

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas
R. Ferrell Cothran, Jr., Circuit Court Judge

Appellate Case No.: 2018-001520

RECEIVED

SEP 28 2018

S.C. SUPREME COURT

Bucky Mock, ... Respondent-Appellant,

vs.

Clarendon County Board of Voter Registration
& Elections, Clarendon County Democratic
Party, LaNette Samuels-Cooper, South Carolina
Democratic Party, and South Carolina Election
Commission, Defendants,

Of whom LaNette Samuels-Cooper is Appellant-Respondent.

And Clarendon County Board of Voter Registration
& Elections, Clarendon County Democratic
Party, South Carolina Democratic Party, and
South Carolina Election Commission are Respondents.

RECORD ON APPEAL

Ronnie A. Sabb (SC Bar No.: 9814)
Kimberly V. Barr (SC Bar No.: 8443)
Kimberly M. Hodge (SC Bar No.: 103450)
Sabb Law Group, L.L.C.
108 West Main Street
Post Office Box 88
Kingstree, South Carolina 29556
(843) 355-5349

September 28, 2018

Attorneys for Appellant-Respondent

Other Counsel of Record:

Robert E. Tyson, Jr., Esquire
Cordman Carlisle Traywick, Esquire
Robinson, Gray, Stepp & Laffitte, L.L.C.
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400
Attorneys for Bucky Mock

Joseph Odell Thickens, Esquire
James Eric Cavanaugh, Esquire
Cavanaugh & Thickens, L.L.C.
1324 Gadsden Street
Columbia, South Carolina 29201
(803) 888-2200
Attorneys for Clarendon County Democratic Party and South
Carolina Democratic Party

Harrison David Brant, Esquire
1122 Lady Street, Suite 500
Columbia, South Carolina 29201
(803) 734-9063
Attorney for South Carolina State Election Commission

Shaun C. Kent, Esquire
Kent Law Firm
Post Office Box 117
Manning, South Carolina 29102
(803) 433-5368
Attorney for Clarendon County Board of Voter Registration and
Election

Thomas Parkin Hunter, Esquire
South Carolina Attorney General
Post Office Box 11549
Columbia, South Carolina 29209
(803) 734-6151

INDEX

Order of the Honorable R. Ferrell Cothran Granting Temporary Restraining Order dated 06/21/2018	1
Order of the Honorable R. Ferrell Cothran dated 08/03/2018	4
Order of the Honorable R. Ferrell Cothran dated 08/13/2018	21
Summons and Complaint.....	23
Motion for Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction of the Plaintiff.....	34
Affidavit of Dennis Fowler with Attachments.....	36
Answer of LaNette Samuels-Cooper	47
Motion to Dismiss of LaNette Samuels-Cooper	51
Memorandum in Support of Motion to Dismiss by LaNette Samuels-Cooper.....	53
Plaintiff's Memorandum in Opposition to Motion to Dismiss by LaNette Samuels-Cooper	57
Motion to Dismiss of Clarendon County Democratic Party and S.C. Democratic Party	66
Motion to Dismiss of Clarendon County Board of Voter Registration and Elections	69
Motion to Reconsider and/or Amend Judgment of Clarendon County Democratic Party and S.C. Democratic Party	70
Motion to Reconsider and/or Amend Judgment of LaNette Samuels-Cooper	73
Motion to Alter/Amend Judgment of the Plaintiff.....	75
Response of Plaintiff in Opposition to Defendants' Motion to Alter/Amend Judgment.....	78

Testimony:

Bucky Mock

Direct Examination by Mr. Tyson	125
Cross Examination by Mr. Sabb	148
Cross Examination by Mr. Kent	172
Cross Examination by Mr. Thickens.....	174
Re-Direct Examination by Mr. Tyson.....	175
Re-Cross Examination by Mr. Sabb	180

Sabrina Gast

Direct Examination by Mr. Tyson	189
Cross Examination by Ms. Barr	209
Re-Direct Examination by Mr. Tyson.....	226

LaNette Samuels-Cooper

Direct Examination by Mr. Tyson	264
Cross Examination by Ms. Barr	302
Re-Direct Examination by Mr. Tyson.....	331
Re-Cross Examination by Ms. Barr	339

Patricia Pringle

Direct Examination by Mr. Tyson	342
Cross Examination by Mr. Sabb	371
Re-Direct Examination by Mr. Tyson.....	383

Transcript of 08/13/2018 Hearing on Post-Trial Motions	425

Plaintiff's Exhibits:

1 – Filing Affidavit of Charles J. “Bucky” Mock, Jr. for Coroner	447
2 – Filing Affidavit of LaNette Samuels-Cooper for Coroner	448
3 – Amended Filing Affidavit of LaNette Samuels-Cooper for Coroner	449
4 – Registry Certification for ABMDI.....	450
5 – Letter of SCDP dated 04/05/2018 to Shirley Black-Oliver	452

Defendant Samuel-Cooper's Exhibits:

1 – Clarendon County Death Data (2006-2017)	454
2 – Letter of S.C. Coroner’s Association dated 02/21/2012	455
3 – B.S. Degree of Alice LaNette Samuels from Johnson C. Smith University.....	456
4 – Qualifications for Coroner (S.C. Coroners’ Association website).....	457
5 – Letter from Saint Louis University Confirming Registration	462
6 – Letter of Coroners’ Assoc. dated 02/12/2012 to ABMDI/ St. Louis University	466

7 – Letter of President of Coroners’ Assoc. dated 04/02/2018	467
Certificate of Counsel	469

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CLARENDON	)	IN THE THIRD JUDICIAL CIRCUIT
	)	
Bucky Mock,	)	Civil Action No. 2018-CP-14-00237
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Clarendon County Board of Voter	)	<u>PROPOSED ORDER GRANTING</u>
Registration & Elections, Clarendon	)	<u>TEMPORARY RESTRAINING</u>
County Democratic Party, LaNette	)	<u>ORDER</u>
Samuels-Cooper, South Carolina	)	
Democratic Party, and South Carolina	)	
Election Commission,	)	
	)	
Defendants.	)	

This matter is before the Court on Plaintiff Bucky Mock's motion for a temporary restraining order, preliminary injunction, and permanent injunction preventing and enjoining (1) Defendant South Carolina Election Commission (State Election Commission) and/or Defendant Clarendon County Board of Voter Registration & Elections from certifying Defendant LaNette Samuels-Cooper as a candidate for coroner of Clarendon County, (2) Defendant State Election Commission and/or Defendant Clarendon County Board of Voter Registration & Elections from placing the name of Defendant LaNette Samuels-Cooper on the ballot for the general election, and (3) Defendant Clarendon County Democratic Party and/or Defendant South Carolina Democratic Party from certifying Defendant LaNette Samuels-Cooper as the Democratic Party nominee for coroner of Clarendon County.

Because it is clear from the specific facts shown that the plaintiff will suffer immediate and irreparable harm prior to a hearing if Defendant Samuels-Cooper is certified as a candidate for coroner of Clarendon County and allowed to appear on the general election ballot, the Court finds

this temporary restraining order is warranted and necessary pursuant to Rule 65(b), SCRCP. The injury is irreparable because the voters of Clarendon County deserve a candidate who is qualified to serve as coroner, and based upon the facts shown to date, Defendant Samuels-Cooper does not appear to meet the statutory qualifications outlined in section 17-5-130 of the South Carolina Code. This Order was granted without notice to prevent a potentially unqualified candidate for coroner from being certified and placed on the ballot for the general election.

Based upon the foregoing, the defendants are hereby restrained from certifying Defendant Samuels-Cooper as the Democratic candidate for coroner of Clarendon County and placing her name on the general election ballot. This Order shall expire ten days after entry hereof, and a hearing on the motion for temporary injunction shall be held as soon as possible.

AND IT IS SO ORDERED.

R. Ferrell Cothran, Jr.
Chief Administrative Judge
Third Judicial Circuit

Manning, South Carolina

June ____, 2018



Clarendon Common Pleas

Case Caption: Bucky Mock VS South Carolina Democratic Party , defendant, et al
Case Number: 2018CP1400237
Type: Order/Temporary Restraining Order

So Ordered

s/ R. Ferrell Cothran, Jr., 2144

Electronically signed on 2018-06-21 08:27:19 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CLARENDON	)	IN THE THIRD JUDICIAL CIRCUIT
	)	
Bucky Mock,	)	Civil Action No. 2018-CP-14-00237
	)	
Plaintiff,	)	
vs.	)	
	)	ORDER
	)	
Clarendon County Board of Voter	)	
Registration & Elections, Clarendon	)	
County Democratic Party, LaNette	)	
Samuels-Cooper, South Carolina	)	
Democratic Party, and South	)	
Carolina Election Commission	)	
	)	
Defendants.	)	

FACTS

Plaintiff Bucky Mock ("Plaintiff") currently serves as the Coroner of Clarendon County. Plaintiff was appointed as the Coroner of Clarendon County on February 21, 2018, to fill the unexpired term of the prior Coroner, Hayes Samuels, Jr. ("decedent"), who died on January 17, 2018. Plaintiff was sworn in as Coroner on February 28, 2018. Prior to his appointment, Plaintiff served as a deputy Coroner of Clarendon County for a period of 21 years. Defendant LaNette Samuels-Cooper ("Samuels-Cooper") is the sister of decedent. Samuels-Cooper was employed for 13 years as an administrative assistant for decedent, but was not employed by Clarendon County. She was hired by the Clarendon County Coroner's Office on January 24, 2018, and was employed there until March 9, 2018.

Plaintiff and Samuels-Cooper sought the Democratic Party's nomination for the office of Coroner of Clarendon County. The filing period for candidates seeking a political party nomination ran from March 16, 2018 to March 30, 2018. Plaintiff filed his affidavit

of qualification with Defendant Clarendon County Democratic Party on March 16, 2018. Samuels-Cooper filed her affidavit of qualification with Defendant Clarendon County Democratic Party on March 19, 2018. On April 3, 2018, Samuels-Cooper received a phone call from South Carolina Democratic Party chairman Trav Robertson requesting that she submit an amended affidavit. No checkboxes had been filled on the original affidavit to indicate Samuels-Cooper's qualifications for the office of Coroner. The affidavit did indicate that Samuels-Cooper was enrolled in a week-long Medicolegal Death Investigator Training Course to take place from August 13-17, 2018 at Saint Louis University.

Samuels-Cooper submitted an amended affidavit on April 4, 2018, after the close of the filing period. The amended affidavit indicated that Samuels-Cooper was qualified to be Coroner because she has a "four-year baccalaureate degree and one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency." That same day, Plaintiff emailed Trav Robertson, Chairman of the South Carolina Democratic Party, raising concerns about Samuels-Cooper's qualifications. Attached to the email was a letter from the South Carolina Coroners Association outlining the qualifications for coroners. Mock also contacted the Clarendon County Democratic Party Chairperson Patricia Pringle about his belief that Samuels-Cooper did not meet the statutory qualifications. Defendant Clarendon County Democratic Party certified both Plaintiff and Samuels-Cooper as qualified candidates for the office of Coroner. On April 5, 2018, Defendant South Carolina Democratic Party sent a letter to the Clarendon County Board of Voter Registration & Elections stating that Samuels-Cooper met the qualifications for the office.

The Clarendon County Democratic Primary was held on June 12, 2018. Samuels-Cooper received the most votes for the office of Coroner. The General Election date is November 6, 2018, pursuant to sections 7-13-10 and -20 of the South Carolina Code. Complaint ¶ 14. Pursuant to S.C. Code Section 7-17-520, Plaintiff had until noon on the Monday following the election to file a protest with the chairman of the Clarendon County Democratic Party. Plaintiff did not file any protest to the election with the Clarendon County Democratic Party.

Plaintiff filed the present lawsuit on June 14, 2018. Plaintiff alleges that Samuels-Cooper was not qualified to be the Coroner of Clarendon County, and that Defendants Clarendon County Board of Voter Registration & Elections and South Carolina Democratic Party had improperly certified Samuels-Cooper as a candidate for Coroner. Plaintiff alleges that Samuels-Cooper is not qualified to be Coroner because she does not have "one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency," and furthermore, that she has not completed a recognized forensic science degree or certification program. Complaint, ¶¶ 30-31. The forensic training program that Samuels-Cooper has enrolled in is not the forensic science degree and certification program recognized by the Coroner's Training Advisory Committee.

The currently recognized certification program for South Carolina coroners is sponsored by the American Board of Medicolegal Death Investigators ("ABDMI"). In a letter dated February 21, 2012, the Coroners Training Advisory Committee, on behalf of the South Carolina Coroner's Association, advised that they had unanimously approved the ABDMI certification program as the recognized forensic science degree or certification program pursuant to S.C. Code of Laws, Section 17-5-130(G). At that time, the ABDMI

certification program was associated with Saint Louis University. The ABDMI certification program has the following requirements: the person to be certified (1) must be at least eighteen years of age at the time of application, (2) must have a high school diploma or equivalent, (3) must currently be employed in a Medical Examiner or Coroner office or equivalent federal authority with the job responsibility to "conduct death scene investigations" or supervise such investigations at time of application and examination, and (4) must have a minimum of 640 hours of death investigation experience.

Plaintiff seeks a declaratory judgment from this Court that Samuels-Cooper is not qualified to be the Coroner of Clarendon County, that her affidavit outlining her qualifications to be coroner is deficient, that the Clarendon County Democratic Party and South Carolina Democratic Party improperly certified Samuels-Cooper as having met the statutory requirements to be a coroner, and that Defendants Clarendon County Board of Voter Registration & Elections and the State Election Commission improperly certified Samuels-Cooper as a qualified candidate for general election. Furthermore, Plaintiff seeks injunctive relief barring (1) the State Election Commission and/or Clarendon County Board of Voter Registration & Elections from certifying Samuels-Cooper as a candidate for coroner; (2) stopping the State Election Commission and/or Clarendon County Board of Voter Registration & Elections from placing Samuels-Cooper's name on the general election ballot for November 6, 2018; and (3) preventing the Clarendon County Democratic Party and South Carolina Democratic Party from certifying Samuels-Cooper as the nominee for coroner.

Plaintiff filed a Motion for Temporary Injunction on June 20, 2018. This court granted a Temporary Restraining Order on June 21, 2018. An expedited hearing was held

on July 3, 2018. Samuels-Cooper filed a Motion to Dismiss under Rule 12(b)(6) on July 19, 2018, alleging that Plaintiff had failed to exhaust his administrative remedies for contesting an election as outlined in sections 7-17-520 and -530 of the South Carolina Code of Laws. A hearing was held on July 20, 2018, recessed on that same day, and concluded on July 27, 2018. Plaintiff and Samuels-Cooper filed briefs in opposition to and support of the Motion to Dismiss, respectively. Samuels-Cooper filed her Answer on July 23, 2018.

At the hearing on July 20, Sabrina Gast, Coroner for York County and president of the South Carolina Coroner's Association, testified on behalf of the Plaintiff as to the duties of coroners and deputy coroners. Ms. Gast testified that under South Carolina law, only coroners and deputy coroners are authorized to conduct death investigations. She also testified that while the ABMDI certification program was not specified by statute in South Carolina, the ABMDI program was the program selected by the Coroners Training Advisory Committee pursuant to S.C. Code Section 17-5-130(G). She further testified that the ABMDI certification is no longer affiliated with Saint Louis University, and that there are currently no training programs available to qualify prospective coroners in South Carolina.

Defendants South Carolina Democratic Party and Clarendon County Democratic Party filed a joint Motion to Dismiss on July 24, 2018 on the basis of Plaintiff's failure to exhaust administrative remedies. Defendant Clarendon County Board of Voter Registration & Elections filed a Motion to Dismiss on July 26, 2018, arguing that Plaintiff has failed to produce any evidence showing why the Clarendon County Board of Voter Registration & Elections should be a party to the case. Defendant Samuels-Cooper and South Carolina Election Commission made oral motions at the hearing on July 27 asking

the court to consider amending its ruling on the failure to exhaust administrative remedies with regards to candidate filing issues, or in the alternative to consider dismissal on the basis of laches.

When the hearing resumed on July 27, 2018, Samuels-Cooper testified that during her time as an administrative assistant with the funeral home and Coroner's office she received phone calls reporting deaths, was responsible for dispatching the Coroner or deputy coroner's to the scene of deaths, scheduled autopsies, spoke with families of the deceased, and helped to fill out death certificates. She further testified that she had attended one or two autopsies and had been present at one death scene; she accompanied a magistrate to the scene when the Coroner and deputy coroners were unavailable. Samuels-Cooper testified, and Plaintiff agreed, that she was fired on March 9, 2018 when she made it known that she intended to run for Coroner.

CONCLUSIONS OF LAW

1. Ms. Samuels-Cooper's Motion to Dismiss under Rule 12(b)(6) is granted in part

On July 19, 2018, Ms. Samuels-Cooper filed a Motion to Dismiss, arguing that Plaintiff's suit should be dismissed under Rule 12(b)(6) for failure to exhaust available administrative remedies. Specifically, Ms. Samuels-Cooper argues that Plaintiff failed to utilize the available statutory remedies to contest county elections as provided in S.C. Code Section 7-17-520. The statute reads:

"The protests and contests in the case of county officers and less than county officers shall be filed in writing with the chairman of the county party executive committee, together with a copy for each candidate in the race not later than noon Monday following the day of the declaration by the county committee of the result of the election... The protest must contain each ground for the protest stated separately and concisely. The chairman must forthwith serve upon each candidate

in the protested race a copy of the protest, and serve a notice of the time and place of the meeting of the executive committee for the purpose of hearing the protest."

Once a protest is filed, S.C. Code Section 7-17-530 states that, "[t]he executive committee shall hear the protest or contest on Thursday following the deadline for filing the protest or contest." The protesting party has the right to be represented by counsel, to examine and cross-examine witnesses, and to produce evidence supporting their grounds for protest. *Id.* Plaintiff never filed a protest to the June 12, 2018 Clarendon County Democratic primary, opting instead to file suit in this Court on June 14, 2018. Plaintiff argues in his memorandum in opposition that he was not required to exhaust this administrative remedy because Ms. Samuels-Cooper's reasoning rests on an unpublished opinion from the South Carolina Supreme Court, the Circuit Court has jurisdiction to hear this case under Anderson, and that Plaintiff is not required to utilize administrative remedies when it would be futile to do so. For the reasons outlined below, Ms. Samuels-Cooper's Motion to Dismiss is granted in part, but the court retains jurisdiction to address her qualifications to be the Coroner for Clarendon County.

Plaintiff correctly notes that Ms. Samuels-Cooper cites to an unpublished opinion from the South Carolina Supreme Court in support of her Motion to Dismiss. In that order, our Supreme Court dismissed a lawsuit challenging a 2012 state senate election in Clarendon County after plaintiff declined to exhaust the available administrative remedies before filing suit. *McFadden v. Clarendon Cty. Election Comm'n*, Order No. 2012-212849 (S.C. Sup. Ct. filed Oct. 3, 2012). It is well-settled that "[m]emorandum opinions and unpublished orders have no precedential value and should not be cited except in proceedings in which they are directly involved." Rule 268(d)(2), SCACR. However, there is precedent in South Carolina case law stating that where administrative remedies are

available, they must be exhausted before an individual may bring suit in the circuit court. "The general rule is that administrative remedies must be exhausted absent circumstances supporting an exception to the application of the general rule." *Hyde v. S.C. Dep't of Mental Health*, 314 S.C. 207, 208, 442 S.E.2d 582, 583 (1994) (citing *Andrews Bearing Corp.*, *supra*; *Ex parte Allstate Ins. Co.*, 248 S.C. 550, 151 S.E.2d 849 (1966)). Furthermore, where an adequate administrative remedy is available to determine a question of fact, an aggrieved party must pursue the administrative remedy or be barred from bringing suit in the courts. *Id.* (citing *Meredith v. Elliot*, 247 S.C. 335, 147 S.E.2d 244 (1966)). Here, Plaintiff seeks a declaration that Ms. Samuels-Cooper is not qualified to be a candidate for the office of Coroner for Clarendon County. It is uncontested that Plaintiff did not protest the June 12 primary election using the procedure outlined in S.C. Code Section 7-17-520. As will be explained further, this court holds that because Plaintiff did not follow the administrative procedures available to contest this election, he may not challenge Ms. Samuels-Cooper's qualifications to be a candidate for coroner.

Plaintiff also argues that the Supreme Court of South Carolina's decision in *Anderson v. South Carolina Election Comm'n* is the controlling law in this scenario. *Anderson v. South Carolina Election Comm'n*, 397 S.C 551, 725 S.E.2d 704 (2012). In that case, our Supreme Court held that judicial intervention is necessary to ensure that only legally qualified candidates are included on the ballots. *Id.* at 555, 725 S.E.2d at 706. The court held that the circuit court did have jurisdiction over the dispute, despite the fact that no harm had yet occurred because no unqualified candidates had been elected. *Id.* The Supreme Court stated that, absent relief, plaintiffs, as voters, faced the substantial likelihood that they would have to select from a slate of candidates who may not be

qualified. *Id.* at 555-56, 725 S.E.2d at 706. Therefore, the Supreme Court granted relief to require compliance with the law to ensure that only candidates who were legally qualified would appear on the ballot. *Id.* at 556, 725 S.E.2d at 706. Furthermore, the Supreme Court held that it was not being asked to adjudicate a contested election, but rather to interpret a statute, which is a judicial function and responsibility. *Id.* at 555, 725 S.E.2d at 706. This court agrees with Plaintiff's argument on this ground. Because the office of coroner has statutorily defined requirements, similarly to the office of sheriff, this court is not being asked to judge the outcome of a contested election. Instead, it is being asked to interpret the statute setting forth the qualifications for coroner, and to determine if Ms. Samuels-Cooper meets those qualifications, and it has the jurisdiction to do so.

Lastly, Plaintiff argues that commencing this action in the circuit court was proper because it would have been futile to exhaust the available administrative remedies. A generally recognized exception to the requirement of exhaustion of administrative remedies exists when a party demonstrates that pursuit of them would be a vain or futile act. *Ward v. State*, 343 S.C. 14, 19, 538 S.E.2d 245, 247 (2000). A party must demonstrate futility by a showing that is comparable to the administrative agency taking a "hard and fast position that makes an adverse ruling a certainty." *Brown v. James*, 389 S.C. 41, 54, 697 S.E.2d 604, 611 (Ct. App. 2010). In the Brown case, the plaintiff was a school teacher who had sued the district superintendent for violating the South Carolina Teacher Employment and Dismissal Act. The circuit court granted defendant's motion for summary judgment due to plaintiff's failure to exhaust her administrative remedies. The Court of Appeals reversed, noting that requiring the plaintiff to exhaust those remedies would require her to go before the school board, which had already voted to accept the defendant's

recommendation not to renew plaintiff's teaching contract. The Court of Appeals held that plaintiff was not required to participate in a hearing after a final decision had been made regarding nonrenewal of her contract. Such a pursuit would have been futile, and the circuit court had jurisdiction to hear plaintiff's direct appeal. Similarly, in *Ward*, the Supreme Court reversed the circuit court's grant of a motion to dismiss for plaintiff's failure to exhaust administrative remedies. Plaintiff in that case sought a declaratory judgment against the state, alleging that an act eliminating tax exemption for state retirees was unconstitutional. 343 S.C. at 16, 538 S.E.2d at 246. Our Supreme Court held that the circuit court had subject matter jurisdiction because it would have been a futile act for the plaintiff to challenge the constitutionality of a statute in front of an agency that could not rule on the issue. *Id.* at 19, 538 S.E.2d at 247.

This case is distinguishable from *Brown* and *Ward*. In these prior cases, the administrative agency that would have heard plaintiffs' protests had already made an adverse ruling to the plaintiff or had no power to rule on plaintiff's protest. By contrast, no such adverse ruling was issued in this matter. Plaintiff sent an email on April 4, 2018, to Trav Robertson, chairman of the South Carolina Democratic Party. In that email to Mr. Robertson, Plaintiff raised his concerns regarding Ms. Samuels-Cooper's lack of qualifications to be Coroner. Plaintiff attached to his email a letter from the South Carolina Coroner's Association outlining the qualifications to be a coroner in South Carolina. Mr. Robertson replied to Plaintiff on April 6, stating that based on consultation with and advice from legal counsel, that the South Carolina Democratic Party certified all Democratic candidates for coroner in Clarendon County. Likewise, Patricia Pringle, chairwoman of the Clarendon County Democratic Party, emailed Plaintiff to notify him that all candidates for

coroner in Clarendon County had been certified by the South Carolina Democratic Party. This correspondence does not constitute an adverse ruling which would make Plaintiffs pursuit of available administrative remedies futile. The State Democratic Party Chairman cannot rule on a protest filed with a county party executive committee. Likewise, the chairman of the county party executive committee cannot rule alone on questions of fact relative to an individual's candidacy. *See* S.C. Code Section 7-17-530. Plaintiff failed to exhaust the applicable administrative procedures available to him to contest the election, and no circumstances are present to excuse his failure to do so. Ms. Samuels-Coopers Motion to Dismiss is granted in part, and Plaintiff may not challenge her candidacy for Coroner of Clarendon County.

2. Ms. Samuels-Cooper does not meet the statutory qualifications to be coroner

South Carolina law outlines the qualifications for the office of coroner in S.C. Code Section 17-5-130. Ms. Samuels-Cooper indicated in her amended affidavit and testimony that she was qualified to be coroner under S.C. Code Section 17-5-130(A)(2)(c), stating that she had a four-year baccalaureate degree and one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency. Ms. Samuels-Cooper testified that she believed she had fulfilled the one year of experience in death investigation because of her 13 years of employment as an administrative assistant to decedent, who was Coroner for Clarendon County until his death on January 17th of this year. She testified that she took phone calls reporting deaths, contacted and dispatched the coroner and/or deputy coroners to death scenes, scheduled autopsies, spoke with families of the deceased, and helped to fill out death certificates. She also testified that she had attended one or two autopsies and was present at one death scene.

While South Carolina law does not define "death investigation," it does define numerous duties and responsibilities for coroners and deputy coroners. S.C. Code Section 17-5-510 states that "[i]n counties which have both a coroner and a medical examiner: (1) the coroner has the ultimate responsibility for carrying out the duties required by this article." S.C. Code Section 17-5-530(A) states that:

If a person dies:

- (1) as a result of violence;
- (2) as a result of apparent suicide;
- (3) when in apparent good health;
- (4) when unattended by a physician;
- (5) in any suspicious or unusual manner;
- (6) while an inmate of a penal or correctional institution;
- (7) as a result of a stillbirth when unattended by a physician; or
- (8) in a health care facility...

a person having knowledge of the death immediately shall notify the county coroner's or medical examiner's office. This procedure must also be followed upon discovery of anatomical material suspected of being or determined to be a part of a human body.

S.C. Code Section 17-5-530(B) further states that "[t]he coroner or medical examiner shall make an immediate inquiry into the cause and manner of death and shall reduce the findings to writing on forms provided for this purpose." S.C. Code Section 17-5-520(A) provides that "[i]n addition to the powers vested in other law enforcement officials to order an autopsy, the coroner or medical examiner is authorized to determine that an autopsy be made."

South Carolina law also allows for duly appointed and approved deputy coroners to carry out the duties of the office of coroner. "A county coroner shall appoint one or more deputies or investigators to be approved by the judge of the circuit or by any circuit judge presiding therein... When duly qualified, as herein required, the deputy coroner may do and perform any or all of the duties appertaining to the office of the coroner." S.C. Code Ann.

§17-5-70 (1976). Sabrina Gast, current president of the South Carolina Coroner's Association, testified at the July 20th hearing, that these duties pertaining to death investigations may only be performed by coroners and duly appointed deputy coroners. Ms. Samuels-Cooper undoubtedly has many hours over the past 13 plus years assisting the coroner and deputy coroners in the performance of their duties. However, our law states that the duties appertaining to death investigations, such as responding to death scenes, determining the manner and cause of death, and ordering autopsies to be performed, may be performed by coroners and deputy coroners (in addition to medical examiners and solicitors in certain circumstances), but not by administrative assistants. To say that an administrative assistant in a coroner's office has sufficient death investigation experience to qualify to be a coroner would be similar to saying that a judge's administrative assistant is competent to take the bench because of his experience in the judge's chambers. Based on the qualifications Ms. Samuels-Cooper indicated in her affidavit, and South Carolina state law, this court holds that Ms. Samuels-Cooper is currently not qualified to be the coroner for Clarendon County.

Based on this court's understanding of the prevailing law, it is also the court's conclusion that there is currently no possibility for Ms. Samuels-Cooper to become qualified for the office of coroner. S.C. Code Section 17-5-130(A)(2)(e) provides that a person may also qualify to be a coroner if they "have completed a recognized forensic science degree or certification program or be enrolled in a recognized forensic science degree or certification program to be completed within one year of being elected to the office of coroner." Furthermore, candidates for coroner must submit an affidavit showing "the date the person completed a recognized forensic science degree or certification

program, or information regarding the person's enrollment in a recognized forensic science degree or certification program..." S.C. Code Ann. § 17-5-130(B)(4)(h).

Ms. Samuels-Cooper indicated in her amended affidavit of qualifications, and in her testimony, that she had enrolled in and paid for a week-long Medicolegal Death Investigator Training Course to take place from August 13-17, 2018 at Saint Louis University. Sabrina Gast indicated during her testimony that the only currently recognized forensic science degree or certification program recognized by the South Carolina Coroner's Association is the ABMDI registry certification. This course was unanimously approved by the Coroners Training Advisory Committee in a letter dated February 21, 2012. S.C. Code Section 17-5-130(G) gives the Coroners Training Advisory Committee the authority to determine the recognized forensic science degree or certification program for South Carolina coroners. The requirements for this certification program are listed above in the facts section. At the time of Ms. Samuels-Cooper filing her affidavit, and as of the time of this case, she has not completed a recognized forensic science degree or certification program, nor is she enrolled in one. Furthermore, testimony at the July 27 hearing shows that Ms. Samuels-Cooper will be unable to be enrolled in any forensic science degree or certification program within the one-year time frame outlined in S.C. Code Section 17-5-130(A)(2)(e). Testimony at the hearing indicated that the requirements of 640 hours of death investigation experience and employment at a coroner's office were not only requirements for the ABMDI registry certification, but also for the education courses offered through ABMDI. Testimony indicated that it takes approximately one year working in a coroner's office to accumulate the necessary death investigation hours to become certified.

(3) Defendant South Carolina Election Commission and Defendant Samuels-Cooper's Motion to Dismiss for Laches are moot

At the continued hearing on July 27, 2018, Defendants South Carolina Election Commission and Ms. Samuels-Cooper made oral motions asking this court to consider amending its ruling on the failure to exhaust administrative remedies with regards to candidate filings issues, or in the alternative to consider dismissal on the basis of laches. Since this court has granted Ms. Samuels-Cooper's Motion to Dismiss for Plaintiff's failure to exhaust his available administrative remedy to contest the election, these points are moot.

CONCLUSION

Based on the case law and statutes considered in the preceding section, the ruling of this court is as follows: Defendant LaNette Samuels-Cooper's Motion to Dismiss under Rule 12(b)(6) is granted in part, and Plaintiff is barred from contesting her qualifications as a candidate on the election ballot for the office of Coroner for Clarendon County; additionally, this court finds that Ms. Samuels-Cooper is currently not qualified for the office of coroner, and based on the testimony and evidence in the record, will be unable to become qualified for the office within the one-year time period specified by statute.

AND IT IS SO ORDERED!

At Manning, South Carolina
Dated: August 3, 2018

R. Ferrell Cothran, Jr.
Judge, Third Judicial Circuit



Clarendon Common Pleas

Case Caption: Bucky Mock VS South Carolina Democratic Party , defendant, et al
Case Number: 2018CP1400237
Type: Order/Other

So Ordered

s/ R. Ferrell Cothran, Jr., 2144

Electronically signed on 2018-08-03 14:36:45 page 17 of 17

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON	)	IN THE THIRD JUDICIAL CIRCUIT
Bucky Mock,	)	Civil Action No. 2018-CP-14-00237
	)	
Plaintiff,	)	
vs.	)	Amendment to Order
	)	
Clarendon County Board of Voter	)	
Registration & Elections, Clarendon	)	
County Democratic Party, LaNette	)	
Samuels-Cooper, South Carolina	)	
Democratic Party, and South	)	
Carolina Election Commission	)	
	)	
Defendants.	)	

The 12(b)(6) Motions to Dismiss of the South Carolina Democratic Party, the Clarendon County Democratic Party, and the Clarendon County Board of Voter Registration and Elections are granted on the same grounds as the Defendant LaNette Samuels-Cooper's Motion to Dismiss. As a result, the issues of laches and estoppel are moot. After careful consideration, all other matters in the order stand.

AND IT IS SO ORDERED!

At Manning, South Carolina
Dated: August 13, 2018

R. Ferrell Cothran, Jr.
Judge, Third Judicial Circuit



Clarendon Common Pleas

Case Caption: Bucky Mock VS South Carolina Democratic Party , defendant, et al
Case Number: 2018CP1400237
Type: Order/Other

So Ordered

s/ R. Ferrell Cothran, Jr., 2144

Electronically signed on 2018-08-13 13:03:11 page 2 of 2

ELECTRONICALLY FILED - 2018 Aug 13 4:22 PM - CLARENDON - COMMON PLEAS - CASE#2018CP1400237

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CLARENDON	)	IN THE THIRD JUDICIAL CIRCUIT
Bucky Mock,	)	Civil Action No. 2018-CP-14-_____
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<u>SUMMONS</u>
Clarendon County Board of Voter	)	
Registration & Elections, Clarendon	)	
County Democratic Party, LaNette	)	
Samuels-Cooper, South Carolina	)	
Democratic Party, and South Carolina	)	
Election Commission,	)	
	)	
Defendants.	)	
	)	

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the Complaint upon the subscribers at their office at 1310 Gadsden Street, Post Office Box 11449, Columbia, South Carolina, 29211, within thirty (30) days after the service hereof, exclusive of the date of such service. The Plaintiff does hereby notify you that in case of your failure to do so, judgment by default will be rendered against you for the relief demanded in the Complaint.

SOWELL GRAY ROBINSON STEPP & LAFFITTE, LLC

By: s/ Robert E. Tyson, Jr.
 Robert E. Tyson, Jr., SC Bar #10820
 Vordman Carlisle Traywick, III, SC Bar No. 102123
 1310 Gadsden Street
 Post Office Box 11449
 Columbia, South Carolina 29211
 (803) 929-1400

Columbia, South Carolina
 June 14, 2018

Attorneys for Plaintiff

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CLARENDON	)	IN THE THIRD JUDICIAL CIRCUIT
	)	
Bucky Mock,	)	Civil Action No. 2018-CP-14-_____
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<u>COMPLAINT</u>
Clarendon County Board of Voter	)	
Registration & Elections, Clarendon	)	
County Democratic Party, LaNette	)	
Samuels-Cooper, South Carolina	)	
Democratic Party, and South Carolina	)	
Election Commission,	)	
	)	
Defendants.	)	
	)	

Plaintiff Bucky Mock (hereinafter "Mock"), complaining of the defendants Clarendon County Board of Voter Registration & Elections, Clarendon County Democratic Party, LaNette Samuels-Cooper (hereinafter "Samuels-Cooper"), South Carolina Democratic Party, and South Carolina Election Commission (hereinafter "State Election Commission"), alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Bucky Mock is a resident of Clarendon County, South Carolina.
2. Defendant South Carolina Election Commission is a statutorily created entity that has general supervisory authority over elections in the State of South Carolina.
3. Defendant Clarendon County Board of Voter Registration & Elections is an entity that has supervisory authority over and conducts elections for Clarendon County, South Carolina.
4. Defendant Clarendon County Democratic Party is a duly organized entity charged with certifying individuals running for political office.

5. Defendant LaNette Samuels-Cooper is an individual running for the office of Coroner for Clarendon County, and upon information and belief, is a resident of Clarendon County, South Carolina.

6. South Carolina Democratic Party is a duly organized entity charged with running the state Democratic Party and certifying individuals running for political office.

7. Article V, Section 11 of the South Carolina Constitution provides that the circuit court shall be a general trial court with original jurisdiction in civil matters and courts shall have jurisdiction over matters seeking an injunction.

8. Jurisdiction and venue in this Court are proper.

FACTS

9. Mock currently serves as the Coroner of Clarendon County.

10. Defendant Samuels-Cooper seeks the Democratic Party's nomination for the office of Coroner of Clarendon County.

11. Mock asks this Court to declare Defendant Samuels-Cooper does not meet the statutorily required qualifications of section 17-5-130 of the South Carolina Code to be a candidate for coroner in South Carolina.

12. The filing period for candidates seeking a political party nomination ran from March 16, 2018, through March 30, 2018.

13. The Primary Election date was June 12, 2018. Unqualified candidate Defendant Samuels-Cooper received the most votes.

14. The General Election date is November 6, 2018, pursuant to sections 7-13-10 and -20 of the South Carolina Code.

15. Section 7-11-15 of the South Carolina Code provides qualifications to run as a candidate in general elections. For candidates seeking to be a political party nominee, to qualify as a candidate to run in the general election, a candidate must file a statement of intention of candidacy, a party pledge, and filing fees to the county board of voter registration and elections. S.C. Code Ann. § 7-11-15(A)(3).

16. The election commission with whom the documents were filed must provide them to the appropriate political party committee within two days. S.C. Code Ann. § 7-11-15(B).

17. Section 7-13-40 of the South Carolina Code provides the political party must certify and provide written verification of a candidate's qualifications to Defendant State Election Commission and/or Defendant Clarendon County Board of Voter Registration & Elections.

18. Plaintiff Mock filed as a Democrat the required documents with the Clarendon County Board of Voter Registration & Elections on March 16, 2018. He meets the statutory requirements to be elected Coroner of Clarendon County. See **Exhibit A**.

19. Defendant Samuels-Cooper filed as a Democrat the filing documents with the Clarendon County Board of Voter Registration & Elections on March 19, 2018. **Exhibit B**. The statutorily required affidavit filed by Samuels-Cooper is deficient because she marked boxes inaccurately. *Id.*

20. Defendant Clarendon County Democratic Party improperly certified Defendant Samuels-Cooper, even though Samuels-Cooper does not meet the statutory requirements of section 17-5-130 of the South Carolina Code.

21. Defendant Clarendon County Democratic Party improperly verified that Defendant Samuels-Cooper met the statutorily required qualifications when the Clarendon

County Democratic Party forwarded her name as the Democratic nominee to Defendant Clarendon County Board of Voter Registration & Elections and/or Defendant State Election Commission.

22. Defendant South Carolina Democratic Party improperly verified Defendant Samuels-Cooper met the statutorily required qualifications when it sent a letter on April 5, 2018, to the Clarendon County Board of Voter Registration and Elections stating she met the qualifications for the office. **Exhibit C.**

23. On Defendant State Election Commission's website, it lists Plaintiff Mock and Defendant Samuels-Cooper as certified candidates for Coroner of Clarendon County. **Exhibit D.**

24. Defendant State Election Commission incorrectly and improperly lists Defendant Samuels-Cooper as a certified candidate for Coroner of Clarendon County when she does not meet the statutory requirements.

25. South Carolina law requires candidates for coroner to meet specific criteria to become coroner. S.C. Code Ann § 17-5-130. Pursuant to the statute, a candidate can qualify by one of several options. Importantly, the law requires coroners to meet specific educational requirements and to have had specific death investigations experience.

26. To demonstrate a candidate meets these qualifications, section 17-5-130(B) of the South Carolina Code requires a candidate to file an affidavit at the time he or she files to run for office.

27. If a candidate is running to be the nominee of a political party, the candidate also must file the affidavit with the political county party for which he or she seeks the nomination.

28. Section 17-5-130(B) of the South Carolina Code mandates the affidavit contain specific information including when the candidate completed the recognized forensic science

degree or certification program or information regarding the person's enrollment in a recognized forensic science degree or certification program.

29. Defendant Samuels-Cooper had notice that she did not meet the qualifications to be a coroner in South Carolina under section 17-5-130. **Exhibit E.** As of the timing of the filing of this Complaint, however, she has failed to withdraw.

30. In Defendant Samuels-Cooper's Filing Affidavit, she checked the box that she has a "four-year baccalaureate degree and one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency." However, this information is false because she has not conducted death investigations. State law requires that a candidate provide how she qualifies for this position; thus, Samuels-Cooper failed to comply with the law.

31. Defendant Samuels-Cooper has not completed a recognized forensic science degree or certification program. In fact, she says "she is enrolled for a program for August 13, 2018 – August 18, 2018." However, this program is not the forensic science degree and certification program recognized by the Coroners Training Advisory Committee which has been delegated the statutory authority to make such a determination in subsection 17-5-130(G) of the South Carolina Code. The recognized process and program is sponsored by the American Board of Medicolegal Death Investigators (ABMDI). To be eligible for the ABMDI process one must have 640 hours of death investigation experience prior to going through the program.

32. Defendant Samuels-Cooper, upon information and belief, at the time she filed her affidavit, was not enrolled in the statutorily recognized forensic science degree or certification program.

33. Defendant Samuels-Cooper's affidavit is deficient, and she is not qualified to be a coroner in South Carolina.

34. Defendants Clarendon County Democratic Party and South Carolina Democratic Party knew or should have known that Defendant Samuels-Cooper did not meet the qualifications to be a coroner, yet they certified her and forwarded her name to Defendant Clarendon County Board of Voter Registration & Elections as the nominee for Coroner of Clarendon County.

35. Defendant Clarendon County Board of Voter Registration & Elections received Defendant Samuels-Cooper's name as a candidate and, upon information and belief, forwarded her name to the Defendant South Carolina Election Commission as a candidate and improperly placed her on the ballot.

36. These actions taken by Defendant Samuels-Cooper, Defendant Clarendon County Democratic Party, Defendant South Carolina Democratic Party, Defendant Clarendon County Board of Voter Registration & Elections, and Defendant State Election Commission are wrongful and in disregard of the statutory requirements for being a coroner.

37. The actions and omissions have harmed Plaintiff Mock and the public of Clarendon County. Mock was forced to campaign against a candidate who is not qualified, nor can Defendant Samuels-Cooper become qualified to be elected Coroner of Clarendon County in 2018. Thus, Mock and the citizens of Clarendon County have been harmed by having a candidate win the primary election who is not a qualified candidate, and cannot become a qualified candidate, for coroner.

FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment)

38. Each allegation contained above is realleged and incorporated by reference.

39. Defendant Samuels-Cooper is not qualified to become a coroner because she has not met the criteria of section 17-5-130 of the South Carolina Code.

40. Defendant Samuels-Cooper's affidavit is deficient and does not detail how she meets the qualifications of South Carolina law.

41. Defendant Clarendon County Democratic Party and South Carolina Democratic Party improperly certified Samuels-Cooper as meeting the statutory qualifications.

42. Defendants Clarendon County Board of Voter Registration & Elections and State Election Commission improperly received and certified Defendant Samuels-Cooper as being qualified and listing her name as a candidate for the general election.

43. Therefore, pursuant to its authority set forth in section 15-53-20 of the South Carolina Code, Plaintiff Mock seeks a declaration from the Court that Defendant Samuels-Cooper does not meet the statutory requirements to become the Coroner of Clarendon County.

FOR A SECOND CAUSE OF ACTION
(Injunctive Relief)

44. Each allegation contained above is realleged and incorporated by reference.

45. Plaintiff seeks an injunction preventing and enjoining (1) the State Election Commission and/or the Clarendon County Board of Voter Registration & Elections from certifying Samuels-Cooper as a candidate for coroner; (2) the State Election Commission and/or the Clarendon County Board of Voter Registration & Elections from placing Defendant Samuels-Cooper's name on the ballot for the general election to be held November 6, 2018; and (3) the Clarendon County Democratic Party and South Carolina Democratic Party from certifying Defendant Samuels-Cooper as its nominee for coroner because she does not meet the statutory requirements.

46. The injunction sought by Plaintiff is necessary to prevent irreparable harm to Plaintiff who is without an adequate remedy at law.

47. Plaintiff will suffer irreparable harm of being incapable of becoming Coroner of Clarendon County if the injunction is not granted. Under sections 7-11-10 and 7-11-210 of the South Carolina Code, Plaintiff is prevented from being a candidate in the general election and appearing on the ballot.

48. Plaintiff is likely to succeed on the merits in this litigation because Defendant Samuels-Cooper is not qualified under section 17-5-130 of the South Carolina Code and should not have been certified to be a candidate Coroner of Clarendon County.

49. Defendants Clarendon County Democratic Party and South Carolina Democratic Party knew or should have known that Defendant Samuels-Cooper did not meet the statutory qualifications to be a coroner.

50. Under section 7-13-40 of the South Carolina Code, Defendants Clarendon County Democratic Party and South Carolina Democratic Party improperly certified and forwarded Defendant Samuels-Cooper's name to Defendant Clarendon County Board of Voter Registration & Elections as the nominee for Coroner of Clarendon County.

51. Under section 7-11-15(B) of the South Carolina Code, Defendants Clarendon County Board of Voter Registration & Elections and State Election Commission improperly received and certified Defendant Samuels-Cooper as being qualified and improperly listed her name as a candidate for the general election.

52. Plaintiff is without an adequate remedy at law. If a protest was filed pursuant to the process outlined in sections 7-17-520, -530, -540, and -550 of the South Carolina Code, Mock would not have an adequate remedy at law because Defendants Clarendon County

Democratic Party and the South Carolina Democratic Party would act as the “jury” and “court” for a protest, thereby preventing Mock a fair hearing.

53. The actions of the State Election Commission and/or the Clarendon County Board of Voter Registration & Elections, by certifying Samuels-Cooper as a qualified candidate, are expected to continue to cause harm to Plaintiff unless the State Election Commission and/or the Clarendon County Board of Voter Registration & Elections are enjoined.

54. Plaintiff is entitled to a temporary restraining order, a preliminary injunction, and a permanent injunction, including but not limited to, prohibiting (1) the State Election Commission and/or the Clarendon County Board of Voter Registration & Elections from certifying Samuels-Cooper as a candidate for coroner; (2) the State Election Commission and/or the Clarendon County Board of Voter Registration & Elections from placing Defendant Samuels-Cooper’s name on the ballot for the general election to be held November 6, 2018; and (3) the Clarendon County Democratic Party and South Carolina Democratic Party from certifying Defendant Samuels-Cooper as its nominee for coroner because she does not meet the statutory requirements.

55. Plaintiff also is entitled to an order from this Court requiring the State Election Commission and/or the Clarendon County Board of Voter Registration & Elections to remove Defendant Samuels-Cooper from the ballot as a candidate for Coroner of Clarendon County.

WHEREFORE, Plaintiff seeks an order and judgment against the Defendants for a declaratory judgment that Defendant Samuels-Cooper does not meet the statutory qualifications to become Coroner of Clarendon County and a temporary restraining order, a preliminary injunction, and a permanent injunction, enjoining Defendant Samuels-Cooper from running for

Coroner of Clarendon County and for such other and further relief as is just and proper, including recovery of costs and attorneys' fees.

SOWELL GRAY ROBINSON STEPP & LAFFITTE, LLC

By: s/ Robert E. Tyson, Jr.
Robert E. Tyson, Jr.
SC Bar No. 10820
Vordman Carlisle Traywick, III
SC Bar No. 102123
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

Attorneys for Plaintiff

Columbia, South Carolina
June 14, 2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CLARENDON	)	IN THE THIRD JUDICIAL CIRCUIT
	)	
Bucky Mock,	)	Civil Action No. 2018-CP-14-00237
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Clarendon County Board of Voter	)	<u>PLAINTIFF'S MOTION FOR</u>
Registration & Elections, Clarendon	)	<u>TEMPORARY RESTRAINING</u>
County Democratic Party, LaNette	)	<u>ORDER, PRELIMINARY</u>
Samuels-Cooper, South Carolina	)	<u>INJUNCTION, AND PERMANENT</u>
Democratic Party, and South Carolina	)	<u>INJUNCTION</u>
Election Commission,	)	
	)	
Defendants.	)	
	)	

Pursuant to Rule 65 of the South Carolina Rules of Civil Procedure, Plaintiff Bucky Mock hereby moves for a temporary restraining order, preliminary injunction, and permanent injunction preventing and enjoining (1) Defendant South Carolina Election Commission (State Election Commission) and/or Defendant Clarendon County Board of Voter Registration & Elections from certifying Defendant LaNette Samuels-Cooper as a candidate for coroner of Clarendon County, (2) Defendant State Election Commission and/or Defendant Clarendon County Board of Voter Registration & Elections from placing the name of Defendant LaNette Samuels-Cooper on the ballot for the general election, and (3) Defendant Clarendon County Democratic Party and/or Defendant South Carolina Democratic Party from certifying Defendant LaNette Samuels-Cooper as the Democratic Party nominee for coroner of Clarendon County.

The grounds for this motion are that, absent such an order, Defendant Samuels-Cooper will remain on the ballot in direct contravention of South Carolina law. Because no Republican is running for Coroner of Clarendon County, the Democratic nominee will run unopposed in the

general election. In other words, the citizens of Clarendon County likely will have a coroner who is not qualified to hold office. Mock is likely to succeed on the merits in this litigation because Defendant Samuels-Cooper fails to satisfy the statutory requirements of section 17-5-130 of the South Carolina Code, which prescribes the qualifications for coroners in South Carolina. The injunction sought by Mock is necessary to prevent irreparable harm to Mock because Defendant Samuels-Cooper is not qualified, nor can she become qualified by the general election. Further, Mock is without an adequate remedy at law because the defendants who improperly certified Defendant Samuels-Cooper in the first instance would be the ones deciding the present dispute.

This Motion is based on the accompanying verified filed Complaint, (see **Exhibit A**), the Affidavit of Coroner Bucky Mock, (see **Exhibit B**), the South Carolina Rules of Civil Procedure, the applicable statutory and case law, and any other documents that may be filed subsequently with the Court.

Respectfully submitted,

ROBINSON GRAY STEPP & LAFFITTE, LLC

By: s/Robert E. Tyson, Jr.

Robert E. Tyson, Jr.
SC Bar No. 10820
Vordman Carlisle Traywick, III
SC Bar No. 102123
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

Attorneys for Plaintiff

Columbia, South Carolina
June 20, 2018

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON) IN THE THIRD JUDICIAL CIRCUIT

Bucky Mock,) Civil Action No. 2018-CP-14-00237
))

Plaintiff,)
))

vs.)
))

Clarendon County Board of Voter) AFFIDAVIT OF DENNIS FOWLER
Registration & Elections, Clarendon)
County Democratic Party, LaNette)
Samuels-Cooper, South Carolina)
Democratic Party, and South Carolina)
Election Commission,)

Defendants.)
))

Personally appeared before me, Dennis Fowler, who first being duly sworn, testifies as follows:

1. My name is Dennis Fowler.
2. I am a resident of South Carolina. I am over 18 years old.
3. I have personal knowledge of the truth of the facts stated herein.
4. I currently serve as the Coroner for Cherokee County.
5. I am President of the South Carolina Coroner's Association Carolina.
6. South Carolina law requires a coroner to meet certain requirements.
7. The law provides seven (7) different ways for a person to qualify as a coroner.
8. South Carolina law requires a candidate for coroner to file by the end of the

filing period a sworn affidavit with the county executive committee of the candidate's political

party. The law requires the affidavit to contain the information describing how a candidate meets one of the seven options.

9. In the case of Defendant Lanette Samuels-Cooper, she filed to run in the Democratic primary on March 19, 2018. In her filing, she submitted an affidavit swearing she meets the statutory qualifications for Coroner. Specifically, in Item # 10, she checked the box for "four-year baccalaureate degree and one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency." Attached as Exhibit A.

10. Further, in Item # 11, (4), she added the following language, "August 13, 2018 - August 18, 2018". This section states, "I am enrolled in the following forensic science degree or certification program recognized by the Advisory Committee to be completed within one year of being elected to the office of coroner."

11. One of the ways a candidate could be qualified is to "have completed a recognized forensic science degree or certification program or be enrolled in a recognized forensic science degree or certification period to be completed within one year of being elected to the office of coroner." S.C. Code Ann. Sec. 17-5-130.

12. By virtue of my role as President of the South Carolina Coroners' Association, I am a member of the Coroners' Training Advisory Committee.

13. The Coroners' Training Advisory Committee is charged by section 17-5-130 of the South Carolina Code with the duty "to determine those forensic science degree and certification programs that qualify as 'recognized' pursuant to the requirements of this section."

14. In 2012, the Coroners' Training Advisory Committee approved the American Board of Medicolegal Death Investigators, Inc. (ABMDI) certification program as the only recognized forensic science degree or certification program for coroners in South Carolina. See Exhibit B.

15. ABMDI is a professional certification board that certifies individuals who have the knowledge and proven skills to perform medicolegal death investigations.

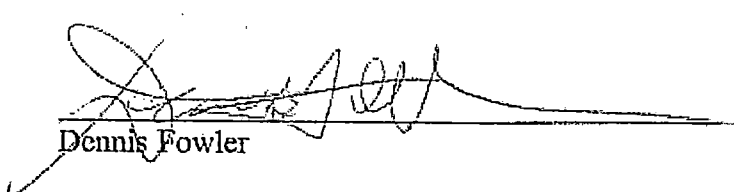
16. ABMDI is not affiliated with St. Louis University.

17. To apply for the ABMDI certification program, an applicant must meet certain requirements. An applicant must currently be employed in a medical examiner's office or a coroner's office. Further, an applicant must have a minimum of 640 hours of death investigation experience. Materials concerning the ABMDI application process are attached as Exhibit C.

18. Any person who is not currently employed by a medical examiner or a coroner and does not have 640 hours of required experience is not able to apply to the ABMDI program.

19. Therefore, for a person to meet the criteria of subsection 17-5-130(A)(2)(c) of the South Carolina Code, a candidate must have completed the ABMDI program or be enrolled in the ABMDI program by the time the filing period closes. A person who does not currently work for a coroner or a medical examiner's office and one who does not have the 640 hours of experience is not eligible to apply to ABMDI—the only recognized forensic science degree and certification program in South Carolina.

FURTHER AFFIANT SAYETH NOT.


Dennis Fowler

SWORN to and subscribed before me

this 29 day of June, 2018

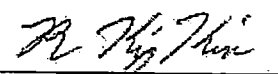

Notary Public for South Carolina
My Commission Expires: 2-20-2028

EXHIBIT A

FILING AFFIDAVIT -- CORONER

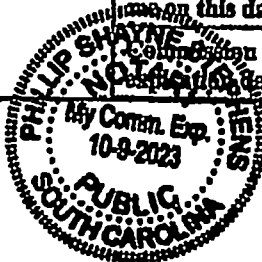
STATE OF SOUTH CAROLINA

County of ClarendonI, LaNette Samuels-Cooper, being duly sworn, hereby state or affirm that:

1. I am offering my candidacy for the Office of Coroner via nomination by _____.
2. As evidenced by the statements and information selected, indicated, or otherwise provided below, I meet all of the qualification requirements for Coroner set forth in S.C. Code § 17-5-130.
3. My date of birth is 8/25/1948 and my place of birth is Sumter, SC.
4. I am a citizen of the United States.
5. I am a resident of Clarendon County and have been a resident for 35 years.
6. I am a registered voter in Clarendon County.
7. I will have attained the age of at least twenty-one years prior to the date of election for this office.
8. I obtained a high school diploma or its recognized equivalent by the State Department of Education on the following date: 5/31/1966.
9. I have not been convicted of a felony or an offense involving moral turpitude contrary to the laws of this State, another state, or the United States.
10. I meet at least one of the following education and/or experience requirements: [check all that apply]
 - ☐ I have at least three years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency.
 - ☐ I have a two-year associate degree and two years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency.
 - ☒ I have a four-year baccalaureate degree and one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency.
 - ☐ I am a law enforcement officer, as defined by S.C. Code § 23-23-10(E)(1), who is certified by the S.C. Law Enforcement Training Council (the "Training Council") with a minimum of two years of experience.
 - ☐ I have completed a forensic science degree or certification program recognized by the S.C. Coroners Training Advisory Committee (the "Advisory Committee") or I am enrolled in a forensic science degree or certification program recognized by the Advisory Committee to be completed within one year of being elected coroner.
 - ☐ I am a medical doctor.
 - ☐ I have a Bachelor of Science degree in nursing.
11. The following supplemental education and experience information is provided to the extent applicable:
 - 1) I received an associate degree on the following date: _____.
 - 2) I received a baccalaureate degree on the following date: 5/16/1971.
 - 3) I completed a forensic science degree or certification program recognized by the Advisory Committee on the following date: _____.
 - 4) I am enrolled in the following forensic science degree or certification program recognized by the Advisory Committee to be completed within one year of being elected to the office of coroner: August 13, 2018 - August 18, 2018.
 - 5) I have _____ years of experience as a death investigator.
 - 6) I have _____ years of experience as a law enforcement officer certified by the Training Council.

Candidate Signature	<u>LaNette Samuels-Cooper</u>	Notary Signature	<u>Philip Shyne Stephens</u>
Candidate Address	<u>P.O. Box 15</u> <u>Manning, SC 29102</u>	Sworn before me on this date	<u>April 4, 2018</u>
		My Comm. Exp. date	<u>10/09/2023</u>

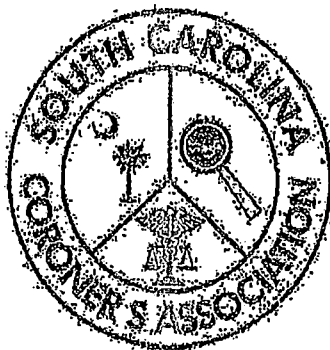
SEC FORM 1012-201801



SOUTH CAROLINA

 ELECTRONICALLY FILED - 2018 Jun 29 2:39 PM - CLARENDON - COMMON PLEAS - CASE#2018CP1400237
 ELECTRONICALLY FILED - 2018 Jun 14 5:12 PM - CLARENDON - COMMON PLEAS - CASE#2018CP1400237

EXHIBIT B



February 21, 2012

Leroy Smith
Director
SC Department of Public Safety
10311 Wilson Boulevard
Post Office Box 1993
Blythewood, SC 29016

ABMDI
St. Louis University
The American Board of Medicolegal Death Investigators
1402 South Grand Boulevard
St. Louis, MO 63104-1028

Dear Sirs:

On behalf of the South Carolina Coroners Association, this letter is to advise that the Coroners Training Advisory Committee has met and unanimously approved the American Board of Medicolegal Death Investigators, Inc. (ABMDI) certification program provided by St. Louis University as the recognized forensic science degree or certification program pursuant to S.C. Code of Laws, Section 17-5-130(G).

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Kenneth M. Johnson, BS, D-ABMDI, CMI-III, CFC
President

cc: SC County Coroners

EXHIBIT C



ABMDI

American Board of
Medicolegal Death Investigators

Login Online Testing Login

Apply Online

ABMDI Home

Death Investigation Guidelines

Registry Certification (basic)

Application Process

Performance Training Guidebook
Checklist

Registry Examination

Registry Certification Fees

Board Certification (advanced)

Bylaws

Policy and Procedures

Registry Diplomates

Board Certified Fellows

Certificant Directory

Board Members

Advisory Council

Continuing Education Opportunities

FAQ

Change of Information Form

Reference Material

Recertification

Job Opportunities

Contact Us

Site Map

Registry Certification (basic)

The Registry certification is the initial certification that provides official recognition that an individual has acquired basic knowledge and demonstrated proficiency in the standards of practice necessary to properly conduct a competent, thorough medicolegal death investigation.

Eligibility

1. Must be at least eighteen years of age at time of application.
2. Must have a high school diploma or equivalent.
3. Must currently be employed in a Medical Examiner or Coroner office or equivalent federal authority with the job responsibility to "conduct death scene investigations" at time of application and examination.
4. Must have a minimum of 640 hours of death investigation experience
 - o Each on-call hour = 0.25 hours
 - o Investigation of a natural death, no scene investigation = 1 hour
 - o Investigation of non-natural death, no scene investigation = 2.5 hours
 - o Investigation of a death with scene investigation = 5 hours

DISCLAIMER: Currently, the ABMDI does not endorse any program that claims to fulfill the requirements of certification or prepare an individual for the certification exam.

Application Process

Applications are available upon receipt of an application request form. The \$50 non-refundable application fee must accompany the request form.

Included in the Registry application packet:

1. Application Form (Code of Ethics Included)
2. Employment Verification Form verifying 640 hours of work experience and current employment in a Medical Examiner/Coroner office or equivalent federal authority with the primary responsibility of death investigation (requires notarization). *this requirement applies to application and examination
3. Professional Reference form
4. Performance Training Guidebook Checklist with ABMDI instructions (see below for more details).

In order to be eligible to sit for the Registry exam, the individual must complete the application packet in its entirety. *Note: Applicants who begin the process within one jurisdiction and subsequently move to another, must provide a notarized employment verification form from each jurisdiction indicating the length of employment.*

Application materials must be completed in their entirety and returned to the ABMDI office at least 30 days prior to the desired examination date.

There is an 18 month time limit to complete the application process and sit for the exam. If, after 18 months, you have not completed all application requirements or tested, your file will become inactive and your application fee will be forfeited. You will be required to reapply and pay the current application fee in order to start the process again.

Performance Training Guidebook Checklist

Copy of Registry Performance Training Checklist in Acrobat Reader-- This is only a copy and should not be sent in with other application materials.

Medicolegal Death Investigators have standards of practice that require performance of specialized, technical skills, e.g., initial body examination at the scene, drawing postmortem specimens for analysis, etc. There are many specialized procedures that are fundamental and are necessary to perform a thorough medicolegal death investigation. Proof that an individual is experienced in correctly performing these tasks is required to show his/her competency. Successful performance of all 300+ tasks identified in the Checklist must be verified in writing by a competent practitioner working in the field who has personal knowledge that the applicant can perform the task independently and correctly. (The above pdf document shows the 300+ tasks condensed into 62 categories).

You may have as many people as necessary sign off on the Checklist showing that you have completed the tasks. You must also go through hands-on training to complete the checklist, for example:

- Actual death scene field work experience including body evaluation at the death scene and producing appropriately documented reports of death
- Autopsy lab including body evaluation and drawing specimens
- Role-play (creating scenarios that address training issues including mock scenes, etc.)
- Other forensic lab work involving anthropology, odontology, postmortem evaluation, medical record review, etc.

(NOTE: It is understood that some jurisdictions do not perform certain identified tasks due to statute, policy or procedure. However, that does not preclude an applicant from receiving appropriate training in that area. If such issues arise, the applicant is encouraged to contact ABMDI for direction to determine how to best satisfy those specific requirements.)

When the entire Checklist is completed at an independent level, the back cover should be notarized and returned to the ABMDI office for processing.

Registry Examination

ABMDI - American Board of Medicolegal Death Investigators

The scope of knowledge for the Registry exam is defined in the National Institutes of Justice publication *Death Investigation: A Guide for the Scene Investigator* and further defined in the Performance Training Guidebook Checklist. For an online practice test, you can visit [Occupational Research and Assessment](#).

The 240 multiple choice examination covers factual knowledge, technical information, understanding the principles and problem-solving abilities related to the profession. Exams are offered online. There is an additional fee for paper/pencil format. The examination is divided into eight sections as outlined in the Checklist and in the *Medicolegal Death Investigator* training text (Clark, Ernst, Jentzen, and Haglund, 1994). This text may be purchased from [Occupational Research and Assessment](#). Examinations are administered at local colleges, universities or approved testing centers through their testing departments. You have up to four hours to complete all eight multiple choice sections, which are:

1. Interacting with Federal, State and Local Agencies
2. Communicating
3. Interacting with Families
4. Investigating Deaths
5. Identifying and Preserving Evidence
6. Maintaining Ethical and Legal Responsibilities
7. Demonstrating Scientific Knowledge
8. Coping with Job-Related Stress

Successful Completion of the Registry Examination

Once you have passed the Registry examination, you become a Diplomate of the ABMDI (D-ABMDI). Certificants are issued a certification number that potential employers can ask for verification of certification.

Registry Recertification

In order to continue with certification, the Diplomate must:

1. Be considered in good standing (current in all fees)
2. Demonstrate continued competency (completed work verification form or see below)
3. Reaffirm the Code of Ethics in writing
4. Provide documentation of 45 hours of approved continuing education in the continuing education folder provided upon successful completion of passing the exam

The ABMDI is accredited by the Forensic Specialties Accreditation Board (FSAB), which requires proof of continued competency in order to be recertified. Continued competency can be demonstrated by current employment or by examination. The recertification examination will be required if you are not currently working for a medical examiner/coroner jurisdiction or equivalent federal authority with the responsibility of investigating deaths.

Registry Certification Fees

- Non-refundable Application Fee: \$60
- Non-refundable online Examination Fee: \$350
- *Paper/pencil format of exam: \$50 additional fee
- After certification, yearly maintenance fee: \$50

The ABMDI accepts Master Card, Visa, American Express, money orders and personal checks. Fees must be paid in U.S. dollars.

Note: There is an 18 month time limit to complete the application process and sit for the exam. There is a "wait-time" of 60 days between test and retest, but the test scores are good for one year.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CLARENDON	)	THIRD JUDICIAL CIRCUIT
	)	
Bucky Mock,	)	
	)	Civil Action No.: 2018-CP-14-00237
Plaintiff,	)	
	)	
vs.	)	
	)	ANSWER OF DEFENDANT
Clarendon County Board of Voter	)	LANETTE SAMUELS-COOPER
Registration & Elections, Clarendon	)	
County Democratic Party, LaNette	)	
Samuels-Cooper, South Carolina	)	
Democratic Party, and South	)	
Carolina Election Commission,	)	
	)	
Defendants.	)	
	)	

NOW comes the defendant, LaNette Samuels-Cooper, by and through her undersigned attorney, by way of answer and counterclaim to the complaint, alleges the following:

AS A FIRST DEFENSE

1. That each and every allegation in the complaint not hereinafter admitted, qualified, or explained is denied, and strict proof thereof is demanded.
2. That the defendant admits the allegations contained in paragraphs one (1) through ten (10).
3. That the defendant denies that the plaintiff is entitled to the relief sought in paragraph eleven (11), and strict proof thereof is demanded.
4. That the defendant admits the allegations contained in paragraph twelve (12).
5. That the defendant admits only so much of paragraph thirteen (13) that

alleges or can be construed to allege that the primary election was held on June 12, 2018 and that she received the majority of votes. The remaining allegations are denied and she demands strict proof thereof.

6. That the defendant admits the allegations contained in paragraphs fourteen (14) through eighteen (18).

7. That the defendant admits only so much of paragraph nineteen (19) that alleges or can be construed to allege that she filed as a Democrat with the Clarendon County Board of Voter Registration and Elections on or about March 16, 2018. The remaining allegations are denied and she demands strict proof thereof.

8. That the defendant denies the allegations contained in paragraphs twenty (20), twenty-one (21), and twenty-two (22), and demands strict proof thereof.

9. That the defendant lacks sufficient information or belief to admit or deny the allegations contained paragraph twenty-three (23), and therefore, she denies the same and demands strict proof thereof.

10. That the defendant denies the allegations contained in paragraph twenty-four (24) and she demands strict proof thereof.

11. That the defendant admits the allegations contained in paragraphs twenty-five (25), twenty-six (26), and twenty-seven (27).

12. That the allegations contained in paragraph twenty-eight (28) call for a legal conclusion.

13. That the defendant denies the allegations contained in paragraph twenty-nine (29) and demands strict proof thereof.

14. That the defendant admits only so much of paragraph thirty (30) that

alleges or can be construed to allege that she has a four-year baccalaureate degree and one year of experience in death investigation with a coroner's office. The remaining allegations are denied and she demands strict proof thereof.

15. That the defendant admits only so much of paragraph thirty-one (31) that alleges or can be construed to allege that she has enrolled in a medicolegal death investigator training course as contemplated by the statute. The remaining allegations are denied and she demands strict proof thereof.

16. That the defendant denies the allegations contained in paragraphs thirty-two (32), thirty-three (33), thirty-four (34), and she demands strict proof thereof.

17. That the defendant admits only so much of paragraph thirty-five (35) that alleges or can be construed to allege that defendant Clarendon County Board of Voter Registration and Elections received her name as a candidate and forwarded her name to defendant South Carolina Election Commission. The remaining allegations are denied and she demands strict proof thereof.

18. That the defendant denies the allegations contained in paragraphs thirty-six (36), thirty-seven (37), thirty-eight (38), thirty-nine (39), forty (40), forty-one (41), forty-two (42), forty-three (43), and forty-four (44), and she demands strict proof thereof.

19. That the defendant denies that the plaintiff is entitled to the relief requested in paragraph forty-five (45) and she demands strict proof thereof.

20. That the defendant denies the allegations contained in paragraphs forty-six (46), forty-seven (47), and forty-eight (48), forty-nine (49), fifty (50), fifty-one (51), fifty-two (52), fifty-three (53), fifty-four (54), and fifty-five (55), and she demands strict proof thereof.

AS A SECOND DEFENSE

21. That the defendant re-alleges paragraphs one (1) through twenty (20) of this answer as if fully repeated hereinafter verbatim.

22. That the plaintiff failed or refused to exhaust his administrative remedies as allowed in §7-17-520, et al., of the South Carolina Code of Laws, prior to the commencement of this action. Therefore, the complaint should be dismissed.

WHEREFORE, the defendant LaNette Samuels-Cooper, having fully answered the complaint, hereby requests the dismissal of this action with costs assessed to the plaintiff; and for such other and further relief as this Court deems just and proper.

RESPECTFULLY SUBMITTED:

SABB LAW GROUP, L.L.C.

s/ Ronnie A. Sabb

Ronnie A. Sabb (SC Bar No.: 9814)
Kimberly V. Barr (SC Bar No.: 8443)
Kimberly M. Hodge (SC Bar No.: 103450)
108 West Main Street
Post Office Box 88
Kingstree, South Carolina 29556
(843) 355-5349

July 23, 2018

Attorneys for LaNette Samuels-Cooper

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CLARENDON	)	THIRD JUDICIAL CIRCUIT
	)	
Bucky Mock,	)	
	)	Civil Action No.: 2018-CP-14-00237
Plaintiff,	)	
	)	
vs.	)	
	)	MOTION OF DEFENDANT LANETTE
	)	SAMUELS-COOPER TO DISMISS
Clarendon County Board of Voter	)	
Registration & Elections, Clarendon	)	
County Democratic Party, LaNette	)	
Samuels-Cooper, South Carolina	)	
Democratic Party, and South	)	
Carolina Election Commission,	)	
	)	
Defendants.	)	
	)	

TO THE PLAINTIFF AND DEFENDANTS HEREIN AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

YOU WILL PLEASE TAKE NOTICE that the defendant, LaNette Samuels-Cooper, by and through her undersigned counsel, will move before the presiding circuit court judge on Friday, July 20, 2018 at 9:30 a.m., or at such other time as may be set by the Court, for an order pursuant to Rule 12(b)(6), South Carolina Rules of Civil Procedure, dismissing the complaint for failure of the plaintiff to exhaust his administrative remedies prior to commencing this action.

This motion is based on the applicable rules of procedure, statutes and court opinions.

RESPECTFULLY SUBMITTED:

- *signature page to follow* -

SABB LAW GROUP, L.L.C.

s/ Ronnie A. Sabb

Ronnie A. Sabb (SC Bar No.: 9814)
Kimberly V. Barr (SC Bar No.: 8443)
Kimberly M. Hodge (SC Bar No.: 103450)
108 West Main Street
Post Office Box 88
Kingstree, South Carolina 29556
(843) 355-5349

July 19, 2018

Attorneys for LaNette Samuels-Cooper

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CLARENDON	)	THIRD JUDICIAL CIRCUIT
	)	
Bucky Mock,	)	
	)	Civil Action No.: 2018-CP-14-00237
Plaintiff,	)	
	)	
vs.	)	
	)	MEMORANDUM OF DEFENDANT
Clarendon County Board of Voter	)	LANETTE SAMUELS-COOPER IN
Registration & Elections, Clarendon	)	SUPPORT OF MOTION TO DISMISS
County Democratic Party, LaNette	)	
Samuels-Cooper, South Carolina	)	
Democratic Party, and South	)	
Carolina Election Commission,	)	
	)	
Defendants.	)	
	)	

The defendant, LaNette Samuels-Cooper, by and through her undersigned counsel, hereby submits this memorandum in support of her motion to dismiss the complaint.

BACKGROUND

The plaintiff, the current Clarendon County coroner, filed this action in circuit court on June 14, 2018 seeking declaratory and injunctive relief precluding defendants Clarendon County Democratic Party and South Carolina Democratic Party from certifying defendant Samuels-Cooper as their party nominee for the political race for Clarendon County coroner, and further barring the defendants Clarendon County Board of Voter Registration & Elections and South Carolina Election Commission from publishing the name of defendant Samuels-Cooper on the ballot for the general election in the political race for Clarendon County coroner. Plaintiff, who was appointed by the South Carolina governor as the Clarendon County coroner on February 21, 2018 to fill

the vacancy caused by the death of the preceding coroner, Hayes F. Samuels, Jr., filed as a Democratic candidate for coroner of March 16, 2018. Defendant Samuels-Cooper, who had been working in the coroner's office for thirteen years, was terminated by the plaintiff on March 9, 2018 when she announced her intent to run for the seat in the primary election. Samuels-Cooper formally filed her candidacy application with the Clarendon County Board of Voter Registration & Elections on March 19, 2018. In the primary election held on June 12, 2018, Samuels-Cooper defeated the plaintiff, garnering fifty-seven (57%) of the votes. Accordingly, the Clarendon County Democratic Party certified Samuels-Cooper as its nominee in the general election. The plaintiff did not challenge the candidacy or qualifications of Samuels-Cooper until after his loss in the primary election.

ARGUMENT

This action should be dismissed pursuant to Rule 12(b)(6), South Carolina Rules of Civil Procedure, for failure of the plaintiff to exhaust his administrative remedies prior to commencing this action. South Carolina Code of Laws, §7-17-520, governs the practice for challenging a primary election for a county office. The statute reads as follows:

“The protests and contests in the case of county officers and less than county officers *shall be* filed in writing with the chairman of the county party executive committee, together with a copy for each candidate in the race not later than noon Monday following the day of the declaration by the county committee of the result of the election. The protest must contain each ground for the protest stated separately and concisely. The chairman [of the county party executive committee] must forthwith serve upon each candidate in the protested race a copy of the protest, and serve a notice of the time and place of the meeting of the executive committee for the purpose of hearing the protest.”

Upon the timely and proper filing, the executive committee will hear the protest or

contest on the Thursday following the deadline for filing the protest or contest. At such hearings, the challenger has the right to be represented by counsel, to examine and cross-examine witnesses, and to produce evidence relevant to the grounds of protest. *See* S.C. Code Ann., §7-17-530. The law further provides the challenger the right to appeal the decision of the executive committee.

Where an adequate remedy at law is available to determine a question of fact, one must pursue that administrative remedy or be precluded from seeking relief in the courts. McFadden v. Clarendon County Election Commission, et al., Appellate Case No.: 2012-212849 (citing Hyde vs. S.C. Dept. of Mental Health, 314 S.C. 207, 442 S.E.2d 582 (1994); *see also* Brackenbrook N. Charleston, L.P. vs. County of Charleston, 360 S.C. 390, 602 S.E.2d 39 (2004)). The issues raised in this complaint concerning Samuels-Cooper qualifications as a candidate for coroner and sufficiency of her filing affidavit are questions of fact that must be first addressed by the plaintiff by way of protest or challenge to the primary election. It is undisputed that the plaintiff did not file any challenge concerning the primary election. As a result, this action is now barred.

Lastly, the plaintiff's assertion that a protest challenge with the Clarendon County Democratic Party and the South Carolina Democratic Party would have been futile is without merit. Although the chairpersons of the county and state democratic committees properly certified Samuels-Cooper as a candidate, the executive committee did not address the issues now asserted by the plaintiff as to the propriety of the defendant's candidacy because the plaintiff never filed a protest. Only the executive committee, and not the chairperson, can decide a question of fact relative to an individual's candidacy as set forth in §7-17-520, S.C. Code Ann. The plaintiff willingly and knowingly elected not

to pursue the remedies available to him in the statute, and he cannot now seek redress in the circuit court.

CONCLUSION

Therefore, defendant Samuels-Cooper requests that the complaint in this action should be dismissed with prejudice.

RESPECTFULLY SUBMITTED:

SABB LAW GROUP, L.L.C.

s/ Ronnie A. Sabb

Ronnie A. Sabb (SC Bar No.: 9814)
Kimberly V. Barr (SC Bar No.: 8443)
Kimberly M. Hodge (SC Bar No.: 103450)
108 West Main Street
Post Office Box 88
Kingstree, South Carolina 29556
(843) 355-5349

July 25, 2018

Attorneys for LaNette Samuels-Cooper

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CLARENDON	)	IN THE THIRD JUDICIAL CIRCUIT
	)	
Bucky Mock,	)	Civil Action No. 2018-CP-14-00237
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<u>PLAINTIFF'S OPPOSITION TO</u>
Clarendon County Board of Voter	)	<u>DEFENDANT LANETTE SAMUELS-</u>
Registration & Elections, Clarendon	)	<u>COOPER'S MOTION TO DISMISS</u>
County Democratic Party, LaNette	)	
Samuels-Cooper, South Carolina	)	
Democratic Party, and South Carolina	)	
Election Commission,	)	
	)	
Defendants.	)	
	)	

The plaintiff, Bucky Mock, submits this memorandum in opposition to the motion to dismiss filed by the defendant, Lanette Samuels-Cooper. For the reasons set forth below, the Court should deny the defendant's motion and assert jurisdiction over this matter.

INTRODUCTION

The Court should deny Samuels-Cooper's motion to dismiss because this Court has jurisdiction over the dispute, regardless of whether the plaintiff exhausted his administrative remedies prior to commencing this action. Samuels-Cooper's argument that this Court lacks jurisdiction is based solely upon an unpublished order of the Supreme Court of South Carolina. Because an unpublished order has no precedential value, Anderson v. South Carolina Election Commission, 397 S.C. 551, 725 S.E.2d 704 (2012), is the prevailing law. In Anderson, our supreme court held that judicial intervention is necessary to ensure that only legally qualified candidates are included on the ballots. 397 S.C. at 555, 725 S.E.2d at 706. Further, our supreme court recently ruled on this issue and held that the circuit court had subject matter jurisdiction over

an action in which the plaintiff requested a declaratory judgment regarding a candidate's qualifications for school board. Gantt v. Selph, Op. No. 27807 (S.C. Sup. Ct. filed May 30, 2018) (Shearhouse Adv. Sh. No. 22 at 50–57). Finally, this case falls comfortably within the futility exception to the exhaustion of administrative remedies requirement. Because the County and State Democratic Parties had already determined that Samuels-Cooper was qualified for the candidacy, it would have been futile for the plaintiff to file a protest with these entities. Accordingly, the Court should deny Samuels-Cooper's motion.

ARGUMENT

I. Samuels-Cooper's Argument Rests Solely on An Unpublished Order with No Precedential Value.

It is well-settled that “[m]emorandum opinions and unpublished orders have no precedential value and should not be cited except in proceedings in which they are directly involved.” Rule 268(d)(2), SCACR. Samuels-Cooper's argument for lack of jurisdiction rests on a single order issued by our supreme court pertaining to a 2012 election dispute in Clarendon County. McFadden v. Clarendon Cty. Election Comm'n, Order No. 2012-212849 (S.C. Sup. Ct. filed Oct. 3, 2012). In McFadden, the court found that the action was improperly commenced in circuit court because the appellant failed to exhaust the remedies set forth by the General Assembly. Id. When an adequate administrative remedy is available to determine a question of fact, one must pursue the administrative remedy or be precluded from seeking relief in the courts. Id. Interestingly, the circuit court did not even address this issue in its order—and only addressed the Anderson issues—and neither party appeared to raise it on appeal. Order, McFadden v. Clarendon Cty. Election Comm'n, No. 2012-CP-14-322 (S.C. Ct. Comm. Pl. filed Aug. 15, 2012).

In the present case, Samuels-Cooper argues that, based on this order, the Court must dismiss this case for lack of jurisdiction. The order, however, is not published and, therefore, it is

not binding on the lower courts. See Rule 268(d)(2), SCACR. If the supreme court wanted the order to have precedential value, then it would have been published. But the Court intended for its ruling only to apply narrowly to the set of facts in that particular case.

Further, in 2012, this Court decided a nearly identical issue in a dispute over the qualifications of a candidate for coroner. Order, Bullock v. Sumter Cty. Election Comm'n., No. 2012-CP-43-01173 (S.C. Ct. Comm. Pl. filed Aug. 7, 2012). This Court found that it had jurisdiction over the qualifications dispute for the office of coroner. Id. In that matter, the State Election Commission raised the same issue concerning jurisdiction to this Court that Samuels-Cooper seeks to raise. Id. The Court rejected the State Election Commission's argument in Bullock and should do so for the same reasons here.

Indeed, according to the South Carolina Constitution, the circuit courts have jurisdiction over matters in which an injunction is sought, and exclusive jurisdiction has not been given to any administrative body. S.C. CONST. art. V, § 11. In Bullock, this Court found that the plaintiff was not protesting or contesting the results of a primary election, but rather he was asking the Court to rule on whether the defendant met the statutory qualifications for office. Id. This Court noted it had "not found any adequate precedential value stating and did not discern any legislative intent that Title 7, Chapter 17, Article 5 of the South Carolina Code to be the exclusive method of challenging the qualifications of a candidate." Id. The law has not changed since that time. Therefore, for the reasons set forth in Bullock, the Court should find it has jurisdiction in the present case.

II. The Circuit Court Has Jurisdiction Under Anderson.

Because the McFadden order is not binding precedent, the 2012 decision in Anderson—in which the supreme court held that the question of the candidate's name remaining on the ballot

was ripe for judicial review—is the controlling law in this case. 397 S.C. at 551, 555, 725 S.E.2d at 706. The court found that the circuit court had jurisdiction over the dispute, even though no harm had yet been incurred because no unqualified candidates had been elected. Id. Therefore, absent relief, the court stated the plaintiffs, as voters, would face the substantial likelihood that they would be presented with a slate of candidates who may not be certified in the election, which the court held was a matter of great public importance. Id. at 555–56, 725 S.E.2d at 706. Recognizing that integrity in elections is foundational, the supreme court found the circuit court properly exercised jurisdiction over the dispute. Id. at 556, 725 S.E.2d at 706.

Although the supreme court acknowledged that South Carolina Code contemplated a post-primary election remedy, the court discerned no legislative intent that such a remedy was exclusive. Id. Therefore, the court granted relief to require compliance with the law with the goal of ensuring that only legally qualified candidates would be included on the ballot. Id. The supreme court also held that it was not asked to judge a disputed legislative election, but rather to interpret a statute, which is a judicial function and responsibility. Id. at 555, 725 S.E.2d at 706.

In addition to Anderson, the supreme court recently ruled on this issue in May 2018 and held that the circuit court had subject matter jurisdiction over the plaintiffs’ declaratory judgment action challenging the qualifications of a candidate for school board. Gantt v. Selph, Op. No. 27807 (S.C. Sup. Ct. filed May 30, 2018) (Shearhouse Adv. Sh. No. 22 at 50–57). In Gantt, the appellant claimed that the circuit court lacked subject matter jurisdiction to hear and decide the challenge to her qualifications because the Richland County Election Board was the sole arbiter of her qualifications to be a candidate for election. Id. at 52. The Supreme Court, however, found that South Carolina common law had not established the executive branch as the final authority on a candidate’s eligibility to run for and hold a seat on the school board. Id. at 53. Further, the court

held that the Richland County Election Board had not been vested with exclusive authority by either South Carolina Constitution, South Carolina Election Law, or any other statute to determine the qualifications of a school board candidate. Id. at 54. In determining whether the General Assembly has given another entity exclusive jurisdiction over a case, a court must look to the relevant statute. Id. at 55.

In the present case, we must look to sections 7-17-520, -530, and -560 of the South Carolina Code to determine the legislative intent of the statutes. The relevant provisions state that “the protests and contests in the case of county officers and less than county officer shall be filed in writing with the chairman of the county party executive committee.” S.C. Code Ann. § 7-17-520 (1976). Samuels-Cooper argues that this statute provides the county party executive committee exclusive authority to determine qualification disputes because it provides that the protests “shall” be filed with the county party executive committee. However, even when the General Assembly uses seemingly mandatory terms such as “shall” or must,” those provisions can still be considered directory. George v. Mun. Election Comm’n of City of Charleston, 335 S.C. 182, 186–87, 516 S.E.2d 206, 208–09 (1999). Section 7-17-520 provides an administrative remedy to Mock, but it does not *require* that he seek an administrative remedy exclusively. Therefore, Mock correctly filed his complaint in this Court and the Court has jurisdiction to hear the case.

III. The Plaintiff Was Not Required to Exhaust His Administrative Remedies Prior to Seeking Relief from this Court.

Even if this Court finds that the plaintiff did not exhaust his administrative remedies, he was not required to do so under the futility exception.

A generally recognized exception to the requirement of exhaustion of administrative remedies exists when a party demonstrates that pursuit of them would be a vain or futile act. Ward v. State, 343 S.C. 14, 19, 538 S.E.2d 245, 247 (2000). A party must demonstrate futility by a

showing comparable to the administrative agency taking a “hard and fast position that makes an adverse ruling a certainty.” Brown v. James, 389 S.C. 41, 54, 697 S.E.2d 604, 611 (Ct. App. 2010).

In Brown, the plaintiff was a school teacher who filed suit against the district superintendent for violating the South Carolina Teacher Employment and Dismissal Act. 389 S.C. at 43–45, 697 S.E.2d at 606. The circuit court granted the defendant’s motion for summary judgment because she had not exhausted her administrative remedies. Id. at 43–44, 697 S.E.2d at 606. The court of appeals reversed and held that the circuit court had subject matter jurisdiction to hear the plaintiff’s direct appeal. Id. at 55, 697 S.E.2d at 612. As the court recognized, for the plaintiff to fully exhaust her administrative remedies, she would have been required request a hearing before the school board. Id. at 50, 697 S.E.2d at 609. The board, however, was the entity that had already voted to accept the defendant’s recommendation for the nonrenewal of the plaintiff’s teaching contract. Id. at 52, 697 S.E.2d at 610. Accordingly, the court of appeals held the plaintiff was not required to participate in a hearing after a final determination had already been made regarding the nonrenewal of her teaching contract because such a pursuit would have constituted a futile act. Id. at 55, 697 S.E.2d at 612.

Likewise, in Ward, the plaintiffs brought a declaratory judgment against the State, alleging that an act eliminating tax exemption for state retirees was unconstitutional. 343 S.C. at 16, 538 S.E.2d at 246. The circuit court granted the defendant’s motion to dismiss on the ground that the plaintiffs failed to exhaust their administrative remedies. Id. The supreme court reversed and held that the circuit court had subject matter jurisdiction over the dispute because challenging the constitutionality of a statute before an agency that cannot rule on that issue would be a futile act. Id. at 19, 538 S.E.2d at 247.

In the present case, the plaintiff's appeal to defendants Clarendon County Democratic Party and South Carolina Democratic Party regarding Samuels-Cooper's qualifications would have been futile because they already certified Samuels-Cooper as a qualified candidate. More importantly, though, the plaintiff emailed the Chairman of the South Carolina Democratic Party, Trav Robinson, on April 4, 2018—the same day that Samuels-Cooper filed her late affidavit indicating her qualifications for the position—and raised his concerns regarding her lack of qualifications. (Exhibit A). The plaintiff attached a letter from the South Carolina Coroner's Association that outlined the qualifications to run and old office. See id. In his email, he asked Mr. Robertson to review the attached qualifications because he was concerned that a candidate running for coroner of Clarendon County was not qualified according to state law. See id. Mr. Robinson replied to the plaintiff two days later and informed him that “after consulting legal counsel and based on the advice of legal counsel, we certified all Democratic candidates seeking the position of coroner in Clarendon County.” Id. Additionally, the plaintiff received an email from Patricia Pringle, the Clarendon County Democratic Party Chairwoman, certifying all candidates to be placed on the ballot for the 2018 election per the South Carolina Democratic Party. (Exhibit B).

Here, the plaintiff's situation is similar to that of the plaintiff in Brown, whose administrative remedy consisted of protesting to an administrative body that had already made a decision on the issue. It would have been futile for the plaintiff to file a protest with the South Carolina Democratic Party or the Clarendon County Democratic Party after the election because he already presented them with his concerns about Samuels-Cooper's qualifications prior to the election, and they dismissed his concerns and stated their intention to certify all candidates. Because the Democratic Party—at both the state and county level—already determined that Samuels-Cooper was qualified, appealing to those defendants unquestionably would have been an

exercise in futility. Additionally, the plaintiff raised this issue at the appropriate time after the filing period, but before the election. He should not be required now to challenge Samuels-Cooper's qualifications again, post-primary election, to the Clarendon County Democratic Party, who already certified her as a candidate per the recommendation of the South Carolina Democratic Party. Such a challenge would be futile.

IV. The Plaintiff's Complaint Addresses Samuels-Cooper's Lack of Qualifications.

Last, Samuels-Cooper alleges that the complaint only addresses the issue of the late affidavit—not her lack of qualifications—and, therefore, the circuit court has no jurisdiction to hear the case. This argument is without merit. This entire lawsuit is about Samuels-Cooper's lack of qualifications, and the Court need look no further than the text of the complaint itself. See Compl. ¶ 11 (“Mock asks this court to declare Defendant’s Samuels-Cooper does not meet the statutorily required qualifications of section 17-5-130 of the South Carolina Code to be a candidate for coroner in South Carolina”); see also Compl. ¶¶ 20–22, 24, 29–34, 36, 37, 39, 41, 42, 45, 48, 49 & 53 (alleging that Defendant is not qualified to be a coroner in South Carolina). Thus, the Court should reject this argument.

CONCLUSION

Based upon the foregoing, the plaintiff respectfully requests that the Court deny Samuels-Cooper's motion to dismiss and assert jurisdiction over this matter.

Respectfully submitted,

ROBINSON GRAY STEPP & LAFFITTE, LLC

By: s/Robert E. Tyson, Jr.

Robert E. Tyson, Jr.
SC Bar No. 10820
rtyson@robinsongray.com
Vordman Carlisle Traywick, III
SC Bar No. 102123
ltraywick@robinsongray.com
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

Attorneys for Plaintiff Bucky Mock

Columbia, South Carolina
July 24, 2018

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

Bucky Mock,

Plaintiff,

vs.

Clarendon County Board of Voter Registration
& Elections, Clarendon County Democratic
Party, LaNette Samuels-Cooper, South Carolina
Democratic Party, and South Carolina Election
Commission,

Defendants.

COURT OF COMMON PLEAS

IN THE THIRD JUDICIAL CIRCUIT

Civil Action No. 2018-CP-14-00237

MOTION TO DISMISS

YOU WILL PLEASE TAKE NOTICE that the Defendants Clarendon County Democratic Party and South Carolina Democratic Party, by and through their undersigned counsel, hereby move before the presiding circuit court judge for an order pursuant to Rule 12(b)(6), South Carolina Rules of Civil Procedure, dismissing the complaint for failure of the Plaintiff to state facts sufficient to constitute a cause of action. The grounds for this motion are that Plaintiff failed to exhaust available administrative remedies prior to commencing this action. As a result, Plaintiff's suit is barred as a matter of law. *See* S.C. Code §§7-17-520; -530; *Hyde v. South Carolina Dept. of Mental Health*, 314 S.C. 207 at 208, 442 S.E.2d 582 at 583 (1994) (noting that "[w]here an adequate administrative remedy is available to determine a question of fact, one must pursue the administrative remedy or be precluded from seeking relief in the courts."); *see also* App. Case No. 2012-212849, *McFadden v. Clarendon County Election Commission, Clarendon County Democratic Party, South Carolina State Election Commission, Eleazer Carter, Kevin Johnson and South Carolina Democratic Party* (2012).

This motion may be supported by additional affidavits and a memorandum of law.

Respectfully submitted,

s/ Joseph O. Thickens

Joseph O. Thickens, S.C. Bar No. 101398

J. Eric Cavanaugh, S.C. Bar No. 100044

Cavanaugh & Thickens, LLC

1324 Gadsden Street (29201)

Post Office Box 2409

Columbia, SC 29202

Tel: (803) 888-2200

Fax: (803) 888-2219

**ATTORNEYS FOR DEFENDANTS
CLARENDON COUNTY DEMOCRATIC
PARTY AND SOUTH CAROLINA
DEMOCRATIC PARTY**

Columbia, South Carolina
July 24, 2018

CERTIFICATE OF SERVICE

I, the undersigned attorney of the law offices of Cavanaugh & Thickens, LLC, attorneys for Plaintiff, do hereby certify that I have served a copy of the foregoing *Motion to Dismiss* in connection with the above-referenced case by **Electronic Filing Notification** through the **South Carolina Courts**, to the following:

1. Robert E. Tyson, Jr. and Vordman Carlisle Traywick, III for Plaintiff Bucky Mock;
2. Thomas Parkin C. Hunter and Harrison David Brant for Defendant South Carolina Election Commission;
3. Shaun Kent for Defendant Clarendon County Board of Voter Registration & Elections;
4. Ronnie Alan Sabb for Defendant Lanette Samuels-Cooper.

s/ Joseph O. Thickens

Columbia, South Carolina
July 24, 2018

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)
Bucky Mock,)
Plaintiff,)
vs.)
Clarendon County Board of Voter)
Registration & Elections, et al.,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Civil Action Number: 2018-CP-14-00237

MOTION OF DEFENDANT
CLARENDON COUNTY BOARD OF VOTER
REGISTRATION & ELECTIONS TO DISMISS
WITH PREJUDICE

TO: The Plaintiff and Defendants herein and their respective attorneys of record:

The Defendant, Clarendon County Board of Voter Registration & Elections, by and through its undersigned attorney, hereby moves before this Honorable Court for an Order pursuant to Rule 12(b)(6), South Carolina Rules of Civil Procedure, dismissing the Complaint against them with prejudice.

This motion is based upon the fact that no evidence has been presented whereby the Clarendon County Board of Voter Registration & Elections should be a party to this lawsuit and, further, based on testimony to this honorable Court by the Plaintiff that the Clarendon County Board of Voter Registration & Elections did nothing wrong.

WHEREFORE, the Defendant, Clarendon County Board of Voter Registration & Elections, respectfully requests that this matter be dismissed with prejudice.

KENT LAW FIRM, LLC

s/ Shaun C. Kent
Shaun C. Kent
19 South Mill Street
Post Office Box 117
Manning, SC 29102
(803) 433-5368
Attorney for Defendant, Clarendon
County Board of Voter Registration &
Elections

Manning, South Carolina
July 26, 2018

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

Bucky Mock,

Plaintiff,

vs.

Clarendon County Board of Voter Registration
& Elections, Clarendon County Democratic
Party, LaNette Samuels-Cooper, South Carolina
Democratic Party, and South Carolina Election
Commission,

Defendants.

COURT OF COMMON PLEAS

IN THE THIRD JUDICIAL CIRCUIT

Civil Action No. 2018-CP-14-00237

**MOTION TO RECONSIDER AND/OR
AMEND ORDER**

YOU WILL PLEASE TAKE NOTICE that the Defendants Clarendon County Democratic Party and South Carolina Democratic Party, by and through their undersigned counsel, will move before the Court for an expedited hearing and for an Order, pursuant to Rule 59 (a) – (e), South Carolina Rules of Civil Procedure to alter or amend the judgment and for a new trial.

The grounds for this motion are that the trial court did not rule on the joint Motion to Dismiss pursuant to Rule 12(b)(6), South Carolina Rules of Civil Procedure filed by the South Carolina Democratic Party and the Clarendon County Democratic Party on July 24, 2018. This Motion was referenced by the Final Order (p.5), but not ruled upon. However, the Court did grant the nearly identical motion of Defendant Samuels-Cooper. Accordingly, Defendants South Carolina Democratic Party and the Clarendon County Democratic Party respectfully request that this Court issue a revised Order ruling on this Motion.

This motion may be supported by additional affidavits and a memorandum of law.

(Signature page to follow)

Respectfully submitted,

s/ Joseph O. Thickens

Joseph O. Thickens, S.C. Bar No. 101398

J. Eric Cavanaugh, S.C. Bar No. 100044

Cavanaugh & Thickens, LLC

1324 Gadsden Street (29201)

Post Office Box 2409

Columbia, SC 29202

Tel: (803) 888-2200

Fax: (803) 888-2219

**ATTORNEYS FOR DEFENDANTS
CLARENDON COUNTY DEMOCRATIC
PARTY AND SOUTH CAROLINA
DEMOCRATIC PARTY**

Columbia, South Carolina

August 8, 2018

CERTIFICATE OF SERVICE

I, the undersigned attorney of the law offices of Cavanaugh & Thickens, LLC, attorneys for Plaintiff, do hereby certify that I have served a copy of the foregoing *Motion to Dismiss* in connection with the above-referenced case by **Electronic Filing Notification through the South Carolina Courts**, to the following:

1. Robert E. Tyson, Jr. and Vordman Carlisle Traywick, III for Plaintiff Bucky Mock;
2. Thomas Parkin C. Hunter and Harrison David Brant for Defendant South Carolina Election Commission;
3. Shaun Kent for Defendant Clarendon County Board of Voter Registration & Elections;
4. Ronnie Alan Sabb for Defendant Lanette Samuels-Cooper.

s/J. Eric Cavanaugh

Columbia, South Carolina

August 8, 2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CLARENDON	)	THIRD JUDICIAL CIRCUIT
	)	
Bucky Mock,	)	
	)	Civil Action No.: 2018-CP-14-00237
Plaintiff,	)	
	)	
vs.	)	
	)	MOTION OF DEFENDANT LANETTE
Clarendon County Board of Voter	)	SAMUELS-COOPER TO RECONSIDER
Registration & Elections, Clarendon	)	OR TO ALTER OR AMEND JUDGMENT
County Democratic Party, LaNette	)	(Expedited Hearing Requested)
Samuels-Cooper, South Carolina	)	
Democratic Party, and South	)	
Carolina Election Commission,	)	
	)	
Defendants.	)	

TO: THE HONORABLE R. FERRELL COTHRAN, JR. AND ALL PARTIES OF RECORD AND THEIR RESPECTIVE ATTORNEYS

YOU WILL PLEASE TAKE NOTICE that the defendant, LaNette Samuels-Cooper, by and through her undersigned counsel, will move before the Honorable R. Ferrell Cothran, Jr. as soon as the matter can be heard for an order pursuant to Rule 59(e), South Carolina Rules of Civil Procedure, reconsidering, altering or amending the Court's order filed on August 3, 2018 in the following respects:

1. The Court did not rule on the motion of defendant Samuels-Cooper to amend her answer to assert the affirmative defenses of laches and estoppel;
2. The Court, having granted the defendant's motion to dismiss, should have dismissed the entire action;
3. The Court did not make a finding as to what constitutes a death investigation;
4. Given that the Court did not make a finding as to what constitutes a death

investigation and the statute does not define it, the Court could not have determined that defendant Samuels-Cooper lacked the requisite experience;

5. The Court misunderstood the number of death scenes defendant Samuels-Cooper attended while employed with the Coroner;

6. And the Court did not fully consider the nature and extent of the death investigation experience acquired by defendant Samuels-Cooper while employed with Coroner.

This motion is based on the applicable rules of procedure, statutes and court opinions.

WHEREFORE, defendant prays for an order waiving the ten-day time limit in which this matter can be heard; staying and enjoining defendants Clarendon County Board of Voter Registration & Elections, Clarendon County Democratic Party, South Carolina Democratic Party, and South Carolina Election Commission from removing defendant Samuels-Cooper from the ballot for the general election; granting the defendant Samuels-Cooper the relief set forth herein; an order dismissing this action; and for such other and further relief as this Court deems just and proper;.

SABB LAW GROUP, L.L.C.

s/ Ronnie A. Sabb

Ronnie A. Sabb (SC Bar No.: 9814)
Kimberly V. Barr (SC Bar No.: 8443)
Kimberly M. Hodge (SC Bar No.: 103450)
108 West Main Street
Post Office Box 88
Kingstree, South Carolina 29556
(843) 355-5349

August 9, 2018

Attorneys for LaNette Samuels-Cooper

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CLARENDON	)	IN THE THIRD JUDICIAL CIRCUIT
	)	
Bucky Mock,	)	Civil Action No. 2018-CP-14-00237
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Clarendon County Board of Voter	)	<u>PLAINTIFF BUCKY MOCK'S</u>
Registration & Elections, Clarendon	)	<u>MOTION TO ALTER OR AMEND</u>
County Democratic Party, LaNette	)	<u>JUDGMENT</u>
Samuels-Cooper, South Carolina	)	
Democratic Party, and South Carolina	)	
Election Commission,	)	
	)	
Defendants.	)	
	)	

YOU WILL PLEASE TAKE NOTICE THAT the plaintiff, Bucky Mock, moves the Court to reconsider, alter, or amend the Order of the Honorable R. Ferrell Cothran, Jr., filed on August 3, 2018, pursuant to Rule 59(e), SCRCP. Mock respectfully requests that the Court grant his motion for the following reasons.

A Rule 59(e), SCRCP, motion provides a vehicle through which a party may (1) request that the circuit court reconsider matters properly encompassed in a decision on the merits or "alter or amend" its judgment; or (2) attempt to obtain a ruling on issues or arguments previously raised to the court. See Elam v. S.C. Dep't of Transp., 361 S.C. 9, 21–22, 602 S.E.2d 772, 779 (2004). A party may file a Rule 59(e) motion when it believes the court "misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it." Id. at 24, 602 S.E.2d at 780. Because these circumstances are present in this case, the Court should grant Mock's motion and amend the Order solely on the issue of whether he failed to exhaust his administrative remedies.

In this case, Mock is challenging the statutory qualifications of Samuels-Cooper and seeking an injunction. The Court held “that because Plaintiff did not follow the administrative procedures available to contest this election, he may not challenge Ms. Samuels-Cooper’s qualifications to be a *candidate* for coroner.” Mock maintains the Court erred because the statute does not give the Democratic Party exclusive jurisdiction to rule on whether Samuels-Cooper meets the statutory qualifications for office. The circuit court has concurrent jurisdiction over this issue. Indeed, according to the South Carolina Constitution, the circuit courts have jurisdiction over matters in which an injunction is sought, and exclusive jurisdiction has not been given to any administrative body. S.C. CONST. art. V, § 11. Because South Carolina election laws do not give exclusive jurisdiction to any administrative body, Mock appropriately filed a challenge to Samuels-Cooper’s statutory qualifications in circuit court, and he was not required to exhaust any administrative remedies prior to doing so.

Even if this Court finds Mock failed to exhaust his administrative remedies, he was not required to do so under the futility exception. A generally recognized exception to the requirement of exhaustion of administrative remedies arises when a party demonstrates that pursuit of them would be a vain or futile act. Ward v. State, 343 S.C. 14, 19, 538 S.E.2d 245, 247 (2000). A party must demonstrate futility by a showing comparable to the administrative agency taking a “hard and fast position that makes an adverse ruling a certainty.” Brown v. James, 389 S.C. 41, 54, 697 S.E.2d 604, 611 (Ct. App. 2010).

The Court distinguished Ward and Brown in its Order, noting that, in those cases, administrative agencies had already made an adverse ruling. According to the Court, that is not the case with Mock’s protest. Mock respectfully maintains that the Court misapplied Ward and Brown. Filing a protest with the Clarendon County Democratic Party and subsequently with the

South Carolina Democratic Party (the State Party) would have been futile in this case because he already raised objections to each of these entities. In fact, after Mock presented the statute and his arguments as to why Ms. Samuels-Cooper was not qualified, the State Party chairman conferred with legal counsel and still certified her to appear on the ballot as a purportedly qualified candidate. Further proof that a protest would have been futile is the fact that the State Party did not disqualify Samuels-Cooper initially when the March 19, 2018 affidavit she filed to run for office was plainly defective. Instead, the State Party allowed her to file a late affidavit, in violation of state law, and certified her to appear on the ballot. Raising the same issue post-election would not have changed their minds and, thus, would have been futile.

Based upon the foregoing, Mock respectfully requests that the Court grant his Motion to Alter or Amend the Order solely on the exhaustion of administrative remedies issue.

Respectfully submitted,

ROBINSON GRAY STEPP & LAFFITTE, LLC

By: s/Robert E. Tyson, Jr.

Robert E. Tyson, Jr.
 SC Bar No. 10820
 rtyson@robinsongray.com
 Vordman Carlisle Traywick, III
 SC Bar No. 102123
 ltraywick@robinsongray.com
 1310 Gadsden Street
 Post Office Box 11449
 Columbia, South Carolina 29211
 (803) 929-1400

Attorneys for Plaintiff Bucky Mock

Columbia, South Carolina
 August 13, 2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CLARENDON	)	IN THE THIRD JUDICIAL CIRCUIT
	)	
Bucky Mock,	)	Civil Action No. 2018-CP-14-00237
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Clarendon County Board of Voter	)	<u>PLAINTIFF BUCKY MOCK'S</u>
Registration & Elections, Clarendon	)	<u>RESPONSE IN OPPOSITION TO</u>
County Democratic Party, LaNette	)	<u>DEFENDANTS' MOTIONS TO</u>
Samuels-Cooper, South Carolina	)	<u>ALTER OR AMEND JUDGMENT</u>
Democratic Party, and South Carolina	)	
Election Commission,	)	
	)	
Defendants.	)	
	)	

The plaintiff, Bucky Mock, submits this response in opposition to defendant LaNette Samuels-Cooper's Motion to Alter or Amend Judgment and defendants Clarendon County Democratic Party and South Carolina Democratic Party's (collectively, "the Democratic Party") Motion to Alter or Amend the Court's Order filed August 3, 2018. For the reasons previously argued before the Court and for the grounds described below, Mock respectfully requests this Court deny the defendants' Motions to Alter or Amend.¹

A Rule 59(e), SCRCP, motion provides a vehicle through which a party may (1) request that the circuit court reconsider matters properly encompassed in a decision on the merits or "alter or amend" its judgment; or (2) attempt to obtain a ruling on issues or arguments previously raised to the court. See Elam v. S.C. Dep't of Transp., 361 S.C. 9, 21–22, 602 S.E.2d 772, 779 (2004). A party may file a Rule 59(e) motion when it believes the court "misunderstood, failed to fully

¹ Mock also filed today a Motion to Alter or Amend the Court's Order of August 3, 2018 solely on its ruling that Mock failed to exhaust his administrative remedies prior to challenging Samuels-Cooper's qualifications after the primary election.

consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it.” Id. at 24, 602 S.E.2d at 780.

Although recognizing its motion to dismiss is “the nearly identical motion of Defendant Ms. Samuels-Cooper,” the Democratic Party nevertheless asks the Court to amend the Order and grant its Motion to Dismiss. Because the Democratic Party offered no legal reasons as to why the Court should rule on the motion and dismiss the Democratic Party from this lawsuit, its arguments are manifestly without merit.

Samuels-Cooper first requests the Court grant her motion to amend her Answer. The Court’s Order already addressed this issue in its ruling and properly found it was moot. Likewise, the Court properly held it had jurisdiction to determine whether Samuels-Cooper meets the statutory qualifications for office pursuant to Anderson v. South Carolina Election Comm’n, 397 S.C. 551, 725 S.E. 2d 704 (2012). Samuels-Cooper offers no legal support for her position to the contrary and, therefore, it is without merit. Samuels-Cooper next argues the Court should have dismissed the entire Complaint. Although the Court may have granted Samuels-Cooper’s motion to dismiss, the remaining defendants are still in this lawsuit and were appropriately retained to follow the law as explained in the Order entered by the Court.

Finally, Samuels-Cooper contends the Court failed to address properly the death investigations issue. Samuels-Cooper contends the Court did not fully address the death investigation issue both as to what encompasses death investigations and whether Samuels-Coopers has sufficient death investigation experience. The Order addressed these issues at length. Although Samuels-Cooper wants the proverbial “second bite of the apple,” Rule 59 does not afford her this opportunity. The Court correctly concluded, based upon a thorough review of the evidence, that Samuels-Cooper simply does not possess the death investigation experience

necessary to serve as Coroner of Clarendon County. The Order relied on testimony from Samuels-Cooper and Sabrina Gast, President of South Carolina Association of Coroners, as to what death investigations encompass and what Samuels-Cooper did in relation to these steps in the death investigation process. The Order properly concluded Samuels-Cooper does not meet the statutory requirement of one year of death investigation experience and, thus, her motion should be denied.

Lastly, Samuels-Cooper prays for an order from this Court “staying and enjoining defendants Clarendon County Board of Voter Registration & Elections, Clarendon County Democratic Party, South Carolina Democratic Party, and South Carolina Election Commission from removing Samuels-Cooper from the ballot for the general election.” This request is improper. The relief sought is not appropriate under a Rule 59(e) motion and should not be addressed. If she wants to stay the Court’s Order, she must file the appropriate Motion and request such relief. Samuels-Cooper cannot merely tack on new relief that was neither requested in her pleadings nor substantiated in a motion for the first time in a Rule 59(e) motion to alter or amend judgment. Even if the Court were to entertain such a request, Samuels-Cooper offers no legal argument that would support the Court granting such drastic relief. Simply put, her request for a stay or injunction of an order is without merit.

For the reasons stated above and previously made, Mock respectfully requests that the Court deny the Defendants’ Motions to Alter or Amend Judgment.

(Signature page to follow)

Respectfully submitted,

ROBINSON GRAY STEPP & LAFFITTE, LLC

By: s/Robert E. Tyson, Jr.

Robert E. Tyson, Jr.
SC Bar No. 10820
rtyson@robinsongray.com
Vordman Carlisle Traywick, III
SC Bar No. 102123
ltraywick@robinsongray.com
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

Attorneys for Plaintiff Bucky Mock

Columbia, South Carolina
August 13, 2018

2

2

3

)

)

)

)

)

✓

)

)

21

)

3)

—

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Bucky Mock				
Mr. Tyson	44		94	
Mr. Sabb		67		99
Mr. Kent		91		
Mr. Thickens		93		
Sabrina Gast				
Mr. Tyson	107		145	
Ms. Barr		128		
Certificate of Reporter	171			

E X H I B I T S

<u>NO.</u>	DESCRIPTION	<u>ID.</u>	<u>EVD.</u>
P-1	Filing Affidavit of Coroner	57	58
P-2	Filing Affidavit of Coroner	57	60
P-3	Filing Affidavit of Coroner	57	60
P-4	American Board Death Investigators	63	120
D-1	Clarendon County Data	80	81
D-2	February 21, 2012 Letter		87

1 THE COURT: You all ready?

2 MR. TYSON: Your Honor, you want me to proceed
3 with opening statement?

4 THE COURT: You have anything you need to do
5 before opening statement?

6 MR. SABB: I do, Your Honor.

7 THE COURT: Okay.

8 MR. SABB: May it please the Court. Judge, let
9 me say first I said it in chambers and I think it's
10 important that the record also reflect. This, of course,
11 is an expedited hearing. I think in essence the lawyers
12 had a couple good weeks to prepare. I know I only had a
13 couple good weeks to prepare. And I just wanted to
14 express my appreciation to the Court on the record for the
15 level of cooperation that we got from every lawyer
16 involved in the case who shared information when the rules
17 did not dictate that the information be shared that
18 quickly. And so we were able, Judge, to gather an
19 extraordinary amount of information in a relatively short
20 period of time because of the cooperation of everybody
21 involved. And I want the Court to know on behalf of my
22 client we appreciate and also I want all the lawyers and
23 litigants to know how much we appreciate the cooperation
24 as well, Your Honor.

25 Judge, we have before you what we view as being

1 a dispositive motion. We believe that there is precedent
2 that aids this court in determining where justice lies
3 based upon the facts and circumstances that we find
4 ourselves in. Your Honor, we have passed to the Court our
5 motion that essentially says that this court should
6 dismiss the complaint filed by the plaintiff in this case
7 because of the failure to follow the administrative
8 procedures that are outlined in section seven. Judge, I
9 have some copies of two of the statutes that I will allude
10 to in my argument. I apologize I do not have a copy of
11 the third. I have a copy for counsel.

12 So, Judge, I have passed to the Court section 17
13 strike that -- section 7-17-530. I have also passed to
14 the Court section 7-17-560. And, Judge, I will allude to
15 section 7-17-520. If, Your Honor, please our position,
16 Your Honor, is that the plaintiff in this case was
17 required to file a contest or a protest with the executive
18 committee of the Clarendon County Democratic Party as by
19 way of proffer if Your Honor please. I believe that the
20 testimony that we are going to present in this case is
21 going to establish that no such protest or contest has
22 been filed. Consequently, the plaintiffs in the case have
23 failed to exhaust the administrative remedies that were
24 afforded to them in this case. Judge, this has been an
25 interesting journey in terms of reading the cases that are

1 associated with coroners and litigation.

2 I would draw to the Court's attention that there
3 were three cases in particular that were similar in nature
4 that were filed in 2016 dealing with a variety of issues
5 as it relates to the qualifications of coroners, none of
6 those on this particular issue however. Judge, back in
7 2012, Your Honor may recall we ran into the issue
8 involving the electronic filing of the statement of
9 economic interest and I had the honor and privilege of
10 representing then House of Representative Member Kevin
11 Johnson who is now my best friend in the senate and the
12 senator for, I believe, district 36.

13 Your Honor, the case was Robert McFadden vs.
14 Clarendon County Election Commission, the Clarendon County
15 Democratic Party, South Carolina State Election
16 Commission, Eleazer Carter, Representative Johnson and the
17 South Carolina Democratic Party. Judge, I like to -- I
18 apologize, Judge bear with me one minute. Court's
19 indulgence just a moment, Your Honor, please. Judge, I
20 got some copies of this order around. None of the lawyers
21 won't help me out, but I like pass to the Court my copy.
22 And, Judge, I pass that order to the Court just so that
23 the Court can see some of factual background in it. But
24 essentially what happened, Judge, was there was a statute
25 that for the first time required candidates who were

1 declaring for office to file a statement of economic
2 interest and to present the receipt that they had filed at
3 the time they filed for office. And a number of -- and, I
4 think, with the Anderson case -- but a number of folks
5 around the State didn't realize that that was a
6 requirement. They didn't do it and consequently a lot
7 folks were removed or not allowed to be on the ballot as a
8 result of that issue. Senator Johnson -- now Senator
9 Johnson Representative Johnson at the time filed
10 electronically way prior before because as sitting members
11 we were required to maintain statements of economic
12 interests all along. We were required to do it. And so
13 Judge Kinard had to deal with the issue as to whether or
14 not injunction should be issued, whether or not Senator
15 Johnson complied with the requirement to file
16 electronically and present the receipt and whether or not
17 it was proper for him to be on the ballot.

18 Judge, and the other fact, Judge, was that there
19 was no question that Senator Johnson had filed
20 electronically even at the time he filed in addition to
21 having a statement of economic interest on file as he was
22 required to do as an elected official for the State of
23 South Carolina, but he had not handed the receipt that was
24 proof of filing at the time. And so the plaintiffs in the
25 case argued that the failure to pass that receipt was

1 fatal and that as a result of it, he ought not be allowed
2 to file. Judge Kinard in well reasoned opinion ultimately
3 concluded that he was qualified based on the fact that he
4 had the statement of economic interest already on file.
5 And then, Judge, there was some other stuff where he had
6 filed electronically with the senate ethics commission and
7 all of that. So that was just Judge Kinard's ruling.
8 Judge, that case was appealed in expedited fashion in the
9 South Carolina Supreme Court. I got some copies of that
10 floating around.

11 THE COURT: Okay.

12 MR. SABB: Your Honor, I was going to tell the
13 Court and I need to digress just for a moment because I
14 started talking about the litigation involving the
15 coroners back in 2016 and I need to finish thought if
16 you'll bear with me a moment. What was interesting about
17 that trilogy of opinions was that in each of the opinions
18 the judges concluded that this is an uncomfortable area
19 for the Court to find itself in, but it's politics. And
20 to the extent that the Court can, it wants to remove
21 itself from politics. But the judge reason and ruled and
22 agree with them, that when called upon to answer a
23 question of law they will have a choice. They're duty
24 bond to jump in and to be involved. Kim Barr and I
25 totally agree with the position that the Court took in

1 those cases, but, Judge, I wanted to mention that because
2 when we look at what the South Carolina Supreme Court did,
3 they used section 7-17-560 to say wait a minute, the
4 courts really don't want to be involved in this stuff if
5 we could help it. And the General Assembly has
6 promulgated statute that allow the parties to almost
7 police themselves or at least give the parties an
8 opportunity to police themselves. And so the Supreme
9 Court ruled and I'll read it for the record, Judge, it
10 says -- and so, Judge, one more fact, so in the Robert
11 McFadden case they didn't protest nor did they contest.
12 The Supreme Court ruled we find this action was improperly
13 commenced in the circuit court since appellate failed to
14 exhaust the remedies set forth by the General Assembly.

15 And so, Judge, that's what section 7-17-560
16 required because it said that all of the protests or
17 challenges to primary elections for senate seats must be
18 filed with the political party's state executive committee
19 no later than noon on a Monday following the canvassing of
20 the votes. And so in that case or the Honorable Trav
21 Robinson is not our party chair on a state level in those
22 years, but the then party chair that executive committee
23 of the party never got an opportunity to answer the
24 questions raised as it relates to their primary election.
25 And, Judge, the way the statute reads -- and I'm just more

1 so talking for the record you're obviously for more
2 learned than I am on these subjects. But the -- when it
3 involves senate races because it involves multiple
4 counties, they have go to the state. So if, Your Honor,
5 please section 7-17-560, which govern those multi-county
6 situations and requiring that they filed contests and
7 protests with the state party, Judge, as a sister statute.
8 That have sister statute is 7-17-530, that addresses at
9 the bar.

10 Judge, we believe it's so analogous that this
11 Court should dismiss the action because this section says
12 that the executive committee shall hear so the heading is
13 important, Judge. It says hearing by county executive
14 committee, that's the title of it. The executive
15 committee shall hear the protest or contest on Thursday
16 following the deadline for filing the protest or contest
17 testimony at the hearing of the protest shall be limited
18 to the grounds stated in the written protest. The
19 protested and each other candidate in the protested race
20 have the right to be present at the hearing set by the
21 committee to be represented by lawyers, to examine and
22 cross-examine witnesses and to produce evidence relevant
23 to the grounds indicated in the protest.

24 And, Judge, I apologize I did not copy section
25 7-17-520, but, Judge, it states that the protests and

1 contests in the case of county officers and less than
2 county officers shall be shall, shall be filed in writing
3 with the chairman of the county party executive committee
4 together with copies for each candidate in the race not
5 later than noon Monday following the day of the
6 declaration by the county committee of the results of the
7 election.

8 And so we are prepared to present testimony
9 under the adverse party rule for purposes of this motion.
10 At the appropriate time we would ask the Court to allow us
11 to call Ms. Pringle, who is the chairman of the Clarendon
12 County Democratic Party and also the chairman of the -- by
13 virtue of being the chairman of the party, the chairman of
14 the executive committee. We also have as a backdrop if
15 necessary the chairman of the State Democratic Party Trav
16 Robinson. We may or may not need to call him for purposes
17 of this motion, Your Honor.

18 THE COURT: Okay. Yes, sir.

19 MR. TYSON: Your Honor, I just say to Mr. Sabb I
20 appreciate how he buttered the Court up and the lawyers by
21 saying he appreciated all of their kindness and their
22 goodwill and everything on the front end. As he's now
23 arguing for 30 minutes about a motion that he gave to me
24 at nine o'clock this morning, that clearly we have no
25 notice of. Clearly, we're not here to argue that motion.

1 Clearly, Your Honor, we're here to argue the temporary
2 injunction. You told us that the last time, that's what
3 we're prepared for. I will object to the hearing of a
4 motion when we have no notice. Your Honor, you see the
5 motion and it's one line. It says pursuant to 12(b)(6)
6 for the failure of the plaintiff to exhaust his
7 administrative remedies. So even if I had it in time,
8 that's not sufficient for us to argue, so I would just
9 object. Don't even think it's proper before the Court.

10 However, I will quickly just make a few points
11 as I was listening to Mr. Sabb. Your Honor, Mr. Sabb
12 started, but he didn't finish. The three cases that were
13 in 2016 were all cases about coroners and they were all
14 cases about whether they were qualified. And they were
15 all in circuit court and they all stayed in circuit court.
16 There was no jurisdictional problem. As you finish the
17 hearing last week, you told Mr. Sabb and the rest of us
18 I've already had one of these cases. I've already ruled
19 in one of these in Sumter and you might go back and look
20 at it. And you said you've talked about jurisdiction in
21 that case. And in that case, I believe, Your Honor, a
22 similar type motion was ruled and you said the circuit
23 court had jurisdiction. You've already ruled in this
24 circuit on that point. So forgetting the fact that we're
25 getting this late ambush, that's one thing. We'll deal

1 with that. But just quickly, Your Honor, the
2 constitution -- and as I recall the ruling Article 5
3 Section 2 talks about the jurisdiction of this court. And
4 it says the circuit court shall be a general trial court
5 with original jurisdiction and civil criminal cases
6 except, except those cases in which exclusive jurisdiction
7 shall be given to the inferior of courts. Your Honor, as
8 Mr. Sabb's reading that statute 7-17-560 that statute
9 doesn't give exclusive authority to the county parties.
10 It says they've got the right. It says by the chairman to
11 herein decide protest and contest that may or arise in the
12 case. And then it says -- the shall language that he
13 quoted was just got they got to be shall put in writing.
14 So that the Court doesn't say that. I mean, that order
15 doesn't say that, so it's not exclusive jurisdiction by
16 any means. So this court's got jurisdiction. It's raised
17 in our complaint.

18 Furthermore, the circuit court has jurisdiction
19 over matters seeking an injunction and that's what we're
20 here for. That's the second cause of action it is seeking
21 injunctive relief. You already granted a temporary
22 restraining order. You've already assumed jurisdiction
23 of this court and have already said that we're here to
24 argue about the qualifications. If you want to argue
25 about a protest or a challenge to those -- to the

1 executive committee of the party, then you go forward and
2 talk about ballots and voting and irregularities and
3 things like that, but it doesn't say that qualifications
4 concerning a candidate have to go there. This courts got
5 that jurisdiction. It's been uphill in many times. Like
6 I said, Your Honor, those three cases in 2016, go back to
7 2012. You had a case then in the same argument was made
8 about that and we had jurisdiction. So for those reasons,
9 I don't think it's appropriate to one even discuss the
10 motion to have it not before us. The rules obviously
11 provide we suppose to have notice and we have no notice of
12 that. Those cases that were in circuit court were
13 questioning candidates of qualifications and they were
14 rule upon. And then you get to the do constitution which
15 gives you the authority to hear civil matters such as
16 these and clearly you've got jurisdiction to hear
17 injunctions. So for those reasons, I would just object to
18 the motion being brought. I would request that you deny
19 the motion. And clearly we don't need to have any
20 testimony concerning that either, Your Honor. Thank you.

21 THE COURT: Yes, sir.

22 MR. SABB: So, Judge, I will just tell you that
23 I been reading cases in trying to understand death
24 investigations and everything from the very moment we
25 argued two weeks ago. Actually, pulled the Johnson file

1 yesterday morning and read through it. And I called Kim
2 Barr, who was over in Florence, and said, Kim, I think we
3 got something here. I couldn't talk to her because she
4 didn't answer her cell phone and told my client for the
5 first time on yesterday, I think we have something. So I
6 can appreciate what my friend and colleague has shared
7 with the Court. I will also tell you as an officer of the
8 court that we filed it last night. I don't understand how
9 that upload -- my staff work -- Judge, my staff
10 understands it better than me. We were coming over this
11 morning and they said to me that he hadn't gotten it
12 because the clerk has to actually upload it and send it
13 out. I called him this morning when I discovered that he
14 didn't get it last night just to give him a heads up that
15 it was going to be argued. Is that ample notice?
16 Probably not. Have I had sufficient time to really
17 prepare a case for trial of this magnitude probably not.
18 And so I would suggest to Your Honor that the time
19 constraints itself lends itself more to the credence of
20 the argument of ambush as oppose to any ill motives on my
21 behalf. Judge, it's important when we talk about Your
22 Honor's ruling in the case of Bullock vs. Sumter County to
23 mention dates. Judge, at the time Your Honor ruled, it
24 was a well reasoned opinion because your opinion was dated
25 August the 7th of 2012.

1 THE COURT: And this is October?

2 MR. SABB: Yes, sir, that's the October
3 decision. Judge Kinard's opinion was rendered eight days
4 after yours and so you both and Judge Kinard were
5 operating based on the law at the time without
6 clarification from the Supreme. So, Judge, that's really
7 all I have to say on that point. My last point is when
8 you read the three coroners cases and we read them all.
9 The issue of utilizing the procedure outline in 7-17-30
10 was not raised in either of those cases. And so to say
11 that because the cases were decided on the merits without
12 looking at what was actually pled and what was used as a
13 defense, I think would be to part and parcel that decision
14 to make it fit as oppose to decision being on all fours
15 which we believe that we are here.

16 Judge, it is we believe prudent for the Court to
17 rule appropriately based on a directive from the South
18 Carolina Supreme Court. What's interesting in my mind is,
19 Judge, if I knew for a minute that there was another case
20 out there that he can find that would give the Court
21 directives on this issue beyond the one that we have,
22 Judge, I'd be saying right now that I agree with counsel.
23 He ought to have more time to deal with the law. We
24 should go through the testimony perhaps and all of that
25 and give him more time. Ain't no more case out there,

1 Judge. That case is the law of the land. It's
2 instructive. It's directive. And I just think that we
3 ought abide by it. Thank you, Your Honor.

4 THE COURT: Okay. Do you all agree that 17 --
5 I mean, 7-17-530 and 520 was not complied with or do I
6 need to hear testimony as to whether it was or was not
7 complied with? Is your contention is that it was filed
8 with the democratic party or do you agree it wasn't?

9 MR. TYSON: Whether a protest was filed?

10 THE COURT: Yeah.

11 MR. TYSON: No, sir. There's no protest was
12 filed. This is a separate action. That's for a protest
13 or challenge to the election results. We're challenging
14 the qualifications of the candidates. So, no, we did not
15 use that process because we're not required to use it.

16 THE COURT: Well, the case that he brought up in
17 the Supreme Court wasn't that the same scenario that he
18 wasn't a qualified candidate?

19 MR. TYSON: Your Honor, with all due respect,
20 I've seen the one page of it that I'm listening to and
21 trying to hear his arguments, so I hadn't really got it.
22 My guess there is something else in the argument that
23 would tell us that. I don't know -- I don't know what
24 type qualifications that they have. I don't know.

25 THE COURT: In my understanding of that whole

1 scenario was that the candidates weren't qualified because
2 they didn't file the appropriate documentation and then
3 that was that whole case. And they were suppose to file
4 economic interest documentation and certified receipts and
5 that's what that whole issue was about. And Judge Kinard
6 did the same thing I did and took the decision that the
7 Legislature didn't intend for that to be the exclusive
8 remedy. That the Courts could weigh in based on the
9 Anderson opinion at any time. Now, the Supreme Court
10 seems to say that's not true. I mean, if you want to take
11 a minute and read that case.

12 MR. TYSON: No, Your Honor, I have filed and you
13 read the complaint I'm entitled to 17. I'm not into
14 election code, that's not why I brought this action. I'm
15 here challenging the qualifications. The qualifications
16 of a coroner are read out in 17-5-130. And we're prepared
17 to discuss whether the candidate is qualified or not and
18 that is the issue. We understand there's some overlay
19 because it's an election. I understand Title 7 plays into
20 that, Your Honor. I'm not trying to put that aside, but
21 this is a separate action. This is an action about her
22 qualifications. Does she meet the specific statutory
23 requirements of what a coroner can be or what a coroner
24 must be. And it's not a challenger or protest that may
25 arise and that we would then go under the Title 7. We're

1 in Title 17, Your Honor, that's what we were talking
2 about. That's what Mr. Sabb want to argue about whether
3 her affidavit meets the qualifications. It's not an issue
4 about a protest or a challenge.

5 THE COURT: Okay.

6 MR. TYSON: Give me a few minutes I don't want
7 to miss out anything if you want me to read this.

8 THE COURT: Sure. I'll give you a few minutes
9 to read that.

10 (WHEREUPON, a pause in the proceedings.)

11 MR. TYSON: Your Honor, just again just to ask
12 for some indulgence the register just concern about the
13 process of getting this and having to address something
14 and read it in a few minutes to address such an important
15 question. As I read this McFadden case quickly, but again
16 I haven't looked at the pleadings. I don't have any idea
17 of what was raised. The second paragraph says pursuant to
18 Title 7-17-560 all protests or challenges to primary
19 elections must be filed this way. This isn't a protest to
20 the election. This is not a challenge to the primary
21 election. This is an issue of qualification.

22 The second action -- the third paragraph then
23 says we find this action was improperly commenced in the
24 circuit court where adequate administrative remedy is
25 available to determine a question of fact one must pursue

1 the administrative remedy. Again, Your Honor, the circuit
2 court clearly has jurisdiction over injunctions, that's
3 what we're asking for. It's an injunction to rule that
4 she's not qualified that's what you hear all day her
5 injunctions in civil matters and that's what this is. I
6 don't have the time to go back and look at Anderson. As I
7 recall, the statement of economic interest and then the
8 statement of intention of candidacy. One of those is
9 under the ethics code and one of those is under the
10 election code. I can't remember which one is which. I'm
11 guessing an economic impact is in Title 8. And then I'm
12 guessing the statement of intention candidacy is in Title
13 7, but that's when the Court was trying to make those
14 work. It's not discussing in Title 17 a qualifications
15 issue of whether the coroner meets the statutory
16 qualifications. So I don't believe it is dispositive of
17 what we have raised in our complaint in the grounds that
18 are allege there.

19 THE COURT: Okay.

20 MR. SABB: Judge, I like to say two more things
21 one is Your Honor may recall some of the argument and
22 testimony at the prior hearing that we had ultimately
23 setting this here, Judge. Judge, what we shared in that
24 case or in that hearing was that Ms. Lanette
25 Samuels-Cooper had filed an affidavit, that affidavit on

1 April the 3rd arrived in the state democratic party and
2 then there was a phone call made from the state democratic
3 party chair to Ms. Cooper indicating that perhaps she
4 failed to check something that needed to be checked.
5 She then looked at it and said oops, I did not check where
6 I have a bachelor's degree. And in fact I was working 13
7 years. I meet this one year requirement, so she checked
8 that. The point I make on that is that's the state
9 democratic party chair making certain in his own mind that
10 he's got a qualified candidate. The point that I make
11 there is that that issue then was a proper issue to be
12 presented to the party and litigated there. And quite
13 honestly, Judge, they would still have this opportunity if
14 they were unsuccessful on those other levels. And I think
15 that's what the Court directed us at. And I just draw
16 your attention, Judge, to paragraph 52 in the plaintiff's
17 complaint. And, Judge, it's a knowing decision on their
18 part to bypass 5 25 35 45 50. And so, of course, we just
19 respectfully disagree with them and fortunately for us our
20 Supreme Court disagrees with them as well.

21 THE COURT: Okay.

22 MR. TYSON: Your Honor, I don't know if this is
23 ethical or not, but, again, Mr. Sabb's a good lawyer. I
24 know he says he's short on time. I get a motion at nine
25 o'clock that clearly you're concerned about and asking me

1 to render some sort of legal of opinion whether I think it
2 applies. I've given you my reasons why it doesn't. If
3 you want me to send you something, I'll try to provide
4 some more law on why this court has jurisdiction other
5 than you making a decision after just getting something
6 and making an argument I just got it, I can do that. I
7 don't think we need to do that, but if you want to hear
8 more from me on something that I didn't know was even
9 going to be before the Court, I'm glad to try to do that
10 and give you something by Monday or whatever. But I
11 believe you got jurisdiction to hear this injunction which
12 we're here for and then we'll tee it up and deal with it.

13 THE COURT: And maybe under the circumstances
14 since it is expedited we ought to proceed with the hearing
15 and I'll consider both issues. I mean, if I deny his
16 motion, then I'll rule on what happens in the hearing. If
17 I think he's right, then I'll grant his motion and that'll
18 end it. But the fact that you haven't had time to
19 research it and I haven't had time to research it, my
20 other option is to take time and then we have to reconvene
21 if I rule against him and have this whole hearing since we
22 got everybody here.

23 MR. SABB: That's what we need to do, Judge.
24 You hit the nail on the head with that one, Your Honor.
25 That's exactly what need to take place.

1 MR. TYSON: Reconvene?

2 MR. SABB: Yeah. I'm just telling you ain't no
3 law out there. Obviously, it will give you an opportunity
4 to look at it, but, you know, I'm satisfied. So I think
5 that in interest of judicial time and economy and all of
6 those other good things, that it is more prudent than
7 beneficial for us to reconvene, then it is to go through
8 what I believe is going to be a hotly contested, highly
9 litigated matter.

10 THE COURT: All right. Well ---

11 MR. TYSON: Your Honor, we're here. We got
12 folks here. I like your suggestion. I mean, I'll do
13 whatever you want. If you want me to brief the thing and
14 provide it, then we clearly can do that. But you know
15 that the election folks I'm sure are going to stand up and
16 tell us that they're under the gun to get a ruling on
17 where we go.

18 THE COURT: I'm going to take a recess. I'm
19 going back there and do some research right now and decide
20 what -- I'll come back and either we're going to have the
21 hearing and I rule on both of them. I'll give you a
22 chance to do some research. I understand, because I
23 didn't get this motion until two minutes before I got on
24 the bench and he explain why and I understand that. If I
25 had this a week ago, I would have been working on it as

1 well because I had the presence of the other cases I
2 decided. And at the time I decide those, this wasn't out
3 there and it wasn't argued. I'll take a recess and be
4 back in 20 or 30 minutes and see what I can do.

5 (WHEREUPON, a break was taken.)

6 THE COURT: I think we have two distinct issues
7 here that is different than the McFadden case against
8 Kevin Johnson and the Commission. In that case, it was a
9 question as to whether he was a qualified candidate, i.e.
10 that he filled out paperwork properly to become a
11 candidate, but there was no question about his
12 qualification to become a senator. He was qualified to be
13 a senator. And the argument was he was not qualified to
14 be a candidate because he did not fill out or file the
15 proper paperwork on time. Judge Kinard decided that and
16 ultimately the Supreme Court decided that he and the
17 plaintiff did not exhausted his remedies he should have
18 followed 17-7 -- 7-17-560.

19 In this case, we have a unique situation in that
20 whether she was qualified to be a candidate depended on
21 whether she filled out the paperwork properly. Under
22 South Carolina law, there is also a question that the
23 plaintiff raised in their complaint whether she's
24 qualified to be coroner, period. Even if the election
25 stood, whether they bring a separate action that she would

1 not be qualified to be the coroner. So I think there's
2 two distinct situations here. And as far as the plaintiff
3 contesting her candidacy, I think -- and that she filled
4 out the paperwork wrong. His remedy is to file the
5 protest pursuant to 7-17-530 and 520. My understanding he
6 did not do that. So I don't think that he can contest as
7 far as the paperwork being filled out improperly whether
8 she was a proper candidate or not. However, the fact the
9 law requires the coroner to have certain qualifications to
10 be the coroner, that question is still out there. So I
11 propose we continue the hearing on that one issue that as
12 far as if she checked the wrong block, that should have
13 been observed or gone to the democratic party. And I'll
14 still -- I propose we take testimony. I will allow both
15 sides to do any additional research and then I will rule
16 first on his motion as to whether the whole thing should
17 be dismissed under 12(b)(6) or whether under that portion
18 about candidacy being dismissed is the remedy had not been
19 exhausted and rule on whether she qualified to be coroner
20 of Clarendon County. So in light of that, I'm willing to
21 take whatever testimony you have as far as those
22 qualifications.

23 MR. TYSON: If I understand your ruling, you
24 don't want me to stand up and talk about her affidavit or
25 put up testimony about her affidavit being defective?

1 THE COURT: Right. Well, if you want to proffer
2 that, but looking at the law and my understanding -- and I
3 haven't been able to find out anything different from what
4 Mr. Sabb presented. I think there's two issues in this
5 case, that there wasn't two issues in the senator's case
6 because there was never an issue whether he was qualified
7 to be the senator. It was an issue whether he was a
8 qualified candidate. And the coroner situation is unique
9 in that the qualifications to be a candidate based on the
10 paperwork you filled out versus the qualification to be
11 coroner period. And so I'm bifurcating to that extent.

12 Now, I ultimately haven't ruled on his motion.
13 If you proffer anything as far as her not being a proper
14 candidate, but it seems if there's no other law, that he's
15 absolutely right the Supreme Court has stated that the
16 remedy for being a candidate you got to follow 7-17-560,
17 530 and 520. But in that case as I said, there was never
18 a qualification of Kevin Johnson being senator but for his
19 paperwork failure nobody question that. In this scenario,
20 not only a question of the paperwork, question of
21 qualifications period and because that's an issue I was
22 going to bifurcate this hearing. Now, anything you want
23 to proffer as far as her being an improper candidate, you
24 certainly can put that on the record. I'll review all
25 that and that will give you all something on appeal, okay.

1 MR. TYSON: Yes, sir, Your Honor. Thank you.

2 THE COURT: Yes, sir.

3 MR. SABB: Judge, let me just express my
4 appreciation for the manner in which you shared with us
5 what the Court's thoughts are and what the Court is
6 considering. Judge, I would respectfully submit to the
7 Court that there's a greater issue. That greater issue
8 relates to the pleading. The pleadings in this case if
9 Your Honor please assert that our client is not qualified
10 because of the affidavit. The pleadings do not assert
11 that she is not qualified, period.

12 MR. TYSON: Your Honor, are we going to re-argue
13 it? I didn't mean interrupt.

14 THE COURT: I haven't technically ruled and you
15 might be right. I looked at the pleadings at least in his
16 prayer he -- and I need to study them. In his prayer, he
17 seeks an order of injunction against the defendant for
18 declaratory judgment in that the defendant does not meet
19 the statutory qualifications to become coroner.

20 MR. SABB: If, Your Honor, please, might I
21 please direct your attention to paragraph 40. I believe
22 this is the only place in the entire pleadings where the
23 issue of qualifications address. And if, Your Honor,
24 please, what it says is that she's not qualified based on
25 the affidavit which is a very point that Your Honor made

1 if you believe based on your preliminary ruling is the
2 issue that rests exclusively with the party. So, Judge,
3 he's trying to have his cake and eat it too now in our
4 opinion. Judge, I'm going to challenge the plaintiff's
5 lawyer in this case to point to me something specific
6 relative to his pleading that alludes to qualifications
7 other than what he's identified in paragraph 40.

8 MR. TYSON: 30, 31, 32, 33.

9 MR. SABB: Give the lawyer three seconds.

10 MR. TYSON: I mean, that's the whole issue, Your
11 Honor, she's not qualified and that's what we raised to my
12 client. I mean, we say it there in 30. She's checked the
13 box that she's got these qualifications. This information
14 is false because she's not conducted death investigations.
15 State law requires that a candidate provide how she
16 qualifies for this position. Thus, she failed to comply
17 with the law. I don't know how more plainer it can be.
18 I'm prepared Your Honor to move forward and discuss
19 qualification. I appreciate Mr. Sabb wants to argue about
20 ruling again, but let's get on with the show.

21 THE COURT: And I understand and I think it is
22 sufficient in this complaint. He can argue that and I'll
23 ultimately rule. And I may be wrong on that, but the fact
24 that it's different, I think, because the qualifications
25 of being a coroner period versus a candidacy. If there

1 was no question that she was a qualified candidate -- I
2 mean, she was qualified to be the coroner, but there's an
3 issue that she checked the wrong block, then I think the
4 Supreme Court case says you got a remedy and you got to
5 file pursuant to 17. But the fact that the coroner race
6 is unique in that it takes qualifications to be a coroner,
7 we take testimony and I will make that decision as well if
8 she qualified to be the coroner. If she's qualified to be
9 the coroner, which she might not should have been a
10 candidate, I think based on the Supreme Court case you had
11 filed the protest. If you didn't, you be block.

12 MR. TYSON: Yes, sir, Your Honor, just to point
13 let me make sure that I understand if we proffer her two
14 affidavits, the one that was filed beforehand and the one
15 that was afterwards and introduce those for the record.
16 We got a case that I just try to read hurriedly the Kim
17 Murphy case came out May 30th 2018, that's square on this
18 point talks about the Court got ---

19 THE COURT: Clearly, you put that on the record
20 and I haven't technically ruled yet. I'm just giving you
21 my thoughts about whether to proceed with this hearing or
22 not. After I have a chance, you all get to do the
23 research, I will rule in the next few days about the issue
24 with the Kevin Johnson's case. But because this is unique
25 in that there's a question as to whether she's qualified

1 to be coroner period, that was never a question as to
2 whether Senator Johnson was qualified only whether he was
3 a qualified candidate. So I'll be glad you all offer
4 testimony you can proffer whatever you want to for the
5 record.

6 MR. TYSON: Thank you, Your Honor. Your Honor,
7 would you like some opening statement on the
8 qualifications or...

9 THE COURT: Whatever you all want to do.

10 MR. TYSON: Why don't I just briefly, Your
11 Honor, on that -- understand I was prepared to talk about
12 the defective affidavits, but let me just look up and just
13 move to the next part. As, Your Honor, as you know the
14 affidavit requirement has a box and it says that -- it's
15 going to be difficult Your Honor if the first affidavit is
16 defective because she didn't check any box and second ---

17 THE COURT: You can argue any of that you want
18 to ---

19 MR. TYSON: Yes, sir.

20 THE COURT: --- as complete as this record needs
21 to be. I'm not going to limit you all. You can argue
22 whatever you want to. I'm going to rule and see what
23 happens.

24 MR. TYSON: Yes, sir. I just say then I'm not
25 going to belabor that. You understand our issues. The

1 first affidavit that was filed presumably it's timely.
2 The only thing that we have on it is March 19th and it's
3 a -- when it was dated by the -- when the notary signed
4 it. And as you can see on the affidavit, no box is
5 checked, nothing. There's no way possible if that
6 affidavit is accurate. If it is valid, if it is timely,
7 there's no way you get to the point of how they determine
8 she's qualified. If she hadn't checked a box, you have no
9 evidence to determine that, period. And that affidavit
10 has nothing on it. There's nothing on it that
11 demonstrates this. It says I meet at least one of the
12 following the education or experiences check all that
13 apply. Nothing is checked. So she doesn't meet any
14 qualification or we don't even know what qualification she
15 has, so we don't even get to that point. Your Honor, as
16 you know, the State statutes very straight forward on that
17 it says as you just said this is unique because it does
18 provide specific qualifications. It says a coroner must
19 have, shall have at least one of the following
20 qualifications and then it goes through the seven
21 different varieties or the seven different options. And
22 then it says -- and that's in seven -- 17-5-130(a)(2) that
23 says those are the qualifications that you must have.
24 You've got to check a box that says you got to tell
25 somebody how you're qualified. If you hadn't filled out

1 any box, nobody's got any idea.

2 The second part of that statute says in (b) (4)
3 it's the next step, okay, dear candidate, you've got to
4 meet one of those seven ways. Now, you got to swear out
5 an affidavit and you must tell us, you must swear how you
6 are qualified. And the law is very straightforward it
7 says the affidavit required by the provisions of this
8 subsection must contain the following information. You go
9 down there through it and it tracks the language that's in
10 the -- of the qualifications so the law is
11 straightforward. It says if you're going to run for the
12 office of coroner, you got to meet one of these seven
13 ways. When you file, you got to tell us how you meet one
14 of these seven ways. On the first affidavit, clearly
15 there's no way to do that. What was filed on March 19th
16 no box is checked, there's no way to say that she's
17 qualified. The second affidavit is one that's in the
18 record. It's one in the state election commission record.
19 It's the one that everybody was relying on until Mr. Sabb
20 showed us the defective one last couple weeks ago. It has
21 one box that's checked and that's exhibit B in the
22 complaint. And that says again ten and that same thing I
23 meet the qualifications that apply. I've got a four-year
24 baccalaureate degree and one year of experience in death
25 investigation with a law enforcement agency, coroner or

1 medical examiner agency. Your Honor, if you're going to
2 use that affidavit, the first one is filed timely is
3 there's no way you even get to the qualifications issue.
4 There's nothing on there. If you're going to use this
5 affidavit, if that's the one that they're going to now
6 argue is sufficient and describes her qualifications, it's
7 filed April the 4th. Why is that important. Filing was
8 from March 16th to March the 30th. April the 4th is
9 beyond March the 30th. So this affidavit is defective.

10 Your Honor, it says -- we're not in the election
11 code on this one. Now, we're still on Title 17
12 17-5-130(b)(1) says a person who offers his candidacy for
13 the office of coroner no later than the close of filing
14 shall file a sworn affidavit with the county executive
15 committee of the person's political party. That wasn't
16 done. So she doesn't meet the statute, that affidavit is
17 defective and we don't even get to the issue of
18 qualifications. We'll brief that on why we think that's
19 important, Your Honor. But as to the -- if we take this,
20 we've got to just jump over those two issues and we got to
21 now get to the untimely filed affidavit that violates
22 state law. We've got to now look at it and look at the
23 merits. What it says is the box that she's checked is
24 I've got a four-year baccalaureate degree and one year of
25 experience in death investigations. That's the only issue

1 that this court needs to decide is whether she meets that
2 qualification.

3 If you go down to box number 11 or question
4 number 11, it says the following supplemental education
5 and experience information is provided to the extent
6 applicable. And then there's something in there about I'm
7 enrolled in a class. And number four I'm enrolled in a
8 class in August 13th through August the 18th. And again
9 that's not relevant to the issue today because that's not
10 relevant to the issue of her qualifications. The box
11 says -- the question says the following supplemental
12 education and experience information is provided to the
13 extent applicable. It's not like the previous box before
14 it that says how are you qualified, how do you meet the
15 state statute requirements. It's just saying if you've
16 got anything else to tell, if there's anything else that
17 you want to supplement, if you've got any additional
18 education, here's your place to say it. And it tracks
19 some of that. It says I receive a degree. I complete
20 these programs, but it doesn't say -- it doesn't -- it
21 isn't the box that you look to to determine how you're
22 qualified. If we go and do want to look at it though, if
23 Ms. Samuels-Cooper says she's got one year of experience
24 in death investigations, if you'll see in box number 11 --
25 question number 11 and box number 5 it says I have and it

1 says blank years of experience in death investigation.
2 She didn't even fill that out. So, again, it's not
3 applicable as to what her qualifications are. Your Honor,
4 we think just on that and we would proffer and we'll find
5 those and offer those up for you the two affidavits, both
6 of them were defective, both of them violate state law.
7 One didn't even give any qualifications and the other one
8 does give the qualifications.

9 Let me just quickly go to a couple statutes,
10 Your Honor, as to the qualifications. To conduct death
11 investigations, you got to be a coroner or a deputy
12 coroner. Let me repeat that. To conduct death
13 investigations, you got to be coroner or a deputy coroner
14 not an administrative assistant such as Ms. Samuels-Cooper
15 or a worker in a funeral home. You've got to be a coroner
16 or a deputy coroner. 17-5-70 describes the coroner's
17 deputy. And it says the county coroner shall appoint a
18 deputy. The process that you go through. It says when
19 duly qualified as hearing required the deputy coroner may
20 do and perform any and all of the duties pertaining to the
21 office of coroner. So that begs the question what are the
22 duties of the office of the coroner. We're going to go to
23 17-5-530 and 520. The coroner's got -- addition to the
24 powers vested to order an autopsy the coroner or medical
25 examiner is authorized to determine the autopsy be made.

1 So you got to be a coroner or a deputy coroner to do that.
2 You've got to look at 530. You've got the duty to notify.
3 The coroner or medical examiner shall make an immediate
4 inquiry into the cause and manner of death and shall
5 reduce the findings in writing on forms provided for this
6 purpose. So that's really important, Your Honor. Let me
7 just make sure that we're clear on this. The coroner or
8 the deputy coroner are the folks who have the statutory
9 authority. They shall make an immediate inquiry into the
10 cause and manner of death i.e. death investigations a
11 coroner or deputy coroner statute says that and shall
12 reduce finds to writing on forms provided for this
13 purpose.

14 You go to 17-7-20 it talks about this is the
15 requirement of a preliminary examination before a formal
16 inquest. The coroner shall go to the body and examine the
17 witnesses most likely to be able to explain the cause of
18 death. It's obvious, Your Honor, or it's not obvious I
19 should say. It makes sense. A coroner and or the deputy
20 coroner who had been trained to do these things are given
21 these authorities or is given this authority. They are
22 the ones who are vested with the power to investigate
23 deaths. You don't want an administrative assistant
24 whether that's right or that's good policy or not, that's
25 what our state law is. That's what our General Assembly

1 has said the intent of the law is. You need to be
2 somebody that's got these qualifications, so you can go
3 perform these functions.

4 You can go to 17-7-30 and it talks about the
5 evidence and the findings of the preliminary examinations
6 shall be filed in the clerk's office. The finding to be
7 that the deceased came to death from natural cause on his
8 own hand -- at his own hand from an act of God or from
9 mischance. So the statute is telling the coroner who is
10 trained you've got this obligation to provide a finding on
11 the cause of death. 17-7-70 jurisdiction of coroners to
12 take inquest same thing. The coroners have this authority
13 to do that, not administrative assistant, not a worker in
14 the office coroner or deputy coroner. Your Honor, that's
15 very clear. I think you get out on the first point. I
16 appreciate your preliminary finding. We don't even have
17 to get to this point.

18 The affidavits don't provide any information for
19 us to determine. The one that was filed timely doesn't
20 even give us that, so we can even make this determination.
21 The second one is late. We don't you know -- the Anderson
22 case I just say my friend, Mr. Sabb, talk about the
23 Anderson case, but in this most I think the important part
24 about that -- I apologize for digressing for half a second
25 on it earlier. What the Court said there was you've got

1 to file your statement of economic interests, your
2 statement of intention of candidacy at the same time and
3 it was hold back. It was a -- that statute was done
4 before technology and so they were both paper file. So
5 you would go file your statement of economic interest in
6 your statement of intent of candidacy. You would be able
7 to file them at the same time. Unfortunately, the General
8 Assembly had not updated that, such that the statements of
9 economic interests were now being filed and so the statute
10 says they got to be filed at the same time. Well, that's
11 kind of hard to do that if you're walking into the clerk's
12 office or you're walking into the county political party
13 office and you're given one by -- at hand. It's hard to
14 be filing it simultaneously or at the same time. What
15 that case was it was a DJ action brought before the
16 Supreme Court the person filed it. They walked over here,
17 went across the street to their office and filed online
18 their statement of economic interest ten minutes later.
19 Court threw it out. A very little reading. It was not
20 filed at the same time, period, period. It understood it
21 didn't make sense. It understood the ramifications. It
22 understood that 100's of candidates were kicked off. Mr.
23 Sabb represented Mr. Johnson. I had 25 candidates and it
24 was a tough tough time at that time to go through that,
25 but that's what the ruling said.

1 And so if we're going to take Anderson and we're
2 going to take the specific statute in the coroner's
3 statute not in the election statute, but in the coroner's
4 statute that says you've got to file the sworn affidavit
5 no later than the close of filing. I don't think you get
6 to this point. I understand your ruling, but just so
7 you'll know where I'm headed. I think that that's a total
8 -- I think it throws away Anderson and the intent of the
9 legislature. So we'll brief that, but I just bring that
10 back up just so that you'll know. Just in finish, Ms.
11 Cooper -- as I understand, Ms. Cooper is not going to be
12 qualified in any of those. She doesn't meet any of those
13 statutory requirements or the authority for a coroner or
14 deputy coroner. One might argue it's a poorly written
15 statute. Why does it say you've got to have one year
16 death investigation experience, that's not our issue. The
17 issue is that's what it says and a candidate must have
18 that. Why does this court have jurisdiction, this court
19 has jurisdiction because I asked for an injunction. I
20 said, Your Honor, the coroner, Mr. Mock, will suffer
21 irreparable harm if you do not rule the defendant as an
22 unqualified as a candidate or disqualified her as a
23 candidate.

24 Your Honor, also the harm again it's -- in
25 Anderson there's another example of that, but there was a

1 question about whether the case was moot. And the Court
2 said -- whether it's ripe, I mean. And the Court said,
3 no, it's ripe. You need to have a judicial ruling at that
4 point in time because no harm had occurred yet. And as it
5 would if you have unqualified candidates. If you don't
6 rule that Ms. Samuels-Cooper isn't a qualified candidate,
7 irreparable harm will occur because then she'll move
8 forward and would be a candidate, the only democratic
9 party candidate would not be qualified. Obviously, the
10 voters would face a substantial likelihood that they be
11 presented with a candidate who didn't qualify and who
12 isn't certified. And, Your Honor, we believe that that
13 meets the elements of the injunction. There is
14 irreparable harm if you don't rule that she's -- doesn't
15 meet the qualifications of the coroner's statute.
16 Likelihood of success is what we're here arguing about it
17 now that we got this affidavit that says what she has to
18 do. She hasn't done that.

19 If you do accept the affidavit and we get to the
20 one year death investigation experience, we don't believe
21 she meets that because the statutes that I just went
22 through clearly state that those authority and those power
23 for coroner or deputy coroner. So for those reasons we
24 request that you grant our injunction. I'm glad to put up
25 testimony. It'll be brief. It would be Mr. Mock talk

1 about his understanding and his other responsibilities and
2 duties of a coroner. I've got Ms. Sabrina Gast who is the
3 president of the State Coroners Association, who's on the
4 coroners training committee who can talk more about it.
5 She's the York County coroner. She can provide more
6 information on that. If Your Honor's -- in this box on
7 number four where it talks about this program, she can
8 talk about what programs are required and what it is that
9 the coroners training advisory committee has as a
10 recognized program. And then we would ask Ms.
11 Samuels-Cooper to put her on the stand and just ask her to
12 describe some of these death investigation experience.
13 Thank you, Your Honor.

14 THE COURT: Okay. Mr. Sabb, you want to make
15 any statement?

16 MR. SABB: No, sir, Judge. I would in the
17 interest of time reverberate and incorporate the arguments
18 that we made before Your Honor the last time. I will just
19 tell you I'm a little surprised I was under the
20 understanding that the gentleman that filed the affidavit
21 was going to be here.

22 THE COURT: I'm sorry I couldn't hear you.

23 MR. SABB: Sure. So they filed an affidavit in
24 the prior hearing from the chairman of the association
25 saying all of these things. I was under the impression

1 even in chambers I thought his name was mentioned as a
2 witness that was going to be here in court to be
3 questioned because I said to Your Honor that the
4 cross-examination of Mr. Mock may not be long, but the
5 cross-examination of the other guy would be long. Now, I
6 understand he's not here.

7 THE COURT: I understand. I don't subpoena
8 witnesses. I just have to deal with what you all put up.

9 MR. SABB: I understand.

10 THE COURT: In my understanding that in that
11 time, he was president of the coroners association, but
12 between the time he fill out the affidavit and the
13 hearing, he's no longer president. That's what my
14 understanding of the hearing was.

15 MR. TYSON: That's most definitely the
16 understanding which I get up to date to make sure that you
17 got the latest from the state -- of the president of the
18 coroners association.

19 THE COURT: Okay.

20 MR. TYSON: I would think the questions that he
21 was going to ask Mr. Fowler he would have the same
22 opportunity to ask Ms. Gast.

23 MR. SABB: Well, certainly I would ask her
24 questions. I don't think the same question because she
25 didn't file an affidavit.

1 MR. TYSON: It's live testimony. I don't know
2 how much better you can get from that.

3 MR. SABB: Well, I was responding to your
4 comment that I can ask her the same questions I can ask
5 him and so the import of me addressing that was she does
6 not have an affidavit that she can be cross-examined on so
7 with that was my point.

8 THE COURT: I understand. You may call your
9 first witness.

10 MR. TYSON: Your Honor, I call Mr. Bucky Mock.

11 THE COURT: All right. You come around to be
12 sworn please, sir.

13 THE CLERK: Raise your right hand. Place your
14 left hand on the Bible repeat your name please.

15 MR. MOCK: Bucky Mock.

16 THE CLERK: Solemnly swear the testimony you
17 about to give be the truth and nothing but the truth, so
18 help you God?

19 MR. MOCK: I will.

20 THE CLERK: Have a seat there on the stand,
21 watch your step going up.

22 MR. TYSON: Your Honor, is it okay if I stay
23 here?

24 THE COURT: Sure. You can stand anywhere you
25 want to.

1 MR. TYSON: Sir?

2 THE COURT: You can stand anywhere you want to.

3 MR. TYSON: Thank you.

4 WHEREUPON,

5 Bucky Mock,

6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. TYSON:

9 Q Good morning, Mr. Mock. How are you doing?

10 A Fine, thank you.

11 Q I'm gone ask you some questions. I'm gone be pretty
12 brief. If you would just answer my questions and then the
13 other co-counsel will have an opportunity to ask you
14 questions too. I will ask that when I ask you a question
15 that you just speak clearly so that the judge can hear it
16 and the court reporter can hear it too please. Can you
17 state your name for the Court?

18 A My name is Bucky Mock.

19 Q And what's your current job, Mr. Mock?

20 A I am the coroner of Clarendon County.

21 Q How long have you been the coroner of Clarendon
22 County?

23 A I was acting coroner after January 17th and I was
24 appointed by the governor in April of this year.

25 Q Prior to being the interim coroner and then named as

1 the coroner, what did you do before that?

2 A I have had multiple jobs, but I had been a deputy
3 coroner with the past two coroners for over 21 years. I'm
4 also a registered nurse and I've worked in emergency rooms
5 for over 35 years. And I'm a volunteer fireman serving
6 the public.

7 Q So you been a coroner from January to where are we
8 now July, what is that 6 months, six or seven months?

9 A Yes, sir.

10 Q And then prior to that for 21 years you were the
11 deputy coroner?

12 A Correct.

13 Q Would you just briefly describe what the duties or
14 responsibilities are for a coroner in South Carolina?

15 A There -- it's spelled out what a coroner has to do
16 and the first thing is going to the scene. At the ---

17 Q Let me interrupt you. Are you talking about death
18 investigations, were you starting to go down that road?

19 A They go together.

20 Q Just generally what are the responsibilities of the
21 coroner?

22 A The responsibility of the coroner is number one death
23 investigation.

24 Q Number two?

25 A Number two keeping records.

1 Q What kind of records?

2 A You need a record of all the deaths that you
3 investigate, so that in that record it gives cause and
4 manner of death and how you determine that and also what
5 happens with the decedent after the investigation is over.
6 And you're responsible for releasing the body to a funeral
7 home. And if there's going to be a cremation, to sign the
8 cremation permit. Also you need to be sure that all the
9 information is down either by a certifying doctor or by
10 the coroner to certify the death so a death certificate
11 can be produced.

12 Q And to do that is that what -- to make that -- let me
13 step back. Tell me a little bit about death
14 investigation, kind of just generally what it is and then
15 we'll get into kind of the specifics of what you believe
16 are the specific elements of a death investigation?

17 A Death investigation begins by going to the scene.

18 Q Well, I'm sorry let me interrupt you real quick.
19 Have you conducted death investigations?

20 A Yes, I have.

21 Q How many approximately?

22 A I've been doing it for 21 years. I've been going to
23 scenes for that amount of time. I do not know without
24 looking at my death reports how many I have done.

25 Q How many deaths occurred in Clarendon County?

1 A Clarendon County we see between 200 -- around 250 to
2 300 deaths a year. A lot of those are hospice and
3 hospital deaths, others are in the home deaths or scenes
4 as accident of drowning, a homicide or a suicide.

5 Q So you are deputy coroner for the 20 plus years and
6 then the coroner. So you wouldn't have conducted all of
7 the death investigations in Clarendon County for the past
8 20 some odd years?

9 A Not all of the deaths. We had -- the coroner
10 investigated some deaths and the other deputy coroner
11 investigated some deaths.

12 Q Well, let me try it again then if 200 to 250 that you
13 said that the county has approximately of the approximate
14 deaths annually have you done half of those, have you done
15 a third of those or just something to help the Court
16 understand your experience level?

17 A I maybe done a quarter of them. Most of the deaths
18 that I investigated were deaths like motor vehicle
19 crashes, drownings, traumatic deaths where I would be at
20 the scene because of responding with the fire department
21 and I would then do death investigation while I was there.

22 Q I'm not great with math 200 to 250. Two hundred a
23 year times 20 years is 4,000 deaths is that approximate;
24 is that right?

25 A Something like that, yes, sir.

1 Q Okay. If you done a quarter of those, you done in
2 the neighborhood of a thousand death investigations over
3 the last 20 years plus or minus some number?

4 A Yes.

5 Q I'm not trying to put -- I'm just trying to have some
6 context when you speak about death investigation
7 experience, the Court understands that you got experience
8 doing this. And if you done 4,000, the Court needs to
9 know that. If you done 14, the Court needs to know that,
10 just where are in that spectrum. Where would you say
11 again a thousand is that a fair estimate?

12 A Say somewhere between 500 and a 100.

13 Q Okay. So I interrupted you on your point as you
14 started to go through how -- what entails a death
15 investigation go back to that I'm sorry?

16 A There's several categories that death investigation
17 fall under. The first thing is going to the scene. While
18 at the scene, you introduce yourself to all the agencies
19 and family and people involved ---

20 Q Mr. Mock, I'm sorry, I'm doing it again. I'm
21 interrupting you. When you start to go down these
22 elements, what's that based on?

23 A Pardon.

24 Q What are you basing that on? You're about to start
25 telling these elements? How do you know what those are?

1 Is there standards? Are there regulations? What do you
2 rely on?

3 A I've got pretty much the table of contents from the
4 death investigation the guide for the scene investigator,
5 which is publication by the U.S. Department of Justice
6 that I have just pulled up to table of contents for which
7 spells the basic categories.

8 Q Is that something that you followed over the past 20
9 something odd years?

10 A I was looking for information. I have attended
11 multiple training experiences about death investigation.
12 None of those certify me, but every one of them give me
13 knowledge of what I should be doing in a death
14 investigation.

15 Q So when you go to those classes or those programs are
16 they generally consistent with what you're about to
17 describe?

18 A Yes, they are.

19 Q The judge asked earlier maybe back in chambers where
20 we're talking about just defining death investigations,
21 what are they, what are the requirements, what does one
22 do, you know. And so what I'm trying to get -- help
23 understand is there's something that you as a coroner look
24 to go to undertake or to conduct death investigations?

25 A I'm not sure what you're asking.

1 Q Just -- we're trying to struggling or I was
2 struggling a little bit and I was hoping you can help me
3 on it. Is there some set of guidelines that says a death
4 investigation encompasses one, two, three, four or five
5 and if I hear you, you can pull the table of contents
6 which was from a department of justice book. My question
7 is a little more global. Is there something that you or
8 coroners in South Carolina understand a death
9 investigation to entail the specific responsibilities?

10 A One of the first courses that coroners in South
11 Carolina need to take is the coroner school which a new
12 coroner needs to take within a year of taking office.
13 That is a week long school and it gives the coroners
14 information about what they need to do in an investigation
15 and how to go about it. And it gives them the little
16 means or tools to use and resources to get this extra
17 information.

18 Q I apologize for interrupting again. Let's go back to
19 the first steps of using those guidelines that you learned
20 at the coroner training program and or -- are they
21 consistent with this department of justice table of
22 contents you were discussing?

23 A Yes, they are.

24 Q All right. Let's just then walk us through if you
25 don't mind step number one?

1 A Step number one is arriving at the scene. And it
2 list seven categories. Do you want the seven?

3 Q Sure, please.

4 A First is introducing yourself, exercise scene safety,
5 confirm or pronounce death, participate in scene briefing
6 with attending agency representatives, conduct a scene
7 walk through, establish chain of custody and follow the
8 laws related to the collection of evidence.

9 Q Let me make sure I understand that. Once you are
10 called to the scene, these are the seven or eight steps
11 that you would take or a coroner would under -- would
12 start is death -- his or her death investigation?

13 A That's the first thing you do when you get there.

14 Q And you done that?

15 A I done that multiple times. Scene safety one of the
16 things they talk about is very important and involved in
17 that is working with agencies involved. If it's a
18 possible homicide or suicide, I don't even go in until the
19 scene has been cleared by law enforcement. There's steps
20 we follow. If it's a motor vehicle crash, the fire
21 department will usually stabilize the vehicle before I go
22 and start sticking my head in. So there's lots of that,
23 but involved in that is also working with all the agencies
24 that are involved which would be EMS, fire department,
25 sheriff's department, highway patrol, DNR and other

1 agencies that may come SLED and that.

2 Q So let me make sure. First one was you arrive at the
3 scene and you do those things. This that you were just
4 describing is that still part of the first when arriving
5 at the scene?

6 A Yes, sir.

7 Q Okay. I'm going to give the Court just a
8 foreshadowing of where I'm going. Ms. Samuels-Cooper
9 worked in the coroner's office, right?

10 A Correct.

11 Q Okay. Did she ever do step number one? Did she ever
12 do any of these things where she arrived at the scene or
13 did those seven or eight things that you just talked
14 about?

15 A No, she didn't.

16 Q All right. What's the next step that you would take
17 for death investigations after you've arrived at the scene
18 and you done those things?

19 A Documenting and evaluating the scene.

20 Q What does that mean?

21 A There are five steps in that ---

22 MR. SABB: Your Honor, please.

23 THE COURT: Yes, sir.

24 MR. SABB: I object to him just reading from a
25 document. My position is that unless he has personal

1 knowledge regarding the answering of the questions, then I
2 object to it.

3 MR. TYSON: Your Honor, I can ask him the
4 questions just what's the second step and then I can lead
5 you down ---

6 THE COURT: Just answer the questions, don't
7 read anything. You need to refer your memory by anything
8 ---

9 MR. SABB: Judge, I think they have to establish
10 that as learn treatise or something for him to be able to
11 come and grab a document without any foundation and just
12 read from it.

13 THE COURT: I understand that. I just
14 instructed him don't read from the document just answer
15 the question.

16 BY MR. TYSON:

17 Q We're just on the first step. Now, we're on the
18 second. Don't read from the document. You just hear Mr.
19 Sabb's comments. You just heard the judge's instructions.
20 You know what the second step is, right?

21 A Yes, sir.

22 Q What is it?

23 A It's documenting the scene.

24 Q And what does that mean?

25 A It's taking pictures, writing all the information

1 down that you can get to record it and to compile all the
2 information with measurements and everything else to
3 determine the cause and manner of death.

4 Q Let me give you the foreshadowing again. With your
5 experience of working with Ms. Samuels-Cooper, have you
6 ever seen her to go out and do step number two of this
7 death investigation process?

8 A Not at the scene.

9 Q Not at the scene. Number three what would be the
10 next step. You've now gone to the scene. You've looked
11 at it evaluated the scene. You evaluated the body in step
12 number two. What would you do next?

13 A It's continuing to evaluate the body, gathering
14 information, talking to the family that might be at the
15 scene, talking to witnesses. Sometimes we need further
16 information as medical records and we obtain those so we
17 can look at them. And then after we're gathering all that
18 and make a determination of an autopsy as needed, we
19 communicate with family doctors. And we communicate with
20 the pathologist as they are before they do an autopsy.

21 Q And you've undertaken that step before, correct?

22 A Yes, sir.

23 Q Okay. Same question. In your experience of doing
24 those death investigations personally or knowing what the
25 coroner or deputy coroner in the office, have you ever

1 seen Ms. Samuels-Cooper undertake or undergo that third
2 step?

3 A She will assist if I need medical records. I may
4 call her up and ask her to try to get medical records for
5 me. Part of her job as administrative assistant is
6 assisting to gather information that the coroner or deputy
7 coroner will need to do their investigation.

8 Q All right. After you've done that and you've
9 compiled that information, what goes next?

10 A It all kind of goes on next. You're trying to get as
11 much information as you can about the decedent, so that
12 you can put everything together and get a clear picture of
13 what happened or might have happened so you can make your
14 cause of determination of death.

15 Q And then, I guess, to complete the process what
16 happens?

17 A You complete the records, file the records and
18 follow the law of what needs to be completed.

19 Q And a coroner or deputy coroner performs those tasks?

20 A Coroner and deputy coroner does that. Some of the
21 filing of paperwork is done in the office, but that is not
22 part of the death investigation, that is part of the
23 filing of records.

24 Q You heard me -- and if you didn't hear me, I wouldn't
25 blame you when I was talking. In 17-5-530, when I was

1 talking the duties of a coroner and it says the coroner or
2 medical examiner shall make an immediate inquiry into the
3 cause and manner of death and shall reduce the findings to
4 writings on the form.

5 MR. SABB: Judge, I object to him reading ---

6 MR. TYSON: It's a statute, Your Honor. I'm
7 going to follow with a question. It's going to be real
8 simple.

9 THE COURT: Ask the question don't lead him.

10 MR. TYSON: Yes, sir.

11 BY MR. TYSON:

12 Q That's the statute. I was just telling you what the
13 statute is and I'm going to ask you if you ever done that.
14 Have you performed those functions?

15 A Yes, I have.

16 Q Okay. Because you're the coroner or the deputy
17 coroner, right?

18 A Yes.

19 Q Has Ms. Samuels-Cooper ever performed those duties
20 required in the statute?

21 A No.

22 Q And you've worked with Ms. Samuel-Cooper, right?

23 A Pardon.

24 Q And you've worked with Ms. Samuels-Cooper? I
25 probably didn't even ask you that to start with I should

1 have asked you that.

2 A She's worked in the office and I brought things to
3 her and I get my reports to her so she can file them.

4 Q And how long would that be that you've work with her?

5 A When I do death investigation, I do an initial death
6 report almost immediately after I've left the scene. And
7 I would send that electronically to the office. So that
8 whenever she got to the office, she can pull that up and
9 share it with the coroner and file the record.

10 Q Mr. Mock, let me just go... Let me mark -- Mr. Mock,
11 before we do that, I'm going to ask you some questions.
12 Did you run for the office of coroner for Clarendon County
13 this year?

14 A Did I...

15 Q Did run for the office?

16 A Yes, I did.

17 Q Okay. Did you file an affidavit and all of the other
18 requisite papers?

19 A Yes, I did.

20 Q Did you -- do you recall when you filed your
21 affidavit?

22 A I filed the first day of filing which I believe was
23 the 16th of March.

24 (WHEREUPON, Plaintiff's Exhibit No. 1, 2 and 3
25 was marked for identification.)

1 BY MR. TYSON:

2 Q I'm going to hand you -- hand you the exhibit of your
3 filing affidavit. Have you seen that before?

4 A Yes, I have.

5 Q Is that your handwriting or your signature in the
6 bottom left?

7 A Pardon.

8 Q Is that your signature at the bottom left coroner?

9 A Yes, it is.

10 MR. TYSON: Your Honor, I move for the
11 introduction of this as exhibit number 1.

12 THE COURT: What says the defense?

13 MR. SABB: No objection.

14 THE COURT: It's in without objection.

15 (WHEREUPON, Plaintiff's Exhibit No. 1 was
16 admitted into evidence.)

17 BY MR. TYSON:

18 Q On that you marked in the box number ten where it has
19 the question about I need at least one of the following
20 education or experience requirements check all that apply
21 in question ten. Can you see that box?

22 A Yes.

23 Q Where did you mark?

24 A I marked I have three years -- I have at least three
25 years of experience in death investigation with a law

1 enforcement agency, coroner or medical examiner agency.
2 Number -- and I check I have a two-year associate' degree
3 and two years of experience in death investigation with a
4 law enforcement agency, coroner, medical examiner's
5 agency.

6 Q And bottom of number 11 question that talks about any
7 supplemental education or experience information and
8 question number five how many years of experience do you
9 have?

10 A In number five, I have 22 years of death
11 investigation experience.

12 Q Thank you. Mr. Mock, you've heard the discussion the
13 judge's preliminary ruling earlier on these affidavits of
14 Ms. Lanette Samuels-Copper. I just handed you exhibit 2
15 and exhibit 3. What are those documents?

16 A One is an affidavit that is signed, that it is sworn
17 by a notary on the 19th of March and there are no boxes
18 checked.

19 Q How about the exhibit number three what is that?

20 A Number three is an affidavit that is dated by the
21 notary of April 4th 2018. And there's a box checked that
22 says I have a four-year baccalaureate degree and one year
23 of experience in death investigation with a law
24 enforcement agency, coroner, medical examiner agency.

25 Q And so these are the filing affidavits for your

1 opponent in the democratic party primary, correct?

2 A Correct.

3 MR. TYSON: Your Honor, I proffer these as the
4 next two exhibits.

5 MR. SABB: Without objection.

6 THE COURT: Okay. They're in without objection.

7 (WHEREUPON, Plaintiff's Exhibit Nos. 2 and 3
8 were admitted into evidence.)

9 BY MR. TYSON:

10 Q Number three we just look at quickly because you
11 heard the judge's ruling. He wants to talk about
12 qualifications. And on the third -- on exhibit number
13 three and box number ten as you just said she's checked
14 the box. How does she swear that she is qualified?

15 A How did she what?

16 Q How does she state on the affidavit that she is
17 qualified?

18 A It says I have a four-year baccalaureate degree and
19 one year experience in death investigation with a law
20 enforcement agency, coroner or medical examiner agency.
21 And on number 11 ---

22 Q Well, let's just hold for number ten. We'll get to
23 number 11.

24 A Okay.

25 Q She's got a four-year baccalaureate degree. And you

1 disagree with that?

2 A Yes.

3 Q And then why do you disagree with that? Why do you
4 disagree with whether she's got a four-year baccalaureate
5 degree?

6 A No, I said I agree that she has four year.

7 Q Oh, I'm sorry excuse me. Okay. Then the next one is
8 in the second clause is in one year of experience in death
9 investigations with a law enforcement agency, coroner or
10 medical examiner agency. Do you believe that's accurate?

11 A No, I don't believe that's true?

12 Q And why not tell the Court briefly please?

13 A She has never been sworn in as a deputy coroner.

14 Q And if she hadn't been sworn in as a deputy coroner,
15 what's the affect of that?

16 A Pardon.

17 Q You just responded -- you didn't think it was
18 accurate because she's never been sworn in as a deputy
19 coroner?

20 A Correct.

21 Q What does that mean? Why is that relevant?

22 A You read in the law that to be a death investigator
23 you must be a coroner or a death investigate -- deputy
24 coroner.

25 Q But irrespective of whether she's got any experience

1 she can't do because she's not a coroner or deputy
2 coroner?

3 A She's not a coroner or deputy coroner or has never
4 gone and done any on scene investigation.

5 Q Let me just be clear on that affidavit. Down on the
6 bottom box what's the date of that?

7 A The date is April 4th 2018.

8 Q When's the closing of the filing period?

9 A The 30th of March.

10 Q So this one is late?

11 A Correct.

12 Q All right. And you started to explain box number 11
13 or question number 11. What were you going to say there?

14 A Number two she states when she got her baccalaureate
15 degree.

16 Q Yes, sir.

17 A And then she basically has dates, but nothing else
18 down. Under number four, I am enrolled in the following
19 forensic nurse degree or certification program August 13th
20 to August 18th 2018.

21 Q What do you think that's in reference to even though
22 it doesn't say anything?

23 A It's in reference to a continuing education course in
24 St. Louis University.

25 Q Why would that be relevant to whether she's qualified

1 or not? And if you don't know cause it doesn't say, then
2 you don't know?

3 MR. SABB: Judge, that's improper. Move to
4 strike it.

5 THE COURT: All right.

6 MR. TYSON: That's fine. I'll withdraw the
7 question.

8 THE COURT: Okay.

9 MR. SABB: Commenting not question. And I think
10 he should be permitted to answer the question before he
11 interrupted.

12 MR. TYSON: What was the question?

13 THE COURT: Why is that important.

14 BY MR. TYSON:

15 Q Why is that relevant?

16 A Pardon.

17 Q Why do you believe the date August the 13th through
18 August the 18th 2018 is relevant?

19 A I haven't looked it up, but I believe that's when the
20 course is listed.

21 Q And what kind of course do you believe that to be?

22 A A continuing education course at St. Louis University
23 in St. Louis, Missouri.

24 (WHEREUPON, Plaintiff's Exhibit No. 4 was marked
25 for identification only.)

1 BY MR. TYSON:

2 Q Bucky, let me ask you are you familiar with the
3 ABMDI?

4 A Yes, I am.

5 Q What does that stand for?

6 A It's the American Board of Medical Legal Death
7 Investigators.

8 Q And who is that body? What is that body?

9 A They are an organization that does a certification of
10 death investigators. And it's a program which has things
11 spelled out of what you need to become certified. And
12 certification is not just taking a course. Certification
13 is meeting qualifications and taking an oral on taking a
14 written test.

15 Q You state that do you have experience with working
16 with ABMDI in the certification program?

17 A I have not become ABMDI certified, but I do know
18 people that have and I've talked with them and worked with
19 them.

20 Q This information that I just given you or that was
21 just marked it's title registry and certification. Do you
22 have that in front of you? Do you have that exhibit?

23 A Yes, I do.

24 Q Have you seen this before?

25 A Yes, I have.

1 Q What is it?

2 A What is it?

3 Q Yes, sir.

4 A It's the requirements for basic certification.

5 Q And if you are a -- back to the statutory provisions,
6 one of the provisions that's marked or one of the
7 statutory provisions provides for a forensic science
8 degree or certification program; is that right?

9 A As to what?

10 Q Isn't there a statutory requirement?

11 A Yes, there is.

12 Q One of the options is you can go take a certified
13 program?

14 A Correct.

15 Q Okay. And do you know which program that is?

16 A There is not a program.

17 Q Okay.

18 A It's a testing process. You can take any program to
19 prepare yourself to go through the testing program. But
20 they have a disclaimer in here that says currently the
21 ABMDI does not endorse any program that claims to fulfill
22 a requirement of certification or prepare an individual
23 for the certification that exam.

24 Q Let me just finish ---

25 MR. SABB: Sorry, where was he reading from on

1 that? Can I be directed to that?

2 BY MR. TYSON:

3 Q Where is that on that sheet?

4 A That is right above the application process.

5 MR. SABB: Of disclaimer I see it. Thank you.

6 BY MR. TYSON:

7 Q And above that is -- what's the heading right above
8 that?

9 A It's titled -- it's under eligibility and then at the
10 bottom after number four it says disclaimer.

11 Q Let me make sure I understand this document. If you
12 want to enter into this registry certification program,
13 that first box what does it do?

14 A Says you must be 18 years of age at the time of
15 application.

16 Q What else.

17 A You must have a high school diploma or equivalent.
18 You must currently be employed in a medical examiner or
19 coroner office or equivalent federal authority with the
20 job responsibility to conduct death scene investigation or
21 supervise each investigation at time of application and
22 examination. And let have a minimum of 640 hours of death
23 investigation experience.

24 Q Let me ask you do you know whether Defendant
25 Samuels-Cooper has been certified by the ABMDI?

1 A No, she hasn't.

2 Q Ain't she enrolled in this certification process?

3 A Not that I know of.

4 Q So just in conclusion she filled out an affidavit
5 that says that she's got a four-year degree and then one
6 year of death investigation experience.

7 A Correct.

8 Q Do you believe that's accurate? Do you believe
9 that's accurate the one year death investigation
10 experience?

11 A I don't believe she has death investigation
12 experience.

13 MR. TYSON: Thank you, Mr. Mock. If you will
14 listen to the questions of co-counsel and answer those
15 questions. Thank you.

16 MR. SABB: Judge, I'll gladly accept the title
17 of being co-counsel of distinguish Rob Tyson. I want to
18 state that for the record. Couple questions if, Your
19 Honor, please.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. SABB:

23 Q Mr. Mock, as I understand it, you have worked with
24 the coroner's office for a number of years as a deputy
25 coroner; is that correct?

1 A That is correct.

2 Q And in fact some of your experience with the
3 coroner's office was with a gentleman, God bless the dead,
4 by the name of Hayes Samuels; is that correct?

5 A Correct.

6 Q And during the time period when Mr. Samuels was the
7 coroner, Lanette Samuels-Cooper worked in that office,
8 didn't she?

9 A Yes.

10 Q Would you agree with me, sir, that she worked there
11 some 13 years?

12 A Yes.

13 Q And would you also agree with me that she continued
14 to work there until she was terminated from employ by you?

15 A Correct.

16 Q And you terminated her because she was going to run
17 for coroner?

18 A That is wrong.

19 Q But she worked up until the point when she told you
20 that she was going to run for coroner. You terminated her
21 but for some other then the fact that you found out she
22 was going to run for coroner?

23 A Correct.

24 Q Okay. But just so happens that you fired her right
25 before time for filing, right?

1 MR. TYSON: Your Honor, object asked and
2 answered.

3 THE COURT: I'll allow the question. Go ahead.

4 BY MR. SABB:

5 Q What was the date you fired her?

6 A Pardon.

7 Q What was the date that you separated
8 Ms. Samuels-Cooper from employment from the coroner's
9 office?

10 A I don't have that date in my memory.

11 Q Would you dispute the fact that it's close to the
12 time of filing?

13 A It was close to the time of the filing.

14 Q Would you dispute the fact that she told you she was
15 running for office and that it was after she told you
16 that?

17 A Yes.

18 Q Yes, you would dispute it or yes it's true?

19 A Pardon.

20 Q My question is do you deny that at the moment you
21 terminated Ms. Samuels-Cooper you knew that she was going
22 to run for coroner, didn't you?

23 A Correct.

24 Q Okay. Now, this American Board of Medical Legal
25 Death Investigator organization you were familiar with,

1 weren't you?

2 A Yes.

3 Q At the time you fired Ms. Samuels-Cooper you were
4 familiar with the American Board of Medical Legal Death
5 Investigators, weren't you?

6 A Yes.

7 Q And you knew that for some odd reason one of the
8 things that's mentioned here as far as qualifications is
9 concerned is that you get special treatment if you're
10 employed with a coroner's office at the time you file for
11 office, don't you?

12 A I hadn't pulled this up and looked at all the
13 requirements at that time.

14 Q And if you're working at the coroner's office, you
15 can get certain minimum hours requirement relating to
16 death investigation experience, can't you?

17 A Not unless you're a death investigator.

18 Q Well, let me draw your attention to number four on
19 the document.

20 MR. SABB: Your Honor, I apologize I didn't
21 write down the number of the exhibits. What number is the
22 exhibit that relates to the ABMDI?

23 A Number four.

24 THE COURT: Yes, sir.

25

1 BY MR. SABB:

2 Q So look at number four on number four. Doesn't it
3 talk about must have a minimum of 640 hours of death
4 investigation experience?

5 A Correct.

6 Q And it says that each on-call hour is equal to 0.25
7 hours. It says that, right?

8 A Correct.

9 Q So for every hour that the individual is on call as
10 far as the ABMDI is concern they get credit for quarter of
11 an hour, don't they?

12 A As a death investigation -- investigator.

13 Q Well, hold on now. We gone talk about that in a
14 minute. Because your position is that the only person
15 that can qualify as a coroner and a deputy coroner, right?
16 Isn't that what you testified to under oath earlier?

17 A That -- the what?

18 Q Yeah, that you got to be a coroner or a deputy
19 coroner in order to do death investigation?

20 A Correct.

21 Q And so what you want to do is exclude anybody else
22 who might be on call. I mean, cause when you're on call,
23 you receive a death call, right? I mean, those are the
24 kind of calls that we're talking about where somebody
25 calls and says Mr. Mock I'm sadden because my aunt just

1 passed. That's the kind of on call that you receive,
2 right?

3 A Yes.

4 Q Now, would it surprise you, sir, to know that
5 Ms. Samuels-Cooper had to answer the phone every time it
6 rang more than three times? It then rang her phone,
7 that's surprising?

8 A I do not know.

9 Q Would it surprise you to know that you -- okay, you
10 don't know whether that's true or not. So if in fact the
11 call that is received is a death call and an individual is
12 on call, would you agree with me that there's credit given
13 for hours relating to that. Do you agree with me on that?

14 A That what?

15 Q Yes, sir. That if you're on call you get credit for
16 a certain amount of hours towards these 640 hours of death
17 investigation experience that's talked about in
18 Plaintiff's Exhibit Number 4?

19 A If you're a death investigator.

20 Q All right. Would you agree with me that there are
21 hours given for non-scene investigations?

22 A As a death investigator.

23 Q And we can just assume that when you answer all my
24 questions you gone qualify with the notion of the
25 individual being a death investigator. So I understand

1 that your position is you don't get credit for anything
2 because you're not a coroner ---

3 A As an administrative assistant, she would receive a
4 telephone call and act as a dispatcher and call the death
5 investigator who was going to perform that. That doesn't
6 mean that she is a death investigator and she is on call
7 for death investigation. It means she is a dispatcher and
8 she is dispatching who is going to go to the scene.

9 Q So if the coroner or the deputy coroner receives the
10 call, they often times go to the scene?

11 A Yes, sir.

12 Q But the fact that they're just on call gives them
13 hours and they're not doing anything as far as death
14 investigations at that point, are they? The point that
15 I'm making, Mr. Mock, is that this regulation is created
16 only to give credit to you guys. The only person that
17 performs the very duties that you all perform as far as
18 you all are concerned can't receive any credit unless it's
19 one of us. So if I'm the coroner, I get credit for
20 receiving the phone call. If I'm the deputy coroner, I
21 get credit for receiving the phone call. But if I'm
22 anybody else who's not in our circle, they get no credit,
23 but it's the same thing, isn't it?

24 A No, sir, it isn't the same thing.

25 Q All right. Tell me the difference between receiving

1 a call on call and not receive a call strike that.

2 A Under eligibility says must currently be employed
3 with the responsibility to conduct death scene
4 investigation. Now, with your responsibility to conduct
5 death scene investigation, that is what you're getting
6 your on call time for and not to answer a telephone and
7 say, okay, let me call the coroner that will be coming.

8 Q But, Mr. Mock, my question is the only person that
9 can receive on call time ---

10 A Is the person that's on call.

11 Q Well, what do you call an employee who has to answer
12 her phone regardless to what time at night it rings if it
13 rings?

14 A That's the job of the administrative assistant.

15 Q But she gets no credit for being on call. Isn't that
16 on call, Mr. Mock?

17 A That is not death investigation on call.

18 Q I didn't ask you that question. We won't get along I
19 promise you if you don't answer my questions. My question
20 is specifically ---

21 MR. TYSON: Your Honor, he gets to answer the
22 question. Judge, I know Mr. Sabb wants a specific answer,
23 but he gets to answer his question anyway he wants to.

24 THE COURT: I understand if you just answer his
25 question and then you can explain it. Answer his question

1 as he ask it and then if you think it needs an
2 explanation, you're entitled to give that.

3 MR. SABB: Madam court reporter, can you read
4 back my question for me please, ma'am. That's okay we'll
5 move right along.

6 BY MR. SABB:

7 Q And I apologize if I'm going back, but I got to catch
8 up. The point that I make is do you agree, sir, that when
9 an employee has to receive calls at three o'clock in the
10 morning, two o'clock in the morning after normal business
11 hours, is that employee on call yes or no?

12 A They're on call, but they're not on call for death
13 investigation.

14 Q All right. Now, it says that there are non-scene
15 investigations, right, does it point to that as the next
16 bullet point? They are non-scene investigations; is that
17 correct? Sir?

18 A No, that is not correct.

19 Q It says investigation of natural death not no scene
20 investigation equals one hour. So if there's no such
21 thing why is it in the qualifications?

22 A I'm not an expert on who wrote this.

23 Q You testified about it earlier that you were familiar
24 with it, that you had been aquatinted with all these
25 people that you had talk to about it. Now, you're telling

1 me you don't know about it?

2 A I know what it says.

3 Q So would you dispute inasmuch as it's in the
4 regulation that there are investigations of natural death
5 that do not involve going to the scene, right? And that
6 at our credit is given each time that occurs, would you
7 agree with me?

8 A I'm not sure what you're asking.

9 Q Come on. Look at number two. It says investigation
10 of a natural death no scene investigation equals one hour.
11 That's what it says, right?

12 A Yes.

13 Q So anything that a person's doing and I know you
14 going to say it's only you coroners and you deputy
15 coroners, but things that involve death investigations
16 where you don't go to the scene, there's an hour credit
17 given for it, isn't it? Where it's a natural death; is
18 that correct?

19 A That's utilizing knowledge to listen to the
20 information they give you and establish if you need to go
21 to the scene to look at it or you don't.

22 Q No, sir, it's more than that. And the reason why I
23 know is because you talked about it. You talked about
24 situations where you have to gather information, didn't
25 you?

1 A Yes.

2 Q You talked about situations where you have to
3 communicate with a pathologist, didn't you?

4 A Yes.

5 Q You talked about situations where you have to file
6 stuff as apart of a death, didn't you?

7 A Yes.

8 Q You talked about scene briefings; didn't you?

9 A Yes.

10 Q So you are fully aware that there other things that
11 must be done other than going to the scene; isn't that a
12 fact?

13 A You're still gathering information.

14 Q My point is that you all have a regulation that gives
15 credit for that, doesn't it?

16 A For your 640 hours, yes.

17 Q Yes, sir. But your position is that everybody else
18 is excluded, but you and the coroner get credit?

19 A Correct.

20 Q Right. And if we look a little below that if it
21 involves a nonnatural death where you don't go to the
22 scene, you get 2.5 hours credit, right?

23 A That's what it says.

24 Q All right, sir. And then if you go to the scene, you
25 get five hours credit?

1 A Correct.

2 Q Do you remember the wreck happened on Highway 521
3 where there were three fatalities? There was a first
4 cousin, and then there was a first cousin of the first
5 cousin in a separate vehicle and her daughter
6 unfortunately that accident claimed all three lives. Were
7 you aware of that?

8 A Not right off.

9 Q It involves the Williamsons. You don't remember that
10 one at all 2013 case?

11 A That's why I keep records.

12 Q I understand. And I appreciate the ones that you
13 were kind enough to provide to us yesterday too. Would
14 you dispute the fact that Ms. Samuels-Cooper went to that
15 scene? Would you dispute that fact?

16 A If she went to the scene, she didn't go as a death
17 investigator.

18 Q I understand that. I understand y'all whole game on
19 this case. Everybody else is excluded except y'all. So
20 if she went to the scene, she gets no five hours credit,
21 but y'all do, right?

22 MR. TYSON: Your Honor, I'm just going to object
23 to this basically. Mr. Sabb's questions all imply that
24 there's some gain and it's been gain by y'all whoever that
25 might be.

1 MR. SABB: And I apologize for that.

2 MR. TYSON: I was going to say the state law
3 requires the coroner and the deputy coroner to do that.
4 And if he wants to go address the policy of it, he can ask
5 that, but he can't continue to bully him.

6 MR. SABB: I wasn't bully him now.

7 MR. TYSON: Well, acting like he's done
8 something like he's gaming the system.

9 MR. SABB: Well, no, my whole point relates to
10 the protectionism in the system.

11 MR. TYSON: It's the law. It is the law.

12 MR. SABB: No, these are regulations promulgated
13 by the American Board of Medical Legal and Death
14 Investigators.

15 MR. TYSON: So when he says y'all, I have no
16 idea ---

17 MR. SABB: Well, he's one them. He's one of the
18 coroners and deputy coroners.

19 MR. TYSON: He's not one of ABMDI. You haven't
20 established that, a basis for that.

21 MR. SABB: He's one of the ones they're
22 protecting. At least it's our position, Bob.

23 MR. TYSON: Continue my objection.

24 MR. SABB: Please the Court.

25 THE COURT: Yes, sir.

1 BY MR. SABB:

2 Q So I was listening attentively to your comments
3 relating to the number of deaths in Clarendon County. And
4 so ---

5 MR. SABB: Mark this for ID at this point.
6 Another one for the Court.

7 (WHEREUPON, Defendant's Exhibit No. 1 was marked
8 for identification only.)

9 BY MR. SABB:

10 Q I think you testified that we experience in Clarendon
11 an average about 250 or so deaths, right? Right? I'm
12 sorry take your time and look at the document. I'll
13 question you about it. Let me know when you're ready?
14 Had a chance to look at it yet? Had a chance to look at
15 it?

16 A Huh?

17 Q Have you had a chance -- I'm sorry have you had a
18 chance to look at it yet?

19 A Yes, I have.

20 Q Okay. So these are some of the statistics that we
21 got from the DHEC web site information and it indicates
22 that in 2006, 336, 207, 332, 338 and so it just kind of
23 lists a number of deaths that we've had in Clarendon?

24 A Yes.

25 Q Would you dispute that those are probably the number

1 of deaths that we've experienced in our community here?

2 A That's probably right.

3 Q All right, sir.

4 MR. SABB: Judge, we move it into evidence at
5 this time.

6 MR. TYSON: No objection.

7 THE COURT: Okay. It's in without objection.

8 (WHEREUPON, Defendant's Exhibit No. 1 was
9 admitted into evidence.)

10 BY MR. SABB:

11 Q All right. And so these deaths would have been
12 either by natural or unnatural causes, right?

13 A Yes.

14 Q Each one of these deaths would have involved a phone
15 call to the coroner's office, right?

16 A Yes.

17 Q And some of the phone calls would be as folks in
18 church would say the morning time, some at noon day and
19 some perhaps in wee hours of the morning, would you agree
20 with me on that?

21 A Correct.

22 Q Would it surprise you that Ms. Cooper-Samuels strike
23 that -- Samuels-Cooper received a bunch of phone calls?

24 A She received some, but other people received them
25 also.

1 Q Yes, sir, I agree with that. And would you agree
2 with me that documenting history when it comes to
3 decedents is important. Would you agree with me on that?

4 A Yes.

5 Q Would you agree with me that the -- and I believe you
6 testified to this that the medical history of patients is
7 important?

8 A Yes.

9 Q Would you agree with me that the mental health
10 history of patients is important?

11 A Yes.

12 Q Would you agree with me that documenting all of those
13 including the social history of patients is important?

14 A Yes.

15 Q Would you agree with me that all of those are
16 important as it relates to both natural and unnatural
17 deaths?

18 A Yes.

19 Q Would you agree me that those points of documentation
20 that I just talked about are all used in death
21 investigations?

22 A Correct.

23 Q Would you agree me with that a lot of that
24 information is in fact gathered by somebody other than the
25 coroner and deputy coroner?

1 A I disagree.

2 Q Are you telling me under oath that every one of those
3 cases you or the other deputies did all the documentation
4 in each instance?

5 A If it needed information, it went to one of the
6 deputy coroners or the coroner.

7 Q Are you telling me under oath, sir, that there never
8 occasions where the administrative assistant gathered that
9 information?

10 A I do not know.

11 Q Would it surprise you that when a Medis Hospice
12 experiences a loss of life that they call and talk to
13 Lanette and she gets that information. And she's been
14 doing that not only with them, but with others as well.
15 Would that surprise you?

16 A I can't answer that.

17 Q Would it surprise you that she gathers medical
18 history on people? Issue subpoenas for records and all of
19 that kind of stuff would that surprise you, sir?

20 A That was her job to get records for us.

21 Q Exactly. Who types up all of the information that
22 you bring in on those documents? Who does it?

23 A I do mine.

24 Q Okay. Who did Hayes'? I would venture to say Hayes
25 was probably not as efficient as you were when -- I mean,

1 you know Hayes. We all know Hayes.

2 A She would take his notes and put things down.

3 Q And sometimes they were not exactly decipherable
4 would you agree with me on that?

5 A Pardon.

6 Q Sometimes they weren't exactly decipherable, couldn't
7 understand all the writings?

8 A I don't know.

9 Q Sometimes things would be left off where you got to
10 do follow ups to find out information?

11 A I don't know.

12 Q You would agree with me that that's important for an
13 individual who's got your back and the coroner's office to
14 look at those types of documents and make certain that the
15 records are in order right, right? Right?

16 A I'm not sure what you're asking.

17 Q Yes, sir, I'm asking whether or not it's important
18 for the administrative assistant to follow up on blanks,
19 things that can't be understood, to make sure that the
20 information is accurate that goes on those documents,
21 would you agree with me on that?

22 A Yes.

23 Q And that's really apart of the gathering of
24 information that you testified to the Court about earlier
25 that's important as it relates to death scene

1 investigations, right?

2 A The death investigations are done at the scene.

3 Q Come on now we just went through the stuff that says

4 ---

5 A I know we went through it. And that's when the death
6 investigation is done.

7 Q All right. So your position is that once you go to
8 the scene, that's it, death investigation over?

9 A I'm not saying that.

10 Q Well, that was my point. It's all encompassing.
11 It's more than going to the scene; isn't it, Mr. Mock?

12 A It's gathering information. And when you get the
13 information, you put it all together. So the
14 investigators are utilizing somebody to help get
15 information.

16 Q Yes, sir. Now, Mr. Mock, you testified earlier and I
17 appreciate it because I think you're right that one of the
18 first things a coroner needs to do is go to the week long
19 course, isn't that not what you testified to? Come on you
20 know that course ---

21 A I didn't hear your question.

22 Q All right. I'm sorry and I turned my back to you. I
23 meant no disrespect when I did that. I tend to prance a
24 little bit, so please don't take offense to that. And I
25 realize as I was asking the question I was walking the

1 other way, so I apologize for that. My question was and
2 it related to your testimony earlier when your lawyer was
3 questioning you. You told your lawyer that one of the
4 most important things for a new coroner to do is to go to
5 that week-long program and learn about stuff, right?

6 A I didn't say it's one of the most important things.
7 I said that use to be or it still is one of the state
8 laws.

9 Q Oh, no, sir. You want me to read back. You want me
10 to find what you said? Would it surprise you to know that
11 you said that that's the most important thing for a new
12 coroner to do is to go to that program strike that --
13 yeah, go to that program -- that week-long program and
14 learn about some of this stuff. Would it surprise you to
15 know that that's what you said?

16 A I don't believe I said that.

17 Q All right. Freudian slip if you did, right?

18 A I said it is one of the things that has to be done.

19 Q Well, my recall is a little different. I hope the
20 Court's recall is consistent with mine. But that is a
21 week long school that you talking about they do that at
22 St. Louis University, don't they?

23 A They do it when?

24 Q At St. Louis University?

25 A No, they don't.

1 Q All right. Give me the -- where is the affidavit?

2 A They do a course at St. Louis University, but the
3 school that I was referring to is put on by the South
4 Carolina Coroners Association.

5 Q Well, you know, that's interesting that you said
6 that.

7 MR. SABB: Your Honor, please we've agreed and
8 it's in evidence Defendant's Exhibit Number 2. I like to
9 publish it.

10 THE COURT: Okay.

11 (WHEREUPON, Defendant's Exhibit No. 2 was
12 admitted into evidence.)

13 MR. SABB: Your Honor, please we would read and
14 it's in evidence Defendant's Exhibit Number 2 like to
15 publish it.

16 THE COURT: Okay.

17 MR. SABB: It's dated February the 21st 2012.
18 It has a letterhead stamped on it South Carolina Coroners
19 Association. It is addressed to Leroy Smith Director of
20 the South Carolina Director of Public Safety and it has
21 the address. It's also directed to ABD strike that --
22 ABMDI St. Louis University, the American Board of Medical
23 Legal Death Investigators and it's got their address in
24 St. Louis. It says dear sirs, on behalf of the South
25 Carolina Coroners Association this letter is to advise

1 that the coroners training advisory committee has met and
2 unanimously approved the American Board of Medical Legal
3 Death Investigators Incorporated and it has their acronym
4 in paren certification program provided by St. Louis
5 University as the recognized forensics science degree or
6 certification program pursuant to our code of laws
7 17-5-130(g). I'm going to hand you this.

8 BY MR. SABB:

9 Q I'm going to hand you this and ask you the question
10 again. The program that you were describing to give
11 information to new coroners our programs set by the
12 American Board of Medical Legal Death Investigators; isn't
13 that correct?

14 A That's what this says, yes.

15 Q Do you disagree with it?

16 A I disagree that a week-long program is not a
17 certification course.

18 Q And you do understand that wasn't my question, right?
19 You do understand that my question was whether or not you
20 agreed that the American Board of Medical Legal Death
21 Investigators is the board that's charged with according
22 to this stuff the responsibility relating to the
23 certification course. Do you agree with me on that?

24 A I see what you have here from February of 2012 and I
25 see what's on here from what was printed off on 7-18-2018

1 from the ABMDI certification registry.

2 Q So let me just ask you a question.

3 A And they disagree.

4 Q Let me just ask you a question. Why did you file it
5 in court? Why did you file that document in court along
6 with the past coroner's affidavit if you didn't agree with
7 it. You asked a judge to follow it in the other
8 proceeding. Now, you questioning it. I just want to know
9 why? Could the answer be because ---

10 MR. TYSON: Hold on, hold on, hold on. He's
11 entitled to answer the question.

12 MR. SABB: I was waiting. I waited.

13 MR. TYSON: Well, keep waiting. He gets to
14 answer. You're not going to answer for him.

15 MR. SABB: I'll wait.

16 MR. TYSON: Buck, you got to answer his
17 question.

18 A I wasn't sure this was in the filing.

19 Q Does it surprise you that the week-long course that
20 you described that coroners should go to is the very
21 course that Ms. Samuels-Cooper has enrolled in?

22 A No, it's not.

23 Q I'm talking about a week-long program. I'm not
24 talking about what you talking about. Isn't that the
25 week-long continuing education program that you talked

1 about earlier?

2 A Yes.

3 Q So that's my point?

4 A But this isn't that program.

5 Q The point I want to make Mr. Mock is that the ABMDI
6 is affiliated with St. Louis University. You don't
7 dispute that, do you? Isn't that established? Are we
8 clear that St. Louis University is the one?

9 A I am not sure.

10 Q In spite of the fact that your guy did an affidavit
11 to this court attaching that, instructing the Court that
12 that's what it is you on this day under oath disputed it?

13 A I know what the ABMDI requirements are and I see what
14 they talk about as being ABMDI certification program. The
15 course that is down is not a certification program. That
16 is not a week-long course.

17 Q Were you aware at the time you discharge Ms. Cooper
18 that she had enrolled in this?

19 A That she what?

20 Q Try to get it all together. Were you aware at the
21 time you discharged Ms. Samuels-Cooper that she had
22 enrolled in this ---

23 A That she what?

24 Q I'm sorry one second I apologize try to get it all
25 together. Were you aware that Ms. Lanette Samuels-Cooper

1 had enrolled in the medical legal death investigator
2 training course that's scheduled from August the 13th of
3 2017, were you aware at the time you terminated her that
4 she had enrolled in that program?

5 A No, I wasn't.

6 MR. SABB: Thank you.

7 THE COURT: Anything further?

8 MR. KENT: Your Honor, I actually have a
9 question.

10 THE COURT: Oh, okay. I'm sorry.

11 CROSS-EXAMINATION

12 BY MR. KENT:

13 Q Mr. Mock, how are you doing, sir?

14 A All right.

15 Q My name is Shaun Kent and I represent the Clarendon
16 County Board of Voter Registration and Elections. I don't
17 have very many questions. When this lawsuit was filed and
18 you're aware you filed a lawsuit against the Clarendon
19 County Board of Registration Elections, correct?

20 A Correct.

21 Q Clarendon County Democratic Party?

22 A Correct.

23 Q Lanette Samuels-Cooper?

24 A Correct.

25 Q The South Carolina Democratic Party?

1 A Correct.

2 Q As well as the South Carolina Election Commission?

3 A Correct.

4 Q And the allegations of the lawsuit are basically that
5 Ms. Cooper is not qualified to be on the ballot, correct?

6 A Correct.

7 Q You made separate allegations against the Clarendon
8 County Board of Voter Registration and Elections saying
9 that they did something that was improper?

10 A Yes.

11 Q What are you alleging that the Clarendon County
12 Board -- what are we doing improperly?

13 A I'm not saying that you're improper in the
14 discussion, but in the discussion at different meetings
15 and people that tried to contact the state democratic ---

16 Q I'm not talking about them. I don't represent them.
17 Those are the other folk.

18 A They told us that we needed ---

19 MR. SABB: Your Honor, objection to hearsay.

20 BY MR. KENT:

21 Q I'm just specifically asking you what did Clarendon
22 County Board of Election what did they do improperly as
23 election in your lawsuit?

24 A I don't think anything.

25 Q Okay. And number two in the filing of the lawsuits

1 alleging that someone is unqualified or qualified, did you
2 bring that knowledge to the Clarendon County Board before
3 or after the election?

4 A I brought it up before but not in writing to -- to
5 who now?

6 Q To -- exactly to the Clarendon County Board of
7 Elections?

8 A I didn't say anything to them about it.

9 Q Would you have said anything to the Clarendon County
10 Democratic?

11 A Pardon.

12 Q Would you have said anything to the democratic party
13 before the election?

14 A Yes, I did.

15 Q So you notified the democratic party that there
16 might have been something wrong with the qualification?

17 A Yes.

18 Q And nothing with board of election?

19 A But not to the election board because it's --
20 everything that was filled out was to go to the democratic
21 party.

22 MR. KENT: Thank you so much. That's all the
23 questions I have.

24 CROSS-EXAMINATION

25

1 BY MR. THICKENS:

2 Q I represent the Clarendon County Democratic Party and
3 the South Carolina Democratic Party. Did you file for or
4 bring any request for a hearing before a county executive
5 committee in this case?

6 A Did what?

7 Q Did you file for or request any hearing by the county
8 democratic executive committee?

9 A No, I didn't.

10 Q So you brought no administrative remedy prior to
11 filing this suit?

12 A I sent information out, but I did not file for a
13 hearing.

14 Q So you didn't make any filing in accordance with the
15 statute for requesting a hearing from the executive
16 committee?

17 A I was never told I had that option.

18 MR. THICKENS: Thank you.

19 THE COURT: Anybody else?

20 MR. BRANT: No questions, Your Honor.

21 THE COURT: Okay. Yes, sir.

22 REDIRECT EXAMINATION

23 BY MR. TYSON:

24 Q Mr. Mock, let me just back to Mr. Kent's -- not Mr.
25 Kent Mr. Sabb spent sometime on the issue about these

1 training programs and I think you were kind of on -- let
2 me see if I can go back. I heard you when you were
3 testifying earlier about what -- where a coroner gets
4 training once they're elected. Do you recall that
5 testimony?

6 A Yes.

7 Q Do you recall what you said by any chance?

8 A I said one of the first things that you do after you
9 take office is you take -- it's required you take a one
10 week coroner's school put on by the South Carolina
11 Coroners Association.

12 Q And you say it's required by what -- by statute?

13 A That use to be and I -- the way they change things I
14 don't always know, but that use to be one of the
15 requirements before they came up with the -- the law of
16 meeting certain specific standards which happened in 2012.

17 Q Let me just read it. Mr. Sabb would read -- we're
18 going to read the statute 7 -- 17-5-130(c). And it says
19 each person serving as a coroner in the person's first
20 term is required to complete a basic training session to
21 be determined by the South Carolina Criminal Justice
22 Academy. The basic training session must be completed no
23 later than the end of the calender year. So as I read
24 that statute is that your understanding of the program
25 that you were discussing?

1 A Yes, sir.

2 Q Okay. Now, then we got kind of on this other
3 certification program. And what's your understanding of
4 what a recognize for science program is? That was an
5 awful question. Let me just step back. Okay. Let's go
6 back and on the affidavit it lists statutory requirements.
7 And one item is, you know, we go through those different
8 things and then one of them says I have completed a
9 forensic science degree or certification program
10 recognized by the South Carolina Coroners Training
11 Advisory Committee or I am enrolled in a forensic science
12 degree or certification program. Do you know that
13 statutory requirement? You familiar with that?

14 A I know what's written down and I know that the
15 coroners association says that it is ABMDI certification.
16 And the certification program is to prepare a person to
17 have the knowledge that is required, to take the ABMDI
18 certification. But it does not -- it is not in lieu of
19 the certification.

20 Q And let me just make sure that we're clear on this.
21 Ms. Samuels-Cooper filed an affidavit as we said it's
22 exhibit two and it's March the 19th, right? And she
23 doesn't check any box that she's qualified, right?

24 A Correct.

25 Q So any of this discussion about whether she's

1 enrolled in a program at the time that she was discharged
2 or whether she's signed that, none of that is applicable
3 because there's no box marked, correct?

4 A She did not mark the box that said I have completed a
5 forensic degree or certification program.

6 Q Well, let me ask did she mark -- let me be more
7 specific she didn't mark any box, right?

8 A Correct.

9 Q Okay. So there's no boxes -- she's not qualified.
10 She's not told anybody how she's qualified, correct?

11 A (No Response.)

12 Q All right. Let's go to the next exhibit exhibit
13 three which is the label (sic) and it's filed April the
14 4th in violation of the statute. You have it? You got
15 it?

16 A Exhibit three?

17 Q Exhibit three.

18 A Yes.

19 Q It's April the 4th which is after the statute
20 requires it to be filed, correct?

21 A Correct.

22 Q Okay. And we just went through this long discussion
23 the statute provision that she marked of how she is
24 qualified is what?

25 A It's that I have a four-year baccalaureate degree and

1 one year of death investigation experience.

2 Q So down there a couple below that where it talks
3 about the forensic science degree or certification program
4 that we just spent a lot time talking about this ABMDI,
5 that's not event relevant?

6 A That's not checked.

7 Q It's not checked. So she's not saying she's
8 qualified by that, correct?

9 A Correct.

10 Q So it didn't matter whether she had signed up,
11 whether you knew it at the time of this or that. She's
12 never even identified to the world that that is something
13 that she believes she's qualified, right?

14 A I guess so.

15 Q Because it says check all that apply and she didn't
16 check it, correct?

17 A Yes.

18 Q And then we spent a lot of time on these -- on these
19 -- on the ABMDI questions in the hours. And I want to
20 make sure I just, you know, Mr. Sabb ask good questions
21 about these on call hours and the natural death and no
22 scene investigation and what gets credit or not. But if I
23 heard you, I want to understand -- I'm sorry you have that
24 exhibit four?

25 A Yes, I have it.

1 Q Okay. For you to be able to obtain that, it's got to
2 be someone doing death investigation, right?

3 A Correct.

4 Q Okay. So I -- sounded like to me that you aren't
5 saying that taking a phone call -- well, what were you
6 saying about taking a phone call? What does that mean?
7 Is that part of the death investigation?

8 A No, that -- with somebody taking a phone call that is
9 receiving information that there is a need for a coroner
10 or deputy coroner. And they received the call and then
11 they get ahold of the coroner or deputy coroner.

12 MR. TYSON: Thank you, Mr. Mock. I appreciate
13 you answering my few questions.

14 MR. SABB: Just follow up too, Your Honor.

15 THE COURT: Go ahead.

16 MR. SABB: Yes, sir.

17 RE CROSS-EXAMINATION

18 BY MR. SABB:

19 Q If you have a four-year degree and you are a deputy
20 coroner, right?

21 A Yes.

22 Q Coroner's on call 24 hours a day, right?

23 A Somebody is on call.

24 Q Right.

25 A Somebody is available excuse me -- they're not

1 usually on call in our office.

2 Q I don't know that I understand the difference between
3 being available and on call.

4 A They never made a call schedule up. So if the
5 coroner was not available, then they would call one of the
6 deputy coroners to go.

7 Q They being the admin person?

8 A Whoever answered the telephone.

9 Q Yes, sir. In our case, it could have been ---

10 A Not most of the time, but some of the time.

11 Q All right, sir. So the deputy coroner who is deputy
12 for a year wouldn't have to worry about anything if he
13 decided to run for office because once you become a deputy
14 coroner, you get credit for all of these hours that are
15 listed on the ABMDI form, right? So after one year if you
16 are a deputy coroner, you qualify -- you don't have to go
17 to no schools other than the continuing education seminar,
18 but as far as certification is concerned, you don't have
19 to do any of that, right?

20 A That's not true.

21 Q Okay. So help me understand if you going to get
22 credit -- let me go back to number four. I'm a little
23 surprised that you said that, but you still have number
24 four up there?

25 A Yes.

1 Q Okay. So if you're a coroner or a deputy coroner
2 according to you, you qualify as a death scene
3 investigator, right?

4 A Yes.

5 Q Okay. And if you work for a year, that's a years
6 experience as a death scene investigator, right?

7 A Yes.

8 Q So you wouldn't have to do anything else you'd
9 already be qualified if you've got a four-year degree and
10 you work as a deputy coroner for a year, you're qualified?

11 A Correct.

12 Q To be a coroner, right?

13 A Correct.

14 Q Okay. And our law gives persons other than deputy
15 coroners and coroners a year to be brought up to snuff as
16 far as what you need to know to be a good coroner is
17 concern?

18 A No.

19 Q It doesn't give you up to a year?

20 A It gives you up to a year to become certified, ABMDI
21 certification.

22 Q Okay. My misunderstanding then is that I was
23 thinking that once you become ABMD certified -- I might
24 have butchered that up a little bit, but once you became
25 certified, that you're qualified to be a coroner?

1 A After you're ABMDI certified, correct.

2 Q Right, yeah. And so the law gives a person a year to
3 do that?

4 A Correct.

5 Q Okay. And if the governor had appointed you forget
6 about the fact that you were a deputy coroner or a
7 coroner, if the governor had appointed you and I'm
8 looking at some of your lawyers -- I'm giving him credit
9 for the law that it's -- some of the law we're talking
10 about 17-5-130 ---

11 MR. TYSON: You said you're taking credit for
12 it?

13 MR. SABB: No, sir, I'm giving you credit for
14 it.

15 BY MR. SABB:

16 Q Under section four, a person appointed to fill an
17 unexpired term in the office of the coroner shall complete
18 a basic training session to be determined by the South
19 Carolina Criminal Justice Academy within one year of the
20 date of appointment. So even if you didn't have any
21 experience or anything, you have a year to become up to
22 snuff, right?

23 A If that's what it says.

24 MR. SABB: Thank you.

25 THE COURT: All right. You can step down.

1 (WHEREUPON, the witness leaves the witness
2 stand.)

3 THE COURT: Now, I need to see the attorneys,
4 the clerk of court and the court reporter.

5 (WHEREUPON, a lunch break was taken.)

6 MR. SABB: You seen the little commercial,
7 Judge, where the little boy is in the restroom and can't
8 get his pants untied, he said I got a situation. Judge,
9 we got a situation.

10 THE COURT: Okay.

11 MR. TYSON: Let's be clear Ronnie's got a
12 situation. I don't have that situation.

13 MR. SABB: My co-counsel doesn't want to be my
14 co-counsel anymore. Serious enough, Judge, we have a
15 witness her name -- I call her Bebe last name is Cocker,
16 Bebe Cocker. I had spoken with her a couple of times on
17 the phone about coming to testify. And by way of proffer
18 we believe that she'll testify because she works with
19 hospice about various contacts she's had with our client
20 when somebody in hospice passes.

21 As of yesterday, she told me that all she needed
22 was an hour notice and so I called on break to give her an
23 hour and 40 minutes heads up telling her that if she could
24 be here by 2:30, that we would be in good time. Only to
25 discover that after she hung up with me yesterday, she

1 spoke with immediate supervisor who said wait a minute I'm
2 not sure you can do that. So they called the corporate
3 office. The corporate office says absolutely not unless
4 there's a subpoena that we receive that we authorize, you
5 cannot testify. They didn't bother to call to tell me
6 that things have changed or obviously I'd started trying
7 to work on it yesterday along with everything else that we
8 been trying to do. But anyway, Judge, so we going to need
9 your help on getting her here. I think where I would ask
10 the Court to do is would be to require her appearance, but
11 not have her testify until at least we try get ahold of
12 the lawyers -- the corporate lawyers and try to give them
13 an opportunity so that we don't have an issue. But
14 knowing lawyers, they're going to say wait a minute we
15 don't have ten days. So I anticipate the lawyers will be
16 lawyers. But, Judge, here's the other thing, I want you
17 to know this and I tried to explain this to the young lady
18 that I spoke with. I got her name written down somewhere,
19 but I told her we weren't interested in anything specific
20 as it relates to any one patient, no names, no how they
21 passed, no any of that. Just a general, this is what
22 usually happens is all we need from her.

23 THE COURT: And that was my next question
24 whether you going to deal with specific cases. There may
25 be HIPPA violations or something else that the corporate

1 office is going to be concerned about, but general
2 information cannot be limited to specific patients should
3 not be a problem.

4 MR. SABB: Yes, sir.

5 THE COURT: Okay. So what do you want me to do?

6 MR. SABB: Judge, I would request permission to
7 call them back and to say to them that I have brought the
8 matter before Judge Cothran. I have indicated to Judge
9 Cothran that we're not asking any specific questions about
10 any specific patients, so HIPPA is not really a concern
11 that she needs to be on her way. The court has not ruled
12 that she's going to be required to testify. That's going
13 to be a decision that the Court's gone make, but we need
14 her here physically. And in the meantime, there be will
15 be communications with their corporate office trying to
16 supply them with whatever information they needed that
17 kind of thing. So I just ask permission to go that far.
18 Obviously, if she says, no, we ain't coming, then I may
19 need you to call, Judge.

20 THE COURT: How far away is she?

21 MR. TYSON: She's right there in Sumter.

22 THE COURT: Okay. All right. I can do it.

23 MR. SABB: All right.

24 MR. TYSON: Your Honor.

25 THE COURT: Yes, sir.

1 MR. TYSON: Can I bring up one other little
2 matter. I mention I've got this federal court status
3 conference at four. It's a telephonic status conference
4 and I've talked with others. If we're not finished by
5 four, can we take our next break a few minutes before four
6 and let me go participate in the status conference?

7 THE COURT: Sure.

8 MR. TYSON: Thank you, Your Honor.

9 (WHEREUPON, a pause in the proceedings.)

10 MR. SABB: If, Your Honor, please.

11 THE COURT: Yes, sir.

12 MR. SABB: She will not instruct the employee to
13 come. She was nice and respectful. She just in a bad
14 situation. She doesn't want to get in trouble with
15 corporate and I totally understand. She got us an e-mail
16 address for the lawyer that want us to e-mail back and
17 forth. The only problem I'm going to run into I think is
18 time thing with her getting here. So I'm going to have
19 Kim to shoot some e-mails with him back and forth and be
20 working on that as we proceed. I just worry that by the
21 time it's worked out, and I'm very competent that it will
22 be, we're going to be in a situation where she's going to
23 be in Sumter and I don't know what her time situation is
24 going to be like.

25 THE COURT: Okay. We'll see what happens.

1 MR. SABB: All right.

2 THE COURT: So are you leaving?

3 MR. SABB: No, sir, I'm going to give her some
4 instructions about what we need e-mailed back and forth.

5 THE COURT: Okay. And then you can come back
6 and we get started?

7 MR. SABB: Yes, sir.

8 THE COURT: Okay.

9 MR. SABB: I would prefer, Your Honor, please
10 that they had her on the way.

11 THE COURT: I understand, but we gone have a
12 couple more witnesses before we get to her.

13 MR. SABB: Yes, sir.

14 THE COURT: I can send a deputy for her.

15 (WHEREUPON, a pause in the proceedings.)

16 MR. TYSON: Your Honor, I call Sabrina Gast.

17 THE COURT: Okay.

18 THE CLERK: Raise your right hand and place your
19 left hand on the Bible and repeat and spell your name for
20 the court reporter please.

21 MS. GAST: Sabrina Gast S-A-B-R-I-N-A G-A-S-T.

22 THE CLERK: You swear the testimony you're about
23 to give will be the truth and nothing but the truth so
24 help you God?

25 MS. GAST: I do.

1 WHEREUPON,

2 Sabrina Gast,

3 after first having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. TYSON:

6 Q Good afternoon, Ms. Gast. How you doing?

7 A I'm doing well.

8 Q I appreciate you coming down here and being patient
9 with us lawyers as we work through some issues. Can you
10 state your name for the Court please?

11 A My name is Sabrina Gast.

12 Q And where do you live?

13 A I live in Fort Mill, South Carolina.

14 Q And what is your current occupation?

15 A I'm the coroner for York County.

16 Q And how long have you been coroner for York County?

17 A Since 2006.

18 Q What was your experience prior to being coroner --
19 elected coroner of York County?

20 A I am -- my background is in nursing. I'm a
21 registered nurse.

22 Q What kind of nurse?

23 A I was a ER nurse and I have a masters degree in
24 forensic nursing.

25 Q And where did you work?

1 A I worked for the Rock Hill Police Department as their
2 forensic nurse coordinator.

3 Q Okay. We had discussion earlier Mr. Sabb brought up
4 this issue about Mr. Fowler. And can you tell me are you
5 the head of the Coroners Association now?

6 A Yes, I am.

7 Q And when did you take over?

8 A July 1st.

9 Q What's today? July the 20th, three weeks ago. I'm
10 sorry.

11 A Yes, sir.

12 Q How does one become president of the Coroners
13 Association?

14 A We're nominated by membership and voted on at
15 membership at their annual meeting which was the last week
16 in June.

17 Q And the membership -- who is the membership?

18 A Coroners and deputy coroners from the State.

19 Q Okay. You've heard a lot of this discussion today.
20 I gone try not to -- try to make it a little more direct
21 with this. You know, we're struggling with this question
22 or struggling with this issue of what encompasses death,
23 investigation, experience or death investigations. I'm
24 assuming I'm going to say or ask you a question. Do you
25 have experience in death investigations?

1 A Yes, I do.

2 Q You been coroner for how long, since when?

3 A Since 2006.

4 Q And can you approximate how many death investigations
5 you have participated?

6 A Thousands.

7 Q And how do you come up with thousands?

8 A Our annual case load in York County is about 2,000
9 cases per year. We -- as part the way our office works
10 is I actually review every case that comes through my
11 office and work with the deputies responding to death
12 investigations, but I see every case that comes through my
13 office.

14 Q As we go toward that, let me just kind of step back,
15 can you describe your understanding of the job description
16 for coroners?

17 A Well, the coroner is guided by the state statute and
18 by state statute coroners responsible for doing death
19 investigations in any type of death in their jurisdiction.
20 And that includes both natural deaths, suicides,
21 unexpected deaths at home, homicides or anything that is
22 unusual or unexpected.

23 Q Can deputy coroners undertake similar
24 responsibilities?

25 A Yes, they can.

1 Q How does one become a deputy coroner?

2 A Every coroners jurisdiction is a little different as
3 far as how they hire their deputy coroners. Some of our
4 coroners don't have deputy coroners. So it just kind of
5 depends on the areas that they're from, what size the
6 county that they have. But the way that most generally it
7 occurs is they apply for their position as posted. They
8 have set recommendations and guidelines as far as what
9 education and background the individual needs and they
10 go through a hiring process. And then they -- once
11 they're selected and hired, they have an oath that they
12 undertake as well so that they can take on the same job,
13 duties as the coroner.

14 Q And we read the statute earlier, talked about it.
15 The deputy coroner is my understanding they can perform
16 any of the responsibilities of a coroner is that accurate?

17 A That is correct.

18 Q Can anybody else perform any of the responsibilities
19 of a coroner?

20 A Not by statute.

21 Q Okay. So an administrative assistant can't; is that
22 correct?

23 A Correct.

24 Q So we heard this argument today or I'm sure
25 Mr. Sabb's going to ask you questions about it. In this

1 case, could an administrative assistant do death
2 investigation experiences?

3 A Not by statute.

4 Q Not by statute. And in -- have you filled out one of
5 these affidavits before to file to run?

6 A Yes, I have.

7 Q Okay. And you know there's a box on it -- there's
8 several boxes, but one that is in play today is I have a
9 four-year baccalaureate degree and one year of experience
10 in death investigation with a law enforcement agency
11 coroner or medical examiner agency. And there were a line
12 of questions earlier about y'all had fix the rules or
13 y'all have done this or y'all had done all that. Can you
14 help respond to how one becomes qualified to run as
15 candidate for coroner?

16 A Well, the statute is clear as far as there's
17 different avenues to actually qualify to become a coroner
18 in the State of South Carolina. They were written out and
19 mentioned earlier, but there's certain level of education
20 that you can require or you can have. I believe it starts
21 with the three years of actual death investigation
22 experience. And then it goes to a two-year degree and two
23 years of experience. It goes for a four-year degree and
24 one year experience. I believe that it is -- you can be a
25 law enforcement officer. You can be a registered nurse.

1 I can't remember the other one right off the top of my
2 head.

3 Q I guess the point of my question is as you
4 contemplate running for coroner, you have a lot of
5 different ways that you can be eligible to run?

6 A That is correct.

7 Q You just got to meet one of those criteria, right?

8 A That is correct.

9 Q And in this case we got a couple of affidavits in
10 play. I'm just going to focus on Exhibit Number 3 which
11 is the one that was filed late on April the 4th. And it's
12 the one where it says Ms. Samuels-Cooper has four years --
13 had the four-year degree and then she's got one year of
14 experience in death investigation. Can you -- I ask
15 Mr. Mock this and I'm going to ask you that too. Can you
16 walk through for the judge and for the rest of us here
17 what encompasses a death investigation?

18 A A death is investigation looking into the cause and
19 manner of death of the individual. It has a lot of
20 different components to it. It is actually gathering
21 information on that individual. Generally in most cases,
22 it starts with responding to the scene of where the
23 individual is located whether that be at the hospital or a
24 nursing home or wherever the person has died, so you
25 actually physically respond to that location. You work

1 with other agencies that may be involved in that
2 investigation law enforcement, DSS, SLED. There may be
3 multiple other agencies that are working that case
4 especially if it's a crime scene. So you're going to have
5 other agencies that you're working with. The coroner's
6 responsibility to access the decedent or the person that
7 has died. So you were looking at the scene around the
8 body, so that encompassing the whole scene that's there.
9 You're going to do an assessment of that body which
10 includes actually doing photographs, collecting any
11 evidence that may be with that body, moving the body,
12 looking for any injuries may be located on the person at
13 that time, gathering information from those other agencies
14 that are there, talking with any witnesses or family that
15 may be present. Then you're going to make a determination
16 as far as whether you're going to need additional medical
17 history, doing subpoenas for medical records or mental
18 health records, drug treatment records anything that might
19 be pertinent to the health of that individual that's going
20 to help you determine the cause and manor of death.
21 You're going to gather all that at the scene and then the
22 coroner will generally decide whether that person can be
23 taking into holding for the coroner, whether they're going
24 to do an autopsy and that maybe the next day or later at
25 that point in time determining whether you're going to do

1 that or not. You're going to speak with the pathologist.
2 Sometimes we talk with the family physician of the
3 individual or any specialist that they see. We may
4 request that autopsy be done and in some cases the coroner
5 actually responds to and attends that autopsy, giving the
6 pathologist information that was collected at the scene.
7 We are responsible for actually doing a written
8 documentation or a written assessment note of that crime
9 scene and what you see, what you spoke with individual
10 witnesses that maybe there. And then all of that
11 information is put together and assess by that death
12 investigator to help determine a cause and manner of death
13 of that individual. Once that cause and manner of death
14 has been decided, then the coroner or deputy coroner's
15 responsible for actually completing the death certificate
16 and certifying that cause of death.

17 Q You heard Mr. Mock testify using a table of contents
18 in walking through kind of an outline of what he believed
19 the steps were. Listening to what you just said as you're
20 understanding of the death investigation consistent with
21 how Mr. Mock described it?

22 A Yes, it is.

23 Q Okay. Your description of what a death investigation
24 encompasses is that follow any set rules, does come from
25 guidelines, does that come from statute, how are you able

1 to step to testify about what a death investigation is?

2 A Well, I've gone to many continuing education courses
3 in death investigation. I'm a fellow -- certified fellow
4 for ABMDI or the American Board of Medical Legal Death
5 Investigators. So I'm nationally certified as a fellow
6 for that -- the death investigation board. The national
7 institute of justice what Mr. Mock was referencing is a
8 guideline that was developed to guide death investigators
9 into how death investigation are to be conducted. And
10 those guidelines are national guidelines that are adhered
11 to or should be adhered to in every jurisdiction.

12 Q So is there any discrepancy over what a death
13 investigation is?

14 A I'm not sure what you're asking.

15 Q That is a poor question. You've heard Mr. Mock's
16 description of what he believes a death investigation
17 experience is in Clarendon County. You've got a different
18 view or a description different than his, but on the same
19 elements in York County is there a set of rules, are they
20 generally death investigation is that a generic term or
21 term of art?

22 A Well, a death investigation should be consistent
23 across the board of your meeting national standards. So
24 every death investigation while the technique maybe
25 somewhat different, every death investigation should

1 entail the same items.

2 Q I asked it poorly and I apologize. But as I'm
3 sitting here listening and was listening to his testimony
4 arriving at the scene, documenting, evaluating the scene
5 and those things all seem very straightforward and very
6 standard and that would be uniform for any death
7 investigation?

8 A It should be, yes.

9 Q Okay. And how you do might be different. You might
10 collect evidence differently here. You might contact
11 people here, correct?

12 A Correct.

13 Q But there are specific tasks that one -- as I
14 understand your description that a coroner must undertake
15 to do a death investigation?

16 A To do a proper death investigation, yes.

17 Q Let me just get to the short of it. You heard
18 Mr. Sabb ask a lot of questions of Mr. Mock things like
19 answering a phone and helping, being, you know, on call.
20 How would you rank that or how would you describe -- is
21 that part of the death investigation experience?

22 A As far as answering office phones?

23 Q Right.

24 A No, that is not a death investigation.

25 Q Why not?

1 A Because it doesn't include doing assessments whether
2 that actually be on the physical body or an assessment of
3 looking at the medical records that are collected. It
4 doesn't take into account taking detailed history of past
5 medical history, any injuries, wounds, traumas that may
6 have occurred. Those types of things are done by your
7 death investigator.

8 Q What about subpoenaing medical records?

9 A Depends on what kind of office you're from. I
10 actually have a office manager that does those subpoenas
11 for me, but she does not do death investigation.

12 Q So once the subpoenas came back and the documents
13 were received pursuant to that subpoena, could that
14 administrative assistant or that office manager review
15 those documents?

16 A I guess that they probably could. It's not really in
17 the job description for the office manager to review.
18 It's up to that death investigator to analyze and review
19 those records that come in and use that information
20 gathered from those records to make the final
21 determination of cause and manner of death.

22 Q To do a death investigation requires specific
23 knowledge it sounds like to me; is that far?

24 A Yes, it does.

25 Q Can you describe some of the knowledge specifically

1 that one would need to underdo -- undergo a death
2 investigation?

3 A Well, it's very helpful to have a medical background
4 to do death investigation because you are looking at
5 medical records. You're interpreting physicians orders.
6 You're looking at medications that may have been
7 prescribed for the individual. You need to know anatomy
8 and physiology. You have to have an understanding of
9 toxicology and how that works with the body. You have to
10 understand the disease process of individuals. The death
11 and dying process of an individual and how that relates to
12 what you're finding on the assessments of the bodies. You
13 also have to have good communication skills. You have to
14 be able to interview families and witnesses and gather
15 additional information that may not be included in those
16 medical records or information that you may not find or
17 locate at that scene of that decedent.

18 Q I'm going to ask the ---

19 MR. TYSON: Can you show her exhibit number four
20 please?

21 COURT REPORTER: She has them all.

22 BY MR. TYSON:

23 Q It's the ABMDI form.

24 A Yes.

25 Q Are you familiar with this form?

1 A Yes, I am.

2 Q Why are you familiar with it, how are you familiar?

3 A Well, I am a member of ABMDI. I am familiar with the
4 web site and the registry certification process.

5 MR. TYSON: Your Honor, I think I failed to
6 offer to move this into evidence earlier. We tabbed it,
7 but I didn't introduce it.

8 THE COURT: I thought somebody else had.

9 MR. SABB: It's in evidence without objection as
10 far as we are concerned.

11 THE COURT: It's in evidence. It's number four.

12 MR. TYSON: Okay, all right.

13 (WHEREUPON, Plaintiff's Exhibit No. 4 was
14 admitted into evidence.)

15 BY MR. TYSON:

16 Q We had a long discussion on the eligibility. Can you
17 just walk us through what a person must do to be eligible
18 to take a certification?

19 A So ABMDI as a certification process, it is an entity
20 of specialist that have gotten together using the
21 guidelines from the NIJ, the death investigation
22 guidelines from the NIJ, to develop standards for death
23 investigators across the country. So ABMDI is the
24 certification body for death investigators in the United
25 States. It is not a requirement that death investigators

1 apply for ABMDI. It's just an added benefit for someone
2 to join the ABMDI. So it's not required to be ABMDI
3 certified to do death investigations.

4 Q So part of the discussion we heard earlier was y'all
5 are doing this and y'all are getting the system. As I
6 understand your testimony, there other ways to be eligible
7 to be a coroner, correct?

8 A By statute, yes, sir.

9 Q But looking at this just what are some of the
10 eligibility criteria if you chose to go down this road to
11 become qualified?

12 A First of all, you have be employed as a death
13 investigator or in a death investigator's office. And
14 part your job description is you actually have to be able
15 to respond to death investigation scenes. You have to
16 have 640 hours of investigation experience. Then there
17 is -- and apply for a -- for the certification process
18 through the ABMDI. Once you apply and they say that
19 you're qualified to apply to the program, that you meet
20 those standards. Then there's a checklist that you must
21 have signed off by a preceptor. And I don't know how many
22 items are on the checklist, but it's a little booklet that
23 has hundreds of things that you have check off to
24 proficiency and has to be signed off by somebody before
25 you can actually turn that information in back to ABMDI.

1 And then once all that is completed, you can actually pay
2 a fee to sit to take the certification exam. So the whole
3 process takes awhile to actually from application to
4 actually being able to complete all of those requirements
5 to sit to take the certification exam.

6 Q The discussion that we've had earlier today was
7 focusing on this August 13th 2018 through August the 18th
8 2018 commentary on the affidavit. But is that related to
9 ABMDI?

10 A Well, just by looking at this affidavit, I can't tell
11 you what's that related to.

12 Q But ABMDI is not going to be a week-long program?

13 A No, ABMDI is a certification process.

14 Q And so if that was to be used as meeting that
15 criteria that you're -- in the earlier affidavit, in the
16 earlier line about I've completed a forensic science
17 degree or certification program recognized by the
18 training, the coroner's training advisory committee or I
19 enrolled in that program, that's not going to occur by any
20 five-day continuing education program though, is it?

21 A That is correct.

22 Q There were questions about what would constitute
23 death investigation experience and question number four.
24 And Mr. Sabb asked some questions about the on-call hour
25 when you would get credit for a quarter hour. Then he ask

1 it in the next block. What's your understanding of what
2 those hours of death investigation experience that are
3 listed there, what do they relate to?

4 A Well, those are specific to ABMDI certification, that
5 doesn't have anything to do with the state statutes of
6 South Carolina. So ABMDI is set forth standards that they
7 require for individuals to be able to apply and sit for
8 the certification process.

9 Q And the -- I might not have closed this loop. In the
10 state statute, it talks about a coroners training advisory
11 committee. Are you on the coroners training advisory
12 committee?

13 A By virtue of my position in the association, yes.

14 Q And in G of this it says that that coroner training
15 advisory committee is to assist in the determination of
16 training requirements for coroners and deputy coroners.
17 What does that mean?

18 A That means that we as a training counsel we are
19 responsible for approving training for deputy coroners and
20 coroners in the state.

21 Q So they submit records?

22 A Yes, every coroner and deputy coroner in the state
23 submits records on an annual basis to show that they have
24 met their minimum continuing education requirements for
25 the year.

1 Q Do they demonstrate whether they've got any death
2 investigation experience, would that be a component?

3 A By virtue of what the continuing education is suppose
4 to be, it's all related in some form or fashion to death
5 investigation.

6 Q Okay. So if you're an administrative assistant, then
7 you wouldn't be filing that form?

8 A That's correct.

9 Q All right. The second part, the second clause that
10 the coroner, the state coroners training advisory
11 committee does this to determine those forensic science
12 degree and certification programs that qualify as
13 recognize pursuant to the requirements of deception. What
14 does that mean?

15 A That means that the training counsel has decided that
16 that ABMDI certification is the only approved curriculum
17 for -- to meet that statute.

18 Q So if you are to check the box, which is not the case
19 here. We're talking about it a lot that this box hasn't
20 been check for the forensic science degree or
21 certification program recognized by the South Carolina
22 Coroners Training Advisory Committee, that's the
23 certification process that you're talking about in ABMDI?

24 A That's correct.

25 Q That's what this body has recognized as the entity

1 that would meet the statute requirement?

2 A Correct.

3 Q Okay. What was the exhibit -- I think it was the
4 letter from Kenny Johnson. I think it's going to be
5 Defendant's 1 or 2?

6 COURT REPORTER: Two.

7 Q Two. You see it's a February 21st 2012 letter.

8 A I don't have that.

9 Q And it was great confusion over this letter. Can you
10 help clarify this letter? Mr. Sabb seem to indicate that
11 they were one in the same. The ABMDI certification
12 program provided by St. Louis is the same thing that
13 ostensibly is referenced in that August 13th to
14 August 18th. Can you help explain that?

15 A When this letter was written in 2012, at that time
16 ABMDI was housed at St. Louis University. So the
17 components of the training were actually conducted at St.
18 Louis University. Since that point in time, ABMDI has
19 withdrawn from St. Louis University and the home office is
20 actually in Baltimore, Maryland. So the two -- St. Louis
21 University and ABMDI are no longer affiliated with one
22 another.

23 Q But for purposes of meeting the state statutory
24 requirement of what is a recognized forensic science
25 certification program, ABMDI is still the program, right?

1 A That's correct.

2 Q It was the program in 2012 based on this letter,
3 right?

4 A Yes.

5 Q And it's still today in 2018?

6 A Correct. They are just no longer associated
7 together.

8 Q And Ms. Samuels-Cooper based on this affidavit hasn't
9 shown any indication that she is applied or eligible to
10 apply for that program, correct?

11 A Not based on paperwork.

12 Q Okay. And the letter goes on to say that in case
13 there was any clarification that says we recognize ABMDI
14 certification program provided by St. Louis University as
15 the recognized forensic science degree or certification
16 program. And that's just as true today except for
17 provided by St. Louis University?

18 A That's correct.

19 Q Back on the ABMDI, there were some questions asked
20 about the second hour -- the second column talks about an
21 hour investigation is a natural death in no scene
22 investigation, but can you explain what that is?

23 A Some death calls that come into the office maybe
24 hospice calls or calls that come in from hospitals or from
25 nursing homes and that information is generally gathered

1 over the phone by the investigator, still a report is made
2 case file are compiled, but there's -- may not be an
3 actual need to respond to the location of where the person
4 has died.

5 Q And can an administrative assistant perform that
6 function such that he or she can get credit for an hour?

7 A Not by statute.

8 Q Okay. Not by South Carolina statute?

9 A Correct.

10 Q You were talking about -- you just reference a
11 hospice patient. Is a death investigation required for
12 hospice patients?

13 A It really does depend on what the scenario or
14 situation may be. Our office sees every -- attends every
15 hospice death. So we gather information -- the death
16 investigators actually speak with hospice nurse, gather
17 information, past medical history. We're asking for any
18 injuries, past injuries, falls, wounds, trauma any DSS
19 involvement. There are sometimes when we require medical
20 records to certify that cause of death to make sure that
21 our conclusions are the same as that hospice nurse that
22 may be on scene.

23 Q But still that part of the -- that component of the
24 death investigation is being done by deputy coroner or
25 coroner, correct?

1 A That's correct.

2 Q Could an administrative assistant do that?

3 A Not by state statute, no.

4 MR. TYSON: Ms. Gast, thank you for answering my
5 questions. If you answer questions of opposing counsel.

6 MS. BARR: May it please the Court.

7 THE COURT: Yes, ma'am.

8 CROSS-EXAMINATION

9 BY MS. BARR:

10 Q I'm sorry, ma'am, tell me your last name again?

11 A Gast.

12 Q Gast. Ms. Gast, Kimberly Barr pleasure to meet you
13 this afternoon. Let me start off by asking you a couple
14 questions about the statute. In reference to your
15 testimony, you made several statements about things that
16 are not required by statute to what statute are you
17 referring?

18 A You would have to go back and tell me what I said.

19 I'm sorry.

20 Q So with regard to the last line of questioning, you
21 indicated that there certain things that a deputy coroner
22 or coroner could do that would qualify for hours and
23 experience under the ABMDI guidelines, but if an
24 administrative assistant did those same things, they would
25 not by statute qualify?

1 A Well, ABMDI is not state statute.

2 Q I understand.

3 A So we -- the -- in order to conduct death
4 investigations in South Carolina, you have to be either a
5 deputized deputy coroner or the elected coroner in that
6 county.

7 Q Okay. Let's talk about that for just a moment. You
8 are familiar with death investigation guidelines that have
9 been promulgated by the department of justice?

10 A Yes, ma'am.

11 Q And so you would have very succinctly gone through
12 and identified several factors, elements that would go
13 into a death investigation. My memory serves me correctly
14 you identified about ten or 11 factors; is that right?
15 You remember that?

16 A I remember going through that, but I couldn't tell
17 you how many they were.

18 Q All right. Let me see if we can kind of refresh your
19 memory, you told me that as part of a death investigation
20 an individual would be looking into the cause and manner
21 death, that's one, right?

22 A Yes.

23 Q You told me that you would gather information about
24 the deceased person, right?

25 A Yes.

1 Q That's two. You've indicated that the person may go
2 to the scene, that's three?

3 A Yes.

4 Q You've indicated that they will -- the individual may
5 access the decedent, maybe photograph -- take pictures,
6 move the body to see any obvious signs of injury, that
7 would be a fourth one, right?

8 A Yes.

9 Q You've indicated that apart of a death investigation
10 may require an individual to talk with witnesses; is that
11 right?

12 A Yes.

13 Q You also told me that part of the death investigation
14 would require or may require an individual to subpoena
15 medical records to get a history on the deceased, right?

16 A Yes.

17 Q You've indicated that a person conducting a death
18 investigation may also speak with a pathologist as part of
19 that investigation; is that right?

20 A Yes.

21 Q And you've indicated that also an individual may
22 attend an autopsy report -- autopsy of that deceased body
23 as part of that investigation?

24 A Yes.

25 Q You've indicated that that person is also charged

1 with the responsibility of making written documentation of
2 the scene and other facts are important in that
3 investigation; is that right?

4 A Yes.

5 Q And lastly I believe that you testified that the
6 person or the coroner would then have to complete a death
7 certificate?

8 A Correct.

9 Q All right. So would you agree with me that that's
10 about 12 different things that you listed as part of a
11 death investigation?

12 A If that's what your count is, yes, ma'am.

13 Q All right. And, of course, that list is not
14 exhaustive, right?

15 A Correct.

16 Q There are other things beyond what's designated of
17 which you testified to that could be apart of a death
18 investigation, right?

19 A Yes.

20 Q And no one single thing on the list of items that you
21 testified about is required to be performed in a death
22 investigation, right?

23 A Well, you have to go see the body in order to do a
24 death investigation or you have to gather information in
25 order to do a death investigation. So you have to have a

1 decedent at some point to actually do the death
2 investigation.

3 Q All right. So let me ask you this let's go through
4 some of the factors. Do you have to make contact with law
5 enforcement in every death investigation in South
6 Carolina?

7 A Technically, no.

8 Q All right. And you don't take a photograph of every
9 person who dies in South Carolina as part of death
10 investigation, right?

11 A That depends on the jurisdiction that you're in. In
12 my office, you take photographs of everybody.

13 Q I understand there different policies and protocols
14 throughout each coroner's office. What I'm trying to get
15 at is it's not required that you take photographs?

16 A No.

17 Q All right. It's not required that you necessarily as
18 part of every death investigation talk to any witnesses
19 who might be present when a person passes away, right,
20 that's not required every single time, right?

21 A Technically, specifically, no, but the statutes do
22 state that you have to make an inquiry into the cause and
23 manner of death or to that decedents cause of death.

24 Q I understand. You also testified that a person
25 conducting a death investigation may speak with a

1 pathologist, right?

2 A Yes.

3 Q And that's only if an autopsy is ordered, right?

4 A Sometimes you speak with the pathologist to confer to
5 speak about what you see at the scene to decide whether
6 you need an autopsy or not.

7 Q Okay. And let me ask you this way. In every death
8 case -- an autopsy is not requested by a coroner in every
9 death case in South Carolina?

10 A Correct.

11 Q You all generally do it only in cases where
12 homicides, suspicious death and maybe fatalities involving
13 motor vehicle accidents -- accidental deaths those things,
14 right?

15 A Or if you don't know why the person's died.

16 Q Correct. Unknown cause of death?

17 A Yes.

18 Q All right. So in every case in which an autopsy is
19 requested, a coroner is not required to actually speak
20 with a pathologist to be conducting a death investigation;
21 is that right?

22 A Well, you have to make arrangements somehow or
23 another to get that decedent to the pathologist. So your
24 pathologist is going to require information from the death
25 investigator in order to perform that autopsy.

1 Q And I understand that. I mean, specifically talking
2 to the pathologist performing the forensic autopsy, that's
3 not required in every case in which an autopsy is
4 requested by a coroner, right?

5 A I don't know that it's actually written, but you
6 still have to give information to that pathologist or how
7 else are they going to get the information from ---

8 Q I understand --- I'm sorry, go ahead.

9 A I mean, you have to have someone to give information
10 to the pathologist. So in essence when you're sending
11 that decedent for that autopsy whether -- if you've
12 requested that autopsy, you have to speak with that
13 pathologist or that pathologist is not going take your
14 case.

15 Q All right. And I want to be clear is it your
16 testimony that whenever a coroner in South Carolina
17 request an autopsy, they actually have to speak with the
18 pathologist performing that autopsy not a member of his or
19 her staff in order to -- order an autopsy, is that your
20 testimony?

21 A Probably not to -- in most cases you're going to
22 speak with the actual pathologist. Sometimes you may
23 speak with a pathology assistant or somebody in the office
24 that will relay that information to the pathologist.

25 Q All right. So to answer my question it's not

1 required to -- for a person conducting a death
2 investigation to speak to the actual pathologist
3 performing the autopsy, right?

4 A Correct.

5 Q Right. You also told me that person conducting a
6 death investigation as part of that process -- and I don't
7 know if you necessarily testified to this, but you
8 certainly agree with me that a person conducting a death
9 investigation may also have occasion to talk with family
10 members of the deceased?

11 A Yes.

12 Q A person conducting a death investigation may also
13 have the responsibility of collecting that deceased
14 person's personal belongings and effects, right?

15 A Yes.

16 Q And will be charged with the responsibility of
17 turning over those personal belongings and those personal
18 effects to the next of kin or to law enforcement if
19 necessary?

20 A That's correct.

21 Q And, of course, you would agree with me that with
22 regard to the statute, it doesn't specifically define what
23 a death investigation is, does it?

24 A No, ma'am, it doesn't.

25 Q It tells us what an autopsy is it defines that for

1 us, right?

2 A Yes.

3 Q It tells us what is meant by cause of death, right?

4 A Yes.

5 Q It tells us what's meant by a medical examiner,
6 right?

7 A Yes.

8 Q It tells us what's meant by deputy coroner?

9 A Yes.

10 Q Doesn't make any reference to what a death
11 investigation is, right?

12 A There is no definition for death investigation.

13 Q All right. And, of course, we know that sometimes
14 with death investigations that process doesn't necessarily
15 start or end at the scene, right?

16 A Correct.

17 Q All right. There are sometimes where the
18 investigation starts as soon as you get the call before
19 you even leave to go to the scene, right?

20 A Correct.

21 Q And often it is the case that the death investigation
22 process continues even after the coroner leaves the scene,
23 right?

24 A That is correct, yes.

25 Q And the things that a person would do after they

1 leave the scene to further the death investigation can
2 often be more important than what a person may do when
3 they're on the scene, right?

4 A I wouldn't say that it's more important. It's
5 equally as important.

6 Q As equally as important fair enough. Now, in terms
7 of the communications with law enforcement that you
8 referenced earlier, you specifically mean notifying the
9 local law enforcement agency that there's been a
10 suspicious or unnatural death or something that would
11 warrant them investigating, right?

12 A Well, that wasn't what I was referencing actually.

13 Q Okay.

14 A Generally speaking with the coroner is the last
15 person to the scene. So law enforcement is going to be on
16 scene with you most of the time prior to the coroners
17 arrival. So what I was referencing in that is working
18 with law enforcement. So the coroner's office or the
19 coroner is responsible for conducting a separate
20 individual investigation. I kind of like to describe it
21 as a parallel investigation with law enforcement.

22 Q Sure.

23 A Their job is to determine if there's a crime that has
24 occurred. Our job is to determine why that person
25 actually died. So a lot of times our investigation may

1 interface with each other where we have to use collateral
2 information, but the investigation is actually separate.
3 So what I was referencing is working with law enforcement
4 on scene. So most of the time if it's a crime scene perse
5 law enforcement and the coroner's office are going to work
6 together to work what we call work that scene.

7 Q Sure, makes sense. And in terms of the interaction
8 between the coroner's office and law enforcement, one of
9 the things that you specifically and person's involved in
10 death investigations generally speaking may do this
11 request SLED reports, toxicology reports, other types of
12 reports relating to how this person might have passed
13 away, right?

14 A Yes.

15 Q Okay. Now, I noticed that when you were questioned
16 about the qualifications for coroner, one of the first
17 things that you said is that it is helpful to have a
18 medical background, right?

19 A Yes, ma'am.

20 Q And you couched your testimony in that regard because
21 it's not mandatory to have a medical background, right?

22 A No, ma'am, it is not.

23 Q And you also testified that with regard to the things
24 that you have to have good communication skills, right?

25 A Yes.

1 Q Under the ABMDI guidelines let me pose a hypothetical
2 to you, if a deputy coroner who is currently employed with
3 the coroner's office had less than six months experience
4 in that employment, would that person be eligible to sit
5 for the certification exam?

6 A Let me ask you a question to clarify. You said ABMDI
7 guidelines, but you're looking at the NIJ guidelines.
8 Those are two different things. So NIJ guidelines are the
9 guidelines that were issued by the department of justice
10 that give guidance to death investigation or death
11 investigators across the country. ABMDI took those
12 guidelines and created a certification component based on
13 those guidelines.

14 Q So under either guideline would a current deputy
15 coroner who's been on the job -- let's make it simple for
16 one month, would that person then be eligible to sit for
17 the certification exam?

18 A Not based on the eligibility requirements for ABMDI.

19 Q All right. So if a person who had previously been
20 employed as a coroner -- this is another hypothetical for
21 20 years and the person resign for whatever reason and
22 then sought re-election after resigning, under those
23 guidelines either one whether it's the department of
24 justice or ABMDI, would that person be eligible to sit for
25 the certification exam according to your testimony?

1 A If they were actually employed at the time of
2 application ---

3 Q No, they were not employed, but they were former
4 elected coroner who had resigned and been out of office
5 for some period of time not having any other disqualifying
6 issues with the candidacy, would that person under either
7 guideline be eligible?

8 A According to the ABMDI guide -- eligibility
9 requirements, no, because they would not currently be
10 employed by a medical death investigator agency.

11 Q So for example if an individual is a deputy coroner
12 seeking to hold the office of coroner and that individual
13 is fired by the elected coroner prior to announcing his or
14 her candidacy under ABMDI guidelines, that person is
15 ineligible to sit for the certification?

16 A At the time of their application if they are
17 unemployed by a medical examiner or a coroner system,
18 they're ineligible to sit -- apply for certification, yes.

19 Q So in terms of the notion that people are being
20 protected and those lines of questions that were posed to
21 Mr. Mock, the system protects current employees and
22 current coroners and gives them an advantage, does it not,
23 in a race for that particular office?

24 A I don't think so. And in using your scenario where
25 you had a deputy or coroner that had had death

1 investigation experience, they would qualify under one of
2 the other requirements to run for that office.

3 Q Which other requirement would they qualify under?

4 A For your coroner, that had 20 years of experience?

5 Q Uh-huh, who's not ---

6 A Who's not a current coroner would fall under the
7 eligibility of having three years of death investigation
8 experience under the state statute.

9 Q And let me just be clear about that, with regard to
10 that state statute if an individual had one year
11 experience and four-year BS degree, that person is
12 qualified to run for coroner, correct?

13 A If the experience is death investigation experience.

14 Q And it would be regardless of whether the individual
15 is currently employed, right?

16 A Are you referring to the state statute?

17 Q State statute, yes?

18 A Correct. They do not have to be currently employed
19 to be qualified under the state statute.

20 Q Sure. You testified that the current certification
21 exam or that course is now being offered by Baltimore,
22 Maryland as oppose to St. Louis, Missouri?

23 A I said the home office is now in Baltimore.

24 Q Where is the course? Where can an individual take
25 the course?

1 A There is no course.

2 Q There's no longer a course?

3 A There is not a course. The ABMDI is a certification
4 component that these requirements that you have for me on
5 the -- that you have to have all these requirements in
6 order to sit for that certification component for ABMDI.

7 Q So there is no -- as I understand your testimony,
8 there is no particular course or program that is certified
9 as the forensic death investigation training program under
10 the ABMDI guidelines that is being offered by St. Louis
11 University?

12 A St. Louis University does still conduct a continuing
13 education component, but it's no longer accompanied or
14 partnered with ABMDI.

15 Q So how does one prepare to take the certification
16 exam?

17 A There is a list of reference material. It is
18 actually doing death investigations ---

19 Q Where?

20 A --- and meeting all of those requirements that you
21 have to have in order to meet the eligibility to do the
22 certification.

23 Q Okay. Tell me what those eligibility requirements
24 are?

25 A They're on your -- they're on Exhibit Number 4. You

1 have to be at least 18 years of age at the time of
2 application, have a high school diploma. You have to be
3 currently employed by a medical examiner or coroner's
4 office with the job responsibility of conducting death
5 scene investigations or supervise such investigations at
6 the time of application. And you have to have 164 hours
7 of death investigation experience.

8 Q And let me just make sure that I understand your
9 testimony in this regard. When you talked about the death
10 certification exam, specifically tell me who offers that
11 exam and how does one apply to take that exam?

12 A ABMDI offers the exam.

13 Q Yes, ma'am.

14 A That is a proctored exam. You take the exam once you
15 meet the eligibility requirements and submit your packet
16 of all of your check offs that we talked about.

17 Q And according to your testimony and according to
18 those guidelines, no one would meet those eligibility
19 requirements except an individual who is a current coroner
20 or deputy coroner, unless some other statute apply to
21 their eligibility?

22 A Yes.

23 Q So obviously that's to the benefit of sitting
24 coroner's and sitting deputy coroner's right?

25 A Well, a sitting deputy coroner has death

1 investigation experience, so they would qualify under one
2 of the other subsets.

3 Q Even the deputy coroner who's been on the job for a
4 month?

5 A You're going to have to clarify that for me.

6 Q How many deputy coroners are in your office?

7 A Six.

8 Q And how many administrative assistances do you have?

9 A Two.

10 Q And would you agree with me that most of the counties
11 in this state don't have that -- I say larger, I guess,
12 it's a relative term to have number of staff members and
13 assistant deputy coroners at their disposal?

14 A I can't tell you what the employment staff of other
15 coroners office are.

16 Q In some of those smaller, more rural counties, you
17 wouldn't be surprised if there was simply the elected
18 coroner, the deputy coroner and one assistant?

19 A No, it would not surprise me.

20 Q And would you agree with me that in that instance or
21 in those instances, it's not unusual that the coroner or
22 the deputy coroner would delegate some of the work that
23 you typically would work -- deputy coroner would typically
24 do to an administrative assistant?

25 A They would delegate some things, yes.

1 MS. BARR: Ms. Gast, thank you so much. Those
2 all the questions I have.

3 THE COURT: Mr. Kent.

4 MR. KENT: Nothing.

5 THE COURT: Anybody else?

6 MR. THICKENS: No questions, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. TYSON:

9 Q Just a couple follow ups please, Ms. Gast. We just
10 heard the final questions Mr. Sabb asked it earlier. It's
11 the whole lineup the system protects current employees for
12 election. Do you take offense to that?

13 MR. SABB: Judge, I would ---

14 THE COURT: It does protect her no question
15 about it. Go ahead. They don't even have a course you
16 can take. How would you ever take the course? The
17 statute says or be enrolled in a recognize forensic
18 course. She says they don't have a course, so you can't
19 get enrolled.

20 MR. TYSON: But, Your Honor, what I'm taking
21 exception with and I want her to answer it not you, not
22 Mr. Sabb. It's the statute, you know what I'm saying.

23 THE COURT: I understand, but the statute
24 requires them to have a course and they don't have a
25 course.

1 MR. TYSON: They do have a course.

2 THE COURT: She just said they didn't. She said
3 there's no course you can take.

4 MR. TYSON: And to determine those forensic
5 degree and certification programs that qualify or
6 recognizes. And we just gone through this here they got
7 criteria for what it is.

8 THE COURT: I understand, but the statute says
9 you either have completed a course or have a certification
10 or be enrolled in a recognized forensic course. She just
11 said on cross that there is no course you can enroll in so
12 ---

13 MR. TYSON: There's no course you can enroll in.
14 I don't think she said that.

15 THE COURT: That's exactly what she said.

16 BY MR. TYSON:

17 Q Let me ask again can you help clarify this?

18 A There's not a specific course for ABMDI. You can
19 take any death investigation courses that would qualify
20 you under the ABMDI guidelines to be eligible to take
21 their certification.

22 THE COURT: But the statute requires that, you
23 know, that her organization come up with a course that's
24 recognized that you could take. And as long as you're
25 enrolled in that course at the time of the election, you

1 got a year to complete it and be certified. Well, there's
2 no way you can enroll in a course if they haven't
3 certified one.

4 MR. TYSON: Your Honor, I understand your
5 concern, but that's, you know, the challenge today is
6 whether Ms. Samuels-Cooper is qualified. And to look at
7 the -- if that's -- if the statute has problems, if the
8 statute doesn't allow that, that's one thing, but if
9 there's an issue over whether, you know ---

10 THE COURT: I understand, but the statute
11 requires the director of the criminal justice academy to
12 appoint the coroners training advisory committee and that
13 they determine the training requirements and the course.
14 The statute specifically says to be enrolled in a
15 recognized course. Well, because you can't according to
16 what she just said, you can't take the exam to be
17 certified unless you're an employee, you're a coroner or
18 deputy coroner.

19 MR. TYSON: Or a medical examiner.

20 THE COURT: Or a medical examiner.

21 MR. TYSON: That's right or you can qualify
22 under any of the other seven different ways.

23 THE COURT: I understand, but assuming that you
24 didn't qualify in any of the other ways and you decided
25 you wanted to sign up for a course at the time you ran.

1 If you got elected, you would have completed the course
2 because you be employed then as a coroner. But the way it
3 is right now, you can never get elected because there is
4 no course you can sign up. The statute says either you
5 got to complete a forensic course, be certified or be
6 enrolled in a recognize forensic science degree or
7 certification program to be completed within one year.
8 And their job is to decide what programs are certified,
9 but there's none -- she's just telling me there's no
10 programs you can get to be certified in or maybe I missed
11 all that.

12 MR. TYSON: Yes, I think you did.

13 THE COURT: We need to clear that up then
14 because that's my understanding.

15 MR. TYSON: Yes, sir.

16 BY MR. TYSON:

17 Q The statute says you've got to be certified, right?
18 Who does the coroner training advisory committee
19 determine, who do they determine how one can be certified?

20 A Through the ABMDI certification component.

21 Q All right.

22 A So that is the certification program that they have
23 selected as the approved training.

24 Q So if you are a deputy coroner, if you are a coroner,
25 if you're an employee who worked for a medical examiner

1 office and you decided you wanted to run for state
2 coroner, per that statute, you would check that box that
3 says I've completed a forensic science degree or
4 certification program, right, which I've completed ABMDI,
5 right?

6 A If you've gone through certification process, yes.

7 Q Okay. Or you would be -- or to be completed with one
8 year of being elected. As to qualifications, let me step
9 back. There's confusion about ABMDI. It's not a program,
10 I guess, is the problem that I understand is being raised
11 here. Let's be clear.

12 A So ABMDI is a certification process that you can go
13 through. It takes probably about 12 months to complete
14 that process. Once you have applied -- once you meet the
15 eligibility requirement that is outlined by ABMDI, once
16 you have done that application process, you have met the
17 eligibility requirements, if you're working as a full-time
18 death investigator, it takes you probably about 12 months
19 to get those hours under your belt in order to sit for
20 that exam.

21 Q The checklist or the list of the 12 approximate --
22 approximately 12 issues that comprise death investigation
23 and I think we had that discussion. You went through and
24 you said those are part of the death investigation. And I
25 think I heard you say that that's not an exhaustive list,

1 correct?

2 A That's correct.

3 Q But that's a pretty standard list of people with
4 being able to look to if they were trying to determine
5 whether someone has death investigation experience,
6 correct?

7 MS. BARR: And, Judge, I would just object to
8 counsel leading the witness.

9 THE COURT: Okay, don't lead her. She's a good
10 witness she don't need to lead.

11 BY MR. TYSON:

12 Q On that list could we use -- is that a uniform list
13 of what death investigations would comprise?

14 A Recalling it from memory, I don't know that every
15 individual component I listed is listed in NIJ. That list
16 I gave you is from my experience, my education and my
17 training based on medical legal death investigations.

18 Q Do you believe that would be consistent with other
19 coroners in the State of South Carolina?

20 A Yes.

21 MR. TYSON: Thank you. No further questions.

22 THE COURT: I got one. The part on Section E
23 that says I have completed a recognized forensic science
24 degree or certified course are to be enrolled in a
25 recognized forensic science degree or certified program to

1 be completed in one year. Is there any program that you
2 could enroll in that would qualify under that section?

3 MS. GAST: Technically, ABMDI if you have -- if
4 you're working let's say that you're elected and you take
5 ---

6 THE COURT: How do I get enrolled then?

7 MS. GAST: You take office January 1st you are
8 technically under the guidelines of being employed. And
9 you can be eligible and be working on those hours for your
10 application process. And you can be completed with all
11 those eligibility requirements just take that
12 certification exam at the end of the year.

13 THE COURT: I understand that. But you got to
14 get elected, but you can't even get on the ballot. Before
15 you get on the ballot, you got to go enroll in this
16 course. And so the problem is if I decided I wanted to
17 run for coroner, I read the statute and I go try to find
18 the course I want to enroll in where I could check that
19 block that I'm enrolled. I understand I got a year to
20 complete it. And you telling me I can't even take the
21 certification unless I'm the coroner. If I don't get
22 elected, I'm not going to take -- complete the course.
23 How can I find a course that I can sign up for under this
24 statute that's been recognize by you all that I can
25 qualify to run?

1 MS. GAST: Under that subset, the only thing
2 would be ABMDI.

3 THE COURT: Well, how do I sign up for that?
4 Can I sign up without being employed?

5 MS. GAST: According to their guidelines, no,
6 sir.

7 THE COURT: They set a set of guidelines, but
8 the director with the academy based on your committee
9 you're supposed to come up with what course and you all
10 have picked this course. You could have picked any other
11 course, right? So you picked the course that nobody can
12 run unless their a deputy coroner or coroner?

13 MS. GAST: The reason that we choose ABMDI is
14 because it is the national standard for death
15 investigations.

16 THE COURT: I understand, but it ought to be a
17 way where you can sign up for the course and then have it
18 completed within one year because that's what the statute
19 says. I would have been able to enroll in it before
20 becoming -- once I'm elected, I qualify to go take the
21 test. But you're telling me there's no way anybody in
22 this state can run for coroner because there's no course
23 you can sign up for if you are not a deputy coroner?

24 MS. GAST: Well, there other ways that you can
25 run for coroner.

1 THE COURT: I understand the other ways, but if
2 you don't qualify in those other ways, so you basically
3 taking E out of the equation unless you already have your
4 certificate. And you can't get your certificate unless
5 you been a coroner or deputy coroner; is that right?

6 MS. GAST: Yes.

7 MR. TYSON: Or a medical examiner.

8 MS. GAST: Or worked in a medical examiner's
9 office.

10 MR. TYSON: The other one.

11 THE COURT: I understand that. Okay. I just
12 want to be ---

13 MR. TYSON: Your Honor, I just say to that just
14 as I raised my objection last time and it's great
15 discussion and it might be a problem with the way the
16 statute is drafted. You might be onto something, but
17 that's not relevant today because that's not the box that
18 she checked. So we're talking about whether ---

19 THE COURT: I understand, but we've bifurcated
20 this hearing into two parts. One whether I can even rule
21 on her candidacy or not.

22 MR. TYSON: Right, I understand that.

23 THE COURT: And two ---

24 MR. TYSON: Whether she's got death
25 investigation experience, but not E ---

1 THE COURT: Whether she can even be a coroner.

2 MR. TYSON: That's right, but it's not E. It's
3 not that one. It's whether she's got one year of death
4 investigation experience. It's not the question about
5 what ABMDI stands for or St. Louis or anything like that
6 or your concerns. It's whether she meets the one year
7 definition.

8 MR. SABB: We would beg to differ. If, Your
9 Honor, please, I think you were on all fours as it relates
10 to that. I would simply point out -- and, Judge, my
11 objection I would dare not offend this kind lady from York
12 County. Tommy Pope would be on the phone calling me,
13 telling me that I got to treat his coroner with more
14 dignity and respect. And so it was just the portion that
15 relates to me and offending her. Of course, I had no
16 intentions of doing that, but I will say this in response
17 to counsel's point about the statute. The statute is
18 clear. You pointed it out. They're suppose to have a
19 coroner. And what I'm curious about -- I don't know that
20 the record reflects it, but I'm curious about when they
21 changed away from St. Louis.

22 MS. GAST: I don't know the year that that
23 changed. I don't know the exact history of that change.

24 MR. SABB: Here's what's curious, it was in 2016
25 that we had all the problems with coroners. I want to go

1 out on a limb and suggest to the Court that it happened
2 between 2012 and 2016. And what's curious to me about it
3 is that in my mind they have frustrated the purpose of the
4 statute because I believe that the legislative intent of
5 the statute is to make sure that coroners become educated
6 understanding that we don't want to prohibit persons who
7 have the requisite intelligence that can learn and be a
8 good coroner from being able to do it. So here's what
9 we're going to do. We're going to give them a year enroll
10 in the course, study hard, prove your yourself to be a
11 qualified coroner in the State of South Carolina, but now
12 this block -- and Your Honor has pointed it out, but I
13 don't believe it's the statute.

14 THE COURT: I understand. You know the statute
15 seems -- it appears to me the legislative intent was to
16 decide give somebody a chance -- obviously what the whole
17 intent of the legislature is to have qualified people
18 serve as coroners and to make right decisions. And they
19 want to have whoever is going to be coroner educated and
20 qualified in death investigation. It appears to me that
21 they given somebody a chance to enroll as long as they
22 enroll at the time they run. They have to be in a program
23 and complete the program and get certification within one
24 year.

25 MR. SABB: Judge, I point out one more thing

1 please.

2 THE COURT: Yes, sir.

3 MR. SABB: It's not by happenstance that if you
4 go and look at the 2016 cases guess where they enrolled
5 in school at St. Louis University. Where did my client
6 enrolled in school at, St. Louis University. Why did they
7 pick St. Louis University, because there is information
8 out there that St. Louis University is where you go.

9 THE COURT: I know. But she's testified that
10 you can't enroll because there's no course that they have
11 approved that you can enroll in, so there's no way to
12 comply with that part of the statute.

13 MR. TYSON: Judge, can I clear this up or can
14 Ms. Gast.

15 THE COURT: Yeah.

16 FURTHER REDIRECT EXAMINATION

17 BY MR. TYSON:

18 Q Is ABMDI at St. Louis University? It is at
19 Baltimore? What kind of entity is it?

20 A It is a board.

21 Q It is a board?

22 A It is a recognized board. The home office is in
23 Baltimore, Maryland. It use to be when it first started
24 it was in St. Louis and was in conjunction with the St.
25 Louis training. I don't know the specifics of why there

1 was a split, but there was a split from St. Louis
2 University and ABMDI -- they never were a conjoined unit.
3 ABMDI and St. Louis University were separate entities at
4 the same location. ABMDI's home office just due to the
5 fact of who the -- it's my understanding that the
6 executive board where they were meeting, it was easier for
7 the home office to be in Baltimore versus St. Louis and
8 that's one of the reasons for the split.

9 MR. TYSON: Thank you.

10 THE COURT: And if I call the director of the
11 criminal justice academy and said under E I want to sign
12 up for recognize forensic science course, where is he gone
13 tell me I can sign up?

14 MR. TYSON: She's answered it about the tenth
15 time ---

16 THE COURT: Nowhere.

17 MR. TYSON: No, Your Honor, you got to take the
18 certification requirements under ABMDI. It's a
19 certification.

20 THE COURT: So he's gone -- the statute doesn't
21 say that. It says enroll in a recognize forensic science
22 degree certification program. And so if I call him -- if
23 I decided I wanted to run and I called the director who's
24 responsibility is to -- gets their advice, but the
25 director of the criminal justice academy says, okay, I

1 want to enroll in a course, a certification program
2 course, but I have to complete within one year where do I
3 sign up for that course. She's testified there is no
4 course for me to sign up for. I can take the test or be
5 certified, but to be certified, I got to be employed. So
6 it seems to me that the legislature I can sign up for a
7 course. If I got elected, I got a year to finish the
8 course. A year from the time I'm elected, not from the
9 time I'm sworn in. So I got a year to November. And if I
10 call him and ask him where the course is, he's gone tell
11 me there is no course I can sign up for and I can't comply
12 with the statute. That's what I'm trying to figure out.

13 MR. TYSON: Your Honor, you know, the other
14 wrinkle that I think is a problem here is that I think you
15 got to be enrolled in that program when you file for the
16 certification.

17 THE COURT: I want to run and filing is next
18 week, so I call the director of the criminal justice
19 academy say I want to run for coroner and part of the
20 requirement -- I don't meet any of the other requirements,
21 but I want enroll in this course to be completed. So tell
22 me where I sign up for this course where I have to do it.
23 And she's telling me there is no course I can sign up for
24 to qualify under that section.

25 MR. TYSON: And, Your Honor, I would just say

1 that, you know, with all due respect if there's a
2 challenge to how the statute is drafted, that's another
3 issue, but this is a qualifications issue for which she
4 has check -- one she didn't check any box and two she
5 didn't check -- and I understand we've had this
6 discussion, but we're having a discussion about some box
7 that's even applicable to how she has alleged that she's
8 qualified.

9 THE COURT: Okay. I understand.

10 MR. TYSON: So I understand that it's a nice
11 rhetorical discussion that it's something that Mr. Sabb
12 needs to go back and get to work in the General Assembly
13 and try to fix because it is unclear. You raised good
14 questions. I'm not trying to belittle your point, but
15 that's not the issue that we have here today. We got a
16 different issue about whether she's qualified under the
17 affidavit for which she's filed or how she states is.

18 THE COURT: Just for argument sake and I
19 understand what you're telling me. If she had checked the
20 block about the course, because there is evidence in my
21 file that she signed up for a course in St. Louis. She
22 paid the money during the filing period \$850 or whatever
23 it was. And so if she'd checked that box, how would any
24 candidate figure out what course they needed to sign up
25 for to qualify in this section, because I was assuming she

1 was going to get on the stand and give me the name of that
2 course. She's got on the stand and said there's no course
3 you can sign up for.

4 MR. TYSON: She would do you meet any of the
5 seven criteria A, B, C, D, E, F and G. And if she says
6 if the person calls and the only one that they have --
7 that they want you to try to apply is under this letter.
8 And whether they want to complete the program or they're
9 enrolled in the program, then you got to go through those
10 criteria of determining whether ABMDI does that, whether
11 that's proper or not, whether the coroner's training
12 advisory committee is picked the proper certification
13 process or not remains to be seen. But for purposes of
14 today and how she filed out an affidavit and whether she's
15 got one year of death investigation experience, that's a
16 completely different discussion. I don't want to beat a
17 dead horse. I understand where you're coming from.

18 THE COURT: You don't have a certificate. And
19 my understanding to get a certificate you got to have
20 death investigation. You got to be certified, but it
21 appears from the statute, the legislature intended you can
22 sign up for a course. And if you complete the course
23 within one year and get certified, you can be the coroner.
24 She's telling me you can't sign up for a course. You
25 know, I thought there's a difference between taking a test

1 and being certified and getting in a course. I took a lot
2 of courses, but I had to take the bar to get to sit here.

3 MR. TYSON: That's right. Well, again, the
4 statute says what it says. And the way that the training
5 advisory committee has determined how you meet that
6 criteria might be wrong.

7 THE COURT: I understand.

8 MR. TYSON: Mr. Sabb might have a great case.
9 He might be able to just sue the legislature for this poor
10 statute that they've written, but that's not our issue
11 today.

12 THE COURT: I don't have any problem with the
13 statute. I have a problem with the committee not putting
14 a course in place.

15 MR. TYSON: Well, you might be able to join
16 Mr. Sabb in that lawsuit. I understand your point.

17 THE COURT: I got the information I needed.
18 Thank you. I understand that.

19 Thank you, ma'am.

20 (WHEREUPON, the witness leaves the witness
21 stand.)

22 THE COURT: Okay. It's my understanding unless
23 something's change, that you got to be on the phone at
24 four. We going to stop this and reconvene next week.

25 MR. SABB: Yes, sir.

1 THE COURT: What day because I got to call court
2 administration and try to get a court reporter. What day
3 is going to suit you all the best?

4 MR. TYSON: Mr. Mock says Friday would be best
5 for him.

6 THE COURT: Is there some reason Friday is best
7 for him? I figure his schedule be easier than anybody in
8 this room.

9 MR. TYSON: He's got federal training in
10 Atlanta.

11 MR. MOCK: I can do Monday.

12 THE COURT: Monday or Friday. It will be harder
13 to get a court reporter Monday, but I can try...

14 MR. TYSON: You got to make a ruling on that,
15 Your Honor. I need sometime to be able to ---

16 THE COURT: I understand.

17 MR. TYSON: Yes, sir.

18 MR. SABB: I just let you know Friday for me is
19 fine. There's stuff on my calender everything can be
20 moved, so whatever you decide on that.

21 THE COURT: Would you rather do it Monday?

22 MR. SABB: Monday hold on a minute.

23 MR. TYSON: Your Honor ---

24 THE COURT: You need more time?

25 MR. TYSON: Yes, sir.

1 THE COURT: I agree. I'm not rushing.

2 MR. TYSON: I've also got a federal three-day
3 court trial Monday, Tuesday and Wednesday the following
4 week, that is going to take up.

5 THE COURT: You all pick the date. I'll call
6 and see if we can get a court reporter.

7 MR. SABB: Judge, Monday is more problematic for
8 us.

9 THE COURT: Okay. Well, you all want to do it
10 Friday?

11 MR. SABB: Yes, sir, Friday would suite me.

12 THE COURT: Okay. I will start that process
13 with the court reporter. What about you all that suit you
14 schedule, Mr. Kent?

15 MR. KENT: No, sir, but Ronnie told me I'm not
16 allowed to have a schedule.

17 THE COURT: Unless I hear something different, I
18 will call court administration to find a court reporter to
19 work Friday.

20 MR. TYSON: Judge, can I call out -- obviously,
21 I don't want to delay this, but that federal trial is
22 already scheduled for that Monday, Tuesday and Wednesday
23 the following week.

24 THE COURT: I'll be back in chambers. You all
25 can talk any day suits me.

1 MR. TYSON: Your Honor, when would we expect a
2 ruling?

3 THE COURT: Quick.

4 MR. TYSON: No, on the bifurcation part? Are
5 you going to try to make a ruling on that?

6 THE COURT: I hope Monday or Tuesday.

7 MR. TYSON: That helps us ---

8 THE COURT: And you want to do some research on
9 that issue, so you tell me when you -- you want me to rule
10 without the benefit of your research? How long you need?

11 MR. TYSON: Tuesday, give me end of the day
12 Tuesday just to go look at that.

13 THE COURT: All right. And then give you end
14 day Tuesday and then I'll try to have a ruling Wednesday
15 unless y'all...

16 MR. TYSON: Because that will dictate how we
17 move forward on Friday. Thank you, Your Honor.

18 THE COURT: Absolutely. Okay.

19 MR. SABB: My understanding correctly then we're
20 getting research, additional research on behalf of you on
21 the issue by Tuesday. So that we would know whether or
22 not the Court rules in a dispositive way on a motion. We
23 are set for Friday in the event the Court does not rule
24 dispositively based on whatever the research is handed to
25 the Court.

1 THE COURT: Well, I was under the impression
2 that if I ruled on your motion, that I did not -- because
3 the administrative remedies -- and it's agreed by both
4 parties you are not done. And based on the Kevin Johnson
5 case if that's the law and I can't rule on whether she's a
6 proper candidate, then the next question is even pursuant
7 she's on the ballot and I can't take her off because
8 whether she was qualified at the time, that's over. Then
9 the question is whether she can be coroner. Now, and I
10 thought that's how we were bifurcating and maybe I'm
11 wrong.

12 MR. SABB: I never understood if I had an
13 opportunity to voice an opinion regarding that. I would
14 have vehemently opposed the position to the extent that I
15 be permitted to as an advocate. I was under the
16 impression that the bifurcation was a little bit
17 different. I was under the impression that the
18 bifurcation was relating to her qualifications.

19 THE COURT: Right. Her qualifications to be a
20 candidate.

21 MR. SABB: Right.

22 THE COURT: And that may be different than being
23 qualification -- qualified to be the coroner.

24 MR. SABB: It is.

25 THE COURT: Because, you know, in Senator

1 Johnson situation the whole issue was whether he was
2 qualified to be candidate. There was no question he was
3 qualified to be senator if he was so elected.

4 MR. SABB: Yes, sir.

5 THE COURT: In this situation, there's
6 qualifications to be the coroner as well as the sheriff.
7 So the question -- and it appears from the statute that
8 the qualifications run as a candidate you have to jump
9 through certain hoops i.e. the affidavit, check the box
10 make that determination. If they had exhausted --
11 assuming the Supreme Court case you gave me is correct, if
12 he had exhausted his administrative remedies, then he
13 could have come to me and I could decide and I could
14 decide whether she could even be on the ballot in
15 November. If I can't decide that because he did exhaust
16 his administrative remedies, then she can be on ballot in
17 November. The next question though is because I can't
18 decide whether she's a qualified candidate whether I
19 decide whether she's qualified to be coroner.

20 Now, you know, assuming she's not a qualified
21 candidate, she may still have the ability to be qualified
22 to be coroner before she's sworn in. I was under the
23 impression under E that even though she -- I can't rule on
24 the candidacy, she can get in a course and as long as she
25 complete it within a year, she would qualify. Now, they

1 tell me there's no course she can get in, that's an
2 unusual scenario or even though I can't rule on, she may
3 qualify under one of the other criteria the four-year
4 degree, you know. And I understand that that's where
5 y'all in a situation trying to determine based on her
6 experience whether that qualifies death investigation or
7 not. And I can rule on that base on the testimony I hear
8 Friday, but that's what I thought the bifurcation was.
9 One whether I can even rule whether she was qualified to
10 be on the ballot. And then two was she could even be
11 coroner if she was elected.

12 MR. SABB: Yes, sir, Judge, and I think it's
13 clear, but we believe the first ruling that they were
14 required exhaust the administrative remedies is
15 dispositive of everything, that we out not have to go any
16 further.

17 THE COURT: I understand. And you might be
18 right on that.

19 MR. SABB: Yes, sir, and having establish that
20 for the record, Judge, and I was wrong on this before and
21 I'm right now, Judge. So we talked before about the idea
22 of the only place in the plaintiff's complaint that
23 related to this question of her and qualification, was the
24 affidavit. And counsel kindly referred me to paragraphs
25 30, 31, and a few more and I think they address Your

1 Honor's point, that their lawsuit relates to her
2 qualifications to run as a coroner because of the
3 deficiency of an affidavit, the failure to be enrolled in
4 a program that does not exist. And so I don't believe
5 that their affidavit strike that -- that their lawsuit
6 addresses her as coroner. I think it addresses her as a
7 candidate.

8 THE COURT: Okay.

9 MR. TYSON: I suggest Mr. Sabb make that
10 argument by the end of the day Tuesday and then you decide
11 that.

12 THE COURT: I will decide it. And if I rule
13 that their complaint didn't tell her that, I guess, they
14 can file another lawsuit dealing with that issue. I was
15 trying to be... You all let me know something by Tuesday
16 and I'll try to rule on the issue.

17 MR. SABB: Thank you, Your Honor.

18 MR. TYSON: Thank you, Your Honor.

19 MR. BRANT: Briefly.

20 THE COURT: Yes, I'm sorry. We still on the
21 record I'm sorry. Hold on a minute.

22 MR. BRANT: While we're on the record, the
23 parties (inaudible people in the courtroom talking) county
24 board I think the party brought in the commission to
25 responses to the complaint. We were given an extension

1 and at this point we wondering if we can go ahead and file
2 a responsive pleadings?

3 THE COURT: What is you alls position on
4 responsive pleadings? I guess ---

5 MR. SABB: I'm sorry.

6 THE COURT: What is you alls position on my
7 ruling? I mean, if I follow his motion, then I can't rule
8 on whether she can be that, that's gone. If not, I don't
9 know that affect. If I don't follow it ---

10 MR. BRANT: We can wait.

11 THE COURT: I'll do it either way you all say.
12 Other than finding -- I don't know that you all have a dog
13 in this fight other than me telling you whether to put her
14 on the ballot or not put her on the ballot.

15 MR. BRANT: We just want to make sure, Your
16 Honor.

17 MR. TYSON: Your Honor, I said before those guys
18 -- I don't need a responsive pleading to make my -- to try
19 to prove the allegations she's not qualified. So I don't
20 need their response by next Tuesday or by next Friday. So
21 I'm consenting again to another 30 days.

22 THE COURT: And you all are fine as long as I
23 rule she can't be on the ballot. You put her on the
24 ballot any way, then we'll have another issue.

25 MR. SABB: So, I guess, that begs the question

1 as it relates to us because when Attorney Kent talked
2 about it the last time talked about all of us, but I note
3 and counsel responses now he said them which did not
4 include us. So if we need to file an answer, then we need
5 do it.

6 THE COURT: And what's your position?

7 MR. TYSON: I think it can be appropriate for
8 them to file a response. I guess, he's filed a 12(b)(6),
9 so until you rule on that. He doesn't have anything to do
10 until you rule on Wednesday.

11 THE COURT: Okay.

12 MR. TYSON: Thank you, Your Honor.

13 THE COURT: Then I'll look to hear from you all
14 by close of business Tuesday and I'll try to have a ruling
15 by Wednesday.

16 END OF REQUESTED TRANSCRIPT

17

18

19

20

21

22

23

24

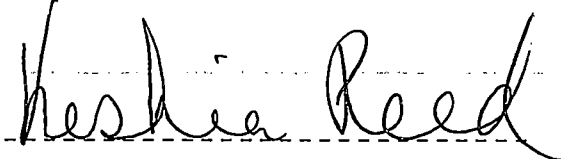
25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

I, Keshia Reed, Court Reporter in and for the State of South Carolina At Large, do hereby certify that the above-entitled cause was heard as hereinafter set out; that I was authorized to and did transcribe the said proceedings; and that the foregoing and annexed paged, numbered 1 through 171, inclusive, constitute a true and accurate transcription of my stenographic report of the said cause taken during the said hearing. In the Court of Common Pleas for Clarendon County, South Carolina, on the 20th day of July, 2018.

I do further certify that I am neither of kin, counsel nor interest to any party hereto. In witness whereof, I have hereunto affixed my signature this 9th day of September 2018.


Keshia Reed, Court Reporter

COPY

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF CLARENDON) 2018-CP-14-00237

BUCKY MOCK,)

Plaintiff,)

vs.)

Transcript of Record

July 27, 2018

CLARENDON COUNTY BOARD)
OF VOTER REGISTRATION &)
ELECTIONS, CLARENDON)
COUNTY DEMOCRATIC PARTY,)
LANETTE SAMUELS-COOPER,)
SOUTH CAROLINA)
DEMOCRATIC PARTY, AND)
SOUTH CAROLINA ELECTION)
COMMISSION.)

Defendant.)

B E F O R E:

Honorable R. Ferrell Cothran, Jr.
Clarendon County Courthouse
Manning, South Carolina

A P P E A R A N C E S:

Robert E. Tyson, Jr., Esquire
Attorney for Plaintiff

Ronnie A. Sabb, Esquire
Kimberly V. Barr, Esquire
Attorneys for Defendant Samuels-Cooper

Harrison D. Brant, Esquire
Attorney for South Carolina Election Commission

Joseph O. Thickens, Esquire
Attorney for South Carolina Democratic Party

Kay H. Richardson
Circuit Court Reporter

1		<u>I N D E X</u>	
2	<u>JULY 27, 2018</u>		<u>Pg.</u>
3	By the Court		4
4	LaNette Samuels-Cooper		
5	Direct by Tyson		12
6	Cross by Barr		49
7	Redirect by Tyson		78
8	Recross by Barr		86
9	Patricia Pringle		
10	Direct by Tyson		89
11	Cross by Sabb		118
12	Redirect by Tyson		126
13	Motions		130
14	By the Court		138
15	Closing by Tyson		139
16	Closing by Sabb		145
17	By the Court		169
18	Certificate of Court Reporter		171
19			
20			
21			
22			
23			
24			
25			

1	<u>E X H I B I T S</u>			
2	<u>No.</u>		<u>ID</u>	<u>EV</u>
3	P5	Sumter Item Article - 2-20-18	78	
4	P6	Letter SCDP to Black-Oliver - 4-05-18	100	112
5	D3	Copy of Diploma - Johnson Smith University		51
6	D4	Copy of Qualifications for Coroner		55
7	D5	Confirmation of Registration - Saint Louis		
8		University		58
9	D6	Letter SC Coroner's Association		
10		Johnson to Smith - 2-21-12		59
11	D7	Letter SC Coroner's Association - 4-2-18		125
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 (JULY 27, 2018 - 9:33 A.M.)

2 BY THE COURT:

3 THE COURT: Good morning.

4 Mr. Tyson, you have any more witnesses?

5 MR. TYSON: Yes, Your Honor, I have -- I'd like to call
6 Ms. Samuels-Cooper, please.

7 THE COURT: Okay.

8 MR. TYSON: Your Honor, before we start, can I ask just
9 how are we proceeding. I know you -- we had left last week
10 and we had the motion to dismiss and you had said you'd like
11 to rule and I didn't know whether that was -- and the reason I
12 asked is, if you haven't ruled on that and then they're
13 questions about the ballot, I'd like -- that would affect my
14 questions.

15 THE COURT: And, and I got the briefs from y'all, and
16 understanding that the case cited by Mr. Sabb concerning the
17 senator's race, that it was not a published opinion and, you
18 know, and the argument was that it was not precedence and it
19 was not law and it is not published opinion, but it's
20 certainly was advisory. And he also gave me a number of other
21 Supreme Court opinions that were the law that basically had
22 the same -- he must have exhausted his administrative
23 remedies. In this case there's no dispute, he has not
24 exhausted his administrative remedies.

25 So, I am going to grant Mr. Sabb's motion as far as the

1 ballot is concerned. Now, and I can't concede as whether
2 she's in fact qualified to be the coroner based on the
3 qualifications it takes to be the coroner, but I don't think I
4 can be deal with as far as the election ballot is concerned.
5 Now, if I ultimately rule that she is not qualified to be the
6 coroner, and the fact that based on the testimony of the last
7 witness, there's no course in place that she can become
8 qualified in January. I don't know what the Election
9 Commission and the Democratic Party is gonna do with that.
10 If, you know, I rule based on some of the other grounds that
11 she -- and I assume the issue at this point based on y'all's
12 prior arguments as to whether she has one-year death
13 experience. I don't think there's any question she had a
14 four-year college degree. The question is whether she had
15 one-year death experience. If she had one-year death
16 experience, she's qualified according to the statute. If she
17 doesn't, it appears the only way she can become qualified is
18 to take a course that doesn't exist. Now, and if I find that
19 she doesn't -- she's not qualified to be coroner, I don't
20 think she can be sworn in as coroner. So, until that issue is
21 resolved -- and I don't know if there's a way where the law
22 can be changed between now and January.

23 Yes, sir?

24 MR. SABB: Thank you, Judge. I believe I followed the
25 Court's ruling. Judge, I would submit to the Court that there

1 is more that you can do as it relates to something other than
2 taking the position that the law has to be changed. I believe
3 that this Court is the gatekeeper of fairness. And the
4 instrument by which the legislative intent is realized and to
5 the extent that this Court concludes that there is a concerted
6 effort to make certain that persons simply do not qualify.
7 So, here's what I would submit to the Court that the evidence
8 has shown so far. The evidence has shown that the powers that
9 be have decided that we will only allow a select group to be
10 able to educate themselves sufficiently to become coroner. I
11 think that this Court finds that the system that has been
12 created was orchestrated to frustrate the legislative intent
13 that this Court can simply rule that there must be admission
14 into the program such that persons can get qualified. A
15 program does exist, Judge. It exists. Here's what I believe
16 if the Court further examines the evidence you'll conclude.
17 You'll conclude that they can admit anybody into the program
18 who they decide. All they got to do is, for instance -- this
19 is my understanding and, obviously, Judge, it's just my
20 understanding and -- but I believe that if the gentleman, who
21 now occupies the position of coroner, signed a form saying
22 that she's qualified based on working with me, they would
23 admit her into the program, just on his signature alone. So,
24 persons can be admitted. They can become certified, but only
25 if the powers that be decide that we're gonna allow you into

1 the program. So, they've created all these stumbling blocks,
2 the 640 hours that only they can conclude that someone has
3 done. Death investigation is not defined anywhere, so they
4 get a chance to decide whether or not these on-call hours
5 count for anybody other than their own, whether or not the
6 visiting the scene counts for any hours but them. And so,
7 Judge, it's there. They would tell the Court that there is no
8 such course. It actually is and I think a further examination
9 of these documents will show that one exists, not for the
10 public. You can't go on the website and find it. They got
11 it.

12 MR. TYSON: Your Honor, I -- I hate to interrupt early,
13 but your question was what did I want, I just want a ruling
14 and Ronnie wants to make his closing ---

15 MR. SABB: No, sir.

16 MR. TYSON: --- if he wants to preach, we'll give him all
17 the time he needs to do ---

18 MR. SABB: No, sir, that's not what I want.

19 MR. TYSON: Let's -- you asked me to call a witness. I
20 just wanted to let you ---

21 THE COURT: I'll let you continue, but let me -- I didn't
22 finish clarifying my ruling yet. I also rule though that
23 based on your complaint -- granting 12(b)(6) doesn't dismiss
24 the entire complaint. I think there's sufficient language in
25 the complaint not only need to deal with the qualifications of

1 the candidate but also deal with the qualifications of being a
2 coroner. So, I'm only ruling on the qualifications of the
3 candidate side, not qualification of the coroner's side. And
4 based -- and after I hear whatever testimony and argument
5 y'all have today, I will rule on whether she's qualified to be
6 the coroner. Okay. And I don't know if that will straighten
7 the record, I want to be sure that ---

8 MR. TYSON: That's right and I didn't -- I apologize for
9 interrupting, I just ---

10 THE COURT: Okay.

11 MR. TYSON: I just wanted to be clear on what the ruling
12 was. You've got the dilemma of what to do afterwards. Let's
13 get through the evidence and ---

14 MR. SABB: Well, no, no, no, no. Judge, I would
15 respectfully disagree.

16 THE COURT: Okay.

17 MR. SABB: If you don't mind hearing me.

18 THE COURT: I'll be glad to hear you.

19 MR. SABB: I listened attentively, Judge, to you talk
20 about what your options would be based upon these various
21 things and so my only point in rising was to suggest to the
22 Court that I believe that there is more to the extent that you
23 conclude that there is a systematic attempt to exclude persons
24 from becoming coroner and that's the point that I was making
25 and I think is an important point. I think it was appropriate

1 given the comments, and so I would respectfully disagree with
2 my colleague that I'm closing -- during closing argument, I am
3 just sharing with the Court our view in terms of how we view
4 the Court's role given the ruling that the Court has made.

5 THE COURT: Okay. Thank you. And after I hear the
6 testimony today, I will determine what I think I can and
7 cannot do under the law and the rules, and depending on what
8 options come out as to whether she qualifies under any of the
9 criteria is one thing. It was the -- if I hear about being in
10 a course was what was giving me some concern, and basically
11 the last testimony there was no course she could sign up for
12 and therefore could not comply with that provision of the
13 statute. But we can continue the testimony and in light of my
14 ruling it's streamlined.

15 MR. SABB: And, of course, Judge, I think it goes without
16 saying we would respectfully disagree with Your Honor's
17 ruling.

18 THE COURT: I understand.

19 MR. SABB: Yes, sir.

20 THE COURT: It is noted for the record.

21 MR. TYSON: I respectfully more disagree with your
22 ruling, obviously, Your Honor, so I would raise those
23 objections right now and preserve those for the record. With
24 all due respect, I think you said, there's no fact that he
25 didn't exhaust his administrative remedies. And so I'm gonna

1 put some evidence in today that I think disputes that so that
2 you'll at least have that. So, I understand your ruling ---

3 THE COURT: And I was under the impression at the last
4 hearing that y'all stipulated that he did not file a protest
5 and that's why -- you know, that -- he did not file a protest
6 pursuant to the election statute.

7 MR. TYSON: I would submit, Your Honor, now that we've
8 looked and we've submitted that with our response to the
9 motion to dismiss and we can talk about that today. But,
10 hopefully, like I said, I raised my objections and we'll be
11 able to do that. And then as to the Ronnie's closing, I would
12 just say that I'm gonna take objection again, Your Honor, and
13 we'll do this in closing, but he said the powers to be, the
14 powers that be, they -- I want to be clear who that is.

15 MR. SABB: Yes, sir.

16 MR. TYSON: It is the state law. I said it the other
17 day; the law is the law, whether we like it or not, that is
18 how they have ruled on the law. So, if there's any challenge
19 to the law, if there's any objection to the law, we understand
20 that challenges can be made. But in this case, that's not
21 appropriate, and I'll make all that argument in closing when
22 we get there but I just wanted to preserve that objection
23 right now as we continue to hear this day and all the powers
24 to be that that's not reference toward my client at all.

25 MR. SABB: Well, it is, and I will just simply state for

1 the record that there is a doctrine that's called ultra vires,
2 and I believe there will be evidence in this case -- actually,
3 in fact, there's been evidence already that that's exactly
4 what's taken hold, that they've taken the law and gone beyond
5 it and created these barriers that are not in the law. That's
6 one point. The second point, is, Judge, I think it's wrong
7 and unfair for them to state on the record the last time that
8 they did not comply with Section 5-17-230, because we let Trav
9 Robertson not come today. He's not here. The only reason why
10 we did not demand or at least request in a humble, forceful
11 way that he come was because that issue has been decided by
12 the Court. So, I think it's improper for them to present any
13 evidence at all on that issue when they have clearly waived
14 it, clearly stipulated to it, and so, Judge, they're trying to
15 catch us at a moment where we are less than clothed and I
16 think it would be improper.

17 THE COURT: Okay.

18 MR. TYSON: I call Ms. Samuels if it would please Your
19 Honor.

20 THE COURT: All right. If you'd come around, please,
21 ma'am, and place your left hand on the Bible and raise your
22 right hand.

23 CLERK: Raise your right one, place your left one on the
24 Bible. Repeat your name, please.

25 MS. SAMUELS-COOPER: LaNette Samuels-Cooper.

1 LANETTE SAMUELS-COOPER, HAVING BEEN

2 DULY SWORN TESTIFIES AS FOLLOWS:

3 CLERK: Watch your step going up.

4 DIRECT EXAMINATION OF LANETTE SAMUELS-COOPER BY MR. TYSON:

5 Q: Good morning, Ms. Samuels-Cooper. How are you doing?

6 A: Fine.

7 Q: Can you hear me okay?

8 A: Yes.

9 Q: Okay. Can you please state your name for the record?

10 A: LaNette Samuels-Cooper.

11 Q: And Ms. Cooper, where do you live?

12 A: In Manning, South Carolina.

13 Q: I'm sorry. I just said Ms. Cooper. It's Ms. Samuels-
14 Cooper?

15 A: Yes.

16 Q: Okay. So, I apologize if I addressed you improperly.
17 You live where?

18 A: In Manning.

19 Q: Are you employed?

20 A: No.

21 Q: When -- did you file to run as a candidate for coroner
22 for Clarendon County?

23 A: Yes.

24 Q: And when did you file?

25 A: March 19th.

1 Q: Of 2018?

2 A: Correct.

3 Q: At that point in time, were you employed?

4 A: Yes.

5 Q: By whom?

6 A: Clarendon County.

7 Q: By whom?

8 A: Clarendon County Coroner's office.

9 Q: On March 19th when you filed?

10 A: Yes.

11 Q: And what was your position?

12 A: Administrative Assistant.

13 Q: Okay. Let me -- Madam Court Reporter, do you have the
14 exhibits?

15 CLERK: No, I have them. I'll run get them. She left
16 them with me.

17 MR. TYSON: Okay.

18 COURT REPORTER: Do you know what number?

19 MR. TYSON: I think it's number -- I think it's number 5.
20 I guess we'll get a copy of the exhibits that have been
21 introduced and ask Ms. Samuels-Cooper about them.

22 BY MR. TYSON:

23 Q: Well, let's do this as she's kinda -- she'll be back with
24 the exhibits, but you submitted -- you filed on March the
25 19th; is that correct?

- 1 A: Yes.
- 2 Q: Did you submit an affidavit of why you should be coroner?
- 3 A: Yes.
- 4 Q: Did you fill any blanks on how you were qualified?
- 5 A: I think I did.
- 6 Q: Okay. Did you have to submit another affidavit?
- 7 A: Yes.
- 8 Q: And why was that?
- 9 A: I received a call from the chairman of the State
- 10 Democratic Party.
- 11 Q: And what -- and who is that?
- 12 A: Trav Robertson.
- 13 Q: And what did he say?
- 14 A: He started and he told me who he was and he had started
- 15 asking me some questions as to what did I do in the coroner's
- 16 office.
- 17 Q: Did he comment to you about whether you had filled out
- 18 the affidavit properly?
- 19 A: Yes.
- 20 Q: What did he say?
- 21 A: He said, according to what you've given me, you need to
- 22 check box 10 and resubmit the affidavit.
- 23 Q: Do you remember when this call was?
- 24 A: April 3rd.
- 25 Q: Okay. So, as I understand it, I think the Election

1 Commission can confirm this, but the filing period was from
2 March 16th to March 30th; is that right?

3 A: Correct.

4 Q: So, you had the conversation after the close of filing?

5 A: Yes.

6 Q: Okay. And he's telling you that you filled out your
7 ballot improperly and you needed to check another box; is that
8 correct?

9 A: Yes.

10 Q: Okay. And did you?

11 A: Yes.

12 Q: Okay. And so, I'm guessing that when he said you need to
13 check box number 10, you hadn't checked box number 10 the
14 first time around then, right?

15 A: Right.

16 Q: You hadn't answered the questions at all, right?

17 A: I'd have to see the affidavit to make sure of what I did.

18 Q: Okay. And you said your position at that time was what
19 with the coroner's office?

20 A: Administrative assistant.

21 Q: And, Samuels-Cooper, you've been here throughout this
22 discussion. In fact, the Judge just said something about that
23 we're gonna have to -- this is going to be a question today
24 about whether you have -- whether you're experienced to be a
25 coroner, correct?

1 A: Correct.

2 Q: And you understand that that's what we're here, to
3 determine whether you statutorily meet the qualifications,
4 correct?

5 A: Correct.

6 Q: Okay. Let me see if we can get this.

7 COURT REPORTER: We have Plaintiff's 1 through 4 and
8 Defendant's 1 and 2, Defendant's 1 and 2.

9 BY MR. TYSON:

10 Q: Ms. Samuels-Cooper, I'm gonna show you what's been marked
11 as Plaintiff's Exhibit 2, and that's the affidavit dated March
12 the 19th, right?

13 A: Yes.

14 Q: Okay. And that's your signature down there at the
15 bottom?

16 A: Yes.

17 Q: Okay. And let me just ask you something, do you
18 understand the statute requires a coroner to be qualified,
19 correct?

20 A: Correct.

21 Q: Okay. Why is that? Why do you think lawmakers like Mr.
22 Sabb put that in the law?

23 A: I can't answer that. You'll have to ask him.

24 Q: But why do you think it's important that the coroner be
25 qualified?

- 1 A: It's important because you're investigating suicides,
2 homicides, accidental cases, natural causes. You've got to
3 make these decisions and I think they should be.
- 4 Q: And so you're -- you understand our state law requires a
5 coroner to have experience, correct?
- 6 A: Yes.
- 7 Q: And you understand that they have asked a candidate to
8 demonstrate how they're qualified, right?
- 9 A: Yes.
- 10 Q: Okay. And so, you took an oath or you swore to this
11 affidavit, right?
- 12 A: Yes.
- 13 Q: That the facts are true and correct?
- 14 A: Yes.
- 15 Q: All right. All right. Now, we'll go back and we'll look
16 at it. Did you mark anything that demonstrates how you're
17 qualified?
- 18 A: No, I didn't.
- 19 Q: Okay. So, the affidavit that was filed timely, you
20 didn't mark anything, correct?
- 21 A: Correct.
- 22 Q: Okay. And so, there's Exhibit 3 I'm gonna show you.
23 What's the date on that affidavit?
- 24 A: Um ---
- 25 Q: Pardon?

1 A: April 4th.

2 Q: April 4th. So, that's after closing, right?

3 A: Correct.

4 Q: And so, if I heard your testimony a second ago, you --
5 you checked, what did you check on that box; what box did you
6 check as being qualified?

7 A: There's nothing on it. Oh, I'm sorry, 10, 10.

8 Q: In box number 10 ---

9 A: I had a four-year ---

10 Q: So, the number 10 -- there's one, two, three, four, five
11 six, seven boxes under number 10, right?

12 A: Uh-huh, (affirmative response).

13 Q: And those are the ones that you've got a check to
14 demonstrate that you meet these qualifications, right?

15 A: Correct.

16 Q: And so, you checked the third box?

17 A: Correct.

18 Q: Okay. And you checked that third box because why?

19 A: Because that's what Trav Robertson called me and stated
20 that he had the authorization to question me and my -- and my
21 experience. He told me to check box that says I have a
22 Bachelor's degree and at least one-year experience.

23 Q: Let's be clear. As the Judge has mentioned earlier,
24 we're not contesting whether you've got the four-year
25 Baccalaureate degree, because you have that, correct?

- 1 A: Correct.
- 2 Q: That's from where?
- 3 A: Johnson C. Smith University.
- 4 Q: Okay. And what's your degree in?
- 5 A: Business Administration.
- 6 Q: But not anything to do with coroner's or medical or ---
- 7 A: No.
- 8 Q: Okay. And so, then based on Trav Robertson's report to
- 9 you, you checked box 10 because you said that you've got a
- 10 four-year degree and one year of experience in death
- 11 investigation?
- 12 A: Yes.
- 13 Q: How did he determine that that's the box that you should
- 14 check?
- 15 A: After he questioned me on my duties.
- 16 Q: Okay. So, how did he do that?
- 17 A: He stated, asked me, what should I -- what did I do in
- 18 the Coroner's office. I said -- I told him what I did.
- 19 Q: Did Trav Robertson have experience in that?
- 20 A: I don't know what experience he had.
- 21 Q: Okay. Was anybody else on the phone call?
- 22 A: No.
- 23 Q: So, the chairman of the State Democratic Party is telling
- 24 you after the filing how you are qualified?
- 25 A: According to what the information I gave him.

1 Q: Okay. And, Ms. Samuels-Cooper, if you'll look at that
2 last exhibit, that second exhibit I gave you, if you go down
3 one, two -- it's close to number 10. One, two, three, four,
4 five boxes down. Do you see that one? It says, I have
5 completed a forensic science degree program?
6 A: Uh-huh, (affirmative response).
7 Q: Pardon?
8 A: Yes. Yes.
9 Q: Okay. You didn't check that box though, right?
10 A: No, I didn't.
11 Q: All right. So, you're not telling the public that you
12 have completed that program, right? I mean, you didn't check
13 it for a reason.
14 A: Right.
15 Q: Okay. What was the reason?
16 A: I'm reading the statement. I checked it because of the
17 last sentence. I have one year of being elected coroner.
18 Q: On that box number 10, though, you didn't check it,
19 right?
20 A: On the second one you gave me, I did check it.
21 Q: Where did you check that in question number 10?
22 A: The statement that you asked me to read, I didn't check
23 that at all.
24 Q: Okay. And my question was why didn't you check it; isn't
25 it because you don't meet that criteria, right?

1 A: Well, I can't say that because the reason I didn't check
2 it was because it stated that I have at least one year to
3 complete the training. That's the reason I didn't because the
4 statue says that have one year.

5 Q: Well, let's be clear. Let's read what the instructions
6 are on this question. It says, number 10 says, I meet at
7 least one of the following education and/or experience
8 requirements. Then it says, check all that apply and you
9 didn't check that.

10 A: I didn't, now.

11 Q: So, it doesn't apply, right?

12 A: Right.

13 Q: I'm just asking, did ---

14 A: Yes.

15 Q: Okay. You didn't believe that you met that criteria or
16 Trav didn't do it -- Trav didn't believe you met it if he's
17 the one who's telling you what to do. He didn't think you met
18 it, right?

19 A: I can't say that for him. He has to speak for himself.

20 Q: But in your conversation, you just said you checked that
21 box right there because Trav told you, but you didn't check
22 that box, right?

23 A: No, because that's the only one I thought that I met.

24 Q: So, that's the only one that you felt like you met. So,
25 the only one that we need to talk about today is whether

1 you've got one year's worth of death investigation experience,
2 correct?

3 A: Yes.

4 Q: Because you're not saying that you've completed that
5 forensic science program, right?

6 A: No.

7 Q: And that box also says, I have completed a forensic
8 science program or I am enrolled in a forensic science degree
9 or certification program. At the time you filled out this
10 affidavit, you weren't enrolled in a program, were you?

11 A: Yes.

12 Q: But why didn't you check that box then? What program --
13 what ---

14 A: I showed the date that I was going to be attending the
15 course, August the 13th, 2018.

16 Q: Oh, that's down there below, you said you were going --
17 you said -- it says August the 13th to August the 18th. And
18 what is that?

19 A: That is the St. Louis University course for medicolegal
20 death investigation.

21 Q: That question down there says, I am enrolled in the
22 following forensic science degree or certification program
23 recognized by the advisory committee. And you've heard the
24 testimony already, right?

25 A: Uh-huh, (affirmative response).

1 Q: You heard it from Mr. Mock, and you've heard it from Ms.
2 Gast back here about what that program is, right?
3 A: Yes.
4 Q: You heard that, right?
5 A: Uh-huh, (affirmative response).
6 Q: And so, you understand that some class that you're taking
7 in August doesn't meet that criteria, right?
8 A: No ---
9 Q: Now, you ---
10 A: --- I think it does.
11 Q: And why do you think that?
12 A: Because it's approved by the Public Health and Safety
13 Director for the State of South Carolina.
14 Q: The class is?
15 A: The class is.
16 Q: But you heard just the Judge say a few minutes ago,
17 right, that he's troubled that there's no way that you can
18 take a program that would meet that criteria, you heard the
19 Judge just say that, right?
20 A: Yes.
21 Q: So, you don't think that's not the program we're talking
22 about, right?
23 A: Well, that's what they say, but ---
24 Q: That's what the Judge said?
25 A: Well, when the Judge said it, yes.

1 Q: Okay. That's what the Judge said. The Judge just said
2 he's troubled by that and I just had this whole discussion
3 with the Judge about I understand it's troubling, he needs to
4 take that up with the legislator. But on this affidavit, you
5 did not check the box that says you are enrolled in that
6 program, right?

7 A: Not on the second affidavit.

8 Q: You didn't check it on the first one either, right?

9 A: I named the course that I was taking on the first one.

10 Q: Well, show me that on Exhibit Number 2. Oh, I see that.
11 You said, medolegal -- I'm sorry, I can't ever ---

12 A: . Medicolegal.

13 Q: I'm sorry, I say that wrong. Death investigation, and
14 that's the same class that you're talking about on the second
15 affidavit. But, on that affidavit, you didn't check the box
16 that you were enrolled in that class either, right, on box
17 number 10 ---

18 A: No.

19 Q: --- you didn't check anything? So, on the affidavit that
20 was filed in a timely manner, that exhibit, you didn't tell
21 the world how you were qualified, right?

22 A: I applied for the course on March 1st.

23 Q: Okay. My question was, on Exhibit Number 2, the one that
24 you have right there, you're telling -- this affidavit and the
25 state law tells you, as a candidate, to demonstrate how you're

1 qualified, and you didn't check any box, right?

2 A: Right.

3 Q: So, does that mean you're not qualified or you just
4 didn't know?

5 A: It means that I wasn't sure.

6 Q: But it's defective, right?

7 A: Yes.

8 Q: All right. So, let's go briefly to whether you meet the
9 one-year death investigation experience. Do you believe you
10 are qualified that you have one-year's death investigation
11 experience?

12 A: Yes.

13 Q: And you recognize, you've been a candidate forums and you
14 said something different, right?

15 A: Yes.

16 Q: And you recognize in newspaper articles with The Manning
17 Times that you've said something different, right?

18 A: Yes.

19 Q: And you recognize with The Sumter Item newspaper items
20 you said you don't have any death investigation experience,
21 right?

22 A: Yes.

23 Q: So, why are you changing your opinion today?

24 A: Because now I have a better understanding of what I
25 actually did in the coroner's office.

1 Q: Come on now, Ms. Samuels-Cooper, I don't want to -- I
2 need understand. Today you've got a better understanding but
3 you didn't have it in March what it was?

4 A: Probably, yes.

5 Q: Okay. So, are you saying now that all these places where
6 you've told the candidates, where you've told people that went
7 to a forum at a church or where you've had newspaper articles
8 and interviews that that wasn't accurate?

9 A: I think what I did, I told them -- I told people in the
10 forums that I didn't have as much knowledge as Mr. Mock in
11 death investigations, but if they gave me the opportunity, I
12 could have as much, if not more.

13 Q: Have you seen the summons and complaint in this matter?

14 A: No.

15 Q: Let me see if I can find a clean copy. I've got a copy
16 that's marked up. All right. So, in -- in the complaint, we
17 have an exhibit, and we're gonna it here and give it to you in
18 a second, an article in The Sumter Item and it's dated, it
19 looks like it's May. Ms. Samuels-Cooper, I apologize. As you
20 can see, I've got a little trouble in finding exhibits and
21 moving things with my messed up arm.

22 All right. Your Honor, I'm handing up the summons and
23 complaint that was filed with this Court June the 14th.

24 THE COURT: Okay.

25 Q: Ms. Samuels-Cooper, that's the summons and complaint that

1 you're the named defendant. And you've been served with that
2 summons and complaint, right?

3 A: Yes.

4 Q: And I'm going to ask you to turn to the very back of it.
5 Are you back there?

6 A: Uh-huh, (affirmative response).

7 Q: And you see the article, there's The Manning Times is the
8 back article and then The Sumter Item is right before that?

9 A: You mean ---

10 Q: You see The Sumter Item article, I'm sorry, it's this one
11 right here that's got your picture on it; it's at the very
12 back about five pages from the very back. I'm sorry I didn't
13 have it marked for you.

14 A: I got it.

15 Q: All right. And if you go to the second page of that
16 article -- this was an article that was written in The Sumter
17 Item, right? Do you remember doing this interview or seeing
18 it? Ms. Samuels-Cooper, do you remember this?

19 A: Vaguely.

20 Q: Okay. Well, let's go to the second page of that article?

21 A: Okay.

22 Q: And the second line on that second page says, when asked
23 if she has led a death investigation, she said no; do you see
24 that?

25 A: They said led?

1 Q: Right.

2 A: That's -- that's right, that's correct; I never led it

3 ---

4 Q: You never led a death investigation?

5 A: I've never led it but I've done it.

6 Q: And then if we go to the page before that, when you filed
7 your affidavit, it says you had experience because you ran
8 that office.

9 A: Yes.

10 Q: Do you see that? I was the individual that handled
11 everything that came through the office.

12 A: Correct.

13 Q: That's what you did as an administrative assistant,
14 right?

15 A: Yes.

16 Q: You handled that, correct?

17 A: Correct.

18 Q: Were you -- were you in the courtroom the other day when
19 Ms. Gast was questioned here by the attorney over what were
20 the elements of a death investigation experience?

21 A: Uh-huh, (affirmative response), yes.

22 Q: And you remember she had a long list and we went through
23 that list. Can we just briefly go through that list with you?

24 A: Sure.

25 Q: Whether you had any of this experience?

- 1 A: Yes.
- 2 Q: Okay. The first one says the cause and manner of death.
- 3 That's part of a death investigation, right?
- 4 A: Uh-huh, (affirmative response).
- 5 Q: And what does that mean?
- 6 A: That means you have to have a cause of death and a manner
- 7 of death, was it accidental, was it homicide, suicide, fetal
- 8 death, or natural.
- 9 Q: Have you ever done that? Have you ever declared what the
- 10 cause of death is?
- 11 A: No, that's the coroner's responsibility.
- 12 Q: Or the deputy coroner's, right?
- 13 A: Correct.
- 14 Q: But you don't do that, right? You've never done that?
- 15 A: No.
- 16 Q: So, you've never declared what the manner of death or
- 17 cause of death is, correct?
- 18 A: Correct.
- 19 Q: Okay. So, you don't have that experience?
- 20 A: No.
- 21 Q: All right. The second one was you go -- and I can't read
- 22 my notes, but it had, I think, information of the deceased
- 23 person.
- 24 A: Repeat.
- 25 Q: Information on a deceased person is part of the death

1 investigation.

2 A: Okay.

3 Q: Have you ever done anything toward that?

4 A: Yes.

5 Q: What is that?

6 A: When a call comes in to the coroner's office, we try to
7 get as much information from the individuals that you're
8 speaking to.

9 Q: Okay. So, you're collecting information?

10 A: Correct.

11 Q: Okay. As the administrative assistant?

12 A: As the administrative assistant.

13 Q: Right. And then I think the next one says you go to the
14 scene?

15 A: Yes.

16 Q: All right. A death investigator would go to the scene.
17 Have you gone to a scene?

18 A: Yes.

19 Q: And why did you go to the scene?

20 A: Because the coroner wasn't available and then there were
21 -- at some point in time, judges were being used as coroners
22 when the coroners and the deputy coroners weren't available,
23 and I was -- when I dispatched a individual to the scene, I
24 went to make sure that he was doing everything accordingly.

25 Q: Okay. So, let me make sure. You weren't going to the

1 scene to conduct any of the death investigation, right?

2 A: If I needed to tell him what to do, I think I was.

3 Q: What does that mean?

4 A: They don't know, the Judge -- the individual didn't know

5 exactly what to do. So, I went to show him how to do it.

6 Q: To do what?

7 A: To investigate a scene.

8 Q: You had the ability to do that?

9 A: I have a brain and I have eyes.

10 Q: You have a brain and you have eyes, but I guess ---

11 A: And that's all it takes ---

12 Q: Okay.

13 A: --- to be able to see a scene and then determine to a

14 certain extent what the cause of death may have been. This

15 particular case was an accidental death.

16 Q: So, you did it once? You've done that once?

17 A: Once or twice, I can't be sure.

18 Q: How long have you been in the coroner's office?

19 A: Thirteen years.

20 Q: And so, over those 13 years, you've been to the scene

21 once or twice to help somebody do that?

22 A: More than that I would say.

23 Q: Well, help me out. What's that mean? You're under oath.

24 A: I've been to the hospital.

25 Q: No, I'm talking about to the scene.

1 A: Well, that's -- the death occurred at the hospital.

2 Q: Okay.

3 A: More than five or six times.

4 Q: Okay.

5 A: I've been ---

6 Q: As part of a death investigation or just part of going to
7 see what's going on?

8 A: Part is to see what the issue is.

9 Q: Okay. The next criteria said to assess the decedent and
10 take photos. You've never taken any photos of any death
11 scene, have you?

12 A: No.

13 Q: Okay. You've never had to assess the decedent, right?

14 A: No.

15 Q: Talk with witnesses, that's an important part of a death
16 investigation; how about that?

17 A: I've spoken with family members.

18 Q: When -- when in the process of doing a death
19 investigation or just because they called or when was that?

20 A: A family came in and wanted to discuss what occurred and
21 I went back to the files and told them how the accident was
22 described.

23 Q: So, you're just providing information to them that's
24 already in the file, correct?

25 A: Yes.

1 Q: Not doing any assessment or anything, correct?

2 A: No.

3 Q: Subpoenaing medical records?

4 A: Uh-huh, (affirmative response).

5 Q: That's something that an administrative person should do,
6 assistant should do, right?

7 A: Yes.

8 Q: And you've done that?

9 A: Yes.

10 Q: Okay. But, you never analyzed any of those medical
11 records, right?

12 A: Yes.

13 Q: Yes, you did?

14 A: Yes.

15 Q: How so?

16 A: When you get -- when you subpoena medical records, you
17 subpoena all that they have. When they come into the office,
18 I read those records to see if there is anything other than
19 what the coroner is suggesting, the cause of death. And if I
20 can find additional information to assist him in coming up
21 with a cause, I would let him know.

22 Q: Okay. And how did you have the ability or experience to
23 do that?

24 A: Over the years, I've learned how to read medical records.
25 I've learned from pathologists that I've spoken to when

1 they've called for information, I've given them said
2 information.

3 Q: You've provided information?

4 A: Yes.

5 Q: Okay. But you're not assessing any records and providing
6 any knowledge, are you, besides what's in the record?

7 A: Nothing but what's in the record.

8 Q: Okay. Speaking with a pathologist, you heard Ms. Gast's
9 testimony about that. Have you spoken with a pathologist as
10 part of the investigation?

11 A: Yes.

12 Q: Okay. Can you describe some of those?

13 A: There was an infant's death that was being questioned.
14 When they called the office, they wanted to know information
15 as related to the home environment and also we had to subpoena
16 the medical records on the mother.

17 Q: All right. On one specific incident, you talked to a
18 pathologist?

19 A: More than once.

20 Q: Okay. How many times do you reckon you talked to a
21 pathologist?

22 A: In the last 13 years?

23 Q: Yeah.

24 A: A hundred.

25 Q: Okay. About a death investigation, were you describing

1 anything to do with the cause of death or the death ---

2 A: When they were -- when they were asking me my opinion.

3 Q: And a pathologist would call and ask you your opinion?

4 A: Yes, yes.

5 Q: To do what?

6 A: To give them some more insight into the case.

7 Q: A pathologist would call you as the administrative
8 assistant and ask for insight into the case?

9 A: Yes.

10 Q: And you felt like you had the knowledge or the ability to
11 do that?

12 A: Yes.

13 Q: How many times?

14 A: Fifty, seventy-five, I can't be exact. I never kept a
15 record on -- on speaking with a pathologist.

16 Q: Well, I want to be clear. Talking to the pathologist
17 about what the records are and what's going on and giving him
18 or her information, that's one thing, but that -- is that what
19 you've done 50 or 75 times?

20 A: Somewhat, yes.

21 Q: Okay. But this part of the -- here, if I hear you now,
22 you're saying that you are actually giving out substantive
23 knowledge?

24 A: I was.

25 Q: Okay. Then give me an example of what that might be.

1 What kind of knowledge do you have that you could -- just pick
2 one of those and tell me what -- can you recall what kind of
3 information you provided the pathologist as part of the death
4 investigation experience?

5 A: I have given them information as to the -- as to the
6 police report, or SLED reports, or toxicology report. I gave
7 them what I read and how I saw it.

8 Q: But you weren't acting as the deputy coroner or the
9 coroner?

10 A: I was not.

11 Q: You're just giving your opinion?

12 A: Correct.

13 Q: You're not acting in an official role or an official
14 capacity, are you?

15 A: Just as the administrator of the coroner's office.

16 Q: Well, let me make sure because you don't have that
17 authority to do anything with death investigation experiences,
18 correct, as administrative assistant?

19 A: The coroner gave me leeway to do some things, yes.

20 Q: Leeway, what does that mean? My question was, you heard
21 the comments the other day about the law says only a coroner
22 or deputy coroner can do death investigation experiences. I'm
23 asking you, in your capacity and your job as administrative
24 assistant, did you -- you didn't have the ability to conduct
25 death investigations, did you?

1 A: No.

2 Q: And the coroner giving you leeway doesn't give you any
3 end run around the statutory requirements, does it?

4 A: No.

5 Q: The next question was, you've got to attend an autopsy.
6 That was one of the things ---

7 A: Yes.

8 Q: Okay. Have you done that?

9 A: Yes.

10 Q: Okay. Did you have any substantive roll in participating
11 in an autopsy?

12 A: No, because I'm not a pathologist. I attended the
13 autopsy to see one done and to ask questions of the
14 pathologist.

15 Q: Okay, but that's not part of the death investigation
16 experience, right? Now, look to me, you need to answer the
17 question, not your lawyer?

18 A: Excuse me?

19 MR. SABB: Your Honor, I object to that.

20 Q: I was just trying to make sure, have you done it that?

21 THE COURT: I understand. I'll allow him to ask the
22 question. Go ahead.

23 BY MR. TYSON:

24 Q: Ms. Samuels-Cooper, I'm just asking you, when you
25 attended an autopsy, was that part of an official

1 responsibility?

2 A: Yes.

3 Q: And tell me how.

4 A: The individual had been beaten severely, was transported
5 to Palmetto Health Richland. Three or four months later, he
6 passed and there was -- we ordered an autopsy on that
7 individual. Dr. Derusso (spelled phonetically) did the
8 autopsy at Palmetto Health Richland and I attended the
9 autopsy.

10 Q: And my question was, Did you have an official
11 responsibility to do that as an administrative assistant?

12 A: The coroner asked that I go.

13 Q: To do what?

14 A: To observe the pathologist.

15 Q: Okay. But you ---

16 A: The autopsy, I'm sorry.

17 Q: But you weren't participating in any part of the death
18 investigation experience, were you? I mean, you were
19 observing?

20 A: I was observing, yes.

21 Q: But you didn't provide any information, any substantive
22 information, did you?

23 A: I took pictures.

24 Q: You took pictures of the autopsy?

25 A: Yes.

1 Q: And what did you do with those?

2 A: I showed -- I took them back to the office.

3 Q: You took them back and gave them to the coroner?

4 A: Yes.

5 Q: Was that part of your responsibilities as administrative
6 assistant?

7 A: Yes.

8 Q: So, you did that one time?

9 A: One time there, and I think I went to MUSC because I
10 delivered blood of the decedent to MUSC pathologist, yes. So,
11 maybe two.

12 Q: So, in your role as administrative assistant, you went up
13 and watched one autopsy in Columbia, and then you drove to
14 Charleston to take something to another autopsy; is that
15 right?

16 A: Yes. I did what I thought was best for the coroner's
17 office..

18 Q: And I understand that and I'm sure the coroner
19 appreciated it. My question though was, You've done it twice
20 and both of them sounded like administrative functions; I just
21 wanted to clarify that.

22 A: It was an administrative function.

23 Q: To take blood to the autopsy in Charleston?

24 A: No.

25 Q: What was it?

1 A: It was coroner's function.

2 Q: And you were ---

3 A: And I took it for the coroner.

4 Q: You took something somewhere, right?

5 A: Uh-huh, (affirmative response).

6 Q: Okay. Anything else beyond taking something for the
7 coroner?

8 A: No.

9 Q: You're charged with documenting the scene and the
10 evidence acquired; that was the next question that counsel
11 asked as we went through that list. Have you ever done
12 anything where you took a list of the evidence at the scene?

13 A: No.

14 Q: Okay. The coroner or the deputy coroner have the
15 statutory authority to complete the death certificate. You've
16 never done that, have you?

17 A: I -- I've entered the information, but the coroner signed
18 it.

19 Q: Right. So, let me ask the question again, you've never
20 issued a death certificate?

21 A: No.

22 Q: And, and my next question was, that's not an exhaustive
23 list of all of the functions of the coroner, right?

24 A: No, it's not.

25 Q: The coroner or a deputy coroner doing a death

1 investigation?

2 A: No.

3 Q: Okay. But what we just heard you go through, do you
4 think in all those things, because most of them you said you'd
5 never done. Do you think that totals up to one year of
6 experience?

7 A: Over 13 years, yes.

8 Q: How so?

9 A: I've interacted with family members. I've given
10 notifications to family members. I've discussed autopsy
11 reports with family members. I've shown -- I've spoken
12 several, millions of times with pathologists when they're
13 calling asking about other information that may not have been
14 in the report. I've spoken with SLED agents on child
15 fatalities. I've spoken with South Carolina Highway Patrol on
16 accidents, accident scenes, the MAIT team. I've spoken with
17 multiple police, city and county.

18 Q: And I don't think anybody here disputes you've done a
19 good job as an administrative assistant. My question was, as
20 we just went through that list of participating in death
21 investigation experiences, you answered no to most of those;
22 do you recall that?

23 MS. BARR: Your Honor, I would object. That's a
24 mischaracterization of her testimony. She did not answer no
25 to most of those qualifications.

1 THE COURT: Okay. I'm aware of the things that she
2 answered yes and no to.

3 MR. TYSON: Thank you, Your Honor. I'll move on.

4 BY MR. TYSON:

5 Q: The most important part of a death investigation -- let
6 me ask this. As I've listened to this and I surely am not
7 trying to be totally knowledgeable on a coroner, that's why
8 I'm here, but it sounds like one of the most important
9 functions, as I look at the statute and listen to this
10 testimony, is the inquiry into the manner of death; is that --
11 is that accurate?

12 A: Uh-huh, (affirmative response), yes.

13 Q: Okay. And that's an important function for a coroner or
14 deputy coroner, right?

15 A: Not necessarily, because the coroner on a death
16 certificate, most of -- the coroner gets this information from
17 his autopsies and from the medical records. That's how they
18 come up with the cause of death and manner of death.

19 Q: And that's because they've got experience and knowledge,
20 right?

21 A: That's because I gathered the information that they
22 needed to make a comprehensive diagnosis of the information
23 that they received.

24 Q: You just said that's because you've collected the
25 information so they could make that assessment; is that right?

1 A: Yes.

2 Q: Okay. You're not making that assessment, correct?

3 A: Not at all times, no.

4 Q: You're not currently employed by a medical examiner,
5 correct?

6 A: No, I'm not.

7 Q: Do you have 640 hours of death investigation experience?

8 A: Well, I might have by receiving -- being on call for 13
9 years and answering the phone for -- from people calling the
10 office to get said information. I may have; I don't know.
11 I've never kept up with calls after me keeping -- kept up with
12 the hours that I've worked. My hours were from supposedly --
13 should've been from 9:00 to 5:00, but many times it was at 12
14 o'clock at night I was on the phone calls.

15 Q: Doing what?

16 A: Doing coroner's report, authorization forms, DRT's,
17 getting the body ready, notification to family, notification
18 of the driver to be ready to take the body to Charleston and
19 have that body before 9 o'clock.

20 Q: It sounds that's all administrative assistant functions;
21 am I missing something?

22 A: You might be. Talking to the family is not all
23 administrative; it's about caring as well.

24 Q: And that's a very important part and I understand that,
25 and I'm not trying to belittle that, but it's also not part of

1 a death investigation experience, is it?

2 A: I think it should be or it is because you're getting
3 information from the family about the death of the deceased
4 loved one.

5 Q: And so, if you're taking that information, what are you
6 doing with that once you get that information from talking ---

7 A: I'm putting it on the coroner's form and -- some of it is
8 going on the authorization form for an autopsy.

9 Q: So, you're collecting that information for a deputy
10 coroner or coroner to review?

11 A: Yes.

12 Q: Okay. And you just said when you're at call late at
13 night, do you believe that's part of the death investigation
14 experience, to be on call?

15 A: Well, I'm on call to take information about a deceased,
16 so I think that's part of it.

17 Q: Taking the information of the deceased, you think is part
18 of the death investigation experience?

19 A: Yes.

20 Q: So, let me make sure, at these candidate forums, one of
21 them I got was March 31st here at the courthouse and you said
22 you didn't have any experience doing death investigations; do
23 you recall that?

24 A: No.

25 Q: Okay. Do you recall that candidate forum here at the

1 courthouse on March 31st?

2 A: What forum was that?

3 Q: I think, I'm not sure, I just had there was one here and
4 there was one at the church. I might mess up the name, is it
5 Melina?

6 A: Melina.

7 Q: Melina, do you recall that one, going to that candidate
8 forum on March the 24th?

9 A: I really don't ---

10 Q: Did you participate any candidate forums as you were
11 running for ---

12 A: All three.

13 Q: Did you tell people there that you didn't have any death
14 investigation experience?

15 A: I think may have said I may not have as much
16 investigative experience as my opponent, but I have some.

17 Q: Okay. All right. Ms. Samuels-Cooper, we spent a lot of
18 time talking about this ABMDI program and it's Exhibit Number
19 4. I'm gonna show it to you. And we heard a lot of
20 discussion about that. You've not applied for that course,
21 correct?

22 A: No.

23 Q: You're not eligible to apply for that course, right?

24 A: They say I'm not.

25 Q: Well, let's go through it. You see eligibility right

1 there, it's the second bullet down?

2 A: I'm 18 -- I'm older than 18.

3 Q: Right, and you've got a high school diploma?

4 A: Yes.

5 Q: And it says you must currently be employed in a medical
6 examiner or a coroner office or an equivalent federal
7 authority?

8 A: Uh-huh, (affirmative response).

9 Q: All right. You're not that, are you?

10 A: Well ---

11 Q: Pardon?

12 A: Well, I was employed by a medical -- by the coroner's
13 office.

14 Q: That's right, but this says must currently be employed?

15 A: That's what it says in the ---

16 Q: So, you don't meet that criteria, so you can't apply for
17 this, right?

18 A: Right.

19 Q: The next one, number 4 says, you've got to have a minimum
20 of 640 hours, and I just asked you that question earlier and
21 you said you didn't know?

22 A: No, I said I think I do, but according to this, unless I
23 went to the school, I wouldn't have any.

24 Q: Say that again?

25 A: I said according to this, I don't have any.

1 Q: Okay. Ms. Samuels-Cooper, let me -- do you think today,
2 it's July the 27th, I believe?

3 A: That's correct.

4 Q: Do you believe you're qualified to be coroner?

5 A: Yes.

6 Q: And how so? Help the Court understand that. Which box
7 do you think of the statutory requirements, do you think you
8 meet?

9 A: I think most of the time that I have served in the
10 coroner's office for 13 years, I've gained the experience that
11 I need to start out as a coroner. By taking the course in
12 August, that will give me more experience.

13 Q: All right.

14 A: To be a coroner, doesn't necessarily mean you've got to
15 be in a class. You must have the ability to learn and the
16 ability to get along with people and know those individuals
17 that you will be working with by law, the law enforcements.
18 You need to know a fetal death is not just a fetal death. You
19 need to know whether that mother is on some type of drugs so
20 you can request a toxicology of first blood from the hospital.
21 You subpoena that information. Once you get that information,
22 then you can notify SLED accordingly within 24-hour's notice
23 and you're able -- a SOP on the infant and go from there. I
24 think because of the knowledge that I have received from the
25 coroner's office by working and being in that office for 13

1 years, I can be a good coroner, yes, my answer is yes.

2 Q: All right. And I'm not going to disagree with that,
3 okay. I think all of that information and all of that work
4 that you've done as a administrative assistant is very
5 helpful, okay. My question was completely different. Let me
6 ask the question again. You know our legislature has passed a
7 law that describes qualifications that a coroner must meet;
8 you know that, right?

9 A: Correct.

10 Q: Okay. And our legislature has passed a law that said
11 that's real important for you as a candidate to tell the world
12 how you're qualified, right?

13 A: Yes.

14 Q: So, they tell you you've got one of seven ways to be
15 qualified, and then they think that's so important, they want
16 you to fill out an affidavit at the time you file to run for
17 coroner and they want you to tell the world how you're
18 qualified, right?

19 A: Correct.

20 Q: Okay. And there's an affidavit that you're supposed to
21 fill out and you filled out two of them?

22 A: Correct.

23 Q: The first one you didn't have any qualifications on
24 there, right?

25 A: Uh-huh, (affirmative response).

1 Q: So, under law, you don't meet any of those
2 qualifications, right, because you didn't fill out any box?

3 A: Correct.

4 Q: And the second one, you said it was filed after closing,
5 you said you meet the one-year death investigation experience
6 requirement, right?

7 A: Yes.

8 Q: And all of those things you just said about doing things
9 and being nice and being with the family, that's all very
10 important for an administrative assistant, but does that go to
11 -- my question was, do you state today that you believe you
12 have one year's worth of death investigation experience?

13 A: Yes.

14 Q: Okay. And, Ms. Samuels-Cooper, I need to -- let me just
15 go back through, how long have you worked at the coroner's
16 office?

17 A: Thirteen years.

18 Q: And has your job always been administrative assistant?

19 A: Yes.

20 Q: Okay. Thank you. I have no further questions. I
21 appreciate you taking my questions.

22 A: Thank you.

23 MS. BARR: May it please the Court?

24 THE COURT: Yes, ma'am.

25 CROSS EXAMINATION OF LANETTE SAMUELS-COOPER BY MS. BARR:

1 Q: Ms. Cooper, you're a resident of Clarendon County; is
2 that right?

3 A: Yes.

4 Q: And where did you attend high school?

5 A: I completed -- I started out at Manning at Manning High
6 and I finished at Boggs Academy in Keysville, Georgia.

7 Q: Okay. And I believe you told us that you have a Bachelor
8 of Science degree?

9 A: Yes.

10 Q: From what school?

11 A: Johnson C. Smith University out of Charlotte, North
12 Carolina.

13 Q: Do you remember the year you graduated?

14 A: 1971.

15 Q: I just marked this Defendant's Exhibit, I guess we're on
16 3?

17 COURT REPORTER: 3.

18 MS. BARR: Your Honor, may I approach the witness?

19 THE COURT: Yes, ma'am.

20 BY MS. BARR:

21 Q: Ms. Cooper, is this a copy of your diploma from Johnson
22 C. Smith University?

23 A: Yes, it is.

24 MS. BARR: Judge, we'd move that into evidence.

25 THE COURT: Any objection?

1 MS. BARR: Any objection?

2 MR. TYSON: No, I'm sorry, excuse me. I'm sorry.

3 THE COURT: It's in without objection.

4 DEFENDANT'S EXHIBIT NUMBER 3

5 ADMITTED INTO EVIDENCE

6 BY MS. BARR:

7 Q: And, Ms. Cooper, of course you meet the statutory
8 requirements in terms of being a registered voter ---

9 A: Yes.

10 Q: --- in Clarendon County? And you're not a convicted
11 felon, right?

12 A: Correct.

13 Q: All right. Now, let's talk about a little bit more in
14 detail about your employment history with the coroner's
15 office. Do you remember the year you were hired there?

16 A: 2005.

17 Q: All right. And you remained employed there consistently
18 through this year?

19 A: Up until March 9th.

20 Q: Up until March 9th of 2018?

21 A: Correct.

22 Q: All right. And tell us why you're no longer working at
23 the coroner's office?

24 A: I thought I was being adult enough to go and tell my --
25 my -- Deputy Coroner Mock -- I'm sorry, Coroner Mock -- that I

1 had made the decision to run for coroner of Clarendon County.

2 Q: Yes, ma'am.

3 A: And he screamed at me and said, no, I'm not, you're not
4 qualified, and that was on the 1st or 2nd of March. And then
5 the following Friday, I came into work, my usual -- early as
6 usual, and he walked to the door and said I need to see you in
7 my office. You know me and you can't work together. And I
8 said what? He handed me -- went into his office, he handed me
9 a paper stating that I had been terminated and leave all
10 coroner equipment on his desk and to clean out my office.

11 Q: Prior to that point, have you ever gotten any complaints
12 from the coroner regarding your performance in that office?

13 A: No.

14 Q: All right. Do you believe you were fired because you
15 made the decision to run for the office?

16 A: Yes.

17 Q: Now, how many -- what were your work hours during your 13
18 years at the coroner's office?

19 A: Sometimes they were from 3:00 A.M. into the morning until
20 5 o'clock in the evening depending on what cases came in.
21 Basically, it would be from 9:00 to 5:00, but that was very
22 rare.

23 Q: Okay. All right. Now, you have talked with us about
24 sometimes taking calls at 3 o'clock in the morning. During
25 those periods of times, would you have been considered on

1 call?

2 A: Yes.

3 Q: All right. And how many times have you taken calls
4 regarding deaths where it was after the 9:00 to 5:00 work
5 hours; more than a 100?

6 A: Yes.

7 Q: More than 200?

8 A: Yes.

9 Q: And once you get notified about a death, tell the Court
10 what your procedure is?

11 A: I would call -- notify the coroner of the call.

12 Q: Yes, ma'am.

13 A: And he would say to dispatch whoever, and I would make
14 the call to the deputy coroner and let them know the address
15 and where what we thought the scene would be.

16 Q: Now, ma'am, you made the decision to run and you
17 indicated that you were gonna be an adult about it and notify
18 Mr. Mock. Did you understand at that time that you would have
19 to take some sort of course with the ABDMI [sic]?

20 A: Well, according to the statute that I read ---

21 Q: Yes, ma'am.

22 A: --- I read that and it stated that I had to take a course
23 and I had a year after being elected to qualify -- to finish
24 your qualifications. So, with that, I registered for the St.
25 Louis University's course and I paid my money. So, I thought

1 with that information the one year after the election and
2 taking that course because that's the same course that the
3 other coroners had taken, I thought I qualified.

4 Q: And, ma'am, the time that you applied for that course at
5 St. Louis University, you were still employed full time with
6 the coroner's office, weren't you?

7 A: Yes.

8 Q: It wasn't until after you made the decision and you
9 communicated that decision that you wanted to run for the
10 office to Mr. Mock, it was only at that time that you became
11 unemployed?

12 A: Yes.

13 Q: Now, you mentioned the statute that you had saw that you
14 took to, to mean that you had to complete this course?

15 A: Uh-huh, (affirmative response).

16 Q: Where did you pull that statute from?

17 A: I was told by Gary Watts that if I went to 17-130-17.5 or
18 something like that and go to the statutes for South Carolina,
19 for South Carolina, I would find the statute that would show
20 whether I could qualify.

21 MR. TYSON: Your Honor, can I object to that. I don't
22 know who Gary Watts is, and whatever conversation she's had
23 with him is clearly hearsay.

24 THE COURT: Okay. I'll sustain that objection.

25 BY MS. BARR:

1 Q: All right. Ms. Cooper, first of all, tell us who Gary
2 Watts is?

3 A: He's the -- he's the coroner for Richland County.

4 Q: All right. Now, ma'am, you then, as a result of the
5 communication with Mr. Watts, you then went on the South
6 Carolina Coroner's Association website; is that right? Is
7 that right?

8 A: Yes.

9 Q: And as a result of you doing that, you pulled the statute
10 related to qualifications for coroner?

11 A: Yes.

12 Q: All right. I'm gonna show you what's been marked for
13 identification purpose as Defendant's Exhibit, I think that's
14 Number 4. Was that the information that you pulled from the
15 South Carolina Coroner's website?

16 A: Yes, it is.

17 MR. TYSON: What is this?

18 MS. BARR: It's just a statute.

19 BY MS. BARR:

20 Q: All right, Ms. Cooper, I -- Judge, at this time, I would
21 seek to admit Defendant's Exhibit Number 4.

22 THE COURT: Do you have an objection?

23 MR. TYSON: No, I'd just ask the Court to take judicial
24 notice that it's the law and it looks like that's all it is.

25 No objection.

DEFENDANT'S EXHIBIT NUMBER 4

ADMITTED INTO EVIDENCE

BY MS. BARR:

Q: And, Ms. Cooper, it appears that at the bottom -- well, I guess at the top left-hand corner of this particular document, it's dated May 24th, 2018; is that right?

A: Yes.

Q: All right. And at the bottom of that page, it indicates that you actually got that document from the South Carolina Coroner's Association website; is that right?

A: Correct.

Q: Read the last page of that document for me?

A: In addition, the coroner's training advisory committee has unanimously approved the American Board of Medicolegal Death Investigators -- ABMDI certification program provided by St. Louis University as a recognized for forensic science degree or certification program for honors pursuant to S.C. Code of Law, Section 17-5-132.

Q: All right. And so, after you read that on the coroner's website, that's when you enrolled at St. Louis University?

A: Yes.

Q: All right.

MR. TYSON: I'm sorry, what was the question again?

BY MS. BARR:

Q: After you became aware that you were required to complete

1 this particular course, that's when you became aware or that's
2 when you registered to attend the course at St. Louis
3 University?

4 A: Correct.

5 Q: Now, Ms. Cooper, I may have butchered the last question
6 that I asked you, so, I just want to be clear. You printed
7 what's been admitted as Defendant's Exhibit Number 4 on May
8 the 24th?

9 A: Yes.

10 Q: Okay. That's when you printed it?

11 A: Yes.

12 Q: But you became aware that you had to attend the course
13 prior to the date that you printed this?

14 A: Correct.

15 Q: All right. Now, I'm gonna now show you what's been
16 marked as Defendant's Exhibit Number 5. That's the
17 confirmation from the St. Louis University school that you
18 have applied to that program?

19 A: Yes.

20 Q: All right. And that program is the date that you
21 reference on your affidavit in terms of when you're supposed
22 to go to that school?

23 A: Correct.

24 Q: All right. When did you apply for that program?

25 A: April 1st.

1 Q: April 1st?

2 A: I'm sorry, March 1st.

3 Q: That's reflected on that document?

4 A: Correct.

5 MS. BARR: All right. Judge, we would move to admit
6 Defendant's Exhibit Number 5 into evidence at this time.

7 MR. TYSON: No objection, Your Honor.

8 THE COURT: Without objection.

9 DEFENDANT'S EXHIBIT NUMBER 5

10 ADMITTED INTO EVIDENCE

11 BY MS. BARR:

12 Q: Ms. Cooper, let me -- let me be sure that we're talking
13 about the same thing. Now, according to Defendant's Exhibit
14 Number 4, that last paragraph that you read for us talks about
15 the Coroner's Training Advisory Committee having unanimously
16 approved of the American Board of Medicolegal Death
17 Certification Program provided by St. Louis University.
18 That's the same St. Louis University that's on that Exhibit
19 Number 5, isn't it?

20 A: Yes.

21 Q: You booked your -- made your hotel reservations to go to
22 this seminar?

23 A: Yes.

24 MS. BARR: May I have this marked as Number 6, please,
25 ma'am?

1 BY MS. BARR:

2 Q: Ms. Cooper, I'm not gonna show you what's been marked as
3 Defendant's Exhibit Number 6. Do you recognize that document?
4 Was that a part of the paperwork you were served with the
5 complaint -- with the lawsuit?

6 A: Yes.

7 MS. BARR: Judge, we would move Defendant's Exhibit
8 Number 6 into evidence at this time.

9 MR. TYSON: No objection, Your Honor.

10 THE COURT: It's in without objection.

11 DEENDANT'S EXHIBIT NUMBER 6

12 ADMITTED INTO EVIDENCE

13 BY MS. BARR:

14 Q: All right, now, Ms. Cooper, that's a letter -- let me see
15 if for just a second. That is a letter dated February 12th,
16 2012, isn't it?

17 A: Yes, it is.

18 Q: All right. And it has the logo for the South Carolina
19 Coroner's Association on it, doesn't it?

20 A: Yes.

21 Q: And in that letter, the South Carolina Coroner's
22 Association has officially approved the ABMDI as that having
23 the necessary course that's warranted for certification or
24 forensic science degree, right?

25 A: Correct.

1 Q: Let me get it back from you so I can make sure it stays
2 with the Court. Ma'am, of course, you'd agree with me as well
3 that this letter is purported to have been written by Kenneth
4 Johnson in his role as President of the South Carolina
5 Coroner's Association?

6 A: Yes.

7 Q: And, ma'am, I just wanted to make sure that this
8 particular letter that's dated February of 2017, that makes
9 reference to St. Louis University as well; is that right?
10 Read the body of that letter to me.

11 MR. TYSON: May I see it?

12 MS. BARR: Yes, sir.

13 MR. TYSON: Okay.

14 A: This letter serves on behalf of the South Carolina
15 Coroner's Association. This letter is to advise that the
16 Coroner's Training Advisory Committee has met and unanimously
17 approved the American Board of Medicolegal Death Investigator
18 incorporation of ABMDI certification program provided by St.
19 Louis University as the recognized a forensic science degree
20 certification program pursuant to the South Carolina Code of
21 Laws, Section 17-5-130(G).

22 Q: And that's the same statute that you pulled and looked at
23 on the computer when you made the decision to apply to this
24 program?

25 A: Yes.

1 Q: Let's talk about your experience with the coroner's
2 office. Now, a couple of things that I was just curious
3 about, Ms. Cooper, there was at one point in your testimony,
4 you referenced having to take blood to MUSC?

5 A: Yes.

6 Q: Where did the blood come from?

7 A: I had to pick up the blood from Palmetto Health.

8 Q: Okay. In Columbia?

9 A: Yes.

10 Q: And you then drove it to the pathologist office in
11 Charleston?

12 A: Well, we were trying to catch the helicopter to begin
13 with to take a patient there. But when I got close to the --
14 they gave me notification that they had had to leave. So, I
15 ended up carrying the blood myself to MUSC to the pathology
16 department.

17 Q: All right. Now, at the time, of course you did that, you
18 wanted to make sure to maintain the chain of custody, right?

19 A: Yes.

20 Q: That is very important in death investigations, right?

21 A: Yes, it is.

22 Q: When we talk about looking into the cause and the manner
23 of death, I heard your testimony earlier that oftentimes, a
24 pathologist would determine that at an autopsy?

25 A: Correct.

1 Q: Now, is -- have you ever known a coroner, who's not a
2 medical doctor to perform an autopsy?

3 A: No.

4 Q: So, in terms of making a determination as to the cause
5 and the manner of death where an autopsy had been performed,
6 essentially, that determination is made by a pathologist,
7 right?

8 A: Correct.

9 Q: And generally speaking, the coroner will just second that
10 determination, right?

11 A: Correct.

12 Q: The coroner wouldn't -- in your experience in terms of
13 what you see, the coroner wouldn't have made a determination
14 independent or inconsistent with the pathologist's
15 determination as to cause and manner of death.

16 A: Correct.

17 Q: Now, we're talking about gathering information as an
18 essential part of a death investigation. What we're talking
19 about in those cases oftentimes are I interview a family and
20 find out the decedent's medical history, right?

21 A: Yes.

22 Q: We're talking about collecting medical records to
23 determine the decedent's medical history, right?

24 A: Correct.

25 Q: We're talking about talking to people who may have been

1 in the room when the decedent died, right?

2 A: Correct.

3 Q: All those three things are necessary as a part of a death
4 investigation, right?

5 A: Correct.

6 Q: And so for example, if you had the person that had simply
7 just had an unexplained death in his bed, it would probably be
8 important to know whether or not that person had a history of
9 heart disease, right?

10 A: Correct.

11 Q: And you can get that from family members, right?

12 A: Yes.

13 Q: And you can get that up on his or her previous medical
14 records, right?

15 A: Correct.

16 Q: And you've had occasion as in terms of your experience in
17 that office to actually getting to open up the records, right?

18 A: Yes.

19 Q: To help determine the cause and manner of death?

20 A: Yes.

21 Q: You've had occasion to read those medical records, right?

22 A: Yes.

23 Q: And you've done that over a hundred times, right?

24 A: Correct.

25 Q: So, when you have done that, I believe you told me that

1 you have even passed that information on to the coroner or
2 you've either passed that information onto law enforcement?

3 A: Correct.

4 Q: Or to the pathologist office?

5 A: Correct.

6 Q: Now, I heard you tell me that you attended an autopsy in
7 monkey; is that right?

8 A: Correct.

9 Q: Have you attended an autopsy any place else?

10 A: I've observed with at Palmetto Health -- I'm sorry -- at
11 MUSC.

12 Q: All right. Now, are you familiar with any of the
13 pathologists at MUSC?

14 A: Yes.

15 Q: Who are you familiar with?

16 A: Erin Conklin (spelled phonetically); Dr. Presnell; Dr.
17 Phillips; Dr. Tumbleston (spelled phonetically), who is no
18 longer there, she's in Orlando now; Erin Cosnell (spelled
19 phonetically), I have spoken to on several -- more than
20 several, she's one of the top pathologists that they have
21 there.

22 Q: All right. And in terms of speaking with pathologists in
23 Columbia, other than that one instance where you talked to the
24 -- where you actually attended the autopsy, did you talk with
25 any other pathologist during your career in Columbia.

1 A: No, Dr. Durso is the primary pathologist that they use at
2 Palmetto Health.

3 Q: All right. Now, have you had an occasion to talk with
4 pathologists in any other county with regard to a death?

5 A: Dr. Janice Ross at Newberry, a pathologist in Newberry,
6 South Carolina.

7 Q: All right. And why did you have occasion to talk to that
8 doctor in Newberry?

9 A: Okay. The individual died -- and that's the pathologist
10 that they use there from SLED.

11 Q: Okay.

12 A: It's closer for them to get there. So, it wasn't an
13 issue of the coroner's authorization, any information on the
14 cause of death, they would send back to us.

15 Q: All right. Now, we also heard you testify about in
16 response to questions about going to the death scene?

17 A: Uh-huh, (affirmative response).

18 Q: And I believe I understood you to say that going to the
19 death scene is just simply going to the place where the
20 decedent died or may have sustained a fatal injury; is that
21 right?

22 A: Correct.

23 Q: Now, I heard you tell us earlier that you have gone to
24 the death scene hospitals about five or six times; is that
25 right?

1 A: Correct.

2 Q: Have you gone to death scenes at any other place other
3 than a hospital where somebody passed ---

4 A: Yes.

5 Q: Where else have you gone to a death scene?

6 A: An accident on 521, I couldn't get to it, but I was
7 there. There was an accidental death on the lake, an
8 individual was cutting down a tree and one of the limbs swung
9 out and caught him at his ---

10 Q: Okay. Can you think of any other times?

11 A: I've been to -- I've been to some more, but the only
12 person that could remember those particular scenes is, is --
13 the, the acting judge who needed me to go with him.

14 Q: All right. When you talk about the acting judge, you're
15 talking about the Magistrate Judge?

16 A: Yes.

17 Q: Okay. And why -- I'm not clear on that. Why, why would
18 it have been a situation where a Magistrate Judge would have
19 been on a death scene?

20 A: When the coroners and deputy coroners were not available,
21 at one point in time you could use the judges to go to those
22 scenes and the judge did not -- was not knowledgeable of what
23 to do when he got to the scene.

24 Q: Okay.

25 A: So, I went with him. I met him there so that I could

1 tell him how to do that.

2 Q: All right. And you in fact did tell him what to do on
3 that particular case?

4 A: Yes, yes.

5 Q: And that's happened more than once, right?

6 A: Yes.

7 Q: Now, you talked about your experience in terms of dealing
8 with other agents and you mentioned local, city, county law
9 enforcement officials, SLED, how many times have you had an
10 occasion to talk with law enforcement over your 13-year career
11 about a death, and I believe you can include highway patrol in
12 there, too?

13 A: Yes.

14 Q: More than a hundred?

15 A: Probably, yes.

16 Q: And I believe we heard testimony on last Friday that
17 Clarendon County on average has about 200 to 250 deaths per
18 year?

19 A: Correct.

20 Q: You would agree with that number?

21 A: Yes.

22 Q: And the next factor that I was talking about would be
23 assessing the decedent. Did you understand, Ms. Gast
24 testified on Friday that assessing a decedent may mean moving
25 the body and perhaps taking photographs.

1 A: Correct.

2 Q: And you indicated to us that you had at least one
3 experience in terms of taking photographs ---

4 A: Correct.

5 Q: --- as part of death investigation?

6 A: Correct.

7 Q: You've indicated that you talked with next of kin; is
8 that right?

9 A: Correct.

10 Q: All right. Have there been times when you had to
11 yourself identify a person who had passed away?

12 A: I was at one scene at the hospital.

13 Q: Okay. And you identified that individual?

14 A: I knew who that individual was.

15 Q: I'm sorry?

16 A: I knew that individual.

17 Q: Yes, ma'am. Another part of death investigation in
18 addition to establishing the chain of custody with regard to
19 the blood sample that you told us about. Another part of that
20 requires you to safeguard or requires the person conducting
21 the death investigation to safeguard the decedent's personal
22 effects and belongings, right?

23 A: Correct.

24 Q: Obviously, you would need to do that because they may
25 have some evidentiary value and you would want to turn those

1 over to law enforcement, right?

2 A: Correct.

3 Q: And sometimes in a case where it's a natural death, you
4 want to safeguard the decedent's personal belongings to turn
5 them over to his or her next of kin, right?

6 A: Correct.

7 Q: And of course during your 13 years at the coroner's
8 office you had many occasions to safeguard the decedent's
9 personal effects?

10 A: Correct.

11 Q: Now, we had talked earlier about preparing a report with
12 regard to death investigations and the scene and I believe
13 that you indicated that or you may not, you were asked a
14 question, have you had occasion to do that while working at
15 the coroner's office to prepare reports?

16 A: Yes.

17 Q: All right. And tell me how that process comes about?

18 A: Once the deputy coroner or the coroner went out on a
19 call, they take specific information. They in turn would call
20 me and say, all right, we have Jane Doe or John Doe and we
21 need to schedule an autopsy. So, I would make a call to the
22 -- to the on-call -- to the paging operator to give them
23 enough information to schedule the autopsy. I may sometimes
24 even do a Jane Doe or a John Doe because we don't have
25 information as of yet.

1 Q: Yes, ma'am.

2 A: But once I got that information, then I would notify the
3 driver of the coroner's van that you need to be Florence by
4 9:00 -- in Charleston by 9:00. Once I got that information, I
5 would go into the office, type up the coroner's report, do the
6 authorization, do a BRT, a Burial-Removal-Transit permit, so I
7 can submit all of that with the body. I would also contact
8 the sheriff's department or the City, whatever, the accident
9 scene, I would like to have the -- their report, the incident
10 report for the coroner's office. I would also ask for the CAD
11 reports for dispatch. I then will try to complete -- with all
12 of that information, I would try to complete the coroner's
13 report with the information they had given me. Sometimes it's
14 they -- I'd request pictures.

15 Q: Sometimes -- I'm sorry ---

16 A: Pictures, pictures of the scene.

17 Q: Yes, ma'am.

18 A: And from that information, I would then do the narrative
19 and the total report, name, address, phone number, next of
20 kin, if you find any identification on said body, and any
21 personal belongings that the coroner's office recovered.

22 Q: So am I correct in saying it sounds like you, in those
23 instances, were doing a lot more than administrative work,
24 right?

25 A: Yes, yes.

1 Q: Okay. So, let me ask you this, have you had an occasion
2 in your employment with the coroner's office to get -- strike
3 that. Let me ask this question first. How did you get the
4 information from the coroner or the deputy coroner as to what
5 to include in the report? How would you get that information?
6 A: What to include?
7 Q: Yes.
8 A: Sometimes they wouldn't give me that information, I had
9 to do that myself in reading their report. Once -- once I
10 spoke to the coroner or the deputy coroner and if I asked them
11 some questions to get a better insight of what they actually
12 saw, then that meant that I would subpoena medical records or
13 subpoena the doctor's records to see what they -- what
14 information they had, then I would include that, too.
15 Q: Okay.
16 A: Because in some instances, the individual may have died
17 at 3:00 A.M. this morning but the schedule for an autopsy
18 wouldn't be to the next day. So, I had the opportunity to
19 subpoena records and/or to speak to a physician.
20 Q: Okay. And, and during that process, in terms of
21 gathering information from the coroner's report, you would,
22 after reading certain information like medical records, you
23 would share what you had discovered with the deputy coroner or
24 the coroner who was in charge or was leading the death
25 investigation, right?

1 A: Correct, as well as with the pathologist.

2 Q: And you would give them information concerning what you
3 had found and what you thought of what you had found?

4 A: Correct.

5 Q: But obviously, you left the final determination to the
6 deputy coroner or the coroner who was in charge?

7 A: Correct.

8 Q: Now, I believe the last thing Mr. Mock's counsel may have
9 asked you was about completing the death certificate. What is
10 the process for completing a death certificate?

11 A: Most death certificates are done on Web Death.

12 Q: I'm sorry, say it again?

13 A: Most death certificates are now done on Web Death. South
14 Carolina has gone electronically to do death certificates.

15 Q: Okay.

16 A: I input the information for that coroner or that deputy
17 coroner and they have a password and a code and a user name.
18 And once I had completed that, I would let them know and they
19 can come in and do their -- do their -- and do the signatures.

20 Q: All right. So, once you completed the information for
21 the death certificate, what would -- what would remain for the
22 coroner or deputy coroner to do?

23 A: To sign.

24 Q: Just to sign?

25 A: Yes.

1 Q: All right. So, let's go through all of the factors that
2 we look at in terms of conducting a death investigation. All
3 right. Let's go through those real quick. Looking at the
4 cause and manner of death, you've done that; is that right?

5 A: Yes.

6 Q: Although obviously, the final decision rests back with
7 either the coroner or the pathologist, right?

8 A: Correct.

9 Q: Gathering info, you've done that, right?

10 A: Yes.

11 Q: All right. We're at two. Going to the death scene,
12 you've done that, right?

13 A: Yes.

14 Q: You're at four -- I mean, I'm sorry, we're at three.
15 Working with her agencies, i.e. law enforcement and
16 pathologists; you've done that, right?

17 A: Yes.

18 Q: We're at four. Assessing a decedent, including taking
19 pictures; we know you've done that at least once, right?

20 A: Right.

21 Q: All right. So, we're at five. Talking to witnesses and
22 next of kin; you've done that, right?

23 A: Yes.

24 Q: So, we're at six. Identifying the decedent ---

25 A: Yes.

1 Q: --- you've done that at least once, right?

2 A: Yes.

3 Q: So, we're at seven. Issuing subpoenas, you've done that
4 countless times, right?

5 A: Yes.

6 Q: All right. So, we're at eight. Attend an autopsy?

7 A: Yes.

8 Q: You've done that, I believe, two times is your testimony?

9 A: Yes.

10 Q: All right. Prepare written documentation of the scene
11 based upon what you observed at the times you've gone out to
12 the death scene or based solely on what the coroner or deputy
13 coroner said; you've done that, right?

14 A: Yes.

15 Q: We're at nine. Safeguard a decedent's personal effects
16 and deliver them to the next of kin or law enforcement; you've
17 done that, right?

18 A: Yes.

19 Q: So, we're at ten. The last one I've got is completing
20 the death certificate. You've completed that information, but
21 you've just never signed?

22 A: Correct.

23 Q: So, out of this long list of things that go into death
24 investigation, you've done all but one of them, meaning to
25 make a final determination as to cause or manner of death,

1 right?

2 A: Correct.

3 Q: And, ma'am, even with your experience over the years,
4 certainly if elected to serve as coroner, you'd be able to
5 make that determination, right?

6 A: Yes.

7 Q: There hasn't been any occasions where you have gathered
8 information on a death investigation including medical records
9 or talking with family members and witnesses who may've seen
10 the decedent die, you can't recall a particular time that
11 you've done that and your conclusion was different from the
12 coroner or the deputy coroner in that case, have you? There's
13 never been a situation where you said, well, you know, I think
14 it may've been a heart attack because this person had a
15 history of heart disease and his wife said he had had a heart
16 attack a year ago and you shared that information with the
17 coroner and there hasn't been an occasion where the coroner
18 said no, LaNette, I think you're all wrong on that; that's
19 never happened, right?

20 A: No.

21 Q: Have you actually read any autopsy reports?

22 A: Yes.

23 Q: Would it be fair to say it's been at least 50 autopsy
24 reports you've read over the course of 13 years?

25 A: Yes.

1 Q: Or am I skimming off the number ---

2 A: You're skimming a lot off the top.

3 Q: Okay. I mean, well, you tell me.

4 A: For every autopsy that is done and has come into my
5 office, I've read every last one of them.

6 Q: Okay. And on average per year, how many autopsies do you
7 see?

8 A: Last year we were \$80,000 over the budget amount, so I
9 think it was -- I think we did 43 autopsies last year.

10 Q: And you read every single one of those autopsy reports?

11 A: Yes.

12 Q: You were talking earlier about instances where if a baby
13 had died in utero and there was -- you all were trying to
14 determine what caused that baby to have died -- were you just
15 kind of listing a hypothetical or did you have actual
16 experience in the case that was like that?

17 A: Actual case.

18 Q: Okay. How many times?

19 A: Clarendon County, I would say in a year may have four or
20 five fetal deaths.

21 Q: Okay.

22 A: No more than four or five, I would say. Sometimes -- and
23 most of those fetal deaths occurred at the hospital.

24 Q: Sure.

25 A: And when the nurse would call, she would say, well, the

1 mother tested positive for drugs.

2 Q: Okay.

3 A: Okay. That meant that we have to go a little further.

4 Q: Sure.

5 A: Okay. So, that meant notification to SLED. That's SOP
6 that we have to have in to them within 24 hours. That means
7 getting the father's name and mother's name, if the mother is
8 willing to give the father's name.

9 Q: Okay.

10 A: If there are any other children within the home, and if
11 it's -- if the mother a known user, then that means we have to
12 notify Department of Social Services, Protective Services for
13 other minor children that's in the home. So, yes, that's --
14 there's been some cases that I've dealt with.

15 Q: All right. So, ma'am, would it be fair to say, now that
16 we've kind of itemized everything that you've done and we have
17 good understanding of average numbers of deaths in Clarendon
18 County per year, you have more than 640 hours of death
19 experience, don't you?

20 A: I think so, yes.

21 Q: Judge, those are all the questions I have.

22 Thank you, Ms. Cooper.

23 A: All right.

24 THE COURT: All right. Any -- oh, I'm sorry, any cross?

25 MR. THICKENS: No questions, Your Honor.

1 MR. TYSON: I didn't want to -- make sure they get --

2 REDIRECT EXAMINATION OF LANETTE SAMUELS-COOPER BY MR. TYSON:

3 Q: I have just a hand full of questions, Ms. Samuels-Cooper.

4 Let me make sure, just based on that -- well, let me step

5 back. We went through the complaint and it was Exhibit E.

6 If you'd mark that as the next exhibit. And it was two
7 news articles.

8 COURT REPORTER: Plaintiff's 5.

9 PLAINTIFF'S EXHIBIT NUMBER 5

10 MARKED FOR IDENTIFICATION

11 BY MR. TYSON:

12 Q: This is Plaintiff's Exhibit Number 5 and these are the
13 two news articles that were attached, and that's The Sumter
14 Item and The Manning article. And I think you testified you
15 recall those articles, right?

16 MS. BARR: Your Honor, we would object to this line of
17 questioning. It's outside the scope of redirect.

18 THE COURT: How does is this within the scope of
19 redirect?

20 MR. TYSON: She just asked her whether she was qualified
21 and in those articles she said she's not qualified, so I just
22 wanted to ---

23 THE COURT: Go ahead.

24 BY MR. TYSON:

25 Q: Well, in those articles, do you recall we had testimony

1 on those and you talked about you had read them?

2 A: Uh-huh, (affirmative response), yes.

3 Q: Okay. And is there anything in those articles from when
4 you gave -- talking to those two people that was inaccurate?

5 A: I would say so, because I was -- I probably told them
6 that I have some experience but not as much as the coroner.

7 Q: So, if the article says something different you're saying
8 that the article was not an accurate portrayal?

9 A: Correct.

10 MR. TYSON: Your Honor, I'd move that to be introduced as
11 the next exhibit.

12 THE COURT: Any objection?

13 MS. BARR: Yes, hearsay, Your Honor. The witness doesn't
14 have -- can't lay a foundation to get that in, she's not the
15 person who wrote it and she's not the -- part of the news
16 organization that printed it.

17 MR. TYSON: She just said she's read it and she said that
18 those are the words she remembered when they were, Your Honor.

19 THE COURT: No, she said they weren't accurate.

20 MR. TYSON: That's fine, Your Honor. I withdraw that
21 then.

22 THE COURT: All right.

23 BY MR. TYSON:

24 Q: Ms. Samuels-Cooper, the first questions that we had,
25 counsel went through a list of you applying for some class,

1 right; do you remember that?

2 A: Correct.

3 Q: And I think the date that you said you did that, I think
4 she said something, you signed up for a class on March the 1st
5 or something like that?

6 A: Correct.

7 Q: Okay. So, you were trying to take the class, right, to
8 become qualified?

9 A: No, I was taking the course because the statute
10 stipulated that you have a year to complete your
11 qualifications, and I was trying -- and I'm going to take
12 those courses to get a head start on the qualifications.

13 Q: And so -- and we went through this and I don't want to
14 belabor the point, but on Exhibit Number 2, when you filed
15 your affidavit, you didn't check that box, right?

16 A: Correct.

17 Q: And this is March 19th, so this is nearly three weeks
18 after you signed up for the class and so you're not testifying
19 today that you meet that box, are you, that I've completed a
20 forensic science program or I am enrolled in a class. You're
21 not testifying to that today, are you?

22 A: I'm enrolled, yes.

23 Q: But you didn't check the box, though, is what I'm asking
24 you.

25 A: Oh, that's ---

1 Q: On your affidavit you did not tell the world that you are
2 enrolled. So, at that time, you didn't believe you were
3 enrolled, right?

4 A: I think on the bottom of that one -- which one is that?

5 Q: It's, it's Exhibit Number ---

6 A: It's showing -- it's showing the course that I'm taking
7 August the 13th.

8 Q: That's right. It says you're gonna take a class on
9 August the 13th, that's right. But I'm asking about the
10 qualifications and the box that we went through in Item Number
11 10 where you're supposed to tell the world how you meet one of
12 those statutory requirements.

13 A: Okay, yes. I didn't check the box ---

14 Q: You didn't sign up until after. Okay.

15 THE COURT: All right. Wait a minute. Y'all have got to
16 talk one at a time. You're giving my court reporter a hard
17 time.

18 MR. TYSON: I'm sorry, Madam Court Reporter.

19 BY MR. TYSON:

20 Q: So, you didn't -- after you signed up for that class that
21 counsel just asked you about, you didn't tell the world that
22 that's how you are qualifying, right?

23 A: No.

24 Q: Okay. And was that done because that's not a way that
25 you believed you were qualified? That was a poor question,

1 I'm sorry. You're right to turn your head on that. Let me
2 ask again. Why didn't you check the box? Why didn't you
3 check any box?

4 A: I checked the box because I thought I was being qualified
5 by the statutes.

6 Q: You didn't check the box, though, that's the problem.

7 A: Not on the -- okay. On the first one, I didn't check the
8 box but I showed the course.

9 Q: Okay. Well, let's go to the second one, then.

10 A: On that one I didn't show the course, because it was --
11 that's the only difference, I checked the box on the next one.

12 Q: No you didn't, did you?

13 MS. BARR: And, Your Honor, to the extent that this line
14 of questioning is outside of the scope of redirect, we'd
15 object. Also, Judge, we'd object on the basis that that
16 question has been asked and answered repeatedly.

17 MR. TYSON: Let me just clean that up real quick. Yes,
18 sir.

19 BY MR. TYSON:

20 Q: Just to be clear, on that class that she just asked you
21 about, on those affidavits, you didn't use that class to
22 demonstrate that was one of the criteria in Question Number 10
23 that you made the statutory qualifications, correct?

24 A: Correct.

25 Q: Okay. And the -- we were talking about this program, the

1 ABMDI, and you've heard -- you heard -- you were here when the
2 Judge had questions to Ms. Gast, right, about this program,
3 right?

4 A: Uh-huh, (affirmative response), yes.

5 Q: And you heard the concern about how could anybody sign up
6 for that class, right?

7 A: Correct.

8 Q: Okay. You're not testifying today that you're signed up
9 for the ABMDI class, are you?

10 A: I think I am according to the letter from Mr. Johnson.

11 Q: Did you hear the Judge ask her and said how can anybody
12 ever sign up for that class?

13 MS. BARR: Your Honor, that line of questioning is
14 irrelevant.

15 MR. TYSON: If Your Honor -- I would just say that the
16 evidence that was introduced on ---

17 THE COURT: I'll allow it. Go ahead.

18 MR. TYSON: Thank you.

19 BY MR. TYSON:

20 Q: So, let me just be clear, you're not saying today that
21 you're signed up, enrolled in the ABMDI program? I understand
22 that letter says provided by St. Louis but I'm asking you are
23 you -- do you believe you are enrolled in the ABMDI program?

24 A: I don't think so. The ABMDI is a board as I understood.
25 Is it a board or is it a ---

1 Q: It's a certification process is what Ms. Gast told the
2 Judge.

3 A: Okay.

4 Q: Let me ask you about the question about 13 years. You
5 said you had 13 years of experience in responding to deaths,
6 to the question by counsel. Was your brother the coroner?

7 A: Yes.

8 Q: Okay. And so you worked for him?

9 A: Yes.

10 Q: Okay. Were you a county employee?

11 A: No. I was hired by the coroner.

12 Q: You were hired by the coroner, so you're not a county
13 employee?

14 A: No.

15 Q: Right. So, what authority did you have to conduct death
16 investigations as hired by your brother who is -- he owned the
17 funeral home, too, right?

18 A: Yes.

19 Q: What authority did you have to do anything?

20 MS. BARR: Objection, outside the scope of redirect, Your
21 Honor.

22 MR. TYSON: I don't believe so.

23 THE COURT: Go ahead. I'll allow that question.

24 BY MR. TYSON:

25 Q: You talked about your experience for 13 years of doing

1 all of these things. Now that I understand that you weren't
2 even employed by the county, you were working for your brother
3 at the funeral home, I'm not understanding what
4 responsibilities and how this fits into today's ---

5 A: As the coroner, he had in his budget secretarial
6 services. I worked under secretarial services for the
7 coroner.

8 Q: You worked under secretarial services for the coroner?

9 A: Uh-huh, (affirmative response).

10 Q: And you performed functions under that job?

11 A: I performed all of the functions for the coroner's
12 office.

13 Q: It -- was there a job description?

14 A: As administer, yes, there was.

15 Q: Okay. And who provided the job description, the coroner
16 or the funeral home director?

17 A: The coroner.

18 Q: To provide these secretarial services?

19 A: Uh-huh, (affirmative response), yes.

20 Q: Ms. Samuels-Cooper, you understand that the law provides
21 that a coroner or a deputy coroner are the ones who provide
22 death investigation experience, right?

23 A: Yes.

24 Q: The question was asked about the death certificate at the
25 end, I want to make sure, you didn't sign a death certificate,

1 did you?

2 A: No, I did not.

3 Q: You just entered the information as part of your
4 secretarial work?

5 A: Correct.

6 Q: Thank you. No further questions.

7 MS. BARR: Judge, may I ask a couple.

8 THE COURT: Okay.

9 MS. BARR: Just very briefly, Your Honor.

10 RECROSS EXAMINATION OF LENETTE SAMUELS-COOPER BY MS. BARR:

11 Q: Ms. Samuels, you were employed by Clarendon County,
12 right?

13 A: Starting January the 24th.

14 MR. TYSON: I'm sorry; starting when?

15 A: January the 24th.

16 MR. TYSON: Of this year?

17 A: Yes.

18 BY MS. BARR:

19 Q: Now, let me see the affidavits that counsel was
20 referencing, I have one of them. Is the other on in here?
21 Let me just make sure if I understand this now. I just got
22 this exhibit from you, right?

23 A: Yes.

24 Q: And was that the exhibit that you were referring to when
25 you were answering counsel's questions regarding affidavits

1 and where you put what information were you referring to that
2 particular exhibit?

3 A: No, ma'am.

4 Q: Okay. You weren't referring to this exhibit?

5 A: No, this isn't ---

6 Q: Okay. Because this is Mr. Mock's affidavit; is that
7 right?

8 MR. TYSON: What exhibit number is that?

9 MS. BARR: Your -- Number 1.

10 BY MS. BARR:

11 Q: So, ma'am, I want to be perfectly clear, on the first
12 affidavit that you submitted along with your application, you
13 actually made reference to paragraph number 11 and indicated
14 that you are scheduled for a medicolegal death investigation
15 on August the 13th through August the 17th of 2018, right?

16 A: Correct.

17 Q: Now, in terms of talking about a particular box that you
18 would've checked to say that, there isn't a box on Paragraph
19 11, is it?

20 A: No, it's not.

21 Q: So, you couldn't have checked the box because there was
22 no box to check as it relates to that particular requirement,
23 right?

24 A: Correct.

25 Q: And obviously, there's no box on your second affidavit,

1 is there?

2 A: No, there's not.

3 Q: Now, the reason why you enrolled in that particular
4 course is because you went to the South Carolina Coroner's
5 Association website, right?

6 A: Correct.

7 Q: That website directed you to the code that we've talked
8 about?

9 A: Correct.

10 Q: And that code directed you to St. Louis University for
11 the medicolegal death investigation course, right?

12 A: Correct.

13 Q: And if we're to assume that, again, the number of deaths
14 on average in Clarendon County to be 200 to 250, we're talking
15 about over the span of your 13 years, more than 2,000 deaths,
16 is that right?

17 A: Yes.

18 Q: All right. And I've heard Mr. Mock to say that he has
19 conducted death investigations with regard to about 4,000; is
20 that right?

21 A: Correct.

22 Q: And you would certainly agree with me that you have been
23 involved during that 13-year period with about a fourth or
24 maybe even as much as a third of those death investigations,
25 right?

1 A: Correct.

2 MS. BARR: Your Honor, that's all the questions I have.

3 THE COURT: You may step down.

4 MR. TYSON: Your Honor, one more witness for me and it'll
5 be a brief one, Ms. Patricia Pringle.

6 THE COURT: Okay.

7 CLERK: Raise your right hand and place your left hand on
8 the Bible; repeat your name please.

9 MS. PRINGLE: Patricia Pringle.

10 PATRICIA PRINGLE, HAVING BEEN SWORN

11 TESTIFIES AS FOLLOWS:

12 COURT REPORTER: I need to spell your last name, please.

13 MS. PRINGLE: P-R-I-N-G-L-E.

14 DIRECT EXAMINATION OF PATRICIA PRINGLE BY MR. TYSON:

15 Q: Good morning, Ms. Pringle. I just have a hand full of
16 questions for you and my name is Rob Tyson and I'm the lawyer
17 here for Bucky Mock. Thank you for being here.

18 Can you say your name again for the Court?

19 A: Patricia Pringle.

20 Q: And where do you live, Ms. Pringle?

21 A: Pineville.

22 Q: Is that in Clarendon County?

23 A: Yes, sir.

24 Q: And are you currently the Clarendon County Democratic
25 Party Chairperson?

1 A: Yes, sir, I am.

2 Q: How long have you been in that role?

3 A: Four years, because it's two two-year terms, so, this is
4 my second term.

5 Q: And can you just briefly describe some of the
6 responsibilities for the County Party as it relates to
7 candidate filing?

8 A: What we're responsible for, once the -- once the person
9 that they're having to file with our Voter Registration
10 Office, they file the intent to candidacy with the Voter
11 Registration and then any other candidate like the coroner or
12 the sheriff, they have special affidavits that they need to
13 file and they file those with the Clarendon County Democratic
14 Party.

15 Q: And then what happens after that?

16 A: Once they do that and after the filing closes and we
17 receive notifications from the Voter Registration that the
18 candidates have filed and they have filed the filing fee, then
19 I forward that information to the State Democratic Party.

20 Q: Okay. And then what do they do after that?

21 A: And once I forward it there, then the State Democratic
22 Party, they will determine whether or not that person meet the
23 qualifications based on the information that they've got in
24 the affidavits and the intent to candidacy.

25 Q: Then what happens after that?

1 A: Then the State Democratic Party will notify the
2 candidates and notify the County Voter Registration Election
3 -- Voter Registration that those candidates qualify and meet
4 the qualifications to be placed on the ballot.

5 Q: And so, obviously, you know our dispute here today is, or
6 over the past couple of weeks, is whether Ms. Samuels-Cooper
7 meets the qualification, right?

8 A: Right.

9 Q: Okay. And, and part of the -- let me ask, were you aware
10 of potential concerns about Ms. Samuels-Cooper's experience
11 and qualifications prior to filing?

12 MR. SABB: I object on the grounds of relevance.

13 THE COURT: I think it's relevant. I'll allow it.

14 A: Can you repeat the question?

15 BY MR. TYSON:

16 Q: Yes, ma'am. Prior to filing, were you aware of any
17 concerns raised about Ms. Samuels-Cooper's qualifications to
18 run?

19 A: Prior to filing for her to run for coroner?

20 Q: Yes, ma'am.

21 A: No.

22 Q: Okay. All right. So, then she filed March the 19th,
23 correct?

24 A: Yes, sir.

25 Q: Let me -- let me -- this is what we've been looking at.

1 This is Exhibit Number 2 and that's an affidavit of Ms.
2 Samuels-Cooper that she filed on March the 19th?

3 A: Yes, sir.

4 Q: When do you see that in the process; when does that get
5 to you?

6 A: March 19th, when she -- when she actually filed this.
7 She brought it to me the same day she had it notarized.

8 Q: Okay. And did you look at it?

9 A: Yes, sir; I did.

10 Q: Did you see any -- all those boxes weren't -- no box was
11 checked?

12 A: Yes, sir; I did.

13 Q: And what happened then?

14 A: I sent it up to the State Chairman, Trav Robertson and I
15 sent a email, and I noted in the email that I had a question
16 concerning the qualifications because none of the boxes were
17 checked.

18 Q: So, you raised that to Mr. Robertson?

19 A: Right, I did.

20 Q: Prior to the closing of filing?

21 A: No, it was done on April the 3rd. I sent both of them up
22 at the same time. I sent her affidavit and Bucky Mock
23 affidavit, both of them, on April the 3rd to Trav Robertson,
24 because you have up until April the 12th -- to a minimum of
25 April the 5th to get all of the information in and to get it

1 back to Voter Registration.

2 Q: All right. Let me make sure I understand that. Filing
3 closed on March the 30th at noon?

4 A: Right.

5 Q: And then so you sent the information that had been
6 submitted to you for the office -- for the two folks that were
7 running for coroner to the State Democratic Party after filing
8 has closed?

9 A: Right, because I had to wait until after filing was
10 closed to send it. Once I got verification from Voter
11 Registration office that everybody filed an intent to
12 candidacy.

13 Q: All right. And so, you just said that you knew when you
14 saw that on March the 19th, there was a problem with the
15 affidavit, right?

16 MR. THICKENS: Objection, Your Honor, it mischaracterizes
17 her answer.

18 THE COURT: I'm sorry, I couldn't hear you.

19 MR. THICKEN: Object on the grounds that that
20 mischaracterizes her answer.

21 THE COURT: Okay. Rephrase the question.

22 BY MR. TYSON:

23 Q: Well, let me ask it again, then. I thought you just said
24 when she gave you that -- did you get that affidavit on March
25 the 19th?

1 A: I did.

2 Q: And did you have any concerns about it at that point in
3 time?

4 A: Not at that point in time, only when I emailed it all up
5 to Trav Robertson on April the 3rd.

6 Q: So, you didn't look at it at all?

7 A: I just glanced at it, but I didn't really pay that much
8 attention until I got -- until I sent all of them up at the
9 same time.

10 Q: Who's got the responsibility to certify that the
11 candidates meet the qualifications; is it the County
12 Democratic Party or the State Democratic Party?

13 A: The State Democratic Party certifies the candidates.

14 Q: So, you've got no role in determining whether this
15 candidate or that candidate meets the statutory qualifications
16 for coroner?

17 A: Not since the State Democratic Party is doing that.

18 Q: Okay. Well, when did you become aware or you said you
19 sent the information up to Mr. Robertson on April the what,
20 2nd?

21 A: April the 3rd.

22 Q: April the 3rd. Okay.

23 A: Yes, sir.

24 Q: Did you send anything besides just the two affidavits?
25 Were there any other discussions or communications?

1 A: No.

2 Q: All right. Did you know there was a problem with her
3 affidavit?

4 A: Right, all boxes weren't checked.

5 Q: Okay. And how did you discover that?

6 A: When I got ready to email them, when I scanned them and
7 got ready to email them up.

8 Q: Did you talk to Bucky Mock at any point in time about
9 potential problems with Ms. Samuels-Cooper's qualifications?

10 A: He came -- he came to me and talked to me about it.

11 Q: And when was that?

12 A: At the office, he came by my office and said that he had
13 questions about whether or not she was -- she was qualified.

14 Q: And what did you do when he raised that protest to you
15 about whether she was qualified?

16 MR. SABB: Objection, to the classification of that.

17 THE COURT: Say that again?

18 MR. SABB: Yes, sir. His question is what did you do
19 when he raised a protest relating to that obviously for a
20 reason utilizing that term. That's not a protest. And I
21 would object on the additional ground that has been stipulated
22 to in the record that he did not file a protest. He's trying
23 to get it in through the backdoor, Judge.

24 MR. THICKENS: Your Honor, we would join in that
25 objection.

1 THE COURT: Okay. Re-ask the question.

2 MR. TYSON: I didn't mean to get Mr. Sabb up so quickly.

3 BY MR. TYSON:

4 Q: Let's figure this out again. Did you know that Mr. Mock
5 didn't think she was qualified?

6 A: Right.

7 Q: Did he tell you that?

8 A: Yes, he did, but he said he wasn't really that concerned
9 unless if he didn't win the election, then he would do
10 something about it.

11 Q: Okay. But he -- let's be clear. He raised the issue
12 with you concerning ---

13 A: He did at the forums. They did at county forums.

14 Q: Okay. All right. So, let me -- all right. In this
15 period of -- your testimony as I understood it, up until
16 filing, you weren't aware of Ms. Samuels-Cooper's potential
17 problems of being qualified, right?

18 A: Right.

19 Q: Okay. Then she -- then she files this affidavit on March
20 the 19th, and then you looked at it at some point in time and
21 send it to Trav Robertson?

22 A: That's correct.

23 Q: Okay. And my question was and at that point in time --
24 and I'm not gonna use the word protest -- but Mr. Mock was
25 challenging, he was concerned, fill in whatever adjective you

1 want to feel, or is that a verb, whichever one it is about
2 whether she met the qualifications, correct?

3 MR. SABB: Three objections. Number one, a compound
4 question. Number two, calls for a conclusion as it relates to
5 the idea of challenging. And number three, the issue
6 associated with challenging, strike that, with contest and
7 protest have been stipulated to.

8 MR. THICKENS: Join the objection, Your Honor.

9 MR. TYSON: Your Honor, I'm just asking a simple
10 question. Mr. Mock came up to her and -- I don't know what
11 word he used, but he raised an objection. He lodged a concern
12 about the qualifications.

13 THE COURT: You've asked her that and she's answered it.
14 You can ask her again.

15 MR. TYSON: Okay. I'm not gonna ask again.

16 MR. SABB: I object to asking it again.

17 THE COURT: Okay. I understand. I'm gonna let it in.

18 BY MR. TYSON:

19 Q: So, Mr. Mock has talked to you about his concerns with
20 that, correct?

21 A: He did.

22 Q: Okay. And did you do anything about that?

23 A: I didn't.

24 Q: Okay. But if I understood your testimony, you said that
25 you sent it to Trav Robertson?

1 A: Right, because he was certifying candidates. So, that
2 would be left up to him to do something about it.

3 Q: So, did you raise Mr. Mock's concern to the State
4 Democratic Party about whether ---

5 A: I didn't raise Mr. Mock's concern, but I told him that I
6 had concerns because all the boxes were not checked when I
7 sent it up there.

8 Q: Perfect. That's, that's -- that's what I was trying to
9 get to. So, the concern was raised to the State Democratic
10 Party about the affidavit didn't have any box checked, right?

11 A: Right.

12 Q: And so, Mr. Robertson ---

13 A: I knew she had a four-year degree but that's why I raised
14 that concerns because that was not checked on the box on the
15 affidavit.

16 Q: Okay. But you're not testifying -- do you know anything
17 else about whether she was qualified or not?

18 A: I did not.

19 Q: And you don't know that today then do you; can you speak
20 to her qualifications?

21 A: No, sir.

22 Q: Okay. So, you sent it to Mr. Robertson with some
23 notation that there was some potential problems with that
24 defective affidavit, right?

25 A: Yes, sir.

1 Q: Okay. And then you just said -- let me make sure I
2 understand this, too. You said that there at the candidate
3 forums -- what were you saying about these objections about
4 the qualifications, what was that?

5 A: They were some questions that were being asked of the
6 candidates and, and it was brought up and Mr. Mock did, too,
7 about her not being qualified, not meeting the qualification
8 about having the AB -- I probably mess that one up, that
9 acronym up. And he even say that he wouldn't even -- he
10 doesn't even have that. He couldn't even qualify -- I mean,
11 he could qualify by taking it, but he had not -- he had not
12 even taken that course himself but, you know, he was still
13 able to run for coroner even though he's not never taken that
14 course himself.

15 Q: Let me step back. Mr. Mock sent you -- gave you an
16 affidavit also for coroner qualifications and he meets the
17 qualifications, correct?

18 A: Right, based on his experience already being deputy
19 coroner.

20 Q: So, he doesn't have to take that class. That's not the
21 reason that he's running for coroner under the statute, right?

22 A: No, he doesn't have to take that class.

23 Q: All right. So, we go up to Mr. Robertson and you've
24 raised the concerns, and then what does Mr. Robertson do?
25 What happens next?

1 A: Oh, I just sent it to him and then he contacted Ms.
2 Samuels-Cooper.

3 Q: Okay. And then what happened next?

4 A: And then he said -- then she talked with him and she sent
5 an amended affidavit to him.

6 Q: And that's Exhibit Number 3, is that the one you're
7 referencing?

8 A: Yes, sir.

9 Q: Did you see that?

10 A: Yes, sir, when Trav Robertson sent that -- that everybody
11 met the qualifications, he sent that back and I saw it then.

12 Q: And then so she files an amended affidavit based on Mr.
13 Robertson's instructions or advice ---

14 A: I wouldn't say instructions, no.

15 Q: How does she know to file an amended affidavit?

16 A: You would have to talk with him about that. I sent it up
17 to him and he spoke with her. I didn't concern that.

18 MR. TYSON: It's gonna be Plaintiff's Exhibit Number 5;
19 is that right?

20 COURT REPORTER: Since we referenced that one as Number
21 5. I'm gonna have to keep that and it will be as
22 identification only.

23 MR. TYSON: Okay.

24 COURT REPORTER: And this will be Number 6.

25 PLAINTIFF'S EXHIBIT NUMBER 6

1 MARKED FOR IDENTIFICATION

2 BY MR. TYSON:

3 Q: I'm gonna hand you what's been marked as Exhibit 6. What
4 is that Ms. Pringle?

5 A: This is a letter from the South Carolina -- you want me
6 to read it.

7 Q: Just what is it?

8 A: Oh, a letter from the South Carolina Democratic Party
9 certifying that the candidates meet ---

10 MR. SABB: Judge, I object, object, object ---

11 BY MR. TYSON:

12 Q: Let me give you a little -- let me start again. Is that a
13 letter from Mr. Robertson?

14 A: Yes, it is a certification.

15 Q: Was it sent to you?

16 A: Yes.

17 MR. SABB: Judge?

18 THE COURT: Yes.

19 MR. SABB: So, I object, improper foundation.

20 THE COURT: You haven't let him lay the foundation.

21 MR. SABB: Well, here's my problem. My problem is, as
22 you're aware, she's essentially testifying to the document --
23 although it's not in evidence, there's testimony to it. So,
24 there is no foundation that has been laid by which this
25 witness is able to testify regarding this document because

1 it's not in evidence.

2 THE COURT: No, he didn't -- wasn't moving it in, he
3 marked it for identification and he's asking her what it was.

4 MR. TYSON: I'm trying to lay the foundation.

5 THE COURT: How can she lay the foundation without asking
6 how -- what it was and how she got it?

7 MR. TYSON: She worked through the process of what
8 happened with Mr. Robertson. I'm just following back through,
9 this is what he did after that. So, she's put ---

10 MR. SABB: Well, I ---

11 MR. TYSON: She's on the letter, that's what I was gonna
12 ask her.

13 MR. SABB: Here's my frustration with the point.

14 THE COURT: Okay.

15 MR. SABB: Trav Robertson was here when we last convened,
16 prepared to testify. They stipulate relative to this issue.
17 Trav Robertson is not here today to testify and here they are
18 trying to use documents that were prepared by him that we are
19 not in a position to, to question him regarding. It is simply
20 not a fair exchange on this particular issue. They're blind-
21 siding us on it.

22 THE COURT: Well, I mean, I know why he's not here and
23 why you dismissed him, because the issue was whether it was a
24 protest or not. I understand this question has nothing to do
25 with a protest; it's whether the -- this about the -- I mean,

1 he's not questioning whether a protest, whether ---

2 MR. SABB: No, sir. I disagree. I respectfully, if Your
3 Honor please, because the word protest would not have been
4 used if this was not about protest. The word challenge would
5 not have been used if this were not about protest. Judge,
6 let's not ---

7 MR. TYSON: No, Your Honor, if I could speak to it, this
8 letter talks about qualifications. That's exactly what we're
9 here for, the question is about whether she's qualified or
10 not. If you'll give me five minutes -- Mr. Sabb can stand up
11 and object all he wants but, clearly, I just -- I have the
12 right to be able to ask her about the letter she received that
13 she just testified about, clearly.

14 MR. SABB: I think it's hearsay. I think he -- it's
15 incumbent upon him to have the author of the letter here to
16 authenticate it and I think it's a violation of the rules of
17 evidence.

18 THE COURT: Okay. You continue to ask the questions to
19 authenticate it and then I'll see.

20 MR. TYSON: Yes, sir.

21 BY MR. TYSON:

22 Q: All right. Let's go through this. We're walking through
23 the process of what happened. You said that you called Mr.
24 Robertson and you sent out communications and you sent the
25 candidates' information along with this problem about her not

1 filling out a proper affidavit, correct?

2 A: Correct.

3 Q: Okay. And then Mr. Robertson has got to respond in some
4 way, correct, to that?

5 A: He responded by saying ---

6 MR. SABB: See, and that's -- I'm gonna object to all the
7 hearsay from this point forward. I object to it.

8 THE COURT: I understand, but he's -- her answer was he
9 responded by talking to her. Your client has already
10 testified she had a conversation with him. It's in the record
11 and he told her what box to check. That's already in the
12 record.

13 MR. SABB: I would still take the position that she is
14 not qualified to talk about it.

15 THE COURT: She can't talk about anything that he said to
16 your client.

17 MR. TYSON: I'm just trying to get the letter in.

18 BY MR. TYSON:

19 Q: It came back to you. You got this letter, right?

20 A: Right, I was cc'd on it along with the South Carolina
21 Election Commission.

22 MR. SABB: It is hearsay. It's offered for proof of the
23 matter asserted. She is not the author of it and we'd object
24 to it.

25 MR. TYSON: Your Honor, this really doesn't -- I mean,

1 it's a straightforward process. We got to get candidates on
2 the ballot and we got to determine how they're qualified.
3 Here's a letter that determines -- that's in the -- it's a
4 simple letter, if we get to talk about it, and then it has on
5 the second page ---

6 MR. SABB: No, no, sir, he's telling you about the
7 letter. I object to it.

8 MR. TYSON: I'm just trying to explain the process.
9 She's testified that she's part of the process. She just
10 testified and he responded to her. He just did that. She's
11 got to be able to put the names on the ballot.

12 THE COURT: Okay. He's objected it to it seriously.
13 Either you take the position it's not hearsay or it falls
14 under one of the exceptions.

15 MR. TYSON: It's not hearsay, Your Honor. It's a letter
16 that's written to her, it's straightforward, and it's -- she's
17 got it and it tells her who has the Democratic Party -- who
18 the candidates are that are certified. It as simple as that.

19 A: It not written to me, it's written to Shirley Black-
20 Oliver.

21 BY MR. TYSON:

22 Q: That's right. And then you're copied on the ---

23 A: I was copied on this.

24 Q: So, you got the letter and that's what we're trying to
25 get to.

1 A: Yes.

2 MR. TYSON: Your Honor, again, the central issue today is
3 about qualifications for this office.

4 THE COURT: I understand what the issue is. The question
5 is whether this is admissible evidence.

6 MR. TYSON: I understand, Your Honor.

7 THE COURT: You say it's not hearsay. Well, you've got
8 it. It's a statement. This person is not the one making the
9 statement. How is it not hearsay? So, if it is hearsay, it's
10 got to fall under one of the exceptions.

11 MR. TYSON: Yes, sir.

12 THE COURT: You tell me what exception you think it falls
13 under.

14 MR. TYSON: Your Honor, can we take a break for a few
15 minutes or ---

16 THE COURT: Yeah, we can, because I need one.

17 MR. TYSON: Yes, sir.

18 THE COURT: And I'm sure the court reporter does, too.
19 We'll take a 10-minute break.

20 MR. TYSON: Thank you, Your Honor.

21 RECESS - 11:43 A.M.

22 *****OFF THE RECORD*****

23 (On the Record - 11:54 A.M.)

24 MR. TYSON: Your Honor, just looking at this real quick
25 under the exclusions to the hearsay rule, 801(2), I believe

1 she -- meet that exception, opposing party statement, clearly
2 Ms. Pringle is an opposing party, was made by a party to an
3 individual, that's -- is one of the parties have manifested
4 that it adopted or believed to be true, that's met; was made
5 by a person whom the party authorized to make a statement on
6 the subject, that's true; or is made by the party's agent or
7 employee on a matter within the scope of that relationship,
8 clearly that's true, it's a letter from the Democratic Party.
9 I believe it meets that one, Your Honor. And ---

10 MR. THICKENS: Your Honor, it's not a statement by Ms.
11 Pringle. It's just as though she was a bystander to somebody
12 else's conversation.

13 MR. TYSON: It's offered against an opposing party, Your
14 Honor, is what it says. And then the other suggestion, I
15 believe it's Number 6, records of a regularly conducted
16 activity, a record of an event, an active event, condition,
17 opinion or diagnosis. If the record was made at or near of
18 the time by information transmitted by someone with knowledge,
19 clearly Mr. Robertson was that. The record was kept in the
20 course of the regularly conducted activity or a business,
21 clearly, it's that. Making the record was regular practice of
22 that, clearly it meets that. Although the conditions are
23 shown by the testimony or another qualified witness, which
24 that it is. And then the last part of that, it says the
25 opponent does not show the source of information or the method

1 of circumstances the preparation indicates a lack of
2 trustworthiness. So, it doesn't -- clearly we're not --
3 they're not contesting this based on trustworthiness.

4 So, Your Honor, I think either of those two apply and I
5 believe that she can testify to it and it ought to be admitted
6 into evidence.

7 MR. THICKENS: And, Your Honor, we'd still join in the
8 previous objection just on the grounds that she's copied on
9 the letter but doesn't have any personal knowledge regarding
10 it and really can't testify as to why the letter was kept or
11 sent in the course of the South Carolina Democratic Party's
12 business. She's with the Clarendon County Democratic Party.

13 MR. TYSON: And I'll just say back in response, he says
14 she can't testify to why it was sent. Clearly, she can
15 testify to why it was sent. That's the whole thing of what
16 we're talking about. It went up the chain to the Party.
17 She's just said that. She just raised the objection and now
18 he's responding back to what the official responsibility is.
19 So, clearly she knows about this and can testify to it.

20 THE COURT: Well, he -- I mean, tell me how you don't
21 think 801(d)(2) applies. Clearly, the Democratic -- the
22 statement offered against a party -- of course, under (1) it
23 required the declarant testify. How is it not a statement
24 offered against a party in the party's own statement in either
25 an individual or representative capacity?

1 MR. SABB: How is not a statement offered by ---

2 THE COURT: Under 801(d)(2) admission by a party-opponent
3 is what is excluded under the hearsay rule.

4 MR. SABB: Who is admitting what?

5 THE COURT: Under (d)(2), it's not hearsay, is what he's
6 telling me, because it is an admission by a party-opponent.

7 MR. SABB: An admission to what? That's not what this
8 document is, if Your Honor please. If he had a document that
9 purports to, to confirm an admission against a party-opponent,
10 I might agree, but that's not what this document is. To just
11 say that there's a rule and this document automatically
12 applies, that's not the nexus that our rules of evidence
13 require.

14 MR. TYSON: Your Honor, it's clearly -- the whole issue
15 is about whether she's qualified or not and this is saying,
16 this letter, once we discuss it, is saying that the State
17 Democratic Party has certified her because she's qualified.
18 So, that's -- that's exactly what it is.

19 THE COURT: And under (c) ---

20 MR. SABB: An admission by a party-opponent. So, well,
21 Judge ---

22 THE COURT: My understanding -- I don't know what's in
23 that letter, but I assume it says she's qualified and y'all
24 object to that?

25 MS. SABB: What I object to is not being able to question

1 the person that was here. If Trav Robertson was here and I
2 could ask him some other stuff that goes on in there, Judge, I
3 wouldn't have a problem. My problem is when they stand before
4 this Court and Your Honor point blank asks them is there an
5 issue as to whether or not the contest or protest of the
6 election and they say, as an officer of the Court, there is no
7 issue as it relates to it.

8 THE COURT: Right.

9 MR. SABB: We then rely on that.

10 THE COURT: But this has nothing to do with protesting
11 the election.

12 MR. SABB: I absolutely disagree. If Your Honor please,
13 here's what they're gonna try to do, Judge. They're gonna try
14 to tie in this business of qualification with this business of
15 the plaintiff raising a concern about it and somehow leapfrog
16 into the argument that make in their memoranda that it's a
17 futile process because the decisions had already been made.
18 That's where they're going with it, Judge.

19 THE COURT: I understand that's what you're anticipating
20 going with it, but that's not necessarily before me now. The
21 question is whether she's qualified, period, and -- it's
22 whether she's a qualified candidate, you know, based on the
23 fact that she did not -- plaintiff did not exhaust his
24 administrative remedies, I don't think I decide whether she's
25 a qualified candidate. It's clearly on the record she did not

1 file the appropriate affidavit within the time limit, but that
2 question is not before me. The central question before me is
3 whether she's qualified to be coroner.

4 MR. SABB: Yes, sir.

5 THE COURT: All right. Now, you know and hopefully this
6 case may be the one that the Supreme Court clears all this up
7 on. My hands are tied to some degree and whether I'm wrong on
8 my ruling on your motion that in fact he didn't need to
9 exhaust his administrative remedies, then I can decide whether
10 she is a proper candidate or not. This case would be a whole
11 lot easier if he had exhausted those remedies and I could make
12 the decision whether she's a candidate or not, but I'm kind of
13 in a box now and I don't think under the current law I can
14 make that decision. So, I granted your motion. Of course,
15 obviously they may want to appeal that and the Supreme Court
16 may say no, in this is the situation, the Judge is wrong, he
17 didn't need to exhaust his administrative remedies, he can go
18 straight to Court with it. That's different than what they
19 said in the past, but they change their mind on me all the
20 time. I have to move on what the law is, whether I agree with
21 it or not, and then they the only ones that can change that.

22 So, that's kind of where we are. Okay.

23 MR. TYSON: Thank you, Your Honor.

24 CONTINUATION OF DIRECT EXAMINATION OF PATRICIA PRINGLE BY MR.

25 TYSON:

1 Q: Let's just -- so you go this letter, it went to Mr.
2 Robertson, and then you got a copy back as the process went.
3 We just had this discussion.

4 I'd move for it to be introduced into evidence, Your
5 Honor.

6 THE COURT: Okay. And I -- I assume there's nothing in
7 that letter that said what's been testified to and I
8 understand that -- I'll admit it over the objection of
9 counsel. Okay.

10 PLAINTIFF'S EXHIBIT NUMBER 6

11 ADMITTED INTO EVIDENCE

12 BY MR. TYSON:

13 Q: Ms. Pringle, can you say what the second sentence of that
14 letter says, please? Can you read that to the Court?

15 A: The candidates meet or will meet by the time of the
16 general election or as otherwise required by law the
17 qualifications for office, which she or he has filed, South
18 Carolina Codes of Law, Section 7-13-40.

19 Q: So, as we walk through the process, you went up, you sent
20 the affidavit, I think you testified earlier, that there were
21 some concerns because none of the boxes were checked, it went

22 to the Democratic Party and then the response back from the
23 State Democratic Party is this letter; is that correct?

24 A: This was sent to Shirley Black-Oliver at the Clarendon
25 County Board of Voter Registration and Elections to certify

1 the candidates.

2 Q: All right. And what's on the second page of that letter?

3 A: The second page of that letter is a list of the
4 candidates for Clarendon County that filed that the State
5 Party had certified.

6 Q: All right.

7 A: The treasurer, the coroner, the -- unexpired terms, it
8 was a special election for them.

9 MR. SABB: I definitely object to Page 2.

10 THE COURT: Okay. I mean, what ---

11 MR. SABB: I never realized there was more than one page
12 and I apologize. He did pass it to me, but -- so, we were
13 dealing with the letter, Judge. Now, he's trying to introduce
14 the attachment to the letter.

15 MR. TYSON: Your Honor ---

16 MR. SABB: I object to that.

17 MR. TYSON: In the letter it says here are the qualified
18 candidates, and it's the list of the qualified candidates.
19 Clearly, that's the same thing. I mean, she's writing it out
20 County Election people to say here are the folks that are
21 qualified. That's all it is.

22 THE COURT: Anything -- anything unusual in that -- I
23 mean, okay. I'll overrule your objection.

24 BY MR. TYSON:

25 Q: Ms. Pringle, you are -- I apologize for putting you in

1 the middle of some evidentiary finagling, but I just think
2 this is -- let me make sure. Is this the list of candidates
3 that were qualified to be put on the Democratic Party primary
4 ballot?

5 A: Yes, sir.

6 Q: Okay. And is Ms. Samuels-Cooper on this list?

7 A: Yes, she is.

8 Q: So, the State Democratic Party certified her as a
9 candidate, right?

10 A: Yes, sir.

11 Q: Okay. And when was that? When did they certify her?

12 A: This letter was sent on April the 5th.

13 Q: Any reason to believe the State Democratic Party or the
14 County Democratic Party would take a different position as to
15 whether Ms. Samuels-Cooper is qualified or not?

16 MR. SABB: I object to that.

17 THE COURT: What ---

18 MR. TYSON: I've just -- this was done of April the 4th
19 and 5th. I asked was there any reason that there would be a
20 different opinion about it today?

21 MR. THICKENS: It calls for speculation, Your Honor.

22 MR. SABB: And why is it relevant?

23 MR. TYSON: She's the chair of the Democratic Party;
24 we're talking about qualification.

25 MR. SABB: Judge, I will once again reiterate that that's

1 not what the purpose of this question is. Is there any reason
2 why they would change their mind today? Judge, all of that
3 eludes -- that has nothing to do with qualifications. I'm
4 just telling the Court that that has everything to do with
5 this business of them concluding in the memoranda that it is
6 futile to file a contest or a protest because minds are made
7 up. That's the only purpose for that question. It's
8 inappropriate and I object to it.

9 MR. TYSON: Mr. Sabb has given me nefarious purpose and
10 I'm just trying to ask a question ---

11 MR. SABB: No, sir. If I were in your shoes, I'd
12 probably be doing the same thing. So, it's not nefarious.

13 THE COURT: Okay.

14 MR. TYSON: But my question was that today -- as of April
15 the 4th or 5th, she has just testified that was her position.
16 I just want to know if today that's her position. The County
17 Democratic Party as to whether they believe that Ms. Samuels-
18 Cooper is a qualified candidate. That's the issue we just
19 talked about, whether they believe that. We're gonna have
20 this dispute and then the County Party in that election, they
21 have to put somebody on the ballot. So, I'm asking -- and the
22 statute says right here, 7-13-350, political parties
23 nominating candidates by primary or convention must verify the
24 qualifications of those candidates prior to a certification to
25 the authority charged by law preparing the ballots. I'm

1 asking her under her responsibility of the statute, is she
2 gonna ---

3 THE COURT: She's not the Democratic Party. You can ask
4 her personal opinion, but she can't speak for the process, she
5 can't speak for the Democratic Party because that has not been
6 litigated with the Democratic Party. That was no issue.
7 Protests have been filed and they have been litigated in front
8 of the Party to make a determination whether the fact she was
9 not a proper candidate and at that hearing, it would've been
10 similar to the hearing today, there would've been testimony
11 and everything else. Now, you can ask her about her personal
12 opinion, but she can't -- she can't give the opinion of the
13 Democratic Party because that ---

14 MR. TYSON: She's got a statutory duty to do that, the
15 committee does, Your Honor.

16 THE COURT: She's not the committee. She's just a
17 person. Now, if the committee had acted and the committee had
18 done something, then she could say what the committee had
19 done. But she can give her personal opinion but she can't
20 give the opinion of the committee.

21 BY MR. TYSON:

22 Q: You've been doing this for four years, right?

23 A: Well, actually, I said four but this will be three
24 because I did two-year, a two-year term, and I just got
25 reelected by the Democratic Party in March of this year. So,

1 I'm beginning my -- this is the first -- this is the first
2 year of the second term. So, it would actually be two-and-a-
3 half years.

4 Q: All right. So, the Judge, he's spot on, he says I can't
5 ask about the party, I can only ask you as your personal
6 opinion as the chair, as you sit as the chair of that, you
7 believe that the County Political Party will certify Ms.
8 Samuels-Cooper as a qualified candidate?

9 MR. THICKENS: Objection, Your Honor, it's not relevant
10 to the determination that's in front of the Court as to
11 specifically whether Ms. Samuels-Cooper is qualified. That's
12 the main question.

13 THE COURT: You can't ask her what the chair -- what the
14 committee is gonna do; you can ask her what her personal
15 opinion about her qualifications are.

16 BY MR. TYSON:

17 Q: Your personal opinion as to qualifications of Ms.
18 Samuels-Cooper?

19 A: After listening Ms. Samuels-Cooper testify today, yes, I
20 would say that she's qualified based on her experience working
21 in the coroner's office for the past 13 years.

22 Q: Ms. Pringle, let me just -- let me make sure I
23 understand. When the affidavit was filed in March, you
24 received it, and nothing was done by the close of filing to
25 correct it, right? It was a defective affidavit filed by Ms.

1 Samuels-Cooper during the filing period, correct?

2 A: Right.

3 Q: Okay. Thank you. No further questions.

4 MR. SABB: If Your Honor please.

5 CROSS EXAMINATION OF PATRICIA PRINGLE BY MR. SABB:

6 Q: Ms. Pringle, congratulations on being reelected. You're
7 doing a fine job.

8 A: Thank you.

9 Q: So, let me make sure that I understand a couple of
10 things. So, Mr. Mock communicated with you during the filing
11 process; is that right?

12 A: Yes, sir.

13 Q: And in fact, he voiced some opinion, if you will, some
14 concern about the qualifications of his opponent, Ms. Samuels-
15 Cooper; is that right?

16 A: That's correct.

17 Q: And then he suggested to you that he'd wait to see
18 whether or not he was successful and, if he wasn't, he'd do
19 something about it; isn't that right?

20 A: That's correct, because he brought me a copy of a letter
21 from the President of the South Carolina Coroner's Association
22 to say about the ADD -- AMDDI course or whatever ---

23 Q: Right.

24 A: --- and he also brought me a copy of the lawsuit from --
25 whenever he ran for coroner against ---

1 Q: Yeah, so he was boning up, getting his ducks in a row,
2 right? And there's no question that this issue of
3 qualification was litigated in the court of public opinion
4 with the voters in Clarendon County, wasn't it?

5 A: Yes, sir.

6 Q: Heavily talked about, wasn't it?

7 A: Yes, sir.

8 Q: Mr. Mock made an absolute campaign issue regarding it,
9 didn't he?

10 A: Yes, sir.

11 Q: And the folks in Clarendon County, who were the jurors as
12 related to who they believe was qualified voted by majority
13 for Ms. Samuels-Cooper, didn't they?

14 A: Yes, sir.

15 Q: After Mr. Mock had said all he wanted to say, Ms.
16 Samuels-Cooper said her peace, and the voters, the backbone of
17 our democracy, elected her to represent the Democratic Party
18 of Clarendon County as their coroner on the November ballot;
19 isn't that a fact?

20 A: That's correct.

21 Q: Now, you know, I went to a school in Greeleyville, C.E.
22 Murray High School. Dr. Charles Edward Murray was our
23 principal. And, he would come into the courtroom, strike
24 that, classroom and, if were noisy, he would write Mr. Common
25 Sense is in charge, and we all knew that's when we needed to

1 quiet down because our common sense tells us to quiet down.
2 If -- you can view this as a hypothetical, if an individual
3 performs duties -- so the hypothetical is, an individual has
4 worked in a coroner's office for 13 years, assume that.
5 Further assume that after the 13-year period, the next day,
6 the person is fired, right; 13 years of experience, you're now
7 fired. The next day is fired, right? Common sense, does it
8 make any sense to you that if the person were working the
9 extra day, they would qualify for something, but because the
10 person fired them the day before, they don't qualify, does
11 that make any sense to you in terms of qualifications?

12 A: No, sir.

13 Q: And if an individual is performing a task, let's say,
14 this is just common sense to me, let's say you're reading a
15 autopsy report, right. And then next to you -- I like my
16 coroner in Williamsburg, Harrison McKnight, who I think is one
17 of the longest serving coroners in the State of South
18 Carolina, but -- Harrison McKnight is sitting down one place
19 and Samuels-Cooper is sitting down right next to him and
20 they're both reading the report, does it make any sense to you
21 that there would be a group that says that Harrison is reading
22 the report, so he gets a certain amount of hours credit
23 because he's reading the report but the person right next to
24 him can't have any credit because they're not coroners; does
25 that make any sense to you as it relates to just reading a

1 report?

2 A: No, sir; it doesn't.

3 Q: Does it make any sense to you that an individual who is
4 subpoenaing records -- let's use the same example, my coroner,
5 Harrison McKnight and Samuels-Cooper. If Samuels-Cooper is
6 here completing a subpoena to get medical records and then the
7 medical records comes in and Samuels-Cooper is here flipping
8 the pages, reading it, and Harrison McKnight is here flipping
9 the pages, reading it, that Harrison McKnight gets credit for
10 reading it, but Samuels-Cooper does not? Does not that make
11 any common sense to you?

12 A: No common sense, no.

13 Q: If Samuels-Cooper goes to an autopsy to observe, if
14 Harrison McKnight goes to an autopsy to observe, Harrison
15 McKnight gets credit for being there observing but Samuels-
16 Cooper gets no credit; does that make any common sense to you?

17 A: No, sir.

18 Q: If Samuels-Cooper goes to the scene of where an
19 individual unfortunately has expired in the hospital and she's
20 there talking to the nurses and gathering information and
21 those kinds of things and my favorite coroner, Harrison
22 McKnight is doing the same thing, does it make any sense to
23 you, common sense wise, that Harrison would get credit for
24 doing all of that but Samuels-Cooper would not?

25 A: No, sir.

1 Q: Did it surprise you to find out that that's what the
2 Coroner's Association is doing?

3 A: Yes, sir.

4 Q: Just as a regular citizen of Clarendon County, does it
5 seem fair to you how they're excluding others? Does it seem
6 fair?

7 A: It doesn't seem fair.

8 Q: And the other thing that's curious to us -- I have to
9 consult with my lawyer, Judge. Request permission to
10 approach?

11 THE COURT: Yes.

12 Q: Ma'am, I'm going to hand you what's marked as Defendant's
13 Cooper Exhibit Number 4. Just take a moment and browse
14 through that for me. Now, we've sat here -- I think you've
15 been here all three days, haven't you?

16 A: Two, this is the second day; I wasn't here the first one.

17 Q: You somehow escaped the first day?

18 A: Yes, sir.

19 Q: So, you were here when the young lady from York, the
20 coroner, who is now the president testified, right?

21 A: Yes, sir.

22 Q: You were here Mr. Mock testified, right?

23 A: Yes, sir.

24 Q: Now, do you recall them saying that the person needed to
25 be employed with the coroner's office at the time he or she

1 offers for candidacy as a part of them admitting a person into
2 the program; do you recall that testimony?

3 A: Yes, sir.

4 Q: Now, I've looked at Exhibit Number 4, which are the
5 qualifications. Would it surprise you to know, that nowhere
6 in the statute does it talk about anyone having to be employed
7 at the time; would that surprise you at all?

8 A: It did when I read that, it did.

9 Q: Now, another one for you. You heard Mr. Mock and the
10 young lady from -- and I apologize for not being able to call
11 her name ---

12 MR. TYSON: Ms. Gast.

13 Q: Thank you. Ms. Gast, a very impressive young lady by the
14 way -- talk about 640 hours of death investigation experience
15 in order to get into the course; you heard them talk about
16 that?

17 A: Yes, sir.

18 Q: Would it surprise you to know that nowhere in the statute
19 is that required?

20 A: It's not in there.

21 Q: I want to introduce one more exhibit, Judge, and I think
22 I'm gonna be finished.

23 THE COURT: Okay.

24 MR. SABB: Help me with a number please, ma'am?

25 COURT REPORTER: Defendant's 7.

1 MR. SABB: 7, thank you.

2 Your Honor, we'd offer into evidence at this time,
3 Defendant Samuels-Cooper Exhibit Number 7. We'd offer it into
4 evidence at this time.

5 THE COURT: Any objection?

6 MR. TYSON: I do object, Your Honor. No foundation has
7 been proffered. I'm not sure why it's relevant to the County
8 Democratic Party.

9 MR. SABB: Sure. We offer it not so much as it relates
10 to the County Democratic Party. It is a letter that was
11 provided by the plaintiffs that they attached to the memoranda
12 in opposition of our motion. So, it's actually some things
13 that they've sent to the Court already and obviously we could,
14 I think, call Ms. Gast to authenticate this as a record of
15 theirs. I'm happy to jump through that hoop. But the other
16 thing, Judge, is I think I'd piggy-back, if the Court don't
17 mind, on the argument of counsel. I assume that he's arguing
18 that -- well, I don't need to go down that road. Judge, I
19 believe it's admissible.

20 MR. TYSON: Your Honor, he just said he didn't think it
21 was relevant to the County Democratic Party, that was the
22 argument I had.

23 MR. SABB: Yeah, but I lost that argument with you on it.

24 THE COURT: All right. I have no idea what it is. I
25 don't know whether it's relevant or not.

1 MR. SABB: Judge, as an officer of the Court, I will tell
2 you that the likelihood that you read it because I know you
3 read the memoranda in opposition of the motion, and I just say
4 that, Judge, because I've known you for a long time and -- and
5 it would've been one of the things that you would've
6 considered. It is the April 2nd, 2018 letter, to whom it may
7 concern from the South Carolina Coroner's Association.

8 THE COURT: I did read that.

9 MR. SABB: Yes, sir.

10 THE COURT: And your objection is it's not relevant?

11 MR. TYSON: Your Honor, I withdraw my objection. There's
12 something -- I'm sorry.

13 THE COURT: All right. It's in without objection.

14 DEFENDANT'S EXHIBIT NUMBER 7

15 ADMITTED INTO EVIDENCE

16 MR. SABB: I don't have any further questions, Judge, I
17 think the document speaks for itself.

18 MR. TYSON: Nothing further, Your Honor.

19 THE COURT: You can step down.

20 Oh, I'm sorry ---

21 MR. THICKENS: No questions, Your Honor.

22 THE COURT: I've got to move this computer. I can't see
23 y'all.

24 MR. THICKENS: I strategically placed myself that way,
25 Your Honor.

1 MR. TYSON: I just had a couple of follow-up questions,
2 very briefly.

3 REDIRECT EXAMINATION OF PATRICIA PRINGLE BY MR. TYSON:

4 Q: Ms. Pringle, Mr. Sabb asked you about information that
5 was provided to you and I think you said that the -- he gave
6 you the Judge's opinion in the *Ragin* case, right?

7 A: Yes, sir.

8 Q: And then he gave you the law, right?

9 A: And a copy of the letter from the president of South
10 Carolina Coroner's Association.

11 Q: And, and, and that was in April, right?

12 A: That was in March.

13 Q: Okay, that was in March. And then after that then, the
14 County Party and the State Party made the decision that she
15 was qualified, right?

16 A: The State Party did. I sent the information to Trav
17 Robertson and he certified the candidates.

18 Q: Okay. After he received this information, correct?

19 A: Right.

20 MR. SABB: Well ---

21 A: I received information from the Voter Registration
22 office.

23 MR. SABB: I'd like to make clear, she was talking about
24 one thing in terms of what she received. Then he shifted
25 gears and went to Trav Robertson and asked the question

1 whether or not he made the decision based upon these things
2 that he received.

3 MR. TYSON: I thought that was her testimony. She sent
4 them out and she received this and the County Party ---

5 THE COURT: She can only testify to what she sent in.

6 MR. TYSON: Yes, sir.

7 THE COURT: Not what anybody else ---

8 A: I only sent the two affidavits up to him.

9 BY MR. TYSON:

10 Q: Okay.

11 A: The other information was provided by the Voter
12 Registration office.

13 Q: The other information being the *Ragin* opinion?

14 A: No, no, no. That was the intent of candidacy once -- and
15 the filing fee. They send that up to the state, up to the
16 state office. One is after March the 30th when the last
17 candidate -- at the closing after the -- all that information
18 have to be sent from the Voter Registration office.

19 Q: All right. Well what happened, I'm confused on this.
20 The *Ragin* opinion that came to you and then the law that came
21 to you in the coroner's letter, what happened to that?

22 A: He just brought that to me for my information, it was
23 brought by when he was talking to me.

24 Q: And that was ---

25 A: No, I didn't send that to Trav.

1 Q: All right. So, that was information -- he, being Mr.
2 Mock?

3 A: Uh-huh, (affirmative response)

4 Q: And he brought to you and it was -- it was background
5 information on why he believed Ms. Samuels-Cooper wasn't
6 qualified; is that what it was?

7 A: That was -- yeah, but that wasn't for Trav Robertson for
8 as far as certifying her. He didn't bring it to me to send to
9 Trav. That was just information he just brought to me.

10 Q: Questioning her qualifications, correct?

11 A: With him questioning her, telling me that she -- he don't
12 feel that she was qualified.

13 Q: Okay. And did you agree with it or not?

14 A: I didn't know. I didn't know what her background was at
15 the time, what all she had.

16 Q: Okay. But now have you -- did you review that information
17 once he gave it to you as to her qualifications?

18 A: Did I do -- no, Trav Robertson did that.

19 Q: All right. So, you made ---

20 A: I didn't ask her questions concerning her qualifications
21 because she was being certified by the State Party. So I left
22 it up for the State Party to do.

23 Q: But I thought your testimony earlier was, on the
24 affidavit, you testified that she didn't meet -- she didn't
25 demonstrate any of those qualifications on the ballot, right?

1 A: No, I said when I sent the email to Trav -- when I
2 forwarded the affidavit to Trav, I put on there, I had a
3 question about the qualifications because the boxes were not
4 checked.

5 Q: Gotcha. Thank you for helping me understand that. Just
6 the last question, Mr. Sabb went through these questions about
7 common sense and there were three or four of them. Let me
8 make sure I understand or ask it this way. But if the law
9 doesn't allow it, you are not -- your opinion or my opinion
10 doesn't really matter, does it?

11 A: If the law doesn't allow what?

12 Q: Well, he said it didn't make common sense and he went
13 through about this death investigation experience and if she
14 went out and did I think he had five or six different examples
15 of what he used to show cause, if she did something else, if
16 she went on the scene, and he asked her does that seem fair to
17 you, and you said no, it doesn't seem fair. My question was
18 that is does it -- does your opinion or my opinion really
19 mattered to whether it's fair or common sense if the law says
20 something different?

21 A: Well, if the law says something different, then no, it
22 wouldn't matter ---

23 Q: Thank you.

24 A: --- if the law said something different.

25 Q: I appreciate it.

1 THE COURT: You may step down. Thank you, ma'am.

2 MR. TYSON: No further witnesses.

3 MR. SABB: Judge, assume hypothetically, that we may not
4 have additional -- we do have one more issue, but assume
5 hypothetically we did not have additional witnesses that we
6 plan to put up, would it be the Court's intent that we break
7 for lunch or would you be more likely to have us to go ahead
8 and state a brief closing we were making?

9 MR. TYSON: Your Honor, if I have any two cents on that,
10 if they're not gonna put up any witnesses, let's make our
11 closing arguments and then give you the opportunity to make a
12 decision.

13 MR. SABB: So, we would need just a couple more minutes
14 to do that. But, there was one other issue I wanted to
15 mention to you.

16 THE COURT: It's 12:30.

17 MR. TYSON: Yes, sir.

18 THE COURT: If we can finish this thing by 1:00 or 1:15,
19 I vote to do that.

20 MR. TYSON: Yes, sir.

21 THE COURT: If we're not gonna be able to do that, we can
22 break for lunch.

23 MOTIONS:

24 MR. SABB: So, if Your Honor don't mind, I'd ask two
25 things. One, let us posit this issue before Your Honor. And

1 then, two, give us maybe a five or a ten-minute recess and
2 we'll meet with our client, talk about it and then we'll let
3 you know.

4 THE COURT: Okay.

5 MR. SABB: So, I just wanted to state one thing, Judge, I
6 appreciated the Court's indulgence during the last proceeding
7 as it related to the witness that was in Sumter, Ms. B.B.
8 Coker. They were actually prepared to come, we worked it all
9 out, but because we were going to quit when we did, we didn't
10 bring her. And she advised us that if we were gonna have
11 court today, she had vacation plans starting yesterday. And
12 so, we relieved her of her obligation under the subpoena
13 because we didn't want, you know, she had vacation plans. So,
14 I just wanted to put on the record that we excused her from
15 her obligations.

16 The issue, if Your Honor please, is one of additional
17 defense that we've talked about and we think it's important in
18 the case and that defense would be one of laches and estoppel
19 in as much as you've got an individual who decides up front
20 that he's kind of concerned there's a problem, but I'll wait
21 until after the election and then I'll deal with it.

22 So, we would move to amend our answer to include the
23 defense of estoppel and laches. I don't know whether or not
24 other counsel want to address that before Your Honor, but we
25 would move to verbally amend our answer to include that as an

1 additional defense.

2 THE COURT: Okay.

3 MR. SABB: And, Judge, Ms. Barr reminded me, we believe
4 it would be conforming to the evidence in the record in this
5 case.

6 THE COURT: Okay.

7 MR. BRANT: Your Honor, on behalf of the State Election
8 Commission, we -- to the extent Your Honor has already ruled
9 that the, I think, the first part of the -- your ruling that
10 the plaintiff is barred from challenging the defendant's
11 qualifications to be on the ballot, if I've stated that
12 correctly, on the basis of failure to exhaust administrative
13 remedies. We second the motion or we would also like to
14 consider adding laches on the basis that from the election
15 standpoint, limiting the decision to failure to exhaust
16 administrative remedies encourages candidates to not seek
17 relief before the primary and to wait until after to
18 challenge, which then says we can't raise this issue before to
19 get them off or to make sure they're not on the ballot, it
20 costs more, more -- more costs and expenses. On that basis,
21 we would just ask that you consider adding that to the order.

22 THE COURT: Okay.

23 MR. THICKENS: Your Honor, likewise, we have a motion to
24 dismiss pending and would either move to add that to our
25 motion to dismiss under the same failure to exhaust

1 administrative remedies grounds that's been asserted or we
2 will assert that as an affirmative defense if we end up ---

3 THE COURT: Do you want to respond to that?

4 MR. TYSON: Your Honor, I'd just oppose those. You know,
5 obviously, the motion to amend is liberally construed, I
6 understand that, but as to this claim about adding laches or
7 estoppel and saying that we didn't bring anything up prior to
8 the election, but your ruling has said, as I understand it, we
9 failed to exhaust our administrative remedies afterwards. So,
10 I don't understand how we could have a laches or an estoppel
11 argument before that that we didn't do something. They can't
12 have their cake and eat it, too.

13 Your Honor, on that point, I'd just say that if we
14 brought this challenge to her qualifications -- when was the
15 election, June -- June the 12th. If we would have brought
16 this challenge in this Court on any day before that, June the
17 1st, I think we've got -- we had jurisdiction. I believe this
18 Court could hear qualifications. Okay. But I don't know if
19 it really matters, this failure to exhaust -- and I don't want
20 to beat that -- the failure to exhaust administrative remedies
21 that you've ruled as to whether we filed a protest after the
22 election results, and this laches and an estoppel argument now
23 tries to say, oops, we should've brought it beforehand and so
24 we're estopped from now claiming something because we did
25 that. I don't think, again, that you can have it both ways,

1 Your Honor. As to amending the complaint, or their answer, I
2 understand that, but I don't believe that it -- it is
3 consistent with your ruling. I just again, preserve for the
4 record our objection to your ruling earlier on that.

5 THE COURT: Thank you. I mean, it's an interesting
6 concept y'all have brought up. Do you have any case law at
7 all that laches and estoppel apply in an election case that
8 somebody must file before the election or they are barred to
9 file afterward? I'm not aware of it happening anywhere in
10 South Carolina but maybe y'all can ---

11 MR. BRANT: Judge, there were district cases that applied
12 laches in 2012 where candidates were seeking to get on or off
13 a ballot, mostly on. But they said, you know, there's an
14 interest in having accurate ballots for the primary election
15 and that you can't just wait until after -- he knew it in
16 advance, which in this case, we have testimony that he
17 intended to wait until after the primary, when he could've
18 raised objections to her filing before and kept her off if
19 that was the case.

20 THE COURT: Do you have any cites on any of those cases?

21 MR. BRANT: I have -- one is *De La Fuente v. The South*
22 *Carolina Democratic Party*, 164 F.Supp.3d 794, and then one is
23 ---

24 MR. TYSON: What was the date of that?

25 MR. BRANT: 2016. And then there's one in 2012 that's

1 *Smith v. State Election Commission* ---

2 THE COURT: I couldn't hear you. You're looking down.

3 MR. BRANT: I apologize. *Smith v. State Election*
4 *Commission*, 874 F.Supp.2d 483. That's a 2012 case.

5 THE COURT: 483?

6 MR. BRANT: 483.

7 THE COURT: Okay.

8 MR. TYSON: Your Honor, obviously we'd like to have time
9 to go look at that and make sure that it supports.

10 THE COURT: Okay.

11 MR. BRANT: And just to be clear, we're not -- I'm not
12 asking the Court to consider this case for qualifications to
13 hold office, it's just when there's an issue as to filings,
14 things of that nature, before the primary, from an election
15 standpoint, we don't want everyone waiting until a protest
16 period to bring that up. And I think a ruling that expands
17 that and allows people to bring suit -- encourage them only to
18 seek a protest furthers the election process and saves us all
19 money, to be honest.

20 THE COURT: Okay. I'll look at those.

21 All right. Anything else?

22 MR. TYSON: I just need about five minutes, Judge ---

23 THE COURT: We'll take five, ten minutes and I'll be
24 back.

25 MR. TYSON: Yes, sir.

1 RECESS @ 12:37 P.M.

2 *****OFF THE RECORD*****

3 (On the Record @ 12:49 P.M.)

4 THE COURT: Thank you. You can be seated.

5 MR. SABB: If you can just give them one more minute.

6 THE COURT: Sure.

7 MS. BARR: I'm sorry, Your Honor.

8 THE COURT: Yes, ma'am.

9 MR. SABB: If Your Honor please, for purposes of the
10 record, we would move for a directed verdict asserting that
11 the plaintiffs in the case have not met their burden of
12 proving by the greater weight or preponderance of the evidence
13 that our client, as she's been commonly referred to in this
14 record, Ms. Samuels-Cooper, is not qualified for the position
15 of coroner and cannot complete the certification as coroner
16 within one year of having taken office as coroner. And so,
17 Judge, without going into a factual recitation, the Court's
18 heard all the evidence in the case, unless there are specific
19 questions that the Court would have, we would make that motion
20 both for purposes of the record and hopes that the Court
21 agrees.

22 THE COURT: Okay. You want to respond to that?

23 MR. TYSON: Yes, sir, Your Honor. We would suggest that
24 you deny that motion. As to the evidence in the record, there
25 was evidence by Mr. Mock that a person who has -- who serves

1 as an administrative assistant doesn't have legal authority to
2 conduct death investigation experience. We also had testimony
3 from Ms. Gast, who also said that an administrative
4 assistant/secretary does not have legal capacity, legal
5 authority to conduct death investigations, that's in the
6 record. The other -- second part of Mr. Sabb's motion was on
7 the certification and it can't be completed within one year.
8 Clearly, we have testimony from Ms. Gast and questions from
9 Your Honor about that there is no way for that to be met, how
10 do you meet that program. So, clearly, there's evidence in
11 the record that demonstrates that it's a problem with the
12 statute or it's -- it's -- however it's to be interpreted or
13 whatever, but there's evidence in the record demonstrating
14 that about the certification and that if you're not -- and
15 further there was testimony from, from the defendant, Ms.
16 Samuels-Cooper that she's not currently employed by a coroner
17 or medical examiner and she's not enrolled in that program
18 either, nor did she meet the -- so, thus she doesn't meet the
19 eligibility to comply with that criteria. And that all begs
20 the question, Your Honor, obviously that we've talked about
21 from day one is that the affidavit doesn't even demonstrate
22 that that is the criteria for which she is stating that she is
23 qualified. The first affidavit is in the record without a
24 doubt, she has testified over and over that doesn't even
25 demonstrate how she's qualified; no box is checked. On the

1 second affidavit that was filed late, which is clearly in
2 violation of the statute, has one box checked and it has one-
3 year death investigation experience. She hasn't -- so the
4 evidence would show that this issue about whether you could
5 comply with the one-year requirement is not even relevant.

6 Thank you, Your Honor.

7 THE COURT: All right. Mr. Sabb, I respectfully deny
8 your motion. The question at this point is whether there's
9 evidence in the record, and I think there is evidence in the
10 record, sufficient evidence in the record. It becomes a
11 question of fact as to her qualification.

12 MR. SABB: Thank you, Your Honor.

13 Judge, at this time, Defendant Samuels-Cooper would rest.

14 BY THE COURT:

15 THE COURT: Okay. Anything -- anything from either one
16 of y'all?

17 MR. THICKENS: No, Your Honor. Thank you.

18 THE COURT: All right. Any other issues? Y'all, y'all
19 want to any kind of closing arguments or is there anything
20 else or y'all ---

21 MR. TYSON: Your Honor, if you want us to -- I would like
22 to make a closing statement, it'd be brief, but if you don't
23 want to, you understand ---

24 THE COURT: I don't mind. I'll be glad to hear anything
25 y'all want to tell me.

1 CLOSING BY TYSON:

2 MR. TYSON: I don't want to miss another opportunity
3 then, Your Honor. I will be brief. Mr. Mock appreciates the
4 time of the Court, appreciates this opportunity.

5 Your Honor, which we've been through this, the law is the
6 law. It seems very simplistic, but it's the truth. Our
7 legislature has said coroner is a very important position, and
8 to be a candidate for coroner, you have to meet one of seven
9 qualifications and they give a candidate, a person who wants
10 to run for office, seven different ways to become coroner.
11 The state law is very clear. You must fill out an affidavit
12 at the time of filing, by the close of filing that
13 demonstrates how you qualify under the law; one, two, three,
14 four, five, six, or seven. It is undisputed, undisputed, that
15 Ms. Samuels-Cooper's affidavit at the close of filing is
16 defective per state law. She doesn't check a box at all. We
17 came into this hearing thinking that it was solely an April
18 4th affidavit which was late and it checked a different box.
19 Then we got here and Mr. Sabb or someone showed us this
20 affidavit that didn't even check a box. So, there's no way
21 that any candidate could understand, any person could

22 understand how Ms. Samuels-Cooper is qualified. We understand
23 now that it was pointed out to her by the Democratic Party.
24 Testimony says today that they told her and then they told her
25 which box to check based on that record. She checked box

1 number, I think it's number 3, but it's the one with the four-
2 year degree and one year of death investigation.

3 Your Honor, as we've heard plenty of testimony about, it
4 is a criteria that if you want to enroll in a recognized
5 forensic science degree program, or you have completed it or
6 you can be enrolled in it; that's a criteria. The state
7 statute provides that the Coroner's Training Advisory
8 Committee has that authority to determine what the
9 certification process is and they've done that. We've heard
10 from the head of the State Association that says they have
11 they have picked a program, the ABMDI. And, Ms. Samuels-
12 Cooper, as she testified today, says she's not eligible for
13 that program. So, that's not even the reason that she's
14 checked, but we've had a lot of discussion about it, but she's
15 not eligible to do that so she cannot meet those
16 qualifications.

17 As, Your Honor -- the April 4th is a problem and it is
18 late. We believe that there are variety of cases that
19 demonstrate and that say that the law must be adhered, must be
20 followed, must be complied. Those criteria are there for a
21 reason. The filing requirements weren't met. We've got the
22 Supreme Court case in Anderson, which was very punitive to a
23 lot of candidates. It kicked candidates off the ballot all
24 across this state. We had lawsuits about the Democratic Party
25 not certifying somebody or certifying them; the Republican

1 Party not certifying or certifying somebody. It was a very
2 difficult time in 2012, but our Supreme Court said filing
3 requirements matter. You've got to meet the criteria and they
4 weren't done, and so that was the way that -- the whole
5 argument about *Anderson* and the SICs and the Statement of
6 Economic Interest being filed at the same time. And the Court
7 -- that is still the law today, Your Honor, and if she doesn't
8 -- if she hasn't met the filing requirement, then we don't
9 believe you even get to the question of whether she has the
10 qualification.

11 We understand your ruling. We take exception to it. I
12 objected, you know, we -- we've reserved our objections on
13 that. I don't believe this then is an election issue. As you
14 said, it's a question about a candidacy. I understand that
15 and respect your ruling and respectfully disagree. It's an
16 issue about qualifications because our state legislature has
17 specifically stated for this office of coroner, you have to do
18 more than just fill out a form and apply. You've got to tell
19 us how you're qualified, and Ms. Samuels-Cooper hasn't done
20 that.

21 And so, Your Honor, we believe that for those reasons
22 it's too late. She doesn't meet the statutory deadline and
23 she doesn't meet the statutory requirements of doing that.
24 Okay, we get to the merits, the first part of the merits is
25 who can conduct death investigations. The state statute says

1 coroner or deputy coroner are the only persons who can conduct
2 death investigations. You heard that from Mr. Mock, you heard
3 it from the president of the Coroner's Association.

4 THE COURT: Do you have the specific statute number that
5 says that?

6 MR. TYSON: Yes, sir. 17-5-70 is one of them. It's may
7 do -- a deputy coroner may do and perform all of the duties
8 pertaining to the office of coroner. So, if you're not a
9 deputy coroner, you can't perform any functions of the office
10 of coroner, period.

11 THE COURT: Okay.

12 MR. TYSON: And, Your Honor, I just say, I mean that make
13 sense. Ms. Samuels-Cooper's testimony is that she was around,
14 she answered the phone, she was a dispatcher, and did that.
15 Well, does that mean every person that answers the phone ought
16 to be -- get credit toward death investigation experience?
17 Your Honor, we believe that's ludicrous. I've got two law
18 clerks right here. These folks right here have been sitting
19 right here for three days. They just finished their first
20 year of law school. If we take that analysis, then are they
21 getting credit for being a lawyer for sitting in here

22 listening to us? No, they can't do that, Your Honor. But we
23 believe that's a, a, a stretch of that statute that defies
24 logic.

25 She's not a deputy coroner, she said that. The state

1 statute talks about -- 17-5-530, it's an important statute.
2 It talks about the death investigations and it talks about
3 you've got to inquire into the manner of death. That's what a
4 coroner does. That's one of the most important
5 responsibilities that has to be done. You heard from the head
6 of the State Coroner's Association and the York County Coroner
7 about all of the potential issues that come up or all of that
8 -- even after testimony in talking about whether she went to
9 the scene or took pictures or talked to family, all of that is
10 beside the point. We don't believe that qualifies as death
11 investigation experience. As I said to Ms. Samuels-Cooper, we
12 believe that she's done a good job as administrative assistant
13 and has helped that office, but we don't believe that that's
14 what the statute contemplated that an administrative assistant
15 would be able to have experience or have the authority to do
16 death investigations.

17 But, Your Honor, we -- you've heard today, she didn't
18 even work for the county. I'm not sure how you can work for
19 the funeral home or for someone and be paid by your brother
20 and then have that count toward death investigation
21 experience. That was a wrinkle that we weren't aware of when
22 we started this process. The coroner's office has certain
23 responsibilities. We've just gone through what the statute
24 should do and how that would work.

25 Now, Your Honor, just to conclude, you know the elements

1 of injunction, we've got to show irreparable harm. We believe
2 it's ripe for judicial review. The harm has occurred. That
3 we believe that she's not a qualified candidate. If you allow
4 her to continue on as the Democratic Party's nominee for
5 coroner, we believe that would be irreparable harm not only to
6 Mr. Mock, but to the citizens of the county. The voters would
7 face a substantial likelihood that they would be presented
8 with a candidate who doesn't meet the statutory
9 qualifications. Your Honor, we believe that is not proper.

10 The likelihood of success on the merits, we believe we've
11 shown that. We've talked about the affidavits and clearly we
12 believe we succeed on that because the affidavits are
13 defective. We also believe that because she's not the coroner
14 or deputy coroner, there's no chance for her to even do death
15 investigation experience, so there's no likelihood of success
16 for her.

17 Again, Anderson states that folks that improperly file,
18 need to be kicked off the ballot. They shouldn't be
19 qualified, they shouldn't be certified and that's the same
20 argument that we have here today, Your Honor. It is an
21 unfortunate situation. I understand Mr. Sabb's argument. I
22 understood it on July the 3rd and I understand it today. It's
23 a tough predicament for you to have to decide post-election
24 whether a candidate is qualified or not. I understand that
25 but, unfortunately, the law provides the remedy. The law says

1 that only persons that meet criteria for coroner can become
2 coroner. And with all due respect, Ms. Samuels-Cooper does
3 not meet that and we ask that you de-certify her or not allow
4 her to be certified as the Democratic Party nominee.

5 Thank you.

6 THE COURT: All right.

7 CLOSING BY SABB:

8 MR. SABB: Thank you, Your Honor, may it please the
9 Court. Judge, we also want to express our appreciation to
10 this Court, to all the litigation personnel that's involved.
11 We indicated at the last hearing that we appreciate the level
12 of cooperation that we've gotten from the beginning up until
13 now. We would reiterate that on the record.

14 We'd also said that we did find ourselves here on the 4th
15 of July eve. And I think if Your Honor recalls, we talked
16 about our process. We talked about disenfranchising and we
17 talked about the matter being litigated in the court of public
18 opinion, and we talked about the Clarendon County folks whose
19 votes being in nullification. We talked about all of those
20 things and so we won't go into them today.

21 I would call to the Court's attention though, an order
22 that was issued in the case of *Brian Keith Turner vs. Saluda*
23 *Election Commission*, the Republican Party and the Election
24 Commission and certain individuals. And, Judge, this was
25 during a time when there were protests to the coroner's race

1 in 2016 and there were three cases going on at the same time.
2 And Judge J. Mark Hayes, II issued this order and in the order
3 -- I want to share some of what he wrote, and he talked about
4 the facts of the case and stuff, Judge, and he said, At this
5 point, I join with my brethren, Judge Frank Addy, when he
6 wrote, as a threshold matter, the Court wishes to note that it
7 does not relish having to referee political or electoral
8 processes. By their very nature, such disputes are political
9 and courts must remain independent of political considerations
10 for the independence of the judiciary to have any real
11 meaning. So, he said that, and then there's an obligation the
12 Court felt to go on and delve into the issue.

13 Judge, what's interesting to us is that that's 2016 and
14 in one of those cases, Judge, the coroner -- person that
15 received the most votes had applied to the St. Louis School of
16 Medicolegal Evaluations. And he indicated and the order
17 reflects it that the reason why he did it was because he went
18 to the coroner's website and that's what they had on it that
19 that's the program that's approved. Judge, it is blatant for
20 them to still have that information up there in May of 2018,
21 knowing that somebody was already misled about it and got
22 kicked off. And what does the association do? They keep it
23 on the website. I just think that there's something
24 fundamentally wrong with permitting that. What can the Court
25 can do about it? They can speak to it in your order.

1 The other thing, if Your Honor please -- and let me give
2 some deference to the ABMDI folks, who as Mr. Tyson indicated
3 would probably not allow our client to enroll in the course
4 because she does not meet the 640-hour requirement and because
5 she is not a current employee. I want to address those things
6 just for a moment, if Your Honor please. They did not have
7 the benefit of this course. Your Honor is in a much better
8 position to evaluate a couple of things. Judge, I know over
9 the years dating back to when you went into law school, you
10 saw where the court struck down, time after time and time
11 again things that were arbitrary and capricious. I would
12 submit to Your Honor before you now is this arbitrary and
13 capricious distinction between an individual who is employed
14 and an individual who is not. If you take the argument to the
15 absurdity, Judge, an individual who has been working for
16 years, who continues to work at the time, qualifies whereas an
17 individual is working for 13 years and gets fired right before
18 doesn't. Judge, I would submit to Your Honor that they
19 should've come before the Court and given you a real factual
20 basis on why the distinction makes any sense. If it doesn't
21 make any sense, Judge, it is arbitrary, capricious, it's
22 something that they've thrown in there that simply should be
23 struck down on that basis.

24 Judge, you've got an opportunity, in our opinion, to deal
25 with another issue and -- and we intend to show this Court and

1 we believe we have through the evidence, that even if this
2 business of 640 hours were a requirement, she meets it. To be
3 enrolled in a course that we believe the legislature wanted to
4 make sure that candidates went through in order to gain the
5 requisite knowledge to be a good coroner. They created a
6 system where an individual who comes in, who is voted upon by
7 the voters as being the person they want to be their coroner
8 to be able to be certified. And, Judge, for them to come
9 before the Court and say you wouldn't qualify, I wouldn't
10 qualify, nobody would qualify, so we want to choose who we
11 like; that's not the way the law operates.

12 Every once in a while, the courts have to breathe life
13 into the words that are -- and not allow others to manipulate
14 it to their own benefit and that's a part of what we have
15 here. So, if Your Honor please, when you look at this notion
16 of 640 hours, so, if you're an employee and you have 640 hours
17 of death investigation experience, then you can go into their
18 program if you're an employee. Number one, the distinction is
19 arbitrary and capricious as it relates to whether you are or
20 not an employee, so I cast that to the side. So, then the
21 question is, have you, through your experience in death
22 investigations earned 640 hours. And, Judge, in evidence, and
23 I apologize for not knowing the number, but it talks about --
24 and you may recall I asked questions about it, persons on call
25 and how much time they get, person who are investigating the

1 natural death, how much time they get, persons who are
2 involved in non-natural deaths and how many hours they get,
3 persons who have gone to the scene of a death investigation
4 and how many hours they get. And, Judge, it is absolutely
5 clear by the record in this case that over the 13 years that
6 she's been involved with the coroner's office -- you know, and
7 counsel makes an argument, Judge, that we don't believe is
8 supported by the evidence when he says she worked for the
9 funeral home. That's not what she said. His own client
10 admitted that she worked with him for 13 years in the
11 coroner's office, not in the funeral home. So, so, I just
12 want to make sure that, that, that -- that we bring back the
13 testimony of his own client who said that she worked with us
14 in the coroner's office. And, so, Judge, that's an argument,
15 in our opinion, that's without merit.

16 But, Judge, the other thing that, that they want to draw
17 the distinction on, so when the young lady testified and Ms.
18 Barr artfully went through all of the qualifications, the only
19 difference, Judge, when it came to the gathering of records,
20 the subpoenaing of records, the interviewing of, of witnesses,
21 the talking to the officers, the preparation of the death
22 certificate, the only difference is either you're deputy
23 coroner or you're an administrator. If you're a deputy
24 coroner now, the same exact things that she did, you get
25 credit for. So, then Mr. Tyson says, well, wait a minute, the

1 most important thing is the cause and manner of death, and if
2 you can't determine the cause and manner of death, then you
3 get no credit for witnessing autopsies although you're
4 learning, right, but you get no credit for that. You didn't
5 get no credit for going through the medical records and the
6 autopsy reports, you don't get any credit for anything because
7 we said, not the statute now, that statute that he's talking
8 about, the coroner qualifications, that's not the statute at
9 issue in this case. The statute at issue in this case is
10 somewhere, is 17-5-130 and it doesn't say that you've got to
11 be a deputy coroner or a coroner in order to get that kind of
12 -- of experience. That's something that they chunk in there
13 as the old folks used to say.

14 Now, so, Judge, we submit to the Court that this Court
15 has the clear authority, even looking at what they have
16 posited before this Court, you have the clear authority in our
17 opinion to make a finding that she has more than 640 hours of
18 investigating -- and, Judge, let me just point one other thing
19 out and I think they're splitting hairs on this and the
20 statute doesn't call for that either. They make a
21 distinction, Judge, between the authority to conduct an
22 investigation, a death investigation, and death investigation
23 experience. Judge, death investigation experience is what's
24 talked about not this notion of conducting a death
25 investigation and why did they say that, because they're the

1 only ones that can do it. So, if they can elevate this stuff,
2 if they can create a definition of death investigation that
3 says you've got to conduct it, then what do they do? They
4 create a system where it's just coroners and deputy coroners
5 basically. And so, Judge, you've got an opportunity in our
6 opinion to address that forcefully in Your Honor's order.

7 Now, assume for a second that the Court doesn't agree
8 with us on those two, well, we've got another one. There's no
9 question in this case that she has a four-year degree from
10 Johnson C. Smith University. The issue is, over the course of
11 the 13 years that she's been -- that's all that she has done
12 over a 13-year period equal the equivalent of one year of
13 death investigation experience. And here's what's troubling,
14 Judge, nobody can tell us what that means. What does one year
15 of death investigation experience mean? Is that working every
16 day, 365 days a year, or what does it mean? And so, Judge, we
17 would submit to Your Honor, that it means that you ought to be
18 gaining experience about how to do this stuff, and that's what
19 it's all about. It's all about getting somebody in office who
20 knows how to do the job. And so, if you already know, Your
21 Honor, how to contact a victim's family and get information;
22 Your Honor, if you already know that you've got to be
23 sympathetic to people when you come into contact with them and
24 make them feel that you understand their purpose; if you
25 already know the importance of gathering the medical records

1 in order that the medical records can help you determine the
2 cause of death; if you already know that it is important to
3 get the coroner's report and to read it and see whether or not
4 everything that the coroner needs is there; if you already
5 know that there's such a thing as a chain of custody and
6 you've got to make sure that those things are kept in a manner
7 that does not exclude them from an evidentiary point of view
8 if it's time to try the case; if you already know that you've
9 got to meet with the MAIT team and get information from them;
10 if you already know that photographs have to be taken in order
11 that they might preserve the scene of a crime; if you already
12 know all of those things, then to suggest that because you're
13 not a deputy coroner or a coroner that knowledge doesn't
14 matter, Judge, it flies in the face of logic. But that's the
15 only way that they get an opportunity to say that our client
16 is disqualified in this case. The gentleman asked her under
17 cross examination or examination under the adverse party rule,
18 he asked her, are you authorized to do it, and she says, well,
19 he gives me leeway. No, ma'am, do you have the authority to
20 do it? So, if one is learning, do you really need authority
21 to learn, Your Honor? I mean isn't that the whole purpose,
22 the legislative intent of the statute is to get somebody with
23 knowledge. But their position is only a coroner or a deputy
24 coroner with knowledge. But, Judge -- and I'm gonna quit in a
25 minute, I promise. Here's what's curious to me. What's

1 curious, Your Honor, and I'm trying to piece some of this
2 stuff together, but what's curious is, you say in your regs --
3 and that's what I'm gonna call them, regulations -- you're
4 saying your qualifications. You say, well, if you're working
5 for a coroner's office, we're going to give you -- I hate to
6 say special treatment, but yeah. So, and your hours in order
7 to qualify for this program has to be done by somebody you
8 work with. What does that mean? Does that mean that a
9 coroner who favors their employee can indicate in an affidavit
10 that they work with me, they work alongside me, they went with
11 me to this, that, and the other, and so I hereby certify that
12 they got 640 hours. Who checks behind them? Who puts them
13 under oath, other than the affidavit of course? So, the point
14 I make is that that's a part of their system. So, they get to
15 decide who I'll do an affidavit for to get them into this
16 program that nobody else knows about, but they can't even tell
17 the Court what course it is.

18 I conclude with two things, two points. A man is only as
19 good as his information, and candidates for coroner are only
20 as good as their information. There is a responsibility, an
21 obligation, a duty on the part of the association to not play
22 gotcha politics but to be clear about -- well, I guess they
23 can't be clear because there is no course. So, Judge, taking
24 you down another road -- I was gonna down another road, but
25 I'm gonna conclude with this road. The statute mandates that

1 Samuels-Cooper be given an opportunity after being elected by
2 the citizens of Clarendon County, the statute mandates that
3 she be given an opportunity to go through a course, that if
4 successfully completed, would certify her. Judge, Your Honor
5 has an opportunity, I believe -- Judge, and here's another
6 thing we believe. We believe the course is there. Judge, we
7 believe there is a certification process for the few.
8 Otherwise, they we wouldn't even need the regulations. So,
9 it's there, Judge. They're just not telling us. They're just
10 not admitting us into it; it's there.

11 So, Judge, the sword of justice in this case is needed
12 and I'm reminded of -- I know I'm talking too long, Judge, and
13 I apologize, but it's my last chance. It's Samuels-Cooper's
14 last chance. It's her last opportunity to have her day in
15 court -- and he called me a preacher in an affectionate sort
16 of way -- but I am reminded of Moses and the power that his
17 staff had and the wonders and the good that it did. Samuels-
18 Cooper, Your Honor, relies on you now to use your pen as Moses
19 used his staff. Moses parted the waters in order that the
20 people might go across on dry land. Your Honor, we need you
21 to part these arbitrary, capricious regulations. Judge, we
22 need you to cut through this unnecessary regulation that we
23 believe falls under the ultra vires doctrine, where it is
24 beyond the scope of any legislative authority that they were
25 given and it's being improperly used.

1 Judge, I reluctantly take my seat, and I know what's
2 gonna happen. As soon as I sit down, 15 or 16 other things
3 are gonna pop in my head, but we trust that the Court
4 appreciates the fact that there's much more that we could say,
5 obviously more evidentiary matters that we could discuss.
6 Like they tell the folks at funerals, sometimes when they're
7 speaking on behalf of their friends, you just can't tell it
8 all.

9 Thank you, Your Honor.

10 THE COURT: Let me ask you a question. My understanding
11 of the statute of 17-5-130(e) concerning the coroner and the
12 requirements to run, is it the candidate -- the candidate,
13 prior to the closing of the time period to file, must be
14 registered for the course. Now, the 640 hours and the
15 requirements to be employed with the coroner's office is the
16 requirement to be certified, not to be in a course. My
17 understanding, it's two different things. That the actual
18 certification requirements require that you have 640 hours of
19 death investigation and -- but the course doesn't make that
20 requirement. You just can't get certified, i.e. you can't
21 take the bar unless you've had 640 hours and you're employed,
22 but -- but and that was my understanding from the testimony,
23 there's two issues. One, to be certified. Part of that the
24 statute says if you complete a recognized forensic science
25 degree or certification program, if you completed the program

1 and are certified, you stop right there. And part of being
2 certified in the course that they tell me that's out there is
3 you can't get a certification if you don't have 640 hours of
4 death investigation and are employed with the coroner's office
5 before you can be certified.

6 MR. SABB: Yes, sir.

7 THE COURT: But the second part of the statute says that
8 you don't have to be certified to be a candidate. You simply
9 have to be enrolled in a course that you could receive
10 certification from and that was one of my frustrations. Then
11 it's a two-part statute and I understand the criteria that you
12 have to be 640 hours and all that to be certified, but there
13 ought to be some course that you can sign up for that gets you
14 toward that certification just like the bar review course.
15 You take that course in hopes to help you pass the bar. So,
16 my understanding is what we currently have is to be certified,
17 you have to have 640 hours and you have to be employed with
18 the coroner's -- that is not the law, that's the
19 specifications that they ---

20 MR. SABB: So, here is what I would suggest to Your
21 Honor. I defer a wee bit.

22 THE COURT: Okay. And I -- because that's my
23 understanding and ---

24 MR. SABB: Yes, sir.

25 THE COURT: --- that there's two different issues here

1 and if I'm wrong in that, I need y'all to explain that to me
2 before we leave here.

3 MR. SABB: Sure, Judge. So let me just tell you what my
4 understanding is. My understanding is that there is an
5 application process to get into that certification course.
6 That you have to have the 640 hours, plus be an employee, in
7 order to be able to submit your application to go through the
8 certification process.

9 THE COURT: That was -- that was not my understanding.
10 It's certainly to be certified you would have to this, this,
11 this, and this, but you didn't have to have that to be in a
12 course. Because it seemed to me, the way I was interpreting
13 this -- the whole intent of the legislature was allowing
14 someone who decided to run to sign up for the course and they
15 have a year to complete it after they were elected. And that
16 by that time, if they were elected, they would be a coroner
17 that'd be employed with the coroner's office and they would
18 have in a year's time 640 hours of death investigation unless
19 they happen to be in a county that nobody died in.

20 MR. SABB: See, Judge, that would -- that would make
21 absolute sense if that were what they were doing.

22 MR. TYSON: Let -- let me get in. I hate to interrupt.

23 MR. SABB: Do you mind if I finish, please?

24 MR. TYSON: I'm sorry.

25 MR. SABB: Thank you. So, the point that you were

1 making, Judge, is the point that we make. What you identified
2 that the statute says and that is they ought to be allowed to
3 get into the course, if they finish the course within one
4 year, then they're good. What we submit to the Court -- and
5 this is where the ultra vires stuff comes in -- rather than
6 allowing that to be the system and then creating a course that
7 allows that to happen, what they've done is they've created
8 these other roadblocks that prevents you from being able to
9 get into that certification program. So, that's why they said
10 to Your Honor there is no such program because what you got to
11 do is you've got to have these 640 hours, you've got to be an
12 employee, you've got to submit an application, and then based
13 on the application then they accept you into the program. So,
14 it's beyond what the statute calls for and that's our major
15 point, Judge, so thank you for asking that.

16 THE COURT: And ---

17 MR. TYSON: Your Honor ---

18 THE COURT: --- I didn't understand that. I understood
19 you could get into a course but before you could be certified
20 you have to meet those criteria. Now, if I'm wrong and you've
21 got to meet the criteria to get into the course, that's
22 different.

23 You want to tell your side?

24 MR. TYSON: Yes, sir. Your Honor, the statute -- I just
25 -- I got to take exception to they did this or they did that,

1 and I'm not saying that you're doing that, but this is the
2 state law and the legislature said you can pick of one of
3 seven ways. You can be a doctor, you can be any of these, and
4 in this case, if you pick (e), you've got to have completed a
5 recognized forensic science degree or certification program.
6 So, you have to complete that.

7 THE COURT: All right.

8 MR. TYSON: Or, or you have to be enrolled at the time of
9 filing. You have to be enrolled in a recognized forensic
10 science degree or certification program to be completed within
11 the year.

12 THE COURT: All right.

13 MR. TYSON: So, what the law has said, just on that, is
14 you've got to be in the program. You've got to have finish
15 the program or you have to be enrolled in the program. If
16 you go over to ---

17 THE COURT: My question is ---

18 MR. TYSON: --- I'm gonna work you through this.

19 THE COURT: I'm sorry. I'll let you finish.

20 MR. TYSON: If you go over to (g), this is the important
21 part, the statute, the law says that the director of the South
22 Carolina Criminal Justice Academy shall appoint a Coroner's
23 Training Advisory Committee and they've got two functions, to
24 assist in the determination of the training requirements for
25 coroners and deputy coroners. So, if you back to (c), that's

1 the program. It talks about this basic training session and
2 what you have to do. It's got to be finished no later than
3 end of the calendar year. So, the statute, the legislature
4 has said y'all go come up with a training program and then
5 they come up with the training program. The second function
6 that this committee is given is to determine those forensic
7 science degree and certification programs that qualify as
8 recognized pursuant to the requirements of this section. So,
9 you go back, they're now tasked with which -- which
10 certification process meets (e). Okay. So, they haven't had
11 -- they look at a litany of potential recognized forensic
12 science certification processes, and they have chosen ABMDI.
13 They could have chosen, I believe, alternative (b), (c), (d),
14 or (e), but they didn't. This was their choice to make that.
15 That is an independent group. They're not making up the
16 requirements for what they should do. You heard the testimony
17 from Ms. Gast to say it's an independent organization. It's
18 got a board of directors. It determines who is going to be
19 able to go through that certification process. The coroners
20 -- and you know, again, I've got to take exception to they do
21 this and they developed the system. They didn't develop the
22 system. They picked it. They chose it because it's a
23 qualified certification program. The legislature has said,
24 you got to understand, you've got to have this training, and
25 they believe this is a proper certification program and that

1 independent organization has said to -- to get into this
2 process, you've got to do (a), (b), (c), or (d), and those are
3 just the eligibility requirements. So, it's -- it's not that
4 it's ---

5 THE COURT: So, your position is they got ---

6 MR. TYSON: Under the statute they were -- they had the
7 authority to designate the program, and they have designated
8 the process for which they do, which is an independent program
9 and the requirements that that program puts to get in it is
10 not something that Mr. Sabb, or unfortunately the Court, can
11 cast onto the Coroner's Association. These are independent
12 requirements that say you've got to do these things to take
13 our certification process.

14 THE COURT: Okay. And that's where I -- I'm confused.
15 Is that requirements to be certified or is that requirements
16 to get in the course? I mean, if to be -- if I want to go
17 take a course, do I have to be -- do I have to -- my reading
18 of that was that requirements if I had to be certified, even
19 though I can take a course and I could take a hundred courses,
20 I can't be certified unless I have this much death experience
21 and I'm employed.

22 MR. TYSON: That's right. If you want to go take
23 continuing education, you have the opportunity to go do that.
24 You can go take this class that Ms. Cooper-Samuels signed up
25 for.

1 THE COURT: All right.

2 MR. TYSON: That is good. That does not meet the
3 statutory requirement of determining the forensic science and
4 certification programs that are recognized in the statute.

5 THE COURT: But -- but it's -- I guess my issue -- is
6 this certification program you're talking about a test or is
7 it actually where you sit down in class and learn something?

8 MR. TYSON: No, Ms. Gast talked to us about that, Your
9 Honor. She said you've got to get in this, it's a set of
10 classes or a set of programs that you go through and a
11 process, and then you have to take a test at the end.

12 THE COURT: So, the certification is the test?

13 MR. TYSON: That's right.

14 THE COURT: So, just like I can't take the bar unless I
15 finish an accredited law school and I've done this -- so, the
16 program isn't -- it's the actual test.

17 MR. TYSON: You've got to go through ---

18 THE COURT: It isn't like a program I can sign up to
19 study.

20 MR. TYSON: Well, there's a checklist. She said she gave
21 us the checklist.

22 THE COURT: That's ---

23 MR. SABB: Judge, can I help you with this, please?

24 THE COURT: Huh?

25 MR. SABB: Can I help you with this issue?

1 THE COURT: Yes.

2 MR. SABB: Your Honor, I draw the Court's attention to
3 Defendant's Exhibit Number 7.

4 THE COURT: Okay. And y'all have got all that ---

5 MR. SABB: Madam Clerk?

6 And, Judge, I've been trying to figure this thing up and
7 that's why we introduced this document into evidence. It will
8 address the very point that Your Honor is thinking.

9 THE COURT: Okay.

10 MR. SABB: If Your Honor please, in the one, two, three,
11 fourth paragraph, it says, the Coroner's Training Advisory
12 Committee selected this program because it is a rigorous
13 training program that properly prepares persons considering
14 being a coroner in forensic science and death investigation.
15 Here's what's key, Judge, and this is the point that I was
16 making to Your Honor, and Judge, I'll wait for you.

17 THE COURT: Please do, because I can't find it.

18 MR. SABB: Yes, sir.

19 THE COURT: It's not 7?

20 MR. SABB: Do I have it?

21 THE COURT: I've got it, I'm sorry.

22 MR. SABB: Yes, sir.

23 THE COURT: All right.

24 MR. SABB: So, in the fourth paragraph, if Your Honor
25 please?

1 THE COURT: Okay.

2 MR. SABB: The Coroner's Training Advisory Committee
3 selected this program because it is a rigorous training
4 program that properly prepares persons considering being a
5 coroner in forensic science and death investigations. This is
6 what's key, Judge, and this is what I believe addresses your
7 question. Before one can apply, before one can apply to the
8 ABMDI certification program, the person must have 640 hours of
9 death investigation experience and be employed by a coroner's
10 office or medical examiner's office, that was my point, Judge.

11 THE COURT: Okay.

12 MR. SABB: So, before you can even apply for the rigorous
13 course program that they're talking about, they've thrown some
14 of these arbitrary and capricious requirements in, which in
15 effect, has created what I believe is an ultra vires act on
16 their behalf because the statute does not put this kind of a
17 stumbling block in front of an individual who wants to become
18 certified.

19 THE COURT: And I -- because I thought there was a
20 difference between being certified and the program and Exhibit
21 7 says before you can apply to the certification program,
22 you've got to have it.

23 MR. TYSON: Do you have Exhibit 4 in front of you, Your
24 Honor?

25 THE COURT: Yes, I do.

1 MR. TYSON: And, Your Honor, again, the statute allows
2 the advisory committee to choose, and as the letter just read,
3 they have chosen which process to go through and then they
4 came up with the requirements. And you asked what is it that
5 you got to do. There's the eligibility in the first block and
6 then it has the application process, and then it says,
7 included in this, you've got to submit an application form.
8 You've got to have an employment verification. You've got to
9 have a professional reference form. You've got to have this
10 training guidebook and this checklist. And Ms. Gast went
11 through that checklist with you when you asked those questions
12 about what it is. So, it is, again, the statute says to this
13 committee, choose -- what it's saying is, a candidate has got
14 seven ways. I think this argument is just fascinating because
15 Ms. Samuels-Cooper didn't even choose this program. So, we're
16 having this whole discussion and it's not even relevant. She
17 didn't even say that that's the way that she's qualified. So,
18 I appreciate we're having this discussion, but that's not
19 what's not on her form. The first one she didn't do anything;
20 the second one, she doesn't even check it. But if you do --
21 if a person wants to choose that program, this is what the
22 advisory committee has chosen as the way to become certified
23 if you want to meet that section. You can meet this section,
24 this section, this section, or this section. And I
25 respectfully say, Your Honor, if -- if the Court or Mr. Sabb

1 or anyone has a problem with the coroner, the choice by the
2 Coroner's Training Advisory Committee process, that's a
3 different issue. That's a different story altogether. And I
4 know we're trying to clear this up so it's clear in your mind,
5 but that's not really relevant as to her qualifications.

6 THE COURT: And that point's clear to me. I understand
7 that you have to jump through these hoops to even apply for
8 the program.

9 MR. SABB: So, the only point that I make in regard to
10 that, Judge, I believe that all the issues are before Your
11 Honor as it relates to qualifications. I don't think Your
12 Honor is restricted in any means. I think the ultimate
13 question for Your Honor is whether or not this individual that
14 sits here in your mind meets the qualifications to become
15 coroner. So, when he tries to part and parcel all of that
16 stuff up, I believe if Your Honor concludes that she qualifies
17 to go into the program for certification, Your Honor can
18 direct that and she's given an opportunity, which I believe is
19 in keeping with the spirit of the statute.

20 And, Judge, the last point on that, and Ms. Barr keeps
21 bringing me back to this, when you look at (g), which says
22 that the director of the South Carolina Criminal Justice
23 Academy shall appoint a Coroner's Training Advisory Council to
24 assist in the determination of training requirements for
25 coroners and deputy coroners and to determine those forensic

1 science degree and certification programs that qualify as
2 recognized pursuant to the statute. So, it gives them the
3 opportunity to choose the program, but when they're creating
4 what we, again, believe to be these arbitrary and capricious
5 barriers that favors individuals, that's what we believe the
6 rubber of injustice meets the road.

7 THE COURT: Okay. Thank you.

8 And one other question I have. I didn't -- Ms. Samuels
9 testified that she was not a county employee until December of
10 2018. Prior to that ---

11 MR. TYSON: Your Honor, I think it was January 2018.

12 THE COURT: It was January. Prior to that, she was not
13 in official capacity in with the county.

14 MR. SABB: No, sir, Judge. I think there was confusion
15 on that and the question was whether or not we plow that
16 ground and we made a decision we don't need to because Mr.
17 Mock testified that she was an employee, she testified she was
18 an employee. Now, that did come out on cross examination, but
19 there's other evidence in the record to support the fact that
20 she worked with the coroner's office and we'd ask leave to
21 recall her on that issue so that she can testify about it.

22 Let me just tell you what was happening there just so you
23 know. So, the -- the position with the coroner's office was a
24 part-time position. It became a full-time position when what
25 she is talking about took place.

1 THE COURT: But was she paid -- did she receive a
2 paycheck from Clarendon County?

3 MR. SABB: No, sir, my understanding is that the paycheck
4 came to Hayes Samuels as coroner and that he was allowed to
5 pay his employees from that.

6 THE COURT: So, it was in the budget.

7 MR. SABB: Yeah, he was ---

8 THE COURT: Was it part of his salary or was it budgeted
9 secretarial expenses?

10 MR. SABB: She said it was budgeted as secretarial
11 expenses, but I don't know how all that went. But we believe
12 there is clear evidence in the record, Judge, that she was
13 working for the coroner's office. So, I wouldn't want the
14 Court to parcel out the fact that she indicated that she was
15 not working for the county. You know, how these elected
16 officials do when they are allowed to hire people and stuff
17 like that and who do they work for, do they work for the
18 elected official or do they work for the county, well ---

19 THE COURT: I don't know of any other example for anybody
20 that works for an elected official or anyone else, they would
21 get a paycheck from the county. I can't -- I don't know of
22 any situation in any office where the elected official pays
23 them out of their pocket.

24 MR. SABB: Judge, I would submit to the Court that if you
25 need help and you don't have the kind of budget that you need

1 -- right now, I'm a senator, right, I pay people out of what I
2 receive from the state to do work for me because I don't have
3 anything in the state's budget to have that kind of work done.
4 So, as an elected -- are they working for the State of South
5 Carolina? No. Are they doing some work for Senator Ronnie
6 Sabb? Yeah. And, so I would submit to you that that is not,
7 what do you call it, a rare occurrence. I believe it happens
8 all over the place. And I don't believe the fact that, if the
9 county is not paying her directly, this Court should discount
10 the testimony that she has given that clearly shows that she
11 has been doing this work for 13 years.

12 THE COURT: Okay.

13 MR. TYSON: Your Honor, I'd just say, I appreciate Mr.
14 Sabb's comments, but just to point out, he says I don't want
15 you to part and parcel out this, and he said a few minutes
16 ago, I don't want you to part and parcel out this. Both of
17 the things he doesn't want you to part and parcel out are the
18 law and the law is very clear and what you got to do, Your
19 Honor. I think as you asked what the statute is on who the
20 coroner is a deputy coroner and who has the responsibilities
21 to go out and perform death investigation experiences, it's
22 clear a non-deputy coroner or a non-coroner can't do it and
23 it's really clear that a non-county employee is not to be
24 eligible for it.

25 So, thank you, Your Honor.

1 BY THE COURT:

2 THE COURT: Okay. Thank y'all. I will let y'all know
3 something. And I understand the time sensitivity of this is
4 the election and I will hopefully have you an opinion quickly.
5 I want to check on some of these cases that y'all have given
6 me and I will have an answer pretty quick.

7 MR. TYSON: Thank you, Your Honor.

8 MS. BARR: Thank you, Your Honor.

9 MR. SABB: Thank you, Judge.

10 (ADJOURNED - 1:46 P.M.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

COPY

Mock v. Clarendon County, et al. - 2018-CP-14-00237
CERTIFICATE OF COURT REPORTER

171

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of Bucky Mock v. Clarendon County Board of Voter Registration, et al., held in the Court of Common Pleas for Clarendon County, Clarendon County Courthouse, Manning, South Carolina, on July 27, 2018.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Kay H. Richardson

Official Court Reporter

September 7, 2018.

State of South Carolina) In the Court of Common Pleas
County of Clarendon) Third Judicial Circuit
2018-CP-14-00237

Bucky Mock,)
Plaintiff,)
vs.)
Clarendon County Board of)
Voter Registration & Elections,)
Clarendon County Democratic)
Party, LaNette Samuels-Cooper,)
South Carolina Democratic)
Party, and South Carolina)
Election Commission,)
Defendants.)
_____)

August 13, 2018

Manning, South Carolina

B e f o r e:

The Honorable R. Ferrell Cothran, Jr., Judge

A p p e a r a n c e s:

Rob Tyson, Esquire
Attorney for the Plaintiff

Shaun C. Kent, Esquire
Kimberly V. Barr, Esquire
Ronnie A. Sabb, Esquire
Joseph O. Thickens, Esquire
Harrison D. Brant, Esquire
Attorneys for the Defendants

Bonnie H. Kelly, CVR
Circuit Court Reporter

I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NO.</u>
Motion/Mr. Thickens	4
Response/Mr. Tyson	5
Reply/Mr. Thickens	5
Motion/Ms. Barr	6
Response/Mr. Tyson	11
Motion/Mr. Sabb	13
Response/Mr. Tyson	18
Reply/Ms. Barr	19
Decision by the Court	20
Certificate Page	22

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EV.</u>
C-1	1 page document		4

1 (On the record at 10:07 a.m)

2 (Pre-marked Court's Exhibit No. 1, 1 page document.)

3 THE COURT: Okay.

4 MR. SABB: While he's coming, I want to state for the
5 record that our client, LaNette Samuels-Cooper, is not
6 present. Of course, the Court is fully aware of the course
7 that she had enrolled in at Saint Louis University, and so
8 she is not here, attending that course. And -- but we're
9 prepared to move forward in her absence.

10 THE COURT: Okay.

11 MR. THICKENS: Thank you, Your Honor. This is our
12 motion to reconsider. It's really just based on the motion
13 to dismiss that we filed on July 24. We moved on
14 essentially the same grounds as Ms. Samuels-Cooper, arguing
15 that the -- the claim should be dismissed as to the
16 Democratic -- the State Democratic Party and the Clarendon
17 County Democratic Party, based on their failure to exhaust
18 administrative remedies.

19 The Court, of course, granted Ms. Samuels-Cooper's
20 motion in that regard, and so we believe that that is the
21 law of the case in this case. And would also just
22 respectfully request that the Court rule on our motion so
23 there's a final order as to the two Democratic parties in
24 this case.

25 I know ---

1 THE COURT: Okay.

2 MR. THICKENS: --- Rob has got a motion to our memo.

3 THE COURT: Yes, sir.

4 MR. TYSON: Good morning, Your Honor. Rob Tyson here
5 on behalf of Bucky Mock.

6 Your Honor, I filed this morning a motion to offer and
7 -- and a response. Do you have --

8 THE COURT: I do.

9 MR. TYSON: Okay. I have a copy here.

10 If Your Honor, just briefly, if you've seen that. You
11 ruled in the order in -- in the Democratic Party's asking
12 the Court to amend the order and grant its motion. They've
13 got no legal reasons that they have provided except for
14 that they -- they just want a ruling on the motion as you
15 heard.

16 You know, the motion to reconsider, they got to show
17 something new, they got to show a different law, or
18 whatever. We just believe it's not necessary right now.
19 Thank you.

20 THE COURT: Okay.

21 MR. THICKENS: Your Honor, very briefly. The legal
22 grounds are actually stated in our motion to dismiss. It's
23 the *Hyde* case that Your Honor cited. Thank you.

24 THE COURT: Okay.

25 MS. BARR: May it please the Court.

1 THE COURT: Yes, ma'am.

2 MS. BARR: Good morning, Your Honor.

3 THE COURT: Good morning.

4 MS. BARR: Thank you so much for agreeing to hear this
5 matter on an expedited basis. We appreciate the Court's
6 indulgence.

7 Your Honor, we also, on behalf of the Defendant,
8 LeNette Samuels-Cooper, filed a motion for reconsideration,
9 essentially raising about four or five points, the most
10 important legally which is the Court's order as it relates
11 to defining what constitutes the death investigation.

12 Your Honor, the statute, of course, is not helpful in
13 this regard. As it relates to the testimony that was
14 presented in court, it appears to be not in dispute that
15 there are several factors that constitute a death
16 investigation.

17 Judge, I have marked as Court's Exhibit 1 what I
18 believe to be the testimony that resulted from the hearings
19 that we had on the 20th and the 27th of July.

20 Your Honor, given that the statute does not imply what
21 constitutes a death investigation and given that the
22 Defendant, Ms. Cooper, in this case has alleged that she
23 has more than a year's experience in death investigation,
24 we believe that it's necessary and appropriate that the
25 Court in this order make specific findings as to what

1 constitutes a death investigation.

2 Judge, you may recall that Ms. Gast, who is the
3 president of the South Carolina Coroner's Association,
4 testified that the person of conducting a death
5 investigation has to determine cause and manner of death.
6 Obviously that's addressed in Your Honor's order.

7 She testified that she -- a person conducting a death
8 investigation would have to have gathered relevant
9 experience -- relevant information concerning the
10 decedent's death, go to the scene, work with other law
11 enforcement agencies, assess the decedent, talk to
12 witnesses, obtain the medical records, request an autopsy,
13 talk with the pathologist who actually conducts the
14 autopsy, perhaps attend the autopsy, complete a report
15 documenting the death scene, as well as complete a death
16 certificate.

17 Your Honor, with the exception of about two of those
18 things, Ms. Samuels-Cooper testified that, in her 13 years
19 working for the Coroner, she has done all of those things.
20 And Your Honor, obviously Mr. Mock had the opportunity
21 should that -- should he challenge her assertions in that
22 regard, he had the opportunity to have another witness to
23 come and challenge that. Ms. Gast was here on the second
24 date in July. She was waiting in the courtroom. Of
25 course, if there was some issue regarding Mrs. Cooper's

1 experience, Mr. Mock was here to testify to that effect.

2 So Judge, I think what we know now is that noone seems
3 to contest all the things that Ms. Samuels-Cooper did while
4 she worked for the Coroner. The only issue is if -- we
5 don't dispute what she did, we just don't think it
6 constitutes a death investigation simply based upon her
7 title.

8 Your Honor, we believe that it's appropriate and
9 necessary under the facts of this case that the Court
10 outline for us what actually constitutes a death
11 investigation.

12 Judge, in addition, Your Honor noted in the order that
13 there were several duties and responsibilities that Mrs.
14 Samuels-Cooper performed while employed with the Coroner's
15 Office. One of the things that I just simply don't
16 recollect -- and of course I'll -- I'll adhere to the
17 record -- I don't recollect Mrs. Cooper testifying that she
18 worked for the funeral home.

19 Again, I would obviously see to the record in terms of
20 that regard, but Judge, certainly, to the extent that if
21 she had, in fact, worked for the funeral home and there was
22 testimony to that effect, the majority of the things that
23 she testified to were not duties associated with her work
24 in a funeral home.

25 Obviously, a person working for the funeral home

1 wouldn't have a -- a need to go to an autopsy, wouldn't
2 have the need necessarily to view medical records, all of
3 those things, of course, that Mrs. Cooper's testified she
4 did.

5 Judge, specifically we would ask the Court to consider
6 the testimony with regard to Ms. Cooper indicating that,
7 during her 13 years, she spoke routinely with law
8 enforcement, she spoke with Social Service workers when
9 investigating stillborn births; she spoke with the
10 pathologist about the circumstances of a person's death, as
11 I recollect her testimony, hundreds of times. She actually
12 named several pathologists with whom she communicated
13 during her -- her time at the Coroner's Office. She
14 requested and viewed autopsy reports. She subpoenaed and
15 read countless medical records, obviously to assist the
16 Coroner or the Deputy Coroner in investigating the cause
17 and manner of death. She prepared the Coroner's report.

18 I believe her testimony also was she collected and
19 safeguarded the decedent's personal effects, and I recall
20 very vividly her testimony that on one occasion, she
21 actually transported a blood sample from the hospital to
22 MUSC for purposes of the pathologist conducting an autopsy.

23 We believe that the order, obviously, should be
24 complete as it relates to her experience in this regard
25 because simply that's the gravamen of her testimony, the

1 nature and the extent of her experience.

2 Your Honor, we'd also ask the Court to make a finding
3 that Mr. Monk actually made the decision to wait until the
4 outcome of the election to formerly challenge Mrs. Cooper's
5 qualifications. We think that goes directly to the issue
6 of estoppel and *Laches*, and we believe that it is
7 appropriate that the Court's order reflect that that was a
8 conscious decision -- decision on his part.

9 Your Honor, I -- I believe in the order you indicate
10 that Mrs. Cooper testified that she had gone to one death
11 scene. My recollection of her testimony was that she had
12 gone to the hospital or nursing home five or six times with
13 regard to a report of a death. My recollection is further
14 that she testified that she had gone to the death scene
15 three or four times as it relates to traffic fatalities.
16 And again, Judge, those points of her testimony go directly
17 to the nature and extent of her -- of her experience.

18 THE COURT: Okay.

19 MS. BARR: And lastly, Judge, you indicated in the
20 order that to determine that Mrs. Cooper is qualified and
21 has the necessary experience in death investigations would
22 be akin to an administrative assistant having experience to
23 then take the bench as -- as a judge. And Judge, we would
24 just simply submit to the Court that it's probably more
25 akin to a situation where administrative to magistrate, as

1 a result of the experience that he or she gains in that
2 role, would then have the necessary experience to become
3 and to apply for the position of being magistrate.

4 Your Honor, on page 14 of the order, indicated that
5 testimony was that it would take one year for an individual
6 to gain the necessary death experience hours to qualify,
7 and certainly Mrs. Cooper's testimony was that she's been
8 working there 13 years, that she has over 1,000 of what we
9 would consider death-experience hours. And we would
10 believe that obviously that testimony, uncontradicted as it
11 is, is appropriate that this Court determine that she has
12 the necessary one-year death experience in this case and
13 the Court reconsider its order to that -- in that -- in
14 that respect.

15 THE COURT: Okay. Thank you.

16 MS. BARR: Thank you, Your Honor.

17 THE COURT: You want to respond?

18 MR. TYSON: Again, good morning, Your Honor, just
19 quickly. And as I've stated in the response in opposition
20 -- and you're well aware of this -- but a Rule 59 motion is
21 to reconsider, it's to alter or to amend. And -- and --
22 and some of the elements it needs to be the -- you
23 misunderstood or that you failed to fully consider or you
24 failed to rule on an argument. And -- and with all due
25 respect, the arguments that were just read, at least for

1 all arguments that we've heard -- this is our fourth time
2 here, and so they've all been raised before and so we don't
3 believe that there's anything new about the order.

4 The -- the comment about it's appropriate to outline
5 what constitutes death investigations, Your Honor, you
6 know, there's lots of things that we would like to have in
7 the order, but that doesn't mean it should be reconsidered.

8 Spent a lot of time when they're talking about the
9 testimony of what -- of what a death investigation
10 encompasses, and we don't believe that -- that it's
11 appropriate to go that -- that far.

12 The -- as to the comment about Mr. Mock made a
13 decision to wait 'til the outcome of the election, as you
14 recall, there's plenty of testimony from the Democratic
15 Party and from Mr. Mock that he contacted the Democratic
16 Party right after she was put on the ballot. So we don't
17 believe that's appropriate.

18 And Your Honor, just lastly, it wasn't discussed, but
19 just in -- in the prayer for the relief on the motion to
20 reconsider, there was something about staying and adjoining
21 in this last paragraph. And Your Honor, that's not
22 appropriate in a motion to reconsider, on 59. If they want
23 to try to seek an injunction or if they want to stay your
24 order or whatever, that needs to be filed in a separate
25 motion, not under Rule 59. Thank you, Your Honor.

1 THE COURT: Yes, sir.

2 MR. SAAB: If Your Honor please, there's just one more
3 matter as it relates to -- to the motion that's before the
4 Court, and really relates to the course.

5 In reading Your Honor's order, it almost appears as if
6 there's a conclusion that a course exists. We would submit
7 to Your Honor that the uncontroverted evidence in the case
8 is that no course exists and that that was your question to
9 Coroner Gast, which she pointedly ceded that no course
10 exists.

11 We believe that that's an important finding in the
12 case. And Judge, I would submit to Your Honor that when
13 you look at the documents that have been provided to the
14 Court -- and I apologize for not knowing which exhibit
15 number this particular document is, but it's the February
16 21, 2012 letter where they indicated that the ABMDI
17 certification program was provided by Saint Louis
18 University; and then the testimony later says that Saint
19 Louis University doesn't do it. And then the testimony
20 also said but if you go on their website, they still talk
21 about Saint Louis University.

22 But the point that I'm making, Judge, is if, in fact,
23 ABMDI had a certification program, the easiest thing in the
24 world would be to put a letter just saying that they've got
25 a certification program, it's not at Saint Louis any more,

1 it's at Baltimore University or it's at somewhere.

2 We believe that the statute creates an opportunity for
3 an individual to get certified, and -- and if this Court
4 has experienced a system where the statute is frustrated.
5 in light of the fact that they refuse to create a system by
6 which an individual can get certified over the course of
7 one year, then -- then that's within the Court's purview to
8 deal with.

9 And so we would ask for a finding in Your Honor's
10 order that no certification program, based on the testimony
11 in this case, exists for an individual like Samuels-Cooper
12 to become certified. Thank you, Your Honor.

13 THE COURT: Yes, sir.

14 Well, on page 14 of my order that's what I was
15 implying when it says (as read): "Furthermore, testimony
16 at the July 27 hearing showed that Ms. Samuel-Cooper would
17 -- will be unable to enroll in a forensic science degree or
18 certification program within one year." Because in fact,
19 the testimony was it does not exists.

20 And that's what I meant there that she can't enroll in
21 a program because there is no program for her to enroll in.

22 MR. SABB: And Judge, all I would ask for you to
23 consider is the fact -- including that statement, that she
24 can't because the testimony of this case is that it doesn't
25 exist. And so, yes, sir, I -- I -- I appreciate that.

1 I would just encourage the Court to consider going a
2 step further, just as you've indicated, and -- and -- and -
3 - and make that a clear issue for the readers to be able to
4 -- to know.

5 THE COURT: All right. Now, part of that statute, if
6 she was certified, she'd be qualified. And it -- and
7 there's certain criteria to be certified. And the
8 certification program defines death investigation
9 experience different than the South Carolina code defines
10 it.

11 And -- and my interpretation of the South Carolina
12 Code on death investigations is it requires a determination
13 of the manner and cause of death. Simply being involved in
14 the system and gathering information -- the -- the statute
15 requires the Coroner and the Deputy Coroner and the Deputy
16 Coroners must be approved by a circuit judge. And since
17 death investigation is such that you only have one window
18 to -- to do it, that -- that the person conducting that
19 death investigation must be able to determine the manner
20 and cause of death. And the only people who have the
21 statutory authority in South Carolina to make that
22 determination is the Coroner and the Deputy Coroner.

23 And so that's how I made that determination because
24 they must make -- simply putting information together is
25 not enough. They got to have the ability to make the

1 decision and to make the decision, and that that's why I
2 found that your client didn't qualify because even though
3 she had assisted in putting enormous amount of information
4 together, she'd never made a determination about the manner
5 and cause of death, which I think the South Carolina
6 statute is implying.

7 Now, the Supreme Court may change that, and they may -
8 - may define that in a different light. But based on all
9 my interpretation of the statute and what -- and the
10 practice that's been ongoing in South Carolina for a period
11 of time, that's what I think the statute means.

12 MR. SABB: So -- so Judge, we will just tell the Court
13 that we have an appreciation for that and it's one of the
14 issues that we struggled with as well. But here's where we
15 eased to a different interpretation.

16 Obviously yours is more significant than ours, but
17 when the statute speaks of other individuals, like nurses,
18 nurses do not weigh in on the notion of the cause and
19 manner of death, yet they qualify. When the statute speaks
20 in terms of law enforcement persons, they don't weigh in on
21 the issue of the cause and manner of death, yet they
22 qualify.

23 And so we would submit to Your Honor that there are
24 other factors, if Your Honor please, for consideration
25 beyond the ultimate cause and manner of death. And quite

1 honestly, Judge, I believe that's where Coroner Gast
2 testimony became compelling when she spelt out all the --
3 what goes into the death investigation that leads to the
4 ultimate conclusion of the cause and manner of death.

5 We believe, Judge, that to not consider all of the
6 ingredients that allows the conclusion but to only consider
7 the conclusion, would create, obviously, if Your Honor
8 please, the result that we have now.

9 And so we would argue before this Court as vehemently
10 as we know how, that the Court's interpretation ought to be
11 enlarged and embrace the other ingredients that is
12 contained in this record that comes from one of the most
13 authoritarian figures in our State, for she wears the title
14 of the President of the Coroner's Association and
15 incredibly credible in her presentation and incredibly
16 knowledgeable in her presentation. Of course, as I recall,
17 she happens to, I think, be a nurse.

18 But -- but Judge, that's where we want to sort of
19 stretch the rubber band a little bit and -- and include
20 other things in Your Honor's consideration. But Judge, I -
21 - I -- you know, I read you loud and clear on it. You
22 know, as an officer of the Court I just wanted to share a
23 little bit more information for you to consider on the
24 subject.

25 THE COURT: Yes, sir.

1 MR. TYSON: Your Honor, I'd just say I appreciate the
2 stretching of the rubber band, but that's clearly not
3 appropriate for Rule 59 motion. With all due respect,
4 these arguments have been made.

5 They spent a lot of time -- Ronnie talked for -- Mr.
6 Sabb talked for a long time in closing about Ms. Gast's
7 testimony and what it was. And Your Honor, we believe the
8 order spells out the statute that describes the ultimate
9 responsibility for the Coroner and -- and whatnot, you
10 know.

11 I understand, as we've said through the four days,
12 there's some difficulty with the statute, but -- but that's
13 a different issue than we have today. That's one that Mr.
14 Sabb and his folks up in Columbia will have to deal with.

15 But just as today, for Rule 59(e) motion, we believe
16 that your order satisfies that point, and -- and should not
17 be amended.

18 Your Honor, just -- if you want me to just briefly, on
19 my motion to alter or amend, I'll give you two seconds of
20 that.

21 THE COURT: Okay.

22 MR. TYSON: Your Honor, as you heard throughout, you -
23 - you ruled that we failed -- that Mr. Mock failed to
24 exhaust his administrative remedies. I understand your
25 ruling. I've reserved my objections then, and I've now

1 filed my Rule 59 motion and again reserve those. Thank
2 you.

3 THE COURT: Okay. I'll read those and consider it.

4 And -- and as far as -- Ms. Barr, as far as your
5 comment about I may have gotten some of the facts wrong in
6 the order about your client attending the death scene, my
7 recollection of testimony -- and I may have missed
8 something -- that she did go to the hospital several times.

9 And I didn't technically consider that as a death
10 scene even though, you know, a lot of people die in a
11 hospital. I consider more the scene as somewhere outside
12 of a medical facility, on -- on the road or -- and my
13 recollection is she went with the magistrate. There was no
14 coroner or deputy coroner available. And the statute
15 allows when none of them are available, that a magistrate
16 can go to a death scene and that the magistrate simply
17 asked her to accompany them because they'd never done that.
18 And she went to a death scene dealing with an automobile
19 accident, but the magistrate was there.

20 And if she -- she went to another one, I may have
21 missed that in my notes, but I only recall the hospital and
22 that one she went with the magistrate. So -- so but the
23 record, you know, should be complete if she testified that,
24 but I didn't recall that and didn't write that down.

25 MS. BARR: Yes, sir. And Your Honor, with regard to a

1 death scene, I believe it was the testimony of Ms. Gast
2 that a death scene is the scene where a person had -- has -
3 - has expired, which we believe, obviously, would encompass
4 a hospital -- hospital facility and so forth.

5 THE COURT: And -- and technically, that's probably
6 true, it's -- well, any way -- okay. Anything else from
7 any of y'all?

8 (No response.)

9 THE COURT: I'll let y'all know something sometime
10 today.

11 MS. BARR: Thank you, Your Honor.

12 MR. KENT: I guess that was our biggest concern
13 because, as you know, we have filing -- on behalf of the
14 local and the State Election Commission, we have filing ---

15 THE COURT: Right.

16 MR. KENT: --- tomorrow at 12.

17 THE COURT: Yeah. I understand that.

18 MR. KENT: Definitely, at least, I know Mr. Tyson had
19 a motion dealing with the motion to adjoin for an
20 injunction so ---

21 THE COURT: Right.

22 MR. KENT: --- so that could rule ---

23 THE COURT: I'm not going to enjoin -- I'm not going
24 to stop that ---

25 MR. KENT: There won't be an injunction

1 THE COURT: I haven't had one presented to me, and I'm
2 not going to stop whatever process ---

3 MR. KENT: So we're fine ---

4 THE COURT: --- the Election Commission thinks the
5 filing --

6 MR. KENT: Thank you.

7 THE COURT: So ...

8 MR. TYSON: Thank you, Your Honor.

9 MS. BARR: Thank you, Your Honor.

10 THE COURT: Okay.

11

12 -- END OF TRANSCRIPT OF RECORD --

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Third Circuit Court for Clarendon County, South Carolina, on the 13th day of August, 2018.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.

E/ Bonnie H. Kelly

Bonnie H. Kelly, CVR
Official Court Reporter

Columbia, South Carolina

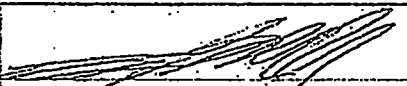
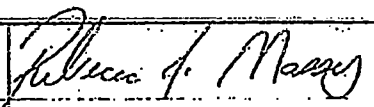
August 31, 2018

FILING AFFIDAVIT - CORONER

STATE OF SOUTH CAROLINA
County of CLARENDON

I, Charles J. "Bucky" Mock, Jr., being duly sworn, hereby state or affirm that:

1. I am offering my candidacy for the Office of Coroner via nomination by the Democratic Party ☒.
2. As evidenced by the statements and information selected, indicated, or otherwise provided below, I meet all of the qualification requirements for Coroner set forth in S.C. Code § 17-5-130.
3. My date of birth is 06/17/1944 and my place of birth is Chicago, Illinois.
4. I am a citizen of the United States.
5. I am a resident of Clarendon County and have been a resident for 26 years.
6. I am a registered voter in Clarendon County.
7. I will have attained the age of at least twenty-one years prior to the date of election for this office.
8. I obtained a high school diploma or its recognized equivalent by the State Department of Education on the following date: May 1963.
9. I have not been convicted of a felony or an offense involving moral turpitude contrary to the laws of this State, another state, or the United States.
10. I meet at least one of the following education and/or experience requirements: *[check all that apply]*
 - ☒ I have at least three years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency.
 - ☒ I have a two-year associate degree *and* two years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency.
 - ☐ I have a four-year baccalaureate degree *and* one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency.
 - ☐ I am a law enforcement officer, as defined by S.C. Code § 23-23-10(E)(1), who is certified by the S.C. Law Enforcement Training Council (the "Training Council") with a minimum of two years of experience.
 - ☐ I have completed a forensic science degree or certification program recognized by the S.C. Coroners Training Advisory Committee (the "Advisory Committee") *or* I am enrolled in a forensic science degree or certification program recognized by the Advisory Committee to be completed within one year of being elected coroner.
 - ☐ I am a medical doctor.
 - ☐ I have a Bachelor of Science degree in nursing.
11. The following supplemental education and experience information is provided to the extent applicable:
 - 1) I received an associate degree on the following date: May 1979.
 - 2) I received a baccalaureate degree on the following date: _____.
 - 3) I completed a forensic science degree or certification program recognized by the Advisory Committee on the following date: _____.
 - 4) I am enrolled in the following forensic science degree or certification program recognized by the Advisory Committee to be completed within one year of being elected to the office of coroner: _____.
 - 5) I have 22 years of experience as a death investigator.
 - 6) I have _____ years of experience as a law enforcement officer certified by the Training Council.

Candidate Signature		Notary Signature	
Candidate Address	<u>1245 STRIPER DR</u> <u>Manning SC 29102</u>	Sworn before me on this date	<u>16th F March 2018</u>
		Commission expiration date	<u>10/24/2026</u>

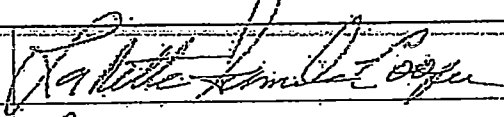
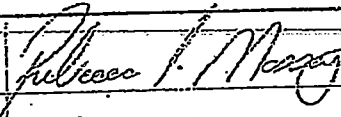
FILING AFFIDAVIT - CORONER

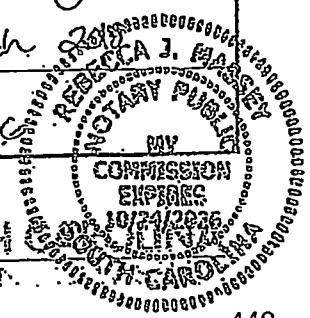
STATE OF SOUTH CAROLINA

County of Clarendon

I, LaNette Samuels-Cooper, being duly sworn, hereby state or affirm that:

1. I am offering my candidacy for the Office of Coroner via nomination by _____.
2. As evidenced by the statements and information selected, indicated, or otherwise provided below, I meet all of the qualification requirements for Coroner set forth in S.C. Code § 17-5-130.
3. My date of birth is 8/25/1948 and my place of birth is Sumter, SC.
4. I am a citizen of the United States.
5. I am a resident of Clarendon County and have been a resident for 35 years.
6. I am a registered voter in Clarendon County.
7. I will have attained the age of at least twenty-one years prior to the date of election for this office.
8. I obtained a high school diploma or its recognized equivalent by the State Department of Education on the following date: 5/31/1966.
9. I have not been convicted of a felony or an offense involving moral turpitude contrary to the laws of this State, another state, or the United States.
10. I meet at least one of the following education and/or experience requirements: *[check all that apply]*
 - ☐ I have at least three years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency.
 - ☐ I have a two-year associate degree *and* two years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency.
 - ☐ I have a four-year baccalaureate degree *and* one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency.
 - ☐ I am a law enforcement officer, as defined by S.C. Code § 23-23-10(E)(1), who is certified by the S.C. Law Enforcement Training Council (the "Training Council") with a minimum of two years of experience.
 - ☐ I have completed a forensic science degree or certification program recognized by the S.C. Coroners Training Advisory Committee (the "Advisory Committee") *or* I am enrolled in a forensic science degree or certification program recognized by the Advisory Committee to be completed within one year of being elected coroner.
 - ☐ I am a medical doctor.
 - ☐ I have a Bachelor of Science degree in nursing.
11. The following supplemental education and experience information is provided to the extent applicable:
 - 1) I received an associate degree on the following date: _____.
 - 2) I received a baccalaureate degree on the following date: 5/16/1971.
 - 3) I completed a forensic science degree or certification program recognized by the Advisory Committee on the following date: _____.
 - 4) I am enrolled in the following forensic science degree or certification program recognized by the Advisory Committee to be completed within one year of being elected to the office of coroner: Medicolegal Death Investigation - 8/13/2018-8/17/2018.
 - 5) I have _____ years of experience as a death investigator.
 - 6) I have _____ years of experience as a law enforcement officer certified by the Training Council.

Candidate Signature		Notary Signature	
Candidate Address	<u>P.O. Box 15</u> <u>Manning, SC 29102</u>	Sworn before me on this date	<u>19th of March 2020</u>
		Commission expiration date	<u>10/24/2024</u>



FILING AFFIDAVIT - CORONER

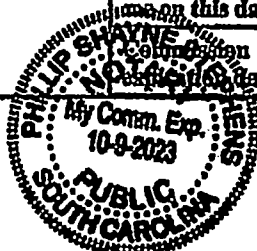
STATE OF SOUTH CAROLINA

County of ClarendonI, LaNette Samuels-Cooper, being duly sworn, hereby state or affirm that:

1. I am offering my candidacy for the Office of Coroner via nomination by _____.
2. As evidenced by the statements and information selected, indicated, or otherwise provided below, I meet all of the qualification requirements for Coroner set forth in S.C. Code § 17-5-130.
3. My date of birth is 8/25/1948 and my place of birth is Sumter, SC.
4. I am a citizen of the United States.
5. I am a resident of Clarendon County and have been a resident for 35 years.
6. I am a registered voter in Clarendon County.
7. I will have attained the age of at least twenty-one years prior to the date of election for this office.
8. I obtained a high school diploma or its recognized equivalent by the State Department of Education on the following date: 5/31/1966.
9. I have not been convicted of a felony or an offense involving moral turpitude contrary to the laws of this State, another state, or the United States.
10. I meet at least one of the following education and/or experience requirements: [check all that apply]
 - ☐ I have at least three years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency.
 - ☐ I have a two-year associate degree and two years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency.
 - ☒ I have a four-year baccalaureate degree and one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency.
 - ☐ I am a law enforcement officer, as defined by S.C. Code § 23-23-10(B)(1), who is certified by the S.C. Law Enforcement Training Council (the "Training Council") with a minimum of two years of experience.
 - ☐ I have completed a forensic science degree or certification program recognized by the S.C. Coroners Training Advisory Committee (the "Advisory Committee") or I am enrolled in a forensic science degree or certification program recognized by the Advisory Committee to be completed within one year of being elected coroner.
 - ☐ I am a medical doctor.
 - ☐ I have a Bachelor of Science degree in nursing.
11. The following supplemental education and experience information is provided to the extent applicable:
 - 1) I received an associate degree on the following date: _____.
 - 2) I received a baccalaureate degree on the following date: 5/16/1971.
 - 3) I completed a forensic science degree or certification program recognized by the Advisory Committee on the following date: _____.
 - 4) I am enrolled in the following forensic science degree or certification program recognized by the Advisory Committee to be completed within one year of being elected to the office of coroner: August 13, 2018 - August 18, 2018.
 - 5) I have _____ years of experience as a death investigator.
 - 6) I have _____ years of experience as a law enforcement officer certified by the Training Council.

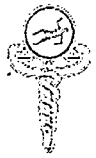
Candidate Signature	<u>LaNette Samuels-Cooper</u>	Notary Signature	<u>Philip Shyne Stephens</u>
Candidate Address	P.O. Box 15 Manning, SC 29102	Sworn before me on this date	<u>April 4, 2018</u>
		Commission expiration date	<u>10/09/2023</u>

SEC FRM 1012-201801



SOUTH CAROLINA

 ELECTRONICALLY FILED - 2018 Jun 29 2:39 PM - CLARENDON - COMMON PLEAS - CASE#2018CP1400237
 ELECTRONICALLY FILED - 2018 Jun 14 5:12 PM - CLARENDON - COMMON PLEAS - CASE#2018CP1400237



ABMDI
American Board of
Medicolegal Death Investigators

[Login](#) [Online Testing Login](#)

[Apply Online](#)

[ABMDI Home](#)

[Death Investigation Guidelines](#)

[Registry Certification \(basic\)](#)

[Application Process](#)

[Performance Training Guidebook Checklist](#)

[Registry Examination](#)

[Registry Certification Fees](#)

[Board Certification \(advanced\)](#)

[Bylaws](#)

[Policy and Procedures](#)

[Registry Diplomates](#)

[Board Certified Fellows](#)

[Certificant Directory](#)

[Board Members](#)

[Advisory Council](#)

[Continuing Education Opportunities](#)

[FAQ](#)

[Change of Information Form](#)

[Reference Material](#)

[Recertification](#)

[Job Opportunities](#)

[Contact Us](#)

[Site Map](#)

Registry Certification (basic)

The Registry certification is the initial certification that provides official recognition that an individual has acquired basic knowledge and demonstrated proficiency in the standards of practice necessary to properly conduct a competent, thorough medicolegal death investigation.

Eligibility

1. Must be at least eighteen years of age at time of application.
2. Must have a high school diploma or equivalent.
3. Must currently be employed in a Medical Examiner or Coroner office or equivalent federal authority with the job responsibility to "conduct death scene investigations" or supervise such investigations at time of application and examination.
4. Must have a minimum of 640 hours of death investigation experience
 - o Each on-call hour = 0.25 hours
 - o Investigation of a natural death, no scene investigation = 1 hour
 - o Investigation of non-natural death, no scene investigation = 2.5 hours
 - o Investigation of a death with scene investigation = 5 hours



DISCLAIMER: Currently, the ABMDI does not endorse any program that claims to fulfill the requirements of certification or prepare an individual for the certification exam.

Application Process

Applications are available upon receipt of an [application request form](#). The \$50 non-refundable application fee must accompany the request form.

Included in the Registry application packet:

1. Application Form (Code of Ethics included)
2. Employment Verification Form verifying 640 hours of work experience and current employment in a Medical Examiner/Coroner office or equivalent federal authority with the primary responsibility of death investigation (requires notarization). *this requirement applies to application and examination
3. Professional Reference form
4. Performance Training Guidebook Checklist with ABMDI instructions (see below for more details).

In order to be eligible to sit for the Registry exam, the individual must complete the application packet in its entirety. *Note: Applicants who begin the process within one jurisdiction and subsequently move to another, must provide a notarized employment verification form from each jurisdiction indicating the length of employment.*

Application materials must be completed in their entirety and returned to the ABMDI office at least 30 days prior to the desired examination date.

There is an 18 month time limit to complete the application process and sit for the exam. If, after 18 months, you have not completed all application requirements or tested, your file will become inactive and your application fee will be forfeited. You will be required to reapply and pay the current application fee in order to start the process again.

Performance Training Guidebook Checklist

Copy of Registry Performance Training Checklist in Acrobat Reader-- This is only a copy and should not be sent in with other application materials.

Medicolegal Death Investigators have standards of practice that require performance of specialized, technical skills, e.g., initial body examination at the scene, drawing postmortem specimens for analysis, etc. There are many specialized procedures that are fundamental and are necessary to perform a thorough medicolegal death investigation. Proof that an individual is experienced in correctly performing these tasks is required to show his/her competency. Successful performance of all 300+ tasks identified in the Checklist must be verified in writing by a competent practitioner working in the field who has personal knowledge that the applicant can perform the task independently and correctly. (The above pdf document shows the 300+ tasks condensed into 52 categories).

You may have as many people as necessary sign off on the Checklist showing that you have completed the tasks. You must also go through hands-on training to complete the checklist, for example:

- Actual death scene field work experience including body evaluation at the death scene and producing appropriately documented reports of death
- Autopsy lab including body evaluation and drawing specimens
- Role-play (creating scenarios that address training issues including mock scenes, etc.)
- Other forensic lab work involving anthropology, odontology, postmortem evaluation, medical record review, etc.

(NOTE: It is understood that some jurisdictions do not perform certain identified tasks due to statute, policy or procedure. However, that does not preclude an applicant from receiving appropriate training in that area. If such issues arise, the applicant is encouraged to contact ABMDI for direction to determine how to best satisfy those specific requirements.)

When the entire Checklist is completed at an Independent level, the back cover should be notarized and returned to the ABMDI office for processing.

Registry Examination

The scope of knowledge for the Registry exam is defined in the National Institutes of Justice publication *Death Investigation: A Guide for the Scene Investigator* and further defined in the Performance Training Guidebook Checklist. For an online practice test, you can visit [Occupational Research and Assessment](#).

The 240 multiple choice examination covers factual knowledge, technical information, understanding the principles and problem-solving abilities related to the profession. Exams are offered online. There is an additional fee for paper/pencil format. The examination is divided into eight sections as outlined in the Checklist and in the *Medicolegal Death Investigator* training text (Clark, Ernst, Jentzen, and Haglund, 1994). This text may be purchased from [Occupational Research and Assessment](#). Examinations are administered at local colleges, universities or approved testing centers through their testing departments. You have up to four hours to complete all eight multiple choice sections, which are:

1. Interacting with Federal, State and Local Agencies
2. Communicating
3. Interacting with Families
4. Investigating Deaths
5. Identifying and Preserving Evidence
6. Maintaining Ethical and Legal Responsibilities
7. Demonstrating Scientific Knowledge
8. Coping with Job-Related Stress

Successful Completion of the Registry Examination

Once you have passed the Registry examination, you become a Diplomate of the ABMDI (D-ABMDI). Certificants are issued a certification number that potential employers can ask for verification of certification.

Registry Recertification

In order to continue with certification, the Diplomate must:

1. Be considered in good standing (current in all fees)
2. Demonstrate continued competency (completed work verification form or see below)
3. Reaffirm the Code of Ethics in writing
4. Provide documentation of 45 hours of *approved* continuing education in the continuing education folder provided upon successful completion of passing the exam

The ABMDI is accredited by the Forensic Specialties Accreditation Board (FSAB), which requires proof of continued competency in order to be recertified. Continued competency can be demonstrated by current employment or by examination. The recertification examination will be required if you are not currently working for a medical examiner/coroner jurisdiction or equivalent federal authority with the responsibility of investigating deaths.

Registry Certification Fees

- Non-refundable Application Fee: \$50
- Non-refundable online Examination Fee: \$350
- *Paper/pencil format of exam: \$50 additional fee
- After certification, yearly maintenance fee: \$50

The ABMDI accepts Master Card, Visa, American Express, money orders and personal checks. Fees must be paid in U.S. dollars.

Note: There is an 18 month time limit to complete the application process and sit for the exam. There is a "wait-time" of 60 days between test and retest.



April 5, 2018

Shirley Black-Oliver
Clarendon County Board of
Voter Registration & Elections
411 Sunset Drive, PO Box 548
Manning, SC 29102

Dear Director Black-Oliver,

I am certifying the attached Democratic candidates to be placed on the ballot for the election on November 6, 2018. The candidates meet, or will meet by the time of the general election, or as otherwise required by law, the qualifications for office, which s/he has filed. (S.C. Code of Laws Section 7-13-40).

Thank you for your assistance and please contact me with any questions or concerns.

Best regards,

Trav Robertson
Chair
South Carolina Democratic Party

Enclosure

Cc: Chris Whitmire, South Carolina Elections Commission
Patricia Pringle, Chair Clarendon County Democratic Party

CLARENDON															
Ballot Sort Order Code	Filing Level	Office	District	Associated Counties	Ballot Name (first - middle)	Ballot Name (last - suffix)	Running Mate	Candidate First Name	Candidate Middle Name	Candidate Last Name	Candidate Suffix	Party	Primary	Filing Location	Running Mate Office
140	County	County Treasurer		CLARENDON	Matt	Evans		Carl	M	Evans	Jr.	Democratic		CLARENDON	
131	County	Coroner (Unexpired Term)		CLARENDON	Bucky	Mock		Charles	J	Mock	Jr.	Democratic	Democratic	CLARENDON	
75	County	State House of Representatives, District 64	64	CLARENDON,SUMTER	Robert L	Ridgeway III		Robert	L	Ridgeway	III	Democratic	Democratic	CLARENDON	
166	County	County Council District, 03	3	CLARENDON	Benton	Blakely		Dallas	B	Blakely		Democratic		CLARENDON	
166	County	County Council District, 01	1	CLARENDON	Billy	Richardson		Billy	G	Richardson		Democratic		CLARENDON	
131	County	Coroner (Unexpired Term)		CLARENDON	LaNette	Samuels-Cooper		Lanette		Samuels-Cooper		Democratic	Democratic	CLARENDON	
166	County	County Council District, 02	2	CLARENDON	W J	Filerston		William	J	Filerston	Sr.	Democratic		CLARENDON	
166	County	County Council District, 03	3	CLARENDON	Charlon	Watts		Julius	C	Watts	Jr.	Democratic		CLARENDON	
135	County	Auditor		CLARENDON	Patricia	Pringle		Patricia		Pringle		Democratic		CLARENDON	
166	County	County Council District, 01	1	CLARENDON	Robert A	McFadden Sr		Robert	A	McFadden	Sr.	Democratic		CLARENDON	
75	County	State House of Representatives, District 64	64	CLARENDON,SUMTER	Mitch	Ellerby		Mitchell		Ellerby		Democratic	Democratic	CLARENDON	

**2006-2017 SC Deaths
Clarendon County
Residence Data**

Year	Number
2006	336
2007	332
2008	388
2009	339
2010	386
2011	372
2012	351
2013	377
2014	404
2015	385
2016	382
2017*	418

**2006-2017 SC Deaths
Clarendon County
Occurrence Data**

Year	Number
2006	246
2007	219
2008	257
2009	211
2010	258
2011	250
2012	238
2013	251
2014	281
2015	280
2016	253
2017*	274

*Provisional data

Source: Division of Biostatistics

Vital Statistics

S.C. Dept. of Health & Environmental Control

July, 2018



February 21, 2012

Lerby Smith
Director
SC Department of Public Safety
10311 Wilson Boulevard
Post Office Box 1983
Blythewood, SC 29016

ABMDI
St. Louis University
The American Board of Medicolegal Death Investigators
1402 South Grand Boulevard
St. Louis, MO 63104-1028

Dear Sirs:

On behalf of the South Carolina Coroners Association, this letter is to advise that the Coroners Training Advisory Committee has met and unanimously approved the American Board of Medicolegal Death Investigators, Inc. (ABMDI) certification program provided by St. Louis University as the recognized forensic science degree or certification program pursuant to S.C. Code of Laws, Section 17-5-130(G).

Should you have any questions, please do not hesitate to contact me.

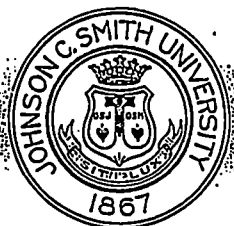
Sincerely,

Kenneth M. Johnson, BS, D-ABMDI, CMI-III, CFC
President

cc: SC County Coroners



CHARLOTTE,



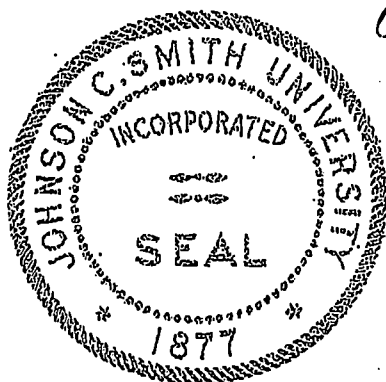
NORTH CAROLINA

*Upon the recommendation of the Faculty, the Trustees of
the Johnson C. Smith University have conferred upon
Alice W. Mallette Samuels*

*The Degree of
Bachelor of Science*

*and hereby give testimony of her fulfillment of all the
requirements for such a degree.*

*Duly signed and sealed at Charlotte, North Carolina
this the sixteenth day of May
One Thousand Nine Hundred Seventy-one.*



Lincoln H. Lewis
President of the University
Robert H. Brown
Secretary Board of Trustees

Qualifications for Coroner

SECTION 17 5 130. Coroner qualifications; affidavits of candidates; training; exemptions; Coroners Training Advisory Committee; Expenses.

(A)(1) A coroner in this State shall have all of the following qualifications, the person shall:

1. be a citizen of the United States;
2. be a resident of the county in which the person seeks the office of coroner for at least one year before qualifying for the election to the office;
3. be a registered voter;
4. have attained the age of twenty one years before the date of qualifying for election to the office;
5. have obtained a high school diploma or its recognized equivalent by the State Department of Education; and
6. have not been convicted of a felony offense or an offense involving moral turpitude contrary to the laws of this State, another state, or the United States.

(2) In addition to the requirements of subsection (A)(1), a coroner in this State shall have at least one of the following qualifications, the person shall:

(a) have at least three years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency;

(b) have a two year associate degree and two years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency;

(c) have a four year baccalaureate degree and one year of experience in

death investigation with a law enforcement agency, coroner, or medical examiner agency;

(d) be a law enforcement officer, as defined by Section 23-23-10(E)(1), who is certified by the South Carolina Law Enforcement Training Council with a minimum of two years of experience;

(e) be a licensed private investigator with a minimum of two years of experience; or

(f) have completed a recognized forensic science degree or certification program or be enrolled in a recognized forensic science degree or certification program to be completed within one year of being elected to the office of coroner.

(B)(1) A person who offers his candidacy for the office of coroner, no later than the close of filing, shall file a sworn affidavit with the county executive committee of the person's political party.

(2) The county executive committee of a political party with whom a person has filed his affidavit must file a copy of the affidavit with the appropriate county election commission by noon on the tenth day following the deadline for filing affidavits by candidates. If the tenth day falls on a Saturday, Sunday, or holiday, the affidavit must be filed by noon the following day.

(3) A person who seeks nomination by petition for the office of coroner, no later than the close of filing, shall file a sworn affidavit with the county election commission in the county of his residence.

(4) The affidavit required by the provisions of this subsection must contain the following information:

(a) the person's date and place of birth;

(b) the person's citizenship;

(c) the county the person is a resident of, and how long the person has been a resident of that county;

(d) whether the person is a registered voter;

(e) the date the person obtained a high school diploma or its recognized equivalent by the State Department of Education;

(f) whether the person has been convicted of a felony offense or an offense involving moral turpitude contrary to the laws of this State, another state, or the United States;

(g) the date the person obtained an associate or baccalaureate degree, if applicable;

(h) the date the person completed a recognized forensic science degree or certification program, or information regarding the person's enrollment in a recognized forensic science degree or certification program, if applicable; and

(i) the number of years of experience the person has as a death investigator, certified law enforcement officer, or licensed private investigator, if applicable.

(C) Each person serving as coroner in the person's first term is required to complete a basic training session to be determined by the Department of Public Safety. This basic training session must be completed no later than the end of the calendar year following the person's election as coroner. A person appointed to fill the unexpired term in the office of coroner shall complete a basic training session to be determined by the department within one calendar year of the date of appointment. This section must not be construed to require an individual to repeat the basic training session if the person has successfully completed the session prior to the person's election or appointment as coroner. A coroner who is unable to attend this training session when offered because of an emergency or extenuating circumstances, within one year from the date the disability or cause terminates, shall complete the standard basic training session required of coroners. A coroner who does not fulfill the obligations of this subsection is subject to suspension by the Governor until the coroner completes the training session.

(D) A person holding the office of coroner or deputy coroner who was elected, appointed, or employed prior to January 1, 1994, and who has served continuously since that time shall attend a minimum of sixteen hours training annually as may be selected by the South Carolina Law Enforcement Training Council on or before December 31, 1995. Each year, all coroners and deputy coroners shall complete a minimum of sixteen hours training annually as selected by the council. Certification or records of attendance or training must be maintained as directed by the council.

(E)(1) The basis for the minimum annual requirement of in service training is the calendar year. A coroner who satisfactorily completes the basic training session in accordance with the provisions of subsection (C) is excused from the minimum annual training requirements of subsection (D) for the calendar year in which the basic training session is completed.

(2) The Board of Directors of the South Carolina Coroners Association, in its discretion, may grant a waiver of the requirements of the annual in service training upon presentation of evidence by a coroner that he was unable to complete the training due to an emergency or extenuating circumstances.

(3) A coroner who fails to complete the minimum annual in service training required by this section may be suspended from office, without pay, by the Governor for ninety days. The Governor may continue to suspend a coroner until the coroner completes the annual minimum in service training required in this section. The Governor shall appoint, at the time of the coroner's suspension, a qualified person to perform as acting coroner during the suspension.

(F) A coroner in office on the effective date of this section is exempt from the provisions of this section except for the provisions of subsection (D).

(G) The Director of the Department of Public Safety shall appoint a Coroners Training Advisory Committee to assist in the determination of training requirements for coroners and deputy coroners. The committee must consist of no fewer than five coroners and at least one physician trained in forensic pathology as recommended by the South Carolina Coroners Association. The members of the committee shall serve without compensation.

(H) Expenses of all training authorized or required by this section must be paid by the county the coroner or deputy coroner serves, and the South Carolina Law Enforcement Training Council is authorized to set and collect fees for this training.

HISTORY: 1994 Act No. 307, Section 1; 1996 Act No. 459, Section 30; 2001 Act No. 73, Section 1; 2010 Act No. 222, Section 1, eff March 1, 2011.

“In addition, the “Coroners Training Advisory Committee” has unanimously approved the American Board of Medicolegal Death Investigators, Inc. (ABMDI) certification program provided by St. Louis University as the recognized forensic science degree or certification program for coroners pursuant to S.C. Code of Laws, Section 17-5-130(G).”

Proudly powered by WordPress



SAINT LOUIS UNIVERSITY
—
SCHOOL OF MEDICINE

Young Hall, CME Office
3839 Lindell Blvd.
St. Louis, MO 63108
Phone: 314.977.7401
Fax: 314.977.4533

Dear LaNette Samuels-Cooper, BA,

Thank you for registering for the Medicolegal Death Investigator Training Course, August 13-17, 2018.

Here are your Order Details.

Order: 253272 Billed on: 3/1/2018

Event: Saint Louis University Department of Pathology, Medicolegal Death Investigator Training Course - August 2018

Date: Monday, August 13, 2018 - Friday, August 17, 2018

Location:

Saint Louis University Department of Pathology, Medicolegal Death Investigator Training Course - August 2018 - MLDI Basic Course Registration Aug 2018	\$850.00
Order Total:	\$850.00
Payment Processed On: 3/1/2018	\$850.00
Total Paid:	\$850.00
Payment method: Visa	
Balance Due:	\$0.00

Course Check-in will be Monday morning, August 13, 2018, 7:00-7:45 am at the Hyatt Regency St. Louis at the Arch, Regency A and B, 2nd Floor.

Attendance at the course will only be allowed if you have **pre-registered and paid-in-full** (*no walk-in registrations will be taken*). The first 100 PAID registrations will be accepted; all others will be wait-listed. If payment will be made by an organization, municipality, or county, please contact us and arrange to send documentation of pending payment, such as an official requisition or purchase order, and we will hold your registration for you.

If you have a balance due and will be paying by check, please make your check payable to Saint Louis University and mail to the following address:

CME Office
Saint Louis University
3839 Lindell Blvd
St. Louis, MO 63108

Include a copy of this registration confirmation for each participant for which payment is being made.

You will be sent an email approximately 10 days prior to the course with instructions on how to download course material from a Google shared document. We will not have printed copies at the activity. We will provide a flash drive for you to save the course material to and you are invited to bring your electronic device to follow along during the course. There will be electrical outlets at the tables; however, wireless internet will NOT be available in the conference room.

Complimentary wi-fi will only be available in the hotel lobby and in your guest room as long as you have made your hotel reservation prior to the deadline.

Please dress in layers or bring a jacket or sweater. It can be difficult to control the temperature in the rooms.

We look forward to seeing you at our upcoming Medicolegal Death Investigator Training Course.

Login to CloudCME at <https://slu.cloud-cme.com/APH.aspx>

Username: lanettesamuels2@gmail.com

Password: Password reset for new and returning users, click Here.

Note: passwords are case sensitive.

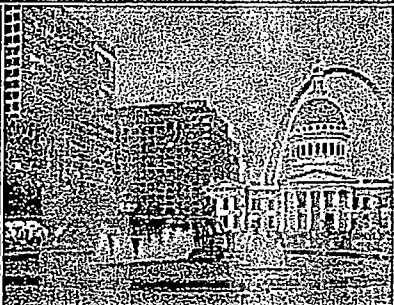
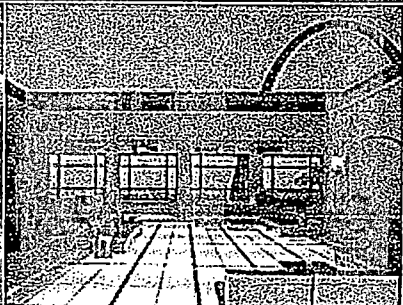
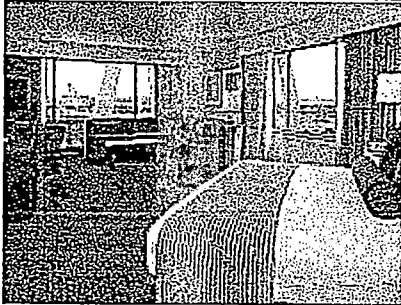
©2015-2016 Saint Louis University School of Medicine

[Click here to unsubscribe from CloudCME messages](#)

*Nyath Regency at the Arch 315 Chestnut, St. Louis MO.
888-421-1442*



HYATT REGENCY



SLU-MEDICOLEGAL DEATH INV ~ Aug 12, 2018 - Aug 18, 2018 ~ Hyatt Regency St. Louis at The Arch

Dear LANETTE COOPER,

We are pleased to confirm your reservations at the Hyatt Regency St. Louis at The Arch. The staff of the Hyatt Regency St. Louis at The Arch is looking forward to your arrival as part of the SLU-MEDICOLEGAL DEATH INV. Should your travel plans change and you need to make changes to your reservations, please [click here](#) or call 1-888-421-1442. You can also text us at 314-287-5399 for any request before, during or after your stay.

We look forward to welcoming you to the Hyatt Regency St. Louis at The Arch.

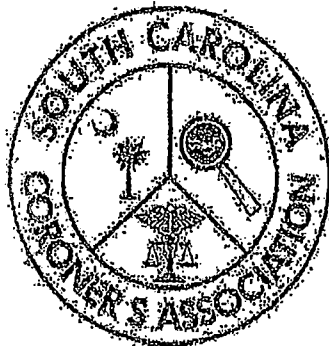
- The Staff of the Hyatt Regency St. Louis at The Arch

Reservation Details

Online Confirmation:	32KX5Q7J
Date Booked:	May 11, 2018
Reservation Name:	LANETTE COOPER
Arrival Date:	Aug 12, 2018
Departure Date:	Aug 17, 2018
Room Type:	King Bed Nonsmoking
Number of Rooms:	1
Number of Guests:	1

Night by Night Rate:	Date	Guest(s)	Status	Rate
	Aug 12, 2018	1	Confirmed	139.00
	Aug 13, 2018	1	Confirmed	139.00
	Aug 14, 2018	1	Confirmed	139.00
	Aug 15, 2018	1	Confirmed	139.00
	Aug 16, 2018	1	Confirmed	139.00
		Additional Guest	Rate	
		Second Guest	0.00	
		Third Guest	25.00	
Total Charge:		695.00		
Tax Disclosure:		State and local taxes will be 16.929% effective October 1, 2013		
Cancel Policy:		Guest must cancel by 3pm hotel time at least 24 hours prior to arrival to avoid a penalty of one night's room and tax.		





February 21, 2012

Leroy Smith
Director
SC Department of Public Safety
10311 Wilson Boulevard
Post Office Box 1993
Blythewood, SC 29016

ABMDI
St. Louis University
The American Board of Medicolegal Death Investigators
1402 South Grand Boulevard
St. Louis, MO 63104-1028

Dear Sirs:

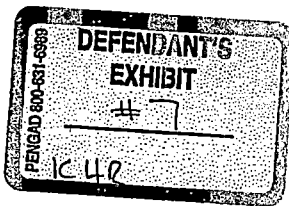
On behalf of the South Carolina Coroners Association, this letter is to advise that the Coroners Training Advisory Committee has met and unanimously approved the American Board of Medicolegal Death Investigators, Inc. (ABMDI) certification program provided by St. Louis University as the recognized forensic science degree or certification program pursuant to S.C. Code of Laws, Section 17-5-130(G).

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Kenneth M. Johnson, BS, D-ABMDI, CMI-III, CFC
President

cc: SC County Coroners



SOUTH CAROLINA CORONER'S ASSOCIATION

April 2, 2018

To Whom It May Concern:

I am the coroner for Cherokee County in South Carolina, and I submit this letter based upon my personal knowledge. I am also the President of the South Carolina Coroner's Association ("SCCA").

By virtue of my role as President of the SCCA, I am a member of the Coroner's Training Advisory Committee, which under section 17-5-130(G) of the South Carolina Code, is charged with the duty "to determine those forensic science degree and certification programs that qualify as "recognized" pursuant to the requirements of this section." S.C. Code Ann. 17-5-130(G).

The Coroner's Training Advisory Committee has unanimously approved the American Board of Medicolegal Death Investigators, Inc. ("ABMDI") certification program as the only recognized forensic science degree or certification program for coroners.

The Coroner's Training Advisory Committee selected this program because it is a rigorous training program that properly prepares persons considering being a coroner in forensic science and death investigation. Before one can apply to the ABMDI certification program, the person must have 640 hours of death investigation experience and currently be employed by a coroner's office or medical examiner's office. Any person who does not have 640 hours of death investigation experience in a coroner's office or medical examiner's office is not able to apply to this program and therefore would not be enrolled in the "recognized" certification program in the state of South Carolina.

In addition, below is the entire South Carolina Statue regarding qualifications for coroner.

SECTION 17-5-130. Coroner qualifications; affidavits of candidates; training; exemptions; Coroners Training Advisory Committee; Expenses.

(A)(1) A coroner in this State shall have all of the following qualifications, the person shall:

(a) be a citizen of the United States;

(b) be a resident of the county in which the person seeks the office of coroner for at least one year before qualifying for the election to the office;

(c) be a registered voter;

(d) have attained the age of twenty-one years before the date of qualifying for election to the office;

(e) have obtained a high school diploma or its recognized equivalent by the State Department of Education; and

(f) have not been convicted of a felony offense or an offense involving moral turpitude contrary to the laws of this State,

ELECTRONICALLY FILED - 2018 JUL 24 4:07 PM - CLARENDON - COMMON PLEAS - CASE#2018CP1400237

another state, or the United States.

(2) In addition to the requirements of subsection (A)(1), a coroner in this State shall have at least one of the following qualifications, the person shall:

(a) have at least three years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency;

(b) have a two-year associate degree and two years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency;

(c) have a four-year baccalaureate degree and one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency;

(d) be a law enforcement officer, as defined by Section 23-23-10(E)(1), who is certified by the South Carolina Law Enforcement Training Council with a minimum of two years of experience;

(e) have completed a recognized forensic science degree or certification program or be enrolled in a recognized forensic science degree or certification program to be completed within one year of being elected to the office of coroner;

(f) be a medical doctor; or

(g) have a bachelor of science degree in nursing.

(B)(1) A person who offers his candidacy for the office of coroner, no later than the close of filing, shall file a sworn affidavit with the county executive committee of the person's political party.

(2) The county executive committee of a political party with whom a person has filed his affidavit must file a copy of the affidavit with the appropriate county election commission by noon on the tenth day following the deadline for filing affidavits by candidates. If the tenth day falls on a Saturday, Sunday, or holiday, the affidavit must be filed by noon the following day.

(3) A person who seeks nomination by petition for the office of coroner, no later than the close of filing, shall file a sworn affidavit with the county election commission in the county of his residence.

(4) The affidavit required by the provisions of this subsection must contain the following information:

(a) the person's date and place of birth;

(b) the person's citizenship;

(c) the county the person is a resident of, and how long the person has been a resident of that county;

(d) whether the person is a registered voter;

(e) the date the person obtained a high school diploma or its recognized equivalent by the State Department of Education;

(f) whether the person has been convicted of a felony offense or an offense involving moral turpitude contrary to the laws of this State, another state, or the United States;

(g) the date the person obtained an associate or baccalaureate degree, if applicable;

(h) the date the person completed a recognized forensic science degree or certification program, or information regarding the person's enrollment in a recognized forensic science degree or certification program, if applicable; and

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

SABB LAW GROUP, L.L.C.



Ronnie A. Sabb (SC Bar No.: 9814)

Kimberly V. Barr (SC Bar No.: 8443)

Kimberly M. Hodge (SC Bar No.: 103450)

108 W. Main Street

Post Office Box 88

Kingstree, South Carolina 29556

(843) 355-5349

September 28, 2018

Attorneys for Appellant-Respondent