

DECLARATION OF BRYAN J. WHITAKER

1. My name is Bryan J. Whitaker and I am the Director for Strategic Targeting and Technology. As the Director for Strategic Targeting and Technology, I am responsible for gathering, managing and processing SEIU's political data. I submit this declaration in support of Plaintiffs' Opposition to Defendant Browning's Motion for Summary Judgment.
2. In August 2007, Elizabeth Westfall, a senior attorney with Advancement Project, provided me with an electronic file that contained the records of 9,742 incomplete voter registration applicants from the Florida Secretary of State.
3. Ms. Westfall asked me to match these records with the list of SEIU union members who reside in Florida.
4. To conduct this match, my staff used their own computer programmed matching code and algorithms to review many data fields and identify duplicate fields.
5. The code is designed to compare data on address, phone number, first and last name, social security number, and date of birth. The software matches records very conservatively, only considering those with a 100% confidence level as being successfully matched.
6. The results revealed that the file of 9,742 incomplete voter registration applicants includes seven (7) members of the SEIU. [See Schedule A?]

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25th day of October 2007, in Washington, DC.



BRYAN J. WHITAKER

EXHIBIT 17

UNITED STATES DISTRICT COURT
THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-22572-CIV-KING/O'SULLIVAN

EMMA YAIZA DIAZ, et al.,

Plaintiffs,

vs.

KURT S. BROWNING, SECRETARY OF STATE
OF FLORIDA et al.,

Defendants.

August 10, 2007
240 S. Military Trail
Room 102
West Palm Beach, Florida
9:33 a.m. - 12:19 p.m.

DEPOSITION OF ARTHUR WASHINGTON ANDERSON

Taken before Harold Brown, Certified
Shorthand Reporter (NY), Notary Public in and for
the State of Florida at Large, pursuant to Notice
of Taking Deposition filed in the above cause.

1 Anderson

2 because the court reporter can't hear shakes
3 of the head or nods or uh-huh's or uh-uh's,
4 so if you just answer yes or no or verbally
5 in other manner.

6 During the deposition, your lawyer
7 will make some objections or might make
8 objections. The attorneys on the phone are
9 also entitled to make objections. That is
10 expected, but unless your attorney instructs
11 you specifically not to answer a question,
12 you are obligated to answer the question.
13 Do you agree?

14 A. Can I plead the Fifth?

15 Q. Depends on the circumstances, I would
16 say.

17 A. All right.

18 MR. LABASKY: Your attorney
19 will advise you on that one.

20 THE WITNESS: Okay.

21 BY MR. HALBERSTAM:

22 Q. I doubt that it will get that far --

23 A. Okay.

24 Q. -- into anything of that nature. If
25 you need to take a break, please let me know

1 Anderson

2 and we will stop at the next convenient
3 point.

4 A. All right.

5 Q. Mr. Anderson, what did you do to
6 prepare for the deposition today?

7 A. Very little. I met with my attorney
8 and I briefly reviewed the file in this
9 particular case.

10 Q. When did you meet with your attorney?

11 A. That was two days ago.

12 Q. How long was that meeting?

13 A. No more than maybe ten minutes.

14 Q. Was anyone else present at the
15 meeting?

16 A. No.

17 MR. LABASKY: Just so we can
18 correct the record.

19 MR. HALBERSTAM: Let's go off
20 the record.

21 (Discussion off the record.)

22 BY MR. HALBERSTAM:

23 Q. So Mr. Anderson, was there anyone
24 else at the meeting?

25 A. Yes, my chief deputy, Charmaine Kelly

1 Anderson

2 was at the meeting.

3 Q. You say you reviewed the case file?

4 A. Yes.

5 Q. And what did that consist of?

6 A. Well, just in terms of the various
7 notices pertaining to the case that we have
8 received by way of my attorney in order to
9 keep us informed.

10 Q. So did you review the complaint in
11 the case?

12 A. Yes.

13 Q. And that would be the third amended
14 complaint?

15 A. Yes.

16 Q. Did you review the judge's order?

17 A. Yes.

18 Q. Did you review the interrogatory
19 responses that you provided to us?

20 A. Yes, briefly.

21 Q. What other documents did you review
22 if you recall?

23 A. No other.

24 Q. Had you seen those documents before
25 you met with your attorney?

1 Anderson

2 A. Yes.

3 Q. And when was that?

4 A. I can't tell you. Whenever they came
5 in the mail.

6 Q. Did you do anything else to prepare
7 for the deposition?

8 A. No.

9 Q. Have you ever been deposed before?

10 A. Yes.

11 Q. Can you briefly describe the
12 circumstances?

13 A. Too many to recall. I am a former
14 school board chairman and that was a
15 frequent occasion during the period of time
16 that I was chairman. We had many lawsuits.

17 Q. How about as supervisor of elections?

18 A. I think only one previous occasion.

19 Q. Have you ever testified at trial?

20 A. No.

21 Q. The previous occasion on which you
22 were deposed as supervisor, can you briefly
23 describe the circumstances?

24 A. Yes, that was a case where there was
25 a summary judgment recently provided

1 Anderson

2 relative to a lawsuit against myself as
3 supervisor of elections as to the
4 appropriateness of utilizing religious-
5 related facilities for voting.

6 Q. Do you recall who the plaintiffs were
7 in that case?

8 A. I'll make an effort at the name.
9 Rubinowitz.

10 Q. Okay.

11 A. Jerry, I believe is his first name.

12 Q. Okay. That was the attorney who took
13 your deposition, I take it?

14 A. No, I think that was the complainant.

15 Q. Okay, thanks. Mr. Anderson, where
16 are you originally from?

17 A. I was born in Spartanburg, South
18 Carolina. I grew up primarily in the
19 Detroit, Michigan area and moved to Florida
20 by way of New York City.

21 Q. I spent a couple of years in South
22 Carolina. Columbia.

23 A. Did you? I was born in Spartanburg.

24 Q. When did you come to Florida?

25 A. In 1978.

1 Anderson

2 Q. Did you go to school in Florida?

3 A. No, I came here initially to accept
4 the position of assistant dean of the
5 college of education at Florida Atlantic
6 University. That's what brought me to south
7 Florida.

8 Q. Perhaps you can give me a brief
9 description of your educational background,
10 which degrees you hold and perhaps any
11 major -- any jobs you've held since then up
12 until the present.

13 A. Okay. Well, I graduated from the
14 public school system in Highland Park,
15 Michigan, completed high school in 1958.

16 I earned my bachelor's and master's
17 degrees at Wayne State University in
18 Detroit, Michigan. I taught in the public
19 schools for approximately two and a half
20 years.

21 I was a high school counselor in the
22 public schools for approximately the same
23 period of time. I then became a higher
24 educational consultant for the state of
25 Michigan while I concurrently worked for my

1 Anderson

2 Ph.D. at Michigan State University.

3 After completing my doctorate, I
4 relocated to the New York City area to chair
5 a special task force that was commissioned
6 to develop what became the first competency
7 based teaching education program approved
8 for implementation in the State of New York.

9 I was affiliated beginning from 1973
10 to 1978 at Medgar Evers College, a component
11 of the city University of New York system,
12 and after developing that program in the
13 first year of my affiliation there, I stayed
14 on an additional four years to direct the
15 program before relocating here to south
16 Florida.

17 After completing my Ph.D., I was also
18 privileged to participate in postdoctoral
19 study at Cambridge University in England and
20 I've taken sundry other courses since that
21 time frame in such things as grants writing,
22 construction management and a variety of
23 other pursuits

24 Q. You said you received degrees from
25 Wayne State, BA and Master's?

1 Anderson

2 THE WITNESS: Yes, just I
3 would have to say from a more or less
4 general perspective it is the level
5 of severity of the infraction of the
6 law. Minor versus more serious and
7 major.

8 BY MR. HALBERSTAM:

9 Q. But you couldn't say specifically
10 what infractions would constitute a felony
11 as opposed to a misdemeanor?

12 A. No.

13 Q. But both are criminal convictions?

14 A. Yes.

15 Q. And you have a Ph.D. and have
16 attended postgraduate studies at Cambridge;
17 is that correct?

18 A. Yes, but I did not go to law school.

19 Q. So is it fair to say that those are
20 legal terms?

21 A. Yes.

22 Q. Is it fair to say that the average
23 person with less education might have some
24 difficulties in understanding those terms?

25 MR. LABASKY: Objection to

1 Anderson

2 A. Not the specific process, but again,
3 the same type of evaluation that would
4 result in that finding.

5 Q. Okay. Is it fair to say that these
6 terms describe legal proceedings?

7 A. Yes.

8 Q. And that these terms are defined
9 legal terms?

10 A. Yes.

11 Q. And is it fair to say that the
12 average person with much less education than
13 you have might be confused about these
14 terms?

15 MR. LABASKY: Objection to the
16 form.

17 THE WITNESS: Yes.

18 BY MR. HALBERSTAM:

19 Q. Turning further to the box underneath
20 line 4, do you mind reading that into the
21 record for me. Let's put away the 2004 form
22 so you don't get confused. Thank you.

23 A. Okay.

24 Q. I apologize.

25 MR. LABASKY: Are you

1 Anderson

2 course of the close of book period, changes
3 are made to the registration list, to the
4 FVRS data as a matter of course?

5 A. Sure, that as well.

6 Q. And those changes are made up to a
7 couple of days before the elections; is that
8 correct?

9 A. Yes.

10 Q. So all of that information is not
11 contained on the initial precinct register
12 that is printed about 14 days prior to the
13 elections by you; is that correct?

14 A. Yes, that is so.

15 Q. And your understanding is that the
16 precinct register is printed about 14 days
17 prior to the elections?

18 A. Yes, sure.

19 Q. So after the precinct register is
20 printed at your office, there are a number
21 of supplements to that in paper as far as
22 you understand?

23 A. Yes.

24 Q. And there is also a CD that I
25 understand you provide of your database or

1 Anderson

2 Q. Do you agree that supervisors are
3 responsible for printing precinct registers?

4 A. Yes.

5 Q. And that's what you do?

6 A. Yes.

7 Q. And you do that about -- your initial
8 precinct register is printed about 14 days
9 prior to the elections?

10 A. Correct.

11 Q. Which is what? How many days after
12 the close of books? 15? 14 days after the
13 close of books?

14 A. I think 15.

15 Q. The next paragraph reads as follows:

16 "This would be a very straightforward
17 process if all the counties printed precinct
18 registers at the same time and if the
19 statutorily defined book closing was truly a
20 freeze on the registration updates for the
21 period between book closing and the
22 election.

23 "In fact, book closing only controls
24 the effective dates for party changes (for
25 primaries) and the eligibility of new

1 Anderson

2 voters. Address changes, other
3 determinations of eligibility such as
4 deaths, early and absentee voting and valid
5 registrations received after book closing
6 all affect the inclusion of voters on a
7 precinct register at any point in time.

8 "The accuracy of precinct registers
9 necessitates adjustments to very fluid and
10 dynamic voter registration activities. The
11 precinct register represents voter
12 registrations the point in time at which the
13 underlying data was generated."

14 It appears to me that an "at" is
15 missing there. Did I read that correctly?

16 A. Yes.

17 Q. Would you generally agree with this
18 statement?

19 A. Generally so, yes.

20 Q. So this says that lots of different
21 things affect the inclusion of voters on the
22 precinct register right up to the election;
23 is that correct?

24 A. Sure.

25 Q. Can you give me a yes or a no?

1 Anderson

2 A. Yes.

3 Q. It's just that the court reporter
4 can't see your nod.

5 A. Right, I'm with you.

6 Q. And you agree with that?

7 A. Yes.

8 Q. And it also appears to say that the
9 statutorily defined book closing is not
10 really a freeze on registration updates; is
11 that correct?

12 A. Yes.

13 Q. And do you agree with that as well?

14 A. Yes.

15 Q. So the precinct registers appear to
16 be updated and changed right up to the
17 elections; is that correct?

18 A. Yes.

19 Q. Lots of changes are made, some of
20 ones that we discussed such as name changes,
21 address changes, party changes; is that
22 correct?

23 A. Yes.

24 Q. And voters are also added as a matter
25 of processing applications during that

1 Anderson

2 update or correct applications that were
3 initially timely submitted after the close
4 of books

5 A. Yes.

6 Q. You understand what I mean?

7 A. Yes.

8 Q. So given what you said about funding
9 for voter registration activities by the
10 state for other things the state requires, a
11 grace period would be no different from any
12 other unfunded mandate; is that right?

13 A. No, not in that respect.

14 Q. Right. Have you had any trouble,
15 excuse me. Generally, do you feel that you
16 are adequately staffed to complete the
17 state's voter registration requirements?

18 A. Generally are we adequately staffed?

19 Q. Yes.

20 A. Generally, I would say yes.

21 Q. And you also hire a lot of people
22 around election time to help with additional
23 workload during that period?

24 A. Yes.

25 Q. You hire poll workers; is that right?

Anderson

1
2 Q. No one had been prosecuted?

3 A. Right.

4 Q. I apologize. You said there were
5 three cases?

6 A. Yes, a couple or three he indicated
7 had occurred in the past.

8 Q. And those were investigated by the
9 state attorney?

10 A. Yes.

11 Q. I'm not asking you to reveal any
12 privileged information.

13 A. Right, I don't know any, so that's
14 easy.

15 Q. That's the best situation to be in.

16 A. Yes.

17 Q. But you believe that they were not
18 prosecuted?

19 A. Correct.

20 Q. And you also aren't aware of any
21 conviction for voter registration fraud?

22 A. Correct.

23 Q. Okay. Do you have any reason to
24 believe that prohibiting a grace period
25 prevents voter fraud?

1 Anderson

2 A. I don't see that relationship or
3 correlation.

4 Q. So you would say no; is that correct?

5 A. That it doesn't prevent voter fraud,
6 yes.

7 Q. Can you say that again just for the
8 record so we can establish your position.

9 A. Yes, I don't believe that not
10 allowing for a grace period prohibits voter
11 fraud; is that consistent with the inquiry?

12 MR. LABASKY: Maybe ask the
13 question again.

14 THE WITNESS: Okay.

15 BY MR. HALBERSTAM:

16 Q. Complicated way of asking it. In
17 other words, permitting a grace period in
18 your view would not increase opportunities
19 for voter fraud regarding voter
20 registrations; is that correct?

21 A. I don't see that it would definitely
22 increase those opportunities.

23 Q. And when I say increase, would it
24 provide any additional special opportunities
25 for fraud than the process of submitting

1 Anderson

2 And it contains -- I'm going to read it into
3 the record.

4 A. Yes.

5 Q. It states -- this is the mental
6 incapacity box and it states, "I affirm I
7 have not been adjudicated mentally
8 incapacitated with respect to voting, or if
9 I have, my competency has been restored."

10 Did I read that correctly?

11 A. Yes.

12 Q. And that language is the same on the
13 2004 and the 2006 form; is that correct?

14 A. Yes.

15 Q. And as someone who has studied
16 English, as someone who has a Ph.D. in part
17 in education as I understand and has worked
18 in education for many years, I'm just going
19 to ask you a question about the language.

20 A. Yes.

21 Q. Is it correct that this sentence
22 contains an affirmation of a double negative
23 together with a disjunction of a conditional
24 statement?

25 A. Let's say the structure does leave

1 Anderson

2 something to be desired.

3 Q. And in what respect?

4 A. Well, as you say, it is not properly
5 structured.

6 Q. And why is it not proper?

7 A. Again as you said, it affirms a
8 double negative.

9 MR. HALBERSTAM: I would like
10 to mark another exhibit. That is
11 Exhibit No. 8. Exhibit 8 is an
12 article from the Palm Beach Post
13 dated October 9, 2004.

14 *** (Whereupon Article from
15 Palm Beach Post dated 10/9/04 was
16 marked Exhibit 8 for identification
17 as of this date.)

18 MR. HALBERSTAM: The caption
19 reads "Review notes key stumbles on
20 voter form."

21 Counsel, this is an article
22 that I showed yesterday. I don't
23 have an extra copy of that.

24 BY MR. HALBERSTAM:

25 Q. Take a minute to review that

1 Anderson

2 A. Yes.

3 Q. The article states as follows:

4 "LePore said some would-be voters may have
5 been tripped up by the 22 word mental
6 incapacity question on the state form. 'The
7 wording's confusing, but that's the way the
8 legislature developed it,' LePore said."

9 Did I read that correctly?

10 A. Yes.

11 Q. And having stated -- having reviewed
12 the forms and seeing that the 2004 form is
13 the same as the 2006 form, would you
14 agree -- strike that.

15 Looking at the 2004 form, would you
16 agree with that statement?

17 A. Yes.

18 Q. And would you agree that the wording
19 might be described as confusing?

20 A. Yes.

21 MR. LABASKY: Objection, form.

22 BY MR. HALBERSTAM:

23 Q. And the wording is the same on the
24 2004 form and the 2006 form; is that
25 correct?

1 Anderson

2 A. Unnecessary burden. I think it could
3 be confusing.

4 Q. And if given a choice, you would
5 change it?

6 A. Yes.

7 Q. And why would you change it?

8 A. Because it is confusing, it is a
9 little confusing the way it is written. It
10 could possibly place an undue burden on the
11 applicant from that perspective.

12 Q. Do you think it does?

13 A. To think about an answer.

14 Q. And given your background, your 30
15 years background in education and your
16 participation in developing high school
17 education programs, voter education
18 programs, other outreach and other education
19 programs, in your opinion, do you believe
20 that this places an undue burden on
21 applicants?

22 MR. LABASKY: Objection to
23 form.

24 THE WITNESS: Item 4?

25 BY MR. HALBERSTAM:

1 Anderson

2 Q. Item 4.

3 A. Yes.

4 Q. Thank you. I have no further
5 questions. Does anyone on the phone have
6 any questions?

7 MR. ARPEN: None for Duval.

8 MR. TOLCES: None for Orange.

9 MS. NORRIS-WEEKS: None for

10 Broward.

11 MR. LABASKY: None here.

12 MR. HALBERSTAM: Thank you
13 very much, Mr. Anderson, for sitting
14 for a deposition today.

15 MR. LABASKY: We will read.

16 (Thereupon, the taking of the
17 deposition was concluded at 12:19
18 p.m.)

19

20

21

22

23

24

25

EXHIBIT 18

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 04-22572-CIV-KING

EMMA YAIZA DIAZ, ET AL.,

Plaintiffs,

vs.

KURT S. BROWNING, SECRETARY OF
STATE OF FLORIDA, ET AL.,

Defendants.

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DEPOSITION OF
JEAN M. BEDENI

9:55 a.m.
July 24th, 2007

Office of General Counsel
117 West Duval Street
Suite 480
Jacksonville, Florida

Connie M. Williams
Registered Professional Reporter

1 Bedeni

2 processing them, giving them credit for
3 voting.

4 Q. And these employees that are working
5 on registration, do they work exclusively on
6 registration?

7 A. If the need requires so, yes.

8 Q. I guess what I'm saying is, does a
9 permanent or a temporary employee that is
10 working on registration, are they sort of
11 walled off from other things, or is the
12 environment more fluid?

13 Meaning that one day they might work
14 on registration, the next day they might
15 work on precinct registers, the next day
16 they might work on something else.

17 A. That's correct. It's based upon what
18 the need is at that moment in the office.

19 Q. So it's fluid?

20 A. Correct.

21 (EXH.-4 was marked for
22 identification.)

23 Q. Gotcha. All right. I'm marking as
24 Exhibit 4 and showing you a blank voter
25 registration application. Take a moment to

1 Bedeni

2 A. Can you repeat the question again,
3 please?

4 Q. Sure. The question is, like my
5 previous question, isn't this another way
6 that if someone signed this, they could
7 think that they were affirming that they
8 were qualified to vote and affirming
9 sections three and four; could?

10 A. I don't think so, no.

11 Q. You don't think that's a possible
12 reading of this?

13 A. I don't think so, no.

14 Q. Now let me ask you a question. We're
15 going to go through the sort of registration
16 process step by step in a little while, but
17 one question I just wanted to ask you, with
18 regard to the FVRS system, when applications
19 are run through the FVRS system, are checks
20 completed to see whether a person -- an
21 applicant is a felon?

22 A. On our level, no. It's all
23 information verified through Tallahassee.

24 Q. Right. And at Tallahassee, is a
25 check performed there?

1 Bedeni

2 What happens next?

3 A. The staff member prints up the
4 notices from the system, with the notices
5 and application, to give the voter a chance
6 to update and include all the required
7 information.

8 They get a notice that says why their
9 application was incomplete.

10 Q. Now, again, do the incomplete notices
11 sort of go into a sort of holding batch or
12 whatever you would call that?

13 A. Yes.

14 Q. And how often are those taken out of
15 the batch and printed?

16 A. Right now it's done every couple of
17 days because we're slower. Typically, when
18 we get a little bit busier, it's about once
19 a week the staff member prints notices.

20 Q. Was that true in 2006 for the --

21 A. Yes.

22 Q. And that would be true for the
23 general election?

24 A. In 2006, yes.

25 Q. What about in 2004?

1 Bedeni

2 voting and precinct registers a little bit
3 later, but I want to talk a little bit about
4 notification now and in terms of notifying
5 people if they have an incomplete
6 application.

7 Supervisors, Duval included, have to
8 notify voters if their registration is
9 incomplete, am I right?

10 A. Yes.

11 Q. And you are required to do that
12 within five business days?

13 A. Correct.

14 Q. And you're also required to enter
15 applications into the FVRS system before you
16 know whether they're complete or not within
17 15 days?

18 A. Correct.

19 Q. And you testified earlier that it
20 takes approximately 48 to 72 hours for FVRS,
21 once an application has been entered, to
22 give you back an incomplete or complete
23 status?

24 A. Yes.

25 Q. So from the time an incomplete

1 Bedeni

2 application is received by you or any other
3 supervisor, you're allowed at least 20 days,
4 and, I guess, between 22 and 23 days, before
5 a voter has to be notified if they have an
6 incomplete?

7 A. Correct.

8 Q. To your knowledge, were there any
9 notification requirements -- are the
10 notification requirements that you have now
11 the same as they were in 2006?

12 A. Yes.

13 Q. What about 2004?

14 A. I don't know.

15 Q. And who would know?

16 A. Marie Torro.

17 Q. Now, when you notify people, the
18 standard way of notifying them is by mail,
19 correct?

20 A. Yes.

21 Q. Have you made other attempts to
22 contact people with incomplete applications?

23 A. No.

24 Q. So no phone calls or anything like
25 that to your knowledge?

1 Bedeni

2 A. Yes, you did.

3 Q. Is that accurate about what happened
4 in 2004?

5 A. I don't know. I didn't handle the
6 incompletes in 2004.

7 Q. Does that sound approximately right?
8 You were working at the office at the
9 time, correct?

10 A. I was.

11 Q. And does that sound like the right
12 number?

13 MR. ARPEN: Objection. Calls
14 for speculation. She said she wasn't
15 involved in the process.

16 A. I don't know. I didn't handle the
17 applications.

18 Q. Are you aware of any applicants
19 intentionally refusing to submit complete
20 applications?

21 A. I don't know.

22 Q. The question is, are you aware of
23 anybody doing that intentionally?

24 A. No.

25 Q. Now, currently, are applicants

1 Bedeni

2 the register to assemble the book.

3 Q. So they're printed, then they're
4 assembled. What happens next?

5 A. Yes. And then they're in the
6 merchandise that the poll workers pick up on
7 their scheduled times, which is something
8 that's handled through our education
9 department, and that's it.

10 Q. Approximately how many days before an
11 election are these printed out?

12 A. The initial registers are printed out
13 about a week prior to an election, and then
14 the supplement register is printed the night
15 before an election.

16 Q. And this is the process as it stands
17 today?

18 A. Correct.

19 Q. The same in 2006?

20 A. Yes.

21 Q. The same in 2004?

22 A. I don't know.

23 Q. Thinking back, I know you weren't in
24 your current position, but --

25 A. I don't know. Temporary employees

1 Bedeni

2 back then, we were kind of shuffled off to
3 the side.

4 Q. Who would know?

5 A. That might be Robert Phillips again.

6 Q. Now explain to me the supplemental
7 precinct register. What is that?

8 A. It is not extensive as the full
9 precinct register. It gives any updates or
10 changes, such as if the voter came in to
11 vote early or if we received back their
12 absentee ballot or if they need to be issued
13 a provisional ballot because they have one
14 request -- an absentee ballot requested.

15 It's updated information for the poll
16 worker to know for Election Day.

17 Q. And that happens when, again?

18 A. The night before the election, Monday
19 evening.

20 Q. So the precinct registers are
21 finalized the night before the election?

22 A. The supplements are added to the
23 registers, correct.

24 Q. And those two lists taken together
25 are the final list?

1 Bedeni

2 Holland is without knowledge as to whether
3 the book closing requirements of Section
4 97.0555 prevent, discourage or encourage
5 voter fraud."

6 Do you agree with the supervisor?

7 A. Yes.

8 Q. To your knowledge, has allowing
9 military families to be able to vote late
10 caused any increase in voter fraud?

11 A. I don't know.

12 Q. What about any of the other types of
13 corrections that you allow after the close
14 of books, do any of those, to your
15 knowledge -- are you aware that they cause
16 any increase in voter fraud?

17 A. No, I'm not aware.

18 Q. Now turn to the bottom of page nine
19 of that exhibit and read the last sentence
20 to yourself.

21 That sentence reads, "Supervisor
22 Holland is unable to state whether the book
23 closing requirements of Section 97.0555
24 promote or conflict with the orderly
25 administration of elections, or are

1 Bedeni

2 office now, that reduces the amount that we
3 get into the office.

4 Q. So since 2004 your registration
5 workload has decreased substantially?

6 A. Yes.

7 Q. So it's fair to say that that level
8 of staff is no longer necessary?

9 A. Correct.

10 Q. For the 2006 elections, did you have
11 an adequate amount of staff for
12 registration?

13 A. Yes.

14 Q. And moving forward, do you plan to
15 maintain adequate staffing for registration?

16 A. We will -- can you -- I don't
17 understand.

18 Q. Do you expect to be able to maintain
19 an adequate level of staffing going forward?

20 A. To prepare for the presidential,
21 we'll be hiring more temporary help.

22 Q. And you will do that?

23 A. Yes.

24 Q. So you expect to have adequate
25 staffing for registration?

1 Bedeni

2 A. Yes.

3 Q. I want to bring you back to that box
4 in your office. I'm sorry. I just want to
5 ask you a couple of more questions about
6 that.

7 I understand that you don't count
8 that number of applications.

9 Do you have any sense of how many of
10 those applications are original applications
11 that are submitted late versus applications
12 that are corrections submitted late?

13 A. No, I don't. I don't do a separate
14 count for each.

15 Q. If you were required to go back and
16 find out for the 2006 election, or for any
17 election, exactly how many applications were
18 in that box and whether they were
19 corrections or originals, how would you do
20 that?

21 A. That would be more a technical
22 computer report that our IT director could
23 pull up from the Voter Focus software.

24 Q. So that report could be generated?

25 A. Possibly.

EXHIBIT 19

UNITED STATES DISTRICT COURT
THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-22572-CIV-KING/O'SULLIVAN

EMMA YAIZA DIAZ; JOHN LANMAN, AMERICAN FEDERATION
OF LABOR AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS; AMERICAN FEDERATION OF STATE,
COUNTY AND LOCAL EMPLOYEES, AFL-CIO, FLORIDA
PUBLIC EMPLOYEES COUNCIL 79; AFSCME, AFL-CIO, AND
SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO,
Plaintiffs,

vs.

KURT S. BROWNING, Secretary of State of Florida;
BRENDA SNIPES, Broward County Supervisor of
Elections; JERRY HOLLAND, Duval County
Supervisor of Elections; LESTER SOLA, Miami-Dade
Supervisor of Elections; BILL COWLES, Orange
County Supervisor of Elections; and ARTHUR
ANDERSON, Palm Beach County Supervisor of
Elections,
Defendants.

DEPOSITION OF: JANE BRADSHAW
TAKEN AT INSTANCE OF: The
Plaintiffs
DATE: July 30, 2007
TIME: Commenced at 11:30 a.m.
Concluded at 5:20 p.m.
LOCATION: 301 S. Bronough
Street, #600 Tallahassee, Florida.

REPORTED BY: SANDRA L. NARGIZ Certified Realtime
Reporter Certificate of Merit Holder

1 Bradshaw

2 book and finding somebody's name and
3 registering under that person's name.

4 Q. I just want to go back for a minute
5 and clarify. You didn't say that the issue
6 relating to voter registration applications
7 having been handed in late by these third
8 parties was a matter of fraud, did you?

9 A. No. No. I am sorry. You were
10 asking me about this. And because this
11 dealt with groups, that was one of the
12 issues with the groups. No, I don't mean to
13 indicate necessarily that there was fraud.

14 Q. And when you spoke about fraudulent
15 voter registration applications, with people
16 picking out names from the phone book and
17 applying on behalf of someone else, do you
18 know the extent of that problem?

19 A. No, I don't have personal knowledge.

20 Q. Who would know the extent of those
21 types of problems?

22 A. Nobody in the Department that I am
23 aware of. The supervisors of elections
24 might have knowledge of what was happening
25 back then in their counties.

1 Bradshaw

2 BY MR. HALBERSTAM:

3 Q. And do you know what the definition
4 of a misdemeanor is?

5 A. No, sir.

6 Q. Do you think that someone may be
7 confused about whether or not they are a
8 felon?

9 MR. WINSOR: Object to the
10 form.

11 THE WITNESS: Again, I don't
12 know what confuses people.

13 BY MR. HALBERSTAM:

14 Q. But you don't know for certain that
15 someone who checked the box was
16 intentionally trying to mislead the
17 supervisor -- all I am trying to do really
18 is to make a distinction between cases in
19 which fraud -- in which the case that --
20 there is a difference, isn't there, between
21 -- strike that.

22 Voter registration fraud is a crime,
23 correct?

24 A. Correct.

25 Q. Are you aware of any criminal

1 Bradshaw

2 prosecution for voter registration fraud?

3 A. Over the years, I have seen articles
4 in the paper, but direct knowledge, no.

5 Q. So you are also not aware of any
6 prosecution for voter registration fraud
7 concerning the felony check box?

8 A. Not specifically, no.

9 Q. Or the mental incapacity check box?

10 A. Not specifically.

11 Q. I presume it is also accurate to say,
12 given what you said about prosecutions, that
13 you are unaware of any convictions relating
14 to voter registration fraud; is that
15 correct?

16 A. That is correct. Over the years,
17 like I said, I have seen articles in the
18 paper and that's the extent of my knowledge.

19 Q. And you also worked on the Senate
20 Committee on Ethics and Elections, did I get
21 that right?

22 A. Right.

23 Q. During the time with the Senate
24 Committee On Ethics and Elections, did you
25 ever become aware of criminal prosecutions

1 Bradshaw

2 for voter registration fraud?

3 A. No.

4 Q. Nor of convictions?

5 A. No.

6 Q. Then you also worked for a number of
7 years at the House Committee; is that right?

8 A. Correct.

9 Q. Also Ethics and Elections?

10 A. Uh-huh.

11 Q. And during that time, did you become
12 aware of any prosecutions or convictions?

13 A. Not specifically that I recall.

14 Q. Has your office ever attempted to
15 determine how many applicants are ineligible
16 by reason of failing to check the felon box?

17 MR. WINSOR: I apologize, can
18 you repeat the question.

19 BY MR. HALBERSTAM:

20 Q. How many applicants -- I'm sorry.
21 Has your office ever attempted, to your
22 knowledge -- strike that.

23 To your knowledge, has the Division
24 ever attempted to determine how many
25 applicants statewide are ineligible due to

1 Bradshaw

2 enter an application into the database after
3 it's received?

4 A. Currently it's 15 days. The
5 legislature has amended that. So after
6 January 1, it will be 13 days.

7 Q. And after an application is entered,
8 then other things have to happen before that
9 application can become active; is that
10 correct?

11 A. That's correct.

12 Q. One of those things is that the
13 identification number on the application has
14 to be verified by the Department of Highway
15 Safety and Motor Vehicles; is that correct?

16 A. Either the Department of Highway
17 Safety and Motor Vehicles or the Social
18 Security Administration.

19 Q. And that takes anywhere from 24 hours
20 to three days; is that correct?

21 A. That's probably a good guess. Most
22 of the Highway Safety ones come back within
23 24 hours; when it goes to Social Security
24 Administration, it usually takes a day or so
25 longer.

1 Bradshaw

2 Social Security number is checked by the
3 Social Security Administration; is that
4 correct?

5 A. Yes.

6 Q. And if an application cannot be
7 verified or matched, what happens with that
8 application?

9 A. That application becomes, again I
10 think the terminology we use is pending.
11 The applicant is notified that their
12 information didn't match, and they are
13 provided the opportunity to come in up to
14 now two days after January 1, if they vote,
15 they vote a provisional ballot, and if they
16 have not done so prior to voting, they are
17 eligible to come in up to 5:00 p.m.

18 Of the second day after the election
19 and provide the underlying document
20 supporting the number that they put on their
21 application. And if they can provide that,
22 then we will count their ballot.

23 MR. WINSOR: Did you say count
24 their ballot?

25 THE WITNESS: Yes, they would

1 Bradshaw
2 for some period. Potentially, yes,
3 depending on what the some period is.
4 But Florida established a 29-day
5 cutoff for it.

6 BY MR. HALBERSTAM:

7 Q. Okay. Verification might be a
8 problem?

9 A. Could be.

10 Q. You spoke previously about the
11 orderly administration and conduct of an
12 election.

13 Is it your position that the orderly
14 administration of the elections would be
15 disrupted by permitting people to provide
16 corrections, and I am not talking about
17 original applications but just corrections
18 to pending applications after the close of
19 books?

20 MR. WINSOR: Are you talking
21 about her position again?

22 MR. HALBERSTAM: Of the
23 Division of Elections.

24 THE WITNESS: Yes.

25 BY MR. HALBERSTAM:

1 Bradshaw

2 Q. And how about your personal position,
3 is that different?

4 A. No, I believe it would disrupt the
5 orderly administration of the elections.

6 Q. And why is that?

7 A. There are a lot of activities that
8 take place in the month prior to the
9 election. And if you were allowing people
10 to continually come in and change their
11 information, then you potentially don't have
12 the other things done that need to be done
13 in order to have an orderly election.

14 Q. And when you say a lot of things need
15 to be done, are you referring to things at
16 the level of the county supervisors or at
17 the Division of Elections that performs?

18 A. More so on the county side.

19 Q. On the county side? Why not at the
20 Division of Elections? That's not as much
21 of a problem post-book closing?

22 A. Because --

23 MR. WINSOR: Objection to the
24 form.

25 THE WITNESS: Because the

1 Bradshaw

2 Division doesn't -- isn't the
3 hands-on person in the county and we
4 are not the ones that send out voter
5 information cards.

6 We are not the ones that print
7 precinct registers and we are not the
8 one training poll workers. Those are
9 county folks that are doing all those
10 things.

11 BY MR. HALBERSTAM:

12 Q. Is there any other reason why you
13 believe that it would disrupt the orderly
14 administration of elections to permit people
15 to correct applications pending as
16 incomplete after the close of books?

17 A. Any other reason --

18 Q. Other than the one you described,
19 that a lot of other things need to be done
20 during that time?

21 A. Well, that pretty much covers it. A
22 lot of things are going on then.

23 Q. So is it your position that the
24 supervisors wouldn't have enough time to do
25 what they need to do during this period if

1 Bradshaw

2 period that you could come make
3 corrections, and assuming, of course,
4 you knew your application was
5 incomplete which some people by then
6 might get notice and some might not.

7 BY MR. HALBERSTAM:

8 Q. I am just trying to determine
9 precisely what your position is so I
10 understand it. You said previously that
11 mixing the completion of applications with
12 the voting process could be confusing and
13 disorderly as far as I understand your
14 position; is that correct?

15 A. Right.

16 Q. So my next question would be, would
17 it also be disruptive in your view if the
18 post-book closing grace period, as we like
19 to call it, were limited to say 15 days
20 after the close of books?

21 MR. WINSOR: Objection to the
22 form.

23 THE WITNESS: I still think it
24 would be disruptive.

25 BY MR. HALBERSTAM:

1 Bradshaw

2 Q. Why do you believe it would be
3 disruptive?

4 A. My experience in talking to the
5 supervisors again is that they need all the
6 time that they can get to prepare for the
7 election and that allowing someone to come
8 in and provide missing information to me
9 personally is no different than from
10 allowing someone who hasn't even given you a
11 voter registration application because you
12 still have to go through the same procedures
13 of doing the verification and eligibility
14 determination of somebody who is giving you
15 new and corrected information versus
16 somebody who's just coming in.

17 Q. I am just trying to disentangle that.
18 So it's your position that the problem with
19 such a 15-day grace period, as we like to
20 call it, would be at the level of the
21 supervisors of elections; is that correct?

22 A. I would say much more so than at the
23 Department of State level, yes.

24 Q. And the reason you say that is
25 because processing a correction or update is

1 Bradshaw

2 elections at the supervisor's level?

3 A. The supervisors are best to speak to
4 that. Early voting, absentee voting, at
5 some point you have to know who is eligible
6 to vote in the election.

7 Q. And at the Division of Elections
8 level, specifically at the Bureau level, any
9 other reasons why you believe there would be
10 a problem with permitting a grace period?

11 A. No. Like I said, from the
12 Department's standpoint, the administration
13 of elections, I don't think is impacted
14 nearly as much as at the supervisor of
15 elections level.

16 Q. Let's go back to Exhibit 4, that's
17 the Division of Elections services manual.
18 I would like you to turn to page 209,
19 please.

20 Please take a look at what's referred
21 to here as appendix S, county protocols,
22 just generally and I will permit you to read
23 specific passages when we get to them.

24 A. You want me to look at the whole
25 thing?

1 Bradshaw

2 expecting people to put down their correct
3 number, then there is no reason to do a
4 verification process, because if you don't
5 expect them to put down a correct number,
6 which is not going to be verified, and you
7 are going to accept it anyway, then what's
8 the reason for verifying it?

9 Q. But you are expecting people to put
10 down their correct number; is that not
11 correct?

12 A. That is correct.

13 Q. And you are expecting that people
14 will do so on their original application
15 form because that's what's requested,
16 correct?

17 A. That's correct.

18 MR. WINSOR: Objection to the
19 form.

20 THE WITNESS: I think that's
21 correct, yes.

22 BY MR. HALBERSTAM:

23 Q. But people make mistakes that are
24 inadvertent occasionally on their
25 application forms; is that correct?

1 Bradshaw

2 A. Probably.

3 Q. So permitting someone to provide the
4 original underlying document to present it
5 to the election official after -- as part of
6 the provisional ballot process so that their
7 ballot may be counted, would, in your words,
8 contribute to undermining the entire --

9 A. No.

10 Q. -- administrative process?

11 A. No. No, I don't believe that at all.

12 Q. So all you are saying here is that if
13 you permitted people to vote who provided
14 incorrect information without verifying that
15 that information was accurate would
16 undermine the whole process; is that
17 correct?

18 MR. WINSOR: Objection to the
19 form.

20 THE WITNESS: Would you please
21 restate that question?

22 BY MR. HALBERSTAM:

23 Q. I apologize. I am trying as best I
24 can. I am just trying to find out precisely
25 what you mean. That's all I am trying to

EXHIBIT 20

UNITED STATES DISTRICT COURT
THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-22562-CIV-KING/O'SULLIVAN

EMMA YAIZA DIAZ, et al,

Plaintiffs,

vs.

KURT S. BROWNING, Secretary
of STATE OF FLORIDA, et al,

Defendants.

_____/

DEPOSITION OF
BILL COWLES

Taken on Behalf of the Plaintiffs

DATE TAKEN: August 7, 2007
TIME: 9:30 a.m.-4:00 p.m.
PLACE: 976 Lake Baldwin Lane
Suite 101
Orlando, Florida

Examination of the witness taken before:

Lisa Gerlach, Court Reporter
Notary Public, State of Florida

1 Cowles

2 change and so on?

3 MR. CIRULLO: I'm just going
4 to object. He said he doesn't have
5 any recollection of it. If you're
6 going to go item by item, it's going
7 to get to be pretty redundant. I'm
8 objecting on the record that he said
9 he doesn't --

10 MR. ABT: I won't go item
11 through item, by, of course I'm
12 entitled to press his memory.

13 MR. CIRULLO: I know. I'm
14 just putting an objection on the
15 record.

16 A. I don't know of any, and the only
17 substantial change is the change of the word
18 ID to card, because Florida eliminated the
19 voter ID card or identification card in the
20 2005 election.

21 BY MR. ABT:

22 Q. What about any comments with regard
23 to the US citizen checkbox. And also with
24 regard to the citizenship, also as it
25 relates to the oath, which is line 17.

1 Cowles

2 A. I believe we were all very aware of
3 the fact that, because of the passage of the
4 legislation in 2005, the Exhibit 8
5 application, is a reflection of the
6 statutory requirement of the law, that you
7 now shall check off that box.

8 And they eliminated the reference to
9 being a United States citizen to eliminate
10 that confusion.

11 Q. Because that could have been
12 confusing?

13 A. Yes.

14 Q. Now, what about the next check box?
15 I affirm I am not a convicted felon, or, if
16 I am --

17 A. Probably, again, knowing that it was
18 in compliance with the legislation passed.

19 Again, I think one of the common
20 comments we always have about stuff is to
21 put it in plain language and not in
22 legalese.

23 Q. Understandable. As a lawyer, I don't
24 like legalese. Is it fair to say that the
25 change with regard to felon status between

1 Cowles

2 Q. So in addition to being framed in the
3 negative, they're also in legal terminology?

4 A. Yes.

5 Q. And it's fair to say that you are, as
6 a non-lawyer, probably one of the most
7 experienced people as a -- that could be
8 looking at this form -- correct?

9 A. Not the most, but yes.

10 Q. Okay. But if you don't have a law
11 degree, these terms could be confusing?

12 MR. CIRULLO: Object.

13 A. Yes.

14 BY MR. ABT:

15 Q. Let's take a look at the language
16 between lines four and five of this
17 application.

18 It says, if you answered no to
19 question two or if you are unable to affirm
20 the statements in boxes three and four, you
21 are ineligible to register to vote; do not
22 complete this application.

23 I would just direct your attention to
24 Exhibit 9, the language in the black box on
25 the right that says, if you answered no to

1 Cowles

2 mentally incapacitated?

3 MR. CIRULLO: Object to form
4 and speculation.

5 A. It's a possibility.

6 BY MR. ABT:

7 Q. Is it likely that a certain portion
8 of people are going to have that
9 interpretation?

10 MR. CIRULLO: Same objection.

11 A. I have no opinion. I mean, I don't
12 know.

13 BY MR. ABT:

14 Q. You said it's a possibility. Do you
15 think it's a remote possibility?

16 A. It's a possibility.

17 MR. CIRULLO: Same objection.

18 BY MR. ABT:

19 Q. Okay. Sort of similar question with
20 regard to the oath, reviewing line 16 of the
21 application.

22 Part of it reads, I am qualified to
23 register as an elector and the constitution
24 and the laws of the State of Florida.

25 Did I read that correctly?

1 Cowles

2 BY MR. ABT:

3 Q. Welcome back, Mr. Cowles.

4 A. Thank you.

5 Q. Close of books occurs 29 days before
6 each election, correct?

7 A. Correct.

8 Q. Prior to the close of books, is it
9 your understanding that the office receives
10 more registrations than it ordinarily does?

11 A. Usually at the book closing time,
12 there is a last minute rush of delivering or
13 dropping off applications.

14 Q. For the period between the close of
15 books and election day, does your office
16 maintain adequate staffing for voter
17 registration?

18 A. I believe so.

19 Q. What activities other than
20 registration are taking place during this
21 period?

22 A. In a normal election cycle, you're
23 still taking in and dealing with absentee
24 ballots, people making requests for absentee
25 ballots, the mailing of absentee ballots.

1 Cowles

2 perspective during that close of books to
3 election day period.

4 So I guess what I'm asking is, from
5 an administrative perspective, is one task
6 dependent on another task? Can you not do
7 one until another is started or something
8 like that?

9 I understand that they're all --
10 voter registration is linked at the voter
11 level to everything. But I'm talking about
12 more from a managerial perspective.

13 A. Again, as I've answered, we have the
14 supervisors who are managing the workload.
15 But in terms of the fact that they will
16 process what they can, and the ones that
17 can't be processed, either the supervisor is
18 going to verify or whether it comes up in
19 the future work.

20 Again, they're managing what can be
21 done and then they're verifying what can't
22 be done and all that.

23 Q. So I'm getting a sense from you that
24 this process is somewhat fluid?

25 A. Yes.

1 Cowles

2 Q. So that there is not a sort of rigid
3 structure of one task must occur before
4 another.

5 People are being assigned, resources
6 are being allocated on an ongoing basis as
7 needs arise and shift?

8 A. Correct.

9 Q. Okay. Generally, applicants cannot
10 correct mistakes or omissions in their
11 registrations after the close of books and
12 expect to be eligible to vote in the
13 upcoming election; correct?

14 A. Correct.

15 Q. If an otherwise eligible voter
16 submits an incomplete application -- for
17 example, they miss a checkbox -- and that
18 voter cannot correct their application
19 before the close of books -- I'm sorry --
20 withdrawn. I was about to ask the same
21 question over again.

22 You just stated the general policy.
23 I would like to now talk about some
24 exceptions to this policy.

25 (Thereupon, Exhibit Number 12

1 Cowles

2 was marked for identification.)

3 BY MR. ABT:

4 Q. I'm going to show you what we're
5 going to mark as Exhibit 14. This is a copy
6 of the Guide to FVRS, which I showed you to
7 refresh your recollection earlier.

8 Its beginning bates number is OC1879.
9 Are you now familiar with this document?

10 A. I'm familiar with the document.

11 Q. The purpose of this document is to
12 provide an overview of the FVRS system to
13 supervisors and their staff, correct?

14 A. Correct.

15 Q. Turn to page 62, section 15. Take a
16 look at the paragraph that is indicated with
17 a line in the middle. In fact, look at the
18 entire section there, 15.1.

19 A. Okay.

20 Q. This section deals with precinct
21 registers, correct?

22 A. Correct.

23 Q. Now, the paragraph in the middle of
24 the page reads as follows: This would be a
25 very straightforward process if all the

1 Cowles

2 counties printed precinct registers at the
3 same time and if the statutorily-defined
4 book closing was truly a freeze on the
5 registration updates for the period between
6 book closing and the election.

7 In fact, book closing only controls
8 the effective dates for party changes for
9 primaries and the eligibility of new voters.
10 Address changes, other determinations of
11 eligibility, such as deaths, early and
12 absentee voting and valid registrations
13 received after the book closing all affect
14 the inclusion of voters on a precinct
15 register at any point in time.

16 Did I read that correctly?

17 A. Yes.

18 Q. Is this an accurate statement with
19 regard to book closing?

20 A. In terms of the things listed there
21 about book closing only controls -- the
22 first part is just a statement.

23 Q. Do you agree with the first part of
24 that statement?

25 A. No. I mean, again, this whole

1 Cowles

2 document, which is dated September 7, 2005,
3 is in the pre-process, the discussion
4 process, of the FVRS going into effect.

5 And in terms of operational
6 procedures, when talking about the precinct
7 registers, yes, I'll agree with the fact
8 that it would be ideal if everybody did it
9 at the same time, but we all don't do it at
10 the same time.

11 Q. So I'm -- is there a part of this
12 paragraph that you -- of the statement that
13 I read that you disagree with?

14 A. No, I don't disagree with anything in
15 there. I don't necessarily agree with the
16 statement that we should all do it at the
17 same time for the printing of the books.

18 Q. Okay. With that exception, do you
19 agree with the statement as it relates to
20 book closing?

21 A. I believe it's a fairly accurate
22 reflection of the book closing.

23 Q. Okay, thank you. Let's look at the
24 next sentence -- the accuracy of precinct
25 registers necessitates adjustments to very

1 Cowles

2 fluid and dynamic voter registration
3 activities.

4 Did I read that correctly?

5 A. Yes.

6 Q. Would you agree with that statement?

7 A. Yes.

8 Q. Do you agree with the description of
9 registration activities after the close of
10 books as very fluid and dynamic?

11 A. Yes.

12 Q. Now, we've just discussed certain
13 circumstances where missing a check box
14 could result in a qualified voter being
15 ineligible to vote for an upcoming election.

16 And then we discussed other
17 circumstances where missing a check box
18 would not prevent a qualified voter from
19 voting, correct?

20 A. That has been discussed.

21 Q. Basically we've discussed the general
22 policy and then the exceptions to that
23 policy -- or several exceptions to that
24 policy -- correct?

25 A. You've alluded to them -- you've

1 Cowles

2 A. Vaguely.

3 Q. Pursuant to this statute, Statute
4 97.053, Subsection 6, people whose
5 information cannot be verified under this
6 statute have the opportunity to correct that
7 information or verify it after the close of
8 books; is that correct?

9 A. Correct.

10 Q. In fact, even if that information
11 cannot be validated, they can vote with a
12 provisional ballot, correct?

13 A. Correct.

14 Q. They have until, I believe, three
15 days after the close of books to verify that
16 information?

17 A. Based on election laws that were
18 passed in 2007, they have now, for 2008, two
19 days.

20 Q. Two days now. Okay. Two days after
21 the election. And if they provide that
22 verification within that timeframe, their
23 ballot will be counted?

24 A. Yes.

25 Q. Are you aware of a rational basis for

1 Cowles

2 deciding why some people are allowed to
3 register after the close of books, but
4 others are not?

5 A. Again, those are the laws set by the
6 legislature. I don't have any knowledge of
7 their rationale for setting such policy.

8 Q. My question is about your knowledge
9 regarding the basis for this.

10 Do you see a basis for deciding why
11 some people are allowed to register after
12 the close of books, but others can't?

13 A. No.

14 Q. And this is with the caveat that you
15 are not -- you are not the Secretary of
16 State. I understand that.

17 I'm going to now show you what's being
18 marked Exhibit 15.

19 (Thereupon, Exhibit Number 15
20 was marked for identification.)

21 BY MR. ABT:

22 Q. You have before you your responses to
23 the plaintiff's second set of
24 interrogatories. Do you recognize this
25 document?

1 Cowles

2 Q. Define the word voter fraud. Does it
3 help to say voter fraud with regard to
4 registration?

5 A. Fine.

6 Q. So I'm just asking you, sitting here
7 today, do you have any reason to believe
8 that allowing a grace period would increase
9 voter fraud?

10 A. Increase voter fraud, no.

11 Q. Now, to your knowledge, have any of
12 the exceptions we discussed -- the statutory
13 exceptions we discussed -- eligible military
14 families, changes to addresses, et cetera --
15 have any of these to your knowledge caused
16 an increase in voter fraud?

17 A. No.

18 Q. Voter fraud is a crime, correct?

19 A. Correct.

20 Q. You can go to jail for voter fraud?

21 A. I'm not the one who prosecutes. I'm
22 the one who would turn over any evidence to
23 somebody else who would be responsible for
24 prosecution.

25 Q. Okay.

1 Cowles

2 Q. But, again -- I understand your
3 issues, but that is not -- you don't need a
4 list with the same level of particularity as
5 you might for a precinct register; correct?

6 MR. CIRULLO: Object, form,
7 vagueness.

8 A. You know, it depends on the volume.

9 BY MR. ABT:

10 Q. Okay. Now, with regard to a precinct
11 register, our discussion of the same -- of
12 the exceptions -- those points would still
13 apply; correct?

14 A. Correct.

15 MR. CIRULLO: Object as to
16 form.

17 BY MR. ABT:

18 Q. Further, with regard to precinct
19 registers, those are updated frequently;
20 correct?

21 A. You only have so many opportunities
22 before election day for the purpose of being
23 able to distribute updates to the polling
24 place.

25 Q. They're updated on multiple occasions

1 Cowles

2 between the original -- the first precinct
3 register that's issued and the last one;
4 correct?

5 A. In Orange County, it's the original
6 and two updates.

7 Q. And the last update occurs the night
8 before the election?

9 A. They're delivered the morning of the
10 election to the polls.

11 Q. Okay. And then, in terms of
12 notifying voters and these timeline issues,
13 these are the same issues that you would
14 face with any voter; correct?

15 A. Not necessarily, because everything
16 depends on what period of time a situation
17 occurs.

18 As you get closer to the election,
19 we're handling multiple tasks. Where, if it
20 were to happen today, when there are no
21 elections scheduled, it's a different
22 timeframe.

23 Q. Right. Let me ask this question
24 maybe a simpler way. Is there something
25 about the absentee ballots procedure that

1 Cowles

2 Could Orange County simply process
3 incomplete applications as they currently do
4 after the close of books, but, instead of
5 flagging these as late applications and not
6 adding them to the rolls, simply adding them
7 to the rolls? Could that be done?

8 A. If that's the intent of the law, yes,
9 it's possible.

10 Q. Would that be a workable way to
11 follow a law that required you to do a grace
12 period?

13 A. Simplistically, yes. Procedurally,
14 there may be some things that may not make
15 it. Again, you would obviously at some
16 point have to flag the reason why it's not a
17 straightforward registration and all that,
18 but it's not impossible.

19 Q. I was going to ask you about the same
20 process for military voters, but I won't
21 make that mistake again.

22 A. You'll probably jinx me. I probably
23 will have some this year. Thank you.

24 Q. What about expanding the override
25 process, meaning the process that you were

EXHIBIT 21

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-22572-CIV-KING/O'SULLIVAN

EMMA YAIZA DIAZ, et al.,

Plaintiffs,

vs.

KURT BROWNING, Secretary of State
of Florida, et al.,

Defendants.

DEPOSITION

OF

EMMA YAIZA DIAZ

111 NW First Street
Miami, Florida

Tuesday, June 19, 2007
9:33 a.m. - 11:30 a.m.

KRESSE & ASSOCIATES
(305) 371-7692

1 BY MR. ABT:

2 Q. -- to the extent that you remember?

3 A. No.

4 Q. Earlier in your testimony, you stated
5 that the reason you did not check the mental
6 incapacity box on your 2004 application was that
7 quote, "I missed it." Is that accurate?

8 MR. EHRLICH: Object to the form.

9 THE WITNESS: Yes.

10 BY MR. ABT:

11 Q. Can you explain a little bit more
12 about why you missed it?

13 A. Well --

14 MR. EHRLICH: Object to the form.

15 THE WITNESS: Well, I think --

16 BY MR. ABT:

17 Q. You can answer.

18 A. I think that the wording or the
19 phrasing is confusing, and anybody can miss that
20 question. It has language that not everyone is
21 conscious of, they are not aware of.

22 MR. ABT: I have nothing further at
23 this time.

24 MR. EHRLICH: I have a few follow-up
25 questions.

EXHIBIT 22

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-22572-CIV-KING/O'SULLIVAN

EMMA YAIZA DIAZ; JOHN LANMAN;
AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS; AMERICAN FEDERATION OF
STATE, COUNTY AND LOCAL EMPLOYEES,
AFL-CIO; FLORIDA PUBLIC EMPLOYEES COUNCIL
79M AFSCME, AFL-CIO; AND SERVICE EMPLOYEES INTERNATIONAL
UNION, AFL-CIO,

Plaintiffs,

-vs-

KURT S. BROWNING, Secretary of State of Florida;
BRENDA SNIPES, Broward County Supervisor of
Elections; JERRY HOLLAND, Duval County Supervisor
of Elections; LESTER SOLA, Miami-Dade Supervisor
of Elections; BILL COWLES, Orange County
Supervisor of Elections; and ARTHUR ANDERSON,
Palm Beach County Supervisor of Elections,

Defendants.

DEPOSITION OF DEBORAH DION

Thursday, September 27, 2007
7910 NW 25th Street, Suite 201
Miami, Florida 33122
10:00 a.m. - 3:50 p.m.

1 if it has changed, from say 2004 to 2006 to 2008?

2 MS. WESTFALL: Objection as to form.

3 You may answer.

4 THE WITNESS: I mean, I think that the
5 locals are trying to register more of their
6 members as we go through these election cycles.

7 BY MS. WESTFALL:

8 Q What I am asking is if the way that you
9 are trying to accomplish that has changed or is
10 changing from the way it's been done in the past to
11 now?

12 MS. WESTFALL: Objection to the form.

13 You may answer.

14 THE WITNESS: I mean, here, we are trying
15 to centralize the voter registration operation
16 here in Miami-Dade county. I know that we are
17 going to put some resources into 527s who will
18 be conducting voter registration all over the
19 state of Florida and may reach some of our
20 members, but, you know, their role is to do the
21 general public as well.

22 BY MR. WINSOR:

23 Q Do you have sort of a plan as to how to
24 allocate resources for the 2008 election in terms of
25 voter registration?

1 legal conclusion.

2 You may answer.

3 THE WITNESS: I still don't understand
4 what you're asking.

5 BY MR. WINSOR:

6 Q Okay. The AFL-CIO would like to
7 invalidate a law that's challenged in this
8 litigation; is that right?

9 A Yes.

10 Q My question is: What would change for the
11 AFL-CIO if that happened?

12 MS. WESTFALL: I just have a standing
13 objection, calls for a legal conclusion.

14 You may answer.

15 MR. WINSOR: That's fine.

16 THE WITNESS: We will be able to get --
17 still continue to get our union members
18 registered if this law went away, and they
19 would be able to fill out new voter
20 registration forms and be able to participate
21 in elections.

22 BY MR. WINSOR:

23 Q Do you know of any union member or anyone
24 else who has submitted an incomplete voter
25 registration application after the 2006 election?

1 Q Have you seen other documents that purport
2 to be AFL-CIO voter registration manuals?

3 A Yes.

4 Q Are you familiar with this document?

5 A I'm looking through it.

6 Q And take your time.

7 A I'm familiar with it.

8 Q What is it?

9 A Can you ask that question again?

10 Q What is it? What is the document?

11 A It's a voter registration manual that the
12 national AFL-CIO put out in 1999 after the -- an
13 executive council meeting.

14 Q Do you know how widely it was distributed?

15 A I'm sure pretty widely.

16 Q And are these types of concepts that are
17 in it what are used to help educate those doing
18 voter registration on behalf of AFL-CIO?

19 A Yes.

20 Q If you'll look at page 6 of seven, it's
21 document number AFL291.

22 A Page 6?

23 Q Yes.

24 A Okay.

25 Q It's got some dos and don'ts there. Do

1 you see that?

2 A Uh-huh (affirmative).

3 Q It's got little smiley faces for the dos.
4 If you look at the last smiley face, this is heading
5 titled, "Face-to-Face Voter Registration, Dos and
6 Don'ts," it says as a do, fill out the cards for
7 people asking them for information if possible, but
8 make sure they sign their name.

9 Then in parenthetical it says, that
10 way you can be sure the card is filled out
11 completely and neatly. Keep the card with you, not
12 the registrant, and you will turn it over to the
13 election board.

14 Do you see that?

15 A I see it.

16 Q Are you familiar with that instruction to
17 AFL-CIO members that they fill out the card?

18 A That has never been part of a training
19 I've done, to ask to have AFL-CIO staff people fill
20 out cards.

21 Q Well, tell me how it would work, the ones
22 that you have done.

23 A On the ones that I have done?

24 Q On the ones that you have been involved
25 with.

1 MS. WESTFALL: Objection, asked and
2 answered.

3 You may answer.

4 THE WITNESS: Face-to-face, if I'm talking
5 to a union member that's an unregistered
6 member, I will ask them if he would like to
7 fill out a voter registration card because this
8 election is critical because of issue A or
9 issue B or issue C, and let them fill out their
10 voter registration card by themselves.

11 BY MR. WINSOR:

12 Q Do you ensure that the card is filled out
13 completely and neatly in that instance?

14 A Would I check the voter registration to
15 see if they filled it out correctly?

16 Q Yes.

17 A In most cases, yes.

18 Q Why would you not do that in all cases?

19 A Yes, I would check to see. I personally
20 would check to see if they filled it out. That's
21 part of our training.

22 Q Part of the AFL-CIO training?

23 A Part of the South Florida AFL-CIO training
24 that we are doing here in Miami-Dade to train our
25 shop stewards to make sure that these forms are

1 filled out right.

2 Q Okay.

3 A That's what we are currently doing.

4 Q Got you. I want to ask a couple more
5 quick questions about the letter that we talked
6 about earlier that you sent to the people on the
7 exhibit to the complaint.

8 A Uh-huh (affirmative).

9 Q Did you send that letter to everyone that
10 was on that exhibit?

11 A The two-oh-four list?

12 Q Oh, yes.

13 A Yes.

14 Q I believe it's Exhibit E that we discussed
15 earlier to the amended complaint.

16 A Yes.

17 Q We are talking about the same list, I
18 assume, right?

19 Well, let me just verify that's
20 correct.

21 Yes. Exhibit E, this is the list we
22 went through and you identified some individuals
23 that you have spoken to on the phone. And my
24 question is: Did you send that letter to everyone
25 on that list?

1 MS. WESTFALL: Mr. Winsor, I'm handing her
2 the list --

3 MR. WINSOR: Okay.

4 MS. WESTFALL: -- from Exhibit E for the
5 third amended complaint.

6 THE WITNESS: Yes. I did send a letter to
7 every one of these union members on the list.

8 BY MR. WINSOR:

9 Q It looks like there is 64 people on the
10 list?

11 A Yes.

12 Q Did you send a letter to anyone who was
13 not on the list?

14 A No.

15 Q So I take it you sent 64 letters out?

16 A Yes.

17 Q I believe you said, and correct me if I'm
18 wrong, you said you did that in August?

19 A In July. July 26th.

20 Q July 26th it went out in the mail?

21 A Uh-huh (affirmative).

22 Q I may have asked this before and forgive
23 me if I have, have you sent any other letters to
24 anyone on this list?

25 A No.

1 Q Have you sent any other letters to anyone
2 on any other lists relating to this litigation?

3 A No.

4 Q Have you sent any letters related to this
5 litigation?

6 MS. WESTFALL: Objection.

7 THE WITNESS: Can you repeat that?

8 BY MR. WINSOR:

9 Q Have you sent any letters related to this
10 litigation to anyone on this list or not on this
11 list?

12 MS. WESTFALL: Objection, asked and
13 answered.

14 You may answer.

15 THE WITNESS: I sent a letter to the
16 64 people that are on this list.

17 BY MR. WINSOR:

18 Q Other than that have you sent any letters
19 related to this litigation?

20 A No.

21 Q Any e-mails?

22 A No.

23 Q Was your expectation that these people
24 would read the letter that you sent them?

25 MS. WESTFALL: Objection.

1 You may answer.

2 THE WITNESS: Yes.

3 BY MR. WINSOR:

4 Q I believe in the Ten Point program, some
5 documents on the Ten Point program and I don't have
6 that precise one in front of me, but there was an
7 instruction to, quote, be careful of incentives, end
8 quote. Are you familiar with that instruction?
9 Does that mean anything to you?

10 A No.

11 Q Do you have any documents in front of you,
12 Ms. Dion, other than those that we have talked about
13 today?

14 A No.

15 MR. WINSOR: I don't have anything
16 further. Thank you very much more, Ms. Dion.

17 Some other attorneys on the phone may have
18 questions for you as may Ms. Westfall.

19 MS. WESTFALL: Does anyone else have
20 questions? If not, I'll ask a few.

21 C R O S S E X A M I N A T I O N

22 BY MS. WESTFALL:

23 Q Ms. Dion, you testified earlier that you
24 did have conversations with several people from
25 Exhibit E to the third appended complaint, did you

1 not?

2 A Yes.

3 Q And did you call those people or did they
4 call you?

5 A They called me -- I called them. I'm
6 sorry.

7 Q Is that true for all of the individuals to
8 which you testified earlier?

9 MR. WINSOR: Objection to the form. I
10 think you're talking about those she testified
11 about conversations with?

12 MS. WESTFALL: Yes.

13 THE WITNESS: Yes. Yes.

14 BY MS. WESTFALL:

15 Q So as to the specific members, did
16 Mr. Sadler call you or did you call him?

17 A I called him.

18 Q Do you know when Mr. Sadler was convicted
19 of a felony, what year?

20 A I do not.

21 Q Do you know if he has had his rights
22 restored?

23 A No, I do not.

24 Q As to Mr. Vega, do you know when he had a
25 felony conviction, what year?

1 A I do not know.

2 Q Do you know whether he's had his rights
3 restored?

4 A No.

5 Q As to Mr. Prickett, do you know when his
6 felony conviction was entered?

7 A No.

8 Q Do you know anything about the voter
9 registration eligibility of any of the other members
10 on Exhibit E?

11 A No.

12 Q Could you describe the mission of the
13 AFL-CIO as it relates to voter registration?

14 A The mission is to basically register every
15 single unregistered member and have them participate
16 in municipal, state, and federal elections.

17 Q Can you testify about the effect, if any,
18 of the rule that is being challenged in this
19 litigation on your mission?

20 A Well, it precludes that union members who
21 may make a mistake in signing their voter
22 registrations don't have an opportunity to vote in
23 an election and don't have the opportunity to
24 correct that voter registration because they have
25 never been notified that they filled something

1 out -- filled out the voter registration wrong.

2 Q And were there other organizations
3 involved in registering your members in 2004?

4 A Yes.

5 Q What were those organizations?

6 A They were 527s. Voices for Working
7 Families was one that did a lot of voter
8 registration in the state of Florida as well as
9 other states.

10 And they basically reached out to
11 groups that are basically under represented,
12 African-American, Hispanic communities in Miami-Dade
13 and across the state, and registered our members as
14 well.

15 Q Was there a relationship between the
16 AFL-CIO and Voices for Working Families in 2004?

17 A We put resources into Voices for Working
18 Families for sure.

19 Q And by "resources," what do you mean?

20 A We made contributions to the 527. We made
21 in-kind contributions to the 527 and worked with
22 them.

23 Q Do you expect that Voices for Working
24 Families will be registering your members in Florida
25 in 2008?

1 A Yes. As well as other 527s.

2 Q Thank you.

3 MS. WESTFALL: I have no further
4 questions.

5 MR. WINSOR: I have just a couple
6 follow-ups. This is Allen Winsor again.

7 R E D I R E C T E X A M I N A T I O N
8 BY MR. WINSOR:

9 Q Ms. Westfall was asking you about your
10 knowledge with respect to these individual's felony
11 convictions on the list of -- on Exhibit E that we
12 discussed?

13 A Uh-huh (affirmative).

14 Q Did you ask any of the members who said
15 that they had been convicted of felonies whether
16 they had had their rights restored?

17 MS. WESTFALL: I'm going to object to --
18 and instruct her not to answer as to the
19 specific questions she directed to these
20 members. Could you rephrase your question?

21 BY MR. WINSOR:

22 Q If -- yes. I will -- well, I don't know.
23 I'll try it again.

24 You mentioned several folks that you
25 talk to who said they had been convicted of

EXHIBIT 23

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

EMMA YAIZA DIAZ, et al.,)
Plaintiffs,)
v.) No. 04-27572-CIV-KING
KURT S. BROWNING,)
SECRETARY OF STATE OF)
FLORIDA, et al.,)
Defendants.)

- - - - -

30(b)(6) DEPOSITION OF AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO,
by and through its designee, RICHARD M. FELLER

Tuesday, October 2, 2007
Washington, D.C.

Reported by: Cheryl A. Lord, RPR, CRR
Job No. 183284

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October 2, 2007
10:00 AM

30 (b) (6) DEPOSITION OF AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO,
by and through its designee, RICHARD M. FELLER,
held at the offices of:

ADVANCEMENT PROJECT

1730 M Street, N.W., Suite 910
Washington, D.C. 20036

Pursuant to notice before Cheryl A. Lord,
Registered Professional Reporter, Certified
Realtime Reporter, and Notary Public in and for
the District of Columbia.

1 done any political work in Florida other than by
2 funding other organizations?

3 A. Yeah.

4 I mean, you're talking about the
5 international performing work?

6 Q. Yeah.

7 A. Probably prior to my tenure at
8 AFSCME, and we actually sent a staff person from
9 the international there in 2004, and we've
10 probably done some work before my tenure at
11 AFSCME that I'm just not aware of.

12 Q. What have you done that you are
13 aware of?

14 MS. WESTFALL: Objection to form.
15 You may answer.

16 A. Could you ask that -- what exactly
17 are you looking for?

18 BY MR. WINSOR:

19 Q. I think you said that AFSCME may
20 have done some political work before you got
21 there in Florida; is that correct?

22 A. Yeah, that would be my guess that

1 they'd do work before I got there.

2 Q. I'm asking: What specific work have
3 they done since you've been there?

4 A. Since I've been there, what we've
5 done with the council is -- we do 2 things.

6 One is a membership program, which
7 we make sure our members are registered. We
8 educate them about the candidates. And then we
9 get them out to vote. We also do that in the
10 general public as well.

11 Q. Tell me about the registration
12 component of that with respect to members.

13 What do you all do for that?

14 A. What we do -- or actually the
15 council does it, so you'd have to ask any
16 specifics of them.

17 They would go in and they would
18 match up the membership list I would assume
19 against a voter registration list and see who is
20 not registered to vote and then get them to
21 register to vote.

22 Q. Does your organization itself do any

1 work with respect to registering people to vote
2 in Florida?

3 A. Not the international.

4 That work is performed by the
5 council.

6 Q. So AFSCME International does not do
7 any voter registration work in Florida directly?

8 A. We do not. We fund the council's
9 activities.

10 Q. When you funded the council's
11 activities, is the funding tied to specific tasks
12 like registration, or is it just funding in
13 general?

14 A. No.

15 They will put together a proposal
16 that will include voter registration, education,
17 and then get out the vote.

18 Q. Is the proposal broken down at all
19 into different amounts of financial need for
20 different components?

21 A. Some of it is tied into one another.
22 Sometimes it's broken down. Sometimes it's not.

1 MR. WINSOR: Has anyone joined on
2 the telephone?

3 I don't think I've heard a beep.

4 THE COURT REPORTER: I didn't hear
5 any.

6 MS. WESTFALL: I didn't hear any
7 either.

8 Mr. Winsor, I just have a few
9 followup questions.

10

11 EXAMINATION BY COUNSEL FOR PLAINTIFFS

12 BY MS. WESTFALL:

13 Q. Mr. Feller, could you describe
14 AFSCME International's mission?

15 A. Yeah.

16 Our mission is to improve the lives
17 of working men and women.

18 Q. And does your mission involve at all
19 voter registration or a civic engagement
20 component?

21 A. Yes, yes, not just for our members
22 but for the general public as well.

1 Q. Could you describe your mission as
2 it relates to civic engagement and voter
3 registration.

4 A. Yeah.

5 Part of our mission is to enable
6 those that are disfranchised to have the ability
7 to participate in the election process.

8 Q. And I believe you testified earlier
9 about the rule that is at issue in this lawsuit.

10 If that rule -- is that correct?

11 A. Yes.

12 Q. If that rule remains in place during
13 the 2008 registration cycle, will it have an
14 impact on your mission?

15 A. Yes, it will.

16 MR. WINSOR: Objection to form.

17 BY MS. WESTFALL:

18 Q. Could you describe that impact?

19 A. It would have a negative impact,
20 because, again, part of our mission is to
21 enfranchise people and give them the ability to
22 vote, and this law hinders that.

1 Q. Do you know what percentage of
2 AFSCME in Florida are unregistered to vote?

3 A. I believe it's about 50 percent.

4 Q. And of that 50 percent, do you know
5 what percentage is eligible to register to vote?

6 A. I don't know what percentage would
7 be eligible. My assumption is that a large
8 number of them are.

9 Q. And what do you base that assumption
10 on?

11 A. The fact that our members are
12 government workers, and government workers
13 usually have to prove their citizenship, prove
14 that they're not felons, in order to get their
15 jobs.

16 Q. In 2004 -- the 2004 voter
17 registration cycle, did AFSCME International fund
18 council 79 or other organizations in Florida --
19 actually, strike that.

20 In 2004, did AFSCME International
21 fund any voter registration drives in Florida
22 that targeted non-AFSCME members?