THE COURT: Yes.

7 MR. DANJUMA: -- would be -- got it. Okay. I
8 understand.

9 Is it possible to close the courtroom to the -- the
10 members except for attorneys for that provision?

11 THE COURT: I would prefer that it be done in open
12 court.

13 MR. DANJUMA: Okay.

14 THE COURT: We have -- we have a strong presumption of
15 public --

16 MR. DANJUMA: I --

17 THE COURT: -- presence.

18 MR. DANJUMA: -- understand. Can I consult with the
19 client --

20 THE COURT: Yes.

21 MR. DANJUMA: -- with the witness very quickly?

22 THE COURT: Yes.

23 (Brief pause.)

24 MR. DANJUMA: Yes, Your Honor. That's agreeable to
25 us. And I -- if we could just remind members of the public not

1 to -- that -- of the rule against recording proceedings in the
2 court, that would be --

3 THE COURT: Right. That -- that is the rule here.
4 You're -- you're not allowed to record these proceedings
5 whether you're here in the courtroom or you're listening in on
6 our listen line.

7 And -- and, again, counsel, the witness's name will be
8 provided at sidebar.

9 Mr. Kolodin, you wish to invoke the rule of exclusion?

10 MR. KOLODIN: Yes, Your Honor.

11 THE COURT: Okay. The rule of exclusion is invoked.
12 If there are any -- any witnesses in the courtroom, I'm going
13 to ask you to please exit the courtroom and wait for you to be
14 called, except for the first person who plaintiffs want to
15 call.

16 You may call your first witness.

17 MR. DANJUMA: And, Your Honor, just to -- a brief
18 question about the proceedings. We'd also like to make a
19 statement, but could we reserve that at the beginning of our
20 argument? Is that -- is that possible?

21 THE COURT: What --

22 MR. DANJUMA: Just a --

23 THE COURT: Well --

24 MR. DANJUMA: Just a statement summarizing the
25 evidence.

1 THE COURT: If you'd like to do that now, you can.
2 Briefly. I mean, we're limited on time.

3 MR. DANJUMA: Yeah. We'll -- you know, we'll -- we'll
4 proceed with the first -- with the first witness.

5 THE COURT: Okay. I think that's the best course.

6 MR. DANJUMA: So, Your Honor, we call -- Plaintiff
7 League of Women Voters of Arizona calls our first witness,
8 Pinny Sheoran.

9 THE COURT: Ms. Sheoran, please come forward.

10 THE COURTROOM DEPUTY: Right up here, please.
11 Please state your name, and spell your name for the
12 record.

13 MS. SHEORAN: My name is Pinny Sheoran spelled
14 P-I-N-N-Y, S-H-E-O-R-A-N.

15 THE COURTROOM DEPUTY: Thank you. Please raise your
16 right hand.

17 (PINNY SHEORAN was duly sworn or affirmed.)

18 THE COURTROOM DEPUTY: Thank you. Please have a seat
19 on the witness stand.

20 THE COURT: Ma'am, just a few requests as you make
21 your way up there. Come on up. Be careful walking up those
22 stairs.

23 Please wait for the lawyers to finish asking the
24 question before you answer. Try not to talk over the lawyers
25 when you're answering. It's a -- it's helpful to get an

1 accurate transcription. And, also, if a lawyer objects to a
2 question, please wait and let me rule on the objection before
3 you answer.

4 THE WITNESS: Okay.

5 THE COURT: Okay. Have a seat.

6 THE COURT: You may proceed, counsel.

7 PINNY SHEORAN,

8 called as a witness herein, having been first duly sworn or
9 affirmed, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. DANJUMA:

12 Q. Good morning. Could you please state your full name for
13 the record.

14 A. My name the Pinny Sheoran.

15 Q. And, Ms. Sheoran, you're here testifying on behalf of the
16 League of Women Voters; is that correct?

17 A. That is correct.

18 Q. Have you ever testified as a witness before?

19 A. No.

20 Q. How old are you?

21 A. 69 years old.

22 Q. And what town do you currently reside in?

23 A. Scottsdale, Arizona.

24 Q. What is your affiliation with the League of Women Voters of
25 Arizona?

1 A. I serve as the current president of the League of Women
2 Voters of Arizona.

3 Q. Can you tell us a bit about the League of Women Voters of
4 Arizona.

5 A. The League of Women Voters of Arizona was established in
6 1941. It's a 501(c)(4), and we have a 501(c)(3) arm that
7 handles charitable donations. The League of Women Voters in
8 Arizona has five local leagues. We have a membership of about
9 900 members. Our members come from diverse backgrounds with
10 different interests, but they're all aligned to the mission and
11 advance the work of the mission of the League.

12 Q. And what are your responsibilities as president of the
13 League?

14 A. As president of the League, my responsibility is to provide
15 leadership, guidance, enable and empower our volunteers to
16 further and advance the mission of the League.

17 Q. And you referenced the League's mission. Could you
18 describe the League's mission.

19 A. The League's mission is to empower voters and defend
20 democracy. And we vision a democracy where any citizen who is
21 eligible to vote is informed, educated, is -- and votes with
22 confidence and is unafraid to vote in any election to which
23 they wish to participate -- in which they wish to participate.

24 Q. Is the League a partisan organization?

25 A. The League is not a partisan organization. We are a

1 political organization, and we are -- we do stand up for
2 issue -- issues. We believe that issues are nonpartisan. We
3 do not support/oppose any party or candidates.

4 Q. Broadly speaking, how does the League achieve its mission?

5 A. Broadly speaking, the three pillars, if you will, of our
6 mission that guide our work are in the area of educating the
7 voters, which in -- which is broadly registering voters,
8 informing voters about upcoming elections, helping voters know
9 how to navigate the election process, and also answer questions
10 regarding where they can vote and information that's provided
11 to us from trusted sources, such as the County Elections
12 departments. Our second principle is to advocate on issues
13 that the League has taken as important for the communities in
14 which we love, and that advocacy could -- could involve some
15 lobbying.

16 But those are sort of the three parts of the work that
17 we do. The work is actually carried out by an all-volunteer
18 organization. We have no paid staff. We currently have some
19 interns, but our work is advanced through volunteer members
20 giving their time to do the education, advocacy, and informing
21 voters as needed.

22 Q. And you have no permanent paid staff; is that correct?

23 A. We have no permanent paid staff.

24 Q. But you have paid interns who join --

25 A. And we recently hired paid students -- student interns who

1 were interested in the work of the League and wanted to help
2 advance our mission and our work.

3 Q. Can you tell me about -- a bit about the work that
4 volunteers do to advance the -- the mission of the League.

5 A. We -- on the -- on the public facing side, we have
6 volunteers who make presentations to groups. We have
7 volunteers that go into the schools to provide civic education.
8 We have volunteers who attend many events hosted by communities
9 to provide information such as voter registration information
10 or help register the voters. Many of our members are trained
11 as deputy registrars, definitely in Maricopa County, to help
12 register voters.

13 Our volunteers also help in the background to prepare
14 data, to prepare -- to support technology, to support social
15 media, to support the messaging work that we do through
16 elections, through our campaigns, to make democracy work for
17 all.

18 Q. Does the League provide citizens with information about
19 registering to vote or participating in -- in elections online?

20 A. Yes, we do. The League has a long history of providing
21 paper voter guides. In the last decade, we have moved to a
22 digital platform, Vote411.org. That allows us to provide the
23 voters with information that is basic about where to vote, when
24 to vote, where the elections, the dates for the elections,
25 making sure that they have the proper IDs to vote, and also to

1 ensure that they can find their polling locations, and the
2 different options by which we can vote. We also provide as
3 part of that voter guide an opportunity for candidates from all
4 races to provide their information so voters can decide, you
5 know, who or how they wish to vote.

6 Q. Do the League mem- -- do the League's members vote by mail?

7 A. A large portion of our League members vote by mail. I'm
8 reporting this based on conversation that League members have
9 had in the last four or five years, especially during our
10 legislative cycles, about voting by mail and to ensure that the
11 op- -- the options for voting by mail. Our informal assessment
12 from local leagues is that almost 80 to 90 percent of our
13 League members request a mail ballot and may choose to either
14 send it by mail or drop it in a ballot box -- a drop box.

15 Q. Where -- oh, excuse me.

16 Has the use of -- of vote by mail increased since 2020
17 by the League's members?

18 A. Yes, it has.

19 Q. Why do the League's members vote by mail?

20 A. Voting by mail has been an opportunity since 2020. And for
21 almost 20 years -- years, and when it was first proposed, the
22 League was very involved in helping pass what was then known as
23 the pebble to urge legislatures to establish a permanent early
24 voting list.

25 And so the League members are very committed to

1 enabling -- to helping of voters use multiple options, and the
2 mail ballot was one that we felt was a very important way in
3 which voters could participate.

4 Q. You mentioned the League's mission. Has the League's
5 mission evolved in response to concerns about violence and
6 threats surrounding elections?

7 A. The League's mission stands firm for -- is there a question
8 I need to answer different?

9 THE COURT: Would you like the question read back to
10 the witness?

11 MR. DANJUMA: Sure.

12 THE COURT: Ms. Taylor, would you please read the
13 question.

14 (Record read.)

15 THE WITNESS: Thank you, Your Honor.

16 Thank you.

17 The League stands firm in its mission. It's a mission
18 of close to 100 years. Our mission has not changed, but the
19 way in which we advance our work has been greatly impacted and
20 how we do our work and the -- how we have been informed by our
21 own experiences in the violence surrounding the elections since
22 2020 have caused us to focus our attention in educating the
23 voters and to help the voters be less intimidated and afraid of
24 using all the options they have to vote. So to them I'd like
25 to answer to you how our work has been informed and why we are

1 here.

2 In -- in October of 2021, due to alarming -- excuse
3 me -- due to alarming reports in the news and among our own
4 members about the increased call for violence if the elections
5 weren't -- weren't a result that candidates, you know, were not
6 happy about, we felt strongly that we need to -- we need to be
7 much more engaged in helping our voters understand their
8 rights. We also were concerned that the lack of peaceful
9 trans- -- transition was not only going to impact our votes
10 but impact the voters.

11 So having said that, in January 6th of 2022, the
12 League, in partnership with Faith Communities, organized a
13 vigil for the January 6th event in 2021. And we'd really
14 called for a peace at the polls. We felt very strongly about
15 that then, and we feel strongly about it now.

16 At that event -- and I shall make this short because
17 our time is short. Is that at the event, we had over 300
18 members of the community, mostly elderly folks who were there
19 calling for peace at the polls. At the same time, there was a
20 parallel event across the -- we were at the Capitol grounds.
21 There was a parallel event, and there were individuals, as we
22 understood, from organizations not un -- dissimilar to
23 Ms. Jennings and the others that we have been concerned about,
24 and those members wearing malitia gear and showed up at the
25 lawn we were in intimidating the peaceful gathering for the

1 vigil. That was our first encounter as to how serious this
2 issue is.

3 And from the primaries till now, this increased
4 presence of the potential to -- the intimidation -- or the
5 reports of the intimidation of voters at the drop boxes has
6 advanced, has made us pivot from what we would normally do,
7 which is educate the voters and tell them go and vote, don't
8 forget to vote, do you know what to vote, to now saying, hey,
9 you know you have rights? Don't be afraid to vote.

10 BY MR. DANJUMA:

11 Q. Okay. Let's talk a little bit more about that. Are you --
12 are you familiar with the allegations of -- against the
13 defendants in this case?

14 A. Yes, we are.

15 Q. What are those allegations?

16 A. The allegations, based on the filing and based on our own
17 reading and our members informing us, is that -- and here I
18 speak as the president based on information I have received --
19 is that there is a monitoring going on of drop boxes and that
20 voters, as they drop off their ballots, are being photographed
21 and -- and they feel intimidated.

22 MR. KOLODIN: We would -- we would object. Insofar as
23 she's characterizing the case, we don't have an objection.
24 Insofar as she's giving factual testimony, we would object on
25 the basis of hearsay.

1 THE COURT: Your response?

2 MR. DANJUMA: The -- the -- the -- the defendant is
3 just talking -- I mean, the witness is just explaining what she
4 understands the allegations of the case. She's not making a
5 statement of the truth of the issue.

6 MR. KOLODIN: With that representation, I withdraw my
7 objection, Your Honor.

8 THE COURT: Please proceed. Is there a question
9 pending that needs to be read back?

10 MR. DANJUMA: Let's see where we are.

11 BY MR. DANJUMA:

12 Q. You were -- Ms. Sheoran, you were describing your
13 understanding of the allegations in this case. Just briefly
14 can you -- can you summarize what you understand the
15 allegations of this case to be.

16 A. We understand the allegations to be that there are groups
17 and the individual mentioned that had organized to monitor and
18 intimidate individuals planning on using the box -- the drop
19 box or -- or already using the drop boxes.

20 Q. How did you become familiar with what defendants were doing
21 in connection with ballot drop boxes?

22 A. We have a local league in Yavapai County. Members of the
23 Yavapai County -- there are two ways in which we became
24 familiar: One is through membership, our membership and
25 numerous coalitions that had raised the alarm, and then local

1 League members in Yavapai County talking to --

2 MR. KOLODIN: Your Honor --

3 THE COURT: -- the executive offices.

4 MR. KOLODIN: -- I will now restate my hearsay
5 objection. She's gone beyond characterizing the allegations
6 and is trying to present factual testimony on the basis of
7 hearsay.

8 THE COURT: Your response?

9 MR. DANJUMA: I don't see this as a hearsay objection.
10 She's simply describing how she came to learn of groups
11 monitoring drop boxes.

12 MR. KOLODIN: And it --

13 MR. DANJUMA: That's just how she came to learn. She
14 is the witness. Her personal knowledge of the issue of drop
15 box.

16 THE COURT: The objection's overruled because the
17 witness -- because Ms. Sheoran is not offering the testimony
18 for the truth.

19 MR. KOLODIN: Understood.

20 BY MR. DANJUMA:

21 Q. Continue.

22 A. So I met with members of the Yavapai local league because
23 they have a very concern, because they were involved in their
24 local league. And they themselves are concerned about this,
25 the presence of this monitoring and intimidation. Okay?

1 Q. And did you -- did you come to understand at some point
2 that the issue of drop box monitoring extended beyond Yavapai
3 County?

4 A. Yes.

5 Q. How did you learn of that?

6 A. I learned about that from -- from calls that members made
7 to me that said, hey, do you know what's happening in Maricopa
8 County also?

9 And through information on the coalitions that we are
10 a part of.

11 Q. Okay. How have the defendants' actions -- and by -- and I
12 am specifying the defendants to be Defendant Jennings and Clean
13 Elections USA.

14 How have their actions affected the League's mission
15 to protect and promote the democratic process of government?

16 A. One direct impact has been is that we've had to redirect
17 the work of our interns from -- between normal, you know, get
18 out the vote messages to now sending out information or
19 creating messaging in the back end so that we can send out the
20 voters on -- to know their rights so that voters can vote
21 safely and not be afraid to use the drop boxes.

22 Q. How many interns does the League have?

23 A. We have five interns.

24 Q. Have individual League members also expressed concerns
25 about defendants' actions?

1 A. Yes.

2 Q. How have they -- what concerns have they expressed?

3 A. The concerns have surrounded -- we shared the knowledge
4 based on what's in the media. The concerns they have expressed
5 is, how is this going to affect our work, and what can the
6 League do so that voters aren't afraid to use the drop boxes?

7 That's one of the -- that's one of the informal term
8 push that, you know, as leadership we have received.

9 Q. Have the defendants' actions affected the distribution of
10 volunteers' time towards League activities?

11 A. Yes. Our -- we're an all-volunteer organization, so we're
12 very grateful for whatever time our volunteers give. So when
13 the volunteers have to redirect, it means something else
14 isn't -- we can't do because, you know, we only have so much
15 capacity.

16 Q. And what are some of the examples of things?

17 A. So some of the examples have been, you know, the numerous
18 events at which the League is present to do voter registration.
19 And we've had to -- we've had to reduce the number of those
20 kinds of activities because we're asking our volunteers now to
21 participate more actively in the work of collection protection.
22 You know, making sure that voters can vote safely.

23 Q. And how have the paid interns redirected their time in
24 response to the defendants' actions?

25 A. So one good example is that we -- the defendants [sic] who

1 are all students, much younger generation than me and know
2 social media a lot better than I do, the defendants were -- I
3 mean, the interns were in the process of creating short videos
4 to help people understand, you know, how to turn in their
5 ballots and so on. And we've had to put that on hold so that
6 they can create short videos to make sure they know, you know,
7 what their rights are when they go to vote.

8 Q. And when you refer to "their rights," what types of rights
9 are you referring to?

10 A. Rights -- their rights to not be intimidated. Their rights
11 to drop off -- to drop off -- drop the mail in drop boxes, and
12 also the Arizona laws that do permit them to take the ballots
13 of their ballot -- their husband's ballot, you know, kids. I
14 mean, there's -- there's laws that permit us to do that.

15 Q. So your paid interns have redirected their time to advising
16 voters of the -- the legal circumstances in which they can vote
17 using a drop box?

18 A. We have redirected their time. I just wanted to be
19 clarified. You know, it's on guidance from the supervision
20 that we provide.

21 Q. Have senior staff also had to redirect their time and
22 efforts as a result of defendants' conduct?

23 A. Many of our local leagues, especially in the Yavapai County
24 area, the leadership has -- has -- their voter services
25 activities are now -- are now focused on helping -- on

1 informing voters about safe locations where they will not be
2 intimidated to drop off the ballot boxes.

3 Q. Have you changed any materials that you send to your
4 constituents and to voters based on defendants' conduct?

5 A. We usually have around this time a number of newsletters
6 that we send focused on, you know, how many voters have voted,
7 you know, information that is voter related, if you will, about
8 what's in your ballot, you know, who to contact for
9 information.

10 Instead, we've increasingly had to send urgent
11 newsletters to our members and those who subscribe to talk
12 about voter intimidation and what the rights of voters are.

13 Q. Is voting via drop box important for members for particular
14 reasons, such as those who may live in -- in certain parts of
15 the state?

16 A. So our local League members in Yavapai County -- we have
17 two local leagues that serve that Yavapai County area and weigh
18 into Coconino and the Flagstaff area, and they -- they remind
19 us frequently, those of us who are with local leagues in the
20 metro Phoenix area or in Maricopa County, that, you know, drop
21 boxes are important to us because, you know, mail is not always
22 reliable, and we have to drive distance to get to the mail.

23 So this issue is very important. That's why they've
24 elevated it to us as leaders.

25 Q. Have League members across the state raised those same

1 concerns with you?

2 A. League members across the state have raised the general
3 concern about, I use drop boxes. What does this mean?

4 You know, but the -- the local leagues that are
5 serving the rural areas are more -- have elevated that concern
6 even more.

7 Q. Understood.

8 Have -- have League members advised you that they have
9 fear or -- or hesitation to use drop boxes in light of
10 defendants' conduct?

11 A. We did a survey before we, you know, jumped on this issue
12 of our local League members to find out, you know, what is your
13 preference? What are your fears?

14 It was disheartening to hear that League members who
15 have safely dropped off in drop boxes are now saying things
16 like: I don't know. You know, I'm just going to go to the
17 County area where it's going to be safe.

18 Which also means there's an inconvenience there,
19 because those facilities are not open, you know, as a drop
20 box -- standalone drop box where you can drop off at any time.

21 Q. Have -- have defendants' conduct affected the League's
22 budgets in terms of expending money to respond?

23 A. I would not -- I would like not to have to spend our -- the
24 money we pay our interns for this work. We need them to do
25 other work.

1 In addition to that, as part of our get out the vote
2 efforts, we do a lot of texting to voters to give them
3 information. For example, the last text was November 1st is
4 the last day to turn in your ballot, which is important
5 information to get to the voters.

6 And our most two recent texts have been on, you know,
7 don't forget to vote. Don't be intimidated. Okay? Please
8 vote. Drop boxes are safe. Okay?

9 And so that -- that costs us money when we do texting.

10 Q. So, Ms. Sheoran, just to clarify, you sent extra texts that
11 you would not otherwise --

12 A. Right.

13 Q. -- have to send --

14 A. Right.

15 Q. -- in order to advise individuals -- voters of their rights
16 against voter intimidation?

17 A. Right.

18 Q. Do you have an estimate for about how much you've spent on
19 that effort?

20 A. It's an estimate. We don't know what the bill's going to
21 be, but I would say almost about three grand, you know. In my
22 statement it said two grand, and I was corrected by the folks
23 who are monitoring that.

24 Q. I understand. We should be having the finance people here.

25 But between 2- and \$3,000; is that correct?

1 A. Yes. Yes.

2 Q. How -- has the League changed internal policies and
3 procedures in response to defendants' conduct or developed
4 protocols for -- for -- sorry -- developed protocols for
5 tracking voter intimidation?

6 A. As part of our work with the Election Protection Coalition,
7 we've asked them to help us develop a form to gather
8 information if there is actual, you know, incidents where
9 voters might actually be -- if they themselves have experienced
10 it, you know, gather some information. It's not work that we
11 normally do in our election cycles.

12 Q. Understood.

13 MR. DANJUMA: Your Honor, no further questions at this
14 time.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION

17 BY MS. LUCERO:

18 Q. Good afternoon.

19 A. Good afternoon.

20 Q. I'll give you a minute to get a sip of water.

21 A. If you don't mind.

22 Q. Yeah. Absolutely.

23 A. Thank you.

24 Q. Ms. Sheoran, you mentioned earlier that news stories of
25 intimidation and the January 6th events caused the League to

1 change their response to voters; is that correct?

2 A. I believe that what I stated was -- and paraphrasing -- was
3 that the way in which we advanced our work, okay, to inform
4 voters was impacted by our own experience and then the news
5 media.

6 So we did not change our regular messaging. We now
7 have to pivot to give additional information in order for
8 voters to feel safe to cast their ballots.

9 Q. And when did this pivot occur?

10 A. So the -- the experience that we had in January certainly
11 increased our alertness to the work we were doing. And we've
12 had long and frequent conversation in different groups
13 regarding different subgroups of the League regarding the
14 potential for voters being -- voter -- voter suppression or
15 voter intimidation.

16 It's the reporting time to monitoring of ballot boxes
17 that has caused us to be much more expansive in the work we do
18 to inform voters about potential intimidation.

19 Q. And when you say that it is the news stories about drop box
20 monitors, which stories are you referring to?

21 A. I apologize that my memory fails me to cite specific
22 stories. Both our members and myself, as a member and as a
23 president, follow many different channels of media; social and
24 news reporting. So I would say all of them. Just a single
25 story does not convince us to pivot in the ways that we've had

1 to pivot.

2 Q. Can you say when these news stories appeared that caused
3 you to pivot your response?

4 A. We started hearing about these potential incidences just
5 after the August primary.

6 Q. Okay. And --

7 A. At least that's my first recollection. Okay? But
8 members -- other members may have an earlier recollection.

9 Q. So then you would say for the last three months is when
10 you've had to --

11 A. Right.

12 Q. -- pivot your efforts --

13 A. Yes.

14 Q. -- and expand them, as you say?

15 A. Yep.

16 Q. And can you estimate how much you've had to expand your
17 efforts to educate voters on intimidation?

18 A. You're asking me to quantify that, and I'm -- I apologize
19 again, but I do not know that I can give you any kind of
20 quantity other than all our volunteers -- the League is an
21 all-volunteer league, except for the new interns that we've
22 hired. And so I don't have that quantitative information in
23 the ready to answer you.

24 Q. Okay. You also mentioned earlier that you had a vigil for
25 the January 6th events; is that correct?

1 A. Yeah. We hosted a vigil, not for the January 6th
2 necessarily but on January 6th, calling for a peace at the
3 polls. That the -- that we asked the public, you know, to
4 really join in supporting our election workers, our election
5 officials, and that we called for a peaceful opportunities for
6 voters to participate in the elections.

7 Q. And how long ago was -- was that January 6th, 2021?

8 A. '22.

9 Q. This --

10 A. This year.

11 Q. Okay. This year.

12 And where was that vigil held?

13 A. At the Capitol grounds.

14 Q. In Arizona?

15 A. Arizona.

16 Q. And you mentioned that -- I believe you mentioned that some
17 armed people showed up there.

18 A. So across the street from us was a rally event. We were
19 not aware of really that rally till a couple of days before our
20 vigil. In order to use the Capitol grounds, you have to
21 reserve, and you have to get permission to be able to use the
22 Capitol grounds to -- and we were on the lawn, which is a
23 reserved space for whoever. Anyone can reserve it.

24 Q. Okay.

25 A. And on those -- the -- there was a group across the street

1 in the parking lot that was a rally -- that also has to be
2 reserved, but not -- however that's done, I don't know.

3 Q. Okay.

4 A. -- a rally around the notion that the 2020 elections was --
5 was a fraud or that the January 6th actions were -- there was
6 supporters of the January 6th actions.

7 And they have a right to be there, just as we had a
8 right to hold our peaceful vigil. And we didn't anticipate any
9 reason to have an interaction. But the groups from them, they
10 were -- they were armed. Okay? There were many of them with
11 guns and so on. And for our peaceful vigil -- and it was an
12 older population that was there from the Faith Communities and
13 from our League.

14 We were aware, but we weren't really concerned at that
15 point, but the individuals, many of them came into the area we
16 were in. And they had a bullhorn, and they were shouting
17 obscenities at -- and they came into the area and face to face
18 with many of our League members shouting obscenities that I
19 won't even repeat them, if you don't mind. Okay?

20 But they were in that -- it's not an experience that
21 is common for us in the League. We've been in many rallies and
22 marches. We've never had to be concerned about that. There's
23 always protests against what one does or the other, but we've
24 never had that. But that was a frightening moment for us, for
25 many of us. We -- we did not leave. We were not intimidated,

1 but do -- we -- we do have members that left out of fear.

2 Q. So it's safe to say that some of your members were
3 intimidated and some of your members were not?

4 A. The members who felt intimidated left. I couldn't give you
5 a number. Okay? Because, you know, it's January. Okay?

6 Q. And you did mention earlier when you were testifying for
7 the plaintiffs that this event is one of the events that made
8 you pivot to educate voters about intimidation?

9 A. No.

10 Q. It made us pivot to educate voters about their voting
11 rights and to support -- in fact, we did a whole series of
12 presentations on the work of our election officials and poll
13 workers and to support their work and, as the public called
14 for, peace at polling locations.

15 Q. And is this the same messaging that you've advocated
16 since -- in the last three months, or is that --

17 A. No. The messaging has changed.

18 Q. Okay.

19 A. The messaging is now on, you can use the drop boxes. Here
20 are your rights. You know, don't be intimidated.

21 And we've sent out a lot of information on what
22 intimidation -- on -- with support from our -- from numerous
23 groups as to having the most accurate and appropriate
24 information for voters.

25 Q. And do you know who the armed people at the vigil, what

1 organization they belonged to?

2 A. We -- we were given -- that is the organizers. And this
3 is -- the Faith Communities' the one that had the closest
4 connection to the police and the FBI to identify who was there.
5 And the best -- and the information that we, as organizers of
6 the League, were provided, that we should anticipate members of
7 the Oath Keepers and -- and I think they're called Arizona
8 Patriots or -- I could get the name wrong. I apologize. And
9 there's one more group. I don't remember the name. Okay --
10 that were going to be present at that event across the street.

11 And, you know, they have a right to gather, so we
12 didn't really take much note of that.

13 Q. Okay.

14 A. In other words, we didn't -- if I might? If you don't
15 mind?

16 THE COURT: Let me just interrupt you, if you don't
17 mind, Ms. Sheoran.

18 THE WITNESS: Sure.

19 THE COURT: We have -- we are at 1:30, and we have six
20 more witnesses.

21 THE WITNESS: I'm here to answer whatever the Court
22 would --

23 THE COURT: So go ahead. Why don't you just answer
24 Ms. Lucero's questions. And just try to -- try to focus your
25 answer on what she's asking.

1 THE WITNESS: Okay.

2 BY MS. LUCERO:

3 Q. Do you know if anyone from the vigil was affiliated with
4 Ms. Jennings or Clean Elections USA?

5 A. I don't know.

6 Q. Regarding the activities complained of in this lawsuit, do
7 you -- how do you know that defendants are responsible for
8 those activities?

9 A. They posted it on social media calling for observation of
10 drop boxes.

11 Q. And, as far as voter intimidation, are they -- how do you
12 know that they're responsible for any voter intimidation?

13 A. They are responsible based on who they call to do the
14 monitoring of drop boxes.

15 Q. But, as far as you know, there's -- you have no direct
16 knowledge of voter intimidation by defendants?

17 A. By Ms. Jennings herself?

18 Q. Yes. And her organization.

19 A. Ah, the organization? Okay.

20 Since I'm representing the League, my knowledge is
21 from reports from members of the League. Okay?

22 Q. Okay. Can you distinguish between defendants, Ms. Jennings
23 and Clean Elections USA, and --

24 MR. DANJUMA: Objection, Your Honor. This is a legal
25 conclusion that the witness doesn't know.

1 BY MS. LUCERO:

2 Q. -- other --

3 THE COURT: Let me hear the question.

4 BY MS. LUCERO:

5 Q. -- and other defendants in this lawsuit?

6 THE COURT: Are you talking about --

7 MS. LUCERO: Lions --

8 THE COURT: -- the dismissed --

9 MS. HOMER: -- of Liberty.

10 THE COURT: Okay. Can you perhaps rephrase the
11 question in a way that might be a little bit more relatable.

12 BY MS. LUCERO:

13 Q. Are you able to identify the defendants, Ms. Jennings and
14 Clean Elections USA, at the -- at the ballot drop boxes?

15 A. But if Clean Elections USA is an organization, then I
16 wouldn't be able to identify Ms. Jennings. But it's her
17 organization, is it not?

18 Q. Would you be able to identify any members of the
19 organization at ballot drop boxes?

20 A. I do not understand the question, to be honest with you,
21 because I am not -- as -- I'm representing the organization,
22 but I'm not an actual witness to this to be able to do that
23 identification.

24 Q. Have -- have your League members -- have any of your League
25 members told you that they were not able to vote in this

1 election?

2 A. They were not able to or did not want to?

3 Q. Were not able to.

4 A. No. Not yet.

5 Q. Did the League members who raised concerns regarding drop
6 box monitoring raise these issues on their own or in response
7 to your messaging?

8 A. No. On their own.

9 Q. And how many of these members would you say raised these
10 issues on their own?

11 A. The way we work with this League is the members raise their
12 issues to their local League leaders, who then share that with
13 us -- or me at the state level.

14 Q. Can you provide an estimate of how many members have raised
15 these issues?

16 A. I don't have any information to give you on that.

17 Q. Are there League members who have raised concerns in
18 response to any of your messaging on drop box monitoring?

19 A. I -- we have -- we've gathered some data. I have not
20 reviewed it, so I cannot answer it in total, you know, at this
21 time.

22 Q. Did you have to address voter intimidation before you
23 became aware of defendant, Ms. Jennings and CE -- or Clean
24 Elections USA's, alleged activities?

25 A. Could you repeat that, if you don't mind?

1 Q. To clarify, before you became aware of the alleged
2 activities in this lawsuit by the defendants, did you have to
3 address voter intimidation with your League members?

4 A. Yep. We've had several discussions internally as board
5 members, as members on several committees who raised these
6 issues, and had robust discussions as to, you know, what's
7 going on and should we be concerned and how might it impact our
8 work.

9 Q. And have your -- I'm sorry if I asked this question before.
10 Everything's a little mixed up.

11 But have your interns had to redirect their efforts to
12 monitor drop box monitors themselves?

13 A. No.

14 Q. Do League members ever take any pictures of the voting
15 process?

16 A. No.

17 Q. And how have defendants' activities directly affected your
18 organization?

19 A. A direct impact would be the directing of our financial --
20 limited financial resources into informing voters about
21 intimidation versus general election information.

22 Q. But you have no personal experience with the
23 defendants' alleged activities in this lawsuit?

24 A. I'm here representing the organization. So if -- if -- I
25 believe we have some members who have some direct experience

1 and --

2 Q. And --

3 A. -- and --

4 Q. -- at the ballot box?

5 A. And I would leave it to the counsel regarding the League
6 members who have contacted them in order to provide direct
7 witness.

8 MS. LUCERO: Okay. No further questions.

9 THE WITNESS: Thank you so much.

10 MS. LUCERO: Uh-huh.

11 THE COURT: Redirect?

12 MR. DANJUMA: Your Honor -- Your Honor, this is --
13 this will be very -- a -- very short.

14 REDIRECT EXAMINATION

15 BY MR. DANJUMA:

16 Q. Just in reference to what you discussed about the peace at
17 the polls, an issue, it's fair to say your mission -- the
18 mission of the League didn't change after the peace at the
19 polls incident; is that right?

20 Is that right?

21 A. Absolutely did not change.

22 Q. It simply made you recognize that the concerns about
23 violence at elections -- in and around elections is one way in
24 which the League's work can be frustrated.

25 Is that fair to say?

1 A. Absolutely. Our core mission of empowering voters we
2 believe is frustrated because they're not empowered to vote if
3 they're afraid.

4 Q. And just to clarify a question that was raised by opposing
5 counsel, it's true, is it not, that your work to advise voters
6 about their rights against voter intimidation increased
7 significantly in the last three months due to drop box
8 monitoring?

9 A. Yes.

10 MR. DANJUMA: Thank you. That's all.

11 THE COURT: Can we excuse Ms. Sheoran?

12 MR. DANJUMA: Yes, Your Honor.

13 THE COURT: Okay. Ms. Sheoran, you are excused.

14 Thank you for coming.

15 MR. DANJUMA: And, Your Honor, just to clarify,
16 Ms. Sheoran could -- should be able to stay within these
17 proceedings despite the rule because she's -- she's a client.

18 THE COURT: Yes.

19 MR. DANJUMA: She's a party.

20 THE COURT: She's just -- and she's just testified.
21 Oh, she's your client representative is what you're saying?

22 MR. DANJUMA: Exactly. But, yes.

23 MR. KOLODIN: We don't disagree, so --

24 MR. DANJUMA: Thanks.

25 THE COURT: Okay. Your next witness?

1 MR. DANJUMA: So -- yes, Your Honor. We'd like to
2 call Complainant 240. If you'd --

3 THE COURT: Yes. Let's do that, and then we'll bring
4 him up to the sidebar.

5 MR. DANJUMA: Okay. And, Your Honor, just one moment.
6 I'd like to set up the video for our -- our computer to -- to
7 play some video clips, if that's possible.

8 THE COURT: That's fine. Do you need a brief recess,
9 or can you --

10 MR. DANJUMA: I think that might be good for us just
11 to test this and for us to -- it might be.

12 THE COURT: Okay. Let's take a five-minute recess.

13 MR. DANJUMA: Great. Thank you.

14 (Recess from 1:37 p.m. to 1:54 p.m.)

15 THE COURT: Be seated.

16 Next witness.

17 MR. DANJUMA: Thank you, Your Honor. I'd like to call
18 Complainant 240.

19 THE COURT: Sir, please come forward. We're going to
20 start over at sidebar.

21 (Begin sidebar discussion on the record.)

22 THE COURT: When we're talking here, it's important to
23 try and talk directly or as -- as directly as possible into
24 this microphone so our court reporter can -- can pick up our
25 conversation.

1 What we're going to do --

2 COMPLAINANT 240: I don't know who this is. I don't
3 know who this is.

4 THE COURT: Lawyer, lawyer, and courtroom deputy.

5 MR. DANJUMA: And this recording is only for the
6 courtroom deputy [sic], and no one's hearing that except for
7 her.

8 THE COURT: So I need you to tell me your name, spell
9 your name. The courtroom deputy -- or the court reporter is
10 going to put it on the transcript, and then I'm going to order
11 that -- that part of the transcript sealed.

12 COMPLAINANT 240: Understood.

13 THE COURT: Okay. So please tell me your name.

14 (Sealed portion begins.)

15 (Sealed portion ends.)

16 THE COURT: Okay. We have what we need. We do. All
17 right. So why don't you go over to that microphone, and the
18 courtroom deputy will swear you in.

19 (End of sidebar discussion.)

20 THE COURTROOM DEPUTY: Please raise your right hand.

21 (COMPLAINANT 240 was duly sworn or affirmed.)

22 THE COURTROOM DEPUTY: Thank you. Please have a seat
23 on the witness stand.

24 THE COURT: Sir, while you're making your way up
25 there, there's water for you, if you'd like it. Please wait

1 for the lawyer to ask the question before you answer. And if
2 another -- if a lawyer interposes an objection, I'm going to
3 need you to give me time to rule on the objection before you
4 answer it.

5 I'm ordering the portion of the transcript where the
6 witness provided his name sealed. I am also going to request
7 that lawyers and anybody else refer to this individual as
8 Complainant 240.

9 Mr. Danjuma, you may proceed.

10 MR. DANJUMA: Thank you, Your Honor.

11 COMPLAINANT 240,
12 called as a witness herein, having been first duly sworn or
13 affirmed, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. DANJUMA:

16 Q. And good afternoon, sir. Will you understand if I refer to
17 you as Complainant 240?

18 A. Understood.

19 Q. Thank you, sir.

20 How old are you?

21 A. 51.

22 Q. And in what city do you reside?

23 A. Mesa.

24 Q. Are you registered to vote in Arizona?

25 A. I am.

1 Q. How long have you been a registered voter?

2 A. Since age 18.

3 Q. Have you ever requested a mail-in ballot?

4 A. I am currently on a PEVL, or permanent early voter list.

5 So, yes.

6 Q. How does that list work?

7 A. As I understand, once you sign up, which I signed up some

8 time ago, until you request not to get a ballot or change

9 address, you get a ballot.

10 Q. And when you say "a ballot," you mean a mail-in ballot; is

11 that correct?

12 A. Right, with a returnable envelope.

13 Q. Can you describe the ballot you receive when you request a

14 mail-in ballot.

15 A. It's an outer envelope with your address on it. That's

16 disposed. And then an inner envelope that you place the ballot

17 in once you complete it. Obviously seal it and then sign the

18 back and put your phone number on the back.

19 Q. So the envelope has your name and phone number on the

20 outside after you've completed it; is that correct?

21 A. It has your signature and your phone number, right. Both.

22 Q. Okay. Before 2022, have you previously voted using a drop

23 box?

24 A. I have.

25 Q. What was your previous experience like?

1 A. 2020, my wife and I voted absentee for the general
2 election. Filled out our ballots at home ,And she dropped them
3 off. I was absent, at work. She dropped them off at a ballot
4 box at the City Hall.

5 Q. So in 2020, your wife took your ballot that you completed
6 and her own and dropped them off to vote for both of you; is
7 that correct?

8 A. Correct.

9 Q. Did you or your wife have any issues voting using a drop
10 box in 2020?

11 A. We didn't. She described that box as inside the complex.
12 Asked the person at the information desk where the box was.
13 They pointed it out. She dropped them off, like mailing a
14 letter, and that was that.

15 Q. Now I'd like to shift to 2022. Did you vote using a drop
16 box this year?

17 A. I did.

18 Q. Can you tell me what happened when you voted using a drop
19 box this time.

20 A. My wife and I both filled out our ballots again.

21 Q. Can you -- do you remember the approximate date when you
22 filled out your ballots?

23 A. So we filled them out on the -- the 16th, Sunday. She got
24 hers on the Saturday -- Saturday before, the 15th. Mine had
25 arrived a couple days before that. So we looked over the

1 ballots, compared it to the other literature that arrives via
2 the County, I think, filled out the ballots together, and put
3 them in the envelopes on -- on that Sunday.

4 Q. And, just to clarify, that's October 16th; is that right?

5 A. That's right.

6 Q. And then what did you do next to vote?

7 A. We -- we had Sunday dinner on Sunday, so we didn't do
8 anything with the ballots.

9 Monday I went to work. When I got home from work,
10 4:00, 5:00-ish, we had dinner, and then we decided to drop the
11 ballots off.

12 Q. And where did you go to drop off your ballot?

13 A. Well, initially we headed towards the Civic Center, which
14 is where my wife had dropped them off last time. But by the
15 time she put the directions in her phone, it showed that that
16 ballot box was closed, because the complex was closed at the
17 City Hall, which is closest to our house. So the next closest
18 box was the juvenile court, which is a couple miles south. We
19 headed towards that, that location.

20 Q. And the drop box at the Mesa Juvenile Court, that's where
21 you were headed; is that correct?

22 A. That's right. Mesa Drive and Baseline.

23 Q. And does that drop box close after a particular time?

24 A. I think it's a 24-hour box. It's outside. Like a mailbox.

25 Q. What happened when you arrived at the Mesa Juvenile Court

1 drop box?

2 A. So I pulled up to the box. And my intention at first was
3 my wife to simply -- the box is on the passenger side, per our,
4 you know, location when we drove in. She was going to just
5 reach out, put the ballots in the slot, but we noticed a group
6 of people adjacent to the box that were clearly taking interest
7 in our arrival.

8 So my wife and I had a discussion regarding what they
9 were doing there, what their intentions were, and so she didn't
10 do that.

11 Q. So before I ask you about that, can you describe this group
12 that you saw at the -- at the Mesa Juvenile Court drop box.

13 A. Nothing discernible. They just looked like normal people.
14 Women. Men. Middle age.

15 Q. How many people were there?

16 A. I think more than eight, less than ten.

17 Q. And do you remember how far approximately they were from
18 the drop box?

19 A. From the drop box, I would put them at 60 feet. From where
20 we parked, less than 50, obviously, because we're between them
21 and the box.

22 Q. And do you have -- do you have a -- a sense of how you
23 could estimate that distance?

24 A. My work details with -- in construction details with
25 parking lots, measurements, and specific. So I was a pretty

1 good gauge that's where they were at.

2 Q. And which way was this group of people facing?

3 A. They were facing the box, which was facing -- our
4 headlights were facing them. We were illuminating them.

5 Q. Were any of the people filming or taking pictures of you?

6 A. I think every person there was filming on some type of a
7 device. Mostly with cameras. I saw several tripods. And at
8 least one individual with a professional camera.

9 Q. Can you describe the professional camera that you saw.

10 A. Just a -- a regular black-body camera but with a longer
11 lens. Tele -- telelens.

12 Q. It looked like a telephoto lens; is that correct?

13 A. That's -- that's how I would describe it, yeah.

14 Q. Could you estimate the size of that telephoto lens?

15 A. I'd say it's seven to nine inches.

16 Q. Okay.

17 A. The size of this pitcher.

18 This pitcher's terrible to get water out.

19 Q. Yes, the water's a little slow. Just let us know, and we
20 can --

21 A. No. I'm fine.

22 Q. And we have a bottle of water here as well.

23 So you mentioned you had a discussion with your wife
24 after this incident -- as you arrived and saw this group. What
25 did you discuss with your wife?

1 Please take a moment.

2 MR. KOLODIN: Would it be possible to get on the
3 monitors what the witness is looking at?

4 THE COURT: He's not looking at anything.

5 THE WITNESS: I'm not looking at anything.

6 MR. KOLODIN: Oh, I'm sorry.

7 THE WITNESS: I asked him for a minute.

8 BY MR. DANJUMA:

9 Q. Take as much time as you need, sir.

10 What -- can I step back for just a moment?

11 A. Sure.

12 Q. Let me ask you a different question.

13 Had you heard of groups that were monitoring drop
14 boxes around Arizona?

15 A. I was somewhat aware of people that were -- I didn't
16 realize they were monitoring drop boxes. I understood they
17 were attempting to ferret out people that were cheating in the
18 election.

19 Q. And that they were monitoring drop boxes to -- to -- to --
20 to see that with cameras?

21 A. My understanding, as soon as seeing that group, is that's
22 what they were there for, yes.

23 Q. Monitoring drop boxes to -- to detect people who were
24 voting --

25 A. Right.

1 Q. -- illegally?

2 A. My wife had no idea what -- why they were there.

3 Q. Can you describe your wife's reaction.

4 A. Complete shock.

5 Q. Was she afraid when she saw this group?

6 A. She had no inclination why they would be there, for what
7 purpose, what their end was -- or -- or what their intentions
8 were, so ...

9 Q. Were you concerned about the telephoto lens that you had
10 seen?

11 A. She was concerned twofold: One, that they may be armed.
12 Who knows what they're doing there again? They're clearly not
13 wearing uniforms. They're not officials. They're not
14 authorities; or, two, that they would use the cameras,
15 specifically the telephoto lens, to take a picture of her or
16 our ballots and phone numbers.

17 Q. And --

18 A. She -- she was concerned about it.

19 Q. And, as you described before, on an Arizona mail-in ballot,
20 a person's signature and phone number is displayed; is that
21 correct?

22 A. Right.

23 Q. And your wife was concerned that this group of about eight
24 to nine individuals who were directed towards your car with a
25 set of -- of video and -- and photography equipment would be

1 able to identify the name and number on her ballot?

2 A. That's right.

3 Q. Okay. I'd like to stop for just a moment and ask you
4 something different.

5 A. Okay.

6 Q. Before October 17 of this year, had you ever heard of
7 Melody Jennings?

8 A. No.

9 Q. So you didn't know who Melody Jennings was before -- before
10 the events of October 17th --

11 A. No.

12 Q. -- right?

13 So you -- so, sir, I would like to play you a clip
14 marked as Exhibit 1.

15 MR. DANJUMA: And, Your Honor, I'd like to introduce
16 it into evidence as Exhibit 1 a video-recording interview with
17 Melody Jennings from Bannon's War Room on October 17th.

18 THE COURT: Any objection?

19 MR. KOLODIN: No. I -- I -- I will reserve objection
20 till I see what the witness is asked about it.

21 THE COURT: Well, I -- I just want to know if you
22 object to the video coming into evidence.

23 MR. KOLODIN: I suppose I'd request for foundation to
24 be laid first before it's marked and moved.

25 MR. DANJUMA: The foundation for the -- for this is

1 a -- a video that we recorded and we're playing from an
2 Internet site called Bannon's War Room with a video of Melody.

3 MR. KOLODIN: I mean from the witness.

4 THE COURT: Well, let's see -- let's see the video,
5 and we'll talk about --

6 MR. DANJUMA: Okay.

7 THE COURT: -- whether it's admitted later.

8 (The Court and the courtroom deputy confer.)

9 (Video played.)

10 (Video stopped.)

11 BY MR. DANJUMA:

12 Q. Sir, did you under- -- did you hear what Ms. Jennings said
13 in that portion of the video clip?

14 A. I did.

15 Q. She said: We are actually seeing mules be intimidated --
16 intimidated from doing their thievery. We're not intimidating
17 voters, but the mules do not want to be caught on film, and
18 that's what we do -- we're doing. We're catching them on
19 telescopic film. We can zoom right in. We can get your face,
20 so we've got you.

21 Now, you're -- you had not heard of Melody Jennings
22 before this incident, that's -- is that correct?

23 A. That's right.

24 Q. But the concern of you and your wife was that the observers
25 who were filming you would do exactly what she's saying; isn't

1 that right?

2 A. Yes.

3 Q. Okay.

4 MR. DANJUMA: Your Honor, I would now move into
5 evidence Exhibit Number 2. And this is a recorded interview
6 with -- on the MG Show on October 18th.

7 MR. KOLODIN: Your Honor, we have no objection if in
8 the interest of fairness the entire segment is played, because
9 I think there's some useful context there.

10 THE COURT: Do we have the entire segment?

11 MR. DANJUMA: So, Your Honor, we've provided the -- so
12 the entire segment of these videos is -- is often very long.
13 Some of it is 50 minutes. And I think it would be very
14 impracticable to -- but we could certainly play the predicate
15 question if that's useful for context.

16 MR. KOLODIN: Just --

17 MR. DANJUMA: And we did --

18 THE COURT: Hold on.

19 Mr. Kolodin, you can't talk over --

20 MR. KOLODIN: I'm sorry.

21 THE COURT: -- another lawyer.

22 Okay. Go ahead.

23 MR. DANJUMA: Sorry, Your Honor. But we did provide
24 a -- links to each of these -- these videos to opposing
25 counsel. And obviously they're welcome to prayer -- to play

1 whatever portion they feel is required.

2 THE COURT: Okay. Would you like to do that,
3 Mr. Kolodin, play whatever portion is required when it's your
4 turn?

5 MR. KOLODIN: Yes, Your Honor.

6 THE COURT: Okay.

7 So then can -- can I admit Exhibit Number 2 without
8 objection?

9 MR. KOLODIN: Yes, Your Honor.

10 THE COURT: And is there an objection to Exhibit
11 Number 1 being admitted?

12 Let me just ask. This is -- is that your client who's
13 providing the interview in Exhibit 1?

14 MR. KOLODIN: I'm just trying to get straight which
15 video is which. The Exhibit 1 is the one he just played?

16 MS. LUCERO: That's the one he just played.

17 MR. KOLODIN: Yeah. We've got it straight.

18 MS. LUCERO: As long as we can play the rest of it
19 on --

20 MR. DANJUMA: Absolutely. You can play the entirety
21 of the -- of the video.

22 THE COURT: All right. So Exhibits 1 and 2 are
23 admitted into evidence.

24 (Exhibits 1-2 admitted into evidence.)

25 ///

1 BY MR. DANJUMA:

2 Q. Sir, I'm just going to play you a portion of the interview
3 with Ms. Jennings on the MG Show on October 18th.

4 (Audio played.)

5 (Audio stopped.)

6 BY MR. DANJUMA:

7 Q. Sir, did you hear what Ms. Jennings said in that audio
8 interview?

9 A. I did.

10 Q. And she said: The point is these mules, you know, they
11 clearly don't want to be doxxed. They don't want their face
12 all over Truth Social and GETTR and Facebook. They don't want
13 to be seen at -- everywhere.

14 Was that partly your concern with -- that you -- a
15 concern that you had when you encountered this group, the Mesa
16 County -- at the Mesa Juvenile Court drop box?

17 A. It -- it was my concern. Not because I'm a mule, but, yes.

18 Q. Yes. And, to be very clear, and maybe we should say this
19 upfront, you have never cast a ballot on behalf of anyone
20 except -- or deposited a ballot in a drop box on behalf of
21 anyone except for a family member and yourself; is that
22 correct?

23 A. That's correct.

24 Q. Have you ever committed any form of voter fraud in your
25 life?

1 A. No.

2 Q. Have you ever been prosecuted for any crime?

3 A. No.

4 Q. Have you ever been convicted of any crime?

5 A. No.

6 Q. Okay. So you are not a mule in the sense that you were --
7 you did not vote illegally, and you have never voted illegally
8 using a drop box; is that correct?

9 A. That's correct.

10 Q. Okay.

11 MR. DANJUMA: Your Honor, I have two more exhibits,
12 and then we'll move into -- into questioning, and we will move
13 this along.

14 THE COURT: Okay.

15 BY MR. DANJUMA:

16 Q. The third exhibit -- wait.

17 MR. DANJUMA: Just one -- one brief moment, Your
18 Honor.

19 And, Your Honor, the next exhibit I'd like to
20 introduce as Exhibit Number 3 is an interview with Melody
21 Jennings in Bannon's War Room on October 15th.

22 THE COURT: Any objection to that? Or any -- you
23 asked to move it into evidence; is that right?

24 MR. DANJUMA: Yes.

25 THE COURT: Okay. Any objection to me admitting

1 Exhibit Number 3 into evidence?

2 MR. KOLODIN: We have no objection to it being marked
3 and moved. There will be a -- a foundation issue that we can
4 bring up on cross.

5 THE COURT: Okay. All right. So without objection,
6 Exhibit 3 is admitted.

7 (Exhibit 3 admitted into evidence.)

8 MR. DANJUMA: Okay.

9 (Audio played.)

10 MR. DANJUMA: And that's enough.

11 (Audio stopped.)

12 BY MR. DANJUMA:

13 Q. Sir, did you hear what Ms. Jennings said in that interview?

14 A. I did.

15 Q. She said: The cameras don't work, referring to the
16 building's cameras. We've got to have people around these
17 boxes. That's the only way the mules are going to say, huh, I
18 don't want to be doxxed, and they will go away into the
19 darkness. And even if they don't, we've got their pictures.

20 Did you hear that?

21 A. I did.

22 Q. Okay. After encountering this group at the Mesa Juvenile
23 Court drop box, did you or your wife consider not voting?

24 A. My wife suggested we leave.

25 Q. And why did she suggest you leave?

1 A. She was convinced the people photographing us were there
2 for ill will.

3 Q. And so what did you say to her, and what did you decide to
4 do next?

5 A. Well, I agreed that they were not there in any kind of
6 official capacity. If we were to have simply left, I think it
7 would have convinced them that we were up to no good. So I
8 decided I would take the ballots.

9 Q. And what -- how did you -- what did you do with the
10 ballots?

11 A. So, again, to avoid them being photographed, I put them
12 under my shirt.

13 Q. And then what happened next?

14 A. It's nearly as soon as I exited the vehicle, a woman in
15 that group stepped towards us, closing the distance between
16 where she had been seated and -- and myself by half, and asked
17 if I was a mule.

18 Q. What did you say in response?

19 A. Nothing at that time.

20 Q. Did anyone else say anything else after that?

21 A. I deposited the ballots, moved them from my shirt, and put
22 them back in the box, ensuring they went to the bottom,
23 ensuring that it was the ballot box. And then on my walk back
24 to the car is when someone else made a comment. I didn't hear
25 the entirety of it, but it involved ballot and harvest and mule

1 again.

2 And then another gentleman said: We're hunting mules.

3 Q. And let me just get that last part again. One of the

4 men --

5 A. A male.

6 Q. -- at the scene --

7 A. A male voice, right.

8 Q. One of the men at the scene told you, we are hunting mules;
9 is that correct?

10 A. Right.

11 Q. How close were the individuals when they said this to you?

12 A. Between where I was standing and them was less than -- less
13 than 10 yards. 30 foot.

14 Q. Can you describe your reaction?

15 A. A crude gesture in return.

16 Q. And, just to clarify, when you heard them saying this to
17 you, you made a crude gesture in return; is that right?

18 A. I said: I'm not a mule.

19 Q. And then you made a crude gesture; is that right?

20 A. Agreed.

21 Q. And it's fair to say that your gestures and attitude were
22 confrontational in response to this group?

23 A. Yeah.

24 Q. And why did you respond that way?

25 A. I think bullies have to be responded to in kind.

1 Q. So you felt that this group was bullying and that you
2 needed to respond to this bullying with -- to protect yourself
3 and your wife; is that correct?

4 A. Not unlike just driving away, I think saying nothing
5 validates their idea.

6 Q. Do you feel like the monitors were trying to rattle you
7 when they said, we're hunting mules?

8 A. That was my assumption, yes.

9 Q. And it felt to you like they were trying to bully you; is
10 that right?

11 A. Well, there was more of them than me approaching us.

12 Q. Now, what happened after this verbal exchange with the
13 monitors?

14 A. I got back in the car, and we left the parking lot. But
15 instead of driving past where they were located, so the
16 direction we were facing, I backed out of the parking lot,
17 which I think only furthered their specious reasoning as to why
18 I was there in the first place.

19 Q. So explain to me why you decided to back away from this
20 group monitoring you.

21 A. In Arizona you only have a rear license plate. So up to
22 this point they had photographed me but not our license plate.
23 Which I was driving my wife's car.

24 Q. And so you backed up away from the group that had been
25 monitoring you in order to ensure that they didn't see your

1 license plate and take photographs with their -- with their
2 cameras; is that correct?

3 A. Right.

4 Q. As you left that -- that area, were you followed?

5 A. One of the gentlemen -- the gentlemen with the camera, I
6 think he left his camera or took his camera from the tripod. I
7 could see him in my headlights approaching us as I backed up
8 nearly at the same speed I was backing up, yes.

9 Q. And how -- how -- for how long did he follow you after this
10 incident?

11 A. Until I did a two-point turn and left the parking lot. He
12 followed us all the way to the car -- all the way to that point
13 of turning around.

14 Q. Can you tell me what happened next.

15 A. So I also noticed one of the people that had been in the
16 camp chairs got in their car, started the car. And knowing the
17 area, they knew I could only turn right when I got back to
18 Mesa Drive. They exited the way they assumed I would have
19 exited and met us on Mesa Drive.

20 Q. Can you tell me what happened after you got outside of the
21 area of the monitors. Where did you go, and what did you do
22 next?

23 A. So I turned left on Baseline. We turned left on Stapley.
24 I didn't see the car behind us after that. We went to ice
25 cream, which was our plan to begin with, and I filled out the

1 web form from the Secretary of State's Office.

2 Q. And can you explain to me just what you mean by the web
3 form.

4 A. Just a quick Google Search of voting issues brought me to
5 the Secretary of State's website. And simple web form. You
6 put your name in and describe what happened.

7 Q. And what is the purpose of that web form?

8 A. I thought it would just be a notation for, you know, what
9 happened. It's ballooned into this.

10 Q. So you didn't expect for -- you didn't expect to be
11 testifying in court today --

12 A. No.

13 Q. -- after this incident?

14 A. No, I did not.

15 Q. And just to -- just to be very clear, the purpose of that
16 web form is for individuals to report incidents of voter
17 intimidation?

18 A. Right.

19 Q. And you and your wife decided to file that incident report
20 immediately following this --

21 A. Right.

22 Q. -- this confrontation?

23 A. That evening.

24 Q. Okay. I have a few more questions about what happened
25 next, but first I want to ask you at the time how you and your

1 wife felt in the wake of this incident.

2 A. My wife was terrified.

3 Q. Take as much time as you need, sir.

4 A. Sorry.

5 Q. No.

6 Sir, did you feel angry about this incident?

7 A. Very.

8 Q. Did you feel harassed?

9 A. Yes.

10 Q. Did you feel bullied?

11 A. Yes.

12 MR. DANJUMA: Just one moment.

13 BY MR. DANJUMA:

14 Q. After this incident, did you learn about the -- about other
15 events from -- did you learn about media coverage about the
16 incident, and how -- if -- if so, how?

17 A. We had shared the incidents with family and friends that
18 next day. I mean, my wife had; I had. I didn't think anything
19 of it. That was Tuesday.

20 Wednesday for most of the day I don't think anything
21 abnormal happened. And then Wednesday night it was on the
22 evening news. It was on Twitter. It was on Facebook. It was
23 on -- I mean, the -- the clear video of me from the County was
24 everywhere. So it became viral in a matter of 72 hours.

25 Q. Okay.

1 A. And they had referenced the time that I put on the incident
2 and the location, which is not redacted in any of the versions
3 that I saw online. So the County obviously provided the public
4 with -- and I know there's a web stream where you can stream
5 that video and observe people voting. I understand that, but
6 somebody went and pulled that video, obviously, and provided it
7 to ABC News and -- I mean, it was on CNN by that Thursday.

8 Q. Now, do you know what it means to be doxxed?

9 A. I do.

10 Q. Are you concerned that this incident has made you a target
11 for doxxing?

12 A. More accurately I'm concerned it's made my wife and I a
13 target for doxxing, yes.

14 Q. So to -- so, to be clear, your concern for yourself and
15 your concern for your wife that you'll be targeted and harassed
16 based on this incident?

17 A. Right.

18 Q. And are you concerned that the pictures of your license
19 plate, if -- if individuals in that group had had them, would
20 have led to you being harassed?

21 A. Yeah. It's -- again, it's not my license plate. It's my
22 wife's. So, yes.

23 Q. And I'm sorry. To clarify, the -- the -- the car you were
24 driving was registered to your wife; is that correct?

25 A. That's right.

1 Q. So you were -- you -- you are -- you were concerned that
2 individuals would be able to identify and harass your wife if
3 they had the information on -- on her license plate?

4 A. Yes.

5 Q. Okay.

6 MR. DANJUMA: Your Honor, I'd like to move for the
7 admission of Exhibit Number 4. And this is an interview
8 Bannon's War Room -- with Melody Jennings on Bannon's War Room
9 on September 21st -- I'm sorry -- on October 21st, 2022.

10 THE COURT: Any objection?

11 MR. KOLODIN: No, Your Honor.

12 THE COURT: Exhibit 4 is admitted.

13 (Exhibit 4 admitted into evidence.)

14 MR. KOLODIN: This was not in the series that you sent
15 us last night?

16 MR. DANJUMA: Yes, it is.

17 MR. KOLODIN: No. I'm just asking. I know there's
18 some that aren't. And if you could put them in my list --

19 THE COURT: Mr. Kolodin, we can't have these side
20 conversations.

21 MR. DANJUMA: I'm happy to confer with -- with counsel
22 after the end of -- of my examination, which should be
23 hopefully soon.

24 THE COURT: Okay. But this Exhibit Number 4 has been
25 provided to counsel?

1 MR. DANJUMA: Yes.

2 THE COURT: Okay.

3 MR. DANJUMA: Every exhibit has been -- every -- a
4 link to every video has been provided to opposing counsel in
5 advance of this hearing.

6 THE COURT: Okay. Please proceed.

7 MR. DANJUMA: Thank you.

8 (Video played.)

9 (Video stopped.)

10 BY MR. DANJUMA:

11 Q. Sir, did you hear what Ms. Jennings said in that portion of
12 the interview?

13 A. Yes.

14 Q. She said: This is the guy, and I think what happened --
15 what's happened is we caught a picture of him. We blew it up
16 and blasted it viral this last week. He's backing out so we
17 can't see his tag. We're pretty sure what happened is he's
18 upset that his picture went out there.

19 After you heard about this incident from your friends
20 on social media, did you see Tweets related to this incident?

21 A. Several.

22 Q. What were those Tweets?

23 A. Well, several of them were showing this same video footage,
24 and a lot of people shocked and surprised that that's legal to
25 photograph people. People shocked and surprised that you can

1 just make unfounded allegations towards people with no proof
2 whatsoever, you know.

3 Q. And when Ms. Jennings said, I think what's happened is we
4 caught a picture of him, we blew it up and blasted it viral, is
5 that the type of doxxing and harassment that you were worried
6 about?

7 A. Yes.

8 Q. Are you still worried about doxxing and harassment after
9 this incident?

10 A. Yes.

11 Q. Can you tell me what you're worried about.

12 A. Well, I have a business here in the state, and I'm guilty
13 of nothing, and, you know, people accusing me of crimes or my
14 wife. It's just -- it's not going to work.

15 Q. Can you tell me how this makes you feel about voting in the
16 future.

17 A. Well, I have no intention of not voting. That's -- if I
18 had it to do over again, I wouldn't go to the drop box. I'm
19 not going to subject myself to that.

20 Q. But you are intent on continuing to vote in the future?

21 A. Yeah. We vote by provisional ballot because we like to sit
22 down and -- my wife and I like to sit down and just read
23 through the ballots. But I -- I mean, a lot of people are
24 saying, why didn't you just put it in the mail, you know? Why
25 subject yourself to that?

1 Well, in my business, construction, 90 percent of the
2 funds, payable and receivable, happen through the mail, and
3 it's terrible. We handle millions of dollars a year, and
4 nothing's reliable, not checks getting there or coming home.
5 So I would rather use a drop box and just cut out the
6 middleman.

7 Q. So you prefer to use a drop box to mail because it makes
8 sure that the -- that the Department of Elections has your
9 ballot and that there won't be delays due to mail; is that
10 right?

11 A. Yeah. It's -- we've never mailed a check or -- or been
12 sent a check that didn't ultimately arrive, but it's at the
13 whim of, you know, your local mail carrier, which in our
14 experience, my experience personally, is just not reliable
15 enough. And we were already planning to go out, and it seemed
16 like a -- a convenient way to vote.

17 Q. And the certainty that the ballot has been delivered and
18 will be counted is one of the reasons you otherwise want to use
19 a drop box; is that correct?

20 A. Right.

21 Q. But after this incident, you wouldn't use a drop box again?

22 A. If there were -- again, if I had this to do over again and
23 I knew people were down there with an intent to influence me in
24 any -- in any way, no, I would not do that again.

25 Q. Okay.

1 MR. DANJUMA: Just one moment.

2 THE COURT: Can I -- can I ask you a question first,
3 Mr. Danjuma?

4 And, Mr. Delgado, are you operating the computer?

5 MR. DELGADO: Correct.

6 THE COURT: Can you bring Exhibit 4 back up --

7 MR. DELGADO: Yeah.

8 THE COURT: -- as it was previously displayed.

9 MR. DELGADO: The one that was just played?

10 THE COURT: Yes. And I'm not asking you to play it.
11 I have a question about it.

12 (Video played.)

13 THE COURT: Wait.

14 So there -- there was -- one of these exhibits, it
15 looked like the video footage was being taken from a
16 surveillance camera. Okay? And -- and this is not the image.
17 This just looks like a zoomed-in version of that image.

18 MR. DANJUMA: Yes.

19 THE COURT: So my question is, is it from a
20 County-operated surveillance camera or from a camera that some
21 individual had set up maybe on a tripod or -- or with a drone
22 or something like that?

23 MR. DANJUMA: Your Honor, I'm not positive of the
24 origin of that. My understanding is that this is from a
25 building surveillance camera and then what's happened in this

1 video is it's been zoomed in. It's been -- they've zoomed in
2 on it in -- on the --

3 THE WITNESS: This is from the County's website.

4 MR. DANJUMA: Yeah.

5 THE WITNESS: If you go to the Secretary of State, you
6 can --

7 MR. DANJUMA: Right.

8 THE WITNESS: -- see this video feed live. Someone's
9 captured it, yeah.

10 THE COURT: Okay. So --

11 MR. DANJUMA: Does that answer your question, Your
12 Honor?

13 THE COURT: Well, let me ask, sir, if you wouldn't
14 mind, just elaborate on that. Like how do you know that and --

15 THE WITNESS: Well, in -- in the time being, one, I've
16 seen this video footage several times, but I've also visited
17 that web page that shows the live view. And it is this view.
18 And this is the same view that was displayed on ABC News, which
19 they got it from the County.

20 THE COURT: Okay.

21 THE WITNESS: So this camera is trained specifically
22 at the drop box, which is just behind my car just adjacent to
23 the -- to the fire hydrant there, for this specific reason.

24 THE COURT: Okay. So, sir, to the best of your
25 knowledge then, the footage that we just watched is -- is

1 footage that was captured by the County --

2 THE WITNESS: That's right.

3 THE COURT: -- and then somehow obtained by the
4 defendants?

5 THE WITNESS: I think the County provided it to
6 ABC News. And then anybody has the ability to tape it from --

7 THE COURT: Okay.

8 THE WITNESS: -- DVR it from ABC News; right?

9 THE COURT: All right. Thank you, sir.

10 Mr. Danjuma?

11 MR. DANJUMA: Your Honor, just one moment.

12 THE COURT: Of course.

13 MR. DANJUMA: Thank you very much, sir.

14 No further questions at this time.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION

17 BY MS. LUCERO:

18 Q. Good afternoon, sir. I will try to keep this as short as I
19 can.

20 When you experienced the incidents on October 17th,
21 did you say there was one group of people only that you know of
22 at the ballot drop box?

23 A. Right.

24 Q. Just one group of people that you could see?

25 A. That's right.

1 Q. Okay. And did they identify that -- did anyone from the
2 group identify themselves?

3 A. No.

4 Q. Okay. Had you ever seen a news story about people
5 monitoring drop boxes before October 17th?

6 A. Yes.

7 Q. Where had you seen videos of people monitoring drop boxes?

8 A. I didn't say videos. You said news stories.

9 Q. Oh, I'm sorry, sir.

10 Which news stories had you seen?

11 A. I'd seen it on both Reddit and Twitter.

12 Q. Oh. And how long before October 17th, when you went to the
13 ballot drop box, had you seen these news stories?

14 A. It would have been during the primary here in Arizona.
15 Groups bragging about monitoring drop boxes during the primary.

16 Q. And had you ever -- were you aware of who any of those
17 groups were in the news stories?

18 A. No.

19 Q. Okay. Had you ever seen any videos by Ms. Jennings or her
20 organization prior to going to the drop box in -- on
21 October 17th?

22 A. Not that I'm consciously aware of.

23 Q. Only news stories, the -- the news stories that you just
24 mentioned earlier?

25 A. The news stories I'm referring to is people pointing out

1 that these people are intent on ferreting out election issues
2 by monitoring drop boxes. I don't know what groups they were
3 representatives of or if they were even in a group.

4 Q. Okay. But it's safe to say that you were aware that there
5 were groups of people monitoring drop boxes before you went to
6 the drop box on October 17th?

7 A. Well, there's been several state representatives that have
8 outwardly requested that people watch the drop boxes. Mark
9 Finchem, Kelly Townsend, these people have requested that
10 people -- patriots, in their mind -- show up and watch drop
11 boxes. So when I saw them there, yes, I understood what they
12 were there for.

13 Q. And you -- you don't know who these people were, the -- on
14 October 17th, the group of people there?

15 A. You asked me that twice.

16 Q. And I'm sorry. Your -- your answer was you --

17 A. Still the same.

18 Q. You have no --

19 A. I have no idea who they are.

20 Q. Okay. I'm sorry, sir, for repeating the question.

21 Are you aware that Ms. Jennings and her organization
22 advise people to stay 75 feet away from ballot drop boxes?

23 A. I don't know what -- I don't know what she tells her
24 people. No.

25 Q. On October 17th, when you had this encounter with the group

1 of people, did anyone yell at you?

2 A. Well, neither one of us had to raise our voices. We were
3 close enough to be heard.

4 Q. So was it more of a conversational tone?

5 A. Okay.

6 Q. I'm asking if you thought of it as a conversational tone,
7 not yelling.

8 A. Well, I don't agree to that.

9 Q. How would you describe it, sir?

10 A. Normal tone. Speaking tone.

11 Q. Okay. Thank you.

12 You said earlier that you thought the group was
13 bullying you; is that correct?

14 A. Right.

15 Q. And what specifically about their actions did you feel was
16 bullying?

17 A. Well, showing up in masks, first of all, in a group of
18 people, saying that they're hunting me or hunting mules, and
19 then accusing me of being a mule and approaching me, closing
20 the distance between where they were and where I was at night.

21 I don't know them; they don't know me. My
22 understanding, the implied intent was they were there to stop
23 me from doing something I was intent on doing. I think that's
24 a form of bullying.

25 Q. And you said they approached within 30 feet of you; is that

1 correct?

2 A. I said 20 yards. Yeah, 30 foot.

3 Q. Would you have --

4 A. 10 yards, I said. 10 yards. 30 foot.

5 Q. Thereabouts?

6 A. Yeah.

7 Q. Okay. Would you have felt less bullied or fearful if the
8 group had stayed 75 feet away?

9 A. Well, their interaction with me, regardless of how far away
10 they are, was completely uncalled for. It wasn't the distance.
11 It's that they closed the distance between where they started,
12 where they ended up, and that they were speaking to me
13 completely in an accusational tone and completely uninvited.

14 Q. So if they were required to stay 75 feet away but still
15 engaged in conversation with you, you would have still felt
16 bullied?

17 A. What's your intent? Are you trying to say that they didn't
18 bully me, that my wife didn't have those feelings?

19 Q. No, sir. I'm not saying that at all.

20 A. Okay.

21 Q. I'm just trying to find out if there would --

22 A. Well --

23 Q. -- have --

24 A. -- what --

25 Q. -- been a --

1 A. -- difference does it make --

2 Q. -- a distance --

3 A. -- if they were 10 feet or 75 foot?

4 THE COURT: You both need to allow one person to talk
5 at a time so we can get a transcript.

6 So I'm going to ask Ms. Lucero to ask a question, and
7 the witness will answer.

8 BY MS. LUCERO:

9 Q. I just wanted to know if there was a restriction to where
10 people could not approach within 75 feet, would that have made
11 you feel less bullied?

12 A. No, because that wasn't the part that I felt was the
13 bullying. It was the implied threat of filming me, of making
14 an accusation that was unfounded, and approaching me. Those
15 are the things that I think compromise bullying.

16 Q. And did anyone from the group say that they would publish
17 photos or video of you?

18 A. The night of, no. Several times after, yes. They've
19 bragged that they intended -- I mean, those three videos we
20 just watched was them bragging about them blowing up my picture
21 and making it go viral and getting my photo out there so people
22 could figure out who I was. Yes.

23 Q. As far as you know, was it anyone from the group on
24 October 17th that published any photos or videos of you?

25 A. Yes.

1 Q. And who was the person from the group that approached you
2 on October 17th that published photos or video --

3 A. Well, they --

4 Q. -- of you?

5 A. -- published photos they had taken from those cameras that
6 I described earlier, along with saying: We caught a mule.

7 So I don't know what those people -- they're using
8 some kind of a different moniker on whatever website they
9 posted it on, but I provided those screenshots to the gentleman
10 that's working with me.

11 Q. And this is different from the news story that was
12 published --

13 A. Right.

14 Q. -- that we just --

15 A. Different cameras.

16 Q. -- looked at?

17 Okay. And you can -- so those photos that -- the
18 screenshots that you provided, they were published where?

19 A. I think on Truth Social or GETTR or --

20 Q. And those -- those came from the -- the group that -- on
21 October 17th that you encountered?

22 A. Right. Or they're taking credit for them. And it's
23 clearly me in the photo with a camera, other than that video we
24 just saw.

25 Q. And you said that the media somehow got ahold of the

1 complaint that you filed with the Secretary of State's Office?

2 A. Right.

3 Q. And did they publish that video before you became aware of
4 these other screenshots that you just described?

5 A. I don't know what the timing there would be. Those
6 screenshots were posted on the 18th and 19th, is what I -- I
7 saw them dated. And, as I described in -- earlier, I think the
8 first time I saw it on the news or Twitter was the night of the
9 19th.

10 Q. The first time you became aware of the screenshots were --

11 A. People --

12 Q. -- was the 19th?

13 A. People were sending me those screenshots that they had
14 gleaned from other social media sites, right.

15 Q. And the news story, when was the news story published with
16 the footage that we just saw?

17 A. Well, I don't know when it was on Steve Bannon's War Room.
18 It was on ABC News the night of the 19th.

19 Q. Okay. So, as far as you know, the screenshots and the news
20 story appeared on October 19th for the first time?

21 A. Right.

22 Q. Okay. And did you receive more attention from the ABC News
23 story being published than from the screenshots being
24 published?

25 A. Well, I've received zero attention because no one knows who

1 that is besides the few people I've told.

2 Q. So, as far as the -- the -- the screenshots or the news
3 story, there's only a very few people that are aware of it?

4 A. That are aware it's me or aware of it?

5 Q. That -- that are aware it's you.

6 A. I would say that's a limited number of people that's aware
7 that's me, yes.

8 Q. And it's only the people that you told?

9 A. Prior to realizing it was going to be a national story,
10 that's right.

11 MS. LUCERO: Okay. Thank you.

12 No further questions.

13 THE COURT: Redirect?

14 MR. DANJUMA: Your Honor, a brief redirect. We
15 provided a list of exhibits, and I was wondering if we could
16 supplement those with a couple of exhibits that are filed on
17 the docket. We don't have copies of them immediately is the
18 only issue.

19 THE COURT: They're filed as part of your -- your
20 motion?

21 MR. DANJUMA: That's correct.

22 THE COURT: Which exhibits are they?

23 MR. DANJUMA: They are the attachments at the end of
24 Complainant 240's declaration.

25 THE COURT: Can you reference a document number? So,

1 for example, Document 11- something with a page number?

2 MR. DANJUMA: Yes. Yes, Your Honor. It's -- it's
3 Document 11-2, page number, I believe, 15 and 16. And it's a
4 Tweet from Alice Bagley Mercer and from TrumperMel.

5 THE COURT: Okay. You can use the -- the Elmo.

6 Is there any objection to us admitting these documents
7 into evidence?

8 MR. KOLODIN: No, Your Honor.

9 THE COURT: Okay. So we'll number them. We'll have
10 Exhibit 7.

11 MR. KOLODIN: If he's going to introduce new exhibits,
12 can we have an opportunity for recross if we need it?

13 MR. DANJUMA: Well, just to be clear, these aren't new
14 exhibits.

15 MR. KOLODIN: If you're going to ask about exhibits
16 you didn't ask about on direct --

17 MR. DANJUMA: Oh, yes, you can ask him about these
18 exhibits.

19 THE COURT: All right. Let's see what Exhibit 7 is
20 going to be.

21 THE COURTROOM DEPUTY: Can you turn the document
22 and --

23 MR. DANJUMA: Oh, I see.

24 Your Honor, just one moment.

25 ///

1 REDIRECT EXAMINATION

2 BY MR. DANJUMA:

3 Q. Sir, do you see this document?

4 A. It's not on my screen, but I can see it on the Judge's.

5 THE COURT: Oh, let's get -- let's get that up for the
6 witness.

7 THE WITNESS: Yeah.

8 THE COURT: We're working on that.

9 THE WITNESS: That's all right.

10 (The Court and the courtroom deputy confer.)

11 THE COURT: All right. Let's -- let's get this
12 document admitted into evidence.13 Is this -- this is Exhibit E to the witness's
14 declaration?

15 MR. DANJUMA: That's correct.

16 THE COURT: Okay.

17 MR. DANJUMA: And --

18 THE COURTROOM DEPUTY: Exhibit 7, though?

19 THE COURT: Yes, this will be Exhibit 7.

20 And, Mr. Kolodin, you -- I understand correctly you
21 don't have any objection to admitting this into evidence?22 MR. KOLODIN: We -- we don't -- don't have any
23 objection for it to being admitted and considered given
24 whatever weight it's due. Obviously we'll have some
25 foundational questions.

1 THE COURT: Okay.

2 MR. KOLODIN: Yeah.

3 THE COURT: Of course.

4 So Exhibit 7 is admitted.

5 (Exhibit 7 admitted into evidence.)

6 MR. DANJUMA: And -- and, Your Honor, I'm sorry. This
7 is Exhibit D, not Exhibit E.

8 THE COURT: Oh, Exhibit D.

9 MR. DANJUMA: I apologize about that.

10 THE COURT: No. It's okay.

11 BY MR. DANJUMA:

12 Q. Sir, do you recognize this document?

13 A. I do.

14 Q. Can you tell me what it is.

15 A. This is posted on some social media that I'm not privy to.
16 But one of my friends, again, that I had shared our experience
17 with sent this to me.

18 Q. And the document reads: Mule hunting tonight. This is a
19 mule driving up to the outdoor drop box. He proceeded to get
20 out, hide a stack of ballots, and talk smack to us.

21 And then at the bottom of this document, it shows
22 photos of your car; is that right?

23 A. Right.

24 Q. Okay.

25 A. Which these --

1 Q. Okay.

2 A. -- are not from the County. These are gleaned from this
3 person's personal photographic.

4 Q. And the -- the Tweet proceeds to say, then proceeded to
5 back up so we couldn't take a picture of his license plate; is
6 that right?

7 A. Right.

8 MR. DANJUMA: Your Honor, I'd like to move for
9 introduction of Exhibit 8. And this is -- this was attached on
10 Docket 11-2 as Exhibit E to Complainant Number 240's
11 declaration.

12 THE COURT: Okay. Any objection to that, counsel?

13 MR. KOLODIN: No, Your Honor.

14 THE COURT: Exhibit Number 8 is admitted.

15 (Exhibit 8 admitted into evidence.)

16 BY MR. DANJUMA:

17 Q. And, sir, do you -- do you recognize this document?

18 A. I do.

19 Q. What is it?

20 A. This is similarly described as the previous one. This is
21 something someone had provided to me after gleaning it off of
22 a -- some social media.

23 Q. And in this Tweet, TrumperMel tweets: This guy drove in
24 backward to avoid plate detecting -- detection. Got out
25 showing his back. Pulled ballots out of his shirt. I need

1 people there tonight to help my people. Lots of you. 75 feet
2 away from the box. Post opposite so we see both sides.
3 Someone get tags. No talking to them. Do not go inside
4 75 feet.

5 Do you see that?

6 A. I do.

7 Q. Do you interpret from the individual saying, I -- from
8 TrumperMel saying in this Tweet, I need people there tonight to
9 help my people, that the individuals there were associated with
10 this person?

11 A. Yes.

12 MR. DANJUMA: I have nothing further on this.

13 THE COURT: Any further questioning from defendants?

14 MS. LUCERO: Yes, Your Honor.

15 THE COURT: And this will be limited to the -- to the
16 new exhibits.

17 MS. LUCERO: Yes, Your Honor. Understood.

18 RECROSS-EXAMINATION

19 BY MS. LUCERO:

20 Q. On the first screen -- the first screenshot was from an
21 Alice Bagley Mercer; is that correct?

22 A. Appears so, yes.

23 Q. And do you know who that person is?

24 A. I don't.

25 Q. And do either of the exhibits that we just viewed identify

1 you?

2 A. Those are me in the photos.

3 Q. But is your name on any of those exhibits?

4 A. It is not.

5 Q. Is there -- is there a way for anyone who doesn't know it's
6 you to identify you?

7 A. I mean, it shows my picture. What are you asking?

8 Q. I'm asking if -- if -- if the exhibits actually identify
9 who you are.

10 A. It does not name me by name, no.

11 MS. LUCERO: Okay. No further questions.

12 THE COURT: Can I excuse this witness?

13 MR. DANJUMA: Yes, Your Honor.

14 THE COURT: Okay. Sir, I want to thank you for coming
15 in. You're excused. If you'd like to stay, you can. Or if
16 you want to go home or go about your business, you're welcome
17 to do so.

18 THE WITNESS: Thank you.

19 THE COURT: Let's just have a brief discussion before
20 we call the next witness.

21 MR. DANJUMA: Just one moment.

22 (Brief pause.)

23 THE COURT: Okay. So -- so we have five more
24 witnesses, and it's almost 3:00 o'clock. How do you -- how
25 would you like to proceed?

1 MR. DANJUMA: So, Your Honor, the next three witnesses
2 will be very fast. They're about -- we've estimated
3 ten minutes each. I think a break is appropriate at this time,
4 or a break will be appropriate at some point before we move
5 into the afternoon. The other two witnesses, I think, will be
6 faster than this witness.

7 THE COURT: Okay. Then let's -- let's go with the --
8 the next witness. We'll take a very short break, and then
9 we'll try to power through the rest.

10 MR. DANJUMA: Thank you.

11 THE COURT: Because -- because one other thing is if
12 you want to come back in the morning, we can. But I -- I know
13 risky -- you know, holding that as an option reduces our
14 efficiency right now.

15 MR. DANJUMA: We would like to be efficient, Your
16 Honor, and I think we can.

17 THE COURT: Okay.

18 MR. DANJUMA: So if we can -- we can -- obviously that
19 depends to some extent on --

20 THE COURT: On everybody's schedule.

21 MR. DANJUMA: -- on everything.

22 THE COURT: So let's -- let's try to power through.
23 Is it Leslie Hanson?

24 MR. DANJUMA: Yes.

25 THE COURT: Okay. Let's call Ms. Hanson.

1 Come on up, ma'am. You'll come to this microphone,
2 and the courtroom deputy will swear you in.

3 THE COURTROOM DEPUTY: Please state your name, and
4 spell your name for the record.

5 MS. HANSON: Leslie Hanson. L-E-S-L-I-E, H-A-N-S-O-N.

6 THE COURTROOM DEPUTY: Thank you. Please raise your
7 right hand.

8 (LESLIE HANSON was duly sworn or affirmed.)

9 THE COURT: Thank you.

10 THE COURTROOM DEPUTY: Please have a seat on the
11 witness stand.

12 THE COURT: While you're making your way up there,
13 I'll let you know there's some water for your use. If
14 there's -- if the fresh cups are missing, just let me know.
15 I'll get you one.

16 THE WITNESS: Okay.

17 THE COURT: Please let the lawyers ask their questions
18 before you answer. And then if a lawyer wants to make an
19 objection, let me rule on the objection before you answer.

20 THE WITNESS: Okay.

21 THE COURT: All right.

22 THE WITNESS: Thank you.

23 THE COURT: All right. Your witness.

24 ///

25 ///

1 MS. HOMER: Good afternoon, Your Honor. Rachel Homer
2 on behalf of Plaintiffs League of Women Voters of Arizona.

3 LESLIE HANSON,
4 called as a witness herein, having been first duly sworn or
5 affirmed, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. HOMER:

8 Q. Good afternoon. Could you please state your name.

9 A. My name is Leslie Hanson.

10 Q. And, Ms. Hanson, how old are you?

11 A. I am 63.

12 Q. And what city or town do you currently live?

13 A. I live in Phoenix.

14 Q. And are you a member of the League of Women Voters of
15 Arizona?

16 A. Yes, I am.

17 Q. And have you voted in elections prior to this election?

18 A. I voted in the primary of this year.

19 Q. And by what method did you vote during that primary?

20 A. I voted by mail.

21 Q. And why did you vote by mail?

22 A. It was convenient and accessible for me to do that.

23 Q. And what are some of the drawbacks to voting by mail that
24 you've experienced?

25 A. The drawbacks to voting by mail?

1 Q. If there are any.

2 A. I didn't experience any drawbacks in voting by mail.

3 Q. Okay. And have you voted by drop box in any previous
4 elections?

5 A. No. This -- the primary was my first election here in
6 Arizona.

7 Q. And by what method did you plan to vote in this year's
8 general election?

9 A. My plan was to vote by drop box.

10 Q. And is your plan still to vote by drop box?

11 A. No, it is not.

12 Q. And can you tell me why not.

13 A. After I had decided to vote by drop box, I then, a few days
14 later, saw what was happening at the drop boxes in Maricopa
15 County, and I decided that it was not a safe route for me to
16 take.

17 Q. And tell me -- tell me more about why you felt that it
18 wasn't safe.

19 A. I felt that I was hearing and seeing news reports about
20 people there at the drop boxes in tactical gear and with guns,
21 and I didn't feel that that was a safe space for me.

22 Q. And -- and what made you feel that that was unsafe?

23 A. I feel that if someone decides to bring a gun to a -- an
24 event or a location it's done purposefully, and I feel that
25 maybe they're thinking they may need to use it.

1 Q. And did you have a plan for what specific drop box you had
2 intended to use?

3 A. I wanted -- I was going to use the drop box in Mesa.

4 Q. And did you understand that these activities were happening
5 at that specific drop box?

6 A. Yes.

7 Q. And did that affect your plans to no longer vote by that
8 drop box?

9 A. Yes.

10 Q. And so how did you end up voting?

11 A. I voted by mail.

12 Q. And how do you feel about that?

13 A. So my reason for voting by drop box was after I opened the
14 ballot and noticed how long it was and what was on it, I wanted
15 to be able to do my due diligence and take my time to get it
16 all filled out and do my research. And if I was going to vote
17 by mail, I needed to do it by November 1st. And I didn't think
18 that I was going to be able to get all that done by that period
19 of time, so I wanted to vote by drop box.

20 Q. So to make sure I'm understanding, you had previously
21 wanted to vote by drop box because it would give you more time,
22 you could go past that November 1st deadline?

23 A. Right. The November -- I was feeling rushed. I had a lot
24 going on, and I wasn't going to have time to do my due
25 diligence for the ballot.

1 Q. So is it accurate to say that you felt frustrated that you
2 had to vote by mail rather than by drop box?

3 A. Yeah, I was frustrated, and I wasn't happy about it.

4 Q. And is it accurate to say that if you had not felt
5 intimidated by what you understood was happening at drop boxes
6 you would have used a drop box?

7 A. Yes. I would have been able to do the research I wanted to
8 do and vote by drop box and fill out my entire ballot in a way
9 that I was comfortable with.

10 Q. And is it accurate to say that your understanding that
11 there were people with guns and body armor is primarily what
12 intimidated you from using a drop box?

13 A. Yes. I felt threatened by that.

14 Q. You felt threatened. Did you feel that your personal
15 safety was threatened?

16 A. Yes, I -- I do.

17 Q. And when you had intended to vote by drop box, did you plan
18 on dropping off only your own ballots or ballots for anyone
19 else as well?

20 A. I was going to drop off my own ballot, but my spouse would
21 go with me and drop off his. We hadn't discussed it.

22 Q. How has this whole experience made you feel about voting by
23 drop box?

24 A. It -- it's disconcerting. It's unsettling to know that
25 there are people that are there focusing and watching you and

1 thinking that you may be violating the law, and they have
2 weapons.

3 Q. And how does this make you feel about voting by drop box in
4 the future?

5 A. I will definitely pay attention to what's going on in the
6 news and make sure that it's a safe space for me.

7 Q. So, if I'm understanding you correctly, you continue to
8 feel scared about voting by drop box in the future unless this
9 changes?

10 A. I -- yeah. If -- if people are still going to be out there
11 dressed for war with guns, yeah, I will -- I will still -- that
12 will be be a factor in how I decide to vote.

13 MS. HOMER: Thank you, Your Honor. No further
14 questions at this time.

15 THE COURT: Cross-examination?

16 MS. LUCERO: Yes, Your Honor.

17 CROSS-EXAMINATION

18 BY MS. LUCERO:

19 Q. Good afternoon, Ms. Hanson. I -- you'll be happy to know I
20 only have three questions.

21 A. Okay.

22 Q. Is it the news stories that made you afraid to use the drop
23 boxes?

24 A. It was on -- I saw stories on news stations, and also there
25 were stories in print.

1 Q. But it is news stories that --

2 A. Right.

3 Q. -- made you afraid?

4 A. Yes.

5 Q. And you've never experienced any incidents while using a
6 drop box in the past?

7 A. I haven't used a drop box in the past. I've -- I -- this
8 is my second experience voting in Arizona.

9 Q. Oh, I'm sorry. I misunderstood.

10 A. That's okay.

11 Q. Thank you for clarifying.

12 Are Melody Jennings or anyone from Clean Elections USA
13 the people who were armed at the drop boxes?

14 A. I do not know the name of the people that were armed at the
15 drop boxes.

16 MS. LUCERO: Okay. Thank you. No further questions.

17 THE WITNESS: Thank you.

18 THE COURT: Redirect?

19 REDIRECT EXAMINATION

20 BY MS. HOMER:

21 Q. Just to clarify, you had intended to vote by drop box but
22 were intimidated from doing so --

23 A. Yeah.

24 Q. -- so voted by a different method?

25 A. Yes. Yes, I wanted to vote -- be able to vote after

1 November 1st.

2 MS. HOMER: Okay. That's it. No further questions,
3 Your Honor.

4 THE COURT: Shall we release Ms. Hanson?

5 MS. HOMER: Yes, Your Honor.

6 THE COURT: You are released. You can step down. If
7 you want to watch the rest of the proceeding, you're welcome to
8 sit in the audience.

9 THE WITNESS: All right. Thank you very much.

10 THE COURT: Shall we take a short break now, or do you
11 want to take another witness?

12 MR. KOLODIN: We could use a break.

13 MR. DANJUMA: Sure. No objection.

14 THE COURT: Let's take a five- to ten-minute break.

15 MR. DANJUMA: Sounds good.

16 THE COURT: We're at recess.

17 Oh, folks, before you go, I don't know if we have Word
18 document copies of your -- of the proposed partial agreement
19 temporary restraining order. Can somebody send that to
20 chambers. And then I'd also like to have a Word copy of
21 plaintiffs' revised proposed temporary restraining order in
22 Word document form. Either Mr. Marshall or Mr. Arellano will
23 know how to hit my chambers if you guys don't know how to do
24 that already.

25 Thank you. We're at recess.

1 MR. DANJUMA: Thank you, Your Honor.

2 THE COURTROOM DEPUTY: All rise.

3 THE COURT: Oh, that needs to be copied to plaintiff's
4 counsel.

5 MR. DANJUMA: Absolutely.

6 (Recess from 3:05 p.m. to 3:19 p.m.)

7 THE COURT: Be seated.

8 Before we call the next witness, I'm going to address
9 a matter I keep forgetting about, which is plaintiffs' motion
10 to file the lodged declaration under seal, and that is the
11 declaration of Complainant 240.

12 Counsel for defendants, is there any objection to this
13 motion?

14 MR. KOLODIN: For the record, I'd reiterate the same
15 objection that Your Honor's already ruled on, so --

16 THE COURT: Okay. And is it the entire declaration,
17 Mr. Danjuma, or is it just parts of the declaration?

18 MR. DANJUMA: So -- so only the identity of the
19 complainant is sealed and the first line that identifies his
20 occupation.

21 THE COURT: Okay.

22 MR. DANJUMA: Everything else -- there's a public
23 version that has everything else in it.

24 THE COURT: All right. I'm granting the motion. This
25 is Document 13. The -- the declaration will be filed under

1 seal, and the clerk is instructed to file on the public docket
2 the redacted declaration.

3 MR. DANJUMA: Thank you.

4 THE COURT: Next witness.

5 (The Court and the courtroom deputy confer.)

6 THE COURT: Is there -- there is a document lodged?

7 MR. DANJUMA: Yes. We lodged the sealed version. I
8 can -- I can provide the -- the -- the number for the sealed
9 version.

10 THE COURT: Do you have a -- do you --

11 MR. DANJUMA: Okay.

12 THE COURT: But this declaration, I suppose, is -- is
13 already in the public record with the --

14 MR. DANJUMA: Exactly. We filed the redacted version
15 as 11-2.

16 THE COURT: Okay. So the clerk doesn't need to do
17 anything?

18 MR. DANJUMA: I don't think -- only -- yeah, only the
19 lodged version to go in under seal.

20 THE COURT: Perfect. Okay. The lodged version is
21 directed to go under seal.

22 MR. DANJUMA: Thank you, Your Honor.

23 THE COURT: All right. Let's proceed.

24 MS. HOMER: Your Honor, we'd like to call Lois Hansen.

25 THE COURT: Okay.

1 THE COURTROOM DEPUTY: Right up here, please.

2 Please state your name, and spell your name for the
3 record.

4 MS. HANSEN: Lois Hansen. L-O-I-S, H-A-N-S-E-N.

5 THE COURTROOM DEPUTY: Please raise your right hand.

6 (LOIS HANSEN was duly sworn or affirmed.)

7 THE COURTROOM DEPUTY: Thank you. Please have a seat
8 on the witness stand.

9 THE COURT: Ms. Hansen, while you're making your way
10 up there, I'll just let you know, first, be careful --

11 THE WITNESS: Okay.

12 THE COURT: -- as you walk up. There's steps.

13 THE WITNESS: Okay.

14 THE COURT: There's water, if you need it. Please let
15 the lawyers ask you questions in full before you answer.

16 THE WITNESS: Okay.

17 THE COURT: And if a lawyer wants to object, you need
18 to give me time to rule on the objection.

19 THE WITNESS: Okay.

20 THE COURT: Ms. Homer, you may proceed.

21 LOIS HANSEN,
22 called as a witness herein, having been first duly sworn or
23 affirmed, was examined and testified as follows:

24 ///

25 ///

1 DIRECT EXAMINATION

2 BY MS. HOMER:

3 Q. Good afternoon. Could you please state your name.

4 A. Lois Hansen.

5 Q. And I'll give you a moment to pour some water.

6 A. Oh, thank you. Ooh.

7 Q. The pitchers are difficult. It's not your fault.

8 A. It's all right.

9 Q. And how old are you, Ms. Hansen?

10 A. 68.

11 Q. And what city or town do you currently reside in?

12 A. I live in Peoria, Arizona.

13 Q. And are you a member of the League of Women Voters of
14 Arizona?

15 A. Yes.

16 Q. And have you voted in prior elections?

17 A. Yes.

18 Q. How frequently do you vote?

19 A. I vote primaries and major elections every time there's an
20 election year.

21 Q. And by what method do you typically vote?

22 A. I have voted by mail for a number of years now.

23 Q. And have you ever used drop boxes in the past?

24 A. Yes.

25 Q. And did you vote in this year's August primary?

1 A. Yes.

2 Q. And by what method did you vote in this year's August
3 primary?

4 A. Mail.

5 Q. And do you recall when you have voted by drop box in the
6 past?

7 A. In 2020.

8 Q. And what was your experience voting by drop box during that
9 election?

10 A. Oh, I liked it a lot.

11 Q. What did you like about --

12 A. I was --

13 Q. -- it?

14 A. I was concerned about the mail service and whether it would
15 get there in time.

16 Q. And did you experience any issues when you voted by drop
17 box during that election?

18 A. No.

19 Q. Do you recall anything notable about that experience?

20 A. No.

21 Q. And by what method did you plan to vote in this year's
22 general election?

23 A. Mail.

24 Q. I'm sorry? You planned to vote by mail?

25 A. Oh, no. I -- I received my ballot by mail.

1 Q. And did you plan to return it by mail or by drop box?

2 A. Drop box.

3 Q. And why did you intend to return it by drop box?

4 A. Because I spent quite a bit of time with my ballot and
5 doing research on some of the propositions and the judges and
6 things. So it took me a while to feel like I completed it the
7 way I was comfortable with.

8 Q. And because it took awhile, why did that lead you to want
9 to use a drop box rather than return it by mail?

10 A. Because I wasn't sure what the date -- the last date that
11 it could be received by mail, and I was a little concerned
12 about that.

13 Q. So, to make sure I'm understanding, you intended to use a
14 drop box because that way you would be sure it would arrive on
15 time?

16 A. Yes.

17 Q. And did you end up voting by drop box?

18 A. No.

19 Q. And why did you change your mind?

20 A. Reading reports of people observing the drop box.

21 Q. And what was your understanding of what those observers
22 were doing?

23 A. My understanding was that they were armed. Some of them
24 were armed and wearing masks and hats to disclose [sic] their
25 identity. And then there were also reports that I read about

1 people taking photographs of your license and photographs of
2 you dropping your ballot off, and I was concerned about the
3 potential for doxxing or being traced.

4 Q. And could you say more about what that concern was.

5 A. Well, with doxxing a lot of times your personal information
6 is shared on the Internet, and there can be, you know, threats.
7 Or people can get ahold of your phone number, and there can be
8 threats that way. And there can just be other negative
9 consequences that I've seen online from that type of thing.

10 And I live alone, and I just wouldn't want somebody,
11 like, approaching my property or something like that.

12 Q. So, to make sure I'm understanding you, your understanding
13 of what was happening at drop boxes made you feel scared, made
14 you feel intimidated and not -- choose not to use a drop box;
15 is that correct?

16 A. Yes.

17 Q. And with those concerns that you mentioned about doxxing,
18 were you afraid that that could lead to threats to your safety?

19 A. Yes. Oh, definitely.

20 Q. And -- and were you afraid of other types of harm that
21 could come from doxxing?

22 A. Yes. It's amazing what they can find out about you with
23 Internet searches with people that have more skills than I do.
24 And, yes, I've -- I find that very concerning. I mean, I find
25 it concerning if it happens to other people, and I certainly

1 didn't want it to happen to me.

2 Q. And when you intended to vote by drop box, were you
3 planning to drop -- drop off only your own ballot or a ballot
4 for anyone else?

5 A. My own.

6 THE COURT: Mr. Kolodin, did you --

7 MR. KOLODIN: No, Your Honor.

8 THE COURT: Okay. All right. Go ahead, Ms. Homer.

9 BY MS. HOMER:

10 Q. How does this experience make you feel about voting by drop
11 box in the future?

12 A. It negatively impacts my desire to do so.

13 Q. And if you knew that this sort of conduct that -- that you
14 understand to be happening at drop boxes, if you knew that
15 isn't happening in the future, would that change how you feel?

16 A. Yes.

17 Q. To make sure I'm understanding, you would feel less
18 intimidating -- intimidated if you knew that there wasn't a
19 risk of doxxing from activities happening at the drop boxes --

20 A. Yes.

21 Q. -- is that correct?

22 And did you end up voting this election?

23 A. Yes, I did.

24 Q. And to confirm, you voted by mail?

25 A. Yes.

1 Q. And do you know of any other people who are now reluctant
2 to -- to deliver their ballots by drop box?

3 A. Yes.

4 Q. And do you know why? Have those people shared with you why
5 they are scared to use the drop boxes?

6 A. Their -- their concerns were very similar to mine.

7 MS. HOMER: Thank you, Your Honor.

8 THE COURT: Okay. Cross-examination?

9 CROSS-EXAMINATION

10 BY MS. LUCERO:

11 Q. Good afternoon, Ms. Hansen. When did you first become
12 aware of drop box monitoring?

13 A. Reading the news.

14 Q. Can you say about when in the news that you heard of this?

15 A. I'm retired, and I'm not really good about specifically
16 identifying time span like that. It was before I had turned in
17 my ballot.

18 Q. Do you know if it was before the primary?

19 A. No. I think it was before this election, this -- the
20 general election.

21 Q. Would you say it was maybe in the past couple of weeks?
22 The past month?

23 A. It's been less than a month, yes. I would say two or
24 three weeks maybe. Two weeks. Three weeks.

25 Q. Okay. And are you -- do you have any personal knowledge of

1 the defendants in this case, Clean Elections USA, being
2 responsible for any voter intimidation?

3 A. I do not know who is behind it.

4 MS. LUCERO: Okay. Thank you. No further questions.

5 THE WITNESS: Uh-huh.

6 THE COURT: Redirect?

7 MS. HOMER: No further questions, Your Honor.

8 THE COURT: Shall Ms. Hansen be released?

9 MS. HOMER: Yes, Your Honor.

10 THE WITNESS: Thank you.

11 THE COURT: Thank you, Ms. Hansen. You can stay, if
12 you'd like, or go about your day.

13 THE WITNESS: Thank you.

14 THE COURT: Next witness.

15 MS. HOMER: Your Honor, we'd like to call Lorna
16 Banister.

17 THE COURT: Ms. Banister, please come forward. You
18 can approach the courtroom deputy here. She'll swear you in.

19 THE COURTROOM DEPUTY: Right here, please.

20 Please state your name, and spell your name for the
21 record.

22 MS. BANISTER: Lorna Banister. L-O-R-N-A. Banister,
23 B-A-N-I-S-T-E-R.

24 THE COURTROOM DEPUTY: Thank you. Please raise your
25 right hand.

1 (LORNA BANISTER was duly sworn or affirmed.)

2 THE COURTROOM DEPUTY: Thank you. Please have a seat
3 on the witness stand.

4 THE COURT: While you're making your way up there,
5 I'll first say watch your step as you make your way up.
6 There's water, if you need it. Please allow the lawyers to ask
7 their question in full before you answer. And if there's an
8 objection, I need to have time to rule on it before you answer.

9 THE WITNESS: Okay.

10 THE COURT: Go ahead.

11 LORNA BANISTER,
12 called as a witness herein, having been first duly sworn or
13 affirmed, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. HOMER:

16 Q. I'll let you pour yourself some water.

17 A. Thank you.

18 Q. The pitcher's very slow. It's not you.

19 A. Okay.

20 Okay.

21 Q. Good afternoon. Can you please tell us your name.

22 A. Lorna Banister.

23 Q. And, Ms. Banister, how old are you?

24 A. 46.

25 Q. And in what city or town do you currently reside?

1 A. I live in Phoenix.

2 Q. And are you a member of the League of Women Voters of
3 Arizona?

4 A. Yes.

5 Q. And have you voted in prior elections?

6 A. Yes.

7 Q. Do you vote regularly?

8 A. Yes.

9 Q. By what method do you typically vote?

10 A. I -- I typically vote sort of -- in the last few elections,
11 I voted always. I have voted by absentee ballot and in person.

12 Q. And how did you vote during this year's August primary?

13 A. In person.

14 Q. And why did you choose to vote in person?

15 A. I had been out of town when the absentee ballots came out
16 and my mail was being held at the Post Office, so I didn't get
17 my absentee ballot in time.

18 Q. And have you voted by drop box in previous elections?

19 A. Yes.

20 Q. And why did you choose to vote by drop box in those
21 elections?

22 A. Because it was easy and I knew that my ballot would be
23 going to be counted. It would be going to where it ultimately
24 needed to be counted.

25 Q. Can you tell me about your previous experience voting by

1 drop box.

2 A. Sure. I -- it was really easy. I just pulled up, parked,
3 took my ballot over to the drop box, put it in the drop box,
4 and then got back my car and drove off.

5 Q. And did you encounter any problems?

6 A. No.

7 Q. And by what method did you plan to vote in this year's
8 general election?

9 A. By drop box.

10 Q. And did you end up voting by drop box?

11 A. No.

12 Q. What made you change your mind?

13 A. I saw on the news just some -- some news stories about
14 people who were standing outside the drop boxes, and they were
15 wearing, like, guns, militia-type people, and they were taking
16 photographs of people who were putting their ballots in the
17 drop box.

18 And so it just kind of scared me. It freaked me out.
19 So I decided that I would not do that, and I decided just to
20 mail my ballot instead.

21 Q. And you said that it scared you; it freaked you out. Can
22 you elaborate on that.

23 A. It -- it just looked intimidating. It looked like nothing
24 I wanted to be involved in, so I just decided that I would just
25 mail my ballot. Take it to the Post Office instead.

1 Q. And were you scared for your -- your personal safety?

2 A. Yeah. I -- I mean, I did -- I didn't want to be
3 photographed. I didn't know why the people would be
4 photographing people or why they would be going up to people.
5 I didn't know their intentions, I guess, so I just decided to
6 be safe.

7 Q. And what were you scared of? You said that you were scared
8 of being photographed. What you -- what were you scared of
9 with respect to having your photograph being taken?

10 A. Well, just because I didn't really know what they intended
11 to do with these photographs.

12 Q. Was --

13 A. I didn't know why they were taking them. I didn't know the
14 purpose of it.

15 Q. Were you scared of future harassment because of these
16 photographs?

17 A. Yeah. I mean, they could follow you home. They could -- I
18 don't know. They could look you up on the Internet, I guess.
19 I have no idea. But, yeah.

20 Q. So, to make sure I'm understanding, you're saying that you
21 were scared that your personal information and your home would
22 be discovered because of these photographs?

23 A. Yes.

24 Q. And would you have preferred to vote by drop box if these
25 activities were not happening at drop boxes?

1 A. I think so, because when you put it in a ballot box, you
2 know for sure that it's going to the County Recorder. When you
3 put it in the mailbox, it still has to go through U.S. Postal
4 Service. And we all know, you know, there's some problems with
5 the postal service.

6 Q. And was it your understanding that people voting by drop
7 box were being confronted in person by individuals at the drop
8 box?

9 A. That was my understanding, yes.

10 Q. And -- and how did that affect your view of wanting to use
11 a drop box?

12 A. It was --

13 MR. KOLODIN: I'm sorry. Object to foundation. Her
14 understanding based on what?

15 THE COURT: Are you objecting to foundation of her
16 answer about individuals, other individuals?

17 MR. KOLODIN: If I could --

18 THE COURT: I'm just not sure.

19 MR. KOLODIN: If I could ask the reporter to read back
20 the previous statement.

21 THE COURT: Ms. Taylor, would you do that, please.

22 (The requested record was read back by the court
23 reporter.

24 "Question: And -- and how did that affect your view
25 of wanting to use a drop box?

1 "Answer: It was --")

2 MR. KOLODIN: The portion where she says her
3 understanding.

4 (The requested record was read back by the court
5 reporter.

6 "Question: And was it your understanding that people
7 voting by drop box were being confronted in person by
8 individuals at the drop box?

9 "Answer: That was my understanding, yes.")

10 MR. KOLODIN: Yeah, that's what I'm objecting to on
11 foundation. Or just, you know, if she wishes to supply
12 foundation, I'll withdraw it. But otherwise I've got a
13 foundation objection.

14 THE COURT: Ms. Homer, why don't you ask a foundation
15 question or two.

16 MS. HOMER: Sure.

17 BY MS. HOMER:

18 Q. Ms. Banister, how did you become aware of the activities
19 that were happening at drop boxes?

20 A. I saw it on the news.

21 Q. And based on your understanding from what you saw on the
22 news, were you aware of individuals being confronted at the
23 drop box?

24 A. Yes.

25 Q. And did that -- how did that affect your view of wanting to

1 use a drop box?

2 A. It made me not want to use the drop box.

3 Q. And did it make you scared to use the drop box?

4 A. Yes.

5 Q. And why were you scared to use the drop box?

6 A. Honestly, I was scared someone might follow me home.

7 Q. So you were scared for -- for your physical safety?

8 A. Yes.

9 Q. And so did you end up voting this election?

10 A. Yes.

11 Q. And did you vote by mail?

12 A. Yes.

13 Q. And how has this whole experience made you feel about
14 voting by drop box in the future?

15 A. I will probably vote by drop box if there aren't people
16 that are around the drop box watching me vote. If there are
17 people around the drop box watching me vote, I will probably
18 take it to the mailbox or vote in person.

19 Q. And are you aware of other people who are also scared to
20 use the drop boxes now?

21 A. Yes.

22 Q. Could you elaborate on that.

23 A. Mostly -- honestly, mostly it's, like, my women friends.
24 It's the mom groups I talk to.

25 Q. And those mom groups are -- are scared?

1 A. Yes. Most of them make their husbands go with them and
2 stuff like that.

3 MS. HOMER: Thank you, Your Honor.

4 THE COURT: Cross-examination?

5 CROSS-EXAMINATION

6 BY MS. LUCERO:

7 Q. Good afternoon, Ms. Banister.

8 Which drop box were you planning to vote at this
9 election?

10 A. So the one I've used in the past is at the Paradise Valley
11 Courthouse. It's -- or the -- it's in that complex right
12 there. But there's also one that's in, like, Old Town
13 Scottsdale. And I know another one is in Downtown Phoenix.

14 I hadn't decided exactly which one because I hadn't
15 filled out my ballot quite yet, but those are the three I had
16 in mind.

17 Q. And is -- are any of those the drop boxes that you saw
18 featured on the news?

19 A. I'm not sure.

20 Q. Do you know which drop box was featured on the news?

21 A. I don't.

22 Q. Do you know if there are ballot drop -- I'm sorry -- if
23 there are drop box observers at every drop box in Maricopa
24 County?

25 A. I don't, no.

1 MS. LUCERO: No further questions.

2 THE WITNESS: Thank you.

3 THE COURT: Redirect?

4 MS. HOMER: Your Honor, we have nothing on redirect.

5 THE COURT: Shall I release Ms. Banister?

6 MS. HOMER: Yes, Your Honor.

7 THE COURT: Ms. Banister, you're released. You may
8 step down. You can stay, if you'd like, or go about your day.

9 THE WITNESS: Thank you.

10 THE COURT: Thank you.

11 Next witness.

12 MR. DANJUMA: Your Honor, plaintiff calls Don
13 Overlock.

14 THE COURT: Mr. Overlock, please come forward. Right
15 here.

16 THE COURTROOM DEPUTY: By the microphone, please.

17 Please state your name, and spell your name for the
18 record.

19 MR. OVERLOCK: Donald Clark Overlock, O-V-E-R-L-O-C-K.

20 THE COURTROOM DEPUTY: And how do you spell your first
21 name?

22 THE WITNESS: Donald, D-O-N-A-L-D.

23 THE COURTROOM DEPUTY: Thank you.

24 (DONALD CLARK OVERLOCK was duly sworn or affirmed.)

25 THE COURTROOM DEPUTY: Thank you. Please have a seat

1 on the witness stand.

2 THE COURT: While you are making your way there,
3 Mr. Overlock, I'll let you know that there's water, if you need
4 it. Please let the lawyers complete their question before you
5 answer. And if there's an objection, I need to rule on that
6 before you answer.

7 Mr. Bendor, whenever you're ready.

8 DONALD CLARK OVERLOCK,
9 called as a witness herein, having been first duly sworn or
10 affirmed, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. BENDOR:

13 Q. Good afternoon, Mr. Overlock.

14 A. Good afternoon.

15 Q. Would you please state your name for the record.

16 A. Donald Clark Overlock.

17 Q. How old are you?

18 A. 72.

19 Q. In what city do you live?

20 A. Mesa, Arizona.

21 Q. How long have you lived there?

22 A. 26 years.

23 Q. Did you vote in person at a drop box this year?

24 A. Yes.

25 Q. What was your experience?

1 A. Approximately 12:30 p.m. on October 20th, my wife drove us
2 to the Mesa Juvenile Court drop box location. On the way, I
3 suggested that she pull up next to the drop box and that I
4 would get out and deposit both of our ballots because we had
5 both seen and read reports of people intimidating or
6 approaching voters, taking their pictures, taking pictures of
7 their vehicles and their license plate numbers.

8 My wife was insistent that we park the car, we both
9 get out, and hand-carry our individual ballots and deposit them
10 in the drop box.

11 When we got to the juvenile court site, we drove past
12 the drop box. We both noticed a group of men standing across
13 from the drop box in the parking lot. We circled around and
14 parked our vehicle to the west where those -- those men were
15 standing. We got out of our car, walked over to the drop box,
16 each of us carrying our own ballot so that there wouldn't be
17 any confusion about whether we were carrying more than one
18 ballot if we were being watched or videoed or somehow recorded.
19 We deposited our ballots. We walked back to our vehicle. My
20 wife got in the driver's side, and I got into the passenger's
21 side.

22 As she was preparing to back out of the parking space,
23 she mentioned to me there -- there were two men standing behind
24 our car videoing or taking pictures of our vehicle and our
25 license plate. I exited the vehicle, walked toward them asking

1 them what they were doing. They made, you know, a statement
2 that they were election safety or integrity, something of that
3 nature.

4 As I got closer to them, I -- I told them that I --
5 since they were taking pictures of my vehicle, my wife, me, and
6 our license plate that I was going to take a picture of them,
7 report them to the Department of Justice for voter intimidation
8 and harassment.

9 At that point I got back into our vehicle. My wife
10 started to back out of the parking space. As she did so, she
11 mentioned to me that they continued to take pictures of our
12 car.

13 We backed out, headed in the opposite direction of the
14 individuals that were recording our vehicle, and then drove to
15 our home in Mesa. At that point I called the Secretary of
16 State's Office, filed a complaint. And during the conversation
17 I was asked if it was okay if -- if the complaint could also be
18 shared with Protect Democracy.

19 Q. Thank you, Mr. Overlock.

20 Let me just ask you a couple follow-up questions. How
21 many men were near the truck, if you recall?

22 A. As we pulled in, there was a group of -- of men. They
23 appeared to be between 20 and 30 years old. I did not count
24 them, but my impression was that there was five or six.

25 Q. And where was their truck parked?

1 A. I'm sorry?

2 Q. Where was their truck parked?

3 A. Their car was straight across from the drop box in the --
4 on the -- in the second row of the parking lot at the juvenile
5 court.

6 Q. Did you see whether the men had any weapons?

7 A. I did not look for any weapons, and I did not see any
8 weapons.

9 Q. You mentioned that the men who were taking photographs of
10 your license plate said they were with elections security or
11 something of that nature.

12 Were they wearing any uniforms or had other
13 indications indicating that they worked for any government
14 agency?

15 A. They were not wearing any uniforms that would lead me to
16 believe that they worked for a government agency. Although,
17 in -- in looking at the picture that I took of the two
18 individuals that came up to my vehicle, it looked -- it
19 appeared that they had a company name -- one of them had a
20 company name on his T-shirt.

21 Q. There was no indication they were official government
22 elections security officers?

23 A. I had no indications that they were governmental.

24 Q. How did you feel about the incident?

25 A. Honestly, I was outraged about somebody would come up

1 without reason and video both my wife, myself, our vehicle --
2 our vehicle, and our vehicle license number. We -- we were
3 very careful and -- and cognizant of the fact that, you know,
4 these people were there and were taking pictures. We went to
5 great pains to hand-carry individually our own ballots so that
6 people could see that we weren't carrying more than one ballot
7 and to insert them into the drop box.

8 So in -- in my mind, there was absolutely no reason
9 for anybody to be recording our driver -- our -- our car
10 license number, our vehicle, or us.

11 Q. Are you concerned about the incident still?

12 A. Yes. We don't know who the individuals were that -- that
13 were recording our information; our car, our license number.
14 And we don't know what they're going to do with that
15 information.

16 Q. How do you think -- well, withdrawn.

17 MR. BENDOR: Those are all the questions I have at
18 this time, Your Honor.

19 THE COURT: Okay. Thank you, Mr. Bendor.

20 Cross-examination?

21 CROSS-EXAMINATION

22 BY MS. LUCERO:

23 Q. Hello, Mr. Overlock.

24 A. Could you speak up a little bit, please.

25 Q. Hello.

1 A. Hello.

2 Q. Can you hear me? Is that better?

3 A. Yeah.

4 Q. Okay. Mr. Overlock, if you hadn't seen the news about drop
5 box watchers, would a group of people standing 75 feet away
6 have bothered you?

7 A. There -- it probably would not have bothered me seeing
8 people standing 75 feet away. However, people standing behind
9 my car taking pictures of my wife, myself, my vehicle, and my
10 license plate does bother me.

11 Q. Okay. Were the pictures that you say were taken ever
12 published?

13 A. Not that I'm aware of.

14 Q. And would it have bothered you if someone took a photo of
15 your license plate in any other context?

16 A. It depends on the situation. I -- I -- I don't know what
17 these people are going to do with that information.

18 Q. And who were the people taking pictures of you on
19 October 20th when you voted?

20 A. I don't know their names. I did not ask their names, nor
21 did I ask who they were affiliated with.

22 MS. LUCERO: Okay. Thank you.

23 No further questions.

24 THE COURT: Redirect?

25 MR. BENDOR: No redirect, Your Honor.

1 THE COURT: Shall Mr. Overlook [sic] be excused?

2 MR. BENDOR: Yes, Your Honor.

3 THE COURT: Sir, you may step down. You're excused.
4 You're welcome to stay, if you'd like, or go about your
5 business.

6 THE COURT: Next witness.

7 MR. DELGADO: Plaintiff calls Mr. Daniel Rivera.

8 THE COURT: Nobody wants to stay.

9 Mr. Rivera, please come forward, and the courtroom
10 deputy will swear you in.

11 THE COURTROOM DEPUTY: Right up here, please.

12 Please state your name, and spell your name for the
13 record.

14 MR. RIVERA, JR.: Daniel Maldonado Rivera, Jr.

15 D-A-N-I-E-L, M-A-L-D-O-N-A-D-O, R-I-V-E-R-A, J-R.

16 THE COURTROOM DEPUTY: Thank you. Please raise your
17 right hand.

18 (DANIEL MALDONADO RIVERA, JR., was duly sworn or
19 affirmed.)

20 THE COURTROOM DEPUTY: Thank you. Please have a seat
21 on the witness stand.

22 THE COURT: While you're making your way up there,
23 Mr. Rivera, I'll let you know there's water for you, if you
24 want it.

25 THE WITNESS: Thank you.

1 THE COURT: And please wait for the lawyers to finish
2 asking their question before you answer. If there's an
3 objection, I need to rule on that objection before you answer.

4 THE WITNESS: Okay.

5 THE COURT: Mr. Delgado, whenever you're ready.

6 DANIEL MALDONADO RIVERA, JR.,
7 called as a witness herein, having been first duly sworn or
8 affirmed, was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. DELGADO:

11 Q. Good afternoon, Mr. Rivera. How are you?

12 A. Good.

13 Q. Could you please tell us your name.

14 A. Daniel Rivera.

15 Q. And how old are you, Mr. Rivera?

16 A. 44.

17 Q. In what city or town do you currently reside?

18 A. Tempe, Arizona.

19 Q. And have you voted this year yet?

20 A. Yes.

21 Q. And how did you vote?

22 A. By the ballot box.

23 Q. Did anyone go with you when you went to the ballot box?

24 A. Yes. My wife went with me.

25 Q. Did you have anyone else's ballot with you when you went to

1 the ballot box?

2 A. I did. I brought my son's ballot with me.

3 Q. And why did you bring your son's ballot with you?

4 A. I brought my son's ballot with me because he has mental
5 health issues, and he was not comfortable with bringing his
6 ballot to the ballot box.

7 Q. But was there any other reason that he didn't want to bring
8 his ballot himself?

9 A. He -- he was honestly afraid of people that were at the --
10 the ballot boxes watching.

11 Q. And -- and what -- and why is that?

12 A. He has -- he has issues with anxiety and depression, and he
13 also -- he was watching the news and he saw that people were at
14 the ballot boxes, and he didn't want to -- didn't want to go.

15 Q. Was there anything specifically about the people at the --
16 that were watching the drop -- drop boxes that your son was
17 worried about?

18 A. He was worried about, you know, getting followed home or
19 them stopping us at the -- at the ballot box and asking us
20 questions. Everything has to be very orderly for him, so ...

21 Q. And which drop box location did you go to?

22 A. The Mesa Juvenile Court.

23 Q. And do you remember the day?

24 A. It was Saturday, the 22nd.

25 Q. And tell us about your experience when you went and

1 deposited your ballot at the drop box.

2 A. We drove up towards the drop box. We saw two people
3 walking away from the ballot box going towards their cars.

4 There was a woman there and there was a man. The woman got in
5 her car and left. And the man got out of his car and -- and he
6 went to his trunk and he picked up a -- a sign out of the trunk
7 that says: I invoke my right to vote.

8 And he was pointing it at another vehicle that was in
9 the parking lot, which was a Range Rover that was kind of off
10 to the side. And I had noticed that vehicle as we were pulling
11 in, and there was somebody that was just sitting in the
12 vehicle. And it was kind of parked across multiple spots in
13 the -- kind of the shade under a tree. And the person was
14 looking at the people that were walking back to their vehicles,
15 and he was writing stuff down.

16 And I noticed, too, when we were pulling in and I
17 looked over at him and saw him looking down or -- I don't know
18 if he was writing stuff down or looking at his phone. It
19 looked like he had a camera in the back seat of his vehicle
20 pointed at the ballot box.

21 Q. And where did you park?

22 A. We kind of parked right in between him and the ballot box.

23 Q. So was the camera that you were talking about in the car,
24 was it pointed at you at that point?

25 A. It would have been pointed at our vehicle, yeah.

1 Q. And where -- about how far from the box -- drop box was the
2 car located that had the camera in it?

3 A. I'm guessing like 45 feet as the crow flies from the box
4 to -- to his vehicle.

5 Q. And what did you end up doing once you got there?

6 A. My wife was already nervous and didn't want to get out of
7 the car, but I told her that she has to take her ballot up to
8 the box. I found out later that I was wrong, that she could
9 have just given it to me and I could have walked it over there.
10 But I was under the impression that I could only take my son's,
11 since I take care of him, to the box.

12 And -- and she wouldn't -- she wouldn't have gotten
13 out of the car if I wasn't there. She said: I don't want to
14 go.

15 And I said: We're going to go. We're going to put
16 our ballots in the box. We got to do this. Even if people are
17 watching, we got to do this.

18 Q. So your -- your original understanding at that moment was
19 you could only drop your drop -- ballot off at the drop box and
20 no one else's?

21 A. My -- well, my ballot and my son's ballot, since I take
22 care of him. But I couldn't drop anybody else's at my
23 household.

24 Q. So that would include your wife?

25 A. Yeah.

1 Q. When -- when your wife noticed a -- the man recording you,
2 were you able to see her reaction to this?

3 A. She was driving, and she immediately got really nervous.
4 She's not that great of a driver. I don't -- so she is going
5 to get mad that's on the record.

6 She's not a great driver to begin with, but she
7 definitely got nervous and tensed up.

8 Q. And do you know why she was nervous?

9 A. Because she, I think, just like my son, had heard the
10 reports about people doing stuff at the ballot boxes, and she
11 was nervous because he was, like, looking down. And she didn't
12 know -- like we're in this parking lot. Are we going to get
13 boxed in? We're by ourselves here. You know, do they have --
14 do they have weapons in their vehicles? Like what's going --
15 what's going to happen?

16 She was very nervous about that.

17 Q. How do you think your son would have felt if he was -- was
18 there at that moment?

19 A. He would have refused to get out of the car. The minute
20 that he saw somebody, he would have refused to get out of the
21 car.

22 Q. Did you report the incident?

23 A. I did. As soon as we got home, I talked it over with my
24 wife, and we reported it to the Secretary of State's Office.

25 Q. And are you still concerned about it now today, being

1 recorded, as you dropped your ballot off?

2 A. I am because of the -- the nature of things on the
3 Internet. If somebody takes your information and puts it out
4 there, like, you know, do we end up being the next conspiracy
5 theory people because I dropped off two ballots, you know? Am
6 I now a mule? Am I going to end up being targeted by random
7 people that I don't know because of Internet stuff?

8 MR. DELGADO: No further questions.

9 THE COURT: Cross-examination?

10 CROSS-EXAMINATION

11 BY MS. LUCERO:

12 Q. Hello, Mr. Rivera.

13 A. Hi.

14 Q. Do you know who the man was in the Range Rover?

15 A. I have no idea. I didn't want to look at him for too long,
16 because I didn't want to make him mad.

17 Q. Was it a news reporter?

18 A. I have no idea.

19 Q. So you don't know if it was someone from Clean Elections
20 USA?

21 A. No.

22 Q. Or whether it was a private investigator?

23 A. No.

24 Q. But you were worried because of what you had seen in the
25 news; is that correct?

1 A. That's correct.

2 Q. And you mentioned the word mule. When did you first hear
3 that term?

4 A. I think that's been being thrown around for a couple of
5 elections now, where they talk about people going around and
6 gathering up other people's ballots and turning them in.

7 MS. LUCERO: Okay. No further questions.

8 THE COURT: Okay. Thank you, Ms. Lucero.

9 Any redirect?

10 MR. DELGADO: No, Your Honor.

11 THE COURT: Shall Mr. Rivera be excused?

12 MR. DELGADO: Yes.

13 THE COURT: Mr. Rivera, you're excused. You can stay,
14 if you want, or you can make your way out and beat the traffic.

15 THE WITNESS: Thank you.

16 THE COURT: Any other witnesses?

17 MR. DANJUMA: No, Your Honor. Those are all our
18 witnesses.

19 We have one other exhibit that was attached to our
20 prior briefing that we'd move for admission. We can do that
21 now or during argument.

22 THE COURT: Okay. So I have all of your exhibits,
23 Exhibit -- here's what I have: Exhibits 1, 2, 3, 4, 7, and 8
24 admitted into evidence.

25 MS. HOMER: Yes, Your Honor. This is Exhibit 6. It's

1 a Tweet by TrumperMel. We're happy to move it now or during
2 argument, as you prefer.

3 THE COURT: Can you put it on the Elmo so I could see
4 it without digging through these papers.

5 MS. HOMER: And this was filed with our initial TRO
6 brief, as you can see on the top of this. It's at Docket
7 ECF 11-11.

8 THE COURT: All right. Counsel for defendants, any
9 objection to admitting Exhibit 6?

10 MS. HOMER: I have copies, if you'd like.

11 MR. KOLODIN: I -- I think we will object on
12 foundational grounds, you know. It would have been proper to
13 present this with witness testimony.

14 THE COURT: Well, do you -- do you dispute that this
15 is your client?

16 MR. KOLODIN: So -- so what I don't think we have any
17 objection to is it being admitted and given the weight it
18 deserves, you know, as an out-of-context statement.

19 THE COURT: Okay. All right. So I'll admit it.
20 Exhibit 6 is admitted.

21 (Exhibit 6 admitted into evidence.)

22 THE COURT: Okay. Anything else?

23 MR. DANJUMA: No, Your Honor. We believe that's --
24 that's all we have for -- for evidence. And we're certainly
25 happy to proceed to argument or discussion of --

1 THE COURT: Well, let me just see if -- if counsel for
2 defendants have any evidence they want to present.

3 Ms. Lucero?

4 MS. LUCERO: No. No, Your Honor.

5 THE COURT: Okay. All right. Are you ready to go
6 into arguments now, or do you want to take a short break? I
7 mean short.

8 MR. DANJUMA: I'd like to take a short break as a
9 bathroom break, if that's okay.

10 THE COURT: Okay. Let's do a five-minute break.
11 I'm -- I'm going to warn you, I might come in here in
12 five minutes.

13 MR. DANJUMA: Okay.

14 (Recess from 4:02 p.m. to 4:12 p.m.)

15 THE COURT: Please be seated.

16 Here's what I'd like to do: I'd like to spend the
17 next 30 minutes on argument. What I'd like is for counsel to
18 focus on the contested issues. And as you're arguing for
19 plaintiffs, I think you should tell me exactly what the
20 evidence is that supports your point and what the law is that
21 supports your point, and then defendants will either tell me
22 why they're wrong or why the law supports their point.

23 Go right ahead. And can you come up to the podium,
24 Mr. Danjuma.

25 MR. DANJUMA: Yes, Your Honor.

1 THE COURT: And then, Ms. Lucero, will it be you or
2 Mr. Kolodin in response?

3 MR. KOLODIN: It'll be me, Your Honor.

4 THE COURT: Okay. All right. Mr. Danjuma, come on
5 up.

6 MR. DANJUMA: Just one moment, Your Honor.

7 Good afternoon, Your Honor. Orion Danjuma on behalf
8 of the plaintiffs, the League of Women Voters of Arizona. May
9 it please the Court.

10 First, Your Honor, I'd like to give the Court some
11 important context. Our motion comes before the Court at a time
12 of considerable tension. Voters across the country and in
13 Arizona are alarmed about participating in our democratic
14 process. On Friday the Department of Homeland Security issued
15 a bulletin stating that perceptions of election-related fraud
16 will likely drive violence and efforts to justify violence
17 during the midterm elections.

18 This comes after two years of death threats against
19 election officials arising from conspiracy theories surrounding
20 the 2020 election. One of those conspiracy theories is the
21 2000 Mules film that inspired defendants' current program of
22 drop box surveillance.

23 Now, we, as the parties, have made considerable
24 progress in narrowing the issues and focusing on the portions
25 of the injunction that we think that -- that -- that we think

1 are necessary to end this intimidation, but I'd like to provide
2 some background evidence that supports -- that will be relevant
3 and has come out from the testimony today.

4 Your Honor, it goes without saying that members of the
5 public can take an interest in the integrity of our system and
6 advocate for changes in policy around voting, but none of this
7 excuses the vigilante attacks that Ms. Jennings has unleashed.

8 Let's consider the defendant in her own words. In
9 Exhibit 1 she said: But the mules do not want to be caught on
10 film, and that's what we're doing. We're catching them on
11 telescopic film. We can zoom right in.

12 In Exhibit 2 she said: The point is these mules, you
13 know, they clearly don't want to be doxxed.

14 In Exhibit 3 she said: The cameras don't work. We've
15 got to have people around these boxes. That's the only way the
16 mules are going to say, huh, I don't want to be doxxed, and
17 they will go away into darkness. And even if they don't, we've
18 got their picture.

19 And the Court heard testimony from an individual
20 who -- who showed that these are not simply idle threats.
21 These are true threats, an individual who was subject to this
22 harassment.

23 In response to that, Ms. Jennings said: This is the
24 guy, and I think we've -- what's happened is we've got a
25 picture of him. We blew it up and blasted it viral.

1 The Court has heard the effect, the impact that that
2 testimony had on that individual, Complainant 240, and the
3 impact that each of these episodes have had on voters across
4 the state.

5 I'd like to talk about what Ms. Jennings didn't tell
6 her followers. She didn't tell her followers in her campaign
7 of drop box monitoring these are the lawful bases for casting
8 multiple ballots. You know, if you see an outlier case, where
9 many ballots are being deposited, please alert law enforcement
10 and -- or election administrators. Instead, she committed to a
11 campaign of harassment and doxxing that she's admitted to
12 directly in her own statements.

13 Now, we've asked for a deposition -- a deposition of
14 Ms. Jennings. She hasn't appeared. Her counsel has opposed
15 that. And, to be very clear, we understand the exigency of
16 these circumstances, and they may not have had enough time to
17 prepare her for testimony. But in the absence of that
18 testimony, we have to rely on the statements Ms. Jennings has
19 made herself. Those are admissions of a party opponent, and
20 that's the evidence that we have in front of the Court -- the
21 Court.

22 What that evidence shows, Ms. Jennings has a problem
23 with drop boxes. She did not go to the state legislature and
24 advocate for reform of voting methods that she felt were
25 problematic. Instead, Ms. Jennings' goal was to cause so much

1 pain, so much harassment that voters would simply abandon a
2 voting -- a voting method that she disapproved of.

3 Now, Your Honor, we think there's reasonable dispute
4 between the parties that -- or there -- there -- there is no
5 reasonable dispute between the parties that the purpose of
6 defendants' drop box operation was to intimidate.

7 Defendant Jennings has said that over and over again herself.
8 Her goal was to scare the mules and have them slink into the
9 shadows. The only dispute factually over this is whether or
10 not Ms. Jennings sincerely wished to target only illegal voters
11 or all voters using drop boxes.

12 And what I'd submit to this Court is that regardless
13 of Ms. Jennings' intent, the collateral damage on legitimate
14 voters has been extreme. Our country has a history of
15 vigilante groups attempting to enact policy by harassing and
16 intimidating voters. That is why the KKK Act was passed in the
17 19th Century and the VRA in the 20th Century. This is exactly
18 the type of scheme these laws were intended to outlaw.

19 Now, Your Honor, before I hand over a portion of this
20 argument to my colleague, Ms. Homer, I wanted to address the
21 statement that this Court made in its -- in the TRO decision
22 denying the TRO in the Arizona Alliance case. The Court wrote
23 that the parties implicate rights equally crucial to the
24 functioning of our Republic, and the public has a strong
25 interest in maintaining them.

1 We agree that citizens' First Amendment rights are
2 essential to a functioning democracy, but the First Amendment
3 is not a shield for voter intimidation. The Supreme Court has
4 made clear that this is so even for the types of speech that
5 enjoy the highest degree of constitutional protection.

6 And, more importantly, I want to tell the Court it is
7 possible to balance these important constitutional
8 consideration. Indeed, it is imperative that we do so. If we
9 are to remain a nation of laws, we must construe our most
10 precious constitutional rights and liberties in a manner that
11 does not permit them to devour the democratic processes that
12 preserve those rights. We're here to provide authorities,
13 evidence, and analysis to help the Court navigate those
14 considerations.

15 First, my colleague, Ms. Homer, is going to explain
16 why we're likely to succeed on our affirmative claims under the
17 Voting Rights Act and the Klan Act given the record we've
18 presented to this Court, and then I will be available to
19 discuss why the requested relief that it -- the disputed
20 provisions of the requested -- the relief we are now requesting
21 do not violate the First Amendment.

22 THE COURT: Okay. Ms. Homer.

23 MS. HOMER: Good afternoon, Your Honor, and may it
24 please the Court. I just want to make three quick points that
25 go to the disputed issues here.

1 First, that the record evidence in this case shows
2 that defendants are engaged in a well-recognized traditional
3 form of voter intimidation, which was an issue that Your Honor
4 raised in denying the preliminary injunction in the related
5 case; second, that the record evidence here shows that a
6 reasonable voter would be intimidated and, in fact, voters have
7 been intimidated by defendants' conduct. It is not only people
8 who are breaking the law who are intimidated by defendants'
9 conduct; and, third, that the record evidence here in this case
10 shows that defendants' subjective intent is to intimidate
11 voters, not only voters who are voting unlawfully. And that
12 goes to, among other things, the conspiracy to violate Clause 3
13 of Section 1985(3) and Clause 4 of Section 1985(3) which is at
14 issue in this case and was not in the case that you heard last
15 week.

16 So, first, the record evidence in this case shows that
17 defendants are engaged in a well-recognized traditional form of
18 voter intimidation that has been a constant since 1965 through
19 today. The record evidence presented today that Your Honor
20 heard in testimony shows that defendants are spreading false
21 information about what type of voting is lawful, verbally
22 harassing voters while carrying -- while sometimes carrying
23 guns and wearing body armor, or accusing voters in person or
24 online for felonies, by surveying voters, by taking
25 photographs, photographing their license plates, and following

1 their cars to photograph their license plates, and threatening
2 to spread voters' personal information online, along with
3 baseless accusations of voter fraud and, in fact, in the
4 instance of Complainant 240, actually doing so.

5 This conduct is classically recognized as voter
6 intimidation since the passage of the VRA. The leading case on
7 this is from 1965. It's *Katzenbach vs. Original Knights of the*
8 *KKK*. In that case the Court discussed this exact issue. The
9 Court there explained that hand bills that named local voters
10 and accused them of crimes and immoral behavior constituted
11 unlawful voter intimidation.

12 In *King v. Cook* from around the same era, from 1969, a
13 Court explained that voters were deterred from registering to
14 vote because, quote, publication in the local newspaper of the
15 names and addresses of all applying for registration. In fact,
16 this method of voter intimidation, that is publishing
17 information about voters, that might technically be public, but
18 in this instance -- in those instances were published along
19 with the fact that they were voting as a method of
20 intimidation. That method of intimidation was so prevalent
21 that in a 1965 report from the U.S. Commission on Civil Rights
22 explicitly noted that it was the cause of low levels of voter
23 registration among black citizens living in Mississippi because
24 in that instance their names would be published in local papers
25 and local officials would take their photographs. That's cited

1 at page 16 of our supplemental brief.

2 Much more recent cases recognize the same. In *United*
3 *States vs. Nguyen*, the Ninth Circuit describes very similar
4 type of conduct as intimidating, namely that the threat that
5 the names and personal information of voters would be collected
6 and shared with anti-immigrant groups, was held to be unlawful
7 voter intimidation.

8 In *Daschle v. Thune*, which, of course, this Court is
9 familiar with, the conduct that was intimidating was the
10 combination of defendant's loud conversations about prosecuting
11 unlawful voting and the implied threat that the voters who were
12 hearing those conversations would be similarly prosecuted,
13 along with defendants surveying them, taking photographs of
14 those voters, following those voters to their cars and writing
15 down the license plate numbers, which is very similar to the
16 testimony Your Honor heard here today.

17 And then in the LULAC case most recently, the Court
18 there recognized that publishing someone's name and personal
19 information, along with baseless accusation of voter fraud,
20 is -- is threatening and is a form of voter intimidation.

21 The conduct here, again that Your Honor heard today,
22 especially from Complainant 240, as well as from the other
23 witnesses, closely tracks this sort of behavior that is exactly
24 classically recognized as voter intimidation.

25 Second, the record evidence in this case shows that a

1 reasonable voter would be intimidated and, in fact, that voters
2 have been intimidated by defendants' conduct. It's not only
3 people who are breaking the law who are intimidated. It's
4 regular old voters who are lawfully returning their ballots to
5 drop boxes. As Your Honor knows, it is lawful to return a
6 ballot for multiple people under Arizona law in certain
7 circumstances. It is not possible for defendants to tell
8 whether a voter is lawfully or unlawfully delivering multiple
9 ballots, which means that any actions that intimidate someone
10 who is voting unlawfully necessarily also intimidates somebody
11 who's voting lawfully. That's exactly what happened in this
12 case.

13 Complainant 240, as you heard in his powerful
14 testimony, lawfully returned ballots for both himself and his
15 wife. He was intimidated by defendants, as any reasonable
16 voter would be. He was verbally confronted, he was accused of
17 being a mule, he was told they are hunting mules, with the
18 implied threat of violence that contains, he was photographed
19 and followed, and he was afraid that his information would be
20 posted online along with baseless accusations of crimes. Which
21 is, in fact, what happened.

22 Your Honor already heard the video clips from
23 Exhibit 4 that my colleague introduced today where
24 Defendant Jennings, among other things, said that she blew up
25 his face and blasted it viral. Later in that same video, again

1 as my colleague showed you, she talked about here that the
2 issue is that he -- he delivered more than one ballot. And in
3 her understanding, that made Complainant 240 be a mule.

4 Moreover, as you also heard from witnesses today, in
5 particular Ms. Hanson and Ms. Banister, reasonable voters who
6 did not even intend to return multiple ballots were intimidated
7 by defendants' conduct. So it's not only the defendants are
8 intimidating voters who are contemplating unlawful activity or
9 engaged in unlawful activity. It is voters who are not engaged
10 in any unlawful activity whatsoever and voters who aren't even
11 considering returning multiple ballots. They're just returning
12 their own ballots, and they are still intimidated by
13 defendants' behavior. So, Your Honor, again, there is
14 substantial evidence here that you did not have in the prior
15 case that reasonable voters are, in fact, intimidated by
16 defendants' conduct.

17 And, third, I want to turn to the most contested
18 issue, which is the sub- -- the subjective intent of defendants
19 to intimidate anyone at the very least dropping off multiple
20 ballots and, we would argue, anyone who was using a drop box
21 whatsoever.

22 Again, as -- as my colleague showed in Exhibits 11, 2,
23 3, and 4, Defendant Jennings has falsely stated that it is
24 illegal to deliver ballots for multiple people, or sometimes
25 she has stated that it's only legal to deliver ballots for

1 yourself and your spouse, which is not correct information.
2 There are other instances where it's lawful to deliver multiple
3 ballots. She has also stated explicitly that her intention is
4 to intimidate anyone dropping off multiple ballots. That is
5 then whom she believes to be a mule.

6 As you heard in Exhibit 1, and I won't play it again,
7 but I will quote what she says in that video. She says, quote:
8 We are seeing mules actually be intimidated from doing their
9 thievery. We're not intimidating voters, but the mules do not
10 want to be caught on film. That's what we're doing. We're
11 catching them on telescopic film. We can zoom right in. We
12 can get your face, so we've got you.

13 She has also threatened to dox any voter who is
14 delivering multiple ballots even though, again, that is lawful.

15 Exhibit 6, which Your Honor just admitted, is a Tweet
16 that states: The ballot -- it has an intro sentence, but in
17 relevant part it states: The ballot trafficking mules are
18 about to be completely doxxed and put on blast at every drop
19 box across America starting very soon.

20 Similarly, in Exhibit 2, which, again, my colleague
21 played earlier, so I won't play again, but I will quote from
22 it. That was the podcast. Defendant Jennings said, quote:
23 The point is these mules, you know, they clearly don't want to
24 be doxxed. They don't want their face all over Truth Social
25 and GETTR and Facebook. They don't want to be seen everywhere.

1 As the Court explained in Wohl -- and I know Your
2 Honor's quite familiar with that decision -- and as the Supreme
3 Court has noted multiple times, people are assumed to intend
4 the natural consequences of their actions. Think back to the
5 classic first year torts example. If somebody points a loaded
6 gun at someone else and pulls the trigger, it's not a defense
7 to say, I intended to pull the trigger, but I didn't intend to
8 harm the victim. The law doesn't accept that. The law
9 understands that if you point a loaded gun at someone and you
10 pull the trigger, that person will be shot and that victim will
11 be harmed.

12 Same here. Defendants state that they intend to
13 intimidate voters delivering multiple ballots whom they believe
14 to be mules. Their incorrect belief that anyone delivering
15 multiple ballots was doing so unlawfully is not a defense in
16 the same way that someone's incorrect belief that one could
17 fire a gun at someone and not shoot them is not a defense.
18 That's simply not acceptable.

19 Now, the subjective intent is relevant for multiple
20 purposes here, Your Honor, that specifically go to the
21 contested portions that -- that we have proposed in the
22 temporary restraining order.

23 First, it's relevant for some of the First Amendment
24 defenses that my colleague will speak about in a moment.

25 Second, it's relevant for the Klan Act claims. We

1 actually have two Klan Act claims. The first is under Clause 3
2 of 1985(3), which is the same statute that the case last week
3 referenced. The second is under Clause 4 of 1985(3), which was
4 not raised in that case. Clause 4, as Your Honor knows,
5 prohibits conspiracies to injure someone, either his person or
6 his property, on account of their support or advocacy for a
7 candidate.

8 Because 1985(3), both Clauses 3 and 4, is a conspiracy
9 claim, the fact that defendants have a subjective intent to
10 intimidate voters means that they are violating both the
11 conspiracy claims of Clause 3 and Clause 4, and that means that
12 Your Honor can lawfully enjoin the entire course of conduct
13 that is part of that conspiracy, which should help address some
14 of Your Honor's concerns about some of the constitutional
15 issues.

16 And with that, Your Honor, in the interest of time, I
17 will turn it over to my colleague, unless you have any
18 questions for me on these issues.

19 THE COURT: I do not. Thank you.

20 MS. HOMER: Thank you, Your Honor.

21 THE COURT: And try to be as brief as you can.

22 MR. DANJUMA: Yes. So, Your Honor, I -- you've
23 received a large amount of briefing from us, from the
24 Department of Justice, on the First Amendment. I don't need to
25 go through the cases from the beginning of our argument to the

1 end. We think that your -- your analysis was useful yesterday
2 in getting the parties much closer together on many of the
3 issues that are involved in this case. So I really do want to
4 focus in now on the provisions that remain contested and
5 explain to you why we think they are fully compliant with the
6 Constitution and why they're so critical in this case. And I
7 want to have a discussion to address any concerns that you
8 might have about these.

9 Your Honor, yesterday you noted that the most sort of
10 sensitive component of the relief that plaintiffs were seeking
11 in this case is a proposed injunction related to photography
12 and filming.

13 The first thing I want to say is we understand that
14 this is a delicate issue. You're tinkering with central
15 components of our constitutional order. It requires care and
16 attention. I also want to say that we have narrowed our
17 position in discussions with opposing counsel and proposed a
18 different alternative than we did in our initial motion. And
19 what that is is -- we provided a copy of that, but basically
20 that there would now be a 75-foot limit around -- a buffer zone
21 around a ballot drop box and that individuals could not
22 photograph people in the process of voting within that
23 distance.

24 THE COURT: Have you -- have you spoken with
25 representatives of the County Recorder's Office to see if it

1 would be feasible for a marking or something of that nature?

2 MR. DANJUMA: We -- we haven't, but I -- my
3 understand -- we have spoken with representatives of the County
4 Elections Office, and we know that in some -- around some drop
5 boxes they have, in fact, already placed those markers.

6 THE COURT: Okay.

7 MR. DANJUMA: Each drop box, we understand, has
8 different administrators, so there -- but there is guidance
9 that can come from the -- the County as a whole and that the
10 County may be amenable to.

11 THE COURT: Okay.

12 MR. DANJUMA: What I want to explain is that -- and my
13 colleague explained sort of from the beginning why an unlawful
14 conspiracy like this that we allege has an unlawful purpose,
15 why relief like this is important and essential, but what I
16 want to explain is sort of why this matters.

17 In a normal world, filming and filming of drop boxes
18 really may not be intimidating. And I think a good example of
19 that is the -- the testimony of Complainant 240. He was
20 captured by a normal building video from across the street.
21 What we're seeking to enjoin isn't every filming of any drop
22 box in the entire county or in the entire state. It really is
23 drawn against the defendants. And the testimony here supports
24 that, because each of the witnesses is saying that it's the act
25 of being monitored and being filmed that is intimidating. It

1 is the act of having a telescopic lens photographed -- pointed
2 at you while you're in the process of voting.

3 There -- voters across the state have, in fact, been
4 voting with -- while the County or the -- has a live stream on
5 some of those drop boxes. That's not the source of
6 intimidation here. The source of intimidation is the
7 defendants doing that in a conspicuous and intimidating manner.
8 And that is why we're asking for a type of relief that is, we
9 think, much more narrow than it could be.

10 Yesterday I cited for the Court a -- the Supreme
11 Court's decision in Burson. As I -- as I noted yesterday, the
12 Supreme Court has held that both voter privacy and voter
13 intimidation are compelling interests sufficient to override,
14 you know, the highest protections on speech, but what we're
15 asking for is actually something much narrower, really drawn
16 against the individuals who are the defendants and the people
17 in privity with them. That is the thing that's scaring voters.
18 That is the thing that's making them uncomfortable.

19 We're not seeking an order that asks them to
20 completely clear from the streets everywhere, but to simply
21 maintain a safe distance and not penetrate the 75-foot limit by
22 videotaping individuals in a conspicuous manner on the inside.

23 THE COURT: Okay. So, just to be clear, your -- your
24 client -- your client's request is that within 75 feet -- or an
25 individual voting within 75 feet, or maybe they're in their car

1 waiting to -- for their turn to approach the drop box --

2 MR. DANJUMA: Yes.

3 THE COURT: -- that that be off limits?

4 But if somebody's waiting in their car, maybe 300 feet
5 in a line, that your client --

6 MR. DANJUMA: That's -- that's fine.

7 THE COURT: Okay.

8 MR. DANJUMA: That's fine.

9 THE COURT: All right. Can you address for me
10 defendants' argument that your proposal -- and I'm going to
11 read from the document that Mr. Bendor gave me, number 5:
12 Defendants shall cease and desist making false statements about
13 Arizona Revised Statute Section 16-1005 immediately.

14 How is that not a prior restraint? Just explain that
15 to me.

16 MR. DANJUMA: The basic reason is that speech that is
17 false is not accorded to the -- with precisely the same level
18 of protection as other speech. And that is why in prior cases
19 involving false information, including the distribution of
20 robocall messages and other material that provides false
21 information about voting, it doesn't enjoy that same level of
22 protection to say that if an indiv- -- an individual ceases and
23 desists from promulgating a message that has already been
24 determined to be legally false, that is -- is not a prior
25 restraint. That is simply a restriction on the -- the -- the

1 promulgation of false information.

2 THE COURT: Okay.

3 MR. DANJUMA: And -- and that --

4 THE COURT: Go ahead.

5 MR. DANJUMA: That is the relief that many -- that has
6 been -- has been -- has been granted in many cases involving
7 voter intimidation and false information.

8 THE COURT: Okay.

9 MR. DANJUMA: It's not the same category of prior
10 restraints in other areas, where one is concerned about
11 possible future injury.

12 It -- if the Court is determined that these -- this --
13 these type of misstatements about the law around voter
14 eligibility are false, then it is possible to restrict them
15 without running afoul of the Constitution.

16 THE COURT: Okay. Final question: If I -- if I grant
17 the relief that you are seeking, and I would note in addition
18 to entering the -- the proposed TRO, but also the three items
19 that you're requesting that -- that defendants contest, is it
20 sufficient for me to do that in a TRO, or would you like that
21 reduced to a preliminary injunction for -- for appeal purposes?

22 MR. DANJUMA: Your Honor, just one moment.

23 THE COURT: Of course.

24 MR. DANJUMA: Your Honor --

25 THE COURT: If you need more time to think about it,

1 that's fine.

2 MR. DANJUMA: I think I need a little more time to
3 think about that question.

4 THE COURT: Then you don't have to answer that
5 question now.

6 MR. DANJUMA: Okay.

7 THE COURT: Okay.

8 MR. DANJUMA: I'll come back with another thought on
9 that.

10 THE COURT: All right. I'd like to hear from
11 Mr. Kolodin.

12 And, Mr. Kolodin, please focus like a laser beam on
13 these -- on these contested issues.

14 MR. KOLODIN: Of course, Your Honor.

15 So the plaintiffs start their closing remarks by
16 criticizing our client's views on the 2020 election and then
17 claim this case is not about speech, but they cluck and say
18 filming isn't always intimidating.

19 If only we didn't live in this world, if only we
20 didn't live in this heated political environment, then
21 obviously filming in public thoroughfares would be protected by
22 the First Amendment.

23 THE COURT: Did you say clucking?

24 MR. KOLODIN: I think I did say clucking.

25 THE COURT: Did you mean to mask another word?

1 MR. KOLODIN: No, no. I meant clucking.

2 THE COURT: Okay.

3 MR. KOLODIN: I'm very tired, Your Honor. I'm sorry.

4 THE COURT: Okay. Let's keep decorum in the
5 courtroom, please.

6 MR. KOLODIN: Yeah. In any event, I meant to say
7 cluck and say -- that's what I have in my notes -- then -- then
8 filming would not be intimidating.

9 But then they place the blame on our client's
10 political rhetoric and the political rhetoric of people that
11 share the views of our client's for creating the world which
12 now allows them to come into this court and seek further speech
13 to be prohibited. That is circular, and that is exactly the
14 wrong way to work the First Amendment. Now it seems like our
15 clients are on trial for the entire state and everybody who
16 wishes to engage in drop box monitoring or even who shares
17 their views.

18 You've heard, Your Honor, from a bevy of witnesses
19 today, only one of whom had any specific information that our
20 client was even there during the time of the occurrences that
21 he was complaining about. Everybody else who has no idea who
22 confronted them, which group, if any, they were involved in.

23 The plaintiff mentions that tinkering with central
24 components of our constitutional order requires care and
25 attention. Well, that's exactly right. And, of course, that

1 is why the Purcell Doctrine applies in federal court, that
2 court -- federal courts are strongly, strongly discouraged from
3 tinkering with state election law on the eve of the election.

4 Well --

5 THE COURT: I think that refers to election process.

6 MR. KOLODIN: Election process.

7 But we are on the eve of an election, and this would
8 be tinkering with the process.

9 State law provides a process for setting up polling
10 places. It provides for restricted area around those polling
11 places. Now there's a request that this Court legislate that
12 those restricted areas not only come and apply to drop boxes
13 and not just traditional polling places, again a function of
14 legislature to make that law, but to further add to the law
15 that even when standing from outside of 75 feet from a drop box
16 you cannot film in. This would be a massive expansion of
17 Arizona's Title 16 of the type that federal courts are strongly
18 discouraged from making on the eve of an election.

19 There's -- I want to address the first point, which I
20 think will be easier for this Court -- or the easiest for this
21 Court to dispense with. There is not a single witness that has
22 said that our client's incomplete statement of law had any
23 bearing on them at all. And I want to emphasize. The
24 statement of law was incomplete. It was not incorrect. Our
25 clients are, indeed, correct that the default rule in Arizona

1 is that delivering more than one ballot is illegal. There are,
2 of course, exceptions. And in various -- in various interviews
3 and in various social media posts that defendants have
4 presented -- in fact, she has mentioned one or two of those
5 exceptions depending on the post. But to require that each
6 time a private citizen engages in public discussion about the
7 laws, especially about laws that are so central and so core to
8 the First Amendment as ones governing our election process,
9 require that each and every time they do so they give the full
10 rule with all of the exceptions and give it correctly, that
11 would chill speech. I mean, it would essentially prevent
12 speech by non-lawyers. It would stop non-lawyers from talking
13 about the law.

14 And what is an incorrect statement? Courts like this
15 exist because often even trained attorneys cannot agree on what
16 the correct statement of the law is.

17 What if defendant simply disagrees with plaintiffs'
18 interpretation? Should she be hauled into court? Should she
19 run that risk just because there is that disagreement?

20 The Court may find ultimately that plaintiffs were
21 right.

22 THE COURT: Mr. Kolodin, I seriously think that your
23 client faces exposure on this point, and you're dancing --
24 you're kind of not really addressing it. The -- the problem is
25 even -- even if you want to construe the statute,

1 Section 16-1005, to say you're only allowed to deliver your --
2 your ballot and then there are exceptions, I -- I fear that if
3 she's saying that, then -- then she's walking right into what
4 Wohl prohibits, what Wynn prohibits, because it -- because it
5 is a false statement of the law. As we've heard, somebody
6 could listen to that and think that if they're taking their
7 spouse's ballot or their son -- their adult son's ballot, that
8 they're violating the law.

9 So -- so I -- I feel like you're -- I feel like you
10 need to address that head on. How -- how is that a -- how
11 if -- if I were to enter the request of injunction, how is that
12 a prior restraint?

13 MR. KOLODIN: Well, the thing about social media or
14 even interviews is on social media we put up posts; right?
15 We're not writing briefs on social media. We're -- we're --
16 we're talking about the law. We're -- perhaps we're talking
17 about the law to people who are already kind of in our world
18 and -- and kind of -- we kind of know the exceptions and we're
19 using shorthands; right? Perhaps in an interview the audience
20 is familiar with it and is using shorthands. There's so many
21 variations that could come up. And sometimes when you're in an
22 interview and you're on the spot and it's live, you just screw
23 up.

24 To -- to put in a prior restraint and find a priori
25 that all such statements of the law that may, upon reflection,

1 be incorrect or incomplete would subject our client to a
2 violation of this Court's order, to me, that's just --

3 THE COURT: So --

4 MR. KOLODIN: That's just too chilling.

5 THE COURT: So we're not --

6 MR. KOLODIN: That's saying don't talk about it.

7 THE COURT: So we're not dealing with the Medicare
8 Act. We're not dealing with the Inflation Adjustment Act here.
9 This isn't we have to pass the law to find out what's in it.

10 I mean, I think you could -- I think you could
11 instruct your client on what the law means. I think you could
12 train her.

13 Can't -- do you feel confident in doing that?

14 MR. KOLODIN: No, Your Honor.

15 THE COURT: You don't feel confident?

16 MR. KOLODIN: Well, not -- not that I couldn't but
17 that I -- I mean, there's a reason lawyers go to law school,
18 and there's a reason you have to practice -- I've been
19 practicing intellectual law for 10 years, and I finally kind of
20 get it.

21 You know, when you've got somebody like her, who's
22 doing live interviews, being put on the spot, I could sit down
23 with her for a day and train her, and she's going to make
24 mistakes. Heck, when I do interviews, I make mistakes. And, I
25 mean, essentially what an order like that would be saying in

1 practical effect, if not in wording, is don't talk about the
2 law; right? Don't discuss it.

3 And I just think that that can't pass First Amendment
4 muster. If there was a specific -- yeah. Well, I -- I can't
5 think of a way to make it pass First Amendment muster.

6 Also, what many of the witnesses today testified,
7 actually, all testified, none of them had read any statements
8 by our client, none of them had seen any interviews, none of
9 them had been on Bannon's War Room before they actually went to
10 the drop boxes. What their justifications are for tying
11 intimidation to our client is -- is post hoc. It's -- it's now
12 saying, well, by the way, do you see the statement? Does this
13 make you more intimidated to vote at a drop box?

14 But that's not what happened organically. In fact,
15 what most all of them testified was the reason that they were
16 afraid to vote at a drop box is because the media was reporting
17 on it; right? The traditional mainstream media was reporting
18 on it and filming and posting these filmings, and it heated up
19 the discourse; right? Not our clients, but mainstream outlets.

20 So, again, why is it that those mainstream outlets
21 should get to report and could easily fall into the voter
22 intimidation analysis? Because, remember, what plaintiffs had
23 said is intent is not required. Well, if intent's not
24 required, then the only thing that matters is the subjective
25 feeling that you give to a voter, the -- the Washington Post is

1 intimidating voters.

2 THE COURT: I -- actually, I think you make a good
3 point. For example, there's one -- one example of somebody
4 wearing a mask and tactical gear, yet, reporters like to say
5 that there's armed malitia out, you know, in front of drop
6 boxes in Arizona, and that's patently false.

7 So I think I -- I actually think that you've struck a
8 chord with that, but, I mean, I think -- I think we still need
9 to focus on the -- the issues in this case.

10 MR. KOLODIN: Sure. Well, I think it's relevant to
11 the issues to the case in this way: Which is if the Court
12 adopts plaintiffs' interpretation of the law as to our client,
13 then that interpretation extends to these organizations. It
14 extends to the Washington Post. It extends to CNN. The same
15 logic applies. And that, I think even plaintiffs would
16 acknowledge, creates a massive First Amendment issue. Creates
17 a massive First Amendment issue and massive chilling. And even
18 an uncertainty of knowing how it is to be applied on a
19 case-by-case basis creates a chilling effect. And a chilling
20 effect is what is required to find a First Amendment violation.

21 Plaintiffs also mentioned in their -- in their closing
22 the -- the vigilante attacks that Ms. Jennings has released.
23 What evidence of vigilante attacks that Ms. Jennings -- that
24 Ms. Jennings has released? There's been no evidence that there
25 have been any attacks whatsoever, but certainly none that --

1 that she has orchestrated them. In fact, plaintiffs make their
2 conspiracy point, but there's been no evidence that she
3 conspired with anybody, whether lawfully or unlawfully.

4 Plaintiffs also say that -- that Ms. Jennings
5 objective was to cause so much pain and harassment that voters
6 would abandon drop boxes, but nothing in the record indicates
7 that. As Complainant 240 said, his understanding of our
8 client's intent was they were attempting to ferret out people
9 that were cheating in the election. Those were his words. So,
10 in other words, he understood her intent to be to deter
11 unlawful voters, not lawful ones, and certainly not to stop
12 people from using drop boxes.

13 As -- as this Court stated in the order denying the
14 TRO in the prior matter, that was her intended message. If you
15 are cheating, you will be found. Not if you were voting, you
16 will be found.

17 And in each and every media appearance that
18 Ms. Jennings made and that -- that plaintiffs have played for
19 this Court today, video often not taken by Ms. Jennings -- in
20 fact, the central video in this case not to have been taken to
21 Ms. Jennings -- by Ms. Jennings but to be available to any
22 member of the public, but the video was central to the point
23 she was trying to convey. The video is what was being
24 discussed. The video was the demonstrative. The video is
25 integral to the core constitutionally protected speech of

1 discussing our voting process in media appearances. So that
2 video is essential. The First Amendment requires that our
3 clients be permitted to take it.

4 Now let's say the thing left unsaid. There's no
5 evidence, nor even any allegation that anyone watching drop
6 boxes in this state is motivated by racial animus. And,
7 indeed, as Your Honor is probably aware, individuals who vote
8 by mail tend to skew slightly wider, more Republican than the
9 general population.

10 And plaintiffs have already said the quiet part out
11 loud. From their perspective, anything that serves to
12 intimidate unlawful voters intimidates lawful ones. And they
13 do not wish unlawful voters to be deterred. But that is the
14 message our clients wish to convey. The message is that
15 unlawful voters should think twice.

16 Now, because there are core constitutionally protected
17 interests at stake in this case, this Court is required to at
18 the very least balance those interests against whatever a
19 statute of Congress may command. And, of course, the
20 Constitution has the better side of that balancing argument.

21 As -- as this Court could take judicial notice of,
22 relatively few drop boxes in Maricopa County are actually
23 located outdoors at all. Maricopa County's website has a list
24 of all drop box locations. Most are located in government
25 buildings. If a voter doesn't wish to be exposed to people

1 filming and -- and perhaps commenting on what they see is their
2 First Amendment right when they are putting their ballot in the
3 box or in the proximity of the box, they could go to one of
4 those buildings or they could vote in person or they could vote
5 by mail from home.

6 There are many options to exercise the right to vote,
7 but the First Amendment, at least the First Amendment as
8 relates to observing and commenting on and filming the process
9 of drop box, which are very controversial, right, which people
10 wish to use these photos to make all sorts of political points
11 whether they should or should not be permitted, that can only
12 occur if one can film in the area of the drop boxes, which is
13 why, of course, we've provided this Court with three news
14 articles where mainstream commentators post pictures showing
15 voters and their faces and their cars voting at drop boxes and
16 comment on those photos.

17 Now, in the Ninth Circuit, a true threat is only
18 entitled to First Amendment protection when it is aimed at and
19 reasonably likely to incite imminent lawless action. This
20 makes the situation different than the one at Barr and Wohl,
21 where the Second Circuit had never made such a pronouncement.
22 But in the United States vs. Bagus -- Bagdasarian -- I'm sorry.
23 It's cited in our brief -- the Ninth Circuit did just that. It
24 required both subjective and objective intent to incite someone
25 to imminent lawless action for someone's behavior to be found

1 to be not protected by the First Amendment even if there is a
2 statute that claims to prohibit it. Because remember, of
3 course, the defendant in that case had actually made something
4 that was much more expressly a true threat, threatening to
5 shoot the President of the United States.

6 THE COURT: I know what the quote is --

7 MR. KOLODIN: Yeah.

8 THE COURT: -- so you don't have to --

9 MR. KOLODIN: Yeah, but -- but it wasn't -- it wasn't
10 enough.

11 Here, to the extent that anybody has perceived a
12 threatening message, the message was if you are voting
13 illegally, you will be found out. But it is not illegal to
14 find out, whatever that means, someone voting illegally. That
15 is not inciting people to imminent lawless action.

16 And there's also a further problem, which is there's
17 no evidence that anybody has actually been doxxed or found out
18 or had their identities revealed. And so even if they -- even
19 if that had happened, our position would be that would be
20 illegal, but there's actually no evidence that it's ever
21 happened, and certainly no evidence that would be our client's
22 fault, because these images are being broadcast by all sorts of
23 commentators and media outlets.

24 This -- this Court has now been asked to decide this
25 issue twice in the past couple of years. Arizona Democratic

1 Party vs. Arizona Republican Party, which is also cited in our
2 brief, is -- is the case probably most on point that I have
3 ever found in my career to another case. It was exactly the
4 same issues, it was exactly the same allegations, it was
5 exactly the same laws, and it was exactly the same arguments.
6 Everything was -- was about as perfectly as two cases ever
7 lined up.

8 And in that case, before the 2016 election this Court
9 rightly said there's a First Amendment interest in this, and
10 we're not going to grant a TRO at all. There was not the
11 compromise that we had entered into, which -- which we don't
12 think the law requires, for the record, but we think it's a
13 pretty good set of guidelines anyway, and so why not.

14 But -- but this Court said no in 2016. This Court
15 said no again.

16 THE COURT: But in 2016 -- the 2016 case, was there
17 a -- an issue over recording?

18 MR. KOLODIN: Yes. I believe -- I believe so, Your
19 Honor. I could give you the citation if you wish.

20 All right. So this is 2016 U.S. Dist. LEXIS 154086,
21 at 15.

22 And, of course, Your Honor will note that similar
23 arguments were -- were raised in opposition to -- to Arizona's
24 new law, restricting who can deliver ballots at drop boxes at
25 the Supreme Court recently upheld. In fact, this law was

1 challenged under the Voting Rights Act very similar to the
2 plaintiffs are bringing. And the Supreme Court has already
3 weighed in. Yes, states have an interest in deterring ballot
4 harvesting and limiting the number and types of people who can
5 engage in it ,And they have an interest in catching people who
6 violate those laws. The arguments didn't avail before the
7 U.S. Supreme Court. They won't avail now.

8 For these reasons, plaintiffs are unlikely to succeed
9 on the merits, and defendants' [sic] proposed order should be
10 rejected in full on these grounds. But in addition to these
11 reasons, the language of the proposed order is overly vague.

12 What does it mean to command a private individual to
13 cease and desist from making false statements? We've already
14 discussed that even knowledgeable, learned people about the law
15 sometimes disagree on what it says. There's not even a precise
16 prohibition on you cannot make this exact statement in here.
17 It is vague, and that vagueness creates additional First
18 Amendment problems.

19 Again, the plaintiffs' position is in a normal world
20 filming of drop boxes may not be intimidating. Our client's
21 not responsible for the world. She's not to be held
22 responsible for that world. She gets to participate as a
23 citizen. She gets to comment, and she gets to record in public
24 areas where the Courts have time and time again said there is
25 no reasonable expectation of privacy. And if there was such a

1 reasonable expectation, how is it that the central video at
2 issue in this case, not even captured by -- by our client at
3 all, it's captured by the County or -- or a -- a business's
4 ECTV, according to the testimony. I'm a little unclear which
5 that is. Publicly available on the County's website.

6 In fact, everywhere we go these days when we drive out
7 on the street, we're constantly on camera. That's just the
8 nature of the modern world. Social media is that often we end
9 up on the Internet when those pictures are taken. That is just
10 the nature of the modern world. The First Amendment is
11 adaptable. It adapts to new forms of technology. Those
12 technologies are just as covered by it as the original hand
13 bills were back during the founding of this country.

14 Again, this Court cannot find that plaintiffs are
15 likely to succeed on the merits because the impact of that will
16 not just be on our clients. Our clients are certainly one
17 small part of drop box monitoring in this state. It won't even
18 be, though, on drop box monitoring; right? What this will do
19 is this -- what they seek to do is say, if you have certain
20 political views, the First Amendment doesn't apply to you. It
21 doesn't apply to you the same way it applies to everybody else;
22 right? If you're -- you're one of the good people, right, if
23 you're a right-thinking individual, you have a bigger First
24 Amendment than if you're a wrong-thinking individual. And that
25 this Court could never count and it could never find, because

1 that is the greatest danger to our electoral process. If
2 people feel like that, they will feel cut off from the system,
3 they will feel disenfranchised, they will feel like they lack a
4 voice, and no Republic can survive when people feel that way.

5 THE COURT: Okay. Thank you, Mr. Kolodin.

6 Mr. Danjuma, is there anything you want to say
7 incredibly briefly?

8 MR. DANJUMA: Yes.

9 THE COURT: I don't know if that's a term of art.

10 MR. DANJUMA: Your Honor, thank you so much. And I
11 know it's been a long day. Very brief. 30 seconds.

12 First of all, what you asked, if we'd prefer a PI or a
13 TRO, and we would prefer a preliminary injunction, but we will
14 take anything that the Court provides to us.

15 Just very quickly in response to opposing counsel who
16 mentioned that there's not a problem because voters can simply
17 vote by mail. It's actually untrue because today is the last
18 day, so drop boxes are far more important going forward because
19 they are going to be the thing that folks will use.

20 And then, finally, in relation to Arizona Republican
21 Party vs. Democratic Party, the whole difference in that case
22 is that the Court was noting that there wasn't actually
23 declarations or evidence in the record about acts of
24 intimidation. There was just the threat, national -- national
25 statements that intimidation might occur. Here we've provided

1 the Court with a -- a large amount of evidence that shows that
2 and establishes it and puts this much closer to the other voter
3 intimidation cases.

4 That's all I have, unless you have any questions for
5 me.

6 THE COURT: I do not.

7 MR. DANJUMA: Thank you.

8 THE COURT: Thank you.

9 (The Court and the court reporter confer.)

10 THE COURT: What I'm first going to do is read into
11 the record the -- the agreed-upon temporary restraining order.
12 And that will be reduced to a written order. It will come out
13 later today. Hopefully not too late, because it's already
14 after 5:00 o'clock.

15 Mr. Arellano, I'm going to ask that you provide a
16 notice to the Ninth Circuit, as I have over the last day and a
17 half. Once you -- once you get that TRO, I would like you to
18 notify the Ninth Circuit of that and then give me a notice
19 of -- of compliance.

20 Can you do that?

21 MR. ARELLANO: That's fine, Your Honor. Two
22 clarifying questions. Would you like us to wait until Your
23 Honor issues a written order to that effect?

24 THE COURT: Yes.

25 MR. ARELLANO: Okay.

1 THE COURT: What I said is I'm going to read it into
2 the record. And then once we adjourn, Mr. Fonseca and I are
3 going to work on -- work on an order, and we're going to issue
4 that order before we leave the building.

5 MR. ARELLANO: Understood, Your Honor. We're happy to
6 do that. My second question is, do you want that to be a joint
7 notice, or is it okay for us to file that unilaterally?

8 THE COURT: I'm okay that you file it unilaterally.
9 If -- Mr. Kolodin, if you -- if you and Ms. Lucero want to be
10 on it, that -- you can as well. But I -- I -- just the way I
11 look at it is just because it's something that I'm doing, I --
12 I don't need you both to vouch for it. One person can do it.

13 MR. KOLODIN: I'd just like a notice of lodging type
14 thing.

15 MR. ARELLANO: I'm anticipating the notice of the
16 Court, letting Your Honor know that we've been ordered to
17 submit this notice.

18 The reason I ask if the Court wants it joint or not is
19 I anticipate we will want to provide some sort of clarification
20 to the Ninth Circuit that, again, the Alliance plaintiffs are
21 not a party to the agreement and that nothing in the order
22 should affect the Ninth Circuit's jurisdiction.

23 THE COURT: That's fine with me.

24 MR. ARELLANO: So --

25 THE COURT: That's fine with --

1 MR. KOLODIN: If you do want it to provide some sort
2 of interpretation of the order, whatever, then obviously we'd
3 like to state our position.

4 MR. ARELLANO: Right. Again, I don't anticipate we'll
5 have any interpretation with the order. I just want to make
6 that point so that the Ninth Circuit is clear that, as far as
7 our appeal goes, nothing has changed.

8 THE COURT: Okay. So, Mr. Kolodin, do you want to
9 have a -- do you want to have your name on it?

10 MR. KOLODIN: I -- I -- I guess what we'll do is we'll
11 have you file it. If I find it objectionable for some reason,
12 we'll file a reply.

13 MR. ARELLANO: We would prefer that not to slow it
14 down.

15 THE COURT: I agree. I think that's a good approach.

16 So I think within an hour of me issuing this -- the
17 forthcoming written order, I'd like you to file a notice in the
18 Ninth Circuit. You can state your clarifying language.
19 That -- that doesn't offend me. And then immediately after
20 that, please provide me with a notice of compliance.

21 MR. ARELLANO: We will, Your Honor. Thank you.

22 THE COURT: And the compliance will -- I want to see
23 what you've filed.

24 MR. ARELLANO: The attachment. Of course.

25 THE COURT: All right. Okay.

1 Pursuant to the stipulation of the parties, it is
2 ordered that the following temporary injunction -- I think I
3 should say temporary restraining order is hereby entered:

4 1. Defendants, their officers, agents, service --
5 servants, employees, and attorneys, and other persons in active
6 concert or participation with them are enjoined from engaging
7 themselves or training, organizing, encouraging, or directing
8 others to while monitoring drop boxes, (A) intentionally enter
9 within 75 feet of (a) a ballot drop box or (b) the entrance to
10 a building where a drop box is located; (B) intentionally
11 following individuals delivering ballots to the drop box when
12 such individuals are not within 75 feet of a drop box; (C)
13 unless spoken to or yelled at first, speak to or yell at an
14 individual who that defendant knows is (a) returning ballots to
15 the drop box and (b) who is within 75 feet of the drop box;
16 (D) (a), openly carry firearms within 250 feet of a ballot drop
17 box, or (b) visibly wear body armor within 250 feet of a ballot
18 drop box. But defendants shall not be in breach of this order
19 if they accidentally and unknowingly reveal a concealed firearm
20 or concealed body armor;

21 2. Defendants shall within 24 hours of the date of
22 this order post the following in a conspicuous place on Clean
23 Elections USA's website and on the Truth Social page
24 @TrumperMel and leave it posted through the close of voting on
25 Election Day 2022 (a), quote, it is not always illegal to

1 deposit multiple ballots in a drop box. It is illegal to
2 deposit the ballot of a family member, household member, or
3 person for whom you are the caregiver. Here are the rules for
4 ballot drop boxes by which I ask you to abide, colon, close
5 quote, (B) the preceding statement shall be followed by a copy
6 of the entire statutory text of Arizona Revised Statute
7 Section 16-1005 or link thereto; (C) a copy of this temporary
8 restraining order or a link to this temporary restraining
9 order.

10 3: The proceedings shall not prohibit Clean Elections
11 USA from changing its name or the domain name of its website
12 pursuant to an agreement with Clean Elections provided that any
13 new website of Clean Elections USA posts the same through the
14 close of voting on Election Day 2022.

15 4: Defendant Melody Jennings shall post on the Truth
16 Social page @TrumperMel the following statement and leave it
17 posted until the close of voting on Election Day 2022, colon,
18 quote: Any past statement that is -- that it is always illegal
19 to deposit multiple ballots in a ballot drop box is incomplete,
20 semicolon, a family member, household member, or caregiver can
21 legally do so, end quote, along with a copy of the entire
22 pertinent statutory text of Arizona Revised Statute
23 Section 16-1005, or a link thereto, and a copy of or link to
24 this order.

25 5: Defendants' agreement to the entry of this partial

1 order shall not be construed as an admission by defendants that
2 they have engaged in any of the activities this order prohibits
3 or an admission by defendants that any of those activities
4 would be contrary to the law.

5 6: No person who has notice of this order shall fail
6 to comply with it, nor shall any person subvert the order by
7 sham, indirection, or other artifice.

8 7: This order applies to defendants, their officers,
9 agents, service -- servants, employees, and attorneys, and
10 other persons in active concert or partic- -- participation
11 with them. Notwithstanding that, defendants shall not be held
12 liable or in contempt based solely on a violation of this order
13 by persons over whom defendants do not have actual control.

14 8: This restraining order will go into effect
15 immediately and shall remain in effect for 14 days.

16 Now, on the remaining contested issues, I will repeat
17 for the record the standard of review.

18 Plaintiffs must show that they are likely to succeed
19 on the merits, that they are likely to suffer irreparable harm
20 without an injunction, that the balance of equities tip in
21 their favor, and that an injunction is in the public interest.
22 The standard for issuing a temporary restraining order is the
23 same as the standard for issuing a preliminary injunction.

24 I want to say that for the purposes of this order, I
25 do find that the Plaintiff League of Women Voters of Arizona

1 does have standing to -- to maintain this action. I want to
2 make that finding and at the same time reserve to defendants
3 any defense that they may have based on standing. However, I
4 do want to make that finding so that we can proceed today.

5 As I said in my prior order, I think that the rights
6 established in the Constitution are paramount that the rights
7 in the First Amendment for freedom of speech, for freedom of
8 assembly and association, among other rights -- rights to
9 expressive conduct are -- are essential to the function of our
10 democracy and also for the functioning and -- and maintaining
11 the integrity of our elections.

12 I do acknowledge, and -- and cite that the United
13 States Supreme Court and other Courts have found that certain
14 speech in the conduct of monitoring elections is -- is not
15 entitled to First Amendment protection, but also can be
16 curtailed upon the showing of a compelling government interest
17 and where the relief sought is narrowly tailored to achieve
18 that interest.

19 I've -- I've mentioned today and yesterday that --
20 that Courts have established that providing voters with
21 incorrect or misleading information about voting and about
22 voting rules is not protected by the First Amendment. And I --
23 I've cited orally the Wynn -- or the Wynn case, the Wohl case,
24 and -- and other cases have been discussed. I've also
25 discussed that I -- that I read the prior cases to require that

1 there be a show -- that there be a showing of a true threat
2 with respect to individuals engaging with voters or exercising
3 their First Amendment rights within the proximity of ballot
4 boxes. And I don't think I need to repeat that.

5 I will restate my concern from the prior case that the
6 proposed injunction was unnecessarily overbroad in relation to
7 these interests, and during the evidentiary hearing I did
8 question plaintiffs' counsel and attempt to narrow the -- the
9 requested injunctive relief, and -- and plaintiffs's counsel
10 was not willing to -- willing to narrow the relief. And in
11 light of my stated concerns. And now that is on appeal.

12 I do want to commend lawyers -- the lawyers here on
13 both sides, plaintiffs' counsel and defendants' counsel, for
14 taking my request seriously yesterday at a very late hour when
15 everybody has many things to do in their -- in their
16 professional lives and in their private lives, that you did
17 take the time to work together on achieving what I feel is --
18 is an acceptable and fair temporary restraining order. And --
19 and that has been entered.

20 I am going to enter plaintiffs' requested language
21 that is contested by defendants in the context of the temporary
22 restraining order, because I do find that the -- the
23 concessions that defendant -- that plaintiffs have made,
24 although not agreed to by defendants, are appropriate. And
25 they do take into account the defendants' constitutional

1 rights -- the defendants' and their affiliates' right to gather
2 on a -- on a public sidewalk and at a distance that may be well
3 beyond 75 feet of the actual ballot drop box for them to
4 conduct legitimate nonthreatening monitoring activity. But I
5 do think balancing that right against the rights of voters to
6 exercise their vote without -- without legitimate fear of
7 intimidation or harassment is -- is -- is appropriate here.

8 We've heard evidence that we did not hear last week,
9 evidence in context of -- of voting, of individuals being --
10 individuals being harassed and intimidated. And I do want to
11 acknowledge the -- the individual who came and testified last
12 week. I can't remember what her name is. However, I think --
13 I think the evidence was much stronger in -- in this case, and
14 I think that it justifies this narrowly tailored form of
15 relief.

16 So I will -- I will include in my written temporary
17 restraining order that defendants, their officers, agents,
18 servants, employees, and attorneys, and other persons in active
19 concert or participation with them are restrained from engaging
20 themselves or training, organizing, encouraging, or directing
21 others to -- and this is part E of plaintiffs' proposed TRO
22 that is contested -- in connection with any specific claim that
23 individuals committed voter fraud based solely on the fact that
24 they deposited multiple ballots -- ballots in a drop box post
25 online or otherwise disseminate images or recordings of or

1 personal information about individuals who would return ballots
2 to a drop box including, but not limited to, individuals
3 about -- or information about the individuals' identity, their
4 distinguishing features, their license plate number, model and
5 make of car and/or similar information.

6 I will also include the statement in proposed part F;
7 that is, take photos of or otherwise record individuals who are
8 within 75 feet of a ballot drop box.

9 Concerning making false statements, as I've indicated,
10 I think the law clearly prohibits defendants from making false
11 statements about the law, that that is not protected speech.
12 That it does have a legitimate coercive or intimidative --
13 intimidating impact on individuals who are lawfully exercising
14 the right to vote.

15 So I will include proposed provision 5, which states:
16 Defendants shall cease and desist making false statements about
17 Arizona Revised Statutes Section 16-1005 immediately and
18 through the close of voting on Election Date 2022.

19 I have full confidence that, Mr. Kolodin, that you can
20 provide your client with a memo on -- on what kind of
21 information she -- she can share. This -- this order does not
22 in any way prohibit Ms. Jennings from correctly stating what
23 the law is. I -- I just have a problem with her stating it
24 incorrectly in a way that -- that is intimidating or coercive
25 to -- to individuals who are looking to exercise their right to

1 vote.

2 So I do feel on those points Plaintiff League of Women
3 Voters of Arizona is likely to succeed on their claims under
4 Sections -- Section 11(b) of the Voting Rights Act. I do also
5 think that they are likely to succeed on their claims under
6 Title 42, Section 1985(3). In that regard, I do find that
7 there was -- that there was at least some sort of affiliation
8 between -- among the defendants and the individuals who were
9 complained about at the polling location, and I would rely on
10 the evidence of Ms. Jennings acknowledging that those
11 individuals were -- I think her name -- or the way she referred
12 to it as her people.

13 I do also find that there -- that there is an -- the
14 intent element that has been satisfied, because based on the
15 evidence presented today, with -- particularly with
16 Complainant 240, that this individual was -- was simply looking
17 to deposit ballots -- his ballot and his wife's ballot, which
18 is perfectly legal under Arizona's ballot harvesting law,
19 but -- but for whatever reason on her social media and through
20 public pronouncements, she in -- she seized upon the -- the
21 footage created by Maricopa County. She -- it was obtained,
22 and it looked like there was quite a bit of underlying
23 harassment of him and associated him as being a mule, which as
24 we've heard today, is not the case.

25 Further, I do find that the defendant -- or the

1 plaintiffs will likely suffer -- would likely suffer
2 irreparable harm in the absence of the injunction because, as
3 we've found, there -- the Arizona League of Women Voters is
4 required to divert financial resources in order to train voters
5 on -- on the law surrounding ballot drop boxes, perhaps
6 instructing voters on -- on effective ways to avoid or to deal
7 with, to cope with the ballot -- the observers. I also find
8 that their members, and we heard testimony from one individual,
9 I believe that was Ms. Banister, who is a member of -- of the
10 organization who was impacted by the defendants' conduct.

11 I further find that the balance of equities and public
12 interest -- well, let me take that -- that one -- or one by
13 one.

14 I -- I want to state with the narrow -- the form of
15 narrowly tailored injunction that I would find that the balance
16 of equities and public interest does tip slightly in
17 plaintiffs' favor. As I have mentioned, it is paramount that
18 we balance the rights of -- of defendants to engage in their
19 constitutionally protected First Amendment activity with the
20 interest of plaintiffs and voters in casting their vote in a
21 manner that's free of intimidation and harassment. And I
22 believe that the -- that the temporary restraining order
23 achieves that purpose.

24 I'm ordering that the bond requirement is waived.

25 And what I'm going to do now is I'm going to retire to

1 chambers to reduce this to writing, and I'm going to work on a
2 preliminary injunction orders -- or order that if -- if
3 somebody wants to appeal that, you can -- you can file the
4 appeal from the temporary restraining order -- pardon me -- the
5 preliminary injunction.

6 I would finally ask counsel to please provide
7 Ms. Richter with your exhibits so that she can mark them before
8 she leaves. And I will remind you that I asked you -- I asked
9 all of you to review the marking instructions so that
10 Ms. Richter doesn't have to do that, but you didn't do that.
11 So either you can mark them on your way out for her, or she
12 will do your job for you and -- and mark them.

13 (The Court and the courtroom deputy confer.)

14 THE COURT: Oh, she says she can't mark them because
15 she doesn't have them. So I'm going to need you to work with
16 her so that she gets them.

17 MR. DANJUMA: Absolutely.

18 THE COURT: Okay. Counsel, are there any questions or
19 is there anything that I need to trace with you before we
20 adjourn for the day?

21 Mr. Arellano?

22 MR. ARELLANO: I do have one question, Your Honor. I
23 know you asked for us to file that notice with the Ninth
24 Circuit within an hour of the Court issuing the order.

25 THE COURT: The written order.

1 MR. ARELLANO: The written order, correct. But would
2 it be okay to have two hours just to give our team time to
3 asses it given the order to file with the Ninth Circuit?

4 THE COURT: I have no concern with that.

5 Mr. Kolodin, do you have a concern with that?

6 MR. KOLODIN: No, Your Honor.

7 THE COURT: Okay. Anything else -- anything else,
8 Mr. Arellano?

9 MR. ARELLANO: That's all, Your Honor. Thank you.

10 THE COURT: Okay. But I do want you to --
11 to either con- -- you know, con- -- contemporaneously is an
12 interesting word to use. But essentially when that -- that
13 goes to the Ninth Circuit, I want the next thing you to do is
14 give me a notice of compliance.

15 MR. ARELLANO: We will have that notice, Your Honor,
16 ready to go. So as soon as we file with the Ninth Circuit, we
17 can very shortly thereafter file the notice with the Court.

18 THE COURT: Very shortly thereafter.

19 MR. ARELLANO: Contemporaneously.

20 THE COURT: You know, we're getting into the
21 metaphysical here. It's too late for that.

22 Counsel for plaintiffs, do you have anything further?

23 MR. DANJUMA: No, Your Honor. Thank you.

24 THE COURT: Okay. And, Mr. Kolodin, do you have
25 anything you'd like to bring to my attention?

1 MR. KOLODIN: I -- a question of construction, which
2 may save us a whole lot of trouble one way or another.

3 Subpart F, which -- which I'm sure will be written in
4 the order, take photos or otherwise record individuals who are
5 within 75 feet of ballot drop box, does this prohibit our
6 clients from setting up unmanned cameras?

7 THE COURT: Well, would you like to say something
8 about that?

9 MR. DANJUMA: Yes, Your Honor. Because in doing so,
10 they would be acting in privity. This injunction is targeted
11 at this set of -- of defendants. If -- if you -- if your
12 clients would like to make public records requests like
13 newspapers have for other cameras, that I think would -- would
14 be something they've always been able to do. And they've
15 contested that that's not enough because they want people
16 stationed at the polls to scare mules.

17 THE COURT: Okay. Do you -- do you want to say
18 something about --

19 MR. KOLODIN: Yeah. Yes, Your Honor. I think the
20 First Amendment at minimum requires that our clients be able to
21 obtain their own footage, not rely on the government or others.
22 And it seems hard to argue that an unmanned camera would have
23 some sort of intimidating effect. Those are ever present in
24 the environment. Nobody would even know it was our client's.

25 THE COURT: Okay. I'm going to let the order stand

1 the way it's written. The way I -- the way I consider this is
2 they can take whatever video footage they want of, including
3 photographs, of anybody outside of that 75-foot perimeter. But
4 within that 75-foot perimeter they are not allowed to do so,
5 and that would include doing so through an automated means.

6 Now, I -- I -- and the way I see this is the balance
7 is they can get their information as long as the vehicle, the
8 individual is outside of that 75-foot limit. But when that
9 person is -- is actually maybe reaching into the car to grab
10 ballot or ballots or -- or putting the ballot or ballots into
11 the drop box, they are entitled to some greater degree of
12 privacy from being surveilled and video-recorded and
13 photographed, somewhat similar to what they would receive in --
14 in the voting location.

15 So that's -- that's how I view it, and that's how I've
16 balanced the interests.

17 Anything else, Mr. Kolodin?

18 MR. KOLODIN: No, Your Honor.

19 THE COURT: Okay. I sincerely want to thank all of
20 you once again for working so hard on this issue and for being
21 very professional with one another and for coming to these
22 agreements. It's -- it really is, in my view, a -- you know,
23 a -- a -- a reflection on your individual professionalism and
24 the degree of seriousness that you approach these issues. And
25 you have -- you all have passion in here for these issues, but

1 you -- you were able to channel your passion into -- into this
2 agreement. So, thank you.

3 Court is adjourned.

4 (Proceedings conclude at 5:31 p.m.)

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C E R T I F I C A T E

I, CATHY J. TAYLOR, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control.

DATED at Phoenix, Arizona, this 3rd day of November, 2022.

s/Cathy J. Taylor

Cathy J. Taylor, RMR, CRR, CRC