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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

RUTHELLE FRANK, et al.,
Plaintiffs,
-vs- Case No. 2:11-cv-01128
SCOTT WALKER, et al.,
Defendants.

Deposition of PATRICK FERNAN
Monday, April 2, 2012
9:00 a.m.
at the
WISCONSIN DEPARTMENT OF JUSTICE
17 West Main Street
Madison, Wisconsin

Reported by Lindsay DeWaide, RPR

Deposition of PATRICK FERNAN, 4/2/12 Page 2

1 Deposition of PATRICK FERNAN, a witness in
 2 the above-entitled action, taken at the instance of the
 3 Plaintiffs, pursuant to the Federal Rules of Civil
 4 Procedure, pursuant to notice, before Lindsay DeWaide,
 5 Registered Professional Reporter and Notary Public in
 6 and for the State of Wisconsin, at the WISCONSIN
 7 DEPARTMENT OF JUSTICE, 17 West Main Street, Madison,
 8 Wisconsin, on the 2nd day of April, 2012, commencing at
 9 9:00 a.m. and concluding at 3:03 p.m.
 10

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

12
 13 ACLU OF WISCONSIN FOUNDATION, by
 14 Ms. Karyn L. Rotker
 15 207 East Buffalo Street, Suite 325
 16 Milwaukee, Wisconsin 53202
 17 -and-
 18 ACLU FOUNDATION, by
 19 Mr. Jon Sherman
 20 230 Peachtree Street, Suite 1440
 21 Atlanta, Georgia 30303
 22 Appeared on behalf of Plaintiffs.
 23 -and-
 24 WISCONSIN DEPARTMENT OF JUSTICE, by
 25 Ms. Carrie M. Benedon
 17 West Main Street
 P.O. Box 7857
 Madison, Wisconsin 53707
 Appeared on behalf of Defendants.

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1 E X A M I N A T I O N
 2 PAGE
 3 BY MR. SHERMAN 5

4 E X H I B I T S

NUMBER	DESCRIPTION	PAGE IDENTIFIED
6 No. 89	Email Correspondence	17
7 No. 90	Email Correspondence	31
8 No. 91	Email Correspondence	32
9 No. 92	Statement of Scope	38
10 No. 93	Email Correspondence	50
11 No. 94	7/11/11 DMV Information for the Committee on Election and Campaign Reform	50
12 No. 95	Email Correspondence	51
13 No. 96	Email Correspondence	72
14 No. 87	Email Correspondence	82
15 No. 98	Email Correspondence	82
16 No. 99	Email Correspondence	96
17 No. 100	Email Correspondence	105
18 No. 101	Email Correspondence	108
19 No. 102	Email Correspondence With Attachment	113
20 No. 103	Email Correspondence	114
21 No. 104	Email Correspondence	129
22 No. 105	Identity Documentation	237

25 (Original exhibits attached to original transcript;

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1 A P P E A R A N C E S: (cont'd)
 2
 3 WISCONSIN DEPARTMENT OF TRANSPORTATION
 4 OFFICE OF GENERAL COUNSEL, by
 5 Mr. Charles M. Kernats
 6 4802 Sheboygan Avenue, Room 115B
 7 P.O. Box 7910
 8 Madison, Wisconsin 53705
 9 Appeared on behalf of the Wisconsin Department
 10 of Transportation.
 11
 12 ARNOLD & PORTER LLP, by
 13 Mr. Brett Farley
 14 555 Twelfth Street, NW
 15 Washington, DC 20004
 16 Appeared on behalf of the Plaintiffs in
 17 Bettye Jones, et al. v. Deininger, et al.,
 18 Case No. 12-CV-185, Eastern District of
 19 Wisconsin.
 20
 21
 22
 23
 24
 25

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1 TRANSCRIPT OF PROCEEDINGS
 2 PATRICK FERNAN, called as a witness
 3 herein, having been first duly sworn on oath, was
 4 examined and testified as follows:
 5 E X A M I N A T I O N
 6 BY MR. SHERMAN:
 7 Q. Good morning, Mr. Fernan.
 8 A. Good morning.
 9 Q. My name is Jon Sherman. I'm an attorney with the
 10 ACLU Voting Rights Project. I'm one of the
 11 lawyers for the plaintiffs in Frank v. Walker.
 12 I'll be taking your deposition. Have you ever
 13 been deposed before?
 14 A. Once.
 15 Q. And if at any point you don't understand a
 16 question I ask today, just ask me to repeat or
 17 rephrase it.
 18 Some of these questions will necessitate
 19 quoting from the exhibits. Most of them are in
 20 the binder before you. Some of them I'll
 21 introduce and the court reporter will mark them
 22 as, I believe, 89 and going forward. You'll get
 23 the original, your counsel will get a copy, and
 24 we'll pass out copies to other plaintiffs'
 25 counsel. And I'll note which exhibit and which

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1 section I'm reading from.
2 Throughout this deposition your counsel may
3 raise an objection, but unless your counsel
4 instructs you not to answer, you may still answer
5 the question if you understand it.
6 And we'll take periodic breaks, but if you
7 need a break at any time, just let -- you know,
8 just let us know. You know, we have plenty of
9 time, and I hope -- and I don't expect to go the
10 full seven hours.
11 Is there any reason you can think of why you
12 will not be able to answer my questions fully and
13 accurately today?
14 A. No.
15 Q. And you understand you're under oath?
16 A. Yes.
17 Q. And did you meet with your attorneys in
18 preparation for this deposition?
19 A. Yes.
20 Q. For how long?
21 A. An hour.
22 Q. Did you review documents during that prep?
23 A. No.
24 Q. I just have a few sort of stipulations, you know,
25 shorthand definitions that I'd like to use just so

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1 we're all on the same page. Can we stipulate that
2 DMV will signify the Wisconsin Division of Motor
3 Vehicles?
4 A. (Indicating.)
5 Q. Just answer, you know, a verbal "yes" so we
6 know --
7 A. Yes.
8 Q. -- that you understand each of these. Thank you.
9 That GAB will signify the Government
10 Accountability Board?
11 A. Yes.
12 Q. And that 102.15 will signify Wisconsin
13 Administrative Code Trans Section 102.15?
14 A. Yes.
15 Q. And I just want to note where this is for you.
16 Some of these we'll release later on in the
17 deposition, I'll ask you a bunch of questions
18 about, so maybe later at that time it'll make
19 sense to pull them out. That's Exhibit 24. It's
20 the second document of the binder.
21 That BDS 316 shall signify the DMV's form
22 entitled "Acceptable Documents for a Wisconsin
23 Driver License or ID Card Application," and that's
24 Exhibit 30 in this binder.
25 A. Okay.

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1 Q. That's been previously introduced as Exhibit 30.
2 Maybe right now -- actually, while you're on
3 Exhibit 24, can you just -- can I ask you, do you
4 recognize this document?
5 A. You mean have I read it before or do you mean --
6 Q. I mean do you recognize it as Trans 102.15? I'm
7 just trying to authenticate it.
8 A. Yes.
9 Q. And you have no reason to doubt its authenticity?
10 A. No.
11 Q. All right. And for Exhibit 30, same questions.
12 Do you recognize Exhibit 30?
13 A. Yes.
14 Q. And what is it?
15 A. The "Acceptable Documents for a Wisconsin Driver
16 License or ID Card Application," BDS 316.
17 Q. And is it a true and accurate copy?
18 A. I think so.
19 Q. So just a couple other definitions or shorthands
20 we'll use, that the photo ID law will signify the
21 photo ID requirement in 2011 Wisconsin Act 23 and
22 all related provisions in that act and in other
23 laws.
24 A. Yes.
25 Q. Okay. And unless otherwise specified, that state

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1 ID card or state ID will signify a nondriver photo
2 ID card issued by Wisconsin DMV.
3 A. Yes.
4 Q. And that CSC will signify a Wisconsin DMV customer
5 service center.
6 A. Yes.
7 Q. What is your current position at DMV?
8 A. I'm the DMV deputy administrator.
9 Q. Is that position also sometimes called, like, the
10 DMV operations manager?
11 A. It is.
12 Q. And why is that?
13 A. Why is it two different names?
14 Q. Well, more importantly, what are your roles and
15 responsibilities that give you that alternate
16 title as DMV operations manager?
17 A. The operations manager was a title created about
18 ten years ago to replace deputy administrator, and
19 recently the department has changed back to the
20 deputy administrator title.
21 Q. And are you an attorney?
22 A. Yes.
23 Q. Are you involved in sort of -- in legal
24 interpretation and policy setting in addition to
25 the general counsel's office?

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1 A. Not legal interpretation, but policy setting, yes.
2 Q. So what other positions have you held within DMV
3 prior to this current one?
4 A. I was the director of Driver Services from 2007 to
5 2009, I believe.
6 Q. And when you say Driver Services, you mean the
7 Bureau of Driver Services, correct?
8 A. Correct.
9 Q. And prior to that?
10 A. Prior to that I was the deputy bureau director for
11 the Division of Transportation Districts, which is
12 in the Department of Transportation.
13 Q. Had you held any positions within the Bureau of
14 Field Services prior to your current appointment?
15 A. I was the acting bureau director for Bureau of
16 Field Services in my current position, while I was
17 in my current position.
18 Q. So in that capacity you were both serving as the
19 director of BFS and the deputy administrator?
20 A. Correct.
21 Q. And was that before Kristina Boardman was put into
22 place?
23 A. Correct.
24 Q. And so could you just describe more fully sort of
25 all your roles and responsibilities? I'm sure

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1 there's a lot of them.
2 A. Sure.
3 Q. But just tell us, you know, what you do.
4 A. So I'm the number two person in our division of
5 800 positions. I'm responsible for overseeing all
6 aspects of the operations in association, of
7 course, with the division administrator. I've
8 served as acting bureau director for Field
9 Services and Vehicle Services. I make the
10 ultimate decisions on employee discipline, and I'm
11 involved in all aspects of DMV operations.
12 Q. Specifically with respect to -- let's take BFS to
13 start. You know, what's sort of your interaction
14 with that office, with Kristina Boardman? Let's
15 start with her.
16 A. Well, she reports to Lynne on paper, but she
17 reports to me in actuality. And so I become
18 involved in higher-level issues associated with
19 BFS.
20 Q. And when you say "higher-level issues," what do
21 you mean?
22 A. Well, typically not the day-to-day operations of a
23 station, but the higher-level policy decisions,
24 staffing decisions, et cetera.
25 Q. Do you get involved with the creation of forms

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1 that are used at CSCs?
2 A. Not often, but occasionally.
3 Q. Do you get involved with basically the documentary
4 proof requirements and how to modify them?
5 A. Occasionally.
6 Q. And when I say "documentary proof requirements," I
7 mean the 102.15 and/or BDS 316 requirements,
8 correct?
9 A. I'm not exactly sure what is in either of those
10 things, but --
11 Q. Okay. So just more questions on your role with
12 BFS. So what sort of -- do you have any
13 interaction with the customer service centers
14 directly?
15 A. I visit them occasionally to meet new staff, but I
16 have never worked in a customer service center.
17 Q. And in your current capacity, do you field
18 questions about sort of problematic cases that
19 come before CSCs?
20 A. Some cases, problem issues come to me through
21 legislative offices or customer complaints and
22 then I research the issue or pass it on to
23 Kristina or her staff.
24 Q. Have you ever made the final decision on any of
25 these sort of problematic cases?

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1 A. I can think of one.
2 Q. And what happened in that circumstance?
3 A. It was a gentleman who needed a driver's license--
4 or an ID card, I believe, to fly to a World
5 War II -- he's a World War II veteran and they
6 were doing a World War II flight. I'm not sure
7 what the term is, where they fly to Washington,
8 DC, and are honored. And he had never had a
9 Wisconsin product. He had an expired New York
10 product.
11 Q. Okay.
12 A. And he was flying in a -- within a couple of
13 weeks, I believe. This was a while ago. I think
14 about nine months ago.
15 Q. Okay.
16 A. I'm not sure. So he needed the product to fly and
17 he didn't have -- he had a birth certificate, but
18 wasn't able to obtain it prior to the flight. And
19 so we were looking at the documentary proof, and
20 it was asserted to me, which I'm not positive if
21 it's true, that anybody who had served in World
22 War II was a U.S. citizen.
23 And so I made the decision that we would
24 issue him the product, a limited-term product,
25 that would be canceled unless he provided us with

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1 the birth certificate when he got it. And I was
2 told that subsequently he did provide us with the
3 birth certificate, and so we didn't cancel his
4 product.
5 Q. What was the duration of the product?
6 A. Well, I think that -- I think that our system
7 doesn't allow us to -- I think he got the
8 eight-year product, but it would be canceled if he
9 didn't provide us with his birth certificate
10 within -- I believe it was 30 or 60 days. I'm not
11 sure which it was.
12 Q. I'm assuming that there's no sort of written
13 policy or procedure to deal with a circumstance
14 like that?
15 A. Correct.
16 Q. That was a pretty unique sort of scenario that
17 just sort of came up this one time?
18 A. I'm only -- well, I don't know if there was
19 another instance or not. I can't say.
20 Q. Did you ever confirm this fact in terms of --
21 everyone who served in World War II being a U.S.
22 citizen?
23 A. I did not.
24 Q. And so talk to us a little bit about, you know,
25 just how you see your role having shifted since

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1 essentially driver's licensing requirements have
2 been superimposed on voting in Wisconsin.
3 A. Well, none of our requirements have changed other
4 than issuing an ID card for free as a result of
5 voter ID.
6 Q. But specifically, how do you see your role having
7 shifted now -- you know, now that you're not only
8 sort of the steward for driver's license and state
9 ID card issuance, but that, you know, like, the
10 right to vote essentially hangs in the balance
11 with any of those decisions?
12 A. Well, I'd again say that our role really -- our
13 obligations haven't changed as a result of voter
14 ID except for issuing free products. We still
15 have the same obligation for establishing
16 identity, residency, et cetera.
17 Q. I mean, when sort of these problematic cases come
18 to your attention where it's someone who may not
19 be able to vote if they are not issued a state ID
20 card, do you sort of think of it in the same terms
21 that you thought of this World War II veteran not
22 being able to attend this flight?
23 A. Well, we have -- since voter ID was passed, we
24 have looked at our requirements with an eye
25 towards making sure that everything that we're

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1 requiring is necessary.
2 Q. Have you been involved in the updating of BDS 316
3 at all?
4 A. Can I look at it?
5 Q. Sure.
6 A. Yes.
7 Q. And how has it been updated since -- you know,
8 since Act 23 was passed?
9 A. I can give you a couple -- I'm not sure that I
10 know all of the things that have been updated.
11 Q. Generally.
12 A. I can tell you things that I'm aware of. Okay.
13 Well, I know that we changed the -- I believe we
14 changed the homeless documentation requirements
15 for residency proof. I believe that they were
16 changed to match the requirements the GAB uses to
17 establish voting for residency.
18 Q. Were you involved in that modification?
19 A. I was in discussions on it. I don't think I ever
20 read the GAB requirements, but Kristina and I had
21 discussed it.
22 Q. And are there any other changes in BDS 316 that
23 you were involved with making?
24 A. We had a lot of discussions on -- I'm kind of
25 drawing a blank now about specific things that we

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1 changed.
2 Q. That's fine. On the previous policy you mentioned
3 when the homeless residency documentation policy
4 was added in a sort of -- well, at least it was
5 updated to the website. Did the DMV notify social
6 service agencies, homeless shelters in any way of
7 this new policy?
8 A. I don't know.
9 Q. So you don't know if there was a press release on
10 it or anything like that?
11 A. I don't recall.
12 MR. SHERMAN: I'm going to introduce
13 what I believe is Exhibit 89.
14 (Exhibit No. 89 marked for identification.)
15 BY MR. SHERMAN:
16 Q. Do you recognize this document?
17 A. It's an email that says it's from me.
18 Q. Is it a true and accurate copy?
19 A. I have no reason to think it's not.
20 Q. And do you see in this email that you sent,
21 July 19, 2011, the first line is, "Nothing changed
22 for DMV in the voter ID bill other than issuing
23 free IDs to those who need them for voting."
24 Do you see that statement?
25 A. Yes, I do.

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1 Q. And is that essentially your position still today?
2 A. I've been very clear that we are not experts on
3 voting. It's not our role to talk about voting,
4 and I don't want us to -- answering questions
5 about what's allowed for voting as to the extent
6 possible.
7 Q. Understood. So for DMV's purposes, DMV customer
8 service centers are still just issuing state IDs
9 and driver's licenses according to the rules that
10 have always existed, and the only thing that's
11 changed is some -- or many now because many
12 people, you know, need them to vote, they're
13 issuing them for free?
14 A. Well, we have changed some of the document
15 requirements. Other than that --
16 Q. I guess what I'm driving at is do sort of
17 front-line staff at the -- at CSCs understand, do
18 you think, that their decision and the way they
19 process applications has an impact on the right to
20 vote now?
21 MS. BENEDON: Objection. Calls for
22 speculation.
23 THE WITNESS: I don't know.
24 BY MR. SHERMAN:
25 Q. But as far as the training that's been given since

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1 Act 23 was enacted, are DMV front-line staff being
2 instructed, you know, told that their decisions
3 will affect the right to vote?
4 A. Their role hasn't changed. Their job has not
5 changed. They still are responsible for
6 establishing identity and making sure that people
7 can operate safely in terms of the DL and ID
8 products.
9 Q. But specifically on training, do you know whether
10 anything was mentioned about voting specifically
11 in training to DMV front-line staff?
12 A. I don't know.
13 Q. And so I assume you don't know whether or not
14 there's instruction on the Act 23's requirements
15 for DMV front-line staff?
16 A. Well, I'm sure they were instructed about free ID
17 cards.
18 Q. And beyond the -- you know, the fact that you
19 can't charge for an ID card, has any instruction
20 been given on what the photo ID law has basically
21 done and, you know, what changes it's effected in
22 Wisconsin elections?
23 A. I don't know.
24 Q. So just to back up a second, I asked you a bunch
25 about just your interactions with BFS staff from

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1 both the customer service center level up to
2 Kristina Boardman.
3 Well, let me ask you about one other person
4 in BFS, Jim Miller. What are sort of your daily
5 or weekly interactions with Jim Miller?
6 A. Like, how many or --
7 Q. Well, sure. But what's the nature of them?
8 A. Well, aside from general DMV issues, we
9 occasionally talk about complaints that have come
10 to my attention. Sometimes I'll bring them to him
11 if they come to me. Sometimes he'll bring them to
12 me, although that's infrequent because he'll go to
13 Kristina typically.
14 Q. Okay.
15 A. Kristina Boardman. Sorry.
16 Q. And when he brings a case to you, what's sort of
17 the procedure for resolving it? Just informal
18 consultation or is there something more
19 formalized?
20 A. Well, I usually ask him how we would resolve it.
21 He's the expert.
22 Q. And so how do you contribute to that sort of
23 process of working through the problematic case?
24 A. Well, we'll talk about previous times that he
25 might have been -- or staff might have encountered

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1 something before or how we've handled it before.
2 My goal and the goal of Jim is always to get the
3 customer their products -- get the customer the
4 products they're entitled to. So that's our goal.
5 Q. And so how often is this happening?
6 A. I'd say less than weekly. Probably a couple times
7 a month maybe.
8 Q. Do you think he's bringing, you know, the majority
9 of these cases straight to Kristina Boardman
10 because he reports directly to her?
11 A. Right. I don't hear about many issues relating to
12 the issuance of products.
13 Q. Have any policies come out of sort of these
14 problematic cases that you've been hearing? Can
15 you think of an example where you've heard of a
16 problem case, someone having difficulty getting a
17 state ID card or driver's license, and that has
18 directly affected some policy that you've been
19 involved in creating?
20 A. Well, I mean, the homeless documentation issue, we
21 spent a lot of time on that.
22 Q. Right.
23 A. And there have been others. I'm just -- I'm
24 drawing a blank about them. But I know that there
25 have been others.

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1 Q. Any concerning birth certificates as far as you
2 remember?
3 A. Well, the people who can't obtain a birth
4 certificate, that exception, I think it's the
5 3002, which I actually didn't know existed until
6 the voter ID law was passed.
7 Q. So you learned about it roughly when?
8 A. July, August of 2011.
9 Q. I mean, you've been with the division a long time.
10 How is it that you didn't know about the MV 3002
11 form or why do you think that that is?
12 A. Well, it's my understanding that very few people
13 are unable for obtain a birth certificate and so
14 very few people would have a need of the -- or
15 would be able to use 3002 for that purpose, for
16 people who cannot obtain a birth certificate.
17 Q. Understood. You think a lot of these cases are
18 coming to light now because people must get a
19 photo ID in order to vote, so they're finding
20 themselves searching for a birth certificate and
21 learning for the first time that no record of
22 birth exists?
23 A. I'm not aware that there's a lot of people. I
24 haven't heard of more than two or three
25 personally.

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1 Q. When you say can't obtain a birth certificate,
2 what exactly do you mean by that?
3 A. Well, it's my understanding that the -- that it's
4 only people whose birth certificate does not
5 exist, that it cannot be produced for them that
6 are eligible to use that form.
7 Q. So that's the only circumstance in which an
8 MV 3002 form can be used, when there's no record
9 of birth on file with a vital records office,
10 correct?
11 A. That's my understanding.
12 Q. So tell us a little bit about your interactions
13 with BDS. And you were formerly the director of
14 BDS, but now in your current capacity, how do you
15 interact with that bureau?
16 A. Well, I interact with the bureau director, the
17 section chiefs on various issues. I worked
18 closely with Alison Lebwohl -- or Lebwohl, excuse
19 me -- when we were working with GAB on outreach
20 and information relating to voter ID, and then on
21 any number of issues relating to uninsured
22 motorists, driver training schools. The list goes
23 on and on.
24 Q. Have you been involved at all with the hotline
25 that was created for the -- that's basically run

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1 out of the Driver Eligibility Unit?
2 A. I have.
3 Q. And what's been your involvement?
4 A. Well, we talked about what -- from a DMV
5 perspective, what calls should be answered by DMV
6 versus calls that should be answered by GAB, how
7 that might work, how it would be staffed.
8 Q. What's the dividing line for you in terms of what
9 a DMV employee can answer, either on the phones or
10 in person at a CSC, and what GAB personnel should
11 really be answering?
12 A. Well, we focused on DMV staff talking about what
13 it takes to obtain a DOT product, a driver's
14 license or ID card, and questions relating to what
15 do I need to vote would be referred to GAB.
16 One of my big fears is that one of our staff
17 tells somebody what they need to vote and they're
18 not correct.
19 Q. Understood. Let's say someone comes in to a DMV
20 office or calls the hotline and reaches someone
21 fielding calls at DEU and they say, "My address is
22 wrong on my state ID card. It's not expired, but
23 my address is wrong. Do I need to get a new state
24 ID card in order to vote?" Is that a DMV question
25 that can be easily answered or is that a GAB

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1 question?
2 A. That's a good question. I'm not sure where we
3 landed on that.
4 Q. So you don't know what people are saying right now
5 on that?
6 A. Right. Somebody knows. I'm not sure what it is.
7 Q. There is an answer; you just don't know it?
8 A. Yes.
9 Q. All right. And if someone comes into the office,
10 same sort of setup, someone comes into the office
11 at a CSC or makes a phone call on the hotline and
12 they say, "My ID card expired yesterday,"
13 meaning -- what was yesterday? Expired April 1,
14 2012. "Will I be able to use it in the November
15 presidential election?" Is that a question that
16 DMV can answer on the phone or is that a question
17 that's really for GAB?
18 A. Again, we talked about that quite a bit because
19 it's a very complex explanation about expiring
20 after the last general election. And I'm, to be
21 honest with you, not sure where we landed on what
22 our staff would say or if they'd refer that to
23 GAB.
24 Q. And who's ultimately in charge of making those
25 determinations of where --

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1 A. I may have made the determination. I don't recall
2 what that determination was.
3 Q. You just don't recall what it was. Okay. But you
4 are suggesting, though, then, you know -- and you
5 obviously have control of this policy, ultimate
6 control if you want it to fall on one side of the
7 line or the other, you can say that. You're
8 suggesting that there is some wiggle room where
9 DMV can answer certain basic questions about
10 Act 23, correct?
11 A. I don't know. Can you give me an example?
12 Q. Sure. Well, I gave you two.
13 A. Oh. I don't know.
14 Q. Right. Right. And then I guess another example
15 might be, you know, is a state ID card good for
16 voting -- is a passport good for voting?
17 A. I believe that we would answer that question.
18 Q. Okay. So if someone comes in to a DMV customer
19 service center or calls up on the hotline and
20 says, "I have a passport I'm going to use as one
21 of my -- you know, my proof of name and date of
22 birth. It's valid and unexpired. Hey, by the
23 way, would I just be able to just use this to
24 vote?" Would a DMV employee be okay saying, yes,
25 you can?

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1 A. I don't know.
2 Q. Did anyone -- before I move on to that question,
3 just one other.
4 Are you involved in sort of Jim Miller's
5 training activities at all? I know he sends out
6 technical and training service updates. Sometimes
7 they include PowerPoint presentations. Do you get
8 involved in the nitty-gritty of that work, you
9 know, training CSC staff at all?
10 A. No. And typically I don't see the training
11 updates.
12 Q. How about the driver's license manual? Do you
13 review any sort of updates to the DLM?
14 A. It typically not. I don't recall doing that.
15 Q. Who does sort of vet new policies and changes to
16 the driver's license manual?
17 A. It would be the areas that own that content. So
18 it could be in Driver Services. It could be in
19 Field Services. It could be a joint effort.
20 Q. Before Act 23 was enacted, did anyone in the State
21 Legislature, either a legislator or their staff,
22 ever contact DMV to sort of feel out whether or
23 not the arranged marriage would be sensible or
24 even feasible?
25 A. We had interactions with legislative staff about

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1 the bill. I don't recall anybody asking me if we
2 were comfortable with it.
3 Q. So no one really asked whether or not the CSCs
4 could handle this, you know, obligation?
5 A. I don't recall.
6 Q. And what were the nature of the interactions that
7 you did have with them?
8 A. We had a meeting, I don't remember with what
9 legislative aide, where I recall giving feedback
10 that the original bill language which talked about
11 a valid driver's license or ID card, I recall
12 specifically saying that that was not a good word,
13 that unexpired is a better word.
14 Q. Right.
15 A. Go ahead.
16 Q. So I've seen emails yet to that effect where
17 you're commenting as sort of a line item issue,
18 and that -- but is that sort of the extent to
19 which your opinions -- DMV's opinions were
20 solicited?
21 A. I don't understand the question.
22 Q. Sorry. Were you only asked about language issues
23 in Act 23 when it was just a bill or were you also
24 asked about sort of the feasibility of
25 implementing this law?

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1 A. Well, I think we gave feedback on the feasibility
2 of a couple of different proposals.
3 Q. And which were those?
4 A. I think there was discussion of having county
5 clerks issue our products, and I believe we
6 commented on that. And I think --
7 Q. That was going to be a proposal for Act 23, to
8 actually --
9 A. I don't know.
10 Q. -- put that in the bill?
11 A. And then I believe that there was -- we also --
12 there was some talk of a specific product for
13 voting only.
14 Q. Sort of a specific voter ID? Not a state ID card,
15 not a driver's license?
16 A. That's my recollection.
17 Q. That DMV would issue?
18 A. I don't remember if it was DMV issuing it or the
19 counties issuing it.
20 Q. And either way, why was that proposal not
21 ultimately adopted?
22 A. I don't know.
23 Q. And what was your position on that voter ID
24 product being issued?
25 A. By the -- oh. You mean, like, a different

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1 product?
 2 Q. Whether it was issued by county clerks or
 3 municipal clerks or by DMV offices, do you think
 4 it would have made sense to issue a separate, you
 5 know, voting-only ID card?
 6 A. I believe we felt it added a level of complexity
 7 that wasn't going to be easy to deliver.
 8 Q. Meaning if your offices had to deal with it?
 9 A. Right.
 10 Q. What if a county clerk had been offering sort of
 11 the ID of last resort and it was just sort of a
 12 voter registration card with a photo and a
 13 signature and a name?
 14 A. So not a driver's license?
 15 Q. Not a driver's license.
 16 A. And not a state ID card?
 17 Q. Not a state ID card. Wouldn't that have made
 18 things easier for DMV?
 19 A. I don't remember being asked that, but I don't
 20 know that we would have had any problem with that.
 21 Q. Such an ID card would have been subject to the
 22 documentary proof requirements for getting a
 23 state ID or driver's license, correct?
 24 A. I don't know.
 25 Q. Did GAB raise concerns prior to the enactment of

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1 Act 23 with you specifically in terms of DMV's
 2 ability to implement this law?
 3 A. I don't recall.
 4 Q. Did GAB or a state legislator or anyone else ever
 5 raise concerns about sort of whether or not it was
 6 feasible to implement this law uniformly and treat
 7 all voters coming into DMV offices the same?
 8 A. I don't recall those concerns.
 9 Q. How about since the enactment of Act 23? Has GAB
 10 raised any concerns about uniformity and
 11 consistency?
 12 A. I don't -- I can't think of any.
 13 MR. SHERMAN: Let's take a look at --
 14 I'm going to introduce two different exhibits.
 15 This will be 90.
 16 (Exhibit No. 90 marked for identification.)
 17 BY MR. SHERMAN:
 18 Q. Do you recognize that document?
 19 A. It's an email from me.
 20 Q. What is -- well, is it a true and accurate copy?
 21 A. I believe so.
 22 MR. SHERMAN: I'm going to introduce
 23 another exhibit. This is Exhibit 91.
 24 (Exhibit No. 91 marked for identification.)
 25

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1 BY MR. SHERMAN:
 2 Q. Do you recognize this Exhibit 91?
 3 A. It's a chain of emails. One of them is from me.
 4 Or two emails.
 5 Q. And is it a true and accurate copy?
 6 A. I believe so.
 7 Q. So on Exhibit 91, actually, the start, you wrote
 8 in March 22, 2011 -- let me find my place -- about
 9 almost two-thirds or three-fourths of the way down
 10 the page, "Our goal is to get people products."
 11 Do you see that line?
 12 A. Um-hum.
 13 Q. "Our goal is to get people products if they are
 14 entitled to them. This becomes more critical than
 15 ever when people need our products to vote.
 16 "I think we need to take a look now (even
 17 though Real ID has been delayed) at this. If it's
 18 a Trans rule, then an emergency rule may be
 19 necessary to correct. If it's policy, then we
 20 need to redo the problematic pieces before voter
 21 ID is passed so that we won't be in conflict with
 22 that law."
 23 What did you mean by these two paragraphs?
 24 A. Well, as I said, our goal is always to get people
 25 the products they're entitled to, and the specific

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1 things -- the specific examples I have here are
 2 requiring a utility bill to be at least 30 days
 3 old and an account statement to be at least 30
 4 days old. And I'm saying if the voter ID bill
 5 allows voting after 28 days of residence, then our
 6 requirement of 30 days is too onerous and should
 7 be changed.
 8 Q. Specifically on the two paragraphs I read, though,
 9 were you focused solely on liberalizing the proof
 10 of residency requirement or were you also thinking
 11 that you needed to engage in rule-making to add
 12 additional items for proof of citizenship and
 13 proof of name and date of birth?
 14 A. Well, I don't recall exactly what I was thinking
 15 about that, but I don't recall ever --
 16 Q. Well, specifically then, you know, or more
 17 generally, in the sentence where you say, "If it's
 18 policy, then we need to redo the problematic
 19 pieces," what were the problematic pieces,
 20 quote, unquote, that you saw in DMV's regulations?
 21 A. Well, the two that are in the email there, the
 22 30-day requirement, and I don't recall what else I
 23 might have been referring to.
 24 Q. So when you say in the next paragraph, "I'm sure
 25 there are other issues - this is just the one that

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1 struck me first," in this email you're just
2 focused on the proof of residency changes or
3 modifications that you're interested in, but not
4 yet on the other documentary proof requirements,
5 correct?
6 A. Correct.
7 Q. Once Real ID goes into effect, you will be able to
8 issue a noncompliant product, either a
9 noncompliant driver's license or state ID card,
10 correct?
11 A. Correct.
12 Q. And the noncompliant products, in order to apply
13 for them, you'll still have to show proof of
14 citizenship and proof of name and date of birth,
15 correct?
16 A. All the current requirements remain in place.
17 Q. Okay. But my understanding is, and correct me if
18 I'm wrong, is that for the noncompliant product,
19 you will be able -- DMV will be able to liberalize
20 the list of acceptable proof of citizenship or
21 proof of name and date of birth beyond just, say,
22 birth certificates for U.S. citizens; is that
23 correct?
24 A. I believe we could. I don't believe we have any
25 plans to do that.

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1 Q. So there's no current plans to sort of liberalize
2 any of the other documentary proof requirements
3 for the issuance of noncompliant Real ID --
4 non-Real ID compliant products?
5 A. Well, you had asked specifically about name and
6 date of birth and legal presence. Those are the
7 two I was referring to.
8 Q. Right. Okay. So with respect to those two, are
9 there any current plans to offer a broader list of
10 items such as baptismal certificates, hospital
11 certificates, early school records, early medical
12 records that could be used in lieu of birth
13 certificates for U.S. citizens, just so they could
14 obtain a noncompliant ID card or a driver's
15 license?
16 A. We've discussed that informally.
17 Q. And what have been the nature of those
18 discussions?
19 A. I attended a conference three weeks ago with some
20 attorneys from other states, and I asked them
21 about their documentary proof requirements for
22 name and date of birth and legal presence, and a
23 couple of the states -- I don't recall which
24 ones -- said that -- one state said that they
25 didn't require a birth certificate from somebody

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1 born before a certain year. I forgot what that
2 year was. 1940.
3 And another state said that they did have an
4 exceptions process where in lieu of a birth
5 certificate, if people brought in other documents,
6 and baptismal certificate was one of them, that
7 they would accept that.
8 Q. Understood. And what were the reasons animating
9 those either exceptions or -- yeah, those
10 exceptions procedures?
11 A. I didn't ask about the reasons.
12 Q. And at this point Wisconsin has not implemented
13 sort of any exceptions like that other than
14 MV 3002 for people without records of their birth
15 on file, correct?
16 A. Correct.
17 Q. And there's no sort of affidavit of legal presence
18 or citizenship that can be a full substitute for
19 the documentary proof requirement, correct?
20 A. Not that I'm aware of.
21 Q. In your opinion, though, as the DMV operations
22 manager, would you do anything differently for
23 those documentary proof requirements such as proof
24 of legal presence and proof of name and date of
25 birth for the issuance of a noncompliant ID card,

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1 particularly given the problems that you've seen
2 emerge over the course of Act 23's implementation?
3 A. So can you ask the question again?
4 Q. Sure. For the issuance of a noncompliant driver's
5 license or state ID card, do you in your opinion
6 as DMV operations manager, do you foresee or want
7 to increase the number of items that can be used
8 for proof of legal presence and proof of name and
9 date of birth?
10 A. I think that we need to discuss it, but I don't
11 know if we should.
12 Q. What would be some of the counter-arguments, any
13 negatives that would prevent you from going down
14 that route?
15 A. Well, the birth certificate is available to nearly
16 everybody. And it is obtainable for nearly every
17 customer. And until the voting law went into
18 effect, it had not been an issue that I was aware
19 of. So that's an argument not to change anything.
20 MR. SHERMAN: Can we take a two-minute
21 break?
22 MS. ROTKER: Just give us a two-minute
23 break. Is that okay?
24 MS. BENEDON: Sure.
25 (A brief recess is taken.)

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1 BY MR. SHERMAN:
2 Q. Back on the record. Before Act 23 was enacted,
3 did you discuss any modifications to Trans 102.15?
4 A. Could I look and see what that is?
5 Q. Sure. That's Exhibit 24.
6 A. And do you mean ever or --
7 Q. Well, I mean from this document we were just
8 discussing, Exhibit 91, that you discussed sort of
9 a liberalizing modification to proof of residency.
10 Did you discuss any other changes to Trans 102.15
11 or BDS 316?
12 A. Before the --
13 Q. Before the law was enacted.
14 A. Yes.
15 Q. And what were those?
16 A. I don't know. I mean, we talk about it a lot,
17 so --
18 Q. Okay. Understood.
19 MR. SHERMAN: Let me introduce this
20 document at this point. This is Exhibit 92.
21 (Exhibit No. 92 marked for identification.)
22 BY MR. SHERMAN:
23 Q. What is this? Do you recognize this document?
24 A. I do.
25 Q. And what is it?

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1 A. This is a proposed -- this is a statement of scope
2 for revisions to Trans 102.
3 Q. And is it a true and accurate copy?
4 A. I believe so.
5 Q. And in this statement of scope, what is the DMV
6 seeking to do?
7 A. Its modifications will ensure that the DMV is in
8 compliance with federal law, with Real ID, and
9 will reflect procedural changes implemented in
10 compliance with Act 23, which requires voters to
11 show identification at the ballot.
12 Q. And does this statement of scope contemplate any
13 modifications to the documentary proof
14 requirements to obtain a driver's license or
15 state ID card?
16 A. It does not state that.
17 Q. Can you take a look at the bottom paragraph on the
18 first page? It says, "Finally, with changes in
19 documentation requirements and changes in the way
20 many customers conduct their day-to-day business
21 (electronically), there are updates needed to the
22 acceptable documentation for residency list. This
23 updated list needs to provide for electronic
24 documentation, Wisconsin college or university
25 identification, and a standard process for

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1 homeless persons to prove residency for the
2 purposes of obtaining identification."
3 So you see that you did contemplate, at least
4 in this statement of scope, a modification of the
5 proof of residency list, correct?
6 A. Correct.
7 Q. Does this statement of scope contemplate any other
8 modifications to Trans 102.15?
9 A. Aside from meeting the Real ID and the free voter
10 ID --
11 Q. Let me say it more generally.
12 A. Okay.
13 Q. Does the statement of scope contemplate any other
14 modification to the documentary proof requirements
15 other than what's stated in the bottom paragraph
16 here on page 1?
17 A. So say it one more time, please.
18 Q. Sure. Does the statement of scope contemplate any
19 other modifications to the documentary proof
20 requirements to obtain a driver's license or
21 state ID card other than what's stated in the
22 first -- the bottom paragraph on page 1?
23 A. I don't believe so.
24 Q. What's the status of this statement of scope? Has
25 it been submitted to the governor already?

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1 A. I'm not sure.
2 Q. And have you been involved in this rule-making
3 process at all?
4 A. I was at the meeting where we talked about
5 developing this statement of scope, and I believe
6 I reviewed a draft or drafts.
7 Q. While you have it in front of you -- you may have
8 flipped it over, though, already -- Exhibit 90, I
9 just wanted to ask you quickly. I already asked
10 you that you're familiar with this. This person
11 from a state legislator's office had three
12 constituent questions.
13 Are you still seeing these sorts of issues,
14 these misperceptions arise today as to whether or
15 not the address needs to be current for voting
16 purposes, whether an expired driver's license or
17 ID is valid for voting? This was back in July, so
18 have these been recurring issues and
19 misperceptions?
20 A. I don't know. I have gotten fewer -- personally
21 I've heard fewer issues raised, but staff may be
22 getting those questions on the phone or at the
23 counters.
24 Q. Understood. Have you had any discussions with GAB
25 as to how to correct these misperceptions that are

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1 out there in the public?
2 A. I haven't, but yes, I believe our staff has.
3 Q. And what are the nature of those conversations?
4 A. One of the issues was the issue of do you need
5 your current address on the driver's license or ID
6 card to use it for voting. And I believe that,
7 you know, we told GAB that you can change your
8 address online. You can get a duplicate card.
9 We were concerned that elections officials
10 might turn people away improperly. And so I
11 believe our -- whoever was talking to GAB told
12 them, you know, to let voting officials know about
13 that.
14 Q. Do you know of instances like that where poll
15 workers have improperly turned people away for
16 that reason?
17 A. I don't, no.
18 Q. All right. We'll come back to that. Just tell us
19 a little bit about have you personally had any
20 interactions with states' vital records offices
21 concerning, you know, the ability of people to
22 obtain birth certificates in order to meet the
23 driver's license and/or state ID card application
24 requirements?
25 A. I personally have not.

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1 Q. Do you know of any DMV staffers who have?
2 A. I don't know.
3 Q. What about the Social Security Administration?
4 Have you spoken with them at all about voter
5 issues and getting social security cards so they
6 can then prove identity to the DMV?
7 A. I personally have not.
8 Q. Do you know of any conversations like that that
9 have gone on at the DMV?
10 A. I believe that our staff semi-regularly have
11 conversations with the Social Security
12 Administration about a variety of subjects.
13 Q. When you get a sort of problematic case, you know,
14 sent to you, communicated to you by GAB, does it
15 give you any concerns about whether or not CSC
16 staff is providing enough information to voters
17 who are coming in trying to get a state ID card?
18 A. I don't recall any complaints or concerns that
19 GAB -- I don't recall GAB concerns that have come
20 to me.
21 Q. You don't recall any cases in which GAB has sent
22 you sort of an applicant's difficulties --
23 communicated an applicant's difficulties in
24 getting a state ID card that they needed to vote?
25 A. I know I've seen some, but I don't remember if

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1 some came from GAB, because I get those issues
2 from legislative offices, from customers directly.
3 Q. Well, I guess same question with respect to
4 legislative offices. If you're getting a
5 complaint, sort of a customer issue from the
6 legislative office, does that give you concern
7 that DMV CSCs are not doing everything they can to
8 sort of make the process fluid and smooth for
9 voters who are coming in to get a state ID card?
10 A. Well, whether or not it's voter ID, I'm always
11 concerned about our staff giving excellent
12 customer service and applying our standards
13 properly.
14 Q. Understood. So if a problem comes to you from a
15 legislative office, do you have concerns that, you
16 know, these applicants for ID cards and driver's
17 licenses have to go through their constituent
18 services process to get -- you know, sort of get
19 attention at the DMV?
20 A. Well, I'd say typically -- I'd say the average, it
21 is more likely than not that the facts as
22 presented are not correct and that our staff --
23 more often than not that our staff acted entirely
24 properly in the normal customer complaint.
25 Q. Have you learned of any situations like this

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1 simply from the press?
2 A. I think I may have heard about the Ruthelle Frank
3 situation from the press before I heard about it
4 from our staff.
5 Q. Why do you think that is?
6 A. I don't recall.
7 Q. Is there any procedure for notification of higher
8 DMV officials as to these problematic cases?
9 A. No. Typically I don't hear about them. I think
10 they rise to the level if it involves legislative
11 contact.
12 Q. Who has ultimate authority to decide those cases?
13 Is it the local CSC supervisor, Jim Miller who's,
14 you know, section chief for technical and
15 training, Kristina Boardman, you?
16 A. For what sorts of cases?
17 Q. For any sort of case that's not clearly covered by
18 Trans 102.15 or BDS 316, that a customer service
19 center field agent couldn't just easily answer by
20 reference to one of those documents.
21 A. Well, I believe it's typically left to the
22 discretion of the supervisor at the CSC, but if
23 there's discussions, you know, I think that Jim is
24 an expert and his opinion is given great weight.
25 Q. When you say "his opinion is given great weight,"

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1 are you, Jim, or Kristina authorized to overrule
2 that CSC supervisor if they come to a different
3 determination?
4 A. Typically it's a collaborative process and we come
5 to the answer together, so that's not necessary.
6 I can think of the one example where I did --
7 Q. The World War II vet?
8 A. The World War II veteran where I did direct that
9 outcome.
10 Q. If you disagree, though, amongst the three of
11 you -- you, Jim, and Kristina -- if there are any
12 disagreements as to what the outcome should be,
13 how does it get resolved?
14 A. Well, typically I'll defer to the experts on that.
15 Q. When you say experts, you mean Jim?
16 A. To Jim and Kristina.
17 Q. And if Jim and Kristina disagree with each other,
18 is there any procedure for how to resolve that
19 conflict?
20 A. I don't know if they disagree with each other. I
21 don't know how they resolve their conflict.
22 Q. But who ultimately has final decision-making
23 authority here? Is it just sort of the CSC
24 supervisor consults with, you know, you, Jim,
25 Kristina, but then makes their own determination

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1 or, you know, who has final say as to whether or
2 not a state ID card or driver's license issues?
3 A. Well, I don't think it's ever come to it, but
4 Lynne Judd, the division administrator, or myself
5 could order an outcome.
6 Q. Has Lynne Judd been reviewing some of these cases
7 that come up as well?
8 A. I don't know.
9 Q. Have you received any sort of problematic cases
10 from Aging and Disability Resource Center
11 employees?
12 A. I've had some calls -- well, probably three calls
13 from people -- and I don't know how they get to
14 me. But from people that want to bring in a van
15 full of senior citizens to get their products.
16 Q. And in those circumstances do you ever check on
17 sort of -- this is another one of these sort of
18 DMV or GAB questions. Do you ever check first to
19 see whether or not there might be an exemption
20 that applies such as the group nursing home
21 exemption or the exemption in Act 23 for people
22 who are indefinitely confined due to age, illness,
23 disability?
24 A. The three or four times that I talked to people, I
25 have told them specifically they need to call GAB

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1 to find out about that.
2 Q. Okay.
3 A. I know that -- I don't know how frequently it's
4 happened, but anecdotally we've heard of where
5 people come to get a product and they already have
6 a product and never needed to come in at all,
7 because they thought that they needed some sort of
8 voter ID product.
9 Q. Is that misperception still out there, do you
10 think?
11 A. I don't know. I've heard less -- of course, the
12 law is not into effect today.
13 Q. Right. Right now it's --
14 A. Right.
15 Q. Right. It's enjoined.
16 A. Right.
17 Q. But prior to --
18 A. I'm sorry. Okay. But actually --
19 Q. Prior to these injunctions.
20 A. But we did hear stories, and so I always made the
21 point to talk about before you bring a vanload of
22 senior citizens from your home, make sure that --
23 see if they already have a product that they can
24 use for voting. Talk to GAB about the exceptions,
25 the one you specifically said.

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1 And then if they do need a product, refer
2 them to our website for the documentary proof
3 required to come in and get a product.
4 Q. Was there a particular segment of the population
5 that was most confused as to whether or not
6 there's a separate voter ID?
7 A. Well, I only had three or four calls from the
8 senior citizens, and I don't think I talked to
9 anybody personally who had that confusion, so I
10 can't really say.
11 Q. But when was the last time you heard of this sort
12 of confusion out there?
13 A. I don't recall exactly. I would think it was
14 December or January.
15 Q. Have you learned of any sort of difficulties in
16 applying for a state ID or a driver's license from
17 homeless groups? Homeless shelters at all?
18 A. I haven't heard anything, that I recall.
19 Q. I want to ask you a bunch of questions about data
20 that the Division of Motor Vehicles preserves on
21 ID card applications, driver's licenses, you know,
22 the ones in circulation, the ones that people are
23 trying to apply for. In order to do this, I'm
24 going to introduce three exhibits.
25 MR. SHERMAN: So this one will be 93, I

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1 believe.
2 (Exhibit No. 93 marked for identification.)
3 BY MR. SHERMAN:
4 Q. Do you recognize Exhibit 93?
5 A. That's a chain of emails that includes an email --
6 or emails from me.
7 Q. And is it a true and accurate copy?
8 A. It appears to be.
9 MR. SHERMAN: I'm going to introduce
10 what I'm numbering as Exhibit 94.
11 (Exhibit No. 94 marked for identification.)
12 BY MR. SHERMAN:
13 Q. Do you recognize that document?
14 A. I do.
15 Q. And what is it?
16 A. This is information that was presented to the
17 Committee on Election and Campaign Reform on
18 July 11, 2011.
19 Q. And is this a true and accurate copy?
20 A. I believe it is.
21 MR. SHERMAN: Now I'm going to introduce
22 what the court reporter is going to mark as
23 Exhibit 95.
24 (Exhibit No. 95 marked for identification.)
25

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1 BY MR. SHERMAN:
2 Q. Do you recognize Exhibit 95?
3 A. It's an email from me.
4 Q. And is it a true and accurate copy?
5 A. I believe it is.
6 Q. So first on Exhibit 93, how many -- if you know of
7 an updated figure. This was sent out in November
8 of last year. How many driver's licenses and IDs
9 are current, valid, and in circulation right now,
10 if you've seen more updated figures?
11 A. With these three documents, this is from
12 Exhibit 93. It says there's 4,747,212 total
13 product-holders regardless of age.
14 Q. And have those numbers shifted since this was
15 issued?
16 A. I believe they change daily, to some lesser extent
17 or greater extent.
18 Q. And how is this data collected and maintained?
19 A. Can you --
20 Q. Sure. Do you have a -- what is CMS? What is that
21 acronym again?
22 A. I believe it stands for Customer Management
23 System, but I'm not positive.
24 Q. Is that sort of the database management system to
25 know how many IDs and driver's licenses are in

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1 circulation?
2 A. I believe it is.
3 Q. Okay. So when you are contacted by the press or
4 whoever is interested in these figures, is that
5 sort of information just produced by running a
6 search or filter from the CMS?
7 A. The data is available in CMS. It's also available
8 online in what's called a Facts and Figures book
9 that's on the public website that shows driver's
10 licenses and ID cards by -- I believe it's by
11 gender and by age.
12 Q. How often are those updated?
13 A. But that's a once-a-year snapshot. I'm not sure
14 what date the snapshot's taken.
15 Q. So that's a different thing. Okay. So when you
16 run these numbers, though, for the press, you're
17 doing it on the spot, you know, producing it from
18 the CMS, correct?
19 A. I think often the press is referred to the Facts
20 and Figures, but we do use -- but to answer your
21 question specifically, we have used CMS to provide
22 information. I'm not sure if we used it to answer
23 press inquiries or if we refer them to Facts and
24 Figures, though.
25 Q. But when you ran this figure in Exhibit 93 and

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1 said this number is all product-holders regardless
2 of age --
3 A. Right.
4 Q. -- this was being generated from CMS most likely,
5 yes?
6 A. I believe it was.
7 Q. How accurate are these figures?
8 A. The ones in Exhibit 93?
9 Q. Yes.
10 A. In terms of -- what do you mean, "accurate"?
11 Q. So let me give you a few specifics. Do they
12 include deceased people?
13 A. For document 93, I'm not sure if this was -- if
14 this took out the deceased people or not.
15 Q. How do you know to mark people as deceased in the
16 CMS?
17 A. If I wanted it removed, I would ask the people who
18 ran it to take them out, but I don't know exactly
19 mechanically what they do.
20 Q. Do you know how they learn of people who are
21 deceased?
22 A. Yes. We get either a monthly or a quarterly death
23 file from Vital Records -- with the
24 State of Wisconsin Vital Records, I believe. And
25 then a notation is put onto their record, as I

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1 understand it, that shows that they are deceased.
 2 Q. If a person moved out of state holding a DMV
 3 product and then died, would there be any way for
 4 Wisconsin DMV to learn of their death?
 5 A. Did they get -- would they have gotten the new
 6 state's DL or ID product or not?
 7 Q. Let's say not.
 8 A. Then I don't believe we would typically get that
 9 notification, although -- and I don't know for
 10 sure, but I believe that if -- that we
 11 occasionally get next of kin mailing in a product
 12 saying my mother or father died. I don't know how
 13 frequent that is, though.
 14 Q. If a person moves out of state and then applies --
 15 let's say now applies for that other state's
 16 driver's license or state ID card and is forced to
 17 surrender their Wisconsin driver's license or
 18 state ID, DMV would then be notified, yes?
 19 A. It's my understanding that we are notified of that
 20 and we place -- I'm not sure exactly what it's
 21 called, but a move-out-of-state notation on their
 22 record.
 23 Q. Okay. And then when you run figures such as the
 24 ones put here in Exhibit 93, you would eliminate
 25 those folks from the totals?

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1 A. I'm not sure about Exhibit 93, but we can request
 2 for those numbers to be eliminated, yes.
 3 Q. How often are the sort of what I'll call just
 4 cleaning procedures done? You said death reports
 5 are handed out sort of monthly, you think?
 6 A. Somebody knows the answer to that, but I don't
 7 know for sure.
 8 Q. You said -- I mean, does the data in Exhibit 93 --
 9 it does include people who move out of state if
 10 they haven't applied for the other state's
 11 product, correct?
 12 A. Correct. That's my understanding.
 13 Q. Does it include expired driver's licenses and IDs?
 14 A. I don't believe -- I don't believe that Exhibit 93
 15 includes expired products, but I'm not positive.
 16 Q. There is a way to filter, though, for expired and
 17 unexpired and you can just take the expired,
 18 right?
 19 A. Correct.
 20 Q. Or just take the -- I should say just take the --
 21 A. Right.
 22 Q. -- unexpired is what I meant to say.
 23 A. Correct.
 24 Q. And does it include lost and stolen driver's
 25 licenses and ID cards? The DMV would have no way

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1 of knowing which products in the system have been
 2 lost or stolen, correct?
 3 A. Correct.
 4 Q. And does it include -- do these figures include
 5 suspended and revoked driver's licenses and IDs?
 6 A. I believe that Exhibit 93 does, but I'm not sure.
 7 Q. Are these figures available -- are you able to
 8 produce figures by race in terms of driver's
 9 license and state ID cards and who holds them by
 10 race?
 11 A. The customer, when they apply, mark a race box.
 12 And I believe that is reportable, yes.
 13 Q. And in the races that you allow them to select, do
 14 you allow someone to select more than one race?
 15 Does it track the census, I guess is what I'm
 16 really asking? Does it track the way the census
 17 does race and ethnicity?
 18 A. I do not believe it does.
 19 Q. Can a person check off both if they're Hispanic
 20 and white?
 21 A. I'm not sure. I believe the form might say that
 22 you're only allowed to check one, but I'm not
 23 sure.
 24 Q. And it would list them just serially including
 25 Hispanic as another race or would it separate it

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1 out as a national origin?
 2 A. I'd have to look at the form.
 3 Q. Who is in charge of the database, the CMS?
 4 A. In terms of what?
 5 Q. Who would produce numbers? Who would you ask to
 6 produce numbers like this if someone asked you for
 7 it, like the press?
 8 A. So somebody on our staff, DMV staff, would ask
 9 their contact in our bureau of -- well, it's IT.
 10 Q. Okay. So IT handles the numbers. Okay.
 11 A. Well, they produce the report.
 12 Q. They would produce the report. So you didn't know
 13 whether or not -- you know, how the sort of racial
 14 or demographic data is sort of listed for people
 15 to check off in terms of whether it says you can
 16 choose more than one race or whether Hispanic is
 17 broken out as origin as opposed to race, correct?
 18 A. Well, I think I know, but I'd have to look at the
 19 form to tell you for sure.
 20 Q. Is there any notation in CMS of who has a felony
 21 conviction whatsoever? There would be no reason
 22 for that, right?
 23 A. Unless it's on the driving record for, like, a
 24 drunk driving or something that would affect your
 25 driving record.

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1 Q. Right.
2 A. We do not track that information.
3 Q. But yeah. So beyond sort of moving violations or,
4 you know, other sort of vehicular-related crimes,
5 there's no notation of felony convictions,
6 correct?
7 A. Correct.
8 Q. Is there any notation of who is a citizen or
9 noncitizen in the CMS?
10 A. Yes.
11 Q. And what is the nature of that notation?
12 A. On the form the customer can check one of three
13 boxes: U.S. citizen, I believe -- I don't know
14 the exact language, but I believe it's permanent
15 resident, or temporary or conditional resident.
16 And so that information is tracked in CMS.
17 Q. Is there any notation as to what the applicant
18 provided in conjunction with their application
19 such as a birth certificate or passport or
20 certificate of naturalization or certificate of
21 U.S. citizenship?
22 A. On CMS?
23 Q. In the CMS. Right.
24 A. I do not believe there is.
25 Q. Is there any handwritten notation that a field

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1 agent makes at a CSC?
2 A. On the application form?
3 Q. On the application form.
4 A. There may be. I would not be able to give you a
5 concrete answer on that.
6 Q. But these figures right here in Exhibit 93 very
7 much include noncitizens, correct?
8 A. It says that it does include noncitizens, yes.
9 Q. Okay. I just wanted to confirm that. And it
10 also -- at least these figures right here include
11 people who are minors as well, right?
12 A. Correct. It says it includes all product-holders,
13 regardless of age.
14 Q. Is there any way to identify which voters are
15 holders of products? DMV products?
16 A. I don't understand the question.
17 Q. Sure. Is there a way to crossmatch the DMV's CMS
18 records with the Government Accountability's
19 Statewide Voter Registration System and sort of
20 see which voters have a driver's license or
21 state ID card? Has anyone ever discussed that?
22 A. I believe the GAB does some sort of check as part
23 of their registration process, but I'm not sure
24 what that is.
25 Q. But has anyone done an analysis in terms -- now

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1 that the Act 23 is in place, has anyone, either
2 GAB or DMV, done an analysis of which voters,
3 specifically registered voters because those are
4 the only ones you know about in the system, which
5 registered voters have what DMV product?
6 A. I'm not aware of DMV having done anything.
7 Q. It is feasible, though, yes? To do something like
8 that?
9 A. I don't know.
10 Q. Theoretically, could you line up sort of -- you
11 have access to their social security number,
12 correct?
13 A. In CMS is the social security number?
14 Q. Right.
15 A. I believe it is.
16 Q. Right. And then so GAB would have access to every
17 voter's social security number, correct?
18 A. I don't know.
19 Q. Before we go on to 94 and 95, let's flip to
20 Exhibit 66. Do you recognize this document?
21 A. I don't.
22 Q. What does it appear to be?
23 A. This appears to be from -- DMV identification
24 requirements. But I'm not sure what -- I'm not
25 sure if this is the -- I'm not sure what this is

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1 from.
2 Q. Do you recognize this as a chapter from the
3 driver's license manual?
4 A. That's what it now appears to be.
5 Q. I'm guessing you just haven't seen it in a little
6 while?
7 A. Right.
8 Q. All right. Well, so is it a true and accurate
9 copy as far as you know? As far as your
10 recollection goes?
11 A. I don't know.
12 Q. Okay.
13 A. I have no reason to doubt that it is.
14 Q. So can you turn to -- flip to page 11 of this, and
15 at the top of page 11, 521, do you see where it
16 says, "Do not create a record in CMS. Customers
17 applying for an original product must provide
18 proof of legal presence, name and date of birth,
19 identity and residency (if 18 years and older),
20 before creating a record in CMS."
21 Does this instruction in the DLM mean that no
22 record should be created in CMS until a customer
23 provides all of the required documentary proof for
24 a state ID card or a driver's license?
25 A. I don't know.

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1 Q. And so if a person leaves a CMS empty-handed, you
2 know, they have to come back --
3 A. CSC.
4 Q. Oh. CSC.
5 A. Sorry.
6 Q. Excuse me. I'm getting the acronyms jumbled.
7 If a customer leaves a CSC without a product
8 or without having completed the application
9 because they didn't have one of the documents they
10 needed, no record will be created of that
11 interaction with the DMV office, correct?
12 A. I believe that's incorrect.
13 Q. So why is it incorrect?
14 A. Because I believe that we capture the photo and we
15 create some record. Before the person gets to the
16 counter to find out whether or not they have
17 documents, we take their photo and a record is
18 created. But beyond that, I'm not able to tell
19 you where that is and if it's in CMS. I don't
20 know the answer to that.
21 Q. But is any record created of the interaction in
22 terms of what documentary proof requirement defect
23 there was, what they didn't have?
24 A. I don't know.
25 Q. And DLM is distributed to all employees, correct?

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1 A. All -- it's not distributed --
2 Q. CSC field staff? All field staff employees?
3 A. I'm not sure, but I believe it is.
4 Q. And is it part of their training?
5 A. I believe it is.
6 Q. And you believe at least that they're trained on
7 this as a guide to use in their decision-making
8 processes in addition to other documents like
9 BDS 316?
10 A. I believe they are, yes.
11 Q. I'll have to come back to the race question.
12 Is there any sort of tracking of completed
13 applications in terms of someone provides all the
14 documentary proof requirements, or at least
15 initially the field agent believes that they have,
16 is there any sort of tracking of the outcome of
17 those applications? I'm assuming that not all
18 of --
19 A. Aside from issuing a product or -- I'm not sure
20 what you mean.
21 Q. In terms of whether a product issues, in terms of
22 what the basis for rejection would be -- for
23 denial would be.
24 A. Oh. If they weren't issued a product?
25 Q. Right.

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1 A. I'm not sure. I wouldn't know.
2 Q. Who would know?
3 A. Jim Miller would be a person to ask that question,
4 I believe.
5 Q. Jim referred me to you.
6 A. Did he really? Sorry.
7 Q. No worries. Who besides Jim might know?
8 A. Can you repeat the question again?
9 Q. Sure. I wasn't clear. You know, if an
10 application is completed, at least in the sense of
11 all the documentary proof requirements have been
12 submitted, you know, have been fulfilled at least
13 on its face, but then the application is rejected
14 for some reason, is there any tracking or data on
15 what the bases for these rejections are?
16 A. So if they have everything they need, why would it
17 be rejected? I don't understand.
18 Q. At least on its face it appeared to have all the
19 documentary proof requirements, but further
20 analysis revealed that there was either a name
21 defect -- or name discrepancy or one of the
22 documents turned out to be expired or invalid for
23 some other reason, there may have been something
24 that came to light.
25 Or you're just saying everything happens at

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1 the front-line staff window, and if it makes it
2 past that point, it's going to be approved no
3 matter what?
4 A. I don't know the answer.
5 Q. Okay. Is there any tracking whatsoever of sort of
6 mail-in renewal applications in terms of their
7 approval or rejection rates?
8 A. For ID cards, you mean?
9 Q. For ID cards.
10 A. I don't know. Somebody in BDS would be able to
11 answer that.
12 Q. Do you have any idea of who?
13 A. Well, I was going to say Alison Lebwohl, but I'm
14 afraid you're going to tell me that she said to
15 talk to me.
16 Q. And state law does not -- in DMV policy, you're
17 not required -- currently you're not required to
18 scan all the documents that are provided in
19 conjunction with an MV 3001 or MV 3004 application
20 form, correct?
21 A. Correct.
22 Q. But you will be under -- once the Real ID law is
23 implemented in 2013, correct?
24 A. Correct.
25 Q. And how will you store and preserve those

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1 documents? Just as PDFs, you know, that are
2 scanned?
3 A. I don't know.
4 Q. Do you know whether the idea is to scan the
5 primary documents only if the application is
6 accepted or also if the person presents certain
7 documents but, you know, is lacking one or two
8 things that they still need to bring in?
9 A. I don't know.
10 Q. Has there been separate tracking of MV 3001 and
11 MV 3004 since the photo ID requirement was enacted
12 in terms of how many free state ID cards you're
13 issuing, et cetera?
14 A. We do a monthly report on the number of ID cards
15 that are issued and the percentage that are free,
16 I believe.
17 Q. Why don't we back up just to this Exhibit 94 that
18 I handed you. Is this a State Legislature
19 committee that this was intended for?
20 A. Correct. I don't remember if it was the Senate or
21 the Assembly.
22 Q. Okay. And what was the purpose of this document?
23 A. I believe this was -- I believe that this was
24 testimony that the DMV provided to the committee.
25 Q. It was after the enactment of Act 23, so what were

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1 you trying to get at in sort of analyzing a
2 variety of potential difficulties eligible voters
3 might face and/or how many eligible voters might
4 need to go through this process?
5 A. It appears -- I don't recall why we did it, but
6 you're correct. Your assessment is correct on
7 what it appears the intent is.
8 Q. Will you talk to us a little bit about the figures
9 in the first two questions? So starting with the
10 first, how many people in Wisconsin have an
11 unexpired driver's license or an ID and are over
12 18, it says those who are at least 18 -- greater
13 than or equal to 18 holding unexpired Wisconsin
14 driver's license or ID, 4,350,617. And that
15 figure has obviously gone down a little bit from
16 Exhibit 93. That's just run using a simple filter
17 in the CMS, correct, for age?
18 A. That's what it appears to be, yes.
19 Q. And then how would they further filter it for the
20 4,250,018 figure, you know, siphoning -- sort of
21 siphoning off, segregating out the noncitizens in
22 the mix?
23 A. Well, I can't tell you mechanically.
24 Q. Right.
25 A. I can give you my best --

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1 Q. Best guess.
2 A. My best recollection of how that's done, yeah, is
3 that people who checked the -- either of the
4 two -- the two boxes other than U.S. citizen box
5 would be in that, I guess, 2.3 percent.
6 Q. So in this sense you're relying on the customer's
7 representation as to their citizenship status in
8 order -- that's why it says "believed U.S.
9 citizens" as opposed to, you know, confirmed or
10 definitely U.S. citizens or noncitizens, right?
11 A. Right. If somebody checks the non-U.S. citizen
12 box, they have to provide documentary proof that
13 they're in the country legally. If somebody
14 checks the U.S. citizen box as a renewal, we do a
15 social security verification. If they check that
16 box as an original applicant, they have to provide
17 documentary proof of U.S. citizenship.
18 Q. Understood. And there's no -- and I guess this is
19 the more important question, is in Exhibit 93 and
20 Exhibit 94 when you state these figures, these
21 figures include people who are noncitizens at the
22 time they applied, but they may very well have
23 become citizens since they obtained their DMV
24 product, correct?
25 A. Correct.

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1 Q. So those folks could have been naturalized
2 subsequent to when they applied for a driver's
3 license or state ID card and now be eligible to
4 vote, correct?
5 A. Correct.
6 Q. And DMV has no way of tracking that and doesn't
7 have any cause to track that, correct?
8 A. Correct.
9 Q. And then on the second sort of bullet -- not
10 bullet point, but second question in Exhibit 94,
11 "What is the difference between Wisconsin DL/ID
12 product-holders and eligible voters," it says,
13 "2010 eligible voters per information received
14 from Reid Magney at GAB."
15 Do you know how this figure of 4,372,302 was
16 calculated?
17 A. How GAB calculated it?
18 Q. Right.
19 A. I don't know.
20 Q. And then it says, difference between eligible
21 voters and unexpired U.S. citizen DL or ID holders
22 who are greater than or equal to age 18 as of
23 July 1, 2011, is 122,284.
24 Do you have -- do you believe this figure is
25 accurate?

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1 A. Currently or was it accurate when --
2 Q. Was it accurate at the time?
3 A. I can't attest to the accuracy of the GAB numbers,
4 and I don't recall if over the course of time
5 we've -- when running these numbers, which we've
6 done a couple times, I don't remember if when we
7 did this Exhibit 94, if we took and moved
8 out-of-state notation, if we removed those or the
9 deceased. It may have been done or it may not
10 have been done. I don't recall anymore.
11 Q. And same with lost or stolen ID cards, we have no
12 way of knowing whether a card is lost or stolen,
13 correct?
14 A. Yeah. I don't understand how that really is
15 relevant, but correct.
16 Q. Okay. Have you come across a lot of folks, I
17 mean -- well, let me rephrase this.
18 How many people have you come across who are
19 struggling to prove citizenship just in your
20 capacity?
21 A. So citizenship, they have to provide the -- you
22 mean they're not born in the United States?
23 Q. How many U.S. citizens --
24 A. Oh, okay.
25 Q. -- who are eligible to vote trying to get a

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1 state ID card so they can vote and are struggling
2 to get a birth certificate so they can obtain a
3 DMV product?
4 A. I don't think I personally talked to anyone.
5 Q. How many people would you say you've come across
6 who are struggling for a different reason to
7 fulfill the documentary proof of citizenship
8 requirements such as name discrepancies between
9 their birth certificate and various other
10 documents?
11 A. I know that there are some, but I don't -- I
12 haven't spoken -- I don't recall speaking to
13 people specifically myself.
14 Q. Well, how many people have you heard about?
15 A. I don't know.
16 Q. And same with respect to the prior question, how
17 many have you heard about?
18 A. Correct.
19 Q. How many people have you heard of who are sort of
20 what are collectively known as snowbirds who, you
21 know, live part of the year in Wisconsin and live
22 out of state some other portion of the year, you
23 know, and are trying to get a state ID card but
24 will need to surrender some sort of out-of-state
25 product? Have you heard of a lot of cases like

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1 that?
2 A. I can think of two that I've heard of recently.
3 Q. And what are the nature of those cases?
4 A. Well, it's been a while. One of them was somebody
5 who lived in Hawaii and didn't want to surrender
6 their Hawaiian driver's license even though they
7 were asserting Wisconsin residence. And then I
8 forget what the other state was. And these were a
9 while ago.
10 MR. SHERMAN: I'm going to introduce
11 this as Exhibit 96.
12 (Exhibit No. 96 marked for identification.)
13 BY MR. SHERMAN:
14 Q. Do you recognize that document?
15 A. I don't recognize it. It's an email from
16 Jim Miller and I am on the CC list.
17 Q. And is it a true and accurate copy?
18 A. I believe so.
19 Q. You can take a moment to read the facts, just
20 probably read them in reverse order.
21 A. Okay.
22 Q. So in terms of this case specifically, this person
23 has moved full-time to Wisconsin, so they would
24 need to obtain a new DMV product in order to
25 continue driving in Wisconsin, correct?

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1 A. As required by statute, yes.
2 Q. Let's say they aren't relocating full-time to
3 Wisconsin, but they spend half their year in
4 Wisconsin, and then the colder months they go to
5 Florida. Would you require someone like this to
6 surrender their Florida driver's license in order
7 to obtain a Wisconsin state ID card to vote?
8 A. If they are asserting that they are -- well, it
9 has nothing to do with voting. If they're
10 asserting that they're a Wisconsin resident and
11 they wish to obtain a driver's license or ID card,
12 yes.
13 Q. So would that person then have to -- let's say
14 Florida. Let's just -- I don't know for the
15 moment, but let's say Florida has the same rule in
16 terms of surrendering the out-of-state document.
17 Would they have to surrender their Wisconsin
18 state ID card or driver's license when they go
19 back to Florida and then do the same thing when
20 they move back to Wisconsin?
21 MS. BENEDON: Objection. Calls for
22 speculation.
23 THE WITNESS: So should I answer?
24 MS. BENEDON: You can answer if you know
25 the answer.

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1 THE WITNESS: You may live in a
2 different state for part of the year and still be
3 a resident of either, in your example, Wisconsin
4 or Florida, so you would not need to switch back
5 and forth.
6 If you're a resident of Wisconsin and
7 you live for six months or nine months or whatever
8 in another state but you're a resident of
9 Wisconsin, you're a resident of Wisconsin.
10 BY MR. SHERMAN:
11 Q. For driving purposes?
12 A. The statute -- I don't -- there's a statutory
13 definition of residency. I don't know what it is
14 off the top of my head.
15 Q. So that person that I've described would need to
16 submit their -- surrender their Florida driver's
17 license in order to be able to get a state ID
18 card, correct?
19 A. If they were asserting that they are a Wisconsin
20 resident, yes.
21 Q. So even though -- let's say they don't intend to
22 drive at all in Wisconsin but they just want to
23 keep their Florida driver's license so they can
24 drive when they're, you know, in Florida. Why
25 can't they obtain a Wisconsin state ID card, not

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1 for driving purposes, just a Wisconsin state ID
2 card without surrendering that Florida driver's
3 license?
4 A. Because you're either a Wisconsin resident or
5 you're not a Wisconsin resident.
6 Q. All right. Have you come across some other cases
7 like this?
8 A. Like --
9 Q. That I've described. Not specifically
10 Mr. Hiram Roman, but other snowbirds who have
11 driver's licenses in other states.
12 A. Well, the Hawaii example I gave you, and I think
13 there have been one or two others.
14 Q. Do you think there's probably a couple -- you
15 know, maybe 50 or 100 other cases like this in
16 Wisconsin?
17 MS. BENEDON: Objection. Calls for
18 speculation.
19 THE WITNESS: I don't know.
20 BY MR. SHERMAN:
21 Q. Do you think that students who come to, say, you
22 know, University of Wisconsin-Madison from other
23 states or come to Marquette University are
24 probably in the same boat, have an out-of-state
25 driver's license that they'll be forced to

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1 surrender in order to obtain a Wisconsin state ID
2 card?
3 MS. BENEDON: Objection. Calls for
4 speculation. You can answer if you know.
5 THE WITNESS: If they are asserting they
6 are Wisconsin residents, then they're Wisconsin
7 residents and they have to surrender their
8 out-of-state product.
9 BY MR. SHERMAN:
10 Q. So you take it that there probably are students
11 like this who do have out-of-state driver's
12 licenses, they turned 18, they got it when they
13 were in their last year of high school, they come
14 to their first year of college, and they'll
15 probably have to surrender that out-of-state
16 driver's license, correct?
17 A. If they want to be Wisconsin residents.
18 Q. And if they want a Wisconsin state ID card,
19 correct?
20 A. Correct.
21 Q. Do you know, is residence for driving and voting
22 purposes, is that the same definition? Is that
23 applied in the same manner?
24 A. I don't know what the definition is for voting.
25 MS. BENEDON: Can we take a short break

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1 soon? If you want to finish your current line of
2 questioning or -- I don't know if this is a good
3 time.
4 MR. SHERMAN: Yeah. I only have one
5 other in this line of questioning and then we'll
6 take --
7 MS. BENEDON: Okay. Why don't you
8 finish up and we'll take a break soon.
9 BY MR. SHERMAN:
10 Q. I've come across -- I don't have the specific
11 document on this, but I don't think I need to just
12 to ask you about this. At some point, I think it
13 was prior to 2005, there was a circumstance in
14 which DMV would issue an ID card without a photo,
15 but not for a religious exemption; is that
16 correct?
17 A. I don't know.
18 Q. So then you wouldn't have any idea of how many of
19 those kinds of cards are in circulation, correct?
20 A. Correct.
21 MR. SHERMAN: All right. We can take a
22 break.
23 (A recess is taken from 10:32 a.m. to 10:40 a.m.)
24 BY MR. SHERMAN:
25 Q. Back on the record. I'll just ask you one

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1 question about Exhibit 95 before we move on from
2 the numbers and data stuff.
3 So this document, Exhibit 95, concerns the
4 sorts of numbers of IDs that have been issued --
5 in part it concerns the number of IDs that have
6 been issued since Act 23 was enacted, at least as
7 of December 29, 2011, correct?
8 A. Yeah. I think it's through the month of November
9 of 2011.
10 Q. Okay. Have you seen sort of any increase in the
11 rate at which people are applying for state IDs
12 since Act 23 was passed?
13 A. It looks like the number of IDs issued is up as
14 of -- you know, for the first six months or five
15 months 5,000 -- or 4500 over the same period in
16 2010 and 6500 for the same period in '09.
17 Q. Can you show me where you're looking?
18 A. I'm looking at the cumulative total IDs issued.
19 Q. So you meant 45,000, right?
20 A. Sorry. Yeah. But the difference between '10 and
21 '11 is 4500.
22 Q. Oh, I got you. So it went up about 4,500.
23 Understood.
24 So I want to ask you a few questions just
25 about the DMV's efforts in terms of public

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1 education and outreach, and specifically since
2 Act 23 went into effect. Have you done anything
3 differently -- you've basically testified that
4 nothing has changed for DMV other than you issue
5 state ID cards for free now when people ask for
6 them for voting purposes and that you've
7 liberalized the proof of residency requirement.
8 What steps has the division taken to assist
9 the public in getting state ID cards to vote and
10 assisting them in an informational sense?
11 A. Well, we've worked extensively with GAB since I
12 believe that they were given a certain -- I don't
13 know how much money in the law, to do outreach and
14 education. And so we've worked with them to
15 provide them our information to get that -- to get
16 what's needed to get a product.
17 You know, from a customer service
18 perspective, we don't want people coming in who
19 don't have what they need to get their product,
20 whether it's voting or not voting. We don't want
21 people to have to make two visits.
22 Q. Understood. And so you're talking about the Bring
23 It to the Ballot website, in that whole campaign
24 you've helped supply information to GAB so they
25 can have accurate information about what voters or

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1 any customer really needs to apply for a driver's
2 license or state ID card, correct?
3 A. Correct.
4 Q. And they've used that information, as far as you
5 know, in their website, their presentation
6 materials, correct?
7 A. That's my understanding, yep.
8 Q. And you have a hotline that's run by the Driver
9 Eligibility Unit in BDS; is that correct?
10 A. Yes.
11 Q. And when was that first created, if you know?
12 A. I don't remember the exact -- I don't remember.
13 Q. But the hotline predates Act 23, correct?
14 A. Yeah. We have a phone center. There's two
15 different phone centers that would answer about
16 driver's license or ID cards. One is in our
17 driver information section and the other one is
18 the section that you were referring to, and those
19 have been public phone lines since I've been with
20 the DMV.
21 Q. But it's a new thing, right, that GAB feeds calls
22 from its hotline into the DMV hotline, correct?
23 A. Correct.
24 Q. And does it go to the hotline at DMV or does it go
25 straight into the queue to reach a customer -- a

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1 transportation customer representative, I believe
2 is what they're called?
3 A. Um-hum. Well, Alison Lebwohl will be able to
4 answer for sure, but it's my understanding that if
5 somebody calls GAB and it gets transferred to DMV,
6 that it does go to that specific unit in the
7 qualifications and issuance section rather than to
8 our larger, more general driver's license number.
9 Q. And if someone winds their way through the DMV
10 phone tree and ultimately reaches a human being
11 and that human being learns that it's more of a
12 GAB Act 23 question, is there a way to feed that
13 question back to GAB?
14 A. I believe there is, but I can't tell you exactly
15 how that works.
16 Q. But when I -- to be more specific, though, is
17 there a way to feed it back, you know, transfer
18 them by phone, or at that point would you have to
19 send an email to someone at GAB to follow up with
20 that person?
21 A. I'm not sure.
22 MR. SHERMAN: Let's take a look at two
23 additional exhibits. This is going to be 97.
24 (Exhibit No. 97 marked for identification.)
25

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1 BY MR. SHERMAN:
2 Q. Do you recognize this document?
3 A. It's an email chain that includes an email from
4 me.
5 Q. And is it a true and accurate copy?
6 A. I believe so.
7 MR. SHERMAN: And this will be
8 Exhibit 98.
9 (Exhibit No. 98 marked for identification.)
10 BY MR. SHERMAN:
11 Q. Do you recognize this document?
12 A. This is an email chain that includes an email from
13 me to GAB officials and one back from them to us.
14 Q. And is it a true and accurate copy?
15 A. I believe it is.
16 Q. So in Exhibit -- these were written around the
17 same time, correct? Actually, they were written
18 on the same day, correct?
19 A. Yes. The two notes from me were written on
20 October 17, 2011.
21 Q. And just to take the -- well, looks like the
22 earlier one you wrote at 8:31 a.m. on
23 October 17th. You said, "So in a nutshell, key
24 issues show up in this interaction that happened a
25 couple of weeks ago at Oconomowoc. We have people

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1 with valid product who don't know they don't need
2 anything else who they come in, people who come in
3 for new address because afraid they can't use
4 their product without an address, people come in
5 without necessary documents to get a product,
6 people being told by outside groups they need to
7 come in when they don't, people talking to GAB
8 apparently but still coming in when they don't
9 need to."
10 I imagine, you know, people come in without
11 necessary documents to get a product, that's been
12 a problem both before and after Act 23, correct?
13 A. Correct.
14 Q. That's not something that came into existence with
15 Act 23. But if you could talk for a minute just
16 about each of these five concerns that you raised
17 or common misperceptions. How have you been
18 addressing each of these five, if at all?
19 A. Well, the first four bullets, they're partially
20 addressed by the GAB outreach, which I think
21 started in December or January. I'm not exactly
22 sure when they started it. Our staff talked -- I
23 know I've talked, as I said earlier, to three or
24 four different callers about these exact issues.
25 I believe that there have been a few DMV staff who

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1 have given presentations to community groups
2 relating to what you need to get a product.
3 Q. So those first four are mostly just -- you're
4 saying that's GAB's domain and DMV doesn't really
5 have a lot to do in terms of public education on
6 them?
7 A. Well, we work with GAB. We don't have the ability
8 to do much public education, but we've had our
9 staff out giving presentations when we talked to
10 people. I've made it a point in media interviews
11 that I did to make sort of the same points.
12 Q. Why is it that DMV is not able -- doesn't have the
13 ability to do much public education? Why do you
14 say that?
15 A. Well, I thought you said public outreach. I'm
16 sorry. We can't make media buys. We don't have a
17 budget for that.
18 Q. And beyond media buys, though, in terms of
19 brochures or posters, you know, and signage at
20 different offices, are you able to do certain
21 things like that that would be relevant to the
22 first four items?
23 A. Yeah. And we've done that. The issue, though,
24 with signage, though, of course, is you could have
25 a sign up for everything and then nobody would

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1 read any of it. So we try to be judicious in our
2 use of signage in the offices.
3 Q. What sort of signs have you put up in customer
4 service centers post Act 23?
5 A. I believe there's a sign about a free ID being
6 available for -- I'm not exactly sure what the
7 verbiage is.
8 Q. Does it make it clear that duplicate IDs are now
9 free as well?
10 A. I'm not sure if that's been changed.
11 Q. Who would know the answer to that?
12 A. Kristina Boardman.
13 Q. And then as far as the last one, you know, what is
14 exactly being described in the fifth bullet point
15 here? "People talking to GAB apparently but still
16 coming in when they don't need to," meaning GAB
17 made some error as to whether a new ID was
18 required?
19 A. Well, I'm referring to the email that mine is
20 attached to, and it looks like it's the last
21 sentence, where Caleb Haugen, who's the team
22 leader of the Watertown travel team, said that the
23 person he talked to had contacted GAB before
24 coming in but was not clear on what information
25 she had been given by the GAB.

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1 Q. And then these are slightly different concerns
2 that you raise later the same day on Monday,
3 October 17th. So in Exhibit 98 you wrote later in
4 the day around 4:16 p.m., you said on page 2 --
5 there's three bullet points. It says that you're
6 addressing sort of common misperceptions again.
7 "The perception that there is a 'voter ID'
8 product that is separate from the Wisconsin DL,
9 ID, or other valid ID product that is needed to
10 vote. About 12 of the 20 seniors on the bus
11 already had an unexpired Wisconsin driver's
12 license or ID product that could be used for
13 voting, so they conducted no business with us that
14 day and did not need to have come in."
15 Let's take that first one first. How
16 widespread is the misperception that there's a
17 separate voter ID product?
18 MS. BENEDON: Objection. Calls for
19 speculation.
20 THE WITNESS: I don't know.
21 BY MR. SHERMAN:
22 Q. Have you seen more cases of this since October of
23 last year?
24 A. I don't recall.
25 Q. And is there a particular reason why you think

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1 maybe seniors would have more -- Wisconsin seniors
2 would be more vulnerable to believe this?
3 MS. BENEDON: Objection. Calls for
4 speculation.
5 THE WITNESS: I don't know.
6 BY MR. SHERMAN:
7 Q. And has the division been doing anything to combat
8 this misperception or just relying on GAB to
9 combat it?
10 A. And our outreach efforts, the presentations that
11 our staff have given, the calls that we've had. I
12 know I personally have had some calls.
13 Q. So you can at least answer that basic question,
14 that, no, ma'am, there is no -- or no, sir, there
15 is no separate voter ID product, it's just a
16 Wisconsin driver's license or state ID card, and
17 the state ID card is available for free?
18 A. Correct.
19 Q. How many staff presentations have been done?
20 A. I'm not sure.
21 Q. Do you know who their -- the general audience
22 usually is for those?
23 A. I think we've -- I don't know. We've had
24 different groups request. I don't recall what the
25 groups are. Or who they were, I mean.

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1 Q. Are there, you know, more than 50? Less than 50?
2 Do you have any idea?
3 A. I can recall only -- I can only think of four or
4 five.
5 Q. Is it just a sign at the DMV's CSCs or do you have
6 any sort of video that, you know, explains this
7 process or the new requirements for people?
8 A. There are no new requirements for DMV.
9 Q. Right. That explains that a voter ID is basically
10 a free state ID card and that they can get it for
11 free?
12 A. I'm not aware of any video. I don't believe there
13 is a video.
14 Q. So the second concern you raise here -- this may
15 have been repeated on the other one. I may have
16 asked you about this already. So I've already
17 asked you about the perception that the Wisconsin
18 driver's license or ID product needs to have the
19 correct address.
20 And then the last, "The perception that
21 everyone needs a Wisconsin driver's license or ID
22 to vote. Based upon the limited information that
23 was provided to us from the staff of the
24 retirement home, it would seem these customers
25 would all have been eligible to vote absentee with

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1 no Wisconsin driver's license or ID product under
2 the law as it relates to residents of nursing
3 homes, et cetera."
4 I may have asked you this before, but you
5 know, are CSC employees authorized to discuss, you
6 know, the exemptions in the Wisconsin photo ID law
7 with applicants?
8 A. I'm not even sure I'm right when I wrote that, and
9 so no, they are not. They should not be
10 discussing that exemption because that's not our
11 business.
12 Q. So if someone, you know, brings a whole busload
13 of, you know, senior citizens in from a retirement
14 home, you'll just process all 20, 25 of them, you
15 know, have them all go through the state ID card
16 process even if someone actually knows
17 definitively that they should check with the GAB
18 because they may be exempt?
19 A. I don't know exactly what a customer service rep
20 would do.
21 Q. And you don't know what instructions may exist on
22 that procedure, if any?
23 A. Correct.
24 Q. So back on the hotline for a moment, to the extent
25 you know the answers to these questions. Do you

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1 know if they're giving information about the
2 documentary proof requirements on the hotline?
3 A. I believe they are.
4 Q. And they're reaching actual individuals to speak
5 with, right? It's not all automated, sort of
6 listing out the documentary proof requirements?
7 A. I think it's both, that you can get to a person if
8 you want it, but we try to make that unnecessary.
9 We try to get the information out of there because
10 it's so much quicker to listen to the information
11 than to wait to talk to a representative.
12 Q. And when they list out the documentary proof
13 requirements on the hotline either as an
14 automated -- in an automated way or if someone
15 lists them out speaking with them in person, do
16 they mention any exceptions like the MV 3002 form
17 and procedure?
18 A. I don't know.
19 Q. And is the information standardized in some way?
20 I imagine it is on the machine, but you know, for
21 the people who are fielding calls, is the
22 information they're providing standardized in some
23 way? Do they have a script, for instance?
24 A. I don't know.
25 Q. Do you know whether the DEU staffers, the people

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1 fielding these calls, are they relying on 102.15
2 or BDS 316 or some other DMV form?
3 A. I don't know.
4 Q. Alison Leibold or Jeremy Krueger would be more
5 likely to know the answers to those questions,
6 correct?
7 A. Correct.
8 Q. Is there any -- and do you get any information
9 from the hotline in terms of the types of problems
10 that people are calling in with? Is there any
11 analysis done of what's -- what people are having
12 questions about?
13 A. I've inquired about the types of issues that
14 they're hearing, although I haven't heard anything
15 for months about specifics, but back in the fall,
16 early winter. Because we talked about it at our
17 weekly meetings, but now I'm not recalling
18 specifics of what they might have said.
19 Q. Do you know if DMV counsel reviewed whatever
20 materials DEU employees are using to field calls
21 and answer questions?
22 A. I don't know.
23 Q. Are people fielding calls -- are there Spanish
24 speakers who are fielding some of the calls?
25 A. We do have Spanish-speaking customer service

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1 representatives, yes.
2 Q. Transportation customer representatives?
3 A. Thank you. Yes.
4 Q. Sorry. I'm just checking.
5 A. Yep.
6 Q. So people fielding calls can speak to a live --
7 sorry. People calling in can speak to a live
8 person who speaks Spanish, right, and not just
9 hear an automated Spanish -- you know, Spanish
10 language list of proof -- you know, documentary
11 proof, et cetera?
12 A. Correct.
13 Q. And is the same service available in Hmong?
14 A. I don't believe it is with our staff. I believe
15 that there are translation services available.
16 Q. I want to ask you a little bit about just the
17 website itself. You know, when a policy changes,
18 such as the proof of residency policy that changed
19 recently to add a few more items, including the
20 homeless residency documentation policy we
21 discussed, does that trigger only an update to the
22 DMV website or do you automatically start trying
23 to initiate formal rule-making with a scope
24 statement?
25 A. No. We don't automatically do that.

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1 Q. So what does trigger a scope statement at DMV in
2 terms of when you modify one of the requirements
3 to apply for a driver's license or state ID card?
4 A. Well, some things are -- in our DLM are not in
5 rule or statute. There are policies and then the
6 things that are in rule that specifically need to
7 be modified. In this case we're doing the
8 modification in association with Real ID.
9 Q. With the proof of residency requirements?
10 A. As part of that modification.
11 Q. And Real ID will require two forms of proof of
12 residency; is that correct?
13 A. I believe that's correct, yes.
14 Q. And does that -- was that part of the impetus for
15 liberalizing the proof of residency list?
16 A. No.
17 Q. So what was the driving force behind seeking
18 rule-making for the proof of residency list?
19 A. Well, because we had made some changes and we were
20 opening up the rule to change it for Real ID, so
21 it seemed appropriate to do it for other things
22 that needed changing as well.
23 Q. Let me talk to you a little bit about just the
24 website itself. Are all the necessary forms and
25 information to obtain a free state ID card for

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1 voting purposes up on your website as far as you
2 know?
3 A. You mean, like, the application?
4 Q. The application, the documentary proof
5 requirements.
6 A. I believe it is.
7 Q. Is the MV 3002 form for people who do not have a
8 record of their birth on file with the Vital
9 Records Office, is that up online?
10 A. I don't know.
11 Q. Is there any reason not to have the MV 3002 form
12 not up online?
13 A. No.
14 Q. Is there any information about any exception to
15 any of the documentary proof requirements, is any
16 of that up on the website?
17 A. I don't know.
18 Q. Take a look just quickly at -- any reason not to
19 have exceptions on the website?
20 A. Well, yes. In the interest of how much
21 information do you want to have out there, will
22 people stop reading. You know, you have to strike
23 a balance with that. And because an exceptions
24 process is sort of -- by default, they're -- it's
25 difficult to give specifics about what an

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1 exception would be.
2 Q. Are you worried that people will be confused or
3 that you just want to think people are going to
4 try to get around the documentary proof
5 requirements and you want them to fulfill those?
6 A. Both.
7 Q. Both. I mean, so how does anyone know that an
8 exception procedure exists other than if they're
9 told by a customer service center field agent?
10 A. I don't know that they would.
11 Q. So basically they have to -- so a person -- let's
12 say take the MV 3002. A person has to volunteer
13 that they do not have a record of their birth on
14 file before they'll be handed an MV 3002 form,
15 correct?
16 A. I don't know.
17 Q. But that's at least possible that -- it's at least
18 possible that someone will come in to a CSC with
19 their baptismal certificate or their hospital
20 certificate and a CSC field agent will simply say,
21 "That's insufficient, you need your birth
22 certificate," rather than mention the MV 3002
23 procedure, correct?
24 A. It's possible.
25 MR. SHERMAN: So this document is going

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1 to be 99.
2 (Exhibit No. 99 marked for identification.)
3 BY MR. SHERMAN:
4 Q. Do you recognize this document?
5 A. It's an email chain that includes two emails from
6 me.
7 Q. And is it a true and accurate copy?
8 A. I believe it is.
9 Q. Do you see down the chain where -- well, just
10 midway on the first page before you responded,
11 Jim Miller says, "I agree with Donna. We would be
12 skating on thin ice if we start publicizing
13 exceptions to the general guidelines. This will
14 only add confusion to our customers and staff.
15 Giving out that type of information and then
16 having someone refused at the polls because a poll
17 worker didn't get the memo does not bode well for
18 us. Just my two cents."
19 First, on staff, why would the staff be
20 confused by publicizing exceptions to the general
21 guidelines?
22 A. I'm just trying to think, are we talking about
23 voting or -- I don't know what this chain is
24 talking about.
25 Q. This chain is talking about exceptions, you know,

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1 in the Act 23 requirement. So I'll ask it more
2 specifically first and then more generally.
3 This email chain is asking about exceptions,
4 as you can see, exceptions in Act 23 where someone
5 can vote -- as we've discussed, you know, vote
6 with an expired driver's license or state ID card
7 as long as it expired after the most recent
8 general election in Wisconsin. And basically
9 you're discussing whether or not to publicize
10 those exceptions to the general rules in Act 23.
11 Why would -- presumably if your staff is
12 trained on what Act 23 requires, generally why
13 would they be confused by publicizing that?
14 A. Well, this looks like it's specifically about
15 using an expired driver's license or ID card to
16 vote. And I'm confused by that, so I would assume
17 that the staff are confused too. I mean, you have
18 to know when the last general election was and
19 what is a general election.
20 Q. And then why would it confuse customers who are
21 coming in? Wouldn't it be of benefit of customers
22 who are coming in to a CSC to know whether their
23 product is still good for voting purposes? And
24 they may not be able to follow up with GAB. They
25 may just be coming in to you.

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1 A. Well, if they've come in with an expired product,
2 they can renew it with us.
3 Q. Correct.
4 A. And they should be renewing it with us.
5 Q. Let's say someone comes in to renew a product but
6 they don't have what they need to renew that
7 product. Rather than, you know, let that person
8 labor under the illusion that they need a new
9 state ID card, a DMV official who's standing right
10 in front of them, a field agent could disabuse
11 them of the notion that they need a new product in
12 order to vote.
13 Now that you're in the voting business,
14 quote, unquote, shouldn't DMV field agents be
15 saying things like that as well?
16 A. I don't think so. I don't think that's our
17 business.
18 Q. Okay.
19 A. They could refer them to GAB to ask if they can
20 use that product to vote. I don't know if they do
21 that or not, but that would be the extent of what
22 I would be comfortable with our staff doing.
23 Q. So even though your agency has basically been
24 enlisted in voting regulation, you're not
25 instructing DMV field staff to say anything even

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1 as simply as your product is still good to vote
2 under this expiration date exception, correct?
3 A. The only thing we do with voting is issue free
4 IDs.
5 Q. Free ID cards. Okay. So everything that concerns
6 Act 23 has to be answered by GAB. You won't
7 correct that -- you know, those misperceptions?
8 A. Well, I don't think that's a true statement. I
9 think we have had staff, I'm sure, provide
10 information.
11 Q. But in a systematic, formalized fashion, you're
12 not instructing DMV staff to make these uniform
13 suggestions or uniform corrections when people
14 come in with misperceptions like this, correct?
15 A. About this one, that is true.
16 Q. Okay. Do you know of any instances in which
17 someone has been illegally turned away for not
18 having a proper address on their driver's license
19 or ID card?
20 A. No. It was my supposition that it would happen,
21 but I'm not aware of it happening.
22 Q. Why was it your supposition?
23 A. Well, because there's so many hundreds, if not
24 thousands, of voting officials out there. And
25 this is a brand-new thing, and I was guessing that

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1 somebody would --
2 Q. At some point get it wrong?
3 A. -- get it wrong.
4 Q. Do you think, though, the GAB has done enough
5 outreach on issues like that, like the expiration
6 date or correct address not needing to be on the
7 photo ID, you know, based on the fact that DMV
8 field agents are hearing these questions so often?
9 A. Well, since we didn't hear about problems in the
10 election that it was in place, it appears that
11 they did do a good job.
12 Q. You did not hear about any elections, say, with --
13 A. Being turned away improperly I mean.
14 Q. You didn't hear about any people who were being
15 turned away for lack of a correct address on their
16 photo IDs in the February 21st election?
17 A. I didn't.
18 Q. Okay. So back on the website. Is there any
19 information about the proof of name and date of
20 birth petition procedure? And if you need to
21 refer to where this is, in Exhibit 24, this is
22 referenced in 102.15 at page 3 under sort of
23 what's 3(b) and (c). So petition procedure for
24 proof of name and date of birth. And it says,
25 "Note: Form MV 3002 certification of name and

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1 date of birth." Is this procedure here in
2 102.15(3)(b), is this broader than MV 3002?
3 A. I don't know.
4 Q. Whether or not it is, is this petition procedure
5 publicized in any way on the website?
6 A. I don't know.
7 Q. Do you have any links to state and local vital
8 records offices throughout the country and in
9 Puerto Rico on the website?
10 A. I don't know.
11 Q. Should there be?
12 A. Well, I guess the need for them is so remote and
13 the cluttering of the website an issue, I'm
14 inclined to say that it's not necessary.
15 Q. Why is the need for them so remote if you require
16 birth certificates of all U.S. citizens who are
17 first-time applicants for Wisconsin driver's
18 licenses or state ID cards?
19 A. Because it's not a problem for the vast majority
20 of people to provide that, because they do.
21 Q. Right. But for the folks who, you know, are
22 struggling to get a birth certificate, wouldn't it
23 be of benefit to them to have that information in
24 the same place as they're looking for all the
25 information on how to apply for a driver's license

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1 or state ID?
2 A. I think it's so remote that I don't know that it
3 is a benefit to the vast majority of our
4 customers.
5 Q. Well, I mean, the application procedure itself,
6 needing to apply for a birth certificate is not
7 remote, correct? I mean, there are people,
8 probably thousands of them, who are applying for
9 their birth certificate, a certified copy of their
10 birth certificate for the first time --
11 A. Correct.
12 Q. -- correct?
13 A. Correct.
14 Q. So that they can apply for a state ID card. You
15 may have this belief that only a remote -- you
16 know, it's remote that certain people have
17 problems in that process, but everyone needs to go
18 through that application procedure if they're a
19 first-time applicant, correct?
20 A. Correct.
21 Q. So then it would be of benefit to have those BC
22 applications or a link to them up on the website,
23 correct?
24 MS. BENEDON: Objection. That question
25 was already asked and answered.

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1 BY MR. SHERMAN:
2 Q. Is there a link to the state department website
3 application on U.S. passports?
4 A. I don't know.
5 Q. And are there links to the Social Security
6 Administration website and information about how
7 to obtain a social security card?
8 A. I don't know.
9 Q. Should there be?
10 A. Maybe.
11 Q. If someone doesn't have a birth certificate, does
12 DMV do anything to help them with the application
13 process?
14 A. I can't answer exactly what our customer service
15 staff would tell a customer in that instance.
16 Q. You don't know of any instances, though, where a
17 field agent at a CSC has sent in an application on
18 behalf of an applicant, though?
19 A. What do you mean?
20 Q. Meaning that they helped them fill it out or, you
21 know, sent in an application to a vital records
22 office.
23 A. Well, I don't know if they ever have.
24 Q. And DMV in no circumstance will pay for birth
25 certificate application fees, correct?

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1 A. Correct.
2 Q. All right. And in terms of applying for a
3 social security card, do you know if DMV customer
4 service center field agents, do they ever engage
5 in helping people fill out that application or
6 sort of shepherd them through that process?
7 A. I don't know.
8 Q. Have you sent any letters out since Act 23 was
9 enacted, any letters sent to any folks to inform
10 them that they need to renew their ID cards or
11 driver's licenses?
12 A. Yeah. We do postcards now. I believe when it was
13 first started it was still a letter.
14 Q. How often do those mailings go out?
15 A. I don't know. I think you get your renewal notice
16 typically six to eight weeks prior to your
17 expiration date, I believe.
18 Q. Six to eight weeks?
19 A. Well, I'm not sure. That's what I think.
20 Q. Are you reaching out to any holders of DMV
21 products by email?
22 A. We are -- other than if they email us and ask for
23 an email response, we're not doing, like, a
24 renewal notice via email. Is that what you mean
25 or --

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1 Q. Just any -- just more broadly first, you know.
2 A. We do email correspondence with customers, yes.
3 Q. Okay. When they email you a question?
4 A. Correct.
5 Q. Do you do anything proactively to inform them
6 about, you know, renewals that are upcoming or
7 documentary proof requirements or --
8 A. No.
9 Q. So the only sort of notification that goes out
10 from DMV, you know, as an initial, you know,
11 communication from DMV to the customer is the
12 renewal notice by postcard?
13 A. Correct.
14 Q. And people can do one renewal by mail or online,
15 correct, without getting a new photo taken?
16 A. For ID cards only.
17 Q. For ID cards only. Okay. So that allows them to
18 go 16 years between photos, correct?
19 A. Correct.
20 MR. SHERMAN: I'll introduce this as
21 No. 100.
22 (Exhibit No. 100 marked for identification.)
23 BY MR. SHERMAN:
24 Q. Do you recognize this document?
25 A. This is an email chain that includes an email from

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1 me.
2 Q. And is it a true and accurate copy?
3 A. I believe it is.
4 Q. And when you wrote to Ms. Riedel, "However, it's
5 important to note that DMV has no knowledge,
6 expertise, or information about voting
7 requirements or the voter ID law. The Government
8 Accountability Board (GAB) handles all of that,"
9 that's still your position today, correct?
10 A. Correct.
11 Q. And if you could flip to Exhibit 62 in the binder.
12 If you could just take a moment to read -- well,
13 do you recognize this document?
14 A. It's an email -- two emails. One of them is --
15 I'm on the "to" line.
16 Q. And is it a true and accurate copy?
17 A. Am I missing a second page or is there not --
18 Q. No. There's not a second -- well, yeah, it may
19 have run on to something else.
20 A. Okay. All righty.
21 Q. But for our purposes --
22 A. It appears to be, yes.
23 Q. So you see far down where Alison wrote you, it's
24 the second to last paragraph in her email to you,
25 "I think there may be a middle ground that best

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1 serves our customers' needs. Perhaps we can
2 simply pass along some very standardized
3 information from GAB ('Well, sir, according to the
4 list I have from the Government Accountability
5 Board which determines which documents are
6 acceptable for voting, you can use a passport, a
7 university ID, your Scooby Doo Club Card,
8 et cetera.' If you have more questions about
9 getting an ID or DL, I'd be happy to answer them.'
10 'If you have additional questions about whether
11 you are ready to vote, I'd be happy to connect you
12 to the voter hotline.')

13 Is this your understanding of how DMV, and
14 specifically the DMV employees fielding calls, are
15 handling these sorts of situations?
16 A. I'm not sure if it is.
17 Q. And why do you say that?
18 A. Well, we had a lot of -- I recall discussing about
19 how much information we provide because of our
20 concerns about accuracy, and I don't recall
21 exactly where we landed on this issue.
22 MR. SHERMAN: This will be 101.
23 (Exhibit No. 101 marked for identification.)
24 BY MR. SHERMAN:
25 Q. Do you recognize this document?

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1 A. This is an email chain that includes an email from
2 me.
3 Q. And is it a true and accurate copy?
4 A. I believe it is.
5 Q. And you received some sort of inquiry about senior
6 citizens with driver's licenses that expire this
7 year, and this is basically concerning the
8 expiration date issue that we were discussing
9 before. And you got this question from an NBC
10 news anchor/reporter.
11 This was a question, you basically were
12 willing to answer it in substantive part, but
13 then -- but said, "But again, GAB is the
14 authority." Is that correct?
15 A. Correct.
16 Q. So you said, "I believe that the answer to your
17 question is that an expired Wisconsin driver's
18 license or ID product can be used as photo ID for
19 voting purposes until after the general election
20 subsequent to the expiration of the product. But
21 again, GAB is the authority."
22 Couldn't DMV employees -- just like yourself
23 here in this email, couldn't DMV customer service
24 center employees provide what they think the
25 answer is, be it what is an acceptable form of

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1 photo ID, what is an acceptable sort of, you know,
2 expiration date if it expired after the last
3 general election, but just put the disclaimer on
4 it that GAB is the final authority so don't take
5 my word for it, that's just what I think the law
6 is?
7 A. No.
8 Q. You think they should not be answering these
9 questions?
10 A. Correct.
11 Q. You did only here because this was a media
12 inquiry?
13 A. For two reasons: One, because I know a lot more
14 about voter ID than any of our customer service
15 reps do and I'm still not sure about the answer;
16 and two, because media, they presumably will be
17 double-checking their facts with the actual source
18 and not just taking my word for it.
19 Q. Has GAB done an adequate job of informing DMV
20 staff, including yourself, as to what the
21 requirements of Act 23 are?
22 A. Well, I don't think there's much need for us to
23 know a lot about Act 23 other than our part of it.
24 Q. Just the free state ID card part?
25 A. Right.

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1 Q. I'm going to ask you a few questions about access
2 to DMV customer service centers throughout the
3 state. So how many DMV offices are there now in
4 Wisconsin?
5 A. I believe there's 92.
6 Q. 92. And three of those are new or four?
7 A. That were in counties that didn't have service
8 before?
9 Q. Right. Never had a --
10 A. Yeah. I believe it's three counties that didn't
11 have service before.
12 Q. And there was an expansion of hours to meet that
13 20-hour per week, per county requirement in the
14 statute in how many counties?
15 A. I'm not sure. I believe it was 36.
16 Q. 36. Okay. And now that these sort of expansions
17 have been made, there's still no DMV customer
18 service center hours after, say, 6:00 p.m.,
19 correct?
20 A. I think it's just one location.
21 Q. Which location is open after 6:00 p.m.?
22 A. Odana Road in Madison, Wisconsin.
23 Q. Isn't the Odana renewal center only open from
24 8:00 to 4:00 on Saturdays?
25 A. You asked me if they're open after 6:00 anywhere,

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1 I thought. I'm sorry.
2 Q. Right. Are any --
3 A. Yes.
4 Q. -- CSCs open after 6:00 p.m.?
5 A. Yes.
6 Q. And the Odana renewal center, what are the hours
7 for that?
8 A. I believe it's open until 7:00 Tuesday through
9 Friday.
10 Q. Is that a recent change?
11 A. No. I guess I could be wrong. I thought it was
12 open until 7:00.
13 Q. Okay. Do you know of any other CSCs in the state
14 that are open past, you know, 6:00 p.m.?
15 A. I don't believe there are any others.
16 Q. And do you know of any CSCs that have weekend
17 hours besides what I thought was the Odana renewal
18 center?
19 A. That's the only one.
20 Q. In light of those facts, do you believe that your
21 coverage is adequate, especially because this is
22 an election year and there's a new rule requiring
23 folks to get a state ID card in order to vote?
24 A. Yes.
25 Q. And why is that?

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1 A. Because people can renew their product up to one
2 year in advance, because we have 20 hours a week
3 in each customer service center. It's sufficient.
4 Q. And why aren't there more night or weekend hours,
5 particularly given how many people, you know, work
6 multiple jobs and, you know, may not be able to
7 get away from them?
8 A. Because the only transaction that needs to be done
9 in a customer service center anymore is a driver's
10 license -- is obtaining a driver's license or ID
11 card. For renewals you can now renew your ID card
12 online once. And renewals can be done up to one
13 year in advance. And the average person only
14 needs to visit a DMV office once every eight
15 years. So standard business hours I believe are
16 appropriate and sufficient.
17 Q. And what if people don't have access to, you know,
18 the online application and would need to come in?
19 A. They'll have to come in during one of the hours
20 that we're open.
21 Q. So they'd just have to know about the online
22 application option or, you know, they have to just
23 come in?
24 A. (Indicating.)
25 THE COURT REPORTER: What was your

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1 answer?
2 THE WITNESS: Was there a question?
3 BY MR. SHERMAN:
4 Q. I was just saying, so they have to know about the
5 online application, and if they don't or don't
6 have the Internet, then they have to come into the
7 office to apply?
8 A. And the only thing you can do online is renew your
9 ID card or get a duplicate product.
10 Q. Understood. Because you'd have to take the photo
11 otherwise.
12 MR. SHERMAN: Can we introduce this as
13 102?
14 (Exhibit No. 102 marked for identification.)
15 BY MR. SHERMAN:
16 Q. Do you recognize this document?
17 A. This is an email chain that I am on the "to" line,
18 or an email.
19 Q. Let me introduce the other one so we can sort of
20 read them together.
21 So is this a true and accurate copy?
22 A. I believe it is.
23 MR. SHERMAN: And this will be
24 document -- Exhibit 103.
25 (Exhibit No. 103 marked for identification.)

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1 BY MR. SHERMAN:
2 Q. Do you recognize this document?
3 A. It's an email that is from Lynne Judd to an
4 Indiana DMV official.
5 Q. I realize that you weren't CC'd here, but does it
6 appear to be a true and accurate copy or do you
7 have any reason to doubt its authenticity?
8 A. I do not.
9 Q. So let's actually take 103 first since she was
10 speaking with an Indiana DMV official.
11 So she was speaking with an Indiana DMV
12 official, sort of communicating with him by email,
13 I guess, in February of 2011 just before the law
14 was even enacted, trying to get a sense of what
15 this would entail in terms of their customer
16 services, correct? In terms of what it would
17 entail in terms of you modifying your customer
18 services to meet the need?
19 A. Correct.
20 Q. And Ron Hendrickson, who I'm not sure of his
21 official position, but I have to assume is maybe
22 the head of BMV.
23 A. Right.
24 Q. Deputy commissioner, policy and programs at
25 Indiana Bureau of Motor Vehicles. He wrote, "We

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1 operate the majority of our 138 branches 37.5
2 hours per week. Schedule is Tuesday, 8:30 to
3 7:00, Wednesday through Friday, 8:30 to 5:00, and
4 Saturday, 8:30 to 12:30. Additionally, Indiana
5 Code requires us to open all branches for
6 elections the day before, which is typically on
7 Mondays (we are normally closed Mondays) from
8 8:00 to 8:00 and the day of the election 6:00 to
9 6:00 to mirror the hours the polls are open.
10 Next, Indiana Code requires us to offer a free
11 identification card for those individuals who will
12 be 18 by election day if they do not already
13 possess a driving credential. Last, but not
14 least, we also offer online renewals and
15 replacement credential transactions that are
16 available 24 hours a day, seven days a week."
17 Have you thought about modifying Wisconsin
18 DMV's office hours to mirror something more like
19 Indiana's where they have Saturday hours for at
20 least four hours and are open on Tuesdays in every
21 office until 7:00 p.m.?
22 A. About five years ago we looked at altering our
23 hours. I don't believe that we've done a formal
24 look at that since then other than meeting the
25 statutory requirements for the 20-hour offices.

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1 Q. But there's been no conversations on whether to
2 expand the hours into weekday hours, nighttime
3 hours --
4 A. Correct.
5 Q. -- since Act 23?
6 A. Correct.
7 Q. Okay. And if you could look at Exhibit 102. You
8 were CC'd on this email. So this email that was
9 sent from Lynne Judd, it concerns an analysis --
10 as she says, analysis of the possible demand for
11 DMV services, correct?
12 A. Correct.
13 Q. And do you see under the second sort of heading
14 "Wisconsin and Indiana Population and Density," it
15 says that Indiana has -- basically what I'm
16 interested in is the population density figures.
17 Wisconsin has 105 people per square mile and
18 Indiana has 181 people per square mile.
19 So there they're even more sort of socially
20 dense, and yet they have expanded hours, both
21 in -- you know, vis-à-vis Wisconsin, to reach
22 their population both on weekdays, you know, later
23 into the evening and on weekend hours. Why
24 doesn't Wisconsin, which is more rural, bigger,
25 with 54,310 square miles to Indiana's 35,867

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1 square miles, why doesn't Wisconsin DMV feel
2 compelled to expand its office hours to reach its
3 people?
4 A. Do you mean expand to night and evening hours
5 or --
6 Q. To night and evening hours. Right. You know, all
7 of it. To night and evening hours, to expand the
8 number of customer service centers beyond what's
9 already provided. Night and weekend. Excuse me.
10 Night and weekend hours and, you know, to expand
11 the number of CSCs in the state as well.
12 A. Well, in terms of the number of CSCs, we expanded
13 to meet the statutory requirements. We hadn't
14 considered expanding before because 92 percent of
15 our transactions are conducted at our 29 five-day
16 offices. So there is no demand at the other
17 places, especially since no customer needs to
18 visit a CSC other than every eight years and they
19 can renew up to one year in advance.
20 In terms of the night and weekend hours,
21 we're limited in budget. Our staffing is set in
22 statute. So to expand hours means fewer people.
23 And when we look at the Odana office, fewer people
24 come in at night. Fewer people come in on
25 weekends than during the weekdays. Those are the

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1 hours people anticipate DMV services being
2 provided.
3 Q. Nothing in the statute required the expansion to
4 30 hours --
5 A. 20.
6 Q. Sorry -- to 20 hours happen all within weekday,
7 you know, daytime hours, correct?
8 A. I believe that's true.
9 Q. You could have done nighttime hours, you could
10 have done weekend hours as -- you know, to meet
11 the quota of 20, correct?
12 A. I believe that's true.
13 Q. So mindful of how many people are low income,
14 working multiple jobs, you know, single parents,
15 wouldn't it have made sense, you know, in some of
16 these CSCs, particularly in areas like
17 Milwaukee County, to include at least one office
18 that had at least some hours, like Indiana has
19 four hours, to have some of that happen on the
20 weekend?
21 A. We weren't given any staff or funding to increase
22 service in Milwaukee County as part of this act.
23 Q. So it designated the funding for only certain
24 counties?
25 A. It was to expand service to 20 hour -- to ensure

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1 we had service and 20 hours a week in each county.
2 Q. Beyond what you were provided funding for, have
3 you considered doing it in light of, you know, the
4 number of low income families out there or single
5 parents or just people who are working multiple
6 jobs?
7 A. For the reasons I stated before in terms of what
8 the demand is for DMV services, the service levels
9 seem appropriate.
10 Q. So just because you haven't seen -- are those --
11 I'll retract the question.
12 When you talk about lower service levels for
13 nighttime hours and weekend hours, are you
14 speaking about service levels that you saw before
15 Act 23 was passed?
16 A. No.
17 Q. Okay. So you're --
18 A. Wait. I'm sorry. I'm talking about service at
19 our one location that we have night -- assuming
20 I'm correct about 7:00.
21 Q. Right. Right.
22 A. -- and weekend hours, the Madison Odana Road,
23 formerly Madison Westgate office, that when you
24 look at customer volume at that station, even
25 though they're the only station in the state that

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1 has weekend hours and later hours, the customers
2 come during regular business hours to that
3 station.
4 Q. Right. But that's just one office, though, right?
5 A. That's the only office. Correct.
6 Q. Right. So you have no way of knowing whether in
7 all the other counties outside Dane County,
8 whether or not there would be, you know, a great
9 deal of demand for DMV services and products
10 during nighttime and weekend hours, correct?
11 A. Correct.
12 Q. So it's entirely possible that Milwaukee County
13 may have, you know, hundreds or thousands of
14 people who might well take advantage of nighttime
15 or weekend hours, correct?
16 A. Correct.
17 Q. And is it still correct that there will be no DMV
18 mobile units anywhere in the state to sort of
19 issue products either in rural areas or to people
20 who are not indefinitely confined but struggle to
21 leave their home?
22 A. That is correct.
23 Q. Has any funding ever been provided for that
24 service?
25 A. No.

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1 Q. And it's basically just a cost issue? If you had
2 the funding, you would do it?
3 A. Staff and cost issue. I would say it's both.
4 Q. But if you had the funding to hire the staff in
5 addition to vehicles or the machines -- the
6 equipment it would take to do it, the DMV would do
7 it, correct?
8 A. There's other issues associated with that. There
9 has to be staff in Madison to support us when
10 we're open typically. So if you expanded to
11 weekend hours or evening hours in a number of
12 locations, that means you would have to add staff
13 in Madison in Driver Services to provide support
14 for the customer service center staff.
15 Q. I think -- well, I'm talking about, like, sort of
16 roving units that could, you know, just travel to
17 different locations. That's what you were
18 mentioning as well?
19 A. Right. But DMV field offices are supported by
20 staff in Madison to provide them with answers to
21 certain issues.
22 Q. I understand. Okay. Do you know how many of the
23 92 DMV offices are accessible by public
24 transportation?
25 A. I do not.

1 Q. And does DMV have any plans to transport people
2 who say they need a photo ID to vote to DMV
3 offices?
4 A. We do not.
5 Q. And do you know if all DMV offices are compliant
6 with the Americans with Disabilities Act
7 requirements?
8 A. I do not believe they all are.
9 Q. So they may not all be, like, wheelchair
10 accessible, et cetera?
11 A. There's a document that lists the DMV offices that
12 need modifications to meet ADA standards.
13 Q. All right. Going forward, I'm going to ask you a
14 bunch of questions about sort of the mechanics of
15 the driver's license and state ID card application
16 process.
17 Could you just tell us a little bit about
18 initially just how does it work? You know,
19 someone comes in, they need a state ID card let's
20 say for voting purposes. They walk in to a
21 customer service center, you know, that's -- and
22 let's say it's a queued center where they can be
23 queued to a specific line for that. How does it
24 work? What are the mechanics?
25 A. Well, I've never worked in a customer service

1 center.
2 Q. Understood.
3 A. So I'm not an expert. Okay?
4 Q. Right. Understood. As far as you understand.
5 A. So you'll come in to the -- one of our larger
6 offices that has queuing. You come in to the info
7 desk where they take information to make sure --
8 to figure out what kind of transaction it is.
9 Depending on how busy it is or slow it is, they
10 might do an assessment of your documents so that
11 you didn't have to wait to talk to a counter
12 person. They could see if you were missing
13 something. And they typically give the person a
14 sheet and circle the document that you're missing,
15 and that happens at the counter as well if you get
16 there.
17 Then you're given a ticket. If you're there
18 for a vehicle transaction, you'll just wait to be
19 called to the counter. If you're there for a
20 driver's license or an ID transaction, you'll go
21 to photo, have your photo taken. And then you'll
22 wait to be called up to the counter where a
23 customer service representative will assist you.
24 And then if it's a driver's license, they'll
25 go through the application. If it's an original,

1 they ensure the documentation is there that's
2 required. If it's a renewal, it's a much quicker
3 transaction.
4 And then currently, if it's one of our
5 five-day offices, you'll walk out with your
6 product, with your driver's license or ID card,
7 unless you're a new adult customer, in which case
8 you'll get a photo receipt. But within the next
9 several months, the plan is to go to 100 percent
10 central issuance, mailed product so that everybody
11 will be walking out with a photo receipt, whether
12 it's for a driver's license or an ID card.
13 Q. And all of those will be good for voting purposes?
14 A. They are covered in the statute as valid for
15 voting.
16 Q. If you could flip to -- before you flip to
17 Exhibit 31, just tell me, what is your
18 understanding of an original application for a
19 Wisconsin driver's license or state ID card?
20 A. So an original driver's license or ID card is for
21 somebody who has not had a Wisconsin product --
22 either has never had a Wisconsin driver's license
23 or ID card or has had a product that's been
24 expired for at least eight years. If your product
25 has been expired for less than eight years, it's

1 my understanding that you're treated as a renewal
2 customer.
3 Q. So if you could flip to Exhibit 31. You may have
4 just answered my question about this, but I just
5 want to clarify. Do you recognize this document?
6 A. This is a document that appears to be on our
7 public website for what it requires to obtain an
8 identification card.
9 Q. Is it a true and accurate copy?
10 A. I believe it is.
11 Q. Okay. And then if you look down at the note
12 that's sort of midway in the page, "If you have
13 held a driver license in the past eight years and
14 now wish to apply for an original ID card, you
15 would only be required to provide proof of
16 identity upon application for your ID card."
17 Certain phrasing issues aside, I don't know,
18 like, why it would be called an original ID card
19 if they only have to show their proof of
20 identity --
21 A. That's a good question.
22 Q. -- and it's a renewal. That should probably be
23 fixed, right?
24 A. I agree.
25 Q. And besides that point, this is basically what

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1 you're describing, right? Someone who has a DMV
2 product that expired more than eight years ago,
3 let's say ten years ago, that person will be
4 treated effectively as an original applicant?
5 A. Correct.
6 Q. I just wanted to clarify that. So I want to ask
7 you a few questions about the documentary proof of
8 identity requirement, and I think at this time it
9 makes sense to pop out Exhibit 24, because I'm
10 going to refer to a variety of exhibits. So at
11 this point it comes up a lot. So Exhibit 24 is
12 one to pull out. You've already authenticated
13 that one. And then Exhibit 30 is the other I'd
14 like you to pull out, which is -- you've
15 authenticated as BDS 316.
16 So for which DMV products do you require
17 documentary proof of identity? Basically all of
18 them?
19 A. You're talking about a driver's license --
20 Q. Which application --
21 A. -- or ID card?
22 Q. Well, which application postures, you know, I
23 should say? Is it for original? Duplicate?
24 Renewal? Reinstatement? Reissue? All five?
25 A. So can you ask the question again? Sorry.

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1 Q. Sure. Do you require documentary proof of
2 identity for all sort of application postures:
3 original-issue applications, renewal,
4 reinstatement, reissue, and duplicate?
5 A. I'm not positive.
6 Q. Okay. Well, what do you think it is?
7 A. I think it is.
8 Q. Required for all of them?
9 A. Required, yes.
10 Q. And if you could look first at Exhibit 24, which
11 is Trans 102.15. And if you see on page 4, at the
12 bottom is the proof of identity requirements. Do
13 you see where it says, "One of the following is
14 satisfactory proof of identity: (a) a supporting
15 document identifying the person by name and
16 bearing the person's signature, a reproduction of
17 the person's signature, or a photograph of the
18 person. Acceptable supporting documents include."
19 Does the use of "include" there -- and then
20 it lists, you know, a variety of things you can
21 use. Does "include" mean this is the exclusive
22 list of documentary proof of identity?
23 A. I don't know.
24 Q. So it's possible that this is not the exclusive
25 list, but there may be discretion to accept

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1 additional forms of proof of identity?
2 A. I don't know. Sorry.
3 Q. Who would know? Is Jim Miller the right person?
4 A. Yeah. Unless he told you to talk to me.
5 Q. Well, you know, part of -- I want to see what, you
6 know, everyone's understanding --
7 A. Sure.
8 Q. -- of these rules are. So maybe we should pop out
9 one other document, Exhibit 55. Exhibit 55 is
10 another one to pop out. When you get there, do
11 you recognize this document?
12 A. Is this off our website? It appears to be our
13 document of acceptable identification documents
14 for legal presence and name and date of birth.
15 Q. Is this different from BDS 316? It appears to say
16 under whatever this highlighted little thing is up
17 in the top left, that it's BFS 14. Do you
18 recognize it as BFS 14?
19 A. I can't -- here, you mean?
20 Q. Yes.
21 A. I can't read it. Sorry.
22 Q. Do you think this is either the same as BDS -- or
23 should it be identical to BDS 316, as far as you
24 know?
25 A. I don't know what the purpose of these two

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1 documents is. I mean, I don't know if it's for
2 internal or external use.
3 Q. Would that make a difference?
4 A. I don't know.
5 Q. Might there be things listed on an internal
6 document, you know, listing the acceptable
7 identification documents that wouldn't be listed
8 on the publicly available one?
9 A. Maybe. The internal document would presumably go
10 into a lot more detail.
11 Q. Okay. Well, we can come back to that one.
12 MR. SHERMAN: I'm going to introduce --
13 this will be 104.
14 (Exhibit No. 104 marked for identification.)
15 BY MR. SHERMAN:
16 Q. Do you recognize this document?
17 A. I'm not seeing my name on any of it. It appears
18 to be an email from a variety of people on voter
19 photo ID, Speakers Bureau request form.
20 Q. Is it a true and accurate copy?
21 A. I would believe it is.
22 Q. Okay. And do you see at the bottom of the page in
23 Jim Miller's email, it says, "The other thing was
24 not said incorrectly, but rather interpreted
25 incorrectly. Jose mentioned about supervisor

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1 discretion on residency documents. GAB took that
2 to mean we have discretion on everything. I
3 clarified to GAB that there was not discretion on
4 legal presence documents or proof of name and date
5 of birth. I would prefer that nothing" -- and at
6 the top of page 2 where it continues, "I would
7 prefer that nothing be said in regard to
8 discretion at these meetings. It leaves the door
9 too wide open for interpretation."
10 Jim Miller, you basically testified, is the
11 expert on these things. When he says, "I
12 clarified to GAB that there was not discretion on
13 legal presence documents or proof of name and date
14 of birth," you take that to mean that there is
15 discretion on the other documentary proof
16 requirements, correct?
17 A. Correct.
18 Q. So that means that there would be discretion on
19 proof of identity and proof of residency, correct?
20 A. I know there's discretion on proof of residency.
21 I don't know exactly how the field handles it on
22 identity. I think that there is.
23 Q. You think that there is, though, discretion to
24 accept other documents as acceptable proof of
25 documentary -- documentary proof of identity?

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1 A. Correct.
2 Q. And is Miller correct that there is no discretion
3 on legal presence or proof of name and date of
4 birth to accept other documents?
5 A. I believe that's true. I know on legal presence
6 that the statute actually contains the documents
7 that are acceptable for people who are not U.S.
8 citizens to establish legal presence. And I
9 believe that that statutory language mirrors the
10 requirements in Real ID.
11 Q. What is the statutory authority for something like
12 the MV 3002 form?
13 A. I don't know.
14 Q. Has anyone ever discussed that issue?
15 A. Not that I'm aware of.
16 Q. So back on this document, the other aspect of this
17 is what he says at the top of page 2, "I would
18 prefer that nothing be said in regard to
19 discretion at these meetings."
20 Is there a reason not to publicize that there
21 may be some flexibility in the joints and that CSC
22 field agents might be able to accept other
23 documents? You know, come on down to the office
24 and let's discuss it; let's see what you have?
25 A. I don't think it's appropriate to publicize that.

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1 It happens presently, but I don't think it's
2 appropriate to publicize that.
3 Q. And why is that?
4 A. Because it will create problems. People will come
5 in bringing document X that they'll assume will be
6 accepted, and if it's not accepted, they're going
7 to say, well, but it says here you can take
8 anything else you want. And that's not the case.
9 It opens the door too wide.
10 Q. Does the mere fact of having sort of a
11 discretionary policy at least with respect to
12 proof of identity and proof of residency, does
13 that open you up to inconsistent treatment of
14 different ID card applicants?
15 A. I don't know about identity, but assuming that
16 there is discretion --
17 Q. Right.
18 A. -- there could be inconsistencies, yes.
19 Q. So different local CSC supervisors in their
20 discretion could approve or reject different forms
21 of identity if there's no written policy such as
22 Trans 102.15 or BDS 316 or BFS 14, correct?
23 A. It could happen. Correct.
24 Q. So someone could come in with a Medicare card,
25 which is, correct, not currently listed on any of

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1 these documents as acceptable --
2 A. I'd have to look at them.
3 Q. -- proof residency? Sure. But you know, assume
4 for the moment -- take my word that it's not.
5 A. All right.
6 Q. For the moment. Assuming they come into two
7 different offices bearing a Medicare card trying
8 to prove their identity, one local CSC officer may
9 say, yes, that's fine, and another local
10 supervisor may say, no, that's not on the list,
11 correct?
12 A. It could happen, yes. Correct.
13 Q. Different field agents even within a specific
14 office might reach different outcomes on those
15 proof of identity -- that proffered proof of
16 identity, correct?
17 A. I don't know. In terms of the actual customer
18 service representative. I don't know that they
19 have authority to accept something else without
20 somebody else approving it, so I don't know what
21 the answer is to that.
22 Q. So you think the inconsistent treatment, to the
23 extent it might exist, would exist at the local
24 CSC supervisor level because they have authority
25 to accept documents that are not on the list for

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1 documentary proof of identity and documentary
2 proof of residency?
3 A. Correct. The supervisors have that authority.
4 Q. Okay. Do you know of any instances where people
5 have come in with credit cards and tried to use
6 those as documentary proof of identity?
7 A. I'm not aware of it. If I had to guess, I would
8 say I bet they have.
9 Q. Because you know there are a lot of credit cards
10 that have name and signature, correct?
11 A. Correct.
12 Q. And that would be acceptable under 102.15's
13 definition, correct?
14 A. What am I looking at?
15 Q. Same page, page 4 in Exhibit 24. This guy right
16 here.
17 A. And what page? Four?
18 Q. Page 4. It says at the bottom, "A supporting
19 document identifying the person by name and
20 bearing the person's signature, a reproduction of
21 the person's signature, or a photograph of the
22 person. Acceptable supporting documents include."
23 So someone might come in with a credit card
24 that bears a name and signature and that might be
25 accepted as proof of identity, correct?

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1 A. Well, it's not one of the listed documents, but if
2 there is an exception process -- I don't know if
3 that's accepted under the exceptions process or
4 not.
5 Q. Right. And you testified that you're not sure
6 whether this is the exclusive list and that
7 someone might just read this introductory language
8 to say it at least needs to have a name and one of
9 these things and it can include the following,
10 correct?
11 A. Say it again. I'm sorry.
12 Q. Meaning that someone can -- you know, a CSC field
13 agent or local supervisor might be reading this
14 provision to say, the proof of identity proffered
15 must only have a name and a signature or a
16 reproduction of the person's signature or a
17 photograph of the person, and these are just some
18 of the acceptable forms?
19 MS. BENEDON: Objection. Calls for
20 speculation. You can answer if you know.
21 THE WITNESS: Okay. It may be that
22 there's training given that credit cards are never
23 accepted. I just don't know.
24 BY MR. SHERMAN:
25 Q. You don't know. Okay. Could you take a look at

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1 Exhibit 34 in the binder? Do you recognize this
2 document?
3 A. This is an email from me about a PowerPoint
4 presentation.
5 Q. And is it a true and accurate copy?
6 A. I believe it is.
7 Q. And who is the intended audience of this
8 PowerPoint presentation?
9 A. It says in the last sentence, "This is a group
10 that will be primarily concerned with getting
11 seniors who don't have Wisconsin products a
12 product."
13 Q. So it would be for groups dealing with seniors,
14 and would it have also included senior citizens
15 themselves?
16 A. I don't recall.
17 Q. And you see where you wrote under the third bullet
18 point, first bubble, "You must have certified (and
19 tell them what that means) BC or passport (and
20 why) or citizenship papers - no exceptions."
21 A. Where? I'm not seeing that. I'm sorry.
22 Q. I'm sorry. The third budget point under "Just the
23 facts."
24 A. Okay. Thank you.
25 Q. And then first entry under that, "You must

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1 certified (and tell them what that means) BC or
2 passport (and why) or citizenship papers - no
3 exceptions."
4 Is that your understanding of the documentary
5 proof of name and date of birth and proof of
6 citizenship requirements, that there's no
7 exceptions?
8 A. For citizenship -- right. For citizenship, for
9 people who aren't U.S. citizens, there are no
10 exceptions.
11 Q. Okay.
12 A. It's the documentary ones. And that's what I
13 believe I was referring to when I said "no
14 exceptions."
15 Q. So you weren't referring to U.S. citizens who were
16 applying and trying to get a copy of their birth
17 certificate but couldn't, correct?
18 A. I don't recall when I wrote this if I knew about
19 the 3002, so I'm not sure what the answer is. I
20 might not have known there was any exception, so
21 it might apply to all of it.
22 Q. I don't see where in this email you're restricted
23 to only talking about people who are noncitizens.
24 A. I'm sorry. What?
25 MS. BENEDON: Is there a question?

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1 MR. SHERMAN: Sure.
2 BY MR. SHERMAN:
3 Q. Where in this email are you restricting this
4 comment under the third bullet point, first bubble
5 to only noncitizens, that there would only be no
6 exceptions for noncitizens?
7 A. I think -- I'm sorry. I wasn't clear. I'm not
8 sure when I wrote "no exceptions" if I was saying
9 it about all those documents or just people who
10 weren't U.S. citizens, because I don't remember
11 when I wrote this if I knew that there was an
12 exception for a birth certificate.
13 Q. Okay. At the time you wrote this, were you aware
14 of the MV 3002 --
15 A. I don't know.
16 Q. -- procedure? When did you learn of it?
17 A. I don't remember exactly. It was after -- I
18 believe it was after the law was passed. I was
19 not aware that we had any exceptions until after
20 the law was passed. It had never come up.
21 Q. But MV 3002, as you understand it, is an exception
22 to the proof of citizenship requirement, correct?
23 For people who identify that they --
24 A. Correct.
25 Q. -- do not have a record of their birth on file?

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1 A. Correct.
2 Q. And why wouldn't you mention exceptions such as
3 MV 3002 in a PowerPoint presentation specifically
4 geared to seniors and the people who assist them?
5 A. In this note it may have been I didn't know there
6 was such a thing as a 3002.
7 Q. But had you known, there would have been no cause
8 to withhold information about MV 3002,
9 particularly from seniors who probably stand the
10 greatest risk of not having a record of their
11 birth on file, correct?
12 A. I don't know if I would have included it or not.
13 Q. And why is that?
14 A. Because it's so miniscule a population that
15 actually don't have a birth certificate.
16 Q. What's your basis for saying that?
17 A. Because we haven't had any people putting it in.
18 I think Jim Miller told me it was fewer than four
19 that he was ever aware of.
20 Q. Fewer than four people putting in an MV 3002 you
21 mean?
22 A. That had a 3002.
23 Q. Might people just be looking at the public -- you
24 know, publicly available requirements to get a
25 birth certificate for their driver's license or

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1 state ID card application and say, well, I can't
2 get one of those because I don't have a birth
3 certificate, and they just never apply?
4 A. It could be.
5 Q. Okay. So the DMV may just never learn of these
6 cases because people are self-selecting
7 themselves, you know, out, right?
8 A. It could be.
9 Q. Let's take a look at Exhibit 27 just while we're
10 on this topic. And do you recognize this email?
11 A. This is an email -- an email chain that I wrote at
12 least one note on that is titled "Request for
13 Comment on Voter ID."
14 Q. And is it a true and accurate copy?
15 A. I believe it is.
16 Q. Do you see about -- not the fourth paragraph. You
17 see down in your email where you said -- in your
18 email at the top -- well, first, "Every applicant
19 for a Wisconsin product must provide a birth
20 certificate, a U.S. passport, or naturalization
21 papers for U.S. citizens. For those who are in
22 the U.S. legally but are not U.S. citizens, the
23 statute allows several different documents to be
24 used to prove legal presence."
25 And then a couple lines down you say,

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1 "Statutes explicitly require documentary proof of
2 legal presence before issuing a product. No
3 exceptions are provided for in the law."
4 That's correct what I read? That was your
5 statement?
6 A. That was my statement.
7 Q. And you wrote this email on December 1, 2011,
8 correct?
9 A. Correct.
10 Q. And so at this time were you aware of the MV 3002
11 procedure?
12 A. Apparently not.
13 Q. Okay. So you don't know whether you had learned
14 of it prior to December 1, 2011?
15 A. Correct.
16 Q. And in this context you were talking about
17 Ms. Frank -- Ms. Ruthelle Frank's predicament?
18 A. Correct.
19 Q. And what was the outcome -- what was decided
20 regarding issuing an ID to Ms. Frank?
21 A. I actually don't know if she ever obtained one
22 recently. I don't think she obtained one, but I'm
23 not sure.
24 Q. Do you recall what the DMV's ultimate position was
25 on whether or not she could obtain a birth

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1 certificate -- obtain a state ID card?
2 A. I believe Jim Miller provided her with a 3002
3 form. I'm not sure, though.
4 Q. Okay. All right. We'll come back to that. If
5 you could -- just give me one sec. Could you flip
6 to Exhibit 38? Do you recognize this document?
7 A. This is the MV 3002.
8 Q. And is it a true and accurate copy?
9 A. I believe it is.
10 Q. Have you ever actually seen this before?
11 A. I saw it once, I think, last week for the first
12 time, or two weeks ago.
13 Q. Prior to that, you'd never seen it?
14 A. Correct.
15 Q. And you see the date next to MV 3002, it says
16 6/2005. I assume the last update to this was
17 June 2005?
18 A. That seems logical.
19 Q. And so MV 3002 predates Real ID, correct?
20 A. Correct.
21 Q. Does that mean under statute that this form might
22 not be statutorily permissible anymore?
23 A. Well, Real ID hasn't gone into effect yet, so no,
24 that would not mean that.
25 Q. Is there any -- I've asked this a little bit -- I

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1 guess in one way. Do you have any statutory
2 authority for this document as far as you know?
3 A. Not that I'm aware of.
4 Q. And if you could look at Exhibit 47. Do you
5 recognize this document?
6 A. Looks like a BFS technical and training services
7 update from November 28, 2011.
8 Q. And did you receive this? Or wait. Is this a
9 true and accurate copy?
10 A. I have no reason to doubt that it is.
11 Q. Do you receive technical and training services
12 updates?
13 A. I do believe I receive them. I don't read them,
14 though, typically.
15 Q. So the fact that this was emailed a couple days
16 before your December 1, 2011, email about
17 Ruthelle Frank's case doesn't mean that you would
18 necessarily have learned about MV 3002 prior to
19 sending that email, correct?
20 A. Correct. Correct.
21 Q. Do you know how you first learned about MV 3002?
22 From whom?
23 A. I think it was when we were discussing lawsuits,
24 and I thought that there was no exception into the
25 law. And Mr. Kernats, our OGC attorney, informed

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1 me that there was a 3002 form and that it was not
2 required under the statutes to have a birth
3 certificate or passport.
4 Q. In this example, in that certain area where you
5 don't have a record of your birth at all?
6 A. Just general -- well, okay. Yeah. I didn't think
7 there was any exception.
8 Q. Understood. So let's go back to documentary proof
9 of identity. We sort of took a detour from that.
10 Would you agree that if a person has never
11 had a driver's license or state ID from any state,
12 that a social security card is probably the most
13 common form of documentary proof of identity that
14 CSCs see?
15 A. I don't know what the most common form is. The
16 social security number's required, I know.
17 Q. Right. But you have to show documentary proof of
18 identity in addition to that, correct?
19 A. Correct. I don't know what the most common is.
20 I'm sorry.
21 Q. Looking at the list, though, on BDS 316. You have
22 it right there.
23 A. This one?
24 Q. Yeah.
25 A. BDS 316. This one?

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1 Q. Yeah.
2 A. 30, right?
3 Q. Yeah. So on the second page they list acceptable
4 documents for proof of identity. And you know,
5 for purposes of this question, let's scratch out
6 the first one. Say they've never held a driver's
7 license or state ID card from anywhere, including
8 the state of Wisconsin. Would you agree that of
9 the remaining options, that a social security card
10 is probably the most common option?
11 A. Well, for people under 18, I would guess it's
12 No. 7. But for other people, for adults I would
13 guess that you're correct.
14 Q. Okay. And do you have any reason -- this says
15 social security card issued by the Social Security
16 Administration. Do you happen to know why
17 social security printouts are not accepted as
18 proof of identity?
19 A. I don't know.
20 Q. Are you aware of the requirements to get a
21 social security card?
22 A. I am not.
23 Q. Do you have any idea or reason to know whether
24 photo ID is required to get a social security
25 card?

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1 A. I don't know.
2 Q. So I guess you've never had any discussions with
3 SSA about whether -- you know, what the
4 identification requirements for a social security
5 card are, correct?
6 A. I would assume our staff have. I have not.
7 Q. Okay. Is there any procedure that DMV would use
8 if an applicant came back to a CSC and said, "I
9 need my social security card to prove my identity
10 to you so I can get a state ID, but when I go to
11 the Social Security Administration office, they're
12 telling me I need a photo ID, and I don't have a
13 photo ID"? Is there any procedure to deal with a
14 person who's in that kind of catch 22?
15 A. I'm not aware of it.
16 Q. Do you happen to know whether CSCs provide any
17 assistance to an applicant in that circumstance?
18 A. I don't know.
19 (Discussion held off the record.)
20 (A recess is taken from 12:09 p.m. to 12:52 p.m.)
21 BY MR. SHERMAN:
22 Q. Back on the record. So we were talking about the
23 documentary proof of identity requirement. So why
24 aren't Medicare and Medicaid cards accepted as
25 documentary proof of identity, if you know?

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1 A. I don't know.
2 Q. And do you know why credit cards with signatures
3 would not be accepted?
4 A. I don't know.
5 Q. You're familiar with this digital image lookup
6 procedure, correct, where in full substitution to
7 documentary proof of identity, you can -- if the
8 DMV has your image on file and your name hasn't
9 changed and you're still a Wisconsin resident,
10 that will satisfy the proof of identity
11 requirement?
12 A. For renewals?
13 Q. For any of the requirements. For any of the
14 applications. Do you understand it as being
15 restricted to renewals?
16 Let's take a look at 102.15. It's on page 5,
17 I believe. Page 5 under subsection (c), about
18 halfway down the page. Just read that provision.
19 This is 102.15(4)(c).
20 A. Yes. I think it's just to reinstate, renew, or
21 get a duplicate.
22 Q. So this can't be used for original-issue
23 applicants?
24 A. Well, the only --
25 Q. They wouldn't have you on file?

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1 A. You could be on file if you'd been expired for
2 more than eight years.
3 Q. Right.
4 A. But I don't know how long back -- the photo system
5 has sort of changed, so I don't know if the
6 more-than-eight-year-old pictures are retrievable.
7 Q. Okay.
8 A. So it probably does apply to those three instances
9 and not originals.
10 Q. So it is here in Trans 102.15. Could you take a
11 look at BDS 316 at the second page? And it does
12 not appear -- that procedure does not appear in
13 acceptable documents for proof of identity in this
14 document, correct?
15 A. Number one, I'm not sure if that would include the
16 photo on file or not. It says if you're expired
17 less than eight years. I don't know if they would
18 look up your product and that would meet that or
19 not.
20 Q. Right. But some of the -- I just mean someone
21 reading this online would not understand there to
22 be any sort of option for a readily recognizable
23 photo to be used in lieu of documentary proof of
24 identity, correct?
25 MS. BENEDON: Objection. Calls for

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1 speculation.
2 THE WITNESS: I believe that's correct.
3 BY MR. SHERMAN:
4 Q. And then if you could look at BFS 14, which is the
5 last of the three documents I asked you to pull
6 out.
7 A. I'm just on one of the pages that I --
8 Q. Exhibit 55. It might be in your pile over here,
9 or did you not pull it?
10 A. I'm thinking I pulled it out, but it's somewhere
11 in here.
12 Q. All right. Let's pull that one out as well.
13 A. All right.
14 Q. And if you look on the second page of that
15 document under the first column, Proof of
16 Identity, and you go down to No. 30, and it says
17 "readily recognizable digital image on file." Do
18 you see that?
19 A. Um-hum.
20 Q. Why would it be on this document, which I believe
21 is BFS 14, but not on the publicly available
22 document, BDS 316?
23 A. If I had to guess, it's because the public can't
24 bring in a readily -- the digital image on file in
25 the document that we were looking at, if it was

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1 for the public, it wouldn't be applicable to them.
2 Q. While that's true, wouldn't letting the public
3 know about the readily recognizable digital image
4 option -- you know, it would give them information
5 that would tell them you don't need to go through
6 the whole social security card application
7 process, you can just have this digital image
8 lookup procedure performed?
9 MS. BENEDON: Objection. Calls for
10 speculation.
11 THE WITNESS: So can you restate the
12 question?
13 BY MR. SHERMAN:
14 Q. Sure. I mean, announcing that to the public, this
15 digital image lookup procedure would allow people
16 to avoid sort of cumbersome other application
17 procedures such as applying for the
18 social security card, correct?
19 A. It appears that way, yes.
20 Q. So it should be publicly disclosed, right?
21 A. I don't know.
22 Q. Okay. Can you take a look at Exhibit 57? And do
23 you recognize this document?
24 A. This is a press release relating to products that
25 have been expired for less than eight years can be

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1 renewed with a social security number is the
2 title.
3 Q. And anywhere in this press release do you mention
4 the digital image lookup procedure?
5 A. No.
6 Q. Is there any reason not to?
7 A. To not have included it?
8 Q. Right.
9 A. I can't think of one.
10 Q. And this second sentence in the first paragraph,
11 "If you no longer have your expired driver license
12 or ID card, you can take your social security card
13 as proof of identity and you can use that to
14 renew."
15 Regardless of whether they have their expired
16 driver license or ID card in their physical
17 possession, isn't it true that they can use their
18 digital image on file in lieu of the social
19 security card?
20 A. That is an acceptable proof, yes.
21 Q. For renewals particularly, correct?
22 A. Correct. Not for originals. Correct.
23 Q. So maybe in that second sentence it would have
24 made sense, right, to include that as another
25 option, right?

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1 A. It could have.
2 Q. And there's no affidavit of identity procedure; is
3 that right?
4 A. I don't know.
5 Q. Has DMV discussed creating any alternatives or
6 exceptions for folks who are struggling to show
7 documentary proof of identity?
8 A. I think that we may have added passport, too, as
9 an acceptable proof of identity relatively
10 recently.
11 Q. And you added college IDs, correct, recently as
12 well?
13 A. Maybe. I'm not -- I don't recall exactly. It
14 sounds right.
15 Q. I'd like to ask you about proof of residency, but
16 we've talked about it some so I'll just go over
17 what's remaining. There's discretion to accept,
18 you know, multiple forms of proof of residency,
19 right, until the CSC supervisor is satisfied that
20 you've established, you know, by a preponderance
21 of the evidence that you are a resident of
22 Wisconsin, correct?
23 A. Correct.
24 Q. And that's what's reflected in this BFS 14
25 document if you could take a look? At the second

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1 page, it says, "Additional verification may be
2 required if documents presented do not provide
3 conclusive proof of residency," and at the bottom,
4 "other documents approved by the manager or their
5 designee."
6 And basically that's saying you can go beyond
7 what's listed here in BFS 14, correct?
8 A. Correct.
9 Q. And this comment by the five stars, "other
10 documents approved by the manager or their
11 designee," does this apply just to proof of
12 residency or also to proof of identity, the column
13 on the -- the other column on this page?
14 A. I'm not sure.
15 Q. Did there ever used to be more options for proof
16 of identity? Has the list expanded or contracted
17 over time?
18 A. I believe prior to the 2007 legal presence law
19 that the list may have been broader, but I don't
20 recall exactly what was on it.
21 Q. Is that what's sort of signified on BFS 14 by the
22 numbers sort of going on the second page, 3, 4, 5,
23 11, 13, 23, 27? Does that sort of signify that
24 items were dropped off the list?
25 A. I don't know.

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1 Q. Okay. So now -- back on proof of residency, now
2 that the proof of residency has just been updated
3 on the website, do you feel that it captures all
4 residents of Wisconsin, that everyone in Wisconsin
5 should be able to find something on the list they
6 can use?
7 A. So one of the things that's on -- is this the
8 website? I just want to make sure I know what's
9 on --
10 Q. BFS 14, I think, is an internal only document, so
11 this is I believe the website, BDS 316. That I
12 know is publicly available.
13 A. And so, I'm sorry, your question again?
14 Q. Do you feel that this updated and revised list
15 covers all Wisconsin residents, that everyone
16 should be able to find something on the list that
17 they can use to vote, to use to -- excuse me --
18 that they can use to get a state ID card?
19 A. For residency?
20 Q. Yes.
21 A. I don't know if it's inclusive. I don't know if
22 this would cover every acceptable document and all
23 other documents would be rejected. I don't know.
24 Q. So how would this list address, say, a person who
25 lives at home but does not receive any mail

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1 whatsoever at their residence? For instance, say
2 a 19-year-old who graduates from high school but
3 doesn't have a job, isn't receiving benefits, but
4 is just looking for a job and hasn't moved on to
5 college.
6 A. So do you want me to list some of them that might
7 apply?
8 Q. Yeah. I mean, what --
9 A. So No. 4 --
10 Q. -- should they use?
11 A. If they have a bank account, No. 4 would apply.
12 Q. Okay.
13 A. If they have motor vehicle insurance, No. 6 would
14 apply. If they're getting any kind of state issue
15 or government issue correspondence or product,
16 No. 7 could apply. No. 8 applies to a lot of
17 people in Wisconsin, hunting and fishing license,
18 school transcript if they've graduated within 90
19 days or they're enrolled.
20 Q. As far as the -- you can flip to Exhibit 21, which
21 is the first in the binder. And do you recognize
22 this document?
23 A. This is a document that's titled "Residency
24 Documentation for Homeless Individuals."
25 Q. And this is a true and accurate copy?

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1 A. I don't know. I have no reason to think it's not.
2 Q. Have you seen the documentation policy up on your
3 website before?
4 A. Have I seen this page --
5 Q. Have you seen --
6 A. -- on our website?
7 Q. Have you seen the "Residency Documentation for
8 Homeless Individuals" policy up on your website?
9 A. I don't know. I don't recall if I looked at it on
10 the website.
11 Q. Well, have you seen the residency documentation
12 for homeless individuals policy ever before?
13 A. So is that this?
14 Q. I believe so, but I'm trying to --
15 A. I'm not trying to --
16 Q. -- confirm this. No, no, no. I'm trying to say,
17 if you've seen it before, is this a true and
18 accurate copy of what you've seen? I assume
19 you've had -- you reviewed it before it was put up
20 on the website.
21 A. I believe I did.
22 Q. So do you have any reason to doubt the
23 authenticity of this policy?
24 A. I do not have any reason to doubt it.
25 Q. How is a social service agency or social service

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1 organization defined for purposes of this policy?
2 A. I don't know.
3 Q. Is it defined anywhere?
4 A. I don't know.
5 Q. And do you think a lot of social service agencies
6 or homeless shelters would have, like, official
7 letterhead as page 2 of this policy seems to
8 require?
9 A. I don't know. I would assume they do.
10 Q. And if they don't and send in a letter that's just
11 typewritten or printed out without official
12 letterhead, would DMV reject it or --
13 A. I don't know.
14 Q. Isn't it possible that, you know, regardless of
15 what format it comes on, be it on official
16 letterhead, typewritten, handwritten, as long as a
17 contact number is provided for the shelter or
18 social service agency, a DMV CSC could contact the
19 shelter or social service agency and ask whether
20 that person is known to them and whether that
21 person is a resident of Wisconsin?
22 A. What's the question?
23 Q. Is a verification procedure like that possible
24 where you would have other means to sort of
25 confirm the person's residency and follow up on

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1 the letter and not just reject it for the sort of
2 formality of it being or not being on official
3 letterhead?
4 A. Is it possible to do that?
5 Q. Yes.
6 A. Yes.
7 Q. Do you think you are doing that right now or you
8 just don't know?
9 A. I don't know.
10 Q. Do you know who knows?
11 A. Jim Miller.
12 Q. And does this policy address homeless individuals
13 who are not living in a shelter and not living --
14 not affiliated with a social service agency?
15 A. This policy doesn't appear to allow that.
16 Q. So how would such a person who's unsheltered and
17 not affiliated with any social service agency, how
18 would they establish their Wisconsin residency?
19 A. They could use one of the documents, if they had
20 them, that's on our acceptable residency
21 requirements.
22 Q. And if they didn't?
23 A. Then I don't know that they would be able to prove
24 residency.
25 Q. And that's because you have to mail the ID card to

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1 a specific location?
2 A. Well, no. It's because we have to make sure that
3 they're Wisconsin residents in order to be
4 entitled to one of our products.
5 Q. And the way you do that, though, is by mailing it
6 to a specific address, correct?
7 A. That's one of the ways, along with the
8 documentation requirements.
9 Q. I mean, and have you ever considered using a
10 residency exception for homeless individuals where
11 they can just sign an affidavit under penalty of
12 perjury saying I am a resident of Wisconsin?
13 A. I don't know if that's been considered or done.
14 Q. Could we take a look at Exhibit 46? Actually, you
15 know what? Let's do 59 because you didn't attend
16 this meeting, it looks like.
17 Do you recognize Exhibit 59?
18 A. It's three emails relating to a teleconference
19 with GAB on November 29, 2011.
20 Q. And is it a true and accurate copy?
21 A. I believe it is.
22 Q. Do you see on the second page where -- you were
23 CC'd on this email from Donna Brown-Martin. She
24 says in the second paragraph of the second page,
25 "They talked to us regarding the homeless voter

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1 issue and had examples of South Carolina's
2 exemption for residency as a best practice -- they
3 discussed in some detail ideas for providing even
4 broader exemptions for the homeless in terms of
5 exemptions to the statutory requirements -- which
6 we stated that we could not support."
7 First, just on residency, so nothing further,
8 I gather, has come out of this discussion in terms
9 of providing a residency exemption for homeless
10 individuals, correct?
11 A. Correct.
12 Q. But it was brought to your attention that
13 South Carolina does this?
14 A. Correct.
15 Q. And then in terms of broader exemptions for the
16 homeless for other statutory requirements,
17 Wisconsin DMV has basically said no to that,
18 correct?
19 A. Well, it's my understanding we're using the GAB
20 requirements, so --
21 Q. For residency purposes?
22 A. For residency purposes for homeless.
23 Q. Right. For the other documentary proof
24 requirements has there been any further discussion
25 about whether to give leeway specifically to

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1 homeless individuals?
2 A. Besides residency, you mean?
3 Q. Beyond residency. Like proof of citizenship,
4 proof of name and date of birth, or proof of
5 identity?
6 A. Not that I'm aware of.
7 Q. Are Internet bills acceptable documentary proof of
8 residency?
9 A. I don't know. I can look if you'd like.
10 Q. No. That's all right. Why are Quest and Forward
11 cards not accepted as documentary proof of
12 residency?
13 A. I don't know.
14 Q. And you stated that DMV employees, specifically
15 local CSC supervisors, have discretion to sort of
16 accept other forms of residency not listed in
17 102.15 or in other DMV policies before you.
18 If you could take a look at Exhibit 49. Do
19 you see on the second page of -- well, do you
20 recognize this document, first of all?
21 A. This is an email -- series of emails about DMV
22 service -- with the title "DMV Service Centers."
23 Q. And is it a true and accurate copy?
24 A. I believe it is.
25 Q. At the second page at the top, the second

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1 paragraph, do you see where Reggie says, "The
2 wildcard is typically when someone doesn't have
3 one of the residency items on 'the list' of
4 acceptable documents. The decision if a customer
5 is presenting a preponderance of residency proof
6 via items not on 'the list' is currently
7 determined by the CSC supervisor. BDS staff are
8 currently not part of that decision process nor
9 are we aware of the amount of alternative
10 residency proof typically required to convince a
11 CSC supervisor to grant an exception."
12 Are you aware of -- do you agree with this
13 statement?
14 A. It appears accurate, yes.
15 Q. And if there's no sort of metric or written policy
16 on how much residency proof is enough residency
17 proof, it is possible that inconsistent sort of
18 treatment could occur across the state, correct?
19 A. Correct.
20 Q. Okay. But in any event, if only one -- if a
21 customer comes in and presents one of the
22 following forms of proof of residency, say, listed
23 on BDS 316, it would be improper to require more
24 residency proof, correct?
25 A. Could I look at it?

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1 Q. Sure. Of course. You can look at any of those
2 documents. Proof of residency starts on the
3 second page.
4 A. If there's no doubt that the document is one of
5 the documents on the list and belongs to the
6 person who's presenting it and is not fake,
7 altered, or borrowed, then I agree with you.
8 Q. That it would be improper to ask for a second
9 document?
10 A. If there's no reason to doubt the authenticity.
11 Q. Okay. Sounds good. And if you could look at
12 Exhibit 58. Do you recognize this document?
13 A. I don't think -- I don't remember seeing this, but
14 it looks like a document that was created for DMV
15 staff.
16 Q. Do you have any reason to doubt its authenticity?
17 A. I do not.
18 Q. If you could look at the last page from this
19 excerpt from this PowerPoint presentation, it
20 shows reasons for expanding the current residency
21 list. "We need to recognize a customer applying
22 for an ID card for voting purposes as a right to
23 vote in this country. We need to do what we can
24 to help someone within the guidelines of the law
25 obtain an ID card for voting purposes. Original

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1 residency list was set up before we started legal
2 presence; therefore, it was much more
3 restrictive."
4 Jumping one bullet point, "Due to
5 improvements in the L1 security system, facial
6 recognition, and one-to-one photo comparison,
7 fraud has dropped off significantly from over
8 2,000 the first year to just 89 the last year."
9 Do you agree that these were among the sort
10 of motivating factors driving the modifications to
11 the proof of residency list?
12 A. Yes.
13 Q. And why or why not do these same justifications
14 not apply to the other documentary proof
15 requirements?
16 A. Residency was typically the one area we saw the
17 vast majority of issues with our customers, and we
18 felt that one reason it's not listed here that was
19 important for me was that the poor economy had led
20 to a lot more people without jobs were sharing
21 residences who weren't able to provide that
22 information, and so expanding the residency list
23 because that was an area we were seeing problems.
24 Q. Based on what was the narrow list that was in
25 Trans 102.15?

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1 A. Right.
2 Q. And so is vouching, you know, part of this new
3 scheme for residency? Can a spouse vouch for the
4 Wisconsin residency of their husband or wife?
5 A. It's my understanding that a spouse can and then a
6 parent of a minor child can.
7 Q. Okay. Is that publicly stated anywhere?
8 A. I don't see it in the BDS 316.
9 Q. Is there any reason not to announce that publicly?
10 A. I can't think of a reason.
11 Q. And then on the second page in this document it
12 says under old order, "In past updates, if the
13 document was changed by removing an item, that
14 number was just removed from the middle of the
15 list without renumbering the items below it. New
16 items were added to the bottom of the list."
17 So does that suggest, though, when we're
18 looking at the BFS 14, Exhibit 55, that there's a
19 number of sort of items that have been deleted
20 from the list over time from proof of identity
21 specifically? You can take a look at it if you
22 want. It's the second page of this document, of
23 Exhibit 55. Do you see proof of identity?
24 A. Right.
25 Q. It goes 1 through -- or I don't even know what the

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1 first one is, but 3, 4, 5, 11, 13, 23, 27, 29, 30,
2 and 31. Does that not suggest that a lot of items
3 have been deleted from proof of identity over
4 time?
5 A. If that exhibit is referring to this, then it does
6 make sense. I don't know if it is.
7 Q. Do you know if there's a document sort of -- do
8 you preserve sort of the old versions of BFS 14 in
9 any manner?
10 A. I don't know.
11 Q. What about old versions of BDS 316, assuming this
12 is a continuous sort of document?
13 A. I don't know.
14 Q. Is there any other type of fraud besides residency
15 fraud that DMV is concerned with that would
16 animate the decision not to liberalize sort of the
17 other documentary proof requirements?
18 A. Well, identity theft. You know, you have to --
19 but more than fraud, it's our responsibility to
20 determine identity. It's our two things that we
21 do relating to driver's licenses and ID cards. We
22 make sure you can drive safely and we make sure
23 you are who you say you are.
24 Q. And is there no way to do that with a broader sort
25 of array of documents for proof of citizenship and

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1 proof of name and date of birth? Couldn't you
2 fulfill the same mission even if you were
3 accepting baptismal certificates and hospital
4 certificates, early school records, in addition to
5 basically the birth certificate, which is sort of
6 the sole form right now for -- and passports for
7 U.S. citizens?
8 A. It's possible.
9 Q. Are you aware of any people who have made use of
10 the homeless residency documentation procedure so
11 far?
12 A. Jim Miller has told me -- I believe he said it's
13 been used a very few number of times, but I'm not
14 sure of the -- I'm not aware of a specific
15 example.
16 Q. Right. And you're not aware of whether any have
17 been denied so far?
18 A. I'm not aware.
19 Q. So I'm going to turn to documentary proof of
20 citizenship. And you've said before that this is
21 required by state law, by state statute.
22 A. The proof of legal presence?
23 Q. Yes. Proof of legal presence. Right.
24 A. Correct.
25 Q. But prior to -- we've touched on this a number of

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1 times, but prior to the enactment of the photo ID
2 law, had there been instances that you're aware of
3 that MV 3002 was used?
4 A. I'm not aware of any.
5 Q. Was MV 3002 sort of only for noncitizens and was
6 later -- I mean, you weren't aware of it until
7 recent, but when it was described to you, did
8 people say we're re-purposing this MV 3002 form
9 for use by citizens, whereas it was only
10 previously used by noncitizens?
11 A. There was nothing said about that.
12 Q. So in terms of obtaining a birth certificate,
13 you're aware that birth certificates cost money,
14 correct?
15 A. Correct.
16 Q. And you're aware that birth certificate
17 application procedures and requirements differ
18 from state to state, correct?
19 A. Correct.
20 Q. And are you aware that some jurisdictions require
21 photo ID to obtain a certified copy of one's birth
22 certificate?
23 A. I am aware of that.
24 Q. And in a circumstance like that where a person
25 doesn't have a photo ID and needs their certified

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1 copy of birth certificate to get their state ID
2 card or driver's license from Wisconsin, what sort
3 of recourse is there for them?
4 A. I don't know.
5 Q. And there's no affidavit sort of procedure or no
6 way -- no workaround the DMV can help them with,
7 right?
8 A. I don't know.
9 Q. Has it raised any concerns either in your own
10 internal discussions or bilateral discussions with
11 GAB, you know, in terms of disfranchisement?
12 A. Our document requirements didn't change with the
13 voter ID law.
14 Q. I'm aware of that, but did GAB bring any sort of
15 concern to your attention about folks who are in
16 this catch 22 of not being able to obtain their
17 birth certificate because they don't have a photo
18 ID and can't obtain their photo ID because they
19 don't have a birth certificate?
20 A. I don't recall.
21 Q. And you don't recall any sort of similar
22 discussion like that within DMV, correct?
23 A. About our --
24 Q. About that specific scenario. The catch 22
25 scenario I've described.

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1 A. I don't recall.
2 Q. Okay. Do you know if CSCs are providing birth
3 certificate applications to individuals who come
4 in to apply?
5 A. I don't know.
6 Q. And you've represented that the website does not
7 include any sort of links to vital records offices
8 or their applications, correct?
9 A. I don't -- I don't know if it does.
10 Q. Okay. One related question, back on proof of
11 identity -- unrelated question, I should say.
12 Just to clarify this point for myself. If you
13 could look at BDS 316 under proof of identity.
14 MS. BENEDON: Is that Exhibit 55?
15 MR. SHERMAN: Exhibit 30, actually.
16 Sorry.
17 MS. BENEDON: 30.
18 BY MR. SHERMAN:
19 Q. You see No. 3, U.S. Government and Military
20 Dependent ID Card?
21 A. Um-hum.
22 Q. Does that embrace a veterans identification card
23 that's issued by the U.S. Department of Veteran
24 Affairs?
25 A. I don't know.

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1 Q. Who would know that?
2 A. Jim Miller.
3 Q. And if he didn't know, I mean, is that a general
4 counsel sort of question? Have you ever come --
5 A. No.
6 Q. -- across a case like this?
7 A. That should be a question that DMV should be able
8 to answer.
9 Q. Has this issue come up at all?
10 A. Not to my knowledge.
11 Q. If you could take a look at Exhibit -- and this is
12 farther in the back -- Exhibit 85. You said you
13 were an attorney, otherwise I wouldn't even try
14 this with you. But I'm going to at least attempt
15 to ask you a question about this document.
16 A. I'm on inactive status, so don't expect too much.
17 Q. I shouldn't get my hopes up. 85. It's still
18 farther along.
19 MS. BENEDON: It has a number down in
20 the corner.
21 THE WITNESS: Oh, down in the corner.
22 I'm sorry.
23 MR. SHERMAN: Right. Sorry about that.
24 Not all of them have the exhibit stickers.
25

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1 BY MR. SHERMAN:
2 Q. So do you recognize this document or do you at
3 least know what it is?
4 A. It is Wisconsin Statute 343.14.
5 Q. Do you have any reason to doubt its authenticity?
6 A. I do not.
7 Q. And on the second page you see subsection (es), it
8 has sort of, you know, subject to blah, blah,
9 blah, "Valid documentary proof that the individual
10 is a citizen or national of the United States or
11 an alien lawfully admitted for permanent or
12 temporary residency in the United States or has
13 any of the following," and lists a couple items.
14 A. Um-hum.
15 Q. And so you have your legal presence requirement in
16 this statute, correct?
17 A. Correct.
18 Q. And then under (f), what is your understanding of
19 what (f) means? And I gather that it's been
20 modified slightly, so use the second version of
21 subsection (f).
22 Okay. Before we go to (f), if you could go
23 back to page 2, just under subsection (er). One
24 says, "Documentary proof that the individual is a
25 citizen of the United States or documentary proof

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1 that the individual is legally present in the
2 United States." And that is the citizenship
3 and/or legal presence requirement, right?
4 A. Correct.
5 Q. For obtaining a driver's license or state ID card,
6 correct?
7 A. Correct.
8 Q. So now, on page 3, what is your understanding of
9 subsection (f), and use the second version of it
10 that appears here.
11 A. I can't tell if (f) just applies to legal presence
12 just based on my quick reading of it or if it
13 applies to any of the information.
14 Q. Either in (f) or anywhere else in the statute is
15 there any statutory authority for MV 3002, if you
16 know? I don't want you to sit here and read the
17 whole thing, but if you know offhand.
18 A. I don't know.
19 Q. And you've testified already that there's no --
20 basically no exceptions other than MV 3002 to the
21 proof of legal presence and/or citizenship
22 requirement, correct?
23 A. Correct.
24 Q. And that means that if someone comes in with a
25 baptismal certificate or a hospital certificate,

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1 that simply won't be good enough to satisfy the
2 proof of citizenship requirement, correct?
3 A. Correct.
4 Q. And you're not aware of any case in which someone
5 has been granted a state ID card or driver's
6 license solely using a baptismal certificate or
7 hospital certificate or school record when a birth
8 record was on file for the person?
9 A. Other than the one example I gave about the World
10 War II vet.
11 Q. Correct. And did that person ultimately
12 present --
13 A. They did. A birth certificate.
14 Q. -- a birth certificate? Okay.
15 A. Yeah. Other than that, I'm not aware of an
16 exception that's been granted.
17 Q. So just to dwell on MV 3002 for just one more
18 moment, if you could look at Exhibit 47. Do you
19 recognize this document?
20 A. It appears to be a BFS technical and training
21 services update from November 28, 2011.
22 Q. Do you have any reason to doubt its authenticity?
23 A. I do not.
24 Q. And you see down in the middle where it says,
25 "Along with the MV 3002, one of the following

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1 documents must also be shown: baptismal
2 certificate, hospital birth certificate, delayed
3 birth certificate, census record, early school
4 record, family bible record, doctor's record of
5 postnatal care."
6 Is this the exclusive list as far as you
7 know?
8 A. Based on the language that "one of the following
9 documents must also be shown," that would be my
10 understanding.
11 Q. But you don't know whether or not CSC supervisors
12 are accepting additional documents in conjunction
13 with an MV 3002?
14 A. I don't know if a 3002 has ever been accepted, but
15 to answer your question, I don't know if they
16 would accept something other than this list in
17 association with a 3002.
18 Q. So you have no personal knowledge of an MV 3002
19 ever being successfully filed?
20 A. Correct.
21 Q. And if you could look under Exhibit 66, which we
22 previously authenticated as Chapter -- Section 215
23 of the driver's license manual. One of the first
24 thick ones. Not a thin guy.
25 A. Okay. Sorry.

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1 Q. No worries.
2 A. I'm missing a red page. That's why.
3 Q. So on page 7 of this document, it really starts at
4 the bottom of page 6, so start at page 6 at the
5 bottom. They're talking about the MV 3002 form.
6 Do you see that?
7 A. Um-hum.
8 Q. And then on the flip side -- on page 7 it says,
9 "Whatever documentation is available that states
10 the person's name and date of birth which may be
11 one of the following: baptismal certificate,
12 hospital birth certificate, delayed birth
13 certificate, census record, early school record,
14 family bible record, doctor's record of postnatal
15 care." Well, it says "car" but I assume "care."
16 But it says "which may be one of the
17 following." Does that suggest to you restrictive,
18 i.e., this is the exclusive list; or does it
19 suggest that it may be in the discretion of the
20 local CSC supervisor to accept other documents?
21 A. It suggests discretion.
22 Q. Okay. So there may be some confusion amongst
23 local CSCs depending on whether they look at the
24 DLM or go off the technical and training services
25 update that we just looked at, correct?

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1 A. Correct.
2 Q. And it's at least possible that that might be
3 resulting in inconsistent treatment with regards
4 to the MV 3002 procedure, correct?
5 A. If we'd ever done one, yes. That's correct.
6 Q. And could the legislature require DMV to go
7 through rule-making to use the MV 3002 procedure?
8 A. Say it again.
9 Q. Could the legislature require -- could the Joint
10 Committee on Rules and Regulations require DMV to
11 go through rule-making to use MV 3002?
12 MS. BENEDON: Objection. Calls for a
13 legal opinion.
14 THE WITNESS: I don't know.
15 BY MR. SHERMAN:
16 Q. Oh, sorry. It's the review of administrative
17 rules.
18 And to the extent you know, if someone comes
19 in -- I guess what I'm wondering is are employees
20 at CSCs proactive about the MV 3002? If someone
21 comes in and says, "I only have the baptismal
22 certificate," will that be enough for someone to
23 provide them with the MV 3002 form?
24 A. I don't know the extent to which our field staff
25 are aware of the 3002.

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1 Q. Do you know whether they've ever seen it?
2 A. I don't know.
3 Q. Is it something they probably should see,
4 especially now if more case are coming up post
5 Act 23?
6 A. Something that --
7 Q. They probably should be made aware of now that
8 more cases like this are coming up in the wake of
9 Act 23's enactment?
10 MS. BENEDON: Objection. Calls for
11 speculation.
12 THE WITNESS: I don't know if there are
13 more cases, but they probably should be aware of
14 it, yes.
15 BY MR. SHERMAN:
16 Q. If you could take a look at Exhibit 48. Well,
17 hang on one sec. Let's go to Exhibit 48. And
18 right at the top -- well, do you recognize this
19 document?
20 A. It's a series of emails relating to -- the subject
21 is "Questions for DOT."
22 Q. And is it a true and accurate copy?
23 A. It appears to be.
24 Q. Do you see where James Miller wrote in this first
25 email at the top, "Right now front-line staff are

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1 instructed to go only off the list for any
2 requirement (name and date of birth, legal
3 presence, identity, and residency) listed in the
4 BDS 316. Exceptions may be made by the TL or
5 supervisor, but this is the best way to maintain
6 uniformity."
7 First, when he says "exceptions may be made
8 by the TL or supervisor," based on your previous
9 testimony, I assume he's only talking about
10 identity and residency, correct?
11 A. That would be my assumption, yes.
12 Q. And in terms of not allowing field agents to go,
13 you know, off-list and, you know, accept other
14 items, that makes sense to me in terms of
15 maintaining uniformity. But in allowing, you
16 know, something like 92 local CSC supervisors to
17 make exceptions as they feel -- as they see fit, I
18 mean, how does that maintain uniformity?
19 A. Well, there's I think about 25 field supervisors.
20 Many of them handle multiple stations. But it is
21 correct that when you have 25 people, there's a
22 chance that there won't be uniformity.
23 Q. When you've answered questions, you know, in sort
24 of problematic cases that have been sent to you,
25 which list have you gone off of? You know,

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1 102.15, BDS 316, BFS 14, or some other document?
2 A. It's usually what Kristina or Jim show me. It
3 could be one of those, but it's whatever is on the
4 public Internet site is what I typically had
5 looked at.
6 Q. So typically BDS 316?
7 A. Yes.
8 Q. Do you know whether one or the other is being used
9 at CSCs more frequently than the other?
10 A. I don't know.
11 Q. Do you have any idea whether the Driver
12 Eligibility Unit when they're fielding calls is
13 using one of these three or some other document --
14 A. I don't know.
15 Q. -- or a mix of them? And then Exhibit 49, which I
16 believe we have been over before, I wanted to
17 direct you to your comments you made in this email
18 on page 1, "I do believe there are inconsistencies
19 in BFS, unavoidable when you deal with people. We
20 just saw an example where staff said there had to
21 be activity on a bank account when we changed that
22 requirement more than a year ago."
23 Is that still sort of your assessment of just
24 the nature of dealing with multiple field offices,
25 that there's always going to be inconsistent

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1 treatment because you have to leave some items in
2 the discretion of the local supervisors?
3 A. Yeah. I don't think it's realistic to believe
4 that there's 100 percent consistency at all times.
5 Q. I understand. And in terms of dealing with the
6 need for sort of consistent and nonarbitrary
7 treatment of voters, now that voters are really
8 the people coming into the offices amongst, you
9 know, all the other customers that you have, you
10 know, has GAB expressed any concern about
11 inconsistent treatment?
12 A. They may have. I don't recall.
13 Q. And no state legislator has raised concerns about
14 the potential inconsistencies in this frame work,
15 in the DMV regulatory frame work, have they?
16 A. I don't recall.
17 Q. When you said in -- if you could look at
18 Exhibit 63. Do you recognize this document?
19 A. It's a series of emails that I've either received
20 or sent that's the subject "Questions for the
21 DOT."
22 Q. Is it a true and accurate copy?
23 A. I believe it is.
24 Q. And when you wrote -- well, I note Alison is
25 joking. She says, "No, it's more fun to have

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1 everyone guess and provide inconsistent
2 information," smiley face.
3 And you responded, "That has been our modus
4 operandi in the past, but thought maybe this time
5 we can try it another way." I gather that it's a
6 bit tongue-in-cheek, but were you referring to
7 sort of any specific problems that you'd seen
8 across BFS, you know, field staff offices in the
9 past?
10 A. Can I read the --
11 Q. Sure. Please.
12 A. So my response was intended to be jocular like
13 Alison's response, but it is a true statement that
14 we have not always been consistent.
15 Q. And I should have asked you about this while we
16 were still on the document, but if you could flip
17 back to page 49. I apologize for that.
18 A. Sure.
19 Q. And this time on the second page.
20 A. Okay.
21 Q. You had written -- you were writing about the
22 hotline, and in the middle of that paragraph you
23 said, "This might actually be a hotline in DIS,
24 but was thinking if they would pay for several
25 LTEs, we could get a team of retirees, make sure

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1 they are trained to give the same answers on
2 documentation and who then can make sure the
3 various CSCs accept the documentation. Maybe you
4 sense that my growing concern in turning people
5 away due to lack of documentation when we should
6 not have, them being denied a product and then
7 alleging an abrogation of voting rights."
8 Could you talk a little bit about what
9 specifically you were -- what specific concerns
10 were animating these comments?
11 A. Can I read it?
12 Q. Sure.
13 A. So specifically the hotline I was talking about
14 was to have a small group of people who would be
15 available when the customer showed up, if there
16 was a question by our counter person that maybe
17 they weren't going to accept something that they
18 had been told on the phone would be acceptable,
19 that they could then call that retired field
20 person who's been through it before and talk to
21 them. Because I do have concerns about
22 inconsistencies.
23 And while I continue saying it over and over
24 again that nothing changed with regards to DMV and
25 what documents we accept, it is also a true

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1 statement that it's used for voting and we need to
2 be careful and do our best to make sure customers
3 get the products they're entitled to.
4 Q. Was there any sort of specific inconsistencies in
5 answers to customer calls or questions that, you
6 know, animated you to put so much emphasis on,
7 like, to give the same answers on documentation?
8 A. Well, in this No. 49, the first page of it, the
9 second paragraph, I'm not sure what station it
10 happened at, but I recall that we used to require
11 something like 60 days -- a bank account to be
12 open for 60 days, and we changed it to 30 days.
13 Q. How long ago was that change made?
14 A. I don't know. I think it's been more -- well,
15 this note says it was more than a year ago.
16 And that one of the stations had turned a
17 customer away because they said it didn't have two
18 months of activity. And so that's a specific
19 thing that I was aware of when I wrote this note.
20 Q. I know you're not CC'd on this document, but
21 Exhibit 25 is one last document to ask you about
22 the MV 3002 procedure. I know you won't recognize
23 it, but do you have any reason to doubt the
24 authenticity of Exhibit 25?
25 A. I do not.

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1 Q. And do you see Jeremy Krueger writes in this
2 email -- he's basically describing the MV 3002
3 procedure, and he says, "In general, a person who
4 did not have their birth registered with the State
5 will have to get a certification from Vital
6 Records that there is no record on file. That
7 certification from Vital Records needs to be
8 presented at the DMV along with multiple secondary
9 forms, like hospital certificates, baptismal
10 certificates, and SSA history printouts."
11 SSA history printouts weren't on the list
12 that we reviewed earlier for sort of MV 3002
13 supporting documentation. Do you have any reason
14 to know why Jeremy would have suggested that it
15 would qualify?
16 A. Can I read it?
17 Q. Sure. Of course.
18 A. My guess would be that the SSA history printouts
19 relates to needing to track her name changes so
20 that whatever she presents with the baptismal
21 probably doesn't match her name today, if I had to
22 make an assumption. And so that's what he's
23 referring to there, I was going to guess.
24 Q. But let's assume that it's independently --
25 assuming for the moment, if it were independently

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1 on its own going to support an MV 3002
2 application, would there be any reason to allow an
3 SSA history printout plus an MV 3002 form in lieu
4 of a birth certificate but not to allow an SSA
5 history printout as documentary proof of identity?
6 A. I'm not sure exactly what an SSA history printout
7 is, but -- so what's your question again? I'm
8 sorry.
9 Q. I mean, would you allow it for proof of
10 citizenship, i.e., in conjunction with an MV 3002
11 form, but not for proof of identity? Not for
12 documentary proof of identity?
13 A. So -- I'm sorry.
14 Q. If it's going to be sufficient for one documentary
15 proof requirement like documentary proof of
16 citizenship --
17 A. Oh, I'm sorry.
18 Q. -- would there be any reason not to allow it as
19 documentary proof of identity?
20 A. It's my understanding for documentary proof of
21 identity that documents have to be presented that
22 have a photo and/or a signature, and if these
23 didn't have those, that's why it wouldn't be used
24 for identity.
25 Q. Directing your attention to -- I believe it's 81.

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1 Exhibit 81. Nope. I'm wrong. Let's just use
2 Exhibit 50 because I can't find the other version
3 of it. Yeah. Let's just use Exhibit 50. Do you
4 recognize this document by any chance?
5 A. I do not.
6 Q. Do you have any reason to doubt its authenticity?
7 A. I do not.
8 Q. And what is it?
9 A. It's an email from -- it's two emails both from
10 GAB people to -- one of them is to other GAB
11 people and the other one's to DOT staff.
12 Q. And are you familiar with Marcella Althof's case?
13 A. I don't recall that name.
14 Q. Okay.
15 A. That doesn't mean I haven't seen it before.
16 Q. It says, "She was born in Iowa 80 years ago and
17 she claims there was no birth certificate issued,
18 just a baptismal certificate. She has a social
19 security card and took that and the baptismal
20 certificate to DMV and they said they couldn't
21 take the baptismal certificate and that she needed
22 a birth certificate."
23 The email suggests that she was not provided
24 an MV 3002, correct?
25 A. It appears. Correct.

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1 Q. Is there any reason why she wouldn't have been
2 provided an MV 3002 on November 3, 2011?
3 A. Not that I know of.
4 Q. And that is the sort of workaround -- today that's
5 how you would respond to the GAB Elections
6 Specialist David Buerger's question, "do we have a
7 workaround for this," correct?
8 A. Correct.
9 Q. She would be able to send that to Iowa, Iowa would
10 certify there's no record of birth, and then that
11 plus her baptismal certificate would be sufficient
12 proof of citizenship?
13 A. Correct.
14 Q. And lastly, do you know if Iowa's Vital Records
15 Office would even complete the MV 3002 form?
16 A. I don't know.
17 Q. Do you know whether Wisconsin -- at least
18 Wisconsin vital records offices, both state and
19 local, are familiar with the MV 3002 form?
20 A. I don't know.
21 Q. Then lastly, on the next document, Exhibit 51, if
22 you flip to the second to last page which is
23 Bates stamp No. D1981, under the second black
24 bullet point, not arrow, you see where it says,
25 "Amish/Mennonites: GAB has been contacted by

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1 people helping the Amish and Mennonite communities
2 and the issue is that many in the communities do
3 not have a birth certificate, which leads to them
4 not having a social security card. GAB is trying
5 to get a contact in the Social Security office to
6 figure out how to help them. DMV customer service
7 centers may start to see some documents due to
8 this."
9 Have you heard about this issue at all,
10 specifically with respect to the Amish/Mennonite
11 community?
12 A. I have.
13 Q. And what follow-up has DMV engaged in?
14 A. I don't know.
15 Q. Should there be any sort of outreach as -- you
16 know, on the MV 3002 form, knowing now at least
17 through GAB that this is a particular religious
18 community that for whatever reason they lack
19 records of their birth typically?
20 A. So should there be --
21 Q. Should there be outreach by either DMV or GAB and
22 who should do the outreach?
23 A. Well, if they're requiring documents for voting,
24 GAB would be the likely outreach.
25 Q. Should DMV reach out to these folks at all to let

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1 them know about this alternative procedure to
2 proving name and date of birth and citizenship
3 since it's not up on the website?
4 A. Sure. They probably don't use the website either.
5 Q. Right. Right.
6 A. Yes.
7 Q. That's an excellent point. All right. But in
8 lieu of, you know, the fact that it's also likely
9 not just lying around on brochures --
10 A. Correct.
11 Q. -- at the local DMV office, there probably should
12 be some outreach specifically to this community,
13 right?
14 A. Correct.
15 Q. And who would engage in that at DMV's office? Who
16 would be responsible for that?
17 A. It could be DMV staff. It could be DOT's Office
18 of Public Affairs that would get involved.
19 Q. And in the absence of that sort of targeted
20 outreach, these folks might look at the
21 application requirements, see that a birth
22 certificate is required, not see any public
23 information on MV 3002, and they might simply give
24 up, correct?
25 MS. BENEDON: Objection. Calls for

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1 speculation.
2 THE WITNESS: That might be the case.
3 BY MR. SHERMAN:
4 Q. I'd like to ask you a number of questions about
5 the sort of name discrepancies between birth
6 certificate -- what's listed on a birth
7 certificate and what's listed on other primary
8 documents submitted to DMV field offices.
9 Are there any written rules, policies,
10 standards, or procedures for dealing with those
11 sorts of name discrepancies?
12 A. I don't know.
13 Q. Have you ever heard of any?
14 A. I would imagine that there are, but I don't know
15 what they are.
16 Q. And you would think Jim Miller would be the likely
17 person to know?
18 A. He didn't say me. I'm pretty sure he didn't say
19 me on that one.
20 Q. No, he did not. An applicant with an error on his
21 or her birth certificate -- or I should say it
22 differently.
23 An applicant with a name discrepancy between
24 their primary documents, to obtain a driver's
25 license or state ID, they can't make use of an

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1 MV 3002 form, correct?
2 A. Can you state it again?
3 Q. If a person has a record of their birth but it
4 just has an error in the name, there's no call for
5 an MV 3002 form, correct?
6 A. I don't believe that that would be used for that.
7 Q. Okay. Could we take a look at Exhibit 53? Do you
8 recognize this document?
9 A. This appears to be a statement by Jim Miller in
10 the Ruthelle Frank case.
11 Q. And is it a true and accurate copy?
12 A. I have no reason to think it is not.
13 Q. And so do you see in paragraph 6 on page 2 -- and
14 you're familiar with Ruthelle Frank's situation?
15 A. Somewhat.
16 Q. So you're aware at least of the basics that her
17 birth certificate has one letter missing from her
18 maiden name? It was supposed to be spelled
19 Wedepohl with an H and was spelled, as you see in
20 paragraph 7, Ruthelle Wedepol without the H. Do
21 you see that?
22 A. Um-hum.
23 Q. Assuming for the moment that those are the facts
24 of the case, why in paragraph 6 would Jim Miller
25 have suggested "I offered to send her form to

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1 request her certified birth certificate (MV 3002)
2 to which she responded she already had received
3 one"?
4 If the MV 3002 form is solely for the
5 situation where there is no record of birth on
6 file, why would Jim Miller suggest that Mrs. Frank
7 use one in this case?
8 MS. BENEDON: Objection. The question
9 assumes an incorrect fact that has not been
10 testified to.
11 MR. SHERMAN: Which fact would that be?
12 MS. BENEDON: That the MV 3002 only
13 serves one purpose, which is the purpose that you
14 just stated. I don't think it was testified to
15 that it serves only that one purpose.
16 BY MR. SHERMAN:
17 Q. I think Mr. Fernan has testified that it only
18 serves the purpose, right, where someone has --
19 A. I think I said --
20 Q. -- no record of birth on file?
21 A. I thought it did.
22 Q. Right. So assuming that you're correct in your
23 understanding that the MV 3002 form only applies
24 when there's no record of birth on file, why would
25 this have been suggested as an option for

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1 Mrs. Frank?
2 A. Well, it's my recollection that when this case
3 first came to our attention, she stated that she
4 did not have a birth certificate, or at least
5 that's how Jim understood the facts. And so he
6 sent her the MV 3002 because, as I recall, she had
7 said she couldn't get a birth certificate or
8 didn't have a birth certificate.
9 And then it was later revealed that she did
10 have access to a birth certificate and then there
11 was the name issue. That's my recollection.
12 Q. So your recollection is, is that initially Jim
13 understood it that she did not have a birth
14 certificate and may not have had any record of her
15 birth whatsoever?
16 A. That's what I recall.
17 Q. Have you discussed the issue of erroneous names on
18 documents or name discrepancies with GAB?
19 A. I haven't personally.
20 Q. Do you know if anyone -- or have you heard of any
21 communications like that with GAB?
22 A. There may have been. I'm not -- I don't recall.
23 Q. Can we go back one document to Exhibit 52? And do
24 you recognize this document?
25 A. This appears to be a summary of actions that were

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1 agreed to in a meeting between GAB and DOT and DOT
2 staff.
3 Q. And is it a true and accurate copy?
4 A. I believe so.
5 Q. And did you attend this meeting? You can take a
6 look through.
7 A. I don't believe so. I think I only attended the
8 first meeting with GAB staff, which would have
9 been quite a long time ago.
10 Q. Understood. So you have no idea when this meeting
11 might have occurred because there's no time and
12 date stamp on it?
13 A. This appears to have been -- would have been --
14 judging by ID, it would be before the
15 20-hour-a-week offices opened, which would have
16 been late January 2012.
17 Q. So sometime in 2011?
18 A. Yeah. Or early -- very early '12. Yeah.
19 Q. Do you see down at the bottom of the first page --
20 I want to ask you about this first. "Does the DOT
21 have a statutorily defined list of acceptable
22 documents or does the DOT have flexibility to
23 consider other documents?"
24 I assume this was a question GAB posed to
25 DMV. And it goes on to say, "Wis. Stat. Section

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1 343.14" -- which we've reviewed -- "and 343.50
2 seem to be the controlling sections."
3 "1. Does the name have to exactly match on
4 the statutory or nonstatutory documents?" And
5 then in brackets it says, "Whether the name has to
6 exactly match for voting purpose may be a
7 determination for GAB to make."
8 Would GAB have authority to set a DMV policy
9 with respect to name discrepancies on different
10 documents offered in support of a driver's license
11 or state ID card application?
12 A. No.
13 Q. And that's true even though voting is now
14 implicated, correct?
15 A. Correct.
16 Q. So what was meant by this bracketed line here from
17 a meeting that involved both GAB and DMV
18 personnel?
19 MS. BENEDON: Objection. Calls for
20 speculation.
21 BY MR. SHERMAN:
22 Q. If you know.
23 A. I don't know.
24 Q. Okay. But it seems to suggest that there at least
25 might be the possibility, right, that GAB would

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1 have some say in how DMV is treating name
2 discrepancies on documents submitted in support of
3 an application for a driver's license or a state
4 ID card, correct?
5 A. No. That's just not the case. They don't have
6 any authority.
7 Q. Has any sort of policy come out of this meeting as
8 far as you know as to how to treat name
9 discrepancies on documents supporting a DMV
10 driver's license or state ID card application?
11 A. So has a change come out of this meeting? Not
12 that I'm aware of.
13 Q. So as far as you know, there's still no policy on
14 name discrepancies?
15 A. I don't know if there is or isn't.
16 Q. And has any other organization or agency raised
17 any concerns about these kinds of problems?
18 A. Name discrepancies?
19 Q. Right. Specifically name discrepancies between
20 birth certificates and other documents used in
21 support of an application.
22 A. Well, the instances that I've become aware of
23 typically predate voter ID. It's where the social
24 security check comes back with a mismatch where
25 the name the person has doesn't match up with

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1 what's on social security, and then that needs to
2 be resolved.
3 Q. This is the SSOLV procedure you're talking about?
4 A. Correct. I can't think of examples where a
5 mismatch has happened since voting ID where
6 somebody has been denied a product as a result.
7 Q. So all the instances you know of where there's
8 been a name discrepancy between a birth
9 certificate and other primary documents, DMV has
10 been able to satisfy themselves using the SSOLV
11 check, correct?
12 A. No. I meant to say that the problems that have
13 arisen have arisen as a result of the SSOLV check
14 most normally.
15 Q. You're not personally aware of any circumstances
16 where the problem was apparent on the face of the
17 documents presented?
18 A. Well, aside from just reading the thing about
19 Ruthelle Frank's birth certificate.
20 Q. Right. Other than what, yeah, I just showed you.
21 A. Yeah. I haven't -- I'm not familiar with -- or I
22 don't recall any having occurred recently.
23 Q. So if you could take a look -- I guess you won't
24 be familiar with it, but we'll at least review it.
25 On the second page of this document under 6A, if

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1 you could just read that paragraph.
2 A. Okay.
3 Q. Is this the kind of circumstance in which a local
4 CSC supervisor in consultation with you and/or
5 Kristina and/or Jim would be able to make a
6 determination and issue a state ID card?
7 A. I think in the past -- there's somebody named
8 Phil Alioto, who is our DMV fraud supervisor. He
9 interacts frequently with the immigration agencies
10 and such, and he would look through the
11 documentation and talk to Jim Miller and they'd
12 work out what needed to be worked out. And based
13 on this limited information here, I would assume
14 the person will be issued a product.
15 Q. What is this -- what should have happened in this
16 scenario? Well, let me just get that name again
17 one more time. What was it?
18 A. Phil Alioto, A-L-I-O-T-O.
19 Q. Okay. So what should have happened in
20 Genevieve Winslow's case?
21 A. Based on this fact situation, I mean, it's not all
22 the details here.
23 Q. Right.
24 A. And typically when you're hearing from a
25 constituent, they don't provide a lot of very

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1 important details.
2 Q. Okay.
3 A. But based on this fact scenario, I would assume
4 that after additional checking the person would be
5 issued a product.
6 Q. And is that because of the perceived close --
7 A. Exactly.
8 Q. -- you know, closeness between Genava and
9 Genevieve?
10 A. Correct.
11 Q. What makes those two names close, quote, unquote?
12 A. The spelling, you mean? The spelling?
13 Q. The spelling, just having the first three letters
14 in common?
15 A. And I would assume there is a documentation trail,
16 that she has a number of documents that all lead
17 to that conclusion.
18 Q. Do you know if she got an ID?
19 A. I don't know.
20 Q. And again, back on the Jim Miller declaration,
21 which is the document after this, the first
22 paragraph, do you see where it says -- you know,
23 he just describes how this sort of review
24 procedure would go for a problematic case.
25 "I become involved in situations where a

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1 customer has been turned away at a service center
2 for incorrect or lack of documentation. Working
3 with the customer, I try to direct them through
4 the proper channels to obtain the correct
5 documentation. In cases of documents having
6 errors, I direct the customer to work with the
7 supervisor at their local DMV office, advising
8 them to bring in as much information as possible
9 to account for the error. Since I do not examine
10 the documents, the final call of the issuance of a
11 product comes from the local supervisor."
12 Is that your understanding of how that
13 procedure would work?
14 A. Yeah. Sometimes people like Phil Alioto would do
15 additional research for either the supervisor or
16 for Jim Miller. But I believe it's true that Jim
17 typically doesn't have the documents in hand.
18 Q. And so ultimately, whether Phil Alioto does more
19 investigation, whether they consult Kristina or
20 yourself, ultimately the local CSC supervisor must
21 make the call on how and whether to reconcile the
22 sort of differing names on the documents?
23 A. Typically. Although, you know, I think that
24 almost always there's consensus reached between
25 Phil and the supervisor and/or Kristina. And the

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1 reason -- just to clarify, the reason I brought
2 Phil up, he -- the one we were talking about with
3 somebody who had been born outside the
4 United States, Phil's area of expertise is
5 immigration documents and stuff.
6 Q. Understood.
7 A. That's why I specifically brought him up.
8 Q. Understood. And Phil would do an investigation
9 even though the person was clearly a U.S. citizen
10 and --
11 A. No.
12 Q. -- you were just investigating --
13 A. No.
14 Q. Okay. So he probably wasn't involved in the
15 Genevieve Winslow.
16 A. Well, I thought it said she was born in -- oh, her
17 parents were from Poland. I misread that. I'm
18 sorry. I thought it said she was from Poland.
19 Q. She's 83 years old, if she's not a citizen by this
20 point. Is it possible that a field agent would
21 ever make a call like this on the spot or you're
22 confident that they would always kick a case like
23 Genevieve Winslow's up to the CSC supervisor?
24 A. Is it possible? Yes, it's possible that they
25 could act on their own.

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1 Q. So they may just exercise discretion and she would
2 not be issued a state ID card? They may not say,
3 hey, this is a problem case and bring it to their
4 supervisor's attention?
5 A. That's possible.
6 MS. BENEDON: Objection. Calls for
7 speculation.
8 THE WITNESS: Sorry. That's possible.
9 BY MR. SHERMAN:
10 Q. Do you know if there's any training on how to
11 circulate or report sort of problematic situations
12 like that to their supervisor or to people at main
13 DOT?
14 A. I believe there's training, but I don't know what
15 that training is.
16 Q. And given that even -- you said even a field agent
17 might make a discretionary call in these
18 circumstances, so there could be sort of
19 widespread inconsistency when these problematic
20 cases regarding name discrepancies occur, correct?
21 A. I'd like to believe it's not widespread, but there
22 certainly could be inconsistency.
23 Q. So that would call for, you know, sort of
24 having -- if there were a uniform written policy
25 or procedure in place, that would at least

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1 minimize the risk of inconsistency, correct?
2 A. Correct.
3 Q. Did anything other than a review of her case file
4 motivate the decision to accept Ruthelle Frank's
5 misspelled birth certificate?
6 A. I didn't know that it had been accepted, so --
7 Q. I should rephrase that.
8 Did anything other than the review of the
9 file motivate the decision that Jim Miller
10 outlines in this document, saying if she brings in
11 her birth certificate, notwithstanding the
12 spelling -- misspelling, she will likely be
13 granted a state ID card, correct?
14 MS. BENEDON: Objection. Calls for
15 speculation.
16 THE WITNESS: Can I read the --
17 BY MR. SHERMAN:
18 Q. Sure. Yeah. And look specifically at paragraph 6
19 and paragraph 8.
20 A. So Jim's saying if she gets a certified copy of
21 her birth certificate, that she would be issued a
22 product despite the inconsistency in names. That
23 is exactly the outcome I would expect in any case
24 like this.
25 Q. And is there any reason to believe that that is

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1 certain or merely likely given that local CSC
2 supervisor has the quote, unquote final call?
3 A. Can you ask the question again?
4 Q. Sure. I mean, if the CSC supervisor has the final
5 call to make the determination, then Jim Miller's
6 suggestion is just merely a suggestion, correct?
7 A. Correct.
8 Q. And if you could turn to Exhibit 66 quickly. I'm
9 interested in Bates stamp No. D3226, so page 5.
10 And you see under proof of name and date of birth,
11 under subsection (b), the second note, it says,
12 "If the processor is not satisfied that the
13 document is authentic, do not accept it (Follow
14 guidelines under BFS P&P 07-01)."
15 Do you understand this note to say anything
16 about how field staff should treat a name
17 discrepancy on a document?
18 A. This has -- in my reading of it has nothing to do
19 with a name discrepancy.
20 Q. Okay. And then if you could flip to Exhibit 87.
21 It's just a handwritten note on the bottom left.
22 And to help you find it, it should say
23 "Identification Documents" at the top.
24 A. Okay.
25 Q. Do you recognize this document?

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1 A. This appears to be a BFS memorandum on handling
2 identification documents.
3 Q. And is it a true and accurate copy?
4 A. I believe it is.
5 Q. Have you ever seen this document before?
6 A. I may have. I don't recall.
7 Q. Is this just a policy on when to confiscate an
8 article or an item that's been submitted that a
9 field agent concludes is not genuine or has been
10 otherwise altered or is it broader and has
11 something to say about name discrepancies?
12 A. So can you ask the question one more time? I'm
13 sorry.
14 Q. Sure. Does this document have anything to say
15 about name discrepancies on birth certificates?
16 Is this a policy to address them?
17 A. No. It does not appear to be.
18 Q. Is this just a policy to deal with the
19 confiscation of documents that for other reasons
20 appear to be inauthentic?
21 A. Or belong to someone else.
22 Q. Or altered, et cetera?
23 A. Correct.
24 Q. I just wanted to clarify that.
25 Are you familiar with Andreo Trokan's case?

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1 A. The name isn't familiar to me.
2 Q. Okay. I'll just describe it, you know, as a
3 hypothetical. You know, you tell me how it should
4 come out.
5 Andreo Trokan basically has a birth
6 certificate that says his name is spelled
7 A-N-D-R-E-O. Trokan is spelled T-R-O-K-A-N. His
8 name on all his other documents is Andrew Trokan.
9 It's basically an Americanized version. It's off
10 by just that one letter, O to W.
11 Is there any reason the outcome in that case
12 should be any different from the outcome in
13 Ruthelle Frank's case, assuming he has all the
14 other documents?
15 A. Assuming the document creates the belief that that
16 is the same person, then he should be able to
17 obtain a product.
18 Q. Without supplemental documentation of his birth,
19 correct?
20 A. You mean in terms of not having legal presence
21 documents or --
22 Q. Right. So for legal presence, he brings in a
23 birth certificate that's off by one letter. Let's
24 say he has his social security card and his proof
25 of residency. Should a state ID card issue to

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1 him?
2 A. If our staff believed that that birth certificate
3 belongs to him and he's got all the other required
4 proof, then yes, it should be. He should be
5 issued a product.
6 Q. It's basically a judgment call for the field staff
7 to make as to whether that's the person -- whether
8 the same person reflected in all these other
9 documents, like social security card, whether
10 that's the same individual reflected on the birth
11 certificate, correct?
12 A. Correct. It doesn't seem like there's a lot of
13 judgment there, but yeah.
14 Q. And you say that just because it's off by just one
15 letter?
16 A. Correct.
17 Q. If it were off by two letters or three letters,
18 would it be harder to close the gap and make that
19 judgment?
20 A. A little more judgment. I don't know.
21 Q. A little more judgment. Okay. Is there any way
22 to sort of deal with those sorts of issues in a
23 systematic way, you know, where there's different
24 misspellings between the primary documents?
25 A. Well, we've been dealing with those issues for

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1 years.
2 Q. If you've been dealing with these issues for years
3 and just sort of making judgment calls as to them,
4 why in all that time has no written policy or
5 procedure emerged on how to deal with them? I
6 mean, you said you're concerned with consistency
7 regardless of whether it has to do with voting or
8 not. You're just serving customers.
9 A. Well, my opinion would be that if you set out a
10 formal exceptions process, you're narrowing
11 down -- you're going to have fewer exceptions made
12 that are made today anytime you set something out.
13 It's just -- you're expanding maybe the list of
14 documents, but there's still always going to be
15 issues that need to be given discretion, that you
16 need to allow people to use their professional
17 acumen and make decisions.
18 Q. So you're basically saying the driver's license
19 issuance and the state ID issuance process,
20 there's going to be an inherently discretionary
21 aspect to it at some level?
22 A. In not very many cases, but there will be some
23 cases that it is involved.
24 Q. Okay. If you could take a look at Exhibit 33.
25 And do you have any basis to say it's not

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1 many cases? I mean, not many of these are
2 crossing your desk, correct?
3 A. Correct.
4 Q. And you've never worked in a CSC, correct?
5 A. Correct.
6 Q. So you have no firsthand knowledge, right, of
7 whether it's many cases or just a few cases,
8 correct?
9 A. Correct.
10 Q. Exhibit 33, do you recognize this document? I
11 know you're not CC'd on it.
12 A. I do not.
13 Q. Do you have any reason to doubt its authenticity?
14 You can take a moment to review it.
15 A. I don't have any reason to doubt its authenticity.
16 Q. And once you're finished, are you aware of the
17 situation it describes?
18 A. I don't recall. It's vaguely familiar, but I
19 don't recall exactly what happened here.
20 Q. So he had Kraske on his birth certificate and
21 Krajewski was the name he used throughout his
22 life. Do you have any reason to distinguish this
23 sort of case from a Genevieve Winslow or from a
24 Ruthelle Frank or an Andreo Trokan?
25 A. It depends what was presented. I'm not sure what

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1 was presented.
2 Q. Let's assume he has all of his other documentary
3 proof squared away. What should happen in this
4 case solely just on the birth certificate
5 discrepancy?
6 MS. BENEDON: Objection. Calls for
7 speculation. You can answer.
8 THE WITNESS: Um-hum. I think it
9 depends on the documentation, but if he had
10 sufficient documentation and the difference was --
11 the only issue involved was that misspelling or
12 difference in spelling, I would expect that the
13 field staff would bring this to their supervisor,
14 you know, to decide if an override was
15 appropriate.
16 BY MR. SHERMAN:
17 Q. And would they require supplemental documentation
18 in that case? I mean, just how would it go?
19 A. That I can't -- I don't know. It depends on what
20 he presented originally. But our job is to
21 establish identity, and that needs to be done.
22 And if they needed more documentation, that might
23 be required.
24 Q. And is this a little bit more difficult of a case
25 than Genevieve Winslow's; and if so, why?

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1 A. Again, I don't know what Genevieve provided. I
2 don't know what Mr. Krajewski provided.
3 Q. Well, just in terms of the --
4 A. But it seems similar.
5 Q. Right.
6 A. They seem very similar.
7 Q. So just on their face of the difference between
8 Genava and Genevieve and the difference between
9 Kraske and Krajewski, you don't see a principled
10 way to distinguish between the two cases, correct?
11 A. If all the documentation was there, I would decide
12 both of them the same.
13 Q. But is it possible that field staff -- a field
14 agent could reject this outright without bringing
15 it to their CSC supervisor just on the basis of
16 that discrepancy?
17 A. Yes.
18 Q. And then in that case, no one would ever learn of
19 it. No one higher than that field agent would
20 ever learn of it, correct?
21 A. Unless he brought it through a different
22 mechanism, yes, that is correct.
23 Q. Is there any way for a field agent or a CSC
24 supervisor to sort of judge whether or not the
25 name discrepancy is due to an Americanization or

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1 due to a misspelling, a bureaucratic error, or do
2 they just have to rely on what they're told by the
3 customer?
4 A. Well, I know we had a case -- this is several
5 years ago -- where Phil Alioto and the customer,
6 they actually dug -- the customer I think went to
7 Chicago to dig through old immigration records.
8 Somebody had come here as a 6-year-old. They
9 still had a green card that was green. And they
10 were trying to get a Wisconsin product, and they
11 had to do a lot of research to establish it. But
12 I believe the person got the product.
13 And I think every situation is so varied,
14 which is another reason why it's so difficult to
15 write down an exceptions process when there's a
16 million variations.
17 Q. Over the decades you've probably seen the whole
18 variety of situations like this and no two cases
19 have been exactly alike, correct?
20 A. There's been a lot of variation. Correct.
21 Q. And you've had different people, you know, sort of
22 making final determinations on this, so it's not
23 like one person has sort of had the knowledge and
24 been recording it and making sure they are
25 consistent in their determinations, correct?

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1 A. Yes.
2 Q. If you could look at Exhibit 32. Shouldn't there
3 be some sort of general public notice, though,
4 that exceptions might be made as to name
5 discrepancies so a person knows that just from
6 looking at your application or from your website?
7 A. Again, you know, you're striking a balance between
8 how much information do you dump out there and
9 then people don't read the important stuff and the
10 fact that people come in with name discrepancies
11 and we deal with it. Not every day, but
12 frequently.
13 Q. Do you recognize the document before you by any
14 chance?
15 A. I do not.
16 Q. What does it appear to be?
17 A. It's two emails from -- one is from a citizen and
18 one is back from GAB.
19 Q. Do you have any reason to doubt the authenticity
20 of this document?
21 A. I do not.
22 Q. You can take a moment to read it. I just want to
23 ask you a few questions about it.
24 A. Okay.
25 Q. Do you know about the situation described in this

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1 document?
2 A. I think that I do.
3 Q. And how was it resolved?
4 A. Oh, wait. This was just in January. I've had
5 this issue before, but actually don't think I'm
6 aware of this specific one. Excuse me.
7 Q. Let's talk about the other situation first. You
8 had an earlier case that was sort of like this
9 with nuns who had a name discrepancy issue?
10 A. Yeah. There was a nun who wanted to go by -- who
11 wanted her first name listed as Sister.
12 Q. That's basically the same situation here.
13 A. Okay. Yeah.
14 Q. And how was the case you're thinking of, how was
15 that involved?
16 A. I don't recall. I think Jim Miller was involved
17 in that one, but I'm not positive. It might have
18 been -- yeah.
19 Q. You don't remember her name or the church she was
20 affiliated with?
21 A. No. It was a Catholic nun. It might have been in
22 the Green Bay -- well, there's Buddhist nuns.
23 There's other nuns. It might have been in the
24 Green Bay area or the Fox Valley, and I think that
25 she may have legally changed her name.

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1 Q. To the Sister name?
2 A. To Sister whatever it was.
3 Q. By a court proceeding?
4 A. Correct. Correct. But I'm not sure. And I
5 don't -- this has come up before, as I said, and I
6 don't know how we handled that.
7 Q. So you don't know if there's a written policy or
8 procedure on how to deal with these sort of
9 assumed religion names?
10 A. I don't know.
11 Q. In this specific case described in Exhibit 32 with
12 the Franciscan Sisters of Perpetual Adoration, it
13 suggests they all have birth certificates and the
14 convent has a Book of Life, which contains an
15 historical record for each nun.
16 Would the nuns described here be compelled to
17 bring in that -- a photocopy of that Book of Life,
18 you know, to prove the continuity of their name
19 change or would a state ID card simply issue based
20 on their representation that they are who they say
21 they are in the birth certificate?
22 A. I don't know. I don't know how this would have
23 been resolved.
24 Q. As far as you know, there's no sort of exemption
25 for assumed religious names. They would probably

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1 have to -- well, let me ask it this way.
2 What do you do if somebody has a legal name
3 change like you were describing? Is there a
4 policy with how to deal with somebody who had a
5 name change by a court proceeding?
6 A. Well, I believe they would bring in the court
7 document with the name change and we would change
8 the name on their record to their -- and I'm not
9 sure exactly how previous names are tracked in our
10 records system. I'm not sure how that's handled.
11 Q. For like -- let's take -- for purposes of the
12 hypothetical, let's take an original applicant.
13 A. Okay.
14 Q. Never had a Wisconsin driver's license or state ID
15 card, isn't in your system. Brings in a birth
16 certificate where the name is flat-out different
17 from what's on all their other documentation, like
18 their social security card. That person is
19 required, right, to also supply the court records
20 proving the continuity of their name, correct?
21 A. Yes. It's my understanding that that's the case,
22 because otherwise they wouldn't be able to prove
23 that that birth certificate was theirs.
24 Q. Assuming for the moment that that's accurate for
25 original applicants, duplicate applicants, renewal

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1 applicants. Is there a corollary in the situation
2 with the nuns? Is there something similar that's
3 required of the nuns to prove the continuity of
4 their name from birth to their Sister name?
5 A. Yeah. There's a lot of history in DMV on this,
6 because as I've been told, there was a lot more
7 liberality previously and people could use
8 nicknames. They could use kind of a lot of
9 different things. And in the years starting I
10 don't know when, maybe in the '80s or '90s, the
11 system tightened up. And so I'm not exactly sure
12 how it used to be handled and I'm not sure how we
13 exactly handle that now.
14 Q. Is it possible that in the absence of a written
15 policy or procedure that the Franciscan Sisters of
16 Perpetual Adoration were issued state ID cards in
17 their Sister names without being required to show
18 pages from the Book of Life demonstrating the
19 continuity of their name?
20 MS. BENEDON: Objection. Calls for
21 speculation.
22 THE WITNESS: I don't know. I don't
23 know what the Book of Life is either.
24 BY MR. SHERMAN:
25 Q. I assume it's a document which, you know, proves

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1 the continuity of their names from, you know,
2 their previous name to their assumed religious
3 name, but I don't know.
4 Is it possible that the sisters were denied
5 state ID cards?
6 MS. BENEDON: Objection. Calls for
7 speculation.
8 THE WITNESS: Well, I would guess this
9 indicates they had sufficient documentation to get
10 ID cards in their birth names, so it appears they
11 could have gotten ID cards if they wanted them.
12 They had birth certificates, social security
13 cards. Although -- let's see. What does it say?
14 Sisters all have --
15 Q. Social security cards --
16 A. -- social security cards in their name.
17 THE COURT REPORTER: One at a time.
18 MR. SHERMAN: Sorry.
19 THE WITNESS: Yeah. So then I'm not
20 sure.
21 BY MR. SHERMAN:
22 Q. So a different category of sort of name
23 discrepancies that we've come across are sort of
24 name transpositions. And what I mean when I say a
25 name transposition, I mean reversal of two of the

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1 names on the birth certificate. So my name is
2 Jon Lee Sherman. Assume that the birth
3 certificate would have Lee Jon Sherman or Jon
4 Sherman Lee. Something like that. Are there any
5 written rules, policies, standards, or procedures
6 to deal with that scenario?
7 A. I don't know.
8 Q. So you have no idea whether generally such a
9 document will be accepted, assuming there's no
10 misspellings?
11 A. Correct.
12 Q. And there would be no call for using an MV 3002
13 form in such a circumstance, right?
14 A. I don't know.
15 Q. Have you discussed this kind of issue with GAB or
16 any other agency?
17 A. I have not.
18 Q. Have any agencies such as GAB raised it with your
19 organization?
20 A. Well, I think some of the emails that I've just
21 reviewed have had them passing that issue on to
22 us, to other people.
23 Q. Name transposition specifically or just --
24 A. Oh, no. You're right. So I'm not aware of it.
25 Q. Are you aware of any cases like this?

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1 A. I'm sure we've had some. I can't think of any
2 specifics.
3 Q. I'm going to give you just a couple examples. One
4 of them, a plaintiff in our case, his name is
5 Eddie Lee Holloway, Jr. His birth certificate has
6 his name written as Eddie Junior -- written out,
7 Junior -- Holloway, and they left Lee off. And
8 then his father's name appears on the birth
9 certificate as Eddie Lee Holloway.
10 He was denied a state ID card on this basis
11 at a DMV office and was basically told he would
12 need to amend his birth certificate. Was that the
13 correct determination?
14 A. I don't know what all was brought in or what other
15 documentation he had, so I can't answer that.
16 Q. Let's assume for the moment he had satisfied all
17 the other documentary proof requirements. Just
18 based on the proof of citizenship requirement,
19 focusing on that birth certificate, what should be
20 the determination just on that?
21 A. Well, what other documentation did he have with
22 name on it? I think that would depend.
23 Q. He had a social security card that says Eddie L.
24 Holloway, Jr. He had an expired -- he had an
25 unexpired, I believe, Illinois state ID card that

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1 said Eddie L. Holloway, Jr. And all of his mail
2 was in Eddie L. Holloway, Jr., as well.
3 A. So in this case I would bring it to Jim Miller and
4 ask him what we should do if it came to my
5 attention.
6 Q. Just because you've never -- there's no policy and
7 you've never heard of anything like that and Jim
8 would be the go-to guy?
9 A. Because I'm sure Jim has dealt with it before.
10 Q. But isn't his -- his identity is sort of readily
11 ascertainable from that, right? I mean, isn't it
12 clear some bureaucrat just made an error at one
13 point?
14 A. I can't answer that without knowing all the
15 details, and I would again defer to Jim because
16 he's the expert in these areas.
17 Q. Okay. I mean, is there any principled way to
18 distinguish that sort of case from Ruthelle Frank
19 or Andreo Trokan, Genevieve Winslow, or
20 John Krajewski, all of whom you said should be
21 issued state ID cards?
22 A. All of those would be on a case-by-case basis.
23 And so the three you that you presented me before,
24 I think that those cases, based on what you said,
25 were there. And this one, it's a different set of

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1 circumstances, and it very well could end up being
2 that I would say he should be issued, but I just
3 don't know enough to say that in this case.
4 Q. Is there any other circumstance -- let me rephrase
5 this.
6 Is there any sort of -- let's assume for the
7 moment that an ID card could not issue to Eddie L.
8 Holloway, Jr., unless he got an amendment to his
9 birth certificate. Would there be any principled
10 way to make that distinction, you know, from
11 Ruthelle Frank or Andreo Trokan?
12 A. I don't understand the question. I'm sorry.
13 Q. Is there any way to distinguish, or rank sort of,
14 these different name discrepancies? Is a name
15 transposition of more concern or requires more of
16 a judgment call than a name misspelling, on the
17 other hand, or Americanization of a name?
18 A. It is different, I think, because of the
19 transposition. But I -- as I said, Jim Miller has
20 dealt with many of these instances. There is
21 experience along with the field supervisor in
22 terms of having dealt with fraud, looking at the
23 record that they've established, all the documents
24 they'd have. I'd want to know what they think
25 about this one.

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1 Q. And similarly, it's a similar case -- are you
2 aware of the process for amending an inaccurate
3 birth certificate?
4 A. I'm not.
5 Q. You don't know how much it costs or what the
6 mechanics of it are?
7 A. Correct.
8 Q. So there's another case of a woman named Bridget
9 Marian Nowak. And all that's wrong on her birth
10 certificate -- there's no misspellings. They've
11 just switched Bridget and Marian. So her name
12 reads Marian Bridget Nowak. Is that the kind of
13 case where in consultation with Jim you might be
14 able to issue a state ID card?
15 A. Correct. Depending on what documentation is there
16 and the package that's been created.
17 Q. If she has all other documentation and her real
18 name is Bridget Marian Nowak, then it should be
19 fine?
20 A. They'd have to determine if maybe that birth
21 certificate was issued to somebody whose name was
22 that on the birth certificate, but when you bring
23 in a package of documentation that shows that, I
24 think that requires somebody to take a look at it.
25 Q. And if they were able to do an investigation and

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1 say that there is no person on file who was named
2 Marian Bridget Nowak as born in wherever she was
3 born -- let's say it's Wisconsin -- then it should
4 be fine to issue a state ID card in that case and
5 just make the judgment call that she is the person
6 reflected on the birth certificate?
7 A. You mean, like, check with -- I don't know what
8 you mean by "investigation."
9 Q. Check with the Vital Records Office to see or, you
10 know, there's other ways of just assessing whether
11 or not there's anyone out there named Marian
12 Bridget Nowak who's residing in Wisconsin,
13 et cetera.
14 A. Let's say it is certainly true that I would expect
15 our staff to do additional research on this one to
16 see if it could be issued.
17 Q. Is it possible that some people with name
18 discrepancies simply won't come in to see a
19 customer service center? Because of these
20 defects, they'll just assume that they won't be
21 able to get a state ID card?
22 MS. BENEDON: Objection. Calls for
23 speculation.
24 THE WITNESS: It's possible.
25

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1 BY MR. SHERMAN:
2 Q. Is it possible that people with name discrepancies
3 are told that they can't get a state ID card on
4 the basis of these name discrepancies?
5 MS. BENEDON: Objection. Calls for
6 speculation.
7 THE WITNESS: By DMV staff do you mean?
8 BY MR. SHERMAN:
9 Q. Right.
10 A. It's possible.
11 Q. And is it possible when told that, they'll just
12 give up and won't sort of press on and try to
13 speak to a supervisor or reach the likes of you
14 and Kristina?
15 MS. BENEDON: Objection. Same.
16 THE WITNESS: It's possible.
17 MR. SHERMAN: Could we take a quick
18 break?
19 (A recess is taken from 2:37 p.m. to 2:42 p.m.)
20 BY MR. SHERMAN:
21 Q. Back on the record. So just to wrap up with some
22 of these name discrepancy issues, in any event,
23 the ultimate call on these problematic name
24 discrepancy cases, that's going to reside with
25 Jim Miller in consultation with the CSC

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1 supervisor, correct?
2 A. Correct.
3 Q. You may get involved, you may be CC'd, but you
4 know, you're going to defer to the expert on these
5 cases, correct?
6 A. Typically.
7 Q. Typically. Okay. And Jim himself has testified
8 at least in his declaration here that you've seen
9 that ultimately the final call may not even be
10 with him. He'll give his expert opinion, but the
11 CSC supervisor has the documents in hand and they
12 should be the ones to make the final, final call,
13 correct?
14 A. Yeah. I would imagine that it's usually a
15 consensus, but I guess that's correct.
16 Q. Talk to me a little bit more about the SSOLV
17 check. Is the SSOLV a way to verify citizenship
18 and/or legal presence without a birth certificate?
19 A. So since legal presence, which was passed in
20 April 2007, for people who are not -- who don't
21 check the U.S. citizen box, then they have to
22 provide those documents that are set out in the
23 statute.
24 For people that check the U.S. citizens box,
25 the SSOLV check is our -- for our renewals is our

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1 de facto citizenship check. For originals, as you
2 know, we require the birth certificate or the
3 passport.
4 Q. Would it be possible for even an original
5 application to use SSOLV as a substitute for
6 documentary proof of citizenship?
7 A. We don't allow that currently.
8 Q. Right. You don't allow that, but is it possible
9 to do that?
10 A. It is what we use for the renewals currently.
11 Q. So in full -- you know, would there be any reason
12 not to use SSOLV as a substitute for providing
13 documentary proof of citizenship mindful of sort
14 of the hassles that can go into both applying for
15 a birth certificate and then reconciling these
16 name discrepancies or the MV 3002 procedure?
17 A. Well, it's a combination of the legal presence,
18 but it's also identity, and the passport or the
19 birth certificate is the single best proof we have
20 for an original applicant for people.
21 When Real ID comes online, for anyone who
22 wants to enroll in Real ID, whether you're an
23 original or a renewal, you'll have to provide the
24 birth certificate or passport. For people who
25 choose to get a noncompliant product, we'll

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1 continue to allow renewal people to proceed as
2 they always have, but at some point, you know,
3 depending on how long it takes somebody, everybody
4 in Wisconsin will be showing a driver's license --
5 excuse me -- a passport or a birth certificate.
6 Q. It is possible, though, that you could engage in
7 rule-making, though, to expand the list of
8 accepted primary documents under 102.15 for proof
9 of legal presence and/or citizenship, correct?
10 A. Except for Real ID. When that comes on, yes. For
11 current products and for noncompliant products,
12 yes.
13 Q. Right.
14 A. Yes.
15 Q. Right. And noncompliant products would be good
16 for voting purposes as well, correct?
17 A. Correct.
18 Q. How long would that take? Do you think, you know,
19 just if you had to give an estimate -- let's say
20 you started right at the implementation of Real ID
21 with a scope statement. How long would it take
22 just hypothetically to liberalize the proof of
23 citizenship and name and date of birth list for
24 noncompliant products?
25 A. What we've been told is that rule-making has

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1 become a very, very long process and it takes up
2 to a year to change rules.
3 Q. So you're looking at the beginning of 2014 at a
4 sort of minimum?
5 A. Well, we've started the process now for --
6 Q. Well, for residency. Right. But when I showed
7 you a scope statement --
8 A. And for Real ID. And for free identification
9 cards.
10 Q. Correct. When I showed you that scope statement
11 earlier -- I forget which exhibit number it is --
12 you said that it did not embrace sort of
13 liberalizing the proof of citizenship and proof of
14 name and date of birth requirements. Is that
15 still correct?
16 A. It's not in there. I don't know that we're
17 prohibited from considering it. That's a legal
18 question.
19 Q. And when you search someone using the SSOLV check,
20 are you searching by social security number or
21 name and date of birth? How does that work
22 exactly?
23 A. I don't know exactly.
24 Q. Okay.
25 A. I believe it looks at gender, name, and date of

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1 birth.
2 Q. And do you know where -- let me show you
3 Exhibit 69. So you see Exhibit 69. Do you
4 recognize this document?
5 A. It appears to be a Bureau of Field Services
6 document relating to the driver's license and
7 identification card application.
8 Q. So this is Section 445 of the driver's license
9 manual, correct?
10 A. It appears to be that, yep.
11 Q. And is it a true and accurate copy as far as you
12 know?
13 A. As far as I know, yes.
14 Q. Do you see Section 34? It's on page 4. It says,
15 "Processing name changes. Customer must indicate
16 their former name in proper area and complete
17 'reason for name change' on the application.
18 Customer must show proof of name change."
19 And then on the next page, page 5, 343, "For
20 a legal name change, written proof of court order
21 is recorded on the MV 3001, but is not sent to
22 Madison."
23 This chapter just concerns, as the title
24 suggests, duplicate and reissued licenses or ID
25 cards. Do you know if this sort of legal name

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1 change procedure is reflected in any other part of
2 the DLM or in anything else that's used for
3 training, like a technical and training services
4 update for the other types of applications like
5 original-issue applications?
6 A. I don't know. This is just duplicate, so even for
7 a renewal I would assume that that's the same
8 process. I'm not sure --
9 Q. Yeah. I would assume --
10 A. -- about the originals.
11 Q. -- that too. I just don't know where it's
12 located.
13 A. I don't either. I'm sorry.
14 Q. And we sort of touched on this a little bit
15 earlier, but as far as birth certificates, where a
16 birth certificate is on file and the person knows
17 that but they just simply can't get a certified
18 copy of that birth certificate because they lack
19 either the requisite identification or they can't
20 pay the fee because they're penniless, is there
21 any written rule, policy, or procedure to deal
22 with such a circumstance or --
23 A. There's no hardship waiver.
24 Q. And you're confident that all CSCs know that and
25 aren't sort of applying, you know, random hardship

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1 waivers in certain circumstances?
2 A. I don't believe they are.
3 Q. Is there any affirmative instruction not to do
4 such a thing?
5 A. I don't know.
6 Q. And this wouldn't be a circumstance in which you
7 use an MV 3002, right? Because there's a birth
8 record or birth on file, correct?
9 A. That's my understanding, yes.
10 Q. All right. Enough of proof of citizenship.
11 Lastly, we've talked about this a little bit,
12 the documentary proof of name and date of birth.
13 Do you have Exhibit 24 handy?
14 A. Um-hum.
15 Q. So on page 3, and we've looked at this already
16 before, you see this petition procedure at 3(b)
17 and 3(c)? Right there.
18 A. Okay.
19 Q. And that is sort of -- what is your understanding
20 of how that petition procedure works? Is that the
21 same as MV 3002 or is that a different petition
22 procedure where you send some sort of written
23 procedure to Lynne Judd or one of her designated
24 subordinates?
25 A. Yeah. Looks like 3(c) applies to the 3002. I'm

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1 not sure if -- is that 21(b)? Does that relate to
2 the TWIC card?
3 Q. No. I think the indentation is just a little
4 weird. Are there any sort of guidelines or rules
5 to determine how these petitions should be
6 adjudicated? Because it says at (c), "The
7 administrator may delegate to the subordinates the
8 authority to accept or reject such extraordinary
9 name and date of birth," but it doesn't say much
10 more than that.
11 A. I believe -- I don't know of any formal
12 documentation. I believe Jim Miller has that
13 authority.
14 Q. And then this petition procedure that's outlined
15 in the Trans rules, is that reflected under the
16 proof of name and date of birth section in
17 BDS 316?
18 A. Is that 30?
19 Q. Yes. Sorry. It's on page 2.
20 A. I do not see any discussion of the 3002 form.
21 Q. Is there any reason not to articulate the petition
22 procedure or MV 3002 certification procedure here
23 on BDS 316?
24 A. Well, as I said, it's so infrequent and the need
25 to keep the website kind of free of extraneous is

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1 the argument for not including it. And could it
2 be argued that it should be on there? Yes.
3 Q. Right. I mean, it arguably would not be
4 extraneous, right, for the person who needs it,
5 correct?
6 A. That's true. Correct.
7 Q. And then lastly, on the Exhibit 55, first page of
8 the BFS 14, you see at the bottom of the Proof of
9 Name and Date of Birth column, it says, "See Trans
10 102.15(3)(b) if the person is unable to provide
11 proof of name and date of birth documentation
12 listed above and the documents are unavailable."
13 So I assume this is an internal document
14 that's being used by BFS staff, which is why you
15 mentioned it here but not on the public document,
16 BDS 316, correct?
17 A. Correct.
18 Q. And are you aware of any uses of this petition
19 procedure explicitly if it's different than
20 MV 3002 at all?
21 A. No.
22 Q. Lastly, just to clarify some things on the record,
23 so in general, even looking at the publicly
24 available document -- this is more of an opinion
25 question than anything else -- do you think that

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1 this document is sort of easy to follow for
2 average members of the public?
3 MS. BENEDON: Objection. Calls for
4 speculation.
5 THE WITNESS: 30, you mean?
6 BY MR. SHERMAN:
7 Q. Exhibit 30.
8 A. It is very dense and there is a lot of information
9 there, so I would not say it's easy to follow.
10 Q. And most people probably don't even have access to
11 it unless they go to a CSC, unless they happen to
12 have access to it online and can find it online,
13 correct?
14 A. Can you say it again?
15 Q. Are you handing this out at CSCs? Exhibit 30,
16 BDS 316?
17 A. I don't think we're handing that out. I think we
18 hand out a document that if people are lacking
19 some documents, they're given something with
20 circles on the documents that they need to bring
21 in, I believe.
22 Q. But not this?
23 A. I don't think it's that.
24 Q. Okay. So there's something probably more
25 user-friendly that they're circling documents on?

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1 A. Correct.
2 Q. You have no idea what that's called, though?
3 A. Sorry. No.
4 Q. No worries. And when we're talking about BDS 316
5 and BFS 14, neither of these are formal binding
6 rules, right?
7 A. No. I don't believe they're rules.
8 Q. Only Trans 102.15 are the official binding rules,
9 correct?
10 A. Correct.
11 Q. And are any of DMV's forms, such as MV 3001,
12 MV 3002, or MV 3004, have any of those been
13 through the formal rule-making process?
14 A. I don't know. Not since I've been here, I don't
15 think.
16 MS. ROTKER: Why don't we just take two
17 minutes.
18 (A brief recess is taken.)
19 MR. SHERMAN: Back on the record. The
20 final thing, I'm going to introduce this as
21 Exhibit 105.
22 (Exhibit No. 105 marked for identification.)
23 BY MR. SHERMAN:
24 Q. Do you recognize this document?
25 A. This appears to be a Bureau of Field Services

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1 memorandum relating to acceptable identity
 2 documents.
 3 Q. And is it a true and accurate copy?
 4 A. I believe it is.
 5 Q. And do you know specifically what this policy and
 6 procedure is supposed to accomplish?
 7 A. So this looks like a document that was created a
 8 few months after the legal presence law went into
 9 effect. It seems to loosen up some requirements.
 10 Q. And so under this policy you'd be able to use
 11 something like a passport for as many
 12 documentary -- to satisfy as many documentary
 13 proof requirements as it can, correct?
 14 A. Yeah. It would allow a passport to be used for
 15 legal presence, name and date of birth, and
 16 identity.
 17 MR. SHERMAN: I have no further
 18 questions.
 19 MR. FARLEY: I have no further
 20 questions.
 21 MS. BENEDON: And I just want to confirm
 22 for the record that counsel for the plaintiffs in
 23 the Frank v. Walker case as well as counsel for
 24 the plaintiffs in the Jones v. Deininger case have
 25 had an opportunity to depose this witness.

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1 MR. SHERMAN: That is correct.
 2 MR. FARLEY: That is correct.
 3 MS. BENEDON: And I have no questions of
 4 my own.
 5 (Deposition concluded at 3:03 p.m.)
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1 STATE OF WISCONSIN)
 2 COUNTY OF MILWAUKEE) ss:
 3 I, Lindsay DeWaide, a Registered Professional
 4 Reporter and Notary Public in and for the State of
 5 Wisconsin, do hereby certify that the preceding
 6 deposition was reported by me and reduced to writing
 7 under my personal direction.
 8 I further certify that said deposition was
 9 taken at WISCONSIN DEPARTMENT OF JUSTICE, 17 West Main
 10 Street, Madison, Wisconsin, on the 2nd day of April,
 11 2012, commencing at 9:00 a.m.
 12 I further certify that I am not a relative or
 13 employee or attorney or counsel of any of the parties,
 14 or a relative or employee of such attorney or counsel,
 15 or financially interested directly or indirectly in
 16 this action.
 17 In witness whereof, I have hereunto set my
 18 hand and affixed my seal of office at Milwaukee,
 19 Wisconsin, this 6th day of April, 2012.
 20
 21
 22 LINDSAY DEWAIDE, RPR
 23 Notary Public, State of Wisconsin
 24 My Commission Expires: January 17, 2013.
 25

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