

Annapolis, MD

IN THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY

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LINDA SCHADE, ANDREW HARRIS, MARK :
 ELRICH, KWAME ABAYOMI, TERRENCE :
 FITZGERALD, and PAUL SUH, Plaintiffs, :

vs. : Case No.

MARYLAND STATE BOARD OF ELECTIONS, : C0497297

LINDA H. LAMONE (as Administrator of :
 Maryland's State Board of Elections), :

Defendants. :

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Deposition of LINDA H. LAMONE, a witness
 herein, called for examination by counsel for
 Plaintiffs in the above-entitled matter, pursuant to
 notice, the witness being duly sworn by Robert M.
 Jakupciak, a Notary Public in and for the District
 of Columbia, taken at the offices of Maryland
 Department of Agriculture, 50 Harry S. Truman
 Parkway, Annapolis, Maryland 21401, at 9:00 a.m.,
 on March 9, 2007, and the proceedings being taken
 down by Stenotype by Robert M. Jakupciak, RPR.

2	<p>1 APPEARANCES</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 DAVID B. FLORENZO, ESQUIRE</p> <p>4 HENRY A. THOMPSON II, ESQUIRE</p> <p>5 Kirkland & Ellis LLP</p> <p>6 655 Fifteenth Street, N.W.</p> <p>7 Washington, D.C. 20005-5793</p> <p>8 (202) 879-5000</p> <p>9 On behalf of the Defendants:</p> <p>10 MARK J. DAVIS, ESQUIRE</p> <p>11 Office of the Attorney General</p> <p>12 200 St. Paul Place</p> <p>13 Baltimore, MD 21202-2004</p> <p>14 (410) 576-6356</p> <p>15 On behalf of the Defendant Intervenors:</p> <p>16 STUART O. SIMMS, ESQUIRE</p> <p>17 SHELLY MARIE MARTIN, ESQUIRE</p> <p>18 Brown Goldstein Levy, LLP</p> <p>19 120 E. Baltimore Street - Suite 1700</p> <p>20 Baltimore, MD 21202-6701</p> <p>21 (410) 962-1030</p> <p>22 Also Present: Videographer, Garrit Marks</p>	4
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<p style="text-align: right;">7</p> <p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: Good morning. My name</p> <p>3 is Garrett Marks and I will be operating the video</p> <p>4 equipment for this deposition, representing</p> <p>5 Henderson Legal Services, in Case Number CO497297,</p> <p>6 entitled Linda Schade, et al., versus Maryland State</p> <p>7 Board of Elections, et al., in the Circuit Court for</p> <p>8 Anne Arundel County.</p> <p>9 This deposition is being taken pursuant</p> <p>10 to notice by the Plaintiffs. The name of the</p> <p>11 witness is Linda H. Lamone. This deposition is</p> <p>12 being conducted on March 9th, 2007, at the offices</p> <p>13 of the Maryland Department of Agriculture, in</p> <p>14 Annapolis, Maryland, at the time on the lower</p> <p>15 portion of the television screen, currently 9:38.</p> <p>16 Will counsel please introduce themselves</p> <p>17 and indicate which party they represent?</p> <p>18 MR. FLORENZO: My name is David Florenzo,</p> <p>19 from Kirkland & Ellis, and I represent the</p> <p>20 Plaintiffs in this case.</p> <p>21 MR. THOMPSON: My name is Henry Thompson,</p> <p>22 from Kirkland & Ellis, and I represent the</p>	<p style="text-align: right;">9</p> <p>1 spell your name, to start things off?</p> <p>2 A. It's Linda Lamone. L-I-N-D-A.</p> <p>3 L-A-M-O-N-E.</p> <p>4 Q. And what is your address?</p> <p>5 A. My home address?</p> <p>6 Q. Yes. Your home address.</p> <p>7 A. 1807 View Top Court, Annapolis, Maryland.</p> <p>8 Q. And are you currently employed?</p> <p>9 A. I am.</p> <p>10 Q. And what is your current employment?</p> <p>11 A. I am the administrator of elections for</p> <p>12 the State of Maryland.</p> <p>13 Q. And where is your place of work?</p> <p>14 A. 151 West Street, Annapolis, Maryland.</p> <p>15 Q. Ms. Lamone, have you ever been deposed</p> <p>16 before?</p> <p>17 A. No. I've taken depositions, but I've not</p> <p>18 been deposed.</p> <p>19 Q. You have taken depositions in a prior</p> <p>20 period when you were acting as an attorney; is that</p> <p>21 correct?</p> <p>22 A. Yes.</p>

10	<p>1 Q. I will -- how long has it been since</p> <p>2 you've taken a deposition?</p> <p>3 A. Years.</p> <p>4 Q. If you will allow me, I'll just go over</p> <p>5 some guidelines that I think will help us get a</p> <p>6 clean record for today's deposition.</p> <p>7 The first thing is, we probably won't</p> <p>8 have a problem with this, but we need to make</p> <p>9 certain that all of our answers are audible rather</p> <p>10 than a nod of the head or something like that, so</p> <p>11 that Mr. Jakupciak can get a good record. Can we do</p> <p>12 that?</p> <p>13 A. Certainly.</p> <p>14 Q. And you and I need to make sure that we</p> <p>15 don't speak over one another. So I will commit to</p> <p>16 you that I will not interrupt your answers if you</p> <p>17 commit to me that you'll wait for me to finish my</p> <p>18 question before starting your answer. Can we do</p> <p>19 that?</p> <p>20 A. Certainly.</p> <p>21 Q. Is there any reason to believe that you</p> <p>22 can't, that you don't have all of your faculties</p>	12
11	<p>1 today and you can answer all of these questions</p> <p>2 as accurately as possible?</p> <p>3 A. None whatsoever.</p> <p>4 Q. If I ask you a question, we'll all going</p> <p>5 to assume that you understand it. If you don't</p> <p>6 understand the question, feel free to speak up and</p> <p>7 say, I don't understand the question, and I will</p> <p>8 rephrase in way that you can understand; is that</p> <p>9 okay?</p> <p>10 A. Thank you.</p> <p>11 Q. All right. I would like you to start</p> <p>12 from your graduation from high school, if you could</p> <p>13 give me your educational background until today?</p> <p>14 A. I have an Undergraduate Degree in</p> <p>15 Business, in management, and a Law Degree from the</p> <p>16 University of Maryland.</p> <p>17 Q. Your Undergraduate Degree in Business</p> <p>18 Management, from what school was that?</p> <p>19 A. University of Maryland, College Park.</p> <p>20 Q. What year did you graduate?</p> <p>21 A. 1970.</p> <p>22 Q. And you have a JD?</p>	13
10	<p>1 A. I do.</p> <p>2 Q. From -- I again --</p> <p>3 A. University of Maryland.</p> <p>4 Q. What year?</p> <p>5 A. 1979.</p> <p>6 Q. Any continued -- any education since you</p> <p>7 graduated from high school other than the two</p> <p>8 degrees you just mentioned?</p> <p>9 A. Some continuing legal education courses.</p> <p>10 I don't remember when and what they were.</p> <p>11 Q. Other than the continuing legal education</p> <p>12 courses?</p> <p>13 A. No.</p> <p>14 Q. Anything else?</p> <p>15 A. No.</p> <p>16 Q. Starting from your graduation from</p> <p>17 college in 1970, could you please give your</p> <p>18 employment background until today?</p> <p>19 A. Probably not. Let me see if I can</p> <p>20 recollect it. I worked for the Attorney General's</p> <p>21 Office from 1970 to, maybe I graduated in -- I</p> <p>22 graduated from law school in '79. I worked for the</p>	13
11	<p>1 Attorney General's Office until 1988. And then I</p> <p>2 worked for the Governor's Office for two years.</p> <p>3 I was in private practice for four years.</p> <p>4 And then I went to work for the Maryland Higher</p> <p>5 Education Commission. And then in 1997, I was</p> <p>6 appointed to my current position.</p> <p>7 Q. And who appointed you to your current</p> <p>8 position?</p> <p>9 A. The Governor.</p> <p>10 Q. And that position is what?</p> <p>11 A. State Administrator of Elections.</p> <p>12 Q. What are your job responsibilities</p> <p>13 currently as the State Administrator of Elections?</p> <p>14 A. Supervise the elections of the State of</p> <p>15 Maryland.</p> <p>16 Q. And how is it that, as best you can, how</p> <p>17 is it that you go about carrying out your job</p> <p>18 responsibilities?</p> <p>19 A. I hire a staff to manage various</p> <p>20 divisions in the office and we do as best we can to</p> <p>21 supervise the activities of the 24 Local Election</p> <p>22 Boards.</p>	13

14	<p>1 Q. Do you have a boss?</p> <p>2 A. I have a State Board of Elections that</p> <p>3 consists of five members appointed by the Governor.</p> <p>4 They are the policy makers, so-to-speak, for</p> <p>5 elections. They are the entity charged with</p> <p>6 adopting regulations, adopting guidelines for the</p> <p>7 local boards, approving forms, those kinds of</p> <p>8 things.</p> <p>9 Q. So it's not you but rather it's the State</p> <p>10 Board of Elections that sets policy and adopts</p> <p>11 regulations --</p> <p>12 A. Correct.</p> <p>13 Q. -- for the State of Maryland?</p> <p>14 A. Correct.</p> <p>15 Q. So, for example, when the current voting</p> <p>16 system was certified, that was a policy that was</p> <p>17 enacted by the State Board of Elections.</p> <p>18 A. That's correct.</p> <p>19 Q. Okay. Let's just take a step back, and I</p> <p>20 know you've probably gone over this a thousand times</p> <p>21 in your job, but we've got to go through this to get</p> <p>22 it down on the record.</p>	16	<p>1 Maryland voting system? Is that fair to say?</p> <p>2 A. That's correct. Because there are two</p> <p>3 kinds of voting in Maryland. One is in-person</p> <p>4 polling place and one is by absentee.</p> <p>5 Q. Is there a third voting system, for</p> <p>6 example, provisional voting?</p> <p>7 A. There is -- it's not a voting system.</p> <p>8 It's a method of voting, required by Federal law.</p> <p>9 Q. And what is the method of voting for</p> <p>10 provisional ballots?</p> <p>11 A. It is using the optical scan ballots.</p> <p>12 Q. So absentee voting and provisional voting</p> <p>13 occurs using the optical scan system?</p> <p>14 A. Correct.</p> <p>15 Q. Voting at the polling place uses the DRE</p> <p>16 system; is that correct?</p> <p>17 A. Yes. Assuming that the voter otherwise</p> <p>18 qualifies to use the DRE system.</p> <p>19 Q. How would a voter not qualify to use the</p> <p>20 DRE system?</p> <p>21 A. If a voter, for example, shows up at a</p> <p>22 polling place and he or she is not on the precinct</p>
15	<p>1 Could you describe for me the voting</p> <p>2 system in the State of Maryland from the time that</p> <p>3 the current voting system was certified back in</p> <p>4 2001?</p> <p>5 A. I don't understand your question.</p> <p>6 Q. How are elections conducted in the State</p> <p>7 of Maryland?</p> <p>8 A. That's extremely broad. Could you give</p> <p>9 me a little bit more of where you are trying to go</p> <p>10 here?</p> <p>11 Q. I'm just trying to have you describe for</p> <p>12 me what the voting system is in the State of</p> <p>13 Maryland.</p> <p>14 A. Well, it's a -- under the law there is to</p> <p>15 be a statewide, uniform voting system for use in the</p> <p>16 polling places in the State of Maryland, and that</p> <p>17 currently is the direct recording, electronic voting</p> <p>18 system made by Diebold. Also under the law there is</p> <p>19 required to be a uniformed, statewide absentee</p> <p>20 voting system, and that system is currently the</p> <p>21 optical scan voting system, also made by Diebold.</p> <p>22 Q. So you described for me two parts of the</p>	17	<p>1 register for that polling place, under Federal law</p> <p>2 and now State law, that voter must be given an</p> <p>3 opportunity to vote regardless that he or she was</p> <p>4 not on the precinct register and the provisional</p> <p>5 ballot is the fail-safe method of allowing people to</p> <p>6 vote and then verifying after the election whether</p> <p>7 or not, in fact, they are a registered voter.</p> <p>8 Q. So at the polling place a provisional</p> <p>9 ballot -- strike that.</p> <p>10 At the polling place provisional voting</p> <p>11 occurs using the optical scan; is that correct?</p> <p>12 A. It occurs using a paper ballot.</p> <p>13 Q. A paper ballot. So that's a third method</p> <p>14 of voting in the State of Maryland; isn't that</p> <p>15 right?</p> <p>16 A. It's a third type of voting. It's not a</p> <p>17 third voting system.</p> <p>18 Q. I'll adopt your terminology. It's a</p> <p>19 third type of voting in the State of Maryland.</p> <p>20 A. Correct.</p> <p>21 Q. So there are three types of voting in the</p> <p>22 State of Maryland: Polling place voting using the</p>

<p style="text-align: right;">18</p> <p>1 DRE, absentee voting using the optical scan, and 2 provisional voting at the polling place using paper 3 ballots. 4 A. Correct. 5 Q. Can you provisionally vote somewhere 6 other than the polling place. 7 A. No. 8 Q. So all provisional voting is done using 9 paper ballots? 10 A. Correct. Some states use the electronic 11 voting system to capture the provisional ballots. 12 We have chosen not to do that. 13 Q. We, meaning Maryland? 14 A. Correct. 15 Q. Okay. Let's break these down one at a 16 time. I realize it was an originally broad question 17 but as we work through it, we can break it down so 18 we can get it all down correctly. 19 Let's talk about the non-provisional 20 voting at the polling places. Correct me if I'm 21 wrong, that type of voting involves the use of DREs; 22 is that right.</p>	<p style="text-align: right;">20</p> <p>1 It then generates what we call a voter 2 authority card, which is a device, a piece of paper 3 that captures that information about the voter, and 4 including the voter's address. The voter verifies 5 that the information is correct, signs that piece of 6 paper, and it also then encodes a card that 7 identifies -- will tell the voting unit that Linda 8 Lamone is here in the Primary, for example, as a 9 registered Democrat or a registered Republican and 10 that she is to get this ballot style. 11 Q. Can I stop you right there? 12 A. Uh-huh. 13 Q. I think you described for me two cards; 14 is that right? 15 A. It's confusing, I admit. 16 Q. There is a card that you sign. 17 A. That's the voter authority card. 18 Q. That's the voter authority card. That's 19 a piece of paper. 20 A. Correct. 21 Q. About how big? Just using your fingers, 22 about how big is that?</p>
<p style="text-align: right;">19</p> <p>1 A. Correct. That's what I said. 2 Q. And those DREs are the AccuVote-TS voting 3 units manufactured by Diebold Election Systems; is 4 that correct. 5 A. Yes. 6 Q. Okay. How does a Maryland voter, using 7 the AccuVote-TS voting unit, cast his or her vote? 8 A. A voter comes into the polling place and 9 checks in with a set of judges that we call the book 10 judges. They are the poll workers that are 11 responsible for ensuring that people are in the 12 correct place and are registered voters. They use a 13 device now called an electronic poll book. It's a 14 small screen type computer and it contains the 15 entire state's voter registration database on it. 16 So Linda Lamone comes into a polling 17 place, identifies herself to the precinct worker, 18 poll worker and they type in Linda Lamone and it 19 pulls up all the information about me, am I in the 20 right place, am I registered, have I already 21 requested an absentee ballot, and in the Primary, 22 which party I'm affiliated with.</p>	<p style="text-align: right;">21</p> <p>1 A. About that wide and maybe about that 2 long. 3 Q. And then you say after the voter 4 authority card is signed, the voter gets another 5 card that is used to bring up the ballot; is that 6 right? 7 A. Correct. 8 Q. What's that card called? Is that the 9 voter access card? 10 A. Yes. Thank you. 11 Q. And what -- I'm all too familiar with 12 this. What is that made out of? Is that a piece of 13 paper? 14 A. No. That's a piece of plastic. 15 Q. About how big is it, if you could use 16 your fingers? 17 A. About the size of a credit card. 18 Q. About the size of a credit card. Okay. 19 So the voter is given a voter access card after 20 having registered and signed the voter authority 21 card, and then what? 22 A. Then the voter access card is encoded to</p>

<p style="text-align: right;">22</p> <p>1 reflect the correct ballot for the voter. And the 2 voter then takes, along with another poll worker, 3 those two items, the piece of paper and the card, 4 over to a voting unit. The voter access piece of 5 paper card is then associated with that voting unit, 6 and the voter authority card, the credit card, is 7 inserted into the voting unit so that it knows which 8 ballot to display to the voter. 9 Q. Okay. 10 A. And then at that point the voter is left 11 alone at the voting unit and he or she proceeds 12 through, hopefully reading the instructions, and 13 then proceeds to vote, verifies on the review screen 14 that his or her selections are the ones that he or 15 she wants and then they press the cast vote button. 16 Q. Okay. I'm going to go over some of that 17 again. Because I think some of the terms got a 18 little mixed up. The voter authority card is signed 19 by the voter when they registered; correct? 20 A. Correct. 21 Q. Okay. The voter keeps that card and 22 hands it to a poll worker as they approach a voting</p>	<p style="text-align: right;">24</p> <p>1 A. Ejects the plastic card, which at that 2 point contains nothing on it other than the 3 encrypted code that allows it to receive yet another 4 ballot from another voter. 5 Q. Is the -- does the back of an AccuVote-TS 6 unit, after the voter presses the cast vote button, 7 record what the voter's vote was? 8 A. Yes. 9 Q. Does the AccuVote-TS unit, as the voter 10 presses the cast vote -- strike that. 11 Does the AccuVote-TS unit, as the voter 12 presses the cast vote button, reflect the voter's 13 intent in their voting? 14 A. Absolutely, 100 percent. 15 Q. When the voter votes, other than the 16 handing of the voter authority card to the unit 17 judge, does the voter use any piece of paper in 18 casting his or her vote? 19 A. The voter -- a lot of them do, in fact. 20 They bring -- we mail to every voter before the 21 General Election and some of the jurisdictions also 22 before the Primary Election, what we call a specimen</p>
<p style="text-align: right;">23</p> <p>1 unit. 2 A. We call it the machines or the unit 3 judge. 4 Q. The unit judge. Okay. So the voter 5 takes the voter authority card, which is the signed 6 piece of paper and gives it to the unit judge -- 7 A. Correct. 8 Q. -- as they approach the voting unit; 9 correct? 10 A. Uh-huh. 11 Q. And the voter takes that voter access 12 card and inserts that into the AccuVote-TS unit? 13 A. Correct. 14 Q. At what point in the process does the 15 voter actually vote? Is it when the voter presses 16 the cast vote button? 17 A. Yes. 18 Q. So -- okay. Now when the voter presses 19 the cast vote button, what happens after that? 20 A. The unit spits out or rejects or -- 21 rejects -- 22 Q. Ejects?</p>	<p style="text-align: right;">25</p> <p>1 ballot. And that, that document is used for 2 multiple purposes. It informs the voter where the 3 polling place is, what candidates are on the ballot, 4 what questions are on the ballot, how to use the 5 voting unit. 6 So it -- and a lot of people pre-mark 7 those and bring them into the polling place with 8 them. 9 Q. And then you can take that specimen 10 ballot and insert it into the machine -- 11 A. No. No. It's just a guide to the voter. 12 Q. So what does the voter actually do with 13 the piece of paper when they approach the 14 AccuVote-TS unit? 15 A. If they brought it with them and 16 premarked it, they probably look at it. 17 Q. Does the AccuVote-TS unit, in any way, 18 record the voter's intent from that piece of paper? 19 A. No. No. 20 Q. Can a Maryland voter vote using the 21 AccuVote-TS unit without bringing a specimen ballot 22 with them?</p>

8. (Pages 26 to 29)

<p style="text-align: right;">26</p> <p>1 A. Certainly.</p> <p>2 Q. So the entire process for voting, for the</p> <p>3 most part, doesn't involve any paper on the part of</p> <p>4 the voter; is that right?</p> <p>5 MR. DAVIS: Objection to form. You may</p> <p>6 answer.</p> <p>7 A. I don't understand what you mean. I</p> <p>8 described how the voter uses a voting machine, and</p> <p>9 it -- you enter your votes by touching the screen.</p> <p>10 When you are finished, and you press the cast vote</p> <p>11 button, the card is ejected and the vote is recorded</p> <p>12 and the voter is finished with the process.</p> <p>13 Q. I'm sorry if my question was convoluted.</p> <p>14 For all the votes that are cast in Maryland using</p> <p>15 the AccuVote-TS unit, none of them -- strike that.</p> <p>16 For all the votes that are cast in</p> <p>17 Maryland using the AccuVote-TS unit, the AccuVote-TS</p> <p>18 unit never records the voter's intent from a piece</p> <p>19 of paper?</p> <p>20 A. That's correct. It's from the voter</p> <p>21 directly.</p> <p>22 Q. And it comes from the voter's pressing of</p>	<p style="text-align: right;">28</p> <p>1 hopefully reads the instructions and follows them,</p> <p>2 votes the paper ballot, signs the oath envelope,</p> <p>3 puts the ballot in and mails it back to the Local</p> <p>4 Board. Some people do this in person, but most</p> <p>5 people do the entire transaction by mail.</p> <p>6 Q. The absentee voting type of voting you</p> <p>7 just described, is that compliant with Maryland Law?</p> <p>8 A. Yes.</p> <p>9 Q. The absentee voting system in Maryland,</p> <p>10 is that compliant with Federal law?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Does the optical scan machine used</p> <p>13 for absentee voting record a voter's intent from a</p> <p>14 piece of paper?</p> <p>15 A. It does, but, of course, there are</p> <p>16 problems with that, because you've already separated</p> <p>17 the ballot from the voter when you are canvassing</p> <p>18 those paper ballots. So that if a voter has made a</p> <p>19 mistake on the ballot, there is no opportunity to</p> <p>20 correct that error.</p> <p>21 Q. So the optical scan machine doesn't</p> <p>22 record a voter's intent from a piece of paper.</p>
<p style="text-align: right;">27</p> <p>1 certain buttons on the AccuVote-TS unit and then</p> <p>2 pressing the cast vote button; is that correct?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. All right. So that's the type of</p> <p>5 voting at the polling place involving the DRE?</p> <p>6 A. Correct.</p> <p>7 Q. So let's move now to the second system,</p> <p>8 which is the absentee voting type.</p> <p>9 Could you explain for me how that type of</p> <p>10 voting works?</p> <p>11 A. Typically, and there are some minor</p> <p>12 deviations to this, a voter will send in an</p> <p>13 application for an absentee ballot sometime before</p> <p>14 the election. The deadline currently to receive a</p> <p>15 ballot by mail is a week before the election.</p> <p>16 You submit your application for absentee</p> <p>17 ballot. The local election staff checks to see if</p> <p>18 the person is in fact registered, and if he or she</p> <p>19 is, they mail out the absentee ballot.</p> <p>20 And then they enter into the system that</p> <p>21 that voter has received an absentee ballot. The</p> <p>22 voter gets the ballot, typically at home, and</p>	<p style="text-align: right;">29</p> <p>1 A. Sometimes no.</p> <p>2 Q. How does it sometimes not do that?</p> <p>3 A. Voters are very creative in the way they</p> <p>4 mark these paper ballots. Their instructions say to</p> <p>5 fill in the oval using a Number 2 pencil. Sometimes</p> <p>6 they decide to use something other than a Number 2</p> <p>7 pencil and the scanner can't read or they simply</p> <p>8 circle the candidate's name or they fill in a circle</p> <p>9 and they try to erase it and then fill in another</p> <p>10 circle for a candidate in the same race. And the</p> <p>11 scanner will then identify it as an over-vote and</p> <p>12 wouldn't count a vote for any of the candidates in</p> <p>13 that particular race.</p> <p>14 Q. So when the absentee -- strike that.</p> <p>15 So when the optical scan records absentee</p> <p>16 votes, some of those votes are recorded from</p> <p>17 something other than a piece of paper?</p> <p>18 A. No. They are all recorded from a piece</p> <p>19 of paper. It's just that there are often times when</p> <p>20 the voter's intent cannot be discerned by the</p> <p>21 machine, the scanner, and therefore, the voter loses</p> <p>22 the opportunity to vote, for example, in a race for</p>

30	<p>1 Governor, where they have done as I've described,</p> <p>2 filled in one oval, tried to erase it, filled in the</p> <p>3 second oval or merely circled the candidates name</p> <p>4 rather than filling in the oval at all, or they</p> <p>5 haven't voted for any race.</p> <p>6 Q. The absentee votes must utilize the</p> <p>7 optical scan machine; correct?</p> <p>8 A. Well, yes. Generally.</p> <p>9 Q. And all of the votes that the optical</p> <p>10 scan machine records reflect only things on pieces</p> <p>11 of paper; isn't that right?</p> <p>12 A. Yes.</p> <p>13 Q. So all absentee votes are recorded using</p> <p>14 the optical scan machine from pieces of paper?</p> <p>15 A. Yes.</p> <p>16 Q. And now let's take a look at the third</p> <p>17 type of voting, which is the provisional voting.</p> <p>18 Could you describe for me how that works?</p> <p>19 A. Well, I think I've described it. A voter</p> <p>20 comes in not on the precinct register and under</p> <p>21 Federal law, and under State law now, we must give</p> <p>22 the person a provisional ballot to vote. If it's</p>	32	<p>1 Looking at them visually, what is the</p> <p>2 difference between an absentee ballot and a</p> <p>3 provisional ballot?</p> <p>4 A. As far as I know, nothing.</p> <p>5 Q. Can anybody vote absentee?</p> <p>6 A. Yes.</p> <p>7 Q. There are no restrictions on who can vote</p> <p>8 absentee?</p> <p>9 A. No.</p> <p>10 Q. You can vote absentee?</p> <p>11 A. And I do.</p> <p>12 Q. Mr. Davis can vote absentee?</p> <p>13 A. I have to be at the office all day.</p> <p>14 Q. Mr. Simms can vote absentee?</p> <p>15 A. Yes.</p> <p>16 Q. His clients can vote absentee?</p> <p>17 A. Assuming they are all registered voters</p> <p>18 in Maryland, yes.</p> <p>19 MR. FLORENZO: Okay. I would like to</p> <p>20 mark this document as Plaintiff's Exhibit 56.</p> <p>21 (Plaintiff's Exhibit No.</p> <p>22 56 was marked for</p>
31	<p>1 later determined that that person is not registered</p> <p>2 to vote, that ballot is not counted at all.</p> <p>3 It's the same process as absentee voting.</p> <p>4 The voter hopefully reads the directions, fills in</p> <p>5 an oval with a candidate he or she wants and then</p> <p>6 provides it to a designated poll worker, who then</p> <p>7 secures it in a secure device, and they are all put</p> <p>8 in the same device.</p> <p>9 Q. For those provisional votes that are</p> <p>10 counted, how is it that the voter's intent is</p> <p>11 recorded?</p> <p>12 A. I'm not sure I know all of the details of</p> <p>13 that. Generally speaking, it's the same way as with</p> <p>14 the absentees.</p> <p>15 Q. So in other words, if a determination is</p> <p>16 made that this is a legitimate vote, the provisional</p> <p>17 ballot is scanned through the optical scan machine?</p> <p>18 A. Right. And that determination is made</p> <p>19 before the ballot, the actual ballot is viewed by</p> <p>20 anybody. Because we have to maintain a secret</p> <p>21 ballot.</p> <p>22 Q. What is the -- strike that.</p>	33	<p>1 identification.)</p> <p>2 BY MR. FLORENZO:</p> <p>3 Q. Ms. Lamone, if you could take a look at</p> <p>4 Plaintiff's Exhibit 56. Have you seen this document</p> <p>5 before?</p> <p>6 A. Yes.</p> <p>7 Q. What is Plaintiff's Exhibit 56?</p> <p>8 A. It's the First Amended Notice to take</p> <p>9 deposition of Linda Lamone.</p> <p>10 Q. This is the Notice of Deposition pursuant</p> <p>11 to which you're being deposed today; is that</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. You can set that aside. Did you talk to</p> <p>15 Mr. Davis yesterday?</p> <p>16 A. Of course.</p> <p>17 Q. How long did you talk with him?</p> <p>18 A. An hour and a half.</p> <p>19 Q. Did you meet in person --</p> <p>20 A. Yes.</p> <p>21 Q. -- or by phone? Where did do you that?</p> <p>22 A. In my office.</p>

34	<p>1 Q. What did you talk about?</p> <p>2 A. The deposition, among other things.</p> <p>3 Q. We -- did Mr. Davis show you any</p> <p>4 documents?</p> <p>5 A. Yes.</p> <p>6 Q. Please tell me what the documents were</p> <p>7 that he showed you?</p> <p>8 A. I'm not sure I remember all of them.</p> <p>9 There was a couple memorandums from me, one to local</p> <p>10 Election Directors, I think -- I think there was a</p> <p>11 memorandum from me to the Chairman of the State</p> <p>12 Board -- I really don't recall.</p> <p>13 Q. Did you bring those documents with you</p> <p>14 today?</p> <p>15 A. No.</p> <p>16 Q. Did you bring any documents with you</p> <p>17 today?</p> <p>18 A. Not that pertain to this case, no.</p> <p>19 Q. Did you take any notes while you were</p> <p>20 talking to Mr. Davis?</p> <p>21 A. I did not.</p> <p>22 Q. Did you go over any questions that Mr.</p>	36	<p>1 MR. FLORENZO: I would like to mark this</p> <p>2 document as Plaintiff's Exhibit 57.</p> <p>3 (Plaintiff's Exhibit No.</p> <p>4 57 was marked for</p> <p>5 identification.)</p> <p>6 ---</p> <p>7 (Discussion off the Record.)</p> <p>8 ---</p> <p>9 BY MR. FLORENZO:</p> <p>10 Q. Ms. Lamone, if you could take a look at</p> <p>11 Plaintiff's Exhibit 57, have you seen Plaintiff's</p> <p>12 Exhibit 57 before?</p> <p>13 A. Probably.</p> <p>14 Q. Do you know what it is?</p> <p>15 A. I can tell you what it says it is. It</p> <p>16 says: Text of Executive Order 01012000.25, Special</p> <p>17 Committee on Voting Systems and Election Procedures</p> <p>18 in the State of Maryland, signed by the Governor and</p> <p>19 the Secretary of State, dated the fourth of</p> <p>20 December, 2000. So it's a seven-year-old document.</p> <p>21 I've probably seen it, but I can't say for sure.</p> <p>22 Q. Do you know what the Special Committee on</p>
35	<p>1 Davis anticipated you were going to be asked?</p> <p>2 A. I think with regard to the documents that</p> <p>3 I looked at, yes.</p> <p>4 Q. What sorts of questions did he indicate</p> <p>5 you were expected to be asked?</p> <p>6 A. That I would be asked about those</p> <p>7 documents.</p> <p>8 Q. Do you recall what the topics of them</p> <p>9 were?</p> <p>10 A. The electronic voting system in the State</p> <p>11 of Maryland.</p> <p>12 Q. That's pretty broad. I'm curious, more</p> <p>13 specific, do you remember specific topics that you</p> <p>14 and Mr. Davis discussed yesterday other than the</p> <p>15 voting system and your deposition? I mean, it was</p> <p>16 just yesterday.</p> <p>17 A. I understand that. But I have a lot of</p> <p>18 things going on in my life with regard to my job.</p> <p>19 Without looking at them, I would have to</p> <p>20 defer. I don't specifically remember.</p> <p>21 Q. Did he give you any indication that --</p> <p>22 well, we will just save that. Let's move on.</p>	37	<p>1 Voting Systems and Election Procedures in Maryland</p> <p>2 is?</p> <p>3 A. What it was. The Governor appointed this</p> <p>4 group back in 2002, as it says: Evaluate the</p> <p>5 election systems and procedures utilized in</p> <p>6 Maryland. Review existing standards for recounts</p> <p>7 and contested elections. Recommend appropriate</p> <p>8 funding sources to provide Marylanders with</p> <p>9 accurate, convenient, and reliable election systems</p> <p>10 and recommended statutory and regulatory changes to</p> <p>11 ensure full and fair elections in Maryland.</p> <p>12 Q. Let me take this from a different angle,</p> <p>13 it will help us facilitate things.</p> <p>14 Just without the documents, could you</p> <p>15 just in summary form take me through the chronology</p> <p>16 of how the State Board of Elections certified the</p> <p>17 AccuVote-TS voting units for use statewide in the</p> <p>18 State of Maryland?</p> <p>19 A. I will do my best. As I said, this is</p> <p>20 seven years ago and a lot of water has gone under</p> <p>21 the bridge since then. The Commission met, it</p> <p>22 issued a report --</p>

<p style="text-align: right;">38</p> <p>1 Q. The Commission, what Commission?</p> <p>2 A. The Committee. Sorry.</p> <p>3 Q. Does this Committee have sort of a</p> <p>4 shorthand? Is this sometimes referred to as the</p> <p>5 Willis Commission?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. So the Willis Commission met.</p> <p>8 A. Yes. They issued their report sometime</p> <p>9 in the winter of 2001. The General Assembly</p> <p>10 immediately, and the bills were introduced, and the</p> <p>11 General Assembly passed them before they adjourned</p> <p>12 sine die -- well, well before they adjourned sine</p> <p>13 die in April. And we started the process of</p> <p>14 complying with the law.</p> <p>15 Q. And then eventually a new voting system</p> <p>16 was certified by the State Board of Elections; is</p> <p>17 that right?</p> <p>18 A. Yes.</p> <p>19 Q. And then the State Board of Elections</p> <p>20 began the process of -- well, I withdraw that</p> <p>21 question.</p> <p>22 All right. Returning then to Plaintiff's</p>	<p style="text-align: right;">40</p> <p>1 recommendation of the Willis Commission?</p> <p>2 A. My recollection, and I haven't looked at</p> <p>3 this document in six years, is that they recommended</p> <p>4 that the State adopt, through its policy makers, a</p> <p>5 uniform statewide voting system for polling places</p> <p>6 and for absentee ballot, and that the statewide</p> <p>7 system for polling places be the Electronic Voting</p> <p>8 System.</p> <p>9 Q. And the Maryland Legislature, after the</p> <p>10 issuance of the Willis Commission report, passed a</p> <p>11 law requiring the establishment of a uniform</p> <p>12 statewide voting system in the State of Maryland; is</p> <p>13 that correct?</p> <p>14 A. Correct.</p> <p>15 Q. And then once the -- you can put that</p> <p>16 document aside. Once the Maryland Legislature</p> <p>17 passed that law, then you and the State Board of</p> <p>18 Elections began the process of procuring new voting</p> <p>19 units for a new statewide voting system; is that</p> <p>20 right?</p> <p>21 A. Yes. With help.</p> <p>22 Q. Of course. Okay. I would like to show</p>
<p style="text-align: right;">39</p> <p>1 Exhibit 57. Plaintiff's Exhibit 57 is the Executive</p> <p>2 Order by Governor Glendening that established the</p> <p>3 Willis Commission; isn't that right?</p> <p>4 A. Yes. It speaks for itself.</p> <p>5 Q. Okay. You can put that document aside.</p> <p>6 MR. FLORENZO: Now, I would like to mark</p> <p>7 this document as Plaintiff's Exhibit 58.</p> <p>8 (Plaintiff's Exhibit No.</p> <p>9 58 was marked for</p> <p>10 identification.)</p> <p>11 BY MR. FLORENZO:</p> <p>12 Q. Ms. Lamone, have you seen Plaintiff's</p> <p>13 Exhibit 58 before?</p> <p>14 A. I'm sure I have.</p> <p>15 Q. Do you know what it is.</p> <p>16 A. It says: It's the Special Committee on</p> <p>17 Voting Systems and Election Procedures in Maryland</p> <p>18 Report and Recommendations, dated February 2001.</p> <p>19 Q. This is the Willis Commission report;</p> <p>20 isn't it?</p> <p>21 A. It is.</p> <p>22 Q. So what, in a nutshell, is the</p>	<p style="text-align: right;">41</p> <p>1 you a document that's been previously marked as</p> <p>2 Plaintiff's Exhibit 24. And ask you if you have</p> <p>3 seen Plaintiff's Exhibit 24 before?</p> <p>4 A. I'm sure I have. It's the Request for</p> <p>5 Proposals for Direct Recording Electronic Voting</p> <p>6 System and Optical Scan Absentee Voting System for</p> <p>7 Four Counties that was issued by the State Board of</p> <p>8 Elections on July 17th, 2001.</p> <p>9 Q. Plaintiff's Exhibit 24, this was the</p> <p>10 request for proposal that the State Board of</p> <p>11 Elections sent out trying to solicit presentations</p> <p>12 and bids from voting unit vendors so that eventually</p> <p>13 Maryland could certify a new statewide voting</p> <p>14 system; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. You can put that document aside.</p> <p>17 A. This is done in accordance with the rules</p> <p>18 and procedures of the State of Maryland Procurement</p> <p>19 Law.</p> <p>20 Q. I understand. Now I would like to show</p> <p>21 you a document.</p> <p>22 MR. FLORENZO: I'm going to show you a</p>