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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-21243-CIV-ALTONAGA/BROWN

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LEAGUE OF WOMEN VOTERS OF FLORIDA,
FLORIDA AFL-CIO, AMERICAN FEDERATION
OF STATE, COUNTY AND MUNICIPAL EMPLOYEES,
COUNCIL 79 (AFSCME), as organizations
and as representatives of their members;
and MARILYN WILLIS,

Plaintiffs,

v.

KURT S. BROWNING, in his official capacity as
Secretary of State for the State of Florida, and
DONALD L. PALMER, in his official capacity as
Director of the Division of Elections within the
Department of State for the State of Florida,

Defendants.

-----x

June 10, 2008

9:38 a.m.

Videotaped Deposition of ROBERT SWEAT,
taken by Plaintiffs, at the offices of the
Manatee County Supervisor of Elections,
600 U.S. 301 Boulevard West, Suite 108, Bradenton,
Florida, before Donna L. Peterson, a Shorthand
Reporter and Notary Public within and for the State
of Florida.

1 A P P E A R A N C E S:

2

3 DEBEVOISE & PLIMPTON, LLP

4 Attorneys for Plaintiffs

919 Third Avenue

5 New York, New York 10022

6

7 BY: JESSICA R. SIMONOFF, ESQ.

8 - and -

9

10

11 ADVANCEMENT PROJECT

12 Attorneys for the Plaintiffs

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13 Suite 910

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14

15 BY: ELIZABETH S. WESTFALL, ESQ.

16 (Present via telephone)

17

18 GRAY-ROBINSON, P.A.

19 Attorneys for Kurt S. Browning

301 South Bronough Street, Suite 600

20 Tallahassee, Florida 32301

21 BY: PETER ANTONACCI, ESQ.

22

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24

25

Elisa Dreier Reporting Corp. (212) 557-5558

780 Third Avenue, NY, NY 10017

1 ----- I N D E X -----

2 WITNESS EXAMINATION BY PAGE
3 ROBERT SWEAT Ms. Simonoff 4

4
5

6 ----- EXHIBITS -----

7 NO. DESCRIPTION PAGE

8 1 Ten-page subpoena and exhibit 7
9 addressed to Robert Sweat

10 2 Two-page copy of a Florida voter 19
11 registration application

12 3 One-page document with a title 21
13 "Voter Registration" written at

14 the top which appears to be a
15 record of voter registration

16 applications submitted by Pat
17 Arends of the League of Women

18 Voters of Manatee County on or
19 about August 7th, 2004

20 4 One-page list of names and 29
21 telephone numbers with the title

22 "14 registrations done by
23 volunteers of Florida Consumer

24 Action Network Foundation" at the
25 top

26 5 Copy of Roberts Sweat's testimony 45
27 in the case of Diaz

28 6 Two-page photocopy of Florida 60
29 state law 97.0575

30 7 Declaration of Robert Sweat in 90
31 Diaz versus Browning

32
33

34

Elisa Dreier Reporting Corp. (212) 557-5558
780 Third Avenue, NY, NY 10017

1 P R O C E E D I N G S

2 R O B E R T S W E A T ,

3 having been first duly sworn by the Notary

4 Public (Donna L. Peterson), was examined and

5 testified as follows:

6 MS. SIMONOFF: My name is Jessica
7 Simonoff. I'm from Debevoise and Plimpton, and I am
8 representing plaintiff, League of Women Voters.

9 Would you like to introduce yourself?

10 MR. ANTONACCI: No. Go ahead.

11 MS. SIMONOFF: Okay.

12 EXAMINATION BY

13 MS. SIMONOFF:

14 Q. All right. I am going to ask you some
15 questions about facts related to this lawsuit. As
16 you know, this deposition is being transcribed and
17 your testimony may be read at trial under certain
18 circumstances. Please answer all questions aloud so
19 that the reporter can make an accurate record. If
20 you do not hear a question, please say so and I will
21 repeat it. If you do not understand a question,
22 please say so and I'll rephrase it. If you do not
23 know or do not remember the information necessary to
24 answer a question, please say so. If you answer a

25

1 Q. Can you briefly describe for me how an
2 individual in this county can register to vote.

3 A. Well, really pretty easy. We have
4 upward to 250, 260 locations here in Manatee County
5 where they can pick up an application, they can get
6 it off our website, or they can call and we can mail
7 them an application if they -- if they need one that
8 way. And then we -- I have a program where I go to
9 all the high schools and register high school
10 seniors that are 17 or some 18 that are ready to
11 register at that time. So we have a pretty thorough
12 outreach opportunity for anybody that wants to
13 register.

14 Q. And could you please describe some of
15 the categories of these places where people can go
16 to pick up applications.

17 A. Almost any bank. Probably 60 percent of
18 the banks in Manatee County will have -- we have the
19 little counter folders that hold the applications.
20 All of the elected officials have them in their
21 offices, the constitutional offices, the county
22 commissioners. The school board has them. We have
23 real estate offices that have them. And junior
24 college, community college has them. So they are
25 all over the county, the applications are.

1 Q. So you have said that people can
2 register with paper applications or by telephone.
3 Can they also register electronically? Is there any
4 other way?

5 A. No, they can't register by telephone.

6 Q. Oh, okay.

7 A. Okay? But they can download the
8 application, fill it out, and mail it in to us. The
9 thing that we require other than the obvious boxes
10 that they have to check, you know, to be qualified
11 to register to vote is the signature on the
12 application.

13 Q. Okay. Who in your office is responsible
14 for ensuring that voter applications are processed?

15 A. My assistant will handle part of that,
16 Linda Gabler, who is one of the deputies; Linda
17 Cobb, another deputy; and then I have -- I have
18 three others that can assist them in doing this if
19 they need help with it.

20 Q. What is your assistant's name?

21 A. I'm sorry?

22 Q. Your assistant's name?

23 A. Nancy Bignell, B-i-g-n-e-l-l.

24 Q. And are you describing for me the
25 full-time employees who process voter applications?

1 MS. SIMONOFF: Okay. Please mark as
2 Exhibit 2 a two-page copy of a Florida voter
3 registration application.

4 (Exhibit No. 2 was marked for
5 identification.)

6 THE REPORTER: You will get this one.

7 THE WITNESS: I have thousands of them
8 back there, so.

9 BY MS. SIMONOFF:

10 Q. So could you please describe what this
11 document is?

12 A. Okay. This is a Florida state voter
13 registration application that a person needs to fill
14 out and complete specific data on there, send it to
15 our office, and have it processed to be able to
16 register in Manatee County.

17 Q. Okay. Could you please look at field
18 16?

19 A. Uh-huh.

20 Q. Do applicants always date this field?

21 A. You mean by signing the application?

22 Q. By writing the date next to their
23 signature.

24 A. I can't answer that. I don't know. I'd
25 have to ask one of my staff.

1 Q. Is it required for processing that the
2 date be there?

3 A. The date, a date there that the person
4 put in that filled out the application?

5 Q. Where it says "date" next to signature,
6 presumably the applicant is expected to write their
7 signature and then write the date next to it?

8 A. Yeah, I -- I'm not sure, but I think we
9 require that. I mean, because that is part of the
10 application so that we know when they, you know,
11 when they filled it out.

12 Q. Okay.

13 A. We -- we time clock everything that
14 comes in here anyway, so we know the date that we
15 got it. But we don't always know the date that the
16 person filled it out, you know, what the date was
17 when the person filled it out. So yeah.

18 Q. Okay. So presumably you could have a
19 document -- sorry. You could receive a voter
20 registration application that's undated, and it
21 might still be processed?

22 A. I don't know.

23 Q. And who would know?

24 A. Well, I could ask Nancy or one of the
25 processing agents back there. I just -- it's just

1 something that I have never crossed over before so I
2 don't really have an answer for you.

3 MS. SIMONOFF: Thank you.

4 Please mark as Exhibit 3, a one-page
5 document with a title "Voter Registration" written
6 at the top which appears to be a record of voter
7 registration applications submitted by Pat Arends of
8 the League of Women Voters of Manatee County on or
9 about August 7th, 2004.

10 (Exhibit No. 3 was marked for
11 identification.)

12 THE WITNESS: That is in your paperwork
13 here, too.

14 MR. ANTONACCI: She just gave me a copy.

15 THE WITNESS: Oh.

16 BY MS. SIMONOFF:

17 Q. Do you recognize this form?

18 A. Uh-huh.

19 Q. Could you please describe it for me?

20 A. This is the log that -- I don't know who
21 brought it in, but I'm assuming that Pat brought it
22 in. And she has got some information on here that
23 "new or update, hasn't voted in many years." She is
24 just giving us some information on the -- on help,
25 to help us process the paperwork on that.

1 Then a change of address, another change
2 of address.

3 And then she is telling us that she has
4 got three people on the bottom here that has
5 requested absentee ballots.

6 Q. What is this form used for?

7 A. This is a log form that we try to give
8 to the person that's going out and registering
9 voters, so.

10 We -- Everyone doesn't take them, but we
11 encourage them to do it for their benefit and for
12 the registrant's benefit and our benefit. So that
13 when they come back in here, we have a little track
14 record of what's going on with them.

15 Q. Why do you think it benefits the
16 organization?

17 A. The organization that's doing the
18 registering?

19 Q. Yes.

20 A. Well, I think it helps them out because
21 if they go out and register some people and then a
22 person calls me up and says, "We haven't got our
23 voter registration card," and then I can find out
24 who registered that person. I can go back and look
25 on the log and see if it's not there. Then I could

1 call Pat and say, "Could you check, you know, your
2 information or to see if maybe this is an
3 application that was missed being turned in?"

4 So it kind of protects everybody really,
5 but mainly the person that is registering to vote.
6 Because it has happened in the past where a person
7 would come in on election day to vote and we would
8 not have any record of that. And we would go back
9 and look, and we had absolutely no record of it but
10 they said, "But I registered at the driver's license
11 bureau." And they are not going to get to vote that
12 day, and that's unfortunate. So if we can remedy
13 that before the election, it helps everybody.

14 Q. But you don't require organizations to
15 use this form?

16 A. No.

17 Q. And when do they receive this form from
18 you?

19 A. If they come in and tell us that they
20 are going to have a voter registration drive, we try
21 to give it to them right then. If they have come in
22 and they have had a voter registration drive and
23 they bring the applications in, we ask them if they
24 would just sit there and fill this out with each one
25 of the application's name. And then we date it and

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1 the person that brought them in.

2 And I think I mentioned to you earlier,
3 some people just bring in a stack and throw them on
4 the counter. And we just log them in ourselves then
5 on a sheet similar to this. You will find some of
6 them with the name of no one in there that brought
7 them in, because we don't know.

8 Q. Okay. So a member of the third-party
9 organization fills this form out?

10 A. Uh-huh.

11 Q. And no member of your office fills it
12 out?

13 A. Well, I can't say that. Because
14 sometimes they will bring the applications back with
15 this form and sit down up at the counter. And it's
16 a little bit faster sometimes if my people assist
17 them with the -- with the -- you know, filling in
18 the applications on there. So it's not totally out
19 of the question to have one of my staff help them
20 fill them out if they haven't got it filled out.

21 Q. Is this form also used when applications
22 are mailed in?

23 A. No. Oh, well, let me clarify that. If
24 someone were to mail me in 10 or 15, yes. And then
25 I would put the person that mailed them in, and then

1 we would log it in. If it just comes in a daily
2 mail, no.

3 Q. Okay. Do you see the stamp near the top
4 of this document?

5 A. Uh-huh.

6 Q. Can you read the date on that stamp?

7 A. No.

8 Q. It's very difficult to read, but it
9 looks to me like it's August 10th, 2004.

10 A. Uh-huh.

11 Q. Does that -- is that what it looks like
12 to you?

13 A. Uh-huh.

14 Q. Okay. Can you see there is a stamp at
15 the bottom of the document as well?

16 A. Yes.

17 Q. Can you read the date on that stamp?

18 A. August 9th.

19 Q. Okay. What is the purpose of these
20 stamps?

21 A. Well, the purpose of a stamp on here --
22 I don't know why there is two on here. The purpose
23 of the stamp is so we will know the date that they
24 brought them in and the time.

25 Q. Is this primarily how you keep track of

1 when voter registration applications come into your
2 office?

3 A. From a third party?

4 Q. From third parties.

5 A. Yes.

6 Q. And you said that you don't know why
7 this application would have two stamps on it?

8 A. No.

9 Q. Do you have any idea why those two
10 stamps would be different from each other?

11 A. No.

12 Q. Do you have any idea why those two
13 stamps -- well, withdrawn.

14 Do you see at the top of the page, it
15 says "date registration submitted"?

16 A. Yes.

17 Q. And can you read the date there?

18 A. 8/7/04.

19 Q. Do you have any idea why the dates on
20 the stamps, either one of them, would differ from
21 the date written in the "date registration
22 submitted" line?

23 A. Yeah. They could have -- they could
24 have been out there registering these people a week
25 or two weeks before or five days before and wrote

1 that date in there before they brought it in to us.
2 And we just stamp them in the day they come in. So
3 that could vary from, you know, application to
4 application.

5 Q. Okay. Why do you have a space for the
6 staff member's name on this form?

7 A. Because we would like to be able to go
8 back and reconcile with any problems that we have
9 for it; or if we have any questions, we can go back
10 and ask the staff member that put it -- you know,
11 checked it in.

12 Q. On this particular example, it doesn't
13 look to me like there is a staff member's name. Do
14 you agree?

15 A. Uh-huh.

16 Q. Does that happen? Is that common?

17 A. I don't think so. But it's -- it's very
18 possible. And particularly if Pat brought them in,
19 I can see them not signing. We see her every day.
20 She is very, very good at what she does. I can see
21 maybe a staff member not signing, you know, the
22 sheet.

23 Q. Thank you. Now, after your staff member
24 completes Exhibit 3, does that person then record
25 the information in the form or associated with the

1 or an error was brought to your office by a
2 third-party organization, do you also follow up with
3 that third-party organization?

4 A. No. Just the voter or just the person
5 that is trying to register to vote.

6 Q. And I think you said that you do not
7 keep track of applications with omissions or errors?

8 A. No. Well, keeping track, now, we keep
9 that application in file until we get the
10 information back from the voter. If we never get
11 the information back from a voter, then it stays in
12 a pending file.

13 But we process those immediately, and
14 then once we do that, it's in the hopper with
15 everybody.

16 Q. Okay. Are you familiar with the
17 third-party groups that conduct voter registration
18 in your county?

19 A. Some.

20 Q. Which ones?

21 A. The League of Women Voters. We have the
22 community college register -- you know, they have
23 voter registration drives. We have a Kiwanis Club
24 that does voter registration drives; they do it for
25 us. And there may be several others smaller groups

1 that do that if they are local.

2 And we don't keep -- I don't have a log
3 of, you know, these are the available people that
4 can --

5 If -- and one of the things that we try
6 to do here, if we can assist a third party with a
7 voter registration drive, we can and we will. If we
8 are busy, we can't. I always recommend they call
9 the league and ask for their assistance if they can
10 help them, because they are very good at what they
11 do. And I have very few mistakes if any from, you
12 know, the league; because, see, when they get a
13 registration, they check it over to make sure that
14 people didn't leave out any information off of it.

15 The local third-party registration
16 are -- or the third-party people that we have here
17 in Manatee County are very, very, very good. We
18 have zero percent, hardly, problems with any of
19 those. It's the ones that are from out of town that
20 come in here and try to flood the market that don't
21 pay any attention to what's going on that we have
22 encountered problems with in the past.

23 Q. Okay. Well, let me go back a step. You
24 said that certain groups conduct voter registration
25 drives for you, for your office?

1 or whatever they give to us is we had one that was
2 out of Texas that was down here. And there was just
3 no communication. They were very demanding. You
4 know, they would come in. They wouldn't talk to you
5 about the process or making sure they would fill it
6 out properly. They wouldn't talk to us about a time
7 frame. All they would do is come in here and want
8 200 applications, and then they would get those if I
9 had them and they would leave.

10 Q. Okay. And you had no contact really
11 with those groups, but you did -- sorry.

12 A. That's okay. Go ahead.

13 Q. But just for me to be clear, the
14 coordination efforts that you just described that
15 you do presently, did you do those efforts in 2004
16 with the local groups?

17 A. Oh, yeah, yeah. I didn't have any
18 problems with any local groups in 2004.

19 Q. Okay. Did you keep track in 2004 of
20 which applications were submitted by third-party
21 groups?

22 A. No. Well, let me rephrase that. Yes,
23 they are in -- there is some in here, that
24 third-party groups coming in and turning in
25 applications.

1 Q. And when you say "in here," you are
2 referring to the voter registration logs?

3 A. Uh-huh, yeah.

4 Q. But that's it?

5 A. Uh-huh.

6 Q. Okay. How about in 2006, do you
7 remember how many third-party groups were operating
8 in your county in 2006?

9 A. Well, basically just our locals. I
10 don't recall an outside, out-of-the-state group.

11 We had, obviously, the parties statewide
12 were out. You know, they were getting signatures,
13 they were getting everything, and they were
14 registering people.

15 But no -- and we did not -- we did not
16 have any -- I don't know how to -- I don't know how
17 to say this. But most of ours were local and state
18 and county that we had. We didn't have any problems
19 with that either.

20 Q. Okay. And did your office conduct the
21 same kind of outreach activities as you had just
22 described you're presently doing?

23 A. Uh-huh.

24 Q. And did you keep track of which
25 applications were submitted by third-party groups in

1 2006?

2 A. Yes.

3 Q. Did you keep track of them using the
4 same voter registration log?

5 A. Uh-huh, yes.

6 Q. Are you familiar with the term "book
7 closing date"?

8 A. Yes.

9 Q. Could you please describe what it means?

10 A. Well, 29 days before the election, the
11 state law says that all registration books will
12 close until after the election.

13 Q. Has the League of Women Voters ever
14 submitted voter applications to your office after
15 the book closing date for a federal primary or
16 general election?

17 A. Not to my knowledge.

18 Q. Has the AFL-CIO submitted voter
19 applications to your office after the book closing
20 date for a federal primary or general election?

21 A. Not to my knowledge.

22 Q. Have other third-party voter
23 registration organizations done the same?

24 A. In 2004 I had -- and I don't know how
25 many, but I did -- we did pick up on some that came

1 in after the books closed that were dated prior to
2 the books closing, but they came into the office
3 after the books closed. I don't know how many there
4 was, and there was not a great deal of them, but
5 there were some.

6 Q. Do you have any idea who delivered them?

7 A. The -- none of the local ones did. The
8 local people know the rules, and they know the law
9 and they follow them. It's the ones that are from
10 out of the state or someplace that try to skirt the
11 issues every time.

12 Q. Was there any reason given for the late
13 submission?

14 A. No. They just bring them in and throw
15 them on the counter and leave.

16 Q. Thank you. Do you remember
17 approximately how many voter registration
18 applications you received in the two months before
19 book closing deadline for the 2004 presidential
20 election?

21 A. No.

22 Q. Do you have any record of those numbers?

23 A. There, you know, there is a possibility
24 that we could give an estimate. Because what we
25 would do is we would take the number of registered

1 voters prior to the two months, and then at the
2 book's closing we would go back and figure out how
3 many registered voters we had, and that would
4 probably give you a guesstimate of how many people
5 you had register.

6 MS. SIMONOFF: Okay. Please mark as
7 Exhibit 5 a copy of Roberts Sweat's testimony in the
8 case of Diaz.

9 (Exhibit No. 5 was marked for
10 identification.)

11 BY MS. SIMONOFF:

12 Q. Could you please turn to the last page
13 of this handout.

14 Do you recognize this as your testimony?

15 A. Yes.

16 Q. Thank you. Could you please take a
17 moment to look at your answers on page 350, line 22,
18 down through page 351, line 7.

19 A. 350?

20 Q. Right here.

21 A. Okay.

22 Q. Just through there.

23 A. Okay. I said that, yes.

24 Q. Okay. So what you are referring to is
25 your testimony in Diaz that members of third-party

6/10/2008 Sweat, Robert

1 groups kept applications in their cars for three to
2 five weeks before submitting them on the last day
3 before book closing deadline for the 2004
4 presidential election; is that correct?

5 A. Uh-huh.

6 Q. When did you first learn about this?

7 A. Well, when they would bring in a stack
8 of applications. And I -- I don't know they kept
9 them five weeks or four weeks. But what we would
10 get is, we would see the date on the application,
11 and we would look at the date that we got them. And
12 we would see that they had been held longer than we
13 would normally ask people to bring them in to us.

14 I don't recall other than, like I
15 explained to you just a little bit earlier, and
16 maybe two or three instances where we found an
17 application, you know, that was turned in after the
18 books closed. There wasn't a lot of those, but
19 there was several that was like that. But they
20 would hold them. You could see by the dates of when
21 we got them and, you know, when they filled out the
22 application.

23 Q. So all of these applications were dated?

24 A. I don't know that all of them were. I
25 mean, that's going back to 2004. And I don't recall

1 if they were all dated. But I would think that most
2 of them were, yeah.

3 Q. Did you see the applications yourself?

4 A. No.

5 Q. Was it a requirement that they be dated
6 in order for them to be processed?

7 A. No, not by me.

8 Q. You said that third-party group members
9 kept these applications in the trunks of their cars.
10 How do you know that?

11 A. They kept them.

12 Q. They kept them?

13 A. I'm assuming that, you know, the back
14 seat or the trunk. That is usually where everything
15 goes.

16 Q. So you didn't see them in the trunk?

17 A. No.

18 Q. You didn't see them in the back seat?

19 A. No.

20 Q. Did any members of these organizations
21 tell you that they were storing documents -- sorry,
22 applications in their cars?

23 A. No.

24 Q. Did any member of your staff tell you
25 that members were storing applications in the trunks

6/10/2008 Sweat, Robert

1 or backs of their cars?

2 A. No.

3 Q. Did you see them taking applications out
4 of their cars?

5 A. No.

6 Q. Did you see them with the applications
7 at any time before that, before they brought them to
8 your office? I can withdraw that.

9 A. Just trying to -- I'm trying to
10 determine if seeing them registering people and
11 seeing the applications were the same thing.

12 Q. That's fair enough. Let me withdraw and
13 rephrase the question.

14 Did you see them putting the
15 applications in their cars or in any other storage
16 area?

17 A. No.

18 Q. How many applications do you think were
19 delivered in this manner?

20 A. I don't know.

21 Q. Would anybody in your office know?

22 A. If they did, it would be a guess.

23 Q. Do you have any record of how many
24 applications were kept in cars for three to five
25 weeks before being delivered?

6/10/2008 Sweat, Robert

1 A. No.

2 Q. How were these applications ultimately
3 delivered to your office?

4 A. The individual would bring them in to
5 the front office, and we would accept them at that
6 time.

7 Q. So they were all delivered in person?

8 A. Well, I can't say that they were all
9 delivered in person, because from time to time --
10 and I don't know about that particular time frame.

11 From time to time we will get some in the mail, you
12 know, a package of three or five or whatever in the
13 mail. But most of those came in over the counter.

14 Q. Over what period of time were these
15 documents delivered to your office?

16 A. I don't know. We started taking -- we
17 started taking --

18 Started taking.

19 We never start taking. We take them all
20 the time.

21 And you know, I don't know from special
22 interest groups or third-party groups. I don't know
23 when they brought them in. They just -- they bring
24 them in all year.

25 Q. Sorry. Let me be more clear.

6/10/2008 Sweat, Robert

1 A. Okay.

2 Q. The documents -- sorry. The
3 applications that you think were kept in people's
4 cars or back seats or perhaps elsewhere, over what
5 period of time do you think these were delivered to
6 your office?

7 A. I don't know.

8 Q. But it wasn't just on book closing date?

9 A. We had -- we had quite a few, you know,
10 the few days leading up to book closing. But I
11 don't know that either, how many.

12 Q. Did your office date stamp these
13 applications when they were received?

14 A. Uh-huh.

15 Q. Do you know who delivered these
16 applications when they were delivered by person?

17 A. Not unless they filled out one of the
18 forms.

19 Q. And is it the same answer for which
20 voter registration organization they were with?

21 A. Uh-huh.

22 Q. Do you know when these organizations
23 collected the voter registration forms from the
24 applicants?

25 A. No.

6/10/2008 Sweat, Robert

1 Q. Do you know whether these organizations
2 collected and submitted the forms to you in the
3 course of one day or whether perhaps they were
4 collecting them over time?

5 A. I don't know.

6 Q. What did you do with these applications
7 once you had received them?

8 A. We process them.

9 Q. Did you attempt to determine whether
10 those applications were submitted close to the time
11 that the voter signed the registration form?

12 A. Not really.

13 Q. Did any of the applicants complain to
14 you about this issue?

15 A. I don't recall anyone complaining.

16 Q. Did you follow up with anyone after this
17 had happened? Did you contact the Secretary of
18 State to talk about what had happened?

19 A. No.

20 Q. Did you contact anybody else to talk
21 about what had happened?

22 A. No.

23 Q. Did you process all of the applications
24 that were submitted by eligible applicants?

25 A. If they were eligible, we processed

1 them, yes, if they were turned in before the day of
2 book closing.

3 Q. And were they all able to vote in the
4 November election?

5 A. If they wanted to. We processed them
6 and sent them a voter registration card, so then it
7 was up to them to go. But, yes, I think they all
8 had the opportunity.

9 Q. Is it possible that any of these
10 applicants were not added to the rolls?

11 A. If the registration forms were complete,
12 they were added to the rolls.

13 Q. Did any of these applicants vote by
14 provisional ballot in the 2004 election?

15 A. I don't know. There would have been no
16 reason for them to if their applications were
17 complete.

18 Q. Did you do anything to prepare for your
19 testimony in Diaz?

20 A. Explain.

21 Q. Did you discuss your upcoming testimony
22 with anybody?

23 A. I discussed -- I discussed the process
24 with Ron Labasky since that was my first time of
25 going down and testifying. But as far as the case

1 A. Uh-huh.

2 Q. How many days did you have after an
3 application was received by your office to enter
4 them into the voter database?

5 A. How many days before we did that? We do
6 them that day if it's at all possible or the next
7 day and to the -- to the state database. And then
8 we go ahead and start processing right then. We
9 don't hold applications at all.

10 Q. Is there a limit on how long you can
11 wait before you enter the application?

12 A. Not that I am aware of. I mean, there
13 is no reason to hold them unless it's an incomplete
14 application; and then we mail them immediately the
15 request for information that we need. And then the
16 minute that comes in, we process them.

17 Q. Did you process them the same day in
18 2004 as well?

19 A. I don't know the same date, but within
20 24 hours when they come in. Really depends on the
21 volume, too. You know, if I happen to get 75 or
22 100, plus whatever comes in in the mail that day, or
23 what, you know. We -- but within 24 hours we
24 process just about everything that we have here.

25 Q. Did you know in 2006 when third-party

1 voter registration organizations that submitted
2 applications received those forms from voters?

3 A. No. We don't -- once they pick them up,
4 it's rare that they sit down and discuss with us,
5 you know, "We got so many of them and did so many on
6 Tuesday." I mean, they just don't do that. So we
7 don't ever really know how many they register until
8 the registration drive is over. Then we know how
9 many they bring in to us.

10 Q. Did you make any attempt to determine in
11 2006 how much time had passed between the date when
12 the voter signed the registration form and the date
13 when the organization submitted it?

14 A. No.

15 Q. Do you have any information or knowledge
16 that third-party groups held on to these
17 applications for more than ten days at that time --

18 A. No.

19 Q. -- before submitting them?

20 Could you please describe generally the
21 types of election preparation tasks that your office
22 was responsible for in 2004 before the presidential
23 election.

24 A. You want the process that we do in
25 preparation for an election, is that what you are

1 asking?

2 Q. That would be great. Thank you.

3 A. Okay. The -- well, we start off,
4 obviously, by training our poll workers, making sure
5 that we have all of our polling locations contracted
6 to be -- to be used on election day. We have the --
7 our absentee ballots that we, you know, try to
8 advertise; people can request by, you know, coming
9 in and picking them up or by phone or whatever. We
10 make sure that we mail those out. We absolutely
11 meet the deadline for our overseas military ballots
12 that go out of here. We handle the qualifying of
13 the local candidates. We process those, send them
14 to the state, wait for the state to send us the ones
15 that they have certified and qualified. Then we lay
16 our ballots out. We order our ballots. We get our
17 absentees in first. We mail those out first. We
18 get our military first, mail those. Then the
19 absentees, we mail those. And then we process and
20 prepare the ballots for the precincts. We deliver
21 our voting equipment to the polls. And on the day
22 before the election, our clerks pick up the
23 pertinent data that they need. Obviously we are
24 programming our tabulators. We are programming
25 our -- the events for our voter registration at the

1 polls. Then we hope and pray that everything works.

2 Q. Are many of these tasks ongoing during
3 the two months prior to the book closing deadline?

4 A. Yes. Actually earlier than that. But
5 yes. From the -- to the date of the election.

6 Q. Are they all ongoing during that time
7 period?

8 A. Uh-huh.

9 Q. Did your office in 2004 have any plan to
10 increase staffing in order to complete the tasks
11 that you had to complete before the 2004
12 presidential election?

13 A. No. And again, as I explained to you
14 earlier, I'd rather pay the overtime to my staff
15 that are experienced and trained in all the jobs
16 that we do than to bring somebody in part-time and
17 try to spend the time training them and then
18 worrying about the problems that you might have. It
19 might be archaic to some, but it works for us.

20 Q. Did the tasks that you had to complete
21 during the two months prior to book closing deadline
22 differ in the 2006 election from the 2004 election?

23 A. No. The basic concept is the same. You
24 prepare and prepare, prepare, prepare and then hope,
25 you know, that you have done your prep work and that

1 handout that I've given you. If you look under
2 subsection (c), do you see the sentence that starts,
3 "The aggregate fine pursuant to this subsection...?"

4 A. Under 97.058 or --

5 Q. Under -- no, no.

6 A. Where are you at?

7 Q. Sorry. Still under the same law,
8 97.0575.

9 A. Uh-huh.

10 Q. But if you flip to page 2 and you look
11 at the first column.

12 A. In (c), "A fine in the amount of 500..."
13 Is that what you are referring to?

14 Q. You go right below where it starts, "The
15 aggregate fine pursuant to..."

16 A. Uh-huh.

17 Q. Have you had a chance to read that
18 sentence now?

19 A. Yes.

20 Q. What do you understand the word
21 "affiliate" to mean in that sentence?

22 MR. ANTONACCI: Objection.

23 BY MS. SIMONOFF:

24 Q. Please answer the question.

25 A. I don't know.

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1 Q. Sorry. I meant despite his objection.

2 I didn't mean to rush you. I'm sorry.

3 A. That's okay.

4 I don't know. You know, I don't know

5 what it -- I don't know what it references in this

6 paragraph. An affiliate, I -- I -- I don't know.

7 Let's not get into that because I don't really know

8 what it's going after here unless it's talking about

9 somebody who is associated with it.

10 Q. So do you think that someone who is

11 volunteering for a third-party voter registration

12 organization could be held liable under this law?

13 MR. ANTONACCI: Objection.

14 THE WITNESS: I don't know.

15 BY MS. SIMONOFF:

16 Q. Do you think that an employee of a

17 third-party voter registration organization could be

18 held liable under this law?

19 MR. ANTONACCI: Objection.

20 THE WITNESS: I -- I am not an attorney,

21 and I have no idea who would be liable or who

22 wouldn't be liable under this law. Or how

23 far-reaching it would be down the, you know, the

24 chain.

25 BY MS. SIMONOFF:

1 Q. Do you think that volunteers might be
2 hesitant to participate in voter registration drives
3 if this law were in place?

4 MR. ANTONACCI: Objection.

5 THE WITNESS: You know, I don't know how
6 hesitant one would be. But if you are going to take
7 on the responsibility, then you ought to do it right
8 whatever the law says it is. And if you don't like
9 the law, then you ought to go get it changed.
10 That's what you are trying to do right now. I can't
11 answer. I can't answer what I think about a third
12 party going out and registering people to vote. I
13 think it's wonderful that they do, but I don't know
14 the answer to what you're asking here.

15 MS. SIMONOFF: Thank you very much for
16 your time. Those are my questions. Would you
17 like to --

18 MR. ANTONACCI: I don't have any
19 questions. Thank you very much, Bob.

20 THE WITNESS: Yes, sir.

21 THE REPORTER: Read and sign?

22 MR. ANTONACCI: He will read.

23 (Recess from 11:02 a.m. until
24 11:27 a.m.)

25 BY MS. SIMONOFF:

1 Q. Okay. Thank you so much for rejoining.

2 A. Okay.

3 Q. Could you please turn back to Exhibit 5.

4 It is your testimony in Diaz.

5 A. Okay.

6 Q. Okay. Now, you said that third-party
7 groups from Manatee County are wonderful, but
8 third-party groups from outside of Manatee County
9 have kept applications in their car for three, four,
10 five weeks before they turn them in to us.

11 Is that an accurate --

12 A. That might have been a little -- you
13 know.

14 You know, I thought -- and I still
15 think -- probably they held them too long. But I
16 don't have any way to prove.

17 That was just a frustration thing of
18 when we were getting them all in here, pile up on
19 the counters and stuff like that. And some of the
20 dates that we found on there. But I don't
21 know that for a fact. It was probably just a
22 spur-of-the-moment comment that I made because we
23 were having problems with them.

24 Q. Okay. Now, remind me again. Who looked
25 at these applications?

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1 A. When?

2 Q. These applications that were held in
3 cars or wherever they were held --

4 A. Yeah.

5 Q. -- for a few weeks and then delivered on
6 book closing deadline according to your testimony,
7 who reviewed those applications?

8 A. My staff did.

9 Q. And did -- who told you or how did you
10 know that they were --

11 A. There was just some -- what happened
12 with that is we discussed the dates on some of those
13 that we got in here that were maybe a week or two
14 weeks old, you know, that had not been turned in.
15 And that's where my total comments were made from,
16 was some of the dates that were on those.

17 Q. Okay. But you did not see those dates
18 yourself personally?

19 A. No.

20 Q. Your staff members saw those dates?

21 A. Uh-huh.

22 Q. And did your staff members tell you
23 about the dates?

24 A. Uh-huh.

25 Q. And when did they tell you?

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1 A. Oh, I don't know. Sometime in the
2 course of a day or two, probably, in processing
3 these.

4 Q. Okay. Was any of this memorialized into
5 writing?

6 A. No.

7 Q. There were no memos about it?

8 A. No.

9 Q. No e-mails about it?

10 A. (Shaking head.)

11 Q. And you didn't follow up with anyone
12 else about it?

13 A. No.

14 Q. Okay.

15 A. If they were good applications, we
16 processed them.

17 Q. Okay. A little bit below that, could
18 you have a look at lines 5 through 7 on page 351.

19 A. Okay. Okay. 5 through 7 about my being
20 elected.

21 Q. No. 5 through 7, you said, "Some of the
22 addresses do not match up with any database that I
23 have in Manatee County."

24 A. Uh-huh.

25 Q. Do you see that?

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1 A. No, but I remember saying it.

2 Q. Would you like me to point it out to
3 you.

4 Oh, I'm sorry. You are on the wrong
5 page. There you go. It's 5 through 7.

6 A. Uh-huh. Yes, I said that.

7 Q. Okay. Do you think that these
8 applications were fraudulent?

9 A. I have no idea. We, the process for
10 that is that we -- we still mail out a follow-up
11 regardless. Because if we don't, we have no way of
12 handling these applications in the future. So if
13 it's something that we do not have an address or a
14 record of address on, we still send a letter out for
15 those. I don't know if they were fraudulent or if
16 it was a mistake. Maybe -- we have a very transient
17 community here. People could have moved, you know,
18 and so I don't really know.

19 Q. Okay.

20 A. We are not an investigative agency of
21 the state, so we do not have someone that goes out
22 and checks these things.

23 Q. And did you follow up with these voters?

24 A. With a letter, uh-huh.

25 Q. Were they ultimately registered?

1 A. I don't know that for a fact.

2 Q. Who would know?

3 A. We would just have to go back and
4 plunder through the files until we found, you know,
5 some of the applications that might have been
6 returned.

7 Q. Did you keep copies of these
8 applications?

9 A. We keep the applications, yes, in a
10 pending file.

11 Q. Do you segregate them in any way?

12 A. No. They are just in a pending file
13 alphabetically.

14 Q. Did you refuse to process any of these
15 applications because you thought that they were
16 fraudulent?

17 A. No.

18 Q. You know that for a fact?

19 A. Yeah, I don't -- I don't recall at all
20 during that process of, you know, one of my staff
21 coming in and showing me an application and I said
22 "No, that's," you know, "that's a fraud" or, you
23 know, "that's a forgery" or anything and not
24 processing them, no.

25 Q. Do you know approximately how many

1 applications fell into this category?

2 A. No, I don't.

3 Q. Okay. Now, you said early in your
4 testimony today that you had problems with
5 third-party groups other than local third-party
6 organizations?

7 A. Uh-huh.

8 Q. Could you please describe what those
9 problems are to the extent that they are different
10 from the problems that you discussed in Diaz.

11 A. Well, I think my definition of a problem
12 is when I don't have any communication, cooperation,
13 or anything like that from a person or persons that
14 are out here registering voters, you know, to vote.
15 And, you know, problems meaning maybe -- if I recall
16 correctly, you know, 2004 is a long time ago to
17 remember anything when you have the daily workload
18 this we have in here. But, you know, if you have
19 somebody just come in and throw applications up on
20 the counter and say, "These are registrations" and
21 leave without any communication with them, that's a
22 problem to me.

23 We have a very open line of
24 communication with all of our third-party groups
25 here in Manatee County, and that doesn't happen with

1 them. They come in. We talk about it. And some of
2 those just didn't, you know. We just had no
3 communication with them at all.

4 We had -- and I can't -- I didn't
5 mention this because I can't prove it. It was just
6 simply a phone call. But I had a couple of phone
7 calls from people saying that people were coming up
8 to their door, asking them to register to vote and,
9 you know, and they didn't want to register to vote
10 and they were kind of forceful in that. You know,
11 we had phone calls, like we had people -- and I
12 don't know if they were third-party groups or what
13 they were. But they were out there telling people
14 that they ought to vote absentee because it costs
15 them if they go to the polls. And some of our --
16 some of our areas, they were telling people that if
17 they would call us and order an absentee ballot,
18 they would come pick it up.

19 I mean, it was not a nice atmosphere for
20 an election at all, here in Manatee County. I can't
21 speak for the rest of the state. But from reading
22 the newspaper articles in the rest of the state,
23 they had some of the same problems.

24 Q. Okay. Any other problems?

25 A. No. It just -- you know, just the

1 typical things like that that you are just trying to
2 browbeat, you know, people.

3 I had problems here where in my early
4 voting, people coming in and trying to influence
5 people in the line on how to vote. They were going
6 up to some of my elderly people saying, "Let me help
7 you vote." You know, "Let me help you go in there."
8 And I caught three of those myself that I know
9 personally that had walked in the line with them and
10 they were in there helping them to vote. And when I
11 asked them a question, you know, they didn't go in
12 there and qualify themselves saying, "I need to fill
13 out, you know, the affidavit for assistance to help
14 them vote." They were just there helping them vote.

15 And when somebody would point that out
16 to me, I would go over there and ask them. They
17 would say, "Oh, no, they just asked me to help
18 them." Then they left, you know. And finally after
19 the three or four times after that, we didn't have
20 them come back anymore because I called the police.

21 Q. Were those people from third-party voter
22 groups?

23 A. I have no idea. I am just saying they
24 were not of the norm that we have, you know, coming
25 in the line. And they always picked on elderly

1 people or minorities. I mean, that was what they
2 did. So I mean, you know, the big picture here: It
3 was just not a nice election there.

4 Q. And --

5 A. Or I'm not saying third parties did
6 that. I'm just saying it was not a nice election in
7 some of the instances and situations that we had.

8 Q. Do you know that it was members of
9 third-party groups who went door to door who were
10 responsible for the complaints that you mentioned?

11 A. As I said, I don't know if they were
12 third-party groups or not. It could have been
13 anyone because there was a lot of people out there.

14 I got many phone calls of people that
15 were upset about different things that happened. I
16 do know that one of the people that was out there --
17 and the only reason I know this is because I saw the
18 car. There was an old, older model car that had
19 shoe polish or something on it, "register to vote
20 here," you know. And they were out there in one of
21 the minority communities going door to door. The
22 only reason I know that is the person that called
23 me, told me they were driving that kind of car.

24 But so I don't know any of this for a
25 fact. It's all from a telephone call or from

1 somebody just telling me that's what happened. But
2 normally if there is smoke, there is fire.

3 Q. You mentioned that you received
4 applications after book closing. Was that in 2004?

5 A. I think 2004 is the time that we
6 experienced that, yeah. And there wasn't very many,
7 but there was a few.

8 Q. Now, was that prior to book closing for
9 the primary or for the general election?

10 A. I'm not sure.

11 Q. Did you keep copies of any of these
12 applications?

13 A. Yeah. I don't throw applications away
14 so I'm sure that somewhere, somewhere here we have
15 them stored.

16 Q. Were you able to register these people
17 in time to vote for the election?

18 A. If we were -- if the application was
19 good, it was just late, then yes. As soon as the
20 primary was over and we were able to register them,
21 we would register. I wouldn't have a record of
22 those because they would have been processed.

23 Q. Did you perform any other follow-up with
24 the voters?

25 A. No.

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1 Q. How did you know that these applications
2 were delivered after the book closing deadline?

3 A. Well, when we stamp them in, we, you
4 know, we know right then the date that is on the
5 date stamp when they come in here; that they came in
6 after the books close. And we keep a pretty good
7 record of that.

8 Q. Did you see any of the applications come
9 in?

10 A. No.

11 Q. Did you see the applications after they
12 were date stamped?

13 A. No.

14 Q. So did somebody tell you about this?

15 A. Yes.

16 Q. Who told you about it?

17 A. One of the staff. And I don't know
18 which one. And we have several of us processing
19 these.

20 Q. Is the staff the same -- was the staff
21 the same then as it is now?

22 A. Pretty much.

23 Q. Linda, Linda, Nancy, and I think there
24 were two other people?

25 A. Yeah, we have a couple of others that

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1 work back and forth on that. Probably if anybody
2 would remember, it would probably be Nancy. She is
3 the one that handles most of the things that come in
4 here that are questionable. So --

5 Q. Okay. Could you name the other staffers
6 who might know?

7 A. It might have been Linda Gabler or Linda
8 Cobb, one of the other of those two.

9 Q. Do you know if these applications were
10 submitted by third-party groups?

11 A. I have no idea.

12 Q. Okay. Did the voters ever complain
13 about their applications being submitted late?

14 A. No. The only -- the only question --
15 questions that we had had --

16 And I can't pinpoint, you know, what
17 applications were.

18 I had people call me and want to know
19 why they had not gotten their voter registration
20 card. And we would have no record of the card, you
21 know, the applications coming into the office. And,
22 now, whether that was from a third-party group or
23 not, I don't know who registered them. It could
24 have been the Department of Motor Vehicles as far as
25 that goes because we had some -- I don't know if you

1 recall it or not, but back the first of 2004, we had
2 some real problems with the Department of Motor
3 Vehicles and registrations.

4 Q. Could you please describe those
5 problems?

6 A. Well, when we would get the list, the
7 name wouldn't be on the list. So, you know, they
8 would say they registered at the driver's license
9 bureau.

10 Well, I don't know if they asked them if
11 they wanted to be registered to vote or not. The
12 only thing I know is when I got the list from the
13 DMV, that their names weren't on the list. So all
14 I'm doing now is taking secondhand information when
15 the DMV says they weren't on the list, they didn't
16 register, and the person says, "I registered in the
17 DMV." Where do you go from there? My best recourse
18 to that is to say, "Please let me send another
19 application. You fill it out. Let's get you
20 registered."

21 Q. Did you manage to get all those people
22 registered?

23 A. Yeah. If we had anybody that called us,
24 we tried to get them an application immediately and
25 get them registered. And I think this was maybe a

1 responsible for dealing with illegible applications?

2 A. The assistant supervisor, Nancy Bignell.
3 I don't recall. I am not saying that we didn't or
4 never have. But I don't recall one that's -- that
5 we haven't been able to at least decipher something
6 out of, that we could get them that information.

7 And then if, in some of these cases, we
8 get phone numbers on some of the logs and the name
9 is on the log and we can't read it, then we can
10 contact them by phone or we can either look up an
11 address and get them some information.

12 We -- we try to make a direct contact by
13 phone or by mail on every application that we get in
14 here unless it's -- unless we are able to process it
15 right then and, you know, and issue them a voter
16 card.

17 Q. Do you have any logs or any records of
18 illegible applications from 2004?

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

20 Q. Do you have any logs or any records of
21 potentially fraudulent applications from 2004?

22 A. No.

23 Q. Do you have any logs or records of
24 applications received after book closing deadline
25 from 2004?

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1 A. Not that I am aware of, no.

2 Q. Do any of -- let me rephrase.

3 In the documents that you provided to
4 me, there were a number of voter registration logs
5 from 2004. As we discussed, I think it was
6 Exhibit 3.

7 Do any of the logs that you provided
8 correspond to any of the applications that you
9 testified about in Diaz with regard to applications
10 being held in the trunk of a car or somewhere else?

11 A. Not that I am aware of, no.

12 Q. Do you have any logs that do correspond
13 to those applications?

14 A. I don't -- I don't know. I don't think
15 so.

16 Q. Why not?

17 A. Well, if we processed them, you know,
18 after the election was over, we just -- we put them
19 in a file and sent them a voter registration card.

20 It's not illegal to register to vote and
21 turn in your voter registration card after the books
22 close, you know. You have got the second gap there
23 after the window there to go ahead and process them
24 and send them out for the general election or the
25 next election, whichever one, you know, is coming up

1 next.

2 Q. But you do keep logs of applications
3 submitted by third-party organizations --

4 A. Uh-huh.

5 Q. -- to the extent that they fill them
6 out; is that correct?

7 A. They or we, one or the other.

8 Q. Okay. And your testimony is that you
9 don't have any such logs for any applications that
10 you were discussing in lines 22 through 25 of
11 page 350 of your Diaz testimony and lines 1 through
12 4 of page 351 of your Diaz testimony?

13 A. Regarding the ones in the car, held in
14 the car --

15 Q. Yes.

16 A. -- then turned in. There may be some on
17 there, but I don't know. I -- I go through those
18 things -- the first time that I have been through
19 them is when you all asked for the public records on
20 it. I don't know if there is any notes on there
21 that says this was late, this was -- I don't know.

22 Q. Okay. So you don't keep track of any of
23 that information?

24 A. Not unless it happens to be written on
25 the, you know, on the logs by one of the staff

1 members for some reason or other. And like I said,
2 I went over them very quickly. And I don't know if
3 there is anything on there or not.

4 Q. You also said earlier that you would
5 like to participate in the rule-making process; is
6 that right?

7 A. I would not mind, you know, putting, you
8 know, my two cents' worth in on the -- you know,
9 when they get ready to sit down and do that.

10 In fact, they may be working on it now.
11 I don't know.

12 Q. And what would your two cents be?

13 MR. ANTONACCI: Objection.

14 THE WITNESS: That we need a rule, you
15 know, that protects the person that's registering to
16 vote and protects the office. I --

17 Listen, I don't write these laws. The
18 legislature does that. The rules usually are
19 promulgated by someone in the Division of Elections
20 in the legal staff and, you know, someone else
21 there. And then they have a public hearing to, you
22 know, to discuss this. That's the extent of my
23 knowledge on the way these things go.

24 If -- you know, and I can't tell you how
25 I would write the rule because nobody is going to

1 you said in your deposition." I wouldn't have
2 changed my deposition any, but I think it was really
3 underhanded and sneaky the way you got it.

4 Q. This is a deposition in the Diaz trial?

5 A. Yep.

6 You called me up on the telephone and
7 discussed it. You all typed up the conversation
8 that we had and sent it to me to sign. I had no
9 idea, not being a legalese or anything like that, of
10 what was going on. You just told me that -- or
11 what's her name? Let me see. She is on the phone.
12 Anyway, I can't think of her name now.

13 But anyway, I -- I -- you know, I didn't
14 know. And no one explained to me really what was
15 going on with that. And the next thing I know, I
16 have got to go to Miami and testify, which I
17 resented very much, you know, to have to go down
18 there.

19 And it probably cost me a couple
20 thousand dollars to do that. And I think you all
21 sent me a check for 140 bucks to go down there, you
22 know, and stay, which is -- I mean, it didn't come
23 close to covering the expenses.

24 MS. SIMONOFF: Could you please admit as
25 Exhibit 7 the declaration of Robert Sweat in Diaz

6/10/2008 Sweat, Robert

1 versus Browning.

2 (Exhibit No. 7 was marked for
3 identification.)

4 Q. Is this the document you are talking
5 about when you talk about a deposition?

6 A. Uh-huh. Did I use the wrong word,
7 "deposition"?

8 Q. Yeah. I just want to make sure we are
9 talking about the same thing. You are discussing
10 your declaration?

11 A. Yep. This is what we did.

12 MS. SIMONOFF: Okay. It is 11:50.
13 Would it be okay with you if we took a five-minute
14 break?

15 THE WITNESS: I'm here.

16 MS. SIMONOFF: Great. I'd like to take
17 a five-minute break to consult with my co-counsel.

18 MS. WESTFALL: I am just going to put
19 this on hold and so I will not disconnect from this
20 line.

21 (Recess from 11:51 a.m. until
22 11:57 a.m.)

23 MS. SIMONOFF: Okay. Are we back on the
24 record? Great.

25 BY MS. SIMONOFF:

1 Q. Did you two go out on break together?

2 A. No. I think he went to the bathroom,
3 and I went and had a cigarette.

4 Q. So you didn't discuss anything during
5 the break?

6 A. I don't think so. Did we?

7 Q. Okay. Just a few more questions.

8 A. Okay.

9 Q. Have you received any proposed forms
10 from the state with regard to third-party voter
11 organizations? Let me rephrase that. Have you
12 received any forms from the state for keeping track
13 of third-party organizations?

14 A. No.

15 Q. No forms from the state about
16 registering them or informing them about the new
17 law?

18 A. I don't recall getting anything from
19 them about that. Although I haven't had any come
20 in, you know, since this thing came out. But, no, I
21 don't think so. I think I'm correct in saying no.

22 Q. Thank you. Again back to your Diaz
23 testimony. You said that staff members told you
24 about the applications that were held for weeks at a
25 time. Do you remember

6/10/2008 Sweat, Robert

1 A. No, I didn't say staff told me --

2 Q. Okay.

3 A. -- about the ones that were held for
4 weeks at a time. I said the staff told me about two
5 or three that came in after the deadline, you know,
6 of registration.

7 Q. Okay. Is that how many applications
8 were submitted after the deadline; you think about
9 two or three?

10 A. I don't -- I don't really know, but not
11 many.

12 Q. But it's in that --

13 A. Yeah.

14 Q. -- league?

15 A. Yeah.

16 Q. Okay. So we are not talking about
17 hundreds --

18 A. No.

19 Q. -- or a hundred? We are talking about
20 two or three, four?

21 A. Yeah. Less than probably half a dozen.
22 I don't know but --

23 Q. Less than six?

24 A. Yeah, probably.

25 Q. But someone told you about the

6/10/2008 Sweat, Robert

1 applications that were held and then delivered in
2 one lump sum; is that right?

3 A. I can't say that someone told me that.
4 That might have been an assumption on my part, the
5 way that they were delivered and what I saw out, you
6 know, with people.

7 Because I know, I know for a fact I
8 mentioned to you about a car being painted saying
9 register, you know, right here. And I know that
10 they were out there for a month or more doing that.
11 And we got one lump sum from them. So if they were
12 doing anything at all, they had some in their car,
13 you know, along and along and along for the time
14 that they were out there, and we got them all in one
15 bunch.

16 Q. Okay. But that's your assumption?

17 A. That's my assumption, that's all. And
18 that, the part about them being held in the car is
19 my assumption solely on the fact that they were out
20 there that long registering people, or they had it
21 on their car to register people, and then we got
22 them in a -- in one pile.

23 Q. And again, you don't know if that was an
24 organization or just some people in a car?

25 A. I don't know -- I don't know who they

6/10/2008 Sweat, Robert

1 were. But like I said, we had no communication with
2 them at all other than when they came in and dropped
3 them off.

4 Q. So just to be absolutely clear, nobody
5 in your office told you anything about applications
6 being held somewhere --

7 A. No.

8 Q. -- and then delivered?

9 A. Absolutely no one in my -- none of my
10 staff told me that.

11 Q. Okay.

12 A. That was my assumption from seeing what
13 was going on there.

14 MS. SIMONOFF: Thank you.

15 Elizabeth, do we need to meet again?

16 MS. WESTFALL: I do not believe we do.

17 MS. SIMONOFF: Then I have no further
18 questions.

19 MR. ANTONACCI: No questions. Thank
20 you. He will read.

21 (Time noted: 12:01 p.m.)

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6/10/2008 Sweat, Robert

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CERTIFICATE OF REPORTER OATH

STATE OF FLORIDA
COUNTY OF SARASOTA

I, the undersigned authority, hereby certify that the witness named herein personally appeared before me and was duly sworn on June 10, 2008.

WITNESS my hand and official seal this 12th day of June, 2008.

DONNA L. PETERSON, RDR, CRR
NOTARY PUBLIC - STATE OF FLORIDA
MY COMMISSION NO. DD668780
EXPIRES: 8-7-11

Elisa Dreier Reporting Corp. (212) 557-5558
780 Third Avenue, New York, NY 10017

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REPORTER'S DEPOSITION CERTIFICATE

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STATE OF FLORIDA
COUNTY OF SARASOTA

I, Donna L. Peterson, Registered Diplomate Reporter, Certified Realtime Reporter, and Notary Public in and for the State of Florida at large, hereby certify that the witness appeared before me for the taking of the foregoing deposition, and that I was authorized to and did stenographically and electronically report the deposition, and that the transcript is a true and complete record of my stenographic notes and recordings thereof.

I FURTHER CERTIFY that I am neither an attorney, nor counsel for the parties to this cause, nor a relative or employee of any attorney or party connected with this litigation, nor am I financially interested in the outcome of this action.

DATED THIS 12th of June, 2008, at Sarasota, Sarasota County, Florida.

DONNA L. PETERSON, RDR, CRR

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1 MR. ANTONACCI: For the Secretary of State, he's excused.
 2 THE COURT: The Secretary of State?
 3 MR. ANTONACCI: Excused.
 4 THE COURT: You have no further need?
 5 MR. ABT: Nothing further.
 6 THE COURT: Thank you. You may leave. Thank you, sir.
 7 All right.
 8 10:44. When did we start? Seems like it was about a
 9 week. We started about at 9. All right. Let's take a ten
 10 minute recess and you can get your next witnesses lined up to
 11 be brought in. Thank you.
 12 (Brief recess)
 13 THE COURT: Thank you. Be seated. All right. Would you
 14 swear the witness please?
 15 THE CLERK: Sir, please stand and raise your right hand.
 16 ROBERT SWEAT, PLAINTIFF WITNESS, SWORN.
 17 THE COURT: Be seated please. State your name and spell
 18 it for the record.
 19 THE WITNESS: Robert Sweat.
 20 THE CLERK: Please spell it.
 21 THE WITNESS: S W E A T.
 22 THE COURT: Mr. Abt.
 23 MR. ABT: Thank you, Your Honor.
 24 DIRECT EXAMINATION
 25 BY MR. ABT:

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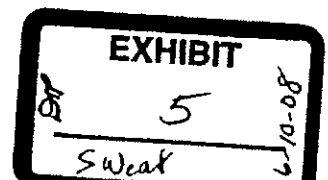
1 Q. Good morning, Mr. Sweat.
 2 A. Good morning.
 3 Q. Do you currently serve as the supervisor of elections
 4 for Manatee County?
 5 A. Yes sir, that's correct.
 6 Q. And when were you first elected?
 7 A. I was elected in November of 1984, took office January,
 8 1985.
 9 Q. So you've been a supervisor of elections for over 20
 10 years?
 11 A. Yes, sir. This will be my 24th.
 12 Q. Have you received any education or training in the area of
 13 elections?
 14 A. About 24 years' worth.
 15 Q. Have you received any certifications or anything like
 16 that?
 17 A. Yeah. We have a certification here in the State of
 18 Florida the supervisor goes through. You have to become
 19 recertified every year. They're not going to kick you out of
 20 office if you're not certified, but it's an opportunity as a
 21 learning process for us where we can take so many hours, as
 22 many, you know, constitutional officers do, so we stay
 23 certified each year.
 24 Q. And are you a member of any organizations with regard to
 25 elections?

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1 A. Well, the Florida State Association of Supervisors, I've
 2 been a member of that since 1985. And but -- that's the only
 3 -- IACREOT is another organization. Those are the only two
 4 that I currently am active in.
 5 Q. Can you briefly describe for the court what IACREOT is?
 6 A. It's the international group of clerks, recorders,
 7 supervisor of elections that meet, lobby, participate
 8 with each other in trying to make our jobs better for the
 9 people of the State of Florida and the states that are
 10 represented in IACREOT which is throughout the United
 11 States.
 12 Q. Do you have any leadership roles in any of these
 13 organizations?
 14 A. I do not at the present time, no.
 15 Q. Have you had leadership roles in the past?
 16 A. I've been the president of the Florida State Association
 17 of Supervisors, served on the legislative committee for a
 18 number of years.
 19 MR. ABT: Your Honor, at this time Plaintiff's move to
 20 qualify Robert Sweat as an expert in the administration of
 21 elections and voter registration.
 22 MR. ANTONACCI: No objection.
 23 THE court: He will be so recognized and permitted to give
 24 opinions. Not on the law and things like that, but on the
 25 operation of his office or offices in general that deal with

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1 supervision of elections. All right. Go ahead.
 2 MR. ABT: Thank you, Your Honor.
 3 BY MR. ABT:
 4 Q. What is the population of Manatee County, approximately?
 5 A. The population is a little over 300,000. We have a
 6 hundred, almost 200,000 registered voters and we have a
 7 seasonal population, it might jump up to 450,000 people during
 8 the season, but normally about 350, 375.
 9 Q. Relative to other counties, would you describe Manatee
 10 County as a small, medium or large-sized county?
 11 A. We, the association that I belong to, has always
 12 classified Manatee County, up until about two months ago, as a
 13 medium-sized county, and they try to base this on number of
 14 registered voters in the county and they just moved us up to a
 15 large county status, which I don't know if it makes any
 16 difference one way or the other.
 17 Q. Approximately how many people does your office employ?
 18 A. We have 15 full-time employees and four to five part-time
 19 employees during the election cycle.
 20 Q. And as supervisor, what are your responsibilities
 21 generally speaking?
 22 A. Well, generally speaking is to register voters. My job is
 23 really kind of an administrative job where we make sure the
 24 records are kept up to date.
 25 We have voter registration drives, we work with the



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1 schools, we work with the different groups and different
 2 parties in that. And basically, we perform
 3 all of the elections that are held through Manatee County
 4 including special taxing districts right on up to the
 5 presidential election.
 6 Q. Thank you. You mentioned voter registration. Can you
 7 explain the importance of voter registration to your overall
 8 mission as a supervisor?
 9 A. Well, obviously if we didn't have registered voters, we
 10 wouldn't have elections and I wouldn't have a job. But I think
 11 that that's probably a minor role. That plays out for us
 12 because obviously our country was built on the right for a
 13 person to go cast a secret ballot in a timely manner and make
 14 sure that ballot's counted.
 15 And I think that is my basic role to make sure these
 16 things are performed in Manatee County.
 17 Q. Do you conduct voter outreach or registration drives?
 18 A. Yes, we do, through the League of Woman Voters, we do this
 19 through the parties, special interest groups sometimes will
 20 come in and want to have a voter registration drive. We try to
 21 guide them, we do not handle that for them, but we try to guide
 22 them to make sure that it's done properly.
 23 We also go into the schools. As of this date, over the
 24 last 10 years, we've registered almost 12,000 17-year-olds,
 25 pre-registered them to vote. So it's just a full-time cycle,

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1 with the voter registration going on.
 2 Q. Why is that outreach important to your office?
 3 A. I think number one we try to stress, or at least I do, I'm
 4 speaking strictly for Manatee County now, what I try to
 5 stress is the importance of voting and the right of a person
 6 to be able to select or make a choice, not just in local
 7 elections and federal elections, right on down to our special
 8 taxing districts.
 9 Q. Thank you. Is your office committed to registering all
 10 individuals who are eligible and want to vote?
 11 A. Anybody that wants to register in Manatee County certainly
 12 has an opportunity to register. Our registration forms are
 13 on our website. They're at probably 250 or 60 banks, real
 14 estate offices, at all of our constitutional offices, so if a
 15 person is looking to register to vote, if they can't find any
 16 of those places, they can call us and we'll put one in the mail
 17 to them.
 18 Q. Thank you. Does your office maintain adequate staffing to
 19 handle its voter registration workload?
 20 A. No. We've never had enough staff to handle the job. But
 21 we put in a lot of overtime. And so that's one of the ways
 22 that we offset being able to handle, and the workload comes in
 23 shifts, you know. It's not an every day thing either.
 24 Q. Okay. How many employees do you -- work in your
 25 voter registration office full-time?

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1 A. Our employees are cross-trained, and that's kind of hard
 2 to say because I may have one working in there today and three
 3 in there tomorrow. It all depends on the workload that we have
 4 when we get, you know, the applications in or the workload that
 5 we have. When somebody requests that we mail them out. It can
 6 vary from one to five on any given day to process these.
 7 Now, during election time, probably 90 percent of my
 8 people are working in some phase of the registration, changing
 9 names, changing parties and stuff like that.
 10 Q. Is it fair to say that you -- during busy times, do you
 11 hire temporary or seasonal workers?
 12 A. I don't like to hire temps or seasonal
 13 workers because it's extremely difficult to train them on the
 14 quality of work that I want done. I'd rather pay overtime.
 15 My people are cross-trained. They can do any job in that
 16 office and I'd rather pay them overtime. In fact, my overtime
 17 budget is quite substantial, but at least I know the quality of
 18 service that my voters are getting are the best that they can
 19 get.
 20 Q. Fair enough. And having them cross-trained like that, is
 21 that flexibility important to your office?
 22 A. Oh, definitely, because you never know when someone is
 23 going to be sick. Obviously you've got vacations every year
 24 and when you have a small staff, you've got to have somebody
 25 that can fill in if these people are out.

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1 Q. Thank you.
 2 Now, directing your attention to the 2004 general
 3 election, is it fair to say that was a busy election for you?
 4 A. 2004 was a busy election, yes.
 5 Q. For that election, was there a surge in voter
 6 registration prior to the close of books?
 7 A. There always is a surge in registration in any
 8 major election, gubernatorial election or presidential
 9 election.
 10 Q. And in 2004 -- withdrawn. Of these voter registrations in
 11 this surge, were some of these applications incomplete?
 12 A. Yes.
 13 Q. And some had not checked certain boxes?
 14 A. That is correct.
 15 Q. Some were missing a date of birth?
 16 A. Yes.
 17 Q. Driver's license, social security number?
 18 A. That's correct.
 19 Q. Okay. Nevertheless, while these applications were
 20 incomplete, they were timely; is that true?
 21 MR. ANTONACCI: Objection, Your Honor, to the fifth
 22 leading question. I've been patient.
 23 THE COURT: Sustained. You can ask him what happened.
 24 BY MR. ABT:
 25 Q. Mr. Sweat, what did your office do in response to

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1 receiving these incomplete applications just before the close
 2 of books?
 3 A. If the applications -- today I hold them until after the
 4 election, and then we do whatever is necessary to make sure
 5 that they're completed then we issue them a voter registration
 6 card.
 7 Q. But with regard to 2004?
 8 A. Okay. I thought that's what you're asking.
 9 Q. Yes. Thank you.
 10 A. 2004, if I got a voter registration application and it was
 11 signed by the applicant and it needed a date of birth, it
 12 needed a few extra items on there, I would immediately send
 13 them a form that I have in the office saying that before I can
 14 process this, I need to have this filled out and returned back
 15 to me. If they came back in a couple of weeks, we processed
 16 them and registered that voter.
 17 Q. And you would register them even if you got that
 18 correction after the close of books?
 19 A. Yes. Well, let me clarify that if I may.
 20 At the time before this all played out from the Division
 21 of Elections --
 22 Q. If I may, I am going to ask you about that a little bit
 23 later.
 24 A. Okay. I'm sorry.
 25 Q. In your experience, has processing corrections after the

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1 close of books resulted in any voter fraud? And I'm talking
 2 about -- well, actually, I'm sorry, withdrawn.
 3 This policy of allowing corrections after the close of
 4 books, did you do it before 2004 as well?
 5 A. Yes.
 6 Q. How much before?
 7 A. I don't know. Maybe four years before, three years
 8 before. I really can't give you an exact deadline, but I know
 9 that I had been doing it prior to that.
 10 Q. Was it a long-standing practice?
 11 A. I think that any time I had one, two or a dozen, that I
 12 would process those. And if it was 10 years before that,
 13 doesn't come to mind that it happened then, but if it were, I
 14 would have done it.
 15 Q. And why did you do that? Why did you think that was
 16 important?
 17 A. Well, I think the intent was there, and it was not clear
 18 in the law at that time as to the process to follow there. The
 19 person signed the application and as the supervisor of
 20 elections, without any guidance from anybody else, I felt the
 21 intent of the voter was there that they signed the application
 22 and because they left something off did not negate the fact
 23 that they were trying to register to vote.
 24 Q. Now, in your experience, did that policy of accepting
 25 corrections after the close of books, did it

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1 result in any voter fraud, to your knowledge?
 2 A. None to my knowledge.
 3 Q. Did it interfere with your ability to conduct an orderly
 4 administration -- an orderly election in any way?
 5 A. Well, as you stated earlier, it gets pretty hectic
 6 prior to the election after the books close. And if it were a
 7 matter of just processing a dozen or 20 or something or
 8 whatever, that is not a real big deal.
 9 What worries me and always did worry me was if I got a
 10 hundred or 200 or 300 that were bad. Then it would pose a real
 11 problem for me.
 12 Q. But under your previous policy, 2004 going back, you would
 13 try to?
 14 A. I would have tried to have done it, yes.
 15 Q. Okay. Now, and you said that in 2004, that was a
 16 particularly busy election?
 17 A. Real busy, yes sir.
 18 Q. But for that particular election, it was not a problem in
 19 terms of running your orderly election?
 20 A. No, because I didn't have that many, you know, that I had
 21 to worry about getting out and getting back to process.
 22 Q. Okay. Now, at some point -- I think this is where we were
 23 going earlier -- at some point did you stop making corrections
 24 to the applications after the close of books?
 25 A. Yes. There was an article in the newspaper referencing

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1 the fact that there was some question from some of the
 2 elections offices that did do it, some that didn't do it, and
 3 when I saw that in the newspaper, I called the Division of
 4 Elections and asked for a ruling to follow on that. And at the
 5 time that I called them, they said that I should probably not
 6 do it. And my comments to them were that I've been doing
 7 this for a number of years, you know, and I just wanted to make
 8 them aware of the fact that I had been doing it for a number of
 9 years. And their comments to me were well, if you've been
 10 doing it for a number of years, maybe you should not stop until
 11 you get a ruling on it.
 12 It wasn't but a very short time after that that we did get
 13 a ruling from the Division of Elections saying cease and
 14 desist, and we did.
 15 Q. Okay. Now, you mentioned that there was some reports in
 16 the newspaper about accepting corrections. The public reaction
 17 to that was very positive, wasn't it?
 18 MR. ANTONACCI: Objection, Your Honor.
 19 THE COURT: Sustained.
 20 BY MR. ABT:
 21 Q. What was the public's reaction to your decision?
 22 THE COURT: Sustained. We're going to have --
 23 BY MR. ABT:
 24 Q. Mr. Sweat, if this court were to rule that you should
 25 return to your policy of making corrections after the close of

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1 books, could you do so?

2 A. I would not like it, but if it were a law, I would try to

3 abide by the law.

4 Q. Well, if you were required to do so, would it affect the

5 orderly administration of elections in any significant way?

6 A. Well, I think that you, if you don't already know this,

7 you should know this, and the court should probably know this;

8 the chain of events leading up to an election in the State of

9 Florida -- and again, please let me reference my county because

10 I can't speak for the rest of them, there is just massive

11 amounts of work that has to be done in a short period of time.

12 And that's the nature of the beast. We do not have a lot of

13 time to process.

14 For instance, I train poll workers for four and

15 a half weeks, 1,500. I have roster books to print up with all

16 the, you know, all the voters in Manatee County on it. A

17 couple weeks before the election, I have to go back in and hand

18 stamp the ones that voted early, the ones that voted absentee

19 the ones that ordered absentees. There's just a multitude of

20 things that has to be done.

21 If I had five times the staff that I have that were

22 trained to do that, it might not be such a chore. And, I mean,

23 I could go on and on telling you the things -- some of the

24 things we have to do there the 45 days prior to the election.

25 Q. Mr. Sweat, I understand that you're a very busy person and

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1 thank you for being here today. But my question is simply if

2 you were asked to return to this policy, would it affect your

3 ability to run an orderly election.

4 MR. ANTONACCI: Your Honor, that's the same question that

5 he asked before and it's been answered.

6 THE COURT: I think that it is a very broad question. I

7 think it can be asked, but I think that it should be in terms

8 of what would he have to do if -- and I think you're saying if

9 a grace period were implemented.

10 MR. ABT: Yes, Your Honor. Thank you.

11 THE COURT: Something like that. Ask Supervisor Sweat

12 what he would be required to do that would or -- however you

13 wish.

14 MR. ABT: Yes.

15 BY MR. ABT:

16 Q. If this court were to require you to implement a grace

17 period, accepting corrections after the close of books, how

18 would you do that?

19 A. You know, I don't think I could answer that without doing

20 some research and study on it because it would have to fit

21 in with the current role that we presently have under the

22 constitution and the Florida Statutes. And without having

23 something like that to work on, I don't think I

24 can give you an answer.

25 Q. Well, have you -- you executed a declaration in this case,

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1 is that true?

2 A. I executed a -- I'm sorry.

3 Q. You submitted a declaration in this case.

4 THE COURT: You signed an affidavit or gave a statement,

5 right?

6 THE WITNESS: Yes, sir.

7 BY MR. ABT:

8 Q. In that document, did you state that having -- that you

9 could in fact implement a grace period?

10 MR. ANTONACCI: Objection to the use of this document for

11 this purpose, Your Honor. It's improper for purposes of

12 impeachment or refreshing of recollection.

13 MR. ABT: Just trying to streamline things, Your Honor.

14 THE COURT: Well, I think what -- I'm not sure that

15 there's much else that you can ask him on this. He has said --

16 you asked him if the court ordered him to do something, would

17 he -- well, maybe it wasn't quite that clear. But let me make

18 it easier on the witness and everybody and ask this question

19 and you all can ask follow-up.

20 If the court orders you to do something, you're

21 going to do your best to comply with it. Is that a fair

22 statement?

23 THE WITNESS: That's absolutely correct, sir.

24 THE COURT: You're not going to go running around here

25 trying to get around my order, are you?

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1 THE WITNESS: No, sir. Not at all.

2 THE COURT: I wouldn't think so. And when he asked --

3 when counsel asked you if you could implement such an order,

4 presume logically you would have to read the order first and

5 find out what I said before you know what you had to do. But

6 whatever it was, you do your best to comply. Is that fair?

7 THE WITNESS: Yes, sir.

8 THE COURT: I think that's about what he's saying, and I

9 don't think that's -- I mean, if he said something at variance

10 with that, we get in to this area of his opinion about what he

11 would have to do and all that, there might be some minor

12 differences, but it doesn't affect credibility. He's telling

13 us honestly whatever, you'd do your best to comply.

14 THE WITNESS: Yes, sir.

15 THE COURT: Okay. If I told you to do it right up to

16 election day, you'd do your best.

17 THE WITNESS: I'd do whatever you say, sir.

18 THE COURT: It's that easy and that's your point. All

19 right.

20 MR. ABT: Judge, if I could just have one moment to

21 confer.

22 THE COURT: Sure.

23 MR. ABT: Mr. Sweat, thank you very much. No further

24 questions.

25 THE WITNESS: Thank you.

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1 CROSS-EXAMINATION

2 BY MR. ANTONACCI:

3 Q. Good morning, Mr. Sweat.

4 A. Good morning, sir.

5 Q. Making reference to your experience in the 2004 cycle,

6 with respect to accepting late registrations, how many did you

7 accept?

8 A. It was a guesstimate when we discussed this in the memo

9 here. Forty to 50 was the figure that I gave. It should be

10 close.

11 Q. And when you say 40 to 50, do you mean you sent out 40 to

12 50 incomplete notices or you accepted 40 to 50 incomplete

13 applications?

14 A. I sent out 40 to 50 incomplete notices.

15 Q. How many applications did you receive in response to those

16 notices?

17 A. I'm sorry, I can't answer that. Something my staff

18 processes.

19 Q. All right. Are you recommending today to this court that

20 there be a grace period implemented for the purposes of

21 voter registration in Florida.

22 THE COURT: I'm not sure that this is -- I know, I've let

23 you all ask that question before. But really, just a question

24 of, you know, piling up, we could ask that of almost anybody in

25 county government; in Manatee County, Dade County, Orange

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1 County and where would we end. And it's a factual question

2 about what he would do or have to do, but that's all going to

3 depend on what's the definition of grace period, and so that's

4 very difficult for any of these people to answer.

5 But factual questions about -- based hypothetically, I

6 suppose either of you could ask if the court were to allow a

7 grace period for previously filed applications to which notices

8 had been sent out by the supervisor telling people that it was

9 incomplete and they'd have to have more information, and the

10 information came back after the book closing deadline, what

11 would they have to do to implement it if anything, if that was

12 the order of the court.

13 That's this record as it poses, this record based on what

14 Mr. Abt has told me on opening statement. And if I misstate

15 it, Mr. Abt, I ask you to correct me. But he says that the

16 plaintiffs are only dealing with or this duty only deals with,

17 at this point, an application that was filed before any book

18 closing deadline for which a nothing has been sent to the voter

19 saying Mr. Jones, it's incomplete and you need to fill in your

20 date of birth or whatever. And a new form or whatever was sent

21 to him where this man tried to help the guy get to the --

22 Mr. Jones, send him whatever he can think of. And that varies

23 a little bit from county to county.

24 But what the plaintiffs are relying on, they're not

25 relying on a brand new application that comes in

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1 after the present deadline and Mr. Abt is nodding his head.

2 So that's what they're talking about. Once filed before the

3 book closing, whether the supervisors, in good faith, tried to

4 help John get his application done right, sent him a new form

5 or phoned him, saw him in the corner drugstore, says hey look,

6 you got to put your birthday down or whatever. Whatever it

7 was.

8 But when that came back after the book closing, which

9 Supervisor Sweat has said in 2004 he went ahead and let them

10 vote and handle it. Well, he said what he did.

11 So the question is if the court were to say, as the

12 plaintiffs are urging, that you can now, if that comes back

13 from the hypothetical John Jones, good old boy that you know in

14 Manatee County and he sends it back and you want to help him

15 and you could -- you -- let's see. I've lost myself.

16 Oh, if the Court said okay, let him do it, you

17 know, let him do it, then I think that you and Mr. Abt can ask

18 whether that would have problems, not have problems, what it

19 would be.

20 But asking him to tell me his recommendation, no, I'll let

21 you do it with a couple but I should not have because that

22 just opens it up to whether we get a hundred witnesses on one

23 side to say one thing and 200 -- we are just taking a poll.

24 And as popular as that was last night all over the country,

25 that's not what judges are supposed to be doing, so I shouldn't

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1 be taking a poll, as much as I would like to hear whatever

2 these fine men and women that work hard for our citizens, what

3 they think. I'm interested in it as a person, but as a judge I

4 don't think I ought to be taking a poll.

5 MR. ANTONACCI: I'll withdraw the question, Your Honor.

6 THE COURT: Yeah. All right. Anything else?

7 MR. ANTONACCI: Two more.

8 THE COURT: Excuse me?

9 MR. ANTONACCI: Two more questions.

10 THE COURT: Go ahead. Take your time.

11 BY MR. ANTONACCI:

12 Q. With respect to your practice of permitting people with

13 applications that were late to be put on the rolls, did you

14 publicize this policy?

15 A. I think you did not state that properly. I do not accept

16 a late application for registration. I do accept the ones that

17 had been signed prior to and sent in with information left off.

18 Q. Back in '04?

19 A. Yes, sir.

20 Q. All right. Did you publicize that policy.

21 A. Did we clarify the fact that I don't accept an application

22 that's -- after the books closed?

23 Q. Yes.

24 A. Okay.

25 Q. Not clarify, publicize.

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1 In other words, did you put that on your web page that you
 2 would accept applications in that category that were filed
 3 after the book closing period?
 4 A. First of all, I'm not going to answer the question until
 5 you clarify the first part of that. Because you said at the
 6 beginning that I accepted applications after the books closed.
 7 I do not do that.
 8 Q. Applications that were filed before the book closing?
 9 A. Okay. Good. Now we've got it.
 10 Q. That were amended after the book closing?
 11 A. I do not advertise that.
 12 Q. Did you advertise that back in '04?
 13 A. No, sir.
 14 Q. Did you advertise it back in the '90s?
 15 A. No, sir.
 16 Q. Do you have experience with third party groups in Manatee
 17 County?
 18 A. Yes, sir.
 19 Q. Describe for the judge your experience with respect to
 20 voter registration application and third party groups in
 21 Manatee County in 2004.
 22 A. Well, the third party groups from Manatee County would be
 23 wonderful. It's the third party groups and fourth party groups
 24 from outside Manatee County that gives us a problem.
 25 They come in -- as much as we try to control and help them

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1 with registering people, they come in, they would register
 2 people, keep the applications in their car for three, four,
 3 five weeks before they turn them in to us. They'll flood us
 4 right at the last minute with some of them that are not
 5 legible. Some of the addresses do not match up with any
 6 database that I have in Manatee County and that does happen
 7 more than I'd like to see.
 8 Q. All right. Did it happen in 2006 as well?
 9 A. I did not have that occur in 2006 hardly at all, except
 10 local voter registration drives, and those people follow the
 11 rules.
 12 Q. So your experience so far has only been with -- the
 13 experience you just described to the judge has been limited to
 14 presidential races?
 15 A. Yes, sir. Primarily.
 16 MR. ANTONACCI: I have no further questions, Your Honor.
 17 THE COURT: All right. Redirect.
 18 REDIRECT EXAMINATION
 19 BY MR. ABT:
 20 Q. You stated on your direct -- I'm sorry.
 21 Mr. Sweat, you stated on your direct examination that 2004
 22 was a very busy election, correct?
 23 A. Yes, sir.
 24 Q. Any reason to believe that 2008 will be any busier or will
 25 be just as busy?

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1 A. Well, 2008 could very possibly be bigger than 2004 because
 2 in 2004 we had an incumbent in office, in 2008 we do not have
 3 an incumbent in office. So that's going to leave it wide open
 4 for both parties to go out and get voter registration. And
 5 controlled getting voter registration is right down my alley.
 6 Q. We discussed the notices that you sent, the 30 notices
 7 that you sent just prior to the close of books. Did you also
 8 send notices, additional notices 30 days prior to the close of
 9 books?
 10 A. I send notices 12 months out of the year if the
 11 application is not filled in correctly.
 12 MR. ABT: Okay. Thank you very much.
 13 THE COURT: Thank you sir. You may be excused. May he be
 14 excused to go home?
 15 MR. ANTONACCI: Yes, sir.
 16 THE COURT: Okay. Thank you, sir, for being with us.
 17 Manatee County helped me out. I'm just sitting here drawing a
 18 blank and that's terrible. I know where it is but Sebring --
 19 THE WITNESS: Right over the Skyway from St. Petersburg is
 20 Bradenton, Manatee County. Greatest fishing in the world.
 21 THE COURT: Okay. I knew where it was. I was just
 22 sitting here figuring that thing out. Thank you, sir. Thank
 23 you very much.
 24 Your next witness.
 25 MR. ABT: The people call Lester Sola. I'm sorry. The

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1 plaintiffs call Lester Sola.
 2 THE CLERK: Sir, please stand and raise your right hand.
 3 LESTER SOLA, PLAINTIFF WITNESS, SWORN.
 4 THE CLERK: Please be seated. Please state your name and
 5 spell it.
 6 THE WITNESS: Lester, L E S T E R, Sola, S O L A.
 7 MR. ABT: Your Honor, may I inquire?
 8 THE COURT: Yes.
 9 DIRECT EXAMINATION
 10 BY MR. ABT:
 11 Q. Mr. Sola, thank you very much for being here today.
 12 A. My pleasure.
 13 Q. Do you currently serve as supervisor of elections for
 14 Miami-Dade County?
 15 A. Yes, I do.
 16 Q. What are your responsibilities generally speaking as
 17 supervisor.
 18 THE COURT: Let me interrupt you just for a moment and cut
 19 we --
 20 MR. ABT: Withdrawn, Your Honor.
 21 THE COURT: Perhaps we can save 10 minutes on each
 22 of these people. I presume that their answers will be
 23 generally the same as the other five witnesses who've been
 24 supervisors as far as their general responsibilities and their
 25 good will in trying to enforce them.