

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

3 NORTH CAROLINA STATE CONFERENCE)
4 OF THE NAACP,)
5 et al.,)

6 Plaintiffs,)

7 vs.)

Case No: 1:13-CV-658

8 PATRICK LLOYD MCCRORY, in his)
9 official capacity as the)
10 Governor of North Carolina,)
11 et al.,)

12 Defendants.)

13 _____)
14 LEAGUE OF WOMEN VOTERS OF)
15 NORTH CAROLINA, et al.,)

16 Plaintiffs,)

17 vs.)

Case No: 1:13-CV-660

18 THE STATE OF NORTH CAROLINA,)
19 et al.,)

20 Defendants.)

21 _____)
22 UNITED STATES OF AMERICA,)

23 Plaintiff,)

24 vs.)

Case No: 1:13-CV-861

25 THE STATE OF NORTH CAROLINA,)
et al.,)

Defendants.)

VIDEOTAPED DEPOSITION
OF
KELLY THOMAS

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VIDEOTAPED DEPOSITION
OF
KELLY THOMAS

9:59 A.M.

TUESDAY, MARCH 3, 2015

OGLETREE DEAKINS NASH SMOAK & STEWART
4208 SIX FORKS ROAD
SUITE 1100
RALEIGH, NORTH CAROLINA

By: Denise Myers Byrd, CSR 8340, RPR, CLR 102409-02

1 10:04 1 Q. Wow, that's amazing.

2 10:04 2 When you finished the 32 years at

3 10:04 3 the -- well, with the Army, what did you do

4 10:04 4 next?

5 10:04 5 A. I assumed the duties as commissioner of DMV.

6 10:04 6 Q. So that was the first job you took after you

7 10:05 7 retired from the Army?

8 10:05 8 A. Yes.

9 10:05 9 Q. Now --

10 10:05 10 A. I had a more relaxed grooming standards than

11 10:05 11 the Army did, so... You didn't ask me that. I

12 10:05 12 thought I would tell you that.

13 10:05 13 Q. Well, you know, these are good things to know.

14 10:05 14 How long have you now been the

15 10:05 15 commissioner at the North Carolina Department

16 10:05 16 of Transportation?

17 10:05 17 A. I signed 1 October 2013. So, I don't know,

18 10:05 18 17 -- 16, 17 months.

19 10:05 19 Q. And what are your responsibilities as

20 10:05 20 commissioner?

21 10:05 21 A. They hired me to be the lead change agent to

22 10:05 22 fix DMV.

23 10:05 23 Q. And what does that mean, the lead change agent?

24 10:05 24 A. They wanted me to change DMV. As you can

25 10:05 25 imagine, there's been several decades of

1 10:05 1 leadership and responsibility that made no
2 10:06 2 changes in DMV, in fact have been resistant to
3 10:06 3 change, and so the Governor and the Secretary
4 10:06 4 asked me if I would assume the responsibility
5 10:06 5 to change it. They didn't give me a left
6 10:06 6 boundary. They didn't give me a right
7 10:06 7 boundary. They said change it, primarily
8 10:06 8 focused on improving the customer-facing
9 10:06 9 portions of DMV, those touch points with
10 10:06 10 customers, the 9 plus million in the state that
11 10:06 11 we interface with daily.

12 10:06 12 And most of this Administration's
13 10:06 13 opinion, DMV is the face of the state
14 10:06 14 government. So as you can imagine, the week
15 10:06 15 before I took this job, they also informed me I
16 10:06 16 was going to be the tax collector for the
17 10:06 17 state. Tax and Tags became a package that
18 10:06 18 started about September of 2013. So now I'm
19 10:07 19 not only the commissioner of Motor Vehicles but
20 10:07 20 I also take all your personal property tax
21 10:07 21 during the vehicle registration and give it to
22 10:07 22 the state.

23 10:07 23 So, again, probably not a very popular
24 10:07 24 position for a DMV employee or contractor; all
25 10:07 25 the more reason why they asked me to change it.

1 10:44 1 Q. 27 days.

2 10:44 2 A. On 1 April. Today it's not done remotely.

3 10:44 3 There are some exceptions for military members

4 10:44 4 carrying a North Carolina identification.

5 10:44 5 If I can remember how technically it

6 10:44 6 works, they go to wherever they are and get an

7 10:44 7 eye test and they mail us their eye test and we

8 10:44 8 renew their license, but, by statute, that's

9 10:44 9 the only exception today.

10 10:44 10 Like I said, on 1 April with online

11 10:44 11 renewal, as long as a person was not suspended

12 10:44 12 for DUI, had a current driver's license, had no

13 10:44 13 change in medical or no change in eyesight,

14 10:44 14 they'd be able to renew their license online

15 10:44 15 for eight years. Their next renewal they would

16 10:44 16 have to come in person to DMV.

17 10:44 17 Federally I can accept your

18 10:44 18 identification, your photo, for 16 years. At

19 10:44 19 the end of that I have to get a new photo.

20 10:45 20 Does that answer your question?

21 10:45 21 Q. Yes.

22 10:45 22 What is your role in developing the

23 10:45 23 plans for the online renewal process?

24 10:45 24 A. Again, I'll answer it by saying I'm the lead

25 10:45 25 change agent, okay, and here's -- here's why

1 10:45 1 that matters.

2 10:45 2 Last year at the Assembly I spent a lot

3 10:45 3 of time encouraging the legislators to

4 10:45 4 understand why we needed to get out of the dark

5 10:45 5 ages when it came to vehicle services, customer

6 10:45 6 services and DMV relations.

7 10:45 7 The State of Virginia, as much as I

8 10:45 8 dislike their taxes, has been issuing online

9 10:45 9 renewals for almost 15 years. The State of

10 10:45 10 Virginia has been doing it for about eight

11 10:45 11 years. The State of South Carolina is about to

12 10:45 12 start.

13 10:45 13 So when I explained to them that when

14 10:46 14 we went from a five-year to an eight-year

15 10:46 15 renewal on a driver's license, we were going to

16 10:46 16 begin to experience a surge of requirements in

17 10:46 17 2015. So we're going to go to about 1.4

18 10:46 18 million issuances.

19 10:46 19 If we didn't do something that gave a

20 10:46 20 customer an opportunity to renew online, our

21 10:46 21 customer wait time at the 114 brick-and-mortar

22 10:46 22 and 22 mobile sites was going to get more

23 10:46 23 protracted, we were going to have more waiting

24 10:46 24 because customers will be waiting at a DMV

25 10:46 25 site.

1 11:25 1 renewals?

2 11:25 2 A. It will be able to do renewals.

3 11:25 3 Q. Are there any kiosks in place right now?

4 11:25 4 A. No, ma'am.

5 11:25 5 Q. So when the kiosks are available, they will be

6 11:25 6 able to do duplicate licenses and renewals?

7 11:25 7 A. Yes, ma'am.

8 11:26 8 Q. Another question on the topic of reform. Was

9 11:26 9 one of the goals of DMV's reform effort to

10 11:26 10 improve wait times at the DMV?

11 11:26 11 A. That is part of our reform, yes, ma'am.

12 11:26 12 Q. Why?

13 11:26 13 A. Because it was too long.

14 11:26 14 Q. And how would you describe too long?

15 11:26 15 A. Anything more than 20 minutes. Some people

16 11:26 16 accept 30 minutes. I still make it 20 minutes,

17 11:26 17 but...

18 11:26 18 Q. Do you remember what the wait times were?

19 11:26 19 A. What they were when?

20 11:26 20 Q. Before you came in to implement the changes.

21 11:26 21 A. I have no idea what they were before I got

22 11:26 22 there.

23 11:26 23 Q. What about when you started in October?

24 11:26 24 A. When I started in October, they were still

25 11:26 25 working through a pilot of offices to determine

1 11:29 1 mean, that's dealt with at the district
2 11:29 2 supervisor and the senior examiner level.
3 11:29 3 Q. And how does the district supervisor learn of a
4 11:29 4 wait time at a facility in their district?
5 11:29 5 A. They receive a call from the senior examiner.
6 11:29 6 Q. When is the senior examiner supposed to let a
7 11:29 7 district supervisor know that a wait time is at
8 11:30 8 a certain level?
9 11:30 9 A. I believe it's -- they're supposed to notify at
10 11:30 10 30 minutes. I'll have to go back and look what
11 11:30 11 our internal memo is, but -- or ask Charlotte
12 11:30 12 Boyd, but that's the guidance that I gave.
13 11:30 13 Q. Is that communication between the senior
14 11:30 14 examiners and the district supervisor via
15 11:30 15 e-mail or is it a phone call?
16 11:30 16 A. Ma'am, you have to ask the field services
17 11:30 17 director. I'm not aware of how it's
18 11:30 18 technically communicated.
19 11:30 19 Q. So Portia Manley would be better?
20 11:30 20 A. Portia or even Charlotte Boyd if they pick up
21 11:30 21 the phone or they send an e-mail or two smoke
22 11:30 22 signals. I'm not sure I understand -- I can
23 11:30 23 answer your question on that.
24 11:30 24 Q. How often have you had meetings or discussions
25 11:31 25 about wait times?

1 11:31 1 A. Well, ma'am, it's part of our strategy to

2 11:31 2 change so we talk about it a lot.

3 11:31 3 Q. How often have you discussed meetings or wait

4 11:31 4 times that are longer than an hour?

5 11:31 5 A. I haven't discussed any meetings or wait times

6 11:31 6 longer than an hour.

7 11:31 7 Q. Let me rephrase the question.

8 11:31 8 How often have you discussed in a

9 11:31 9 meeting or just in general with other employees

10 11:31 10 at DMV wait times at driver's license offices

11 11:31 11 that are longer than an hour?

12 11:31 12 A. I have not discussed with anybody a wait time

13 11:31 13 more than an hour.

14 11:31 14 Q. Have you had any discussions about wait times

15 11:31 15 that are an hour?

16 11:31 16 A. No, ma'am, not that I can remember. Again, we

17 11:31 17 discuss wait times. It doesn't matter if it's

18 11:31 18 31 minutes. We talk about wait times and

19 11:31 19 service times.

20 11:31 20 So I'm a little confused at your

21 11:32 21 question what's the distinction between a wait

22 11:32 22 time that I talk about and a wait time whether

23 11:32 23 it's an hour. We discuss wait times whether

24 11:32 24 they're 20 minutes or 30 minutes. So I don't

25 11:32 25 understand why you would draw a distinction

1 11:32 1 between how many discussions I had at wait

2 11:32 2 times of an hour.

3 11:32 3 Q. Well, let me ask this question: What's the

4 11:32 4 difference between a wait time and a service

5 11:32 5 time?

6 11:32 6 A. Service time is the time I'm servicing you as a

7 11:32 7 customer. Wait time is when I'm not servicing

8 11:32 8 you.

9 11:32 9 Q. Okay.

10 11:32 10 A. And in our driver service offices, you may

11 11:32 11 encounter more than one wait time as we're

12 11:32 12 currently organized. Okay. That's why we're

13 11:32 13 trying to change that.

14 11:32 14 I think you heard Deputy Commissioner

15 11:32 15 Dishong talk about the top 25 and why they're

16 11:32 16 the top 25 offices: Because they either had

17 11:32 17 the top wait times or the top transaction

18 11:33 18 times.

19 11:33 19 And did he discuss with you what is the

20 11:33 20 central point of failure at each one of those

21 11:33 21 locations?

22 11:33 22 Q. Well, could you tell me what the central point

23 11:33 23 of failure is at each one of those locations?

24 11:33 24 A. If you only have one of something, that's

25 11:33 25 probably your point of failure, right?

1 11:33 1 Q. Can you explain to me what you mean by that.

2 11:33 2 A. We have one camera. So I wait before I get

3 11:33 3 seen by an examiner and then I only have one

4 11:33 4 camera. I may have ten examiners but I've only

5 11:33 5 got one camera.

6 11:33 6 Part of our change here is to put a

7 11:33 7 camera at each station so technically you won't

8 11:33 8 have two wait times when you come into a DMV

9 11:33 9 site. You'll be wait time and then a service

10 11:33 10 time and then you're out. That's what we're

11 11:33 11 trying to change.

12 11:33 12 Q. Does DMV have a way to measure the time that an

13 11:34 13 individual spends in an office from the moment

14 11:34 14 they walk in the door to start a transaction

15 11:34 15 till the time that transaction is complete?

16 11:34 16 A. Not all offices, no.

17 11:34 17 Q. Do you know which offices do?

18 11:34 18 A. We have a list of some 38 that's just been

19 11:34 19 fielded with NEMO-Q, but I don't have that

20 11:34 20 list.

21 11:34 21 Q. But there is a list that has -- what do you

22 11:34 22 mean fielded with NEMO-Q? I'm sorry. Let me

23 11:34 23 strike that.

24 11:34 24 What does fielded with NEMO-Q?

25 11:34 25 A. NEMO-Q is our replacement customer wait-time

1 11:39 1 different than the business dashboard, but it
2 11:39 2 would be at the customer level, yes.

3 11:39 3 Q. Now, is this dashboard also part of the phases
4 11:39 4 of the reform that we've been talking about or
5 11:39 5 just a completely separate process?

6 11:39 6 A. No. It's an internal DMV -- it's led currently
7 11:39 7 by My DMV portal, which is another project.

8 11:40 8 Remember we talked about Ms. Barbara Webb
9 11:40 9 having these programs. This is another one of
10 11:40 10 the programs. We're in Phase 1. My DMV portal
11 11:40 11 was fielded last year. And Phase 2 is almost
12 11:40 12 complete. I can't remember the exact date it's
13 11:40 13 going to roll out.

14 11:40 14 Q. Okay.

15 11:40 15 (WHEREUPON, Plaintiffs' Exhibit 237 was
16 11:40 16 marked for identification.)

17 11:40 17 BY MS. GARRETT:

18 11:41 18 Q. Mr. Dishong -- I apologize.

19 11:41 19 Commissioner Thomas, I'm handing you

20 11:41 20 what has been marked as Exhibit 237 with the

21 11:41 21 title page North Carolina Driver's Handbook.

22 11:41 22 Are you familiar with this document,

23 11:41 23 sir?

24 11:41 24 A. I have seen this document, yes, ma'am.

25 11:41 25 Q. Okay. Could you please turn to page 2 of this

1 11:41 1 document. And you may have to remove the clip

2 11:41 2 the way the copy is -- the 2 might be covered.

3 11:41 3 A. Okay.

4 11:41 4 Q. Sir, is that your signature?

5 11:41 5 A. It looks like it, yes, ma'am.

6 11:41 6 Q. Okay. And what is the purpose of this

7 11:41 7 document?

8 11:41 8 A. The purpose of the document is to maintain the

9 11:42 9 situational awareness for the motoring public

10 11:42 10 on what the current rules or laws are or

11 11:42 11 processes by which to apply for an operator's

12 11:42 12 license.

13 11:42 13 Q. Does the DMV create a handbook like this every

14 11:42 14 year?

15 11:42 15 A. I think they do.

16 11:42 16 Q. Do you know when this handbook -- if you turn

17 11:42 17 back to the first page of Exhibit 237, it was

18 11:42 18 printed out from the website. It says the 2014

19 11:42 19 Driver Handbook. Do you see that, sir?

20 11:42 20 A. Yes, ma'am.

21 11:42 21 Q. Do you know when in 2014 this was sent to DMV

22 11:42 22 offices?

23 11:42 23 A. I don't know, no, ma'am.

24 11:42 24 Q. Okay. Do you know when DMV plans to release a

25 11:42 25 new handbook?

1 11:42 1 A. I do not.

2 11:42 2 Q. Who would know the answer to when DMV would

3 11:42 3 release a new handbook?

4 11:42 4 A. Either Brian Smith, our communications lead, or

5 11:43 5 Ms. Charlotte Webb -- I mean Charlotte Boyd.

6 11:43 6 I'm sorry.

7 11:43 7 Q. Okay, Charlotte Boyd. Could you please turn to

8 11:43 8 page 7.

9 11:43 9 A. Okay.

10 11:43 10 Q. I'd like to direct your attention to the

11 11:43 11 heading Getting Your Original License.

12 11:43 12 A. Okay.

13 11:43 13 Q. Could you read that text before the shaded box

14 11:43 14 just to be familiar with it.

15 11:43 15 A. "Driver license examiners," is that what you

16 11:43 16 want me to read?

17 11:43 17 Q. The entire paragraph, sir. Just -- I just want

18 11:43 18 you to familiarize yourself with it and have a

19 11:43 19 chance to review it before I talk about it.

20 11:43 20 A. Okay.

21 11:43 21 Q. So first I would like to discuss hours. In

22 11:44 22 this paragraph there's the sentence -- the

23 11:44 23 second sentence states that most offices offer

24 11:44 24 services from 8:00 a.m. until 5 o'clock p.m.

25 11:44 25 I'd like to discuss the larger cities

1 11:44 1 and towns that are referenced in the next

2 11:44 2 sentence.

3 11:44 3 They're open Monday through Friday and

4 11:44 4 some on Saturday mornings.

5 11:44 5 In these larger cities and towns, what

6 11:44 6 is the latest time that any office would be

7 11:44 7 open?

8 11:44 8 A. I don't know.

9 11:44 9 Q. Who would be the best person for that, to

10 11:44 10 answer that question?

11 11:44 11 A. Ms. Charlotte Boyd.

12 11:44 12 Q. Boyd, okay. And I just have that same question

13 11:44 13 for the Saturday morning hours. Do you know

14 11:44 14 what the hours would be in those larger cities

15 11:44 15 and towns?

16 11:44 16 A. The Saturday mornings are 8:00 to 12:00. And

17 11:45 17 that's at 19 offices. Not all of them are

18 11:45 18 every Saturday, but I think you know that.

19 11:45 19 Q. And the offices in smaller towns, there's a

20 11:45 20 reference there in the next sentence they may

21 11:45 21 only be open for certain days each week. Does

22 11:45 22 this refer, sir, to the offices -- well, I'm

23 11:45 23 sorry. What is the statement referring to?

24 11:45 24 A. I think it's referring to the offices in

25 11:45 25 smaller towns.

1 11:45 1 Q. And how are those offices in smaller towns
2 11:45 2 serviced, the brick-and-mortar offices or
3 11:45 3 mobile units?

4 11:45 4 A. Yes.

5 11:45 5 Q. Both?

6 11:45 6 A. Could be.

7 11:45 7 Q. Okay. So there are some brick-and-mortar

8 11:45 8 offices that are not open consistently Monday

9 11:45 9 through Friday?

10 11:45 10 A. Correct.

11 11:45 11 Q. Do you know where they are?

12 11:45 12 A. Off the top of my head, Burgaw.

13 11:45 13 Q. Burgaw?

14 11:45 14 A. Yes.

15 11:45 15 Q. Is that the only one?

16 11:45 16 A. No, that's not the only one. That's just the
17 11:45 17 one I've been to. It's not serviced Monday
18 11:46 18 through Friday because the two ladies in
19 11:46 19 Wallace rotate duties to go service it.

20 11:46 20 So I mean, again, part of the

21 11:46 21 distributed placement strategy of where do

22 11:46 22 customers come to get their DMV services and

23 11:46 23 that's what we use.

24 11:46 24 Q. So the -- and this might actually be

25 11:46 25 referencing something that I think was in a

1 11:47 1 offices that are not mobile units?

2 11:47 2 A. Absolutely, right.

3 11:47 3 Q. And then there are other -- would you classify

4 11:47 4 a mobile unit location as a part-time?

5 11:47 5 A. No, ma'am. It's a mobile unit.

6 11:47 6 Q. Okay. So are there mobile unit offices that

7 11:47 7 are not open every day of the week?

8 11:47 8 A. Mobile units only open certain days, that's

9 11:48 9 correct.

10 11:48 10 Q. So there are two types of offices that would

11 11:48 11 only be open certain days of the week,

12 11:48 12 part-time offices and mobile-unit offices?

13 11:48 13 A. I think that's a true statement.

14 11:48 14 Q. Okay. Thank you.

15 11:48 15 Are the majority of smaller towns

16 11:48 16 serviced by mobile units or part-time offices?

17 11:48 17 A. I can't answer the majority of what's serviced

18 11:48 18 by what. There's 22 mobile site stops. I

19 11:48 19 don't know if that constitutes a majority,

20 11:48 20 but -- and I can't even tell you what the 22

21 11:48 21 sites are today.

22 11:48 22 Q. And is that something else Ms. Boyd would be

23 11:48 23 able to tell us?

24 11:48 24 A. She would be able to tell you what they are.

25 11:48 25 It's also, again, in our my portal drop-down.

1 11:51 1 BY MS. GARRETT:

2 11:51 2 Q. Okay. Are you -- who would know if there --

3 11:51 3 A. Ms. Charlotte Boyd or the district supervisor
4 11:51 4 responsible for the mobile units.

5 11:51 5 Q. Okay.

6 11:51 6 A. And I'll just highlight again, this is the

7 11:51 7 reason our placement strategy work is so

8 11:51 8 important. We're at 22 sites today largely

9 11:51 9 because that's where we've been and largely

10 11:51 10 because there's a 220 power outlet that's

11 11:51 11 affixed to some telephone pole there so when we

12 11:51 12 drive up, we plug into it and we can run

13 11:51 13 business there.

14 11:51 14 That's not the way I want to continue

15 11:51 15 to do business. Customers have to wait

16 11:52 16 outside.

17 11:52 17 Q. When you say wait outside, you mean outside?

18 11:52 18 A. Outside the Winnebago. I don't have any

19 11:52 19 protection. I can't get them out of the

20 11:52 20 elements. I don't have a waiting area that

21 11:52 21 says stay warm in here and take your number.

22 11:52 22 So the mobile unit was good for what it

23 11:52 23 was designed for 8, 10 years ago. It's time to

24 11:52 24 move to the next phase of what a mobile unit

25 11:52 25 should be and here's the rest of it.

1 11:52 1 So I've got a lot of counties and
2 11:52 2 cities that will volunteer office space about
3 11:52 3 the size of this room, pick a county, pick a
4 11:52 4 small county, that have offered to me if you
5 11:52 5 bring driver services here, DMV here, we'll
6 11:52 6 give you this office half a day a week, two
7 11:52 7 days a month.

8 11:52 8 And basically we would drive up in a
9 11:52 9 Suburban now with DMV in a suitcase or a foot
10 11:52 10 locker and walk in and plug it in and start DMV
11 11:53 11 services. So our customers aren't waiting
12 11:53 12 outside in the elements. We are dependent on
13 11:53 13 somebody's borrowed property, but I'm not
14 11:53 14 paying for electricity. I'm paying for gas,
15 11:53 15 but I'm not paying for electricity to keep this
16 11:53 16 thing running. I'm not paying for heat. I
17 11:53 17 have more flexibility in applying -- bringing
18 11:53 18 DMV to our customers.

19 11:53 19 Q. Now, with that suitcase or foot locker option,
20 11:53 20 is it just if someone offers a location or is
21 11:53 21 DMV renting locations?

22 11:53 22 A. No -- both. We're looking -- so I go back to
23 11:53 23 our placement strategy. If our placement
24 11:53 24 strategy says, hey, you know, we really need
25 11:53 25 two sites in Dare county, for example -- I

1 11:53 1 don't know that it does. Let's use it
2 11:53 2 hypothetically.
3 11:53 3 I need two sites in Dare county or I
4 11:53 4 need two sites in Washington county, we'll need
5 11:53 5 to determine where in Washington county it
6 11:54 6 should go best to fit the customers. Should it
7 11:54 7 go to Plymouth? Maybe Plymouth isn't the right
8 11:54 8 place to go to. Will the county commissioner
9 11:54 9 there offer us space?
10 11:54 10 So, again, this is part of DMV business
11 11:54 11 that I very much want to reform. Okay. I
12 11:54 12 can't lift and shift a brick-and-mortar that
13 11:54 13 the state built 20 years ago, nor am I apt to
14 11:54 14 get out from underneath it by the State
15 11:54 15 property office allowing me to leave it.
16 11:54 16 This mobile unit gives me some
17 11:54 17 flexibility to go where the customers may go --
18 11:54 18 may want us to be anyway and the county
19 11:54 19 commissioners or the local populous will
20 11:54 20 service -- we can service them there. So
21 11:54 21 that's what we're trying to move towards.
22 11:54 22 Q. And when you say where the customers want the
23 11:54 23 location, is that based on requests or
24 11:54 24 communications from the customers?
25 11:54 25 A. It's going to be based on where they're

1 11:56 1 same database that we're going to use as our
2 11:56 2 GIS mapping and placement strategy.

3 11:56 3 Q. Has the DMV ended any stop to mobile unit
4 11:56 4 locations since you've been the commissioner?

5 11:56 5 A. I think we have. I remember last year we
6 11:56 6 closed Red Springs and Plymouth that I recall,
7 11:56 7 personally recall.

8 11:56 8 Q. And do you recall how you determined that those
9 11:56 9 mobile unit locations should stop?

10 11:56 10 A. If you go back and look at those, they started
11 11:57 11 out with brick and mortar 50 years ago and the
12 11:57 12 issuance in those areas and the population of
13 11:57 13 those areas didn't grow with that area. So
14 11:57 14 there was a brick-and-mortar at both those
15 11:57 15 particular Plymouth and Red Springs 50 years
16 11:57 16 ago and over the years the number of issuances,
17 11:57 17 the number of requirements to issue driver's
18 11:57 18 licenses there went away and it continued to
19 11:57 19 trickle down.

20 11:57 20 So several years ago the administration
21 11:57 21 decided to put mobile units there instead and
22 11:57 22 then the mobile unit issuance went further and
23 11:57 23 further down. People weren't going there to
24 11:57 24 get their issuances so they redirected -- we
25 11:57 25 redirected.

1 11:58 1 unit would be used somewhere else, but I can't
2 11:58 2 remember where we put it. It was -- and it
3 11:58 3 wasn't somewhere else in Washington county
4 11:58 4 either.

5 11:58 5 Q. So there are still mobile units in Washington

6 11:59 6 county; do you know?

7 11:59 7 A. Ma'am, I don't think there are.

8 11:59 8 Q. Are there part-time offices in Washington

9 11:59 9 county?

10 11:59 10 A. I think, but I'd have to go back and look at

11 11:59 11 the map.

12 11:59 12 Q. When the DMV is making a decision to -- well,

13 11:59 13 we'll just use the example of Red Springs and

14 11:59 14 Plymouth because that's what you remember.

15 11:59 15 When the DMV made the decision to end

16 11:59 16 the stops to Red Springs and Plymouth, was

17 11:59 17 there an opportunity for public comment?

18 11:59 18 A. Not that I'm aware of.

19 11:59 19 Q. During your time as commissioner, have mobile

20 11:59 20 units had to alter their schedules because of

21 12:00 21 mechanical problems?

22 12:00 22 A. They probably have. We've had a couple of

23 12:00 23 issues.

24 12:00 24 Q. Do you remember any in particular?

25 12:00 25 A. We had one vehicle down for structural issues

1 12:00 1 that had to be rewelded.

2 12:00 2 Q. Do you know how long it was down?

3 12:00 3 A. I do not.

4 12:00 4 Q. Do you remember about when that was?

5 12:00 5 A. No, ma'am.

6 12:00 6 Q. When -- let's just use this example. When

7 12:00 7 there were structural issues to that particular

8 12:00 8 DMV mobile unit, how did the DMV let the public

9 12:00 9 know that the mobile unit was out of service?

10 12:00 10 A. I believe by practice we issue press releases

11 12:00 11 for notification. Since we've done My DMV

12 12:00 12 portal Phase 1, it's also published on the My

13 12:00 13 DMV portal with the changes.

14 12:01 14 Q. And switching gears to the brick -- to the two

15 12:01 15 brick-and-mortar offices that have been opened

16 12:01 16 under your tenure, how did DMV determine where

17 12:01 17 those brick-and-mortar driver licenses would be

18 12:01 18 located?

19 12:01 19 A. I have no idea.

20 12:01 20 Q. Okay. Why don't we go off the record for a

21 12:01 21 second.

22 12:01 22 THE VIDEOGRAPHER: Going off the

23 12:01 23 record, the time is 12:01 p.m.

24 12:03 24 (Lunch recess.)

25 01:03 25 THE VIDEOGRAPHER: Back on the record,

1 01:14 1 rehearse the orders, and this was what I use or
2 01:14 2 this -- it may not have been this exact one,
3 01:14 3 ma'am, but it was this type of memorandum
4 01:14 4 document with this table that we used.

5 01:14 5 Q. And the details provided on Exhibit 218 were
6 01:14 6 there to help explain this not just to the
7 01:14 7 public but also to the examiners?

8 01:14 8 A. Yes, ma'am.

9 01:14 9 Q. And you mentioned earlier that you helped move
10 01:14 10 verification of Social Security numbers online
11 01:14 11 if someone gave their Social Security number?

12 01:14 12 A. Yes. So here's an example. So this particular
13 01:15 13 exhibit --

14 01:15 14 Q. 218.

15 01:15 15 A. -- 218, the senior examiners and district
16 01:15 16 supervisors came back with, well, what if they
17 01:15 17 had a medical -- you know, a med aid card or
18 01:15 18 what if they happened to have this other form
19 01:15 19 of identification that would help us get to a
20 01:15 20 confirmed identification, and so Ms. Webb and
21 01:15 21 the team developed an alternative documents
22 01:15 22 list that the examiners could use. And that's
23 01:15 23 not a public -- published list that I know of,
24 01:15 24 unless somebody's posted it online and I didn't
25 01:15 25 know about.

1 02:36 1 Q. In order to obtain a voter ID in the State of
2 02:36 2 North Carolina, a voter must establish each of
3 02:36 3 these six requirements?

4 02:36 4 MR. FARR: Objection.

5 02:36 5 THE WITNESS: I think it says you'll
6 02:36 6 need to provide two forms of identification
7 02:36 7 from documents Table 1.

8 02:36 8 BY MR. GLICK:

9 02:36 9 Q. Well, Commissioner Thomas, that is part of --
10 02:36 10 strike that.

11 02:36 11 A. You're asking about Lines 1 through 6, and
12 02:36 12 I'm -- that's why I don't think I understand
13 02:36 13 your question. The table includes the text
14 02:36 14 above 1 through 6.

15 02:36 15 Q. Okay. So if we were to look at Table 4 and we
16 02:36 16 look at the part in the gray at the top --

17 02:36 17 A. Yes, sir.

18 02:36 18 Q. -- and the six requirements beneath it,
19 02:36 19 together that establishes the requirements in
20 02:37 20 order to obtain a no-fee voter ID card in

21 02:37 21 North Carolina?

22 02:37 22 A. That is my understanding, yes.

23 02:37 23 Q. And you agree that an individual who does not
24 02:37 24 provide or does not meet one of the six
25 02:37 25 requirements in Table 4 will not be issued a

1 02:37 1 no-fee voter ID card, correct?

2 02:37 2 MR. FARR: Objection.

3 02:37 3 THE WITNESS: This is a guide that we

4 02:37 4 use. The other guide as demonstrated in I

5 02:37 5 think this exhibit was 221.

6 02:37 6 BY MR. GLICK:

7 02:37 7 Q. We'll get to that.

8 02:37 8 MR. FARR: He can answer the question

9 02:37 9 and refer to what he wants to.

10 02:37 10 MR. GLICK: Okay. Go ahead.

11 02:37 11 THE WITNESS: Again, to be perfectly

12 02:37 12 answering your question, this other list of

13 02:37 13 documents are alternative documents that we use

14 02:37 14 to help us try to issue a no-fee voter ID.

15 02:37 15 Again, our -- nothing makes us more

16 02:37 16 happy than for a customer to leave satisfied

17 02:37 17 from DMV. And so to use a small example, if we

18 02:38 18 can't service somebody at DMV, we're not happy.

19 02:38 19 BY MR. GLICK:

20 02:38 20 Q. I understand that, sir, and I appreciate your

21 02:38 21 answer, but going back to my question: If a

22 02:38 22 voter does not establish -- strike that.

23 02:38 23 If an individual does not establish one

24 02:38 24 of the six requirements in Table 4, they are

25 02:38 25 not able to obtain a no-fee voter ID in the

1 02:42 1 a no-fee voter ID card?

2 02:42 2 MR. FARR: Objection; form.

3 02:42 3 You can answer that if you can.

4 02:42 4 THE WITNESS: I believe I've answered
5 02:42 5 this question. To obtain a no-fee voter ID, an
6 02:42 6 applicant must meet Table 4 requirements and/or
7 02:42 7 provide identity documents from the exception
8 02:42 8 list to satisfy the requirements.

9 02:42 9 BY MR. GLICK:

10 02:42 10 Q. Let's talk about the exception list. And we'll

11 02:42 11 turn to 221. The list that we've been

12 02:42 12 referring to is titled Identity Documents

13 02:42 13 Exception List. Do you see that?

14 02:42 14 A. Yes.

15 02:42 15 Q. And it says, "When the customer is unable to

16 02:42 16 provide DMV with two identity documents from

17 02:43 17 the current ID List (DL 123), the documents

18 02:43 18 listed in the table below may serve as

19 02:43 19 alternative documents.

20 02:43 20 "When alternative identity documents

21 02:43 21 are used to assist you in verifying a

22 02:43 22 customer's identity, you must make clear

23 02:43 23 comments on the customer's record."

24 02:43 24 Do you see that?

25 02:43 25 A. I do see it.

1 02:43 1 Q. Commissioner Thomas, just to be clear,
2 02:43 2 Exhibit 221 is addressed to driver services
3 02:43 3 field and support staff, correct?
4 02:43 4 A. Yes, it is.
5 02:43 5 Q. And Exhibit 221 is a memorandum from Barbara
6 02:43 6 Webb to drivers services field and support
7 02:43 7 staff, correct?
8 02:43 8 A. Correct.
9 02:43 9 Q. Exhibit 221 is not made publicly available,
10 02:43 10 correct?
11 02:43 11 A. Not that I know of, no.
12 02:43 12 Q. Exhibit 221 does not appear on the
13 02:43 13 North Carolina DMV website, correct?
14 02:43 14 A. I have not seen it posted, no.
15 02:43 15 Q. And Exhibit 221 does not appear on the
16 02:43 16 North Carolina Department of Transportation
17 02:44 17 website, does it?
18 02:44 18 A. I haven't researched it.
19 02:44 19 Q. As far as you know, Exhibit 221 --
20 02:44 20 A. I have not seen it, no.
21 02:44 21 Q. And focusing on the alternative documents list
22 02:44 22 at the back of Exhibit 221, the Identity
23 02:44 23 Documents Exceptions List, you're not aware of
24 02:44 24 that document being published on the
25 02:44 25 North Carolina Department of Motor Vehicle's

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1 02:44 1 website, are you?

2 02:44 2 A. No, sir.

3 02:44 3 Q. And you're not aware of the Identity Documents

4 02:44 4 Exception List being published on the

5 02:44 5 North Carolina Department of Transportation

6 02:44 6 website, are you?

7 02:44 7 A. I'm not aware of it.

8 02:44 8 Q. Are you aware of the Identity Documents

9 02:44 9 Exception List being published on the State

10 02:44 10 Board of Elections website?

11 02:44 11 A. No, sir.

12 02:44 12 Q. Are you aware of any press release making the

13 02:44 13 public aware of the Identity Documents

14 02:44 14 Exception List?

15 02:44 15 A. No, sir.

16 02:45 16 Q. If we look back at Table 4, the last sentence

17 02:45 17 says, "You will be provided" -- sorry. Strike

18 02:45 18 that.

19 02:45 19 The last three sentences reads, in the

20 02:45 20 gray section, "You will be provided a receipt

21 02:45 21 for your ID card upon request. Your receipt

22 02:45 22 cannot be used for voting purposes. Your ID

23 02:45 23 card will be mailed to you."

24 02:45 24 Do you see that?

25 02:45 25 A. Okay. I do see it.

1 02:45 1 Q. Now, Commissioner Thomas, does the receipt that

2 02:45 2 you receive have a photograph on it?

3 02:45 3 A. Currently the receipt does not.

4 02:45 4 Q. Who made the decision that the receipt does not

5 02:45 5 have a photograph on it?

6 02:45 6 A. I don't have a clue.

7 02:45 7 Q. And it says --

8 02:46 8 A. But I can also tell you that the new receipt

9 02:46 9 will.

10 02:46 10 Q. Are you aware of whether the new receipt will

11 02:46 11 be -- strike that.

12 02:46 12 Are you aware of whether -- well,

13 02:46 13 strike that.

14 02:46 14 It says here your receipt cannot be

15 02:46 15 used for voting purposes, correct?

16 02:46 16 A. It cannot be used for identification.

17 02:46 17 Q. I'm looking at --

18 02:46 18 A. I know it goes further on to say because it

19 02:46 19 can't be used for identification, it therefore

20 02:46 20 cannot be used for voting purposes.

21 02:46 21 Q. So you agree the receipt cannot be used for

22 02:46 22 voting purposes?

23 02:46 23 A. That's correct.

24 02:46 24 Q. Who made the determination that the receipt

25 02:46 25 could not be used for voting purposes?

1 02:46 1 A. The same statute that decided that the receipt
2 02:46 2 could not be used for identification.

3 02:46 3 All the more reason why I want the
4 02:46 4 receipt to eventually have a photo ID on it,
5 02:46 5 and I would hope that the legislators would see
6 02:46 6 this new receipt with a photo ID as an
7 02:46 7 alternate forms of identification that could be
8 02:46 8 used for voting.

9 02:46 9 Q. But at present, your understanding of the law
10 02:47 10 is that it does not require a receipt to be
11 02:47 11 used for voting purposes?

12 02:47 12 A. Current law states that the TDC is not for
13 02:47 13 identification purposes.

14 02:47 14 Q. I'm sorry. TDC?

15 02:47 15 A. Temporary driving certificate is not authorized
16 02:47 16 for identification purposes.

17 02:47 17 Q. Nor is a receipt for a no-fee voter ID card,
18 02:47 18 correct?

19 02:47 19 A. Correct.

20 02:47 20 Q. Now, if we look back -- and I apologize for
21 02:47 21 mixing around here. I believe it's 246 was the
22 02:47 22 website I marked as the first exhibit when I
23 02:47 23 started my examination.

24 02:47 24 THE REPORTER: 243.

25 02:47 25 MR. GLICK: 243. I apologize.

1 02:47 1 BY MR. GLICK:

2 02:47 2 Q. If we look at the bottom of this section of
3 02:47 3 page 2 regarding the no-fee voter ID card, it
4 02:47 4 contains a similar disclaimer regarding the
5 02:47 5 receipt. Do you see that?

6 02:47 6 A. Yes, sir.

7 02:47 7 Q. And it says, "All ID cards, including driver's
8 02:48 8 licenses, are mailed to customers, which may
9 02:48 9 take up to 10 days."

10 02:48 10 Do you see that?

11 02:48 11 A. Yes.

12 02:48 12 Q. Can I ask why does it take up to 10 days?

13 02:48 13 A. Part of that is transit time in the mail. The
14 02:48 14 other part of that is the back-end assessment
15 02:48 15 that the documents submitted are true-person
16 02:48 16 identity, and so we're trying to verify the
17 02:48 17 identify back end before we issue you a license
18 02:48 18 or identification.

19 02:48 19 Q. So let me ask you, Commissioner Thomas, if a
20 02:48 20 registered voter, somebody's already registered
21 02:48 21 to vote in North Carolina, were to go into the
22 02:48 22 DMV office on the Saturday before general
23 02:48 23 election -- the election is on Tuesday, this is
24 02:48 24 three days -- Saturday before -- to obtain a
25 02:48 25 no-fee voter ID card, the voter would not

1 02:48 1 receive the card until after election day,

2 02:49 2 correct?

3 02:49 3 MR. FARR: Objection.

4 02:49 4 MR. GLICK: You may answer.

5 02:49 5 THE WITNESS: I don't know when they'll

6 02:49 6 receive it or she'll receive it. All the more

7 02:49 7 reason why I want to issue a temporary receipt

8 02:49 8 with identification -- with a photo ID on it

9 02:49 9 that could be accepted.

10 02:49 10 I mean, that -- what we're trying to

11 02:49 11 get after. I don't want to prevent anybody

12 02:49 12 from not being able to go to the voter polls

13 02:49 13 because they don't have a voter ID or

14 02:49 14 identification to vote with.

15 02:49 15 BY MR. GLICK:

16 02:49 16 Q. I understand your aspirations, the aspirations

17 02:49 17 of your department. I'm asking right now

18 02:49 18 today --

19 02:49 19 A. Yeah, but today there's not a general election

20 02:49 20 that I'm pressed up against that this has an

21 02:49 21 impact on.

22 02:49 22 Q. Well, you described just before some back-end

23 02:49 23 requirements and some mail requirements.

24 02:49 24 A. Correct.

25 02:49 25 Q. So let's make it a little bit -- Saturday maybe

1 02:49 1 three days. What if I realize in the Sunday
2 02:49 2 before the election I don't have proper ID and
3 02:50 3 I go in on Monday. If I go in on Monday, I
4 02:50 4 meet the six requirements in Table 4, will I
5 02:50 5 receive my no-fee voter ID card in time to vote
6 02:50 6 in Tuesday's election?

7 02:50 7 MR. FARR: Objection to the form.

8 02:50 8 You can answer.

9 02:50 9 THE WITNESS: No. You know what you
10 02:50 10 have, if you wait until the last minute, you
11 02:50 11 have a minute. I mean, I would think that by
12 02:50 12 applying this no-fee voter ID and all the
13 02:50 13 requirements on the 1st of January 2014 and all
14 02:50 14 the effort that we're trying to make so that we
15 02:50 15 provide everybody the opportunity to get that,
16 02:50 16 what am I inhibiting or prohibiting as the
17 02:51 17 commissioner of Motor Vehicles.

18 02:51 18 MR. GLICK: I'm going to move to strike
19 02:51 19 everything after "no" as nonresponsive.

20 02:51 20 BY MR. GLICK:

21 02:51 21 Q. I am going to --

22 02:51 22 A. I guess I touched a nerve.

23 02:51 23 Q. I don't know that you touched a nerve. I asked
24 02:51 24 you a question regarding when the ID would
25 02:51 25 arrive and you answered it.

1 02:51 1 MR. FARR: We'll let the judge decide
2 02:51 2 whether that should be stricken, which I doubt
3 02:51 3 that he will.

4 02:51 4 THE WITNESS: Thank you, sir.

5 02:51 5 (WHEREUPON, Plaintiffs' Exhibit 244 was
6 02:51 6 marked for identification.)

7 02:51 7 BY MR. GLICK:

8 02:51 8 Q. I am going to hand you what I've marked as
9 02:51 9 Exhibit 244.

10 02:51 10 MR. EPPSTEINER: I'm sorry. What
11 02:51 11 exhibit are we on?

12 02:51 12 MR. GLICK: Exhibit 244.

13 02:51 13 BY MR. GLICK:

14 02:51 14 Q. Commissioner Thomas, Exhibit 244 is a press
15 02:51 15 release. At the top it contains the names of
16 02:52 16 the North Carolina State Board of -- names and
17 02:52 17 logos, rather, of the North Carolina State
18 02:52 18 Board of Elections and the North Carolina
19 02:52 19 department -- Division of Motor Vehicles and
20 02:52 20 it's dated January 1st, 2014. Do you see that?

21 02:52 21 A. I do see it.

22 02:52 22 Q. I want to focus on the fourth paragraph that
23 02:52 23 states "Applicants will need to present
24 02:52 24 documents that verify their age and identity.
25 02:52 25 Applicants will also need to provide a valid

1 02:52 1 Social Security number."

2 02:52 2 Do you see that?

3 02:52 3 A. Yes.

4 02:52 4 Q. And then it says, "NCDMV has posted the

5 02:52 5 requirements and documents acceptable for the

6 02:52 6 Voter ID card on its website."

7 02:52 7 Do you see that?

8 02:52 8 A. Yes.

9 02:52 9 Q. And you would agree that the document that is

10 02:52 10 Exhibit 218, DL-231, is posted on the

11 02:52 11 North Carolina DMV website, correct?

12 02:52 12 A. Correct.

13 02:52 13 Q. Now, this press release doesn't refer to the

14 02:52 14 alternative list of documents in Exhibit 221,

15 02:52 15 does it?

16 02:52 16 A. No, sir.

17 02:53 17 Q. And you're not aware of any other press release

18 02:53 18 ever issued by the Board of Elections or the

19 02:53 19 Department of Motor Vehicles that refers to

20 02:53 20 that alternative document list, correct?

21 02:53 21 A. Not that I know of.

22 02:53 22 Q. I want to turn to a document -- sorry -- turn

23 02:53 23 to a document that I'll mark as Exhibit 245.

24 02:53 24 (WHEREUPON, Plaintiffs' Exhibit 245 was

25 02:53 25 marked for identification.)

1 03:01 1 Q. And I'll have that for eight years?

2 03:01 2 A. Correct.

3 03:01 3 Q. Until March 3rd of 2023?

4 03:01 4 A. Provided you're not 65.

5 03:01 5 Q. Does the Department of Motor Vehicles conduct

6 03:01 6 any training related to the detection of fake

7 03:01 7 IDs?

8 03:01 8 A. They do. We also teach it nationally at AMMVA.

9 03:01 9 In fact, this past year the license and theft

10 03:02 10 bureau went to the regional convention and

11 03:02 11 taught it there.

12 03:02 12 Q. Who receives the training related to fake IDs

13 03:02 13 in North Carolina?

14 03:02 14 A. All examiners and all license and theft

15 03:02 15 persons. We've been asked to instruct it --

16 03:02 16 the State Highway Patrol. In our rollout of

17 03:02 17 this new identification will teach the State

18 03:02 18 Highway Patrol and other law enforcement

19 03:02 19 agencies what the new identification looks

20 03:02 20 like.

21 03:02 21 Q. Does the Department of Motor Vehicles plan to

22 03:02 22 conduct any training for poll workers or

23 03:02 23 election officials to detect fake IDs?

24 03:02 24 A. I haven't been asked, but I'm sure we could

25 03:02 25 consider it.

1 03:02 1 Q. But you haven't been asked right now?

2 03:02 2 A. No, sir.

3 03:02 3 Q. There's no current plan to conduct any such
4 03:02 4 training?

5 03:02 5 A. I haven't been asked to conduct any plan.

6 03:02 6 Q. So there's no current plan to conduct any such
7 03:02 7 training?

8 03:02 8 A. We have not been asked to prepare a plan to
9 03:02 9 conduct any such training.

10 03:02 10 Q. Well, that's a little bit different than
11 03:03 11 whether or not there is a plan in place to
12 03:03 12 conduct such training. So if you can answer my
13 03:03 13 question.

14 03:03 14 Is there a plan in place to conduct
15 03:03 15 training by the Department of Motor Vehicles of
16 03:03 16 poll workers or election officials to detect
17 03:03 17 fake identifications?

18 03:03 18 A. I know of no such training.

19 03:03 19 Q. I wanted to talk a little bit about the mobile
20 03:03 20 sites that you referenced earlier. Well, let
21 03:03 21 me start.

22 03:03 22 My first question is: Are they mobile
23 03:03 23 sites or mobile units?

24 03:03 24 A. The vehicle is a mobile unit. The location of
25 03:03 25 stop is a mobile site.

1 03:03 1 Q. Do all the mobile units have the capability to

2 03:03 2 distribute no-fee voter IDs?

3 03:03 3 A. Yes.

4 03:03 4 Q. Do all of the mobile units have the same

5 03:04 5 capabilities of a brick-and-mortar location?

6 03:04 6 A. No. They don't have a waiting room.

7 03:04 7 Q. What is the waiting room for a mobile location?

8 03:04 8 A. Whatever the customer -- wherever the customer

9 03:04 9 is standing outside the mobile unit.

10 03:04 10 Q. Does the Department of Motor Vehicles post the

11 03:04 11 hours of mobile locations on its website?

12 03:04 12 A. I think we post it by county location. I don't

13 03:04 13 think we have a consolidated list of the mobile

14 03:04 14 sites, no. I think it's listed by county

15 03:04 15 location.

16 03:04 16 Q. And it's listed on the DMV website?

17 03:04 17 A. Yes.

18 03:04 18 Q. Are the locations of mobile units advertised

19 03:05 19 anywhere else that you're aware of?

20 03:05 20 A. We do have a public release. I don't know how

21 03:05 21 often it is. And we also issue a public

22 03:05 22 release if we have to modify the mobile unit

23 03:05 23 schedule. An example of that was last week

24 03:05 24 during the snow fall we had to modify the

25 03:05 25 mobile unit because they could not operate in

1 03:06 1 return to the same location each time? That
2 03:06 2 may be a little sloppy. Let me strike that.

3 03:06 3 If you advertise that a mobile unit
4 03:06 4 will be in a particular county, will it return
5 03:06 5 to the same location in that county each time
6 03:06 6 it goes to that mobile location?

7 03:06 7 A. Yes, because it's tied to a 220 outlet that's
8 03:06 8 built into that site for it to use power from.

9 03:06 9 Q. And customers waiting to use the mobile unit
10 03:06 10 have to wait outside in the elements to use
11 03:07 11 that mobile unit?

12 03:07 12 A. Or in their cars.

13 03:07 13 Q. If they're waiting in their car, how are they
14 03:07 14 told when it's their turn in line?

15 03:07 15 A. I don't know.

16 03:07 16 Q. Does the department keep statistics on how many
17 03:07 17 citizens or what proportion of citizens within
18 03:07 18 the state are within a certain distance of a
19 03:07 19 mobile unit or brick-and-mortar location?

20 03:07 20 A. I discussed a little bit earlier this GIS
21 03:07 21 mapping that we're working with will highlight
22 03:07 22 the number of citizens within that area or that
23 03:07 23 location, and when you overlay the mobile unit
24 03:07 24 or the brick-and-mortar site, it will
25 03:07 25 highlight, one, proximity, but, two, when you

1 03:10 1 Fair for the full 10 or 11 days that the State

2 03:10 2 Fair is operational.

3 03:10 3 Q. Aside from the events, the specific events that

4 03:10 4 you laid out such as NASCAR races or Azalea

5 03:10 5 Festival, is there a -- is there a mobile

6 03:10 6 location within the state that has recurring as

7 03:10 7 in weekly Saturday coverage?

8 03:10 8 A. Not that I know of today.

9 03:10 9 Q. And when you gave your stat a minute or two ago

10 03:10 10 of 89 to 90 percent of individuals being within

11 03:10 11 20 minutes of a brick-and-mortar or mobile

12 03:10 12 location, that was -- could be just one day a

13 03:11 13 week, correct?

14 03:11 14 A. Could be.

15 03:11 15 Q. Have you been involved in any efforts as the

16 03:11 16 commissioner of the Department of Motor

17 03:11 17 Vehicles to obtain additional funding for

18 03:11 18 mobile units?

19 03:11 19 A. I have.

20 03:11 20 Q. Have those units been as successful as you'd

21 03:11 21 like?

22 03:11 22 A. We're not on the road with them yet, but we did

23 03:11 23 receive some funding last assembly to help with

24 03:11 24 the technologies of it, and I currently have a

25 03:11 25 request up through DOT asking for some lap

1 03:14 1 issuances.

2 03:14 2 Q. Okay. But earlier today you referred to

3 03:14 3 discussions with SBOE to extend hours for

4 03:14 4 no-fee voter ID purposes. Do you recall that?

5 03:14 5 A. I did.

6 03:14 6 Q. And --

7 03:14 7 A. I do.

8 03:14 8 Q. Okay. You recall that?

9 03:14 9 A. I do.

10 03:14 10 Q. Now, was that discussion separate and apart

11 03:14 11 from the extended hours that you believe DMV is

12 03:14 12 providing now?

13 03:14 13 A. Yes.

14 03:14 14 Q. So my question is: Has DMV provided those

15 03:14 15 additional hours specific to the no-fee voter

16 03:14 16 ID program?

17 03:14 17 A. DMV is prepared to extend hours, if required,

18 03:14 18 based on SBOE's requirement to issue of no-fee

19 03:14 19 voter IDs.

20 03:14 20 Q. Okay. You are prepared to do so but you have

21 03:14 21 not done so yet, correct, sir?

22 03:14 22 A. I am prepared to listen to SBOE's request for

23 03:14 23 extended hours.

24 03:14 24 Q. My question is not about prepared to listen.

25 03:14 25 My question is: Has DMV extended hours

1 03:14 1 specifically for the no-fee voter ID program?

2 03:14 2 A. Above what we currently provide, no.

3 03:15 3 Q. Okay.

4 03:15 4 A. Am I making this hard?

5 03:15 5 MR. FARR: You're doing fine.

6 03:15 6 BY MR. GLICK:

7 03:15 7 Q. You referred earlier to an online renewal

8 03:15 8 program. You recall that?

9 03:15 9 A. Okay.

10 03:15 10 Q. And when you were talking about the online

11 03:15 11 services, just to be clear, you can only renew

12 03:15 12 a license online today, correct? You can't

13 03:15 13 obtain a new one?

14 03:15 14 A. You can't -- you can't renew your license

15 03:15 15 online today.

16 03:15 16 Q. Okay. When do you intend to roll out online

17 03:15 17 renewal?

18 03:15 18 A. You can renew your license online renewal on

19 03:15 19 1 April.

20 03:15 20 Q. April 1st, 2015?

21 03:15 21 A. Correct.

22 03:15 22 Q. And that's, again, only for renewal, not for

23 03:15 23 obtaining a new license, correct?

24 03:16 24 A. Correct.

25 03:16 25 Q. And you can't obtain a no-fee voter ID card

1 03:38 1 regarding the woman Alice Rogers. Do you have

2 03:38 2 that exhibit in front of you, 241?

3 03:38 3 A. Okay.

4 03:39 4 Q. In the e-mail that you wrote on the top of the

5 03:39 5 page where it says "Will ask DS to confirm,"

6 03:39 6 what does DS mean?

7 03:39 7 A. District supervisor.

8 03:39 8 Q. Do you recall whether you asked a district

9 03:39 9 supervisor what happened to Ms. Rogers?

10 03:39 10 A. I'm sure I forwarded it to -- I did. When I

11 03:39 11 cc'd Portia Manley, that was a directorate that

12 03:39 12 would have asked the district supervisor.

13 03:39 13 Q. So by this e-mail, this e-mail is asking Portia

14 03:39 14 Manley to follow up regarding Alice Rogers?

15 03:39 15 A. Correct.

16 03:39 16 Q. So Portia Manley would be the person to ask

17 03:39 17 about whether this request was followed up on

18 03:39 18 and what the result of that follow-up was?

19 03:39 19 A. Yeah, unless she called me. I don't remember

20 03:39 20 getting a follow-up on it.

21 03:39 21 Q. Okay. So to your knowledge, you don't recall

22 03:39 22 anything else post this e-mail, correct?

23 03:39 23 A. I don't recall, no.

24 03:40 24 Q. Commissioner Thomas, I know you were asked some

25 03:40 25 questions about Exhibit 218 and Exhibit 221.

1 03:40 1 Do you have those documents in front of you?

2 03:40 2 A. Yes.

3 03:40 3 Q. And I'll try to be brief with these questions.

4 03:40 4 I'm just trying to understand clearly what your

5 03:40 5 answers are.

6 03:40 6 Is your testimony that the requirements

7 03:40 7 to obtain a voter ID for voting are contained

8 03:40 8 within the entire text of the gray box on

9 03:40 9 Table 4 in addition to Numbers 1 through 6 on

10 03:40 10 Table 4 in addition to the documents listed on

11 03:40 11 the back of Exhibit 221?

12 03:40 12 A. Yes.

13 03:40 13 Q. And I believe you testified that the additional

14 03:40 14 documents that are located on the back of

15 03:41 15 Exhibit 221, the availability of those

16 03:41 16 documents is inferred in Table 4; is that

17 03:41 17 correct?

18 03:41 18 A. Yeah.

19 03:41 19 In Table 4 -- I know it wasn't a

20 03:41 20 question, but can I answer?

21 03:41 21 Q. Sure.

22 03:41 22 A. DMV will review documents that you have in your

23 03:41 23 possession. Again, that's clearly reference to

24 03:41 24 meet my intent. I want to take whatever

25 03:41 25 document I can take. So instead of having a

1 03:41 1 limited list of authorized documents, the
2 03:41 2 alternative document list is an example of
3 03:41 3 those items that we believe the examiners could
4 03:41 4 be looking for, should be looking for, but
5 03:41 5 technically, if you show up with documents,
6 03:41 6 that's what I want the examiners to do. I want
7 03:41 7 the public to bring what they've got so we can
8 03:41 8 help formulate the identification for a no-fee
9 03:41 9 voter ID.

10 03:41 10 Q. And how would a voter know what those
11 03:41 11 additional documents are?

12 03:41 12 A. How would they know besides what's listed on
13 03:42 13 the 231?

14 03:42 14 Q. Yes, sir.

15 03:42 15 A. If they happen to speak to somebody on the
16 03:42 16 phone and ask the examiner what other
17 03:42 17 documents, the examiner should rattle off some
18 03:42 18 of the list that's on the alternate list forms
19 03:42 19 as an example.

20 03:42 20 Q. But you previously testified that this -- the
21 03:42 21 particular document, Exhibit 221, to your
22 03:42 22 knowledge is not a public document, correct?

23 03:42 23 A. No, that's correct.

24 03:42 24 Q. And counsel for the NAACP asked you some
25 03:42 25 questions about where this document wasn't on

1 03:53 1 Q. Do you know how many employees of the DMV are

2 03:53 2 employed with the North Carolina driver's

3 03:53 3 license offices?

4 03:53 4 A. There's 500 or so, 550 driver examiners.

5 03:53 5 Does that answer your question?

6 03:53 6 Q. So there's 500 to 550 examiners. Does that

7 03:53 7 include the -- for example, the senior

8 03:54 8 examiners and the district supervisors?

9 03:54 9 A. Yes.

10 03:54 10 Q. Okay.

11 03:54 11 A. Does not include the administrative clerk that

12 03:54 12 may be at the driver's license office.

13 03:54 13 Q. So how many employees -- if there's 500 to 550

14 03:54 14 driver's license office examiners at all of the

15 03:54 15 driver's license offices, how many would you

16 03:54 16 estimate to be the total number of

17 03:54 17 North Carolina employees that are there in

18 03:54 18 addition to those administrative staff that you

19 03:54 19 said?

20 03:54 20 A. Depends on if there's a hearing officer in the

21 03:54 21 office. Depends if there's license and theft

22 03:54 22 in the same building.

23 03:54 23 Q. I guess what I was asking for was the total. I

24 03:54 24 didn't know if you -- you said 500 to 550

25 03:54 25 driver's license examiners. I didn't know if

1 04:23 1 Q. Is the NEMO-Q technology in any of the mobile
2 04:23 2 units?

3 04:23 3 A. No.

4 04:23 4 Q. Are there plans for it to be incorporated into
5 04:23 5 the mobile units?

6 04:23 6 A. Not that I'm aware of.

7 04:24 7 Q. You previously testified about some previous
8 04:24 8 complaints to the DMV that you called
9 04:24 9 Draconian. Do you know the time period for
10 04:24 10 those particular complaints that you're
11 04:24 11 referring to?

12 04:24 12 A. This -- as I came into the job, people told me
13 04:24 13 that we are Draconian in the method by which we
14 04:24 14 treat our customers. Let me give you an
15 04:24 15 example.

16 04:24 16 November, December of 2014 we did an

17 04:24 17 external customer survey. We did it at two

18 04:24 18 levels: Customers across the state and our

19 04:24 19 partners in our business. Survey came back in

20 04:25 20 January and described DMV as popular with the

21 04:25 21 customers just barely above the IRS. Okay. We

22 04:25 22 were hoping they saw us as the Dwarf House in

23 04:25 23 Chick-fil-A, but that's not how they see us.

24 04:25 24 In their description of how DMV deals

25 04:25 25 with customers, the word Draconian, the word

1 04:25 1 unhappy, the word unpleasant, the word
2 04:25 2 disrespectful was used to describe of how DMV
3 04:25 3 treats our customers. Okay. So that was the
4 04:25 4 first survey that we apparently have done in a
5 04:25 5 long time looking at ourselves and our partners
6 04:25 6 looking at us.
7 04:25 7 So the top three things that came out
8 04:25 8 of the survey that the State of North Carolina,
9 04:25 9 the customers wanted, they wanted a customer
10 04:25 10 friendly service. We call it first class
11 04:25 11 customer service. They wanted no wait time and
12 04:26 12 they wanted easier explanation or understanding
13 04:26 13 of how DMV operates. Those are the three
14 04:26 14 things they want.
15 04:26 15 So the first thing I could tackle was
16 04:26 16 ask North Carolina DMV when was the last time
17 04:26 17 you got customer service training, and I found
18 04:26 18 out we had never done customer service
19 04:26 19 training. So the 700 contract employees that
20 04:26 20 do license plate agencies who are the face of
21 04:26 21 state government have had no customer service
22 04:26 22 training. Our examiners who deal with
23 04:26 23 customers daily and issuance of license had no
24 04:26 24 training.
25 04:26 25 So we partnered with Wake Community

1 04:30 1 Q. Has there been a follow-up survey to see what
2 04:30 2 customers now think of the waiting times at the
3 04:30 3 DMV offices?

4 04:30 4 A. That's why I'm saying our whole survey
5 04:30 5 follow-up is going to be this November. I
6 04:30 6 mean, I would like to think that -- as an Army
7 04:30 7 general, I used to be able to make things
8 04:30 8 happen pretty quickly.

9 04:30 9 As a commissioner of the Division of
10 04:30 10 Motor Vehicles, it takes me a little bit longer
11 04:30 11 to get things executed.

12 04:30 12 So as much as I want to say make this
13 04:30 13 happen immediately, in order to change the
14 04:30 14 culture of DMV and how we deal with our
15 04:30 15 customers, it's taken a little time. So if we
16 04:30 16 did a survey 20 days after you completed the
17 04:30 17 training, I'm not sure that we've got the full
18 04:31 18 benefit yet of the training.

19 04:31 19 So, again, this past December we
20 04:31 20 finished 1800. We now do a makeup. So those
21 04:31 21 employees who may have missed it over the last
22 04:31 22 year because they were out for leave or even
23 04:31 23 new hires who hadn't been on our rolls do the
24 04:31 24 makeup training, and it's level 101.

25 04:31 25 Again, George, I don't know how to

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

3 NORTH CAROLINA STATE CONFERENCE)
4 OF THE NAACP, EMMANUEL BAPTIST)
5 CHURCH, BETHEL A. BAPTIST)
6 CHURCH, COVENANT PRESBYTERIAN)
7 CHURCH, BARBEE'S CHAPEL)
8 MISSIONARY BAPTIST CHURCH, INC.,) 30 (b)(6) Deposition of
9 ROSANELL EATON, ARMENTA EATON,) NC DOT DMV by
10 CAROLYN COLEMAN, JOCELYN) Commissioner Kelly Thomas
11 FERGUSON-KELLY, FAITH JACKSON,) Volume 2
12 MARY PERRY and MARIA TERESA)
13 UNGER PALMER,)

14 Plaintiffs,)

15 vs.)

16 PATRICK LLOYD MCCRORY, in his) Case No: 1:13-CV-658
17 official capacity as the)
18 Governor of North Carolina, KIM)
19 WESTBROOK STRACH, in her)
20 official capacity as Executive)
21 Director of the North Carolina)
22 State Board of Elections, JOSHUA)
23 B. HOWARD, in his official)
24 capacity as Chairman of the)
25 North Carolina State Board of)
Elections, RHONDA K. AMOROSO, in)
her official capacity as)
Secretary of the North Carolina)
State Board of Elections, JOSHUA)
D. MALCOLM, in his official)
capacity as a member of the)
North Carolina State Board of)
Elections, PAUL J. FOLEY, in his)
official capacity as a member of)
the North Carolina State Board)
of Elections and MAJA KRICKER,)
in her official capacity as a)
member of the North Carolina)
State Board of Elections,)

Defendants.)

1
2
3 30 (B) (6) DEPOSITION OF
4 NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
5 DIVISION OF MOTOR VEHICLES
6 BY
7 COMMISSIONER KELLY THOMAS
8
9 VOLUME 2

10 10:03 A.M.

11 WEDNESDAY, JANUARY 13, 2016

12
13 OGLETREE DEAKINS NASH SMOAK & STEWART
14 4208 SIX FORKS ROAD
15 SUITE 1100
16 RALEIGH, NORTH CAROLINA
17
18
19
20
21
22
23
24

25 By: Denise Myers Byrd, CSR 8340, RPR, CLR 102409-02

Thomas, Kelly 20160113

1 have another program called MILES, which is
2 your state vehicle inspection system. And
3 basically, then, the last session is the
4 Medical Review Program.

5 So of these five major programs, the
6 modernization of each one of those is in the
7 program director's job title to help oversee,
8 synchronize and integrate.

9 Notice that she's not the IT expert.
10 We have a complete group that does just IT.
11 She's the one that, as a business manager,
12 helps synchronize all those functions.

13 Q. So do you understand that you've been
14 designated to testify on behalf of the Division
15 of Motor Vehicles today?

16 A. Yes, ma'am.

17 Q. Okay. And you are obviously currently employed
18 by the Department of Transportation, correct?

19 A. Yes, ma'am.

20 Q. How long have you worked at DOT?

21 A. I arrived the 1st of October 2013. A little
22 over two years now.

23 Q. What is your current position at DOT?

24 A. I'm the Commissioner of Motor Vehicles. I was
25 hired to be the lead change agent to change DMV

1 across the state. So they hired me to put in
2 place customer service initiatives, change the
3 bureaucracy of which DMV had been accustomed
4 to -- or the citizens of North Carolina believe
5 that the DMV was a bureaucratic process in
6 policy and eliminate those things, and that's
7 what they brought me here to do.

8 Q. Okay. And in October 2013, when you took the
9 position Commissioner of Motor Vehicles, was
10 that your first position at DOT?

11 A. Yes, ma'am. I retired from the Army as a
12 brigadier general on 30th of September, and so
13 1 October was my first opportunity to become a
14 civilian and again become a servant of the
15 state and that's what I wanted to do.

16 Q. So I am going to ask you a few more questions
17 about your role at DMV. And I apologize, I may
18 ask you some questions that you covered with
19 Ms. Garrett last year. I just want to make
20 sure we get any changes or updates clear
21 between us.

22 So what are your responsibilities as
23 Commissioner of Motor Vehicles?

24 A. I oversee the issuance of identification,
25 vehicle registration, recovery of theft

1 property across the state. Again, it's 256
2 locations, touch point brick-and-mortar
3 locations across the state that we provide DMV
4 services.

5 The DMV services are as much as driver
6 license or identification issuance to vehicle
7 registration, titling of vehicle properties,
8 recovery of lost or stolen vehicles,
9 registration of those vehicles if they're
10 custom or antique vehicles.

11 I have hearing officers across the
12 state that will hear citizens who had a loss or
13 break in insurance liability that need a
14 reinstatement or had a DWI and now it's time to
15 be reinstated or they drive with ignition
16 interlock for their re-issuance. All of those
17 are functions that are within my responsibility
18 within the Division of Motor Vehicles.

19 I spend a lot of time, again, reviewing
20 the general statute which governs my
21 responsibilities and how they can be
22 streamlined and improved.

23 So again, I hope that helps understand
24 a little bit -- I also -- the day I assumed the
25 duties I was informed I'm also the state tax

1 collector because we had combined tax and tags
2 together. That started the month before I
3 became the commissioner.

4 Q. Okay. Is there any other areas generally that
5 you would say fall within your responsibility
6 that you haven't just listed?

7 A. There's several different, you know, aspects of
8 REAL ID compliance is a federal mandate. CDL
9 compliance is a federal mandate that takes me
10 outside of the North Carolina general statute
11 that I'm also responsible for.

12 Q. You said a minute ago that when you were hired
13 in October of 2013 you were hired to be the
14 lead change agent. Do you remember that?

15 A. Yes, ma'am.

16 Q. What was it that needed to be changed about DMV
17 when you were hired in 2013?

18 A. The biggest thing was whether DMV interfaced
19 with the citizens of North Carolina was
20 favorable or not. The opinion of a customer
21 voice survey that we conducted in December of
22 2013 highlighted that the citizens thought of
23 DMV in their -- as far as favorable response,
24 we were placed just above the IRS whether the
25 citizens liked us, and our goal was to be more

1 like Amazon or Chick-fil-A that had a very

2 favorable customer response.

3 And so that's been my goal. Thankfully

4 the secretary nor the governor told me my left

5 limit was don't change license plate agencies

6 or don't change the general statute. They have

7 not given me a limit. They told me to change

8 all of it.

9 And so with that as the guidance and

10 their support, that's what we've been able do.

11 And if we have opportunity during the

12 questioning, I'll be glad to describe many of

13 those initiatives that are on way now, that are

14 in flight now that we've been able to

15 accomplish.

16 Q. I was just going to say can you tell me about
17 some of the things you've done to try to
18 change -- make changes that you think are
19 responsive to the needs that you identified.

20 A. Today we have 21-extended-hour services offices
21 across the state. A year ago that number was
22 19 that provided extended hours. Extended
23 hours, as you can imagine, help the citizens
24 gain access to DMV either outside their normal
25 workday schedules or half a day on Saturday.

1 ///

2 (WHEREUPON, Plaintiffs' Exhibit 729 was
3 marked for identification.)

4 BY MS. RYAN:

5 Q. Commissioner Thomas, are you familiar with this
6 document that has been marked as Exhibit 729?

7 A. Yes, ma'am.

8 Q. What is it?

9 A. It's a North Carolina Driver's Handbook.

10 Q. Okay. Would you please turn to Page 2. I
11 think you've gone past it. It's double-sided,
12 the document. I apologize.

13 A. Okay.

14 Q. So on Page 2 of Exhibit 729, is that your
15 signature there?

16 A. Yes, ma'am.

17 Q. Did you approve this document before it was
18 published?

19 A. Yes, ma'am.

20 Q. What is the purpose of the North Carolina
21 Driver's Handbook?

22 A. I understand its purpose is to help inform the
23 citizens have access to DMV and those things
24 that they need to do to obtain our services.

25 Q. If you flip to the back of the document,

1 Exhibit 729, in about the middle of the page,

2 it says that it was revised in October 2015.

3 Do you see that?

4 A. Yes, ma'am.

5 Q. What prompted DMV to revise the handbook?

6 A. It's my understanding it's revised annually.

7 Q. Do you know what changes were made to the prior

8 version of the handbook?

9 A. In general, we had fee changes that would be

10 applicable to this handbook. We had online

11 driver's license renewal capabilities that

12 would have changed in this handbook.

13 Q. Do you know any other revisions that were made?

14 A. Ma'am, I don't recall the markup between the

15 last version and this version, no.

16 Q. Okay. So Exhibit 729, I printed this off the

17 DMV website on January 10th. Am I correct that

18 this is the most current version of the DMV

19 handbook?

20 A. As far as I know, yes, ma'am.

21 Q. Do you know when DMV plans to revise it again?

22 A. I think it will be in 2016.

23 Q. Okay. So as far as you know, are there any

24 active plans? Are you in the process of

25 revising it right now?

1 A. Yes, ma'am.

2 Q. So talking about the website generally, is it a
3 source of accurate information for customers or
4 potential customers of the DMV?

5 A. That is the intent of it, yes, ma'am.

6 Q. What does DMV do to ensure that the information
7 that you post on the website is current and
8 accurate?

9 A. We post the most current and accurate documents
10 to it.

11 Q. Okay. So is it routinely updated?

12 A. If there are updates, it is routinely updated.

13 Q. Is there a person or a team of people who are
14 responsible for managing the website?

15 A. Yes, ma'am. The website's managed by DOT
16 communications.

17 Q. And with respect to information pertaining to
18 DMV services, who contributes content to the
19 website?

20 A. If I understand your question, all the
21 responsible directorates inside DMV would be
22 responsible for updating that content.

23 Q. I'm going to introduce another exhibit,
24 although I will probably come back to 729.

25 (WHEREUPON, Plaintiffs' Exhibit 730 was

1 marked for identification.)

2 BY MS. RYAN:

3 Q. So, Commissioner Thomas, looking at

4 Exhibit 730, does it appear to be a printout

5 from the North Carolina DOT website?

6 A. That's what it appears to me, yes, ma'am.

7 Q. And if I were to represent to you that this is

8 a printout that I made on January 11th, would

9 you have any reason to disagree with that just

10 looking at it?

11 A. I have no reason to disagree.

12 Q. If you'll turn to Page 3 of Exhibit 730, see

13 there's a table toward the top of the page? Do

14 you see that?

15 A. Okay.

16 Q. Does this table list the current fees that DMV

17 charges for driver's licenses and permits?

18 A. As effective 1 January, yes, it does.

19 Q. And that's January 1, 2016?

20 A. Yes, ma'am.

21 Q. These fees are charged for new issuances; is

22 that correct?

23 A. They're charged for new issuances and renewals.

24 Q. Okay. I'm going to come back to that.

25 And then let me first show you one more

1 exhibit.

2 (WHEREUPON, Plaintiffs' Exhibit 731 was
3 marked for identification.)

4 BY MS. RYAN:

5 Q. Commissioner Thomas, does this appear to be a
6 printout from the North Carolina DOT website?

7 A. I believe so, yes.

8 Q. If you'll look under Step 1 of Exhibit 731, do
9 you see that?

10 A. Yes, ma'am.

11 Q. I think in the second sentence there it says:

12 "To apply, you must appear in
13 person at one of the state's driver
14 license offices and take the required
15 tests."

16 Do you see that?

17 A. Yes, I do.

18 Q. And that's referring to apply for a driver's
19 license; is that correct?

20 A. Correct.

21 Q. And is that a correct statement?

22 A. Yes, ma'am.

23 Q. And to apply -- so I understand in addition to
24 issuing driver's licenses, the DMV issues state
25 identification cards as well; is that right?

1 number?

2 A. Correct.

3 Q. They must be registered to vote or register to
4 vote at the time; is that right?

5 A. Correct.

6 Q. They must sign a declaration stating that they
7 don't already have some other acceptable form
8 of ID for voting; is that right?

9 A. Correct.

10 Q. And is there any other requirement for an
11 individual applying for a no-fee voter ID?

12 A. Not that I'm aware of.

13 (WHEREUPON, Plaintiffs' Exhibit 732 was
14 marked for identification.)

15 BY MS. RYAN:

16 Q. Commissioner Thomas, I've handed you what's
17 been marked Exhibit 732. Do you have that in
18 front of you?

19 A. Yes, ma'am.

20 Q. Does Exhibit 732 appear to be a printout from
21 the DOT website?

22 A. Yes, it does.

23 Q. If I represent to you this is a printout that I
24 made on January 11th relating to voter IDs,
25 would you have any reason to dispute that

1 characterization?

2 A. No, ma'am.

3 Q. If you would take a minute to just review the
4 paragraphs that are on Page 2 to 3 under the
5 heading Requirements and Documents to Obtain a
6 No-Fee Voter ID Card.

7 A. Okay.

8 Q. These paragraphs that you just reviewed in
9 Exhibit 732, are they an accurate description
10 of the requirements for obtaining a no-fee
11 voter ID card?

12 A. I believe they are. I would have to compare it
13 against the verbiage that's used in the DL-231,
14 May 2015 document.

15 Q. So let's see if we can get to that a little
16 bit. So if you'll look at -- let's see. Under
17 the category on Page 2 where it says Proof of
18 Age and Identity, do you see that?

19 A. Yes, ma'am.

20 Q. The website says that applicants must provide
21 two documents from this category that provide
22 your full name and date of birth; is that
23 correct?

24 A. I believe it is correct. Yes, ma'am.

25 Q. And then at the end of that paragraph under

1 Proof of Age and Identity, the website says:

2 "Documents that you may present as
3 proof of age and identity, provided they
4 include your full name (including your
5 middle name) are listed in Table 1."

6 Is it your understanding that reference
7 to Table 1 is referring to Table 1 of the
8 Required Documents list?

9 A. Yes, ma'am.

10 Q. And we have Exhibit 218 as the November 2014
11 version of the Required Documents list; is that
12 right?

13 A. Correct.

14 Q. And there's a link right under that paragraph
15 that's titled Acceptable Documents. Do you
16 know what document is linked there?

17 A. I believe it's the DL-231, May 2015 document.

18 Q. And I think you said that was posted yesterday,
19 which was January 12th.

20 Is it your understanding that as of --
21 up until January 11th, it was the November 2014
22 version of DL-231 that was available at that
23 link?

24 A. Yes.

25 Q. So still on the website, Exhibit 732, under

1 BY MS. RYAN:

2 Q. Okay. Let's look first at Exhibit 735. Do you
3 have that in front of you?

4 A. Yes, ma'am.

5 Q. Do you know what this is?

6 A. I don't know what this one is.

7 Q. Okay. And let me just say something. I don't
8 want to confuse you. This is just the first
9 two pages of a much longer document. I didn't
10 have the ability to print the whole thing.

11 A. Is this the document list of all issued
12 credentials since January --

13 Q. So that's what I was going to ask you. Have
14 you seen this before, understanding that this
15 is just the first two pages of a longer --

16 A. If this is the first of about an inch thick
17 documents, yes.

18 MR. FARR: Can we take a break and see
19 if I can find a copy and we can mark the actual
20 document.

21 MS. RYAN: Sure. Let's take a break.

22 (Brief Recess: 12:41 to 12:43 p.m.)

23 BY MS. RYAN:

24 Q. So, Commissioner Thomas, you now have in front
25 of you Exhibit 735, the complete printout. Can

1 you please tell me what this is.

2 A. I believe this was at the request of the
3 deposition was a list of all the voter IDs that
4 have been issued and to whom. There was a
5 couple other data points it asked for.

6 Q. So does this list include all voter IDs issued
7 since January 2014?

8 A. Yes, ma'am.

9 Q. And until when?

10 A. I don't know when they ran this report. It may
11 have been Monday. It may have been last
12 Friday. I'm not sure what date of this report
13 exactly.

14 Q. Is it fair to say it was sometime within the
15 last week?

16 A. Oh, yes, ma'am. Yes, ma'am.

17 Q. So you have seen this Exhibit 735, this
18 document, before?

19 A. Yes.

20 Q. I'm going to ask you a few questions about the
21 headers so to be sure that I understand what
22 they mean.

23 The first column says CUST ID. What
24 does that refer to?

25 A. It's a customer's identification number.

1 Q. In the SADLS database?

2 A. In the North Carolina database, yes, ma'am.

3 Q. And that's the database that's used for driver
4 license issuances, among other things?

5 A. And all identification, yes, ma'am. It also
6 generates a number -- and I know this is off --
7 way off base, but if you get a speeding ticket
8 in the State of North Carolina and you're
9 licensed in another state, we enter a
10 North Carolina identification number based on
11 that ticket. So you may enter -- you may get
12 into North Carolina's database for a violation
13 in this state.

14 Q. I see. So you could have a customer number
15 even if you don't have an issuance?

16 A. Yes, ma'am, you could.

17 Q. The second column is Sex. Is that the sex of
18 the customer?

19 A. Yes, ma'am.

20 Q. The third column is Race. Is that the race of
21 the customer?

22 A. Yes, ma'am.

23 Q. And what does "B" stand for?

24 A. Black, I believe.

25 Q. Do you know what "I" stands for?

1 A. I don't. I should know, but I don't know.

2 Q. Do you know what "W" stands for?

3 A. White.

4 Q. The fourth column is titled Form ID. Do you
5 know what that refers to?

6 A. I'm not sure I have all the abbreviated codes
7 or listings in there, but this is for a voter
8 ID.

9 Q. Does this column record the type of document
10 that the customer presented?

11 A. Yes, ma'am.

12 Q. And is it the type of document they presented
13 to prove their identity?

14 A. Yes, ma'am.

15 Q. Do you know whether these abbreviations that
16 are used in this column, have they changed in
17 the last year?

18 A. Ma'am, I don't know. I don't think so.

19 Q. Let's move on to the next column, the fifth
20 column over. It's titled Residency. What's
21 captured in that column?

22 A. How they establish their residency.

23 Q. So this column would capture what the document
24 that the customer provided to prove their
25 identity?

1 A. Yes, ma'am.

2 Q. Excuse me. I'm sorry. I misspoke. To prove
3 their residency.

4 A. Yes, ma'am. What document did we accept from
5 the citizen identifying their residency.

6 Q. Okay. And the final column Station ID, what is
7 that?

8 A. 114 sites across the state have an ID
9 identifying them by the site. I can't tell you
10 that Site Number 105 is Lumberton. I'm not
11 familiar enough with all the site numbers to
12 tell you where they are, but that's where this
13 originated from.

14 Q. Have any IDs been issued from mobile units?

15 A. I'm sure they have. I don't know their station
16 ID number either, ma'am.

17 Q. Okay. But they do have a station ID?

18 A. Yes, ma'am.

19 Q. So it's possible that one of the station IDs on
20 this list refers to a mobile unit?

21 A. Oh, yes.

22 Q. But you don't know which one or ones?

23 A. Ma'am, I don't know the numbers.

24 Q. Okay. Let's turn to Exhibit 736 which says at
25 the top DCR 1095 Report B - Application Only

1 Voter ID Cards.

2 Do you have that in front of you?

3 A. Yes, ma'am.

4 Q. What is Exhibit 736?

5 A. This is another report that was run within the
6 past week for those citizens that started the
7 process with us but were unable to complete it
8 for a voter identification.

9 Q. Okay. This list on Exhibit 736, am I right
10 that it reflects applications that were saved
11 in the SADLS system?

12 A. Yes, ma'am.

13 Q. So it would not include, for example, an
14 individual who came in and inquired about a
15 voter ID but the examiner didn't initiate an
16 application; is that correct?

17 A. I don't know, ma'am. If they started the
18 process, that's this report that you see here
19 on Exhibit 736. Exhibit 736 a month ago may
20 have been 34 people, but today it's 30 because
21 those other four people are now on the issued
22 list.

23 So this is a snapshot in time of as of
24 today, we have this number of applicants that
25 have not completed the transaction.

1 have except for this question about the
2 training materials. So why don't we take a
3 break and see if we can get copies of them.

4 THE WITNESS: 737 is one of them. I'm
5 convinced it is, but let's just verify.

6 MR. FARR: Okay.

7 (Lunch Recess: 1:23 to 2:40.)

8 MS. RYAN: Commissioner Thomas, I don't
9 have any further questions for you at this
10 time. I'm going to pass -- pass it off to my
11 colleague, Ms. Lieberman.

12 I think what I'll do, though, is
13 introduce this exhibit since she's not here to
14 do that.

15 (WHEREUPON, Plaintiffs' Exhibit 739 was
16 marked for identification.)

17 MS. LIEBERMAN: I'm sorry. Was that
18 739?

19 MR. FARR: Yes.

20 MS. LIEBERMAN: Is that the e-mail or
21 is that the training?

22 MS. RYAN: It is the e-mail from
23 Thomas -- excuse me -- from Ryan Boyce to
24 Thomas Farr dated Wednesday, January 13, 2016,
25 at 9:07 a.m. And the subject line is forward

1 NC DMV Training and Commissioner Thomas is cc'd

2 on the e-mail.

3 MS. LIEBERMAN: Thank you very much.

4 EXAMINATION

5 BY MS. LIEBERMAN:

6 Q. Commissioner Thomas, good afternoon.

7 A. Good afternoon.

8 Q. My name is Denise Lieberman with Advancement

9 Project, and I represent the NAACP plaintiffs

10 in this matter, and I have a few questions for

11 you related to the NCDMV training that is

12 referenced in Exhibit 739 that I believe has

13 just been handed to you.

14 A. Yes, ma'am, I'm looking at it on the laptop.

15 Q. Okay. First I'd like to call your attention to

16 Exhibit 739 which is an e-mail chain.

17 A. Okay.

18 Q. Correct?

19 A. Yes, ma'am.

20 Q. Do you have that in front of you?

21 A. I do.

22 Q. Okay. And beginning at the beginning of the

23 e-mail chain appears to be an e-mail from Tracy

24 Bucholtz to Eugene Murray dated Friday,

25 April 24, 2015, at 8:31 a.m. Do you see that?

1 A. Yes, ma'am.

2 Q. And the content says:

3 "Eugene, I am reaching out to you

4 to inquiry about the status of the VIVA

5 script. How are things go? Tracy."

6 Do you see that?

7 A. Yes, ma'am.

8 Q. Mr. Thomas, who is Eugene Murray?

9 A. It appears that he's an employee at ITRE

10 North Carolina State University.

11 Q. And do you know Mr. Murray?

12 A. I don't personally know him, no, ma'am.

13 Q. And do you know why Tracy Bucholtz was reaching
14 out to him regarding the VIVA script?

15 A. Ma'am, we contracted ITRE to prepare an online
16 training program for us for driver license
17 examiners.

18 Q. Okay. So Mr. Murray would be one that comes
19 from ITRE who was involved in preparing that
20 training?

21 A. That appears that, ma'am. I didn't know who
22 had prepared it from ITRE until this evidence
23 was given to me.

24 Q. Okay. So the next e-mail in that chain is from
25 Eugene Murray to Tracy Bucholtz and Deanna

1 Sevits dated Monday, April 27, 2015, at

2 7:01 a.m. Do you see that?

3 A. Yes, ma'am.

4 Q. Okay. And it reads, in part:

5 "Tracy and Deanna, Good morning.

6 With sincere apologies for the delay,

7 this weekend I was able to complete the

8 remaining edits to the VIVA training

9 presentation. Here is a link to view

10 the revised presentation from our test

11 web server:"

12 And there's a URL. Do you see that?

13 A. Yes, ma'am.

14 Q. And just for future reference, that is the --

15 is that URL a link to the training program

16 that's described in that e-mail?

17 A. Ma'am, I don't know what it links to. I was

18 not able to pull it up on my laptop.

19 Q. Okay. Have you seen the training program that

20 it's referenced in that e-mail?

21 MR. FARR: We'll stipulate that the

22 training program that's referring to is -- the

23 link is www4.ncsu.edu/ and then I got no idea

24 what that symbol is, but it's

25 eemurra2.ncdmv/viva/ and that that -- we have

1 opened that link on a computer that's sitting

2 in this conference room right now.

3 MS. LIEBERMAN: Perfect.

4 BY MS. LIEBERMAN:

5 Q. And, Commissioner Thomas, is that link what you

6 have opened in front of you, is that the

7 training that was prepared for the DMV

8 employees?

9 A. I believe it is, ma'am.

10 Q. Okay. And then following up, the next e-mail

11 is from Tracy Bucholtz to Ryan Boyce with a cc

12 to William Smith dated today, January 13, 2016,

13 at 9:02 a.m. Do you see that?

14 A. Yes, ma'am.

15 Q. And the text reads "Please see the link below."

16 Who is Ryan Boyce?

17 A. He's a deputy general counsel for DOT and DMV.

18 Q. And who is William Smith?

19 A. Another deputy general counsel to DOT.

20 Q. Okay. And then following up from that we see

21 at 9:07 a.m. this morning an e-mail from Ryan

22 Boyce to Thomas Farr with you cc'd with the

23 same e-mail, is that correct, forwarding that

24 e-mail?

25 A. Yes, ma'am.