

1 STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE  
2 COUNTY OF WAKE SUPERIOR COURT DIVISION 08 CVS 6528

3 THE NEWS AND OBSERVER PUBLISHING )  
COMPANY d/b/a The News & Observer; )  
4 THE CHARLOTTE OBSERVER PUBLISHING )  
COMPANY d/b/a The Charlotte Observer; )  
5 THE JOHN LOCKE FOUNDATION, INC., d/b/a )  
Carolina Journal, Carolina Journal )  
6 Weekly Report and CarolinaJournal.com; )  
FAYETTEVILLE PUBLISHING COMPANY d/b/a )  
7 The Fayetteville Observer; THE )  
ASSOCIATED PRESS; THE NORTH CAROLINA )  
8 PRESS ASSOCIATION; MEDIA GENERAL )  
OPERATIONS, INC.; FREEDOM )  
9 COMMUNICATIONS, INC.; FREEDOM EASTERN )  
NORTH CAROLINA PUBLICATIONS, INC.; )  
10 THE WILSON DAILY TIMES, INC.; and )  
BONEY PUBLISHERS, INC., )  
11 Plaintiffs; )

12 v. )

13 MICHAEL F. EASLEY, in his official )  
capacity as former Governor of North )  
14 Carolina, and in his individual )  
capacity; CARI BOYCE, in her former )  
15 official capacity; SHERRI JOHNSON, in )  
her former official capacity; RENEE )  
16 HOFFMAN, in her former official )  
capacity; and SETH EFFRON, in his )  
17 former official capacity, )  
Defendants. )

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18 VIDEOTAPED DEPOSITION OF RENEE HOFFMAN

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19  
20 In Raleigh, North Carolina  
21 Tuesday, January 26, 2010  
Reported by Brenda J. Thissen

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In Attendance:

Pat Stith

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## STIPULATIONS

1  
2 It is hereby stipulated and agreed between the  
3 parties to this action, through their respective counsel of  
4 record:

5 (1) That the deposition of Renee Hoffman may be  
6 taken on Tuesday, January 26, 2010, beginning at 9:00 a.m.,  
7 at the law offices of Everett Gaskins Hancock & Stevens,  
8 127 West Hargett Street, Suite 600, Raleigh, North  
9 Carolina, before Brenda J. Thissen, a Court Reporter and  
10 Notary Public.

11 (2) That the deposition shall be taken and used as  
12 permitted by the applicable North Carolina Rules of Civil  
13 Procedure.

14 (3) That any objections of any party hereto as to  
15 notice of the taking of said deposition or as to the time  
16 or place thereof, or as to the competency of the person  
17 before whom the same shall be taken, are deemed to have  
18 been met.

19 (4) Objections to questions and motions to strike  
20 answers need not be made during the taking of this  
21 deposition, but may be made for the first time during the  
22 progress of the trial of this case, or at any pretrial  
23 hearing held before any judge of competent jurisdiction for  
24 the purpose of ruling thereon, or at any other hearing of

1       said case at which said deposition might be used, except  
2       that an objection as to the form of a question must be made  
3       at the time such question is asked, or objection is waived  
4       as to the form of the question.

5               (5) That the witness reserves the right to read  
6       and sign the deposition prior to filing.

7               (6) That the sealed original transcript of this  
8       deposition shall be mailed first-class postage or hand-  
9       delivered to the party taking the deposition for  
10      preservation and delivery to the Court, if and when  
11      necessary.

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Whereupon,

Renee Hoffman,

having been first duly sworn,

was examined and testified

as follows:

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MR. STEVENS: Let's begin by asking the  
counsel to identify themselves and who they're  
representing.

MR. PETERS: I'm Alexander Peters from  
the Attorney General's office, and I represent the  
defendants in this matter.

MS. TRIPPE: Melissa Trippe from the  
Attorney General's office, also representing the  
defendants.

MR. HARAZIN: William Harazin. I'm the  
private attorney representing the deponent.

MR. STEVENS: Hugh Stevens, representing  
the plaintiffs, and with me is the client  
representative, Pat Stith, who's also present.

DIRECT EXAMINATION BY MR. STEVENS:

Q Ms. Hoffman, it's customary to ask you just to  
begin by stating your name and address for the

1 record, please.

2 A My name is Renee Michaels Hoffman. My address is  
3 [address removed by Carolina Journal] in Black Mountain, North  
4 Carolina.

5 Q Okay. Are you currently employed?

6 A No.

7 Q Are you retired?

8 A Yes.

9 Q And what was the last position you held before you  
10 retired?

11 A I was the press secretary for Governor Mike Easley  
12 up until he left office. And then, I assisted  
13 Governor Perdue's press office with transition.

14 Q Okay. Could you give me just a very brief  
15 educational history?

16 A Uh-huh.

17 Q And background?

18 A Uh-huh. I grew up in Trinity, North Carolina,  
19 graduated from Trinity High School. Went to UNC  
20 Chapel Hill, where I majored in broadcast  
21 journalism. Graduated in 1981. I also have  
22 training in military public affairs. I was in the  
23 Army Reserve for six years as a broadcast  
24 journalist.

1 Q Can you also give me a very brief work history --

2 A Uh-huh.

3 Q -- leading up to the time you became press

4 secretary to former Governor Easley?

5 A Uh-huh. My first job out of college was at WCHL  
6 radio in Chapel Hill as a news reporter and anchor.

7 I spent about five years there, and then moved to

8 WPTF radio in Raleigh, where I was news reporter,

9 anchor, eventually, assignment editor. And I went

10 to work for the Department of Crime Control and

11 Public Safety in October of 1989 as the deputy

12 director of public affairs. I was promoted to

13 director of public affairs at Crime Control in, I

14 think it was, July of 1996, and worked there until

15 October of 2006, when Governor Easley asked me to

16 be his press secretary.

17 Q Who was your immediate predecessor as Governor

18 Easley's press secretary?

19 A Sherri Johnson.

20 Q In the course of preparing for this deposition --

21 well, first of all, have you ever participated in a

22 deposition before?

23 A No.

24 Q Have you -- what have you done, if anything, to



1           prepare for this deposition?

2       A       I refreshed my memory as to the events surrounding  
3           all that has taken place, on the subject of e-mail.  
4           I looked back at my notes, talked with my  
5           attorneys, obviously.

6       Q       Have you had -- did you have, in preparation for  
7           this deposition, any conversations with anyone  
8           other than your attorneys?

9       A       My husband, of course, is aware of it. One of my  
10          relatives who lives in town saw the note in the  
11          paper and asked me when the deposition was going to  
12          be. And I, at that time, told him I didn't know.  
13          That's been it.

14      Q       Okay. Have you reviewed any documents in  
15          preparation for this deposition?

16      A       Yes.

17      Q       What documents do you recall having seen?

18      A       I went back and looked at the retention schedules  
19          for the Governor's press office, and the directives  
20          that I received when I was employed at the  
21          Governor's Office as regards to e-mail and -- and  
22          other public records.

23      Q       Where did you acquire those documents, from your  
24          attorneys or from some other source?

1       A       No, I had those documents.  Those were in my  
2               initial employment package from the Governor's  
3               Office, which I kept all of that information  
4               together, and it was all there.

5       Q       Okay.  And do you -- you still have possession of  
6               those documents?

7       A       Uh-huh.

8       Q       Since you are the first of several witnesses in  
9               this matter, and probably it's going to fall to you  
10              to help me get sort of the lay of the land, if --  
11              if you -- if you will, and to try to understand a  
12              bit about the organization and the Governor's  
13              Office and the way information and communications  
14              flowed back and forth.

15      A       Uh-huh.

16      Q       So, if you could, could you just give me an  
17              overview of the duties and responsibilities of the  
18              Governor's press secretary?

19      A       The press secretary is the person who runs the  
20              office, the press office, on a day-to-day basis as  
21              far as overseeing the work of the other individuals  
22              in the press office.  And the other primary duty of  
23              the press secretary is to be in contact with the  
24              cabinet public information officers at the 10

1 cabinet agencies, and either keeping the flow of  
2 information back and forth with them, what's going  
3 on in their agencies, or working with them to  
4 prepare events that the Governor is going to be  
5 attending, or press releases, speechwriting, those  
6 kinds of things.

7 Q When you became press secretary for Governor Easley  
8 in October of 2006, do you recall approximately how  
9 many people were employed in the press office?

10 A The communications director was Sherri Johnson, and  
11 she was my immediate supervisor. There was a  
12 deputy press secretary, Seth Effron. The senior  
13 press assistant -- do you want me to name them?

14 Q If you recall. That helps, sure.

15 A The senior press assistant was Sondra Artis. And  
16 then, there were -- wait a minute. Let me count.  
17 One, two, three, four, I believe four press  
18 assistants, and we usually had a college intern,  
19 sometimes two.

20 Q Now, you mentioned that Sherri Johnson was the  
21 communications director.

22 A Uh-huh. Yes.

23 Q And I believe you referred to her as your immediate  
24 supervisor?

1 A Yes.

2 Q Was -- was there a staff under the communications  
3 director other than the press office staff or in  
4 addition to the press office staff?

5 A The communications director also had under her  
6 umbrella the -- what I used to call the citizen  
7 affairs office or the correspondence office. And  
8 that -- those people were located in the  
9 Administration Building, whereas we were in the  
10 Capitol Building.

11 Q Okay.

12 A And the correspondence office received the  
13 Governor's mail, e-mail, telephone calls from  
14 citizens, and helped answer citizen inquiries  
15 and -- and respond to requests for various  
16 documents and, like -- in -- in terms of, like,  
17 certificates of appreciation and letters to, you  
18 know, fishing tournaments and, you know, things  
19 like that.

20 Q I understand.

21 A Yeah.

22 Q Do -- do you recall approximately how many people  
23 worked in the citizen affairs office?

24 A I think it was -- I -- I mostly dealt with the

1 director, who was Claire Ennis. I think it was  
2 about three or four. It could be more than that.

3 Q Was the entire press office staff located in the  
4 Capitol?

5 A Yes.

6 Q And where was the communication director's office?

7 A For the majority of the time that I was press  
8 secretary, the communications director, myself, and  
9 the deputy press secretary were all located in one  
10 large office in the Capitol Building. So, we  
11 literally had three desks in one office and we co-  
12 located together. The other press assistants were  
13 in an outer office.

14 Q So, if I understand right, the communications  
15 director, the press secretary, and the deputy  
16 literally were within eye contact and could talk  
17 across the room to each other?

18 A Yes.

19 Q Okay.

20 A It made for very noisy phone conversations.

21 Q Well, I take it it also made for fairly easy  
22 communication?

23 A Easy communication, that's true.

24 Q Okay. How -- how did you communicate primarily

1 with the people in the citizen affairs office who  
2 were located in another building a block or so  
3 away?

4 A Usually, by e-mail. If we received an inquiry in  
5 the press office that was really a citizen inquiry,  
6 we would forward it to them.

7 Q How did you distinguish between inquiries that  
8 should be handled in the press office and those  
9 that should go to citizen affairs?

10 A If -- if the person was a news reporter, then the  
11 press office handled it. If they were anything  
12 other than that, it would go to the citizen affairs  
13 or correspondence office.

14 Q Okay. Who -- what other facets of the Governor's  
15 staff were located in the Capitol at the time?

16 A Franklin Freeman was the -- the -- the Governor's  
17 senior person for legislative affairs, and his  
18 executive secretary, his executive assistant.

19 Q And that was Anita Berry?

20 A Yes, Anita Berry. Ruffin Poole, he was counsel, I  
21 think was his title. And he was located --  
22 Franklin's office was directly across from the  
23 press office. Ruffin's office was across the  
24 rotunda, in a category -- catty-corner from the

1 press office. And Ruffin's assistant was Tanya  
2 Rogers, I believe was her name.

3 Q Okay.

4 A I may have that wrong. And then, the -- the  
5 Governor's executive assistant, Beverly Walker, was  
6 in the office outside the Governor's office. And  
7 she had two people who worked with her.

8 Q Okay. And were they located in that same office  
9 with her?

10 A Yes, they were in the same office with her, and  
11 they handled a number of correspondence issues  
12 directly to the Governor that were more than just  
13 citizen requests for a letter to the daughter who  
14 just won a beauty pageant or something like that.  
15 They also handled some of his scheduling.

16 Q Do you recall who either of those two people were  
17 at the time? I realize we're talking about a  
18 three-year period here.

19 A You know, I can see their faces, but I couldn't  
20 tell you right now what their names were. I've  
21 been away for more than a year.

22 Q Sure. I understand. All right. Was there any  
23 other people from the -- on the Governor's staff  
24 who were located in the Capitol?

1 A No. The other -- the other people were employees  
2 of Cultural Resources and the Capitol staff.

3 Q Okay. How did you communicate primarily -- through  
4 what mode did you communicate primarily with  
5 Franklin Freeman?

6 A In person, by telephone communications.

7 Q Franklin is famous for saying that he did not use  
8 e-mail.

9 A That's correct. We -- he did have an e-mail  
10 address, and if we needed to send him something to  
11 read, we could forward it to his e-mail address and  
12 Anita would print it out for him.

13 Q And, of course, Anita had an e-mail address?

14 A Yes.

15 Q Do you know, of your own knowledge, whether e-mail  
16 that was sent to Franklin's address actually went  
17 to him or was it, in effect, intercepted and  
18 deflected off to Anita?

19 A Anita read it for him and printed it for him.  
20 Franklin didn't even have a computer on his desk.

21 Q Okay. Well, to your knowledge, at any time while  
22 you were press secretary, did Franklin Freeman have  
23 access to a laptop computer or a home computer or  
24 any computer of any kind that you were aware of?



1 A I do not know.

2 Q Do you know whether he ever had a private e-mail  
3 address?

4 A I do not know.

5 Q Okay. Do you ever recall sending an e-mail that  
6 was intended -- intended for him, other than  
7 sending it to the e-mail address you had for him or  
8 to Anita Berry?

9 A No.

10 Q Did -- to your knowledge, did anyone in his  
11 household have an e-mail address?

12 A I do not know.

13 Q Did you ever send anything to anyone, Lynn or  
14 anyone in his household?

15 A No.

16 Q Okay. All right. How about Ruffin Poole? He was  
17 the counsel. Were there other members of the  
18 counsel staff whose -- who were not located in the  
19 Capitol, to your knowledge?

20 A Yes. Reuben Young was the -- the general counsel,  
21 and he was located in the Administration Building.

22 Q And did he have other people who worked for him, do  
23 you recall?

24 A Cassandra White worked for him. She was a

1 legislative liaison, but she kind of worked with  
2 Reuben.

3 Q Okay.

4 A And Andy Vanore also worked -- worked there.

5 Q Andy is like Pat; he just keeps on working.

6 A Just won't go away.

7 Q Okay. All right. Let's start with Ruffin Poole.  
8 Did Ruffin Poole have an e-mail address?

9 A Yes.

10 Q Did you send e-mails to that address?

11 A Yes. State e-mail?

12 Q Yes.

13 A Yes.

14 Q And do you -- did you receive e-mails from that  
15 address?

16 A Yes.

17 Q To your knowledge, did he ever have, while you were  
18 working as the press secretary, a private e-mail  
19 address?

20 A Yes.

21 Q Do you recall what that address was?

22 A It's a Gmail account. I -- I can't remember if it  
23 was "ruffinp" or "rpoole," but it was one or the  
24 other.

1 Q Did you ever have occasion to send messages to that  
2 private address?

3 A Yes.

4 Q Did those -- did any of those messages relate to  
5 state business?

6 A The only time I sent things to Ruffin's private e-  
7 mail account was during the -- during the 2008  
8 Presidential campaign.

9 Q Uh-huh.

10 A Ruffin was traveling with the Governor and Hillary  
11 Clinton, and we were receiving a lot of media  
12 requests to interview the Governor, mostly by  
13 telephone. And the only way we could get that  
14 information to Ruffin and the Governor was to send  
15 it to Ruffin's private account, so that he could  
16 see it on whatever his phone was. I don't know if  
17 it was a BlackBerry or an iPhone or whatever. But,  
18 those e-mails were sent from my state e-mail  
19 account.

20 Q Do I understand, then, that, although Mr. Poole had  
21 a state e-mail address, it didn't -- he could not  
22 access it from his handheld device, from the  
23 BlackBerry or whatever?

24 A That was what I was told, that he -- he needed to

1 access it through his Gmail account. I don't know  
2 why.

3 Q Did you have a -- a phone or a Blackberry that you  
4 used in your role as press secretary?

5 A I had a Nextel cell phone that also had the direct  
6 connect capability. I had that phone at Crime  
7 Control, and I just took it with me to the  
8 Governor's Office because one of my primary  
9 functions as press secretary was to be the  
10 emergency response expert in the office. And so, I  
11 kept that to maintain communications with the  
12 emergency folks. So, they were already in the  
13 phone.

14 Q I take it that being a press secretary was not  
15 exactly a nine-to-five job; is that correct?

16 A It never is.

17 Q Did you have occasion fairly regularly to deal with  
18 e-mail outside of the office and after hours?

19 A Only in the instances where there was an emergency  
20 situation -- a hurricane approaching, an ice  
21 storm -- in -- in that respect.

22 Q Did you have the ability to access your state e-  
23 mail account from home?

24 A Yes.

1 Q And how did you do that?

2 A NCMail has a web page that you can log onto and put  
3 in your e-mail address and password, and -- and you  
4 access your e-mail pretty much like you're sitting  
5 at your desk.

6 Q A TAO account?

7 A I have no idea.

8 Q Do you know about that name?

9 A No.

10 Q T-A-O?

11 A I have no idea what that is.

12 Q Okay. But if I understand you right, this is a  
13 system where you -- what you essentially do is  
14 bring up the -- your desktop on your -- on your  
15 state computer at home --

16 A Yes.

17 Q -- through -- through a remote access place?

18 A Yes.

19 Q And when you sent or received e-mail that way, it  
20 was -- it went through your state e-mail account,  
21 correct?

22 A Yes.

23 Q Did you have a private e-mail address?

24 A I -- I developed -- I got a private e-mail address

1 in March of 2007.

2 Q Okay. Was there a particular reason?

3 A Yes, because when I was at Crime Control, that was  
4 the only e-mail address that I had, and my family  
5 and friends would constantly be sending me their  
6 little jokes and pictures and things. And I did  
7 not think that needed to be in the Governor's  
8 Office e-mail accounts. So, I had my husband do a  
9 private account for me.

10 Q And was that just through something like a Gmail  
11 account or a Road Runner account, or something?

12 A Msn.

13 Q Did you ever have occasion to send communications  
14 related to your duties and responsibilities as  
15 press secretary utilizing that account?

16 A Rarely.

17 Q What kinds of situations would cause that to  
18 happen?

19 A I went back and looked in my sent e-mail, and there  
20 were eight e-mails that I sent between the time the  
21 account was established in March of 2007 and when I  
22 left the Governor's Office. One of them was a test  
23 message. One of them was a Department of  
24 Agriculture press release that came at night. It

1           actually came to Seth's account, and he forwarded  
2           it to me. And I forwarded that to my state e-mail  
3           account and Sherri's state e-mail account, and Dan  
4           Gerlach's state e-mail account. There was  
5           another -- another one had to do with I had  
6           received a call after hours on an update on the  
7           Charles Jones case, and I forwarded a note to  
8           Sherri about that.

9                         Another one had to do with, right at the  
10           end of the administration, the Cultural Resources  
11           staff that archived the Governor's web pages on the  
12           state servers, had given me the information on how  
13           to access Governor Easley's archived web pages.  
14           So, I forwarded that information to Sherri and  
15           Ruffin on their private accounts, because I thought  
16           they might be the two people who might need that in  
17           the future, and I didn't know what their other e-  
18           mail addresses might be in the future as far as  
19           state or private or anything else. So, those --

20         Q           This -- this was at the end of the --

21         A           Yes. So, those were the kinds of instances. And  
22           all of those e-mails have been provided to the  
23           Governor's Office, those eight e-mails.

24         Q           When did that happen?

1 A This week.

2 Q So, I -- if I'm understanding you right, then you  
3 actually reviewed your e-mail archive in  
4 preparation for this deposition?

5 A Yes.

6 Q And -- and -- and forwarded those eight e-mails --  
7 or provided those eight e-mails to the Governor's  
8 Office?

9 A They have been provided to the attorneys, who are  
10 getting them to the Governor's Office.

11 Q Okay. Well, I guess the question is, if we wanted  
12 to see them, whom should we ask for them? Whose --  
13 who -- to whom were they sent, do you know?

14 MR. PETERS: The -- the Governor will  
15 have custody of them.

16 MR. STEVENS: Okay. All right. That's  
17 fine.

18 Q Now, did you -- and you've sort of answered this  
19 question partially. I -- I asked you whether you  
20 had sent e-mails from that private account in  
21 connection with state business but, obviously, you  
22 received some as well, correct?

23 A Very rarely.

24 Q Other than the ones -- do you recall receiving --



- 1 A Yeah.
- 2 Q -- from anyone e-mails related to state business,  
3 other than the ones you've just described that were  
4 forwarded on?
- 5 A It was my practice to use my state e-mail account  
6 for state business. And so, if anybody needed to  
7 send me something, that's what I wanted them to  
8 send me e-mail on.
- 9 Q Did your staff have your private e-mail address?
- 10 A The -- the other staff in the press office?
- 11 Q Yes.
- 12 A No.
- 13 Q Okay. Okay. When you communicated, for example,  
14 with Ruffin Poole, did you customarily -- by e-  
15 mail, did you customarily send e-mails directly to  
16 him or through an assistant? Or did you send it to  
17 both, for example?
- 18 A Usually, to both, because Ruffin wasn't always in  
19 the office, so his assistant would, I assume, keep  
20 an eye on his e-mail. I don't know. But I would  
21 send it to her anyway.
- 22 Q Copy her on it?
- 23 A Yeah.
- 24 Q Okay.

1 A Yes.

2 Q How about, did you -- did you have occasion to use  
3 e-mail to communicate with Reuben Young, who was  
4 down in the Administration Building?

5 A Yes.

6 Q And did -- again, did you send e-mail directly to  
7 his e-mail address or through some assistant or  
8 staff person?

9 A It would go to his e-mail address. He read it on a  
10 regular basis.

11 Q To your knowledge, did Mr. Young have a private e-  
12 mail address?

13 A I do not know.

14 Q Did you ever have occasion to receive a message  
15 from him that originated from a private address?

16 A No.

17 Q Okay. All right. How did you customarily  
18 communicate with Governor Easley himself?

19 A I -- he -- he would call into the office and  
20 usually talk to Sherri Johnson. Most of the -- she  
21 was the primary point of contact for him. Usually,  
22 the only time I spoke to him was if she was out of  
23 the office or on vacation or something like that.

24 Q When you say he would call into the office, do you

1 mean he would -- would call into the -- what do you  
2 mean by that? Do you mean call into your office or  
3 call into the--

4 A He would call --

5 Q -- Capitol or --

6 A He would call the press office.

7 Q Call the press office, okay. And, usually, that  
8 would go to Sherri Johnson?

9 A Yes.

10 Q Okay. What about -- well, did you ever -- did  
11 Governor Easley have an e-mail address?

12 A I know that he did. I have no idea what it is.

13 Q How do you know that he had one?

14 A Sherri used to send him e-mail.

15 Q All right. But you were not familiar with that  
16 address?

17 A I've never seen that address and, consequently,  
18 never sent anything to it or received anything from  
19 it.

20 Q Have you ever been -- you've never had a message  
21 that was sent to that address or received from that  
22 address forwarded to you or copied to you?

23 A No.

24 Q Can you give me a little more understanding of how,

1           then, you were aware that there was such an  
2           address?

3       A       I was in the office co-located with Sherri, and  
4           I -- I -- you know, she said, "The Governor just  
5           sent me an e-mail, and he wants us to do this," or  
6           whatever.

7       Q       Do you know whether that address, whatever it was,  
8           was a state e-mail address?

9       A       I do not know.

10      Q       Now, are you familiar with an address that was  
11           mike.easley@ncmail.net?

12      A       I think that went to the correspondence office.

13      Q       Okay. Do you know -- did you know a person by the  
14           name of Allison Stivender?

15      A       Stivender.

16      Q       Stivender.

17      A       Yes, she was the Governor's ombudsman.

18      Q       Okay. Do you know whether mail that went to  
19           mike.easley@ncmail.net actually went to her or to  
20           someone in -- in that office?

21      A       I don't know who regularly checked that account.  
22           I'm not sure if it was done by one person or  
23           several people.

24      Q       Did you ever have occasion to send e-mail to that

1 address?

2 A No.

3 Q Was this an address that was basically published  
4 for the public to use to access -- to send e-mail  
5 to the Governor's Office?

6 A That's my understanding.

7 Q Okay. And that e-mail was fielded and handled in  
8 citizen affairs?

9 A Yes.

10 Q Not to put words in your mouth, but then may -- I  
11 take it that you would assume that whatever address  
12 the Governor had that Sherri Johnson was using to  
13 send e-mail to him, it was not that address?

14 A I don't know.

15 Q Okay. Did you have occasion to send e-mail to the  
16 folks in the citizen affairs office, like Ms.  
17 Stivender and others?

18 A Yes.

19 Q And did you simply send it to their personal state  
20 e-mail addresses?

21 A Yes.

22 Q As opposed to this sort of Mike Easley mailbox  
23 address, I guess, for example.

24 A If I had to correspond with anyone in the

1           correspondence office, I sent e-mail to their state  
2           e-mail address, with Allison or Claire or whoever.

3       Q       Okay. All right. Do you know whether anyone other  
4           than Sherri Johnson knew the e-mail address for  
5           Governor Easley?

6       A       I don't know.

7       Q       Did you ever have anyone indicate that they did,  
8           or -- or tell you that they did?

9       A       No. Wait a minute. Let me correct that.

10                    Dan Gerlach, I do recall that Dan used to  
11           get up early in the morning and send the Governor  
12           the day's news, news clips, electronically. I  
13           don't know what e-mail address he used.

14       Q       But you were aware that it was sent by e-mail?

15       A       Yes.

16       Q       Okay. Now, earlier, we talked about Franklin  
17           Freeman and the way e-mail went to him, basically,  
18           through Anita Berry.

19       A       Uh-huh.

20       Q       Did -- do you know whether Beverly Walker and her  
21           assistants ever fielded or -- or handled e-mail on  
22           behalf of the Governor?

23       A       I don't know. I wasn't that closely involved with  
24           their work operations.

1 Q How did -- if you needed to communicate with Ms.  
2 Walker and her staff, how did you customarily do  
3 that?

4 A It would depend on what it was. If it was a  
5 correspondence type request that had come to me by  
6 e-mail, I would just forward it to them. If  
7 somebody wanted to know if the Governor had  
8 scheduled, you know, an event or a meeting or  
9 whatever, I would just pick up the phone and call  
10 her, 'cause that's easy.

11 Q All right. Now, when you -- let me see if I  
12 understand. Did you become press secretary,  
13 essentially, at the same time that Sherri Johnson  
14 became communications director?

15 A Yes.

16 Q And who was her predecessor as communications  
17 director?

18 A Cari Boyce.

19 Q Okay. Just to be clear, did -- did you and Ms.  
20 Boyce ever work in the Governor's Office at the  
21 same time?

22 A Not -- she left at the end of September. I came on  
23 the 1st of October, 2006. There were a couple of  
24 days in September that they asked me to come up to

1 the Governor's Office, just to start getting a feel  
2 for the Governor's Office, so our paths crossed  
3 there a couple of times, but --

4 Q But she was never your supervisor at the Governor's  
5 Office?

6 A No.

7 Q Okay. Did you ever have occasion to communicate  
8 with Mary Easley?

9 A Only on a couple of occasions, and only because  
10 Sherri was away at the time.

11 Q Did you ever have occasion to send or -- send an e-  
12 mail to or receive an e-mail from Mary Easley?

13 A No, if -- there were only a couple of occasions I  
14 needed to get information to the First Lady, and I  
15 would send that to her assistant, Amanda Williams.

16 Q And where was Amanda Williams's office located?

17 A In the mansion.

18 Q And did Ms. Williams have a state e-mail address?

19 A Yes.

20 Q And was that the address you used to communicate --

21 A Yes.

22 Q -- when you did, to the First Lady?

23 A Yes.

24 Q Do you know whether Mrs. Easley had a state e-mail



1 address?

2 A I don't know.

3 Q Do you know whether she had a private e-mail  
4 address?

5 A I do not know.

6 Q How -- did you ever have occasion -- well, you've  
7 described a couple of occasions, particularly  
8 during the campaign, or a campaign, when you -- the  
9 Governor was traveling with Mr. Poole. Did -- did  
10 you have occasion to communicate with the Governor  
11 when the Governor was on the road or out of state  
12 at a meeting, or anything of that sort?

13 A Not very often. If -- if he needed something when  
14 he was traveling, he would call into the office and  
15 ask us to get it for him.

16 Q Was telephone the primary way that you would  
17 communicate with him when he was away?

18 A Yes.

19 Q Did you customarily speak with him directly or  
20 through some assistant or subordinate?

21 A Usually, he would call if -- if he needed  
22 something. If we needed to get in touch with him,  
23 we would contact security, and security would  
24 either get him on the phone or have him call us

1 back.

2 Q And would security be generally the highway patrol  
3 people who were with him?

4 A Yes.

5 Q Did any of those people have e-mail addresses, to  
6 your knowledge?

7 A They had state e-mail addresses.

8 Q Did you have occasion to send messages to the  
9 Governor by sending them to the e-mail addresses of  
10 the security folks?

11 A There was a generic security e-mail address so that  
12 we didn't have to remember 18 or however many  
13 people's e-mail addresses that we would  
14 occasionally send things to. Or if -- or if --  
15 those -- that was mostly used, though, to notify  
16 security of things that we needed to let them know  
17 about, such as when press events were scheduled.

18 Q Okay. Okay. Let me shift gears here for a minute  
19 and go back to your -- the time when you were a  
20 public affairs -- in public affairs for Crime  
21 Control and Public Safety.

22 A Yes.

23 Q You mentioned earlier that one of the things the  
24 press secretary did was to coordinate or keep

1 contact with the public affairs and public  
2 information officers of the cabinet agencies --

3 A Yes.

4 Q -- correct?

5 A Yes.

6 Q And I take it that Crime Control and Public Safety  
7 was one of those agencies?

8 A The best one.

9 Q Okay. When you were the deputy -- well, let's go  
10 back -- let's go to -- after 1996 when you were the  
11 director of public affairs for Crime Control and  
12 Public Safety, did you have occasion to attend or  
13 to participate in meetings with the other public  
14 affairs officers --

15 A Yes.

16 Q -- and -- and the press secretary?

17 A Yes.

18 Q Okay. And were those meetings held in pretty much  
19 the same fashion before Governor Easley took office  
20 in 2001, or -- or did they change?

21 A I used to occasionally attend those meetings under  
22 both the Martin and Hunt administrations as well,  
23 even when I was deputy director.

24 Q How regularly were such meetings held during the

1 Hunt administration?

2 A Typically, in the Hunt administration, they were  
3 every couple of weeks. Well, in Hunt and Martin  
4 and Easley, they were every couple of weeks when  
5 the legislature was in session. But, if the  
6 legislature was out of session, they were usually  
7 monthly.

8 Q Okay. And, generally, what was the purpose of  
9 those meetings?

10 A It was to get all of the cabinet agencies in one  
11 room together so the -- the press office could  
12 bring the cabinet agencies up to -- to speed on  
13 what the Governor's focus was in the next few  
14 weeks. And also, for -- and it also provided an  
15 opportunity for the cabinet agencies' PIO's to talk  
16 to each other, share information about what things  
17 they were doing. Frequently, there were things  
18 that crossed agency lines, such as the drought, and  
19 also to brief the Governor's Office on any hot  
20 issues that they might have going on.

21 Q Like the stuff Pat Stith was interested in?

22 A Oh, Pat was always a subject of conversation, and  
23 not in a bad way.

24 Q Okay. Now, when you were -- when you were

1 attending those meetings as -- in your capacity as  
2 a public affairs officer for Crime Control, who  
3 generally presided at -- or orchestrated those  
4 meetings for the Governor's Office?

5 A It was the Governor's press secretary.

6 Q So, that would have been Sherri Johnson for most of  
7 the Easley Administration?

8 A No, it was Cari Boyce for most of the Easley  
9 Administration. Cari was the press secretary, and  
10 I can't remember exactly when Sherri came over to  
11 the press office. I believe Cari actually took a  
12 break from the press office in the 2004 election,  
13 to go back to the campaign, but I don't -- I don't  
14 remember dates or anything. And then, she came  
15 back to the press office.

16 Q I don't want to run -- get too far afield here, but  
17 was -- I understood that Ms. Boyce was the  
18 communications director for Governor Easley from  
19 the time he actually took office in 2001. Am I  
20 misunderstanding that?

21 A She was initially the press secretary and I think,  
22 later, they created the communication director's  
23 position to provide more cohesive communications  
24 with the correspondence office and the press

- 1 office.
- 2 Q Okay. All right. Now, when -- did -- when you  
3 became the press secretary, did you schedule and  
4 preside over those meetings with the public affairs  
5 officers?
- 6 A Yes.
- 7 Q Where were they generally held?
- 8 A They were usually held in a conference room in the  
9 Administration Building, on the first floor.
- 10 Q That big conference off -- the Governor's -- the  
11 so-called Governor's conference room?
- 12 A Yes, off the press conference room.
- 13 Q Okay. Were they ever held at the Capitol?
- 14 A There was a period of time that they were held at  
15 the Capitol, but a lot of the PIO's complained  
16 about having to walk all of the way up to the  
17 Capitol, so they were generally held at the  
18 Administration Building, which was more centrally  
19 located.
- 20 Q Okay. As press secretary, I take it you had  
21 frequent contact with these various public affairs  
22 offices?
- 23 A Yes.
- 24 Q How did you communicate with them? Through what

- 1 mode did you primarily communicate with them?
- 2 A Primarily e-mail and, obviously, by telephone as  
3 well.
- 4 Q Okay. Let me back up and ask you, are you  
5 generally familiar with the North Carolina Public  
6 Records Act?
- 7 A Yes.
- 8 Q How did -- have you ever had any particular  
9 training with respect to the public records law,  
10 such as actually attending a seminar or class, or  
11 anything of that sort?
- 12 A When I was a news reporter, I remember attending  
13 some training. I just don't recall, over the past  
14 20 years, whether I attended training as a -- I  
15 mean, we -- we would have -- the North Carolina  
16 Association of Government Information Officers,  
17 which included state and local public information  
18 officers, would meet monthly and, occasionally, we  
19 would have somebody come in and talk about public  
20 records law. So, that would have been the instance  
21 that I attended that.
- 22 Q Did questions about public records law arise from  
23 time to time while you were press secretary?
- 24 A What kind of questions?

1 Q Whether, for example, things that had been  
2 requested by a reporter or by a citizen, whether  
3 they really -- whether they were or were not  
4 entitled to have them, or questions of that sort?

5 A Our standard practice, when we received a public  
6 records request, and -- and the press office dealt  
7 with media requests -- was to gather the  
8 information requested, provide that to the  
9 Governor's attorneys, and the attorneys would  
10 decide what was responsive to the public records  
11 request. And then, we would turn it over.

12 Q Now, which attorneys did you customarily deal with  
13 in --

14 A Reuben. Reuben Young.

15 Q Okay. Not Ruffin Poole?

16 A Ruffin would sometimes look at things if it was a  
17 particular area that he was -- an issue that he was  
18 most familiar with.

19 Q Do you recall any such issue in particular?

20 A I can't give you a specific instance, but if there  
21 were -- if there was an environmental situation  
22 that he was working on or a Department of  
23 Transportation, he might review those. But,  
24 typically, Reuben would also look at them.



1 Q Did you ever recall having an occasion to request  
2 the assistance of the Attorney General's Office  
3 with respect to a public records request?

4 A That would be something we would leave to the  
5 Governor's attorneys to decide if they needed to  
6 check with the Attorney General's Office, lawyer to  
7 lawyer.

8 Q Okay. All right. I'm going to show you a document  
9 very quickly and then -- let me ask you, just  
10 preliminarily, have you had occasion to read or  
11 review the Complaint or the Amended Complaint  
12 that's been filed in this case?

13 A A couple of months ago, I did.

14 MR. STEVENS: Okay. All right. Can we  
15 mark this as Exhibit 1, please?

16 \_\_\_\_\_  
17 (EXHIBIT NUMBER 1  
18 MARKED FOR IDENTIFICATION)  
19 \_\_\_\_\_

20 Q I'm going to hand you what's been marked as Exhibit  
21 1, and I'll just note for the record that it is  
22 also Exhibit B to both the Complaint and Amended  
23 Complaint in this case that brings us here today.  
24 And, for the record, it is a document entitled

1 "E-Mail as a Public Record in North Carolina:  
2 Guidelines for its Retention and Disposition,"  
3 dated August 2002.

4 And my first question is, do you recall  
5 ever having seen this before?

6 A Yes.

7 Q How did you -- when do you recall first having  
8 become aware of it or seeing it?

9 A It was provided in the employment packet when I  
10 came to the Governor's Office. I -- I probably had  
11 seen it before that at Crime Control but, most  
12 recently, this was included in the packet of  
13 information about insurance and everything else  
14 when -- when you join the Governor's Office and you  
15 are asked to read it and sign that you had read it.

16 Q Okay. Did your duties as press secretary involve  
17 at all dealing with the Department of Cultural  
18 Resources with respect to the retention of public  
19 records, including e-mail or correspondence, press  
20 releases, any other records of any kind?

21 A The retention schedule for the Governor's Office  
22 records, the Governor's press office records, was  
23 already developed when I became press secretary,  
24 and had been in place, was developed with the

1 Governor's Office and Cultural Resources in -- I  
2 think when the Governor first came in. And as is  
3 typical when people change hands in those jobs, we  
4 reissued that retention schedule with signatures by  
5 Sherri and myself and -- and other members of the  
6 Governor's staff.

7 Q Did you ever have any dealings with representatives  
8 of the Department of Cultural Resources about the  
9 retention schedule or compliance issues related to  
10 the retention schedule, or anything of that sort?

11 A No.

12 Q How did the retention schedule affect your day-to-  
13 day work? I mean, what -- what did you have to do  
14 by virtue of this -- of the retention schedule?

15 A Primarily dealing with e-mail, I would manage my e-  
16 mail account in accordance with the information  
17 provided to us by Cultural Resources, as to how to  
18 keep e-mail and get rid of e-mail that had a short-  
19 term value or had no administrative value.

20 Q Okay. Were -- did you ever have -- and I may have  
21 asked this another way. If I -- I apologize if  
22 it's redundant.

23 Did you ever have any conversations with  
24 representatives of Cultural Resources concerning

1           those issues, or -- or did you simply follow  
2           directives that were in place in the Governor's  
3           Office?

4       A       I followed the directives that were provided to me  
5           when I became press secretary.

6       Q       If a question arose about that within the  
7           Governor's Office, to whom did you direct that  
8           question?

9       A       We would have directed that question to Reuben.

10      Q       Did questions of that sort come up from time to  
11           time?

12      A       About?

13      Q       About --

14      A       Questions about?

15      Q       -- whether you should retain a certain record or  
16           category of records, that kind of thing.

17      A       We generally just kept everything -- briefing  
18           memos, speeches, press releases. They were filed  
19           in -- in a -- all of the documents that we produced  
20           were filed on a server that was accessible by  
21           anybody in the press office, really anybody in the  
22           Governor's Office, so that we could do our work  
23           product. We frequently used -- you know, rewrote  
24           speeches of the same theme when the Governor was

1           doing, you know, similar speeches, similar press  
2           events, things like that, instead of creating  
3           something brand new.

4       Q       I know that drill.  Lawyers -- lawyers file the  
5           same briefs over and over again sometimes.

6                       MR. STEVENS:  Okay.  Well, I tell you  
7           what.  Before I get into the next subject, why  
8           don't we just take a brief break and everybody  
9           stretch?

10                      (RECESS, 9:55 - 10:04 A.M.)

11       Q       Let me just ask one follow-up question to something  
12           that you mentioned before we took our break.

13                      You said that, when you got a public  
14           records request that was directed to the Governor's  
15           Office, your process was to gather up the material  
16           that was requested and the turn it over to the  
17           lawyers, primarily Reuben Young.  Was that  
18           something that was routinely done, or was that done  
19           only when there was some question about --

20       A       That was routine.

21       Q       Okay.

22       A       That was routine.  And the lawyers would look at  
23           the documents and determine if there was anything  
24           within those that was excluded from release by

1 statute or for other reasons.

2 Q Okay. What was -- you said that you looked to the  
3 retention policies and practices and schedules in  
4 terms of handling your e-mail. Can you just  
5 describe for me generally what your understanding  
6 was about how you decided what e-mail you needed to  
7 retain and -- and did retain, and what you could  
8 dispose of, and so forth?

9 A Well, the retention policy allows you to get rid of  
10 e-mail that has a short-term value or no longer has  
11 administrative value. And we would, every month,  
12 get an e-mail from NCMail, telling us to clean up  
13 our e-mail accounts. Each individual was allotted  
14 a certain amount of storage space. I was routinely  
15 about 20 times over the amount of storage space  
16 that I was supposed to have, so what I tried to do  
17 is, usually, on Friday afternoons, sometimes just  
18 every couple of weeks, I would look through my e-  
19 mail and determine what I no longer needed, and get  
20 rid of that.

21 Q Okay. Let's talk about two terms that you used,  
22 and I think they both are reflected in the  
23 retention policy. "Short-term value" --

24 A Uh-huh.

1 Q -- what did that mean to you?

2 A "There's a birthday party for Denise at 2:00 this  
3 afternoon. Y'all come." You know, every month,  
4 there'd be a birthday schedule sent around. You  
5 know, "Can you meet me for lunch at such-and-such?"  
6 "Yes." I mean, those things -- once that event had  
7 occurred or, in the terms of, like, the list of  
8 birthdays for the month, once that month was over,  
9 I no longer needed that.

10 Q Well, now, the two examples you just gave, if I may  
11 say, would seem to me to relate sort of to personal  
12 or social matters.

13 A Right.

14 Q What about communications that related directly to  
15 state government business? Did you apply this  
16 short-term policy to that as well?

17 A Well, to give you an example, if we -- frequently,  
18 the correspondence office would send -- would send  
19 us letters that they had drafted back to a citizen  
20 for us to review and rework the wording in the  
21 Governor's language. And we'd do that and then  
22 send it back to them. And then, once that project  
23 was finished, there was no need to keep the e-mail  
24 that was originally sent to me with the draft in

1           it. It would just take up space.

2       Q       Okay. How about -- I mean, well, how about press  
3           releases?

4       A       I kept press releases for a long time. I typically  
5           would keep the press releases that the PIO's would  
6           send to me, and I -- I'd organize my e-mail by  
7           agency. So, if I got an e-mail from Commerce with  
8           a press release in it, I would file it under the  
9           Commerce folder. And I kept those right up until  
10          the end of the administration.

11      Q       When we talk about keeping something, let me just  
12          be clear what we're talking about.

13                        When you talked about having to clean up  
14          storage space, are you talking with respect to your  
15          computer, or are you talking about a server to  
16          which that computer was linked, or both?

17      A       Well, I'm not a computer person, but I believe it's  
18          both.

19      Q       Okay.

20      A       The -- the e-mail we would get once a month from  
21          NCMail would say, "Your inbox has," for example,  
22          "700 megabytes of data in it. You're only allowed  
23          to have 30 megabytes of data." And it -- and it  
24          would say, "Within your retention policy, go



- 1 through and, you know, clean up your e-mail.  
2 Otherwise, your agency is charged for this extra  
3 storage space." So, it was on my computer, but it  
4 was also, of course, backed up on the NCMail  
5 accounts on a daily basis.
- 6 Q Okay. And what was your understanding, if any, as  
7 to what happened to a message that you deleted from  
8 your computer? Was it your understanding that it  
9 was gone forever, or that it could be retrieved  
10 from some other --
- 11 A Oh, no. It -- it could be retrieved. As -- as  
12 long as that message was in place for a 24-hour  
13 period, it was backed up on the state computers and  
14 could be retrieved.
- 15 Q And what was your understanding if a message was  
16 deleted and it -- and it didn't stay on for 24  
17 hours?
- 18 A Then, it couldn't be retrieved. But it was my  
19 practice to leave my e-mail and clean up my e-mail  
20 once a week.
- 21 Q Okay. The other term I think you used was  
22 something, "It no longer had administrative value."
- 23 A Yes.
- 24 Q Now, how did you understand that term, apply that

1 term to your e-mail?

2 A E-mail is the primary way that we would develop our  
3 work product in the press office. For example,  
4 planning press events with the Governor, writing  
5 press releases, getting help from the agencies in  
6 writing speeches for the Governor. So, they -- we  
7 would ask them for background on the subject. They  
8 would send us that information. We'd work up the  
9 press release, the speech, whatever it was, and go  
10 back and forth with the PIO's until we got that to  
11 where we wanted it to go, to -- to the final  
12 product.

13 Q Yes. But my question was --

14 A I'm sorry.

15 Q My question had to do with when something no longer  
16 had any administrative value.

17 A Oh, okay. I didn't take that --

18 Q I understand the process.

19 A I didn't take that second leap.

20 Q Okay.

21 A I'm sorry. For example, if I had an ongoing e-mail  
22 conversation with a PIO on something, I would keep  
23 the final e-mail that has that entire string of  
24 discussion back and forth, and get rid of the other

1           10 or 12 or however many previous e-mails, because  
2           there was no need to keep every single one if you  
3           kept the final one, which had the complete string.

4        Q       How about drafts of speeches or other documents  
5           that the press office prepared?

6        A       We usually had a draft folder that would -- things  
7           would stay in a draft folder until they go to the  
8           final folder.

9        Q       Well, are we talking a physical folder or an  
10       electronic folder?

11       A       An -- an electronic, excuse me, electronic. And  
12       the final versions of all speeches, press releases,  
13       briefing memos, all of those things were -- were  
14       kept and were turned over to archives at the end of  
15       the Administration, electronically.

16       Q       Drafts were not?

17       A       Usually, a draft, if somebody was working on  
18       something, whether they kept that draft was up to  
19       that individual. Sometimes it -- it just depended.

20       Q       Do you ever recall hearing about a case called News  
21       & Observer Publishing Company v. Poole, et al.?

22       A       I think that was the N.C. State --

23       Q       Yes.

24       A       Yeah. Vaguely. I remember Pat wrote it. Pat

1           wrote the stories.

2       Q       Do you ever recall a lawyer from the Governor's  
3           staff or from the Attorney General's staff advising  
4           you that, among the holdings in that case, is that  
5           drafts of public records are themselves public  
6           records?

7       A       No one ever told me I had to keep every single  
8           draft of everything.

9       Q       Were there periodic discussions within the  
10          Governor's Office while you were press secretary  
11          with respect to the e-mail retention practices?

12      A       What -- what do you mean by "periodic discussions"  
13          and "practices"?

14      Q       Well, I mean, did -- did -- did you ever have --  
15          sit down with your staff and say, "Now, you know, I  
16          want to make sure everybody is on the same page  
17          here in terms of how we are handling e-mail"?

18      A       I can't recall a specific instance of that. Every  
19          employee, when they came in, was provided with this  
20          document, as well as the directives from Reuben  
21          Young and Ruffin Poole that said, "E-mail is a  
22          public record, and you should manage your e-mail  
23          accounts in accordance with the retention policy on  
24          e-mail."

1 Q Was -- while you were -- well, let me ask you --  
2 I'll ask you the whole thing.

3 At any time while you were employed in  
4 state government, was there ever an actual training  
5 session that you recall attending or participating  
6 in with respect to compliance with the public  
7 records law?

8 A I don't recall, outside of the NCAGIO meetings that  
9 I mentioned to you previously. Now, I used to do  
10 media training for the highway patrol, in which I  
11 instructed them what the public records law was,  
12 which is, basically, anything that you produce as a  
13 state employee on a state computer on state time,  
14 is a public record, unless there's a statute that  
15 exempts it.

16 Q Okay. And was it your feeling that the retention  
17 policy in the Governor's Office complied with that?

18 A Yes.

19 Q Okay. Did there -- do you recall public records  
20 requests coming to the Governor's Office sometime  
21 in 2007, asking for e-mail from -- sent to and from  
22 the Governor's Office itself?

23 A We received lots -- lots of requests the whole time  
24 I was there for e-mail to and from the Governor's

1 Office.

2 Q Do you recall receiving a request, kind of a  
3 blanket request, for access to the Governor's e-  
4 mail?

5 A No.

6 Q Okay. Okay. So you know someone by the name of  
7 Jim Morrill?

8 A Yes, with the Charlotte Observer.

9 Q Okay. Do you recall his making a request around  
10 2007 for access to large amounts of e-mail sent or  
11 received from the Governor's Office?

12 A I don't recall. I wasn't usually the one that  
13 talked to Jim.

14 Q Who -- who probably would he have talked to?

15 A Seth and Jim were friends from way back and,  
16 typically, if Jim needed something, he called Seth  
17 directly.

18 Q Okay. You were employed with the Governor's Office  
19 as the press secretary when this lawsuit began,  
20 were you not?

21 A Yes.

22 Q Were there discussions within the Governor's Office  
23 with respect to -- to that, with anyone other than  
24 attorneys?

1       A       Well, we discussed it within the press office, I  
2               mean, the fact that it had been filed. I mean,  
3               just general discussions.

4       Q       Were there discussions about the underlying  
5               circumstances that led up to it?

6       A       Yes.

7       Q       Okay. Did you talk to Mr. Effron about it?

8       A       Well, Sherri and Seth and I were in the same room,  
9               so we talked about everything.

10      Q       Did you ever talk to Franklin Freeman about it?

11      A       Yes, but not -- most of my conversations were with  
12             Reuben and with Andy.

13      Q       Okay. Without saying what it was, did they -- did  
14             Mr. Young and Mr. Vanore provide you and the other  
15             members of the press office with advice about  
16             responding to inquiries about the lawsuit, and so  
17             forth?

18      A       Yes.

19      Q       Did you -- did you ever have occasion back then,  
20             that is, at the time the lawsuit was filed or prior  
21             to it being filed, to search for e-mail sent or  
22             received to the Governor's -- sent to or received  
23             by the Governor's -- I mean, sent from or received  
24             by the Governor's Office?

1 A All the time. We -- we had requests for e-mail all  
2 the time, as well as other public records.

3 Q Did you ever conduct a search at the request or  
4 direction of Mr. Vanore or Mr. Young?

5 A Yes.

6 Q What did you search for?

7 A Mr. Vanore asked us to provide all of our e-mail to  
8 and from our individual selves and the cabinet  
9 PIO's for the period of time of May 27 up until  
10 that time period, which was spring of 2008,  
11 approximately a year.

12 MR. STEVENS: Okay. We'll mark this as  
13 Exhibit 2, please.

14

15 (EXHIBIT NUMBER 2

16 MARKED FOR IDENTIFICATION)

17

18 Q I'll hand you what's been marked as Exhibit 2 and,  
19 for the record, this is an affidavit from Debbie  
20 Crane. It's also Exhibit A to the Complaint and  
21 the Amended Complaint in this case.

22 Have you had occasion to see or review  
23 this document before?

24 A Yes.



1 Q Are you acquainted with Debbie Crane?

2 A Debbie and I have been friends for more than 20  
3 years, dating back to our time as news reporters  
4 together.

5 Q Did you -- I note in her affidavit that you both  
6 work at WCHL at a time. Did you ever work there  
7 together?

8 A No. She was at WCHL while I was at WPTF.

9 Q Okay. She was a public affairs director for the  
10 Department of Health and Human Services at the same  
11 time you were in public affairs at Crime Control,  
12 correct?

13 A Yes.

14 Q Okay. Do you -- I'd like to ask you some questions  
15 about this. Do you need to take a minute to read  
16 it over, or are you familiar with the content?

17 A I've read it several times. I'm familiar with it.

18 Q Okay. Well, let me just ask you this.

19 Is there anything in this affidavit by  
20 Ms. Crane which is not true?

21 MR. PETERS: Objection.

22 MR. STEVENS: Well, it's just a --

23 MR. PETERS: Objection to -- to the  
24 extent that that calls for speculation.

1 Q As far as you know, within your personal knowledge,  
2 is there anything in here of which you have  
3 personal knowledge as being not true?

4 A On number eight --

5 Q Okay. Paragraph eight?

6 A Uh-huh.

7 Q Page three? Okay.

8 A That was an instance where, after a PIO meeting, we  
9 were just talking, and Debbie asked me, "Well, do  
10 you know if Sherri -- do you know if the Governor  
11 has an e-mail account?" And my response was,  
12 "Well, I assume he does. I don't know. Probably  
13 something like Road Runner."

14 Q Okay.

15 A This indicates that it was definitely a Road Runner  
16 account. I don't have a clue if it was a Road  
17 Runner account. I used that as an example.

18 Q Okay. But the gist of this, that is, that there  
19 was a conversation about whether Governor Easley  
20 had a private e-mail account, that -- that  
21 conversation occurred?

22 A Yes.

23 Q And it was a reference to a possible Road Runner  
24 account?

1 A I -- I said "something like a Road Runner account."

2 Q Okay. All right. Anything else?

3 A (Examines document.) Under number five, it's a  
4 wording issue.

5 Q Okay.

6 A She says that, "They did not want to create records  
7 that would be subject to disclosure under the  
8 public records law." As long as I have been in  
9 state government and there has been e-mail, it has  
10 been a regular practice of the Governor's Offices  
11 in all administrations to discourage people from  
12 putting sensitive information in e-mail.

13 Q Okay.

14 A So, it -- I never heard the reference, "Don't  
15 create anything. Don't create a public record."  
16 It was, "Be sensitive to what you put in e-mail  
17 because there are some communications that should  
18 be done on the phone or face to face and not put in  
19 e-mail."

20 Q Okay.

21 A Also, in that same section, I never heard the term  
22 "double delete" until I read it in the affidavit.

23 Q Were -- okay. For the record, let me just read a  
24 couple of sentences from paragraph five then. "We

1           were also instructed that, if we did send e-mail  
2           messages to the Governor's Office, they were to be  
3           deleted from our computer's 'sent' mailbox  
4           immediately after they were sent." Is that true?

5       A       I don't recall an instruction to -- to delete them  
6           immediately after they were sent.

7       Q       What do you recall about that?

8       A       My recollection is that, on a couple of occasions,  
9           both Cari Boyce and Sherri Johnson instructed the  
10          PIO's to delete their e-mail to and from the  
11          Governor's Office.

12      Q       Do you recall, first of all, the context in which  
13          that happened? Did it happen, for example, in one  
14          of these meetings at which the -- the PIO's were  
15          meeting with the Governor's press staff?

16      A       My recollection is that the instruction -- I heard  
17          Cari give that instruction once during a meeting,  
18          and that Sherri called us on the phone another  
19          time.

20      Q       Do you recall whether there -- what the  
21          circumstances were, or were they -- were they  
22          related to particular circumstances in your mind,  
23          or to particular messages?

24      A       I do not recall the circumstances. I do remember

1 the events, and I also remember that I never did  
2 that on those instructions.

3 Q Did you ever have a conversation with either Ms.  
4 Boyce or Ms. Johnson as to why they were making  
5 that request or instruction?

6 A No, not in those two instances.

7 Q Did they ever say why they were passing along that  
8 instruction or request?

9 A If they did --

10 MR. PETERS: Objection to the form of the  
11 question. It assumes that it was passed along.

12 MR. STEVENS: Well, I'm saying if -- if  
13 she heard.

14 Q Did you ever hear them explain the reasoning behind  
15 this to anyone?

16 A I don't recall. I'm sorry. I wish I did.

17 Q Did either of them ever indicate to you or in your  
18 presence that those instructions were -- or -- or  
19 recommendations or requests were being passed along  
20 by them from someone above them?

21 A I don't recall if they mentioned anybody by name.

22 Q Did you have reason to believe that they -- they --  
23 that they were passing on an instruction or request  
24 from someone above them?

1       A       Yes.

2       Q       And did you have any particular reason to think who  
3               that was, or might be?

4       A       It's only an assumption, but we would assume that  
5               it came from the Governor if the Governor's press  
6               secretary was giving us that instruction.

7       Q       And -- okay. Now, the -- the next sentence after  
8               the one that I just read, says, "We were instructed  
9               that we should then go to our file for 'trash' or  
10              'deleted messages' and delete them again." Do you  
11              recall whether the conversations you've described  
12              included that directive?

13      A       I don't recall that specifically. I do recall a  
14              PIO meeting when one of the other PIO's -- and I  
15              don't remember who -- ask the question about,  
16              "Well, once you delete an e-mail, it's not really  
17              gone." And someone else relayed, "Well, here's how  
18              you do that."

19      Q       Okay. Let me put it this way. Did you ever -- do  
20              you ever recall the PIO's being directed by Ms.  
21              Johnson or Ms. Boyce, or anyone else, not to do  
22              that, that is, to make sure that e-mail remained on  
23              the system for at least 24 hours so it would be  
24              retained?

1       A       No, I don't recall that.

2       Q       Were you personally aware yourself that -- that  
3               there was a way to, in effect, permanently delete  
4               an e-mail message?

5       A       Yes.  The IT staff of the Department of Crime  
6               Control would periodically, when our e-mail server  
7               approached its maximum capacity, would send a note  
8               around to us and ask us to clean up our e-mail,  
9               including to clean out the trash folder, so that  
10              they would save that space.  But they said in  
11              accordance with your retention policy, and that, if  
12              you needed to delete an e-mail and needed to keep  
13              it, you could print it out and keep it.

14      Q       Do you recall exactly what e-mail program you used  
15              at the Governor's Office?

16      A       It was Microsoft Outlook.

17      Q       Okay.  So, just to be clear, in Outlook, you have  
18              an inbox --

19      A       Uh-huh.

20      Q       -- and you have a "sent" mailbox or list --

21      A       Yes.

22      Q       -- that you can look at.  And then you have a  
23              "deleted mail" archive, as it were.  In other  
24              words, when you delete something, it goes into

- 1 something called "deleted mail," but you can go  
2 look at it, correct?
- 3 A Yes.
- 4 Q Now, what was your understanding with respect to  
5 how the retention policy affected, first of all,  
6 that folder called "deleted"?
- 7 A Uh-huh.
- 8 Q Did -- did it -- what did you do, if anything, with  
9 your "deleted mail" folder when you were cleaning  
10 up your e-mail?
- 11 A I would not delete an e-mail until I had determined  
12 whether or not it still had administrative value to  
13 me.
- 14 Q Okay.
- 15 A I would only delete an e-mail once it met the  
16 criteria in the retention policy of either the  
17 short-term or administrative value.
- 18 Q So, let me be clear. In other words, you left your  
19 e-mail either in your inbox or your "sent" mailbox  
20 until you were prepared to make a decision about  
21 it?
- 22 A Or in the folders that I used to manage my e-mail  
23 account, yes.
- 24 Q Okay. All right. I understand. So, you would



1           have topic folders, for example?

2       A       Yes.

3       Q       All right.  But you kept them, basically, alive

4           until you were ready to make a decision about their

5           basic retention or not, correct?

6       A       Yes.

7       Q       Okay.  Then, when you were ready to delete them,

8           what process did you use?

9       A       As I described earlier, I would go through the e-

10          mail from that week, although, usually, it was

11          every two weeks, and decide what I needed to keep

12          and what I could get rid of.  And then, I would

13          delete the ones that I could get rid of.

14       Q       Now, when you say you deleted them, did you move

15          them just to your "deleted" folder, or did you

16          delete them from the "deleted" folder also?

17       A       I typically would go open the "deleted" folder,

18          look at the e-mails once more time -- one more

19          time, to make sure there wasn't something in there

20          that I needed, and then, I would delete them out of

21          the "deleted" folder, to save the space, as

22          requested by --

23       Q       Okay.  And -- and that was the process --

24       A       -- NCMail.

1 Q And that is the process in Outlook that's required  
2 in order to effectively clean out your -- your  
3 folder, right?

4 A Yes.

5 Q Okay. All right. So, you could describe that as  
6 deleting something twice, or a double delete  
7 process, right, 'cause you have to delete it from  
8 your inbox or your "sent" mail or your -- your work  
9 folder, and then you have to actually delete it a  
10 second time in order to clean out your box?

11 A You could, but you asked me if anybody had ever  
12 given me the instruction to --

13 Q No, I understand.

14 A -- double delete, and --

15 Q I understand.

16 A -- they didn't.

17 Q Okay. But -- but the terminology makes logical  
18 sense, in light of what you have to do in Outlook  
19 in order to get rid of the e-mail?

20 A Yes.

21 Q Okay. All right. Anything else about Ms. Crane's  
22 affidavit that you personally take issue with or  
23 find untruthful?

24 MR. PETERS: And if you need to take a

1 minute to look that over --

2 Q Sure. Take all the time you need.

3 A (Examines document.)

4 MR. PETERS: Could you repeat the

5 question?

6 Q My question was, is there anything else in Ms.

7 Crane's affidavit that you personally find

8 untruthful or take issue with?

9 A Not at this time.

10 Q Okay. Are you acquainted with a person by the name

11 of Julia Jurema?

12 A Jurema.

13 Q Jurema, I'm sorry.

14 A Yes.

15 Q That's twice I've mispronounced somebody's name.

16 Do you recall, in March of 2008,

17 receiving a request from Mr. Stith for copies of

18 your notes with respect to the PIO meetings?

19 A Yes.

20 Q Okay. For the record, were you aware that Mr.

21 Stith made that same request to Ms. Jurema and

22 others?

23 A He sent me an e-mail, and I understood he sent an

24 e-mail to all of the other PIO's as well.

1 MR. STEVENS: Okay. I'm going to ask  
2 that this be marked as the next exhibit, which I  
3 believe is 3.

4 \_\_\_\_\_  
5 (EXHIBIT NUMBER 3  
6 MARKED FOR IDENTIFICATION)  
7 \_\_\_\_\_

8 Q And these -- this is a page from the notes that Ms.  
9 Jurema provided to Mr. Stith in response to his  
10 request. And I would simply ask you to focus your  
11 attention on the very top. There is a date, 3/20,  
12 and then some handwriting under that.

13 And my first request is just to ask you  
14 if you can read that and what -- what you  
15 understand that says. Just read it for the record  
16 as --

17 A Do you want me to read it --

18 Q -- whatever you interpret that to say.

19 A It looks like it says, "Watch e-mails." I'm not  
20 sure about the next word. I guess it could be  
21 "Don't collect." I don't know what that means.  
22 "Clean out," and then it looks like, "For  
23 controversy to R.H."

24 Q Okay. Could it -- could it be, "Fax controversy to

1 R.H."?

2 A Oh, I guess it could. Yeah, it could be "fax."

3 That makes more sense.

4 Q Okay. Let me ask you, do you recall a meeting of

5 the PIO's that occurred in March of 2007?

6 A Yes.

7 Q Do you recall Ms. Jurema being there?

8 A Yes.

9 Q Do you recall discussing the fact that the

10 Governor's Office had gotten a lot of requests for

11 e-mails and how the Governor's Office wanted to

12 deal with that?

13 A I don't remember the context of that -- of that

14 meeting. Typically, prior to PIO meetings, I would

15 ask Sherri if she had anything she wanted me to

16 share with them. For this particular one, she

17 wanted me to tell them be sensitive to what they

18 put in e-mail and to -- I think the reference was

19 to clean out their "sent" folders on a regular

20 basis. And that is reflected in my notes.

21 Q Okay.

22 A Which Pat also has.

23 Q All right. Was -- and was there discussion about

24 using other means of communication to communicate

1 with the Governor's Office about particularly  
2 sensitive or controversial matters?

3 A The instructions I had were to tell the PIO's, if  
4 they had something particularly controversial, to  
5 type it up and fax it to us instead of sending it  
6 in e-mail.

7 Q Okay. Was there a -- was there a fax machine or a  
8 fax facility in the press office?

9 A Yes.

10 Q What was the number, the fax number for that fax  
11 machine, if you recall?

12 A You're really asking me to go back here.

13 Q If you don't recall, you don't recall. I'm -- I'm  
14 terrible with numbers.

15 A The last four numbers were 5166.

16 Q Okay.

17 A I don't recall if it was 733 or 715.

18 Q Okay. And if -- if faxes were sent to that number,  
19 whatever it was, did they actually emerge onto a  
20 fax machine in the press office?

21 A Yes.

22 Q What happened to those faxes?

23 A They -- the fax machine was in the outer press  
24 office where the press assistants were, and they

1           would regularly check the fax and see who it was  
2           coming to and bring it to whoever the cover sheet  
3           was for.

4       Q       Do you recall PIO's from some of the agencies  
5           complying with the request to use a fax to  
6           communicate about particularly sensitive or  
7           controversial matters?

8       A       There were only a couple of instances that was  
9           done.

10      Q       Do you recall what any of those controversies were?

11      A       Specifically, the mental health reform effort.

12      Q       And do you recall who -- who among the PIO's sent  
13           faxes about that subject?

14      A       Well, Debbie sent us faxes, but it -- it was very  
15           cumbersome to do it with faxes, so we told her just  
16           to e-mail it to us. And so, she e-mailed us the  
17           same thing that she had faxed us. And that's still  
18           in my old e-mail over at NCMail today.

19      Q       Well, now, what was your understanding, if any,  
20           from Ms. Johnson as to why she would prefer to have  
21           controversial or sensitive matters communicated by  
22           fax rather than e-mail?

23      A       I do not know. That was the instruction she gave  
24           me.

1 Q Are those -- to your knowledge, were those faxes  
2 retained in the Governor's Office?

3 A Well, the information that was on that fax was  
4 retained in the e-mail.

5 Q Well, how about the actual documents themselves?

6 A I do not know.

7 Q Who would probably know that?

8 A I don't know.

9 Q Was that fax number a publicly-known number? That  
10 is, was that something that -- for example, would a  
11 reporter at a newspaper have had that fax number?

12 A Yes.

13 Q Did -- did the press office receive communications  
14 by fax fairly frequently?

15 A Not very often.

16 Q Once a day?

17 A We had a --

18 Q Once a week?

19 A Most of the communications that came across the fax  
20 machine were from ourselves, because we had in our  
21 programs to e-mail press releases out to the news  
22 media. It would automatically send a press release  
23 to the fax machine. That was one way that we knew  
24 for certain --



1 Q For verifying your --

2 A Verifying that it had gone out.

3 Q Right. I understand.

4 A Yeah.

5 Q Was there -- was there a practice or procedure for

6 retaining those faxes, whatever they were?

7 A I don't recall one.

8 Q Are you aware of those faxes ever being just

9 discarded and not retained?

10 A I -- I don't know.

11 Q Okay.

12 A The -- the press releases were discarded because

13 they were just a copy.

14 MR. STEVENS: Okay. All right. Let's

15 mark this as the next exhibit. This would be

16 Exhibit 4.

17 \_\_\_\_\_

18 (EXHIBIT NUMBER 4

19 MARKED FOR IDENTIFICATION)

20 \_\_\_\_\_

21 Q What's been marked as Exhibit 4, for the record,

22 Ms. Hoffman, is -- are notes that were provided to

23 Mr. Stith in response to his public records

24 request, in this instance, by Diana Kees.

1 A Uh-huh.

2 Q Are you familiar with her?

3 A Yes. She's the public information officer for  
4 DENR, Environment and Natural Resources.

5 Q Okay. And, again, if you'll note at the top of the  
6 page there, a portion of the notes is dated 3/20?

7 A Yes.

8 Q And down at the bottom, there are some notes. One  
9 says, "Lauren leaving end of month. Moving to  
10 Charlotte." Do you know what that relates to?

11 A Lauren was one of the press -- excuse me -- press  
12 assistants in the press office, and she was taking  
13 a new job in Charlotte.

14 Q Okay. Okay. And then, the next -- can you read  
15 the next line, or the next bullet?

16 A It says, "Sherri," and then has an arrow, "Keep eye  
17 on agencies. Limit your e-mails. Clean out sent  
18 e-mails."

19 Q Okay. Does that refresh your recollection about  
20 what that -- does this, in your -- to your belief,  
21 relate to the same conversation we've just been  
22 talking about?

23 A Yes.

24 Q Does this refresh your recollection about that in

1 any way?

2 A Not as to the reason for it. I just don't  
3 remember.

4 Q Okay. All right. All right. Then, moving along  
5 smartly, Exhibit 5.

6

7

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(EXHIBIT NUMBER 5

8

MARKED FOR IDENTIFICATION)

9

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10 Q Do you recognize this handwriting?

11 A This is mine.

12 Q And it's -- and, again, these are notes that you  
13 provided in response to a public records request.  
14 And at the top, it's dated 3/20/07, correct?

15 A Yes.

16 Q Do the notes at the top there relate to this same  
17 subject we've just been discussing?

18 A Yes.

19 Q Just for the record, could you read those for me  
20 into the record?

21 A It says, "Short meeting. Last two years. Limit e-  
22 mails. Clear out 'sent.' Careful what send. Type  
23 and fax. Don't save."

24 Q Okay. Do you have any recollection as to what the

- 1 reference to the last two years refers to?
- 2 A Having been through several different gubernatorial  
3 administrations, it was a regular practice in the  
4 last two years that the press office would remind  
5 everybody that folks get a little complacent and  
6 forget to do -- do their job the right way they  
7 ought to be doing it.
- 8 Q Oh, okay.
- 9 A And get a little sloppy, and start forgetting that  
10 they work for the people. That was the reminder  
11 about, "It's the last two years. Keep everybody  
12 straight."
- 13 Q And -- and who was -- you made these notes. Are  
14 you -- were you the person who was communicating to  
15 the PIO's, or was Ms. Johnson?
- 16 A I was communicating to the PIO's at this meeting.
- 17 Q So, are -- are these the notes of what you were  
18 simply going to say, or what you did say?
- 19 A These were just notes I gave myself to -- to remind  
20 myself of what she had instructed me to tell them.
- 21 Q Okay. And do I take it Ms. Johnson was not at this  
22 meeting?
- 23 A No.
- 24 Q She -- you were simply conveying what she had asked

1           you to convey to them?

2       A       Yes.

3       Q       All right.  And, again, it says, "Limit e-mails.  
4           Clean out 'sent.'  Careful what send."  And then it  
5           says, "Type and fax.  Don't save."  What does that  
6           refer to?

7       A       My recollection is that, if there was something  
8           particularly controversial and she wanted it faxed  
9           to our office, that they shouldn't save that  
10          document.  They should just send it to us.  Type it  
11          up and send it to us.

12      Q       Do you recall whether there were any questions  
13          raised about this at this meeting by the people to  
14          whom you were talking?

15      A       I don't recall that there were, no.

16      Q       And, again, I apologize if I've asked this already.  
17                  Did -- did you ever have a conversation  
18          with Ms. Johnson in which you asked her why she was  
19          asking you to convey these instructions?

20      A       Not this meeting, no.

21      Q       Did you ever have such a conversation with her?

22      A       I had a conversation with her about her  
23          instructions for the May 29th PIO meeting.

24      Q       And what -- what do you recall about that

1 conversation?

2 A We were working with -- well, not working with.  
3 The Department of Cultural Resources had received a  
4 public records request for all documents related to  
5 the editing of the Governor's history book, which  
6 was a biography of all of the governors of North  
7 Carolina, including Governor Easley. It had been  
8 written prior to the time that I came to the press  
9 office. And Cultural Resources had notified us  
10 that there were some unflattering comments in e-  
11 mails between Cultural Resources employees about  
12 the Governor's press office and the Governor in  
13 relation to the editing of his biography.

14 Sherri had been on the phone repeatedly  
15 with the Governor about this, and he was rather  
16 upset that there were unflattering comments in e-  
17 mail that were going to be released. And so, late  
18 on the afternoon of May 28th, we had had a PIO  
19 meeting previously scheduled for the next morning.  
20 She instructed me to tell them, tell the PIO's to  
21 delete their e-mails to and from the Governor's  
22 Office, to -- to not write about the Governor's  
23 Office in e-mail, and to not put that instruction  
24 to their employees in e-mail.

1 I responded to her in exactly these  
2 words, "Sherri, they're not going to do that." And  
3 I think her response was, "Well, why not?" And my  
4 response was to the effect that, "Well, it's wrong  
5 and we're going to call them two weeks later and  
6 ask them to send us an e-mail they sent us two  
7 weeks ago, and they need to have that," because  
8 that's how we do our work product. And she said I  
9 should tell them anyway.

10 Q Was there any -- were there any questions or  
11 objections raised in response to that at the May 29  
12 meeting?

13 A No. I started off the meeting by telling them that  
14 I had been asked to pass this along to them, and I  
15 gave them those exact instructions. And then, we  
16 went on with the meeting.

17 Q Did you have any subsequent conversation with any  
18 of the PIO's about that instruction, outside the  
19 context of the meeting?

20 A Yes. There were numerous times, not only after the  
21 May 29th meeting, but when we had heard those  
22 same -- I had heard those same instructions when I  
23 was at Crime Control, that the PIO's said that we  
24 weren't going to do that. And, as a matter of

1 fact, a number of PIO's told me that they did not  
2 do that and, in fact, they retained their e-mails,  
3 which I think was in evidence when Andy Vanore  
4 turned over several boxes of e-mails to the News &  
5 Observer that covered the time period after this  
6 meeting. And I believe the way Andy described it  
7 was, there had been a systematic retention of e-  
8 mails. They told me they wouldn't do it, and I  
9 didn't do it, either.

10 Q But they were instructed to do it?

11 A They were instructed to do it. I knew they  
12 wouldn't do it, but I was ordered to give that  
13 instruction to them.

14 Q Did you have -- and this is -- I'll warn you. This  
15 is a yes-or-no question.

16 Did you have a conversation with any of  
17 the Governor's attorneys before the -- that May  
18 29th meeting?

19 A No.

20 Q Do you know of your own knowledge whether Ms.  
21 Johnson had conferred with them, with any of the  
22 lawyers prior to passing on the instruction to you  
23 as to what you were to tell the PIO's?

24 A I don't know.



1 Q Why did you -- why were you so sure that the PIO's  
2 would not comply?

3 A I had not complied with it when I had heard that  
4 instruction previously, and over, you know, periods  
5 of time when this would come up, the PIO's would  
6 talk -- we would talk to each other and say, "Are  
7 you going to do that?" "No, I'm not going to do  
8 that."

9 Q Where had you heard this same kind of instruction  
10 previously?

11 A Well, as I mentioned earlier, I heard Cari give  
12 that instruction at a PIO meeting, and I remember  
13 receiving a phone call from Sherri with that same  
14 instruction.

15 Q And this was while you were the public affairs  
16 representative for Crime Control?

17 A Yes.

18 Q So, at that point, you were sitting on the other  
19 side of the table, as it were?

20 A Yes.

21 Q Okay. Do you recall the -- the context or  
22 circumstances in which any of these other earlier  
23 instructions were -- were given, that is, the ones  
24 you were the recipient of when you were at Crime

1 Control?

2 A I don't.

3 MR. STEVENS: Okay. I think we're going  
4 to get you out of here and not have to come back,  
5 if we can take about a two-minute break. I'm going  
6 to try to wrap this up.

7 MR. PETERS: Okay.

8 (RECESS, 10:55 - 11:01 A.M.)

9 Q I think the only question I have to follow up is  
10 just with respect to what we were just talking  
11 about.

12 Are you aware that some of the PIO's,  
13 apparently, did comply with the directive you've  
14 described about deleting their -- cleaning out  
15 their "sent" mailbox, and so forth?

16 A No.

17 Q You're not?

18 A Uh-uh.

19 Q You just don't know whether they -- whether some  
20 did or not? I -- I just want to make it clear.

21 Are you saying that none of the PIO's  
22 complied, or that you don't know whether some of  
23 them did?

24 A The -- of the ones that I talked to, they told me

1           that they did not delete their -- all of their e-  
2           mail to and from the Governor's Office on a daily  
3           basis.

4       Q       But you didn't talk to all of them.

5       A       I didn't talk to all of them.

6                       MR. STEVENS:  Okay.  I think that's all I  
7           have.

8       CROSS EXAMINATION BY MR. PETERS:

9       Q       I've just got a few follow-up questions, Ms.  
10       Hoffman.

11                   First off, let me ask you to look at  
12       Exhibit B -- Exhibit 2, that I think would be in  
13       your stack there.  That's the affidavit from Debbie  
14       Crane.  And you were asked some questions about  
15       this, and I just want to make sure we're clear what  
16       your testimony in the deposition is.

17                   You were asked a number of questions  
18       about if you saw anything in here that you knew to  
19       be untrue, I believe.

20       A       Or incorrectly worded.

21       Q       Or incorrectly worded.  And you were asked, then,  
22       sort of in general, "Is there anything else in  
23       here?"

24                   Is it your testimony that, other than the

1 things that you have pointed out, that you agree  
2 with the truthfulness of everything else in the  
3 affidavit, or are you saying you don't have any  
4 personal knowledge of the remainder of it?

5 A I don't have any personal knowledge of the  
6 remainder of it, except for, of course, Debbie's  
7 background.

8 Q Okay. So, would it be accurate to say it's not  
9 your testimony that you agree with everything in  
10 the affidavit that you did not mention?

11 A Yes.

12 Q I'm sorry. I couldn't hear.

13 A Yes.

14 Q The other thing I just wanted to follow up on, I  
15 believe you -- you were noting some instructions  
16 that had come to you from Sherri Johnson or Cari  
17 Boyce at one time or another.

18 A Yes.

19 Q And I understood you to say that you assumed those  
20 instructions came from the Governor.

21 A Yes.

22 Q Is that what you said?

23 A Yes.

24 Q Okay. Do you have any personal knowledge of

1           whether those instructions came from Governor  
2           Easley or not?

3       A       No.

4       Q       Or do you have any personal knowledge of where they  
5           might have come from, other than the fact that they  
6           were relayed to you by Cari or Sherri?

7       A       No.

8                       MR. PETERS:  That's all I've got.

9                       MR. STEVENS:  Well, then, I just have one  
10           follow-up with respect to that.

11       REDIRECT EXAMINATION BY MR. STEVENS:

12       Q       Could you look a paragraph seven of Ms. Crane's  
13           affidavit?  For the record, it says, "The press  
14           office generally had someone present at these  
15           meetings to take notes.  Notes or minutes of some  
16           of the recent meetings were typed up by Sondra  
17           Artis, the senior assistant press secretary."  Is  
18           that correct?

19       A       Yes.

20       Q       Okay.  Since we brought that up, let me ask you, do  
21           you know whether the -- Ms. Artis's notes or  
22           minutes were retained in the press office?

23       A       I do not know except for one -- one note that was  
24           part of the public records request.

1 Q Uh-huh.

2 A When Pat's public records request came in for the  
3 PIO meeting notes, we asked Sondra if she had any,  
4 and she had. I think they were from August of one  
5 of the years.

6 Q Okay.

7 A And we've turned those over.

8 Q Is -- do I understand you to say that you don't  
9 know whether the others are -- are -- were  
10 available or retained and, if so, where, of your  
11 own knowledge?

12 A No, I don't know.

13 MR. STEVENS: Okay. Okay. That's all I  
14 have.

15 MR. PETERS: That's all we've got.

16 (WITNESS EXCUSED)

17 (WHEREUPON, THE DEPOSITION WAS CONCLUDED AT 11:05 A.M.)

18 (THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.)

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1 STATE OF NORTH CAROLINA  
COUNTY OF ROCKINGHAM

2 CERTIFICATE

3 I, Brenda J. Thissen, a Notary Public in and for  
4 the State of North Carolina duly commissioned and  
5 authorized to administer oaths and to take and certify  
6 depositions, do hereby certify that on January 26, 2010,  
7 Renee Hoffman, being by me personally duly sworn to tell  
8 the truth, thereupon testified as above set forth as found  
9 in the preceding 86 pages, this examination being reported  
10 by me verbatim and then reduced to typewritten form under  
11 my direct supervision; that the foregoing is a true and  
12 correct transcript of said proceedings to the best of my  
13 ability and understanding; that I am not related to any of  
14 the parties to this action; that I am not interested in the  
15 outcome of this case; that I am not of counsel nor in the  
16 employ of any of the parties to this action.

17 IN WITNESS WHEREOF, I have hereto set my hand, this  
the 3rd day of February, 2010.

18 \_\_\_\_\_

Notary Public

19  
20 Notary Number Brenda J. Thissen  
21 19982640138 Worley Reporting  
22 6511 Creedmoor Road, Ste. 205  
23 Raleigh, North Carolina 27613  
24 (919) 870-8070

1 STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE  
2 COUNTY OF WAKE SUPERIOR COURT DIVISION 08 CVS 6528

3 THE NEWS AND OBSERVER PUBLISHING )  
4 COMPANY d/b/a The News & Observer, )  
5 et al.; )  
6 Plaintiffs; )

7 v. )

8 MICHAEL F. EASLEY, in his official )  
9 capacity as former Governor of North )  
10 Carolina, and in his individual )  
11 capacity; et al.; )  
12 Defendants. )

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DEPOSITION OF RENEE HOFFMAN  
CERTIFICATE OF DEPONENT

---

11 I, Renee Hoffman, hereby certify that I was first  
12 duly sworn prior to the commencement of my deposition,  
13 which was given before Brenda J. Thissen, on January 26,  
14 2010, in Raleigh, North Carolina; review, examination and  
15 signing of the deposition was not waived. The foregoing  
16 constitutes a true and accurate transcript of said  
17 deposition;

18 (a) and no changes are necessary.

19 (b) however, I desire that the changes attached  
20 hereto on the errata sheet be incorporated into said  
21 deposition.

22 \_\_\_\_\_  
23 Renee Hoffman

24 Witness, my hand and seal, on this, the \_\_\_\_\_ day  
of \_\_\_\_\_, 2010,

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



1 STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE  
 2 COUNTY OF WAKE SUPERIOR COURT DIVISION  
 08 CVS 6528

3 THE NEWS AND OBSERVER PUBLISHING )  
 COMPANY d/b/a The News & Observer, )  
 4 et al.; )  
 Plaintiffs; )  
 5 )  
 v. )  
 6 )  
 MICHAEL F. EASLEY, in his official )  
 7 capacity as former Governor of North )  
 Carolina, and in his individual )  
 8 capacity; et al.; )  
 Defendants. )

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ERRATA SHEET TO THE DEPOSITION OF  
 RENEE HOFFMAN

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PAGE	LINE	SHOULD READ	REASON FOR CHANGE
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23  
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Signed this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Renee Hoffman