

1 A. Yes, we did.

2 Q. Could you describe those drives.

3 A. Yeah.

4 The 2 that come to my mind  
5 immediately are one being in Gadsden County -- it  
6 was a Big Vote operation -- and the other one  
7 being Voices for Working Families, which was a  
8 527 that was participating in Florida during that  
9 election cycle.

10 Q. Could you describe the population  
11 that was started by operation Big Vote in 2004?

12 A. Minority --

13 MR. WINSOR: Objection to form.

14 A. Minority population, because --

15 BY MS. WESTFALL:

16 Q. Could you describe the population  
17 that the Voices for Working Families organization  
18 targeted in 2004?

19 MR. WINSOR: Objection to form.

20 A. Again, minority voter.

21 BY MS. WESTFALL:

22 Q. Do you anticipate that you will fund

1 operation Big Vote in Florida in 2008?

2 A. Most likely.

3 Q. Do you anticipate that you will fund  
4 Voices for Working Families voter registration  
5 activities in 2008 in Florida?

6 A. Probably not. I don't think Voices  
7 exist any longer.

8 Q. Why did you fund operation Big Vote  
9 and Voices for Working Families voter  
10 registration drives in 2004?

11 A. To enable more people to participate  
12 in the electoral process.

13 Q. Did that have any relationship to  
14 AFSCME International's mission?

15 A. Sure.

16 You know, the more people that are  
17 registered, the more people that are able to  
18 participate in the electoral process and vote for  
19 the working agenda.

20 Q. How long have you been involved in  
21 voter registration issues?

22 A. I've been involved in politics,

# EXHIBIT 24

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; LESTSER 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: ALMA R. GONZALEZ  
TAKEN AT THE INSTANCE: The Defendants  
DATE: September 17, 2007  
TIME: Commenced at 10:04 a.m.  
Concluded at 12:10 p.m.  
LOCATION: 301 S. Bronough Street, #600  
Tallahassee, Florida

1 providing to membership with regard to the importance of  
2 voter registration.

3 And that is something that happens throughout  
4 except for, as I indicated, in 2006. It was done in a  
5 much more targeted scale. Although, I wouldn't call it  
6 a much smaller scale. It's just a much more targeted  
7 scale because of the third-party voter registration  
8 prohibition.

9 Q I am not trying to put words in your mouth, but  
10 generally speaking, your goal is identify the  
11 unregistered members.

12 A (Witness nods head.)

13 Q Correct?

14 A Uh-huh. Yes.

15 Q Reach out -- contact them in some way.

16 A Yes.

17 Q Expose them to your voter registration plan or  
18 your voter registration appeal?

19 A Yes.

20 Q Assist them, if required, in registering?

21 A Assist them in registering, yes.

22 Q And then making sure that the voter  
23 registration application is filed?

24 A Making sure that the voter registration is  
25 filed, yes.

1 Q And follow-up as well?

2 A There is a very important follow-up component  
3 with regard to voter registration. It is -- yes.

4 Q What is that?

5 A What we do is we contact the election  
6 administrator in each of the counties -- ordinarily, it's  
7 a clerk. We don't ordinarily speak to the supervisor  
8 unless there's a problem -- and ensuring that the  
9 application is being properly processed.

10 We follow up with our membership to ensure  
11 that they have received their voter registration card  
12 and that they are aware of when the election is and are  
13 aware of where their precinct is located. Because our  
14 goal in registering people to vote is not just for them  
15 to have a card but for them to actually exercise their  
16 right to vote.

17 Q And does that follow-up function include  
18 assisting people who are unsuccessful in receiving a  
19 voter information card?

20 A Absolutely.

21 Q And what do you do in that regard?

22 A In regard to -- if we identify a member who has  
23 not received their voter registration card, then we  
24 follow up with the Supervisor of Elections office to  
25 determine whether the card -- the application has been

1 processed.

2 That is always the first question: Have you  
3 received this application, and where is it in the  
4 processing state? Where, you know, they say to us, no,  
5 that hasn't been received.

6 Then we go and follow back up in terms of was  
7 it actually turned in and by whom and that sort of  
8 thing, whether it has been turned in, but it's just in  
9 the process still: Yes, we have received it and it's  
10 being processed.

11 And then we try to determine when they  
12 anticipate that the card will be issued. And, you  
13 know, they will give us a date or sometimes --  
14 sometimes they say us to, gee, we don't know. It may  
15 be whatever amount of time. And so it requires  
16 continuous follow-up until that person has actually  
17 received their card.

18 If on occasion the Supervisor of Elections  
19 office says to us we received it, but it is deficient  
20 in the following manner, or, you know, we are not going  
21 to be able to process it because it's incomplete in  
22 some way, then we advocate on behalf of the member with  
23 regard to, you know, what it is they need to do to  
24 complete it and get their card. And then we follow up  
25 with the member to make sure that they, you know, have

1 an opportunity to do that.

2 Q And I think I broke them down into five general  
3 areas of things that the union does to achieve their  
4 voter registration goals: Identifying them, contacting  
5 them, working with them on the application, and following  
6 up. Without respect to the legal structure, that's a  
7 constant, is it not, those functions?

8 MS. WESTFALL: Objection to form. I'm not --

9 I am not following you. I'm sorry.

10 BY MR. ANTONACCI:

11 Q We'll try again.

12 I identified at least four general functions  
13 based on your testimony, and that would be:  
14 Identification of the members, contacting the  
15 members -- these are unregistered members.

16 A Uh-huh.

17 Q Contacting those unregistered members.

18 A Uh-huh.

19 Q Assisting them in applying for a voter  
20 registration -- voter information card, and then  
21 following up with each speaker -- with each supervisor to  
22 make sure that that individual has been registered.  
23 Okay?

24 A Yes.

25 Q Those are things that have to happen every

1 specific words.

2 Q Well, assuming that it is -- and it is. I  
3 don't think you'll have your counsel object to that --  
4 how would your registration efforts differ from  
5 registration efforts today if there were a so-called  
6 grace period?

7 A I am not sure that I understand your question.

8 Q You asked for a grace period in the complaint.

9 A Uh-huh.

10 Q How would your life be different with respect  
11 to registration activities if there were a grace period?

12 A It would place a much lesser burden and divert  
13 fewer resources from the union with regard to ensuring  
14 that our members were registered to vote, because it  
15 would be matter of simply correcting any alleged  
16 deficiencies rather than, you know, having these huge  
17 fights about whether there was a deficiency and doing the  
18 kinds of litigation and other kinds of advocacy that's  
19 taken a tremendous amount of resources from our  
20 organization to provide these individuals with the  
21 opportunity to vote.

22 Q Would your answer be the same if the grace  
23 period was 10 days in length?

24 MS. WESTFALL: Objection: Calls for  
25 speculation.

1 workplace.

2 Q I believe you testified earlier about the  
3 practices and statute that is at issue in this lawsuit,  
4 did you not?

5 A Yes.

6 Q Do the practices at issue and the statute at  
7 issue in this lawsuit have an impact upon AFSCME Council  
8 79's mission?

9 A The statute has a tremendous impact on our  
10 mission because our mission involves registration as part  
11 of our political action program. When our members are  
12 not able to register to vote or are not issued a  
13 registration card because of alleged deficiencies, it  
14 frustrates that mission.

15 Our goal is to make sure that every member of  
16 AFSCME Council 79 has the opportunity to have their  
17 voice heard in the workplace, which means at the ballot  
18 box. So when they are not able to do that, then our  
19 mission is frustrated.

20 MS. WESTFALL: I have no further questions.

21 MR. ANTONACCI: Gentlemen? Lady?

22 UNIDENTIFIED SPEAKER: No questions from Palm  
23 Beach.

24 MR. CIRULLO: No questions for Orlando -- I'm  
25 sorry, Orange.

# EXHIBIT 25

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.

-----/

DEPOSITION OF  
JERRY HOLLAND

9:30 a.m.  
July 25th, 2007

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

Connie M. Williams  
Registered Professional Reporter

1 Holland

2 A. Yes.

3 Q. And provided that they can verify  
4 that information up to three days after the  
5 election, their ballot will be counted,  
6 correct?

7 A. Yes.

8 Q. And all of that occurs after the  
9 close of books?

10 A. Yes.

11 Q. Why are some people, such as military  
12 families, allowed to register after the  
13 close of books but others can't?

14 MR. ARPEN: Object to the form  
15 of the question.

16 A. I cannot say how that legislation was  
17 created or why. I mean, I can only follow  
18 it.

19 Q. Why are you allowed to correct some  
20 types of information but not others?

21 MR. ARPEN: Same objection.

22 A. It's just -- again, it goes by if the  
23 statute allows me, that's why.

24 Q. Why are corrections allowed in  
25 certain circumstances but not other

1 Holland

2 circumstances?

3 MR. ARPEN: Same objection.

4 MR. WINSOR: Object to the  
5 form of the question.

6 A. Again, only if the statute allows me  
7 is the only reason I can answer why.

8 Q. I'm showing you what's been marked as  
9 Exhibit 9 for identification purposes. That  
10 is your responses to plaintiffs' second set  
11 of interrogatories; isn't that correct?

12 A. Yes, it is.

13 Q. And do you recognize that document?  
14 Have you seen that document before?

15 A. I can't tell when you I did. I'm  
16 sure -- I'm sure I did, but I can't -- I  
17 don't remember when.

18 Q. At some point you reviewed this  
19 document?

20 A. I would have, yes.

21 Q. Now, turning to the bottom of page  
22 eight, and read the last full sentence to  
23 yourself.

24 That sentence reads, "Supervisor  
25 Holland is without knowledge as to whether

1 Holland

2 the book closing requirements of Section  
3 97.0555 prevent, discourage or encourage  
4 voter fraud."

5 Did I read that accurately?

6 A. Yes, you did.

7 Q. And is that accurate?

8 A. Yes.

9 Q. Now I'd like to mark --

10 MR. ABT: Do you have an  
11 Exhibit 8 or are we out of order?

12 I'm sorry. Why don't we make  
13 the second interrogatory Exhibit 8,  
14 and we'll make this next exhibit  
15 Exhibit 9.

16 (EXH.-8 was marked for  
17 identification.)

18 (EXH.-9 was marked for  
19 identification.)

20 Q. Turning your attention to Exhibit 9,  
21 this is a July 30th, 2005 Florida Times  
22 Union newspaper article. Are you familiar  
23 with this article?

24 A. I don't remember exactly this  
25 particular -- they do quite a few articles,

1 Holland

2 A. Yes.

3 Q. And with regard to absentee voting,  
4 the article states, "Holland said each case  
5 has been explained as clerical errors,  
6 meaning a person may have signed the voters  
7 rolls at one location before being told to  
8 go to another to vote."

9 Did I read that accurately?

10 A. You did, but you said this was  
11 involving absentee. That was Election Day.

12 Q. Okay. This concerns clerical errors  
13 on Election Day?

14 A. Some of it's Election Day. This  
15 particular investigation was whether someone  
16 had also voted absentee and on Election Day  
17 or they had tried to vote more than once on  
18 Election Day.

19 Q. And the results of that investigation  
20 were that the allegations were -- that  
21 clerical error was actually the cause of  
22 these problems?

23 A. That is correct.

24 Q. And in your experience, are  
25 allegations of voter fraud often

1 Holland

2 attributable, after investigation, to  
3 clerical error?

4 A. In the majority of cases, yes.

5 Q. In the majority of cases?

6 A. Yes.

7 Q. Are you aware of prosecutions for  
8 voter fraud in the state of Florida?

9 A. Not in the state of Florida. I only  
10 know of our county specifically.

11 Q. And in your county specifically, has  
12 anybody been prosecuted with regard to voter  
13 fraud?

14 A. No.

15 Q. And voter fraud is a crime?

16 A. Yes, it is.

17 Q. So, to your knowledge, no one has  
18 been convicted of voter fraud from Duval  
19 County?

20 A. Correct.

21 Q. Now, to your knowledge, does allowing  
22 military families to vote after the close of  
23 books or register after the close of books,  
24 has that caused any increase in voter fraud?

25 A. Not that I'm aware of.

1 Holland

2 as a supervisor, how would you implement  
3 such a policy?

4 MR. ARPEN: Object to the form  
5 of the question, vague.

6 A. At this point I haven't had enough  
7 time to study it to say what the problems  
8 and what would be the occurrence and do I  
9 have enough personnel to do that. I really  
10 don't know.

11 I mean, I'd have to look at somewhat  
12 of the experiences since being elected to  
13 say how many registrations, what the changes  
14 would be, what problems, sit down with staff  
15 and go through those scenarios, but I  
16 couldn't suggest to you what changes I would  
17 make today to be able to follow that  
18 guideline.

19 Q. Currently, for the 2006 election, did  
20 you have an adequate level of staffing for  
21 registration?

22 A. Yes, we did.

23 Q. And for the 2008 election, do you  
24 plan, again, on having an adequate amount of  
25 staffing for registration?

1 Holland

2 A. Yes, we will.

3 Q. We discussed just a few minutes ago  
4 various statutory exceptions to the close of  
5 books prohibition against making  
6 corrections.

7 In your opinion, have any of these  
8 exceptions been difficult to administer?

9 A. Not to my knowledge.

10 Q. Have they been burdensome in terms of  
11 resources?

12 A. At this date, no.

13 Q. Are they especially complex,  
14 difficult to understand?

15 A. Not to my knowledge.

16 MR. WINSOR: Objection to  
17 form.

18 Q. If a grace period were enacted by a  
19 law, would expanding one of these exceptions  
20 to include all voters be one way to  
21 implement this?

22 MR. WINSOR: Object to form.

23 MR. ARPEN: Same objection.

24 A. Repeat it one more time.

25 Q. Okay. If you were required by state

# EXHIBIT 26

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

EMMA YAIZA DIAZ,  
Plaintiff(s),

vs.

CASE NO. 04-22572-CIV-KING

KURT S. BROWNING, Secretary of State of  
Florida, et al.,  
Defendant(s).

/

The deposition of PAT HOLLARN, taken by the attorney for the plaintiff, commencing at approximately 9:30 a.m., on the 2nd day of October 2007, at the Supervisor of Elections Office, 302 Wilson Street, North, Crestview, Florida, before Dana L. Jeffries, Registered Professional Reporter and Notary Public at Large in and for the State of Florida.

1 I was a member of a committee that made a recommendation to  
2 the association.

3 Q Okay.

4 A The association challenged that it was -- I  
5 guess you would say it was my idea.

6 Q And the association then passed that  
7 recommendation on to the Division of Elections; is that  
8 correct? I'm just trying to understand what you said.

9 A Yes.

10 Q Okay. And did that -- did that  
11 recommendation have anything to do with overrides?

12 A The issue of overrides, in my particular  
13 instance, came from the Federal Voting Assistance Program  
14 at FPCA, Federal Postcard Application, and that was what  
15 prompted me to do it, because the Federal Postcard  
16 Application does not resemble the Florida Voters  
17 Registration Form.

18 Q Okay.

19 A And if you are not aware, this is a heavy  
20 military county. We have huge military constituents and  
21 that's one of my primary concerns is the applications that  
22 you have to look at in a very critical way and a very  
23 knowledgeable way. And when we were faced with agencies in  
24 the division who were not familiar with processing the  
25 FPCAs, there's many things under the federal law that allow

1 Q How otherwise do they register?

2 A On the Florida form, but that's why there is  
3 a line 15 on the Florida form asking the question about  
4 military status.

5 Q Okay. So for each of these different ways in  
6 which the forms come in, perhaps we can go through in how  
7 they're being processed. So starting with HSMV because  
8 that's the largest number of forms, they are, quote,  
9 unquote, dumped into the system, and then --

10 A Mike, I have a voter motor registration  
11 coordinator that's responsible for, I guess, batching the  
12 work is the best way to say it, distributing it amongst the  
13 data entry people. And she's responsible for -- we get  
14 mail in both places, both offices, because of our move to  
15 this office only occurred in May of this year.

16 So it's taken a while -- we'll accept mail in  
17 both offices. So consequently, mail comes to both offices,  
18 so she has an assistant in the Fort Walton Beach office who  
19 does the intake of the mail, but it's all coordinated with  
20 the coordinator here.

21 Q Okay.

22 A While the work may stay there, she knows what  
23 it is, so she knows if we got more here to send it there.

24 Q Okay. So you have a flexible allocation of  
25 work, you can shift things between offices, if necessary?

1 A Oh, yes.

2 Q As far as the voter registration applications  
3 go?

4 A For absentees, for everything, because  
5 they're equal services for the voters.

6 Q So when those forms come in, your voter  
7 registration coordinator distributes those to the data  
8 entry people?

9 A There's a process that is procedural, and our  
10 procedure manual of how these batches are made, and the  
11 sort that they do for the different -- in other words,  
12 questionable ones or whatever it is, the coordinator knows  
13 how to do that, so the work is distributed. For instance,  
14 we have the -- this summer we hired two new people, and  
15 after their training period, they wouldn't be given a  
16 problem batch. They would be given ones that are --  
17 they're all okay. They're sorted and alphabetized and  
18 everything is logged. We can show the logs of who is doing  
19 what work and everything else. And once the data entry is  
20 complete --

21 Q Let's start from the distribution to the data  
22 entry. You just mentioned that there's some questionable  
23 and difficult forms. Are those difficult forms also passed  
24 on to the data entry people for entry into the system?

25 A The coordinator is responsible for all of the

1 catch-up work. So the same people doing all of  
2 these jobs with a great deal of overtime.

3 BY MR. HALBERSTAM:

4 Q Okay. Does voter registration interfere with  
5 the activities you described in any way?

6 A I never use the word "interfere" because  
7 that's our main job, to take care -- voter service is  
8 primary, and dealing with anything to do with the voter  
9 record is not an imposition in any way. We have to do it,  
10 so we can't say that it interferes. We have to do it all.

11 Q It doesn't disrupt your ability to address  
12 these other issues?

13 A Oh, yes. Of course, it does, it's all  
14 disruptive, but we have to do it.

15 Q And you do it?

16 A Yes, we do.

17 Q And you have adequate resources to do it?

18 A The problem with adding additional personnel  
19 is --

20 Q I'm sorry, I have to ask you to -- so we  
21 don't get too far afield --

22 A Ask the question again.

23 Q My question was, do you have adequate  
24 resources to take care of all of these things?

25 A What resources?

1 Q Personnel resources, terminal space?

2 A Yes, yes.

3 Q Okay.

4 A We have provisions for that.

5 Q Thank you. There are a number of statutory  
6 exceptions to the close of books; isn't that correct?

7 A I don't know what you're referring to.

8 Q I'm referring to the fact that the  
9 supervisors are required to register members of the  
10 military and their families until the Friday before any  
11 election; is that correct?

12 A What military members and their family?

13 Q You tell me.

14 A It's only the ones who separate in Europe and  
15 overseas and return after the books are closed and only  
16 with the proper documentation that show their 214, their  
17 separation papers, and travel -- travel documents.

18 They have to provide the evidence that they  
19 separated outside of the United States when the books were  
20 closed in this jurisdiction and just arrived in the United  
21 States. That's the only members of the military that can  
22 be registered up until the Friday before election.

23 Q Okay. And have you --

24 A It's not the ordinary military person.

25 Q And have you had occasion to do that?

1 that length of the -- this grace period as the period after  
2 the close -- from after the close of books to the day of  
3 elections, the day of elections or the day before  
4 elections.

5 A Oh, I'm with you. I understand what you're  
6 saying.

7 Q Very good. If the law changed to require  
8 Okaloosa County to allow every one who provided -- strike  
9 that. Let me start over.

10 If the law were changed to require Okaloosa  
11 County to allow everyone, provided they had initially  
12 registered on time, to make corrections to the application  
13 after the close of books, would you follow that law?

14 MR. ANTONACCI: Objection to form.

15 MR. LABASKY: Object to form.

16 THE WITNESS: Whatever the law is, I would  
17 have to follow it, because they didn't ask my  
18 opinion whether I liked it or not. I would have to  
19 follow it.

20 BY MR. HALBERSTAM:

21 Q My question was, would you follow that?

22 A Yes.

23 Q And this is what I previously referred to as  
24 a grace period. How would you implement such a grace  
25 period?

1 MR. ANTONACCI: Object to the form.

2 MR. LABASKY: Object to the form.

3 BY MR. HALBERSTAM:

4 Q If you were required to do so?

5 A Probably have to hire some more people.

6 Q Okay.

7 A Cost the County more money while they tell us  
8 we had to cut back nine percent.

9 Q Any -- would it be difficult to administer?

10 MR. ANTONACCI: Object to form.

11 MR. LABASKY: Same objection.

12 THE WITNESS: More difficult. What I don't  
13 sense in that question --

14 BY MR. HALBERSTAM:

15 Q You don't understand my question?

16 A I understand it completely.

17 Q My question, would it be difficult to  
18 administer a grace period relative to all of the other  
19 challenges?

20 MR. ANTONACCI: Object to the form.

21 THE WITNESS: It would add difficulty to  
22 carrying out the conduct of the election, yes.

23 BY MR. HALBERSTAM:

24 Q And my question now, would it be difficult --  
25 would the grace period itself be difficult to administer?

# EXHIBIT 27

IN THE UNITED STATES DISTRICT COURT  
FOR THE 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.

DEPOSITION OF BUDDY JOHNSON

Taken on Behalf of the Plaintiffs

DATE TAKEN: OCTOBER 12, 2007  
TIME: 10:37 a.m. - 11:17 a.m.  
PLACE: Election Services Center  
2514 North Falkenburg Road  
Tampa, Florida 33619-0917

Examination of the witness taken before:

Joan L. Pitt  
Registered Merit Reporter  
Certified Realtime Reporter  
Florida Professional Reporter

1 Q. And why is that?

2 A. Why is it important?

3 Q. Yes. I know that's somewhat of an obvious  
4 question.

5 A. Because only people that are registered are  
6 able to participate and vote.

7 Q. And is it important to you to ensure that every  
8 eligible applicant can register and vote?

9 A. Is it important for me to ensure that every  
10 eligible -- ensure is a pretty interesting word, but I'm  
11 interested in --

12 MS. HARRIS: If you need him to explain that  
13 question, then ask him to explain.

14 A. Explain what you mean by "ensure."

15 Q. I guess what I'm asking is: Do you in your  
16 office work hard to make sure that every person who  
17 can -- who's eligible to vote, eligible to vote and who  
18 wants to vote, can vote?

19 A. Absolutely.

20 Q. Okay. And with regard to voter registration,  
21 do you maintain adequate staffing in order to allow that  
22 to happen?

23 A. The question is --

24 Q. Do you have sufficient or adequate staff in  
25 voter registration?

1 A. We have adequate staff to train trainers to do  
2 voter registration for all sorts of groups that are  
3 interested, and we have 33, total 33 full-time staff  
4 positions. And with that budgetary constraint, I think  
5 we do an outstanding job.

6 MS. HARRIS: Are you looking for a yes or no  
7 answer to that question?

8 MR. ABT: Sorry?

9 MS. HARRIS: Did you want a yes or no answer to  
10 that question?

11 MR. ABT: No, that's fine.

12 BY MR. ABT:

13 Q. Mr. Johnson, my colleagues and I have already  
14 spoken with Chuck Smith from your office, and we've  
15 reviewed the documents that your counsel sent yesterday.

16 And thank you for that, Kathy.

17 So I'd like to really focus this deposition on  
18 confirming some of your voter registration practices in  
19 2004. Let's discuss the 2004 general election in  
20 particular.

21 A. Before you do that, can you repeat your last  
22 question that you asked me?

23 Q. Sure. I just asked you: Do you maintain  
24 adequate staff for voter registration?

25 A. Yes.

1 Q. Okay. Thank you very much.

2 Let's talk about the 2004 general election in  
3 particular. From that election, did the number of voter  
4 registration applications increase in the weeks before  
5 the close of books? And the close of books, for your  
6 information, if you don't remember, was October 4th,  
7 2004.

8 A. Did the number increase just before close of  
9 books?

10 Q. Yes.

11 A. Yes.

12 Q. Did it increase dramatically?

13 A. I would say yes.

14 Q. And were some of these applications incomplete?  
15 By incomplete, I mean applications that were missing  
16 information or containing incorrect or unacceptable  
17 information.

18 A. Are you asking -- explain -- when you say  
19 "these applications," are you saying ones that we  
20 processed or ones that were submitted?

21 Q. I mean applications that were submitted in the  
22 weeks before the close of books in the 2004 general  
23 election.

24 A. Just a general statement, I don't do inputting.  
25 That's not my responsibility. I manage the office. And

1 MS. HARRIS: Chuck Smith is out of town,  
2 anyway, so that's a moot point today.

3 MR. ABT: I don't think this witness is being  
4 responsive, so you want to take a minute to talk to  
5 him?

6 MS. HARRIS: I think you need to just repeat  
7 that question.

8 MR. ABT: All right, I will repeat that  
9 question.

10 MS. HARRIS: Thank you.

11 BY MR. ABT:

12 Q. Now, was it your -- I'm sorry. I'll take out  
13 the word policy. Between the close of books and  
14 election day, very simple question, did you allow  
15 applicants to correct their applications if they were  
16 incomplete or incorrect?

17 A. Would you like a yes or no?

18 Q. Yes, I would.

19 A. Yes.

20 Q. How did you do that?

21 A. According to the law, as my statement on all  
22 issues in this office would be.

23 Q. Are you aware of how this was done?

24 A. Of which particular case? Which particular  
25 correction?

1 Q. The practice of accepting corrections to voter  
2 registration applications between the close of books and  
3 election day was in place when you became supervisor?

4 A. Yes.

5 Q. And do you know how long it was in place before  
6 you were supervisor?

7 A. I do not.

8 Q. Now, in 2004, did your office conduct an  
9 orderly election?

10 A. Yes.

11 Q. Did you have sufficient resources to conduct  
12 that election?

13 A. Yes.

14 Q. Did you have any problems with voter fraud in  
15 that election?

16 A. Can you be more specific?

17 Q. Yes. Did you have any problems with voter  
18 registration fraud in that election?

19 A. I'm not really sure what -- there's no attempt  
20 here to not answer your question, but there are so  
21 many --

22 MS. HARRIS: Are you aware of any?

23 A. I'm not aware of any, no. You're talking  
24 about -- I'm sorry. No, I'm not. No, I'm not.  
25 Petitions is a different subject.

1 Q. To your knowledge, it did not cause any voter  
2 fraud?

3 A. No.

4 Q. So the practice in 2004 of accepting  
5 corrections between the close of books and election day  
6 did not interfere with your ability to conduct an  
7 orderly election?

8 A. The practice of -- say that again, please.

9 MR. ABT: Reporter, can you read the question  
10 back, please?

11 (The question was read by the reporter.)

12 A. No.

13 Q. And it did not place an undue burden on your  
14 resources?

15 A. No.

16 Q. And, to your knowledge, it did not cause voter  
17 fraud?

18 A. To my knowledge, no.

19 Q. And it's my understanding that after 2004 the  
20 law was changed, and that prevented you from continuing  
21 this practice of accepting corrections; is that correct?

22 A. I'm sorry. Repeat that, please.

23 Q. That was a bid awkward.

24 After 2004, the law with regard to -- there  
25 were some changes in the law with regard to voter

# EXHIBIT 28

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 9, 2007  
240 S. Military Trail  
Room 102  
West Palm Beach, Florida  
10:03 a.m. - 5:12 p.m.

DEPOSITION OF CHARMAINE A. KELLY

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 Kelly

2 no.

3 A. Yes, I'm sorry.

4 Q. Thank you. Do you have any sense  
5 what portion of that would go to voter  
6 registration?

7 A. Well, I guess it would depend on how  
8 you look at it. Voter registration really  
9 drives everything, doesn't it?

10 And so these people that are being  
11 paid, all of our staff is cross trained and  
12 they all deal with voter registration at one  
13 point or another during the day.

14 Q. Okay. So you are saying all of your  
15 staff is cross trained in voter  
16 registration?

17 A. Yes. And they all use the voter  
18 registration system, yes.

19 Q. Okay.

20 A. And they are also in addition to  
21 inquiring, they are entering.

22 Q. Okay.

23 A. And making address changes and other  
24 voter registration-related items.

25 Q. And do you have any sense of what

1 Kelly

2 A. No.

3 Q. And how about in 2005?

4 A. No.

5 Q. And how about in 2004?

6 A. No.

7 Q. So as far as you are concerned, in  
8 all those years, your funding for voter  
9 registration as far as staff was concerned  
10 was adequate?

11 A. Yes.

12 Q. Sitting here today, do you have any  
13 reason to believe that you would have  
14 inadequate funds in the future for voter  
15 registration?

16 MR. LABASKY: Object to the  
17 form.

18 THE WITNESS: I can't answer  
19 about what is going to happen in the  
20 future.

21 BY MR. HALBERSTAM:

22 Q. Understanding that no one can, but  
23 sitting here today, you have no -- there is  
24 no reason you know of today that will cause  
25 you to have inadequate funding in the

1 Kelly

2 Q. Okay. And that is the same for the  
3 branch offices?

4 A. No, they all do voter registration.

5 Q. And when you say they all do voter  
6 registration, meaning all of the staff in  
7 all offices do voter registration?

8 A. Yes.

9 Q. Including you yourself?

10 A. If needed.

11 Q. Okay. And who is the primary person  
12 responsible for voter registration?

13 A. I guess that would be me.

14 Q. Okay. And who do you report to?

15 A. I report to Dr. Anderson, the  
16 supervisor of elections.

17 Q. And who reports to you? Do you  
18 have -- I take it the entire staff reports  
19 to you on voter registration; is that  
20 correct?

21 A. Yes.

22 Q. You already said that you have an  
23 adequate staff for voter registration.

24 A. Yes.

25 Q. How many employees do you have

1 Kelly

2 election. All our precincts have laptops  
3 with a CD.

4 Q. And are those precinct registers  
5 supplemented in any way?

6 A. They are supplemented in any way by  
7 the use of the laptop.

8 Q. Okay. And how does that work?

9 A. They have a CD that is run closer to  
10 the election and it is distributed to the  
11 precincts and they can search the voter file  
12 for Palm Beach County, not statewide, and  
13 anything that they can't find on there to  
14 determine eligibility, they are instructed  
15 to call our office.

16 Q. And that CD, is that a later version  
17 of the earlier precinct register?

18 A. Yes.

19 Q. And when is that generated?

20 A. A few days prior to the election.

21 Q. Like four days?

22 A. Let's see. Four to five days before.

23 Q. Four to five days?

24 A. Yes.

25 Q. And that precinct register would, for

1 Kelly

2 A. On the paper precinct register?

3 Q. Yes.

4 A. Yes, if someone, for instance, did an  
5 address change after the precinct registers  
6 were printed and it was prior to that CD  
7 being produced, yes, they would appear on  
8 that voter file on the CD.

9 Q. And they could vote at that precinct?

10 A. If they were in the correct precinct  
11 for voting, yes, they could vote there.

12 Q. Right. So someone who did a name  
13 change any time before that CD was printed  
14 and that name change was entered prior to  
15 the time that CD was printed, then they  
16 would be on the CD and can vote in the  
17 precinct; is that right?

18 A. Yes.

19 Q. Okay.

20 A. After they have determined that the  
21 voter is in the correct precinct for voting  
22 based on their address.

23 Q. And how about the name change, if  
24 someone changes their name after the close  
25 of books and does so prior to the time that

1 Kelly

2 the CD is generated and it is entered prior  
3 to the time that the CD is generated, they  
4 would also be able to vote using the changed  
5 name at that precinct?

6 A. You asked me that before and the  
7 answer is yes.

8 Q. Okay. And the same with signatures,  
9 the new signature would show up on the CD?

10 A. We don't have the signatures on the  
11 CD because they are required to prove  
12 picture ID and the signature at the polls.

13 Q. Okay, for example if someone was  
14 unverified at the time that the original  
15 precinct register was generated, 14 days  
16 before the close of books, and in the  
17 meantime additional information was obtained  
18 and you overrode the 611 error code and  
19 activated them, they could also vote,  
20 couldn't they, at the precinct and their  
21 information would be on that CD; is that  
22 right?

23 A. Repeat that again, please, slowly.

24 Q. Okay. Someone who you activated  
25 later than 14 days after the close of books

1 Kelly

2 by overriding a 611 error code, that person  
3 would also be able to vote and would be on  
4 that CD; is that right?

5 A. Yes.

6 Q. And even if that person whose Social  
7 Security or driver's license came back  
8 unmatched wasn't processed yet prior to the  
9 elections, you would give them a provisional  
10 ballot, wouldn't you?

11 A. Yes.

12 Q. And then if that person came back two  
13 days after the elections with the proper  
14 supporting documentation, then you would  
15 count that provisional ballot, correct?

16 A. That is not up to me, that is up to  
17 the canvassing board.

18 Q. I see, okay, but you would provide  
19 the canvassing board with that information?

20 A. We would provide the canvassing board  
21 with all the necessary documentation.

22 Q. Right.

23 A. In order for them to make that  
24 determination.

25 Q. So in other words, a lot of changes

1 Kelly

2 Q. Let me stop there just for a minute.  
3 Do you agree that supervisors of elections  
4 are responsible for printing precinct  
5 registers for the jurisdictions?

6 A. Yes.

7 Q. And do you also agree with the second  
8 sentence that in deriving the list of valid  
9 registered voters to be included in the  
10 precinct register, county systems will  
11 access registration data provided by the  
12 FVRS?

13 A. Yes.

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

22 In fact, book closing only controls  
23 the effective dates for party changes (for  
24 primaries) and the eligibility of new  
25 voters. Address changes, other

1 Kelly

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

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

13 And I note that apparently there is  
14 some elision here. Did I read that  
15 correctly?

16 A. Yes.

17 Q. Do you agree with that statement?  
18 I'm just referring to the particular  
19 paragraph that I read which is the third  
20 paragraph under the heading "Existing  
21 procedures and challenges for the FVRS."

22 A. Right.

23 Q. What part is giving you trouble?

24 A. I'm trying to read it, please.

25 Q. I'll give you time. Take your time.

1 Kelly

2 A. Thank you. I'm not going to answer  
3 yes to a whole paragraph without me reading  
4 it.

5 Q. Okay, we could break it down, if you  
6 like.

7 A. No, I'm almost finished, if you let  
8 me finish, please. Thank you.

9 Q. Sure.

10 A. I would agree with that.

11 Q. So is it fair to say that these  
12 registrations are being constantly updated?

13 A. Some of the voter registration.

14 Q. The precinct --

15 A. The precinct registers there are  
16 changes to them, some of them, not all of  
17 them.

18 Q. Okay. We talked about early voting  
19 previously. Can you tell me what early  
20 voting is and when it occurs?

21 A. Early voting begins on the 15th day  
22 prior to the election. Eight hours during  
23 the week days and eight hours in the  
24 aggregate on the weekends.

25 They have to be held in established

1 Kelly  
2 supervisor of elections offices that have  
3 been established for one year -- city halls,  
4 libraries.

5 And what this does is it permits  
6 people who want to go and vote prior to  
7 going to the polls on Election Day to appear  
8 in person and vote at any one of the  
9 designated early voting sites throughout the  
10 county.

11 Q. Sounds like a great service to me.  
12 Would you agree?

13 A. Yes.

14 Q. Is there anything about early voting  
15 that interferes with updating name or  
16 address changes or changes to signatures or  
17 other changes to registration applications  
18 after the close of books?

19 A. Repeat that.

20 Q. Okay. With early voting, how do you  
21 account for registrants who change their  
22 name, address or signature after the close  
23 of books?

24 A. When they go to early vote?

25 Q. Yes.

1 Kelly

2 A. They can make that change at an early  
3 voting site.

4 Q. Interesting. How about someone whose  
5 application came back as unverified but  
6 actually has properly supporting  
7 documentation?

8 A. At an early voting site?

9 Q. Yes.

10 A. They would be instructed that if the  
11 voter insists that they give them a  
12 provisional ballot.

13 Q. Okay.

14 A. And leave that up to the canvassing  
15 board.

16 Q. Okay. But in any case, if the voter  
17 wishes to vote early, they can be given a  
18 provisional ballot; is that right?

19 A. Uh-huh.

20 Q. Okay.

21 A. If their eligibility cannot be  
22 determined.

23 Q. Okay. What is a book closing report?  
24 Does the supervisor's office receive a book  
25 closing report from the state?

1 Kelly

2 Q. Correct?

3 A. Yes.

4 Q. So on the outside, you have 21 days  
5 by law; is that correct?

6 A. Yes.

7 Q. So from the perspective of the voter,  
8 if you submit an incomplete application less  
9 than 21 days or less than around 21 days in  
10 advance of the close of books, then there is  
11 no guarantee that you will receive  
12 notification in time to correct your  
13 application; isn't that correct?

14 MR. LABASKY: Objection to  
15 form.

16 THE WITNESS: Rephrase that,  
17 please.

18 MR. HALBERSTAM: Can you read  
19 that back, please.

20 (Requested portion of record  
21 read.)

22 THE WITNESS: The books close  
23 29 days before an election, so there  
24 has to be 29 days.

25 BY MR. HALBERSTAM:

1 Kelly

2 A. Relative to her supposedly voting in  
3 the wrong precinct in a local municipal  
4 election, yes.

5 Q. You have already stated that fraud  
6 with regard to voter registration is not  
7 something that you encounter frequently?

8 A. No, it is not.

9 Q. Do you know whether any allegations  
10 concerning voter registration fraud in the  
11 county have ever led to any prosecutions?

12 A. Not that I am aware of.

13 Q. Or to any convictions?

14 A. Not that I am aware of.

15 Q. I would like to ask you a couple of  
16 questions about what we referred to as the  
17 grace period.

18 If the law were to change to require  
19 Palm Beach County to allow everyone provided  
20 they had initially registered on time to  
21 make corrections to their applications after  
22 the close of books, would you follow that  
23 law?

24 A. Repeat that, please.

25 Q. Can you read that back.

1 Kelly

2 are registering to vote, filling out a form,  
3 that you want and intend to vote?

4 MR. LABASKY: Same objection.

5 THE WITNESS: I could only  
6 answer that for myself.

7 BY MR. HALBERSTAM:

8 Q. Okay. Please answer.

9 A. If I Charmaine Kelly were filling out  
10 this form, I would be doing it for the  
11 purpose of registering so that I could vote.

12 Q. And if you want to vote, you  
13 presumably want to fill out the application  
14 correctly. Do you agree with that?

15 A. If I were filling out the form, yes,  
16 I would.

17 Q. And are you aware of anyone  
18 intentionally submitting an incomplete or  
19 incorrect application? It might be an odd  
20 question, but I'm asking it anyway.

21 Are you aware of anyone intentionally  
22 submitting an incomplete or incorrect  
23 application?

24 A. How could I be aware of that?

25 Q. Someone might have told you. I don't

1 Kelly

2 know. So sitting here today --

3 A. No, I'm not aware of anyone --

4 Q. Here is an example of what I am  
5 thinking of. I believe some of us, maybe  
6 you've heard reports of political -- people  
7 who politically object to the tax code  
8 defacing an IRS form and sending it in.  
9 That has occurred.

10 I'm not sure whether you are aware of  
11 it. I'm asking the same -- I'm asking  
12 whether you are aware of any similar  
13 circumstance with regard to the voter  
14 registration form in your experience.

15 A. Not that I am aware of.

16 Q. Okay. Can you take a look at the  
17 form. I would like you to look a little bit  
18 more closely.

19 A. Okay.

20 Q. Are there check boxes concerning an  
21 individual's status as a felon on this form?

22 A. Yes.

23 Q. Okay. Any check boxes concerning  
24 mental incapacity?

25 A. Yes.

1 Kelly

2 A. Yes.

3 Q. You have already stated that voter  
4 fraud with regard to voter registration  
5 applications is rare. Is that correct?

6 A. That I am aware of.

7 Q. That you are aware of?

8 A. Uh-huh.

9 Q. Sitting here today, do you have any  
10 reason to believe that prohibiting a grace  
11 period prevents or discourages voter fraud?

12 A. I have no comment on that. Go ahead,  
13 ask me again.

14 Q. Sitting here today --

15 A. Yes.

16 Q. -- can you think of any reason why  
17 prohibiting a grace period prevents or  
18 discourages voter fraud?

19 A. No, I have no knowledge.

20 Q. Okay. You are not aware of any  
21 reason?

22 A. No.

23 Q. Turning to interrogatory No. 3,  
24 please, review that for yourself and then  
25 I'll ask you a question about that

# EXHIBIT 29

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
CIVIL DIVISION

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.

---

115 South Andrews Avenue  
Room 102  
Fort Lauderdale, Florida 33301  
Friday, July 27, 2007  
10:10 a.m. - 2:55 p.m.

DEPOSITION OF EVAN D. KOLODNY

Taken before Darline M. West,  
Registered Professional Reporter, Notary Public  
in and for the State of Florida At Large,  
pursuant to Notice of Taking Deposition filed  
by the Plaintiffs in the above cause.

- - -

1 Kolodny

2 30 days prior to the election or  
3 employed overseas.

4 BY MR. ABT:

5 Q. Why are you allowed to accept certain  
6 types of corrections after the close of  
7 books, but not others?

8 A. We follow the law.

9 Q. Do you know the basis for that law?

10 MS. WEEKS: Objection to form.

11 MR. WINSOR: Object to form.

12 THE WITNESS: No.

13 BY MR. ABT:

14 Q. Why are you allowed to correct  
15 applications after the close of books in  
16 certain situations but not in others?

17 MR. WINSOR: Objection to  
18 form.

19 THE WITNESS: Again, we just  
20 follow whatever the law says.

21 BY MR. ABT:

22 Q. You're not aware of the basis for  
23 that?

24 A. No.

25 MR. WINSOR: Object to the

1 Kolodny

2 Q. The subject of this memo reads  
3 printing of the precinct registers; is that  
4 correct?

5 A. Correct.

6 Q. This memo concerns the February 9th,  
7 2004 election?

8 A. Yes.

9 Q. It states the precinct registers will  
10 be printed on February 5th, four days before  
11 the election?

12 A. Yes.

13 Q. Are precinct registers typically  
14 finalized four days before the election?

15 A. This only involved one small city.  
16 No. Precinct registers are generally  
17 printed ten days before an election.

18 Q. Are precinct registers finalized in  
19 any way after they're printed? I'm sorry.  
20 Excuse me.

21 Are precinct registers supplemented  
22 at any point after those ten days?

23 A. Yes.

24 Q. How does that happen?

25 A. Basically, the registers would be

1 Kolodny

2 supplemented for people who voted for early  
3 voting, to indicate a list would be printed  
4 on a precinct by precinct basis and  
5 distributed to either the clerks directly or  
6 to people that we have -- I'm sorry.

7 I can't think of the term -- roving  
8 on election day. They go to the precincts  
9 and make sure to indicate people who are  
10 voted after the registers were printed, they  
11 voted earlier.

12 Q. Approximately how many times are the  
13 precinct registers updated?

14 MR. WINSOR: Objection to  
15 form.

16 Q. In the ten days before the election.

17 A. Well, one, they're registered just  
18 before they go out, while they're still in  
19 the warehouse, and I believe they may be  
20 updated twice after that.

21 Q. That sounds like four or five times?

22 A. I'm thinking of three times, but it  
23 may be more. Again, I'm not involved with  
24 that process directly. So --

25 Q. At least three times?

1 Kolodny

2 A. At least three times.

3 Q. And what is the last time that the  
4 precinct registers are finalized before the  
5 election?

6 A. Election afternoon. However,  
7 depending on the situation, they might even  
8 telephone the information, also, to update  
9 the registers.

10 Q. Are you saying the day of the  
11 election?

12 A. Yes.

13 Q. So is it fair to say that these  
14 registers are constantly updated through the  
15 date of election?

16 A. I believe twice, if necessary, twice  
17 the same day.

18 Q. So that would be yes?

19 MR. WINSOR: Objection.

20 THE WITNESS: Yes.

21 Q. I'm sorry. Can we go back to, I  
22 believe, Exhibit 10? I just wanted to ask  
23 you, Exhibit 10 -- Exhibit 10 makes  
24 reference to temporary voter cards?

25 A. Correct.

1 Kolodny

2 polling places in public buildings, and for  
3 the purposes of allowing registered voters,  
4 regardless of precinct, to vote prior to the  
5 election.

6 Q. Okay. When does early voting begin  
7 and when does it end?

8 A. Early voting, the way the current  
9 law's written, begins -- it's 15 days, and  
10 it would end on the Sunday before the  
11 election.

12 Q. Did it work that way in 2006?

13 A. No. Oh, 2006? I'm sorry. Yes, in  
14 2006.

15 Q. How did it work in 2004?

16 A. 2004 you could early vote up until  
17 Monday night.

18 Q. It began 15 days out?

19 A. I believe so, but I can't say for  
20 sure.

21 Q. Again, with early voting, how would  
22 the election officials account for  
23 military -- this hypothetical subset of  
24 military families?

25 How would you deal with that if one

1 Kolodny

2 of those people wanted to vote?

3 A. They could use one of those temporary  
4 cards and take it to an early voting site or  
5 take to it their polling place on election  
6 day.

7 Q. Same with registrants to change their  
8 name and address?

9 A. After the registers, yes.

10 Q. The same thing with registrants with  
11 discrepancy in their social security,  
12 Florida ID, driver's license?

13 A. They would not be issued one of those  
14 cards.

15 Q. Okay. If it was -- if their  
16 information was validated.

17 A. Oh, okay. Yes. All right. Yes.

18 Q. Stay with me.

19 A. All right.

20 Q. If a person wanted to vote early but  
21 there is some type of problem with their  
22 registration, couldn't they be just issued a  
23 provisional ballot?

24 A. Yes. They're available.

25 Q. Can you briefly describe the absentee

1 Kolodny

2 definitely a good idea to get your  
3 application in early, correct?

4 MR. WINSOR: Objection to  
5 form.

6 THE WITNESS: Yes.

7 BY MR. ABT:

8 Q. Because if you register by mail, it  
9 can take as long as a month to be notified  
10 of any mistaking or omissions in the  
11 application.

12 MR. WINSOR: Objection to  
13 form. I object to you asking him  
14 over and over again.

15 MR. ABT: That is a question.  
16 We've heard your objection.

17 THE WITNESS: You get a month,  
18 and you're implying 30 days. I don't  
19 agree with that, a month.

20 BY MR. ABT:

21 Q. Well, I'm adding the one to three  
22 days both ways to the 21 to 23 days that  
23 we've discussed.

24 MR. WINSOR: Objection.

25 Q. I'm saying approximately a month.

1 Kolodny

2 MS. WEEKS: Do you understand  
3 his question?

4 THE WITNESS: I understand --  
5 no, I understand the question. All  
6 right. If you use the word  
7 "approximately," yes.

8 BY MR. ABT:

9 Q. Currently are applicants generally  
10 allowed to correct mistakes and omissions in  
11 their registration after the close of books?

12 A. They can correct them any time, yes.

13 Q. Can they correct them and be allowed  
14 to vote in the upcoming election?

15 A. Not if it involves a social security,  
16 driver's license -- not if it involves  
17 missing or incorrect information. If it's  
18 address information, name information, yes.

19 Q. Okay. Is that also true in 2006?

20 A. Yes.

21 (Kolodny Deposition Exhibit  
22 11, October 13, 2004 memo from Brenda  
23 Snipes to All Staff, was marked for  
24 identification.)

25 Q. I'm showing you what's been marked as

1 Kolodny

2 there been any allegations of voter fraud as  
3 to registration?

4 MR. WINSOR: Objection to the  
5 form.

6 THE WITNESS: Yes.

7 Q. That you're aware of?

8 A. Yes.

9 Q. Now, have any of these allegations,  
10 to your knowledge, resulted in a criminal  
11 conviction?

12 A. I'm not aware of it.

13 Q. Do you know of anyone who's actually  
14 gone to jail for voter fraud?

15 A. I do not, no.

16 Q. If the law were changed to require  
17 Broward County to allow everyone, provided  
18 they had initially registered on time, to  
19 make corrections after the close of books,  
20 would you follow that law?

21 MR. WINSOR: Objection to  
22 form.

23 THE WITNESS: We would follow  
24 the law as was -- as was -- yeah, as  
25 written; we have to.

1 Kolodny

2 BY MR. ABT:

3 Q. Let's call this period where you're  
4 allowed to correct your application a grace  
5 period.

6 Could Broward County, in order to  
7 effectuate a grace period, process  
8 incomplete applications as they currently  
9 do, but instead of flagging these as late,  
10 simply add them to the rolls?

11 MS. WEEKS: Object to form.

12 THE WITNESS: If that was the  
13 law, we would implement it, yes.

14 Q. Would that be particularly  
15 burdensome?

16 MR. WINSOR: Objection to  
17 form.

18 THE WITNESS: If it required  
19 necessary staff and expenses to do  
20 it, we would have to do it.

21 BY MR. ABT:

22 Q. But would it require any additional  
23 logistics, any additional planning, any  
24 additional infrastructure?

25 MS. WEEKS: Same objection.

1 Kolodny

2 MR. WINSOR: Same objection.

3 THE WITNESS: Well, basically,  
4 people on staff would have to know  
5 the change of the law, that we are  
6 changing procedures.

7 BY MR. ABT:

8 Q. That would require a memo, correct?

9 A. It would require a memo and maybe  
10 meeting, but, yes, correct.

11 Q. Would that be particularly -- again,  
12 I'm asking -- making use of your existing  
13 procedures but simply placing these people  
14 on the rolls as opposed to placing them on  
15 hold, would that be a logistically difficult  
16 thing to do?

17 MR. WINSOR: Objection to  
18 form.

19 THE WITNESS: Probably not.

20 Q. In your opinion, what would be the  
21 latest possible day to allow corrections to  
22 registrations after the close of books?

23 MR. WINSOR: Objection to  
24 form.

25 MS. WEEKS: Same objection.

1 Kolodny

2 THE WITNESS: The closer it is  
3 to the election, the more difficult  
4 it would be to implement, i.e. -- I  
5 guess -- repeat the question.

6 BY MR. ABT:

7 Q. The question is, what would be the  
8 latest possible day prior to elections that  
9 corrections could be allowed?

10 MR. WINSOR: Objection to  
11 form.

12 MS. WEEKS: Same objection.

13 THE WITNESS: I guess the day  
14 before the election.

15 Q. Now, presumably, if you were  
16 registering to vote, you have an intent to  
17 vote, correct?

18 MR. WINSOR: Objection to  
19 form.

20 MS. WEEKS: Objection to form.

21 THE WITNESS: If you register  
22 to vote, you want -- I'm sorry.

23 BY MR. ABT:

24 Q. You don't register for no reason.  
25 If you register to vote, you intend

1 Kolodny

2 knocked off if you proved that you resided  
3 in the state of Florida, if it was your own  
4 home, your property, your own home, you  
5 resided at that residence on the 1st of  
6 January at that particular year.

7 MS. WEEKS: For the record,  
8 it's one of the proofs that you can  
9 take in, as a voter registration  
10 card.

11 BY MR. ABT:

12 Q. But presumably -- presumably,  
13 whatever the reason somebody registers, if  
14 they -- if they are, in fact, able to  
15 register, they're qualified to vote?

16 A. Correct.

17 MR. WINSOR: Objection to  
18 form.

19 BY MR. ABT:

20 Q. Are you aware of any one  
21 intentionally submitting incomplete or  
22 incorrect applications?

23 A. Not intentionally, no.

24 (Kolodny Deposition Exhibit  
25 13, Blank Voter Registration

# EXHIBIT 30

UNITED STATES DISTRICT COURT  
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.

\_\_\_\_\_ /

1200 Brickell Avenue  
Suite 950  
Miami, Florida 33130  
Monday, August 20th, 2007  
9:34 a.m.

DEPOSITION OF IVY KORMAN

Taken before Beverly Bourlier James,  
Registered Professional Reporter, Certified Realtime  
Reporter and Notary Public in and for the State of  
Florida at Large, pursuant to Notice of Taking  
Deposition filed in the above-mentioned cause.

1 Q. So in terms of the actual information  
2 provided, do you think it's a good idea to only  
3 provide information on an application once, so in  
4 this case, only affirm that you are a citizen once?

5 MR. ROSENTHAL: Object to the form.

6 THE WITNESS: Well, I guess you are  
7 speaking to the choir in this case because I'm the  
8 one that brought it up in the beginning to say we  
9 shouldn't be not registering these people because  
10 it says they are a U.S. citizen. So you are  
11 speaking to the choir on this that I agreed.

12 BY MR. ABT:

13 Q. So I guess what I'm asking is I understand  
14 that you agree with regard to this citizen check box  
15 that this is redundant and, therefore, not a good  
16 policy, is that correct?

17 A. Yes.

18 Q. Now I'm asking more broadly, if there was  
19 other redundant information on a voter registration  
20 application form, would you have a problem with that,  
21 too?

22 MR. ROSENTHAL: Object as to form.

23 THE WITNESS: Explain? If the oath said  
24 that I am not mentally incompetent and that all of  
25 my rights have been restored, then, of course, the

1 Q. So people who work in voter registration  
2 work primarily on voter registration, but they may be  
3 called to do other tasks?

4 A. Yes, sir.

5 Q. And would they be called to do other tasks  
6 outside the voter services division or are those  
7 tasks all within the division?

8 A. Sometimes outside the division.

9 Q. Is it fair to say more commonly they would  
10 be asked to do work inside the division and  
11 occasionally be asked to work outside the division?

12 A. Yes, uh-huh.

13 Q. We talked about this before, but I just  
14 want to clarify all the various positions with regard  
15 to voter registration. First, presumably, there's  
16 the supervisor who at the end of the day is  
17 responsible for all election activities in the  
18 office.

19 A. Okay.

20 Q. Correct?

21 A. Yes; Mr. Sola.

22 Q. Next there is you?

23 A. Well, he has five division heads, I'm one  
24 of the five.

25 Q. Right, but specifically with regard to

1 Q. And do clerks work only in one area or can  
2 they be trained to work in different areas?

3 A. All of my staff is trained to work in all  
4 of my different sections within my division.

5 Q. Okay, understood. Does your division  
6 maintain an adequate number of staff with regard to  
7 voter registration?

8 A. No.

9 Q. Please explain.

10 A. During busy times, we only have X amount  
11 of seats, X amount of computers, X amount of  
12 licenses, but when we do get busy, we have other  
13 sections assisting us, let's say with the voter  
14 registrations or petitions, whatever have a deadline.  
15 Everybody would always like more staff, but we are  
16 limited because of budget and things like that. And  
17 also I also act, at busy times, all of my staff,  
18 deputies, everybody, we do regular clerk work when we  
19 need to and we have deadlines.

20 Q. Okay. Understanding that everyone would  
21 always like more staff including me, are you saying  
22 that your office -- do you have an adequate number of  
23 staff considering all the people who might help you  
24 in a busy period?

25 A. Yes.

1 Q. In other words, you are not saying that you  
2 have an inappropriately low level of staff?

3 A. Not at all.

4 Q. You are not saying that you don't have  
5 enough staff to perform your voter registration jobs  
6 effectively?

7 A. I'm not saying that.

8 Q. Okay. Let's go back to Exhibit 1, page  
9 three, look at the response to interrogatory four.  
10 The interrogatory reads, "In addition to those  
11 individuals identified in response to interrogatory  
12 one, the following individuals worked on voter  
13 registration applications from 2004 to the present."

14 A. Uh-huh.

15 Q. And just for your information, the  
16 individuals identified in interrogatory one are  
17 yourself and Milton Collins. Looking at this table  
18 of permanent and seasonal staff, does this table  
19 accurately reflect the people who have worked in  
20 voter registration from 2004 to the present?

21 A. This is everyone that had at one point  
22 been with registration up to now. This is not what  
23 my staff looks like, of course, now.

24 Q. And why does it not look like this now?

25 A. Well, the permanent staff, some of these

1 Q. Moving on. An application is entered into  
2 the system, it appears to have all the information  
3 correct, and you send that application to FVRS for  
4 verification. If the application -- how long does it  
5 take for FVRS to come back with an answer?

6 A. Usually within two days.

7 Q. Okay. I've heard -- I've also heard it can  
8 take as long as 72 hours, is that true as well?

9 A. That could be.

10 Q. Now, when it comes back, the information,  
11 what is the possible answer?

12 A. That the Social Security -- last four  
13 digits of the Social Security number or driver's  
14 license matched and it's okay, if that was the only  
15 thing that they were looking at. Or that the person  
16 put down that they do not have a Social Security  
17 number or driver's license and the state found that  
18 to be so, or the person gave a wrong number and the  
19 state is saying the number does not match.

20 Q. Okay. So the sort of immediate check that  
21 the FVRS system does is the driver's license, Social  
22 Security, identification card information?

23 A. Yes, sir.

24 Q. Okay. So it either comes back with --

25 A. Accept or not.

1 a couple of times a week.

2 Q. Okay. So an application that is marked  
3 incomplete and a notice is generated, that --  
4 withdrawn.

5 A notice is generated instantly, isn't  
6 that correct, but it is printed every few days?

7 A. Yes.

8 Q. Okay. And, so, a person whose application  
9 is marked incomplete on a Monday may not have a  
10 letter go out until a Thursday?

11 A. Possibly.

12 Q. Is there a specific amount of time that  
13 you --

14 A. I would say we normally print out the  
15 letters every couple of days, especially if we are  
16 getting closer to an election time.

17 Q. Okay. What's the longest period that you  
18 would wait?

19 A. A week, but again we try to print them out  
20 a couple of times during the week.

21 Q. Right. Well, okay. Now, when a notice is  
22 sent out and is returned with corrected information,  
23 is that application with the corrected information  
24 treated any differently than any other application?

25 A. Yes, in that we process it right away. We

1 applications are from actual eligible voters?

2 A. They are from people that didn't answer no  
3 to those questions, then it's left to see if they are  
4 actual eligible voters.

5 Q. So the vast majority of voter registration  
6 applications are not denied as ineligible?

7 A. Correct.

8 Q. They are either marked complete and added  
9 to the rolls or they are marked incomplete?

10 A. Yes.

11 Q. Okay. Turn to page 13, determining voter  
12 eligibility.

13 A. Uh-huh.

14 Q. Can you explain what sections four and six  
15 with regard to felon and incompetent status mean?

16 A. When you end up looking up a voter and it  
17 shows you their voter status, if, in fact, at that  
18 time we used to use four for felon and six for  
19 mentally incompetent, so then this way you know that,  
20 let's say, on election day they can't vote.

21 Q. So this is when you look someone up and  
22 it's already on the application?

23 A. No, it's already on our system that they  
24 are already in four or already in six.

25 Q. Okay. All right.

1 are showing me your driver's license and it's the  
2 same number you gave me, well, you should be allowed.

3 However, if you put down no Social  
4 Security number or none and, in fact, you have one,  
5 just bringing it then to show me before -- I mean,  
6 after the books closed, you did not fill out the form  
7 the way it was supposed to be filled out, you gave us  
8 incorrect or incomplete information.

9 So there's a difference allowing somebody  
10 once you verify that, in fact, their information was  
11 correct and somebody not giving you correct  
12 information and then allowing them to correct it.

13 Q. So this is a punitive measure?

14 A. No -- I'm sorry?

15 MR. ROSENTHAL: Go ahead.

16 THE WITNESS: No, it's just that this is  
17 also showing what the law says that they are  
18 allowed to verify the information they gave you  
19 and if they verified the information that the  
20 state asked in order for a form to be accepted  
21 based on the state qualifications, then the person  
22 can change it or show you that they were correct  
23 as opposed to doing something differently.

24 BY MR. ABT:

25 Q. If the state can allow military voters to

1 register close to election day and after the close of  
2 books, and can accept changes to address and name and  
3 things like that and can verify Social Security  
4 information and can accept changes in signatures,  
5 what's the basis for not allowing other corrections?

6 MR. ROSENTHAL: Object to the form.

7 THE WITNESS: What other corrections are  
8 you talking about?

9 BY MR. ABT:

10 Q. Such as a missing check box.

11 A. I don't know the reason, I just follow  
12 what the law says. I don't mean to be a bureaucrat  
13 or whatever, but I don't have the latitude to do that  
14 in certain cases.

15 Q. Okay. Can you just briefly describe what a  
16 precinct register is for me?

17 A. A precinct register is a list of all  
18 voters in active status or you could be temporarily  
19 inactive, all voters that live within a certain  
20 boundary and their names get put in a precinct  
21 register.

22 Q. And what's the purpose of a precinct  
23 register?

24 A. That shows you which -- to the precinct  
25 clerk which people have voted or are eligible to vote

1 A. What a surprise.

2 Q. There is a portion of this page that is a  
3 paragraph of this page that is marked. You did not  
4 mark this page, correct?

5 A. (Shaking head in the negative.)

6 MR. ROSENTHAL: Answer out loud.

7 THE WITNESS: I'm sorry, no, I did not.

8 BY MR. ABT:

9 Q. This paragraph deals with precinct  
10 registers?

11 A. Yes.

12 Q. Speaking of this paragraph, it reads as  
13 follows: "This would be a very straightforward  
14 process if all the counties printed precinct  
15 registers at the same time and if the statutorily  
16 defined book closing was truly a freeze on the  
17 registration updates for the period between book  
18 closing and the elections. In fact, book closing  
19 only controls the effective dates for party changes  
20 for primaries and the eligibility of new voters.  
21 Address changes, other determinations of eligibility  
22 such as deaths, early and absentee voting, invalid  
23 registrations received after the book closing all  
24 affect the inclusion of voters on a precinct register  
25 at any point in time. The accuracy of a precinct

1 register necessitates adjustments to the very fluid  
2 and dynamic voter registration activities. The  
3 precinct register represents voter registrations at  
4 the point in time at which the underlying data was  
5 generated."

6 Did I read that accurately?

7 A. Yes, you did.

8 Q. Do you agree with this statement?

9 A. Yes, I do.

10 Q. Do you agree with the paragraph's  
11 characterization of the close of books period as a  
12 very fluid and dynamic time?

13 A. Yes.

14 MR. ROSENTHAL: Object to the form.

15 BY MR. ABT:

16 Q. We discussed precinct registers earlier and  
17 we discussed the fact that they are finalized at any  
18 point between 10 and sometimes less time before  
19 election date, is that correct?

20 A. Yes.

21 Q. After a precinct register is finalized, are  
22 they also supplemented?

23 A. Yes.

24 Q. And how many times were they supplemented  
25 before election day?

1 A. Two or three times.

2 Q. And what is the last time they are  
3 supplemented?

4 A. Day of election.

5 Q. So is it fair to say that you are  
6 constantly updating these precinct registers to make  
7 sure they are accurate?

8 A. Regarding the status if voter voted or  
9 absentee or early voting, yes. We are not  
10 necessarily adding any names at that point, just  
11 putting down if somebody either early voted or  
12 absentee voted to protect people from double voting.

13 Q. Presumably you would be adding people  
14 pursuant to the override procedure?

15 A. More times than not, we would wait for the  
16 voter to actually go to the precinct, and if they had  
17 the orange card, they would get added at that time or  
18 on election day, if they change their address between  
19 precinct and precinct.

20 Q. So you would not be updating the precinct  
21 registers at that point, you would do -- simply allow  
22 them to vote on election day?

23 A. Yes, sir.

24 Q. Okay. For whatever reason, these registers  
25 are being constantly updated?

1 A. Putting down if you voted absentee or  
2 early voting, yes.

3 Q. That's a yes?

4 A. Yes.

5 Q. Let's discuss early voting for a moment.  
6 When does early voting begin?

7 A. The Monday, like about 14 days before  
8 election.

9 Q. And when does the early voting period end?

10 A. Sunday before the Tuesday of election.  
11 That's 2006, it was different in 2004.

12 Q. What was it like in 2004?

13 A. 2004, you were able to vote early voting  
14 on the Monday before the Tuesday.

15 Q. Just turning back briefly to precinct  
16 registers, is there any changes in policy between  
17 2004 and 2006 with regard to precinct registers?

18 A. No.

19 Q. Okay. With early voting, how do you  
20 account for people that were being added to the rolls  
21 after the close of books?

22 A. Early voting system is a live system. We  
23 are tapped into a computer and Web site and a whole  
24 thing. So if you go into early voting and you are  
25 changing your address from Broward County to Dade

1 County, we get you on the system and you are actually  
2 doing it to my voter system. The precincts are not.

3 So early voting is a live system. Once we  
4 get you there and you vote by early voting, you are  
5 checked off as having voted so you couldn't go to the  
6 precinct or submit an absentee ballot.

7 Q. Okay. Don't get ahead of me. So because  
8 early voting is a live system, you can deal with any  
9 changes that occur after the close of books in  
10 realtime?

11 A. Yes.

12 Q. So any changes such as an override or a  
13 recently added person who submitted their application  
14 just before book closing, those would be dealt with  
15 no problem?

16 A. Yes.

17 Q. What are book closing reports?

18 A. A certain time after book closing and it's  
19 probably about two weeks later, the state wants to  
20 know who or how many voters we now have in the  
21 county. So, based on what we do, it generates a  
22 report from systems sent to the state so they have  
23 book closing stats, how many Democrats, Republican,  
24 registered voters in each precinct.

25 Q. What's the purpose of this report?

1 BY MR. ABT:

2 Q. Do you know of any instances in your  
3 26 years of experience in which someone intentionally  
4 failed to complete a registration form properly?

5 A. No. Going back, when it asked for your  
6 resident address, it cannot be a post office box or a  
7 business, people will still put a business address --  
8 caveat, I'm sorry.

9 Q. Remember, just try to answer just my  
10 question.

11 A. Okay, sorry.

12 MR. ROSENTHAL: Just as a clarification,  
13 if you feel that something is needed to explain,  
14 you can go ahead and explain, but try to focus on  
15 counsel's questions.

16 BY MR. ABT:

17 Q. Right. Now, so when people submit an  
18 incomplete application, they generally do so  
19 accidentally?

20 MR. ROSENTHAL: Object to the form.

21 THE WITNESS: Yes.

22 BY MR. ABT:

23 Q. They don't to it intentionally?

24 MR. ROSENTHAL: Object to the form.

25 THE WITNESS: Yes.

1 BY MR. ABT:

2 Q. So they make a mistake?

3 MR. ROSENTHAL: Object to the form.

4 THE WITNESS: Yes.

5 BY MR. ABT:

6 Q. Obviously, they don't do it to irritate you  
7 or to make your life more difficult?

8 MR. ROSENTHAL: Object to the form.

9 THE WITNESS: Yes.

10 BY MR. ABT:

11 Q. Yes, they do do it?

12 A. No, they don't.

13 Q. We spoke earlier about ineligible people  
14 who were determined to be ineligible to vote and I  
15 believe you said that it would be as little as one in  
16 ten people are determined to be ineligible to vote,  
17 maybe even more, correct?

18 MR. ROSENTHAL: Object to the form.

19 THE WITNESS: I don't remember.

20 BY MR. ABT:

21 Q. Well, let me just ask the question again.  
22 The vast majority of people who register to vote are  
23 not determined to be ineligible to vote, correct?

24 A. Correct.

25 Q. So the vast majority of people who submit

1 an incomplete application are eligible voters who  
2 have simply made a mistake?

3 MR. ROSENTHAL: Object to the form.

4 THE WITNESS: Yes.

5 BY MR. ABT:

6 Q. It's human to make mistakes, correct?

7 A. Yes.

8 Q. Consistent with your work to register all  
9 eligible voters, you would want to help these people  
10 if you can?

11 A. Yes.

12 Q. Please turn back to Exhibit 1,  
13 interrogatory, please, and let's turn to page four.

14 In your response to -- in Defendant's  
15 Sola's response to interrogatory number six, the  
16 first sentence reads: "All voter applications are  
17 entered into the system within 15 days of being  
18 received in the department in accordance with FS  
19 97.053 subsection 7."

20 Is that correct?

21 A. Yes.

22 Q. It also says further down in this  
23 paragraph: "A letter along with a new application is  
24 sent to the individual who submitted the application  
25 within --"

1 BY MR. ABT:

2 Q. Because if you register by mail, it can  
3 take almost a month to be notified if your  
4 registration application is incomplete?

5 A. Yes.

6 Q. Were there notification requirements in  
7 2004?

8 A. I'd have to review the law, but I'm pretty  
9 sure there's always been something that you've had to  
10 notify the voter within a certain amount of days.  
11 I'm just not sure exactly what the day was in 2004.

12 Q. Was it Miami-Dade's policy to notify voters  
13 in 2004?

14 A. It's a state policy.

15 Q. And other than mailing notifications, do  
16 you reach out to voters in any other ways?

17 A. If they had a telephone number or we could  
18 find a telephone number by using different databases,  
19 we would attempt to call the voter, also.

20 Q. Did you do that for incomplete applications  
21 or only for address changes?

22 A. Incomplete also, though I can't give you a  
23 particular person or something else, and it depends  
24 on the timing.

25 Q. So calling would be an option, but there's

1           And then it continues: "In general  
2           requiring persons to register in advance by  
3           completing -- by submitting completed applications  
4           allows for government officials to verify the  
5           completeness of applications and the eligibility of  
6           applicants."

7           Did I read that accurately?

8           A.       Yes.

9           Q.       Do you believe that preventing a grace  
10          period helps fight voter fraud in any way?

11          A.       No.

12          Q.       Let's turn to interrogatory number three.  
13          It states that: "If you contend that providing a  
14          grace period after the close of books during which  
15          voter registration applications whose applications  
16          may have been deemed incomplete may correct their  
17          applications or provide missing information conflicts  
18          with the orderly administration of elections or is in  
19          any way unreasonable or impractical, please state in  
20          detail your reasons for this belief and identify all  
21          documents and communications on which you base this  
22          belief."

23          Again, in response to this interrogatory,  
24          it states in part: "Supervisor Sola unable to answer  
25          this question as Chapter 97 of the Florida Statute

1 MR. ROSENTHAL: Same objection.

2 THE WITNESS: Well, somebody that has been  
3 in court, tried and convicted of a crime that's of  
4 a felonious nature above a misdemeanor.

5 BY MR. ABT:

6 Q. And what is a -- what makes something a  
7 felony?

8 MR. ROSENTHAL: Same objection.

9 THE WITNESS: Court decides what degrees  
10 of things are felonies or misdemeanors.

11 BY MR. ABT:

12 Q. Do you know what the definition of a felony  
13 is?

14 MR. ROSENTHAL: Same objection.

15 THE WITNESS: Not exactly.

16 BY MR. ABT:

17 Q. Can you describe how an individual is  
18 adjudicated mentally incapacitated?

19 MR. ROSENTHAL: Same objection.

20 THE WITNESS: The courts would decide if  
21 their mental function is not at the best and they  
22 would take certain rights away from them of  
23 deciding certain things.

24 BY MR. ABT:

25 Q. Can you describe the process for restoring

1 competency?

2 MR. ROSENTHAL: Same objection.

3 THE WITNESS: No.

4 BY MR. ABT:

5 Q. Is it fair to say that these are all legal  
6 terms?

7 MR. ROSENTHAL: Same objection.

8 THE WITNESS: Yes.

9 BY MR. ABT:

10 Q. And is it fair to say that these terms --  
11 you are an election official, you've been an election  
12 official for over 26 years?

13 A. Uh-huh.

14 Q. Is it fair to say that these terms could be  
15 confusing to the average non-lawyer?

16 MR. ROSENTHAL: Same objection.

17 THE WITNESS: Yes.

18 BY MR. ABT:

19 Q. Let's look at language between lines four  
20 and five on this application. The language says, "If  
21 you answered no to question two or if you are unable  
22 to affirm the statements in boxes three and four, you  
23 are ineligible to register to vote, do not complete  
24 this application." Did I read that accurately?

25 A. Yes.

1 Q. And this language says to affirm the  
2 statements in boxes three and four, correct?

3 A. Yes.

4 Q. It doesn't say check the boxes?

5 A. Not at that point, correct.

6 Q. Does it say anywhere to check those boxes?

7 A. Well, it says complete all information in  
8 the boxes on the application and with having a box,  
9 one would assume you would know to make a check or an  
10 X or something in it.

11 Q. So, again, my question is does it say to  
12 check the boxes?

13 A. It does not say check it.

14 Q. Isn't it likely that some people may think  
15 just by completing this application as instructed,  
16 that they are affirming that they are not a felon and  
17 not mentally incapacitated?

18 MR. ROSENTHAL: Object to the form.

19 THE WITNESS: For questions three and  
20 four, yes, I agree with you.

21 BY MR. ABT:

22 Q. Take a look at line 16 of the application.  
23 Part of it reads: "I am qualified to register as an  
24 elector under the Constitution and the laws of the  
25 State of Florida."

1 this would be legal and that you were asked to do it  
2 by the legislature or by a court or something like  
3 that.

4 A. (Nodding head in the affirmative.)

5 Q. So rather than saying easy, would it be a  
6 better characterization to say it would be simpler to  
7 have a grace period encompassing all changes as  
8 opposed to this change or that change or the other  
9 change?

10 MR. ROSENTHAL: Object to the form.

11 THE WITNESS: It wouldn't even be simpler;  
12 if that's what we needed to do, we would get it  
13 done. If that answers your question, I hope,  
14 but --

15 BY MR. ABT:

16 Q. And you would get it done if the grace  
17 period was two weeks before the election?

18 A. Yes.

19 Q. And you would get it done if it was one  
20 week before the election?

21 A. If I had to do it, then we would have to  
22 do whatever we can to make a state mandated deadline.  
23 I've never missed a deadline yet, so we would do  
24 whatever we needed to do.

25 Q. That's a yes?

1 A. That's a yes.

2 Q. And the same thing with the grace period  
3 right before the election day?

4 A. Yes.

5 Q. Are you aware that in other states voters  
6 with incomplete voter registration applications are  
7 allowed to complete their applications on election  
8 day?

9 A. No.

10 Q. Are you familiar with the term same day  
11 registration?

12 A. Yes.

13 Q. Do you think that could work in Florida?

14 MR. WINSOR: Object to the form.

15 THE WITNESS: I mean, right now we are  
16 asking for certain driver's license, Social  
17 Security numbers and things, we wouldn't have the  
18 turnaround ability if it's the same day. I can't  
19 answer, I'm only a local deputy supervisor of  
20 elections.

21 BY MR. ABT:

22 Q. Who's been working in voter registration  
23 for 26 years.

24 A. I'm not the brightest. Just because you  
25 do something a long time doesn't mean you do it

1 right. Kidding.

2 Q. Ms. Korman, are you saying that you don't  
3 do your job right?

4 A. Only kidding, Allen.

5 Q. We were talking earlier about the process  
6 of registering people and adding them to the rolls  
7 and you stated that you are continuously processing  
8 applications after the close of books.

9 A. Yes.

10 Q. And that voters who submit applications  
11 late or corrections late, their applications are  
12 automatically flagged, correct?

13 A. Yes.

14 Q. And that it's simply a matter of a check  
15 box making sure that they don't vote in the next  
16 election, correct?

17 A. It does it by the date that you put them  
18 in as a registration date and the system  
19 automatically does that.

20 Q. Right. So wouldn't providing a grace  
21 period be as simple as changing that field and  
22 letting those applications go through?

23 MR. ROSENTHAL: Object to the form.

24 THE WITNESS: Not up to me. I guess it  
25 would be.

# EXHIBIT 31

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.

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DEPOSITION OF: DONALD ROBERTS

TAKEN AT INSTANCE OF: The Plaintiffs

DATE: August 1, 2007

TIME: Commenced at 9:30 a.m.  
Concluded at 3:56 p.m.

LOCATION: 301 S. Bronough Street, #600  
Tallahassee, Florida

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

1 Roberts

2 MR. ANTONACCI: Objection.

3 THE WITNESS: I think that  
4 would be true.

5 BY MR. HALBERSTAM:

6 Q. Okay. And the same with the mental  
7 incapacity check box. Currently the system  
8 stops anyone whose application is otherwise  
9 complete but missing a check mark in the box  
10 from going through the mental incapacity  
11 credible and reliable check; isn't that  
12 true?

13 MR. ANTONACCI: Objection.

14 THE WITNESS: Yes.

15 MR. HALBERSTAM: This is a  
16 natural place to break.

17 (Lunch recess took place.)

18

19 BY MR. HALBERSTAM:

20 Q. We are back on the record.

21 Mr. Roberts, I would like to ask you a  
22 couple of questions about the operations of  
23 the FVRS after closed books.

24 Can you tell me what operations the  
25 FVRS performs after the close of books that