

SUPREME COURT
STATE OF OHIO

- - -

REVEREND WILLIAM :
MOSS, ET AL., :
 :
 CONTESTERS, :
 :
 vs. : CASE NO. 04-2088
 :
 PRESIDENT GEORGE W. :
 BUSH, ET AL., :
 : Original Action to
 CONTESTEES. Contest Election

- - -

Deposition of WERNER LANGE, a Witness herein,
called by the Contesters for cross-examination under
the applicable Ohio Rules of Civil Procedure, taken
before Sylvia A. Fraley, a Registered Diplomate
Reporter, Certified Realtime Reporter and Notary
Public in and for the State of Ohio, pursuant to
notice at the Columbus Athletic Club, 136 East Broad
Street, 2nd Floor, Columbus, Ohio 43215 commencing
on Thursday, December 30, 2004 at 3:35 p.m.

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DEPOSITION OF WERNER LANGE

APPEARANCES

- - -

PETER PECKARSKY, ESQUIRE
1615 "L" STREET N.W.
Washington, D.C. 20036
Columbus Telephone (614) 481-8416

On behalf of the Contesters.

ALSO PRESENT:

DR. ROBERT FITRAKIS

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DEPOSITION OF WERNER LANGE

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1 WERNER LANGE
2 being by me first duly sworn, as hereinafter certified,
3 deposes and says as follows:

4 DIRECT EXAMINATION

5 BY MR. PECKARSKY:

6 Q. What is your name?

7 A. My name is Werner Lange, Werner, W-E-R-N-E-R,
8 Lange, L-A-N-G-E.

9 Q. What is your date of birth?

10 A. December 9th, 1946.

11 Q. And what is your residence address?

12 A. The residence is 510 Superior in Newton
13 Falls, Ohio, that's in Trumbull County.

14 Q. Do you have a job?

15 A. Yes. I am currently a professor of sociology
16 at Edinboro, E-D-I-N-B-O-R-O, University of
17 Pennsylvania, in Edinboro, Pennsylvania. I am also a
18 part-time pastor of a church in Portage County.

19 Q. And what's the name of the church?

20 A. The Bonner Chapel, B-O-N-N-E-R, Chapel.

21 Q. Are you an ordained minister, also?

22 A. Yes. I have been ordained since 1996. I was
23 ordained by the United Church of Christ.

24 Q. Did you graduate from high school?

25 A. Yes, I did.

 FRALEY, COOPER & ASSOCIATES
(800) 852-6163 (614) 228-0018 (740) 345-8556

1 Q. Okay. When and where did you graduate?

2 A. South High School in Youngstown, Ohio.

3 That's in Mahoning County, 1964.

4 Q. Okay. Did you attend college?

5 A. Yes.

6 Q. Did you graduate from college?

7 A. Yes.

8 Q. From what college did you graduate?

9 A. I attended and graduated from The Ohio State
10 University in Columbus and hold a Bachelor's Degree in
11 sociology given in 1968 and a Master's Degree in
12 anthropology in 1972, both degrees from Ohio State.

13 Q. Did you have any other academic degrees?

14 A. Yes.

15 Q. What -- go ahead.

16 A. I attended graduate school in Germany and
17 graduated with a Ph.D. from the Johann Wolfgang Goethe
18 University, J. W., G-O-E-T-H-E, University, in
19 Frankfurt, in 1975, and then I also hold a Doctor of
20 Ministry Degree granted in 1994 from Ashland
21 Theological Seminary.

22 Q. Where is Ashland Theological Seminary
23 located?

24 A. It's in Ohio, in Ashland, Ohio.

25 Q. What year did you get the Doctor of Ministry

1 Degree?

2 A. The Doctor of Ministry was in theology, in
3 ministry, and the Ph.D. was in social sciences and in
4 ethnology, E-T-H-N-O-L-O-G-Y.

5 Q. And was the Doctor of Theology Degree in
6 1994?

7 A. Yes, it was 1994.

8 Q. All right. Now, have you had occasion --
9 well, are you a registered voter?

10 A. Yes, I am.

11 Q. And did you have occasion to look into the
12 results of the 2004 election?

13 A. Yes, I did.

14 Q. Okay.

15 MR. PECKARSKY: Break just a second.

16 (Recess taken.)

17 BY MR. PECKARSKY:

18 Q. And what did you do to inquire into the
19 results of the 2004 election?

20 A. Well, let's start with election day. On
21 November the 2nd, I went to a couple of polling sites
22 in Trumbull County and in Mahoning County to just see
23 what was going on and I noticed, in Mahoning County,
24 where I went to Hillman Middle School, that the lines
25 were exceedingly long and this is a predominantly

1 African-American community. I then went to the Board
2 of Elections in Mahoning County and registered a
3 complaint because of the shortage of machines. A staff
4 worker took down my information but I don't think any
5 other machines came.

6 Then, the next time that I went to the Board
7 of Elections was on Friday, November the 12th. I went
8 to the Trumbull Board of Elections and asked to inspect
9 the pollbooks and I was denied access to the pollbooks
10 then. I also asked for a copy of the voting results
11 and that was given to me.

12 And I then went to the Mahoning County Board
13 of Elections on that day, also asked to see some
14 pollbooks and they let me see a pollbook for two
15 precincts that I examined and took some information
16 down.

17 I also asked to have a precinct-by-precinct
18 vote count in Mahoning County. They said that was not
19 available and I was not given one.

20 I then wrote letters to both the Trumbull and
21 Mahoning County Board of Elections requesting the
22 information and had no response from them.

23 I returned on Tuesday, November the 16th, to
24 the Trumbull Board of Elections and asked once again to
25 see the pollbooks and I was denied access to the

1 pollbooks and was told that this was as a result of an
2 order that was issued by Ohio Secretary of State
3 Kenneth Blackwell in a telephone conference on November
4 the 15th, the day before.

5 Q. Okay. Going back to your visit on November
6 12th to the Trumbull County Board of Elections, you
7 mentioned that you were denied access to the pollbooks.
8 Do you know the name of the person who told you, you
9 could not have access to the pollbooks?

10 A. Norma Williams.

11 Q. Is Ms. Williams employed by the Trumbull
12 County Board of Elections?

13 A. I believe she is the director of the Board of
14 Elections and a Republican.

15 Q. Okay. And did you know Ms. Williams -- Well,
16 did this person identify themselves to you as Norma
17 Williams?

18 A. She didn't, but when I asked, a staffer
19 relayed my request to her and asked her to respond to
20 me, and that's how we knew it was Norma Williams.

21 Q. All right. Did she have a name tag on which
22 said Norma Williams?

23 A. I didn't notice that.

24 Q. Do you recall what her physical description
25 is?

1 A. A woman maybe in her early 60s, gray hair,
2 120 pounds, about five-four, five-five, something like
3 that.

4 Q. I'm sorry. Gray hair?

5 A. Gray hair, about 60-something.

6 Q. What race was she?

7 A. White.

8 Q. Did this woman ever identify herself to you
9 as Norma Williams?

10 A. I can't recall if she did or if she didn't.

11 Q. Do you recall whether any one of the staffers
12 ever said, indicating this person, that, "This is Norma
13 Williams"?

14 A. Yes.

15 Q. Oh, okay.

16 A. The staff-person that I spoke to called her
17 and said, "I'll have to talk to the director," and then
18 she came and told me that I cannot look at the
19 pollbooks.

20 Q. Okay. And is it correct that you understood,
21 based on your conversation with the staff-person and
22 the person you believe to be Norma Williams, that you
23 were talking to Norma Williams, Director of the Board
24 of Elections of Trumbull County?

25 A. Yes, I do believe that I was talking to her

1 and I do believe that that's the person who told me
2 that I could not have access to the pollbooks, which
3 surprised me.

4 Q. And is it correct that this conversation was
5 taking place in the offices of the Trumbull County
6 Board of Elections?

7 A. Yes, the conversation took place at the
8 counter in the offices of the Board of Elections.

9 Q. About what time of day did this conversation
10 occur?

11 A. This took place about 2 o'clock in the
12 afternoon.

13 Q. All right.

14 Okay. And you also indicated that you went
15 to the Trumbull County Board of Elections on November
16 16th, as I understand it, and you were denied access to
17 the pollbooks?

18 A. Yes. Yes, that is correct, and I was also
19 given the reason for the denial.

20 Q. Who denied you -- if you know, who denied you
21 access to the pollbooks on November 16th?

22 A. That was definitely Norma Williams, the same
23 person I talked to on Friday, the Friday before. This
24 time, she clearly identified herself and she was
25 identified as such by the other staff people, too.

1 Q. That is, this other identification came on
2 November 16th; correct?

3 A. Yes. That was a clear one. I mean,
4 absolutely, that -- I introduced myself to her, she
5 introduced herself to me, we shook hands, and then she
6 told me that I could not have access to the pollbooks,
7 and I asked why and then she provided me with
8 information that she had had a teleconference with
9 Secretary of State Blackwell the day before and he
10 ordered that the pollbooks are not to be allowed to be
11 viewed by the public until after the vote was
12 certified.

13 Q. Okay.

14 With respect to the teleconference
15 Ms. Williams mentioned on the 15th, did she indicate
16 whether anybody else was involved in this call other
17 than --

18 A. Yes.

19 Q. -- her and Secretary Blackwell?

20 A. She clearly told me that all 88 county Board
21 of Elections were in that teleconference with Secretary
22 of State Blackwell on that day.

23 Q. Did she mention whether anybody other than
24 Secretary Blackwell and the 88 representatives of the
25 88 county Boards of Election were on the call?

1 A. I believe she specified that they were the
2 directors of each -- either the directors or the
3 assistant directors or perhaps both, but certainly the
4 representatives of all 88 county Boards of Elections.
5 She did not identify anybody else. There may have
6 been, but she didn't mention anyone else.

7 Q. Okay. Can we mark this as -- giving you a
8 document. On the top, upper line, it says, "Additional
9 Conference Call Questions." Lower right, it says
10 "Board of Elections Conference Call, November 15,
11 2004." It's a one-page document.

12 MR. PECKARSKY: Could you please mark this as
13 Lange Exhibit 1 and give a copy to Dr. Lange, please.

14 - - -

15 A ONE-PAGE DOCUMENT ENTITLED,
16 "ADDITIONAL CONFERENCE CALL
17 QUESTIONS," WAS MARKED AS LANGE
18 EXHIBIT 1.

19 - - -

20 BY MR. PECKARSKY:

21 Q. Let me just go back. Before we get to Lange
22 Exhibit 1, going back to your conversation on November
23 16th with Norma Williams, --

24 A. Yes.

25 Q. -- did that occur in the offices of the

1 Trumbull County Board of Elections?

2 A. That occurred in the offices at the counter
3 of the Board of Elections in Trumbull County and it
4 occurred at about, I believe, 9 a.m., 10 a.m. in the
5 morning.

6 Q. Okay. And is it correct that November 16th
7 was a --

8 A. Tuesday.

9 Q. -- a Tuesday.

10 Drawing your attention to the document that's
11 been marked as Lange Exhibit 1, have you ever seen that
12 document before?

13 A. Yes, I have.

14 Q. Okay. How did you acquire this document?

15 A. This document was given to me by Norma
16 Williams on November the 16th to explain why she could
17 not let me have access to the pollbooks, and she says
18 that this was a note from the conference call regarding
19 the denial of assess.

20 Q. I notice that it says -- Could you just read
21 that into the record, please? You can just read all
22 the typing there.

23 A. Yes. "Additional conference call questions,
24 Number 6. When are pollbooks open for inspection?"

25 The response has: "Pollbooks may be open for

1 inspection upon the completion of the official canvass
2 of election returns from all precincts. Please refer
3 to" Revised Code "3505.31 and" Revised Code "3505.32,"
4 and at the bottom, it says, "Board of Elections
5 Conference Call, November 15, 2004."

6 Q. Okay. Just to be clear, you read the words
7 "Revised Code." In fact, does this document --

8 A. I'm sorry.

9 Q. -- have the abbreviations, "R.C.," instead of
10 Revised Code where you read "Revised Code"?

11 A. You are correct, it says "R.C. 3505.31 and
12 R.C. 3505.32."

13 Q. Okay. Did Ms. Williams offer any other
14 explanation as to why she was denying you access to the
15 pollbooks?

16 A. No, she did not. She didn't.

17 Q. All right. And did Ms. Williams make it
18 clear to you -- and this may be a little bit
19 repetitive -- that this direction had come directly
20 from Secretary of State Blackwell?

21 A. She made it very clear to me that it had come
22 from Secretary of State Blackwell, and I made it very
23 clear to her that I think this is in violation of the
24 state statute that allows for citizens to examine
25 public documents like the pollbooks. And she said,

1 "These are the orders that came from Blackwell," and I
2 believe she said something to the effect of, "He's my
3 boss. I have to follow the orders."

4 Q. Okay.

5 I notice it says Number 6. Did she indicate
6 to you whether there were additional Questions 1 to 5
7 or any questions above --

8 A. No.

9 Q. -- 6?

10 A. She offered no explanation for why this is
11 Number 6. I didn't ask for any. I assumed that there
12 were other points and this was the sixth point. I did
13 not see any of the other points or -- this is the
14 only -- this is the only sheet that she gave me.

15 Q. Okay. Did you see -- by any chance, see the
16 book or location from which she took this sheet before
17 giving it to you?

18 A. No --

19 Q. Okay.

20 A. -- I did not.

21 Q. Okay.

22 All right, fine. So, after having that
23 conversation with Ms. Williams on November 16th, did
24 you then leave the office of the Trumbull County Board
25 of Elections?

1 A. I left the office, and I also on the same day
2 filed a complaint in the Trumbull County Court of
3 Common Pleas charging violation of state law allowing
4 citizens to review public documents.

5 Q. Okay. And has there been any action other
6 than an answer from the parties you sued with respect
7 to that case?

8 A. No. The judge, Peter Kontos, of the board --
9 of the County of Common Pleas County in Trumbull County
10 has not set a date for a hearing and has not issued any
11 type of a ruling or taken any other kind of action to
12 date.

13 Q. Okay. Now, at any point after November -- on
14 any date after November 16th, did you make any further
15 inquiry into matters relating to the votes cast in
16 Trumbull County on November 2nd, 2004?

17 A. Yes. On the --

18 Q. What -- Go ahead.

19 A. When the vote was certified, and I believe
20 that was on November the 29th, I went to the Board of
21 Elections on the next day, November the 30th, and asked
22 to inspect the pollbooks of certain precincts.

23 Q. And were you allowed access on that date?

24 A. Yes, I was allowed access and I believe I
25 reviewed six precinct pollbooks.

1 Q. And who gave you access on that date?

2 A. One of the staff workers.

3 Q. Okay.

4 A. There was no problem that day.

5 Q. Okay.

6 And did you, on any occasion, review -- I'm
7 sorry.

8 How many precincts' worth of data were in the
9 pollbooks you inspected; if you know?

10 Let me back up. Let's ask another question:
11 Is there one pollbook for each precinct?

12 A. Yes, there is one pollbook for each precinct.

13 Q. Okay. So is it correct, then, that on
14 November 30, you inspected six pollbooks from six
15 different precincts in Trumbull County?

16 A. I believe the number was six. I could give
17 it to you exactly but it was approximately six.

18 Q. Well, you can just do it from memory, that's
19 fine.

20 A. Right, it was about six, yes.

21 Q. And on later occasions, did you inspect other
22 pollbooks from Trumbull County?

23 A. Yes. On that day, on November the 30th --

24 Q. All right. Yeah.

25 A. -- on that day, November the 30th, I

1 inspected the pollbooks to compare the total vote cast
2 with the total number of voters identified to see if
3 there was any discrepancy --

4 Q. Okay.

5 A. -- and I looked at two or three and found no
6 discrepancy, until I looked at Warren 7D, and in Warren
7 7D, I noticed a pretty large difference between the
8 number of absentee votes certified and the number of
9 absentee voters identified. That struck me. And then
10 I looked at two other precincts and there was also a
11 discrepancy between the number of absentee voters
12 identified and the number of absentee votes cast. I
13 couldn't stay much longer that day because I had
14 classes to teach, so I just took that information with
15 me and decided to return on another day when I could
16 spend the whole day looking at the pollbooks to see if
17 this was consistent.

18 Q. Okay. And did you return to the Trumbull
19 County Board of Elections on another day after November
20 29 --

21 A. Yes, I did.

22 Q. -- or, I'm sorry, November 30?

23 When did you go back?

24 A. December 6. I believe that was a Monday.

25 December 6. I arrived at 8:30 and I asked to see all

1 the pollbooks from the City of Warren. I spent about
2 three hours going through them all. There were 58
3 precincts and I found a discrepancy in nearly every
4 single -- every single precinct regarding the absentee
5 votes. I was just looking at the absentee votes. And
6 then I looked at four other communities for the
7 remainder of the day, and in my research, I covered 106
8 precincts and went through all of the pollbooks of
9 these precincts, very carefully counted the absentee
10 voters that were identified either by print or by
11 handwritten signature, compared that to the number of
12 absentee votes that were certified, and found in these
13 106 precincts 580 votes, absentee votes, that had no
14 absentee voter identified.

15 Q. Okay. Let me hand you a document we are
16 going to mark as -- I'd like the court reporter to mark
17 as Lange Exhibit 2. It's titled -- it's a four-page
18 document titled, "Inflation of Absentee Vote in Ohio:
19 Evidence from Trumbull County."

20 THE WITNESS: Would you please mark that and
21 give it to Dr. Lange.

22 - - -

23 A FOUR-PAGE DOCUMENT ENTITLED,
24 "INFLATION OF ABSENTEE VOTE IN
25 OHIO: EVIDENCE FROM TRUMBULL

1 COUNTY," WAS MARKED AS LANGE

2 EXHIBIT 2.

3 - - -

4 BY MR. PECKARSKY:

5 Q. Dr. Lange, have you ever seen the document
6 that's been marked as Lange Exhibit 2 before?

7 A. Yes, I have.

8 Q. Did you create this document?

9 A. I created this document.

10 Q. Okay. Could you -- let me just go through it
11 briefly. I notice a reference on Page 1 -- well, first
12 off, the column headings, this is "Precinct," then you
13 have a column -- "Precinct," under that and reading
14 down the column, it says "Warren: 1A." Does that
15 signify that the data in that 1A refers to Precinct 1A
16 in Warren, the City of Warren?

17 A. That is correct.

18 Q. Similarly, going down to the next, Page 2,
19 which is not numbered, but halfway down that page, it
20 says "Holland Township"?

21 A. Yes.

22 Q. Does the first entry under Howland Township
23 refer to Precinct A --

24 A. Yes, it does.

25 Q. -- in Howland Township?

1 A. That's correct.

2 Q. Okay. Going ahead to Newton Falls, there is
3 a reference -- or Newton Falls City, the first line
4 there has a notation in the "Precinct" column of "1A."
5 Does that refer to Ward 1A in Newton Falls City?

6 A. That is correct.

7 Q. I'm sorry, is that Ward 1A or Precinct 1A?

8 A. I'm sorry. It is Precinct 1A, and then
9 followed by Precinct 2A and followed by Precinct 3A and
10 Precinct 4A.

11 Q. Okay. And then going on, there is a "Girard
12 City." There is a 1A there. Does that refer to
13 Precinct 1A in Girard City?

14 A. That's correct.

15 Q. Okay. Then going down to Cortland, there is
16 a reference to Precinct A in the first column under
17 "Cortland." Does that refer to Precinct A in Cortland?

18 A. Yes, it does.

19 Q. Is Cortland a city?

20 A. Cortland is a township, I believe.

21 Q. Okay.

22 Then there are column headings on the first
23 page. Is it correct that there is a Column A which has
24 a title, "Certified Absentee Vote"?

25 A. That's correct.

1 Q. And is it correct there is a Column B --
2 there are three Columns B, 1, 2 and 3, "Identified
3 Absentee Voters," and the B1 Column is identified as
4 "Printed"?

5 A. That's correct.

6 Q. And the B2 Column is identified as
7 "Handwritten"?

8 A. That is correct.

9 Q. And is it correct that the B3 column is
10 identified as "Total"?

11 A. That is the sum of B1 and B2.

12 Q. And then there is a C column labeled
13 "Overcount." Does that also appear on this document?

14 A. Yes, it does.

15 Q. Okay. Now, although those headings don't
16 appear on Pages 2 and 3, there are six columns on Page
17 1, six columns on Page 2, and six columns on Page 3.
18 Is it correct that those columns are in the same order
19 with the same implied headings on Pages 2 and 3 as
20 appears on Page 1?

21 A. That is correct. The headings that don't
22 appear on Pages 2 and 3 are the same ones that appear
23 on Page 1.

24 Q. Okay. Drawing your attention to the Precinct
25 1A in Warren --

1 A. Yes.

2 Q. -- under "Certified Absentee Vote," there is
3 an entry, "83." What does that mean?

4 A. The number, 83, under Column A for Warren
5 Precinct 1A means that there were 83 absentee votes
6 certified for that precinct within the pollbook.

7 Q. Okay. And in Column B1, which is "Identified
8 Absentee Voters, Printed," there is an entry, 48. What
9 does that 48 signify?

10 A. That 48 signifies that, within the pollbook
11 of Warren 1A, 48 registered voters were identified as
12 absentee voters by the words "absentee voter" printed
13 in their signature box.

14 Q. Okay. And Column B2, again, under this group
15 heading of "Identified Absentee Voters," there is a
16 column labeled "handwritten," and for Warren Precinct
17 1A, the number 19 appears. What does that 19 mean?

18 A. That means 19 registered voters in Warren 1A
19 were identified as an absentee voter by someone
20 handwriting in their signature box "absentee" or
21 "absentee voter."

22 Q. Okay. And then you may have testified to
23 this previously but is the number 67 in B3 column with
24 the "total" heading the sum of the numbers in Columns
25 B1 and B2?

1 A. Yes, it is, that is the total number of
2 Identified Absentee Voters in Warren 1A.

3 Q. Okay. And then drawing your attention to
4 Column C, there is a figure, 16. Is that -- in the
5 case of both the 1A row and all the other rows, the
6 difference between the entry in that row, Column A, and
7 the entry in that row, Column B3?

8 A. Yes. C represents the difference between B3
9 and A. In other words, A minus B3 equals C. And the
10 significance of that is that these are absentee votes
11 for which there are no absentee voters identified in
12 the pollbooks of that precinct.

13 Q. Okay. And adding up all of these -- And you
14 have designated those as overcounts; is that correct?

15 A. Yes, I did.

16 Q. In adding up all of these overcounts, that is
17 every entry in Column C on all three pages, for the
18 five Trumbull County communities identified in Lange
19 Exhibit 2, what was the total number of absentee votes
20 you found without Identified Absentee Voters?

21 A. There were, in the analysis of these 106
22 precincts, 580 absentee votes for which there were no
23 absentee voters identified in the pollbooks.

24 Q. Okay. And this may be a little bit
25 repetitive but did you personally review all the

1 pollbooks for all the precincts identified on Lange
2 Exhibit 2 to derive the numbers entered on Lange
3 Exhibit 2?

4 A. Yes. I did very carefully go through every
5 single page of those 106 precinct pollbooks and
6 tabulated the exact number of absentee voters by either
7 printed or handwritten form in their signature box.

8 Q. And is it accurate to say that you have
9 personal knowledge of each and every number entered on
10 the first three pages of Lange Exhibit 2?

11 A. It is accurate knowledge because I entered
12 each and every one of those numbers.

13 Q. And it's also correct that you personally
14 derived those numbers from your personal inspection of
15 the pollbooks; is that correct, sir?

16 A. That is also correct.

17 Q. Okay.

18 Drawing your attention to the last page of
19 Lange Exhibit 2, is it fair to say that's a description
20 of what you have done in the preceding three pages in
21 your understanding of the law with respect to absentee
22 voters?

23 A. Yes, this is a statement that I wrote to
24 explain what the numbers mean and what the nature of
25 the problem appears to be.

1 Q. Okay. Could you read that into the record,
2 please?

3 A. Yes, I'd be happy to. "Absentee voters, like
4 any other registered voters, must have their name and
5 address appear in the pollbook of the precinct in which
6 they reside and vote. No legitimate absentee ballot
7 can be cast without the name of the registered absentee
8 voter appearing in the precinct pollbook. If
9 application for an absentee ballot is made in a timely
10 fashion, then 'absentee voter' appears in bold print
11 within the signature box of that voter. If the request
12 for an absentee ballot comes close to the election,
13 then evidently those words or similar ones are
14 handwritten within the signature box. Also, if the
15 registered absentee voter chooses to vote at the
16 Trumbull Board of Elections, then this information is
17 shared with precinct poll workers who are to write in
18 'absentee voter' in that voter's signature box in the
19 pollbook.

20 "For this study, both the printed and written
21 absentee voter identification were verified for each of
22 the 106 precincts carefully scrutinized. The actual
23 total number of Identified Absentee Voters appears in
24 Column B3. Board of Elections officials marked the
25 Certified Absentee Vote in red ink on the cover of the

1 pollbook as well as on the reconciliation certificate
2 found within it, often changing the number which
3 appeared on the cover in black ink. The number of
4 absentee votes counted and certified appears in Column
5 A. If there is a higher number in Column B3 than A,
6 then not all persons receiving an absentee ballot
7 returned them or some other legitimate reason can
8 explain the difference. However, this is not the case
9 for the reverse condition.

10 "If there is a higher number in Column A than
11 in Column B3 - as happened in nearly every precinct
12 examined - then there must have been more absentee
13 votes cast than there were absentee voters identified
14 in the pollbooks. This glaring discrepancy cries out
15 for an explanation and investigation. There cannot,
16 and must not be, more votes than voters in any
17 legitimate election."

18 Q. Drawing your attention -- Let me ask a
19 slightly different question. Do you have any
20 understanding, from your conversations with the
21 Trumbull County Board of Elections or otherwise, as to
22 when the cutoff date is for printing the notification
23 of an absentee voter in the pollbooks?

24 A. I was not told what the date was for the
25 cutoff, but I was told that if voters come in to the

1 Trumbull Board of Elections and vote there, then that
2 information is to be shared with the poll workers at
3 the precinct so they can write the word "absentee" in
4 the signature box. Otherwise, the voter could very
5 easily vote twice: Once at the Board of Elections and
6 then at the precinct. So, all absentee voters must be
7 identified in one way or another, printed or
8 handwritten, as having voted absentee in the pollbooks.

9 Q. Okay. Drawing your attention to Column B2 --

10 A. Yes.

11 Q. -- there is in Warren Precinct 2E, there is a
12 zero.

13 A. Yes.

14 Q. Does that mean that when you personally
15 inspected the entire pollbook in Warren County 2E, you
16 found no handwritten identifications of absentee
17 voters?

18 A. That's correct, and that appears in other
19 precincts as well. For instance, in Warren 6C, there
20 were no handwritten absentee voters, and in Warren 7D,
21 there were no absentee voters that were handwritten in
22 as absentee; only printed ones.

23 Q. Is there a similar entry with respect to any
24 of the precincts in Newton Falls City?

25 A. Yes. In 2A, there is a zero for handwritten

1 voters; and if I may continue, in Girard 1A, and in
2 Girard 3D, there were also no handwritten absentee
3 voters.

4 Q. Drawing your attention to Girard City,
5 Precinct 2C, were there any handwritten notations of an
6 absentee voter in the pollbook for Precinct 2C in
7 Girard City

8 A. There were no none in Girard City 2C, no
9 handwritten absentee voters entered.

10 If I may offer an explanation?

11 Q. Go ahead.

12 A. I was given the explanation by one of the
13 staff members that the handwritten ones were the voters
14 that voted absentee after a certain cutoff date, after
15 the documents had to be prepared for the Tuesday
16 election, and they may have come to the Board of
17 Elections and voted on that Saturday or on that Monday.
18 If that was the case, then their names were handwritten
19 in as absentee voters by the poll workers at the
20 precinct level, and therefore, you have an explanation
21 as to why some are handwritten and why some are
22 printed. The ones that we just went over that had zero
23 evidently had no last-minute absentee voters; they were
24 all before the cutoff line.

25 Q. Okay.

1 MR. PECKARSKY: Okay. Let's go off the
2 record just a second.

3 (Discussion off the record.)

4 BY MR. PECKARSKY:

5 Q. Let's go back on the record.

6 As I understand it, Dr. Lange, is it correct
7 that in the roughly 106 precincts which you inspected
8 or whose pollbooks you inspected in Trumbull County,
9 you found evidence of 580 absentee votes cast without
10 identification of which 580 voters cast them?

11 A. That's correct.

12 Q. In other words, you found votes and no
13 voters?

14 A. Precisely. There were more absentee votes
15 than there were Identified Absentee Voters.

16 Q. Okay. Did you ask anyone affiliated with the
17 Trumbull County Board of Elections for an explanation
18 as to how it would have happened that 580 votes would
19 have been cast by unidentified voters?

20 A. I have asked, and I asked Norma Williams as
21 recently as a week ago or approximately a week ago for
22 an explanation, and to date, have received no word from
23 her explaining this discrepancy. The discrepancy
24 remains to this day unexplained to me or to anyone
25 else, to my knowledge.

1 And if I may add one other point: This is a
2 ratio of over five votes per precinct. If this is a
3 problem statewide, we are talking about some 62,000
4 absentee votes in the State of Ohio without Identified
5 Absentee Voters. So this is a very significant problem
6 that remains, to this day, unexplained.

7 Q. Okay. When you asked Norma Williams for the
8 explanation, were you speaking with her personally?

9 A. No. It was by e-mail most recently.

10 Q. Okay. And is it correct that, to date,
11 through December 30, you have received -- December 30,
12 2004, you have received no response to that e-mail?

13 A. I have not received any response to that
14 e-mail. I have not received any explanation for this
15 discrepancy from any official member of that Board of
16 Elections or from the Secretary of State's office.

17 Q. Did you also ask for an explanation from the
18 Secretary of State?

19 A. Not yet, no.

20 Q. Okay.

21 MR. PECKARSKY: Okay. All right. I think
22 that concludes the Contesters' examination of Dr.
23 Lange. We noticed this deposition and advised -- well,
24 were advised by counsel for the Contestees, Richard
25 Coglianese representing certain Contestees and Kurt

1 Tunnell representing other Contestees, that this
2 deposition was going to occur today. Spoke personally
3 with Mr. Coglianesi this morning to let him know the
4 deposition was continuing. I left a couple of phone
5 messages for Mr. Tunnell this morning, let him know
6 this -- the deposition -- at least this one was
7 proceeding at the noticed location. We understood from
8 both of them, either today or in prior conversations,
9 that they would not appear. At this time, I would like
10 to offer both of them the opportunity to cross-examine
11 Dr. Lange.

12 Having heard no response from either of them,
13 which is unsurprising because neither of them are here,
14 they have waived their opportunity to cross-examine Dr.
15 Lange and the deposition is concluded.

16 Let's go off the record just a second.

17 (Discussion off the record.)

18 Dr. Lange, are you willing to waive signature
19 with respect to reviewing the deposition transcript?

20 THE WITNESS: Yes, I am more than willing to
21 waive signature.

22 MR. PECKARSKY: Thank you very much. Thank
23 you for coming.

24 THE WITNESS: Thank you very much.

25 (Discussion off the record.)

1 MR. PECKARSKY: We have agreed that counsel
2 for the Contesters will receive the original deposition
3 exhibits and either retain them or file them with the
4 Supreme Court, and the court reporter will retain a
5 copy of the exhibits and any party wanting -- any other
6 party wanting a copy can ask for them from either the
7 court reporter or counsel for the Contesters.

8 (Signature waived.)

9 - - -

10 Thereupon, at 5:48 p.m., on Thursday,
11 December 30, 2004, the deposition was concluded.

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1 CERTIFICATE

2 STATE OF OHIO :
3 COUNTY OF FRANKLIN : SS:

4 I, Sylvia A. Fraley, a Registered Diplomate
5 Reporter, Certified Realtime Reporter and Notary Public
6 in and for the State of Ohio, duly commissioned and
7 qualified, do hereby certify that the within-named
8 WERNER LANGE was by me first duly sworn to testify to
9 the truth, the whole truth, and nothing but the truth
10 in the cause aforesaid; that the deposition then given
11 by him was by me reduced to stenotype in the presence
12 of said witness; that the foregoing is a true and
13 correct transcript of the deposition so given by him;
14 that the deposition was taken at the time and place in
15 the caption specified and was completed without
16 adjournment; and that I am in no way related to or
17 employed by any attorney or party hereto or financially
18 interested in the action; and I am not, nor is the
19 court reporting firm with which I am affiliated, under
20 a contract as defined in Civil Rule 28(D).

21 IN WITNESS WHEREOF, I have hereunto set my
22 hand and affixed my seal of office at Columbus, Ohio on
23 this 30th day of December, 2004.

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18 My Commission Expires: May 5, 2008.

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