

1 UNITED STATES DISTRICT COURT FOR THE
2 NORTHERN DISTRICT OF FLORIDA
3 TALLAHASSEE DIVISION
4 CASE NO. 4:07cv402 SPM/WCS

5 FLORIDA STATE CONFERENCE OF
6 THE NATIONAL ASSOCIATION FOR
7 THE ADVANCEMENT OF COLORED
8 PEOPLE (NAACP), as an
9 organization and representative
10 of its members, et al.,

11 Plaintiffs,

12 vs.

13 KURT S. BROWNING, in his
14 official capacity as Secretary
15 of State for the State of Florida,

16 Defendant.

17 _____/

18

19 DEPOSITION OF PHILLIP E. "BUDDY" JOHNSON
20 Volume I
21 Pages 1 - 68

22

23 Tuesday, October 23, 2007
24 3:12 p.m. - 4:26 p.m.

25

Supervisor of Elections
2514 North Falkenburg Road
Tampa, Florida

26

27

28

Reported By:
29 Loretta Lee, FPR
30 Notary Public, State of Florida
31 Esquire Deposition Services, LLC
32 Tampa Office Job #899887
33 Phone: 813.221.2535

1 APPEARANCES:

2 Lauren M. Rothenberg, Esquire
3 Paul, Weiss, Rifkind, Wharton & Garrison
4 1285 Avenue of the Americas
5 New York, New York 10019-6064
6 (212) 373-3242
7 Attorney for Plaintiffs

8
9 Andre V. Bardos, Esquire
10 GrayRobinson, P.A.
11 301 South Bronough Street
12 Suite 600
13 Tallahassee, Florida 32301-1724
14 (850) 577-9090
15 Attorney for Defendant
16 (Appeared via telephone conference call)

17
18
19 Kathy C. Harris, Esquire
20 601 East Kennedy Boulevard
21 16th Floor
22 Tampa, Florida 33602-4932
23 (813) 276-8270
24 Attorney for Hillsborough County
25 Supervisor of Elections

19 ALSO PRESENT:

20 James Reed
21 David Parks

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I N D E X

	PAGE
WITNESS: PHILLIP E. "BUDDY" JOHNSON	
Direct Examination by Ms. Rothenberg	4
CERTIFICATE OF OATH	65
CERTIFICATE OF REPORTER	66
ERRATA SHEET	67
INSTRUCTIONS TO WITNESS	68

E X H I B I T S

NUMBER	DESCRIPTION	PAGE
Exhibit 1	Letter dated April 7, 2006	51
Exhibit 2	Dear Voter Letter	53

1 PHILLIP E. "BUDDY" JOHNSON,
2 acknowledged having been duly sworn or affirmed to tell
3 the truth and testified upon his oath as follows:

4 THE WITNESS: I do.

5 DIRECT EXAMINATION

6 BY MS. ROTHENBERG:

7 Q. Good afternoon, Mr. Johnson. My name is Lauren
8 Rothenberg and I work for the law firm of Paul, Weiss,
9 Rifkind, Wharton & Garrison. As you know, we represent
10 the plaintiffs in this litigation, the NAACP, et al.

11 The purpose of this deposition is to learn a
12 few facts about what Hillsborough County is doing with
13 respect to some of the identity verification
14 requirements set forth under the Florida statute, so
15 it's really to find out what you guys are doing.

16 Before we start, I just want to go over a few
17 ground rules. You know you're under oath this
18 afternoon. I was going to get to that, but please when
19 you're answering my questions, please make sure that you
20 answer with a yes or a no answer and state your answer.
21 Don't just --

22 A. You made a statement, so I wasn't sure it was a
23 question.

24 Q. It was a question. You know you're under oath
25 this afternoon?

1 A. Yes.

2 Q. So like I said, please, you know, answer --

3 A. I didn't realize you asked a question.

4 Q. So the reporter can get the transcript down
5 cleanly, if we interrupt each other, please be sure I
6 finish my question before you start your answer, and
7 I'll let you finish your answer before I start my next
8 question.

9 Ms. Harris or Mr. Bardos may object to some of
10 my questions, so you should still answer the question
11 unless they instruct you not to answer.

12 Let me know if you need a break at any time,
13 but I think we'll be pretty short this afternoon, so
14 hopefully there won't be a need for a break.

15 A. Sure.

16 Q. Did you prepare for this deposition at all?

17 A. What do you mean?

18 Q. In any way, did you review any documents?

19 A. I read the first page of the -- of this, the
20 Secretary of State's motion and I read one section of
21 the law.

22 Q. And what section of the law was that?

23 A. The one that applies to the case, 97053(6).

24 Q. Throughout the deposition I'm probably going to
25 refer to that as subsection 6. Are you okay with that?

1 A. Sure. Yes.

2 Q. Did you review the subpoena that was served on
3 you in this case?

4 A. No. I'm not named in the subpoena, correct?

5 Q. It was the deposition subpoena.

6 MS. HARRIS: He just got it today.

7 BY MS. ROTHENBERG:

8 Q. You didn't receive a copy of that last week?

9 MS. HARRIS: I did.

10 BY MS. ROTHENBERG:

11 Q. And, Mr. Johnson, did you receive a copy of
12 that subpoena?

13 A. I received a copy of it as we were sitting
14 here, with a check for \$40.

15 Q. But Miss Harris did not share with you the
16 contents of that subpoena before right now?

17 A. I did not read the contents, no.

18 MS. HARRIS: I just briefly went over what the
19 issues were and told him to just answer your
20 questions.

21 THE WITNESS: Right.

22 BY MS. ROTHENBERG:

23 Q. But you didn't actually review the contents
24 yourself?

25 A. No.

1 Q. And so you were not responsible for producing
2 documents pursuant to that subpoena?

3 MS. HARRIS: I produced the documents and sent
4 them to you.

5 BY MS. ROTHENBERG:

6 Q. Mr. Johnson, can you answer the question,
7 please?

8 A. Restate the question.

9 Q. Were you responsible for producing documents
10 pursuant to that subpoena?

11 A. I've instructed counsel to handle this case,
12 and with all the -- in all the right ways she should
13 handle the case.

14 Q. Okay.

15 A. As we do everything we do here.

16 Q. Now, did reviewing the Florida statute or the
17 Secretary of State's motion to dismiss refresh your
18 recollection about any of the issues that we're going to
19 be talking about today?

20 A. Did review of the law refresh --

21 Q. Your recollection about the --

22 A. I don't think I really needed any refreshing.
23 It's my business, but --

24 Q. So you're familiar with the contents of
25 subsection 6?

1 A. I read it just a few minutes ago.

2 Q. And did -- were you generally familiar with the
3 contents of subsection 6 prior to your review of it a
4 few minutes ago?

5 A. Yes.

6 Q. And did your review highlight anything that you
7 had failed to remember about the contents of subsection
8 6?

9 A. No.

10 Q. Okay. Let's just do a little bit of questions
11 about your background.

12 Can you state your full name for the record?

13 A. Buddy Johnson.

14 Q. And what is your current position?

15 A. Supervisor of Elections, Hillsborough County.

16 Q. How long have you held that position for?

17 A. Since February of '03.

18 Q. Did you hold any other elected office prior to
19 that time?

20 A. I did.

21 Q. What was that?

22 A. State representative.

23 Q. How long did you serve as state representative?

24 A. Just under six years.

25 Q. During what years?

1 A. '91 to '96.

2 Q. And what did you do between 1996 and 2003?

3 A. Well, I was in the restaurant business and sold
4 my business in there and had a couple other jobs.

5 Q. What degrees do you hold?

6 MS. HARRIS: Objection. What does that have to
7 do with this? Can we just move on to something
8 else?

9 Don't answer that question.

10 MS. ROTHENBERG: Okay.

11 BY MS. ROTHENBERG:

12 Q. Can you describe generally your role as county
13 supervisor?

14 A. How --

15 Q. Your day-to-day duties as county supervisor.

16 A. I manage an office of 33 employees, all the
17 functions of all the 67 counties. Supervisors of
18 Elections in the state of Florida is very similar. We
19 just happen to be one of the larger ones.

20 Q. Do you correspond with the other Supervisors of
21 Elections from the other counties at all?

22 A. What do you mean correspond?

23 Q. Do you speak to them about the things that are
24 going on in their counties?

25 A. We have an urban-large county meeting, usually

1 quarterly. Most generally it's quarterly.

2 Q. Do you attend those regularly?

3 A. I do.

4 Q. Did you have any role in developing Florida
5 Statute 97053, and more specifically subsection 6?

6 A. Did I have any role in developing --

7 Q. Did you have any input in the development of
8 that statute?

9 A. Not particularly. Not any particular input.

10 Q. Have you received any training regarding the
11 implementation of the procedures that are -- the voter
12 registration procedures outlined in that statute?

13 A. I'm a CERA graduate. That's the only graduate
14 degree in our business.

15 Q. What does that stand for?

16 A. Certified Election Registration Administration.
17 The election center in Houston.

18 Q. When did you attend that?

19 A. It's not a one-time deal. It's over a
20 couple-year period. Classwork.

21 Q. What few years are you referring to?

22 A. I started in '03 and it's been since those --
23 that time period, '03 until now.

24 Q. Have you attended any training sessions
25 specific to Florida statute 97053(6)?

1 A. I'm not aware of any specific -- I'm not aware
2 of the training that you are obviously referring to.

3 Q. Do you know whether there has been any training
4 of the county election supervisors after the passage of
5 that statute about how the election supervisors are
6 supposed to deal with what's set forth in that statute?

7 A. Each county has a relationship with their
8 software vendor, and the training is done between
9 those -- the vendor and the county.

10 Q. But there was no statewide training for the
11 county election supervisors regarding how they were
12 supposed to deal with the contents of that statute?

13 A. There are two annual -- semi-annual elections
14 conferences, and the division is at -- attends those or
15 they presented those conferences. And there may have
16 been from the -- instruction, but there's been no -- at
17 those two meetings there was no hands-on training, as I
18 understand your question.

19 Q. Do you remember any discussion of subsection 6?

20 A. Not in particular.

21 Q. Do you remember receiving any written --

22 A. It's the guts of our business.

23 Q. Do you recall receiving any written materials
24 regarding the implementation of subsection 6?

25 A. From?

1 Q. From anybody.

2 A. Well, our vendor would be handling the training
3 of the staff here, so -- but that -- my function is not
4 to input data.

5 Q. And who is the vendor?

6 A. John Winchester.

7 Q. The State has not set forth any training for
8 its -- any written materials as far as broad policy
9 guidelines about --

10 MS. HARRIS: Specifically for the supervisor?

11 MS. ROTHENBERG: Yeah.

12 MS. HARRIS: You asked for the supervisor?

13 Okay.

14 MS. ROTHENBERG: I don't understand what you're
15 asking.

16 MS. HARRIS: Well, you're asking did the State
17 do any training specific for Supervisor of
18 Elections?

19 MS. ROTHENBERG: Exactly.

20 BY MS. ROTHENBERG:

21 Q. Has the State done any training or given you
22 any written materials specifically regarding the policy
23 behind subsection 6 and how to implement subsection 6?

24 A. What aspects of that?

25 Q. Anything relating to that subsection.

1 A. No specific to that one section of this statute
2 book that I'm aware of.

3 Q. Anything more generally relating to that
4 statute?

5 A. No.

6 Q. You mentioned that you have a staff of 33
7 people in this office; is that right?

8 A. Full-time. Thirty-three full-time people.

9 Q. How many part-time people?

10 A. It varies. It depends on the time of the year.

11 Q. Can you tell me between -- what is it at its
12 highest and what is it at its lowest?

13 A. We might have as many as 200 what we call
14 temporaries, affectionately referred to, almost seems
15 like part of our full-time family; and in the business
16 you refer to the off-season, which there is no
17 off-season in this business, you would be down maybe
18 five or ten in some of the local ones, ten, fifteen.

19 Q. Can you describe for me what the off-season is
20 considered to be?

21 A. Well, there is no off-season in my mind because
22 we do enormous amounts of planning in the time when
23 there is no election at hand. Typically, the season is
24 when there's an election cycle, when you're in the
25 election cycle.

1 Q. And do you have 200 temporaries for both
2 presidential elections as well as non-presidential
3 elections, or is that number larger in the year of a
4 presidential election?

5 A. There tends to be more -- actually, I would say
6 for the -- are you asking about the governor's race?

7 The federal elections probably have about the
8 same number, but in the city of Tampa, of course -- we
9 only have three municipalities in the Hillsborough
10 County.

11 Q. When do you start your hiring for -- if the
12 election is in November, when do you start bringing on
13 most of these temporary employees?

14 A. It depends on what the nature of the changes
15 that we're -- in other words, there's been a lot of
16 changes in -- since I've been here. It's been a
17 constant flux with legislative changes. Depends on the
18 department, or the business, what's happening in the
19 various departments. If you could be more specific?

20 Q. Sure. So since 2003, prior -- you know, if you
21 can remember --

22 A. I beg your pardon?

23 Q. You've been here since 2003, right?

24 A. If I can remember what?

25 Q. If you can remember prior to each November

1 election when you started bringing on -- are there
2 any -- in 2004, for example --

3 A. If you could be specific with what kind of
4 employee you were asking about? I'm not accustomed to
5 being asked if I remember before I get asked the
6 question.

7 Q. In the 2004 presidential election, for
8 example --

9 A. Did you understand my comment?

10 Q. I did. I was just prefacing --

11 A. Okay.

12 Q. In the 2004 presidential election, when did you
13 start bringing on temporary employees?

14 A. In what department?

15 Q. Can you tell me what departments -- let's start
16 with what departments are there?

17 A. Is that -- you want me to describe the
18 organization and then the advent of temporaries into
19 each department?

20 Q. I think that would help, because you seem to be
21 referring to different organizations within the --

22 A. Are you going to ask me questions about all the
23 various organizations? I thought this was about voter
24 registration issues.

25 Q. It is, but --

1 A. What does that have to do with prepping touch
2 screen voting machines?

3 Q. Can you break down the categories of
4 departments that you're hiring temporary employees into?

5 A. Sure, I can.

6 Q. That would be great. Go ahead.

7 A. Generally speaking, you've got outreach, you've
8 got voter services, you've got prep for the equipment
9 itself, you've got poll worker training, you've got poll
10 worker, you've got polling site lease procurement,
11 management, you've got the whole realm of voter
12 education through the media, through your training
13 session, through our schools program. You have quite a
14 few number of -- quite a few temporaries that help us in
15 our efforts to educate kids in school.

16 We have a lot of folks that come in, depending
17 on the advent of early voting. We pioneered early
18 voting in 2004. And if the basic -- primarily voting
19 with the touch screen is, you load all the ballot styles
20 into the touch screen machine so you don't have to have
21 stacks and stacks and stacks of ballot styles. And it
22 takes lots of folks to do both the prep for the testing,
23 the scripting, and then the actual test, the logic and
24 accuracy tests. Lots of logistical pieces, actually
25 moving equipment around in a space, which you can see

1 our space, if you like. And then actually running the
2 test, the ascriptive test.

3 And the temporaries that we would use to help
4 our permanent employees in that area start -- the
5 technical temporaries are more of the ones who are here
6 year round. There are a few of those and we depend on
7 them.

8 Q. Okay. That's great.

9 A. That's just one department, but I'd be happy
10 to --

11 Q. So the departments that I guess I'm most
12 interested in are the poll worker training departments
13 and the voter registration departments.

14 A. That's what I was asking in the beginning.

15 Q. I wanted to know, though, what the other
16 various departments that you were hiring temporaries.

17 A. You want me to tell you --

18 Q. The full spectrum.

19 A. -- job is.

20 So poll worker training and voter registration?

21 We call that voter services.

22 MS. HARRIS: Did you ask a question about that?

23 You said you're most interested in --

24 MS. ROTHENBERG: I said how many temporaries
25 were hired into those departments.

1 THE WITNESS: Is that your question?

2 BY MS. ROTHENBERG:

3 Q. But you were starting to answer. You called
4 those together voter services; is that correct?

5 A. Voter services would be that department that
6 handles the entire process of what I thought you were
7 most interested in.

8 Q. That is.

9 A. The procurement of applications, the education
10 of the voting public about how you register to vote. Of
11 course, there's a tremendous emphasis or a new -- we
12 have language issues, so we have that education; we have
13 minority education, section 5 county. So we do lots of
14 outreach with, quote, "temporary folks."

15 And then to your primary area of concern, as I
16 understand it, in voter services, it really depends on
17 the volume, the anticipated volume of business, which is
18 the number of applications that you would receive. And
19 I think that's what you might have been trying to get to
20 earlier, in that you try to predict as best you can how
21 many -- for instance, we had -- we might have 1,000
22 delivered in one day from a group. We might have 5,000
23 delivered. And then you have a certain statutory 15-day
24 period to get those done. And the management of those
25 resources is at best an art form.

1 Q. Would you say that the numbers have fluctuated
2 with respect to the temporary employees that you've
3 hired into the voter services division since you started
4 in 2003 and now?

5 A. In a variety of different ways have they
6 fluctuated. If you could be more specific, I'd be happy
7 to answer your question.

8 Q. I mean, I'd like for you to explain what you
9 mean in a number of different --

10 A. It depends on how close you are to the
11 election. It depends on how interested outside groups
12 are in getting people registered to vote. I could give
13 you the names of some, which you probably know. I mean,
14 we had 27,000 applications for voter registration
15 delivered on one day for '04. It's hard to anticipate
16 that with no warning, with no preparation.

17 MS. HARRIS: And he -- just so you understand,
18 he -- and I can answer that question, because he's
19 being the supervisor, not managing the day-to-day,
20 you know, how many temps do we need today based on
21 the mail that comes in.

22 MS. ROTHENBERG: Mr. Johnson can answer the
23 question to the best of his ability because he's the
24 one being deposed today.

25 MS. HARRIS: To the best of your ability, do

1 you know how many temporaries you have in voter
2 services?

3 THE WITNESS: What time of year?

4 BY MS. ROTHENBERG:

5 Q. I'd like to know between 2003 when you started
6 and now between, say, you know, are you --

7 A. Are you most interested in the year-to-year
8 range? Are you most interested within a year?

9 Q. Let's just -- between 2003 and 2004, did you
10 hire a lot more people prior to the presidential
11 election in 2004 than you did for the election in 2003?

12 A. We didn't have a federal election in 2003. We
13 had a City of Tampa election, the City of Plant City
14 election in 2003.

15 So the answer to your question is absolutely.

16 Q. And how many temporaries would you estimate
17 that you hired in 2003 versus 2004?

18 MS. HARRIS: Objection. He doesn't know how
19 many temporaries we hired.

20 MS. ROTHENBERG: He may be able to answer.

21 BY MS. ROTHENBERG:

22 Q. Mr. Johnson, if you can answer the question --

23 A. I'm trying to -- if you'll tell me what you're
24 really after, I'll be happy to answer the question.

25 Q. You're sworn under oath. If you can answer my

1 question, you can answer my question.

2 Can you tell me how many employees that you
3 hired, to the best of your knowledge, in 2003?

4 A. I do not know the exact number of people, the
5 exact number of temporaries that we hired, no, I do not.

6 Q. Do you know generally?

7 A. I don't -- this is a very precise business and
8 I'd like to give you a precise answer. And I don't know
9 the exact number of temporaries that I hired.

10 Q. You said it fluctuates up to 200. Would you
11 say that you hired 200 temporaries in the fall of 2004?

12 MS. HARRIS: He's answered it.

13 MS. ROTHENBERG: He's not answered it.

14 THE WITNESS: I did answer your question.

15 BY MS. ROTHENBERG:

16 Q. In the fall of 2004, did you hire 200 temporary
17 employees prior to the presidential election?

18 MS. HARRIS: He can't tell you that.

19 MS. ROTHENBERG: He can answer if he knows.

20 THE WITNESS: You're going back and forth
21 between questions. The answer when I gave you 200
22 was operation-wide, office-wide. But if you want me
23 to narrow it down to voter services, no, I don't
24 have a specific answer for that.

25 MS. HARRIS: We can get you those exact

1 numbers, though. We'll be happy to.

2 MS. ROTHENBERG: Great.

3 THE WITNESS: And I can almost say that I would
4 say exactly the same thing that counsel here has
5 said, that there is a -- we are up to 200 plus or
6 minus through the course of our -- because I know
7 from a managerial standpoint. What I deal with are
8 the totals and -- but if you want me to break out
9 into categories, I didn't prepare for that today.

10 BY MS. ROTHENBERG:

11 Q. Just one more question in this area.

12 After the passing of subsection 6, has your
13 office prepared to hire more temporary employees in the
14 area of voter registration than it had prior to the
15 passage of subsection 6?

16 A. For subsection 6 only? No.

17 Q. More generally, as a result of changes in the
18 law in 2006, has your office hired or planned to hire
19 more temporary workers in the area of voter services?

20 A. No, because what we do, we track what our
21 people do and we use -- we cross train. And if one
22 department is -- and we're trying to correlate what
23 departments are less busy at certain times of the year
24 with those that are more busy; i.e., registrations,
25 prepping machines, da-da-da, and we'll train people to

1 do that. So that's why we have one of the lowest per
2 voter employment numbers in the state.

3 MS. HARRIS: We can get you those exact
4 numbers.

5 MS. ROTHENBERG: Okay. Thank you.

6 BY MS. ROTHENBERG:

7 Q. Are the people in your office considered to be
8 state employees or are any of them independent
9 contractors, the temporary employees?

10 A. I don't know what the definition of independent
11 contractor is as you ask it. They're not state
12 employees. I believe, you know, the county writes the
13 check.

14 Q. Okay. What I'd like to do next is to just go
15 through the voting application process in Hillsborough
16 County just from the beginning to the end. And the more
17 detail that you can give me, the better. Just to give
18 you a sense of where I'm going to go. I'd first like to
19 discuss how voter applications are processed by your
20 office and then talk about what happens on election day;
21 and after that what happens after the polls close, and
22 then finally the canvassing board process.

23 A. As it relates to registrations for --
24 applications for registration?

25 Q. As it relates to that. Through the whole voter

1 registration process.

2 A. You know, we do have a -- you know what book
3 closing is?

4 Q. Yes.

5 A. Election day, I'm not sure how applications --
6 but I'll be happy to answer your question.

7 Q. Okay.

8 A. Thank you for the --

9 Q. The overview?

10 A. Right.

11 Q. So, first, can you just list for me all the
12 ways in which your office receives voter applications?

13 A. The bulk of the applications come from the DMV.

14 Q. Okay. Can you estimate what percentage?

15 A. Sixty-five, seventy. And then as -- you know,
16 as you are sure aware, the statutes allow for
17 registrations to be collected at governmental agencies,
18 my offices, public libraries, and we have -- we train
19 any group that wants to secure or to hold registration
20 drives, we will train them, plus we do some of our own
21 registration drives. We're very active in the
22 citizenship ceremonies where people become citizens to
23 make sure they have the opportunity to register to vote
24 there. And then, of course, there are the massive
25 numbers of 527s and those kind of groups.

1 Q. What is 527?

2 A. Just the groups that are collecting
3 registrations for whatever.

4 Q. And what percentage of applications would you
5 say are just mailed into your office?

6 A. I don't have that number off the top of my
7 head.

8 Q. You say it's a small percent?

9 MS. HARRIS: He just answered that question.
10 He doesn't know.

11 MS. ROTHENBERG: He said he doesn't have a
12 number.

13 THE WITNESS: I don't have a percentage number,
14 an empirical number. I'd be happy to get that.

15 MS. HARRIS: If he says I don't know, will that
16 keep you from repeating the questions over and over
17 again?

18 MS. ROTHENBERG: I was asking a different
19 question.

20 MS. HARRIS: Seemed like the same question to
21 me.

22 BY MS. ROTHENBERG:

23 Q. So how do you receive applications from the
24 DMV, which it's the DHSMV in Florida, right? Is that
25 the proper --

1 MS. HARRIS: They come in the mail.

2 MS. ROTHENBERG: You're not being deposed,
3 Ms. Harris. I'm asking Mr. Johnson.

4 MS. HARRIS: I'm trying to move this along.

5 MS. ROTHENBERG: But you're not giving
6 testimony today.

7 MS. HARRIS: I'm not. I'm just sitting here
8 chitchatting.

9 MS. ROTHENBERG: So we'll move things along if
10 you stop chitchatting.

11 THE WITNESS: Just ask me your questions if you
12 don't mind, please.

13 BY MS. ROTHENBERG:

14 Q. I was trying to do that.

15 A. Just look at me and I'll answer your questions.

16 Q. If Ms. Harris can refrain from butting in.

17 How do you receive applications from the DHSMV
18 or the DMV, whatever you're comfortable with?

19 A. We receive them in the mail, like we do many
20 other groups' applications.

21 Q. So they're not transmitted electronically at
22 all?

23 A. Applications for registration?

24 Q. The applications, they're all transmitted in
25 the mail?

1 A. I don't know how you do an original signature
2 if --

3 Q. Okay. That was my question.

4 A. It's fundamental.

5 Q. Are applications from the DMV first sent to
6 Hillsborough County for processing, or do you receive
7 them from the Florida voter registration service?

8 A. The paper itself?

9 Q. Yeah.

10 A. We receive them from DMV, but the specifics of
11 that circuitry is not something that I'm intimately
12 familiar with.

13 Q. So you don't know --

14 A. I manage the people who manage those details.
15 I don't know exactly where they're mailed to first.

16 Q. So you don't know whether the Florida
17 registration -- voter registration service sends things
18 to you or you send things to them?

19 A. I don't know what the Florida registration
20 service is. That's not an organization. It's a system.

21 Q. Okay. But for inputting into the system, does
22 Hillsborough County send that information on to the
23 Florida voter registration service, or does it --

24 A. I'll be happy to get you like a flow chart of
25 the myriad of ways that applications are received and

1 the checks and the verifications.

2 You used the term match. I don't know about
3 matching, but the verifications are done and we...

4 Would you like a flow chart? I can get you
5 one.

6 Q. That would be great.

7 A. Okay.

8 Q. So do you have any sense of the process in
9 which your office receives the applications and then the
10 applications get input into the Florida voter
11 registration system?

12 A. Was that a serious question?

13 Q. Well, you testified --

14 A. Did you ask me if I have any idea of the --

15 MS. HARRIS: Any sense of is what she said.

16 BY MS. ROTHENBERG:

17 Q. Of the actual process.

18 A. Is that a serious question?

19 Q. It is.

20 A. Yes, I do.

21 Q. Can you explain to me? You said you have
22 people in your office who deal with these things, so I
23 wasn't sure.

24 A. Do I have any sense of the way we receive
25 applications for voter registration? Yes.

1 Q. Do you have any sense of how those are sent to
2 the Florida -- or input into the Florida voter
3 registration system?

4 Can you describe the mechanics by which the
5 applications are input from this office into the
6 Florida --

7 A. On a keyboard like this in front of -- you have
8 the voter application by your side and you --

9 Q. That's my question. So an employee of this
10 office receives the application from the DMV, the paper
11 application; is that right?

12 A. I'll be happy to get you a flow chart. I don't
13 think it's in your --

14 Q. If you could answer the question, that would be
15 great, too. I would love to see a flow chart. But if
16 you know, if the -- your office receives the application
17 from the DMV; is that right? You just said by mail?

18 A. From the DMV.

19 Q. Yeah. And then does a person in your office,
20 an employee of your office manually input from that
21 application into the Florida voter registration system?
22 I just want a sense of how the process works.

23 A. The DMV that -- the state system does the
24 matching, the verification.

25 Q. But how do you get -- how does Hillsborough

1 County get its records?

2 A. Off of the applications.

3 Q. And so --

4 A. And this is voter services right over here that
5 inputs that data.

6 Q. So when your office receives the applications
7 from the DMV, they manually type that information --

8 A. Right.

9 Q. -- into your system?

10 A. Right.

11 Q. Okay. And at some point is that information
12 sent from Hillsborough County to the State?

13 A. You know, my job is not to -- I don't input
14 information. I manage the people who have been doing
15 this function for years. I'll be happy to give you a
16 flow chart for how that works, but -- and there are
17 myriad -- I've described the multiple ways we can -- the
18 sources of applications and I'll be happy to give you
19 all that information.

20 Q. I appreciate that, and I appreciate the flow
21 chart, but the flow chart isn't going to explain to
22 me --

23 A. I'd have to make the flow chart first.

24 Q. -- how the process works.

25 MS. HARRIS: He's answered that question four

1 times, and you keep rephrasing it and re-answering,
2 so I'm going to object.

3 Don't answer that question again.

4 BY MS. ROTHENBERG:

5 Q. Okay. Are you going to listen to your
6 counsel's instruction on that?

7 A. Absolutely.

8 Q. Okay. Do you know how the State receives
9 information from Hillsborough County in order to verify
10 the identity of the person that's filled out the
11 application?

12 A. Who -- the name of the person, the kind of
13 delivery -- no, I don't.

14 Q. You don't know whether it's electronically
15 transmitted to the State?

16 A. I answered your question.

17 Q. Do you know whether it's electronically
18 transmitted to the State?

19 A. I answered your question. I'm really getting
20 very impatient with your questions.

21 Q. Okay. Who in your office is responsible for
22 supervising the people who input the information?

23 A. At what level? Who reports to me? Who
24 reports --

25 Q. If you could give me the chain of command, that

1 would be great.

2 A. Assistant Supervisor of Elections, Jim Reed;

3 and --

4 MS. HARRIS: He can answer.

5 BY MS. ROTHENBERG:

6 Q. Okay. And then below Mr. Reed?

7 A. The manager of this facility is Tim Bridge, and

8 Sharon Smith is the voter services manager.

9 Q. So does Sharon Smith oversee the people who
10 were doing the actual data entry of the --

11 A. Yes.

12 Q. -- voter applications? Okay.

13 A. And has for many years.

14 Q. Okay. Thank you.

15 Does your office have any sort of proofing
16 mechanism for the data entry that they do off of the
17 paper applications or the applications received from the
18 DMV? Do they have any sort of mechanism for making sure
19 that the data is entered correctly?

20 A. Yes. The proofing is a part of the process.

21 There's entering and there's proofing.

22 Q. And do you know whether that is done before the
23 information is transmitted to the State?

24 A. Uh-huh. It wouldn't make sense to do it

25 afterwards.

1 MS. HARRIS: That's a chuckle chuckle.

2 BY MS. ROTHENBERG:

3 Q. Do you electronically image the paper
4 applications that you receive at all?

5 A. Yes. Like to do more, but...

6 Q. Are all applications electronically imaged?

7 A. Yes.

8 Q. When you say you'd like to do more, what more
9 would you like to do?

10 A. I'd like to scan everything that comes in here.

11 Q. Okay. But all applications are electronically
12 stored on your systems?

13 A. Yes.

14 Q. What is done with the paper applications after
15 they're electronically --

16 A. They're stored.

17 Q. Do you know whether the people who do the data
18 entry enter the data from the electronic image or from
19 the actual paper application?

20 A. Ask that again.

21 Q. When people are inputting data, do they do it
22 based on the electronic image or do they do it --

23 A. Paper.

24 Q. -- from the paper application?

25 A. Uh-huh.

1 Q. The answer is from the paper application?

2 A. Yes.

3 Q. Do you know how long it takes your office to
4 turn -- I'm sorry, strike that.

5 How long it takes your office to, from the time
6 they receive an application to the time that it gets
7 entered onto your system, what the general lag time is?

8 A. No, no.

9 Q. You don't know seasonally whether that varies
10 or not?

11 A. That's the answer to your question, because it
12 is depending on the volume of our --

13 Q. And do you know, when it's closer to election,
14 do things generally move faster?

15 A. There's no correlation because you have more
16 people -- when you're busier, you have more people. So
17 I'd have to give you a ratio of -- seriously, metrics
18 are important and we're trying to develop more and more
19 all the time.

20 Q. And does your office have a policy with respect
21 to the number of days prior to election that all
22 applications have to be input into the system?

23 A. Yes. Yes, we do.

24 Q. What is that policy?

25 A. I don't know.

1 Q. Okay. To your knowledge, has Hillsborough
2 County ever had any problems --

3 A. Whatever the law is governs our behavior.

4 Q. Okay. To your knowledge, has Hillsborough
5 County ever had any problems getting the information
6 entered by the deadline?

7 A. Problems in the sense that it was a legal
8 problem? No, we have not. It's a work challenge
9 because it's a big job.

10 I don't know what your question is, whether --

11 Q. Hillsborough County has always been able to
12 comply with the --

13 A. Yes.

14 Q. -- deadline?

15 A. We're in compliance. On my -- on my -- since
16 I've been here. I don't know about before.

17 Q. Right. And people are -- in your office are
18 working very hard to make that happen. A big crunch
19 right before the deadline, right?

20 A. My people work hard to get things done.

21 Q. Is the office generally busier just prior to a
22 deadline? Are people working longer hours?

23 MS. HARRIS: Busier than?

24 THE WITNESS: Well, it's back to how many
25 people we have, yes. It's more intense. That's

1 when we're in the middle of our season, as I was
2 trying to describe to you earlier.

3 BY MS. ROTHENBERG:

4 Q. Would you say that that busy season here
5 continues until the election is actually certified?

6 A. Well, you're talking about inputting voter
7 registrations, and then you're saying does it continue
8 to certification. But there is no --

9 Q. Do you keep those temporaries --

10 A. That's why I asked you if you know what book
11 closing was.

12 Q. Do you keep your temporary employees on after
13 the election to deal with any issues that arise prior to
14 the certification of the election?

15 A. On an as-needed basis. It just depends. It's
16 a management -- that's a management function, a judgment
17 call. We try to keep our expenses, our labor expenses
18 as low as we can.

19 Q. About what percentage of people would you say
20 that you keep on after the actual election day?

21 MS. HARRIS: Isn't that back to that same
22 question you were trying to get him to answer that
23 he already answered?

24 THE WITNESS: It's -- you know, we cross train,
25 we do all sorts of things.

1 And that was a polite way of objecting to the
2 question.

3 MS. HARRIS: I'm sorry. Objection.

4 BY MS. ROTHENBERG:

5 Q. So the employees who do the actual data entry
6 from the paper applications, are they trained in any
7 way?

8 A. The -- say that again.

9 Q. The people who do the data entry from the
10 applications --

11 A. Yes, they're trained.

12 Q. -- do they go through training?

13 A. Yes.

14 Q. Who trains them?

15 A. This veteran staff that's here.

16 Q. And can you give me some --

17 A. In conjunction with the vendor -- our vendor
18 for that software in that whole process.

19 Q. Does Ms. Smith do the training?

20 A. She's manager of that department, but there are
21 others that do training as well, in addition to just
22 her.

23 Q. And do you know what the content of their
24 training is?

25 A. All the -- all the functions that are required

1 to do the job according to the law, the statutes.

2 Q. Do they receive training in what to do if an
3 application is illegible or difficult to read?

4 A. Yes.

5 Q. And do you know what they're told to do?

6 A. Well, we practice common sense, good judgment,
7 look at it to see if you can understand what it says.
8 If you can't, then you can't. And if you can, you can.

9 Q. Are they told to contact the person who
10 submitted the application?

11 A. Oh, yes. Yeah. Yes, yes. Yeah, we write
12 letters.

13 MS. ROTHENBERG: Miss Harris --

14 MS. HARRIS: Object to form.

15 THE WITNESS: We go to -- we go to great
16 lengths to err on the side of the voter when it
17 comes to placing a person in a position to vote,
18 cast a vote.

19 BY MS. ROTHENBERG:

20 Q. Once the application information is received by
21 the Florida voter registration system, does your office
22 receive feedback acknowledging whether that registration
23 has been completed?

24 A. Well, the law requires that it be complete, so
25 yeah, it's a team effort, but yes.

1 Q. But --

2 A. I don't know the particular form, but yes.

3 Q. Do you know whether you receive electronic
4 notice?

5 A. You know, I do not. But I'm sure Mr. Reed and
6 Ms. Smith do. The question I ask is, are we in
7 compliance with the law and are we doing things right.
8 That's generally my job. Not to operate the keyboards.
9 Do you understand what I'm saying?

10 Q. I do understand what you're saying.

11 A. Thank you.

12 Q. Do you have any idea how long it takes the
13 State to verify whether or not a person's information on
14 the voter application matches the information that's --

15 A. I don't.

16 Q. -- in the database?

17 A. No.

18 Q. Do you know whether your office receives notice
19 both that a registration has been completed and that a
20 registration has not been able to be verified? Does it
21 receive notice in both of those situations?

22 A. I don't know the specifics of that but, yes, we
23 would have to know so we could do our letter mailing
24 such as that.

25 Q. Do you know if a registration was not able to

1 be verified whether the --

2 A. Let me ask you. Is this a quiz about the
3 specifics of the inputter's job that I know? What is
4 your intent here?

5 Q. It's not a quiz. We're just trying to find out
6 as much --

7 A. It feels like a quiz. I just wanted to tell
8 you it feels like a quiz. And I'm answering you the
9 same way over and over again. And I think I'm more
10 frustrated than Ms. Harris is. So if you could just --

11 Q. I'm just trying to ask you as much information
12 as you know about -- all we're trying to do is find out
13 what Hillsborough County does and the mechanism in which
14 the, you know, the way --

15 MS. HARRIS: Objection. You're trying to find
16 out what he knows, not what -- because if you want
17 to know what Hillsborough County does, there are
18 some other people you probably need to talk to in
19 terms of who keys in what, how the mail comes in and
20 things like that.

21 BY MS. ROTHENBERG:

22 Q. Mr. Johnson, I'm not trying to quiz you. As
23 much information as you know about Hillsborough County
24 operates, that's helpful to us.

25 A. I know everything that I need to know to do my

1 job as the Supervisor of Elections, but I don't need to
2 know some of the specific nuances of the answers that
3 your questions are looking for.

4 Q. I'm not saying you do.

5 A. Just informational purposes. I'm just trying
6 to share with you that we could be here for weeks if you
7 want to know all the details of the job.

8 Q. I understand that. And I know that you don't
9 need to know everything, but to the extent that you do
10 know the answer to some of the questions --

11 A. I respect what you're trying to do. I mean --
12 yes.

13 Q. If you don't know, just say I don't know.

14 A. I do know. I just --

15 Q. That would be great.

16 MS. ROTHENBERG: Would you be able to read back
17 my last question?

18 (Record read by the reporter.)

19 BY MS. ROTHENBERG:

20 Q. So, Mr. Johnson, let me start again.

21 When a registration is not able to be verified,
22 do you know whether the Florida voter registration
23 system gives you the specific reason why the --

24 MS. HARRIS: Object to the form. He's already
25 answered that question.

1 MS. ROTHENBERG: No, he has not --

2 MS. HARRIS: Objection to form.

3 Do not answer the question.

4 MS. ROTHENBERG: I did not finish my question.

5 MS. HARRIS: Finish, and then I'll say the same
6 thing.

7 BY MS. ROTHENBERG:

8 Q. Okay. Are you familiar with the different
9 categories of reasons for non-verification that the
10 Florida voter registration gives?

11 Let me rephrase that.

12 Do you know whether the Florida voter
13 registration system breaks down by category the reasons
14 why they can't verify an application?

15 A. Yeah. There are more than one reason why they
16 can't verify, yes.

17 Q. Does Hillsborough County say that it was unable
18 to be verified because of the birth date versus the name
19 versus the driver's license number not matching?

20 A. The verification according to section 6 is done
21 by the department, which is the Department of State.

22 Q. Does the State tell Hillsborough County the
23 specific reason why the application was not able to be
24 verified?

25 MS. HARRIS: Object to the form.

1 Has the State ever told you that?

2 THE WITNESS: Not me directly, no.

3 BY MS. ROTHENBERG:

4 Q. Do you know whether that information is
5 transmitted to anybody in your office?

6 A. I'm sure that it is, if it's required by law.

7 Q. Do you know whether somebody in your office
8 receives a specific reason that an application is not
9 able to be matched or verified?

10 A. I do not personally know that specifically, but
11 if it's required by law, I'm sure the department --

12 Q. If it's not required by law, do you know what
13 the Florida voter registration system transmits to your
14 office?

15 A. It wouldn't be something that wasn't required
16 by law.

17 Q. Does the Florida voter registration system
18 identify whether the match -- the failed match was a
19 result of a failed match with the DMV database as
20 opposed to a social security database?

21 MS. HARRIS: Objection to form. He's already
22 told you he has not seen the Florida databases. You
23 keep re-asking the same questions --

24 MS. ROTHENBERG: I'm asking different
25 questions.

1 MS. HARRIS: -- about the same system. He's
2 already told you he doesn't sit at the keyboard and
3 key in the information.

4 THE WITNESS: I think you want someone who
5 works the system.

6 MS. HARRIS: We'll be happy to have you talk
7 with the staff people that do that.

8 MS. ROTHENBERG: Okay.

9 BY MS. ROTHENBERG:

10 Q. Do you feel that it has been burdensome on your
11 office, that your office has had to expend a lot of
12 resources to comply with this particular statute?

13 A. Subsection 6?

14 Q. Exactly.

15 A. No more than -- no, not in particular, no.

16 Q. Do you feel that it's diverted resources from
17 your office away from other office priorities at all?

18 A. No. As I said, we cross train and we work as a
19 team and we get our work done. No.

20 Q. Are you familiar with the matching or
21 verification problems that are most frequently
22 encountered by your office?

23 A. Again, the same -- your question is the same
24 question as all the rest of them. And matching -- it's
25 not a matching, it's a verification.

1 Q. Okay. I'll rephrase.

2 Are you familiar with which verification
3 problems are the most common ones that your office sees?

4 A. I couldn't give you those metrics.

5 Q. More generally, is it driver's license numbers
6 that are entered into --

7 MS. HARRIS: Are you rephrasing? Object to the
8 form. He's already answered. He doesn't know. He
9 just said.

10 THE WITNESS: There are several different ways
11 that -- there's all sorts of information. If you've
12 seen the application -- you've seen a motor
13 registration --

14 BY MS. ROTHENBERG:

15 Q. I have.

16 A. Then there's are all sorts of data that has to
17 be verified, and I'm sure that those significant fields
18 are the most commonly -- the most commonly incorrect.

19 Q. But you don't have any sense of the relative
20 errors that pertain to --

21 A. No, I don't, because it has nothing to do
22 with -- I don't need to keep up with those metrics. I
23 have plenty of other things to do to make sure we run
24 this office smoothly. Which category of objections or
25 incompletes or whatever on registrations for -- that is

1 not relevant to my job.

2 Q. Okay.

3 A. Thank you.

4 Q. Are you aware of whether any people in
5 Hillsborough County were forced to cast provisional
6 ballots since the implementation of this law because of
7 matching or verification issues?

8 MS. HARRIS: Object to the form. Forced to
9 file?

10 MS. ROTHENBERG: I'll rephrase.

11 THE WITNESS: Same question.

12 BY MS. ROTHENBERG:

13 Q. Are you aware of whether any people cast
14 provisional ballots as a result of verification issues
15 following the implementation of the statute?

16 A. Not specifically. Not a person -- not an
17 individual, no, I don't know of a specific case. I
18 can't think of a specific case, no.

19 Q. Okay. So similarly, then, you wouldn't be able
20 to estimate how many people cast provisional ballots
21 because of verification issues?

22 A. No, we -- no. No, I don't have those metrics.
23 It's not something I carry around in my head.

24 Q. Do you know what your staff does after
25 receiving notification from the State that there was a

1 failed match? And this is in the period prior to
2 election day.

3 A. We have a process for notifying the voter and
4 doing our dead level best to get that voter registered
5 to vote appropriately.

6 Q. Do you know whether your office does data entry
7 checks on their own or whether they just send a notice
8 to the voter as soon as they receive the --

9 A. Do I know do we do data entry checks?
10 Proofing.

11 Q. Do you go back and proofread?

12 A. At every input point we proof. So any time
13 we're reviewing, receive something back, we proof as a
14 standard part of our operation.

15 Q. I just want to clarify. You said at any input
16 point, but when you receive the notification that there
17 was a failed match, you would then again do proofing?

18 A. We double-check. It's a mantra that we always
19 review and do our best to make sure things are right.

20 Q. And --

21 A. And from a visionary standpoint, from the top,
22 that's the instruction that I give to my staff, is make
23 sure it's right.

24 Q. Right.

25 A. And then we develop -- our team develops

1 systems to make sure it's right. The commensurate
2 metrics that they need, with the commensurate staff that
3 they need, the technology, the equipment, and in
4 compliance with the law.

5 Q. So after you receive notice of a failed
6 verification, your office does then double-check the
7 data entry. At what point does your office send
8 notification to a voter that there was a failed match?

9 A. I can't give you that information off the top
10 of my head. I'll be happy to give you that or have you
11 speak with someone who can tell you our process. That's
12 a process that we follow, and I'm confident of the
13 process.

14 Q. And do you happen to know whether it's an
15 automated letter; if you receive a failed match, then
16 the applicant --

17 MS. HARRIS: Repeat the previous question for
18 me, please.

19 (Record read by the reporter.)

20 THE WITNESS: At what point does the office
21 send notification to the voter? At what point? You
22 want to know the precise time?

23 BY MS. ROTHENBERG:

24 Q. No. I mean -- and I think you answered this
25 question.

1 MS. HARRIS: He did.

2 MS. ROTHENBERG: Then I won't repeat it again.

3 MS. HARRIS: Thank you.

4 BY MS. ROTHENBERG:

5 Q. My next question is: Do you know whether it's
6 an automated -- an automatically-generated letter once
7 you receive notification of a failed verification from
8 the Florida voter registration?

9 A. Yes, in that I don't dictate a new letter every
10 time we have a failed verification, yes.

11 Q. Is there an employee that makes a determination
12 whether or not to send out a letter, or does the system
13 automatically prompt a letter that goes out to the
14 applicant?

15 A. It's a -- we have a -- we have a database that
16 tells us which voters need to be notified and the
17 employee takes that information and, you know, it's not
18 a -- we're not an office on auto pilot, if that's what
19 you're asking.

20 Q. My question is: Once you receive the notice of
21 failed verification, your office, you said, goes back
22 and does -- checks the data entry. Is it then at that
23 point they say we weren't able to figure it out on our
24 own, we'll send out a letter; or is it once you get --

25 A. I don't know the answer to that question.

1 Q. Okay. Are you familiar with the letters that
2 are sent by your office? Have you seen copies of them?

3 A. Yes. I have one somewhere here if you'd like
4 to read it.

5 Q. Not right now, but thank you.

6 A. Okay.

7 Q. Are you familiar with whether the notices go
8 out in both English and Spanish?

9 A. No, I'm not.

10 Q. Okay.

11 A. That's a good question.

12 MS. HARRIS: Finally. Sorry.

13 THE WITNESS: How would -- and I'll tell you
14 the reason that that's a good question is because
15 it's -- it's a good question.

16 BY MS. ROTHENBERG:

17 Q. Okay. Do you know whether it tells people what
18 specifically failed to match with the database, whether
19 it was their birth date or name --

20 A. When we have that information.

21 Q. I'm sorry?

22 A. When we have that information, yes. I wish I
23 had the letter here.

24 MS. HARRIS: She has it. I sent her the same
25 letter. She knows the answer to that question.

1 THE WITNESS: Again, back to the division of
2 the offices make it easy for people to get
3 registered, as easy as possible within confines of
4 the law. And whatever correction needs to be made,
5 we try to help the voter as best we can to do that.

6 BY MS. ROTHENBERG:

7 Q. Do you happen to know what percentage of -- I'm
8 sorry.

9 MS. HARRIS: That's the letter.

10 MS. ROTHENBERG: Thank you, Ms. Harris. Let's
11 enter the letter that Ms. Harris handed me as
12 Johnson Exhibit 1.

13 (Exhibit No. 1 marked for identification.)

14 BY MS. ROTHENBERG:

15 Q. Mr. Johnson, this letter was the letter you
16 were just referring to? It might help if you look at
17 the letter. Is this the letter that you were just
18 referring to?

19 A. I don't know that it's the particular one,
20 but...

21 Q. Let's talk about the contents of this letter.
22 The letter is addressed to a Ms. Stephanie Desangles?

23 A. I don't know if this is a draft, a working
24 draft of the letter, so...

25 Q. Okay.

1 A. It obviously wouldn't go out like this.

2 Q. Okay. But the content is the content of a form
3 letter prepared by your office, from what you
4 understand?

5 A. Yeah. This is a type of letter that we send to
6 help a person to complete their application.

7 Q. Okay. Now, I'm just going to read from the
8 letter. "This notice is to inform you that the voter
9 registration application you recently submitted was
10 incomplete because it did not include the minimum
11 information required by Florida law. You cannot be
12 registered to vote until you provide the required
13 information on a new voter registration application.

14 >Your application was incomplete because the
15 address you provided cannot be located, or is listed as
16 a business, on our computerized street file. Please
17 verify your correct Hillsborough County RESIDENCE
18 address and contact our office by phone. In addition,
19 you did not provide a RESIDENCE address. A Post Office
20 Box may be used for mailing purposes, by designating it
21 as the address where you get your mail, but you are
22 required to provide your legal residence address
23 (address where you live) in order to register to vote."

24 So this form letter is the form letter that you
25 send out when somebody does not provide a correct

1 address, right?

2 A. It is a letter that we send out. This is a
3 form of a letter.

4 Q. This is a form of a letter. But it
5 specifically addresses the situation in which somebody
6 doesn't provide the correct residential address, right?

7 MS. HARRIS: I think that second paragraph
8 changes depending on what the circumstances are.

9 THE WITNESS: It could be any number of --
10 again, we try our best to help the person --

11 BY MS. ROTHENBERG:

12 Q. But this --

13 A. -- complete their application.

14 Q. But this specific form letter has to do with
15 residential address and not the matching system, is that
16 right? There's no failed match with the State DMV or
17 social security?

18 A. It appears that that's the case.

19 Q. Okay. You can put that down. I want to do two
20 more of these that were produced by your counsel.

21 MS. ROTHENBERG: I'd like to mark this as
22 Johnson Exhibit 2.

23 (Exhibit No. 2 marked for identification.)

24 MS. ROTHENBERG: This was produced, I think, at
25 approximately 12:30 today by your counsel.

1 MS. HARRIS: Let me see.

2 BY MS. ROTHENBERG:

3 Q. And I'm just going to read from this letter.

4 "Dear Voter: We are in receipt of your request
5 for a change to be made to your file. However, there is
6 a discrepancy in the date of birth that we have on file
7 and the one on your request.

8 "Please indicate below your correct date of
9 birth. You must also provide proof. The proof can be a
10 copy of your birth certificate, driver's license, or
11 another legal document containing your date of birth."

12 The way this reads, pursuant to the first
13 sentence is, we are in receipt for a request for a
14 change to be made to your file, right? This letter
15 doesn't address the verification issues in subsection 6,
16 does it?

17 MS. HARRIS: That's correct.

18 BY MS. ROTHENBERG:

19 Q. Mr. Johnson?

20 MS. HARRIS: I sent it to you. He's never seen
21 that letter.

22 THE WITNESS: Not this particular one, no. Ask
23 your question again.

24 BY MS. ROTHENBERG:

25 Q. The way I read this letter, the first sentence

1 says we are in receipt of a request for a change to be
2 made to your file.

3 A. Right.

4 Q. So this is a letter that goes out to somebody
5 when there's a request for a change to be made to their
6 file, this is not a letter that goes out because of
7 failed verification with the Social Security or the --

8 A. Just like it says right there.

9 Q. Okay. Do you know whether there are letters
10 like this that go out to people who have failed
11 verification? Because I haven't seen any letters that
12 specifically address that situation.

13 A. Again, we make every effort we can to help the
14 voter or the prospective voter get their information
15 correct so they're properly registered to vote.

16 MS. HARRIS: Objection as to form. As we said,
17 those letters are generated from the computer and
18 then we don't save copies of them.

19 Didn't I e-mail you that today?

20 MS. ROTHENBERG: Miss Harris, your role is to
21 object to form --

22 MS. HARRIS: Object to the form.

23 MS. ROTHENBERG: -- not speaking objections.

24 Thank you.

25 MS. HARRIS: I just want to make sure you're

1 not trying to --

2 MS. ROTHENBERG: Mr. Johnson --

3 MS. HARRIS: You're asking a question and
4 putting evidence into the file that you know is not
5 complete and correct.

6 MS. ROTHENBERG: To the extent that there are
7 specific letters that go out that are form letters
8 that address the verification situation, we request
9 their production. Because I have not seen any --

10 MS. HARRIS: We've already answered that. We
11 do not save copies of those letters.

12 THE WITNESS: We don't have a file of copies of
13 the letters that we send to the voters.

14 MS. ROTHENBERG: Do you have all the various
15 form letters? Do you have a file of all the various
16 forms?

17 MS. HARRIS: They're computer-generated,
18 depending on the situation that comes up in the
19 system.

20 THE WITNESS: Right.

21 BY MS. ROTHENBERG:

22 Q. Who creates the text of these letters in your
23 office?

24 A. Well, some of the letters were very good when I
25 got here and we haven't changed them. Some we changed

1 the -- as the law changes, we adjust the letters.

2 And typically, that's back to your proofing
3 question, someone will draft a letter and then we'll
4 all -- we'll get input from more than just one person.

5 Are you asking who the drafter of the letter
6 is?

7 Q. I am.

8 MS. HARRIS: Computer.

9 THE WITNESS: Depends on who's the expert in
10 that area. Different people in the office have
11 different levels of experience and expertise.

12 I don't draft them, if that's what you're
13 asking.

14 BY MS. ROTHENBERG:

15 Q. It's not what I'm asking. Do you know whether
16 there has been a specific form letter drafted by your
17 office to address the issues in subsection 6 of a failed
18 verification as a result of a failed match with the
19 social security --

20 A. I do not -- I do not know that specific.

21 Q. Okay.

22 A. But I'm certain that we have.

23 Q. Okay. To the extent that a form letter
24 addressing verification issues exists in your files, we
25 request their production.

1 A. Okay.

2 Q. Do you have a sense of the total number of
3 non-verified applications that have been returned to
4 your office by the Florida voter registration system
5 since 2006?

6 A. I do not.

7 Q. And you have no way of approximating either?

8 A. I really don't. I couldn't do that. I know
9 that we're current, so we're -- our office is in great
10 shape. We stay on top of it. I have no...

11 Q. Do you know whether anyone from your office is
12 part of any ongoing working groups or attends regular
13 meetings with respect to the Florida voter registration
14 system?

15 A. No, not -- any formal group?

16 Q. Formal or informal, that -- part of any group,
17 statewide group to address issues that counties are
18 having --

19 A. I'm not aware of any group that exists, no.
20 Not any formal group.

21 Q. Do you have an understanding of whether the
22 Florida voter registration system is able to match
23 applications or where somebody fills out a nickname and
24 the driver's license, uses the full name, for example --

25 MS. HARRIS: Object to form. He's already told

1 you what he knows about the Florida voter
2 registration system --

3 MS. ROTHENBERG: Ms. Harris, I have not asked
4 this question yet.

5 MS. HARRIS: In general, he's answered this
6 question over and over again, and you just keep
7 rephrasing it.

8 MS. ROTHENBERG: This is a different question.

9 MS. HARRIS: If he tells you he's never seen
10 the Florida voter registration database --

11 MS. ROTHENBERG: This is not what the database
12 looks like, it's whether or not he knows whether one
13 particular instance is going to have a failed match
14 or not. I'll ask it again.

15 BY MS. ROTHENBERG:

16 Q. If you fill out an application using your
17 nickname, say you fill out an application and you write
18 Bud Johnson, but your driver's license says Buddy
19 Johnson on it, do you know if that will produce a failed
20 match?

21 A. I don't know that. Are you talking about in
22 the field for your name or the signature?

23 Q. Whether it will come back from the Florida
24 voter registration system saying that there was a failed
25 match.

1 A. I don't do the verification.

2 Q. Do you have any idea whether -- say you were
3 submitting your application using the last four digits
4 of your social security number and your application has
5 your last name as Johnson, J-o-h-n-s-o-n, and for some
6 reason your social security record doesn't have the H in
7 your name, so it's Jonson. Will that produce a failed
8 match?

9 A. I don't know.

10 Q. You have no idea whether they would be able
11 to make a match --

12 MS. HARRIS: Object to the form.

13 THE WITNESS: I don't like these. You have no
14 idea. That language is really bothersome to me,
15 really is offensive, I'll be honest with you.

16 BY MS. ROTHENBERG:

17 Q. I don't mean to be.

18 A. Well, but some of your language, "sense of,"
19 "no idea," it's like --

20 I thought we were doing a fact-finding --

21 Q. I am.

22 A. Let's --

23 Q. I'm just trying to find out what your general
24 knowledge --

25 A. I'm finding myself just not enjoying the

1 language.

2 Q. Okay. Well, I will try to use language that
3 you enjoy.

4 A. Thank you.

5 Q. If somebody fills out an application prior to
6 book closing date that produces a failed match and they
7 are able to correct that information after the book
8 closing date, will this person be able to be on the
9 rolls or will they cast a provisional ballot?

10 A. A provisional ballot is always available for
11 any voter. I can't speak to the specific situation
12 without specific content.

13 Q. I guess my question is whether it's considered
14 a new application after book closing date or it's
15 considered the correction of the application prior to
16 book closing date so the person will be on the regular
17 rolls and not --

18 A. I have to look at the statute for that
19 specific --

20 Q. Okay. Can you give me the terms for how
21 Hillsborough County classifies the various statuses of
22 voters, you know, whether -- ones I can think of are
23 active, inactive, not eligible. Can you tell me
24 what terms you use?

25 A. Those would be fine, but I don't have the

1 glossary off the top of my head, no.

2 Why do you ask?

3 Q. It's just fact-finding.

4 A. But why do you ask?

5 Q. I was just going to ask you about the

6 various --

7 A. It's -- I mean --

8 Q. I was going to ask further questions about

9 these various categories and --

10 A. Why would you ask?

11 Q. -- I wanted to use the correct term. I wanted

12 to use the correct term, using language you enjoy.

13 A. Whatever's statutory is what I enjoy. A sense

14 of the other stuff is not in the statute.

15 Q. How does Hillsborough County determine that an

16 individual is no longer eligible to vote?

17 MS. HARRIS: Objection to form.

18 BY MS. ROTHENBERG:

19 Q. I'll give an example. If somebody's moved out

20 of the state, how do you --

21 A. Provide a specific and I can research the

22 specific and give you an answer. Voting is very

23 individualized. Moving and death, determination of

24 med -- mental inadequacy, all those are different

25 circumstances. So be specific.

1 Q. How does your office receive information that
2 somebody is a convicted felon?

3 A. How do we --

4 Q. How does your office come into that
5 information?

6 A. What's the point of your question? You want
7 like the secretarial --

8 Q. We're trying to find --

9 A. What are you after? What are you after? Let
10 me get the person who does the process --

11 Q. Okay.

12 A. -- and I'll have them explain it to you.

13 Q. Can you identify the person?

14 A. I told you about five times already that Sharon
15 Smith runs the voter services department and she has for
16 about 18 years.

17 Q. Great. We may need to speak to Ms. Smith.

18 A. I'll be happy to have you talk to her.

19 MS. HARRIS: Wonderful.

20 THE WITNESS: I'll talk to you about what
21 management is as opposed to line job, you know, is a
22 big difference. And you don't seem to have any
23 appreciation for what the Supervisor of Elections'
24 role is in the state of Florida by the nature of
25 your questions, and particularly the language.

1 MS. ROTHENBERG: Okay. Ms. Harris, I note that
2 it's 4:26 p.m. Do you want me to move on to a
3 different area, or do you want to continue tomorrow?

4 MS. HARRIS: How much longer do you have?

5 MS. ROTHENBERG: I have a lot. We'll
6 definitely continue tomorrow.

7 MS. HARRIS: Let's continue tomorrow then.

8 (Deposition adjourned at 4:26 p.m., continued
9 in Volume II.)

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CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF POLK)

I, the undersigned authority, certify that the witness
in this matter personally appeared before me and was
duly sworn on the 23rd of October, 2007.

WITNESS my hand and official seal this 27th day of
October, 2007.

Loretta Lee, FPR
Notary Public
State of Florida at Large
My Commission Number: DD346570
Expires: 08/12/08

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF POLK)

I, Loretta Lee, certify that I was authorized to
and did stenographically report the deposition; that a
review of the transcript was requested; and that the
foregoing pages are a true and complete record of my
stenographic notes taken during said deposition.

I further certify that I am not a relative,
employee, attorney, or counsel of any of the parties,
nor am I a relative or employee of any of the parties'
attorneys or counsel connected with the action, nor am I
financially interested in the action.

Dated this 27th day of October, 2007.

Loretta Lee, FPR

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SIGNATURE PAGE/ERRATA SHEET

WITNESS: PHILLIP E. "BUDDY" JOHNSON - Volume I
DEPOSITION TAKEN: October 23, 2007
CASE REFERENCE: NAACP v. Kurt Browning
(Esquire Job #899887)

After you have read your transcript, please note any errors in transcription or amendments to testimony on this page. Do not mark on the transcript itself.

Please sign and date this sheet as indicated below. If additional lines are required for corrections, attach additional sheets.

If there are no corrections, please indicate "None."

Page/ Line	Error or Amendment	Reason for Change
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I have read my transcript and subscribe to its accuracy, to include the corrections or amendments noted above or hereto attached.

(Witness Signature) (Date)

1 ESQUIRE DEPOSITION SERVICES
2 101 East Kennedy Blvd., Suite 3350
3 Tampa, FL 33602
4 813.221.2535

5 October 31, 2007

6 PHILLIP E. "BUDDY" JOHNSON
7 Supervisor of Elections
8 2514 N. Falkenburg Road
9 Tampa, Florida 33619

10 RE: NAACP v. Kurt Browning
11 Esquire Job No: 899887

12 Please take notice that on the 23rd day of October,
13 2007, you gave your deposition in the above-referenced
14 matter. At that time, you did not waive signature.

15 A courtesy copy of the transcript is enclosed for your
16 review.

17 Any corrections you wish to make to the transcript
18 should be made on the errata sheet at Page 67. Please
19 do not write on the transcript itself.

20 Please complete review of your transcript within 30 days
21 and return the errata sheet to our offices. You need
22 not return the entire transcript.

23 If you now wish to waive your right to read and sign the
24 transcript, please indicate so on the errata sheet and
25 return it to our office.

26

Sincerely,

27

Loretta Lee, FPR
Court Reporter
Independent Contractor

28

29

30 CC via transcript:
31 Lauren M. Rothenberg, Esq.
32 Andre Bardos, Esq.
33 Allen Winsor, Esq.

34

1 UNITED STATES DISTRICT COURT FOR THE
2 NORTHERN DISTRICT OF FLORIDA
3 TALLAHASSEE DIVISION
4 CASE NO. 4:07cv402 SPM/WCS

5 FLORIDA STATE CONFERENCE OF
6 THE NATIONAL ASSOCIATION FOR
7 THE ADVANCEMENT OF COLORED
8 PEOPLE (NAACP), as an
9 organization and representative
10 of its members, et al.,

11 Plaintiffs,

12 vs.

13 KURT S. BROWNING, in his
14 official capacity as Secretary
15 of State for the State of Florida,

16 Defendant.
17 _____/

18 DEPOSITION OF PHILLIP E. "BUDDY" JOHNSON
19 Volume II
20 Pages 69 - 128

21 Wednesday, October 24, 2007
22 3:14 p.m. - 4:14 p.m.

23 Supervisor of Elections
24 2514 North Falkenburg Road
25 Tampa, Florida

26 Reported By:
27 Loretta Lee, FPR
28 Notary Public, State of Florida
29 Esquire Deposition Services, LLC
30 Tampa Office Job #899889
31 Phone: 813.221.2535

1 APPEARANCES:

2 Lauren M. Rothenberg, Esquire
3 Paul, Weiss, Rifkind, Wharton & Garrison
4 1285 Avenue of the Americas
5 New York, New York 10019-6064
6 (212) 373-3242
7 Attorney for Plaintiffs

8 Allen C. Winsor, Esquire
9 GrayRobinson, P.A.
10 301 South Bronough Street
11 Suite 600
12 Tallahassee, Florida 32301-1724
13 (850) 577-9090
14 Attorney for Defendant
15 (Appeared via telephone conference call)

16 Kathy C. Harris, Esquire
17 601 East Kennedy Boulevard
18 16th Floor
19 Tampa, Florida 33602-4932
20 (813) 276-8270
21 Attorney for Hillsborough County
22 Supervisor of Elections

23 ALSO PRESENT:

24 James Reed
25 David Parks

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I N D E X

	PAGE
WITNESS: PHILLIP E. "BUDDY" JOHNSON	
Direct Exam Continued by Ms. Rothenberg	72
CERTIFICATE OF OATH	125
CERTIFICATE OF REPORTER	126
ERRATA SHEET	127
INSTRUCTIONS TO WITNESS	128

E X H I B I T S

(Exhibits 1 and 2 marked in Volume I)

NUMBER	DESCRIPTION	PAGE
Exhibit 3	Notice of Rights to Provisional Ballot Voters	85
Exhibit 4	Printed Envelope: Reason for Provisional Ballot Provisional Ballot Voter's Certificate and Affirmation	86
Exhibit 5	Hillsborough County Updating the Voter System, Revision in Progress	89
Exhibit 6	Two-Page Document	115

1 PHILLIP E. "BUDDY" JOHNSON,
2 acknowledged having been duly sworn or affirmed to tell
3 the truth and testified upon his oath as follows:

4 THE WITNESS: I do.

5 DIRECT EXAMINATION

6 BY MS. ROTHENBERG:

7 Q. Good afternoon, Mr. Johnson.

8 A. Good afternoon.

9 Q. Now, I want to turn to what happens on election
10 day. First, the poll workers who work in the precincts
11 on election day, are they volunteers or are they actual
12 employees of the county?

13 A. Some of both.

14 Q. And --

15 A. Mostly --

16 Q. Go ahead.

17 A. Yes.

18 Q. Mostly, you were saying?

19 A. The numbers are greater for the paid
20 volunteers. Depends what you mean by volunteer.

21 Q. Some of these are temporary employees?

22 A. They're all paid. So volunteer -- volunteer --
23 I actually misspoke. Volunteer would seem to imply no
24 pay, but everyone's paid.

25 Q. Everyone's paid. Are these generally

1 considered to be the temporary employees that come in
2 for the election?

3 A. No. No. We have -- there's full-time; and
4 temporaries are a smaller subset, the 200 number that I
5 used; and then the 3500 to 4,000 that we often call
6 volunteers but they're actually paid, and we
7 affectionately refer to them as volunteers.

8 Q. And they just work for that day?

9 A. Not necessarily. They might work the day
10 before. There is preparation.

11 Q. Are they -- so are they paid through training
12 through -- are they paid for their training --

13 A. Yes.

14 Q. And the preparation is anything other than
15 being trained or --

16 A. The preparation is anything other than being
17 trained?

18 Q. You said there was preparation prior to --

19 A. I said that in response to your question is it
20 just on election day.

21 Q. Right. Preparation and training, are they the
22 same thing, or are you referring to something different?

23 A. Training would be one piece, the preparation
24 would be the delivery of the equipment to the polling
25 sites, which are the picking up of certain -- it depends

1 on what position you're talking about, the clerk or the
2 inspectors, the touch screen technicians.

3 Q. Do they have any responsibilities after
4 election day?

5 A. Yes. We have to follow up. Again, depends on
6 which of the positions you're talking about.

7 Q. And so the -- is the precinct -- is it a
8 precinct captain or the head clerk? What is that term?

9 A. The clerk.

10 Q. The clerk. What is a precinct clerk's
11 responsibilities following the election day?

12 A. How much time do you have?

13 Just the follow-up responsibilities to get
14 everything delivered back safely. Of course, the voting
15 cartridges, in our case, the touch screen, until January
16 that changes, those are brought back the night of the
17 election, but then the follow-up is the next day with
18 the other ancillary equipment.

19 Q. Okay. But the responsibilities of most of
20 these 3500 to 4,000 employees are limited to the period
21 right around the election day; is that right?

22 A. Yes. Primarily.

23 MS. HARRIS: Just for clarification, you asked
24 were they county -- were they paid by the county?

25 No.

1 BY MS. ROTHENBERG:

2 Q. Mr. Johnson, do you know who these people are
3 paid by?

4 MS. HARRIS: Us. Supervisor of Elections
5 office. That's just for clarification.

6 THE WITNESS: Well, we are the --

7 MS. ROTHENBERG: Ms. Harris, you're not under
8 oath.

9 MS. HARRIS: I know, but I think maybe you just
10 think that we're county employees. I was just
11 trying to make that clear for you.

12 THE WITNESS: The Supervisor of Elections
13 office is an independent constitutional office, and
14 we pay our poll workers and we're an independent
15 county. Each county has one. But we are not the
16 Board of County Commissioners at all.

17 BY MS. ROTHENBERG:

18 Q. I appreciate the clarification. Thank you.

19 So when somebody whose driver's license or the
20 last four digits of their social security number have
21 not been verified and they show up at the polls on
22 election day, will their name be in the register?

23 A. Say that again.

24 Q. If somebody who, prior to the election, has not
25 been verified with either the DMV database or the social

1 security number database, will that person's name appear
2 in the register on election day?

3 A. It could.

4 Q. Okay. Do you know how the people working at
5 the polls would know that that person's information has
6 not been matched or verified --

7 A. Are you talking about in the -- what -- are you
8 talking about in the database or in the precinct books
9 or what are you --

10 Q. If prior to arriving at the polls the person's
11 driver's license or social security number have not been
12 matched to the DMV database or the social security
13 number database when they arrive at the polls that day,
14 how will the poll workers know that that person's not
15 yet been matched or verified?

16 MR. WINSOR: Objection to form.

17 BY MS. ROTHENBERG:

18 Q. Do you understand what I'm saying?

19 A. I do, but it's one of those questions, again,
20 that's --

21 Q. It's not -- I'm sorry, go ahead.

22 A. The form of the question, really, I have to
23 answer it in 20 different ways.

24 Q. Okay. So is there no standard from precinct to
25 precinct regarding how the poll workers know that that

1 person has not been matched? Will that show up in a
2 standard way?

3 A. That's not my point at all. The State does
4 the -- theoretically, they should be in the book and
5 verified.

6 Q. Okay. But if they're not verified, are they
7 then -- are they not in the book?

8 MS. HARRIS: Objection to form. Don't answer
9 the question.

10 You've got to be clear. You mean early voting?
11 Election day?

12 MS. ROTHENBERG: I mean on election day.

13 MS. HARRIS: Don't answer the question.

14 BY MS. ROTHENBERG:

15 Q. On election day if somebody shows up at the
16 polls and they have not yet been verified, so they're
17 not on the rolls as an active voter, how does the poll
18 worker know this?

19 MR. WINSOR: Objection to form.

20 MS. HARRIS: Don't answer the question.

21 Move on. Let's just move on.

22 THE WITNESS: Can I help you with your
23 question?

24 BY MS. ROTHENBERG:

25 Q. Is there a separate list maintained at the

1 polls of individuals who have not been able to be
2 matched or verified with either the DMV or the social
3 security databases?

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

5 Q. Are these people in the books with a notation
6 next to their name that says the person's not been
7 matched or verified with the --

8 MR. WINSOR: Object to the form.

9 THE WITNESS: Your questions are just
10 incredible.

11 BY MS. ROTHENBERG:

12 Q. Okay.

13 A. They're incredible. They really are.

14 Q. Let's try a hypothetical. Say I show up at --

15 A. Now we're going to move to the hypothetical?

16 Q. You said it's an individual thing, so I'm
17 trying to make it easier for you.

18 If I show up on election day --

19 A. It's not that it's hard, it's just that the
20 questions are not well written.

21 Q. If I show up on election day and I -- you are
22 the poll worker and I come to you --

23 A. I really don't want to pick up on the
24 condescension thing we had yesterday, so that's the
25 reason I make that comment.

1 Q. Mr. Johnson, I'd prefer if you would refrain
2 from making speeches. You're under oath. Please, just
3 answer the questions.

4 If I show up at -- on election day --

5 A. That wasn't a speech.

6 Q. -- and you are the poll worker --

7 A. That was not a speech.

8 Q. Mr. Johnson, I'd appreciate it if you'd just
9 answer the questions.

10 If I show up on election day and you're the
11 poll worker and I show my photo ID, but my information
12 has not been yet matched or verified with the DMV or the
13 social security database, what will happen to me?

14 MR. WINSOR: Objection to form.

15 MS. HARRIS: Objection to form.

16 MR. WINSOR: This is Allen Winsor. I believe
17 I'm the only one on the phone, so I won't identify
18 myself when I make objections. Is there anyone else
19 on the phone?

20 MS. HARRIS: No.

21 MR. WINSOR: Okay.

22 BY MS. ROTHENBERG:

23 Q. Mr. Johnson, you can answer.

24 I'm sorry?

25 A. Did you hear the objection to form?

1 Q. I did, but you still answer the question unless
2 you're instructed not to answer.

3 MS. HARRIS: You -- don't answer.

4 MS. ROTHENBERG: What is the basis for that
5 instruction?

6 MS. HARRIS: He's not a poll worker. You're
7 asking a hypothetical that makes no sense.

8 MS. ROTHENBERG: In his knowledge about what
9 poll workers -- as a Supervisor of Elections, about
10 what goes on at the polls --

11 MS. HARRIS: Are you directing the question to
12 him now?

13 MS. ROTHENBERG: I'm addressing your objection.
14 I'm asking what he knows about what a poll worker
15 would say to somebody whose identity has not been
16 matched or verified.

17 THE WITNESS: As I said to you yesterday, I'd
18 be happy for you -- to bring in, when they're
19 available, the field worker, the hands-on person
20 that handles all the situations. My responsibility
21 is the direction, the vision, and not the absolute
22 minutia and the detail of the -- of the worker.

23 BY MS. ROTHENBERG:

24 Q. So is your answer I don't know?

25 A. I'm not answering.

1 MR. WINSOR: Objection to form.

2 THE WITNESS: I'm not answering.

3 MR. WINSOR: Same objection. It's the same
4 question.

5 MS. HARRIS: And I said don't answer the
6 question.

7 BY MS. ROTHENBERG:

8 Q. Mr. Johnson, do you know what would happen to
9 me if I showed up on election day and my information had
10 not yet been matched or verified?

11 MR. WINSOR: Objection to form.

12 MS. HARRIS: Objection to form.

13 BY MS. ROTHENBERG:

14 Q. Okay. Yes or no? Objection to form you can
15 still answer the question.

16 I'm just -- I take it you haven't given a lot
17 of depositions. When somebody objects to the form, you
18 still answer the question unless you're instructed not
19 to answer.

20 MS. HARRIS: Don't answer the question.

21 MS. ROTHENBERG: Can you give me the basis?

22 MS. HARRIS: If you have a New York resident
23 come here on election day and vote, does he know
24 what would happen --

25 MS. ROTHENBERG: I will clarify the question.

1 BY MS. ROTHENBERG:

2 Q. If I were a Florida resident -- or let's take
3 my uncle, who's a resident of Hillsborough County. If
4 my uncle goes to the polls, he -- let's say my uncle,
5 who was born in 1939, the social security database has
6 his record as having been born in 1938, you haven't been
7 able to match his identity. My uncle shows up, there
8 hasn't been a match. What happens to my uncle?

9 MR. WINSOR: Objection to form. There's way
10 too many variables there.

11 BY MS. ROTHENBERG:

12 Q. You can answer the question.

13 MS. HARRIS: Don't answer the question.

14 BY MS. ROTHENBERG:

15 Q. Is your answer I don't know?

16 A. I don't want to give you a speech, so...

17 MS. HARRIS: Just don't answer the question.

18 I'm advising you not to answer the question.

19 BY MS. ROTHENBERG:

20 Q. Is there someone in your office who can tell me
21 what will happen to the person when they show up at the
22 poll and their identity has not been able to be matched
23 or verified?

24 A. Given that the law recently changed and with
25 the assumption that proper training to your very

1 specific and individualized question has been trained
2 down to the staff here for those very specific
3 situations that you ask about, yes.

4 Q. And can you identify who the person best --

5 A. The same persons that I mentioned to you
6 yesterday. It would be the director, the manager of
7 that department, Sharon Smith.

8 Q. Okay. Thank you.

9 A. Or Chuck Smith, either one.

10 Q. Okay. I appreciate that. Thank you.

11 Do you know whether somebody who's working at
12 the polls on that day has access to the Hillsborough
13 County database?

14 A. On what day?

15 Q. On election day.

16 A. How do you define election day? Like the
17 Tuesday? The first Tuesday in --

18 Q. Exactly.

19 A. You're not talking about early voting?

20 Q. No. I'm talking about on the actual -- the
21 first Tuesday in November, election day.

22 MR. WINSOR: Could you -- is it possible for
23 the questioner to speak up or maybe move the speaker
24 phone a little closer? I can hear the witness,
25 but --

1 MS. ROTHENBERG: Yeah. The phone is next to
2 the witness.

3 THE WITNESS: Could you repeat your question?

4 BY MS. ROTHENERG:

5 Q. Sure. Does somebody who works at the polls on
6 election day have access, whether electronic or
7 otherwise, to the Hillsborough County database?

8 A. At the expense of giving you a speech, I can --
9 we don't -- are you speaking of a live connection to the
10 database? Are you speaking of a digital pre-produced
11 record? Are you speaking of a paper record? It depends
12 on what --

13 Q. Is there an electronic connection to this
14 office on the day of election?

15 A. A live electronic connection?

16 Q. Sure. Is there a live electronic connection?

17 A. No.

18 Q. What sort of access to your database does a
19 poll worker have on --

20 A. Historically, there's been a paper record, a
21 poll book, a precinct list; and in larger precincts we
22 do that with a recording, with a disc that we will do
23 several days in front of the election in the larger
24 precincts, but it's not a live connection to the
25 database --

1 Q. Okay.

2 A. -- as would be the case.

3 Q. Do you know whether a poll worker would know
4 the reason why a person failed to be verified or matched
5 on election day? Is that information at the polls?

6 A. Do I know whether a poll worker would know --

7 MR. WINSOR: Objection to form.

8 THE WITNESS: No.

9 BY MS. ROTHENBERG:

10 Q. Does a poll worker have access on election day
11 to the reason why somebody failed to be verified or
12 matched with the DMV --

13 A. I don't know.

14 Q. -- or the social security database?

15 A. I don't know.

16 Q. Okay. Mr. Johnson, I'm handing you what your
17 counsel produced yesterday afternoon. I'm going to mark
18 this for identification as Johnson Exhibit 3.

19 (Exhibit No. 3 marked for identification.)

20 BY MS. ROTHENBERG:

21 Q. Do you recognize this document?

22 A. I haven't seen this final product. I know what
23 it is.

24 Q. Okay. It reads in both English and Spanish.

25 I'm going to read the English version. The English side

1 says, "Notice of Rights to Provisional Ballot Voters,
2 Section 101.048 and 101.049 FS, Hillsborough County,
3 Florida."

4 A. Are you going to read to me --

5 Q. I'm going to read the first couple sentences.

6 "You have voted a Provisional Ballot and have
7 the right to present additional written evidence
8 supporting your eligibility to vote to the Supervisor of
9 Elections not later than 5 p.m. of the third day
10 following the election. You may provide written
11 evidence to either the Supervisor of Elections Main
12 Office at 601 East Kennedy Boulevard, 16th floor, Tampa,
13 Florida 33602 or the Robert L. Gilder Elections Service
14 Center at 2514 Falkenburg Road, Tampa, Florida 33619.
15 If you do not present additional written evidence
16 supporting your eligibility to vote, the Election
17 Canvassing Board will determine your eligibility to vote
18 based on the information you provided on the Provisional
19 Ballot Voter's Certificate and Affirmation."

20 Is this all familiar to you, everything that I
21 just read?

22 A. The process, uh-huh.

23 (Exhibit No. 4 marked for identification.)

24 MS. ROTHENBERG: Okay. And I'm just going to
25 go ahead and enter what's marked for identification

1 as Johnson Exhibit 4. This was also produced by
2 your counsel yesterday afternoon.

3 BY MS. ROTHENBERG:

4 Q. Do you recognize this?

5 A. Uh-huh.

6 Q. And it reads on the top, "Provisional Ballot
7 Voter's Certificate and Affirmation, Section 101.048(3)
8 and 101.049 Florida Statutes, Hillsborough County,
9 Florida."

10 And I'm just going to turn to the back of that
11 document. In eight boxes down it reads as one of the
12 reasons for provisional ballot, it says, "Check All That
13 Apply." Quote, "There is an indication on the precinct
14 register that the voter's FL DL #, FL ID Card # or SSN
15 is not yet verified by the Department of State in
16 conjunction with the DHSMV."

17 Does that look familiar to you?

18 A. Is it on there? I've seen that envelope.

19 Q. Okay. Great.

20 A. I have seen the envelope.

21 Q. Okay. So I just want to go back to Johnson
22 Exhibit 3, which is the Notice of Rights. Do you know
23 whether this information is also posted somewhere at the
24 precincts?

25 A. I don't know.

1 Q. Okay. Is there a policy in Hillsborough County
2 regarding having bilingual poll workers at the polls?

3 A. Is there a policy -- say that again.

4 Q. Is there a -- does Hillsborough County have a
5 policy about having bilingual poll workers at the polls?

6 A. In accordance with the law, section 5.

7 Q. Okay.

8 A. And as many as we -- we try to be in abundance.
9 This is an original Hispanic community in Florida.

10 Q. I didn't hear your last answer. The original
11 Hispanic community in Florida?

12 A. Yeah. Large Latino population.

13 Q. Okay.

14 MS. HARRIS: We also have that envelope in
15 Spanish. I don't know if it was in that packet I
16 gave you.

17 MS. ROTHENBERG: Thank you. I note that
18 counsel's represented that the provisional ballot
19 letter certificate and affirmation is also provided
20 in Spanish.

21 BY MS. ROTHENBERG:

22 Q. Do you know whether poll workers are instructed
23 to say anything to the voters about what they need to do
24 to ensure that their vote is counted, or do they just
25 hand them these materials?

1 MR. WINSOR: Objection to form.

2 THE WITNESS: Do I know if they're instructed
3 to say anything?

4 BY MS. ROTHENBERG:

5 Q. Or to not say anything?

6 A. No. We're instructed to accommodate the voter
7 in every possible way, to educate as long as we can, as
8 much as we can.

9 Q. So if a voter has questions, then the poll
10 worker will answer those questions to the best of their
11 ability?

12 A. If they know the answer to the question.

13 Q. Okay. I want to introduce what I'm marking for
14 identification as Johnson Exhibit 5.

15 (Exhibit No. 5 marked for identification.)

16 BY MS. ROTHENBERG:

17 Q. Are you familiar with this document?

18 A. It's a training document.

19 Q. Are you generally familiar with its contents?

20 A. You just -- we have lots of training documents.
21 And I don't want to give you a speech again, but I have
22 very qualified people who handle training. And I
23 establish the vision, the direction for our
24 organization.

25 Q. Is Miss Smith the person who is most familiar

1 with the content of this document in your office?

2 A. She would be familiar with this, yes.

3 Q. Great.

4 A. I just want to make sure you haven't slipped
5 anything in here that's not part of our --

6 Q. Okay.

7 MS. HARRIS: I do want to point to you that the
8 documents that I sent you are based on our current
9 system, which we're in the process of transitioning
10 to the new system.

11 THE WITNESS: Which is entirely different --

12 MS. HARRIS: Which will change next week.

13 BY MS. ROTHENBERG:

14 Q. So, Mr. Johnson, then this will not be the
15 training manual that's used for this current election,
16 this coming election?

17 MS. HARRIS: No.

18 THE WITNESS: Right. Correct.

19 MS. ROTHENBERG: Okay. Thank you. I request
20 production of --

21 MS. HARRIS: We don't have that yet.

22 MS. ROTHENBERG: When it's available, if you
23 could produce that to me.

24 THE WITNESS: Florida's in transition.

25 MS. HARRIS: It's not like we're trying to keep

1 things from you.

2 MS. ROTHENBERG: I just note for the record
3 that this manual is from -- it's dated on the top
4 corner of 3-22-2006 or 03-22-06.

5 BY MS. ROTHENBERG:

6 Q. Do you happen to know whether or not it's been
7 updated since March 2006?

8 A. This is a work in progress, given the
9 transition of Florida's election.

10 MS. HARRIS: This is the same one that he just
11 told you that he has no real familiarity with.

12 MS. ROTHENBERG: I was just asking Mr. Johnson
13 whether he knows whether it's been updated since
14 March 2006.

15 MR. WINSOR: Whether he was what?

16 MS. ROTHENBERG: Whether this document has been
17 updated since March 2006, yes or no.

18 THE WITNESS: It would be updated based on the
19 change in the law.

20 BY MS. ROTHENBERG:

21 Q. Okay. Do you know whether there are
22 instructions in the forthcoming manual about whether --
23 strike that.

24 Do you know whether there are instructions in
25 the forthcoming manual about what poll workers are

1 supposed to tell people whose IDs have not yet been
2 matched or verified with the social security or the DMV
3 databases?

4 A. No, I don't.

5 Can I say strike that when I want to strike
6 something?

7 Q. I'm afraid that's just me.

8 A. Why do you get different rules than I do?

9 Q. Those are just the rules.

10 A. Okay.

11 Q. When I say strike that, it's for the purpose of
12 clarifying.

13 A. Scribner's error.

14 Q. What can poll workers tell the voter on
15 election day about what type of information needs to be
16 verified?

17 MR. WINSOR: Objection to form.

18 THE WITNESS: I don't know. That's an essay
19 question. I don't know.

20 BY MS. ROTHENBERG:

21 Q. Okay. We'll break it down.

22 If it's a birth date that has not been able to
23 be verified, can a poll worker tell the voter that the
24 birth date was the information that could not be
25 verified?

1 A. I don't know the law on that. Whatever the law
2 says is the way they would be trained.

3 Q. Okay. If the problem with my application was
4 that I transposed the driver's license number and I
5 bring my actual driver's license to the poll on election
6 day with my official and correct Florida driver's
7 license number, do you know whether I would be able to
8 submit my driver's license that day as the additional
9 written evidence that's required by -- according to this
10 notice --

11 MR. WINSOR: Objection to form.

12 BY MS. ROTHENBERG:

13 Q. -- Johnson Exhibit 3?

14 MS. HARRIS: Objection to form.

15 THE WITNESS: I can answer the back side of
16 your question because if you -- they have three days
17 to provide the evidence.

18 BY MS. ROTHENBERG:

19 Q. Right.

20 A. But no, I don't --

21 Q. I guess I just want to clarify my question for
22 you. Can I provide that written evidence at the polls
23 rather than --

24 A. I don't know that.

25 MR. WINSOR: Objection to form.

1 THE WITNESS: Isn't that a canvassing board
2 function?

3 MS. HARRIS: She's asking --

4 THE WITNESS: I'm afraid of giving a speech
5 again.

6 BY MS. ROTHENBERG:

7 Q. Do you know what is done with the provisional
8 ballot at the end of the day after it's cast, where
9 those -- what happens to those provisional ballots,
10 where they're taken?

11 A. Here.

12 Q. And does your office go through the provisional
13 ballots before voters come in to present additional
14 written evidence, or do you wait for voters to --

15 MS. HARRIS: Objection to form.

16 BY MS. ROTHENBERG:

17 Q. -- come in and present additional written
18 evidence?

19 MS. HARRIS: Does our office?

20 Don't answer that.

21 MS. ROTHENBERG: Basis of your objection?

22 MS. HARRIS: Does our office? When you say
23 office, what do you mean?

24 BY MS. ROTHENBERG:

25 Q. I'll clarify.

1 Are there people in your office who review the
2 provisional ballots generally, or do you wait for people
3 to come in pursuant to what's written on Johnson
4 Exhibit 3 and present additional written evidence?

5 MR. WINSOR: Objection to form.

6 BY MS. ROTHENBERG:

7 Q. Do you understand my question?

8 A. Do you understand your question?

9 Q. I do.

10 A. Give me the specific situation.

11 Q. Okay. Do you do additional research on
12 every -- do people in your office do additional research
13 on every single provisional ballot that comes back to
14 your office?

15 A. Is your question related to the person, when
16 the person comes in and provides the evidence, or are
17 you talking about the process of --

18 Q. I'm talking about all -- that's my question.
19 Are all provisional ballots looked at after they come
20 back to this office by somebody in your office, or is it
21 only the ones where people come in and present
22 additional written evidence?

23 MR. WINSOR: Objection to form.

24 THE WITNESS: Let's see how far back I want to
25 take you.

1 MS. HARRIS: I don't know how you answer that
2 question.

3 THE WITNESS: I really don't. Your question
4 doesn't demonstrate any knowledge of the process of
5 handling the provisional ballot.

6 BY MS. ROTHENBERG:

7 Q. Can you just explain to me the process of --

8 A. Not briefly, I can't.

9 Q. Can you try your best?

10 A. No, I don't want to try briefly because it's a
11 very detailed process.

12 Q. Okay.

13 A. But the question doesn't -- the two parts of
14 your question don't fit together very well.

15 Q. Okay. If somebody comes into this office with
16 a valid Florida driver's license and the problem was
17 with the matching of their driver's license with the DMV
18 database -- strike that. I'm sorry.

19 If someone comes in with a valid Florida
20 driver's license and the problem is that they have not
21 been able to -- their identity has not been verified
22 with the DMV database, what does your office do with the
23 written evidence that they present or the driver's
24 license that they present?

25 MR. WINSOR: Objection to form.

1 MS. HARRIS: Thank you.

2 THE WITNESS: Do you mind if she repeats that?

3 MS. ROTHENBERG: Go ahead.

4 (Record read by the reporter.)

5 THE WITNESS: Our responsibility is to give
6 three days for the person to bring evidence in to
7 verify that they are -- that is, they're valid.

8 BY MS. ROTHENBERG:

9 Q. And when they come in with written evidence,
10 what happens to that written evidence?

11 A. My vision, my instruction and to my staff is to
12 make sure that we follow the law at every step. And
13 I'll be happy for you to talk with Mr. Smith or Mrs.
14 Smith with regard to the conversation, the scripting. I
15 don't have that memorized.

16 Q. Does your office accept faxed written evidence
17 such as a driver's license?

18 A. I don't know the answer to that.

19 Q. What hours is this office open in the three
20 days following the election for people to come in and
21 present written evidence?

22 A. Our normal business hours.

23 Q. Which are?

24 A. 8:00 to 5:00. We don't change our hours.

25 Q. I note that on Johnson Exhibit 3 there's no

1 mention of the hours that these offices are open. Are
2 they posted or provided on some other form?

3 MR. WINSOR: Can you speak up, please?

4 BY MS. ROTHENBERG:

5 Q. Sure. I just wanted to note on Johnson Exhibit
6 3 there's no mention of the office hours, and I was just
7 wondering whether that's provided on some other
8 document?

9 MR. WINSOR: Whether that's provided on what?

10 MS. ROTHENBERG: Whether the office hours are
11 provided on some other document.

12 THE WITNESS: Yes.

13 BY MS. ROTHENBERG:

14 Q. What document is that?

15 A. On any document where the hours of operation
16 would be pertinent.

17 Q. Is that presented to a voter on election day --

18 A. I don't know.

19 Q. -- ballot?

20 A. I don't know.

21 Q. Okay.

22 A. If on those documents they're printed, I don't
23 know.

24 Q. Do you know approximately how far the furthest
25 parts of Hillsborough County are from Tampa?

1 MR. WINSOR: Objection to form.

2 BY MS. ROTHENBERG:

3 Q. The driving distance from the furthest parts of
4 Hillsborough County?

5 MS. HARRIS: Don't answer that. That's just
6 ridiculous.

7 THE WITNESS: Not specifically, I don't. I
8 know about how big our county is, but I couldn't
9 tell you the miles and minutes. It depends on
10 traffic. Last night it took me an hour and a half
11 to get home and some days it takes me 20 minutes.

12 BY MS. ROTHENBERG:

13 Q. What part of the county do you live in?

14 A. I don't really want to reveal that. I live
15 east of here.

16 MS. HARRIS: I told you --

17 BY MS. ROTHENBERG:

18 Q. Okay.

19 MS. HARRIS: -- she wants your address.

20 BY MS. ROTHENBERG:

21 Q. It could take somebody over an hour and a half
22 to get here, depending on the traffic?

23 MS. HARRIS: He doesn't know that. Objection
24 to form.

25 MR. WINSOR: Objection to form.

1 MS. ROTHENBERG: He just answered that he --

2 THE WITNESS: No.

3 MS. ROTHENBERG: -- it took him an hour and a
4 half to get home yesterday.

5 THE WITNESS: That was because there was a
6 traffic accident.

7 MS. HARRIS: There was a 37-car pile up. Read
8 the paper.

9 THE WITNESS: A traffic accident.

10 BY MS. ROTHENBERG:

11 Q. And there could be a traffic accident in the
12 three days after election day, too, right?

13 A. There could be an atomic bomb.

14 MS. HARRIS: Objection to form.

15 Don't answer.

16 Move on, please. My God.

17 THE WITNESS: Normally, no, that's not true.

18 BY MS. ROTHENBERG:

19 Q. Do you believe --

20 A. From nowhere in the county is that true,
21 normally.

22 Q. Are there driving distances of over an hour
23 from parts of Hillsborough County?

24 A. Absolutely not.

25 Q. Over half an hour?

1 MS. HARRIS: To this office? The other office?

2 Objection to form.

3 MS. ROTHENBERG: You're not testifying.

4 MS. HARRIS: I'm giving a speech now.

5 MS. ROTHENBERG: I can call the judge if you
6 continue to give speeches.

7 MS. HARRIS: Objection to form.

8 Do not answer that question, Mr. Johnson.

9 BY MS. ROTHENBERG:

10 Q. Do you feel that the three days that this
11 office is open between 8:00 and 5:00 to present written
12 evidence presents an obstacle or burden to any of the
13 residents of Hillsborough County?

14 MR. WINSOR: Objection to form.

15 MS. HARRIS: Don't answer that question.

16 Objection to form.

17 BY MS. ROTHENBERG:

18 Q. I'll ask a new question.

19 Do you think it's difficult for members of
20 Hillsborough County to get here, any members of
21 Hillsborough County, on the three days following the
22 election between 8:00 and 5:00?

23 MR. WINSOR: Objection to form.

24 MS. HARRIS: Don't answer the question.

25 MS. ROTHENBERG: Ms. Harris, what is the basis

1 for the objection?

2 MS. HARRIS: You're asking him a question that
3 he cannot answer.

4 MS. ROTHENBERG: He can answer his own personal
5 opinion whether he --

6 MS. HARRIS: I just told him not to answer.

7 MS. ROTHENBERG: You need a basis for your
8 objection.

9 MS. HARRIS: I just gave you my basis. I have
10 to give a basis that you agree with?

11 MS. ROTHENBERG: No, you need to give a basis
12 that's legally correct.

13 MS. HARRIS: You've asked him a question that
14 there's 1.3 million people in this county. Who are
15 you talking about?

16 MS. ROTHENBERG: Whether in his opinion he
17 thinks it could possibly be difficult for somebody
18 to get here between 8:00 and 5:00 on the three days
19 following the election.

20 MR. WINSOR: Objection to form.

21 MS. HARRIS: Objection to form.

22 Do not answer that question.

23 BY MS. ROTHENBERG:

24 Q. Are you going to listen to your counsel's
25 instruction?

1 A. Yes.

2 Q. Mr. Johnson, are you on the Canvassing Board?

3 MR. WINSOR: I'm sorry, I didn't hear that.

4 BY MS. ROTHENBERG:

5 Q. Are you on the Canvassing Board?

6 A. When?

7 Q. Are you on the Canvassing Board for this

8 upcoming election?

9 A. For the upcoming election?

10 Q. Yes.

11 A. No.

12 Q. Have you served on the Canvassing Board before?

13 A. Yes.

14 Q. When have you served?

15 A. When I'm not a candidate. If you understand

16 what that means.

17 Q. What is the primary responsibility of the

18 Canvassing Board?

19 MR. WINSOR: Objection to form.

20 THE WITNESS: The answer to that question is a

21 speech, so I don't want to give you a speech.

22 BY MS. ROTHENBERG:

23 Q. I don't want to be lectured, but you can give

24 me an answer to my question.

25 MR. WINSOR: Objection to form. If you

1 could -- I don't know how the phone is positioned,
2 but I can hear the witness great. If the questioner
3 could sit a little closer or speak up, I'd
4 appreciate it.

5 BY MS. ROTHENBERG:

6 Q. In your opinion, having sat on the Canvassing
7 Board, what is the primary responsibility of the
8 Canvassing Board?

9 MR. WINSOR: Objection to form.

10 THE WITNESS: In what area?

11 BY MS. ROTHENBERG:

12 Q. In certifying an election.

13 A. Certification would be one of its
14 responsibilities.

15 Q. Would you consider that to be its primary
16 responsibility?

17 A. I don't have an opinion about that. I would
18 have to research the law to see if the law states what
19 the primary responsibility is.

20 Q. Okay. In your experience on the Canvassing
21 Board, has the board gone through and reviewed each and
22 every provisional ballot that's been cast?

23 A. What do you mean by review each and
24 every provisional ballot that's been cast?

25 Q. Does the Canvassing Board individually make a

1 determination on every single provisional ballot?

2 A. Yes.

3 Q. And does the Canvassing Board have a staff that
4 helps them with that, or does the Canvassing Board
5 itself meet and discuss each provisional ballot?

6 MR. WINSOR: Objection to form.

7 MS. HARRIS: Objection to form.

8 THE WITNESS: Give me an example of a situation
9 and I'll tell you.

10 BY MS. ROTHENBERG:

11 Q. When you were on -- the last Canvassing Board
12 you sat on, how many members --

13 A. Same number as there always are.

14 Q. And that is?

15 A. Three.

16 Q. And did the three of you sit and determine --
17 make a determination on every single provisional ballot,
18 or did people -- or were they presorted or presifted for
19 you in any way?

20 MR. WINSOR: Objection to form.

21 MS. HARRIS: Objection to form.

22 BY MS. ROTHENBERG:

23 Q. Do you understand what I'm saying?

24 A. What does presifted mean?

25 Q. Put into different categories of things that

1 were considered, reasons why they were given a
2 provisional ballot.

3 A. I want to make sure I don't give you -- you're
4 talking about the staff -- the Canvassing Board doesn't
5 have staff. The Canvassing Board uses the staff -- or
6 employs the staff, loosely put, of the Supervisor of
7 Elections, and the preparation work for the Canvassing
8 Board meetings to make the determinations about ballots
9 is done by that staff. I wouldn't call it sifting or
10 sorting or -- I would call it the preparation work of
11 making judicial determinations about those individual
12 ballots.

13 Q. What sort of preparation work is done by the
14 Supervisor of Elections employees?

15 A. Alphabetizing. If a signature's missing,
16 obviously that goes into a category -- categorical work,
17 I suppose you would say.

18 Q. Okay. That was my question.

19 A. I wouldn't call it sifting.

20 Q. When the Canvassing Board --

21 A. I'm a restaurant guy, so...

22 Q. When the Canvassing Board receives them, they
23 receive the provisional ballots that have been sorted
24 into categories as far as the reason why the --

25 A. Sometimes.

1 Q. And other times you --

2 A. Depends on how many ballots or extent.

3 Q. Okay. But even if they are placed into
4 categories, the Canvassing Board discusses each and
5 every provisional ballot?

6 MR. WINSOR: Objection to form.

7 MS. HARRIS: Don't answer that question.

8 MS. ROTHENBERG: What's the basis for your
9 objection?

10 MS. HARRIS: You asked him does the Canvassing
11 Board discuss each and every ballot? What do you
12 mean discuss?

13 BY MS. ROTHENBERG:

14 Q. Do you discuss the reasons why a particular
15 ballot was a provisional ballot in the first place?

16 Do you discuss what written evidence has been
17 presented since that time on every single application?

18 MR. WINSOR: Objection to form.

19 THE WITNESS: I would say to you prospectively
20 that that opportunity for individual members of the
21 Canvassing Board to comment is always there.

22 I don't recollect the history of the
23 provisional ballots on the last Canvassing Board I
24 served on. I don't recollect that discussion. But
25 every ballot is available for discussion should any

1 member of the Canvassing Board want to make a
2 commentary on that particular ballot.

3 BY MS. ROTHENBERG:

4 Q. Are there provisional ballots that are not
5 commented on at all?

6 A. If someone looked at a ballot and didn't
7 comment, is that not commenting?

8 Q. Is every ballot reviewed?

9 MR. WINSOR: Are you talking about when he's
10 been on the board?

11 MS. ROTHENBERG: In his experience on the
12 Canvassing Board.

13 THE WITNESS: I really can't speak for the
14 other members of the Canvassing Board. I would...

15 BY MS. ROTHENBERG:

16 Q. Did you personally review every single
17 provisional ballot in '06?

18 MS. HARRIS: Objection to form.

19 THE WITNESS: I hate to be difficult for you,
20 but you are -- you're not familiar with the process.
21 And I look through them, but I'm the -- this is my
22 job and -- I look through them, yes.

23 BY MS. ROTHENBERG:

24 Q. Okay. That's what I was asking.

25 And did you make a determination with respect

1 to every provisional ballot as to whether that vote
2 should count or not?

3 A. The Canvassing Board is the body that makes the
4 determination, not individual members of the Canvassing
5 Board.

6 Q. So after your individual review, did you
7 present your personal determination to the other two
8 members of the Canvassing Board on every single
9 provisional ballot?

10 MS. HARRIS: Objection to form.

11 THE WITNESS: That's not the way the Canvassing
12 Board works.

13 Have you ever attended a Canvassing Board
14 meeting?

15 BY MS. ROTHENBERG:

16 Q. I have not. I would love for you to explain it
17 to me.

18 A. Well, we get here and we usually talk for a few
19 minutes and we make sure everybody has all the
20 materials.

21 I mean, how long do you want this to take?

22 Q. If you could tell me how the provisional
23 ballots are reviewed and discussed.

24 A. I can't recollect every conversation. Every
25 ballot is treated individually for the particular need

1 that the Canvassing Board in its judicial capacity deems
2 appropriate.

3 Q. Does the Canvassing Board make a yes or no
4 determination on every single provisional ballot?

5 A. Yes.

6 Q. If somebody comes in with written evidence in
7 the three days following the election and presents their
8 driver's license, a correct copy of their driver's
9 license and the reason why they were not matched in the
10 first place is that they transposed two numbers in their
11 driver's license, would the Canvassing Board deem this
12 person to be eligible to vote?

13 MS. HARRIS: Objection to form.

14 THE WITNESS: I would say back -- again, back
15 to the nature of the job and --

16 MS. HARRIS: Objection to form.

17 Don't answer that question.

18 Would the Canvassing Board deem this person
19 eligible to vote?

20 BY MS. ROTHENBERG:

21 Q. Would that person prove -- approve this
22 person's vote as a vote that should be counted?

23 MR. WINSOR: Objection to form.

24 THE WITNESS: The Canvassing Board would make a
25 determination based on the evidence presented.

1 BY MS. ROTHENBERG:

2 Q. If the reason why the person was given a
3 provisional ballot in the first place was they
4 transposed two digits of their driver's license number
5 and they were unable to match with the DMV database and
6 then they came back in and there was a valid copy of
7 their Florida driver's license, would that person's vote
8 be counted?

9 MR. WINSOR: Objection to form.

10 THE WITNESS: It's not my job to say --

11 MS. HARRIS: Objection to form.

12 THE WITNESS: You're asking me to speak for the
13 Canvassing Board. That's the job of the Canvassing
14 Board is to make that determination.

15 BY MS. ROTHENBERG:

16 Q. And in your experience would the Canvassing
17 Board approve that voter?

18 MR. WINSOR: Objection to form.

19 MS. HARRIS: Objection to form. Don't answer
20 that question.

21 THE WITNESS: It would depend on the -- it
22 would depend. I'd want to see the ballot and see
23 the evidence, if you will, and then I would make my
24 determination. There would be a vote cast and it
25 would be favorable or unfavorable.

1 BY MS. ROTHENBERG:

2 Q. So if you saw on the application that the --

3 MS. HARRIS: Objection to form.

4 MS. ROTHENBERG: I haven't finished.

5 MS. HARRIS: If he saw on the application?

6 What application?

7 BY MS. ROTHENBERG:

8 Q. If he saw that on the original application to
9 vote that two numbers were transposed, say I put 98 at
10 the end when my license actually has 89 at the end, and
11 you were later able to determine that I presented a
12 valid Florida driver's license, would my vote count?

13 MR. WINSOR: Objection to form.

14 MS. HARRIS: Objection to form.

15 THE WITNESS: I really would tell you that the
16 Canvassing Board is that body and it's -- it's a
17 three-person body that makes that determination
18 based on the evidence presented. And it's very
19 specific and very tight, compact, real, tangible,
20 palpable. And to hypothetically comment on a
21 situation is virtually impossible.

22 BY MS. ROTHENBERG:

23 Q. If you personally had no reason to question the
24 validity of a Florida driver's license and were
25 absolutely convinced in your opinion that person was an

1 eligible voter but the number on the driver's license
2 did not match the number on the application, would you
3 vote to have that person's vote count?

4 MR. WINSOR: Objection to form.

5 MS. HARRIS: Objection to form.

6 MR. WINSOR: When?

7 THE WITNESS: I don't have any -- I don't do
8 hypotheticals.

9 BY MS. ROTHENBERG:

10 Q. Would the Canvassing Board consider any other
11 documents other than a driver's license or a social
12 security card? For example, the person came in with a
13 valid copy of their U.S. passport and presented that as
14 written evidence, would you consider that?

15 A. There's a list of -- I think the statutes have
16 a list, I believe.

17 MR. WINSOR: Objection to form.

18 MS. HARRIS: Yeah, because --

19 THE WITNESS: Again, that's not a function that
20 I perform.

21 BY MS. ROTHENBERG:

22 Q. Are the Canvassing Board meetings transcribed?

23 A. No. No, I don't think there's any statute that
24 calls for that.

25 Q. Are they recorded in any matter?

1 MS. HARRIS: Minutes are taken.

2 THE WITNESS: We take minutes.

3 MS. ROTHENBERG: Ms. Harris, I remind you
4 you're not testifying today.

5 MR. WINSOR: Repeat the question.

6 MS. ROTHENBERG: I'm reminding Ms. Harris that
7 she is not testifying today and she is not to answer
8 my questions.

9 MS. HARRIS: I didn't answer it.

10 MS. ROTHENBERG: You did.

11 MS. HARRIS: I clarified.

12 MS. ROTHENBERG: No, you answered before he got
13 a chance to answer.

14 MS. HARRIS: He said transcribed and I want to
15 make sure. Don't get upset. We're having fun here.

16 BY MS. ROTHENBERG:

17 Q. Do you know what percentage of people who cast
18 provisional ballots come in with additional evidence in
19 the three days following the election?

20 A. I don't.

21 MR. WINSOR: Objection to form.

22 BY MS. ROTHENBERG:

23 Q. Do you maintain records of the written evidence
24 that is presented by voters?

25 A. I don't know. You mean after the determination

1 is made? I don't know that there's any requirement in
2 the statutes to maintain the evidence. I don't know.
3 That's a good question.

4 (Exhibit No. 6 marked for identification.)

5 BY MS. ROTHENBERG:

6 Q. I'd like to show you a document I marked for
7 identification as Johnson Exhibit 6.

8 Do you recognize this document?

9 MS. HARRIS: He's never seen it.

10 MS. ROTHENBERG: Okay. I just want to note for
11 the record that this was a document that was
12 produced by counsel, I believe, on Monday night.

13 And on the second page there's a statement that
14 there is a listing of all applicants who have a
15 record as being unmatched in the database, and
16 counsel has not yet produced this listing.

17 THE WITNESS: Can I ask you a question?

18 MS. HARRIS: Objection. I forwarded that
19 information to your co-counsel.

20 THE WITNESS: Why is it important to state when
21 you received the document? I'm not sure why
22 you're --

23 MS. HARRIS: Particularly when it's not true.
24 You did that yesterday.

25 MS. ROTHENBERG: No, it is true. This I

1 received on Monday night.

2 MS. HARRIS: No. I have forwarded you the
3 document that you just said on page 2, I forwarded
4 to your counsel.

5 MS. ROTHENBERG: I did not personally receive
6 the document, so thank you. That clarifies. I just
7 wanted to make a record.

8 THE WITNESS: I was just wondering what is the
9 point of mentioning that?

10 MS. ROTHENBERG: This is not the time or the
11 place for this. We can discuss this off the record
12 afterward.

13 MS. HARRIS: We don't talk much off the record.

14 THE WITNESS: I was just curious.

15 BY MS. ROTHENBERG:

16 Q. Mr. Johnson, you testified yesterday that your
17 job is not to operate the keyboard, and you testified
18 more about that today, but to find out whether each
19 voter in Hillsborough County is able to vote, if they're
20 eligible to vote; is that right?

21 MR. WINSOR: Objection to form.

22 THE WITNESS: Say that again.

23 BY MS. ROTHENBERG:

24 Q. Your job is more broadly to make sure that
25 every eligible voter has a chance to vote?

1 A. That's one aspect of my job.

2 Q. Have you ever had conversations with Mr. Smith
3 or Ms. Smith or Mr. Reed specifically about subsection
4 6?

5 MR. WINSOR: Objection to form.

6 THE WITNESS: That's what we talked about
7 yesterday?

8 BY MS. ROTHENBERG:

9 Q. It is what we talked about yesterday --

10 A. We've had --

11 Q. -- and today, as well.

12 A. The same -- well, you referred to it yesterday
13 by section number. You didn't today, I don't believe.

14 Q. Yeah, subsection 6.

15 A. We talk about the statutes often.

16 Q. Do you recall any specific conversations you've
17 ever had with Mr. Smith or Ms. Smith or Mr. Reed about
18 subsection 6?

19 A. We have had conversations about the issues
20 mentioned and contained in that.

21 Q. Have you ever had conversations with any of
22 them about the impact on Hillsborough County voters?

23 A. Impact? What do you mean by impact?

24 Q. Whether subsection 6 will --

25 A. Economic impact?

1 Q. I'm clarifying for you.

2 Whether subsection 6 will make it more
3 difficult for Hillsborough County voters who are
4 eligible voters to have their votes counted?

5 A. Have we had conversations about that? No, not
6 that I recollect.

7 Q. Have you ever inquired as to whether they were
8 receiving notices from the Florida voter registration
9 system that the Florida voter registration system was
10 unable to verify any Hillsborough County voters?

11 A. Have I ever --

12 Q. Have you ever inquired as to whether they were
13 receiving notices?

14 MR. WINSOR: The same individual?

15 MS. ROTHENBERG: I'm sorry?

16 MR. WINSOR: Are you talking about the same
17 individual?

18 BY MS. ROTHENBERG:

19 Q. Yes. With Mr. Smith or Ms. Smith or Mr. Reed.

20 A. No. I've inquired about the broad
21 responsibility they have to do that portion of their
22 job. But if I ask every question like that, I would
23 be -- all we would do all day long is ask questions, did
24 you do this? It would be a management by checklist, and
25 that's not my job.

1 Q. Have any of Mr. Smith, Ms. Smith, or Mr. Reed
2 ever mentioned to you that the FVRS was sending back
3 large numbers of voters as non-matches --

4 A. Not that I recollect any proactive mentioning
5 in the way you described it, no.

6 Q. In the document that I just introduced, I made
7 reference to a list of all applicants who still have a
8 record as being unmatched in the database. Were you
9 aware that there was such a list in your office?

10 A. Where are you referring?

11 Q. I'm sorry, on Johnson Exhibit 6 on the
12 second --

13 A. Where?

14 Q. On the second page it makes reference to a
15 listing of all applicants who still have a record as
16 being unmatched in the database. Were you aware that
17 such a list existed in your office?

18 A. Again, my job is to make sure that my staff
19 manages the database, the relationship with FVRS, our
20 interface through our vendor to the FVRS, and that all
21 processes required by the statutes are followed. And we
22 do that and do it very well.

23 Q. Okay. Do you ever inquire about how many
24 outstanding voters were unmatched in your office
25 currently or at any time since 2006?

1 A. Now, with -- the system would be that if there
2 was a -- if there was an issue there, it would be
3 brought to my attention. I'm sure that's discussed
4 among the people that do that function.

5 Q. But have you ever independently thought that
6 this could be creating a problem for Hillsborough County
7 voters?

8 MR. WINSOR: Objection to form.

9 THE WITNESS: No, because I don't -- no. The
10 staff does an excellent job of managing that system.

11 BY MS. ROTHENBERG:

12 Q. Does it bother you to know that there is an
13 outstanding list of people who are not matched that may
14 be eligible to vote?

15 MS. HARRIS: Objection to form.

16 MR. WINSOR: Objection to form.

17 MS. HARRIS: And not exactly what is in that
18 document. A misrepresentation of what's in that
19 document.

20 BY MS. ROTHENBERG:

21 Q. Would it bother you to know that there are
22 eligible voters in Hillsborough County who may not be
23 able to cast ballots because of this matching or --

24 A. I think I mentioned earlier my job is to make
25 sure that every eligible voter has the opportunity to

1 vote.

2 Q. And if this was preventing that from
3 happening --

4 MS. HARRIS: Objection to form.

5 THE WITNESS: My job is to make sure that every
6 eligible voter has the opportunity. And I take my
7 job very seriously.

8 BY MS. ROTHENBERG:

9 Q. Okay. I appreciate that.

10 A. You're welcome. You said I appreciate that?

11 Q. I did.

12 A. I want to make sure I heard you.

13 Q. Mr. Johnson, how do you feel about the NAACP?

14 MR. WINSOR: Objection to form.

15 MS. HARRIS: Feel about them?

16 BY MS. ROTHENBERG:

17 Q. Do you have any personal beliefs about the
18 NAACP?

19 MR. WINSOR: Objection to form.

20 THE WITNESS: In what?

21 BY MS. ROTHENBERG:

22 Q. Do you respect the NAACP as an organization?

23 MR. WINSOR: Objection to form.

24 MS. HARRIS: Objection to form.

25 THE WITNESS: Yes.

1 BY MS. ROTHENBERG:

2 Q. Do you respect what they've done to help
3 American citizens across the country become eligible to
4 vote?

5 MR. WINSOR: Objection to form.

6 MS. HARRIS: Objection to form.

7 MR. WINSOR: And it would be helpful if you
8 could clarify whether you're talking about the
9 plaintiff in this organization or the national --

10 MS. HARRIS: Or the local chapter here or --

11 BY MS. ROTHENBERG:

12 Q. Do you have any feelings towards the local
13 chapter of the NAACP?

14 MR. WINSOR: Objection to form.

15 THE WITNESS: I mean could -- any feelings?

16 BY MS. ROTHENBERG:

17 Q. How do you feel about --

18 A. Would you like me to recite Martin Luther
19 King's I have a dream speech that I love to talk about
20 and how wonderful it is? Would like me to tell you
21 about Dr. Sam Horton, the past president, who's my very
22 dear friend? Curtis, who's the current president, who's
23 my good friend. The meetings that we have with the
24 NAACP to show them how our processes are working. With
25 Robin, the current liaison with our office, and how we

1 meet and we go to their office and keep them apprised of
2 issues. How we go to their meetings on Tuesday nights
3 occasionally. How I intend to go to their freedom
4 dinner this week, I believe it is. How we cooperate
5 with their registration drives. How we train them to do
6 registration drives. How we really try to accommodate.
7 How we have an advisory committee to the
8 African-American community that's being chaired by Byron
9 Hughes.

10 Where would you like me to stop?

11 Q. I take it you have no ill will towards the
12 NAACP?

13 MR. WINSOR: Objection to form. It's
14 ridiculous.

15 BY MS. ROTHENBERG:

16 Q. Is there any reason you were trying to avoid
17 service in this case?

18 A. I'm sorry?

19 Q. Is there any reason --

20 MR. WINSOR: Objection to form.

21 BY MS. ROTHENBERG:

22 Q. -- that you were trying to avoid service in
23 this case?

24 MS. HARRIS: We weren't trying to avoid
25 service.

1 MS. ROTHENBERG: Ms. Harris, you're not
2 testifying.

3 BY MS. ROTHENBERG:

4 Q. You're under oath. Is there any reason that
5 you were trying to avoid service?

6 MR. WINSOR: Objection to form.

7 MS. HARRIS: Don't answer that question.

8 BY MS. ROTHENBERG:

9 Q. Do you acknowledge that you had a staffer pull
10 the car around from the front of your building to the
11 back of your building to avoid a process server last
12 week?

13 MS. HARRIS: Objection to form.

14 Don't answer that question.

15 MR. WINSOR: Objection to form.

16 BY MS. ROTHENBERG:

17 Q. Is that a yes or a no?

18 MS. HARRIS: Don't answer that.

19 THE WITNESS: I'm going to follow my counsel's
20 advice.

21 MS. ROTHENBERG: Okay. That's all I have.

22 I'll order.

23 MS. HARRIS: Read and sign.

24 MR. WINSOR: Yes, copy both days.

25 (Deposition concluded at 4:14 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF POLK)

I, the undersigned authority, certify that the witness
in this matter personally appeared before me and was
duly sworn on the 24th of October, 2007.

WITNESS my hand and official seal this 27th day of
October, 2007.

Loretta Lee, FPR
Notary Public
State of Florida at Large
My Commission Number: DD346570
Expires: 08/12/08

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF POLK)

I, Loretta Lee, certify that I was authorized to and did stenographically report the deposition; that a review of the transcript was requested; and that the foregoing pages are a true and complete record of my stenographic notes taken during said deposition.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 27th day of October, 2007.

Loretta Lee, FPR

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SIGNATURE PAGE/ERRATA SHEET

WITNESS: PHILLIP E. "BUDDY" JOHNSON - Volume II
DEPOSITION TAKEN: October 24, 2007
CASE REFERENCE: NAACP v. Kurt Browning
(Esquire Job #899889)

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Please sign and date this sheet as indicated below. If additional lines are required for corrections, attach additional sheets.

If there are no corrections, please indicate "None."

Page/ Line	Error or Amendment	Reason for Change
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I have read my transcript and subscribe to its accuracy, to include the corrections or amendments noted above or hereto attached.

(Witness Signature) (Date)

1 ESQUIRE DEPOSITION SERVICES
2 101 East Kennedy Blvd., Suite 3350
3 Tampa, FL 33602
4 813.221.2535

5 October 31, 2007

6 PHILLIP E. "BUDDY" JOHNSON
7 Supervisor of Elections
8 2514 N. Falkenburg Road
9 Tampa, Florida 33619

10 RE: NAACP v. Kurt Browning
11 Esquire Job No: 899889

12 Please take notice that on the 24th day of October,
13 2007, you gave your deposition in the above-referenced
14 matter. At that time, you did not waive signature.

15 A courtesy copy of the transcript is enclosed for your
16 review.

17 Any corrections you wish to make to the transcript
18 should be made on the errata sheet at Page 127. Please
19 do not write on the transcript itself.

20 Please complete review of your transcript within 30 days
21 and return the errata sheet to our offices. You need
22 not return the entire transcript.

23 If you now wish to waive your right to read and sign the
24 transcript, please indicate so on the errata sheet and
25 return it to our office.

26

Sincerely,

27

Loretta Lee, FPR
Court Reporter
Independent Contractor

28

29

30 CC via transcript:
31 Lauren M. Rothenberg, Esq.
32 Allen Winsor, Esq.

33