

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO

SABRINA PRITCHETT-EVANS and
KIMBERLY HARRIS,

Plaintiffs,

v

File No: 2023-0169-CZ

REPUBLICAN PARTY OF KALAMAZOO
COUNTY, STATE OF MICHIGAN (KGOP),
KALAMAZOO GRAND OLD PARTY EXECUTIVE
COMMITTEE (KGOPEC); and (AKA)
KALAMAZOO COUNTY REPUBLICAN
COMMITTEE (KGOPEC), and
KELLY SACKETT,

Defendants.

_____ /

DEPOSITION OF DAVID DISHAW

Taken by the Defendants on the 6th day of July, 2023,
at Fortz Legal Support, 25 Division Avenue South,
Unit 325, Grand Rapids, Michigan at 10:08 a.m.

APPEARANCES

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Certified Shorthand Reporter
Registered Professional Reporter

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ALSO PRESENT:

Ms. Sabrina Prichett-Evans
Ms. Kelly Sackett
Dr. Tamara Mitchell

1 Grand Rapids, Michigan

2 Thursday, July 6, 2023 - 10:08 a.m.

3 THE REPORTER: Raise your right hand,
4 please. Do you solemnly swear the testimony you are
5 about to give in the cause now pending will be the
6 truth, the whole truth, and nothing but the truth, so
7 help you God?

8 THE WITNESS: I swear.

9 THE REPORTER: Thank you.

10 DAVID DISHAW

11 having been first duly sworn, was examined and
12 testified as follows:

13 EXAMINATION

14 BY MR. DEPERNO:

15 Q Good morning.

16 A Good morning.

17 Q Please state your full name.

18 A David Lawrence Dishaw.

19 (At 10:09 a.m. Exhibit 1 marked.)

20 BY MR. DEPERNO:

21 Q I'm handing you Exhibit 1, which is a Subpoena. Do you
22 recognize this document?

23 A This appears to be a document that I was served and
24 signed. Yes, I recognize this document.

25 Q That's your signature on Page 3?

1 A That is my very terrible signature on Page 3.

2 Q Thank you. Mr. Dishaw, how old are you?

3 A I am 46 years old.

4 Q When were you born?

5 A July 15, 1976.

6 Q Where did you attend school?

7 A I attended Tri-Unity Christian School, and I was home
8 schooled, and I went to Grand Valley State University.

9 Q When did you graduate Grand Valley State?

10 A I didn't. I left after the third year to pursue a
11 career in business.

12 Q Do you possess any degrees?

13 A I do not possess any degrees, just certifications.

14 Q What certifications do you have?

15 A Various real estate, title, et cetera.

16 Q So what is your business called?

17 A I have several businesses. We Actually have 42
18 companies. But the one that I'm probably most known
19 for is Victory Phones.

20 Q What is Victory Phones?

21 A Victor Phones is a data aggregation and polling company
22 that does work for senator write-in candidates and
23 causes around the country. Many governors, senators,
24 et cetera.

25 Q How long have you owned that business?

1 A I've owned that business for 14 years.

2 Q What is your title at that business?

3 A I'm the president and COO.

4 Q How long have you been involved in Michigan Republican
5 politics?

6 A Since 1993.

7 Q How old were you at that time?

8 A I was 17 years old.

9 Q Why did you get involved when you were 17 years old?

10 A Because I met former state representative Harold
11 Voorhees and got very excited about the political
12 process. I interned in his office in Lansing when he
13 was a state representative, and I've been involved ever
14 since.

15 Q Can you describe what specialized knowledge you have
16 regarding Michigan Republican Party operations?

17 A Sure. I have served as a convention delegate since
18 1994 when I turned 18. Pretty much every convention
19 that I can recall over the last, well, what would that
20 be now? I'm going to feel old. But over the last 28
21 years, 29 years. I've served as the county party
22 chairman here in Kent County. I've served as a
23 district chairman for four years at the state party
24 level. I've served most recently as the state party
25 parliamentarian, and I chaired the most recent state

1 convention. I have also served as a parliamentarian of
2 the college Republican national convention and been
3 involved in numerous other state conventions, such as
4 the Wisconsin state convention and many others.

5 Q Have you been involved in county precinct delegate
6 selection conventions?

7 A Yes. Numerous. Dozens and dozens and dozens.

8 Q Are you familiar with the process regarding county
9 conventions?

10 A I am. And, in fact, I helped rewrite the state party
11 bylaws in 2003 and 2004. Most recent time they
12 received a comprehensive update.

13 Q Have you been involved in district party conventions?

14 A I have numerous times, including chairing them and
15 participating as an attendee.

16 Q And have you been involved in state party conventions?

17 A I have for nearly 29 years.

18 Q Have you ever had any official role with the Michigan
19 Republican Party?

20 A Yes, I most recently served as state party
21 parliamentarian for the last previous two years. I've
22 also chaired the state convention as well as been an
23 officer of numerous state conventions both in my role
24 as a district chairman and as -- in a role as appointed
25 by previous chairmen.

1 Q And you stated -- well, you didn't say it, but are you
2 currently a precinct delegate?

3 A I'm currently a precinct delegate.

4 Q Aside from the state party convention back in February
5 where you stated you were the parliamentarian --

6 A Correction. I was actually the chairman of that
7 convention.

8 Q Okay.

9 A I was the parliamentarian at the August 2022 convention
10 and a parliamentarian consultant in the April of 2022
11 convention and served as a parliamentarian of the state
12 committee the previous cycle.

13 Q What is the role of the parliamentarian?

14 A The parliamentarian advises the chair as to the
15 applicability of motions, as to the admissibility of
16 rules, and also works to develop the actual rules by
17 which conventions will be run, as well as discusses and
18 works through with the committee, the state committee,
19 which is the executive governing board of the state
20 party, various changes to the bylaws and convention
21 rules as appropriate.

22 Q And what was your role as the chairman of the state
23 party convention in February?

24 A My role was to run the meeting of roughly 2,200 voting
25 delegates and about 1,500 alternates. That would be to

1 adjudicate motions, to make determinations about the
2 applicability of different actions we were taking, and
3 to make sure that the business of the convention ran
4 smoothly, which included the adoption of rules and
5 other things necessary to run an organized convention.

6 Q Have you been an advisor to any former state party
7 chairs?

8 A Yes.

9 Q Which ones?

10 A I've been -- well, Ambassador Weiser served this last
11 time as chair, but I'd previously served and I was
12 advisor -- an unpaid volunteer advisor to him before.
13 I've also advised Chairman Bobby Schostak, Chairman
14 Weiser when he was chairman before, Chairman Saul
15 Anuzis and Chairman Betsy DeVos and Chairman Rusty
16 Hills.

17 Q Are you familiar with MCL 168.599?

18 A Can you give me some additional color there?

19 (Pause in the proceedings.)

20 THE WITNESS: Yes, I'm familiar with MCL
21 168.599.

22 BY MR. DEPERNO:

23 Q Have you given any talks or lectures regarding the
24 Michigan Republican Party?

25 A Yes, I have done various trainings around the state

1 over the years for people who have interest in
2 participating with state conventions and with their
3 county parties.

4 Q So what are the topics of the discussions that you do?

5 A It ranges the gamut, but typically it will involve what
6 it means to be precinct delegate, how to file to run to
7 be a precinct delegate, what it means to participate in
8 a state convention, what it even means to attend a
9 national convention where I've been a delegate in the
10 past as well.

11 Q Have you given any talks or discussions on
12 parliamentary procedure?

13 A Yes.

14 Q Can you describe those, the content of those
15 discussions and talks?

16 A Yeah, the content of those discussions and talks
17 centers around proper preparation and adoption of rules
18 and agenda for both district committees and county
19 conventions as well as the state convention.

20 Q And have you given any discussions or talks regarding
21 the roles of precinct delegates?

22 A Yes, numerous times.

23 Q Can you describe the contents or topics of those
24 discussions?

25 A Sure. As just a general overview, precinct delegates

1 have an obligation and responsibility to represent
2 their constituents, those people in their neighborhoods
3 that elect them to represent them at the party level.
4 We talk about -- I talk about the need for precinct
5 delegates to be engaged and active in their local
6 county party organization. Their rights to attend
7 county conventions that are nominating conventions and
8 vote for various candidates for other office, both the
9 Executive Committee -- county Executive Committee and
10 state convention delegates, and in general we address
11 the need for precinct delegates to understand their
12 role as it relates to being essentially the grassroots
13 backbone of the state and county parties.

14 (At 10:19 a.m. Exhibit 2 marked.)

15 BY MR. DEPERNO:

16 Q I'm going to hand you Exhibit 2 which are styled the
17 Bylaws, Republican Party of Kalamazoo County, State of
18 Michigan. Have you had an opportunity to review these
19 bylaws?

20 A I have seen these bylaws.

21 MR. DEPERNO: Let's go off the record.

22 (Pause in the proceedings.)

23 BY MR. DEPERNO:

24 Q Are you familiar with the case of Heitmanis versus
25 Austin?

1 A Yes.

2 Q When was the first time you learned about the case of
3 Heitmanis versus Austin?

4 A That would have been in the late 1990s. I was not
5 familiar with it when I first got involved, but as I
6 began to serve in other capacities, I became familiar
7 with it.

8 Q Now, related to MCL 168.599, what is a statutory member
9 as it relates to a county Executive Committee?

10 A Sure. A statutory member would be essentially somebody
11 who is serving in the position of having been or is a
12 nominee for -- or elected member, meaning they are a
13 state senator or a state representative, a county-wide
14 official, et cetera.

15 Q So if a person runs for state office, county office,
16 and wins their primary, they become a statutory member
17 of a county Executive Committee?

18 A That is correct.

19 Q And describe to me what an elected member of an
20 Executive Committee means.

21 A Sure. So an elected member would be somebody who
22 essentially represents the public. This is somebody
23 who is -- at present most counties apply it as an equal
24 representation, although that's up for discussion, but
25 essentially this is somebody who represents the general

1 public who is registered to vote in the county in
2 question and is elected by their fellow precinct
3 delegates to serve in that capacity as a member of the
4 Executive Committee.

5 Q When a person wants to be a precinct delegate, they
6 file an Affidavit with the county clerk, is that
7 correct?

8 A That's correct.

9 Q And do they designate the party, political party that
10 they're associated with?

11 A Yes.

12 Q Is it your opinion then that a precinct delegate is
13 beholden to the party in which they select on their
14 Affidavit?

15 A Unequivocally.

16 MR. THOMAS: I didn't hear the answer.

17 THE WITNESS: Unequivocally.

18 BY MR. DEPERNO:

19 Q Now, looking at the bylaws in front of you, Section 3.

20 A Uh-huh.

21 Q Or I should say Article III Section 3 on Page 1 deals
22 with Membership. Do you see that?

23 A Uh-huh, I do.

24 Q 3A describes statutory members?

25 A Uh-huh.

1 Q 3B describes elected members?

2 A Yes.

3 Q And 3A and 3B state that the statutory members and
4 elected members shall be equal. Is that correct?

5 A Yes.

6 Q In Kalamazoo County, there are 18 statutory members and
7 18 elected members. Now, three of those statutory
8 members resigned or did not take a position on the
9 Executive Committee. One of the issues in this case is
10 what happens when a statutory member resigns. Can that
11 statutory member be replaced?

12 A Uh-huh.

13 Q So that's the question for you. Can a statutory member
14 be replaced?

15 A Yes.

16 Q What would be a procedure, or would there be more than
17 one procedure in which a statutory member could be
18 replaced?

19 A Yes. In fact, you know, I look here at Article III
20 Number 1, "This committee is established by law and
21 state party rules," so I would in the case of conflict
22 within the bylaws here or silence in the bylaws I would
23 look at the state party bylaws. In the case of silence
24 or conflict in the state party bylaws, I would look to
25 Robert's Rules of Order.

1 Q So what would be one -- could a -- let me ask, could an
2 Executive Committee in Kalamazoo County nominate and
3 vote to put a precinct delegate in the spot of a
4 statutory member on the Executive Committee?

5 A If there was a vacancy, they essentially would be
6 selecting that person as replacement nominee where that
7 vacancy occurred. In fact, the state party bylaws
8 indicate in Article XIII Subsection F that -- if you
9 don't mind me reading from it so I can get it correct.
10 I want to make sure I state it accurately. "The county
11 Executive Committee shall nominate candidates to fill
12 vacancies that occur at countywide offices, township
13 offices, city offices, or any other office, including
14 state legislative or congressional offices, the
15 electoral district of which is entirely within the
16 boundaries of the county." So the county executive
17 committees are empowered to fill vacancies, and, in
18 fact, have done so in the past. I can point to 1998
19 and 2010. In 1998, then state senate majority leader
20 Dick Posthumus was tapped to be governor John Engler's
21 running mate, and he vacated his state senate-nominated
22 position and was replaced by the Kent County Executive
23 Committee. The same thing occurred in 2010 when then
24 State Representative Brian Calley, who won the state
25 senate election that year, was tapped by then

1 gubernatorial candidate Rick Snyder to be his
2 lieutenant governor. The four counties that touched
3 that state senate district met and picked a new
4 nominee. So the process of replacing statutory
5 nominees is clear and has occurred multiple times in
6 past history in Michigan.

7 Q Now, if you look at Page 2 of those bylaws, the county
8 bylaws in front of you, Paragraph 6A, 6A states that
9 "If a vacancy occurs in the position of a statutory
10 member of the Executive Committee, and there is a
11 special election held to fill the office, the vacancy
12 may only be filled by the person who is the new
13 Republican nominee for the office in question." Do you
14 see that?

15 A I do.

16 Q It appears to be the position of the plaintiffs in this
17 case that if a vacancy occurs in the position of a
18 statutory member, then there must be a special election
19 called by the governor to replace that statutory member
20 on the Executive Committee. Do you agree with that?

21 A No, I disagree with that.

22 Q Why do you disagree with that?

23 A I disagree with that because of the organizing
24 principles of the party, which is to have full and fair
25 representation. Clearly when I read this language, I

1 see the word "and" there, which simply indicates that
2 in the event there's a special election that is the
3 person who will be the nominee. But nothing in this
4 language precludes the county Executive Committee from
5 filling its own vacancies. And, in fact, our state
6 party bylaws contemplate that replacement nominees and
7 vacancies will be filled by county Executive
8 Committees.

9 Q Would you agree that the term "vacancy" used in 6A is
10 referring to a vacancy, as it says, in the position,
11 for instance, if a county commissioner resigns his
12 county commission office --

13 A Uh-huh.

14 Q -- are they not talking about the vacancy of the county
15 commission office in this paragraph?

16 A That I believe would be an accurate assessment of this
17 language, but regardless it requires there to be a
18 special election for this language to occur or to
19 apply.

20 Q Okay. And if -- what if there is no special election?
21 What can the Executive Committee do?

22 A Fill its vacancies.

23 Q Now, what if the Executive Committee does fill a
24 vacancy and then there's a special election?

25 A Clearly under this language, and under state party

1 rules, the person who was the nominee for that special
2 election would immediately take that seat, and whoever
3 had filled that position would step down. Because the
4 new nominee under the special election would by right
5 be the statutory member.

6 Q And if there's never a special election, is it okay
7 then to fill that vacancy?

8 A Yes.

9 Q Why do -- well, strike that.

10 Does the state party encourage full Executive
11 Committees?

12 A Yes.

13 Q Why?

14 A For a variety of reasons. First of all, when offices
15 are filled at the county Executive Committee, you have
16 greater representation for the activists and the
17 Republicans in that county, Number 1. Number 2, we
18 always need more people involved to spread the
19 Republican message. So as a political party
20 organization, we are into addition and multiplication,
21 not subtraction and division. Lastly, there are
22 oftentimes things that come in front of a county
23 Executive Committee that need the full force of
24 preferably a full committee to participate. I gave you
25 an example earlier in my testimony of 1998 and 2010

1 where a vacancy occurred in state senate
2 representation, and under our bylaws, as I referenced
3 earlier, Article XIII Subsection F of the state party
4 bylaws, the county Executive Committees fill those
5 spots. So it's very important that there be full
6 representation for a variety of reasons.

7 Q Now, some people may say that if you take a precinct
8 delegate and elect that person, if the Executive
9 Committee elects that person into the spot of a
10 statutory spot, that that precinct delegate is not
11 actually a statutory member. Does that conflict with
12 state party rules?

13 A The notion of a person being a replacement nominee or
14 appointed to be the statutory member is the business of
15 the county Executive Committee where it's not in
16 conflict with its own rules or with other rules, and
17 the place it would be is in the event of a special
18 election. But in the absence of a special election,
19 there's no intervening rule.

20 Q From a parliamentary point of view, unless it conflicts
21 with the bylaws, is there anything that prohibits
22 filling that statutory seat?

23 A No. And, in fact, Robert's Rules of Order is where we
24 default when there is either ambiguity or disagreement
25 about what something means. And if you look at

1 Robert's Rules of Order in Chapter 56, you'll see that
2 a body is empowered to define its own bylaws where
3 there's conflict. Thus I would look to the action of
4 the Executive Committee as constituted for
5 determination as to what they intended those bylaws to
6 mean.

7 Q Does the Republican party itself have the ability to
8 police itself from everything in how it chooses to run
9 itself and how it composes itself?

10 A Yes, the Republican Party is fully authorized to do so,
11 and it deputizes county Executive Committees as a part
12 of its organizational structure.

13 Q So then the county Executive Committees would also have
14 the right to run themselves and police themselves from
15 everything in how they choose to run themselves and how
16 they compose themselves?

17 A So long as it's not in conflict with the state party
18 bylaws, that's correct. And certainly under Heitmanis
19 political parties in Michigan, as has been decided
20 elsewhere as well in other states, are entitled to run
21 themselves and police themselves as they deem
22 appropriate.

23 Q So if I understand your testimony, there could be two
24 ways then to fill an empty statutory seat on an
25 Executive Committee. Either the Executive Committee

1 could meet and say we're filling these spots through a
2 nomination process and a vote, or they could meet as a
3 committee and say, we're calling these people
4 replacement nominees for the former statutory member
5 who resigns. Is that correct?

6 A That is correct. I would add a third way which is if a
7 special election is called, that new nominee would take
8 the seat. But, yes, the county party directly, the
9 Executive Committee directly, those are the two methods
10 available to it to replace those vacant members.

11 Q Now, the plaintiffs in this case argue that those three
12 statutory seats in Kalamazoo County should remain open,
13 no one should sit in those spots, and the plaintiff, or
14 the defendants on the other hand, Kalamazoo County
15 Republican Committee, argue that that would then
16 disenfranchise the committee itself or county
17 delegates. What do you think?

18 A Yeah, I would always lean towards filling vacancies
19 wherever possible so that there was full
20 representation. As a political party organization, I
21 would always encourage both the state party and a local
22 party to fill itself up, as you were.

23 Q So if I also understand your testimony then, regarding
24 the potential disenfranchisement of precinct delegates,
25 if the Executive Committee spots are not filled, MCL is

1 silent on the issue, is that correct?

2 A Yes.

3 Q Under parliamentary procedure, Executive Committees and
4 county parties are allowed to manage their own affairs?

5 A Yes.

6 Q And under Heitmanis, it clearly states that party rules
7 would supersede MCL anyway, correct?

8 A Correct.

9 Q There's some people who argue that the state law, or
10 MCLs, supersede party rules. What's your position on
11 that?

12 A I would just simply direct those people to Heitmanis,
13 and they should read the results of that case. I
14 believe that party law always supersedes state law in
15 the absence of other, obviously, criminal or other
16 types of things. But in general when we're talking
17 about the organization and the management and the
18 administration of a political party, that is the
19 political party's prerogative like most any other
20 private organization.

21 Q Some people also argue that there's some conflict
22 regarding a lawsuit that was filed out in Macomb
23 County.

24 A Uh-huh.

25 Q Do you have any knowledge of that lawsuit?

1 A I do. I do. And, in fact, what was decided there was
2 first a question with relationship to the ownership of
3 a bank account and a name and image, or a likeness, a
4 brand, if you will. That was ultimately where the
5 judge came down on one side, but then when Heitmanis
6 was brought into the discussion, the judge essentially
7 ruled that this is an internal party affair and you
8 need to work it out internally.

9 Q Now, were you part of Michigan Republican state party
10 at the time of that Macomb County lawsuit?

11 A Yes, I was.

12 Q So you are familiar with that lawsuit and discussions
13 that occurred --

14 A Yes.

15 Q -- regarding the judge's decision?

16 A Yes.

17 Q Discussions that occurred within state party?

18 A Yes.

19 Q The Heitmanis case states that county parties are not
20 required to keep an equal number of statutory members
21 as elected members, is that correct?

22 A That's correct.

23 Q Why hasn't the Michigan Republican party always been
24 Heitmanis compliant?

25 A Well, the word "compliant" is interesting. Ultimately

1 each county party is entitled to constitute itself as
2 it deems appropriate within the construct of the bylaws
3 of the state party. And from a historical perspective,
4 you have to understand that Heitmanis was decided just
5 as governor John Engler came into office, and as a
6 general rule, the parties determined that what would be
7 best would be to maintain an equal split. This gave
8 the grassroots and the elected officials essentially a
9 50/50 voice the way it was described in county party
10 operations. Obviously Heitmanis allows that
11 imbalance -- that to be imbalanced, but it was
12 ultimately sort of institutionalized that there would
13 be this balance. And Governor Engler was there for 12
14 years really, essentially, after Heitmanis, and the
15 party operation and apparatus was very different in the
16 1990s and 2000s. It's a much more bottom-up type of
17 organization now, whereas back then, and in most cases
18 where there's a Republican governor, the local
19 Republican party tends to function more around what
20 that governor wants to see happen or what that
21 governor's key allies want to see happen, and so there
22 was just sort of institutionalized that there would be
23 this 50/50 sort of balance at the local county party
24 level, and it became sort of the way that most counties
25 operated.

1 Q Are you familiar with the way the Democrats organize
2 their Executive Committees?

3 A My understanding is they have a greater number of
4 precinct delegates, or greater number of public members
5 than they do statutory members, although never having
6 been to an actual Democrat county Executive Committee
7 meeting, I couldn't tell you for sure.

8 Q So the Democratic bylaws for your reference provide for
9 two-thirds --

10 A Okay.

11 Q -- elected members on Executive Committees and
12 one-third statutory members. It would seem to me then
13 that they provide more grassroots voice than in their
14 county Executive Committees. Would you agree with
15 that?

16 A I would say that's accurate, and I would say, you know,
17 the old Bill Clinton line, Democrats want to fall in
18 love and Republicans want to fall in line, you know, is
19 sort of understood then in the way that they set up
20 their structure. There's a lot more need for
21 grassroots representation. Especially when this was
22 decided, remember, the Democrats were out of power in
23 Lansing for 12 years, and so they had very little in
24 the way of any leadership except their own state party
25 level, so it makes perfect sense that they would have

1 expanded the grassroots component at that time.

2 Q So along that theory, it would seem like a Republican
3 party should take a look at expanding its grassroots
4 support?

5 A Yeah, I would defer to the county parties in what they
6 decide to do, but I'm always in favor of more
7 grassroots representation, not less.

8 Q We touched earlier on the idea that precinct delegates
9 when they run for office fill out an Affidavit that
10 they provide to the county clerk, correct?

11 A Uh-huh, that's correct.

12 Q Is it true that precinct delegates are the only office
13 in the state that is not certified by the Board of
14 Canvassers?

15 A To my knowledge.

16 Q And there's no recall procedure for a delegate in the
17 state, is there?

18 A No. In fact, delegate vacancies are handled by the
19 local county parties.

20 Q So a delegate could be elevated to temporarily fill a
21 precinct delegate voting spot at a convention without
22 an election, correct?

23 A Correct. The election would be the vote of the
24 convention at that time, so there is no public
25 election. The same is true for filling permanent

1 vacancies as well. If there is no Republican elected
2 in a precinct or if there are fewer elected than number
3 of spots available in a precinct, then a county
4 convention may fill those vacancies as well on not just
5 a temporary basis if somebody is missing, but on a
6 permanent basis if there was nobody elected there.

7 Q So you're saying there's a procedure in the state where
8 a person could become a precinct delegate simply by
9 being elected at a county convention?

10 A Yes.

11 Q And not having to actually run on the ballot?

12 A Correct.

13 Q And has that been done before?

14 A Many, many times. Again, county parties tend to have
15 their own way they like to operate, so there's
16 deference provided to the county parties. Occasionally
17 the state party in adopting convention rules, i.e.,
18 that state committee I mentioned earlier that, you
19 know, sets those rules, will have some comment with
20 regard to the timing of that, but it is an accepted
21 practice that they fill those vacancies. And, in fact,
22 I would argue I'm personally aware of probably
23 somewhere in the neighborhood of 80 to a hundred people
24 who now serve as precinct delegates because they were
25 elevated at various county conventions back in January

1 during our last round. I couldn't give you any names,
2 but I'm aware that many counties filled vacancies on a
3 permanent basis at that time.

4 Q And that's just one convention, correct?

5 A Yes. They can do that at subsequent conventions as
6 well during the two-year political cycle.

7 Q And how many conventions has the party had across the
8 state in the last 20 years?

9 A Well, in a given four -- in a four-year cycle, we will
10 have one, two, three, four, five -- we'll have no less
11 than five conventions and could have as many as seven
12 depending on whether there's an endorsement convention
13 or special things are called, and then they will also
14 have county conventions to elect the Executive
15 Committee membership. So there's ultimately in a
16 four-year cycle a minimum of seven and could be as many
17 as nine or 10 conventions at the county level.

18 Q And that's for each county?

19 A Yes.

20 Q And there's 83 counties, correct?

21 A Under our bylaws, there are 82 counties constituted for
22 purposes of county conventions, and then Wayne County
23 being a county greater than 1.5 million has
24 congressional district conventions which function as --
25 in practice as their county convention. So there's

1 really at present 85.

2 Q So if you extrapolate that, that is a lot of precinct
3 delegates?

4 A Yes, it's 600 to 800 total meetings whereby somebody
5 could be elevated to a temporary or a permanent -- on a
6 temporary or permanent basis. So it's impractical,
7 despite Heitmanis which gives the parties the authority
8 to manage their own affairs, it's impractical for the
9 state to govern the representation at the local level
10 of the Republican party, or frankly the Democratic
11 party for that matter.

12 (At 10:46 a.m. Exhibit 3 marked.)

13 BY MR. DEPERNO:

14 Q Handing you what's marked as Exhibit 3. This is a
15 letter written by legal counsel for Kalamazoo County
16 government. I want to direct you to Page 2, the second
17 paragraph. It starts, midway through the second
18 paragraph it says, "The clerk's office has also made it
19 clear it is their position that the removal of a
20 precinct delegate in questions related to such action
21 are matters of party governance, and at this time the
22 clerk's office strongly reaffirms that position." Do
23 you see that statement?

24 A I do.

25 Q Do you agree with that statement?

1 A I do.

2 Q And, again, delegates are party positions exclusively,
3 correct?

4 A Correct.

5 Q And county government simply facilitates delegate
6 elections for the parties, is that true?

7 A That is true. No different than the fact that the
8 presidential campaign is essentially a nominating
9 contest by which the states are facilitating some
10 method of selecting the ultimate folks who will go to
11 the national convention to nominate on both Republican
12 and Democratic side.

13 Q And even those delegates can be replaced, correct?

14 A Correct.

15 Q Or removed?

16 A Correct.

17 Q Now, if you look at Exhibit 2 again, the bylaws, at the
18 top Article II states the Purposes, and states, "The
19 purpose of this party is to promote the ideals and
20 policies of the Republican Party."

21 A Uh-huh.

22 Q Now, following up on what you just said regarding
23 national delegates, what if a delegate decided to not
24 vote for the endorsed candidate, or what if they
25 decided to support a third-party candidate? Has that

1 ever happened?

2 A Sure. There have been issues. I can tell you that
3 there are a number of states that have faithless
4 elector clauses and can recall those delegates. The
5 RNC takes very seriously at a national level whether
6 its membership, the actual members of the RNC, aren't
7 publicly supporting and endorsing the nominee for
8 president. In fact, here in Michigan we take it
9 seriously, too, and we have at the state bylaws level
10 that any officer who does not support the nominee for
11 president or governor can be removed. And, in fact,
12 that happened in 2016 when a vice chair of the
13 Republican Party publicly opposed the then nominee
14 Donald Trump. She was removed from her position.

15 Q Now, carrying that theory through to county politics in
16 the state of Michigan, what if we have delegates who
17 don't support the Republican nominees but instead
18 support third-party candidates. Would that be cause to
19 remove a delegate?

20 A Well, certainly each county party would have to make
21 its own decision, but I would argue absolutely it would
22 be so. In fact, at various times we have had rules
23 related to the selection of convention delegates that
24 preclude someone from participating at the county level
25 if they served as a nominee or publicly supported a

1 third party or non-Republican campaign. So, for
2 example, if you ran for office as a Libertarian, you
3 could not then immediately come over to a Republican
4 county convention and try to insert yourself into the
5 business of that convention.

6 Q Would that be true if you had people who run for
7 delegate spots who as early as last year were donating
8 to Democrats?

9 A I think each county has to determine what constitutes a
10 public endorsement, but in general I would look very
11 disfavorably on somebody who is donating money to
12 Democrats or in some way demonstrating their support
13 for members of a different or third party who then
14 wanted to achieve a leadership role and representation
15 within the Republican Party.

16 Q And what if you had delegates who state that their
17 primary goal is to primary Republicans who are already
18 in office, for instance, Bill Huizenga, and who state
19 that they'd rather see a Democrat in office than a
20 Republican? Would that be cause to remove a delegate?

21 A Well, again, each county will have to make its own
22 determination on that. We believe in active and robust
23 conversation, especially within a primary, but people
24 that would go outside of that and would actively be
25 supporting Democrats would in general not be fit to

1 serve, at least in that term, in Republican office in
2 my opinion at the local level.

3 Q And has that standard been in place for a long time?

4 A Yes, this has been a general principle for decades.

5 Q Do you recall the name Wendy Day?

6 A Yes. In fact, that's the matter I was referencing
7 earlier when I said in 2016 one of our vice chairs,
8 that was Ms. Day.

9 Q And what did Ms. Day do again?

10 A She went on television and publicly berated our nominee
11 and essentially in so many words said I can't support
12 him, and under that theory action was instituted at the
13 state committee level to remove her from her post.

14 Q To be clear, if the bylaws are silent on an issue, we
15 would refer to Robert's Rules, correct?

16 A Correct.

17 Q And Robert's Rules clearly delineates the committee's
18 ability to manage itself and qualify his own
19 membership, correct?

20 A Correct.

21 Q And when the bylaws are silent, does Robert's Rules
22 defer to past precedent within the party?

23 A Past precedent is a significant factor in Robert's. Or
24 I think as they refer to it, established precedence.
25 It is not by itself controlling in the sense that new

1 leadership may, you know, make a different decision and
2 amend its bylaws. But in general, past practice is
3 given significant weight if the matter is not
4 immediately addressed.

5 (At 10:54 a.m. Exhibit 4 marked.)

6 BY MR. DEPERNO:

7 Q I'm going to hand you what's marked as Exhibit 4. Have
8 you ever seen this letter dated February 20, 2023?

9 A I think I may have, but it's not immediately clear to
10 me.

11 Q Now, second paragraph down, the full paragraph, at the
12 end of that paragraph there it states, "The committee
13 can function on a 15-statutory and 18-delegate elected
14 committee, and we expect that this will remain until
15 the '24 election process." Do you -- it's my
16 understanding that you would disagree with that
17 statement, correct?

18 A Yes, I would disagree with that statement.

19 Q And, again, your position being that county parties
20 function more appropriately when they are at full
21 membership, correct?

22 A Correct. And, you know, had this vacancy occurred, for
23 example, in 2021 for a county-wide office, that would
24 seem to say we're indicating we're waiting for
25 three-plus years to fill a spot, and I find that to be,

1 again, up to the local county party to decide. But I
2 would lean towards filling those vacancies as much as
3 possible.

4 (At 10:57 a.m. Exhibit 5 marked.)

5 BY MR. DEPERNO:

6 Q Do you know a person named Joel Studebaker?

7 A I'm familiar with the name.

8 Q Have you ever met him?

9 A One time --

10 Q When was that?

11 A -- that I can recall. The February 2022 or 2023
12 convention. I may have met him in passing other times.
13 I'm not aware of any.

14 Q Now, this is a message that he has been promoting, and
15 you see at the top he says -- he refers to Thomas
16 Balch. Do you know Thomas Balch?

17 A I do.

18 Q Who is Thomas Balch?

19 A He is a good friend and one of the editors of Robert's
20 Rules of Order Newly Revised.

21 Q He states that, "Thomas teaches that bylaws trump MCL."
22 He then says, "I have to question his motive and legal
23 comprehension." And he then pushes the theory of the
24 hierarchy of law, which he says, the Constitution is
25 Number 1, statutes are Number 2, bylaws 3, case law 4,

1 and parliamentary procedure 5. Do you agree with
2 that?

3 A Do I agree with Mr. Studebaker's assessment?

4 Q Yes.

5 A I do not. And, in fact, one of the reasons, when I
6 look here at my copy of Robert's Rules of Order, Thomas
7 J. Balch is on the front as one of the editors, I
8 advised the state party to bring Mr. Balch in because I
9 felt there was a lot of misunderstanding and
10 misinformation with regard not so much to
11 Mr. Studebaker but just in general to the process and
12 what was superior in terms of how you run the
13 organization of the party, how you run a convention,
14 et cetera. So Mr. Balch was present for the February
15 convention as my parliamentarian when I chaired the
16 meeting.

17 Q On Page 2 then someone responds to him and says, "The
18 bylaws do trump MCL. Check out Heitmanis versus
19 Austin." Do you see that?

20 A I do.

21 Q And then Mr. Studebaker responds, "False. Heitmanis
22 from 1988 proves the opposite." Would it be your
23 opinion then that Mr. Studebaker is wrong?

24 A I disagree with his conclusion.

25 Q Now, in coming to your conclusions today, what specific

1 specialized knowledge have you relied on?

2 A Understanding -- an understanding of Robert's Rules of
3 Order, an understanding of our Michigan Republican
4 Party bylaws, an understanding of past precedence and
5 past history at the county levels across the state, and
6 my 29 years of involvement with the same.

7 Q Did your 29 years of involvement give you a specialized
8 knowledge in principles or methods that would be widely
9 used in your field as a parliamentarian?

10 A Correct.

11 Q Do you believe your testimony would be helpful in
12 assisting a judge or jury in understanding the issues
13 in this case?

14 A I believe it would.

15 MR. DEPERNO: Let's take a break.

16 (Brief recess.)

17 BY MR. DEPERNO:

18 Q What is the procedure that a county party could take if
19 a precinct delegate may allegedly sign a false
20 Affidavit stating they're Republicans when they're not?

21 A They would have whatever remedy would be necessary,
22 including removal.

23 (At 11:17 a.m. Exhibit 6 marked.)

24 BY MR. DEPERNO:

25 Q Hand you Exhibit 6. We talked about this a little

1 earlier. You see in the second bubble down there
2 someone named William Bennett is communicating with Kim
3 Harris. Kim Harris is the plaintiff in this case. And
4 William Bennett says, "No precinct delegate is beholden
5 to a county political organization. Pretty simple." I
6 think you said that you disagree with that?

7 A Yeah, I would disagree with that. I think the use of
8 the term "beholden" is a bit loaded. But clearly a
9 precinct delegate has obligations, and certainly the
10 administration of that is handled at the county level.

11 Q And if you turn to Page 2, here again William Bennett
12 states that the governor is the only person who may
13 call for a special election to fill statutory EC seats.
14 The governor doesn't have anything to do with filling
15 seats on a county Executive Committee, does it?

16 A I have no idea why the governor would have anything to
17 do with that with the exception of a special election
18 that resulted in a new nominee. But, again, that's --
19 they use the word "and" in the bylaws that contemplates
20 that potentiality.

21 Q At the bottom there, Joel Studebaker is criticizing
22 some of your February rulings, but we don't need to get
23 into that.

24 A That's all right. The body agreed with me and we'll
25 leave it at that.

1 Q Page 3, this is a conversation between Ken Byers, who
2 is currently the fourth district chair, and Sabrina
3 Pritchett-Evans who is a fourth district vice chair,
4 and she's also a plaintiff in this case. And at the
5 top in the blue bubble there Ms. Pritchett-Evans says,
6 "We can have policies and procedure which allow us to
7 pick chairs." And this -- in context, the discussion
8 is that the district chairs and vice chair would pick
9 the county chairs. Is there any procedure you can
10 think of that would allow a district or vice chair to
11 pick county chairs?

12 A The chair of the county Executive Committee is elected
13 by the Executive Committee. I can't think of a process
14 that -- where that would be conforming.

15 Q Certainly if they implemented such a procedure, that
16 would certainly disenfranchise delegates, wouldn't it?

17 A Yeah, it would.

18 Q And the next page is where Ken Byers, the fourth
19 district chair, states -- where he's talking about Bill
20 Huizenga, he says, "I will do everything in my power as
21 D4 chairman to make sure Bill loses - said that I would
22 be happier with a Democrat." Is this the type of
23 leadership we need at district -- in district
24 leadership?

25 A Well, I mean, I'm not a local activist here and I don't

1 like to get into those fights. I like to focus on the
2 rules. But I would certainly be very disappointed if
3 my district chairman said something like that.

4 MR. DEPERNO: I have no other questions for
5 this witness.

6 EXAMINATION

7 BY MR. THOMAS:

8 Q I'm Jimmy Thomas. I don't know if you knew what my
9 name was or not.

10 A Nice to meet you, Mr. Thomas.

11 Q So let me ask you to start with, have you ever been
12 deposed before? Have you ever done this before?

13 A Years ago in a slip-and-fall accident with an insurance
14 company.

15 Q Have you ever taken a deposition as a delegate or any
16 other reason as far as politics goes?

17 A No. Typically these things end up being resolved
18 locally.

19 Q Are you being paid to be here today?

20 A I am not.

21 Q Were you prepped by Mr. DePerno? Did he give you any
22 documents or talk to you on the phone and discuss with
23 you what your deposition was going to be about?

24 A He did call me to discuss my deposition and did send me
25 a copy of the Kalamazoo County bylaws.

1 Q Any other paperwork that he gave you?

2 A Not that I'm aware of, other than the Subpoena that I
3 received and signed.

4 Q So everything that you saw today was for the first time
5 you saw it?

6 A I believe so, yeah. I may have received the letter
7 that you wrote, but I cannot recall.

8 Q You mean you received it in an email?

9 A I may have. I don't recall.

10 Q So the what, six exhibits you got there?

11 A Yeah.

12 Q So let's start with your Subpoena, first of all. You
13 said you were served this?

14 A I was emailed it.

15 Q You were emailed it. You accepted service so you could
16 come and testify today, right?

17 A Yeah, no reason for somebody to have to come and chase
18 me down.

19 Q So you were being friendly to Mr. DePerno by saying,
20 yeah, I'll volunteer and I'll come down there and talk?

21 A Yeah, I figured I'd get dragged in one way or another.

22 Q And then you were also part of the February '18 as the
23 chair you said, you testified to, correct?

24 A February '18?

25 Q The state convention.

1 A I was the chairman of the state convention, yes.

2 Q What was your role in February '17? Were you -- were
3 you there?

4 A I was not there. I had at that point an eight-day-old
5 baby. And I had nothing to do with the district
6 offices directly.

7 Q Okay. But you said you've acted as district --

8 A I have served as a district chairman.

9 Q With Kent County? What district would that have been?

10 A Well, at the time it was the third congressional
11 district. It's now back to being the third. For a
12 while I lived in the second. I was the third district
13 chairman for four years.

14 Q And what years was that?

15 A That was 2003 to 2007.

16 Q 2003 to 2007. And at that time did you create rules or
17 amend rules as the chairperson?

18 A I was involved with the bylaws being rewritten at the
19 state level, and we certainly have our district bylaws
20 at that time.

21 Q Who did you work the -- who did you work those bylaws
22 with? Who was the attorney?

23 A The attorney?

24 Q Yeah.

25 A We had a work group that the chairwoman at the time,

1 Betsy DeVos, formed and included former state party
2 chairman David Doyle, myself, and a number of other
3 grassroots leaders.

4 Q Now, you've also said that you were the Kent County
5 chairperson?

6 A I was, yes.

7 Q What years were you the county chair?

8 A 2007 to 2008.

9 Q Any other times?

10 A That's the only time I've served as the chairman.

11 Q Were you part of the EC all those years as well?

12 A I have been part of the EC on and off for the last 28
13 years.

14 Q When was the last time you were part of the Kent County
15 Executive Committee?

16 A I would say probably 2012 maybe. I'd have to go back.
17 Probably about 10 years ago.

18 Q Okay. So the last time you actually chaired either a
19 district or a county has been at least 15, 16 years
20 ago?

21 A I have also chaired county conventions on behalf of
22 others.

23 Q No, I meant district or like a county chair.

24 A A district convention?

25 Q The last time you have been a chair you said was 2007

1 and 2008 for county chair of Kent and in district --
2 Congressional District 3, correct? Those are the last
3 times?

4 A Correct.

5 Q But you chaired as a temp chair at the state level,
6 right?

7 A And also at the county level.

8 Q Right. I'm saying permanent, being the permanent
9 chair. Otherwise --

10 A When you're elected at a county convention, you're
11 elected as the permanent chair of that convention, so I
12 served at that capacity.

13 Q Right.

14 A Both times.

15 Q But it's usually just the one day, right?

16 A Typically, yeah.

17 Q Let me get into the bylaws with you here.

18 A Sure.

19 Q So you previously just testified, first thing that --
20 one thing that you talked about was establishment under
21 Section 3.1. And you said that that was what? Read
22 it.

23 A "This committee is established by law and state party
24 rules."

25 Q So would you agree that Kalamazoo County Republican

1 Committee has opted into abide by Michigan law,
2 Michigan election laws and the state party bylaws based
3 on their bylaws?

4 A I believe that's simply saying they're established by
5 law. I don't know that they then go on to create their
6 own bylaws.

7 Q They go on to create their own bylaws, but it means
8 that they're going to follow state law or state party
9 rules?

10 A I think that's a very broad and overly general
11 statement.

12 Q What about -- let's look at Section 2. "Perform all
13 duties required of the party, its committee, its
14 Executive Committee and officers by law, Michigan
15 Election Law 1954 Act 116, effective June 1, 1955,
16 as amended." Would that be invoking or ratifying that
17 they would follow Michigan Election Law?

18 A I believe where applicable, yeah.

19 Q So in other words, when we're talking about Heitmanis,
20 and we know Heitmanis was ruled unconstitutional
21 because of the First Amendment, constitutional right to
22 assembly?

23 MR. DEPERNO: Objection. Heitmanis was not
24 ruled unconstitutional. Object to the form of the
25 question.

1 MR. THOMAS: You said it several times, Matt,
2 in court. How many times have you said Heitmanis is
3 unconstitutional?

4 MR. DEPERNO: Heitmanis ruled that
5 MCL 168.599 is unconstitutional, but Heitmanis is not
6 unconstitutional. So I object to the form of the
7 question.

8 MR. THOMAS: I'll reword the question.

9 BY MR. THOMAS:

10 Q If you look at 168.599 as the statute that regulates,
11 and I have a copy of it for you to look at. You said
12 that you have read this before and you understand it
13 and you're familiar with it, correct?

14 A Uh-huh.

15 Q So if you have bylaws that are -- that follow state
16 party guidelines, bylaws, and in essence follow the
17 state statute which is 168.599, especially talking
18 about the position of putting delegates into statutory
19 positions or how they're -- how they're separated,
20 would you agree that there's language in the statute
21 that talks about that?

22 MR. DEPERNO: Objection to the form of the
23 question. It mischaracterizes the witness's testimony.

24 BY MR. THOMAS:

25 Q Would you agree?

1 MR. DEPERNO: Object to the form of the
2 question.

3 THE WITNESS: I don't believe that Section
4 168.599 applies where the county has adopted bylaws or
5 where the state party bylaws are in effect with the
6 exception of the actual process of the public election
7 in the first place.

8 BY MR. THOMAS:

9 Q So your testimony is is that there's bylaws that are in
10 effect, and they ratify state party rules, and they
11 also ratify Michigan Election Law, that the bylaws are
12 not -- are -- still override the statute and the state
13 party rules?

14 A You use the term "ratify" --

15 MR. DEPERNO: Objection -- hold on.
16 Objection to the form of the question.
17 Mischaracterizes the witness's testimony.

18 BY MR. THOMAS:

19 Q Are you saying because the bylaws exist at the county
20 level that state party statutes and state party bylaws
21 are inapplicable?

22 A No. No, I'm not saying that. I'm saying that the
23 county party bylaws and the state party bylaws
24 supersede Michigan Election Law.

25 Q Again, I'm going to ask, if you ratify them in the

1 Kalamazoo County bylaws.

2 MR. DEPERNO: Objection, asked and answered.

3 MR. THOMAS: It's not asked and answered.

4 MR. DEPERNO: You asked him the same
5 question. He's given you the same answer. Let's move
6 on.

7 MR. THOMAS: No, I'm not moving on because he
8 didn't answer the question yet.

9 MR. DEPERNO: You asked him twice. He's
10 given you the answer.

11 MR. THOMAS: He hasn't answered the question.

12 BY MR. THOMAS:

13 Q The bylaws are in place, and they ratified the statute,
14 168.599, or all Michigan Election Law, is it applicable
15 to --

16 A You have to define the term ratification for me. Would
17 you define ratification?

18 MR. DEPERNO: Objection to the form of the
19 question. The witness did not testify that the bylaws
20 were ratified. You're mischaracterizing his testimony,
21 so I object to the form. Would you please restate the
22 question?

23 BY MR. THOMAS:

24 Q If the bylaws say the purpose of this party shall be to
25 perform all duties, would we agree on that testimony --

1 would we agree on those words?

2 A Yeah.

3 Q Would we agree that Michigan Election Law is part of
4 those duties?

5 MR. DEPERNO: Objection, you've already asked
6 him that question. He's given you an answer to it.

7 BY MR. THOMAS:

8 Q Could you please answer the question?

9 MR. DEPERNO: You can answer to the extent
10 you can. You have answered it, so be careful in terms
11 of --

12 MR. THOMAS: Don't testify for him, Matt.

13 MR. DEPERNO: Clearly you're trying to get
14 him to say two different things.

15 MR. THOMAS: I'm not trying to get him to say
16 anything. He's supposed to be the parliamentarian and
17 guy that knows these things, so I'm asking a very
18 simple question.

19 THE WITNESS: Michigan Election Law is
20 referenced in that document, yes.

21 BY MR. THOMAS:

22 Q So the bylaws accept Michigan Election Law?

23 A The bylaws reference Michigan Election Law.

24 Q When you previously testified in regard to Section 13
25 of the state party bylaws, you went to Section F.

1 A Uh-huh.

2 Q You went to Section F of the state party bylaws. Let
3 me just get to it. You were asked about filling
4 vacancies. Now, is that particular language in the
5 Kalamazoo County bylaws?

6 A Not to my knowledge.

7 Q Let's go back to Vacancies. Actually it's under 3,
8 Section 6 on Page 2 of 9. So you were asked about that
9 particular Subsection A under Vacancies. "If a vacancy
10 occurs in the position of a statutory member of the
11 Executive Committee and there is a special election
12 held to fill the office, the vacancy may only be filled
13 by the person who is the new Republican nominee for the
14 office in question." My question to that is there are
15 apparently 18 statutory seats in Kalamazoo. Would you
16 agree with that?

17 A That's my understanding.

18 Q Are you aware of that? Now, out of all those 18
19 positions that are county statutory positions or
20 legislative, whatever they are, do they have an
21 automatic seat at the Executive Committee when they win
22 their primary?

23 A Yes.

24 Q So no matter what happens, if you run for surveyor and
25 you win your primary as a Republican, you automatically

1 get a seat at the Executive Committee as --

2 A Whatever the offices are that are included in each
3 county, yeah. Some counties are different. Some have
4 register of deeds. Some have a clerk. It just
5 depends.

6 Q Right. So if you are voted into that position and you
7 decide that you're going to vacate for whatever reason,
8 you move out of the county or you just don't want to
9 fill -- you don't want the spot, your testimony is is
10 that the Executive Committee can then fill that
11 position through a process of a delegate?

12 A My testimony is that it's the nomination that is
13 indicative of whether you serve on the Executive
14 Committee, not whether you win the office or not. And
15 that in a county Executive Committee -- we defer to
16 county Executive Committees to determine how they're
17 best going to fill those spots.

18 Q And you would agree that the bylaws would tell you
19 whether you can do that or not?

20 A Well, sometimes the bylaws are silent on topics. No,
21 the bylaws are not comprehensive of what you could
22 possibly run into in any organization. It's
23 contemplated in Robert's that that's not going to be
24 the case, which is why the body in Chapter 56 of
25 Robert's is allowed to define its own interpretation of

1 its bylaws.

2 Q Unless there's a conflict. If there is a conflict,
3 there's --

4 A That's what they would need to define is when there's a
5 conflict or ambiguity, what does it mean, the body's
6 empowered under Robert's to determine.

7 Q Okay. So if there's an ambiguity, then you can go back
8 to Robert's Rules and you can create whatever that rule
9 would be by that ambiguity, correct?

10 A You can resolve that ambiguity as a body.

11 Q But if it's not silent, if there is a bylaw that exists
12 and that talks about these things, then you have to
13 follow the bylaw; would you agree with that?

14 A You have to follow the bylaw if it's applicable, of
15 course.

16 Q Okay. So in the situation where it's not silent and it
17 talks about the nominations in the bylaws for KGOP, are
18 you seeing ambiguity in 6A?

19 A I am because -- I am because it -- as I already
20 testified, it clearly references what is happening in
21 the event that there is a special election. It is
22 simply denoted that if there is a special election that
23 person fills it, so ergo if there is a vacancy, the
24 committee can fill it. But if there's a special
25 election called then that new nominee replaces,

1 otherwise why would there need to be clarity that the
2 new nominee replaces if you couldn't replace? That
3 makes no sense.

4 Q Okay. So if you're telling me that it can be filled,
5 the vacancy can be filled, what authority in these
6 bylaws is telling you that you can do that? Where are
7 you getting the authority to do that?

8 A The state party bylaws indicate that the county
9 Executive Committee has power --

10 Q Sir, I asked --

11 MR. DEPERNO: Objection, you're arguing with
12 the witness. I would request, Mr. Thomas, you ask your
13 question. Mr. Dishaw, wait until he's done asking his
14 question before you answer so you don't talk over each
15 other.

16 THE WITNESS: Very good.

17 BY MR. THOMAS:

18 Q I'm asking in the KGOP bylaws, where's the ambiguity to
19 filling the vacancy? Where is the authority that --

20 A This specifically references in the event there's a
21 special election how will it be handled. It doesn't
22 reference when there's a general vacancy without a
23 special election.

24 Q Right. So, again, what is the authority where you can
25 seat a delegate into a statutory position?

1 A The body is empowered to resolve its own ambiguities,
2 and the body's empowered to fill its own membership.

3 Q So you're telling me that the way you're reading this
4 is that it is ambiguous because it's telling you the
5 way that you have to -- have to put statutory members
6 in office, in the KGOP, you're saying it's ambiguous to
7 that?

8 A That specifically references the replacement nominee
9 when there's a special election. It does not talk
10 about filling the vacancy otherwise.

11 Q Does the language "The vacancy may only be filled by
12 the person who is the new Republican for this office in
13 question" mean anything to you?

14 A Yeah, when there's a special election that new nominee
15 is automatically by right a member of that Executive
16 Committee.

17 Q Okay. So you would agree that if there is a new
18 election in 2024 and somebody runs for surveyor, the
19 empty seat or whatever it is, that they would be the
20 new -- if they won their primary, they would be the new
21 person who gets to sit in that seat?

22 A Correct. I would agree if there was a special election
23 in 2023 and they won and were the nominee. They don't
24 even have to win the office. They really have to be
25 the nominee.

1 Q Right. But somebody, like let's say Matt DePerno who
2 just comes in from the street and the Executive
3 Committee puts him up for that surveyor seat that he
4 didn't run for, you're saying that the Executive
5 Committee can vote for Matt DePerno and put him in that
6 statutory seat?

7 A Unless a special election has been called.

8 Q Okay. And who calls the special election?

9 A Depends on the office.

10 Q Who? Surveyor?

11 A I don't know who calls a special election for surveyor.
12 I have no idea.

13 Q Okay. Does the governor appoint that?

14 A Does the governor appoint a surveyor? No. Typically I
15 believe county offices are appointed by the county
16 board of commissioners, but I'm not sure who would
17 schedule a special election for that.

18 Q If there was a Republican governor right now, would the
19 Republican governor step in and appoint somebody or do
20 a special election?

21 MR. DEPERNO: Objection to the form of the
22 question. There is no Republican governor right now.

23 MR. THOMAS: I'm allowed to ask him
24 speculative questions. It's relevant.

25 THE WITNESS: I am not sure I understand the

1 purpose of the question.

2 BY MR. THOMAS:

3 Q If we had a Republican governor right now and we had
4 empty statutory seats, would the governor be able to
5 call for a special election in Kalamazoo County?

6 A Well, the governor would certainly be empowered to call
7 a special election for a state representative or state
8 senate seat. I'm not sure at the county level how that
9 would be handled with a Republican governor.

10 Q Let's talk a little bit about what you said. You said
11 before that there was two seats that you were aware of
12 where people ran for lieutenant governor or whatever,
13 that they vacated their seats and they were replaced?

14 A Correct.

15 Q Right. What about in other counties? In Kent County
16 or other counties, there's 83 counties in the state,
17 how many people have been put from delegate into
18 statutory seats that you're aware of?

19 A I don't track it, so I couldn't answer that question.

20 Q So are you aware of any on the top of your head, any
21 county?

22 A Well, I gave you an example in 1998 and 2010 where that
23 occurred.

24 Q You did, but that's -- that was at a way higher level.
25 Those were state seats and you're talking --

1 A But those were statutory members of their executive
2 committee.

3 Q Well, the rules could have been different for, you
4 know, their bylaws at the state committee level. I'm
5 talking about a county-level situation.

6 A No, I'm saying in Kent County in 1998, we replaced Dick
7 Posthumus with Ken Sikkema at the county level. It was
8 wholly contained within one county. In the case of
9 Brian Calley, it was four counties that were involved,
10 and they all met and selected a nominee. So I'm just
11 -- I'm explaining statutory members have in the
12 intervening period been replaced. But how many have
13 and how many delegates have been? I couldn't answer
14 that question because I don't track it.

15 Q And I understand your answer. That's why I asked
16 specifically as to county, because you said you know
17 the history of these counties. So you have got Kent
18 County. You have also been the chairperson of Kent
19 County, correct?

20 A Correct.

21 Q And Kent County doesn't even have bylaws for their
22 Executive Committee, do they?

23 A Correct.

24 Q So if there's no bylaws for the Kent County Executive
25 Committee, what rule of law do you have to follow?

1 What do you follow there?

2 A You follow parliamentary procedure and state party
3 bylaws. But this occurred in Ionia and Montcalm
4 Counties as well. When Brian Calley -- this happened
5 to Brian Calley in 2010. There were four counties
6 involved in that.

7 Q I understand, but I'm talking about the relevance of
8 the county. So you're talking about, you know, a
9 higher -- higher seat or a higher position. I'm
10 talking about county delegates.

11 A No, sir. I'm talking about a statutory member being
12 replaced in multiple counties in multiple examples I
13 gave you.

14 MR. DEPERNO: I'm going to object. You asked
15 the question five, six times. You're just arguing with
16 the witness. He's given you an answer five or six
17 times. I'd request you to move on.

18 MS. SACKETT: Jimmy, you're not understanding
19 those people sit on a statutory membership.

20 BY MR. THOMAS:

21 Q I'm going to ask, at the level of Kent County where
22 they have no bylaws, is there any authority -- I know
23 you said parliamentary, but is there any other
24 authority that you have follow those rules if you don't
25 have bylaws?

1 MR. DEPERNO: Objection, he's answered that
2 question already. You've now asked him now three
3 times. You're arguing with the witness.

4 MR. THOMAS: I'm not arguing with him.
5 That's a specific question, Matt.

6 MR. DEPERNO: And he said parliamentary
7 procedure. He gave you an answer, and now you're
8 asking the question again. You're just trying to
9 create a record that's confusing. You have asked the
10 question repeatedly. He's given you an answer. Now
11 you're just arguing with the witness.

12 MR. THOMAS: I'm not trying to cause
13 confusion. I'm trying to get an answer --

14 MR. DEPERNO: He's given you an answer.

15 MR. THOMAS: -- that's relevant.

16 BY MR. THOMAS:

17 Q Is there any other authority other than parliamentary
18 or state bylaws that you would follow if you have no
19 bylaws at the county level?

20 A Sure, past precedence which is incorporated through
21 parliamentary procedures.

22 Q Okay. And so if somebody has an issue at the Kent --
23 at the Kent County level for something that you have
24 done as the chairperson, what basis do they have to
25 counter what you have done if they feel like they have

1 been -- their rights have been violated let's say?

2 A They bring it to the body, and the body addresses it.
3 And if they feel they need to appeal it to the state
4 party, they certainly can do that. The state party can
5 choose to involve themselves or not.

6 Q Okay. Let's say there's bylaws that exist in Kent
7 County and you're the chairperson and there was
8 something violated that rose to the level of somebody
9 being disenfranchised or their due process rights have
10 been violated. What access should they have to record
11 or other institution to combat that?

12 A I believe it's the same process. They bring it to the
13 body. If they don't like the resolution within the
14 body, they can bring it to the state party. State
15 party can choose to engage or not in it.

16 Q Is there any time you believe that a delegate or other
17 person would have a right to go after the party for
18 violating bylaws?

19 A For violating bylaws? A party should police itself no
20 different than any other private organization.

21 Q Is that your opinion that they should do that, or are
22 you saying that --

23 A Sure. I mean, that's a very speculative question, and
24 there is a whole host of things that could occur. If
25 somebody brandishes a gun and threatens somebody, well,

1 now a criminal act has occurred in a meeting, and
2 that's totally different, right? But if you're talking
3 about parliamentary procedure and you don't like the
4 political outcome, your process is to appeal to the --
5 through the political process.

6 Q Are you familiar with part of the process that occurred
7 here with Ms. Sackett, that she wrote a letter -- let's
8 see if I can find it real quick.

9 Have you seen this letter before?

10 A I don't believe I have.

11 Q Take a look. Give you a minute to take a look.

12 (Witness reviews document.)

13 THE WITNESS: Okay.

14 BY MR. THOMAS?

15 Q As a chairperson talking about disenfranchising and not
16 policing your own, do you see any lawful -- any lawful
17 rule that would allow a chairperson of a party to write
18 a letter to disenfranchise and remove delegates?

19 MR. DEPERNO: Objection to the form of the
20 question, term "disenfranchise."

21 THE WITNESS: I would say the short answer is
22 there would be obviously other documentation or
23 processes that would have led to this. I have no idea
24 what incident -- I can't comment on merely this letter.

25 BY MR. THOMAS:

1 Q Okay. So let's say there's no process. You're
2 supposed to be an expert in these areas. I'm sure
3 Mr. DePerno is going to try to make you an expert in
4 front of the court in this area, so your opinion is
5 going to matter. If there is no other process, if
6 there is no other paperwork and it's because somebody
7 believed their opinion was different than theirs and
8 they wrote this letter because their opinion was
9 different, would that be enough to write a letter to
10 the clerk to have them removed?

11 MR. DEPERNO: Objection to the form of the
12 question. Speculation, facts not in evidence.

13 THE WITNESS: I would need the underlying
14 information. I have no idea.

15 BY MR. THOMAS:

16 Q So you're refusing to answer the question?

17 A Well, you hand me a letter, and I don't know what led
18 up to this. Were there meetings? Were these people
19 making public comments? Were they not attending
20 meetings? Clearly there's the ability to remove people
21 for not attending meetings. I have no idea.

22 Q Let's say that they attended all meetings. Let's take
23 that out. Let's say that there's nothing -- there's
24 nothing as far as missing meetings or anything like
25 that. Just not following Republican -- they would say

1 not following Republican rules. Would you have a right
2 without a vote of your Executive Committee to remove
3 people?

4 MR. DEPERNO: Objection to the form.
5 Asked and answered. He said already he needs more
6 information.

7 MR. THOMAS: I asked about a vote from your
8 Executive Committee. That's a different question,
9 Matt.

10 THE WITNESS: I don't want to get into
11 speculation because this is simply not enough
12 information for me to tell you anything.

13 MR. THOMAS: I'm going to mark this. I'm
14 going to put A. I'll use letters.

15 (At 11:48 a.m. Exhibit A marked.)

16 BY MR. THOMAS:

17 Q Are you familiar with Michigan Statute 168.209, filling
18 an office for vacancy for a county position?

19 A I mean, not off the top of my head. I'm familiar that
20 there is such a statute, but as to what it says to form
21 and function you'll have to --

22 Q Okay. Well, I'm just asking if you're familiar with it
23 or not.

24 A I'm familiar that there is such statute.

25 Q So there's a statute on filling a county position,

1 which would be a surveyor or some of these other
2 positions. Would the statute be binding over a rule in
3 the bylaws?

4 MR. DEPERNO: Objection, asked and answered.
5 The witness has answered that question multiple times.

6 MR. THOMAS: First time I've asked.

7 THE WITNESS: I'm not interested -- I'm not
8 as concerned -- I should say it this way. I'm not as
9 concerned about who holds the office in this process
10 but as who the nominee is and whether there's a process
11 to determine the new nominee. Because that's when the
12 bylaws kick in is when there is a process to determine
13 a new nominee and a special election has been called.

14 BY MR. THOMAS:

15 Q I'm going to give you opportunity to read 168.209 on my
16 phone there.

17 (Pause in the proceedings.)

18 THE WITNESS: Uh-huh. So the judges are
19 involved. Okay. Okay.

20 BY MR. THOMAS:

21 Q So there's a county position that falls in that
22 particular -- under that statute. Would you agree that
23 that's the way that you would fill the vacancy?

24 MR. DEPERNO: Objection, asked and answered
25 many times.

1 THE WITNESS: That's what MCL says in terms
2 of filling the vacancy for the actual office, yes.

3 BY MR. THOMAS:

4 Q Okay. So if you're going to fill that versus the
5 Executive Committee filling a statutory position, would
6 you say that this trumps the Executive Committee
7 putting people into the spots?

8 A No, because again it's about the Executive Committee
9 filling its own vacancies. It's not about who holds
10 the office.

11 Q I would ask the same question about the legislative
12 seats. Are you familiar with how the legislative seats
13 are filled if there is a vacancy?

14 A Via the governor calling a special election, yes.

15 Q Let's talk a little bit about the February 17 and the
16 Rule 9. Are you familiar what happened with the Rule 9
17 situation there?

18 A February 17?

19 Q Yes.

20 A No, I wasn't in attendance.

21 Q Are you familiar with what happened with the setting
22 aside of Rule 9?

23 A I am not.

24 Q So nobody's ever talked to you in regard to that?

25 A Setting aside Rule 9 February 17, no, I'm not sure what

1 you're talking about.

2 Q So your only -- the only time that you were actually
3 chair, like you said, was on the 18th, the following
4 day, which took care of the voting for the chairperson
5 of the MIGOP?

6 A And all the other offices and ratified the vice chair
7 positions, et cetera, et cetera.

8 Q Okay.

9 A It was the general session on the 18th. District
10 caucuses on the 17th were handled by each of the
11 respective district caucuses.

12 Q Right. So when you have a situation where the
13 parliamentarian would tell you that part of a rule
14 needs to be stricken, have you ever been in that
15 position before where you had to tell somebody that a
16 certain rule would have to be struck?

17 A That a rule would have to be struck?

18 Q Yeah, or a part of a rule.

19 A Well, you adopted rules, and in adopting rules you
20 amend, you strike, you strike and replace. There's a
21 process for adopting rules for any organized body to
22 conduct business.

23 Q Would that have to be voted on by the body before you
24 could do such a thing?

25 A It depends on what the bylaws indicate. Sometimes you

1 merely have to vote in the affirmative at a higher
2 level, a higher threshold, because the governing
3 committee has already passed a temporary set of rules
4 which are now going to be adopted by the body as a
5 whole. But in order to amend them or strike or strike
6 and replace you need a superior vote, i.e., two-thirds
7 or greater. So it depends on what you're referencing.

8 Q So if we go to February 18, you were the chairperson
9 and you had previously adopted some rules for that
10 particular --

11 A The state committee, which is the governing body of the
12 state party, had passed a set of rules. Those rules
13 were then properly on the floor and were adjudicated
14 over the course of three and a half, four hours. And
15 at that point they can be amended by a two-thirds vote,
16 with the exception of four rules which cannot be
17 amended or replaced at all.

18 Q Which rules are those?

19 A I believe it's Rule 2, Rule 19, Rule 27 and 28, but I'd
20 have to look at my most recent set of rules to confirm
21 that.

22 Q The night you were chair and you brought to the floor
23 the credentials, the agenda and all that, what was the
24 other thing? And the rules. That was already
25 previously done at state committee?

1 A Yes. So the state committee adopted a set of rules,
2 published them, and that was a vote by the committee of
3 the whole back in I believe December, at their December
4 meeting, December of 2022, which then served as the
5 governing documents to organize the convention. Now,
6 the body as a whole can make amendments to those rules
7 with the exception of those four I previously
8 mentioned. Might be Rule 8, not Rule 17. But, anyway,
9 because it has to do with the county conventions which
10 have already occurred at that point. Then the body as
11 a whole can make amendments to those rules, but they
12 have to achieve two-thirds in order to make those
13 adjustments.

14 Q And was that brought to the floor?

15 A Oh, yeah. Yes, we had robust debate, multiple motions.

16 Q Had you met Mr. DePerno prior to that?

17 A Yeah, I met Matt before.

18 Q How long have you known him?

19 A Year and a half, two years maybe.

20 Q Was it basically because he was running for attorney
21 general that you knew him?

22 A Yeah, that's how I came across Mr. DePerno was in that
23 context.

24 Q Do you know Ms. Sackett?

25 A I do.

1 Q How do you know her?

2 A I know her because she's an activist locally, and I
3 make it a habit to generally try to meet as many local
4 activists and leaders as I can.

5 Q How long have you known her?

6 A Couple years.

7 Q So just since the previous election then?

8 A I don't remember exactly. I'm sorry. I know hundreds
9 and hundreds of people.

10 MR. THOMAS: Just give me a second here.

11 (Pause in the proceedings.)

12 BY MR. THOMAS:

13 Q When you have a statutory member that is part of an EC
14 who regularly doesn't appear for meetings, are they
15 required to attend every meeting?

16 A Are they required to attend every meeting? No one is
17 required to attend every meeting.

18 Q What if your bylaws say that you have an unexcused
19 absence issue.

20 A Uh-huh.

21 Q You can be removed for that?

22 A Can you remove a statutory member for not
23 participating?

24 Q Correct.

25 A That's a question the body would have to resolve. I

1 would probably lean towards no in that case because
2 they're there by virtue of their nomination. But if
3 they voluntarily resign, move, die, whatever, and a
4 vacancy occurs, then you would fill it.

5 Q For example, Ms. Sackett is a statutory member and she
6 decides that she's not going to show up for three
7 months. Could the body put her up for --

8 MR. DEPERNO: Objection, asked and answered.

9 THE WITNESS: I believe I answered that.

10 BY MR. THOMAS:

11 Q Okay. So in the same situation where you have a
12 precinct delegate who's now sitting in a statutory
13 seat, how would that work?

14 MR. DEPERNO: Objection, asked and answered.

15 MR. THOMAS: That's not asked and answered.

16 BY MR. THOMAS:

17 Q You have an elected precinct delegate who is not a
18 statutory member who's sitting in a statutory seat
19 who's not showing up. Then what?

20 A Will they fill the statutory post? Yes, under your
21 supposition.

22 Q I'm just asking how that would work.

23 A Well, you said they weren't a statutory member but they
24 filled a statutory post, yes or no?

25 Q Yes.

1 A Okay. Well, then I would interpret it the same way.

2 Q So they take the responsibility of the statutory
3 member?

4 A Correct.

5 Q Even though they weren't nominated?

6 A But, again, they were replaced as nominee by the
7 Executive Committee. Executive Committee's in power to
8 fill its own vacancies and run itself.

9 Q If the Executive Committee decides that they're going
10 to remove a delegate, do the statutory members get to
11 make a motion to bring that person up for the chopping
12 block?

13 A Do the statutory -- if they're a voting member of the
14 Executive Committee, yes.

15 Q Can a statutory member, if they have an issue with a
16 delegate and they're a statutory member, can they say,
17 I want to put somebody up to be taken out or removed?

18 MR. DEPERNO: Objection to the form of the
19 question.

20 THE WITNESS: This is a very interesting
21 hypothetical but the facts of the case would dictate
22 the outcome.

23 BY MR. THOMAS:

24 Q Well, in this situation where you have delegates that
25 are removed from the Executive Committee that are just

1 regular precinct delegates, not statutory members, can
2 a statutory member say, we're going to put you up
3 for -- to be removed?

4 A Can I back up, because I'm trying to understand your
5 question. You keep using the term precinct delegate
6 and Executive Committee, but they're not necessarily
7 the same thing.

8 Q I know they're not.

9 A Okay. So I'm trying understand your question.

10 Q Statutory member versus precinct delegate.

11 A Again, a precinct delegate, there's nothing directly to
12 do except the election of public members and statutory
13 members.

14 Q The public member -- I know what you're saying, so the
15 public member who's a precinct delegate versus a
16 statutory --

17 A A public may not be a precinct -- they don't have to be
18 a precinct to serve.

19 Q They don't have to be. I'm not trying -- I'm just
20 saying -- let's say they're already sat, as one of the
21 18 precinct delegates that are not statutory members?

22 A So one of the 18 elected?

23 Q Right. One of the 18 elected that are going to be
24 voted out, can a statutory member bring them up for
25 removal?

1 A Well, any member on the committee can make any motion
2 that is germane, and the body then determines for
3 itself whether that motion is germane and whether or
4 not they're going to take whatever action is being
5 proposed.

6 Q Do they participate in a vote for the removal of that
7 person as well, statutory members?

8 A They would participate in any action properly before
9 the Executive Committee.

10 Q Unless the bylaws say different?

11 A Unless -- I'm not aware of any bylaws that preclude
12 somebody from participating or voting on a matter in
13 front of the committee when -- because they're
14 statutory versus an elected member.

15 Q Well, I'm talking about -- there's different types of
16 votes, but I'm talking about in the situation where you
17 have a person who's not a statutory member and they're
18 going to be removed, be brought up for removal?

19 A Sure, from the Executive Committee.

20 Q Yes. So I'm asking if the statutory members would
21 participate in that vote or wait until the vote is
22 brought to the floor by the entire Executive Committee
23 for removal?

24 MR. DEPERNO: Objection to the form of the
25 question.

1 THE WITNESS: I'm sorry, I'm getting a little
2 lost in your description because any action properly in
3 front of the body is in front of the entire body. It's
4 not in front of only the elected members or only the
5 statutory members. It's a body. It's the Executive
6 Committee. It's in front of that group.

7 BY MR. THOMAS:

8 Q Is the Executive Committee allowed to appoint or vote
9 or put other county members back into place as far as
10 not being members of the EC? The head of the
11 Republican Party, can they vote to, let's say, put a
12 sheriff into position?

13 MR. DEPERNO: Objection to the hypothetical
14 form of the question again. I think the witness has
15 answered these questions over and over again.

16 MR. THOMAS: It's a different question.

17 MR. DEPERNO: You're just repeating different
18 hypotheticals on the exact same issue.

19 BY MR. THOMAS:

20 Q Can the EC vote to put a sheriff into place?

21 A You read MCL that says if a sheriff holds office, that
22 is handled for the actual office. I'm not concerned so
23 much with the office as I am the representation on the
24 Executive Committee which is not directly tied to who
25 holds office. It's tied to who the nominee is.

1 Q Okay. So are you saying that they could do that if
2 there was a nominee to be sheriff?

3 A If there was a nominee to be sheriff. They can replace
4 anyone they want to replace in the absence of, as the
5 bylaws stipulate, the presence of a special election or
6 somebody else filling that seat. Somebody else fills
7 that seat and they're a Republican, but under MCL
8 there's no -- it doesn't distinguish between Republican
9 or Democrat. So it could be a Democrat sheriff, in
10 which case it wouldn't even be germane to the
11 discussion of membership of the Executive Committee.
12 So MCL doesn't always apply. In fact, it often doesn't
13 apply around the state.

14 Q I understand. That was part of the thing that
15 Mr. DePerno went into with you about the Democratic
16 bylaws and stuff that they don't follow, they have
17 two-thirds regular delegates and one-third statutory
18 delegates.

19 A Sure. Uh-huh.

20 Q And if the bylaws say you could do that, you can do
21 that, but you're not following state law.

22 A Sure.

23 Q But what if you are following state law? Then what?
24 Can you do it?

25 MR. DEPERNO: Objection to the form of the

1 question.

2 THE WITNESS: Can you do what? I'm sorry.

3 BY MR. THOMAS:

4 Q Do two-thirds regular delegates and two-third statutory
5 members?

6 A You would need to update your bylaws.

7 Q Right. So you'd have to go back to the bylaws and do
8 that, correct?

9 A Bylaws, Robert's, past precedence. Depends on the
10 question.

11 Q So if you wanted 36 members to be regular delegates
12 with your 18 statutory members, you could do that if
13 the bylaws said you could do that?

14 A I'm sorry, I'm a little lost by that question. It's
15 clearly defined 18 and 18. I don't understand the
16 question.

17 Q But if you wanted 36 and you wanted to change the
18 bylaws to have 36 and 18, you could do that, correct?

19 A Yeah. You'd have to update your bylaws, sure.

20 Q Okay. But if you don't update your bylaws, you have to
21 go by what is said in the bylaws, which would be an
22 even number?

23 A If the bylaws comment on it, and in this case they do,
24 sure.

25 Q Now, the last thing I'm going to ask you is if you have

1 18 statutory positions, and if you read the language
2 here, you have 18 and you have 15 delegates on the
3 other side, 18 statutory and 15, you can fill three
4 more delegates to match the 18 in this situation,
5 correct?

6 A Yes. Again, though, you keep saying delegates, and
7 it's elected members. You don't have to be a precinct
8 delegate to be a member of the Executive Committee.

9 Q I understand. I'm just used to saying delegates. So
10 elected members, for your liking, if you have 15
11 elected members and 18 statutory members?

12 A Uh-huh.

13 Q You can vote in three more --

14 A Correct.

15 Q -- elected members, correct?

16 A Correct.

17 Q But you can't vote in six more elected members because
18 of the rules that exist, correct?

19 A Whatever your allocation is is what it is.

20 Q I just wanted to touch one more thing on this. Let's
21 go off the record.

22 (Brief recess.)

23 BY MR. THOMAS:

24 Q Do you still have the bylaws in front of you?

25 A I don't believe I do, no.

1 Q Okay. Have you look at 3B real quick.

2 A Okay.

3 Q Under Section 3, Membership, B.

4 A Uh-huh.

5 Q Would you just read that real quick and let me know
6 when you're done?

7 A I've read it.

8 Q So what I was talking about with the delegates, if
9 there was 15 versus -- elected members versus 18
10 statutory members, if you look at B, a number of
11 persons equal to the number of candidates of the party
12 for election to county and state legislative offices in
13 Kalamazoo County.

14 A Uh-huh.

15 Q The number of persons that we're talking about there,
16 is that the elected members?

17 A Number of persons, it's both. It's equal to the number
18 of candidates. Yeah, so the number of persons applies
19 to the elected matching the statutory, which as you
20 mentioned earlier, as was discussed earlier, it could
21 be different, but that's how the bylaws read.

22 Q Right, but that's not saying a number of persons
23 statutorily equal to the number of elected members?

24 A It's saying --

25 MR. DEPERNO: Objection to the form of the

1 question.

2 THE WITNESS: It's saying the number of
3 electeds will match the number of statutory.

4 BY MR. THOMAS:

5 Q Right. Not the other way around?

6 A Correct.

7 Q You said you're familiar with Article XIII from the
8 state party rules, right?

9 A Uh-huh.

10 Q See that where I have it marked on there? I'm going to
11 read it to you.

12 A I'm familiar with it, yeah.

13 Q So if a vacancy occurs in the position -- and I'm
14 reading from Article XIII of the state party bylaws,
15 Subsection B, "If a vacancy occurs in the position of a
16 nominee member of the Executive Committee, the vacancy
17 may only be filled by the person who is the new nominee
18 of the Republican appointee for the office in
19 question." Would you agree with that, that that's a
20 correct statement?

21 A Uh-huh.

22 Q And then, "If a vacancy occurs in the position of a
23 delegate-appointed member of the Executive Committee,
24 the remaining Executive Committee members shall fill
25 the vacancy"?

1 A Yeah.

2 Q Now, delegate-appointed member is the elected members
3 that you're talking about?

4 A Correct.

5 Q Again, the Republican appointee is the statutory member
6 in that particular paragraph, right?

7 A Right.

8 Q And it also alludes to the "for the office in
9 question"?

10 MR. DEPERNO: Objection to the form of the
11 question as to what it alludes to.

12 BY MR. THOMAS:

13 Q I'm reading from this.

14 A Uh-huh.

15 Q "For the office in question." So, again, that goes
16 back to surveyor or whatever that statutory spot would
17 be?

18 A Sure.

19 Q Again, you're differentiating nominees as people that
20 would be put into that position by an Executive
21 Committee into that statutory position?

22 A Uh-huh. The Executive Committee would select a new
23 nominee in this case, because if you read the rest of
24 that section it says that the committee may fill a
25 vacancy in any of its offices, and then if you see --

1 well, wait a minute. Who fills vacancy, you go down to
2 F, it says that the county Executive Committee will
3 nominate candidates to fill vacancies. Therefore
4 they're just simply filling the vacancy of that
5 nominee. That person becomes the new nominee and takes
6 statutory office.

7 Q But, again, that filling vacancy isn't -- if it's not
8 in the bylaws of the county, then it's not applicable
9 to them because they have other rules that they're
10 looking at?

11 A Well, it's applicable, sure. May fill a vacancy in any
12 of its offices, and F, county Executive Committee shall
13 nominate candidates to fill vacancies.

14 Q Yeah, if their own bylaws don't take precedence over
15 the state party bylaws?

16 A And their bylaws indicate that if there is a special
17 election, it defines then that that person is the new
18 nominee. But in the absence of that, my position is
19 that Kalamazoo County can select, or any county can
20 select someone else as the new nominee for that office
21 in question.

22 Q So just the last thing I want to ask you, so you're
23 saying that if there is no special election, if
24 everybody opts out of the special election, that
25 Kalamazoo County can do whatever they want by voting

1 for their delegates to be put in statutory positions
2 because there wasn't a special election?

3 MR. DEPERNO: Objection to the form of the
4 question. Mischaracterizing the testimony.

5 THE WITNESS: It's not a delegate. You're
6 saying this person is our replacement nominee.

7 BY MR. THOMAS:

8 Q Elected member, yes.

9 A No, this person is our replacement nominee, not elected
10 member, statutory member by virtue of the fact we
11 selected them as replacement nominee to fill the
12 vacancy that has occurred in that office. Once there's
13 a nominee, that position is created. That then is
14 vacated, they pick a new nominee, and if a special
15 election is called and that person does not win that
16 nomination, they step down and the new person replaces
17 them.

18 Q Right. But I'm saying before we ever get to that
19 point, before that ever happens, because we all know in
20 2024 that there's going to be a new election and new
21 people are going to step up and run for this office.

22 A Uh-huh.

23 Q I'm saying today right now if there is no special
24 election today for those statutory spots that are open
25 today, that the EC, based on what you're testifying to

1 and under the authority of what you cited under Section
2 3, that they can fill an elected member into a
3 statutory spot?

4 MR. DEPERNO: Objection.

5 THE WITNESS: That's not what -- I'm not
6 saying they can move an elected member into a
7 statutory. The elected members are the elected member
8 positions that are created. The statutory members are
9 the statutory member positions that are created. I'm
10 saying when there's a vacancy and a special election
11 has not occurred that it's silent in the Kalamazoo GOP
12 bylaws. The state party bylaws simply indicate that
13 when there is a new nominee, that person takes that
14 office, or an appointee. In the case of vacancy it is
15 my position that county parties, county Executive
16 Committees can select different nominees for those
17 offices when somebody vacates that prior to there
18 actually being a special election or a new election.
19 When there's a special election or a new election, the
20 new nominee, either in special or at the regular
21 primary election, replaces. If there is an appointee
22 process, then when somebody is appointed they
23 immediately assume office, and the person at the
24 Executive Committee chose to be the new statutory
25 member as the replacement nominee steps down.

1 BY MR. THOMAS:

2 Q Right. So these statutory positions that are open were
3 voted upon by the people of Kalamazoo County. Would
4 you agree with that?

5 MR. DEPERNO: Objection to the form of the
6 question.

7 THE WITNESS: Depends on the office in
8 question. Some were county commissioners, I'm sure.
9 Some are county wide. Some are more restrictive.

10 BY MR. THOMAS:

11 Q The electorate, though, in general would have voted --

12 A Not the entire Kalamazoo electorate, but portions of
13 it, sure.

14 Q Right. The Republican side or whoever voted
15 Republican -- on the Republican side for these
16 positions?

17 A Uh-huh.

18 Q And so those people that were elected during the, you
19 know, the November election of, what, 2022, whenever
20 that occurred, were the ones that won their nominations
21 or won their primary and became the statutory members
22 for the EC?

23 MR. DEPERNO: Objection to the form. They
24 don't -- statutory members are not selected in
25 November, so your question is completely wrong.

1 BY MR. THOMAS:

2 Q I understand that they're elected before that because
3 the primary happens before November. I'm saying
4 whether they won the general or not, they're already
5 the primary member. So if it was August when the
6 election occurred for the primary and they won their
7 primary, let's say lost in November, and whenever the
8 new EC gets ready to meet in December to put their
9 statutory members and figure out who their delegates
10 are going to be for the EC, I'm saying that those
11 primary members that were the statutory members were
12 automatically going to get those 18 seats no matter
13 what happened?

14 A Uh-huh.

15 Q We don't know who the 18 delegates were going to be or
16 elected members were going to be at the EC yet?

17 A Correct.

18 Q Right?

19 A Correct.

20 Q So once they were voted in by the people to be, you
21 know, to be in that particular vote in December, and
22 they had their vote by the EC done, correct?

23 A Uh-huh.

24 Q Then at that point whoever decided they weren't going
25 to be members of the EC, as far as statutorily,

1 resigned and never took their -- fulfilled their spot
2 if they so chose, but they were still the Republican
3 nominee, correct, even if they didn't take that spot?

4 A If they didn't win you mean?

5 Q No, they won their primary.

6 A Correct.

7 Q I'm saying if they won their primary and they decided
8 in December, I'm not going to be part of the EC, the
9 seat was already automatically open?

10 A If they resign?

11 Q Yeah.

12 A Yeah.

13 Q Okay. So in December if they knew that those seats
14 weren't going to be filled, could they have voted just
15 at that point for the EC?

16 A For a replacement nominee, sure, of course. Under
17 Subsection F they can fill vacancies for a nominated
18 position.

19 Q When you say -- when you cite Subsection F, you're
20 citing the state bylaws. You're not --

21 A Because it's silent in the Kalamazoo bylaws.
22 Furthermore, if somebody vacates -- remember, when they
23 win in August, they're automatically statutory members
24 of the Executive Committee. They don't have to wait
25 until the following December for the new committee to

1 be constituted. They're immediately now on the
2 committee, so they're there immediately upon election.

3 Q Well, unless the bylaws say that they don't take their
4 spot until January?

5 A No, I'm saying for the previous committee. I'm saying
6 that if you run for state representative and the
7 current state representative under the old rules was
8 term limited out and loses, or can't run, and now
9 you're the nominee, okay, for that post, you
10 immediately become a member of the Executive Committee
11 the next day.

12 Q If you're a statutory member?

13 A You become the new statutory member. You actually
14 mid-cycle replace the previous statutory member. Now
15 that, to make it even more interesting, that statutory
16 member who loses his or her spot because of term limits
17 or doesn't run again or retires or whatever is still
18 actually a state convention delegate all the way
19 through until they no longer hold office. But they're
20 not automatically a member of the Executive Committee
21 as the new nominees are. So there's already this
22 concept of ambiguity, or not ambiguity, but there's
23 already this concept of changing positions based on
24 elections, and my point all along has simply been that
25 if somebody chooses to resign, die, or move, the

1 Executive Committee is empowered to replace that
2 nominee under Subsection F to the degree that anybody
3 that thinks there's ambiguity in that, Robert's allows
4 the body to determine for itself how to handle that
5 matter.

6 Q Do you know who Stu Foster is?

7 A Yes, I'm familiar with Stu.

8 Q How do you know him?

9 A Known Stu for 15, 16 years. He worked for the party.

10 Q Was he ever a chair for MIGOP?

11 A No.

12 Q Was he a parliamentarian or anything like that?

13 A No.

14 Q What did he do?

15 A He's a staff person providing support to the state
16 committee and interested parties.

17 Q Do you and him have the same opinion as to how rules
18 work?

19 A You'd have to ask Mr. Foster his opinion.

20 Q I'm asking you if you agree with his opinions.

21 MR. DEPERNO: Objection, we don't know what
22 his opinion is.

23 MR. THOMAS: I'm asking.

24 MR. DEPERNO: What kind of question is that?

25 MR. THOMAS: He's says he's known him 15 or

1 16 years.

2 BY MR. THOMAS:

3 Q You know him politically, correct?

4 A Yes.

5 Q Politically do you agree with him?

6 A We're Republicans.

7 Q Okay. I mean, do you have any ideology as far as how
8 conventions work and rules and Robert's Rules? I mean,
9 do you guys have any differences in those areas?

10 MR. DEPERNO: Objection to form of the
11 question. It's a compound question. It's speculative.
12 You're not giving the witness any idea what you're
13 talking about in terms of what Mr. Foster's opinion
14 even is.

15 MR. THOMAS: I haven't asked him about Stu
16 Foster's opinion.

17 THE WITNESS: You did, sir.

18 MR. THOMAS: I'm asking if his ideology is
19 the same or not under the politics.

20 THE WITNESS: I'm not going to speak for
21 Mr. Foster, sir.

22 BY MR. THOMAS:

23 Q Okay. You said you've known him 16 years?

24 A That seems about correct, yes.

25 Q How do you know him?

1 MR. DEPERNO: Objection, asked and answered.

2 BY MR. THOMAS:

3 Q I mean, just through the party?

4 A Yeah.

5 Q If I told you that Stu Foster made a statement that no
6 power for a county chair person -- strike that for a
7 second.

8 Do you know the definition of what beholden is?

9 A Beholden?

10 Q Yeah.

11 A In general, but of course how it's used --

12 Q What do you think it means?

13 A What do I think beholden means?

14 Q Beholden.

15 A I think responsible to, obligated to would be how I
16 would think of it.

17 (Pause in the proceedings.)

18 BY MR. THOMAS:

19 Q I think the last -- do you still have the rules right
20 there in front of you?

21 A I don't think so because I handed them back.

22 Q Okay. Go to Page 3, if you can find it.

23 A Uh-huh.

24 Q I didn't ask you specifically, but if you look at 3E,
25 which is the second paragraph from the top there.

1 A Uh-huh.

2 Q "A motion to consider the removal of an elected member
3 from the Executive Committee requires a two-thirds vote
4 of the elected members present at a regular meeting of
5 this committee. If the motion to consider removing an
6 elected member is approved, a letter must be sent to
7 the delegate informing him of the action taken and the
8 right to appear at the next regular meeting of the
9 organization to appeal the action taken. Final
10 approval through an elected member requires a
11 two-thirds vote of the members present at the meeting
12 held subsequent to the one where the motion to consider
13 removing an elected member was approved." So I had
14 previously asked you kind of a question that you said
15 the whole body, but since there's a bylaw in place in
16 regard to that question about the elected members
17 voting for a removal of another elected member, can a
18 statutory member vote based on this rule right here?

19 A Well, I mean, the way I read this, and I have to defer
20 to past precedence and how this was actually handled,
21 but the way I read this is final approval to remove an
22 elected member requires a two-thirds vote of the
23 members present at the meeting held subsequent to the
24 one where the motion to consider removing was approved.
25 Essentially this is creating a committee of elected

1 members, a subcommittee to address the possible removal
2 of an elected member, and then it goes to the body of
3 the whole, and two-thirds of those present and voting
4 are required to remove somebody, which would include
5 the statutory members.

6 Q Correct. So my question that I asked you is there has
7 to be a motion to consider removal of an elected member
8 first before subsequent removal, correct?

9 A If the motion -- yeah, there's a vote, and the vote
10 requires a motion.

11 Q Right. And so the question then following that was are
12 statutory members allowed to vote in that motion to
13 consider based on the language written in the rule?

14 A "Final approval to remove an elected member requires a
15 two-thirds vote of the members present at the meeting
16 held subsequent to the one where the motion to consider
17 removing an elect member was approved." That would
18 seem to indicate the entire body would have to vote on
19 that which --

20 Q At the subsequent?

21 A Yeah.

22 Q But I'm asking about the first one, which I haven't
23 gotten an answer. Can statutory members vote in the
24 motion to consider the removal, not the actual
25 subsequent removal date?

1 A It just says two-thirds of the elected members have to
2 approve it. It doesn't indicate whether -- I don't
3 think you can disempower statutory members in this
4 process, and all this seems to indicate is two-thirds
5 of the elected members are required.

6 MR. THOMAS: Nothing further.

7 MR. DEPERNO: No further questions.

8 (Record closed at 12:33 p.m.)

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