

EXHIBIT E

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

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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
MICHAEL GARY DICKERSON

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VIDEOTAPED DEPOSITION OF
MICHAEL GARY DICKERSON

10:02 a.m.

Tuesday, July 1, 2014

Ruff, Bond, Cobb, Wade & Bethune, LLP
831 East Morehead Street
Suite 860
Charlotte, North Carolina

By: Karen K. Kidwell, RMR, CRR, CLR

1 Q. And prior to House Bill 589, how many
2 mandated days were there?

3 A. You had, what, 17 days available. Keep in
4 mind, your local board can always choose the number
5 of days they want to have. You must have at least
6 your office open to accommodate the 17 days before.

7 Q. Okay. You're also aware that House
8 Bill 589 requires the County Board of Elections to
9 employ the same number of cumulative hours of early
10 voting as the previous comparable election unless the
11 county board receives a waiver; is that correct?

12 A. Correct.

13 Q. Okay. Do you believe that maintaining the
14 same hours for a 10-day early voting period is
15 equivalent to offering 17 days of early voting?

16 A. Well, I'm offering the same number of
17 hours.

18 Q. Right.

19 A. The number of days is -- is something in
20 the law that I am being told that -- to operate
21 under. I try to look at things on the positive side
22 of everything. And if I have to operate 1500 hours,
23 a 4-year equivalent to this year's election, I am
24 looking at that as being increased access to my -- to
25 the voters here in Mecklenburg County because I will

1 need to open up more than the 14 or 15 sites I had in
2 2010.

3 Q. Okay. So for a -- for a ten-day period of
4 early voting, the County Board of Elections is going
5 to need to open additional early voting sites in
6 order to keep up with the hours matching
7 requirements? Is that correct?

8 A. You would have to either open up
9 additional sites or -- or extend your hours. But
10 yes, you are correct.

11 Q. And is the Mecklenburg County Board of
12 Elections intending to open additional sites for the
13 November 2014 general election?

14 A. Keep in mind, that's a board decision.

15 Q. Right.

16 A. My three-member board will make that
17 decision. And they will -- they will determine the
18 sites and the locations.

19 Our recommendation will -- to them will be
20 that we -- we open additional sites. Maybe do a
21 little bit of both, the additional hours, also, so
22 that -- so that we can meet the 1520-hour
23 requirement.

24 My board is a very smart board. There is
25 no sense in opening sites if people aren't going to

1 be there.

2 Q. Right. And when you say the "1520-hour
3 requirement," are you referring to the same number of
4 hours that were offered in the 2010 general election?

5 A. Yes, sir.

6 Q. Okay. And when you say that -- that you
7 will recommend to open additional sites for the
8 general election in 2014, what do you base that
9 recommendation on?

10 A. Well, first off, on the -- based on the
11 number of hours. And -- and secondly, the fact that
12 folks in Mecklenburg County appreciate voting early.

13 Q. What do you mean by they "appreciate
14 voting early"?

15 A. Well, if you look at our last election,
16 our presidential election, 62 percent of the folks
17 that voted in the -- of the 452,000 that voted, voted
18 before election day.

19 Q. Would that have been in the 2012
20 presidential election?

21 A. 2012 presidential election, uh-huh.

22 Q. And is 62 percent turnout during the early
23 voting period, was that a record for Mecklenburg
24 County?

25 A. Yes. Yes, it was.

1 Q. So going back to your point about the need
2 to open additional sites for the -- for the general
3 election in 2014, how many new sites do you
4 anticipate would be necessary to meet the 1520-hour
5 requirement?

6 A. We're looking at approximately five more
7 sites. And that's a mixture, again, of maybe a
8 couple of additional hours and an additional site.
9 But here again, that's a -- strictly a board's
10 decision.

11 Q. Right. And when you say "additional
12 hours," do you mean on top of the 1520 hours?

13 A. No. On -- to equal the -- the 1520 hours
14 that we had.

15 Q. Okay. And -- and when you say that the
16 county might open five additional sites, that's five
17 additional sites as compared to which prior election?

18 A. The 2010 general election, which we're
19 required to match.

20 Q. Okay. Do you think that more than five
21 sites would be required for a presidential election?

22 A. Haven't gotten that far yet --

23 Q. Okay.

24 A. -- to be honest with you.

25 Q. That's fair. What are some of the costs

1 23 early voting sites, and most of those are public
2 facilities. So -- and we ran it for 17 days straight
3 through. I think running it 10 days straight through
4 for the 15 would not present an issue to me.

5 Q. Okay. Is it fair to say that a shortened
6 early voting period will not result in a cost savings
7 for the Mecklenburg County Board of Elections?

8 MR. FARR: Objection to the form. And
9 that just means I didn't like the way he asked the
10 question.

11 BY MR. MANER:

12 Q. But you can answer.

13 A. Could you repeat the question? I'm sorry.
14 That was great.

15 Q. Sure. Is -- is it fair to say that a
16 shortened early voting period will not result in a
17 cost savings for the Mecklenburg County Board of
18 Elections in the 2014 general election?

19 MR. FARR: Objection.

20 THE WITNESS: Okay. The -- the cost for
21 the -- the elections was determined when you were
22 told that you had to have the same number of hours.
23 So I don't -- I don't see a huge savings or
24 expenditure. Again, looking at the positive side of
25 it, I look at it as access to voters.

1 BY MR. MANER:

2 Q. So when you say that you don't see savings
3 or an expenditure, does that mean, in -- in your
4 view, you think that the costs will break even?

5 A. Correct.

6 Q. Okay. And is it possible that there might
7 be some additional costs with, as you mentioned,
8 increasing personnel or having to pay for additional
9 equipment to staff five extra sites in the 2014
10 general election?

11 A. Well, the -- the equipment we pretty
12 much -- the equipment we pretty much have out there
13 anyway. So there's no -- usually no additional cost
14 in there. We maximize the use of each facility that
15 we can just to have those sites out there.

16 The additional cost in personnel, again,
17 would be saved by -- by using folks that are familiar
18 with the process. We have a -- a great group of
19 precinct officials who have also asked to do the
20 early voting work. And we have -- we have a good
21 pool of people that we can choose from and train and
22 give them equivalent training to what they would
23 receive at a board of elections office and have them
24 out there. So we -- we would presume that the -- the
25 numbers should equal out when we all get through

1 everything.

2 Q. Okay. But you don't expect to save any
3 money?

4 A. No.

5 Q. Okay. Prior to House Bill 589 being
6 enacted, could the County Board of Elections extend
7 the voting hours on the last Saturday before election
8 day?

9 A. Yes.

10 Q. And how long could the polling hours be
11 extended on that Saturday?

12 A. Until 5:00 p.m.

13 Q. What was the process for extending those
14 hours?

15 A. It would take a board action. My board
16 would -- would vote to decide whether or not they
17 wanted to extend those hours.

18 Q. Okay. And is that a decision that the
19 board can make independently or do they have to get
20 approval from the State Board of Elections?

21 A. It would need to be approved by the State
22 board, any plan of implementation or -- or an
23 amendment to your plan of implementation would have
24 to be approved by the State board. So you would --
25 you would make that a -- they -- they would make

1 A. Correct.

2 Q. Would a voter who registered same day cast
3 a regular ballot or a provisional ballot?

4 A. A regular ballot.

5 Q. So did same-day registration cut down on
6 the number of provisional ballots cast in Mecklenburg
7 County?

8 MR. FARR: Objection.

9 BY MR. MANER:

10 Q. You can answer.

11 A. Tremendously.

12 Q. Tremendously. And -- and what do you mean
13 by "tremendously"?

14 A. Prior to -- prior to same-day
15 registration, we were upwards of 6,000 provisionals
16 on election day. I think that cut that down to about
17 a third of that.

18 Q. So about 2,000 provisional ballots --

19 A. Provisionals --

20 Q. -- cast on election day?

21 A. -- on election day, in a large -- a
22 general election, large general election.

23 Q. Right. So is it possible that -- let me
24 rephrase that.

25 Is it possible that the number of

1 provisional ballots cast in Mecklenburg County will
2 increase now that same-day registration has been
3 eliminated?

4 A. Certainly, it's possible.

5 Q. What measures are in place in the
6 Mecklenburg County Board of Elections to prevent an
7 individual from impersonating another voter at the
8 polls?

9 A. The -- what is required by the North
10 Carolina general statute that they enter the
11 precinct -- enter their voting location or an early
12 voting site, they state their name and their address
13 in a clear voice.

14 And my staff verifies who they are via a
15 paper poll book or an electronic poll book depending
16 on where they vote. And at that point in time, they
17 vote.

18 Q. Does the voter make any sort of
19 attestation as to -- to who they are or that they're
20 qualified to vote in an election?

21 A. Correct. They sign an attestation that
22 said that they are who they are and living at this
23 address.

24 Q. Is there a penalty for lying on that form?

25 A. There's always a penalty for lying.

1 Q. Yes. I want to just spend a couple of
2 minutes talking about provisional ballots --

3 A. Sure.

4 Q. -- if we could. What is an
5 out-of-precinct provisional ballot?

6 A. An out-of-precinct provisional ballot is
7 a -- is a provisional ballot cast by a -- a voter who
8 is not voting in their assigned precinct on election
9 day.

10 Let me clarify that, that that is up to
11 2013, that is -- is the process. After -- starting
12 January 1, 2014, an out-of-precinct ballot is
13 similar, but it's going to be different on the -- on
14 the process.

15 Prior to that, I go to a precinct. I'm
16 not -- I'm registered to vote, but I -- it's 7:25 and
17 I'm not going to have time to get home to my precinct
18 out in the -- in the suburbs, maybe 30 minutes away.
19 I can stop by one near my office downtown and tell
20 people I'm registered.

21 They can't look you up in a poll book and
22 they can't give you your exact ballot style prior to
23 2013, but I can let you vote a paper ballot. And
24 then my office will do the research prior to canvass
25 day and present it to my board for either approval,

1 partial approval or denial.

2 Q. And when you say "partial approval," does
3 that mean that the ballot is counted for some races?

4 A. Correct. It would be counted for those
5 races that everybody would be entitled to vote
6 citywide or countywide and that are not specific
7 to -- to a particular district.

8 Q. And that would -- those votes would count
9 so long as the voter was registered either within the
10 county or within the city for those citywide and
11 countywide races?

12 A. Assuming they did not vote in their old
13 precinct, in their actual precinct.

14 Q. Okay. How does a voter learn that they
15 showed up to vote at the wrong precinct?

16 A. Well, it's -- the give-away is when we
17 can't find you in a poll book. The provisional
18 process in North Carolina provides you just that,
19 a -- a provision that if we can't find you in that --
20 in that poll book, we will -- we will do the research
21 ourselves at the Board of Elections office and try to
22 get your ballot either tallied or recommended to be
23 tallied or denied or partially approved. But every
24 one of our precincts is equipped with a paper poll
25 book right now that is -- tells you where they are.

1 Q. So would you agree that a voter might not
2 learn that they're in the wrong precinct until they
3 reach the front of the line at the polls to check in?

4 MR. FARR: Objection to the form.

5 THE WITNESS: Certainly, they -- would be
6 the place that they would find at the poll book
7 table.

8 BY MR. MANER:

9 Q. Okay. What is your understanding --
10 you -- you mentioned one reason why a voter might
11 show up at the wrong precinct to vote. And I believe
12 that was there might not be enough time when they got
13 off of work.

14 A. Sure.

15 Q. What are some of the -- what's your
16 understanding of what some of the other reasons why a
17 voter might cast a ballot in a wrong precinct?

18 A. In an out-of-precinct -- that's usually
19 the big -- the big one there, that don't have time to
20 get to my -- my own precinct so I will -- I will go
21 there.

22 If you're new to your precinct, you
23 could -- if you're less than 30-day residency in your
24 precinct, you may should think you should go to your
25 new precinct, but the law requires you go to your old

1 precinct at that point in time. But those are --
2 that's the big reason why, just don't have time to go
3 to mine, or I choose to go somewhere else to vote
4 today.

5 Q. All right. Is it possible that a voter
6 might show up at the wrong precinct because they only
7 intend to vote for races at the top of the ballot?

8 A. They may.

9 MR. FARR: Objection.

10 THE WITNESS: They may. That's pretty
11 much going to be the only thing they get, if -- if
12 approved.

13 BY MR. MANER:

14 Q. Right. So it's possible?

15 A. Uh-huh.

16 Q. Now, you're aware that House Bill 589 now
17 prohibits the counting of out-of-precinct ballots,
18 correct?

19 A. Out-of-precinct ballots to the extent that
20 you were not previously registered in your previous
21 precinct.

22 Q. And I believe you mentioned that that went
23 into effect January 1st, 2014?

24 A. Correct.

25 MR. MANER: Can we go ahead and mark this

EXAMINATION

1
2 BY MR. FARR:

3 Q. So, Mr. Dickerson, I'm Tom Farr, and I'm
4 one of the co-counsels for the Defendants.

5 What I've told everyone in this case is
6 that you know more about this than I do so if I don't
7 ask the question the right way, please let me know,
8 and I'll try to rephrase it.

9 A. Will do.

10 Q. Okay. Just talking about the subject we
11 just went over about the out-of-precinct voters.

12 A. Uh-huh.

13 Q. Do you have any knowledge whatsoever as to
14 why those voters didn't vote in their correct
15 precinct?

16 A. No, I do not.

17 Q. Have you talked to any of them?

18 A. No, I have not.

19 Q. Is it possible that they were taken by an
20 interest group to a wrong precinct?

21 A. That could happen, yes.

22 Q. And has that happened in Mecklenburg?

23 A. That has happened before in Mecklenburg
24 County.

25 Q. Okay. I wanted to ask you about

1 provisional ballots.

2 A. Sure.

3 Q. What sort of voting equipment do you use
4 in Mecklenburg County?

5 A. On election day and early voting, I use an
6 Ivotronic voting equipment. It's approved by the
7 State after the 2006, I think it was, ES&S, Election
8 Systems and Software, is the manufacturer. That's
9 for -- most of my voting is the Ivotronic.

10 We also use an optical scan ballot for our
11 mail-in ballots, for our provisional ballots and for
12 our curbside balloting. So it's all the same
13 software. It's just a different direct record,
14 electronic versus an optical scan.

15 Q. Okay. So for out-of-precinct voting, as
16 you have defined it in this case, what system do you
17 use for that?

18 A. I would use the optical scan for that.

19 Q. Okay. You made a comment about condensing
20 the early voting to 10 days from 17. I thought you
21 said that that provided more opportunity for voters?

22 A. I said it provided more access points is
23 the way I read it. Again, I look at things as I'm an
24 administrator. I want people to come out and vote
25 and vote -- if I'm voting early, I want them to vote

1 early.

2 So I'll sell the additional -- I'll --
3 I'll sell it as you have now increased access to
4 early voting for folks. You may have shortened their
5 days, but now I have to come up with 5 more sites
6 when I might have only had 15. So again, the glass
7 is half full to me.

8 Q. So, do you think that the location of the
9 early voting site has an impact on whether someone
10 actually does early voting?

11 A. It does to the extent of, if it's -- the
12 facility's large enough to accommodate folks. I
13 don't have -- I don't have real big facilities that I
14 can go to where I can put 50 or 60 voting panels at
15 one time. I'm lucky if I can get 10 to 20 voting
16 panels in the facility.

17 And if it's not on a -- on a major
18 thoroughfare, it can be -- it can be slower. Or if
19 it's a congested area, if it doesn't have parking,
20 that can -- that can create a problem.

21 I have a site downtown at the main branch
22 of my library, which I think might have five parking
23 spaces. But I know that's walk-up traffic so I go
24 with it that way. But yes, it can affect, to the
25 extent of where those sites are, how those folks will

1 vote.

2 Q. So what did you mean exactly by "more
3 access"?

4 A. More access meaning more places to go and
5 vote. So now instead of -- instead of just having 15
6 sites, you're going to have to increase that by
7 30 percent. You're going to give them 30 percent
8 more choices of a place to go vote at, being a --
9 being early voting and in a -- in a site that you
10 might not have usually opened in a nonpresidential
11 year.

12 So that's -- that's the more access that
13 they're going to get. They would have only had 15
14 places to go. Now they might have -- and, again,
15 this is all predicated on what my board decides
16 because that's my board's decision, not Michael's
17 decision.

18 But offer them 20 places to go so I can
19 meet my hours requirement. Now, they're going to
20 have to -- they're going to have five spots that they
21 wouldn't have had a choice of prior to.

22 Q. When's your board going to make that
23 decision?

24 A. We've got to make it by the end of July.
25 I think we have a July 29th board meeting.

1 Q. Okay.

2 A. And I hope to have it -- everything ready
3 for them by then.

4 Q. And when you identify an early voting
5 site, do you just have it for ten days or do you get
6 it -- say, this year --

7 A. Uh-huh.

8 Q. -- would you just have that space for ten
9 days or do you have to have that space for a few days
10 before voting starts?

11 A. Just one day before -- I deliver the
12 equipment the day before, secure it in the facility
13 and then my folks will set up. And I'm usually using
14 a part of the library, not the whole library.

15 Q. Okay. Tell me how -- how same-day
16 registration worked when that was being done in
17 previous elections.

18 A. Sure. It worked as such that a voter
19 would walk in, they would state their name and
20 address. And if I could not find them in the -- the
21 database, because it would be during early voting, I
22 would have my people attempt to see if it's a
23 different spelling on the name. It's a maiden name,
24 something like that.

25 If they did not have that, then what we

1 would do is make them fill out a voter registration
2 application on the spot. They would fill the
3 application out. My folks at the early voting
4 location would put the data in. And all of that
5 information -- then register that voter.

6 And they would need a form of
7 identification at that point in time, driver's
8 license or something. I think they used to call it a
9 Have-A ID and that was an identification that allowed
10 you to -- a proof of where you lived ID.

11 And then I would come back. I would have
12 that. The law stated I think that we had within
13 24 hours to have that data entered into our system at
14 the Board of Elections office and a voter card mailed
15 out to that voter. And we would have our staff do
16 that and put a voter card in the mail to the voters.

17 Q. When the -- when someone came to vote
18 during early voting, what type of voter would take
19 more time going through the process? Somebody who
20 was already on your poll book and who checked in and
21 was approved and voted or someone who did -- had to
22 do same-day registration?

23 A. Same-day registration would take much
24 longer.

25 Q. And do you -- have you ever been present

1 in a precinct when they did same-day registration?

2 A. I can't -- it would have been an early
3 voting location because I would not have done it in a
4 precinct.

5 Q. Right.

6 A. Quite possibly, I had been. But I
7 wouldn't have -- I wouldn't have taken notice of it.

8 Q. Do you have a range of how much time that
9 could take if, you know, short to longest for someone
10 to do same-day registration?

11 A. Sure. It could take, you know, a five- to
12 ten-minute where it may only take you a minute or two
13 to check in.

14 Q. Okay. And did you have employees or poll
15 workers dedicated only to doing same-day registration
16 or how did you set that up?

17 A. Pretty much, just that. We would have a
18 site coordinator or a poll worker that would actually
19 be responsible for doing those same-day registrations
20 for voters.

21 Q. Okay. And how many -- how many people in
22 a precinct or early voting site would you have doing
23 that?

24 A. Usually it was one dedicated. And so if
25 you had 25 sites, you would have 25 people out there

1 Department of Justice. I just had one question for
2 Mr. Dickerson, if that's okay.

3 EXAMINATION

4 BY MS. RYAN:

5 Q. Mr. Dickerson, I represent the United
6 States in this lawsuit. And a few minutes ago when
7 you were talking with Mr. Maner about the provisional
8 ballot process, you talked about what would have
9 happened if somebody came to the wrong precinct
10 before January 1st, 2014. And you said, "and now
11 that process will be different."

12 Could you walk me through what will happen
13 now, say, in November 2014 if a voter arrives at the
14 wrong -- at the -- at a precinct that is not his
15 assigned precinct?

16 A. Certainly. What I should say is -- is the
17 process for the voter will be the same. The process
18 on my end will be the difference. Whereas, I do not
19 have an option of approving or my board does not have
20 an option of approving that, we will recommend that
21 those ballots be denied if they're an out-of-precinct
22 voter not meeting the qualifications of the -- of the
23 Voter Information Verification Act.

24 Q. So a -- a voter who arrives at a precinct
25 that is not the voter's assigned precinct will still

1 be given a provisional ballot?

2 A. Right. There will be -- we never deny
3 anybody. Our goal is to always -- I mean, I've given
4 provisional ballots from truck drivers passing on
5 I-77 from Florida just because they wanted to vote.

6 Well, there's no way that I can count that
7 ballot for those folks, but we do tell our -- our
8 precinct officials to explain the situation and that
9 it's not their decision. It's a board's decision to
10 make at our Mecklenburg County Board of Elections
11 office and they'll be offered that provisional
12 process.

13 And -- and again, on the back end, that's
14 where I will -- that's where I'll have to recommend
15 that my board not count it.

16 Q. Okay. So let's -- just considering the
17 scenario of a voter who is actually registered in
18 Mecklenburg County --

19 A. Uh-huh.

20 Q. -- truck driver coming through from
21 Florida. But they come to the -- a precinct that's
22 not their assigned precinct, your poll workers will
23 offer them a provisional ballot. But then when it
24 comes time for the board to go through the back-end
25 process, is it right that you will recommend that

1 that ballot not be counted? Is that what you said
2 earlier?

3 A. Correct, that will be. What our poll
4 worker will originally do is say that they'll want to
5 go -- advise the voter that they will want to go to
6 their correct precinct to vote. And if the voter
7 refuses, then we'll offer them the provisional
8 ballot.

9 Q. But that provisional ballot will not be
10 counted?

11 A. According to the House Bill 589, no, it
12 will not.

13 MS. RYAN: Thank you. That was my only
14 question.

15 THE WITNESS: Sure.

16 MR. FARR: I have one more question.

17 FURTHER EXAMINATION

18 BY MR. FARR:

19 Q. I want to make sure I heard what you just
20 said. Did you -- did you not just say that when a
21 voter who lives in Mecklenburg County shows up at the
22 wrong precinct, the poll workers will check him on
23 the poll book?

24 A. Correct.

25 Q. And they'll determine if he was not in the

1 right precinct. Do they determine what his proper
2 precinct is?

3 A. We can, yes.

4 Q. And do the poll workers tell the person
5 where his proper precinct is and he should go vote
6 there?

7 A. They can tell them exactly where their
8 proper precinct is through our electronic poll book
9 that we use.

10 Q. And, in fact, isn't that what you tell
11 your poll workers to do?

12 A. Yes, sir.

13 MR. FARR: Okay. Thank you.

14 VIDEOGRAPHER: Is that it, Counselors?

15 COURT REPORTER: Does anyone want an
16 expedited transcript on this?

17 MR. ALLEN: Yes, everybody does.

18 COURT REPORTER: Everybody does.

19 People on the phone?

20 MR. ALLEN: Yes, they're going to want it,
21 too.

22 TELEPHONIC COUNSEL: Yes, please. Thank
23 you.

24 COURT REPORTER: Thank you.

25 VIDEOGRAPHER: One moment. Off the