

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

\* \* \* \* \*

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3 VIVIETTE APPLEWHITE; \*

4 WILOLA SHINHOSTER LEE; GROVER \* Case No.

5 FREELAND; GLORIA CUTTINO; \* 330 MD 2012

6 NADINE MARSH; DOROTHY BARKSDALE; \*

7 BEA BOOKLER; JOYCE BLOCK; \*

8 HENRIETTA KAY DICKERSON; DEVRA \*

9 MIREL (ASHER) SCHOR; THE LEAGUE \*

10 OF WOMEN VOTERS OF PENNSYLVANIA, \*

11 NATIONAL ASSOCIATION FOR THE \*

12 ADVANCEMENT OF COLORED PEOPLE, \*

13 PENNSYLVANIA STATE CONFERENCE; \*

14 HOMELESS ADVOCACY PROJECT, \*

15 Petitioners \*

16 vs. \*

17 THE COMMONWEALTH OF \*

18 PENNSYLVANIA, THOMAS W. CORBETT, \*

19 in his capacity as Governor; \*

July 27, 2012

Volume III

20

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23

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1 CAROL AICHELE, in her capacity \*

2 as Secretary of the Commonwealth,\*

3 Respondents \*

4 \* \* \* \* \*

6 BEFORE: HONORABLE ROBERT SIMPSON

8 HEARING: Friday, July 27, 2012

9 9:02 a.m.

10

11 LOCATION: PA Judicial Center

12 601 Commonwealth Avenue

13 Harrisburg, PA 17110

14

15 WITNESSES: Shannon Royer, Mark Wolosik, Taylor

16 Floria, Sandra Carroll, Gloria Cuttino,

17 Michelle Levy, Esquire, Asher Schor, Kurt

18 Myers

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20 Reporter: Jolynn C. Prunoske

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MR. TURNER:

Commonwealth Court is now in session.  
Honorable Robert Simpson presiding. Be seated.

JUDGE SIMPSON:

Thank you. All right. Today is Friday  
the 27th; right? Friday the 27th?

ATTORNEY CLARKE:

Right.

JUDGE SIMPSON:

And the Olympics start today in London,  
so --- and we're stuck here. But this is an  
important case. I'm trying to make a light-hearted  
statement to get us going in the morning. Is there  
anything I need to address before we start with the  
testimony?

ATTORNEY CLARKE:

No, Your Honor.

JUDGE SIMPSON:

This is your day?

ATTORNEY CLARKE:

This is my day.

JUDGE SIMPSON:

Good. Okay. Then please call your

1 first witness.

2 ATTORNEY CLARKE:

3 Your Honor, we have agreed to let the  
4 state call a witness out of turn today.

5 JUDGE SIMPSON:

6 That's right. You did tell me that  
7 last night.

8 ATTORNEY CAWLEY:

9 Thank you, Your Honor. The Respondents  
10 call Shannon Royer.

11 MR. TURNER:

12 Raise your right hand.

13 -----

14 SHANNON ROYER, HAVING FIRST BEEN DULY SWORN,  
15 TESTIFIED AS FOLLOWS:

16 -----

17 DIRECT EXAMINATION

18 BY ATTORNEY CAWLEY:

19 Q. Mr. Royer, how are you employed?

20 A. I am Deputy Secretary of the Commonwealth.

21 Q. How long have you held that position?

22 A. Since February of 2011.

23 Q. Could you describe briefly for the Court what  
24 the general duties of your position are as Deputy  
25 Secretary?

1 A. I oversee the Bureau of Commissions, Elections  
2 and Legislation, the State Athletic Commission and  
3 coordinate on behalf of the Secretary our Policy  
4 Office, Legislative Affairs Office and Press Office.

5 Q. And to whom do you report?

6 A. The Secretary of the Commonwealth.

7 Q. Do you have responsibilities related to the  
8 public outreach and education regarding the voter ID  
9 law?

10 A. I do.

11 Q. I'd like to talk about those duties. Explain  
12 for the Court when the Department of State began to  
13 conduct public outreach and education on the topic of  
14 the voter ID law.

15 A. Right after the law was signed on March 14th we  
16 started that same week.

17 Q. And describe the kinds of outreach and public  
18 education that started in March.

19 A. We initially notified the counties of the  
20 legislation and began sending them information about  
21 the legislation and the kinds of IDs that could be  
22 used for the dry run portion of the bill for the  
23 primary. In addition to that, we started immediate  
24 press outreach with press releases, press events,  
25 making the Secretary and other folks in the

1 Department available to answer questions, fanning out  
2 around the state for those kinds of events.

3 We started working initially as well with fellow  
4 agencies designing inserts for them to include in  
5 mailings that they do to the clients of  
6 Pennsylvanians that they serve about the new voter  
7 ID law along with outreach to those agencies who  
8 serve clients such as DPW, PennDOT, Labor &  
9 Industry, Aging who serve key target populations  
10 that we wanted to get the message out to early on  
11 about voter ID. So those were the initial  
12 activities after the legislation was signed.

13 Q. And here we are in July, do you continue ---  
14 will the Department of State continue any of those  
15 efforts going forward?

16 A. Yes, we have. So far we have over 700,000  
17 inserts in mailings that the agencies have done to  
18 date and scheduled to go for the summer and fall.  
19 First, we continued to reach out to agencies and  
20 working through them to get the word out through  
21 posters and information in their client offices  
22 around the state, so we're continuing to do those  
23 efforts plus a whole lot more on top of that.

24 Q. How many of the Commonwealth agencies are you  
25 working with on this effort?

1 A. PennDOT, Labor & Industry, Department of Aging,  
2 Department of Health, Department of Military and  
3 Veterans Affairs. Those are the ones that I recall  
4 off the top of my head, the ones that regularly come  
5 in contact with Pennsylvania citizens.

6 Q. Has the Department of State had any direct  
7 contact with community organizations or will you have  
8 such contact?

9 A. Yes, we have. Community organizations, many of  
10 them around the state, statewide organizations and  
11 regional organizations. And we're doing even more of  
12 that now over the summer months.

13 Q. Okay. I'm going to hand you what will be  
14 Respondents' Exhibit Two. Take a moment and look  
15 over that exhibit.

16 (Respondents' Exhibit Two marked for  
17 identification.)

18 ATTORNEY CLARKE:

19 Mr. Cawley, do you have another copy  
20 there?

21 ATTORNEY CAWLEY:

22 Yes.

23 ATTORNEY CLARKE:

24 Thank you.

25 BY ATTORNEY CAWLEY:

1 Q. Do you recognize this document marked as  
2 Respondents' Exhibit Two?

3 A. I do.

4 Q. Would you explain to the Court what it is?

5 A. This is a recent summary of organizations that  
6 the Department has reached out to over the last three  
7 weeks, both statewide organizations, but mostly  
8 regional organizations that serve key populations  
9 that we want to get the message out to about voter  
10 ID.

11 Q. And if you look through the bullet points on the  
12 two pages of this document, are there examples of  
13 outreach to organizations working with the homeless  
14 and the indigent in Pennsylvania?

15 A. Many.

16 Q. Can you point out some of them?

17 A. Sure. Philadelphia's charity program, Food  
18 Trust, Greater Pittsburgh Community Food Bank, Second  
19 Harvest Food Bank of the Lehigh Valley in northeast  
20 Pennsylvania, Greater Berks Food Bank, Squirrel Hill  
21 Community Food Pantry, Community Food Warehouse of  
22 Mercer County, Hunger-Free Pennsylvania.

23 Q. And I won't make you go through the whole list,  
24 but with the same sort of question, are there  
25 organizations on this list who work with

1 African-American and Hispanic communities?

2 A. Yes, there are.

3 Q. Would you point out some of the examples of  
4 those?

5 A. Sure. Office of Representative Cherelle Parker,  
6 who's hosting an event next week of Latino and  
7 African-American leaders from all around  
8 Philadelphia. We've been in touch with her in  
9 disseminating information through her as the Dean of  
10 the Philadelphia Delegation of House of  
11 Representatives, Governor's Advisory Commission on  
12 Asian Affairs, Governor's Advisory Commission on  
13 Latino Affairs, Black Clergy of Philadelphia and a  
14 few Latino organizations on here as well.

15 Q. And does the list reflect any community  
16 organizations who work with senior citizens?

17 A. Yes. Initial contact's been made with AARP and  
18 a few senior groups around the state according to  
19 this list.

20 Q. How about the military?

21 A. Yes, the Department of Military and Veterans  
22 Affairs, Pennsylvania National Guard and the Chamber  
23 of Commerce's Hiring Our Heroes Program around the  
24 state.

25 Q. Is the Department of State reaching out to any

1 college and universities?

2 A. Yes. We started that as soon as the legislation  
3 was signed, reaching out individually to colleges and  
4 universities and to organizations that represent  
5 colleges and universities, State System of Higher  
6 Education, 14 states and universities along with the  
7 independent college organization, and we have reached  
8 out to all of the colleges and universities, their  
9 organizations and individually, to talk about the  
10 need for them to have expiration dates on their  
11 student IDs and stickers if needed. To date we have  
12 record of 542,000 students in Pennsylvania who will  
13 be attending universities that have expiration dates  
14 on their cards or stickers on their cards in the  
15 fall, so that they can be used for voting purposes.

16 Q. During these contacts that you've been  
17 describing, is the Department of State actually  
18 speaking to people directly?

19 A. Yes, we are. And the company that we have hired  
20 through the procurement process to reach out to  
21 community organizations, it's been a joint effort.

22 Q. Does this document, Respondents' Exhibit Two,  
23 reflect the entire outreach and public education  
24 campaign that will be conducted by the Department of  
25 State?



1 A. Not even close.

2 Q. What other components of the public education  
3 campaign are there that are not reflected on this  
4 document?

5 A. In addition to this, we have a \$5 million voter  
6 education effort that is being funded through the  
7 federal grant money that can be used only in even  
8 number years as they are federal election years. And  
9 it is an extensive, intense communication effort that  
10 begins this summer and goes all the way through  
11 election day.

12 Q. So toward the end of the components that you  
13 just described, has there been a procurement process  
14 that the Department of State has followed?

15 A. Yes, there's been a procurement process and  
16 we're working with three companies, different  
17 organizations, vendors, that have decades of  
18 experience in outreach and public relations.

19 Q. When you engaged in this procurement process to  
20 get these vendors, what steps did you take to ensure  
21 that these firms would be able to reach out to  
22 minority groups or senior citizen groups or other  
23 specific demographics?

24 A. Part of the RFQs, which are requests for  
25 qualifications, which is --- RFP is the way most

1 folks refers to it, had much information asking for  
2 how these different companies would reach out to key  
3 demographics such as seniors, minorities and young  
4 people, especially those three groups. And through  
5 the competitive public procurement process we  
6 carefully weigh their approaches, their background,  
7 their history, their experience and pick the two best  
8 companies for outreach and also the media buying  
9 company on top of that to make sure that message is  
10 delivered in a good manner.

11 Q. So to be clear, when you said the two best  
12 companies, does that mean that they indicated a  
13 capability and an intent to reach out to the  
14 demographics you described?

15 A. Yes, better than the other companies we  
16 interviewed.

17 Q. Well, before I leave that subject, so you have  
18 these vendors now retained. What types of outreach  
19 will each of them be handling?

20 A. Well, the things that we will be doing, if I can  
21 remember them all, we have an intense television  
22 advertising campaign in the two months leading up to  
23 the election, which starts right after Labor Day, and  
24 we have --- that covers all media markets in the  
25 state, network affiliate, television as well as cable

1 television. We have an extensive radio campaign that  
2 begins this fall as well. We have a very well funded  
3 web campaign for web banners and videos that starts  
4 next month in August in all markets around the state.  
5 We will be using automated phone calls to inform  
6 voters. We will be sending a notification to every  
7 voter household in the state. Approximately 5.9  
8 million households will receive information about the  
9 voter ID law, the fact that it's in effect this fall  
10 and the kinds of IDs that can be used for voting  
11 purposes and where one would be able to get an ID if  
12 they currently don't have one at the time of the  
13 legislation. Mobil billboards, we are also  
14 advertising on transportation, bussing companies in  
15 demographic --- in areas that serve demographics that  
16 are targeted by us, Philadelphia, Lehigh Valley,  
17 Harrisburg and Pittsburgh. That's a brief overview.  
18 I'm sure there's some things I'm forgetting.

19 Q. And will you be doing something to tell the  
20 people not only that there is a voter ID law, but the  
21 kinds of IDs that qualify under the law?

22 A. Yes, we are. The focus of the voter education  
23 effort, I would say, is two goals, to inform people  
24 that they need to show ID when they vote this fall  
25 and to explain to them the kinds of IDs that they can

1 use and where to get an ID if they currently don't  
2 have one.

3 Q. Switching topics just a bit, at any point did  
4 you or your colleagues try to learn from other states  
5 that have implemented and advertised voter ID  
6 requirements?

7 A. Yes, our Policy Office contacted other states  
8 that had implemented voter ID and had gone through  
9 voter ID education campaigns in their states to  
10 determine the extent of what they did and any  
11 challenges that they may have had in their states  
12 when they implemented the voter ID.

13 Q. And did you pay attention to any states in  
14 particular?

15 A. There was a lot of information that was given to  
16 us. The state that was most interesting to me I  
17 believe from that research was Georgia, which is a  
18 state that is a little bit smaller than Pennsylvania,  
19 has almost ten million residents. They implemented  
20 their voter ID legislation in 2006, so it's been in  
21 effect for the last six years. They also have a  
22 major metropolitan area, Atlanta, with a high  
23 minority population, and so we asked them a lot of  
24 questions from their Department of State, how they  
25 implemented it and what they did for their voter

1 education campaign over the last six years.

2 Q. And did you then take steps to make sure that  
3 Pennsylvania would do similar things to implement and  
4 advertise the voter ID requirements?

5 A. Yes. And pleasantly learned that we're planning  
6 to do a heck of a lot more than Georgia or as far as  
7 we can determine any other state in a one-year period  
8 to educate voters about voter ID. Georgia, according  
9 to the information from their Department of State,  
10 they spent less than \$1 million since 2006 for voter  
11 education outreach. We have an intense \$5 million  
12 campaign in this one year alone for Pennsylvanians.  
13 So we think what we're doing is far above and beyond  
14 what any other state has done.

15 Q. And do you know how the scope of your campaign  
16 compares to Georgia or other states?

17 A. They did less of what we're doing in terms of  
18 television, radio, mailings, and they did fewer  
19 different kinds of things, mobile billboards and  
20 things like that, transportation advertising. We're  
21 doing a lot of things that other states have not  
22 done, and we're doing more of the things that they've  
23 done.

24 Q. Well, if the voter ID law in Pennsylvania were  
25 to result in widespread disenfranchisement, is that

1 something that would be a concern to the Department  
2 of State?

3 A. Absolutely.

4 Q. In your research and gathering information from  
5 other states, are you aware of any disenfranchisement  
6 that occurred in those states?

7 A. No, the Department of States that our office  
8 reached out to said that it was a relatively smooth  
9 process in all of those states. And in Georgia, for  
10 example, their voter ID law was similar to ours, in  
11 that it offers a menu of different IDs, but that it  
12 also offers free identification from their Department  
13 of Motor Vehicles and a state card that they're  
14 issuing. And over the last six years, just as an  
15 example, they've issued less than 30,000 cards just  
16 for voting purposes. And we were not able to recover  
17 any news reports of any kinds of election day  
18 breakdown, thousands and thousands of people being  
19 turned away from the polls, they couldn't vote. We  
20 carefully researched that and couldn't find it either  
21 in direct communication with their Departments of  
22 State or other research that our Policy Office did.

23 ATTORNEY CAWLEY:

24 Thank you. Those are all of my  
25 questions.

1                   JUDGE SIMPSON:

2                   You may inquire.

3                   CROSS EXAMINATION

4                   BY ATTORNEY CLARKE:

5                   Q.    Good morning, Mr. Royer.

6                   A.    Good morning.

7                   Q.    We have not met.  My name is Jennifer Clarke.  
8                   I'm one of the lawyers for the Petitioners.  I'm a  
9                   lawyer from the Public Interest Law Center of  
10                  Philadelphia.  Now, you talked to us today about all  
11                  of the efforts that the Department of State and  
12                  others have made so far to educate the public, and I  
13                  think you said that you started as early as March  
14                  15th, the day that --- the day after the law was  
15                  passed; is that right?

16                  A.    Correct.

17                  Q.    And many of the efforts that you have described  
18                  the Department did between March and June; is that  
19                  right?  There was an intensive effort from the  
20                  beginning?

21                  A.    The intensive effort would shortly be after  
22                  Labor Day.  There were many efforts after March 15th,  
23                  correct.

24                  Q.    And there were many efforts between March 15th  
25                  and June; is that right?

1 A. There were many efforts that are what I would  
2 call the ground effort, not the extensive  
3 communication effort.

4 Q. Right. Not the extensive communication effort  
5 that's going to start after Labor Day; is that right?

6 A. For the most part, that's correct.

7 Q. But many of the activities that are described in  
8 Respondents' Exhibit Two are activities that occurred  
9 between March and June; is that right?

10 A. Yes, this exhibit reflects over the last three  
11 weeks outreach that the Department and our outreach  
12 specialist vendor has done reaching out to these  
13 individual organizations to try to get information to  
14 them, offer to speak and educate them about voter ID,  
15 et cetera.

16 Q. Right. I'm sorry. I wasn't clear about the  
17 timetable that I'm talking about. Between March and  
18 June, there were also many --- many of the efforts  
19 that you described occurred then; is that right?

20 A. Yes.

21 Q. Okay. Now, you know that many Pennsylvanians  
22 don't know about the Pennsylvania voter ID law; isn't  
23 that right?

24 A. As part of the RFQ process research was done by  
25 Susquehanna Polling and Research, which is a



1 Pennsylvania polling company, which indicated that 82  
2 percent of Pennsylvanians were aware of voter ID law.

3 Q. Right. So I imagine that you learned about that  
4 --- the results of those polls in June; is that  
5 right?

6 A. May or June.

7 Q. And so what you also learned then was 18 percent  
8 of Pennsylvanians according to that poll didn't know  
9 about the voter ID law?

10 A. Back in the spring, yes.

11 Q. It was June; right, when you learned about it?

12 A. May or June.

13 Q. Were you deposed in this case?

14 A. Yes.

15 Q. And did you take an oath to tell the truth?

16 A. Yes.

17 Q. And was it the same oath you gave this morning?

18 A. Yes.

19 Q. And did you try to be as accurate as possible in  
20 your answers?

21 A. Yes.

22 Q. And during that deposition, did Mr. Gersch here  
23 ask you questions?

24 A. Yes.

25 Q. And did you give him answers?

1 A. I sure did.

2 Q. And during that testimony, did you testify that  
3 you learned about the polling results in June?

4 A. The RFQ process was in May and June, because the  
5 RFQ process took place over two periods, but I can't  
6 remember if it was in May or June. But it was some  
7 time in the spring.

8 Q. So if you testified that it was June in your  
9 deposition, would it have been June?

10 A. June or May. I believe it was June or May.

11 ATTORNEY CLARKE:

12 Okay. Can I have the transcript?

13 BY ATTORNEY CLARKE:

14 Q. Mr. Royer, if you just take a look at your  
15 testimony from July 9th, 2012 and take a look at page  
16 45, line 16.

17 ATTORNEY CLARKE:

18 We will not be introducing this into  
19 evidence. I have a copy for the Court if you'd like.

20 A. Could you say the page again, please?

21 BY ATTORNEY CLARKE:

22 Q. Page 45.

23 A. Yes, page 45.

24 Q. I have the wrong date. I'm going to come back  
25 to that, Mr. Royer.

1 A. Okay.

2 Q. So in May or June, Mr. Royer, it's your  
3 testimony that you learned that 18 percent of  
4 Pennsylvanians did not know about the voter ID law?

5 A. Correct.

6 Q. So there are eight million voters in  
7 Pennsylvania; right?

8 A. Roughly 8.2 million, yes.

9 Q. So if you apply that 18 percent to the eight  
10 million voters, about 1.4 million people, according  
11 to the poll that you saw, didn't know in May or June  
12 about the photo ID law?

13 A. That's correct.

14 Q. And that's not withstanding the efforts that, as  
15 you testify, began immediately after the law was put  
16 into effect?

17 A. Correct.

18 Q. All right. Now, the name of the polling  
19 organization that you mentioned?

20 A. Susquehanna Polling and Research.

21 Q. So you don't know about the sample design ---  
22 the sample design that Susquehanna Polling and  
23 Research used, do you?

24 A. It was a sample size of 900, and described as  
25 representing a demographic match --- voter

1 registration match, age, gender to the general voting  
2 population.

3 Q. And do you know the sample design?

4 A. I do not.

5 Q. Okay. And you don't know the questionnaire  
6 design, do you?

7 A. I do not.

8 Q. And you don't know how the survey was executed,  
9 do you?

10 A. I do not. Except by phone. But I don't have  
11 any other details.

12 Q. But what you did learn was at least whatever the  
13 reliability of that methodology is you knew in May or  
14 June that 18 percent of Pennsylvanians didn't know  
15 about the voter ID law in May or June?

16 A. Yes, it was reported that 82 percent of  
17 Pennsylvanians were aware of the law.

18 Q. Okay. Now, you are the person who's responsible  
19 for this education effort; is that right?

20 A. Yes.

21 Q. And in addition to this you have other  
22 responsibilities at the Department of State; isn't  
23 that right?

24 A. I do.

25 Q. You're in charge of the regulatory aspect of the

1 state, things like professional wrestling; is that  
2 right?

3 A. Our State Athletic Commission oversees  
4 professional wrestling and boxing. I am not --- I do  
5 not oversee the licensing and all the other things  
6 that the Department of State does. That's done by a  
7 different deputy secretary.

8 Q. Okay. And you're relatively new to Harrisburg;  
9 isn't that right?

10 A. I worked at the Department for the last year and  
11 a half, since February of 2011, and before that with  
12 the Pennsylvania House of Representatives for ---  
13 between 14 and 15 years.

14 Q. Right. So you worked for the state since about  
15 February of 2011?

16 A. Well, I worked for the state since 1996.

17 Q. You've worked for the Department of State since  
18 2011?

19 A. That's correct.

20 Q. And then before that you worked for the  
21 Republican Party; is that right?

22 A. I worked for the Pennsylvania House of  
23 Representatives, the Republican Caucus.

24 Q. You worked for the Republican Caucus. And that  
25 was from --- for about 15 years?

1 A. Approximately from 1996 until --- November of  
2 1996 until February of 2011.

3 Q. And then you've also been a candidate for  
4 office; right?

5 A. I have been.

6 Q. A Republican candidate for office?

7 A. Yes.

8 Q. In 2006?

9 A. Correct.

10 Q. And 2008?

11 A. Correct.

12 Q. Unfortunately, that didn't work out at those  
13 times; right?

14 A. I moved on to bigger and better things.

15 Q. Okay. Now, I am coming back to the date. And,  
16 in fact, I have the wrong date. It was July 10th.  
17 So if you take a look at ---. So let's just go back  
18 to the questions, Mr. Royer. On July 10th did you  
19 say under oath in response to Mr. Gersch's question,  
20 according to the polling that I've seen, 82 percent  
21 of Pennsylvania voters are aware of Pennsylvania's  
22 voter ID law and know, in fact, that a voter ID will  
23 be required in November? Did you provide that  
24 testimony?

25 A. Yes.

1                   ATTORNEY CAWLEY:

2                   What page are you on, Counsel?

3                   ATTORNEY CLARKE:

4                   Excuse me?

5                   ATTORNEY CAWLEY:

6                   I asked what page we're on.

7                   ATTORNEY CLARKE:

8                   That was page 45, line 16 through 19.

9                   BY ATTORNEY CLARKE:

10                  Q.   Okay.  So let's just talk some more about these  
11                  educational efforts.  And one of the things that  
12                  you've done was send out a letter to the 750,000 or  
13                  more people who the Department of State and PennDOT  
14                  had identified as not possessing a valid PennDOT  
15                  identification card; is that right?

16                  A.   We sent out a letter from the Secretary of the  
17                  Commonwealth, the last batch of which is arriving  
18                  this week, to just under 759,000 people that we  
19                  couldn't say with certainty had a PennDOT ID.

20                  Q.   Right.  And this was a letter that was intended  
21                  to give those people information about what they  
22                  needed to know to vote; is that right?

23                  A.   It was intended to describe the new law, to list  
24                  the various forms of ID that can be used to make sure  
25                  they knew that if, in fact, you didn't have an ID

1 that they could use for voting purposes, where they  
2 could get one for free and to provide website and  
3 phone information where they could contact us if they  
4 needed more information about the law.

5 Q. But this was a letter that was intended to  
6 provide voters information about what they needed to  
7 know to be able to vote; isn't that right?

8 A. That is correct.

9 Q. And the purpose of it was to contact directly  
10 the very people who you believed might not possess  
11 photo ID; is that right?

12 A. For people that we couldn't say with certainty  
13 one way or another had a PennDOT ID.

14 Q. And this will really be the only mailing that  
15 will actually go to that list; is that right?

16 A. No.

17 Q. There will be an another mailing?

18 A. Yes.

19 ATTORNEY CLARKE:

20 Okay. Let's look at the mailing that  
21 we've had so far. If you could put up Trial Exhibit  
22 Five.

23 BY ATTORNEY CLARKE:

24 Q. Okay. Mr. Royer, do you recognize this exhibit?

25 A. Yes. This is appears to be the letter that we



1 started mailing three weeks ago --- approximately  
2 three weeks ago to that list of 759,000 voters.

3 Q. Now, this letter, if you just take a look at the  
4 paragraph below the bolded information, ---

5 A. Okay.

6 Q. --- this paragraph says if you never had a  
7 Pennsylvania driver's license or PennDOT photo ID you  
8 may also need further documentation. Do you see  
9 that?

10 A. I do.

11 Q. Now, this letter that's intended to inform the  
12 very people who you believe won't have PennDOT ID,  
13 this letter is intended to inform them of what they  
14 need to do; isn't that right?

15 A. It's intended to give them information as to how  
16 they can get a free ID for voting purposes if they  
17 currently don't have any one of the number of IDs  
18 mentioned a little bit further up in the letter.  
19 That is correct.

20 Q. Right. And this doesn't tell them that he must  
21 bring that identification, does it?

22 A. It does not use that word must, no.

23 Q. Now, it doesn't tell anyone where --- now, then  
24 I want to refer further down to the next sentence  
25 which says the Department of State is working with

1 PennDOT to develop an alternative form of photo  
2 identification. Do you see that?

3 A. I do.

4 Q. Now, this letter doesn't tell anyone what they  
5 need to bring to get that, does it?

6 A. Well, since that new Department of State card  
7 wasn't finalized at the time, I suppose that was  
8 written to let them know that there will be another  
9 option to them that will be coming out soon.

10 Q. I see. And what was the time?

11 A. I'm sorry?

12 Q. You said it wasn't finalized at the time?

13 A. Yeah, this letter started going out  
14 approximately three weeks ago.

15 Q. Okay. So the reason that there's no details  
16 about what needs to be brought is that there was ---  
17 it was not finalized three weeks ago. Is that your  
18 testimony?

19 A. It is.

20 Q. And this document also doesn't tell people where  
21 they have to go to get the Department --- the new  
22 Department of State ID that may be issued in the  
23 future?

24 A. It does not say specifically that you must go to  
25 a PennDOT driver's license center.

1 Q. Right. It doesn't tell people anywhere where  
2 they should go?

3 A. It does not.

4 Q. Now, what it does say is that if you want to  
5 know --- if you really want to know about this, you  
6 should go to the website or make a phone call; is  
7 that right?

8 A. Partially, yes. Part of the information  
9 contained in the letter, yes.

10 Q. But there's no other information about what  
11 documents are needed for this new ID that we haven't  
12 seen; is that right? There's no other information  
13 about what documents you need to get?

14 A. For the non-driver's license photo ID or for the  
15 new ---?

16 Q. For the new Department of State ID.

17 A. Correct.

18 Q. And there's no indication of where you have to  
19 go to get it?

20 A. Correct. Except that it does say PennDOT driver  
21 license center at the beginning of the paragraph that  
22 you highlighted.

23 Q. That's right. And the PennDOT driver's license  
24 center refers to where you go to get the free PennDOT  
25 ID; is that right?

1 A. That is correct.

2 Q. Okay. Now, when you go to the website, Mr.  
3 Royer, it's pretty hard to find information about  
4 this new Department of State ID, isn't it?

5 A. It is not.

6 Q. Okay.

7 A. The new ID?

8 Q. The new ID.

9 A. Yes, it is. I apologize.

10 Q. It is. It probably takes about five clicks to  
11 get to it?

12 A. There is a copy of our press release I believe  
13 on there describing it's on the voter ID page of the  
14 site. And certainly once more information is  
15 available, it will be highlighted on the website  
16 prominently on the home page.

17 Q. Right. But right now it takes about five clicks  
18 from the address you've given, doesn't it?

19 A. I don't know if it takes five clicks. It's a  
20 process that hasn't been finalized yet and will be  
21 available in August. Once that information is  
22 available and all the details of these new cards are  
23 available, it will be prominently displayed when it's  
24 available to the public.

25 Q. Okay. But right now it takes about five clicks

1 to get there, doesn't it?

2 A. I trust you that it takes five clicks to find  
3 --- to find that press release.

4 ATTORNEY CLARKE:

5 Your Honor, what I'd like to do is put  
6 the website up and take Mr. Royer through how you  
7 find information about the Department of State  
8 website. I think we're able to get live internet.  
9 And I also have hard copies of it.

10 JUDGE SIMPSON:

11 Any objection?

12 ATTORNEY CAWLEY:

13 No objection, Your Honor.

14 BY ATTORNEY CLARKE:

15 Q. So what we have here, Mr. Royer, is the website  
16 that's provided on the letter. Now, to get to the  
17 state ID information, the new Department of State ID  
18 information what do you do next?

19 A. I need to see the site.

20 Q. Well, we're giving you ---.

21 JUDGE SIMPSON:

22 Don't you hate it when that happens?

23 ATTORNEY CLARKE:

24 All right. I don't want to waste the  
25 Court's time, so what I would propose to do in the

1 alternative is ---.

2 JUDGE SIMPSON:

3 There you go.

4 BY ATTORNEY CLARKE:

5 Q. Okay. So here's the site, sir. What would we  
6 do to find information about the Department of State  
7 information?

8 A. The Department of State information?

9 Q. Yes, the Department of State card. Again, in  
10 your letter, which was Trial Exhibit Five, what  
11 voters were referred to is the website,  
12 [www.votespa.com](http://www.votespa.com), and that's where we are now?

13 A. Correct, to get the information about the photo  
14 ID and the kinds of IDs that can be used.

15 Q. Right. But also the Department of State --- the  
16 new Department of State information?

17 A. May I see a copy of that letter again?

18 Q. Sure.

19 A. Thank you. This letter says for more  
20 information about Pennsylvania's voter ID law visit  
21 [www.votespa.com](http://www.votespa.com) or call 1-877-VOTESPA. And then the  
22 full number is given. The website is given out for  
23 general information about voter ID.

24 Q. Okay. So it's your testimony that this letter  
25 actually doesn't have any website --- any reference

1 to a website for people to learn about the new ID  
2 that will be coming down some time in the future?

3 A. The website address and the website itself is  
4 meant to give an overview of all the different  
5 components at the time available to the public  
6 regarding photo ID.

7 Q. But it's not intended to give information about  
8 the new Department of State ID; is that right?

9 A. Yes, it is. And we'll have that information  
10 once it's finalized and available to the public.  
11 Right now there's a copy of the press release on  
12 there announcing from, I believe, July 20th. And  
13 once all the information is worked out and the card  
14 is available to the public, there will be lots of  
15 information on the site about the new card.

16 Q. So Mr. Royer, if we went to voting and elections  
17 on the website and then we went to be prepared and  
18 then we went to what to bring, is that a place one  
19 might look to find the Department of State  
20 information?

21 A. Some information, yes, not necessarily about  
22 voter ID because the voter ID page is the red button  
23 on the top or you can click on the card itself to  
24 find information specific to voter ID. There's lots  
25 of other information on here dealing with voting,

1 different kinds of machines that can be used, et  
2 cetera.

3 Q. Right. What I'm asking you about, Mr. Royer, is  
4 information about the Department of State ID that has  
5 been mentioned here. Is this a way that you might  
6 try to find that information?

7 A. When the ID is available to the public.

8 ATTORNEY CLARKE:

9 Can you just click that?

10 BY ATTORNEY CLARKE:

11 Q. Now, what we're doing now is we're clicking on  
12 the link what to bring. Okay. And you see what to  
13 bring. Now we're on the page that just says what to  
14 bring?

15 A. I see that.

16 Q. Okay. And if one might want to know what to ---  
17 again, if one might want to find out how to get the  
18 new Department of State ID, maybe one would click  
19 onto what it says, acceptable photo ID. Do you see  
20 that?

21 A. Yes, I do see that.

22 ATTORNEY CLARKE:

23 Can you click on that, Kelby?

24 BY ATTORNEY CLARKE:

25 Q. Now, we're on a page that says photo ID required



1 for November 2012 election. Do you see that, Mr.  
2 Royer?

3 A. I do.

4 Q. So if one were trying to find information about  
5 the new Department of State website, one might --- or  
6 information, one might look there; is that right?

7 A. Yes. And I see the Department of State voter ID  
8 card listed at the top, which probably, I would  
9 imagine, takes you to a copy of our press release.

10 ATTORNEY CLARKE:

11 Okay. So can you click on that?

12 BY ATTORNEY CLARKE:

13 Q. Okay. So we found it --- we found the  
14 Department of State press release; is that right, Mr.  
15 Royer?

16 A. Uh-huh (yes).

17 Q. And you'll agree with me that took us four or  
18 five clicks to find it?

19 A. Yes. But you can get into it in fewer clicks as  
20 well.

21 Q. Okay. Will you tell us how to do that?

22 A. If you go back to the home page.

23 Q. Uh-huh (yes).

24 A. So this is the first page voters will see when  
25 they go to the site. Can you keep scrolling down on

1 the ---? It says click here for more information on  
2 Pennsylvania's new voter ID law.

3 Q. Uh-huh (yes).

4 A. And it takes you to the voter ID home page ---  
5 the voter ID page of the website. And the press  
6 release is listed at the bottom.

7 Q. Okay. So the information that has been provided  
8 by the Department of State to the public requires  
9 three clicks, we've established, to find the  
10 Department of State ID; isn't that right?

11 A. For now. And as I said earlier, it will be more  
12 prominently displayed once it is available to the  
13 public.

14 Q. And once it's finalized?

15 A. Correct.

16 Q. Okay. Now, you talked this morning about some  
17 of the community organizations that you  
18 contacted.

19 A. Right.

20 Q. And you mentioned African-American groups that  
21 you've contacted in order to do this community  
22 outreach; is that right?

23 A. Yes, that the Department's contacted or the  
24 company who's working on our behalf to reach out to  
25 these individual statewide and regional

1 organizations, that's correct.

2 Q. And am I right that the organizations that are  
3 listed on Respondents' Exhibit Two are organizations  
4 that Department or its agents have either contacted  
5 or will contact in the future?

6 A. No, these are organizations over the last three  
7 weeks, primarily organizations that our outreach  
8 company --- that we hired and started three weeks ago  
9 reaching out to, so this is a list of contacts that  
10 were made --- initial contacts that were made over  
11 the last three weeks.

12 Q. Okay.

13 A. And these folks were asked if they had questions  
14 about voter ID. We offered to provide them posters,  
15 handouts, come and speak at their events, have tables  
16 at any events that they may have about voter ID,  
17 those kinds of things.

18 Q. Now, you mentioned that you reached out to a  
19 number of African-American groups; is that right?

20 A. Yes. I don't know the exact tally on here or  
21 what we've done before this. I don't have a list of  
22 those organizations, but that is correct.

23 Q. Right. And the Department of State understood  
24 that it was important to reach out to  
25 African-American groups, because African-American

1 people are likely not to have --- or many  
2 African-American people are likely not to have  
3 appropriate ID; is that right?

4 A. The goal was to reach out to all voters and  
5 focus on key demographics such as African-Americans.  
6 Included in that are groups, but we are contacting  
7 all voters.

8 Q. Okay. And you were interested in key  
9 demographics in --- African-Americans in particular  
10 because you understood that many African-American  
11 people would not possess appropriate ID for voting in  
12 the fall; isn't that right?

13 A. It's one of our targeted demographics.

14 Q. Now, are you aware of an organization called the  
15 NAACP?

16 A. Yes.

17 Q. And you understand that that's an organization  
18 of African-American people?

19 A. Yes, I do.

20 Q. And you understand that it's an organization  
21 that has as a mission to get African-American people  
22 to vote and otherwise empower African-American  
23 people?

24 A. That's my general understanding.

25 Q. And you're aware that there's a conference --- a

1 statewide conference in Pennsylvania? Are you aware  
2 of that?

3 A. I am not.

4 Q. Okay. You're aware that there's an NAACP in  
5 Pennsylvania?

6 A. I am.

7 Q. And are you aware that there are --- that the  
8 NAACP has 10,000 members in Pennsylvania,  
9 approximately?

10 A. I was not aware of their membership, no.

11 Q. And you were aware that it's a pretty big  
12 organization, though; right?

13 A. I've always assumed that.

14 Q. And we've got Mr. Dwayne Jackson, the first vice  
15 president here. It's true, Mr. Royer, that the  
16 Department of State has not reached out to the NAACP  
17 conference?

18 JUDGE SIMPSON:

19 Can I stop you there, Counsel? Isn't  
20 the NAACP a party in this lawsuit?

21 ATTORNEY CLARKE:

22 Yes, it is.

23 JUDGE SIMPSON:

24 And are you suggesting that a Defendant  
25 in this lawsuit should have contacted a Petitioner in

1 this lawsuit, because that might have some  
2 professional problems to it?

3 BY ATTORNEY CLARKE:

4 Q. Mr. Royer, ---?

5 JUDGE SIMPSON:

6 So please consider what you're asking.

7 ATTORNEY CLARKE:

8 Thank you. Thank you, Your Honor. I  
9 appreciate that.

10 BY ATTORNEY CLARKE:

11 Q. Mr. Royer, has the Department of State --- the  
12 Department of State hasn't contacted any of the local  
13 branches of the NAACP, which are not parties of to  
14 this case; has it?

15 A. In general and on advice from our Counsel, the  
16 Department of State Counsel, we have been very  
17 reluctant to reach out to groups who are suing us,  
18 including the League of Women Voters and the NAACP  
19 and their affiliates.

20 Q. Now, you mentioned earlier that there were a  
21 number of college students and you gave us the number  
22 of the college students whose IDs now have stickers.  
23 Now, how many college students in Pennsylvania do not  
24 have IDs with stickers?

25 A. I don't know the number exactly. I know that

1 from what we were able to learn and from our efforts  
2 and the efforts of many others that student  
3 population that will be covered with IDs with  
4 expiration dates and/or stickers that can be used for  
5 voting purposes this fall is approximately 542,000,  
6 543,000 students. I was also told that represents a  
7 majority of students in Pennsylvania, but I don't  
8 know the exact number.

9 Q. Okay. And do you know how many students there  
10 are in Pennsylvania?

11 A. I do not.

12 Q. So you don't know whether that's half or 75  
13 percent or 25 percent or 85 percent?

14 A. It was reported to me by staff as the majority,  
15 and certainly, we are continuing to do work over the  
16 next few months to expand that number.

17 Q. Now, let's just talk about this media campaign  
18 that's going to start after Labor Day. So that will  
19 be in early September that this media campaign  
20 starts?

21 A. That's correct.

22 Q. And the campaign --- at least one portion of the  
23 campaign will be directed by the Chris Bravacos; is  
24 that right?

25 A. The Bravo Group is one of our vendors, yes.

1 Q. Okay. And he has the contract to direct the  
2 campaign?

3 A. He does not.

4 Q. The Bravo Group does?

5 A. He does not.

6 Q. Does the Bravacos Group have a contact to direct  
7 the education campaign?

8 A. They do not.

9 Q. Okay. But you say they --- what is their ---  
10 you say they have one of the contracts; is that  
11 right?

12 A. Correct.

13 Q. Okay. Now, Mr. Bravacos is a fundraiser for Mr.  
14 Romney; isn't that right?

15 A. That's been reported in the press.

16 Q. Are you aware of that directly?

17 A. Other than what's been reported in the press, I  
18 never asked him about it.

19 Q. Okay. And he's also a former Republican Party  
20 Executive Director; is that right?

21 A. I believe so.

22 Q. So the Department of State's budget is \$5  
23 million for this education campaign; is that right?

24 A. Roughly, yes.

25 Q. And there's a \$1 million budget to actually give



1 out these free IDs; is that right?

2 A. There is a separate general fund budget of \$1  
3 million that has been earmarked for PennDOT for any  
4 issuing of IDs or creation of the IDs. That's  
5 separate and apart from our \$5 million for voter  
6 education campaign.

7 Q. Okay. But it's \$1 million for the actual IDs  
8 themselves; is that right?

9 A. That's my understanding.

10 Q. And the \$5 million hasn't --- hardly any of  
11 that's been spent at this point; is that right?

12 A. Not necessarily true. The letters to 759,000  
13 individuals, it is expensive and we've paid a lot of  
14 money for that. I can't tell you the exact amount,  
15 in excess of \$250,000. And the money that is  
16 earmarked for television and radio, I believe the  
17 buying is taking place, so resources are being spent  
18 --- considerable resources are being spent in  
19 preparation for the fall.

20 Q. Okay. When your deposition was taken on July  
21 10th, at that point, Mr. Royer, hardly any of that \$5  
22 million had been spent; isn't that right?

23 A. That is correct, except for the beginnings of  
24 the funding for this letter that went out.

25 Q. The \$250,000 letter?

1 A. Correct. It may be a little bit more than that.  
2 I can't remember the exact total.

3 Q. Now, the voter education program's not going to  
4 start until after Labor Day. Is that what --- that's  
5 what you told us?

6 A. The community outreach and press outreach  
7 started right after the law was signed. The web  
8 outreach starts in August, and the television, radio,  
9 automated phone calls, the mailing of every household  
10 voter, all that starts after Labor Day.

11 Q. Okay. And that's two months before election  
12 day; is that right?

13 A. For some of those activities, yes.

14 Q. Right. And that is five or six months after the  
15 law was enacted; is that right?

16 A. Roughly, yes.

17 Q. Now, the \$5 million, you didn't go through and  
18 make an analysis of what kind of dollar figure would  
19 be required to actually reach every Pennsylvania  
20 voter, did you?

21 A. We did not. During the RFQ process that started  
22 in the spring, the --- and certainly with the vendors  
23 that we hired, the professionals we've been going to  
24 many years said that --- indicated to us that our \$5  
25 million campaign was more than sufficient to reach

1 all the voters.

2 Q. Now, you talked with Mr. Cawley about the survey  
3 that you did of other states; isn't that right?

4 A. It was phone calls and e-mails to other  
5 Departments of State asking them for information  
6 about how they implemented their voter ID law. I  
7 wouldn't necessarily call it a survey, but gathering  
8 information.

9 Q. Okay. And when you were asked about that  
10 survey, the one thing that you mentioned was the  
11 importance of training poll workers; isn't that  
12 right?

13 A. That is correct.

14 Q. And that was the one thing that you mentioned  
15 during your deposition; isn't that right?

16 A. Yes, the pattern --- one of the patterns --- the  
17 pattern that our Policy Office discovered in talking  
18 to these other states was they stressed the  
19 importance of making sure that the poll workers were  
20 ready to implement the law on election day.

21 Q. And that's because poll workers are on the front  
22 lines; isn't that right?

23 A. They're the ones administering the election on  
24 the election day in the field.

25 Q. Right. But under the Pennsylvania Election

1 Code, poll workers do not have to attend training;  
2 isn't that right?

3 A. I don't believe they are required under --- by  
4 statute. That is correct.

5 Q. And the voter ID law didn't change that lack of  
6 a requirement, did it?

7 A. It did not.

8 Q. Now, you haven't made any recommendations that  
9 that piece of the law be changed or amended, did you?

10 A. No, what we are doing, though, is something that  
11 we've never done in the past and we've collected all  
12 of the names of the poll workers around the state,  
13 close to 50,000 of them, and for the first time ever  
14 the Department of State right after Labor Day is  
15 mailing out information about the voter ID law, about  
16 this new law, several pages, a guide directed to the  
17 poll workers to augment whatever training the  
18 counties are doing. In addition to that, we have  
19 created a poll worker training video, which we are  
20 disseminating to all 67 county election directors in  
21 August at the statewide conference to assist them  
22 with poll worker training and make sure that they  
23 have the information they need to implement the law.

24 Q. And those County Election Boards are free to use  
25 that or not as this choose to; right?

1 A. That's correct.

2 Q. And the poll worker are free to come or not as  
3 they choose to the training; is that right?

4 A. Yes. But all of them will be receiving  
5 information about the new law from us.

6 Q. Now, I want to ask you a little bit more about  
7 this Department of State ID that we talked about a  
8 little bit. Now, that ID, is it your view that that  
9 ID is required under the Pennsylvania Constitution?

10 A. Required?

11 Q. Yes.

12 A. I'm not a constitutional expert. I can't --- I  
13 don't think it's required.

14 Q. Now, the idea or the origin of the ID took place  
15 --- there was a conference call that was held between  
16 PennDOT and the Department of State at the urging of  
17 a lawyer from the Governor's Office; isn't that  
18 right?

19 A. There have been several conference calls and  
20 in-person meetings to talk about this over the last  
21 two, two and a half months. The Office of General  
22 Counsel has been involved in providing guidance on  
23 the issue, and I --- I'm not certain that it was  
24 because the lawyers recommended it, if that's what  
25 you're asking.

1                   ATTORNEY CLARKE:

2                   Okay. Kelby, could you put up Exhibit

3 --- Royer Exhibit Two?

4                   JUDGE SIMPSON:

5                   What number is this?

6                   ATTORNEY CLARKE:

7                   This is going to be Exhibit 20 ---

8 Trial Exhibit 22.

9                   (Petitioners' Exhibit 22 marked for  
10 identification.)

11                   JUDGE SIMPSON:

12                   Could you hand it to Mr. Mazin, please?

13 Thank you.

14 BY ATTORNEY CLARKE:

15 Q. You received Exhibit 22, Mr. Royer?

16 A. I have seen this in the past, yes.

17 Q. And you received it at the time, June 18th?

18 A. Yes.

19 Q. Okay. And if you would take a look at the  
20 fourth page of this exhibit, it's PA 80243?

21 A. Yes.

22 Q. And you see the bullet that says PennDOT and  
23 DOS? You see that?

24 A. Yes.

25 Q. And you see where it says at the urging of

1 Administration Counsel, representatives from both  
2 PennDOT and DOS held a conference call on Wednesday,  
3 June 13th to discuss the creation of PennDOT made,  
4 DOS issued ID for voting purposes? Do you see that?

5 A. I do.

6 Q. And Administration Counsel in that document  
7 refers to Counsel for the Governor; is that right?

8 A. I believe ---.

9 Q. I'm sorry, the Office of General Counsel?

10 A. I believe so.

11 Q. So that is --- the idea was presented or urged  
12 upon PennDOT and Department of State by a lawyer from  
13 the Governor's Office; is that right?

14 JUDGE SIMPSON:

15 Could you state that question again?

16 BY ATTORNEY CLARKE:

17 Q. Well, let me just --- the Office of General  
18 Counsel is the General Counsel for the Governor;  
19 isn't that right?

20 A. That is correct.

21 Q. Okay. And the urging of the Administration  
22 Counsel in this document, Exhibit 22 --- when it's  
23 written the urging of administrative Counsel, that  
24 means the issue --- the idea was first presented to  
25 PennDOT and Department of State by the attorneys of

1 the Office of General Counsel, doesn't it?

2 A. This report indicates that a conference call was  
3 urged to be held by Administration Counsel.

4 Q. Right. But when this sentence that --- at the  
5 urging of Administration Counsel, that means the idea  
6 was first presented to PennDOT and the Department of  
7 State by attorneys of the Office of Attorney General;  
8 right?

9 A. You mean the Office of General Counsel? You  
10 said Attorney General.

11 Q. I'm sorry, excuse me. Yes.

12 A. The report here says that the conference call  
13 was urged by Administration Counsel, which I believe  
14 to be true.

15 Q. Okay. And when it says at the urging of  
16 Administrative Counsel, that means that this --- the  
17 idea that PennDOT --- the Department of State idea  
18 was an idea that was first presented by --- it was an  
19 idea that was first presented by the lawyers of the  
20 administrative office to have them issue a Department  
21 of State ID; isn't that right?

22 A. I first heard about these ID cards from our  
23 internal Department of State attorneys who had been  
24 in contact with OGC and with PennDOT and with others.

25 Q. Now, the plan initially for this Department of



1 State ID was to have it be issued on July 24th; isn't  
2 that right?

3 A. That is correct.

4 Q. And that was the day before this trial started;  
5 isn't that right?

6 A. That's correct.

7 Q. But you don't know why that July 24th date was  
8 picked?

9 A. That was the date that PennDOT told us they  
10 would initially be able to have these cards  
11 available. And that's no longer the case.

12 Q. Okay.

13 A. It's now August.

14 Q. That date slipped?

15 A. It did.

16 Q. And so now the date is August 26th?

17 A. Sometime during the last week of August.

18 Q. Now, when your deposition was taken, one of the  
19 questions that was still open at that time for the  
20 Department of State identification, one of the  
21 questions was what happens if somebody shows up,  
22 wants to get this free Department of State ID and  
23 they don't show up on the voter registration logs.  
24 Do you recall that that was one of the questions that  
25 was still open?

1 A. Vaguely, yes.

2 Q. But for you it would be good enough proof that  
3 they actually were registered if they signed an  
4 affidavit; isn't that right?

5 A. What do you mean? I'm not sure what you're  
6 talking about.

7 Q. It was your opinion at that time that the person  
8 should still be able to get an ID card because they  
9 signed --- they were going to have to sign an  
10 affidavit; isn't that right?

11 A. Initially that was one of the things that had  
12 been discussed as part of the exceptions process. It  
13 was discussed with our Bureau of Commissions,  
14 Elections and Legislation staff. It was one of the  
15 early concepts, I guess I'll describe it. I'm not  
16 certain if that's still the case or not, but that's  
17 something that we did talk about.

18 Q. But at the time that there was a discussion  
19 about letting people get an ID even if they didn't  
20 show up in the voter registration database, it was  
21 good enough for you if somebody signed an affirmation  
22 that they were a registered voter?

23 A. I have always felt that we should be doing  
24 whatever we can to get IDs into the hands of people  
25 who need them for voting purposes. The conversation

1 you're describing from my deposition, I believe, was  
2 something that, in fact, we had talked about. I  
3 wasn't 100 percent sold one way or the other, but  
4 it's something that certainly we were seriously  
5 considering. I don't know if that's still the case  
6 or not, based on our final exceptions process. But  
7 yeah, that was something that we did discuss.

8 Q. Right. But my question really is something  
9 different. And that is, when there was a  
10 consideration of letting somebody get a voter --- an  
11 ID card for voting, even if they didn't show up in  
12 the registration --- the voter registration database,  
13 it was good enough for you at the time if they signed  
14 an affirmation that it was true; isn't that the case?

15 A. I think what I was referring to is if someone  
16 had recently registered to vote that day or the day  
17 before and not get entered into a voter database by  
18 the county. The counties are the ones that have the  
19 ability to enter registered voters. And I wanted to  
20 make sure that if someone had recently registered to  
21 vote that they would have the ability to get an ID  
22 for voting purposes. And that is one of the earlier  
23 discussions. I believe since that time other things  
24 have been discussed to handle it differently, which  
25 others would know more detail than I. But yes, that

1 was part of the original discussion.

2 Q. Right. But I'm not asking you about the  
3 discussion, Mr. Royer. I'm asking you about --- at  
4 the time of your deposition and during --- your view  
5 was that it was good enough if somebody signed an  
6 affirmation and said I'm registered to vote, a new  
7 voter whose name hadn't shown up on the rolls, it was  
8 good enough if they signed an affirmation. That was  
9 good enough for you, wasn't it?

10 A. Under penalty of law if someone signs an  
11 affirmation that they just registered that day or the  
12 day before and had not been entered into --- their  
13 information had not been entered into the voter  
14 database, that is something that, at the time, could  
15 have been a good idea. I don't know if that's the  
16 direction we're going down or not.

17 Q. But it was your view that since the person was  
18 signing under penalty of law, that that would be good  
19 enough?

20 A. It may have been at the time. I don't recall if  
21 it's good enough. But, yes.

22 Q. But your view was the fact that it was under  
23 penalty of law was important; isn't that right?

24 A. Yes.

25 Q. And when you go into a polling place today and

1 you sign the polling book, you're signing under  
2 penalty of law there, too, aren't you?

3 A. Yes.

4 Q. Mr. Royer, we just talked a little bit --- you  
5 give us a \$250,000 cost for mailing to 750,000  
6 people; is that right?

7 A. Yeah. I think it's more than that. I just  
8 can't remember the exact figure.

9 Q. And you told us that you plan to do another  
10 mailing to 5.9 million people?

11 A. Yes.

12 Q. So that will cost about \$2 million?

13 A. The price tag for that is about one and a half  
14 million.

15 Q. And is that out of the \$5 million?

16 A. It is.

17 Q. So we really only have \$3.5 million left to do  
18 the radio and TV ads?

19 A. Yes.

20 Q. And when the experts advised you that \$5 million  
21 was enough to do the radio and TV ads, did they  
22 anticipate the cost of the \$1.5 million?

23 A. Yes.

24 Q. So it's really only \$3.5 million that will be  
25 the radio and TV ads?

1 A. Over a two-month period, yes, which is a heavy  
2 buy.

3 Q. Now, did you --- you testified about Georgia and  
4 how important the Georgia experience was to you and  
5 learning about how voter ID laws were implemented;  
6 isn't that right?

7 A. Yes, because Georgia is a state not much smaller  
8 than Pennsylvania. It's a state that had been  
9 through --- since 2006 election with photo ID, and  
10 it's a state, as I indicated earlier, a major city,  
11 Atlanta, with a high minority population.

12 Q. Right. Now, are you aware there's a significant  
13 difference between the Georgia voter ID law and the  
14 Pennsylvania law?

15 A. The menu of ID options for Georgia voters is  
16 somewhat similar to Pennsylvania. That's what I'm  
17 aware of.

18 Q. Okay. And are you aware that in Georgia anybody  
19 who wants to can vote absent?

20 A. Yes.

21 Q. Okay. And in Pennsylvania in order to vote  
22 absentee, you have to swear that you actually are not  
23 going to be present?

24 A. That is correct.

25 ATTORNEY CLARKE:

1 Thank you, Mr. Royer. I have no  
2 further questions.

3 JUDGE SIMPSON:

4 Any Redirect?

5 ATTORNEY CAWLEY:

6 Very briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY ATTORNEY CAWLEY:

9 Q. Mr. Royer, ---?

10 JUDGE SIMPSON:

11 Hold on a second. Let her gather her  
12 things.

13 BY ATTORNEY CAWLEY:

14 Q. Mr. Royer, will the public education campaign  
15 address the details of the Department of State voter  
16 ID card?

17 A. It will.

18 Q. Will it tell people what they need to do to get  
19 that card?

20 A. It will.

21 Q. You discussed the exceptions process. Is that  
22 generally what happens if somebody comes in and  
23 there's a question about whether they're capable of  
24 getting that card?

25 A. Yes. The process would be that the Department

1 of State would be notified by PennDOT that an  
2 exceptions process is necessary, and the Department  
3 would notify by letter and also reach out by phone to  
4 that voter if the phone number is listed to work with  
5 them on getting them proper identification.

6 Q. And who's the best person from the Department of  
7 State to ask about all the details of that process?

8 A. That would be John Marks, our election  
9 commissioner.

10 Q. You were asked about the --- one of the vendors  
11 or contractors involved in the media outreach. Were  
12 you involved with the procurement process?

13 A. I was.

14 Q. Were you personally involved?

15 A. I was.

16 Q. Have you worked with the vendors?

17 A. Since they've been procured, yes.

18 Q. At any point in this process has partisan  
19 politics played a role in the media outreach  
20 campaign?

21 A. Not at all. In fact, Red House Communications,  
22 which received I believe a \$1.8 million contract, is  
23 known as a Democratic firm.

24 Q. As far as the questions about whose idea it was  
25 for the Department of State Voter ID, you were shown



1 one memo that had the phrase at the urging of  
2 Administration Counsel. Do you know whether the idea  
3 for the Department of State Voter ID Card had been  
4 --- had come about before lawyers suggested a phone  
5 call?

6 A. Could you say that again, please?

7 Q. Sure. It referred to at the urging of  
8 Administration Counsel, a cooperation of some sort  
9 happened between PennDOT and the Department of State.  
10 Do you know whether at that point the Department of  
11 State Voter ID Card idea had already come up or where  
12 it was in the time frame?

13 A. No, I do not.

14 Q. Do you know for sure whose idea it was to issue  
15 a Department of State Voter ID Card?

16 A. I do not.

17 Q. Does it matter to you?

18 A. It does not matter. It's a good idea and we're  
19 implementing it.

20 ATTORNEY CAWLEY:

21 Thank you.

22 JUDGE SIMPSON:

23 Any Recross?

24 ATTORNEY CLARKE:

25 No, Your Honor.

1                   JUDGE SIMPSON:

2                   May this witness be released?

3                   ATTORNEY CLARKE:

4                   Yes.

5                   JUDGE SIMPSON:

6                   Thank you. You may step down, and you  
7 are free to leave.

8                   A. Thank you.

9                   JUDGE SIMPSON:

10                  Counsel, you gave me an exhibit with a  
11 sticker on it, but no number. May I put 22 on here?

12                  ATTORNEY CLARKE:

13                  Yes, Your Honor.

14                  JUDGE SIMPSON:

15                  Are we going back to Petitioners' case  
16 now?

17                  ATTORNEY CLARKE:

18                  Yes.

19                  ATTORNEY CAWLEY:

20                  Yes, Your Honor.

21                  JUDGE SIMPSON:

22                  Are you going to call a witness?

23                  ATTORNEY CLARKE:

24                  Yes.

25                  ATTORNEY WALCZAK:

1                   The Plaintiffs would call Mark Wolosik.  
2 He's been sequestered, so let me go get him, Your  
3 Honor.

4 OFF RECORD DISCUSSION

5                   MR. TURNER:

6                   Can you raise your right hand?

7 -----

8 MARK WOLOSIK, HAVING FIRST BEEN DULY SWORN,  
9 TESTIFIED AS FOLLOWS:

10 -----

11 DIRECT EXAMINATION

12 BY ATTORNEY WALCZAK:

13 Q. Morning.

14 A. Morning.

15 Q. If you'd like, there's some water there in front  
16 of you.

17 A. Okay.

18 Q. Could you state your name, please?

19 A. My name is Mark Wolosik. That's W-O-L-O-S-I-K.

20 Q. And what do you do for a living?

21 A. I'm the Allegheny County Elections Division  
22 Manager.

23 Q. How long have you had that position?

24 A. Since July of 1991.

25 Q. And how long have you worked for the Allegheny

1 County Elections Division?

2 A. Since 1970.

3 Q. That's 42 years?

4 A. Yes.

5 Q. And are you --- is this an elected position?

6 A. No, it's appointed.

7 Q. And have you worked there through many different  
8 administrations?

9 A. Yes, I have.

10 Q. Both Republican and Democrat?

11 A. Yes.

12 Q. How many voters are there in Allegheny County?

13 A. We are approaching 900,000.

14 Q. And how many polling places do you have?

15 A. 1,319.

16 Q. And how many poll workers do you employ on  
17 election day?

18 A. Approximately 6,500.

19 Q. And can you tell us what the setup is on  
20 election day in terms of when you're administering  
21 the elections? So for instance, how many poll  
22 workers would you have on election day in a polling  
23 place?

24 A. At each polling place, typically five election  
25 workers at each polling place.

1 Q. And so tell us who those five people would be  
2 and what they do.

3 A. We have Judge of Election who's responsible for  
4 the overall supervision of the polling place. We  
5 have a majority inspector and majority inspectors  
6 clerk, a minority inspector and minority inspectors  
7 clerk. And those four individuals process the  
8 voters, the paperwork or lead them to the voting  
9 machines. They direct them to the voting machines.

10 JUDGE SIMPSON:

11 And sir, I'm just going to ask you to  
12 move that microphone a little bit closer to you;  
13 okay?

14 A. Okay? Is that better?

15 JUDGE SIMPSON:

16 That's better for me.

17 A. Okay.

18 BY ATTORNEY WALCZAK:

19 Q. And do the number of votes per polling place  
20 vary?

21 A. Yes.

22 Q. What's the range?

23 A. It can go anywhere from 13 to probably 3,500.

24 Q. Thirteen (13) voters ---

25 A. Yes.

1 Q. --- for an entire polling place?

2 A. Yes.

3 Q. And there's probably a story there. I don't  
4 think we need to get into it. And the largest is,  
5 I'm sorry, how big?

6 A. About 3,500.

7 Q. And where would that be located?

8 A. That would be at the University of Pittsburgh.

9 Q. And all of the polling places, regardless of  
10 size, have approximately this five person poll worker  
11 team?

12 A. The one that has 13 may only have four.

13 Q. Now, is it true that not all poll workers  
14 actually will have training on election day?

15 A. The majority of them are trained. There will be  
16 some that show up on election day that are last  
17 minute replacements, that we were unable to give them  
18 training or they were unable to attend training.

19 Q. And that's happened in the past?

20 A. It has.

21 Q. And do you have any reason to expect that it's  
22 not going to happen again?

23 A. No.

24 Q. And have you had situations where, in fact, the  
25 entire team at a polling place has received no

1 training prior to election day?

2 A. Yes, they have not received formal training,  
3 that has happened.

4 Q. I want to have you describe for us the mechanics  
5 of voting on election day before the voter ID law?

6 A. Well, before the voter ID law, the voter would  
7 present themselves, generally the first person they  
8 see at the table, the lady seated at the table, and  
9 ask their name. The clerk there then would pull the  
10 voter certificate out of a can. They're alphabetical  
11 order, hand it to the voter to sign. The voter would  
12 sign it. It would then be passed onto the person who  
13 was in charge of the district register for the  
14 facsimile signature of that registered voter. They  
15 would compare the signature to see that it's genuine  
16 and that that's the same person who signed it. Then  
17 it would be passed onto another person on the table  
18 who would make notations on the card and indicate the  
19 number at the polling place. There's a sequential  
20 list --- the sequential list kept by another clerk of  
21 every voter as they present themselves to vote on  
22 election day. Then after all of that, then the voter  
23 --- part of the voter certificate is handed back to  
24 the voter who then is escorted to one of the voting  
25 machines, where that's ripped in half, one portion is

1 given to the voter as a receipt for voting, and the  
2 other portion is put in an envelope on the side of  
3 the voting machine. And that is a record of which  
4 --- each voter who voted on that particular piece of  
5 equipment.

6 Q. Now, you talked about the voter signing a  
7 register; correct?

8 A. They sign a voter certificate, yes.

9 Q. And then I believe you mentioned that there is  
10 --- one of the poll workers will match that signature  
11 with some other signature?

12 A. Right, the signature of record for that voter  
13 when they originally registered to vote.

14 Q. So that would be the signature that they signed  
15 when they filled out their voter registration card?

16 A. That's right.

17 Q. And how serious is that scrutiny of the  
18 signature?

19 A. It's very serious. I can give you firsthand  
20 information with me.

21 Q. Okay.

22 A. In my particular precinct, our long time board  
23 decided that they didn't want to do it anymore.  
24 There was no rank or there was no reason. They had  
25 grandkids. They didn't have time to do it, so



1 focused my officers ---.

2 Q. I'm sorry. You said didn't want to do it,  
3 didn't want to serve?

4 A. Didn't want to serve, yes. Sorry. And so the  
5 folks in my office recruited poll workers that worked  
6 in another district, but never worked in the election  
7 --- my election district of residence. And when I  
8 presented myself to vote, they didn't know who I was  
9 because they weren't from my neighborhood. And when  
10 I signed my voter certificate and handed it to them,  
11 they told me that my signature didn't appear to  
12 match. I was pretty surprised at that.

13 Q. Were you the Director of Elections at that  
14 point?

15 A. Yes.

16 Q. Had you been the Director of Elections for a  
17 long time?

18 A. Yes.

19 Q. And what did you have to do in order to vote?

20 A. Well, I had a --- I brought my driver's license  
21 with me and I showed them my driver's license, and  
22 they were satisfied that that was me. As matter of  
23 fact, that happened on two occasions at my polling  
24 place. It would have been definitively a second time  
25 as well.

1 Q. And you've heard of other situations where poll  
2 workers have refused to allow people to vote on the  
3 machine because their signatures didn't match?

4 A. Yes.

5 Q. So, in fact, there is some scrutiny prior to the  
6 voter ID law of every person who comes in to vote?

7 A. Yes, there is.

8 Q. Now, is there additional scrutiny for first time  
9 voters?

10 A. Yes, the district register will be marked, ID  
11 required for any voter who's a first time voter at  
12 the polling place, and then they're required to show  
13 one of about 12 forms of identification, some photo  
14 ID, some not photo ID. But there's a number of them.

15 Q. And are the types of identification that people  
16 are required to show under that, do they tend to be a  
17 form --- at least one form that everybody has?

18 A. You can show utility bills, bank statements.  
19 You can show your voter ID card. You know, when you  
20 changed your address with our office, we would have  
21 mailed you a voter identification card. You can show  
22 that, yes.

23 Q. Does that voter identification card have a  
24 photo?

25 A. No. I mean, it's now called a voter information

1 card, so no one gets confused or try to use it for ID  
2 now.

3 Q. And when you say first time voters at the polls,  
4 so is this anybody who, let's say, has just moved to  
5 Pennsylvania and is voting here for the first time?

6 A. Or somebody who moved within Allegheny County  
7 who had changed their address and now is voting at a  
8 different polling place as a first time voter.

9 Q. So it's first time voting at a particular  
10 polling place?

11 A. That's right.

12 Q. And these are the ID requirements that were in  
13 effect prior to the voter ID law?

14 A. Yes, I believe they went into effect in 2006.

15 Q. And, in fact, they're still in effect?

16 A. Yes.

17 Q. And in the 41 years you've been with the  
18 Allegheny County Divisions of Elections, have you had  
19 any documented instances of in-person voter fraud?

20 A. No, we've had clients and people who have come  
21 in and reviewed records, but no, no documented proof  
22 of in-person voter ID fraud.

23 Q. And have you referred some of those complaints  
24 to the District Attorney's Office or the county  
25 police?

1 A. We've had other instances of election  
2 violations, but we've referred no voter ID in-person  
3 complaints to the district attorney or the police.

4 Q. Are presidential elections --- I mean, the  
5 general election, are those different from other  
6 elections you administer?

7 A. Yes, out of the four year cycle they are  
8 typically the highest turnout election that we have.

9 Q. Are they significantly higher?

10 A. Yes, this past primary we had about 22 percent  
11 turnout, and this November I'm expecting at least 70  
12 percent turnout.

13 Q. And you, in fact, administer at least two  
14 elections every year; is that right?

15 A. That's right. We have three this year.

16 Q. What's the third?

17 A. We have a special election on August 7th in the  
18 48th Senatorial District.

19 Q. So in 2008 how many voters turned out in  
20 November for the presidential election?

21 A. It was 70 percent of about 920,000, which would  
22 be approximately 630,000 voters.

23 Q. And were you concerned heading into the election  
24 about long lines?

25 A. Yes.

1 Q. Did you, in fact, issue a press release warning  
2 people?

3 A. Yes, we did.

4 Q. What kind of warning did you give people?

5 A. That if all possible try not to vote between  
6 7:00 and 9:00 a.m. or 6:00 or 8:00 p.m., because  
7 that's typically when many of the voters show up to  
8 vote, either before work or after work, if you can  
9 try to go throughout the day, just for your own  
10 convenience.

11 Q. And despite that warning, were there, in fact,  
12 long lines?

13 A. Yes, in suburban polling places where people  
14 have a tendency to vote after they're --- and have to  
15 wait in line.

16 Q. And how long were the lines as far as you know?  
17 How long was that?

18 A. Sometimes I heard you had to wait in line for an  
19 hour.

20 Q. And what's your experience with what happens  
21 when people have to wait in line for a long time?

22 A. Some of them get disgruntled and say, you know,  
23 I don't have time to do this anymore, I have to get  
24 to work, and leave without voting and say that they  
25 will try to come back and vote after the day is done

1 if they can make it.

2 Q. Does it increase tensions at the polls?

3 A. Yes.

4 Q. I want to ask you about provisional ballots.

5 Explain provisional ballots to us.

6 A. A provisional ballot is used when a voter  
7 appears at a polling place and their name is not in  
8 the district register of eligible voters in the  
9 district and they insist that they've changed their  
10 address and were registered to vote. And if we  
11 cannot --- if my office on election day cannot verify  
12 that, then the person is offered a provisional ballot  
13 and they can cast a paper ballot at the polling  
14 place. And then it's returned to my office unopened  
15 until the official can canvas the cards. And then  
16 the determination is made whether or not that ballot  
17 should be fully counted, partially counted or not  
18 counted at all, depending upon the voter's  
19 registration status. It can also be used if a person  
20 is required to show --- if ID is required if they're  
21 a first time voter and they appear at a polling place  
22 and they do not have any of the required forms of  
23 required ID, they can also vote by provisional  
24 ballot.

25 Q. And will people who show up at the polls this

1 November without the requisite ID be required to vote  
2 provisionally?

3 A. If they want to, yes.

4 Q. If they want to vote?

5 A. Right.

6 Q. Now, are provisional --- how are provisional  
7 ballots different from a regular ballot?

8 A. Well, the provisional ballot, because we have  
9 electronic voting machines, if you vote in the normal  
10 manner, your vote is just cast on the electronic  
11 machine and tabulated at the end of the night.

12 Q. So that vote counts?

13 A. Yes.

14 Q. There's nothing you can do about that?

15 A. Not once you hit the cast vote button, it's  
16 counted.

17 Q. Okay. And on a provisional ballot?

18 A. It is returned unopened and then we go through  
19 the process to determine to what level it should be  
20 counted.

21 Q. And I want to --- you went through the process  
22 quickly. I want to understand more fully how you  
23 have to deal with the provisional ballots. So the  
24 voter comes to the poles on election day, and  
25 whatever reason they have to vote provisionally,

1 what's the process at the polls?

2 A. The voter is required to fill out --- there's an  
3 affirmation on the left side of a large envelope  
4 where they have to list their name, address, date of  
5 birth, county of residence and sign it and indicate  
6 that this is their address of residence that they  
7 wish to vote at. Then they are issued the  
8 provisional ballot for that district. And then after  
9 that ---.

10 Q. So that's just a paper printout of what they  
11 would see inside the electronic voting booth?

12 A. Yeah, it actually looks like an absentee ballot.  
13 It's an optical screen paper ballot that's machine  
14 read. And then at the end of the process, after they  
15 have voted and placed it in the secrecy envelope,  
16 there's another affirmation that they have to sign  
17 that's witnessed by the Judge of Election and  
18 Inspector of Election.

19 Q. And do the Judge and Inspector of Election have  
20 to sign anything?

21 A. Yes, the affirmation.

22 Q. And how long does the process take?

23 A. Well, for the most part if --- when the voter is  
24 voting provisionally, they've never done it before,  
25 so it's all new to them, so there's going to be a lot



1 of questions asked, did I fill this out correctly.  
2 Many times people have never voted on paper ballots,  
3 so there's questions asked, how do I do this, how can  
4 I be sure that I'm filling this out correctly? And  
5 then there will be questions about, you know, what do  
6 I do when I'm done, do I come back to you, do I hand  
7 it to you, that kind of thing.

8 Q. And so what's the length of time for that to  
9 occur? What's the range?

10 A. That could take anywhere from one minute to five  
11 minutes, depending upon how many questions the person  
12 had and how much controversy there is over it.

13 Q. So after this provisional ballot is filled out  
14 at the polls, what happens next?

15 A. Then it's placed in an envelope with any other  
16 provisional ballots that are cast and delivered as  
17 part of the election returns and then it's brought to  
18 my main office on election night.

19 Q. And then what happens?

20 A. Then three days after election day is when the  
21 return board by statute convenes. And one of the  
22 things that we do is we break it off into groups and  
23 each provisional ballot is verified. Each person has  
24 to be looked up on the voter registration system to  
25 see if they are registered, where they're registered

1 at and what district they voted in. And then after  
2 we make the determination of whether they're entitled  
3 to cast a provisional ballot, any notes that we make  
4 are mentioned. Then we have to verify that that  
5 person did not vote in-person on the voting machine  
6 at the polling place in which they're registered.  
7 And that's a manual check. We have to look at that  
8 numbered list of voters that I talked about that the  
9 Election Board fills out and it's a sequential order,  
10 so the voter's name --- you know, you don't know if  
11 they're the first voter or the 80th voter. So it's a  
12 manual check. You have to look line by line to see  
13 if that voter cast a vote on election day. So if  
14 they pass that check, then the ballot is ready to be  
15 canvassed. But before we do that we make sure that  
16 there's no watcher or candidate or anyone who's  
17 authorized to be at the Return Board --- they have an  
18 opportunity to raise a challenge to that provisional  
19 ballot before it's counted for whatever reason.

20 Q. I'm sorry. When you say a watcher, what do you  
21 mean by that?

22 A. A watcher would be someone who under the code is  
23 permitted to be appointed by a party or a candidate  
24 to be a credential observer of the process.

25 Q. And if they challenge --- if one of these

1 watchers challenges a ballot, what happens then?

2 A. Then we would schedule it for a formal hearing.  
3 We have to give notice to the voter --- provisional  
4 voter whose ballot was challenged, to give them the  
5 opportunity to show up at the hearing. And at the  
6 day of the hearing then we would hear evidence from  
7 both sides and make a determination of whether the  
8 challenge fails or stands.

9 Q. And who's the hearing in front of?

10 A. Me and my solicitor.

11 Q. And what if the losing part is not happy with  
12 the result?

13 A. Well, they have two days to appeal to the Court  
14 of Common Pleas.

15 Q. This process you talked about of having to check  
16 the provisional ballots once they get back to your  
17 office, it sounded like a lot of steps in that?

18 A. It is.

19 Q. And how time consuming is that process?

20 A. Well, it's very time consuming because sometimes  
21 the reason why poll workers couldn't find the voters  
22 name in the district register is because it's spelled  
23 differently and it could be under a maiden name. So  
24 we have to do searching on our end as well. And the  
25 idea is to --- is to permit as many people as

1 possible to cast a vote on election day. So you  
2 know, you want to exhaust everything you can before  
3 you say, hey, this is --- we can't find this one.

4 Q. And are voters whose ballots are not counted  
5 notified somehow?

6 A. Each voter is given a receipt on election day  
7 with a bar code. It's a bar code. And ultimately  
8 after the determination is made of each voter's  
9 ballot, that is entered into a database that the  
10 voter can access through a website.

11 Q. So a voter needs access to a computer to be able  
12 to learn whether their vote was counted?

13 A. They may be able to call a 1-800 number as well.

14 Q. How many provisional ballots were cast in the  
15 presidential election in 2008 in Allegheny County?

16 A. 2,808.

17 Q. 2,808. And how many total ballots were cast?

18 A. It was around 630,000.

19 Q. So what percentage of the total ballots were  
20 provisional?

21 A. I guess that's one --- 200, which would be .25  
22 percent, half a percent --- half a percent. I don't  
23 have my calculator. But that seems right, half a  
24 percent.

25 Q. And are all provisional ballots ultimately

1 counted?

2 A. No.

3 Q. Do you have some rule of thumb that you would  
4 apply, generally, on how many are counted?

5 A. The general rule is about half are not counted  
6 because the voter is not registered, you have to be  
7 registered. And none of the remaining --- about  
8 two-thirds or so are partial counted.

9 Q. What do you mean by that?

10 A. Well, if the voter is registered in Precinct A  
11 and goes to Precinct B on election day and votes  
12 provisionally, their ballot can only be counted for  
13 the offices that they would be eligible to vote for,  
14 if they voted in Precinct A where they were  
15 registered to vote.

16 Q. So if they voted in the wrong precinct, they  
17 would be --- their votes for national and statewide  
18 offices would be counted, but not if it's for the  
19 wrong local office?

20 A. Right. It could be a different State House  
21 district, you know, council district, different  
22 school district, all kinds of things. There's all  
23 these overlays in Pennsylvania.

24 Q. So let me ask you this. How do you see the  
25 voter ID law affecting what --- how your operations

1 are going to flow this upcoming election day in  
2 November?

3 A. Well, we're trying internally to determine how  
4 many voters --- project how many voters are going to  
5 show up on election day that do not have voter ID  
6 because they don't have it or they forgot to bring  
7 it. The statistics given to us by the Department of  
8 State is in Allegheny County there's approximately  
9 100,000 voters that did not match, the voter database  
10 did not match the PennDOT database. So theoretically  
11 these voters do not have PennDOT photo ID. So even  
12 if you would be conservative and say 50,000 of those  
13 are truly voters that have not moved away and they  
14 have --- they are on the list --- or they're not on  
15 the list because the name didn't match exactly or  
16 whatever. So if you had a poll of 50,000 of those  
17 voters and you would apply the 70 percent turnout,  
18 that would --- you could have a possibility of 35,000  
19 provisional ballots being cast right there. And that  
20 would not include the people that do have ID and show  
21 up on election day and forget to bring it with them,  
22 because after all this is the first time that  
23 everyone's going to have to show it.

24 Q. And 35,000 is larger --- 35,000 provisional  
25 ballots is far more that you've ever had cast in your

1 county?

2 A. Yes.

3 Q. And I think you said in 2008 it was 2,800?

4 A. Yes.

5 Q. In terms of the people actually voting on  
6 election day with voter ID, how is that going to  
7 affect the process that you talked about, people are  
8 lined up one at a time?

9 A. Right.

10 Q. Can you only process one person at a time or can  
11 you have like three or four lines if things get busy?

12 A. Well, you can really only process one person at  
13 a time. So the showing of the voter ID will lengthen  
14 the process for each voter because it's an additional  
15 step that's going to be have to be done. The person  
16 at the polling place who looks at the voter ID will  
17 have to make the determination of whether or not it's  
18 valid. In some cases, you know, they're going to  
19 have to look at one of three lists. For instance, if  
20 it's an ID from some type of nursing home or a  
21 personal care home, there are three different type of  
22 lists where they can issue that type of ID. If it's  
23 presented by student, there was about a six- or  
24 seven-page list that the polling place official's  
25 going to have to look at to see if that school is on

1 that list. I would think there would be the  
2 invariable discussion, comments, pros and cons about  
3 why do I have to do this or I'm glad I have to do  
4 this or this is stupid that I have to do this. And,  
5 you know, the poll official is going to have to sit  
6 there and listen to it. And I'm sure that when  
7 people show up without it that that will be the  
8 controversy, that I know nothing about this, no one  
9 told me anything about this, I voted here for 20  
10 years or you know me, you mean to tell me I cannot  
11 vote, what do I do now? Then they'll have to be sent  
12 to someone to explain the provisional ballot process.

13 Q. Now, you say that sometimes poll workers are  
14 familiar with the voters. Is that a fairly common  
15 occurrence?

16 A. That they are familiar, yes.

17 Q. And do you have direction under the voter ID law  
18 whether you can allow somebody to vote if you know  
19 them and they don't have the ID?

20 A. No, they have to show the approved form of  
21 identification.

22 Q. Okay. And so let's say you get the person who  
23 comes in and doesn't have an ID. How is that going  
24 to slow down the process?

25 A. Well, they will have to be sent over to the



1 Judge of Election so that they can be processed to  
2 vote a provisional ballot.

3 Q. And so is that going to consume the time of one  
4 of the five people at the polls?

5 A. Yes, it will.

6 Q. And what if that person argues when they're at  
7 the front of the line, just like you said, I don't  
8 understand why I have to do this, I've been voting  
9 here for years? Is the line moving at that point or  
10 is it stopped?

11 A. No, the line is stopped.

12 Q. So it's not until that person is cleared from  
13 the area that the next person can be processed?

14 A. That's right.

15 Q. And if you have --- my calculation is if you  
16 have 35,000 provisional ballots, which I think you  
17 said was a conservative estimate, and 2,800 before,  
18 that's approximately a 16 fold increase. What do you  
19 think that could do to the lines in Allegheny County  
20 on election day?

21 A. Well, not only will it lengthen the lines of  
22 people waiting to vote on the voting machines that  
23 don't have any kind of issue, I can see lines being  
24 created for people now voting by provisional ballot,  
25 especially in the districts where you have a large

1 number of registered voters and people vote either in  
2 the morning or in the evening hours. When many  
3 voters are arriving, you have to process each one of  
4 those provisional voters individually as well to make  
5 sure they understand you don't leave the polling  
6 place without completing all the required affidavits.  
7 Because if they don't, their ballot can't be counted.  
8 That's the worst thing, to go through all this  
9 process and then at the very end not be able to count  
10 it because the voter didn't sign it.

11 Q. And you talked about how time consuming it is  
12 for your folks to check the provisional ballots.  
13 Have you looked at the cost or assessed the impact of  
14 having to process 35,000 or more provisional ballots  
15 in the days after election day?

16 A. Well, with the staff we have on hand, with that  
17 type of increase, I would have to hire additional  
18 people to assist in the process. And maybe many more  
19 because we are also under the gun to certify the  
20 election within 20 days after the election. So all  
21 this work has to be done as soon as possible so that  
22 we can tabulate it, add it into the database,  
23 tabulate the results, wait for the required challenge  
24 period and certify the election.

25 Q. And ordinarily your board meets to review the

1 provisional ballots when?

2 A. Well, it starts the Friday after election day.

3 Q. And are you going to be able to do that this  
4 time with the voter ID law?

5 A. Well, we'll be able to meet, but the issue will  
6 be that if the voter casts the provisional ballot  
7 because they do not have the required photo ID, there  
8 is a six-day period which --- from election day which  
9 they have to get the ID to us. So it may be  
10 counterproductive to go through and do all this extra  
11 work, checking at the beginning if the voter does not  
12 return with required ID. But if they don't do that,  
13 then we don't count the ballot, and we don't have to  
14 go any further.

15 Q. And it's six calendar days for the voter to get  
16 ID to you after election day; is that right?

17 A. That's right.

18 Q. Okay. And when does that fall this year? It's  
19 not a trick question.

20 A. It will fall on November 11th, which is  
21 Veteran's Day, which is Monday. So then the deadline  
22 will go to the next day.

23 Q. So you can't really count that assessment of  
24 provisional ballots until a week after the election?

25 A. That's right.

1 Q. And then that leaves you 13 days in which to  
2 certify the election?

3 A. When you think about it, actually eight because  
4 there's a five day period where the results are  
5 preliminarily certified, that they will not change.

6 Q. Now, one of the things that your poll workers  
7 will have to check on election day is they have to  
8 look to and see whether it's an approved form of ID;  
9 correct?

10 A. Yes.

11 Q. There's an expiration date; correct?

12 A. Yes.

13 Q. Are you planning on giving them any training on  
14 stickers?

15 A. Well, what we are going to do is we are going to  
16 make mandatory training and mandatory training  
17 sessions for all the Judges of Election, and we're  
18 going to focus on the voter ID requirements and also  
19 reinforce the provisional ballot procedures. We  
20 don't want the process to hang somebody up.

21 Q. You can't force the folks to attend training,  
22 can you?

23 A. We can't force them to attend the voter ID  
24 training.

25 Q. Now, beyond looking at whether it's an

1 acceptable ID and whether the --- it's within the  
2 expiration date or it has an appropriate sticker ---  
3 expiration date sticker, you also have to check that  
4 the name substantially conforms. Is that your  
5 understanding?

6 A. Yes.

7 Q. And what does that mean, substantial conforms?

8 A. Well, we have received some examples from the  
9 Department of State.

10 Q. How many?

11 A. Maybe five.

12 Q. Five examples of what might match and might not  
13 match?

14 A. Yes. For instance, you know, Jim Smith versus  
15 James Smith matches, those kinds of things.

16 Q. And how do you plan to train people on whether  
17 the names substantially conform?

18 A. Well, if we receive no formal direction from the  
19 Department of State, these are the examples that we  
20 would give out. We'll have to develop our own  
21 standards of what we think substantially conforms.

22 Q. Now, you testified earlier about the difficulty  
23 you had with variation of poll workers assessing  
24 signatures?

25 A. Yes.

1 Q. Do you expect that there's going to be similar  
2 variation in how poll workers assess whether a name  
3 substantially conforms?

4 A. I would think so, yes. Some will be very strict  
5 and some will be not so strict.

6 ATTORNEY WALCZAK:

7 No further questions.

8 JUDGE SIMPSON:

9 Sir, how do you spell your last name  
10 again?

11 A. W-O-L-O-S-I-K.

12 JUDGE SIMPSON:

13 Thank you. You may inquire.

14 ATTORNEY CAWLEY:

15 Thank you.

16 CROSS EXAMINATION

17 BY ATTORNEY CAWLEY:

18 Q. Good morning. I just have some questions on  
19 behalf of the Respondents.

20 A. Okay.

21 Q. I'd like to first ask about poll worker  
22 training. In particular, you just mentioned  
23 mandatory training for Judges of Election. Do you  
24 have any reason to believe that Judges of Election  
25 won't attend that mandatory training?

1 A. No, I think many of them will.

2 Q. And poll worker training is something that  
3 happens annually; right?

4 A. Semiannually.

5 Q. Semiannually. Are you aware that the Department  
6 of State has the addresses --- the home addresses of  
7 all of the poll workers in the state and will be  
8 sending a mailing to them about the voter ID issue?

9 A. Yeah, we gave them a database last year, so it's  
10 a year old.

11 Q. You indicated earlier in your testimony that it  
12 has happened before that, because of last minute  
13 replacement or for whatever reason, a whole polling  
14 place team of poll workers has not had training. Is  
15 that common?

16 A. It's not common, but it happens.

17 Q. And you shared your personal story of going in  
18 to vote and being challenged as your signature didn't  
19 match; right?

20 A. Yes.

21 Q. So the poll workers were scrutinizing your  
22 handwriting and said it didn't match up and they  
23 weren't going to allow you to vote; right?

24 A. That's correct.

25 Q. But in your personal circumstances, your showing

1 your driver's license resolved all the confusion?

2 A. In my personal circumstance, yes. And then when  
3 someone in the polling place says don't you know who  
4 that is, you know, that self --- personal confusions.

5 Q. Then familiarity; right?

6 A. Yes.

7 Q. Okay. And Allegheny County voters, of course,  
8 come from all kinds of socioeconomic backgrounds?

9 A. Yes.

10 Q. And from all different kinds of racial and  
11 ethnic backgrounds?

12 A. Yes.

13 Q. And you testified that since 2004, first time  
14 voters at a particular address have to show either a  
15 photo ID or some other form of proof of identify; is  
16 that right?

17 A. Yes.

18 Q. And that ranged from, as I said, a photo ID to a  
19 voter registration card to utility bills; right?

20 A. Yes.

21 Q. Since 2004, are you aware of eligible voters  
22 being turned away from voting because they could not  
23 produce these documents to establish their identify?

24 A. Being turned away, no.

25 Q. Would you say you have a good working



1 relationship with the Department of State?

2 A. Yes.

3 Q. And have you testified in other proceedings in  
4 support of or --- in support of the Department of  
5 State?

6 A. Yeah, I think. Yes.

7 Q. You talked about the numbers that the Department  
8 of State provided in terms of those that they could  
9 not match up in terms of registered voters being in  
10 the PennDOT system; right?

11 A. Yes.

12 Q. And did you communicate to anyone at the  
13 Department of State that you looked into those  
14 numbers and even broke them down by political  
15 parties?

16 A. I did not.

17 Q. Okay. Are you aware of such a breakdown being  
18 done?

19 A. I am not.

20 Q. Okay. And so for this year's voter ID law,  
21 there was a so-called soft run in the April primary  
22 where poll workers asked for the photo ID; right?

23 A. That's correct.

24 Q. Did any of the poll workers tell you that it  
25 made it easier to find a name in a poll book to have

1 a photo ID?

2 A. They did not.

3 Q. Are you aware of that statement being made from  
4 other counties?

5 A. I have not heard that.

6 ATTORNEY CAWLEY:

7 Those are all the questions that I  
8 have. Thank you.

9 ATTORNEY WALCZAK:

10 Just one minute, Your Honor.

11 COUNSEL REVIEWS FILE

12 ATTORNEY WALCZAK:

13 No further questions, Your Honor.

14 JUDGE SIMPSON:

15 Thank you. You may step down. You're  
16 free to leave, if you wish.

17 A. Thank you.

18 JUDGE SIMPSON:

19 Do you have another witness now, or is  
20 this a good time for a break?

21 ATTORNEY WALCZAK:

22 We have many witnesses, Your Honor.

23 JUDGE SIMPSON:

24 Okay. I'm wondering if there's  
25 somebody with any special needs that needs to be put

1 on the stand right away.

2 ATTORNEY CLARKE:

3 We could do that now, because it's  
4 short --- two witnesses will be short. I'll go get  
5 them, Your Honor.

6 OFF RECORD DISCUSSION

7 ATTORNEY SCHNEIDER:

8 Your Honor, Petitioners call Taylor  
9 Floria. Your Honor, I'd like to tell you that Mr.  
10 Floria has autism, and there's two things about that.  
11 Number one, Counsel does not object if his mother,  
12 Sandra Carroll, stays in the courtroom during his  
13 testimony. She will be testifying next, but he has  
14 agreed that it will not violate the sequestration  
15 order, if that's okay with you.

16 JUDGE SIMPSON:

17 Very well.

18 ATTORNEY SCHNEIDER:

19 And also I would like to stand closer  
20 to the witness during my examination.

21 JUDGE SIMPSON:

22 That's fine.

23 MR. TURNER:

24 Can you raise your right hand, please?

25 -----

1 TAYLOR FLORIA, HAVING FIRST BEEN DULY SWORN,  
2 TESTIFIED AS FOLLOWS:

3 -----

4 MR. TURNER:

5 Thank you very much.

6 DIRECT EXAMINATION

7 BY ATTORNEY SCHNEIDER:

8 Q. Good morning, Taylor. Can you please state your  
9 name for the record?

10 A. Taylor Floria.

11 Q. Where do you live, Taylor?

12 A. In Westville, PA, Chester County.

13 Q. And who do you live with?

14 A. My family, which is my mother, father, my  
15 younger brother and cousin.

16 Q. What's your birthday?

17 A. May 17th.

18 Q. And how old are you, Taylor?

19 A. I am 19 years old.

20 Q. What does your father do?

21 A. My father works as an IT manager for a company.

22 Q. And what about your mother, does she have a job?

23 A. She stays at home and takes care of us, but she  
24 also runs our family ministry.

25 Q. What you do you mean by family ministry?

1 A. It's where we give a chance to those in need.

2 Q. Are you in school?

3 A. I am.

4 Q. Where do you go to school, Taylor?

5 A. I go to the Pennsylvania Leadership Charter  
6 School, which is an online school, and I also attend  
7 the Chester County Technical College High School.

8 Q. So those are both high schools; right?

9 A. Correct.

10 Q. What's your favorite subject in school?

11 A. Well, I haven't had it this year, but the past  
12 two years before I have enjoyed my German class  
13 because I loved learning the language.

14 Q. Okay. And what else do you like at school?

15 A. I like being able to learn about different  
16 things that I haven't done before, such as how I  
17 learned how you melt metal out of rocks and also  
18 getting to learn subjects that I was interested in,  
19 like the German class. And I also like the tech  
20 school because it was interesting to go there to  
21 different programs and learning about things in an  
22 onsite way for first ---.

23 Q. What do you think you would want to do when you  
24 finish school, Taylor?

25 A. I think I would like to be a translator or

1 interpreter and maybe even a writer or artist.

2 Q. Now, do you receive special education services  
3 at school?

4 A. I do.

5 Q. Okay. Can you explain what your disability is  
6 and why you get those services?

7 A. Well, I have autism, and it affects the way my  
8 brain processes things, such as sensory things like  
9 sight and sound and touch and smell and taste, as  
10 well as the thought processing, such as it affects  
11 communication and understanding of instructions. And  
12 so with my special education program, the curriculum  
13 is broken down for me in a way that I can understand  
14 it so that I can learn and give and show that I've  
15 learned the material.

16 Q. So are some things harder for you than others?

17 A. There are things harder for me than others, like  
18 I've had difficulty with abstract writing and I've  
19 had to have special programs for helping to learn the  
20 skill.

21 Q. So how does this affect your --- how does your  
22 disability affect you when you relate to other  
23 people? Can you explain that?

24 A. It can be hard communicating with other people  
25 such as how to respond or how they're feeling or for

1 things like their facial expression or their body  
2 language, their tone of voice and how to  
3 appropriately respond as well as being able to  
4 function if I'm overwhelmed by the environment, given  
5 my different senses during that.

6 Q. What happens when you get overwhelmed by the  
7 environment?

8 A. It affects how I function, and it can make me  
9 anxious and worn out and being able to talk with  
10 someone or communicate something that's important is  
11 rendered nearly impossible for me to do.

12 Q. Okay. Now, for example, are you able to use the  
13 telephone? Is that hard for you?

14 A. I use it, but it's hard. I used it for when I  
15 needed it, such as if I needed to call my parents for  
16 something or to relay a message. That has been  
17 difficult for me.

18 Q. Okay. I'm going to talk a little bit about the  
19 kinds of ID that you have; okay? So you mentioned  
20 you go to two different high schools?

21 A. Yes.

22 Q. Do they issue a photo ID to you?

23 A. They did.

24 Q. So you have those two. But do you have a  
25 Pennsylvania driver's license?

1 A. I do not.

2 Q. Okay. Why don't you have a driver's license?

3 A. I do not drive.

4 Q. And can you explain why you don't drive?

5 A. It's a difficult process for me because learning  
6 to drive --- because there are many factors, such as  
7 the sights that I would be seeing, the noises and  
8 having to coordinate and navigate using the ---  
9 operating the car and maneuvering on the roads and  
10 --- with other drivers and such and different rules  
11 and laws. So that would take a long time for me to  
12 learn the process, and I'm not ready yet.

13 Q. So can you ride public transportation?

14 A. I can, but it would be a bit difficult for me  
15 both because I also suffer from motion sickness as  
16 well as the sensory input that it would give me.

17 Q. Okay. We're going to talk about voting now. So  
18 have you filled out an application to register to  
19 vote?

20 A. I have.

21 Q. But have you received your card back from the  
22 county?

23 A. Not yet. I have not.

24 Q. And that's Chester County; right?

25 A. Right.



1 Q. So if you were to vote in November, would that  
2 be the first election you would be voting in?

3 A. Yes.

4 Q. Okay. And do you know where you would go to  
5 vote?

6 A. I know that there's a building down a few miles  
7 from my house that is next to a park, where it will  
8 be taking place for this area that I'm in.

9 Q. Is that close to your house?

10 A. Very.

11 Q. Why do you want to vote in November, Taylor?

12 A. Because it allows me to have a say in what's  
13 happening, such as laws that would affect me or those  
14 around me and such and what would be done in regards  
15 to issues --- such issues that I feel strongly about  
16 such as funding for education.

17 Q. So funding for education is very important to  
18 you?

19 A. It is very.

20 Q. Let's talk about the voter ID law. Do you know  
21 about Pennsylvania's voter ID law?

22 A. I do.

23 Q. When did you hear about it?

24 A. I would say some months ago I heard about it.

25 Q. And what do you know about it?

1 A. I know that it requires you to get a photo ID  
2 from specific PennDOT buildings, and that it would be  
3 based on a very difficult procedure for people such  
4 as disabled or the elderly or those who have  
5 difficulty with transport.

6 Q. Okay. We're going to talk about that. But  
7 we're going to talk about getting your photo ID.  
8 What do you think about the photo ID law?

9 A. Well, this kind of photo ID law I find to be  
10 very restrictive and unnecessary because --- I'm not  
11 necessarily against needing an ID, but the way this  
12 one is set up makes it very difficult to get one.

13 Q. Okay. So you talked about having to go to a  
14 specific PennDOT place to get ID. Do you know where  
15 you would have to go to get your ID?

16 A. Well, the specific PennDOT that's nearest to me  
17 is, I would say, a 45-minute car drive.

18 Q. So that's far away from your home?

19 A. Yes.

20 Q. And why would it be hard for you to go to that  
21 PennDOT center?

22 A. Well, the car ride would already have me worn  
23 out, but also there --- the environment there is very  
24 hard to handle for me because there are --- there's a  
25 lot of sensory input and --- such as the incredibly

1 bright fluorescent lights and the people that are  
2 talking as well as the customers that are there that  
3 are not required to follow any very strict set of  
4 etiquette or conducts, things like they could dress  
5 in --- well, as they would like, and also acting in  
6 ways that are different like the --- that don't go  
7 push past the legal limit, but still it would be very  
8 unpredictable. And it would make me nervous. And it  
9 would make it hard for me to concentrate, as well as  
10 it would be overwhelming for me. I actually tried to  
11 get an ID there before, but it was a very --- very  
12 overwhelming for me there, and I had to leave.

13 Q. So you weren't able to get it, were you?

14 A. I was not.

15 Q. Okay. So let's --- we're going to talk a little  
16 bit about this case. It was difficult for you to  
17 come to Harrisburg to testify today, wasn't it?

18 A. It was difficult.

19 Q. But why is it different to come here and testify  
20 versus going to the driver's license center?

21 A. Well, for here, I had driven the day before and  
22 I had been driven here the day before so that I would  
23 have a day to recoup.

24 Q. You mean from the long car ride?

25 A. Yes.

1 Q. And what's different about this courtroom that  
2 allows you to come and tell us about your problem  
3 with photo ID?

4 A. Well, I know that rooms are more set up so that  
5 it requires you to following a certain etiquette and  
6 dress in a certain way that's more proper. And it  
7 requires the others to be quiet and not disruptive so  
8 that the people who are to talk are allowed to speak.

9 Q. Right. And there's a Judge here; right?

10 A. Yes.

11 Q. And that makes it more predictable?

12 A. Yes.

13 Q. Okay. But it was important --- I want to ask  
14 you, what specifically --- what was the specific  
15 reason why it was important for you to come today and  
16 talk to the Judge about your story?

17 A. To explain how it is difficult for me and people  
18 like me to be able to get the proper ID to vote,  
19 because I know that there are many others who have my  
20 diagnosis that cannot speak.

21 Q. Okay. So what do you hope to achieve today by  
22 coming here?

23 A. I hope to be able to both advocate for them as  
24 well as have it so that the law that is there would  
25 not be so unnecessarily restrictive and so that

1 citizens such as myself who are either disabled and  
2 would have a hard time or the elderly who don't ---  
3 who can't drive necessarily, but have an easier time  
4 to get their necessarily ID because I know there's a  
5 PennDOT building that is closer to my house, but it's  
6 not the right kind of PennDOT building, so it would  
7 not be acceptable to get an ID from there.

8 ATTORNEY SCHNEIDER:

9 Thank you, Floria. I have no further  
10 questions. Taylor. I mean thank you, Taylor.

11 ATTORNEY SCHMIDT:

12 Your Honor, we have no questions for  
13 the witness.

14 JUDGE SIMPSON:

15 You may step down.

16 A. All right. Thank you.

17 ATTORNEY SCHNEIDER:

18 Your Honor, Petitioners call Sandra  
19 Carroll.

20 JUDGE SIMPSON:

21 Please remain standing. Raise your  
22 right hand.

23 MR. TURNER:

24 Raise your right hand.

25 -----

1 SANDRA CARROLL, HAVING FIRST BEEN DULY SWORN,  
2 TESTIFIED AS FOLLOWS:

3 -----

4 DIRECT EXAMINATION

5 BY ATTORNEY SCHNEIDER:

6 Q. Good morning, Ms. Carroll. Can you please state  
7 your name for the record?

8 A. Sandra Carroll.

9 Q. And where do you live, Sandra?

10 A. West Grove, Pennsylvania.

11 Q. And are you Taylor Floria's mother?

12 A. I am.

13 Q. Can you tell me a little bit about your other  
14 children?

15 A. I have three. My oldest is a girl, is 24.  
16 She's actually my cousin's daughter, but I've had  
17 custody of her for ten years. And I have a  
18 10-year-old son named David.

19 Q. And David and Stephanie are also children with  
20 special needs?

21 A. Yes, they both have autism, and David has mental  
22 retardation as well.

23 Q. And what is the --- what is your occupation?

24 A. Well, taking care of them is pretty much a  
25 full-time job. There's just no money in it.

1 Q. Okay. And I want to talk to you specifically  
2 about Taylor's condition. Can you explain a little  
3 more fully what Taylor's disability is?

4 A. Sure. Taylor's autism manifests mostly in the  
5 area of social and communication deficits as well as  
6 his sensory integration disorder which he talked  
7 about a little bit. He has very difficult functional  
8 and practical communication, especially with people  
9 in authority, but even, you know, so much as a clerk  
10 in a store or his teachers. He has a lot of  
11 difficulty expressing his needs especially to say I'm  
12 sorry, I didn't understand you, could you, you know,  
13 explain that again. He also struggles with social  
14 skills, that is, interpreting your body language and  
15 coming up with an appropriate response. He has a lot  
16 of anxiety over that. And the sensory integration  
17 problem is pretty much as he described. All of us  
18 have something that we react to badly like nails on  
19 the chalkboard. For instance, he has that pretty  
20 much all the time. Just going through life hearing  
21 nails on the chalkboard all the time.

22 Q. But does he also have a physical disability that  
23 can interfere with some of the --- his activities?

24 A. Yes, Taylor has chronic fatigue syndrome as a  
25 result of mitochondrial dysfunction.

1 Q. Can you complain what mitochondrial dysfunction  
2 is?

3 A. Mitochondrial are like --- in your cells are  
4 pretty much like what the battery is to your car. It  
5 provides the power and energy. And because of his  
6 dysfunction, he gets tired a lot. He gets tired most  
7 of the time. He's easily taxed. He has a lot of  
8 trouble doing things like. You know, just taking a  
9 long walk is hard for him.

10 Q. So is there any treatment or cure for the  
11 mitochondrial condition?

12 A. There is treatment. There are supplements that  
13 help, but there's no cure.

14 Q. Okay. Now, will Taylor go to the high school  
15 until what age?

16 A. Twenty-one (21).

17 Q. And why does he need to do that?

18 A. Mostly for the autism, it --- special ed  
19 students are entitled to go to school until they're  
20 21. It gives him some extra time to catch up to his  
21 peers and prepare for college or whatever. We hope  
22 for an independent life for him eventually. And he  
23 needs the extra time.

24 Q. Okay. And how would you describe Taylor's  
25 intelligence?



1 A. He's very smart. He gets straight As.

2 Q. And where was Taylor born?

3 A. Near Los Angeles.

4 Q. Okay. So how long have you been in  
5 Pennsylvania?

6 A. For 10, 11 years. 11 years now.

7 Q. So do you know what --- with the photo ID law,  
8 there would be certain documents that he would need  
9 to get ID?

10 A. Yes.

11 Q. Okay. Now, do you have Taylor's birth  
12 certificate?

13 A. I do.

14 Q. How did you get that? What did you have to do?

15 A. We had to get a replacement from Los Angeles,  
16 had to mail away for it. It cost us 45 bucks, if I  
17 recall.

18 Q. Okay. So you spent \$45 to get his birth  
19 certificate?

20 A. Yes.

21 Q. And does he have a Social Security card?

22 A. He does.

23 Q. Is that an original?

24 A. No, this is a replacement I got from our county  
25 Social Security Office. That was free. As I recall,

1 it just cost me about 20 bucks in gas.

2 Q. Okay. Okay. So Taylor lives with you and your  
3 husband?

4 A. Yes.

5 Q. Okay. Do you have any documents that can  
6 demonstrate where he lives?

7 A. Yes, we have --- he has mail that's addressed to  
8 him from the school, from his doctor's office, from  
9 the state office and his health insurance.

10 Q. So you have the documents that he would need to  
11 get a PennDOT ID; correct?

12 A. I do.

13 Q. But what I want to talk to you about getting ---  
14 actually going to the PennDOT center. Why would it  
15 be so difficult for Taylor to drive to --- take the  
16 car ride to the PennDOT center? First of all, how  
17 far away is it from you?

18 A. It's about 35 miles.

19 Q. Thirty-five (35) miles?

20 A. The PennDOT office that's a designated driver's  
21 license center is about 35 miles. There's one that's  
22 four miles away, but you can't get ID there.

23 Q. Okay. Because they don't issue those kinds of  
24 IDs in that office?

25 A. Right. You can't get your original ID.

1 Q. Okay. Why is a car ride of that length  
2 difficult for Taylor?

3 A. Sensory-wise he gets worn out. And from the  
4 chronic fatigue also he gets worn out very quickly.  
5 On any kind of car ride, bus ride, he gets motion  
6 sickness. He is limited. For instance, he has a  
7 doctor's order that limits his school transportation  
8 to 15 minutes or less by bus because of the fatigue  
9 that it causes him to take the ride. I try to limit  
10 anywhere that I take him to 20 minutes or less.

11 Q. Now, is there public transportation where you  
12 live?

13 A. There is. But he doesn't have the skills to use  
14 public transportation anyway.

15 Q. Okay. And if you were able to go to the  
16 driver's center, what would be the conditions inside  
17 the center that would make it difficult for Taylor to  
18 get his ID?

19 A. Well, there's --- there would be a large crowds  
20 of strangers that act, as you said, in an  
21 unpredictable way as he was speaking. Where there's  
22 a code of conduct involved, he's much more less  
23 anxious I think he said. It is from a sensory  
24 standpoint a really negative situation. The lighting  
25 is bad. The noise level is high. The

1 unpredictability of people's actions is high.  
2 There's a lot of talking, a lot of different people  
3 talking. And even just going in, you have to pull a  
4 number to wait for service and then you have to wait  
5 for your number to be called. And it's very easy  
6 with all the other things going around him that ---  
7 to miss the number being called or not seeing it  
8 being flashed on the screen. If he wasn't exhausted  
9 just from the ride or sitting in the crowd waiting,  
10 going up and then having to speak in a functional way  
11 to a state employee would be very difficult for him.

12 Q. And would it be a situation that might lead to  
13 him not being able to speak?

14 A. Yeah. We didn't even get that far last time.  
15 He had to leave and go sit in the car.

16 Q. Okay.

17 A. But yeah, it would be very --- he might be mute  
18 by the time he would get up to the counter.

19 Q. And would there be other difficulties, for  
20 example, related to the distance from your home, that  
21 --- for you?

22 A. Yeah. I have diabetes and chronic fatigue, and  
23 it is a difficult journey up there.

24 Q. And it's expensive?

25 A. Yeah. Well, the price of price of gas, yeah,

1 it's significant.

2 Q. And is your husband's income the only source of  
3 income?

4 A. For right now, yes.

5 ATTORNEY SCHNEIDER:

6 Okay. I have nothing further.

7 ATTORNEY SCHMIDT:

8 Your Honor, I have a few questions.

9 JUDGE SIMPSON:

10 Thank you. You may step down.

11 ATTORNEY SCHNEIDER:

12 No, he has questions.

13 ATTORNEY CAWLEY:

14 Just a few.

15 ATTORNEY SCHMIDT:

16 Just a few questions. I'm sorry. My  
17 apologies, Your Honor. I wasn't loud enough for you.

18 CROSS EXAMINATION

19 BY ATTORNEY SCHMIDT:

20 Q. Good morning, Ms. Carroll.

21 A. Good morning.

22 Q. Thank you for coming in. I appreciate it. You  
23 testified earlier that Taylor had been to the PennDOT  
24 driver's licensing center, it's approximately 35  
25 miles away from your home?

1 A. Yes.

2 Q. When you were there, did you ask PennDOT for any  
3 special accommodations for Taylor?

4 A. I didn't notice any. I'm sorry. No, I didn't.  
5 I couldn't imagine more accommodations that would  
6 have --- for his situation. I did notice that  
7 there's wheelchair accessibility, so we were able to  
8 take him in his wheelchair, but I didn't. It's even  
9 very hard to get the attention of another person  
10 there.

11 Q. How does Taylor get to school?

12 A. I drive him.

13 Q. And how long does that take?

14 A. Seven minutes.

15 ATTORNEY SCHMIDT:

16 I have no further questions, Your  
17 Honor. Thank you, ma'am.

18 JUDGE SIMPSON:

19 Anything else?

20 ATTORNEY CLARKE:

21 No.

22 ATTORNEY SCHNEIDER:

23 No, Your Honor.

24 JUDGE SIMPSON:

25 Thank you. You may leave if you wish.

1 A. Thank you.

2 JUDGE SIMPSON:

3 It's about 20 after 11:00. Is now a  
4 good time for a break?

5 ATTORNEY CLARKE:

6 Yes, Your Honor.

7 JUDGE SIMPSON:

8 Okay. We'll take a 30-minute recess at  
9 this time.

10 MR. TURNER:

11 Commonwealth Court is now in recess.

12 RECESS TAKEN

13 JUDGE SIMPSON:

14 All right. You may call your next  
15 witness.

16 ATTORNEY CLARKE:

17 Your Honor, before we do that, I wanted  
18 to introduce to the Court a representative of another  
19 organizational Plaintiff who hasn't been here yet.  
20 And that is Marsha Cohen here from the Homeless  
21 Advocacy Project.

22 JUDGE SIMPSON:

23 Hello and welcome.

24 ATTORNEY GEFFEN:

25 The Plaintiff's next witness will be

1 Gloria Cuttino --- or Petitioners.

2 MR. TURNER:

3 Ma'am, could you raise your right hand,  
4 please?

5 -----

6 GLORIA CUTTINO, HAVING FIRST BEEN DULY SWORN,

7 TESTIFIED AS FOLLOWS:

8 -----

9 MR. TURNER:

10 Thank you.

11 DIRECT EXAMINATION

12 BY ATTORNEY GEFEN:

13 Q. Good day. How are you?

14 A. Hi.

15 Q. To begin, would you please state your name for  
16 the record?

17 A. Gloria Cuttino.

18 Q. Ms. Cuttino, where do you live?

19 A. 5427 Wayne Avenue.

20 Q. And what city is that?

21 JUDGE SIMPSON:

22 Just bear with me a moment. Could you  
23 pull that a little closer to you?

24 BY ATTORNEY GEFEN:

25 Q. Is that comfortable for you?



1 A. Yes.

2 Q. Good.

3 A. Philadelphia.

4 Q. Philadelphia. And which neighborhood in  
5 Philadelphia is that in?

6 A. Germantown section.

7 Q. Thank you. And how long have you lived in  
8 Pennsylvania?

9 A. All my life.

10 Q. Were you born in Pennsylvania?

11 A. No.

12 OFF RECORD DISCUSSION

13 BY ATTORNEY GEEFFEN:

14 Q. So we may not have heard. Can you state again  
15 where you were born?

16 A. Summerville, South Carolina.

17 Q. And what's your date of birth?

18 A. 4/9/51.

19 Q. You were pretty young when you moved to  
20 Pennsylvania?

21 A. Yes.

22 Q. Okay. And a little bit about your family, how  
23 many children do you have?

24 A. Four.

25 Q. And I understand that one of them is a police

1 officer?

2 A. Yes.

3 Q. That's what police force?

4 A. Philadelphia Police Force.

5 Q. Okay. And do you have any grandchildren?

6 A. Yes.

7 Q. How many do you have?

8 A. Ten.

9 Q. Is your mother still alive?

10 A. No.

11 Q. How old were you when she passed away?

12 A. Sixteen (16).

13 Q. Okay. And at that point who took care of your  
14 family after she died?

15 A. I did.

16 Q. Did you have any siblings?

17 A. Yes.

18 Q. How many siblings?

19 A. Three.

20 Q. Were you able to continue in school while you  
21 were taking care of your younger siblings?

22 A. No.

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

24 A. No.

25 Q. So how do you get around Philadelphia?

1 A. SEPTA, Philadelphia transportation.

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

3 A. No.

4 Q. Ever flown on an airplane?

5 A. No.

6 Q. Do you currently have any form of identification  
7 that has your photograph?

8 A. No.

9 Q. Okay. Do you have a birth certificate?

10 A. No.

11 Q. Have you ever had one?

12 A. No.

13 Q. Do you know whether any birth certificate was  
14 ever created for you?

15 A. Don't know.

16 Q. Okay. And when did you first --- or have you  
17 tried to get a birth certificate?

18 A. Yes, I have.

19 Q. When did you first start trying to do that?

20 A. '87.

21 Q. Okay. And were you doing that on your own or  
22 with a lawyer?

23 A. Yes.

24 Q. And have you ever worked with a lawyer to try to  
25 get a birth certificate?

1 A. Yes.

2 Q. And would that be a lawyer from Face to Face?

3 A. Yes.

4 Q. Okay. I want to show you an exhibit. This is  
5 Petitioners' Exhibit 23 and Bates page 40. This  
6 should display on the screen, too. This is a letter  
7 from May of 2011 from the City of Philadelphia  
8 verifying your voter registration?

9 (Petitioners' Exhibit 23 marked for  
10 identification.)

11 A. Yes.

12 BY ATTORNEY GEFFEN:

13 Q. And did you get this letter as part of your  
14 application for a birth certificate?

15 A. Yes.

16 Q. Okay. And let's look at the next page, 41.  
17 What's this?

18 A. My school records.

19 Q. And why did you get this document?

20 A. For my birth certificate.

21 Q. Okay. And just a quick question. Do you see  
22 where it says at the top, it lists your date of birth  
23 as 1952, and earlier you said 1951? Do you know why  
24 it says 1952?

25 A. No, I don't. I was told '51.

1 Q. Okay. So you sent these two documents we just  
2 looked at to South Carolina in 2011 to try to get a  
3 birth certificate; is that right?

4 A. Yes.

5 Q. Would you turn to page 39, please?

6 A. Sure.

7 Q. Looking at this document, did you also send some  
8 money?

9 A. Yes.

10 Q. Okay. Would you please go to page 37? What's  
11 this document?

12 A. This is the response that I got from the vital  
13 static from South Carolina.

14 Q. And you did not get a birth certificate; is that  
15 right?

16 A. No.

17 Q. And this document, if you scroll down a little,  
18 has some bold points there and lists some reasons  
19 that your application was insufficient; is that  
20 right?

21 A. Yes.

22 Q. And below that they ask for a couple of  
23 additional documents; is that right, down there on  
24 the paragraph below the bullet points?

25 A. Yes.

1 Q. If you'll scroll down to the next page, please,  
2 do you see where it asks for a certified copy of your  
3 marriage license?

4 A. Right.

5 Q. Have you ever been married?

6 A. No.

7 Q. Do you know why this is in the letter?

8 A. No.

9 Q. Did you try again after this to get a birth  
10 certificate from South Carolina?

11 A. Yes.

12 Q. I'd like to show you a document stamped page 36.  
13 This is also part of Exhibit 23. Is this the  
14 response you got the second time around?

15 A. Yes.

16 Q. Do you see where it says about getting a 1960  
17 census report?

18 A. Yes.

19 Q. And the required fee of \$65 for the census  
20 report?

21 A. Yes.

22 Q. How easy is it for you to come up with \$65?

23 A. Not at all.

24 Q. Did you do it here?

25 A. Did I do what?

1 Q. Did you provide \$65?

2 A. No.

3 Q. Okay. And would you, please, scroll to page 44?  
4 And page 44 through 47, is this your application for  
5 census records search?

6 A. Yes.

7 Q. And if you'll scroll to page 47, the last page  
8 of the application, is this your handwriting at the  
9 bottom?

10 A. Yes.

11 Q. And you said you don't know where the census was  
12 taken?

13 A. Yes.

14 Q. What did you mean by that?

15 A. What year.

16 Q. And do you know for sure where your parents  
17 lived in 1960?

18 A. No.

19 Q. And have you received any records in response to  
20 this from the Census Bureau?

21 A. No.

22 Q. And have you received a birth certificate from  
23 South Carolina?

24 A. No.

25 Q. Have you tried to get Pennsylvania to issue a

1 birth certificate to you?

2 A. Yes.

3 Q. Any luck?

4 A. No.

5 Q. Have you ever had a Social Security card?

6 A. Yes.

7 Q. Do you know your Social Security number?

8 A. Yes, I do.

9 Q. And do you currently have a Social Security  
10 card?

11 A. No, I don't.

12 Q. How long has it been since you had one?

13 A. About 10, 11 years.

14 Q. And why don't you have it anymore?

15 A. I need a photo ID.

16 Q. Well, did you lose it or did you give it away or  
17 what happened to it?

18 A. I lost it.

19 Q. Okay. And have you tried to get a replacement  
20 card?

21 A. Yes.

22 Q. And have you been able to get one?

23 A. No, I haven't.

24 Q. Why not?

25 A. Photo ID.



1 Q. So do you mean that the Social Security  
2 Administration won't give you one because you don't  
3 have a photo ID?

4 A. Yes.

5 Q. Okay. If you had to prove that you live at 5427  
6 Wayne Avenue by providing utility bills or a lease,  
7 would you be able to do that?

8 A. Yes.

9 Q. Okay. Are you currently employed?

10 A. No.

11 Q. I understand that you were recently doing some  
12 hospice type work?

13 A. Yes, I was.

14 Q. And was that at a hospice facility?

15 A. No, it wasn't.

16 Q. Were you employed for that by an agency or  
17 directly by an individual?

18 A. By an individual. It was someone that I worked  
19 with because --- I'm a CNA, but I haven't practiced  
20 in, like, two years, three years.

21 Q. Okay. But there were some times in the past  
22 when you had a more formal employment arrangement?

23 A. Yes.

24 Q. And did you ever get a photo ID as an employee  
25 in any of those jobs?

1 A. No.

2 Q. Okay. And did you ever have to show a photo ID  
3 to get any licenses to get any of these jobs?

4 A. No.

5 Q. Okay. How long have you been registered to  
6 vote?

7 A. Since '08.

8 Q. Why did you register to vote in 2008?

9 A. Well, at the time I didn't know I needed photo  
10 ID to get a registration, so I found out and I wanted  
11 to because I wanted to vote for Obama.

12 Q. Since you have registered in 2008, have you been  
13 voting in various elections?

14 A. Yes.

15 Q. And do you intend to vote again this November?

16 A. Yes.

17 Q. Is it important to you to be allowed to cast a  
18 ballot?

19 A. Yes.

20 Q. Can you tell me why?

21 A. Because I want to be a part of society. I have  
22 my rights. I have a right to decide who's in office  
23 and who's not in office and what I need, whether I  
24 need this or that and that's why.

25 Q. Okay. Have you ever been involved in a

1 political campaign?

2 A. Yes.

3 Q. Okay. Were there any elected officials or  
4 candidates that you worked with in particular?

5 A. Rosita Youngblood.

6 Q. Anyone else?

7 A. Palmieri. And that's it.

8 Q. And do you plan to be --- oh, sorry?

9 A. I think those were the only two.

10 Q. Do you plan to be involved this year in any  
11 campaigns?

12 A. Yes.

13 Q. And any in particular?

14 A. Rosita Youngblood.

15 Q. And if you could get a photo ID, what would you  
16 want to use that for?

17 A. To get custody of my grandkids, to be able to  
18 cash a check, to be able to walk into a government  
19 building. And that's all.

20 Q. And to vote?

21 A. And to vote, yes.

22 Q. And you mentioned government buildings. When  
23 you came into this courthouse today, you went through  
24 a metal detector downstairs?

25 A. Yes.

1 Q. Were you asked to show photo ID?

2 A. No.

3 ATTORNEY GEFFEN:

4 I have no more questions.

5 JUDGE SIMPSON:

6 You may inquire.

7 CROSS EXAMINATION

8 BY ATTORNEY CAWLEY:

9 Q. Good morning, Ms. Cuttino.

10 A. Hi.

11 Q. So just to cover some of the topics that you  
12 just discussed, you have no trouble traveling around  
13 the City of Philadelphia?

14 A. No.

15 Q. So you can get to where you need to vote without  
16 any problem?

17 A. Yes.

18 Q. And if you needed to get to a PennDOT driver's  
19 license center, you can do that without any problem?

20 A. Yes.

21 Q. Now, you've never had a driver's license or a  
22 PennDOT photo ID before; right?

23 A. No.

24 Q. And that's because you don't have a birth  
25 certificate?

1 A. Yes.

2 Q. I'd like to cover some of the identification  
3 that you do have. You have a Medicare card?

4 A. Yes.

5 Q. And that has your name on it?

6 A. Yes.

7 Q. And you had a Social Security card, but you lost  
8 it; right?

9 A. Right.

10 Q. But you do know your Social Security number?

11 A. Yes.

12 Q. You currently receive disability benefits; is  
13 that true?

14 A. Yes.

15 Q. And so you get a check in the mail every so  
16 often?

17 A. Yes.

18 Q. And you get mail from the Social Security  
19 Administration?

20 A. Yes.

21 Q. And that mail has your name and address on it?

22 A. Yes.

23 Q. And you get phone bills with your name and  
24 address on them?

25 A. Yes.

1 Q. And you started trying to get a driver's license  
2 or a PennDOT photo ID in May of 2011?

3 A. Yes.

4 Q. And you wanted to get the photo ID for some of  
5 the purposes you just talked about, such as cashing a  
6 check, applying for a job, opening a bank account?

7 A. Yes.

8 Q. And you've been --- your attorney --- or the  
9 attorney doing the Direct Examination asked you a  
10 number of questions about fees for a lot of the  
11 documents that it takes to get a photo ID. Is it  
12 true that your income level makes it very difficult  
13 to afford those fees?

14 A. Yes.

15 Q. And if you could set aside the requirement of  
16 having a birth certificate in order to vote and just  
17 provide your Social Security number and the mail with  
18 your name and address that you just talked about and  
19 signed a statement that says that you can't get a  
20 photo ID, but you are who you say you are, you  
21 wouldn't have a problem signing that statement, would  
22 you?

23 A. Yes.

24 Q. You would have a problem?

25 A. Yes.

1 Q. Do you remember when we had a deposition about a  
2 month ago?

3 A. Uh-huh (yes).

4 Q. And do you remember when I asked you that  
5 question during the deposition?

6 A. I remember the question, but not phrased the  
7 same way.

8 Q. Okay. Would you have any problem signing a  
9 statement that says you are who you say you are and  
10 you can't get a photo ID, but you want to vote?  
11 Would that be a problem?

12 A. And I could vote in November.

13 Q. Yes.

14 A. Yes, I would vote.

15 Q. You would have no problem signing that  
16 statement?

17 A. I would vote, yes. I wouldn't have no problem  
18 signing it if it was having more purpose than just  
19 for voting. I need it for other things. It  
20 wouldn't, you know, suit my purpose.

21 Q. You need the photo ID for other purposes?

22 A. Yes, I need the photo ID.

23 ATTORNEY CAWLEY:

24 Okay. Those are all the questions I  
25 have. Thanks.

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JUDGE SIMPSON:

Thank you. You may step down.

A. Thank you.

JUDGE SIMPSON:

You may call your next witness.

ATTORNEY CLARKE:

Petitioners call Michele Levy.

MR. TURNER:

Before you sit, raise your right hand.

-----  
MICHELE LEVY, ESQUIRE, HAVING FIRST BEEN DULY SWORN,  
TESTIFIED AS FOLLOWS:  
-----

MR. TURNER:

Thank you.

EXAMINATION ON QUALIFICATIONS

BY ATTORNEY CLARKE:

Q. Good morning, Ms. Levy.

A. Good morning.

Q. Could you provide your name for the record?

A. Michele Levy.

Q. And what is your title, Ms. Levy?

A. I am managing attorney with the Homeless  
Advocacy Project.

Q. What is the Homeless Advocacy Project?



1 A. We're a free civil U.S. Services Program in  
2 Philadelphia and we provide services for people who  
3 are homeless and imminently at risk of homelessness.

4 Q. And what sorts of services does the Homeless  
5 Advocacy Project provide?

6 A. It's free legal services and information, advice  
7 and referrals through an outreach entity.

8 Q. Can you just describe a little bit --- sometimes  
9 you call it Homeless Advocacy Project, HAP; is that  
10 right?

11 A. Yes.

12 Q. So if I --- we'll call it HAP for today's  
13 purposes.

14 A. Yes.

15 Q. How does HAP provide the serves, what's the  
16 model?

17 A. The model is that we go actually out to shelters  
18 and soup kitchens around the city. We go to 25  
19 different locations during the year. It's 125  
20 clinics that we have scheduled this year. And we go  
21 --- it's a staff attorney with a core group of  
22 volunteer attorneys from Philadelphia law firms and  
23 that's where we actually do intake, at the legal  
24 clinics. So there are shelters, soup kitchens,  
25 overlay cafes, day centers, anywhere homeless people

1 really seek the accomodation.

2 Q. And when you talked about the city earlier, what  
3 city is it that HAP operates in?

4 A. Philadelphia.

5 Q. And how many clients per year does HAP serve?

6 A. We service around 3,000 a year. Probably most  
7 of them, I'd say 1,600 are actual cases that we open  
8 and the rest would be information and advice that we  
9 would give actually at the clinic, but then not do  
10 any further representation after that.

11 Q. Could you just give the Court a sense, a profile  
12 of the clients that you serve?

13 A. Well, actually it's a pretty diverse population.  
14 There is no standard prototype for a homeless person.  
15 Some of the clients we serve are single adults who  
16 always worked, live paycheck to paycheck, may have  
17 become sick, let's say, for instance, got cancer,  
18 were unable to work and ended up homeless because  
19 they could no longer afford their rent. Another  
20 client may be a mother with young children who grew  
21 up in the shelter system and now is back in the  
22 shelter system with her children. Sometimes clients  
23 are actually older mothers with young children who  
24 are disabled that they're not able to take care of  
25 and work at the same time and they may find

1 themselves in a homeless shelter. But a lot of our  
2 clients are young youth, really youth, between the  
3 ages of 18 and 21 who've grown up in foster care, and  
4 as soon as they're 18 to 21, they're discharged from  
5 the foster care system and find themselves on the  
6 street and that would be a typical HAP client as  
7 well. So it's really very diverse in terms of where  
8 they came from, their education, their work  
9 experience. There's no one kind of homeless person.

10 Q. Now, how long have you been at HAP?

11 A. I've been at HAP for 12 years.

12 Q. And when you first started --- when did you  
13 first start?

14 A. I started December of 1999.

15 Q. And what was your role at HAP in 1999?

16 A. I was hired as a staff attorney.

17 Q. And what were your responsibilities as a staff  
18 attorney?

19 A. So I provided direct representation to people  
20 who were homeless that I met either at one of our  
21 legal clinics throughout the city or who possibly was  
22 a walk-in client or someone referred directly to me.  
23 I also supervise volunteer attorneys and paralegals  
24 and law students who are doing these cases pro bono.  
25 So if, for instance, I went to a shelter with a group

1 of attorneys and they picked up cases as a result of  
2 that experience that day, then those people would be  
3 under my supervision for those cases.

4 Q. And then at some point, did you become managing  
5 attorney at HAP?

6 A. I did, in July of 2003.

7 Q. And did that involve a change in  
8 responsibilities?

9 A. It did. At first it just was an addition of  
10 responsibilities. Then we kind of took some away.  
11 So in addition to everything I was doing, I also  
12 became supervisor of the other staff attorneys in the  
13 office making sure that they were handling their  
14 cases properly and also supervising their volunteers  
15 to make sure that they were providing the adequate  
16 supervision. I also --- it kind of became my role to  
17 handle, you know, challenging clients who may show up  
18 who were unhappy. I was the face that met with them.  
19 And also doing some advocacy as well. As the  
20 managing attorney, I kind of take the lead on the  
21 advocacy efforts that we take. So there are things  
22 that are broader than just individual cases.

23 Q. And from 1999 until you became managing  
24 attorney, did you handle matters involving birth  
25 certificates --- trying to get birth certificates for

1 people?

2 A. Yes. Did you say from 2003 or now?

3 Q. Well, just for now, I'm going to focus on that  
4 period.

5 A. I handle them individually myself and also as  
6 supervisor for the attorneys.

7 Q. And can you give me an estimate for how many  
8 matters in a year during that period you handled or  
9 supervised, birth certificate matters?

10 A. Birth certificate. So we didn't do quite as  
11 many then as we have been doing in the last few  
12 years. So I would say probably somewhere between 50  
13 and a hundred.

14 Q. Per year?

15 A. Yes.

16 Q. Okay. Before you started at HAP, did you have  
17 other jobs which involved working with low income  
18 people?

19 A. I did. When I first graduated law school in  
20 1986, I went to Washington, D.C. and I was a staff  
21 attorney at the Neighborhood Legal Services Program  
22 there.

23 Q. And did you have any work there involving birth  
24 certificates?

25 A. I didn't. That wasn't a big issue back then.

1 Q. Where did you go to law school?

2 A. At Temple University.

3 Q. When did you graduate?

4 A. In 1988.

5 Q. And where did you go to college?

6 A. I went to Penn State.

7 Q. Say that proudly.

8 A. I went to Penn State.

9 Q. And when did you graduate?

10 A. I graduated back in 1983.

11 Q. Now, you said that birth certificates are  
12 something that HAP has started doing more of more  
13 recently; is that right?

14 A. In the past few years, yes.

15 Q. And why did HAP start working on birth  
16 certificates?

17 A. A lot of our people were coming, they couldn't  
18 access benefits. Even if we had a hearing with  
19 someone in the building, they couldn't get in, they  
20 weren't able to get photo ID. The rules for getting  
21 photo identification tightened after 9/11, so as the  
22 years progressed, the rules became a little more  
23 tighter. So people couldn't get it on their own.

24 Q. Have you personally been involved since you  
25 stepped up this effort to get birth certificates in

1 getting birth certificates for people?

2 A. Personally, yes.

3 Q. And how many birth certificates since HAP has  
4 started, stepped up this effort, have you personally  
5 worked on getting?

6 A. I would say I have gotten probably around 150  
7 birth certificates myself.

8 Q. And then has HAP itself, in addition to the ones  
9 that you've gotten personally, gotten birth  
10 certificates for people in this period since you  
11 stepped up the efforts?

12 A. Yes, we have.

13 Q. And how many in any given year has HAP obtained?

14 A. I can't remember exactly off the top of my head.  
15 And we did have --- I couldn't run a report that  
16 would contain everything because of database issues  
17 that we experienced for a period of time. But I do  
18 know that I could go back to 2009, for instance, and  
19 it was over 500, but I can't remember the exact  
20 number.

21 Q. Now, you wrote a report in this case?

22 A. Yes.

23 Q. And would be it helpful to refer to that report  
24 to get the exact numbers of birth certificates that  
25 the HAP has helped people obtain?

1 A. It would.

2 ATTORNEY CLARKE:

3 Your Honor, may I show the witness a  
4 copy of her report?

5 JUDGE SIMPSON:

6 Yes.

7 ATTORNEY CLARKE:

8 Your Honor, it appears that Your Honor  
9 has a copy?

10 JUDGE SIMPSON:

11 Yes.

12 BY ATTORNEY CLARKE:

13 Q. Does your report help you remember how many  
14 birth certificates HAP has provided to people in the  
15 recent years?

16 A. Yes. In 2009, we had 534 birth certificate  
17 cases, in 2010, 761 birth certificate cases, and in  
18 2011, 762 birth certificate cases. And so far this  
19 year we have requested 400 birth certificates.

20 Q. Now, how many different states does HAP have  
21 experience in getting birth certificates from?

22 A. Many, many states. I can't tell you an exact  
23 number, but a lot of states.

24 Q. And would your report be helpful in determining  
25 for you what states you have experience in?



1 A. Yes. At least some of them. I mean, we've had  
2 others. I know that the last time we did a birth  
3 certificate event, where we basically met with people  
4 for the sole purpose of getting birth certificates,  
5 we had birth certificate requests that were needed in  
6 New Jersey, New York, South Carolina, Florida, Ohio,  
7 Louisiana, Michigan, California, Puerto Rico,  
8 Delaware and Maryland. And that was just from one  
9 event where we served --- I think it was 81 adults.

10 ATTORNEY CLARKE:

11 Your Honor, at this point I'd like to  
12 proffer Ms. Levy as an expert in the difficulties of  
13 getting birth certificates for people.

14 JUDGE SIMPSON:

15 You wish to be heard?

16 ATTORNEY CAWLEY:

17 No, Your Honor.

18 JUDGE SIMPSON:

19 She may express her opinions.

20 DIRECT EXAMINATION

21 BY ATTORNEY CLARKE:

22 Q. Before we get to your opinion, Ms. Levy, are the  
23 clients that you serve --- do the clients that you  
24 serve wish to vote?

25 A. Many of them do.

1 Q. And how do you know that?

2 A. Well, HAP has been very involved in voter  
3 registration. We're part of a coalition. There's a  
4 coalition in Philadelphia called --- right now it's  
5 called Homes --- or Vote for Homes and it started  
6 back in 1996, but became really active in 1999. And  
7 the goal was to really get homeless people registered  
8 to vote and also have their voices heard. And there  
9 actually was a huge --- there was a race for mayor,  
10 and there was a large forum, basically 800 homeless  
11 people attended and that was back in 1999. And from  
12 then HAP has always maintained an active role in the  
13 Homes coalition, right now there are 60 coalition  
14 members and the members are homeless service  
15 providers like the Homeless Advocacy Project, like  
16 various shelter organizations, nursing organizations,  
17 just a host of groups that work with the homeless  
18 population. And the goal is still to register people  
19 to vote, to make sure they get to the polls if they  
20 need assistance doing that and also that people are  
21 comfortable voting. So, for instance, when the new  
22 voting booths came out, the new voting machines, HAP  
23 was instrumental in organizing sessions at all of the  
24 different shelters where the commissioner actually  
25 came with a voting booth so people could go in it and

1 see it and get comfortable with it. And through the  
2 years HAP has actually been able to step back a  
3 little bit from the voter registration and education  
4 efforts because the community itself, the homeless  
5 population has really stepped up and they do a  
6 significant amount of the voter registration and get  
7 out the vote and the training and anything like that.  
8 So we were able to actually step back a little bit,  
9 although we are still an active member in the  
10 coalition.

11 Q. Now, are you aware of a new law in Pennsylvania,  
12 Act 18?

13 A. Yes.

14 Q. And tell me in general what you understand about  
15 that Act.

16 A. That photo identification is going to be  
17 required for people to vote, although I know it's  
18 been through little variations.

19 Q. And for people who don't already have photo  
20 identifications, what is your opinion as to the most  
21 difficult part of the documentation for people to get  
22 the photo identification?

23 A. For the clients that we work with it is  
24 extremely difficult to get birth certificates.

25 Q. Now, what are the reasons that it's difficult to

1 get the birth certificates?

2 A. One, they don't have the money, and two, they  
3 don't have the ID.

4 Q. Okay. And let's start with two. When you say  
5 they don't have the ID, what do you mean by that?

6 A. Most states require an official government ID in  
7 order to get a birth certificate. However, you  
8 cannot get --- it's a catch 22, you need the ID to  
9 get the birth certificate, but you need the birth  
10 certificate to get the ID.

11 Q. So you mean you need a photo identification in  
12 most states to get the birth certificate?

13 A. Right. If I were sending away for my birth  
14 certificate today, I would have to send a copy of my  
15 Pennsylvania driver's license.

16 Q. And is that every state?

17 A. It's almost every state. Since I read the  
18 report where I wasn't aware of any, I did learn that  
19 Ohio you don't need to have a birth certificate ---  
20 you don't have to submit an ID. But I'm not sure if  
21 they'll give you a certified copy of the birth  
22 certificate, which is what you always need.

23 Q. So if you're a person that needs to get photo  
24 ID, but you don't have a birth certificate, but you  
25 need a photo ID to get a birth certificate, is there

1 any option?

2 A. There are some options.

3 Q. And what are the options?

4 A. So one option is you have a family member, an  
5 immediate family member get it for you. Usually it  
6 has to be someone very close to you like a parent or  
7 a sibling or a child can get it for a parent.

8 Q. And does that person also have to have a photo  
9 ID?

10 A. That person has to have a photo ID. And that  
11 person under those circumstances becomes the  
12 applicant. They're applying for the birth  
13 certificate.

14 Q. So if you don't have a family member, are there  
15 any other options?

16 A. Another option would be to have a legal  
17 representative get it for you.

18 Q. So you have to get a lawyer?

19 A. Get a lawyer.

20 Q. So then what does the lawyer have to submit?

21 A. It depends, and it varies, and it changes daily.

22 Q. Okay.

23 A. So in Pennsylvania, the lawyer has to submit ---  
24 we submit a photocopy of our own ID, our own driver's  
25 license. I submit an enlarged copy of also my

1 attorney registration card. And I also submit a copy  
2 of the retainer that the client signed --- not the  
3 retainer, I'm sorry, the release that the client  
4 signs authorizing vital records to send the birth  
5 certificate to me, which is the safest mailing place,  
6 and then I know actually this --- that I have gotten  
7 it. But these change, and just yesterday we were  
8 notified by the partner at DLA Piper that he was told  
9 birth certificates could not be given to him unless  
10 he actually handed them a copy of the representation  
11 agreement. So the release wasn't enough. Now they  
12 want the representation agreement.

13 Q. That was a new requirement that you hadn't been  
14 aware of?

15 A. We were not aware of that.

16 Q. What state was that?

17 A. That was Pennsylvania.

18 Q. That was Pennsylvania.

19 A. And then there's also another change recently  
20 that our office just experienced, because we get so  
21 many birth certificates, when volunteers are getting  
22 them, when they run into hiccups, they let us know  
23 because we need to share that information so that we  
24 can prevent further delays. Because any time it's  
25 not accepted, the application, it could be weeks

1 before you found out that your request isn't even  
2 being processed.

3       So recently we learned that the actual --- not  
4 just the applicant, which for us is always the  
5 lawyer, but the actual person named on the birth  
6 certificate has to sign the form, which we've never  
7 done because there's no place on the form for the  
8 person to sign. So now our volunteers know that  
9 they have to put a line on the form and have the  
10 client sign it.

11 Q. Now, you're aware that for purposes of getting a  
12 photo ID for voting, if you were born in  
13 Pennsylvania, you don't have to go through this  
14 process; is that right?

15 A. If you're telling me that. I can't keep up with  
16 it, so if you tell me that, then I'm going to have  
17 to ---.

18 Q. So what I want to ask you about is whether these  
19 kind of bureaucratic changes are changes that you've  
20 seen in other states?

21 A. They are.

22 Q. And could you give me an example of a  
23 bureaucratic change --- sudden bureaucratic change  
24 that you've seen in other states?

25 A. So in New Jersey where we have to get a lot of

1 birth certificates, they have various requirements  
2 online, you know, what you need to do. And it used  
3 to be that the attorneys would just do in New Jersey  
4 what they did in Pennsylvania. So they would send  
5 the request, they would send a check to the firm,  
6 they will send their own ID, they would send a copy  
7 of their card, they will send a copy of the release  
8 and everything would be on the letterhead. And then  
9 recently those were being sent back because the state  
10 is saying that the client has to sign now a notarized  
11 statement saying that the attorney can get the --- is  
12 authorized to request the birth certificate.

13 Q. And that was a new requirement?

14 A. That's a new requirement. And I checked the  
15 Internet yesterday and that was not a requirement,  
16 even as of last night, for attorneys. It is for  
17 non-attorneys, but attorneys should not have to  
18 submit that kind of notarized statement. And that  
19 causes a huge delay because let's say I'm from  
20 Decker, the law firm Decker, and I go to a clinic and  
21 I meet with a client and I think I'm having him sign  
22 all the paperwork he needs to sign because I know  
23 there's going to be a huge delay in getting the birth  
24 certificate, they take so long. I send it out. If I  
25 don't have all the documents, they send it back to me



1 maybe in a few weeks, if they have a new requirement  
2 I don't know about, so now a few weeks, maybe a  
3 couple months go by. Now I get it and I don't get  
4 the birth certificate. I'm actually getting  
5 something saying, no, you can't get the birth  
6 certificate. So now I have to find the client, which  
7 is not always easy, and then get the client in to  
8 sign the notarized statement. And then I send the  
9 request and it's not like they expedite it because it  
10 was sitting there two months already.

11 Q. So you said that it takes a huge amount of time  
12 anyway without any of those bureaucratic delays.

13 What do you mean? What's the range?

14 A. Well, in New Jersey if you send a request  
15 priority mail and enclose a priority mail return  
16 envelope, so that they can send to you quickly, we've  
17 been told that it's around 10 to 12 weeks.

18 Q. And is that a typical amount of time for other  
19 states as well?

20 A. Some states we have applications pending for a  
21 year. Some places we have not gotten applications  
22 ever back. We've never gotten a birth certificate  
23 back.

24 Q. So I want to go back to this catch 22, which is  
25 the first issue I think you described, where you need

1 photo ID to get your birth certificate to get photo  
2 ID. You said that if you get a lawyer then that's  
3 one way to solve the problem or a representative.  
4 Now, is that a solution for every state?

5 A. Well, it's not a solution necessarily either. I  
6 mean, we try. At least it was an effort, someone  
7 might ---.

8 Q. There are states that don't accept a  
9 representative submitting an application.

10 A. New York. There is a difference, it's in New  
11 York State, you have to send birth certificate  
12 requests to different places depending on where the  
13 person was born.

14 Q. And does New York State require the individual  
15 applying to submit a photo ID?

16 A. Yes. And actually New York State doesn't even  
17 officially allow attorneys. An attorney is not an  
18 authorized requestor in New York State. So what  
19 happens is it either has to be the person named on  
20 the birth certificate or their parent if the parent  
21 is named on the birth certificate. So what happens  
22 is --- and the requestor who has to be the person  
23 named in the birth certificate or the parent also has  
24 to have an ID. So the only other option in New York  
25 State is to get a state court order. So we can't get

1 our volunteers to practice in New York. They're not  
2 licensed in New York and they don't have practice  
3 insurance, doesn't mean they can go outside of  
4 Philly. So what happens is our volunteers will  
5 request them any way and the requests just keep  
6 coming back and the volunteers continue just sending  
7 more information, more information hoping that at  
8 some point it will land on someone's desk who will  
9 actually process it. And often that is the case and  
10 we will get the birth certificate from New York State  
11 even though we are not officially authorized to get  
12 it, but it's the only option we have. And sometimes  
13 it will take up to a year to actually get that New  
14 York City birth certificate in this process.

15 Q. Now, the problem that we've been talking about,  
16 this problem that you need ID to get your birth  
17 certificate, is that a problem that is unique to  
18 indigent people?

19 A. No. You have to have an ID to get a birth  
20 certificate.

21 Q. So anybody who doesn't have a birth certificate,  
22 whether they're indigent or not, will have this  
23 problem in getting a birth certificate?

24 A. Right. And there's some states that will  
25 require it. And so New York City requires an ID of

1 the attorney and the person named on the birth  
2 certificate. So really anytime I volunteer, if  
3 there's a case in New York City or New York State, as  
4 I'm walking towards them they say, this gentleman  
5 needs a birth certificate from New York, there's like  
6 a look of panic on the volunteer's face because they  
7 know it's going to take like Hercules to get that  
8 birth certificate.

9 Q. And did you also have an example in North  
10 Carolina where the state refused to let anybody other  
11 than the applicant apply? That is that the state  
12 said you have ID if you want to get your birth  
13 certificate?

14 A. It was South Carolina and I'm actually dealing  
15 with that right now.

16 Q. What was that situation?

17 A. So I have a client who was incarcerated for over  
18 20 years, and when he was discharged, he had no ID.  
19 I was hoping --- originally I thought because I knew  
20 that there was like this PennDOT thing and voter ID  
21 that if he registered to vote, maybe he'd be able to  
22 go to PennDOT and they'd issue him a photo ID. But  
23 at the time --- and I don't know if this is still the  
24 case, if you weren't in the system since 1990, you  
25 can't get that photo ID from PennDOT. So that kind

1 of went out the window.

2       So I knew I had to start from scratch with this  
3 gentleman and I sent the request and it said that  
4 they --- they demanded his ID. I explained in the  
5 letter he had been incarcerated, that he did not  
6 have any ID. And then I think it was around two  
7 months later they sent the request back to me saying  
8 we need his ID, we need a photo ID from him, an  
9 official photo ID and they had a list like a  
10 driver's license, a non-driver's license, things  
11 like that, like the government issued ID, which he  
12 cannot get. So I actually --- in this case he has a  
13 copy of his Corrections facility ID, which is not on  
14 the list, and I sent that in after I got that from  
15 the client and I'm still waiting to find out. I'm  
16 just praying that the person is nice and sympathetic  
17 and is happy that day.

18 Q. Now, when you describe the list of issues that  
19 people have with getting birth certificates, you said  
20 --- first thing you said was money and the cost.  
21 Does it cost money to get a birth certificate?

22 A. Yes.

23 Q. And can you give me a range of how much money it  
24 costs around the county to get a birth certificate?

25 A. So Pennsylvania is probably one of the cheapest,

1 it's \$10.

2 Q. How about other states?

3 A. If I can look at my report because I don't  
4 remember by heart.

5 Q. Yes.

6 A. Washington, D.C. is \$23. New Jersey is \$25.  
7 New York State is \$30, but New York City is only \$15.  
8 And I should say that these figures I'm giving are  
9 not like any kind of expedited thing. Like New York  
10 State you can actually expedite it faster, but that's  
11 another \$15. So then it's \$45. Georgia is \$25.  
12 South Carolina is \$12. North Carolina is \$24.  
13 Maryland is \$24. Delaware is \$25. California is  
14 \$18. So there's a wide range.

15 Q. Now, if you send in --- let's say you were able  
16 to somehow send in the application and you've been  
17 able to put together the money. Sometimes, does the  
18 report come back that there is no record of the  
19 person's birth?

20 A. Yes.

21 Q. And then what's the next step?

22 A. You pray that this is a Philadelphia case.

23 Q. Well, for purposes of this case, we need to talk  
24 about other states, so for other states what's the  
25 next step?

1 A. So some states have a process where you can get  
2 a delayed birth certificate, but that is a court  
3 process in most places. So you would have to find an  
4 attorney in another state to represent you to get a  
5 delayed birth certificate filed in court.

6 Q. And have you had examples of clients where you  
7 had to get an attorney in another jurisdiction to get  
8 a delayed birth certificate?

9 A. Yes, I actually have one now. And I always  
10 thought this would just be older people who had home  
11 births, like from the south. That was kind of my  
12 impression and that was what we would see in the  
13 state if the person was born in Mississippi or a  
14 midwife didn't file. But actually this woman is only  
15 24 years old. She was born in Seattle, Washington.  
16 Her parents had an Islamic birth certificate for her  
17 which has no legal meaning as far as where the  
18 records are concerned. So she grew up in  
19 Philadelphia. She went to Philadelphia schools, but  
20 there was no birth certificate ever filed. She  
21 couldn't get a Social Security number. She had  
22 nothing. So she went to Community Legal Services  
23 first and that was in 2009 and they did what they  
24 could to deal with vital records in Washington State  
25 and got nowhere. So they sent the case over to me

1 because they knew that we did birth certificate work  
2 and I had a little more, hopefully, experience. But  
3 that really wasn't the case because I worked on the  
4 case for over a year and I was not able to get  
5 anywhere with her. I kept getting more and more  
6 documents which I kept submitting to vital records in  
7 Washington. I even had an immunization record from  
8 the Department of Health and it had where she was  
9 born, that met I felt all of the criteria, it had her  
10 name, it had her date of birth, it had the county, it  
11 had her parent's names, it was from when she was 14  
12 months old. So that combined with everything else I  
13 thought was more than enough to show that she had  
14 been born in Seattle, Washington. And, first of all,  
15 it took them three months to tell me that that was  
16 not the case and they would not agree.

17 And so at that point the only option was I had  
18 to get a court order to have vital records in  
19 Seattle issue a delayed birth certificate and it had  
20 to come from a Washington Court. So I contacted all  
21 the legal services programs in that area to see if  
22 any of them would be able to represent her in  
23 getting a delayed birth certificate. Meanwhile,  
24 because she did not have a birth certificate, she  
25 couldn't get a Social Security number and she could



1 not get any income. She was able to get Welfare for  
2 her children and get her name on their birth  
3 certificate, but she could not get benefits for  
4 herself. So none of the legal services were able to  
5 assist her. So then I contacted the bar  
6 association pro bono programs hoping that one of  
7 them would do it. Like in Philadelphia our pro bono  
8 program would take on this case. None of them would  
9 take it on. They had a number of programs that  
10 contacted ---.

11 So at that point I kind of started panicking  
12 because this woman needed to get --- she needed to  
13 move forward with her life. And so what I started  
14 doing, we worked with a number of large law firms.  
15 They are our volunteers, they support us, they are  
16 really what keeps us running. So I basically just  
17 started looking at the websites of all the law firms  
18 we work with to find one that had an office in  
19 Seattle and DLA Piper did. So I contacted ---  
20 actually, my deputy director, Marsha Cohen,  
21 contacted their pro bono coordinator at the  
22 Philadelphia office, who then sent an e-mail out to  
23 the Seattle office and an attorney volunteered. So  
24 now an attorney is in the process of filing all the  
25 documents. It's still time consuming and she's

1 really lucky that she did that, but now everything  
2 has to take a really long time and go through me,  
3 and her address isn't reliable. But she's much  
4 luckier than most and it's been a while.

5 Q. So this problem of if your birth record doesn't  
6 show up in your state that --- this need to get a  
7 court ordered delayed birth certificate, is that a  
8 problem unique to indigent people?

9 A. No, absolutely not.

10 Q. You mentioned that you had experience in Puerto  
11 Rico, getting birth certificates from Puerto Rico.  
12 There's a unique problem in Puerto Rico. Can you  
13 describe that problem?

14 A. In 2010, the government in Puerto Rico announced  
15 that all birth certificates issued prior to --- it  
16 was a date in the summer of 2010 would no longer be  
17 valid, that you couldn't use them for anything. They  
18 could throw them away. So the population in Philly,  
19 we have a lot of people from Puerto Rico and so what  
20 we decided was we would hold a birth certificate  
21 clinic specifically designed for people from Puerto  
22 Rico. And I should say that we try to do these  
23 clinics to divert --- we were seeing a lot of birth  
24 certificate matters along with our regular clients,  
25 so we thought, well, let's just try to get everybody

1 over in one spot. So we did a birth certificate  
2 clinic for Puerto Rico birth certificates where that  
3 was all we did. And we worked with an organization  
4 in Philly called Congresso. We had a lot of Spanish  
5 speaking attorneys, paralegals onsite and we sent out  
6 requests for birth certificates and that clinic was  
7 held in September of 2010.

8 Q. And did you get the birth certificates for those  
9 people?

10 A. Not all of them. We still have 27 cases where  
11 we've never gotten a birth certificate. Exelon legal  
12 department is a big sponsor of the birth certificate  
13 clinics that we do. They really take the lead on  
14 taking the out-of-state cases especially. They were  
15 interested in working with the Spanish speaking  
16 people from Puerto Rico. So they took most of the  
17 cases that came from that clinic and they were beyond  
18 frustrated and made over a hundred phone calls to  
19 vital records in Puerto Rico to try to get some of  
20 these birth certificate cases resolved, try to get  
21 some responses. They also used their pull and they  
22 got somebody in the Governor's Office to --- we still  
23 have 27 applications pending in Puerto Rico that we  
24 will never ever see those birth certificates.

25 Q. Now, this problem in Puerto Rico applies to

1 every single person in Pennsylvania who was born in  
2 Puerto Rico before 2010; is that right?

3 A. Yes.

4 Q. Not just indigent people, but everybody?

5 A. Everybody. And actually, if I may just say, the  
6 clinic has not even devoted to that particular clinic  
7 to just homeless people. Anyone who comes to that  
8 clinic we helped.

9 Q. Now, one other issue that I would just like you  
10 to talk about for a minute that people have with  
11 getting a birth certificate besides cost and the fact  
12 that you need ID to get ID is this problem of people  
13 not having the information that they need in order to  
14 get their birth certificates. Can you describe that  
15 problem?

16 A. Well, so the birth certificate application  
17 requires specific information, and if you don't have  
18 it they won't process it. So I had a client from  
19 North Carolina and he had grown up in foster care his  
20 whole life. He never knew his birth mother's name,  
21 but he did know the hospital where he was born. So  
22 he tried for years to get his birth certificate and  
23 he never got it. And he needed it to get his photo  
24 ID. This particular young man was really stressed  
25 about it because he could not get work without a

1 photo ID, so this was a priority. Because he did  
2 have job offers out there and could not accept that  
3 because they were making it a requirement. So I sent  
4 the request in for his birth certificate with the  
5 whole --- you know, pleading, that's generally what  
6 we do, pleading and telling his sad story, trying to  
7 get someone to give me the birth certificate, even  
8 though he only knew his date of birth and the  
9 hospital. He also knew his sister's name and that's  
10 it. And they rejected my application.

11 So then I contacted all the schools he attended  
12 to see if we could find some records and I wasn't  
13 getting anywhere. And no one from vital records in  
14 North Carolina would even answer the phone, so I  
15 wasn't even able to kind of plead in person. So  
16 basically he was fortunate that he came to HAP  
17 because we had kind of contacts inside Social  
18 Security, and when I gave the client's information,  
19 because he did know his Social Security number and  
20 he had his date of birth and he had his Social  
21 Security information, then my friend in Social  
22 Security gave me his mother's name and that's when  
23 he learned his birth mother's name. So then I  
24 resubmitted the application and he got his birth  
25 certificate. But it took months.

1 Q. So this problem of not having all of the  
2 information that the state requires, is that a  
3 problem unique to indigent people?

4 A. It isn't. We have clients who are being raised  
5 by people who did not birth them. We've had clients  
6 who were found abandoned and raised. People are just  
7 not --- they don't have the information for many  
8 different reasons from many different populations.

9 Q. Now, you and HAP advise indigent people on a  
10 number of issues. And have you recently begun to  
11 advise indigent people on how to comply with the  
12 photo identification law?

13 A. We did, but then we stopped.

14 Q. Why did you stop?

15 A. Because it was changing and we were having  
16 trouble figuring it out. So we did initially when we  
17 scheduled that June 9th clinic --- we held a June 9th  
18 birth certificate clinic, that I mentioned earlier  
19 when I read the list of states. We actually printed  
20 fliers for people with next steps. You know, once  
21 you get the birth certificate, this is what you need  
22 to do, this is where you need to go, and then on the  
23 back of it we actually printed the oath for people  
24 who are registered to vote but with their affirmation  
25 that entitled them to get a free photo ID so they can

1 vote. So we gave that out to everyone who attended  
2 that clinic that was interested in voting. I don't  
3 even know if it's the law anymore or the process, so  
4 we had to stop.

5 Q. So you felt that the rules were changing, and  
6 therefore, you stopped providing information about  
7 how to comply with the voter ID law?

8 A. Right. All we can do now is keep pushing for  
9 people to get their photo ID.

10 Q. And HAP primarily serves indigent people; is  
11 that right?

12 A. Yes.

13 Q. And you consider yourself a pretty good advocate  
14 for your clients; don't you?

15 A. I believe so, yes.

16 Q. Now, do you have an understanding as to how the  
17 provisional ballot is supposed to work for indigent  
18 people?

19 A. Well, first of all, I don't even know what is  
20 considered indigent for the provisional ballot. I  
21 know that there are people that are indigent because  
22 we have some guidelines and we follow the federal  
23 poverty guidelines. So I know a certain income  
24 qualifies someone for my services, but I'm not sure  
25 who would be considered indigent. So that's the

1 first thing. Then I know they can go there and they  
2 can sign something that says that they can't afford  
3 ID. But then I'm not exactly sure what they're  
4 supposed to do after they say they can't afford ID.  
5 I think they're allowed to vote provisionally and  
6 then something will happen.

7 Q. But at this point the details aren't clear to  
8 you?

9 A. They're not clear to me.

10 Q. Now, you mentioned that there was a clinic in  
11 June. Was that specifically for the purposes of  
12 helping people get birth certificates so they could  
13 get ID?

14 A. Yes. We actually as a staff have already met  
15 and we decided that we were being overrun with the  
16 birth certificate issues and we really felt that it  
17 was distracting from our substantive work. We were  
18 losing volunteers and there was many issues that were  
19 related to that. So we had a whole meeting that said  
20 we're not going to be focusing on birth certificates  
21 so much and trying to figure out different strategies  
22 to get people diverted to other organizations, and  
23 then the law passed. So then we're like, all right,  
24 we'll forget that. Now not only do we have to  
25 continue doing it, but we're going to have to kind of



1 ramp it up a little bit so that we can get more  
2 people birth certificates so that they could vote  
3 because we can't encourage people to register to vote  
4 just to leave them nowhere.

5 Q. So as a result of this decision to ramp it up  
6 rather than scale it back, you had the June clinic?

7 A. Yes.

8 Q. And have you had any additional clinics?

9 A. We're having one scheduled --- it's scheduled  
10 already and it's going to take place at the PECO  
11 Exelon building and that will be on September 12th.

12 Q. And when you decided to scale it back, were  
13 there other priorities that have --- had decided that  
14 it was going to pursue?

15 A. Yes.

16 Q. And what were those priorities?

17 A. The one was expunctions. We thought that that  
18 was something a lot of our clients in moving forward  
19 --- sometimes public housing, but also in employment.  
20 So we did a whole expungement CLE, all the lawyers  
21 went. We all shadowed the attorneys at Community  
22 Legal Services that have a little expunction unit.  
23 And then that's when ---.

24 Q. Who you say ---?

25 A. We don't have time to focus on it because we're

1 so busy with birth certificates.

2 ATTORNEY CLARKE:

3 Thank you. I have no further  
4 questions.

5 CROSS EXAMINATION

6 BY ATTORNEY CAWLEY:

7 Q. Hello, Ms. Levy. I just have a few follow-up  
8 questions for you.

9 A. Okay.

10 Q. Near the end of your testimony on Direct  
11 Examination, you were asked about the provisional  
12 ballot process. Are you aware of the provision in  
13 Act 18 that allows indigent voters to vote without a  
14 photo ID?

15 A. Well, I'm just going to confess to you right now  
16 that I started reading Act 18 and I did not get all  
17 the way through it because it was too confusing to  
18 read. So I did read part of it. But I did speak to  
19 Jenny who did explain it to me, Ms. Clarke.

20 Q. I'm not going to ask you questions if you're not  
21 familiar with that provision.

22 A. I'm really not familiar with it.

23 Q. Okay. Is it safe to say that there are a number  
24 of documents that need to be gathered in order to get  
25 a birth certificate?

1 A. Yes.

2 Q. And depending on the state that you're  
3 requesting it from, there may be a number of fees to  
4 be paid; is that right?

5 A. Right. Yes.

6 Q. Okay. And would you say that for the majority,  
7 maybe even the vast majority, of your clients, those  
8 fees are --- that's money that they cannot afford?

9 A. Yes, they don't have it.

10 Q. Sometimes even bus fair to get to your office or  
11 to another lawyer's office might be too much for  
12 them?

13 A. That's correct.

14 Q. And you're generally working on getting the  
15 ultimate goal, a photo ID, for a number of aspects of  
16 their life; right?

17 A. Yes.

18 ATTORNEY CAWLEY:

19 Those are all the questions I have.

20 Thank you.

21 REDIRECT EXAMINATION

22 BY ATTORNEY CLARKE:

23 Q. Just one question. Ms. Levy, how did your  
24 clients feel about publicly standing up and saying  
25 that they were indigent?

1 A. Sometimes our clients won't even tell us they're  
2 homeless and I think many of them --- I mean, some  
3 would be fine, but many would be very embarrassed.

4 ATTORNEY CLARKE:

5 Thank you.

6 ATTORNEY CAWLEY:

7 No further questions, Your Honor.

8 JUDGE SIMPSON:

9 You may step down. You're free to  
10 leave if you wish.

11 ATTORNEY WALCZAK:

12 Plaintiffs call Asher Schor.

13 MR. TURNER:

14 Would you raise your right hand,  
15 please?

16 -----

17 ASHER SCHOR, HAVING FIRST BEEN DULY SWORN, TESTIFIES

18 AS FOLLOWS:

19 -----

20 DIRECT EXAMINATION

21 BY ATTORNEY WALCZAK:

22 Q. Good afternoon.

23 A. Afternoon.

24 Q. Could you please state your name?

25 A. My name is Asher Schor.

1 Q. Is that your given name?

2 A. That's not, no.

3 Q. What's your given name?

4 A. My given name is Devra, D-E-V-R-A, Schor.

5 Q. And when were you born?

6 A. I was born July 12th, 1989.

7 Q. And where were you born?

8 A. I was born in Pittsburgh, Pennsylvania.

9 Q. And where did you grow up?

10 A. I grew up also in Pittsburgh, Pennsylvania.

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

12 A. I have a Bachelor's Degree from St. Edward's  
13 College.

14 Q. When did you graduate?

15 A. I graduated in 2011, in the spring.

16 Q. And are you employed?

17 A. I am.

18 Q. What do you do?

19 A. I'm a legal assistant for a prisoners civil  
20 rights organization.

21 Q. Is that in Pittsburgh?

22 A. That's in Pittsburgh. Yes.

23 Q. Are you a registered voter?

24 A. I am.

25 Q. When did you register to vote?

1 A. I registered I believe in --- I can't remember.  
2 I believe I registered in March of 2012.

3 Q. And do you have a concern with your ability to  
4 vote in November?

5 A. I do.

6 Q. And what is your concern?

7 A. My concern is that I am transgender and my photo  
8 ID has my birth name, my given name at birth. My sex  
9 is listed as female and the photo on my official ID  
10 no longer looks like me.

11 Q. And let's start with you said you're  
12 transgender. Describe for us what that means.

13 A. Transgender means that the sex --- the  
14 biological sex that I was assigned at birth does not  
15 correspond with the gender that I identify as.

16 Q. So what sex were you assigned at birth?

17 A. I was female sex at birth.

18 Q. And so you relate to the male gender?

19 A. Yes.

20 Q. And tell us about --- are you undergoing some  
21 kind of physical process?

22 A. Yes, I'm undergoing a medical transition. I got  
23 --- it began in December of 2010, when I got a  
24 bilateral mastectomy, which is removal of both my  
25 breasts, and I have been on testosterone injections

1 since October of 2011.

2 Q. And how long does this process take?

3 A. For most folks I think it's a lifelong process.  
4 I'll be on testosterone --- I can expect to be on  
5 testosterone until I decide for some reason to stop.

6 Q. So have there been any physical changes to your  
7 appearance since you began this process?

8 A. Yes. Both my breasts obviously were removed.  
9 And since being on testosterone injections, I have  
10 grown considerable facial hair, my voice has  
11 deepened, my facial structure has changed, my body  
12 fat has begun to redistribute.

13 Q. And what do you mean by your body fat has begun  
14 to redistribute?

15 A. Biological females have fatty deposits in  
16 different places than biological males, so right now  
17 I'm growing a lot more muscle.

18 ATTORNEY WALCZAK:

19 And if we could put up --- this will be  
20 I think Petitioners' Exhibit ---.

21 JUDGE SIMPSON:

22 Twenty-four (24).

23 (Petitioners' Exhibit 24 marked for  
24 identification.)

25 BY ATTORNEY WALCZAK:

1 Q. I'll show you what's been marked as Petitioners'  
2 Exhibit 24. Do you recognize this?

3 A. Yes, I do.

4 Q. And what is it?

5 A. That's my passport.

6 Q. When was that issued?

7 A. That was issued in September of 2009.

8 Q. And when was that photograph taken?

9 A. Also in September of 2009.

10 Q. And is that passport still current?

11 A. It is.

12 Q. And if you can scroll up to the first page. And  
13 what is that?

14 A. That's my state ID.

15 Q. And when was that picture taken?

16 A. That was taken in mid June of 2011.

17 Q. So just about a year ago?

18 A. Yes.

19 Q. And the change process that you described, is  
20 that something that's ongoing?

21 A. Yes.

22 Q. And what further changes do you expect to occur?

23 A. I expect my voice will drop more. I can expect  
24 to grow more facial and more body hair. I can expect  
25 my body fat will continue to redistribute.



1 Q. And has the testosterone level that you've been  
2 taking, did that change or has it been the same since  
3 November of 2011?

4 A. October.

5 Q. I'm sorry, October?

6 A. I started on a dose of .05 cc injected into my  
7 leg and have doubled the dose since --- it was once  
8 every two weeks and now it's once a week.

9 Q. So is the change accelerating the change  
10 process?

11 A. Yes, yes.

12 Q. Now, have you been required to show your  
13 identification to access any kind of buildings?

14 A. Yes, I have to show ID anytime I go to a bar.  
15 Also, for my job I've gone into state prisons several  
16 times and I need to show ID. And also with my job I  
17 went into federal court in Pittsburgh and I had to  
18 show ID then.

19 Q. Now, the state prison visit, how long ago was  
20 that?

21 A. The last time I visited a state prison was in  
22 November or very early December 2011.

23 Q. So right when you had begun the changes?

24 A. Right.

25 Q. And when was the last time you went to federal

1 court?

2 A. I went to federal court last in mid March of  
3 2012.

4 Q. And have you undergone body appearance changes  
5 since March?

6 A. Yes.

7 Q. And tell us what happened when you went into  
8 federal court in March.

9 A. The first day that I went into federal court, it  
10 was pretty seamless. I was able to bring a laptop  
11 for plaintiff's counsel. They looked at my ID. They  
12 let me through, and it was totally fine. The second  
13 day that I went into federal court when I presented  
14 my ID, the marshall at the door kind of looked at the  
15 ID, then looked at me and looked at the ID and looked  
16 at me and his behavior towards me changed quite  
17 considerably. He became much shorter with me. He  
18 refused to let me bring a laptop in even though I  
19 brought it in the previous day. He questioned me,  
20 what's your name? And, though, he did let me in  
21 eventually, it was a much longer and much more  
22 hostile process.

23 Q. And just to be clear, he did eventually let you  
24 enter the building?

25 A. He did eventually let me in the building.

1 Q. Now, this identification that's up as part of  
2 Petitioners' Exhibit 24, is that the identification  
3 you had shown?

4 A. Yes.

5 Q. And what sex is that designated?

6 A. That's designated female.

7 Q. And I note that you're wearing a tie today?

8 A. Yes.

9 Q. How do you generally dress these days?

10 A. I generally dress fairly masculine. Yes.

11 Q. And to the extent you know, what is --- what are  
12 people's reactions to you when they see you?

13 A. Oftentimes --- increasingly often people see me  
14 and perceive me male. I think also often people see  
15 me and are very confused about what they're seeing in  
16 terms of my gender.

17 Q. And have you noticed any sort of adverse  
18 reactions because of that?

19 A. Yes. I can expect to get heckled on the street  
20 on a semi-daily basis. I get called a lot of names.  
21 When I'm accessing services, sometimes people seem a  
22 little weird, even the grocery store, things like  
23 that.

24 Q. What do you infer from that?

25 A. A lot of the comments that people yell at me are

1 very particularly gender based. I have been asked  
2 many times just on the street like are you a boy or  
3 girl, are you a man or a woman, what are you? So my  
4 perception is that it's specifically related to my  
5 gender, my gender presentation.

6 Q. Now, you have not done the name change?

7 A. I have not, not yet.

8 Q. Is that an option available to you?

9 A. Yes.

10 Q. Do you know the process for doing the name  
11 change?

12 A. Very vaguely.

13 Q. Now, at some point, do you plan on having a name  
14 change?

15 A. Yes.

16 Q. And have you thought about when you would do  
17 that?

18 A. I have. But I think it's a pretty complicated  
19 process at least for me. I would want to change my  
20 name and my gender marker together because it's  
21 expensive, things like that. And it's hard to know  
22 when I pass as male a significant enough time where  
23 I'm safer having an ID that says male than an ID that  
24 says female.

25 Q. When you say gender marker, what do you mean by

1 that?

2 A. If you look at the ID, there's a space for sex  
3 and there's an F, which is for female, and that's the  
4 marker that I'm talking about.

5 Q. Is that a court process also to do that?

6 A. I believe so, yes.

7 Q. Do you know how many transgender people there  
8 are in this country --- or I'm sorry, in  
9 Pennsylvania?

10 A. I believe the number is a little more than  
11 18,500.

12 Q. So what is your fear about election day and  
13 having a photo ID requirement?

14 A. I'm afraid certainly for myself that I'll go to  
15 my polling place in Pittsburgh, that I'll present my  
16 ID and the poll worker will tell me it's a fake ID,  
17 tell me this isn't me, give me a lot of harassment  
18 and ultimately I do fear being disenfranchised.

19 Q. Now, to be clear, you don't know for sure what's  
20 going to happen?

21 A. I don't know for sure, no.

22 Q. But you have a concern that it's a possibility  
23 because of the mismatch between your appearance and  
24 what it shows on your identification?

25 A. Yes.

1                   ATTORNEY WALCZAK:

2                   No further questions.

3                   CROSS EXAMINATION

4                   BY ATTORNEY CAWLEY:

5                   Q.    Good afternoon.

6                   A.    Good afternoon.

7                   Q.    I just have a few follow-up questions.

8                   A.    Sure.

9                   Q.    Just to start out, you reside in the City of  
10                  Pittsburgh; right?

11                  A.    I do.

12                  Q.    And you have no problems traveling around the  
13                  City of Pittsburgh?

14                  A.    No.

15                  Q.    So you could get to a PennDOT driver's license  
16                  center without any difficulty?

17                  A.    Probably.

18                  Q.    Now, the PennDOT non-driver photo ID card that  
19                  you have, and that was just on the screen, you  
20                  renewed that in the summer of 2011?

21                  A.    Yes.

22                  Q.    So at that point you had already had the  
23                  bilateral mastectomy and that was about a month or  
24                  two months before you started the testosterone; is  
25                  that right?

1 A. Yes.

2 Q. And as far as the data, the information that's  
3 on that card, we're really only talking about the  
4 photo and the gender designation that are potential  
5 problems for you; right?

6 A. Probably, yes.

7 Q. Well, your name is going to be the same in  
8 November as it is now?

9 A. Yes, yes.

10 Q. So Devra Schor will be your name even in  
11 November?

12 A. Yes.

13 Q. Okay. So that's not an issue when you go to  
14 vote. I mean, you don't have to worry that the name  
15 you're signing is going to be different; right?

16 A. Right.

17 Q. Okay. And your eye color, that's going to be  
18 the same?

19 A. Yes.

20 Q. And date of birth? So really it's just the only  
21 things that are subject to change at some point are  
22 your appearance for sure and at some point you intend  
23 to change your gender designation; right?

24 A. Yes.

25 Q. Did you not understand my question? I'd be

1 happy to rephrase it.

2 A. Sure. I do intend to change my gender  
3 designation, but not before November.

4 Q. Okay. That was actually another question I was  
5 going to ask. So you recall about a month ago when  
6 we met for a deposition in this case?

7 A. I do.

8 Q. Okay. And I asked you some questions, didn't I,  
9 about the process of changing the gender designation?

10 A. Yes.

11 Q. Do you remember that? Okay. And I showed you a  
12 form from PennDOT that was a gender designation form;  
13 right?

14 A. Yes.

15 Q. And you indicated you had not seen that form  
16 before, but you had read a pamphlet about the process  
17 generally?

18 A. Yes.

19 Q. Okay. And have you filled out that form for  
20 PennDOT as we sit here today?

21 A. I have not.

22 Q. Okay. But you understand what goes into the  
23 form just for PennDOT's purposes to change your  
24 gender designation on your photo ID card?

25 A. I haven't seen the form since the deposition.



1 Q. Okay. You spoke a bit about people questioning  
2 or wondering about your gender identity. When you  
3 went into the federal courthouse in March, the  
4 security officer did allow you to come in; correct?

5 A. Yes.

6 Q. And you perceived there to be some hesitation,  
7 but did the officer ever say anything in particular  
8 about you not being the person on the ID?

9 A. No.

10 Q. Did the officer say anything about your gender?

11 A. No.

12 Q. And you've gone into state prisons since you  
13 started the transition process?

14 A. Yes.

15 Q. Did anybody stop you there because you were not  
16 the person who was on the ID that you showed?

17 A. No. But as I stated before, the last time I  
18 went into a state prison was November, which was  
19 about a month, maybe two months maybe, after I  
20 started testosterone. And I was on a much lower dose  
21 than I am now.

22 Q. Okay. And when you've gone into the bars or  
23 other places that ask for a photo ID, has anybody  
24 ever stopped you there and said this isn't you on the  
25 ID card?

1 A. No.

2 Q. And when you testified about other transgender  
3 people in Pennsylvania, you said there were 18,500  
4 approximately. Of those people, you don't know how  
5 many of those people have just begun the process or  
6 how many of them are far along and have had great  
7 physical differences, do you?

8 A. I do, I do.

9 Q. Okay. You have a sense of how many of those  
10 people are?

11 A. Yes, from a report that I read from the Williams  
12 Institute, the data is that about --- of these  
13 roughly 18,500 transgender people about 30 percent of  
14 transgender people --- and that 18,500 is transgender  
15 people who have transitioned, so who are somewhere in  
16 this process, right, of a medical transition. So of  
17 those people, the sense is that about 30 percent of  
18 them don't have ID that looks like them.

19 Q. Okay. And so that goes to how far along they  
20 are in the transition process?

21 A. Not necessarily. But 18,500 are somewhere in a  
22 medical transition process.

23 Q. I see. Okay. So you have clearly researched  
24 this issue a lot; right?

25 A. Somewhat, yes.

1 Q. I mean, you looked into all of those figures;  
2 right?

3 A. Sure.

4 Q. Okay. And at some point you're going to do  
5 research into the process of changing your gender  
6 designation on your passport and your PennDOT photo  
7 ID?

8 A. Yes.

9 Q. But you're just not at that point yet; right?

10 A. Right.

11 Q. And you described that it's complicated, but it  
12 has to do with when you feel like you pass as a man  
13 and you're confident to change your name and your  
14 gender marker; right?

15 A. Somewhat, and also when I have the time to do  
16 so.

17 ATTORNEY CAWLEY:

18 Okay. Those are all the questions I  
19 have. Thank you.

20 A. Thank you.

21 ATTORNEY WALCZAK:

22 Nothing further, Your Honor.

23 JUDGE SIMPSON:

24 You may step down. Thank you. All  
25 right. It's about 10 after 1:00. We'll take an hour

1 break and meet back at 10 after 2:00.

2 MR. TURNER:

3 Commonwealth Court is now in recess.

4 RECESS TAKEN

5 ATTORNEY GERSCH:

6 Your Honor, before we call our last  
7 witness of the day, we have a further stipulation to  
8 offer up. I don't know whether Your Honor wants  
9 these marked as exhibits. I don't know that they  
10 need to be, but we certainly want to offer it to you.  
11 If Your Honor would like them marked as exhibits, we  
12 can mark it.

13 JUDGE SIMPSON:

14 It doesn't need to be marked as an  
15 exhibit. I'm assuming you're going to read it into  
16 the record.

17 ATTORNEY GERSCH:

18 Yes, actually.

19 JUDGE SIMPSON:

20 Or at least tell me what it is.

21 ATTORNEY GERSCH:

22 This is a stipulation which goes  
23 through which counties have PennDOT driver license  
24 centers that can issue photo ID, which ones don't,  
25 which ones are open less than full time. And it will

1 be the basis for a map, a demonstrative that I'll use  
2 with the witness, and I suspect we'll use in closing.  
3 We have a stipulation because it will be  
4 comprehensive. Whether the witness can testify to  
5 the comprehensive facts is not clear, but we'll go  
6 through some of the map with the Petitioners. So  
7 that's what --- the stipulation will allow us to have  
8 all the facts in the record.

9 JUDGE SIMPSON:

10 Well, maybe it should be marked as an  
11 exhibit. So it would be 25.

12 ATTORNEY GERSCH:

13 Let's mark this as 25.

14 (Petitioners' Exhibit 25 marked for  
15 identification.)

16 ATTORNEY GERSCH:

17 Thank you, sir.

18 JUDGE SIMPSON:

19 Go ahead.

20 ATTORNEY GERSCH:

21 Thank you, Your Honor. At this point  
22 the Petitioners call Mr. Kurt Myers.

23 MR. TURNER:

24 Before you sit, please raise your right  
25 hand.

1 -----  
2 KURT MYERS, HAVING FIRST BEEN DULY SWORN, TESTIFIED  
3 AS FOLLOWS:  
4 -----

5 DIRECT EXAMINATION

6 BY ATTORNEY GERSCH:

7 Q. Good afternoon. Please state your name.

8 A. Yes. My name is Kurt Myers.

9 Q. Mr. Myers, we've not met. My name is David  
10 Gersch, and I'm one of the lawyers for the  
11 Petitioners in this case and I'm going to be asking  
12 you a few questions.

13 A. Yes.

14 Q. Mr. Myers, you are a Deputy Secretary of  
15 Transportation; is that right?

16 A. That is correct.

17 Q. And you've held that position for approximately  
18 four and a half years?

19 A. A little over five at this point.

20 Q. A little over five since about 2007?

21 A. January of 2007.

22 Q. Okay. And one of your responsibilities as a  
23 Deputy Secretary of Transportation is that it is  
24 under your jurisdiction that the PennDOT driver's  
25 license centers fall; right?

1 A. That is correct.

2 Q. And driver's license centers are where the  
3 PennDOT driver's licenses are issued; correct?

4 A. That is also correct.

5 Q. And also the non-driver license photo IDs?

6 A. The identification card, yes.

7 Q. Including IDs that are used only for voting?

8 A. Well, we issue IDs that can be used for voting.

9 Q. And other purposes?

10 A. Yes, absolutely.

11 Q. The PennDOT ID, the driver's license and its  
12 non-driver's license equivalent ID, that is what you  
13 refer to as a secure identification card; is that  
14 right?

15 A. That's correct.

16 Q. Okay. What does that mean?

17 A. Well, it means that in the issuance of that  
18 product, from the standpoint of the processes that we  
19 use today, that we have built a ladder of confidence,  
20 if you will, by reviewing various documents. No one  
21 document by itself is sufficient for the purposes of  
22 issuing the secure driver's license and/or the ID.  
23 Again, this ladder of confidence is how we build upon  
24 various documents.

25 Q. Okay. And let's talk about what those documents

1 are. I know there are exceptions, but before we get  
2 to the exceptions or the variations, I want to deal  
3 with the basic requirements for getting a driver's  
4 license or PennDOT ID. Am I right that the basic  
5 requirements are, one, a raised seal birth  
6 certificate, two, the Social Security card and,  
7 three, two proofs of residence?

8 A. That is correct.

9 Q. Okay. And you believe it is important to have  
10 those kinds of requirements in place?

11 A. I do believe an issuance of a secure driver's  
12 license or a secure ID, yes.

13 Q. All right. And it's the rigorous requirements  
14 that allow you to call this a secure form of  
15 identification?

16 A. Yes.

17 Q. All right. One recent change is that today if  
18 someone presents at PennDOT and wants to get a  
19 driver's license or a photo ID but doesn't have a  
20 raised birth --- raised seal birth certificate, if  
21 that person is born in Pennsylvania, then in that  
22 instance, PennDOT has the ability to check birth  
23 records; is that right?

24 A. With the Department of Health, yes, that is  
25 correct.



1 Q. Okay. And focusing on that instance, what will  
2 happen then is you'll take the documentation. You'll  
3 receive the documentation from the applicant, you'll  
4 send them home, and while they're at home, you'll  
5 check with the Department of Health to determine  
6 whether you can find a birth record?

7 A. I'm not quite sure what you mean by sending them  
8 home. What we will do is we will take the Social  
9 Security card, we'll image that. We will image any  
10 other documents they bring in from the standpoint of  
11 residency. As this scenario is, they don't have a  
12 birth certificate but are born in Pennsylvania.  
13 They'll fill out a Department of Health form. That  
14 form will be imaged and put on a shared drive that  
15 the Department of Health has access to.

16 They'll then look at that document on the shared  
17 drive, make a determination as to whether or not  
18 they can validate and certify that that individual  
19 does have a birth record in Pennsylvania. At that  
20 point in time they'll notify us back through the  
21 shared drive, and we will send a letter then to the  
22 customer making them aware of the fact that there is  
23 a birth certificate that's been certified and to  
24 come back into the driver licensing center with  
25 their documents so that we can move forward with

1 issuing them an ID.

2 Q. When I said send them home, what I meant was ---  
3 and tell me if I've got this right. You're not going  
4 to verify the Department of Health record while the  
5 applicant is standing there at the PennDOT window?

6 A. Not currently, although we've made arrangements  
7 with the Department of Health leading up to the  
8 actual day of election to ensure that that process is  
9 expedited. We've made --- this is just recently that  
10 we've had those discussions with the Department of  
11 Health.

12 Q. Okay. But as it stands today, and as has been  
13 true as long as this procedure's been in place, when  
14 an applicant appears at PennDOT seeking to get a  
15 PennDOT driver's license or a photo identification  
16 and that applicant doesn't have a birth certificate,  
17 a raised seal birth certificate and they're from  
18 Pennsylvania, they're not going to verify their birth  
19 record while they are standing at the window;  
20 correct?

21 A. Correct.

22 Q. They will have to go home?

23 A. That is correct.

24 Q. And they will have to wait at home for  
25 approximately ten days for the Department of Health

1 to verify whether or not the Department of Health has  
2 been able to find the birth record?

3 A. We estimate it as somewhere between seven and  
4 ten days.

5 Q. Okay. But in any event, they're going to go  
6 home?

7 A. That's correct.

8 Q. And if I understood you correctly, you're saying  
9 that you're entering into discussions with the  
10 Department of Health in the hopes that maybe you can  
11 reduce that seven to ten days to something shorter?

12 A. No. What I said was is that we had, within this  
13 week, conversations with the Department of Health  
14 leading --- that period of time leading up to the  
15 elections, approximately the period of a week  
16 beforehand, two weeks beforehand. Because we are  
17 getting so close to the election at that point in  
18 time, we don't want seven to ten days to go by. We  
19 want to be sure that we're doing everything possible  
20 to expedite that process to ensure that that  
21 individual does get their identification for the  
22 purposes of voting.

23 Q. Mr. Myers, my question may not have been well  
24 phrased. Let me try it differently. The discussions  
25 you've just been having, the discussions with the

1 Department of Health you've just been testifying  
2 about, those are aimed at the goal of reducing the  
3 time, the waiting time, for the applicant to  
4 something less than the seven to ten days you  
5 estimate now?

6 A. Yes. Specific to a period or time frame  
7 surrounding the date of the election.

8 Q. Are you saying that you're only interested in  
9 making the reduction for the period before the  
10 election?

11 A. We're interested in doing that because it's  
12 something from the standpoint of the mail. Right now  
13 the fact of the matter is we can put something in the  
14 mail, somebody can come back and they have plenty of  
15 time to be able to do that. As we get closer to the  
16 election, we want to be sure that we're putting in  
17 place a process in that window leading up to the  
18 election so that we weren't dependent upon the mail  
19 to be able to verify, certify that the individual did  
20 a have a birth record and be able to issue them an ID  
21 for purposes of voting.

22 Q. As you sit here today, as I stand here today,  
23 Mr. Myers, has the Department of Health told you that  
24 there is a procedure whereby you'll be able to tell  
25 applicants for ID that they have --- that you found a

1 birth record for them in something less than seven to  
2 ten days?

3 A. Yes. There is the ability to be able to do  
4 that. It is very labor intensive and it is something  
5 that, again, we would like to implement during that  
6 window period of time so that we're not dependent  
7 upon the mail so close to the election, especially if  
8 somebody comes in the day or two before the actual  
9 election.

10 Q. Okay. So correct me if I'm wrong, you've had  
11 discussions with the Department of Health about  
12 reducing the time it takes to verify a birth record.  
13 There is a way to do it, it's laborer intensive and  
14 you're continuing discussions because you'd like to  
15 find an efficient way to reduce the amount of time  
16 that's not so labor intensive?

17 A. This is the process that we identified for that  
18 window period of time. Again, as I said, it's labor  
19 intensive from the standpoint of matching the hours  
20 that the Department has its locations open, things of  
21 that nature. So again, we're simply looking at this  
22 from the standpoint of that relatively small window  
23 so that we're not dependent upon the mail for the  
24 purposes of getting that information to the customer  
25 and allowing that individual a shorter period of time

1 to be able to issue the ID to that individual.  
2 Because the fact that the election in that particular  
3 situation with that window is a relatively short  
4 period of time.

5 Q. I think I've got that, but what I'm trying to  
6 understand is, are you still trying to refine  
7 whatever the process is with the Department of Health  
8 or have you decided on the process and you're done?

9 A. The current process has worked very effectively.  
10 We've had 73 cases to date since the March 15th date  
11 or since the birth certificate process went into  
12 place.

13 Q. Mr. Myers, if I can just stop you, my question  
14 is, are you still trying to refine this process with  
15 the Department of Health, or are you done, this  
16 process of trying to reduce the amount of time it  
17 takes to verify a birth report record?

18 A. The current process is the current process,  
19 other than the modification that we talked about for  
20 that period right before the election.

21 Q. And the process for right before the election,  
22 have you now a set-in-stone process, or are you still  
23 working on it?

24 A. I would say that we're still in the development  
25 of that. It has not been finalized yet.

1 Q. Okay. Now, this process of --- this alternative  
2 process of verifying the birth record without having  
3 to require the raised seal birth certificates, that  
4 process only applies for folks that were born in  
5 Pennsylvania; correct?

6 A. That is correct.

7 Q. If you were not born in Pennsylvania, you can't  
8 avail yourself of that procedure?

9 A. That is correct.

10 Q. And roughly a third of all --- I'm sorry, 25  
11 percent of all Pennsylvanians were not born in the  
12 state?

13 A. I don't know that number.

14 Q. Okay. Now, there will also be instances where  
15 you have someone who is born in Pennsylvania, but for  
16 whom there is no birth record?

17 A. I assume that that is possible.

18 Q. Now, there are some other exceptions where  
19 someone may be able to use another document instead  
20 of a birth certificate or instead of the Department  
21 of Transportation verifying the record at DOH; is  
22 that right?

23 A. That is correct.

24 Q. But those expectations are not widely  
25 publicized?

1 A. They are not publicized. That is correct.

2 Q. They're not publicized at all?

3 A. That is correct.

4 Q. There are some people who are unable to obtain  
5 either a PennDOT driver's license or a PennDOT photo  
6 identification card?

7 A. That is correct.

8 Q. And that's because they just don't have the  
9 records or the documents necessary for you to satisfy  
10 PennDOT that they have the documentation to support a  
11 license or a PennDOT ID?

12 A. That is also correct.

13 Q. And you've known that basically the whole time  
14 you've held this job?

15 A. Yes.

16 Q. And that's because every, what, day, month, week  
17 PennDOT is turning people down for a driver's license  
18 or a photo ID because they lack the necessary  
19 documentation?

20 A. There are certainly people who are turned away.

21 Q. So PennDOT has rejected people because they  
22 don't have a birth certificate and they can't get  
23 one; right?

24 A. It could be for that reason.

25 Q. PennDOT has rejected people because they don't



1 have a Social Security card?

2 A. It could also be for that reason.

3 Q. They've rejected people because they don't have  
4 two proofs of residence that satisfy PennDOT?

5 A. It could also be that reason.

6 Q. And you don't want to compromise a secure ID  
7 that is what a PennDOT ID card is?

8 A. I believe very strongly that the general populus  
9 has an expectation concerning the integrity of our  
10 process. So the answer to your question is, no, I do  
11 not.

12 Q. And it was not always true that to get a  
13 driver's license or PennDOT photo ID you had to  
14 comply with this rigorous set of documentation  
15 requirements?

16 A. That is correct. Standards have changed as  
17 times have changed.

18 Q. Okay. Before 9/11 in particular there was a  
19 time when you would not need to show a birth  
20 certificate?

21 A. That is true.

22 Q. You would not need to show a Social Security  
23 card?

24 A. That is also true.

25 Q. You would not have needed the two proofs of

1 residency?

2 A. That is true as well.

3 Q. Okay. So there are people who have obtained  
4 their driver's licenses under this less rigorous  
5 regime; correct?

6 A. That is correct.

7 Q. And there are plenty of them; right?

8 A. As plenty, I don't know how you define it. But  
9 I am certainly one of those individuals. I know  
10 there are many others who are my age. So, yes, I'm  
11 sure there are.

12 Q. What year did you get your driver's license in?

13 A. Good question. 1974 I believe.

14 Q. Okay. And so this will be a good illustration.  
15 You got your license in 1974. When the decision was  
16 made to tighten the document requirements for PennDOT  
17 ID, you didn't have to turn in your driver's license;  
18 right?

19 A. No, I did not.

20 Q. You didn't have to recertify your driver's  
21 license and show all the documentation that's  
22 required today?

23 A. No, I did not.

24 Q. If the photo ID law were in place today, you  
25 could use that driver's license that you first got in

1 1974. You could use that to vote.

2 A. Yes.

3 Q. And you could use it to vote even though you've  
4 never shown a raised seal birth certificate and  
5 you've never shown a Social Security card?

6 A. I don't remember from 1974 what I showed, but I  
7 know that --- I'm sure that the standards were  
8 different in 1974.

9 Q. Well, in any event, someone who obtained their  
10 driver's license before 9/11, before you needed a  
11 raised birth certificate, before you needed a Social  
12 Security card, someone who obtained their card under  
13 that regime, they can still vote under the terms of  
14 the photo ID law even though they've never shown  
15 those documents?

16 A. That's correct.

17 Q. Whereas if you didn't get your driver's license  
18 back then and you wanted to apply for it or a photo  
19 ID today, July of 2012, you'd have to show the raised  
20 seal birth certificate and you'd have to show the  
21 Social Security card or you have to go through the  
22 alternative for the raised seal birth certificate  
23 that we discussed?

24 A. Yes.

25 Q. All right. I want to talk a little bit about

1 where you can get a PennDOT ID. Can you get it at  
2 any PennDOT location?

3 A. No. When you say PennDOT location, we're an  
4 organization of 12,000 people with maintenance and so  
5 forth and so on. You can only get an ID at a driver  
6 license center for initial issuance.

7 Q. And there are other PennDOT locations for the  
8 public where other regulatory functions are performed  
9 for the public that are a connection with driving,  
10 but which don't issue driver's licenses?

11 A. I believe you're referring to photo centers?

12 Q. Sure.

13 A. Photo centers are centers where people can go  
14 for renewal purposes to get a picture taken for  
15 driver's license or identification card.

16 Q. But they can't get their original driver's  
17 license or their photo ID there?

18 A. No. Those photo centers do not handle initial  
19 issuance work.

20 Q. We're going to put up a map now.

21 ATTORNEY GERSCH:

22 Your Honor, I'm going to have a paper  
23 version of the map marked as well.

24 JUDGE SIMPSON:

25 It would be 26 then.

1                   (Petitioners' Exhibit 26 marked for  
2                   identification.)

3                   ATTORNEY GERSCH:

4                   Yes. And for the benefit of the Court,  
5 the map is essentially a graphic depiction of the  
6 stipulation.

7                   BY ATTORNEY GERSCH:

8                   Q. That looks like a map of Pennsylvania, doesn't  
9 it?

10                  A. Yes, it does.

11                  Q. All right. Let's go to the next slide. All  
12 right. Sir, certain counties are marked in orange on  
13 the map, and those are counties in which there is no  
14 PennDOT driver's license center where you can obtain  
15 either a driver's license or a photo ID; is that  
16 right?

17                  A. I believe it is. I reviewed the stipulation and  
18 I know that there were a few adjustments made to it,  
19 but if that stipulation was such that those changes  
20 were made, then the answer to that is yes.

21                  Q. And the stipulation is with the Court and the  
22 stipulation will govern, but this looks right to you?

23                  A. Yes, it does.

24                  Q. Okay. Let's go to the slide. There are in  
25 addition to counties in which you --- there is no

1 driver's license center, there are also a number of  
2 counties in which there's a driver's license center,  
3 but it is only open a single day a week; is that  
4 right?

5 A. That is also correct.

6 Q. We depicted those in green on this map. And  
7 again, the Court has a stipulation which will be the  
8 governing document, but does this look right to you?

9 A. It does look right, yes.

10 Q. All right. And let's go to the next slide. So  
11 in addition to the counties where there's no center  
12 and the counties where there's a center open one day  
13 a week, there are also counties where there's a  
14 center, but it's only open two days a week; is that  
15 right?

16 A. That is also correct.

17 Q. And we depicted those in yellow on the map. And  
18 again, my question to you is, does that look right to  
19 you?

20 A. Yes, it does.

21 Q. And you reviewed the stipulation that underlies  
22 this map?

23 A. I personally reviewed it along with my staff,  
24 that is correct.

25 Q. And you satisfied yourself that it was accurate?

1 A. As long as the changes were made that we so  
2 noted.

3 Q. All right. Understood. So just eyeballing it,  
4 I know this won't be true as a population, but just  
5 in terms of number of counties, it looks like almost  
6 half the counties either don't have a center or have  
7 a center that's open one or two days a week at most?

8 A. From a sheer number standpoint, I take your word  
9 for it. I have not counted them up, but it looks  
10 close.

11 Q. It will show whatever it shows. Now, there's  
12 been testimony in this case about a new form of  
13 identification called a Department of State photo ID  
14 card. Are you familiar with that?

15 A. Yes, I am.

16 Q. All right. And you have been the Department of  
17 Transportation's point person in terms of the  
18 development of that card?

19 A. Yes.

20 Q. And it's being jointly developed between the  
21 Department of Transportation and the Department of  
22 State; is that right?

23 A. That is correct.

24 Q. And that's because the Department of State is  
25 going to --- withdrawn.

1           In general terms, the Department of State is  
2 going to define the requirements for the card, and  
3 the Department of Transportation, it's going to have  
4 to implement it?

5       A.   That is correct, yes.

6       Q.   All right.  That card is not in existence today?

7       A.   Not as of today, no.

8       Q.   You're shooting to have it ready to go on August  
9 26th?

10      A.   Correct.  Our expectation is that we will deploy  
11 internal system changes on the 26th, which is a  
12 Sunday, and be in a position to deploy actual  
13 production of the product on the 27th.

14      Q.   You anticipated my next question.  August 26th  
15 is a Sunday; is that right?

16      A.   That's correct.

17      Q.   And you want to roll it out on a Sunday because  
18 you want the IT people to be able to go in on a day  
19 when you're not conducting your other business and do  
20 all the technical things they have to do?

21      A.   Right.  That's standard operating procedure for  
22 the IT folks to do it on a Sunday.

23      Q.   Okay.  And so the first day --- if you make your  
24 target, the first day anyone could get this card is  
25 August 27th?



1 A. That's correct.

2 Q. And if all goes as planned, this Department of  
3 State card will not be as secure as the PennDOT ID  
4 card; right?

5 A. It will have different requirements, yes, that's  
6 correct.

7 Q. It will have different requirements and it will  
8 be less secure?

9 A. If you're comparing it to the document that we  
10 produced for the purposes of a driver's license or an  
11 ID card, the answer to that is yes.

12 Q. In particular, there'll be no requirement for a  
13 birth certificate or a birth record as you understand  
14 it?

15 A. That is correct.

16 Q. And I should drop back again. The people who  
17 are the final deciders as to what the requirements  
18 would be for the card are the Department of  
19 Transportation --- I'm sorry, the Department of  
20 State?

21 A. That's correct, the Department of State.

22 Q. Okay. But as you understand it, there's no  
23 requirement for a birth certificate and no  
24 requirement for a verification of a birth record?

25 A. That is correct.

1 Q. And it's also your understanding that there'll  
2 be no requirement for a Social Security card?

3 A. No requirement for the card itself.

4 Q. Right. Is it your understanding today that  
5 there'll be a requirement for the Social Security  
6 number?

7 A. There will be a requirement for the Social  
8 Security number if the individual has a Social  
9 Security number. If someone doesn't have a Social  
10 Security number, they will be able to check a box on  
11 the form that says they do not have a Social Security  
12 number.

13 Q. So it's your understanding that if this card  
14 comes into being, you'll be able to vote even if you  
15 have no birth certificate, even if you have no Social  
16 Security card?

17 A. That is correct, assuming that you're a  
18 registered voter or meet the other criteria  
19 associated with the card.

20 Q. We'll get to that in a minute. And if you don't  
21 have it, you won't even need a Social Security  
22 number?

23 A. If you don't have one, if you've never applied  
24 for one, that is correct.

25 Q. All right. And the other requirements are

1 you've got to give your full name; correct?

2 A. Yes.

3 Q. And your name's got to match that of a  
4 registered voter. You got to be a registered voter?

5 A. That's correct.

6 Q. If you have a Social Security number, you're  
7 supposed to give that; right?

8 A. That is correct.

9 Q. You've got to sign an affirmation that you can't  
10 get a PennDOT card; correct?

11 A. That is also correct.

12 Q. So that if the person could get a PennDOT card  
13 some way or other, even if it requires some time,  
14 they're not eligible for the Department of State  
15 card; right?

16 A. That's correct. This is --- the Department of  
17 State card is a safety net. It's after you haven't  
18 qualified for either a driver's license ID card from  
19 PennDOT or the alternative process, if you're born in  
20 Pennsylvania without a birth certificate.

21 Q. So if someone comes into the Department of  
22 Transportation and they said, I don't have a birth  
23 certificate and the person says, well, can you get  
24 one, and the person says, maybe, then the applicant  
25 is supposed to go out and try to get a birth

1 certificate?

2 A. Under that scenario, I believe we would go to  
3 the alternative process. Our question would be,  
4 first of all, were you born in Pennsylvania? If the  
5 person said yes, then we would go to the alternative  
6 process. If they said they were born out of state,  
7 we would ask them to go and get that out of state.  
8 If they come to us at that point and say either, A, I  
9 couldn't afford it or, B, for whatever reason they  
10 couldn't acquire it from another state, then we would  
11 go to the safety net product under the Pennsylvania  
12 Department of State.

13 Q. Let's stick with them being a Pennsylvanian for  
14 the moment. If someone comes in and they say I was  
15 born in Pennsylvania, I want a Department of State  
16 photo ID, which I understand doesn't exist yet, but  
17 your understanding is that if they're a Pennsylvanian  
18 and they don't have a birth certificate, you'll say  
19 we'll take what documentation you have. We need to  
20 verify your birth record. And while we're verifying  
21 your birth record, you're going back home; right?

22 A. That is correct.

23 Q. All right. So if this PennDOT --- I'm sorry, if  
24 this Department of State photo ID comes into effect,  
25 the fact is you won't have needed to go through all

1 the hurdles if you couldn't go through them to  
2 achieve a PennDOT ID in order to have the  
3 identification you need to vote; is that fair?

4 A. Again, it's a safety net after you've been  
5 either denied the ability to get a driver's license  
6 or a PennDOT ID including the alternative process for  
7 the birth certificate --- certification.

8 Q. Mr. Myers, I just want to be absolutely clear.  
9 If all goes as you understand it, when this  
10 Department of State photo ID becomes available, then  
11 it will be possible for someone to get the photo ID  
12 they need to vote and they won't have had to supply  
13 all the documentation that is required currently for  
14 a PennDOT ID?

15 A. As long as they're a registered voter, yes.

16 Q. All right. And I want to talk now about where  
17 this Department of State ID came from, so we're going  
18 to switch gears a little bit. You attended a meeting  
19 on Friday, June 1st of this year; is that right?

20 A. That is correct.

21 Q. And the meeting --- at the meeting primarily  
22 were attorneys and also some operational people?

23 A. That is also correct.

24 Q. And the attorneys were Mr. Cawley; correct?

25 A. Yes, he was there.

1 Q. And you understood he was defending the  
2 Commonwealth in this lawsuit?

3 A. That's correct.

4 Q. Also, Kathleen Kotula of the Department of  
5 State; is that right?

6 A. Yes, she was there.

7 Q. And just to be clear, she is an attorney for the  
8 Commonwealth who you understand to do work for the  
9 Department of State?

10 A. Yes.

11 Q. Okay. There was an Attorney Andrew Cline from  
12 the Governor's office?

13 A. That is also correct.

14 Q. There was an Attorney Greg Dunlap also from the  
15 Governor's office?

16 A. Yes.

17 Q. There was an Attorney Steve Turner; is that  
18 right?

19 A. Yes.

20 Q. And do you understand him to be the chief lawyer  
21 for the Department of State?

22 A. Yes, I do.

23 Q. Then there were lawyers for the Department of  
24 Transportation; correct?

25 A. That is also correct.

1 Q. All right. That's a lot of lawyers.

2 A. A lot of lawyers.

3 Q. A lot of lawyers. And you understood that one  
4 purpose of that meeting was to discuss this lawsuit?

5 A. Absolutely, yes.

6 Q. And at the meeting you discussed a particular  
7 problem; right?

8 A. Yes.

9 Q. And that problem was that there were people out  
10 there who either could not get a PennDOT ID or had a  
11 very hard time getting a PennDOT ID; right?

12 A. Yes. In fact, my statement at that time was  
13 that at the end of the day there will be people who  
14 will not be able to qualify for a driver's license or  
15 a PennDOT ID card.

16 Q. Exactly. That's what you've known since you  
17 started on this job; right?

18 A. Correct.

19 Q. Okay. And at this meeting with the lawyers you  
20 proposed a solution?

21 A. That is also correct.

22 Q. And the solution was --- withdrawn. Let me go  
23 back a step.

24 You weren't interested in diluting the  
25 requirements for a PennDOT card; right?

1 A. You're correct, yes.

2 Q. That you want to keep as the secure card; right?

3 A. Correct.

4 Q. And what you said was, look, if you want to have  
5 a card that doesn't require all the documents you  
6 need for a PennDOT card, why don't you have it issued  
7 by the Department of State? And we can do the work,  
8 but it will be a Department of State card, and I  
9 won't have to dilute my PennDOT card. That was your  
10 proposal?

11 A. That was the intent of the reasoning of why I  
12 believe that the card was a possibility as an option.

13 Q. Because you understood that the Department of  
14 State, if it wanted to, didn't have to require a  
15 birth certificate and didn't have to require a Social  
16 Security card; right?

17 A. I didn't make that assumption at that time. I  
18 simply put the proposal out on the table to suggest  
19 that this was a possibility of creating this card.  
20 As to the details of it, those were developed over  
21 time after the meeting.

22 Q. Okay. But the basic thrust was you saw that  
23 there could be a card that did not require all the  
24 documentation that PennDOT required, as long as it  
25 was issued by the Department of State?



1 A. That's correct.

2 Q. Okay. There was no decision made at that  
3 meeting; right?

4 A. No, there was not.

5 Q. You understood that there was going to have to  
6 be a lot of work done and you understood that people  
7 from the Governor's office were going to have to  
8 approve this?

9 A. That is correct, yes.

10 Q. And one of the reasons they were going to have  
11 to approve this was because of this lawsuit?

12 A. I don't know if that assumption was made at that  
13 the point in time. I certainly knew that it needed  
14 to be bumped up the chain for approval.

15 Q. You're thinking that the number of people who  
16 will be given Department of State ID will be a  
17 relatively low number; is that right?

18 A. In my belief, yes, I do.

19 Q. And when you try and think about what that  
20 number might be, what you think of is the number of  
21 people who have tried to obtain a PennDOT ID who  
22 don't have a raised seal birth certificate and used  
23 this alternative method we've discussed; right?

24 A. That's correct.

25 Q. And that number today, if I understand you

1 correctly, is 73?

2 A. That is correct. As of today since that program  
3 was put into place, the alternative birth certificate  
4 process, 73 people have taken advantage of that  
5 program. To date 13 have been rejected. Those 13  
6 are the ones that fall into the new Department of  
7 State product.

8 Q. Okay. But when we talk about your expectations  
9 for how many people are going to get this Department  
10 of State card, you're thinking in terms of --- I know  
11 you don't know the exact number, and I know we're  
12 just talking about your prediction or your  
13 understanding. But you're talking about numbers that  
14 are numbers like 70 or numbers like 13, or maybe  
15 there are 100 or 150; right?

16 A. I can only go based upon the history of --- the  
17 factual history that's occurred to this point. And  
18 to this point, it's been 73, and 13 have fallen out  
19 that they weren't able to have their birth record  
20 certified.

21 Q. Right. And when you think in terms of sort of  
22 the work that you will have to do or the money that  
23 will have to be spent in order to get the job done,  
24 you're thinking of dealing with a number of people  
25 that looks like 100; right?

1 A. It's a relatively small number in my opinion,  
2 yes.

3 Q. A number like 100, is that fair?

4 A. No. At the end of the day throughout this  
5 entire process, I expect it to be more than 100  
6 certainly.

7 Q. But you expect it to be a relatively low number?

8 A. I do.

9 Q. You certainly don't --- you're not planning for  
10 a process where you're going to issue hundreds of  
11 thousands of cards; right?

12 A. That is correct.

13 Q. You're not even planning for a process where  
14 you're going to issue 10,000 cards?

15 A. Are we talking about 10,000 cards from the  
16 standpoint of PennDOT cards, Department of State  
17 cards?

18 Q. Department of State cards.

19 A. I would suspect that, no, we will not be  
20 anywhere close to 10,000.

21 Q. You're not going to add any staff?

22 A. That is correct.

23 Q. And the folks who work at the driver's license  
24 centers, they are already taxed; right?

25 A. Well, they're certainly busy. We see 2.4

1 million customers a year approximately.

2 Q. When Act 18 --- before it became an Act when it  
3 was still HB-934, you told the legislature that your  
4 driver's license centers were already taxed.

5 A. I believe that there was one of the bill  
6 analysis that you're referring to, and there was a  
7 comment to the fact that our locations are taxed.

8 Q. And you approved that message to the  
9 legislature?

10 A. I did.

11 Q. And what you meant by that is you weren't  
12 serving the public as fast as you thought they ought  
13 to be served?

14 A. No, that's not what I meant. What I meant was  
15 that our locations were busy. I have subsequently,  
16 based upon the history that I have seen today, been  
17 proven wrong by that statement. Because the fact of  
18 the matter is is that the history to this point since  
19 the --- March 15th when this new law was deployed,  
20 the fact of the matter is this has not taxed us.  
21 Point of fact, even today, I just reviewed my wait  
22 times for all of my locations on an average basis. I  
23 looked at last year, I looked at this year from the  
24 standpoint of our service levels. Our information  
25 would suggest based upon that that in point of fact,

1 our service levels have increased over last year.  
2 Our goal is to serve our customers in 30 minutes or  
3 less. We have on average somewhere in the high 80s.  
4 That has not been designated this year, and so I can  
5 only go by history. And what history tells me at  
6 this point in time is that while I might have said in  
7 a Bill projection of what a Bill might do to the  
8 Department, I was wrong. And that history has proven  
9 out that I was wrong in that case that this with  
10 would overtax us. Not to date.

11 Q. Mr. Myers, you've given some testimony about  
12 what you've found out yesterday and whether you're  
13 proven wrong. But Mr. Myers, isn't it true that what  
14 you told the legislature while they were considering  
15 HB-934 is that your centers were already taxed?

16 A. Again, as I said, yes. Based upon the  
17 projections and based upon that time frame and based  
18 upon that legislation as it was written at that time  
19 --- I forget the particular printer's number that's  
20 associated with that --- and what was contained in  
21 that legislation, that is a statement that I did  
22 make. And subsequently, as I said, I don't believe  
23 that was an accurate statement now in hindsight.  
24 That bill analysis was done, I believe, in March of  
25 2011. I could be wrong about that, but I believe

1 that's the date. The date is on the exhibit, a full  
2 year before the Bill was passed.

3 Q. Mr. Myers, I want to show you what's been marked  
4 Exhibit 27.

5 (Petitioners' Exhibit 27 marked for  
6 identification.)

7 A. Yes.

8 BY ATTORNEY GERSCH:

9 Q. That's a document you approved; right?

10 A. That's correct.

11 Q. This is the legislative Bill analysis for  
12 HB-934; correct?

13 A. That's the legislative Bill analysis for HB-934,  
14 printer number 1,003. There were many more printer  
15 numbers after that. This goes back to 4/4 of 2011,  
16 and the Bill was passed in March of 2012.

17 Q. If you turn to the second page under pros and  
18 cons, your Department wrote at your approval, besides  
19 the cost to the Department as the legislation is  
20 currently written, the other negative impact would be  
21 the increased customer flow at PennDOT's already  
22 taxed DLCs. Did you see that?

23 A. Yes.

24 Q. And you approved that language?

25 A. Yes, I did.

1 Q. And DLC is driver license center?

2 A. That's correct.

3 Q. You were telling the legislature that your  
4 driver license centers were already taxed; right?

5 A. That's correct. Because we were telling it to  
6 our legislative affairs office. These are internal  
7 documents for the purposes of briefing legislative  
8 affairs. I don't believe, although it could be --- I  
9 don't know factually whether or not they are, but I  
10 don't believe these are shared with the legislature.  
11 This is more for the internal discussions.

12 Q. Okay. Whether it was internal or external, this  
13 is what you wanted your people to know; right? You  
14 wanted them to know that your driver license centers  
15 were already taxed; right?

16 A. That's correct. But I also think the important  
17 language here is --- and just to note this, is that  
18 as the legislation is currently written. And again,  
19 this printer number --- there have been multiple  
20 printer numbers since then. It changes.

21 Q. Mr. Myers, let me stop you right there. When  
22 you told whoever you addressed this to, internal or  
23 external, when you said your driver license centers  
24 were already taxed, that didn't have anything to do  
25 with what the legislation was. You were saying at

1 that point in time your driver license centers were  
2 having trouble getting the job done. This didn't  
3 have anything to do with the legislation. You were  
4 making a statement about what the status quo was;  
5 isn't that fair?

6 A. It is fair to say that I'm making a statement  
7 concerning my locations at that point in time. The  
8 fear was, the concern was based upon this write up at  
9 that point in time that as that legislation was  
10 currently written at that point in April of 2011 we  
11 had concerns that our locations were busy and that  
12 this would add additional business.

13 Q. We're not up to what happens afterwards. You  
14 agree with me now, you agree with me that as of the  
15 time you did this analysis last year, your driver's  
16 license centers were taxed; right?

17 A. Absolutely.

18 Q. And what you meant by taxed was you weren't  
19 serving the public at the level you wanted to serve  
20 them at.

21 A. I think I stated earlier that our expectations  
22 with our service level should be 30 minutes or less  
23 for 99 percent of our customers. And at this point  
24 in time, on average we're right around 88 percent, so  
25 no.



1 Q. Mr. Myers, we're still talking about when you  
2 wrote this. When you wrote this document, your  
3 driver's license centers, depending on the day, you  
4 might miss that 30-minute target for as many as  
5 almost 25 percent of your centers; is that right?

6 A. I'm sorry. I'm not sure I understand the  
7 question.

8 Q. When you said that your driver's license centers  
9 were burdened --- withdrawn.

10 You just testified you've got a target number  
11 for how long you think the public should wait;  
12 right?

13 A. Correct. From the standpoint of the number of  
14 people who are serviced in 30 minutes or less. We'd  
15 like to service 99 percent of the people in 30  
16 minutes or less.

17 Q. Okay. That's your benchmark, 99 percent in 30  
18 minutes or less; right?

19 A. That's correct.

20 Q. And when you wrote this document when you said  
21 that your centers were already taxed, the fact is is  
22 that you weren't meeting that benchmark. You weren't  
23 serving 99 percent of the public in 30 minutes or  
24 less?

25 A. That's correct, yes.

1 Q. On bad days you might be down around 75 percent?

2 A. There's some seasonality during business

3 certainly, so it does fluctuate. But on average as I  
4 mentioned earlier it's somewhere in the high 80s.

5 Q. And you're not at 99 percent today either?

6 A. Oh, no, we're not.

7 Q. Now, you had a concern when you had this  
8 document prepared. You had a concern that if a lot  
9 of people came in for ID under the photo ID law, that  
10 would be more than your centers could handle. That's  
11 why you cited this as a negative concern; correct?

12 A. As the Bill was written at that time, yes, it  
13 was a concern.

14 Q. Okay. And what I understand you to be  
15 testifying to is as of yet, you have not had hordes  
16 of people coming in to get ID, people who couldn't  
17 get the ID before?

18 A. That's correct.

19 Q. All right. And if your rough sense of the  
20 numbers of people who are going to come in ---  
21 withdrawn.

22 We talked a little bit about the number of  
23 people who you expect to come in for this new  
24 Department of State card; correct?

25 A. Correct.

1 Q. I want to talk a little bit about the number of  
2 people you expect for the new --- for the free  
3 PennDOT card.

4 A. Okay.

5 Q. Related, but different. You're thinking that's  
6 a number --- withdrawn.

7 Your understanding is there have been a couple  
8 thousand of those cards issued since March; is that  
9 right?

10 A. That's correct. I just checked and it's a  
11 little over 3,000 as of approximately yesterday.

12 Q. And you're thinking that's a good guide to the  
13 future as well?

14 A. I think it's a good guide. It's only from the  
15 standpoint of history. We know that the Department  
16 of State is going to do some extensive advertisement  
17 concerning this program starting in September.  
18 Certainly that may increase the number of people  
19 coming in.

20 Q. All right, Mr. Myers. Just one more question on  
21 this line. The Court has heard testimony that the  
22 numbers of people of registered voters, of eligible  
23 voters, people who don't have the ID they need to  
24 vote could be as high as a million. You'd agree with  
25 me that if there are a million such people out there

1 --- I'm not asking you to accept that. That will be  
2 up to finder of fact, the Court, to decide. If there  
3 are a million such people out there and only in the  
4 hundreds or thousands of people get the free PennDOT  
5 ID to vote and get the new DOS card, there'll be a  
6 big gap between those two numbers; right?

7 A. Yes.

8 Q. Just a couple more questions before we close.  
9 You know there's something called a provisional  
10 ballot?

11 A. Yes. In layman's terms, I understand what it  
12 does.

13 Q. And you understand in rough terms that what  
14 happens is if someone doesn't have the photo ID to  
15 vote on election day, they can submit what's called a  
16 provisional ballot, which will be a paper ballot;  
17 correct?

18 A. I'll take your word for it it's a paper ballot.  
19 I don't know the details behind it.

20 Q. You understand that their vote won't be counted  
21 right then and there the way it would be if they cast  
22 a regular ballot?

23 A. I do understand that.

24 Q. Okay. And you understand that --- most  
25 importantly, you understand that for at least a

1 certain category of provisional ballot casters, what  
2 they have to do is to show within six days of the  
3 provisional ballot that they have the ID they need to  
4 vote?

5 A. Yes.

6 Q. Okay. And this year the election will be ---  
7 the election is always a Tuesday, but it's November  
8 6th; is that right?

9 A. Yes.

10 Q. And November 12th will be Veteran's Day?

11 A. That's the Sunday following, yes.

12 Q. Well, it'll be celebrated on the Monday.

13 A. Right. Right.

14 Q. And because Veteran's Day falls on that Monday,  
15 your driver's license centers will be closed on  
16 Saturday the 10th?

17 A. That is correct, yes.

18 Q. And they're always closed on Sunday; correct?

19 A. Right. That's correct.

20 Q. So your driver's licenses centers will be closed  
21 --- in that six-day period after the election, your  
22 driver's license centers will be closed Saturday the  
23 10th, Sunday the 11th and Monday the 12th?

24 A. That is correct.

25 ATTORNEY GERSCH:

1 I don't have anything further at this  
2 time.

3 CROSS EXAMINATION

4 BY ATTORNEY CAWLEY:

5 Q. Mr. Myers, do the responsibilities of your  
6 position as Deputy Secretary require you to be aware  
7 of security concerns even outside your agency?

8 A. Not specifically outside of the agency, no.

9 Q. Do you take certain steps with regard to your  
10 PennDOT products with a mind towards how they're used  
11 in other secure settings?

12 A. Absolutely. Especially as they relate to  
13 boarding a commercial aircraft.

14 Q. So you already answered some questions for Mr.  
15 Gersch about how the requirements --- what you have  
16 to offer --- what a customer must offer in order to  
17 get a PennDOT product changed after 9/11. Describe  
18 what you just indicated about your expectations for  
19 how a PennDOT product is used by people.

20 A. Well, over the years, the driver's license ID  
21 card has become the recognized form of identification  
22 across the country, for that matter across the world,  
23 but certainly within the US. And the expectation on  
24 the parts of banks, commercial airlines and others  
25 who are dependent upon ensuring that the person who

1 is who they say they are that's standing in front of  
2 them has relied on the integrity of the driver's  
3 license ID issuance process. And there is a trust, a  
4 fundamental trust that exists perhaps unwritten or  
5 unspoken, but certainly by the fact that those items  
6 are taken for the purposes of getting on an aircraft.  
7 It clearly demonstrates the trust that individuals  
8 have in those products and the importance that we put  
9 behind it. That changed even more so after 9/11.  
10 The vast majority of the terrorists had fake driver  
11 licenses that helped facilitate their crimes. And so  
12 as such, a great deal has changed since 9/11 from the  
13 standpoint of how driver's licenses and ID cards are  
14 treated?

15 Q. Do you have the same expectations about the  
16 Department of State voter ID card that will be issued  
17 one month from today?

18 A. No, I don't.

19 Q. And why don't you expect that that should be  
20 subject to the same security requirements?

21 A. Well, I think it's clearly marked that this ID  
22 will only be usable for voting purposes. Secondly,  
23 we'll be validating that the individual is a  
24 registered voter. We're going to go against the  
25 Department of State's system to validate that that

1 individual is registered. The product itself will  
2 have some security features in it from the standpoint  
3 of holograms and things of that nature. So there  
4 will be secure aspects to the product itself for the  
5 purposes of making sure that we mitigate the ability  
6 for somebody to forge it. And there will be  
7 processes as we noted before from the standpoint of  
8 looking at the individual's address, two forms of  
9 address. We'll still be doing that. We'll be  
10 capturing their birth date and other information.

11 Q. You mentioned that certain features that appear  
12 on PennDOT products will appear on the Department of  
13 State voter ID card. Will there be a magnetic strip  
14 across the back of the card?

15 A. There will be a magnetic strip. There will also  
16 be a 2D barcode. And those will contain the  
17 information that's on the front of the card.

18 Q. Does PennDOT employ facial recognition software  
19 for any of its products?

20 A. We do and we utilize the software for the new  
21 DOS ID, as well. And that gives us the capability of  
22 comparing the photo with our 38 million photos that  
23 are on file with the Department so that we can see  
24 whether or not someone attempted to commit identity  
25 theft or fraud.



1 Q. Can you explain briefly for the Court how that  
2 facial recognition software compares against all  
3 those photos?

4 A. Certainly. I'd be happy to. In non-technical  
5 terms, each digital photo that is taken, the software  
6 is able to create an algorithm for that digital  
7 photo. That digital photo then --- that algorithm at  
8 the end of the day is in a batch process overnight,  
9 is compared against the 38 million photos that we  
10 have on file. Just for clarification purposes, the  
11 reason we have 38 million is we've been capturing  
12 digital photos since the early '90s. And so every  
13 time that you come in, we continue to maintain your  
14 previous photos. And that's why we have 38 million  
15 on our database even though there are approximately  
16 9.6 million IDs and driver's licenses that are  
17 issued. It will go against --- that algorithm will  
18 go against other algorithms within that database and  
19 then come back and tell us whether or not there are  
20 any potential matches.

21 I think that's another key point here. This is  
22 a tool. It's a security tool for us. But we do  
23 additional research after that once there's a  
24 potential match. And then obviously if we suspect  
25 that there's been some type of fraud, we turn it

1 over for investigation by the State Police.

2 Q. And when you say you suspect some kind of fraud,  
3 does that mean somebody comes in asking for a  
4 Department of State voter ID card under one name and  
5 your facial recognition software figures out that  
6 that exact same person has a PennDOT product under a  
7 different name?

8 A. That is correct, yes.

9 Q. So why don't you take the Court through the  
10 process of when somebody actually comes into a  
11 driver's license center says that they --- it is  
12 determined that they want this card and how they go  
13 about getting it?

14 A. From the standpoint of the Department of State  
15 card?

16 Q. The Department of State card.

17 A. Well, first, when an individual comes in,  
18 assuming the scenario is that an individual is coming  
19 in to get an ID card for the purposes of voting, most  
20 likely they're going to ask our counterperson if ---  
21 you know, they'd like an ID. Our counter folks are  
22 instructed to ask the individual if they're getting  
23 the ID for voting purposes. If they say yes, at that  
24 point in time, they're instructed to make sure that  
25 the customer understands that they could sign the

1 affirmation, if they can legally sign the  
2 affirmation, meaning that they're a registered voter  
3 and that they do not have any of the other forms of  
4 valid identification.

5       Once they've done that, let's assume that  
6 they've signed the affirmation to get the product  
7 for free. We're going to look at the various  
8 documents they brought in, the Social Security card,  
9 the birth certificate, two forms of address. If all  
10 of those items check out at that point in time  
11 through our electronic verification, as well as from  
12 the visual inspection, at that point in time they'll  
13 be issued a free product. We've already talked  
14 about the alternative process, but in that case this  
15 would be an individual then that doesn't have a  
16 birth certificate born in Pennsylvania. If they  
17 didn't have a birth certificate, we'll go that  
18 process and run them through that particular  
19 process.

20       If they were somebody who was born out of state  
21 and didn't have a birth certificate, with the new  
22 DOS product, we would ask them if they had tried to  
23 get one. And if they said, yes, we have and we  
24 can't afford it because someone's told us that we  
25 needed a court order in some other state to get a

1 birth certificate, and it's going to cost us \$1,000.  
2 We can't afford to do it. Or if they simply have  
3 tried and not been successful, then we would go to  
4 the alternative DOS process. And from a  
5 step-by-step basis there, we would have them fill  
6 out a form. The product would be free, and that  
7 form would contain information about what we were  
8 checking as far as the address is concerned. That  
9 we would follow the same procedures we do in our  
10 driver licensing center so that people who are in a  
11 homeless shelter or even just pick up mail at a  
12 homeless shelter would be able to come in with a  
13 representative from the homeless shelter and be able  
14 to attest to the fact that this individual was  
15 collecting mail there and staying there on occasion,  
16 whatever the case may be, so that they would have a  
17 place --- a verified address.

18 If they never had a Social Security number as we  
19 talked about earlier, they would simply check a  
20 block on the form. And in turn we would then verify  
21 through the Department of State that the individual  
22 is registered. And assuming that part of the  
23 process went fine, then we would be in a position to  
24 be able to issue that individual a Department of  
25 State product, take the picture and they'd be able

1 to walk out with it.

2 Q. Okay. So in other words, when you say they're  
3 able to walk out with it, assuming they provided the  
4 minimum level of information that's required for the  
5 card and assuming that they check out as being a  
6 registered voter, it's one-stop shopping. They can  
7 come in and go home in the same day with a Department  
8 of State voter ID card?

9 A. That is correct.

10 Q. You were asked about --- I'll come back to that.

11 Just from a larger --- stepping back, you were  
12 asked about the meeting where this idea --- the idea  
13 for the ID first came out. Was this your idea to do  
14 the Department of State voter ID card?

15 A. Yes, this was my suggestion that this was a  
16 possible approach.

17 Q. Before you made that suggestion, did any lawyer  
18 tell you you better come up with this product?

19 A. Absolutely not.

20 Q. Have you at this point selected --- has PennDOT  
21 selected a vendor and gone through a procurement  
22 process for --- to produce this card?

23 A. We have an existing vendor and so we were able  
24 to simply write up a purchase order for the purposes  
25 of adding this.

1 Q. So is that vendor currently preparing to produce  
2 this card?

3 A. Absolutely. And based upon our conversations  
4 with our IT individuals within PennDOT, as well as  
5 with the vendor, we are on track for that August 26th  
6 deployment.

7 Q. So that's a month from now. As we sit here  
8 today, is there any reason to believe that the time  
9 table will slip further?

10 A. Not that I'm aware of at this point.

11 Q. So stepping back to the traditional PennDOT  
12 products that you already went through, I'd like to  
13 talk about the changes that have come into play after  
14 the enactment of the voter ID law. Do you still  
15 charge fees for a non-driver photo ID card that could  
16 be used for voting?

17 A. Do we still charge ---? I'm sorry. I didn't  
18 hear the whole question. There was some paper ---.

19 Q. My question is about what fees are charged for a  
20 non-driver voter ID card that will be used for voting  
21 purposes.

22 A. The fee, unless someone signs the affirmation,  
23 is \$13.50.

24 Q. And the affirmation is their indication that  
25 they're getting this for voting purposes?

1 A. That they have no other form of documentation  
2 acceptable for voting and that they're a registered  
3 voter. That's for a PennDOT ID.

4 Q. I understand that 1990 is a significant date for  
5 purposes of your database and who's contained in it.  
6 Would you explain that briefly for the Court?

7 A. Certainly. That was a point where we  
8 implemented a new system, data system, for our driver  
9 licensing system. So there's been a number of  
10 conversations about that from the standpoint of our  
11 ability to be able to issue licenses or ID cards to  
12 individuals that used to be on our database but have  
13 since expired, in some cases even long term. We can  
14 go back to 1990 with the data. Before that we don't  
15 have that data, but 1990 forward, we can look up an  
16 individual and see whether they're on the database.  
17 And if they are on the database, we're able to issue  
18 them an ID card based upon the fact that they've  
19 already been vetted in the past.

20 Q. So very frequently senior citizens will decide  
21 at a certain point that they're not going to drive  
22 anymore, and they don't need their driver license  
23 anymore, so they let it expire. If that happens in  
24 say 1995, what would that person do coming in to  
25 PennDOT to access the information that is still in

1 your system?

2 A. Well, they would give us some basic information.  
3 The easiest way for us to find them on our database  
4 obviously is date of birth, Social Security number.  
5 And Social Security number is the easiest way for us  
6 to find them. Those three items usually are enough  
7 information to allow us to find them on the database.

8 Q. And what you would be able to do for that person  
9 if they needed a photo ID for voting purposes?

10 A. If they needed a photo ID for voting purposes,  
11 one of two things. One is that if they couldn't sign  
12 the affirmation because they had another form, they'd  
13 be charged \$13.50. If they can sign the affirmation  
14 that they have no other form of identification, we  
15 would issue it to them at no charge. And at that  
16 point in time they would simply go --- immediately go  
17 over to the photo center, have their picture taken  
18 and walk out with an ID.

19 Q. And so the only way they'd be charged \$13.50 for  
20 getting a non-driver photo ID is if they had a  
21 passport or one of the other ---?

22 A. Correct.

23 Q. Okay. And so does that person, if they come in  
24 and don't have a passport, don't have some other form  
25 of acceptable ID under the voter ID law, if they go



1 through the process you just described, do they have  
2 to bring a birth certificate or a Social Security  
3 card?

4 A. No, they don't.

5 Q. Could you explain the rationale for not  
6 requiring the same level of proof of identity?

7 A. Because they'd already been vetted. That's why  
8 they're in our system. And so as such there's no  
9 reason to see the information again. They've met the  
10 standards at that time whatever those standards were.

11 Q. You were shown earlier a map of the driver's  
12 license centers and varying numbers by county. Is  
13 there any requirement that residents of Pennsylvania  
14 go to the driver's license center within the county  
15 where they reside?

16 A. No, there's not.

17 Q. As we get closer to November, are you taking any  
18 steps to ensure that people can get to a PennDOT  
19 driver's license center to get the ID that they might  
20 need?

21 A. Yes, we have. Working with my counterparts in  
22 the Department of Transportation, a letter went out I  
23 believe the early part of July in reference to the  
24 shared ride programs making sure that they knew that  
25 they were to offer rides to individuals even outside

1 of the county for people to be able to get to  
2 driver's licensing centers. If you're 65 or over or  
3 if you are disabled, the fee as I understand it is  
4 significantly discounted, I believe, by 85 percent.  
5 So I believe that takes you down into a couple  
6 dollars to be able to ride on a shared ride program  
7 to be able to get to a center. That information on  
8 how to do that, how to get ahold of the shared ride  
9 is on our website. And I believe the Area on Aging  
10 locations as well have that information.

11 ATTORNEY CAWLEY:

12 Those are all the questions I have.

13 Thank you.

14 ATTORNEY GERSCH:

15 Your Honor, if I can do some brief  
16 follow up?

17 JUDGE SIMPSON:

18 May I have a moment, please?

19 ATTORNEY GERSCH:

20 Of course.

21 JUDGE SIMPSON:

22 Please proceed.

23 ATTORNEY GERSCH:

24 Thank you, Your Honor.

25 REDIRECT EXAMINATION

1 BY ATTORNEY GERSCH:

2 Q. Mr. Myers, you were just discussing the  
3 circumstances in which folks could get a PennDOT ID  
4 for free without paying a \$13.50 fee; is that right?

5 A. Yes.

6 Q. Okay. When people come and want an ID for  
7 voting, they're supposed to be able to get it for  
8 free; right?

9 A. If they're a registered voter and if they have  
10 no other form of identification acceptable for voting  
11 and sign the affirmation, the answer is yes.

12 Q. Is it your position that if they have a birth  
13 certificate, they've got to pay you to vote? I may  
14 not have understood your last answer. Could you  
15 repeat the last answer?

16 A. My last answer was in reference to your question  
17 that --- in reference to getting an ID for voting  
18 purposes for free. And my comment was, yes, as long  
19 as they can sign the affirmation, they would get the  
20 ID for free.

21 Q. Mr. Myers, are you --- withdrawn.

22 When someone comes to request an ID for voting,  
23 are your driver's license center personnel  
24 instructed that they're supposed to make the  
25 applicant aware that they can get the ID for free?

1 A. What I noted earlier, the actual process is that  
2 an individual comes in, asks for an ID. Our  
3 individual counter people are instructed to ask the  
4 individual, are you getting this for voting purposes?  
5 If they say, yes, then we go through the affirmation  
6 with them and see whether or not they can sign it.  
7 If they can sign it, then they do and then we issue  
8 the product free.

9 Q. Are your personnel instructed that they're  
10 supposed to tell the applicants that they can get the  
11 ID for free?

12 A. Yes, once they tell us they want the ID for  
13 voting purposes.

14 Q. Isn't it true that there are instances ---  
15 numerous instances in which your personnel don't tell  
16 the applicants that they can get the ID for free?

17 A. I don't believe that that's the case, no.

18 Q. Haven't you heard complaints that people were  
19 being charged for the PennDOT voting ID that they  
20 were supposed to get for free?

21 A. We have had eight instances that I'm aware of  
22 where individuals later came and said that they could  
23 sign the affirmation. The question here is as to  
24 whether or not there was a mistake made or not made.  
25 There's a shared responsibility here from the

1 standpoint of the information that an individual  
2 comes in where there's an expectation on both parts,  
3 not only for our employees but also for the  
4 individuals coming in, that that homework has been  
5 done. So sometimes people come in and they don't  
6 realize that there's a situation in the past --- and  
7 as I said, we made a change early on with the  
8 affirmation to make sure that we were asking about  
9 signing the document. But again, you used the word  
10 numerous. We handle over 45,000 initial issuances  
11 every month between driver's licenses, ID cards.  
12 I've had eight so far where we have actually refunded  
13 the customer the money because they've come back to  
14 us and said I can sign the affirmation. So we send  
15 them a refund.

16 Q. Mr. Myers, do I understand you to say you didn't  
17 tell people that they could get it for free, and if  
18 they didn't know to ask you they could get it for  
19 free, you charge them?

20 A. What I said was that in the first few weeks ---.

21 Q. Mr. Myers, is what I said true?

22 A. No, it's not accurate. It's not an accurate  
23 statement. The accurate statement is in the very few  
24 first weeks, as part of the learning curve, our  
25 employees were not asking individuals if they wanted

1 the ID for voting purposes. Once we realized, again  
2 as the program evolved, that that was an issue, we  
3 instructed all of our employees early on, as I said  
4 approximately the first three weeks, to ask  
5 individuals when they came in for an ID if they were  
6 asking for voting purposes. At that point in time  
7 they signed the affirmation, and we issued it for  
8 free.

9 Q. Okay.

10 A. For whatever reason, as I said, we've issued ---  
11 there were eight individuals who came back to us and  
12 we issued them refunds.

13 Q. I'll come back to the eight. I want to make  
14 sure I understand, however, the timing. The law  
15 passed March 14th; right?

16 A. That's correct, yes.

17 Q. So the first three weeks would take you to,  
18 what, April 7th, somewhere near April 5th?

19 A. Somewhere in that range, yes.

20 Q. Okay. So there were problems, if I understand  
21 you, between March 14th and roughly whatever, April  
22 5th, April 7th. But then you made clear to your  
23 folks that they're supposed to offer the ID for free.  
24 If someone wants the ID for voting purposes, they're  
25 supposed to offer it for free?

1 A. That's absolutely correct, yes.

2 Q. Okay. And the affirmation that they're supposed  
3 to sign, if they want it for free, that is contained  
4 at all of your driver license centers?

5 A. That's correct, yes.

6 Q. And when you say the number eight --- the number  
7 eight or the number of people who you charged  
8 improperly under the law and who came back and asked  
9 to have that money refunded?

10 A. Well, until we receive the actual affirmation,  
11 they aren't charged improperly. But when they signed  
12 the affirmation, even though it was after the fact,  
13 we refunded the money.

14 Q. You don't think it was improper to charge them  
15 if you never told them you could get --- they could  
16 get it for free?

17 A. I don't know the circumstances. I wasn't there  
18 when those individual customers came in, so I don't  
19 know what was said or what was not said at that time  
20 particular time. So it would be presumptuous on my  
21 part to assume.

22 Q. But in any case, the eight, the eight is not the  
23 number of people who were charged for what was  
24 supposed to be free ID. The eight is the number of  
25 people who came back to you and said, hey, you

1 weren't supposed to charge me. I can fill out this  
2 piece of paper and you should give it to me for free;  
3 right?

4 A. That's correct. The eight are those who were  
5 refunded.

6 Q. There was some discussion --- there was a  
7 question to you from Counsel about whether everything  
8 was on track for August 26th?

9 A. Yes.

10 Q. And you referenced the vendor?

11 A. Yes.

12 ATTORNEY GERSCH:

13 I'd like to have this marked as Exhibit  
14 28.

15 (Petitioners' Exhibit 28 marked for  
16 identification.)

17 BY ATTORNEY GERSCH:

18 Q. I show the witness what's been marked Exhibit  
19 28. Mr. Myers, that is the contract with your  
20 vendor; is that right?

21 A. That's the purchase order, yes.

22 Q. And it's the purchase order --- withdrawn.

23 This is a letter from the vendor, Safran  
24 MorphoTrust USA; is that right?

25 A. That's correct, yes.



1 Q. And then your Department signed the letter to  
2 bind the contract; right?

3 A. That's correct, yes.

4 Q. You were the organizational witness for the  
5 Department of Transportation on this contract;  
6 correct?

7 A. Yes.

8 Q. This is the entirety of the contract?

9 A. As I understand it, yes.

10 Q. Where does it say they have to finish the job by  
11 August 26th?

12 A. It doesn't.

13 Q. And where is the penalty if they don't finish it  
14 by August 26th?

15 A. Well ---.

16 Q. In the contract, sir, is there a penalty?

17 A. In this quotation, no.

18 Q. And this is --- to the best of your knowledge,  
19 this is the entire contract?

20 A. This is the entire quotation. There is another  
21 contract.

22 Q. I asked you whether this was the whole contract.  
23 You said to the best of your knowledge it was;  
24 correct?

25 A. I said to the best of my knowledge this was the

1 entire quote. I didn't say that --- I tried to say  
2 there's another contract that rules this, and I think  
3 you cut me off, but that's okay.

4 Q. I didn't mean to cut you off. You didn't  
5 produce that other contract in preparation for your  
6 deposition, did you?

7 A. There wasn't a request for that contract to the  
8 best of my knowledge.

9 Q. Is it a contract that pertains to the DOS card?

10 A. No. It pertains to the entire contract that we  
11 have for the issuance of driver's license and ID  
12 cards of which this request falls under.

13 Q. Is Exhibit 28 the entirety of the contract  
14 regarding what your vendor has to do to produce the  
15 Department of State photo ID cards?

16 A. Yes.

17 Q. Okay. You had a question about the June 1st  
18 meeting. Do you recall Counsel asking you did any  
19 lawyers ask you to come up with a solution?

20 A. Yes.

21 Q. Okay. You didn't call that meeting, did you?

22 A. No, I did not.

23 Q. The lawyers called that meeting?

24 A. Yes, that's correct.

25 Q. And the lawyers called the meeting because they

1 had a problem that they wanted to talk to you about;  
2 right?

3 A. No.

4 Q. You just came to a meeting --- withdrawn.

5 You understood that one of the purposes of the  
6 meeting was to discuss this lawsuit?

7 A. Certainly.

8 Q. And there was a problem in connection with this  
9 lawsuit; right?

10 A. No. That meeting was called, as I recall it,  
11 based upon a meeting with Pat Cawley to talk about  
12 the deposition schedules, things of that nature, but  
13 also in general about the lawsuit, at which point in  
14 time, the discussions started --- as I said earlier  
15 in my testimony, there was a point where I made it  
16 clear that there were going to be individuals at the  
17 end of the day who would not be able to get driver's  
18 licenses. And then I offered this as a possible  
19 solution.

20 Q. Your testimony is you were the first person to  
21 identify for the lawyers that there would be people  
22 who couldn't get PennDOT ID?

23 A. I don't know. I don't know if I'm the first  
24 person they ever heard it from.

25 Q. Mr. Myers, that's my question. You're the

1 person who advised everyone, you know, there's going  
2 to be a problem ---?

3 A. Absolutely.

4 Q. Mr. Myers, let me finish my question. Just so  
5 we're clear, your testimony is at this meeting you  
6 made clear to the lawyers, and you were the first  
7 person to make clear, there's going to be a problem  
8 here, not everyone can get PennDOT ID; is that right?

9 A. At that meeting, yes, that's correct.

10 Q. Okay. Just a couple more questions. With  
11 respect to --- you were asked questions about the  
12 status of things as they lead up to the election.  
13 You have no plans to have mobile centers for issuing  
14 either PennDOT ID or the new DOS ID?

15 A. That is correct.

16 Q. You have no plans for extended hours?

17 A. That is correct from the standpoint of extended  
18 hours. I will qualify that by saying we have been in  
19 discussions with the union about potentially being  
20 open in our centers the day before the election day,  
21 the Monday before election day. So that has been a  
22 discussion that's been ongoing, but nothing has been  
23 finalized in that. So that's not extra hours per se,  
24 but it's an extra day, if you will, or a day before  
25 the election as opposed to after.

1                   ATTORNEY GERSCH:

2                   I have nothing further.

3                   ATTORNEY CAWLEY:

4                   And I have no further questions, Your  
5 Honor.

6                   JUDGE SIMPSON:

7                   You may step down and leave.

8                   A. Thank you.

9                   JUDGE SIMPSON:

10                  Thank you. Anything else before we  
11 part company?

12                  ATTORNEY CAWLEY:

13                  I believe Petitioners' Counsel was  
14 going to raise an issue we had discussed with regard  
15 to two of the Petitioners.

16                  ATTORNEY CLARKE:

17                  Your Honor, two of the Petitioners we  
18 are going to be moving to voluntarily withdraw. And  
19 my concern is that we wanted to submit an order, but  
20 we don't have the order yet.

21                  JUDGE SIMPSON:

22                  Who is that?

23                  ATTORNEY CLARKE:

24                  The Petitioners are Barksdale, Ms.  
25 Barksdale and Mr. Freeland. So we would so move.

1 However, at this point we don't have an order to  
2 present to Your Honor.

3 JUDGE SIMPSON:

4 All right. Well, why are they  
5 withdrawing?

6 ATTORNEY CLARKE:

7 Ms. Barksdale is extremely ill and was  
8 unable to appear at her deposition. And Mr. Freeland  
9 is no longer interested in pursuing the case.

10 JUDGE SIMPSON:

11 Do you want to be heard? I guess  
12 there's nothing we can do today. You got a heads up  
13 now.

14 ATTORNEY CAWLEY:

15 I certainly concur with the motion to  
16 withdraw. This came up in a number of conversations  
17 throughout discovery that it was difficult to get  
18 ahold of the people to produce documents and to  
19 appear for a deposition. So if they want to  
20 withdraw, that's --- obviously the Respondents have  
21 no objection.

22 JUDGE SIMPSON:

23 All right. Will you prepare an order  
24 for my signature? I'll sign it on Monday.

25 ATTORNEY CLARKE:

1 Yes, Your Honor.

2 JUDGE SIMPSON:

3 All right.

4 ATTORNEY CLARKE:

5 Thank you.

6 JUDGE SIMPSON:

7 We will reconvene at 10:00 on Monday  
8 morning. I go a little bit later on Monday,  
9 Wednesday, and you got me here Friday until we  
10 finish. And it's again our hope that we will finish  
11 on Friday, at least with the evidentiary portion. Is  
12 there anything else that you need me to address?

13 ATTORNEY CAWLEY:

14 No, Your Honor.

15 ATTORNEY CLARKE:

16 No.

17 JUDGE SIMPSON:

18 Then we're adjourned until Monday  
19 morning at ten o'clock.

20 MR. TURNER:

21 Commonwealth Court is now adjourned.

22 \* \* \* \* \*

23 DEPOSITION CONCLUDED AT 3:36 P.M.

24 \* \* \* \* \*

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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