

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

APPEARANCES

Counsel for Plaintiffs:

MR. THOMAS B. ABT (Via telephone)
Paul, Weiss, Rifkind, Wharton & Garrison, LLP
Attorneys at Law
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Counsel for Defendants:

MR. PETER ANTONACCI (Via telephone)
GrayRobinson
Attorneys at Law
301 South Bronough Street, Suite 600
Tallahassee, Florida 32301

Counsel for Mr. Johnson:

MR. KATHY HARRIS
Attorney at Law
601 East Kennedy Boulevard
Tampa, Florida 33602
Also Present: Jim Reed

THEREUPON, the following proceedings were had
and taken:

THE COURT REPORTER: Do you swear or affirm the
testimony you give will be the truth, the whole
truth, and nothing but the truth?

THE WITNESS: Yes.

BUDDY JOHNSON, called as a witness by the
Plaintiffs, having been first duly sworn, testified
as follows:

DIRECT EXAMINATION

BY MR. ABT:

Q. Mr. Johnson, my name is Thomas Abt. I'm an
attorney with Paul Weiss --

THE COURT REPORTER: Could you hold on?

A. We are in the middle of a construction project,
and I'm going to have to see if they can hold off on
their drilling. Sorry about that. But go ahead.

(Mr. Reed leaves the room.)

Q. Please state your name for the record.

A. Buddy Johnson.

Q. Mr. Johnson, during this deposition, I'm going
to ask a series of questions, and you're going to answer
under oath. Do you agree?

A. Yes.

Q. Do you agree to answer all questions verbally,

I N D E X

WITNESS PAGE
Called by the Plaintiffs:
BUDDY JOHNSON
DIRECT EXAMINATION BY MR. ABT..... 4
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CERTIFICATE OF REPORTER..... 35
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E X H I B I T S

(None)

meaning no shakes of the head or nods?

A. Yes.

Q. If you don't understand a question, please let
me know, and I'll try to rephrase it or clarify it.
Otherwise, I'll assume that you understood the question.
Do you agree?

A. Yes.

Q. When answering my questions, please answer only
the question before you. Do not volunteer information
that's not requested. Do you agree?

A. Absolutely.

Q. Okay. If I ask a simple question, if you can
please respond with a simple answer. For instance, if I
ask a question that calls for a yes or no answer and a
yes or no answer is appropriate, please answer it yes or
no. If you can't answer yes or no or you need to
explain further, just let me know, and I'll allow you to
elaborate. Can we have that understanding?

A. Sure.

Q. During this deposition, your lawyer or
Mr. Antonacci may make objections. That's to be
expected, but unless your lawyer instructs you not to,
you should still answer my questions. Do you agree?

A. Yes.

Q. I expect this deposition to be short, but if

1 you need to take a break, just let me know, and we can
2 stop at the next convenient point.

3 Since this is a phone deposition and I'm not
4 present in the room with you, can you tell me who's
5 present in the room with you today?

6 A. Myself and Kathy Harris, the court reporter,
7 and Jim Reed. He just stepped out to speak to the
8 construction workers. He should be back in momentarily.

9 Q. And who is Jim Reed?

10 A. Jim Reed's the Assistant Supervisor of
11 Elections.

12 Q. Okay. Because I'm not in the room with you
13 today, please refrain from any nonverbal communication
14 that I can't see or hear. Do you agree?

15 A. I'm shaking my head. Yes.

16 Q. Is that a yes, you agree?

17 A. Yes.

18 Q. Okay, great. And I'd just ask the court
19 reporter, if accidentally there are any off-the-record
20 conversations with counsel or anything like that, if the
21 court reporter could just note that for the record, I'd
22 appreciate it.

23 A. Okay. My phone doesn't have a mute button, so
24 there you go.

25 Q. Okay, very good.

1 A. You're going to allow me to take notes if I
2 want to for myself, right?

3 Q. Oh, sure.

4 (Mr. Reed returns to the room.)

5 Q. You don't need to make a record of that.

6 A. Good, thank you.

7 Q. Are you on any medication, Mr. Johnson, that
8 could interfere with you providing full and accurate
9 testimony today?

10 A. No, I'm not.

11 Q. Is there any other reason that you might not be
12 able to give full and accurate testimony today?

13 A. Not that I'm aware of, no.

14 Q. All right. What did you do to prepare for your
15 deposition today?

16 A. I showed up this morning.

17 Q. Did you meet with your attorneys?

18 A. I meet with my attorney every day. We work
19 together.

20 Q. Okay. Did you discuss this deposition with
21 your attorney?

22 A. I discussed the nature of your question. I
23 read the first page of the question -- or what's it
24 called?

25 MS. HARRIS: The documents she sent me, I gave

1 them to him yesterday. He read through them.

2 A. Yes.

3 Q. Very good. Have you ever been deposed before?

4 A. Not that I recollect.

5 Q. I think you would remember if you had been
6 deposed before.

7 A. Well, I guess no.

8 Q. Have you ever testified at trial?

9 A. No.

10 Q. Okay. Are you currently employed as Supervisor
11 of Elections for Hillsborough County?

12 A. Yes.

13 Q. And how long have you served in that position?

14 A. Since February of '03.

15 Q. And --

16 A. By the way, I think I was deposed once in a, in
17 one other proceeding, yes, I was, several years ago.

18 Q. Was it related to this office?

19 A. No, it was in the '80s.

20 Q. Okay. Prior to serving as supervisor, did you
21 work for the Hillsborough Supervisor of Elections Office
22 in any other capacity?

23 A. Say that again, please.

24 Q. Did you work for the Hillsborough Supervisor of
25 Elections before becoming Supervisor of Elections?

1 A. No, no.

2 Q. Okay. Tell me a little bit about Hillsborough
3 County in terms of its size, how many voters are
4 registered, what the makeup of your voters are.

5 A. Okay. In order -- approximately, I don't know
6 how many square miles, but it's over a million by
7 population and approximately, though it changes daily,
8 would estimate 635,000 registered voters.

9 Q. And what's the makeup of those registered
10 voters?

11 A. You want ethnicity? You want their political
12 parties? What would you like?

13 Q. Well, I guess the thing I'm most interested in
14 is, is it a fairly homogenous county, or is it diverse?

15 A. Yes.

16 Q. Which one?

17 A. Actually, Hillsborough County is considered --
18 I don't know the term. It's a very good sample of
19 Florida, of the United States, I've heard it often said.

20 Q. There are lots of different races and
21 ethnicities represented in Hillsborough County?

22 A. Yes.

23 Q. Okay. And is voter registration an important
24 part of your duties as Supervisor of Elections?

25 A. Yes.

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 I'm certain that there were a few, but we don't -- I'm
 2 certain there were a few. I'm sure there were a few,
 3 yes.
 4 Q. So were some of the -- so some of those
 5 applications were incomplete?
 6 A. Yes.
 7 Q. Okay. It's my understanding -- you just
 8 referenced that there were a few applications. It's my
 9 understanding that you received hundreds of such
 10 applications from Chuck Smith during that period; is
 11 that accurate?
 12 MS. HARRIS: He really can't speak for Chuck
 13 Smith.
 14 MR. ABT: I'm not asking him to.
 15 MS. HARRIS: Nor was he a part of the
 16 conversation between Elizabeth Westfall and Chuck
 17 Smith.
 18 MR. ABT: Let me rephrase.
 19 BY MR. ABT:
 20 Q. It's my understanding that you received
 21 hundreds of incomplete applications during that period
 22 before the close of books; is that accurate?
 23 A. I don't know, I don't know that number. And I
 24 was --
 25 Q. Is it fair to say that it was more than a few?

1 A. I said I don't know that number, and in
 2 relative terms I used the word few, and I would say it's
 3 an accurate description.
 4 Q. Okay. A few to me means less than ten.
 5 A. I don't know the number, number one. And
 6 number two, a few of a population of 635,000 could mean
 7 more than -- less than ten, but I don't know that
 8 number.
 9 Q. So it could mean more than ten?
 10 A. I don't know that number.
 11 Q. It's my understanding that your office in the
 12 weeks leading up to the close of books was mailing out
 13 significant numbers of incomplete notices each day to
 14 applicants; is that correct?
 15 A. Repeat your question.
 16 Q. During the weeks leading up to the close of
 17 books, did your office mail out incomplete notices each
 18 day to applicants?
 19 A. My instructions to my staff is to follow the
 20 law, and if it was necessary that we do that, we would
 21 have mailed out those.
 22 MR. ABT: Reporter, could you repeat the
 23 question, please?
 24 (The question was read by the reporter.)
 25 MS. HARRIS: Let me just interrupt a little bit

1 here. I tried to explain this previously to
 2 Elizabeth. Mr. Johnson does not do the processing
 3 of these documents, nor does the staff print him a
 4 report on a daily basis as to what goes on, and
 5 that's why I directed them to talk with Chuck Smith,
 6 because he is the most knowledgeable. So you're
 7 really asking him questions that he has no direct
 8 knowledge of in terms of numbers.
 9 MR. ABT: I think this is a fairly simple
 10 question if you think about -- if you think about
 11 what I'm asking.
 12 MS. HARRIS: I just don't think we're
 13 comfortable with him giving you an answer that he
 14 has no real knowledge of. If you want some research
 15 done into that, then that's a different scenario.
 16 MR. ABT: Ms. Harris, let's keep the -- let's
 17 keep the discussion on your part to objections to
 18 form.
 19 MS. HARRIS: Okay. Object to form.
 20 MR. ABT: Let me try to rephrase the question.
 21 BY MR. ABT:
 22 Q. You stated previously that incomplete
 23 applications -- that your office received incomplete
 24 applications in the weeks leading up to the close of
 25 books for the 2004 general election; is that correct?

1 A. Yes.
 2 Q. And according to the law, aren't you required,
 3 if an application is incorrect or incomplete, to send a
 4 notice to that applicant?
 5 A. And we follow the law.
 6 Q. This is one of those times when if a yes or no
 7 answer can be answered yes or no, that would be good.
 8 A. Repeat your question.
 9 MR. ABT: Court reporter, could you repeat that
 10 question, please?
 11 (The question was read by the reporter.)
 12 A. The answer to that is yes, and I'm not aware of
 13 any change in that law.
 14 Q. So in 2004, in the weeks leading up to the
 15 close of books, your office mailed out incomplete
 16 notices to applicants; is that correct?
 17 A. Yes.
 18 Q. In these incomplete notices, you informed
 19 applicants that something was incorrect or missing on
 20 their application?
 21 A. Is that a statement?
 22 Q. It's a question.
 23 A. It didn't sound like -- I'm sorry. I thought
 24 you were prefacing your question. Say it again.
 25 Q. I'll rephrase. In these incomplete notices,

1 did you inform applicants that something was incorrect
 2 or missing from their application?
 3 A. If they were incomplete, yes.
 4 Q. And did you tell them how to correct their
 5 application?
 6 MS. HARRIS: Objection to form. I'm not sure
 7 Mr. Johnson has ever even seen one of those letters
 8 from 2004. You may want to get that clarified.
 9 Q. Mr. Johnson, can you answer the question?
 10 A. If you'll repeat it.
 11 MR. ABT: Reporter.
 12 (The question was read by the reporter.)
 13 A. Well, there would be -- yes.
 14 Q. Was it your policy between the close of books
 15 and election day to permit applicants to correct their
 16 application if they were incomplete or incorrect?
 17 A. Was it my policy to permit -- my instruction to
 18 my staff is to follow the law.
 19 MR. ABT: Let me -- court reporter, can you
 20 please repeat the question?
 21 (The question was read by the reporter.)
 22 A. There were so -- when you asked the question
 23 what is your policy about something, it's as though
 24 you're addressing an issue that is --
 25 Q. Would you like me to rephrase?

1 A. If you'd like to.

2 Q. Between the close of books and election day,

3 did your office allow applicants to correct their

4 applications if they were incomplete or incorrect? And

5 this is for the 2004 general election.

6 A. You asked me to answer in a yes or no, and

7 that's not a question that I'm comfortable giving you a

8 yes or a no on.

9 Q. Just tell me, yes, you allowed corrections or,

10 no, you didn't allow corrections.

11 A. What is -- then give me definitions of your

12 language within the question. Correction, et cetera, et

13 cetera.

14 Q. A correction is a correction to an incomplete

15 or incorrect application.

16 A. Incorrect would be what?

17 Q. Having any incorrect information on the

18 application.

19 A. Such as?

20 Q. Date of birth.

21 A. Okay. What else? What else might something

22 else be?

23 Q. You really want -- I could, if you want, get a

24 voter registration application out and read through

25 every single entry, but I think you understand the

1 something that happened very much at all. As I said

2 earlier, it was a few.

3 Q. That's not my question. I'll ask you again to

4 respond to the questions that are asked.

5 MR. ABT: Can we maybe go off the record and,

6 Kathy, can we maybe talk on a separate line?

7 MS. HARRIS: I don't think he understands the

8 question. I think if you reword the questions more

9 specifically.

10 MR. ABT: I think the question's pretty clear.

11 Maybe we should talk on the other line, because we

12 might need to adjourn this deposition.

13 MS. HARRIS: I think we can talk on the record.

14 I'm perfectly willing to talk on the record.

15 MR. ABT: This is a very simple question, and

16 if I can't get answers to very simple questions like

17 this, we're going to need to adjourn the deposition

18 and we may need to call the court.

19 And the other thing is, is that maybe if Chuck

20 Harris is available, we can bring him in.

21 THE WITNESS: Who is Chuck Harris?

22 MS. HARRIS: Chuck Smith.

23 MR. ABT: Chuck Smith.

24 MR. ANTONACCI: Secretary of State will object

25 to that. You have a deposition scheduled --

1 meaning of my question. So let me ask it again.

2 A. Okay.

3 Q. Between the close of books and election day,

4 did you allow applicants to correct their applications

5 if they were incomplete or incorrect?

6 A. I would want to do research on that to give you

7 an answer that would be correct. We didn't have

8 any -- there was not --

9 Q. I'm sorry. Let me cut you off for a second,

10 Mr. Johnson. Mr. Johnson, you read the document request

11 that we had, correct?

12 A. Not all of it.

13 Q. Not all of it?

14 A. No, sir.

15 Q. Well, how long was that document request that

16 you read?

17 A. Well, you should know the answer to that one.

18 I read the first page of the request so that I would be

19 fresh when I talked to you.

20 Q. Right. And now I'm asking you a subject which

21 is at the heart of this issue, and you're telling me you

22 need to research further?

23 A. Well, we don't have -- the question you're

24 asking, the process about -- the question you're asking

25 me, which refers to a process in our business, is not

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. Are you aware of how your office and your staff
2 allowed applicants to correct applications between the
3 close of books and election day? Are you familiar with
4 the process?

5 A. In general terms, yes.

6 Q. Can you tell me in general terms what that
7 process was?

8 A. When there's an incomplete, we've already been
9 over this, we mail notices out.

10 Q. And what happened after that?

11 A. Well, it depends on what the person -- how the
12 person responded.

13 Q. And if the person responded, what happened
14 next?

15 A. I don't have a record of those individual
16 cases, sir.

17 Q. Well, we're speaking on general terms. What
18 happened next, in general terms?

19 A. We would -- the person would reply to our
20 office, if, in fact, they did, and we would act
21 accordingly.

22 Q. And by "act accordingly," you mean what?

23 A. You know, I don't, I don't recollect any
24 specific situation or any specific application in that
25 regard. There were so few.

1 applications are corrected -- once you accepted
2 corrections, that those voters were added to the
3 registration rolls and permitted to vote in the upcoming
4 election, you think that's too specific?

5 MS. HARRIS: Let me just ask for clarification.

6 Are you asking him for something more than what he
7 said in terms of following the law?

8 MR. ABT: I'm asking him to explain in very
9 general terms what that means.

10 A. I can do that. I think I understand your
11 question better now. But if you look at various
12 sections of the statutes and the rules --

13 Q. That's not my question.

14 A. But I'm telling you that's my answer, that we
15 did our best to follow the law in every, every
16 circumstance.

17 Q. I'm glad that you did that, sir, but that's not
18 my question.

19 MR. ABT: Reporter, could you please read back
20 my previous question?

21 (The previous two questions were read by the
22 reporter.)

23 A. Yes.

24 Are you there.

25 Q. Yes.

1 Q. Is it fair to say that the applications
2 were -- withdrawn.

3 A. The applications were withdrawn?

4 Q. No, withdrawn is a legal term, meaning let me
5 rephrase my question.

6 A. I didn't go to law school very long. I'm
7 sorry. I only got enough to get confused.

8 Q. It's fair to say that when an applicant
9 responded to a notice between the close of books and
10 election day with information that allowed you to
11 complete their application, they were then added to the
12 voter registration rolls and allowed to vote in the
13 upcoming election?

14 A. You're asking me a general question which
15 results in a very specific and individual case, and I've
16 tried to make it clear to you what our policy was, to
17 follow the law, and if you want specific citings of
18 these few cases, I would be happy to get that
19 information for you.

20 Q. I don't think you can be -- I don't think it
21 can be any more general, and I think there is a very
22 just common sense inference to your previous statement
23 that you did allow corrections to applications.

24 Are you telling me that you think that it is
25 too specific a question to ask you that once

1 How long had Hillsborough County -- did
2 Hillsborough County allow corrections between the close
3 of books and elections day in previous elections, prior
4 to 2004?

5 (Discussion off the record.)

6 A. Do you know when I was -- I think I told you I
7 was appointed in 2003.

8 Q. Right.

9 A. And I don't recollect any discussion. Most of
10 the discussions about this issue have been on a
11 philosophical level and not with particular reference.

12 Q. Tell me about those philosophical discussions.

13 A. Just discussions about the application in
14 general. It's our business.

15 Q. And these discussions occurred between whom and
16 whom?

17 A. What do you -- do you want me to go back and
18 give you a recitation of --

19 Q. I'm asking you, Mr. Johnson. You referred to
20 philosophical discussions.

21 A. I'm speaking in general terms. My point is not
22 with whom, so much as it is there was discussions about
23 how we do our business in all the areas of our business,
24 as opposed to --

25 MS. HARRIS: Just for clarification, you asked

1 him about a period of time prior to 2004.
 2 MR. ABT: Right.
 3 MS. HARRIS: And he told you that he only had
 4 philosophical discussions prior to that, because
 5 essentially he was not serving in the same capacity.
 6 Are you interested in his philosophical discussions
 7 prior to 2004?
 8 MR. ABT: Well, I'm interested in following up
 9 on the answers that are given, so --
 10 MS. HARRIS: Because I thought we were -- this
 11 deposition was related to prior to -- to that period
 12 of 2004.
 13 MR. ABT: Right. I thought I was going to get
 14 direct answers to questions. So we all had
 15 expectations coming into this.
 16 A. You are getting direct answers, from where I
 17 sit. I don't know what you think, but apparently we
 18 disagree on that.
 19 BY MR. ABT:
 20 Q. Let me ask you a different question. Did
 21 you -- so this practice, policy, whatever you want to
 22 call it, of accepting applications, corrected
 23 information, between the close of books and election
 24 day, was in place when you became supervisor?
 25 A. Say it again, please.

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

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 registration, correct?
 2 A. Yes.
 3 Q. And one of those changes was that -- one of
 4 those changes prevented you from accepting corrections
 5 after the close of books, correct?
 6 A. Why don't you be more specific with your -- why
 7 don't you cite your -- what you're referring to.
 8 Q. Okay, hold on one second. Election laws of
 9 Florida. Okay. More specifically, Mr. Johnson, after
 10 2004, Florida Statute 97.055 entitled "registration
 11 books; when closed for an election," was amended,
 12 correct?
 13 A. I'm looking at it. What are you looking at?
 14 Q. I'm looking at the statute that I just told
 15 you.
 16 A. I know, but I'm looking at it as well. You
 17 want me to read this?
 18 Q. No. My question is: Was it changed after the
 19 2004 election? I'm asking short questions, and then
 20 I'll follow up with additional questions.
 21 A. I mean, I'm not a historian on when the
 22 specifics of the changes were made, et cetera, et
 23 cetera. I'm just trying to make sure I don't get
 24 tricked by your question. I'm being very
 25 straightforward.

1 Q. How would you be tricked by this question?
2 A. I presume -- I don't study when these things --
3 the myriad of things that have happened, I don't know
4 when they happened and when they didn't. So if that's
5 part of what you're asking me, I would --

6 Q. Let me ask you a different question in a
7 different way.

8 A. I mean, if you say it was, I presume that it
9 was. I just don't have that specific knowledge, that
10 specific knowledge on the top of my head at this precise
11 moment. That's all I'm saying.

12 Q. Were you -- was the law changed after, sometime
13 after the 2004 election, preventing -- was the law
14 changed, forcing you to stop your practice of accepting
15 corrections after the close of books? That's what I'm
16 trying to get at.

17 A. When the registration books are closed for an
18 election, updates to a voter's name, address, and
19 signature, pursuant to this shall be the only changes
20 permitted for the purposes of the upcoming election.

21 Q. No need to read me the statute. That's not
22 responsive to my question.

23 A. Okay, right.

24 Q. My question is: Did the law change, forcing
25 you to discontinue your practice of accepting

1 applications after the close of books?

2 A. I just -- according to what --

3 Q. I'm asking you for your knowledge.

4 A. Yes.

5 Q. That's a yes to my question?

6 A. Yes to your history question.

7 MR. ABT: All right. Reporter, can you just
8 read it back one more time to make sure that we all
9 understand the question?

10 (The following question was read by the
11 reporter.)

12 Q. Did the law change, forcing you to
13 discontinue your practice of accepting applications
14 after the close of books?

15 A. Did you want me to repeat my answer, the whole
16 answer I gave you, or do you want her to read the
17 question again?

18 Q. If you could just repeat your answer one more
19 time.

20 A. I don't know that I could repeat that answer
21 exactly as I gave it to you, but --

22 Q. The previous answer was yes.

23 A. Yes.

24 Q. Is that still your answer?

25 A. Yes.

1 MR. ABT: Okay. I have nothing further. Any
2 questions?

3 Any other questions from anybody else?

4 CROSS-EXAMINATION

5 BY MR. ANTONACCI:

6 Q. Mr. Johnson, this is Pete Antonacci. A few
7 questions.

8 I take it that as you were testifying today you
9 don't know how many incomplete applications were
10 submitted after book closing in -- before the general
11 election in 2004?

12 A. Precisely, yes, you're correct.

13 Q. So with respect to the counsel's question about
14 the impact of accepting late registrations and
15 permitting corrections to late registrations --

16 MR. ABT: Objection. I didn't make any
17 statement regarding impact.

18 MR. ANTONACCI: I'm not done with my question.

19 Q. With respect to counsel's question regarding
20 the affect of accepting voter registration applications
21 after the book closing and allowing them to be
22 corrected, you can't say today what impact they had,
23 because you don't know how many you received and you
24 allowed corrected; is that correct?

25 A. That's correct.

1 MR. ANTONACCI: I don't have any other
2 questions.

3 MR. ABT: Kathy?

4 MS. HARRIS: No, I don't have any other
5 questions.

6 MR. ABT: One second. I just need to look at
7 something.

8 (Discussion off the record.)

9 THE WITNESS: I have a comment for you before
10 we hang up.

11 MR. ANTONACCI: Why don't you hold your
12 comments.

13 MR. ABT: Yeah, let's not have any comments.
14 We can go -- all right, I think we're -- I think
15 we're finished.

16 MS. HARRIS: All right. Thank you.

17 THEREUPON, the deposition of BUDDY JOHNSON,
18 taken at the instance of the Plaintiffs, was concluded
19 at 11:17 a.m.

1 CERTIFICATE OF REPORTER OATH
 2
 3 STATE OF FLORIDA
 4 COUNTY OF POLK
 5 I, Joan L. Pitt, Registered Merit Reporter,
 6 Certified Realtime Reporter, Florida Professional
 7 Reporter and Notary Public in and for the State of
 8 Florida at large, hereby certify that the witness named
 9 herein appeared before me on _____, and was duly
 10 sworn.

11 WITNESS my hand and official seal this
 12 _____
 13
 14
 15
 16

17 JOAN L. PITT, RMR, CRR, FPR
 18 NOTARY PUBLIC - STATE OF FLORIDA
 19 MY COMMISSION NO. DD311970
 20 EXPIRES: 7-20-08
 21
 22
 23
 24
 25

1 ERRATA SHEET
 2 DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES ON THIS PAGE
 3
 4 IN RE: DIAZ vs. BROWNING
 5 CASE NO.: 04-22572-CIV-KING
 6 DEPOSITION OF BUDDY JOHNSON
 7 TAKEN OCTOBER 12, 2007
 8
 9 PAGE #/LINE # CHANGE REASON
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17
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 20
 21 Under penalties of perjury, I declare that I have read
 22 the foregoing document and that the facts stated in it
 23 are true.

24 _____
 25 BUDDY JOHNSON DATE

1 CERTIFICATE OF REPORTER
 2 STATE OF FLORIDA
 3 COUNTY OF POLK
 4 I, Joan L. Pitt, Registered Merit Reporter,
 5 Certified Realtime Reporter and Florida Professional
 6 Reporter, do hereby certify that I was authorized to
 7 and did stenographically report the examination of the
 8 witness named herein; that a review of the transcript
 9 was requested; and that the foregoing transcript is a
 10 true record of my stenographic notes.

11 I FURTHER CERTIFY that I am not a relative,
 12 employee, or attorney, or counsel for any of the
 13 parties, nor am I a relative or employee of any of the
 14 parties' attorney or counsel connected with the action,
 15 nor am I financially interested in the outcome of this
 16 action.

17 DATED THIS _____ at Lakeland, Polk
 18 County, Florida.
 19
 20

21 JOAN L. PITT, RMR, CRR, FPR
 22
 23
 24
 25