

1 Roberts

2 are different from what it does during the
3 rest of the year?

4 A. We have to produce a book closing
5 report, I believe. Beyond that, I can't
6 think of anything else that's extraordinary
7 on our side. But the book closing report
8 is, I think, about the only thing that we
9 do.

10 There may be other things I am not
11 familiar with. But I am aware of the book
12 closing report because that is a large
13 issue.

14 Q. What is the book closing report?

15 A. Book closing report basically, I
16 think, breaks down to the precinct level the
17 numbers of voters in the precincts by
18 county, by precinct, I believe.

19 Q. Is that the report from which
20 precinct registers are generated --

21 A. No, I don't think --

22 Q. -- at the county level?

23 A. I am not sure what they do with that
24 information. I have not really dealt much
25 with the book closing report. I know it's

1 Roberts

2 prohibiting a grace period prevents or
3 discourages fraud?

4 MR. ANTONACCI: Objection.

5 This is not his testimony, this is
6 someone else's testimony.

7 MR. HALBERSTAM: Right. I am
8 not at all implying that this is his
9 testimony.

10 It's just a question to the
11 witness about his own understanding
12 based on his position.

13 MR. ANTONACCI: Objection.
14 Calls for an opinion.

15 THE WITNESS: Restate that,
16 please.

17 BY MR. HALBERSTAM:

18 Q. Do you have any opinion either way on
19 whether a grace period -- let me rephrase.
20 Strike that.

21 Do you have any opinion either way on
22 whether prohibiting a grace period for
23 applicants to correct or update their
24 applications after the close of books
25 prevents or discourages voter fraud?

1 Roberts

2 MR. ANTONACCI: Objection.

3 This is not an opinion. This is not
4 an expert witness; this is a fact
5 witness.

6 This is a question of policy.
7 Has nothing to do with this witness'
8 knowledge of any fact in the case.

9 THE WITNESS: I have no
10 feeling either way. I never really
11 thought about it.

12 BY MR. HALBERSTAM:

13 Q. If you would think about it -- so you
14 don't contend that prohibiting a grace
15 period --

16 MR. ANTONACCI: Who is you,
17 Counsel?

18 MR. HALBERSTAM: I think it's
19 perfectly clear.

20 MR. ANTONACCI: No, it's not
21 perfectly clear.

22 MR. HALBERSTAM: I am speaking
23 to Mr. Roberts in his official
24 capacity as the bureau chief of his
25 bureau.

EXHIBIT 32

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. BROWNINGS,
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: ION V. SANCHO

TAKEN ON BEHALF OF: The Defendants

DATE: Wednesday, August 15, 2007

TIME: Commenced at 9:30 a.m.
Concluded at 12:45 p.m.

LOCATION: 315 S. Calhoun Street
Tallahassee, Florida

REPORTED BY
MICHELLE SUBIA
REGISTERED PROFESSIONAL REPORTER

1 precinct registers?

2 A I don't know see how they could.

3 Q But you're not aware of how that system
4 accommodates that or what instruction you give the system
5 to make sure that happens?

6 A I'm not exactly sure what you're saying. Our
7 policy is that you have to be eligible to be placed in
8 that category.

9 Q What category?

10 A Of an active voter. An ineligible voter cannot
11 be an active voter under the current system.

12 Ineligibility being defined as ineligible to register to
13 vote for any number of reasons.

14 Q For numerous reasons, right?

15 A Right, for numerous reasons.

16 Q Perhaps I'm making too much of this. But,
17 again, during this 29-day period, do you routinely send
18 completed applications to FVRS?

19 A Yes, sir. Those are not held. The daily
20 processing continues.

21 Q But those voters don't show up on the precinct
22 or poll registers or not?

23 A Correct. That is correct.

24 Q What instruction do you give FVRS to hold those
25 until the next cycle?

1 A So it's whatever the individual explained to
2 you. The system is transparent in that manner. You can
3 see the reason for the ineligibility.

4 Q Okay.

5 A And, again, they are all matched at the state
6 before we get them, so we can't deal with them and not
7 put them in the system. It doesn't work that way. I
8 don't think it can work that way.

9 Q Okay. Let's get back to the issue in this
10 case, which is the issue of the 29-day book closing
11 deadline. Have you thought about or discussed with
12 others allowing incomplete voter registration
13 applications to be processed by your office after the
14 book closing deadline?

15 A I have talked with my manager and staff about
16 if that weren't the law, is it doable.

17 Q And what have you determined?

18 A It's certainly doable. The system would allow
19 us to make changes all the way through election day.

20 Q And what is the it that you're talking about?

21 A The system would allow us to put necessary
22 information which may not be there currently and match it
23 up to provide for that voter to be eligible if the law,
24 for example, allowed for election day registration or
25 15-day registration such as Alabama, or any other time

1 frame. The 29-day time frame is clearly an arbitrary
2 figure at this point developed in the precomputer era in
3 which election officials had limited staffs and would
4 want to do task A and have task A completed before doing
5 task B. Now, that no longer exists today.

6 An example of not only how it doesn't need to
7 exist but in other areas, the laws recognize this is the
8 law relative to address changes. The prior law that's
9 prior to 2006 was that if an individual moved from one
10 county to another county, you had to reregister to vote
11 and you had to reregister to vote outside of that 29-day
12 period or you were ineligible to vote except through
13 going back to your previous county of residence and
14 voting a certain limited style ballot.

15 Now, the current law is that an individual on
16 the day before the election and they're living in
17 Crawfordville and they move across the boundary into Leon
18 County, they no longer have to register to vote at all,
19 all they have to do is complete an address change
20 application and they're eligible to go. And that's
21 because the database allows an individual to instantly
22 update that through the database.

23 So the prior law prior to January 1st of 2006
24 was all of these people were ineligible if they tried to
25 register 28 days in Leon County. The current law now is

1 register and precinct register in your mind?

2 A No.

3 Q And I'm just trying to get this straight. In
4 Leon County, your practice is you only print one precinct
5 register the Sunday before the election?

6 A That is correct.

7 Q All right. Are you aware of what the practice
8 is in other communities, in other counties?

9 A I'm unaware of multiple precinct registers.
10 I'm aware of addendums which some counties may wish to
11 print even later. But the way we've established the
12 process, we feel it's unnecessary for us because we try
13 to centralize the process as opposed to dispersing the
14 process at the precinct level.

15 Again, that's one of those things that we try
16 to have the clerk call us and so therefore rather than
17 print supplemental registers, we use the phone bank with
18 the actual database in front of the phone bank caller as
19 opposed to supplemental printing which other counties may
20 do and send out to the precincts. So I'm aware that
21 there are some differences and in some counties they
22 print supplemental registers. Leon County does not print
23 supplemental registers.

24 Q As a matter of local practice, why do you wait
25 until the Sunday before the election to print the

1 precinct register?

2 A Well, for two reasons. One, we've been able to
3 set up a system which keeps us independent and thus not
4 depending upon a third-party vendor, which in some
5 counties have the contract for voter registration. For
6 example, Broward has a third-party vendor which does
7 their voter information cards. Leon County doesn't do
8 that.

9 So by keeping the information printable on our
10 own laser printers, in our own office, we try to push
11 that to the last possible moment to maintain the most
12 accurate records possible for the staff in the field, the
13 precinct workers. If you generate it a week or two
14 earlier, then that's two weeks of additional changes
15 which no longer are available in the precinct register,
16 forcing you to have some other process that you're going
17 to use to confirm the validity of the elections.

18 And from our point of view, processing
19 centrally most of these changes and producing a record at
20 the very end of that process mitigates the need for
21 things like supplemental registers.

22 Q Let me just verify this. And that is because
23 after the book closing deadline, there are numerous
24 opportunities for things to change with respect to
25 eligible voters, registered voters for purposes of

1 printing the precinct registry?

2 A That is correct.

3 Q Have you had to change your staffing pattern to
4 accommodate the challenges of FVRS? Have you had to
5 expand your temporary staff or permanent staff for that
6 matter?

7 A Not with the changes that went into effect on
8 January 1st of 2006 we have not altered the traditional
9 pattern. The big pattern change occurred in January of
10 1995 with the NVRA, National Voter Registration Act,
11 going into effect. That did dramatically alter the
12 pattern and practice of every election official in the
13 state of Florida and continues to do such today.

14 Q I think you used two terms of art with respect
15 to incomplete applications that are held in the system.
16 And I'm not trying to put words in your mouth, but I
17 think you used the term held or suspended?

18 A Well, actually, suspended is a term that may
19 sound similar to hold. It actually doesn't mean that.
20 When the division says they dispensed the names of
21 eligible voters to you so that's the suspense list, which
22 normal people might avoid the jargon and say, oh, that's
23 the good list or that's the go list or that's your
24 eligible list, that's actually called the suspense list
25 using the jargon of Florida.

1 Q Do you know of any?

2 A Yes, sir, I do.

3 Q Which ones? What examples of that, do you
4 know?

5 A Well, an individual who had been granted
6 clemency by Jeb Bush separate from the clemency
7 documents, so it was an individual, not a class of
8 voters, was listed, for example, on the former felons'
9 database in 2004 as ineligible to vote because they had
10 committed a felony.

11 Well, the individual had a signed form from the
12 Office of Executive Clemency, it clearly bore Jeb Bush's
13 signature on it. And we called and confirmed it was
14 valid. So, in fact, the person is going to be put on the
15 rolls and allowed to vote and he was.

16 Q Well, that individual filled out a complete
17 application, correct?

18 A Yes, but you're asking --

19 Q I'm asking for incomplete applications. Are
20 you aware of any incomplete applications that people came
21 in after the close of books and asked you can we change
22 them?

23 A In 2004 we also had a situation with an
24 individual with a driver's license with the information
25 never actually even appeared. It was as if they didn't

1 even register to vote. Although, we were able to
2 ascertain that in fact the individual had appeared on
3 that specific date, his driver's license was issued on
4 that specific date. And contemporaneously his wife, who
5 did the same process, was in fact registered to vote.

6 And we identified that as an error of the
7 Department of Highway Safety and Motor Vehicles for
8 simply failing to transmit one form but not the other.
9 Again, this is prior to 2006, which is what I --

10 Q That's fine.

11 A Those things occur relatively infrequently.
12 So, for example -- and, again, I'm not in the office on
13 election day because I'm traveling to two precincts, so
14 these are things where they have to actually catch me
15 before I get out of the office at around 8:00, 8:30 in
16 the morning.

17 But I would say these infrequent changes that
18 I'm aware of that have to do with missing forms does
19 occur, but it's infrequent. I cannot not remember more
20 than two occurring in one day. Now, that's me.

21 Q I think both of those examples you gave me, it
22 wasn't a problem with the actual application the voter
23 gave but problems down the line; is that correct?

24 A Yes, problems.

25 Q Okay. The question that I'm trying to direct

1 Q That's all I have. Thank you.

2 EXAMINATION

3 BY MS. WESTFALL:

4 Q Mr. Sancho, I'm Elizabeth Westfall. I'm with
5 Advancement Project, and I represent the plaintiffs. I
6 just have a few questions to follow up on some of the
7 questions that Mr. Rosenthal and Mr. Antonacci asked you.

8 I believe that you testified earlier that
9 during the 29-day period before elections sometimes
10 voters come in with evidence that there has been an
11 administrative error on the part of your office or the
12 state in terms of processing their application; is that
13 right?

14 A It definitely occurs.

15 Q And it is your view that under state law their
16 application cannot be rejected for immaterial reasons; am
17 I stating your testimony correctly?

18 A Well, under the prior -- that is correct, that
19 if in fact we made the mistake that resulted in the
20 ineligibility of the voter, then that mistake is not
21 going to preclude the voter from being able to exercise
22 their legitimate right to vote.

23 Q And in processing those applications during the
24 29-day window, does that create any administrative
25 burdens on your office?

1 A No. The numbers of these cases are so few as
2 to not necessitate the hiring of additional staff.

3 Q And it doesn't otherwise interfere with the
4 administration of elections; is that right?

5 A No.

6 Q Thank you.

7 I believe that you also testified that you had
8 discussed with your staff what would be feasible to
9 implement in terms of a correction period during the
10 29-day period; is that right?

11 A Well, I didn't describe it as a correction
12 period. My query to my staff was more along an
13 open-ended kind of a situation.

14 If the law changed so that there wasn't a
15 bright line 29 day, how, one, could we handle making
16 changes inside of 29 days, and, two, what kind of a
17 problem would that pose for us in doing that.

18 And so I posed it to my staff -- I will tell
19 you that my own idea was, you know, no closer than a week
20 to the election. The reason I'm stating that is because
21 the answer I got back from Ms. Teneyck was we could go
22 all the way through election day through the use of
23 spreadsheets and particular files so that if anybody of a
24 certain particular kind of highlighted profile appeared,
25 they would immediately be placed in the correct category.

1 thought would be a remarkable addition to the paltry
2 amount of information that the state provides to voters
3 when they register to vote.

4 That was considered too expensive to provide
5 the booklet to every voter registrant. So the
6 application form and all of the information that a normal
7 voter would see is in the top of this mimeograph form.
8 And it simply does not provide enough information to
9 voters who want to register independent, who may not have
10 a party affiliation on the closed nature of the party
11 primaries except when there's a universal open primary,
12 which are details which this form simply cannot address.
13 So therefore, the voter will never know what the basic
14 laws are necessary to them to vote in an open and closed
15 primary, something that I think is relatively important
16 to a citizen.

17 Q Do you have any other criticisms of this form
18 that you would correct?

19 A No.

20 Q And what is your view of the readability or
21 understandability of the language accompanying the check
22 box concerning mental incapacitation in regard to voting?

23 MR. ROSENTHAL: Object to the form.

24 BY MS. WESTFALL:

25 Q Do you think that language is clear?

1 A We have a certain percentage of voters -- and
2 this has been consistent with the development of the NVRA
3 form and its deployment in January of 1995 that have
4 difficulty in completing this form. That percentage has
5 varied over the different permutations of the form.

6 This form is new, and so I really have no data
7 available to me now as to the level of difficulty that
8 voters may have. I do know as an individual who does
9 voter registration drives every month that some of these
10 questions are not clear to the voters.

11 Question 2, "Are you a citizen of the United
12 States? Yes. No. Question mark. If no, you cannot
13 register to vote" is a question which I get some queries
14 from voters about. They assume that they can't register
15 if they're not a citizen and checking no is -- they look
16 at me like what do I need to check basically. And I ask
17 them have you ever been convicted of a felony. No.
18 Okay. Well, then check Box Number 2 on the left, that's
19 the one you need to check. So there are some questions
20 of that issue.

21 Question 3 and Question 4, people are not very
22 familiar with the process of mental incapacity and
23 adjudication. In the state of Florida, unless you've
24 actually had your rights removed in an affirmative
25 setting by a judge, you are mentally capable. So that's

1 a very rare process.

2 I'm not sure that the word adjudication is the
3 best word that could have been chosen to inform all
4 citizens of what they were meaning. But, again, this is
5 one of the reasons I suggested that a professional form
6 evaluator look at this, to ensure that the form would not
7 be written higher than, say, a sixth grade level, which
8 is where the kinds of documents that we prepare in our
9 office, we try to target, that way we will maximize the
10 amount of understandability that our citizens have in
11 looking at records like this.

12 I don't know what the state has done relative
13 to taking this to a professional and I don't know what
14 the latest numbers in terms of people having any
15 confusion on this is.

16 I would say right off the bat there's a
17 positive change in that old Question Number 5 used to
18 hang out at the end of this form. They have dropped it
19 directly under four, and that's going to right off the
20 bat result in fewer mistakes on Question Number 5.

21 In 2004, we saw lots of failures to fill out
22 Question Number 5 because it was listed horizontally on
23 the same line as four, and many people just went down and
24 didn't fill that out, making them ineligible to vote.

25 Q In 2006, did you have applicants to register to

1 vote who failed to check either the felon box or the
2 mental incapacity box in Leon County?

3 A Yes. I saw one this morning.

4 Q Do you know whether what you just testified to,
5 which is the some of the confusion as to the lack of
6 clarity with the language, could have resulted in not
7 checking that box in some instances?

8 A It could have, but I would be basically going
9 back to my previous knowledge and making a guess. But
10 I've not contacted those voters. Generally when we talk
11 to our office, our office staff about individuals that
12 they contact for incomplete, these individuals are
13 generally very sorry, it wasn't something they did on
14 purpose, they just missed it and they did want us to mail
15 the forms back, which we do with the yellow highlighter
16 telling them what they need to complete to make sure that
17 they could go through the process.

18 This is for individuals that we are required to
19 send a letter out and a voter registration attempt to
20 what occurred outside the 29-day period. We are required
21 to send a first class piece of information to this
22 category of voter, inform them that they made a mistake
23 and attempt to seek a method to -- and they're
24 overwhelmingly very pleased to try to correct it because
25 they actually wanted to vote. And being informed that

1 they're not eligible to vote unless they get that
2 information means that they're going to act.

3 Q Are you aware of any voters intentionally not
4 completing the voter registration form or leaving parts
5 blank intentionally?

6 A I'm not aware of that.

7 Q And are you aware of whether requiring a check
8 box as to felon or mental incapacity causes more
9 incomplete applications from African-American applicants
10 or Hispanic applicants?

11 MR. ANTONACCI: Objection.

12 MR. ROSENTHAL: Objection to the form.

13 THE WITNESS: There is a statistically higher
14 number of failures of new registrants from the
15 universities to successfully accomplish the task.
16 As to whether or not they are less experienced in
17 filling out forms or not or the voter registration
18 application is done through a more informal process
19 or actually no process at all -- because in Leon
20 County there are 100 different locations where voter
21 application forms are distributed with no
22 individual, they are at food markets, different
23 real-estate offices, public schools and banks. So
24 if an individual goes, there is a plastic receptacle
25 which we provides that says "Are you registered to

EXHIBIT 33

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.

- - - - - x

115 South Andrews Avenue
Room 102
Fort Lauderdale, Florida
Friday, August 17, 2007
10:03 a.m. - 1:09 p.m.

DEPOSITION OF DR. BRENDA C. SNIPES

Taken before Donald W. McKay, RMR, CRR, a
Notary Public for the State of Florida at Large,
pursuant to Notice of Taking Deposition filed in
the above-styled cause.

1 Snipes

2 establishing the phone banks, getting
3 those set up, getting equipment for
4 phone banks, testing phone lines,
5 setting up regional sites, conducting
6 quality control efforts.

7 BY MR. ABT:

8 Q. For these activities in 2004, did you
9 have adequate staffing?

10 A. We had to bring on extra staff, in
11 many instances.

12 Q. Once you brought on extra staff, was
13 your staff level adequate?

14 A. For the most part, yes.

15 Q. And the same question for 2006. For
16 activities other than registration, did you
17 have adequate levels of staff?

18 A. I had adequate levels of staff, yes.

19 Q. Is another activity that's conducted
20 during the close of books period the
21 generation of precinct registers?

22 A. Yes.

23 MR. ABT: I was hoping you
24 would say that. Don't look so
25 disappointed. Withdrawn.

1 Snipes

2 MR. ABT: Counsel, that is an
3 objectionable objection. It's in
4 violation of Local Rule 30.1, because
5 it clearly prompts the witness.

6 I'll ask you not to make any
7 more instructions like that.

8 MS. NORRIS-WEEKS: Well, my
9 objection stands.

10 BY MR. ABT:

11 Q. Now, the purpose of this document, as
12 is explained in this Section 1.1, is to
13 provide an overview of the FVRS system to
14 supervisors and their staff. Correct?

15 A. That's correct.

16 Q. Now, let's turn to page 62 and look
17 at Section 15. There is a marked section
18 here. Please take a moment to review this.
19 I'll read along with you.

20 The paragraph reads as follows:

21 "This would be a very straightforward
22 process if all the counties printed precinct
23 registers at the same time, and if the
24 statutorily defined book closing was truly a
25 freeze on the registration updates for the

1 Snipes

2 period between book closing and the
3 election.

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

13 Did I read that accurately?

14 A. Yes, you did.

15 Q. Is that an accurate statement about
16 the state of the book closing period?

17 Do you agree with that
18 characterization of the book closing period?

19 A. Yes.

20 Q. Let's look at the next sentence.

21 "The accuracy of precinct registers
22 necessitates adjustments to very fluid and
23 dynamic voter registration activities."

24 Did I read that correctly?

25 A. Yes, you did.

1 Snipes

2 Q. Would you also agree with that
3 statement?

4 A. To very fluid and dynamic voter
5 registration -- necessitates adjustments to
6 very fluid and dynamic -- to tell you the
7 truth, that's a little bit fuzzy to me, so I
8 can't interpret it.

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

12 A. If it means it's moving quickly and
13 fast, yes.

14 Q. Now, precinct registers -- very
15 briefly, what are precinct registers?

16 A. Precinct registers are a record of
17 the active and inactive registered voters at
18 that point in time.

19 Q. And these registers are typically
20 finalized a few days before the election?

21 A. They are.

22 Q. And after being finalized, they're
23 often updated?

24 A. They are updated. A lot of times,
25 the updates occur basically from persons who

1 Snipes

2 have voted -- using information from persons
3 who have voted earlier or who have voted
4 absentee. That's typically the reason for
5 updating a register.

6 Q. And they're updated numerous times,
7 typically?

8 A. No. Not really. When we update our
9 register, we update it at the same time.

10 We'll run the first round of poll
11 registers -- because of early voting --
12 because of the end of early voting, you
13 might have to run a supplement to a poll
14 register.

15 Then you want to make sure you
16 include those people who have voted absentee
17 and those people who have voted early.

18 So you might run a poll register
19 twice. You do your original and you do your
20 update.

21 Q. Don't you also run a supplement the
22 day before the election?

23 A. That's when we run -- that's the last
24 one we run is the day before the election.

25 That's like the morning -- in 2004,

1 Snipes

2 we were running updates to the poll
3 registers 2 or 3 o'clock in the morning.

4 Q. So it's fair to say that the precinct
5 registers are updated right up until the
6 election.

7 A. Yes.

8 Q. And that they're updated numerous
9 times.

10 A. Twice. I can't say numerous times.

11 MR. ABT: Do you want to take
12 a break for a couple minutes?

13 THE WITNESS: Yes, sure.

14 MR. ABT: Should we come back
15 on the record in five minutes?

16 MS. NORRIS-WEEKS: That's
17 fine.

18 MR. ABT: All right. Very
19 good.

20 (Thereupon, a recess was
21 taken, after which the following
22 proceedings were had:)

23 MR. ABT: Back on the record.

24 BY MR. ABT:

25 Q. Dr. Snipes, just to close out this

1 Snipes

2 MS. NORRIS-WEEKS: Objection.

3 Asked and answered.

4 THE WITNESS: I don't have an
5 answer, because I don't have any
6 specific examples.

7 So I don't have an answer for
8 that. Because I think what you're
9 asking me is what's within the law
10 and what's outside the law.

11 So, for me, if it's allowed
12 within the law, then that's what we
13 do. If it's not allowed within the
14 law, then we don't do it.

15 BY MR. ABT:

16 Q. I understand. And I'm asking you,
17 are you aware of any basis for the reason
18 that the law is like that?

19 MS. NORRIS-WEEKS: Object to
20 the form.

21 THE WITNESS: No, I don't.
22 No, I'm not.

23 BY MR. ABT:

24 Q. So you don't know why the law allows
25 certain people to make corrections after the

1 Snipes

2 BY MR. ABT:

3 Q. Wouldn't it be easier for you, as
4 supervisor, to have one rule with regard to
5 corrections after the close of books?

6 MR. CIRULLO: Object as to
7 form.

8 THE WITNESS: To have one
9 rule? And by "one rule," what are
10 you saying? That all exceptions are
11 corrected after -- or can be
12 corrected after book closing?

13 BY MR. ABT:

14 Q. That could be one such rule. But
15 what I'm saying is, rather than have
16 different rules for different circumstances,
17 whether it's an address, whether the person
18 is a military voter, whether it relates to a
19 Social Security number, wouldn't it be
20 easier for you, the person on the ground who
21 has to implement these laws, to have one law
22 as opposed to multiple laws?

23 MR. CIRULLO: Object as to
24 form.

25 THE WITNESS: I think anything

1 Snipes

2 that would simplify the process would
3 be good. So if that's what you're
4 asking, sure. I mean that's a
5 hypothetical kind of a situation.

6 BY MR. ABT:

7 Q. That was my only question. Because
8 this would be -- it would be simpler.

9 Correct?

10 MS. NORRIS-WEEKS: Object to
11 the form.

12 THE WITNESS: Sure.

13 BY MR. ABT:

14 Q. And it would save time and resources.

15 A. Sure.

16 (Plaintiff's Exhibit No. 9 was
17 thereupon marked.)

18 BY MR. ABT:

19 Q. I'm going to show you what is going
20 to be marked as Exhibit 9. And this is
21 Broward County's response to plaintiff's
22 second set of interrogatories.

23 Take a moment to review that, please.

24 Do you recognize this document?

25 A. Yes.

1 Snipes

2 Q. Hypothetically, you're given the
3 authority. In fact, the legislature
4 mandates that you create your own form.
5 Would you use that legal terminology?

6 A. I might not.

7 Q. Would you or wouldn't you?

8 A. How do I know?

9 MS. NORRIS-WEEKS: Objection.

10 MR. CIRULLO: Asked and
11 answered.

12 MS. NORRIS-WEEKS: That's
13 asked and answered.

14 BY MR. ABT:

15 Q. Would it be preferable, based on all
16 your years of experience as an educator, to
17 communicate with the general public in plain
18 English?

19 A. Sure.

20 Q. That would be preferable to speaking
21 in legalese. Correct?

22 A. Yes.

23 MR. CIRULLO: Object as to
24 form.

25 BY MR. ABT:

EXHIBIT 34

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
Tuesday, August 21st, 2007
11:03 a.m.

DEPOSITION OF LESTER SOLA

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 credit. The reasons really are numerous.

2 BY MR. ABT:

3 Q. But the primary reason is to vote, correct?

4 MR. ROSENTHAL: Object to the form.

5 THE WITNESS: I would believe so.

6 BY MR. ABT:

7 Q. Is it fair to say that people who register
8 to vote typically intend to vote?

9 MR. ROSENTHAL: Object to the form.

10 THE WITNESS: That's -- generally
11 speaking, I would think so.

12 BY MR. ABT:

13 Q. Do you know of any instances in which
14 someone intentionally failed to complete a
15 registration form properly?

16 A. Do I know of any instance where that has
17 taken place? No, I do not.

18 Q. Is it fair to say when people submit an
19 incomplete application, they generally do so
20 accidentally?

21 MR. ROSENTHAL: Object to the form.

22 THE WITNESS: I would believe so.

23 BY MR. ABT:

24 Q. So they don't do it intentionally?

25 MR. ROSENTHAL: Object to the form.

1 THE WITNESS: I would agree with that.

2 BY MR. ABT:

3 Q. They are making a mistake?

4 MR. ROSENTHAL: Object to the form.

5 THE WITNESS: Quite possibly.

6 (Thereupon, Plaintiff's Exhibit 3 was
7 marked for Identification.)

8 BY MR. ABT:

9 Q. I'd like to show you it's going to be
10 marked as Exhibit 3 from the Miami Herald. I believe
11 this is an exhibit we used in our previous
12 deposition. Take a moment to look that article over.

13 For the record, this is a Miami Herald
14 article dated October 6th, 2004 with the headline
15 Reversal of Voter Form Ruling Urged. Let me know
16 when you are done reviewing that, take your time,
17 though.

18 A. Okay.

19 Q. This article concerns the voter
20 registration and citizenship check box in 2004, is
21 that correct?

22 A. Correct.

23 Q. On October 6th, 2004, you were deputy
24 Supervisor of Elections?

25 A. That is correct.

1 this article, do you believe, based on your
2 experience as an election official, that issues of
3 incomplete applications fall more heavily on
4 African-American groups or other minorities?

5 A. I have --

6 MR. ROSENTHAL: Object to the form.

7 THE WITNESS: I have not looked into or
8 analyzed that kind of information.

9 BY MR. ABT:

10 Q. Based upon your experience working with
11 these communities, do you think that this could be a
12 problem?

13 MR. ROSENTHAL: Object to the form.

14 THE WITNESS: I don't feel I have enough
15 information to answer that question.

16 BY MR. ABT:

17 Q. Now, the close of books occurs 29 days
18 before each election, correct?

19 A. Statutorily required, yes.

20 Q. And for the period between the close of
21 books and election day, does your office maintain
22 adequate staffing for voter registration?

23 A. Between book closing and election day?

24 Q. Yes.

25 A. Yes, I believe that we staff adequately in

1 order to manage the task.

2 Q. During that period, let's just call that
3 the book closing period, what activities other than
4 registration are taking place?

5 A. In the department?

6 Q. Yes.

7 A. The department is -- they are preparing
8 and conducting early voting, which starts 15 days
9 out. They are managing and -- really managing
10 operation of mailing -- well, preparing, mailing and
11 going through returned absentee ballots to the tune
12 of 200,000 absentee ballots.

13 And you are preparing for 49 precincts,
14 both logistics of those sites, delivering to the
15 sites, picking them up as well as staffing to the
16 tune of 10,000 poll workers. So there is a lot of
17 activities going on.

18 Q. And are adequate staff and resources
19 allocated to those activities as well?

20 A. I believe so, yes.

21 Q. Does voter registration interfere with any
22 of these activities?

23 A. The word interfere, could you clarify
24 that, please?

25 Q. Is voter registration connected to any of

1 A. 62 or 52?

2 Q. 62. This portion of this document refers
3 to precinct registers, is that correct?

4 A. That's correct.

5 Q. Please take a moment to familiarize
6 yourself with the marked paragraph on this page.

7 A. Yes.

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

21 Did I read that accurately?

22 A. Yes, you did.

23 Q. And do you agree with that statement?

24 A. Generally, I would say yes.

25 Q. Looking at the next sentence, it reads:

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

7 A. Yes.

8 Q. Did I read that statement accurately?

9 A. Yes.

10 Q. Do you agree with that statement?

11 MR. ROSENTHAL: Object to the form.

12 THE WITNESS: Yes, I do.

13 BY MR. ABT:

14 Q. Do you agree with the characterization of
15 the voter registration activities occurring during
16 the close of books period as very fluid and dynamic?

17 A. Yes.

18 Q. Turning your attention to the last
19 paragraph, it reads: "For the precinct register to
20 be accurate, it needs to be prepared as close to the
21 books as possible." Do you agree with that
22 statement?

23 A. Yes, I do.

24 MR. ROSENTHAL: Object to the form.

25 (Thereupon, Plaintiff's Exhibit 6 was

1 regard to policies, new policies or procedures, you
2 already have policies and procedures in place to make
3 certain types of corrections after the close of
4 books, correct?

5 A. Yes, we do.

6 Q. You have policies in place to allow the
7 correcting of addresses and names and signatures,
8 correct?

9 A. Yes, we do.

10 Q. You have policies in place to administer
11 the changes with regard to Social Security numbers
12 and driver's license numbers and identification card
13 numbers, correct?

14 A. Yes, we do.

15 Q. Would it be easier for you to implement a
16 grace period simply by expanding one of these all or
17 one of these ways that you already allow changes?

18 MR. ROSENTHAL: Object to the form.

19 THE WITNESS: I'm not sure of the use of
20 the word easy, but it's doable.

21 BY MR. ABT:

22 Q. It's doable, so through using one of these
23 procedures -- withdrawn.

24 So, in your opinion, implementing a grace
25 period is doable?

1 MR. ROSENTHAL: Object to the form.

2 THE WITNESS: Yes.

3 (Thereupon, Plaintiff's Exhibit 8 was
4 marked for Identification.)

5 BY MR. ABT:

6 Q. This is a November 18th, 2006 Miami Herald
7 article entitled Elections 2006: Ballot Design and
8 Issue Hereto. Take a moment to familiar -- first
9 have you seen that article before?

10 A. I believe so.

11 Q. Okay. And you are familiar with this
12 issue, correct?

13 A. With the issue referenced in the article?
14 Yes.

15 Q. Okay. Can you briefly explain what the
16 subject of the article is?

17 A. I believe it's referring to undervotes in
18 that particular race.

19 Q. And directing your attention to the fifth
20 paragraph, I believe on the first page, it reads,
21 "One explanation is that many voters assumed the
22 governor's race was the only one on the page, touched
23 the next button and moved on through the ballot
24 without noticing the two races." Did I read that
25 accurately?

1 MR. ROSENTHAL: Object to the form.

2 THE WITNESS: That is a possible
3 conclusion that one may reach.

4 BY MR. ABT:

5 Q. Is it likely that some people would reach
6 that conclusion?

7 MR. ROSENTHAL: Object to the form.

8 THE WITNESS: That is a possibility.

9 BY MR. ABT:

10 Q. My question is it likely that some people,
11 given the diverse range of people represented in the
12 public, will reach that conclusion?

13 MR. ROSENTHAL: Object to the form.

14 THE WITNESS: I'm not so sure that I can
15 answer that it's likely. I don't know that.

16 BY MR. ABT:

17 Q. Okay, and let's review line 16 of the
18 application. Part of this oath reads, "I am
19 qualified to register as an elector under the
20 constitution and laws of the State of Florida,"
21 correct?

22 A. Yes, it is.

23 Q. Again, isn't this another way that a person
24 could think that they are affirming that they are not
25 a felon and not mentally incapacitated?

1 MR. ROSENTHAL: Object to the form.

2 THE WITNESS: Yes, it is a possibility.

3 BY MR. ABT:

4 Q. And I think I know your answer, isn't it
5 likely that some people would draw that conclusion?

6 MR. ROSENTHAL: Object to the form.

7 THE WITNESS: It's difficult for me to use
8 the word likely, to agree with the word likely.

9 BY MR. ABT:

10 Q. Because you don't know whether it's likely?

11 A. Because I don't know if that's, in fact,
12 something that has occurred. Likely, to me, it's
13 defined as it's going to happen or it could have
14 happened or it may happen, it may happen and it's
15 difficult for me to use that in the same context as I
16 choose. I believe that it's a possibility, that
17 someone could have done that rather than say that it
18 has happened.

19 Q. Let's understand the term likely to mean
20 more probable than not.

21 A. Under that definition, I would agree with
22 your previous statements.

23 Q. Okay. And going back to my earlier
24 question where I asked isn't it likely that some
25 people may think that just by completing the

1 application as instructed, that they are affirming
2 that they are not a felon and that mentally
3 incapacitated?

4 MR. ROSENTHAL: Object to the form.

5 THE WITNESS: As clarified, I believe the
6 answer to that would be yes.

7 BY MR. ABT:

8 Q. If you were designing a registration
9 application for Florida voters, in fact, if you were
10 required to by state law to redesign this
11 application, would you do it in exactly the same way?

12 MR. ROSENTHAL: Object to the form.

13 THE WITNESS: Most likely not.

14 BY MR. ABT:

15 Q. How would you improve upon this?

16 MR. WINSOR: Object to the form.

17 MR. ABT: Withdrawn.

18 BY MR. ABT:

19 Q. How would you do it differently?

20 MR. WINSOR: Same objection.

21 THE WITNESS: We'd probably look at the
22 whole application. It's difficult for me to say,
23 well, we would change this or that. To say we
24 would use this one, we probably would change it.
25 I just don't know exactly. I can't tell you right

EXHIBIT 35

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.

Pages 1 - 76

Deposition of John J. Sullivan

Washington, D.C.

Friday, September 21, 2007

Reported by: Carla J. Briggs, RPR-RMR-CRR
Job No. 183144

1 would she identify the people she was going to try
2 and help?

3 A Well, Carolyn and approximately ten other
4 paid staff and some volunteers actually went into
5 the Miami-Dade supervisor's office, were put in a
6 room I think with all of the voter registration
7 applications that were being held -- and they were
8 several thousand, I understand -- and went through
9 them and tried to identify what the problem was and
10 then get on the phone in an effort to contact the
11 individual applicant to try to get some more
12 information for the application or to make
13 arrangements for them to receive a new application
14 so that they could submit a corrected application
15 and be placed on the rolls.

16 Q And did she do that -- did she and her
17 group of paid staff do that for SEIU members or for
18 members of the public generally?

19 A Members of the public generally.

20 Q Did she do it with or without regard to --
21 well, did she do it with regard to political party?

22 A No.

1 Q Did she do anything to determine which
2 ones she would try and help and which ones she
3 wouldn't?

4 A No.

5 Q Do you know how many people she contacted
6 as a result of this project, she or her staff?

7 A I believe there are approximately 4,000
8 supplemental mailings that were sent out as a result
9 of the efforts of Carolyn Thompson and the other
10 heroes.

11 Q When you say "supplemental mailings,"
12 those are going from whom?

13 A They're going from the supervisor's office
14 to the individuals whose applications were being
15 held.

16 Q So would she contact the individuals when
17 she identified a problem or would she ask the
18 supervisor to do that? I'm sorry.

19 A She would contact the individuals by
20 phone. Sometimes if we had an address, we would
21 take the materials to the voters so that they could
22 complete the application, and then they would bring

1 it back to the supervisor's office to get that
2 application processed and that individual voter
3 placed in the roll.

4 Q Well, tell me how that supplemental
5 mailing is done. I'm not sure I understand.

6 A I believe the supervisor sent out those
7 mailings; so, essentially what was included in the
8 mailing was I think a copy of the original
9 application, a new application, and some indication
10 of what the additional information that was required
11 from the voter in order to process the application.
12 And that was a fairly labor-intensive process where
13 Carolyn and the heroes would try to identify what
14 exactly the problem was with the application and
15 then highlight that for the voter so they could
16 correct the information and get it back to the
17 supervisor.

18 Q Okay. And I guess what I'm having a hard
19 time understanding is the relationship between her
20 work and the supplemental mailings. And maybe you
21 could walk me through an example.

22 She's in this room and she finds an

1 application where someone forgot to put in some
2 information. Would she then call that individual?

3 A She'd attempt to contact them by phone,
4 yes.

5 Q Okay. And let's suppose she did contact
6 them by phone. Then would she ask the supervisor to
7 send the supplemental mailing? Or tell me how that
8 would work.

9 A It's my understanding that -- say, for
10 instance, a person had failed to check one of the
11 check boxes.

12 Q Okay.

13 A If she got the voter on the phone, was
14 able to contact them, she would say "There's a
15 problem with your application. When you filled it
16 out, you failed to check the check box. We're going
17 to send you some materials from the supervisor's
18 office." You know, "Please, you know, fill out the
19 form and remember to check the check box and mail it
20 back as soon as you can so that your application can
21 be processed."

22 Q Okay. So she would send out those

1 supplemental materials or she or her group?

2 A No. In a sense, they were acting on
3 behalf of the supervisor, so it would be a mailing
4 from the supervisor of elections to the voter.

5 Q Okay. But they're the ones that are
6 putting it together, but it's coming from the
7 supervisor; is that right?

8 A Right. And this work is taking place in
9 the supervisor's office.

10 Q Okay. I think I understand now.

11 And what was the time period for this
12 project?

13 A It was in the period immediately after
14 Labor Day. It was very early September.

15 Q Okay. And when did they stop?

16 A Towards the middle or end of September.
17 Because of the book closing date, there was only so
18 much that could have been done prior to the book
19 closing date, so the efforts were discontinued when
20 it seemed unlikely that any other voters could be
21 contacted in time to submit corrected applications.

22 Q Okay. And did that project ever start

1 again for the next election cycle?

2 A No, not to my knowledge.

3 Q Okay. Do you know what Carolyn Jordan did
4 after that? Excuse me. Carolyn Thompson.

5 A I think after the election, she went back
6 to her usual duties with the local in Florida.

7 Q Okay. Has SEIU had any program similar to
8 what you just described since then?

9 A Not to my knowledge.

10 Q Does SEIU make any efforts now to assist
11 the voters with registration?

12 A Yes, it does.

13 Q Tell me about those efforts.

14 MS. WESTFALL: Objection. Vague as to
15 time period.

16 Q Well, you can go ahead. Maybe we'll zero
17 it in as we go along.

18 A Well, if you're asking about what we plan
19 to do in the '08 cycle, those arrangements haven't
20 been finalized yet. If you're asking me what we did
21 in the '04 cycle, I can perhaps be more concrete and
22 more specific in my response. If you want me to

1 finalized our plans, and I'm aware of no materials
2 that are currently existing.

3 Q Okay.

4 A Or currently in existence.

5 Q If the challenged statute were enjoined,
6 how would SEIU behave differently in Florida than it
7 does now?

8 MS. WESTFALL: Objection to form. You may
9 answer.

10 A If the --

11 MS. WESTFALL: I want to make another
12 objection. Calls for a legal conclusion as well.
13 You may answer.

14 A If we had more time to correct problems
15 with voter registration applications, we could
16 allocate our resources in a more efficient manner to
17 achieve that purpose and the other purposes that the
18 Union is trying to achieve in the election.

19 Q How would you allocate the resources
20 differently?

21 A Well, if we had more time to correct these
22 things, we wouldn't have to pull large numbers of

1 campaign workers off of their regular assignments in
2 order to make phone calls and do mailings in order
3 to correct problems. And also, the supervisors
4 themselves would have greater amount of time to
5 correct the problems so they wouldn't need the kind
6 of help that we provided to them in '04.

7 Q Are you in there helping them year-round
8 or is this something that you just do right before
9 elections?

10 MS. WESTFALL: Objection as to form. You
11 may answer.

12 A I think in '04, there was a widely
13 publicized problem with thousands upon thousands of
14 voter registration applications being held in
15 supervisors' offices. One would hope that that
16 wouldn't happen again, so it's not a regular part of
17 what we do.

18 Q So is it safe to assume that no one from
19 SEIU is in there right now in any supervisor's
20 office helping?

21 A I think that's safe to assume.

22 Q Are you familiar with the Florida voter

1 their families, and working people throughout the
2 country.

3 Q Does any of SEIU's mission pertain to
4 voter registration or participation in the electoral
5 process?

6 A Yes.

7 Q Could you describe that portion of the
8 mission?

9 A Civic engagement and the participation in
10 the electoral process is key to achieving the goals
11 that the Union has set for itself in terms of
12 improving the lives of its members and working
13 people. We understand that many of the important
14 decisions that have an impact on our members and
15 working people get made as a result of the political
16 process; that presidents, governors, members of
17 Congress, members of State legislature play an
18 important role in taking actions with respect to
19 benefits, working conditions, living conditions for
20 our members and for working people generally. So,
21 in order to ensure that SEIU members and all working
22 people have a voice in that process, we spend a

1 considerable amount of resources of the Union to
2 ensure that they can participate, that where
3 necessary, we remove barriers that keep them from
4 participating, and that when they come to the polls,
5 they are as knowledgeable about the issues -- as
6 knowledgeable as we can make them in terms of the
7 issues and the candidates.

8 Q I believe you testified earlier about the
9 statutory prohibition on corrections that is at
10 issue in this lawsuit; is that correct?

11 A Yes.

12 Q Does that prohibition have any impact upon
13 SEIU's mission?

14 A It is one of the barriers, we believe,
15 keeping people from fully participating in the
16 political process by creating what we believe to be
17 an unjust and unnecessary barrier to folks being
18 able to register to vote.

19 Q And will this impact upon the mission that
20 you just testified to continue in future elections
21 if this prohibition remains in place?

22 A Yes.

1 families who are eligible to participate, we want to
2 ensure that they participate; that there are racial
3 minorities who have historically been either shut
4 out or have participated at a level less than white
5 citizens or majority citizens in the country, so we
6 focus on trying to get them engaged in the political
7 process. So it is a fairly broad set of goals that
8 we have focusing on a variety of communities and
9 demographic groups.

10 Q Your efforts to register non-members, how
11 does that relate, if at all, to your mission?

12 A Well, you know, we believe working people
13 have common interests that transcend whether or not
14 they're a member of SEIU or not, and it's those
15 common interests that are very often affected by
16 who's in office and who's in the legislature and
17 who, in a sense, is running the government, so it's
18 those common interests which serves as the basis for
19 our activities to our non-members -- to non-members.

20 Q Do you foresee that there will be an
21 impact of the prohibition on corrections in the 2008
22 election cycle upon people who you seek to register,

1 both your members and your non-members?

2 A Well, based upon our experience in the '04
3 cycle, I think yes.

4 Q Could you describe that impact that you
5 foresee?

6 A Well, the problem with getting submitted
7 voter registration applications processed created
8 significant drains on our resources at a very late
9 stage in the election cycle, so we were forced to
10 take people from other activities and have them go
11 and essentially recontact potential voters who had
12 already been contacted before to assist them in
13 filling out their application, and that we had to do
14 that on a relatively short notice because of the
15 imminent book closing deadline.

16 Q Do you foresee that the prohibition on
17 corrections after book closing will have an impact
18 upon your members who are seeking to register to
19 vote and non-members who you are assisting register
20 to vote in terms of their voting rights?

21 A Yes.

22 Q What is that impact?

EXHIBIT 36

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: PEGGY TAFF
TAKEN AT INSTANCE OF: The
Plaintiffs
DATE: July 31, 2007
TIME: Commenced at 9:30 a.m.
Concluded at 4:53 p.m.
LOCATION: 301 S. Bronough
Street, #600 Tallahassee, Florida.

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

1 Taff

2 Q. Do you have a sense whether the close
3 of book report includes information about
4 applicants' applications that are pending as
5 of the close of books in a particular --

6 A. No, it does not.

7 Q. Does it include information
8 concerning applications that are incomplete?

9 A. No, it does not.

10 Q. Is that information that the State
11 could obtain independently from the FVRS?

12 A. I do not know.

13 Q. Who would I ask if I wanted to find
14 out?

15 A. Sue Elias.

16 Q. What is Ms. Elias' present position,
17 if you know?

18 A. She is the program manager of the
19 Florida Voter Registration System.

20 Q. So you do not discuss with the
21 supervisors how they run their operations
22 leading up to the elections; is that
23 correct?

24 A. No, I do not.

25 Q. Does anyone else in your office spend

1 Taff

2 much time with the supervisors on that
3 topic?

4 A. I do not know.

5 Q. Sitting here today, do you know of
6 anyone in your office of which you are
7 bureau chief who spends a lot of time
8 discussing with the supervisors the issues
9 that I just mentioned?

10 MR. ANTONACCI: Objection.

11 Which ones, Mike? Try it again.

12 BY MR. HALBERSTAM:

13 Q. Do you understand which issues I am
14 referring to?

15 A. No.

16 Q. You just stated --

17 MR. HALBERSTAM: Can you read
18 that back to us, please?

19 (The requested portion was
20 read.)

21 BY MR. HALBERSTAM:

22 Q. Sitting here today, do you know of
23 anyone in your office who spends a lot of
24 time talking to the supervisors about these
25 issues?

Taff

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A. I am not understanding what issues that you are referring to.

Q. The issues are the operations at the supervisors of elections offices leading up to the elections: Operations like polling places, setting up polling places, printing precinct registers, operational details relating to the allocation of resources at the supervisors of elections offices?

A. To my knowledge, no, I do not.

Q. Do you communicate with vendors who provide software services concerning voter registration? I am thinking here of VR Systems, for example.

A. I do communicate with them occasionally.

Q. On what occasions do you communicate with them?

A. I am on an e-mail distribution list, as well as they -- they being all of the vendors -- are also on an e-mail distribution list that I have created.

Q. And what's that distribution list called?

1 Taff

2 elections some supervisors permitted
3 applicants whose applications were deemed
4 incomplete to submit additional information
5 after the close of books and still vote in
6 the elections?

7 A. I am not aware of that.

8 Q. At the time you were not in your
9 present position; is that correct?

10 A. That is correct.

11 Q. Are you aware of any supervisors in
12 Florida who currently provide a grace period
13 for applicants to submit additional
14 information after the close of books?

15 A. No, I am not.

16 Q. Can you tell me why applicants who --
17 why -- strike that.

18 Other than the statute forbids it,
19 can you give me a reason why there should
20 not be a grace period as described?

21 MR. WINSOR: Object to the
22 form.

23 THE WITNESS: No.

24 (Exhibit No. 12 was marked for
25 identification.)

1 Taff

2 Q. So is there anyone -- excuse me.
3 Strike that. And the legal section you are
4 referring to is the legal section with the
5 Department of State; is that correct?

6 A. That is correct.

7 Q. Are you aware of any particular
8 instance in which a fraud concerning voter
9 registration was prosecuted in the State of
10 Florida?

11 A. I am not aware.

12 Q. So you are not aware of a single
13 instance of a prosecution of voter
14 registration fraud; is that correct?

15 A. I have personally, outside of my
16 position at the Department of State on the
17 news media, but I am not intimately --
18 intimate with that case.

19 Q. So whatever knowledge you would have
20 would also be knowledge available to the
21 general public?

22 A. Exactly, yes.

23 Q. And you also have not -- you don't
24 have knowledge in your capacity as bureau
25 chief of any instance of a conviction of

1 Taff

2 fraud involving voter registration?

3 A. No, I do not.

4 Q. Is it your view that prohibiting a
5 grace period prevents or discourages fraud?

6 MR. WINSOR: Are you asking
7 her personal view?

8 MR. HALBERSTAM: In her
9 capacity as bureau chief.

10 MR. WINSOR: Could you repeat
11 the question?

12 BY MR. HALBERSTAM:

13 Q. Whether prohibiting a grace period
14 prevents or discourages voter fraud with the
15 understanding that that's the present law
16 which prohibits a grace period or at least
17 that is what the present law is purported to
18 be by the Secretary of State?

19 MR. WINSOR: Object to the
20 form.

21 THE WITNESS: I really can't
22 answer as to what my view as bureau
23 chief is on this issue.

24 BY MR. HALBERSTAM:

25 Q. Why not?

1 Taff

2 this process would be disrupted if a grace
3 period were permitted, if I understand you
4 correctly; is that correct?

5 A. What I am saying is that prior to
6 each election and prior to the early voting
7 period, a logic and accuracy test is
8 performed and the counties program their
9 tabulation equipment based on the voter
10 registration totals at book closing.

11 Q. Okay. And are you saying that
12 something about this process would be
13 disrupted if we provided for a grace period?

14 MR. WINSOR: Object to the
15 form.

16 THE WITNESS: It is my opinion
17 that that would disrupt this process.

18 BY MR. HALBERSTAM:

19 Q. Okay. And how would it disrupt that
20 process?

21 A. In my opinion, it would disrupt the
22 process by not providing the supervisors of
23 elections enough time to have their
24 equipment ready for the early voting period.

25 Q. And what facts is your opinion based

1 Taff

2 on? Do you have any experience with how
3 supervisors prepare the tabulation equipment
4 for early voting?

5 A. No. As I said, I do not work for a
6 supervisor's office. I am not sure exactly
7 how it's done, but I have observed a logic
8 and accuracy test.

9 Q. Okay. But have you observed how
10 supervisors prepare their tabulation
11 equipment for the accuracy test?

12 A. No.

13 Q. And your opinion -- and again, I am
14 only asking for your opinion as the bureau
15 chief -- is that something about this
16 process -- that providing a grace period
17 would disrupt something about this process;
18 is that correct?

19 A. Yes, that's correct.

20 Q. And what other facts -- what facts
21 apart from having observed a logic and
22 accuracy test is that opinion based on?

23 A. There are no other facts.

24 Q. Do you mean that you don't have any
25 other facts on which you base that opinion

1 Taff

2 other than having observed a logic and
3 accuracy test?

4 A. No.

5 Q. Can you think of any other way that
6 providing a grace period conflicts with the
7 orderly administration of elections, other
8 than the one described?

9 MR. WINSOR: Objection to the
10 form.

11 THE WITNESS: No.

12 BY MR. HALBERSTAM:

13 Q. Do you believe, again in your
14 capacity as bureau chief, that providing a
15 grace period for, say, a couple of hundred
16 or perhaps, I don't know, couple of thousand
17 people, to provide additional information on
18 existing applications during the grace
19 period would be unreasonable?

20 MR. WINSOR: Objection, form.

21 THE WITNESS: Yes, I do.

22 BY MR. HALBERSTAM:

23 Q. And why do you believe it's
24 unreasonable to allow someone -- pardon me.

25 Why do you believe it's unreasonable

1 Taff

2 Q. In other words, a time you would deem
3 practicable?

4 A. Less than five days.

5 Q. What do you base that opinion on?

6 A. It is my opinion there are many tasks
7 that must be accomplished by the supervisors
8 of elections office in preparation for an
9 election.

10 And to be able to -- and it's my
11 opinion that in order to hold a successful
12 election, that all must be in order prior to
13 that preparation period. And my opinion is
14 the 29-day book closing period is not
15 unreasonable.

16 Q. But that wasn't the question. My
17 question was: What do you base your opinion
18 on that the five-day grace period as opposed
19 to say a 10- or 14-day grace period is
20 reasonable?

21 In other words, what do you base your
22 opinion on that the five-day grace period is
23 reasonable but the 15-day grace period is
24 not?

25 MR. WINSOR: Objection to the

1 Taff

2 form.

3 THE WITNESS: It interferes
4 with the administrative tasks in the
5 supervisor of elections office.

6 BY MR. HALBERSTAM:

7 Q. But the five-day grace period would
8 not?

9 A. Not to the extent of a 15-day grace
10 period.

11 Q. Okay. And what do you -- based on
12 what you know about what happens between the
13 5th and the 15th day at the supervisors'
14 offices, can you explain to me why that
15 longer period would be unreasonable? And
16 again, here I am asking for facts that would
17 help us understand your position.

18 A. I can't really -- I can't really
19 answer that because I am not -- I do not
20 administer elections.

21 Q. So you don't really know what it is
22 about those processes -- strike that.

23 How about the Bureau, would it be
24 difficult for the Bureau to institute a
25 grace period, to implement a grace period?

1 Taff

2 MR. WINSOR: Object to the
3 form.

4 THE WITNESS: Could you repeat
5 that?

6 BY MR. HALBERSTAM:

7 Q. Would it be impracticable or
8 unreasonable for the Bureau to implement a
9 grace period?

10 MR. WINSOR: Object to the
11 form.

12 BY MR. HALBERSTAM:

13 Q. In other words, you do voter --
14 excuse me.

15 MR. HALBERSTAM: Strike the
16 last phrase. Can you read back the
17 last question, please?

18 (The requested portion was
19 read.)

20 THE WITNESS: No.

21 BY MR. HALBERSTAM:

22 Q. And you already stated that the
23 Bureau doesn't administer elections; is that
24 correct?

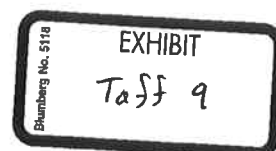
25 A. That is correct.

HSMV Incompletes Analysis
October 3, 2006

Total number of applications sent to HSMV for verification: 392,386
Number of applicants with incomplete applications: 11,319
Number of applicants who appear to be registered under another VoterID: 564
Percentage of applications sent to HSMV who did not become voters: 2.74%

Breakdown by Counties:

# of Incompletes	COUNTY_OF_RESIDENCE
64	ALA
37	BAY
3	BRA
1452	BRO
38	BRE
5	CAL
19	CHA
36	CIT
53	CLA
70	CLL
6	CLM
3630	DAD
2	DES
8	DIX
290	DUV
31	ESC
22	FLA
2	FRA
30	GAD
6	GIL
2	GUL
3	HAM
11	HAR
12	HEN
34	HER
28	HIG
1430	HIL
30	IND
10	JAC
1	JEF
62	LAK
111	LEE
66	LEO
26	LEV
3	LIB
8	MAD
22	MAN
19	MON
38	MRN
18	MRT



9 NAS
5 OKA
5 OKE
1584 ORA
563 OSC
468 PAL
40 PAS
320 PIN
170 POL
24 PUT
24 SAN
46 SAR
104 SEM
20 STJ
70 STL
17 SUM
5 SUW
2 UNI
82 VOL
3 WAK
14 WAL
6 WAS
11319

EXHIBIT 37

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
LINDA TANKO

Taken on Behalf of the Plaintiffs

DATE TAKEN: August 6, 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 Tanko

2 application on the book closing deadline and
3 everything is complete -- there is no
4 missing information -- that person will be
5 added to the rolls and will be eligible to
6 vote?

7 A. Correct.

8 Q. How long after the book closing
9 deadline does it take your office to process
10 all those registrations that come in right
11 before the close of books?

12 A. On a heavy book closing, it will take
13 us 15 days. That's pretty much been an
14 accurate rule of thumb.

15 In '06, with our lighter book closes,
16 we may have gotten it done a little bit
17 faster. In a presidential year, when there
18 is a lot of interest, there's never enough
19 time. We always need more time.

20 I'm having to bring in more and more
21 staff, work longer hours, lots of overtime,
22 weekends, nights, to get it done.

23 Q. Do you think most voters are aware of
24 when the book closing is?

25 A. I believe most voters are aware that

1 Tanko

2 how the two interface. All technical stuff
3 that I don't understand.

4 Q. Does your staff use this document?

5 A. My staff, no.

6 Q. We're going to turn to page OC1947,
7 section 15, precinct registers. Two
8 paragraphs down from the heading there, it
9 starts, the Supervisors of Elections are
10 responsible for printing precinct registers.

11 If you could just read that paragraph
12 and the following two paragraphs?

13 A. Okay.

14 Q. I'm going to point you to the
15 paragraph that starts, this would be a very
16 straightforward process if all the counties
17 printed precinct registers at the same time
18 and if the statutorily defined book closing
19 was truly a freeze on the registration
20 updates for the period between book closing
21 and the election.

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

1 Tanko

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

7 Is that accurate?

8 A. I believe it is, yes.

9 Q. The next sentence follows, the
10 accuracy of precinct registers necessitates
11 adjustments to very fluid and dynamic voter
12 registration activities.

13 The precinct register represents
14 voter registration to the point at time at
15 which the underlying data was generated.

16 Is that accurate?

17 A. Yes. Our registration records are a
18 living animal.

19 Q. The registration records are
20 constantly being updated?

21 A. Right.

22 Q. Do you have any responsibilities for
23 tabulating the votes in your office?

24 A. No.

25 Q. Who is responsible for doing that in

1 Tanko

2 Q. You're not familiar?

3 A. No.

4 Q. Can you describe the process for
5 restoring competency?

6 MR. CIRULLO: Object.

7 Relevance.

8 A. No.

9 MS. NOLAN: Thank you. We're
10 going to mark all these three
11 together as Exhibits 17, 18 & 19.

12 (Thereupon, Exhibit Numbers
13 17, 18 and 19 were marked for
14 identification.)

15 BY MS. NOLAN:

16 Q. If you can just start actually by
17 reviewing the e-mail. This is an e-mail
18 sent between -- sent from your counsel --
19 I'm sorry -- sent from Margaret Dunn to your
20 counsel and then forwarded to myself and
21 company counsel, Michael Halberstam. You'll
22 see it says -- just take a moment to review.

23 A. Okay.

24 Q. I'm going to represent to you this
25 spreadsheet, which is Exhibit 17, is a

EXHIBIT 38

1 Watson

2 close of books are not accepted by the
3 supervisors for the present election?

4 A. Yes.

5 Q. So, in other words, if someone sends
6 in an update or correction after the close
7 of books, then they have to wait until the
8 next election in order to vote?

9 A. Yes.

10 Q. So what I'm trying to get at today
11 and establish is whether there are any
12 specific technical difficulties involved in
13 providing a grace period during which
14 applicants can correct their applications
15 after the close of books?

16 A. The election timeline, I think our
17 election timeline starts about 60 days prior
18 to the election. But a key date in that
19 election timeline is the book close itself.

20 And then the supervisor has 15 days
21 to enter the registrations that were on hand
22 at book closing.

23 In the 2004 cycle, what I have heard
24 is that with registration drives dumping
25 vast numbers of registrations in the

1 Watson

2 supervisors' office on the day of book
3 closing, that it was all they could do to
4 get those entered by the end of the 15 days.
5 At the end of that 15 days, which is almost
6 precisely halfway between the election and book
7 closing, a couple of things happen very, very
8 close together: One of them is the certification
9 of book closing, certification of book closing
10 totals.

11 Q. Is that something that VR Focus has a
12 role in or your system has a role in?

13 A. We are involved. We are involved.
14 It used to be a county responsibility to
15 certify.

16 And now, in fact, it is FVRS that
17 does the certification. But Voter Focus
18 continues to create some reports on book
19 closing.

20 And so it is a very active issue
21 right now how we ensure that the local
22 database is precisely in line with the State
23 database at the point of book closing and
24 our totals actually match up. And that's
25 been an issue.

1 Watson

2 Q. Are there any logistical problems in
3 terms of using the Voter Focus program to
4 enter applications at this time?

5 In other words, does the Voter Focus
6 program permit the entry of additional
7 applications up until the day of elections?

8 A. The Voter Focus program permits the
9 addition of registration with registration
10 dates after book closing.

11 Q. At any time?

12 A. At any time.

13 Q. Right up until the election?

14 A. There is no hold process. Just
15 because a registration form has arrived late
16 does not mean it does not get into the
17 system. It is required to be entered into
18 the system.

19 Q. And there is no technical problem
20 associated with doing so, right? It just
21 operates as it always does?

22 A. Yes. But the registration date
23 serves to exclude the voter from the list of
24 eligible voters for that election.

25 Q. So when you say "the registration

1 Watson

2 reasonably objective basis for your
3 statement or not.

4 So just because of his objection,
5 let's go back to early voting.

6 MR. ELLIOTT: I am going to
7 object to that requirement. If you
8 want to ask each question that way,
9 go ahead, but for him to have to
10 remember that.

11 BY MR. HALBERSTAM:

12 Q. So with regard to early voting,
13 Mr. Watson, you said that while there might
14 be technical difficulties that you cannot at
15 this point anticipate, that it would not be
16 a big deal, to use your words, to allow for
17 people to update or correct their
18 applications during this period --

19 A. Yes.

20 Q. -- as far as early voting is
21 concerned; is that correct?

22 A. Yes.

23 Q. And that's your considered opinion
24 based on your experience with your system
25 and with --

1 Watson

2 election, now we're adding voters, we're
3 allowing voters to move in, the paper
4 register is almost impossible to deliver as
5 an accurate register to the precinct.

6 Q. But this is how it is done right now,
7 correct?

8 A. Yes.

9 MR. ELLIOTT: Can we take
10 another quick five-minute break?

11 THE WITNESS: I would love to,
12 yes.

13 MR. HALBERSTAM: Sure. No
14 problem.

15 (Brief recess.)

16 MR. HALBERSTAM: Let's go back
17 on the record.

18 BY MR. HALBERSTAM:

19 Q. Mr. Watson, you have testified that
20 precinct registers are constantly updated;
21 is that correct?

22 A. Yes.

23 Q. They're updated right up until a few
24 days prior to the elections; is that
25 correct?

1 Watson

2 A. Yes.

3 Q. And you've testified that a lot of
4 changes are made to precinct registers --

5 A. Yes.

6 Q. -- right up until a few days before
7 elections?

8 A. Yes.

9 Q. And aside from other problems with
10 the precinct registers, would updating
11 precinct registers by adding voters, say,
12 who -- strike that.

13 Aside from the problems that you have
14 mentioned, would updating precinct registers
15 by adding voters who submitted updates or
16 corrections to applications after the close
17 of books be any different from all of these
18 other changes?

19 MR. ELLIOTT: Objection to
20 form.

21 MR. SCHWARTZ: Join.

22 MR. HALBERSTAM: Strike it.

23 Let me do it again.

24 BY MR. HALBERSTAM:

25 Q. The supervisors, as you have

EXHIBIT 39

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.

----- x

8842 Estate Drive
West Palm Beach, Florida
Thursday, September 27, 2007
9:02 a.m. - 10:17 a.m.

DEPOSITION OF JON WINCHESTER

Taken before Donald W. McKay, RMR, CRR, a
notary Public for the State of Florida at
Large, pursuant to Notice of Taking Deposition filed
in the above-styled cause.

BARRISTER REPORTING SERVICE, INC.
120 Broadway
New York, N.Y. 10271
212-732-8066

1 J. Winchester

2 takes -- sometimes that portion where
3 Highway Safety submits them to Social
4 Security Administration, in the past --
5 now, I'm not sure what it's doing now --
6 but in the past, there were times where
7 that took up to three, four, five
8 additional days. I kind of think it's
9 quicker now. But I know in the past, it
10 had taken that long, where they have
11 not -- the voter did not provide a
12 driver's license, but only provided either
13 a Social Security number or the last four
14 digits of a Social Security number only.

15 Q. So in LogicWorks' experience, it's
16 not unusual, in the past, for it to take
17 four or five days for FVRS to turn around
18 an application?

19 A. No. I don't think that's unusual.

20 Q. You mentioned the check box and the
21 processing there.

22 A. Yes.

23 Q. Let me back up. With regard to
24 incomplete -- what has been the major
25 issues or problems surrounding the

1 J. Winchester

2 an absentee ballot.

3 Q. And precinct registers are
4 typically printed sometime after the close
5 of books. Is that correct?

6 A. That is correct.

7 Q. Is it fair to say that precinct
8 registers are supplemented after their
9 initial printing?

10 A. I think that most counties do, in
11 fact, supplement the precinct registers.

12 Q. In fact, are they supplemented just
13 before the election day?

14 A. Yes. They do that as close to the
15 election as possible.

16 Q. So is it fair to say that precinct
17 registers are constantly being updated to
18 make sure that they're accurate over time?

19 A. Yes. It's a -- yes, that's a
20 substantial task they perform.

21 Q. I'd like to ask you about early
22 voting. Does MegaProfile relate in any
23 way to early voting?

24 A. Systems we provide do. And yes,
25 MegaProfile can in some counties. In Palm

1 J. Winchester

2 I want to vote here, they could enter the
3 voter's address change at that moment.

4 Q. So with regard to early voting,
5 changes to voter registration shouldn't
6 really present an obstacle from a
7 technological standpoint?

8 A. No. I don't think so.

9 Q. What about with regard to precinct
10 registers. We talked about the fact that
11 they're constantly updated. Would there
12 be any technological obstacle to having
13 voters being registered after the close of
14 books? Let me rephrase that.

15 Would allowing voters to register
16 after the close of books or to correct
17 their application after the close of books
18 interfere with the printing and updating
19 of precinct registers?

20 A. Well, I mean, as long as there were
21 time to complete that. You know, I mean
22 the nature of the entry of voter
23 registration applications is that you
24 don't stop entering them when books close.
25 The voters simply stop filling them out.

1 J. Winchester

2 A. Oh, yeah. It's just money.

3 Q. Now, from a technological
4 perspective, having voters added or
5 registered only up to the election day
6 doesn't interfere, from a technological
7 perspective, with precinct registers.

8 A. No. I would say no, it doesn't.
9 You're suggesting supplements. They just
10 print those things out and hand write them
11 or whatever on the additional form. Sure,
12 they can keep doing that.

13 Q. Now, what happens to a -- I'm
14 sorry. You're aware of -- that new
15 registrations are not to be added to the
16 rolls after the close of books so that a
17 person can vote.

18 A. That was like a two-part question
19 there; wasn't it?

20 Q. Let me withdraw that question and
21 maybe phrase it a little more carefully.

22 After the close of books,
23 registrations are processed, but the
24 registrations that are processed after the
25 close of books and found after the close

1 J. Winchester

2 election day. Do you understand what I
3 mean by a grace period?

4 A. Yes, I do.

5 Q. Would a grace period, from a
6 technological perspective, be difficult to
7 implement?

8 A. Let's see. No. No. Because --
9 are you saying that the registration date,
10 then, for it would be the date of the
11 ultimately completed and we would have to
12 incorporate that in the grace period, or
13 that the registration date would be
14 counted as the date they first attempted
15 to submit the application?

16 Q. Basically, what I'm saying is that
17 if the date -- if the date the original
18 application was submitted before the close
19 of books --

20 A. Oh, I understand what you're
21 asking. I'm asking you how you want it
22 implemented since you're asking for me to
23 create a proposal for you on how to do
24 this change.

25 So my question is, are you going to

1 J. Winchester

2 make the law say that the registration
3 date counts as the first registration
4 date? Because that's real easy. That's
5 no change at all in the system. Or are
6 you going to make the law --

7 Q. That would be the way it would
8 work.

9 A. Okay. That the registration date
10 would count as the first one. They can do
11 that right now.

12 Q. So there is no technological
13 obstacle to implementing a grace period
14 like that?

15 A. No. All they would have to do is
16 enter the application whenever they get
17 it, putting the registration date at the
18 date they want it to be.

19 Q. So that would be true of Miami-Dade
20 and Palm Beach County?

21 A. Yes.

22 Q. And if you know, would that also be
23 true of Broward County?

24 A. I have no idea. Probably.

25 MR. ABT: If it's all right,

EXHIBIT 40

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

EMMA YAIZA DIAZ,)	CASE NO. 04-22572
)	CIV-KING/O'SULLIVAN
)	
PLAINTIFF,)	DEPOSITION OF
)	MELISSA WINCHESTER
)	
VS.)	
)	
KURT S. BROWNING,)	
SECRETARY OF STATE OF)	
FLORIDA, ET AL.,)	
)	
DEFENDANTS.)	
_____)	

DEPOSITION OF MELISSA WINCHESTER taken
before Susan M. McKenzie, General Notary Public
within and for the State of Nebraska, beginning at
9:45 a.m. on October 3, 2007, at 1125 South 103rd
Street, Omaha, Nebraska.

1 A That's correct.

2 Q And the MegaLink/Mega Profile system
3 generates precinct registers; is that correct?

4 A It does, yes.

5 Q Okay. And it did so in 2004 in Florida?

6 A Yes it did.

7 Q Okay. I'd like to direct your attention to
8 the second full paragraph on page ES&S 401 --

9 A Okay.

10 Q -- which reads, "This would be very
11 straightforward if all the counties printed precinct
12 registers at the same time. If the stautorily
13 defined book closing was truly a freeze on the
14 registration list for the period between book closing
15 and the election, this could be straightforward. In
16 fact, book closing only prevents party changes for
17 primaries and new voters entering the registration
18 list. Voters move around and they vote in their new
19 county/precinct. They also continue to die, vote
20 early, and vote by absentee. One county who exports
21 their register to an external printer about two and a
22 half weeks to go claims that 30 percent of the
23 register entries have some kind of change by election
24 date. With voters now able to change their county of
25 residence after the precinct register is printed,