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FILE NO. A23-1890
STATE OF MINNESOTA
IN SUPREME COURT

In Re Petition for Disciplinary Action
against SUSAN S. SMITH,
a Minnesota Attorney,
Registration No. 0340467.

VOLUME I

The above-entitled matter came on for hearing
before the Honorable Referee Christopher J. Dietzen,
before Susan M. Strom, a Notary Public in and for
the County of Dakota, State of Minnesota, taken on
the 15th day of April, 2024, commencing at
approximately 9:00 a.m., at 25 Rev. Dr. Martin Luther
King Jr. Blvd., Room 210, St. Paul, Minnesota.

* * *

A P P E A R A N C E S

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RECEIVED

RESPONDENT

Exhibits 215-224, 227-234,
268, 272

7

DIRECTOR

Exhibits 1-51

8

P R O C E E D I N G S

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2
3 THE COURT: Good morning,
4 everyone. Please, be seated. Thank you to both
5 counsel for being a little early, being on time. I
6 appreciate it very much. Is the Director ready to
7 proceed?

8 MS. HUMISTON: Yes, Your Honor.

9 THE COURT: And would you note
10 your appearance and your colleague as well.

11 MS. HUMISTON: Yes, Your Honor.
12 Susan Humiston for the Office of the Director of
13 Lawyers Professional Responsibility. And with me
14 is Sofia, S-o-f-i-a. Dreier -- excuse me.

15 MS. DREIER: D-r-e-i-e-r.

16 THE COURT: Very good. Thank you.
17 Good morning. And Ms. Smith.

18 MS. SMITH: Susan Shogren Smith.
19 I am representing myself. It's just me.

20 THE COURT: Very good. Thank you.
21 Thank you, counsel. And welcome to everyone.

22 Before we proceed -- well, I guess we
23 are on the record -- at the end of our pretrial
24 conference, I asked counsel to provide an updated
25 exhibit list that would include those exhibits that

1 the Court had excluded and those that remained.

2 I received something from you, Ms.
3 Humiston, entitled Summary and Stipulation as to
4 Exhibits. Is that the document?

5 MS. HUMISTON: Yes, Your Honor.

6 THE COURT: And, Ms. Smith, have
7 you seen the document?

8 MS. SMITH: Yes.

9 THE COURT: And is that correct,
10 to the best of your knowledge?

11 MS. SMITH: Yeah. I mean, the
12 document that I did return to her I did just make a
13 notation about the withdrawn by Respondent.
14 Because when we were talking about it, you know,
15 the discussion was that I could be resubmitting
16 them. But I think she -- it's unnecessary. So, I
17 mean, I can submit them by the witnesses with the
18 rule of evidence. That's the only thing --

19 THE COURT: Yes, very good. So
20 at this point, why don't you go through what you
21 have prepared, Ms. Humiston, so I make sure that I
22 understand it. It looks like you have got columns
23 Withdrawn by Respondent, Excluded by Court and
24 Stipulated by the Parties. So, for example, on
25 page 2, starting with Exhibit 215 through 234,

1 those have been stipulated to and may be received?

2 MS. HUMISTON: Except for 225 and
3 226. The fourth column is the To Be Determined
4 column.

5 THE COURT: Very good. All right.
6 Those exhibits will be received. And then going to
7 page 3. Let's see, Exhibits 268 and 272 are
8 stipulated to be received?

9 MS. HUMISTON: Yes, Your Honor.

10 THE COURT: Then those documents
11 will be received as well. All right. So that
12 takes care of the Respondent's exhibits as to this
13 point in the time, with the understanding that the
14 Respondent may offer exhibits during the testimony
15 of various witnesses. And we will rule on those as
16 they come before me. Very good.

17 Then have the parties reached any sort
18 of stipulation with respect to the Director's
19 exhibits?

20 MS. HUMISTON: Yes, Your Honor.
21 Ms. Smith has informed me that she has no objection
22 to the Director's Exhibits 1 through 51. And at
23 this time the Director moves for their admission.

24 THE COURT: Is that correct,
25 Ms. Smith?

1 MS. SMITH: Yes.

2 THE COURT: Very good. Exhibits 1
3 through 51 of the Director's exhibits will be
4 received.

5 All right. Now, let's cover the
6 Director's witnesses. Is there any update or
7 change with respect to those witnesses?

8 MS. HUMISTON: Yes. Your Honor,
9 the Director is able to produce Ms. -- I believe
10 it's C.B. will be here in person today.

11 THE COURT: Very good. All right,
12 so there is no need for Zoom testimony for any of
13 the Director witnesses?

14 MS. HUMISTON: There is not.

15 THE COURT: Very good.

16 MS. HUMISTON: The Director has
17 revised the order in which she will be calling
18 witnesses. And I have given that update to
19 Ms. Smith.

20 THE COURT: Great. Thank you.
21 And is there any scheduling issues for today? Can
22 you give me kind of a preview of what you expect to
23 present by way of witnesses today?

24 MS. HUMISTON: Yes. Today, the
25 Director will be calling Judge Castro, S.S., S.M.

1 and C.B. C., I believe I say that incorrectly.
2 And then at some point we will be pausing for
3 Ms. Smith's witness, who needs to go this
4 afternoon.

5 THE COURT: All right. And,
6 Ms. Smith, do you have any scheduling issues that I
7 should know about at this point?

8 MS. SMITH: No, Your Honor.

9 THE COURT: All right. Then let's
10 proceed. Is there any preliminary matters that I
11 should be considering?

12 MS. HUMISTON: Nothing from the
13 Director, Your Honor.

14 THE COURT: Very good. All right.
15 Then does the Director wish to make an opening
16 statement?

17 MS. HUMISTON: She does, Your
18 Honor.

19 THE COURT: Please, proceed.

20 MS. HUMISTON: Good morning, Your
21 Honor, counsel.

22 THE COURT: Good morning.

23 MS. HUMISTON: Very few things in
24 the law are as basic as the fundamental principle
25 that a lawyer cannot start a legal proceeding in an

1 individual's name without that individual being the
2 lawyer's client and without the client's expressed
3 permission to do so.

4 This case presents the shocking
5 situation where a lawyer commenced important and,
6 as it turned out, very high-profile legal
7 proceedings in the names of individuals she had
8 never met, never spoken to, and never even tried to
9 speak to.

10 Moreover, the evidence will show that
11 the only thing she knew to be true is that the
12 individuals had signed a generic affidavit that
13 they had concerns about the 2020 election and were
14 willing to join other voters across Minnesota to
15 contest Minnesota's election results.

16 The evidence will show that Respondent
17 knew that no one had explained to each of these
18 individuals what an election contest was, that she
19 knew that no one had shown them the pleadings that
20 were to be filed, that no one had explained the
21 risk in commencing the legal proceedings such that
22 costs and disbursements could be assessed against
23 them, and that those amounts could be a lot, or
24 that individuals bringing an election contest may
25 be required to pay the cost of any audit if one is

1 ordered, and that one of the forms of relief that
2 Respondent included in the proceedings was an
3 audit.

4 Respondent knew that no one had taken
5 these important and necessary steps, because she
6 never asked anyone to do them, and worse still,
7 appears to maintain that it was not required
8 because timelines were short.

9 The ethics rules place the
10 responsibility firmly on Respondent to ensure that
11 these important steps are addressed before filing
12 any legal proceedings in anyone's names. Because
13 they are not just random details, but fundamental
14 to the express representation that Respondent is
15 making to the court when she signs a pleading, when
16 she signs her names to pleadings, and filed a legal
17 proceeding in someone's name.

18 Now, this Court will hear from some of
19 the individuals whose names were used to sue the
20 Minnesota Secretary of State and other elected
21 officials and had no idea that that would be the
22 case.

23 This Court will hear from C.B., an
24 individual who stumbled upon Respondent's use of
25 her name as a plaintiff in a legal proceeding when

1 searching Minnesota court records and found that a
2 judgment had been entered against her that she knew
3 nothing about. This Court will hear about how she
4 ended up having to advocate for herself to get
5 herself removed from legal proceedings because
6 Respondent would not take action to assist her.
7 This Court will hear how C.B. shared what she
8 learned with others in case they, too, had not
9 agreed to be named as plaintiffs in legal
10 proceedings.

11 This Court will hear how, instead of
12 apologizing and acknowledging that grave mistakes
13 had been made and in haste to bring actions in a
14 short period of time, Respondent's reaction was to
15 question the court's motives for taking C.B.'s
16 concerns seriously.

17 Respondent also failed to answer direct
18 questions put to her by the court because she did
19 not like them. The evidence will show that
20 Respondent chose instead to mount an attack on her
21 own clients, accusing them of engaging in perjury
22 and being liars, of being weak-kneed, and
23 deliberately changing their minds because they were
24 unwilling to take one for the team, as she put it.

25 The evidence will show that Respondent

1 was sanctioned \$10,000 by Judge Castro and \$15,000
2 by the Senate three-judge panel, hearing one of the
3 contests. Respondent did not appeal those
4 judgments and the time to do so has long past.

5 Now, the Director received several
6 complaints relating to Respondent's handling of the
7 election contest that she filed, and the evidence
8 will show also that Respondent did not cooperate in
9 the Director's investigations. This, too, is
10 sanctionable conduct.

11 The evidence will show that Respondent
12 didn't cooperate because she had said all that she
13 planned to say regarding the matter and that was
14 that. In this way, too, she has shown a
15 fundamental contempt for her obligations under the
16 ethics rules.

17 The evidence will show that Respondent
18 believes she did nothing wrong and that she is the
19 victim here. She offered to provide limited
20 pro bono services, and nothing else was her
21 responsibility.

22 Respondent would have this Court
23 believe that her only mistake was trusting another
24 lawyer, in this case Jose Jimenez, who was supposed
25 to worry about all the details. Not only is this

1 factually not what happened, but it is not how it
2 works. Respondent drafted and signed the
3 pleadings, and the ethical buck stops with her.

4 Her failure to recognize these basic
5 concepts and to try to cast blame everywhere else
6 is deeply troubling. Respondent's actions have
7 caused widespread harm to individuals who simply
8 wanted to express their concern regarding the 2020
9 election. She has harmed the courts, she has
10 harmed the legal profession, and she has wasted
11 hundreds and hundreds of hours of others' time.

12 At the conclusion of the evidence, the
13 Director will be asking this Court to recommend
14 that Respondent be suspended from the practice of
15 law for between 90 and 180 days and that any
16 reinstatement be conditioned on payment of the
17 court-ordered sanctions, or entry into a payment
18 plan to satisfy those sanctions. Thank you.

19 THE COURT: Thank you, counsel.
20 Ms. Smith, do you wish to make an opening statement
21 at this point, or do you want to defer until you
22 bring in your case in chief?

23 MS. SMITH: I can go now.

24 THE COURT: I'm sorry?

25 MS. SMITH: I can say it now.

1 THE COURT: Very good. You may
2 proceed.

3 MS. SMITH: You know, I obviously
4 listened and I heard what the Director shared, and
5 I don't agree with her. I think this case is about
6 a lot of things. A lot of things. And I think
7 that this process has shown a lot of people, not
8 just me, a lot of people about some of the serious
9 issues within the court.

10 I do disagree with the facts as she has
11 laid them out, because the Director and people
12 connected to this case have taken positions that
13 have ignored much of the record and much of what
14 happened. I believe that we have a court system,
15 not just in Minnesota but across the country --

16 THE COURT: Excuse me just one
17 second. I know we have an overflow of people that
18 want to sit in the courtroom. Is there any room in
19 any of the spots there? Anybody can squeeze over a
20 little bit, please. Otherwise, we will try and
21 bring in -- or you can bring in chairs. There is a
22 chair I can move and someone, if they are brave
23 enough, can sit down here. All right. I think
24 that will help a little bit. This should be just
25 fine. Thank you.

1 Ms. Smith, you may proceed.

2 MS. SMITH: I went to law school
3 because I believe that people have the right to
4 justice, and I have spent my time since I became a
5 lawyer providing pro bono support to people on a
6 whole range of issues. And people who know me,
7 people who know the work that I do know that the
8 last thing that I would ever choose to do
9 intentionally would be to violate any of the rules
10 or the laws.

11 What I have sought from the beginning
12 of this process is a fair assessment of what
13 happened. And I did trust another lawyer and a
14 group of people that I agreed to volunteer and
15 serve, and I have learned lessons and I have
16 apologized to people. I did not suggest in any way
17 that there were -- the people that signed these
18 contests were taking one for the team. And if
19 there is a recording of that conversation, I would
20 love to hear it and go back over it.

21 I didn't refuse to help C.B. reopen the
22 case. We had a very long conversation about what
23 the case was. The facts will come out, I hope, in
24 this hearing. I hope I will be allowed to
25 actually, for the first time, really air the facts

1 and have the conversation through witness testimony
2 about what did happen, about what people understood
3 in November and December of 2020, what they
4 understood after that, what they've learned in
5 February and March, and what has happened since
6 then.

7 All I have ever asked is for an
8 opportunity to have my voice be heard. And when
9 the hearing is characterized as I refuse to answer
10 questions, the record will show that I wanted to
11 answer the questions. I was not allowed to answer
12 the questions. Yes and nos are not answers to
13 questions that require information.

14 So this characterization of me is, I
15 think, inappropriate. It is tragic. And I don't
16 believe it is me and me alone who has cost hundreds
17 of hours and damage to the court.

18 I think that the process itself has
19 raised serious issues about the process, about what
20 the rules really mean, what do the laws that govern
21 the rules mean, do the laws govern, do the laws
22 matter to the lawyers and judges who are in charge
23 of our system, do they actually remember that it is
24 the laws of our state and our country that govern
25 our conduct. That is first after the Constitution.

1 So I believe that this whole process is
2 a result of a system that should be reworked, not
3 just this process, but our election process, how we
4 contest elections so that people can actually
5 contest the elections in a way where they are not
6 attacked merely for raising a question.

7 When laws are violated, and people all
8 over the state and the country saw the laws being
9 violated, they wanted something to be done. I also
10 think that we do need to remember the facts and
11 circumstances are not just random. That we were in
12 a time in our country with COVID, with changing of
13 laws that had been longstanding laws for decades
14 that were changed by a consent decree that half the
15 people in this state did not agree with. That
16 there were reasons why people were upset.

17 And then after January 6, when nobody
18 could have imagined what happened on January 6 and
19 what happened after January 6, it is perfectly
20 logical that people became concerned. But that
21 doesn't change the fact of what happened when they
22 signed an affidavit.

23 So all of the facts will come out. And
24 I believe that if the facts are allowed to come out
25 that we will all be able to take a look and

1 determine whether there was actual intent -- intent
2 to commit a fraud.

3 I don't necessarily agree that the
4 statute of limitations and time limits have passed
5 for me to appeal these issues. And I believe that
6 I waited appropriately to allow this moment to
7 come. Because I think that these issues need to be
8 addressed. We need a public airing of how this
9 process works.

10 And I do believe in terms of
11 cooperation -- once I had submitted the information
12 I had about that process and where we were at, I
13 believe that this issue of cooperation is such an
14 ambiguity. And there really wasn't anything left
15 to say, once the record had been created, because
16 the issue was over and done with.

17 So this kind of constant fishing and
18 trying to create an issue out of an issue is unfair
19 not just to me, but to other lawyers who it's
20 happened to in the past and who it will likely
21 happen to again.

22 And, also, little things, like when
23 lawyers who are working on behalf of the Lawyers
24 Board are using work emails that are not connected
25 to the government, I don't believe as an attorney I

1 should have had my information on a corporation's
2 website owned -- on their email system that's owned
3 by them. So there are a lot of issues that need to
4 be addressed.

5 And then, finally, I'm going to say
6 it's certainly been public knowledge for years that
7 the Lawyers Board has been under scrutiny by a lot
8 of lawyers. That the conduct of the Lawyers Board
9 has been an issue, and it raises problems because
10 lawyers, not just me, but lawyers across this state
11 question and have a distrust of the process. And
12 when we have a process where people feel that they
13 will be treated unfairly, then we should expect
14 that people will be hesitant to cooperate, and they
15 won't trust the results if they aren't fair and
16 open.

17 So, again, I think that if the facts
18 are allowed to come out, which I hope they will be,
19 then I think then we will hopefully have a fair
20 disposition of this case. But up to this moment,
21 that hasn't happened. It hasn't happened not for
22 one moment. And so I guess we are going to see.
23 We are going to see how it goes. I trust that this
24 process will be fair and will follow the rules.
25 So, thank you.

1 THE COURT: Thank you, Ms. Smith.
2 The Director you may proceed. Call your first
3 witness.

4 MS. HUMISTON: I'm going to go
5 grab my witness, if I may.

6 THE COURT: Very good.

7 MS. HUMISTON: The Director calls
8 Judge Castro.

9 THE COURT: Judge Castro, will you
10 approach your chair and raise your right hand.

11 JUDGE LEONARDO CASTRO,
12 the Witness in the above-entitled
13 matter after having been first duly
14 sworn, testifies and says as follows:

15 THE COURT: Will you please state
16 your full name and your address for the record,
17 sir.

18 THE WITNESS: Work address, I
19 hope?

20 THE COURT: Yes. Very good.

21 THE WITNESS: Leonardo Castro.
22 L-e-o-n-a-r-d-o. Last name, C-a-s-t-r-o. Address
23 is 15 West Kellogg, St. Paul. It's the Ramsey
24 County Courthouse 55110.

25 THE COURT: Our Court rules do not

1 allow recording in the courtroom. I don't know if
2 someone is doing that. If you are, would you
3 please refrain. We have a court reporter that's
4 going to take down anything -- or everything that's
5 said, and that would be available through the court
6 reporter or even through the counsel. So --

7 UNIDENTIFIED SPEAKER: I was
8 recording. I didn't hear you before. I was
9 outside. I won't record anymore.

10 THE COURT: Very good. Thank you,
11 sir. And I appreciate there is a lot of people in
12 the audience today, and you have done a great job
13 of being restrained. Some of you may want to
14 applaud at some point. I don't allow that in my
15 courtroom. This is about the testimony that comes
16 in, and my job of being fair and impartial to both
17 sides. Which I'm going to do my best to do. And
18 so I appreciate your restraint and thank you.

19 So, counsel, you may proceed.

20 DIRECT EXAMINATION

21 BY MS. HUMISTON:

22 Q. Good morning. Judge Castro, how long
23 have you been a judge in Minnesota?

24 A. I was appointed to the bench in June of
25 2012. So 12 years come this June.

1 Q. And currently you are a chief judge in
2 Ramsey County; is that correct?

3 A. That is correct.

4 Q. And when were you appointed -- or when
5 were you elected by your peers as chief judge?

6 A. Four years ago in June.

7 Q. Now, you handled several election
8 contests in 2020 brought by Ms. Smith; is that
9 correct?

10 A. That is correct.

11 Q. And do you recall which cases that you
12 handled?

13 A. Not specifically. There were five cases
14 that were filed. One involved a senator,
15 therefore, the rules required that that be a three-
16 judge panel Court of Appeals. The other four that
17 were filed in Ramsey County were handled by me.

18 Q. There is a set of notebooks in front of
19 you. The first one is part 1 of 1. If you could
20 turn to that and look at Exhibits 2 through 5, if
21 you would.

22 A. Okay.

23 Q. You have had opportunity to look at
24 Exhibits 2 through 5?

25 A. I have, yes.

1 Q. Are those the election contests that you
2 just mentioned?

3 A. The register of actions from those
4 cases, yes.

5 Q. And do you recall if there was any media
6 attention relating to those matters?

7 A. Substantial media attention.

8 Q. Can you elaborate?

9 A. Well, I mean, it was during COVID that
10 these matters were filed, so there was -- well, I
11 don't think it's no secret that during this
12 particular election there was substantial and
13 significant claims across the country that there
14 was fraud in the election process, and many of
15 these types of lawsuits were filed across the
16 country, and in Minnesota these five. I believe
17 they have several more that were filed in other
18 counties across the state. And we had many
19 requests from the media to participate or at least
20 be present during these hearings, and in some cases
21 I believe record the hearings. I don't believe
22 they allowed recording of the hearings. But
23 certainly media itself was present, because the
24 courtroom is a public place.

25 Q. And how is it that you were assigned

1 these matters?

2 A. I assigned myself these matters. As the
3 chief judge, it's one of the few privileges I get
4 is to assign cases to judges.

5 Q. And you were on the 2020 ballot; is that
6 correct?

7 A. I was.

8 Q. And were you in a contested election at
9 that time?

10 A. I was not.

11 Q. And did any party seek your removal from
12 participating in these proceedings?

13 A. No, they did not.

14 Q. Can you describe generally what happened
15 with these election contests?

16 A. They were filed. I believe we received
17 from the defendants a motion to dismiss under Rule
18 12. We had a hearing under the motion to dismiss
19 for failure to state a claim, for a variety of
20 other reasons. We held a hearing, the parties were
21 heard, I issued an order dismissing these matters.
22 Along with issuing the order dismissing the
23 matters, I ordered costs and disbursements.

24 Q. So can you turn to Exhibit 8 in the book
25 in front of you. And what you will see is, if I

1 may, there is an exhibit 8 and then there is an 8A.
2 One exhibit is redacted. The other is unredacted.

3 A. Yes.

4 Q. But if you refer to Exhibit 8, do you
5 recognize this document?

6 A. I do.

7 Q. And what is Exhibit 8?

8 A. It's the order on my motion to dismiss.
9 I'm sorry. It's my order on the motion to dismiss.

10 Q. On the motion to dismiss. That you just
11 were referring to?

12 A. Yes.

13 Q. You also mentioned that costs and
14 disbursements were assessed?

15 A. That's correct.

16 Q. If you look at Exhibit 2, the register
17 of action for one of the matters. And if you could
18 turn to 20. On the bottom, you will see it says
19 page 20 of 27 of Exhibit 2.

20 THE COURT: I'm sorry, would you
21 repeat that, counsel. I'm not with you yet.

22 MS. HUMISTON: Exhibit 2, page 20
23 of 27 is listed on the bottom of the exhibit.

24 A. Yes, I'm there.

25 THE COURT: Hold on. Hold on.

1 I'm not. Okay, now I've got it. Sorry. Please,
2 proceed.

3 MS. HUMISTON: No problem.

4 BY MS. HUMISTON:

5 Q. Do you see any portion of the register
6 of action here that reflects the costs and
7 disbursements that were taxed?

8 A. So Index number 70 states Costs and
9 Disbursements Notice and Application for Taxation.
10 Index number 71 is a similar entry. Index number
11 73 has a similar entry and index number 74. Index
12 number 76 is the Notice of Entry of Judgment. And
13 Index number 78 is the Satisfaction of that
14 Judgment.

15 Q. So it says towards the end of January,
16 is that correct, that costs and disbursements were
17 taxed?

18 A. Yes.

19 Q. And do you recall in what amount those
20 were?

21 A. If I recall, it was somewhere in the
22 amount of \$3,800.

23 Q. Do you recall what your next involvement
24 in this matter was?

25 A. I do. I would say that sometime later,

1 about a month later my chambers received either an
2 email or a call from one of the named litigants
3 informing us, or maybe it was a letter my chamber
4 received, from one of the named litigants,
5 informing us that while she was searching the court
6 system site she came across a judgment where she
7 was the judgment debtor. And she was unaware of
8 the case and asked me to remove her as a litigant
9 to this matter and remove the judgment from the
10 court record.

11 Q. And can you please turn to Exhibit 13 in
12 the documents in front of you. There is an Exhibit
13 13 that is redacted and an Exhibit 13A that is
14 unredacted. Is this the letter that you are
15 referring to that you received?

16 A. That is the letter we received.

17 Q. And what did you do upon receipt of this
18 information?

19 A. Upon receipt of this information, I
20 sua sponte or on my own motion I held a hearing or
21 I informed the parties that we were going to hold a
22 hearing to determine the veracity of this letter.

23 Q. Can you turn to Exhibit 38.

24 THE COURT: Exhibit 38?

25 MS. HUMISTON: 38.

1 A. I am there.

2 BY MS. HUMISTON:

3 Q. And do you recognize Exhibit 38?

4 A. I do.

5 Q. And what is Exhibit 38?

6 A. Exhibit 38 is the order that I issued
7 scheduling the hearing and the reasons for the
8 hearing.

9 Q. And in this order you kind of set forth
10 the history that we just talked about. You
11 dismissed the matters and had assessed costs. Do
12 you see that?

13 A. I do. Wherein, the person who contacted
14 my chambers said she was not a plaintiff, not a
15 participant, had absolutely no knowledge of the
16 case or any of the parties or the attorneys
17 involved in the case.

18 Q. And on the second page of that order you
19 set forth the basis for your authority; is that
20 correct?

21 A. That is correct.

22 Q. And what was that?

23 A. Well, first, I cited Minnesota Rule of
24 Civil Procedure 60.02 which vests the court with
25 the authority to relieve a party from a final

1 judgment or order and grant such relief as may be
2 necessary, specifically providing, however, that
3 such rule does not limit the power of a court to
4 set aside a judgment for fraud upon the court.

5 Also, I cited Halloran versus Blue &
6 White Liberty Cab from the Minnesota Supreme Court
7 in which the court noted that it has the inherent
8 power to set aside or modify a judgment.

9 Q. And this hearing was scheduled for when?

10 A. March 26, 2021 at 2:00 p.m. remotely.

11 Q. And did this hearing occur as scheduled?

12 A. It did.

13 Q. And kind of what happened at the
14 hearing?

15 A. Well, we had all the -- the party that
16 had made the initial -- let me step back. Several
17 of the other individuals that were named in that
18 particular complaint -- I believe there was three
19 individuals that were named as plaintiffs in that
20 complaint -- all appeared at the hearing.

21 One, the one that had filed the initial
22 letter with the court was represented by an
23 attorney. The attorney for the defendant, which
24 was the Attorney General's Office, was present at
25 the hearing. Ms. Shogren Smith was present at the

1 hearing. And I began to ask questions.

2 Q. Can you in the next book, part 2, turn
3 to Exhibit 44. And What is Exhibit 44?

4 A. Exhibit 44 appears to be a transcript of
5 the hearing on March 26, 2021.

6 Q. And in this transcript you see the names
7 of the plaintiffs that are listed at the top; is
8 that correct?

9 A. That is correct.

10 Q. And you said that each of these
11 individuals attended this hearing?

12 A. I believe that is correct. I believe in
13 this particular complaint there were three
14 plaintiffs and all three attended.

15 Q. And you said you began to ask questions?

16 A. I did.

17 Q. Did you take testimony at that time?

18 A. I believe I did.

19 Q. Did you hear from C.B. during that
20 hearing?

21 A. Yes.

22 Q. Did you find C.B. to be credible?

23 A. Yes, I did.

24 Q. And did you take testimony, do you
25 recall, from the other individuals?

1 A. Not in the detail that I took testimony
2 from C.B. But I believe they concurred with what
3 C.B. was stating in regards to having never agreed
4 to participate in the case, having never heard of
5 Susan Shogren Smith, having never been -- well,
6 having never discussed this with an attorney,
7 having never agreed to be a plaintiff.

8 Q. And did you ask questions of Ms. Smith?

9 A. I did.

10 Q. And do you recall if she answered your
11 questions?

12 A. She did sometimes and sometimes she
13 didn't.

14 Q. And what do you mean by that?

15 A. Well, Ms. Shogren Smith spent a
16 significant amount of time trying to explain to me
17 how she was just the lawyer and that there was
18 another organization that had actually spoken or
19 interacted with these plaintiffs and had gotten
20 their approval to be plaintiffs in this matter.

21 Q. And do you know Jose Jimenez?

22 A. I do.

23 Q. And did Mr. Jimenez attend that hearing?

24 A. He did.

25 Q. And did Mr. Jimenez seek to appear at

1 that hearing?

2 A. He did.

3 Q. And do you recall how you responded?

4 A. I do.

5 Q. And how did you respond?

6 A. Mr. Jimenez appeared at the hearing. I
7 asked Mr. Jimenez who he represented. He informed
8 me that he represented the named plaintiffs. I
9 turned to the named plaintiffs and asked them if
10 Mr. Jimenez represented them and they all stated
11 no, he did not. They didn't know Mr. Jimenez.
12 They had never met Mr. Jimenez. So I did not allow
13 Mr. Jimenez to participate in that hearing.

14 Q. And what did you decide to do at the
15 conclusion of that hearing?

16 A. At the conclusion of the hearing, I
17 decided -- although, we did have some discussion
18 between the parties on how to proceed -- if I was
19 to remove the named plaintiffs. Initially, I
20 believe the plaintiff or the attorney for one of
21 the named plaintiffs wanted me to just -- I guess
22 the way that they phrased it was nullify the case,
23 somehow make it disappear. Which I don't think
24 that's something I could do. The Attorney
25 General's Office wanted the record to be

1 maintained.

2 So, ultimately, what I decided to do
3 was to remove the named plaintiffs, name Susan
4 Shogren Smith as the named plaintiff, the sole
5 named plaintiff on all four of those matters. And
6 I also issued a contempt of \$10,000 against
7 Ms. Susan Shogren Smith.

8 I will note that as we notified some of
9 the other plaintiffs in the three other matters
10 that although none had agreed initially to be part
11 of those cases, they stated that they didn't mind
12 if their name stayed on the case. So the
13 plaintiffs on the other three matters -- and there
14 was a handful of them, who decided that they would
15 agree to continue to be named plaintiffs. We left
16 their names on the case.

17 Q. And I'm sorry to bounce you back and
18 forth between notebooks. But if I could have you
19 turn to Exhibit 15 in the first notebook.

20 A. I will note that it was the court that
21 began the process of notifying these named
22 plaintiffs and to get an affidavit from them or
23 some form of verification that they agreed to stay
24 on as named plaintiffs.

25 Q. And I do have those, that information.

1 A. On 15.

2 Q. Do you see Exhibit 15?

3 A. I do.

4 Q. And what is Exhibit 15?

5 A. Exhibit 15 is the initial order I issued
6 after the hearing of March 26.

7 Q. And this order is dated what date?

8 A. The order is dated April 9, 2021.

9 Q. And there are directions in this order
10 to court administration. Can you elaborate on what
11 you instructed court administration to do with
12 respect to the record?

13 A. Paragraph 3 of the order has court
14 administration -- excuse me. Is there any water?

15 Q. There is. (Indicating.)

16 A. Thank you. Court administration was
17 directed to create and file public versions of the
18 filings with the originally-named plaintiffs --
19 petitioners -- I'm sorry, petitioners' names
20 redacted. Court administration was also directed
21 to remove the originally-named petitioners from the
22 court record and caption.

23 Q. And did court administration do this?

24 A. They did.

25 Q. And how would you describe that

1 endeavor?

2 A. It was complicated. I have never
3 experienced removing a named plaintiff from or
4 redacting, if you will, a named plaintiff from the
5 complaint. Generally the way that's done, if a
6 plaintiff is removed from a case, a new complaint
7 is filed and the remaining plaintiffs are named.

8 Q. And this order also indicated that the
9 \$10,000 was sanctioned, was entered; is that
10 correct?

11 A. Right. It was a sanction. I guess I
12 referred to it as a contempt. It was a sanction
13 that I issued for \$10,000 that was entered
14 separately.

15 Q. And you had the court enter judgment; is
16 that correct?

17 A. I did.

18 Q. I know that you stated your reasons on
19 the record as well, but did you issue a memorandum
20 explaining the basis for the actions you took?

21 A. I did. Sometime later. I'm not sure if
22 it was 30 days or so later.

23 Q. Can you turn to Exhibit 18. What is
24 Exhibit 18?

25 A. Exhibit 18 is the memorandum I issued to

1 supplement the order.

2 Q. Now, you described a process where you
3 requested that notice be provided to the other
4 petitioners or contestants in the other actions
5 that you were handling; is that correct?

6 A. That's correct.

7 Q. And why did you choose to do that?

8 A. Well, based on the information that we
9 had obtained from the March 26 hearing, I became
10 aware that other plaintiffs were unaware of the
11 lawsuits that were filed.

12 I thought it was important that they
13 know that these matters had been filed and there
14 were judgments issued against them. I thought it
15 was important for them to be able to decide for
16 themselves whether or not they wanted to remain
17 named plaintiffs. And I gave them the option to do
18 so.

19 Q. And you said that you subsequently
20 received additional requests from people asking to
21 be removed; is that correct?

22 A. I did, yes.

23 Q. And you also received requests for
24 people who had no objection to be remaining as
25 contestants; is that correct?

1 A. That's correct.

2 Q. And do you know at the end of the day
3 how many people were removed or not?

4 A. I would have to go through each of the
5 complaints. I don't remember exactly how many
6 people were removed.

7 Q. Now, one of the basis for entering
8 sanctions was that you said you felt fraud on the
9 court was committed; is that correct?

10 A. That's correct.

11 Q. And the memorandum Exhibit 18 kind of
12 speaks for itself for your reasons why.

13 A. It does. I think I laid out my reasons.

14 Q. But could you comment on the harm that
15 you believe was caused by Ms. Smith's conduct?

16 A. Well, first of all, this was a unique
17 situation. I had never experienced a case where a
18 plaintiff didn't know that they were a plaintiff.
19 And the way that this particular plaintiff became
20 aware of her use of her name in this particular
21 case certainly shed a very poor light on the
22 justice system.

23 To come across a judgment while you are
24 doing a record search and finding that you have
25 been a named plaintiff and that a judgment has been

1 entered against you and you were totally unaware of
2 it, seems to me to be -- well, a substantial
3 misrepresentation as to what our justice system is
4 supposed to be about.

5 It also significantly hurts the
6 reputation of the court, the reputation of the bar.
7 It hurts the confidence that our public is to have
8 in our courts.

9 And I really thought that this -- and I
10 still think and I still believe that this was a
11 significant violation of the lawyers duty to their
12 client, the lawyer's duty to the court, the
13 lawyer's duty to the profession.

14 Q. And are you aware of whether Ms. Smith
15 has sought to set aside your findings or appeal the
16 sanctions?

17 A. As far as I am aware, she has not.

18 Q. Now, you filed an ethics complaint; is
19 that correct?

20 A. I did.

21 Q. And why did you do so?

22 A. I did so, and I believe for the first
23 time I have ever done so, because I believe this
24 was an egregious violation of the Rules of
25 Professional Conduct as it relates to the

1 administration of the courts, as it relates to
2 misrepresentation to the courts, as it relates to
3 being a fraud on the court.

4 Q. And is there anything else that I
5 haven't asked you that you would like to share with
6 Justice Dietzen today as it relates to how you
7 handled this matter and the reason for submitting
8 your complaint, ethics complaint?

9 A. The only thing I would add is that I
10 think in reading some of the material that I have
11 been provided as it relates to the answer to this
12 particular complaint, the underlying litigation has
13 absolutely nothing to do with why I took the action
14 I took. I would have taken it if it was a medical
15 malpractice case, if it was any type of personal
16 injury case, if it was a contracts case.

17 When a lawyer files a complaint, the
18 court has -- we have a level of trust in what's
19 being provided to us. We have to be able to trust
20 that what's been given to us is real, is actual,
21 that there is a party that is seeking
22 representation, that there is a party that feels
23 that they have been damaged in some way, that there
24 is a party that feels like they need the court to
25 be there to resolve a legal or factual issue.

1 I found this action by Ms. Shogren
2 Smith to be, frankly, an affront to all of that. A
3 cover, if you will. I mean, it seems to me that
4 they easily could have found litigants to
5 participate in this lawsuit. The organization that
6 was behind this could have been the petitioner in
7 this lawsuit. Ms. Shogren Smith could have been a
8 petitioner herself. So I didn't understand why
9 they needed to cloak these complaints in a way that
10 failed to communicate at all with the people they
11 were naming.

12 MS. HUMISTON: Thank you. No
13 further questions.

14 THE COURT: Ms. Smith, you may
15 inquire.

16 CROSS-EXAMINATION

17 BY MS. SMITH:

18 Q. So my exhibits are behind you.

19 THE COURT: Do you have a number
20 in mind, Ms. Smith?

21 MS. SMITH: Pardon?

22 THE COURT: Do you have a specific
23 number in mind that you can have the witness find?

24 MS. SMITH: Yes. And as we go
25 through them -- if I can just take one second to

1 pull it up. First, if possible, I would just like
2 to ask my questions -- I'm going to probably start
3 with -- well, I will have to introduce the exhibit.
4 Right? So it's in the binder 1 -- should I do them
5 as we are doing the testimony? So I'm just going
6 to ask some questions first that don't require an
7 exhibit. How about that?

8 THE COURT: Sure. Whatever is
9 easiest for you, counsel.

10 BY MS. SMITH:

11 Q. Judge Castro, I appreciate everything
12 that you said and I have heard you. I'm going to
13 walk you through some questions that people might
14 think -- you might think are tedious. But it's
15 important for me, I think, to lay foundation for
16 what my concern is about this process. So I'm
17 going to ask you some pretty basic questions.

18 Judges are lawyers; is that correct?

19 A. In the state of Minnesota they are, yes.

20 Q. And you are bound to follow the U.S.
21 Constitution?

22 A. I most certainly am.

23 Q. And you are also bound to follow United
24 States law?

25 A. Yes.

1 Q. Yes? You are bound by the Minnesota
2 Constitution?

3 A. Yes.

4 Q. And you would agree that people amend
5 the Constitution; right? That's not the right of a
6 judge to amend the Constitution; correct?

7 A. Absolutely.

8 Q. And it's the legislature that passes the
9 laws?

10 A. They do.

11 Q. And those laws do bind the court,
12 barring constitutional issues?

13 A. Correct.

14 Q. And then there are rules that we will
15 get into later about ambiguity and things like
16 that. But generally, plain language, your job is
17 to apply the law that's written to the facts that
18 come before you; correct?

19 A. Absolutely.

20 Q. And you are a trier of facts, so the
21 facts need to be brought forward, right, so the
22 laws can be applied to the facts?

23 A. I'm a trier of fact when I serve in that
24 capacity, otherwise, the jury is the trier of fact.

25 Q. So in this case there was no jury, so it

1 was you?

2 A. Correct.

3 Q. And I know you said that you became a
4 judge in 2012 --

5 A. Correct.

6 Q. -- you were appointed? And then you
7 were elected also to be the chief justice?

8 A. Chief judge.

9 Q. Chief judge of Ramsey County?

10 A. Second District, yes.

11 Q. How many judges are in the district
12 court?

13 A. Twenty-nine judges in the Second
14 Judicial District and four referees.

15 Q. And Ramsey County is a particularly -- I
16 don't want to say it's more important -- but it is
17 the venue where people bring cases that relate to
18 the state?

19 A. I would like to think it's more
20 important. But, yes, it is the venue, because the
21 Secretary of State and all the other agencies are
22 located in St. Paul which is in Ramsey County.

23 Q. Correct. And I know that you did state
24 earlier that you did appoint yourself to hear these
25 cases?

1 A. That's correct.

2 Q. And you were on the ballot unopposed?

3 A. I was.

4 Q. And I think you would acknowledge that
5 -- would you acknowledge it's very common today in
6 Minnesota that judges are unopposed?

7 A. That's true. It's starting to become
8 more uncommon. But, yes, it is common that most
9 judges are unopposed.

10 Q. So you were unopposed. It's correct
11 that nobody challenged your ability to hear the
12 case. But would you agree because you were on the
13 ballot it does -- and the cases that you spoke
14 about earlier, they were election cases. So
15 election laws do apply and it's a unique body of
16 law for elections, certainly; right?

17 A. Yes, I would say so.

18 Q. Have you yourself tried very many other
19 election cases in the past, very many?

20 A. No.

21 Q. So it was new to you?

22 A. It was new to me as well.

23 Q. And I think you would agree that 2020
24 was a year that was unprecedented in the issues
25 that arose prior to the elections?

1 A. Well, the issues that were raised,
2 certainly it was unprecedented in my experience.

3 Q. Right. Let's kind of walk through some
4 of those issues. So COVID happened. How did that
5 affect the courts?

6 A. It affected us tremendously. We had to
7 pivot and then go from figuring out how to hear
8 these cases from in-person to some form of remote
9 system. It took a bit for us to pivot and figure
10 that out.

11 Q. How do you think that the COVID rules
12 affected attorneys that came before you?

13 A. By COVID rules, you mean distancing and
14 appearing remotely and those type of things?

15 Q. And just generally communication with
16 people, you know, not being together.

17 A. I think that that is really and
18 continues to hurt the profession, frankly, in my
19 opinion. I think not having attorneys in the
20 courtroom hurts building relationships amongst
21 lawyers. It hurts developing new lawyers and it
22 hurts the resolution of cases. It also allows for
23 lawyers, frankly, to be less civil towards each
24 other. So I think there is some significant damage
25 associated with doing cases remotely.

1 I also believe that handling cases
2 remotely improves access to justice for some
3 people. Particularly the poor, who cannot afford
4 to miss a day of work for what would be a five or
5 ten-minute hearing or cannot afford to have someone
6 care for their children while they have to come to
7 court or have to hop on a bus to get to court.

8 So there is some pros and cons to the
9 process. So we need to find the proper balance.
10 I'm sorry, that's probably more than you wanted to
11 know. But I have some strong feelings about remote
12 hearings.

13 Q. No, I think it's actually really
14 important. I think that this process, the court
15 process, not just this process but court should be
16 about more of sometimes a conversation than
17 interrogations. I think that it's important that
18 people be heard, that people be allowed to speak.
19 And so I believe that that is how we get to the
20 truth. That's how we get to solutions that we all
21 come together on. So I appreciate that. And I
22 hope to do nothing to interfere with your ability
23 to communicate at all.

24 So how do you think from your
25 experience as a judge that these COVID -- the COVID

1 circumstances affected attorneys' relationships
2 with even each other and with their clients?

3 A. I don't know that I have, you know,
4 scientific evidence. It's mostly my perceptions
5 that I think that it's much more difficult to
6 resolve cases and for attorneys to communicate when
7 they don't see each other in the courtroom. And,
8 frankly, at some level, it almost reduces the value
9 of the case itself. There is something about
10 walking into a building like the one we are in,
11 it's meaningful. And we have taken that meaning
12 away at a significant level.

13 Q. I agree. I agree. Again, I think it's
14 very important that people be in-person when they
15 can. But that, also, we let people speak. It also
16 allows the public to have better access to even see
17 proceedings when they are streamed. Not all are.
18 But sometimes they are. I think that the hearing
19 that we had in December was live-streamed and I
20 think people watched it. And so I know that we
21 shared the information with people. I think the
22 more people see justice being fairly addressed, do
23 you agree, that that helps to promote the integrity
24 of the court when people see fairness and dialogue?

25 A. I agree.

1 Q. Also, civil proceedings. Civil
2 proceedings being civil promotes justice, would you
3 agree?

4 A. I would.

5 Q. So I do want to just ask a few
6 questions. And maybe there can be a stipulation.
7 So I do have some exhibits behind you that are
8 related to just statutes, chapters of statutes.

9 And so chapter 645, would you stipulate
10 that judges are bound to comply with the chapters
11 and statutes inside the chapter of the law? That
12 you are bound by 645, it's the canons of
13 construction and the grammar rules and how we apply
14 and interpret the law, would you agree?

15 A. Yes.

16 Q. And would you agree that the plain
17 language interpretation, which is, you know, in so
18 many cases, right, it talks about that this is a
19 requirement? Would you agree that almost all the
20 cases talk about some level of how we interpret the
21 statutes?

22 MS. HUMISTON: And I would object
23 at this time to foundation and relevance. Because
24 there is no statutory interpretation issue in this
25 matter.

1 MS. SMITH: I disagree. I believe
2 it does go to foundation. And I think there are
3 actually many laws that apply to the situation
4 which I will raise, if I'm allowed to proceed. But
5 this goes to interpretation.

6 THE COURT: Counsel, so far, I
7 have let you go really far afield, because I
8 thought you were trying to set up your arguments.

9 MS. SMITH: I am.

10 THE COURT: But you need to
11 present facts. The legal argument you can make in
12 your briefs. The witness has told us that he
13 agrees to be -- that he is bound by the laws.

14 MS. SMITH: Okay.

15 THE COURT: So unless there is
16 something specific that bears on Rule 1.1, 1.2,
17 1.4, 8.4, 8.1 or Rule 25 of the rules, I think that
18 this is not relevant.

19 MS. SMITH: So I object. Because
20 I believe that the rules are subject to the
21 statutes. And there are statutes that govern
22 judges and attorneys. And the statutes actually
23 are primary authority and the rules cannot violate
24 those statutes. So I would like to raise the
25 issues of those rules, because I think it goes to

1 the heart of this issue.

2 THE COURT: Well, what specific
3 statute do you think is relevant to our
4 interpretation of the rules that I just gave you?

5 MS. SMITH: So I would start with
6 laying the foundation of it, which would be 480.05
7 Which is Exhibit 187 in the books behind him.

8 THE COURT: We can go to that. I
9 just caution you, counsel, I think you are really
10 going far afield here. What exhibit are you
11 referring to with respect to chapter --

12 MS. SMITH: It's the law.
13 Exhibit 187 --

14 THE COURT: Just a second. Let me
15 get this. Here we go. 187 is Mn. Stat. 480.05, is
16 that correct?

17 MS. SMITH: Yes.

18 THE COURT: All right. Ask the
19 question.

20 BY MS. SMITH:

21 Q. Do you have the exhibit before you?

22 A. I do.

23 Q. So this law does grant the Supreme Court
24 the authority necessary to carry out its judgments.
25 But as you go to the end, it is also very clear

1 that these rules cannot be inconsistent with the
2 law. Would you agree that that --

3 A. I agree that that's what it says.

4 Q. And so it's important to lay that as
5 foundation. Because there are laws now that I
6 would like to bring up that are relevant to this
7 issue that you may be familiar with. You may not
8 be familiar with. I don't know that, without
9 asking if your decision about my conduct which
10 forms the basis of the complaint that the Lawyers
11 Board is using is consistent with the law. So I
12 think it's relevant.

13 A. Do you have a question for me?

14 Q. I do. So would you agree -- so you
15 stipulate to that. So then I would like to go next
16 to Statute 481.07 which is marked as Exhibit 190.
17 And this statute specifically discusses penalties
18 for deceit or collusion.

19 Now, I'm not acknowledging I committed
20 these things. But I would just like to ask you
21 that -- can you read just the first sentence of
22 this statute.

23 A. An attorney who, with intent to deceive
24 a court or a party to an action or judicial
25 proceeding, is guilty of or consents to any deceit

1 or collusion, shall be guilty of a misdemeanor.

2 Would you like me to --

3 Q. And then the next clause.

4 A. And, in addition to the punishment
5 prescribed thereof, the attorney shall be liable to
6 the party injured in treble damages.

7 Q. So if there had been a hearing that was
8 specific to my discipline and my conduct and the
9 judge determined that in fact that I or another
10 attorney committed deceit or collusion, right, then
11 this statute would govern what the limitation would
12 be?

13 MS. HUMISTON: I would object to
14 the form of the question. Calls for a legal
15 conclusion.

16 MS. SMITH: I mean, he's a judge.

17 THE COURT: I understand that.
18 What's your response?

19 MS. SMITH: It's relevant. I
20 think it's relevant to this.

21 THE COURT: I will overrule. You
22 can answer.

23 A. So this statute pertains to a criminal
24 penalty. Which I'm not a city attorney or a county
25 attorney, so I can't issue a criminal penalty.

1 It also pertains to a civil suit. So I
2 can't file a civil suit against you. I was limited
3 in my authority to sanction you. Which is what I
4 did. And I was limited in my authority to file a
5 complaint against you. And what I did.

6 Now, if the litigants who you named on
7 those complaints wanted to sue you, they certainly
8 could have. And they would certainly, I guess, be
9 entitled to treble damages.

10 Q. Treble damages.

11 A. Anyway, that's the way I read it. Or if
12 the city attorney of St. Paul wanted to file a
13 criminal charge against you, it seems to me they
14 certainly could have.

15 Q. So --

16 A. That they didn't do it is outside of my
17 control or understanding.

18 Q. So then we already talked about or
19 stipulated about 645 and the rules of construction
20 and how the laws are applied. And so for lawyers
21 who read these laws who are also applying those
22 rules, that this doesn't -- Does this law, do you
23 believe, because under 645.19 -- which if you want
24 to look it up, it's Exhibit 197 -- if there are
25 provisions of a law that specifically state

1 conditions, that then there can be other conditions
2 added.

3 So do you believe that you have the
4 inherent authority to go outside of this law to
5 determine a disciplinary action that is not
6 consistent with 481.07, or could you refer it to
7 criminal prosecution?

8 MS. HUMISTON: At this point, I
9 would object to the form of the question. I lost
10 it.

11 THE COURT: I think your question
12 is compound and contradictory. I think what you
13 are trying to ask him is whether he -- whether a
14 lawyer reading this would interpret it as applying
15 in this situation.

16 BY MS. SMITH:

17 Q. So, I guess, do you think that you have
18 the authority -- you have the right as a judge when
19 you see a problem to make a referral to the Lawyers
20 Board; right? Correct?

21 A. I believe so, yes. So do you.

22 Q. Uh-huh. You also have the ability to
23 make a referral to the criminal side, suggesting
24 that they seek to charge any attorney with a crime
25 that would be a misdemeanor? That would be within

1 your authority to do?

2 A. I suppose anybody can make a referral to
3 the city attorney. It's not a matter of authority.
4 It's just if someone sees a crime take place, I
5 suppose they can contact the authorities, whether
6 it's law enforcement or city attorney, and inform
7 them that a crime has been committed.

8 Q. If a person is found guilty of a
9 misdemeanor, do you know what is the fine generally
10 for misdemeanors?

11 A. There is no general fine. But the
12 maximum sentence is 90 days in jail or a \$1,000
13 fine.

14 Q. Or a \$1,000 fine for a misdemeanor. And
15 what about treble damages? What are treble
16 damages?

17 A. Treble damages are generally three times
18 the amount of damages that are awarded.

19 Q. If you want to just turn the page. I
20 would like to submit Exhibit 191, Minnesota Statute
21 481.071, misconduct by attorneys.

22 MS. HUMISTON: I'm sorry, what was
23 that?

24 THE COURT: 191?

25 MS. SMITH: Yeah, Exhibit 191. It

1 is Statute 481.071, misconduct by attorneys.

2 BY MS. SMITH:

3 Q. So would you read it. It's very short.
4 Would you read it.

5 A. Yes. Every attorney or counselor of law
6 who shall be guilty of any deceit or collusion, or
7 shall consent thereto, with intent to deceive the
8 court or any party, or who shall delay the
9 attorney's client's suit with a view to the
10 attorney's own gain, shall be guilty of a
11 misdemeanor and, in addition to the punishment
12 prescribed by law therefor, shall forfeit to the
13 party injured treble damages, to be recovered in a
14 civil action.

15 Q. So this statute, which also governs
16 misconduct, which is what you were dealing with,
17 right, in that hearing that started out as a
18 removal hearing turned into a disciplinary
19 hearing --

20 MS. HUMISTON: I would object to
21 the form of the question. Misstates the evidence.

22 THE COURT: I think you are
23 testifying.

24 BY MS. SMITH:

25 Q. So when you read the statute here, do

1 you agree that this addresses misconduct by
2 attorneys as to deceit or collusion? Yes?

3 A. It addresses criminal penalties and
4 civil liabilities for attorneys who are guilty of
5 deceit or collusion.

6 Q. And you determined that I committed
7 deceit -- Is fraud on the court deceit? Do you
8 consider fraud on the court deceit?

9 A. You know, I would consider what you did
10 to be deceit, yes.

11 Q. So you determined at the hearing that I
12 committed a fraud on the court, which you believe
13 is deceitful?

14 A. Yes.

15 Q. Did you recommend to the parties that
16 they seek civil action, or is that your role to do
17 that?

18 A. It's not my role.

19 Q. It's not. But you also can't award
20 civil damages outside of a case being brought?

21 A. Generally not.

22 Q. And, again, you just established that a
23 misdemeanor is generally a fine less than a couple
24 thousand dollars? Certainly not \$10,000?

25 A. Certainly not \$10,000.

1 Q. I would like to go to the next exhibit,
2 which is proof of authority. It is Minnesota
3 Statute 481.09.

4 A. Which exhibit number?

5 Q. 192. Just turn the page, please. So
6 could you read the statute. It is very short.

7 A. A court, upon motion and hearing, and
8 when reasonable grounds are shown, may require any
9 attorney to prove the attorney's authority to
10 appear and, until such proof is made, may stay all
11 proceedings by the attorney on behalf of the party
12 the attorney assumes to represent. At any stage of
13 the proceedings the court may relieve a party from
14 the consequences of the unauthorized acts of an
15 attorney and, upon motion, may summarily compel
16 such attorney to repair any injury resulting
17 therefrom.

18 Q. This is not a criminal statute, would
19 you agree? This one is not criminal?

20 A. It doesn't appear to be.

21 Q. Not criminal. Okay. So when you had
22 the hearing, was there a motion in the hearing to
23 have a hearing to determine this, the action of the
24 lawyer?

25 A. I'm sorry, which hearing?

1 Q. The hearing that you held. The hearing
2 that was held on March 26.

3 A. Okay.

4 Q. Was there a motion to have the hearing?

5 A. Yes. I filed the motion sua sponte.

6 Q. So you filed the motion?

7 A. Right.

8 Q. And had a hearing. And then you had --
9 at the statute, you could have required me to prove
10 whether or not I believe I had authority to appear;
11 right?

12 A. I tried to do that. I tried to do that
13 by asking you a series of questions, which you
14 refused to answer, or you started dancing around
15 repeatedly. I mean, I'm not going to read the
16 entire transcript, although, I did read it this
17 morning, and you refused to answer the questions.

18 So when you started answering the
19 questions and you started telling me that you
20 hadn't met any of these folks, you didn't know
21 their phone numbers, you didn't know their
22 addresses, you had never had a conversation with
23 any of them, that made it very clear to me that you
24 were not representing these individuals. You just
25 started your cross-examination of me talking about

1 communication. Well, you had zip when it came to
2 these plaintiffs.

3 Q. So you made a decision that whatever
4 information that I was trying to present was not
5 relevant and my perception --

6 A. It was completely relevant. It was
7 completely relevant --

8 Q. Did you let me --

9 A. -- and then it led me to believe that
10 you had no communication with any of the
11 plaintiffs, and you, in fact, were not representing
12 any of the plaintiffs. And that, combined with the
13 testimony of the witnesses that testified at the
14 hearing, made it abundantly clear. And as you sit
15 there today, you can't say that you represented any
16 of the plaintiffs.

17 Q. So as we go on we will get to some of
18 these issues that you are raising. I don't agree
19 with you, obviously. So I want to walk through
20 that. As to this proof of authority, that this
21 statute does give you the authority -- when proof
22 of authority is questioned, which is what happened;
23 correct? There was a question of proof of
24 authority?

25 A. I suspect, yeah, that that's what

1 happened.

2 Q. Okay.

3 A. There was a question as to whether or
4 not you represented those plaintiffs.

5 Q. So what your authority was in a hearing
6 of this kind which you made the motion to call, is
7 to relieve the parties of any obligations; right?
8 Relieve the party from the consequences of the
9 unauthorized acts of the attorney?

10 A. Yes.

11 Q. And then upon a motion you may compel
12 the attorney to repair injury resulting therefrom?
13 Those are the two things that you can do?

14 MS. HUMISTON: I would object.
15 Misstates the testimony. Judge Castro explained
16 the basis of his authority and so does his
17 memorandum.

18 BY MS. SMITH:

19 Q. So the statute allows --

20 THE COURT: Why don't you restate
21 your question. What I think you are trying to get
22 at is whether he was operating under Statute
23 481.071.

24 MS. SMITH: Which is a criminal
25 statute. He said that that's a criminal statute.

1 BY MS. SMITH:

2 Q. And it wasn't a criminal proceeding;
3 correct? So this leads us to the civil proceeding;
4 right? Is that correct? Would you agree?

5 A. I believe that in my order for the
6 hearing I outlined the authority for the hearing.

7 Q. Okay. So we will get to that in a
8 moment. Thank you. So the repair of the injury
9 that results, that would be an injury to the client
10 not the court? Is the injury we are talking about
11 injury to the client or to the court?

12 THE COURT: Are you talking about
13 under Minnesota Statute 481.09?

14 MS. SMITH: Correct. Right.

15 THE COURT: Do you have the
16 question in mind, Judge?

17 THE WITNESS: I do.

18 A. It doesn't mean client, because they
19 weren't clients. It means the named plaintiffs in
20 this case.

21 BY MS. SMITH:

22 Q. The contestants. Okay. Now, I would
23 like to introduce Exhibit 193, which is Minnesota
24 Statute 481.15, removal or suspension. Which is I
25 think relevant to this case.

1 So there are four reasons that lawyers
2 can be removed and suspended. And you are a judge,
3 so I would like you to look at these with me. The
4 first is that if a lawyer is convicted of a felony
5 or a misdemeanor involving moral turpitude. Do you
6 believe that applies? Do you believe that?

7 A. I believe that's what it says on the
8 document.

9 Q. And that would require an intent? Would
10 those be intent to crimes -- would those be
11 intentional acts?

12 A. I don't know the answer to that
13 question. Some misdemeanors are not intentional
14 acts.

15 Q. The second condition. Upon showing that
16 the attorney has knowingly signed a frivolous
17 pleading, or been guilty of any deceit or willful
18 professional misconduct.

19 Does deceit, is that an intent -- does
20 deceit require intent to be deceptive?

21 A. It generally does.

22 Q. How about willful professional
23 misconduct? Do you have to be willful?

24 A. Yes.

25 THE COURT: Counsel, are you

1 arguing that Mn. Stat. 481.15 applies to this case?

2 MS. SMITH: Yes, I am.

3 THE COURT: Madam Director, is the
4 Director taking the position that this hearing,
5 this petition is under that or pursuant to that
6 statute?

7 MS. HUMISTON: The Director is
8 not.

9 THE COURT: And the Director is
10 arguing that the misconduct relates to the rules of
11 the lawyers professional conduct set forth in the
12 petition?

13 MS. HUMISTON: Correct.

14 THE COURT: Counsel, at this rate,
15 we are not going to finish this witness until
16 tomorrow. I'm losing my patience here. Why is
17 this even relevant?

18 MS. SMITH: Because I believe that
19 under the law the rules have to comply with the
20 law. And I believe that the petition which she
21 filed against me exceeds the rights under the law
22 because of the need to show intent as what that
23 means. And so these proceedings are based on what
24 Judge Castro and the other witnesses submitted to
25 her. And I'm sorry that it's tedious. And I don't

1 think it will take all day. I think we are getting
2 to the bottom of it. But I believe that the
3 statutes are superior to the rules. As established
4 earlier, the Supreme Court has a right to
5 promulgate the rules, but they have to be
6 consistent with the law. And this particular law
7 hasn't been amended since 1986 --

8 THE COURT: Okay. I think I
9 understand your argument a little better. You
10 didn't plead this in your answer. That's problem
11 number one that I have.

12 Problem number two is -- this is a
13 legal argument you are making. You can make the
14 legal argument in your brief. We don't need this
15 witness to set forth any facts. If there are some
16 facts here that you need to get out, then I want
17 you to make a record of that. And I'm not
18 foreclosing that. But right now we are just
19 spinning our wheels, talking about what the statute
20 says. And I don't believe -- I think the
21 Director's position is the statute doesn't apply.
22 I don't think that there is any issue about what
23 the statute says. Under 645, as you said earlier
24 today, we interpret a statute based on the plain
25 and ordinary meaning of the words. And I can do

1 that. But I don't see that testimony of this
2 witness on that topic is relevant. So I'm going to
3 encourage you to move on.

4 MS. SMITH: All right. So let's
5 go to the hearing notice that was sent out in my
6 Exhibit 216.

7 THE COURT: Just one second.

8 MS. SMITH: Ready?

9 THE COURT: Yes, I'm ready. Thank
10 you. Please, proceed.

11 BY MS. SMITH:

12 Q. So I just want to clarify that you said
13 earlier that you received communication from C.B.
14 and that that was the issue that triggered you to
15 call the hearing?

16 A. Correct.

17 Q. And so she asserted -- so your "Whereas"
18 -- at your fourth "Whereas" of the order.

19 A. It's 217?

20 Q. 216 still.

21 A. 216 is just the notice.

22 Q. The order for the hearing.

23 A. All right. Yes.

24 Q. So she asserted in a letter that she had
25 been fraudulently listed as a plaintiff in the

1 matter without her knowledge or permission; right?

2 That's what she asserted?

3 A. I believe so.

4 Q. And so you weren't required to comply
5 with her request, just a letter? You chose to do
6 that, right, because of what you said earlier;
7 right?

8 A. Yes.

9 Q. And did you do any fact-finding besides
10 her letter?

11 A. No, that would have been inappropriate.

12 Q. So I would like to now submit into
13 evidence my exhibit as 219. And this was submitted
14 to the court on March 19 in response to your order.
15 Did you read the submission?

16 A. I did.

17 Q. So I would like to go to page 7. I
18 think that might be an unredacted affidavit. I
19 think in my quest to keep this -- I think there is
20 a redacted version in here. But that's okay, I
21 think I -- is it okay with you that we use a
22 redacted one? Because the names aren't really
23 relevant.

24 A. Whatever you would like to use.

25 Q. So this is an affidavit that was

1 submitted. You acknowledge it's an affidavit;
2 right?

3 A. It appears to be.

4 Q. Okay. And --

5 A. There is a declaration under the penalty
6 of perjury.

7 Q. Correct. Correct. And so if you go to
8 page 11 of this exhibit. It actually starts on
9 page 10 and it carries over because of the copy.
10 It starts on page 10. This email was sent. This
11 particular email that you are looking at was sent
12 from the Minnesota Conservative Causes, mntrump@
13 googlegroups.com. Do you see that?

14 A. Yes.

15 Q. And that this email was actually a
16 forwarded email that had been sent by the Minnesota
17 Election Integrity Team. Do you see that right
18 below it? It says Begin forwarded message?

19 A. It appears to be.

20 Q. So this email was originally sent by the
21 Minnesota Election Integrity Team to Minnesota
22 Conservative Causes. So you acknowledge that;
23 right?

24 A. I do.

25 Q. So this email -- and if I need to find

1 an unredacted one I can -- was sent to C.B. That's
2 her group. Which we can establish when she
3 testifies later or I can find an unredacted one.

4 A. No, I believe that's my understanding.

5 Q. So she received this email. And these
6 documents were submitted to the court. You said
7 you read them?

8 A. I did review these documents before the
9 hearing.

10 Q. So I would like to go to now -- I would
11 like to submit Exhibit 225. Which is I think one
12 of the ones I think we have to agree to enter?

13 THE COURT: Just a second,
14 counsel. Have these exhibits that we just
15 referenced been admitted?

16 MS. HUMISTON: Yeah, I mean, the
17 Director doesn't have any objection to 215.

18 THE COURT: Then, counsel, you can
19 just refer to them as an exhibit if they have
20 already been admitted.

21 We will take our morning recess
22 whenever is appropriate for you. We have been
23 going for about an hour and a half. We'll go
24 another 10, 15 minutes. So just pick a time and we
25 will take a break, please.

1 MS. SMITH: Okay. So the exhibit
2 I'm talking about is actually Exhibit 225 not 215.
3 So I want to make sure we don't get confused. So
4 Exhibit 225. And there was a little bit of
5 confusion about this exhibit, and so I do have some
6 documents about that.

7 MS. HUMISTON: Yes, I objected to
8 that one.

9 MS. SMITH: Yes, this
10 correspondence. So there is a document inside of
11 this that --

12 THE COURT: Just a second. I have
13 got to find it. I will tell you what, let's take
14 our morning break now. I will find the exhibit and
15 we will resume our discussion about Exhibit 225.
16 Take 15 minutes. We are off the record.

17 (A recess was taken from
18 10:35 a.m. until 10:49 a.m.)

19 THE COURT: Please be seated,
20 everyone. Ms. Smith.

21 BY MS. SMITH:

22 Q. Judge Castro, would you acknowledge that
23 if you were misled by a party who said they didn't
24 know something or they were unaware, would that
25 potentially change your perception of how this

1 matter proceeded?

2 A. If I would have communicated with the
3 party and they provided me with false information,
4 yeah, I would say that that would probably change
5 my thought on how this matter proceeded.

6 Q. Do you think it's possible not just
7 specifically in this case but in any case that
8 there can be unintentional communication, that
9 people were misunderstanding things that is not
10 intentional, that is rooted in mistake or trust?
11 Could that happen?

12 A. Yes, absolutely.

13 Q. So in the order, Exhibit 216, we can go
14 back to that. Let me know when you are ready.

15 A. Ready.

16 Q. So the very last thing in the order, if
17 you can confirm that it says that, "Any party
18 intending to file a written argument must do so at
19 least 7 days prior to the confirmed hearing date."

20 A. Yes.

21 Q. That is correct?

22 A. That's what the order states.

23 Q. And when this order for hearing was
24 issued, that at that point we knew about just C.B.?
25 That's all that I knew about who had raised a

1 concern. Were you aware of more than that when --

2 A. That was the only letter that I had
3 received, yes.

4 Q. Correct. I believe that's correct. So
5 I submitted a document per the order that I think
6 you read that it was submitted March 19. You
7 acknowledged you read it. Did the other parties
8 submit written documents to the court?

9 A. I don't recall.

10 Q. So if you --

11 A. By the "other parties," are you
12 referring to the defendants?

13 Q. The people that -- no, I'm referring now
14 -- because you have separated out I think -- maybe
15 let me rephrase it. Did any of the contestants
16 submit documents to the court prior to the hearing?

17 A. Not that I recall.

18 Q. So there were documents -- if you look
19 at Exhibit 217. Those documents were submitted to
20 the court.

21 A. This document Exhibit 217 was filed with
22 the court on March 24, two days prior to the
23 hearing. It was submitted by W.H. She states that
24 she was fraudulently listed without her permission
25 or knowledge as a plaintiff to the lawsuit.

1 Q. Correct.

2 A. So, yes.

3 Q. And then I did submit to the court prior
4 to the hearing -- or were you aware that I did
5 submit a motion to postpone the hearing so that all
6 the information could be addressed?

7 A. I don't recall.

8 Q. Are you aware of that? And do you
9 remember when the hearing began I did seek a
10 continuance at the beginning of the hearing?

11 A. I did. I do. I believe I do remember
12 that, yes.

13 Q. And then, additionally, I think -- I
14 think we can stipulate, so we know that Erick
15 Kaardal signed as an attorney?

16 A. Right. I believe he was representing
17 C.B.

18 Q. Correct. And so do you recall a
19 decision was made not to do a continuance at my
20 request, which I made, so that the issues could be
21 addressed fairly so I could review all the
22 information? That was not granted. Do you
23 remember that?

24 A. That's correct.

25 Q. So if it were true that the contestants

1 actually did have knowledge and you were to learn
2 that, would then your perception be affected?

3 A. It depends on what you refer to as
4 knowledge. If the contestants agreed to be
5 plaintiffs in the lawsuit, then that would change
6 my perception. But that's not the information I
7 received.

8 Whether they had knowledge that you or
9 some organization was going to file a lawsuit, that
10 would not have changed my decision. Because having
11 knowledge that some third party is going to file a
12 lawsuit doesn't make you a plaintiff.

13 Q. So did you review the affidavit? Did
14 you review them?

15 A. I reviewed all the information that was
16 submitted prior to the hearing.

17 Q. Okay. So I would like to ask you, you
18 engaged in private practice prior to becoming a
19 judge? Did you have private clients?

20 A. Very briefly at the beginning of my
21 career. I spent most of my career as a public
22 defender for the State of Minnesota.

23 Q. So in your experience that you do have,
24 do attorneys often use affidavits under penalty of
25 perjury with clients when they engage in a

1 relationship?

2 A. In civil cases, all the time.

3 Q. And so we can go back to the affidavit.

4 If you want to look at the language of the
5 affidavit.

6 A. If I want to look at the language?

7 Q. Well, I would like to just quickly go
8 through it.

9 A. And what's the number of the exhibit?

10 Q. So there is a blank affidavit in 225,
11 which we could pull out.

12 MS. HUMISTON: Why not just go to
13 the 229 -- or 219 that --

14 MS. SMITH: The redacted is fine.

15 MS. HUMISTON: -- Judge Castro has
16 already said he reviewed.

17 BY MS. SMITH:

18 Q. So this affidavit, which again, you
19 acknowledged was signed under penalty of perjury;
20 correct?

21 MS. HUMISTON: If I could
22 interrupt. I'm not sure what affidavit we are
23 talking about. Exhibit 219 is an affidavit of
24 attorney that then has attachments. Is there
25 something specifically --

1 MS. SMITH: So on page 7 there is
2 the exhibit of the eligible voter which was sent by
3 the MNEIT to the people --

4 THE COURT: I'm sorry, counsel, I
5 don't know -- I have got an Exhibit 219 and it has
6 Exhibits G in it, A and --

7 MS. SMITH: It's Exhibit 219 at
8 the top. So you had requested that exhibit be at
9 the top. So this is a document that is inside a
10 document. So Exhibit 219 at the top, page 7.

11 THE COURT: And this is your
12 exhibit?

13 MS. SMITH: Yes. I think.
14 BY MS. SMITH:

15 Q. So this exhibit which --

16 MS. SMITH: Did you find it, Your
17 Honor?

18 THE COURT: No, I'm still -- so I
19 have an affidavit of attorney and then I have an
20 affidavit of Mr. Jimenez that's Exhibit A.

21 MS. SMITH: So if you go to page 7
22 of Exhibit 219.

23 THE COURT: I don't have numbers
24 --

25 MS. HUMISTON: It's not numbered

1 7. But if you just count after the signature block
2 for Mr. Jimenez, it says Exhibit A at the top
3 Affidavit of Eligible Minnesota Voter.

4 MS. SMITH: We looked at it a bit
5 ago.

6 THE COURT: Thank you. I have it.

7 BY MS. SMITH:

8 Q. So this is in fact C.B.'s affidavit.
9 This affidavit would you agree it has six
10 underlined paragraphs?

11 A. It does.

12 Q. Paragraph 4 -- well, first, it starts,
13 would you agree, that the affiant is declaring that
14 the following statements are made to the best of
15 their knowledge and information and their belief;
16 right? It says that?

17 A. It does say that at the bottom.

18 Q. So paragraph 4 --

19 A. I'm sorry, it says that at the top.

20 Q. At the top. So the affiants in
21 paragraph 4 attests to the fact that they are
22 contesting the election of the candidates listed
23 below, they had a right to vote, and Tina Smith is
24 there and then what you see written is Ilhan Omar;
25 right?

1 A. Yes.

2 Q. And then paragraph 5 states reasons why
3 they are contesting the elections. So they are
4 contesting the election for the following reasons.
5 And there is four. Then paragraph 6, would you
6 agree it says that C.B. understands she's joining
7 other voters to contest the election results? It
8 does say that?

9 A. That's what it read, yes.

10 Q. And then it says that she declares under
11 penalty of perjury that everything she has stated
12 in the document is true and correct; right?

13 A. That is correct.

14 Q. And then at the bottom it says please
15 return to the election integrity at gmail; right?

16 A. That's correct.

17 Q. So are there a lot of documents as a
18 judge that you see the penalty of perjury statement
19 at the bottom that aren't related to litigation,
20 just from your experience?

21 A. Any affidavit that's not related to
22 litigation -- any affidavit should have a
23 declaration of perjury or should be notarized under
24 penalty of perjury.

25 Q. So it's a document that has a greater

1 meaning than just an average meaning, would you
2 agree? When you have that language of perjury, it
3 has to be relevant that there is a reason why it's
4 under penalty of perjury, would you not agree?
5 It's normal, like, you know, a grocery list or
6 something or a -- I mean, it's under penalty of
7 perjury for a reason, would you agree?

8 A. Yeah, they want to confirm that they are
9 telling me the truth.

10 Q. Right. And so when they sign this and
11 they sent it back to the Minnesota Election
12 Integrity Team that -- would you agree that people
13 who sent them back they did in fact send them back
14 to the Minnesota Election Integrity Team -- if they
15 signed it and sent it back, then that would be
16 reason for the Minnesota Election Integrity Team to
17 think these people were in fact doing what they
18 said in this form?

19 A. I can't speak for what the Minnesota
20 Election Integrity Team was thinking.

21 Q. So you said earlier at the hearing --
22 obviously, I was there. Jose was also there;
23 correct? Jose Jimenez?

24 A. He was.

25 Q. But he was not allowed to participate

1 because you had determined he was not -- he had not
2 been retained by these people?

3 A. He had not been retained by you or by
4 any of the named plaintiffs and he had not filed a
5 certificate of representation either.

6 Q. So --

7 A. Frankly, I don't think you filed a
8 certificate of representation either in this
9 matter.

10 Q. So if -- I guess maybe we need to go to
11 the transcript. And my transcript is -- my copy of
12 it is 221.

13 MS. SMITH: Is everybody ready?

14 A. I am.

15 MS. SMITH: Judge Dietzen, are you
16 ready?

17 THE COURT: Yes. I'm sorry. I'm
18 ready.

19 MS. SMITH: No, that's okay.

20 BY MS. SMITH:

21 Q. So, again, once the hearing began and
22 everybody introduced themselves, Jose, you know,
23 was there and you determined that he was not
24 counsel and then -- but he was present and -- is
25 that true? And then, as earlier said, I asked if I

1 could -- if we could get a continuance and Erick
2 Kaardal requested we move on; correct? So that's
3 on page 7 to 8; right? And --

4 A. Do you want me to answer that?

5 Q. Yep.

6 A. Give me a second. I will look at the
7 transcript. Yes, I see that. That's correct.

8 Q. So I did request that we have the
9 opportunity to review all the documents and be able
10 to respond because I believed there was confusion.
11 So that's stated here?

12 A. You may need to direct me to the line
13 you are referring to. I don't specifically see
14 that.

15 Q. So it's on page 8. Starting I guess at
16 the top, you know, one, I put forward in here that
17 I believed there was confusion and that I believed
18 that there were many issues that needed to be
19 unpacked so that everybody could learn the facts
20 from everybody's perspective, right?

21 A. Well, you asked for a continuance. You
22 were feeling a bit confused as the purpose of sort
23 of where this hearing was going. You also stated,
24 I think there is a lot of confusion about this
25 matter and we need to review all these documents

1 that have been now submitted after the deadline.

2 Q. Correct.

3 A. So you asked for a motion to continue
4 the hearing. Which I denied.

5 Q. Correct. So as we went through this
6 hearing, there were a few questions asked of C.B.
7 that were -- so it was Mr. Kaardal just asking a
8 few questions. And so if we get down -- I think we
9 can scroll through to when I began to try and ask
10 questions of C.B. And you stopped the
11 questioning --

12 A. What page are you referring to?

13 Q. So I'm trying to scroll down to get to
14 it. Now we are on page 15 of the transcript.

15 A. You started asking your
16 cross-examination questions on page 15.

17 Q. Yes. At the bottom.

18 A. And on page 16 I said that I was going
19 to ask you to keep your line of questioning as to
20 whether or not you were representing C.B. and you
21 represented C.B. in this particular case. Her
22 political activism is of absolutely no concern of
23 the court. Because you were asking her whether or
24 not she was politically active.

25 Q. So when I attempted to ask her questions

1 which then went to the email that she received -- I
2 asked her about the email. She did confirm that
3 she received the email and that she did in fact
4 respond to the email.

5 MS. HUMISTON: At this point, I
6 would like to object to kind of the manner of
7 questioning. I mean, the transcript speaks for
8 itself. I'm wondering if we can have Ms. Smith ask
9 the witness particular questions as it relates to
10 the matter versus kind of going through it?

11 THE COURT: Ms. Smith, I think
12 that's a relevant -- I think you should try and
13 streamline your questioning here.

14 BY MS. SMITH:

15 Q. So C.B. did acknowledge that she did in
16 fact submit the affidavit; right? She did
17 acknowledge she did submit the affidavit and send
18 it in?

19 A. I believe so.

20 THE COURT: Counsel, where are we
21 going with this? The transcript is before us.

22 MS. SMITH: So, ultimately, my
23 questions were cut off and -- because I believed
24 that I needed to lay foundation and discuss the
25 fact that she did in fact know that she signed an

1 election contest. She joined in that with the
2 Minnesota Election Integrity Team. And it was in
3 the email that she received.

4 THE COURT: Counsel, maybe I'm
5 confused, but this litigation has been appealed and
6 determined. Aren't you trying to collaterally
7 attack a ruling by the court that has already been
8 reviewed by the Court of Appeals?

9 MS. SMITH: I think that the
10 complaint that he filed directly stems from even
11 this hearing and the process. And so my being
12 disciplined about this in this hearing, which was
13 not a disciplinary hearing -- although, I think it
14 did turn into a disciplinary hearing -- it was
15 about her removal. Well, it should have been about
16 only that and then it expanded.

17 So I don't actually think -- I think it
18 is relevant what happened. And then as we get into
19 the questioning, when Judge Castro began
20 questioning me, which is later, and I did try to
21 answer questions and bring facts in -- so we can go
22 to that I guess now.

23 THE COURT: Counsel, I'm still --
24 I mean, help me here. How does that relate to
25 whether or not there is a rule violation as alleged

1 in the petition?

2 MS. SMITH: Because I wasn't
3 allowed to speak and respond to the complaints that
4 he ended up alleging. And I wasn't allowed -- I
5 didn't have due process. I wasn't able to defend
6 myself in this process.

7 THE COURT: Assuming that's true,
8 how does that relate to whether or not you
9 committed misconduct in violation of Rule 1 or 1.2
10 or 1.4 or 8.4?

11 MS. SMITH: Because I think that I
12 didn't. I think that the facts matter. All of the
13 facts in the situation mattered. What I believed
14 to be true mattered. What --

15 THE COURT: Well, what you
16 believe -- your state of mind is something that you
17 can testify to. And I have already said that I
18 will allow some of that. But we are going to
19 cross-examine a transcript that's already before us
20 and --

21 MS. SMITH: So let's move on. I
22 guess I would like to ask him a couple of questions
23 about his orders that he addressed earlier. A
24 little bit of the timelines of them. Would that be
25 appropriate questioning?

1 THE COURT: If you can tie it
2 into the relevance of whether or not you committed
3 misconduct as alleged in the petition, you
4 absolutely can pursue it. But if it's simply a
5 matter of second guessing the Judge's motivations,
6 I'm not going to allow you to do that.

7 MS. SMITH: So I think that it
8 potentially does, because of the impact it may have
9 had on the people who responded. So I just want to
10 clarify the timeline, maybe, just in response.
11 Because he did testify earlier with Ms. Humiston's
12 questions about the timelines. I just do want to
13 address the timelines briefly.

14 BY MS. SMITH:

15 Q. So the hearing was March 26 and then
16 there was an order that you said was signed on
17 April 9?

18 A. I believe so.

19 Q. Do you know the date the order was
20 actually filed with the court?

21 A. It would be on the stamp on the order
22 itself. If you can direct me to the exhibit
23 number, I can tell you what date the order was
24 filed.

25 Q. It is Exhibit -- let's see. It is I

1 think 222, I think.

2 MS. HUMISTON: No. Oh, sorry.
3 Okay.

4 A. That is correct. I can't read the date
5 stamp on that order. It looks like there is a
6 stamp over a stamp.

7 BY MS. SMITH:

8 Q. So that cover letter, the notice of
9 entry of judgment, that looks like Anna Vue or
10 something. I can't tell her handwriting. It was
11 dated May 4.

12 A. That's when the judgment was entered, on
13 May 4. That's not when the order was filed.

14 MS. HUMISTON: It's the Director's
15 Exhibit 15.

16 BY MS. SMITH:

17 Q. So then that order that you submitted
18 did not include a memorandum?

19 A. It did not. Because of the urgency of
20 the matter I thought it was appropriate to begin
21 the process of removing the names, which was going
22 to take quite a bit of time. And while that was in
23 the works, then I wrote the memorandum which I
24 filed sometime later.

25 Q. And then --

1 A. Just to get back to your question. The
2 order was filed on the same day I signed it, April
3 9, 2021. I signed it at 9:35 a.m. It was filed at
4 9:49 a.m.

5 Q. And then the memo was forthcoming, which
6 was put out June 14, I believe. And I think that
7 is Exhibit 224.

8 MS. HUMISTON: It's also Exhibit
9 18 of the Director.

10 A. The memorandum was filed on June 14 of
11 2021.

12 BY MS. SMITH:

13 Q. And then, additionally, on May 4 you
14 also issued orders -- those are the orders that you
15 issued for me to forward documents to the
16 contestants in the congressional cases. That is
17 Exhibit 223 of mine.

18 A. May 4 of 2021 I issued an order that you
19 prior to May 11 of 2021 engaged an independent
20 process server to personally serve a copy of this
21 order and the attached form to the named
22 contestants, to file proof of service with the
23 court that you did so.

24 Q. So, to your knowledge, I did comply
25 completely with this? I cooperated?

1 A. I assume that you did.

2 Q. So, I mean, Judge Castro, I appreciate
3 you coming here and testifying. Obviously, this
4 situation from my perspective is complicated. I
5 appreciate, you know, your answering the questions.

6 I just ask you that do you believe that
7 I should have or any person should have the right
8 to bring forward their perceptions of the facts in
9 a proceeding before a person is disciplined? Do
10 you believe that that should happen?

11 A. Well, of course. I believe in due
12 process. By discipline are you referring to this
13 process or the sanction that I imposed?

14 Q. I'm referring to all of it. Do you
15 believe that you -- that judges should be fully
16 informed, to the extent possible, prior -- and I
17 mean fully informed?

18 A. I believe they should and I believe I
19 was fully informed. There is nothing that I have
20 learned here today or have learned here since that
21 is different than the information that I had on
22 March 26. And I would rule the same, just the way
23 the three-judge panel ruled as I did and sanctioned
24 you as well.

25 Q. So I hope that you stay. I don't really

1 have any further questions. Because the evidence
2 will come out later, I will be able to present more
3 evidence, which I hope that you will eventually
4 consider. Just because I think you should --

5 A. There is nothing before me to consider.

6 Q. I'm talking about you as a person.

7 THE COURT: Any redirect from the
8 Director's Office.

9 MS. HUMISTON: No, Your Honor.

10 THE COURT: Any reason for the
11 witness to be on call for any further testimony in
12 this matter?

13 MS. HUMISTON: No.

14 THE COURT: You are excused. Than
15 you very much.

16 JUDGE CASTRO: And I'm just down
17 the street, if you need me.

18 THE COURT: Very good.

19 MS. HUMISTON: At this time, the
20 Director calls S.S.

21 THE COURT: S.S., please come
22 forward and be sworn.

23 S.S.,
24 the Witness in the above-entitled
25 matter after having been first duly

1 sworn, testifies and says as follows:

2 THE COURT: Please, sit down and
3 get comfortable. State your full name and your
4 address for the record.

5 THE WITNESS: My name is S.S. I
6 live at 2650 Jersey Avenue South, St. Louis Park,
7 Minnesota.

8 THE COURT: You may inquire,
9 counsel.

10 DIRECT EXAMINATION

11 BY MS. HUMISTON:

12 Q. S.S., the microphone in front of you can
13 be pulled forward, and it would be helpful for the
14 Court Reporter if you would speak into the
15 microphone.

16 Good morning. My name is Susan
17 Humiston and I'm the Director. Thank you for being
18 here today. Can you explain to the Court how you
19 are employed or are you currently retired?

20 A. I'm retired.

21 Q. What are you retired from?

22 A. The U.S. Postal Service.

23 THE COURT: I'm sorry, I didn't
24 get that.

25 THE WITNESS: United States Postal

1 Service.

2 BY MS. HUMISTON:

3 Q. You might want to pull the microphone a
4 little further. And when did you retire?

5 A. 2018.

6 Q. And you said you live in St. Louis Park?

7 A. Correct.

8 Q. And is that where you lived in 2020?

9 A. Correct.

10 Q. Can you tell us a little bit about your
11 educational background?

12 A. I have a bachelor's degree in art and --

13 Q. Did you spend most of your career with
14 the Postal Service?

15 A. About 23 years. So, yeah.

16 Q. Thank you. How did you learn that you
17 were named as a plaintiff or a contestant in a
18 legal proceeding related to the 2020 election?

19 A. C.B. contacted me, I can't remember if
20 it was by phone or via email, that I was named as a
21 contestant and there was a judgment against me.

22 Q. Now, in the books in front of you there
23 is a document with a blue cover that says part 1 of
24 2. Could you turn to Exhibit 36.

25 A. I'm not quite sure --

1 Q. Are you looking in the --

2 A. Well, the books were already open.

3 Q. I don't believe it's that one.

4 MS. HUMISTON: May I approach,
5 Your Honor? I'm sorry.

6 THE COURT: Yes, you may help the
7 witness find the exhibit. And then resume your
8 seat.

9 A. Then exhibit what?

10 BY MS. HUMISTON:

11 Q. Thirty-six. You will see there is an
12 Exhibit 36 and there is a 36A.

13 A. Yes.

14 Q. So the Exhibit 36 are the redacted and
15 36A are the unredacted. In the unredacted version,
16 can you turn to, you know, kind of page 4 of 5 of
17 Exhibit 36A.

18 A. Okay.

19 Q. Do you recognize this document?

20 A. I do recognize it now. I don't remember
21 filling it out.

22 Q. And when you say you don't remember
23 filling it out, can you say more? How is it that
24 you recognize this document?

25 A. Well, I see the -- it's something that

1 we discussed when I spoke with you.

2 THE COURT: When what?

3 THE WITNESS: When I spoke with
4 Ms. Humiston, it's a document that we discussed.
5 And I see that it has my birth date on it. That's
6 how I recognize it.

7 BY MS. HUMISTON:

8 Q. All right. And this document is
9 Affidavit of Eligible Minnesota Voter. Do you see
10 that?

11 A. Yes.

12 Q. But you have no recollection of signing
13 this?

14 A. No, I don't.

15 Q. Do you recall receiving information
16 relating to the 2020 election back in 2020?

17 A. I really don't. I thought I filled
18 something out like on a random website like
19 Twitter. But I don't recall really any details.

20 Q. And did you know what an election
21 contest was in 2020?

22 A. You know, I had a vague sense. But I
23 didn't realize it was a legal proceeding.

24 Q. And were you familiar with the Election
25 Integrity Team?

1 A. Not really, no.

2 Q. And have you had a chance to review this
3 affidavit?

4 A. Well, yes, I looked at it, yes.

5 Q. And is the information in it correct?

6 A. Well, yes. I guess. I mean, I do
7 believe that there are irregularities. I'm not
8 going to deny that. I believe that.

9 Q. And you live in St. Louis Park?

10 A. I do.

11 Q. And you were born in 1961?

12 A. Correct.

13 Q. And you said you believed that there
14 were irregularities in the 2020 election?

15 A. I do.

16 Q. Now, have you ever spoken to Susan
17 Smith?

18 A. No.

19 Q. Do you know who Susan Smith is?

20 A. No.

21 Q. Did you receive any emails from Susan
22 Smith?

23 A. Not that I recall, no.

24 Q. Do you remember speaking to anyone in
25 2020 from the Minnesota Election Integrity Team?

1 A. I never spoke to anyone from that group.

2 Q. And did you give your permission to
3 anyone to be listed as a plaintiff or a contestant
4 in a legal proceeding against Ilhan Omar and Steve
5 Simon?

6 A. I did not.

7 Q. And if someone in 2020 had asked you to
8 do so, would you have done so?

9 A. I would have wanted to know all the
10 details of what it might entail.

11 Q. Now, you said you learned -- you were
12 contacted by C.B., and what did you learn from her?

13 A. That she had discovered that myself and
14 several others were named as -- named in this
15 lawsuit, I guess, and that we had judgments against
16 us. And I was in shock.

17 Q. And what did you decide to do?

18 A. Well, at first, I was -- well, I was
19 terrified and I thought -- I really didn't know
20 what to do. But then she kind of explained to me
21 what she had done. And she let me know about the
22 hearing that was to take place. So if it weren't
23 for her, I wouldn't have even known about the
24 hearing. So I attended the hearing before Judge
25 Castro.

1 Q. And before you heard from C.B., had
2 anyone let you know that a judgment had been
3 entered against you?

4 A. No.

5 Q. Had you ever had an occasion to hire a
6 lawyer to represent you?

7 A. On a couple of occasions. I went
8 through a divor -- well, yes, I went through a
9 divorce. And then also I hired an attorney to draw
10 up a power of attorney for my husband when he was
11 about to pass.

12 Q. And do you just from your understanding
13 have an expectation of kind of what lawyers are
14 supposed to do when they agree to represent you?

15 A. Well, first of all, I would have
16 expected to hear from them directly and know
17 exactly what I was entering into. And I certainly
18 would have thought that I would have to pay them
19 for a retainer.

20 Q. What else would you expect from a
21 lawyer, just from your experience?

22 A. That they would have been completely
23 forthcoming with me about all that I might have
24 been up against or what I should expect moving
25 forward.

1 Q. Did you expect to receive copies of
2 things that were filed on your behalf?

3 A. Absolutely.

4 Q. And you were told about a hearing that
5 was to take place before Judge Castro? Is that
6 what you testified?

7 A. Correct.

8 Q. And did you have an understanding for
9 the reason for that hearing?

10 A. It was to have our names removed from
11 this potential litigation or this litigation and
12 have the judgment nullified against us, I guess.

13 Q. And is that something you wanted to
14 happen?

15 A. Absolutely.

16 Q. And you stated you attended the hearing
17 on March 26; is that correct?

18 A. Yes.

19 Q. And were you asked questions?

20 A. Just a couple of questions about whether
21 or not I agreed with what had been going on and did
22 I want my name removed from this list.

23 Q. And did you answer truthfully?

24 A. Yes, I did.

25 Q. And do you recall what else happened

1 during that hearing?

2 A. Not real clearly. I felt greatly
3 relieved. But I think that Judge Castro was a
4 little bit frustrated by kind of how the hearing
5 went.

6 Q. And why do you say that?

7 A. There was some banter back and forth
8 between Judge Castro and Ms. Smith about procedure
9 and that sort of thing, I guess.

10 Q. And did you think that Judge Castro
11 handled the hearing appropriately?

12 A. Well, I know little about the law, so I
13 I can only assume that he did.

14 Q. Did you see any evidence of bias by
15 Judge Castro?

16 A. No. But I think he was -- he was
17 impatient, frustrated with kind of the pushback.

18 Q. When you say by the pushback, what do
19 you mean?

20 A. Well, I think -- well, Ms. Smith was
21 argumentative with him.

22 Q. Is that something you expected to see --

23 A. Not really, no. No, it isn't.

24 Q. And did Judge Castro grant your request
25 to have the judgment against you vacated and your

1 name removed?

2 A. Yes, he did.

3 Q. And did you feel that you were harmed by
4 Ms. Smith's use of your name in starting an
5 election contest?

6 A. Well, I could have been greatly harmed,
7 first of all, by having a judgment against me that
8 I wasn't aware of. Which I would have probably
9 learned the next time I went to get credit, there
10 would that judgment have been, and I would have
11 been totally -- and then if in the other instance
12 if that lawsuit had gone through and her case had
13 been successful, then I would have been on the hook
14 for possibly hundreds of thousands of dollars for a
15 recount.

16 Q. And did anybody explain any of that to
17 you ahead of time?

18 A. Absolutely not.

19 Q. Is your impression of lawyers or the
20 courts been impacted by your experience having your
21 name used in this lawsuit?

22 A. I don't have a great deal of trust.

23 Q. Can you say more about that? Trust in
24 whom?

25 A. You know, the persons who are supposed

1 to understand the law are supposed to be advocating
2 for those of us that don't have law degrees. And
3 so I feel -- I feel like there was a lot of
4 assumption about my knowledge and understanding of
5 the law and procedure. You know, I'm not going to
6 pretend that I have a law degree. Maybe some
7 things I should have known, but I didn't know. I
8 didn't use my head.

9 Q. And did you feel pressured by anybody to
10 do or say anything in this matter?

11 A. No. No, when I learned -- when I
12 learned about these things, I was incensed.

13 Q. And so you did not change your mind at
14 some point you wanted to contest the election and
15 then at some point later you didn't want to contest
16 the election? Is that fair to say, you didn't
17 change your mind?

18 A. Can you restate that.

19 Q. Sure. I'm just asking was there a
20 period of time that you wanted to be a contestant
21 in these legal proceedings but then you later
22 changed your mind?

23 A. I wanted that to the extent I understood
24 what it really meant. I didn't understand the
25 gravity of this.

1 Q. What do you mean you didn't understand
2 the gravity?

3 A. I didn't realize that -- I guess I
4 wasn't thinking about the word "contest" in that.
5 I didn't realize it was a lawsuit. I have that
6 little understanding of it.

7 Q. And I didn't ask you a lot of questions
8 about filling in the affidavit, because you didn't
9 remember filling it out; is that correct?

10 A. Correct.

11 Q. Right. But you said you did -- I mean,
12 do you remember saying something about a contest?
13 I just want you to be able to testify what you
14 recall at the time and what you thought you might
15 have been doing, if you can remember it. If not,
16 just let us know.

17 A. You know, I thought I was signing a
18 petition because I was -- you know, I felt that
19 there was some things that weren't right. You
20 know, I was angry, disenfranchised. But again, I
21 didn't -- I didn't know it would lead to a lawsuit.

22 Q. And that's something you would expect
23 someone to explain to you?

24 A. Yeah.

25 Q. Is there anything that I haven't asked

1 you about that you would like Justice Dietzen to
2 know?

3 A. No.

4 MS. HUMISTON: Thank you. No
5 further questions.

6 THE COURT: Very good. Ms. Smith.

7 CROSS-EXAMINATION

8 BY MS. SMITH:

9 Q. First, I want to thank you for being
10 here. I know this is hard to be here. I just want
11 to thank you for being here and being honest. So I
12 know that you said that you don't remember filling
13 out the affidavits?

14 A. I do not.

15 Q. So you agree that you received the
16 affidavit, you got an email and then you filled it
17 out at the time. And then at the bottom of the
18 affidavit it said to return it to the Election
19 Integrity, the email @gmail.com. In my -- you
20 know, you can look there. It's the same affidavit.
21 You see it before you. Right? That you returned
22 that affidavit to the Minnesota Election Integrity
23 Team. But do you agree with what's in the
24 affidavit in the sense that -- I mean, it said you
25 are contesting the election. You said you didn't

1 understand the word "contest?" Correct?

2 A. Correct.

3 Q. But you did agree with the information
4 in it. And it did say that you are going to be
5 joining to contest the election results. You
6 agreed with that, that it said that?

7 A. (Inaudible).

8 THE COURT: The Court Reporter can
9 only take down verbally what you say. And counsel
10 are just as guilty, they say "uh-huh" and "uh-huh,"
11 and it doesn't pick up very well for the Court
12 Reporter. So speak up, if you can, and answer.
13 And I don't know when to ask this question. Maybe
14 I should ask it now.

15 Ms. Smith or Ms. Humiston, do you have
16 a signature for this document? I notice this is
17 typed.

18 MS. SMITH: She typed it in, I'm
19 assuming, in a document that --

20 THE COURT: Well, let me just ask,
21 are you aware of an actual signature for the
22 document, Ms. Smith? I haven't seen one.

23 MS. SMITH: No. Other than she
24 typed her name in the signature blanks.

25 THE COURT: I mean, you are

1 testifying here. Have you asked her whether she
2 typed all this in?

3 MS. SMITH: I mean, I'm going to.
4 I'm getting to it, yes.

5 THE COURT: I just want to make
6 sure we --

7 MS. SMITH: Yes.

8 THE COURT: Thank you.

9 BY MS. SMITH:

10 Q. So you would have downloaded this
11 document or opened it on your computer?

12 A. I must have.

13 Q. And then you would have typed the
14 information in, because it's not handwritten? So
15 everything was typed --

16 A. Correct.

17 Q. -- in this document? And I believe,
18 actually, that you may have sent a couple of emails
19 to the Minnesota Election Integrity Team. Do you
20 remember that?

21 A. I don't.

22 Q. Do you believe it's possible in this
23 process that there was miscommunication not just
24 between you and the Election Integrity Team but
25 even between me and the Election Integrity Team?

1 Is that possible?

2 A. I don't believe there was a
3 miscommunication. I believe that there was a lack
4 of communication to those of us that were going to
5 be named in this. I think -- I mean, I receive
6 thousands of emails. I don't know about other
7 people. But if I did or when I did receive emails
8 from them, I didn't probably recognize them for the
9 importance that they had.

10 Q. So I was asked to draft the cases by the
11 -- by the pro bono attorney that volunteered, so
12 there's an email --

13 THE COURT: Counsel --

14 BY MS. SMITH:

15 Q. -- if you go to 308 --

16 THE COURT: Counsel, let me stop
17 you. You are testifying. Ask a question, please.

18 BY MS. SMITH:

19 Q. So if you can go to Exhibit 308.

20 MS. SMITH: I'm going to submit a
21 document. I'm going to ask if I can submit a
22 document. I have copies of communication to
23 refresh memory. (Indicating).

24 THE COURT: Thank you.

25 BY MS. SMITH:

1 Q. So there was an email --

2 MS. HUMISTON: This doesn't look
3 like it has gone to this witness. So I would
4 object to foundation.

5 MS. SMITH: So we can find another
6 copy. It's the same email, just a name -- these
7 are communications that were sent out. I
8 apologize. If we take the name off -- this is the
9 email that had the affidavit in it. So if we go
10 to -- I will find the other document. I think
11 earlier she -- I believe she already stipulated
12 that she received an email with the affidavit.
13 Let's just skip that one and scroll down. It's a
14 collection of communications.

15 MS. HUMISTON: I object to
16 foundation. This isn't directed to this witness.

17 MS. SMITH: So if you go -- so if
18 I take out the first couple of pages, we will
19 eliminate that and I will change the exhibit to be
20 starting at the --

21 BY MS. SMITH:

22 Q. Let me just ask you this. Let's just go
23 to 300. And I would like to enter into -- that is
24 actually an exhibit of emails that I believed were
25 sent. So I would like you to see these emails that

1 -- do you have Exhibit 300?

2 MS. HUMISTON: No.

3 BY MS. SMITH:

4 Q. Would it matter to you to find out -- if
5 you knew that I believed you were communicated
6 with, would it matter to you?

7 MS. HUMISTON: I would object.

8 THE COURT: Sustained. It calls
9 for speculation.

10 THE WITNESS: Am I supposed to
11 answer that?

12 THE COURT: No, if I sustain the
13 objection, then you don't need to answer.

14 BY MS. SMITH:

15 Q. I just want to say I'm sorry for what
16 happened. I am sorry to you. I hope you stay and
17 listen to the proceedings.

18 MS. SMITH: Okay.

19 THE COURT: Do you have any other
20 questions from the Director's Office?

21 MS. HUMISTON: I do not.

22 THE COURT: All right. You are
23 excused. Thank you. Does the Director have
24 another witness?

25 MS. HUMISTON: I do. But I

1 believe we need to track him down. Can I have five
2 minutes?

3 THE COURT: Absolutely. We will
4 be in recess for five minutes.

5 (A recess was taken from
6 11:47 a.m. until 11:51 a.m.)

7 THE COURT: Did we find the
8 witness?

9 MS. HUMISTON: No, Your Honor. He
10 is about 15 minutes away. So I'm wondering if now
11 would be a good time for a lunch break?

12 THE COURT: Yes.

13 MS. HUMISTON: Then to give him a
14 chance to park and get situated. And I apologize
15 for that. But this might work out for the best.

16 THE COURT: How much time do you
17 need for lunch, counsel?

18 MS. HUMISTON: I defer to the
19 Court.

20 THE COURT: Forty-five minutes
21 enough? Start at quarter to 1:00? We will resume
22 at quarter to 1:00. I would like to just keep
23 moving and get as much done as we can.

24 MS. HUMISTON: I agree.

25 THE COURT: We are in recess until

1 a quarter to 1:00.

2 (At this time a luncheon recess was
3 taken from 11:52 a.m. until 12:45 p.m.)

4 THE COURT: Good afternoon,
5 everyone.

6 MS. HUMISTON: Good afternoon.

7 THE COURT: Ms. Humiston, are you
8 ready to proceed with your next witness?

9 MS. HUMISTON: Yes, Your Honor.
10 The Director calls S.M.

11 THE COURT: Very good.

12 S.M.,
13 the Witness in the above-entitled
14 matter after having been first duly
15 sworn, testifies and says as follows:

16 THE COURT: State your name and
17 address for the record, please.

18 THE WITNESS: S.M. 1405 North Oak
19 Street, Lake City, Minnesota 55041.

20 THE COURT: Counsel, you may
21 inquire.

22 DIRECT EXAMINATION

23 BY MS. HUMISTON:

24 Q. Good afternoon, S.M. My name is Susan
25 Humiston and we have met; correct?

1 A. Correct.

2 Q. Thank you for coming today. Are you
3 currently retired?

4 A. Yes, I am.

5 Q. And can you describe for the Court what
6 your employment was prior to your retirement?

7 A. I was active National Guard. I retired
8 from them and I was working for the State as well.
9 And I retired from the State about four years ago.
10 I was working for the State of Minnesota when I
11 retired four years ago. I was a vet rep for the
12 department of employee development.

13 Q. And what's your educational background?

14 A. I have an associate's in law
15 enforcement. A bachelor's degree in criminal
16 justice. And a master's in HR, human performance.

17 Q. Thank you. How did you come to learn
18 that you had been named as a plaintiff or a
19 contestant in a legal proceeding relating to the
20 2020 election?

21 A. I received an email from a couple of
22 people that asked if I was one of the people named.
23 They didn't know which S.M. And I said, yes, I saw
24 that. Like I said, I don't know who it was.

25 Q. So you recall receiving an email. In

1 front of you there is a notebook that says part 1
2 of 2. Can you turn to Exhibit 36.

3 A. The first page?

4 Q. So Exhibit 36, there is both a 36 and a
5 36A. And I'm going to ask you to turn to Exhibit
6 36A and look through there until you see a document
7 with your signature on it.

8 A. I have it here.

9 Q. All right. And can you identify this
10 document?

11 A. It says Affidavit of Eligible Minnesota
12 Voter.

13 Q. And does it have your name on it?

14 A. Yes, it does.

15 Q. And do you recognize that as your
16 signature?

17 A. Yes, it is.

18 Q. And do you recall completing this
19 document?

20 A. No, I don't.

21 Q. Do you believe you would have read it at
22 the time you completed it?

23 A. If I signed it, I would have read it,
24 yes.

25 Q. And were you an eligible voter in

1 Minnesota in 2020?

2 A. Yes, I was.

3 Q. And did you vote in 2020?

4 A. Yes, I did.

5 Q. And did you have concerns about the 2020
6 election?

7 A. Only after myself and my wife voted
8 absentee ballot or the mail-in ballot. It goes to
9 the courthouse in Goodhue, Minnesota. You drop it
10 in the mailbox and it sits out in the middle of a
11 parking lot. And then when I was told that there
12 might have been some fraud in the balloting, the
13 mail-in ballot, then I was kind of concerned about
14 that, yes.

15 Q. So tell me a little bit more. You were
16 specifically concerned about your vote being
17 counted and whether or not your vote had been
18 counted? Is that what you were saying?

19 A. Yes, for both me and my wife, we voted
20 -- I think it was right away when it was opened up.
21 Because then we had gone on vacation and we were
22 gone probably until almost the end of November, and
23 then when we got back they talked about there was
24 possible fraud in the mail-in ballots and I was
25 concerned about that.

1 Q. And do you believe you would have
2 completed this affidavit because of that concern,
3 or do you know?

4 A. I think I signed it -- when looking at
5 it now, it just pretty much says if there was a
6 problem, I would be contesting the ballot that I
7 put in. That's about all it says. That I believed
8 the irregularities -- as I was told from the news
9 media and all that kind of stuff, there was
10 irregularities. So if there was, I was willing to
11 be involved in that, yes.

12 Q. Did you know what an election contest
13 was?

14 A. No, I do not.

15 Q. And you say that you don't know today?
16 Is that what you are saying?

17 A. I mean, I don't know if anything ever
18 really got contested. All I know is I was -- the
19 affidavit I signed is, you know, if there was a
20 problem, would I be willing to contest it, yes, I
21 would.

22 Q. Were you familiar with the Minnesota
23 Election Integrity Team?

24 A. No, I'm not.

25 Q. And do you believe that you gave your

1 permission to be named as a plaintiff in any legal
2 proceeding contesting the election?

3 A. Not according to this document, no.

4 Q. And why do you say that?

5 A. It's asking a bunch of questions, I
6 believe there is irregularities. So I believe
7 there was irregularities. I believe there was a
8 question who received the largest number of votes
9 legally.

10 It says nothing in here about there is
11 going to be a direct lawsuit. So I just assumed if
12 there was something, I would be notified by
13 somebody.

14 Q. And did you give your permission to
15 anyone to sue Steve Simon on your behalf?

16 A. I'm sorry, I didn't hear that.

17 Q. Did you give your permission to sue
18 Steve Simon on your behalf?

19 A. No, I did not.

20 Q. How about Angie Craig?

21 A. No, I did not.

22 Q. And if someone had asked you in 2020 to
23 join a lawsuit against Steve Simon or Angie Craig,
24 would you have done so?

25 A. Depending on if I was involved in -- I

1 mean, for myself and my wife, yes, I would have.
2 But I don't know what this actually says, that
3 there is any lawsuit. But if I was involved in --
4 that there was fraud in my ballot, correct, I would
5 have done something, yes.

6 Q. So you were concerned about making sure
7 your ballot, your vote was counted? Is that a fair
8 statement?

9 A. Correct.

10 Q. Have you ever spoken to Susan Smith?

11 A. No, I have not. I wouldn't even
12 recognize her if she was in the courtroom today.

13 Q. She is in the courtroom today.

14 A. Okay.

15 Q. Have you received any emails from
16 Ms. Smith?

17 A. Not that I remember, no.

18 Q. And do you recall anybody providing you
19 with copies of documents that might have been filed
20 on your behalf in 2020?

21 A. I don't have that envelope in front of
22 me. There was an envelope that was sent to me, I
23 don't know how many pages, 400 or 500 pages, by
24 somebody. It just had all this stuff that was --
25 emails and stuff like that that was sent out.

1 Q. So I would --

2 A. That's that folder I brought up to you
3 about a week or so ago, two weeks ago.

4 Q. In the second notebook that's up there,
5 can you turn to Exhibit 45.

6 A. Okay.

7 Q. And can you look at -- that is a four-
8 page document. Can you look at it.

9 A. Yeah, they are all dark pages that I had
10 received in the mail. Through express mail or
11 whatever.

12 Q. So Exhibit 45, and there is an A that's
13 unredacted. Do you see the second page has your
14 name and address on it; is that correct?

15 A. Yes.

16 Q. And this was a package of information
17 that you received in May of 2021; is that correct?

18 A. According to this, that's correct.

19 Q. Did you take this picture?

20 A. I know I had sent something by email.
21 But then I know it was copied again when I was in
22 your office, yes.

23 Q. And is that the documents you are
24 referring to?

25 A. Correct.

1 Q. So in May of 2021 someone sent you this
2 stack of documents?

3 A. That's correct, yes.

4 Q. To your knowledge, did you receive any
5 copies of any orders dismissing legal proceedings
6 that had been brought on your behalf?

7 A. Just what was ever in that packet.

8 Q. And did anyone let you know in January
9 of 2021 that a judgment had been entered against
10 you?

11 A. I received something from the court that
12 there was a judgment against me, yes.

13 Q. And do you recall when that was?

14 A. No, I do not.

15 Q. And do you recall approximately when you
16 were contacted by someone who you don't know who it
17 was to let you know about the lawsuit that you had
18 been named in?

19 A. I did receive a call from somebody that
20 there was a Judge -- I think his name was Castro --
21 -- that some of the people were involved in a
22 lawsuit and if I wanted to be dismissed from the
23 lawsuit I had to fill out a form and send it to the
24 courts. But I sent that to the courts. I'm sure
25 you have copies here. And eventually I was

1 dismissed from the lawsuit with some other people.

2 Q. Can you turn to Exhibit 39 in front of
3 you. There is a 39A that has unredacted versions.

4 A. Okay. Dated April 6, 2021? Is that the
5 one?

6 Q. I am referring to Exhibit 39A, page 7 of
7 9 on the bottom. Do you see that?

8 A. Oh, 7. May 14, 2021?

9 Q. On the top it's stamped that, yeah. It
10 looks like it's dated by you May 11?

11 A. Yes.

12 Q. Do you recognize this document?

13 A. Yes, I do.

14 Q. And what is it?

15 A. It looks like it's an action -- a
16 request for removal from a lawsuit.

17 Q. And you completed this; is that correct?

18 A. That's correct.

19 Q. And is this what you were referring to
20 when you said you sent this to the court to request
21 your removal?

22 A. Correct.

23 Q. And this is something that you wanted to
24 happen; is that correct?

25 A. Yes. Because I didn't know anything

1 about a lawsuit.

2 Q. Did you have a reaction when you learned
3 you had filed a lawsuit against Steve Simon and
4 Angie Craig?

5 A. Say that again. I didn't hear that.

6 Q. Did you have a reaction to the fact that
7 you had commenced a lawsuit, as you can see from
8 the caption there?

9 A. No, I had no idea there was a lawsuit
10 that I was involved in.

11 Q. Did you have a reaction of any kind to
12 learning of that fact?

13 A. I thought it was kind of a joke. I
14 didn't know anything. I didn't take it seriously
15 right way, until I started reading all the
16 paperwork. I read it and I did give the courts a
17 call and they said there was something being sent
18 out and you had fill it out and send it in by a
19 certain time. That's all I know.

20 Q. Have you had occasion to hire lawyers to
21 represent you?

22 A. In the past, yes.

23 Q. And do you have any expectations of what
24 lawyers would do before they would agree to
25 represent you, from your experience?

1 A. Yes, my years in -- the 30 years in the
2 State, 20 years being corrections and 10 years
3 being a vet rep, I was involved in quite a few
4 lawsuits in corrections. And a few had to testify
5 for veterans in the courts, yes.

6 Q. And so from that experience, what would
7 you expect a lawyer to do before agreeing to
8 represent you?

9 A. In the cases I have been involved in,
10 usually we met with the individuals, the attorney,
11 and then their legal person, assistant or whatever.
12 And they would go over things if you wanted to do
13 this, these are things we have to do. And then
14 whatever happens, you know, whether you'd be liable
15 or not, these are things that can happen, costs and
16 stuff like that. But then once I read everything
17 what the expectations were and what the lawyer
18 would do, then I would go ahead and sign it and the
19 clerk or whatever would notarize it and then you
20 would go on from there. Then I would be
21 represented either in court or the attorney
22 representing me out of court.

23 Q. Okay. Did you feel pressured by anybody
24 to stay in the lawsuit or get out of the lawsuit or
25 make any particular decision?

1 A. No.

2 Q. And did you attend any hearings of the
3 court?

4 A. No.

5 Q. And do you believe that you have been
6 harmed by Ms. Smith's use of your name in
7 commencing a lawsuit?

8 A. At first I was. But then once the judge
9 released me from the lawsuit, then I was fine. I
10 mean, no adverse reactions to anybody. The process
11 worked. I got out of it. And it was explained to
12 me what the procedure was and then I was okay with
13 that. But at first, like I say, a little angry.
14 But other than that, no remorse.

15 Q. So you say at first you were angry?

16 A. Yes, I was.

17 Q. Why?

18 A. Well, just that I was being used in a --
19 and that's another thing, too, when I signed it, if
20 you look at my signature on the -- if there was
21 going to be a legal document or if I was being
22 represented, I always had to sign my full name.
23 Because there is S.M.s, there's S.G.M.s.

24 I received a couple of court things
25 where I was being sued for child support from

1 somebody else and it ended up being a corrections
2 officer. I was a corrections officer. It was
3 Hastings, Minnesota, Dakota County. It kind of
4 scared me when I found out there was an S.G.M. who
5 was a jailer in Hastings who owed child support,
6 but the State received that because I was
7 corrections and they started garnishing my wages.
8 Then I got all that money back. But it was kind of
9 weird that -- so I always make sure if I'm in a
10 lawsuit or something like that that I always sign
11 my full name now, because I realize that there is a
12 lot of S.G.'s out there.

13 Q. So you were at first concerned and then
14 you felt better after the court allowed you to be
15 removed; is that correct?

16 A. Correct. Because I don't remember the
17 amount, but there was -- I suppose you had to pay
18 part of the legal cost or whatever. I don't know
19 where it came from. Simon or whoever. But
20 supposedly there was a verdict rendered and the
21 cost had to be split amongst the people. I don't
22 know what my share was. But I was kind of like,
23 you know, how am I going to pay for that. But then
24 I got ahold of the courts and said where is this
25 thing coming from. The court administrator says

1 this is being taken care of. These are things you
2 have to do. So I waited for all that and I got the
3 paperwork and submitted all that. Then I was like,
4 phew. You know, once I got the verdict, I was
5 trying to figure out a way how to -- like I say, I
6 don't know how much it was, but just to raise money
7 for that.

8 Q. So that was a concern that you had?

9 A. Correct. Because I didn't know I was in
10 a lawsuit. So when I got that verdict, I was,
11 like, where did that come from? I didn't sue
12 anybody.

13 Q. And has your experience today or leading
14 up to here has this impacted the way you view the
15 courts, your experience of being kind of
16 unwittingly drawn into a legal matter?

17 A. At first, I was kind of concerned. But
18 then dealing with the courts and with corrections
19 and with the other suits that we've had, I never --
20 of course, I've never been a person who was going
21 to be sued or anything like that, so I was kind of
22 like -- I still to this day it -- I guess it does
23 make me angry.

24 But the other thing is, too, you kind
25 of hope that the courts, the way they are -- I

1 mean, I've been on both sides, so kind of like it
2 does work out. Justice does prevail. I mean, you
3 know, who you are, it doesn't matter. But it does
4 prevail.

5 Q. And how about your view of lawyers, has
6 it been impacted by your experience?

7 A. No.

8 Q. How about the legal profession?

9 A. No, I was involved in that, like I say,
10 for many years.

11 Q. Is there anything that I haven't asked
12 you about that you would like Justice Dietzen to
13 know?

14 A. No. I'm here to answer any questions.
15 I don't know all the answers. It's been a long
16 time ago. Like you say, when you prepare for a
17 lawsuit, you have all your paperwork, you know what
18 you are suing for, what's going on. Usually if you
19 are in court, somebody is going to tell you.

20 So the biggest thing is I had no idea I
21 was in a suit whatsoever. I'm just here to testify
22 to the best of my knowledge that I can remember
23 four years ago.

24 MS. HUMISTON: Thank you very
25 much. No further questions.

1 THE COURT: Very good. Thank you.
2 Ms. Smith, do you have questions?

3 CROSS-EXAMINATION

4 BY MS. SMITH:

5 Q. I want to thank you for being here and
6 telling the truth. I do want you to know that.
7 And I appreciate your service and what you have
8 done.

9 So we don't need to spend a lot of
10 time. I mean, you acknowledge that you returned
11 the affidavit? You acknowledged that you signed
12 the affidavit?

13 A. That's correct. Yes, I did.

14 Q. And you agree with the affidavit to the
15 extent that you understood it; right?

16 A. The way I understood it, correct. I
17 didn't know it was a lawsuit. But if there was
18 something involved, I would be willing to do my
19 part, yes.

20 Q. I do have a question -- did it matter to
21 you that it included that you were signing that
22 document under penalty of perjury? Did that matter
23 to you?

24 A. When I signed the document, I signed it
25 to what I thought or as it was explained to me.

1 But, you know, perjury, I understand perjury and
2 all that stuff, and I signed it knowing that. You
3 know? But when you look at the document, it
4 doesn't say anything about a lawsuit or who is
5 going to represent me. So I signed it as an
6 affidavit would I be willing and these things
7 happened, and if they did happen, yes, I was. And
8 to this day I don't know if my ballot was ever
9 counted or wasn't counted. I don't know that.

10 Q. Well, we can let you know afterwards, if
11 you want. We will make sure you know. We can do
12 that.

13 A. All I know is I do know something about
14 the elections is that if it's a close call, it's a
15 recount. But the recount gets paid for by -- if
16 it's within a certain margin or whoever. But I
17 know if it's more than, you know, 5 percent or
18 something like that, I do know from -- I was trying
19 to be a judge for the voting thing. I do know if
20 it's whatever, then those people that filed the
21 lawsuit are responsible for the costs, whether it
22 be \$500,000 or a \$1,000,000, for the recount
23 because it did meet within the parameters within
24 the close call code or whatever they call it.

25 Q. All right. In the affidavit you filed,

1 it talked about material violations of election
2 law. And that's different than just a straight
3 recount. And so I'm sorry that you didn't -- that
4 you didn't know that. So I apologize for that.

5 A. Okay.

6 Q. So, again, I thank you for your time.
7 And I hope you are able to stay here and I hope
8 that you read the documents that relate to all this
9 so that you can understand what happened. Because
10 I think you have a right to know what happened.

11 A. You know, it may sound funny to the
12 Judge or the attorney, but I thank you for what you
13 do, too. Because whether something happened or
14 not, I mean, you are looking out for the
15 individual. And I'm sorry I never got to meet you
16 or never got to go through all this or anything
17 like that. But if what you did was honorable or
18 whatever, that's fine. But I just want to thank
19 you for at least -- I mean, you are reaching out to
20 people, that's fine. I just wasn't one of those
21 that got reached out to. And that's what I have to
22 say.

23 Q. I guess just a couple of more questions.
24 Do you think it's possible that there was a
25 miscommunication that happened, which is why you --

1 MS. HUMISTON: Calls for
2 speculation.

3 THE COURT: Well, it assumes facts
4 not in evidence, at this point. If you have a
5 witness that's going to testify, you can ask a
6 hypothetical question.

7 BY MS. SMITH:

8 Q. So you did receive emails from the
9 Minnesota Election Integrity Team?

10 A. If it's in here, yes, I did. Like I
11 said, I don't remember. I've got two books here
12 that's got to be over 1000 pages.

13 Q. And so hypothetically if somebody
14 volunteered and thought that you were getting
15 information, if that was hypothetically true and
16 somebody else failed to do what they were supposed
17 to do, would that matter to you?

18 MS. HUMISTON: Objection.

19 THE COURT: I think sustained, at
20 this point.

21 MS. SMITH: I'm sorry. I really
22 am. And I just really do appreciate you coming.
23 Thank you.

24 THE COURT: You are excused, sir.
25 Thank you.

1 Again, Ms. Smith, you can testify as to
2 your state of mind.

3 MS. SMITH: I will.

4 THE COURT: Director, you may call
5 your next witness.

6 MS. HUMISTON: I was just
7 confirming with the witness that he is released.

8 THE COURT: Yes.

9 MS. HUMISTON: The Director calls
10 C.B.

11 C.B.,
12 the Witness in the above-entitled
13 matter after having been first duly
14 sworn, testifies and says as follows:

15 THE COURT: State for the record
16 your name and your address, please. Spell your
17 last name.

18 THE WITNESS: C.B. Last name is
19 spelled X-x-x-x-x. I use a P.O. Box 62213,
20 Minneapolis 55426.

21 THE COURT: Counsel, you may
22 inquire.

23 DIRECT EXAMINATION

24 BY MS. HUMISTON:

25 Q. Good afternoon. My name is Susan

1 Humiston and I am the Director. We have met.

2 Thank you for being here today. What is your
3 profession?

4 A. I am a semi-retired independent computer
5 consultant.

6 Q. And what's your educational background?

7 A. I have the equivalent of a bachelor's in
8 liberal arts.

9 Q. In 2020, did you maintain a Listserv
10 that you used to electronically share information
11 with individuals?

12 A. A mailing list, yes.

13 Q. A mailing list?

14 A. Yes.

15 Q. And approximately how many people were
16 on it?

17 A. Approximately 5,000.

18 Q. And do you remember receiving an email
19 from an entity called the Minnesota Election
20 Integrity Team?

21 A. I do now.

22 Q. Can you turn to Exhibit 6. And there is
23 an Exhibit 6 and an Exhibit 6A. Exhibit 6 is
24 redacted. Exhibit 6A, you might wish to refer to
25 that one.

1 A. There is a tab that says 6, but then the
2 document says Exhibit 7.

3 Q. It does, yes. And then I'm specifically
4 referring you to 6A.

5 A. Okay.

6 Q. At the bottom it says page 1 of 1. Do
7 you see that?

8 A. (Witness nodding head in the
9 affirmative.)

10 Q. Do you see at the top there is a "To"
11 line for this email? Do you see that?

12 A. Yes.

13 Q. And to whom is this email directed?

14 A. That is my email.

15 Q. And do you recall if you would have
16 received this on or around the time that it was
17 sent late at night on November 30?

18 A. Yes.

19 Q. And at that time were you familiar with
20 Minnesota Election Integrity Team?

21 A. No.

22 Q. And did you choose to fill out an
23 affidavit?

24 A. Yes.

25 Q. And why did you choose to fill out an

1 affidavit?

2 A. Well, I care about political causes. I
3 cared and I received this request to assist in
4 fighting election fraud. And I'm always wanting to
5 help whenever I can.

6 Q. Let's go to Exhibit 36. Again, there is
7 a 36A. Do you see what's listed as Affidavit of
8 Eligible Minnesota Voter with your name on it?

9 A. Yes.

10 Q. And do you recognize this document?

11 A. Yes.

12 Q. And what is it?

13 A. It's an affidavit stating that I believe
14 voter fraud occurred in Minnesota. Which is a
15 sworn statement stating my belief and swearing that
16 my belief is true. Truly my belief.

17 Q. And you wrote your name on this
18 document; is that correct?

19 A. Yes.

20 Q. And did you review it at the time?

21 A. Carefully.

22 Q. And did you believe you were able to
23 truthfully fill in the information that is in this
24 form?

25 A. Yes.

1 Q. And so you were an eligible Minnesota
2 voter in 2020?

3 A. Yes.

4 Q. And did you vote in Minnesota in the
5 2020 election?

6 A. I was out of state and I sent a mail-in
7 ballot. So I attempted to vote, but there was a
8 problem with the signature. So my vote did not
9 count.

10 Q. But you didn't vote in any other state
11 in 2020?

12 A. No.

13 Q. And in December of 2020 did you know
14 what an election contest was?

15 A. No.

16 Q. And did anyone explain it to you what an
17 election contest was?

18 A. No.

19 Q. And did you give your permission to
20 anyone to use your name as a plaintiff or
21 contestant in an election contest against Steve
22 Simon and Ilhan Omar?

23 A. Absolutely not.

24 Q. And if someone had asked you to do so,
25 would you have done so?

1 A. Absolutely not.

2 Q. And why not?

3 A. For various reasons. One, I don't -- I
4 try to stay out of lawsuits. That's number one.
5 Number two, I have no personal knowledge of any
6 voter fraud. So how could I be in any sort of
7 legal proceeding about it. I have no knowledge.

8 Q. You felt firmly that these things were
9 true, but you did not have personal knowledge? Is
10 that what you are saying?

11 A. I believed. My belief is and my belief
12 was based on just prior to this I had seen a
13 Project Veritas video online about election fraud
14 in Minnesota. Or voter fraud, I think it was.
15 About something to do with ballot harvesting. And
16 it was very convincing. I only watched the first
17 couple of minutes of it. But that is what I based
18 my signature on here. I felt that was evidence.
19 And I could firmly state I believe it's based on
20 having seen that evidence.

21 Q. Did you then receive any copies of any
22 pleadings that were filed in your name?

23 A. No.

24 Q. How did you come to find out that your
25 name had been used to commence a legal proceeding

1 against Ilhan Omar and Steve Simon?

2 A. As I stated previously in court, I was
3 looking at the court website and I decided to look
4 my name up. And I was shocked to see what -- Steve
5 Simon is my neighbor. I would certainly not sue
6 Steve Simon.

7 Q. And what did you do when you found your
8 name in the court record?

9 A. The first thing I did was Google my name
10 further, to find out if there was another person
11 with the same name in Minnesota, hoping it wasn't
12 me. Then I looked up the lawyer who was listed on
13 the case and tried to find out how to contact her.
14 And that was Susan Smith. And I did contact her.
15 I sent her an email, you know, asking her if this
16 was me in this lawsuit.

17 Q. Can you turn to Exhibit 11.

18 A. Yes.

19 Q. There is an Exhibit 11 and an Exhibit
20 11A. Perhaps if you look at Exhibit 11A. What is
21 this document?

22 A. That's the email I sent Susan Smith at
23 the time.

24 Q. And what date was that?

25 A. It's dated February 21, 2021.

1 Q. And what happened next?

2 A. She called me, I believe. From what I
3 recall, is we played a little phone tag and then
4 finally connected by phone.

5 Q. What did she say to you that you recall?

6 A. She kept me on the phone a long time.
7 It was very strange. I thought a very strange
8 call. She said that that was me, but that she
9 really didn't know anything about it because
10 someone else was in charge. And she said the name
11 Jose Jimenez. She said, I suggest you talk to him.
12 And I think she said I was just the lawyer. You
13 should talk to him. She didn't apologize. I was a
14 little -- it was a very strange and upsetting phone
15 call.

16 Q. And did you ask if your name could be
17 removed or did you ask for advice?

18 A. No. I'm sure I would have stated -- you
19 know, I don't recall everything. It was a long --
20 but I'm sure I would have stated that I want my
21 name removed. But I would not have presumed to ask
22 Susan about that, because the case was closed. It
23 had been closed for months. I didn't know what to
24 do.

25 During that call, the wheels were

1 turning. It was, like, what am I going to do. It
2 is me. That's what I was thinking about, it is me.
3 I was angry. And that's what was going on.

4 Q. And tell me about your anger? Why were
5 you angry?

6 A. Because my identity had been used
7 without my knowledge or permission. Which I
8 thought was shock and appalling.

9 Q. And how did you leave it? Do you
10 recall?

11 A. That was when she made the statement
12 that I should take one for the team. Yeah, I'm
13 just trying to think what else she talked about.
14 But that was kind of how she ended it. And I did
15 not respond to that at all, one way or -- I think I
16 said -- I don't remember if I said, but I -- you
17 know, it's so long ago. But I wasn't part of any
18 team, you know, whether I said that or just thought
19 it. It's, like, are you kidding me. What team?
20 I'm not part of your team. I don't know who you
21 are. I don't know who any of these people -- Jose,
22 I had never heard of him. I didn't know anything.
23 I'm not part of any team. That's about it. Well,
24 I could go on and on.

25 Q. Did you then receive an email from the

1 Election Integrity Team?

2 A. Yes, I believe it was from Jose Jimenez
3 the next day. The same day or the next day.

4 Q. And can you turn to Exhibit 12. Again,
5 you will see an Exhibit 12 and a 12A. You might
6 want to look at the unredacted one.

7 A. Yeah, I remember getting that.

8 Q. And you are on the bcc; is that correct?

9 A. Right.

10 Q. So you wouldn't have been able to see
11 who received this. So did you have a reaction when
12 you received it?

13 A. Yeah, I was mad when I received it as
14 well. I mean, it was a reaction from my phone call
15 with Susan that they then sent this out. And that
16 seemed manipulative and it bothered me, yes.

17 Q. In what way?

18 A. Because now that I had found out that
19 they had done this, now they were starting to take
20 the actions that they should have taken. I think
21 they were trying to kind of backtrack and cover
22 their butt. Something to that effect.

23 Q. At this point, did you understand that a
24 judgment had been entered against you?

25 A. I think when I saw the court case, I

1 would have seen that. Whether it was the first
2 time I looked or one of the subsequent times, at
3 some point I saw at the bottom a judgment.

4 Q. And you see where this talks about that
5 the judgments are going to be paid? Do you see
6 that? There were fees charged to the plaintiffs in
7 several of the cases, do you see that in the
8 middle?

9 A. Yes.

10 Q. These fees are being paid entirely this
11 week, do you see where it says that?

12 A. Yes.

13 Q. Did you have a reaction to that fact?

14 A. Yeah, I remember now. My reaction was,
15 you're darn right they will be paid, because it's
16 not my lawsuit. I mean, I was, like, you are doing
17 me a favor? You used my name, you used my identity
18 without my permission, and, gee, you're going to be
19 nice enough to pay the fees that weren't mine in
20 the first place. That was my reaction.

21 Q. What did you decide to do next?

22 A. I was thinking I need to reach out to
23 the judge. That was my first, you know, kind of
24 gut reaction. Or I think I tried contacting some
25 attorneys, to see what they suggested. And I got

1 various responses back.

2 In the end, I decided not long after
3 that to try to reach out to the judge and see --
4 rather than pay an attorney to file a motion. I
5 talked to attorneys who said if I paid them a
6 retainer, they would file a motion with the judge
7 to get my name removed. And I decided to try
8 myself.

9 Q. Exhibit 13. Could you turn to Exhibit
10 13. And then there is 13 and 13A. And is this a
11 letter that you sent to the court?

12 A. Yes.

13 Q. And was this drafted by you?

14 A. Yes.

15 Q. And did you provide it to the court --
16 do you know when?

17 A. Well, it's dated March 1. And I
18 remember I U.S. Mailed it and possibly also emailed
19 it on that day.

20 Q. Did you include the copies on the
21 bottom, the cc's?

22 A. Yes, I emailed all those parties.

23 Q. So you also let Susan Smith know and --

24 A. Uh-huh.

25 Q. -- Mr. Hartshorn?

1 A. Yes.

2 Q. Who is that?

3 A. Those were the other attorneys listed on
4 the lawsuit that were representing the other
5 parties. And I know enough about lawsuits to know
6 you always should copy everyone.

7 Q. All right. And so you wrote this letter
8 yourself?

9 A. I did. I did get some legal advice for
10 the paragraphs starting with, "Since I was never a
11 plaintiff." That was legal advice to put -- to say
12 ab initio. That was a personal acquaintance who is
13 an attorney. He said you don't have to hire an
14 attorney. File it yourself and put that statement
15 in it.

16 Q. Requesting to be removed?

17 A. Without having to file a motion myself.

18 Q. All right. And you started the letter
19 by saying that, "I wanted to inform you that I was
20 fraudulently listed - without my permission or
21 knowledge - on this lawsuit as a plaintiff." Do
22 you see that?

23 A. Yes.

24 Q. Do you believe that to be true at the
25 time you made it?

1 A. Absolutely.

2 Q. Do you believe that to be true today?

3 A. Absolutely.

4 Q. Did you contact other individuals whose
5 names also appeared in the election contest?

6 A. Yes.

7 Q. And why did you choose to do that?

8 A. Well, I wanted to kind of investigate,
9 find out what is going on here. I saw at some
10 point -- I think when I talked to Susan she told me
11 there were five lawsuits or something to that
12 effect, however many. So I went and looked those
13 up as well.

14 I wanted to find out what was going, so
15 I reached out to people on social media. And I
16 tried to look up emails of some of the other names.
17 I tried to find these people to find out if they
18 were also victims of this same fraud that I was. I
19 reached quite a few.

20 Can I say that every single person I
21 contacted who were on these five cases, which was
22 approximately nine people in addition to myself,
23 were all stunned and shocked, exactly as I was, and
24 had no knowledge of this at all.

25 Q. What did Judge Castro choose to do?

1 A. After I sent the letter, I got an email
2 saying there would be a hearing that I was required
3 to attend.

4 Q. And did you attend?

5 A. Yes.

6 Q. And did you at this point contact
7 counsel? Or at some point you had --

8 A. Yes, I did. And I thought it would be a
9 good idea to attend with an attorney. I had that
10 opportunity, so I did do that.

11 Q. And what was the request that was made
12 by you at the hearing?

13 A. To have my name -- my complete identity
14 removed from this lawsuit that in fact I was not a
15 part of. But a false record was on the public
16 record, indicating something that was not true.
17 Which I found very egregious.

18 Q. And did you provide testimony at the
19 hearing?

20 A. Yes.

21 Q. And did Judge Castro grant your request?

22 A. Yes.

23 Q. And how did you feel about that?

24 A. We were -- the other ones -- we sent an
25 email afterward, too. The other people in my case,

1 we were all relieved. Very relieved. People who
2 are not attorneys and don't spend a lot of time in
3 court, it's scary. It was scary going to that
4 hearing. You don't know -- you know, you go before
5 this judge and he's kind of intimidating. You
6 don't know what's going to happen. But it was just
7 a happy relief.

8 Q. When you say a happy relief, because
9 Judge Castro granted your request?

10 A. He granted it. And it was also -- it
11 felt really good. He seemed to stand up for us
12 and, you know, commented on how awful -- he
13 expressed empathy for what we had been through or
14 the situation, what had happened to us.

15 Q. And was that the end of the matter for
16 you?

17 A. I thought it would be.

18 Q. What happened?

19 A. After that, I found that I was the
20 target of a defamation and smear campaign by Susan
21 Shogren Smith and her friends that was even more
22 shocking, appalling and devastating.

23 Q. Let's turn to Exhibit 40. It's in the
24 second book.

25 A. 40A?

1 Q. No. I need to find the additional -- so
2 can you turn to page -- let's do 40A. So if you go
3 to Exhibit 40A. We will use the unredacted
4 version. And turn to page 36 of 56 on the bottom.

5 A. Yes.

6 Q. Do you see this?

7 A. Uh-huh.

8 Q. What is this document? There is two
9 pages here. Page 36 and 37, what is this?

10 A. This is -- after I filed my letter with
11 Judge Castro and he called the hearing, there was a
12 submission to the court from Susan Smith that made
13 me angry again, because she was saying things that
14 weren't true. And this was my response to that.

15 Q. All right. Did you have other
16 submissions that you recall to the court?

17 A. I submitted a series of exhibits that
18 was evidence regarding the whole situation. It was
19 probably 25 maybe. Something to that effect.

20 Q. And you said you feel like you were then
21 -- there were further issues that concerned you
22 that you needed to address?

23 A. You mean in this case?

24 Q. Uh-huh.

25 A. Or afterward?

1 Q. Continuing on in time. So after April
2 of 2021.

3 MS. SMITH: Your Honor, could I
4 get the date of the submission they are talking
5 about?

6 THE COURT: Counsel, are we still
7 on page 36?

8 MS. HUMISTON: Yep. It's March
9 22.

10 MS. SMITH: She's talking about
11 the March 22 filing that I put false things in?

12 THE WITNESS: This is my answer to
13 your filing on March 22.

14 MS. HUMISTON: Yes, that was the
15 March 22, 2021.

16 BY MS. HUMISTON:

17 Q. I'm just coming back to what you were
18 referring to previously.

19 A. About what happened after the hearing?

20 Q. Yes.

21 A. After the hearing where -- well, the
22 same date as the hearing friends of Susan Smith
23 were posting extreme, extreme defamatory material
24 about me on the internet.

25 MS. SMITH: Objection. I'm not

1 sure that she knows who my friends are.

2 A. Well, okay, I will rephrase that.

3 THE COURT: Overruled. You can
4 answer.

5 A. The whole context of what I saw on the
6 internet was all about the case. So that's what I
7 mean by -- and they were championing her and saying
8 I was an evil demon and had done this to the
9 wonderful Susan Smith. So that's why I assumed
10 they are her friends. I don't know who her friends
11 are.

12 But, in particular, vicious, nasty,
13 extreme, extreme defamatory videos were put on the
14 internet. And they were attacking me in defense of
15 Susan Smith the same day as the hearing. And the
16 person doing it was not at the hearing. So they
17 found out somewhere.

18 BY MS. HUMISTON:

19 Q. So it sounds fair to say you felt
20 personally attacked?

21 A. Yes, I was very personally attacked.

22 Q. Did you feel that was fair?

23 A. I felt like that was adding -- it was
24 doubling down on her fraud and abuse. It was abuse
25 of the victim.

1 Q. So Exhibit 40A, I would like to turn to
2 page 52 of 56. Do you recognize page 52 of 56?

3 A. Uh-huh.

4 Q. And what is it?

5 A. It's an email from one of -- from the
6 person who testified earlier, who was also on my
7 case, thanking me for sending her a copy of I think
8 it was the judge's order or something from the
9 court. She also apologized for where I had
10 commented about what was happening to me with the
11 personal attacks. And I know that she was also --
12 Susan Smith and the other people submitting things
13 on her behalf in the other cases were also
14 attacking me.

15 Q. So you indicate in there, it says, "Bad
16 news for me." Do you see that, there are personal
17 attacks?

18 A. Uh-huh.

19 Q. What were you referring to?

20 A. I went and looked at the other cases and
21 saw that Susan had filed things after our hearing
22 with Judge Castro in her other cases, trying to
23 defame and discredit me. And also the other people
24 who were filing on her behalf were also doing that.

25 Q. And you say, "Rather than take personal

1 responsibility." Do you see that?

2 A. Yes.

3 Q. What did you mean by that? What were
4 you expecting?

5 A. I meant if somebody does wrong, whether
6 it's intentional or not, and they become aware they
7 did wrong, the normal response is to feel bad or to
8 feel regretful and maybe to apologize and not to
9 double down on attacking the person that they
10 already harmed as a way to avoid taking
11 responsibility at all for the harm they did. She
12 was basically trying to blame me for her misconduct
13 by using lies and defamation.

14 Q. And what harm has Ms. Smith caused you
15 by including your name without your permission?

16 A. Well, I originally contacted the judge
17 because I was upset that my name was dishonestly,
18 fraudulently in a lawsuit misrepresenting truth.
19 It didn't happen. I was not in that lawsuit. But
20 what she did was even worse, because it damaged my
21 reputation for anyone who would be reading these
22 public documents. And the things that were stated
23 are false. They are not true.

24 Q. And how has Ms. Smith's actions impacted
25 your view of the legal profession?

1 A. Well, it had a big impact on me as far
2 as the political arena. It would be unlikely I
3 would get involved again in Minnesota politics
4 ever.

5 I would be highly suspicious of people
6 who claim -- so that's the most impact it had.
7 Anyone who claims they are trying to do good and
8 work for, you know, a good causes I would be highly
9 suspicious of and scrutinize very carefully. You
10 can't take it at face value. Which I did before.

11 Q. What about your view of the courts?

12 A. Judge Castro, for the first time in a
13 long time, reaffirmed my respect and confidence in
14 the courts. I could not believe how he cared that
15 this wrong had been done and he stood up for us and
16 he corrected it. It restored my faith in the
17 courts what Judge Castro did.

18 Q. And has Ms. Smith ever apologized to
19 you?

20 A. I don't recall her ever apologizing.
21 Definitely not in that phone call. Because
22 apologizing would have meant saying I did something
23 wrong and I am sorry. Instead, she said, I should
24 take one for the team. She didn't do anything
25 wrong. I'm just wrong if I don't go along with it.

1 Q. Have you seen anything from Ms. Smith
2 towards you that says she has accepted
3 responsibility for any mistakes that she has made?

4 A. No. And that's what bothers me about
5 all of this. The reason why I'm so angry today --
6 just like S.M., he felt justice was served and he
7 was relieved and it set it right a little bit for
8 him with Judge Castro. That's how I thought I
9 would feel as well.

10 The reason I'm so angry is what's
11 happened since then and her attitude and not ever
12 accepting responsibility. I can't even believe
13 that. This is such a clear case. Nobody would
14 think you could do what Susan Smith did. Who would
15 go into a court of law and say I'm representing
16 people who you are not. It's shocking.

17 Q. And is there anything else that you
18 would like Justice Dietzen to know that I haven't
19 asked you about?

20 A. I can't think of anything right now.

21 MS. HUMISTON: No further
22 questions.

23 THE COURT: Ms. Smith?

24 CROSS-EXAMINATION

25 BY MS. SMITH:

1 Q. So you acknowledge that you filed the
2 affidavit in question; correct?

3 A. I signed it and emailed it back.

4 Q. And emailed it back. So I want to go
5 through this in a sequential manner for you, with
6 you. So just to make it easier, document by
7 document I have these --

8 MS. HUMISTON: Are you not going
9 to use already marked exhibits?

10 MS. SMITH: Well, I tried to
11 submit these earlier, but you said that they were
12 -- they had her name on them. So I would like to
13 just make it easy to go -- is that a problem?

14 MS. HUMISTON: I'm just wondering
15 if we have already marked exhibits --

16 MS. SMITH: So these specifically
17 have her name on them. They were documents that
18 she forwarded.

19 THE COURT: Then we better mark
20 them and see if she will acknowledge that she
21 received them. We will have the Court Reporter
22 mark them.

23 MS. HUMISTON: I was just saying,
24 aren't they already exhibits?

25 THE COURT: I think what she's

1 saying is the ones that had been previously
2 admitted do not have her as -- the witness is not
3 listed as a recipient on the email. Let the Court
4 Reporter mark them, please.

5 MS. HUMISTON: You are going to
6 want to begin with 304.

7 (Respondent Exhibit 304 was
8 marked for identification.)

9 BY MS. SMITH:

10 Q. So you have acknowledged that you
11 received the email. This is just you forwarded the
12 email; correct? So you got the emails and you
13 forwarded them and people asked questions --

14 MS. HUMISTON: Do you have a copy
15 for me?

16 MS. SMITH: I thought we were
17 making copies later on. (Indicating).

18 BY MS. SMITH:

19 Q. So this is just one example. All right,
20 you got these emails and then you did forward them?
21 You have a Listserv?

22 A. It's not a Listserv. It's just a
23 mailing list. But it's an email list.

24 Q. It's a pretty big list?

25 A. Well, I already addressed that.

1 Q. So do you normally forward emails to
2 people?

3 A. Yes.

4 Q. And if you don't know what they mean,
5 you forward them also?

6 A. What they mean? If something looks like
7 it's something that other people who are involved
8 in conservative causes will care about, then I
9 forward it.

10 Q. Okay. So after these -- when you
11 contacted me -- you know, you acknowledged you
12 contacted me; right?

13 A. In February.

14 Q. In February.

15 A. Uh-huh.

16 Q. And I responded to you very promptly;
17 right. Do you remember?

18 A. Yes.

19 Q. It was within a day --

20 A. Yes.

21 Q. -- I got back to you? Do you remember
22 that we spoke on the phone for actually quite some
23 time?

24 A. Yes.

25 Q. Correct?

1 A. I just testified to that, yes.

2 Q. I just want to submit this just a phone
3 bill that we spoke for 55 minutes, just
4 to (indicating) --

5 A. I saw that.

6 MS. SMITH: So should I give this
7 to her, or we are okay?

8 THE COURT: If she just
9 acknowledged it, you don't need it as an exhibit.
10 It's undisputed.

11 BY MS. SMITH:

12 Q. So did you record that phone call?

13 A. No.

14 Q. I do remember the phone call. We spoke
15 a long time. Do you remember talking to me about
16 issues that you have with Hopkins?

17 A. I remember you keeping me on the phone,
18 talking very fast, jumping from topic to topic. I
19 could not make sense of what your agenda was.
20 Because I had one agenda on that phone call, and
21 that was find out if that was me. Maybe find out
22 why my name had been used. And that was it. I
23 expected it be a five-minute phone call. But you
24 kept trying to draw me into all these other topics
25 and my head was spinning. You were talking really

1 fast, like agitated. That's what I remember. And
2 I felt, what is this nervousness?

3 Q. So I have to say my memory is very
4 different from yours.

5 THE COURT: Counsel, don't
6 testify. Ask questions.

7 BY MS. SMITH:

8 Q. So you don't remember talking to me
9 about that you had a problem, that you had been
10 banned from Hopkins and you wanted to see if I
11 would represent you in that matter to see how to
12 clear your name in Hopkins?

13 THE WITNESS: Can I ask a
14 question? Maybe it's not normal. But I feel like
15 she asked me if I recorded it, so now she can lie
16 about what really happened.

17 MS. HUMISTON: All you have to do
18 is just answer the questions to the best of your
19 recollection. You don't have to worry about what
20 other people are going to say. If I might, Your
21 Honor.

22 A. I'm sorry, what was the question?

23 BY MS. SMITH:

24 Q. My question is that do you remember
25 asking me if I would represent you in an issue you

1 had with Hopkins?

2 A. I did not ask you if you would represent
3 me. Absolutely not.

4 Q. Have you had an issue with Hopkins?

5 A. You were trying -- what happened in that
6 phone call is you offered -- you said maybe I could
7 help represent you in some other matters. Do you
8 have anything else you might like representation
9 in? You brought that up.

10 I feel, in retrospect, because I do
11 understand it now, that was a way to manipulate me.
12 But I did not ask you to represent me at all. But
13 I thought -- I have an issue with Hopkins. I
14 mentioned it to you briefly. I did not ask you to
15 represent me. I was calling for one purpose. You
16 were trying to manipulate me and get me on your
17 side. Like, maybe I could -- you know, then you
18 won't be mad, maybe.

19 Q. Have we ever spoken before this?

20 A. No.

21 Q. So we had not spoken before, you
22 acknowledge? So I didn't know you, that's true?

23 A. That's right. I think you would have
24 done that with anyone who had called you the way I
25 had. It was a manipulative ploy.

1 Q. So do you remember telling me that you
2 thought that I was also the victim of fraud?

3 A. I don't remember if I told you that. It
4 did cross my -- I don't know if fraud would be the
5 word. But it crossed my mind that maybe you were
6 conned by this Jose whose name you were mentioning.
7 That crossed my mind. And you said no. I think
8 you said no at some point.

9 Q. Do you remember me sending you the
10 documents that I had so that we could talk about
11 it?

12 A. What documents?

13 Q. The documents I had -- your affidavits.
14 The information that --

15 A. I've never had any communication with
16 you after that phone call, to this day.

17 Q. But during the phone call?

18 A. The phone call -- I wasn't at my
19 computer. There was no email exchanged during the
20 phone call.

21 Q. In our call, you don't remember
22 acknowledging that you did actually sign the
23 document?

24 A. The affidavit?

25 Q. Right. You don't remember that?

1 A. Yes, that's common knowledge, at this
2 point. Everyone signed these affidavits.

3 Q. So after we had talked about this issue
4 for quite a while, do you remember asking me if
5 there was a way to take your name off? Do you
6 remember that?

7 A. I don't think so. Because my
8 recollection was -- my thought process was it's too
9 late for an attorney to do anything. It's too
10 late, because this is a case that was closed months
11 ago. So I honestly didn't know what to do. But I
12 felt asking you to be involved in it was off the
13 table. Because it was too late. I think that
14 would have been appropriate the day you filed it.
15 If I knew my name had been used, maybe you could
16 have said, Your Honor, I made a mistake. Take this
17 person off. This was a done deal. So it didn't
18 even cross my mind that you could do anything about
19 it. So I did not ask you to do that.

20 Q. So you don't believe we talked about
21 that you wanted to be taken off --

22 A. Oh, I probably said I would like to be
23 taken off. I may have said that. Again, it's
24 speculation, because I don't remember word for
25 word. But I do know what I was thinking. That I

1 do remember.

2 Q. Do you remember contacting the Hopkins
3 police department after our call?

4 A. Yes.

5 MS. SMITH: So I would like to
6 submit this as an exhibit. Exhibit 305.

7 (Respondent Exhibit 305 was
8 marked for identification.)

9 BY MS. SMITH:

10 Q. Does that refresh your memory?

11 MS. HUMISTON: She didn't say she
12 needed her memory refreshed.

13 A. I don't know what it is.

14 MS. HUMISTON: And I'm --

15 MS. SMITH: So this goes to
16 credibility.

17 THE COURT: Just one person at a
18 time. So where are we at here?

19 MS. HUMISTON: I'm asking to see
20 the exhibit that she has marked.

21 MS. SMITH: It's a Hopkins police
22 report.

23 MS. HUMISTON: And I'm objecting
24 to this.

25 MS. SMITH: And I'm saying it's

1 relevant. It goes to credibility.

2 THE COURT: Let me look at it,
3 please.

4 MS. SMITH: And it's specifically
5 about this issue. (Indicating).

6 MS. HUMISTON: My objection is
7 that it's not an actual court document. It's not
8 an official publication. It's a photocopy of
9 something.

10 THE COURT: Ms. Smith, at this
11 point, the document, there is no foundation for it.
12 If you want to ask the witness to look at the
13 document and to see if that refreshes her memory,
14 you can do that. But I don't, at this point, see a
15 legal basis for it to be received into evidence.

16 MS. SMITH: Your Honor, she filed
17 a police report about this particular issue. The
18 police did do an investigation and met with her,
19 spoke with her. They talked to her and talked to
20 me about this issue, because I was a part of this
21 issue.

22 THE COURT: My point is this is
23 not a self-authenticating document. If you get
24 someone from the Hopkins police department to come
25 and testify, that's one thing.

1 MS. SMITH: So I can present it to
2 her to refresh her memory and have her look at it
3 and ask her about this?

4 THE COURT: Well, that was what I
5 said, yes.

6 MS. SMITH: Well, that's what I
7 said before, to refresh her memory.

8 THE COURT: Well, you have to --
9 it's like I'm showing you how to try the case here,
10 counsel. And it's making me very nervous. First
11 of all, you have to ask her if she remembers
12 talking to the Hopkins police department and ask
13 her whether she acknowledges saying a, b and c, and
14 we will go from there.

15 A. You already asked me that and I said
16 yes.

17 BY MS. SMITH:

18 Q. You do remember?

19 A. I answered when you were sitting over
20 there. I answered --

21 Q. So you did call Hopkins police --

22 A. You are asking the same questions twice.

23 THE COURT: I want to make sure --
24 I'm sorry, this is a little intense here. Let's
25 just make sure we have it right. Because the two

1 of you are interrupting each other.

2 So, C.B., you are acknowledging that
3 you had a conversation with the police department
4 on or about the date that we are talking about,
5 which was in April of '21?

6 MS. SMITH: March 1, 2021.

7 THE COURT: March 1.

8 THE WITNESS: Yes.

9 THE COURT: Leave it at that.

10 Next question.

11 BY MS. SMITH:

12 Q. So do you remember speaking with the
13 police about the issue?

14 A. To me, it feels like you have asked that
15 question three or four times now.

16 Q. I'm asking specifically, do you remember
17 the conversation --

18 THE COURT: Please answer the
19 question.

20 A. I made a police report because I had not
21 decided -- I'm trying to think where I was at in
22 the process. I was frustrated trying to figure out
23 what to do. I want to state, because you have seen
24 this police report, it is completely defamatory and
25 false and is a product of Susan Smith's

1 conversation with a very young officer who had just
2 -- she was a brand new recruit, a very young
3 officer with the force. And that is false. It's
4 very false. I have talked to the chief about it or
5 a Captain Kreiling and he has agreed to remove the
6 defamatory information. But I have not followed
7 through on continuing with him. But that has been
8 left in process.

9 MS. SMITH: May I clarify?

10 THE COURT: Next --

11 BY MS. SMITH:

12 Q. So you are saying that what's in this
13 report --

14 A. Completely false.

15 THE COURT: Just a second. Wait
16 until the question is asked, please.

17 BY MS. SMITH:

18 Q. So you are saying the police report that
19 you filed has information about your history with
20 the Hopkins police department, that I didn't know
21 about, that it's my fault that that information is
22 in here?

23 THE COURT: Just a second. I'm
24 going to interject myself. I think your questions
25 are improper at this point. She has told you that

1 she remembers talking to the police department.
2 Now you are getting into the details of what's in
3 the police report. I don't see how you can go much
4 further, beyond calling someone from the Hopkins
5 police department.

6 MS. SMITH: So may I ask her if
7 she acknowledged to the police that she in fact did
8 submit the documents?

9 THE COURT: You can ask a specific
10 question.

11 BY MS. SMITH:

12 Q. So did you acknowledge to the Hopkins
13 police department officer that you had all the
14 information? That you gave them the case number
15 and you did tell them that you did submit the
16 documents?

17 MS. HUMISTON: And I would object
18 to the form of the question.

19 THE COURT: Sustained. You asked
20 four questions I think.

21 BY MS. SMITH:

22 Q. So did you acknowledge to the Hopkins
23 police department officer that in fact you sent the
24 documents?

25 MS. HUMISTON: What documents?

1 MS. SMITH: The affidavit.

2 A. I don't recall. I reported identity
3 theft. And the reason I called -- I Googled
4 identity theft and I found a citation that said
5 when you are the victim of identity theft, you
6 should always report it to the police. So I
7 thought while I'm trying to figure out how to get
8 my name removed and solve this, at least I can go
9 make the police report that my name has been used
10 fraudulently. That is the police report I made.
11 It was a phone report to this young officer.

12 BY MS. SMITH:

13 Q. So since you are talking about your
14 name, I would like to talk about that. So what is
15 your actual legal name?

16 MS. HUMISTON: Objection. Calls
17 for a legal conclusion.

18 MS. SMITH: She doesn't know her
19 name?

20 MS. HUMISTON: I said it calls for
21 a legal conclusion. Just ask a question.

22 BY MS. SMITH:

23 Q. So what is your name? What is your
24 actual -- what is your name?

25 A. I feel very attacked now. I kind of

1 need to take a breather here.

2 THE COURT: We are going to take a
3 10-minute break. We are in recess. Thank you.

4 (A recess was taken from
5 2:05 p.m. until 2:15 p.m.)

6 THE COURT: Please be seated.
7 Ready to proceed, Ms. Smith?

8 MS. SMITH: Yep.

9 BY MS. SMITH:

10 Q. So I asked --

11 THE COURT: There was a question
12 pending. That's right. Do you recall the
13 question?

14 THE WITNESS: It was what's my
15 name.

16 THE COURT: Yes.

17 BY MS. SMITH:

18 Q. What is your name?

19 A. C.B.

20 Q. Can you spell your last name.

21 A. X-x-x-x-n. Pronounced (redacted).

22 Q. So do you remember changing your name?

23 A. I don't know how to answer that.

24 Because this is part of my personal life from
25 decades ago that is part of the campaign that you

1 engaged in to try to discredit me and nothing to do
2 with any of these proceedings or this issue or --
3 it's my personal life.

4 Q. It goes to your credibility.

5 THE COURT: Counsel, so how does
6 this -- you are alleging that this constitutes
7 impeachment?

8 MS. SMITH: Yes, I'm saying that
9 she is accusing me of doing things and --

10 THE COURT: No.

11 MS. SMITH: Yes.

12 THE COURT: See, that's the
13 problem right there in a nutshell. Under the rules
14 of evidence, we have relevancy issues. We have --

15 MS. SMITH: Impeachment of
16 witnesses --

17 THE COURT: Are you interrupting
18 me?

19 MS. SMITH: I'm sorry.

20 THE COURT: Let me finish. There
21 is rules for impeaching a witness. To this point,
22 you haven't satisfied those rules. So I'm trying
23 to inquire as to why this is -- a name change --
24 assuming that's where this is going -- is something
25 that's relevant to impeach the witness? This

1 witness.

2 MS. SMITH: Right. This witness.
3 I believe that it is relevant because we can show a
4 pattern of behavior over years of her conduct, that
5 this is a part of that to impeach her and to raise
6 concerns about her credibility. She has made a lot
7 of statements in this testimony so far that I
8 believe I can show is untrue. And she is making a
9 lot of allegations about me and the truthfulness of
10 information. And I believe that I have the right
11 to submit proof of her own conduct that calls into
12 question the veracity of her statements when she's
13 on the stand.

14 THE COURT: Well, under the law
15 that I'm bound to follow, this doesn't qualify as
16 impeachment. I don't see it as satisfying Rule
17 404, character evidence, and it seems to me that I
18 can exclude it on the grounds that it's
19 confusion -- it's a waste of time, and I --

20 MS. SMITH: So --

21 THE COURT: Please, let me finish.
22 So, at this point, without more, I'm not going to
23 allow you to inquire further on this topic.

24 MS. SMITH: So may I ask you a
25 question, again? So if she in fact legally changed

1 her name, okay, and she has talked about that she
2 has voted using her name C.B., she filed an
3 affidavit that she was an eligible voter under the
4 name C.B., but that is not her legal name, I have
5 evidence that she is aware that she -- through
6 another court document, that she is aware that she
7 needs to use her legal name which is in this
8 document. So this is I think relevant to this
9 issue and this matter.

10 Also, she has said that she doesn't
11 understand litigation. I have evidence that she's
12 engaged in lots of litigation. So her credibility
13 matters and her name and her name change is a part
14 of that as just one piece. So I will ask it to be
15 submitted. I believe I have the right to ask her
16 about that.

17 THE COURT: How do you get around
18 Rule 404, counsel? How do you satisfy Rule 404?

19 MS. SMITH: Can you just give me
20 one moment, please.

21 THE COURT: Rule 404. Evidence of
22 a person's character or trait of character is not
23 admissible for the purpose of proving action and
24 conformity therewith on a particular occasion,
25 except if it involves the character of the accused

1 in a criminal case, the character of the victim, or
2 the character of a witness. But then you have to
3 satisfy other things. And it's discretionary with
4 the court. And I'm trying to find a way to see how
5 I can admit this. If I thought it was helpful, I
6 would let it in. But so far, you haven't tied the
7 dots -- or connected the dots here to make this
8 relevant.

9 MS. SMITH: She has made many
10 allegations about me. I am a witness, I am a party
11 to this matter, and she has made many statements
12 about me, in particular, and my truthfulness. And
13 she in fact is not being truthful. And I don't
14 understand how that does not go -- that that
15 doesn't meet the standard. She is literally
16 attacking the truthfulness and my conduct not just
17 about this case, but she has made many statements
18 about lots of things that have happened. And she
19 herself is not telling the truth. And she signed
20 this affidavit under penalty of perjury using an
21 improper name that is not her legal -- I believe
22 she knows her legal name.

23 THE COURT: See, the issue is not
24 whether she signed the affidavit. She signed the
25 affidavit. So I'm trying to understand why this is

1 impeachment evidence here.

2 MS. SMITH: Because her affidavit
3 was signed with a name that was not her name. It
4 was a false name and --

5 THE COURT: Well, counsel, are you
6 asking me to exclude the affidavit now?

7 MS. SMITH: I'm asking you to let
8 me --

9 THE COURT: Let me finish. The
10 affidavit came in. The witness said that she
11 signed it. So I'm just -- at this point, I'm going
12 to stand by my ruling. I'm not going to allow it.

13 MS. SMITH: I want to object and
14 have this evidence submitted as proof of -- I
15 believe these documents -- I'm objecting to your --

16 THE COURT: I understand. I
17 understand. If you want to mark the exhibits and
18 have the Court Reporter mark them, then we can
19 leave them in as an offer of proof and I will look
20 at them again over the -- to see if there is
21 something in there that I'm missing. But right
22 now, I feel that the rules of evidence are
23 correctly applied here.

24 MS. SMITH: Do you want me to give
25 them to her now or after the hearing?

1 THE COURT: We can mark them
2 during the break, if you want. My ruling applies
3 to this topic. Which in this topic I mean this
4 police report and the questions that you were
5 asking -- or not the police report. Sorry. It's
6 about the identity issue. That's what I have ruled
7 on.

8 BY MS. SMITH:

9 Q. You commented that you are not familiar
10 with the legal process?

11 MS. HUMISTON: Objection.
12 Misstates the evidence.

13 THE COURT: Overruled. You can
14 answer, if you know.

15 A. What's the question again?

16 BY MS. SMITH:

17 Q. Earlier, you commented that you were not
18 familiar with the legal process?

19 A. I am not a lawyer. I am not
20 professionally well-versed in legal processes. I
21 am not a lawyer. I am not versed like a lawyer
22 would be. Like a professional would be. I'm a
23 layperson as far as the law goes.

24 But I would like to state, my legal --

25 THE COURT: No, no, no. There is

1 no question. You have answered the question. So
2 just answer the questions and let's move on. One
3 question at a time. One answer to the question.

4 BY MS. SMITH:

5 Q. So do you currently live in Minnesota?

6 A. Yes.

7 Q. Have you been living in Minnesota
8 consistently for the last -- since 2020?

9 A. No.

10 Q. So where were you living?

11 A. I was living in Arizona.

12 Q. In Arizona. And when did you start
13 living in Arizona?

14 A. 2019.

15 Q. And so you were living in Arizona in
16 2019. And have you officially moved back now?

17 THE WITNESS: Can I ask -- I feel
18 it's really important that I tell the Court what my
19 real name -- what my legal name is. Can I do that?
20 Because I would like to put it to rest.

21 THE COURT: Well, you are not
22 represented by anybody here. So if you want to --

23 THE WITNESS: Yes, my legal name
24 is C.B. Let's end the whole discussion about that
25 garbage. It's C.B. I just feel it's important to

1 put that to rest.

2 A. Now, you are asking about my residence.
3 I have two residences right now. Right now I live
4 in Minnesota and Arizona. My permanent residence
5 has always been Minnesota. My domicile, my legal
6 residence, my permanent residence is Minnesota. I
7 have lived here my whole life. I temporarily went
8 to Arizona to help assist in the care of my elderly
9 parents.

10 BY MS. SMITH:

11 Q. Because you did say that your legal name
12 is C.B. Can I ask you when did you change it back
13 to C.B.?

14 A. That's all I have to say on the matter.
15 You don't know me. You don't know anything about
16 my life --

17 THE COURT: Now, just a second.
18 You opened the door now. I have to let her ask the
19 question.

20 A. I have been using the name C.B. my whole
21 life. Everyone knows me by that name. It is on
22 every legal document that I have in my possession.
23 No one has ever known me by any other name. That
24 is my legal name.

25 BY MS. SMITH:

1 Q. So why did you change your name in 1998?

2 A. Again, I don't --

3 THE WITNESS: Do I need to address
4 this?

5 THE COURT: Yes.

6 BY MS. SMITH:

7 Q. Yes.

8 THE COURT: No, you --

9 THE WITNESS: What?

10 THE COURT: I was just about to
11 say something to Ms. Smith. Go right ahead.

12 A. No, I don't mind not answering that.
13 Because, again, that's getting into my personal
14 life that has nothing to do with Susan Smith or any
15 of this. It's a very private matter. And I would
16 rather not address it, if I don't have to.

17 THE COURT: I believe since you
18 opened the door, you need to answer.

19 A. I was a stalking victim and the stalker
20 followed me to apartment to apartment to apartment.
21 Every time I moved, he was there, threatening to
22 kill me, coming to my home. And when I went to
23 purchase a house in the late '90s, I felt doing a
24 name change in which I could put the house in a
25 different name so he couldn't find me would be a

1 solution. I did so. And it was a solution. And
2 that was it. That's the reason for that document
3 that Susan only knows about because she has done a
4 thorough investigation of anything she could find
5 on me in a public record and then used it to
6 concoct a fake narrative about my life.

7 THE COURT: Let's just stick to
8 the question. Next question.

9 BY MS. SMITH:

10 Q. So you don't have a stalker anymore?

11 THE COURT: Counsel, we have gone
12 far, far afield. Please, let's stick to the topics
13 at hand here.

14 MS. SMITH: So I'm going to ask
15 her if she has changed her name back.

16 THE COURT: I thought you already
17 asked that two times.

18 MS. SMITH: I don't think she has
19 answered it.

20 A. Yes.

21 BY MS. SMITH:

22 Q. Can I know when did you do that?

23 A. No. I -- well --

24 THE COURT: Yes, you need to
25 answer. I'm sorry I misunderstood the answer and

1 the question.

2 A. Shortly after the purchase of the home.

3 BY MS. SMITH:

4 Q. So you are saying that shortly after you
5 purchased your home you changed your name back to
6 C.B. in the state of Minnesota? Did you file those
7 papers in Minnesota?

8 THE WITNESS: Do we have to
9 keep -- do I have to tell her all the details of my
10 life?

11 THE COURT: I was excluding it,
12 until you answered --

13 THE WITNESS: Oh, until I brought
14 it up. I just want it for the record, on the
15 record what my name was, so that we can put an end
16 to this witch hunt that I'm living under.

17 THE COURT: I'm bound by the rules
18 of evidence. I have to apply the law fairly to
19 everyone, regardless of --

20 THE WITNESS: I just want Susan
21 Smith to quit telling the world what my name is
22 that is not my name. She is going around spreading
23 everywhere all these false --

24 MS. SMITH: I want you to answer
25 the question --

1 THE COURT: Hold it. Hold it.
2 Please. Please. Let's ask the next question,
3 Ms. Smith.

4 BY MS. SMITH:

5 Q. So when did you change your name back?

6 A. I said right -- right after the purchase
7 of my home.

8 Q. Is your home still in the name of Nick
9 Brown?

10 MS. HUMISTON: I object to the
11 relevance of this.

12 THE COURT: Sustained.

13 MS. SMITH: So she is under oath,
14 correct? So she needs to be telling the truth
15 about her name, right?

16 BY MS. SMITH:

17 Q. So when I did try to find out
18 information about you, I never expected this
19 information. So I can't find a name change -- that
20 you have changed it back.

21 MS. HUMISTON: I would object.

22 THE COURT: Sustained.

23 BY MS. SMITH:

24 Q. So what county did you change your name
25 back?

1 MS. HUMISTON: Object. Relevance.

2 THE COURT: Sustained.

3 BY MS. SMITH:

4 Q. So you signed the affidavit that you
5 were an eligible voter in Minnesota because you
6 owned a home here but you were staying in Arizona
7 to take care of your mom. And were you engaged in
8 any litigation in Arizona?

9 MS. HUMISTON: Objection.
10 Relevance.

11 MS. SMITH: Well, it would go --

12 THE COURT: What's the relevance?

13 MS. SMITH: Because if she were
14 engaged in litigation in Arizona at the time that
15 she filed an affidavit that she was living in
16 Minnesota here and not there, perhaps that that --
17 she may have thought that that would have an impact
18 on what she was doing in Arizona perhaps.

19 THE COURT: Objection sustained.

20 BY MS. SMITH:

21 Q. So you have said that I have spread lies
22 about you. Could you tell me what they are? What
23 are the lies? I mean, could I know that?

24 THE WITNESS: Should I address
25 this?

1 A. I have a long list on my computer that
2 I'm a liar, that I'm a fraud, that I'm a fake name,
3 that I'm committing fraud, I think all kinds of
4 fraud. And most of it has to do with is because
5 you get to decide what my name is. And since I'm
6 not using the name you want me to, then I must be a
7 fraud. That I'm mentally ill. That I'm mentally
8 incompetent. I mean -- et cetera.

9 BY MS. SMITH:

10 Q. So you believe that I'm lying about you
11 and that the documentation that has been attached
12 to the court records, the things that have been
13 submitted to court? That is the things you are
14 talking about?

15 A. That's one of the ways, yeah. Things
16 you submitted in court as well as things that other
17 people are repeating on your behalf, very obviously
18 on your behalf, on the internet and in person.

19 Q. So when you were contacting people about
20 these cases, about the emails and things like that,
21 did you -- how many times did you contact the
22 people? Did you contact everybody once? If
23 somebody said don't call me, did you keep calling?
24 What did you do?

25 MS. HUMISTON: Objection.

1 Compound question.

2 THE COURT: Sustained.

3 BY MS. SMITH:

4 Q. Have you posted any information online
5 about people who didn't agree with you?

6 MS. HUMISTON: Objection.

7 Relevance. I don't know -- also, it's kind of
8 unbounded in time.

9 MS. SMITH: People connected to
10 these cases.

11 THE COURT: I will allow it.

12 A. I really don't know what you are
13 referring to. Can you be more specific?

14 BY MS. SMITH:

15 Q. So when you contacted -- so Julie Quist
16 is a person who is one of the people that stayed in
17 the case. I'm just curious, like, have you
18 commented about her online?

19 A. I did not contact Julie Quist.

20 Q. Okay. Did you contact Robin Peterson?

21 A. I did contact a Robin Peterson.

22 Q. Did you contact a Tomas Settel?

23 A. Yes, I did.

24 Q. Did you contact Patrick Jensen?

25 A. Yes, I did.

1 Q. Were those conversations, did you
2 believe them to be all friendly?

3 A. My contact with every other plaintiff
4 was simply plain and simple. I found that my name
5 was fraudulently used in a lawsuit without my
6 permission and I see that your name is also listed
7 on the same series of lawsuits. Did the same thing
8 happen to you or were you aware you were used in a
9 lawsuit? That was the same thing I said to
10 everyone.

11 Q. And what did you tell them about what
12 could happen? Did you tell them what could happen?

13 A. That's all. I'm not a lawyer. I just
14 told them what I discovered and I was inquiring to
15 find out if they were also a victim. That's all.

16 Q. Did you share information about what you
17 thought would happen?

18 A. What I thought would happen?

19 Q. Did you tell these people that you
20 contacted about what you saw as adverse things that
21 would happen to them?

22 A. I can't -- my contact reaching out to
23 all these people was what I just described. Now,
24 if I engaged in a phone call with some of them in
25 particular, we may have just had a personal chat, I

1 don't know, you know, how people do. But I don't
2 know who you are referring to.

3 Q. I'm just asking you what you told them,
4 what you talked to them about?

5 A. Who? Them is a whole group. I would
6 have to know who to know what I told them.

7 Q. So Robin Peterson, what did you say to
8 her?

9 A. Robin Peterson I said the same thing I
10 just said. I talked to her once, I believe.
11 Because she was the only one I contacted who said,
12 you're right, my name was used without my knowledge
13 and permission, too. I have no idea what you are
14 talking about. I was not in a lawsuit. And I
15 said, well, I also would send them the court file
16 that would show their name. And she said, you are
17 right, my name was used without my permission. And
18 she said, I don't care. So she can leave my name
19 on it. And then I didn't contact her again.

20 Q. Well, I guess, C.B., I am sorry that you
21 were placed on these contests. You do remember we
22 had a conversation and you don't remember me saying
23 that to you. You acknowledged that you did get a
24 letter after we spoke, right, from Jose? You
25 acknowledged that; correct?

1 A. Yes.

2 Q. And so you were given that information.
3 Do you remember being told that the fines were all
4 going to be paid? Do you remember us talking about
5 that?

6 A. I think we already addressed that,
7 because it was in the letter. But, yes, I thought
8 I already answered that.

9 Q. In our conversation we talked about it?

10 A. Oh, I thought you meant today in court.

11 Q. No, no, no. In our conversation on the
12 phone.

13 A. Oh, I don't remember. Probably. You
14 probably would have said that. I just -- in
15 response to your apology, I think you would show a
16 genuine apology if you stop trying to hurt me,
17 defame me. Leave me alone. I don't know you. I
18 didn't know you before. Something happened that
19 harmed me and I did something to correct it and I
20 want to be left alone. I don't want you in my
21 life. I don't want you contacting my friends and
22 family, as you have been. I want you leaving me
23 alone. Actions speak louder than words. If you
24 are really sorry, you won't keep trying to use me
25 as a scapegoat for your own behavior. This has

1 nothing to do with me.

2 Q. You do realize that I believe it has a
3 lot to do with you. People may not agree. But I
4 do believe it has --

5 A. Your behavior only has to do with you.

6 THE COURT: Just a second. Let me
7 stop it. The two of you are -- let's stick to the
8 facts.

9 MS. SMITH: We can be done. I
10 don't need to question her anymore.

11 THE COURT: Ms. Humiston, any
12 further questions?

13 MS. HUMISTON: No, Your Honor.

14 THE COURT: Any need to keep the
15 witness?

16 MS. SMITH: No.

17 THE COURT: You are excused.
18 Thank you very much. Ms. Humiston, call your next
19 witness, please.

20 MS. HUMISTON: My next witness is
21 going to be Susan Smith. But you wanted to have
22 all of that taken at one time. And then also
23 Ms. Smith had the request to take one of her
24 witnesses today out of order. So I'm wondering if
25 after the break that would be a good time to do

1 that.

2 MS. SMITH: Yes.

3 THE COURT: Yes, I do have -- so
4 at this point, does the Director rest subject to
5 cross-examination of Ms. Smith?

6 MS. HUMISTON: Yeah, I mean, the
7 Director is calling Ms. Smith in her own case, so I
8 would be doing an adverse direct.

9 THE COURT: Yes.

10 MS. HUMISTON: And so in addition
11 to an adverse direct and cross, the Director does
12 rest at this time subject to calling Ms. Smith.

13 THE COURT: Very good. Thank you.
14 Ms. Smith, you can call your witness.

15 MS. SMITH: Robin.

16 ROBIN PETERSON,
17 the Witness in the above-entitled
18 matter after having been first duly
19 sworn, testifies and says as follows:

20 THE COURT: Please, be seated and
21 state your name, spell the last name, and your
22 address, please.

23 THE WITNESS: Okay. My name is
24 Robin Peterson, P-e-t-e-r-s-o-n. My address, 16842
25 Reeder -- and it's spelled R-e-e-d-e-r. So Reeder

1 Ridge, Eden Prairie, Minnesota 55347.

2 THE COURT: Thank you. Ms. Smith,
3 you may inquire.

4 DIRECT EXAMINATION

5 BY MS. SMITH:

6 Q. So, Robin, do you remember the
7 circumstances generally? Can you describe why you
8 think you are here, maybe? Is that fair? Why do
9 you think you are here?

10 A. I'm here as a witness of an example of
11 somebody whose name was placed on one of these
12 election contests and I asked for my name to remain
13 on it. So I'm a witness on your behalf.

14 Q. In 2020, do you remember getting an
15 affidavit in the mail -- or in an email?

16 A. Yes.

17 Q. Do you remember that?

18 A. I do remember it.

19 Q. And you read it?

20 A. Yes.

21 Q. And did you sign it?

22 A. Yes. I signed it. I was excited to
23 sign it. And I also asked my husband if he wanted
24 to sign one. And he also signed one.

25 Q. What did you understand was going to be

1 happening because you signed that document?

2 A. It was my understanding that we were
3 going to possibly be chosen to put our name on one
4 of these election lawsuits.

5 Q. So you were agreeing to be --

6 A. Yes.

7 Q. -- a contestant?

8 A. Yes.

9 Q. In the elections?

10 A. Yes.

11 Q. Do you stand by that today?

12 A. Yes, I was very enthusiastic about it.

13 And I still feel like I want to participate in that
14 way.

15 Q. The email that we have been talking
16 about all day talked about there were volunteers,
17 MNEIT volunteers. Did you seek to get information
18 as to who was -- the names of the lawyers, were you
19 concerned about that?

20 A. No.

21 Q. So for you, you believe that you
22 understood that it was an election contest?

23 A. Yes.

24 Q. You understood the language of the
25 affidavit?

1 A. Yes.

2 Q. Is there anything that you didn't
3 understand or that you had any questions about?

4 A. No.

5 Q. Did you recognize that MNEIT and the
6 emails -- that the email talked about that it was
7 an organization? Does that make sense to you, that
8 you knew that that's what it was?

9 A. I knew they were an election integrity
10 group, and I put my name on their email list
11 because I wanted to find out what was going on with
12 especially the Minnesota elections.

13 Q. So, basically, really -- because I don't
14 think we need to beat this dead horse -- you signed
15 the affidavit willingly? Did anybody make you sign
16 it?

17 A. I was very enthusiastic about signing
18 it.

19 Q. As Ms. Humiston asked her witnesses,
20 were you pressured to stay in the contest? Did
21 anybody pressure you to stay in the contest?

22 A. No.

23 Q. So you don't regret staying in the
24 contest?

25 A. No, I do not regret it.

1 MS. SMITH: I don't really have
2 any other questions. Thank you. Thank you for
3 being here today. You didn't have to come, so
4 thank you.

5 THE COURT: Ms. Humiston, do you
6 have cross?

7 MS. HUMISTON: I do.

8 CROSS-EXAMINATION

9 BY MS. HUMISTON:

10 Q. In the books in front of you there is
11 Exhibit 6. Can you turn to that.

12 A. The first -- okay, the first page of
13 Exhibit 6, on the bottom it says Exhibit 6, but on
14 the top it says Exhibit 7.

15 Q. Exactly, yes. It is confusing, but that
16 is how we maintain some document integrity around
17 here. Do you recognize this email?

18 A. I believe this is the email that I
19 answered and then I clicked on that affidavit link
20 to get the actual affidavit.

21 Q. And so you were responding specifically
22 to this email request? Is that your testimony?

23 A. Yeah. Yep, I believe so.

24 Q. Did you do this on November 30 or
25 December 1?

1 A. I know I did it -- I think I got it
2 right away and I sent it right back that night. It
3 was at night. I know that.

4 Q. And you wanted to be listed, as it says,
5 as a voter contesting the elections; is that
6 correct?

7 A. Yes.

8 Q. And you had concerns relating to the
9 2020 election; is that correct?

10 A. Yes.

11 Q. And did you have specific information
12 relating to voter fraud yourself, or did you have a
13 generalized concern with respect to the 2020
14 election?

15 A. I follow a lot of information on voter
16 fraud in every state, every type of fraud. I have
17 my own suspicions about Minnesota in particular,
18 but also every state.

19 Q. And so you had concerns and that's why
20 you responded to this solicitation; is that
21 correct?

22 A. Yes.

23 Q. And on November 30 or December 1 when
24 you would have responded right away to kind of
25 enthusiastically show your support, did anyone

1 explain to you what an election contest was?

2 A. No. But I have a general idea that it
3 was a legal proceeding. I mean, one thing, right
4 in the email it says we are planning on filing a
5 voter contest. The word "filing" to me suggests a
6 legal proceeding.

7 Q. Okay. And so what did you think -- but
8 no one explained to you -- you agree, no one
9 explained to you what a voter contest was; is that
10 correct?

11 MS. SMITH: Objection. She said
12 she understood it and didn't ask the question.

13 BY MS. HUMISTON:

14 Q. I said, did anyone explain to you?

15 THE COURT: Overruled. You can
16 answer. Please, restate the question so the
17 witness knows.

18 BY MS. HUMISTON:

19 Q. Did anyone explain to you on November 30
20 or December 1 what an election contest was?

21 A. Everything I knew at that time came off
22 of this email. No one whispered anything in my ear
23 or anything.

24 Q. Did someone then let you know that you
25 had been listed as a named participant in a lawsuit

1 against Steve Simon and Dean Phillips on December 1
2 of 2020?

3 A. The first I heard about what form my
4 participation took was when C.B. made a phone call
5 to me.

6 Q. And prior to that time, you agree that
7 no one had let you know that your name had been
8 picked; is that correct?

9 A. That's correct.

10 Q. And you had not been provided any copies
11 of the filings that had been made on your behalf;
12 is that correct?

13 A. That's correct.

14 Q. And you had not been advised that a
15 judgment had been entered against you for almost
16 \$4,000?

17 A. Can you re -- I didn't get a good -- a
18 double negative.

19 Q. Had you been advised that a judgment had
20 been made against you for approximately \$4,000?

21 A. No.

22 Q. And when did you learn that a judgment
23 had been entered against you in the amount of
24 approximately 4,000 or \$3,500?

25 A. My memory is that C.B. told me that

1 there was a judgment. I do not remember any dollar
2 amount being mentioned.

3 Q. And prior to or on or around November 30
4 or December 1, were you familiar with the
5 individuals who were involved with the Minnesota
6 Election Integrity Team?

7 A. I only knew of them from the emails they
8 sent me, and I believe I saw that they were
9 involved in some other voter lawsuits. That
10 impressed me that that's what they did.

11 Q. Had you ever met Susan Smith at this
12 point?

13 A. No.

14 Q. Had you ever spoken with Susan Smith?

15 A. No.

16 Q. When did you first speak with Susan
17 Smith?

18 A. After speaking with C.B.

19 Q. And you decided, it seems to me, that
20 you did not object to your name being used; is that
21 correct?

22 A. That's correct.

23 Q. And you did not ask the court to remove
24 your name; is that correct?

25 A. That's correct.

1 Q. And you are still listed as a contestant
2 in one of the matters; is that correct? Is that
3 your understanding?

4 A. That is my understanding.

5 Q. Now, have you had occasion to hire
6 lawyers previously?

7 A. Yes.

8 Q. And you agree that it's kind of a
9 serious matter to file a lawsuit?

10 A. Yes, lawsuits are serious.

11 Q. And you can see how people would maybe
12 not have the same reaction that you would have and
13 might object to have been included? Can you see
14 where that would be the case?

15 A. I understand that the lack of
16 communication was troublesome.

17 Q. You can see why it would be upsetting to
18 people to have their name be included in a lawsuit
19 where they didn't give permission? You agree,
20 correct?

21 A. Yes, I see where the misunderstanding
22 happened.

23 Q. And that would be upsetting?

24 A. I'm sure to some people it would be very
25 upsetting.

1 MS. HUMISTON: I have no further
2 questions.

3 THE COURT: Any questions further?

4 MS. SMITH: No. But I would like
5 to take a break to use the bathroom.

6 THE COURT: I'm sorry?

7 MS. SMITH: I would like to take a
8 break and use the bathroom, if possible. No
9 questions.

10 THE COURT: The witness is
11 excused? No need to --

12 MS. SMITH: Uh-huh.

13 THE COURT: You are excused.
14 Thank you very much for coming. Take five, ten
15 minutes now.

16 (A recess was taken from
17 2:58 p.m. until 3:10 p.m.)

18 THE COURT: Ms. Smith, you can
19 call your next witness.

20 MS. SMITH: Just one moment. Just
21 give me one second. It will be Julie Quist.
22 Actually, may I ask a question --

23 THE COURT: Certainly.

24 MS. SMITH: -- before we do this
25 about the logistics? Because the Director had

1 originally thought in terms of the scheduling that
2 we were going to be -- that today we were not going
3 to get nearly as far as we have gotten. So we have
4 the one Zoom witness on Wednesday, but I believe
5 that we will be probably maybe be able to get her
6 done tomorrow. Does that make sense? Or do we
7 just not want to worry about it? Would it be
8 worthwhile to see if we could do the Zoom tomorrow
9 morning with her?

10 THE COURT: I will leave that up
11 to counsel to arrange. At this point, I think we
12 keep going. That's usually what works best. So we
13 can have the next witness now and then tomorrow
14 morning we will start at I guess 8:30 and go until
15 3:00. So if you can fit the Zoom in during that
16 time, that would be great. If not, we can do it on
17 Wednesday. Sometimes witnesses will go quickly.
18 Maybe that's what you are observing, is that things
19 aren't taking as long as you thought.

20 MS. HUMISTON: The only thing that
21 I would add, if I may --

22 THE COURT: Yes.

23 MS. HUMISTON: That we can only
24 take a Zoom witness tomorrow between the hours of
25 8:30 and 11:30. Because that's the only time we

1 have the room that's available for that. Any time
2 during that, that's fine. We can coordinate it
3 between 8:30 and 11:30. Out by 11:30. Sofia is
4 telling me we need to be out by 11:30.

5 THE COURT: My feeling is let's do
6 the Zoom witness tomorrow morning, if that works
7 for you, Ms. Smith.

8 MS. SMITH: I can see if we can
9 reach her.

10 THE COURT: We don't have to have
11 this on the record.

12 (At this time a discussion
13 was held off the record.)

14 THE COURT: All right. Call your
15 next witness.

16 MS. SMITH: It would be Julie
17 Quist.

18 JULIE QUIST,
19 the Witness in the above-entitled
20 matter after having been first duly
21 sworn, testifies and says as follows:

22 THE COURT: Please be seated and
23 state your name, spell the last, and give us your
24 address, please.

25 THE WITNESS: My name is Julie

1 Quist, Q-u-i-s-t. And you want to know my address.
2 38197 State Highway 22, St. Peter, 56082.

3 THE COURT: Counsel, you may
4 inquire.

5 DIRECT EXAMINATION

6 BY MS. SMITH:

7 Q. Thank you for coming today. I
8 appreciate it, because I know you didn't have to
9 come. So can you tell me maybe your history with
10 elections and politics? What your knowledge of it
11 is a little bit, your history?

12 A. Can you say that again.

13 Q. So you have been involved in politics
14 for a long time, maybe. Do you want to tell us a
15 little bit about -- first, did you go to college?
16 Did you go to school?

17 A. Yeah. So, anyway, I went through three
18 years of college and then I got a certificate in
19 electronics training. And then I have been
20 politically involved most of my life.

21 Q. Have you been involved in politics?

22 A. Most of my life, in one way or another.
23 Not necessarily electoral politics. Sometimes it's
24 just other -- yeah.

25 Q. And so in 2020, right, it was a very

1 different year in politics, I guess. So were you
2 engaged in looking at what was happening as to the
3 elections?

4 A. Yep, before, during, after very much so.
5 Very, very much engaged.

6 Q. And did you have concerns about the
7 elections before?

8 A. Before?

9 Q. Yeah.

10 A. Well, I didn't anticipate at all what
11 happened. I knew that -- I mean, I knew that it
12 was -- that there was something deeply wrong, but I
13 wasn't prepared to see how deeply wrong it was.
14 Yeah, so I was concerned right out of the chute.

15 We were in the midst of COVID, and I
16 think sometimes we forget that. It was a very
17 traumatic time for everybody. We had all these
18 mail-in ballots. My own township has always had
19 direct elections. This time, it was the Secretary
20 of State had pressured them into having mail-in
21 there, too. Saying that, oh, you can't have any
22 good elections unless it's all mail-in now because
23 of COVID. There was just tremendous, you know,
24 trouble that I saw. I was very concerned.

25 Q. So on election day did you vote in the

1 elections?

2 A. I did. I had to vote by mail.

3 Q. Voted by mail.

4 A. Yeah.

5 Q. Were you able to verify that your vote
6 was counted?

7 A. I think I did.

8 Q. After the election results came in, were
9 you satisfied? Were you -- how did you -- were you
10 -- did you believe --

11 A. Oh, no. I mean, it was just so obvious
12 to me. There were all kinds of horrid things
13 happening in the middle of the night. Voting
14 stopped and pictures of ballots being brought in.
15 I mean, the whole thing was pretty phenomenally
16 outrageous. You know, I knew that something was
17 very wrong. So, no, I was very concerned.

18 Q. Were you involved with any organizations
19 or groups related to the elections?

20 A. Before or during?

21 Q. Both. Maybe before?

22 A. Well, you know, I did election stuff.
23 You know, I helped put up signs and things like
24 that.

25 Q. After the elections, did you express

1 concerns to anybody?

2 A. I did. I was very concerned. The
3 things that I was observing, I started contacting
4 people of some -- I wrote an email to a couple of
5 legislators that I knew, an attorney that I knew,
6 who I considered a very trustworthy individual.
7 Yeah, so I tried to get people to look at this.
8 Look at what I am seeing. I'm not going to say all
9 the details that I saw, because I have it written
10 down, and some of the things I wrote I can't just
11 pop it off the top of my head. But I knew, I knew
12 this was deeply, deeply wrong. I said, look at
13 this, look at this, look at this, this isn't right.

14 And then there were the postelection
15 reviews that were starting to go on. That's when I
16 became aware of the Minnesota Election Integrity
17 Team. And I know that they were organizing to have
18 teams go out and do PER reviews. I did participate
19 in that in my county, which is Hennepin County. I
20 was very grateful for the Minnesota Election
21 Integrity Team. Because it was a terrible time. I
22 mean, we had masks, everything was online, there
23 were mail-in votes that were -- in our mailbox, I
24 got four ballots, and there are two of us that
25 vote, and I could have signed every one of them.

1 We didn't even have to have a witness that it was
2 a real -- that you really voted that way. I
3 didn't, of course, vote four of them. But why did
4 I get these ballots.

5 So when I got wind that there was some
6 people going to challenge it, because all this
7 information was being accumulated, I mean, it was
8 just coming in, I was very excited.

9 Q. So you remember getting emails? Do you
10 remember getting emails from the Minnesota Election
11 Integrity Team?

12 A. Right. Actually, I think I got it from
13 somebody else originally. And I shared it with a
14 number of people that I knew who were also
15 concerned. You know, we talk. We were talking.
16 And at that point you have to remember that if you
17 were questioning anything, what were you, you were
18 an insurrectionist just because you asked the
19 questions, just because you asked the details. I
20 mean, the state party itself was telling me to be
21 quiet. I wasn't supposed to ask these questions,
22 because it wasn't right to question elections. So
23 it was really distressing to me that all this
24 information that the -- the certification, the
25 certification of the election happened before --

1 you know, I mean, -- I heard presentation that
2 showed the inconsistency of how you can -- the
3 votes weren't even fully put into the Secretary of
4 State and they were certifying it. That's illegal.
5 That's illegal. And that information was hush,
6 hush, hush. Nobody is supposed to talk about it.
7 If you do, you are an insurrectionist. And that
8 was before January 6.

9 Q. And you have been involved in politics
10 you said for a long time. Was this different than
11 in the past did you feel like?

12 A. Uh-huh. It was very different. Things
13 were very different. Things were ugly. Things
14 were ugly. We weren't supposed to say anything.
15 Weird things were happening. We were supposed to
16 all be masked. We weren't supposed to talk to each
17 other. We weren't supposed to be together.
18 Weren't supposed to -- we weren't supposed to say
19 anything. And it's never been that way before,
20 ever. I mean, it's been bad in Minnesota. I think
21 Minnesota has been questionable for many, many
22 years, to be honest. But this was a whole new ball
23 game.

24 Q. So you said you went to the PER. Can
25 you describe your involvement in that?

1 A. There were about eight of us. And we
2 just counted them. You know? I didn't have all
3 that much confidence in the PER. Because, you
4 know, from what I've been kind of gathering, the
5 problems weren't -- I just -- I don't know. It's
6 hard to articulate. But I thought we need to do
7 this. We didn't see anything particularly unusual.
8 I mean, it was just a process. We counted -- they
9 counted -- we did see some things that we thought
10 were questionable and we reported them to the
11 Minnesota Election Integrity Team. We reported it
12 to them. They were the ones who was collecting it,
13 God bless them. I mean, who else was doing it.
14 People wanted to do things, but there wasn't
15 anybody to actually take any leadership and make
16 something actually happen. There were
17 irregularities. I don't know that they were
18 particular -- they might have been something. But
19 I don't know. I wasn't in a position to really
20 make a judgment in those things in our county.

21 Q. So we talked a little bit about recounts
22 today. People brought up recounts. Right? But do
23 you think that the actual number of votes is the
24 only issue that matters?

25 A. Oh, heavens, no. It's how they are

1 tabulated. It's, like, how they are accumulated.
2 How are ballots -- I mean, you mail out ballots to
3 everybody. You've got stray ballots by the
4 bushelful. You know, it's a plan. It's a plan.
5 So, no, I mean, it's not just the county. And so
6 how do you get all these extra ballots?

7 And the voter rules are abominable. I
8 mean, there are people on there that have been
9 there forever that don't belong there and all kinds
10 of people at the same address. Hundreds of them
11 sometimes at the same address, which is a parking
12 lot or something to that effect. I mean, we have
13 just abominable voting -- I mean, how do you put
14 that all together. It's absolutely -- it's
15 embarrassing, to say the least.

16 So, no, it's not just the numbers.
17 It's the whole system. And that's the point that
18 when they were wanting to challenge the election,
19 that was the right thing to do. Challenge the
20 election.

21 I mean, like, the Secretary of State is
22 responsible for the election. And all these
23 irregularities that nobody is supposed to talk
24 about. No, we're not supposed to talk about it.
25 So that was the right thing to do. Why was this

1 happening? Why are the voter rules so bad? Why
2 did they certify the election before all the
3 information was in and that you couldn't even
4 certify properly? Why were we not allowed to have
5 in-person voting, basically, for the most part?
6 Why is it that there were all these mail-in ballots
7 and whatever?

8 So, yeah, I was real excited about
9 that. I really thank the Minnesota Election
10 Integrity Committee for the leadership they took.
11 It was very, very commendable.

12 Q. So you were following the results of
13 these PERs. I think there were 60 -- about 87
14 postelection reviews around the state. And the
15 Minnesota Election Integrity Team had volunteers.
16 I believe there were about 60 of them. So that
17 data was gathered. So you were paying attention to
18 the things that were being reported about that;
19 right?

20 How did you feel like in your community
21 that COVID -- did it affect voter turnout? Did it
22 affect people's trust in the results, do you think?

23 A. Oh, yeah, definitely. That year --
24 well, in our state legislative seat it's usually
25 dominated by the democrats. And in this case a

1 republican won. And the main reason she won was
2 because the college kids weren't in school. So
3 they all voted, no matter where they came from.
4 They came from all over the country. But every
5 year they ship them down to vote in all our
6 elections and they are told how to vote. They know
7 how to vote. And they don't even live there. They
8 live there for a few months out of every year for
9 two or three years or four. But they weren't there
10 or they were, you know, cloistered in. And so
11 that's the reason she won. Because the district is
12 usually won by democrats, just because they ship in
13 the students.

14 Q. So when you got the email with the
15 affidavit, you -- and you can pull up the exhibit.
16 232 is the letter that you submitted in response to
17 Judge Castro. I think it's Exhibit -- let me go to
18 the top. I'm pretty sure I'm looking at it. It's
19 Exhibit 232, I believe.

20 A. 232. What are you referring to?

21 Q. There is a white book maybe behind you
22 that has --

23 A. Oh, back here?

24 THE COURT: Yes.

25 A. I see what you are saying. Okay, here

1 you go. There's a lot of material. What page?

2 BY MS. SMITH:

3 Q. Page 19 is your affidavit ?

4 A. Well, that's my signature.

5 Q. So on page 18 -- it's a little bit
6 small.

7 THE COURT: What exhibit are we on
8 now?

9 MS. SMITH: 232. It's the same.

10 MS. HUMISTON: I don't --

11 MS. SMITH: She's the witness who
12 submitted a letter. So a lot of information just
13 in her letter.

14 MS. HUMISTON: That's not my 232.

15 THE COURT: My 232 has affidavits
16 of Eligible Minnesota Voters.

17 MS. SMITH: Can we remark it as
18 something else and then we will find it.

19 THE COURT: Well, let's see if we
20 can find the exhibit first and then --

21 THE WITNESS: I have that email
22 here.

23 MS. SMITH: Is it 232?

24 THE WITNESS: Well, it's the email
25 that says planning on filing a voter contest to

1 each of the following races.

2 MS. SMITH: Yeah, so we've got to
3 get everybody on the same -- it looks like this is
4 May 17 (indicating).

5 THE WITNESS: Okay, on 17 there is
6 something I signed.

7 MS. SMITH: Yeah, May 17.

8 MS. HUMISTON: That's not --

9 THE COURT: I will direct the
10 witness to not speak while we're -- Let's be off
11 the record and find the darn exhibit.

12 (At this time a discussion
13 was held off the record.)

14 THE COURT: I believe we were
15 off the record and now we are back on the record.
16 I have a folder that I think is Ms. Smith's
17 compilation of 231 to 241. I have something
18 previously that I have been working off of that I
19 think the Director's Office gave me that has kind
20 of a tan sheet there.

21 MS. HUMISTON: I think those were
22 the original exhibits that we got that we included
23 with the motion in limine.

24 THE COURT: That's right. So I
25 will switch to Ms. Smith's 232 for now. And at the

1 end of the hearing we are going to have to make
2 sure that we have a set in the record that is the
3 actual exhibits.

4 Do you, Ms. Humiston, have the 232 that
5 we are working off of now?

6 MS. HUMISTON: I do have it now.

7 THE COURT: Very good. You may
8 ask your questions, Ms. Smith, please.

9 BY MS. SMITH:

10 Q. So when you received the email, an email
11 about the election that had the affidavit, you read
12 the email I'm assuming?

13 A. Did I what?

14 Q. You read the email from the MNEIT?

15 A. Right.

16 Q. What did you understand from the email
17 about the intent of the email?

18 A. The intent of the email was to challenge
19 the way the election was run in court. I don't
20 know if you called it a contest or a lawsuit or
21 what you called it. I don't know the proper
22 language. But it was clear to me that they wanted
23 this information to come into the public record and
24 be judged.

25 Q. So you believe it was clear?

1 A. Huh?

2 Q. You believe it was clear it was about an
3 election contest?

4 A. Yes.

5 THE COURT: What exhibit are we
6 referring to right now, counsel?

7 MS. SMITH: 232, page 18.

8 A. I mean, you are contesting an
9 election --

10 THE COURT: My version is barely
11 legible.

12 MS. SMITH: This is the letter
13 that Julie submitted. It's the same email that we
14 talked about all day. Nothing has changed.

15 BY MS. SMITH:

16 Q. Did you understand there were volunteers
17 working for the Election Integrity Team?

18 A. Yes. And that's very commendable. I
19 mean, that's the problem, who has the money to
20 throw into this. It's a pit that never ends. So,
21 again, very grateful.

22 Q. So when you submitted your affidavit,
23 did you read the affidavit?

24 A. Yeah.

25 Q. Did you understand what the affidavit

1 meant?

2 A. I think I did. It seems I did, yeah.

3 Q. So when it asked you if you were -- the
4 statement said that you are contesting the
5 elections, what did you think that meant?

6 A. That they want to introduce this
7 information into the public record in some kind of
8 a legal proceeding of some kind. How they called
9 it, I didn't know. I didn't know how it would play
10 out. I didn't know a lot more than they were
11 contesting the election. And that was good.

12 Q. Do you think when you contest an
13 election that you are suing the opposing candidate?

14 A. Well, like I said, I don't know if I
15 would use the word sue or lawsuit. Well, lawsuit
16 and sued would be the same thing. Right? I think
17 so. You know, it says contesting. Contesting was
18 basically the same thing to me as bringing a
19 lawsuit.

20 Q. And so you were on the Tina Smith, the
21 Senate panel case?

22 A. Yes.

23 Q. You were on the Senate case?

24 A. Yes.

25 Q. So your affidavit, did you agree with

1 all of the statements about the election, the
2 reason that the election was being contested? Did
3 you agree or did you cross anything out or add
4 anything?

5 A. No, I kept it just that way and signed
6 it that way.

7 Q. Because you agreed with it?

8 A. Yes, I did.

9 Q. And then when you signed it, did you
10 read it that it was under penalty of perjury?

11 A. That it was what?

12 Q. That it was under penalty of perjury?

13 A. Yes, I did see that. I noticed that.

14 Q. Did that matter to you?

15 A. Yes, it matters.

16 Q. So what does that mean to you?

17 A. That means that -- well, that I'm
18 putting myself out there. I mean, this isn't just
19 willy-nilly. I'm not signing a petition. This
20 isn't a petition. This isn't a statement of
21 belief. I'm saying that I do this knowing that I
22 am under -- you know, I could be prosecuted if I'm
23 doing it illegally or dishonestly.

24 Q. And you returned your affidavit. Did
25 you return it to the Minnesota Election Integrity

1 Team, directly emailed it to them?

2 A. I must have. I don't know where else I
3 would have sent it.

4 Q. If you had questions, do you think you
5 could have known to contact them?

6 A. Right. I could have asked them, yes.

7 Q. So you feel like the information was
8 available to you?

9 A. Yeah. I didn't have any questions.
10 Because I figured -- I mean, I know they are
11 volunteers and I knew that they were investing
12 themselves a lot. They had already invested
13 themselves a lot. And I knew that they were going
14 to do what they needed to do.

15 And, like I said, it was a time of
16 trauma. We just had a stolen presidential
17 election. We were in the middle of COVID. We had
18 masks on and we couldn't meet together. Everything
19 had to be on Zoom. And here were these people who
20 were coordinating this lawsuit against -- you know,
21 to bring this information to the public about the
22 election. And I'm good with that. I mean, go for
23 it, guys. I mean, I'm with you. And so they were
24 operating under great trauma and great distress as
25 well as all of us.

1 And I know the timetables. I mean,
2 they were certifying these elections and things
3 were still coming in and all kinds of stuff wasn't
4 even in yet. The timelines were just pressing,
5 pressing. Everything was like trauma. So I'm good
6 with you guys. I like you and I think I'm going to
7 trust what you are doing, because it's the right
8 thing to do.

9 Q. You are right, the certification was
10 just before Thanksgiving. Right? So you received
11 the affidavit I think probably, like, November 30 I
12 think the email was dated and you signed yours --

13 A. December 1, maybe.

14 Q. -- December 1; right? You have been
15 involved in politics before in your family. Tight
16 deadlines to get it done. So in your letter you
17 have an email that was forwarded on the 22nd of
18 February. It's page 21. And this was an updated
19 email on February 22. And there was a big gap of
20 time between the elections and here. And --

21 MS. HUMISTON: I would object.
22 I'm not sure if there is a question.

23 MS. SMITH: Yes, it's coming.

24 BY MS. SMITH:

25 Q. So what happened in January?

1 A. January 6 you mean? I mean, there was
2 another great big traumatic event, yes, that nobody
3 expected. There was a lot that was happening to
4 cause a great deal of turmoil and distress and
5 people are trying to operate. Yeah, so that's what
6 happened.

7 Q. After the election contests were filed
8 and there was a hearing on December 18, did you
9 hear that the cases were thrown out in the media?
10 Did you hear anything about the cases, the election
11 cases?

12 A. I didn't hear anything for quite a
13 while. I think it might have been the beginning of
14 February where I heard that they had been -- that
15 they had all been dismissed at the end. Now, I may
16 have got more information before that. But I don't
17 have a record of my getting anything earlier than
18 that about how it had played itself out.

19 Q. Do you remember media attention?

20 A. No. Media attention on this?

21 Q. Right.

22 A. (Witness shaking head in the negative.)

23 Q. There's been no questions today about
24 the effect on the legal system --

25 A. There might have been. I don't

1 necessarily -- I didn't catch it.

2 Q. So do you feel like these cases that
3 were filed had a serious effect on the legal system
4 in Minnesota?

5 A. No, I thought that -- the information
6 was never able to be put in there. It was all --
7 you know, it was procedural, I guess you want to
8 call it. But the information that was out there
9 that the lawsuit was intended for didn't get heard.
10 That's my impression, rightly or wrongly.

11 Q. So do you feel like these cases harmed
12 the judiciary?

13 A. Well, yeah.

14 Q. Why?

15 A. Their credibility is tanking. And that
16 really was a tank. I mean, they did not hear the
17 evidence. The evidence was out there. It still
18 is, and it should be heard. It should be taken in.
19 Yeah, I think it really affected the judiciary.

20 Q. Do you think the judiciary was harmed
21 because of the Minnesota Election Integrity Team's
22 conduct?

23 A. I would never fault the Minnesota
24 Election Integrity Team. I mean, they were
25 operating, you know, like, well beyond the capacity

1 of most people at that point. No, it was because
2 it wasn't allowed to be heard, simply. It harms
3 the judiciary because it sends the message to
4 everybody that we do not have a fair judiciary
5 system, at least in this situation.

6 I know it operates fairly in a lot of
7 places at times and I'm grateful for that. But in
8 this one arena it did not. And this is probably
9 the most fundamental one that we have encountered
10 in our country and in our state for a long, long
11 time.

12 Q. So did your opinion change between
13 December and January about the election contests in
14 general? Did anything change?

15 A. Between what and what?

16 Q. Between the election contests and
17 January 6, did that change things?

18 A. Between when it was filed -- nothing
19 happened in there as far as the lawsuit goes. I
20 mean, I wasn't privy to anything going on. It was
21 not -- I didn't get information.

22 Q. Do you think that the climate changed
23 for contesting elections?

24 A. Oh. Yeah, that's for sure. I mean,
25 right, anybody who questioned the election was an

1 insurrectionist. I mean, like, right, you can't --
2 challenging the election was, like, verboten at
3 that point. You couldn't do it.

4 Q. So did you yourself become scared at all
5 about what could happen because you were a vocal
6 person related to the elections?

7 A. Not really.

8 Q. Do you think in the community it
9 changed?

10 A. Yeah, I mean --

11 MS. HUMISTON: Objection. Calls
12 for speculation.

13 THE COURT: Sustained.

14 BY MS. SMITH:

15 Q. So do you remember receiving an email on
16 February 22, 2021, an election integrity update?

17 A. Yes.

18 Q. Do you remember receiving that?

19 A. Yes.

20 Q. And did you read it? It's on page 21.

21 A. Yes, I read it.

22 Q. Was there anything in it that didn't
23 make sense to you or that you had questions about?

24 A. Well, I don't know what to say. I was
25 very disappointed.

1 Q. So this email definitely -- it addressed
2 the issue of the fees that were charged?

3 A. Right.

4 Q. And that they were being paid. Did you
5 have concerns after you received this?

6 A. Not in terms of that, no. Not at all.
7 I don't know why I would.

8 Q. So after this happened, did you foresee
9 that anything was going to happen or were you
10 concerned about the process at all?

11 A. No. Well, I mean, I was concerned that
12 it had been thrown out and that it hadn't really
13 been heard. I was very concerned about that. But,
14 you know, it was clear that you were operating
15 pro bono. It was clear that the judgments were
16 paid. It was clear that the case was closed. It
17 was all very disappointing. But I had no concerns
18 about myself.

19 Q. So how did you find out about the issue
20 that was raised earlier with C.B.? How did you
21 find out about that?

22 A. I don't remember how I first heard. I
23 got an email and -- I don't know, was that from
24 you? I don't remember who it was from, saying that
25 there was a question that somebody felt that they

1 wanted to take their names off. Which didn't make
2 any sense to me at all, because the case was closed
3 and there was no judgments. Anyway, that was -- I
4 don't know exactly when that was. There is
5 probably a record of it here. Right?

6 Q. Did you receive the process served
7 documents?

8 A. Yes.

9 Q. Were you surprised?

10 A. Yes.

11 Q. Did you read those documents?

12 A. Yes.

13 Q. So what was your reaction to those
14 documents?

15 A. About the challenging the name being on
16 there? Is that what you mean?

17 Q. Right.

18 A. Well, I was appalled. I thought it was
19 just the most incredible thing that somebody signed
20 an affidavit is saying under perjury that they are
21 challenging an election suddenly wants their name
22 off a closed case when no judgments were made. I
23 thought it was pretty incredible.

24 And I know people are -- well, anyway,
25 I will give people a wide berth as far as how

1 loosely they read things. But that's not -- I
2 mean, that's their problem they're not paying
3 attention when you are signing documents. That's
4 your problem. That's not somebody else's problem.

5 Q. So you read the form that the judge
6 submitted or that I served upon you?

7 A. Uh-huh.

8 Q. And do you remember that form?

9 A. Uh-huh.

10 Q. But you chose not to use the form;
11 right?

12 A. Right. I chose not to, right.

13 Q. And so you wrote a letter?

14 A. Yes.

15 Q. You submitted a letter --

16 A. Yes.

17 Q. -- to the court? And do you remember
18 why you submitted that letter?

19 A. Yeah, they wanted a response by a
20 certain date and I wanted to explain why. Why this
21 was important, what happened and why -- I just
22 explained the whole thing. It's from my
23 perspective.

24 Q. And do you feel like your submission
25 of your letter, do you feel like you captured your

1 concerns?

2 A. I think so.

3 Q. Would you join an election contest
4 again --

5 A. Yes.

6 Q. -- if it was warranted?

7 A. Yes, I would. If I thought that it
8 was -- you know, not for no reason. But for good
9 cause, yes. Elections are the basis of our
10 freedom. If we don't have free elections, we don't
11 have free people.

12 Q. Have you ever been in litigation before?

13 A. Have I ever been what?

14 Q. In any kind of litigation before where
15 you needed an attorney?

16 A. No.

17 Q. Never?

18 A. Huh-uh.

19 Q. Are there very many times in your life
20 where you needed to sign an affidavit under penalty
21 of perjury?

22 A. I have. I'm not sure when. Because
23 it's just -- I just don't remember what they are.
24 But I have. I'm familiar with that, yeah. I just
25 don't remember the cases. I think when it was I

1 adopted nine children and I think maybe I signed an
2 affidavit then that I understood what I was taking
3 on. But, you know, I haven't had much experience
4 with that.

5 Q. So you haven't signed very many
6 affidavits, is what you're saying. So that
7 affidavit to you, did that make it seem to you that
8 it was a legal proceeding?

9 A. Yeah.

10 Q. I appreciate very much your answering
11 these questions. Do you support the discipline
12 process that's being conducted?

13 A. No.

14 MS. HUMISTON: Objection.
15 Relevance.

16 THE COURT: What's the point of
17 that?

18 BY MS. SMITH:

19 Q. The Director has asked questions
20 throughout the day of her witnesses about the harm
21 that was done by myself or the Election Integrity
22 Team, and so the witnesses were able to answer the
23 question.

24 I'm curious if you believe that the
25 harm being done or the chill in the legal system is

1 because of the actions taken by the Election
2 Integrity Team or the process?

3 A. My understanding is the discipline is
4 against you and not against the Minnesota Election
5 Integrity Team. So that's why I'm against it.
6 Against the discipline process here.

7 Q. I know you said earlier that you had
8 reached out to another attorney about concerns
9 generally?

10 A. After the election, yeah.

11 Q. Do you know very many attorneys that are
12 working in the area of election law?

13 A. No, I don't. In fact, the attorney that
14 I wrote isn't particularly in election law. He is
15 in different areas. But he is somebody I know and
16 have respect for and I wanted him to look at that
17 as somebody who is bright and understands things,
18 to take a look and do something.

19 Q. Well, I appreciate, again, your being
20 here. You didn't have to come, so I appreciate it.
21 Thank you.

22 THE COURT: Ms. Humiston, do you
23 have questions?

24 MS. HUMISTON: Just a few.

25 CROSS-EXAMINATION

1 BY MS. HUMISTON:

2 Q. Ms. Quist, my name is Susan Humiston.
3 I'm the Director of the Office of Lawyers
4 Professional Responsibility.

5 In your testimony you said that there
6 had been no judgments that were entered; is that
7 correct?

8 A. Against me you mean?

9 Q. Uh-huh.

10 A. Right. I mean, maybe. I don't know if
11 there was or not. But it was paid.

12 Q. So can you turn to Exhibit 1. In the
13 blue folder do you see that?

14 A. Okay. The blue folder. Page 1?

15 Q. It's Exhibit 1.

16 A. Director's exhibits and witness list.
17 Okay. I think I have got the right one.

18 Q. Do you see a register of action in a
19 matter that includes you as a plaintiff against
20 Tina Smith and Steve Simon? Do you see that?

21 A. Oh, yes. Yes. Yes.

22 Q. And do you see that judgment was entered
23 against you in the amount of \$2,105?

24 A. So which page is that?

25 Q. The first page at the top.

1 A. I must be in the wrong place.

2 Q. It's the Exhibit 1, the register of
3 action.

4 A. Okay. I'm in the right place now.

5 Q. There is a section that says
6 Disposition. Do you see that? It says Dismissal
7 With Prejudice and there is a money award against
8 Debtor, Julie Quist. Do you see that?

9 A. I see that.

10 Q. So in December of 2020 there were two
11 awards against you. Do you see that?

12 A. Let's see here.

13 Q. One in the amount of 2,105. The other
14 in the amount of 275.

15 A. Is this on the first page?

16 Q. Uh-huh. Where it says Disposition.

17 A. Here we go. Dismissal With Prejudice,
18 monetary award, Julie Quist, entered, original
19 principal \$275. That one? And then 2,105?

20 Q. Yes.

21 A. Okay. I see that.

22 Q. So in fact judgments were entered
23 against you relating to an action that was brought
24 by you against Steve Simon and Tina Smith, do you
25 see that?

1 A. I see that.

2 Q. And were you told by anybody that that
3 had happened before, in December of 2020 or January
4 of 2021 or --

5 A. Not when it happened. It was, as I
6 said, when I got the letter that said all judgments
7 had been paid. So I should have -- okay, so I was
8 given a judgment. But until then, I didn't know
9 that.

10 Q. You didn't know about it? No one had
11 provided you with any information?

12 A. No.

13 Q. And you can see where that would be
14 troubling to people, can you not, that judgments
15 had been entered against them?

16 A. Well, under the circumstances, it is a
17 little different, because we were dealing with an
18 Election Integrity Team who was doing that work
19 under great duress, great stress. And I think that
20 matters. I really do.

21 Q. My question is --

22 A. This isn't a normal kind of situation
23 here we're in. We're in a traumatic situation
24 where this team of people is trying to manage this,
25 and obviously they didn't give me what I should

1 have got. They took care of it.

2 Q. My question was you can see how it would
3 be upsetting to other people?

4 A. I think they should see it in context.
5 I really do.

6 Q. At the time that you returned your
7 affidavit, did anyone explain to you what an
8 election contest was?

9 A. I didn't ask. I knew.

10 Q. Did anyone explain to you what an
11 election contest was?

12 A. No, they didn't need to.

13 Q. Did anyone talk to you about what you
14 wanted to happen or what claims were being made in
15 a lawsuit on your behalf?

16 A. No.

17 Q. Did you get --

18 A. You know, those things were implicit.

19 Q. Did you have an opportunity to review
20 pleadings that were filed on your behalf?

21 A. No.

22 Q. Did you have an opportunity to question
23 someone and have the advantages and disadvantages
24 of pursuing litigation explained to you?

25 A. No.

1 Q. And you said you took the opportunity to
2 file a document that you were talking about that
3 was at Exhibit 232. Did you draft that?

4 A. I didn't. I gave information as part of
5 that, but I didn't draft it.

6 Q. Who drafted that document?

7 A. Sharon -- I mean Susan.

8 THE COURT: I'm sorry, what was
9 the answer?

10 THE WITNESS: Susan.

11 THE COURT: Oh. Susan Smith.

12 BY MS. HUMISTON:

13 Q. So Ms. Smith wrote Exhibit 232 for you?

14 A. With my input. I'm not an attorney.
15 That's what I would hope she would help me with.

16 Q. Did you know Susan Smith in December of
17 2020?

18 A. Let's see. I knew of her. I didn't
19 know her personally.

20 Q. Do you remember when you first spoke to
21 her?

22 A. I'm trying to think if I spoke with her
23 before this election and another time. I think I
24 may have. But I don't remember for sure if I have.
25 Honestly, I don't. I knew who she was. But I

1 don't know that I ever talked with her personally,
2 except like maybe at a convention or something like
3 that.

4 Q. How about in conjunction with these
5 election contests --

6 A. No.

7 Q. -- when did you first speak with Susan
8 Smith?

9 A. No. No.

10 Q. My question is when did you first speak
11 with Susan Smith in conjunction with the lawsuit
12 that was filed by her on your behalf against Tina
13 Smith?

14 A. I don't remember when I first talked
15 with her. I just don't remember when it was.

16 Q. Other than sometime before March -- or
17 May 17 when you provided --

18 A. Yes. Yes.

19 Q. -- the exhibit that was drafted by
20 Ms. Smith?

21 A. Yes, I did definitely speak with her
22 before that. I don't remember exactly when that
23 was.

24 MS. HUMISTON: No further
25 questions.

1 THE COURT: I just want to make
2 sure. If I can ask you just a couple of questions.
3 So you signed the affidavit. And help me, counsel,
4 the date of the affidavit is December --

5 THE WITNESS: I think mine was
6 December 1.

7 THE COURT: Of 2020?

8 THE WITNESS: 2020, yes.

9 THE COURT: As of that date, did
10 you know Ms. Smith, or are you saying that you knew
11 of her?

12 THE WITNESS: I knew of her. But
13 at that point, I didn't have a personal connection
14 with her. I mean, we may have talked in passing.

15 THE COURT: Did you know who the
16 attorneys were that were going to be involved?

17 THE WITNESS: At that point, no.
18 At that point, no. In fact, I didn't know if they
19 even knew who it would be. I didn't know.

20 THE COURT: Okay. Thank you. Any
21 other questions from counsel? Ms. Smith?

22 MS. SMITH: For Julie?

23 THE COURT: Yes.

24 MS. SMITH: Can I just clarify one
25 thing.

1 REDIRECT EXAMINATION

2 BY MS. SMITH:

3 Q. You recognized that when -- when you got
4 served the document that I had to serve on you so
5 that you could choose to get out, you wanted to
6 respond to that?

7 A. I did.

8 Q. So did I force you to do that?

9 A. No, not at all.

10 Q. I want to make sure this is clear --

11 A. There was absolutely nothing. And
12 specifically so. I mean, I'm kind of thinking,
13 well, what is she thinking. Well, you didn't say
14 what you were thinking. You just served it.

15 Q. And so did you ask for help in drafting
16 a document because I -- you did recognize I was the
17 attorney; right?

18 A. Right. I did.

19 Q. So did I pressure you to --

20 A. No, you did not. I needed to answer
21 that, and I asked if you would put something in
22 writing and I wanted these things to say. I know I
23 gave my input. But I'm not equipped to write it in
24 the way it needs to be written.

25 MS. SMITH: Thank you.

1 THE COURT: Any further questions,
2 Ms. Humiston?

3 MS. HUMISTON: (Indicating).

4 All right. You are excused. Do we
5 have any more witnesses?

6 MS. SMITH: Well, she said we were
7 done in, like, 15 minutes. So do you want to --
8 she said we are done at 4:30 today?

9 THE COURT: Yes. If you have a
10 short witness, we can call that witness now.

11 MS. SMITH: It's only Jose
12 Jimenez. That will be a long witness. Myself
13 would be a long witness. And then the remote
14 person. That's all.

15 THE COURT: Then we can quit a
16 little early today, unless counsel has anything for
17 us to discuss. All right. Well, we are adjourned
18 for the day. We will see everyone at 8:30 tomorrow
19 morning.

20 (The hearing adjourned at 4:09 p.m.)

21

22

23

24

25

1 REPORTER'S CERTIFICATE

2

3 I, Susan M. Strom, do hereby certify and
4 state that I recorded in shorthand the proceedings
5 of the Lawyers Professional Responsibility: In Re
6 the Petition for Disciplinary Action against
7 SUSAN S. SMITH, on April 15, 2024, at 25 Rev. Dr.
8 Martin Luther King Jr. Blvd., St. Paul, Minnesota.

9

10 I further certify and state that thereafter
11 and on this date I caused to be transcribed into
12 typewriting the foregoing typewritten transcript of
13 said recorded proceedings.

14

15 I further certify and state that the
16 foregoing typewritten transcript of said recorded
17 proceedings is true and correct to the best of my
18 ability.

19

20 /s/SUSAN M. STROM
21 Susan M. Strom
22 Court Reporter

23

24 Dated this 29th day of April, 2024.

25