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Transcript of Meagan Wolfe

Date: July 16, 2020

Case: Swenson -v- Bostelmann

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Transcript of Meagan Wolfe
Conducted on July 16, 2020

1 (1 to 4)

<p style="text-align: center;">1</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE WESTERN DISTRICT OF WISCONSIN</p> <p>3 -----X</p> <p>4 DEMOCRATIC NATIONAL :</p> <p>5 COMMITTEE, et al., :</p> <p>6 Plaintiffs, :</p> <p>7 v. :</p> <p>8 MARGE BOSTELMANN, et al. :</p> <p>9 Defendants, :</p> <p>10 and : Case No. 20-cv-249-wmc</p> <p>11 WISCONSIN LEGISLATURE, :</p> <p>12 REPUBLICAN NATIONAL :</p> <p>13 COMMITTEE, and REPUBLICAN :</p> <p>14 PARTY OF WISCONSIN, :</p> <p>15 Intervening Defendants. :</p> <p>16 -----X</p> <p>17 (Caption continued on next page)</p> <p>18 VOLUME 2</p> <p>19 Deposition of MEAGAN WOLFE</p> <p>20 Conducted Virtually</p> <p>21 Thursday, July 16, 2020</p> <p>22 8:31 a.m. CST</p> <p>23 Job No.: 307428</p> <p>24 Pages: 1 - 212</p> <p>25 Reported by: Tiffany M. Pietrzyk, CSR RPR CRR</p>	<p style="text-align: center;">3</p> <p>1 (Caption continued from previous page)</p> <p>2 -----X</p> <p>3 JILL SWENSON, et al. :</p> <p>4 Plaintiffs, :</p> <p>5 v. :</p> <p>6 MARGE BOSTELMANN, et al. :</p> <p>7 Defendants, :</p> <p>8 and : Case No. 20-cv-459-wmc</p> <p>9 WISCONSIN LEGISLATURE, :</p> <p>10 REPUBLICAN NATIONAL :</p> <p>11 COMMITTEE, and REPUBLICAN :</p> <p>12 PARTY OF WISCONSIN, :</p> <p>13 Intervening Defendants. :</p> <p>14 :</p> <p>15 -----X</p> <p>16</p> <p>17 Deposition of MEAGAN WOLFE, conducted</p> <p>18 virtually:</p> <p>19</p> <p>20 Pursuant to notice before Tiffany M. Pietrzyk, a</p> <p>21 Certified Shorthand Reporter, Registered</p> <p>22 Professional Reporter, Certified Realtime Reporter,</p> <p>23 and a Notary Public in and for the State of</p> <p>24 Illinois.</p> <p>25</p>
<p style="text-align: center;">2</p> <p>1 (Caption continued from previous page)</p> <p>2 -----X</p> <p>3 SYLVIA GEAR, et al., :</p> <p>4 Plaintiffs, :</p> <p>5 v. :</p> <p>6 MARGE BOSTELMANN, et al. :</p> <p>7 Defendants, :</p> <p>8 and : Case No. 20-cv-278-wmc</p> <p>9 WISCONSIN LEGISLATURE, :</p> <p>10 REPUBLICAN NATIONAL :</p> <p>11 COMMITTEE, and REPUBLICAN :</p> <p>12 PARTY OF WISCONSIN, :</p> <p>13 Intervening Defendants. :</p> <p>14 -----X</p> <p>15 CHRYSTAL EDWARDS, et al., :</p> <p>16 Plaintiffs, :</p> <p>17 v. :</p> <p>18 ROBIN VOS, et al., :</p> <p>19 Defendants, :</p> <p>20 and : Case No. 20-cv-340-wmc</p> <p>21 REPUBLICAN NATIONAL :</p> <p>22 COMMITTEE and REPUBLICAN :</p> <p>23 PARTY OF WISCONSIN, :</p> <p>24 Intervening Defendants :</p> <p>25 -----X</p>	<p style="text-align: center;">4</p> <p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFFS DEMOCRATIC NATIONAL</p> <p>4 COMMITTEE and DEMOCRATIC PARTY OF WISCONSIN:</p> <p>5 JOHN DEVANEY, ESQUIRE</p> <p>6 BRANDON MICHAEL LEWIS, ESQUIRE</p> <p>7 MICHELLE UMBERGER, ESQUIRE</p> <p>8 PERKINS COIE, LLP</p> <p>9 700 Thirteenth Street, N.W.</p> <p>10 Suite 600</p> <p>11 Washington, D.C. 20005</p> <p>12 202.654.6200</p> <p>13</p> <p>14 ON BEHALF OF THE GEAR PLAINTIFFS:</p> <p>15 JON SHERMAN, ESQUIRE</p> <p>16 FAIR ELECTIONS CENTER</p> <p>17 1825 K Street N.W.</p> <p>18 Suite 450</p> <p>19 Washington, D.C. 20006</p> <p>20 202.331.0114</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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Conducted on July 16, 2020

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<p>5</p> <p>1 APPEARANCES CONTINUED</p> <p>2</p> <p>3 ON BEHALF OF THE EDWARDS PLAINTIFFS:</p> <p>4 STACIE H. ROSENZWEIG, ESQUIRE</p> <p>5 HALLING & CAYO, S.C.</p> <p>6 320 East Buffalo Street</p> <p>7 Suite 700</p> <p>8 Milwaukee, Wisconsin 53202</p> <p>9 414.271.3400</p> <p>10</p> <p>11 ON BEHALF OF THE SWENSON PLAINTIFFS:</p> <p>12 JONATHAN MANES, ESQUIRE</p> <p>13 RODERICK & SOLANGE MacARTHUR JUSTICE CENTER</p> <p>14 160 East Grand Avenue</p> <p>15 6th Floor</p> <p>16 Chicago, Illinois 60611</p> <p>17 312.503.0899</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>7</p> <p>1 APPEARANCES CONTINUED</p> <p>2</p> <p>3 ON BEHALF OF THE WISCONSIN ELECTIONS COMMISSION</p> <p>4 DEFENDANTS:</p> <p>5 DIXON GAHNZ, ESQUIRE</p> <p>6 LAWTON CATES, S.C.</p> <p>7 345 West Washington Avenue</p> <p>8 Suite 201</p> <p>9 Madison, Wisconsin 53701</p> <p>10 608.282.6200</p> <p>11</p> <p>12 ROBERT EDWARD BROWNE, JR., ESQUIRE</p> <p>13 TROUTMAN SANDERS, LLP</p> <p>14 227 West Monroe Street</p> <p>15 Suite 3900</p> <p>16 Chicago, Illinois 60606</p> <p>17 312.759.1920</p> <p>18</p> <p>19 ALSO PRESENT:</p> <p>20 Leyhbert Sharp, Planet Depos Video</p> <p>21 Technician</p> <p>22 Emerson Goldstein</p> <p>23 Harry Liberman</p> <p>24 Robert Spindell</p> <p>25 Janie Sanford</p>
<p>6</p> <p>1 APPEARANCES CONTINUED</p> <p>2</p> <p>3 ON BEHALF OF THE SWENSON PLAINTIFFS: (continued)</p> <p>4 LAWRENCE SCHWARTZTOL, ESQUIRE</p> <p>5 FARBOD FARAJI, ESQUIRE</p> <p>6 RACHEL HOMER, ESQUIRE</p> <p>7 PROTECT DEMOCRACY</p> <p>8 2020 Pennsylvania Avenue NW</p> <p>9 Suite 163</p> <p>10 Washington, D.C. 20006</p> <p>11 202.579.4582</p> <p>12</p> <p>13 LEAH GODESKY, ESQUIRE</p> <p>14 O'MELVENY & MYERS, LLP</p> <p>15 7 TIMES SQUARE</p> <p>16 NEW YORK, NY 10036</p> <p>17 212.326.2254</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>8</p> <p>1 CONTENTS</p> <p>2 EXAMINATION OF MEAGAN WOLFE PAGE</p> <p>3 Direct Examination by Mr. Schwartztol 12</p> <p>4 Direct Examination by Ms. Rosenzweig 128</p> <p>5 Direct Examination by Mr. Browne 150</p> <p>6 Further Direct Examination 209</p> <p>7 By Mr. Schwartztol</p> <p>8</p> <p>9 EXHIBITS</p> <p>10 (Attached to transcript.)</p> <p>11 VOL 2 WOLFE DEPOSITION EXHIBITS PAGE</p> <p>12 Exhibit 1 30(b)(6) Notice 13</p> <p>13 Exhibit 2 WEC Annual Report 14</p> <p>14 Exhibit 3 3/12/20 Memo: Guidance 20</p> <p>15 Regarding Election</p> <p>16 Procedures and Public</p> <p>17 Health Emergency</p> <p>18 Exhibit 4 6/24/20 Memo 23</p> <p>19 Exhibit 5 6/30/20 Memo 27</p> <p>20 Exhibit 6 April 7, 2020 Absentee 37</p> <p>21 Voting Report</p> <p>22 Exhibit 7 WEC Defendants' Status 46</p> <p>23 Report</p> <p>24 Exhibit 9 3/23/20 E-mail 99</p> <p>25</p>

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9	<p>1 EXHIBITS (Cont.)</p> <p>2</p> <p>3 Exhibit 11 3/29/20 Wisconsin Elections 103</p> <p>4 Commission Memo</p> <p>5 Exhibit 12 4/10/20 Memo 110</p> <p>6 Exhibit 13 Subpoena to Testify at a 150</p> <p>7 Deposition in a Civil</p> <p>8 Action</p> <p>9 Exhibit 14 4/7/20 Election Summary 160</p> <p>10 Exhibit 15 4/7/20 Absentee Voting 178</p> <p>11 Report</p> <p>12 Exhibit 16 6/25/20 WEC Status Report 184</p> <p>13 Exhibit 17 7/7/20 Office of the 113</p> <p>14 Inspector General Report</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	11
10	<p>1 witness has verified that she is, in fact, Meagan</p> <p>2 Wolfe.</p> <p>3 MR. SCHWARTZTOL: For the Swenson</p> <p>4 plaintiffs, we do.</p> <p>5 MS. ROSENZWEIG: For Edwards plaintiffs, we</p> <p>6 do.</p> <p>7 MR. DEVANEY: For the DNC, Wisconsin</p> <p>8 Democratic Party, we agree.</p> <p>9 MR. BROWNE: For the Legislature, so</p> <p>10 stipulated.</p> <p>11 MR. GAHNZ: WEC defendants, so stipulated.</p> <p>12 COURT REPORTER: Is that everyone?</p> <p>13 Ms. Wolfe, do you hereby acknowledge that</p> <p>14 your testimony will be true under the penalties of</p> <p>15 perjury.</p> <p>16 THE WITNESS: Yes, I do.</p> <p>17 COURT REPORTER: Thank you.</p> <p>18 VIDEO TECH: You may proceed.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	12
10	<p>1 PROCEEDINGS</p> <p>2 VIDEO TECH: Thank you to everyone for</p> <p>3 attending this proceeding remotely which we</p> <p>4 anticipate will run smoothly. Just be aware we are</p> <p>5 recording this proceeding for backup purposes. Any</p> <p>6 off-the-record discussions should be had away from</p> <p>7 the computer, and please remember to mute your</p> <p>8 microphone for those conversations. Please have</p> <p>9 your video enabled to have our court reporter</p> <p>10 identify who is speaking. If you are unable to</p> <p>11 connect via video and you are connecting via phone,</p> <p>12 please voice-identify yourself each time before</p> <p>13 speaking. We will provide a complimentary unedited</p> <p>14 recording of this deposition with the purchase of</p> <p>15 any transcript in case you are interested. I</p> <p>16 apologize in advance for any technical-related</p> <p>17 interruptions. Thank you.</p> <p>18 Tiffany, you may proceed.</p> <p>19 COURT REPORTER: Will counsel please</p> <p>20 stipulate that in lieu of formally swearing in the</p> <p>21 witness, the reporter will instead ask the witness</p> <p>22 to acknowledge that their testimony will be true</p> <p>23 under the penalties of perjury, that counsel will</p> <p>24 not object to the admissibility of the transcript</p> <p>25 based on proceeding in this way, and that the</p>	12

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4 (13 to 16)

<p>13</p> <p>1 (Exhibit 1 was marked for identification 2 and is attached to the transcript.) 3 BY MR. SCHWARTZTOL: 4 Q. Ms. Wolfe, have you seen this document 5 before? 6 This is -- if you need to ask to have it 7 scrolled, this is the notice of 30(b)(6) deposition 8 served by the Swenson plaintiffs in this case? 9 A. Yes, I have. 10 Q. And are you aware that you've been 11 designated to testify on behalf of the Wisconsin 12 Elections Commission pursuant to this notice? 13 A. Yes. 14 Q. And that the notice identifies several 15 topics on which we'll seek your testimony. 16 Are you aware of that? 17 A. Yes. 18 Q. Are you prepared to offer testimony on those 19 topics? 20 A. Yes, I am. 21 Q. Great. 22 MR. SCHWARTZTOL: We can take that down. 23 VIDEO TECH: Perfect. 24 BY MR. SCHWARTZTOL: 25 Q. Ms. Wolfe, is it correct that the Wisconsin</p>	<p>15</p> <p>1 A. Yes. 2 Q. Okay. Let me ask you to take a look at page 3 1 of the report. 4 VIDEO TECH: Sorry? 5 MR. SCHWARTZTOL: Page 1 of the report, 6 which is page 2 of the document. 7 VIDEO TECH: Perfect. 8 MR. SCHWARTZTOL: If I can ask to have the 9 document scrolled down a little bit to where it 10 says -- I'm sorry. Scroll back up. 11 VIDEO TECH: So I'm on page 2. Like, the 12 number here, I can have -- 13 MR. SCHWARTZTOL: Where you are is perfect. 14 Thank you. 15 BY MR. SCHWARTZTOL: 16 Q. Okay. Ms. Wolfe, where the mission of the 17 Wisconsin Elections Commission is described there, 18 can you read that, that passage? 19 A. Sure. So under subsection B, it says 20 mission: The mission of the Commission is to 21 enhance representative democracy by ensuring the 22 integrity of Wisconsin's electoral process due to 23 the administration of Wisconsin's election laws and 24 the dissemination of information, guidance, and 25 services to local election officials, candidates,</p>
<p>14</p> <p>1 Elections Commission is responsible for 2 administering and enforcing all election laws other 3 than those relating to campaign finance in 4 Wisconsin? 5 A. Administering, yes, in the terms of what the 6 statute says. Enforcement, yes, but we have some 7 pretty limited authority when it comes to 8 enforcement. 9 Q. Okay. 10 MR. SCHWARTZTOL: Please share what we've 11 saved as Exhibit No. 2. 12 (Exhibit 2 was marked for identification 13 and is attached to the transcript.) 14 VIDEO TECH: Yes, sir. Exhibit No. 2. 15 BY MR. SCHWARTZTOL: 16 Q. Okay. So this is the Commission's 2017 17 annual report. 18 So just quickly, Ms. Wolfe, as a 19 housekeeping matter, are you aware that this is the 20 most recent annual report that's available on the 21 Commission's website? 22 A. I believe we filed -- you'll have to forgive 23 me. We file a lot of reports. But I believe we had 24 to file an additional report in 2019. 25 Q. Okay. So there is a 2019 report?</p>	<p>16</p> <p>1 policy makers, voters, and the public utilizing both 2 staff expertise and technology solutions. 3 Q. Thank you for that. And I should clarify, 4 because I'm going to ask you to read things on 5 documents a lot, I typically won't need you to read 6 them out loud. I want you -- 7 A. Oh. 8 Q. I want you to just take a look before asking 9 you questions, but thank you, Ms. Wolfe. 10 A. Yes. 11 Q. It is safe to assume that it is still within 12 the mission of the Wisconsin Elections Commission to 13 enhance representative democracy? 14 A. This report was produced in 2017. The 15 current commission has not adopted nor I don't 16 believe have they considered any type of mission 17 statement. So I can't speak for if the current 18 commission has taken a position or even is aware of 19 this particular. 20 Q. So the Wisconsin Elections Commission has no 21 position on whether its position includes enhancing 22 democracy? 23 A. To my knowledge, they have not considered 24 that particular item. 25 Q. Okay. And so no view on whether that was</p>

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5 (17 to 20)

<p>17</p> <p>1 their mission in April?</p> <p>2 A. I would have to see what the 2019 report</p> <p>3 says. Again, I just -- I'm not sure what they've</p> <p>4 considered in terms of a mission statement or when</p> <p>5 they've signed off on more recent reports. The body</p> <p>6 as it exists today, I'm not sure what type of</p> <p>7 statements that they signed off on. In 2017, this</p> <p>8 was our mission.</p> <p>9 Q. And so not sure whether today, including for</p> <p>10 the November election, enhancing representative</p> <p>11 democracy is part of the Commission's mission?</p> <p>12 A. Again, I'm speaking on behalf of the</p> <p>13 Commission as an entity, and I don't know that</p> <p>14 they've considered a mission. I don't know that</p> <p>15 that's an item that's been brought before them or</p> <p>16 that they've made decision on.</p> <p>17 Q. Okay.</p> <p>18 MR. SCHWARTZTOL: Please scroll to the next</p> <p>19 page of the document.</p> <p>20 BY MR. SCHWARTZTOL:</p> <p>21 Q. Okay. Under that first italicized</p> <p>22 subheading regarding election administration, I just</p> <p>23 want to draw your attention to the first sentence</p> <p>24 there where it says, The agency ensures compliance</p> <p>25 with federal and state election law.</p>	<p>19</p> <p>1 Q. And it would also include ensuring</p> <p>2 compliance with any requirements of the U.S.</p> <p>3 Constitution; correct?</p> <p>4 A. That is correct.</p> <p>5 Q. And in Wisconsin, much of the day-to-day</p> <p>6 administration of elections is done by local</p> <p>7 officials in the 1850 municipalities; is that</p> <p>8 correct?</p> <p>9 A. Yes, that's correct.</p> <p>10 Q. So does that mean that the Commission's</p> <p>11 responsibilities include ensuring compliance with</p> <p>12 state and federal election laws by those many</p> <p>13 officials who are doing the day-to-day work of</p> <p>14 administering elections?</p> <p>15 A. Depending on the provision, the state</p> <p>16 statute outlines the statutory responsibilities of</p> <p>17 each local government when it comes to administering</p> <p>18 elections. So while we certainly work with them to</p> <p>19 provide information, best practices, guidance,</p> <p>20 ultimately each municipality is responsible for</p> <p>21 ensuring that they're abiding by state and federal</p> <p>22 laws and fulfilling their statutory responsibility.</p> <p>23 Q. So the Commission would be, in your view,</p> <p>24 acting consistently with its mandate to ensure</p> <p>25 compliance with state and federal election laws even</p>
<p>18</p> <p>1 Is that still a responsibility of the WEC?</p> <p>2 A. Yeah. Yes. Our job would be to implement</p> <p>3 the election laws as they exist. Again, this is a</p> <p>4 2017 report, so I don't know what -- what the</p> <p>5 variations in terms of what we might have presented</p> <p>6 in our most report that the current body has signed</p> <p>7 off on, but yes, that is what appears in this</p> <p>8 report.</p> <p>9 Q. So you don't know whether ensuring</p> <p>10 compliance with federal and state election law is</p> <p>11 still something the Commission still considers its</p> <p>12 responsibility?</p> <p>13 A. Of course, of course. But if you're asking</p> <p>14 me has the Commission itself signed off on and taken</p> <p>15 a position on any number of things, the current</p> <p>16 Commission, as a body as it exists today, did not</p> <p>17 sign off on this particular report.</p> <p>18 Q. And ensuring compliance with federal and</p> <p>19 state election laws includes ensuring compliance</p> <p>20 with the Voting Rights Act; correct?</p> <p>21 A. That is correct.</p> <p>22 Q. And it would include ensuring compliance</p> <p>23 with any applicable provisions of the Americans With</p> <p>24 Disabilities Act; correct?</p> <p>25 A. That is correct.</p>	<p>20</p> <p>1 if state and federal election laws were, in fact,</p> <p>2 not being complied with in the day-to-day</p> <p>3 administration of elections in Wisconsin?</p> <p>4 MR. GAHNZ: Object to the form of the</p> <p>5 question.</p> <p>6 Q. You can answer.</p> <p>7 A. I'm sorry. I don't quite understand the</p> <p>8 question.</p> <p>9 Q. If the election officials conducting the</p> <p>10 day-to-day administration of Wisconsin elections are</p> <p>11 not complying with federal and state election laws</p> <p>12 and the Commission is not acting to ensure</p> <p>13 compliance with those laws, is the Commission acting</p> <p>14 consistently with its responsibilities?</p> <p>15 MR. GAHNZ: Same objection.</p> <p>16 A. I'm sorry. That didn't help to clarify.</p> <p>17 Could you rephrase it?</p> <p>18 Q. Well, we can move on. We can move on.</p> <p>19 MR. SCHWARTZTOL: Let's pull up what we've</p> <p>20 uploaded as Exhibit No. 3.</p> <p>21 (Exhibit 3 was marked for identification</p> <p>22 and is attached to the transcript.)</p> <p>23 VIDEO TECH: Yes, sir. Exhibit No. 3 for</p> <p>24 the record.</p> <p>25 MR. SCHWARTZTOL: Thank you.</p>

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6 (21 to 24)

<p>21</p> <p>1 BY MR. SCHWARTZTOL:</p> <p>2 Q. This is a document produced for the members</p> <p>3 of the Wisconsin Elections Commission from Ms. Wolfe</p> <p>4 with the subject heading "Guidance Regarding</p> <p>5 Election Procedures and Public Health Emergency"</p> <p>6 dated March 12, 2020.</p> <p>7 Ms. Wolfe, are you familiar with this</p> <p>8 document?</p> <p>9 A. Yes, I am. There was a great deal of</p> <p>10 documents produced around this time; but yes, I'm</p> <p>11 sure once I read it, I'll be familiar with the</p> <p>12 content.</p> <p>13 Q. Understood.</p> <p>14 MR. SCHWARTZTOL: So let me ask to scroll to</p> <p>15 the final page of the document.</p> <p>16 Q. And ask you to take a moment, Ms. Wolfe, to</p> <p>17 read the first of the two recommended motions. This</p> <p>18 is the motion that concludes with the language, The</p> <p>19 Commission directs that all municipalities shall not</p> <p>20 use the special voting deputy process to serve</p> <p>21 residents in care facilities and instead shall</p> <p>22 transmit absentee ballots to those voters by mail.</p> <p>23 A. Yes, I've read it.</p> <p>24 Q. Was this motion adopted by the Commission?</p> <p>25 A. That would be part of the public record.</p>	<p>23</p> <p>1 be allowed into care facilities after a number of</p> <p>2 meetings and so it wouldn't be practical. In the</p> <p>3 past, there is procedure for -- let's say a care</p> <p>4 facility is under quarantine, which happens for</p> <p>5 other types of diseases, that if you cannot get into</p> <p>6 the facility, then, of course, you can't delay</p> <p>7 sending those voters ballots if you're not going to</p> <p>8 be able to access it. So based on the executive</p> <p>9 order and the advice of public health officials, it</p> <p>10 was determined those two visits would not be</p> <p>11 possible.</p> <p>12 MR. SCHWARTZTOL: Let's pull up Exhibit</p> <p>13 No. 4, please.</p> <p>14 (Exhibit 4 was marked for identification</p> <p>15 and is attached to the transcript.)</p> <p>16 VIDEO TECH: Exhibit No. 4 for the record.</p> <p>17 BY MR. SCHWARTZTOL:</p> <p>18 Q. This is a memorandum from Ms. Wolfe to</p> <p>19 Wisconsin county clerks and municipal clerks and</p> <p>20 other election officials dated June 24th.</p> <p>21 Ms. Wolfe, your last answer was a helpful</p> <p>22 segue. On June 24th, was the governor's</p> <p>23 stay-at-home order still in effect -- excuse me --</p> <p>24 safer-at-home order, was it still in effect?</p> <p>25 A. No, it was not. We did continue to consult</p>
<p>22</p> <p>1 I -- I -- a version of it was. I don't know if it</p> <p>2 was this exact wording.</p> <p>3 Q. And so this motion, at least as worded here,</p> <p>4 would require local election officials to send</p> <p>5 absentee ballots to certain care facilities rather</p> <p>6 than sending special voting deputies; is that</p> <p>7 correct?</p> <p>8 A. It ultimately -- procedurally, how the</p> <p>9 implementation happened is it allowed e-clerks to</p> <p>10 bypass the mandatory two attempted visits to a care</p> <p>11 facility before they could mail the residents their</p> <p>12 ballots. And it skipped right to allowing them to</p> <p>13 mail the residents their ballots so they could get</p> <p>14 them in a timely fashion just like all of us.</p> <p>15 Q. And that's not the usual practice, is it?</p> <p>16 A. That's correct. The law mandates that each</p> <p>17 municipality needs to designate two special voting</p> <p>18 deputies to attempt two visits to the care</p> <p>19 facilities that qualify before they mail ballots.</p> <p>20 Q. But the Commission decided that in the</p> <p>21 context of the COVID pandemic, it would authorize</p> <p>22 election officials to take a different approach; is</p> <p>23 that correct?</p> <p>24 A. In light of the executive order, it was our</p> <p>25 understanding that nonessential personnel would not</p>	<p>24</p> <p>1 with public health officials about the guidance from</p> <p>2 the accreditation and quality assurance programs</p> <p>3 that accredits care facilities in preparing this</p> <p>4 memo.</p> <p>5 Q. I want to direct your attention to the first</p> <p>6 two sentences of the memo where it says, The</p> <p>7 Wisconsin Elections Commission today directed that</p> <p>8 municipal clerks shall not send special voting</p> <p>9 deputies into care facilities for the remaining</p> <p>10 elections in 2020. The Commission directed that</p> <p>11 local election officials shall instead mail an</p> <p>12 absentee ballot to those registered voters who</p> <p>13 reside in care facilities that are typically served</p> <p>14 by SVDs if they request an absentee ballot or have</p> <p>15 an active request on file.</p> <p>16 Ms. Wolfe, can we agree that the language</p> <p>17 used in the passage I just read where the WEC</p> <p>18 directs clerks as to what they shall do is mandatory</p> <p>19 language; in other words, it is not language that</p> <p>20 leaves discretion to the recipients of this memo?</p> <p>21 A. We wouldn't have any ability to enforce</p> <p>22 that. You know, looking at that now, I would hope</p> <p>23 that you and everyone would recognize the number of</p> <p>24 communications we have to put out literally in the</p> <p>25 middle of the night to address changes or court</p>

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25	<p>1 decisions or commission decisions and we may not</p> <p>2 have chosen our words as carefully as I wish we had.</p> <p>3 Q. So is your testimony that this memorandum</p> <p>4 that was sent to all election officials on this date</p> <p>5 is inaccurate?</p> <p>6 MR. GAHNZ: Objection; argumentative.</p> <p>7 You may answer.</p> <p>8 A. No, it's not inaccurate. We were trying to</p> <p>9 speak in a way that was direct and understandable.</p> <p>10 Q. And that language directed municipal clerks</p> <p>11 as to what they shall not do; correct?</p> <p>12 A. That is how we phrased it, that's correct.</p> <p>13 Q. Okay. And is the reason that the Commission</p> <p>14 issued this memorandum because it determined that it</p> <p>15 was important to protect the safety of people who</p> <p>16 were living in those care communities?</p> <p>17 A. I cannot speak to the thought process of</p> <p>18 individual commissioners or of all six of them as a</p> <p>19 body; but based on the publicly available</p> <p>20 discussions, that was certainly an item that they</p> <p>21 discussed and came to this decision.</p> <p>22 Q. Were there other reasons to send this</p> <p>23 memorandum to election officials?</p> <p>24 A. I'm sorry. I don't quite understand your</p> <p>25 question.</p>	27	<p>1 opinions are properly implemented throughout the</p> <p>2 state?</p> <p>3 A. I don't believe we would have any way to</p> <p>4 enforce that. That would have to continue through</p> <p>5 the judicial process if there were clerks that</p> <p>6 weren't adhering are to a ruling. We ...</p> <p>7 Q. Okay. So it's not the Commission's</p> <p>8 responsibility in your view to ensure compliance</p> <p>9 with judicial decisions throughout the state?</p> <p>10 A. I don't know what mechanism you're</p> <p>11 suggesting by which we'd be able to do that other</p> <p>12 than the complaint process.</p> <p>13 MR. SCHWARTZTOL: Can we pull up Exhibit 5,</p> <p>14 please?</p> <p>15 VIDEO TECH: Yes, sir.</p> <p>16 (Exhibit 5 was marked for identification</p> <p>17 and is attached to the transcript.)</p> <p>18 VIDEO TECH: Exhibit No. 5 for the record.</p> <p>19 BY MR. SCHWARTZTOL:</p> <p>20 Q. This is a June 30th memorandum from</p> <p>21 Ms. Wolfe to all Wisconsin election officials</p> <p>22 regarding the 7th Circuit's ruling in the One</p> <p>23 Wisconsin Institute case.</p> <p>24 Ms. Wolfe, let me ask you first, is this</p> <p>25 memorandum still operative, still in effect?</p>
26	<p>1 Q. Were there reasons other than protecting the</p> <p>2 safety of people living in care facilities for</p> <p>3 sending this memorandum directing municipal clerks</p> <p>4 not to send special voting deputies into care</p> <p>5 facilities?</p> <p>6 A. The reason was to alert them to the</p> <p>7 Commission's decision. And I believe we promised</p> <p>8 additional guidance on how the implementation would</p> <p>9 happen, but it was to provide them with some initial</p> <p>10 information about the decision of the Commission.</p> <p>11 Q. Do the WEC's responsibility include ensuring</p> <p>12 that judicial decisions that bind the Commission</p> <p>13 regarding election administration are properly</p> <p>14 implemented throughout the state?</p> <p>15 A. It is the Commission's responsibility to</p> <p>16 ensure that we provide guidance documentation</p> <p>17 information about that. Obviously, we're not in</p> <p>18 each of the 1850 municipalities or the 3,000 polling</p> <p>19 places, so, you know, it relies on a complaint</p> <p>20 process for people to tell us and then for issues to</p> <p>21 be brought to the attention of the Commission for</p> <p>22 consideration.</p> <p>23 Q. And when those issues are brought before the</p> <p>24 Commission for consideration, is it the Commission's</p> <p>25 responsibility to ensure that binding judicial</p>	28	<p>1 A. No. No, it is not.</p> <p>2 Q. And can you just explain why it's not</p> <p>3 currently in effect?</p> <p>4 A. Yes. We received further analysis from our</p> <p>5 counsel that the decision of the 7th Circuit was not</p> <p>6 in effect until they issue a mandate.</p> <p>7 Q. Okay. Do you expect once a mandate is</p> <p>8 issued to put out a new memorandum along these</p> <p>9 lines?</p> <p>10 A. Yes, we would put out a memorandum to clerks</p> <p>11 letting them know any additional details of the 7th</p> <p>12 Circuit's mandate.</p> <p>13 MR. SCHWARTZTOL: Let's scroll down to the</p> <p>14 second page, please.</p> <p>15 Q. The final bullet there which refers to other</p> <p>16 changes in election law, do you know which changes</p> <p>17 to election law that bullet is referring to?</p> <p>18 A. Yes. As the sentence goes on to explain,</p> <p>19 including issues with the university ID card as</p> <p>20 proof of residence and the ID petition process at</p> <p>21 the DMV.</p> <p>22 Q. And which election officials are typically</p> <p>23 responsible for administering any laws, for example,</p> <p>24 relating to whether university IDs satisfy voter ID</p> <p>25 requirements?</p>

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<p style="text-align: right;">29</p> <p>1 A. The municipal clerk has the statutory</p> <p>2 responsibility to determine whether or not a photo</p> <p>3 ID complies with the law when they're making</p> <p>4 decisions, such as if the ID is acceptable for a</p> <p>5 voter to vote in-person at the polling place on</p> <p>6 election day or when they're reviewing that ID to</p> <p>7 issue an absentee ballot. So they're the ones that</p> <p>8 are making that determination if the ID complies and</p> <p>9 they're able to issue a ballot to that voter.</p> <p>10 Q. The other issues addressed in this</p> <p>11 memorandum, such as the designation of in-person</p> <p>12 absentee voting sites, are those areas that are also</p> <p>13 typically administered in the first instance by</p> <p>14 municipal clerks?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know whether the members of the</p> <p>17 Commission were defendants in the lawsuits that gave</p> <p>18 rise to this appeal in the 7th Circuit?</p> <p>19 A. I'm sorry. I do not know exactly who was</p> <p>20 named in each of the many lawsuits.</p> <p>21 Q. Do you know whether the members of the</p> <p>22 Commission were named as defendants in any of them?</p> <p>23 A. Yes, I believe so.</p> <p>24 Q. Do you know whether any local election</p> <p>25 officials were named as defendants in these</p>	<p style="text-align: right;">31</p> <p>1 Q. The Commission is planning to issue</p> <p>2 subgrants lead-up to the 2020 election; is that</p> <p>3 correct?</p> <p>4 A. We have. We've been actively doing that for</p> <p>5 the last few years.</p> <p>6 Q. Has the Commission previously issued grants</p> <p>7 or subgrants to local election officials?</p> <p>8 A. Yes. From what I understand, it's been a</p> <p>9 long historical practice starting with the original</p> <p>10 HAVA funding.</p> <p>11 Q. Can the Commission attach funding to those</p> <p>12 grants or subgrants?</p> <p>13 A. Yes, but you have to carefully weigh whether</p> <p>14 or not that will become a hindrance to people</p> <p>15 applying for the grants.</p> <p>16 Q. Understood. Sometimes it will be a good</p> <p>17 idea or a bad idea, but the Commission can do it?</p> <p>18 A. Within reason, yes.</p> <p>19 Q. Can the Commission produce training</p> <p>20 materials for local election officials?</p> <p>21 A. Yes, and we do; and it's also one of our</p> <p>22 responsibilities under state statute.</p> <p>23 Q. Can it publish best practices on various</p> <p>24 issues of election administration?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">30</p> <p>1 lawsuits?</p> <p>2 A. I would have to take a look at the list. I</p> <p>3 don't know off the top of my head.</p> <p>4 Q. Is it safe to say that the 1900-plus local</p> <p>5 election officials were not all named as defendants</p> <p>6 in any of these lawsuits?</p> <p>7 A. I believe that to be true, yes.</p> <p>8 Q. Do you believe that it's the WEC's</p> <p>9 responsibility to ensure that all local election</p> <p>10 officials know the consequences of the 7th Circuit's</p> <p>11 ruling?</p> <p>12 A. Yes.</p> <p>13 Q. Ms. Wolfe, does the Commission have</p> <p>14 authority to issue subgrants to fund initiatives</p> <p>15 that local election officials implement?</p> <p>16 A. Yes. Well, we have done that. We believe</p> <p>17 that that is in accordance with the federal grant's</p> <p>18 provisions.</p> <p>19 Q. Beyond specific federal grant provisions,</p> <p>20 does the Commission have authority to issue grants</p> <p>21 or other funding to local election officials?</p> <p>22 A. While I know most of chapters 5 through 12,</p> <p>23 there's always some that surprise me sometimes. I</p> <p>24 don't believe we have explicit statutory authority</p> <p>25 to issue subgrants.</p>	<p style="text-align: right;">32</p> <p>1 Q. And, presumably, there's no limit on how</p> <p>2 specific those best practices can be; is that right?</p> <p>3 A. As long as they're within the constructs of</p> <p>4 the law.</p> <p>5 Q. Can the Commission review and offer feedback</p> <p>6 or guidance to local election officials on their</p> <p>7 plans for administering elections?</p> <p>8 A. It's -- local election officials will call</p> <p>9 our office to get our take on whether or not the</p> <p>10 plans that they are formulating, if we believe that</p> <p>11 they comply with law. But, ultimately, we're not</p> <p>12 making the decision. They're making the decision on</p> <p>13 whether or not it complies. But we can certainly</p> <p>14 brainstorm with them as fellow election geeks.</p> <p>15 Q. So local election officials will, from time</p> <p>16 to time, reach out to the Commission to ask for</p> <p>17 feedback on their plans; right?</p> <p>18 A. Commission staff, not necessarily the</p> <p>19 Commission as a body.</p> <p>20 Q. And is there any reason why the Commission</p> <p>21 couldn't systematically invite local election</p> <p>22 officials to share their plans with respect to an</p> <p>23 upcoming election so that the Commission or the</p> <p>24 Commission staff could provide feedback?</p> <p>25 A. If you would clarify, is your suggestion</p>

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<p>33</p> <p>1 that all 1850 of them would have to submit a plan to 2 us to review with a staff of 30? 3 Q. No. My question is sometimes, as you just 4 testified, local election officials will initiate a 5 discussion where they seek feedback on their plans; 6 is that right? 7 A. Yes. 8 Q. Is there any reason why the Commission 9 couldn't take the initiative in inviting local 10 election officials to seek feedback or guidance on 11 specific planning? 12 A. I believe if all 1850 did that, I don't know 13 how we would handle that. It's a very, very small 14 agency. 15 Q. So as a practical matter, there may be -- 16 let me withdraw that. 17 Okay. Can the Commission make available 18 information or guidance from subject matter experts 19 such as experts on epidemiology to local election 20 officials? 21 A. Yes. 22 Q. Can it provide local election officials with 23 public education or outreach materials? 24 A. Again, I don't know that these are 25 explicitly outlined in the statute as something that</p>	<p>35</p> <p>1 Commission offering feedback to local election 2 officials on their planning and your testimony a 3 moment ago about the practical difficulties of 4 providing that feedback to all 1850 municipalities. 5 I just have one clarifying question. 6 Is there any reason that the Commission 7 could not identify municipalities that might face 8 the most significant challenges in an election, and 9 on its own initiative, on the Commission's 10 initiative, invite those municipalities to share 11 their plans for the Commission's review and feedback? 12 A. I believe identifying those with a specific 13 challenge may be challenging. Again, often that 14 type of information is going to come to us through 15 the form of a complaint or other information that 16 our agency receives. So I -- the plan you suggest 17 sounds very subjective, and I think we'd want to 18 have some more defined terms before we considered a 19 program like that. 20 Q. Let's make this more concrete. In the 21 context of planning for the November election, is 22 the process of identifying municipalities that may 23 face particular challenges in administering their 24 election something that's beyond the Commission's 25 capacity to do?</p>
<p>34</p> <p>1 we're allowed to do, but that is a practice, yes. 2 Q. And, presumably, the Commission all the time 3 takes action or engages in activities that are 4 consistent with its mission but not explicitly 5 enumerated in the statute; isn't that right? 6 A. You probably know as well as I do that some 7 statutes are very specific about authority and some 8 are more vague, but we always believe that we're 9 operating within our statutory authority. 10 Q. Including where you have broad statutory 11 authority; correct? 12 A. In some areas, yes. 13 Q. Can the Commission work with local election 14 officials to design poll worker recruitment 15 programs? 16 A. I don't know if program is the right word 17 for it, but the Commission has provided tools that 18 the local election officials can leverage in 19 developing and implementing their own poll worker 20 recruitment efforts. 21 Q. Can it set goals that local election 22 officials could use to measure their own progress? 23 A. In the form of a best practice perhaps, yes. 24 Q. And I just want to go back for a moment to 25 the conversation we had about the role of the</p>	<p>36</p> <p>1 MR. GAHNZ: Object to the form. 2 A. I can't answer without knowing what the 3 program you suggest, sort of, looks like. I can't 4 really answer what our -- I haven't done an analysis 5 of our resource allocation, if we'd have capacity. 6 Q. Is the Commission and the Commission staff 7 in a position to identify the municipalities that 8 may face the most significant challenges in 9 administering the November election this year? 10 A. It depends on the type of challenge. There 11 are many different challenges faced by 12 municipalities; and depending on the size of the 13 jurisdiction, their challenges may look very 14 different. So if it was a specific challenge that, 15 you know, was faced by a certain size jurisdiction, 16 let's say, or something where we're able to pull a 17 report, then we could consider options for reaching 18 out to them if it was, you know, a feasible number 19 of jurisdictions. 20 Q. Let's make it even more concrete. In the 21 context of identifying municipalities that are most 22 likely to face challenges in administering an 23 election in November that allows voters to safely 24 and effectively participate during the COVID 25 pandemic, is the Commission equipped to identify</p>

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<p>37</p> <p>1 which jurisdictions are most likely to be facing 2 those challenges? 3 MR. GAHNZ: Object to the form. 4 A. I'm not sure. I'm sorry. 5 Q. Okay. If the Commission had identified 6 jurisdictions that need that support, there's 7 nothing stopping it from affirmatively reaching out 8 to offer review and feedback on their planning 9 process; correct? 10 A. Correct. 11 MR. SCHWARTZTOL: Let's pull up Exhibit 6. 12 (Exhibit 6 was marked for identification 13 and is attached to the transcript.) 14 VIDEO TECH: Exhibit No. 6 for the record. 15 MR. SCHWARTZTOL: So I will note that this 16 was previously introduced in Ms. Wolfe's first 17 deposition on July 3rd, this document. But because 18 we have a different court reporter at this 19 deposition and don't have a continuously numbered 20 set of exhibits, I'm going to reintroduce it here 21 for ease of reference. 22 Q. Ms. Wolfe, are you familiar with this 23 document? 24 A. I am. 25 Q. The April 7, 2020 absentee voting report?</p>	<p>39</p> <p>1 absentee report has been relevant to the 2 Commission's planning for the November election? 3 A. Yes. 4 Q. Would you say it's the WEC's main source of 5 information about how absentee voting either worked 6 or failed to work in the April election? 7 A. Yes. But as with anything, I mean, if new 8 information comes our way, that is absolutely 9 considered as well. 10 Q. Understood. 11 MR. SCHWARTZTOL: I'm going to ask to bring 12 the document back up and to scroll to page 6 of the 13 document. 14 Q. Ms. Wolfe, I want to draw your attention to, 15 I guess it's the long paragraph of text that appears 16 on that page and, in particular, the second sentence 17 there where it says, While almost 90 percent of 18 ballots were returned and counted, approximately 1 19 in 10 ballots were either not returned to the clerk 20 or were returned but rejected. 21 And I'm going to ask you a question, but I 22 want to first also draw your attention to page 7, 23 the top paragraph and the second sentence where it 24 says, Both the ballot rejection and unreturned 25 ballot rates were consistent with or lower than the</p>
<p>38</p> <p>1 A. Yes. 2 Q. Would you agree that absentee voting is 3 going to be a major part of how Wisconsin voters 4 participate in this November's election? 5 A. I wish I had a way to better forecast what 6 that voter behavior will look like in the fall or in 7 the future, but we are certainly planning to have 8 high levels and making sure that all options are 9 made as accessible -- that we are addressing, you 10 know, any issues in all areas of voting that are 11 needed for -- as we prepare for the fall. 12 Q. Understood. And nobody has a crystal ball. 13 But in the planning that you and your staff are 14 doing between now and November, do you agree that 15 absentee voting -- let me withdraw that. 16 In the planning that you and your staff are 17 doing between now and November, are you anticipating 18 that absentee voting is going to be a major part of 19 how Wisconsin voters participate in the election? 20 A. The Commission has directed staff to 21 implement the plan that was submitted to the courts, 22 and you'll see that absentee voting and some of the 23 processes that supported are featured prominently 24 there. 25 Q. Is it fair to say that the April 7th</p>	<p>40</p> <p>1 previous rates. 2 Those two propositions that I just read out 3 loud, are they consistent with your understanding of 4 absentee voting rates in April and how they compared 5 to previous -- excuse me -- are they consistent with 6 your understanding of absentee ballot rejection 7 rates and how those rates compared with previous 8 years? 9 A. I believe the data presented in the report 10 to be factual. 11 Q. I'm going to go back to page 6 and ask you 12 to take a look at table 4. 13 So this indicates that between April of 2016 14 and April of 2019, between about 73 percent and 15 about 90 percent of voters voted in-person at 16 polling places; is that correct? 17 A. According to the data presented, yes. 18 Q. And it also indicates that in April of this 19 year, those proportions essentially inverted 20 themselves so that about a quarter of voters 21 participated in-person on election day with the rest 22 voting by absentee, and the lion's share of those 23 voters using vote by mail; is that correct? 24 A. Again, I believe the data that's presented 25 there is correct, yes.</p>

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41	<p>1 Q. So I want to ask you to help me understand</p> <p>2 how the rejection rates in this April election were,</p> <p>3 in the words of the report, consistent with or below</p> <p>4 the rates in prior years.</p> <p>5 So just for example, if we look at</p> <p>6 April 2016, where about 10 percent -- according to</p> <p>7 the data here, about 10 percent of voters</p> <p>8 participated via absentee ballot; correct?</p> <p>9 A. Yes, correct.</p> <p>10 Q. And so a 10-percent rejection rate would</p> <p>11 mean that about 10 percent of those 10 percent of</p> <p>12 ballots were rejected; correct?</p> <p>13 A. Yes, correct.</p> <p>14 Q. Okay. And I'm going to get out at the edge</p> <p>15 of my, sort of, mathematical skills here, but</p> <p>16 another way of expressing that is to say that the</p> <p>17 rejection rate overall was about 1 percent of</p> <p>18 ballots cast; is that correct?</p> <p>19 A. I -- I will trust your math, but I don't</p> <p>20 have a way to verify that right now.</p> <p>21 Q. Okay. And in contrast, if we're looking at</p> <p>22 April of this year, a 10-percent rejection rate</p> <p>23 would be 10 percent of the 75 percent of ballots</p> <p>24 that were cast as absentee; is that correct?</p> <p>25 MR. GAHNZ: Object to the form of the</p>	43
42	<p>1 question.</p> <p>2 A. I'm sorry. I would need to see the actual</p> <p>3 data itself. Just based on my limited math skills,</p> <p>4 that doesn't quite sound right to me, but I would</p> <p>5 want to verify that before vouching for it.</p> <p>6 Q. I won't have us get too deep into the</p> <p>7 arithmetic here, but you testified a moment ago that</p> <p>8 you believe the data in this table is correct; is</p> <p>9 that right?</p> <p>10 A. Yes, sir, I believe it to be correct, but</p> <p>11 75 percent didn't sound accurate. I'm not sure</p> <p>12 where you're getting that from.</p> <p>13 Q. Okay. And looking at the April 2020 bar</p> <p>14 graph, it shows at the top about 25 percent -- just</p> <p>15 over 25 percent of voters participated on election</p> <p>16 day; correct?</p> <p>17 A. Yes.</p> <p>18 Q. So the remaining share of voters is</p> <p>19 75 percent of voters; correct?</p> <p>20 A. About, yes, uh-huh.</p> <p>21 Q. So a 10-percent rejection rate of absentee</p> <p>22 ballots translates to 10 percent of those 75 percent</p> <p>23 of the overall ballots that were cast; correct?</p> <p>24 A. I'm sorry. I'd have to look at how we</p> <p>25 classified the rejection rate data. It may be based</p>	44
	<p>1 on by-mail ballots. I'm not sure that that number</p> <p>2 includes the in-person absentee where you're not</p> <p>3 going to be issues like rejecting a ballot for being</p> <p>4 late or not having the witness requirements. So it</p> <p>5 might refer to that 61.8 percent; and without having</p> <p>6 to look into it, I'm not sure.</p> <p>7 Q. So it is either 10 percent of 61.8 percent</p> <p>8 or 10 percent of 75 percent; is that fair?</p> <p>9 A. Yes, I would say that is.</p> <p>10 Q. Do you remember testifying in your July 3rd</p> <p>11 deposition that a person who requests an absentee</p> <p>12 ballot but whose ballot is not received by a</p> <p>13 municipal clerk before election day still has the</p> <p>14 option to vote in-person under certain</p> <p>15 circumstances?</p> <p>16 A. Under certain circumstances, yes.</p> <p>17 Q. So, for example, if we're looking again at</p> <p>18 table 4, at the bar for April of 2016, of those</p> <p>19 1 percent of ballots cast that were rejected, it's</p> <p>20 possible that some number of those people</p> <p>21 subsequently showed up to vote on election day; is</p> <p>22 that correct?</p> <p>23 A. Could I see -- could I just see the chart</p> <p>24 that shows the rejection rates, or do you want to</p> <p>25 stay here? I don't know that I'm quite following.</p>	

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45	<p>1 ballot rejection and unreturned ballot rates were</p> <p>2 consistent with or lower than previous rates in</p> <p>3 previous years, that 10-percent rejection rate is</p> <p>4 10 percent of the ballots that were cast either by</p> <p>5 mail or in-person absentee; right?</p> <p>6 A. I -- that's how it's presented in that</p> <p>7 paragraph that you pointed me to. I would have to</p> <p>8 see even more granular level of detail because some</p> <p>9 of those scenarios that discuss rejection reasons</p> <p>10 are not things that would occur during in-person</p> <p>11 absentee. But yes, it appears that that is</p> <p>12 accurate.</p> <p>13 Q. And so based on the data here for the</p> <p>14 elections between April 2016 and April 2019, we</p> <p>15 would be talking about 10 percent of, in April 2016,</p> <p>16 about 10 percent; in April 2017, about 10 percent of</p> <p>17 12 percent; in April 2018, about 10 percent of,</p> <p>18 again, 10 percent; is that correct?</p> <p>19 A. Having a little bit of a hard time following</p> <p>20 that, but I believe that's correct.</p> <p>21 Q. Okay. So when the Commission's report says</p> <p>22 that the absentee ballot rejection rate in April of</p> <p>23 this year was consistent with or lower than previous</p> <p>24 rates, that's not really an apples-to-apples</p> <p>25 comparison, is it?</p>	47	<p>1 the court in the consolidated cases here. This was</p> <p>2 also introduced, Ms. Wolfe, in your earlier</p> <p>3 deposition. I wanted to pull this up as an exhibit</p> <p>4 in case you need to refer to it. I'm going to ask</p> <p>5 mainly some big-picture questions on it. I think we</p> <p>6 can take it down off the screen for now, but don't</p> <p>7 hesitate, Ms. Wolfe, if you want to refer to it in</p> <p>8 answering any of the questions that I ask.</p> <p>9 So we touched on this a little bit earlier;</p> <p>10 but as part of the planning activity reflected in</p> <p>11 this report, the Commission is issuing subgrants to</p> <p>12 local election officials to assist with planning for</p> <p>13 the November election; correct?</p> <p>14 A. Correct.</p> <p>15 Q. Has the Commission attached any requirements</p> <p>16 on municipalities who receive those grants, any</p> <p>17 conditions of those subgrants?</p> <p>18 A. Yes. We have about four subgrants running</p> <p>19 right now, so I'd need a refresher on the terms of</p> <p>20 each one, but yes.</p> <p>21 Q. Okay.</p> <p>22 MR. SCHWARTZTOL: So let me ask to bring the</p> <p>23 exhibit back up on the screen and scroll to page 5.</p> <p>24 Q. So I want to ask, Ms. Wolfe, about the</p> <p>25 subgrants that were issued pursuant to the CARES Act</p>
46	<p>1 MR. GAHNZ: Object to the form.</p> <p>2 A. Rates reflecting percentage, that is true.</p> <p>3 So how we presented the data as a percentage, the</p> <p>4 percentages are accurate and consistent.</p> <p>5 Q. But in April of this year was a very</p> <p>6 different percentage of the overall number of</p> <p>7 ballots cast; correct?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. Do you think that that's a sound</p> <p>10 analysis for the WEC to be relying on in planning</p> <p>11 for the November election, the analysis reflected</p> <p>12 here?</p> <p>13 MR. GAHNZ: Object to the form;</p> <p>14 argumentative.</p> <p>15 You may answer.</p> <p>16 A. This report was approved and accepted by the</p> <p>17 Commission.</p> <p>18 MR. SCHWARTZTOL: Let's pull up Exhibit 7,</p> <p>19 please.</p> <p>20 VIDEO TECH: Yes, sir.</p> <p>21 (Exhibit 7 was marked for identification</p> <p>22 and is attached to the transcript.)</p> <p>23 VIDEO TECH: Exhibit No. 7 for the record.</p> <p>24 BY MR. SCHWARTZTOL:</p> <p>25 Q. This is the Commission's June 25th report to</p>	48	<p>1 grant money in particular.</p> <p>2 A. Okay.</p> <p>3 Q. With respect to those subgrants, has the</p> <p>4 Commission attached any requirements on</p> <p>5 municipalities who received those subgrants?</p> <p>6 A. Well, all federal reporting requirements,</p> <p>7 all requirements of the grants. There are many</p> <p>8 requirements any time you're dealing with federal</p> <p>9 funds.</p> <p>10 Q. Do any of those requirements include</p> <p>11 specific actions that those municipalities may take</p> <p>12 in administering the November election?</p> <p>13 A. Well, under the federal requirements, it's</p> <p>14 my understanding that they must be used to make sure</p> <p>15 that they have -- to improve their administration of</p> <p>16 the August and November elections in light of the</p> <p>17 current pandemic.</p> <p>18 Q. Are there any specific practices that are</p> <p>19 conditions of the receipt of those subgrants?</p> <p>20 A. Well, yes, it can't be outside of that</p> <p>21 framework, so it's quite a specific group of things</p> <p>22 that these funds can be used for.</p> <p>23 Q. What are some of those requirements?</p> <p>24 A. Again, to prepare the administration of</p> <p>25 election for the remaining 2020 election cycle, for</p>

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<p>49</p> <p>1 needs -- new needs that have developed in light of 2 the current pandemic, so things like ensuring that 3 they have enough postage, envelopes for increase in 4 by-mail absentee. It could be things like staffing 5 to ensure that they have staff to adapt to the new 6 process or to adapt a new process for in-person 7 voting like having to have additional roles to focus 8 on sanitation, social distancing. So it's to make 9 sure that they have the resources they need to 10 administer the remaining elections in light of the 11 pandemic. 12 Q. Those examples that you just gave, 13 sufficient postage or sufficient staffing, are those 14 illustrative examples of things that municipalities 15 could, in their discretion, choose to do with these 16 funds, or are those specific examples of things 17 required as a condition of the subgrant? 18 A. They have a list of things that they can 19 choose from to utilize these funds for. In contrast 20 to other grants, it's a pretty limited list of what 21 they can use them on. What I mentioned is not an 22 exhaustive list of what the federal grant allows. 23 Q. So you're referring -- in subparagraph D 24 here of the report, are you referring to the 25 allowable uses of the subgrant?</p>	<p>51</p> <p>1 sufficient social distancing at polling places; 2 correct? 3 A. Correct. 4 Q. And there's no specific conditions requiring 5 local election officials to ensure an adequate 6 number of polling places; correct? 7 A. I'm not sure -- there's no statutory 8 definition about something like that, but, correct, 9 there is not that type of condition. 10 Q. No condition that recipients ensure the 11 proper use of PPE at polling places; correct? 12 A. That definition changes every day, but 13 correct. 14 Q. No requirement that they provide their plans 15 advance to the WEC for assistance or feedback; 16 correct? 17 A. Correct. 18 Q. No requirement that they engage in any voter 19 education efforts; correct? 20 A. Correct. 21 Q. No requirement that they use practices that 22 promote social distancing like the use of drop boxes 23 for early in-person voting; correct? 24 A. That is not a requirement, correct. 25 Q. Has the Commission issued any directives or</p>
<p>50</p> <p>1 A. Yes, that's correct. 2 Q. Okay. And we can scroll down a little bit 3 if that's helpful. 4 Are there any allowable uses that are not 5 listed in the text of this report? I know we may 6 need to scroll to the next page. 7 A. There may be things that aren't listed in 8 this report; but, of course, in other materials 9 provided to the clerks about the subgrants, they're 10 aware of the full terms of the subgrant itself -- or 11 of the federal grant itself. 12 Q. So local election officials can pick and 13 choose; right? Some might use them for additional 14 ballot supplies; some might use them for printing 15 and postage costs; others might use them for 16 additional cleaning supplies; but there are no 17 specific requirements about any of those uses being 18 mandatory; is that right? 19 A. That is correct, but they would have to 20 return the funds if they didn't use them on an 21 allowable expense. So I don't know why they would 22 ask for the funds if they weren't going to use them 23 for one of the few things on the list. 24 Q. There were no specific conditions connected 25 to those subgrants requiring, for example,</p>	<p>52</p> <p>1 guidance specifically identifying the practices -- 2 the best practices for making in-person voting safe? 3 A. Yes, but it is a work in progress, and we'll 4 re-visit it before each election. So what was 5 appropriate in April may need to be completely 6 revamped as we head into November, so it's a dynamic 7 process that we're constantly updating and 8 supplementing. 9 MR. SCHWARTZTOL: We can take the exhibit 10 down off the screen. 11 VIDEO TECH: Thank you. 12 BY MR. SCHWARTZTOL: 13 Q. Has the Commission issued any such guidance 14 with respect to the November election? 15 A. Not yet. That sounds like a fool's errand. 16 We'll need to wait until we get closer to November 17 to know what the current CDC and health guidance is. 18 We are working on April 11th, the election we have 19 in three weeks. 20 Q. On August 11th? 21 A. Or yes. Yes, thank you. 22 Q. Has guidance with respect to the August 11th 23 election been issued yet? 24 A. We had a webinar just yesterday to start 25 that process of issuing that guidance. We had a</p>

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<p>53</p> <p>1 call with the public health official yesterday to 2 work on making sure it's all up-to-date, so yes. 3 Q. Has the Commission taken any action to 4 assess whether local election officials are engaging 5 in robust efforts at recruiting and training poll 6 workers in advance of the November election? 7 A. Again, right now our focus has to be on the 8 August 11th election and making sure that they have 9 the resources they need. But we're in constant 10 communication with the locals to survey them and 11 make sure that they have what they need and to 12 provide them with tools for recruitment. So this is 13 a survey that we're continuing to do with the locals 14 for August and then we will continue for November. 15 Q. Okay. So sitting here today, the Commission 16 has not taken any action along those lines aimed at 17 the November election; correct? 18 A. I believe all of the recruitment efforts are 19 a wholistic approach for the 2020 election cycle, so 20 recruitment of poll workers, they're working on it 21 for this year. 22 Q. Yeah. I mean, you testified a moment ago 23 that it was premature to be engaging with local 24 election officials on their planning for November. 25 A. No, sir, that's not what I said. I said</p>	<p>55</p> <p>1 process; through the state statutes, there's a 2 complaint process. I'm not intimately familiar if 3 there is a specific complaint process through the 4 Voting Rights Act. 5 Q. So let me clarify. I'm not asking about the 6 content of the Voting Rights Act. 7 Generally, with respect to the Commission's 8 authority to investigate whether local election 9 officials are properly administering state and 10 federal election laws, that authority would include 11 the proper administration of the Voting Rights Act; 12 correct? 13 A. If someone were to file complaints alleging 14 a clerk not following a federal law, then yes. 15 Q. And same with the Americans With 16 Disabilities Act? 17 A. I believe so, yes. 18 Q. And same with the relevant provisions of the 19 U.S. Constitution? 20 A. I believe so. I'm not aware of that 21 particular instance, but I believe that to be true, 22 yes. 23 Q. Has the Commission used that authority to 24 initiate any investigations relating to the 25 April 2020 election?</p>
<p>54</p> <p>1 that developing public health guidance this far in 2 advance -- 3 Q. Let me finish my question, and you can 4 clarify your earlier testimony if you want. 5 Let me withdraw that and reask it. 6 When is the Commission planning to focus on 7 engaging with local election officials specifically 8 for purposes of planning for the November election? 9 A. Upon the conclusion of the August 11th 10 election. And some of those are tied together 11 because August is the primary for November in some 12 contests, so there are many things that are tied 13 together in those plannings. 14 Q. The Commission has statutory authority to 15 carry out investigations to determine whether local 16 election officials are properly administering state 17 and federal law; correct? 18 A. Through the complaint process. If someone 19 issues a complaint, the Commission can consider the 20 information and issue a decision. 21 Q. Okay. And you testified earlier that that 22 could include compliance with the Voting Rights Act; 23 correct? 24 A. I don't know that that's a specific 25 mechanism. I know through HAVA there's a complaint</p>	<p>56</p> <p>1 A. Could you be more specific? I'm sorry. 2 Q. Since the April 2020 election, has the 3 Commission taken any action pursuant to its 4 authority to investigate whether local election 5 officials are properly administering state and 6 federal election law? 7 A. The Commission has taken action on all 8 complaints that have been brought before it. 9 Q. Has it received complaints since the 10 April 2020 election? 11 A. Yes. 12 Q. And has it taken any investigative action in 13 response to those complaints related to the 14 April 2020 election? 15 A. The decisions of all the complaints that 16 have been brought before the Commission are a matter 17 of public record, so I can't speak to each of them, 18 but ... 19 Q. So other than what has been disclosed at 20 public commission meetings, for example, has the 21 Commission taken any other action pursuant to that 22 investigative authority since the April 2020 23 election? 24 A. Any consideration about any type of 25 investigation or complaints would all be a matter of</p>

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<p>57</p> <p>1 public record and would be reflected in our 2 meetings. 3 Q. The Commission's June 25th submission to the 4 court indicates that among the things the Commission 5 is doing is engaging in efforts to educate voters on 6 unfamiliar aspects of voting. 7 Is that still among the activities that the 8 Commission is planning between now and November? 9 A. Yes, it is. 10 Q. And what will that initiative consist of? 11 A. So I believe this is outlined in the 12 reports. I guess it could be summarized as creating 13 tools to educate voters on the mechanics of 14 participating. We have done two statewide surveys 15 to understand how voters -- what information they're 16 seeking, where they seek that information. And so 17 based on that user feedback, we're able to create 18 tools that help to educate voters on information 19 that they're seeking. So it could take the form of 20 a video, social media plans, something like the 21 mailer that's going out, all sorts of different 22 efforts, a lot of tools for local election officials 23 as we find that voters have a trust with them, so a 24 variety of tools. 25 Q. Has the Commission completed that survey?</p>	<p>59</p> <p>1 when they originally passed that motion. So it will 2 be a variety of things and something where we'll 3 need to be able to change approaches quickly if 4 something changes in what voters are looking for. 5 Q. Is it going to include paid TV 6 advertisement? 7 A. As of right now, that's not part of it. 8 It's just so outside the reach of a state budget to 9 be able to do something like that. 10 Q. Is it going to include paid online 11 advertisement? 12 A. We have done that in the past. We're still 13 formulating final plans for -- as we head into 14 November. 15 Q. So it may or may not include paid online 16 advertising; is that right? 17 A. Correct. The Commission will have to 18 consider the plan and approve it. 19 Q. Is it going to include paid radio 20 advertising? 21 A. Again, we don't know yet, so the Commission 22 will have to consider the plan and sign off on it. 23 Q. Same with paid print advertising? 24 A. Correct. 25 Q. Do you know how much is being budgeted for</p>
<p>58</p> <p>1 A. Yes. 2 Q. What did it find? 3 A. It's available publicly. So there's a lot 4 of different findings, but I would summarize it as 5 people want to know the mechanics of how voting 6 works. And, you know, we're just trying to find out 7 where they go for their information so we can put 8 our information in the right channel. 9 Q. Do you know how many voters were surveyed? 10 A. Not off the top of my head, I do not. 11 Q. Do you know order of magnitude? 12 A. It was statewide. I don't know. The 13 specifics are certainly available publicly. 14 Q. You don't know if it was hundreds, 15 thousands, tens of thousands? 16 A. I believe thousands, but I could -- I'm not 17 a hundred percent sure. 18 Q. Is there a decision yet about which 19 communications channels that campaign will make use 20 of? 21 A. So we created -- we're creating a variety of 22 things using different channels, so depending on -- 23 you know, not all voters go to the same source, so 24 we need to have a very dynamic approach. And that 25 was something that was important to the Commission</p>	<p>60</p> <p>1 this public education initiative? 2 A. Well, it's not budgeted. There's -- you 3 know, that's not part of our agency's budget, so, 4 you know, that would also have to be a factor the 5 Commission considers is what are the available 6 funds. 7 Q. What are the potential sources of those 8 available funds? 9 A. Well, state funds, so anything that would be 10 in our agency's coffers, which is probably a pretty 11 shallow pool, and any remaining federal grant funds 12 that haven't been allocated to other things. 13 The Commission did initially approve an 14 education effort as part of our security initiative, 15 which sounds more narrow than it is. You know, 16 security is a fluctuating definition for Wisconsin 17 voters. So if they want more information about a 18 specific topic and they think that is relevant to 19 security, those funds and efforts could be shifted 20 there. But I don't know what the total sum is that 21 they approved over the course, but some of the 22 federal grants have been earmarked for some of 23 those. 24 Q. So those security funds, are they 25 potentially available for public education on the</p>

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<p style="text-align: right;">61</p> <p>1 topics you described a moment ago like mechanics of 2 voting? 3 A. If it's security related. But if it was 4 more beyond that, more broad beyond improving our 5 state's cybersecurity posture, then there's some 6 grants that that might not be able to be used for. 7 So we'd have to look closely at the terms of the 8 various grants. The CARES grant potentially, yes, 9 but most of those funds have been used for the 10 improvements identified in the April 7th report and 11 the subgrants to municipalities. 12 Q. So with respect to the public education 13 effort that you described a few moments ago 14 addressing the mechanics of voting, it sounds like 15 there is not yet any budget designated for that 16 effort; is that correct? 17 A. Well, I also am not sure how much of a 18 budget it needs. A lot of it relies on getting 19 tools to local election officials to -- you know, 20 that's one of the benefits of having 1850 21 municipalities in 72 counties is that they have a 22 deep connection with their voters in their 23 jurisdictions, so providing them with tools is an 24 important part of the plan. 25 MR. SCHWARTZTOL: Can I ask the court</p>	<p style="text-align: right;">63</p> <p>1 paid TV advertising will have a significant budget 2 impact, though; correct? 3 A. Yes. 4 Q. And your ability to use those tools will 5 depend on whether you have a budget to receive them; 6 is that correct? 7 A. Yes. 8 Q. Is there a launch date for this education 9 campaign? 10 A. There may be. Again, there have been over 11 20 commission meetings this year, and at some point 12 we've put together, sort of, a schedule of when we 13 think some of these efforts will come to life, but 14 they're mostly focused on November and getting the 15 tools out for November. 16 Q. Okay. So you're not aware right now the 17 launch dates for those efforts? 18 A. You know, it's not like a branding campaign. 19 We're not selling shampoo so there's not, like, a 20 date where we're going to do a big, flashy campaign. 21 It's evolving tools and efforts, and it will evolve 22 as people need information. 23 Q. Has the Commission at this point coordinated 24 with any outside nonprofit groups on how the public 25 education campaign will be conducted?</p>
<p style="text-align: right;">62</p> <p>1 reporter to read back my last question? 2 (Record read as requested.) 3 BY MR. SCHWARTZTOL: 4 Q. I didn't hear a yes or a no to that. Is 5 that a yes or a no? 6 A. I'm not sure what the Commission has passed 7 in terms of our efforts that we're working on right 8 now. We've been working on developing the 9 materials, which obviously requires funding, so yes. 10 Yes, we have a designated fund for those efforts. 11 Q. I'm sorry, so what is the amount of the 12 funds designated for the voter outreach effort? 13 A. You'd have to take a look at our commission 14 meetings and materials. It's all presented as part 15 of that. 16 Q. You'd agree that the scale of any outreach 17 effort is going to be determined in significant part 18 by the amount of funding budgeted for it; correct? 19 A. Yes, correct. I hesitate because I don't 20 know that paid media is the best way to reach 21 people. That's not necessarily what our surveys 22 show. So scale sometimes is giving tools to your 23 local election officials. That's a really effective 24 way. 25 Q. Some tools like paid online advertising or</p>	<p style="text-align: right;">64</p> <p>1 A. We worked with our ad agency to -- and a 2 data company -- that's probably not the right word 3 for it -- to conduct the survey and to provide 4 information, again, about our actual voters' 5 opinions and then used their expertise to determine 6 a path forward. 7 Q. It sounds like you haven't yet coordinated 8 with any nonprofit groups that might be partners in 9 this public education campaign; is that correct? 10 A. We also use the center for civil design -- 11 or for civic design a lot to help us with usability 12 because, again, we want to talk to actual voters. 13 We don't try to assume what voters need or want. We 14 do a lot of usability in our office, so yes, they've 15 been a partner of ours for a long time. 16 Q. What about grass-roots groups that work 17 directly with voters, have you coordinated with any 18 of them on this efforts? 19 A. We always make our tools available to any 20 groups that want to utilize them. So as you would 21 have seen with our photo ID effort to bring it to 22 the ballot campaign, we hope that everybody and 23 anyone uses the tools that we make available to help 24 us spread the word. So absolutely, once they're 25 available, we hope any groups that are willing will</p>

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17 (65 to 68)

<p>65</p> <p>1 utilize them.</p> <p>2 Q. Once they're available anyone can use them,</p> <p>3 but you haven't yet coordinated with any of those</p> <p>4 groups about how they will use them; correct?</p> <p>5 A. Well, they're not completed yet, so no.</p> <p>6 Q. Okay. You haven't done any planning at this</p> <p>7 point with any of those groups about how to develop</p> <p>8 them or how to use them; correct?</p> <p>9 A. Well, we don't know what they are. But once</p> <p>10 we do, we will certainly coordinate. We talk to</p> <p>11 voter groups regularly and, you know, make sure that</p> <p>12 they're aware of our tools and our resources.</p> <p>13 Q. What about political campaigns? Have you</p> <p>14 done anything to coordinate with the political</p> <p>15 campaigns about the voter education efforts?</p> <p>16 A. In the past we have. So we'll have to bring</p> <p>17 to the Commission a distribution plan for their</p> <p>18 consideration once the tools are ready. But, again,</p> <p>19 you know, looking at photo ID or other campaigns in</p> <p>20 the past, we've certainly included parties and</p> <p>21 candidates as part of that as well.</p> <p>22 Q. Right now you haven't begun any of that</p> <p>23 coordination; correct?</p> <p>24 A. No. Until we have the tool kit ready, we</p> <p>25 wouldn't be coordinating.</p>	<p>67</p> <p>1 specific analysis?</p> <p>2 A. If directed to do so by the Commission.</p> <p>3 Q. Right now you don't have any plans to</p> <p>4 conduct that analysis?</p> <p>5 A. I would argue that that is just part of the</p> <p>6 data set in a lot of ways because it's just opinions</p> <p>7 that -- we're not trying to sway the data. The data</p> <p>8 is the data. So if it shows that there's a certain</p> <p>9 group or area of voters that has specific concerns,</p> <p>10 that, of course, is information that will be</p> <p>11 provided to the Commission when they're making their</p> <p>12 decision.</p> <p>13 Q. So the raw data may be sufficient in your</p> <p>14 view?</p> <p>15 A. I'm not sure what you're suggesting that we</p> <p>16 do to the data beyond utilize what it tells us.</p> <p>17 Q. You testified a little earlier that the</p> <p>18 Commission is going to start its work preparing for</p> <p>19 the November election after the conclusion of the</p> <p>20 August 11th election.</p> <p>21 Do you remember that?</p> <p>22 A. I also said that there are many things that</p> <p>23 are tied between the August and November election.</p> <p>24 It depends on the specific preparations you're</p> <p>25 asking me about.</p>
<p>66</p> <p>1 Q. And do you have any specific plans right now</p> <p>2 to do that?</p> <p>3 A. Again, that's something for the Commission's</p> <p>4 consideration for a future meeting. I'm sure that</p> <p>5 will be one of their agenda items.</p> <p>6 Q. In preparing the public education campaign,</p> <p>7 has the Commission conducted any study or analysis</p> <p>8 to determine what groups of voters are most likely</p> <p>9 to be deterred from voting in November under</p> <p>10 pandemic conditions?</p> <p>11 A. The survey asks questions about, you know,</p> <p>12 how voters -- voters' perceptions about voting and</p> <p>13 issues that they may have encountered so we can</p> <p>14 work, again, to develop materials to give them</p> <p>15 information about how it works or how their</p> <p>16 interaction may happen. So yes.</p> <p>17 Q. In using that data, have you conducted any</p> <p>18 analysis of which groups of voters are most likely</p> <p>19 to be deterred from voting in November?</p> <p>20 A. Again, this is something that will have to</p> <p>21 be put together. We'll have to complete our</p> <p>22 analysis, put together recommendations for the</p> <p>23 Commission's consideration, but all of that will be</p> <p>24 a part of that discussion.</p> <p>25 Q. Do you have any plans to conduct that</p>	<p>68</p> <p>1 Q. So that's a yes, though, you recall that</p> <p>2 earlier testimony?</p> <p>3 A. I recall that. I believe you've taken it</p> <p>4 out of context.</p> <p>5 Q. Well, let me ask again, when does the</p> <p>6 Commission plan to begin work to prepare for the</p> <p>7 November election?</p> <p>8 MR. GAHNZ: Objection; asked and answered.</p> <p>9 You can answer again.</p> <p>10 A. I would be glad to talk about any specific</p> <p>11 areas of preparations and when those start. But</p> <p>12 some things are tied together between August and</p> <p>13 November. And others like public health guidance,</p> <p>14 we'd have to wait until closer to November to know</p> <p>15 what the accurate guidance is.</p> <p>16 Q. What are some of the things that are tied</p> <p>17 together?</p> <p>18 A. Well, if you take a look at the statutes,</p> <p>19 there's things like determining early voting sites</p> <p>20 or in-person absentee sites. The statutes kind of</p> <p>21 tie those two things together noticing them. There</p> <p>22 are, you know, potentially, like you said,</p> <p>23 recruitment efforts for poll workers. Those efforts</p> <p>24 don't just have to be for August. They can be</p> <p>25 working with people to get them trained and up to</p>

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18 (69 to 72)

<p>69</p> <p>1 speed for both elections as more of a wholistic 2 approach. But then there's things like -- I always 3 talk about election security, or now with the 4 pandemic circumstances, these aren't things with a 5 finish line. They aren't things with a checkbox 6 that we can say we've done that, now we're good to 7 go. They're things that evolve every single day, so 8 we'll have to continue that as we get closer to 9 November. 10 Q. And is your role with the Commission a 11 full-time position? 12 A. Yes, times three. 13 Q. What is the earliest that you anticipate 14 beginning any preparation with local officials 15 that's specifically geared towards the November 16 election? 17 MR. GAHNZ: Objection; asked and answered. 18 A. Again, it depends on the specific efforts. 19 I would say there's some things where we've been 20 working on preparations with them for a year. 21 There's other things where we need to keep those 22 things fresh as we get closer to November. 23 Q. In preparing for the November election, has 24 the Commission collected data to determine whether 25 there were racial disparities in the ability to</p>	<p>71</p> <p>1 April because of the pandemic conditions? 2 A. That's not data we would have available to 3 us to analyze. 4 Q. Has the Commission conducted any analysis to 5 determine which categories of voters -- and here I 6 mean by geography or race or age or any other 7 factor -- which category of voters are most likely 8 to be deterred from voting in November? 9 A. That's not data I have available. I can't 10 speak to that. 11 Q. Okay. So the Commission has not conducted 12 any analysis along those lines? 13 A. That is not data that's available to us. 14 That's not -- so no. 15 Q. In preparing for the November elections, has 16 the Commission sought to determine whether counties 17 that had higher rates of COVID-19 in April 18 experienced lower turnout than counties that had 19 lower rates of COVID-19? 20 A. Again, that is not data that's part of our 21 data set, so no. 22 Q. In preparing for the general election in 23 November, has the Commission studied the effects of 24 polling place closure on the safety of in-person 25 voting?</p>
<p>70</p> <p>1 safely vote on April 7th? 2 A. The data sets for elections does not include 3 any demographic information, so that is not part of 4 the data set that we have. 5 Q. And so you haven't conducted any analysis 6 that would shed light on that question? 7 A. Correct. 8 Q. And the June 25th report does not identify 9 any measures that are specifically designed to 10 prevent racial disparities in the ability to vote 11 safely in November; correct? 12 A. Correct, that's not part of our data set. 13 Q. So the Commission is not taking any measures 14 that are specifically designed to prevent racial 15 disparities? 16 A. That is not data we have available to us, so 17 correct. 18 Q. In preparing for the November election, has 19 the Commission sought to determine whether the 20 voting conditions in April deterred participation 21 among voters? 22 A. That is not data we have available, so no. 23 Q. Okay. And so you haven't -- or the 24 Commission has not attempted to quantify the number 25 of voters who were deterred from participating in</p>	<p>72</p> <p>1 A. The analysis that we've done is reflected in 2 our April 7th report, so, again, that's not data 3 that we would have available to us. 4 Q. Okay. And if -- for any of these things 5 that you're saying it's not data that you have 6 available to us, I take it to mean that that means 7 you have not conducted the analysis that I'm asking 8 about? 9 A. Correct, but I think you're suggesting that 10 we have some kind of data that we don't have that 11 isn't part of the statewide voter registration 12 database. 13 Q. Some of the subgrant funding that the 14 Commission is making available -- let me withdraw 15 that and ask it differently. 16 One of the allowable uses of the CARES Act 17 subgrant is the uses of drop boxes for in-person 18 absentee voting; correct? 19 A. I believe so, yes. 20 Q. So there's no question that this is feasible 21 for the Commission to provide funding or support to 22 enable the use of drop boxes by local election 23 officials; correct? 24 A. That would be an option available to them, 25 yes.</p>

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19 (73 to 76)

<p>73</p> <p>1 Q. And is it safe to assume that if the 2 Commission is willing to fund the use of drop boxes, 3 that's because it thinks that the use of drop boxes 4 is going to be beneficial in the November election? 5 A. Because it's an allowable expense under the 6 grant. 7 Q. Does the Commission have a position on 8 whether the use of drop boxes is going to be 9 beneficial in the November election? 10 A. I don't recall if that's a specific item 11 that they've considered or made any motion on, but 12 it's included as part of what the municipalities can 13 use their subgrant funding for. 14 Q. Does the Commission have a view on whether 15 the use of drop boxes is one factor that helps to 16 enable socially distant voting? 17 A. That very specific item is not something 18 that I don't think they've taken a position on. I 19 believe that drop boxes and them as an option is 20 something that was provided as part of the best 21 practice guidance that was provided prior to April, 22 one of the options the jurisdiction may want to 23 consider. 24 Q. Best practice because it enables socially 25 distant voting; is that fair?</p>	<p>75</p> <p>1 places, based on the public health checklist that we 2 put together with the public health department about 3 what are the things they need at their polling place 4 and how to make sure that they have enough. We also 5 have to rely on the counties as a bit of a conduit 6 between us and the municipalities because there's so 7 many of them. So we double-check the numbers when 8 they come back to make sure we don't think they've 9 estimated too low before putting in those orders. 10 Q. What kinds of things do you double-check? 11 A. To make sure that they would have enough of 12 all the supplies to be able to implement the 13 checklist in their polling places. 14 Q. Is the Commission conducting any analysis to 15 determine whether the needs based on those 16 self-assessments would actually reflect the most 17 efficient distribution of the supplies that the 18 Commission is planning to procure? 19 A. Yes. We have a checklist that says -- that 20 we worked with the public health official on to say 21 what the process, the work flow should be at the 22 polling places in terms of sanitizer, you know, 23 cleaning surfaces, social distancing. And so then 24 based on the number of polling places they plan to 25 have, poll workers, that we're able to make sure</p>
<p>74</p> <p>1 A. It's a best practice that the jurisdiction 2 will have to consider based on their setup to make 3 sure that they're able to conduct safe voting. 4 Q. The June 25th report also states that the 5 Commission anticipates providing municipalities with 6 certain sanitation and PPE supplies based on a needs 7 survey. 8 Do you recall that? 9 A. Yes. 10 Q. Has the Commission conducted that survey 11 yet? 12 A. Yes. 13 Q. And what kinds of things did it learn? 14 A. Just the amount of supplies that we need so 15 that we can work through the state procurement 16 channels to get the supplies to the jurisdictions 17 and distribute them to them. 18 Q. So that's a survey of what each municipality 19 assesses to be its needs; is that correct? 20 A. Yes, that's correct. 21 Q. Has the Commission done any analysis beyond 22 collecting that self-assessment to determine what 23 the needs are in particular municipalities? 24 A. Yes. We make recommendations to the 25 municipalities based on the number of polling</p>	<p>76</p> <p>1 they requested enough to be able to implement that. 2 Q. There's a specific amount of money set aside 3 for the procurement of these supplies; correct? 4 A. Yes, that's correct. 5 Q. Do you remember what that is? 6 A. I believe it's 500,000. 7 Q. I don't want to put you on the spot. I can 8 represent to you that that's what it says in the 9 report at least, the June 25th report. 10 Do you have any reason to think that 11 allotment has changed since the June 25th report? 12 A. I believe that to be accurate. 13 Q. So what will the Commission do if the total 14 need as reflected in those self-assessments exceeds 15 what the Commission can afford to procure based on 16 that budget? 17 A. Well, that certainly would be difficult; but 18 as we saw in April where all of this was unplanned, 19 we must find a way. And that's what we seem to be 20 quite skilled at is finding a way. So as of right 21 now, we have no reason to believe that's true. We 22 believe we have an adequate amount of funding set 23 aside, but we also recognize something else could 24 come up. 25 So there will likely be remaining grant</p>

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20 (77 to 80)

<p>77</p> <p>1 funds. You know, all 1850 jurisdictions don't 2 request their CARES Act funding. That means there 3 would be remaining funding that we'd be able to use. 4 Also, there are still some remaining funds from the 5 CARES grant that aren't specifically allocated or 6 allocated for things like staff time that we'd be 7 able to reallocate in the event of an emergency. 8 But we're also getting all the supplies before the 9 August election, and there will be a remaining 10 budget; so if there's a new need as we head into 11 November, we should still have some funding to help 12 address that. 13 Q. In assessing how to distribute those 14 supplies, is the Commission engaging in any analysis 15 of what each jurisdiction's experience looked like 16 in April? 17 A. We have -- we have many clerk feedback 18 groups where we're constantly talking to the clerks 19 about their experience and understanding what went 20 well, what didn't go well, and how we can adjust 21 things. So yes, I think the recommendations we made 22 about supplies or that the clerks are using to make 23 their order is based on their experience. 24 Q. I guess I'm asking is the Commission going 25 to make any independent assessment. Is it going to</p>	<p>79</p> <p>1 Q. So let me ask the question differently. 2 Prior to this April, would you agree that as 3 a practical matter, the way that absentee voters 4 complied with that requirement was by having direct, 5 in-person contact with the witness? 6 A. I don't have any data to support what method 7 voters were using to get their witness signature. 8 That's not a data point that's collected. Being 9 that I worked in voter services for a long time, 10 we've always had to help individual voters in 11 circumstances find a way that met the letter of the 12 law. So overseas citizens, military voters, there 13 have always been scenarios we've had to think 14 through to help them meet that requirement. 15 Q. Was the Commission aware that thousands of 16 voters in April believed that complying with the 17 witness signature requirement entailed direct, 18 in-person contact with the witness? 19 MR. GAHNZ: Object to the form; vague as to 20 when. 21 A. I don't know that the Commission was aware 22 of that specific data point or if that's even 23 available. 24 Q. Was the Commission aware in the lead-up to 25 the April election that there were voters who</p>
<p>78</p> <p>1 look at any particular municipality or county and 2 make an assessment of whether, in light of 3 difficulties that people had voting in that 4 jurisdiction in April or COVID-19 rates in those 5 jurisdictions, what the appropriate distribution of 6 supplies should be? 7 A. Again, for all of our jurisdictions, we're 8 using the best information we have, which is relying 9 on expertise of a public health official to help us 10 put together the checklist of what's needed and then 11 using that to make sure that they each have the 12 supplies that they need; though I think across the 13 board they all have needs for supplies, and we're 14 going to fill those scaled to what they need. 15 Q. Do you agree that the witness signature 16 requirement imposed by Section 6.87 of the Wisconsin 17 statutes has, at least as a practical matter, 18 historically required absentee voters to have 19 direct, in-person contact with the witness? 20 A. Well, the Commission has considered this. 21 And me being the representative of the Commission, 22 they directed staff to produce guidance about ways 23 to fulfill the witness requirements that may be 24 different than witnesses have considered in the 25 past.</p>	<p>80</p> <p>1 believed that complying with the statute required 2 them to have an in-person contact with a witness? 3 A. The Commission's staff and the Commission 4 received questions about that from voters about what 5 the requirements were. So I can't speak to every 6 e-mail or contact that we or the Commission received 7 from voters, but that may be among the types of 8 questions that were asked. 9 Q. Did the Commission have a concern in the 10 lead-up to the April election that enough voters 11 would believe that the witness requirement entailed 12 in-person contact with the witness, that a 13 significant number of voters believed that they were 14 unable to both participate in the election and 15 continue to self-isolate? 16 A. The Commission did direct staff to produce 17 guidance about ways that the witness requirement 18 could be accomplished utilizing the expertise of the 19 public health official, so that was a direction that 20 came from the Commission based on discussions. 21 Q. And is that because in-person contact is, by 22 definition, not a form of self-isolation? 23 A. I don't -- I can't -- I don't know how to 24 answer that. I don't know what the medical 25 definition of self-isolation is. I'm not sure.</p>

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21 (81 to 84)

<p>81</p> <p>1 Q. As --</p> <p>2 A. (Inaudible.)</p> <p>3 Q. Sorry. Go ahead.</p> <p>4 A. I'm done. Please go ahead.</p> <p>5 Q. As the administrator of the WEC, were you</p> <p>6 not aware of the desire of a certain number of</p> <p>7 voters to ensure that they could self-isolate during</p> <p>8 the COVID-19 pandemic?</p> <p>9 MR. GAHNZ: Object to the form.</p> <p>10 A. I believe my previous answer still stands.</p> <p>11 I mean, we received contacts from voters in specific</p> <p>12 scenarios, and then the Commission directed us to</p> <p>13 produce guidance in coordination with the public</p> <p>14 health official.</p> <p>15 Q. Was the purpose of that guidance to enable</p> <p>16 voters to comply with the witness signature</p> <p>17 requirement without engaging in in-person contact</p> <p>18 with a witness?</p> <p>19 A. Yes.</p> <p>20 Q. Was it your understanding in the April</p> <p>21 election that there were significant numbers of</p> <p>22 older or immunocompromised voters who believed that</p> <p>23 they were unable to comply with that requirement</p> <p>24 without putting themselves in harm's way?</p> <p>25 MR. GAHNZ: Object to the form.</p>	<p>83</p> <p>1 suspend the application of that statute for the</p> <p>2 November election; correct?</p> <p>3 A. That is correct.</p> <p>4 Q. And if the court in this case enjoined that</p> <p>5 statute's application during the November election,</p> <p>6 that would mean that immunocompromised or older</p> <p>7 voters could submit an absentee ballot without</p> <p>8 having to figure out a way to have a witness as part</p> <p>9 of that ballot process; correct?</p> <p>10 MR. GAHNZ: Object to the form of the</p> <p>11 question.</p> <p>12 You may answer if you can.</p> <p>13 A. We would implement any directive of the</p> <p>14 court.</p> <p>15 Q. If that was the court's directive, it would</p> <p>16 be clear that voting by absentee ballot does not</p> <p>17 require an in-person contact with the witness;</p> <p>18 correct?</p> <p>19 A. We would have to see what the court's</p> <p>20 decision was. I can't speculate what that would</p> <p>21 look like or how we would implement it.</p> <p>22 Q. If the court's directive were to enjoin the</p> <p>23 application of that statute, that would make it</p> <p>24 clear that voters can participate through absentee</p> <p>25 ballots without needing a witness signature;</p>
<p>82</p> <p>1 A. The contacts we received from voters, again,</p> <p>2 led to the Commission's consideration, discussion,</p> <p>3 and then ultimate direction of production of the</p> <p>4 guidance we just discussed.</p> <p>5 Q. In planning for the November election, are</p> <p>6 you concerned that there will be a significant</p> <p>7 number of older or immunocompromised voters who</p> <p>8 believe that they cannot safely comply with the</p> <p>9 witness requirement?</p> <p>10 A. As a representative of the Commission, my</p> <p>11 beliefs aren't relevant, but I -- again, these are</p> <p>12 all items that the Commission will have to discuss;</p> <p>13 and if they direct staff to produce additional</p> <p>14 guidance, we will do that.</p> <p>15 Q. As a representative of the Commission, is</p> <p>16 the Commission proceeding from the assumption as it</p> <p>17 plans for the November election that a significant</p> <p>18 number of older or immunocompromised voters will</p> <p>19 believe that they cannot comply with the witness</p> <p>20 requirement without putting themselves in harm's</p> <p>21 way?</p> <p>22 A. That is a discussion that the Commission</p> <p>23 will have to continue to have as they consider, you</p> <p>24 know, guidance for the November election.</p> <p>25 Q. The Commission can't decide on its own to</p>	<p>84</p> <p>1 correct?</p> <p>2 MR. GAHNZ: Object to the form. It's been</p> <p>3 asked and answered, it's vague, and it calls for</p> <p>4 speculation.</p> <p>5 But go ahead, Ms. Wolfe.</p> <p>6 A. Yeah, I'm sorry. I won't speculate about</p> <p>7 what the court ruling was, but we would do our best</p> <p>8 analysis and implement that as it was directed to</p> <p>9 us.</p> <p>10 Q. The June 25th report to the court includes a</p> <p>11 description of measures that the Commission plans to</p> <p>12 take with respect to poll worker recruitment and</p> <p>13 training; correct?</p> <p>14 A. Correct.</p> <p>15 Q. And in the lead-up to the April election,</p> <p>16 did the Commission take any action to try to assist</p> <p>17 local election officials with poll worker</p> <p>18 recruitment and training?</p> <p>19 A. Yes.</p> <p>20 Q. And did that include efforts at conducting</p> <p>21 outreach to college students and labor unions and</p> <p>22 state employees and others?</p> <p>23 A. Yes.</p> <p>24 Q. So you'd agree that even if poll worker</p> <p>25 recruitment is typically the business of local</p>

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22 (85 to 88)

<p>85</p> <p>1 election officials, the Commission has tools 2 available to it to impact the number of poll workers 3 on election day; correct? 4 A. I don't know if we had an impact. I hope we 5 did, but I don't know. I don't know if our efforts 6 impacted their ability to recruit or if it was their 7 efforts. I certainly can't take credit for the 8 things they did at the local level, but we tried the 9 best we could to help. 10 Q. Fair enough. But was the purpose of 11 bringing those tools to bear and is the purpose of 12 the recruitment efforts leading up to November -- 13 let me break those apart. 14 Was the purpose of bringing those tools to 15 bear in April to have an impact on the number of 16 poll workers who would be available in April? 17 A. Yes. 18 Q. Yeah. And, presumably, that's the purpose 19 of any poll worker effort in anticipation of 20 November; correct? 21 A. Yes. 22 Q. So maybe that clarifies my earlier question, 23 which is that the Commission has tools available, 24 whether or not they will succeed in any instance, 25 but tools available that are designed to impact the</p>	<p>87</p> <p>1 A. Uh-huh. 2 Q. And you'd agree that better social 3 distancing -- and, again, other things being 4 equal -- but better social distancing at polling 5 places creates a safer experience for voters and 6 poll workers; correct? 7 A. That is certainly prevalent in the guidance 8 we've received from public health officials and is 9 included in the guidance that's given to the clerks. 10 Q. And you'd agree that having safer 11 opportunities to vote will mean that more Wisconsin 12 voters are able to avoid having to choose between 13 their health and their right to vote in the November 14 election; correct? 15 A. I apologize. I'm struggling about how to 16 answer that from the Commission's perspective as 17 their representative. I would believe, based on 18 their discussions, that yes, that's correct. 19 Q. So would you agree that the Commission 20 should use all available tools to impact in a 21 positive way the number of poll workers available on 22 election day in November? 23 MR. GAHNZ: Object to the form. 24 A. The Commission, as we led up into April and 25 I think it continues into the fall, has directed</p>
<p>86</p> <p>1 number of poll workers on election day; is that 2 fair? 3 A. Yes. 4 Q. And that there are circumstances where it's 5 appropriate for the Commission to work to increase 6 the number of poll workers; correct? 7 A. I mean, I think it's every single person in 8 Wisconsin's job to help make sure we've got enough 9 poll workers as we head into November, so yes. 10 Q. Yeah. And is it safe to say that's because 11 for the November elections, more poll workers will 12 allow municipalities to safely operate more polling 13 locations? 14 A. Yes. And in small communities, to even open 15 up a polling location. 16 Q. And would you agree that other things being 17 equal, more adequately-staffed polling locations 18 better enables social distancing at those polling 19 places? 20 A. Yes, although I think you could certainly -- 21 I don't think this would be the case, but if you had 22 too many poll workers, that wouldn't help accomplish 23 social distancing. 24 Q. Yeah. I guess that would be a good problem 25 to have.</p>	<p>88</p> <p>1 staff to continue to provide those resources and 2 support tools to local election officials. 3 Q. Are you familiar with the county residence 4 requirement for poll workers imposed by Section 7.30 5 of the Wisconsin statutes? 6 A. Yes. 7 Q. And does that statute, in your 8 understanding, provide that poll workers must be 9 from the county in which they're being deployed as a 10 poll worker? 11 A. For the majority of roles, that's true. 12 There are some exceptions in some roles where that's 13 not the case. 14 Q. So in light of that statute, is it safe to 15 say that it is not currently possible for the 16 Commission to create a statewide pool of potential 17 poll workers to be deployed as needed across the 18 state? 19 A. We could -- we have, for example, a widget 20 on our websites where someone can indicate their 21 desire to be a poll worker, and then we can produce 22 that information to the local election officials 23 based on their addressing information and make sure 24 they're sent to the right place. But no, we 25 couldn't have a universal, sort of, pool of people.</p>

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23 (89 to 92)

<p style="text-align: right;">89</p> <p>1 We could for certain roles like a greeter or people 2 to have with sanitation, social distancing, some of 3 the nondecision-making election inspector roles. 4 Q. But not for the election inspector roles? 5 A. Correct, not for most election inspector 6 roles. 7 Q. From the Commission's perspective, would it 8 be easier to ensure adequate staffing at election 9 sites in November across the state if the court in 10 this litigation enjoined the county residence 11 requirement? 12 MR. GAHNZ: Object to the form. 13 A. That is not a question that the Commission 14 has considered. I don't know. That would be 15 speculation. 16 Q. If the statute was not being enforced in 17 November, is there any reason why the Commission 18 couldn't help to launch a statewide poll worker 19 recruitment program in advance of the November 20 election? 21 A. Again, it's not something that's been 22 brought before the Commission or considered, so I'd 23 be speculating. It's always a matter of the 24 Commission and staff needing to weigh all of the 25 priorities and resources. We'd certainly consider</p>	<p style="text-align: right;">91</p> <p>1 So as of today, has the Commission begun 2 planning for a circumstance in which a significant 3 number of voters this November believe that they 4 cannot comply with the witness requirement without 5 putting themselves in danger? 6 A. I believe we've already had that discussion, 7 and that will be any information will be presented 8 to the Commission, and we'll consider it as part of 9 any directives to staff as we plan for the fall. 10 Q. Has it begun planning for that specific 11 circumstance? 12 A. Could you clarify the specific circumstance? 13 MR. SCHWARTZTOL: Can I ask the court 14 reporter to read back my last question, please? 15 (Record read as requested.) 16 A. Again, planning for any of the witness 17 requirements based on, you know, current public 18 health information from voters is something that the 19 Commission will have to continue to consider as we 20 head into November. 21 Q. It doesn't currently have any specific plans 22 in place to deal with that problem; is that correct? 23 A. The guidance that was issued as part of the 24 April election, the May Congressional District 25 election, and now as we head into the August</p>
<p style="text-align: right;">90</p> <p>1 that if that was directed of us. 2 MR. GAHNZ: We've been going for a couple 3 hours. Can we take a short break? 4 MR. SCHWARTZTOL: You know, Dixon, normally 5 I am all for short breaks as we go. As we discussed 6 the other day, I know we are under very tight time 7 limits because of the WEC defendants strict timing 8 limitations. 9 MR. GAHNZ: I just need to use the restroom. 10 I'm not trying to be difficult. Just cut to the 11 chase. 12 MR. SCHWARTZTOL: Sure, let's go off the 13 record for a couple of minutes. 14 MR. GAHNZ: Thank you. 15 VIDEO TECH: Off the record. 16 (A short break was had.) 17 VIDEO TECH: Back on the record. 18 BY MR. SCHWARTZTOL: 19 Q. Ms. Wolfe, during that short break, did you 20 have conversation with anyone about any of your 21 testimony so far today? 22 A. I did not. I used the restroom. 23 Q. I want to just go back briefly to what we 24 were talking about earlier about the application -- 25 the witness signature requirement.</p>	<p style="text-align: right;">92</p> <p>1 election. 2 Q. Is the Commission currently doing anything 3 to ensure that voters with a print disability are 4 able to vote privately and independently at home and 5 have an accessible means of receiving marketing and 6 submitting absentee ballots privately and 7 independently? 8 A. Local election officials, being the issuing 9 entity of ballots, are ultimately the ones that are 10 working with the voters to provide, if they decide, 11 you know, what a voter needs. So that's not a 12 responsibility necessarily to work with individual 13 voters at the state level. 14 Q. Has the Commission done anything to support 15 local election officials with respect to those 16 voters in particular? 17 A. Such as? 18 Q. Ms. Wolfe, you have to tell me if the 19 Commission has taken any action to support local 20 election officials working with those voters. 21 A. We have a long-standing accessibility 22 advisory committee that has members of the 23 accessibility committee, local election officials, 24 where we coordinate with questions and issues such 25 as that on a regular basis. We also have an</p>

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24 (93 to 96)

93	<p>1 accessibility audit program where we work with local 2 election officials to support their efforts. So 3 certainly part of a larger initiative to provide 4 information to local election officials. 5 Q. If a voter returns an absentee ballot that 6 has a potential defect -- say it's missing the 7 witness signature -- what happens? 8 MR. GAHNZ: Object to form. 9 A. That would be the -- the absentee canvassers 10 would be reviewing it for compliance with the 11 statute requirements and ultimately making a 12 decision about if it can be accepted or denied. 13 Q. Before that decision is made, does the voter 14 receive notice that their ballot may not be counted? 15 A. In some circumstances. It's not an explicit 16 requirement of the law, but many clerks do reach out 17 to their voters to alert them, if there's time, of a 18 deficiency. 19 Q. Is that left entirely to the discretion of 20 each absentee ballot canvasser? 21 A. The alerting the voter of a deficiency? 22 Q. Correct. 23 A. So no. That would be more or less the clerk 24 because usually that's going to be something that 25 happens before election day. So if a clerk gets</p>	95	<p>1 places on our website where there's a process for 2 that. 3 Q. There's no legal requirement that clerks 4 provide that notice to a voter; is that correct? 5 A. That's correct. 6 Q. And in the situation where a clerk exercises 7 his or her discretion to provide notice to a voter, 8 what kind of opportunity does the voter have to 9 explain or, if needed, cure the deficiency? 10 A. Well, it all depends on timing and what's 11 allowable under the law. So, you know, some 12 jurisdictions, I've heard if there's enough time, 13 they may send back the ballot of the voter and give 14 them an opportunity to have their original witness 15 sign it. If there's enough time, they might be able 16 to cancel their ballot and be reissued a new one so 17 that they can revote it in the presence of a 18 witness. There are also guidance that we provide 19 where a voter could do something like bring their 20 original witness with them to the clerk's office or 21 to the polls on election day to sign the ballot. 22 But, again, it has to be that person that originally 23 witnessed the voter voting their ballot that would 24 have to sign it. 25 Q. So each of those things that you just</p>
94	<p>1 back a ballot that's missing a witness requirement, 2 the clerk is likely going to be the one that is 3 contacting the voter so that they have enough time 4 to try to remedy it. But no, it's not the 5 responsibility of the ballot canvassers. 6 Q. Got it. So is it purely left to the 7 discretion of the clerk to decide whether to provide 8 notice to a voter that his or her absentee ballot 9 may be rejected? 10 A. Yes. 11 Q. Has the Commission ever provided any 12 guidance on the circumstances in which that kind of 13 notice should be given? 14 A. Yes. I'm not -- I don't know if I can point 15 to a specific document, but that's part of manuals 16 and documentation that we discuss that. 17 Q. Generally, what are the circumstances under 18 which a clerk should exercise discretion to provide 19 that notice to a voter? 20 A. If there were a deficiency on an 21 application, so if it were missing a witness 22 signature, if it was missing a voter signature. 23 There's also guidance about things if they're able 24 to find the address of the witness and to be able to 25 fill that in. So there's guidance in multiple</p>	96	<p>1 described, sending the witness -- excuse me -- 2 sending the ballot back to be cured, inviting the 3 voter to come in with the witness, canceling the 4 original ballot, are each of those measures within 5 the discretion of the clerk as to whether they'll 6 use one or the other of those measures? 7 A. I would say yes and also within the 8 discretion of the voter. I know that there's clerks 9 that will talk with the voter about what option they 10 would like to utilize, but the statute doesn't 11 prescribe that they have to use one method or a 12 method at all. 13 Q. And the clerk's discretion would include, 14 like you just said, not using any of the methods to 15 cure the defect of the ballot; is that correct? 16 A. That's correct. 17 Q. In which case that ballot would not be 18 counted? 19 A. Unless the voter, yes, initiated that, yes. 20 Q. The Commission is responsible for 21 maintaining the WisVote and MyVote systems; correct? 22 A. Yes. 23 Q. And a voter who seeks to request an absentee 24 ballot for the first time via the MyVote system has 25 to upload a copy of their photo ID; is that correct?</p>

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25 (97 to 100)

<p>97</p> <p>1 A. Yes. Anyone requesting an absentee ballot 2 be sent to them for the first time or upon a new 3 registration has to provide their photo ID. 4 Q. Okay. And for that reason, a request from a 5 first-time absentee ballot requester or someone who 6 has changed their registration requires a little 7 more bandwidth from the system than a request from 8 someone who does not need to upload their photo ID? 9 A. Bandwidth from the system, yes. 10 Q. And that adds up over time if there are a 11 lot of voters in that situation; correct? 12 A. Photo IDs are picture files, and those are 13 very large, yes. 14 Q. So on any given election, if you have more 15 first-time absentee ballot requesters, that will 16 require more bandwidth from the system than if you 17 have fewer absentee ballot requesters; correct? 18 A. Yes, that's correct. 19 Q. As -- 20 A. May I just clarify? 21 Q. Yes. 22 A. Assuming that, of course, they're not 23 indefinitely confined. There are some exceptions to 24 the photo ID requirements, even for a first-time 25 applicant.</p>	<p>99</p> <p>1 VIDEO TECH: Okay. One second. Exhibit 2 No. 9. 3 (Exhibit 9 was marked for identification 4 and is attached to the transcript.) 5 MR. SCHWARTZTOL: Can you scroll down just a 6 little bit on that first page? 7 BY MR. SCHWARTZTOL: 8 Q. Ms. Wolfe, I want to draw your attention to 9 the -- well, first let me say this is an e-mail sent 10 by Ms. Wolfe to several recipients on March 23rd. 11 Ms. Wolfe, are you familiar with this 12 e-mail? 13 A. Yes, I believe it's an e-mail I sent to the 14 Commission. I'm not familiar with it, no. 15 Q. Okay. Let me ask you to take a moment to 16 read to yourself that last paragraph on this page. 17 A. Sure. Okay. 18 Q. Okay. And so, you know, this paragraph 19 is -- it begins with the sentence, In terms of 20 capacity, the current volume on both MyVote and 21 WisVote are already beyond the capabilities of what 22 our systems were designed to do. 23 It explains that in some detail and 24 concludes the final sentence in that paragraph, As I 25 previously noted, we are doing absolutely everything</p>
<p>98</p> <p>1 Q. Okay. And in the lead-up to this election 2 this April, there was an extraordinary demand on the 3 capacity needs of the MyVote system because of the 4 number of first-time absentee ballot requesters; is 5 that correct? 6 A. Extraordinary demand certainly. I don't 7 know that it's on MyVote itself. MyVote is an 8 interface. But probably on the servers and on the 9 overall memory capacity of our systems, yes. 10 Q. And did you find in the lead-up to the April 11 election that the volume of traffic on MyVote and 12 WisVote were stretching those systems beyond what 13 they were designed to do? 14 A. When you design a system, you use analytics 15 from the past to make sure that you're allocating 16 memory and resources to the appropriate place. It's 17 not useful to add, you know, five servers when you 18 only need two. That can actually cause problems. 19 So yes, the systems were used in a different 20 way than they ever had in the past, so we had to 21 make some adjustments. 22 MR. SCHWARTZTOL: I'd like to pull up what 23 was uploaded as Exhibit 9, although I think it may 24 have a different number as an exhibit to this 25 deposition.</p>	<p>100</p> <p>1 humanly possible to keep adapting our systems to 2 handle a process and volume they were never designed 3 for. 4 Does that paragraph, Ms. Wolfe, accurately 5 describe the Commission's experience with MyVote and 6 WisVote in the lead-up to the April election? 7 A. Yes, but I think, you know, obviously, we 8 made changes so that it did continue to work. My 9 heart is racing even just reading that because it 10 was such a -- this represents probably weeks of 11 people literally not sleeping so that we could keep 12 everything running. So yes, it was certainly, you 13 know, our systems being used beyond what they were 14 ever designed to do or in a different way than we 15 could have ever imagined. That's why we were 16 working around the clock and doing everything 17 humanly possible to adapt our systems. 18 MR. SCHWARTZTOL: We can take the exhibit 19 down off the screen. 20 Q. Ms. Wolfe, do you anticipate that the number 21 of first-time absentee ballot requesters in November 22 will be larger than in previous November elections? 23 A. If April proves to be -- April and May prove 24 to be indicators of voter behavior, then yes. We 25 don't know what the voter behavior is going to be in</p>

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26 (101 to 104)

<p style="text-align: right;">101</p> <p>1 November, but we certainly are adjusting and 2 planning our systems to accommodate at least that 3 type of volume. 4 Q. Does the Commission have an operating 5 assumption about what the volume of first-time 6 absentee ballot requesters is going to look at in 7 November? 8 A. Again, I certainly wish I knew. So we have 9 to go through everything planning for, sort of, the 10 largest number we can conceptualize or think of. So 11 I don't know, but we are planning for at least the 12 type of behavior that we saw in April percentagewise 13 and also understanding it could be more, it could be 14 less, and that we're going to have to be able to 15 scale and -- the servers again to make sure 16 everything operates whatever is thrown our way. 17 Q. Is the Commission doing anything that's 18 specifically designed to increase the bandwidth and 19 server capacity on the MyVote system? 20 A. Yes. 21 Q. What is it doing in that regard -- along 22 those lines? 23 A. Sure. So as is actually discussed in that 24 e-mail we just looked at, we've been doing load 25 testing. You know, also, of course, looking at just</p>	<p style="text-align: right;">103</p> <p>1 so the actual developer is our IT contractor, so 2 yes, commission staff. 3 Q. Has the Commission added a number of IT 4 staff in the lead-up to the November election? 5 A. We have recently included or beefed up our 6 team in the last year, so yes. But we also are very 7 limited in terms of budget, having money to be able 8 to hire people and things like position authority 9 through the state system, so it's not something you 10 can just do. 11 Q. Since April 7th, has the Commission added 12 any new IT staff? 13 A. No, we have not. 14 Q. Do you know if the MyVote website is screen 15 reader accessible? 16 A. I do. Yes. 17 Q. And I'm sorry. Is that yes, you know or 18 yes, it is? 19 A. Yes, I know, and yes, it is. 20 Q. Was that true in April? 21 A. Yes. 22 MR. SCHWARTZTOL: Can you please pull up 23 what we had saved as Exhibit 11? 24 (Exhibit 11 was marked for identification 25 and is attached to the transcript.)</p>
<p style="text-align: right;">102</p> <p>1 server structures and making sure that you have 2 everything set up for a larger volume. 3 Another piece of, sort of, that puzzle is 4 that all of those IDs, they don't just come to us. 5 They have to go to the local clerks for review. So 6 we're also building in what we call a pending entity 7 in the WisVote system so clerks can actually go into 8 our system to review those photo IDs rather than 9 having to worry about their e-mail systems being 10 overrun with these very large files. So it's a 11 multifaceted approach. 12 Q. Is that work being done in-house by the 13 Commission's IT staff? Is there a vendor actually 14 doing that work? 15 A. Unlike most states, we have built all of our 16 own technology, so it's all being done in-house by 17 our staff, yes. And then the Division of 18 Enterprise Technology through DOA, they house the 19 server structures, so they're also working on that 20 side. 21 Q. Is the Commission -- let me withdraw that. 22 Is the staff that's responsible for the 23 changes you just described the Commission's IT 24 staff? 25 A. We have IT staff and we have IT contractors,</p>	<p style="text-align: right;">104</p> <p>1 MR. SCHWARTZTOL: This is a March 29 2 memorandum from Ms. Wolfe to election officials 3 across the state regarding absentee witness 4 signature requirement guidance. 5 BY MR. SCHWARTZTOL: 6 Q. Ms. Wolfe, this may be the guidance that you 7 referred to earlier; is that correct? 8 A. Yes. There's also public -- I'm not sure -- 9 what we would consider internally as guidance that 10 we worked on with the public health official too, so 11 there's multiple documents. 12 Q. And I think you said earlier that the 13 Commission right now does not have any specific plan 14 to update this guidance; is that correct? 15 A. Along with all the, I guess what I'll refer 16 to as public health guidance, guidance that we have 17 to keep adjusting in light of public health 18 guidance. I'm sure that they will be considering 19 this amongst that package as we head into November. 20 Q. But there's no specific plan to revise this 21 guidance? 22 A. Yes, I'm sure there is specific plans to 23 revise all of the guidance as we head into November. 24 Like I said, we're working on it actively to make 25 sure that public health officials agree from</p>

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27 (105 to 108)

<p>105</p> <p>1 day-to-day with what's being presented and they 2 still think it's a good practice. So yes, it's a 3 constant work in progress. 4 Q. So what you've just described, is it fair to 5 say, is a general philosophy that the Commission 6 should issue new guidance as needed? 7 A. Yes, I would agree. I think that's maybe 8 even a directive of the Commission, when they asked 9 us to work with the public health officials, that it 10 has to be kept current. 11 Q. And while the possibility that this document 12 might be revised is consistent with that general 13 philosophy, is there currently -- let me ask that 14 differently. 15 While the possibility of revising this 16 guidance would be consistent with that general 17 philosophy, there is not currently a specific plan 18 with respect to this guidance in particular to 19 revise it; is that correct? 20 A. I don't know that we've had -- as we've had 21 discussions with the public health officials, I 22 mean, we give them -- we have all the documents that 23 have to be considered. And so I'm sure, yes, 24 there's plans to make at least some edits. No 25 matter how small, I'm sure there will be edits to</p>	<p>107</p> <p>1 understand the guidance that we had received from 2 public health officials about ways to safely get a 3 witness signature on an absentee ballot 4 certification. 5 Q. Has the Commission done anything to assess 6 how many voters actually became aware of this 7 guidance? 8 A. No. 9 Q. Has the Commission done anything to assess 10 whether voters found this guidance easy to follow? 11 A. We have a strong commitment to usability, 12 but no, I don't believe there was any time to do 13 that with this particular document we're looking at, 14 no. 15 Q. Are you concerned that some voters may have 16 found an 11-step process to be cumbersome or 17 confusing? 18 A. It's always a challenge to convey any 19 election laws, especially when you're trying to 20 combine public health information and some very 21 complicated election laws. So we do our best to try 22 to present information within the parameters of the 23 law and within health expertise. 24 Q. Understood. With all of those 25 qualifications, is it fair to say then that you</p>
<p>106</p> <p>1 every document. I can't imagine there's a document 2 we would leave exactly the same. The Commission 3 hasn't discussed that particular document and its 4 plans for that particular document. It's all the 5 documents as far as the -- 6 Q. So you're saying that your best guess is 7 that this may be revised, but you don't know of any 8 specific plans to do it? 9 A. That's fair. 10 Q. Got it. 11 MR. SCHWARTZTOL: So let's bring the 12 document back up and let's bring page 2 on to the 13 screen, please. 14 VIDEO TECH: Yes, sir. Page number 2? 15 MR. SCHWARTZTOL: And maybe if you can 16 scroll down so that -- where it says "Process 17 Developed With Public Health Official Guidance" is 18 at the top of the page and hopefully we can get the 19 rest of the page under that. 20 BY MR. SCHWARTZTOL: 21 Q. Ms. Wolfe, are you familiar with this 22 11-step guidance? 23 A. Yes. 24 Q. What is the purpose of this guidance? 25 A. In this format it was to help clerks</p>	<p>108</p> <p>1 agree that some voters may have found it to be 2 cumbersome or difficult to follow? 3 A. I don't know that I have that -- I or the 4 Commission has taken a stance in having that concern 5 about this particular document. I would represent 6 it as an ongoing challenge that we're always trying 7 to overcome. 8 Q. Would you agree that it would be easier for 9 voters with disabilities or voters who are 10 immunocompromised or otherwise at higher risk from 11 COVID-19 to vote absentee if they did not have to 12 satisfy the witness requirement? 13 A. That is not something I have any particular 14 data about nor has the Commission taken a position 15 on. You know, it would be speculating without any 16 data for me to answer that. 17 Q. Okay. 18 MR. SCHWARTZTOL: Okay. We can take this 19 exhibit down. 20 Q. Do you know how many ballots were received 21 between April 7th and April 13th that lacked a 22 postmark? 23 MR. GAHNZ: That lacked what? 24 MR. SCHWARTZTOL: A postmark. 25 MR. GAHNZ: Okay.</p>

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28 (109 to 112)

109	<p>1 BY THE WITNESS:</p> <p>2 A. I believe that's part of the report in the</p> <p>3 data sets that we provided, but no, I do not know</p> <p>4 off the top of my head.</p> <p>5 Q. And you testified on July 3rd, it was left</p> <p>6 to local election officials to determine whether to</p> <p>7 count those ballots.</p> <p>8 Do you recall that earlier testimony?</p> <p>9 A. Well, the canvassers need to ultimately</p> <p>10 decide whether or not a postmark met the</p> <p>11 requirements, the criteria that was set forth by the</p> <p>12 Supreme Court. So that was -- yes, they're the ones</p> <p>13 that are making that decision.</p> <p>14 Q. Do you know, of the ballots received during</p> <p>15 that time period that lacked a postmark, what</p> <p>16 percentage were ultimately counted?</p> <p>17 A. I do not know. I do not know.</p> <p>18 Q. Has the Commission taken any action to try</p> <p>19 to learn the answer to that question?</p> <p>20 A. If -- if it is data that we have, which I'm</p> <p>21 not sure that the local election officials report to</p> <p>22 us that data of a granular level, then it is</p> <p>23 available on our website or as some part of our</p> <p>24 discussion. So any of the data we have about</p> <p>25 rejection rates has been presented.</p>	111	<p>1 not slow down -- scroll down and show me if there's</p> <p>2 a recommended motion at the bottom? I just want to</p> <p>3 make sure I'm thinking about the right one.</p> <p>4 Q. There is and --</p> <p>5 A. Okay. Thank you. And yes, I am familiar.</p> <p>6 Q. If you need a moment to refresh your</p> <p>7 recollection, the recommended motion is on the</p> <p>8 bottom of page 2 and it refers then to the attached</p> <p>9 guidance.</p> <p>10 A. Thank you. Yes, I remember this.</p> <p>11 Q. Okay. Did the Commission staff propose to</p> <p>12 the Commission issuing a guidance to municipalities</p> <p>13 on how to deal with ballots arriving between</p> <p>14 April 7th and April 13th that lacked a postmark?</p> <p>15 A. Yes, this memo was prepared for that purpose</p> <p>16 for the Commission's consideration.</p> <p>17 MR. SCHWARTZTOL: And let me ask to scroll</p> <p>18 to page 6 of the guidance, which is not page 6 of</p> <p>19 the document. Great. Thank you.</p> <p>20 VIDEO TECH: Uh-huh.</p> <p>21 MR. SCHWARTZTOL: Would you mind scrolling</p> <p>22 down just a little bit farther?</p> <p>23 BY MR. SCHWARTZTOL:</p> <p>24 Q. So the first -- I'll just read to you the</p> <p>25 first sentence of that first paragraph. It says,</p>
110	<p>1 Q. So sitting here today, though, you don't</p> <p>2 know whether the Commission has taken any action to</p> <p>3 determine the share of those ballots that were</p> <p>4 counted or rejected; correct?</p> <p>5 A. Well, you just looked at the absentee report</p> <p>6 which discusses rejection rates, so yes, certainly</p> <p>7 the Commission has looked at that. And we are</p> <p>8 looking at the data provided to us by 1850</p> <p>9 municipalities, and so whatever they presented to us</p> <p>10 we have available as data to be able to include in a</p> <p>11 report such as that.</p> <p>12 MR. SCHWARTZTOL: Let's pull up Exhibit 12,</p> <p>13 please.</p> <p>14 VIDEO TECH: Yes, sir.</p> <p>15 (Exhibit 12 was marked for identification</p> <p>16 and is attached to the transcript.)</p> <p>17 VIDEO TECH: Exhibit No. 12.</p> <p>18 MR. SCHWARTZTOL: This is an April 10th</p> <p>19 memorandum from Ms. Wolfe to the members of the</p> <p>20 election commission regarding absentee ballot mail</p> <p>21 postmark issues.</p> <p>22 BY MR. SCHWARTZTOL:</p> <p>23 Q. Ms. Wolfe, are you familiar with this</p> <p>24 document?</p> <p>25 A. Could you slow down? Does this include --</p>	112	<p>1 Having considered the legal issues AND USPS</p> <p>2 procedures described above, the Wisconsin Elections</p> <p>3 Commission directs municipal canvass boards to count</p> <p>4 a ballot, if otherwise valid, if the board</p> <p>5 determines, by a preponderance of the evidence, that</p> <p>6 the ballot was in the possession of a USPS facility</p> <p>7 on or about April 7, 2020, regardless of whether the</p> <p>8 ballot return envelope contains a postmark with a</p> <p>9 date marked on or before April 7th.</p> <p>10 Ms. Wolfe, did that guidance go into effect?</p> <p>11 A. No, the Commission did not adopt this</p> <p>12 guidance.</p> <p>13 Q. Do you remember what the Commission's vote</p> <p>14 was on this motion?</p> <p>15 A. I don't. You'd have to look at the public</p> <p>16 record, but it didn't pass. So it either was a 3-3</p> <p>17 or -- there wasn't a majority vote.</p> <p>18 Q. Understood. From your testimony a few</p> <p>19 minutes earlier, I assume you do not know how many</p> <p>20 votes that were otherwise discarded would have been</p> <p>21 counted if that guidance had gone in effect; is that</p> <p>22 correct?</p> <p>23 A. That's correct.</p> <p>24 Q. Do you think it's safe to assume it would</p> <p>25 have been in the thousands?</p>

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29 (113 to 116)

<p>113</p> <p>1 MR. GAHNZ: Object to the form.</p> <p>2 A. I have absolutely no idea how to know that</p> <p>3 information.</p> <p>4 Q. Okay. If a court had ordered that measure,</p> <p>5 the measure that's described here on page 6, the</p> <p>6 Commission would have directed local officials</p> <p>7 across the state to implement it; is that correct?</p> <p>8 A. Yes. Based on our understanding of what the</p> <p>9 court ruling allowed and our analysis of that and if</p> <p>10 the Commission then approved it, then that would be</p> <p>11 the guidance that was given to local election</p> <p>12 officials, yes.</p> <p>13 MR. SCHWARTZTOL: So I want to pull up on to</p> <p>14 the screen Exhibit 17, please.</p> <p>15 VIDEO TECH: Yes, sir, one second. Give me</p> <p>16 one second to open it. Okay.</p> <p>17 MR. SCHWARTZTOL: Thank you.</p> <p>18 (Exhibit 17, previously marked, is</p> <p>19 attached to the transcript.)</p> <p>20 BY MR. SCHWARTZTOL:</p> <p>21 Q. This is a report from the Office of the</p> <p>22 Inspector General of the U.S. Postal Service dated</p> <p>23 July 7, 2020, regarding the timeliness of ballot</p> <p>24 mail in the Milwaukee processing and distribution</p> <p>25 center service area.</p>	<p>115</p> <p>1 some provisions in the law that on a Friday before</p> <p>2 the election, indefinitely confined, calendar-year</p> <p>3 requests, and some military voters, if they're not</p> <p>4 away from home and it's not a federal election,</p> <p>5 might be eligible. But then for military voters,</p> <p>6 it's up until 5 o'clock on election day.</p> <p>7 Q. But for most voters it's the Thursday before</p> <p>8 election day?</p> <p>9 A. That's correct.</p> <p>10 MR. SCHWARTZTOL: Can we please scroll to</p> <p>11 the next page?</p> <p>12 Q. I want to draw your attention to the first</p> <p>13 paragraph on that page beginning in the second</p> <p>14 sentence which begins, In our opinion, ballots</p> <p>15 requested less than seven days before an election</p> <p>16 are at high risk of not being delivered, completed</p> <p>17 by voters, and returned to the election offices on</p> <p>18 time.</p> <p>19 Can I just ask you to take a moment to read</p> <p>20 from that sentence through the rest of the</p> <p>21 paragraph, Ms. Wolfe?</p> <p>22 A. Sure. Okay.</p> <p>23 Q. Do you have any reason to doubt the Postal</p> <p>24 Service's assessment that ballots requested less</p> <p>25 than seven days before an election are at high risk</p>
<p>114</p> <p>1 Ms. Wolfe, are you familiar with this</p> <p>2 report?</p> <p>3 A. Very broadly, yes, I'm familiar with it.</p> <p>4 Q. Okay. Can we please scroll to page 6?</p> <p>5 VIDEO TECH: Sure. You want page 6 from the</p> <p>6 PDF or from the actual --</p> <p>7 MR. SCHWARTZTOL: Yeah, thank you for</p> <p>8 clarifying. The page numbering on the document</p> <p>9 itself.</p> <p>10 VIDEO TECH: Number 6.</p> <p>11 MR. SCHWARTZTOL: That's correct. Thank</p> <p>12 you.</p> <p>13 VIDEO TECH: You're welcome.</p> <p>14 BY MR. SCHWARTZTOL:</p> <p>15 Q. So if I could ask you to take a look at</p> <p>16 table 1, I know you don't need a report by the U.S.</p> <p>17 Postal Service to convey this information to you,</p> <p>18 but is it safe to assume that they are correct that</p> <p>19 Wisconsin -- actually, I'm sorry. Let me withdraw</p> <p>20 that question.</p> <p>21 Ms. Wolfe, what is the deadline for voters</p> <p>22 to request an absentee ballot? How many days before</p> <p>23 an election?</p> <p>24 A. For most regular voters, it would be the</p> <p>25 Thursday prior to the election, but then there are</p>	<p>116</p> <p>1 of not being delivered?</p> <p>2 A. Our guidance has been pretty consistent over</p> <p>3 the years that it may take up to a week for ballots</p> <p>4 to be delivered; so my understanding of what they've</p> <p>5 issued in the past and in this report, that is true.</p> <p>6 Q. So you have no reason to doubt that</p> <p>7 high-risk characterization?</p> <p>8 A. That -- I don't know what they're using to</p> <p>9 define that. You know, I believe the information</p> <p>10 about it taking up to a week to be true because</p> <p>11 that's what we've operated under for as long as I</p> <p>12 can remember.</p> <p>13 Q. So that means that a voter who is complying</p> <p>14 with Wisconsin law by requesting a ballot -- an</p> <p>15 absentee ballot on the Thursday or even the</p> <p>16 Wednesday prior to an election stands a high risk of</p> <p>17 having their vote not delivered by election day; is</p> <p>18 that correct?</p> <p>19 MR. GAHNZ: Object to the form.</p> <p>20 A. That is what the report states. As we saw,</p> <p>21 there are so many nuances to how different postal</p> <p>22 branches handle mail, so I think that that could</p> <p>23 vary from postal branch to postal branch. But I'm</p> <p>24 not a postal expert, so I will have to rely on what</p> <p>25 the report says.</p>

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30 (117 to 120)

<p>117</p> <p>1 Q. And under Wisconsin law, those ballots that 2 are not returned by 8:00 p.m. on election day are 3 not counted; correct? 4 A. That's correct. Wisconsin State Statutes 5 say that all ballots must be received by 8:00 p.m. 6 on election day. There are no late-return 7 exceptions under the current law. 8 Q. If the court in this case, again, extended 9 the ballot receipt deadline, for example, by six 10 days or a week, that risk would be significantly 11 decreased; correct? 12 MR. GAHNZ: Object to the form. 13 A. That would be speculation. You know, the 14 Commission would have to consider whatever the court 15 ruling was and implement it. 16 Q. And the Commission has previously determined 17 that nearly 80,000 votes received during that 18 extended period in April were counted, which under a 19 strict application of the statute are ballots that 20 would not otherwise have been counted; correct? 21 A. The first part is true. The second part we 22 don't know. That's an unknown because you don't 23 know what voter behavior could have been if they 24 knew they had to get their ballots back by election 25 day, so I don't have no idea what that number would</p>	<p>119</p> <p>1 wish I did. We don't know what exactly voter 2 behavior is going to be in November, how many people 3 are going to vote by mail absentee. We don't know 4 that. 5 Q. Ms. Wolfe, how many public meetings of the 6 WEC are currently set to take place between now and 7 the November election? 8 A. Well, the next regularly scheduled one is, I 9 believe, for September 1st. I think I have that 10 right. But if you look at what our schedules look 11 like the rest of the year, we've had more than 20 12 and we're supposed to have two. 13 Q. So you anticipated my next question. 14 The Commission has the ability to call ad 15 hoc meetings as needed; correct? 16 A. Yes. 17 Q. Does it currently have any plans to call 18 more than one meeting between now and the November 19 election? 20 A. Not solidified plans, but I would all but 21 guarantee that we will absolutely be having more 22 meetings between now and September 1st. 23 Q. So when will there be a determination about 24 how many meetings are required and when they'll take 25 place?</p>
<p>118</p> <p>1 be. 2 Q. But if all those votes had, in fact, been 3 received during that same period, under a strict 4 application under Wisconsin law, they would not have 5 been counted; correct? 6 A. Under current law, anything received after 7 8:00 p.m. on election day cannot be counted. 8 Q. And based on data from previous presidential 9 election years, is it fair to assume that voter 10 participation in November is going to be 11 significantly higher than it was in April? 12 A. Based on historical turnout, yes. 13 Q. And that that might be in the neighborhood, 14 again, based on historical turnout, of three times 15 as many voters; is that the Commission's 16 understanding? 17 A. I believe that's a fairly accurate estimate, 18 yes. 19 Q. So whether the statutory deadline strictly 20 applies or is extended is a question that could, at 21 least potentially, impact hundreds of thousands of 22 votes and whether or not they're counted; is that 23 correct? 24 A. We don't -- I don't know that I can quantify 25 that without speculating. Again, we don't know -- I</p>	<p>120</p> <p>1 A. Another thing I wish I had a crystal ball 2 for, but we have to notice it with 24-hour advance 3 notice. Sometimes we don't know before the day 4 before if we need to have a meeting. Sometimes 5 we're able to anticipate when decisions have to be 6 made and we can plan ahead. So I don't know. 7 Q. Would you agree that the challenges around 8 election administration going into the November 9 election are extraordinary? 10 A. When aren't they? That's kind of the job. 11 Yes, they're always extraordinary. Our 12 circumstances are always extraordinary. 13 Q. Do you think the Commission will be able to 14 adequately manage those challenges without 15 additional meetings beyond the September 1st one 16 that's currently on the calendar? 17 A. No, I believe we will need to have more 18 meetings than that to discuss things with the 19 Commission. 20 Q. But you don't know when there will be a 21 determination about whether and when those meetings 22 will take place? 23 A. No, because, again, you don't know until -- 24 until the thing arises. 25 Q. Ms. Wolfe, you're not trained in</p>

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31 (121 to 124)

<p>121</p> <p>1 epidemiology; correct?</p> <p>2 A. Correct.</p> <p>3 Q. Is anyone else on the WEC staff?</p> <p>4 A. No.</p> <p>5 Q. Earlier this week, did you take part in a</p> <p>6 webinar at the University of Minnesota entitled</p> <p>7 "Voting in the Time of COVID-19, Wisconsin's</p> <p>8 Experience"?</p> <p>9 A. I did.</p> <p>10 Q. And do you recall during that webinar</p> <p>11 offering remarks on reports that some voters and</p> <p>12 poll workers became sick with COVID in the wake of</p> <p>13 the April 7th election?</p> <p>14 A. Yes.</p> <p>15 Q. And do you recall offering commentary along</p> <p>16 the lines that, quote, The reporting that was done</p> <p>17 was quite problematic because it was based on</p> <p>18 self-reporting, end quote, and then going on to</p> <p>19 refer to, quote, skits and things when people are</p> <p>20 asked and are self-reporting and don't always tell</p> <p>21 the truth, end quote?</p> <p>22 A. To put it into context, this was during a</p> <p>23 question and answer, and it was me appearing in my</p> <p>24 capacity, not representing any position of the</p> <p>25 Commission.</p>	<p>123</p> <p>1 left to those that are experts. I would just hope</p> <p>2 that they would use actual election participation</p> <p>3 data to make those conclusions.</p> <p>4 Q. So the Commission itself is not doing</p> <p>5 anything to evaluate the voracity of that study?</p> <p>6 A. How? We wouldn't have the resources to do</p> <p>7 that. We wouldn't have the expertise to do that.</p> <p>8 Q. Understood. And, similarly, it's not doing</p> <p>9 anything to evaluate the voracity of any statistical</p> <p>10 or epidemiological studies on similar topics;</p> <p>11 correct?</p> <p>12 A. Correct, but there's often media reports</p> <p>13 that are, you know, problematic.</p> <p>14 Q. Ms. Wolfe, is it true that as of July 11,</p> <p>15 2020, the WEC received via e-mail and its website</p> <p>16 thousands of complaints by voters regarding the</p> <p>17 administration of the April 2020 election?</p> <p>18 A. Yes, but -- yes. Yes.</p> <p>19 Q. And is it true that voters described their</p> <p>20 concerns to the WEC that polling places would have</p> <p>21 an inadequate number of poll workers, polling</p> <p>22 locations would not allow for social distancing, and</p> <p>23 that there would be a lack of PPE at polling places?</p> <p>24 A. We have not concluded our searches on that.</p> <p>25 Upon preliminary discussions of the staff, we have</p>
<p>122</p> <p>1 Q. Do you recall offering those comments?</p> <p>2 A. Yes.</p> <p>3 Q. And you're not in the business of evaluating</p> <p>4 the methodologies of epidemiological or statistical</p> <p>5 studies; is that correct?</p> <p>6 A. That's correct.</p> <p>7 Q. Are you familiar with a working paper</p> <p>8 published by the National Bureau of Economic</p> <p>9 Research entitled "The Relationship Between</p> <p>10 in-Person Voting and COVID-19, Evidence From the</p> <p>11 Wisconsin Primary"?</p> <p>12 A. I'm sure at some point I've reviewed many</p> <p>13 documents, but I don't have that one particularly,</p> <p>14 you know -- I would have to be familiarized with it.</p> <p>15 Q. Are you familiar with that paper's</p> <p>16 conclusion that there was a statically and</p> <p>17 economically significant association between</p> <p>18 in-person voting and the spread of COVID-19 two to</p> <p>19 three weeks after the election?</p> <p>20 A. No, I'm not familiar with that conclusion.</p> <p>21 Q. In preparing for the November election, is</p> <p>22 the Commission or the Commission staff doing</p> <p>23 anything to evaluate the voracity of that study?</p> <p>24 A. As you indicated, you know, we're not public</p> <p>25 health experts, so that analysis will have to be</p>	<p>124</p> <p>1 no reason to believe there are thousands of e-mails</p> <p>2 to that particular nature. I think there are</p> <p>3 thousands of e-mails contacting us but not about</p> <p>4 that particular topic.</p> <p>5 Q. So you cannot confirm it's true that voters</p> <p>6 described -- maybe among other things, but described</p> <p>7 concerns that polling places would have an</p> <p>8 inadequate number of poll numbers, that polling</p> <p>9 locations would not allow for social distancing, and</p> <p>10 that there would be a lack of PPE at polling places?</p> <p>11 A. Oh, I'm sorry. Amongst the concerns we</p> <p>12 heard from voters is that they were concerned that</p> <p>13 that would be the case. I think that's different</p> <p>14 than a complaint saying you're experiencing the</p> <p>15 thing. But yes, there were many, sort of, template</p> <p>16 e-mails or people that e-mailed the agency with</p> <p>17 concerns about how the election would be run.</p> <p>18 Q. Is it true that voters complained to the WEC</p> <p>19 about lengthy waits and longer wait times associated</p> <p>20 with in-person voting as a result of polling place</p> <p>21 closures and lack of curbside voting locations?</p> <p>22 A. I'm sure amongst the complaints that came to</p> <p>23 us, yes, especially in some jurisdictions.</p> <p>24 Q. Is it true that voters complained to the WEC</p> <p>25 about limited in-person absentee voting</p>

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32 (125 to 128)

<p>125</p> <p>1 opportunities, including as a result of insufficient</p> <p>2 hours of operation and days open and a lack of drop</p> <p>3 box availability?</p> <p>4 A. I'm sure amongst the many contacts we had</p> <p>5 were that. And when you're describing complaints,</p> <p>6 I'm not talking about the formal statute complaint</p> <p>7 process. These are contacts with our office, people</p> <p>8 relating information to us.</p> <p>9 Q. Understood. So with that clarification, you</p> <p>10 did receive complaints along the lines I've just</p> <p>11 described; correct?</p> <p>12 A. Yes.</p> <p>13 Q. And is it true that voters reported being</p> <p>14 confused about when and how to vote both in-person</p> <p>15 and absentee?</p> <p>16 A. Yes.</p> <p>17 Q. Is it true that voters complained generally</p> <p>18 to the WEC that the election should not have been</p> <p>19 held on April 7th?</p> <p>20 A. Yes.</p> <p>21 Q. I want to go back to one of your answers a</p> <p>22 moment ago when you described complaints and</p> <p>23 template complaints.</p> <p>24 A. Uh-huh.</p> <p>25 Q. Does the Commission accord different weight</p>	<p>127</p> <p>1 something, we need to help them in that moment. If</p> <p>2 somebody is generally expressing the concern of a</p> <p>3 larger organization that something might happen,</p> <p>4 that's -- you know, that's not something we need to</p> <p>5 help them with in the moment.</p> <p>6 MR. SCHWARTZTOL: I think we may soon be</p> <p>7 ready to pass the baton to the Edwards team.</p> <p>8 Can I ask, Leyhbert, if I wanted a segment</p> <p>9 of the attorneys -- the Swenson attorneys to just</p> <p>10 for two minutes go into a break room, are you able</p> <p>11 to enable that?</p> <p>12 VIDEO TECH: Yeah, if you need to -- I can</p> <p>13 do a breakout room, so you let me know who are going</p> <p>14 to that room and I can put the number of people into</p> <p>15 that room, yes.</p> <p>16 MR. SCHWARTZTOL: Great, so I'll tell you</p> <p>17 right now. So it will be me --</p> <p>18 VIDEO TECH: Give me one second. I've got</p> <p>19 to do something here to make sure.</p> <p>20 Okay. So it's going to be?</p> <p>21 MR. SCHWARTZTOL: It will be me, Farbod</p> <p>22 Faraji, Leah Godesky, Emerson Goldstein, Harry</p> <p>23 Liberman, and Jonathan Manes.</p> <p>24 I also should have said we can go off the</p> <p>25 record for a moment.</p>
<p>126</p> <p>1 to complaints it receives based on whether or not it</p> <p>2 determines them to be, as you've described, as</p> <p>3 template complaints?</p> <p>4 A. Well, there's sworn complaints that are</p> <p>5 outlined by the statutes, and those have to go to</p> <p>6 the full commission for consideration. Then there</p> <p>7 are times when we get many, many e-mails from mostly</p> <p>8 out-of-state individuals that are using a template.</p> <p>9 So we let the Commission know about that, but</p> <p>10 obviously we're not going to send them a thousand</p> <p>11 e-mails that says the exact same thing.</p> <p>12 But no, I don't think weighting them is the</p> <p>13 appropriate way. There's just different processes</p> <p>14 for handling volume and making sure they're aware of</p> <p>15 the types of context that come through.</p> <p>16 Q. The fact that a voter might express a</p> <p>17 complaint through what appears to be a template</p> <p>18 doesn't, in any way, contradict either the truth of</p> <p>19 the complaint or how strongly the voter feels about</p> <p>20 it; isn't that right?</p> <p>21 A. I would also say that there's a -- you know,</p> <p>22 there's complaints -- again, somebody experiencing</p> <p>23 something versus someone saying, in general, I am</p> <p>24 worried this might happen. I think that those</p> <p>25 are -- obviously, if somebody is experiencing</p>	<p>128</p> <p>1 (A short break was had.)</p> <p>2 MS. ROSENZWEIG: Thank you. We can go</p> <p>3 ahead.</p> <p>4 Ms. Wolfe, are you still on the line here?</p> <p>5 THE WITNESS: Yes.</p> <p>6 MS. ROSENZWEIG: Are you able to hear me?</p> <p>7 THE WITNESS: Yes.</p> <p>8 MS. ROSENZWEIG: My name is Stacey</p> <p>9 Rosenzweig. I'm with Halling & Cayo, S.C. I'm one</p> <p>10 of the attorneys for the Edwards plaintiffs,</p> <p>11 23-cv-340. Thanks again for agreeing to give</p> <p>12 testimony today. I will endeavor to keep this very</p> <p>13 brief and hopefully nonduplicative. Again, I did</p> <p>14 have some connectivity issues on and off, so if I do</p> <p>15 ask something that's already been asked, I</p> <p>16 apologize.</p> <p>17 DIRECT EXAMINATION</p> <p>18 BY MS. ROSENZWEIG:</p> <p>19 Q. All right. You testified in your first</p> <p>20 session on July 3rd that every registered voter in</p> <p>21 Wisconsin, with some exceptions, was to be sent a</p> <p>22 mailer containing an absentee ballot request form,</p> <p>23 among other things.</p> <p>24 Do you recall that testimony?</p> <p>25 A. Yes. It wasn't every registered voter,</p>

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33 (129 to 132)

<p>129</p> <p>1 though.</p> <p>2 Q. Yeah. What were the exceptions?</p> <p>3 A. Well, it's to voters without an absentee</p> <p>4 request on file, so voters that don't have an</p> <p>5 absentee voter request on file is who will receive</p> <p>6 the mailer.</p> <p>7 Q. Has that mailer been sent yet?</p> <p>8 A. No. The Commission directed it be sent on</p> <p>9 or about September 1st. We are starting to print</p> <p>10 them. Three million pieces of mail need to be</p> <p>11 printed over the course of a few months, and we have</p> <p>12 to find climate-controlled storage to make sure</p> <p>13 we're keeping them at the right temperature and</p> <p>14 humidity. But yes, that's underway, and we'll be</p> <p>15 sending them out on September 1st.</p> <p>16 Q. How many mailers do you anticipate sending?</p> <p>17 A. I believe it's about 2.6, 2.7 million.</p> <p>18 Q. And what was the approximate cost or will be</p> <p>19 the approximate cost?</p> <p>20 A. This would be available as part of the</p> <p>21 Commission's materials and their motion, if I</p> <p>22 recall, to the \$2.1 million they approved an</p> <p>23 expenditure up to.</p> <p>24 Q. What was the source of funding for this?</p> <p>25 A. That would be the CARES Act grant funding</p>	<p>131</p> <p>1 MS. ROSENZWEIG: I know I keep -- Ms. Wolfe</p> <p>2 keeps cutting out on my end. Am I cutting out on</p> <p>3 your end too?</p> <p>4 THE WITNESS: You keep freezing.</p> <p>5 MS. ROSENZWEIG:</p> <p>6 VIDEO TECH: If you want, I can help you to</p> <p>7 connect over the phone so that way it's going to be</p> <p>8 easier.</p> <p>9 MS. ROSENZWEIG: Okay.</p> <p>10 VIDEO TECH: You still want to be able to</p> <p>11 see us and we'll be able to see you; but if it's</p> <p>12 frozen like that, then doing it over the phone is</p> <p>13 going to be much better.</p> <p>14 MS. ROSENZWEIG: Okay.</p> <p>15 VIDEO TECH: We can go off the record for a</p> <p>16 second.</p> <p>17 (A short break was had.)</p> <p>18 BY MS. ROSENZWEIG:</p> <p>19 Q. Where we last --</p> <p>20 VIDEO TECH: Sorry, Counsel. Let's go</p> <p>21 officially back on the record.</p> <p>22 MS. ROSENZWEIG: Okay.</p> <p>23 VIDEO TECH: Thank you.</p> <p>24 BY MS. ROSENZWEIG:</p> <p>25 Q. Okay. All right. Where we left things was</p>
<p>130</p> <p>1 from the federal government.</p> <p>2 Q. Was this 100 percent CARES Act funding?</p> <p>3 A. Yes, in terms of the print --</p> <p>4 Q. (Inaudible.)</p> <p>5 A. Whoops, we lost you there for a second.</p> <p>6 Sorry.</p> <p>7 Q. Okay. Am I back?</p> <p>8 A. Yep.</p> <p>9 Q. Okay. Let me rephrase that.</p> <p>10 Was this \$2.1 million, was that entirely</p> <p>11 from CARES Act, or was there any portion of that was</p> <p>12 from some other source?</p> <p>13 A. The printing distribution costs are entirely</p> <p>14 from CARES. Things like staff time and other things</p> <p>15 to make it happen would be part of our regular</p> <p>16 budget.</p> <p>17 Q. Okay. And regarding the absentee ballots</p> <p>18 themselves, not the applications or this mailer,</p> <p>19 it's my understanding based on your past testimony</p> <p>20 that municipalities are responsible for actually</p> <p>21 sending the physical absentee ballot to the voter;</p> <p>22 is that correct?</p> <p>23 A. You froze for a second; but yes, that is</p> <p>24 correct, municipalities are responsible for sending</p> <p>25 absentee ballots.</p>	<p>132</p> <p>1 with regard to the WEC's role, if any, in the</p> <p>2 absentee ballot transmission process.</p> <p>3 You indicated in your testimony just now</p> <p>4 that municipalities and not the Commission are</p> <p>5 responsible for sending an absentee ballot to a</p> <p>6 voter who requested one; is that correct?</p> <p>7 A. Yes, that's correct.</p> <p>8 Q. Are there any exceptions to that?</p> <p>9 A. Through the MyVote Wisconsin site for</p> <p>10 military and overseas voters, we are able to issue</p> <p>11 it on their behalf, but they're still ultimately the</p> <p>12 decision makers and custodians of that record.</p> <p>13 Q. By "they," you mean the municipalities?</p> <p>14 A. Yes, yes.</p> <p>15 Q. Okay. Are you aware as you sit here how</p> <p>16 much it costs to send an absentee ballot to a voter</p> <p>17 in the United States?</p> <p>18 A. In some of our publicly-available</p> <p>19 documentation, I think we make some rough estimates,</p> <p>20 but you have to factor in the cost of postage both</p> <p>21 ways. It's my understanding it's an oversized,</p> <p>22 overweight envelope, so it's going to be more than</p> <p>23 \$0.55 each way. In some instances, the cost of the</p> <p>24 ballot itself, the cost of two envelopes, the</p> <p>25 outgoing envelope, the incoming envelope, then all</p>

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<p>133</p> <p>1 of the labels that need to go on it as well. So I</p> <p>2 don't have an exact number, but those are all the</p> <p>3 factors. We know that it's at least a \$1.10 because</p> <p>4 that would be the minimum for postage both ways.</p> <p>5 Q. \$1.10 plus the paper and printing and all</p> <p>6 that?</p> <p>7 A. Labels, yeah.</p> <p>8 Q. And who pays the cost of sending an absentee</p> <p>9 ballot to a voter?</p> <p>10 A. In most instances, the responsibility is the</p> <p>11 municipal clerk's. Some municipalities may have</p> <p>12 different agreements with our counties. I know we</p> <p>13 found there are some counties that might buy</p> <p>14 envelopes. We bought a bunch of envelopes in April.</p> <p>15 We always have to work together to make things</p> <p>16 happen. But ultimately, at the end of the day, the</p> <p>17 responsibility to pay for having enough ballots and</p> <p>18 ballot materials is the municipalities.</p> <p>19 Q. It's fair to say that April was not a</p> <p>20 typical election for absentee balloting; I think</p> <p>21 that's fairly clear; correct?</p> <p>22 A. It is unlike any election that we've seen</p> <p>23 previously, yes.</p> <p>24 Q. All right. It's fair to assume that the</p> <p>25 costs of absentee balloting in aggregate were more</p>	<p>135</p> <p>1 incremental cost for that third label is?</p> <p>2 A. You know, I don't. We're probably talking,</p> <p>3 you know, a percentage of a cent per label.</p> <p>4 Q. That's fair, and -- all right. I'll move</p> <p>5 on.</p> <p>6 You discussed earlier in your testimony that</p> <p>7 the WEC is tasked with enforcing and implementing</p> <p>8 various election laws from different sources; is</p> <p>9 that accurate?</p> <p>10 A. Implementing, yes. As we've discussed,</p> <p>11 enforcement is as defined in statutes, and it's not</p> <p>12 really -- we don't have sanctions or anything that</p> <p>13 we're able to impose.</p> <p>14 Q. And the Americans With Disabilities Act is</p> <p>15 one such source of law that the WEC is tasked with</p> <p>16 implementing and, to a certain extent, enforcing?</p> <p>17 A. Yes. Wisconsin State Statute 5.25 outlines</p> <p>18 most of the areas that we are involved in.</p> <p>19 Q. Okay. Is polling place safety under the</p> <p>20 purview of the WEC?</p> <p>21 A. I don't know that the statute specifically</p> <p>22 discusses safety outside of access, you know,</p> <p>23 requirements. I'm sorry. I don't know if the</p> <p>24 statutes specifically talk about safety.</p> <p>25 Q. All right. That's fair.</p>
<p>134</p> <p>1 expensive than they would be under a normal April</p> <p>2 election; is that correct?</p> <p>3 A. If you -- yes. If you factor in per-ballot</p> <p>4 or per-postage cost times the number of ballots that</p> <p>5 were sent, yes, it certainly would be a higher</p> <p>6 amount.</p> <p>7 Q. Okay. Do you have a sense whether the costs</p> <p>8 were different per voter or per ballot than they</p> <p>9 would be this April than they would have been for a</p> <p>10 previous April election?</p> <p>11 A. I don't have any reason to believe that the</p> <p>12 per-voter cost was different than previous election,</p> <p>13 no.</p> <p>14 Q. Do you have any reason to believe that</p> <p>15 per-voter cost for an absentee ballot will be</p> <p>16 greater in November than they would be for a typical</p> <p>17 November?</p> <p>18 A. Nominally maybe because of the intelligent</p> <p>19 mail barcodes. So some clerks have expressed to us</p> <p>20 that they have to get a third label per ballot to</p> <p>21 put the barcode on the return envelope. But other</p> <p>22 than that and staff time, of course, to process and</p> <p>23 send the ballots, I'm not aware of a per-ballot or</p> <p>24 ballot-materials increase in cost.</p> <p>25 Q. Do you have any sense as to what the</p>	<p>136</p> <p>1 Well, let's talk about accessibility under</p> <p>2 Section 5.25. 5.25 sets forth that the statute</p> <p>3 requires all polling places to be accessible to all</p> <p>4 individuals with disabilities.</p> <p>5 Is that your understanding of the statute?</p> <p>6 A. Yes.</p> <p>7 Q. Does the Commission have a role in</p> <p>8 implementing that statute?</p> <p>9 A. Yes, in terms of providing guidance. We</p> <p>10 also do things like review plans for polling places.</p> <p>11 So if a clerk is going to open a new polling place,</p> <p>12 they have to fill out the accessibility survey that</p> <p>13 we reviewed as part of that plan. We also do</p> <p>14 accessibility audits when we're able and provide</p> <p>15 information to them about our findings. And, you</p> <p>16 know, of course, there's always the complaint</p> <p>17 process that someone could utilize if they had an</p> <p>18 experience where the polling place was not</p> <p>19 accessible.</p> <p>20 Q. You mentioned reviewing new polling places.</p> <p>21 Is there a requirement that municipalities</p> <p>22 submit these new polling places for review, or is</p> <p>23 that just up to the clerk's discretion?</p> <p>24 A. I believe it is a requirement that we have</p> <p>25 that they -- I don't know how -- again, we don't</p>

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<p>137</p> <p>1 have an enforcement mechanism, but we do ask that 2 they submit their accessibility survey to us anytime 3 they institute a new polling place. 4 Q. Did your understanding of Section 5.25 5 require that early in-person voting places be 6 similarly accessible? 7 A. Well, 5.25 does talk about in-person 8 absentee, if I'm remembering correctly. I think 9 sub-four is specific to voting equipment or other 10 things that wouldn't be at an in-person absentee 11 site. But yes, I do think 5.25 discusses in-person 12 absentee opportunities. 13 Q. Has the WEC promulgated any particular 14 guidance for what accessibility features are 15 required at a polling place? 16 A. Yes. 17 Q. What sort of guidance has the WEC 18 promulgated? 19 A. So there's a lot of guidance, whether it be 20 in our manuals, best practices on our website, clerk 21 communications, also through the audit program. We 22 do webinars on a regular basis, and we discuss 23 things like, you know, needing to make sure that 24 polling places are accessible, how to interact with 25 voters. You know, those are all part of the</p>	<p>139</p> <p>1 A. Again, it's something that's ingrained in 2 all of our various trainings. But I would say 3 perhaps our guidance on curbside voting or 4 drive-through voting, some of those would have been 5 specific because curbside is a specific type of 6 voting available to voters with disabilities, so 7 yes. 8 Q. Do you anticipate or are you aware of the 9 WEC planning to promulgate additional guidance 10 concerning accessibility in advance of the November 11 election? 12 A. Oh, we're working with our accessibility 13 advisory committee on a very regular basis. We meet 14 with them to talk about any additional guidance or 15 documentation. We just worked with them on some 16 additional guidance for care facilities and how to 17 help residents of care facilities with their 18 absentee ballots. So yes, I'm sure that will be 19 part of the guidance that we continue to consider 20 and bring before the Commission. 21 Q. Are these meetings with the committee, are 22 these public meetings or informal meetings or 23 something else? 24 A. They are public, yes. We notice them. 25 Q. Do you know when the next one is?</p>
<p>138</p> <p>1 training that we provide as well. 2 Q. Was any of that guidance updated for the 3 April 7th election? 4 A. I'm not sure. Anything that was updated 5 would be publicly available. We have 2,000 clerks 6 so nothing ever gets done in secret. So if we did 7 update guidance, there were many, many, many 8 documents that we updated, it would be available on 9 our website. 10 Q. Are you aware of any guidance that the WEC 11 has promulgated regarding accessibility at the polls 12 for individuals who may be immunocompromised? 13 A. I believe it's been part of the Commission's 14 discussions when talking about things like the 15 definition of indefinitely confined, also when we 16 prescribed -- not prescribed, but when we gave 17 additional best practices for things like curbside 18 or drive-through voting, those were part of that 19 discussion. But we don't, you know, qualify or 20 classify different medical conditions. It's all, 21 you know, guidance that we put together for anybody 22 that would qualify. 23 Q. Are you aware of any guidance promulgated by 24 WEC that was specifically targeted to accessibility 25 in the midst of the COVID pandemic?</p>	<p>140</p> <p>1 A. It would be on our calendar. I don't know. 2 Q. Do you know if one has been scheduled? 3 A. Yes, I believe so. 4 Q. Now, WEC also has some rule-making authority 5 under Chapter 227 of the statutes; is that correct? 6 A. I believe so. 7 Q. Can you briefly summarize your understanding 8 of this authority? 9 A. I'm sorry. I can't. There's been so many 10 changes to rule-making authority and whatnot. It's 11 quite limited what we're able to do and only in 12 certain subject matters, so I don't know that I can 13 elaborate on that specific authority. 14 Q. All right. As we sit here today, are you 15 aware of any plans for WEC to engage the rule-making 16 process with regard to accessibility -- 17 A. That's not currently -- 18 Q. Go ahead. 19 A. That's not currently something that is 20 scheduled to go before the Commission. If there 21 were a request or if the Commission wanted to 22 discuss that, they would, but it's not currently 23 scheduled. 24 Q. What are the sources of requests for 25 something like that to go before the Commission?</p>

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141	<p>1 A. Usually from commissioners themselves. If a</p> <p>2 commissioner wants to discuss a topic or perhaps our</p> <p>3 accessibility advisory committee brought something</p> <p>4 to our attention that they want to go before the</p> <p>5 Commission. We recently had a petition for</p> <p>6 rule-making. I'm not sure what type of legs it had,</p> <p>7 but that went before the Commission. So various</p> <p>8 ways. Complaints. A complaint would trigger that</p> <p>9 going before the full commission, and they would</p> <p>10 obviously have to consider remedies available to</p> <p>11 them.</p> <p>12 Q. All right. You testified earlier both today</p> <p>13 and last time regarding that June 26th report, which</p> <p>14 today was marked as Exhibit 7.</p> <p>15 Do you recall that?</p> <p>16 We don't need it up on screen, though?</p> <p>17 A. Could you remind me what was the title of</p> <p>18 that report?</p> <p>19 Q. It was the June 25th report submitted to the</p> <p>20 court. I don't have the exhibit in front of me</p> <p>21 either.</p> <p>22 A. Oh, yes. Our status report, yes, I'm</p> <p>23 familiar.</p> <p>24 Q. Your status report.</p> <p>25 So you testified that it sets forth what the</p>	143	<p>1 there other stakeholders here?</p> <p>2 A. The accessibility advisory committee is</p> <p>3 representatives of -- that work with different</p> <p>4 facets of the accessibility community. There's also</p> <p>5 a voter advocacy group. That's the public. And</p> <p>6 then I would say clerks are also part of those</p> <p>7 conversations as well. We have a lot of clerk</p> <p>8 workgroups. They're welcome to join those</p> <p>9 conversations well.</p> <p>10 Q. All right. Thank you.</p> <p>11 You mentioned polling places earlier.</p> <p>12 Who is responsible for selecting polling</p> <p>13 places?</p> <p>14 A. Municipalities.</p> <p>15 Q. Do you know approximately how many polling</p> <p>16 places there are in Wisconsin -- Strike that.</p> <p>17 Let's go back to when elections were typical</p> <p>18 and not the April 7th election.</p> <p>19 Do you know as we sit here approximately how</p> <p>20 many polling places there were on election day for</p> <p>21 the February 2020 primary?</p> <p>22 A. I may be slightly off, but if my memory</p> <p>23 serves me -- did you say for the April election or</p> <p>24 February?</p> <p>25 Q. For February since April changed on the fly.</p>
142	<p>1 WEC has done and is presently doing with regard to</p> <p>2 the fall election. Your earlier testimony also</p> <p>3 referenced the fact that things continue to evolve</p> <p>4 and change.</p> <p>5 Is that a fair representation of your</p> <p>6 testimony?</p> <p>7 A. Yes.</p> <p>8 Q. Has anything changed between June 25th and</p> <p>9 now with regard to the contents of that report?</p> <p>10 A. I think the report still captures the major</p> <p>11 initiatives, but, you know, we continue to do all</p> <p>12 kinds of things as stuff comes to our attention.</p> <p>13 Like I said, yesterday we had a meeting with state</p> <p>14 public health officials to start going through some</p> <p>15 of the guidance documents. So, you know, I think</p> <p>16 the broad categories are reflected, but there's a</p> <p>17 lot of smaller projects happening under those</p> <p>18 umbrellas.</p> <p>19 Q. And those smaller projects, those are those</p> <p>20 things that happen on a fairly consistent basis, as</p> <p>21 you discussed earlier?</p> <p>22 A. Yes.</p> <p>23 Q. Who are involved in those projects? Can you</p> <p>24 give me an overview if it's just WEC and the</p> <p>25 disability committee that we discussed earlier? Are</p>	144	<p>1 A. I don't know for February. It changes from</p> <p>2 election to election. So a smaller election may</p> <p>3 have fewer, and then it might change for something</p> <p>4 like April. I know the April numbers since I've</p> <p>5 seen them in reports. I don't know the February</p> <p>6 numbers.</p> <p>7 Q. Let's go with the April numbers.</p> <p>8 Do you know the April numbers -- what were</p> <p>9 the April numbers, as you understand them?</p> <p>10 A. If I remember correctly -- and I'm not</p> <p>11 trying to give any incorrect information, but if my</p> <p>12 memory serves me, for the April 7, 2020, election,</p> <p>13 there were approximately 2,156. That was in</p> <p>14 comparison to the last presidential where there were</p> <p>15 about 2,400.</p> <p>16 Q. Those April numbers -- and I appreciate that</p> <p>17 these are approximations.</p> <p>18 The April 2020 numbers, were those the</p> <p>19 number of actual polling places after the</p> <p>20 consolidation, or were those the number of polling</p> <p>21 places that were intended prior to the</p> <p>22 consolidation?</p> <p>23 A. No, that was from what we understand the</p> <p>24 actual polling places that were in use. Again, all</p> <p>25 of our data is the municipal clerks in each of 1850</p>

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<p>1 jurisdictions relating information to us, so the 2 data is only as good as what they report. But it 3 was a report pulled about how many polling places we 4 believed that they had. 5 Q. Does the WEC have any role with regard to 6 selecting polling places? 7 A. No. 8 Q. And you mentioned earlier that the WEC may 9 review local officials' selections with regard to 10 accessibility; is that correct? 11 A. That's correct. There's a survey; but, 12 ultimately, it's kind of us providing guidance and 13 making sure that they've considered all of the 14 items. We're not the decision makers. 15 Q. So they give you the survey, and do you 16 point out where there might be deficiencies? 17 A. Yes. 18 Q. And what happens after that? 19 A. It's sent to the municipality, and it's now 20 their responsibility to make sure that they're 21 remedying any of those deficiencies. 22 Q. And what happens if they don't remedy the 23 deficiency and the poll just opens on election day 24 with that deficiency? 25 A. Well, if we received a complaint from</p>	<p>145 1 A. I don't know. I'd have to look at it. I 2 don't know. I don't believe -- I don't know what 3 the statutes require for that kind of complaint. 4 Q. I just have a couple more questions. 5 5.25 sub-four also requires the Commission 6 to ensure that the voting systems used at each 7 polling place will permit all individuals with 8 disabilities to vote without the need for assistance 9 and with the same degree of privacy that is accorded 10 to non-disabled electors voting at the same polling 11 place. 12 Are you familiar with that portion of the 13 statute? 14 A. Yes. 15 Q. What does the Commission do to ensure the 16 statute is effectuated? 17 A. So, again, there's the survey that they 18 submit when they're opening new polls that includes 19 that they have accessible voting equipment. Upon 20 the issuance of the some of the original HAVA 21 funding, there were subgrants given to jurisdictions 22 to make sure they all had accessible voting 23 equipment. We also do an audit program where we 24 send out auditors that are either temporary staff or 25 volunteers from our accessibility advisory committee</p>
<p>146 1 someone bringing it to our attention, then that 2 would go before the full commission, and they would 3 consider that. They would issue their decision if 4 they thought that there was any wrongdoing that 5 happened there, and we could ultimately issue an 6 order. But, again, we've got no sanction powers, 7 anything like that. It would be just, sort of, the 8 first step of the party who experienced the 9 complaint potentially seeking litigation. 10 Q. So that would just be filing a complaint 11 under the typical complaint procedures, or is there 12 a specific complaint procedure for this sort of 13 issue? 14 A. It could be under any of the -- so the 15 statutes outline specific types of complaints. We 16 have sworn complaints that go to the full 17 commission. There's informal complaints. You know, 18 every single informal complaint doesn't go to the 19 full commission. And then we do have an avenue now 20 on our website through our complaint process for 21 voters to file accessibility-specific complaints as 22 well, which would go to the full commission. 23 Q. You said that was on the website? 24 A. Yes, under complaint. 25 Q. Does that require swearing?</p>	<p>147 1 that go out to the polling places and survey to make 2 sure that they -- to put together reports of any 3 deficiencies that are identified. But, ultimately, 4 the jurisdiction is responsible for making sure that 5 they have all of those things, that they're in 6 compliance. 7 Q. And when the statute refers to voting 8 system, what does that mean? 9 A. It's our understanding that that is the 10 actual ballot-marking device. 11 Q. What sort of ballot-marking devices are used 12 in Wisconsin? 13 A. There's a few types. I'm -- you know, I 14 fancy myself an expert on a lot of things elections, 15 but voting equipment isn't my, you know, area of 16 specific expertise. But there are some that can be 17 used by all voters. You know, I know in Madison we 18 have an express vote, I think it is, where you can 19 make your selections on the screen. It's then going 20 to print out your ballot for you to be able to put 21 in the envelope as part of the absentee process. 22 There's some other more legacy systems that are out 23 there. But, basically, they're all systems that 24 allow a voter to be able to mark their ballot 25 privately and independently and have various</p>

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<p>149</p> <p>1 different accessibility options on it.</p> <p>2 All the voting equipment that is offered for</p> <p>3 sale in the State of Wisconsin has to go through</p> <p>4 federal and state certification, which requires</p> <p>5 looking at its accessibility components. And our</p> <p>6 accessibility advisory committee actually does</p> <p>7 review new systems before they're brought to the</p> <p>8 Commission.</p> <p>9 Q. Is the WEC reviewing or planning to review</p> <p>10 whether these voting systems are equally accessible</p> <p>11 to immunocompromised voters?</p> <p>12 A. That is not currently a part of a scheduled</p> <p>13 discussion.</p> <p>14 Q. As you sit here, do you know if there is a</p> <p>15 way to ensure that these voting systems are equally</p> <p>16 accessible to immunocompromised voters versus</p> <p>17 disabled electors?</p> <p>18 A. I'm sorry. I don't know how to make that</p> <p>19 determination.</p> <p>20 Q. All right. Just give me a second. I think</p> <p>21 I've gone through my questions, but if you could</p> <p>22 bear with me for a few seconds so I can check my</p> <p>23 notes.</p> <p>24 All right. I think that's all I have.</p> <p>25 Thank you very much, Ms. Wolfe.</p>	<p>151</p> <p>1 Second-to-last page.</p> <p>2 VIDEO TECH: No worries.</p> <p>3 BY MR. BROWNE:</p> <p>4 Q. Ms. Wolfe, do you understand you've been</p> <p>5 designate to testify as the 30(b)(6) representative</p> <p>6 of the Wisconsin Elections Commission and give</p> <p>7 testimony as to the topics that you see on the</p> <p>8 screen before you?</p> <p>9 A. Yes.</p> <p>10 MR. BROWNE: Leyhbert, you can take that</p> <p>11 down.</p> <p>12 VIDEO TECH: Thank you.</p> <p>13 MR. BROWNE: Thank you.</p> <p>14 BY MR. BROWNE:</p> <p>15 Q. Ms. Wolfe, I just want to talk generally</p> <p>16 about the roles of the Commission versus</p> <p>17 municipalities and counties in Wisconsin elections.</p> <p>18 How does the role of the Commission differ</p> <p>19 from the role of municipalities and counties?</p> <p>20 A. I'll try to keep my answer focused, but</p> <p>21 that's a pretty big, broad question. Maybe a fair</p> <p>22 way to summarize it would be that we are providing</p> <p>23 the framework, the best practices, the guidance,</p> <p>24 training to the local election officials, the</p> <p>25 technology and the systems; and the local election</p>
<p>150</p> <p>1 A. Thank you.</p> <p>2 MR. BROWNE: Ms. Wolfe, my name is Robert</p> <p>3 Browne. I represent the legislature in these</p> <p>4 matters. If you need take a break -- are you okay</p> <p>5 to proceed forward?</p> <p>6 THE WITNESS: I'm okay to proceed, thank</p> <p>7 you.</p> <p>8 MR. BROWNE: Can you hear me okay?</p> <p>9 THE WITNESS: Now I can.</p> <p>10 MR. BROWNE: Okay.</p> <p>11 Leyhbert, could you put up Legislative</p> <p>12 Exhibit 1-A, please?</p> <p>13 VIDEO TECH: Yes. I'm going to mark it as</p> <p>14 the number we were doing already.</p> <p>15 MR. BROWNE: Sure.</p> <p>16 (Exhibit 13 was marked for identification</p> <p>17 and is attached to the transcript.)</p> <p>18 VIDEO TECH: Give me one second. This is</p> <p>19 going to be Exhibit No. 13 for the record.</p> <p>20 DIRECT EXAMINATION</p> <p>21 BY MR. BROWNE:</p> <p>22 Q. Ms. Wolfe, have you seen that before?</p> <p>23 A. Yes.</p> <p>24 MR. BROWNE: And Leyhbert, could you go to</p> <p>25 the last page, sorry -- yeah, that page. Sorry.</p>	<p>152</p> <p>1 officials are the ones that register voters, issue</p> <p>2 ballots, determine who's eligible to receive a</p> <p>3 ballot, receive and count ballots, that hire the</p> <p>4 poll workers. So they're the ones who are the</p> <p>5 decision makers in terms of who gets to participate,</p> <p>6 who's eligible in answering that data; and we are</p> <p>7 responsible more or less for the framework in</p> <p>8 supporting them.</p> <p>9 Q. Can the Commission impose requirements on</p> <p>10 municipalities or counties regarding how they run</p> <p>11 elections?</p> <p>12 A. We can give them guidance or best practices</p> <p>13 on what we believe to be the statute requirements</p> <p>14 for a court's decision, but, you know, we have very</p> <p>15 limited authority to be able to do anything to force</p> <p>16 or compel them to. So we give them, again, the</p> <p>17 framework. We lead them to the statute</p> <p>18 requirements, but there's little we can do to force</p> <p>19 them to follow it.</p> <p>20 Q. And you may have briefly touched on some of</p> <p>21 the questions I'm going to ask now, but we'll just</p> <p>22 go through them quickly.</p> <p>23 What is the Commission's role in voter</p> <p>24 registration?</p> <p>25 A. Our role, I believe under the statute, is to</p>

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<p style="text-align: right;">153</p> <p>1 prescribe and develop the form, the registration</p> <p>2 form. So we look at what the requirements are of</p> <p>3 the law that has to be on the form, and we release</p> <p>4 that form. And then we also house the technology</p> <p>5 that ultimately allows voters to enter -- or I'm</p> <p>6 sorry -- allows clerks to enter in the</p> <p>7 registrations. And then we can do things like make</p> <p>8 sure that they're in the right districts and wards</p> <p>9 using our GIS technology. We can populate poll</p> <p>10 books then through the state voter registration</p> <p>11 database. But, again, we're not making any</p> <p>12 decisions as part of the voter registration. We're</p> <p>13 just giving them the framework within to operate and</p> <p>14 best practices.</p> <p>15 I guess we would also -- one place that's</p> <p>16 unique is online voter registration. The statutes</p> <p>17 say if somebody is registering to vote online, that</p> <p>18 if the voter is able to make a match between certain</p> <p>19 designated fields in their voter record and the DMV</p> <p>20 record, that that registration automatically goes</p> <p>21 into the system. It doesn't go through a review</p> <p>22 process. So we're still not a decision maker there,</p> <p>23 but we facilitate that record being entered.</p> <p>24 Q. Aside from the online voter registration you</p> <p>25 just described, who has the ultimate authority on</p>	<p style="text-align: right;">155</p> <p>1 absentee ballots to voters other than the scenario</p> <p>2 we discussed previously where we helped facilitate</p> <p>3 an online ballot for military and overseas voters on</p> <p>4 the clerk's behalf. The clerks make that</p> <p>5 determination. So we have systems in place. So if</p> <p>6 a voter -- if a voter submits their absentee</p> <p>7 application, the clerk reviews that, they review the</p> <p>8 photo ID, they make sure that the application is</p> <p>9 correct and contains all the required elements, they</p> <p>10 make sure the voter is registered, and then they</p> <p>11 make the decision to issue the ballot.</p> <p>12 Our system then allows them to enter that</p> <p>13 data, and then they can do things like run a report</p> <p>14 to see how many requests they have outstanding.</p> <p>15 They can do things like print a label from our</p> <p>16 system so we can track the ballot. But we're not</p> <p>17 issuing the ballot nor making any decisions on</p> <p>18 whether somebody's eligible to use the ballot.</p> <p>19 Q. What about the Commission's role in</p> <p>20 returning absentee ballots from voters to election</p> <p>21 officials?</p> <p>22 A. That would be the same. We're working on</p> <p>23 incorporating intelligent mail barcodes. We also</p> <p>24 prescribe things like the envelopes that absentee</p> <p>25 ballots are in, so there's a certificate envelope</p>
<p style="text-align: right;">154</p> <p>1 voter registration? Is it the counties and the</p> <p>2 municipalities?</p> <p>3 A. Not the counties but the municipalities.</p> <p>4 The counties don't have any authority there either.</p> <p>5 Q. Okay. What is the Commission's role in</p> <p>6 picking out voting machines?</p> <p>7 A. Certification. So voting equipment has to</p> <p>8 be certified at both the federal and the state level</p> <p>9 before clerks can purchase it and use it in the</p> <p>10 State of Wisconsin. So when a piece of voting</p> <p>11 equipment, a new piece, an update and engineering</p> <p>12 changeover comes through, we review that and make</p> <p>13 sure that the system makes the statute requirements.</p> <p>14 We'll go out and conduct a test campaign on the</p> <p>15 voting equipment to make sure it's functioning in</p> <p>16 accordance with law. And then the full commission</p> <p>17 reviews that application to determine if it meets</p> <p>18 Wisconsin's requirements before it's released to</p> <p>19 municipalities to use. But municipalities then can</p> <p>20 make determinations on purchasing any equipment that</p> <p>21 is certified for use in the State of Wisconsin in</p> <p>22 their jurisdiction.</p> <p>23 Q. Ms. Wolfe, what is the role of the</p> <p>24 Commission in delivering absentee ballots to voters?</p> <p>25 A. Much like registration, we do not issue</p>	<p style="text-align: right;">156</p> <p>1 that's required by law for a voter to sign and have</p> <p>2 their witness sign and certify that they are them.</p> <p>3 So we prescribe them. We work with USPS to make</p> <p>4 sure that the mail piece analyst approves the</p> <p>5 design, that it will work in the overall system.</p> <p>6 But, again, ultimately, the clerks are the</p> <p>7 ones having those envelopes printed and making sure</p> <p>8 that they abide by the best practices we</p> <p>9 recommended. They don't have to use our labels out</p> <p>10 of the system. That's choice that they can make.</p> <p>11 They don't have to check the ballots, but,</p> <p>12 ultimately, the clerk is the one that's going to</p> <p>13 receive the ballot. We do not receive any absentee</p> <p>14 ballots. The law says that ballots have to be</p> <p>15 received by the clerk by 8:00 p.m. on election day.</p> <p>16 If they go to the wrong office or come to ours,</p> <p>17 we'll do our best to try to get the ballot to the</p> <p>18 clerk, but ultimately has to be in their hands by</p> <p>19 8:00 p.m.</p> <p>20 Q. And what about the Commission's role in</p> <p>21 deciding whether or not absentee ballots should be</p> <p>22 accepted?</p> <p>23 A. Again, we provide the framework to the</p> <p>24 clerks. So as we saw in April, as there were court</p> <p>25 rulings, we helped to provide what we understand the</p>

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<p>157</p> <p>1 court's directive to be or what we understand the</p> <p>2 statute to be. But, ultimately, the board of</p> <p>3 canvassers, who have been appointed by their</p> <p>4 jurisdictions, you know, represents both political</p> <p>5 parties, they're the ones that have that</p> <p>6 decision-making authority to decide if an absentee</p> <p>7 counts. We're not involved or we don't make a</p> <p>8 decision in that.</p> <p>9 Q. And what is the Commission's role in opening</p> <p>10 and closing in-person absentee voting locations?</p> <p>11 A. We do not have a role in approving or</p> <p>12 reviewing any type of in-person absentee plan.</p> <p>13 Again, we provide guidance. You know, as we're</p> <p>14 getting ready to implement the 7th Circuit's</p> <p>15 mandates, we'll providing guidance on how we believe</p> <p>16 that court's ruling needs to be implemented, but we</p> <p>17 do not play any review role nor do the statutes give</p> <p>18 us any authority to make those decisions.</p> <p>19 Q. What is the Commission's role in setting up</p> <p>20 drop boxes for absentee ballots?</p> <p>21 A. In the April election, we provided some</p> <p>22 guidance about things that clerks can consider in</p> <p>23 terms of ways to service their voters. But we</p> <p>24 don't -- we can't mandate that or direct them to</p> <p>25 that, but we can certainly help provide best</p>	<p>159</p> <p>1 poll workers, but we'll do anything we can to</p> <p>2 support their efforts.</p> <p>3 Q. What is the Commission' role in providing</p> <p>4 equipment, including PPE, to polling places?</p> <p>5 A. In April and as we plan for -- and we're</p> <p>6 directed by the Commission for August and November,</p> <p>7 we have procured those things on their behalf. It's</p> <p>8 never been something that was part of a discussion</p> <p>9 before April, and it's not something that's outlined</p> <p>10 in the statute, who has that responsibility, beyond</p> <p>11 election supplies being the responsibility of the</p> <p>12 municipality. But that being said, we have assumed</p> <p>13 that role to make sure they have what they need</p> <p>14 because it can be very difficult for small</p> <p>15 jurisdictions to get access to those things. And so</p> <p>16 we had to look through our state and national</p> <p>17 channels to find an adequate supply, but we don't</p> <p>18 have any sort of statutory mandate that says we have</p> <p>19 to procure any sort of polling place supplies.</p> <p>20 Q. Thank you for that.</p> <p>21 I want to shift gears a little bit and talk</p> <p>22 about the April 7, 2020, election.</p> <p>23 MR. BROWNE: Leyhbert, could you put up what</p> <p>24 was previously designated in the first-day</p> <p>25 deposition of Ms. Wolfe as Wolfe Exhibit 7?</p>
<p>158</p> <p>1 practices or things that worked well in other</p> <p>2 communities that they might want to consider.</p> <p>3 Q. What is the Commission's role in determining</p> <p>4 the location of polling places?</p> <p>5 A. Well, the Commission did have some</p> <p>6 discussions prior to April based on public health</p> <p>7 guidance about not using care facilities as polling</p> <p>8 places. But, again, ultimately, that was guidance</p> <p>9 to the jurisdictions operating under information we</p> <p>10 received from the public health official.</p> <p>11 But we give them best practices, you know,</p> <p>12 suggestions of places that might serve as a good</p> <p>13 polling places, the accessibility survey, other</p> <p>14 things to help them to be able to choose a good</p> <p>15 location. But we don't make that decision nor can</p> <p>16 we force them to change their polling location.</p> <p>17 Q. What is the Commission's role in staffing</p> <p>18 polling places?</p> <p>19 A. The statutes give the responsibility to</p> <p>20 recruit and train polling workers to the municipal</p> <p>21 clerks. But I mean, I see us all as partners very</p> <p>22 much in there so we'll do whatever we can to support</p> <p>23 their recruitment efforts. But at the end of the</p> <p>24 day, they're the ones that have the responsibility</p> <p>25 to staff their polling places and to train their</p>	<p>160</p> <p>1 VIDEO TECH: Yes, sir. One second.</p> <p>2 Okay.</p> <p>3 MR. BROWNE: Well, actually, that's not it.</p> <p>4 VIDEO TECH: I'm sorry. I thought you said</p> <p>5 the one that was previously marked.</p> <p>6 MR. BROWNE: Not this deposition, in the</p> <p>7 first day's deposition.</p> <p>8 VIDEO TECH: On July the 3rd. No worries,</p> <p>9 no worries, let me get that real quick. Sorry about</p> <p>10 that. Give me one second. Okay.</p> <p>11 MR. BROWNE: That's it. That's it.</p> <p>12 VIDEO TECH: For the record, this is</p> <p>13 Exhibit 14. Sorry about that.</p> <p>14 MR. BROWNE: Go ahead, Leyhbert.</p> <p>15 (Exhibit 14 was marked for identification</p> <p>16 and is attached to the transcript.)</p> <p>17 BY MR. BROWNE:</p> <p>18 Q. Just for the record, this is a summary of</p> <p>19 the April 7, 2020, election for the April 18, 2020,</p> <p>20 commission meeting; is that correct, Ms. Wolfe?</p> <p>21 A. For the April 18th commission meeting, but</p> <p>22 yes.</p> <p>23 Q. And if I recall from your previous</p> <p>24 testimony, you were the one primarily responsible</p> <p>25 for preparation of this report; is that correct?</p>

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<p>161</p> <p>1 A. Yes, that's correct.</p> <p>2 Q. And I think you said it was reviewed by your</p> <p>3 team; right?</p> <p>4 A. Yes.</p> <p>5 Q. When did the Commission begin to discuss the</p> <p>6 effects of COVID-19 on the April 7th election?</p> <p>7 A. So known effects or anticipated effects?</p> <p>8 Q. Anticipated.</p> <p>9 A. I don't know the exact date, but I know that</p> <p>10 we began those conversations prior to the March 12th</p> <p>11 executive order of the governor. Commissioners had</p> <p>12 been involved in conversations prior to that, so I</p> <p>13 would say early March, late February. I'm not sure</p> <p>14 exactly what date they commenced.</p> <p>15 MR. BROWNE: Leyhbert, could you scroll down</p> <p>16 to the bottom of that first page?</p> <p>17 Q. Ms. Wolfe, do you see the section</p> <p>18 "Sanitation Supplies and Personal Protective</p> <p>19 Equipment"? Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. What efforts did the Commission take related</p> <p>22 to sanitation supplies and personal protective</p> <p>23 equipment prior to the April 7th election?</p> <p>24 A. All the efforts. So we worked with our</p> <p>25 state emergency operation center, anyone to try to</p>	<p>163</p> <p>1 not they utilized the survey -- you know, some of</p> <p>2 them work five hours a week and aren't</p> <p>3 computer-savvy, but we made efforts to make sure we</p> <p>4 heard from all 1850.</p> <p>5 Q. Did election officials from the City of</p> <p>6 Milwaukee respond to the survey, if you recall?</p> <p>7 A. I'm sorry, I don't recall.</p> <p>8 Q. Do you recall if election officials from the</p> <p>9 City of Green Bay responded to the survey?</p> <p>10 A. I'm sorry, I don't recall if either of those</p> <p>11 entities used the actual survey tool. I don't.</p> <p>12 Q. The Commission did distribute significant</p> <p>13 supplies for the April 7th election; is that</p> <p>14 correct?</p> <p>15 A. Yes, that's correct.</p> <p>16 Q. How did the Commission decide which supplies</p> <p>17 to distribute to which municipality or county?</p> <p>18 A. It was mostly based on need. I mean,</p> <p>19 getting a bunch of supplies that you don't even know</p> <p>20 if you're going to get and then breaking them up for</p> <p>21 over 2,000 polling places is not an exact science.</p> <p>22 But we tried to gauge what they were reporting to us</p> <p>23 in terms of need with our understanding of how many</p> <p>24 polling places there were and with our understanding</p> <p>25 of what the public health guidance was. So it was</p>
<p>162</p> <p>1 find supplies in the supply chain. And we were</p> <p>2 facing difficulty finding things like PPE or</p> <p>3 sanitizer. So we continued to work with our</p> <p>4 partners at Department of Administration, at the</p> <p>5 state emergency operations center to get access to</p> <p>6 those. We ended up working with the distillery in</p> <p>7 Wisconsin to procure sanitizer that was made for us.</p> <p>8 But then we worked with the state emergency</p> <p>9 operations center to also distribute all those</p> <p>10 supplies through the counties as well so the</p> <p>11 counties could distribute them to each of their</p> <p>12 municipalities in short order.</p> <p>13 Q. If I recall from your earlier testimony on</p> <p>14 your first day, the Commission sent out a survey to</p> <p>15 local election officials about needs for sanitation</p> <p>16 supplies and PPE; is that correct?</p> <p>17 A. Yes, that's correct.</p> <p>18 Q. And how many election officials responded to</p> <p>19 that survey, if you recall?</p> <p>20 A. I think we ended up getting data for almost</p> <p>21 all of them, so either through them directly or</p> <p>22 working with all the counties to make sure that they</p> <p>23 helped us to reach out to their municipalities to</p> <p>24 make sure they had what they needed. So we made</p> <p>25 every effort to hear from all of them. Whether or</p>	<p>164</p> <p>1 kind of a confluence of all of those factors</p> <p>2 determined who, sort of, got what in which box that</p> <p>3 was distributed.</p> <p>4 Q. Do you recall if supplies were distributed</p> <p>5 to the City of Milwaukee?</p> <p>6 A. Yes, I believe they were. Yes.</p> <p>7 Q. Do you know what supplies were distributed</p> <p>8 to them?</p> <p>9 A. I have no reason to believe that they didn't</p> <p>10 get the same supplies as everyone, which it would</p> <p>11 have been the alcohol-based sanitizer for hands and</p> <p>12 surfaces, gloves, masks, painter's tape, pens. I'm</p> <p>13 sure I'm forgetting something. You know, there was</p> <p>14 such limited -- there was supply chain shortage on</p> <p>15 paper towels, so we tried our best to try to get</p> <p>16 them things like paper towels. There were some that</p> <p>17 got things like Clorox surface wipes and things like</p> <p>18 that, but I believe they got all of those things.</p> <p>19 Q. Do you recall if the City of Green Bay</p> <p>20 received supplies?</p> <p>21 A. Again, I don't know specifically about their</p> <p>22 shipment, but I have every reason to believe that</p> <p>23 they received the same supplies as everyone.</p> <p>24 Q. If you --</p> <p>25 MR. BROWNE: Leyhbert, could you turn to</p>

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<p>165</p> <p>1 page 3 of that exhibit, please?</p> <p>2 VIDEO TECH: Sure.</p> <p>3 BY MR. BROWNE:</p> <p>4 Q. Ms. Wolfe, what efforts did the Commission</p> <p>5 take related to the WisVote database prior to the</p> <p>6 April 7th election?</p> <p>7 A. We -- prior to April 7th or during</p> <p>8 April 7th, we made a lot of changes to the system,</p> <p>9 such as increasing capacity, changing user</p> <p>10 interfaces to make sure that we were able to</p> <p>11 interact with the system. We also created some new</p> <p>12 reports and entities based on requests of some of</p> <p>13 our larger jurisdictions so that they could use a</p> <p>14 report to process all of their absentee ballots</p> <p>15 rather than having to go through each individual</p> <p>16 e-mail. So we made some significant changes in that</p> <p>17 respect.</p> <p>18 I'm sure I'm forgetting some things, but</p> <p>19 there was a lot that had to happen. A lot of it had</p> <p>20 to do with just adjusting to the new volume, both on</p> <p>21 the voter side for absentee ballots and then on the</p> <p>22 clerks' side to make sure they had the tools they</p> <p>23 needed to process that increase.</p> <p>24 Q. Ms. Wolfe, did those changes improve WisVote</p> <p>25 for the April 7th election?</p>	<p>167</p> <p>1 to be able to support that.</p> <p>2 We did a lot of additional load testing.</p> <p>3 Even after April, our load-testing efforts were</p> <p>4 focused on find my polling place because we had seen</p> <p>5 a record number of people, surprisingly, in February</p> <p>6 utilizing that feature on our website. So we</p> <p>7 had contracted to load test find my polling place</p> <p>8 and the addressing features. And then literally</p> <p>9 overnight, we had to adjust our approach to do all</p> <p>10 that load testing on absentee features, absentee</p> <p>11 functionalities on the website. So that's probably</p> <p>12 where some of the main changes happened on the</p> <p>13 MyVote site.</p> <p>14 Q. I'm not very tech-savvy. Can you explain</p> <p>15 what you mean by load testing?</p> <p>16 A. Sure. So load testing is where you simulate</p> <p>17 traffic to your site, but you, kind of, think of</p> <p>18 what is the biggest traffic or capacity scenario</p> <p>19 that you can imagine. And in this case now, you</p> <p>20 know, for a while all the streams have been blown</p> <p>21 out of the water, so you have to go even beyond that</p> <p>22 and say what would -- try to break the system, try</p> <p>23 to see what is the breaking point, what is the</p> <p>24 capacity point, and then recognize, well, why do I</p> <p>25 have that capacity limit, so that you can implement</p>
<p>166</p> <p>1 A. Yes. Improvements may suggest it was</p> <p>2 something we could have or should have known about</p> <p>3 to be able to improve, but we were able to adjust</p> <p>4 the system to be able to be more efficient and</p> <p>5 effective for our users in light of brand-new voter</p> <p>6 and clerk behavior.</p> <p>7 Q. And I didn't mean to imply anything by</p> <p>8 "improvement."</p> <p>9 So you were able to adjust accordingly so</p> <p>10 that WisVote operated for the April 7th election; is</p> <p>11 that correct?</p> <p>12 A. Yes, that's correct.</p> <p>13 Q. If we could turn to page 4 of the Wolfe</p> <p>14 Exhibit 7, Ms. Wolfe, what efforts did the</p> <p>15 Commission take related to MyVote prior to the</p> <p>16 April 7th election?</p> <p>17 A. So along the same lines. MyVote and WisVote</p> <p>18 are linked together in a lot of ways. MyVote is the</p> <p>19 voter-facing side of things. So we had to make sure</p> <p>20 that we had the capacity to handle all the photo IDs</p> <p>21 and absentee requests that were, I mean, beyond</p> <p>22 record breaking. It was something we couldn't have</p> <p>23 imagined that type of traffic in our wildest dreams</p> <p>24 that was coming through that feature, so we had to</p> <p>25 make sure we had the capacity the server structure</p>	<p>168</p> <p>1 fixes so if you ever did run into that capacity</p> <p>2 limit that it wouldn't break the system. So load</p> <p>3 testing is trying to see where your capacity limits</p> <p>4 are, identify why they exist and how you can</p> <p>5 eliminate them.</p> <p>6 Q. Did the adjustments you made to MyVote along</p> <p>7 with the load testing, did that allow MyVote to</p> <p>8 operate correctly and handle the capacity for the</p> <p>9 April 7th election?</p> <p>10 A. Yes, it did. Yes, it did. It was that load</p> <p>11 testing, but I'd be remiss if I didn't say it was</p> <p>12 also people. You know, our state should be really</p> <p>13 lucky for the people that literally didn't sleep for</p> <p>14 weeks because they were sitting next to the servers,</p> <p>15 making sure everything continued to work, and</p> <p>16 adjusting things as they were needed. So it was a</p> <p>17 combination of technology improvements and people.</p> <p>18 Q. Thank you.</p> <p>19 MR. BROWNE: If we can turn to page 5,</p> <p>20 Leyhbert, and scroll down to the bottom, please.</p> <p>21 VIDEO TECH: Yes, sir.</p> <p>22 MR. BROWNE: Thank you.</p> <p>23 BY MR. BROWNE:</p> <p>24 Q. Ms. Wolfe, what efforts did the Commission</p> <p>25 take related to poll workers prior to the April 7th</p>

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43 (169 to 172)

<p style="text-align: right;">169</p> <p>1 election?</p> <p>2 A. So prior to April, you know, we surveyed the</p> <p>3 clerks to understand their needs for poll workers.</p> <p>4 And that was changing all the time, so we continued</p> <p>5 to keep that dialogue open. We put in a ticket with</p> <p>6 our state emergency operations center. I sent a</p> <p>7 letter to the governor. We asked everybody to help</p> <p>8 us to be able to support the recruitment effort for</p> <p>9 poll workers in our state because we were hearing</p> <p>10 from clerks they weren't able to recruit poll</p> <p>11 workers in their communities.</p> <p>12 We also did things like create a widget on</p> <p>13 our website that allowed people to indicate their</p> <p>14 desire to be a poll worker so we could connect them</p> <p>15 with the right municipal clerk. Through the state</p> <p>16 operations center and through some of our other</p> <p>17 efforts, sent out a blast to all state employees</p> <p>18 letting them know about opportunities to be poll</p> <p>19 workers. We put together tools for clerks so that</p> <p>20 they could send a letter to, let's say, their school</p> <p>21 district or private industry in their communities</p> <p>22 asking people to, you know, either support their</p> <p>23 employees becoming poll workers or become poll</p> <p>24 workers themselves. I know that there was a push</p> <p>25 through, I believe, maybe at the operations center</p>	<p style="text-align: right;">171</p> <p>1 Q. Do you recall what the response was?</p> <p>2 A. I'm sorry, I do not.</p> <p>3 Q. Did you get a response from the election</p> <p>4 officials in the City of Green Bay?</p> <p>5 A. I don't know. I'm remembering that perhaps</p> <p>6 we had some difficulties getting an answer from</p> <p>7 them, but I would have to double-check the survey to</p> <p>8 see if they ultimately responded or through some</p> <p>9 other means.</p> <p>10 Q. Ms. Wolfe, you mentioned the National Guard</p> <p>11 program or the National Guard.</p> <p>12 When did the Commission learn that the</p> <p>13 governor authorized the National Guard members to</p> <p>14 serve as poll workers?</p> <p>15 A. So in that report, I believe I lay out a</p> <p>16 timeline of when that happened. If my memory serves</p> <p>17 me correctly, I think it was that Thursday before</p> <p>18 the election that the order came through. We had a</p> <p>19 webinar with the clerks on Friday. I might be off</p> <p>20 by a day. And then the guard was called to duty</p> <p>21 starting on Sunday, so we had to put together</p> <p>22 training for all of them for when they reported on</p> <p>23 Sunday. And then on Monday, they reported to the</p> <p>24 jurisdictions where they would be or they stayed</p> <p>25 with their county in case they were needed on</p>
<p style="text-align: right;">170</p> <p>1 to the United Way, their organizations, to encourage</p> <p>2 people as well.</p> <p>3 But, ultimately, at the end of the day,</p> <p>4 jurisdictions weren't able to recruit enough poll</p> <p>5 workers through all of those efforts, through theirs</p> <p>6 and ours. So the WEC worked with the National Guard</p> <p>7 to put together training and to train National Guard</p> <p>8 members to serve in plainclothes in their</p> <p>9 communities of residence to make sure that each of</p> <p>10 the polling places was able to open. So that was</p> <p>11 the program that we developed and implemented for</p> <p>12 the municipal clerks.</p> <p>13 Q. And just to break down, kind of, your answer</p> <p>14 a little bit, you mentioned a survey.</p> <p>15 Did you have a response from almost all</p> <p>16 local election officials on that survey, or was it</p> <p>17 sporadic? What kind of response did you get on the</p> <p>18 survey?</p> <p>19 A. From almost all jurisdictions, yes, we got a</p> <p>20 lot of -- yes.</p> <p>21 Q. Do you recall if you got a response from the</p> <p>22 City of Milwaukee?</p> <p>23 A. I believe we did. But I don't recall if it</p> <p>24 came from them, the county, if they let us know</p> <p>25 another way. I'm not sure.</p>	<p style="text-align: right;">172</p> <p>1 election day on Tuesday, and they were all sent out.</p> <p>2 So as is the nature of the National Guard, it had to</p> <p>3 be on very short order and by order of the governor.</p> <p>4 Q. Ms. Wolfe, did election officials from the</p> <p>5 City of Milwaukee request that National Guard</p> <p>6 members staff their polling locations?</p> <p>7 A. Yes, I believe they did.</p> <p>8 Q. Do you remember how many members of the</p> <p>9 National Guard they requested?</p> <p>10 A. I do not. I'm sorry. I have the number</p> <p>11 somewhere around -- I don't know. I would be</p> <p>12 speculating, I guess.</p> <p>13 Q. Do you recall if election officials in the</p> <p>14 City of Green Bay requested National Guard members</p> <p>15 staff their polling locations?</p> <p>16 A. I do not believe so. I do not believe they</p> <p>17 did.</p> <p>18 MR. BROWNE: If we could turn to page 6 and</p> <p>19 scroll down towards the bottom.</p> <p>20 Q. Ms. Wolfe, what efforts did the Commission</p> <p>21 take relating to providing guidance and</p> <p>22 communication for clerks prior to the April 7th</p> <p>23 election?</p> <p>24 A. Well, as we always do, we provided guidance</p> <p>25 to them on election administration, but then, of</p>

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<p>173</p> <p>1 course, in light of the pandemic. So we worked with 2 a public health official to write many, many 3 documents that, sort of, reconceptualized election 4 processes and then get their feedback on, you know, 5 that process and incorporate the guidance that they 6 were giving us. 7 So an example of that might be something 8 like voter photo ID for election day, how to do that 9 without having to do a hand-to-hand transaction. So 10 we put together a guidance documents, part of a 11 checklist. We also did videos for the local 12 election officials. Webinars, we did something like 13 three to four webinars a day at some points so they 14 could all join in and ask questions. And we had to, 15 kind of, reconceptualize within the parameters of 16 the statute what some of those things would look 17 like. 18 So, for example, using the painter tape we 19 sent them to put a little box on the table and ask 20 the voter to step up, put their photo ID down and 21 step away so the poll worker can step up, take a 22 look at it, make sure it complies with the poll 23 book. Then the poll worker steps away and the voter 24 comes up to get the ID and sign their poll book. So 25 all those different steps in elections had to be</p>	<p>175</p> <p>1 Q. Thank you. 2 And, in fact, in the report, you said WEC 3 staff sent more than 50 communications and guidance 4 documents to clerks; is that right? 5 A. Yeah, that's right. So that's probably a 6 pretty low estimate, but that's right. 7 Q. And did the WEC have a policy of sending 8 communications before an election? Was there a 9 number? I think in the report you mentioned an 10 average of ten? 11 A. Uh-huh. 12 Q. Did the WEC have a policy on that? 13 A. I don't know if it's a policy as much as we 14 have all these clerk feedback committees. And over 15 the years, one of them is on communications. So 16 there was a clerk communication protocol in which 17 the clerks had told us, rightfully so, you know, in 18 the days around an election, we're really busy, so 19 please don't change things on it, please don't send 20 us something new or think that you want to wait 21 until the last minute to instruct us on something. 22 You need to be communicating with us ahead of time 23 so we can get things set up. 24 And so our protocol that we had developed 25 with the clerks had always been to really limit</p>
<p>174</p> <p>1 reconceptualized with the guidance of a public 2 health expert for us to be able to reissue a lot of 3 this guidance. 4 Communication was also very, very important. 5 And as the most decentralized election 6 administration in the state, anytime you want to 7 communicate with 2,000 local election officials, 8 it's certainly a challenge, but we tried to keep 9 them in the loop on a daily basis. 10 We implemented what we call our RAVE alert 11 system, which is where local election officials can 12 sign up and give us all their e-mail addresses, 13 phone numbers, so that if there's something really 14 high priority, we can send out a blast to them 15 letting them know about something like a court 16 ruling the night before the election. So there were 17 a lot of things happening in terms of communication. 18 Q. Is it fair to say that the Commission sent 19 out quite a few communications and guidance before 20 the April 7th election? 21 A. I'm not sure how to quantify it, but yes, a 22 lot is probably an understatement. Yes, there was a 23 great deal of communication and guidance that was 24 sent out in the weeks prior to and then after the 25 election.</p>	<p>176</p> <p>1 communication in the weeks before the election 2 because they are implementing under the guidance 3 that we have been training them on for the year 4 preceding. 5 Q. Thank you. 6 MR. BROWNE: If we could turn to page 7 of 7 that exhibit. 8 Q. Ms. Wolfe, regarding polling place 9 consolidation for the April 7th election, who is 10 responsible for consolidating a polling place? 11 A. The municipality. 12 Q. Does WEC play any role in that? 13 A. No, again, other than to provide guidance 14 about what we think the requirements are or how that 15 can be accomplished in accordance with a statute. 16 Q. Once a polling place has been consolidated, 17 can a jurisdiction open up additional polling 18 places? 19 A. I'm not sure of the answer to that. I 20 believe that that would require their municipal body 21 to approve that change if they were going to change 22 in that circumstance. There are some provisions in 23 the law for election day. So if on election day 24 there have been to be changes to polling place 25 because of an emergency, some place becomes</p>

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<p>177</p> <p>1 unavailable, then they're able to do that outside of 2 sort of that parameter. 3 Q. Again, the Commission doesn't have any role 4 in that; is that correct? 5 A. That's correct. 6 Q. Stepping away from Exhibit 7, do you recall 7 that a court ordered the Commission to extend 8 electronic voter registration prior to the April 7th 9 election to March 30, 2020? 10 A. Yes, and I did forget to talk about that 11 when we talked about WisVote changes. There were a 12 couple of changes related to registration and then 13 the absentee deadline where we had to make 14 significant revisions to the WisVote. 15 Q. Were those the only actions of the 16 Commission based on that court order? 17 A. We implemented any of the court's orders to 18 us, so I don't remember in specificity that 19 particular one. There were many. 20 Q. Okay. Ms. Wolfe, do you recall that a court 21 ordered the Commission to accept absentee ballots 22 for the April 7th election if they were postmarked 23 by April 7th and received within a week of the 24 election? 25 A. Yes.</p>	<p>179</p> <p>1 yes. 2 MR. BROWNE: If we could go to page three of 3 the document, and could you scroll down, please? 4 Excuse me. Scroll back up, Leyhbert. I'm sorry. 5 VIDEO TECH: No worries. 6 BY MR. BROWNE: 7 Q. Ms. Wolfe, at the top it states that, 8 Absentee voting in the April 2020 election reached 9 unprecedented levels but Wisconsin voters, local 10 election officials, and administration systems 11 largely adapted to the demand and managed the volume 12 successfully. 13 Do you see that? 14 A. Yes, I do. 15 Q. And what did you mean by that statement? 16 A. I think this was diplomatic way of saying it 17 was incredibly challenging, but we found a way, 18 along with our local election partners, to overcome 19 just challenge after challenge after challenge. So 20 a lot had to happen to make that work, but at the 21 end of the day, we believed we did everything we 22 humanly could. 23 Q. It further states, At the macro level, the 24 processes to request, receive, return, and review 25 absentee ballots proceeded normally and without</p>
<p>178</p> <p>1 Q. What did the Commission do to implement the 2 court's order? 3 A. I believe we issued guidance to the clerks 4 multiple times. So we issued guidance when the 5 court ruling happened, and then we probably sent out 6 a RAVE alert and gave them information about how we 7 believed that that process should be conducted 8 during the board of canvass. 9 MR. BROWNE: Leyhbert, if we could call up 10 Wolfe Exhibit 8 from the first day of deposition of 11 Ms. Wolfe, please? 12 VIDEO TECH: Yes, sir. One second. 13 (Exhibit 15 was marked for identification 14 and is attached to the transcript.) 15 MR. BROWNE: For the record, this is going 16 to be Exhibit No. 15 for this Volume 2. 17 BY MR. BROWNE: 18 Q. Ms. Wolfe, I think you've seen this now -- 19 this is probably the third time you've seen this, 20 maybe even the fourth time. 21 But this is the April 7, 2020, absentee 22 voting report published on May 15th; is that right? 23 A. Yes, that's correct. 24 Q. And you prepared this document; correct? 25 A. Along with, yes, members of the WEC staff,</p>	<p>180</p> <p>1 inconsistencies. 2 What did you mean by that statement? 3 A. Let me just read it real quick. Thank you. 4 Q. It's the second sentence in that first 5 paragraph. Sorry, I should have pointed it out. 6 A. I believe that that statement references to 7 the data. So, again, just, kind of, relating the 8 data in terms of percentages of ballots and the 9 categories it fell into, it was consistent with 10 other elections even though the volume and the 11 circumstances had changed greatly. 12 Q. Okay. 13 MR. BROWNE: If we could turn to page 7, 14 please, of the report? 15 Q. And if we look at table 6, Ms. Wolfe, that 16 1.8 percent of absentee ballots were rejected for 17 this election, do you see that? 18 A. Yes, I do. 19 Q. Why were those ballots rejected? 20 A. Well, because the absentee canvassers 21 decided that they couldn't be -- they didn't meet 22 the requirement of a ballot that could be counted, 23 either because of the statutes or a court decision. 24 So it could be for any number of reasons. 25 Q. Okay. Was this percentage, the 1.8 percent,</p>

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<p>181</p> <p>1 was that consistent with past elections?</p> <p>2 A. According to the data we present about some</p> <p>3 of the recent April elections, it appears to be in</p> <p>4 line with the percentage.</p> <p>5 Q. And do you know if the volume of absentee</p> <p>6 voting in the April 7th election affected why</p> <p>7 ballots were rejected?</p> <p>8 A. We don't have -- as we discussed before, we</p> <p>9 don't have the granular level about every</p> <p>10 determination that was ultimately made by board of</p> <p>11 canvassers about why they rejected the ballot. So</p> <p>12 we can't really compare that data, so I don't know</p> <p>13 that I have the information needed to answer that</p> <p>14 question.</p> <p>15 Q. Sure. If we look at table 7, it notes that</p> <p>16 9.3 percent of absentee ballots were not returned.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. What does this mean?</p> <p>20 A. So these are, I believe, either voters who</p> <p>21 didn't return their ballots, so they chose not to</p> <p>22 return it, or it might be somebody that -- I think</p> <p>23 included as part of this data set -- it's been a</p> <p>24 while since I've dug into it. I believe that this</p> <p>25 could also be people that maybe chose to vote a</p>	<p>183</p> <p>1 the -- (Inaudible.)</p> <p>2 A. I'm sorry. I lost you there.</p> <p>3 Q. Sorry. That's okay. If you look at that</p> <p>4 bottom table, table 8, it notes that between 4-8 and</p> <p>5 4-13, 6.6 percent of absentee ballots were returned.</p> <p>6 Does the Commission have data explaining the</p> <p>7 reason why these ballots were returned in that</p> <p>8 window of time?</p> <p>9 A. Data? No. I mean, we wouldn't know the</p> <p>10 voters' reasoning for why they submitted their</p> <p>11 ballot during that period of time. You know, it was</p> <p>12 because of a court ruling that that time period</p> <p>13 existed because usually, under statute, ballots have</p> <p>14 to be returned by 8:00 p.m. on election day.</p> <p>15 MR. BROWNE: If we could turn to page 24 of</p> <p>16 this exhibit, Leyhbert.</p> <p>17 VIDEO TECH: Yes, sir. Page 24.</p> <p>18 BY MR. BROWNE:</p> <p>19 Q. And in the conclusion section, Ms. Wolfe, it</p> <p>20 states that, Moreover, the final election data</p> <p>21 conclusively indicates that the election did not</p> <p>22 produce an unusual number of unreturned or rejected</p> <p>23 ballots.</p> <p>24 Do you see that?</p> <p>25 A. I do not. Can you point it out?</p>
<p>182</p> <p>1 different way. So it could be someone that didn't</p> <p>2 return their absentee because they were going to</p> <p>3 vote, you know, curbside absentee or they were going</p> <p>4 to appear in-person.</p> <p>5 Q. The report notes that -- sorry. Strike</p> <p>6 that.</p> <p>7 Is the percentage of the not-returned</p> <p>8 absentee ballots, the 9.3 percent, is that</p> <p>9 consistent with past elections?</p> <p>10 A. It seems to vary quite a bit, but it seems</p> <p>11 to be -- I don't know. I don't know if I'd qualify</p> <p>12 that as in line. I guess in the two previous</p> <p>13 elections before it, it seems like a very comparable</p> <p>14 percentage, but there is some variation to earlier</p> <p>15 elections.</p> <p>16 Q. But it seems to be on the lower end of at</p> <p>17 least the past four or five elections?</p> <p>18 A. It is the lowest percentage since 2017,</p> <p>19 yeah.</p> <p>20 Q. Ms. Wolfe -- excuse me.</p> <p>21 MR. BROWNE: Leyhbert, if we could scroll</p> <p>22 down a little to the bottom of that page.</p> <p>23 Q. Ms. Wolfe, do you see that it notes that</p> <p>24 6.68 percent of the absentee ballots were returned</p> <p>25 between 4-8 and 4-13? Does it have data explaining</p>	<p>184</p> <p>1 Q. Yeah, it's the second sentence of that</p> <p>2 conclusion paragraph.</p> <p>3 A. Okay, thank you. Okay.</p> <p>4 Q. Can you explain what that -- what you meant</p> <p>5 when you wrote that?</p> <p>6 A. Yes. So that in the data charts that we</p> <p>7 just reviewed, that the percentages of ballots were</p> <p>8 in line with what we historically had seen in our</p> <p>9 data sets. So looking back, I might have reviewed</p> <p>10 something with percentage or rates instead of number</p> <p>11 because the number was different but the percentage</p> <p>12 was relatively the same.</p> <p>13 Q. I want to shift gears again, Ms. Wolfe, and</p> <p>14 talk about the upcoming elections.</p> <p>15 MR. BROWNE: Leyhbert, if you could call up</p> <p>16 Wolfe Exhibit 9 from the first day of Ms. Wolfe's</p> <p>17 deposition?</p> <p>18 VIDEO TECH: Exhibit No. 9?</p> <p>19 MR. BROWNE: Yes.</p> <p>20 VIDEO TECH: One second.</p> <p>21 (Exhibit 16 was marked for identification</p> <p>22 and is attached to the transcript.)</p> <p>23 VIDEO TECH: For the record, this is going</p> <p>24 to be Exhibit No. 16 of today's deposition.</p> <p>25</p>

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185	<p>1 BY MR. BROWNE:</p> <p>2 Q. Ms. Wolfe, is this the status report that</p> <p>3 the Commission filed with the court on June 25,</p> <p>4 2020?</p> <p>5 A. Yes, it is.</p> <p>6 Q. Does this document describe what the</p> <p>7 Commission is doing to prepare for the November</p> <p>8 elections?</p> <p>9 A. In part, as of that date. As discussed</p> <p>10 previously, there is going to be new things added to</p> <p>11 this continually.</p> <p>12 MR. BROWNE: If we could turn to page 3 and</p> <p>13 part B? That's it.</p> <p>14 Q. Ms. Wolfe, if you could just summarize, just</p> <p>15 briefly, what is the Commission planning for</p> <p>16 absentee ballot mailers for the November 2020</p> <p>17 election?</p> <p>18 A. So the Commission directed staff to use</p> <p>19 federal CARES Act grant funding to send absentee</p> <p>20 ballot request forms in addition to an informational</p> <p>21 mailer that explains the three ways to vote. It</p> <p>22 explains where voters can go for more information</p> <p>23 about COVID efforts as it relates to elections. It</p> <p>24 explains photo ID. It explains voter registration</p> <p>25 and those mailers and absentee request form, as well</p>	187	<p>1 outlined in here to make that process for them to</p> <p>2 issue ballots easier for us to be able to track them</p> <p>3 using the intelligent mail barcodes. So there's a</p> <p>4 lot of infrastructure surrounding absentee that</p> <p>5 we're working on but not actual requests for</p> <p>6 ballots.</p> <p>7 MR. BROWNE: If we could turn to page 4,</p> <p>8 please, and part C? This is -- part C is sanitation</p> <p>9 and PPE supplies.</p> <p>10 Q. Ms. Wolfe, if you could briefly summarize</p> <p>11 what is the Commission planning with respect to</p> <p>12 providing sanitation and PPE supplies for the</p> <p>13 November 2020 election?</p> <p>14 A. Yes, we're working to procure all of the</p> <p>15 supplies. Hopefully, we'll get some more</p> <p>16 traditional supplies for sanitizer and whatnot, but</p> <p>17 to procure all of the supplies that were part of the</p> <p>18 checklist of the public health guidance for both</p> <p>19 August and November. So we're working to give each</p> <p>20 of the municipalities and polling places the</p> <p>21 sanitizer they need, masks that they need, gloves,</p> <p>22 which, you know, is not necessarily a requirement</p> <p>23 but something that sometimes make poll workers feel</p> <p>24 better when they're working with dirty materials.</p> <p>25 And then there are things like pens, painter's tape,</p>
186	<p>1 as a business reply envelope so that if a voter does</p> <p>2 send back a request form, they don't have to pay for</p> <p>3 postage, that those are going to go to voters that</p> <p>4 don't currently have an absentee request on file for</p> <p>5 the August or November election.</p> <p>6 Q. Has the Commission implemented this plan?</p> <p>7 A. Yes. They directed us to send out the</p> <p>8 mailer on September 1st, so there's a lot of things</p> <p>9 you have to think about in terms of deadlines and,</p> <p>10 you know, registration deadlines and all these</p> <p>11 things. So September 1st was determined to be the</p> <p>12 best day to send that mailer out so voters would</p> <p>13 have time to make any changes to their voter record</p> <p>14 or request their absentee ballot if they so chose.</p> <p>15 So we started printing them. It's going to take a</p> <p>16 couple of months to print and stuff all of those</p> <p>17 envelopes. So we have to find climate-controlled</p> <p>18 storage to keep them all until they can be sent on</p> <p>19 September 1st.</p> <p>20 Q. Does the Commission plan on making any</p> <p>21 additional efforts related to absentee ballots</p> <p>22 related to the November 2020 election?</p> <p>23 A. Ballots, no. So, you know, again, that's</p> <p>24 the role of the municipality to send in and receive</p> <p>25 those. But we're making many efforts that are</p>	188	<p>1 surface wipes or cleaner, isopropyl wipes for voting</p> <p>2 equipment. We're working to get all of those things</p> <p>3 to the local jurisdiction.</p> <p>4 Even, you know, like I said before, down to</p> <p>5 spray bottles and paper towels because we found that</p> <p>6 there were shortages on those things in April. So</p> <p>7 we're finding that for them as well. We're hoping</p> <p>8 to send all of the supplies that we've procured out</p> <p>9 to the local jurisdictions before the August</p> <p>10 election. And so that way they'll have all those</p> <p>11 basic supplies and, hopefully, we won't face supply</p> <p>12 chain shortages when we're competing with all 50</p> <p>13 states for resources in November. They'll have</p> <p>14 everything, at least the basics that they need for</p> <p>15 now, as we head into November. And they'll be able</p> <p>16 to reassure their poll workers, their voters, that</p> <p>17 they have the basic things rather than breaking it</p> <p>18 up into two separate distributions. The National</p> <p>19 Guard will be helping us with that distribution</p> <p>20 through all the counties around the state. And we</p> <p>21 hope to do that by the end of July.</p> <p>22 Q. Has the Commission been communicating with</p> <p>23 the local counties and municipalities about this</p> <p>24 plan for sanitation supplies and PPE?</p> <p>25 A. Yes. So we continued to survey them about</p>

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<p>189</p> <p>1 poll workers and PPE and sanitizer to understand 2 their needs. Then, as we talked about before, we 3 also have some other checks that we do on our side 4 to make sure they are going to have what they need 5 to be able to implement the public health guidance. 6 I also want to note that this is what we're 7 planning right now. You know, we recognize that 8 something new could be needed as we head into 9 November. We wanted to get them the basics out for 10 August and, hopefully, that will be sufficient. But 11 if they need more or they need more help, we'll 12 continue to support them in those efforts. 13 Q. Ms. Wolfe, do you recall if the Commission 14 has had any discussion specifically with the City of 15 Milwaukee about sanitation supplies and PPE for the 16 August and November election? 17 A. I'm not sure we've had specific 18 conversations with them. And I believe that we've 19 received data from them as part of the survey. 20 Q. And do you know what that data said? 21 A. I'm sorry, I do not. 22 Q. What about the City of Green Bay, has the 23 Commission had communications with them about 24 sanitation supplies and PPE supplies for the August 25 and November election?</p>	<p>191</p> <p>1 higher rate of absentee. It could also be other 2 supplies, printing costs, cleaning supplies, 3 protective equipment, anything related to those 4 efforts. 5 Q. Ms. Wolfe, which municipalities will be 6 eligible for this money, these grants? 7 A. All of them. Each of the 1850. 8 Q. And do the municipalities need to submit a 9 subgrant agreement to request the funds? 10 A. Yes, they do. It's a pretty simple MOU that 11 they have to submit that we'll then issue the checks 12 right away to them. 13 Q. When you say MOU, do you mean memorandum of 14 understanding? 15 A. Yes. 16 Q. What is the deadline for these MOUs? 17 A. I'm sorry, I'm not sure. We've got four 18 subgrants going right now. I believe it's 19 September. 20 Q. Do you know which municipalities have 21 already submitted MOUs to get these subgrants? 22 A. I have a spreadsheet, but I don't have it in 23 my mind. I think it's about 600 per jurisdiction. 24 Q. Do you know if the City of Milwaukee has 25 submitted an MOU?</p>
<p>190</p> <p>1 A. I'm sorry, I do not. I don't know. I 2 haven't personally had those conversations, but I'm 3 not aware of any specific communication. 4 Q. Okay. 5 MR. BROWNE: If we could turn to page 5, 6 part D. 7 Q. Ms. Wolfe, again, if you could summarize 8 briefly, what is the Commission planning with 9 respect to providing funding to municipal clerks, 10 these subgrants that are mentioned here? 11 A. Well, we're well under way. As of today, 12 we've issued about \$2 million of these subgrant 13 funds. This is for the CARES Act subgrants to 14 municipalities. So the Commission directed staff to 15 implement a subgrant program up to \$4.2 million to 16 provide subgrants to each jurisdiction at the rate 17 of a \$200 base grant. We've got a lot of really 18 tiny jurisdictions so that gives them at least a 19 base. Plus \$1.10 ten per registered voter to 20 scale -- uses under the federal grant. 21 But the ultimate goal of that grant or the 22 use of that grant is to prepare election 23 jurisdictions for changes, unanticipated changes in 24 the initiatives related to COVID-19. So, you know, 25 it may be things like envelopes or postage or the</p>	<p>192</p> <p>1 A. I believe they have. I believe they have. 2 Q. What about the City of Green Bay, have they 3 submitted an MOU? 4 A. I don't know. I don't know the answer to 5 that. 6 Q. And I think you testified just a few minutes 7 ago that you've already distributed \$2 million in 8 the grant money; is that right? 9 A. That's correct. 10 Q. Do you know which municipalities have 11 received this grant money? 12 A. I believe that it's all of them that we've 13 processed, so about 600. 14 Q. Do you know if Milwaukee was one of those 15 recipients? 16 A. I believe so. I believe in the spreadsheet 17 I reviewed yesterday, they were included. 18 Q. What about the City of Green Bay? 19 A. I didn't look specific. I don't remember 20 seeing them, but it may have been included in the 21 list of 600. I'm not sure. 22 MR. BROWNE: If we could turn to page 6 and 23 part E? Everybody's favorite topic, intelligent 24 mail barcodes. 25 Q. Just briefly, Ms. Wolfe, if you could</p>

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<p style="text-align: right;">193</p> <p>1 summarize what the Commission is planning with 2 respect to developing intelligent mail barcodes? 3 A. Well, so this has actually been implemented 4 at this point. The team works fast. They have 5 worked with the clerk feedback committees to -- and 6 the USPS to create a process where clerks who use 7 our system to print off their absentee labels can 8 use an intelligent mail barcode, which will allow 9 clerks, voters, us to track ballots just like you 10 would a package. So we have an interface on MyVote 11 where a voter can go to track the ballot, but it 12 will also have its own unique IMB identifier. 13 And so if a clerk uses our WisVote system to 14 create their labels for absentee ballots, that label 15 will have the intelligent mail barcode on it that 16 will track the ballot both going to the voter and 17 coming back. 18 Now, we're learning a lot about the mail 19 service that we didn't know. And some small postal 20 branches have equipment they need to scan in ballots 21 or any intelligent mail barcode right when they get 22 it at their rural local postal branch. Others 23 don't, and so it might not start tracking until it 24 gets to a central sorting center. So, you know, 25 there are some differences, but that is a capability</p>	<p style="text-align: right;">195</p> <p>1 right, to have conversations about changes or how we 2 want to improve things. And so we formed clerk 3 advisory committees. We have them on a lot of 4 different topics. We have them on training, 5 communications, election security. And after the 6 April 7th election, we also formed some committees 7 to help us work on absentee voting in general, 8 intelligent mail barcodes, processing the WisVote. 9 So we have these work groups basically with the 10 clerks where they help us understand their 11 experience, problems they faced, improvements they 12 want to see. We'll, sort of, prototype those for 13 them, and then they'll review our work to make sure 14 that we're on the right track. Because we're not 15 the ones actually on the ground doing these things, 16 we want to make sure our changes and efforts help 17 our clerks. 18 Q. This specific clerk advisory committee is 19 for vote by mail. 20 What does that committee entail? 21 A. So it's -- it's kind of broken up into a few 22 subcommittees. It involves intelligent mail 23 barcodes, helping to implement that process. They 24 helped us to understand things like they were going 25 to need a third label to put that barcode on it.</p>
<p style="text-align: right;">194</p> <p>1 now. And it's something that clerks who use our 2 labels will have access to. 3 Q. And it may be an obvious answer, but how is 4 this going to help with the upcoming elections? 5 A. In the absentee report, the April 7th 6 absentee report, we discussed a number of cases in 7 which we didn't have, the clerks didn't have, the 8 voters didn't have information about where their 9 ballot was, so be it they never received it or it 10 didn't make it back. And so this will help clerks 11 and voters certainly have more transparency as to 12 where their ballot is. So they can track it just 13 like they would anything else that's important that 14 they're transacting through the mail. 15 Q. Thank you. 16 MR. BROWNE: If we could turn to page 7 and 17 part F, I'm right at the top there. 18 Q. Ms. Wolfe, I think maybe you had mentioned 19 it in your last answer, clerk advisory committees. 20 Could you explain to us what a clerk 21 advisory committee is? 22 A. Sure. So because we have some local 23 election officials -- so this is not how most states 24 work, but we have 2,000 almost local election 25 officials -- we can't get them all into a room,</p>	<p style="text-align: right;">196</p> <p>1 And let's see. We also have one where we worked on 2 that pending entity for MyVote absentee application. 3 So instead of a clerk getting an e-mail with an 4 application that comes from MyVote, we can place it 5 in a pending status in the WisVote system so they 6 can go in, review it, and approve or deny it rather 7 than having to data enter all that. 8 Basically, any project we have on here that 9 involves a clerk. Even the mailer and how we're 10 going to do the data entry when those absentee 11 requests come back and they're going to approve it, 12 all those things were conceptualized with the -- 13 (Inaudible.) 14 MR. BROWNE: If we could turn to page 8 and 15 part H, HAVA election security subgrant. 16 Q. Ms. Wolfe, just briefly summarize what is 17 the Commission planning with respect to providing 18 HAVA election security subgrants to municipalities? 19 A. Sure. So before April all we ever talked 20 about was security, and so this is one of our 21 security initiatives. So we also have a federal 22 grant -- well, two federal grants focused on 23 improving the cybersecurity posture of election. 24 And so this is a subgrant that was offered to 25 municipalities with our original round of federal</p>

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<p>197</p> <p>1 funding, and it was -- I'm really proud of this 2 program, but it was -- you know, because our state 3 is so rural and decentralized, most of our clerks, 4 1,200 of them are in townships. So they work, you 5 know, five hours a week for their township. Their 6 township doesn't have an office. They don't have a 7 computer. They certainly don't have IT support. 8 So this grant allowed us to ask the clerks 9 do you have a compliant computer. And we gave them 10 parameters and software on their devices so they 11 could help understand it because self-reporting 12 wasn't really going to work in a situation where you 13 had people that weren't comfortable with technology. 14 We helped them determine if they were compliant 15 device. If they didn't, they were eligible to get 16 \$600 to get a complaint device. And through the 17 state contracts, we could find some good computers 18 that they were able to use, spend that money on. 19 Same question about IT support. Do you have 20 IT support? And here's what we mean. Are you able 21 to keep your machine up-to-date? Are you able to 22 make sure you're getting patches and your backups 23 and all that? If they said no, they didn't have IT 24 support, then we would give them \$500 -- or \$600, I 25 believe, to get IT support. And we also worked</p>	<p>199</p> <p>1 impactful for these small jurisdictions, but they're 2 eligible to receive up to \$1,200 for those three 3 specific things. 4 Q. And do you know how much of this grant money 5 had been distributed by the Commission already? 6 A. I do not know this time around how many have 7 applied so far. I'm not sure. With the initial 8 round, there were over a thousand jurisdictions that 9 said they were in need of those three things, and we 10 were able to provide it to them. 11 Q. Staying on the same page and looking at part 12 I, if we could scroll down a little, changes to 13 MyVote, Ms. Wolfe, if you could just briefly 14 summarize, what is the Commission planning with 15 respect to changes to MyVote? 16 A. So changes to MyVote, again, MyVote is the 17 user interface. We've already made significant 18 changes to the workflow. Again, we do usability 19 studies with voters. So when we're going to make a 20 change -- it's been harder in COVID times, but we're 21 going to make a change to a user interface, we go 22 out and talk to voters all around the state. We 23 watch them use the technology prototype, and we can 24 adjust, of course, based on their feedback. So that 25 helps us to make sure we're, again, serving our</p>
<p>198</p> <p>1 through state procurement channels to find managed 2 service providers that would be able to help them. 3 And then, finally, were they able to attend 4 a security training program, an in-person one. We 5 were doing all these scenario-based trainings. We 6 had done hundreds, if not thousands of them, around 7 the state. And it offered them a hundred dollars to 8 be able to travel -- again, many of them are 9 part-time -- to attend one of the security 10 trainings. 11 So we did the first round in 2019. And then 12 the Commission agreed to reopen the program because 13 we have a third of our clerks that turn over every 14 single year. That averages out to something like 12 15 new clerks a week. And so that allowed us to reopen 16 that program to clerks to make sure everybody has 17 compliant devices and IT support. 18 Q. Are all municipalities eligible for this? 19 A. Yes, but, you know, many of our larger 20 jurisdictions -- you know, they're not going to be 21 able to answer no, I don't have a computer, no, I 22 don't have IT support. So anybody that's in need. 23 Q. And how much money could each municipality 24 be given under these grants? 25 A. It sounds small, but it's really hugely</p>	<p>200</p> <p>1 customers. 2 And so with MyVote, with the increased 3 traffic to absentee, we've had to do a lot of 4 usability sessions and changes to make sure that 5 voters can understand and interact with the absentee 6 process, that they're given clear instructions, that 7 they're able to be successful if they come to our 8 site to do that or understand where they're at. 9 And, also, we've made changes to it to 10 incorporate those intelligent mail barcodes. So if 11 you're a voter that's requested your absentee, so 12 you can go get more or less realtime milestones as 13 to where your ballot is at in the process. 14 Q. Has that all been implemented already? 15 A. Looking at the report quickly, I believe so, 16 yes. Not to say we don't have some refinement to 17 continue to do, but yes. 18 Q. Sure. Thank you. 19 MR. BROWNE: If we could turn to page 9 and 20 part J, changes to WisVote. 21 Q. I think you might have talked a little bit 22 just a second ago about WisVote. 23 A. Yes. 24 Q. If you could summarize what the Commission 25 is planning with respect to changes to WisVote?</p>

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<p>201</p> <p>1 A. So I think as we've touched on, it's mostly 2 to do with the absentee process, automating that so 3 that, you know, clerks who maybe in the past issued 4 a handful of ballots and they used a pen and actual 5 physical stamp to send out their absentees, now they 6 need a more automated process. 7 So working on creating those batches and 8 labels for them so that they can more easily track 9 what they're getting and what they're sending; 10 creating that pending entity with the MyVote system 11 so they don't have to do data entry when they get 12 e-mail applications through MyVote; that they can go 13 into the system, see the photo ID, see the 14 information, either approve or deny it. Things like 15 notification letters to the voter. So if a clerk 16 does go in and deny an application because of 17 insufficient photo ID, they can generate a letter 18 and they can track all of that. It's automated 19 instead of having to hand-key it in. 20 Yeah, the intelligent mail barcode part of 21 that label process. Building in our milestones for 22 that, so pulling in the USPS data in addition to, 23 sort of, tracking the clerk milestones is part of 24 that barcode as well. 25 And then just detection of issues is also</p>	<p>203</p> <p>1 Q. Ms. Wolfe, if you could just briefly 2 summarize what is the Commission planning with 3 respect to poll worker recruitment training National 4 Guard assistance? 5 A. So we are going to continue to do what we 6 can through our channels to recruit poll workers, 7 again, working with our state decision makers to see 8 what we can do to support those efforts, encouraging 9 state employees, thing like that; but probably most 10 significantly is giving tools to the local election 11 officials, continuing to give them templates, press 12 releases, letters, social media that they can use to 13 try to recruit poll workers in their communities. 14 We've already developed the poll worker 15 training that they can use, which I think is really 16 helpful. The training that we used to the National 17 Guard in April, the clerks can use that. It's out 18 there, available. If they want to use that 19 curriculum to train their poll workers to supplement 20 their training or if they have a last-minute recruit 21 or a change, they're able to use our training to 22 have somebody take that training online if they 23 needed to. And so those efforts will continue. 24 We also have this widget on our website that 25 allows people to submit their interest of being a</p>
<p>202</p> <p>1 something we've been working on, too, is development 2 of reports and flagging of anomalies so that clerks 3 can identify if perhaps they've missed something. 4 So let's say they're dealing with a huge 5 volume of absentee requests and there's a certain 6 day where they don't start hitting the mail stream, 7 we can flag that data for them so they can go back 8 and take a look and maybe spot-check different 9 voters and see what's going on here, why haven't 10 these hit the mail stream yet, why hasn't anybody 11 that received a ballot on this day returned one, and 12 so that they can work to reissue ballots while 13 there's still time. And so we're working on a lot 14 of reports and quality control efforts to help aid 15 the clerks in identifying issues. 16 Q. Have all these changes been implemented 17 already? 18 A. Most of them have. I think we're still 19 continuing to grow that list every day, again, as we 20 get feedback from the clerks about things that are 21 working, things that still need some tweaking; but 22 yes, the basics are all in at least a beta phase. 23 MR. BROWNE: Turning to page 11, please, and 24 part L, poll worker recruitment training National 25 Guard assistance.</p>	<p>204</p> <p>1 poll worker and the clerks can then pull a report of 2 people who have indicated interest and their address 3 matches being in compliance being able to serve in 4 their jurisdiction. So we will continue on those 5 efforts. 6 You know, the National Guard can only be 7 deployed on the governor's orders. And the National 8 Guard has been just an amazing, amazing partner. 9 But they are here to serve our state in a case of 10 emergency and so we can't rely on them being poll 11 workers in August or November. We continue to have 12 a close relationship with them. We understand, sort 13 of, how that would work if the order was given, but 14 it's not a crutch that any of us should be putting 15 any weight on because we don't know if there's going 16 to be another crisis or emergency to respond to. 17 We're going to have to continue to focus our 18 efforts. 19 Q. It sounds like you've had a lot of 20 communication with municipalities about poll worker 21 recruitment training. 22 Have you had specific discussions with or 23 the Commission had specific discussions with the 24 City of Milwaukee about these things? 25 A. I'm not aware of any specific</p>

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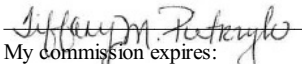
<p style="text-align: right;">205</p> <p>1 Milwaukee-related discussions. It's been more under 2 the guidance or best practices given to all the 3 jurisdictions. 4 Q. What about specific discussions with the 5 City of Green Bay? 6 A. The same. They would receive any guidance 7 that we put out for all jurisdictions. 8 MR. BROWNE: If you can turn to page 12. 9 MR. SCHWARTZTOL: Rob, can I interrupt just 10 one second before you continue? I'm going to have 11 about, I think, 90 seconds of questions to follow up 12 on some of your questions. And I know that 13 Ms. Wolfe and Dixon have a hard stop, so I just want 14 to see if I'm going to be able to get what I think 15 is 90 seconds' worth of follow-up questioning in. 16 MR. BROWNE: I could try, Larry. I'm moving 17 as fast as I can here. I've probably got about six 18 more minutes. I'll try to move. 19 MR. SCHWARTZTOL: Thank you. 20 MR. BROWNE: Okay. 21 BY MR. BROWNE: 22 Q. Voter outreach videos, guides, and surveys, 23 Ms. Wolfe, could you just briefly summarize what the 24 Commission is doing on that? 25 A. Sure. So as I believe we discussed earlier</p>	<p style="text-align: right;">207</p> <p>1 content. So, you know, trying to be good stewards 2 of Wisconsin taxpayer money, we want to make tools 3 that can be dynamic, that can be changed, because 4 there's more certain than that there will be change 5 in election and the requirements. And so all those 6 things we have to view through lines of if we have 7 to change that, how do we do that so it doesn't just 8 become -- (Inaudible.) 9 MR. BROWNE: If we could go to page 13, 10 public health guidance. 11 Q. Ms. Wolfe, if you could just briefly 12 generally summarize what is the Commission planning 13 with regard to public health guidance? 14 A. Sure. So we'll continue to work with public 15 health officials through the state emergency 16 operation center. We met with them yesterday to go 17 through our guidance as it, kind of, intersects 18 elections and public health to make sure that we're 19 giving the most current and accurate guidance. 20 We're not public health officials so we rely on them 21 to help us keep that current. So us keeping a 22 constant engagement to make sure documents are 23 accurate. So we've done that for the August 24 election, of course, with continued pulse on it. 25 Things change. We might need to supplement or</p>
<p style="text-align: right;">206</p> <p>1 today, you know, the Commission, as part of our 2 security initiatives -- but that definition can 3 shift depending on what's going on in the public 4 eye -- we've done surveys to understand where voters 5 go for information, what kind of information they 6 need. And then based on that, we start to put 7 together information to explain the mechanics of how 8 voting works. And, of course, right now people are 9 particularly interested in the security and the 10 mechanics of absentee voting, and so we've been 11 working to produce videos. I think I just did two 12 videos this week and there's one more in the hopper 13 that explain the mechanics of how to request an 14 absentee, what goes into securing them, how to 15 return them, all of these things. 16 And then also other materials that the 17 clerks can use to reach out to their public as well. 18 We did a communications guide with them earlier this 19 year. It gives them sort -- we always do a social 20 media plan for them to help them be able to 21 communicate these things with their voters as well. 22 So it's a work in progress. And I will also just 23 note that it's a tricky work in progress because you 24 never know when there might be another court ruling 25 in this case or other cases that impact that</p>	<p style="text-align: right;">208</p> <p>1 change something. And then we'll continue that 2 approach of working with them as we head into 3 November as well and creating any documents that we 4 need to that supplement new issues or new elements. 5 We also have a web page, so if you go to 6 elections.wi.gov, there's a COVID-19-specific page 7 where we index all that information. 8 Q. Last question, Ms. Wolfe, and I want to 9 thank you, at least on behalf of intervener 10 defendants, the legislature, for all of your time. 11 I know you've dedicated quite a bit of time to all 12 of these depositions. 13 Has the Commission had any specific 14 discussions with Milwaukee Elections Commission and 15 their preparations for the August and November 16 elections? 17 A. The Commission as a body, no. You know, 18 staff, I'm sure we've had communications with them, 19 and we will continue to do, just like we do with any 20 of our jurisdictions. But the Commission has not, I 21 don't believe, made any determination specific to 22 Milwaukee. 23 Q. And what were the communications that the 24 staff has had with Milwaukee Elections Commission? 25 A. I'm sure just like any -- again, we're not</p>

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<p>209</p> <p>1 the decision makers. But if they were to ask us a 2 question about how something works or to point them 3 to guidance, we would always be happy to answer 4 those questions. I don't have any specific recent 5 contacts with them, but I'm sure, you know, they 6 call with walking through a new process in WisVote 7 or something like that, where we're glad to help 8 them firsthand.</p> <p>9 Q. Thank you, Ms. Wolfe. That's all I have.</p> <p>10 MR. SCHWARTZTOL: Very quickly again just on 11 behalf of the Swenson plaintiffs.</p> <p>12 FURTHER DIRECT EXAMINATION</p> <p>13 BY MR. SCHWARTZTOL:</p> <p>14 Q. I first want to join Mr. Brown in thanking 15 you again for taking all the time you've taken. We 16 know what a demanding job and crazy year this is. 17 We are really grateful for it.</p> <p>18 In the course of preparing for today's 19 30(b)(6) deposition, did you have any conversations 20 with any of the attorneys representing the 21 legislature?</p> <p>22 A. No.</p> <p>23 Q. Did you have any conversations with any of 24 the attorneys representing the RNC?</p> <p>25 A. No.</p>	<p>211</p> <p>1 COURT REPORTER: Mr. Schwartztol, did you 2 need this tomorrow?</p> <p>3 MR. SCHWARTZTOL: Yeah, we'll take the 4 rough, please, for tomorrow. Regular delivery on 5 the final.</p> <p>6 MS. ROSENZWEIG: We don't need a transcript 7 at this point.</p> <p>8 MR. BROWNE: I'll take a rough tonight if 9 you can do it. And I'd love the final tomorrow. 10 That would be great.</p> <p>11 MR. GAHNZ: We don't need a transcript at 12 this point.</p> <p>13 (Witness excused.)</p> <p>14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>210</p> <p>1 MR. BROWNE: Larry, I'm going to interrupt. 2 These questions, honestly, why would I contact 3 somebody who's represented by counsel? That's 4 ridiculous. So if that's -- if you're going to 5 continue down that line of questioning, I'm going to 6 object.</p> <p>7 BY MR. SCHWARTZTOL:</p> <p>8 Q. Ms. Wolfe, did you have conversations with 9 any nonattorneys who were representatives of the 10 legislature in the course of preparing for this 11 depositions?</p> <p>12 A. No.</p> <p>13 Q. And same with the RNC, did you have any 14 conversation with any nonattorney representatives of 15 the RNC?</p> <p>16 A. No.</p> <p>17 MR. SCHWARTZTOL: Okay, thank you. That's 18 all we have. Thank you again, Ms. Wolfe.</p> <p>19 MR. GAHNZ: If you want to go to your next 20 Zoom meeting.</p> <p>21 THE WITNESS: Okay, thank you.</p> <p>22 VIDEO TECH: Before leaving, our court 23 reporter is going to take some orders in case you 24 need to place before going off the record.</p> <p>25 Tiffany?</p>	<p>212</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC</p> <p>2</p> <p>3 I, Tiffany M. Pietrzyk, CSR RPR CRR, the 4 officer before whom the foregoing deposition was 5 taken, do hereby certify that the foregoing 6 transcript is a true and correct record of the 7 testimony given; that said testimony was taken by me 8 stenographically and thereafter reduced to 9 typewriting under my direction; that reading and 10 signing was not discussed; and that I am neither 11 counsel for, related to, nor employed by any of the 12 parties to this case and have no interest, financial 13 or otherwise, in its outcome.</p> <p>14</p> <p>15 IN WITNESS WHEREOF, I have hereunto set my 16 hand and affixed my notarial seal this 17th day of 17 July, 2020.</p> <p>18 19 20 21 22 23 24 25</p> <p> My commission expires: February 28th, 2024</p>

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