clear, you know, what we're telling you is that we're treating these rules as if they are legally in effect. You know, I don't mean to slight the niceties, but that, so that you know -- it's not testimony but I'll tell you from the SEB and Secretary of State's side, that is the fact.

MR. HEARD: All right. Well, that -- that clears up the confusion. I don't know that -- I don't know --

MR. RITTER: Sure.

MR. HEARD: -- positively or negative whether Justice would agree with that, but --

THE WITNESS: DOJ agree --

MR. HEARD: -- you know, but, yeah.

MR. RITTER: Well, they might or might not but I can tell you how we'll treat them, and that's the fact.

MR. HEARD: But I understand that that's how you'll treat them. I appreciate that.

THE WITNESS: It takes time sometimes to --

MR. HEARD: Okay. All right. That clears that up.

Q. (By Mr. Heard) And I guess I'll ask the
same question, just for completeness sake: Other
than these exhibits, are you aware of any other
written documents that comprise the record related to
that petition for rulemaking that is the subject of
these March 8th, 2006 rule amendments?
A. I am not. I am not aware of any other
documents at this time.
Q. Okay. And the meeting may -- is probably
recorded. Other than that recording, that would be
it?
A. Uh-huh.
Q. Okay. All right.
Now, with regard to the emergency rule in
'04, or the September 14th, '05 rule that's the
subject of the lawsuit, the copying and sealing
provisions, what, if any, role did your office have
in drafting those rules? "Your office" meaning the
election division of the office of Secretary of
State.
A. And you're talking about the emergency
rule and the subsequent?
Q. If you -- I mean, you can answer them
separately if you --
A. Well, they -- they would be the same.
Q. Okay.
A. Our office, at the direction of the State Election Board, worked with legislative counsel to provide a draft for the review of the State Election Board.

Q. Okay. And do you recall who specifically on the State Election Board requested these rules?

A. No, I do not.

Q. Okay. How is that request typically made?

A. Frequently during conversations, one State Election Board an example would be at a recent State Election Board, the board was discussing photo identification and travel IDs, and how the -- the statute was unclear as to what constituted a travel ID. So they asked us to bring them back some rules that they could use to help clarify that.

And generally, it's, you know, the board as a -- as a group, may wish for clarification.

Q. They sort of mention it at the meeting and you --

A. Uh-huh. The same thing when they want an opinion from the Attorney General's office, they'll mention that, "We wonder about so and so," and Stefan's got another letter.

MR. RITTER: That's right.

Q. (By Mr. Heard) So it's not -- it's not
anything that would necessarily come in a written
document? I mean, it might just be a pronouncement
from the meeting and --

A. That's correct. It generally is not a
written document.

Q. All right. Okay.

And what in your estimation or -- I mean,
not in your estimation, what from your knowledge is
the -- was the purpose of them requesting the rule --
the copying and sealing rules?

A. The purpose of the copying and sealing
rule was that they were extremely concerned about the
privacy of an applicant's personal information. And
these rules were their attempt to narrowly tailor the
provisions under which someone could collect and
retain an applicant's private personal identifying
information.

Q. Okay. Anything else that you recall?

A. We had had circumstances of receiving a
number of applications which appeared to be
fraudulent. And at that time, we were receiving a
number of calls, as we frequently do during heavy
election cycles, as is in 2004. Voters who were very
concerned about their information on their voter
registration applications, and the information on
their absentee ballot as well on the back of the
absentee ballot envelope.

Voters, this is the number one concern
during presidential election years from voters.

Q. What's the number one concern, I'm sorry?
A. Their information, their private
information, if someone can obtain it. I have voters
who are scared sometimes to send their voter
registration application through the mail, because
they think that you can bend -- if you notice, I
don't know if you have one in here? I don't have
one. But when you seal it and you put that sealing
strip on the end, it folds it up, but you can bend it
like this, and you can see inside of it (indicating).

MS. ESTELLE ROGERS: So it's got open
sides?

THE WITNESS: It can have open sides.

MR. HEARD: Yeah.

THE WITNESS: It doesn't, unless you fold
it to see them, but I get a lot of phone calls
from voters, especially elderly voters, who are
very worried that someone may be looking
inside --

Q. (By Mr. Heard) Peeking in?
A. -- of there to obtain their personal
Q. Okay. And is it a fair statement to say that the rule was motivated in part by the injunction that came down in the Wesley case?
A. Yes. That's -- that's noted within the minutes of the meeting.
Q. Okay. And anything else that you can recall as to the motivation for the rule?
A. Well, I -- I solely recall that the motivation was concern over privacy of -- especially Social Security numbers, we are -- even though we have technically lost the ability to collect Social Security under the Schwier lawsuit. And until January, until we put a new vehicle into place, we still do voluntarily collect Social Security numbers. It's the number one thing that's provided by voters is their Social Security number.
And so it was just simply the intent of the State Election Board to protect that voter's personal information.
Q. When you say "the number one thing provided by voters" --
A. Uh-huh.
Q. -- what do you mean by that?
A. Well, every voter has to provide
identifying information. In Georgia, it's always been the Social Security number. We were one of seven states who were allowed to collect Social Security numbers grandfathered in under the privacy act.

As you know, this year we are no longer able to collect the -- use the full Social Security number. For almost a year now, we've been working under an order that says that we can -- a voter can voluntarily give it, but they do not have to provide the Social Security number. Come January, we'll have a whole new problem in place that will mirror the Help America Vote Act.

Voters will provide -- if they have a driver's license, they have to provide a full DL number; if they don't have a driver's license, then they have to provide the last four digits of their social; and if they don't have either, then they are provided a unique identifier. But that's only if they don't have either.

This a order even goes so far as to say that we can still voluntarily -- a voter can still voluntarily provide the full social if they wish to, but it's not required.

Q. Okay. All right.
I'm going to take a break in a second, but
I think -- let me get this one question out.

Okay, in terms of the drafting of rules --
and, again, you can take them separately with the
emergency rule and the permanent rule if you want
to -- but are they typically -- you say you work with
legislative counsel --

Q. -- to get the draft drafted?

A. (Witness nods head affirmatively.)

Q. And then does it go to the board members
for comment?

A. Generally it comes back --

Q. How does that work?

A. -- to myself or Cliff Tatum first. And we
just --

Q. Uh-huh.

A. -- we review it to see if it's in line
with what we believe the wishes of the board are. We
review it for grammatical content, and then we'll --
if we have any changes, we'll send them back to
legislative counsel. Other than that, it -- it goes
straight on to the board. And typically legislative
counsel will be at the meeting to openly hear what
the board has to say so that if there are revisions,
he can just make them directly from the board at that
time.

Q. And typically that's Jeff Lanier you're
talking about?
A. Uh-huh.

Q. Okay. All right.
Let me take a short recess and we'll be
back.
A. Okay.

(Recess from 2:15 p.m. to 2:20 p.m.)

MR. HEARD: We are back on the record.

Q. (By Mr. Heard) Ms. Rogers, tell me
whether there was any formal hearing or any --
anything of that nature conducted with respect to
these copying and sealing rules? Again, either in
connection with the emergency rule or the permanent
rule?

A. There's always a public hearing notice
when the rules are sent out for notice of adoption.
Then we -- on the agenda, it would be listed as a
public hearing at the time that they are adopted, and
we present written comments that are received and we
also take oral comments at that time.

Q. And that was done in connection with
these -- the emergency and the permanent rule?
A. Correct.

Q. And the comments from SEIU and Advancement Project were --

A. Yeah.

Q. -- those types of comments, public comments?

A. And whichever one of these it was -- I forget -- that has a letter --

Q. Let me see if I can help you here.

A. -- from Estelle and Mr. Sullivan.

MS. ESTELLE ROGERS: Uh-huh.

THE WITNESS: I noticed --

Q. (By Mr. Heard) I think that's Exhibit 3.

A. Is that Exhibit 3. One of those actually was received on the same day of the meeting, the one from John Sullivan was received on September 14th, 2005 at 1:56, so --

MS. ESTELLE ROGERS: And we were really early on the 12th.

THE WITNESS: Yeah. So I can't tell you that this one that was received at 1:56, you know, that comment was provided to them. And the one from SEIU --

Q. (By Mr. Heard) That's the same one.

A. Oh, I'm sorry. The other one, yeah.
This one would have been provided to the State Election Board, if we received in advance.

Q. Okay.

A. The other one I'm -- I don't know that they got it prior to the meeting.

Q. All right. I was at that meeting, I have my own recollection, but I'm going to ask you what your recollection is as to whether there were any oral comments received at -- at that meeting?

A. I recall you made comments, I remember -- I recall comments by the State Election Board, I recall there were comments regarding comments that were received, I want to say by Project Vote, but I can't tell you that without looking back at notes.

Q. The minutes wouldn't necessarily reflect all of the public comments?

A. No. It would just, a lot of times say "public comment, you know, was receive." Our -- our State Election Board meetings can last up to eight hours, so we typically --

Q. Don't I know.

A. We typically do not put everything in there, but we do try to say there were public comments. And we always note the people who were in attendance if they signed in.
Q. Okay. And you also have, now at least, the recording --
A. The audio tape.
Q. Yeah.
A.
Q. All right. And -- and when I use "formal hearing," by the way, I'm talking in addition? I mean, you didn't take testimony or anything from anything --
A. No.
Q. -- in connection with these rules?
A. APA merely requires a public hearing, notice of a public hearing, not -- now, that's -- in my book, it's a formal hearing.
Q. Sure.
A. A formal hearing held at the time of. We always at -- at such meetings we'll ask, "Is there anyone here who wishes to speak, you know, in pro or con to the rules prior to the adoption of the rule."
Q. It's not necessarily an evidentiary hearing, though?
A. Correct.
Q. Do you ever have those?
A. I do not recall those in my time with the State Election Board.
Q. All right. And do you know if any formal,
or even informal, research studies were done to substantiate any of the concerns related to voter registration fraud or identity theft?

   A. I -- I did personally do some research among my peers in other states to ascertain what they did regarding the privacy of voter registration applications, and shared that data -- I believe I shared it with Stefan and my own staff.

   Q. Okay.

   A. I don't believe -- I cannot recall whether I shared it with the State Election Board or not.

   Q. Okay. Without telling me what you told Stefan, can you tell me what it is that you learned from your peers?

   A. I learned that a number of states do have -- do have laws on the books regarding confidentiality of -- of their applications. At that time, one of the questions I asked was how many also allowed private entities to collect applications. I was curious as to how many had two layers. You know, how many had deputy registrars and had private entities. And I asked about transmittal time, and I asked about the privacy of the form.

   Q. And what do you recall regarding confidentiality of applications? What did you learn?
A. Some states did not have confidentiality requirements, a number of states do have confidentiality requirements, that the forms were not allowed to be photocopied or information to be obtained without the permission of the applicant.

Q. Do you recall what any of those states were?

A. No. I -- honestly I do not.

Q. Did you make notes or anything?

A. I'll have to go back and look. Some -- some -- you know, I'm vice president of -- of the National Association of State Election Directors, and frequently they're conversations I have, you know, with other states. Maybe the executive board in executive board meetings, and that type of things. And some information I have written, some of it is just knowledge that I obtained verbally.

Q. And you may or may not have shared that with the State Election Board of that?

A. I don't recall sharing -- well, broadly, yes. Broadly I think I have shared, you know, what other states did or did not do. I don't believe I've given them anything in writing to that effect, but I have shared with the board at times my experience with other states and conversations with them.
Q. The board is the board in a public meeting or the board just individual board members?
A. Both.
Q. Both, okay.

All right. Actually, I have -- I did have three exhibits but two were voter registration forms, so let me just do that.

(Plaintiff's Exhibits 12 and 13 were marked for identification.)

Q. (By Mr. Heard) All right. Let me -- I'm handing you Exhibits 12 and 13. Can you confirm for me that Exhibit 12 is the current State of Georgia voter registration mail-in application, and that it --
A. Yes, it is.
Q. Yes, it is, okay.

And Exhibit 13 is the federal mail-in voter registration application?
A. That's correct.
Q. Okay. All right.

And let's just knock out the last exhibit while I'm here.

(Plaintiff's Exhibit 14 was marked for identification.)

Q. (By Mr. Heard) I'm handing you
Exhibit 14, which is another excerpt exhibit from the Election Assistance Commissions biannual report to Congress on the impact of the NVRA. And what I've attached is Table 2 from that annual report that discusses applications received. And what I wanted to ask you is, looking at that table, if you go down to, I guess, the code line that says 13 is Georgia. And it's very small, I know, but that's --

A. Uh-huh.

Q. That's all that I have.

MS. ESTELLE ROGERS: Do you want my glasses?

THE WITNESS: Okay.

Q. (By Mr. Heard) It indicates that Georgia received, you know, 1.75 million total voter registration applications between 2002 and 2004?

A. Uh-huh.

Q. You would agree with me with that?

A. Correct.

Q. Is this information supplied by the Secretary of State to the Election Assistance Commission?

A. Correct.

Q. Okay.

A. It -- it -- it's collected in an
assortment of ways. Voter registration applications are coded, they get a number of one to seven, according to where they come from; whether they're by mail, whether they're deputy registrars, whether they're a WIC office, or one of the mandated voter registration sites. And then the coding of those applications, that is collected, and then we submit all of that information based upon category.

Some of that comes directly from our office, if we receive applications into our office. Some of it we rely on the counties to give us the data, because obviously, if they get an application directly in their office, we don't know what that number is. So it's a little bit of both.

Q. Okay. So the reports come from the counties up to you?

A. (Witness nods head affirmatively.)

Q. You include the things that came indirectly to you?

A. Right.

Q. You send all of that information up to the Election Assistance Commission?

A. We complete a report. We have to do an NVRA report every two years, and this is part of that report.
Q. And the information reflected in Georgia is the information that you would have supplied in connection --
   A. Correct.
   Q. -- with that report?
       Now, you said that they were coded one through seven.
       A. Uh-huh.
       Q. And I notice that there are seven categories --
       A. Uh-huh.
       Q. -- listed here. Do your codes correspond to those categories?
       A. Correct.
       Q. Okay.
       A. Maybe not going across there, but, yeah, I think they correspond to those categories.
       Q. Well, that's what I mean, there's seven going -- I mean, if you ignore the first two columns, which are just the totals.
       A. Right. Yes, I know that by mail is a number two, and it's listed first on this application.
       Q. Oh, I see what you're saying.
       A. That's why I'm saying it.
Q.  Okay.
A.  They don't necessarily go in order here.
Q.  Oh, okay.  But those would be the seven categories of things that you're coding for in one through seven, starting mail registration being one -- not number one, but one of the categories; in-person registration is being another; motor vehicle offices being a third; publics assistance offices being a fourth; disability service offices being a fifth; armed forces recruitment offices being a sixth; and other state agencies being a seven?
A.  I know that we code them according to where they come from.  I'm not -- without the codes in front of me --
Q.  Sure.
A.  -- because I'm not the one that codes these every day, I'd have to look back at them to tell you for certain --
Q.  Okay.
A.  -- that these are the exact categories, but I believe they are.
Q.  Okay.  Let me ask you with regard to mail registration applications --
A.  Uh-huh.
Q.  -- does the -- and I assume the Secretary
of State's office and not the State Election Board would do this, but -- well, does either of those offices further categorize mail registrations to determine whether they come from third parties or whether they come from people mailing them in themselves or . . .

A. No. And this only really surfaced after the Wesley 1 injunction. And --

Q. For Georgia?

A. Correct. Up until that time it was everything by mail was by mail. And then when Georgia began accepting applications from third parties and collect -- and third parties could collect them back and take them to the registration office, they coded those by mail. They get a number two as well.

Even though they're not physically by mail, that then requires that person to be considered not to have presented themselves in front of a mandated site or in front of a registration office, thereby making them not necessarily by mail, it's just the number two means that you're a first time registrant by mail who has to show ID --

Q. Got you.

A. -- before being allowed to vote, under the
federal requirements.

Q. So prior to the Wesley case in Georgia, your mail registration would have reflected --
A. Really by mail. I mean, that means they came --
Q. -- just people who submitted them by mail?
A. That means they came from the mail, yes.
Q. All right. Now, when you say they came from the mail, they could have come from people --
A. Who did a drive and put them in the mail, right.
Q. Correct. Okay. That's what I was getting at.
A. Right.
Q. All right. The in-person registration category would include, for lack of a better word, official deputy registrar drives; is that correct?
A. That would be correct.
Q. Or would they be coded as a mail application?
A. No. An official drive that had been advertised and conducted by someone who had been deputized would be an in-person application.
Q. And that would be coded with the in-person registrations?
A. Correct.

Q. Okay. So even if it was the League of Women Voters, if they did a drive under the deputy registrar provisions, that would have been an in-person registration?

A. Correct. If they -- if it was under the deputy registrar provisions.

Q. Okay. All right.

A. And that -- if I can expand?

Q. Sure.

A. And that occurs even now with our voter education coordinators. If they are deputized within a county, then that application, if they conduct a drive somewhere, that would be considered in-person. If they're not deputized in that particular county, even our voter education coordinators, that is then coded as a number two.

Q. As a number two mail-in?

A. Uh-huh. Uh-huh.

Q. All right. So have you done -- has your office, either the office of the Secretary of State or the State Election Board, have there been any comparisons done as to the accuracy of applications that are collected and submitted by private groups, third-party groups, as opposed to those that come in
from deputy registrars?

A. No. There hasn't been a formal study to that regard. There have been general observations.

Q. Okay.

A. But not a formal study.

Q. Do you want to comment on the general observations?

A. General observations are, I mean, our -- our registrars are quite vocal in that they -- they prefer for people to be deputized because then they receive instruction on how to properly have someone complete a form through their office, and they feel like they see a greater success if someone has been deputized than an outside entity who may assist with the form.

We did -- and then this is, you know, part of the record, we did see a number of applications submitted in 2004 that appeared on the face of them to be fraudulent. There appeared to be thousands of applications which had bogus Social Security numbers and bogus addresses, and names placed upon those applications.

Q. Okay.

A. And those were -- they were delivered to our office by a third party.
Q. Okay. Tell me how they were delivered to your office.

A. There was a -- this particular group came in many, many boxes, from an organization who was conducting voter education, voter registration drives, and the woman who was in charge of a number of the people dropped off a -- off many boxes one afternoon.

Q. Okay. When you opened the boxes, were the applications sealed or unsealed?

A. They were not sealed, they were just in boxes.

Q. They were just in boxes? I mean, the applications themselves were not?

A. No, the applications themselves were not sealed.

Q. They were just plain open --

A. Uh-huh.

Q. -- and sealed on the --

A. Just stacked in boxes.

Q. Okay. Were they Georgia applications or federal?

A. They were Georgia.

Q. Okay. And whoever brought them, brought them in person to you, to your office?
A. They were delivered to us. Not by the person who collected them, but by the person who was in charge of the people who collected them.

Q. By the organizer?

A. Right, or part of the organization.

Q. So were you able to identify who brought them in?

A. Yes.

Q. Okay. And what did you do in response to those applications?

A. Well, because we are not the registrar, we're not the entity, the Secretary of State doesn't have the authority to register voters. And as I explained to you earlier, the State Election Board has investigative powers, but that's when a complaint has been made to our office. And what we did is we notified the counties, we separated those applications by county, and then we notified the counties that were recipients of those applications that there appeared to be many discrepancies and possibly fraudulent Social Security numbers on those documents, and we encouraged them to very carefully review them during the registration process, and that if they thought any were fraudulent, that they should contact their local district attorney's office and
also notify us as well.

Q. And did you -- as you said, the board has investigative powers?

A. Uh-huh.

Q. You would have -- would you have been able to make your own report to the State Election Board?

A. We could have reported to them. I think we would need -- in order to have a case, that the entity who actually reviews the voter registration form, and that -- and that would be the county, the person whose job it is to register a voter, and that is the person who has the authority to call anybody's voter registration into question or to have a hearing is the county themselves. So the first line of defense would lie with the county on that issue.

MS. ESTELLE ROGERS: Ms. Rogers, as to your -- your conclusion that -- that there was suspected fraudulent applications in that big box, or that series of boxes, on what basis did you conclude that? I mean, were there the wrong number of digits in the Social Security number?

THE WITNESS: Well, it was a couple of things. The lady who dropped them off, she said to us, "I'm not sure about some of those applications."
MS. ESTELLE ROGERS: Awe.

THE WITNESS: She called them to our attention, and noted that she just wasn't sure about some of them.

MS. ESTELLE ROGERS: (Nods head affirmatively.)

THE WITNESS: And then we did pick them up and began to flip through them. There were examples of apartment buildings, perhaps, and addresses, and it would be 101-A, 101-B, 101-C, 101-D, then there were Social Security numbers that might be 229-06-3877, the next one would be 3879, the next one would be 3800. I mean, they were very, very --

MS. ESTELLE ROGERS: So they were suspiciously alike?

THE WITNESS: Yes. There were some there that were very evident that it looked like maybe somebody took a phone book or -- and just went down and started filling in the blanks.

MS. ESTELLE ROGERS: Okay. Thank you.

Q. (By Mr. Heard) All right. And you said that the individual that brought them in alerted you to that effect?

A. She -- she made a comment to the fact
that -- and I can't remember exact words, but her
comment led us to go over and open the boxes and flip
through them, because she made a comment to the
effect that she was unsure about some of them.

Q.  Okay. She had looked through them and --
A.  She didn't --

Q.  You don't know how she came up with that?
A.  I don't know.

Q.  Okay. Do you remember who that was?
A.  I remember the lady, I don't recall her
name right now. I mean, we have her name in the
office, but I don't recall her name --

Q.  Okay.
A.  -- off the top of my head.

Q.  Okay. Are you aware whether any of the
counties made complaints to the State Election Board
in regard to that issue?

A.  Some of the counties, we also heard from
Fulton County that they believed that they had
received a number of bundled applications themself
that I do not know whether the applications came
through us or whether they came into their office,
but they had received a number that they also
believed were fraudulent.

Q.  No, what I was asking you is --
A. I'm sorry.

Q. -- is whether you remember if any of those resulted in State Election Board investigations?

A. Not a State Election Board action. I do know that a number of these counties did contact their local district attorney's offices. I -- I don't know where that has gone to date. We've got a number of State Election Board case files that we open. If there's litigation or some type of legal investigation ongoing, we will monitor that case through its completion.

Then at the end of that case, if there's anything that has not been followed through that we believe the State Election Board, it goes to their attention, we'll provide it to them. I believe we do have a monitoring case, but I -- I would have to go back and look that up in one of these files.

Q. That's fair.

Do you have a sense or has any count been done as to the number of allegedly fraudulent voter registration applications that have been received?

A. I can tell you that in testimony to the SLGO, State and Local Government Operations Committee, members of the board of elections of Fulton County used those applications on many
occasions to justify photo identification. The passage of photo identification.

They claimed that of that number of applications that they received, many of the precinct cards were returned to them as undeliverable, and they believe that noted that a number of them may not have been correct addresses or actually were legitimate people.

Q. Okay. And is it your contention that any of these allegedly fraudulent applications had some affect on the -- the actual integrity of any election?

A. Well, I think anytime someone from any board of elections gives testimony to a committee of the General Assembly in regard to a number of bogus or fraudulent applications, and then that testimony is used to craft laws, then I think it -- there's definitely an effect. And I'm sorry, I forgot what your --

Q. Let me give -- let me, I guess, ask a more directed question. Do you think that there was a substantial number of voter fraud that arose out of any of these allegedly fraudulent applications?

A. To be perfectly honest, I don't know that these were real voters themselves. I think -- I
personally think they were the people who were conducting the registration drives. I think they were paid for --

Q. Per application?
A. In Georgia, you know, you shouldn't be paid per application. I don't know how they were being paid, I just know that you should not be paid per application. But I still believe that there were a number that were just being completed for payment.

Q. You're not --
A. I don't know that it was a voter who was attempting to go vote for somebody else.

Q. Okay. You're not suggesting that you shouldn't be paid at all for voter --
A. No, I'm not suggesting that at all. It -- it is our understanding, through advice of the Attorney General's offices, that you cannot offer payment per piece. But, yes, payment is -- is not prohibited.

Q. And I guess more to the point, were any of these alleged voter registration fraud issues, did they have any impact on the enactment of these copying and sealing rules?
A. This -- I don't know anything about timing. I can't -- this was in September, it would
have been -- I can't remember the dates of when those applications came in, Bradley.

Q. I understand.

If you go -- let's go back to Exhibit 2 for a second. If you will hop over to the minutes from that emergency rule meeting. That's where I'm trying to get you to.

A. (Reviews document.)

Q. Is that Exhibit 2? No, it might be a different -- no, I'm sorry, that's Exhibit 4.

A. Okay.

MS. ESTELLE ROGERS: Special conference call.

Q. (By Mr. Heard) Special conference call, right.

And also, if you want to thumb over --

A. It's spelled wrong --

THE REPORTER: I'm sorry?

THE WITNESS: I said, conference is spelled wrong on paper now that I look at it.

Q. (By Mr. Heard) And on Exhibit 3, if you want to flip over to Page 5 of Exhibit 3. I'm going to just sort of kind of go back and forth between those two, so if you just want to pull those out.

MS. ESTELLE ROGERS: Page 5 of the letter
to Mr. Tanner?

Q. (By Mr. Heard) Right, Page 5 of the letter to Mr. Tanner.

   So we are looking at Exhibits 3 and 4.

   Just let me know when you get there.

   A. Okay. All right.

   Q. All right, you're there. Okay.

   On Page 2 -- well, let's go back to Page 1 of Exhibit 4. Again, toward the bottom where it starts about the review and discussion of these proposed emergency rules, it talks about Secretary Cox explaining Judge O'Kelley's order in the Wesley case, the injunction that was received. Then you flip over to Page 2, and it says, "The Board identified the need for confidentiality of certain information contained within the voter registration applications and agreed that requiring applications to be sealed before being collected supported a legitimate State interest."

   Okay. What was the certain information that you contended needed to be confidential? That the board contended to be confidential?

   A. Well, definitely Social Security numbers. The Code already states, it's law, that the place that someone registered and their Social Security
number will be kept confidential. Voter registrars cannot allow someone to obtain a copy of a person's voter registration application by statute now. The only way they can do so would be with court order.

You can obviously obtain a list of voters who are registered to vote in the State of Georgia, but that list would not include the location of their registration where they registered to vote, nor would it include their Social Security number.

Q. Okay. All right.

And the location of where they registered would not be on the mail registration application anyway, correct?

You can look back at it if you need to, the exhibit.

A. No, it's not on the actual form itself, I don't think. Maybe --

Q. 12 and 13 would be the voter registration application exhibits.

A. But we do stamp them in, and that number, as I told you, identifies where it is that that stamp, and that stamp is on the application itself. So the code identifies.

Q. The code would just identify that it's a mail registration application, right?
A. Or a WIC office.
Q. Or a WIC office?
A. Uh-huh.
Q. But I'm talking about specifically -- because this rule relates to mail registrations, correct?
A. The sealing.
Q. The copying and sealing.
A. Correct.
Q. Okay.
A. That relates to applications by private entities.
Q. By third -- by private entities, third parties who would be using mail registration applications, right?
A. Correct.
Q. So the place of registration would not be included on the mail registration applications?
A. Well, it would be coded with a number 2.
Q. Which would indicate it's a mail application?
A. Right.
Q. But not, "I registered at the Kroger" --
A. Right.
Q. -- or "I registered at the MARTA station,"
it wouldn't say that?

A. No.

Q. Okay. The Social Security number, you indicated as a result of the Schwier case, the State is no longer requiring, correct?

A. We have not for the last year, due to the injunction -- I guess it was an injunction -- and now the final order, but there are 5 million registrations in the State of Georgia. Out of 5 million, there are only 30,000 that do not have a Social Security number on them.

Q. But this rule would apply, would it not, to new registration applications collected by third parties?

A. Sealing and copying?

Q. Yes.

A. Correct, it applies to that.

Q. All right. And as to those applications that are being collected, it's no longer required that the Social Security number be on the voter registration application, correct?

A. The application says that -- well, the -- the language on the application has not changed.

Q. I understand.

A. The -- the language is currently there,
but --

Q. On the State form, on 12, Exhibit 12?

A. That's correct.

Q. Right.

A. However, a voter does not have to provide their Social Security number if they do not wish to right now.

Q. Okay. The language may not have changed but it -- but it is no longer required, correct?

A. Correct.

Q. All right. And on 13, the federal form, it doesn't necessarily say Social -- well, it does not say Social Security number?

A. It -- it would be in the information, the instructions. There's instruction pages that go with the federal form.

Q. Okay.

A. And under the Georgia instructions, it would tell you what identifying information to put. And while we currently do not require the Social Security number, that is the number that is given by most people. And come January, they'll be providing their full driver's license number, or the last four digits of the Social, which would also be considered to be private and confidential information.
Q. Okay. After the Schwier case --
A. Uh-huh.
Q. -- did you all ever send updates to the EAC about what the identity number requirements were?
A. We did. We sent updates to both the Federal Voting Assistance Project for their FVAP, federal -- no, no. The FBCA. Okay, I'll get all my acronyms right.
Q. I mean, who -- okay.
A. We -- we put into the language for their online forms to say that Social Security number is requested but not required. And I'm pretty sure that FVAP made the update, I'm not sure that the EAC actually made the update, but once a year they collect information from us on what language should be on the instructions for individual states.
Q. Okay.
A. And we have provided to both of them that it is requested but not required.
Q. Okay. So you have -- you have updated those with --
A. Uh-huh.
Q. Okay.
A. And we'll update them again in the next two months.
Q. Okay. Any changes with regard to ID numbers or anything?

A. It will -- per the consent order, it will be you will collect -- we will collect the full Social Security number or the full DL or the last four digits of the Social.

Q. But as to the requirement for a Social Security, that's not --

A. That's strictly voluntarily, unless you want to give the last four digits of your Social. Now, understand that there are only 10,000 possible combinations with the last four digits of a Social and the date of birth and name.

Q. All right.

MS. ESTELLE ROGERS: Why do you request the full Social at this point, since it's no longer required?

THE WITNESS: Well, because we don't have anything in place in order to have a way to keep the legitimacy of the voter's identity. And since we don't have anything in place to collect the full driver's license number, the court allowed us to maintain the collection of the full Social Security number by voluntary distribution until we could put our new system
into place.

MS. ESTELLE ROGERS: And that will be by January 1st, 2007?

THE WITNESS: Yeah. We've got to make revisions to our voter -- our statewide voter registration system, and then we're going to have to match our system to SSA and AMVA, and all of that is going to take a little time to -- it's under works now. I mean, it -- it's all being done as we speak.

MS. ESTELLE ROGERS: But at that point there won't even be a request for the full Social Security number, will there?

THE WITNESS: Well, the court order says that we can request the full Social Security number if the voter wishes to provide signature voluntarily. The court order and Schwier does allow us the ability to get the full Social. If they want to give it. And most people, believe it or not, they do.

Q. (By Mr. Heard) All right. Moving down, if you go back to 4, Exhibit 4. That's -- no, keep that open.

A. Okay.

Q. But I'm going to try to work Exhibit 4,
first.

A. I have a whole filing cabinet with your name on it. Okay.

Q. I don't know if I like that.

A. We'll have another one today.

Q. Okay. Let's see. The paragraph that begins, "When reviewing the proposed rules, the Board took into consideration and discussed the State's interest as well as the injunctive order issued by the U.S. District Court." I guess that's in the Wesley case?

A. Uh-huh.

Q. "The Board identified the following as compelling governmental interests for adopting the rules: Number one, protecting the public from nefarious motives of unspecified community groups." What did the board mean by that?

A. Ensuring that an applicant was protected from any type of illegal use of their personal information.

Q. All right. Now, illegal use, like identity theft?

A. Correct.

Q. Okay. And identity theft is a crime in Georgia currently, correct?
A. Correct.
Q. All right. What other nefarious motives would -- if any?
A. I think the board's concern was over the collection -- possible collection of not only someone's Social Security number, but in conjunction with their Social Security number that you would have their name, their date of birth, and their address.
Q. Now, their name, date of birth, address, in addition to race and telephone number --
A. If provided.
Q. -- can all -- if provided, can all be gotten from the Secretary of State currently, correct?
A. No.
Q. On the voter list?
A. I -- what things did you just name? I don't --
Q. Name, address, telephone number?
A. We don't collect the telephone number. Not -- we don't collect it within the system.
Q. How in the world do I get all those calls from --
A. They don't come from us.
Q. All right. So you don't collect the
telephone phone number, then?
   A. No. It's not on a file. If a candidate bought a file, there's no telephone number there.
   Q. Okay. But the name and address is on there?
   A. Uh-huh.
   Q. Is the date of birth on there?
   A. You know, I'm not sure.
   Q. Okay.
   A. I -- I would have to check. I really...
   Q. Okay.
   A. I might have known at 8:00 o'clock this morning, but I don't know now.
   Q. It's been a long day for everyone.
   All right. But the Social is not obviously provided --
   A. Never.
   Q. -- on the voter list?
   All right. But in terms of nefarious motives, it was largely a concern about identity theft?
   A. Absolutely.
   Q. Okay. I know you testified earlier that you had gotten calls from concerned voters that people might be misusing their Social Security
number.

A. Uh-huh.

Q. Do you remember that testimony?

A. Yes.

Q. Have you gotten any calls that people actually have been? That third-party voter registration groups had been misusing their Social Security number?

A. No. It's my understanding that most people, when their identity is stolen, they don't generally know where it was stolen from, so...

Q. Were the calls you were getting from people whose identity had been stolen or from people who were just expressing a concern?

A. Expressed concerns.

Q. Okay. Did you receive a call from anyone whose identity had actually been stolen?

A. I've had many conversations with voters who relate personal stories of they themselves or family members who had been the victims of identity theft, and because they had been victims of identity theft, they were especially sensitive to items such as being able to obtain information off the voter registration form. So while they --

Q. And I --
A. -- they did not specifically say, "I think my information was stolen from my voter registration application," a lot of these people had been or had family members who had been victims of identity theft, and as such, they understood the seriousness of it.

Q. Right. And I understand that. I understand the whole concept of being concerned about identity theft, either because you had been a victim of identity theft or because you knew people who had been. But what I'm trying to get at is, had anybody called you and said, "I'm a victim of identity theft" -- and by "you," I mean the State Election Board or the office of Secretary of State.

A. And I know where it came from and I think it came off my voter registration?

Q. (Nods head affirmatively.)

A. No, I haven't had that specific call --

Q. Oh, okay.

A. -- that I think it came off my voter registration application.

Q. All right. I mean, and was there a concern on the State Election Board's part that there was a large amount of voter registration -- I mean, of identity theft in connection with third-party
voter registration efforts? Was that a concern of the State Election Board?

A. I think they were proactively seeking to protect the voters' confidential information.

Q. I understand that --

A. Rather than -- rather than doing it in reaction to the loss of a person's information or loss of their identity, it was their intent to protect the voter registration process going in.

Q. On the front end?

A. Right.

Q. Okay.

MS. ESTELLE ROGERS: Could I ask one other question about the minutes of the election board meeting on Page 2, that part that we were just discussing?

THE WITNESS: Uh-huh.

MS. ESTELLE ROGERS: What the board took into consideration.

If one, which I quote, is "protecting the public from nefarious motives of unspecified community groups," unquote, is basically a fear of or a concern about identity theft, what's the difference between one and two? Two being, "Preventing the potential misuse of confidential
information contained within the application."

THE WITNESS: I seem to recall that some of this language was provided by one of our board members, who's an esteemed attorney, and it looks like some lawyer language to me, but obviously --

MS. ESTELLE ROGERS: You mean repetitive lawyer language?

THE WITNESS: Yeah. This definitely came from a member who was an attorney.

MR. HEARD: I betcha I know which one.

MS. ESTELLE ROGERS: Okay. Thank you.

THE WITNESS: If I word it, it's a lot simpler to understand.

Q. (By Mr. Heard) And that relates -- now I'm going to have you switch just for a second. Keep that page open.

MR. RITTER: Brad, how much more have you got?

MR. HEARD: I'm trying to work through it as quick as I can, Stefan. I really am.

MR. RITTER: Okay. Well, you're over what you told me in your e-mail and I've got a brief due, so I --

MR. HEARD: I said -- yeah, I said it
would take a couple of hours, and, yeah, I'm a little over that.

MR. RITTER: Yeah. So please wrap it up.

MR. HEARD: I'm trying. But I'm trying not to have to call her back, you know.

MR. RITTER: Well, you've had plenty of time, so please wrap it up.

Q. (By Mr. Heard) I lost my train of thought. Okay. If you go back to Exhibit 3.

A. Okay.

Q. And this kind of -- I'm trying to -- Exhibit 3 is the information related -- the preclearance stuff related to the permanent rule, and I'm sort of trying to jive together the emergency rule justifications and the permanent rule justifications.

A. Okay.

Q. All right. And in the preclearance submission on Page 5 down there under (o) --

A. Uh-huh.

Q. -- if you look at the third paragraph under that.

A. Uh-huh.

Q. "Given that the District Court" --

A. Uh-huh.
Q. -- and it says, "The State Election Board adopted the rule in question to help secure that information and to prevent its misuse for purposes other than voter registration."

A. Uh-huh.

Q. Okay. Now, is it your contention that the only permissible use of the information contained on that voter registration application that's collected by a third party is for voter registration purposes?

A. Well, I certainly believe that third parties are not prohibited from collecting and maintaining the data, whether it is from a, "I give you permission to have a copy of my application," or whether you want to collect it on a separate form for the purpose of following up with the voter. I know that's what many of the groups do is follow-up with voters after registration drives.

So to that extent, much like our voter registration information is available to candidates, media, people who make phone calls from -- from candidates, I mean, those are also things that are done with the information. So the intent of the voter registration application is to register the voter, but if a private entity who is conducting that voter registration drive would like to collect
information that is voluntarily given by the voter for purposes of -- for their organization, with the voter's permission, then that's permissible.

Q. Okay. So there's nothing wrong with collecting information, say if you wanted to follow-up for a candidate forum or "For Get Out the Vote"?

A. Correct. You can voluntarily give someone -- I could voluntarily give you all the information that I put on that form. The form itself, its purpose is to register me to vote, but if you wish to collect information for other purposes, and I'm willing to give you that information, that's perfectly permissible.

MS. ESTELLE ROGERS: What about if I were registering with Project Vote and voluntarily gave them permission to copy my registration form?

THE WITNESS: I would think that's permissible. I -- if you are giving permission to them, you give them direct permission to do so, with their knowledge.

MR. RITTER: Yeah. We'll stipulate that, as a matter of fact. And we've said that several times.
MR. HEARD: So the board -- the board is construing its application to accept --
MR. RITTER: Allow voluntary copying?
MR. HEARD: To allow, yeah.
MR. RITTER: Yeah, if it's voluntary and knowing. You know, if the person whose application it is wants to give them a copy. I think I mentioned that in court -- open court the other day.
THE WITNESS: I mean, once that application is on file in the voter registrar's office, they're -- they're prohibited by law, you know, by statute from giving anyone a copy.
Q. (By Mr. Heard) I understand that.
A. I don't even know that I could walk in and get my own copy from Chatham County. But up until that point, you know, it's submitted, I would think I could go over and copy it and hand it to you, if -- if that's what I wanted to do.
Q. Okay. What is the sealing doing? I mean, what does the board --
A. Well, one of --
Q. -- think the sealing of the application is doing?
A. One of the things we find is that chain of
custody on these forms, it also goes through many
different groups of people. I mentioned the forms
that came in by this particular woman who brought in
forms, she had a number of assistants to help her
bring those boxes in. She had been collecting them
from people who had been collecting them from people.

Q. Uh-huh.

A. And by sealing the information when you
give it to -- when I finish my form and I seal it,
you can -- you can help me fill it out, you can help
me determine if it's accurate and I have everything I
need on it, but before you take possession of it, I
should seal that form before giving it to you. That
ensures that, you know, wherever the form goes, from
the time I put it in your hands until it goes to the
preaddressed address on the form, that my information
is protected from wherever you may want to leave it.
Whether you decide to put them in the trunk of your
car or whether you decide to leave them in your dorm
room, college folks who are out doing these, or, you
know, wherever you put it, at least it is sealed from
public view.

Q. Now, how would one, in the board's
estimation, you know, obtain this consent from a
registrant to copy their application, and would that
be possible if the application is sealed?

A. Well, you would obviously copy a form before it was sealed if the applicant gave you permission to copy a form prior to sealing. That would be done --

Q. Okay.

A. -- before that time, and then the application would be sealed.

If I was the person doing the registering, I would probably have someone sign that, yes, I have affirmatively given you permission to copy my form, but that's not a requirement. There's nothing that says that, you know, that has to be done.

Q. All right.

A. I mean, I myself could take my voter registration form and make 50 copies of it before I submitted it and give them to whoever I wanted to, but...

Q. You would agree with me that if somebody is stopping at a MARTA station and gives their voter registration application to Project Vote, or ACORN or The People's Agenda, they don't have to do that to register to vote, correct?

A. They don't have to do what?

Q. To give their form to those -- to the
third party, to the --

A. The person -- person could take it with them.

Q. The person could take the application with them?

A. Right. Right. You're talking about, I'm at a voter registration drive, you give me one, do I have to give it back to you?

Q. Correct.

A. No. You could take it with you if you wanted to mail it yourself.

Q. And the voter could also just not go to the registration drive at all and could ask you for a copy of the voter registration application, correct?

A. They can download one off the Web site, or get one from the library or a town hall, or numerous places.

Q. Okay. So the voter is choosing to leave it with the third-party voter registration organizer, correct?

A. If that's what they desire to do. Some people take them with them and --

Q. Those that want to take them with them take them with them?

A. Uh-huh.
Q. "Yes"?
A. I would agree.
Q. Okay.
A. But some -- some people don't understand a voter registration drive, they don't understand that they can take it with them and drop it in the mail.
Q. Okay. As to these applications that came in that the lady brought in that she said, "I don't know about these," and that looked a little suspicious.
A. Uh-huh.
Q. Is it the board's contention that these copying and sealing restrictions would have prevented that activity, those allegedly fraudulent submissions?
A. I think it's their contention that by requiring that they're sealed and that they're not copied without permission lends toward a more secure environment. I am not going to say it prohibits that, but it certainly provides a -- a potential barrier to someone obtaining someone else's information without permission.
Q. Okay.
MR. HEARD: We can go off the record for a second.
(Off the record.)

MR. HEARD: Okay. Go back on the record.

MS. ESTELLE ROGERS: Is it your understanding, Ms. Rogers, that if an applicant handed a voter registration worker a finished application, that it wouldn't have to be sealed at that point?

What is your understanding of the sealing requirement, with specificity?

THE WITNESS: My understanding of the sealing requirement is that I'm the applicant, you're the third party. If I hand you my application before I walk away from you, that application should be sealed, before I leave it in your possession.

MS. ESTELLE ROGERS: Right.

THE WITNESS: Okay.

MS. ESTELLE ROGERS: So given that, how possibly could it be copied?

THE WITNESS: Well, prior to. I mean, if say the registration drive -- frequently they're at schools -- there are copying machines that are available. I -- I have known people who do drives to have mailboxes out there. I'm sure they could have copiers, too, if they wished. I
mean, or -- or they can, the voter can
voluntarily give you information and it can be
written down.

It could happen a couple of ways, and I
know it does. There are groups who do it. I
think in one of the affidavits it stated that
Helen Butler, that they currently collect
information. You can have the voter collect on
a predefined form certain information, you can
let them write it down, you can have somebody
else who writes it down, or you yourself could
write down that information on that form.

You can also assist the voter in assuring
that it's properly completed, that every line is
filled out, every box is checked, go over their
form with them and the requirements, make sure
everybody is in agreement, prior to it being
sealed. It doesn't have to be finished by the
voter and sealed by the voter and given to you
without you having any input and ensuring it's
correct.

MS. ESTELLE ROGERS: Thank you.

Q. (By Mr. Heard) All right. In the -- in
the emergency rule minutes, it -- I guess I should
look back at it. Exhibit 4, here it is.
In the emergency rule minutes, it indicates that the board considered issues of narrow tailoring of these rules -- let me back up. And we talked about one and two on those September 9th, 2004 minutes. The three, the preventing the loss or misplacement of voter registration applications as a result of bundling, is that basically the rationale for the time deadline, the submission deadline?

A. Yes. At that time we had just recently prior to the adoption of these emergency rules, received a number of applications in bundles from organizations with no name on them, and they came after the deadline for voter registration.

Q. Okay.

A. And they -- the date on the form itself showed that they were collected well before the deadline for voter registration, but the forms were not submitted in a time -- the voter simply did not get registered.

Q. So that number three was related to the time submission --

A. Uh-huh.

Q. -- not to the copying and sealing, as far as you're aware of?

A. That's correct.
Q. Okay.
A. That's my recollection.
Q. Okay. Now, in terms of narrow tailoring, what other options, if any, did the board consider other than these copying and sealing rules?
A. Hmm. I don't remember the exact discussion. As in all things, I'm sure that it was a broad discussion, and I'm sure there were probably other possibilities which were mentioned, but I only remember the outcome, which was copying and sealing.
Q. Okay. And it looks like from the minutes they were there about a half hour, correct?
A. If that's what it states, yes.
Q. Okay. Do you recall whether there was any discussion at the meeting -- and, again, you don't remember whether they were being taped at this point or not?
A. (Witness shakes head negatively.)
Q. "No"?
A. I don't recall.
Q. Okay. Do you recall whether there was any discussion about how or whether the existing criminal laws in Georgia provided a deterrent to this type of --
A. I don't recall.
Q. Okay. Do you recall whether there was a
discussion about whether eliminating the Social
Security number off of the application might have
been an option?
A. No. I don't -- I don't recall there being
discussion to that regard.
Q. You recall that there was not discussion
about that?
A. I don't recall there being any discussion
about removing that from the application to -- I
don't recall any discussion. I don't believe that
was considered as an option.
Q. Okay. Was there a discussion about
possibly establishing additional ID requirements for
first-time registrants?
A. That occurred in 2003, with the Help
America Vote Act. That's already in the legislation.
Q. So that was -- that, obviously, was before
these regulations.
A. Uh-huh.
Q. But any additional ID requirements
requiring mail registrants to come in and vote in
person the first time, for instance?
A. No. I don't recall those discussions.
Q. Okay. Was there any discussion about how
the board could perhaps implement training programs
for third-party registration groups?

    A. Not at this time. We have since been
having those discussions, and they are part of
discussions we have with the task force and with your
group, and that is going to be part of the proposed
new rules, is there will be training for third
parties for private entities.

    Q. Okay. Any discussion about how the board
might give any other type of public information?
That's part of the board's authority is to inform the
public about voting and voter registration issues, correct?

    A. Correct.

    Q. Was there any discussion, that you
remember, about whether to help this potential fraud
problem or confidentiality problem there could be any
public service announcements or anything of that
nature that the board could do? Sort of how to
ensure --

    A. I don't --

    Q. -- your security?

    A. I do not recall. There -- there would
have had to have been funding for such a project, and
I don't recall there being any discussion of that.
During that time, our voter education funds were being cut, tremendously.

Q. I understand. I mean, I'm thinking of, you know, the public service commercials, I can't remember --

A. On the voting equipment?

Q. The Secretary of State did them for voting equipment or for --

A. Well, that --

Q. -- for another division, I can't remember?

A. The voting equipment was funded with four and a half million dollars of general assembly fee, and investor education protection commercials were funded --

Q. That's the one.

A. -- from the lawsuit where a number of agent -- private companies had to give money to states for that purpose. So there was money that funded those commercials directly, as funded the ones on electronic voting.

Q. Okay. And understanding that everything of that nature always -- public education things require funding, what I'm asking you is was it even a topic of discussion at the board?

A. I do not recall that being a topic of
Q. Okay. And do you know whether the -- and I'm going to ask you this as a two-part question: Has the State Election Board or the Secretary of State's office made any recommendations to the Election Assistance Commission about additional rules or protections that need to -- that you think should be made in this regard with respect to the mail-in registration forms?

A. We -- we've had discussions with elected officials and the Election Assistance Commission about what we believe is the -- is the need to maintain the use of the Social Security number to ensure applications and -- that were correct, but, no, I have not had conversations outside of that.

Q. Right. Yeah, I'm talking now specifically regarding this whole third-party registration issue, whether there are any changes that need to be made to --

A. I don't recall having any conversations of that sort.

Q. And you sit on some of these boards, like the election board or whatever?

A. Uh-huh.

Q. What is it called, the group where you got
your certification from?

A. Yeah.

Q. The Election Assembly?

A. The National Association of State Election Directors, and I am on the professional election board of the Election Center.

Q. And does this topic come up there or have you had -- at that group?

A. Since 2004, this topic has come up a great deal, but mainly the discussions have been how states are reacting to voter registration activity that occurred in 2004.

Q. Okay. Any election -- I mean, any recommendations or final conclusions?

A. (Witness shakes head negatively.)

Q. Have any been made from those groups?

A. No. Not officially from NASED that I'm aware of. I don't know of any official recommendation.

MR. HEARD: Anything else?

MS. ESTELLE ROGERS: Nothing further,

thank you.

MR. HEARD: I think we are done. Thank you, I appreciate your time.

(Deposition concluded at 3:24 p.m.)
(Pursuant to Rule 30(e) of the Federal Rules of Civil Procedure and/or O.C.G.A. 9-11-30(e), the deponent and/or a party having requested the right to review the deposition, making corrections and/or changes and signing, for that purpose the errata pages have been annexed hereto.)
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(Original Exhibits 1 through 14 have been attached to the original transcript.)
CERTIFICATE

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing pages 1 through 107 represent a true, complete, and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

This, the 4th day of September, 2006.

Karla T. Pittman, RPR, GA CCR-B-1987
COURT REPORTER DISCLOSURE

Pursuant to Article 8.B. of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia which states: "Each court reporter shall tender a disclosure form at the time of the taking of the deposition stating the arrangements made for the reporting services of the certified court reporter, by the certified court reporter, the court employer, or the referral source for the deposition, with any party to the litigation, counsel to the parties or other entity. Such form shall be attached to the deposition transcript," I make the following disclosure:

I am a Georgia Certified Court Reporter. I am here as a representative of Brown Reporting, Inc. Brown Reporting was contacted to provide court reporting services for the deposition. Brown Reporting will not be taking this deposition under any contract that is prohibited by 15-14-37(a) and (b).

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KARLA T. PITTMAN, CCR B-1987
DEPOSITION OF KATHY A. ROGERS/KTP

I do hereby certify that I have read all questions propounded to me and all answers given by me on the 1st day of September, 2006, taken before Karla T. Pittman, and that:

1) There are no changes noted.

2) The following changes are noted:

Pursuant to Rule 30(e) of the Federal Rules of Civil Procedure and/or the Official Code of Georgia Annotated 9-11-30(e), both of which read in part: Any changes in form or substance which you desire to make shall be entered upon the deposition...with a statement of the reasons given...for making them. Accordingly, to assist you in effecting corrections, please use the form below:

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DEPOSITION OF KATHY A. ROGERS/KTP

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If supplemental or additional pages are necessary, please furnish same in typewriting annexed to this deposition.

KATHY A. ROGERS

Sworn to and subscribed before me, This the _____ day of ____________, 20___.

Notary Public
My commission expires: ____________________