IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

THE NORTHEAST OHIO COALITION
FOR THE HOMELESS, et al.,

Plaintiffs

vs.

JON HUSTED, in his official capacity as
Secretary of State of Ohio,

Defendant

and

STATE OF OHIO,

Intervenor-Defendant.

Case No. 2:06-CV-896
Judge Algenon Marbley

DECLARATION OF DANIEL B. MILLER IN SUPPORT OF
PLAINTIFFS’ MEMORANDUM OF LAW IN SUPPORT OF MOTION TO
MODIFY APRIL 19, 2010 CONSENT DECREE TO PREVENT
CONSTITUTIONAL VIOLATIONS
DECLARATION OF DANIEL B. MILLER

I, Daniel B. Miller, declare the following based upon my personal knowledge:

1. I am an attorney for Plaintiffs Northeast Ohio Coalition for the Homeless ("NEOCH") and Service Employees International Union ("SEIU") Local 1199 in this action.

2. On May 22, 2012, I submitted public records requests to the following twenty Ohio county boards of elections: Belmont County Board of Elections, Butler County Board of Elections, Clark County Board of Elections, Clermont County Board of Elections, Coshocton County Board of Elections, Cuyahoga County Board of Elections, Franklin County Board of Elections, Greene County Board of Elections, Hamilton County Board of Elections, Logan County Board of Elections, Lorain County Board of Elections, Lucas County Board of Elections, Madison County Board of Elections, Miami County Board of Elections, Montgomery County Board of Elections, Putnam County Board of Elections, Seneca County Board of Elections, Stark County Board of Elections, Summit County Board of Elections, and Warren County Board of Elections. These public records requests were identical in content. As an example, a true and correct copy of the request I submitted to Belmont County on May 22, 2012, is attached to this declaration as Exhibit A. As of June 14, 2012, I have received at least partial responses from all counties except Lucas.

3. On June 8, 2012, I submitted additional public records requests to the twenty counties to whom I submitted public records requests on May 22, 2012. These additional public records requests were identical in content. As an example, a true and correct copy of the request I submitted to Warren County on June 8, 2012 is attached to this declaration as Exhibit B. As of June 14, 2012, I have received at least partial responses from the following counties: Belmont, Clark, Clermont, Franklin, Madison, Miami, Putnam, Stark, and Warren.
4. Also on June 8, 2012, I submitted public records requests to the remaining sixty-eight Ohio county boards of elections. These public records requests were identical in content. As an example, a true and correct copy of the request I submitted to Monroe County is attached to this declaration as Exhibit C. As of June 14, 2012, I have received at least partial responses from the following counties: Adams, Allen, Ashland, Carroll, Crawford, Erie, Hardin, Henry, Hocking, Huron, Jefferson, Lake, Licking, Mahoning, Monroe, Muskingum, Ottawa, Pike, Portage, Ross, Scioto, Trumbull, Tuscarawas, Union, and Williams.

5. This declaration describes and attaches as exhibits documents that were produced by the county boards of elections in response to these public records requests. The records relate to poll-worker error and the casting and counting of provisional ballots in the November 2008, November 2009, November 2010, November 2011, and March 2012 elections. Some of the responses from the county boards of elections were accompanied by certifications. True and correct copies of the certifications that relate to the documents discussed in and attached to this declaration are attached hereto as Exhibit D.

**Board of Elections Meeting Minutes and Transcripts 2008-2012**

6. As of June 14, 2012, 38 of the 88 county boards of elections have produced minutes or transcripts of some or all of the boards’ meetings held following elections in 2008, 2010, 2011, and 2012 at which the counting and rejection of provisional ballots were discussed and voted on, and also where poll-worker error with respect to provisional ballots was discussed.

7. **Adams County.** Attached as Exhibit E is a true and correct copy of the Adams County Board of Elections Board Meeting Minutes from November 19, 2008. At that meeting, the Board voted not to accept 17 wrong precinct provisional ballots cast at the November 4, 2008 election but noted: “The pollworkers did not document clearly how some voters chose to vote,
whether paper or machine *as well as did not do Provisionals correctly.*” Ex. E at 1. (emphasis added).

8. **Butler County.** Attached as Exhibit F is a true and correct copy of the Butler County Board of Elections Board Meeting Minutes from March 21, 2012. At the March 21, 2012 meeting, the Board minutes reflect the following discussion of poll-worker error in processing provisional ballots in the March 2012 primary election:

   The problems we saw on Election Day with our Provisional table were due to poll workers not being adequately trained on processing Provisional Voters on the Electronic Poll Books. Last-Minute-Instructions were provided to election workers, however, in some cases it was evident they were not read…. The Board discussed methods to streamline this process and better train the poll workers on sending voters to the correct Provisional table and providing appropriate ballots to the voters. The suggestion was made to place an additional person at the Provisional Table to guide voters to the correct provisional ballot precinct poll worker.

Ex. F at 18 (emphasis added).

9. Attached as Exhibit G is a true and correct copy of the Butler County Board of Elections Board Meeting Minutes from March 20, 2012. At the March 20, 2012 meeting, the Board concluded that some ballots not subject to the NEOCH Consent Decree had been “cast in the correct polling place, but incorrect precinct, *due to poll worker error*” but nonetheless voted to reject those ballots. Ex. G at 2 (emphasis added).

10. Attached as Exhibit H is a true and correct copy of the Butler County Board of Elections Board Meeting Minutes from March 19, 2012. At the March 19, 2012 meeting, the Board voted on provisional ballots cast at the March 6, 2012 primary election, including ballots segregated as subject to the NEOCH Consent Decree because of poll worker error. The Board concluded that: “*Each location had a minimum of one poll worker processing provisional ballots incorrectly…*” Ex. H at 2 (emphasis added.)
11. Attached hereto as Exhibit I is a true and correct copy of the Butler County Board of Elections Board Meeting Minutes from November 19, 2011, at which the Board voted to count or reject provisional ballots cast in the November 2011 general election. The Board voted to “remake” the 49 correct location, wrong precinct ballots but to reject the 53 wrong location, wrong precinct ballots. Ex. I at 2. The Board stated that “the law about voting in the wrong polling location which makes those voted invalid.” Id. After voting to reject those provisional ballots cast in the wrong precinct and location, a Board member “suggested not giving these provisional voters in the wrong precinct and wrong polling place an ‘I voted’ sticker.” Id.

12. Clark County. Attached hereto as Exhibit J is a true and correct copy of excerpts of the transcript of the Clark County Board of Elections Board Meeting on November 23, 2010, at which the Board voted on counting or rejecting the provisional ballots cast in the 2010 general election. The Board voted to reject the provisional ballots that were cast in the wrong precinct, despite the following discussion of the poll-worker error that led to voters being given the wrong precinct ballots:

   Ms. Smith: 91 percent seems pretty high.

   Ms. Pickarski: That’s pretty good. It’s 9 percent that did not count so only 100 basically out of the 1147 did not count.

   Ms. Smith: I know people get upset when they have to vote provisional.

   Ms. Pickarski: We stress the maps and everything in training that’s, you know, you come in, let’s say I live on Detrick Jordan Pike, they can go into the big red map book and they can look up the address, but they can call us, I tell them call us and we can tell you where to send them [voters]. But for whatever reason, I don’t know if they [poll workers] just get frustrated, you don’t know what happens out there on that day of election.

   Ms. Smith: What they are dealing with at that time.
Ms. Pickarski: It will show in your breakdown there by each precinct and it will say voted in the wrong precinct and if I have one of them, I have upteen of them.

Mr. Rhine: Once it starts, it continues.

Ex. J at 11-12.

13. **Cuyahoga County.** Attached hereto as Exhibit K is a true and correct copy of the Cuyahoga County Board of Elections Board Meeting Minutes from November 29, 2011. The Board rejected 47 provisional ballots cast “in-house” by lawfully registered voters who voted at the Board of Elections but were given the wrong precinct ballot. Ex. K at 1. The Minutes state: “Director Platten stated there were 47 ballots cast in-house that were in the wrong precinct. She further states *this problem was a staffing issue*; staff had been advised to improve training and to set up additional safety nets to eliminate the incidence of wrong precinct ballots.” *Id.* at 1 (emphasis added) The Board also rejected 499 ballots cast by lawfully registered voters who voted in the correct polling location but were given the wrong precinct ballot. *Id.* at 5.

14. Attached hereto as Exhibit L is a true and correct copy of excerpts of the minutes of the Cuyahoga County Board of Elections Board Meeting on January 11, 2011. The Minutes state: “Special training emphasis will be placed on the criteria in which the data reflects weaknesses on Election Day performance. Director Platten stated that the two areas that the agency will focus heavily on are the provisional ballot process and the ballot reconciliation process which occurs at the end of the night.” Ex. L at 2.

15. **Franklin County.** Attached hereto as Exhibit M is a true and correct copy of excerpts of the transcript of the Franklin County Board of Elections Special Meeting on March 19, 2012, at which the Board voted on whether to count or reject provisional ballots cast during the March 2012 primary. The Board voted to count fifteen ballots subject to the NEOCH
Consent Decree. Ex. M (Trans. at 28). It voted to reject 248 other provisional ballots. Id. at 29.

Staff presented to the Board members four ballots where “the signature we have on file does not match the signature that is on the envelope.” Id. The chairman noted that “those four are a rather more subjective consideration.” Id. (Trans. at 30). A member of the public asked a question about the process for rejecting ballots for signatures that do not match:

**MS. ANNARINO:** Can I ask a question as a member of the audience and the public? What do you do to check with the people that signed these ballots to see whether there’s a medical reason or some other reason for the signature to appear to be different than what’s in your book?

**MS. KLCO:** As Chairman Preisse said, it’s usually a subjective – lots of times we can find little bits of signatures that match. We also check with the poll workers to see if they’ve written anything, maybe somebody’s arm is in a sling or their arm is broken –

**MS. ANNARINO:** Or had a stroke or something.  

**MS. KLCO:** -- or had a stroke. And they usually write that down. And there’s nothing on any of these and they’re significantly, I mean very significantly ---

**MS. ANNARINO:** I’m not looking at them. I just was wondering if there was a protocol where the person was given an opportunity to explain why the signatures could be different, and that would happen if the poll worker took the time to make a not in the summary at the poll.

**MS. KLCO:** Correct.

**MS. ANNARINO:** If they didn’t do it, if they didn’t take the time or ask the question, then there is no follow-up directly to the voter.

**MS. KLCO:** No.

Id. (Trans. at 30-31). The Board voted to reject those ballots. Id.

16. Attached hereto as Exhibit N is a true and correct copy of the transcript of the Franklin County Board of Elections Special Meeting on November 19, 2011, at which the Board voted on whether to count or reject provisional ballots cast during the November 2011 election.
Based on “an opinion” it received from the Secretary of State’s office, which was not explained on the record, the Board voted to reject 349 wrong-precinct ballots. Ex. N (Trans. at 8-9).

17. Attached hereto as Exhibit O is a true and correct copy of excerpts of the transcript of the Franklin County Board of Elections Special Meeting on November 19, 2010, at which the Board voted on whether to count or reject provisional ballots cast during the November 2010 election. The Board discussed the inconsistent ways counties have implemented the “poll worker” error requirement in the NEOCH Consent Decree because of a lack of guidance as to how to determine error. Ex. O (Trans. at 5-6). The Board voted to count right location, wrong precinct ballots (“this right church, wrong pew category”) after it heard testimony from elections staff that at the multi-precinct locations (“our consolidated voting location approach”) there “is a single table and a single set of poll workers assigned to the task of provisional ballots for all precincts in a location, [and] it would be pretty difficult in this county to conceive of a situation where it would be voter error.” Id. (Trans. at 6) (emphasis added).

18. Attached hereto as Exhibit P is a true and correct copy of the transcript of the Franklin County Board of Elections Special Meeting on November 14, 2008, at which the Board voted on whether to count or reject provisional ballots cast during the November 2008 election. The Board reached a tie vote on whether to count provisional ballots with a printed voter name but no voter signature. Board member Anthony expressed concern about the disenfranchising voters as a result of poll worker error:

MR. ANTHONY: Mr. Chair, part of the other reason why – you know, this was a very important election that we just went through, and the person filling out this document here, and looking at it and we have a poll worker also there and the poll worker, part of that responsibility is to kind of review this document to make sure that everything is put out properly.
And so in some of those cases, and maybe many or all of those cases, it may be more deemed to be poll worker error than a person’s intent to defraud. So I don’t believe that those that we will be counting would fall into the category as election fraud. I would put it under the category as it not being checked, it not being checked by our poll workers, and we should not deny the folks a right to vote because of that error.

Ex. P (Trans. at 19-20).

19. The Board also voted to further investigate whether there was poll worker error in relation to a provisional ballot that was cast in the wrong precinct. Director Stinziano stated:

The next category, staff was made aware of at least one situation where the poll worker told an individual that they were in the correct precinct. That individual cast a provisional ballot and subsequently called our office and learned that they were not in a proper precinct. . . .

Typically, if they’re in the wrong precinct, we would agree it’s fatally flawed, but if there is poll worker error, and that is the theme of the day, that seems to be the concern that this is the case where it was documented clearly as poll worker error.

Id. (Trans. at 23-24).

20. Board member Anthony described poll worker error that he witnessed with respect to a poll worker directing a voter to the wrong precinct:

I saw a woman that was in the right precinct but her driver’s license had a different address on it, and they told her to go to another precinct. And she went to the other precinct, and when she went to the other precinct they had her in the books there, but she said, I don’t live here. And so they said, well, you can vote here.

And then she was smart enough to come back to the precinct she was at, but had she not come back, she would have voted in the wrong precinct, and being directed to vote in the wrong precinct by our poll workers. So I see where this would be a situation that we ought to at least take into consideration.

Id. (Trans. at 24-25).

21. Hamilton County. Attached hereto as Exhibit Q is a true and correct copy of excerpts of the transcript of the Hamilton County Board of Elections Board Meeting on April 25, 2012. The Board voted not to count a provisional ballot on which one side of the envelope contained the voter’s previous address but the other side of the envelope contained the poll
worker’s address written in a different color ink. Ex. Q at 23-24, 26. Member Faux expressed concern that the Board refused to find that there was poll worker error: “If the voter put the poll worker’s address down here, I have a hard time concluding anything other than the poll worker gave that voter that address.” *Id.* at 27.

22. Attached hereto as Exhibit R is a true and correct copy of the Hamilton County Board of Elections Regular Meeting Minutes from March 19, 2012. The Board voted not to count provisional ballots subject to the NEOCH Consent Decree where the voter affirmation was not complete because there was no evidence of poll worker error on the face of the ballot. *Ex. R at 4-5.* The Board also voted to reject a ballot not subject to the NEOCH Consent Decree cast in the correct location but wrong precinct where there was a poll worker note because the Board could not consider error. *Id.* at 4.

23. Attached hereto as Exhibit S is a true and correct copy of excerpts of the minutes and transcript of the Hamilton County Board of Elections Special Meeting held November 21, 2011. The transcript reflects that the Board discussed and rejected 452 provisional ballots that fell in “Wrong Precinct” category, including one ballot that was cast at the Board of Elections, but cast on the wrong precinct ballot form because of admitted poll-worker error, and five provisional ballots covered by the NEOCH Consent Decree because the face of the ballot did not reveal poll worker error. *Ex. S at 14, 25-30.*

24. Members of the Board were troubled by their understanding that, in the absence of the NEOCH Consent Decree, they could not count a ballot because of poll-worker error. The following exchange reflects this:

MR. FAUX: So, he was a City of Cincinnati resident. He was changing his address from one location inside the City of Cincinnati to another location inside the City of Cincinnati, and he was handed an Anderson Township ballot.
MS. KRISEL: Correct.

MR. FAUX: And his vote will not be counted now due to that.

MS. KRISEL: Correct.

MR. FAUX: I have a real serious problem with that. He was deprived of his vote on those grounds.

MR. BURKE: Clearly, his vote on the Anderson Township issues shouldn’t be counted; other than that, I agree with Caleb. What you’re telling us is the screw up was entirely our staff’s?

MS. KRISEL: Correct.

MR. FAUX: How we can justify not counting this vote under these circumstances? Please explain, how can we justify that?

MS. MCCAFFERTY: We have a clear opinion from the Ohio Supreme Court saying do not count wrong precinct ballots period. There are no exceptions within that group, except for those ballots that are considered NEOCH ballots that are subject to the decree.

*Id.* at 16-17.

25. The transcript of the November 21, 2011 Hamilton County Board of Elections meeting also reflects confusion regarding the standard for investigation of poll-worker error and some Board members’ concerns that appropriate investigation would have established the existence of poll-worker error and that the failure to investigate meant that voters’ ballots would not be counted. This is evident in the following comments and exchanges:

MR. FAUX: I think what we are hearing here regarding the standard of the investigation of this question of NEOCH ballots of poll worker error is very much reflective of what we were hearing a year ago, which is that the investigation that takes place is simply a review of paperwork to see if any poll worker makes a note of the fact that they made an error. And what we have learned rather clearly I think is when poll workers make errors, they don’t make notes to tell us that they did. So, an investigation simply looking at paperwork is no investigation at all. So, my question is: Was any attempt made to speak with the poll workers who handled these ballots? No. So, I would reiterate my point of view, no investigation has taken place. We have no basis upon which to reject these ballots.
CHAIRMAN TRIANTAFILOU: Any further discussion on the motion to reject them?

MR. BURKE: I am going to vote to reject all of these ballots. I have said in the past, I do so with great regret with regard to the Right Church, Wrong Pew voters. I sincerely hope that we will soon have in Federal Court a decision which will provide us guidance on this, and will make it appropriate for us to count those voters who get to the right place and for one reason or another voted the wrong table.

MR. FAUX: But, again, we do have an obligation under the NEOCH consent decree to investigate how those ballots were cast and whether or not they were precinct poll worker error involved in casting those ballots. What I heard, there has been no investigation.

Id. at 29-30.

26. **Henry County.** Attached hereto as Exhibit T is a true and correct copy of excerpts of the minutes from the Henry County Board of Elections November 25, 2008 Special Meeting, at which the Board voted to count or reject the provisional ballots cast during the November 2008 general election. The minutes state: “It was discussed about concerns in precincts where there are multiple splits (school districts) with voters receiving wrong ballots. This happened in Flatrock “S” and Damascus Twp. The chairman stressed it is our responsibility to see that the Poll Workers are trained and make sure that they are giving the correct ballot.” Ex. T at 1.

27. **Hocking County.** Attached hereto as Exhibit U is a true and correct copy of excerpts of the minutes from the Hocking County Board of Elections November 18, 2010 Board Meeting, at which the Board voted to count or reject the provisional ballots cast during the November 2010 general election. The minutes state that due to poll worker error some voters were given the wrong ballot:
The Board was informed that while the staff, were balancing the books, in preparation of the official count, it was discovered that Precinct Logan 4 had problems. There was a township split (Falls and Green) in this precinct. Deputy Director, Lisa Schwartze realized that there were no votes for the Green Township levy, but the signature book indicated that 64 people that voted, live in Green Township. Lisa spoke to the Presiding Judge about the problem, she didn't have a clue, but stated that it was the Ballot Judge's error. The Board staff always highlights the voters that are to vote the smaller split and sends an extra report listing these voters for the ballot judge. Lisa emailed Josh Kimsey with this problem, stating that if all 64 voters had voted against the levy, it would not have changed the outcome. Josh called and asked if the voters that were given the wrong ballot, voted on any candidate or issue that they were not eligible to vote. Director Wallace informed Mr. Kimsey that there were no candidates or issues on the Falls Twp. Ballot that the Green Twp. Voters were not allowed to vote. That being the case Hocking County is to document the problem.

Ex. U at 1-2.

28. Huron County. Attached hereto as Exhibit V is a true and correct copy of the minutes of the March 20, 2012 Huron County Board of Elections Meeting at which the Board voted on whether to count or reject provisional ballots from the March 2012 primary election. The Board voted to reject a provisional ballot “because the voter signed their name at the top of the envelope instead of printing it. The Director contacted the Secretary of State for an opinion on this error and was advised by them that it is a fatal error.” Ex. V at 1 (emphasis added).

29. Attached hereto as Exhibit W is a true and correct copy of the minutes of the November 15, 2010 Huron County Board of Elections Meeting at which the Board voted on whether to count or reject provisional ballots from the November 2010 general election. The Board voted to reject four provisional ballots “that were voted in the wrong precinct which can't be counted.” Ex. W at 1. The Board voted to count, however, a provisional ballot because “[t]he voter came into the Board of Elections to vote but was given the wrong ballot for their precinct.” Id. In addition, the Board voted to count a provisional ballot “where the envelope was not signed by the voter, but the elected [sic] official signed.” Id.
30. **Jefferson County.** Attached hereto as Exhibit X is a true and correct copy of the minutes of the November 15, 2010 Jefferson County Board of Elections Meeting at which the Board voted on whether to count or reject provisional ballots from the November 2010 general election. The Board voted to reject ten ballots as “[v]oted in wrong precinct,” but counted one ballot because “in office provisional voter was give[n] the wrong ballot.” Ex. X at 1.

31. Attached hereto as Exhibit Y is a true and correct copy of the minutes of the November 17, 2008 Jefferson County Board of Elections Meeting at which the Board voted on whether to count or reject provisional ballots from the November 2008 general election. The Board voted to reject 33 ballots “voted in the wrong precinct,” but voted to count the ballot of a “voter who voted in our office [who] was given the wrong ballot (same address was in two different precincts).” Ex. Y at 1-2.

32. **Lake County.** Attached hereto as Exhibit Z is a true and correct copy of excerpts of the minutes from the Lake County Board of Elections November 25, 2008 meeting, at which the Board voted to count or reject the provisional ballots cast during the November 2008 general election. The Board voted to reject 288 ballots that were cast in the wrong precinct. The minutes state: “Although the rejection rate percentage is relatively low, there is still the need for the poll workers to better understand the provisional voting process.” Ex. Z at 2.

33. **Lorain County.** Attached hereto as Exhibit AA is a true and correct copy of the minutes from the Lorain County Board of Elections March 15, 2012 Board Meeting, at which the Board voted to count or reject the provisional ballots cast during the March 2012 primary. The minutes describe the discussion of instructions from the Secretary of State to reject provisional ballots that contain the proper voter identification information if it is written on the wrong side of the envelope:
Hurst asked Adams how the percentage of provisional ballots rejected in the election compared with past elections. Adams replied that the rejection rate, 18.76% was somewhat higher than normal. He attributed this difference to the fact that a new form was used in this election and that some voters placed required information on one side, but not the required side. *The Secretary of State’s office has confirmed that required information, printed name, identification and a signature must be placed on the front of the provisional envelope. If this information is missing on the front of the envelope, but appears on the back of the envelope, where a voter registration form is provided, it cannot be counted.*

Ex. AA at 1 (emphasis added).

34. **Monroe County.** Attached hereto as Exhibit BB is a true and correct copy of the minutes from the Monroe County Board of Elections November 13 & 20, 2008 Board Meeting, at which the Board voted to count or reject the provisional ballots cast during the November 2008 general election. The staff raised an issue of the “validity of three provisional ballot envelopes.” Ex. BB at 2. After inspecting them, the Board approved the ballots as “due to poll worker error and not by voter error.” *Id.*

35. **Ross County.** Attached hereto as Exhibit CC is a true and correct copy of excerpts of the transcript of the Ross County Board of Elections March 21, 2012 Board Meeting, at which the Board voted to count or reject the provisional ballots cast during the March 2012 primary. At the March 21, 2012 meeting, the Board voted to reject three provisional ballots that were cast in the right polling place but in the wrong precinct. The Board members discussed these ballots:

- **Nora:** Exhibit B, we have three ballots that voted in the wrong precinct.
- **Bill:** I make a motion we reject Exhibit B.
- **Beth:** I’ll second.
- **Diane:** Any discussion? I have a question. How does that happen?
Nora: Very easily . . . On these, these were done at the polling place and they actually went to the correct polling place but the polling place has maybe two or three different precincts in it. They went to the wrong table and the poll worker is not supposed to vote them unless they’re in their book and if they’re not in their book, they’re supposed to call us to see what precinct to send them to. They didn’t. They just voted them a provisional ballot.

Diane: Okay. Any other discussion? All in favor say aye.

Board: Aye. . . . Motion carried.

Ex. CC at 1.

36. Board members went on to express more concern about voters voting in the wrong precinct within the right polling place:

Steve: The one that always concerns me is if they’re at the right polling place and they vote in the wrong precinct. . . . We need to beef that up some way or another. . . .

Nora: . . . If they’re not on they’re list [the poll workers] know they’re not in the right precinct . . . .

Steve: Technically it’s kind of poll worker error in my opinion.

Diane: It is.

Nora: It is.

Id. at 2.

37. Attached hereto as Exhibit DD is a true and correct copy of excerpts of the transcript from the Ross County Board of Elections November 17, 2010 Board Meeting, at which the Board voted to count or reject the provisional ballots cast during the November 2010 general election. The Board voted to count three ballots cast in the wrong precinct because of poll worker error. Director Madru stated: “This was poll worker error. The voters were sent to another precinct. Voter’s [sic] showed up at the wrong precinct so they were sent to another precinct to vote. But, where they were sent to by the poll worker was also the wrong precinct.” Ex. DD at 2.
38. Attached hereto as Exhibit EE is a true and correct copy of excerpts of the transcript from the Ross County Board of Elections November 18, 2008 Special Meeting, at which the Board voted to count or reject the provisional ballots cast during the November 2008 general election. The Board voted to count a provisional ballot on which the poll worker “let the person hand in the ballot without the completion of the information.” Ex. EE at 1. The transcript states: The ballot was “done in front of the poll worker and signed by the poll worker, we consider this poll worker error.” *Id.*

39. **Scioto County.** Attached hereto as Exhibit FF is a true and correct copy of the minutes of the November 4 and 18, 2008 meetings of the Scioto County Board of Elections at which the Board voted on whether to count or reject provisional ballots from the November 2008 general election. On November 4, 2008, the Board voted to “remake” 21 provisional ballots “which were voted in the wrong precinct due to employee error in the office, but would have the same issues on either ballot.” Ex. FF at 1. The Board voted not to count other wrong-precinct ballots “because the precincts they should have voted in have different issues than the precinct they actually voted in.” *Id.* On November 18, the Board also voted to “remake and count a provisional ballot that was voted in the wrong precinct due to employee error.” *Id.* at 3.

40. **Summit County.** Attached hereto as Exhibit GG is a true and correct copy of excerpts of the transcript from the Summit County Board of Elections November 21, 2011 Board Meeting, at which the Board voted to count or reject the provisional ballots cast during the November 2011 general election. The Board voted not to count 185 provisional ballots cast in the wrong precinct, including ballots cast at the correct polling location. Member Gorbach stated:

*This just drives me nuts and I know we got into this before and the law says that we have to have proof that the pollworker didn’t do their job. . . . but, boy I still think if someone*
goes to the right polling location and they’re in the right building that we should count their vote.

Ex. GG (Trans. at 80) (emphasis added). Member Arshinkoff stated: “We ought to bring those precincts in and tell them you guys made a serious mistake here. You gotta pick it up.” Id.

41. The Members discussed how poll worker error leads to casting of wrong-precinct ballots:

Mr. Todd: Can I just say one thing that happens, Tim, and where that comes about is the pollworkers have the list and they have the address range. Sometimes it’s odd/even, even on one side of the streets in one precinct, the odds on the other side of the street in a different precinct. The pollworker might look at it. Might see an address range and it looks like that’s the proper roll. The person votes at that poll. Those are the type of things that can happen. . . .

Mr. Gorbach: Right.

Mr. Todd: So it’s not a full-proof system. Id. (Trans. at 82).

42. Attached hereto as Exhibit HH is a true and correct copy of excerpts of the transcript from the Summit County Board of Elections November 16, 2010 Board Meeting, at which the Board voted to count or reject the provisional ballots cast during the November 2010 general election. The Board voted to count four provisional ballots on which there was no signature of the voter on the grounds that it was poll worker error. Several members stated that this was “booth worker error.” Ex. HH (Trans. at 65-66). Member Donofrio stated: “That’s their job as a booth worker to make sure that’s filled out completely.” Id. (Trans. at 69).

43. The Board also voted not to open and scan 388 provisional ballots cast in the wrong precinct pending an additional meeting on the issue. Member Jones stated that he did not believe that this was because voters insisted on voting in the wrong precinct:
Mr. Jones: I can’t believe people would just automatically say I’m in the wrong precinct. . . . Told them that their vote’s not going to count and then they vote anyway.”

Id. (Trans. at 107). Several other Members discussed how wrong-precinct ballots can be the result of poll worker error:

Mr. Rich: Sometimes what happens is the Pollworker just says you have to vote provisionally. It doesn’t say . . .

Mr. Daley: Without thinking it through you mean?

Mr. Rich: Right. . . .

Id. (Trans. at 114). Member Rich discussed specifically the incidence of wrong-precinct ballots cast at the correct polling location: “. . . you do have very strong evidence that there were some booth workers who were not doing it correctly . . .” Id. (Trans. at 116).

44. Attached hereto as Exhibit II is a true and correct copy of excerpts of the transcript from the Summit County Board of Elections November 20, 2008 Board Meeting, at which the Board voted to count or reject the provisional ballots cast during the November 2008 general election. The Board voted to count seven provisional ballots that had no signature on the grounds that the lack of a signature was poll worker error. Four of the ballots had no signature but the individual signed the poll book. Board member Morrison stated: “I’d entertain a motion to approve those four because they did sign and why they weren’t asked to sign the identification document, I don’t know . . . .” Ex. II (Trans. at 8). With respect to three ballots that had a poll worker signature but no voter signature, Board member Gorbach stated “I’m going to move to approve these three signatures. We don’t want to disenfranchise a voter because of a Pollworker error.” Id. (Trans. at 9).
45. The Board also voted to reject 399 wrong-precinct provisional ballots from voting locations, but to count five wrong-precinct ballots cast at the Board of Elections. *Id.* (Trans. at 26). The Board members discussed how this could have happened:

**Mr. Jones:** How did they vote in the wrong precinct at the Board?

**Mr. Petty:** This is Board error.

**Mr. Hagen:** Evidently they were given the wrong ballot.

**Mr. Morrison:** They came in and we gave them the wrong ballot?

**Mr. Hagen:** Correct.

**Mr. Williams:** We either pre-screen them wrong or gave them the wrong ballot. Either way it was staff error at the counter. You can see where they lived: voted in 2-F instead of 10-K instead of 2-F. One person got a green ballot instead of getting Akron 9-A. We either printed the wrong ballot or pre-screen them wrong and gave them the wrong ballot based on the screening. . . .

**Mr. Daley:** It does seem a shame to disenfranchise the voter because of our mistake.

*Id.* (Trans. at 26-27).

46. **Trumbull County.** Attached hereto as Exhibit JJ is a true and correct copy of the minutes of the March 16, 2012 meeting of the Trumbull County Board of Elections. According to the minutes, the Board reviewed “sixteen ballots which were the wrong precinct. Of the sixteen, there were three ballots that were allowed to be counted according to [the] NEOCH ruling.” Ex. JJ at 1. The Members explained that those “voters gave only the last four digits of their Social Security numbers as ID and the ballots were cast in locations where multiple precincts were located,” but were not cast in “the correct precinct due to poll worker error.” *Id.* at 2. The Board voted to count the three NEOCH ballots and to reject the “remaining thirteen ballots due to being cast in the wrong precinct.” *Id.* The Board also voted to reject a “wrong
ballot that was given in a precinct with a school district split” because provisional ballots cannot be “remade.” *Id.*

47. Attached hereto as Exhibit KK is a true and correct copy of the minutes of the November 12, 2010 meeting of the Trumbull County Board of Elections. At that meeting, the Board voted to reject 77 provisional ballots “belonging to voters who were given the wrong precinct’s ballot” because they concluded that the “Secretary of State specifically does not allow the remaking of provisional ballots.” Ex. KK at 3. The Board voted to count, however, “36 ballots from multiple-precinct voting locations” because “[t]his was poll worker error [and] these ballots can be counted.” *Id.*

48. Attached hereto as Exhibit LL is a true and correct copy of minutes of the November 18 and 25, 2008 meetings of the Trumbull County Board of Elections. The November 18 minutes state that “[t]hree hundred fifty-one provisional ballots were voted in the wrong precinct . . . a fatal error.” Ex. LL at 2. The Board voted to reject all of those ballots. Member Hawkins then asked if “having greeters in the larger polling locations helped.” *Id.* The Director and Deputy Director agreed that having greeters had helped reduce the number of wrong precinct ballots. Member Pallante “added that funds for [greeters] has been added to the 2009 budget.” *Id.* Later at the same meeting, the Board voted to reject two provisional ballots because the envelopes had no signatures. *Id.* at 2. At the November 25 meeting, however, the Board decided to reverse their ruling on these two ballots, based on legal counsel’s recommendation that the ballots should not be rejected “due to poll worker error.” *Id.* at 5.

49. *Warren County.* Attached hereto as Exhibit MM are the minutes of the Warren County Board of Elections Regular Meeting on March 26, 2012 at which the Board voted on whether to count or reject provisional ballots from the 2012 primary. The Board voted to count
“1 Provisional found to be pollworker error.” Ex. MM at 1. It voted to reject 81 provisional ballots. Id.

**County Board of Elections Election Day Incident Reports**

50. Some county boards of elections produced “Incident Reports,” “Problem Sheets,” spreadsheets, charts, notes, email messages, and other documents for some or all of the elections between 2008 and 2012, which include descriptions of problems reported by elections officials, poll workers, or voters themselves:

   a. A true and correct copy of excerpts from such documents produced by Allen County for the 2008, 2010, and 2011 elections is attached hereto as Exhibit NN.

   b. A true and correct copy of excerpts from such documents produced by Clermont County for the 2008, 2010, 2011, and March 2012 elections is attached hereto as Exhibit OO.

   c. A true and correct copy of excerpts from such documents produced by Crawford County for the 2010, 2011, and March 2012 elections is attached hereto as Exhibit PP.

   d. A true and correct copy of excerpts from such documents produced by Cuyahoga County for the 2008 and 2011 elections is attached hereto as Exhibit QQ.

   e. A true and correct copy of excerpts from such documents produced by Erie County for the 2011 elections is attached hereto as Exhibit RR.

   f. A true and correct copy of excerpts from such documents produced by Franklin County for the 2011 and March 2012 elections is attached hereto as Exhibit SS.

   g. A true and correct copy of excerpts from such documents produced by Hocking County for an undated election post-2010 is attached hereto as Exhibit TT.
h. A true and correct copy of excerpts from such documents produced by Montgomery County for the 2008, 2011, and March 2012 elections is attached hereto as Exhibit UU.

i. A true and correct copy of excerpts from such documents produced by Portage County for the 2009, 2010, 2011, and March 2012 elections is attached hereto as Exhibit VV.

j. A true and correct copy of excerpts from such documents produced by Stark County for the 2008, 2010, 2011, and March 2012 elections is attached hereto as Exhibit WW.

k. A true and correct copy of excerpts from such documents produced by Summit County for the March 2012 elections is attached hereto as Exhibit XX.

l. A true and correct copy of excerpts from such documents produced by Trumbull County for the 2008, 2010, 2011, and March 2012 elections is attached hereto as Exhibit YY.

These documents contain reports of problems in the following categories:

51. Voters in the wrong precinct are given provisional ballots instead of being re-directed to the correct precinct.


- Voter “was register[ed] in another precinct within Clermont Co. – vote provisional.” (Clermont County 2011) (Ex. OO at 6)

- “May St. on 2 precincts. Voted [provisional] Union ‘M.’ Actual in Union ‘T.’” (Clermont County 2010) (Ex. OO at 11)
• “Our first provisional voter was in the wrong precinct and I did not realize this . . . .” (Clermont County 2008) (Ex. OO at 17)

• “Provisional book signatures 2 & 3 should have voted different precinct. They were listed in our book. They each remained in the same township.” (Clermont County 2008) (Ex. OO at 18)

• Voter voted “provisional ballot in Wayne D. Should have been in Wayne A.” (Clermont County 2008) (Ex. OO at 19)

• Voters signed-in with “address[es] outside [the] precinct. [S]hould have cast . . . ballot[s] [elsewhere,]” rather than voting provisionally. (Crawford County 2011) (Ex. PP at 5,7)

• “Provisional Voter . . . signed an address that may be outside your precinct. The correct precinct could not be determined from the information she provided. Please call the Board of Elections office to verify a voter’s correct precinct before you issue a ballot.” (Crawford County 2011) (Ex. PP at 8)

• “Three voters cast their provisional ballots in the wrong precinct.”; “One provisional voter cast a ballot in your precinct and should have voted in Galion 2A.”; “One provisional voted in wrong precinct – should be . . . 26.1 Chatfield Township.” (Crawford County 2010) (Ex. PP at 11,12)

  “Nov 2008 provisional ballot . . . voted in the wrong precinct.” (Cuyahoga County 2008) (Ex. QQ at 6)

• Numerous voters “not found in Book” so “provisional ballot given;” later found voters would have been eligible “to vote in Prec. #2.” (Erie County 2011) (Ex. RR at 2)

• In numerous precincts, “[p]rovisional voters in the wrong precinct.” (Hocking County) (Ex. TT at 2, 3)

• Voter “went to polling location on acknowledgment she received – had to vote prov. Went WCR-E and live in WCR-P.” (Montgomery County 2008) (Ex. UU at 10)

• “Voted 1 provisional who moved out of precinct.” (Portage County 2011) (Ex. VV at 4)

• “Voted 1 provisional in the wrong precinct.” (Portage County 2011) (Ex. VV at 5)

• In numerous precincts, “voted . . . provisional[s] in the wrong precinct (did not call BOE).” (Portage County 2010) (Ex. VV at 7)
● “Voted provisional voter in this pct – should have been ‘G.’”  (Portage County 2009) (Ex. VV at 10)

● Numerous reports that “Pollworkers did not use Street Range Guide.” Instead “[a]llowed several Provisional Voters to vote in wrong precinct.”  (Stark County 2010) (Ex. WW at 24, 26, 28, 32, 34, 36, 38)

● Numerous poll workers “issued an out-of-precinct voter a Provisional ballot,” yet all such poll workers were listed as appropriate for re-hire and none were listed as needing additional training.  (Summit County 2012) (Ex. XX at 3, 4, 6, 8, 10, 2, 14, 16, 18, 20, 22, 24, 26)

● “Voted prov – War 4G should be 2A – same building – told voter.”  (Trumbull County 2008)  (Ex. YY at 12)

● “Provisional voters #2 and #3 [at Precinct D]. . . . His dr[iver’s] license had Locust Address which now ‘rings a bell’ . . . as Precinct C Trailer Park.  His wife had Wisc. Diver’s license but living at Locust Address.  Just moved here recently. People in line – we were stressed!!!  I am so sorry -- should have sent them… to BOE.  Hard lesson learned.  Again, Sorry.”  (Trumbull County 2008)  (Ex. YY at 17)

52. Poll workers specifically report giving voters the wrong precinct’s provisional ballot.

● “One Provisional voter was issued a ballot 6.1 for Bucyrus City School District, but should have voted a 6.2 ballot for Wynford School District. Please call the Board of Elections office or use the street listing and precinct guide to determine which ballot a provisional voter should be given.”  (Crawford County 2010) (Ex. PP at 10)

● “Lisa Shellabarger is ENG-F according to address given – she was previously ENG –A.  Voter registration & provisional ballot for A was mistakenly given.”  (Montgomery County 2012) (Ex. UU at 2)

● “Incorrect ballots given to 3 voters.”  (Stark County 2011) (Ex. WW at 19, 21)

● Supervisor “phoned [poll workers] on those provisional voters . . . wrong [precinct] but correct location: Nil 2E, Nil 4C and Brk L.  All thought they had [precincted] voters correctly.”  (Trumbull County 2011)  (Ex. YY at 4)

53. Poll workers fail to direct voters at all.

● “Voters going from precinct to precinct to find their locale with workers not checking street guide.”  (Clermont County 2010) (Ex. OO at 15)
54. Voters were directed by poll workers to incorrect voting and precinct locations.

- “Quite a few voters from Precinct MI – CIC told me they were sent instructions to vote at Milford Church of Christ – 844 St. Rt. 131 instead of Milford Assembly of God Church – 1301 St. Rt. 131.” (Emphasis in original.) (Clermont County 2012) (Ex. OO at 2)

- “B of E employee sent a handicapped [provisional voter] to New Richmond when they belonged here . . . . The difficulties of wandering around in the wrong place are amplified when in a wheelchair.” (Clermont County 2010) (Ex. OO at 12)

- “[O]ther precincts had sent [voters] to us and they did not belong in our precinct.” (Clermont County 2008) (Ex. OO at 20)

- “A number of people were erroneously sent from the Middle School polling places to vote @ township precincts instead of village precincts w/ the same letter.” (Emphasis in original.) (Clermont County 2008) (Ex. OO at 18)

- “Complaint from voter in this precinct that his wife voted earlier and was sent to wrong precinct who voted her w/ provisional ballot. She was in our book. Lots of voters complaining about being sent to wrong places. Every table has Master St. Index. Why can’t workers look up the address & direct voters to correct polling place?!?” (Clermont County 2008) (Ex. OO at 21)

- “This is about [the] 4th time today someone has finally found us after being here earlier & told by precinct TE-G that TE-D is [at the] community center. Could someone pls train them on reading the street index & then looking up where the voting place is – especially when we’re in same bldg.?!?” (Clermont County 2008) (Ex. OO at 21)

- “Some voters who had moved to a new precinct and went there to vote were told to go back to their old precinct to vote.” (Clermont County 2008) (Ex. OO at 22)

- “I must inform you of the many (at least 40 voters) who were misguided and directed to vote at our station. Most of them informed me that they were sent by [a poll worker at another precinct] in error. Some of the voters claimed they were sent to as many as (3) different locations – by mistake.” (Cuyahoga County 2011) (Ex. QQ at 2)

- Voter stated that “the Poll workers sent him away because they did NOT have his ballot. It is his proper voting location.” (Franklin County 2012) (Ex. SS at 2)

- “Polling Location sent them to another location 2 times.” (Franklin County 2011) (Ex. SS at 10)
“Upset voter suppose[d to] vote at Whitehall Yearling HS. They sent [him] someplace else then they sent to [current location].” (Franklin County 2011) (Ex. SS at 11)

“Pollworker told voter who had moved to vote in his old precinct, not his precinct of residence.” (Emphasis in original.) (Montgomery County 2011) (Ex. UU at 5)

“Several voters have been sent to our location because they are in our Poll Book under their old address. We are concerned because we can’t process them as they must vote where they currently live. It is frustrating to voters to have to go back and forth. Could this please be covered more thoroughly in training and in the manuals?” (Emphasis in original.) (Montgomery County 2008) (Ex. UU at 11)

“We had multiple voters who had moved out of the precinct come in to vote because someone at the Board of Elections told them they could still vote here. We had to send them over to their new precincts . . .” (Montgomery County 2008) (Ex. UU at 12)

Voter “said she notified the board that she had moved to our precinct but was told to vote at her previous polling place in McKinley Heights. Voted provisional.” (Trumbull County 2012) (Ex. YY at 2)

Voter “lives in War 3-C . . . was sent over to HOW-S who sent him to HOW-A in another building. He came back to us . . . We apologized profusely.” (Trumbull County 2010) (Ex. YY at 7)

“Grove Street sent [voter] here without checking her address – had to send her back to Grove Street.” (Trumbull County 2010) (Ex. YY at 9)

Voter’s “former address 2964 Denniston St. moved to 228 Ohio Ave. We sent her to McDonald B to vote. They sent her back to our precinct. They told her she had to vote provisional in our precinct because she was in our book. Called BOE to confirm & they told me to send her back to McDonald B & have them call BOE to confirm to let her vote in their precinct.” (Emphasis in original.) (Trumbull County 2010) (Ex. YY at 10)

Voter “[w]ent to Fairhaven building but incorrect prec[inct] inside building -- sent her here -- wants to know why worker couldn’t refer her to correct table inside building -- has new baby [and has] been running around all morning.” (Trumbull County 2008) (Ex. YY at 13)

Voter “voted Provisional & should have voted in 3A. Mix up because of change of address” (Trumbull County 2008) (Ex. YY at 16)
Voter “was allowed to vote . . . a provisional ballot accident[ally], at VIE A.” “He belonged to precinct VIE B . . . [but] VIE B sent him away.” (Trumbull County 2008) (Ex. YY at 18)

55. Poll workers report errors and ambiguities in their materials for determining voters’ correct voting locations and precincts.

- “Provisional Voter [Issue]. . . . Voters in wrong precinct. However Street Details put them in Min C N. 5801-5872 showed N . . . 5874-5908 showed B1B – Wrong . . . Sent to B1B . . . Voted Provisional. (Clermont County 2010) (Ex. OO at 13)

- Voter’s “new address is not listed in book of street guide[.]” (Franklin County 2011) (Ex. SS at 13)

- “The E-Books (computer) indicates voters’ Precinct as ‘3’ only, & does not specify ‘A’ or ‘B.’ Both HUB-3A and HUB-3B are in the same polling location. We’ve found that voters’ names are appearing on Both computers.” (Emphasis in original.) (Montgomery County 2012) (Ex. UU at 3)

- “Voter’s address did not appear in the proper place in the CWSRG. ‘East Maple’ address in on[e] range was listed under ‘E’. Neighboring addresses were under ‘M[,]’ [P]owers were able to locate the address using another Precinct’s EP unit.” (Stark County 2012) (Ex. WW at 3)

- “High Mill incorrectly sent many voters to this location; error in their CWSRG[.]” (Stark County 2012) (Ex. WW at 3)

56. Poll workers are unable to read or find addresses in the guidebooks to tell voters their voting locations and precincts.

- Poll worker misread voter’s voting location because of confusion about location abbreviations. (Clermont County 2011) (Ex. OO at 7)

- Poll worker “did not know how to read the voter street guide.” (Franklin County 2012) (Ex. SS at 3)

- Not able to find address in street guide; had voter vote provisionally. (Franklin County 2012) (Ex. SS at 4)

- Voter “returned to vote at WARD 2E. I was wrong by not noticing the NE over NW on Street Index.” (Emphasis in original.) (Trumbull County 2010) (Ex. YY at 6)
57. Poll workers report significant confusion in directing voters and providing appropriate ballots when houses on odd and even sides of a street are assigned to different precincts.

- “Voters being told wrong precinct by woman on outside of cafeteria w/ the Master Street Index. She’s having trouble w/ odd & even house #’s, so is sending voters to wrong precinct.” (Clermont County 2011) (Ex. OO at 8)

- Please – please in trainings have people look up addresses & give correct polling places. We had 3-4 voters in that were given wrong address to our polling place that should [have] been to 8J. Diff[erence] of odd vers[us] even side of the street.” (Montgomery County 2008) (Ex. UU at 13)

- Several reports of “[c]onfusion over E/O in CW street range guide.” A poll worker “suggests BOE cover in training.” (Stark County 2011) (Ex. WW at 7, 14)

- Poll workers “voted [a voter] as [P]rovisional but later realized she wasn’t in our precinct. We got confused as we have the odd side of Robbins and the even side of Mason.” (Emphasis in original.) (Trumbull County 2008) (Ex. YY at 15)

58. Poll workers report significant confusion in giving provisional voters the correct ballots when a precinct is split between two congressional districts.

- “Provisional voter . . . was issued a ballot from the wrong split.” (Crawford County 2011) (Ex. PP at 4)

- “One provisional voter given a ballot from the wrong split.” (Crawford County 2010) (Ex. PP at 12)

- In Logan 4, “1 provisional voter issued wrong precinct split.” (Hocking County 2011) (Ex. TT at 2)

- “I was newly assigned to this precinct this election. I didn’t know it was split until I checked my supply bag . . . . We didn’t figure out the matching of [voters] until after the rush and 60+ voters had voted on paper. I feel I should have gotten a head’s up that it was a split.” (Montgomery County 2008) (Ex. UU at 14)

- “Gave wrong split ballot to provisional voter.” (Portage County 2009) (Ex. VV at 11)

- “CW Street Range Guide does not list Precinct portions for split precincts.” (Stark County 2011) (Ex. WW at 17)
“Voter . . . [r]eceived the wrong ballot in a split precinct.” (Stark County 2011) (Ex. WW at 13)

“5 voters cast ballots in the wrong Precinct part/split precinct.” (Stark County 2011) (Ex. WW at 18)

“Workers were giving wrong ballots per school split.” (Stark County 2008) (Ex. WW at 45)

Poll workers report having insufficient staff to direct voters to their correct voting locations and precincts.

“I hope for the Nov. election we have someone posted by the entrance whose sole job is to look up the precincts for those who do not know them, & to direct them to the correct location.” (Clermont County 2012) (Ex. OO at 3)

“Need person to direct voters to right precinct with 9 precinct we get lots of people who don’t know precinct.” (Clermont County 2010) (Ex. OO at 4)

Poll workers and voters report receiving inadequate assistance or incorrect instructions from the Board of Elections in resolving provisional voter problems.

“We needed answers regarding voters voting provisional – 2 of us called for a 15 minute period without getting an answer.” (Clermont County 2008) (Ex. OO at 23)

“Voter was not in the book & the sheet. He has voted here for X numbers of years & has not moved. We called the B of E and was told he was to vote in Precinct B. But the B of E did not know if he was in their book. After much discussion he was allowed to vote Provisional Ballot. No reason why he was taken out of the book.” (Clermont County 2008) (Ex. OO at 24)

Voter “should have voted provisionally at HIH. She moved into their precinct from ours. They sent her to us. We took her back to vote provisional & they said BoElections was called & she was told to vote here. We didn’t want her to wait any longer – she had waited over an hour & was pregnant.” (Clermont County 2008) (Ex. OO at 25)

“They called board and told they were supposed to vote in 4-C, pointed to city map and . . . in 4-A . . . called board and said to vote in 4-A” (Trumbull County 2010) (Ex. YY at 8)
61. Poll workers reported lacking the appropriate materials to look up voter addresses to direct them to the correct voting locations and precincts.

- Polling location reported not having a “polling location street and road guide” and it took 3 ½ hours to resolve the situation. (Franklin County 2012) (Ex. SS at 5-6)

- Larger polling locations needed more precinct guides than they had. (Franklin County 2012) (Ex. SS at 7)

- “No county street and road guide[.]” (Franklin County 2012) (Ex. SS at 8)

- “Missing Yellow St. Guide[.]” (Franklin County 2011) (Ex. SS at 12)

62. Voters and poll workers report lack of clear signs informing voters of voting and precinct locations.

- The “problem which has always existed but was significantly exacerbated yesterday is the fact that three different precincts vote at the school. All the tables and voting booths are crammed into one little hallway. This leaves very little room to move up and down the hall and to try and find the correct precinct to vote in. This problem was made worse as the only identification of the various precincts were the small signs standing on the tables. The only way to see the sign was to force your way through the crowd to get to the front and look on the table. . . . [Y]ou need to have much better signage. The voter problem . . . had the additional confusion this year of many people who had never previously voted in the redrawn wards and precincts . . . . While I did find a new precinct map on the wall, there was nothing directing people to it.” (Cuyahoga County 2008) (Ex. QQ at 7-8)

- “Precinct maps located on the doors to inform voters which tables to go to were less than 8.5x11” and utterly impossible for anyone without a magnifying glass to read. . . . There was no clear signage explaining how to get in the lines and no poll workers assisting with the issue. This led to a long line of people that were in the wrong spot which made voting take significantly longer than necessary.” (Montgomery County 2011) (Ex. UU at 6)

- “When I went to my normal polling location, the inside door to enter the precinct polling spots was directly inside from the entrance door. This inside door was for two separate precincts, but there was little to no information as to which side you were to stand . . . In my estimation, this is a VERY bad practice. There should have been signs up noting which precinct was which. . . . (Montgomery County 2011) (Ex. UU at 7)
Voter voted at a multi-precinct location and reported that “[t]here is only one line into the venue and no distinction as to which precinct it is for. . . . There should be at least two separate lanes marked to identify which precinct you are waiting for.” (Trumbull County 2008) (Ex. YY at 14)

Poll workers fail to instruct voters on how to accurately fill out a provisional ballot such that it will be counted, fail to accurately fill out the poll-worker portion of the provisional ballot, and fail to provide voters with the appropriate provisional voting materials.

- “Envelopes were not signed by Poll worker.” (Allen County 2011) (Ex. NN at 4)
- “Make sure ID is filled out on PV envelope . . . had no information at all” (Allen County 2010) (Ex. NN at 11)
- “Not one PV envelope was completed no birthday or ID on all 8 of them” (Allen County 2010) (Ex. NN at 13)
- Poll workers did not “instruct voters OR ensure that the voters fill out PV envelope completely.” (Allen County 2010) (Ex. NN at 13)
- Voters had “no ID on PV envelope” (Allen County 2010) (Ex. NN at 14)
- Poll workers failed to “write ID # on the PV envelope” or even to indicate that they “saw it.” (Allen County 2010) (Ex. NN at 16)
- “IDs not filled in 2 did not sign envelope.” (Allen County 2008) (Ex. NN at 24)
- “[The voter] did not fill out back of provisional form.” (Clermont County 2012) (Ex. OO at 4)
- “We didn’t see the DL# column on provisional book. Client didn’t enter on provisional envelope.” (Clermont County 2011) (Ex. OO at 9)
- “The back of the identification document provisional ballot envelope was signed at the bottom but not filled out at the top . . . .” (Clermont County 2008) (Ex. OO at 26)
- “Call to request Provisional ballot envelopes. . . . We put provisional in blue overflow ballot pouch [until] we had proper envelopes. Then, once envelopes arrived, used Provisional Sign-in Book to create proper Provisional envelopes. Randomly put ballots into envelopes for these 4 voters.” (Clermont County 2008) (Ex. OO at 27)
• “3 precincts did not complete the Pollworker Section on the yellow provisional ID envelope.” (Crawford County 2012) (Ex. PP at 2)

• “Front of the Provisional envelope . . . was not signed by the poll worker.” (Crawford County 2010) (Ex. PP at 11)

• “Provisional voter[s] didn’t sign the yellow ID envelope[s].” (Crawford County 2010) (Ex. PP at 13)

• “ID not recorded on the front of provisional envelope.” (Crawford County 2010) (Ex. PP at 12)

• “No provisional supplies in red bag.” (Cuyahoga County 2011) (Ex. QQ at 4)

• In Logan 4, “Provisional envelopes were not completed correctly.” (Hocking County 2011) (Ex. TT at 2)

• “[F]orgot to get signature.” (Montgomery County 2011) (Ex. UU at 8)

• “In the rush of voters, I inadvertently put [a provisional] ballot in a [manila] envelope, not in the provisional envelope that [the voter] filled out. I have included her empty provisional envelope in with the others.” (Montgomery County 2008) (Ex. UU at 15)

• A “poll worker told me she placed a provisional ballot into a regular envelope instead of a special provisional envelope b/c it was early and the provisional envelop[e]s were not available.” (Montgomery County 2008) (Ex. UU at 16)

• “Processed . . . provisionals with . . . no envelope.” (Portage County 2012) (Ex. VV at 2)

• “Failed to get signature on provisional ballot.” (Portage County 2010) (Ex. VV at 7)

• “Failed to sign front side of 3 provisional envelopes.” (Portage County 2010) (Ex. VV at 7)

• “Used disabled voter envelope instead of provisional.” (Portage County 2010) (Ex. VV at 8)

• “Did not fill out provisional envelope.” (Portage County 2009) (Ex. VV at 12)
• “Not issuing Provisional Envelopes.” (Stark County 2011) (Ex. WW at 10)
• “Pwers did not have enough Provisional Envelopes.” (Stark County 2011) (Ex. WW at 18)
• “Pollworkers put provisional voter ballots in privacy envelopes. Could not count ballots due to pollworker error.” (Stark County 2010) (Ex. WW at 30)
• “Messed up precinct. Pollworkers had provisional voters fill out provisional envelope but placed voted ballot in a privacy envelope.” (Stark County 2010) (Ex. WW at 40)
• Numerous poll-workers accepted provisional ballots with “[m]issing information on Provisional Envelope” yet all such poll workers were listed as appropriate for re-hire and none were listed as needing additional training. (Summit County 2012) (Ex. XX at 10, 18, 20, 22)

County Poll Worker Training Materials

64. Some counties also produced current training manuals and materials for poll workers for the 2012 elections that contained diagrams or descriptions instructing poll workers on proper polling location layout.

65. A true and correct copy of an excerpt from the current training materials produced by Cuyahoga County is attached hereto as Exhibit ZZ. The training materials state: “The Poll Worker who is designated as the Voter Assistance Table Judge on the List of Assigned Workers, along with one additional Voter Assistance Table Judge from another precinct, will oversee the Voter Assistance Table. The Voter Assistance Table Judge, will process Provisional Voters and assist voters in finding their current and correct precinct and polling location. Any additional Voter Assistance Table Judges act as Greeter and move about the polling location, assisting voters with any questions they may have.”

66. A true and correct copy of an excerpt from the current training materials produced by Hocking County is attached hereto as Exhibit AAA. The materials state: “Polling places
with multiple precincts are only required to post the information once, near the entrance as opposed to multiple times at each table.”

67. A true and correct copy of excerpts from the current training materials produced by Lorain County is attached hereto as Exhibit BBB. The excerpted diagram indicates that, in a “large vote center,” one table, separate from the precinct tables, is used for “provisional assistance.”

68. A true and correct copy of excerpts from the current training materials produced by Madison County is attached hereto as Exhibit CCC. The excerpted diagrams and instructions indicate that, in a voting location within which four or five precincts are located, there is one “provisional desk poll worker table” separate from the precinct tables.

69. A true and correct copy of excerpts from the current training materials produced by Miami County is attached hereto as Exhibit DDD. The excerpted diagrams indicate that, in multiple precinct polling locations, there is a “precinct location table” or “greeter table.” They also indicate that in two of the three arrangements that Miami County recommends for multiple precinct polling locations, a single table separate from the precinct tables processes provisional voters.

70. A true and correct copy of excerpts from the current training materials produced by Tuscarawas County is attached hereto as Exhibit EEE. This diagram shows that two teams of greeters assist voters at the door in a polling location that contains five precincts.

**County Street and Address Guides**

71. In response to a request for guides used by poll workers in the 2012 election, some counties produced street and address guides that poll workers must use to determine the precinct to which voters have been assigned.
a. A true and correct copy of excerpts from the street guide produced by Adams County is attached hereto as Exhibit FFF.

b. A true and correct copy of excerpts from the street guide produced by Belmont County is attached hereto as Exhibit GGG.

c. A true and correct copy of excerpts from the street guide produced by Clark County is attached hereto as Exhibit HHH.

d. A true and correct copy of excerpts from the street guide produced by Clermont County is attached hereto as Exhibit III.

e. A true and correct copy of excerpts from the street guide produced by Crawford County is attached hereto as Exhibit JJJ.

f. A true and correct copy of excerpts from the street guide produced by Erie County is attached hereto as Exhibit KKK.

g. A true and correct copy of excerpts from the street guide produced by Franklin County is attached hereto as Exhibit LLL.

h. A true and correct copy of excerpts from the street guide produced by Hamilton County is attached hereto as Exhibit MMM.

i. A true and correct copy of excerpts from the street guide produced by Hocking County is attached hereto as Exhibit NNN.

j. A true and correct copy of excerpts from the street guide produced by Huron County is attached hereto as Exhibit OOO.

k. A true and correct copy of excerpts from the street guide produced by Jefferson County is attached hereto as Exhibit PPP.
l. A true and correct copy of excerpts from the street guide produced by Lorain County is attached hereto as Exhibit QQQ.

m. A true and correct copy of excerpts from the street guide produced by Mahoning County is attached hereto as Exhibit RRR.

n. A true and correct copy of excerpts from the street guide produced by Miami County is attached hereto as Exhibit SSS.

o. A true and correct copy of excerpts from the street guide produced by Pike County is attached hereto as Exhibit TTT.

p. A true and correct copy of excerpts from the street guide produced by Putnam County is attached hereto as Exhibit UUU.

q. A true and correct copy of excerpts from the street guide produced by Scioto County is attached hereto as Exhibit VVV.

r. A true and correct copy of excerpts from the street guide produced by Stark County is attached hereto as Exhibit WWW.

s. A true and correct copy of excerpts from the street guide produced by Washington County is attached hereto as Exhibit XXX.

Polling Location Lists

72. Some counties also produced lists of polling locations and precincts. The polling location lists received for the 2012 primary election which demonstrate the extent to which these counties use multi-precinct polling locations, for the following counties are compiled and attached hereto as Exhibit YYY: Adams, Allen, Ashland, Belmont, Butler, Carroll, Clark, Clermont, Coshocton, Crawford, Cuyahoga, Erie, Franklin, Greene, Hamilton, Hardin, Hocking, Huron, Jefferson, Lake, Logan, Lorain, Madison, Mahoning, Miami, Montgomery, Ottawa, Pike,

I declare under penalty of perjury that the foregoing is true and correct.

\( \text{Daniel B. Miller} \)

Executed this 19th day of June, 2012.