

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

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

Plaintiffs, )

vs. )

Case No: 1:13-CV-658

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

Defendants. )

LEAGUE OF WOMEN VOTERS OF )  
NORTH CAROLINA, et al., )

Plaintiffs, )

vs. )

Case No: 1:13-CV-660

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

Defendants. )

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

Case No: 1:13-CV-861

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

Defendants. )

VIDEOTAPED DEPOSITION OF

DONALD SCHROEDER, Ph.D.

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VIDEOTAPED DEPOSITION OF  
DONALD SCHROEDER, Ph.D.

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1:29 P.M.

MONDAY, JUNE 2, 2014

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1 THE VIDEOGRAPHER: On record at 01:19

2 1:20 p.m. 01:20

3 Will the court reporter please swear in 01:20

4 the witness. 01:20

5 DONALD SCHROEDER, Ph.D., 01:20

6 having been first duly sworn or affirmed to tell the 01:20

7 truth, the whole truth and nothing but the truth, 01:20

8 testified as follows: 01:20

9 EXAMINATION 01:20

10 BY MR. NKWONTA: 01:20

11 Q. Good afternoon, Dr. Schroeder. My name is 01:20

12 Uzoma Nkwonta, and I represent the 01:20

13 North Carolina State Conference of the NAACP 01:20

14 plaintiff group. 01:20

15 Would you please state your name for 01:20

16 the record. 01:20

17 A. Donald Schroeder. 01:20

18 Q. What is your home address, Mr. Schroeder? 01:20

19 A. 201 Maple Drive in Erwin. 01:20

20 Q. Do you mind telling me your date of birth? 01:20

21 A. 12/23/1946. 01:20

22 Q. Do you understand that the purpose of today's 01:20

23 deposition is to learn about your opinions in 01:20

24 this case? 01:20

25 A. Yes. 01:20

1 Q. I'm just going to go over a few ground rules 01:20  
2 for the deposition. 01:20  
3 Have you been deposed before? 01:20  
4 A. No. 01:21  
5 Q. So the first thing I'll ask is that you let me 01:21  
6 know if I ask a question that you do not 01:21  
7 understand. 01:21  
8 A. Okay. 01:21  
9 Q. And if you do, I'll be happy to repeat the 01:21  
10 question, but if you answer the question, I 01:21  
11 will assume that you heard and understood the 01:21  
12 question. Is that fair? 01:21  
13 A. Uh-huh. 01:21  
14 Q. Now, my job is to ask questions that you can 01:21  
15 understand and your job is to answer the 01:21  
16 questions to the best of your ability. 01:21  
17 Do you understand that? 01:21  
18 A. Uh-huh. 01:21  
19 Q. And consistent with that, I will need you to 01:21  
20 answer out loud. So, you know, the past couple 01:21  
21 of times you've nodded and -- 01:21  
22 A. Okay. All right. 01:21  
23 Q. And what we'll need for the court reporter's 01:21  
24 benefit is an affirmative answer, either a yes 01:21  
25 or no or a verbal answer rather than a head 01:21



1           nod. 01:21

2           A. Okay. 01:21

3           Q. If you need to take a break for any reason, 01:21

4           just let me know and I'll be happy to 01:21

5           accommodate you. And if you realize that an 01:21

6           answer that you previously gave was inaccurate, 01:22

7           let me know and I'll give you an opportunity to 01:22

8           correct it. 01:22

9           A. Okay. 01:22

10          Q. Finally, I would ask for the court reporter's 01:22

11          benefit and for our benefit that we try not to 01:22

12          talk over each other. So if you could wait 01:22

13          until I finish my question and I will give you 01:22

14          the opportunity to answer and I'll try to wait 01:22

15          until you finish your answer as well. 01:22

16          A. All right. 01:22

17          Q. Is there any reason why you cannot give full 01:22

18          and complete answers today? 01:22

19          A. No. 01:22

20          Q. Have you ever been arrested or charged with a 01:22

21          criminal offense? 01:22

22          A. No. 01:22

23          Q. Have you ever been accused of academic 01:22

24          dishonesty or plagiarism? 01:22

25          A. No. 01:22

1 Q. How did you prepare for today's deposition? 01:22

2 A. I reread my report. 01:22

3 Q. Anything else? 01:22

4 A. No. 01:22

5 Q. Do you meet with counsel to prepare? 01:22

6 A. I met with counsel and we talked about how 01:22

7 these go in general since I've never done one 01:23

8 before. Beyond that, no. 01:23

9 Q. Which counsel did you meet with? 01:23

10 A. I met with Phil Strach and Tom Farr briefly. 01:23

11 Q. When did this meeting occur? 01:23

12 A. Well, one about 30 minutes ago and last 01:23

13 Thursday, Thursday afternoon. 01:23

14 Q. When you say briefly, how long did the meeting 01:23

15 last? 01:23

16 A. 45 minutes, an hour. 01:23

17 Q. Was there anyone else there besides the two 01:23

18 attorneys you mentioned? 01:23

19 A. No. 01:23

20 Q. Did you review any documents during that 01:23

21 preparation session? 01:23

22 A. No. 01:23

23 Q. Aside from your report, have you reviewed 01:23

24 anything else in your own time to prepare for 01:23

25 this deposition? 01:23

- 1 A. No. 01:23
- 2 Q. Have you seen the other expert reports in this 01:24
- 3 matter? 01:24
- 4 A. I saw one. 01:24
- 5 Q. Which one? 01:24
- 6 A. Sean Trende's report. 01:24
- 7 Q. Have you seen any other reports? 01:24
- 8 A. No. 01:24
- 9 Q. What made you review Sean Trende's report and 01:24
- 10 not the others? 01:24
- 11 A. I'm familiar with some -- well, I'm a fan of 01:24
- 12 Real Politics website and I know that he wrote 01:24
- 13 for them and I was curious. 01:24
- 14 Q. Who provided you with Mr. Trende's report? 01:24
- 15 A. Mr. Strach. 01:24
- 16 Q. Dr. Schroeder, what is your hourly rate for 01:24
- 17 your work on this case? 01:25
- 18 A. \$200. 01:25
- 19 Q. Is your hourly rate the same for preparing your 01:25
- 20 report and testifying or is it -- 01:25
- 21 A. It's the same for everything. 01:25
- 22 Q. Is your payment in any way contingent on the 01:25
- 23 outcome of this case? 01:25
- 24 A. No. 01:25
- 25 Q. Is there a particular reason why your 01:25

1 compensation or hourly rate was not included 01:25  
2 with your report? 01:25  
3 A. I didn't know it had to be, I guess. I guess 01:25  
4 that's the only reason. 01:25  
5 Q. How many hours have you spent on this case thus 01:25  
6 far? 01:25  
7 A. I haven't added them up yet. 45, 50, somewhere 01:25  
8 like that. 01:25  
9 Q. Have you issued any invoices? 01:25  
10 A. No. 01:25  
11 Q. Do you have anyone assisting you with your work 01:26  
12 in this case? 01:26  
13 A. I had a student do some leg work for me. 01:26  
14 Q. What type of work did the student do? 01:26  
15 A. He -- he designed the tables that I used in the 01:26  
16 report. I gave him the numbers, told him what 01:26  
17 I wanted and then he figured out how to do that 01:26  
18 using Microsoft Word. 01:26  
19 Q. So the only thing the student did was to 01:26  
20 prepare the format of the tables? 01:26  
21 A. Right. 01:26  
22 Q. Did the student do any research or -- 01:26  
23 A. No. 01:26  
24 Q. -- prepare any of the figures or data or 01:26  
25 statements in the report? 01:26

1 A. No. No. 01:26

2 Q. All of that was your work? 01:26

3 A. Yes. 01:26

4 Q. And your research? 01:26

5 A. Yes. 01:26

6 Q. Now, other than your retention in this case, 01:26

7 have you ever worked with any other parties 01:27

8 connected to this case? 01:27

9 A. No. No, I take that back. One of my students 01:27

10 is on your side, Louis Duke. 01:27

11 Q. Have you been employed by any of the parties in 01:27

12 this case before? 01:27

13 A. No. 01:27

14 Q. Have you been employed by any of the attorneys 01:27

15 in this case before? 01:27

16 A. No. 01:27

17 Q. Dr. Schroeder, do you consider yourself an 01:27

18 expert in any fields or subject matters in 01:27

19 particular? 01:27

20 A. Political science certainly, and in general 01:27

21 terms my specialty in grad school was political 01:27

22 theory, and I teach a lot of political theory. 01:27

23 I also teach constitutional law and I'm a bona 01:27

24 fide political junkie, so I just pay attention 01:28

25 to -- ever since I was 13, in fact. I also 01:28

1 teach a course in political parties. 01:28

2 Q. Can you tell me a little bit about political 01:28

3 theory. What is that -- what is the study of 01:28

4 political theory? 01:28

5 MR. STRACH: Do you really know what 01:28

6 you're asking? Do you know what you're getting 01:28

7 yourself into? 01:28

8 MR. NKWONTA: Maybe not. 01:28

9 THE WITNESS: It gets into the 01:28

10 fundamental questions about political matters. 01:28

11 Why do human beings gather in political 01:28

12 associations in the first place, what is there 01:28

13 about their nature, what is there about the 01:28

14 human condition that cause human beings to 01:28

15 combine and organize into political 01:28

16 associations and how can they -- and how have 01:28

17 they done it and how well have they done it and 01:29

18 how they can do it better. 01:29

19 So you get into these fundamental 01:29

20 questions of values and what values are being 01:29

21 furthered by human beings in political 01:29

22 associations. 01:29

23 BY MR. NKWONTA: 01:29

24 Q. Thank you. That was -- 01:29

25 A. Sure. 01:29

1 Q. -- a good, concise answer. 01:29

2 A. Okay. 01:29

3 Q. You also mentioned that you teach a class 01:29

4 called Political Parties, if I'm not mistaken. 01:29

5 A. Yes. 01:29

6 Q. Can you tell me a little bit more about the 01:29

7 Political Parties class. 01:29

8 A. Well, it has to do with how political parties 01:29

9 fit into the American political system. 01:29

10 American political system really cannot work 01:29

11 without political parties, and we examine the 01:29

12 role of political parties have played in our 01:29

13 system, what their -- the kind of role that 01:29

14 they're playing right now, we get into a lot of 01:30

15 electoral politics, voting behavior and the 01:30

16 like. 01:30

17 Q. I want to go over your c.v. a little bit, so I 01:30

18 am going to hand you what will be marked as 01:30

19 Exhibit 78. 01:30

20 (WHEREUPON, Exhibit 78 was marked for 01:30

21 identification.) 01:30

22 MR. STEIN: So is this the whole report 01:30

23 and the c.v. or just the c.v.? 01:30

24 MR. NKWONTA: The whole report and the 01:30

25 c.v. 01:30

1 BY MR. NKWONTA: 01:30

2 Q. Is Exhibit 78 your report in this case? 01:31

3 A. Yes. 01:31

4 Q. Is that your c.v. at the back of your report -- 01:31

5 I'll get you the page number -- starting on 01:31

6 page 8 of your report? 01:31

7 A. Yes. 01:31

8 Q. According to your c.v., your primary teaching 01:31

9 fields are political philosophy and 01:31

10 constitutional law, correct? 01:31

11 A. Yes. 01:31

12 Q. How many publications have you prepared since 01:31

13 you've been a professor at Campbell University? 01:31

14 A. Couple of articles. One on "Aristotle on Law" 01:32

15 was originally published in a -- it was -- 01:32

16 reappeared in an actual book more recently. 01:32

17 The other article on "Aristotle on the 01:32

18 Good of Virtue-Friendship," the article on 01:32

19 John's Rawls and then there are the papers that 01:32

20 I presented in various conferences. 01:32

21 Q. The three articles you mentioned, "Aristotle on 01:32

22 Law, Aristotle on the Good of 01:32

23 Virtue-Friendship, John Rawls and Contract 01:32

24 Theory," are those the only articles that have 01:32

25 been published? 01:32



1 A. Yes. 01:32

2 Q. Are those all published in peer-reviewed 01:32

3 journals? 01:32

4 A. Yes. 01:32

5 Q. You obtained your Ph.D. in political science in 01:33

6 1975, correct? 01:33

7 A. Yes. 01:33

8 Q. It's almost 40 years ago? 01:33

9 A. Yes. 01:33

10 Q. In that amount of time you've published three 01:33

11 articles and two of them on Aristotle. What 01:33

12 other work have you done relevant to your field 01:33

13 that has been published anywhere else, whether 01:33

14 peer-reviewed journal or some other journal? 01:33

15 A. That's pretty much it. 01:33

16 Q. What is your current position at Campbell 01:33

17 University? 01:33

18 A. I'm associate professor. 01:33

19 Q. I'm not familiar with the academic community. 01:33

20 What are the different levels of -- that a 01:33

21 professor can occupy in Campbell University? 01:34

22 A. Well, of course, the highest is full professor, 01:34

23 then associate, assistant, and instructor. 01:34

24 Q. When you first joined Campbell University, what 01:34

25 was your position? 01:34

- 1 A. Assistant professor. 01:34
- 2 Q. When did you become an associate professor? 01:34
- 3 A. I was there for about I believe seven years, so 01:34
- 4 around '84, '85. 01:34
- 5 Q. You've been an associate professor for 01:34
- 6 approximately 30 years? 01:34
- 7 A. Yes. 01:34
- 8 Q. When did -- when did you join Campbell 01:34
- 9 University originally? 01:34
- 10 A. 1978. 01:34
- 11 Q. Have you published any articles or presented 01:35
- 12 any papers relating to voting laws? 01:35
- 13 A. No. 01:35
- 14 Q. Do you teach any classes relating to voting 01:35
- 15 laws? 01:35
- 16 A. Yes, Political Parties. We get into it in 01:35
- 17 Political Parties, and we also get into it 01:35
- 18 somewhat in my basic Introduction to American 01:35
- 19 Politics. 01:35
- 20 Q. What types of laws do you cover when you teach 01:35
- 21 voting laws in your Political Parties class? 01:35
- 22 A. For the most part, constitutional law, and 01:35
- 23 we'll get into statutory law insofar as it is 01:35
- 24 relevant to the constitutional law cases that 01:35
- 25 we discuss. 01:35

- 1 Q. Specifically what types of constitutional laws 01:35  
2 would you consider in the Political Parties 01:36  
3 class? 01:36
- 4 A. The Political Parties class, those having to do 01:36  
5 with voting rights, those having to do with 01:36  
6 campaign financing, anything which has to do 01:36  
7 with regulation of the electoral process. 01:36
- 8 Q. Have you prepared any papers for presentation 01:36  
9 or published any articles relating to access to 01:36  
10 the polls? 01:36
- 11 A. No. 01:36
- 12 Q. Have you participated in any seminars relating 01:36  
13 to access to the polls or voting rights? 01:36
- 14 A. I can't think of any offhand. 01:36
- 15 Q. What formal education have you obtained that is 01:37  
16 relevant to the voting laws being passed or 01:37  
17 amended under HB 589? 01:37
- 18 MR. STRACH: I'm going to object to the 01:37  
19 form of that question, but you can answer that. 01:37
- 20 THE WITNESS: Okay. Well, the courses 01:37  
21 I took as an undergraduate and a graduate 01:37  
22 student, particularly courses that I took in 01:37  
23 political parties and the constitutional law 01:38  
24 courses that were -- that had to do with rights 01:38  
25 in general. 01:38

1 In a regular non-law school setting, 01:38  
2 constitutional law courses are generally 01:38  
3 divided between governmental institutions where 01:38  
4 we get into things like the different branches 01:38  
5 of government, federalism, and then there would 01:38  
6 be a course on mainly the Bill of Rights in 01:38  
7 which case voting rights comes up mainly when 01:38  
8 we get to Equal Protection but also 15th 01:38  
9 Amendment certainly. 01:38

10 BY MR. NKWONTA: 01:38

11 Q. Specifically what courses have you taken or 01:38  
12 what in your academic background do you believe 01:39  
13 is relevant to photo identification? 01:39

14 A. Photo identification? 01:39

15 Q. Photo identification laws. 01:39

16 A. Photo identification law. Simply those that 01:39  
17 have to do with the electoral process and laws 01:39  
18 affecting the electoral process, freedom of 01:39  
19 speech, the right to vote. 01:39

20 And that would come up in any 01:39  
21 introductory course in American politics, any 01:39  
22 course in political parties and certainly in 01:39  
23 the rights portion of after constitutional law 01:39  
24 course. 01:40

25 Q. What work experience do you have -- aside from 01:40

- 1 the courses that you've taken, what work 01:40  
2 experience do you have that is related to photo 01:40  
3 identification laws that require voters to show 01:40  
4 photo ID? 01:40
- 5 A. I can't think of any. 01:40
- 6 Q. What experience do you have either in your 01:40  
7 educational background or in your work 01:40  
8 experience that's relevant to voter 01:40  
9 registration procedures? 01:40
- 10 A. The courses that I've taken, the ones I've 01:40  
11 already described as well as the courses that I 01:40  
12 teach that I've already described since these 01:40  
13 matters just come up whenever we get to the 01:41  
14 14th, 15th Amendments and can -- laws affecting 01:41  
15 political campaigns. 01:41
- 16 Q. So you mention the Political Parties course. 01:41  
17 Are there any other courses that address or 01:41  
18 discuss voter registration procedures? 01:41
- 19 A. That will be covered in the second semester 01:41  
20 Constitutional Law course and is also something 01:41  
21 that I cover in the introductory course. 01:41
- 22 Q. And those courses, do you discuss voter 01:41  
23 registration procedures in general or do you 01:41  
24 discuss specific voter registration laws in 01:41  
25 each state? 01:41

1 A. I discuss the North Carolina law this past 01:41  
 2 semester mainly because it's relevant. Usually 01:42  
 3 it would not automatically come up. It's just 01:42  
 4 become a fairly recent political issue. So 01:42  
 5 since it's become timely, I make a point of 01:42  
 6 covering it. 01:42

7 Q. So aside from the North Carolina voter 01:42  
 8 registration laws, does your Political Parties 01:42  
 9 course or any other course that you've given or 01:42  
 10 taken discuss or address specific voter 01:42  
 11 registration procedures or laws? 01:42

12 A. As of this fall, yes, the Political Parties 01:42  
 13 class will definitely focus on it and that's 01:42  
 14 because it has become so timely. 01:42

15 Q. Right. My question was a little different, 01:42  
 16 though. 01:42

17 Up until now, have any of the courses 01:42  
 18 that you have given or taken in your 01:42  
 19 educational background address voter 01:43  
 20 registration procedures in any state, specific 01:43  
 21 voter registration procedures? 01:43

22 A. Yes, and that would be the introductory course 01:43  
 23 in American Politics and the Political Parties 01:43  
 24 course, and when we get to the 14th and 15th 01:43  
 25 Amendment in the Constitutional Law course and 01:43

1 the seminars certainly, the seminar I teach on 01:43  
2 constitutional law. 01:43

3 Q. Aside from the seminars and the courses, do you 01:43  
4 have any other experiences either in your 01:43  
5 educational background or in your career that 01:43  
6 address voter registration laws, photo ID laws 01:43  
7 for voters, early voting or pre-registration? 01:43

8 A. Not formally, no. 01:44

9 Q. Have you ever testified as an expert in court 01:44  
10 before? 01:44

11 A. No. 01:44

12 Q. You mentioned you've never been deposed before. 01:44

13 A. No. 01:44

14 Q. Have you ever been designated as an expert 01:44  
15 before in a case? 01:44

16 A. No. 01:44

17 Q. You've been retained to provide an opinion in 01:44  
18 this matter, correct? 01:44

19 A. Yes. 01:44

20 Q. What opinions have you reached in this matter? 01:44

21 A. What I was interested in is how North Carolina 01:44  
22 changed its voter registration laws and 01:44  
23 procedures, election laws in the past year and 01:45  
24 how that related to the election statutes in 01:45  
25 the other states. 01:45

- 1 Q. And what opinions have you reached? 01:45
- 2 A. I came to the conclusion that the changes made 01:45
- 3 put North Carolina well within the mainstream 01:45
- 4 of what other states are doing. 01:45
- 5 Q. Do you have any other opinions that you have 01:45
- 6 provided or plan to proceed in this case? 01:45
- 7 A. No. That's basically it. So it was a very 01:45
- 8 narrow, fairly contained question that I dealt 01:46
- 9 with and it doesn't really go beyond that. 01:46
- 10 Q. What did you do to reach that opinion? 01:46
- 11 A. I read the statutes of the -- the election 01:46
- 12 statutes of the other states looking for 01:46
- 13 specific things like when registration is cut 01:46
- 14 off, what kind of identification, if any, is 01:46
- 15 needed in order to vote, procedures for 01:46
- 16 absentee voting, early voting. 01:46
- 17 Q. Did you do anything else? 01:46
- 18 A. Well, of course I compared them to each other 01:46
- 19 and to the North Carolina law. 01:47
- 20 Q. Did you review any other literature in 01:47
- 21 preparing your analysis or comparison? 01:47
- 22 A. I consulted a couple of websites. The website 01:47
- 23 for the National Conference of State 01:47
- 24 Legislatures. 01:47
- 25 Q. Any other websites? 01:47



1 A. The -- I have to think of the name of it. It's 01:47  
2 one of my favorite websites. The one at 01:47  
3 Cornell, Institute for Legal Education or 01:47  
4 something like that, Legal Studies. That's not 01:47  
5 the exact name of the site, but it's -- it's a 01:48  
6 very useful site. 01:48

7 Q. So you reviewed the state's election laws? 01:48

8 A. Yes. 01:48

9 Q. Reviewed the two websites you just mentioned? 01:48

10 A. Yes. 01:48

11 Q. And you compared the different states -- 01:48

12 A. Yes. 01:48

13 Q. -- based on their election laws? 01:48

14 A. Yes. 01:48

15 Q. Did you do anything else in reaching your 01:48  
16 opinions? 01:48

17 A. No. 01:48

18 Q. If someone else were to review election laws on 01:48  
19 this websites, would they be able to -- 01:48

20 A. Yes. 01:48

21 Q. -- reach the same -- 01:48

22 A. Yes. 01:48

23 Q. -- conclusion in applying the same information 01:48  
24 that you did? 01:48

25 A. Yes. 01:48

- 1 Q. Was the information reviewed publicly 01:48  
2 available? 01:49
- 3 A. Yes. 01:49
- 4 Q. Other than collecting the election laws, did it 01:49  
5 require any additional analysis on your behalf? 01:49
- 6 A. Not really. It was -- it was -- it was a lot 01:49  
7 like counting beans, I suppose. 01:49
- 8 Q. So this is something that any of us could do -- 01:49
- 9 A. Yes. 01:49
- 10 Q. -- if we had the information? 01:49
- 11 A. Yeah. You would have to get through the 01:49  
12 statutes, certainly, but I'm sure you're 01:49  
13 familiar with that. 01:49
- 14 Q. Did you rely on your expertise in political 01:49  
15 thought in preparing this? 01:50
- 16 A. Yes. 01:50
- 17 Q. How so? 01:50
- 18 A. Being able to read the statutes and understand 01:50  
19 what -- well, first off, finding where in the 01:50  
20 statutes the information I was looking for can 01:50  
21 be found and then being able to understand it 01:50  
22 once I came upon it. 01:50
- 23 Q. Did you conduct any statistical analysis 01:50  
24 related to this case? 01:50
- 25 A. Nothing particularly advanced other than simply 01:50

- 1 counting -- counting beans. 01:50
- 2 Q. You're not offering any opinions on the effect 01:50
- 3 of these voting laws on African American or 01:50
- 4 Latino voters, are you? 01:50
- 5 A. No. 01:50
- 6 Q. You're not offering any opinions on whether 01:50
- 7 these laws have a disparate impact on black or 01:50
- 8 Latino voters, right? 01:50
- 9 A. No. 01:51
- 10 Q. And you're not offering any opinion on the 01:51
- 11 burden imposed by these laws, are you? 01:51
- 12 A. No. 01:51
- 13 Q. Specifically you're not offering any opinion on 01:51
- 14 the burden imposed on minority voters or young 01:51
- 15 voters, are you? 01:51
- 16 A. No. 01:51
- 17 Q. So your opinion is limited to the statement 01:51
- 18 that the laws as amended in HB 589 place 01:51
- 19 North Carolina within the mainstream, right? 01:51
- 20 A. Yes. 01:51
- 21 Q. When you say you reviewed the states' election 01:52
- 22 laws, did you review every state's election 01:52
- 23 laws? 01:52
- 24 A. Yes. 01:52
- 25 Q. Do you have a list of materials or the laws or 01:52

1 documents that you relied upon in preparing 01:52  
2 your report? 01:52

3 A. Just the primary stuff that I found, the 01:52  
4 statutes themselves mainly. 01:52

5 Q. And did you keep a physical work file or do you 01:52  
6 have a list of the statutes somewhere? 01:52

7 A. I have the -- I have photocopies of the 01:52  
8 statutes in a big box in my office. 01:52

9 Q. Were you asked to provide a list of materials 01:52  
10 that you relied upon with your report? 01:52

11 A. No. 01:52

12 Q. Is that something you would be able to provide 01:52  
13 readily if we asked for it? 01:52

14 A. I could, yes. 01:52

15 Q. Based on your review of the record and 01:53  
16 everything that you've reviewed in this case, 01:53  
17 is there any other opinion that you have formed 01:53  
18 that you have not expressed? 01:53

19 A. No. 01:53

20 Q. When were you first contacted to work on this 01:53  
21 case? 01:53

22 A. About -- okay. It was in March. 01:53

23 Q. Who contacted you? 01:53

24 A. Mr. Strach. 01:53

25 Q. And what were you asked to do? 01:53

1 A. I was asked to review the statutes and compare 01:53  
2 them -- compare the new North Carolina law to 01:53  
3 what other states were doing. 01:53  
4 Q. Anything else? 01:53  
5 A. That was basically it. 01:53  
6 Q. Did Mr. Strach or anyone else send you any 01:54  
7 materials? 01:54  
8 A. Yeah. Basically photocopies of the statutes. 01:54  
9 Q. Of which statutes? 01:54  
10 A. Of the election -- election law statutes in the 01:54  
11 50 states. 01:54  
12 Q. So you didn't actually collect the election law 01:54  
13 statutes? 01:54  
14 A. I did not, no. 01:54  
15 Q. One of the attorneys collected the statutes and 01:54  
16 provided them to you? 01:54  
17 A. Yes. 01:54  
18 Q. And you simply read the statutes that were 01:54  
19 provided to you? 01:54  
20 A. I read the statutes and I went to the -- a 01:54  
21 variety of websites for the state governments 01:54  
22 and followed the links confirming what I had 01:54  
23 was in fact what existed in the states. 01:54  
24 Q. What types of websites would you go to confirm 01:55  
25 the accuracy of the statutes that you received? 01:55

- 1 A. Just about every state has -- every state 01:55  
2 legislature has its own website with a link to 01:55  
3 virtually all of their statutes. They're well 01:55  
4 indexed, very easy to follow. 01:55
- 5 Q. Did you confirm the statutes you received for 01:55  
6 each and every one of the 50 states online? 01:55
- 7 A. Yes. 01:55
- 8 Q. So you looked up the statutes yourself? 01:55
- 9 A. Yes. 01:55
- 10 Q. Even though you received them from the 01:55  
11 attorneys? 01:55
- 12 A. Yes. 01:55
- 13 Q. Did you receive any other material from the 01:55  
14 attorneys? 01:55
- 15 A. No. 01:55
- 16 Q. Did you ever speak to any other experts? 01:55
- 17 A. I sometimes would bounce ideas off of my 01:55  
18 colleagues at Campbell. 01:56
- 19 Q. Right. What I mean was did you ever speak to 01:56  
20 any other experts retained in this case? 01:56
- 21 A. No. 01:56
- 22 Q. Did you rely on any work prepared by any other 01:56  
23 experts? 01:56
- 24 A. No. 01:56
- 25 Q. When you prepared your report, did you intend 01:56

1 to be accurate in stating your opinions? 01:56

2 A. Yes. 01:56

3 Q. And the basis and the reasons for your 01:56  
4 opinions? 01:56

5 A. Yes. 01:56

6 Q. I want to go through your opinions individually 01:56  
7 starting with your opinion on the photo ID 01:56  
8 requirement for voters. 01:56

9 A. Okay. 01:56

10 Q. I believe that starts on page 3 of your report. 01:56

11 A. Yes. 01:56

12 Q. What opinions are you offering related to the 01:56  
13 photo ID requirements of voters in 01:57  
14 North Carolina? 01:57

15 MR. STRACH: Would you like him to read 01:57  
16 it? 01:57

17 MR. NKWONTA: No. Just asking you to 01:57  
18 restate your opinion. 01:57

19 THE WITNESS: Just that North Carolina 01:57  
20 along with a number of other states have 01:57  
21 decided to require the showing of a photo 01:57  
22 identification -- government-issued photo 01:57  
23 identification when they cast their vote and 01:57  
24 just basically included what kind of 01:57  
25 identifications would qualify as acceptable in 01:57

1 order to cast a vote. 01:58

2 BY MR. NKWONTA: 01:58

3 Q. You mention in paragraph 5 of your report that 01:58

4 18 additional states have photo ID laws in 01:58

5 effect -- 01:58

6 A. Yes. 01:58

7 Q. -- in 2012; is that right? 01:58

8 A. Yes. 01:58

9 Q. Where did you obtain that data from? 01:58

10 A. From the statutes that I collected, that I 01:58

11 reviewed. 01:58

12 Q. When you reviewed those statutes, did you 01:58

13 review the requirements of those states' photo 01:58

14 ID laws? 01:58

15 A. Yes. 01:58

16 Q. Did you make any distinction between strict and 01:58

17 non-strict photo ID laws? 01:58

18 A. I did not, no. 01:58

19 Q. Do you know what I mean when I say strict and 01:58

20 non-strict voter ID laws? 01:58

21 A. I assume you mean what the National Conference 01:58

22 of State Legislatures referred to. 01:59

23 Q. For the record, can you explain what the 01:59

24 National Conference of State Legislatures 01:59

25 refers to when they say strict versus 01:59



- 1 non-strict voter ID laws? 01:59
- 2 A. If I recall correctly, it depended upon what a 01:59
- 3 state would allow as a substitute for a photo 01:59
- 4 ID if someone did not have one. 01:59
- 5 There are a number of those who require 01:59
- 6 a photo ID which if a person did not have it 01:59
- 7 would allow for some other form of 01:59
- 8 identification. There would be a list, 02:00
- 9 including such things as utility bills and so 02:00
- 10 forth. What a common requirement would be any 02:00
- 11 two of the -- any two from the list. 02:00
- 12 Q. So some states allow voters, you would agree, 02:00
- 13 to cast a regular ballot even without 02:00
- 14 presenting photo identification, correct? 02:00
- 15 A. Yes. 02:00
- 16 Q. In fact, some of the 18 states that you have 02:00
- 17 identified as photo ID states would allow 02:00
- 18 voters to cast a regular ballot without actual 02:00
- 19 photo identification? 02:00
- 20 A. Or a provisional ballot. 02:00
- 21 Q. Right. But what I'm asking is you would agree 02:01
- 22 that some of those 18 states that you include 02:01
- 23 in your report would allow voters to cast a 02:01
- 24 regular ballot -- 02:01
- 25 A. Yes. 02:01

1 Q. -- without a photo ID, correct? 02:01

2 A. Yes. 02:01

3 Q. Would you also agree that the states that allow 02:01  
4 voters to cast a regular ballot without a photo 02:01  
5 ID are less restrictive than the states that do 02:01  
6 not? 02:01

7 MR. STRACH: Objection to form as to 02:01  
8 what "less restrictive" means. 02:01

9 You can answer it if you can. 02:01

10 THE WITNESS: Okay. If you look at the 02:01  
11 requirement for photo identification in the 02:01  
12 abstract, in other words, independent of voting 02:01  
13 opportunities in general, if you look at it in 02:01  
14 the abstract and isolated from all those 02:02  
15 others, one might conclude, then, that 02:02  
16 North Carolina -- the features in 02:02  
17 North Carolina's photo ID laws are -- would be 02:02  
18 to -- I guess towards the more restrictive pole 02:02  
19 of the range of features in a photo ID statute 02:02  
20 in the statutes in the other states. 02:02

21 BY MR. NKWONTA: 02:02

22 Q. I just want to the clarify a few things. Your 02:02  
23 report actually uses the language less 02:02  
24 restrictive and more restrictive, correct? 02:03

25 A. Yeah. 02:03

- 1 Q. In your report you listed -- I'm at page 7 of 02:03  
2 your report -- you listed 18 states with more 02:03  
3 restrictive voter ID policies; is that right? 02:03
- 4 A. Yes. 02:03
- 5 Q. Let me rephrase. 02:03  
6 Your report indicates on page 7 that 02:03  
7 there are 18 states with more restrictive voter 02:03  
8 ID policies; is that right? 02:03
- 9 A. Yes. 02:03
- 10 Q. That's not correct, is it? 02:03
- 11 A. I guess I could have phrased that more 02:03  
12 precisely. I meant basically relative to 02:04  
13 states with more permissive policies. 02:04
- 14 Q. So this chart on page 7 says "Policy 02:04  
15 Continuum." 02:04
- 16 A. Yes. 02:04
- 17 Q. On the far left it says "States with more 02:04  
18 Permissive Policies," correct? 02:04
- 19 A. Yes. 02:04
- 20 Q. In the middle says "NC HB 589," right? 02:04
- 21 A. Yes. 02:04
- 22 Q. And in the far right it says "States with more 02:04  
23 Restrictive Policies." 02:04
- 24 A. Yes, relative to the states on the other side. 02:04
- 25 Q. So relative to NC HB 589 and relative to states 02:04

1 with more permissive policies? 02:04

2 A. Relative to the states with more permissive 02:04

3 policies. 02:04

4 Q. You would agree, then, that some of those 18 02:04

5 states that you listed under states with more 02:04

6 restrictive policies are actually more 02:04

7 permissive than North Carolina in dealing with 02:05

8 voter ID? 02:05

9 A. Yes. Yes. 02:05

10 Q. Do you know how many? 02:05

11 A. Not offhand, no. 02:05

12 Q. When you use the word "mainstreaming" in your 02:05

13 opinion, what does that refer to? 02:05

14 A. Close to the median of states with regard to 02:05

15 that permissive/restrictive distinction. 02:05

16 Q. So mainstream according to you as using your 02:05

17 report means close to the median? 02:05

18 A. Close to the median. 02:05

19 Q. Looking at voter photo ID as you have 02:05

20 designated on page 7 of your report, 31 states 02:05

21 have more permissive policies and at least some 02:05

22 of the 18 states that you've listed as more 02:05

23 restrictive also have more permissive voter ID 02:06

24 policies than North Carolina, correct? 02:06

25 A. Yes. 02:06

1 Q. So that would not put North Carolina in the 02:06  
2 mainstream in terms of its photo ID policies, 02:06  
3 would it? 02:06

4 MR. STRACH: Objection. 02:06

5 THE WITNESS: By mainstream -- 02:06

6 MR. STRACH: Go ahead. 02:06

7 THE WITNESS: By mainstream, I 02:06  
8 basically meant if you take into account 02:06  
9 North Carolina's voting procedures in general, 02:06  
10 I mean, it isn't just about photo ID, it's 02:06  
11 about other things as well, such as early 02:06  
12 voting. 02:06

13 We have procedures for absentee voting, 02:06  
14 the cutoff for voter registration, and I think 02:06  
15 that's an important point. It's not just about 02:06  
16 photo ID. It's about the opportunities that 02:07  
17 people have to cast a vote overall. 02:07

18 BY MR. NKWONTA: 02:07

19 Q. So how did you assess whether the combination 02:07  
20 of laws overall fit within the mainstream or 02:07  
21 not? 02:07

22 A. It was intuitive. If you look at the various 02:07  
23 features that I focused on in the report, 02:07  
24 North Carolina may be leaning towards a more 02:07  
25 restrictive end in some things and in other 02:07

1 things not, such as -- such as procedures for 02:07  
2 absentee voting. 02:07

3 North Carolina does not require any 02:07  
4 kind of an excuse to be able to take advantage 02:07  
5 of the absentee voting process and it's got a 02:07  
6 60-day period in which that can be taken 02:08  
7 advantage of, and I don't believe any other 02:08  
8 state has a absentee voting procedure that 02:08  
9 permissive. 02:08

10 Q. So what analysis did you do to determine that 02:08  
11 the totality of the HB 589's amendments place 02:08  
12 North Carolina in the mainstream rather than 02:08  
13 any single amendment? 02:08

14 A. The analysis was if you look at these various 02:08  
15 features, for the most part, North Carolina 02:08  
16 falls pretty close to the center. 02:08

17 Q. Specifically you looked at each individual 02:08  
18 feature as outlined in page 7 of your report, 02:08  
19 correct? 02:09

20 A. Yes. 02:09

21 Q. So you looked at the voter photo ID 02:09  
22 requirement, correct? 02:09

23 A. Yes. 02:09

24 Q. Determined where North Carolina fell along the 02:09  
25 continuum of the voter photo ID requirement, 02:09

1 correct? 02:09

2 A. Yes. 02:09

3 Q. And you determined -- you determined based on 02:09

4 that that North Carolina was more restrictive 02:09

5 than the majority of the states, right? 02:09

6 MR. STRACH: Objection. He's already 02:09

7 talked about that, but -- so I am going to 02:09

8 object for the record, but answer it if you 02:09

9 can. 02:09

10 THE WITNESS: Yeah, if you look at 02:09

11 photo ID requirement in the abstract. 02:09

12 BY MR. NKWONTA: 02:09

13 Q. And you actually looked at the early voting 02:09

14 law, the pre-registration of minors? 02:09

15 A. Yeah, yeah. 02:09

16 Q. And voter registration, election day 02:09

17 registration? 02:09

18 A. Yes. 02:09

19 Q. You looked at all of those individually -- 02:09

20 A. Yes. 02:09

21 Q. -- to determine where North Carolina fell -- 02:09

22 A. Individually and on balance one could conclude 02:10

23 then that North Carolina would fit within close 02:10

24 to that median of what other states will allow. 02:10

25 Q. So what analysis did you do to determine that 02:10

1 North Carolina fit within the median when 02:10  
2 combining or comparing all of these laws? 02:10

3 A. Intuitive balancing. 02:10

4 Q. But other than that, there was no statistical 02:10  
5 analysis to determine whether -- 02:10

6 A. I did not give a weight to each item and then 02:10  
7 develop any kind of a collective measure or 02:10  
8 score, scoring North Carolina or any of the 02:10  
9 other states. 02:10

10 Just if you look at each of these items 02:10  
11 and intuitively balance what might be more 02:10  
12 restrictive as opposed to permissive, 02:11  
13 North Carolina falls pretty much within the 02:11  
14 center. 02:11

15 Q. Would it be fair -- 02:11

16 MR. STRACH: Wait one second. Doctor, 02:11  
17 just wait until he finishes the questions 02:11  
18 before jumping in. 02:11

19 THE WITNESS: All right. 02:11

20 BY MR. NKWONTA: 02:11

21 Q. So would it be fair to say you eyeballed it? 02:11

22 A. Okay. 02:11

23 MR. STRACH: Objection. 02:11

24 BY MR. NKWONTA: 02:11

25 Q. Is that a "yes", would it be fair to say you 02:11



1 eyeballed it? 02:11

2 A. It depends on what you mean by eyeballed. 02:11

3 Intuitive balancing is the term that 02:11

4 I'm comfortable with. 02:11

5 Q. Would it be fair to say that you looked at it 02:11

6 and just determined by looking at it that 02:11

7 North Carolina fell within the median? 02:11

8 A. I thought about it and I think I probably 02:11

9 reflected a bit, but just by looking at it you 02:11

10 can't come to any kind of a value conclusion. 02:12

11 It's an intuitive kind of thing. 02:12

12 Unfortunately there are a lot of things 02:12

13 in politics that one has to rely on intuition 02:12

14 in order to come to any conclusions. 02:12

15 Q. Would you agree that there is a way to actually 02:12

16 determine whether North Carolina falls within 02:12

17 the median of these states? 02:12

18 A. Mathematically? 02:12

19 Q. Yes. 02:12

20 MR. STRACH: Objection. 02:12

21 THE WITNESS: I don't know of any. 02:12

22 BY MR. NKWONTA: 02:12

23 Q. You would agree that just looking at voter ID 02:12

24 alone, North Carolina is not in the mainstream 02:13

25 of all the other 50 states in terms of its 02:13

1 photo ID? 02:13

2 A. It all depends on what you call mainstream. 02:13

3 Q. I'm -- 02:13

4 MR. STRACH: Hold on, Doctor. Let 02:13

5 him -- 02:13

6 BY MR. NKWONTA: 02:13

7 Q. I'm defining mainstream the way that you did as 02:13  
8 the median. 02:13

9 A. Okay. And close to it, close to it. 02:13

10 With regard to photo ID, maybe less so 02:13  
11 than some of the other items, but it's not in 02:13  
12 any way freakish. 02:13

13 Q. I just want to be clear. I wasn't sure if I 02:13  
14 got the full answer. 02:13

15 You would agree that if you're looking 02:13  
16 at voter ID, North Carolina's voter ID laws 02:14  
17 does not fall within the mainstream of all 50 02:14  
18 states, it's actually an outlier. 02:14

19 MR. STRACH: Objection. 02:14

20 BY MR. NKWONTA: 02:14

21 Q. Is that right? 02:14

22 A. I wouldn't call it an outlier because more and 02:14  
23 more states are joining with North Carolina or 02:14  
24 actually North Carolina is joining with a lot 02:14  
25 more states. 02:14

1 Q. Right now if you look at the continuum of the 02:14  
2 restrictiveness that you provide on page 7 of 02:14  
3 your report when you're looking at voter ID, 02:14  
4 would you agree that North Carolina does not 02:14  
5 fall within the mainstream? 02:14

6 MR. STRACH: Objection. 02:14

7 THE WITNESS: I would not agree with 02:14  
8 that, no. 02:14

9 I would -- I would say that 02:14  
10 North Carolina is among the more restrictive of 02:14  
11 the photo ID requirements, but that's just 02:14  
12 considering the photo ID requirement in the 02:15  
13 abstract. It has to be seen in relation to 02:15  
14 other features of our election laws. 02:15

15 BY MR. NKWONTA: 02:15

16 Q. You mention that most of the 18 states that -- 02:15  
17 most of the 18 other states that currently 02:15  
18 require photo ID for voters also allow student 02:15  
19 IDs as an acceptable form -- 02:15

20 A. Yes. 02:15

21 Q. -- of voter ID, correct? 02:15

22 A. Yes. 02:15

23 Q. You also mentioned that most of those states 02:16  
24 require a reason for voting absentee by mail, 02:16  
25 correct? 02:16

1 A. Yes. 02:16

2 Q. And that the two factors should balance each 02:16

3 other out? 02:16

4 A. Yes. 02:16

5 Q. Do those states that allow voters to present a 02:16

6 student ID as an acceptable form of voter ID, 02:16

7 do those states require a reason to vote in 02:16

8 person? 02:16

9 A. You mean early voting? 02:16

10 Q. Yes. 02:16

11 A. Some do, some don't. I couldn't give you an 02:16

12 actual count offhand. 02:16

13 Q. Which states require a reason to vote early in 02:16

14 person? 02:16

15 A. I -- offhand I couldn't tell you. 02:16

16 Q. Do any of those states require ID to vote 02:17

17 absentee by mail? 02:17

18 A. I believe so, but here again, I don't have it 02:17

19 in front of me. 02:17

20 Q. Do you know of a single state that requires ID 02:17

21 to vote absentee by mail? 02:17

22 A. I couldn't tell you offhand. I don't recall. 02:17

23 Q. Do you know of any states in which the photo ID 02:17

24 restrictions affect those who vote by mail? 02:17

25 A. I wouldn't know how to answer that question. 02:17

1 Q. Can you name a single state in which the photo 02:18  
2 ID restrictions would affect those who vote by 02:18  
3 mail? 02:18  
4 A. I'm not sure what you're asking there. What do 02:18  
5 you mean by "affect"? 02:18  
6 Q. Can you name a single state in which a person 02:18  
7 voting by mail would have to abide by the 02:18  
8 State's voter ID requirements? 02:18  
9 A. I don't know. 02:18  
10 Q. So you cannot name a state? 02:18  
11 MR. STRACH: Objection. 02:18  
12 THE WITNESS: Yeah, I guess I'm still 02:18  
13 not quite sure what you're asking. I mean, 02:18  
14 would someone have to show a photo ID in order 02:18  
15 to vote absentee? 02:18  
16 BY MR. NKWONTA: 02:18  
17 Q. By mail, yes. 02:18  
18 A. By mail. I don't know how that would work, no. 02:18  
19 Q. So can you name a single state where someone 02:19  
20 would have to show photo ID to vote absentee by 02:19  
21 mail? 02:19  
22 A. No, I can't. 02:19  
23 Q. You also stated on page 3, paragraph 6 of your 02:19  
24 report that there are 12 states that accept 02:19  
25 some form of student photo identification. 02:19

- 1 A. Yes. 02:19
- 2 Q. In the chart on the next page, page 4, under 02:19
- 3 the column "Photo ID Required, Student ID 02:19
- 4 required" (sic) you list 13 states, correct? 02:19
- 5 A. Yeah. 02:19
- 6 Q. Is that an error? 02:19
- 7 A. Yeah, I think it was. 02:19
- 8 Q. You provide a list in Footnote 1 of the 02:20
- 9 states -- 02:20
- 10 A. Yeah. 02:20
- 11 Q. -- that require photo ID but accept student 02:20
- 12 ID -- 02:20
- 13 A. Yeah. 02:20
- 14 Q. -- right? 02:20
- 15 A. Yeah, yeah. 02:20
- 16 Q. Other than the statutes that you reviewed, 02:20
- 17 where else would you look to determine whether 02:20
- 18 a state allows students to present ID as a form 02:20
- 19 of photo identification? 02:21
- 20 A. If I remember correctly, I also looked at the 02:21
- 21 website for the conference of -- National 02:21
- 22 Conference of State Legislatures, NCSL. 02:21
- 23 Q. Would the individual state Secretary of States' 02:21
- 24 websites also have this information? 02:21
- 25 A. I couldn't tell you offhand. 02:21

- 1 Q. You didn't review those? 02:21
- 2 A. I didn't, no. 02:21
- 3 Q. Of the states you listed in Footnote 1, is 02:21
- 4 there a particular reason why you left Georgia 02:21
- 5 off the list? 02:21
- 6 A. Georgia isn't on the list because it's in the 02:21
- 7 other one, it's among the six that do not 02:22
- 8 accept student ID. 02:22
- 9 Q. How did you determine that Georgia was a state 02:22
- 10 that does not accept student ID? 02:22
- 11 A. Well, it had to have been because of the way I 02:22
- 12 read the statute. 02:22
- 13 Q. So if Georgia does indeed accept student IDs, 02:22
- 14 would you agree that your interpretation of the 02:22
- 15 statute would be incorrect then? 02:23
- 16 A. If that's the case, yes. 02:23
- 17 Q. Is there a particular reason you left Indiana 02:23
- 18 off the list of states that accept student ID 02:23
- 19 as ID for voters? 02:23
- 20 A. Well, I know they do so it would have been 02:23
- 21 inadvertent. 02:23
- 22 Q. So that would be an error as well? 02:23
- 23 A. Yeah. 02:23
- 24 Q. Is there a particular reason why you left 02:23
- 25 Louisiana off the list of states that accept 02:24

1 student ID as valid photo ID for voters? 02:24

2 A. I don't recall. 02:24

3 Q. Do you know if Louisiana accepts -- 02:24

4 A. Not offhand. 02:24

5 Q. -- student ID? 02:24

6 A. Not offhand. 02:24

7 Q. Would you have any reason to dispute that 02:24

8 Louisiana accepts student ID? 02:24

9 A. I can't think of any offhand, no. 02:24

10 Q. Is there any particular reason why you left 02:24

11 Mississippi off the list of states that accept 02:24

12 student ID as valid voter identification? 02:24

13 A. I can't remember. 02:24

14 Q. I am going to hand you what the court reporter 02:25

15 will mark as Exhibit 79. 02:25

16 (WHEREUPON, Exhibit 79 was marked for 02:25

17 identification.) 02:25

18 BY MR. NKWONTA: 02:25

19 Q. Exhibit 79 is a printout of a Mississippi 02:25

20 Secretary of State website that addresses the 02:25

21 list of acceptable photo ID for voters; is that 02:25

22 correct? 02:26

23 A. Yes. 02:26

24 MR. STRACH: I am going to object. We 02:26

25 assume this is authentic, but I'm going to 02:26



1 object for that reason. 02:26

2 MR. NKWONTA: Understood. 02:26

3 BY MR. NKWONTA: 02:26

4 Q. Would you look at the ID listed in number 6 and 02:26  
5 would you mind reading that out. 02:26

6 A. "Student photo ID issued by an accredited 02:26  
7 Mississippi university, college or 02:26  
8 community/junior college." 02:26

9 Q. If that is the case, would you agree that your 02:26  
10 interpretation of the Mississippi law was 02:26  
11 incorrect? 02:26

12 A. Yeah, I missed that, would have missed that. 02:26

13 MR. STRACH: Do you mind if we take a 02:27  
14 break? Do you have a while yet to go? 02:27

15 MR. NKWONTA: Sure, take a break. 02:27

16 THE VIDEOGRAPHER: Off record at 02:27  
17 2:27 p.m. 02:27

18 (Brief Recess.) 02:36

19 THE VIDEOGRAPHER: On record at 2:44 02:43  
20 p.m. 02:44

21 BY MR. NKWONTA: 02:44

22 Q. Dr. Schroeder, we just took a brief recess. Do 02:44  
23 you recognize that you're still under oath? 02:44

24 A. Do I what? 02:44

25 Q. Do you recognize that you're still under oath? 02:44

1 A. Yes. 02:44

2 Q. I want to go back to our discussion on voter 02:44

3 ID. The last state we discussed was 02:44

4 Mississippi. 02:44

5 A. Uh-huh. 02:44

6 Q. And you recognize that Mississippi should have 02:44

7 been included with the states that accept 02:45

8 student ID? 02:45

9 MR. BOWERS: Objection; 02:45

10 mischaracterizes the witness' testimony and the 02:45

11 document submitted as an exhibit has not been 02:45

12 authenticated. We don't know if that's the 02:45

13 statute or the Secretary of State's opinion or 02:45

14 what. So object to that. 02:45

15 BY MR. NKWONTA: 02:45

16 Q. Should Mississippi have been included among the 02:45

17 states -- 02:45

18 A. I would have to check the statute. As I 02:45

19 mentioned, I did not check the Secretary of 02:45

20 State websites. 02:45

21 Q. But you did check the National Conference of 02:45

22 State Legislatures' website? 02:45

23 A. I did, and I think I glanced at it. I would 02:45

24 have to go back to the statute itself. 02:45

25 Q. Do you know what the National Conference of 02:45

1 State Legislatures' website indicates in terms 02:45  
2 of the ID accepted for voters in Mississippi? 02:45  
3 A. I don't recall offhand. 02:46  
4 Q. As we sit here today, do you believe that the 02:46  
5 list of states you included under Footnote 1 as 02:46  
6 states with photo ID requirements that also 02:46  
7 accept student ID, do you believe that list is 02:46  
8 complete and accurate? 02:46  
9 A. To the best of my recollection, yeah. 02:46  
10 Q. Among states that do have voter ID 02:48  
11 requirements, do you know how many accept 02:48  
12 employee or government employee IDs as 02:48  
13 acceptable voter ID? 02:48  
14 A. I don't recall offhand. 02:48  
15 Q. Do you agree that at least some of those 18 02:48  
16 states accept government employee ID as 02:48  
17 acceptable ID? 02:48  
18 A. Yes. 02:48  
19 Q. Do you also agree that the North Carolina law 02:48  
20 accepts neither student ID nor government 02:48  
21 employee ID as acceptable ID? 02:48  
22 A. Yes. 02:48  
23 Q. You mentioned earlier that you conducted an 02:48  
24 assessment of the laws listed on page 7 of your 02:49  
25 report, voter ID, early voting, 02:49

1 pre-registration, election day registration and 02:49  
2 voter registration in general. 02:49

3 A. Yes. 02:49

4 Q. You conducted an analysis of all of them, an 02:49  
5 intuitive analysis of all of them in order to 02:49  
6 determine that North Carolina falls within the 02:49  
7 median, correct? 02:49

8 A. Yes. 02:49

9 Q. Have you reviewed HB 589? 02:49

10 A. Yes. 02:49

11 Q. So you recognize that there are other laws in 02:49  
12 HB 589 aside from the ones that you listed 02:49  
13 here, right? 02:49

14 A. Yes. 02:49

15 Q. And there are other laws that affect voting and 02:49  
16 access to the polls, correct? 02:49

17 A. Yes. 02:49

18 Q. And your analysis is only limited to the 02:49  
19 provisions or the topics listed on page 7 of 02:49  
20 your report, right? 02:50

21 A. Yes. 02:50

22 Q. So your analysis does not determine whether 02:50  
23 HB 589 as a whole falls within the median of 02:50  
24 states -- of the 50 states, right? 02:50

25 A. What I've done here is to take what I thought 02:50

- 1           were the most important factors. Basically           02:50  
2           what I have here and said on balance           02:50  
3           North Carolina falls within the mainstream of           02:50  
4           other states in terms of the permissive/  
5           restrictive continuum.           02:50
- 6       Q.   How did you determine that these were the most           02:50  
7           important laws?           02:50
- 8       A.   I guess they jumped out at me, I guess,           02:50  
9           intuitive, I guess. These struck me as the           02:51  
10          most salient.           02:51
- 11       Q.   In looking at these laws, you assess, for           02:51  
12          instance, the number of days of early voting           02:51  
13          offered by North Carolina compared to other           02:51  
14          states, correct?           02:51
- 15       A.   Yes.           02:51
- 16       Q.   Did you look at any other provisions or           02:51  
17          restrictions or requirements of those states'           02:51  
18          early voting laws?           02:51
- 19       A.   Besides what I have here?           02:51
- 20       Q.   Aside from the number of days of available           02:51  
21          early voting, did you look at any other aspects           02:51  
22          of the states' early voting laws in comparing           02:51  
23          the restrictiveness with North Carolina's laws?           02:51
- 24       A.   Not beyond what I have here.           02:51
- 25       Q.   So you only compared the number of days of           02:51

1 available early voting, right? 02:51

2 A. Right. 02:51

3 Q. Your analysis of the restrictiveness of 02:52

4 North Carolina's laws in comparison to other 02:52

5 states' laws does not take into account any 02:52

6 additional restrictions that North Carolina or 02:52

7 other states may place on early voting, right? 02:52

8 A. Right. 02:52

9 Q. It doesn't take into account the hours of early 02:52

10 voting, does it? 02:52

11 A. No. 02:52

12 Q. It doesn't take into account the locations 02:52

13 available for early voting? 02:52

14 A. No. 02:52

15 Q. Are those factors relevant in determining how 02:52

16 restrictive an early voting law is? 02:52

17 MR. STRACH: Objection. 02:52

18 MR. NKWONTA: What's the nature of your 02:52

19 objection, Counsel? 02:52

20 MR. STRACH: What's your definition of 02:52

21 "relevant"? 02:52

22 BY MR. NKWONTA: 02:52

23 Q. Have you used the word "relevant" before in a 02:52

24 sentence, Dr. Schroeder? 02:52

25 MR. STRACH: Objection. Relevant means 02:52

1 different things to different people. What are 02:52  
2 you contending it means to you in your 02:53  
3 question? 02:53

4 MR. NKWONTA: By relevant, I mean more 02:53  
5 likely or less likely to make the proposition 02:53  
6 true or false. 02:53

7 MR. STRACH: Objection. Which 02:53  
8 proposition? 02:53

9 MR. NKWONTA: The proposition that 02:53  
10 North Carolina's early voting law or particular 02:53  
11 early voting law is more restrictive or less 02:53  
12 restrictive. 02:53

13 MR. STRACH: Objection. 02:53

14 Do you understand the question? 02:53

15 THE WITNESS: I think I do, and I -- I 02:53  
16 did not factor things like hours, locations, 02:53  
17 number of locations and so forth because I 02:53  
18 think a lot of those would have been 02:54  
19 administrative decisions made after the law was 02:54  
20 already on the books. 02:54

21 There are too many factors that I can 02:54  
22 think of that would have an impact on what 02:54  
23 would be restrictive or permissive overall 02:54  
24 given the early voting -- the early voting 02:54  
25 provisions. 02:54

1 BY MR. NKWONTA: 02:54

2 Q. So why did you decide to limit your analysis to 02:54

3 the days of early voting only? 02:54

4 A. Well, I had to limit it and it struck me as the 02:54

5 most important factor affecting access to early 02:54

6 voting is the number of days in which -- which 02:55

7 are available for early voting. 02:55

8 Q. More important the number of hours? 02:55

9 A. Well, certainly number of days would affect 02:55

10 number of hours. I don't believe that was 02:55

11 information that was readily available from all 02:55

12 the statutes. Like I said, much of it is an 02:55

13 administrative decision. 02:55

14 Q. You didn't believe that the hours of early 02:55

15 voting was readily available in each state? 02:55

16 A. I don't know. 02:56

17 Q. You also discuss in your report that the 02:56

18 availability of no excuse mail-in absentee 02:56

19 voting cancels out or balances against 02:56

20 North Carolina's exclusion of student IDs from 02:56

21 the list of acceptable photo identification. 02:56

22 A. On balance, yes. 02:56

23 Q. Other than the availability of no excuse 02:56

24 mail-in absentee voting, did you assess any 02:56

25 other aspects of the absentee voting law to 02:56



1 determine its restrictiveness in comparison to 02:56  
2 other provisions? 02:56

3 A. Not beyond what you see here in the report. 02:56

4 Q. Do you agree that there are other aspects of 02:57  
5 absentee voting law that may make it more 02:57  
6 restrictive or less restrictive aside from its 02:57  
7 availability itself? 02:57

8 MR. STRACH: Objection. He's already 02:57  
9 answered that. 02:57

10 You can answer it again if you want. 02:57

11 BY MR. NKWONTA: 02:57

12 Q. You may answer. 02:57

13 A. I honestly don't know. It would depend on the 02:57  
14 factors. 02:57

15 Q. If an absentee voting law required a signature 02:57  
16 verification, would that be more restrictive or 02:57  
17 less restrictive than absentee or mail-in 02:57  
18 absentee voting law that did not require a 02:57  
19 signature verification? 02:57

20 A. I wouldn't find that to be one way or the 02:57  
21 other. It's -- it's a procedure, it's a step. 02:57  
22 We all have signatures. 02:58

23 Q. That would not affect your analysis at all? 02:58

24 A. No. 02:58

25 Q. In your approach to balancing these laws to 02:58

1 determine whether North Carolina falls within 02:58  
2 the median of all 50 states, you mention it was 02:58  
3 an intuitive approach, right? 02:58

4 A. In terms of balancing, yes. 02:58

5 Q. Is that an approach that others would be able 02:58  
6 to replicate? 02:58

7 A. I think so. I think there are many who would 02:58  
8 look at this range of policy differences 02:58  
9 amongst the states and come to a very similar 02:58  
10 conclusion. 02:58

11 Q. So it's an intuitive balancing that anyone can 02:58  
12 do? 02:58

13 MR. BOWERS: Objection; calls for 02:58  
14 speculation. 02:59

15 Answer if you can. 02:59

16 THE WITNESS: Well, I can't, actually. 02:59  
17 I wouldn't know. 02:59

18 BY MR. NKWONTA: 02:59

19 Q. Do you believe that this intuitive balance is 02:59  
20 something that someone without expertise in 02:59  
21 political science can conduct? 02:59

22 MR. BOWERS: Same objection; calls for 02:59  
23 speculation. 02:59

24 Answer if you can. 02:59

25 THE WITNESS: I would think some 02:59

1 training in political science would be 02:59  
2 significant in getting people to a point -- 02:59  
3 getting people to the point where they could be 02:59  
4 balancing. 02:59

5 BY MR. NKWONTA: 02:59

6 Q. So I want to move on to your next opinion, the 03:00  
7 next opinion after the section of your report 03:00  
8 that discusses photo identification. 03:00

9 On page 5 you discuss voter 03:01  
10 registration. Actually, I believe the 03:01  
11 discussion of registration procedure starts on 03:01  
12 page 4. 03:01

13 A. Uh-huh. 03:01

14 Q. On page 5 -- there's a chart at the top of 03:01  
15 page 5 in which you list the number of states 03:01  
16 that impose deadlines for voter registration 03:02  
17 from 26 to 30 days before election day and the 03:02  
18 number of states who impose deadlines 24 or 03:02  
19 less days before election day -- 03:02

20 A. Yeah. 03:02

21 Q. -- right? 03:02

22 You also mention in paragraph 7 that 03:02  
23 there are 13 states that do not allow same-day 03:02  
24 registration. 03:02

25 A. Yes. 03:02

1 Q. What are those 13 states? 03:02

2 A. I'm trying to find what statement you're 03:02

3 referring to, where is it exactly. Paragraph 7 03:03

4 did you say? 03:03

5 Q. Yes. 03:03

6 A. And what was the assertion you asked me about? 03:03

7 Q. The second to the last sentence you're 03:03

8 discussing election day registration. So your 03:03

9 third to last sentence says "North Carolina no 03:04

10 longer allows voters to register on election 03:04

11 day. This is also true for 37 other states," 03:04

12 which implies there are 13 states that allow 03:04

13 voter registration. 03:04

14 A. I couldn't tell you offhand. 03:04

15 Q. So is it fair to say as we sit here today, 03:04

16 looking at your report, you are not able to 03:04

17 tell me which of the remaining states allow 03:04

18 election day registration? 03:04

19 A. No. 03:04

20 Q. No, it's not fair or, no, you cannot tell me? 03:04

21 A. I can't tell you. 03:04

22 Q. You mention that or you suggest that 03:04

23 North Carolina once had election day 03:05

24 registration. 03:05

25 A. Yes. 03:05

1 Q. Do you distinguish between election day 03:05  
2 registration and same-day registration? 03:05  
3 A. Yes. 03:05  
4 Q. What is the distinction between election day 03:05  
5 registration and same-day registration? 03:05  
6 A. There is no distinction, no. I'm sorry. I 03:05  
7 identify the two. 03:05  
8 Q. Has North Carolina in your view ever allowed 03:05  
9 voters to register on election day -- 03:05  
10 A. Yes. 03:05  
11 Q. -- as opposed to the one-stop voting period? 03:05  
12 A. I don't know that. 03:05  
13 Q. So as we sit here today, you don't know whether 03:05  
14 North Carolina previously allowed voters to 03:05  
15 register on election day or during a one-stop 03:05  
16 voting period before election day? 03:06  
17 A. Okay, I did know that, yes. That was my 03:06  
18 understanding. 03:06  
19 Q. I'm sorry, what was your understanding? 03:06  
20 A. That a person engaged in early voting could 03:06  
21 register and vote the same day. 03:06  
22 Q. Outside of the one-stop period or after the 03:06  
23 one-stop voting period, was a North Carolina 03:06  
24 voter before HB 589 able to register on 03:06  
25 election day? 03:06

- 1 A. Yes. 03:06
- 2 Q. So is it your belief that before HB 589 a voter 03:06
- 3 was able to register during the one-stop voting 03:06
- 4 period or early voting period and on election 03:06
- 5 day? 03:06
- 6 A. Yes. 03:06
- 7 Q. Where did you obtain that information? 03:06
- 8 A. I'm trying to remember. I don't recall 03:06
- 9 offhand. 03:07
- 10 Q. You understand the distinction I'm making 03:07
- 11 between the one-stop voting period -- 03:07
- 12 A. Yes. 03:07
- 13 Q. -- during the early voting and on election day? 03:07
- 14 A. Yes. 03:07
- 15 Q. And it's your testimony that you believe voters 03:07
- 16 before HB 589 were able to register on both the 03:07
- 17 early voting period and on election day? 03:07
- 18 A. Yeah, that was my understanding, but I couldn't 03:07
- 19 tell you -- I couldn't footnote that offhand. 03:07
- 20 Q. Now, we're still on page 5 of your report. 03:07
- 21 Looking at the voter registration chart you 03:07
- 22 list or you indicate that the 20 states have 03:08
- 23 voter registration cutoff days between 26 and 03:08
- 24 30 days before election day, correct? 03:08
- 25 A. Yes. 03:08

1 Q. And Footnote 7 you list those states, correct? 03:08

2 A. Yes. 03:08

3 Q. You also indicate in Footnote 7 that 03:08

4 Connecticut and North Dakota was not available. 03:08

5 I assume that means you were not able 03:08

6 to find data for those two states. 03:08

7 A. Yeah. 03:08

8 Q. Where would you typically look to find that 03:08

9 data? 03:08

10 A. And actually in the case of North Dakota, I 03:08

11 don't believe they have registration at all. 03:08

12 Q. So North Dakota should not be included in the 03:08

13 list of states that offer registration cutoff 03:08

14 dates between 26 and 30 days? 03:09

15 A. Yes. 03:09

16 Q. So the inclusion there was a mistake? 03:09

17 A. No. They're -- it is -- it's not a mistake. I 03:09

18 list the 20 states. Connecticut and North 03:09

19 Dakota were not -- were not included amongst 03:09

20 the 20. 03:09

21 Q. Fair enough. Would you agree there is data 03:09

22 available for North Dakota? 03:09

23 MR. STRACH: Object -- hold. 03:09

24 Objection. It doesn't say data not available 03:09

25 just for the record. 03:09

1 BY MR. NKWONTA: 03:09

2 Q. What do you mean by not available? 03:09

3 A. I don't know what I was thinking when I wrote 03:09

4 that, to tell you the truth, but Connecticut 03:09

5 and North Dakota are not amongst the 20 there. 03:10

6 For some reason I did not have 03:10

7 available to me at the time when I wrote this 03:10

8 footnote Connecticut and North Dakota, and I 03:10

9 just had to put it somewhere. It doesn't 03:10

10 change the point. 03:10

11 Q. In Footnote 8 you list the states that have 03:10

12 voter registration cutoffs within 24 days or 03:10

13 less of election day, correct? 03:10

14 A. Yes. 03:10

15 Q. You also intend to be accurate in listing these 03:10

16 states, right? 03:10

17 A. Yes. 03:10

18 Q. You listed New York among the states that have 03:10

19 cutoff for voter registration 24 days or less 03:10

20 before election day, correct? 03:10

21 A. Yes. 03:11

22 Q. You mention that you're a fan of Real Clear 03:11

23 Politics and you reviewed Sean Trende's report, 03:11

24 right? 03:11

25 A. I read it very quickly two days ago. 03:11



1 Q. I am going to hand you a document that I am 03:11  
2 going to have the reporter mark as Exhibit 80. 03:11  
3 Exhibit 80 is actually Exhibit 6 to Sean 03:11  
4 Trende's report in this matter. 03:12

5 (WHEREUPON, Exhibit 80 was marked for 03:12  
6 identification.) 03:12

7 BY MR. NKWONTA: 03:12

8 Q. It appears to be a chart of registration 03:12  
9 deadlines and statutes by each state, correct? 03:12

10 A. Uh-huh. Yes. 03:12

11 Q. If you look at New York list of registration 03:12  
12 deadline is 25 days. 03:12

13 MR. STRACH: Objection; foundation. 03:12

14 You can testify about this if you can, 03:12  
15 but we lack foundation for this particular 03:12  
16 exhibit. 03:12

17 BY MR. NKWONTA: 03:12

18 Q. You may answer. 03:12

19 A. I can see that it's there. I would have to 03:12  
20 check my own records in order to confirm that 03:12  
21 one way or the other. 03:12

22 Q. You would agree that it's inconsistent with 03:12  
23 what's in your report right now, right? 03:12

24 MR. STRACH: Same objection. 03:12

25 THE WITNESS: The numbers are 03:12

1 different. 03:13

2 BY MR. NKWONTA: 03:13

3 Q. On the same chart, if you would look at the 03:13  
4 deadline for Maine, it says zero there, right? 03:13

5 A. Yes. 03:13

6 Q. Are you aware that Maine allows voters to 03:13  
7 register in person without a cutoff up until 03:13  
8 election day? 03:13

9 A. Again, I would have to check my notes, but 03:13  
10 offhand, no. 03:14

11 Q. You would agree that what's on this chart is 03:14  
12 inconsistent with what's in your report? 03:14

13 MR. STRACH: Objection. I don't 03:14  
14 believe that's the case. 03:14

15 THE WITNESS: Certainly zero is less 03:14  
16 than 24. 03:14

17 BY MR. NKWONTA: 03:14

18 Q. Paragraph 8 of your report then goes on to 03:15  
19 discuss pre-registration, right? 03:15

20 A. Yes. 03:15

21 Q. What is your understanding of the term 03:15  
22 "pre-registration"? 03:15

23 A. They could register to vote before they were 03:15  
24 eligible to vote. 03:15

25 Q. You would agree that pre-registration applies 03:15

1 to registration laws or procedures that allow 03:15  
 2 both 16-year-olds and 17-year-olds to vote, 03:15  
 3 right? 03:15

4 A. Say that again. 03:15

5 Q. You would agree that pre-registration would 03:15  
 6 refer to laws that allow both 16- and 03:15  
 7 17-year-olds to register? 03:15

8 A. To register, yes. 03:15

9 Q. Why does your report only address the 03:15  
 10 pre-registration of 16-year-olds? 03:15

11 MR. STRACH: Objection. 03:15

12 THE WITNESS: Again, North Carolina 03:15  
 13 allows for the pre-registration of citizens as 03:16  
 14 young as 17 years old. 03:16

15 MR. STRACH: 16 years old. 03:16

16 THE WITNESS: 16, rather, 16 years old. 03:16

17 BY MR. NKWONTA: 03:16

18 Q. If you read that paragraph, paragraph 8 further 03:16  
 19 down, I believe the second to the last 03:16  
 20 sentence, it says "This puts North Carolina 03:16  
 21 more in line with the practices of other 03:16  
 22 states. Only five states (Rhode Island, 03:16  
 23 Colorado, Hawaii, Florida and Maryland) and the 03:16  
 24 District of Columbia pre-register 03:16  
 25 16-year-olds," right? 03:16

- 1 A. Okay, that's what it says. 03:16
- 2 Q. Did you assess the number of states that 03:16
- 3 pre-register 17-year-olds? 03:16
- 4 A. Are you referring to those states that allow 03:16
- 5 17-year-olds to register to vote who are 03:17
- 6 going -- who are going to be 18 by the time the 03:17
- 7 election rolled around? 03:17
- 8 Q. I'm referring to all states that allow 03:17
- 9 17-year-olds to register, so that includes 03:17
- 10 states that allow 17-year-olds to register who 03:17
- 11 will be 18 at the time of election and states 03:17
- 12 that allow 17-year-olds to register who will 03:17
- 13 not be 18 at the time election day comes 03:17
- 14 around. 03:17
- 15 A. Yeah. If -- I use that figure because there 03:17
- 16 are a number of states, including 03:17
- 17 North Carolina, that will allow 17-year-olds to 03:17
- 18 register to vote so long as on election day 03:17
- 19 they will be 18. 03:17
- 20 Q. Do you agree there are states that allow 03:18
- 21 17-year-olds to register regardless of whether 03:18
- 22 they will be 18 on election day? 03:18
- 23 A. Again, I assume so if they allow for 03:18
- 24 pre-registration. 03:18
- 25 Q. Do you agree that there are states that do not 03:18

1 allow 16-year-olds to pre-register but allow 03:18  
2 17-year-olds to pre-register regardless of 03:18  
3 whether they'll be 18 on election day? 03:18

4 A. I couldn't tell you offhand. 03:18

5 Q. Did you review the state laws to determine if 03:18  
6 they allowed 17-year-olds to pre-register even 03:18  
7 if they were not 18 at the time of the 03:18  
8 election? 03:18

9 A. I'm not sure if I took that into account, to 03:18  
10 tell you the truth. 03:19

11 Q. If there are states that allow 17-year-olds to 03:19  
12 pre-register regardless of when they turn 18, 03:19  
13 then that would increase the number of states 03:19  
14 that allow for pre-registration, right? 03:19

15 MR. STRACH: Objection. 03:19

16 THE WITNESS: I would allow for that as 03:19  
17 a possibility, yeah. 03:19

18 BY MR. NKWONTA: 03:19

19 Q. But as we sit here today, you can't tell us how 03:19  
20 many states -- 03:19

21 A. I can't. 03:19

22 Q. -- fall into that category? 03:19

23 A. I could not. 03:19

24 Q. In the table right below paragraph 8 you 03:19  
25 indicate that five states allow for 03:19

1 pre-registration of minors, right? 03:20

2 A. Yes. 03:20

3 Q. And that number does not include the District 03:20

4 of Columbia, right? 03:20

5 A. Right. 03:20

6 Q. In Footnote 9, however, you list the states 03:20

7 that allow for pre-registration of minors. 03:20

8 A. Yes. 03:20

9 Q. And you include the District of Columbia. 03:20

10 A. Right. Right. And that's because the District 03:20

11 of Columbia isn't a state. 03:20

12 MR. NKWONTA: Can we go off the record 03:21

13 for two minutes. 03:21

14 THE VIDEOGRAPHER: Off record at 3:21. 03:21

15 (Brief Recess.) 03:21

16 THE VIDEOGRAPHER: On record at 3:22. 03:21

17 BY MR. NKWONTA: 03:22

18 Q. Dr. Schroeder, still looking at Footnote 9, 03:22

19 which is a list of states that allow 03:22

20 pre-registration of minors, is there a 03:22

21 particular reason why you did not include 03:22

22 Delaware in this list? 03:22

23 A. I included Delaware -- okay, never mind. 03:22

24 I couldn't tell you offhand. 03:23

25 Q. Do you think Delaware should have been included 03:23

1 in this list? 03:23

2 A. I could not tell you offhand. 03:23

3 Q. And this list is based upon your interpretation 03:23

4 of the state election laws, right? 03:23

5 A. I would have to go back and reread that portion 03:23

6 of Delaware's laws. 03:23

7 (WHEREUPON, Exhibit 81 was marked for 03:23

8 identification.) 03:23

9 BY MR. NKWONTA: 03:23

10 Q. I'm handing you what the court reporter has 03:23

11 marked as Exhibit 81. Exhibit 81 is Title 15 03:23

12 of the Delaware Code and Section 1701 which 03:24

13 gives qualifications for registration as a 03:24

14 qualified voter. 03:24

15 MR. STRACH: I'm just going to object 03:24

16 to this exhibit along foundation and 03:24

17 authentication grounds, but we can proceed. 03:24

18 Is this the entire election code or is 03:24

19 this just one section of Delaware's laws? 03:24

20 MR. NKWONTA: It's just one section or 03:24

21 several sections, but the only section I'm 03:24

22 addressing right now is Section 1701. 03:24

23 MR. STRACH: Right, but is this Title 03:24

24 15 the entire law of Delaware elections? 03:24

25 MR. NKWONTA: I believe so. 03:25

1 MR. STRACH: Which section are we 03:25  
2 looking at? 03:25

3 MR. NKWONTA: 1701. I would have to go 03:25  
4 back to verify. I believe Title 15 is the 03:25  
5 entire law, but I could be wrong on that. 03:25

6 BY MR. NKWONTA: 03:25

7 Q. Dr. Schroeder, Section 1701(b) states: 03:25

8 "The Department shall permit 03:25  
9 registration of any citizen and bona 03:25  
10 fide resident of this State 16 years 03:25  
11 of age or older through the Division 03:25  
12 of Motor Vehicles as set forth in 03:25  
13 Section 2050(a) of this title, 03:25  
14 provided that such applicant shall not 03:25  
15 be a qualified voter unless the person 03:25  
16 will be 18 years of age or older on or 03:25  
17 before the day of the general election 03:25  
18 next succeeding the applicant's 03:25  
19 registration." 03:25

20 Is that an accurate reading of Section 03:25  
21 1701(b)? 03:25

22 MR. STRACH: Excuse me. Objection. Do 03:25  
23 you have Section 2050(a) that's referenced in 03:25  
24 (b)? 03:25

25 MR. NKWONTA: I do not. 03:26



1 MR. STRACH: Okay. Objection for the 03:26  
2 record on that point. 03:26

3 You can answer it if you can. 03:26

4 THE WITNESS: Okay. That's what I'm 03:26  
5 reading here. 03:26

6 BY MR. NKWONTA: 03:26

7 Q. Would you agree that that section refers to the 03:26  
8 registration of 16-year-olds and 17-year-olds 03:26  
9 in Delaware? 03:26

10 MR. STRACH: Objection. 03:26

11 BY MR. NKWONTA: 03:26

12 Q. You may answer. 03:26

13 A. Yes. 03:26

14 Q. I'm also going to hand you what the 03:26  
15 court reporter is going to mark as Exhibit 82 03:27  
16 which is Exhibit 7 of the Sean Trende report 03:27  
17 that you reviewed. 03:27

18 (WHEREUPON, Exhibit 82 was marked for 03:27  
19 identification.) 03:27

20 BY MR. NKWONTA: 03:27

21 Q. Exhibit 82 appears to be a chart of 03:27  
22 pre-registration laws for all the states; is 03:27  
23 that correct? 03:27

24 MR. STRACH: Object -- same objection 03:27  
25 as to the prior exhibit that was similar to 03:27

1           this one. 03:27

2                   Can we go off the record. 03:27

3                   THE VIDEOGRAPHER: Off record at 3:27. 03:27

4                           (Brief Interruption.) 03:27

5                   THE VIDEOGRAPHER: On record at 3:28. 03:28

6 BY MR. NKWONTA: 03:28

7       Q. Dr. Schroeder, we were looking at Exhibit 82 03:28

8           which is Exhibit 7 from Sean Trende's report, 03:28

9           and Exhibit 82 appears to be a chart of 03:28

10          pre-registration laws for all of the states; is 03:28

11          that correct? 03:28

12       A. Yes. 03:28

13       Q. If you look at Delaware, does that chart, the 03:28

14          Sean Trende chart, indicate that Delaware 03:28

15          allows for pre-registration? 03:28

16                   MR. BOWERS: Objection. 03:28

17                   MR. STRACH: Objection. 03:28

18                   MR. BOWERS: You can answer. 03:28

19 BY MR. NKWONTA: 03:28

20       Q. You may answer. 03:28

21       A. Yes, that's what it says. 03:28

22       Q. Looking at Exhibit 81, or the laws produced in 03:29

23          Exhibit 81 in Sean Trende's chart Exhibit 82, 03:29

24          do you believe that the list of states that you 03:29

25          provided in Footnote 9, the states that allow 03:29

1 for pre-registration of minors, is complete and 03:29  
2 accurate? 03:29

3 A. Completely? 03:29

4 MR. NKWONTA: Would you read the 03:29  
5 question back. 03:29

6 (Record Read.) 03:29

7 THE WITNESS: Oh, complete and 03:29  
8 accurate. I guess I would have to conclude 03:29  
9 that it's accurate as far as it goes, but 03:30  
10 it's -- but apparently I didn't count Delaware. 03:30

11 BY MR. NKWONTA: 03:30

12 Q. So you would agree it's not complete? 03:30

13 A. It's not. 03:30

14 MR. STRACH: Objection to the extent 03:30  
15 that mischaracterizes the Title 15 of the 03:30  
16 Delaware Code. 03:30

17 BY MR. NKWONTA: 03:30

18 Q. I want to draw your attention to the next 03:30  
19 portion of your report on page 5 titled 03:30  
20 "Alternative Opportunities for Voting." 03:30

21 Paragraph 9, subsection (b) "In-person 03:31  
22 absentee voting," in that paragraph starting 03:31  
23 with the third sentence you suggest that 03:31  
24 in-person absentee voting or the changes to 03:31  
25 in-person absentee voting take effect in 2016; 03:31

1 is that right? 03:31

2 A. Would you repeat the question? 03:31

3 Q. Sure. In paragraph 9, subsection (b) you 03:31

4 suggest that the changes to early voting or 03:31

5 one-stop voting take effect in 2016, correct? 03:32

6 A. Yes. 03:32

7 Q. Is that accurate or is that in error? 03:32

8 A. I guess it takes effect this year, doesn't it? 03:32

9 Q. Do you believe that statement to be accurate or 03:32

10 in error? 03:32

11 A. It's off by two years. 03:32

12 Q. In the chart below it states -- titled "Early 03:33

13 Voting Schedule" you list the number of states 03:33

14 with more than 10 days of early voting, 10 days 03:33

15 of early voting, less than 10 days and no early 03:33

16 voting, correct? 03:33

17 A. Yes. 03:33

18 Q. In Footnote 12 you list 19 states that 03:33

19 purportedly do not have early voting, correct? 03:33

20 A. Yes. 03:33

21 Q. Why did you include California in that list? 03:34

22 A. I couldn't tell you offhand other than that was 03:34

23 the way I read it. 03:34

24 Q. So your interpretation of the California law in 03:34

25 all the materials you reviewed was that 03:34

- 1 California does not offer any early voting? 03:34
- 2 A. Yes. 03:34
- 3 Q. When you determined the number of states that 03:34
- 4 include early voting, did you include the 03:35
- 5 states that offer the opportunity to cast an 03:35
- 6 absentee ballot in person? 03:35
- 7 A. Yes. 03:35
- 8 Q. And did you try to designate those states as 03:35
- 9 early voting states or non-early voting states? 03:35
- 10 A. I would designate them as early voting states. 03:35
- 11 Q. You listed Montana as a state that does not 03:35
- 12 offer early voting. Is it your understanding 03:35
- 13 that Montana does not offer early voting or 03:35
- 14 in-person absentee voting? 03:35
- 15 A. That would have been at the time, yes. 03:35
- 16 Q. You listed New Jersey as a state that does not 03:35
- 17 offer early voting. Is it your understanding 03:35
- 18 that New Jersey does not offer early voting or 03:35
- 19 in-person absentee voting? 03:35
- 20 A. That was my understanding. 03:35
- 21 Q. You also listed Washington in Footnote 12. Is 03:35
- 22 it your understanding that Washington state 03:36
- 23 does not allow for in-person early voting or 03:36
- 24 in-person absentee voting? 03:36
- 25 A. Yes. 03:36

- 1 Q. Is it your understanding that all of the states 03:36  
2 listed in Footnote 12 do not allow voters to 03:36  
3 cast their absentee ballots in person before 03:36  
4 election day? 03:36
- 5 A. That was my -- that was my reading of them, 03:36  
6 yes. 03:36
- 7 Q. If you look at the states that provide early 03:37  
8 voting, would you agree that the majority 03:37  
9 provide more than 10 days of early voting? 03:37
- 10 A. Yes. 03:37
- 11 Q. According to your chart, at least 25 states 03:37  
12 provide more than 10 days of early voting, 03:37  
13 correct? 03:37
- 14 A. Yes. 03:37
- 15 Q. According to your chart, only five states 03:37  
16 provide 10 days or less of early voting, 03:37  
17 correct? 03:37
- 18 A. I have three states down there. 03:37
- 19 Q. You also have West Virginia and Hawaii 03:37  
20 providing 10 days of early voting, correct? 03:37
- 21 A. Yes. 03:37
- 22 Q. So according to your chart, five states provide 03:37  
23 10 days or less of early voting, right? 03:38
- 24 A. Yes. 03:38
- 25 Q. So among all states that provide early voting, 03:38

1 would you agree that North Carolina provides 03:38  
2 fewer early voting days than 80 percent of the 03:38  
3 states listed in your chart? 03:38

4 MR. STRACH: Objection. 03:38

5 MR. NKWONTA: What's the nature of your 03:38  
6 objection, Counsel? 03:38

7 MR. STRACH: Do you have a calculator? 03:38  
8 I couldn't follow you -- 03:38

9 THE WITNESS: Yeah. I was thinking -- 03:38

10 MR. STRACH: If you have a calculator 03:38  
11 handy, we can add them up and do the math. I 03:38  
12 couldn't follow. 03:38

13 MR. NKWONTA: I didn't need one. 03:38

14 MR. STRACH: Well, we might unless you 03:38  
15 want to rephrase the question. 03:38

16 BY MR. NKWONTA: 03:38

17 Q. I'll rephrase the question. 03:38

18 Out of all the 30 states that provide 03:38  
19 for early voting according to your chart, would 03:39  
20 you agree that North Carolina's one of only 03:39  
21 five states that provide for 10 days or less? 03:39

22 A. Yes. 03:39

23 Q. In other words, 25 out of 30 states provide 03:39  
24 more -- 25 out of 30 early voting states 03:39  
25 provide more early voting days than 03:39

1 North Carolina, correct? 03:39

2 A. Yes. 03:39

3 Q. If you were just looking at early voting 03:40

4 states, would the number of early voting days 03:40

5 provided by North Carolina place it within the 03:40

6 mainstream of early voting states? 03:40

7 MR. STRACH: Objection. That's opined 03:40

8 on in the report. 03:40

9 You can answer it if you can. 03:40

10 THE WITNESS: Oh, I had a communication 03:41

11 problem. I really don't want to go any further 03:41

12 than what I've done right here. 03:41

13 BY MR. NKWONTA: 03:41

14 Q. I want to turn back to your Policy Continuum 03:41

15 comparison on page 7 of your report. 03:41

16 In conducting your intuitive balancing 03:41

17 of the different HB 589 provisions or 03:41

18 amendments, did you consider the relative use 03:41

19 among -- of these provisions like early voting, 03:41

20 pre-registration among black and Latino voters? 03:41

21 A. No, that wouldn't be on the scope of what I was 03:42

22 trying to do here. 03:42

23 Q. In your assessment of restrictiveness was just 03:42

24 based on whether the state offered 03:42

25 pre-registration, on whether the state offered 03:42



1 election day registration and whether there's a 03:42  
2 voter ID requirement? 03:42

3 MR. STRACH: I am going to object to 03:42  
4 the use of the phrase "whether the state 03:42  
5 offered" because that's different whether the 03:42  
6 state enacted in a law versus whether a state 03:42  
7 offered something administratively. 03:42

8 You can answer the question. 03:42

9 THE WITNESS: Yeah, I'm not quite sure 03:42  
10 what the question is at this point. Would you 03:42  
11 repeat it, please. 03:42

12 BY MR. NKWONTA: 03:42

13 Q. Sure. When you were assessing the 03:42  
14 restrictiveness of the voter ID requirement, 03:42  
15 you were only assessing whether the state had a 03:43  
16 voter ID requirement or whether it did not have 03:43  
17 voter ID requirement? 03:43

18 A. Yes. 03:43

19 Q. When you were assessing the restrictiveness of 03:43  
20 the early voting laws or amendments -- 03:43

21 A. Yes. 03:43

22 Q. -- you were only assessing the number of days 03:43  
23 of early voting, correct? 03:43

24 A. Yes, yes. 03:43

25 Q. When you were assessing the restrictiveness or 03:43

1           permissiveness of the pre-registration laws,           03:43  
2           you were assessing whether a state had           03:43  
3           pre-registration or did not, right?           03:43

4           A. Yes.           03:43

5           Q. Same with election day voter registration?           03:43

6           A. Yes.           03:43

7           Q. And the same with the number of days of voter           03:43  
8           registration?           03:43

9           A. Yes.           03:43

10          Q. You did not consider the demographic in any of           03:43  
11          these states?           03:43

12          A. I did not.           03:43

13          Q. You did not consider the rates at which the           03:43  
14          residents of those states were registered?           03:43

15          A. No.           03:43

16          Q. Would you agree that when comparing different           03:44  
17          states or different jurisdiction or locales           03:44  
18          that the context is important?           03:44

19                           MR. STRACH: Objection.           03:44

20                           THE WITNESS: For the purposes of this           03:44  
21          study, no.           03:44

22          BY MR. NKWONTA:           03:44

23          Q. What was the purpose of this study?           03:44

24          A. The purpose was just simply to show that if you           03:44  
25          look at what is on the books, North Carolina           03:44

1 does not fall on either extreme of what exists 03:44  
2 on -- of what exists on the books in each of 03:44  
3 the 50 states. 03:44

4 Q. So the purpose was just to show what each of 03:44  
5 the 50 state's laws were and where 03:44  
6 North Carolina's law -- 03:44

7 A. Right. 03:44

8 Q. -- fell? 03:45

9 A. Right. 03:45

10 Q. I want to turn back to an earlier paragraph in 03:45  
11 your report. In paragraph 3 of your report on 03:45  
12 page 2, the first sentence states: 03:45

13 "The cumulative effect of these 03:45  
14 amendments enhances the ability of 03:45  
15 election officials to verify the 03:45  
16 eligibility of persons who cast votes, 03:45  
17 although it may also make the process 03:45  
18 of voting less convenient for some." 03:45

19 Is that part of your opinion? 03:45

20 A. Yes. 03:45

21 Q. So are you saying that your opinion is that the 03:45  
22 cumulative effect of these amendments enhances 03:45  
23 the ability of election officials to verify the 03:45  
24 eligibility of persons who cast votes? 03:46

25 A. Yes. 03:46

- 1 Q. What did you do to arrive at this opinion that 03:46  
2 the effect of these amendments is to enhance 03:46  
3 the ability of election officials to verify 03:46  
4 voter eligibility? 03:46
- 5 A. I thought it obvious. 03:46
- 6 Q. So what did you do to arrive at that opinion? 03:46
- 7 A. Well, among other things, a photo ID 03:46  
8 verification is a lot more certain than an 03:46  
9 address on a utility bill. That would strike 03:46  
10 me as enhancing the ability of election 03:46  
11 officials to verify someone's identity. 03:46
- 12 Q. I understand that's your view. Aside from your 03:47  
13 view of these laws, did you do anything else to 03:47  
14 reach that opinion? 03:47
- 15 A. No. 03:47
- 16 MR. STRACH: I am going to object to 03:47  
17 that. You mean aside from like just thinking 03:47  
18 through it? 03:47
- 19 Can you give an example of what else 03:47  
20 you might do other than just putting your 03:47  
21 thinking cap on that would help make that 03:47  
22 assessment? 03:47
- 23 MR. NKWONTA: I think he answered the 03:47  
24 question. 03:47
- 25 MR. STRACH: Okay. 03:47

1 BY MR. NKWONTA: 03:47

2 Q. Did you speak to any election officials about 03:47

3 enhancing the ability -- or enhancing their 03:47

4 ability to verify the voter eligibility? 03:47

5 A. No. 03:47

6 Q. Did you conduct any research on voter fraud or 03:47

7 verification of voter eligibility? 03:47

8 A. No. 03:47

9 Q. Have you in your past conducted any research on 03:47

10 voter fraud? 03:48

11 A. No. 03:48

12 Q. Have you -- 03:48

13 A. Not research, no. 03:48

14 Q. Have you conducted any research on voter 03:48

15 eligibility or verifying voter eligibility? 03:48

16 A. No. 03:48

17 Q. Have you presented any papers in any 03:48

18 seminars -- 03:48

19 A. No. 03:48

20 Q. -- related to voter eligibility or voter fraud? 03:48

21 A. No. 03:48

22 Q. What experience in your background do you have 03:48

23 related to voter fraud or voter eligibility? 03:48

24 A. I think we all here have heard of the old 03:48

25 Chicago expression "Vote early, vote often." I 03:48

1 was born and raised in Chicago. I volunteered 03:48  
2 to be a poll watcher on occasion as young as 03:49  
3 16, so I know it happens because I've seen 03:49  
4 abuses in polling places, and I guess I operate 03:49  
5 on the assumption that if voter fraud is 03:49  
6 possible, there are going to be those who will 03:49  
7 take advantage of that. 03:49

8 And it's that kind of experience going 03:49  
9 back many years, just observations that it's 03:49  
10 important that those opportunities for it don't 03:49  
11 exist. 03:49

12 Q. Anything else in your professional background 03:49  
13 or experience relevant to voter fraud or voter 03:50  
14 eligibility? 03:50

15 A. No. 03:50

16 Q. How does a reduction in early voting days 03:50  
17 improve an official's ability to verify voter 03:50  
18 eligibility? 03:50

19 MR. STRACH: I am going to object to 03:50  
20 the extent that the report talks about the 03:50  
21 cumulative effect. So I am going to object to 03:50  
22 the extent you're isolating one out over 03:50  
23 another. 03:50

24 THE WITNESS: Well, that's a good -- 03:50  
25 that's a good point. I did say cumulative 03:51

1 effect and that is not to say that every single 03:51  
2 item in the reforms that I summarize there are 03:51  
3 going to have a direct effect on enabling 03:51  
4 anyone to better verify someone's identity. 03:51

5 BY MR. NKWONTA: 03:51

6 Q. Which items do you believe enhance the ability 03:51  
7 of election officials to verify voter 03:51  
8 eligibility? 03:51

9 A. Well, certainly registration in a timely 03:51  
10 fashion so that there is time to ensure the 03:51  
11 accuracy of the registration and certainly 03:51  
12 requiring a voter to produce a photo ID when he 03:52  
13 votes in person would do so. 03:52

14 Q. Anything else? 03:52

15 A. Eliminating a provision, the provision allowing 03:52  
16 people to register and vote on the same day 03:52  
17 reduces a terrible administrative burden in 03:52  
18 validating verification. 03:52

19 Q. What information did you review or rely on to 03:52  
20 determine the burden of verifying voters that 03:53  
21 register on the same day? 03:53

22 A. It again struck me as obvious. 03:53

23 Q. So what information did you review or rely on 03:53  
24 to determine the burden -- the administrative 03:53  
25 burden of verifying voters on the same day they 03:53

1           vote? 03:53

2           A. Just general knowledge of what constitutes a 03:53

3           burden if you're administrating something. 03:53

4           Q. Is it fair to say you didn't rely on any other 03:53

5           information? 03:53

6           A. I did not. 03:53

7           Q. Do you know how many days it takes to verify a 03:53

8           voter's registration? 03:53

9           A. I have no way of knowing that. 03:53

10          Q. So you don't know how many days election 03:53

11          officials need to determine the eligibility of 03:53

12          a voter? 03:53

13          A. I'm sure that varies widely depending on 03:53

14          location. 03:54

15          Q. You can't give me a particular number of days 03:54

16          or you can't say reducing registration to a 03:54

17          particular number of days would -- 03:54

18          A. I would say there is not a number of days. 03:54

19          Circumstances vary certainly, I would think. 03:54

20          Q. I may have asked this before so excuse me if I 03:54

21          did, but have you been in contact with or 03:54

22          received any information from any election 03:54

23          officials or from anyone relating to the 03:54

24          administrative burden or process of verifying 03:54

25          voter eligibility? 03:54



1 A. Not in the course of preparing the study, no. 03:54

2 Q. At any point in time? 03:54

3 A. I used to be a member of my local board of 03:54

4 elections. 03:55

5 Q. And what information did you receive in that 03:55

6 capacity? 03:55

7 A. I could just see what was involved in acquiring 03:55

8 and maintaining records. 03:55

9 MR. NKWONTA: Can we go off the record. 03:55

10 THE VIDEOGRAPHER: Off record at 03:55

11 3:55 p.m. 03:55

12 (Brief Recess.) 03:55

13 THE VIDEOGRAPHER: On record at 04:03

14 4:03 p.m. 04:03

15 BY MR. NKWONTA: 04:03

16 Q. Dr. Schroeder, we just took a brief break. You 04:03

17 understand that you're still under oath? 04:03

18 A. Yes. 04:03

19 Q. I want to touch a little bit briefly on the 04:03

20 intuitive balancing process again. You know 04:04

21 what I'm referring to when I say "intuitive 04:04

22 balancing process"? 04:04

23 A. Yeah. 04:04

24 Q. Is that intuitive balancing process an approach 04:04

25 that you've seen other political scientists 04:04

- 1 use? 04:04
- 2 A. Going back to Aristotle. 04:04
- 3 Q. And you've seen other political scientists 04:04
- 4 intuitively balance state laws -- state voting 04:04
- 5 laws to determine which ones are more 04:04
- 6 restrictive or less? 04:04
- 7 A. Yes. 04:04
- 8 Q. Can you identify any published works where 04:04
- 9 you've seen this approach? 04:04
- 10 A. I could -- I see that kind of approach used all 04:04
- 11 the time. I don't see how you cannot use it. 04:04
- 12 Q. Can you identify any published works that use 04:05
- 13 that approach? 04:05
- 14 A. I would think you could take any publication 04:05
- 15 published by any political scientist and find a 04:05
- 16 use of intuitive balancing in virtually 04:05
- 17 everything they do, even -- you know, even if 04:05
- 18 you've got some of the most elaborate and 04:05
- 19 strictest of models and mathematical equations, 04:05
- 20 there's going to be some intuitive balancing 04:05
- 21 going on. 04:05
- 22 I don't see how it can be avoided when 04:05
- 23 you're engaged in any kind of political study. 04:05
- 24 It's the nature of the phenomena. 04:05
- 25 Q. When you say intuitive, in a sense are you 04:05

1 saying that it's not necessarily scientific? 04:05

2 MR. STRACH: Objection. 04:06

3 THE WITNESS: No, but I might have a 04:06

4 broader notion of what is scientific than some. 04:06

5 Again, keep in mind, my training goes back to 04:06

6 Aristotle and he makes precisely that point: 04:06

7 The study of political matters is largely 04:06

8 intuitive. 04:06

9 BY MR. NKWONTA: 04:06

10 Q. So you're saying -- 04:06

11 A. It's because of the contingencies of the 04:06

12 subject matter. 04:06

13 Q. So you're saying, no, it's not necessarily 04:06

14 scientific? 04:06

15 MR. STRACH: Objection. 04:06

16 MR. BOWERS: Objection; 04:06

17 mischaracterizes -- hold on. Hold on. 04:06

18 Objection. 04:06

19 Go ahead. 04:06

20 THE WITNESS: Okay. I'm saying that 04:06

21 anything scientific would also have to involve 04:06

22 a lot that's intuitive. 04:06

23 BY MR. NKWONTA: 04:06

24 Q. Would you consider the intuitive balancing of 04:07

25 the different states and their voting laws 04:07

1 scientific? 04:07

2 A. It could. 04:07

3 MR. STRACH: Objection. I'm sorry. 04:07

4 Objection. It really depends on what you mean 04:07

5 by "scientific." I think that term is vague. 04:07

6 So I am just going to object for that reason. 04:07

7 THE WITNESS: I think the term is vague 04:07

8 and for that reason I would have to say yes. 04:07

9 BY MR. NKWONTA: 04:07

10 Q. You mention that you were on the local board of 04:07

11 elections. 04:07

12 A. Yes. 04:07

13 Q. Was this a -- were you a county board of -- BOE 04:07

14 official? 04:07

15 A. Harnett County. 04:07

16 Q. I'm sorry. Which county? 04:07

17 A. Harnett County. 04:07

18 Q. And when were you on the board? 04:07

19 A. It was in the early '80s. 04:07

20 Q. How long did you serve? 04:08

21 A. About four years. 04:08

22 Q. When you say early '80s, do you mean before 04:08

23 1985? 04:08

24 A. I'm trying to think. Jim Martin was elected 04:08

25 governor in '84, was it? 04:08

1 MR. BROOK: Yes. 04:08

2 THE WITNESS: So it would have been the 04:08

3 second half of the '80s. It was after Jim 04:08

4 Martin was elected governor. 04:08

5 BY MR. NKWONTA: 04:08

6 Q. Dr. Schroeder, do you consider yourself an 04:08

7 expert in state election laws? 04:08

8 A. Yes. 04:08

9 Q. What work have you done to develop that 04:09

10 expertise and all the different state election 04:09

11 laws? 04:09

12 A. I can point to my general qualifications as to 04:09

13 how I was educated, trained and the jobs that I 04:09

14 have had. The training in political science 04:09

15 that I got at Duke was pretty broad covering 04:09

16 most facets of political matters. 04:09

17 I was originally hired at Campbell 04:09

18 University in order to teach state and local 04:09

19 government. I also taught municipal politics, 04:09

20 and I already pointed out the fact that I have 04:09

21 been a political junkie since age 13. I just 04:09

22 keep an eye on these things. 04:10

23 Q. Before counsel for defendants sent you the 50 04:10

24 state laws or 50 state election laws, had you 04:10

25 reviewed those laws before? 04:10

1 A. Not those particular laws, no. 04:10

2 Q. So working on this case was the first time you 04:10

3 reviewed -- 04:10

4 A. These particular laws. 04:10

5 Q. I appreciate your answer. I just want to 04:10

6 remind you that I need to get my question out 04:10

7 before. I'm not sure if the court reporter got 04:10

8 all that so I will have to restate it. 04:10

9 Was this case the first time you 04:10

10 reviewed the election laws that you analyzed in 04:10

11 your opinion? 04:10

12 A. Yes. 04:10

13 Q. Dr. Schroeder, do you consider yourself an 04:11

14 expert in voter eligibility or voter fraud? 04:11

15 A. Yes. 04:11

16 Q. Have you conducted any research or written any 04:11

17 papers on voter eligibility or voter fraud? 04:11

18 A. I have not. 04:11

19 MR. NKWONTA: I believe that's all the 04:11

20 questions I have at this moment, and I will 04:11

21 pass the witness. 04:11

22 Do you want to go off the record for 04:11

23 five minutes, Josh? 04:11

24 MR. KAUL: No, I'm happy to move 04:11

25 forward, but I don't want to interrupt if 04:11

1 anybody else has questions, although if you 04:11  
2 want to take a break, that's fine with me too. 04:11

3 MR. STRACH: We're fine to go forward. 04:11

4 MR. NKWONTA: We can go forward. 04:11

5 EXAMINATION 04:11

6 BY MR. KAUL: 04:11

7 Q. Dr. Schroeder, my name is Josh Kaul. I'm an 04:11  
8 attorney with Perkins Coie, and we represent 04:11  
9 the intervenors in this case known as the Duke 04:12  
10 plaintiffs. 04:12

11 First of all, let me ask you, can you 04:12  
12 hear me all right? 04:12

13 A. Uh-huh. Yes, I can. 04:12

14 Q. If I say anything and you have trouble hearing, 04:12  
15 please let me know. 04:12

16 A. Okay. 04:12

17 Q. First focusing just on North Carolina's voter 04:12  
18 identification law, is it fair to say that you 04:12  
19 don't know of a single state that has a more 04:12  
20 restrictive voter ID law than North Carolina? 04:12

21 MR. STRACH: Objection. 04:12

22 MR. KAUL: Let me rephrase that. 04:12

23 BY MR. KAUL: 04:12

24 Q. Do you know of any state that in your opinion 04:12  
25 has a more restrictive voter ID law than 04:12

1 North Carolina? 04:12

2 MR. STRACH: Objection. 04:12

3 BY MR. KAUL: 04:12

4 Q. You can go ahead and answer. 04:12

5 A. Okay. I would have to review my notes. 04:12

6 Q. Sitting here today, do you know of any state 04:12

7 that has a more restrictive voter ID law than 04:12

8 North Carolina? 04:12

9 MR. STRACH: Objection. 04:12

10 MR. BOWERS: Objection. 04:12

11 THE WITNESS: I would have to review my 04:12

12 notes. 04:13

13 BY MR. KAUL: 04:13

14 Q. Well, it's a yes-or-no question. 04:13

15 Sitting here today, do you know any 04:13

16 state with a more restrictive voter ID law than 04:13

17 North Carolina? 04:13

18 MR. STRACH: Objection; asked and 04:13

19 answered. 04:13

20 MR. KAUL: You can answer the question 04:13

21 which hasn't been answered yet. 04:13

22 MR. STRACH: You can answer the 04:13

23 question if you can. It has been asked and it 04:13

24 has been answered. 04:13

25 BY MR. KAUL: 04:13



1 Q. Let me ask you this question a different way. 04:13  
2 Can you name a state with a more restrictive 04:13  
3 voter ID law than North Carolina sitting here 04:13  
4 today? 04:13

5 MR. STRACH: Objection; asked and 04:13  
6 answered. 04:13

7 You can answer that if you can. 04:13

8 THE WITNESS: I would have to review my 04:13  
9 notes. 04:13

10 BY MR. KAUL: 04:13

11 Q. Absent review of the notes, you cannot name 04:13  
12 such a state; is that right? 04:13

13 A. That's what I said. 04:13

14 Q. Do you know of any state with a voter ID law 04:13  
15 that's equally restrictive to North Carolina's? 04:13

16 MR. STRACH: Objection. 04:13

17 THE WITNESS: I would have to review my 04:13  
18 notes. 04:13

19 BY MR. KAUL: 04:13

20 Q. Absent reviewing your notes, you don't know of 04:13  
21 such a state? 04:13

22 MR. BOWERS: Objection to the use of 04:13  
23 the term "restrictive." It's subjective. 04:13

24 BY MR. KAUL: 04:13

25 Q. You can answer the question. 04:14

1 A. I would have to review my notes. 04:14

2 Q. Do you know whether students are more or less 04:14  
3 likely than the voting population as a whole to 04:14  
4 vote absentee? 04:14

5 A. I have no idea. 04:14

6 Q. Is it fair to say that the provisions of HB 589 04:14  
7 that you reviewed make it more difficult for 04:14  
8 individuals to either vote or register to vote? 04:14

9 MR. STRACH: Objection. 04:14

10 BY MR. KAUL: 04:14

11 Q. You can answer. 04:14

12 A. I -- I can't say that, that they make it more 04:14  
13 difficult, no. 04:14

14 Q. Have you given thought to whether they make it 04:14  
15 more difficult? 04:14

16 A. I'm not quite sure how you're using the word 04:14  
17 "difficult." 04:15

18 Q. How would you define the word "difficult"? 04:15

19 A. The creation of obstacles, I suppose. 04:15

20 Q. Okay. Using your definition, could you answer 04:15  
21 the question? 04:15

22 A. Using that definition, I would have to say that 04:15  
23 it does not make it more difficult. 04:15

24 Q. Okay. So you think that eliminating the 04:15  
25 opportunity to register on the same day as 04:15

1 voting does not make it more difficult to 04:15  
2 register to vote? 04:15  
3 A. It does not create an obstacle preventing them 04:15  
4 from voting. 04:15  
5 Q. And does eliminating pre-registration for 16- 04:15  
6 and 17-year-olds make it more difficult for 16- 04:15  
7 and 17-year-olds to register to vote? 04:15  
8 A. No. 04:15  
9 Q. And does reducing the number of early voting 04:15  
10 days make it more difficult for individuals to 04:15  
11 vote? 04:15  
12 A. No. 04:15  
13 Q. And what is that conclusion based on? 04:16  
14 A. They don't present obstacles preventing people 04:16  
15 from voting. 04:16  
16 Q. And what about the voter ID requirement? 04:16  
17 MR. STRACH: Objection. What about it? 04:16  
18 BY MR. KAUL: 04:16  
19 Q. Does the voter ID requirement make it more 04:16  
20 difficult for citizens of North Carolina to 04:16  
21 vote? 04:16  
22 A. No. 04:16  
23 Q. And what's that conclusion based on? 04:16  
24 A. It does not create an obstacle preventing them 04:16  
25 from voting. 04:16

1 Q. All right. Now, you said before that sitting 04:16  
2 here today you can't say whether there are any 04:16  
3 states that have voter ID laws as restrictive 04:16  
4 or more restrictive than North Carolina; is 04:16  
5 that right? 04:16

6 MR. STRACH: Objection; asked and 04:16  
7 answered. 04:16

8 You can answer it again. 04:16

9 BY MR. KAUL: 04:16

10 Q. You can answer. 04:16

11 A. I'll give you the answer I gave you before. I 04:16  
12 would have to review my notes. 04:16

13 Q. Would the restrictiveness of a state's voter ID 04:16  
14 law play into your analysis, that is to say, 04:17  
15 have an effect on your analysis of whether 04:17  
16 North Carolina's voter ID laws are within the 04:17  
17 mainstream? 04:17

18 MR. STRACH: Objection. 04:17

19 Go ahead. 04:17

20 THE WITNESS: It could. 04:17

21 BY MR. KAUL: 04:17

22 Q. Did you conduct that assessment in this case? 04:17

23 A. To the extent to which I use the term 04:17  
24 restrictiveness in my report. 04:17

25 Q. You didn't conduct it beyond that extent? 04:17

1 A. No. 04:17

2 Q. Do you know whether minority voters are more or 04:17

3 less likely to use absentee voting than the 04:17

4 rest of the general voting population? 04:17

5 A. I have no idea. 04:17

6 Q. Do you know how many states have had and then 04:17

7 eliminated pre-registration? 04:17

8 A. I don't. 04:17

9 Q. Do you know of any? 04:17

10 A. Have had and eliminated it? 04:18

11 Q. Yes. 04:18

12 MR. STRACH: Objection. 04:18

13 Answer it if you know. 04:18

14 BY MR. KAUL: 04:18

15 Q. That was a do-you-know question? 04:18

16 A. That was a what? 04:18

17 Q. A do-you-know question. 04:18

18 A. Other than North Carolina? 04:18

19 Q. Right. 04:18

20 A. No. 04:18

21 Q. In your opinion, does the elimination of 04:18

22 pre-registration have anything to do with 04:18

23 verifying the eligibility of persons who cast 04:18

24 votes? 04:18

25 A. I honestly wouldn't know how to answer that 04:18

1 question. 04:18

2 Q. Well, you made a conclusion in your report that 04:18

3 the cumulative effects of the amendments 04:18

4 enhance the ability of election officials to 04:18

5 verify the eligibility of persons who cast 04:18

6 votes; is that right? 04:19

7 A. Cumulative effect, yes. 04:19

8 Q. When you say cumulative, you're referring to 04:19

9 the effect of different provisions in 04:19

10 combination; is that right? 04:19

11 A. Yes. 04:19

12 Q. And one of those provisions is 04:19

13 pre-registration, right? 04:19

14 A. Yes. 04:19

15 Q. So did the elimination of pre-registration play 04:19

16 into your conclusion as to the cumulative 04:19

17 effect of the loss? 04:19

18 A. Honestly I would not know how to make a 04:19

19 one-to-one connection there. 04:19

20 Q. When you say that, do you mean that 04:19

21 pre-registration was part of your analysis or 04:19

22 that it was not? 04:19

23 A. It's part. 04:19

24 Q. So did pre-registration increase -- the 04:19

25 elimination of pre-registration increase the 04:19

1 ability of election officials to verify -- 04:19

2 A. You're asking me to make a conclusion about a 04:19

3 one-to-one connection and I don't know how to 04:19

4 do that. 04:19

5 Q. Well, your conclusion was based on certain 04:19

6 changes in the voting laws; is that right? 04:19

7 A. Yes. 04:19

8 Q. Which changes was that conclusion based on? 04:20

9 A. The ones listed in my report. 04:20

10 Q. And is pre-registration one of those? 04:20

11 A. Yes. 04:20

12 Q. So it's your conclusion that the elimination of 04:20

13 pre-registration did enhance the ability of 04:20

14 election officials to verify the eligibility of 04:20

15 persons who cast votes? 04:20

16 MR. STRACH: Objection. 04:20

17 You can answer. 04:20

18 BY MR. KAUL: 04:20

19 Q. You can answer. 04:20

20 A. Again, I don't know how to make that one-to-one 04:20

21 connection that you're asking me for. 04:20

22 Q. All right. Let me ask you about administrative 04:20

23 burdens for changes in voting procedures. 04:20

24 In your opinion, are there -- all 04:20

25 things being equal, are there administrative 04:20

1           burdens for changing in voting procedures as           04:20  
2           compared to maintaining the status quo of           04:20  
3           voting procedures?           04:20

4                           MR. STRACH:  Objection.           04:20

5  BY MR. KAUL:           04:20

6       Q.  You can answer.           04:20

7       A.  Again, I don't know how I could answer that           04:20  
8           question.           04:21

9       Q.  So is it fair to say you don't know whether           04:21  
10           making changes to voting procedures inherently           04:21  
11           entails administrative burden?           04:21

12       A.  Inherently entails?           04:21

13       Q.  Yes.           04:21

14       A.  It wouldn't inherently entail anything.           04:21

15       Q.  Is it your understanding that changes to voting           04:21  
16           procedures typically result in administrative           04:21  
17           burdens such as increased costs or time for           04:21  
18           administrators?           04:21

19                           MR. STRACH:  Objection.           04:21

20                           THE WITNESS:  It would.           04:21

21  BY MR. KAUL:           04:21

22       Q.  You can answer.           04:21

23       A.  I would think it would depend on the           04:21  
24           administrative changes.           04:21

25       Q.  Is it your understanding that the changes at           04:21



1 issue will entail administrative burdens? 04:21

2 A. I honestly don't know. Again, it's beyond what 04:21  
3 I looked into in my report. 04:21

4 Q. Have you heard of the concept of voters being 04:21  
5 habituated to voting practices? 04:21

6 A. Have I heard of it? 04:22

7 Q. Yes. 04:22

8 A. Yes. 04:22

9 Q. Did -- what's your understanding of that 04:22  
10 concept? 04:22

11 A. My understanding of the concept is that people 04:22  
12 develop habits whenever they do anything 04:22  
13 repeatedly. There's absolutely no reason why 04:22  
14 voting and voting habits and practices wouldn't 04:22  
15 be included in that. 04:22

16 Q. Does the concept of habituation affect the 04:22  
17 restrictiveness of voting laws when changes are 04:22  
18 made? 04:22

19 MR. STRACH: Objection. 04:22

20 BY MR. KAUL: 04:22

21 Q. You can answer. 04:22

22 A. I have no idea. 04:22

23 Q. If, for example, individuals are habituated to 04:22  
24 17 days of early voting, wouldn't a reduction 04:22  
25 to 10 days as a result of habituation be more 04:22

1           burdensome on them than a 10-day rule that was   04:22  
2           instituted from the start?                           04:22

3                       MR. STRACH:  Objection.                           04:22

4                       MR. BOWERS:  Objection; calls for                           04:22  
5                       speculation.   04:23

6  BY MR. KAUL:   04:23

7       Q.  You can answer.                                   04:23

8       A.  Again, I don't know.                               04:23

9       Q.  Is it fair to say you didn't consider           04:23  
10       habituation of voting practices in your           04:23  
11       analysis; is that right?                               04:23

12       A.  No, I did not.                                     04:23

13       Q.  With respect to your report where you listed   04:23  
14       numbers of states that have certain voting           04:23  
15       practices that didn't include a footnote, did       04:23  
16       you have any way of documenting which states       04:23  
17       were involved with practices?                         04:23

18       A.  You mean do I have --                             04:23

19       Q.  Let me give you an example.  In paragraph 7 do   04:23  
20       you see that the number of states are listed       04:23  
21       with respect to certain registration                 04:23  
22       procedures?   04:23

23       A.  Paragraph 7.  Okay.                               04:23

24       Q.  And about two-thirds of the way through that   04:24  
25       paragraph do you see that it says 21 states         04:24

1 have deadlines earlier than North Carolina? 04:24

2 A. Yes. 04:24

3 Q. Did you make a list of what those states are 04:24

4 somewhere? 04:24

5 A. No. 04:24

6 Q. How did you calculate that it was 21? 04:24

7 A. I counted them, and I probably should have made 04:24

8 a list as I was counting. 04:24

9 Q. So you just kept a tally as you went through; 04:24

10 is that right? 04:24

11 A. Right. 04:24

12 Q. With respect to your conclusion that cumulative 04:24

13 effects of these amendments enhance the ability 04:24

14 of election officials to verify the eligibility 04:24

15 of persons to cast votes, did the elimination 04:25

16 of same-day registration play a role in your 04:25

17 conclusion? 04:25

18 MR. STRACH: Objection. 04:25

19 BY MR. KAUL: 04:25

20 Q. You can answer. 04:25

21 A. Again, you're making -- you're asking me to 04:25

22 make another one-to-one connection. 04:25

23 Q. I'm just asking what factors were part of your 04:25

24 conclusions. 04:25

25 MR. STRACH: Objection; asked and 04:25

1 answered. 04:25

2 You can answer it again if you like. 04:25

3 BY MR. KAUL: 04:25

4 Q. Go ahead. 04:25

5 A. Here again, I was looking at the overall impact 04:25

6 of all of these, including how they affect each 04:25

7 other. 04:25

8 Q. Is it your understanding that same-day 04:25

9 registration requires individuals to show 04:25

10 identification in person or that it did prior 04:25

11 to its elimination? 04:25

12 A. Yes. 04:25

13 Q. And is it your understanding that individuals 04:25

14 can register to vote by mail? 04:25

15 A. Yes. 04:25

16 Q. And in that case they would not be presenting 04:26

17 an ID in person; is that right? 04:26

18 A. That's true. 04:26

19 Q. Is it your opinion that registration by mail 04:26

20 without the presentation of an ID is more 04:26

21 accurate or less accurate than registration in 04:26

22 person where an ID must be shown? 04:26

23 MR. STRACH: Objection as to the use of 04:26

24 the word "accurate." 04:26

25 You can answer. 04:26

1 THE WITNESS: I have no idea. 04:26

2 BY MR. KAUL: 04:26

3 Q. Do you think that fact is important in 04:26  
4 determining whether the effect of these 04:26  
5 amendments enhances the ability of election 04:26  
6 officials to verify the eligibility of persons 04:26  
7 who cast votes? 04:26

8 A. I didn't get the earlier part of your question. 04:26  
9 Could you repeat it, please. 04:26

10 Q. You said you have no idea about which means of 04:26  
11 registration is more accurate, correct? 04:26

12 A. Yes. 04:26

13 Q. And do you think that that fact is important in 04:26  
14 determining whether the cumulative effect of 04:26  
15 these amendments enhances the ability of 04:26  
16 election officials to verify the eligibility of 04:26  
17 persons who cast votes? 04:26

18 A. It could be helpful but not necessary. 04:26

19 Q. Can you explain what you mean by that? 04:27

20 A. Well, as more data, more is better than less. 04:27

21 Q. Have you seen studies showing that same-day, 04:27  
22 in-person voter registration is more accurate 04:27  
23 than mail-in voter registration? 04:27

24 A. I have not. 04:27

25 Q. Would the existence of such studies undermine 04:27

1 your conclusion? 04:27

2 MR. STRACH: Objection. 04:27

3 BY MR. KAUL: 04:27

4 Q. You can answer. 04:27

5 A. That would be purely speculative. I would have 04:27  
6 to see the studies. 04:27

7 Q. You said before that your conclusions were 04:27  
8 based on intuitive balancing; is that correct? 04:27

9 A. Yes. 04:27

10 Q. To the extent that the facts that underlie that 04:27  
11 intuitive balancing are inaccurate, is it fair 04:28  
12 to say that calls your conclusions into 04:28  
13 question? 04:28

14 MR. STRACH: Objection. 04:28

15 BY MR. KAUL: 04:28

16 Q. You can answer. 04:28

17 A. No. 04:28

18 Q. You said "no"? 04:28

19 A. Yes. 04:28

20 Q. So even if you are relying on inaccurate facts, 04:28  
21 you think your conclusion is sound; is that 04:28  
22 right? 04:28

23 MR. STRACH: Objection. That calls for 04:28  
24 speculation. 04:28

25 BY MR. KAUL: 04:28

1 Q. You can answer. 04:28

2 A. Yeah, I don't know how I could -- how to answer 04:28  
3 that question. 04:28

4 Q. You just answered it, right? 04:28

5 MR. STRACH: Objection. 04:28

6 BY MR. KAUL: 04:28

7 Q. Didn't you just say "no" in response to my 04:28  
8 question? Dr. Schroeder, didn't you answer my 04:28  
9 question "no"? 04:28

10 A. Yeah. I'm trying to figure out what you're 04:28  
11 talking about. 04:28

12 MR. STRACH: Could you repeat -- 04:28

13 BY MR. KAUL: 04:28

14 Q. Let me ask the question again. 04:28

15 To the extent that the facts on which 04:28  
16 the intuitive balancing is based are 04:28  
17 inaccurate, does that call your conclusions 04:28  
18 into question? 04:29

19 MR. STRACH: Objection. 04:29

20 BY MR. KAUL: 04:29

21 Q. You can answer. 04:29

22 A. Okay. No, not necessarily. 04:29

23 Q. When you say not necessarily, what do you mean 04:29  
24 by that? 04:29

25 A. It wouldn't be a necessary logical conclusion 04:29

1 from the premises. 04:29

2 Q. It's certainly possible; is that right? 04:29

3 MR. STRACH: Objection; calls for 04:29

4 speculation. 04:29

5 BY MR. KAUL: 04:29

6 Q. You can answer. 04:29

7 A. Of course. Of course it could be possible. 04:29

8 Q. Do you know whether computers were used in 04:29

9 administering same-day registration prior to 04:29

10 its repeal? 04:29

11 A. I don't know how it's done at all, no. 04:29

12 Q. Do you have any knowledge about how the 04:29

13 same-day registration process worked in the 04:29

14 time period immediately before its repeal? 04:29

15 A. Not really. 04:29

16 Q. So how did you reach the conclusion that it 04:30

17 imposed a terrible administrative burden in 04:30

18 verifying voters' information? 04:30

19 MR. STRACH: Objection. 04:30

20 You can answer. 04:30

21 THE WITNESS: Okay. It just struck me 04:30

22 as obvious. 04:30

23 BY MR. KAUL: 04:30

24 Q. Even though you don't know how it worked? 04:30

25 A. In detail, no, I don't know how it works. 04:30



- 1 Q. And you don't actually know whether computers 04:30  
2 are used in that process; is that right? 04:30
- 3 A. They probably are, but I can't -- I can't say 04:30  
4 that for certain. Again, I've never seen it 04:30  
5 done or have read a description of it. 04:30
- 6 Q. Do you know how many states have mandatory high 04:30  
7 school voter registration drives? 04:30
- 8 A. No, I don't. 04:30
- 9 Q. Do you know if there are other states that have 04:30  
10 them? 04:30
- 11 A. No, I don't. 04:30
- 12 Q. Did you have any relationship prior to this 04:31  
13 case with any of the attorneys for defendants 04:31  
14 or the defendants themselves? 04:31
- 15 MR. STRACH: Objection. What do you 04:31  
16 mean by "relationship"? 04:31
- 17 BY MR. KAUL: 04:31
- 18 Q. Did you know any of those individuals prior to 04:31  
19 this case? 04:31
- 20 A. Yes. 04:31
- 21 Q. Who is that? 04:31
- 22 A. Phillip Strach. 04:31
- 23 Q. And how did you know him? 04:31
- 24 A. He was a student of mine. 04:31
- 25 Q. And have you remained in contact since you had 04:31

1 him in class? 04:31

2 A. Yes. 04:31

3 Q. And you said before that he was the one who 04:31  
4 contacted you to be an expert in this case? 04:31

5 A. Yes. 04:31

6 Q. With respect to your education, would you 04:31  
7 explain precisely how your background in your 04:32  
8 opinion makes you an expert with respect to the 04:32  
9 analysis conducted here? 04:32

10 MR. STRACH: Objection; asked and 04:32  
11 answered. 04:32

12 You can answer it again if you can. 04:32

13 THE WITNESS: I have a Ph.D. in 04:32  
14 political science. I've taught state and local 04:32  
15 government. I teach constitutional law the 04:32  
16 research for which often involves reading state 04:32  
17 statutes. 04:32

18 BY MR. KAUL: 04:32

19 Q. All right. Have you written any papers that 04:32  
20 required you to research state statutes? 04:32

21 A. No. I supervise research involving that in my 04:32  
22 seminar. 04:32

23 Q. And you said before that that research did not 04:32  
24 involve any of the statutes at issue here; is 04:32  
25 that right? 04:32

1 A. That's right. 04:32

2 Q. So any expertise you have as to the statutes at 04:32  
3 issue is a result of working in this case; is 04:32  
4 that right? 04:33

5 MR. STRACH: Objection as to -- 04:33

6 BY MR. KAUL: 04:33

7 Q. You can answer. 04:33

8 MR. STRACH: Well, objection as to the 04:33  
9 word "expertise." 04:33

10 BY MR. KAUL: 04:33

11 Q. You can answer. 04:33

12 A. What I know about this case is a direct 04:33  
13 consequence of what I started doing as a result 04:33  
14 of agreeing to do this -- to do what I'm doing 04:33  
15 here, although the expertise in being able to 04:33  
16 do that in the first place I had because of 04:33  
17 years of study -- study of and the teaching of 04:33  
18 political science. 04:33

19 Q. So your expertise is primarily that you're able 04:33  
20 to read statutes; is that right? 04:33

21 MR. STRACH: Objection. 04:33

22 BY MR. KAUL: 04:33

23 Q. You can answer. 04:33

24 A. And understand the context in which they affect 04:33  
25 the law. After all, one of my primary areas of 04:33

1 studies is constitutional law. 04:34

2 Q. In publishing papers in your field, do you 04:34  
3 typically consult the relevant literature 04:34  
4 before making publications? 04:34

5 A. Yes. 04:34

6 Q. Did you conduct the analysis of any experts 04:34  
7 regarding whether North Carolina's law falls in 04:34  
8 the mainstream before submitting this expert 04:34  
9 report? 04:34

10 A. No. 04:34

11 Q. And prior to your analysis you had not done any 04:34  
12 state-by-state analysis of any state's voting 04:34  
13 laws; is that right? 04:34

14 A. Yes. 04:34

15 Q. And can you explain how any of your education 04:34  
16 relates to the weighing of the restrictiveness 04:34  
17 or permissiveness of states' voter laws? 04:34

18 MR. STRACH: Objection; asked and 04:34  
19 answered. 04:34

20 Explain it again. 04:34

21 BY MR. KAUL: 04:34

22 Q. You can answer. 04:34

23 A. Again, my education, my training, my teaching 04:35  
24 career have all presented or provided me with 04:35  
25 an ability to make intuitive judgments about 04:35

1           these things. 04:35

2           Q. All right. And you testified earlier that on 04:35  
3           the basis of that education, none of the 04:35  
4           provisions at issue here make it more difficult 04:35  
5           for individuals to vote; is that right? 04:35

6           A. None of -- that's right. 04:35

7                       MR. KAUL: That's all the questions I 04:35  
8           have. 04:35

9                       MS. GARRETT: Hi. I have one follow-up 04:35  
10          question. 04:35

11                                       EXAMINATION 04:35

12          BY MS. GARRETT: 04:35

13          Q. My name is Jenigh Garrett. I represent the 04:35  
14          United States, and my question is just how you 04:35  
15          evaluated whether an election law made it more 04:35  
16          difficult for someone to vote. 04:35

17          A. Depending on whether or not it presented an 04:36  
18          obstacle to exercise the right to vote. 04:36

19          Q. And how do you define "obstacle"?

20          A. Something that would prevent someone from 04:36  
21          exercising the right. 04:36

22          Q. And what does "prevent" mean in that sentence 04:36  
23          in your answer? 04:36

24          A. Prevent, I suppose a very dangerous looking 04:36  
25          individual standing in front of the polls with 04:36

1 a baseball bat. 04:36

2 Q. Is that the only definition for prevent? 04:36

3 A. That was an example. It was an example. 04:36

4 Something that would -- could conceivably stop 04:37

5 someone from voting. 04:37

6 Q. And so it's your opinion -- is that the only 04:37

7 type of conceivable way to stop someone from 04:37

8 voting? 04:37

9 MR. STRACH: Objection. 04:37

10 THE WITNESS: Again, that's an example 04:37

11 of it. 04:37

12 BY MS. GARRETT: 04:37

13 Q. I wanted to understand more how you evaluated 04:37

14 whether something is an obstacle to make it 04:37

15 more difficult for someone to vote. 04:37

16 MR. STRACH: Objection; asked and 04:37

17 answered. 04:37

18 If you can explain it again, feel free. 04:37

19 THE WITNESS: Well, none of the items 04:37

20 examined in my report prevent anybody from 04:37

21 voting. 04:37

22 What they do is establish certain 04:37

23 conditions that have to be followed in order 04:37

24 for someone to -- anyone to exercise their 04:37

25 right to vote. 04:37

1 BY MS. GARRETT: 04:37

2 Q. When you say anybody or anyone -- 04:38

3 A. Any citizen. 04:38

4 Q. Any citizen. And did you evaluate African 04:38

5 American citizens when making your 04:38

6 determination about whether it made it more 04:38

7 difficult or created an obstacle for someone to 04:38

8 vote? 04:38

9 A. I would if race were a factor in the laws 04:38

10 themselves so that people were treated 04:38

11 differently because of their race which these 04:38

12 laws don't do. These laws apply across the 04:38

13 board regardless of race. 04:38

14 Q. Did you evaluate any socioeconomic factors that 04:38

15 impacted African Americans in North Carolina in 04:38

16 conducting your analysis? 04:38

17 A. Not in conducting this analysis, no. 04:38

18 Q. Did you evaluate the history of discrimination 04:38

19 on voting in North Carolina when conducting 04:39

20 your analysis? 04:39

21 A. Not in conducting this analysis, no. 04:39

22 Q. Can you tell me the analysis relevant to this 04:39

23 litigation where you did review those -- either 04:39

24 the socioeconomic factors impacting African 04:39

25 Americans or the history of discrimination 04:39

1            impacting African Americans?            04:39

2        A.    Whenever -- whenever I discuss voting behavior        04:39  
3            or the relevant portions of constitutional law,        04:39  
4            of course I get into those matters.            04:39

5        Q.    Okay. Thank you. No further questions.        04:39

6                        MR. STRACH: Anyone else for the        04:39  
7            plaintiffs?            04:39

8                        Thank you. We don't have any        04:39  
9            questions.            04:39

10                       MR. BOWERS: Correct.            04:39

11                       THE VIDEOGRAPHER: This concludes the        04:39  
12            deposition. The time is 4:39 p.m.        04:39

13                                        [SIGNATURE RESERVED]

14                                        [DEPOSITION CONCLUDED AT 4:39 P.M.]

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A C K N O W L E D G E M E N T O F D E P O N E N T

I, DONALD SCHROEDER, Ph.D., declare under the penalties of perjury under the State of North Carolina that I have read the foregoing 120 pages, which contain a correct transcription of answers made by me to the questions therein recorded, with the exception(s) and/or addition(s) reflected on the correction sheet attached hereto, if any.

Signed this the                    day of                    , 2014.

DONALD SCHROEDER, Ph.D.

State of:

County of:

Subscribed and sworn to before me  
this                    day of                    , 2014.

Notary Public

My commission expires: