

Transcript of Proceedings

Date: July 23, 2013

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



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1 IN THE COMMONWEALTH COURT OF PENNSYLVANIA

2 - - -

3 VIVIETTE APPLEWHITE; WILOLA :
SHINHOLSTER LEE; GROVER FREELAND; :
4 GLORIA CUTTINO; NADINE MARSH; :
DOROTHY BARKSDALE; BEA BOOKLER; :
5 JOYCE BLOCK; HENRIETTA KAY :
DICKERSON; DEVRA MIREL ("ASHER") :
6 SCHOR; THE LEAGUE OF WOMEN VOTERS :
OF PENNSYLVANIA; NATIONAL :
7 ASSOCIATION FOR THE ADVANCEMENT :
OF COLORED PEOPLE, PENNSYLVANIA :
8 STATE CONFERENCE; HOMELESS :
ADVOCACY PROJECT, :
9

**CERTIFIED
TRANSCRIPT**

10 Petitioners,

: C.A. No.

11 vs.

: 330 M.D. 2012

12 THE COMMONWEALTH OF :
PENNSYLVANIA; THOMAS W. CORBETT, :
13 in his capacity as Governor; :
CAROLE AICHELE, in her capacity :
as Secretary of the Commonwealth, :
14

15 Respondents. :
16
17
18

19 TRIAL DAY SEVEN

20 Honorable Bernard L. McGinley

21 Harrisburg, Pennsylvania

22 Tuesday, July 23, 2013

23 9:15 a.m.

24 REPORTED BY:

25 Gail L. Inghram Verbano, CSR, RDR, CRR

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1 Harrisburg, Pennsylvania

2 Tuesday, July 23, 2012; 9:15 a.m.

3 - - -

4 THE CLERK: All rise. Commonwealth
5 Court is now in session, Judge McGinley presiding.

6 THE COURT: Please be seated. Are we
7 ready to proceed? We have two appearances filed?

8 MS. PETERSON: Yes, Your Honor. Good
9 morning. Dana Peterson of Arnold & Porter on
10 behalf of the Petitioners. And Petitioners first
11 call LaVerne Collins.

12 - - -

13 LaVerne Collins, having first been duly
14 sworn according to law, was examined and testified
15 as follows:

16 - - -

17 THE CLERK: Please be seated.

18 - - -

19 DIRECT EXAMINATION

20 - - -

21 BY MS. PETERSON:

22 Q Good morning.

23 A Good morning.

24 Q Please state your name.

25 A LaVerne Collins.

1 Q And you are the director of the Bureau
2 of Public Transportation at PennDOT?

3 A Yes.

4 Q And you've held that position for six
5 years?

6 A Yes.

7 Q And you've worked at PennDOT for over
8 30 years?

9 A Yes.

10 Q And as director, you have
11 responsibilities related to the public
12 transportation programs in Pennsylvania?

13 A Yes.

14 Q And that would include the Shared-Ride
15 Service and the Shared-Ride Program?

16 A Yes.

17 Q And so there's both Shared-Ride Service
18 and a Shared-Ride Program; is that right?

19 A Yes.

20 Q So the Shared-Ride Service, that's a
21 door-to-door transportation service that's open to
22 the general public?

23 A Yes.

24 Q So this service would be the actual
25 transportation, so the van that takes someone from

1 Point A to Point B?

2 A Yes.

3 Q And then the program that -- the
4 Shared-Ride Program offers discounts for certain
5 individuals who want to use the service?

6 A Yes.

7 Q So the Shared-Ride Program is a way by
8 which a subset of riders can get a discount for the
9 service?

10 A Yes; a discount on the fare.

11 Q So I want to start with the Shared-Ride
12 Service. So you're familiar with the Shared-Ride
13 Service through your position as director?

14 A Yes.

15 Q And the Shared-Ride Service, that's run
16 locally by each local transportation provider?

17 A Yes.

18 Q And the local transportation provider,
19 they give the rides and oversee the service?

20 A Yes.

21 Q So, for example, in Pittsburgh, the
22 Port Authority of Allegheny County, they would be
23 the ones who oversee the service in that area and
24 give the rides?

25 A Yes.

1 Q Now, each Shared-Ride provider
2 establishes their own hours of operation for the
3 Shared-Ride Service; is that right?

4 A Yes.

5 Q And each provider establishes the days
6 of the week in which they operate the service?

7 A Yes.

8 Q And some providers may not operate the
9 service every day of the week?

10 A That's true.

11 Q And each provider has a geographic
12 service area in which they provide the Shared-Ride
13 Service; is that also right?

14 A Yes.

15 Q And the provider may not always travel
16 to a location that's outside that specific
17 geographic area?

18 A That's true, yes.

19 Q So the Shared-Ride Service, that's open
20 to the general public?

21 A Yes.

22 Q So anyone in Pennsylvania can use the
23 Shared-Ride service?

24 A As long as they're willing to pay the
25 fare; yes.

1 Q And to use the service, the individual
2 must make a reservation at least a day in advance?

3 A Yes.

4 Q And you mentioned about the fare. So
5 the providers, they charge a fare to use the
6 service; is that right?

7 A Yes. There's a fare for every trip.

8 Q Okay. For every trip. And that fare
9 varies by locality?

10 A Yes.

11 Q And that fare is typically paid by the
12 rider?

13 A Unless there's a sponsoring agency.

14 Q So in some instances, there may be
15 someone else who pays the fare for the rider?

16 A Yes.

17 Q Now, the Shared-Ride service, the
18 drivers, the individual drivers, they're not
19 permitted to physically assist riders in and out of
20 the vehicle; is that right?

21 A It varies by transit system. It varies
22 by locale. For people who are using a wheelchair,
23 the driver has to deploy a lift, and there is some
24 assistance there, yes.

25 Q But some counties may not permit this

1 assistance?

2 A That's possible.

3 Q And now I want to turn to the
4 Shared-Ride discount program.

5 So PennDOT oversees the Shared-Ride
6 Program; is that right?

7 A Yes.

8 Q And you worked on matters related to
9 the Shared-Ride Program since about 1980?

10 A Yes.

11 Q And the program offers discounts to
12 individuals who are 65 years and older and want to
13 use the Shared-Ride Service?

14 A Yes.

15 Q The individual must first register to
16 use the discount program; is that right?

17 A Yes.

18 Q And to register, the individual would
19 fill out an application form?

20 A Yes.

21 Q And they would submit that application
22 form to the local provider?

23 A Yes.

24 Q And some providers allow the
25 individuals to mail in an application; is that

1 right?

2 A Yes; some do.

3 Q And others require the individual to
4 fill out the application in person at an office?

5 A Yes.

6 Q And that would be the provider's
7 office?

8 A Yes, unless -- in the case of
9 Philadelphia and Pittsburgh, there are also
10 legislative offices where they can fill out an
11 application form.

12 Q And now, the individual needs
13 proof-of-age documentation to register for the
14 program; is that right?

15 A Yes.

16 Q And so after the person is registered
17 and if they want to use the program, they call and
18 schedule a ride at least one day in advance?

19 A Yes.

20 Q And there's also a separate
21 reduced-fare program for persons with disabilities;
22 is that right?

23 A Yes.

24 Q And that's called the Persons with
25 Disabilities Transportation Program?

1 A The Reduced-Fare Program for Persons
2 with Disabilities.

3 Q Thank you.

4 And this program allows persons with
5 disabilities to use the Shared-Ride Service at a
6 discount?

7 A An 85 percent discount, yes.

8 Q And the program defines disabilities
9 similar to the definition in the Americans with
10 Disabilities Act?

11 A Yes.

12 Q And the individual must also first
13 register before they can use that program?

14 A Yes.

15 Q And they would schedule a ride in
16 advance?

17 A Yes.

18 Q And to register, the individual must
19 provide proof of disability, such as a statement
20 from a healthcare provider?

21 A Yes.

22 Q So the Shared-Ride Program and the
23 Persons with Disabilities Program, they both offer
24 a discount on the full fare of the Shared-Ride
25 Service?

1 A Yes.

2 Q So the balance of the fare must still
3 be paid to the provider for every trip?

4 A Yes.

5 Q And that balance could be paid by the
6 rider?

7 A Could be.

8 Q Or it could be paid by someone else, a
9 program or an authorized third party?

10 A Yes.

11 MS. PETERSON: Okay. That's all I have
12 for you. Thank you.

13 MR. KEATING: Your Honor, if I may?

14 THE COURT: Sure.

15 - - -

16 CROSS EXAMINATION

17 - - -

18 BY MR. KEATING:

19 Q LaVerne -- do you mind if I call you
20 LaVerne?

21 A Feel free.

22 Q Okay. I just have a couple follow-up
23 questions to clarify things.

24 First of all, relative to the transit
25 authorities, PennDOT doesn't own the buses or any

1 of those things, do they?

2 A We do not.

3 Q Who owns them?

4 A The transit provider.

5 Q And are there also transportation
6 companies too that may own them?

7 A Yes, there are some private companies.

8 Q And PennDOT actually oversees what they
9 do and requires them to follow specific policies
10 and rules; correct?

11 A In order to be eligible for
12 reimbursement under the programs that we manage,
13 yes.

14 Q And how do people find out about the
15 Shared-Ride Program?

16 A Usually it's locally. They'll -- the
17 transit systems have Web sites. They do their own
18 advertising, whatever that is.

19 Q And I believe you indicated that -- on
20 your direct, that they had geographic areas within
21 their own specific transit authorities for where
22 they're supposed to provide service; correct?

23 A Yes.

24 Q Are they permitted to go outside that
25 geographic area?

1 A We don't control where they go; they
2 make those decisions. But yes, they can.

3 Q And the Shared-Ride Program and the
4 Shared-Ride Service, that was in effect prior to
5 voter ID law; right?

6 A Yes.

7 Q It started what, 1981?

8 A 1980. The authorizing legislation was
9 Act 101 of 1980, and the programs actually started
10 in 1981.

11 Q Now, relative to the voter ID act, are
12 the transit authorities given any instructions
13 relative to where they should provide services if
14 the customer wants to go to a PennDOT in order to
15 get a voter ID?

16 A We gave instructions to all of the
17 transportation providers to -- not to deny any
18 trip. If there was a trip that was in question, to
19 call us before there was any denial of service.

20 Q And if they called you and couldn't get
21 ahold of you, what are they instructed to do?

22 A We didn't cover that contingency, but
23 there's always someone in the office, so we
24 expected them to be able to get in touch with us.

25 Q And have you ever gotten a phone call

1 or a request from a transit authority asking for
2 instructions relative to a customer asking to be
3 provided transportation to a PennDOT location for
4 the purposes of getting a voter ID?

5 A To the best of my knowledge, no, I
6 haven't.

7 Q And if you had, what would you have
8 told them?

9 A We would have looked into the specific
10 circumstances of the trip, where the ID center was
11 located, and we would have tried to figure out a
12 way to get that person to that destination.

13 Q To what extent, if any, are you made
14 aware of complaints received by customers to
15 PennDOT concerning the services provided by the
16 local area transit?

17 A Sometimes they rise to my level.
18 Normally they go first to the transit system. If
19 the customer doesn't get satisfaction, then they'll
20 come to the bureau; and occasionally I receive
21 those calls.

22 Q Have you ever been made aware of any
23 complaints by consumers that they were denied a
24 ride to a PennDOT center for the purposes of
25 getting voter ID?

1 A I have not.

2 Q And there was some discussion during
3 your direct examination concerning who pays for the
4 ride.

5 Am I correct that PennDOT will not pay
6 for more than 85 percent of the fare?

7 A That's correct.

8 Q But the other 15 percent can be paid by
9 other local agencies?

10 A Yes, that's correct.

11 Q Would that include the Area Agencies on
12 Aging?

13 A Yes.

14 Q AAA?

15 A Yes.

16 Q Are they a county-level type of
17 authority or --

18 A Normally county or bi-county level.

19 Q And other than the AAA, are there other
20 county agencies that will provide that -- the
21 difference in the fare?

22 A Yes. There are health -- not county
23 necessarily, but healthcare providers are eligible
24 to sponsor trips, the 15 percent.

25 Q And just to reiterate, I think you

1 testified on direct, do you need a photo ID in
2 order to get an ID to be qualified for the
3 Shared-Ride Service?

4 A No, you do not.

5 MR. KEATING: Thank you.

6 - - -

7 RECROSS-EXAMINATION

8 - - -

9 BY MS. PETERSON:

10 Q Just have a few short follow-up
11 questions.

12 You testified just now about the
13 directive from PennDOT for the local Shared-Ride
14 providers to go outside their normal service area.

15 Are you aware of any local advertising
16 of that instruction to the Shared-Ride -- that the
17 Shared-Ride Service or Program would go beyond the
18 normal service area?

19 A I am not aware.

20 Q And there's nothing to that -- in that
21 respect on the PennDOT Web site?

22 A Not that I know of.

23 Q And are you aware of any such
24 advertisement on the Department of State Web site?

25 A No, I am not.

1 MS. PETERSON: Thank you. I have
2 nothing further.

3 MR. KEATING: We have no further
4 redirect -- or recross, Your Honor. Can we excuse
5 this witness?

6 THE COURT: Certainly.

7 MR. KEATING: Thank you.

8 MS. PETERSON: Thank you, Your Honor.
9 We're now going to play a video, and I'm going to
10 defer to my co-counsel, Stanton Jones.

11 MR. JONES: Good morning, Your Honor.
12 I'm Stanton Jones for the Petitioners.

13 We next will present the video
14 deposition testimony of Patricia Norton, who is a
15 voter and a fact witness. And we have copies for
16 the Court of the transcript where we've marked in
17 red the Petitioners' designations and in blue the
18 Respondents' designations, as well as a copy of a
19 single exhibit and the CD.

20 And the video is Petitioners'
21 Exhibit 1430A.

22 (Whereupon, excerpts of the video
23 deposition of Patricia Norton, Petitioners' Exhibit
24 1430A, was played in open court.)

25 MR. JONES: Your Honor, we move into

1 evidence Petitioner's Exhibit 1430-A, which is the
2 video of Ms. Norton's testimony, as well as
3 Exhibit 1430, which was the exhibit shown to
4 Ms. Norton.

5 And just for the record, I believe
6 Mr. Geffen said on the transcript that the
7 Exhibit was 4130. The correct number is 1430.

8 MR. KEATING: No objection, Your Honor.

9 THE COURT: Very well.

10 MR. JONES: My colleague, Marian
11 Schneider, will present our next witness.

12 MS. SCHNEIDER: Good morning, Your
13 Honor. Petitioners call Susan Carty.

14 - - -

15 SUSAN CARTY, having first been duly
16 sworn according to law, was examined and testified
17 as follows:

18 THE CLERK: Please be seated.

19 - - -

20 DIRECT EXAMINATION

21 - - -

22 BY MS. SCHNEIDER:

23 Q Good morning.

24 A Good morning.

25 Q Can you please introduce yourself to

1 the Court.

2 A I'm Susan Carty.

3 Q Where do you live?

4 A I live in East Goshen.

5 Q And are you a member of the League of
6 Women Voters of Pennsylvania?

7 A Yes.

8 Q What is the League of Women Voters?

9 A The League of Women Voters is a
10 93-year-old organization that has dedicated itself
11 to ensuring that all voters have the right to vote
12 unobstructed, no barriers.

13 The League knows well its history. We
14 know what women went through, struggling. We know
15 what men went through supporting us as well. Women
16 were jailed. They were beaten. They were
17 harassed. They lost their families. And that's a
18 history that we uphold today, we are committed to
19 today, to ensure that all voters have the right to
20 vote with no barriers.

21 Q And is the League of Women Voters a
22 partisan organization?

23 A No.

24 Q And today, currently, does the League
25 have an educational mission?

1 A Yes.

2 Q Could you describe the League's
3 educational mission.

4 A The League has an educational mission
5 that falls under what we call our voter services
6 part of the League. And our goal is to be sure
7 that voters understand how to vote; they understand
8 what they need to do to vote; what they need to be
9 aware of when they vote; how to go about finding
10 the information they need to vote.

11 Q And what is your position with the
12 League?

13 A I'm the president.

14 Q How long have you had that position?

15 A About six weeks.

16 Q How did you come to become the
17 president of the League? And this is -- we're
18 talking about the state, the Pennsylvania League of
19 Women Voters.

20 A Yes. Every two years the state has an
21 annual or bi-annual convention where they have a
22 nominating committee that takes time, about four or
23 five months prior to the convention, putting
24 together a slate of candidates that they feel would
25 be appropriate to fill the board positions for the

1 next two years.

2 Q So the nominating committee asked you
3 to be president?

4 A Yes.

5 Q And at the -- what happened at the
6 convention?

7 A At the convention they have another
8 meeting with delegates that are assigned to the
9 convention and then other attendees from across the
10 state who learn more about the slate, and then they
11 vote for approval of the slate.

12 Q Now, before you became the president of
13 the League, what position did you hold?

14 A I was the president of the Chester
15 County League.

16 Q And did you have any other leadership
17 position in the Chester County League?

18 A Prior to that I was the vice president;
19 and prior to that I was the education committee
20 chair.

21 Q Do you still have a role with the
22 Chester County League?

23 A Yes. I'm still finishing the role of
24 president with them for one more year.

25 Q Now, you mentioned that you recently

1 attended this state's convention. Did the topic of
2 voter ID come up at the state convention?

3 A Yes.

4 Q And you also mentioned that other
5 representatives from around the state attend the
6 convention.

7 A Yes.

8 Q What did you learn about voter ID from
9 those representatives from other Leagues?

10 A The representatives from the other
11 Leagues across the state -- we serve now about
12 30 --

13 MR. SCHMIDT: Objection; it's hearsay.

14 MS. SCHNEIDER: Your Honor, this
15 witness is offered primarily in support of our
16 renewal of the motion for preliminary injunction;
17 and so part of the -- she's going to testify that
18 her impression --

19 THE COURT: It's admissible for what?

20 MS. SCHNEIDER: What the purpose was --
21 we're laying the foundation for that evidence.

22 BY MS. SCHNEIDER:

23 Q I'm sorry. You can continue.

24 Tell me, at the state convention when
25 the topic of voter ID came up, what did you learn

1 about what the local Leagues were doing about voter
2 ID around the state?

3 A The local Leagues actually individually
4 discussed what they did in front of the convention,
5 what efforts they took, what activities they went
6 through.

7 Many of the Leagues, including Chester
8 County League, spent many hours -- we spent
9 700 hours, we figured out, volunteer hours, working
10 on helping voters.

11 Many of the other Leagues did not maybe
12 the same amount of hours, but they held more
13 frequent voter registrations. They offered public
14 meetings, open discussion for people to understand
15 what this meant. They visited churches. They
16 visited retirement homes. They visited senior
17 centers. They produced newsletters for their
18 members and for the public.

19 We were on the radio multiple times.
20 We have articles in the newspaper clarifying that
21 there was a concern.

22 Q So I just want to turn back to what you
23 said about the Chester County League.

24 You said the Chester County League
25 alone spent 700 volunteer hours on voter ID.

1 A Yes.

2 Q Can you describe a little bit more
3 about what the Chester County League, which you
4 were the president of, did around voter ID.

5 A Yes. We visited every senior center in
6 Chester County and spent hours staying there with
7 them, couple hours with each visit, helping people
8 recognize whether they had the correct ID, if they
9 did not have the correct ID, whether we are
10 currently registered. We showed them how to do
11 that on the computer. It's very easy to find out
12 for yourself.

13 We distributed materials to as many
14 churches as we could reach out too. We attended
15 the farmers' markets. We attended fairs. We
16 attended activities going on in the county. We
17 spoke at the Coatesville Veterans Hospital, to
18 women.

19 Q So the time that you were spending
20 doing this outreach on voter ID meant that you
21 weren't spending time on other activities; is that
22 right?

23 A Right.

24 Q Now let's talk about the state League.
25 Does the state League maintain an

1 office?

2 A Yes.

3 Q Where is that office located?

4 A The office is at 226 Forster Street in
5 Harrisburg.

6 Q And how many staff work in that office?

7 A We have one full-time, one part-time.

8 Q Who works in the state office?

9 A The full-time person is our executive
10 director. Her name is Bonita Hoke; and our
11 part-time person is an assistant to the director.
12 Her name is Rae Neubaum.

13 Q And what are Rae Neubaum's
14 responsibilities?

15 A Rae maintains the continuity of office
16 procedures. She answers the phone messages. She
17 greets visitors. She communicates with various
18 state League chapters as they call and ask for
19 information. She maintains a database.

20 Q So does the League have a telephone
21 number for citizens to call?

22 A Yes.

23 Q And explain to me how the telephone
24 calls are answered. Are they answered by a live
25 person?

1 A Rae would answer the telephones when
2 she's in the office. When she's not in the office,
3 there's an answering machine.

4 Q And what time of year does the League
5 receive the most calls?

6 A Clearly they're very busy prior to an
7 election and Election Day. And then things slow
8 down for a while after that.

9 Q So how does the League keep track of
10 the calls that come into the state office?

11 A The League keeps a log. They enter the
12 information from the messages or from the phones
13 actually into the computer.

14 Q And who makes that log of calls?

15 A Rae does.

16 Q And is the log created at or near the
17 time that the calls come in?

18 MR. SCHMIDT: Your Honor, I want to
19 object. I don't know if the witness has testified
20 to her foundation about this log. She just
21 testified that someone else at the League handles
22 the log, prepares the log. I don't know if she has
23 a foundation to testify to the content.

24 THE COURT: You can ask a couple more
25 questions.

1 MS. SCHNEIDER: Thank you, Your Honor.

2 We're just trying to lay the foundation for the
3 business records exception.

4 MR. SCHMIDT: Your Honor, as another
5 administrative matter, this log has never been
6 produced.

7 MS. SCHNEIDER: Yes, it has.

8 MR. SCHMIDT: It's the first time we're
9 hearing about this.

10 MS. SCHNEIDER: I'm sorry, Your Honor.
11 It has been produced in discovery. And it was
12 designated -- the particular -- we actually
13 produced logs for every month from September until
14 May. And I don't know what the first Bates number
15 is. But the Bates number of the November log is
16 VOTES0002208. So, yes, we did produce them in
17 discovery.

18 BY MS. SCHNEIDER:

19 Q Sorry. So we were talking about the
20 log of calls. And who makes the log of calls at
21 the office?

22 A Rae does.

23 Q And is the log created in the ordinary
24 course of the League's business?

25 A Yes.

1 Q And is creating the call log part of
2 Rae's normal duties?

3 A Yes.

4 THE COURT: Continue.

5 MS. SCHNEIDER: Thank you, Your Honor.
6 I'd like to mark for identification Petitioner's
7 Exhibit 1750.

8 THE COURT: It will be marked as an
9 exhibit.

10 MS. SCHNEIDER: Thank you.

11 BY MS. PETERSON:

12 Q Ms. Carty, have you seen this document
13 before?

14 A Yes.

15 Q Do you recognize it?

16 A Yes.

17 Q What is this document?

18 A This is the November 2012 call log for
19 the office phone line.

20 Q And can you turn to the second page of
21 the exhibit that I've given you.

22 And you mentioned that the call log was
23 entered into the computer, earlier. Is this a
24 printout of what's entered in the computer?

25 A Yes.

1 Q I just want to direct your attention to
2 the first row.

3 MS. SCHNEIDER: Before we continue,
4 Your Honor, I just want to mention that there were
5 telephone numbers and identifying information of
6 people that we have redacted, and that's what the
7 redactions are in this document.

8 THE COURT: Well done. And I
9 appreciate you enlarging it.

10 BY MS. SCHNEIDER:

11 Q If you could -- and if you need to see
12 it, it should be on your screen there. But if you
13 could look at the first row on the second page of
14 the exhibit and just explain what each of the
15 column headings on this document are and what they
16 signify.

17 A All right. As you look across the top
18 of the document from A to L, A is the time the call
19 was received. There were times when you don't see
20 a time there, because that would be when the phone
21 was actually picked up as opposed to a message
22 left. That's their system.

23 The date the call was received. The
24 line into the phone, name, phone number, email,
25 location of the person calling. The top in there

1 is what -- referring to the phone call.

2 Business column simply was put in
3 there, my understanding, to refer to if the call
4 had something directed to the League or if the call
5 came from an outside -- an actual business or a
6 company or somebody other than a League person.

7 The Issue column just describes what
8 the call was about.

9 Column K also is our way of
10 understanding how we look at the question as to
11 whether it would fall under an education question
12 or whether it refers to the operations of the
13 League itself.

14 And then the Solution column shows the
15 response the call was given.

16 Q Now, I just want to clarify on the time
17 the call received.

18 If there is a time indicated in that
19 column, does that mean that was a call that was
20 picked up by the message machine?

21 A Yes.

22 Q Okay. And if there's no time, it means
23 it was answered live?

24 A Yes.

25 Q So how did you the League use the

1 information in this call log?

2 A Well, I'm newer at this. But if you
3 really review call logs over a period of time,
4 sometimes they can indicate to you that there might
5 be an issue of concern that you might not be aware
6 of that you might need to address directly, whether
7 it's through your newsletters or your voter or
8 through communications with your chapters.

9 It could indicate that you also have
10 other concerns coming in, whether they have to do
11 with voting, whether they have to do with "I can't
12 find the polling place."

13 But if you see a pattern, they can
14 certainly -- this could be used as a tool to help
15 take further action.

16 Q In other words, use it as a tool in
17 your education efforts?

18 A Yes.

19 Q Now, have you reviewed the log?

20 A Yes.

21 Q Did you -- and when I mean "you," did
22 the League receive calls about photo ID based on
23 this log?

24 A Yeah.

25 Q And approximately how many calls did

1 the League receive in November on photo ID?

2 A I believe there's about 10.

3 Q And can you summarize what the League
4 learned about photo ID from these calls.

5 A Yes. When you look at the phone calls
6 focused on photo ID, you can certainly see there's
7 confusion. And the confusion not only comes from a
8 voter who has been confused at the poll -- could be
9 a voter confused before they go to the poll; it
10 could be a reflection of confusion from a poll
11 worker at the poll. Could reflect inconsistent
12 treatment of voters at the poll.

13 Q Okay. And have we reviewed this
14 document together?

15 A Yeah.

16 Q And on some of the pages there's some
17 gray highlighting. Did we highlight the calls that
18 related to voter ID?

19 A Yes.

20 Q I just want to look at a few of these
21 examples. We won't look at all of them.

22 But if you could turn to Page 6, it
23 says "6 out of 12" at the bottom, and look at Row
24 91.

25 A Yes.

1 Q Now, what issue did the caller raise in
2 this call?

3 A This caller said that at the polling
4 place, she was told she could not vote without ID.

5 Q Okay. Now, turn the page to Page 7 and
6 look at Row 96.

7 A Okay.

8 Q What issue did the caller raise in this
9 call?

10 A This caller said when asked for ID, he
11 said he had it but didn't show it. Was told "most
12 places you don't have to show ID, but here you do."
13 He was not allowed to vote without showing his ID.

14 Is that enough?

15 MR. SCHMIDT: Your Honor, I think we're
16 getting into double hearsay now, reading from this
17 document that was told to someone who is not here
18 to testify about information they got from a
19 caller.

20 MS. SCHNEIDER: Your Honor, as I
21 mentioned before, we're offering this in support of
22 renewing and extending the motion for preliminary
23 injunction and also for modifying that order,
24 because the soft rollout has caused confusion at
25 the polling place; and this is evidence of that

1 confusion. And we ask that the Court accept
2 hearsay in support of our motion for preliminary
3 injunction.

4 MR. SCHMIDT: Your Honor, we have no
5 opportunity to cross-examination these people.

6 MS. SCHNEIDER: In addition, she's also
7 testified or laid the foundation that the League
8 uses this document to enhance its education
9 efforts. And, therefore, it's not being offered
10 necessarily for the truth of the matter asserted
11 but to show what the League does with the calls
12 when they come in.

13 MR. SCHMIDT: Your Honor, we would
14 accept that -- we would accept that representation.
15 But then there's no need to go through what the
16 callers are providing, a witness that's not here to
17 be cross-examined.

18 THE COURT: I'll accept that. Okay.
19 Let's just stick with the log, not get into what
20 the person who made the call was told. I'm
21 concerned about the double hearsay. I'm not
22 concerned about the single hearsay. I'm concerned
23 about the double hearsay.

24 MS. SCHNEIDER: Thank you, Your Honor.

25 BY MS. SCHNEIDER:

1 Q Having reviewed this document -- well,
2 actually we're going to put this document aside.

3 I want to direct your attention to
4 Election Day 2012.

5 What did you do on Election Day 2012?

6 A I volunteered at a hotline call center
7 at the Channel 6 ABC in Bala Cynwyd.

8 Q What is Channel 6? Is it a TV station?

9 A It's a TV station. That's the station
10 we use that also puts on forums for us and debates.

11 Q And what geographic area does Channel 6
12 broadcast?

13 A Delaware Valley, Philadelphia, Delaware
14 Valley, all the surrounding counties.

15 Q How did you come to be a volunteer at
16 Channel 6 on Election Day?

17 A I was made aware that they needed
18 volunteers; that Philadelphia League of Women
19 Voters was coordinating that with the TV station.
20 And then they let us all go in the suburb areas; if
21 you would like to help, we would appreciate your
22 help.

23 Q And the help that they needed was to do
24 what?

25 A Answering phone calls.

1 Q So what did you do when you went to
2 Channel 6 studio on Election Day?

3 A I answered the telephone calls for a
4 while, a few hours that I was there, a short time
5 really. And then I was asked to take a different
6 role in that I was, as phone calls came in and were
7 identified as being more problematic or more
8 critical issues going on on Election Day, then I
9 was given that information and directed to call the
10 correct agencies in Philadelphia to respond.

11 Q What kinds of problems did the callers
12 call into the hotline about?

13 MR. SCHMIDT: Objection, Your Honor.

14 MS. SCHNEIDER: Your Honor, she has
15 personal knowledge of the calls that came in.
16 We're not offering it for the truth but for her
17 impressions that were --

18 THE COURT: She's reviewed the log, and
19 she can tell us what her review revealed.

20 BY MS. SCHNEIDER:

21 Q Go ahead. You can answer.

22 A My impression was that there was a
23 tremendous amount of confusion, at least reflected
24 in the telephone calls. And I never experienced
25 that personally before.

1 Q And were there calls about voter ID?

2 A Yes.

3 Q And was it your impression that there
4 was confusion caused by the voter ID law?

5 A Some, yes.

6 Q What kinds of confusion?

7 A Some people, some voters were told they
8 could not vote without an ID. Some people were
9 told they couldn't even go into the polling place
10 without an ID.

11 Others didn't have --

12 MR. SCHMIDT: Your Honor, again --

13 THE COURT: I'll give you a standing
14 objection all the way through.

15 MR. SCHMIDT: Thank you, Your Honor.

16 THE COURT: Let the witness testify.

17 MS. SCHNEIDER: Thank you, Your Honor.

18 BY MS. SCHNEIDER:

19 Q You can continue.

20 A There were voters who felt that they
21 were actually intimidated at the polls and were --
22 didn't matter what party they were at all. It
23 clearly was not a reflection of political parties.
24 There were people who were just confused and felt
25 that there was confusion as to what they should and

1 shouldn't do.

2 And they were calling because -- they
3 also had some difficulties at the polling booths
4 themselves, which was a concern. Some weren't
5 working; there was a change in polling places.

6 Q Well, turning to earlier, you mentioned
7 that you switched. First, you were answering the
8 telephone calls --

9 A Yes.

10 Q -- and then you were contacting other
11 agencies to direct them to urgent issues.

12 During that time, were voter ID
13 problems among the urgent issues that you contacted
14 other agencies about?

15 A Yes. It was made clear that there were
16 a number of polling places where people were told
17 they could not vote without their ID.

18 Q And just to clarify, on Election Day,
19 you were at the Channel 6 studios outside of
20 Philadelphia, and this was a different call number
21 and telephone number than what we looked at with
22 Exhibit 1750; is that correct?

23 A Yes.

24 Q Last area I want to talk about is, have
25 you had the opportunity to go to the library

1 recently?

2 A Yes.

3 Q What library did you visit?

4 A Malvern.

5 Q Is that your local library?

6 A Yes.

7 Q And is the Malvern Library part of the
8 Chester County Library System?

9 A Yes.

10 Q Why did you go there?

11 A I went there to see if there was
12 information on the computers that the public had
13 access to see if there was a button or something,
14 identification for photo ID information.

15 Q What did you do when you went to the
16 library?

17 A I went in and asked the gentleman at
18 the desk if he would log me in to the computer, and
19 he did. And then I noticed that there was no
20 information on the screen that was the Malvern
21 Library face page. Nothing about it.

22 Q Was that the Malvern Library home page?

23 A Yes.

24 Q And that's the screen that popped up
25 after you logged in?

1 A Yes.

2 Q Were those -- about how many computers
3 were there that were available to the public?

4 A I would say eight.

5 Q And were there other computers for
6 searching the catalog?

7 A One other that was strictly for
8 finding -- locating books in the catalogs.

9 Q And what was your impression about the
10 computers where you logged in and the catalog
11 computers about whether those computers had
12 information about voter ID?

13 A My impression was the computers that
14 were for the public to use for access to a computer
15 had no information on photo ID on their home page.

16 MS. SCHNEIDER: Thank you. I have no
17 further questions at this time. I'd like to move
18 into evidence Petitioner's Exhibit 1750.

19 MR. SCHMIDT: Your Honor, we object.

20 THE COURT: Noted. It will come in.

21 MS. SCHNEIDER: Thank you, Your Honor.

22 MR. SCHMIDT: Thank you, Your Honor.

23 May I proceed?

24 THE COURT: Sure.

25 - - -

CROSS EXAMINATION

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BY MR. SCHMIDT:

Q Good morning, Ms. Carty. My name is Kevin Schmidt. I represent the respondents in this action. I just have a few follow-up questions.

Do you still have what's been marked as 1750, the document, in front of you?

A That's this one?

Q Yes, ma'am.

A Yes. Oh, yes.

Q Okay. And could you tell me that first page there, Page 1 out of 12, what does that log represent there?

A That log should represent a breakdown of the different categories of phone calls.

Q Okay. And when were the phone calls received?

A The month of November.

Q Okay. And does this log represent the phone calls coming in from a specific area in the state, or is it the entire state of Pennsylvania?

A It covers the whole state.

Q Okay. And you testified that November is the busiest for these calls to be coming in to

1 the League of Women Voters; is that correct?

2 A Yes.

3 Q Okay. Can you look at Page 1 and
4 scroll down to Voter ID and tell me what the number
5 is there of calls.

6 A Yes. I saw that too. They listed it
7 as one.

8 Q One call, ma'am?

9 A Clearly it's not.

10 Q Well, we can agree that it says one
11 call. I know that you testified that there were 10
12 calls on the log; is that correct?

13 A Right.

14 Q Okay. So out of the entire
15 Commonwealth, the League of Women Voters in
16 November received 10 calls on voter ID?

17 A I'll clarify that: The state office
18 receives these phone calls. Every chapter across
19 the state has a phone as well, every chapter that's
20 in the League. So if I were in Chester County and
21 had a question, I wouldn't call the state. I would
22 called my local.

23 So my sense, honestly, is the
24 reflection of this phone log would be more likely
25 people that have no understanding of the League and

1 they're not a part of a chapter, a local --

2 Q Okay. But it's part of your mission to
3 educate people about the League, about voting, make
4 them aware of what you do; isn't that correct?

5 A Right.

6 Q And you can agree with me that your
7 prior testimony was that 10 calls went into this
8 facility; is that correct?

9 A It appears that way.

10 Q That was for the entire month of
11 November; correct?

12 A Correct.

13 Q And that's the busiest call month for
14 the League; is that correct?

15 A Right.

16 Q Do you know how many people voted in
17 the November election, 2012, ma'am?

18 A No.

19 Q Now, ma'am, you also talked about, when
20 you were acting as a volunteer at Channel 6, that
21 there were calls coming in from people who may or
22 may not have suffered some confusion at the polls;
23 is that correct?

24 A Correct.

25 Q Okay. Did you see, on the day of the

1 election in November, anybody refused at a poll for
2 lack of an ID?

3 A Did I personally? I couldn't have. I
4 was in a phone office. But I didn't see anybody.

5 Q So you just overheard these calls
6 coming in; is that correct?

7 A In my ear. I listened to them.

8 Q So they were calling you directly?

9 A Yeah.

10 Q But you didn't see anybody refused; is
11 that correct?

12 A No.

13 Q You were not at the polls?

14 A No.

15 Q Okay. You were at Channel 6 the entire
16 day?

17 A Correct, yeah.

18 Q So when these calls came in -- and if
19 I'm understanding the mission of the League of
20 Women Voters correctly, you were educating them on
21 what was needed; correct?

22 A We were answering their questions about
23 concerns that they had or what they should do,
24 where they should go or were they being given
25 correct information.

1 Q So you were educating them about Act 18
2 and what currently was required for that election;
3 is that correct?

4 A Right, yes.

5 Q And were people receptive to that?

6 A Yes. Actually, my sense was that many
7 of the calls were because that was their perception
8 but when they went to vote and heard something
9 different, they were confused, going, "I didn't
10 think that was the case."

11 And then they would call, saying, "Am I
12 right or wrong? And should I go back?" And we
13 would indicate that they should go back.

14 Q But you clarified that confusion;
15 correct?

16 A Yeah.

17 Q How many calls did you take that day?

18 A I couldn't tell you. There were
19 approximately 8 or 10 phone lines, and they were
20 ringing all the time.

21 Q Why would a voter know to call
22 Channel 6?

23 A I think that was -- I didn't know that
24 either. That was actually on the television.
25 Channel 6 advertises that they have a hotline on

1 voting day, which I didn't know that.

2 Q And the hotline advertisement said, "If
3 you have any problem voting at the polls, please
4 call in and air your complaints to Channel 6"; is
5 that correct?

6 A Yeah. Air your complaints or find out
7 what you should do, yes.

8 Q Did they ask anybody of the voting
9 successes that day, any of those stories?

10 A That -- we do get that on the hotline.

11 Q That's not sexy enough for Channel 6?

12 A Right.

13 Q Now, you also said you went to the
14 Malvern Library; is that correct?

15 A Yeah.

16 Q And when did you go there again, ma'am?
17 Sorry.

18 A It's been a few days ago. I can't tell
19 you what day it is today.

20 Q And you inspected their computers; is
21 that correct?

22 A I did.

23 Q And you were looking for whether or not
24 the computers had any information about voter ID
25 prominently displayed; is that correct?

1 A Correct.

2 Q And your testimony is that when you
3 went in there, you didn't see any; is that correct?

4 A Correct.

5 Q Now, did you go to the librarian or any
6 library official and explain to them that you did
7 not see that?

8 A Yes, I did.

9 Q And did you ask them to now prominently
10 display that as their partnership with the
11 Department of State?

12 A That's very good. Actually, what I did
13 learn was that the county system, our county
14 system, Chester County system, does have a symbol
15 on it. But we were -- it was communicated to me
16 that all of the county systems across the state
17 were advised to do that.

18 And it was also indicated to me -- but
19 they all don't have it. I did look at them. I
20 didn't look at all of them. But even though it's
21 on the county Web site, we have nine libraries. So
22 if you go into each individual library, it's not
23 there. And when you go into their library
24 computer, it doesn't show you the county home page
25 when you open up the -- the individual library.

1 Q So this was a branch of Chester County
2 on the Malvern branch?

3 A Right.

4 Q Okay. Did they say that they would,
5 after you spoke with them, put the ID button back
6 on the computers?

7 A No. I did not direct them to do that.

8 Q You didn't?

9 A No.

10 Q Is that consistent with the League of
11 Women Voters' mission?

12 A No. I can't direct them what to do. I
13 asked him if he understood, did he know why they
14 weren't there.

15 And he said, "No, but I guarantee
16 they're not there." So I said that was most
17 interesting.

18 That was it. I had no idea that I
19 could go in there and say, "You have to do this."

20 Q Did you ask him to put it up?

21 A No, I did not.

22 Q Now, ma'am, you testified earlier about
23 the League of Women Voters' education mission.

24 A Yeah.

25 Q And does that education mission,

1 helping people understand how to vote, providing
2 voter services, does that include educating people
3 on Act 18, the voter ID law?

4 A Yes, it would.

5 Q Now, what faculties has the League of
6 Women Voters set up since Act 18 was enacted?

7 A We did not, as far as I'm aware of,
8 particularly at the county level, set up anything
9 new and different, because Act 18 falls under our
10 mission of voter services. So over time, if
11 anything comes up that has to do with voting, it
12 would fall under our voter services area.

13 Q So you haven't had to make any changes
14 in your mission or in your faculty since Act 18 was
15 enacted?

16 A I don't know what you mean by faculty.

17 Q I guess you haven't changed your
18 ordinary course of business prior to Act 18, post
19 Act 18. Do you understand that question, ma'am?

20 A I got that part. Yes.

21 Our mission has not changed. But
22 definitely, I think the word "faculty" has
23 certainly changed in that it has consumed much more
24 time and effort and more extensive outreach than we
25 normally do on a given day.

1 Q Ma'am, back in July 2012, some of your
2 colleagues testified about some outreach efforts
3 that the League was making. And two of them in
4 particular, Madeline Rawley and Janice Horn -- are
5 you familiar with them?

6 A Vaguely, yes. Not well, though.

7 Q Well, they both testified that, in
8 advance of the hearings in July, that they did some
9 investigation into PennDOT driver's licensing
10 centers. Are you familiar with that?

11 A Vaguely.

12 Q And you also testified that it was a
13 coordinated effort requested by some organizations
14 like the voter coalition. Are you familiar with
15 that?

16 A I'm familiar with that.

17 Q And basically what they did was they
18 went into PennDOT driver's licensing centers and
19 looked around to see what information was there.
20 And they testified under oath that they did that so
21 that they could be prepared to bring elderly people
22 who needed to obtain ID in there, and they just
23 wanted to be prepared to do that.

24 Are you aware of that, ma'am?

25 A I am aware of that, what you're saying

1 about them. But that was not particularly
2 something that every League across the state even
3 had the ability to do.

4 Q Okay. Are you aware of what divisions
5 of the League across the state have taken elderly
6 voters to PennDOT to obtain ID?

7 A No, I'm not aware of which ones
8 specifically.

9 Q Are you aware that that's occurred at
10 all?

11 A I'm aware that that was discussed. I'm
12 aware that my impression was that there's a
13 hesitancy to physically take somebody that is a
14 stranger in a car and the liabilities for that.

15 Q Has there been any directive from the
16 League -- you being president or members of the
17 board -- not to do that?

18 A I am more aware of that at the local
19 level, saying not to do that. I'm aware that at
20 the state level there was a conversation, but I
21 wouldn't say it was a directive.

22 Q Could you explain that more? Was there
23 information put out there dissuading people from
24 assisting elderly voters to get ID?

25 A I heard -- well, not assisting voters.

1 We were assisting voters in a variety of ways.
2 There was concern about liability if you drove
3 someone in your car. At our local level we had a
4 lot of conversations with that -- the whole bus
5 service. I can't think of the name of the bus
6 service. But they wouldn't do it for free.

7 And then there was a conversation about
8 doing it for a lower price. And then they just
9 said, We can't do it. Our funds have been cut for
10 this year for the City, so we can't afford to do
11 it. That really was the biggest attempt to try to
12 help people that I'm aware of.

13 Q And when you say "our funds," who were
14 you speaking of?

15 A Pardon me?

16 Q Who were you speaking of when you say
17 "our funds"? What group are you talking about?

18 A Oh, am I talking about the local
19 Chester County League as opposed to the state
20 League?

21 Q You said "our." I'm just trying to
22 clarify who you were referring to.

23 A That's my problem, because I have two
24 positions. That would have been more the Chester
25 County, local level.

1 Q So if I heard you correctly, you're the
2 president of the League; but you're also still
3 involved at the Chester County level?

4 A Yes.

5 Q You're very busy, I guess?

6 A Yes.

7 Q Now, do you assist people in similar
8 fashion to register to vote? Does the League do
9 that?

10 A Yes.

11 Q And how do you do that? Can you
12 explain that to me.

13 A Yes. I can explain to you how we
14 assisted with all of our 700 volunteer hours in
15 that we -- we were asked or called and asked to
16 come to certain senior centers, all the county
17 senior centers, some of the assisted living
18 centers.

19 And we would go and talk to people as a
20 group and explain to them what they needed to have.
21 And then we would kind of break up and just sit
22 with them individually and help them identify if
23 they have the right ID; were they voter-registered
24 currently, because they were in different locations
25 maybe from a year ago, because they were older.

1 Is that what you're asking me?

2 Q Yes.

3 And did that include both getting
4 people to register to vote or to educate them about
5 voter ID? I was speaking specifically about
6 getting people to register to vote.

7 A Well, particularly, the focus was on
8 voter ID, because most -- it's very common for the
9 elderly to use an expired driver's license. And
10 they were so happy to show it to you that they had
11 it and were very disturbed when they learned that
12 it wasn't acceptable.

13 So sometimes there were family members
14 there that we would communicate with to help them.
15 Sometimes they needed to re-register because they
16 were at a different address. And some of them had
17 to do an absentee ballot because they were just not
18 well enough to go. So it was kind of a mixed bag.

19 Q Now, at the beginning of your answer
20 you said the League was asked to do this.

21 Who asked them?

22 A Oh, some of the -- the senior center --
23 the county senior centers actually contacted our
24 county commissioners and asked if they would help.
25 And the commissioners referred the call to us and

1 said, "You're the ones to help."

2 Q So the League itself didn't reach out
3 directly to these care facilities; they were asked
4 by somebody in local government; is that correct?

5 A No. I'm sorry.

6 MS. SCHNEIDER: Excuse me, Your Honor.
7 I object to Mr. Schmidt's characterization of the
8 facility as a care facility. This was a county --
9 I think that the witness has not testified that
10 these were care facilities as that term of art is
11 used in this case.

12 THE COURT: I think the question -- the
13 answer involved county senior centers; is that
14 correct?

15 THE WITNESS: Yes. That was -- that's
16 exactly right. And we were contacted -- we were
17 contacted by the senior center director for the
18 county.

19 BY MR. SCHMIDT:

20 Q Okay, ma'am. And does this type of
21 contact happen in the normal course of League of
22 Women Voters' operations?

23 A Not as frequent as it was. We had a
24 lot more contact, actually -- requests for us to
25 come help -- than I was used to.

1 Q And people looked to the League because
2 that's part of your mission, is to educate voters
3 about voter ID and voter registration. And that's
4 what you do in the normal course of your
5 operations; is that correct?

6 A Yeah.

7 THE COURT: The Department of State,
8 have they ever contacted the League that you know
9 of?

10 THE WITNESS: That would be -- at the
11 state level? I don't know that it's within the
12 state.

13 BY MR. SCHMIDT:

14 Q Just a few more things, Ms. Carty. The
15 League of Women Voters, is this a membership-driven
16 organization?

17 A Yes.

18 Q And you also received donations; is
19 that correct?

20 A Yes.

21 Q Do you receive any other funding
22 sources?

23 A Other funding sources comes from
24 membership, comes from donations, and comes from
25 grant programs that we organize for outreach,

1 education.

2 Q So you receive grants. Are they both
3 state and federal grants?

4 A Yes.

5 Q So you receive a grant from the
6 Commonwealth of Pennsylvania in some form or
7 fashion?

8 A Yes.

9 Q And are there any restrictions placed
10 upon you in the use of this funding?

11 A Well, you're asking somebody who really
12 knew here. I'm just really learning about that.
13 So I could not give you a really honest answer. I
14 would be guessing.

15 Q Is it fair to say that the League can
16 use its funding as it deems appropriate and where
17 it deems appropriate; is that correct?

18 A I wouldn't say that. For grant money?

19 Q Any funding source that you have, the
20 League can choose to use it as it wants to;
21 correct?

22 A No.

23 Q Can you explain that to me.

24 A Well, if I understand your question
25 correctly, if you receive funds, if you receive

1 funds that are focused in a grant direction,
2 there's usually a grant guide as to how that is to
3 be done. And your grantee has already complied
4 with their --

5 Q Understood. Let's separate the grant
6 money from the membership and the donation money.

7 The membership and donation funds, are
8 there any restrictions on the League to use those
9 funds?

10 A Yeah. Membership funds go into the
11 education fund. And, therefore, those funds, once
12 we have what we're allowed to keep -- because they
13 get, the state and the national levels sort of
14 divide it up -- they are directed for education
15 fund, which has its own guidelines on it being a
16 nonpartisan education outreach.

17 Q And would voter education fall into
18 that group?

19 A Yes.

20 Q Ma'am, I notice on your Web site that
21 there's a voter ID subcommittee. What is that?

22 A When the voter ID bill became apparent
23 to us to be a concern and confusion, we felt that
24 we needed more focus, more people working in the
25 voter services committee.

1 And every chapter is basically subject
2 to how many members you have and how active they
3 are. And in my particular situation at the county
4 level, our voter services committee was small and
5 older, elderly -- more elderly than me. And so we
6 felt we needed people who could act a little more
7 quickly and use technology a little better.

8 Q And, ma'am, you also have a newsletter
9 that goes out monthly; is that correct?

10 A Correct -- are you talking about the
11 state?

12 Q That's my next question. Are there
13 multiple versions of it? Is there one newsletter?

14 A Yes. The state has a quarterly, what
15 they call "Voter," which I have had no part in yet,
16 but I will. And then each chapter has a monthly
17 newsletter.

18 Q Okay. And within the newsletters, both
19 the quarterly newsletter and the monthly
20 newsletter, is there a section dedicated to
21 voter ID education?

22 A A section? At the county level, no.
23 At the state level over the past year, I've seen a
24 couple articles about it, yes.

25 Q And are the articles educational

1 articles or opinionated articles?

2 A That could be your opinion. They're
3 meant to be educational certainly. I would guess
4 you can certainly look at that and say there's
5 opinion in there.

6 Q Would it be contrary to the League's
7 mission to make statements in opposition to Act 18?

8 A Would it be contrary for someone to not
9 be in opposition? Is that --

10 Q No. Would it go against the League's
11 mission to make statements in opposition to Act 18?

12 A Yes.

13 MR. SCHMIDT: Your Honor, I have
14 nothing further.

15 THE COURT: Thank you, Counselor.

16 MS. SCHNEIDER: Your Honor, I have a
17 few additional questions, if I may. Thank you.

18 - - -

19 REDIRECT EXAMINATION

20 - - -

21 BY MS. SCHNEIDER:

22 Q Mrs. Carty, you testified about the
23 hotlines, and I wanted to talk to you a little bit
24 about other voter hotlines.

25 Are you aware of the 1-866-OUR-VOTE

1 hotline?

2 A Yes.

3 Q Is that a hotline that the League
4 publicizes for voters to call?

5 A Yes.

6 Q And so in addition to the state hotline
7 that you mentioned and that the local Leagues each
8 have their own telephone number, there's an
9 additional hotline that voters call; is that
10 correct?

11 A Yeah.

12 Q So the call log is a small subset of
13 callers that might be using various hotlines around
14 the state?

15 A Clearly, that -- yes, that was my first
16 impression when I looked at it. I thought, Oh,
17 what is this? How is it possible, in a sense?

18 But then I thought, Well, wait a
19 minute; you've got 32 Leagues. And if I know about
20 a League, I would call my own.

21 Q Okay. I just want to direct your
22 attention to the first page of Exhibit 1750, and
23 that is the list of how the calls are categorized.
24 And about -- towards the top, do you see it's about
25 a third of the way down on the first page it says

1 "Election Day Issues" as a topic.

2 Do you see that?

3 A Yes.

4 Q And then I just want you to turn to
5 some of the gray-highlighted calls on voter ID.

6 MR. SCHMIDT: Your Honor, I'll just
7 restate my objection to the double hearsay.

8 MS. SCHNEIDER: Your Honor, he asked
9 whether those calls were categorized as voter ID,
10 and I wanted to point out that those calls were
11 categorized under the topic "Election Day Issues."

12 THE COURT: We'll let the witness
13 answer that, if she could.

14 MS. SCHNEIDER: Okay.

15 BY MS. SCHNEIDER:

16 Q For example, can you turn to Page 7 of
17 this document and look at Row 96.

18 A Yes.

19 Q And that was one of the examples we had
20 looked at before. But do you see Column H where it
21 says the topic?

22 A Yes.

23 Q And what topic was that characterized
24 as?

25 A Election Day issues.

1 Q So based on your review of the call
2 log, were some of the voter ID calls categorized as
3 Election Day issues?

4 MR. SCHMIDT: Objection, Your Honor.

5 MS. SCHNEIDER: Your Honor, he opened
6 this up on his cross.

7 MR. SCHMIDT: It's a leading question,
8 Your Honor.

9 THE COURT: It's been admitted in the
10 log. You can look at the log. Do you have an
11 answer to that?

12 THE WITNESS: Yes. The answer would be
13 yes.

14 BY MS. SCHNEIDER:

15 Q Thank you. I just want to go back to
16 the questioning that you had about the library
17 system.

18 Is it your understanding that when you
19 log on to the Chester County Library System at
20 home, there is information about voter ID; is that
21 right?

22 A Yes.

23 Q But was it -- is it your testimony that
24 when you actually went to one of the branches of
25 the library, there was no information about voter

1 ID?

2 A Yes.

3 Q And so do you -- did the League have
4 any discussion with the Chester County Library
5 System about voter ID?

6 A Currently?

7 Q No, not currently, but putting the
8 information about voter ID on their system
9 computer.

10 A No.

11 Q No?

12 A Not a specific conversation about
13 having the ID button be on the individual computers
14 in the individual libraries; is that --

15 Q What was your discussion with Chester
16 County Library System?

17 A Way back, the director of the Chester
18 County Library System actually is a League member.
19 So we had to communicate with them, particularly
20 more on -- we did it on Smart Voter issues, to get
21 a button for Smart Voter.

22 But I do not remember any conversation
23 with the library at all about voter ID, except our
24 voter services committee chair communicated to us
25 that she communicated with them, which is -- people

1 down the road.

2 Q Can you explain what Smart Voter is.

3 A Smart Voter is the new format for the
4 voter's guide that used to be a paper document you
5 got once in an election in the newspaper. And
6 because of the cost of the newspaper version, only
7 one day, we had no choice but to take it out of
8 there and go to the computer system.

9 Smart Voter is online all the time. So
10 all during an election period, if I have an
11 interest in what's happening, I can go to Smart
12 Voter any day and see who is running and what
13 candidates have responded to questions with their
14 information on there.

15 Q So Smart Voter is an electronic version
16 of the League's voter's guide?

17 A Correct.

18 Q Does it come from the national league?

19 A It comes from actually a state league,
20 yes.

21 Q Finally I just want to go back -- you
22 talked about discussing getting voters to the
23 driver's license center by a bus. Were you talking
24 about the Rover bus?

25 A That was it; right.

1 Q What is the Rover bus?

2 A Rover is a transportation system that's
3 available to elderly, but it does cost -- it's not
4 expensive. And it helps people get where they need
5 to get at times. But apparently when the voter ID
6 situation came up, we, the League, contacted Rover
7 to see if they would help voters get to PennDOT.

8 And they couldn't because they didn't
9 know how long they would be at PennDOT or -- so
10 they literally said they couldn't afford to add
11 that into their services.

12 Q And it also wasn't free; is that
13 correct?

14 A It was what?

15 Q It was not free?

16 A No, it was not free.

17 Q And were they asking the League to pay
18 for the cost for getting voters there?

19 A No.

20 Q And the Rover bus is limited to Chester
21 County; is that right?

22 A Correct.

23 MS. SCHNEIDER: That's all I have, Your
24 Honor.

25 MR. SCHMIDT: Just very briefly, Your

1 Honor.

2 - - -

3 RE-CROSS-EXAMINATION

4 - - -

5 BY MR. SCHMIDT:

6 Q Ms. Carty, could you take a look again
7 at Petitioner's Exhibit 1750. And you were asked
8 about Field H, which is Election Day issues.

9 Are the content of those issues limited
10 to voter ID? Are there more than voter ID
11 discussed on calls identified as Election Day
12 issues?

13 A There's other Election Day issues that
14 are other topics.

15 Q Okay. And you also testified that
16 there's 32 Leagues. Is this the only call log
17 kept?

18 A Oh, no. This is just -- this is just
19 the state. Every League has a phone number. All
20 Leagues are not consistent or the same based upon
21 their membership and who's willing to have the call
22 line in their house basically.

23 The bigger Leagues that have more
24 membership would have a much better call line, more
25 effective call line. Some Leagues are very, very

1 small and they're kind of isolated.

2 Q Are the other Leagues, do they document
3 calls similar to what the state does, like this
4 chart?

5 A My understanding would be they should.
6 I have not spoken to everyone yet to ask them how
7 they do it or if it is different than the state.

8 Q Have you, as president, seen call logs
9 come in from any of the other 32 League chapters?

10 A No. Have I personally seen them? No.

11 Q So you can't testify whether or not
12 they actually exist or if it's more of a policy; is
13 that correct?

14 A (Nods head.)

15 MR. SCHMIDT: That's all I have,
16 Your Honor. Thank you.

17 MS. SCHNEIDER: Your Honor, I have
18 nothing further.

19 THE COURT: Thank you, Mrs. Carty.

20 THE WITNESS: Thank you.

21 THE COURT: It's 11:00. Take five
22 minutes and come back.

23 THE CLERK: The Court is in recess.

24 (Recess taken.)

25 THE CLERK: Court is in session.

1 THE COURT: Stay seated, please.

2 Thank you, Counsel. I'm informed that
3 we have two videos, maybe 25 minutes apiece,
4 50 minutes in total. That will wind up the morning
5 session.

6 MR. JONES: Great. Thank you, Your
7 Honor.

8 The first video we'll play is the video
9 deposition of Nadine Marsh. Ms. Marsh is a voter
10 and also a former Petitioner in this case. And
11 I've already given to Respondents' counsel, the
12 court reporter and the bailiff for Your Honor a
13 copy of the CD and the written transcript as well
14 as the exhibits.

15 THE COURT: We have this. Thank you,
16 Counsel.

17 (Whereupon excerpts of the video
18 deposition of Nadine Marsh, Petitioners' Exhibit
19 2100, was played in open court.)

20 MR. JONES: Your Honor, we'd like to
21 move into evidence Petitioners' Exhibit 2100, which
22 is a video of Mrs. Marsh's deposition, as well as
23 Petitioners' Exhibit 2100-A through 2100-G, which
24 were the exhibits to the deposition.

25 MR. HUTCHISON: Your Honor, the only

1 objection we would have is to Exhibit 6, which is
2 not an official PennDOT document and is partially
3 inconsistent with the stipulation between the
4 parties last summer regarding the center hours.

5 MR. JONES: Your Honor, I believe
6 Mrs. Marsh explained what the document is: it's a
7 printout from the Web site DMV.org. She
8 authenticated the document.

9 MR. HUTCHISON: It doesn't address the
10 objection. That's not a PennDOT document.

11 THE COURT: It will be admitted.

12 MR. JONES: Your Honor, we have one
13 more video to play, the deposition of Catherine
14 Howell. I understand it's about 28 minutes, which
15 would run us a couple minutes past noon.

16 THE COURT: That would be fine.

17 MR. JONES: The CD which is being
18 handed up is Petitioners' Exhibit 1427.

19 THE COURT: What was Mrs. Marsh's
20 exhibit? 2100?

21 MR. JONES: Correct; and the exhibits
22 to her exhibit were 2100-A through 2100-G.

23 THE COURT: And what are you going to
24 do with Ms. Howell? What's her deposition?

25 MR. JONES: The video of the deposition

1 is Petitioners' Exhibit 1427; and there are no
2 exhibits to the deposition.

3 THE COURT: Okay.

4 (Whereupon excerpts of the video
5 deposition of Catherine Howell, Petitioners'
6 Exhibit 1427, was played in open court.)

7 MR. JONES: Your Honor we move into
8 evidence Petitioners' Exhibit 1427, which is the
9 video of Mrs. Howell's deposition.

10 MR. SCHMIDT: No objection.

11 THE COURT: It will be admitted.

12 MR. RUBIN: Your Honor, that's all we
13 have for today. Tomorrow morning we'll have some
14 brief written submissions, which won't take very
15 long. The one outstanding item is that I
16 understand that the Respondents were supposed to
17 provide a list of who their witnesses will be and
18 when they'll be testifying, for the Court and for
19 the Petitioners.

20 MR. HUTCHISON: Your Honor, we do have
21 a proposed schedule that we can distribute to the
22 Court and to Petitioners.

23 THE COURT: Are there any plans for
24 Counsel to meet this afternoon?

25 MR. RUBIN: Your Honor, we received

1 shortly before midnight a list of who the 144 were
2 for the first time. We've sent that to our
3 colleagues at BLDS. Our plan was to touch base
4 with them and then get in contact with Respondents
5 as appropriate to figure out how we can move that
6 forward, as the Court has asked.

7 MS. HICKOK: Your Honor, they have
8 also asked for information from PennDOT. I've been
9 in touch with PennDOT to find out how to produce
10 that information. It will necessitate taking one
11 of the exhibits that's been admitted so far and
12 placing that exhibit under seal. But if we can
13 work that out, we will find a way to produce that
14 data in a way that conforms to PennDOT's legal
15 obligations.

16 THE COURT: Okay. Now, I see your
17 Proposed Witness Schedule for Monday the 29th. I
18 am on another panel at 1 o'clock on Monday the
19 29th, so can we move that to Tuesday the 30th?
20 Because my afternoon panel will only be a couple
21 hours.

22 MS. HICKOK: That's fine, Your Honor.

23 MR. RUBIN: Just to clarify, there will
24 be no Court on that day?

25 THE COURT: Yeah. I have to do some --

1 I'm on another panel. So we'll have to schedule
2 these witnesses for Tuesday and thereafter.

3 MS. HICKOK: Thank you, Your Honor.

4 MR. KEATING: Your Honor, one thing.

5 Other than the written submissions you
6 plan to submit tomorrow, are you planning on any
7 other witnesses in your case in chief?

8 MR. RUBIN: Your Honor, by agreement,
9 Kurt Myers will be testifying in their case but
10 also as part of our case in chief. We also --
11 given where we stand on the data -- and we haven't
12 gotten it -- we'd like to keep open our case in
13 chief or get an agreement that we can present
14 evidence on that in a rebuttal case.

15 And we can do it either way. But we
16 don't have any more live witnesses in our case in
17 chief other than relating to that issue; and then
18 also Mr. Myers.

19 MR. KEATING: We would not object,
20 first of all, to Mr. Myers. That's not
21 problematic. Yes, you can cross-examine him beyond
22 the scope of direct.

23 But what I'm sort of searching for is,
24 I believe there's going to come a point in time
25 where we're going to ask for a Rule 230.1 motion in

1 this case, and I'm just trying to figure out when
2 that was going to be presented.

3 THE COURT: If you know.

4 MR. KEATING: Compulsory nonsuit.

5 MR. RUBIN: Right. Subject to the 144
6 data, to the extent that's relevant to responding
7 to that -- we don't think it necessarily is -- but
8 we would want to have that information, have a
9 chance to potentially take discovery, potentially
10 reach an agreement, potentially present to the
11 witness concerning that.

12 MR. KEATING: And we don't anticipate
13 that that information, one way or the other, is
14 going to be determinative in any way relative to
15 the rule we're going to be asking for.

16 THE COURT: Okay. Well, we can
17 coordinate that as best we can as we move along.
18 Okay?

19 MR. KEATING: Thank you, Your Honor.

20 THE COURT: So we'll recess until 9:30
21 tomorrow. Okay?

22 MS. HICKOK: Thank you, Your Honor.

23 THE CLERK: Court is in recess.


24 (Proceedings adjourned: 12:12 p.m.)

25

1 CERTIFICATE OF SHORTHAND REPORTER

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I, Gail Inghram Verbano, Registered
Diplomate Reporter, Certified Realtime Reporter,
Certified Shorthand Reporter (CA), and Notary
Public, the officer before whom the foregoing
proceedings were taken, do hereby certify that the
foregoing transcript is a true and correct record
of the proceedings; that said proceedings were
taken by me stenographically and thereafter reduced
to typewriting under my supervision; and that I am
neither counsel for, related to, nor employed by
any of the parties to this case and have no
interest, financial or otherwise, in its outcome.



Gail Inghram Verbano, RDR, CRR, CSR
CA-CSR No. 8635

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