

1 13:06:24 1 If you don't hear or understand any of
2 13:06:26 2 my questions, just let me know, and I'll be
3 13:06:29 3 happy to rephrase. And can I assume that, if
4 13:06:32 4 you answer my questions, that you've heard and
5 13:06:33 5 understood the question?

6 13:06:34 6 A. Yes.

7 13:06:34 7 Q. And I'm hoping we'll do these somewhat
8 13:06:41 8 sparingly, but if you need a break at any time,
9 13:06:44 9 let me know. And the only thing I ask is that
10 13:06:47 10 you finish answering whatever question has been
11 13:06:47 11 put out and then we can take a break right
12 13:06:49 12 after that.

13 13:06:50 13 A. Okay.

14 13:06:51 14 Q. Is there any reason that you can't testify
15 13:06:54 15 truthfully and accurately today?

16 13:06:56 16 A. No.

17 13:06:56 17 Q. I want to talk about a few of the key terms
18 13:07:01 18 that I'm going to be using throughout the dep.
19 13:07:05 19 If I use R54, do you know what I'm referring
20 13:07:08 20 to?

21 13:07:09 21 A. No.

22 13:07:09 22 Q. When I say R54, I'm referring to the South
23 13:07:11 23 Carolina photo ID law. Is that --

24 13:07:13 24 A. Okay.

25 13:07:13 25 Q. -- okay? I also want to discuss the reasonable

1 13:07:20 1 impediment provision of R54. Do you understand

2 13:07:22 2 what I'm referring to when I talk about that?

3 13:07:24 3 A. Yes.

4 13:07:24 4 Q. And what's your understanding, just broadly, of

5 13:07:28 5 the reasonable impediment provision of R54?

6 13:07:32 6 A. That if a person has a reasonable impediment

7 13:07:34 7 that has prevented them from getting one of the

8 13:07:36 8 five photo IDs, that they can swear an

9 13:07:41 9 affidavit and -- and be able to vote.

10 13:07:43 10 Q. Excellent.

11 13:07:46 11 A. Complete an affidavit and be able to vote.

12 13:07:51 12 Q. I want to talk a bit about your role and the

13 13:07:57 13 makeup of the South Carolina State Election

14 13:08:01 14 Commission. So you're presently the executive

15 13:08:04 15 director of the South Carolina State Election

16 13:08:07 16 Commission; is that right?

17 13:08:08 17 A. That's right.

18 13:08:09 18 Q. Can you tell me a bit about the makeup of the

19 13:08:12 19 State Election Commission itself?

20 13:08:15 20 A. Our five-member board? We have a five-member

21 13:08:20 21 commission or board. And I serve at the

22 13:08:23 22 pleasure of the board. The board's appointed

23 13:08:25 23 by the governor. And it has to be made up of

24 13:08:30 24 at least one republican and one democrat.

25 13:08:33 25 Q. And who is presently on the State Election

1 13:09:59 1 those members have any experience in
2 13:10:01 2 implementing any voter law of any kind?
3 13:10:04 3 A. Ms. Bowers would.
4 13:10:05 4 Q. And what law does Ms. Bowers have experience
5 13:10:11 5 implementing, aside from R54?
6 13:10:13 6 A. She was the Pickens County election director
7 13:10:17 7 when the National Voter Registration Act was
8 13:10:22 8 implemented. She was also at Pickens when the
9 13:10:25 9 Help America Vote Act was implemented, just
10 13:10:28 10 before moving to Charleston county.
11 13:10:30 11 Q. And aside from Ms. Bowers, does anyone have
12 13:10:34 12 experience implementing a law, a voting law,
13 13:10:38 13 aside from Ms. Bowers?
14 13:10:41 14 A. Not to my knowledge.
15 13:10:43 15 Q. How long have you worked as the executive
16 13:10:49 16 director of the South Carolina State Elections
17 13:10:52 17 Commission?
18 13:10:52 18 A. Thirteen years.
19 13:10:53 19 Q. And what are your responsibilities in your role
20 13:10:56 20 as the executive director of the South Carolina
21 13:10:59 21 State Elections Commission?
22 13:11:00 22 A. I'm the state -- state chief election official.
23 13:11:04 23 I oversee the day-to-day activities of the
24 13:11:08 24 agency. And primarily, we are focused on
25 13:11:12 25 charged with maintaining the statewide voter

1 13:11:17 1 registration system, supporting the statewide

2 13:11:21 2 voting system. We oversee counties and we

3 13:11:28 3 administer a training and certification program

4 13:11:35 4 for county election officials.

5 13:11:35 5 Q. How many counties do you oversee in your role

6 13:11:38 6 as state -- as the executive director of the

7 13:11:40 7 State Election Commission?

8 13:11:41 8 A. Forty-six.

9 13:11:42 9 Q. Is that the same number as you administered

10 13:11:46 10 when R54 was being implemented?

11 13:11:50 11 A. Yes.

12 13:11:51 12 Q. You also said that you train the different

13 13:11:55 13 county boards. Can you tell me a bit more

14 13:11:57 14 about that responsibility?

15 13:11:58 15 A. We have a training and certification program.

16 13:12:00 16 And all county staff, county election directors

17 13:12:04 17 and their board members are required to treat

18 13:12:07 18 -- to create -- sorry, to complete the training

19 13:12:10 19 program. County board directors are required

20 13:12:15 20 to take ten classes. And staff and

21 13:12:19 21 commissioners would take five classes. And

22 13:12:21 22 then there's also a continuing education

23 13:12:25 23 requirement.

24 13:12:26 24 Q. What are the nature of the training classes,

25 13:12:32 25 continuing education classes and other training

1 13:18:36 1 be -- of the applicants, would be added to the
2 13:18:39 2 voter registration list. There was no training
3 13:18:40 3 necessary for poll workers. With respect to
4 13:18:43 4 the Help America Vote Act, I personally did not
5 13:18:47 5 train poll managers. I believe most of the
6 13:18:51 6 changes impacted counties and not poll workers.

7 13:18:55 7 Q. Do you know if anyone at the State Election
8 13:18:58 8 Commission would have worked with any poll
9 13:19:00 9 managers or poll workers for the Help America
10 13:19:04 10 Vote Act?

11 13:19:04 11 A. We're responsible for the overall statewide
12 13:19:08 12 training program for poll managers. We produce
13 13:19:13 13 training materials and supply the county boards
14 13:19:17 14 of election with those, so that they can
15 13:19:20 15 actually conduct the poll manager training.

16 13:19:23 16 Q. When you say you're responsible for the
17 13:19:26 17 statewide training materials, what does that
18 13:19:28 18 mean?

19 13:19:28 19 A. We prepare -- we have an online poll manager
20 13:19:32 20 training program. So that's just one option.
21 13:19:35 21 The other option for receiving poll manager
22 13:19:39 22 training is to attend a training class that is
23 13:19:43 23 conducted by the county. And we provide a
24 13:19:47 24 PowerPoint presentation; we provide poll
25 13:19:51 25 manager handbook and any other materials that

1 13:19:54 1 they would need.

2 13:19:55 2 And our training staff does go out and

3 13:19:58 3 help conduct training from time to time. But

4 13:20:01 4 mainly, it's the responsibility of the county

5 13:20:04 5 to deliver the training.

6 13:20:06 6 Q. And just to be clear, when you say, we create

7 13:20:10 7 online materials and all training materials for

8 13:20:14 8 the statewide training program, you mean the

9 13:20:17 9 State Election Commission creates all of those

10 13:20:20 10 materials; is that correct?

11 13:20:21 11 A. That's right. Or we contract with a vendor to

12 13:20:24 12 produce them.

13 13:20:25 13 Q. But you would oversee all of the materials that

14 13:20:28 14 would be used to train poll managers?

15 13:20:32 15 A. Right. We're responsible for content.

16 13:20:36 16 Q. I want to talk a little bit about the law in

17 13:20:39 17 South Carolina before R54 was enacted. Before

18 13:20:44 18 the enactment of R54, what were the

19 13:20:49 19 identification requirements to vote in South

20 13:20:51 20 Carolina?

21 13:20:51 21 A. Either a South Carolina voter registration

22 13:20:54 22 card, a South Carolina driver's license or an

23 13:20:59 23 ID issued by DMV.

24 13:21:01 24 Q. And aside from those three forms of

25 13:21:04 25 identification that you just named, could

1 13:21:07 1 voters use any other form of ID to vote before

2 13:21:12 2 R54 was enacted?

3 13:21:14 3 A. No.

4 13:21:14 4 Q. When were voters required to present that ID to
5 13:21:15 5 vote?

6 13:21:15 6 A. When they appeared at the polling place.

7 13:21:18 7 Q. Who would they present that ID to?

8 13:21:22 8 A. The poll manager. Or if they went into the
9 13:21:25 9 absentee precinct, the absentee clerk.

10 13:21:31 10 Q. And what were poll managers supposed to do when
11 13:21:34 11 they received an ID, pre-R54?

12 13:21:38 12 A. Verify that the person that was presenting them
13 13:21:41 13 to vote was a registered voter.

14 13:21:45 14 Q. Aside from verifying that the person was a
15 13:21:50 15 registered voter, did they have any other
16 13:21:53 16 responsibilities, when looking at an ID?

17 13:21:55 17 A. They would look at the ID and they would find
18 13:21:59 18 the person's name on the voter registration
19 13:22:03 19 list and confirm that the address that was
20 13:22:06 20 shown on the voter registration list was
21 13:22:06 21 correct.

22 13:22:10 22 Q. If the address did not match -- if the address
23 13:22:13 23 on the identification presented and the address
24 13:22:18 24 in the registration did not match, was the ID
25 13:22:23 25 valid, pre-R54?

1 13:26:20 1 you what will be marked as Andino Deposition
2 13:26:29 2 Exhibit 1, which is the text of R54 from the
3 13:26:32 3 South Carolina website.

4 13:26:32 4 (PLF. EXH. 1, Article 7, Voting
5 13:26:32 5 Provisions Applicable to All Elections, marked
6 13:26:32 6 for identification.)

7 13:26:32 7 BY MS. MORRIS:

8 13:26:37 8 Q. Do you recognize this document?

9 13:26:37 9 MR. BOWERS: I have it.

10 13:26:37 10 MS. MORRIS: You -- I have a copy for
11 13:26:37 11 you.

12 13:26:37 12 MR. BOWERS: Thank you.

13 13:26:48 13 THE WITNESS: Not specifically the
14 13:26:50 14 document. But I've certainly seen Section
15 13:26:56 15 7-13-710 before.

16 13:26:57 16 BY MS. MORRIS:

17 13:26:57 17 Q. I want to walk through some of the changes made
18 13:27:00 18 by R54. So first of all, starting with the
19 13:27:03 19 first section of the law, what forms of ID can
20 13:27:06 20 voters present in order to cast a ballot under
21 13:27:08 21 R54?

22 13:27:09 22 A. The driver's license, other ID issued by DMV, a
23 13:27:18 23 passport, military ID containing a photograph
24 13:27:23 24 issued by the federal government or a South
25 13:27:26 25 Carolina voter registration card with a

1 13:27:29 1 photograph.

2 13:27:29 2 Q. And before R54 was implemented, could a voter

3 13:27:32 3 use a passport, a military ID or a photo voter

4 13:27:39 4 registration ID in order to vote?

5 13:27:42 5 A. Prior to the Act, the voter registration cards

6 13:27:45 6 did not have photographs. And they could not

7 13:27:47 7 use the government ID or the passport.

8 13:27:52 8 Q. And so R54 expanded the types of

9 13:27:57 9 identifications that voters could use?

10 13:27:58 10 A. Yes.

11 13:27:58 11 Q. Pre-R54, could voters obtain a free driver's

12 13:28:04 12 license?

13 13:28:05 13 A. Not to my knowledge.

14 13:28:06 14 Q. After R54, could voters obtain a free driver's

15 13:28:12 15 license?

16 13:28:12 16 A. Not to my knowledge.

17 13:28:13 17 Q. Pre-R54, could voters obtain a free license

18 13:28:18 18 or -- let me correct myself -- an

19 13:28:22 19 identification from the DMV?

20 13:28:25 20 A. I don't believe so.

21 13:28:26 21 Q. And after R54, could voters obtain a free

22 13:28:31 22 identification from the DMV?

23 13:28:33 23 A. Yes, I believe they can.

24 13:28:35 24 Q. And how would a voter go about doing that?

25 13:28:38 25 A. They would go to the DMV and complete whatever

1 13:28:42 1 forms are required by DMV.

2 13:28:45 2 Q. Can you tell me a little bit about the photo

3 13:28:50 3 voter registration ID? Did that exist before

4 13:28:57 4 R54?

5 13:28:57 5 A. No.

6 13:28:58 6 Q. When was it introduced?

7 13:28:59 7 A. In late 2011. I'm sorry, 2012.

8 13:29:07 8 Q. Late 2012 or just 2012?

9 13:29:11 9 A. It was in -- it was after the court -- after
10 13:29:14 10 the court ruling in 2012.

11 13:29:17 11 Q. So --

12 13:29:17 12 A. So I believe it was November or December when
13 13:29:22 13 counties started producing them.

14 13:29:25 14 MR. BOWERS: Just for the record, if I
15 13:29:27 15 may: I mean, that was a Section 5 lawsuit.

16 13:29:29 16 And so the law didn't go into effect until the
17 13:29:33 17 court precleared it.

18 13:29:35 18 MS. MORRIS: Thank you.

19 13:29:35 19 MR. McFARLAND: And I believe it was
20 13:29:39 20 October 2012 --

21 13:29:39 21 MR. BOWERS: I think that's right.

22 13:29:39 22 MR. McFARLAND: -- that the
23 13:29:40 23 preclearance came.

24 13:29:40 24 THE WITNESS: I think it was

25 13:29:41 25 October 11th when -- or somewhere close to that

1 13:29:43 1 when the court ruled. And the law didn't go in
2 13:29:48 2 effect until January 1 of 2013. But the
3 13:29:52 3 counties began producing the IDs prior to that,
4 13:29:58 4 in preparation for elections in 2013.

5 13:30:04 5 BY MS. MORRIS:

6 13:30:04 6 Q. So just to clarify: The photo voter
7 13:30:07 7 registration ID was created as an additional
8 13:30:10 8 form of ID that voters could use under R54?

9 13:30:13 9 A. Yes.

10 13:30:14 10 Q. Where could voters obtain a voter registration,
11 13:30:19 11 a photo voter registration ID?

12 13:30:22 12 A. From any of the 46 county boards of voter
13 13:30:26 13 registration, any auxiliary offices. And then
14 13:30:31 14 counties also went out to public events and
15 13:30:34 15 produced IDs as part of their voter education
16 13:30:42 16 efforts.

17 13:30:42 17 Q. I want to go through each of those. How
18 13:30:46 18 many -- I think the first category is voter
19 13:30:46 19 registration offices. Do you know how many
20 13:30:46 20 voter registration offices there are in South
21 13:30:49 21 Carolina?

22 13:30:49 22 A. There are 46 county voter registration offices.

23 13:30:54 23 Q. Are there any other registration offices,
24 13:30:58 24 besides county registration offices?

25 13:31:00 25 A. I believe there is a satellite office in

1 13:31:04 1 Bluffton, South Carolina.

2 13:31:05 2 Q. Aside from the 46 county registration offices

3 13:31:07 3 and the one satellite you just identified, are

4 13:31:10 4 there any other voter registration offices?

5 13:31:13 5 A. No.

6 13:31:13 6 Q. You mentioned auxiliary offices?

7 13:31:16 7 A. Satellite or auxiliary offices.

8 13:31:19 8 Q. Satellite or auxiliary offices. How many

9 13:31:24 9 satellite or auxiliary offices are there where

10 13:31:27 10 voters could obtain a photo voter registration

11 13:31:28 11 ID?

12 13:31:28 12 A. I believe there's just the one.

13 13:31:30 13 Q. Ah, I see. The satellite one --

14 13:31:34 14 A. Yes.

15 13:31:34 15 Q. -- in Bluffton. Okay.

16 13:31:36 16 A. In Bluffton.

17 13:31:36 17 Q. The 46 county voter registration offices that

18 13:31:43 18 you named, is there one in each county in the

19 13:31:45 19 state?

20 13:31:45 20 A. Yes.

21 13:31:46 21 Q. You also mentioned that voters could get a

22 13:31:51 22 photo voter registration ID at public events.

23 13:31:56 23 How -- can you describe the public events where

24 13:31:59 24 voters could obtain that?

25 13:32:00 25 A. County voter registration offices and the State

1 13:32:05 1 Election Commission did voter education and

2 13:32:07 2 outreach efforts all across the state. It

3 13:32:12 3 could have been fairs, festivals, conferences,

4 13:32:18 4 all -- all different types of meetings,

5 13:32:22 5 churches.

6 13:32:23 6 Q. Do you have any idea, from the time that R54

7 13:32:27 7 was precleared until the election where it was

8 13:32:33 8 implemented, how many public events there would

9 13:32:36 9 have been, where voters could obtain a photo

10 13:32:40 10 voter identification?

11 13:32:42 11 A. Not off the top of my head.

12 13:32:44 12 Q. Do you have an estimate?

13 13:32:45 13 A. No.

14 13:32:46 14 Q. Aside from the 46 county registration offices,

15 13:32:53 15 the one satellite office and the various public

16 13:32:57 16 events and voter education events, is there

17 13:32:58 17 anywhere else where voters could obtain a voter

18 13:33:02 18 photo registration ID?

19 13:33:04 19 A. Not a voter registration card with photo.

20 13:33:11 20 Q. You spoke about the timeline a little bit

21 13:33:14 21 before, but I just want to clarify. You said

22 13:33:17 22 that R54 did not go into effect until

23 13:33:22 23 January 1, 2013; is that correct?

24 13:33:24 24 A. Right.

25 13:33:24 25 Q. When, to the best of your knowledge, did the

1 13:33:29 1 state start offering the photo voter -- photo

2 13:33:34 2 voter registration card?

3 13:33:36 3 A. Sometime in November or December of 2012. And

4 13:33:44 4 it would vary by county. It would depend on

5 13:33:48 5 whether or not they had their equipment, if

6 13:33:51 6 they had received their equipment, their camera

7 13:33:54 7 -- camera equipment and if it had been hooked

8 13:33:58 8 up.

9 13:33:58 9 Q. And how did the counties receive their camera,

10 13:34:01 10 printers and other equipment that they would

11 13:34:03 11 have needed to produce the photo voter

12 13:34:08 12 registration card?

13 13:34:09 13 A. It was purchased by the state and delivered by

14 13:34:13 14 UPS.

15 13:34:14 15 Q. Was there any particular order in which the

16 13:34:22 16 equipment was purchased for counties?

17 13:34:25 17 A. It was all purchased at the same time, but the

18 13:34:28 18 delivery varied.

19 13:34:30 19 Q. And for any particular reason, that you can

20 13:34:32 20 think of?

21 13:34:33 21 A. No.

22 13:34:33 22 Q. What was the cost of a voter -- a photo voter

23 13:34:39 23 registration card?

24 13:34:43 24 A. The ones produced by the county? It was

25 13:34:48 25 actually the same card stock that they had been

1 13:34:52 1 using before. We installed web cameras, and
2 13:34:57 2 they were using the same printers. So it was a
3 13:35:01 3 minimal cost.
4 13:35:02 4 Q. I apologize. What was the cost to voters to
5 13:35:06 5 obtain a voter registration, a photo voter
6 13:35:09 6 registration card?
7 13:35:10 7 A. There is no cost to voters.
8 13:35:12 8 Q. How often does a voter -- a photo voter
9 13:35:15 9 registration ID need to be renewed?
10 13:35:18 10 A. There's no requirement for it to be renewed.
11 13:35:21 11 Q. So when would it expire, if ever?
12 13:35:24 12 A. It doesn't expire.
13 13:35:26 13 Q. To get a photo voter registration ID, do you
14 13:35:32 14 have to show a birth certificate?
15 13:35:34 15 A. No.
16 13:35:35 16 Q. What documents would you have to show to get a
17 13:35:38 17 photo voter registration card?
18 13:35:40 18 A. The voter could bring their non-photo voter
19 13:35:46 19 registration card in and they would be -- a
20 13:35:49 20 photo voter registration card would be
21 13:35:52 21 produced. If they had lost or misplaced the
22 13:35:56 22 non-photo voter registration card, they would
23 13:36:00 23 just have to verify their date of birth and
24 13:36:02 24 their social security number, and they would be
25 13:36:05 25 -- a photo would be taken and they would be

1 13:36:08 1 given a photo voter registration card.

2 13:36:12 2 Q. What about for new voters? What would a new

3 13:36:17 3 voter have to show to get a photo voter

4 13:36:20 4 registration card?

5 13:36:21 5 A. We recommend that counties follow the same

6 13:36:25 6 requirements that are set out in HAVA, where

7 13:36:29 7 you are showing something that has your name

8 13:36:31 8 and your county address. Could be a utility

9 13:36:35 9 bill, a bank statement, a government-issued

10 13:36:39 10 document.

11 13:36:40 11 Q. Would any voter ever have to show a marriage

12 13:36:48 12 license in order to get a photo voter

13 13:36:51 13 registration card?

14 13:36:52 14 A. They would not have to. But it is a

15 13:36:56 15 government-issued document. I don't know if it

16 13:37:00 16 has an address on it.

17 13:37:02 17 Q. So it's a permissible document that could be

18 13:37:08 18 used to obtain an ID, but it --

19 13:37:10 19 A. As long -- as long as it has a name and

20 13:37:13 20 address.

21 13:37:13 21 Q. But can you think of any scenario in which it

22 13:37:18 22 would be required in order to obtain that photo

23 13:37:20 23 voter registration ID?

24 13:37:20 24 A. No.

25 13:37:20 25 Q. What about if someone had a name change?

1 13:37:24 1 A. Counties usually don't require proof of the
2 13:37:29 2 name change.

3 13:37:42 3 Q. You said that the State Election Commission
4 13:37:42 4 recommends that counties follow HAVA
5 13:37:48 5 requirements in what documents they seek to
6 13:37:51 6 issue a photo voter registration card. What
7 13:37:56 7 would happen if the counties didn't follow the
8 13:38:00 8 State Election Commission's recommendation?

9 13:38:02 9 A. Well, I guess it would depend on what they were
10 13:38:07 10 doing. You know, counties, they want to make
11 13:38:11 11 sure that the person lives in the county and
12 13:38:14 12 they try to get something to establish the
13 13:38:19 13 name. You know, we -- it -- it depends on, you
14 13:38:23 14 know, what was happening, and -- and we would
15 13:38:25 15 work with them.

16 13:38:26 16 Q. Do counties have the ability to have a more
17 13:38:31 17 restrictive policy on what IDs they would
18 13:38:37 18 accept to obtain a photo voter registration ID
19 13:38:42 19 than what HAVA permits?

20 13:38:46 20 A. No.

21 13:38:47 21 Q. Since R54 was enacted, do you have any sense of
22 13:38:53 22 how many free voter registration IDs have been
23 13:38:59 23 issued?

24 13:38:59 24 A. I do not.

25 13:39:01 25 Q. Do you have any documents or keep any data that

1 13:40:11 1 THE WITNESS: It's a DMV question; I

2 13:40:15 2 wouldn't know.

3 13:40:15 3 BY MS. MORRIS:

4 13:40:15 4 Q. And for the identification issued by the DMV,

5 13:40:19 5 do you know if a individual would have to

6 13:40:21 6 forfeit an out-of-state license in order to get

7 13:40:25 7 the identification issued by the DMV?

8 13:40:28 8 A. I don't know.

9 13:40:44 9 Q. I'd like to go to Section (D)(1)(b) of the law,

10 13:40:48 10 which is on page 2. It says, if an elector

11 13:40:52 11 does not produce a valid and current

12 13:40:55 12 photographic identification due to a religious

13 13:40:56 13 objection to being photographed -- I'm sorry

14 13:40:59 14 I'm on (D)(1)(a). Let me begin again. Section

15 13:40:59 15 (D)(1)(b) says:

16 13:41:03 16 If an elector does not produce a valid

17 13:41:05 17 and current photograph identification because

18 13:41:05 18 the elector suffers from a reasonable

19 13:41:05 19 impediment that prevents the elector from

20 13:41:05 20 obtaining photograph identification, he may

21 13:41:05 21 complete an affidavit under penalty of perjury.

22 13:41:16 22 How did you determine what the term

23 13:41:18 23 "reasonable impediment" meant in R54 when the

24 13:41:22 24 law was issued?

25 13:41:23 25 A. We asked for an Attorney General opinion to

1 13:41:26 1 provide guidance. And we also used the court

2 13:41:30 2 order.

3 13:41:37 3 MS. MORRIS: I'm handing you a copy of

4 13:41:39 4 the State Attorney General letter that will be

5 13:41:43 5 marked as Andino Deposition Exhibit 2.

6 13:41:43 6 (PLF. EXH. 2, Letter dated August 16,

7 13:41:43 7 2011, marked for identification.)

8 13:41:55 8 BY MS. MORRIS:

9 13:41:55 9 Q. Do you recognize this document?

10 13:41:57 10 A. Yes, I do.

11 13:41:58 11 Q. And what is it?

12 13:41:59 12 A. It is the Attorney General's opinion in

13 13:42:03 13 response to my question about photo ID.

14 13:42:07 14 Q. Why did you seek guidance from the Attorney

15 13:42:10 15 General regarding the definition of reasonable

16 13:42:18 16 impediment?

17 13:42:18 17 A. Because we didn't feel the legislation was

18 13:42:21 18 clear.

19 13:42:21 19 Q. When you say "we", who do you mean?

20 13:42:25 20 A. Myself and my staff.

21 13:42:27 21 Q. Did you get feedback from anyone else that the

22 13:42:31 22 legislation as issued was not clear?

23 13:42:34 23 A. There was probably dialogue with counties as

24 13:42:40 24 well.

25 13:42:40 25 Q. So --

1 13:42:40 1 A. And they had questions.

2 13:42:43 2 Q. So sitting here today, you also recall that

3 13:42:48 3 county boards had expressed a desire to get

4 13:42:54 4 clarity on the law as issued?

5 13:42:56 5 A. Yes. County boards look to us, look to the

6 13:42:59 6 State Election Commission, for guidance. And

7 13:43:02 7 the law was -- was not clear enough that we

8 13:43:07 8 were able to give that guidance.

9 13:43:09 9 Q. And why did you feel that the law wasn't clear

10 13:43:12 10 enough as written?

11 13:43:14 11 A. I believe it just used the term reasonable

12 13:43:20 12 impediment and didn't explain it.

13 13:43:22 13 Q. How, if at all, did the Attorney General's

14 13:43:28 14 letter help to clarify the law for you?

15 13:43:31 15 A. Would you repeat that?

16 13:43:32 16 Q. How, if at all, did the Attorney General's

17 13:43:36 17 letter help to clarify the law for you?

18 13:43:38 18 A. By providing -- they provided guidance and

19 13:43:43 19 possibly some examples. I -- it's been a while

20 13:43:47 20 since I've looked at it. I don't remember.

21 13:43:49 21 Q. What did you do with the Attorney General's

22 13:43:53 22 clarification regarding R54 after you received

23 13:43:55 23 it?

24 13:43:56 24 A. We used it internally to help develop

25 13:44:02 25 materials, training materials, for the

1 13:44:05 1 counties. And we, more than likely, shared it

2 13:44:09 2 with counties as well.

3 13:44:12 3 Q. Aside from using it to develop training

4 13:44:16 4 materials and sharing it with the counties, do

5 13:44:19 5 you recall anything else that you would have

6 13:44:20 6 done with the Attorney General's guidance, as

7 13:44:25 7 issued?

8 13:44:25 8 A. Not that I can remember.

9 13:44:26 9 Q. How, if at all, did the Attorney General's

10 13:44:31 10 clarification of R54 assist you with

11 13:44:38 11 implementing the law?

12 13:44:39 12 A. We used the guidance that was provided by the

13 13:44:46 13 Attorney General's office, along with the

14 13:44:46 14 guidance from the court to develop our

15 13:44:50 15 materials.

16 13:44:50 16 Q. And when you say, guidance from the court, what

17 13:44:53 17 are you referring to?

18 13:44:54 18 A. The court order.

19 13:44:55 19 Q. And just to clarify, that's the court order

20 13:44:59 20 granting preclearance for R54 to go into effect

21 13:45:05 21 January 1, 2013?

22 13:45:06 22 A. That's right.

23 13:45:15 23 Q. I want to go to the challenge section, (2), on

24 13:45:21 24 the same page. It says:

25 13:45:23 25 If the county board of voter

1 13:45:26 1 registration and elections determines that the
2 13:45:28 2 voter was challenged only for the inability to
3 13:45:31 3 provide proof of identification and the
4 13:45:33 4 required affidavit is submitted, the county
5 13:45:37 5 board of voter registration and elections shall
6 13:45:40 6 find that the provisional ballot is valid,
7 13:45:40 7 unless the board has grounds to believe that
8 13:45:42 8 the affidavit is false.

9 13:45:48 9 Based on this text, can you explain
10 13:45:51 10 when a reasonable impediment affidavit might
11 13:45:55 11 not be counted under this provision?

12 13:45:58 12 A. If the board has grounds to believe that it is
13 13:46:03 13 false.

14 13:46:04 14 Q. And can you explain what "grounds" means?

15 13:46:10 15 A. They would have to have some type of reason or
16 13:46:17 16 evidence that what was in the affidavit was
17 13:46:21 17 false. And to my knowledge, to this point, we
18 13:46:26 18 have not had that occur in a single county.

19 13:46:30 19 Q. So, sitting here today, you can't recall a
20 13:46:35 20 single instance, since R54 has been
21 13:46:39 21 implemented, that a reasonable impediment
22 13:46:44 22 affidavit has been successfully challenged for
23 13:46:50 23 being false?

24 13:46:51 24 A. That's correct.

25 13:46:52 25 Q. Sitting here today, can you recall any instance

1 13:49:23 1 BY MS. MORRIS:

2 13:49:26 2 Q. And can a county board member claim that a
3 13:49:29 3 voter's reasonable impediment affidavit is
4 13:49:33 4 false?

5 13:49:34 5 A. If they have information, personal knowledge
6 13:49:40 6 that it is false.

7 13:49:41 7 Q. Sitting here today, can you think of a category
8 13:49:45 8 of person who couldn't challenge a voter's
9 13:49:50 9 reasonable impediment affidavit for any
10 13:49:51 10 particular reason?

11 13:49:51 11 A. No.

12 13:49:51 12 Q. So it could be a candidate as well?

13 13:49:57 13 A. The law is silent on who could challenge.

14 13:50:02 14 Q. And as the state -- as the executive director
15 13:50:05 15 of the State Elections Commission, if a
16 13:50:08 16 candidate challenged a voter's reasonable
17 13:50:15 17 impediment affidavit, would you issue guidance
18 13:50:17 18 to consider that challenge?

19 13:50:19 19 A. Yes.

20 13:50:19 20 Q. If no one specifically challenges a reasonable
21 13:50:24 21 impediment affidavit for falsity, is it
22 13:50:26 22 reviewed by the county boards as a matter of
23 13:50:29 23 process?

24 13:50:29 24 A. The ballot is counted.

25 13:50:33 25 Q. So --

1 13:50:33 1 A. It's an -- it's more of an administrative
2 13:50:37 2 process. If no one has challenged, then those
3 13:50:41 3 are just automatically counted. They're not
4 13:50:44 4 reviewed. There's no decision for the county
5 13:50:46 5 to make.

6 13:50:46 6 Q. So is it possible that a voter would submit a
7 13:50:51 7 reasonable impediment affidavit that would
8 13:50:52 8 never be read by anyone?

9 13:50:55 9 A. Yes.

10 13:50:58 10 Q. So there's no particular process where
11 13:51:05 11 reasonable impediment affidavits are generally
12 13:51:06 12 reviewed as they are submitted by anyone in
13 13:51:10 13 particular?

14 13:51:10 14 A. The poll manager asks the voter to complete the
15 13:51:15 15 affidavit. And it is -- it's up to the voter
16 13:51:20 16 as to whether or not it's a reasonable
17 13:51:23 17 impediment; not to the poll manager, and not to
18 13:51:26 18 the county board. So those are not reviewed
19 13:51:29 19 after the election.

20 13:51:30 20 Q. And if the poll manager did not challenge the
21 13:51:36 21 reasonable impediment affidavit and no other
22 13:51:39 22 person in particular at that time challenged
23 13:51:41 23 the reasonable impediment affidavit, would it
24 13:51:43 24 ever be reviewed for truthfulness at any point?

25 13:51:47 25 A. No. The county board would not have any

1 13:51:51 1 information to know whether it was truthful.
2 13:51:53 2 They have to assume that it is.
3 13:51:55 3 Q. Going back to the requirement that there be
4 13:52:07 4 grounds to believe that the reasonable
5 13:52:09 5 impediment affidavit is false: What
6 13:52:12 6 specifically does "grounds" mean? Could it be
7 13:52:16 7 someone's opinion that it doesn't seem
8 13:52:21 8 truthful? What's required?
9 13:52:22 9 A. The law is silent on what's required. I think
10 13:52:26 10 that you would have to evaluate that on an
11 13:52:30 11 individual basis. I -- I can't just tell you
12 13:52:34 12 that it would be somebody's opinion. I think
13 13:52:37 13 it's the opinion of the voter as to whether or
14 13:52:39 14 not they have a reasonable impediment. And if
15 13:52:42 15 they feel, for whatever reason, that they could
16 13:52:44 16 not get a photo ID, if that's their statement,
17 13:52:51 17 then that is -- that is reasonable and that is
18 13:52:54 18 -- that is truthful. And so you would have to
19 13:52:57 19 have some kind of evidence to show it wasn't.
20 13:53:01 20 Q. Just to put forward an example: If a voter
21 13:53:12 21 said that they had difficulty with
22 13:53:16 22 transportation and that was their reasonable
23 13:53:21 23 impediment, and someone in the community
24 13:53:24 24 challenged the reasonable impediment affidavit
25 13:53:27 25 because they know that individual has a car, is

1 13:53:30 1 that sufficient grounds to challenge the
2 13:53:30 2 reasonable impediment affidavit for
3 13:53:35 3 truthfulness?
4 13:53:35 4 A. I don't think so. I mean, they could challenge
5 13:53:35 5 it. But I don't think the county board would
6 13:53:38 6 overrule it for that reason. You know, their
7 13:53:40 7 car may not be in working order; they may not
8 13:53:43 8 have a driver's license. There could be a lot
9 13:53:47 9 of factors. So again, it would have to be
10 13:53:49 10 evaluated on a case-by-case instance.
11 13:53:51 11 Q. What sort of guidance is given to the county
12 13:53:55 12 board, as they assess whether a reasonable
13 13:53:58 13 impediment affidavit is truthful?
14 13:53:59 14 A. To err on the side of the voter. And that it
15 13:54:04 15 is subjective; it is what the voter believes is
16 13:54:08 16 a reasonable impediment. And I don't have the
17 13:54:13 17 exact -- I don't have the document or the exact
18 13:54:15 18 language with me.
19 13:54:16 19 Q. Going back to sort of the procedure of
20 13:54:20 20 challenging. Would a challenge to a reasonable
21 13:54:25 21 impediment affidavit have to occur on election
22 13:54:27 22 day?
23 13:54:27 23 A. No.
24 13:54:28 24 Q. When can someone challenge a reasonable
25 13:54:34 25 impediment affidavit for truthfulness?

1 14:05:09 1 Court Questions Regarding the Implementation of
2 14:05:12 2 R54.

3 14:05:12 3 (PLF. EXH. 3, South Carolina's
4 14:05:12 4 Responses to the Court's Questions Regarding
5 14:05:12 5 Implementation of Act R54, marked for
6 14:05:12 6 identification.)

7 14:05:23 7 BY MS. MORRIS:

8 14:05:23 8 Q. Do you recognize this document, Ms. Andino?

9 14:05:26 9 A. I'm sure that I've seen it before. But it's

10 14:05:34 10 not anything that I've looked at recently.

11 14:05:38 11 Q. And what do you recognize it to be, even if you

12 14:05:42 12 haven't seen it recently?

13 14:05:43 13 A. South Carolina's Responses to the Court's

14 14:05:46 14 Question.

15 14:05:47 15 Q. And some of your testimony is quoted in South

16 14:05:54 16 Carolina's Responses to the Court Question; is

17 14:05:57 17 that right?

18 14:05:57 18 A. Yes.

19 14:05:57 19 Q. It says, on page 2, towards the bottom: The

20 14:06:10 20 state adopts and endorses all of Ms. Andino's

21 14:06:17 21 interpretations and clarifications of Act R54,

22 14:06:18 22 as well as Ms. Andino's intended process to

23 14:06:22 23 implement the law.

24 14:06:23 24 I wanted to walk you through a number

25 14:06:25 25 of the quotes cited in this document and ask if

1 14:06:28 1 the representations made by you were
2 14:06:32 2 communicated to the county boards and poll
3 14:06:35 3 managers. So turning to page 5, it quotes: A
4 14:06:52 4 ballot should be counted unless evidence is
5 14:06:55 5 presented to say that the affidavit is
6 14:06:59 6 incorrect or false.

7 14:07:00 7 Were poll managers and county boards
8 14:07:03 8 instructed on that interpretation?

9 14:07:05 9 A. Unless the court order had something else in
10 14:07:11 10 it.

11 14:07:11 11 Q. Were poll managers and county boards instructed
12 14:07:17 12 on the substance of the court order?

13 14:07:20 13 A. Yes. They were provided with a copy. And we
14 14:07:25 14 amended procedures that we had drafted prior to
15 14:07:28 15 the court order.

16 14:07:30 16 Q. On the same page, it says: Ballots are
17 14:07:39 17 rejected only when the board has grounds to
18 14:07:39 18 believe that an affidavit is false.

19 14:07:41 19 Were poll managers and county boards
20 14:07:44 20 instructed on that guidance from you?

21 14:07:47 21 A. Yes.

22 14:07:47 22 Q. On page 8, it says that officials should err on
23 14:08:03 23 the side of the voter.

24 14:08:05 24 Were poll managers and county boards
25 14:08:05 25 instructed to err on the side of the voter in

1 14:08:10 1 resolving any conflicts with a reasonable

2 14:08:18 2 impediment declaration?

3 14:08:18 3 A. Yes.

4 14:08:19 4 Q. And were poll workers and county boards

5 14:08:26 5 instructed to err on the side of the voter in

6 14:08:28 6 resolving any discrepancies about an ID that a

7 14:08:32 7 voter had presented?

8 14:08:33 8 A. Yes.

9 14:08:34 9 Q. It also says, towards the bottom, on page 8,

10 14:08:41 10 Ms. Andino is also correct to resolve

11 14:08:44 11 conflicting legal requirements in favor of the

12 14:08:47 12 voter. Were poll managers and county boards

13 14:08:48 13 instructed to resolve conflicting legal

14 14:08:49 14 requirements in favor of the voter?

15 14:08:51 15 A. We -- we always advise counties to err on the

16 14:08:55 16 side of the voter in all matters, if there's a

17 14:08:59 17 question.

18 14:08:59 18 Q. And specifically, you had also provided

19 14:09:03 19 testimony that's quoted or referred to in this

20 14:09:06 20 document that, if no notary were available, a

21 14:09:10 21 poll manager could witness the reasonable

22 14:09:13 22 impediment affidavit of a voter.

23 14:09:15 23 Was that communicated to the county

24 14:09:18 24 boards and poll managers?

25 14:09:20 25 A. Yes, we don't use notaries at the polls.

1 14:09:23 1 Q. You no longer use notaries at all at the polls?

2 14:09:27 2 A. We've never used notaries at the polls.

3 14:09:31 3 Q. So presently, as R54 is administered, anybody

4 14:09:35 4 can witness a voter's reasonable impediment

5 14:09:40 5 affidavit?

6 14:09:40 6 A. Yes.

7 14:09:41 7 Q. I want to read a quote from the federal court

8 14:09:51 8 decision concerning the preclearance of the

9 14:09:54 9 South Carolina voter ID law. In the court

10 14:09:58 10 decision, they stated: The reasonable

11 14:09:59 11 impediment affidavit simply helps to ensure

12 14:10:00 12 that voters with non-photo registration cards

13 14:10:04 13 are who they say they are. The purpose of this

14 14:10:07 14 provision, by its plain text and as it has been

15 14:10:10 15 administratively interpreted, is not to

16 14:10:11 16 second-guess the reasons that those voters have

17 14:10:15 17 not yet obtained photo IDs.

18 14:10:19 18 Do you agree with that quote?

19 14:10:21 19 A. Yes.

20 14:10:21 20 Q. Are you familiar with the practice of signature

21 14:10:29 21 attestation that's used in North Carolina prior

22 14:10:35 22 to 2016?

23 14:10:35 23 A. No.

24 14:10:35 24 Q. It's simply where a voter signs a poll book

25 14:10:36 25 under oath, and that's accepted as ID. From

1 14:15:22 1 Did R54 have a voter education component?

2 14:15:26 2 A. Yes.

3 14:15:26 3 Q. Backtracking a little bit: Are you aware of

4 14:15:36 4 any South Carolina law penalties for a voter

5 14:15:40 5 who presents a suspended driver's license as

6 14:15:43 6 their photo -- as their identification under

7 14:15:46 7 R54?

8 14:15:47 8 A. No.

9 14:15:47 9 Q. Going back to implementation: Who is

10 14:15:54 10 responsible for the implementation of R54?

11 14:15:58 11 A. The State Election Commission and county boards

12 14:16:02 12 of Voter Registration and Elections.

13 14:16:07 13 Q. How many people are at the South Carolina State

14 14:16:11 14 Election Commission?

15 14:16:11 15 A. Approximately 20.

16 14:16:14 16 Q. And how many individuals are -- make up the

17 14:16:19 17 county boards?

18 14:16:21 18 A. At least five in each county. And there are 46

19 14:16:26 19 counties.

20 14:16:27 20 Q. And how many other individuals, besides the 20

21 14:16:32 21 people at the State Elections Commission and

22 14:16:34 22 the five per county in the 46 counties would

23 14:16:38 23 have been involved in implementation of R54?

24 14:16:41 24 A. In each county, there's a county director and

25 14:16:45 25 as -- as well as staff, in addition to the

1 14:16:47 1 commissioners. So all of those people. And

2 14:16:50 2 then also some poll managers and volunteers and

3 14:16:56 3 other interested groups also participated in

4 14:17:02 4 the implementation.

5 14:17:02 5 Q. Do you have any sense of the number of people

6 14:17:05 6 total that were involved in the implementation

7 14:17:08 7 of R54?

8 14:17:10 8 A. I do not.

9 14:17:11 9 Q. Who specifically was the State Election

10 14:17:19 10 Commission in charge of educating, as part of

11 14:17:23 11 the implementation responsibilities associated

12 14:17:26 12 with R54?

13 14:17:28 13 A. The State Election Commission educated county

14 14:17:33 14 election officials, poll managers and voters,

15 14:17:39 15 as well as political parties, other -- and

16 14:17:44 16 other interested groups.

17 14:17:50 17 Q. I want to go through each of those in detail.

18 14:18:00 18 First, can you tell me what was done to educate

19 14:18:05 19 voters, if anything, before R54 was ever

20 14:18:08 20 precleared?

21 14:18:10 21 A. Prior to it being precleared, nothing.

22 14:18:14 22 Q. After R54 was precleared, did the State

23 14:18:20 23 Election Commission do anything to educate

24 14:18:21 24 voters?

25 14:18:22 25 A. Yes.

1 14:18:22 1 Q. When did the State Election Commission begin

2 14:18:26 2 its voter education efforts?

3 14:18:28 3 A. October of 2012.

4 14:18:32 4 Q. And what sort of efforts did the State Election

5 14:18:37 5 Commission make beginning in October of 2012,

6 14:18:39 6 to educate voters of R54?

7 14:18:42 7 A. We did a mailing directly to voters who we

8 14:18:47 8 identified as potentially not having a photo

9 14:18:52 9 ID. That was the first step. We were coming

10 14:18:56 10 up on a general election at that time. So that

11 14:18:59 11 was the only step, I believe, that was taken

12 14:19:02 12 prior to the general.

13 14:19:06 13 We also -- well, we produced materials,

14 14:19:11 14 brochures and posters to have at polling

15 14:19:14 15 places. But we didn't -- I don't think we did

16 14:19:18 16 anything else other than that prior to the

17 14:19:19 17 election, because we didn't want to confuse

18 14:19:22 18 voters and think that a federal ID was

19 14:19:27 19 available -- or was required for the 2012

20 14:19:30 20 general.

21 14:19:31 21 Q. Understood. So in October 2012, before the

22 14:19:37 22 November 2012 election, the only efforts you

23 14:19:39 23 made were the direct mailing to voters who did

24 14:19:43 24 not have photo ID and beginning to develop

25 14:19:46 25 materials relevant to the -- educating voters

1 14:19:50 1 about R54?

2 14:19:51 2 A. We developed those materials to have available

3 14:19:55 3 at polling places in November of 2012.

4 14:19:58 4 Q. What sort of materials did you develop?

5 14:20:01 5 A. There was a brochure, I think an information

6 14:20:05 6 card and also a -- a poster or posters for

7 14:20:09 7 polling places.

8 14:20:17 8 Q. Do you recall what the contents of the direct

9 14:20:22 9 mailing was to voters who did not have a photo

10 14:20:26 10 ID?

11 14:20:27 11 A. Not specifically word-for-word, no.

12 14:20:31 12 Q. Do you have a copy of the mailing that went to

13 14:20:34 13 voters, in or around October 2012, who did not

14 14:20:38 14 have a photo ID, for the purposes of R54?

15 14:20:42 15 A. Yes.

16 14:20:43 16 MS. MORRIS: Could we request a copy of

17 14:20:45 17 that mailing that went out in -- on or around

18 14:20:49 18 October 2012?

19 14:20:53 19 MR. BOWERS: Yes.

20 14:20:53 20 BY MS. MORRIS:

21 14:20:58 21 Q. You described a brochure, an info -- an

22 14:21:07 22 information card and a poster. Do you remember

23 14:21:10 23 specifically the substance of any of those

24 14:21:16 24 materials?

25 14:21:17 25 A. I believe they were all titled Coming in 2013.

1 14:21:22 1 And it would list the five types of ID that

2 14:21:29 2 would be required. And it also explained the

3 14:21:36 3 reasonable impediment.

4 14:21:40 4 Q. So when voters went to polling places in

5 14:21:44 5 November 2012, did each of the voting sites

6 14:21:53 6 have information about R54, including the

7 14:22:01 7 reasonable impediment affidavit?

8 14:22:02 8 A. Yes.

9 14:22:02 9 Q. Do you have copies of the brochure, information

10 14:22:09 10 card or poster that you used during the

11 14:22:14 11 November 2012 election to educate voters on

12 14:22:16 12 R54?

13 14:22:16 13 A. Yes.

14 14:22:18 14 MS. MORRIS: Could we request a copy of

15 14:22:20 15 those materials as well?

16 14:22:22 16 MR. BOWERS: Sure.

17 14:22:22 17 BY MS. MORRIS:

18 14:22:33 18 Q. After the November -- let me just clarify: So

19 14:22:37 19 aside from the materials that you produced to

20 14:22:41 20 be available at the November 2012 election and

21 14:22:43 21 the direct mailing that went out to voters who

22 14:22:46 22 you had identified who did not have a photo ID,

23 14:22:49 23 were any other efforts made to educate voters

24 14:22:54 24 before the November 2012 election?

25 14:22:57 25 A. Before November 2012, I don't -- I don't

1 14:23:02 1 believe so.

2 14:23:02 2 Q. After the November 2012 election, what did the

3 14:23:08 3 State Election Commissions do to educate

4 14:23:11 4 voters?

5 14:23:12 5 A. We had radio ads. There were newspaper ads

6 14:23:17 6 placed before statewide elections. We had

7 14:23:23 7 voter education and outreach efforts. And we

8 14:23:28 8 targeted the counties that had elections early

9 14:23:30 9 in 2013.

10 14:23:38 10 Q. How did you target counties that had early

11 14:23:42 11 elections in 2013, to educate them about R54?

12 14:23:46 12 A. We have a voter education bus. And we would

13 14:23:52 13 attend or be present in their county, taking

14 14:23:58 14 photo ID -- or taking I -- taking pictures for

15 14:24:01 15 photo IDs. We worked with our county boards,

16 14:24:06 16 attended different types of meetings and group

17 14:24:10 17 activities that were held in those counties.

18 14:24:15 18 Q. How many voter education buses does the State

19 14:24:22 19 Election Commission have?

20 14:24:22 20 A. We have one.

21 14:24:23 21 Q. And does the voter education bus, as it was

22 14:24:27 22 being used to educate voters about the

23 14:24:31 23 requirements of R54, have the capacity to issue

24 14:24:35 24 photo IDs that could be used for voting under

25 14:24:39 25 R54?

1 14:24:40 1 A. Yes.

2 14:24:40 2 Q. Do you have any sense of how many IDs were
3 14:24:44 3 issued from the voter education bus in advance
4 14:24:48 4 of the 2013 election?

5 14:24:52 5 A. Not off the top of my head. But we kept track
6 14:24:56 6 of that information.

7 14:24:59 7 MS. MORRIS: Could we also request any
8 14:25:00 8 data on how many identifications were issued
9 14:25:04 9 through the voter education bus?

10 14:25:06 10 MR. BOWERS: We can probably arrange a
11 14:25:09 11 ride on the bus too, if you want.

12 14:25:11 12 THE WITNESS: It's right around the
13 14:25:12 13 corner. I'm not --

14 14:25:12 14 MS. MORRIS: That would be ideal.

15 14:25:13 15 THE WITNESS: I'm not sure that we will
16 14:25:14 16 know how many cards were issued and it be tied
17 14:25:18 17 directly to the bus. It may be just over a
18 14:25:21 18 certain period of time. Because some of the
19 14:25:23 19 events that we did, we had the bus present and
20 14:25:26 20 some we didn't have the bus; it just depended
21 14:25:29 21 on if it lent itself to being there. But
22 14:25:33 22 either way, we could take pictures, with or
23 14:25:36 23 without the bus being there.

24 14:25:37 24 BY MS. MORRIS:

25 14:25:37 25 Q. Can you describe that a little bit? What sort

1 14:25:40 1 of mobile apparatuses or -- did you have to

2 14:25:43 2 bring to manufacture photo IDs that would be

3 14:25:50 3 acceptable under R54 at different sites?

4 14:25:52 4 A. All we needed was a laptop, so we could access

5 14:25:56 5 our statewide voter registration system, and a

6 14:26:00 6 camera. And then the picture would be taken

7 14:26:02 7 and the card would be produced at the county

8 14:26:05 8 office and mailed to the voter.

9 14:26:07 9 Q. And where did you bring these mobile

10 14:26:13 10 identification stations to?

11 14:26:17 11 A. Various locations. It would -- it would depend

12 14:26:20 12 on the county, what they had going on. It

13 14:26:23 13 could be a fair, a festival. It could be a

14 14:26:28 14 senior community center, recreational facility,

15 14:26:37 15 city hall. It just varies.

16 14:26:39 16 Q. Do you have any sense of how many events you

17 14:26:42 17 would have offered photo identification to

18 14:26:47 18 voters, that would have been acceptable under

19 14:26:50 19 R54, leading up to the 2013 election?

20 14:26:53 20 A. Well, there was not one specific election in

21 14:26:58 21 2013. There are elections almost every

22 14:27:05 22 Tuesday, in one county or another. So our

23 14:27:07 23 activities supplemented what counties were out

24 14:27:10 24 doing. So we may know how many state-sponsored

25 14:27:13 25 events, but we -- we have some information on

1 14:27:14 1 county events, but I don't know that we have
2 14:27:17 2 all of them. So in addition to our efforts,
3 14:27:20 3 counties were also either doing effort -- or
4 14:27:23 4 education, with or without us.

5 14:27:25 5 Q. Were counties also able to manufacture photo
6 14:27:33 6 identification that could be used under R54
7 14:27:37 7 independently of the State Elections
8 14:27:39 8 Commission?

9 14:27:39 9 A. Yes.

10 14:27:39 10 Q. Did they have any sort of mobile unit that
11 14:27:45 11 could go do different events to produce photo
12 14:27:49 12 identification that would be valid under R54?

13 14:27:52 13 A. They don't have a bus. But the bus is simply a
14 14:27:55 14 rolling billboard for us. It's not necessary
15 14:27:58 15 to produce photo IDs or to attend any of these
16 14:28:04 16 events. A lot of directors go out and they
17 14:28:08 17 drive their personal car or a county car to
18 14:28:11 18 events to conduct photo -- or voter education.

19 14:28:14 19 Q. Did the county boards have the laptop and other
20 14:28:18 20 equipment aside from the bus that they could
21 14:28:22 21 manufacture photo identifications at different
22 14:28:25 22 events, mobile-ly, outside of brick and mortar
23 14:28:30 23 offices?

24 14:28:31 24 A. Yes.

25 14:28:31 25 Q. You also mentioned radio ads. Do you remember

1 14:28:37 1 the substance of the radio ads relating to

2 14:28:42 2 educating voters about R54?

3 14:28:44 3 A. I don't remember the exact script, but we have

4 14:28:47 4 it.

5 14:28:47 5 MS. MORRIS: Could we request the

6 14:28:50 6 script for the radio ads?

7 14:28:52 7 BY MS. MORRIS:

8 14:28:52 8 Q. You also mentioned newspaper ads. Do you have

9 14:28:55 9 any recollection of the substance of the

10 14:29:00 10 newspaper ads that were used to educate voters

11 14:29:02 11 for R54?

12 14:29:02 12 A. It would -- they would have been very similar

13 14:29:03 13 to the posters. You know, coming in 2013,

14 14:29:07 14 listing the five IDs that are acceptable and

15 14:29:11 15 also talking about a reasonable impediment and

16 14:29:14 16 where to go to get a photo ID if you don't have

17 14:29:18 17 one.

18 14:29:18 18 Q. Do you have a copy of any of the newspaper ads

19 14:29:22 19 that you put in to educate voters about R54?

20 14:29:26 20 A. I think we still have those in our office.

21 14:29:29 21 MS. MORRIS: Could we request those, if

22 14:29:32 22 you have them?

23 14:29:32 23 MR. BOWERS: Sure.

24 14:29:33 24 BY MS. MORRIS:

25 14:29:36 25 Q. Aside from radio ads, newspaper ads, the State

1 14:29:41 1 Election Commission's bus, attending different
2 14:29:46 2 county and state events, were there any other
3 14:29:49 3 efforts made to educate voters about R54 after
4 14:29:54 4 the November 2012 primary?
5 14:29:57 5 A. After the 2012 primary?
6 14:30:01 6 Q. Oh, sorry. After the November 2012 election.
7 14:30:05 7 A. A continuation of -- of those events. I
8 14:30:13 8 believe we -- we did some television, as -- we
9 14:30:19 9 did not do any buy -- any purchased ads, but I
10 14:30:23 10 believe we participated on news shows and
11 14:30:25 11 things like that; a series of press releases.
12 14:30:30 12 You know, after the initial push for the
13 14:30:35 13 implementation, then it was just rolled into
14 14:30:38 14 our standard messaging for elections.
15 14:30:45 15 Q. Did all these efforts that you've described
16 14:30:49 16 occur in 2012 as well as in 2013?
17 14:30:55 17 A. Yes. Well -- yes.
18 14:30:58 18 Q. After the November 2012 election?
19 14:31:01 19 A. Right.
20 14:31:02 20 Q. So just to sum up: The State Election
21 14:31:05 21 Commission was using radio ads, newspaper ads,
22 14:31:10 22 press releases, TV appearances, a mobile van
23 14:31:18 23 that could issue photo ID, attending state and
24 14:31:25 24 county events to get the word out about R54,
25 14:31:31 25 all in 2012, after the November election?

1 14:31:36 1 A. The -- the newspaper -- some -- some of that

2 14:31:41 2 was in 2013. I mean, there wasn't much

3 14:31:43 3 interest after the general election in 2012.

4 14:31:46 4 And so we started those efforts, but

5 14:31:50 5 predominantly it would have been in 2013. And

6 14:31:53 6 there were conferences that we attended. And

7 14:31:55 7 we also used social media as well.

8 14:31:58 8 Q. What sort of conferences did the State Election

9 14:32:08 9 Commission attend to educate voters about R54?

10 14:32:12 10 A. The Municipal Association. It's a conference

11 14:32:18 11 of cities and towns. And I believe the county

12 14:32:24 12 association, Association of Counties

13 14:32:27 13 conference. There is some assistive technology

14 14:32:30 14 conferences that we attend on a regular basis.

15 14:32:35 15 Q. How did the Municipal Association conference

16 14:32:42 16 help to educate voters about R54?

17 14:32:43 17 A. It helps to get the word out to elected

18 14:32:47 18 officials and towns and cities that these --

19 14:32:50 19 these are -- these requirements have changed.

20 14:32:52 20 Because if they are conducting a municipal

21 14:32:56 21 election, they need to be aware of it.

22 14:32:58 22 Q. How do you control the messaging or education

23 14:33:08 23 efforts for the Municipal Association?

24 14:33:12 24 A. We provided everyone with the materials that we

25 14:33:15 25 had produced so that no one would have to

1 14:33:18 1 produce their own, so our message would stay

2 14:33:21 2 consistent.

3 14:33:21 3 Q. So, is it fair to say that the State Election

4 14:33:27 4 Commission managed all education materials

5 14:33:32 5 related to the implementation of R54?

6 14:33:36 6 A. I don't know that I would go that far because

7 14:33:41 7 there are private groups, like the League of

8 14:33:44 8 Women Voters and -- and others that may have

9 14:33:46 9 produced their own. You know, even if we had

10 14:33:49 10 provided them with materials, they may have,

11 14:33:53 11 you know, created their own or -- or put

12 14:33:55 12 something in their own newsletter that we would

13 14:33:59 13 not have had control over. So I wouldn't go as

14 14:34:05 14 far as to say that we have produced or

15 14:34:07 15 controlled all of them. But we provided our

16 14:34:10 16 message to as many as groups as possible.

17 14:34:14 17 Q. Just to clarify, the State Election Commission

18 14:34:17 18 oversaw the vast majority of materials to

19 14:34:21 19 educate voters for R54?

20 14:34:23 20 A. Yes.

21 14:34:24 21 Q. Did the county boards develop any materials

22 14:34:32 22 different from the State Election Commission

23 14:34:34 23 materials to educate voters?

24 14:34:36 24 A. Not that I'm aware of. Because we provided

25 14:34:38 25 them with our materials.

1 14:34:40 1 Q. And why did the State Election Commission

2 14:34:43 2 choose to control the materials that were used

3 14:34:48 3 to educate voters for R54?

4 14:34:51 4 A. It was part of our responsibility for the

5 14:34:58 5 implementation.

6 14:34:58 6 Q. Is there any other reason that the State

7 14:35:02 7 Election Commission maintains control over the

8 14:35:04 8 vast majority of education materials that go

9 14:35:07 9 out to voters regarding R54?

10 14:35:10 10 A. So we have a consistent message across the

11 14:35:14 11 state. We routinely produce all materials for

12 14:35:18 12 counties -- or most materials for counties.

13 14:35:21 13 Q. Going back to the conferences that you

14 14:35:25 14 mentioned, you also said that you attended the

15 14:35:28 15 Association of Counties. How did attending the

16 14:35:31 16 Association of Counties conference help to

17 14:35:31 17 educate voters about R54?

18 14:35:34 18 A. It was just to help raise awareness among

19 14:35:38 19 county councils and other county elected

20 14:35:39 20 officials or county officials so that they

21 14:35:42 21 could help pass the message along, back in

22 14:35:45 22 their counties.

23 14:35:47 23 Q. You also mentioned that you used social media

24 14:35:53 24 to educate voters about R54 after the November

25 14:35:59 25 2012 election. Can you describe what the

1 14:36:02 1 social media efforts were of the State Election

2 14:36:06 2 Commission to educate voters about R54?

3 14:36:09 3 A. We have a Facebook page, as well as a -- a

4 14:36:15 4 Twitter account. And we periodically Tweet or

5 14:36:20 5 post messages. We would have alerted voters

6 14:36:22 6 that there had been a change in the law and

7 14:36:24 7 that one of those five IDs would be required

8 14:36:28 8 and -- as well as the reasonable impediment.

9 14:36:30 9 And a number of reminders prior to a major

10 14:36:36 10 election as well.

11 14:36:38 11 Q. Do you know if the Facebook posts or content

12 14:36:45 12 put on your Facebook page as well as the

13 14:36:50 13 Twitter account are still available on the

14 14:36:54 14 State Election Commission's Facebook and

15 14:36:57 15 Twitter pages?

16 14:36:58 16 A. I don't know. I don't know how far it goes

17 14:37:01 17 back. I don't believe we've deleted anything.

18 14:37:04 18 Q. Do you keep records of that internally, aside

19 14:37:05 19 from what goes on to the site publically?

20 14:37:08 20 A. I'm not sure.

21 14:37:09 21 Q. Who is in charge of posting information

22 14:37:12 22 regarding R54 on Facebook and Twitter?

23 14:37:16 23 A. Who was? Chris Whitmire is our director of

24 14:37:25 24 public information and training. We also use

25 14:37:30 25 Chernoff Newman. And they're an -- a public

1 14:37:33 1 relations and advertising company here in

2 14:37:36 2 Columbia. And both have access, as well as

3 14:37:39 3 myself, we all have access to the Twitter and

4 14:37:43 4 to the Facebook accounts.

5 14:37:45 5 So prior to an election, we may have 30

6 14:37:49 6 or 60 days of daily posts scheduled. And it

7 14:37:53 7 may be that Chernoff has an intern posting them

8 14:37:57 8 or it may be that we have somebody. So it

9 14:38:00 9 could vary.

10 14:38:01 10 Q. Why did you decide to use social media to

11 14:38:06 11 educate voters about R54?

12 14:38:07 12 A. We use social media to educate voters about

13 14:38:13 13 elections. It's just one of our -- our normal

14 14:38:17 14 ways that we reach out and try to reach as many

15 14:38:21 15 voters as possible.

16 14:38:22 16 Q. If you know, how many followers do you have on

17 14:38:26 17 Twitter?

18 14:38:26 18 A. I don't know.

19 14:38:27 19 Q. But even if a South Carolina voter is not a

20 14:38:34 20 follower on Twitter, do you know if they would

21 14:38:35 21 be able to see posts about R54 when they were

22 14:38:40 22 put up?

23 14:38:41 23 A. I think so.

24 14:38:42 24 Q. Do you know how many friends the South Carolina

25 14:38:46 25 Election Commission has on Facebook?

1 14:38:48 1 A. Haven't looked at it in a while, no.

2 14:38:51 2 Q. If a South Carolina -- Carolina voter isn't a

3 14:38:56 3 friend of the State Election Commission, are --

4 14:38:59 4 do you know if the way that your account is set

5 14:39:02 5 up would allow voters to see information about

6 14:39:04 6 R54 as it was being posted?

7 14:39:04 7 A. I think we're set up as an organization now, so

8 14:39:06 8 we don't have to accept friends.

9 14:39:09 9 Q. How did you come up with the strategy to do 30

10 14:39:13 10 to 60 days of daily postings leading up to a

11 14:39:19 11 given election?

12 14:39:19 12 A. That seems to be the period of time when voters

13 14:39:23 13 are most interested in elections. So we try to

14 14:39:28 14 remind them about absentee voting and about

15 14:39:31 15 upcoming deadlines, the last day to register to

16 14:39:33 16 vote, and just keep reminding them of the

17 14:39:35 17 election.

18 14:39:35 18 Q. Did you also use the social media platforms to

19 14:39:40 19 educate voters about R54?

20 14:39:43 20 A. I believe we did. It would have been part of

21 14:39:48 21 our preelection. But not specifically; we

22 14:39:52 22 didn't depend specifically on it to educate

23 14:39:56 23 about R54.

24 14:39:59 24 Q. But you did use social media platforms to

25 14:40:04 25 educate voters about R54, even though you did

1 14:40:11 1 not rely on it exclusively?

2 14:40:12 2 A. We still do, prior to every election.

3 14:40:19 3 Q. Can you tell me a little bit more about -- you

4 14:40:22 4 mentioned that Chernoff Newman helps you with

5 14:40:27 5 voter education through social media. Does

6 14:40:32 6 Chernoff Newman do anything else to help you

7 14:40:34 7 with voter education efforts or did they do

8 14:40:35 8 anything else to help you with voter education

9 14:40:38 9 efforts around R54?

10 14:40:40 10 A. Yes.

11 14:40:40 11 Q. What specifically did Chernoff Newman do to

12 14:40:40 12 help you with voter education efforts around

13 14:40:46 13 R54?

14 14:40:46 14 A. They helped us develop our -- our voter

15 14:40:47 15 education and outreach strategy; helped develop

16 14:40:56 16 all of our materials: posters, brochures; all

17 14:40:59 17 of the messaging. The ads, they actually did

18 14:41:01 18 the newspaper ad purchase. They also attended

19 14:41:06 19 events on our behalf. If our employees were

20 14:41:10 20 not available to do voter education and

21 14:41:13 21 outreach, Chernoff does that for us as well.

22 14:41:18 22 Q. Aside from developing the voter outreach and

23 14:41:22 23 education strategy, assisting you with all

24 14:41:24 24 materials relating to education efforts around

25 14:41:26 25 R54 and attending events on your behalf, can

1 14:42:52 1 our agency prior to that, sometime in the
2 14:42:55 2 1990s. And I don't know what the -- what the
3 14:42:57 3 -- the project was.

4 14:42:58 4 Q. So aside from its work with the South Carolina
5 14:43:03 5 Election Commission, do you know whether
6 14:43:06 6 Chernoff Newman has any other experience
7 14:43:09 7 implementing or educating voters about voter ID
8 14:43:14 8 laws or any other election law?

9 14:43:16 9 A. Not about voter photo ID. When we -- in 2004,
10 14:43:24 10 they had a -- a partner or a subcontractor that
11 14:43:28 11 had worked with another state. I believe it
12 14:43:30 12 was with Ohio.

13 14:43:36 13 Q. And aside from that, can you think of any other
14 14:43:40 14 experience they have relating to educating
15 14:43:43 15 voters around election laws?

16 14:43:46 16 A. No.

17 14:43:46 17 Q. When you say that Chernoff Newman helped you to
18 14:43:55 18 develop a voter education and outreach
19 14:43:57 19 strategy, what did that involve?

20 14:43:59 20 A. Create -- coming up with a plan, working on the
21 14:44:02 21 mailing, working on the items that -- the
22 14:44:09 22 posters and the brochures, determining media
23 14:44:14 23 buys, helping with the development of the
24 14:44:16 24 scripts for the radio commercials, the ads, and
25 14:44:21 25 any other outreach activities.

1 14:44:24 1 Q. Was there a centralized document created or

2 14:44:29 2 something else to memorialize the voter

3 14:44:32 3 education and outreach strategy that Chernoff

4 14:44:36 4 Newman developed for R54?

5 14:44:38 5 A. Yes, there was a written plan.

6 14:44:40 6 Q. Do you have a copy of that plan?

7 14:44:42 7 A. I believe we still have a copy of the plan.

8 14:44:46 8 MS. MORRIS: Could we request a copy of

9 14:44:50 9 the Chernoff Newman strategy around the

10 14:44:53 10 implementation of R54?

11 14:44:56 11 MR. BOWERS: Sure.

12 14:44:59 12 THE WITNESS: One version of it was

13 14:45:01 13 submitted in the preclearance request, so you

14 14:45:04 14 may already have it.

15 14:45:07 15 BY MS. MORRIS:

16 14:45:07 16 Q. Are there any other efforts that the State

17 14:45:18 17 Election Commission made, aside from the radio

18 14:45:22 18 ads, newspaper ads, voter education and

19 14:45:27 19 outreach events that the State Election

20 14:45:31 20 Commission attended, television appearances,

21 14:45:36 21 the voter education bus, mobile units to

22 14:45:42 22 provide photo IDs, social media and hiring a PR

23 14:45:47 23 firm, that you can think of that the State

24 14:45:50 24 Election Commission did to educate voters about

25 14:45:53 25 R54?

1 14:45:54 1 A. I believe we attended -- or editorial board

2 14:45:59 2 meetings with newspapers.

3 14:46:01 3 Q. And how did attending editorial board meetings

4 14:46:06 4 with newspapers help to educate voters about

5 14:46:09 5 R54?

6 14:46:10 6 A. By educating the editors and reporters, we --

7 14:46:20 7 they were able to better write stories and

8 14:46:25 8 promote the effort more accurately.

9 14:46:29 9 Q. Is there anything else you can think of that

10 14:46:32 10 the State Election Commission did to educate

11 14:46:35 11 voters specifically about R54 that you haven't

12 14:46:39 12 already mentioned?

13 14:46:40 13 A. That's all I remember right now.

14 14:46:42 14 Q. Was there ever a voter -- or is there now a

15 14:46:46 15 voter education month or week in South

16 14:46:48 16 Carolina?

17 14:46:48 17 A. Yes.

18 14:46:49 18 Q. When does that take place?

19 14:46:51 19 A. Either in May or September.

20 14:46:54 20 Q. Following R54's preclearance, was there a voter

21 14:47:00 21 education month or week?

22 14:47:03 22 A. There would have been in 2014. We do this in

23 14:47:07 23 even-numbered years.

24 14:47:09 24 Q. And can you describe what the voter education

25 14:47:14 25 month involved in 2014?

1 14:48:38 1 everything we do, every -- every education
2 14:48:41 2 effort. It's included, we just don't refer to
3 14:48:45 3 it as a specific act. It's -- you know.

4 14:48:47 4 Q. Let me be a little more specific then: Was
5 14:48:50 5 there any efforts to educate voters about the
6 14:48:54 6 photo ID that they now need to vote and/or the
7 14:49:00 7 reasonable impediment provision?

8 14:49:01 8 A. We do that for every election, every statewide
9 14:49:05 9 election. So I would imagine, yes.

10 14:49:07 10 Q. Is there anything else that you can think of
11 14:49:14 11 that the State Election Commission did to
12 14:49:18 12 target voters after the November 2012 election,
13 14:49:23 13 that you can think of, that you have not
14 14:49:25 14 already mentioned?

15 14:49:25 15 A. That's all I remember right now.

16 14:49:36 16 MS. MORRIS: I want to put in front of

17 14:49:38 17 you what we'll mark as Andino Deposition

18 14:49:43 18 Exhibit 4.

19 14:49:43 19 (PLF. EXH. 4, South Carolina Election

20 14:49:43 20 Commission flyer, marked for identification.)

21 14:49:53 21 BY MS. MORRIS:

22 14:49:53 22 Q. Do you recognize this?

23 14:49:55 23 A. Yes.

24 14:49:56 24 Q. And what is it?

25 14:49:57 25 A. It is one of the versions of our photo ID voter

1 14:50:05 1 education materials.

2 14:50:06 2 Q. When was it created, if you know?

3 14:50:09 3 A. I can't tell, from looking at this. And we've

4 14:50:12 4 had -- we've had several different versions,

5 14:50:16 5 very similar. We've tweaked language to make

6 14:50:19 6 it clearer. I don't know which version this

7 14:50:23 7 is.

8 14:50:23 8 Q. Do you have an estimate on when it could have

9 14:50:28 9 been created, the range?

10 14:50:31 10 A. Between November of 2012 and now.

11 14:50:39 11 Q. Do you know who created this document?

12 14:50:41 12 A. It was created by Chernoff Newman in

13 14:50:45 13 conjunction with our office.

14 14:50:46 14 Q. And what was the purpose of this document?

15 14:50:49 15 A. Educate voters about photo ID requirements.

16 14:50:55 16 Q. Do you know when this was provided to voters?

17 14:50:59 17 A. I don't know what version this is, so I don't

18 14:51:03 18 know.

19 14:51:03 19 Q. Maybe -- can you tell me when would documents

20 14:51:08 20 like this have been provided to voters?

21 14:51:12 21 A. If this was a poster, it could have been at any

22 14:51:17 22 election held in 2013, 2014, 2015. The

23 14:51:23 23 earliest version had "coming in 2012", so I

24 14:51:27 24 don't believe this one was used at the 2012

25 14:51:30 25 general election. If this was a -- a flyer or

1 14:51:34 1 an information card, it could have been during

2 14:51:37 2 the -- the same time. I just can't tell from

3 14:51:40 3 this.

4 14:51:40 4 Q. So it's your guess that a file like this would

5 14:51:46 5 have been handed out at -- on election day?

6 14:51:48 6 A. Flyers were handed out at all elections after

7 14:51:52 7 the October ruling came down.

8 14:51:56 8 Q. I want to talk through a few parts of this

9 14:52:04 9 form. So the very top part lists a number of

10 14:52:11 10 photo identifications that would be acceptable

11 14:52:18 11 under R54. Why did you decide to include the

12 14:52:22 12 list in this flyer?

13 14:52:23 13 A. Thought that was an important part of what

14 14:52:28 14 voters needed to know.

15 14:52:29 15 Q. I notice that it says, if you have one of these

16 14:52:33 16 IDs, you are ready to vote. Just be sure to

17 14:52:37 17 bring one of these photo IDs with you to the

18 14:52:39 18 polling place. And then it says, if you do not

19 14:52:41 19 have one of these photo IDs, make your voting

20 14:52:46 20 experience as fast and as easy as possible by

21 14:52:46 21 getting a free photo ID from the DMV or the

22 14:52:50 22 county voter registration office.

23 14:52:55 23 Why did you include this language, if

24 14:52:58 24 you remember?

25 14:52:58 25 A. It was important to us that voters, if they

1 14:53:01 1 didn't already have an ID, that they got one

2 14:53:05 2 prior to the election so it would be a smooth

3 14:53:07 3 process at the polls.

4 14:53:13 4 Q. You mentioned before that there are 46 county

5 14:53:19 5 voter registration offices. Do you know how

6 14:53:25 6 many DMV locations there are in South Carolina?

7 14:53:27 7 A. There are more than 46, but I don't know the

8 14:53:30 8 exact number.

9 14:53:30 9 Q. So there are more than a hundred places in

10 14:53:34 10 South Carolina where individuals could get a

11 14:53:37 11 free photo ID?

12 14:53:39 12 A. Yes.

13 14:53:39 13 Q. For the purposes of R54?

14 14:53:42 14 A. Yes.

15 14:53:42 15 Q. Then it says: If you forget to bring your

16 14:53:47 16 photo ID to the polling place, you may vote a

17 14:53:50 17 provisional ballot that will count only if you

18 14:53:53 18 show your photo ID to the Election Commission

19 14:53:55 19 prior to certification of the election, usually

20 14:53:57 20 Thursday or Friday after the election.

21 14:53:59 21 Why did you include this?

22 14:54:00 22 A. Trying to make all voters aware of all the

23 14:54:08 23 scenarios. If they have a photo ID and they

24 14:54:11 24 forget to bring it, then they can't use the

25 14:54:15 25 reasonable impediment. So we wanted to make

1 14:54:17 1 sure that they understood, you know, if you

2 14:54:19 2 forget to bring it, there are different

3 14:54:21 3 requirements.

4 14:54:21 4 Q. So today, if a voter shows up at the polls and
5 14:54:25 5 they've forgotten one of the -- or all of,
6 14:54:28 6 rather, the five identifications that are valid
7 14:54:32 7 under R54, can they sign a reasonable
8 14:54:36 8 impediment declaration?

9 14:54:37 9 A. No.

10 14:54:37 10 Q. What can a voter who's forgotten their photo ID
11 14:54:45 11 do, under R54, in order to vote?

12 14:54:49 12 A. R54 doesn't address -- I don't believe it
13 14:54:52 13 addresses someone who forgot to bring their
14 14:54:55 14 photo ID. But generally, if a person has an ID
15 14:54:59 15 and they forgot to bring it, they can either go
16 14:55:02 16 home and get an ID or they can vote a
17 14:55:06 17 provisional ballot. But they have to show the
18 14:55:08 18 ID prior to certification, or the provisional
19 14:55:12 19 ballot hearing, which takes place at the same
20 14:55:12 20 time.

21 14:55:12 21 Q. But a person who forgot any -- all of their
22 14:55:17 22 forms of ID would not be able to use the
23 14:55:24 23 reasonable impediment declaration?

24 14:55:24 24 A. That's right.

25 14:55:25 25 Q. And then it says: If you can't get a photo ID,

1 14:55:25 1 bring your non-photo voter registration card

2 14:55:25 2 with you to the polling place. You may vote a

3 14:55:29 3 provisional ballot after signing an affidavit

4 14:55:32 4 stating you have a reasonable impediment to

5 14:55:35 5 obtain photo ID. A reasonable impediment is

6 14:55:35 6 any valid reason beyond your control which

7 14:55:37 7 created an obstacle to obtain a photo ID.

8 14:55:42 8 Does this refresh your recollection

9 14:55:43 9 about whether a voter needs any form of

10 14:55:46 10 identification in order to get a reasonable

11 14:55:50 11 impediment affidavit?

12 14:55:50 12 A. Well, this says that they have to -- or to

13 14:55:53 13 bring the non-photo voter registration card.

14 14:55:57 14 Q. Is it your understanding that, if someone does

15 14:56:00 15 not have a non-photo voter registration card

16 14:56:03 16 with them at the polling place, that they would

17 14:56:07 17 not be able to get a reasonable impediment

18 14:56:07 18 declaration?

19 14:56:07 19 A. I'm not positive on how that works.

20 14:56:11 20 Q. This poster also lists a series of examples of

21 14:56:20 21 reasonable impediments, including a disability

22 14:56:23 22 or illness, a conflict with your work schedule,

23 14:56:24 23 a lack of transportation, lack of a birth

24 14:56:26 24 certificate, family responsibilities or

25 14:56:29 25 religious objection to being photographed, any

1 14:56:31 1 other obstacle you find reasonable.

2 14:56:34 2 How did you come up with this list, if

3 14:56:36 3 you remember?

4 14:56:36 4 A. I believe it is out of the law, the AG's

5 14:56:40 5 opinion and the court's ruling.

6 14:56:42 6 Q. Do you know if all of the reasonable

7 14:56:47 7 impediments listed here would have been

8 14:56:50 8 available in checkmark form on the reasonable

9 14:56:54 9 impediment affidavit form provided by the State

10 14:56:57 10 Election Commission?

11 14:56:57 11 A. I believe they are.

12 14:56:58 12 Q. Do you -- why did you have the language, any

13 14:57:04 13 other obstacle you find reasonable?

14 14:57:08 14 A. Because that's not an all-inclusive list of

15 14:57:12 15 scenarios that could be encountered.

16 14:57:14 16 Q. Finally, you put: This ballot will count

17 14:57:18 17 unless someone proves to the Election

18 14:57:19 18 Commission that you are lying about your

19 14:57:21 19 identity or having the listed impediment.

20 14:57:23 20 Why did you choose to put this language

21 14:57:25 21 in the flyer?

22 14:57:25 22 A. It's what's included in the law, or similar to

23 14:57:29 23 what is included in the law.

24 14:57:32 24 Q. And why did you choose to feature that

25 14:57:36 25 particular section of the law?

1 14:57:37 1 A. We were trying to be, you know, comprehensive

2 14:57:40 2 and cover all the points.

3 14:57:42 3 Q. You already mentioned that the State Election

4 14:57:46 4 Commission has a Facebook and Twitter page. I

5 14:57:50 5 also see, at the bottom of the form, that it

6 14:57:52 6 says SCvotes.org. What is SCvotes.org?

7 14:57:59 7 A. It's our public website.

8 14:58:01 8 Q. And did your public website have any

9 14:58:05 9 information about R54 designed to educate

10 14:58:10 10 voters?

11 14:58:10 11 A. Yes, it did.

12 14:58:12 12 Q. What sort of content, if you remember, did you

13 14:58:12 13 put on the SC Votes website to educate voters

14 14:58:13 14 on R54?

15 14:58:13 15 A. We have all of the posters, downloadable

16 14:58:18 16 posters. And the same information provided

17 14:58:21 17 here we provided on our website.

18 14:58:23 18 Q. And was this information available after the

19 14:58:27 19 November 2012 election on SCvotes.org? And I

20 14:58:31 20 mean information relevant to educating voters

21 14:58:36 21 about R54.

22 14:58:36 22 A. I believe it was probably available before,

23 14:58:41 23 with the note that it was coming in 2012.

24 14:58:42 24 Q. So even before the November 2012 election and

25 14:58:46 25 following the preclearance of R54, SCvotes.org

1 14:58:51 1 had information about R54 designed to educate

2 14:58:51 2 voters?

3 14:58:52 3 A. I believe so, yes.

4 14:58:55 4 MS. MORRIS: I think we should take a

5 14:58:56 5 break, almost out of tape.

6 14:58:58 6 THE VIDEOGRAPHER: Standby. This marks

7 14:58:59 7 the end of disk one. We are going off the

8 14:59:03 8 record. The time on the monitor is 14:59.

9 15:09:13 9 (A recess transpired.)

10 15:09:13 10 THE VIDEOGRAPHER: This marks the

11 15:09:23 11 beginning of disk two. We are going on the

12 15:09:25 12 record. The time on the monitor is 15:09.

13 15:09:25 13 BY MS. MORRIS:

14 15:09:30 14 Q. Ms. Andino, if you don't mind turning back to

15 15:09:35 15 Andino Exhibit, Deposition Exhibit Number 4,

16 15:09:37 16 the flyer that we had been looking through.

17 15:09:40 17 A. Okay.

18 15:09:40 18 Q. Who, if anyone, would know the answer to

19 15:09:45 19 whether a voter is required to bring -- to

20 15:09:49 20 present a form of identification in order to

21 15:09:53 21 get a reasonable impediment affidavit?

22 15:09:56 22 A. It's in our poll manager handbook. I just --

23 15:10:00 23 I'm not familiar with it, you know, it -- with

24 15:10:03 24 the detail. Chris Whitmire is in charge of

25 15:10:08 25 putting that handbook together. And our

1 15:10:11 1 counties would certainly know as well, because
2 15:10:14 2 they deal with this on a regular basis.

3 15:10:18 3 Q. Going back to the timeline of education efforts
4 15:10:26 4 that you made with voters: You said before
5 15:10:29 5 that the first voter education efforts began
6 15:10:36 6 shortly after October 2012. How long did you
7 15:10:45 7 have to educate voters before the very first
8 15:10:50 8 election that took place in 2013?

9 15:10:53 9 A. The very first election that took place in 2013
10 15:10:56 10 was on January 8th, three years ago today.

11 15:11:02 11 Q. And so you had, from sometime in October of
12 15:11:11 12 2012, when your office began voter education
13 15:11:15 13 efforts, until January 8th, which was the first
14 15:11:20 14 time that R54 was implemented?

15 15:11:23 15 A. That's right.

16 15:11:25 16 Q. What election was the January 8th election?

17 15:11:30 17 A. It was a Branchville municipal election. It's
18 15:11:34 18 a small town in Orangeburg county.

19 15:11:38 19 Q. When was the first statewide election that
20 15:11:42 20 occurred in 2013?

21 15:11:44 21 A. There were no statewide elections in 2013.

22 15:11:49 22 Q. So when was the first statewide election in
23 15:11:56 23 which R54 was implemented?

24 15:12:00 24 A. The first statewide was June of 2014. And that
25 15:12:04 25 would be our statewide primaries.

1 15:12:07 1 Q. So you had from October 2012 until June of 2014

2 15:12:13 2 to educate voters about R54 in advance of the

3 15:12:17 3 first statewide election --

4 15:12:19 4 A. That's right.

5 15:12:20 5 Q. -- in which R54 was implemented?

6 15:12:22 6 A. That's right.

7 15:12:24 7 Q. Did you feel that that was adequate time, that

8 15:12:27 8 from October 2012 to June 2014, was adequate

9 15:12:31 9 time to educate voters about R54?

10 15:12:34 10 A. Yes, I do. What we heard from most poll

11 15:12:39 11 managers and -- and counties and -- and voters

12 15:12:41 12 is, they used a driver's license when they went

13 15:12:45 13 to the polls anyway, so it wasn't a big change.

14 15:12:48 14 And then, judging from the number of people who

15 15:12:51 15 have shown up without a photo ID, it -- it

16 15:12:57 16 seems like it was successful.

17 15:12:59 17 Q. Do you know how many people showed up without

18 15:13:05 18 an ID at the June 2014 election? And when I

19 15:13:09 19 say without an ID, I mean one that would

20 15:13:14 20 constitute a valid ID under R54.

21 15:13:16 21 A. It was very few. We really prepared for the

22 15:13:21 22 worst. And photo ID turned out to be really a

23 15:13:26 23 nonevent in South Carolina.

24 15:13:27 24 Q. When you say "very few", do you have any sense

25 15:13:31 25 of the number of voters that showed up during

1 15:13:33 1 the 2014 statewide election who did not have a

2 15:13:35 2 photo ID?

3 15:13:36 3 A. The primary or the general?

4 15:13:38 4 Q. Either.

5 15:13:39 5 A. It would be around a hundred, maybe a little

6 15:13:43 6 over a hundred, for the general election. And

7 15:13:47 7 even fewer for the statewide primaries.

8 15:13:50 8 Q. How did you calculate that number?

9 15:13:55 9 A. We asked counties to provide that number to us.

10 15:13:58 10 Q. How did counties keep track of voters who did

11 15:14:03 11 not have appropriate ID under R54 during the

12 15:14:09 12 primary or general election?

13 15:14:11 13 A. They counted the number of reasonable

14 15:14:17 14 impediment's affidavits that were sent to them.

15 15:14:19 15 Q. Aside from counting the number of reasonable

16 15:14:26 16 impediment affidavits, was there any effort to

17 15:14:28 17 keep track of any voters who might have showed

18 15:14:32 18 up without the necessary ID under R54 and, for

19 15:14:39 19 whatever reason, never used a reasonable

20 15:14:42 20 impediment affidavit?

21 15:14:42 21 A. There -- there was no formal effort. Counties,

22 15:14:48 22 they interact with the poll managers and

23 15:14:52 23 relayed to us that it was not a major issue.

24 15:14:59 24 Q. Were there any formal tracking of individuals

25 15:15:02 25 who showed up during the 2014 general or

1 15:15:08 1 primary election that did not have the
2 15:15:11 2 requisite ID under R54 and that also, for
3 15:15:16 3 whatever reason, did not file a reasonable
4 15:15:20 4 impediment affidavit?

5 15:15:20 5 A. We would have the reasonable impediment and
6 15:15:23 6 then we would also have any provisional ballot
7 15:15:28 7 that was cast, if they said, I forgot my ID.
8 15:15:32 8 But if they walked away and said, I'll go home
9 15:15:36 9 and get mine, we -- we did not track that
10 15:15:38 10 information.

11 15:15:39 11 Q. And aside from tracking provisional ballots and
12 15:15:45 12 reasonable impediment affidavits cast by voters
13 15:15:46 13 in the 2014 election, did you do anything else
14 15:15:50 14 to keep track of voters who showed up who did
15 15:15:56 15 not have the requisite photo ID under R54?

16 15:15:59 16 A. No.

17 15:15:59 17 Q. Do you have data that would show the number of
18 15:16:07 18 reasonable impediment affidavits that were
19 15:16:10 19 counted in both the general and the primary
20 15:16:13 20 election?

21 15:16:13 21 A. Yes.

22 15:16:15 22 MS. MORRIS: Could we get the data of
23 15:16:17 23 the number of reasonable impediment
24 15:16:18 24 declarations counted at the primary elections?

25 15:16:19 25 MR. BOWERS: Yes. And I'll also say

1 15:16:21 1 it's in Dr. Trey Hood's expert report --

2 15:16:28 2 MS. MORRIS: Excellent.

3 15:16:30 3 MR. BOWERS: -- as an exhibit.

4 15:16:30 4 BY MS. MORRIS:

5 15:16:32 5 Q. We've talked a lot about assistance -- or

6 15:16:38 6 rather educating voters about the provisions of

7 15:16:42 7 R54. But I want to just focus narrowly on

8 15:16:47 8 election day itself. If any voter had

9 15:16:50 9 questions about the meaning of reasonable

10 15:16:54 10 impediment, who could they turn to on election

11 15:16:56 11 day to answer those questions?

12 15:16:58 12 A. 20,000 poll managers across the state, our

13 15:17:02 13 county voter registration and election offices

14 15:17:06 14 or the State Election Commission, our website,

15 15:17:10 15 any of the posters, the information posters

16 15:17:14 16 that are in the polling places, any number of

17 15:17:17 17 things.

18 15:17:18 18 Q. Are all poll workers trained and instructed to

19 15:17:25 19 answer questions about reasonable impediment?

20 15:17:27 20 A. All poll managers are trained prior to every

21 15:17:31 21 election. And reasonable impediment is

22 15:17:33 22 included in the training.

23 15:17:35 23 Q. So for any election in which R54 has been

24 15:17:40 24 implemented, have poll managers been trained

25 15:17:44 25 and instructed to answer questions about the

1 15:17:47 1 reasonable impediment provision?

2 15:17:48 2 A. They're trained on reasonable impediment, as

3 15:17:51 3 part of -- it's part of their training. Now,

4 15:17:54 4 whether or not you could ask any -- any one of

5 15:17:59 5 20,000 if they could explain it, they may have

6 15:18:01 6 to refer to the poll manager handbook; they

7 15:18:06 7 don't do this every day. But they are trained

8 15:18:10 8 and they do have the information readily

9 15:18:13 9 available to them, if there's a question.

10 15:18:14 10 Q. If a voter had a question about whether having

11 15:18:17 11 access to a car one day per week would

12 15:18:21 12 constitute a reasonable impediment, what were

13 15:18:24 13 poll workers instructed to tell voters?

14 15:18:27 14 A. They were instructed to tell them if they

15 15:18:29 15 believe that it is a reasonable impediment,

16 15:18:32 16 then it is.

17 15:18:34 17 Q. Did you design any frequently-asked-question

18 15:18:44 18 documents or any other sort of materials to

19 15:18:47 19 assist poll workers in answering voter

20 15:18:50 20 questions on election day?

21 15:18:55 21 A. In -- in some versions of our poll manager

22 15:19:00 22 handbook, we have a frequently asked questions

23 15:19:03 23 section. I don't know if it's in the current

24 15:19:05 24 version or not.

25 15:19:06 25 Q. During the implementation of R54, did you do

1 15:19:17 1 any monitoring of poll managers to figure out
2 15:19:21 2 whether they had appropriately answered voter
3 15:19:24 3 questions regarding reasonable impediment or
4 15:19:29 4 the necessary forms of ID under R54?

5 15:19:33 5 A. The State Election Commission does not monitor
6 15:19:37 6 poll managers. They are hired and they report
7 15:19:41 7 to the county boards. So I don't know if the
8 15:19:46 8 counties did that or not.

9 15:19:48 9 Q. Who would know if the county is engaged in any
10 15:19:52 10 monitoring of poll workers to find out whether
11 15:19:57 11 they appropriately implemented or explained to
12 15:20:00 12 voters R54 and the reasonable impediment
13 15:20:02 13 provision?

14 15:20:03 14 A. Well, really it would be, you know, each
15 15:20:04 15 individual county. But we provided the
16 15:20:06 16 materials so they would have the information,
17 15:20:07 17 so they could adequately explain the
18 15:20:14 18 provisions.

19 15:20:21 19 Q. I want to talk quickly about the role of county
20 15:20:25 20 boards in educating voters. We covered a lot
21 15:20:28 21 of the ways in which the State Election Board
22 15:20:32 22 educated voters. But how, if it all, did
23 15:20:35 23 counties engage in voter education efforts
24 15:20:37 24 around R54?

25 15:20:39 25 A. I believe that they were all required to hold

1 15:20:41 1 two public meetings with civic groups. And

2 15:20:44 2 everybody reported that they did that. They

3 15:20:48 3 also -- we -- we just simply augmented or

4 15:20:53 4 supplemented the activities that they were

5 15:20:56 5 doing. They were out at fairs and festivals

6 15:21:00 6 and conferences and meetings and churches and

7 15:21:03 7 garden committees and, you know, different

8 15:21:07 8 groups, educating voters.

9 15:21:09 9 Q. What materials did the county boards use to

10 15:21:13 10 educate voters?

11 15:21:14 11 A. The materials that were created by our office.

12 15:21:17 12 Q. You mentioned that each county board was

13 15:21:22 13 required to hold two public meetings with civic

14 15:21:26 14 groups regarding the implementation of R54.

15 15:21:32 15 Can you tell me a little bit more about that

16 15:21:36 16 requirement?

17 15:21:36 17 A. It was in the act. And it varied from county

18 15:21:39 18 to county exactly where and when and how they

19 15:21:43 19 held those meetings. But they did -- every --

20 15:21:46 20 every county reported to us that they had met

21 15:21:48 21 with -- or at least held the meetings. And you

22 15:21:51 22 know, you can hold a public meeting and you can

23 15:21:54 23 invite lots of people, but you can't ensure

24 15:21:58 24 that they will be there in large numbers. So I

25 15:22:01 25 don't know how many people attended, but they

1 15:22:03 1 did hold meetings.

2 15:22:04 2 Q. When were the county boards required to hold

3 15:22:07 3 these two public meetings with civic groups

4 15:22:11 4 regarding R54?

5 15:22:13 5 A. I believe it was in October -- or in December,

6 15:22:16 6 November or December of 2012. I don't remember

7 15:22:21 7 the exact timeframe, but they met the

8 15:22:24 8 timeframe.

9 15:22:24 9 Q. Aside from the required two public meetings

10 15:22:31 10 that each county was supposed to have with

11 15:22:35 11 civic groups to educate voters about R54, were

12 15:22:40 12 there any other in-person meetings to educate

13 15:22:43 13 voters about R54?

14 15:22:45 14 A. Yes. I believe all counties did voter

15 15:22:48 15 education and outreach efforts.

16 15:22:50 16 Q. Do you know specifically whether they had any

17 15:22:56 17 other in-person meetings with voters to educate

18 15:23:00 18 them about R54, aside from the two public

19 15:23:04 19 meetings that would have occurred around

20 15:23:06 20 November or December of 2012 regarding R54?

21 15:23:10 21 A. Yes, they all conducted voter education and

22 15:23:14 22 outreach efforts.

23 15:23:15 23 Q. Do you know when or specific events?

24 15:23:17 24 A. They reported those to us at the time. We had

25 15:23:22 25 a calendar, but I don't know of any of them,

1 15:24:34 1 A. Again, it would vary from county to county how
2 15:24:40 2 many. They're numerous in each county. And
3 15:24:46 3 some were held in conjunction with our visits
4 15:24:49 4 to the county. But again, you know, we
5 15:24:54 5 targeted counties or municipalities that were
6 15:24:56 6 holding elections in 2013. And we also had a
7 15:25:02 7 congressional district election. It wasn't
8 15:25:08 8 statewide, but it was -- it was five counties,
9 15:25:12 9 in 2013.

10 15:25:13 10 Q. When was the congressional election in 2013?

11 15:25:16 11 A. It was in May. The election, the special
12 15:25:20 12 election was in May. So the primary would have
13 15:25:23 13 been seven weeks before that, so March,
14 15:25:28 14 February, March-ish.

15 15:25:32 15 MR. McFARLAND: I think March 19th.

16 15:25:38 16 THE WITNESS: That sounds good. And
17 15:25:39 17 the runoff two weeks later.

18 15:25:43 18 BY MS. MORRIS:

19 15:25:45 19 Q. What efforts, if any, did the State Election
20 15:25:49 20 Commission or the county board make to reach
21 15:25:51 21 voters in more rural areas, to educate them
22 15:25:55 22 about R54?

23 15:25:56 23 A. Well, our -- our counties cover the entire
24 15:26:00 24 state. And many of them are completely rural.
25 15:26:03 25 And there were outreach efforts in every

1 15:26:07 1 county, if they were holding an election in
2 15:26:09 2 2013. So we didn't focus primarily on the
3 15:26:12 3 large cities or anything; it was a distributed
4 15:26:16 4 effort across the state, where their elections
5 15:26:18 5 were being held.

6 15:26:22 6 And Branchville, we talked about, in
7 15:26:22 7 Orangeburg is a -- is a perfect example. We
8 15:26:25 8 went and did voter education efforts; we went
9 15:26:29 9 down for poll manager training and, you know,
10 15:26:32 10 made sure that everybody was ready to conduct
11 15:26:34 11 that first election under the new requirements.

12 15:26:38 12 Q. And is Branchville the county that had a -- an
13 15:26:43 13 election in January of --

14 15:26:46 14 A. January 8th.

15 15:26:47 15 Q. -- 2013?

16 15:26:48 16 A. Yes. And Branchville is the municipality.

17 15:26:52 17 Orangeburg's the county.

18 15:26:54 18 Q. And you just said, we went down for poll

19 15:26:57 19 manager training. Does that mean the State

20 15:27:00 20 Election Commission went to directly train poll

21 15:27:03 21 managers for the January 2013 -- or in

22 15:27:06 22 anticipation of the January 2013 election?

23 15:27:09 23 A. Not our commission, but some of my staff, yes.

24 15:27:12 24 Q. So members of the staff of the State Election

25 15:27:16 25 Commission --

1 15:27:16 1 A. Yes.

2 15:27:17 2 Q. -- went specifically to train poll managers in
3 15:27:20 3 advance of the January 2013 election?

4 15:27:23 4 A. Yes.

5 15:27:23 5 Q. Why did you choose to have people from your
6 15:27:26 6 office go conduct that training?

7 15:27:28 7 A. Because it was the first election under the new
8 15:27:32 8 requirements.

9 15:27:32 9 Q. And why specifically have your office train the
10 15:27:38 10 poll managers for the first election
11 15:27:42 11 implementing R54?

12 15:27:44 12 A. It was an important change and we wanted to
13 15:27:47 13 make sure that it was a smooth transition to
14 15:27:50 14 the new requirements. It's not unusual for our
15 15:27:54 15 office to go and assist in conducting poll
16 15:27:57 16 manager training. And this was just a good
17 15:28:00 17 opportunity.

18 15:28:00 18 Q. How often, since the enactment of R54, has your
19 15:28:08 19 office staff or people on the actual State
20 15:28:13 20 Election Commission engaged in training poll
21 15:28:15 21 managers?

22 15:28:15 22 A. I don't know. It's something that our training
23 15:28:18 23 department does prior to every statewide
24 15:28:20 24 election in a few counties. We also assist if
25 15:28:24 25 there's a new director. But I don't -- I

1 15:28:27 1 couldn't give you a number.

2 15:28:28 2 Q. Do you know how many poll workers the staff of

3 15:28:31 3 the State Election Commission has trained since

4 15:28:35 4 the implementation of R54?

5 15:28:36 5 A. No.

6 15:28:37 6 Q. But you would say that it's not an unusual

7 15:28:42 7 occurrence for staff of the State Election

8 15:28:44 8 Commission to train poll managers directly?

9 15:28:46 9 A. No. That -- that's part of the training

10 15:28:50 10 department's job, is to assist the county in --

11 15:28:53 11 in doing the training. And, you know, we --

12 15:28:56 12 we'll do it in problem areas or prior to a

13 15:29:00 13 statewide election, or if there's a new

14 15:29:02 14 director, or if there isn't a director at all,

15 15:29:06 15 or upon request. So it -- it -- it varies.

16 15:29:09 16 Q. What's a problem area that would merit having

17 15:29:15 17 someone from your office come to train poll

18 15:29:19 18 managers?

19 15:29:19 19 A. Maybe a municipality or a county that had had

20 15:29:23 20 problems with prior elections. Sometime we're

21 15:29:29 21 -- we're ordered to help conduct the election

22 15:29:32 22 following election issues. And a lot of times,

23 15:29:36 23 it's just by request. If a -- if, you know,

24 15:29:40 24 maybe there's a new municipal election

25 15:29:42 25 commission: They're all brand new; they

1 15:29:44 1 haven't conducted an election and they want a
2 15:29:47 2 little extra assistance.

3 15:29:49 3 Q. Aside from when counties requested -- when
4 15:29:53 4 there's new directors, when there's a new
5 15:29:57 5 commission or problem areas, is there any other
6 15:29:59 6 reason that the State Election Commission would
7 15:30:02 7 conduct poll manager training?

8 15:30:08 8 A. Not that I can think of. But...

9 15:30:11 9 Q. You said also for counties where there are no
10 15:30:15 10 directors. Is that -- can you explain?

11 15:30:18 11 A. There may be a vacancy: Somebody's retired;
12 15:30:22 12 somebody's quit, and they haven't filled the
13 15:30:25 13 position. That is usually a -- a short period
14 15:30:29 14 of time. There -- typically there's directors
15 15:30:31 15 in all 46 counties. But sometimes in the
16 15:30:35 16 interim, we will ask to be -- to step in and
17 15:30:38 17 assist.

18 15:30:41 18 Q. We've touched on some of this already. But
19 15:30:52 19 what efforts did the State Election Commission
20 15:30:54 20 make to educate the county boards of elections
21 15:30:57 21 on R54?

22 15:30:58 22 A. As soon as the court ruling came down, we sent
23 15:31:03 23 a copy, we posted a copy on our -- on our
24 15:31:07 24 intranet site. We started providing updates to
25 15:31:12 25 counties. And we also scheduled a statewide

1 15:31:16 1 training meeting in November of 2012 to educate

2 15:31:21 2 counties on photo ID requirements.

3 15:31:28 3 Q. What sort of communications, besides -- I think

4 15:31:31 4 you mentioned sending a copy of the law in

5 15:31:35 5 October of 2012. What sort of communications

6 15:31:38 6 did you have with the county boards about R54

7 15:31:42 7 in October of 2012?

8 15:31:44 8 A. We would have notified them that it was going

9 15:31:49 9 into effect in January, probably summarized the

10 15:31:53 10 requirements, told them that we would have

11 15:31:56 11 training following the general election in

12 15:31:59 12 2012. And we had a mandatory training session

13 15:32:04 13 later that month. We would have provided them

14 15:32:08 14 with copies of any training materials that we

15 15:32:12 15 had developed and also let them know about

16 15:32:16 16 any -- any requirements, such as the public

17 15:32:18 17 meetings, and asked them to provide us with

18 15:32:21 18 information about those.

19 15:32:22 19 Q. You also mentioned that you posted, I think, a

20 15:32:29 20 copy of it on the intranet. Can you tell me

21 15:32:32 21 what's the intranet that you're referring to?

22 15:32:34 22 A. We have an internal website for election

23 15:32:39 23 officials; it's called ElectionNet. It's --

24 15:32:43 24 it's not a public site. It's how we

25 15:32:46 25 communicate with our counties.

1 15:33:50 1 them every single day.

2 15:33:51 2 BY MS. MORRIS:

3 15:33:52 3 Q. I'd be interested mostly in the communications

4 15:33:52 4 that occurred between 2012 and -- between

5 15:34:00 5 October 2012 and March 2013.

6 15:34:04 6 A. Pertaining to photo ID?

7 15:34:08 7 Q. Pertaining to R54.

8 15:34:15 8 Aside from communicating with the

9 15:34:16 9 counties by intranet, updating them, giving

10 15:34:20 10 them notice of a statewide training and

11 15:34:25 11 providing them with both a copy of the law and

12 15:34:29 12 copies of any training materials you might have

13 15:34:34 13 had, can you think of anything else that the

14 15:34:38 14 State Election Commission did to educate

15 15:34:41 15 counties about R54?

16 15:34:42 16 A. Not off the top of my head.

17 15:34:42 17 (PLF. EXH. 5, South Carolina Election

18 15:34:42 18 Commission Poll Managers Handbook, marked for

19 15:34:42 19 identification.)

20 15:34:44 20 BY MS. MORRIS:

21 15:34:44 21 Q. I'd like to -- we also discussed this a bit.

22 15:34:53 22 But I'd like to hand you what is being marked

23 15:34:56 23 as Andino Deposition Exhibit Number 5.

24 15:35:37 24 Ms. Andino, do you recognize the document?

25 15:35:39 25 A. Yes. This is our 2013 poll manager handbook.

1 15:35:44 1 Q. And who created this document?

2 15:35:46 2 A. The State Election Commission.

3 15:35:50 3 Q. And just to clarify, a poll manager is the

4 15:35:52 4 person that a voter would interface with when

5 15:35:57 5 they go to vote?

6 15:35:58 6 A. That's right.

7 15:35:58 7 Q. Who received a copy of this manual?

8 15:36:01 8 A. We print thousands of copies, and we also put

9 15:36:05 9 an electronic copy on our website. We send

10 15:36:09 10 them to our 46 counties, and counties

11 15:36:11 11 distribute them to poll workers.

12 15:36:12 12 Q. And why did the South Carolina Election

13 15:36:15 13 Commission make a handbook for poll workers?

14 15:36:19 14 A. So they would know what to do on election day.

15 15:36:22 15 Q. How did you decide what content to put in the

16 15:36:30 16 poll worker handbook?

17 15:36:30 17 A. We try to concentrate on the information that

18 15:36:35 18 poll workers need to do their job, their jobs,

19 15:36:38 19 and frequently asked questions. And any issues

20 15:36:42 20 that occur in a previous year, if they need to

21 15:36:44 21 be addressed, we try to work them into the

22 15:36:44 22 current version of the handbook.

23 15:36:48 23 Q. How often is the poll worker handbook updated

24 15:36:52 24 by the State Election Commission?

25 15:36:54 25 A. At least every two years.

1 15:36:56 1 Q. And when was it updated -- when was the first
2 15:37:01 2 time it was updated after R54 was precleared?
3 15:37:06 3 A. Probably this 2013 version.
4 15:37:13 4 Q. When did this version, the 2013 version, come
5 15:37:16 5 out, if you remember?
6 15:37:18 6 A. September 2013.
7 15:37:25 7 Q. Do you know if the poll worker handbook was
8 15:37:30 8 updated to include the provisions of R54 prior
9 15:37:35 9 to September of 2013?
10 15:37:36 10 A. The handbook was not, but we would have had a
11 15:37:40 11 supplement to the handbook. And the supplement
12 15:37:42 12 would have worked -- would have been used in
13 15:37:45 13 conjunction with the 2012 edition.
14 15:37:48 14 Q. When did you develop the supplemental handbook
15 15:37:56 15 regarding R54 that would have been sent out
16 15:37:59 16 with the poll manager handbook?
17 15:38:04 17 A. Prior to January 1 of 2013.
18 15:38:08 18 Q. When was the first time, if you know, that poll
19 15:38:11 19 managers were provided with the supplemental
20 15:38:14 20 handbook that covered R54 in its -- and the
21 15:38:20 21 reasonable impediment provision?
22 15:38:21 22 A. The poll managers for the January 8th election.
23 15:38:25 23 They were probably trained in -- in December of
24 15:38:27 24 2012.
25 15:38:28 25 Q. You mentioned an electronic copy of this poll

1 15:38:37 1 manager handbook on the website. Were there

2 15:38:41 2 any other materials, paper or online, that the

3 15:38:44 3 State Election Commission created to educate

4 15:38:47 4 poll managers about R54?

5 15:38:49 5 A. The supplement to the 2012 handbook.

6 15:38:54 6 Q. Aside from the supplement to the 2012 handbook,

7 15:39:00 7 the 2013 poll manager handbook and the

8 15:39:03 8 electronic copy of the poll manager handbook

9 15:39:07 9 that you put on the website, did the State

10 15:39:10 10 Election Commission develop any other materials

11 15:39:12 11 to educate poll managers about R54 or the

12 15:39:21 12 reasonable impediment provision?

13 15:39:21 13 A. Those -- those documents would have been

14 15:39:24 14 comprehensive. But poll managers would have

15 15:39:27 15 also had access to our posters that were

16 15:39:31 16 designed primarily for voters. But they would

17 15:39:35 17 also serve to educate poll managers as well.

18 15:39:38 18 Q. So aside from the two poll manager handbooks

19 15:39:41 19 that you described, the electronic copy on the

20 15:39:43 20 website and the posters and other materials

21 15:39:47 21 that you provided to voters on election day,

22 15:39:49 22 are there any other materials that the State

23 15:39:52 23 Election Commission created to educate poll

24 15:39:55 24 managers about R54?

25 15:39:56 25 A. We have an electronic or an online poll manager

1 15:40:02 1 training program. And it would have been

2 15:40:05 2 incorporated in there as well.

3 15:40:06 3 Q. Can you tell me a little bit more about the

4 15:40:09 4 online poll manager training program?

5 15:40:10 5 A. It's a learning management system. So poll

6 15:40:14 6 managers can, if -- in lieu of taking the --

7 15:40:17 7 the classroom training that's offered by the

8 15:40:20 8 counties, they could take the online version.

9 15:40:25 9 And it goes through everything that's in the

10 15:40:29 10 handbook. And there's also a -- an assessment

11 15:40:32 11 at the end. Most counties use it to supplement

12 15:40:34 12 the in-person training. But a few use it for

13 15:40:38 13 individual training, if they're unable to

14 15:40:40 14 attend the in-person.

15 15:40:41 15 Q. And what sort of content does the training

16 15:40:46 16 program have on the website?

17 15:40:48 17 A. It's -- well, it's -- it's -- you have to sign

18 15:40:51 18 up for it; it's not just publically available.

19 15:40:55 19 But it's everything that's included in the

20 15:40:58 20 in-person training.

21 15:40:58 21 Q. Do you have a copy of the training program that

22 15:41:01 22 you provided to poll managers in advance of R54

23 15:41:08 23 being implemented?

24 15:41:08 24 A. I don't know if we have an archived copy or

25 15:41:14 25 not.

1 15:41:14 1 MS. MORRIS: Could I request a copy, if

2 15:41:17 2 you're able to locate one?

3 15:41:20 3 THE WITNESS: It's not -- I don't think

4 15:41:21 4 it's -- it's not like a video or something that

5 15:41:23 5 you can -- I can email you. I mean, it is an

6 15:41:24 6 interactive learning management system. You

7 15:41:27 7 have to have the software in order to -- to run

8 15:41:30 8 that.

9 15:41:30 9 BY MS. MORRIS:

10 15:41:30 10 Q. So when you say interactive learning management

11 15:41:35 11 system, would there be like a quiz for poll

12 15:41:38 12 managers or --

13 15:41:38 13 A. Yes. If there's -- there are pictures, video;

14 15:41:41 14 there's text that they read. There's --

15 15:41:44 15 there's audio that they listen to. And it

16 15:41:47 16 would go through a topic and then there would

17 15:41:50 17 be -- I don't remember if the questions are at

18 15:41:53 18 the end of each chapter or if it's at the end.

19 15:41:56 19 But it -- it mirrors what's in the poll manager

20 15:42:01 20 handbook.

21 15:42:02 21 Q. And when was the online poll manager training

22 15:42:08 22 program made available to poll managers that

23 15:42:08 23 included the audio/video quiz and other

24 15:42:14 24 information about R54?

25 15:42:16 25 A. I don't know.

1 15:45:46 1 around educating people about R54?

2 15:45:49 2 A. That was in the first fiscal year. So that

3 15:45:52 3 would have been -- and I'd -- I'd have to look

4 15:45:53 4 -- I'd have to look back and see which year we

5 15:45:55 5 got the money. It may have been that we spent

6 15:45:58 6 election funds and then were reimbursed for

7 15:46:02 7 that. So that was either in the 2012 or 2013

8 15:46:05 8 budget cycle.

9 15:46:10 9 Q. Do you have any sense specifically about the

10 15:46:15 10 money that has been used in relation to R54 to

11 15:46:21 11 date, education-related and as well as the

12 15:46:27 12 equipment that you provided?

13 15:46:29 13 A. Well, the -- the \$635,000 was used. But after

14 15:46:35 14 that, it was rolled into our standard messaging

15 15:46:39 15 for any election, so it's not tracked

16 15:46:42 16 separately.

17 15:46:42 17 Q. Would the \$635,000 include money spent to pay

18 15:46:51 18 the PR firm that you hired to educate people

19 15:46:55 19 about R54?

20 15:46:56 20 A. Yes.

21 15:46:57 21 Q. Would any money paying the PR firm come out of

22 15:47:03 22 the standard budget?

23 15:47:04 23 A. Yes.

24 15:47:05 24 Q. Just want to go back to one of the exhibits. I

25 15:47:21 25 think it was Number 2, South Carolina's

1 15:47:24 1 response to the court's question regarding R54.

2 15:47:30 2 MR. McFARLAND: That's 3.

3 15:47:37 3 MS. MORRIS: Three.

4 15:47:38 4 BY MS. MORRIS:

5 15:47:49 5 Q. Turning to page 2 of that document. The

6 15:47:53 6 Attorney General is quoted at the top of the

7 15:47:57 7 page saying that, if preclearance occurs after

8 15:48:03 8 September 15th, voters not possessing a voter

9 15:48:06 9 ID pursuant to the requirements of R54 would

10 15:48:10 10 have a reasonable impediment to -- to obtaining

11 15:48:15 11 such ID in order to vote, and, such a short

12 15:48:20 12 time period would be beyond the voter's

13 15:48:25 13 control.

14 15:48:25 14 Did you agree with the Attorney

15 15:48:27 15 General's statement that, if voters only had

16 15:48:31 16 roughly a month and a half, that it would be a

17 15:48:34 17 reasonable impediment for any voter who did not

18 15:48:37 18 have a photo ID under R54?

19 15:48:42 19 A. It would have been very difficult, after

20 15:48:47 20 September 15th, for us to install camera

21 15:48:50 21 equipment and start producing IDs prior to a

22 15:48:54 22 general election.

23 15:48:55 23 Q. Would --

24 15:48:57 24 A. So, yes.

25 15:48:57 25 Q. Were you concerned, during preclearance -- and

1 15:49:03 1 it quotes from your testimony here that, the
2 15:49:06 2 short timeframe between any preclearance of the
3 15:49:10 3 legislation and the date of any election
4 15:49:12 4 immediately thereafter would constitute a
5 15:49:16 5 reasonable impediment?

6 15:49:16 6 A. Yes.

7 15:49:20 7 MS. MORRIS: That's all I have.

8 15:49:23 8 EXAMINATION

9 15:49:23 9 BY MR. McFARLAND:

10 15:49:25 10 Q. Let's switch. Ms. Andino, as you know, I'm
11 15:50:16 11 Ernest McFarland. We met earlier. And I thank
12 15:50:19 12 you for taking time out of your schedule to
13 15:50:21 13 meet with us here today. I will try to be
14 15:50:22 14 brief and not overlap my colleague. So it may
15 15:50:25 15 be a little bit disjointed as I move around,
16 15:50:28 16 but please bear with me.

17 15:50:30 17 A. Okay.

18 15:50:32 18 Q. I'll represent to you that North Carolina
19 15:50:37 19 adopted House Bill 589, which included a voter
20 15:50:42 20 ID -- voter photo ID requirement, on
21 15:50:45 21 October 12th, 2013. Prior to the adoption of
22 15:50:47 22 this bill, did you have any formal or informal
23 15:50:51 23 communications with Kim Strach, who's the
24 15:50:54 24 executive director of the North Carolina State
25 15:50:57 25 Board of Elections, about the use of South --

1 15:50:59 1 about South Carolina's use of voter photo ID?

2 15:51:04 2 A. Not that I remember.

3 15:51:05 3 Q. Would you be aware if any of your staff members

4 15:51:09 4 at the Election Commission may have had contact

5 15:51:12 5 with Ms. Strach?

6 15:51:14 6 A. If it was anything other than a brief phone

7 15:51:17 7 call, I think I would be aware.

8 15:51:20 8 Q. Okay. Did you or any members of your staff,

9 15:51:25 9 prior to the adoption of House Bill 589, have

10 15:51:29 10 any contact with members of the North Carolina

11 15:51:32 11 legislature or their staff regarding South

12 15:51:36 12 Carolina's use of voter photo ID?

13 15:51:39 13 A. I may have had a call from one legislative

14 15:51:43 14 staffer. I don't remember the timeframe and I

15 15:51:46 15 don't remember who it was, just some general

16 15:51:49 16 questions.

17 15:51:50 17 Q. Would you remember who they were working for,

18 15:51:52 18 that staffer?

19 15:51:52 19 A. No.

20 15:51:53 20 Q. Okay. Same question for the North Carolina

21 15:51:57 21 Governor or his staff?

22 15:51:58 22 A. No, I don't believe so.

23 15:52:00 23 Q. And would you be aware of -- of if any of your

24 15:52:03 24 staff members had communications with members

25 15:52:09 25 of the Governor's staff or the Governor

1 15:52:11 1 regarding South Carolina's use of voter photo

2 15:52:15 2 ID?

3 15:52:16 3 A. I believe I would be aware.

4 15:52:17 4 Q. And would the same be true if members of your

5 15:52:21 5 staff had contact with the North Carolina

6 15:52:23 6 legislature or their staff regarding South

7 15:52:25 7 Carolina's use of voter photo ID?

8 15:52:29 8 A. Yes.

9 15:52:29 9 Q. I'll represent to you that North Carolina

10 15:52:31 10 adopted House Bill 836, which include a

11 15:52:35 11 reasonable impediment exception to voter photo

12 15:52:40 12 ID on June 22nd, 2015. Similar to the last

13 15:52:43 13 questions I've asked you, prior to the adoption

14 15:52:44 14 of that bill, did you have any formal or

15 15:52:46 15 informal communications with Kim Strach

16 15:52:49 16 regarding South Carolina's use of a reasonable

17 15:52:53 17 impediment?

18 15:52:53 18 A. We communicate with North Carolina from time to

19 15:52:57 19 time. But I don't remember any conversations

20 15:53:00 20 specifically about photo ID from North

21 15:53:03 21 Carolina.

22 15:53:03 22 Q. What about for reasonable impediment?

23 15:53:05 23 A. No.

24 15:53:06 24 Q. Would you be aware if any members of your staff

25 15:53:11 25 had communications with Ms. Strach regarding

1 15:53:13 1 reasonable -- South Carolina's use of

2 15:53:15 2 reasonable impediment, prior to the adoption of

3 15:53:17 3 that bill?

4 15:53:18 4 A. I -- I think so. And I just don't remember

5 15:53:21 5 anything. If -- if we had any communication,

6 15:53:24 6 it -- it couldn't have been much more than a

7 15:53:27 7 passing phone call.

8 15:53:28 8 Q. Okay. I'm going to ask the same questions

9 15:53:30 9 about other employees of the North Carolina

10 15:53:32 10 Board of Elections. Did you have any

11 15:53:36 11 communications regarding reasonable impediment

12 15:53:39 12 prior to the adoption of the reasonable

13 15:53:40 13 impediment exception in North Carolina?

14 15:53:41 14 A. I don't remember any.

15 15:53:42 15 Q. Okay. What about members of the North Carolina

16 15:53:45 16 legislature or their staff?

17 15:53:46 17 A. No.

18 15:53:47 18 Q. Members of the North -- staff members for the

19 15:53:50 19 North Carolina Governor or the North Carolina

20 15:53:53 20 Governor?

21 15:53:53 21 A. No. I only remember one call from a staffer.

22 15:53:56 22 And I don't remember the timeframe or who he

23 15:54:00 23 worked for. It was just a quick question.

24 15:54:04 24 Q. Okay. And if any members of your staff had had

25 15:54:13 25 communications with the Governor, his staff,

1 15:54:16 1 the North Carolina State Board of Elections, a
2 15:54:18 2 member of -- a staff member there or a member
3 15:54:21 3 of the North Carolina legislature or their
4 15:54:24 4 staff regarding reasonable impediment, would
5 15:54:26 5 you be aware of it?

6 15:54:27 6 A. I believe so.

7 15:54:28 7 Q. And you're not aware of any communications?

8 15:54:30 8 A. No.

9 15:54:30 9 (PLF. EXH. 6, Email string regarding
10 15:54:30 10 Voting Systems Job Description, Bates stamp
11 15:54:30 11 SBE-2_0007320 through 7322, marked for
12 15:54:30 12 identification.)

13 15:54:31 13 BY MR. McFARLAND:

14 15:54:31 14 Q. Okay. Hand you -- 5, so this will be 6. Give
15 15:54:47 15 you a moment to take a look at it.

16 15:55:11 16 A. I remember the conversations about when our
17 15:55:15 17 presidential preference primaries were going to
18 15:55:18 18 be held.

19 15:55:19 19 Q. So what I've handed you is -- has been marked
20 15:55:22 20 as Andino Deposition Exhibit 6. And it is
21 15:55:27 21 SBOE, hyphen 2, underscore, 0007320 through
22 15:55:33 22 7322. Can you tell me what this -- this
23 15:55:38 23 document is?

24 15:55:39 24 A. It's a series of emails from Veronica

25 15:55:47 25 Degraffenreid to me, also to Janet Reynolds on

1 15:55:53 1 my staff, and to Chris Whitmire. She inquired
2 15:55:59 2 about job descriptions, followed up asking
3 15:56:06 3 about the presidential preference primaries and
4 15:56:09 4 the job descriptions. And in that, she does
5 15:56:12 5 ask about photo ID and reasonable impediment
6 15:56:18 6 training materials.

7 15:56:21 7 Q. Okay. And so let's start. Chris Whitmire,
8 15:56:26 8 he's on your staff. You've previously
9 15:56:26 9 identified him --

10 15:56:26 10 A. Correct.

11 15:56:29 11 Q. And is he the director of public information
12 15:56:33 12 and training?

13 15:56:33 13 A. He is.

14 15:56:34 14 Q. Okay. And who is Janet Reynolds?

15 15:56:34 15 A. Janet Reynolds is our director of
16 15:56:36 16 administration.

17 15:56:36 17 Q. And what is her role or what does she do?

18 15:56:38 18 A. Finance and human resources.

19 15:56:41 19 Q. This email chain that you're looking at, the
20 15:56:45 20 one at the top, it's dated July 25th. And
21 15:56:51 21 right below it, where you see it says, on
22 15:56:54 22 July 24th, 2015 -- in that text, it seems to be
23 15:56:57 23 it indicates that you all shared some of your
24 15:57:01 24 materials with North Carolina; is that correct?

25 15:57:03 25 A. Yes.

1 15:57:04 1 Q. And what type of materials did you share?

2 15:57:11 2 A. Copies of the South Carolina photo ID training

3 15:57:15 3 materials and voter education materials.

4 15:57:17 4 Q. And then, at the very top of that, you were --

5 15:57:21 5 you wrote: Glad you found the materials to be

6 15:57:24 6 helpful. Please feel free to adapt and make

7 15:57:28 7 them your own.

8 15:57:30 8 Do you know if North Carolina has used

9 15:57:32 9 some of South Carolina's materials as

10 15:57:34 10 templates?

11 15:57:35 11 A. I do not.

12 15:57:36 12 Q. Have you seen any of their materials that

13 15:57:38 13 publicized reasonable impediment or voter ID?

14 15:57:42 14 A. No.

15 15:57:43 15 Q. After seeing this chain of emails, do you

16 15:57:47 16 recall any other communications that you or

17 15:57:50 17 your staff may have had with the North Carolina

18 15:57:52 18 State Board of Elections regarding voter ID --

19 15:57:57 19 voter photo ID or reasonable impediment?

20 15:57:59 20 A. No.

21 15:58:00 21 Q. I'm going to talk to you just a little bit

22 15:58:13 22 about the process, so we can understand it.

23 15:58:16 23 South Carolina uses provisional ballots?

24 15:58:18 24 A. Yes.

25 15:58:18 25 Q. If a voter was to vote -- was to use a

1 16:05:12 1 A. Okay. Right. I was looking at 4 above, and
2 16:05:17 2 not below.

3 16:05:21 3 Q. So the -- the question -- I'll just ask the
4 16:05:35 4 question again. So if a voter seeking to do a
5 16:05:41 5 reasonable impediment affidavit does not have
6 16:05:43 6 his or her non-photo voter registration card,
7 16:05:49 7 would that voter be able to receive a
8 16:05:54 8 reasonable impediment affidavit?

9 16:05:55 9 A. It doesn't look like they do.

10 16:06:03 10 Q. What would that voter receive instead?

11 16:06:09 11 A. A provisional ballot.

12 16:06:13 12 Q. Okay. Is there any mechanism that the South
13 16:06:17 13 Carolina Election Commission employs to -- to
14 16:06:23 14 -- to ensure that polling place officials are
15 16:06:27 15 -- are applying the reasonable impediment law
16 16:06:30 16 properly?

17 16:06:33 17 A. Say that again.

18 16:06:34 18 Q. Does the South Carolina Election Commission
19 16:06:39 19 have any procedures that ensure polling place
20 16:06:44 20 managers are applying the reasonable impediment
21 16:06:47 21 law properly?

22 16:06:50 22 A. I don't believe we have any procedures that
23 16:06:58 23 would ensure that any of the laws are being --
24 16:07:03 24 are applied properly. I mean, the counties
25 16:07:06 25 work with the poll managers, and would

1 16:07:10 1 certainly feed -- follow up on any feedback, or

2 16:07:14 2 we would follow up on any feedback. But

3 16:07:16 3 there's not a procedure in place.

4 16:07:16 4 Q. Okay. So --

5 16:07:18 5 A. We don't do any monitoring.

6 16:07:19 6 Q. Okay. That was my question.

7 16:07:19 7 A. Okay.

8 16:07:22 8 Q. Thank you. Let's see here. In a recent

9 16:07:32 9 deposition of one of our experts in this case,

10 16:07:34 10 Dr. Charles Stewart, questions were posed that

11 16:07:38 11 related to voter status in South Carolina. And

12 16:07:41 12 I guess you would be the expert who could

13 16:07:44 13 perhaps shed some light on different voter

14 16:07:48 14 statuses that are used in South Carolina. So

15 16:07:50 15 could you tell us what the voter statuses are

16 16:07:55 16 in South Carolina? I think there's like an

17 16:07:58 17 active, inactive.

18 16:08:00 18 A. In our voter --

19 16:08:00 19 MR. BOWERS: Pardon me. Just for the

20 16:08:01 20 record and for clarity, I -- I don't think you

21 16:08:04 21 meant it as a term of art. But just to be

22 16:08:07 22 clear, Ms. Andino is not being presented here

23 16:08:10 23 as an expert witness.

24 16:08:10 24 BY MR. McFARLAND:

25 16:08:13 25 Q. Certainly, certainly. I say -- I say expert in

1 16:08:14 1 terms of your years and experience at the South
2 16:08:18 2 Carolina Election Commission. So in that
3 16:08:19 3 regard, I'm just curious about the different
4 16:08:24 4 categories of voter status in South Carolina.

5 16:08:26 5 A. Within our statewide voter registration system,
6 16:08:29 6 there are three statuses. A voter is either
7 16:08:34 7 active, inactive or archived.

8 16:08:38 8 Q. Can you describe what each of those are?

9 16:08:40 9 A. An active registered voter would be somebody
10 16:08:43 10 who is eligible to vote in all elections. An
11 16:08:49 11 inactive voter is a voter that was at one time
12 16:08:53 12 active and, for some reason, is no longer
13 16:08:57 13 qualified to vote. And an archived record is a
14 16:09:01 14 voter that was at one time active, became
15 16:09:06 15 inactive for some reason, and that record is
16 16:09:11 16 just historically kept in the database since we
17 16:09:15 17 went to permanent registration.

18 16:09:17 18 BY MR. MCFARLAND:

19 16:09:17 19 Q. And when did you go to permanent registration?

20 16:09:20 20 A. 1967 or '68.

21 16:09:23 21 Q. And just tell us what permanent registration
22 16:09:25 22 is.

23 16:09:25 23 A. Prior to having permanent registration, voters
24 16:09:29 24 in South Carolina had to reregister every ten
25 16:09:32 25 years.

1 16:09:32 1 Q. And --

2 16:09:33 2 A. So once -- so if a person registered in 1967,

3 16:09:38 3 and as long as they don't become disqualified

4 16:09:41 4 for some reason, then they're still an active

5 16:09:41 5 registered voter.

6 16:09:48 6 Q. In terms of inactive, what would make a

7 16:09:50 7 voter -- what could make a voter inactive?

8 16:09:53 8 A. Some of the categories for inactive voters

9 16:09:54 9 would be deceased, convicted of a felony,

10 16:09:59 10 perhaps they're not a citizen and they realize

11 16:10:02 11 that after, and they've requested -- or you

12 16:10:07 12 could request, under the Help America Vote Act,

13 16:10:12 13 to be removed from the active rolls. They

14 16:10:17 14 could have moved to another state and

15 16:10:18 15 registered.

16 16:10:19 16 Q. So if a voter is in an inactive status, are

17 16:10:23 17 they still on the voter rolls?

18 16:10:26 18 A. Some of the statuses are, yes.

19 16:10:27 19 Q. Okay.

20 16:10:27 20 A. But not all of them.

21 16:10:27 21 Q. So some of the inactive statuses are?

22 16:10:31 22 A. Yes.

23 16:10:31 23 Q. So what are some of the inactive statuses that

24 16:10:35 24 remain on the rolls?

25 16:10:36 25 A. If a voter has failed to respond to a

1 16:16:14 1 Q. And when was that?

2 16:16:16 2 A. A couple of weeks ago.

3 16:16:18 3 Q. Okay. And do you know for what purposes?

4 16:16:22 4 A. To -- we were talking about affidavits

5 16:16:30 5 executed.

6 16:16:30 6 Q. Okay. I'm going to turn your attention to page

7 16:16:36 7 8 and 9 of this exhibit. And while you're

8 16:16:45 8 looking at that, I'll represent that this is a

9 16:16:48 9 table that Dr. Hood produced based on his calls

10 16:16:53 10 to South Carolina's 46 counties, in which it --

11 16:16:59 11 it indicates, according to Dr. Hood, the number

12 16:17:03 12 of reasonable impediment affidavits executed in

13 16:17:06 13 the 2014 general election. It's broken down by

14 16:17:09 14 county. Only 45 counties are there because

15 16:17:11 15 Dr. Hood represents in this report, in this

16 16:17:14 16 exhibit, that Spartanburg county reported that

17 16:17:17 17 it did not track the number of reasonable

18 16:17:20 18 impediments used in the 2014 general election.

19 16:17:25 19 Other 45 counties that Dr. Hood has

20 16:17:29 20 listed on pages 8 and 9, he reports that 24

21 16:17:33 21 counties, including Aiken, Anderson,

22 16:17:38 22 Dorchester, Florence and Lexington, each

23 16:17:43 23 reported zero reasonable impediment affidavit

24 16:17:44 24 ballots executed for the 2014 general election.

25 16:17:45 25 So I'll give you time to check my numbers.

1 16:17:54 1 So just as -- you know, at the -- at

2 16:17:57 2 the top of this, I -- I guess, did South

3 16:18:00 3 Carolina, at the state level, collect

4 16:18:02 4 information on the use of reasonable

5 16:18:05 5 impediment?

6 16:18:05 6 A. Not on an ongoing basis. But for the statewide

7 16:18:11 7 elections, I believe we did survey counties, as

8 16:18:14 8 I had mentioned earlier, to find out how many

9 16:18:19 9 reasonable impediments were -- were -- were

10 16:18:20 10 used.

11 16:18:20 11 Q. And that was a survey that -- that you will,

12 16:18:23 12 perhaps, will be able to produce for us. And

13 16:18:27 13 do you know, sitting here today, whether or not

14 16:18:29 14 Spartanburg responded to that survey?

15 16:18:32 15 A. Sitting here today, it doesn't appear that they

16 16:18:36 16 did.

17 16:18:36 17 Q. Does the State Election Commission have any

18 16:18:40 18 power to require counties to track and tally

19 16:18:45 19 the use of reasonable impediment affidavits?

20 16:18:50 20 A. We do now, but we didn't in 2014.

21 16:18:53 21 Q. Tell me about, "we do now".

22 16:18:55 22 A. Well, actually in -- in 2014, in June of 2014,

23 16:19:05 23 the State Election Commission did get

24 16:19:08 24 supervisory authority over the counties. And

25 16:19:12 25 we're also required to perform compliance

1 16:24:10 1 MR. McFARLAND: -- Butch, in terms of

2 16:24:11 2 these hypotheticals that I'm going to run

3 16:24:14 3 through.

4 16:24:14 4 BY MR. McFARLAND:

5 16:24:14 5 Q. So is it possible that the counties maybe

6 16:24:20 6 tracked a ballot that was a reasonable

7 16:24:23 7 impediment as a -- instead of tracking it as a

8 16:24:27 8 reasonable impediment, tracked it as a

9 16:24:29 9 provisional ballot for some other purpose?

10 16:24:32 10 A. I think it's highly unlikely, but anything's

11 16:24:36 11 possible.

12 16:24:37 12 Q. Okay. With respect to the counties that

13 16:24:39 13 Dr. Hood reports listed zero reasonable

14 16:24:44 14 impediment affidavits executed in the 2014

15 16:24:47 15 general election, is it possible that the

16 16:24:48 16 directors of these counties' Boards of

17 16:24:51 17 Elections and Registrations didn't instruct

18 16:24:51 18 their poll managers and clerks to distribute

19 16:24:54 19 the reasonable impediment or to execute

20 16:24:58 20 reasonable impediments in a manner that was

21 16:25:00 21 consistent with the State Election Commission's

22 16:25:04 22 directives?

23 16:25:04 23 A. Well, every poll manager has a copy of the

24 16:25:07 24 handbook.

25 16:25:07 25 Q. Okay.

1 16:25:08 1 A. And the supplement. And they have the -- it's
2 16:25:12 2 the same provisional ballot envelope, whether
3 16:25:15 3 it's somebody challenging the qualifications of
4 16:25:18 4 a voter or if it is a reasonable impediment.
5 16:25:22 5 So I think it's highly unlikely that they
6 16:25:26 6 didn't have the proper materials.
7 16:25:27 7 Q. Proper materials. So, but is it -- is it
8 16:25:30 8 possible they didn't follow the -- the
9 16:25:33 9 directions that are listed in the materials?
10 16:25:35 10 A. It is possible. Poll managers are basically
11 16:25:39 11 volunteers. And it is possible that they did
12 16:25:43 12 not follow the directions.
13 16:25:45 13 Q. And in that regard -- well, strike that.
14 16:25:57 14 Generally, after an election or
15 16:25:59 15 election cycle, do you meet with your team to
16 16:26:02 16 discuss the election and/or the election cycle?
17 16:26:05 17 A. Yes.
18 16:26:06 18 Q. And at those meetings, do you discuss what went
19 16:26:11 19 well, what went not-so-well?
20 16:26:13 20 A. Yes.
21 16:26:14 21 Q. And have you had occasion to do that with your
22 16:26:16 22 staff after -- in any election in which
23 16:26:20 23 reasonable impediment and voter ID have been in
24 16:26:22 24 effect?
25 16:26:23 25 A. We do it after statewide elections. So, yes.