

Transcript of Proceedings

Date: July 15, 2013

Case: APPLEWHITE, et al. vs. COMMONWEALTH OF PA, et al.



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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

- - -

VIVIETTE APPEWHITE; WILOLA SHINHOLSTER
LEE; GROVER FREELAND; GLORIA CUTTINO;
NADINE MARSH; DOROTHY BARKSDALE; BEA
BOOKLER; JOYCE BLOCK; HENRIETTA KAY
DICKERSON; DEVRA MIREL ("ASHER")
SCHOR; THE LEAGUE OF WOMEN VOTERS OF
PENNSYLVANIA; NATIONAL ASSOCIATION FOR
THE ADVANCEMENT OF COLORED PEOPLE,
PENNSYLVANIA STATE CONFERENCE;
HOMELESS ADVOCACY PROJECT,

Petitioners,

VS.

THE COMMONWEALTH OF PENNSYLVANIA;
THOMAS W. CORBETT, in his capacity as
Governor; CAROLE AICHELE, in her
capacity as Secretary of the
Commonwealth,

Respondents.

**CERTIFIED
TRANSCRIPT**

C.A. No.

330 M.D. 2012

TRIAL -- DAY ONE

Honorable Bernard J. McGinley

Harrisburg, Pennsylvania

Monday, July 15, 2013

REPORTED BY:

Marjorie Peters, RMR, CRR

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P R O C E E D I N G S

(THE FOLLOWING COLLOQUY WAS HELD IN COURT
CHAMBERS AT 1:02 P.M.)

THE COURT: Okay. Counselors, I have numbered
the motions, and I will go through them, and I will tell you
what my disposition or planned disposition is; and if you want
to make your objections, do so after each one. Okay.

On the motion to exclude cumulative evidence,
I am inclined to deny that, but we'll wait until an issue
arises. We'll wait and evaluate the appropriate objections in
context. As I understand, the Petitioners do not plan to
offer cumulative evidence. Okay.

Any comments to that, proceeding that way?
Any objections?

MR. KEATING: We would object to a denial of
the motion.

THE COURT: Good. The one I've numbered
number two, is the motion to exclude evidence derived from
inadvertently produced alleged attorney-client privileged
materials. Is there any update between counsel concerning
stipulations?

MR. RUBIN: As to this motion, Your Honor?

THE COURT: Yes. Regarding the exhibits.

MR. RUBIN: The 119 exhibits we -- I don't
have my list in front of me, but the Respondents have a

1 certain privilege to some of them. Some of them were
2 redacted, some of them we have said are not privileged. One
3 update as well that one of the documents was in fact -- an
4 earlier version of it was actually entered at trial, in the
5 last trial. So, it's already in evidence. With no objection,
6 Your Honor.

7 THE COURT: Okay.

8 MR. HUTCHISON: I'm not sure which document
9 that is, Your Honor.

10 MR. RUBIN: The PennDOT legislative analysis.

11 MR. HUTCHISON: It was an earlier version?

12 MR. RUBIN: It was an earlier version that had
13 text beyond the exhibit that you are objecting to.

14 MR. HUTCHISON: Your Honor, regardless of
15 whether or not it made it into another document doesn't change
16 the fact that the underlying document was attorney-client
17 privileged material. I believes that's Exhibit 1677.

18 MR. RUBIN: Your Honor, this is a different
19 one. That 1667, Your Honor, is a legislative analysis done
20 for the Department of State. I'm referring to -- and I don't
21 have the note in front of me, unfortunately -- one that was
22 done for PennDOT.

23 THE COURT: 1675 and 1677 are the newest ones.

24 I would like to have you cooperate on the
25 question of whether or not these attorney-client alleged

1 privileged materials come in or not. And we'll do that as you
2 proceed with your case, okay? I think some of them are
3 already divulged and out there, and I think on some of them we
4 have waited too long, but I think everybody's always a little
5 sensitive to attorney-client privilege; okay?

6 But I do think around four of them are, in my
7 opinion, preliminarily privileged materials.

8 Okay. The third motion to exclude testimony
9 or other evidence regarding the prevalence of certain types of
10 voter fraud, and the efficacy of Act 18 in addressing it.

11 I think my staff and I agreed that we will
12 deny this. Exceptions taken, gentlemen?

13 MR. KEATING: Yes, Your Honor.

14 THE COURT: I'll give you a running objection
15 or exception, whatever you want.

16 Number four, motion to exclude evidence or
17 argument on the legislative process for Act 18. I'll let some
18 of this evidence in, but I don't want to beat a dead horse, so
19 use your discretion.

20 Okay. Motion to exclude testimony or other
21 evidence that would be contrary to --

22 MR. KEATING: Your Honor?

23 THE COURT: Yes.

24 MR. KEATING: For the record, we would also
25 lodge an objection to that --

1 THE COURT: Good. Good for you.

2 MR. KEATING: -- to that decision on that
3 motion.

4 THE COURT: Okay. Number five, the fifth
5 motion to exclude testimony or other evidence that would be
6 contrary to the law of the case, the coordinate jurisdiction
7 rule.

8 I really don't think that we have any of that
9 here. But I'm not convinced that the DOS IDs have been
10 recognized as legitimate so as to have become the law of the
11 case under the law of the case doctrine or the coordinate
12 jurisdiction rule. So we'll deny that right now. Exception
13 taken?

14 MR. KEATING: Yes, Your Honor.

15 THE COURT: Very good.

16 Number six, the motion to exclude expert
17 testimony of David Marker, M-A-R-K-E-R.

18 I'll let him on under some restraint; and
19 again, use your judgment, okay? I think he can give us his
20 independent analysis of certain things, but I don't want him
21 overreaching. Okay, Mr. Rubin?

22 MR. RUBIN: Yes, sir. Yes, Your Honor.

23 MS. HICKOK: Your Honor, we would take
24 exception to both parts of that --

25 THE COURT: Very good.

1 MS. HICKOK: -- because it's both that he
2 adopted another witness who will not be here and that Judge
3 Simpson has earlier found him incredible.

4 THE COURT: Yes, I understand that.
5 And you can bring that out, certainly, when he testifies.

6 MS. HICKOK: Thank you.

7 THE COURT: To exclude opinion testimony from
8 fact witnesses. I'll face the issue when I have to. So you
9 don't get to make exception on the record to that one.

10 Number eight, the Motion to Exclude Witnesses
11 identified by unauthorized use of confidential data that the
12 Court had ordered disclosed for specific and limited purpose,
13 and not for the purpose of assisting Petitioners in
14 identifying and contacting individual citizens in hopes of
15 persuading them to testify. I'm going to deny that. I think
16 Judge Simpson did a pretty in-depth analysis of that.

17 Okay, Counsel?

18 MR. KEATING: Exception taken, Your Honor.

19 THE COURT: Petitioners' Motion in Limine. I
20 think that we can all agree that evidence of future plans is
21 not admissible based upon what the remand states, and I will
22 try to limit such testimony.

23 MS. HICKOK: Your Honor, their motion was
24 broader than that.

25 THE COURT: Okay. And to what extent was it

1 broader?

2 MS. HICKOK: It was broader because they also
3 asked to exclude evidence that was already in the record, in
4 particular non-party PennDOT's exceptions processes; and they
5 contended that that information should not be used at trial,
6 and that's a different issue than whether there are broad
7 plans for the future. And I also would ask for a point of
8 clarification on future plans.

9 As the Court is aware, there has been an
10 ongoing development during the implementation process, and
11 that ongoing development means that every day there are
12 decisions made as to how will this be treated, what will that
13 be done? As I understand your ruling, you're talking about
14 large scale plans for some new --

15 THE COURT: Something that's not --

16 MS. HICKOK: -- policy.

17 THE COURT: -- been out there yet. Okay?

18 That's all.

19 MS. HICKOK: Okay. Thank you, Your Honor, for
20 that clarification.

21 THE COURT: And if they go someplace where
22 they shouldn't be going, and you think you have a valid
23 objection, you can certainly object to it. Okay?

24 MS. HICKOK: Thank you, Your Honor.

25 THE COURT: And if you are going someplace

1 where they don't believe you should be going, they can object
2 to your course of conduct and your question at that time.

3 MS. HICKOK: Thank you, Your Honor.

4 MR. RUBIN: Your Honor, to the extent that you
5 have implicitly denied anything we asked for, we are taking an
6 exception.

7 THE COURT: Very good. Thank you, counselors.
8 But try to talk about attorney-client
9 privilege as to certain exhibits, see what you can agree upon.

10 MR. RUBIN: Your Honor, the pretrial
11 conference, you've asked for two things. One was a list for
12 the witnesses.

13 THE COURT: Yes.

14 MR. RUBIN: We have a list of our tentative
15 schedule by days. And maybe like any battle plan, first
16 contact with the enemy it falls apart, but we're trying to be
17 conservative; and we can provide that to you or to your folks.

18 And you also asked about exhibits and whether
19 the parties could stipulate to the admissibility of the
20 exhibits. The parties have not yet been able to stipulate to
21 the admissibility of the exhibits.

22 THE COURT: Okay. Well, you have got
23 everybody here. At conclusion of court today, maybe you can
24 come in here and see what you can agree and disagree about.
25 Okay. Just briefly. We'll see how it goes. Okay. Thank

1 you, counselors.

2 (THE COLLOQUY IN CHAMBERS WAS CONCLUDED AT
3 1:14 P.M.)

4 (AT 1:26 P.M. THE FOLLOWING OCCURRED IN THE
5 COURTROOM.)

6 THE BAILIFF: You may remain seated. The
7 Commonwealth Court is now in session, the Honorable Bernard L.
8 McGinley presiding.

9 THE COURT: Good afternoon. Welcome to the
10 Commonwealth Court.

11 Mr. Rubin, are you prepared to proceed?

12 MR. RUBIN: Yes, we are, Your Honor.

13 THE COURT: Thank you.

14 MR. RUBIN: May it please the Court.

15 This case is about a law that on its face and
16 as applied can lead to only one result, thousands of voters
17 losing their right to vote.

18 The law imposes a new requirement to vote, a
19 photo ID, that hundreds of thousands of voters do not have,
20 and provides no guarantee that qualified voters can get the
21 needed ID. Your Honor, this case is not going to be about the
22 implementation of the law. The problems that will come into
23 evidence at this trial are about how the law on its face makes
24 it harder to get ID, and thus, harder to vote.

25 The law on its face severely restricts the IDs

1 that are acceptable for voting. The law takes many ID cards,
2 many photo IDs, that people use in everyday life to prove
3 their identity and declares them unacceptable for voting.

4 The law transforms the system in which to cast
5 a ballot, a voter had to get themselves to one of over 9,300
6 locally accessible polling places all across the state, every
7 town, every city, every county, and transformed it into a
8 system in which, if you do not have ID, you need to get to one
9 of only 71 locations, PennDOT locations, scattered across the
10 state, before you can cast your ballot. And Your Honor, in
11 nine counties, the evidence will show, there is no such
12 location to get to before you can cast a ballot.

13 This is not a case about the abstract, Your
14 Honor. You will hear from witnesses who will lose their right
15 to vote because of the law being applied as it is written.

16 And Your Honor, they stand in the shoes of
17 thousands of other voters just like them, and they represent
18 real world problems, the real world problems that are caused
19 by how the law is written. The evidence will show that these
20 problems are baked into the law itself and cannot be fixed by
21 better implementation; and at the end of the case, Your Honor,
22 whether you call it an as-applied challenge, or a facial
23 challenge, an as-applied injunction or a facial injunction,
24 the evidence will compel the same result, a permanent
25 injunction.

1 I am Mike Rubin of the law firm of Arnold and
2 Porter. I'm here on behalf of the Petitioners. I'd like to
3 introduce my co-counsel, Jennifer Clarke of the Public
4 Interest Law Center of Philadelphia. Marian Schneider of the
5 Advancement Project. Wit Walczak of the ACLU. Along with my
6 colleagues are Stephen Porter, David Gersh, Doreen Hurley,
7 Whitney Moore, Rachel Frankelstein, Stanton Jones and Dana
8 Peterson.

9 We are also joined in the courtroom today,
10 Your Honor, by Petitioners the League of Women Voters and the
11 NAACP.

12 I'd like to introduce to you, Your Honor,
13 though, what this case is really about, the voters.

14 Mrs. Marion Baker of Mulberry Street,
15 Reading, Pennsylvania. You will hear from her if time permits
16 later today or tomorrow. She represents what this case is
17 about. She lives three blocks away from where she votes. She
18 votes in person. The only time she has not voted in person is
19 when she was in the hospital in 2008 from a break in her leg,
20 having a heart attack, and she had to vote absentee. To use
21 her words, she voted absentee for her man, John McCain.

22 Since her accident, she uses a walker. She
23 has difficulty getting around, but she can't vote absentee in
24 Pennsylvania because she can get to the polls.

25 She no longer drives, but she does have a

1 driver's license, but it's expired and doesn't count for
2 voting under the photo ID law. She voted in person at the
3 November election. She followed the rules. She brought her
4 ID. She showed it to the poll workers. They let her vote,
5 but they also let her know that this was the last election --
6 and this is what they are required to tell her. This was the
7 last election she would be allowed to vote in unless she
8 renewed her ID.

9 She didn't give up, Your Honor. She recalled
10 back to the last time she needed ID and needed to renew her
11 driver's license and how she had to go to PennDOT and stand in
12 line for four hours as the line snaked outside the door,
13 nowhere to sit, nowhere to stand. She could do that back
14 then, but since her accident, she knew she couldn't. So she
15 called PennDOT, Your Honor, and she will explain what
16 happened.

17 She'll explain that she asked if there was a
18 way to avoid coming down there, if there was a way not to
19 stand in line for a handicapped person. They told her, you
20 need to take your chances and come down like everybody else.
21 She knew she couldn't do that, so she didn't go down.

22 Come the May election. She followed the
23 rules. She did what she was told. She did not vote. She was
24 disenfranchised.

25 This case, Your Honor, is about people like

1 Mrs. Baker who follow the rules, the rules set forth by the
2 photo ID law; and when they do, they will not be able to vote.

3 You will hear from other people, other voters
4 just like Mrs. Baker on the same story, with the same result,
5 if this law is introduced and enforced.

6 And Your Honor, this case is about a right,
7 but not just a right. It's a fundamental right, perhaps the
8 fundamental right. It's a right vested in both eligible and
9 registered voters. So say the Respondents, so say the Supreme
10 Court.

11 And the evidence in this case will show the
12 photo ID law, Act 18, will impermissibly burden that right.

13 ^ CK in fact, Your Honor, no one will dispute
14 that Act 18 makes it harder to vote, not for one person, not
15 for two persons, but as the law -- or the evidence will show,
16 the law makes it harder for hundreds of thousands of voters to
17 vote.

18 And I won't dwell much on the law in this
19 opening. We laid it out in our pretrial brief and we'll do it
20 in closing and we'll do it in our post-trial submissions; but
21 the Pennsylvania Supreme Court was quite right when it
22 observed that the disenfranchisement of even one person
23 validly exercising his right to vote is an extremely serious
24 matter and the disenfranchisement of 5,506 would be
25 unconscionable. The evidence in this case, Your Honor, is we

1 are talking about hundreds of thousands.

2 The evidence will also show, Your Honor, that
3 disenfranchisement and burden on the right to vote is not a
4 surprise. It's what the Respondents predicted would happen if
5 this law was adopted as written, and the evidence will show
6 that it was adopted as written, and that they knew and they
7 predicted that voters would be unable to vote.

8 You will hear from Rebecca Oyler, Director of
9 Policy of the Department of State. You will hear that she was
10 involved in drafting the law. You will hear that the General
11 Assembly, the Governor, and the Secretary of State were time
12 and again offered choices to make it easier or make it harder
13 to have ID and to get ID, and thus, easier or harder to vote.

14 Almost invariably, Your Honor, they chose to
15 make it harder, even when the Respondents, when the Department
16 of State, recommended making it easier. Hundreds of thousands
17 of voters, Your Honor, now face the consequences of those
18 choices.

19 Implementation, Your Honor. I suspect we're
20 going to hear a lot from the Respondents, but this case is
21 about implementation. And Your Honor, the record is already
22 filled with evidence about problems that Respondents have had
23 implementing this law, and we will present more.

24 The Supreme Court politely described the
25 implementation process as not seamless. But what the evidence

1 will show is that these problems are baked into the law
2 itself. They flow from the law being applied as it was
3 written, and that is why first and foremost our challenge is a
4 facial challenge.

5 We lay out in our pretrial brief a number of
6 ways in which we believe the law is unconstitutional and also
7 can be enjoined simply on statutory grounds. Our pretrial
8 brief is a roadmap for the evidence that we're going to
9 present throughout this trial and the arguments we will make
10 once all of the evidence is in.

11 So, I will start with the facial challenge and
12 the evidence you will hear on that. The evidence will show
13 that the photo ID law on its face imposes a new, stricter
14 photo ID requirement on in-person voters, on all in-person
15 voters, and that's undisputed.

16 The evidence will show that thousands and
17 thousands of voters lack acceptable ID. That's also
18 undisputed, Your Honor. You may hear quibbles about the
19 precise number, but there will be no quibbles that the number
20 is large.

21 The evidence will also show that Act 18 does
22 not guarantee that every voter can obtain the ID they need to
23 vote. And that, Your Honor, is also undisputed.

24 This last point is important: Act 18 as
25 construed by the Supreme Court says that registered voters

1 shall be entitled to the free PennDOT non-driver's ID that is
2 created by Section 1510(b) of the Motor Vehicle Code.

3 However, Respondents have taken the position,
4 and the Supreme Court has agreed, that for security reasons,
5 the Respondents cannot issue that ID, the 1510(b) ID, to all
6 voters without putting them through unnecessary burdensome
7 documentary requirements that are unrelated to voting, but are
8 related to security.

9 As a result, Your Honor, the evidence will
10 show that there's a hole in the statutory scheme. The law
11 requires you to have a photo ID, but does not insure that
12 there's a form of an ID that all voters can get, and
13 Respondents concede this point repeatedly in their briefs. So
14 there's a serious problem, Your Honor, that on the face of the
15 law, and everyone agrees on it.

16 Now, Respondents, as you know, point to the
17 Department of State ID, the DOS ID. The DOS ID as the answer.
18 Respondents' position is that even though there is no
19 statutory form of ID that all citizens can get, the
20 Respondents will enable them to vote by making available
21 another form of ID.

22 The problem here, Your Honor, is the
23 Department of State ID, the DOS ID is entirely discretionary.
24 It's a discretionary creation of the Department of State. The
25 Department of State determines who gets it, where they get it,

1 when they get it, how you get it, what support is required to
2 get it, and most importantly, who doesn't get it.

3 We'll talk about that. We'll talk about it
4 later, who doesn't get it.

5 The Department of State exists -- determines
6 if it even exists or not. The Respondents' witnesses will
7 admit candidly that they created the ID in their discretion
8 and that from time to time in their discretion they have
9 changed the requirements of the ID, and that in their
10 discretion they can eliminate the ID.

11 Your Honor, the evidence will show that the
12 photo ID law transforms a right that the Constitution says no
13 military or civil power shall interfere with into a privilege
14 that depends entirely on the whim of the government to decide
15 who can and cannot get ID, and thus, who can and cannot vote.

16 That's not how constitutional rights work,
17 Your Honor. The purpose of a right in the Constitution is to
18 put it beyond the reach of the government. The right to vote
19 perhaps is the most fundamental of those rights, and the
20 evidence in this case will show that it depends now on the
21 discretion of a PennDOT or Department of State official to
22 decide whether or whether or not to issue a \$13.50 ID card.

23 These simple facts, Your Honor, will be
24 sufficient at the end of this case to declare the law
25 unconstitutional on its face.

1 As set forth in our pretrial briefs we have
2 other theories and most, a lot, probably most of the evidence
3 that you are going to hear during this trial relate to those
4 other theories, both facial and as-applied and statutory.

5 But as you hear that evidence, I ask that you
6 keep in mind that our first and principal count, our first
7 cause of action is this one, and it's a facial one, and it's
8 largely undisputed.

9 Now, what are the other facial problems with
10 the statute, Your Honor? As I mentioned, during the drafting
11 of the statute, the evidence will show that the law that --
12 the General Assembly, the Governor, the Secretary of State
13 time and again chose to make it harder to get ID, limit the
14 IDs that people already have, and make it harder to vote.

15 Now, why would I say the Governor and
16 Secretary of State and not the General Assembly? Because the
17 evidence will show that this was a legislative priority for
18 both of them. The evidence will show they were actively
19 involved in crafting the law, what went into the law, what
20 stayed out of the law. When they wanted something in, it went
21 in. When they wanted something out, it came out.

22 And Your Honor, the evidence will also show --
23 and we'll show you the document and the analyses -- that the
24 Respondents made -- did predictions and policy analysis of
25 what the effect of these various provisions would have on real

1 voters. And we'll show those to Your Honor; you will hear
2 testimony about them, Your Honor; and they will be exactly
3 what the individual witnesses you hear from are facing this
4 day.

5 First, the choice was made that ID -- the ID,
6 the PennDOT ID -- now, the DOS ID -- that everyone is supposed
7 to be able to get is to be distributed only from the 71
8 PennDOT driver's license centers, the DLCs. That's what the
9 photo ID law provides for.

10 One problem, Your Honor, is that nine counties
11 have none, and 22 have driver license centers that are only
12 open one or two days a week. If you're designing a system to
13 make an easy, liberally available ID to people, you don't
14 require the people to leave the county, Your Honor. You
15 wouldn't limit them to 71 locations to get the ID and thus 71
16 locations where you are able to vote in a state as large as
17 Pennsylvania.

18 I'd like to with your permission, Your Honor,
19 put up Petitioners' Exhibit 26 which is already in evidence
20 which is a map of Pennsylvania. And as we click through, you
21 will see highlighted in orange -- if my color blindness is not
22 betraying me -- are the counties that have no driver's license
23 centers, nowhere to get the ID needed to vote.

24 We click to the next one. That adds in the
25 ones open one day a week. And following, the ones open two

1 days a week. Covering most of the State of Pennsylvania -- or
2 not most, I'm sorry, Your Honor. Half the State of
3 Pennsylvania.

4 As you listen to the evidence from individuals
5 who will describe how hard it is for them to get to PennDOT,
6 imagine if the law said that everyone with -- everyone with an
7 ID gets to vote like normal, at 9,300 locally accessible
8 polling places all over the state; but that those without ID,
9 in order to cast a ballot, they need to get to one of only 71
10 locations. And imagine if the law said that there are nine
11 places they can't -- nine counties where there's nowhere for
12 them to go.

13 So, Your Honor, the evidence will show you
14 don't need to imagine that, because that is what the photo ID
15 law does on its face when applied in the real world.

16 The record's already filled with testimony on
17 the difficulties of getting to PennDOT, Your Honor. We won't
18 repeat that here, but I refer you to testimony from witnesses
19 such as Taylor Floria, Viviette Applewhite, Bea Bookler and
20 many others.

21 Your Honor will hear from other people telling
22 similar stories, describing similar real problems in getting
23 to PennDOT: Margaret Pennington, Marion Baker, who I already
24 told you about, Mina Kanter-Pripstein, Patricia Norton, and
25 others.

1 And Your Honor will see that this is not a
2 surprise. We will show you the joint Department of State and
3 Department of Aging memo that analyzed what impact the photo
4 ID law would have on people like these witnesses; that they
5 realized that these witnesses vote in person. They can get to
6 their locally accessible polling places, thus, under
7 Pennsylvania law, they cannot vote absentee. But that these
8 type of witnesses, these type of voters would not be able to
9 get to PennDOT, and thus, in their own words, would be
10 disenfranchised.

11 That's not a prediction by the Petitioners.
12 That's a prediction by the Respondents.

13 You're also going to hear, Your Honor, and the
14 evidence already contains -- the record already contains much
15 evidence on it, that getting to PennDOT itself is not the only
16 problem. Dealing with PennDOT is also the problem.

17 Secretary Aichele herself -- and this is
18 already in evidence, Your Honor -- has already publicly
19 described her difficulties dealing with the DMVs, and she
20 publicly urged PennDOT to address those difficulties by
21 putting their best people on it.

22 You're going to hear from 84-year-old Nadine
23 Marsh by video. She will describe her saga of having to make
24 three separate trips to PennDOT, each two hours round trip,
25 not including the "time" on the ground before she finally got

1 her ID.

2 You're going to hear from Andrew Rogoff. He
3 is a lawyer in a major Philadelphia law firm. He will explain
4 how for months he had to fight to get ID for his World War II
5 veteran father-in-law, 94-year-old Mr. Janinski. Now,
6 Mr. Janinski recently passed away, so we won't hear from him.
7 In his youth, he fought for this country and at the end of his
8 life, he was fighting for his right to vote.

9 Now, we don't want to blame PennDOT. We're
10 not pointing fingers at PennDOT. They're in the driving
11 business, Your Honor. They're not in the voting business.
12 And this is -- this case is not about blame. To a voter who
13 PennDOT denies an ID to, it doesn't matter why; the result
14 will be the same, disenfranchisement.

15 It's been 16 months, Your Honor. Hiccups,
16 growing pains, kinks, glitches are one thing; but after 16
17 months, the evidence has shown, does show, and will show that
18 using PennDOT to distribute IDs cannot, has not and will not
19 work.

20 Act 18, Your Honor, on its face compounds
21 these problems. It compounds the problems of having to get to
22 PennDOT because it purposefully, intentionally makes the list
23 of acceptable IDs very narrow. And it does so starting with
24 the fact that there are a lot of people in society who do not
25 have ID at all. The record is filled with that, Your Honor.

1 That, contrary to popular wisdom, popular
2 perceptions, where, well, you need photo ID for everything,
3 you need it to fly, to buy alcohol, to buy your prescription
4 medication -- well, of course for voting, and everyone has it.

5 Well, the record, Your Honor, has many people
6 coming in here and explaining that, no, in fact, they don't
7 have photo ID. Acceptable photo ID is hard to get. And they
8 get by day-to-day without the privileges that many of us take
9 for granted.

10 But Your Honor, voting is not a privilege;
11 it's a right that cannot be taken away. And the photo ID law
12 makes this worse because it takes a large number of IDs that
13 people use, including photo IDs every day of their lives to
14 prove their identity, and declares them unacceptable for
15 voting.

16 And Your Honor, the documents and the
17 testimony will show that the General Assembly and the
18 Respondents time and again considered expanding the list of
19 IDs that would be acceptable, expanding the list, making it
20 easier to get the IDs, more places to get the IDs, making it
21 easier to vote. But time and again, the decision was made to
22 keep the list short. 3,000 municipalities, counties and
23 school districts were discussed as potential issuers; and it
24 was concluded, nope, they can't issue except to their own
25 employees, but not even school district employees can use

1 their IDs.

2 Non-government employee IDs were considered.
3 That didn't happen. Retirement center's IDs. Didn't happen.
4 Independent living facilities, did not happen.

5 The same is true of expiration dates, Your
6 Honor. The photo ID law, Act 18, declares that IDs are only
7 acceptable if they have an expiration date, and they're not
8 expired. Exceptions are military IDs that are marked as
9 indefinitely valid, and a 12-month grace period for PennDOT
10 IDs.

11 You will see the evidence where the
12 Respondents themselves discuss internally, why do we even need
13 expiration dates? Why is that even important? What's the
14 point of having them? And you will see the discussions, Your
15 Honor, that they knew that by limiting the IDs, by requiring
16 expiration dates, they were excluding large groups of IDs that
17 would otherwise be acceptable.

18 They considered and rejected allowing people
19 over 65 to use expired driver's licenses. They knew that,
20 like many of the witnesses you're going to hear from, as
21 people age, they let their licenses expire because they don't
22 drive anymore. The picture still looks like them, the name
23 still matches the voter rolls. Perfectly good to prove
24 identity, but the photo ID law says it's not good enough to
25 vote.

1 Veterans IDs, Your Honor, they don't have
2 expiration dates. Why would they? You served this country,
3 that doesn't expire. But a veteran's ID is not good enough to
4 vote.

5 Respondents talked about it, thought about it,
6 and didn't do anything to make sure veterans can vote.

7 Colleges and university IDs as well, Your
8 Honor. Those were added, but they needed expiration dates,
9 and Respondents knew that most colleges and universities don't
10 have expiration dates because, again, the colleges and
11 universities know that a picture matching a face plus the name
12 equals identity. Good enough for the colleges, not good
13 enough to vote.

14 As a result, the record's already filled with
15 a list of IDs that otherwise should be acceptable under any
16 common sense rule to prove identity, but they're not
17 acceptable under this law on the face of the law.

18 You're going to hear from witnesses who have
19 expired IDs that should work, but aren't acceptable. You are
20 going to hear evidence that the expiration dates alone throw
21 out hundreds of thousands of otherwise acceptable IDs that
22 could by all reason prove identity. These voters are facing
23 burden and disenfranchisement because the law is being applied
24 as it was written.

25 Last, Your Honor, the law has another serious

1 problem, another serious gap, which is there's no safety net.

2 There's no safety net to catch those who are going to slip
3 through any -- even the best implemented and designed system.

4 Compare Pennsylvania, Your Honor, to other
5 states where their photo ID laws have been upheld -- New
6 Mexico, Georgia, Indiana. There, there's a safety net in
7 absentee voting. Anybody can vote absentee in Georgia and New
8 Mexico. In Indiana, anyone over 65 can vote absentee. No
9 excuse, no reason needed. That would save -- that would catch
10 a lot of the witnesses you will hear from.

11 Pennsylvania, however, has stripped absentee
12 voting rules. It's not enough to say, I just want to vote
13 absentee. You need a reason. You have to actually be absent.
14 I know Your Honor has presided over cases in which absentee
15 ballots have been thrown out because of the restrictions on
16 those rules.

17 To be sick, it's not just enough to be sick.
18 You have to swear under oath that you are so sick, so ill, so
19 disabled you can't get to the polls. And you'll hear from
20 these witnesses that they can get to the polls and vote in
21 person and they have, and they're not allowed to vote
22 absentee. And it's not only enough to say, say it; you need a
23 name of a doctor to put on your absentee ballot.

24 And Act 18 went further, Your Honor. It took
25 the -- that was, what I just described was the existing

1 system; but Act 18 makes absentee voting even harder by
2 imposing identification requirements on absentee voting that
3 means absentee voting is no longer a guaranteed way to have
4 your vote counted.

5 Or you can look to Michigan, Florida, Arizona.
6 There they have a safety net that if you show up at the polls,
7 you wait in line, and you've forgotten your ID or the ID on a
8 technicality doesn't match, or you don't have an ID, you don't
9 have to go home and try to get an ID. You don't have to try
10 to get to PennDOT when you don't drive and you have to get to
11 work, when you have child care responsibilities.

12 In those states, there's a safety net. You
13 sign an affidavit. You say, I am who I am, I swear that I am
14 who I am, and you get to cast your regular ballot; but not in
15 Pennsylvania.

16 An analogy that is often brought up, and I am
17 sure we will hear it throughout the trial, is you need an ID,
18 a photo ID, to get on an airplane. Certainly, voting is more
19 important than flying.

20 Your Honor, let's follow that analogy to
21 conclusion. Because the TSA, the Transportation Safety
22 Administration, they have a safety net. If you show up at the
23 airport without an ID because you don't have one or it's left
24 at home or it happens to be expired or you lost it, they'll
25 take you aside, do a little more screening and you get to fly.

1 But in Pennsylvania, you get to be disenfranchised.

2 Your Honor, all of these problems emanate from
3 how the statute was written and how it must be applied. These
4 are problems Respondents knew about. These are problems
5 Respondents knew would lead to unnecessary and undue burden
6 and ultimately to disenfranchisement.

7 The evidence will show that they remain
8 problems today, and the evidence will show that the
9 Respondents are powerless to fix them through simply more
10 education or more implementation.

11 So, those are our facial problems with the
12 statute, Your Honor. I've told you about some of the voters
13 you're going to hear from, and they represent others. So the
14 question is who do they represent and how many are they, how
15 big is the problem.

16 By any measure, Your Honor, done by anyone,
17 the number is large. The estimates differ, but all are
18 unconscionably and unconstitutionally large.

19 Let's start with where this Court last left
20 off. More than 1 %, less than 9%. That's somewhere between
21 100,000 and three-quarters of a million without ID. That's
22 the range that the Court found at the July hearing. When the
23 Respondents came back in September and tried to say that was
24 an overstatement, the Court rejected that.

25 The 1% statistic comes from Rebecca Oyler, who

1 you will hear from again this time. She was asked to provide
2 an estimate for budget purposes and she came up with the 1%
3 statistic of people lacking ID, and the Court credited that as
4 the lowest possible boundary of people lacking ID.

5 This time Miss Oyler will testify that more
6 realistically, based upon all of her research and all of her
7 work on the photo ID law, the more realistic number is 3% to
8 4%, 300,000 to 400,000.

9 How about the 9%? That comes from a database
10 match that the Commonwealth did last summer. They took the
11 registration database, sure database and compared it to the
12 PennDOT database to try to figure out how many people lack ID
13 and to take driver's license numbers and put them into the
14 sure database for purposes of validating absentee ballots as
15 required under Act 18.

16 They found 750,000, approximately, people,
17 registered voters, without a matching record at PennDOT. They
18 thought enough of that number to send out letters to all of
19 them and tell them that you may not have ID; but when it came
20 time to come to court, Your Honor, they said that data wasn't
21 reliable. That's where the 9% figure, however, comes from.

22 But the 9% figure doesn't include the other
23 500,000 registered voters that the Commonwealth found who had
24 an ID at PennDOT, but it was expired for more than a year come
25 the November election, and thus by the terms of the photo ID

1 law itself would not count for voting. That brings the
2 database match number that the Commonwealth did to over 1.2
3 million.

4 I can stop here, rest on what the Respondents
5 have done; but we have done work, too, Your Honor. In advance
6 of this trial, we asked Dr. Bernard Siskin, former Chair of
7 Statistics at Temple University, an expert in statistics and
8 analyses and database matches like was done by the
9 Commonwealth. He has done work for the FBI, the DOJ, the
10 C.I.A., Fortune 500 companies, plaintiffs, defendants, even
11 the Attorney General's office. And even the Courts themselves
12 have appointed him neutral expert.

13 We asked him to update the database match the
14 Commonwealth did to address the reliability concerns that they
15 raised, to be very conservative, overly conservative, Your
16 Honor. And he found 250,000 people. 250,000 registered
17 voters in the sure database who do not have ID from PennDOT,
18 including the DOS ID card.

19 He found another quarter million who have ID
20 that will be expired for more than a year come the November
21 election. No good for voting. He found over 500,000, Your
22 Honor.

23 At the July trial, the Court heard about a
24 survey of Pennsylvania voters from last summer, Dr. Matthew
25 Barretto presented those findings to the Court. And that

1 survey found a million registered voters lacked ID, if you
2 required an exact name match between the ID and the
3 registration; and 700,000, if you allowed the names not to
4 match.

5 Act 18 says the names need to substantially
6 conform. True number, in between.

7 The Court, as you know, had questions about
8 Dr. Barreto's demeanor and had questions about his statistical
9 methodology. We will present a world class expert, Dr. David
10 Marker, in survey design, to address those methodological
11 concerns, Your Honor.

12 He will explain that, based upon his analysis,
13 Dr. Barreto's methodology and surveys were reasonable and
14 reliable, not flawed. He will address the specific concerns
15 raised by the Court, explain why certain of those concerns
16 actually made the study more reliable, not less; and he will
17 explain that even if you make very conservative assumptions
18 that reduces Dr. Barreto's number, you still are left with
19 hundreds of thousands of voters with high confidence lacking
20 ID.

21 What you won't hear, Your Honor, is anyone
22 from Respondents who will present any work, study, analysis,
23 or other basis to say the number of people lacking ID is
24 anything other than in the hundreds of thousands.

25 Even Dr. William Wecker, Respondents' expert,

1 hired at \$700 an hour, was not asked to come up with a number.
2 Wasn't asked to come up with his own estimate. He was asked
3 only to criticize Dr. Siskin's work.

4 But even accepting all of his criticisms,
5 Dr. Siskin's work -- even accepting all of those criticisms,
6 Dr. Wecker is left with hundreds of thousands of voters
7 without ID.

8 In contrast, Your Honor, the evidence will
9 show that the Respondents have succeeded in getting IDs to
10 less than 17,000 voters under the photo ID law. Since the
11 November, 2012, election, that number has dropped to about 100
12 per month. So the gap is pretty much where it was when the
13 Court last addressed the question.

14 Now, the Respondents have and will speculate
15 that perhaps this large gap is filled by other IDs, IDs other
16 than PennDOT IDs, other than DOS IDs. But there's no evidence
17 in the record and there will be no evidence in the record to
18 support this speculation.

19 The evidence has already shown, Your Honor,
20 that there's a tiny sliver of people who don't have a PennDOT
21 ID, but have some other form of ID that's acceptable under the
22 photo ID law. We will present additional evidence that
23 confirms that conclusion; and any way you slice it, at the end
24 of the day, the number will be large, the number will be
25 unconscionable, the number will be unconstitutional.

1 So, that's going to be largely the
2 Petitioners' case. So, the question is what's the response?
3 I expect you will hear some version of the "blame the victim"
4 defense. In this case that goes something like, you don't
5 have ID, you're lazy. Or you don't really want to vote. Or
6 the voter somehow decided not to vote.

7 In recent days the Department of State has
8 been saying exactly this, and let me get the quote right. "We
9 have made photo IDs for voting purposes liberally accessible.
10 If voters don't have an ID now, it's because they have decided
11 not to get one."

12 Your Honor, there will be no evidence to
13 support this defense. Marion Baker hasn't decided she doesn't
14 want to vote. She tried. She was told, sorry, you need to do
15 something to get ID that she is physically incapable of doing.
16 That's not a decision.

17 You're going to hear from Mary
18 Kanter-Pripstein, Your Honor. 93 years young. Lives by
19 herself. Lives in an apartment building that has everything
20 she needs, including her polling place. She takes the
21 elevator down to the second floor and votes. She votes in
22 person and cannot vote absentee. But there's no meaningful,
23 realistic way for her to manage to get to PennDOT and to get
24 an ID at PennDOT.

25 She will explain, Your Honor, that she

1 realizes as she gets older that her world is getting smaller,
2 that there are certain privileges that she used to think were
3 really important, that she is now willing to live without; but
4 when it comes to voting, Your Honor, what she said and what
5 she will tell this Court by video is that it is part of my
6 life. It's one of the few things I thought I'd always do.

7 She hasn't decided not to vote. She hasn't
8 decided she doesn't want to get an ID. That decision is being
9 made for her by the photo ID law.

10 And you don't have to take Petitioners' word
11 on this because we will show you the Department of State, the
12 Department of Aging memo to the Governor's office that
13 analyzed this precise question, reached the same conclusion,
14 that there are voters out there who can vote in person, cannot
15 vote absentee because they can vote in person, but there is no
16 way for them to get to PennDOT to get an ID.

17 And the conclusion sent to the Governor was
18 that these people would become disenfranchised, if the law is
19 adopted, and it was adopted. That was true then, Your Honor,
20 and the evidence will show it's true today.

21 So, the ID that the Department of State says
22 is liberally accessible is the DOS ID. The evidence will show
23 that maybe in theory to someone sitting in Harrisburg who
24 designed the DOS ID, it sounds easy to get. But that theory
25 has not been supported by the evidence.

1 In total, 3,830 DOS IDs have ever been printed
2 by the Department of -- I'm sorry, by PennDOT. And Your
3 Honor, that number includes a large number of IDs that were
4 printed by PennDOT but not given to the voter. What do I mean
5 by that?

6 Well, I want to focus the Court on where the
7 Respondents have focused the Court, which is after the DOS ID
8 supposedly became liberally accessible, September 15th, the
9 morning of the remand hearing, when they changed the
10 procedures, again in response to the Supreme Court.
11 Supposedly anyone can walk in and say, I want to vote, I need
12 an ID, and get a DOS ID.

13 The evidence will show that a little over
14 2,500 -- my understanding is 2,530 people have gone to PennDOT
15 and have said, I want to vote. I need an ID. Can I have the
16 DOS ID? 500 of them -- actually, 505, Your Honor, have been
17 told no, you can't have a DOS ID. They have been sent away
18 without a DOS ID. 500 out of 2,500, for the ID that is
19 liberally accessible.

20 And of those 500, Your Honor, half of them
21 still do not have a DOS ID. And many of them applied before
22 the November, 2012, election, and did not receive an ID until
23 after that election and some not until this spring.

24 Some who applied before the November election
25 still do not have a DOS ID. This fact is true because of the

1 rules and restrictions that the Department of State still
2 imposes on PennDOT's distribution of the DOS ID. The
3 Department of State's position is that the statute itself
4 limits who they can give the DOS ID to. It's not all eligible
5 voters. It's not all eligible voters who have a fundamental
6 right to vote.

7 To the Department of State, it's not enough
8 that the voter submitted a registration form. It's not enough
9 that the voter has gone to PennDOT and said, I'd like to
10 register. Please register me right there. It's not enough
11 what when they apply for the DOS ID, the clerk can just click
12 a button and say now you're registered to vote, and it goes
13 off automatically in the system.

14 It's not even enough to -- this is already in
15 the record -- to show up at PennDOT with the registration card
16 in hand in order to get the DOS ID.

17 What the Respondents want is the registration
18 process, the registration form to wound its way through the
19 complicated process to eventually get to the sure database,
20 the database of registered voters, so that then, the
21 Department of State can say, yes, you are a registered voter,
22 you can get the ID.

23 That's not liberally accessible when 500
24 people out of 2,500 don't get it, but that's not the full
25 story, Your Honor, because the evidence will show that there

1 are 44 properly registered voters -- one of whom who
2 registered in 1944, Your Honor -- tried to get the DOS ID,
3 after liberal access started in September, end of September,
4 the Department of State wrongfully told PennDOT that they were
5 not registered. Told PennDOT to refuse them the ID and all
6 44, Your Honor, were eventually sent the DOS ID after the
7 November election. But for this Court's action, but for the
8 preliminary injunction, all of them would have been
9 disenfranchised, after the DOS ID supposedly was liberally
10 accessible.

11 Respondents' position is all of those
12 restrictions on issuing the DOS ID flow from the statute
13 itself, and Respondents have said candidly in their brief that
14 if the DOS ID is not liberally available, an injunction must
15 issue, but it gets worse for the DOS ID story.

16 It's worse than 20% of the people not being
17 given an ID even when they ask. The evidence will show that
18 Respondents have done virtually nothing to tell people what
19 the DOS ID is, where to get it, how to get it, that you can
20 get it even if PennDOT has turned you down in the past.

21 There have been no radio ads. No TV ads, no
22 letters home, no postcards, no billboards, nothing that
23 broadly gets that word out. They didn't do it before the
24 November election, notwithstanding this Court's order to
25 distribute information about how to get ID and about the photo

1 ID law. Not at the November election, they didn't do it. And
2 they haven't done it since.

3 You will hear from Professor Diana Mutz, an
4 expert in Political Communication on Elections at the
5 Annenberg Center, University of Pennsylvania. She will
6 explain how truly ineffective the education campaign that they
7 did was. The evidence in the record already shows the amazing
8 number of permutations and glitches and changes and
9 miscommunications and outright wrong information that's been
10 conveyed out there, and Professor Mutz will explain to the
11 Court why that matters and why the blame the victim defense
12 can't fly in the face of failing even to tell voters about the
13 DOS ID.

14 Your Honor, as I said in the beginning and
15 laid out in our pretrial brief, our principal theory is that
16 the law is unconstitutional on its face. The problems arise
17 from the face of the statute. But we have other theories as I
18 noted, largely, the same evidence that I have already talked
19 about, that supports those theories.

20 But largely a matter of semantics, the Court
21 may also find the photo identification law unconstitutional --
22 is unconstitutional as applied and issue an as-applied
23 injunction. Here an as-applied injunction would have the same
24 effect. Prohibit enforcement of the photo ID requirement
25 against anyone without photo ID. The Court can even side-step

1 these thorny constitutional questions and simply rule that
2 Respondents have failed to comply and implement what the
3 Supreme Court has called, quote, the critical terms of the
4 statute in Section 2626; namely, the requirement to issue the
5 1510(b) PennDOT ID, educate the public effectively about the
6 photo ID, and most importantly perhaps for this trial,
7 disseminate information to the public about the DOS ID, the
8 PennDOT ID or whatever ID is supposedly liberally available.

9 The evidence will show that the Respondents
10 have failed to do that and the Court has the options to just
11 simply rule on the statutory grounds.

12 Finally, Your Honor, we had a claim under the
13 protection clause of the Constitution, the Pennsylvania
14 Constitution. Now, just to be clear, our fundamental right
15 claims do not depend upon finding disparate impact. They are
16 independent of the equal protection claims, and finding
17 disparate impact is not necessary to strike down the law; but
18 in this case, Your Honor, finding a disparate impact would be
19 easy because the Respondents recognize there is one.

20 They agree -- and you will hear their
21 witnesses -- that the young, the old, the financially
22 disadvantaged, disabled, minorities, non-English speakers are
23 all disproportionately affected by the law because they all
24 find it harder to get IDs, they have IDs at a lower rate, and
25 there will be more of them disenfranchised.

1 The Respondents knew it, the Respondents tried
2 to reach out to them; but reaching out to those groups doesn't
3 eliminate, Your Honor, the disparate impact.

4 And Your Honor will see that Dr. Siskin and
5 his database match will show disparate impact on the same
6 groups. So that's a totally separate basis to strike the law
7 down.

8 I'll end with the question why do this? Why
9 is this law necessary? What role is achieved by it? What
10 legitimate, important -- and most importantly -- what
11 compelling governmental interest is served by making it harder
12 for hundreds of thousands of voters to vote, impossible for
13 many of them. What good will flow from this burden and from
14 the disenfranchisement of voters?

15 It can't be preventing fraud, Your Honor.
16 There's not going to be any evidence that there is fraud of
17 the type that the photo ID law can address; namely, in-person
18 voter impersonation fraud where I show up and try to vote as
19 one of them.

20 There's no evidence of that. More
21 importantly, the Respondents have stipulated they will enter
22 no evidence of that. And they stated under oath there's no
23 evidence of that, in Pennsylvania or elsewhere.

24 They've also stipulated, Your Honor, they
25 won't offer any evidence and won't offer any arguments on

1 fraud. So there will be nothing for the Court to consider as
2 to fraud.

3 What they're left to do is try to justify this
4 law based upon the speculation that sometime in the future
5 there might be someone out there who will get the idea that
6 I'm going to go and vote in the name of somebody else, and
7 that if you have a photo ID law, that person, that
8 hypothesized person will be deterred and prevented from
9 committing that voter fraud.

10 They're also left to point to a supposed
11 perception problem with the public, that the public perceives
12 that there's voter fraud, so passing a photo ID law is a good
13 way to reassure the public.

14 But listen carefully, Your Honor, throughout
15 the evidence, for any actual evidence that there is a
16 perception problem among the public. There was no evidence
17 presented to the General Assembly on this; and what you will
18 see, Your Honor, is the Governor, the Secretary of State,
19 other supporters of the photo ID law running around publicly
20 telling the public there is fraud, we have evidence of fraud,
21 and we need a photo ID law to prevent that fraud.

22 But while they were doing that, they were
23 stipulating in this case, and they were swearing under oath
24 that there is no such fraud, and there is no such evidence.

25 It will be for the Court to decide whether the

1 integrity of elections in Pennsylvania will be enhanced by
2 telling 90-year-old voters they can't vote, and whether the
3 Respondents telling the public that there is a fraud problem
4 that can only be fixed by a photo ID law when they're saying
5 under oath there's no evidence of such fraud, whether that
6 enhances the integrity of elections.

7 You will hear from our communications expert,
8 Diana Mutz, on this question as well, and from Dr. Lorraine
9 Minnite who literally wrote the book, The Myth of Voter Fraud,
10 will address this question. And at the end, Your Honor, it
11 will be for this Court to decide whether speculation and false
12 perceptions intentionally created, if they were even created,
13 by the Respondents themselves, are enough to constitute a
14 compelling and important or even a legitimate justification
15 for burdening and disenfranchising hundreds of thousands of
16 voters.

17 At the end of this case, my colleague, Miss
18 Clarke, will come back up here and it will be her job to talk
19 to you about the evidence that's actually come in. It will be
20 her job to tell you whether I have kept the promises that I
21 have made.

22 Petitioners submit, Your Honor, that if I have
23 kept my promises, if we have succeeded in presenting even half
24 of what we have talked about so far, Petitioners will have to
25 prevail because hundreds of thousands of voters will face

1 undue burden, unnecessary burden and disenfranchisement.

2 Thank you, Your Honor.

3 THE COURT: Thank you, Mr. Rubin.

4 MR. KEATING: Thank you.

5 Your Honor, there are really two facts which
6 are critical to understand why Act 18 should be upheld, and
7 the first one is this: Requiring voters to present
8 identification at the polls is nothing new in Pennsylvania.
9 It's not new at all.

10 The other is that it's not unduly burdensome
11 to have a small segment of the voting population to go to
12 PennDOT to have a photo taken once every ten years, and we
13 know that because the United States Supreme Court has said so.

14 Your Honor, I'm Tim Keating. I'm here on
15 behalf of the Respondents.

16 The sole issue relative to the
17 constitutionality of Act 18 is whether it can be implemented
18 in a way that registered voters who want a valid ID to vote
19 have liberal access to obtain one, if needed. It is important
20 to know these numbers, though. There are approximately 8
21 million registered voters in Pennsylvania. In the last
22 presidential election, less than 6 million actually voted.

23 In contrast, PennDOT has issued over 9 million
24 licenses and IDs. And it's important to keep in mind that
25 PennDOT products are not the only acceptable ID under Act 18.

1 Act 18 has special provisions for voters who are veterans,
2 voters who are in the military, college students, religious
3 groups, and senior citizens. And that doesn't even include
4 absentee voters.

5 Given the number of options available under
6 Act 18, anyone who's registered to vote in Pennsylvania and
7 wants to vote, can.

8 Now, while we will talk about different
9 available options during this trial, much of the testimony you
10 will hear is about the Department of State ID, which is issued
11 by PennDOT; and that's the DOS ID that you just heard
12 Mr. Rubin talking about. That ID is free and can only be used
13 for voting purposes.

14 The Department of State ID was developed to
15 address the needs of those people who do not have a PennDOT ID
16 and are not in PennDOT's system and who have difficulty
17 getting the necessary paperwork to secure an ID.

18 Relative to the Department of State ID,
19 Pennsylvania Supreme Court in this case in its opinion last
20 September acknowledged that the Department of State non-secure
21 ID was being implemented to help voters get liberal access to
22 acceptable voting IDs. And the Pennsylvania Supreme Court
23 stated, quote, "Given reasonable education efforts, reasonable
24 available means for procuring identification and reasonable
25 time allowed for implementation, the appellants, who are the

1 petitioners, apparently would accept that the state would
2 require the presentation of an identification card as a
3 precondition to casting a ballot, end quote."

4 Now, since that statement, two more elections
5 have passed so that every voter has heard about Act 18 at
6 least three times, and undoubtedly many more. And the
7 procedures are in place to assess whether there are reasonable
8 available means for procuring identification.

9 After the Pennsylvania Supreme Court decision,
10 one remand, and in the earlier preliminary injunction hearing,
11 the Court had the opportunity to observe and weigh the
12 credibility of the witnesses presented by both sides; and in
13 this Court's October opinion, the Court specifically stated
14 that the testimony by the Commonwealth witnesses were
15 believable and credible, in contrast to its finding that the
16 certain Petitioners' witnesses provided testimony that was not
17 credible and that was rejected by the Court for that reason.

18 Now, what I would like to talk a little bit
19 about is the Crawford case, because voter ID requirements are
20 not unique to Pennsylvania. The United States Supreme Court
21 addressed the law with fewer alternative forms of ID in
22 Crawford versus Marion County Election Board. And in that
23 case, despite a record of which there was no evidence of
24 in-person fraud in Indiana, the Supreme Court said that there
25 is no question about the legitimacy and importance of a

1 state's interest in counting only the votes of eligible
2 voters, and the state's interest in protecting public
3 confidence in elections is also important because it
4 encourages citizen participation in the democratic process.
5 The Supreme Court also found that these interests outweighed
6 the slight burden caused by requiring people to go to the
7 Department of Motor vehicles to get an ID.

8 And that, of course, is exactly what is before
9 this Court. And I quote from the Supreme Court when they said
10 that the relevant burdens here are those imposed on eligible
11 voters who lack photo identification cards that comply with
12 the voter ID law. Because Indiana's cards are free, the
13 inconvenience of going to the Bureau of Motor Vehicles,
14 gathering the required documents, and posing for a photograph
15 does not qualify as a substantial burden on those voters'
16 rights to vote or represent a significant increase over the
17 usual burdens of voting.

18 Now, as our Pennsylvania State Supreme Court
19 noted, as of last September, the DOS ID was available without
20 documentation and without first trying to get another form of
21 ID; and our Supreme Court asked this Court to evaluate
22 whether, with the Department of State ID, there is liberal
23 access as contemplated by Act 18, period.

24 Relative to the burden of proof in this case,
25 as this Court knows, there is a very strong presumption in

1 this Commonwealth that legislative enactments don't violate
2 the Pennsylvania Constitution.

3 A burden -- a party that challenges the
4 Constitution of the statute bears a very heavy burden of
5 persuasion to overcome this presumption, and the statute will
6 not be declared unconstitutional unless it clearly, palpably
7 and plainly violates the Constitution. Furthermore, because
8 they are asking for a preliminary and a permanent injunction,
9 they must satisfy all of the rigid requirements in order to
10 establish such a right to relief.

11 Respondents respectfully submit that the
12 evidence will show that Petitioners cannot prevail on any of
13 their three claims for relief, and we ask the Court to allow
14 the law passed by the General Assembly to take full effect.

15 Thank you, Your Honor.

16 THE COURT: Thank you, Mr. Keating.

17 Mr. Rubin.

18 MR. RUBIN: Your Honor, with the remaining
19 time we have today, we'd like to put on a video of one of our
20 fact witnesses, Marion Baker.

21 THE COURT: Sure.

22 MR. RUBIN: Whitney Moore will be handling the
23 presentation.

24 MS. MOORE: Your Honor, my name is Whitney
25 Moore. I'm one of the counsel for the petitioners. We'd like

1 to offer the testimony of Marion Baker by video. And we have
2 a video that puts our designations and the Respondents' and
3 just puts it into one straight video, and I also have a
4 transcript if that would be helpful for you.

5 THE COURT: That would be helpful.

6 MS. MOORE: And Your Honor, just so I can
7 follow along, the red designations are Petitioners'
8 designations and the blue designations are Respondents'
9 designations. If you are ready, we'll get started.

10 THE COURT: Please.(THE VIDEOTAPE TESTIMONY OF
11 MARION BAKER WAS PRESENTED AS FOLLOWS:)

12 DIRECT EXAMINATION

13 BY MR. GEFFEN:

14 Q. Would you please state your name for the record?

15 A. Marion Baker.

16 Q. And where do you live?

17 A. 1200 Mulberry Street, Reading, Pennsylvania.

18 Q. That's where we are right now?

19 A. Yes.

20 Q. How long you have lived in this home?

21 A. About 13 years.

22 Q. How long have you lived in Pennsylvania?

23 A. All my life.

24 Q. Okay. Were you born in Pennsylvania?

25 A. Yes.

- 1 Q. Okay. And are you currently employed?
- 2 A. No. I'm retired.
- 3 Q. And how were you formerly employed?
- 4 A. Giant Food Stores as a cashier.
- 5 Q. About how long did you work there?
- 6 A. 17 years.
- 7 Q. Are you married?
- 8 A. My husband died two years ago.
- 9 Q. And do you have any family nearby?
- 10 A. Yes.
- 11 Q. Who lives nearby?
- 12 A. My daughter.
- 13 Q. And do you have any children other than this daughter?
- 14 A. No. She is the only one.
- 15 Q. Okay. How close by does she live?
- 16 A. About four blocks.
- 17 Q. Okay. And do you have any grandchildren?
- 18 A. Yes.
- 19 Q. How many grand kids?
- 20 A. Eight.
- 21 Q. And what are the ages, the range of ages of your
- 22 grandchildren?
- 23 A. 16 to one year.
- 24 Q. Okay. Mrs. Baker, how do you get around?
- 25 A. By my son-in-law or my daughter; sometimes my brother.

1 Q. And you're referring to if you need to go somewhere?

2 A. Yes.

3 Q. Somewhere outside the house?

4 A. Yes.

5 Q. How do you get around the neighborhood? Do you walk
6 without assistance or use a wheelchair?

7 A. I use a walker, but I don't usually go around the
8 neighborhood. I use a walker in the house.

9 Q. And how long have you been using a walker?

10 A. Since 2008. Well, no, no, no. I'm wrong. I was in a
11 wheelchair first, and then went to the walker, and that's been
12 2008.

13 Q. And what happened that made you start using a wheelchair
14 or a walker?

15 A. I was at the Giant Center in Hershey at a concert, and I
16 fell I broke my leg. They took me to Hershey Medical Center
17 and done surgery. And in the middle of surgery, I had a heart
18 attack. So, I was in the medical center for like 14 days in
19 intensive care up there.

20 And when I came -- they transferred me to Reading.
21 Then I went to a nursing home, and then I came home. And
22 that's when -- I have been recuperating since then.

23 Q. Okay. Now, I want to ask you a few questions about
24 voting. Are you registered to vote?

25 A. Yes.

1 Q. How often do you vote?

2 A. Every election.

3 Q. Do you remember the first time you voted?

4 A. Yes, 1960.

5 Q. Okay. And have you ever run for any elected position?

6 A. Yes.

7 Q. What was that?

8 A. Committee woman.

9 Q. Where were you -- were you elected?

10 A. Yes.

11 Q. And how long did you serve as a committee woman?

12 A. I served two terms, which was two-year terms, so four

13 years altogether, but two different terms.

14 Q. About when was that?

15 A. Back in the 1980s.

16 Q. And were you a committee woman here in Reading?

17 A. Yes.

18 Q. Was it for a specific political party?

19 A. Republicans.

20 Q. And since then have you had any other involvement in any

21 campaigns?

22 A. Yes, just volunteering and doing advertising for them.

23 Q. Okay. And when you vote, do you vote in-person or by

24 absentee ballot?

25 A. In person.

1 Q. Have you ever voted absentee?

2 A. One time when I was in the hospital.

3 Q. Okay. That was I think you said about 2008?

4 A. Yeah.

5 Q. Where is your polling place?

6 A. The library up on 11th Street.

7 Q. And about how far away is that?

8 A. About three blocks.

9 Q. How long you have been voting at that library?

10 A. The 13 years that I have lived here.

11 Q. Okay. How do get to the library from here?

12 A. Either my daughter or my son-in-law take me.

13 Q. Okay. They drive you by car?

14 A. Yes.

15 Q. And this is the couple with eight kids?

16 A. Yes.

17 Q. By the way, are your daughter and son-in-law both

18 employed?

19 A. Yes.

20 Q. And what kind of work do they do?

21 A. She is a waitress and he works at a furniture factory up

22 in Leesport.

23 Q. Do they work 9 to 5?

24 A. No.

25 Q. What kind of hours do they would?

1 A. He goes to work at 2:00 in the morning and he works
2 until 2:00 in the afternoon, and she goes to work at 4:00 and
3 works 4:00 to 11:00 or 12:00 or whatever.

4 Q. Okay. And so, they're both off work only for a couple
5 of hours in the day?

6 A. Yes.

7 Q. And what time of day do you go to vote when you go?

8 A. Usually when they're home, late in the afternoon.

9 Q. Okay. Is the polling place that you go to accessible to
10 you given that you use a walker?

11 A. Yes. It's right in off the street. No steps, no
12 step-ups, no nothing. It's just even with the sidewalk.

13 Q. And what kind of a wait do you typically encounter on
14 Election Day?

15 A. Not very long the time I go. It's usually 20 minutes to
16 a half hour. Usually they aren't too busy. When I'm leaving
17 there, it is starting to get really busy.

18 Q. Is there anywhere that you can sit or take a rest at the
19 polling places?

20 A. Yes, they have chairs in there.

21 Q. Okay. Now, to get in -- if you wanted to vote absentee,
22 you would have to sign a legal declaration stating that you're
23 unable to attend your polling place because of an illness or
24 physical disability. Could you sign a declaration stating
25 that?

1 A. Not right at this time because I can get out.

2 Q. And how would you feel about voting absentee versus
3 voting in person?

4 A. Oh, I -- it doesn't really matter to me, but I think
5 it's more -- if you go there, I always think -- well, the one
6 time I did vote absentee, I thought, is my -- is my vote
7 really counting or did it get lost? I think if you go there,
8 you vote; you know it's being counted. At that time I had
9 that question, did my vote really count?

10 Q. Now, did you vote in the November, 2012, election?

11 A. Yes.

12 Q. And did the poll workers when you went to vote say
13 anything to you about photo ID?

14 A. Yes. They told me -- did I have one, and I said, yes,
15 but it was expired, and they said, well, this is the last time
16 that you can vote unless you get it -- get a new one. In the
17 next election, are you not allowed to vote.

18 Q. Okay. So, have you voted since then?

19 A. No, because the May 2013, I didn't get it renewed yet,
20 so I couldn't vote that day.

21 Q. Okay. And what made you think you couldn't vote that
22 day?

23 A. Because they told me. I mean, they told me the day --
24 before that the law would take effect and I wouldn't be
25 allowed to vote if I didn't get it updated, and so, I didn't

1 even bother to go out. It's the first time in my life since I
2 could vote that I did not vote. I voted every election except
3 for that.

4 Q. When you said they told you, who is they?

5 A. At the precinct --

6 Q. So, the --

7 A. -- the workers.

8 Q. The polling workers.

9 A. Uh-huh.

10 Q. Okay. Now, have you ever had a Pennsylvania's driver's
11 license?

12 A. Yes.

13 Q. And do you currently drive?

14 A. I could, but the doctors are not letting me drive right
15 now. I'm still -- my reflexes aren't good enough for driving
16 yet.

17 Q. Okay. So, do you have any sort of ID from PennDOT right
18 now?

19 A. Just the voter -- just the ID which is expired, because
20 I don't have any -- I don't have a driver's license right now.
21 Okay.

22 Q. And do you remember about when that ID expired?

23 A. 2011.

24 Q. Do you have a U.S. passport?

25 A. No.

1 Q. Do you have any other ID with your picture on it?

2 A. No.

3 Q. So, the ID that you -- that expired in 2011, where did
4 you go to get that ID?

5 A. PennDOT over in Shillington.

6 Q. And is the Shillington PennDOT the closest location to
7 you?

8 A. Yes. It's the only one in Berks County.

9 Q. Okay. Did you have to wait in line when you went to get
10 that?

11 A. Yes.

12 Q. Do you remember about how long you had to wait?

13 A. Four hours. I remember. Four hours.

14 Q. Okay.

15 A. That's just to get in the door. Once I got in the door,
16 I waited another, like, hour-and-a-half inside.

17 Q. Okay. So, when you say to get in the door, is it that
18 people were lined up outside the building?

19 A. Yes, all the way down and around the building.

20 Q. Okay. And was there something unusual about that day
21 that made the line so long?

22 A. No. It was just a regular day. It was a weekday.

23 Q. Have you ever seen a line there on any other occasions
24 like that?

25 A. Yes, Every time you go by, it's lined up.

1 Q. Now, have you ever tried to renew the ID that expired in
2 2011?

3 A. No. I called PennDOT to renew it, to see if they had
4 any way that a handicapped person could get in without
5 standing in line because I could never stand in a line that
6 long. And they told me, no, that I would have to come and
7 stand in line like everybody else.

8 Q. Do you remember when you called?

9 A. It was right after the November election, maybe -- maybe
10 like the beginning of the year -- the end of the year, the
11 beginning of the year, when I started thinking about I had to
12 do something to get voted -- so I could vote.

13 Q. When you say November election, you mean the November
14 2012?

15 A. Yeah; after that election.

16 Q. And did you call -- you said you called PennDOT. Did
17 you call PennDOT headquarters in Harrisburg, or where did you
18 call?

19 A. I called PennDOT in Shillington.

20 Q. Okay. And so, were you able to renew that ID?

21 A. No. I didn't get it renewed yet because I just feel I'm
22 never going to be able to go there and stand.

23 Q. How would you -- is that PennDOT office within -- how
24 far away is it from that Shillington PennDOT office?

25 A. From my house it's about 15 minutes with traffic.

1 Q. That's by car?

2 A. Yes.

3 Q. So how you would get there?

4 A. My daughter or my son-in-law would take me.

5 Q. Okay. And could they do that -- could they take off
6 work to do that, or when they would they do that?

7 A. It would be when they aren't working. That's one reason
8 that I haven't gone, because you don't know how long are you
9 going to be standing there, tied up there, and they can't sit
10 there forever, waiting for me.

11 Q. Is there any city bus that you can take to get there?

12 A. Yes.

13 Q. And do you use the city buses?

14 A. Not since I have been hurt. I can't. I'd have a hard
15 time to get -- I'd have to walk to a bus stop. And then when
16 you get off over there, you still have a block to go to get to
17 the -- before you are even at the PennDOT.

18 Q. Okay. And what about paratransit; are there any
19 paratransit opportunities for you?

20 A. There would be, but you got to register. It's a lot of
21 -- like, I checked into it. When my husband lived, he checked
22 into it, and it was more bother than -- I mean, you have to
23 pay. And they come at their convenience, whether -- you know,
24 you have to wait until they can take you because they have so
25 many, I guess, that go. But you have to wait until they can

1 pick you up to take you. So, you could be waiting forever for
2 them.

3 Q. Okay. How do you get around to things like doctor
4 appointments or other errands?

5 A. My daughter or my son-in-law, and once in a while, if I
6 really need to, my brother will take me.

7 Q. Does your brother live here in Reading?

8 A. No, he lives in Boyertown.

9 Q. About how far away is that?

10 A. About a half hour.

11 Q. And since you had your accident, have you travelled --
12 have you gone on any long distance car trips?

13 A. Not really, no.

14 Q. What is the furthest that you have go?

15 A. Maybe about a 50-minute ride.

16 Q. I'm sorry. Did you say 15 or 50.

17 A. 50. 50 minutes.

18 Q. And how --

19 MR. SCHMIDT: I'm sorry. I didn't hear that.
20 Was that 50 or 15?

21 THE WITNESS: 50. 5-0.

22 MR. SCHMIDT: 50 minutes?

23 THE WITNESS: 50, yeah.

24 BY MR. GEFFEN:

25 Q. How was it for you to ride in the car for that amount of

1 time?

2 A. Well, by the time I got there, I was ready to get out.
3 Even before we got there, it was -- it's so long in a car, and
4 I have problems.

5 Q. What sort of problems, if I could ask.

6 A. Well, because my leg being broke, I have problems like
7 -- the leg's healed, but just from being -- keeping my legs in
8 one position, not walking, they get stiff and it bothers me.

9 Q. Okay. Now, have you ever seen any advertisements about
10 the voter ID law in Pennsylvania?

11 A. Not recently, no.

12 Q. Did you see any at any time?

13 A. When they first came out that they were going to do it,
14 you saw it. It was on TV and in the newspaper and everything.

15 Q. Have you seen any advertisements since the November,
16 2012, election?

17 A. No. That's why I didn't know you could use it in May
18 because I never saw anything.

19 Q. How do you get most of your news?

20 A. TV. The news station I watch. The news channel from
21 TV.

22 Q. Okay. What -- are there specific channels that you
23 watch?

24 A. Fox News.

25 Q. Do you subscribe to a newspaper?

1 A. No.

2 Q. Do you currently have internet access from your home?

3 A. No.

4 Q. Okay. Is voting important to you?

5 A. Yes.

6 Q. Why is that?

7 A. Because I feel that if you want a say in your
8 government, you should be voting. You should let them know
9 what you want and how you feel about things.

10 Q. My name is Kevin Schmidt, and I represent the
11 Respondents in this action. I just have a few follow-up
12 questions for you. You said you that have lived at this
13 address, 1200 Mulberry Street in Reading, for about 13 years
14 now?

15 A. Yes.

16 Q. Do you have any plans on moving anytime soon?

17 A. No.

18 Q. No? Okay.

19 A. My next move is probably to the graveyard.

20 Q. I hope not, but -- and you said your polling place is
21 about three blocks away; is that correct?

22 A. Yes.

23 CROSS-EXAMINATION

24 BY MR. SCHMIDT:

25 Q. And do you walk there, ma'am?

1 A. I did before I had my accident. I always walked there.

2 Q. Okay. And what year did you have your accident?

3 A. 2008.

4 Q. 2008. Okay. After your accident, when did your doctor
5 or any physician tell you that you were fully recovered from
6 your accident?

7 A. I don't think anybody ever said I was fully recovered,
8 but they cleared me in -- and I guess it was early part of
9 2010 or the late 2009, somewhere around there.

10 Q. Okay. So, you testified that after your accident, after
11 your broken leg, your daughter-in-law or your son-in-law or I
12 guess in a real emergency your brother could take you to your
13 polling place to vote; is that correct?

14 A. Yes.

15 Q. Okay. And would they offer that same accommodation if
16 you needed to go somewhere else in an emergency?

17 A. Yes.

18 Q. Okay. So, they're available to you to get you around
19 town or anywhere you need to go?

20 A. Yes. At their convenience, yes.

21 Q. Okay. Now, you said you at one point voted absentee
22 ballot?

23 A. Yes.

24 Q. Could you describe the circumstances around that. Why
25 did you vote absentee?

1 A. I was in the hospital, in the Reading Hospital. And
2 they had transferred me from Hershey back to the Reading
3 Hospital, and I wasn't going to be out in time, and I didn't
4 want to miss voting, so my husband got my that absentee
5 ballot.

6 Q. Okay. And that was as a result of your accident in
7 Hershey?

8 A. Yes.

9 Q. As a result of the accident, did you file a lawsuit
10 against anyone?

11 A. No. My husband inquired about whether or not we could
12 get my medical bills paid, and the Giant Center in Hershey
13 said, no, they won't do anything like that, so then we just
14 left it go.

15 Q. Okay.

16 A. We tried for medical expenses.

17 Q. How did you get involved as a witness in this lawsuit,
18 ma'am?

19 A. I got a phone call from somebody that asked me if I
20 would talk to a lawyer and cooperate because of the ID for
21 voting, whether or not I was voting, and whether I had an ID
22 or not.

23 And then I told them that I did, but I had a hard time
24 getting it renewed, and then they asked me if I would talk to
25 a lawyer about it.

1 Q. Do you know who called you?

2 A. She might have told me her name, but I don't remember.
3 It was a woman.

4 Q. How did she get your name?

5 A. I don't know. That's what I was wondering. I don't
6 know how she found out.

7 Q. Did she ever, this woman, ever describe to you how she
8 got in contact with you, got your information?

9 A. No. She just asked me my circumstances, and then she
10 said that if I would -- if I wanted to cooperate, there would
11 be a lawyer contacting me.

12 Q. And when did this occur?

13 A. It was the past -- I'd say in the past month or two
14 months.

15 Q. Why did she say she was calling you?

16 A. She just asked me if I was a voter, and whether or not I
17 used the Pennsylvania ID to vote, and whether or not I had
18 one, and how I felt about it.

19 Q. And she didn't identify a specific group that she was
20 with?

21 A. No.

22 Q. Okay. You can't remember her name?

23 A. No, I don't.

24 Q. Okay. What lawyer did she direct you to?

25 A. What's your name? Ben.

1 Q. Mr. Geffen, sitting to your left?

2 A. Yes. That's who contacted me. She didn't tell me who
3 she -- she just said a lawyer will be contacting you. And he
4 is who contacted me.

5 Q. And what did they describe they needed you for?

6 A. They just wanted to know how I felt about having to vote
7 with an ID, and how I felt when I told them that I didn't have
8 one and I had to get it renewed. They wanted to know how I
9 felt about that, that I couldn't vote because I didn't have an
10 ID.

11 Q. Now, I just moving forward to some more of your
12 testimony, ma'am. You said that your furthest recent travel
13 was about 50 minutes in a car?

14 A. Yes.

15 Q. And where did you go?

16 A. To Lansdale.

17 Q. Lansdale.

18 A. To my --

19 Q. That's my neck of the woods.

20 A. To my friend's house in Lansdale.

21 Q. And you went there by car?

22 A. Yes.

23 Q. Who took you there?

24 A. My daughter and her husband.

25 Q. And do they take you to get your groceries?

1 A. Yes.

2 Q. How often do they drive you around during the course of
3 an ordinary week?

4 A. To doctor's appointments, if I have a doctor's
5 appointment. I usually try to do my grocery shopping once a
6 month when I get my check, so I have stuff that I don't have
7 to be bothering them to take me around. And sometimes my
8 prescriptions, they take me to pick them up, or they'll pick
9 them up for me.

10 Q. When you say your check, what do you mean?

11 A. My Social Security check.

12 Q. Ma'am, you talked a little bit about having a PennDOT
13 driver's license, photographic identification card; is that
14 correct?

15 A. Yes. It's an ID card.

16 Q. And that expired, ma'am?

17 A. Yes. My driver's license expired back -- right after I
18 had my accident, and the doctor said I couldn't drive, so I
19 never bothered to have it renewed.

20 Q. Okay. At any time did the doctors clear you to drive?

21 A. No.

22 Q. Has anybody told you currently that you still cannot
23 drive?

24 A. Not in so many words, but I know by myself, I wouldn't
25 never put anybody at risk of driving because my reflexes. And

1 the doctor will say my reflexes are not very good right now.

2 Q. And I guess that's your opinion as to whether or not you
3 feel you can drive, but no doctor has explicitly said to you,
4 "ma'am, you cannot drive"; correct?

5 A. They did at one time, but not lately.

6 Q. Right. Okay. Post-accident and post-clearing your
7 medical condition --

8 A. Yeah.

9 Q. -- no one has explicitly told you not to drive; is that
10 correct?

11 A. No, no one has really -- I guess I don't do it because I
12 know I'm not up -- I would be afraid that I would have an
13 accident.

14 Q. Understood. Understood. Getting back to your PennDOT
15 ID. Now, do you have another PennDOT photographic
16 identification card?

17 A. The one that they gave me. That was issued to me, the
18 Pennsylvania non-drivers.

19 Q. Does it have your photo on it?

20 A. Yes.

21 Q. And is it current?

22 A. No.

23 Q. And when did that expire?

24 A. That expired 2011.

25 Q. What efforts have you made to renew that?

1 A. I called them to see if they had any way that I could
2 get in there without standing in line for four hours to come
3 and renew it, that they said no, if I came, I would have to
4 stand in line like everybody else did, and I told them that I
5 could not stand for four hours, and they said that's a chance
6 I got to take.

7 Q. When did you call?

8 A. Right after November, 2012, election when they told me
9 that I had to get it renewed.

10 Q. And is that the only effort you've made to try and renew
11 that?

12 A. Yes.

13 Q. You never asked them if you could renew it by mail?

14 A. No, I can't, I asked that.

15 Q. And what were you told?

16 A. I told them -- I was told that I had to come in person.
17 You have to be in person. Come in person to do it. Nobody
18 else can do it for you. You have to come in person.

19 Q. Who told you that, ma'am?

20 A. Somebody from PennDOT, whoever I was talking to.

21 Q. Is that the PennDOT driver's licensing center in
22 Shillington.

23 A. Yes.

24 Q. When was that?

25 A. 2012 after the election. Might have been towards the

1 end of the year when I called them.

2 Q. Since that time have you ever gone to PennDOT in
3 shilling ton?

4 A. No.

5 Q. Did you ever call back again to ask maybe another
6 representative of PennDOT if you could have accommodations
7 made for your condition?

8 A. No. No.

9 Q. Are you willing to do that, ma'am?

10 A. Yes.

11 Q. So you've just chosen not to do it up to this point; is
12 that correct?

13 A. Right. Because I have a problem -- my son-in-law or my
14 daughter can just take me when they are not working, and it's
15 not always convenient, so I know I have to do it when they can
16 take me.

17 Q. Have you ever called to ask them if there was a line
18 when you had an opportunity to go to see if you didn't -- you
19 wouldn't have to wait that long?

20 A. It's never that you go there that there's not a line.
21 At least I haven't seen it.

22 Q. That's just based on your experience to date, right,
23 ma'am?

24 A. Right. Yes.

25 Q. And ma'am, you testified that this expired non-driver's

1 license issued by PennDOT, that's the only photographic
2 identification card you have?

3 A. Yes.

4 Q. How long does it take you to get to the Shillington
5 driver's license center?

6 A. About 15 minutes.

7 Q. 15 minutes. By car?

8 A. Yes.

9 Q. You don't have any problem getting there by car --

10 A. No.

11 Q. -- assuming your daughter or your son-in-law will take
12 you there.

13 A. Yes.

14 Q. Did you ever, in your conversations with representatives
15 at PennDOT, ask for any way to mail in information to obtain a
16 photographic identification card?

17 A. Yes. And they told me, no, you have to come in person.

18 Q. You testified that you did not vote in the May 2013
19 election; is that correct?

20 A. That's right.

21 Q. And you testified that you didn't believe you could
22 based on what somebody advised you at your polling place at
23 the time you voted for the November 2012 general election, is
24 that correct?

25 A. Yes.

1 Q. And who at that polling place told you you would not be
2 able to vote in your -- in the May 2013 election without
3 photographic identification?

4 A. The poll -- the person at the polling place that signed
5 me in.

6 Q. Do you know his or her name?

7 A. No, I don't. Every time you go there, there's a
8 different one there. And they -- when they sign you in, they
9 ask for your ID. And when you don't have it, then they told
10 me that.

11 Q. Did you find that peculiar that they told you that?

12 A. No, because I knew before I went there that the law was
13 going to be taking effect. So, I didn't -- it didn't surprise
14 me. I didn't think it was right because I said to them, "I
15 have voted all of these years without one, why all of a
16 sudden," and they just said, "That's the law."

17 Q. Did you ask anybody else about that?

18 A. No; just there at the polling place?

19 Q. You just relied solely on that person at the polling
20 place?

21 A. Yes.

22 Q. How about your daughter or son-in-law; did they vote in
23 2013?

24 A. I don't really know. I didn't ask them.

25 Q. Okay. Did they vote in November 2012?

1 A. I think they did. I'm not sure.

2 Q. As a former committeeperson, do you still have contacts
3 in the political communities?

4 A. Not really. All the ones that was in office and worked
5 in the headquarters are all new, and I don't -- since this, I
6 haven't done any work, so I don't really know.

7 Q. But you never called anybody at any headquarters to find
8 out whether or not what you were told at the November, 2012,
9 election was accurate regarding voting in May of 2013?

10 A. No.

11 Q. Ma'am, you said you did not have internet access; is
12 that correct?

13 A. No. I have a computer, but my -- I need a new drive.

14 Q. Okay. So, you do have internet access, then?

15 A. Once the drive gets finished, yes.

16 Q. And is somebody currently working on that?

17 A. Not yet, but I'm --

18 Q. You plan on having it fixed?

19 A. Yeah. Yes.

20 Q. Do you belong to your local public library?

21 A. No.

22 Q. No. Okay. We went over some of the identification
23 cards you may or may not have. I just want to go down a
24 list --

25 A. Okay.

1 Q. -- to make sure that we're specific. Do you have a
2 passport, ma'am?

3 A. No.

4 Q. Do you have any military identification?

5 A. No.

6 Q. Did you have any identification from your time as an
7 employee at Giant?

8 A. No.

9 Q. Have you ever tried to get the Department of State ID
10 for voting purposes, ma'am?

11 A. No. I didn't know there was anything like that.

12 REDIRECT EXAMINATION

13 BY MR GEFEN:

14 Q. And I have just a very small number of follow-up
15 questions to the questions that Mr. Schmidt just asked you.

16 He asked you about the line at the Shillington PennDOT
17 location. How often have you seen a line at that location, if
18 you can recall?

19 A. Every time I go by there.

20 Q. Do you remember about how many times that would have
21 been?

22 A. Well, at the time before I -- excuse me. Before I have
23 been laid up, I used to go by there at least once a week.

24 Q. And you mentioned that you were -- that you voted
25 absentee in the time when you were hospitalized?

1 A. Yes.

2 Q. Why didn't you want to miss voting when you were in the
3 hospital?

4 A. Because I thought it was important to vote, and we were
5 voting for president that year, and I didn't want to see -- I
6 wanted my man to get in.

7 Q. Who was your man?

8 A. McCain.

9 RE-CROSS EXAMINATION

10 BY MR SCHMIDT:

11 Q. Ma'am, if I provided you documents today that you can
12 mail in to PennDOT that would expedite your time at the
13 driver's licensing center to get your photographic
14 identification card, would you fill those out and send those
15 in?

16 MR. SCHMIDT: Objection.

17 BY MR. SCHMIDT:

18 Q. Your answer was, yes, ma'am?

19 A. Yes.

20 MR. GEFFEN: That's all I have.

21 (THE VIDEOTAPE TESTIMONY OF MARION BAKER WAS
22 CONCLUDED.)

23 MS. MOORE: Your Honor, that's it for this
24 testimony. I'd like to offer it the CD as Petitioner's
25 Exhibit 1422.

1 MR. KEATING: No objection, Your Honor.

2 THE COURT: It will be admitted.

3 MS. MOORE: Your Honor, I think we'd like to
4 next move on to another one of the video depositions.

5 THE COURT: What was the number of that
6 exhibit?

7 MS. MOORE: That was 1422. Shall I continue?

8 THE COURT: Please.

9 MS. MOORE: Next, we'd like to offer the
10 testimony of Mina Kanter-Pripstein. I have the same thing.
11 We have the transcript, and we have put our designations and
12 the Respondents's designations together on one video for you.
13 Your Honor, the same color coding works here.
14 Red is Petitioners' designations, and blue is Respondents'
15 designations.

16 (THE VIDEOTAPE TESTIMONY OF MINA
17 KANTER-PRIPSTEIN WAS PRESENTED AS FOLLOWS:)

18 MINA KANTER-PRIPSTEIN, having first been
19 duly sworn according to law, was examined and testified as
20 follows:

21 DIRECT EXAMINATION

22 BY MR. GEFFEN:

23 Q. Good day, Miss Pripstein. How are you?

24 A. Okay. Thank you.

25 Q. Thank you. Would you please state and spell your name

1 for the court reporter.

2 A. M-I-N-A, K-A-N-T-E-R, dash, P-R-I-P-S-T-E-I-N.

3 Q. And is it okay if I address you as Mrs. Pripstein?

4 A. Yes.

5 Q. And where do you live Mrs. Pripstein?

6 A. 2404 Pennsylvania Avenue in the Philadelphia Apartments.

7 Q. That's in Philadelphia?

8 A. In Philadelphia.

9 Q. We're in your apartment right now?

10 A. Right.

11 Q. Okay. And how long have you lived in this apartment?

12 A. 25 years, approximately.

13 Q. Okay. And where did you grow up?

14 A. Philadelphia.

15 Q. And have -- well, since you were a child, have you ever
16 lived anywhere but Pennsylvania?

17 A. No.

18 Q. Okay. And are you currently married?

19 A. Widowed.

20 Q. Okay. And how long ago did your husband pass away?

21 A. 12 years.

22 Q. Okay. And do you have any children?

23 A. I have two children.

24 Q. Where do they live?

25 A. My daughter lives in Spring Valley, New York, which is

1 about 45 minutes outside of New York City. My son lives in
2 Marietta, Pennsylvania, which is near Lancaster.

3 Q. About how long a drive is Marietta from here?

4 A. Approximately two hours, I'm told, yeah.

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

6 A. Three.

7 Q. Do any of them live in the Philadelphia area?

8 A. No.

9 Q. Now, I notice when you were walking over to the table
10 here, it looks like you were walking a little slowly. Do you
11 have trouble walking?

12 A. I do.

13 Q. Why is that?

14 A. Well, about four years ago, five years ago, I broke my
15 leg, and I was told at that time by the doctor that he didn't
16 want to operate because it was a clean break; he would cast
17 it, but that I would eventually have some trouble with my
18 knees, and I could come back at that time. And I'm having
19 trouble now.

20 Q. Okay. And do you ever or have you ever used a
21 wheelchair?

22 A. Yes. At that time I did.

23 Q. And when you say "at that time" --

24 A. When I broke my leg.

25 Q. Do you currently use a wheelchair?

1 A. I beg your pardon?

2 Q. Do you currently use a wheelchair?

3 A. No.

4 Q. Do you use a walker or a cane?

5 A. I have tried using a cane. I'm terribly awkward.

6 Q. Do you drive a car?

7 A. I'm thinking of getting a walker.

8 No, I gave up about a year ago.

9 Q. Okay. And why did you give up driving?

10 A. I found the cars were going past me, and I thought I was

11 going a nice clip, and I just thought it was probably a good

12 time. When you get to be 90, and you've had a good driving

13 record, why take chances?

14 Q. And sorry to pry, but would you mind telling me how old

15 you are now?

16 A. I'm 92.

17 Q. Are you registered to vote, Mrs. Pripstein?

18 A. Yes.

19 Q. How often do you vote?

20 A. Every chance I get.

21 Q. Do you remember the first time you voted?

22 A. Yes. I voted for Roosevelt.

23 Q. Okay. And when you vote, do you typically vote in

24 person or by absentee ballot?

25 A. In person.

1 Q. Where is your polling place?

2 A. It's in this building on the second floor.

3 Q. And how long have you been voting at that polling place?

4 A. Well, I've lived here 25 years, so all the time that I'm
5 here.

6 Q. Okay. And how do you get there from your apartment?

7 A. It's a cinch. Elevator.

8 Q. Okay. And is it ever difficult for to you get there?

9 A. No.

10 Q. And what kind of a wait do you typically encounter on
11 Election Day when you go to vote?

12 A. A wait? Oh, it's not too bad. You go at the right
13 time. I try to go after lunch, not too early in the morning,
14 not too late in the evening. Sometime in the early afternoon.
15 And maybe I'll be fourth or fifth in line.

16 Q. Okay. And in recent years, have you ever voted by
17 absentee ballot?

18 A. No.

19 Q. To get an absentee ballot, you would have to sign a
20 legal declaration stating that you are unable to attend your
21 polling place because of illness or physical disability.

22 If there were an election today, could you sign a
23 declaration stating that?

24 A. Today? No.

25 Q. And if you were told that you could no longer vote in

1 person, but that you would have to mail in your ballot, how
2 would you feel about that?

3 A. Uncomfortable.

4 Q. Why is that?

5 A. I like the feeling of going to a polling place. I don't
6 know why I feel that way, but I do.

7 Q. Did you vote in the November 2012 election?

8 A. Yes.

9 Q. And at that election, did --

10 A. Was that the primary?

11 Q. I'm sorry. I'm asking about the general election last
12 year, the presidential election?

13 A. Yes. Okay.

14 Q. At that election did anyone say anything to you at the
15 polling place about showing a photo ID?

16 A. We joked about it, but nobody said anything serious
17 about it.

18 Q. Okay. At the November 2012 election, did anyone at the
19 polling place say anything to you about needing to show IDs in
20 future elections?

21 A. No.

22 Q. Did you know the people who were working at the polls
23 that election?

24 A. Most of them.

25 Q. Okay. Did you vote in the May 2013 primaries?

1 A. May 13th?

2 Q. I'm sorry. May of 2013.

3 A. Oh.

4 Q. In those primaries?

5 A. Yes.

6 Q. And at that election did anyone at the polling place say
7 anything about showing photo ID?

8 A. No.

9 Q. Did anyone at the polling place give you a pamphlet or
10 other written information about the photo ID law?

11 A. No.

12 Q. Have you ever served as a poll worker?

13 A. Yes.

14 Q. When did you do that?

15 A. I did it this past primary.

16 Q. In May of 2013?

17 A. Mm-hmm.

18 Q. Had you ever done it before then?

19 A. No.

20 Q. And was that at the same polling place where you vote?

21 A. Yes.

22 Q. What were your responsibilities as a poll worker?

23 A. Well, there's a line -- a line of people. We sit behind
24 a table, and people would pass in front of us. I was last in
25 line, and they gave me a book, and everybody's name had to be

1 written in that book with the number that they were, number
2 one on up.

3 And the person in front of me would hand me a card with
4 the voter's name written in it, and I would transfer that to
5 the book permanently, and then she could vote.

6 Q. Okay. Did you have to show a photo ID to anybody to
7 become a poll worker?

8 A. No.

9 Q. Would you be interested in continuing to serve as a poll
10 worker in this building?

11 A. Sure.

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

13 A. Yes.

14 Q. Do you have a valid driver's license right now?

15 A. It's not valid, but I have it.

16 Q. Okay.

17 A. It's expired.

18 Q. When did it expire?

19 A. It expired one year after my birthday.

20 Q. I'm sorry. One year after your birthday?

21 A. Yeah.

22 Q. Was it one year after your birthday or one day after
23 your birthday that it expired?

24 A. My birthday, August 31st.

25 Q. Uh-huh.

1 A. And I think it expired a year after. Am I wrong?

2 Q. Well, I'll ask you the questions, but --

3 A. I don't know for sure.

4 Q. Okay. Do you know the year when your driver's license
5 expired?

6 A. I thought it expired in -- we're in '13. '12.

7 Q. I'm sorry. You're saying that your driver's license
8 expired in 2012?

9 A. Yeah.

10 Q. What's your birth date?

11 A. August 31st.

12 Q. So do you know the date that your driver's license
13 expired?

14 A. I really don't.

15 Q. Okay.

16 A. I didn't bother.

17 Q. Would it refresh your recollection if I told you the
18 date September 1st, 2012?

19 A. That would be the day after my birthday.

20 Q. Okay. And is it your understanding that that's the date
21 your license expired?

22 A. I guess so. I really didn't think about it too much.

23 Q. Okay. Do you have -- but you know for sure that it is
24 expired?

25 A. Oh, it has expired by now, yes, because it held up for

1 me to vote.

2 Q. Okay.

3 A. It was okay then, but it expired soon after that.

4 Q. Okay. Now, do you have any understanding about how long
5 after a driver's license expires you're allowed to use it for
6 voting under the new law?

7 A. Oh, excuse me. I thought you were talking about
8 expiring to use it for voting.

9 Q. Okay. Could you elaborate on what you mean?

10 A. I'm not sure. I can try.

11 Q. Okay.

12 A. You asked me. It expired -- not -- I stopped driving,
13 and once I stopped driving, the only thing I ever used my card
14 for was to ID myself at a store.

15 Q. Okay.

16 A. Occasionally, the voting would come up, but not that
17 often, but I thought about it expiring, and it -- as a voting
18 thing and not as a shopping thing.

19 Q. Okay. I'm sorry. And do you know when the license
20 expired for driving purposes?

21 A. For what?

22 Q. For driving purposes, when the license expired?

23 A. I did think it was nine months after or a year, but I
24 didn't worry about the difference.

25 Q. Okay. Do you have a current U.S. passport?

1 A. No.

2 Q. Do you have any other ID other than your expired
3 driver's license with your picture on it?

4 A. No.

5 Q. Have you sought to renew your license since it expired?

6 A. I thought about renewing it to use as an ID. I haven't
7 been able to get anywhere.

8 Q. Okay. When you first got that driver's license, the one
9 that's now expired, do you remember where you went to get it?

10 A. No. I don't even remember when I lived at that point.

11 Q. No. I don't mean your very first driver's license. I
12 mean the one that recently expired.

13 A. Oh, I did it by -- when I had to get a picture.

14 Q. Right.

15 A. I went to Market Street.

16 Q. And do you remember how you got to Market Street?

17 A. I took a bus from here, and I walked from Wanamaker's to
18 the PennDOT place.

19 Q. Okay. And is there a bus that travels between this
20 building and downtown Philadelphia?

21 A. We have a private bus.

22 Q. And when you say, "we have," do you mean -- are you
23 referring to the condo association?

24 A. Am I what?

25 Q. When you say, "we have a private bus," who do you mean?

1 A. I mean the apartment house.

2 Q. Okay. And do you ever ride that bus now?

3 A. Very rarely.

4 Q. When was the last time you rode that bus?

5 A. I just recalled. I had a friend who died a month ago,

6 and I rode over in the bus with three friends. We helped each

7 other. The reason I don't ride it is because I'm afraid to

8 step down. I'm afraid my leg will collapse. It hurts when I

9 step down. It feels weak. But I went with the other people,

10 and I was helped. I had to get to Kennedy House.

11 Q. Okay.

12 A. And the bus stopped for us right in front.

13 Q. Have you --

14 A. Coming back, I took a taxi cab.

15 Q. Okay. Have you ridden that bus -- do you remember any

16 other times you've ridden that bus recently?

17 A. I had a doctor's appointment. I was afraid to take it.

18 I took a cab. No. That was the last time.

19 Q. Do you ever ride a SEPTA bus or subway train?

20 A. I can't get to them, no.

21 Q. Do you ever use paratransit?

22 A. No.

23 Q. When you see a doctor, how do you get to a doctor's

24 appointment?

25 A. With difficulty. I usually call a cab.

1 Q. Okay. Do you remember the last time you took a cab to a
2 doctor's appointment?

3 A. Clearly.

4 Q. When was that?

5 A. Oh, it was about a month ago.

6 Q. Okay.

7 A. I went to the eye doctor. And he gave me a new
8 prescription.

9 Q. Do you -- sorry.

10 A. I went out to get a cab to come home, and a young girl
11 opened the door for me. She was there to open and close the
12 doors, and I said to her, I guess I have to walk up to Walnut
13 Street.

14 She said, you're not walking anywhere, and she said,
15 you just stay right here. I'll go get it for you. I said,
16 can you leave your job? Don't worry.

17 She was very lovely. She did bring me back a cab.

18 Q. Okay. Do you remember how much it cost to take that
19 taxi?

20 A. Yes. It cost me \$15 each way.

21 Q. And have you gotten that new prescription filled?

22 A. No.

23 Q. Why not?

24 A. I have no way of getting over to get it done. I thought
25 my son was going to come in, and he does come every two weeks.

1 And I figured he could take me, but we ran into another
2 problem. Where would he park and know when to come back and
3 get me. It got awfully complicated. There's no place to park
4 in town, and if he took me in the bus, which he could, and
5 help me, I have to walk two blocks. I'm not sure I could do
6 that. Two-and-a-half blocks.

7 Q. Okay.

8 A. So, I've just kind of sat with the prescription. I
9 haven't gotten it done yet. My world's getting a little
10 smaller.

11 Q. How far do you typically -- well, let me ask you this
12 way: Do you ever get rides places in a car from one of your
13 family members or friends?

14 A. Friend. I have one friend that drives.

15 Q. Okay. And how far do you typically travel by car when
16 you go places?

17 A. I guess as far as the suburbs.

18 Q. Okay. Would you be able to ride in a car to Harrisburg
19 and back?

20 A. No.

21 Q. And if you can do your best to tell me, about how many
22 times in the last six months have you gone somewhere other
23 than a doctor's appointment by vehicle?

24 A. Other than that funeral, I don't think I have.

25 Q. Now, if you had to go to the PennDOT driver's license

1 center at Eighth and Arch to get photographed for a new ID

2 card, how you would feel about doing that?

3 A. I don't know if I would be able to do it.

4 Q. And why not?

5 A. Well, the bus won't take me there, drop me off at

6 Wanamaker's -- if I could get in the bus. Say, people that

7 were going and that knew me and could help me in and out and

8 how would I get -- how would I walk that far? That's far for

9 me. I don't even walk around the store anymore.

10 No, I couldn't do it. I'd have to maybe take a cab, but

11 then I'd have to come out and try to find one to get back.

12 I don't think I would bother.

13 Q. Well, what if you had to choose between getting your
14 picture taken at Eighth and Arch and not voting in the next
15 election; what would you choose?

16 A. I think I wouldn't bother.

17 Q. You wouldn't bother what?

18 A. Going.

19 Q. Going to PennDOT or --

20 A. Get my picture taken. I just wouldn't vote.

21 Q. Now, can I also ask you, where do you get groceries?

22 A. Downstairs. We have a supermarket.

23 Q. Okay. And what about other shopping; how do you do
24 other shopping?

25 A. Catalogs.

1 Q. Now, have you heard anything about ID cards for people
2 who are ineligible for regular PennDOT ID cards?

3 A. No.

4 Q. Have you ever heard of something called the Department
5 of State ID card?

6 A. No.

7 Q. And have you heard about some way to renew your PennDOT
8 ID without getting your picture retaken?

9 A. No. I can't imagine that.

10 Q. Is voting important to you, Mrs. Pripstein?

11 A. Voting is very important to me.

12 Q. Why is that?

13 A. It's what the country is based on, being able to vote.
14 It's a privilege. I'm willing to give up some privileges
15 because I'm getting old, but I don't want to give up that yet.

16 CROSS-EXAMINATION

17 BY MR. SCHMIDT:

18 Q. It's a little bit after noon, so good afternoon
19 Mrs. Pripstein.

20 A. Good afternoon.

21 Q. Again, my name is Kevin Schmidt. I just have a few
22 follow-up questions. Ma'am, you just testified that voting is
23 important to you. Would it be important enough if you needed
24 to go to PennDOT to ask your friend who gives you rides to the
25 suburbs to take you there?

1 A. -- to the suburbs. But we only went to the suburbs once
2 because we were going out to dinner, four ladies, and she was
3 driving.

4 No. I find it difficult to ask for favors. Very
5 difficult.

6 Q. If you asked her, do you think she would take you there?

7 A. In a minute.

8 Q. You said that despite voting being very important to
9 you, you wouldn't vote in the next election if you had to go
10 to PennDOT to get a new photo?

11 A. No. I'd like you to come back and ask me that when
12 you're 93.

13 Q. But you agree with me that what you testified to;
14 correct, ma'am?

15 A. I did testify to that. But I can't tell you what
16 happens to you -- things do get less important. Things that
17 you thought you'd -- you never would be able to do without get
18 a little bit less important to you.

19 Q. So, are you saying that voting is a little less
20 important to you now?

21 A. I suppose it's less important than when I was 50, 60,
22 40, and when I was 20.

23 Q. Right.

24 A. But it is -- it a part of my life, and it's one of the
25 few things I thought I would always do.

1 Q. And you testified earlier that you haven't made any
2 efforts to renew your driver's license. Have you tried to
3 surrender it?

4 A. No. I thought I -- you know, nobody really looks at the
5 age. They say, I want to see some ID, who you are, and you
6 show it to them. I wouldn't do it against the law. I don't
7 think. But, no.

8 Q. No, nobody expects --

9 A. Nobody -- but I was -- I kept it. Why, I can't tell
10 you, but I did.

11 Q. But have you tried to renew your driver's license,
12 ma'am?

13 A. I don't want to drive anymore.

14 Q. Have you tried to surrender it so that you could get a
15 photo ID that's not for driving purposes, but would still
16 serve for your shopping, for example?

17 A. I don't understand. Oh. Well, I use my Visa card for
18 that.

19 Q. Let me --

20 A. I can't think of any reason.

21 Q. Are you aware that PennDOT offers a photo ID for
22 non-drivers so that you can use it to identify yourself?

23 A. Yes, yes.

24 Q. Okay. Would you be interested or have you made any
25 efforts to try to get one of those IDs, ma'am?

1 A. I would be interested, but I haven't made an effort.

2 Q. Okay. And would you be interested in contacting PennDOT
3 to see if you could do that by mail?

4 A. By mail? A picture? I don't know how -- I didn't think
5 that was possible.

6 Q. Have you ever called PennDOT to ask?

7 A. No. I wouldn't know how to do it. I mean, but not by
8 mail. How would you take a picture by mail?

9 Q. Let me ask you this, ma'am: If you could do it, would
10 you be willing to find out how to do it from PennDOT?

11 A. Yeah. I mean, I don't have anything against PennDOT.

12 Q. Do you have any problem calling them; are you able to
13 call?

14 A. Am I able to call?

15 Q. Yes, do you have a telephone?

16 A. I have a telephone.

17 Q. And would you have any problem reaching out to them to
18 get information about trying to renew your license?

19 A. Sometimes hearing problem, but that's it.

20 Q. But that's it?

21 A. That's it. That's it.

22 Q. Okay. Now, you testified, ma'am, that your apartment
23 complex has its own transportation?

24 A. I don't know if it's six days a week or five days a
25 week. Six, I guess. I know that they don't go on Sunday.

1 They make a turn.

2 Q. And it's a bus.

3 A. A bus.

4 Q. And --

5 A. And I was all right with it after -- I thought I was
6 after I gave up my car, but when the leg started up, I was
7 afraid to put my leg down. It felt like it was going to
8 collapse.

9 Q. Okay. Does the driver help you in and out of the bus?

10 A. They're not supposed to. I don't honestly know.
11 They're not supposed -- they're not supposed to. They are
12 supposed to. And yet, I heard of one that almost got fired
13 because he helped a lady get out. She couldn't get out. She
14 had the same trouble. Somebody on the bus reported her --
15 reported him. I can't understand it. So I don't know. I
16 can't answer -- I guess I just can't answer that.

17 Q. In your past experiences, has any driver helped you on
18 or off the bus?

19 A. No.

20 Q. Does that bus, will that take you to a specific
21 destination, meaning if you give them the address, they'll
22 take you there?

23 A. No.

24 Q. Where will the bus take you?

25 A. It goes down Market Street, around City Hall. It stops

1 at what used to be Wanamaker's -- whatever it is now -- and
2 comes back up JFK. It makes stops on the corner at JFK, on
3 the cross streets, and then somehow it goes past the museum to
4 get home.

5 Q. Now, ma'am, you talked about --

6 A. Takes a half hour.

7 Q. Half an hour?

8 A. Yes.

9 Q. You talked about using an ID to go shopping earlier. Is
10 that a photographic identification card that you use?

11 A. No. I think I was thinking Of visa.

12 Q. Okay. So, when you purchase things, you use your Visa
13 card?

14 A. (Nods head.)

15 Q. And do you shop anywhere else other than the grocery
16 store in your apartment complex here?

17 A. I was just thinking of my credit -- go ask them. I
18 guess where else do I shop? I don't go to Macy's anymore. I
19 get a lift when my son comes in. He takes me to Trader Joe's.

20 No. I've got the restaurant downstairs, the bank. I've
21 got every -- everything's right here.

22 Q. How often does your son come in to take to you Trader
23 Joe's or anyplace else?

24 A. Well, we thought we were going to do it every other
25 week. It did work out -- almost that way. Sometimes when he

1 can't make a week. He comes and stays overnight.

2 Q. How old is your son?

3 A. 63.

4 Q. So, is it fair to say he comes every other week to see

5 you?

6 A. I guess it's fair.

7 Q. Ma'am, what's the furthest you've travelled in the last

8 year?

9 A. I didn't even get to Florida. I went -- oh, I went --

10 my son picked me up. I went to Bard College to see my

11 grandson married. I said, I can't do it, I can't do it. I

12 just can't do it. And I did it.

13 Q. Where is Bard College, ma'am?

14 A. New York State.

15 Q. How long of a ride was that?

16 A. Endless. I honestly don't know. I think around five

17 hours.

18 Q. Did you do that drive all in one -- all in one trip?

19 A. Did you ever go with my son?

20 Q. I can't say that I have.

21 A. We sure went all one way -- al one.

22 Q. It sounds like he doesn't like to stop when you are

23 travelling?

24 A. Well, no, he doesn't.

25 Q. And do you remember, ma'am, when you took that trip?

1 A. Oh, they were married in the summertime. They both
2 graduated Bard, and -- let's see. And he had to go to
3 Dartmouth in September. I'm talking out loud, and I shouldn't
4 do that. When -- when I went?

5 Q. Was it this past summer, 2012?

6 A. No, no. It was the summer before.

7 Q. Okay. So 2011, then?

8 A. Yeah.

9 Q. Okay.

10 A. Was it this summer? Because he's been at Dartmouth one
11 year. He's finishing up his Ph.D, so this is his second year.

12 Q. Ma'am, does your apartment complex have a concierge
13 service?

14 A. If they do, I didn't use it. They call themselves
15 concierge, but that's --

16 Q. If you want to go somewhere, will they call a taxi cab
17 for you?

18 A. Yes. They call that concierge, too, now? Yeah. Yeah,
19 I could call down and have that.

20 Q. Okay. What else do they do for you when you -- what
21 else do you ask?

22 A. They don't pick you up off the floor, I'll tell you
23 that. You have got to call the police.

24 Q. Ma'am, is there anyone else local to your apartment
25 complex that could give you a ride somewhere?

1 A. I don't know what you mean local to my --

2 Q. Meaning do you have any friends local other than --

3 A. I don't.

4 Q. -- just the one friend and your son?

5 A. I have got some friends in the apartment. None of us
6 drive anymore.

7 Q. Okay.

8 A. Some of us don't walk anymore.

9 Q. How do your friends get around in the apartment if they
10 don't drive?

11 A. About as good as I do.

12 Q. Do they get rides as well?

13 A. Occasionally. You see, I'm older than most of them, and
14 they go places I don't go anymore. I stopped going to the
15 Walnut Theater, I had 15 years of going, because it's hard to
16 get up and down the aisles.

17 Q. Ma'am, do you still send and receive mail?

18 A. Do I send an email or --

19 Q. Just regular mail, old fashioned paper mail with stamps?

20 A. No. I ask most people to please email me because my
21 hands are arthritic, and makes it difficult.

22 But I take your -- I take your -- my own checkbook, and
23 I take care of my daughter's portfolio, and I did my aunt's
24 until she died, and I do mine. And I wish somebody would
25 come, God, and take it from me.

1 Q. Ma'am, was that a job that you had?

2 A. My mother taught me when I was 16. She took me -- I'm
3 not supposed to talk -- do too much talking. She took me to
4 Stauffer's where all of the men would smoke cigars. It was
5 horrible. And she would -- and this tape would go, and she
6 would teach me. It was wonderful.

7 So, I've done -- I didn't work, no, but I was able to
8 take care of my children for a while.

9 Q. You did it for your family; you never did it
10 professionally, though?

11 A. No.

12 Q. Do you have a computer in your apartment here?

13 A. Of course.

14 Q. You are capable of getting on the internet?

15 A. Yes.

16 Q. But you got to be careful, right?

17 A. The mind works, still. Not as good, but it works.

18 Q. And you use email?

19 A. Yeah.

20 Q. Okay.

21 A. Don't most people?

22 Q. Ma'am, how did you get involved as a witness in this
23 lawsuit?

24 A. God knows. How did I get involved in this? This nice
25 man called me on the phone, and I couldn't say no.

1 Q. And that's Attorney Geffen sitting to your left?

2 A. Yes.

3 Q. Did he ever tell you how he got your name or your
4 telephone number?

5 A. Through another agency.

6 Q. What was the name of that agency?

7 A. I don't know, and I'm ready to kill them.

8 Q. So, at some point you got a call out of the blue from
9 somebody's office?

10 A. Exactly.

11 Q. And what did they ask you to do?

12 A. I didn't hear them.

13 Q. Okay. But at some point they got --

14 A. I didn't hear the number.

15 Q. Okay.

16 A. I'm furious when people do that. They leave -- they
17 leave their number at the end, and their voice goes down,
18 naturally, and I put the damn thing up to my ear, and I can't
19 hear a thing.

20 Q. Mrs. Pripstein, thank you so much for accommodating my
21 request for the documents that you referenced. I'm looking at
22 them, and I've shown them to Attorney Geffen, and it looks
23 like it's a Delaware Valley Regional Planning Commission
24 Questionnaire, which doesn't relate to this matter.

25 So, to clarify -- and that's okay. That's okay. We

1 appreciate it.

2 A. That's all right. This is how we do business.

3 Q. Right. Let me clarify my question, then.

4 When were you contacted by Mr. Geffen?

5 A. I don't remember. A couple of weeks ago?

6 Q. Were you contacted by Mr. Geffen?

7 A. Yes.

8 Q. What was your conversation? What did he ask you to do?

9 A. He asked me if I would be willing to go to Harrisburg,
10 if I could do that, and I said no, I couldn't. And then he
11 said, would I agree to have somebody come over here.

12 Q. To do what?

13 A. Depose me, I guess. Interview me.

14 Q. Why did he ask you to go to Harrisburg?

15 A. Because you're having a meeting about this. I didn't
16 know anything about this. I was really shocked.

17 Q. What's your understanding of what your role is here,
18 ma'am?

19 A. Everyplace I go, my role seems to be age, so I presume
20 that's what it is now is showing the difficulty.

21 Q. Do you realize that you're a witness in the lawsuit
22 about Act 18, which is the voter ID law?

23 A. I realize that I'm a witness insofar as -- yes, the ID,
24 but only insofar as Pennsylvania's concerned.

25 Q. Correct. When you had your conversations with

1 Mr. Geffen or anybody else at his office, did they explain
2 that to you?

3 A. Well, what do you mean? I'm sorry. Could you repeat.

4 Q. Sure. When you had your conversation with Mr. Geffen,
5 did they explain that you were going to be a witness in this
6 lawsuit?

7 A. This is a lawsuit?

8 Q. Yes, ma'am?

9 A. No. I didn't know it was a lawsuit. I thought it was a
10 protest.

11 Q. So, this is the first time you're finding out that
12 there's a lawsuit that you are a witness in?

13 A. Well, no. I kind of got an idea that when all of this
14 came, it would have to be.

15 Q. Okay.

16 A. It's the most exciting thing that's happened to me in
17 about 40 years.

18 Q. Did you meet with anybody from Mr. Geffen's office?

19 A. No.

20 Q. So, you only talked to somebody there one time on the
21 telephone?

22 A. It was Mr. Geffen.

23 Q. Okay. Is that correct; you only talked to him once on
24 the telephone?

25 A. I think you called me twice; once to introduce yourself

1 and say would I do this, and once more to confirm the date.

2 Q. At any time did they offer you any assistance to try and
3 get you -- to your driver's license renewed?

4 A. No.

5 Q. Mrs. Pripstein, those are all the questions that I have
6 for you. I really appreciate your cooperation today.

7 REDIRECT EXAMINATION

8 BY MR. GEFFEN:

9 Q. I have a few follow-up questions on some of the topics
10 that counsel just asked you about.

11 You were asked or you testified that you had a friend
12 who gives you rides places occasionally?

13 A. Melanie.

14 Q. And you testified that your friend, that you think if
15 you asked your friend, your friend would be willing to drive
16 you to PennDOT; is that right?

17 A. (Nods head.)

18 Q. Do you know how you would get in -- get out of the car
19 and in to PennDOT if your friend drove you up to that
20 building?

21 A. The same way that I always get in and out of a car.

22 Q. Is that -- is it difficult for you to get in and out of
23 a car?

24 A. Yes. It's difficult, but I can't sit in the middle -- I
25 mean, I can't edge my way over.

1 Q. Okay.

2 A. I have to sit nearest the door.

3 Q. Okay.

4 A. But I can -- I do have the ability to get out.

5 Q. Okay. And you mentioned that your son sometimes drives
6 you to Trader Joe's?

7 A. Yes.

8 Q. Does that grocery store have a parking lot?

9 A. Yes.

10 Q. And how do you get in and out of the Trader Joe's?

11 A. A ramp.

12 Q. And do you do that by yourself?

13 A. No, he comes with me.

14 Q. Okay. Does he ever drop you off somewhere but not get
15 out of the car and help you get into a building?

16 A. It has not happened yet.

17 Q. Okay. Would that be difficult for you to do?

18 A. If they have those heavy doors, it's extremely
19 difficult.

20 Q. Okay.

21 A. Otherwise, it's okay.

22 Q. Okay. You mentioned attending a wedding at Bard
23 College?

24 A. Yeah.

25 Q. Congratulations, by the way.

1 A. Thank you.

2 Q. And that was one or two summers ago, I think you
3 testified?

4 A. Yes. Two summers ago, we figured out.

5 Q. Now, you were asked a few questions about a concierge
6 service in this building, and you said -- I think I got this
7 down: They don't pick you up off the floor. What were you
8 referring to when you said that?

9 A. When I fell.

10 Q. And when was that?

11 A. When I broke my leg.

12 Q. Okay. Have you fallen again since then?

13 A. No.

14 Q. Good. And have you had any scares?

15 A. Have I what?

16 Q. Had any scares about falling?

17 A. Am I scared? Terrified.

18 Q. Why is that?

19 A. I'm not as steady as I was. I had fallen two times
20 before that, but each time I was pushed, and I didn't break
21 anything. I was lucky, because it was outside, and I -- my
22 head went down and hit a wall. So it was really a much more
23 dangerous fall than this, and yet this gave me much more
24 trouble.

25 Q. And when you say you were pushed, did somebody push you

1 on purpose?

2 A. I was pushed because -- I was being "lady good" --
3 whatever, and I took two old ladies -- it's funny now -- and
4 this was about six or seven years ago -- to the movies.

5 I picked them up, because they never get to the -- and I
6 took them to the movies, and I brought them back here to have
7 lunch -- dinner, and I said, "Please use the ramp," when we
8 were leaving, and this lady said to me, no, I'm better off on
9 the stairs, I do much better. I'll be fine."

10 So, I walked up the stairs -- I'm the one that usually
11 uses the ramp -- in front of her, and she slipped and she
12 knocked me over. She was fine, but I went rolling right down
13 the hill. And that's when I really got hurt.

14 Q. And when you say that you're terrified the falling, is
15 there anything that you do or don't do that you used to do
16 because of that fear?

17 A. Everything.

18 Q. Can you give me an example?

19 A. Yeah. I was completely independent. I had my car then,
20 and I -- I wouldn't take it during the week. I would go by
21 myself in town and back. After that, it just completely
22 changed my life.

23 Q. Just to clarify, is today the first time that you and I
24 have met together in your apartment, or have we done that
25 before?

1 A. No, you came, I think, three times.

2 (THE VIDEOTAPE TESTIMONY OF MINA
3 KANTER-PRIPSTEIN WAS CONCLUDED.)

4 MS. MOORE: Your Honor, that's the end of
5 Mrs. Kanter-Pripstein's testimony. We'd like to offer the CD
6 as Petitioner's Exhibit 1432.

7 THE COURT: Very good. Thank you.

8 MR. RUBIN: Your Honor, that's what we have
9 for today, and I understand the schedule was that we would end
10 around 3:30.

11 THE COURT: Well, I want you to meet after we
12 adjourn the court and talk about some of those motions in
13 limine, more particularly attorney-client privilege, okay?

14 MR. RUBIN: Yes, Your Honor.

15 THE COURT: How about we start up tomorrow at
16 9:30.

17 THE BAILIFF: Commonwealth Court is adjourned.

18 (THE PROCEEDINGS WERE ADJOURNED AT 3:46 P.M.)

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REPORTER'S CERTIFICATE

I, Marjorie Peters, a Registered Merit Reporter, Certified Realtime Reporter, and Notary Public in and for the State of Pennsylvania, that the foregoing record was taken at the time and place stated herein and was recorded stenographically by me and then reduced to typewriting under my direction, and constitutes a true record to the best of my skill and ability.

I certify that I am not a relative or employee of either counsel, and that I am in no way interested, directly or indirectly, in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 19th day of February, 2013.

Marjorie Peters, RMR, CRR

My commission expires March 13, 2016

Original certification on file at Miller Verbano Reporting

Adam D. Miller, custodian



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