

The only other contact with plaintiff's target list of witnesses was a call on Tuesday, August 17th, the day after plaintiff filed his pleading from Tammy Currie Farkes who was frightened by receipt of a "Notice of Testimony" from attorney Kelso.

There has been no other contact by undersigned counsel or anyone else representing defendant Kennedy with any of plaintiff's listed witnesses.

There are no facts in the record to support anything in plaintiff's motion. It is hardly surprising that out-of-state residents after initially replying to questions from a private investigator, decided that they did want to become involved in a city council election of no importance to them nor in a trial that might require them to travel hundreds or thousands of miles at their own expense.

So much for paragraphs 1, 2, 6 and 7 of the Motion to Refuse. Paragraph 3 explains how the deposition of Susan Harris and Ronald Prior failed to elicit under oath an indication as for whom either voted.

In paragraph 4, plaintiff's attorney identifies two persons whom he believes to be ineligible voters in the city election whom he intended to depose, but did not. The record at the time of summary judgment motion does not provide any admissible evidence as to how either Nancy White or Dustin Ainsworth voted. By not deposing either, plaintiff forfeited the opportunity to establish either a vote for Kennedy or that such voter was not eligible.

The tape recordings as summarized on pages 3 to 5 are all inadmissible hearsay to be stricken. So much for allegations that go nowhere.