

1 CAROL AICHELE, in her capacity *

2 as Secretary of the Commonwealth,*

3 Respondents *

4 * * * * *

5
6 BEFORE: HONORABLE ROBERT SIMPSON

7
8 HEARING: Wednesday, July 25, 2012
9 10:00 a.m.

10

11 LOCATION: PA Judicial Center
12 601 Commonwealth Avenue
13 Harrisburg, PA 17110

14

15 WITNESSES: Wilola Shinholster Lee, Viviette
16 Applewhite, Ana Gonzalez, Stanley
17 Garrett, Leila Stones, Nadine Marsh,
18 Veronica Ludt, Esquire

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P R O C E E D I N G S

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2 -----
3 MR. TURNER:

4 Commonwealth Court is now in session.
5 Honorable Robert E. Simpson presiding.

6 JUDGE SIMPSON:

7 Please sit down. Good morning, welcome
8 to the Courtroom 3002 in the Pennsylvania Judicial
9 Center. We are here today for the case of Applewhite
10 versus Commonwealth of Pennsylvania. This is a very,
11 very interesting challenge to Act 18. It's
12 challenged under the Pennsylvania State Constitution.
13 There are various factual issues that we'll be
14 addressing over the next several days of how this Act
15 will be implemented, how will it affect voters.
16 There's also an important fact --- there are a number
17 of important legal issues. One of the most important
18 is what level of scrutiny will the Court apply to
19 this new Act. And by level of scrutiny, I mean will
20 the Court's review be more robust or will it tend to
21 defer to the judgement of the legislature.

22 The particular vehicle which brings us
23 together today is Petitioners' request for a
24 preliminary injunction, and there are several
25 elements that the Petitioners will have to establish.

1 They will be the focus of my thinking and my
2 decision-making ultimately in this case.

3 There are six elements, and I invite
4 all of you to pay attention when you hear information
5 that may apply to any of these. First of all, the
6 relief must be necessary to prevent immediate and
7 irreparable harm that cannot be adequately
8 compensated by money damages. Two, a greater injury
9 will occur from refusing to grant the injunction than
10 from granting it. Three, the injunction will restore
11 the parties to their status quo as it existed before
12 the alleged wrongful conduct. Four, the Petitioner
13 is likely to prevail on the merits. And five, the
14 injunction is reasonably suited to abate the
15 offending activity. Six, the public interest will
16 not be harmed if the injunction is granted.

17 Let me try to outline some guidelines
18 for these proceedings and set some expectations.
19 Then I will allow the attorneys to bring to my
20 attention anything that they think needs to be
21 addressed before we move into the meat of the
22 hearing. First of all, our daily schedule, most
23 mornings we will start at nine o'clock. And I do
24 start on time. We will have a mid-morning break. I
25 can only sit here for an hour and a half or two

1 hours, so we're going to have a mid-morning break.
2 It will probably be about 30 minutes. If there are
3 members of the press here, it's designed to give you
4 an opportunity to get down to the media room and make
5 whatever contacts or communications you need to make.
6 For the rest of you, it will be enough time for you
7 to use the facilities. There's a men's room and
8 ladies' room on each floor. So we hope to be able to
9 accommodate everybody in that period of time.

10 We'll take --- I usually go to about
11 one o'clock before our lunch break. The lunch break
12 is about an hour, maybe an hour and a half, depending
13 on how worn out I am from the morning. We'll take a
14 mid-afternoon break as well and finish some days
15 around three o'clock. And I also committed the
16 attorneys to work several days later than that so
17 that we can finish this case in a timely matter.
18 Today, Monday, Wednesday and Friday will be days when
19 we may go beyond three o'clock or so.

20 I have a couple things that bug me, and
21 I want to tell you about them now so we don't have to
22 deal with them later on. I really do not like
23 ringing phones in the courtroom, so I'm hoping that
24 you have your phones off. If your phone rings, Mr.
25 Turner is going to escort you out of the courtroom,

1 and you can come back some other time, come back
2 later in the day, but nobody is going to be saving
3 your seat for you. So please turn your phones off.

4 The other thing that tends to distract
5 me is people coming and going through the doors. I
6 know that we may have more to this first day, so I'm
7 trying to work with you. I don't have any
8 restrictions on it other than my request that you use
9 some courtesy and common sense. It tends to prevent
10 me from focusing entirely on the witness who's on the
11 stand and we have important witnesses today. They
12 all deserve my full attention.

13 I issued a Decorum Order in an effort
14 to address some of my landlord's concerns. The
15 Administrative Office of Pennsylvania Courts is my
16 landlord, and they want to make sure that their
17 building wasn't being used in a manner that they
18 couldn't control. So we entered a Decorum Order.
19 The idea is this, members of the press who are here,
20 we want you to have the ability to contact whoever
21 you need to contact, but we don't want you to do it
22 in the courtroom. So we tried to set up a separate
23 facility for you in the courthouse to do that. I
24 will take breaks to enable you to do that during the
25 day. But please we don't want you doing it in the

1 courtroom. If we see you doing it in the courtroom
2 despite the Decorum Order, you get one warning.
3 We'll go from there. I don't really expect any of
4 that to happen, but I need to explain it to you ahead
5 of time. No cameras in the courthouse. Even the
6 lawyers' cameras outside can do whatever you want.
7 There is a live feed to Courtroom 3001 right next
8 door, so everybody who wants to can probably get in
9 here and watch it either in this courtroom or live
10 right next to us. I know there are some questions
11 about the Decorum Order. I'll entertain them when I
12 finish with my opening remarks.

13 What's going to happen in this case?
14 What's the decision horizon here? I spoke with the
15 attorneys --- some of the attorneys last week and
16 found out that there was a keen interest to resolve
17 the evidentiary portion of this matter by next
18 Friday. I'm going to start losing people to other
19 important scheduled events after next Friday. So
20 we're going to do everything we possibly can to get
21 this full case in by next Friday, including some days
22 going a little bit longer, and quite frankly,
23 whatever else we need to do to get it done.

24 After that, the attorneys have five
25 days to submit an additional briefing to me. They've

1 already submitted briefs to me. I'm already working
2 on it. We are well along in this process of thinking
3 about the law and analyzing it. But if there are ---
4 if there's a lot of new information when I get those
5 submissions five days after the evidence closes, it
6 will take me a few more days to digest that. So
7 we're really looking at a decision probably the week
8 starting Monday, August 13th. So mid-August I expect
9 to have a decision.

10 Please understand there will be a lot
11 of people that are very unhappy with the decision no
12 matter what I do. I understand that. Take heart I'm
13 not the last level of review here. The whole idea
14 was to tee this up for the Supreme Court to make a
15 decision well in advance of the election. So think
16 of me as the Supreme Court's Hearing Office.
17 Although I have to make a decision and do my best to
18 make a correct decision, ultimately the decision will
19 be made by the Supreme Court. And I'm expected to be
20 well in advance of the election. So that's the time
21 frame. I'm sort of a weigh station until we get to
22 the Supreme Court. The really smart people will make
23 the final decision in this case.

24 Exhibits, we have --- we're going to
25 have hundreds of exhibits, I believe. Under normal

1 circumstances once an exhibit is offered and received
2 into evidence, it's taken into custody by the court
3 reporter. I don't know the court reporter. She does
4 not have an ongoing relationship with the
5 Commonwealth Court, but she has been provided by the
6 Petitioners. So what we're going to do here with
7 exhibits is once they're received into evidence, I
8 will take them into custody. I'm going to have them
9 locked down in my personal chambers and they will be
10 filed with my decision sometime in mid-August. And
11 at that point, they will be available to everyone.
12 But once I get them, you can't see them. You can't
13 have them, they're going to be mine. And they're
14 going to be locked and secured. Before they're
15 offered into evidence, however, they are the parties'
16 exhibits, and the parties are free to show anybody
17 they want or also share copies. But once I get the
18 original exhibits, they're mine, and you can't have
19 them.

20 Sidebar conferences, I don't want any
21 sidebar conferences. We're going to do it out in the
22 open here.

23 Expectations. Counsel, this is a high
24 profile case. There's some emotion here. There's a
25 lot of anxiety here. Cases like this we have to

1 stand a little taller, we have to be a little calmer.
2 We have to preserve the dignity of the proceedings.
3 Now, everything I've seen leads me to believe that
4 will be exactly the case, but I --- it makes me feel
5 better to say it. So just bear with me for that.

6 Parties. Parties, you're not going to
7 see your lawyers jumping up and down and making super
8 impassioned pleas, and you're not going to see a lot
9 of that here, because I just told them not to do
10 that. But please understand, you are being well
11 represented by both sides. Each party will have a
12 vigorous representation here. And two, everybody
13 who's here, my job and your exception of me should be
14 to give the parties a full, fair opportunity to tell
15 their story. Now, if something happens during this
16 time that you don't feel that's the case, please you
17 need to tell me. You need to tell me when it's going
18 on or soon thereafter so I can deal with it. You
19 need to feel and your clients need to feel that you
20 had a full, fair opportunity in this case. That's my
21 job.

22 Okay. I've discussed how we're going
23 to deal with some press issues, when we're going ---
24 when you can anticipate a decision, how I expect
25 everybody to handle themselves while we're in here.

1 Do we have people in the overflow courtroom? Are
2 there people in there? How many do we have, a guess?
3 No guess. Mr. Mazin, if you could just stroll over
4 there and peek in the back and just tell me. I'm
5 trying to figure out how much room --- how much extra
6 room we may have when I am asked to set aside some
7 reserved seating here. So those are the comments I
8 have. Before we get started, is there anything for
9 the Petitioners?

10 ATTORNEY GERSCH:

11 David Gersch for the Petitioners. No,
12 Your Honor, I think everything is clear to us and
13 we're ready to go.

14 JUDGE SIMPSON:

15 And if you're like me, your over ready
16 to go. When we start --- I was ready yesterday. We
17 could have started this yesterday. I would have been
18 happy to do so. So I get it. You want to request
19 about some of your clients coming in and sitting
20 somewhere?

21 ATTORNEY GERSCH:

22 We did, Your Honor, but they are in the
23 courtroom. And when I do the introductions, I'll
24 identify them. And for now, we're set. And if we
25 have an issue for tomorrow, we'll raise it at the end

1 of the day.

2 JUDGE SIMPSON:

3 Okay. I suspect we'll have fewer
4 people tomorrow. It's not going to be much of an
5 issue. Today is the day. And there may be an issue
6 the last day, which would --- usually the openings
7 and the closings are the most important. Press
8 people today and next Friday find interesting, so I'm
9 going to set aside some time. We'll probably have
10 some interesting witnesses in between as well, but
11 those are the days that are --- where you can really
12 get your arms around the entire case and days to
13 come. So nothing for the Petitioners?

14 ATTORNEY GERSCH:

15 No, Your Honor.

16 JUDGE SIMPSON:

17 Okay. Anything for the Respondents?

18 ATTORNEY CAWLEY:

19 Your Honor, Counsel for Petitioners
20 raised before we got started here the issue of
21 sequestration of non-party witnesses when there's
22 testimony going on from other witnesses. Does Your
23 Honor have a preference on that practice?

24 JUDGE SIMPSON:

25 When a request is made, I tend to grant

1 it, but I don't --- I would not do it on my own
2 motion.

3 ATTORNEY CAWLEY:

4 Well, I feel that it's probably
5 appropriate. I have no objection to non-party
6 witnesses being present during the opening, but
7 during the testimony of other witnesses, I would ask
8 that they be sequestered.

9 JUDGE SIMPSON:

10 The Sequestration Order is --- request
11 is granted? Where do they go? You both have rooms.
12 Do you both have ---?

13 ATTORNEY GEFFEN:

14 Yes, we do. We have a conference room
15 --- one of the 3,000 conference rooms.

16 JUDGE SIMPSON:

17 Okay. And do you also have a room?

18 ATTORNEY CAWLEY:

19 My room is several blocks down the
20 street, but not one in the courthouse.

21 JUDGE SIMPSON:

22 But I thought we had two rooms
23 reserved?

24 ATTORNEY GERSCH:

25 We certainly have a room.

1 ATTORNEY CAWLEY:

2 I don't believe that I'll need one.

3 JUDGE SIMPSON:

4 Okay. All right. Is that a possible
5 place for your witnesses then?

6 ATTORNEY GERSCH:

7 Yes. Yes, Your Honor.

8 JUDGE SIMPSON:

9 Okay. And you have sufficient chairs
10 and facilities to accommodate them?

11 ATTORNEY GERSCH:

12 We have more than enough. The
13 Administrative Office has been very good to us.

14 JUDGE SIMPSON:

15 Good. Well, we try to be user friendly
16 when we're in the courthouse. Let me just address
17 the court reporter. Do you have any questions? When
18 you start taking this testimony, I'm going to move
19 right behind you so that I'm closer to the witnesses.
20 And you may fire when ready.

21 ATTORNEY GERSCH:

22 Thank you, Your Honor.

23 JUDGE SIMPSON:

24 By the way, I'm sorry, I signed a Pro
25 Hac Vice Order for Penda Hair here. Thank you.

1 ATTORNEY GERSCH:

2 Thank you, Your Honor. Your Honor,
3 Counsel, my name is David Gersch. I am with the Law
4 Firm of Arnold & Porter. And together with my
5 colleagues we represent the Petitioners in this case.
6 I'd like to introduce my colleagues. With me is Vic
7 Walczak with the American Civil Liberties Union in
8 Pennsylvania, Jennifer Clarke of the Public Interest
9 Law Center of Philadelphia, Marian Schneider of the
10 Advancement Project. We also have a number of our
11 younger colleagues who are with us. Some of them
12 will be taking part in this case. Ms. Dorian Hurley
13 from our firm, Dawn Hewett Yamane from our firm,
14 Michael Rubin and Rosemary Smith, all from Arnold &
15 Porter, and Ben Geffen from the Advancement Project,
16 Your Honor.

17 In addition, two of the Petitioners are
18 here. I'd like to identify them, Ms. Viviette
19 Applewhite in the wheelchair in front and Ms. Wilola
20 Shinholster Lee sitting next to Mr. Geffen.

21 JUDGE SIMPSON:

22 Welcome.

23 ATTORNEY GERSCH:

24 We also have two of the organizational
25 Plaintiffs here today. Ms. Olivia Thorne is here

1 from the League of Women Voters and Ms. Diane
2 Robertson is here from the NAACP. Thank you, Your
3 Honor.

4 Petitioner Viviette Applewhite is
5 entitled to vote under the plain and unambiguous
6 terms of the Pennsylvania constitution. She's
7 registered to vote. She has, in fact, voted
8 consistently since 1960.

9 JUDGE SIMPSON:

10 You may want to pull that in a little
11 bit.

12 ATTORNEY GERSCH:

13 Certainly, Your Honor. She marched
14 with Doctor King in the 1960s for civil rights and
15 the right to vote. But if the election were held now
16 and the provisions of the law, which were not set to
17 go into effect until September, but if the provisions
18 of the law were in effect today and the election were
19 held now, she could not vote. Mrs. Applewhite does
20 not have and has been unable to obtain the
21 identification required by the Photo ID Act in order
22 to exercise her fundamental right to vote.

23 Ms. Shinholster Lee is also qualified
24 to vote under the terms of the Pennsylvania
25 Constitution. She's also registered to vote. She's

1 also a longtime voter. She too if the election were
2 held now would not be able to vote because she
3 doesn't have the documents that the law requires.
4 You will hear from these Petitioners. And they are
5 not alone. You will hear from the other individual
6 Petitioners, and we have a number of third party
7 witnesses who stand in the same shoes, that one of
8 the essential points that we want to try and prove in
9 this case, and that we will prove, is that these
10 people are not unique in some way. They are not
11 unable to vote through some weird accident that
12 applies only to them, but rather they are typical of
13 the very large number of Pennsylvania citizens who
14 stand to lose their right to vote if this law goes
15 into effect.

16 Your Honor, the right to vote is in
17 many ways the nation's proudest boast. Government
18 said --- the folks in Philadelphia in 1776,
19 government derives its just powers from the consent
20 of the governed. The consent of the governed, that's
21 the right to vote. The Commonwealth's highest court
22 says that no right is more precious in a free country
23 than that of having your voice heard in the election.
24 The court says that's because all other rights are
25 preserved by the right to vote. And that's

1 particularly important you'll hear for people like
2 the Petitioners. These are not the people who sit at
3 the table of power. These are people who tend to be
4 disproportionately less well off, disproportionately
5 elderly, tend to be women, tend to be minorities.
6 These are the kinds of people who need to vote most
7 of all.

8 Yet, here we are after a century of
9 expanding the right to vote, the 19th Amendment was
10 passed early in the last century giving women the
11 right to vote. In the 1960s, there was the civil
12 rights legislation, which carried through on a
13 promise from after the Civil War to let
14 African-Americans vote. We amended the constitution
15 to let younger people vote. Groups like the League
16 of Women Voters, many groups are out there all the
17 time trying to register people. The direction of
18 history has always been in the expansion of the
19 franchise, and that's a great thing. Yet, today the
20 Commonwealth asks that we turn back the clock and we
21 make it harder to vote.

22 What is the justification that is so
23 compelling? What is the justification that is so
24 compelling that we must do that? You will hear the
25 Commonwealth say, and this is in their Interrogatory

1 Answers, which we'll mark --- you will hear the
2 Commonwealth say, well, we need to deter fraud, and
3 as a backup to that, we must ensure the integrity of
4 the electoral process. You will hear --- this trial
5 will prove the kind of fraud that the photo
6 identification requirement addresses, that kind of
7 fraud doesn't exist. We're going to prove that.

8 And as for the backup rationale, this
9 notion that you must protect the integrity of the
10 process, Your Honor, we'll show and I think it will
11 be evident that the integrity of the electoral
12 process is not enhanced by turning away people at the
13 ballot box, and especially not when there's no fraud.

14 Your Honor, our case is very
15 straightforward. What I'm going to do now is I'm
16 just going to outline the points I want to cover this
17 morning, and then I'll delve into it a little bit
18 deeper. Then I'll call our first witness. So what
19 we expect to prove in this trial --- and let me say
20 first, I'm going to address in my opening essentially
21 the factual part of the case. We are going to save
22 the law until the end. And when we come back, Mr.
23 Walczak will sum up and he'll address the law and
24 also how each of the facts we proved fits into the
25 rubric of what's required for a preliminary

1 injunction.

2 We expect to show in this trial that
3 the number of registered voters in Pennsylvania who
4 are impacted by this law is very, very substantial.
5 I'll get to the numbers in just a minute. We expect
6 to show that the PennDOT ID, which is the principal
7 identification under the law, that Pennsylvanians are
8 supposed to be able to get to vote, that's very hard
9 to get. There are real obstacles to get it. We will
10 also show in this trial that those obstacles that
11 people must jump through to get the PennDOT ID are,
12 in fact, wholly unnecessary for voting, that it is
13 --- it's a form of harassment. You don't really need
14 those things to identify voters at the polling place.

15 We will also show that the law creates
16 irrational decisions between similarly situated
17 persons. So for some voters, they can vote showing
18 very little to get the ID they need to vote. Other
19 voters, as I said, voters are going to need the
20 PennDOT ID, they will have to jump through hoops. We
21 will also address in this case the Commonwealth's
22 latest effort to defend the law that was announced
23 this week and that we previewed in our brief, which
24 is the new form of ID that will be issued by the
25 Department of State, and we will show in this trial

1 that that band aid approach that they have is not
2 going to be sufficient to address the magnitude of
3 the problem that they have created.

4 And finally, I will come back to the
5 point that I started off with, Your Honor, which is
6 we will show that the harm that is threatened by this
7 law cannot possibly be justified by the
8 justifications offered by the Commonwealth for fraud
9 and integrity of the elections.

10 So with that overview, Your Honor, I
11 want to turn to our first point, which are the
12 numbers, how many people are impacted? And Your
13 Honor, let me say when we listened to the components
14 of this law, when we listened to the components, one
15 might get the impression that everyone has a photo
16 ID. We've heard it in the legislature. We see it in
17 the ads. They say things like photo ID is everywhere
18 now. You need it to drive a car. You need it to get
19 on an airplane. You need it to go to the bank. You
20 need it to get prescription drugs and so on and so
21 forth. If you listen to those proponents, you would
22 have the impression everyone has photo ID. Nothing,
23 nothing, Your Honor, could be more wrong as I said at
24 the outset. That is essentially a point of proof we
25 wanted to offer.

1 Today, there are on the order of one
2 million or more registered voters in Pennsylvania who
3 do not have the identification necessary to vote
4 under the photo ID law, one million. It's a very,
5 very big number. And how will you know it --- how
6 will you know if it's the right number? Well, you'll
7 hear from the individual Petitioners, but of course,
8 that won't give you a sense of magnitude. We will
9 call Professor Matt Barreto. He's a political
10 scientist from the University of Washington, and this
11 is his specialty. His specialty is voter behavior.
12 And we asked him at our expense to conduct a survey
13 of 2,000 Pennsylvania voters. And Mr. Barreto has
14 determined how many people carry the kind of
15 identification that is necessary to vote under the
16 law, and the answer is going to be there are over a
17 million people --- a little over a million people,
18 registered voters who lack that kind of
19 identification. If you looked at the eligible
20 voters, not registered voters, the number would be
21 still higher.

22 Now, you will also note that the
23 numbers vary large from the Commonwealth's witnesses
24 and the Commonwealth's internal documents. Here's
25 what you'll hear. At the outset of this case, and in

1 the dates leading up to the law, the Commonwealth
2 used a figure of 89,000, the Commonwealth suggested
3 there were 89,000 people, voters that wouldn't have
4 the identification needed. Now, I wanted to stop and
5 observe, 89,000 is a big number. If 89,000 people
6 don't have the identification they need to vote under
7 this law, that's a big problem. But you're going to
8 hear from the author of the 89,000 people, you're
9 going to hear from the person who actually came up
10 with the number. And what you'll hear is they didn't
11 count, they didn't survey, this was a back of the
12 envelope calculation made under the pressure of time.
13 But since this case has started, the Commonwealth did
14 go back and they counted. I don't mean they counted
15 by hand. They used the computer. But they took the
16 list of registered voters and they said, as you might
17 logically expect, well, how many of them have PennDOT
18 IDs, where can we match a registered voter with a
19 PennDOT ID, comparing the two datas? And the result
20 of that process was that just short of 759,000
21 registered voters had no PennDOT ID. That's a big
22 number. That's a lot bigger than 89,000. But that's
23 not the end of the analysis. The Commonwealth
24 announced that publicly. What was less well
25 understood and we learned only in discovery, with

1 coming up with that figure, the Commonwealth ignored
2 that on top of the three quarters of a million
3 registered voters for whom they couldn't find a
4 PennDOT ID, there were another approaching 600,000,
5 I'll call it half million voters, half millions
6 voters for whom they could find a PennDOT ID, but it
7 had expired. And it had expired sufficiently long
8 ago that by the time of the election it will be
9 invalid, they cannot vote. So if you look at the
10 Commonwealth's analysis, they're up around 1.3
11 million registered voters who today do not have the
12 kind of ID that will let them vote come November.

13 Now, the Commonwealth is going to
14 observe, and they'll be correct in doing so, that the
15 PennDOT ID, which is what --- their analysis of the
16 Act, is not the only form of identification that you
17 can use to vote under the Act. At this point, Your
18 Honor, I'm going to put up a monostrip. Can Your
19 Honor see that from here?

20 JUDGE SIMPSON:

21 Yes, thank you.

22 ATTORNEY GERSCH:

23 So this demonstrative exhibit is taken
24 from the Department of State website. We've altered
25 it just a little bit in order to make sure it's

1 clear. We've shown it in advance to Mr. Cawley,
2 who's had no objection to it, and I'm just going to
3 run through it very quickly. But this is what you
4 can find on the PennDOT --- I'm sorry, on the
5 Department of State website. And this is what you
6 would hear about what IDs are acceptable.

7 So the first category is photo IDs
8 issued by the U.S. Government or the Commonwealth of
9 Pennsylvania. And I want to draw Your Honor's
10 attention, this is one of the things we moved from
11 somewhere else on your website. In the upper
12 right-hand corner, it says all photo IDs must contain
13 an expiration date that is current, unless otherwise
14 noted. That's actually one of the subtleties of the
15 law which has a big effect. There are number of IDs
16 which would otherwise be acceptable but are not
17 because they don't have an expiration date.

18 So, for example, today, today, I
19 believe it is the case that the Commonwealth IDs
20 don't have an expiration date. Now, the Department
21 of State has been urging that those be added, and my
22 understanding is they will be added, so people will
23 be able to vote with those IDs. But at the time of
24 the law there was a basic kind of identification that
25 most of us would think that's terrific for all sorts

1 of purposes, including voting. It wouldn't have been
2 good enough, it wouldn't have been good enough. So
3 that's a subtlety of the law. It seems like a small
4 thing, but it, in fact, has a big effect.

5 Next is, this is the most basic kind of
6 identification that's expected to be used in the
7 Pennsylvania, driver's license or non-driver's
8 license photo ID, then the valid U.S. passport,
9 military identification, employee ID issued by
10 Federal, Pennsylvania, Pennsylvania County or
11 Municipal Government. And that is college
12 identification, and let me stop there and say college
13 identification is another one, which at the time this
14 was passed typically had no expiration date to --- in
15 order that students may use college identification,
16 Department of State has told colleges they can attach
17 a sticker to the ID, a sticker that has the
18 expiration date on. Many colleges, I believe most
19 colleges are going to do that, but there are a number
20 of colleges that will not. And those students will
21 not be able to use their student ID simply because
22 they don't have the sticker on that. Under that
23 voter ID issued by Pennsylvania care facility,
24 including long-term facilities, assistive living
25 residences or personal care homes.

1 So there are all these forms of other
2 identification. But two things, one, we wondered so
3 how many of the kinds of people that don't have
4 PennDOT ID have this other kind --- have one of these
5 other forms? And to answer that question, we asked
6 Professor Barreto as part of his survey to determine
7 that. And you'll hear Professor Barreto. And I'll
8 let him speak for himself. It's a minute percentage,
9 a minute percentage. It's under one percent. Under
10 one percent of the folks who don't have PennDOT ID
11 have some other form of acceptable ID. So that's not
12 going to be the answer.

13 Now, I want to address why the PennDOT
14 ID is so important and why it's really supposed to be
15 the backbone here. And that is because while there's
16 all these other kinds of ID, you generally have to be
17 --- have a certain status to obtain them. So, for
18 example, if you are a college student, you would have
19 a college ID, but most people aren't in college. You
20 could have a military ID if you're in the military,
21 but most people aren't in the military. You can have
22 a nursing home ID, but most people aren't in nursing
23 homes. The one ID on that list that was supposed to
24 be universally available, and therefore, the key to
25 all this is the PennDOT ID. And that's why the

1 PennDOT ID is so important, and we're going to focus
2 on that today.

3 I'm going to put up another
4 demonstrative, and that will have the basic
5 requirements for the PennDOT ID. Can Your Honor see
6 this one as well?

7 JUDGE SIMPSON:

8 Yes, thank you.

9 ATTORNEY GERSCH:

10 All right. So there are many
11 exceptions --- this is the basic way in which you get
12 a PennDOT ID, and I just want to point Your Honor out
13 a couple of the important items on here. So it says
14 if a registered voter has never had a Pennsylvania
15 driver's license or a PennDOT photo ID, what do you
16 have to do, you have to visit PennDOT, you got to
17 complete the application. And here's what you need.
18 You need a Social Security card and one of the
19 following, either a Certificate of U.S. Citizenship,
20 Certificate of Naturalization or a birth certificate
21 with a raised seal. Now, the first two, Certificate
22 of U.S. Citizenship, Certificate of Naturalization,
23 those will be for people who are not native born.
24 For the native born, we're talking about a birth
25 certificate with a raised seal. And then you need

1 two proofs of residency. And I'll go through each of
2 these. That's what I want to do next is walk through
3 some of the issues with each of these and why it's
4 hard to get a PennDOT ID.

5 I'm going to start with --- I know it's
6 in the middle, but I'm going to start with a raised
7 seal birth certificate. And sure, that sounds
8 something like most people will have. And many
9 people do have that. But as it will turn out, and
10 you are going to hear from people, real live people
11 who don't have them. And it turns out a lot of
12 people don't have them. You'll hear from Professor
13 Barreto and he will talk about the large number of
14 people who don't have birth certificates. We're also
15 going to call two lawyers, Ms. Veronica Ludt and
16 Michele Levy. They work with homeless people and
17 poor people to try and get them identification like
18 birth certificates, and they're going to explain the
19 difficulties they encounter. And when the evidence
20 is in, I think Your Honor will know that getting a
21 raised seal birth certificate is a hard thing to do
22 for a lot of people. Not for everyone, but for a
23 significant number of people.

24 Now, I need to point out that since
25 this lawsuit has started, PennDOT has changed its

1 procedures somewhat. And if you don't have a raised
2 seal birth certificate, they have a procedure now
3 that they didn't have at the outset. They have a
4 procedure where if you are from Pennsylvania, when
5 you come in, they can check on a computer and they
6 can look on the computer and see whether there's a
7 birth record for you. There's some pluses to that,
8 there's some minus and there's some neutrals. I'm
9 going to start with the most obvious, and that is it
10 can only work --- it only applies if you're from
11 Pennsylvania --- if you're born in Pennsylvania. How
12 many people are not born in Pennsylvania, roughly 25
13 percent of the state wasn't born in Pennsylvania.
14 Just to give you a sense of the magnitude, that's
15 about three million people or roughly the size of
16 Iowa. There are 19 states that are fewer than three
17 million people. I don't say that three million
18 people don't have a raised seal birth certificate.
19 My point is there are a big chunk of people who are
20 not even addressed by that issue.

21 Now, for people who are from
22 Pennsylvania, the plus is you may be able to satisfy
23 this requirement through this procedure. There's a
24 minus, though. You got to come to PennDOT twice.
25 What's going to happen is you're going to come to

1 PennDOT the first time. You'll explain you don't
2 have a raised seal birth certificate, make an
3 application. They'll send you home and they'll do a
4 check, and it will take them ten days to do the
5 check. And then if they can find your birth record,
6 then they'll ask you to come back down. So there's a
7 plus to this, there's a minus and there's folks who
8 aren't addressed by it.

9 I want to talk now about the Social
10 Security card. Social Security card, again,
11 something a lot of people have, but it turns out a
12 number of people, a large number of people don't.
13 You'll hear about that from the same witnesses. I
14 just want to tell you a little bit about it. The
15 problem with the Social Security card, especially for
16 older people is, and including myself here, there was
17 a time when the card wasn't going to be used for
18 identification. For a long time we were very
19 uncomfortable as a nation with the idea that we have
20 numbers attached to us and the card wasn't to be
21 used, not for identification. You needed the number,
22 you needed a number to get your benefits, but people
23 didn't go around showing their cards. And so for
24 many people they have not hung onto their cards. So
25 then the question arises, well, what does it take to

1 get a replacement card. And if Your Honor were to go
2 --- and we'll have testimony. But if Your Honor were
3 to go to the website and say how do I get a
4 replacement Social Security card? The first thing
5 they would say is you need a raised seal birth
6 certificate. And that's part of the problem. So you
7 have a lot of people who don't have either of them.
8 And you'll hear about the numbers from Professor
9 Barreto and hear from the two lawyers about the
10 difficulties they have in working with people and
11 getting them ID.

12 The proofs of residence. Two proofs of
13 residence, that's much easier. What's acceptable is
14 lease agreements, utility bills, mortgage documents,
15 W-2s. Those are much easier. You will have some
16 people, particularly the homeless, for whom this is a
17 problem. They do have a procedure. You got to bring
18 someone from the homeless shelter with you to vouch
19 for you. So you can satisfy that, but you're going
20 to have to manage to get there and you're going to
21 have to manage to get there with someone else.

22 Now, one other item that you need to do
23 to get a PennDOT ID, and that is you got to get to
24 PennDOT. Now, that doesn't seem like a big deal,
25 most of us are drivers. But these people by

1 definition are not drivers. The whole point is they
2 don't have a driver's license, so they've got to get
3 to PennDOT. And again, that may not seem like a big
4 deal if one is a driver, because one goes to --- in
5 my state, it's the Department of Motor Vehicle, all
6 the time for one thing or another. But we typically
7 go for --- because we're being granted a privilege,
8 not a right. It's a privilege. We're going to drive
9 a 2,000 pound exclusively machine, vehicle, which for
10 most of us will be the single most dangerous consumer
11 product we ever get near. And the state has the
12 right to make us do some things before we get a
13 chance to have that privilege.

14 When we're talking about voting, this
15 is not a privilege. Voting is not a privilege.
16 Voting is a right, is a right. And as you hear the
17 evidence, we urge you to think about is all this
18 really necessary, do they really need all these
19 documents that they don't have? Do they really have
20 to go to PennDOT after all today? If you want to
21 vote, you go down the block or in your neighborhood
22 to a polling place, you sign in and you vote. It's a
23 very simple, very straightforward process that works
24 marvelously well. Why is it that we need all these
25 hoops?

1 And that's what I'm going to talk about
2 next, because the evidence in this case is going to
3 show that for voting you don't need to go through the
4 hoops. It's really not necessary. It's harassment.
5 What do I mean by that and how will you know it?
6 You'll know it two different ways. One, you're going
7 to hear the Commonwealth witnesses and they may not
8 want to admit this, but I submit that at the end of
9 the testimony they will all admit that the PennDOT ID
10 may be a great thing for driver's license or for
11 getting on an airplane, but you don't really need all
12 of that rigor to vote. It's not really necessary. I
13 think that will come from the PennDOT witnesses
14 themselves.

15 It will come from one other place. You
16 will know it from another source. And that's the
17 structure of the Act itself. And here's what I mean
18 about that. Under the Act, I recall that there are
19 other ways of satisfying the photo ID requirement.
20 So my favorite is the nursing home requirement. So
21 the nursing homes are entitled to issue their own ID.
22 And when they issue them, they're not required to get
23 a raised seal birth certificate. They're not
24 required to have a Social Security number. They can
25 issue them however they want. And the form that they

1 can use as the identification, Your Honor, will show
2 you that in this case, and I suspect that it will be
3 quite surprising because it's something that my
4 11-year-old could mock up in about five minutes.
5 It's got a place for the photograph. It's got a
6 place for the date --- date of birth. It's got a
7 place for your name. And they tell you you can put
8 in any expiration date you want because you need an
9 expiration date to comply with the law. And I don't
10 think it's too hard to see, so those folks don't have
11 to show anything. And some other folks, our clients,
12 they're going to be asked to do something, which for
13 a lot of people is quite hard. And when you see that
14 and you submit it, Your Honor, you'll know you don't
15 really need all that rigor to vote. You don't need
16 it. It may be good for driver's license, may be good
17 for getting on a plane, but no one expects that you
18 really need that to vote.

19 There's another little kicker to the
20 nursing home facility, and this really is the law.
21 The law is the nursing home facility can issue those
22 IDs to whomever they want. It's not limited to the
23 residents. The legal requirement is that you have an
24 ID issued by a nursing home, not that you be a
25 resident. Now, that's not the only irrational thing

1 in the law.

2 So I'll give you another example ---
3 and this is probably among the more widely used ones.
4 And that's absentee ballot. Under the law --- under
5 the photo ID law, you'll be able to vote absentee
6 without submitting a photo or a copy of the photo,
7 without having a raised seal birth certificate,
8 without having a Social Security card. Now, in some
9 states everyone can vote absentee. All you have to
10 do is say sufficiently advance --- you know what, I
11 don't want to go to the polls at lunchtime. There
12 are a number of states that do that. My state,
13 Maryland, does that. Pennsylvania does not.
14 Pennsylvania you really have to be absent. You
15 really have to be away from the polling place at the
16 time. And that's fine, that's the law. But the
17 people who vote absentee in Pennsylvania don't need
18 to satisfy all those rigors that our clients are
19 being asked to satisfy. So that's an irrational
20 distinction of the law.

21 And then another one, I'll give you an
22 example, that will also apply to a lot of people, is
23 if you got your driver's license a while back, so
24 some of us got our driver licenses earlier in life
25 and the requirements were not so strict. So you have

1 a whole bunch of people who --- sure, they can vote
2 and they can vote using their driver's license, but
3 they didn't need to produce a birth certificate --- a
4 raised seal birth certificate. They didn't need a
5 Social Security card. But today we're going to say
6 if you want to vote, no, no, you've got to produce
7 all those things. And if you can't, then you can't
8 vote.

9 So that's a second way in which we will
10 prove that you don't really need all the rigors of
11 the PennDOT ID. It's not critical for voting. I
12 want to say also there's a rational distinction that
13 will have a separate significance in this case
14 because it is a separate and independent basis for
15 prevailing. We have two theories in this case, one
16 is that there's a violation of fundamental rights
17 that are guaranteed by the constitution, the right to
18 vote being set out in the constitution and separately
19 secured free and equal clause. That's one theory.
20 And the second theory which is a fact that there are
21 rational distinctions in the law that violates the
22 free and equal clause. That's kind of the perception
23 of our argument. And so those distinctions that I
24 made for the nursing home folks, absentee folks on
25 the one hand, people have to get PennDOT on the

1 other, that would have two significances in this
2 case.

3 Your Honor, I want to turn now to the
4 item that's probably gotten the most news in the last
5 48 hours, which is the Commonwealth's announcement
6 that they have a new form of identification that they
7 will use. And I want to explain first what we will
8 show about where that comes from. You see, the
9 evidence will show in this case that at some point
10 after this lawsuit started the Commonwealth
11 grudgingly, I think, came to the understanding that
12 they weren't going to be able to sweep this case
13 under the rug, that there were too many people who
14 had a problem, there were too many people who were
15 going to be deterred. And they weren't going to be
16 able to say that our clients could vote. And you
17 will see the documents, and you will hear the
18 witnesses and you will see the lawyers, the
19 Commonwealth's lawyers got together and you'll see
20 documents that have almost all the lawyers on them,
21 and they urged that the Department of State and the
22 Department of Transportation get together and do
23 something. And what they decided to do was come up
24 with a new form of identification.

25 Now, this new form of identification is

1 not in existence today. It's not going to be in
2 existence tomorrow. And that raises a threshold
3 problem. There's a long --- a whole exhibition on
4 this process, it's a legal point, which you'll notice
5 there's a whole line of cases, and Your Honor
6 authored one of them, the TAP Pharmaceutical Products
7 case. There's a lot of cases which say you can't
8 avoid injunction by promising that in the future
9 you'll make it better. It's bad now, but we'll make
10 it better. When is this going to be available?

11 Well, the evidence will show that we were told as
12 recently as last week that it will be available at
13 the end of August.

14 Now, a couple things about --- first of
15 all, this law was passed in March. We brought the
16 suit in May. We're now about to be in August.
17 They're talking about maybe this thing will be
18 available at the end of August. Now, I don't know
19 whether it will be or not be, and I'm not casting any
20 aspersions on the Commonwealth, but I think all human
21 experience tells us that sometimes things don't get
22 done on time, sometimes government projects,
23 sometimes private sector projects. It's new. I
24 don't know when it will be available, but here's what
25 we do know. By the end of August, we'll be two

1 months from the election. We'll have spent a great
2 deal of time with people not getting the ID they
3 need. And that's the real problem. I guess the most
4 fundamental issue we have with the new ID, which is
5 --- as I talked about, the number of people who need
6 ID to vote is a big number, a number like a million,
7 many, many hundreds of thousands. And let me say
8 right here, Your Honor, especially on the preliminary
9 injunction, I don't think the Court has to resolve
10 the exact number of people, but I think by any
11 measure it will be a very large number of people.
12 And what will the evidence show about who they're
13 going to issue this new card to, well, the evidence
14 --- as late as last week, the evidence was they're
15 talking about issuing it to a very narrow group of
16 people numbered in the thousands, in the thousands.
17 So on the one hand we have a problem that's many
18 hundreds of thousands, maybe a million and we have a
19 card that they're talking about a couple thousands.
20 One doesn't need to be a great mathematician to see
21 what the issue is. There's a big problem. And
22 that's a problem on the merits. That's also a
23 problem on the irreparable harm. It's going to go to
24 all the issues in the case. And I should also add,
25 Your Honor, since it isn't even in existence we don't

1 know everything about it, but we'll address it as we
2 get into this case.

3 Your Honor, I want to come now back to
4 where I started, which is what is the rationale that
5 is so compelling that could justify putting a million
6 people in a position where they don't have the ID to
7 vote, what is it that's so compelling? And we say
8 compelling because the test that we believe applies
9 here is a strict stringent test, compelling state
10 interests and a long scenario and detail to be able
11 to achieve that. There's a slighter lesser --- and
12 that's applicable to fundamental rights. There's a
13 slightly lesser test that they're running that's
14 merely important --- we don't think the right to vote
15 is merely important. It is a fundamental right. But
16 even under the lesser test, you must have a real
17 substantial relationship between the objects to be
18 secure and the law.

19 In this case the Commonwealth is not
20 going to be able to show anything like that. And
21 here's the problem. The Commonwealth's first
22 argument is they need --- they need this law to deter
23 and detect fraud. And they're going to have a big
24 problem with that. Let's put up 237. Your Honor,
25 we'll put this up on the screen.

1 Your Honor, this is a stipulation we've
2 also provided to you separately so the Court may be
3 familiar with it already. This is a stipulation that
4 the state made, the Commonwealth made. And the
5 reason the Commonwealth made this stipulation, to
6 give you some background, is because it became clear
7 in the discovery that the kind of fraud that is
8 addressed by the photo ID law, the kind of fraud
9 doesn't exist. And here's the kind of fraud that's
10 addressed by the photo ID law. It's one kind of
11 fraud. It's called in-person voter fraud. Now, the
12 Court is probably familiar with various kinds of
13 election fraud. I'm sure the Court has heard
14 absentee ballot fraud and fraud in registration.
15 Those are not addressed by the requirement of a photo
16 ID. The requirement of a photo really only goes to
17 whether or not the person who presents themselves at
18 the poll is, in fact, that person or whether it's an
19 imposter.

20 When we got into discovery, the
21 Commonwealth was unable to find any evidence that
22 this actually happened and that's where the
23 stipulation came from. And so I'll just draw the
24 Court's attention to a couple of the paragraphs.
25 One, the stipulation is that there have been no

1 investigations or prosecutions of in-person voter
2 fraud in Pennsylvania. The parties have no direct
3 personal knowledge of any such investigations or
4 prosecutions in other states. So right at the outset
5 no one knows of anyone being pursued for this kind of
6 fraud.

7 The second paragraph sets forth that
8 the parties are not aware of any incidents of
9 in-person voter fraud in Pennsylvania, and there's no
10 evidence of it actually ever taking place here and do
11 not have any direct personal knowledge of in-person
12 fraud elsewhere.

13 Third, Respondents, Commonwealth will
14 not offer any evidence in this action that in-person
15 voter fraud has, in fact, occurred in Pennsylvania or
16 elsewhere. And I think we can skip down to five.
17 Respondents will not offer any evidence or argument
18 that in-person voter fraud is likely to occur in
19 November in the absence of photo ID law.

20 Your Honor, I've been practicing law
21 for 30 years and I've never had a concession so vast
22 as this on a key element of the case. The
23 Commonwealth is saying that on the basic purpose of
24 the law. The problem doesn't exist. We have a
25 solution in search of a problem. There is no fraud

1 to be deterred. The current system works just fine.

2 Your Honor, you take the stipulation,
3 as I said, it's enormously powerful. And we'll also
4 call Professor Lorraine Minnite from Rutgers.

5 Professor Minnite has literally written the book on
6 voter fraud, and she will testify on why in-person
7 voter fraud is so extremely rare and why that's the
8 one kind of fraud that is addressed by the law.

9 So the fraud rationale is not going to
10 do it. And what's going to happen, the Commonwealth
11 will be forced back to its backup rationale, which I
12 call fraud light. They say the law is going to
13 enhance the integrity of elections, make people more
14 confident in the election process. The reason I say
15 it's fraud light is it's like saying there is fraud,
16 but we can't prove it. But it will make people feel
17 better if we have this in place. Another way to look
18 at it is it's kind of like a pharmaceutical area.
19 The drug doesn't --- the pill doesn't do anything for
20 you, but you feel better just taking it. That's the
21 argument. And it's not a very good one.

22 And it's not a very good one for a
23 couple of reasons. First of all, it depends on
24 people not understanding the truth. And people
25 understand the true facts, which are that the present

1 system works fine and there's no additional fraud to
2 be deterred by showing an ID. It's not going to
3 serve the purpose of the law. It's not going to
4 serve the purpose of enhancing the integrity of
5 elections. And the second big problem, which is
6 enormous, is you have all these people, all these
7 people will lose or are threatened with losing their
8 franchise, the idea that people --- that turning away
9 people from the ballot box will enhance the integrity
10 of the elections is completely untenable. And I urge
11 Your Honor to do what economists call a thought
12 experiment, take this away from Pennsylvania. Let us
13 imagine for a moment that we are watching this unfold
14 somewhere else, one of the fledging democracies of
15 the world, may be one of the old Soviet Republics,
16 Russia or somewhere like that. And imagine that the
17 ruling party announces today we have a new reform,
18 ladies and gentlemen, we are implementing a new
19 reform. It's going to enhance the integrity of the
20 election process. We're very proud of it. And what
21 will be the result, the result will be one million of
22 our citizens who were able to vote yesterday are
23 going to have a really hard time voting tomorrow.
24 Your Honor, I submit that everyone in this entire
25 courtroom will know that it's not going to enhance

1 the integrity of the elections. It's going to
2 undermine the integrity of elections, so that
3 rationale is not going to work for the Commonwealth
4 either.

5 Your Honor, I should say one other
6 thing, which is that these goals, these goals of
7 deterring fraud and promoting the integrity of
8 elections, they at least have the superficial appeal
9 of being worthy on their face. As I said, it doesn't
10 really --- the law doesn't fit with them. The law
11 doesn't really accomplish that. And that's the
12 reason why the law cannot stand. But there's another
13 reason the law cannot stand, which is we believe the
14 evidence will show that at the end of the day these
15 lofty goals are not the real objectives of the law.
16 The Act, Act 18, the photo ID law is, in fact,
17 intended for something else. A lofty goal is a
18 pretext and we say that Your Honor will be able to
19 tell that, to infer that from the facts I talked
20 about, which are the enormity of the number of people
21 whose franchises are in danger. The fact that you
22 don't need all the stringent ID in order to vote, the
23 fact that there is no fraud, and all of these should
24 suggest the question, why is it so important that we
25 have a law like this. As trial lawyers we tell all

1 juries you don't check your common sense at the
2 courthouse. We tell them when you're back at the
3 jury room, your common sense will be one of the most
4 powerful things you have going for you.

5 Judge, all the evidence will make
6 common sense. What common sense says --- I should
7 add here, this law was passed on a party line.
8 Common sense says this law was passed for partisan
9 advantage. It was just promoting to the election.
10 Everyone is not for this. It's an enormously
11 controversial law. That's why this courtroom is
12 filled.

13 And if common sense doesn't do it for
14 us, we have one other item of evidence that we play
15 at some point. The house majority leader, State
16 Representative Mike Turzai, you will hear him say to
17 his Republican colleagues --- through great wild
18 applause, you will hear him boast what's this law
19 going to do. He's going to say this law is going to
20 get his guy, Governor Romney, elected president.
21 From that evidence, the Court will know the real
22 purpose of this law is not the lofty goals. The real
23 purpose of this law is for partisan advantage. And
24 as individuals, of course, everyone can pursue their
25 partisan advantage as much as they want, but that is

1 not under any circumstance a legitimate function,
2 much less a compelling state interest.

3 So Your Honor, I just want to wind up
4 here. That's the evidence we expect to prove.
5 That's the evidence we're going to put on. When we
6 conclude our case, Mr. Walczak will come up before
7 you and will review the evidence. He will review the
8 law. And he'll review why the Petitioners have
9 satisfied each of the requirements for the issuance
10 of a preliminary injunction. And at that point we
11 will ask the Court to adjoin a preliminary basis of
12 Act 18 from going into effect. Thank you for your
13 attention, Your Honor.

14 JUDGE SIMPSON:

15 Thank you. Are you ready?

16 ATTORNEY CAWLEY:

17 Yes, Your Honor.

18 JUDGE SIMPSON:

19 Please proceed.

20 ATTORNEY CAWLEY:

21 Good morning, Your Honor. I am Patrick
22 Cawley. I'm with the Office of Attorney General.
23 Along with my colleagues, Calvin Coons and Kevin
24 Schmidt, I represent the Respondents in this case.

25 Your Honor, this hearing is about the

1 prevalence of photo ID cards. In the last decade,
2 security has become a concern to every sector of this
3 country. Boarding a plane, conducting financial
4 transactions and entering government buildings
5 without a photo ID is virtually unthinkable in 2012.
6 You walk around this very city at lunchtime and you
7 see photo IDs dangling around people's necks or
8 clipped to their belts. Indeed even though the First
9 Amendment protects the right of everybody's access to
10 the courts, photo ID is demanded at the front door of
11 this and every courthouse. There have been few known
12 breeches of peace to justify this widespread art of
13 modern American life, but those incidents that we
14 know of were the hijacking of planes and gunfire in
15 courtrooms. These were powerful enough examples to
16 make photo ID a sensible and widely available tool to
17 prevent other such incidents from happening.

18 The evidence in this hearing will show
19 that many commonly available forms of photo ID will
20 be accepted at polling places and no one who is
21 interested in voting and eligible to vote will be
22 without photo ID on election day.

23 The Petitioners bear a significant
24 accountant burden to show why this common requirement
25 in modern life will cause them immediate harm. The

1 law is clear in Pennsylvania that there is a strong
2 presumption that a statute is constitutional. On top
3 of that legal hurdle presented by that presumption,
4 the preliminary injunction requested by the
5 Petitioners has been described by our courts as a,
6 quote, harsh and extraordinary remedy. Petitioners
7 may not rely on speculation about possible
8 disenfranchisement. They must provide concrete
9 evidence to support the conclusion that such harm is
10 likely. Given the options of photo ID that you will
11 hear about that will be available to voters, such
12 fears simply do not have a basis and widespread
13 disenfranchisement is not going to happen.

14 It is important to note the kind of
15 evidence that should be and will be presented to this
16 Court. We are not here to judge the wisdom of the
17 voter ID law. We are not here to determine whether
18 the voter ID law was necessary, and we are certainly
19 not here to determine whether people in this
20 Commonwealth have gone to the polls and impersonated
21 other voters, attempted to vote more than once or
22 committed other acts of voter fraud. Pennsylvania
23 law does not require the legislature to have proof
24 beyond a reasonable doubt that certain types of
25 conducts have occurred in order for legislation

1 addressing that conduct to be constitutional. I
2 stress the legislature because there was a reference
3 made during Mr. Gersch's opening to the Respondents
4 and their thoughts on the justification for the voter
5 ID law. It is the legislature that created this law
6 and not the Respondents.

7 If the legislature could have --- could
8 imagine a valid reason for a statute and the language
9 of that statute achieves the purpose in a rationale
10 way, the statute passes constitutional muster.
11 Towards that end, the parties have entered a
12 stipulation that was recently on the screen. That
13 stipulation says that there are no known instances to
14 the parties of voter impersonation in Pennsylvania.
15 That is not a concession, as Mr. Gersch characterized
16 it, that voter fraud has not happened. It's a
17 recognition that the legal standard governing these
18 proceedings simply does not require the legislature
19 to have proof of such incidents in order to enact a
20 voter ID law. That stipulation did not speak for the
21 legislature, it spoke for the parties of the case.
22 And the Respondents are the ones implementing the
23 statute. Namely, Secretary of the Commonwealth. As
24 we made clear in our briefs, we do not believe that
25 the Commonwealth of Pennsylvania as an entity or the

1 Governor are proper parties to this case.

2 That stipulation did not speak to what
3 the members of the legislature knew when they enacted
4 this voter ID law. It further reflects that voter
5 impersonation is the kind of conduct that will go
6 undetected if there is no tool, such as a photo ID to
7 detect it. In the same breath, the Petitioners say
8 that they wish to offer proof that voter fraud does
9 not exist. That was the subject of the stipulation.
10 That's not a factual issue that is before this Court,
11 and it's not even relevant to the standard of what
12 the legislature may have imagined to be a valid
13 reason for the law. Your Honor, we are not here to
14 reengage in the legislative process. We are here to
15 determine whether the Petitioners can satisfy a
16 demanding burden to show that great harm will result
17 from the voter ID law. The evidence will demonstrate
18 that the Petitioners cannot satisfy that burden.

19 In order to discuss the many options
20 available to those who seek a photo ID that may be
21 used to vote, we start with the language of the voter
22 ID law itself. The plain language of the statute
23 does not single out any group in terms of race or age
24 or gender or socioeconomic status. The statute does
25 not impose significant or unreasonable restrictions

1 on the types of photo ID that voters may use to
2 establish their identities at the polls. And Mr.
3 Gersch used this helpful demonstrative, the first
4 one, to show the various options that are available.
5 You will hear throughout this hearing about the
6 PennDOT products, the driver's license, the
7 non-driver photo ID. These are probably the most
8 widely used photo ID cards in Pennsylvania. And
9 naturally, they appear as options that are acceptable
10 photo ID for purposes of the voter ID law.

11 But the General Assembly allowed other
12 options. Any ID issued by the Commonwealth or the
13 federal government that has a current expiration date
14 will be acceptable for voting in the next election.
15 Government employees of the federal, state and local
16 governments may use their employee IDs as long as
17 they have a photo, name and an expiration date.
18 Military IDs and passports are widely used, and these
19 are acceptable forms of ID for establishing identity
20 at the polls. Your Honor, tens of thousands of
21 eligible voters in the state attend or work at a
22 college or university, and they may use their photo
23 IDs issued by those institutions as long as the ID
24 contains their name, a photo and an expiration date.

25 And finally, there are care facilities

1 that issue photo IDs, and if they don't already, as
2 is common in any industry, they may be responding to
3 a change in the law and providing those IDs. Mr.
4 Gersch referenced varying levels of security when you
5 look at this whole list. Of course, there are, but
6 it's not as vast as you might think. You will hear
7 the exception is that a care facility has privacy
8 concerns under HIPAA. They have concerns about
9 people coming just traipsing into their institution,
10 their facility. Similarly, colleges and universities
11 have had instances of violence on campus. They like
12 to keep tabs on who belongs there and who doesn't.
13 These institutions have abundant records and
14 knowledge about the people in their community, both
15 employees and residence. They have financial data.
16 They have health data. They have way more data than
17 PennDOT has with regard to the people they issue
18 driver's licenses to. In other words, they have an
19 interest in not just simply handing these out on the
20 street to anyone.

21 You will hear that if a voter appears
22 at a polling place without one of these forms of
23 photo ID that voter may still cast a provisional
24 ballot. Within six calendar days after the election,
25 the voter must deliver to the County Board of

1 Elections either by in-person or by mail or even by
2 e-mail their acceptable photo ID, and their vote will
3 count. You will hear evidence suggesting that it is
4 highly unlikely that any eligible voter will be
5 without a photo ID on election day. But if it
6 happens, that registered voter shows up without a
7 valid photo ID, they will immediately be able to
8 obtain a photo ID if they don't already have one of
9 the acceptable forms. And that way their provisional
10 ballot will be counted. So the provisional ballot
11 and the six calendar days that follow the election
12 are still very relevant in equipping people to vote.

13 You will hear that some of the
14 Petitioners may not be able to stand for long periods
15 of time, either at a PennDOT driver license center or
16 in the longer lines at a polling place during the
17 presidential election year. The simple act of
18 walking is difficult for some of them. If these
19 Petitioners have such difficulties and cannot attend
20 their polling places because of their disability or
21 because of an illness, the Election Code continues to
22 make clear, as it did before voter ID, that a
23 absentee ballot is available to these people. And no
24 photo ID is required for an absentee ballot, for
25 obvious reasons. There's no voter to compare the

1 photo ID to.

2 Much of the evidence in this hearing
3 will focus on the PennDOT products. Because their
4 products are used to access airports and other
5 secured facilities, PennDOT requires certain forms of
6 proof of identification before it issues a driver's
7 license or a non-driver photo ID. Two such forms, as
8 Mr. Gersch went through, are the birth certificate
9 and an actual Social Security card. You will hear
10 various numbers offered by the Petitioners and the
11 Respondents as to the number of people who already
12 have an acceptable PennDOT product that will enable
13 them to vote and correspondingly the number of people
14 who do not have a PennDOT product. The most credible
15 and reliable evidence will show that the number of
16 registered voters who actually possess a PennDOT
17 product today is very high. Obviously, I disagree
18 with the Petitioners' characterization of the numbers
19 as you heard in the previous opening statement.

20 The Respondents will ask this Court to
21 recognize, however, that whether the number of people
22 who, as we are sitting here today, currently lack an
23 acceptable photo ID is 100,000 or 500,000 out of the
24 eight million registered voters in Pennsylvania, that
25 is not the end of the analysis. Those who intend to

1 vote, but who fall into the small category of people
2 without an acceptable photo ID, have all of August,
3 all of September, all of October and the beginning of
4 November to obtain an acceptable photo ID. Whatever
5 evidence Petitioners provide about the perceived
6 difficulty of getting to a PennDOT driver's license
7 center must be considered in the context of how much
8 time voters will have to get there, indeed, how much
9 time they have had since the enactment of this law.

10 Even without the proofs of identity
11 required to obtain a PennDOT product, you will hear
12 that voters may obtain PennDOT products without a
13 birth certificate and without a Social Security card
14 if they ever in the last 22 years had a valid
15 driver's license or photo ID card. That 22-year
16 period is how far back the PennDOT database goes in
17 its current form. PennDOT Deputy Secretary Kurt
18 Myers will explain that such a voter with the
19 driver's license expired 5, 10, 20 years ago has
20 already been vetted for their security purposes and
21 they may simply appear, have their photo taken and be
22 issued a photo ID for voting purposes free of charge.
23 If a voter was born in Pennsylvania, but has never
24 had a PennDOT product, they need not make a separate
25 trip or pay a fee to get a birth certificate with a

1 raised seal. You will hear that PennDOT and the
2 Department of Health have established a direct link
3 between the two agencies to confirm the birth records
4 of that person free of charge, so that PennDOT can
5 then issue a photo ID free of charge.

6 Given these efforts by the agencies of
7 the Commonwealth to make acceptable photo IDs
8 available, the number of people who could claim to be
9 harmed by this law shrinks to a very small number.
10 But as the anecdotal evidence presented by the
11 Petitioners will demonstrate, there are inevitably
12 people who fall into the minute percentage of the
13 eight million registered voters who do not have and
14 cannot obtain a PennDOT product, a passport, a
15 government employee ID, a college or university ID or
16 a care facility ID. These people because of personal
17 circumstances may simply be unable to obtain a birth
18 certificate or verify their birth or their residence
19 in any way.

20 For these people, the Department of
21 State will be providing a photo ID that may be used
22 under the law for voting purposes. This is not a
23 promise of future conduct. This product is being
24 processed by a vendor as we sit here today and will
25 be made available by the end of August before the law

1 even takes effect. You will hear how the voters may
2 obtain this Department of State voter ID by providing
3 proof of their identity that is less stringent than
4 what is required to obtain a secure PennDOT product,
5 but which is still a reliable method of ensuring that
6 every voter is the person they purport to be. You
7 will hear that the process for obtaining this
8 Department of State voter ID at any PennDOT photo
9 license center requires only the Social Security
10 number, not the actual card, and certainly not a
11 birth certificate, as well as two proofs of residence
12 which can be as easy as providing utility bills, W-2s
13 and the forms that Mr. Gersch mentioned. A Social
14 Security number and some mail that shows their
15 address, and they will be able to get this card. It
16 will then be run through the facial recognition
17 software at PennDOT, again, another check on whether
18 they have another ID already, in the same name or a
19 different name, and these people will be able to
20 vote.

21 The Department of State will explain
22 how they have worked diligently to imagine every
23 scenario in which a person may have difficulty
24 proving their identity even for this Department of
25 State voter ID card. More important the Department

1 of State has found ways to resolve those difficulties
2 and put photo IDs into the hands of eligible voters.
3 A link has been established between the PennDOT
4 driver's license centers and the Department of State
5 to immediately confirm that a person is registered to
6 vote. A live conversation between the two agencies
7 will resolve any questions about the proof of
8 identity that the person is able to produce.

9 When we get down to this small portion
10 of the eight million registered voters in
11 Pennsylvania, it is important to note that one trip
12 to a PennDOT driver's license center will result in
13 that person getting a Department of State voter ID
14 free of charge. As I said, the witnesses will
15 testify that this will be available in a matter of
16 weeks. It's already been processed. It's been
17 through the procurement process. There is a vendor
18 who will be producing the physical cards, and they
19 will explain any sort of processes necessary to make
20 that card available to people going into the driver's
21 license centers. The Department of State voter ID
22 will be good for ten years. It will be available at
23 the end of August and all of September, all of
24 October and the beginning of November.

25 The Petitioners are asking this Court

1 to set aside the entire voter ID law. Indeed, one of
2 the prongs of the preliminary injunction analysis is
3 whether it is reasonably suited to achieve what they
4 are asking. The demanding burden placed on the
5 Petitioners will require more than speculation about
6 how certain circumstances may rise in which a person
7 will not be able to obtain photo ID.

8 Indeed, the testimony of officials from
9 the Department of State and PennDOT will make clear
10 to this Court that a great many hurdles have already
11 been removed from the path of voters who wish to
12 vote. Deputy Secretary Shannon Royer of the
13 Department of State will testify in response to that
14 pure speculation that there may be eligible voters
15 who will show up on election day unaware of the voter
16 ID law. Mr. Royer will testify about the extensive
17 public outreach and education already being
18 undertaken by the Department of State. He will
19 explain that this effort began in March when the law
20 was enacted and will continue and intensify
21 throughout all of August, all of September, all of
22 October and beginning of November. Mr. Royer will
23 testify about working with community organizations
24 representing African-Americans and Hispanic
25 Americans, college Democrats and college Republicans

1 and numerous other community groups who are spending
2 2012 in the productive pursuit of equipping
3 interested voters with photo ID. Mr. Royer will
4 testify about a massive media campaign that will fill
5 the airwaves, the internet and the print media with
6 information about the law and the forms of acceptable
7 photo ID. He will testify about how every other
8 Commonwealth agency is helping the Department of
9 State to carry the message about this law to the
10 individuals and communities that they serve.

11 We will certainly hear from Petitioners
12 anecdotal evidence of the troubles that some people
13 have experienced in obtaining photo ID to vote. The
14 organizational Petitioners and their Counsel have
15 gone to great lengths to select persons to illustrate
16 the worst case scenario. The whole record of this
17 hearing, however, will show the tremendous efforts by
18 Commonwealth agencies to mitigate these troubles and
19 to ensure that every eligible voter will be able to
20 obtain a photo ID.

21 At the close of this hearing, the
22 Respondents will ask this Court to recognize the
23 opportunities that voters in Pennsylvania have to
24 obtain photo ID. We note that and will argue at the
25 conclusion that in Pennsylvania we borrowed standard

1 from the federal courts when it comes to equal
2 protection analysis. The Supreme Court of the United
3 States has already recognized the valid and important
4 interest in combating voter fraud that every state
5 has. We will ask this Court to decide that in this
6 day and age nothing could be more rational than
7 requiring a photo ID when coming to the polls.

8 The Respondents will ask this Court to
9 decide with such widespread efforts by Commonwealth
10 agencies to place photo IDs into the hands of
11 eligible voters, the Petitioners cannot satisfy their
12 demanding burden. The Petitioners cannot show that
13 immediate harm will occur. They cannot show that
14 greater injury will result from refusing to grant the
15 injunction and they cannot show that their right to
16 relief in this case is clear and manifest. The
17 Respondents will ask this Court to deny Petitioners'
18 request for a preliminary injunction. Thank you,
19 Your Honor.

20 JUDGE SIMPSON:

21 Thank you. I would normally take a
22 break now, unless Petitioners have a request relating
23 to the availability of the witness.

24 ATTORNEY GERSCH:

25 This would be a fine time for a break,

1 Your Honor.

2 JUDGE SIMPSON:

3 Well, it's about 22 after 11:00, so
4 we'll take a 30-minute break at this point. Thank
5 you, gentlemen. That was well done.

6 MR. TURNER:

7 Commonwealth Court is now in recess.

8 RECESS TAKEN

9 MR. TURNER:

10 Ladies and gentlemen, the Commonwealth
11 Court is now in session.

12 JUDGE SIMPSON:

13 Okay. Thank you. It looks like you're
14 ready with your first witness. Please proceed.

15 ATTORNEY WALCZAK:

16 Thank you, Your Honor. Plaintiffs call
17 Wilola Lee.

18 -----

19 WILOLA SHINHOLSTER LEE, HAVING FIRST BEEN DULY
20 SWORN, TESTIFIED AS FOLLOWS:

21 -----

22 JUDGE SIMPSON:

23 Thank you. Please sit down.

24 DIRECT EXAMINATION

25 BY ATTORNEY WALCZAK:

1 Q. Good morning.

2 A. Good morning.

3 Q. There's some water there. I don't know if you
4 want to pour yourself a glass of water.

5 A. I'm fine.

6 Q. Could you please state your name?

7 A. Wilola Shinholster Lee.

8 Q. And where do you live, Ms. Lee?

9 A. Philadelphia, Pennsylvania.

10 Q. When were you born?

11 A. June 27th, 1952.

12 Q. Where were you born?

13 A. In McIntyre, Georgia.

14 Q. In Georgia?

15 A. Yes.

16 Q. Tell us a little bit about your childhood. At
17 some point you came to Pennsylvania?

18 A. Yes. I came to Philadelphia in 1957 with my
19 grandmother, came from Georgia.

20 Q. So how old were you when you came?

21 A. Five.

22 Q. And have you been in Pennsylvania since then?

23 A. Yes.

24 Q. And tell us a little bit about your education.

25 A. I went to the Philadelphia public schools, went

1 to elementary school all the way up to the tenth
2 grade and then I dropped out.

3 Q. So you did not graduate from high school?

4 A. No.

5 Q. Now, at some point did you get married?

6 A. Yes.

7 Q. How old were you?

8 A. Sixteen (16).

9 Q. And who's the lucky guy?

10 A. Richard Dennis Lee.

11 Q. And are you still married?

12 A. No, he's deceased.

13 Q. Did you have children?

14 A. Yes.

15 Q. How many children?

16 A. Two children.

17 Q. And just tell us a very little bit about them.

18 A. I have a son that's 44 and I have a daughter
19 that's 42.

20 Q. And what do they do?

21 A. My son is a DHS worker. Before he was a
22 previous principal in one of the schools in New
23 Jersey. And my daughter works for Blue Cross and
24 Blue Shield.

25 Q. And you have grandchildren?

1 A. Yes, I have four grandchildren.

2 Q. Can you tell us just a little bit about your
3 work history?

4 A. I've had numerous jobs, but the main jobs I had
5 when I worked for the Board of Education.

6 Q. What year was that?

7 A. I worked in 1974.

8 Q. And is that in the City of Philadelphia?

9 A. City of Philadelphia, yes.

10 Q. And what did you do with them?

11 A. I worked with special ed children and worked in
12 the cafeteria.

13 Q. Any other jobs that you've had?

14 A. Yes, I did security work for General Security.

15 Q. Did you do any work with senior citizens?

16 A. Yes, I've done CNA work.

17 Q. And what's CNA?

18 A. CNA is a certified nursing assistant.

19 Q. And are you working presently?

20 A. No, not now.

21 Q. What's your income?

22 A. Because I'm on disability.

23 Q. So you're on fixed income now?

24 A. Yes.

25 Q. And what kind of place do you live in?

1 A. I live in the Germantown area.

2 Q. Do you have your own house?

3 A. No, I rent.

4 Q. You rent?

5 A. Yes. Yes.

6 Q. Are you a registered voter?

7 A. Yes.

8 Q. And how long have you been voting?

9 A. Ever since I was 18.

10 Q. And how often do you vote?

11 A. Every election. The primary, the presidential,
12 I have not missed an election yet.

13 Q. Since you started voting?

14 A. Yes.

15 Q. Voting important to you?

16 A. Yes, very important to me.

17 Q. Why is it important?

18 A. Because it's --- a lot of things are just not
19 fair or whatever, and I just feel as though that ---
20 so my voice can be heard. That's why it's so
21 important, so I can be heard.

22 Q. When's the last election you voted in?

23 A. In April.

24 Q. So you voted in the primary?

25 A. Yes, the primary election.

1 Q. Now, when you went to vote, did anybody ask you
2 for ID?

3 A. No.

4 Q. Anybody talk to you about ID?

5 A. No.

6 Q. See any signs at the polls saying that you're
7 going to need ID in November?

8 A. No.

9 Q. Nobody said a word to you about ID?

10 A. No, no ID.

11 Q. Have you ever had to show ID when you voted?

12 A. No.

13 Q. Have you been politically active in your life?

14 A. Yes.

15 Q. Tell us a little bit about that.

16 A. I have worked on the polls for certain ---
17 certain elections, and also one year I was a machine
18 operator.

19 Q. And do you want to vote in November?

20 A. Yes.

21 Q. Is this an important election for you?

22 A. Yes, very important.

23 Q. I want to talk to you about your IDs. Do you
24 have a photo ID?

25 A. No. No.

1 Q. You have some IDs with photos?

2 A. Yes, I have some IDs.

3 Q. As far as you know, do you have a photo ID that
4 would be acceptable for you to vote in November?

5 A. No.

6 Q. Have you ever had a driver's license?

7 A. No.

8 Q. You've never driven?

9 A. No.

10 Q. Have you ever had any kind of PennDOT ID?

11 A. No.

12 ATTORNEY WALCZAK:

13 I'd like to display Plaintiffs' Exhibit
14 225. It's the two --- Patrick, I have Bates 100 and
15 Bates 117.

16 BY ATTORNEY WALCZAK:

17 Q. I'll show you what's been marked as Plaintiffs'
18 Exhibit 225. And it should be --- is it showing on
19 that monitor there?

20 A. Yes.

21 Q. Okay. You can see that? Let's go back to the
22 previous page. Now, it's a little bit hard to see on
23 that monitor. Are these identification cards that
24 you presently have in your possession?

25 A. Yes.

1 Q. And do they both have a photograph on them?

2 A. Yes.

3 Q. Okay. And in the middle picture there where
4 it's kind of dark and black, do you remember what
5 that ID looks like?

6 A. Yes.

7 Q. Does that ID have a clear photograph of you in
8 it?

9 A. Yes.

10 Q. It does, okay. Let's pull it back out. All
11 right. Let's start with the bottom. What is that
12 card on the bottom of the exhibit?

13 A. That's my voters registration card.

14 Q. That shows that you registered to vote?

15 A. Yes.

16 Q. Okay. Let's go to the top ID. What is that ID?

17 A. That's a welfare photo ID.

18 Q. Okay. And when you say welfare, who issued that
19 card?

20 A. The Department of Public Welfare.

21 Q. That's by the Commonwealth of Pennsylvania?

22 A. Yes.

23 Q. And when was that card issued?

24 A. I really can't remember. It's been so many
25 years.

1 Q. Is it more than ten years?

2 A. More than ten years.

3 Q. So is this card current?

4 A. No.

5 Q. Is this a card that you're able to use to get
6 benefits?

7 A. No.

8 Q. No? So it's an outdated card?

9 A. Yes, it's outdated.

10 Q. Let's look at the next ID. Who issued this ID,
11 do you know?

12 A. The Board of Education.

13 Q. And which Board of Education?

14 A. Philadelphia Board of Education.

15 Q. And so what is this card?

16 A. This was the photo ID to verify who I was to the
17 School Board.

18 Q. And when was this issued?

19 A. In '97.

20 Q. Is there any kind of expiration date on there?

21 A. No.

22 Q. Is it current?

23 A. No.

24 Q. When's the last time you worked for the School
25 Board?

1 A. I left the School Board in '99.

2 Q. Okay. Let's go to the next page of the exhibit.
3 Can you shrink that a little bit? I'll show you the
4 second page of this exhibit, and there's eight more
5 identification cards. Do you recognize these
6 cards ---

7 A. Yes.

8 Q. --- as yours?

9 A. Yes.

10 Q. Okay. And I think there's some duplication
11 here, but the one on the top left, is that your voter
12 registration card?

13 A. Yes.

14 Q. Okay. And let's go down. The one below that is
15 that the school district card that we just looked at?

16 A. Yes.

17 Q. Okay. All right.

18 ATTORNEY WALCZAK:

19 Kelby, if you can blow up that third
20 one down.

21 BY ATTORNEY WALCZAK:

22 Q. Let's take a look at that. That looks like a
23 photo ID. What is this identification?

24 A. This is a personal identification card that I
25 had obtained from the check cashing place.

1 Q. So is this issued by a government agency?

2 A. No.

3 Q. And why did you get this?

4 A. In order for me to cash my checks when I was
5 working for the Board.

6 Q. Do you see an expiration date on that?

7 A. No.

8 Q. Okay. Let's look at the next one down. What's
9 that ID?

10 A. That's my medical coverage, Keystone Mercy.

11 Q. And that doesn't have a picture on it?

12 A. No.

13 Q. Okay. Let's go to the top of the next column.
14 Is that the same card or a different card?

15 A. That's the same card.

16 Q. That's the same card. All right.

17 A. Yes.

18 Q. Now, let's go down one more. What's that?

19 A. That's my Access card, Pennsylvania Access Card
20 from Philadelphia.

21 Q. And what does that do?

22 A. I use that card as part of my medical coverage
23 and also foods stamps.

24 Q. So is that a card that replaced the Department
25 of Welfare photo ID?

1 A. Yes.

2 Q. Okay. So that's what they use today?

3 A. Yes.

4 Q. So that's the card that gets you whatever
5 benefits you get ---

6 A. Yes.

7 Q. --- from the Commonwealth of Pennsylvania?

8 A. Yes.

9 Q. Okay. Let's go down. And that one's pretty
10 obvious. What's that?

11 A. My Social Security card.

12 Q. And is that an official card that ---?

13 A. Yes.

14 Q. That's just a photocopy. Okay. So you have
15 your Social Security card?

16 A. Yes.

17 Q. Let's go down one. The last card, what's that?

18 A. That's for the Free Library of Philadelphia.

19 Q. Okay. No picture on that?

20 A. No picture on that, no.

21 Q. Do you have any other identification cards?

22 A. No.

23 Q. That's the sum total.

24 A. Uh-huh (yes).

25 Q. Now, let me ask you this. Do you have proof of

1 residency?

2 A. Yes.

3 Q. So do you have two proofs of residency?

4 A. Yes.

5 Q. All right. So that's not a problem?

6 A. (Indicating no).

7 Q. All right. Have you been trying to get a
8 PennDOT photo ID for a while?

9 A. Yes.

10 Q. Okay. When did you start trying to get a
11 PennDOT photo ID?

12 A. Now, it's been like over 12 years.

13 Q. You've been trying for 12 years?

14 A. Yes.

15 Q. And so what happened when you first tried?

16 A. They denied me because they said that the
17 documents that I had wasn't good enough.

18 Q. And did they say you needed any particular
19 document?

20 A. Yes, I needed my birth certificate.

21 Q. And so have you been trying to get your birth
22 certificate?

23 A. Yes.

24 Q. And how have you been doing that? What have you
25 been doing?

1 A. I've written to Georgia to try to obtain a birth
2 certificate. They said they couldn't find me. I
3 wasn't on file. Then I asked for about the delayed
4 birth certificate, come to find out that it was just
5 an application. So then they sent that back to me,
6 but at the same time there wasn't a seal on it, so it
7 wasn't accurate at all.

8 Q. All right. Let me just stop you there.

9 ATTORNEY WALCZAK:

10 Let's put up --- Patrick, this is part
11 of still Exhibit 225, but it's Bates 89.

12 BY ATTORNEY WALCZAK:

13 Q. And I'll show you part of Exhibit 225, Bates
14 stamped 89. Do you recognize this document?

15 A. Yes.

16 Q. What is this?

17 A. This is the certified letter that I had received
18 that said I was not found on file.

19 Q. So this is from the State of Georgia?

20 A. Yes.

21 Q. And it says that there's no record --- they have
22 no record of your birth?

23 A. Right.

24 Q. And when did you get this?

25 A. I think this was in either '09 or '10.

1 Q. 2009?

2 A. I think it was 2010.

3 Q. And did you give up after you got this from ---?

4 A. No. No.

5 Q. Okay. And did you seek out a lawyer?

6 A. No. I mean, yes, I did. I went to Face to

7 Face. Yes, I did.

8 Q. What is Face to Face?

9 A. That's an organization --- a nonprofit
10 organization to help people to obtain their birth
11 certificates.

12 Q. And have you been working with a lawyer or
13 lawyers at Face to Face?

14 A. Yes, I have.

15 Q. And is there one particular lawyer that you
16 worked with?

17 A. Yes.

18 Q. And who's that? Do you know her name?

19 A. Sara. One of them.

20 Q. Niki?

21 A. Niki.

22 Q. Is it Veronica Ludt, is that the person?

23 A. Yes.

24 Q. Okay. And she's the lawyer who's been helping
25 you?

1 A. Yes.

2 Q. Okay. We'll have her testify later, so she'll
3 talk about what she's been doing. Do you understand
4 what it is she's doing now to try to get you
5 something like a birth certificate?

6 A. Yes.

7 Q. And what's she doing?

8 A. She'd sending different documents to Atlanta,
9 but she explained to me and --- they're just working
10 on to try to obtain a birth certificate.

11 Q. And do you know when you're going to get it?

12 A. No.

13 Q. And have you had to spend any money in trying to
14 get this birth certificate?

15 A. Yes.

16 Q. And tell us --- tell me a little bit about money
17 you had to spend.

18 A. Yes. I believe I have spent over \$200 trying to
19 obtain a birth certificate.

20 Q. What kind of things have you had to pay for?

21 A. I had to pay to see if they can find my birth
22 certificate. And that's when I got the letters back
23 they keep on checking --- sending me the same thing,
24 it can't be found.

25 Q. So you've gotten more than just this one letter

1 saying you don't have a birth certificate?

2 A. Sure. Yes.

3 Q. And you've had to pay postage?

4 A. Yes.

5 Q. And fees?

6 A. Yes.

7 Q. Is there any reason you can't get to the polls
8 on election day?

9 A. There's no reason I can't get there.

10 Q. So you can't --- you don't vote absentee?

11 A. No.

12 Q. You go?

13 A. I go.

14 Q. How far is the polling place away from you?

15 A. A block and a half.

16 Q. Now, at the outset of your testimony you
17 mentioned that you came to Pennsylvania with your
18 grandmother?

19 A. Yes.

20 Q. Now, is your grandmother still alive?

21 A. Yes, she is.

22 Q. How old is she?

23 A. She's 98.

24 Q. Where does she live?

25 A. She lives in Philadelphia.

1 Q. And she lives in a nursing home?

2 A. No, she lives in a private home.

3 Q. She lives in her own home?

4 A. Yes.

5 Q. Does she live with anybody?

6 A. She has the CNAs come in, and we take turns.

7 Someone stays with her all the time.

8 Q. Does she have a photo ID?

9 A. No.

10 Q. Has she ever had a driver's license?

11 A. No.

12 Q. She ever had any kind of PennDOT ID?

13 A. No.

14 Q. Are you aware that she has any kind of photo ID
15 at this point?

16 A. No.

17 Q. Ms. Lee, what do you hope to get out of this
18 lawsuit? What is it you're looking for?

19 A. I'm looking to get my photo ID and to get my
20 birth certificate.

21 Q. Why do you need those?

22 A. Because it's stopping me from doing a lot of
23 things. I like to travel. I can't open my own bank
24 account. Certain things I just can't do.

25 Q. And is voting part of that?

1 A. Yes.

2 Q. Is it important for just you to be able to vote?

3 A. No, I think it's important for the majority ---
4 everyone to be able to vote in an election.

5 ATTORNEY WALCZAK:

6 I have no further questions.

7 JUDGE SIMPSON:

8 Counsel, will you take the
9 demonstrative down, please, so that I can see the
10 courtroom? Thank you. You may inquire.

11 ATTORNEY SCHMIDT:

12 Thank you, Your Honor.

13 CROSS EXAMINATION

14 BY ATTORNEY SCHMIDT:

15 Q. Good afternoon, Ms. Lee.

16 A. Good afternoon.

17 Q. Thanks for coming in today. I just have a few
18 follow-up questions. As you know, I represent the
19 Commonwealth in this action. And as we saw on the
20 previous exhibit there, you do have a valid Social
21 Security card; is that correct?

22 A. Yes.

23 Q. Okay. And is it your understanding that the
24 only document you don't have in order to get a
25 PennDOT identification card --- photo identification

1 card to vote is a valid birth certificate?

2 A. Yes.

3 Q. Okay. And at one point you did have a valid
4 birth certificate; is that correct, ma'am?

5 A. Correct.

6 Q. Okay. And at some point you lost it in a fire;
7 is that correct, ma'am?

8 A. Yes.

9 Q. And that was a valid birth certificate issued by
10 the State of Georgia?

11 A. Yes.

12 Q. Okay. And now you've been making attempts to
13 get another copy or a new version of that Georgia
14 birth certificate; is that correct, ma'am?

15 A. Correct.

16 Q. And you're doing that with the nonprofit
17 organization Face to Face; is that correct?

18 A. Correct.

19 Q. And with their attorneys there; is that correct?

20 A. Yes.

21 Q. Have you paid those attorneys at Face to Face
22 any money for their assistance there, ma'am?

23 A. No.

24 Q. Okay. At some point you became aware of Act 18
25 of 2012, which now requires you to provide photo

1 identification to vote in November; is that correct,
2 ma'am?

3 A. Correct.

4 Q. And you became aware through some literature you
5 saw being passed around your neighborhood; is that
6 correct, ma'am?

7 A. No.

8 Q. How did you become aware, ma'am?

9 A. From advertisement on television and from my
10 lawyer.

11 Q. Say that again, ma'am.

12 A. Advertisement on television and from the lawyer.

13 Q. The lawyers at Face to Face, ma'am; is that
14 correct?

15 A. Yes.

16 Q. And at some point after finding this out, you
17 went to Face to Face and that's how you got involved
18 in this lawsuit; is that correct, ma'am?

19 A. Yes.

20 Q. Okay. At any point since you found out about
21 the photo ID law have you gone to a PennDOT driver's
22 licensing center to attempt to get a photo
23 identification card?

24 A. Yes.

25 Q. Okay. When did you do that, ma'am?

1 A. Last year. But I was trying to obtain it before
2 then.

3 Q. Okay. So it's your testimony that you went last
4 year, ma'am; is that correct?

5 A. Yes.

6 Q. Okay. But you haven't gone since March of 2012;
7 is that correct, ma'am?

8 A. Correct.

9 Q. Okay. Ma'am, do you have any problem traveling
10 in the City of Philadelphia?

11 A. No.

12 Q. Okay. And you use public transportation; is
13 that correct?

14 A. Yes.

15 Q. Now, you also said that voting is very important
16 to you; is that correct, ma'am?

17 A. Yes, it is.

18 Q. Okay. So if voting is very important to you, I
19 assume that you will be willing to go to a PennDOT
20 driver's licensing center to get a photo ID to vote;
21 is that correct, ma'am?

22 A. Correct.

23 Q. Ma'am, earlier you said in your testimony that
24 you're on a fixed income; is that correct?

25 A. Correct.

1 Q. Okay. And you receive disability benefits; is
2 that correct?

3 A. Yes. Correct.

4 Q. Do you consider yourself indigent, ma'am?

5 A. Excuse me?

6 Q. Do you consider yourself indigent?

7 A. Yes.

8 Q. Okay. And just to double back, ma'am. Again,
9 it's your testimony today that the only impediment to
10 you obtaining a valid PennDOT photo ID card to vote
11 in November is your lack of a Georgia birth
12 certificate; is that correct?

13 A. Correct.

14 ATTORNEY SCHMIDT:

15 I have nothing further, Your Honor.

16 ATTORNEY WALCZAK:

17 We have nothing further, Your Honor.

18 JUDGE SIMPSON:

19 You may step down. Thank you.

20 ATTORNEY WALCZAK:

21 Your Honor, we'd move the two exhibits
22 --- or the three pages of exhibits into evidence.

23 JUDGE SIMPSON:

24 Okay. I only got one exhibit, 225.

25 ATTORNEY WALCZAK:

1 Yeah, that's --- I'm not sure how we
2 want to do this. Maybe we could do it 225 sub and
3 then the Bates numbers or --- unless ---. I guess,
4 maybe now is an opportune time to discuss how Your
5 Honor would prefer us to mark exhibits. Because we
6 could just start --- we could mark them and move them
7 into evidence as Exhibits One, Two and Three and do
8 it sequentially, or just move them in based on ---.

9 JUDGE SIMPSON:

10 What's going to work better for me if
11 we do this in bulk at the end of a morning session or
12 the end of the day. And then we don't have to tie up
13 the witnesses. It's just sort of a lawyer and judge
14 work. So I thought these were being premarked.

15 ATTORNEY WALCZAK:

16 They are premarked, but some of them
17 are in bulk. We're using portions of those, so ---.

18 JUDGE SIMPSON:

19 All right. Would you describe for me
20 what --- the exhibit I just saw?

21 ATTORNEY WALCZAK:

22 The exhibit, there's --- you mean what
23 the totality of that exhibit ---?

24 JUDGE SIMPSON:

25 Well, let's start with the numbers. Is

1 there something more than 225?

2 ATTORNEY WALCZAK:

3 There's 225, but there's probably about
4 25 pages of the 225. Your Honor saw three.

5 JUDGE SIMPSON:

6 Okay.

7 ATTORNEY WALCZAK:

8 The rest of the pages of 225 we will
9 provide to Ms. Ludt. It's essentially her file, so
10 she'll be able to refer to that to discuss what she's
11 had to do for Ms. Lee's case.

12 JUDGE SIMPSON:

13 Understood. Why don't we deal with
14 this at the end of the session and then we can more
15 efficiently use the witnesses' time?

16 ATTORNEY WALCZAK:

17 We'll do that at the end of the day.
18 Thank you, Your Honor. Plaintiffs will call Viviette
19 Applewhite.

20 MR. TURNER:

21 Will you raise your right hand for me?

22 -----

23 VIVIETTE APPLEWHITE, HAVING FIRST BEEN DULY SWORN,
24 TESTIFIED AS FOLLOWS:

25 -----

1 MR. TURNER:

2 All right. Thank you very much.

3 DIRECT EXAMINATION

4 BY ATTORNEY WALCZAK:

5 Q. Good morning. Can you please state your name?

6 A. Viviette Applewhite.

7 Q. Ms. Applewhite, when were you born?

8 A. May 19, 1919.

9 Q. So my math isn't too good. How old are you?

10 A. Ninety-three (93).

11 Q. Where were you born?

12 A. Philadelphia, Pennsylvania. 6035 Spring Street,
13 Germantown, Pennsylvania.

14 Q. You remember the address of where you born?

15 A. I didn't hear you.

16 Q. I'm sorry. I'll strike that.

17 Where did you grow up?

18 A. Well, I grew up in Philadelphia and Giles
19 County, Virginia.

20 Q. And did you go down to Virginia to go to school?

21 A. Yes, I did. I went to school in Philadelphia
22 first and then to Virginia.

23 Q. And did you graduate from high school in
24 Virginia?

25 A. Yes, I did, the tenth grade. That's as far as I

1 went.

2 Q. And what high school was that? What high school
3 was that?

4 A. The name of the high school was Holly Grove.
5 It's not there anymore, but it was Holly Grove.

6 Q. Did you get married at a young age, Ms.
7 Applewhite?

8 A. Did I get married?

9 Q. Did you get married?

10 A. Yes, I got married.

11 Q. And who did you marry?

12 A. John Young.

13 Q. And how old were you when you got married?

14 A. I can't remember that. I really can't.

15 Q. Were you young?

16 A. I was young, something like 18 or 19. I'm not
17 too sure exactly how old I was.

18 Q. And how long did that marriage last?

19 A. Not too long. I don't want to talk about it. I
20 don't want to talk about it. It was a terrible
21 marriage.

22 Q. And did you have any children?

23 A. One girl.

24 Q. And when you got married, this is --- I promise
25 you I won't talk anymore about this marriage.

1 A. Please, no.

2 Q. Did you change your name? Did you take John
3 Young's name --- last name?

4 A. Yeah, he did get a divorce. I didn't, but he
5 did.

6 Q. But when you got married, you became Viviette
7 Young?

8 A. No, I didn't change it.

9 Q. At that point you didn't change it?

10 A. No, I went back. I was a Brooks.

11 Q. And so your maiden name was what?

12 A. Brooks.

13 Q. Brooks. Viviette Brooks. At some point, did
14 you have a long-term relationship with a Thomas
15 Applewhite?

16 A. Yes, I did.

17 Q. And how long were you with Mr. Applewhite?

18 A. Twenty-two (22) years.

19 Q. And did you get married to him?

20 A. No, no more marriage.

21 Q. No more marriage?

22 A. No, sir, never.

23 Q. Not after that first one?

24 A. No.

25 Q. But the name you use now is Applewhite?

1 A. Uh-huh (yes).

2 Q. Okay. Tell us how that happened.

3 A. Well, when I went --- he was from Mississippi
4 and the Army, he was from Mississippi. And since
5 I've been here to date, some kind or another, my mind
6 went back and I can name the county it was. It was
7 Baskfield (phonetic), that was the name of the
8 county. When I met his son and he and his father met
9 me, he just thought that I was the ideal person for
10 his son, so he had me adopted and gave me his name
11 Applewhite, so that if anything happened to him, all
12 the land or anything would go to me and nobody else.
13 That's how I got the name Applewhite.

14 Q. Okay. So it wasn't through marriage?

15 A. No, it wasn't through marriage. No.

16 JUDGE SIMPSON:

17 I didn't get this. Who adopted her?

18 ATTORNEY WALCZAK:

19 It's her boyfriend's father. Okay.

20 BY ATTORNEY WALCZAK:

21 Q. Right? Mr. Thomas Applewhite is the gentleman
22 you were with, his father adopted you?

23 A. That's right.

24 Q. And that took place in Mississippi?

25 A. Uh-huh (yes).

1 Q. And was there some kind of legal proceeding to
2 adopt you; do you know?

3 A. I don't remember anything about all that. All I
4 know is he had told me that he had adopted me. And I
5 went to Social Security Board and got my name and got
6 the Social Security name in Viviette Applewhite.
7 That's what it is now.

8 Q. And Mr. Applewhite has passed away? Mr.
9 Applewhite passed away?

10 A. Yes.

11 Q. I want to ask you just a little bit about your
12 work history. Did you work during World War II? Did
13 you have a job?

14 A. I worked --- after me and my husband broke up, I
15 had to work.

16 Q. And where did you work during that time?

17 A. I worked at --- my first job was Sun Ship Yard.
18 I was a first class welder there for four and a half
19 years.

20 Q. And where is that located?

21 A. Chester, Pennsylvania.

22 Q. And that was during the war?

23 A. Uh-huh (yes).

24 Q. And did you have other jobs after that?

25 A. Yes, I went to Chicago. And when I went to

1 Chicago, I was a housekeeper in Chicago at the Hilton
2 Hotel. I was there for three and a half years.

3 Q. And did you have other hotel keeping jobs after
4 that?

5 A. Wait a minute. I have to think.

6 Q. Take your time.

7 A. Yes. I came back to --- I came back to
8 Virginia. And I lived in Virginia. I had a job
9 there, cleaning the courtroom like this is here. I
10 had that for a year and a half. Then I went back to
11 Philadelphia, and I was there ever since. I didn't
12 work when I was in Philadelphia after that.

13 Q. Ms. Applewhite, are you registered to vote?

14 A. Huh?

15 Q. Are you registered to vote?

16 A. Yes, I am.

17 Q. And do you remember when the first time you
18 voted was? Do you remember the first president you
19 voted for?

20 A. I think it was Roosevelt. I remember --- I
21 think it was Roosevelt was the first one.

22 Q. And have you missed any presidential elections
23 since that vote?

24 A. I missed one.

25 Q. Do you know which one that is?

1 A. I can't exactly remember the name, but I do know
2 I missed it because I moved. And when I moved, some
3 way or another, I couldn't find out where I was to
4 vote at, because it wasn't in the same place it was
5 the year before. So I was all day, until six o'clock
6 in the afternoon, trying to find the place they said
7 to vote. And I never found it, so I couldn't vote.
8 I just gave up. After six o'clock, I went home. And
9 I gave up, I didn't get to vote.

10 Q. So since your vote for Roosevelt, the only
11 presidential vote election you've missed ---?

12 A. That's the only time I missed.

13 Q. And that's because you couldn't find the polling
14 place?

15 A. That time. And I voted every one except then.

16 Q. When's the last time you voted?

17 A. Last time was when Obama. When Obama was
18 running, that's the last one.

19 Q. Have you voted in any election, not just
20 presidential election, but any elections since ---
21 when's the last time you went to the polls?

22 A. When's the last time I voted? That was when the
23 last election was.

24 Q. Was that in April?

25 A. Yeah.

1 Q. You went?

2 A. In Philadelphia. It was Obama. When he one won
3 that, that was the last one.

4 Q. You're right. There was a primary there. Is
5 voting important to you, Ms. Applewhite?

6 A. Huh?

7 Q. Is voting important to you?

8 A. Yes, it is.

9 Q. Why is it important?

10 A. I think it's important because I think it gives
11 me my right to do and say things I want to say and to
12 do things I want to do and try and to help other
13 people as well as myself.

14 Q. Do you want to vote in November?

15 A. Yes, I do.

16 Q. Is this an important election for you? Is this
17 election important to you?

18 A. Yes, it is.

19 Q. Ms. Applewhite, I want to ask you, did you have
20 occasion to see Doctor Martin Luther King? Did you
21 have a chance to see Doctor Martin Luther King?

22 A. Yes, I did.

23 Q. Can you --- how is it that you saw Martin Luther
24 King?

25 A. Well, I used to go to his church on Sundays. I

1 was living in Chicago. My husband was a baseball
2 freak. And we used to get on the plane and go to see
3 him. He'd go to the baseball. And while he was at
4 the baseball field, I was in the church in Georgia.
5 That's how I met Martin Luther King. That's how I
6 met him, in church.

7 Q. And how many ---?

8 A. At the baptist church.

9 Q. Do you remember how many services you went to
10 with Doctor King? Do you remember how many times you
11 went to church?

12 A. It was too many times to remember. I can't tell
13 you that.

14 Q. And did you like hearing him preach?

15 A. Yes, I did.

16 Q. And was there a time where you marched with
17 Doctor King?

18 A. One time.

19 Q. Where was that?

20 A. When he was in Macon. I think it was called
21 Macon, Georgia, M-A-L-C-O-N (sic), Georgia. I
22 remember that especially. I think it was
23 M-A-L-C-O-N.

24 Q. And do you remember what that march was about?

25 A. I think it had something to do with this thing

1 we're here at today. It was called a voting thing.

2 I think it was something concerning a vote.

3 Q. It was a march about voting?

4 A. Yeah, I think it was.

5 Q. Ms. Applewhite, I want to ask you about your ID,
6 okay, your identification.

7 A. What do you want to ask me about it?

8 Q. I'll ask you. Let me ask you a question.

9 A. I know so much about that. What do you want to
10 ask me about it?

11 Q. Have you ever had a driver's license?

12 A. No, I never did.

13 Q. Have you ever had any kind of PennDOT ID?

14 A. I had my --- I don't know whether that was
15 called PennDOT. When I was in Virginia, I had the
16 non-driver's license. And I had no problem with it
17 in Pennsylvania until this crap come up here with
18 this ID matter. That's when they got in trouble with
19 it. Nothing. The bank book, nothing there.

20 Q. And how long ago did you have that Virginia ID?

21 A. Four years.

22 Q. Four years?

23 A. Yeah.

24 Q. And that's expired?

25 A. No, it didn't expire. I mean, I have --- I'm

1 saying the four years, I thought you asked me how
2 long that I have been trying to get it. It's been
3 four years.

4 Q. No. You had a Virginia ID at some point.

5 A. It had that. It hadn't expired.

6 Q. Okay. Did you have a situation where your purse
7 was stolen?

8 A. Yes, I did.

9 Q. And about when was that?

10 A. Oh, my god. It was way back there.

11 Q. And what happened? Tell the Court what happened
12 there.

13 A. Well, somebody cut the strap off my
14 over-my-shoulder, my pocketbook with all my ID and
15 everything in it. And I never even knew it was off
16 of me until I did my shopping and I went up to the
17 cash register and she said to me when I went to open
18 my pocketbook, I didn't have a pocketbook. It was
19 gone. They cut the strap off. They threw it in the
20 meat counter. That's when they found it two months
21 later. There wasn't nothing in it when I went up.
22 The money was gone and all the ID, my credit cards,
23 everything was gone.

24 Q. So all your identification disappeared?

25 A. That left me with nothing.

1 Q. And did you have a Social Security card then?

2 A. Uh-huh (yes).

3 Q. Was that taken, too?

4 A. Yeah, everything.

5 ATTORNEY WALCZAK:

6 I want to put up Exhibit 220-D.

7 BY ATTORNEY WALCZAK:

8 Q. Okay. Ms. Applewhite, I think you can probably
9 see the same thing on the screen you got right in
10 front of you there. This is a photocopy of three
11 IDs. Are do you recognize these?

12 A. Uh-huh (yes).

13 Q. Are these your IDs?

14 A. That's all I have. That's my insurance there.

15 Q. Wait. I'm sorry. Let's go slowly for the court
16 record here.

17 A. This is the red, white and blue card here, and
18 this is the CCT card.

19 Q. Let me slow you down here. So the Bravo card,
20 what's that, the one on top?

21 A. This one here? Medicare.

22 Q. Yeah. What is that?

23 A. One is the Medicare. That's at the bottom.

24 Q. Okay.

25 A. The one on top where it says silver HMO, that's

1 also --- that's insurance. That's Bravo. These two
2 top ones are Bravo. And this bottom one is --- I
3 can't go anywhere on the bus there unless I have this
4 CCT.

5 Q. So that's your bus pass?

6 A. Huh?

7 Q. That's your bus pass?

8 A. Yeah.

9 Q. And that's for SEPTA, for ---

10 A. Uh-huh (yes).

11 Q. --- Philadelphia Transit.

12 A. SEPTA.

13 Q. And that's got your picture on it; correct?

14 A. There's a picture on that bottom one. That's my
15 picture right there in that corner there.

16 Q. Right. Okay. Do you know whether that ID
17 allows you to vote?

18 A. No, it won't.

19 Q. It won't?

20 A. No.

21 Q. Do you have any other photo IDs?

22 A. No.

23 Q. That's it? And do you have your Social Security
24 now?

25 A. No.

1 Q. Okay. Now, have you been trying to get a photo
2 ID?

3 A. Have I what?

4 Q. Have you been trying to get an ID from PennDOT?

5 A. Yes, I have. I've been trying to get --- I was
6 trying to get my birth certificate and my Social
7 Security almost going into five years now, and I have
8 not been able to get it. I don't know what the
9 problem is, but I did get the birth certificate. I
10 got that now.

11 Q. Okay. So you started trying to get an ID five
12 years ago?

13 A. With whatever this thing is going on, is when I
14 started having a problem.

15 Q. Okay. Let me just focus you on how long --- you
16 started five years ago trying to get the ID?

17 A. Uh-huh (yes). And I didn't get it.

18 Q. And you couldn't get it?

19 A. No. They claimed they didn't get it. I put the
20 money in the envelope and sent it, and I never got
21 it. Never heard nothing from them.

22 Q. And who did you send that to?

23 A. The Vital Districts. Vital something.

24 Q. Vital Records?

25 A. The Vital Bureau on Spring Garden in

1 Philadelphia.

2 Q. So you sent an application and money to this
3 Department of Vital something, and they never ---?

4 A. I sent them \$5 about 15 times, and I never got
5 my \$5 back and never heard from them.

6 Q. At some point, did you go to a lawyer to help
7 you get a birth certificate?

8 A. Did I do what?

9 Q. Did you go to a lawyer?

10 A. No, I didn't go to no lawyer.

11 Q. Do you know the name, Niki Ludt?

12 A. No.

13 Q. Do you know Niki?

14 A. Who?

15 Q. Niki?

16 A. Yeah, I know Niki.

17 Q. Okay. At some point, did you go see her to help
18 you get an ID?

19 A. Yes, I did. I got the sign off of the apartment
20 building that I work (sic) in. Her name was up there
21 on it saying that if you didn't have your birth
22 certificate or ID to come to that place. And I had
23 to take it on a date. It just happened the morning I
24 got up, I was getting ready to go somewhere, I can't
25 remember where I was going, but I didn't go. I went

1 straight, because it was the last day that they were
2 having this update for that week, and I went to it
3 and that's when I met Niki.

4 Q. Okay. And the sign you saw, did that have
5 something to do with voting?

6 A. What?

7 Q. The sign that you saw that got you to go to
8 Niki, did that have something to do with voting?

9 A. It was. It said on there if you come and take
10 care --- come there and visit and see about your ID
11 for getting to vote. That's why I went.

12 Q. So this was sometime in the last few months?

13 A. Yeah.

14 Q. And was Ms. Ludt able to help you get a birth
15 certificate?

16 A. I got it.

17 Q. Okay. Let's ---.

18 A. I believe it was about three weeks after I got
19 in the program, I had my birth certificate.

20 ATTORNEY WALCZAK:

21 Kelby, can you put up --- do you have
22 the birth certificate?

23 A. I got it. My niece has it in her pocketbook.

24 ATTORNEY WALCZAK:

25 Sorry, Your Honor.

1 JUDGE SIMPSON:

2 That's all right.

3 ATTORNEY WALCZAK:

4 What's the number on that? It's part
5 of 220.

6 BY ATTORNEY WALCZAK:

7 Q. Ms. Applewhite, I'll show you the document part
8 of Exhibit 220. Do you recognize this? Do you
9 recognize this document?

10 A. Uh-huh (yes).

11 Q. Okay. What is this?

12 A. That's the birth certificate.

13 Q. And when did you get that?

14 A. Well, I think I've had it maybe --- I can tell
15 you. My birthday was the 19th of May. And the
16 building I live in, they gave me a birthday party,
17 and I went to the mailbox and this birth certificate
18 was in there. Somebody mailed it to me and said,
19 happy birthday with a card. That's when I got it,
20 the 19th of May.

21 Q. Was that Niki who sent you the birth
22 certificate?

23 A. Huh?

24 Q. Was that Niki who sent you the birth
25 certificate?

1 A. I think it was. I'm almost certain it was Niki.

2 Q. And what's the name on that birth certificate?

3 A. It's my name.

4 Q. What's the name that's on that birth
5 certificate?

6 A. Viviette Brooks is on it. That's my maiden
7 name. Viviette Viren Brooks. That's the name I was
8 born with.

9 Q. That's not the name you use now, is it?

10 A. No, it isn't.

11 Q. And that's --- is that the name that's on your
12 Social Security card?

13 A. My Social Security number is under Viviette
14 Applewhite. I have two names.

15 Q. So the name on your birth certificate is
16 different than the name your Social Security
17 card; ---

18 A. Yes.

19 Q. --- is that right? Have you tried to get a
20 Social Security card?

21 A. Frankly speaking, I haven't because I never had
22 no problem, because I've been knowing it in my heart
23 ever since I've had it. So I had it. Anywhere I
24 would need it, I just told them what it was. I never
25 needed it.

1 Q. So you don't know whether you're going to have a
2 problem getting a Social Security card now?

3 A. I don't know, because I think, if I recall, PCA,
4 my social worker would get me a Social Security card.
5 I do believe that, because before that's how I always
6 got it from there.

7 Q. Ms. Applewhite, I want to ---.

8 A. I don't know what I'm talking about. I forgot I
9 didn't have it really.

10 Q. Ms. Applewhite, I want to talk about the
11 documents you have to show where you live.

12 A. It's what you saw on that paper. That's all.
13 Nothing else.

14 Q. Okay. It's after the IDs.

15 A. That's the one, I got that. Those are right
16 there. What was that?

17 Q. Now, you recall when we had your deposition that
18 we made a copy of all the records you have of where
19 you lived? Do you remember that?

20 A. Yeah.

21 Q. Is this one of the documents that you have about
22 where you live? Do you remember this?

23 A. The Visa? I got one more out of date since
24 then. I got the Mastercard through ---.

25 Q. So is it an invitation for you to apply for a

1 credit card?

2 A. The other day I got the Mastercard from
3 somebody. I don't know who it came from.

4 Q. But they're asking you to get a credit card?

5 A. Yeah.

6 Q. So it's mail that you got. All right. Let's go
7 to the next. Stop. Go back. Can you flip back? Do
8 you know what --- do you recognize that?

9 A. That's my rent receipt.

10 Q. That's what you get for your rent?

11 A. Uh-huh (yes).

12 Q. What kind of facility do you live in?

13 A. Say what?

14 Q. What kind of building do you live in?

15 A. It's supposed to be a housing authority. That's
16 what it's supposed to be.

17 Q. You live in the Philadelphia Housing Authority?

18 A. That's what the contract state that I'm signing
19 my name.

20 Q. And do you live with anybody?

21 A. Huh?

22 Q. Do you live with anybody?

23 A. No, I live by my myself. I don't live with
24 nobody.

25 Q. And so this is the receipt that you get back ---

1 A. This is right there.

2 Q. --- for paying the rent?

3 A. That's it right there.

4 Q. Let's go to the next document. What is this?

5 A. The Philadelphia Housing.

6 Q. Is this the contract you were talking about?

7 A. Yeah, this is it right here.

8 Q. What's the date on that?

9 A. Philadelphia Property Management. That's it
10 right here. Uh-huh (yes).

11 Q. Let's go to the next document. Now, is this
12 another document from your Housing Authority?

13 A. Uh-huh (yes).

14 Q. And does it have your address on there, your
15 full address?

16 A. It's got the apartment number on it. No
17 address. It's got an 805 on it, but there's no
18 address on it.

19 Q. Okay. And let's go to the next document.

20 A. Hoveround.

21 Q. What is this?

22 A. That's for the wheelchair, the Hoveround.

23 Q. So is that a receipt for fixing your wheelchair?

24 A. That's what that is.

25 Q. Okay. Now, that has your address at the top;

1 right?

2 A. \$600 and --- this is a receipt, I think, for the
3 repair.

4 Q. Right. Okay. And let's go to the next
5 document.

6 A. That's the drugs right there, medicine.

7 Q. So this is something saying you got medicine
8 through Bravo?

9 A. Well, I had --- this is on medicine, my medicine
10 thing.

11 Q. Right. And that's from Bravo?

12 A. That's Bravo.

13 Q. And the next document, is that it? Okay. So
14 that's all the documents you have showing where you
15 live; is that right?

16 A. Uh-huh (yes).

17 Q. So you don't have a utility bill?

18 A. No, I don't pay utilities or nothing where I
19 rent.

20 Q. You don't pay taxes? You don't have a tax
21 return?

22 A. No.

23 Q. Do you get ---?

24 A. And my daughter pays my phone bill and she pays
25 my water bills. I don't have nothing to pay but my

1 rent. That's all.

2 Q. And do you have a W-2 form?

3 A. Huh?

4 Q. Do you have a W-2 form? Do you know what ---
5 for --- that you get --- you're not employed; right?
6 You don't work now?

7 A. No, I don't know nothing about no W-2 form. I
8 don't know what that is. What's that?

9 Q. You get when you work someplace. But you're not
10 working now, are you?

11 A. No. I haven't worked for years.

12 Q. And do you have a gun permit?

13 A. A what?

14 Q. Do you have a gun permit?

15 A. A learners?

16 Q. A gun permit?

17 A. No. No, no gun.

18 JUDGE SIMPSON:

19 Counsel, she's making you work pretty
20 hard here.

21 A. I don't have a gun.

22 ATTORNEY WALCZAK:

23 She is.

24 JUDGE SIMPSON:

25 You can lead her a little if you need

1 to.

2 ATTORNEY WALCZAK:

3 We're just about done, Your Honor.

4 BY ATTORNEY WALCZAK:

5 Q. Ms. Applewhite, ---.

6 ATTORNEY WALCZAK:

7 Kelby, do you have that letter?

8 BY ATTORNEY WALCZAK:

9 Q. Let me ask, before we look at this letter ---
10 Ms. Applewhite, before we look at this letter, let me
11 just ask you, you want to be part of this lawsuit; is
12 that right?

13 A. I what?

14 Q. You want to be part of this lawsuit? You want
15 to get your ID to vote?

16 A. Yeah.

17 Q. All right. And you met with lawyers who asked
18 you if you wanted to participate to get your ID;
19 right?

20 A. Lawyers in this group, you mean?

21 Q. Yes.

22 A. Yes.

23 Q. So you knew you were going to be part of a
24 lawsuit?

25 A. Yeah.

1 Q. You didn't understand all the things you had to
2 do; right?

3 A. No, I didn't really. I definitely didn't.

4 Q. A little more than you bargained for?

5 A. Oh, boy. I still have no idea.

6 Q. Ms. Applewhite, ---.

7 ATTORNEY WALCZAK:

8 Do we have a marking on this? May I
9 speak to Counsel just one minute, Your Honor?

10 OFF RECORD DISCUSSION

11 ATTORNEY WALCZAK:

12 Your Honor, we're going to have to
13 figure out some marking system that obviously works
14 better than what we've got right now. Why don't we
15 describe this and then sometime between now and the
16 end of the day we'll come up with a better marking
17 system?

18 BY ATTORNEY WALCZAK:

19 Q. Ms. Applewhite, do you recognize this letter
20 that's on the screen?

21 A. Is that this list here?

22 Q. Yes. Is that the letter that you got yesterday
23 --- or that you got last week?

24 A. Yeah. Yeah, this is the letter that I got from
25 --- I don't know what that top, I can't ---.

1 ATTORNEY WALCZAK:

2 Make it smaller. Go down.

3 A. This is the letter I told you I got that I was
4 going to take to PennDOT.

5 BY ATTORNEY WALCZAK:

6 Q. Okay. And when did you get this letter?

7 A. Last week, sometime last week.

8 Q. Okay. And did you discuss that letter with any
9 of your lawyers when you got it?

10 A. I discussed this letter with my daughter. And
11 my daughter is very unhappy. She told me that if I
12 took this letter to PennDOT, it wouldn't do me any
13 good because I didn't have a Social Security card,
14 and plus these other two IDs that they want, I didn't
15 have them. So she told me I would be wasting my
16 time. But yesterday I did try to go so if I came up
17 here, I would have them today. They were closed. I
18 went up there for nothing. They was closed.

19 Q. So you read this letter and went to PennDOT
20 after reading it?

21 A. Yeah, I went. Yeah, because I wanted to make
22 sure that she was right, when I saw this. Because my
23 daughter told me that according to the letter I
24 didn't have what was on there that PennDOT was going
25 to ask me for.

1 Q. And I want to direct your attention below the
2 bolded text there.

3 ATTORNEY WALCZAK:

4 Kelby, can you highlight the bolded
5 text?

6 A. What is that?

7 BY ATTORNEY WALCZAK:

8 Q. See the bold text? See that? Now, read below
9 that. Is that what you read to get a free --- it
10 says to get the free PennDOT photo ID, go to PennDOT
11 driver's license center, fill out a form and sign an
12 affirmation stating that you have no other acceptable
13 photo ID for voting. Do you see that?

14 A. That's what I went to try to see about right
15 there where the block is.

16 Q. So you read that and said I'm going to go to
17 PennDOT and try to get my ID; is that correct?

18 A. It was closed. I went yesterday, and it was
19 closed.

20 Q. Right. But that's what you read when you said
21 I'm going to try to go get my ID?

22 A. Uh-huh (yes). I'm going back again tomorrow.
23 I'm going back again tomorrow. I don't give up. I'm
24 going back again tomorrow.

25 Q. And do you think you're going to get your ID?

1 A. I don't think so, but I'm going to try. That's
2 all I can do.

3 Q. And if you look at the next sentence there, it
4 says if you have never had a Pennsylvania driver's
5 license or PennDOT photo ID, you may also need
6 further documentation such as a birth certificate,
7 Social Security card and two proofs of residency.
8 Did I read that right?

9 A. Yes.

10 Q. So it says you may need them. It doesn't say
11 you definitely will need them. It just says you may
12 need them; right?

13 A. Yeah.

14 Q. Ms. Applewhite, are there ---?

15 A. My daughter said I need them. That's what she
16 told me.

17 Q. And you weren't sure?

18 A. I'm not sure. Because I don't work for nobody.
19 My daughter work for the government and everybody
20 else. So she told me I need them.

21 Q. But you weren't sure?

22 A. She told me I was wasting my time in going.

23 Q. Right. You weren't sure?

24 A. No, I'm not sure. I wanted to see for myself.

25 Q. Ms. Applewhite, do you know other people in your

1 building where you live in Philadelphia?

2 A. What about them?

3 Q. Do you know other people where you live?

4 A. That don't have ID?

5 Q. Yes.

6 A. Half of the building don't have it, because
7 they're up in the age with me, and they don't have
8 it.

9 Q. So you know other people in your building who
10 don't have ID?

11 A. Yes, that's what I'm saying. Most of them don't
12 have it.

13 Q. And have you talked to them about getting ID?

14 A. Yes, I have.

15 Q. And have they done anything to get the ID?

16 A. They didn't want nothing to do with what I'm
17 doing because they just out of luck, because I can't
18 give it to them. But I tried. That's all I can do.
19 I tried. Each one I gave a chance. I told them to
20 come go with me to see Niki and nobody wanted to go.
21 So that was it.

22 Q. Ms. Applewhite, what do you hope to get out of
23 this lawsuit?

24 A. What I hope to get out of it? I hope that it
25 doesn't pass and I don't have to be back with all the

1 people that has to have ID. I hope they can do it
2 just like they've been doing, go and get it and vote.
3 That's what I'm hoping to get out of it.

4 Q. Is it just for you?

5 A. No. I'm for my whole building. I'm trying to
6 get all the people in it that I can.

7 ATTORNEY WALCZAK:

8 I have no further ---.

9 A. I'm trying to get the whole building in there,
10 if I can.

11 ATTORNEY WALCZAK:

12 Thank you. No further questions.

13 JUDGE SIMPSON:

14 You may inquire.

15 ATTORNEY SCHMIDT:

16 Thank you, Your Honor.

17 JUDGE SIMPSON:

18 Do you want this exhibit up?

19 ATTORNEY SCHMIDT:

20 No, Your Honor.

21 CROSS EXAMINATION

22 BY ATTORNEY SCHMIDT:

23 Q. Good afternoon, Ms. Applewhite. Thank you for
24 coming today. I just have a few follow-up questions
25 for you, ma'am. Ma'am, earlier you talked about your

1 pocketbook was stolen at an Acme; is that correct?

2 A. Talking about it, yes.

3 Q. You had your pocketbook stolen at an Acme,
4 ma'am; is that correct?

5 A. Yes, it was taken off and cut off my shoulder.

6 Q. And within that pocketbook of yours, you had
7 your Virginia non-driver's photo identification card;
8 is that correct, ma'am?

9 A. Uh-huh (yes).

10 Q. And you also had your Social Security card; is
11 that correct, ma'am?

12 A. Did what?

13 Q. Your Social Security card?

14 A. Everything.

15 Q. Everything?

16 A. Everything was in the pocketbook.

17 Q. Did that include a birth certificate as well,
18 ma'am?

19 A. Yeah.

20 Q. You also had some credit cards in that
21 pocketbook; is that correct, ma'am?

22 A. Uh-huh (yes).

23 Q. Ma'am, is it your understanding that the only
24 document you don't have in order to get a PennDOT
25 photo identification card to vote is your Social

1 Security card?

2 A. So far as I know. I don't --- I have --- they
3 told me I had to have my birth certificate and my
4 Social Security card. When my daughter looked at
5 that letter and read that letter, she said there's
6 two more things on there that I had to have. And if
7 I didn't have them, she told me there wasn't no use
8 in going without that and the Social Security card.
9 There's three things she told me that I got to have.
10 I don't know what the other two is. I can't
11 remember. But I do know it was the Social Security
12 card and the birth certificate was the main first two
13 things. So when I got them two things, then they
14 tell me that I need to have the Social Security card.
15 And these other two things that was on there, because
16 he read them, I don't doubt that's what that they
17 were. I couldn't tell you that.

18 Q. Now, ma'am, the last time we met was at your
19 deposition and your videotaped trial deposition. And
20 at that point, you told me that a social worker was
21 assisting you in getting your Social Security card;
22 is that correct?

23 A. Yeah, but I have never gotten in touch with my
24 Social Security card member to ask her about the
25 Social Security, because I really didn't bother about

1 it. I know it by heart and I just never bothered her
2 about it, because nobody ever asked me to show it to
3 them.

4 Q. So you know your Social Security number;
5 correct?

6 A. I know it by heart.

7 Q. And you're very proud of that; is that right,
8 ma'am?

9 A. Huh?

10 Q. You're very proud to know that; is that right,
11 ma'am?

12 A. Yes, I do know it. I've known it ever since I
13 had it. I sat down and learned it by heart, and I
14 know it.

15 Q. Now, ma'am, this Virginia non-driver's photo
16 identification card that was taken from your
17 pocketbook, ma'am, was that in the name of Viviette
18 Applewhite?

19 A. That's what it's in.

20 Q. And your Social Security card was in the name of
21 Viviette Applewhite; is that correct, ma'am?

22 A. That's correct.

23 Q. Now, ma'am, when we met before, you also
24 testified that it would be very easy for you to
25 obtain a replacement for that Virginia non-driver's

1 photo identification card; is that correct, ma'am?

2 A. Say that again.

3 Q. Last time we met, you testified that it would be
4 very easy for you to obtain a replacement for your
5 Virginia non-driver's photo identification card; is
6 that correct?

7 A. Yeah, I could go back there and get that, but I
8 don't want that. It wouldn't do no good in
9 Pennsylvania. Pennsylvania don't want that. They
10 want PennDOT, and I don't have it.

11 Q. And the only thing that stops you from getting
12 that Virginia non-photo (sic) identification card is
13 that you have to travel to Virginia; is that correct,
14 ma'am?

15 A. That's right.

16 Q. Ma'am, is your current address 5457 Wayne
17 Avenue, Apartment 805, Philadelphia, Pennsylvania?

18 A. Uh-huh (yes).

19 Q. Is that a yes, ma'am?

20 A. That's right.

21 Q. Now, your attorney showed you some images of
22 documents up there. And I just want you to take a
23 look at them. I have them here for you, and I'll
24 mark them for identification as Commonwealth One.

25 (Respondents' Exhibit One marked for

1 identification.)

2 ATTORNEY SCHMIDT:

3 May I approach, Your Honor?

4 JUDGE SIMPSON:

5 Yes.

6 A. I can't promise you that I can read them,
7 because I got cataracts on two eyes.

8 ATTORNEY WALCZAK:

9 Is it easier for us to show them?

10 Because we can show them.

11 BY ATTORNEY SCHMIDT:

12 Q. I'll represent to you that what we've marked as
13 Commonwealth One is four documents that were
14 previously shown by your Counsel. And the first
15 document is a Philadelphia Asset Property Management,
16 Incorporation document. I'd like you to look at that
17 first document, ma'am?

18 A. Look at what? You're going to have to help me
19 here, ---

20 Q. Sure.

21 A. --- because I don't see these things real good.

22 ATTORNEY SCHMIDT:

23 May I approach, Your Honor?

24 JUDGE SIMPSON:

25 Yes.

1 A. These letters are all together with me.

2 BY ATTORNEY SCHMIDT:

3 Q. Ma'am, I just want you to take a look at the
4 first page there.

5 A. Right. Is that the same as this?

6 Q. Yes, ma'am.

7 A. So what are you trying to get off of this from
8 me?

9 Q. I want to ask you, is that your address on those
10 lines right there?

11 A. Oh, yeah, that's my address.

12 Q. And that's your current address, ma'am?

13 A. Yeah.

14 Q. Can you turn to the second page, please? And
15 this is the Hoveround service repair order.

16 A. Yeah.

17 Q. Okay. I want you to look at top left-hand
18 corner of the document, and let me know, do you see
19 your address there, ma'am?

20 A. Yes, it's on there.

21 Q. Is that your current address?

22 A. Uh-huh (yes).

23 Q. And can you tell me, is the date on that
24 document June 1st, 2011? Do you see that in the top
25 right-hand corner?

1 A. Yeah, May 5th or 6th. It's May the 5th.

2 Q. Okay. Now, ma'am, just one more document.

3 Let's turn to the very last one, which is a Bravo
4 health monthly prescription medication summary. Take
5 a look at that document. Do you see your current
6 address on that document, ma'am?

7 A. See a current address where?

8 Q. At the top there, ma'am.

9 A. Yeah.

10 Q. Okay. And its 5457 Wayne Avenue, Apartment 805.

11 A. Uh-huh (yes). That's right.

12 Q. And ma'am, you talked a little bit earlier about
13 how you're a very independent person; is that
14 correct?

15 A. Uh-huh (yes).

16 Q. And no one takes care of yourself and you live
17 alone; is that correct?

18 A. Uh-huh (yes).

19 Q. And you're very capable and able to travel in
20 Philadelphia by public transportation; is that
21 correct, ma'am?

22 A. Yes.

23 Q. Okay. And you already testified today that
24 you've been to a PennDOT driver's licensing center;
25 is that correct, ma'am?

1 A. Say that again.

2 Q. You already testified earlier today that you've
3 been to a PennDOT driver's licensing center; is that
4 correct, ma'am?

5 A. Yes.

6 Q. And you had no problem getting there; is that
7 correct, ma'am?

8 A. No. I just get on the bus and go.

9 Q. And you know the Philadelphia SEPTA bus system
10 very well; is that correct, ma'am?

11 A. Uh-huh (yes).

12 Q. Okay. Your polling place, ma'am, isn't that
13 about a block and a half away from your apartment; is
14 that correct?

15 A. Is what a block away?

16 Q. Where you vote, ma'am, your polling place, is
17 that located about a block and a half away?

18 A. It's not even a block from where I'm at, but I
19 don't know that it's going to be there this year or
20 not. We don't know where it's going to be this year.
21 They haven't told us. They say it might be in the
22 building. They don't know. We don't know where it's
23 going to be at.

24 Q. So it might be in your own building; is that
25 correct, ma'am?

1 A. It could be. I don't know.

2 Q. Now, I want to ask you a question.

3 A. They didn't tell us where it's going to be. I
4 don't know.

5 Q. Let's talk about your building, ma'am, your
6 apartment complex. When we met before, you testified
7 and you told me that you first learned of this voter
8 identification law because there was a big, big sign
9 in the hallway of your apartment complex; is that
10 correct, ma'am?

11 A. Uh-huh (yes).

12 Q. Is that a yes, ma'am?

13 A. Yes.

14 JUDGE SIMPSON:

15 She answered affirmatively.

16 A. Yes.

17 BY ATTORNEY SCHMIDT:

18 Q. And as a result of seeing that sign, you
19 immediately traveled to Face to Face; is that
20 correct, ma'am?

21 A. When I saw it --- is this the sign you're
22 talking about that I met Niki?

23 Q. Yes, ma'am.

24 A. That's right. It was on the wall.

25 Q. Okay. And you went to Face to Face because it

1 was your understanding you needed a birth
2 certificate; is that correct, ma'am?

3 A. Uh-huh (yes). Yes.

4 Q. Okay. And when you went to Face to Face, it was
5 at that point that you got involved in this lawsuit;
6 is that correct, ma'am?

7 A. That's what I did.

8 Q. And did you know that you were involved in this
9 lawsuit, ma'am?

10 A. I didn't exactly know what was going on behind
11 like all of this I'm doing now. I didn't know that.
12 But I did sign for it, but I didn't know that I was
13 going to have to come to Harrisburg and go through
14 all this mess because I'm not really able to do it,
15 but I did it.

16 Q. But do you remember telling me you thought you
17 were just getting your birth certificate, ma'am; is
18 that correct?

19 A. I don't understand that either. What did you
20 say?

21 Q. Do you remember when we spoke before and I asked
22 you about your involvement in this lawsuit, you
23 initially told me that you thought you were just
24 getting a birth certificate at Face to Face; is that
25 correct?

1 A. I was interested in getting my birth
2 certificate. Because that was the thing they said I
3 would need to vote with. I was only trying to vote.
4 That's all I was trying to do, was to get a vote
5 (sic), so that I could vote. That was the reason I
6 said. Like I said, anything you're talking about,
7 that's what it was. It was concerning me to be able
8 to vote. That's why I went there.

9 Q. Ma'am, let's talk about your credit cards that
10 were stolen from your pocketbook. When they were
11 stolen, the thieves that took them didn't use those
12 to make purchases in your name; is that correct,
13 ma'am?

14 A. Beg your pardon?

15 Q. The thieves that took your credit cards from
16 your pocketbook, they didn't use those credit cards
17 to make purchases in your name; is that correct?

18 A. Right. They had them all, and I had to pay for
19 them. And all my credit was compromised. Just to
20 get my credit I had for all these years. It's almost
21 50 years, and I'm just beginning to get them back.

22 Q. You're obviously very upset about that?

23 A. Yeah, I was upset. Of course, I was.

24 ATTORNEY SCHMIDT:

25 Your Honor, I have nothing further.

1 Thank you, ma'am.

2 ATTORNEY WALCZAK:

3 We have nothing further, Your Honor.

4 JUDGE SIMPSON:

5 You may step down or ride down.

6 Normally this would be a good breaking point. How
7 much time? Counsel, do you need something other than
8 an hour for lunch?

9 ATTORNEY GERSCH:

10 Your Honor, Ms. Gonzales would be our
11 next witness. She'll be about 20, 30 minutes if Your
12 Honor is prepared to go that long.

13 JUDGE SIMPSON:

14 You want to do it now?

15 ATTORNEY GERSCH:

16 We can do it now or we can do it after
17 lunch, whatever Your Honor ---.

18 JUDGE SIMPSON:

19 Either way. Only if you want to bring
20 the witnesses.

21 ATTORNEY GERSCH:

22 We'll put her on now. She's
23 sequestered. Mr. Walczak is getting her.

24 JUDGE SIMPSON:

25 Good enough.

1 RECESS TAKEN

2 JUDGE SIMPSON:

3 This is what happens when you get in
4 bright and fresh at the beginning of the trial. Next
5 week we may not be able to do this.

6 MR. TURNER:

7 Can you raise your right hand?

8 -----

9 ANA GONZALEZ, HAVING FIRST BEEN DULY SWORN,
10 TESTIFIED AS FOLLOWS:

11 -----

12 MR. TURNER:

13 Thank you.

14 DIRECT EXAMINATION

15 BY ATTORNEY GEFFEN:

16 Q. Good afternoon, ma'am. How are you?

17 A. How are you doing? Fine.

18 Q. Good. We met before. But my name is Ben
19 Geffen. I'm an attorney with the Public Interest Law
20 Center of Philadelphia. And would you please state
21 and spell your name for the record?

22 A. Ana, A-N-A, and Gonzalez, G-O-N-Z-A-L-E-Z.

23 Q. Where do you live, Ms. Gonzalez?

24 A. I live in Philadelphia.

25 Q. What part of town?

1 A. Northeast.

2 Q. And whom do you live with?

3 A. My husband.

4 Q. Okay. And how long have you lived in
5 Pennsylvania?

6 A. Twenty-three (23) years.

7 Q. Where were you born?

8 A. I was born in Puerto Rico.

9 Q. And what was your date of birth?

10 A. June 13th, 1949.

11 Q. Okay. Did you grow up in Puerto Rico?

12 A. No.

13 Q. Where did you grow up?

14 A. New York.

15 Q. New York City?

16 A. Yes.

17 Q. And do you have a birth certificate?

18 A. I don't know. I don't think so.

19 Q. Okay. Who brought you up?

20 A. My mother. The woman that brought me up, her
21 name was Ana Clemente.

22 Q. And was she your biological mother?

23 A. No.

24 Q. I'd like to show you an exhibit. And this is
25 Petitioner Exhibit 232. It'll come up on the screen

1 here. And it's page number --- Bates page number
2 2034. Yeah, that's the one. What's this document?

3 A. That's my baptism paper.

4 Q. And I see the name of two parents there. Can
5 you tell me what those names are?

6 A. The two parents is Jesus Aponte (phonetic) and
7 my mother is Ana Clemente.

8 Q. Who was Jesus Aponte?

9 A. It was someone she was living with at that time.

10 Q. Okay. Was he your biological father?

11 A. No.

12 Q. At some point, you came to use Aponte as your
13 surname; is that right?

14 A. Yes, all my school records and everything
15 Aponte.

16 Q. Now, have you been aware your whole life that
17 you were not the biological child of Ana Clemente?

18 A. No.

19 Q. How did you first begin to suspect that that was
20 the case?

21 A. Oh, it happened that one time that I was arguing
22 with my cousin, and she told me that I wasn't part of
23 the family. And I always used to ask my mother why I
24 didn't look like the family. And she just said, you
25 know, because I looked like my father.

1 Q. Now, your mother's name was Ana Clemente. Was
2 there a famous Clemente she was related to?

3 A. Yeah, she was a distant cousin of Roberto
4 Clemente.

5 Q. And did other members of your family resemble
6 Roberto Clemente?

7 A. Yes.

8 Q. And do you feel like you resembled him?

9 A. No.

10 Q. Did you ever discuss with Ana Clemente the
11 circumstances of your birth?

12 A. I did. We spoke a little bit about it. And one
13 of the things that she had mentioned to me when she
14 finally admitted that she wasn't my mother was that
15 during --- you know, that she wasn't able to have
16 children because during, I believe --- I don't know
17 if it was in the '30s or '40s there was a time there
18 where they were sterilizing Puerto Rican women in
19 Puerto Rico. And it was her and another friend of
20 hers, they couldn't have children. And during that
21 time, she was married to George Hinnen (phonetic).
22 And they had spoken to this woman that was going to
23 have an abortion and convinced her that they would
24 give her money for me, and with the understanding
25 that when the midwife would deliver me, that she

1 would give me to them.

2 Q. Okay. Now, can you tell me for sure the name of
3 your biological mother?

4 A. No.

5 Q. Can you tell me for sure the name of your
6 biological father?

7 A. No.

8 Q. You mentioned a midwife. Do you know whether
9 you were born in a hospital?

10 A. No. From what I understand, I wasn't. I was
11 delivered by a midwife.

12 Q. Now, is Ana Clemente still alive?

13 A. No.

14 Q. What about other members that generation?

15 A. Every single person that knew the whole story
16 about this, they all passed away. Took the secret
17 with them.

18 Q. Now, I'd like to look at Exhibit 232, again,
19 Bates page 2031. This is a certificate of marriage?

20 A. Yes.

21 Q. And what's the name of the groom?

22 A. Angel Gonzalez.

23 Q. And you're still married to him?

24 A. Yes.

25 Q. Do you have any children with him?

1 A. Yes, we have four.

2 Q. And how about grandchildren?

3 A. Twelve (12) grandchildren.

4 Q. Great. And have you used the surname Gonzalez
5 since you got married to him?

6 A. Yes.

7 Q. And what does husband do for a living?

8 A. He's a engineer, an electronic engineer, with
9 the City of Philadelphia Water Department.

10 Q. Okay. I want to ask you about your employment
11 history. Are you currently employed?

12 A. No.

13 Q. When's the last time you had a paying job?

14 A. It was 1980. I was mainly a housewife, taking
15 care of my children and later on my grandchildren.

16 Q. Do you still take care of your grandchildren?

17 A. Yes.

18 Q. Now, when you did work back in the 1980s, did
19 you have to show a birth certificate or some other ID
20 to verify your employment eligibility?

21 A. No.

22 Q. Okay. Are you registered to vote?

23 A. Yes.

24 Q. And how often do you vote?

25 A. I vote in every election.

1 Q. Have you ever worked in a polling place?

2 A. Yes, during the time when Ronald Regan was
3 running. And that happened, because when I was in
4 line some of the people, the Spanish speaking people,
5 there wasn't an interpreter, so I approached them
6 because the people were complaining that there was no
7 one to understand them, so I offered to volunteer.
8 And the polling place said that I couldn't volunteer,
9 but they would pay me for the day. So I became the
10 interpreter for the election that day.

11 Q. Okay. Have you worked at a polling place since
12 then?

13 A. No.

14 Q. And when was the last time that you voted?

15 A. When? The last one was the last presidential
16 election. Actually and also the mayor.

17 Q. Okay. There was a primary election back in the
18 spring. Did you vote in the spring?

19 A. Not in the spring.

20 Q. Okay. Is voting something that's important to
21 you?

22 A. Yes.

23 Q. And why is that?

24 A. Because my mother and I --- when I was growing
25 up, my mother would always talk about the political

1 issues, you know, things that were going on. Growing
2 up with seeing how many people sacrificed to make
3 sure that I also would have an opportunity to vote
4 and so in my home it's also been part where we would
5 sit down and have discussion, not only with our
6 children, but our whole family to the point that even
7 our grandchildren when the family is having any kind
8 of political --- even the youngest one will go and
9 stop playing and they'll sit in the living room just
10 to listen to the whole family talk.

11 Q. Do you plan to vote in November?

12 A. Yes.

13 Q. Do you have any photo ID?

14 A. No.

15 Q. Have you ever learned to drive a car?

16 A. No.

17 Q. How do you get around Philadelphia?

18 A. My children and my husband.

19 Q. And have you ever ridden SEPTA?

20 A. Yes, I have ridden SEPTA.

21 Q. And how did you get to Harrisburg today?

22 A. Someone from the ACLU brought me.

23 Q. Now, have you ever tried to get Pennsylvania to
24 issue you a birth certificate?

25 A. No, not the State of Pennsylvania. I tried to

1 get a photo ID. And I was told that I needed a birth
2 certificate in order to get a photo ID.

3 Q. Okay. Do you have a bank account?

4 A. Yes.

5 Q. And how did you get a bank account?

6 A. Well, my husband is the primary. He's the
7 member of the bank. But my son owned his own
8 business and he spoke with the manager and asked them
9 if it's --- if they could add me to my husband's
10 account.

11 Q. Okay. Have you ever left the United States?

12 A. No.

13 Q. Have you ever had a U.S. passport?

14 A. No.

15 Q. When was the last time you got on an airplane?

16 A. '78.

17 Q. Did you have to show an ID to board?

18 A. No.

19 Q. I would like to ask you about another document.
20 This is Exhibit 232. It's Bates ranges 2030 to 2038.
21 So if we could go to 2030? It's down. 2030. Can
22 you tell me what this document is?

23 A. Yes. I tried to write to Puerto Rico and
24 explain to them that I needed a birth certificate in
25 order to get a photo ID, and they couldn't even send

1 me any information because I don't have a photo ID.
2 So they told me --- they sent back the money order
3 and they said that I need a photo ID.

4 Q. Now, let's look at page 2027, please, still
5 Exhibit 232. Is this the response from Puerto Rico
6 that you were mentioning?

7 A. Uh-huh (yes).

8 Q. And if you can zoom in on number three there?
9 So this box is checked that the identification sent
10 is not valid to process your application?

11 A. Yes.

12 Q. Would you scroll to page 2033, please? Is that
13 the photo ID you mailed in with your application?

14 A. Yes.

15 Q. What is Dusk 'Til Dawn, did you know?

16 A. That's my son's business.

17 Q. What sort of business is that?

18 A. He does industrial cleaning.

19 Q. So it's not a government agency of any sort?

20 A. No.

21 Q. And this card doesn't have an expiration date;
22 right?

23 A. No.

24 Q. Do you have anything other than this in the way
25 of a photo ID?

1 A. No.

2 Q. Okay. Was there some other time when you
3 earlier tried to get a birth certificate from Puerto
4 Rico?

5 A. I tried like two or three years ago. I also
6 tried and see, and they had sent it back to me saying
7 that I needed to --- I sent it to the wrong
8 department, that I needed to send it to a particular
9 department. But even during that time, they told me
10 that I needed other documents that I didn't have.

11 Q. Okay. So how long in all have you been trying
12 it get a birth certificate from Puerto Rico?

13 A. I have been trying to get --- I think it's
14 around the last five years, I've been trying to get a
15 birth certificate.

16 Q. And has it ever been a problem that you didn't
17 know the names of your biological parents?

18 A. Well, this --- it's like you're trying to draw
19 on a straw. It's like, okay, I'm going to send this
20 information and see, hopefully, you know, this might
21 be the name and they might have a record on it, you
22 know. But I've used everything and they --- like I
23 said, and now the latest thing was they couldn't
24 process anything unless I have a photo ID.

25 Q. Okay. Have you ever gone in person to Puerto

1 Rico to try to hunt down a birth certificate?

2 A. Well, I couldn't go on a plane now without a
3 photo ID.

4 Q. Okay. If you could get a photo ID, what would
5 you want to use it for?

6 A. If I could get a photo ID, I would like to try
7 and see if maybe they might have a record under Ana
8 Aponte.

9 Q. I'm sorry. What was that name?

10 A. Ana Aponte. That's the name that's in the
11 baptism paper. The other thing is, too, that my
12 husband, he's been the sole worker and he wants to
13 retire and he can't retire because of me. Because I
14 don't have a birth certificate and he needs that to
15 put into his retirement papers, you know. He worked
16 with the city. He's worked with a TV station,
17 Channel 7 in New York. So he's got pensions and he's
18 got also Social Security. God forbid if something
19 was to happen to him, he's concerned what's going to
20 happen to me.

21 Q. Okay. And is another reason you want to get an
22 ID ---?

23 A. That and also I'm a heart patient and sometimes
24 you have to go to specialists to see doctors and what
25 are they asking for now? For photo ID.

1 Q. And what about for voting?

2 A. For voting is one of the top things. That means
3 a lot to me.

4 Q. When you came to this courthouse today, when you
5 were downstairs, did you go through security?

6 A. Yes.

7 Q. You went through a metal detector?

8 A. Yes.

9 Q. Did they ask you to show a photo ID?

10 A. No.

11 ATTORNEY GERSCH:

12 I have no further questions.

13 CROSS EXAMINATION

14 BY ATTORNEY CAWLEY:

15 Q. Hello, Ms. Gonzalez.

16 A. Hello.

17 Q. My name is Patrick Cawley. I represent the
18 government officials who are named as Respondents. I
19 just have a few follow-up questions for you. Just to
20 start where --- you were asked questions about how
21 you get around without a driver's license. Do you
22 have any problems getting to where you vote?

23 A. No, because it's around the corner.

24 Q. Okay. And do you have any difficulty getting
25 to, for example, a PennDOT driver's license center?

1 A. No, because I would have my son --- my kids take
2 me.

3 Q. Okay. In the letter that you sent and that was
4 up on the screen dated March 29th, 2011 to get your
5 birth certificate, it listed a number of things that
6 you do have to document who you are; right?

7 A. Yes.

8 Q. And it indicated that you have a Social Security
9 card; correct?

10 A. Yes.

11 Q. And so you still have that card?

12 A. Yes.

13 Q. When you went to get a photo ID and they told
14 you, you needed a birth certificate, did you tell
15 them about the difficulty that you were having with
16 Puerto Rico?

17 A. Yes.

18 Q. Did you tell them about the baptismal
19 certificate that you have?

20 A. Actually, my daughter-in-law called Harrisburg
21 and left her phone number, so that way they could
22 return her call. They called her back and she
23 explained to them my situation and told them all the
24 IDs that I have, and they said that I still needed a
25 birth certificate.

1 Q. So do you know whether you daughter discussed
2 the baptismal certificate?

3 A. Yes, she did.

4 Q. Okay. And do you and your husband receive
5 utility bills at your house?

6 A. Yes.

7 Q. And does that list your name?

8 A. Yes.

9 Q. As well as your address?

10 A. Yes.

11 Q. Do you get other forms of mail that indicate
12 your name and your address?

13 A. Yes.

14 Q. Do you get any sort of tax forms ---

15 A. Yes.

16 Q. --- that have your name and your address?

17 A. Yes.

18 ATTORNEY CAWLEY:

19 Those are all the questions that I
20 have. Thank you.

21 ATTORNEY GERSCH:

22 No further questions.

23 JUDGE SIMPSON:

24 You may step down. Thank you. All
25 right. It's about 1:30. We'll be in recess until

1 2:30.

2 MR. TURNER:

3 Commonwealth Court is now in recess.

4 RECESS TAKEN

5 MR. TURNER:

6 Commonwealth Court is now in session.

7 JUDGE SIMPSON:

8 Thank you. Are we ready to go?

9 ATTORNEY WALCZAK:

10 We are, Your Honor. Plaintiffs call
11 Stanley Garrett.

12 MR. TURNER:

13 Please raise your right hand for me.

14 -----

15 STANLEY GARRETT, HAVING FIRST BEEN DULY SWORN,

16 TESTIFIED AS FOLLOWS:

17 -----

18 JUDGE SIMPSON:

19 Thank you. Please be seated.

20 DIRECT EXAMINATION

21 BY ATTORNEY WALCZAK:

22 Q. Good afternoon.

23 A. Good afternoon.

24 Q. Could you please state your name?

25 A. My name is Stanley Garrett.

1 Q. Where do you live, Mr. Garrett?

2 A. 632 East Sheldon Avenue.

3 Q. Where is that?

4 A. Philadelphia, PA.

5 Q. What part of Philadelphia?

6 A. Germantown.

7 JUDGE SIMPSON:

8 Can you get a closer to the mic,
9 please? Thank you.

10 BY ATTORNEY WALCZAK:

11 Q. When were you born?

12 A. 8/15/1948.

13 Q. August 15, 1948?

14 A. Yes.

15 Q. And where were you born?

16 A. Charlotte, North Carolina.

17 Q. And where did you grow up?

18 A. In South Carolina.

19 Q. And what's the highest level of school you've
20 had?

21 A. Twelfth (12th) grade, completed.

22 Q. Where did you graduate from high school?

23 A. Sanders High School, Laurens, South Carolina.

24 Q. And what did you do after you got out of high
25 school?

1 A. Well, I migrated to Philadelphia. Then ---.

2 Q. What year was that?

3 JUDGE SIMPSON:

4 Hang on. Hang on.

5 BRIEF INTERRUPTION

6 BY ATTORNEY WALCZAK:

7 Q. What year was that?

8 JUDGE SIMPSON:

9 All the drama. Okay. I just --- I'm
10 trying to focus on your witness. I'm actually having
11 a little difficulty understanding him, so ---.

12 BY ATTORNEY WALCZAK:

13 Q. I'm going to ask you to slow down a little bit,
14 Mr. Garrett.

15 A. Okay.

16 Q. So you graduated from high school in what year?

17 A. 1967.

18 Q. And that was in South Carolina?

19 A. Yes, sir.

20 Q. And then you came up to Philadelphia?

21 A. Yes, I did.

22 Q. And what did you do when you got out of high
23 school?

24 A. I came up and got a little job, and then I
25 joined the Marine Corps.

1 Q. So what year did you join the Marines?

2 A. 1967.

3 Q. And how long were you in the service?

4 A. Two years.

5 Q. Where did you serve?

6 A. Parris Island, Camp Lejeune and Quantico,
7 Virginia.

8 Q. Parris, Camp Lejeune and Quantico?

9 A. Yes.

10 Q. And what year were you discharged?

11 A. 1969.

12 Q. And what kind of discharge did you get?

13 A. I got an honorable discharge.

14 Q. And where did you go after you get out of the
15 Marines?

16 A. I came back to Philadelphia.

17 Q. Have you lived in Philadelphia since you came
18 back in the late 1960s?

19 A. Yes, I have.

20 Q. Continuously?

21 A. Yes.

22 Q. And tell us a little bit about your work history
23 after you got out of the Marines.

24 A. My first job, I was working at the post office
25 as a mailman. Then I got some other jobs working,

1 like parking attendant. Then I worked for the City
2 of Philadelphia.

3 Q. What'd you do for the city?

4 A. Trash.

5 Q. Okay. Did you work for the Fairmount Parks?

6 A. Yes, I worked for Fairmount Park.

7 Q. And at some point, did you go on disability?

8 A. Yes, I did.

9 Q. And when was that?

10 A. 1997.

11 Q. What is your current status of employment?

12 You're not employed; right?

13 A. No, I'm not.

14 Q. And you're still now on --- what kind of
15 assistance are you on?

16 A. I get Social Security and a check from the
17 government, service disability.

18 Q. Okay. And do you get veteran's benefits?

19 A. Yes.

20 Q. Were you married?

21 A. Yes, I was.

22 Q. Are you still married?

23 A. No, I'm not.

24 Q. How long were you married?

25 A. Sixteen (16) years.

1 Q. You got children?

2 A. Yes, I do.

3 Q. And how many children?

4 A. Six.

5 Q. Are you a registered voter?

6 A. Yes, I am.

7 Q. And do you vote in every election?

8 A. Yes, I do if it's important.

9 Q. You vote if it's important?

10 A. Yes.

11 Q. Why is it important for you to vote?

12 A. Well, this would affect my health issues, you
13 know.

14 Q. So you're talking about voting this year in
15 2000 ---?

16 A. Yes, I am.

17 Q. And so you're --- I'm sorry. You're concerned
18 about what?

19 A. My health issues and, you know, my healthcare
20 and the way the world is being run, the United States
21 is being run.

22 Q. So you would like to be able to vote in
23 November?

24 A. Yes, I would.

25 Q. Mr. Garrett, I want to ask you about your IDs.

1 Do you have any kind of photo ID?

2 A. I have a veteran ID.

3 ATTORNEY WALCZAK:

4 Let's put up Exhibit 2093.

5 BY ATTORNEY WALCZAK:

6 Q. I show you ---.

7 JUDGE SIMPSON:

8 I'm sorry. What's the number?

9 ATTORNEY WALCZAK:

10 2093. We'll remark these, Your Honor,
11 and do them sequentially and talk to the Defendants
12 about it.

13 BY ATTORNEY WALCZAK:

14 Q. Mr. Garrett, do you recognize this document?

15 A. Yes, I do.

16 Q. And what is this?

17 A. It's a veteran card.

18 Q. And it's hard to see on that image. Is that
19 your photograph on the top card there? Do you know?

20 A. Yes, it is.

21 Q. And is that your name beneath that?

22 A. Yes, it is.

23 Q. And the bottom of that, is that the back of the
24 card?

25 A. Yes, it is.

1 Q. Okay. And where do you get this ID from?

2 A. The VA hospital.

3 Q. Okay. And what do you use this card for?

4 A. Going to the hospitals.

5 Q. Do you use it to get benefits or anything else?

6 A. Yes.

7 Q. And to your knowledge, can you use this card to
8 vote?

9 A. I don't know.

10 Q. You're not sure?

11 A. No, I'm not sure.

12 Q. Okay. Do you see an expiration date on that
13 card?

14 A. No, there's not.

15 Q. Have you ever had a driver's license?

16 A. Yes, I have.

17 Q. Okay. When was that?

18 A. 1967 to '73.

19 Q. And where was that driver's license?

20 A. Philadelphia.

21 Q. Okay. And you haven't had a driver's license or
22 driven since 1973?

23 A. No, I haven't.

24 Q. Do you have a Social Security card?

25 A. Yes, I do.

1 Q. Do you have two proofs of where you live, two
2 ways?

3 A. Yes, I do.

4 Q. Do you have any other photo ID besides that
5 veteran's card?

6 A. No, I don't.

7 Q. Now, have you been trying to get a PennDOT card,
8 a PennDOT ID card?

9 A. No, I haven't.

10 Q. Have you been trying to get a birth certificate?

11 A. Yes, I have.

12 Q. And why have you been trying to get a birth
13 certificate?

14 A. Because that's what they said we had to have for
15 my ID, Pennsylvania ID, to vote.

16 Q. But you started to get that birth certificate
17 before the ID requirement to vote; correct?

18 A. Yes, I did.

19 Q. And did you ever have a birth certificate?

20 A. I'm not sure.

21 ATTORNEY WALCZAK:

22 Let's put up Exhibit 2072.

23 BY ATTORNEY WALCZAK:

24 Q. I show you what's been marked as 2072. Do you
25 recognize this document?

1 A. Yes, I do.

2 Q. And what is it?

3 A. It's about my birth certificate.

4 Q. Okay. Do you know who Charles Pelletreau is?

5 A. Yes.

6 Q. Who's that?

7 A. A lawyer that's trying to help me get my birth
8 certificate.

9 Q. Is he at Face to Face?

10 A. Yes, he is.

11 Q. So you've been working with Face to Face to try
12 and get a birth certificate?

13 A. Yes, I have.

14 Q. And what's the date on that letter?

15 A. June 20, 2012.

16 Q. So that's only about a month old?

17 A. Yes.

18 Q. And what they say is we regret that we were
19 unable to locate any record of a birth certificate
20 for Stanley Leroy Garrett in North Carolina. Is that
21 correct?

22 A. Yes, it is.

23 Q. Are you still trying to get a birth certificate?

24 A. Yes, I am.

25 Q. And do you know what steps you need to take to

1 try and get a birth certificate or get something like
2 a birth certificate now?

3 A. No, not exactly.

4 Q. Okay. And so are you working with a lawyer to
5 try?

6 A. Yes, I am.

7 Q. Are you working with Mr. Pelletreau or somebody
8 else at Face to Face?

9 A. Mr. Pelletreau and somebody else at Face to
10 Face.

11 Q. Okay. And who else are you working with at Face
12 to Face?

13 A. Niki Ludt.

14 Q. Okay. And do you have any idea when you might
15 get a birth certificate?

16 A. No, I don't.

17 ATTORNEY WALCZAK:

18 I have no further questions.

19 JUDGE SIMPSON:

20 Let me just --- maybe I didn't
21 understand this. He was born in North Carolina?

22 ATTORNEY WALCZAK:

23 He was born in North Carolina.

24 JUDGE SIMPSON:

25 Is that right, North Carolina?

1 A. Yes, sir.

2 ATTORNEY WALCZAK:

3 And raised in South Carolina and went
4 to high school in South Carolina.

5 JUDGE SIMPSON:

6 That's what messed me up.

7 ATTORNEY WALCZAK:

8 And then in the Marines after that.

9 JUDGE SIMPSON:

10 You may inquire.

11 CROSS EXAMINATION

12 BY ATTORNEY CAWLEY:

13 Q. Good afternoon, Mr. Garrett.

14 A. How are you doing?

15 Q. I just have a few follow-up questions for you.

16 Do you know where you go to vote on election day?

17 A. Yes, I do.

18 Q. And do you have any trouble getting there?

19 A. No, I wouldn't.

20 Q. Have you been to a PennDOT driver's license
21 center?

22 A. No, I haven't.

23 Q. Would you have any problem getting there or
24 finding it?

25 A. No, I wouldn't.

1 Q. Okay. You do have a Social Security card?

2 A. Yes, I do.

3 Q. You testified about your card from the Veterans
4 Administration. Do you get any sort of statements in
5 the mail from the Veterans Administration?

6 A. A statement?

7 Q. Well, after you go to use your card, do you ever
8 get anything from the Veterans Administration in the
9 mail that says when you've used their card?

10 A. No. No.

11 Q. Do you get any other mail from the Veterans
12 Administration?

13 A. No.

14 Q. Do you get utility bills at your home?

15 A. No, I don't.

16 Q. When you indicated to Mr. Walczak that you have
17 two proofs of residence from 632 East Sheldon, what
18 were those?

19 A. I guess from Social Security, the 5500 Block of
20 Wissahickon Avenue, they send me a statement there
21 and ---.

22 BRIEF INTERRUPTION

23 A. The Veterans Administration office at 5500
24 Wissahickon Avenue, I get a statement from there.

25 BY ATTORNEY CAWLEY:

1 Q. Okay. So you get mail from Social Security and
2 from other sources that has your name?

3 A. Yes, I do.

4 Q. And has your address of 632 East Sheldon?

5 A. Yes, I do.

6 Q. Do you read the newspaper?

7 A. Yes, I do.

8 Q. Do you watch TV?

9 A. Yes, I do.

10 Q. So your pay attention to news?

11 A. Yes, I do.

12 Q. Okay.

13 ATTORNEY CAWLEY:

14 That's all I have. Thank you.

15 REDIRECT EXAMINATION

16 BY ATTORNEY WALCZAK:

17 Q. Just one question. Mr. Garrett, did you get a
18 letter last week from Secretary --- Department of
19 State and Secretary of State Carol Aichele about
20 voting?

21 A. I don't think so.

22 Q. There's a letter that some people got from the
23 Department of State that talks about voter ID. Did
24 you get any kind of letter last week?

25 A. No, I didn't.

1 Q. Did you get any kind of letter before that about
2 voting?

3 A. No, I didn't.

4 ATTORNEY WALCZAK:

5 Okay. Thank you.

6 ATTORNEY CAWLEY:

7 No further questions.

8 JUDGE SIMPSON:

9 Thank you. You may step down. You may
10 call your next witness.

11 ATTORNEY CLARKE:

12 Your Honor, Petitioners now call Leila
13 Stones. We'll go get her. She's been sequestered.

14 RECESS TAKEN

15 MR. TURNER:

16 Please stand and raise your right hand.

17 -----

18 LEILA STONES, HAVING FIRST BEEN DULY SWORN,

19 TESTIFIED AS FOLLOWS:

20 -----

21 JUDGE SIMPSON:

22 Thank you. Please be seated.

23 A. Hi.

24 DIRECT EXAMINATION

25 BY ATTORNEY HURLEY:

1 Q. Please state your name for the record.

2 A. Leila Teresa Stones.

3 Q. Where do you live?

4 A. 545 Manheim Street, Apartment 2W, Philadelphia,
5 Pennsylvania, 19144.

6 Q. And how long have you lived in Philadelphia for?

7 A. Fifty-three (53) years.

8 Q. Okay. And how old were you when you moved to
9 Philadelphia?

10 A. I was an infant.

11 Q. Okay. So what's your date of birth?

12 A. 5/2/59.

13 Q. And where were you born?

14 A. Danville, Virginia.

15 Q. What were the circumstances of your birth?

16 A. My mother.

17 Q. Where were you born?

18 A. In a house.

19 Q. A house. So you weren't born in a hospital?

20 A. I wasn't born in a hospital.

21 Q. Were you born by a midwife?

22 A. By a midwife.

23 Q. And what was your name at birth?

24 A. Huh?

25 Q. What was your name at birth?

1 A. Leila Teresa Stones.

2 Q. So the same name you have now?

3 A. Uh-huh (yes).

4 Q. Do you have a birth certificate?

5 A. No.

6 Q. Have you ever had a birth certificate?

7 A. No.

8 Q. You ever tried to obtain a birth certificate?

9 A. Yes.

10 Q. Do you have any other records of your birth?

11 A. A Social Security card, but I don't have the
12 card now.

13 Q. Do you have a baptismal certificate?

14 A. I did. I had one, but I guess my mother lost it
15 before she died. I remember the church though.

16 Q. What have you done to try to obtain your birth
17 certificate as the result?

18 A. Everything. I wrote the Governor of Virginia.

19 Q. Okay. And did you receive a response from the
20 Governor of Virginia?

21 A. He told me I don't exist.

22 Q. Told you, you don't exist, okay. Did you write
23 to the Virginia Department of Vital Statistics?

24 A. Yes.

25 ATTORNEY HURLEY:

1 Can we pull up --- it should be Exhibit
2 Number 373.

3 BY ATTORNEY HURLEY:

4 Q. You'll be able to see it on the screen right up
5 by you there. It's 2100. It's vote 2100. Do you
6 recognize this document?

7 A. Yes.

8 Q. And do you know who Veronica Ludt is?

9 A. Yes.

10 Q. Who is she?

11 A. That's my lawyer.

12 Q. Is she a lawyer that works at Face to Face?

13 A. Yes.

14 Q. And has she been helping you to try to obtain a
15 birth certificate.

16 A. Yes, she has.

17 Q. And is this the letter you received in regards
18 to your request to the Department of Health in
19 Virginia?

20 A. This is the one they sent. They sent me one,
21 too, on a blue document.

22 Q. And what did that blue document say?

23 A. From the Commonwealth of Virginia saying that as
24 far as they were concerned, I didn't exist. This one
25 is much nicer.

1 Q. When you applied for your birth certificate with
2 the Department of Health, did you have to pay any
3 money?

4 A. In Virginia?

5 Q. In Virginia.

6 A. No. No. I had to --- they couldn't find it.

7 So what was I paying for?

8 Q. Okay. Did you have to --- did your lawyer
9 assist you in sending for school records?

10 A. Yes.

11 ATTORNEY HURLEY:

12 Can you please pull up Exhibit Number
13 372? Should be vote 2095. Scroll down to the second
14 page, please --- third page. Sorry.

15 BY ATTORNEY HURLEY:

16 Q. Do you recognize this document?

17 A. Oh, okay.

18 Q. Do you recognize this document?

19 A. Yes.

20 Q. And what is this?

21 A. This is --- she wants my school records.

22 Q. Is she Niki, ---

23 A. Yes.

24 Q. --- your lawyer?

25 A. Ms. Ludt.

1 Q. Ms Ludt. And do you have any to pay any money
2 to apply for your school records?

3 A. I did.

4 Q. How much did you have to Pennsylvania?

5 A. I paid \$12 twice.

6 Q. You paid \$12 twice. Why did you pay twice?

7 A. Because they never sent it either time.

8 Q. Has Niki been able to help you get a birth
9 certificate?

10 A. Niki is doing all that she can to help me.

11 Q. Have you received your birth certificate yet?

12 A. No.

13 Q. Have you ever had a driver's license?

14 A. No.

15 Q. Have you ever had any PennDOT-issued ID?

16 A. No.

17 Q. Have you ever had a U.S. passport?

18 A. No.

19 Q. I want to talk a little bit about your work.
20 What do you do for work?

21 A. I'm a licensed LGPN nurse.

22 Q. Are you working as a nurse now?

23 A. No.

24 Q. What are you doing currently?

25 A. Now, I go to school for culinary arts.

1 Q. Where do you go to school?

2 A. At 714 Market Street, Philadelphia,
3 Pennsylvania.

4 Q. Do you have a school ID?

5 A. No.

6 Q. No school ID. Do you have any other IDs with
7 your picture on it?

8 A. The one that was made for me.

9 Q. And what one was made for you?

10 A. From the Reunification Program for me and my
11 son. They took a picture of me with the phone and
12 they pasted it on a piece of paper and put all my
13 information on it and they laminated it.

14 Q. Does it have an expiration date on it?

15 A. No.

16 Q. And who made this card for you?

17 A. Reunification Center in Philadelphia.

18 Q. And what is the Reunification Center in
19 Philadelphia?

20 A. It's reunifying me and my son.

21 Q. Where is your son now?

22 A. He's in George Junior Republic in Grove City ---
23 Pittsburgh.

24 Q. And so why do you need to be reunified?

25 A. Because my son has been in the system for five

1 years.

2 Q. Do you have any other ID?

3 A. My Medicare/Medicaid card.

4 Q. Does that have a picture on it?

5 A. No.

6 Q. Does it have an expiration date on it?

7 A. No.

8 Q. Have you ever had any photo ID?

9 A. Yeah. When I got pregnant with my son and I
10 applied for Welfare, they gave me a picture ID. But
11 that was so many years ago, they don't even use that
12 anymore. But anyway, I was allowed to use it for ID.
13 And my purse was stolen in 2007 --- 2007, 2006, and
14 all my IDs, everything was gone.

15 Q. What was in your purse that was stolen?

16 A. My Social Security card, my original Social
17 Security card, my Welfare ID, my job ID, my nursing
18 license, everything.

19 Q. Have you tried to replace your Social Security
20 card?

21 A. Yes, I have.

22 Q. And have you been able to get a replacement
23 Social Security card?

24 A. No.

25 Q. And why not?

1 A. Because I need a birth certificate to get it.

2 Q. And do you have a birth certificate?

3 A. No.

4 Q. Are you registered to vote?

5 A. Yes, I am.

6 Q. When did you first register to vote?

7 A. When I was 18.

8 Q. Eighteen (18) years old, okay. And do you vote
9 regularly?

10 A. Every presidential election.

11 Q. So when was the last time you voted?

12 A. Obama.

13 Q. Obama. And do you want to vote again this fall?

14 A. Yes.

15 Q. When you voted in 2008 for Obama, ---

16 A. Yes.

17 Q. --- did you have to show an ID in 2008?

18 A. No.

19 Q. What did you have to do?

20 A. Just go in to the rec center and tell them my
21 name and they looked my name up in the book. And I
22 signed next to my name, and then I go into the little
23 booth.

24 Q. Where did you learn about Pennsylvania's photo
25 ID law?

1 A. The news.

2 Q. When did you learn about it?

3 A. About two months ago.

4 Q. And have you tried to get IDs since you learned
5 about the law?

6 A. Yes.

7 Q. How have you been trying to get IDs since you
8 learned about the law?

9 A. I called the State Department, and to no avail.
10 They just gave me the run around.

11 Q. Who did you call at the State Department?

12 A. I called the department --- what is it? Ms.
13 Ludt had gave me a phone number to call. And I
14 called, and I asked them about the ID. And she said
15 I needed a birth certificate.

16 Q. Was that the 1-800-VOTESPA phone number? Is
17 that what you called?

18 A. Well, when she gave me the number, it was all
19 numbers, so I didn't know if it was the vote number
20 or not. But I told her my situation with my birth
21 certificate and asked her if she could direct me to
22 someone who can help me get a photo ID so I can vote.
23 And she referred me to someone else, and they hung
24 up.

25 Q. So you spoke to a live person ---

1 A. Yes.

2 Q. --- when you called the Department of State?

3 And when you say you told them about your situation,
4 what do you mean by that?

5 A. The story is so over and over, I go over it
6 every day. It's like I explained to them that I
7 never had a birth certificate and my midwife never
8 recorded my birth. And I need a birth certificate to
9 get an ID, to get my Social Security card.

10 Q. And what did she tell you when you told her that
11 you didn't have a birth certificate?

12 A. She said I can refer you to this number.

13 Q. And did you call the other number she referred
14 you to?

15 A. And I called the other number, and she referred
16 me back to the other number.

17 Q. So no one was able to help you figure out how to
18 get an ID?

19 A. No.

20 Q. Have you received a letter from the Department
21 of State notifying you about the photo ID law?

22 A. No.

23 Q. What do you think about the photo ID law?

24 A. Well, I'm really disappointed because to vote is
25 like the only thing that makes me feel whole. It's

1 like wow, if they take my right to vote away, then
2 who am I? Everybody else say I don't exist.

3 Q. Do you think you're going to be able to vote in
4 the election this fall?

5 A. I'm going to the polls anyway.

6 ATTORNEY HURLEY:

7 Thank you.

8 JUDGE SIMPSON:

9 You may cross examine.

10 CROSS EXAMINATION

11 BY ATTORNEY CAWLEY:

12 Q. Good afternoon, Ms. Stones.

13 A. Good afternoon.

14 Q. Do you know where the polling place is where you
15 go to vote?

16 A. Yes.

17 Q. And do you have any problems getting there
18 transportation wise?

19 A. No. It takes about me about an hour and a half
20 now, but I still go there.

21 Q. And do you know where the PennDOT driver's
22 license center is closest to you?

23 A. I just found out there's one close to me, but I
24 knew about the one in Center City.

25 Q. Okay. Do you expect that there would be any

1 problem getting to a PennDOT driver's license center
2 if you wanted to go there for an ID?

3 A. No.

4 Q. You mentioned that your Social Security card was
5 stolen along with a number of other things.

6 A. Right.

7 Q. Do you know your Social Security number?

8 A. XXX-XX-XXXX.

9 Q. You don't have to say it out loud. That's very
10 impressive, though. You also mentioned that you have
11 a Medicare or Medicaid card; correct?

12 A. Yes.

13 Q. Okay. Do you get anything in the mail regarding
14 Medicare or Medicaid benefits?

15 A. I get Social Security disability.

16 Q. Okay.

17 A. So I get mail all the time.

18 Q. Sure. So you get mail from the Social Security
19 Administration?

20 A. Yes.

21 Q. And it has your name and it has your address on
22 it?

23 A. Yes.

24 Q. Do you receive utility bills at your address?

25 A. Yes.

1 Q. And that has your name and your address on it?

2 A. Yes.

3 ATTORNEY CAWLEY:

4 Those are all the questions I have.

5 Thank you.

6 A. Thank you.

7 ATTORNEY HURLEY:

8 No further questions, Your Honor.

9 JUDGE SIMPSON:

10 You may step down. Thank you.

11 A. Thank you.

12 ATTORNEY WALCZAK:

13 Can we make a motion, Your Honor, to
14 strike the Social Security number from the record?

15 ATTORNEY HURLEY:

16 The Social Security number.

17 JUDGE SIMPSON:

18 Any objection?

19 ATTORNEY CAWLEY:

20 No, I actually tried to stop her, but
21 no objection.

22 ATTORNEY WALCZAK:

23 Your Honor, we'd like to play --- we
24 have about a 20-minute video of one of the
25 Petitioners who could not be here today, so we

1 thought now might be an opportune time to play that
2 video of Nadine Marsh.

3 JUDGE SIMPSON:

4 What's the name of the witness?

5 ATTORNEY WALCZAK:

6 The name is Nadine Marsh. She's a
7 Petitioner. And Your Honor, before we play that,
8 there are two exhibits I believe related to her. And
9 I talked to Mr. Cawley about this, and it seems since
10 in the video there's a discussion of these two
11 exhibits, that we should at least mark them so Your
12 Honor can see them before we play the video.

13 All right. So this record is marked as
14 --- it's right now --- just use the Bates numbers as
15 --- Vote 10 through 14 are the Bates numbers on here.
16 And I apologize, we will figure out this the exhibit
17 numbering before ---.

18 JUDGE SIMPSON:

19 You know what, we can do it tomorrow.
20 That gives you the evening to ---.

21 ATTORNEY WALCZAK:

22 Right.

23 JUDGE SIMPSON:

24 So we won't really worry about getting
25 them in today.

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ATTORNEY WALCZAK:

I think they're described sufficiently
for the record.

JUDGE SIMPSON:

Will you give that to Mr. Mazin,
please?

VIDEO BEGINS

VIDEOGRAPHER:

Good afternoon. My name is Scott
Roberts. I'm a videographer at AKF Court Reporting
and Video Tech Services. Today's date is June 22nd,
2012. The time on the screen is approximately 3:08
p.m. If the court reporter would please swear in the
witness, we may proceed.

COURT REPORTER:

Please raise your right hand for me.

NADINE MARSH, HAVING FIRST BEEN DULY SWORN,
TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY ATTORNEY WALCZAK:

Q. Good afternoon, Ms. Marsh.

A. Good afternoon, Vic.

Q. We are sitting in your home today; ---

1 A. Yes.

2 Q. --- correct? And what's the address here?

3 A. 145 Sandy Drive, Clayton, Pennsylvania.

4 Q. And can you give use full name, please?

5 A. Nadine Laughton (phonetic) Marsh.

6 Q. And do you live with somebody here?

7 A. Yes, my daughter and her husband.

8 Q. When were you born?

9 A. March 8th, 1928.

10 Q. And where were you born?

11 A. Sewickley, Pennsylvania.

12 Q. And what county is that in?

13 A. Allegheny.

14 Q. Is that near Pittsburgh?

15 A. Yes, on this side of Pittsburgh.

16 Q. I'm going to ask you a little bit about your
17 childhood. What did your father do?

18 A. He was a draftsman for Bethlehem Steel.

19 Q. And did you have brothers and sisters?

20 A. Yes, nine. Nine.

21 Q. You're one of ten children?

22 A. Yes.

23 Q. And where were you in that order?

24 A. The second oldest. I had a brother older than
25 me.

1 Q. And your mom, did she work outside of the home?

2 A. No. She was just a homebody, raising ten
3 children.

4 Q. You say, just?

5 A. No. Right, absolutely.

6 Q. Tell us a little bit about your education.

7 A. High school.

8 Q. And where did you graduate from?

9 A. From Moon, Moon Township.

10 Q. In what year?

11 A. 1947.

12 Q. And did you go on to any further education
13 beyond?

14 A. No. No. I was married that year.

15 Q. So you were married the same year you graduated
16 from high school?

17 A. Yes.

18 Q. And who did you marry?

19 A. Donald Marsh.

20 Q. And how did you two meet?

21 A. Through a little store that I worked at for a
22 while there. And he used to come in. It was like a
23 little convenience store, a neighborhood store.

24 Q. So you were like a cashier?

25 A. Right.

1 Q. He was a customer?

2 A. Right.

3 Q. And what did he do for a living?

4 A. My husband, he was an operating engineer.

5 Q. What does that mean?

6 A. He belonged to the Operating Engineers Union.

7 So he ---.

8 Q. Did he work in construction?

9 A. Yes. Yes.

10 Q. And he died young?

11 A. Yes, he did.

12 Q. When did he die?

13 A. He died in 1982, March of '82.

14 Q. And did you ever remarry?

15 A. No.

16 Q. Now, do you have children?

17 A. Yes.

18 Q. And now, you also were a stay-at-home mom?

19 A. Yes.

20 Q. So you didn't work outside the home?

21 A. I didn't.

22 Q. Ever?

23 A. No.

24 Q. Tell us about your children.

25 A. Well, I have three. Barbara and Becky and Sam.

1 Q. And where did you raise the children? Where
2 were you living?

3 A. Well, we first lived in Glenwillard and then we
4 moved in Coraopolis, then I moved here after my
5 husband died.

6 Q. So the kids were raised in Allegheny County?

7 A. Yes.

8 Q. And what school district did they attend?

9 A. West Allegheny.

10 Q. And do you have grandchildren now?

11 A. Yes.

12 Q. How many?

13 A. Six.

14 Q. Great grandchildren?

15 A. Six.

16 Q. So three children, six grandchildren and six
17 great grandchildren?

18 A. Right.

19 Q. Have you ever had a driver's license?

20 A. No, I haven't.

21 Q. So you've never driven?

22 A. No.

23 Q. You ever needed to drive?

24 A. No, I didn't.

25 Q. How did you get around?

1 A. My husband was very good and then after that, my
2 children, you know.

3 Q. I want to mark this as Marsh One. It says on
4 the bottom confidential, but actually the numbers are
5 at least partially obscured right now. I think we do
6 not need to maintain that confidentiality, I think.

7 ATTORNEY WALCZAK:

8 If you're agreeable to that.

9 ATTORNEY CAWLEY:

10 That's fine.

11 BY ATTORNEY WALCZAK:

12 Q. I'll show you what's been marked as Marsh
13 Exhibit One, and this would appear to contain five
14 different kinds of identifications.

15 A. Yes.

16 Q. And do you recognize these?

17 A. Yes, I do.

18 Q. Are these all identifications that you currently
19 have?

20 A. Yes.

21 Q. Let's just go through those one by one. At the
22 top of the page is a Medicare card. And that's
23 yours?

24 A. Yes, it is.

25 Q. There's no photo on that?

1 A. No.

2 Q. Now, the card below that is --- looks to be a
3 Highmark Blue Cross card.

4 A. Yes.

5 Q. Again, no photo on that?

6 A. No.

7 Q. Then there's a Heritage Valley Health System?

8 A. Yes.

9 Q. What's that?

10 A. It's a card that they use if I go in the
11 hospital, and they can pull up my information with
12 this card.

13 Q. And then in the top of the right-hand column, it
14 looks to be a Certificate of Voter Registration.

15 A. Yes.

16 Q. And that's your signature at the bottom?

17 A. Yes, it is.

18 Q. And below that on the bottom right is a Social
19 Security card?

20 A. Yes.

21 Q. And again, that's your signature there?

22 A. Yes.

23 Q. And the second page is just the backs of those
24 cards; correct?

25 A. Uh-huh (yes).

1 Q. So none of these cards has a photo on it;
2 correct?

3 A. Yes, that's true.

4 Q. Have you ever had a photo ID?

5 A. No.

6 Q. But you have a bank account?

7 A. Yes.

8 Q. And you've never needed it for that?

9 A. No, I didn't.

10 Q. Now, I believe you said that you've flown in the
11 past?

12 A. I have.

13 Q. Has that been recently?

14 A. In the '80s, late '80s was the last.

15 Q. So not since September 11, 2001?

16 A. No.

17 Q. So you did not need a ---?

18 A. No.

19 Q. I'm sorry. You did not need a photo for that?

20 A. No.

21 Q. Do you have a passport?

22 A. No.

23 Q. Did you ever have a passport?

24 A. No.

25 Q. Any credit cards?

1 A. Yes.

2 Q. How many?

3 A. Two. I've got two.

4 Q. And do you know whether you could get another
5 credit card if you wanted?

6 A. Oh, yes.

7 Q. How do you know that?

8 A. I get information, mail, from --- you know,
9 wanting me to borrow money and everything, you know.

10 No. But I have two, period.

11 Q. But you don't have any photo IDs?

12 A. No, I don't.

13 Q. Now, are you a registered voter?

14 A. Yes.

15 Q. We saw your voter registration card there?

16 A. Yes.

17 Q. And where is your polling place?

18 A. It's about five miles from here. Maybe a little
19 over five miles from here.

20 Q. And do have any problem getting there?

21 A. No.

22 Q. And do you know whether that polling place is
23 handicap accessible?

24 A. It is.

25 Q. And from your voting records, it looks like you

1 voted in 2000 and 2004; is that correct?

2 A. Yes, right.

3 Q. Do you recall, is 2004 the last time you voted?

4 A. Yes.

5 Q. And those are presidential election years?

6 A. Yes.

7 Q. Now, are those particularly important to you?

8 A. Oh, yes.

9 Q. Now, I note that did not vote in 2008?

10 A. Yes.

11 Q. Is there a reason for that?

12 A. Yes, I was ill through the year and I was in the
13 hospital in November after the voting and I was sick
14 during the voting.

15 Q. So you were unable to go?

16 A. Right.

17 Q. And do you plan on voting in 2012?

18 A. Oh, yes, I want to.

19 Q. How did you hear about the voter ID law?

20 A. I guess on the news and through, you know, the
21 family, family members.

22 Q. When you heard about that law, did you
23 understand that it might impact your ability to vote?

24 A. Yes. Sure.

25 Q. And is that something that you discussed with

1 family members or others?

2 A. Yes.

3 Q. And so at some point did it become clear to you
4 that you needed to go get photo ID?

5 A. Yes.

6 Q. And did you find out somehow what papers you
7 needed in order to get a photo ID?

8 A. Well, yes, I had to have my birth certificate,
9 and I couldn't get one.

10 Q. Now, prior to this, did you have a birth
11 certificate?

12 A. No.

13 Q. And prior to this year, have you ever tried to
14 get a birth certificate?

15 A. Yes.

16 Q. When's the first time you recall trying to get a
17 birth certificate?

18 A. I'd say 30 years ago.

19 Q. Can you tell us how you went about that?

20 A. I went into Pittsburgh to the Vital Statistics
21 myself. And then after that, different members of
22 the family tried.

23 Q. And at some point, did somebody from the Vital
24 Records Office tell you why they thought you couldn't
25 get a birth certificate?

1 A. Yes. They said something about a fire and they
2 felt that, you know, mine was in the fire.

3 Q. So in those previous attempts to get your birth
4 certificate, you were unsuccessful?

5 A. Correct.

6 Q. And how many efforts do you think were made? I
7 mean, you said you had one.

8 A. Oh, yeah. I probably had more than that by
9 mail, you know. I'd say four or five, you know,
10 times.

11 Q. And you were never able to have a birth
12 certificate?

13 A. No.

14 Q. Now, after the voter ID law was passed in March
15 of this year, did you try once again to get a birth
16 certificate?

17 A. Yes.

18 Q. And did somebody help you with that?

19 A. Yes.

20 Q. Who was it that helped you with that?

21 A. Suzanne did.

22 Q. Who's Suzanne?

23 A. My granddaughter.

24 Q. Let's mark this as Marsh Two. I show you what's
25 been marked as Exhibit Marsh Two. Now, if you'll

1 turn to the second page? Get your glasses there. Do
2 you recognize this document?

3 A. Yes.

4 Q. And is this an application made by your
5 granddaughter?

6 A. Yes. Yes, by Suzanne.

7 Q. Now, there's a little box in the middle of the
8 page.

9 A. Uh-huh (yes).

10 Q. And it says, item one then birth and then it has
11 a name there.

12 A. Yes.

13 Q. Who is that individual?

14 A. That's myself.

15 Q. And so is Boss (phonetic) your maiden name?

16 A. Yes.

17 Q. And I note that the total there is \$38?

18 A. Yes.

19 Q. Do you know why it was so expensive?

20 A. No. I guess shipping and processing.

21 Q. So if you could turn to --- and I'm sorry the
22 date on that application is what? Can you tell us?

23 At the top it says purchase date.

24 A. Yes, that was April 30th, 2012.

25 Q. Now, if you'll turn to the last page of Exhibit

1 Marsh Two? Do you recognize this document, the last
2 page of the exhibit? No. I'm sorry. You're on the
3 --- you've got the other. That page.

4 A. Oh, this one here? Yes.

5 Q. Do you recognize this document?

6 A. Yes.

7 Q. And it says no record certification?

8 A. Right.

9 Q. And so is it your understanding this means that
10 they don't have a record of your birth?

11 A. That's right.

12 Q. And where did this come from? Who signed it?

13 Maybe you can tell us that.

14 A. State Registrar.

15 Q. Right.

16 A. Yes.

17 Q. This comes from the Pennsylvania Department of
18 Health?

19 A. Oh, okay.

20 Q. Is that right?

21 A. Yes.

22 Q. Now, under there's a seal about two-thirds of
23 the way down the page.

24 A. Yes.

25 Q. And there's a date. Where it says date issued,

1 what's the date there?

2 A. 5/16/2012.

3 Q. So this is, as we sit here, just a little over a
4 month ago?

5 A. Right.

6 Q. Now, given all these attempts, including the
7 last one you made to get a birth certificate, do you
8 have any idea, any other ideas about what you can do
9 now?

10 A. No, I don't.

11 Q. Do you have any idea how you can go about
12 getting the photo ID that would allow you to vote?

13 A. No.

14 Q. Now, you went to the polls in April during the
15 primary?

16 A. Primary, yes.

17 Q. And were you allowed to vote?

18 A. No.

19 Q. But that wasn't because of ID, was it?

20 A. No.

21 Q. Okay. Why weren't you allowed to vote?

22 A. Because I was registered as another instead of
23 being a Democrat or a Republican.

24 Q. So you couldn't vote in a primary?

25 A. Right, a primary.

1 Q. Did you have a discussion with a poll worker
2 about photo ID?

3 A. Yeah, she told me I wouldn't be able to vote in
4 November.

5 Q. And did she ask you for photo ID when you were
6 there?

7 A. No. She asked me if I had one. And I said, no.
8 And she said I would have to get one.

9 Q. And did she say what would happen if you didn't
10 have one in November?

11 A. Yeah, she said I wouldn't be able to vote.

12 ATTORNEY WALCZAK:

13 I have no further questions.

14 CROSS EXAMINATION

15 BY ATTORNEY CAWLEY:

16 Q. Ms. Marsh, I just have a few follow-up
17 questions.

18 A. Sure.

19 Q. You mentioned some of the credit card offers
20 that offers that come in the mail?

21 A. Yes.

22 Q. Did those come to your --- in your mail at this
23 residence?

24 A. Yes.

25 Q. And you said you actually do have some credit

1 cards; correct?

2 A. Yes.

3 Q. And do you get statements?

4 A. Yes.

5 Q. And they come in the mail to this residence?

6 A. Yes.

7 Q. And in earlier testimony when we had a
8 deposition earlier, we talked about this a bit, and
9 I'll just repeat some of those questions. Your
10 utility bills arrive at this house, but they go to a
11 different name. So your name is not on them?

12 A. Right.

13 Q. Okay. But you do have a Social Security card;
14 correct?

15 A. Yes.

16 Q. And you do receive bank statements?

17 A. Yes.

18 Q. And you do occasionally have documents from
19 Medicare from the federal government?

20 A. Yes.

21 Q. And do those come here?

22 A. Yes.

23 Q. And came to your address here?

24 A. Yes.

25 Q. And in addition to each of those items that

1 comes in the mail, you would have no objection saying
2 to that poll worker or signing a statement that you
3 are registered to vote and that you do not possess
4 any other form of photo ID; right?

5 A. Correct.

6 Q. Because that's the truth?

7 A. Truth.

8 Q. You are registered to vote and you don't have a
9 photo ID?

10 A. Right. That's right.

11 Q. But you get these things in the mail from
12 Medicare; right?

13 A. Yes.

14 Q. And you get these things --- you have credit
15 card statements that have your address on them?

16 A. Yes.

17 ATTORNEY CAWLEY:

18 Those are all the questions I have.

19 ATTORNEY WALCZAK:

20 I have nothing further.

21 VIDEOGRAPHER:

22 With there being no further questions,
23 the deposition is now concluded. The time is 3:26
24 p.m.

25 VIDEO ENDS

1 ATTORNEY WALCZAK:

2 Your Honor, we have one more witness
3 for the day, Veronica Ludt, who's one of our experts.
4 We expect her testimony will go about an hour. So I
5 don't know how Your Honor wants to --- if you want to
6 schedule a --- do a break now or just plow straight
7 through or ---.

8 JUDGE SIMPSON:

9 Let's plow straight through.

10 ATTORNEY WALCZAK:

11 All right. We'll have to grab her.

12 RECESS TAKEN

13 ATTORNEY GERSCH:

14 Your Honor, before we call our next
15 witness, I'd like to introduce our --- another set of
16 organizational Plaintiffs that were not here in the
17 morning, but have had an opportunity. So John Jordan
18 and William Jackson from the NAACP are here this
19 afternoon. And Your Honor, I neglected to introduce
20 possibly the most important member of our team, Mr.
21 Kelby Ballena, without whom we'd be in a lot of
22 trouble.

23 MR. TURNER:

24 Please raise your hand.

25 -----

1 VERONICA LUDT, ESQUIRE, HAVING FIRST BEEN DULY
2 SWORN, TESTIFIED AS FOLLOWS:

3 -----

4 JUDGE SIMPSON:

5 Thank you.

6 EXAMINATION ON QUALIFICATIONS

7 BY ATTORNEY WALCZAK:

8 Q. Good afternoon.

9 A. Hi.

10 Q. Please state your name.

11 A. Veronica Ludt.

12 Q. Where do you work, Ms. Ludt?

13 A. I work for Face to Face, Inc.

14 Q. What is Face to Face, Inc.?

15 A. It's human service organization that provides
16 free meals four days a week, legal services. We have
17 a nurse-run health center, social work, neighborhood
18 arts and writing program, as well as a children's
19 program during the school year and a summer camp.

20 Q. And do you have a title at the organization?

21 A. Yes, I'm the legal center director.

22 Q. And where exactly is Face to Face located?

23 A. It's located on Price Street, which is the east
24 --- in East Germantown in Philadelphia.

25 Q. And do you serve a clientele from a particular

1 geographic area?

2 A. Yes, we serve primarily people within the
3 neighborhood, mainly people who come and use our
4 services and we have an income criteria that they be
5 150 percent of the federal poverty level.

6 ATTORNEY WALCZAK:

7 I'd like to put up Exhibit Number Two.

8 BY ATTORNEY WALCZAK:

9 Q. Do you recognize this Exhibit Number Two?

10 A. Yes. That's my resume.

11 Q. I just like to spend a little time going over
12 this. And why don't we turn to the second page and
13 start there? First, let me ask you, is this a fair
14 and accurate description of your qualifications?

15 A. Yes.

16 Q. Tell us a little bit about your education.

17 A. I went to Drew University for undergrad, major
18 in Sociology. And then a went to Temple Law School
19 and graduated in 1983.

20 Q. And tell us a little about your early legal
21 career.

22 A. Shortly after law school, I was engaged
23 primarily in insurance defense claims. I did a
24 little personal injury for about a year. And after
25 that, when I had my first child, I stayed home and I

1 was involved in what was called Saint Vincent's Legal
2 Clinic initially, which has now become Face to Face
3 Legal Center.

4 Q. So were you a litigator for a while?

5 A. Yes.

6 Q. And how long did you do that?

7 A. I guess it was about four years, roughly four
8 years.

9 Q. Now, I note on page one --- let's turn to page
10 one of the exhibit. You have something there called
11 director of Stephen Ministries. Just briefly, what
12 is that?

13 A. Yes. When I stayed home with my children
14 initially --- I had my first son in '88. As I was
15 winding my way back, I was --- they had approached me
16 at my church to ask me if I wanted to start this
17 ministry that was --- would offer pastoral care to
18 people in times of crisis. So I trained and I was
19 responsible for training volunteers who would meet
20 with people during times of crisis in their life.
21 And I supervised the group.

22 Q. So let's turn back to Face to Face now. You
23 said you've been a volunteer there for a long time.

24 A. Yes. One of the people who initiated the legal
25 clinic was a longtime career community legal service

1 attorney. And at the time, the --- a Philadelphia
2 Bar Association started the Homeless Advocacy
3 Project. And this attorney approached Sandy Ballard,
4 who was then the executive director of the Homeless
5 Advocacy Project, and suggested that because we had
6 so many lawyers that were involved at the Dining Room
7 and there were so many needs, that could we start a
8 clinic that would be under their umbrella of
9 insurance and supervision. So we did. The Homeless
10 Advocacy Project was started, I guess, 22 years ago
11 and we are now 21 years. What was originally Saint
12 Vincent's Legal Clinic is now called Face to Face.

13 Q. And so you've have been in --- with Face to Face
14 in either a volunteer or employment capacity for how
15 long?

16 A. Twenty (20) years.

17 Q. And you came on staff what year?

18 A. January 2008, I was hired.

19 Q. Okay. And so what is your status now? How much
20 do you work for Face to Face?

21 A. I'm part time. I get paid for 16 hours a week.
22 And my responsibility is to recruit volunteer
23 attorneys and law students to help handle the cases
24 that come in.

25 Q. And do you supervise those lawyers, volunteers

1 and attorneys?

2 A. Yes.

3 Q. Now, at some point in the time you've been at
4 Face to Face, did you begin dealing with
5 identification?

6 A. Yes.

7 Q. Okay. And how does that fit in to what Face to
8 Face does?

9 A. Well, initially, when I was in my position as
10 volunteer, I would periodically help people obtain
11 birth certificates or advise them on how to get legal
12 ID. Usually they came with a specific issue, either
13 they needed it for a Social Security claim or they
14 wanted to open a bank account or something of that
15 insure. And then when I --- so when I was a
16 volunteer, I would work maybe a couple times a month.
17 When I --- before I actually was hired, I was the
18 supervisor because the supervising attorney, although
19 he's a volunteer, went --- came to Harrisburg to
20 work, so I started to realize the greater need
21 because I was more involved. So in 2008, I developed
22 a monthly birth certificate clinic, which was aimed
23 toward helping people obtain legal identification.

24 Q. And have you helped people to get legal
25 identification fairly regularly since 2008?

1 A. Yes.

2 Q. In that time, how many birth certificate
3 requests have you handled, if you know?

4 A. I would say overall it's over 600, but 400 and
5 some were adults. I think 427 adults.

6 Q. And have some percentage of those resulted in,
7 let's say, more complicated issues or problems in
8 getting the birth certificates?

9 A. Yes.

10 Q. And do you know what percentage of those cases?

11 A. Nine percent.

12 Q. So do you know approximately how many that is
13 that you've had for complications or problems getting
14 birth certificates?

15 A. The actual number? I think it was --- I think
16 it's 34. I don't remember. I wrote it in my report.

17 Q. And are there some percentage of those birth
18 certificate requests that you have not been able to
19 fulfill?

20 A. Yes. Yes. It's just under six percent.

21 ATTORNEY WALCZAK:

22 Your Honor, we would proffer Ms. Ludt
23 as an expert in barriers affecting low-income
24 people's ability to obtain legal identification.

25 JUDGE SIMPSON:

1 Do you wish to be heard?

2 ATTORNEY CAWLEY:

3 No, Your Honor. No objection.

4 JUDGE SIMPSON:

5 She may express an opinion.

6 DIRECT EXAMINATION

7 BY ATTORNEY WALCZAK:

8 Q. Ms. Ludt, what is the primary form of
9 identification that you try to obtain for people?

10 A. Mainly the Pennsylvania photo ID.

11 Q. And that's something that predates the whole
12 voter ID law?

13 A. Yes.

14 Q. And why is that ID important?

15 A. Well, it's important for clients for a number of
16 reasons. Initially, one of the most pressing reasons
17 was because our local Social Security office was
18 paired with the VA center, and you had to have photo
19 ID to enter, because there was stricter standards for
20 security. But also, I encourage clients to open bank
21 accounts when they get Social Security benefits, so
22 that they can have direct deposit. There were some
23 FEMA funds that became available. Actually my
24 organization administered them. And one of the
25 criteria was you have to have photo ID. And for the

1 low-income utility programs, they also require you to
2 submit your photo ID.

3 Q. So there's a whole host of good reasons that
4 people should have photo ID?

5 A. Yes.

6 Q. Is it your experience that not everybody, in
7 fact, has photo ID?

8 A. Oh, yes.

9 Q. And in order to get a PennDOT ID, what documents
10 do you need?

11 A. Well, you need a birth certificate with a raised
12 seal. You need a Social Security card or the
13 official printout from the Social Security
14 Administration that is stamped, and you need two
15 proofs of your residence. And it used to be a check
16 or money order for \$13.50.

17 Q. Now, I'd like you to talk to us a little bit
18 about the difficulties that you've seen clients have
19 in trying to get these documents on their own.

20 A. Okay. Well, the difficulties are twofold. One
21 is the expense of the document. Pennsylvania will
22 waive a fee for veterans, but otherwise there's a
23 fee, and in many other states as well. The second is
24 that in order to order your birth record, you have to
25 submit, in many cases, a photo ID to get it or a

1 series of other identifying documents, many of which
2 my clients didn't have. And for those out-of-state
3 clients, they often had no idea where they would even
4 write to get the record and ---.

5 Q. And when --- I don't know if you can
6 characterize an average client. Your clients are
7 from what kind of demographic group?

8 A. They're mainly African-American. They live in
9 the neighboring community. I would say a majority of
10 them have not completed high school. They ---
11 because we have income limits, most --- some of my
12 clients have no income at all. Some were on general
13 assistance, which will end. And some are on SSI or
14 Social Security, but at a lower amount.

15 Q. And are these individuals capable of navigating
16 the process of getting an ID on their own?

17 A. I think it's very hard, not only because of the
18 expense, but because being unaware of where you write
19 to access it, or not having what you need to be able
20 to obtain it. And I often would have people come and
21 say that they had tried to get, you know, their birth
22 certificates generally and what --- their first step,
23 and they weren't able to get it.

24 Q. Okay. So once they've come to you and you take
25 over the process, as I understand it, there are a

1 number of obstacles to getting ID. All right. So I
2 think let's sort of just briefly describe those and
3 then discuss them in more detail. So what are the
4 problems that you find in trying to get, let's start
5 with, a birth certificate, for instance?

6 A. Okay. Well, the first obstacle, as a mentioned,
7 is often money, but also the needing ID to get ID.
8 And in Pennsylvania, an attorney, and in some other
9 states, attorneys can sign the --- and be the
10 applicant on behalf of a client. So that's the one
11 obstacle. The other obstacle is that sometimes after
12 you even order a record, it doesn't come and you'll
13 get a notice that says that there's a discrepancy in
14 what the person had on their application and what the
15 vital record is registered in, in that state office.
16 And then another problem is often that you'll get a
17 no record found. And it's that the person's birth
18 was not registered, so then you have to create ---
19 you have to get a certain number of documents to
20 create that --- help them create the birth record.

21 Q. Is there something we call a New York State
22 problem?

23 A. Yes, there is. New York State is divided into
24 two vital records offices. One for New York City,
25 which covers the five boroughs, and the rest of the

1 state. New York City will let an attorney write for
2 an applicant, but both the attorney and the applicant
3 have to include ID. And if the client doesn't have
4 ID, there is an e-mail address. This is something
5 new. I've never had experience in having to write,
6 but you're supposed to give the circumstances of the
7 person's situations. I guess to see if they'll
8 release the record.

9 But in addition, New York City also now requires
10 any birth certificate request to be sent --- if
11 you're ordering it by mail, which of course we are
12 because we're in Philadelphia, the record has to be
13 certified. The application has to be --- I'm sorry,
14 notarized by the client, which can pose a problem if
15 you need IDs to be able to have your signature
16 notarized. And it also has to be notarized if the
17 client wants the record sent to the attorney, rather
18 than to his address. And many of my clients either
19 don't have stable housing or they don't trust their
20 mail. I hear people say their mail gets stolen so
21 they would rather the record be sent to me. So it
22 requires two notarizations for New York City.

23 New York State is actually even tougher because
24 they don't let an attorney apply for a client at
25 all. There's only two people who can --- two

1 recognized applicants, which is the person
2 themselves or one of the parents if they're listed
3 on the birth record. And if you don't have ID and
4 you don't have the identifying document, you cannot
5 get it.

6 Q. And now, you talked about attorneys having to
7 apply for these records. Why can't people just apply
8 themselves? Why can't I just write in and say I need
9 my birth record?

10 A. Well, the reason they generally come to me is
11 they don't have the ID to submit to be able to have
12 it released to them.

13 Q. So for instance, can you tell us what is it in
14 Pennsylvania that you have to submit to get your
15 birth record?

16 A. Well, Pennsylvania, you can either submit your
17 photo ID, but they're trying to get photo ID, so they
18 don't have that. Or there's other identifying
19 documents that they list that you can submit. Or you
20 can have a parent --- well, there actually is ---
21 certain different relatives are permitted to receive
22 it for you if they submit their own photo ID.

23 Q. So what problems do your clients --- I know you
24 said they don't have photo ID, but then you said
25 there's other documents. Do they have these other

1 documents that they could submit?

2 A. No.

3 Q. What kind of documents could you send under
4 Pennsylvania's system to get a birth certificate?

5 A. I'm try drawing a blank right now. I'm sorry.
6 I'm just a little nervous.

7 Q. It's okay. Take your time.

8 JUDGE SIMPSON:

9 We have haven't lost a witness all day.

10 ATTORNEY WALCZAK:

11 Please don't be the first.

12 A. I'm just drawing a blank.

13 BY ATTORNEY WALCZAK:

14 Q. All right. Well, let's ---.

15 JUDGE SIMPSON:

16 Just ask it again.

17 BY ATTORNEY WALCZAK:

18 Q. Let's just move on. Now, you mentioned that
19 there are a number of requests where there apparently
20 is no record.

21 A. Yes.

22 Q. And so what does that mean there's no record?

23 A. Well, in my experience, it's turned out when I
24 questioned the client further that they were born at
25 home and evidently their parents did not record their

1 birth with the state.

2 Q. And does that happen with people born in
3 Pennsylvania?

4 A. Actually, I should correct that. I do have a
5 client that had no record and it turned out that the
6 hospital she was born in had a fire, and so the
7 records were destroyed and that's why she didn't have
8 one.

9 Q. But it does happen in Pennsylvania; correct?

10 A. Yes.

11 Q. And is it more --- actually more common in other
12 states based on your experience?

13 A. In my experience, it tends to be people born in
14 the south that were born at home.

15 Q. And why is that? Why? Do you know why that is?

16 A. I imagine it's because the people were poorer,
17 and they had --- so their families gave birth at home
18 because they couldn't afford the hospital.

19 Q. Now, you also said another reason that you have
20 trouble getting a birth certificate is because
21 there's a discrepancy in the name. What do you mean
22 by that?

23 A. Yes. Most typically in my experience is that
24 the child's parents were unmarried when the child was
25 born and the state recorded the child's surname as

1 the father's surname name, but the child was raised
2 with the mother's surname. So when they apply for
3 the record, they will apply with the name they've
4 always used, and I will get a notice that there's a
5 discrepancy. And so in order to have it corrected to
6 the name that they've used, they need to provide the
7 state with a certified official record that's at
8 least 15 years old. So typically what we do is we
9 get a school record.

10 Q. And if you have this discrepancy between the bad
11 identifier, are you eventually able to overcome that
12 and get a birth certificate?

13 A. Well, the name discrepancies are a little easier
14 to do, although I did have a situation where I guess
15 it was some sort of --- I don't know if in the past
16 the state gave handwritten records or what this birth
17 record was that the mother had. But she married when
18 the boy was still a toddler and so she had erased the
19 name of his father from the birth record and put her
20 husband's name even though he had never adopted the
21 boy. So she registered him in school with that name.
22 And so when we went to get the birth record, it
23 didn't match, he had a Social Security card in the
24 name of the stepfather, and we went to amend the
25 record, we couldn't use the school record. And so we

1 had to --- it took a while to find another record
2 that was old enough that would satisfy.

3 Q. Now, it sounds like you're looking for a lot of
4 school records and other records, so is this because
5 you can't get the birth record or there's a problem,
6 you have to go and find secondary source kinds
7 of ---?

8 A. Yes. Yes. You absolutely have to find
9 secondary sources.

10 Q. And so what are the kinds of secondary sources
11 that you have to go to or look at to present in order
12 to overcome these difficulties?

13 A. Well, if you're talking about a delayed birth
14 record, most states ---.

15 Q. Let me stop you there, okay. That's a new term
16 here. Define delayed birth record.

17 A. Okay. A delayed birth record is when you find
18 that a client --- there was no official record
19 created. So the state --- or the Vital Records
20 Department of the state says that they will create a
21 delayed birth record for the person if you provide a
22 certain number of documents with certain ---
23 containing certain information of a certain age,
24 usually well over a decade.

25 Q. And what kinds of records are those?

1 A. Well, all the states require at least one record
2 that has the name of the person, their date of birth,
3 their state of birth and place of birth, and at least
4 their mother's maiden name. Sometimes they'll say
5 parents' names, but it's usually at least the
6 mother's name. So the one document that contains all
7 of those is what's called a Social Security numident
8 record, which is the official computerized record
9 that the Social Security Administration has on file
10 from when the person first applied for their Social
11 Security card.

12 Q. And does that cost money to get a numident
13 record?

14 A. Yes, it costs \$16.

15 Q. And you talked about getting school records. Is
16 that a source of information you go to?

17 A. Yes. Usually the school records are helpful in
18 a delayed birth record case because usually the
19 states require that second record that gives the
20 person's name and their date of birth and the state
21 where they're born. And most states record the state
22 of birth for the students when they're enrolled.

23 Q. Now, when you have people that come to you who
24 are born outside Pennsylvania, let's say they're born
25 in the south, the research that you're doing to find

1 these documents is obviously in the birth state; is
2 that right?

3 A. Yes. Yes.

4 Q. And so how --- what is it that you have to do in
5 order to track down those records? You need access
6 to the internet?

7 A. Yes. Well, first of all, the first time ---
8 we've ordered records from about 15 different states
9 so far. But the first time I ever ordered from a
10 state that I hadn't before, I have to go on the
11 internet and find the Vital Records Department that
12 --- where I would write --- well, usually you can
13 print out the application and it gives you the
14 information of what you have to provide.

15 Q. So you have to go on the internet?

16 A. You have to go on the internet.

17 Q. Do most of you clients have access to the
18 internet?

19 A. No.

20 Q. Do any of your clients have access to the
21 internet?

22 A. I can't say that none of them do, but I don't
23 think so. I would think not.

24 Q. Is it a majority?

25 A. Oh, definitely the vast majority would not.

1 Q. Would not have access to the internet?

2 A. Would not have access to the internet.

3 Q. And do you spend any time on the phone?

4 A. Yes, I spend a lot of time on the phone.

5 Generally, I'll use the internet to find, you know,
6 --- for instance, if somebody went to school in the
7 south, I'll use the internet to find maybe the school
8 district. It's very frequent that the school that
9 the person went to doesn't even exist anymore. So
10 I'll have to call to figure out what school district
11 that was, call to see who the records custodian is,
12 do they still have the records and that sort of
13 thing. And I also use the phone to follow up when I
14 make records requests and if they don't come in a
15 timely fashion or to inquire and make sure that if
16 something's not clear about what's needed before I
17 mail it, I'll call.

18 Q. Do many of your clients have unlimited data
19 plans on their cell phones?

20 A. No. A lot of my clients have these emergency
21 phones that they can get that have certain number of
22 minutes per month. They're free and the idea is that
23 they be used for emergencies and for medical
24 appointments. I'm not really sure what they're ---
25 I've heard them called different things. But many of

1 them have that, if they have a phone at all.

2 Q. And if they have a phone, is it often restricted
3 from making long distance calls?

4 A. I don't think really any have land lines. So I
5 don't know if the cell phones are restricted or not.

6 Q. And do you know whether your client's zealously
7 guard their minutes on these phones?

8 A. Oh, they absolutely do. In fact, there's many
9 times I call clients whether it's for this or
10 anything else and they'll tell me --- you know,
11 they'll talk real quick because they're saving their
12 minutes.

13 Q. And do you have an opinion, to a professional
14 degree of certainty, based on your experience about
15 whether most of your clients could navigate this
16 process of having to get a birth certificate when
17 they're told there's no record?

18 A. Oh, most haven't. In fact, many of them have
19 come in because this isn't the first time they found
20 out there's no record. They tried to get it in the
21 past and they couldn't, and they've been trying. You
22 know, it's not uncommon for somebody to say I've been
23 trying for years.

24 Q. Let's talk a little bit about Social Security
25 cards. So that the first record, the indispensable

1 record, you need to get a PennDOT ID is the birth
2 certificate, raised seal birth certificate; right?

3 A. Yes.

4 Q. And the second one is the Social Security card.

5 ATTORNEY WALCZAK:

6 Kelby, can you put up 366, produced in
7 our documents?

8 BY ATTORNEY WALCZAK:

9 Q. I've put up what is marked as Petitioner's 366.
10 Do you recognize this?

11 A. It's from the website, I believe.

12 Q. And is it from the U.S. Social Security
13 Administration?

14 A. .gov, yes. USA.gov --- or SSA.gov. Yes.

15 Q. And at the top there, near the top, in that box
16 that says replacement card for U.S. born adult; is
17 that correct?

18 A. Yes.

19 Q. So is this the directions on the Social Security
20 Administration website for getting a replacement
21 Social Security card?

22 A. Yes.

23 Q. So can you tell us --- and if you need to refer
24 to this document, please do --- what is it that a
25 person needs to get a replacement Social Security

1 card?

2 A. Well, the primary form of identity would be
3 either a state-issued photo ID, driver's license,
4 passport, active military card, similar to what's
5 required for voter ID. And then they have secondary
6 documents that they'll consider.

7 Q. So at the bottom of Exhibit 366 there it says
8 identity, and it says we can only accept certain
9 document as proof of identity, and then it lists
10 three. And what are those?

11 A. Employee ID card, school ID card ---.

12 Q. I'm sorry. Above that.

13 A. I'm sorry?

14 Q. The ---.

15 A. Oh, the driver's license, state-issued
16 non-driver ID card or passport.

17 Q. And do your clients who come in have any of
18 those documents?

19 A. No, because that's what we're working to try to
20 get them is the non-driver ID.

21 Q. So your clients are forced to go to these
22 secondary sources; is that right?

23 A. Yes.

24 Q. And so what are the secondary sources?

25 A. This list says employee ID card, school ID card,

1 health insurance card, but not their Medicare card,
2 and U.S. military ID card. I didn't realize --- I
3 thought that was a primary. I didn't realize that it
4 was a secondary. U.S. military ID card.

5 Q. And are you able to get Social Security cards
6 for all of your clients?

7 A. Well, I don't get them. They have to go. We
8 advise what they need.

9 Q. And do you find that your clients have
10 difficulty in presenting some --- sometimes have
11 difficulty presenting the required documents?

12 A. Yes. Yes.

13 Q. So tell us why that is.

14 A. Well, because they don't have these documents
15 that are listed.

16 Q. So they don't have an employee ID card?

17 A. No. Most of my clients --- I mean, very, very
18 few of my clients are employed. And those that are
19 employed are usually employed part time or kind of, I
20 guess, as like an independent contractor, you know,
21 where they work a few hours.

22 Q. So they don't have an ID card?

23 A. Yes.

24 Q. And school ID card?

25 A. No. I mean, I can't think of any of my clients

1 that are still in school that would have that.

2 Q. And then I see military card. Do you know if
3 that includes a veteran's ID card?

4 A. It does not. I mean, the VA card is not ---
5 it's not active duty veteran's card --- I mean, the
6 veteran's card is not an active duty military card.
7 I made that mistake. I thought it was, but it's not.

8 Q. So when you're trying to help folks, is the
9 primary record that you're looking for something to
10 do with health insurance?

11 A. Yes. And there's actually another --- it's not
12 listed here, but something that they have accepted,
13 which is if I can get somebody's primary care ---
14 well, it doesn't have to be primary care, but a
15 medical provider to write on their letterhead that's
16 stamped that the person has been their patient and
17 has reported this Social Security number and this
18 birth date. And I have written many letters for
19 that, and I've only ever gotten one response.

20 Q. So that can be difficult to get as well?

21 A. Yes, if not impossible.

22 Q. Now, if you have a birth certificate, can you
23 just get a Social Security card?

24 A. No.

25 Q. You still need to present these other documents?

1 A. Yes. Yes.

2 Q. I want to talk a little bit about proofs of
3 residency. Right? That's the third requirement
4 under PennDOT?

5 A. Yes.

6 Q. Do you work a lot in that area of documents?

7 A. I do, in that I advise. But again, you know, we
8 don't go to PennDOT with people. We just tell them
9 what the requirements are, so that they can try to
10 get the documents together.

11 Q. And do you have clients who come to you who
12 don't actually have two proofs of residency?

13 A. Yes, many. Many. Germantown has very large old
14 houses. Some three stories. It's not uncommon that
15 there might be eight bedrooms. And many of my
16 clients, particularly the ones that are living on
17 general --- you know, general assistance, they'll
18 rent a room in a house for a week or a month at a
19 time. And they don't have a lease. They don't have
20 utilities in their name. And they don't have, you
21 know, a gun permit or an employee --- a W-2 or the
22 other requirements.

23 Q. Or any of the other records ---

24 A. Yes.

25 Q. --- that they say are okay? And do you have

1 some homeless people you work with as well?

2 A. Yes. Yes. So I have one client that I was
3 trying to help. I was able to get his birth
4 certificate. He could not satisfy the Social
5 Security Administration to get his printout. And he
6 lived in the basement of a building, commercial, you
7 know, business, that they let him sleep in the
8 basement in return for sweeping out the building at
9 night. He had nothing that proved he lived there.

10 Q. Now, I know we talked a little bit about the
11 cost barriers before. Does your organization pay
12 actually the fees and costs associated with getting
13 these IDs?

14 A. Some of them. I mean, we pay for the birth
15 certificates, either through grants or the Villanova
16 Law School Pro Bono Society runs a couple plans that
17 they pay for. The students work with me, but they
18 pay for them. We don't pay for census records, if
19 that's required. One of my clients was told she
20 needs a census record. That's \$65.

21 Q. I'm sorry. You said \$65.

22 A. \$60 or \$65. I don't know. I didn't order it.

23 Q. And why would you need a census record?

24 A. Well, that particular client when she was
25 working on her own, she had paid for her school

1 record from Philadelphia as one of the items of
2 proof. And the date that was written --- the birth
3 date that was listed on her certified school record
4 was actually her brother's birth date. So she had
5 sent that along with --- one of the requirements from
6 the state that she was born in was child's birth
7 record. I don't know why it said that because it
8 didn't have her birth date or information on it. She
9 had ordered that, too, and they denied her. They
10 said that the date was wrong and that she would need
11 to get a census record. Now, I'm still trying to
12 find out with the school district if that mistake was
13 just a current error from the clerk because it wasn't
14 her original. It was handwritten on the certificate.
15 But I was told that if it was a current record --- if
16 it was a current error, they could correct it and
17 sent it with the birthday. But if the error had been
18 made when she was enrolled back as a child, I would
19 need a court order to have that changed. So that's a
20 very common document we use, and we don't have in for
21 her. That was one of Petitioners in this case. That
22 was Gloria Cuttino.

23 Q. We'll come back to the Petitioners. So the
24 people that you work with, the demographic that you
25 work with, they have, say, personal issues and

1 difficulties in navigating the system. What are some
2 of the issues that you find in this population?

3 A. Well, they had very hard lives. They're very
4 poor and many of them are transient. They move
5 around. They might not be homeless as in living on
6 the street, but they'll stay with people for a while,
7 but they don't have a right to be there, and they'll
8 will move on. So you know, they're transient. It's
9 hard to keep track of papers often. Some of them ---
10 I've had a couple of clients who have lost papers
11 because of fires and evictions. They'll lose papers.
12 And I have elderly clients that come in that are kind
13 of forgetful.

14 Q. Some of these folks have mental health issues?

15 A. Yes, some of them do. They have mental health
16 issues and it makes it hard for them to, you know,
17 keep track of things.

18 Q. Some of them have substance abuse problems?

19 A. Some of them.

20 Q. Kind of a lot of life skills difficulties?

21 A. Yes, a lot of problems advocating for
22 themselves. And also because of the, you know, lack
23 of education, but some of them are actually pretty
24 illiterate. And a lot of the instructions that come
25 for getting your ID or especially for a delayed birth

1 record are pretty complicated, you know, several
2 pages, very small print, very specific. It can be
3 confusing.

4 Q. Okay. You said you've processed over 600 of
5 these, birth certificates. Are you aware of other
6 programs like yours in the state?

7 A. No, I'm not. I mean, I think some places will
8 have a birth certificate clinic periodically, but I
9 don't know of any that does it monthly.

10 Q. And do you know and have you seen the witness or
11 the list of witnesses that we're calling in this
12 trial?

13 A. I haven't seen the list. I know who came, who
14 testified today.

15 Q. Okay. And are many of those people your
16 clients?

17 A. Yes.

18 Q. And you're not aware of similar programs in,
19 say, Allentown or Harrisburg or Pittsburgh?

20 A. No, I'm not aware of any.

21 Q. Now, one last set of problems that may be
22 encountered before we talk about the specific
23 Petitioners. Are there problems that you encounter
24 with the bureaucracies that you deal with?

25 A. Yeah, there's a lot. And you know, I have a

1 problem dealing --- well, sometimes you can't even
2 get through on the phone. But in addition to just
3 the kind of problems that you would have with
4 agencies where you're on hold a long time or you
5 can't get through or you have a circular voicemail
6 that puts you back, there are often problems with
7 folks just not being informed. You know, somebody
8 going to replace your Social Security card and being
9 told --- you know, a man in his 60s that he needs to
10 know his parents' Social Security numbers to get it.
11 Misinformation.

12 I had a client who I had ordered his birth
13 record from --- I think it's North Carolina. It's
14 one of the southern states. And it was a scanned
15 copy of the original birth record, but it didn't
16 have a seal on it. And it was green in color. And
17 he took it to PennDOT with --- he had his printout
18 and he had proof of residency. And the clerk there
19 told him that it was forged. They wouldn't accept
20 it. So he came back very upset. So I said, well,
21 they probably haven't seen one like this. So I
22 wrote a letter on my letterhead, explaining that I
23 was his attorney, that I had ordered it for him
24 myself and that if they turned it over, they could
25 see --- I guess it was the seal was more evident

1 from the underside because of the color. So he
2 returned. And he was told your attorney forged your
3 birth certificate. And he came back very upset.
4 And this particular client really didn't have a
5 whole --- you know, he was more fragile than some of
6 the others. It was really unfortunate he was being
7 bounced around like this. And at that point, I was
8 very angry. And I ended up calling a risk
9 management person at PennDOT and told him the whole
10 story. And he had me fax everything, like my
11 application, the birth record, my cancelled check,
12 my letter. And then he called over to that PennDOT
13 site and talked to the supervisor and cleared the
14 way for my client to go back a third time to get his
15 photo ID.

16 Q. So even when you have valid records, it can be
17 difficult?

18 A. Yes. And not just for the client, for the
19 attorney.

20 Q. All right. I want to go over with you your work
21 on the five people --- four people who testified
22 today and one person who's going to testify on
23 Friday. And what I've done is I've photocopied your
24 files, which we produced in this case for these five
25 individuals. And with Your Honor's permission, I'll

1 give them to you. If you need to refer to them, just
2 to testify, I'll have you do that. I don't believe
3 we'll move these into evidence unless the state wants
4 them in evidence, but ---.

5 ATTORNEY WALCZAK:

6 The first one we have is on Viviette
7 Applewhite. Your Honor, so we have here Ms. Ludt's
8 records from Face to Face on five individuals,
9 Viviette Applewhite, Wilola Lee, Lelia Stones,
10 Stanley Garrett, all who testified earlier today.
11 And the fifth one is Gloria Cuttino, who we expect
12 will testify on Friday.

13 BY ATTORNEY WALCZAK:

14 Q. Ms. Ludt, let's start with the Wilola Lee ---

15 A. Yes.

16 Q. --- situation. When did Ms. Lee first come to
17 you?

18 A. I don't have her records. I want to say
19 sometime in 2010. This is --- oh, I'm sorry.

20 Q. I'm sorry. Is that like --- September 2010
21 sound about right?

22 A. Yes, I guess that sounds like it's right. Yes.

23 Q. And Ms. Lee's testimony was that she hasn't been
24 able to get a birth certificate. Could you tell us
25 sort of what the problem is and what you've done to

1 try to help her get a birth certificate?

2 A. Well, when she first came in, she told me that
3 she had been trying herself for some time. I don't
4 remember how long. And she also told me that she had
5 once had a birth certificate that somehow got
6 destroyed or lost. I don't recall exactly what. So
7 we filled out the application and we sent it in, and
8 we received a no record found.

9 Q. I'm sorry. Where did you send it?

10 A. I'm sorry. To ---

11 Q. Georgia?

12 A. --- Vital Records in Georgia. When the no
13 record found --- and I don't know if there's a copy
14 of this in here. It had several major errors in it.
15 It had her last name spelled without a letter, from
16 my recollection. It had her mother's name very
17 misspelled and wrong. So since she had told me she
18 had had a record, I thought maybe this was misfiled.
19 So I wrote a letter back pointing out the errors and
20 asking them to recheck and also telling them that she
21 had said she had had a record once. Then I received
22 a second no record found with the corrections that I
23 had pointed out. With a packet of information in
24 order to --- the documents that would be required in
25 order to have a delayed birth record created.

1 Q. And what --- and where are you in the process of
2 trying to get that delayed birth certificate?

3 A. Well, I had written to the School District of
4 Philadelphia where she had gone to school, and I had
5 asked them to send me the proof of birth with the
6 state listed. And they sent it back U.S., which
7 isn't helpful. You know, I needed the state. I
8 explained in the letter what I needed. I had also
9 --- I should back up. This had been actually
10 assigned --- been assigned to one of the volunteers
11 first. And then Wilola had obtained her employment
12 records, but they're not certified. They have to be
13 official. It says the original copy or certified
14 copy. So I told her she has to go back and see if
15 they'll certify them for her. And because these
16 cases are confusing when you look at the lists, I
17 realized that the volunteer had not ordered a
18 numident record, which I ordered in March, and it
19 still has not arrived.

20 Q. So this is all things that you have to do just
21 to be able to try to get this delayed birth
22 certificate from Georgia?

23 A. Yes. And there's an additional complicating
24 factor with her because she said sometimes she's been
25 known as Wiola and sometimes as Wilola, so I'm

1 holding my breath because I don't know when the
2 numident record comes back if it's going to match the
3 records that we do have. The two that we do have say
4 Wilola with an L in it. And I don't know what we're
5 going to do if the numident comes back Wiola.

6 Q. It seems like such a little thing, but in your
7 experience is that something that could throw the
8 process off?

9 A. It totally can throw the process off.

10 Q. So if one record is Wiola and you get another
11 record that's Wilola, that may prevent a match and
12 being able to get the ID.

13 A. Well, yes. I mean, the one delayed birth record
14 that we worked on for two years that the client
15 finally just said just stop was there were so many
16 discrepancies that when I talked to Vital Records in
17 South Carolina, they said look the only way we're
18 going to be able to get a birth record for this woman
19 is if you petition the court in Philadelphia to order
20 us to create this record. She said there is nothing
21 that we can do here without them. And I finally got
22 a volunteer to do it. And then the volunteer quit.
23 And so I had a summer student, he started to draft
24 it. And when I called the summer intern --- when I
25 called the client to let her know and to apologize

1 because it's been taking so long, she had said when
2 she knew --- I explained she'd have to come to court
3 to testify, she said my bones hurt. I'm old, she
4 said. I got by without an ID this long. She just
5 wasn't willing to come into court. So in answer,
6 yes, if you don't have conforming information. And I
7 don't know that Georgia would accept a court order
8 either.

9 Q. So you started --- she came to you in September
10 of 2010 and you've been working on it sort of off and
11 on since then?

12 A. Well, it's been --- a volunteer had it, yes.
13 It's been in the clinic.

14 Q. And I believe you testified she had been trying
15 on her own before that?

16 A. Yes.

17 Q. And you still don't have the birth certificate?

18 A. No.

19 Q. And in order to get the PennDOT ID, she's got to
20 have that birth certificate?

21 A. Yes.

22 Q. Let's talk about Viviette Applewhite. And when
23 did she come to you, do you recall?

24 A. She came in April when the Villanova Law School
25 Pro Bono Society was holding its --- was sponsoring

1 one of our birth certificate clinics.

2 Q. So she just came in this spring?

3 A. Yes. And she had reported to me that she had
4 been trying for years, that she had applied for the
5 record herself. She said either --- I don't know if
6 she said three or four times or four or five times,
7 where she paid the money. She even knew that the
8 price went up because she said it used to be \$5, then
9 it was \$10, and she never received the record or a
10 reason why.

11 Q. And is that unusual, in your experience, for
12 people to tell you they've sent away and not gotten a
13 response?

14 A. No, it's not unusual at all.

15 Q. And you obviously don't know why that happens,
16 or do you?

17 A. I think it's probably because if they're using
18 it to get ID and they don't include ID, it gets
19 rejected, but they don't get a reason why. They just
20 --- and they don't get their money returned. They
21 just get nothing.

22 Q. Now, you --- so you actually applied for Ms.
23 Applewhite.

24 A. Yes, I signed her application.

25 Q. And did you get one?

1 A. Yes, we did.

2 Q. And let me stop you because Ms. Applewhite
3 testified that she actually got that on her birthday
4 this year. Is there a story behind that?

5 A. Yes, I actually didn't think we were going to
6 get it, because we had ordered, I don't know, 40 or
7 50 birth records at that time, and the bulk of the
8 Pennsylvania's came and Ms. Applewhite's and somebody
9 else weren't in there. So I thought maybe there's a
10 problem besides --- but then it came and it came two
11 days before her birthday. So I sent it to her with
12 her birthday card.

13 Q. And she got it on her birthday?

14 A. Yes.

15 Q. So can Ms. Applewhite get a PennDOT ID?

16 A. No. Because what I didn't realize initially was
17 that --- I just assumed Applewhite was her married
18 name, because I knew when she filled the application,
19 she said her birth name was Brooks. And what I
20 subsequently learned was that she was adopted as an
21 adult by a friend's father to enable her to inherit
22 or something. I'm not sure of the reasons. And that
23 she needed to have the court order of her adoption to
24 be able to present to Pennsylvania to have her birth
25 certificate amended. And I can't do that. That's

1 beyond what my clinic can do for people. I don't
2 know where in Mississippi, I don't know where --- who
3 I would get to do that, so you know, we had to
4 decline.

5 Q. Now, have you had previous experience with
6 PennDOT where somebody has had a birth certificate in
7 one name and a Social Security card in another name?
8 Just sort of --- because Ms. Applewhite testified
9 that her birth certificate is in Brooks and her
10 Social Security card was changed to Applewhite.

11 A. Yes. Yes.

12 Q. And what was your experience?

13 A. They can't get it. The names have to match.
14 And I had another situation where somebody was
15 adopted and he --- their Social Security card --- he
16 was adopted because of a dependency issue. So he was
17 removed into foster care and then his foster mother
18 adopted him, who was an elderly woman. And the state
19 evidently automatically changes the name to the
20 adoptive parent when the adoption order comes
21 through. And from what I was told, they should have
22 also notified Social Security, so that the name was
23 changed on his card. And he came to me when he was
24 21 or so, because he's tried to get ID and his Social
25 Security card was in the birth name and the birth

1 certificate was in the adopted name. So I tried to
2 get Social Security to change it. And they said
3 we're the government, let the state change it. So I
4 found out that if we had gotten the adoption order
5 that they --- that would have enabled them to change
6 the name. But he didn't have ID, and he couldn't get
7 his order. I couldn't get it for him because I'm not
8 attorney of record. And so the other person who
9 could have was his adoptive mother, but she was
10 elderly and she was infirm. She didn't know where
11 the record was. She wasn't going to go down to ---
12 he had moved out. He had moved back with his ---
13 some other family later on. So he just couldn't get
14 it. I mean, last I heard he didn't have it. I don't
15 know where he is now. I was never able to help him.

16 Q. So do you believe that the fact that Ms.
17 Applewhite has gotten her birth certificate now means
18 that she can just go to PennDOT and get an ID?

19 A. I don't think so.

20 Q. And the problem is?

21 A. Because the names don't match.

22 Q. And can she get a Social Security card?

23 A. She could get a printout. I believe she has a
24 required document to enable her to get the printout
25 of her Social Security card.

1 Q. But that card is going to say Applewhite?

2 A. Say Applewhite.

3 Q. And so in your experience that would be a
4 problem at PennDOT, because of the name mismatch?

5 A. Yes.

6 Q. All right. Let's talk about Stanley Garrett.
7 When did Mr. Garrett come to you?

8 A. I think 2010. Towards the end of 2010.

9 Q. Late 2010? And he was born in North Carolina,
10 and he's also having a birth certificate problem?

11 A. Yes. He was also born at home and there was no
12 record. Now, he might have been actually easier
13 because another very good document, but it tends to
14 only apply to certain male clients, is the military
15 DD-214, because that's the record that they --- I'm
16 not sure if I'm saying this right, but my
17 understanding of it is, it's the final record when
18 somebody leaves the service that tells the
19 information when they enlisted and also whatever
20 accommodations or training or rank that they got
21 during their time in the service. And he was a
22 veteran --- or he is a veteran. So I was able to
23 write and get that and there was no charge for that,
24 and it listed his state of birth. And I also was
25 able to get him his Social Security numident record.

1 That was another case that I handed off to a
2 volunteer. And the third record was a school record,
3 and the volunteer got a copy of Stanley's diploma,
4 but that doesn't count. It shows he went to school,
5 but it doesn't show, you know, the identifying
6 information they need, so it was rejected again. And
7 in that particular case, what we found out was ---
8 and I think this is true with some of the vital
9 records. If you can't complete the process within a
10 year, you have to re-apply. You don't just even have
11 to pay again. They made us file a whole new
12 application for a birth record that we knew didn't
13 exist, so that they can reopen the file. So they
14 took the \$24 or the \$25 again. So the school that he
15 had --- the high school he had gone to doesn't exist
16 anymore. And I recently tracked down the district
17 that may have the records, although I was told that,
18 you know, they had a fire, that they may not have it.
19 But that's what I'm waiting for is his school
20 records.

21 Q. So you're still --- and he came to you in late
22 2010, and you're still working on getting him the
23 birth certificate?

24 A. Yes.

25 Q. Let's talk about Leila Stones. Leila's from

1 Virginia and she also has a problem getting her birth
2 certificate.

3 A. Yes. She's a recent client. She recently came
4 in, reported that she'd been trying for many years.
5 And she's from Virginia. She was born in Virginia.
6 I think that --- I'm trying to think if we applied
7 for the birth record, thinking it might be there.
8 She had given me information when I first got a no
9 record found. I think this is what happened, because
10 students took the application, I didn't know
11 initially that she would need a record created. And
12 I got a letter back, I think she had reported she was
13 born in Lucktown or something. And they sent back a
14 letter saying there is no town. So I called her and
15 she talked to her grandfather and we got the town,
16 and I sent it in. And then I got the no record
17 found. And she said --- she told me that, you know,
18 she hadn't been able to get her birth certificate
19 either. So they sent me the packet to create the
20 delayed birth record.

21 Q. So you're still in the process of trying to get
22 it?

23 A. Yes, waiting for school records. I seem to
24 think --- is her packet here? I think maybe ---

25 Q. Yes.

1 A. --- her state only requires two documents
2 instead of three.

3 Q. When you say documents, these would be?

4 A. These are the documents of the certain --- you
5 know, that are official, that are of a certain age,
6 usually at least --- no less than 10, but maybe 15
7 years old.

8 Q. And the last person we'll talk about is Gloria
9 Cuttino.

10 A. Well, can I --- I wanted to add one more thing,
11 if I may, about ---

12 Q. Please.

13 A. --- Leila. I was looking at the packet that
14 they sent, and I was ---.

15 Q. I'm sorry. When you say they ---?

16 A. I'm sorry. Vital Records in Virginia. They
17 also sent in the form that you would fill out to have
18 the delayed birth record made, because I know that
19 you don't send that in until you have all the
20 documents. But evidently, you know, sometimes people
21 fill it out and send it in and don't understand or
22 say I ordered my delayed birth record, but I didn't
23 get it. I think that Wilola (sic) had told them
24 that. But I was looking at it and it looked like a
25 legal representative signed, because the document has

1 to be notarized, and that is a problem. That's a
2 problem if you can't submit your ID to have something
3 notarized. So I told her ---.

4 Q. I'm sorry. Why is there a problem with ---?

5 A. Because you have to show government issued ID or
6 you have to be known there's --- I forget the actual
7 language of the notary statute. But the notary who
8 will witness your name has to --- if you don't have
9 the issued ID, they have to know you. And so I
10 called the supervisor at Vital Records because I've
11 been having other problems just in getting birth
12 records where I would sign, and they would tell me
13 that, you know, my client needed ID. So I wanted to
14 make sure that if I sign this for her, it wouldn't
15 get kicked back eventually. And he said, oh, no,
16 that's only legal representative if the person is
17 under 18. So I said what am I supposed to do.
18 What's this client supposed to do if she can't get
19 this notarized. He said oh, everybody knows a
20 notary. And I said no, not everybody does. And she
21 goes --- he said you can go to your banker --- or she
22 can go to her banker or insurance agent. I said I
23 don't think she had either. And I conferred with
24 her. She said I don't have a bank, you know, I don't
25 have a bank account and she said I don't have

1 insurance. So it is a potential problem even when I
2 get the documents as to whether I can --- she can get
3 her --- any of these clients can get their signature
4 notarized.

5 Q. So to get a lot of these documents, they want
6 you to have photo ID, which they don't have or they
7 want you to get a notarization and you need photo ID
8 to get the notarization if you don't know the person?

9 A. Yes.

10 Q. Let's talk quickly about Gloria Cuttino here.
11 Ms. Cuttino has not testified yet. Can you tell us a
12 little bit about what Ms. Cuttino's situation is?

13 A. She actually first came to me, I want to say,
14 2008 or 2009. Well, she came to the clinic and the
15 students applied for a Pennsylvania birth record. I
16 don't know if the student made the mistake or she
17 did, whatever. And no record found.

18 Q. I'm sorry. Where is she born?

19 A. She was actually born in South Carolina. I have
20 to look. It's confusing because they are almost in
21 very different states. Here she is. She's South
22 Carolina. So I remember when she came in. I said
23 there's no record. Were you born at home. And she
24 said, yes. So we got to talking, and it was evident
25 that it wasn't Pennsylvania. And we only do this

1 once a month, this project. So I said well, we're
2 going to have to, you know, apply for it. So she
3 must have applied on her own, because when she came
4 back to me recently, she came back --- it may have
5 been shortly after she was with me for the original
6 birth certificate clinic, because some of the
7 documents she had were over a year old. And she had
8 ordered and paid for the school records that I
9 mentioned that had her brother's birth date. And she
10 must have ordered one of her children's birth
11 certificates because it does say that --- I'm
12 guessing that maybe in some of these southern states
13 they indicate the mother's date of birth or something
14 on the child's birth certificate. The Pennsylvania
15 vital record doesn't. So it was useless, because her
16 children were born in Pennsylvania. And that's when
17 she --- they gave her an application for this census
18 record that they suggested that she order.

19 Q. And that's the one that's \$65?

20 A. Yes.

21 Q. And so is she also another person who has a no
22 birth record?

23 A. Yes.

24 Q. And so you're working on a delayed birth
25 certificate for her?

1 A. Yes, I'm hoping, because I talked to the
2 supervisor and I sent a letter --- you know, this is
3 really a problem with some of the agencies that we
4 have to deal with, particularly the Philadelphia
5 School District, is they take forever to respond, if
6 they respond. And so I had sent it with a letter
7 asking them to double-check the record, and I got no
8 response. And I sent a second request in. I'm
9 hoping that it comes back that the mistake was
10 recent, so that I can get that. And I ordered her
11 Social Security numident record as well, which I
12 haven't received yet.

13 Q. So you're still in the process of trying to get
14 the source records in order to get the birth
15 certificate, ---

16 A. Oh, yes.

17 Q. --- in order to then get eventually the PennDOT
18 ID?

19 A. Yes.

20 Q. Now, a couple times you referred to volunteers
21 or interns that have been working on these cases.

22 A. Yes.

23 Q. Is that what you do? You ---?

24 A. Yes. I'm the only paid staff in the legal
25 clinic. And I get paid for 16 hours a week. And

1 this isn't the only thing we do. We do other
2 substantive and so there's sort of a triage, too, in
3 what we can handle.

4 Q. And are some of your volunteers lawyers?

5 A. Yes.

6 Q. Passed the bar, members of the bar?

7 A. Yes.

8 Q. And do some of them have difficulties in
9 navigating this process?

10 A. It's very confusing. And I'm sitting here and
11 I'm confused because of the different requirements of
12 the different states, and when you read the document
13 list, I mean, you can tick off --- you know, they'll
14 send you a list and it's at least two pages of
15 instructions. And some of the records you can tell
16 right away, you know, if the client doesn't work,
17 you're not going to have this, you're not going to
18 have an employment record or whatever. If they
19 weren't in the military. And then you try it figure
20 out on that list what you're able to get. And in the
21 case of Stanley, somebody actually sent the things in
22 not realizing that it wasn't complete.

23 Q. That's Stanley Garrett?

24 A. Yes. And that was recently and, you know, you
25 talk about bureaucratic. When I called to inquire

1 about it, it turned out that they had --- they hadn't
2 sent the denial. They had it registered under the
3 attorney's name, not even Mr. Garrett's name.

4 Q. So based on your experience in getting or
5 helping people obtain IDs over the years, do you have
6 an opinion to a reasonable degree of professional
7 certainty whether some people simply are unable to
8 get a PennDOT ID because they can't get the right
9 records?

10 A. Yes. Yes.

11 Q. And what's your opinion?

12 A. My opinion is that it's very confusing,
13 expensive and somewhat burdensome for many people to
14 get photo ID.

15 ATTORNEY WALCZAK:

16 Thank you. No further questions.

17 JUDGE SIMPSON:

18 Hold on. Please proceed.

19 CROSS EXAMINATION

20 BY ATTORNEY CAWLEY:

21 Q. Good afternoon, Ms. Ludt. You gave some
22 extensive testimony about the types of clients you
23 serve, and I just want to confirm some of those
24 points. You testified that many of your clients
25 don't have what many people would consider a fixed

1 address; right?

2 A. Yes.

3 Q. So for example, you mentioned people who may
4 rent a room for a week or maybe longer or maybe
5 shorter; right?

6 A. Yes.

7 Q. Okay. And they may have work here and there,
8 they take this job and then that odd job, but they
9 don't have regular employment with W-2s; correct?

10 A. Correct.

11 Q. And so focusing on that clientele, you help them
12 to obtain ID and the supporting documents for ID for
13 a range of reasons; right?

14 A. Yes.

15 Q. So all of the testimony that you just talked
16 about then, the difficulties that you've encountered,
17 that's all part of getting your client's access to,
18 for example, utility programs for low-income people;
19 right?

20 A. If they have a utility bill in their name, I
21 mean, that is part of ---.

22 Q. That's one example of what you do?

23 A. Yes.

24 Q. Okay. And so other examples of why you would
25 want to get these supporting documents and get the

1 photo ID would include federal housing funds, for
2 example?

3 A. Yes.

4 Q. Okay. And another would be public assistance
5 benefits or even to obtain employment; right?

6 A. Yes.

7 Q. So everything that you testified that you're
8 doing these --- you're seeking the documents and
9 you're seeking a photo ID for this full range of
10 reasons; right?

11 A. Yes.

12 Q. And a photo ID is pretty crucial to a lot of
13 these purposes; right?

14 A. Yes.

15 Q. There's a portion of the report that you
16 produced for the Petitioners' attorneys that it
17 starts on page five and it's --- the heading is,
18 quote, cost is a significant barrier for indigent
19 clients. So I'd like to ask you about that portion
20 of your report. You indicate that birth certificates
21 cost money; right?

22 A. Yes.

23 Q. And you're referring to a fee paid to a
24 government agency to get a birth certificate; right?

25 A. Yes.

1 Q. Okay. And then are you aware of --- you
2 mentioned the \$13.50 fee. I assume you were
3 referring to the Pennsylvania Department of Health?

4 A. No. The \$13.50 was the PennDOT fee to get the
5 actual ---.

6 Q. Okay. I just wanted to make sure which agency
7 you were talking about at that time. And are you
8 aware that there's no longer a fee charged by PennDOT
9 to get an ID card if it's for voting purposes?

10 A. If they certify that it's strictly for voting,
11 yes.

12 Q. Okay. And are you aware that the Pennsylvania
13 Department of Health will, as a part of the same
14 process for voting purposes, confirm the birth record
15 of those born in Pennsylvania free of charge?

16 A. For Pennsylvania, yes.

17 Q. Okay. And you mentioned, I think, extensively
18 in your testimony that there are fees that people
19 encounter when it comes to getting certified school
20 records and census records and notary fees; right?

21 A. Yes.

22 Q. And these are the fees that may not be large in
23 themselves or maybe they are large for an indigent
24 person, but certainly in the aggregate, that's what
25 you're talking about starting at page five of your

1 report?

2 A. Could you say what you just ---?

3 Q. Sure. I'm sorry. I'll break it down. When
4 you're talking about the costs that are significant
5 barriers for indigent clients, you're talking about
6 fees for certified school records; right?

7 A. Yes.

8 Q. And for census records?

9 A. Yes.

10 Q. Fees for notaries; right?

11 A. Yes.

12 Q. Okay. Switching gears a little bit. Just
13 generally in terms of your clientele, again, whether
14 they are homeless or whether they are indigent and
15 find places to live, some or even many of your
16 clients visit offices run by state agencies, such as
17 the Department of Public Welfare. Is that safe to
18 say?

19 A. Yes.

20 Q. And many or perhaps most of your clients receive
21 some form of benefits or assistance from a government
22 agency, is that a fair statement?

23 A. If you're talking about like the Department of
24 Public Assistance and Social Security.

25 Q. Okay. So those are two examples of assistance

1 that you would say many or most of your clients
2 receive?

3 A. Yes.

4 Q. And do your clients receive supplemental
5 security income or SSI benefits?

6 A. Some do, yes.

7 Q. And just for the record, SSI benefits are
8 generally a program involving a monthly payment for
9 people over 65 or disabled people of any age, is that
10 true?

11 A. Yes.

12 Q. And people who gets SSI benefits generally have
13 very little income, if any at all; right?

14 A. I believe they're not allowed to have income or
15 assets in excess of \$2,000.

16 Q. Okay. And do you help clients to get SSI
17 benefits?

18 A. Yes, I do.

19 Q. And do they need to provide a proof of residency
20 in order to get those benefits?

21 A. No, they don't.

22 Q. And the State of Pennsylvania doesn't require
23 any proof of residency apart from what the federal
24 government provides?

25 A. I know that both the Social Security

1 Administration and the Department of Public Welfare
2 allows clients to use my office address if they don't
3 have an address.

4 Q. And in order to get the same SSI benefits, must
5 an applicant provide a Social Security number?

6 A. A number, yes.

7 Q. Is that generally a problem providing a Social
8 Security number for your client?

9 A. I've had a couple clients who didn't know their
10 Social Security numbers, and these were not mentally
11 ill clients. I just don't know why they didn't know
12 it. But for the most part, they know their number.

13 Q. Okay. I'd like to switch specifically to your
14 --- any efforts that you've made or to the extent
15 that you have made efforts getting ID under the voter
16 ID law. Have you seen the voter ID law?

17 A. I saw --- yes. The actual law? I have not read
18 the law. I've read the state printout on the
19 requirements.

20 Q. So you've taken some ---?

21 A. The brochure.

22 Q. I'm sorry. Go ahead.

23 A. The brochure, I've read.

24 Q. Okay. So you've taken some steps to learn how
25 it may affect homeless or indigent clients of yours.

1 Is that why you read the brochure?

2 A. Well, actually I read it because I'm trying to
3 advise people. And it seemed like it kept changing,
4 and I'm afraid to advise because ---

5 Q. Okay.

6 A. --- I might say something wrong.

7 Q. Well, as far as you know, the law does not
8 specifically require the homeless in particular to do
9 certain things to prove their identity that it
10 doesn't require other people to do, does it?

11 A. Could you repeat that again?

12 Q. I will. I may have gotten lost during the
13 course of that question. The law, the voter ID law,
14 does not specifically impose a requirement on a
15 homeless person in terms of proving identity that it
16 doesn't also impose on other people?

17 A. So you're saying the law --- what you're saying
18 is the law poses the same requirements on everyone?

19 Q. Yes. Is that true?

20 A. I don't know.

21 Q. Do you assist any homeless or indigent clients
22 who tell you that they're voting for the first time?

23 A. I can't remember anybody saying that.

24 Q. Are you aware that even before the voter ID law
25 first time voters were required to prove their

1 identities in certain ways?

2 A. I believe that to be the case.

3 Q. Among your clients, whether they be indigent or
4 homeless, are there --- or do have any reason to
5 believe that there aren't people who at some point in
6 their life had a PennDOT ID or driver's license?

7 A. I'm sorry. Could you say that again?

8 Q. Yes. Among your clients, do you know of clients
9 who, even if they don't have a PennDOT product right
10 now, a driver's license or a photo ID, that they had
11 at some point in their life a PennDOT's driver's
12 license or a photo ID?

13 A. I don't know, because I haven't asked that.

14 Q. Have you advised your clients that under the
15 voter ID law, if they are indigent and can't pay
16 those fees that we discussed earlier, that they can
17 vote without a photo ID?

18 A. That they can vote without a photo ID?

19 Q. Yes.

20 A. Have I advised that? No, I have not advised
21 that.

22 Q. You testified about how your clients may not
23 have access to the internet. They're not completely
24 cutoff from the media, though, are they?

25 A. I don't know.

1 Q. Do you know if your clients watch the news on
2 TV?

3 A. I would say a lot of my clients don't have
4 televisions. I mean, I would just be speculating as
5 to who has a television and who --- and if they have
6 one, if they watch the news.

7 Q. So that's not something that comes up in
8 conversation? You don't know one way or the other?

9 A. No, I don't.

10 Q. You don't have any reason to believe, do you,
11 that your clients have an objection to having a photo
12 ID or they don't want to identify themselves? In
13 other words, I'll change the question again. Are the
14 people who you're helping to get photo IDs --- do
15 they want to be able to identify themselves?

16 A. They want to have the photo ID, but they object
17 to having that be a criteria for them to vote.

18 Q. Have they said that to you?

19 A. Yes.

20 Q. Do you intend to continue the efforts to help
21 people get photo ID for the full range of reasons for
22 the rest of this calendar year?

23 A. Yes.

24 Q. So in other words, as we are here in July, your
25 efforts at obtaining photo ID have not stopped for

1 the year?

2 A. Oh, no. No.

3 ATTORNEY CAWLEY:

4 Those are all the questions I have.

5 Thank you.

6 ATTORNEY WALCZAK:

7 We have no further questions for Ms.

8 Ludt.

9 JUDGE SIMPSON:

10 Thank you. You may step down.

11 Gentlemen, I'm beat. What's on tap for tomorrow?

12 ATTORNEY WALCZAK:

13 Your Honor, we have Professor Barreto,
14 who will probably take up the bulk of the morning. I
15 understand we're starting at 9:00 tomorrow?

16 JUDGE SIMPSON:

17 Yes.

18 ATTORNEY WALCZAK:

19 We expect him to go all morning. In
20 the afternoon, we are calling the first of our state
21 witnesses.

22 ATTORNEY GERSCH:

23 Yeah, we'll have Rebecca Oyler and then
24 the Commonwealth is going to call out of turn,
25 Shannon Royer, because he's going to be away next

1 week.

2 JUDGE SIMPSON:

3 All right. But I don't know what his
4 position is.

5 ATTORNEY GERSCH:

6 I'm sorry. Both Rebecca Oyler and
7 Shannon Royer are with the Department of State and
8 the Commonwealth.

9 JUDGE SIMPSON:

10 Okay.

11 ATTORNEY CLARKE:

12 And Your Honor, we may have a video or
13 two.

14 JUDGE SIMPSON:

15 We're not going to 8:00 tomorrow. Do
16 you understand that? But it sounds like it's going
17 to be a very interesting morning. I think it sounds
18 like it's going to be an interesting day. I'm
19 actually saying this for the people in the gallery.
20 The morning sounds good.

21 ATTORNEY CAWLEY:

22 Don't sell the Department of State
23 short in the afternoon.

24 JUDGE SIMPSON:

25 The morning witness is the witness that

1 was mentioned extensively during the opening this
2 morning. So maybe we'll see some of you tomorrow.
3 Is there anything else that you want me to address
4 before we break for the day?

5 ATTORNEY GERSCH:

6 We don't have anything, Your Honor.

7 JUDGE SIMPSON:

8 Okay. Then we are adjourned until 9:00
9 o'clock tomorrow morning.

10 MR. TURNER:

11 Commonwealth Court is now adjourned.

12 * * * * *

13 HEARING CONCLUDED AT 4:44 P.M.

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CERTIFICATE

I hereby certify, as the stenographic reporter,
that the foregoing proceedings were taken
stenographically by me, and thereafter reduced to
typewriting by me or under my direction; and that
this transcript is a true and accurate record to the
best of my ability.

Jolynn C. Purnoske