

EXHIBIT C

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 MIAMI DIVISION

4 AMERICAN FEDERATION OF LABOR AND
5 CONGRESS OF INDUSTRIAL ORGANIZATIONS;
6 AMERICAN FEDERATION OF STATE, COUNTY
7 AND MUNICIPAL EMPLOYEES; AFL-CIO FLORIDA
8 PUBLIC EMPLOYEES COUNCIL 79, AFSCME; AFL-CIO
9 SERVICE EMPLOYEES INTERNATIONAL UNION,

10 Plaintiffs.

Case No. 04-22572-CIV-KING

11 vs.

12 Miami, Florida
13 February 5, 2008
14 9:00 a.m.

15 KURT S. BROWNING, SECRETARY OF THE
16 STATE OF FLORIDA,

17 Defendant.

18 TRANSCRIPT OF PROCEEDINGS
19 NON-JURY TRIAL
20 BEFORE THE HONORABLE JAMES LAWRENCE KING
21 UNITED STATES DISTRICT JUDGE
22 THIS BEING AN EXCERPT THEREOF

23 REPORTED BY:

24 DAWN M. WHITMARSH, RPR
25 Official Court Reporter
United States District Court
400 North Miami Avenue
Room 10S03
Miami, Florida 33128
Telephone: 305-523-5598

1 APPEARANCES:

2 FOR THE PLAINTIFFS:

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18 Q. Good afternoon, Ms. Korman.

19 A. Hi.

20 Q. Do you currently serve as the deputy supervisor of
21 elections for Miami-Dade County?

22 A. Yes, I do.

23 Q. And to whom do you report?

24 A. Lester Sola, supervisor of elections.

4 I think what he's trying to get at is are you aware or
5 has your experience taught you that people deliberately,
6 intentionally mess up the form when they fill it out so as
7 to, for whatever reason, cause you problems or because they
8 don't understand or for whatever reason do you know of
9 intentional failure to input information properly.

10 THE WITNESS: Yes.

11 THE COURT: You do. Now, how do you know that? Before
12 you blurt out what it is, I don't mean blurt out, how do you
13 know that, somebody has told you this?

14 THE WITNESS: No. Being with elections all the years
15 and especially presidential and things, I get a lot of forms
16 during these big election years filled out by other groups
17 that give me wrong information and things like that. And the
18 person can never get registered.

20 CROSS-EXAMINATION

21 BY MR. ANTONACCI:

22 Q. I want to go back to yesterday's testimony regarding the
23 2004 presidential election.

24 did your office receive paper applications for voter
25 registration purposes just before the book closing deadline?

1 A. Yes.

2 Q. Approximately how many, in your recollection, did you
3 receive during that period?

4 A. About 10,000.

5 Q. And were those -- how were those 10,000 delivered to
6 your office?

7 A. Dropped off by somebody on book closing day.

8 Q. In lots of how many?

9 A. They were boxes. We got probably about 6,000 on book
10 closing day and a couple right before, about 10,000.

18 Q. What do you do first when you get a box full of
19 applications on book closing day.

20 THE COURT: What year?

21 MR. ANTONACCI: '04.

22 THE COURT: Thank you. What time frame now is --

23 MR. ANTONACCI: 2004, just before book closing. Let's
24 say one week before book closing.

25 THE WITNESS: Like in anything that we get, we would put

1 a stack, let's say 50 to 100, we would wrap it with the sort
2 sheet so we know that it was, let's say, an outside group as
3 opposed to mail. And then we would just put them together
4 and get them to staff to start working on.

5 BY MR. ANTONACCI:

6 Q. Do you try to deal with the complete applications first.

7 A. If while we're getting the 50 together we see that there
8 is an obvious problem, we pull that out and enter that, give
9 it to somebody to enter. But basically we're just struggling
10 to get everything done and just get them to the proper clerk
11 to process.

12 Q. In 2004, were you able to get all of those applications
13 into the system or were some put aside. Prior to the
14 election.

15 A. A lot were put to the side.

16 Q. All right. Now, in your experience during the 2004
17 presidential year just before book closing with respect to
18 this same group of applications that we're talking about,
19 were you able to determine whether those applications were
20 submitted at about the time that the voter signed the
21 registration card.

22 A. In some of the cases, the voter signed the card a couple
23 of months before and in some of the cases, there might not
24 have been a date, and in some of the cases it was within a
25 week or so.

1 Q. so a whole range of anywhere between a couple of months
2 and fairly contemporaneous with the delivery to your office?

3 A. Yes.

4 Q. Do you have any estimation, as you sit here today, of
5 how many were dated one month before the time they were
6 submitted.

7 A. No, sir.

8 Q. All right. Same set of questions with respect to the
9 2006 general election cycle. Did you have voter registration
10 applications dropped off just before the book closing
11 deadline.

12 A. Yes.

13 Q. In what volume?

14 A. A lot, but not like 10,000. The presidential years are
15 always much more.

16 Q. Refresh my recollection. How many did you say you got
17 in '04?

18 A. About 10,000 right at book closing.

19 Q. what about a week before?

20 A. Couple of thousand here and there.

21 Q. All right. So would you say 20,000 during the prior
22 week or less?

23 A. Less.

24 Q. All right. And do you know why you had fewer
25 applications that were received just before book closing in

1 2006 than you had in 2004?

2 A. There are not as many third party groups doing anything
3 on non-presidential years is one of them.

4 Q. How many third party groups, to your knowledge, to your
5 specific knowledge, were operating in Miami-Dade County
6 during 2004?

7 A. Probably about four that I know of.

8 Q. Did it include labor unions?

9 A. Make that five, yes.

10 Q. How else would you describe the atmosphere in your
11 office during the book closing period. What words would you
12 use for the judge to describe the atmosphere in addition to
13 fluid?

14 A. Pandemonium. Mostly we just have stuff -- everything is
15 happening all at that time. A perfect example is this past
16 election, we had 100,000 petitions we needed to do.

1 election day.

2 Q. During that pandemonium period, are you putting every
3 hour to good use for the purposes of preparing for the
4 election.

5 A. We were putting in a lot of overtime.

6 Q. Do you need additional time in your experience?

7 A. I need -- I always need, yes, I do.

- 12 Q. In your experience, have third party groups hoarded
13 voter registration applications and put them in your office
14 at the last minute?
15 A. Yes.

10 Plaintiffs call Buddy Johnson.

23 Q. Do you currently serve as supervisor of elections for
24 Hillsborough County?

25 A. I do.

6 BY MR. ABT:

7 Q. Mr. Johnson, if you know, do you know how many were
8 submitted in the period just before the close of books.

9 A. I know we got one delivery of 27,000, but there were
10 more. Are you asking for incompletes or for applications
11 submitted?

12 Q. I'm asking for incompletes.

13 A. No. That's not the correct answer to that question. I
14 misunderstood your question. No. I don't know the answer to
15 how many we had that were incomplete and it surely would not
16 have been 27,000.

22 Q. Directing your attention to the 27,000 voter
23 registration applications that were delivered to your office
24 in 2004, towards the end of book closing, can you tell the
25 court when those applications were dropped off?

1 A. The last day.

2 Q. During the prior 10 days prior to book closing, how many
3 additional applications were dropped off at your office?

4 A. I don't have that number.

5 Q. Were those 27,000 applications dropped off by
6 individuals or were they dropped off by groups?

7 A. They were in one bundle. By groups.

15 THE COURT: Okay. Court has a question. Do you know
16 the group or groups that dropped off the one bundle of 27,000
17 applications on the last day before the book closing took
18 place? Do you know the name of the group or groups.

19 THE WITNESS: Judge, it's one of two groups. I don't
20 know which one it was.

21 THE COURT: Well, which of the two groups' names that
22 you do know?

23 THE WITNESS: ACORN was one and the other group is -- I
24 forget their name.

25 THE COURT: ACORN. Okay. Thank you, sir. Thank you

9 A. Good morning.

10 Q. Do you currently serve as the supervisor of elections
11 for Manatee County?

12 A. Yes sir, that's correct.

6 Q. Do you have experience with third party groups in
7 Manatee County?

8 A. Yes, sir.

9 Q. Describe for the judge your experience with respect to
10 voter registration application and third party groups in
11 Manatee County in 2004.

12 A. Well, the third party groups from Manatee County would
13 be wonderful. It's the third party groups and fourth party
14 groups from outside Manatee County that gives us a problem.

15 They come in -- as much as we try to control and help
16 them with registering people, they come in, they would
17 register people, keep the applications in their car for
18 three, four, five weeks before they turn them in to us.
19 They'll flood us right at the last minute with some of them
20 that are not legible. Some of the addresses do not match up
21 with any database that I have in Manatee County and that does
22 happen more than I'd like to see.

23 Q. All right. Did it happen in 2006 as well?

24 A. I did not have that occur in 2006 hardly at all, except
25 local voter registration drives, and those people follow the

1 rules.

2 Q. So your experience so far has only been with -- the
3 experience you just described to the judge has been limited
4 to presidential races?

5 A. Yes, sir. Primarily.

21 LESTER SOLA, PLAINTIFF WITNESS, SWORN.

1 THE COURT: Yes.

2 DIRECT EXAMINATION

3 BY MR. ABT:

4 Q. Mr. Sola, thank you very much for being here today.

5 A. My pleasure.

6 Q. Do you currently serve as supervisor of elections for
7 Miami-Dade County?

8 A. Yes, I do.

21 But can you describe the atmosphere 60 days before a
22 presidential election?
23 A. It is intense. Obviously you have around 500
24 individuals working in the department. Everyone is working
25 towards one goal, one date. That event is election day, it

1 is inflexible, you can't postpone it.

2 But even before election day, you're also gearing up for
3 early voting, you're gearing up for mailing absentee ballots.
4 So for us, while election day -- everyone focuses on election
5 day, our goal and the points -- the milestones we work
6 towards is really three weeks out before, which is when we
7 like to mail absentee ballots. Then two weeks out which is
8 when early voting begins. For us, it is a very stressful
9 situation.

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3 MIAMI DIVISION

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Case No. 04-22572-CIV-KING

8 Plaintiffs.

9 VS .

10 Miami, Florida
11 February 8, 2008
12 9:00 a.m.

13 KURT S. BROWNING, SECRETARY OF THE
STATE OF FLORIDA,

14 Defendant.

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SARAH JANE BRADSHAW, DEF ENDANT WITNESS, SWORN.

25 Q. All right. Directing your attention to the presidential

1 year of 2004. Were you the Deputy Division Director at that time?

2 A. Yes. Assistant Director.

3 Q. And did your office during the week before book closing
4 for the general election in 2004 receive voting registration
5 applications?

6 A. Yes, we did.

7 Q. In what quantity?

8 A. We received thousands of them daily.

9 Q. How did they arrive in your office?

10 A. Generally by mail. Bundled up in boxes sent to us by
11 third-party groups.

12 Q. And in 2004, what did you do with those applications?

13 A. Well, we sorted them by county and shipped them down to
14 the counties?

15 A. We were not inputting applications then.

16 Q. Why not?

17 A. We didn't have the statewide system. Each county had
18 their own system back then.

19 Q. Now, with respect to voter registration applications that
20 are received by mail today, well, they'd be processed as you
21 previously testified?

22 A. Yeah, they will be processed. If we received them in our
23 office now, they will be processed in our office.

6 THE COURT: All right. And at that time you received, in
7 your words, thousands of applications the week or the two weeks
8 prior to book closing day. Now, and those you sent out to
9 individual county supervisors of voting.

10 THE WITNESS: Yes, sir.

11 THE COURT: You divided them up by the application and if
12 it was Dade County or Liberty County, you sent it out.

13 THE WITNESS: Yes, sir.

14 THE COURT: All right. And you probably have records
15 somewhere but right now do you have any idea of the breakdown of
16 these thousands how many went to large counties, small counties,
17 anything like that?

18 THE WITNESS: No, sir.

19 THE COURT: You couldn't tell me at this point without
20 checking records or whatever, how many of those thousands in '04
21 you forwarded to say Liberty County who has one lady with one
22 part-time applicant.

23 THE WITNESS: No, sir.

24 BY MR. ANTONACCI:

25 Q. were you even keeping records? Excuse me.

1 A. No, s-ir. We didn't even keep records back then. We sorted
2 them and s-hipped them to the county.

3 Q. why were you going about this so quickly?

4 A. we'll, becauSe we needed to get them down to the counties
5 so the counties cou-ld get them on their voter registration system
6 and people would be eligible to vote.

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 MIAMI DIVISION

4 AMERICAN FEDERATION OF LABOR AND
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Case No. 04-22572-CIV-KING

11 vs.

12 Miami, Florida
13 February 6, 2008
14 9:00 a.m.

15 KURT S. BROWNING, SECRETARY OF THE
16 STATE OF FLORIDA,

17 Defendant.

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20 BEFORE THE HONORABLE JAMES LAWRENCE KING
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25 Official Court Reporter
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AFL-CIO vs. BROWNING
TESTIMONY OF EVAN KOLODNY

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1 EVAN KOLODNY, PLAINTIFF'S WITNESS, SWORN.

2 THE CLERK: Please be seated. State your name and spell
3 it.

4 THE WITNESS: Name is Evan Kolodny, K OL OD
5 N Y. First name Evan, E V AN.

6 MR. ABT: Your Honor, may I inquire?

7 THE COURT: Yes, of course.

8 DIRECT EXAMINATION

9 BY MR. ABT:

10 Q. Good afternoon, Mr. Kolodny.

11 A. Good afternoon.

12 Q. Until recently, were you employed with the Broward County
13 supervisor of Elections Office?

14 A. That is correct.

15 Q. Is Brenda Snipes the supervisor of elections for Broward
16 County?

17 A. Yes, she is.

18 Q. What was your position at Broward County?

19 A. I was director of registration services.

20 Q. And what were your responsibilities in that position?

21 A. My responsibilities were to register voters, also to
22 process voter registration applications that came in whether it
23 be by mail or in person. I also was the charge of selling
24 voter access to voter lists. I was in charge of the intake
25 department. I was also in charge of the mail room.

1 Q. How long did you serve in that position?

2 A. well, I worked for the office for 21 years, but I did not
3 serve in that position. But I was always all throughout the
4 years I was tied to -- my jobs were related to registration, voter
5 registration.

6 Q. 21 years experience.

5 A. That's correct.

6 Q. Okay. Mr. Abt walked you through what would happen with
7 one single application, but you don't deal with individual
8 applications.

9 In other words, you don't give one application and walk it
10 through the whole process before moving on to the
11 next, do you?

12 A. No.

13 Q. You deal with thousands of applications?

14 A. Depending on the time of the year, it could be, as we get
15 closer to book closing, we could be dealing with thousands of
16 applications, yes.

17 Q. It gets higher right before book closing?

18 A. Yes.

19 Q. Particularly in presidential elections?

20 A. Especially, yes.

21 Q. Did you have over 20,000 applications come in in the last
22 minute in 2004; do you remember?

23 A. Yes, we did.

24 Q. And were those all new applications or were some of them
25 changes?

1 A. It was a mixture. They were mostly from third party
2 groups that had conducted voter registration.

3 Q. And sometimes third party groups will collect applications
4 from people who are already registered, right?

5 A. Yes.

6 Q. And sometimes they'll collect applications from people
7 that have attempted to register but have been unsuccessful for
8 whatever reason?

9 A. Yes.

10 Q. And so if you get a box right before book closing, you -- the
11 office that has 20,000 applications in it or probably be more than
12 one box, if there were that many, of all application forms, some
13 of them are probably new applications.

14 THE COURT: Well you know, we can go on and on, the
15 speculation could go on for hours. I'm sorry, but all these
16 things are just simply -- you argue this to the court. I mean,
17 that's what you do, you establish facts from this witness.

18 Did I hear you say that you got in one grouping or one
19 bundling, 20,000 applications for registrations at one time?

20 THE WITNESS: In one day actually.

21 THE COURT: One day. I thought that's what I heard you
22 say.

23 And in proximity in time of the -- near the time, when did
24 it come in, if you can figure roughly a few days.

25 THE WITNESS: Book closing day.

1 THE COURT: Closing day?

2 THE WITNESS: Book closing day.

3 THE COURT: Book closing day, you got 20,000 in one day. And
4 did you get that from basically one group, one third party
5 collecting group or several or what?

6 THE WITNESS: Mostly -- well, the vast majority came from
7 several groups. Can I mention groups or -- ACORN was one of the
8 -- collected them over a period of time but turned them in on that
9 one day.

10 THE COURT: All right. And how do you know they collected
11 them over a period of time? The dates on them?

12 THE WITNESS: The dates that the people -- when it asks for a
13 signature and date, so the handwritten dates indicated that some
14 of them had been held back for a period of time.

15 THE COURT: All right. Now then -- okay. And this -- when
16 this 20,000 you're talking about that occurred with reference to
17 which election, if you recall.

18 THE WITNESS: The presidential election of 2004.

19 THE COURT: 2004. Okay. All right. Now, so that's a fact.

1 BY MR. WINSOR:

2 Q. Now, when those 20,000 applications came in, you or your
3 staff had to enter all those into the computer system, correct?

4 A. We had to hire, bring in temporary workers. We
5 could not handle it, our office could not handle that volume on
6 a timely basis.

7 Q. And how long did it take to enter in those 20,000
8 applications?

9 A. Well, we did it within the legal time frame but I think we
10 had to use the 15 days basically to get all those
11 applications in.

12 Q. You used the maximum time allowed by law?

13 A. The maximum time allowed.

14 Q. And today the maximum time allowed by law is only 13 days?

15 A. Correct.

16 Q. So if you get another 20,000 in 2008 -- withdrawn.

17 And during that same time period, the 15 days after the close
18 of books, there's a lot of other stuff going on in the office,
19 right?

20 A. Correct. We're handling absentee ballot requests, we're
21 getting ready to produce the precinct registers, we're getting
22 a lot of phone calls, the volume of calls increases every day
23 as we get closer and closer to election day.

7 Q. My understanding is that employees in your office work on
8 the tasks on an as-needed basis; is that right?

9 A. Yes.

10 Q. In other words, if there's a bunch of absentee ballots
11 to go out, they'll go work on that. If there's a bunch of
12 registration applications to be processed, they'll go work on
13 that. Mix and match, right?

14 A. Right. We have to work as a team to get our -- all the --
15 everything accomplished.

16 Q. Okay. I'd like to ask about -- we talked about 20,000 coming
17 in before book closing. I wanted to ask about what comes in after
18 book closing date or during the book closing period.

19 I suspect you're getting a volume of mail in during that time
20 as well; is that right?

21 A. That is correct.

22 Q. What kind of things are coming in then?

23 A. Mostly voter registration applications and changes are
24 coming in. The 20,000 number I mentioned was basically
25 people are -- brought into the office. Some of it was mailed but

1 most of it was actually hand-delivered.

2 Q. Now, for the things that were received after book
3 closing, did you tend to those after you dealt with the
4 20,000?

5 A. We say book closing would be the postmark because even a
6 day or two after book closing we're still getting items. But
7 technically our -- after the 29 days because they're postmarked,
8 you know, prior to that.

9 Q. Let me maybe be a little more clear.

10 Things that were postmarked after book closing deadline and
11 came in to your office after book closing deadline, what would you
12 do with those?

13 A. We would prioritize the book closing things. First off we
14 would process them, but we would give priority to those --
15 anything that arrived on or before book closing.

16 Q. So the late arriving things you'd process as you're
17 available to?

18 A. Right.

19 Q. Priority would be the things that came in before book
20 closing?

21 A. Yes, sir.

22 Q. And that's out of necessity, right? Because you've only
23 got so many days to enter in applications that came in before
24 book closing?

25 A. That's correct.

1 Q. And it's also necessary to make sure that those people who
2 timely submitted applications are able to vote, right?

3 A. Correct.

4 Q. And that's all taken care of before early voting begins,
5 correct?

6 A. Yes.

1 Q. Now, when mail comes in shortly before an election, is the
2 office always able to process that mail, new voter registration
3 applications or amendments before the election?

4 A. They're processed but we may have to take a longer -- it may
5 not be processed the same day. During a period like now, we can
6 be on a day-to-day basis, but it would take a little longer.

7 Q. Something comes in a week before November presidential
8 election, that volume may be such that you can't process it all
9 before the election, right?

10 A. It may be days before we get to input it.

11 Q. It may in some instances take the statutory maximum, right?

12 A. It could, yes.

13 Q. Depending on volume.