

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.)

18 VIDEOTAPED DEPOSITION OF SETH EFFRON

19
 20 In Raleigh, North Carolina
 Friday, January 29, 2010
 21 Reported by Brenda J. Thissen

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In Attendance:

Pat Stith

EXAMINATION INDEX

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Direct	Mr. Stevens	7
Cross	Ms. Trippe	61

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 Seth Effron may be
6 taken on Friday, January 29, 2010, beginning at 9:02 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,

Seth Effron,

having been first duly sworn,

was examined and testified

as follows:

MR. STEVENS: All right. Mr. Effron -- well, actually, rather than have the witness start, let's do what we've been doing and go around the table and have counsel identify themselves and their affiliation and representation for the record, please.

MR. TEETER: Do you want me to start?

MR. STEVENS: Sure.

MR. TEETER: Donald Teeter with the Attorney General's Office. I'm representing former Governor Easley in his individual capacity.

MR. PETERS: Alexander Peters of the Attorney General's Office, representing the defendants in their official, or former official, capacities.

MS. TRIPPE: Melissa Trippe from the Attorney General's Office, representing the same.

1 need to consult with any of the counsel before
2 responding to a question, for example, if you have
3 a question as to whether a particular subject
4 matter might be privileged or that sort of thing,
5 and you need to consult with them, just let me know
6 that.

7 A Thank you.

8 Q And we'll go off the record, okay? Otherwise,
9 we'll try to move fairly expeditiously here.

10 By whom are you currently employed?

11 A I work for the State of North Carolina as
12 communications director in the state energy office.

13 Q And how long have you held that position?

14 A Since the end of April 2009.

15 Q Can you give me a brief overview of your employment
16 history prior to that time?

17 A Prior to that, I worked in the office -- the press
18 office of the Governor for Governor Perdue when she
19 came in in mid/early January, and prior to that,
20 from March 2006, for Governor Easley in the press
21 office.

22 Q Okay. How about prior to March of 2006, how were
23 you employed?

24 A I was employed primarily as a journalist in a

1 variety of capacities in several places since I
2 graduated from college. I also spent four years as
3 an administrator in a college program.

4 Q What was the position you held immediately prior to
5 joining the press office in Governor Easley's
6 Administration?

7 A I was executive editor of State Government Radio, a
8 broadcast and Internet news service of Curtis Media
9 here in Raleigh.

10 Q Can you give me a brief overview of your
11 educational background?

12 A Went to public schools and then went to college at
13 the University of North Carolina. I graduated in
14 1974.

15 Q And what degree did you receive from UNC?

16 A A political science degree.

17 Q Okay. Did you work as a journalist pretty much
18 consistently after graduation and until you joined
19 the Easley Administration?

20 A Yes, except for the four years when I -- I worked
21 for the University program, and for about 11 months
22 when I worked in a public affairs company in 2000.

23 Q Okay. How did you come to join the press office in
24 Governor Easley's Administration?

1 A I had left my job with Curtis Media and was looking
2 for employment, and was -- sent out the feelers and
3 things like that, and this opportunity was
4 presented, and I interviewed for the job.

5 Q Who actually hired you for that position?

6 A I think the actual hiring was done by Susan Rabon,
7 but I'm not actually sure who officially hired for
8 that. But I interviewed with several people.

9 Q Okay. What were your duties and responsibilities
10 as -- as -- when you were employed in Governor
11 Easley's Administration?

12 A I was -- as directed, responded to press inquiries,
13 wrote news releases, researched background for
14 issue memos, wrote speeches, and things related to
15 that.

16 Q What was your title or position?

17 A I was deputy press secretary.

18 Q To whom did you report?

19 A I reported to the press secretary and to the
20 communications director.

21 Q Who was the press secretary when you came on board?

22 A When I came on board, it was Sherri Johnson.

23 Q And then, did Ms. Johnson move to the position of
24 communications director at some point?

1 A Yes.

2 Q And who became the press secretary after that?

3 A Renee Hoffman.

4 Q Okay. I understand from previous testimony that
5 you, Ms. Hoffman, and Ms. Johnson actually shared a
6 physical office; is that correct?

7 A Yes.

8 Q Did -- was there anyone else who worked in that
9 same office space?

10 A In that exact office space, no. There was another
11 office adjacent where other people in the press
12 office worked.

13 Q Okay. Did your duties and responsibilities as
14 deputy press secretary include responding to or
15 participating in the responses to public records
16 requests directed to the Governor's Office?

17 A On occasion, yes.

18 Q Okay. When a public records request came in to the
19 Governor's Office, what was the procedure or
20 process that was followed in responding to it?

21 A If I received a public records request, I would
22 then let Sherri Johnson know, and she would then
23 direct me as to how to proceed, and move from
24 there.

1 Q Was there a protocol or routine, a procedure that
2 was prescribed in responding to such requests?

3 A Not prescribed, but typically, that would come in
4 and it would be relayed to Reuben Young or -- you
5 know, or someone in the legal office and, then, we
6 were told how to proceed.

7 Q When you first joined the press office in Governor
8 Easley's Administration, were you given any sort of
9 orientation or, you know, training session,
10 basically, on how the -- what the office procedures
11 were or what the protocols were?

12 A There was a -- an orientation with the person who
13 handled personnel and it included a variety of
14 things about the office and about benefits and all
15 of that stuff.

16 Q Was there -- was part of that, was there any
17 discussion or information provided to you about
18 compliance with the public records law?

19 A Yes.

20 Q And what form did that information take?

21 A There was several pages given to me that outlined
22 the policies concerning that as it pertained to the
23 Governor's Office, as well as some things about
24 record retention that I think came from the

1 Department of Cultural Resources.

2 Q So, excuse me, did the materials that you were
3 given include some kind of memorandum or other
4 written document outlining the policies or
5 procedures with respect to the public records law,
6 as they would apply to the Governor's Office?

7 A Yes.

8 Q Do you recall who, or did you know who was the
9 author of that document?

10 A I don't recall. It -- it may have said at the top
11 of the document. I just don't remember.

12 Q What sort of things do you recall being discussed
13 or covered in that memorandum?

14 A It outlined things like the record retention
15 policy. It discussed e-mails, other records, what
16 should or shouldn't be saved and under what
17 circumstances, sort of broadly worded.

18 Q Do you recall what any of those policies were?

19 A Just in general, that things like most routine
20 records and -- or documents or communications were
21 to be kept while they were useful, and there were
22 certain things like news releases, speeches,
23 that -- or this didn't apply, but I remember it was
24 in there -- executive orders that needed to be

1 maintained specifically.

2 Q Were you generally familiar with the North Carolina
3 public records law when you came to work for the
4 Easley Administration?

5 A Yes.

6 Q How had you acquired your familiarity with it?

7 A Through my time as a reporter and editor, I had,
8 you know, a number of occasions to look at public
9 records, to follow the course of the development of
10 the legislation there. And as a reporter,
11 oftentimes, my employers would hold brown bag
12 lunches or -- or actual training sessions. I took
13 a couple, I think, that you were at.

14 Q Did you ever have a training session while you were
15 employed in the Easley Administration related to
16 the public records law, or compliance with the
17 public records law?

18 A Not specifically, that I recall.

19 Q While you were employed in the Easley
20 Administration, did questions ever arise with
21 respect to compliance with the public records law,
22 such as whether a particular record or type of
23 record should or should not be provided in response
24 to a public records request?

1 A Yes.

2 Q Do you recall any specific example of that having
3 occurred?

4 A Yes.

5 Q What do you recall about that?

6 A The -- what I recall is that there was a request
7 from the Charlotte Observer for a list of the
8 people who had been given low-numbered license
9 plates, as I think state statute provides the
10 Governor can assign those. And I forwarded that
11 request to Reuben Young's office. And I had
12 occasion, after things went back and forth, to
13 respond to the reporter's request and say that that
14 was not -- could not provide that as a public
15 document.

16 Q If such questions arose, to whom did you direct
17 questions in order -- or from whom did you seek
18 advice or direction about how to deal with it?

19 A Well, I -- I'd seek direction from -- through
20 Sherri Johnson, through Reuben Young, or someone in
21 the legal office.

22 Q Now, Mr. Young was Governor Easley's general
23 counsel, correct?

24 A I'm not sure of the exact title, but that would be

1 the right description.

2 Q Do you recall there being other members of the
3 Governor's legal staff with whom you actually
4 discussed public records requests?

5 A Yes.

6 Q Who do you recall besides Mr. Young?

7 A Andy Vanore and Liz Riley.

8 Q Okay. You said there were never any formal
9 training sessions about public records compliance
10 while you were employed in the Easley
11 Administration. Were there ever just office
12 discussions in -- in that regard, particularly
13 among the three of you who shared an office, let's
14 say?

15 A I think -- yeah, there were discussions in the
16 sense that we would be seeking to fulfill a records
17 request and, as we were going about that, if there
18 was an issue that arose, we would seek to get it
19 resolved, particularly, again, going to the lawyers
20 in the office to do that.

21 Q Now, if a request came in to the Governor's Office
22 for records that we -- other witnesses have
23 described a process where an inquiry or messages
24 would go out to people that say, "If you have

1 records that are potentially responsive to this
2 request, send them to somebody," generally, I
3 guess, to the -- well, first of all, do you recall
4 that procedure being in place?

5 A Yes. What would happen, again, is that the
6 communication would come to us for a request. That
7 would be sent on to Reuben or his office and come
8 back. And then, so the general direction would be
9 to ask those who had information responsive to the
10 request to provide it to the press office.

11 Q And then, what happened?

12 A Well, there'd usually be a deadline asking for that
13 information. We would gather it, and then, it
14 would go to Reuben's office.

15 Q Was -- who most frequently or customarily assembled
16 the -- the records that were provided in response
17 to these inquiries?

18 A There was no one person. It sort of depended on
19 where the request came or who had time to do it,
20 and that sort of thing. There was no formal
21 designation of anyone to do that.

22 Q Was it the policy or procedure to have Mr. Young or
23 one of the other lawyers review or vet all
24 documents that were potentially responsive to a

- 1 public records request?
- 2 A It was the practice while I was there, yes.
- 3 Q Do you ever recall there being -- having --
- 4 disagreements arising among the press staff and the
- 5 lawyers with respect to whether certain records
- 6 should or should not be produced?
- 7 A The only time that I know of that was when I
- 8 expressed that.
- 9 Q And do you recall any particular circumstances in
- 10 which that happened?
- 11 A Yeah. Again, referring to the Charlotte Observer
- 12 request, I expressed that I thought that the office
- 13 should provide it, but was told that federal law
- 14 prevented that.
- 15 Q And who told you that?
- 16 A Reuben Young's office, and that was communicated to
- 17 him through the lawyers in the Attorney General's
- 18 Office.
- 19 Q Did you yourself ever have occasion to consult with
- 20 lawyers from the Attorney General's Office, as
- 21 opposed to the Governor's legal staff, about public
- 22 records issues?
- 23 A No.
- 24 Q Okay. What was your understanding with respect to

1 the handling and retention of e-mail that you sent
2 and received as a employee of the press office?

3 A My understanding was that we should follow the
4 records retention policy outlined by the Cultural
5 Resources Department, that things would be retained
6 for their general value of use and that, if it was
7 something routine, that there was not a requirement
8 that it be kept beyond its use to you as you were
9 using it.

10 Q Other witnesses have used the term "administrative
11 value," referring to e-mail, and said -- told me
12 that, when something no longer had an
13 administrative value, that it could be --

14 A That was the term in the documents. That would be
15 an accurate term.

16 Q What did you understand that to mean?

17 A It meant that, if it were, for example, in an e-
18 mail, a routine communication, say, "Let's meet to
19 talk about 'X' at a certain time," or some
20 communication about that, after the drafting of
21 something had been completed, that someone could
22 choose to -- we weren't required to retain that.

23 Q Were you -- was your specific understanding that
24 you were not required to keep drafts of documents

1 that you drafted?

2 A That was my understanding.

3 Q And where did you derive that understanding?

4 A That they were part of a general process, and that,
5 again, that the -- my understanding was that it was
6 the final version of, say, a speech or something
7 that -- that needed to be retained.

8 Q Do you ever recall, while you were employed with
9 the Easley Administration, a request coming in for
10 travel records related to the Governor's travel?

11 A Yes.

12 Q What do you recall about that?

13 A I didn't receive it, but I recall them coming in,
14 and I don't remember from -- I think there was some
15 travel records requested by the Charlotte Observer,
16 and I remember reviewing them in anticipation of
17 press questions that might come up. And I remember
18 bringing them to the Charlotte Observer's Raleigh
19 office.

20 Q Who within the -- well, who provided you with the
21 records you've just described?

22 A I think it was Sherri or Renee. I don't remember.

23 Q And in that -- in that instance, what form did the
24 records take? I mean, were they --

1 A They were the -- they were whatever records had
2 been provided. They were xeroxed copies of
3 whatever the records were.

4 Q Do you recall what --

5 A They were paper.

6 Q Well, do you recall what any of them were? I mean,
7 were they --

8 A These -- these --

9 Q -- calendars, schedules, airplane tickets?

10 A These were -- these were records of use of the
11 state's airplane, one of the state's airplanes or
12 helicopters, or something like that.

13 Q Okay. Would -- so, it included logs, for example,
14 do you recall?

15 A I assume that's what they were. They -- you know,
16 they were flight records that might have been logs.
17 I don't know what you'd officially call them, but
18 they were records of who was on the plane, which
19 plane went, and -- and where they went, and the
20 dates.

21 Q While you were employed in Governor Easley's
22 Administration, were you ever directed by anyone to
23 withhold a record which you personally believed to
24 be a public record?

- 1 A No.
- 2 Q Were you ever directed not to respond to public
3 records requests from any particular person or
4 entity?
- 5 A No.
- 6 Q If you know, what was the policy in the press
7 office while you were employed there, with respect
8 to responding to inquiries or requests from The
9 John Locke Foundation?
- 10 A There was no policy. They -- because they were not
11 a press organization, they wouldn't be returned
12 right away. But, if I got a call from someone
13 there, I returned it.
- 14 Q Were you aware at the time that The John Locke
15 Foundation was the publisher of the Carolina
16 Journal?
- 17 A Yes.
- 18 Q Were you aware that the Carolina Journal was a
19 member of the North Carolina Press Association?
- 20 A I am aware of that, but I was not at the time.
- 21 Q Were there any other entities of any kind that were
22 treated differently from, say, the -- we'll call
23 the mainstream press?
- 24 A Generally, our office responded to requests from

1 the press and others, as directed. Other things
2 would go through the citizen affairs office.

3 Q Okay. Now, you had, I take it, a state e-mail
4 address?

5 A Yes, I did.

6 Q Did you also have a private e-mail account?

7 A Yes.

8 Q What kind of private e-mail account did you have?

9 A With a private carrier.

10 Q Well, I mean, was it like a Gmail or a Hotmail
11 account, or a Road Runner account, or an AOL
12 account, or do you recall?

13 A I have an AOL account and -- and some others, a
14 Gmail account, and an account with BellSouth, which
15 is now AT&T, which is the Internet provider that I
16 have in my home.

17 Q Now, at the time you were employed as deputy press
18 secretary for Governor Easley, did you have the
19 ability to access your state e-mail account from
20 home as well as from the office?

21 A Excuse me. Eventually, yes. Early on, I was not
22 aware of how to access it, and it was not very
23 reliable. But within, I don't know, about seven or
24 eight months, the state had set up a system that

1 you could use to do that.

2 Q Do you recall what that system -- what the name or
3 designation of that system was?

4 A Well, the state has both web access and set up a
5 thing called -- I guess it's called Exchange, where
6 you can, through your -- directly through the e-
7 mail account on my -- that's -- as it's set up on
8 my computer, I can directly access my e-mail and
9 work from home just as if I'm at the office.

10 Q Okay. What -- do you recall the policies that were
11 conveyed to you when you joined the -- the Easley
12 Administration saying anything about the use of
13 personal or private e-mail accounts to conduct
14 state business?

15 A Not specifically.

16 Q Do you recall learning or being told anything about
17 a policy with respect to that?

18 A It was my understanding that the state e-mail
19 account was to be used for state business.

20 Q How about the converse? Was there -- were you ever
21 given any direction about using your private
22 account for state business?

23 A No.

24 Q Did you ever use your private account to conduct

1 state business?

2 A I -- I don't recall an exact instance, but I may
3 have, particularly early on. There were a couple
4 of occasions of late nights when there was the
5 potential for a death row execution, and rather
6 than being at the office, since it was late at
7 night, I would be at home and, you know, there
8 would be a release that needed to go out with
9 whatever the Governor's late night decision would
10 have been in those cases.

11 And I'm trying to think if, early on, I
12 would have sent the news media those via my
13 personal account, and I may have, but it was
14 distributed to the news media.

15 Q Okay.

16 A In lieu of the fact that I couldn't access the
17 state e-mail. And so, I may have done it in that
18 circumstance, but that also would have eventually
19 been copied to my personal -- my -- my state
20 government e-mail as well.

21 Q And how would that happen?

22 A I would have either cc'd myself or directed it, or
23 sent it some other way, or copied it over there at
24 some point, since I was using the state's computer.

1 Q Were you aware or were you told about the -- the
2 backup system or capabilities of the state e-mail
3 system?

4 A No, not -- not in detail, other than what I've read
5 in the paper subsequent to that.

6 Q When you joined the Easley Administration press
7 office, were you aware that e-mail that was sent
8 and received through the state system was backed up
9 or -- or copied and archived every 24 hours?

10 A No.

11 Q When do you recall first becoming aware of that?

12 A Well --

13 MS. TRIPPE: Object to the form, simply
14 because he just said that he only read about it in
15 the paper.

16 MR. STEVENS: Well, I know, but I said
17 when did he --

18 A When I read about it in the paper.

19 Q And was -- well, do you recall when that was?

20 A In the course of the various issues that arose
21 subsequent. I think around the whole publication
22 of stories about e-mails and requests for them, and
23 that sort of thing.

24 Q Okay. Now, did you have occasion, as part of your

1 work, to use e-mail to communicate with other
2 members of the Governor's staff?

3 A Yes.

4 Q Okay. Let me ask you some questions about that.

5 First of all, we've been told by more
6 than one witness that one person to whom you could
7 not directly send e-mail was Franklin Freeman
8 because he never had a computer. Is that correct,
9 to the best of your knowledge?

10 A To the best of my knowledge.

11 Q Okay. And we've been told that, even though he had
12 a state e-mail address, since he had no means to
13 actually access it himself, it went to his
14 assistant, Anita Berry. Do you --

15 A That's my understanding.

16 Q Are you aware of that?

17 A Yes.

18 Q Okay. And that, if -- if he or she deemed it
19 sufficiently important, she would print the e-mail
20 message off and give it to him as a hard copy
21 document?

22 A That's my understanding, yeah.

23 Q Okay. Now, to the best of your knowledge, did each
24 of the following people have a state e-mail address

1 to which -- from which they could send and receive
2 e-mail directly? Susan Rabon?

3 A Yes.

4 Q Dan Gerlach?

5 A Yes.

6 Q Reuben Young?

7 A Yes.

8 Q Ruffin Poole?

9 A Yes.

10 Q Governor Easley?

11 A I don't know.

12 Q Sherri Johnson?

13 A Yes.

14 Q Renee Hoffman?

15 A Yes.

16 Q To your knowledge, did Susan Rabon also have a
17 private e-mail account?

18 A I don't know.

19 Q To your knowledge, did Reuben Young have a private
20 e-mail account?

21 A I don't know.

22 Q Do you know whether Ruffin Poole had a private e-
23 mail account?

24 A Yes.

1 Q What sort of account was it?

2 A I think it was a Gmail account.

3 Q Did Sherri Johnson have a private e-mail account?

4 A Yes.

5 Q Did Renee Hoffman have a private e-mail account?

6 A Yes.

7 Q Did Governor Easley have a private e-mail account?

8 A I don't know.

9 Q Now, Governor Easley had a state e-mail address,
10 correct?

11 A I don't know.

12 Q Okay.

13 A There -- there was a general e-mail address for
14 communication to the Governor's Office.

15 Q And is that the one that went to the citizen
16 affairs office?

17 A So far as I know, yes.

18 Q Okay. During the time that you were employed by
19 the Easley Administration, did you ever have
20 occasion to send an e-mail directly to Governor
21 Easley?

22 A No. I wouldn't -- if there was a way to do it, I
23 didn't know how to do that and couldn't have.

24 Q What were you told about that?

1 MS. TRIPPE: Object to the form.

2 Q Well, did you ever ask while you were employed
3 whether Governor Easley had the ability to send or
4 receive e-mail?

5 A No.

6 Q Were you ever told anything about that subject?

7 A No.

8 Q Did you ever acquire any information by observation
9 or any other means concerning that subject?

10 A What do you mean?

11 Q Well, did you -- were you -- did anybody ever tell
12 you they were -- for example, that they were --
13 that they could or did send e-mail messages to
14 Governor Easley?

15 A No.

16 Q Did you ever hear anyone in your office that you
17 shared with other people indicate that they were
18 sending e-mail to Governor Easley?

19 A No.

20 Q Did you ever hear them indicate that they were
21 receiving e-mail from Governor Easley?

22 A No.

23 Q So, is it your testimony that, as far as you knew,
24 the entire time you were employed by Governor

1 Easley, there was no way to send an e-mail message
2 to him?

3 MS. TRIPPE: Object to the form.

4 Q Well, if you understand the question, you can
5 answer. Is that -- is that your -- your testimony?

6 A I don't understand the question.

7 Q Well, while -- did you ever come -- during the time
8 you were employed by the Easley Administration, did
9 you ever become aware that the Governor had the
10 capability of sending or receiving e-mail?

11 A I do not know whether he did or did not.

12 Q Well, so that -- the question is, to be clear, you
13 never knew that he did have such -- such a
14 capability; is that correct?

15 A I did not know if he had an e-mail address or used
16 such facilities.

17 Q Okay. If -- did you ever have occasion, while you
18 were employed, to communicate with Governor Easley?

19 A Yes.

20 Q In what modes or methods did you communicate with
21 him?

22 A There would be -- if there were things for him to
23 look at, they would either be faxed over to the
24 Executive Mansion, troopers would pick up copies,

1 you know, at different times of the day. He -- he
2 might, on occasion, call. He would stop by the
3 office on occasion when he was in the Capitol.

4 Q Okay. Did you have the ability to make phone calls
5 directly to the Governor?

6 A No.

7 Q If you needed -- if you felt that you needed to
8 speak with him on the phone, how would you try to
9 reach him?

10 A If I needed to get information to him quickly, it
11 would go through the -- his security. I would call
12 the mansion security.

13 Q Okay. Did you ever have occasion to relay
14 information to Governor Easley through Ruffin
15 Poole?

16 A No.

17 Q Did you ever have occasion to relay information to
18 Governor Easley through Susan Rabon?

19 A No.

20 Q Do you know, of your own knowledge, whether any of
21 the -- the assistants to the Governor that I've
22 mentioned have ever had a personal communications
23 device that was capable of sending and receiving e-
24 mail, such as a BlackBerry?

1 A I don't know.

2 Q Did anyone in the press office, to your knowledge,
3 ever have one?

4 A Yes.

5 Q Who?

6 A Me.

7 Q Were you the only one, as far as you knew?

8 A As far as I know.

9 Q Was that e-mail -- was that BlackBerry tied to your
10 state e-mail account?

11 A It was not a BlackBerry.

12 Q What -- what kind of a device was it?

13 A It was a Treo, and it was not able to get any of my
14 state e-mails.

15 Q Okay. Was it -- did it have the capability of
16 sending or receiving e-mail through one or more of
17 your private accounts?

18 A No.

19 Q Okay.

20 A It had the ability to send text messages like a
21 phone and -- and that sort of thing.

22 Q But not e-mail?

23 A No.

24 Q Okay. Did you ever -- do you recall ever sending

1 or receiving e-mail that was sent from your -- from
2 your -- one of your private accounts to Ms. Rabon's
3 private account?

4 A I don't know what Ms. Rabon's private account was.

5 Q Okay. You were aware that she had a private
6 account?

7 A I -- I was not aware of that.

8 Q I thought you'd said -- okay. All right.

9 A No, you asked me that, and I said I was not aware
10 of it and did not know.

11 Q Okay. Did you have -- did you know the private e-
12 mail address for any one of the people that we've
13 talked about, other than Ruffin Poole?

14 A I -- you asked me that, and I answered it.

15 Q Okay. And the answer is "no"?

16 A No.

17 Q Who else -- who -- what other person's private e-
18 mail address did you know?

19 A Sherri Johnson's.

20 Q Okay.

21 A Renee Hoffman's.

22 Q All right. Sorry. I didn't mean to confuse you.

23 Did you ever have occasion to send e-mail
24 to or receive e-mail from Sherri Johnson's private

1 account?

2 A Yes.

3 Q Did any of that relate to state business?

4 A There were some occasions, and I don't recall
5 specifically, when there would be things sent to
6 her on her personal account because she couldn't
7 access the state account and -- and said to do
8 that.

9 Q Okay. How about Renee Hoffman, did you ever send
10 to -- e-mail to or receive e-mail from her private
11 account that can -- that was related to state
12 business?

13 A No.

14 Q When public records requests came in and there
15 would -- and then there would be a request sent out
16 for people to collect any records that might be
17 responsive, first of all, how were those requests
18 distributed, generally?

19 A What do you mean?

20 Q Well, I mean, how -- if you -- if you needed to ask
21 people in the -- on the Governor's staff to collect
22 any records that might be responsive to a
23 particular request, how did you let them know that?

24 A Generally, after communicating with Reuben, he

1 would direct -- direct me to, or I would be
2 directed to either, you know, send out an e-mail to
3 people, saying, "Here's what the request was.
4 Check, and if you have something responsive, please
5 bring that to the press office." On occasion, I
6 would also call people.

7 Q In making those requests, that is, the request that
8 people review their records and provide the press
9 office with anything that might be responsive, were
10 they specifically asked to review any personal e-
11 mail accounts as well as their state e-mail
12 account?

13 A I don't recall the exact nature of the information
14 that went out.

15 Q Did you, from time to time, see or review the
16 responses that -- that came in?

17 A Yes.

18 Q Do you ever recall seeing among those responses e-
19 mail messages that were sent to or received at a
20 private e-mail account?

21 A I don't recall seeing or looking for that
22 specifically.

23 Q Do you think you would have noticed such messages
24 had you seen them?

- 1 A Oftentimes, these were large amounts of things,
2 and -- and I probably wouldn't have.
- 3 Q Do you know whether, in the time that you were
4 employed by the Easley Administration, the -- the
5 Governor's Office ever produced a -- a message that
6 was sent to or received by a private e-mail account
7 in response to a public records request?
- 8 A I don't know.
- 9 Q Were you aware that e-mail messages that were
10 transferred by private accounts could be public
11 records?
- 12 A Not specifically.
- 13 Q What was your understanding as to what the
14 definition of a public record was?
- 15 A My -- my understanding of the definition of a
16 public record, broadly, was anything that was
17 produced in connection with the business of the
18 taxpayers.
- 19 Q In your mind, did that include information or
20 records that were created on private e-mail
21 accounts if they related to state business?
- 22 MS. TRIPPE: I'm going to object to the
23 extent it calls for a legal opinion.
- 24 MR. STEVENS: Well, I'm asking him what

1 his understanding was.

2 MS. TRIPPE: I know what you're asking.

3 A I don't know. You know, at the time in particular
4 and even now, I don't know enough to answer that
5 question specifically.

6 Q Did you pay attention in those seminars that I led
7 about the public records law when you were working
8 for various newspapers?

9 A Yes, I did.

10 MS. TRIPPE: Objection to form. I think
11 it's time for a break.

12 MR. STEVENS: If you need to take a
13 break, we'll take one.

14 (RECESS, 9:48 - 10:01 A.M.)

15 Q Mr. Effron, what, if anything, did you do to
16 prepare for this deposition?

17 A I had discussions with my lawyers, the lawyers --
18 these three lawyers plus Wade Smith.

19 Q Did you review any documents of any kind in
20 preparation for this deposition?

21 A Just some things that the attorneys had given me.

22 Q Do you recall what they were?

23 A The description of the records retention policy and
24 Debbie Crane's affidavit.

1 Q Okay. Let me show you -- hand you what's been
2 previously marked as Exhibit 1 in these
3 depositions, and ask you if that is the retention
4 policy that you reviewed.

5 A Yes.

6 Q And, for the record, this is a document entitled
7 "E-Mail as a Public Record in North Carolina:
8 Guidelines for its Retention and Disposition,"
9 dated August 2002.

10 Was this, to the best of your
11 recollection, the retention policy that you were
12 provided when you went to work at the Easley
13 Administration?

14 A I was -- I was not provided with this specifically.

15 Q Okay. And I take it this is not the -- the
16 document that you were describing earlier that you
17 got when you joined the Easley Administration?

18 A That's correct.

19 Q And you -- and you don't recall the -- the title or
20 the author of the document that you -- you got?

21 A No, I don't.

22 Q But it -- do I understand correctly that it related
23 to public records and public records compliance --

24 A Yes.

1 Q -- by the -- by the Governor's Office?

2 A Yes.

3 Q Okay. Well, do you -- do you still have in your
4 possession a copy of that document?

5 A Yes.

6 Q Could you provide a copy, please, to your lawyer so
7 they can provide a copy to me?

8 A Yes.

9 Q Okay. When you -- when you were preparing for this
10 deposition and were in discussions with your
11 counsel, were the -- were Ms. Trippe and Mr. Peters
12 and Mr. Smith all present at the same time?

13 A There was -- were -- on occasion, yes. On
14 occasion, no, just --

15 Q Okay. Have you ever received from any source a
16 subpoena for any documents or records that were
17 generated by you while you were employed by the
18 Easley Administration?

19 A No.

20 MS. TRIPPE: Object to the form.

21 Q Okay. With respect to the process that you and
22 others have described, where requests for public
23 records would come into the Governor's Office,
24 records would be gathered up and, then, they would

1 be vetted or reviewed by Mr. Young or other members
2 of the legal staff, do you ever recall that process
3 being followed with respect to a public records
4 request that was directed to some other agency,
5 other than the Governor's Office itself?

6 A No.

7 Q Now, there have been discussions in other
8 depositions about periodic meetings of the public
9 information officers and public affairs officers
10 from the various cabinet agencies. Are you
11 familiar with those?

12 A Yes.

13 Q Did you attend such meetings?

14 A Rarely.

15 Q Okay. Just to be clear, do you ever recall the
16 press office dealing with a public records request
17 that was directed to one of the cabinet agencies?

18 A I do not recall.

19 Q Do you know, of your own knowledge, whether Mr.
20 Young ever reviewed records that were provided to
21 him by employees of one of the cabinet agencies as
22 potentially responsive -- responsive to a public
23 records request?

24 A I -- I don't understand the question.

1 Q Okay. It's -- you and -- and all of the other
2 witnesses have uniformly described a process
3 whereby Mr. Young almost invariably reviewed
4 records that were provided to him and that had been
5 gathered up as potentially responsive to a public
6 records request. And -- and my understanding is
7 that that was a fairly routine procedure within the
8 Governor's Office.

9 My question is whether you know if he
10 also conducted such reviews of potentially
11 responsive records as a result of requests that
12 went to any of the cabinet agencies.

13 A I don't know.

14 Q Did you ever have a conversation with anyone about
15 that subject?

16 A No.

17 Q Do you ever recall any conversations within the
18 press office or the Governor's Office in which
19 there was concern expressed about the consequences
20 of responding to a public records request?

21 MS. TRIPPE: Object to the form. You can
22 answer if -- I'm sorry.

23 Q If you understand the question --

24 MS. TRIPPE: You can answer, yes.

1 Q -- you can answer.

2 WITNESS: Okay.

3 MS. TRIPPE: I'm just objecting to the
4 form.

5 WITNESS: Okay.

6 A Could you repeat the question, please?

7 Q (Mr. Stevens) Do you recall -- do you ever recall
8 a situation in which there were conversations or
9 discussions within the Governor's Office and/or the
10 press office express -- in which people expressed
11 concern about the consequences of responding to a
12 public records request?

13 A No.

14 Q Did you ever have a conversation with Governor
15 Easley about responding to a public records
16 request?

17 A No.

18 Q Do you recall anyone instructing or requesting that
19 the public affairs officers or public information
20 officers in the cabinet agencies either limit the
21 use of e-mail or refrain from using e-mail to -- to
22 communicate with the Governor's Office?

23 A No.

24 Q Did you have a copy of the public records law at

1 your disposal when you were employed in the Easley
2 Administration?

3 A Not specifically.

4 Q Other than the ability to ask questions of Mr.
5 Young or Mr. Vanore and Ms. Riley, what other
6 sources, if any, did you ever look to while you
7 were employed in the Easley Administration for
8 guidance concerning compliance with the public
9 records law?

10 A If -- when there was a public records request,
11 those went through Reuben Young's office.

12 Q Other than the situation you described earlier
13 about the license plate records, do you recall ever
14 having an actual discussion face to face with Mr.
15 Young about compliance with or response to a public
16 records request?

17 A Other than the mechanics of responding per se, no.

18 Q Did you ever have a conversation with Ruffin Poole
19 about that subject?

20 A No.

21 Q Did you ever have a conversation with Franklin
22 Freeman about that subject?

23 A Just the -- the mechanics of getting a response,
24 yes.

1 Q Okay. Is it fair to say, then, that during the
2 time you were employed in the Easley
3 Administration, the -- the person principally
4 responsible for interpreting the public records law
5 and giving guidance about compliance with it was
6 Reuben Young?

7 A Reuben Young or those in his office.

8 Q Okay. Are you acquainted with a person by the name
9 of Debbie Crane?

10 A Yes.

11 Q How do you know Debbie Crane?

12 A She was the public affairs officer for the
13 Department of Health and Human Services.

14 Q Did you have occasion to communicate with or
15 interact with her while you were employed in the
16 press office?

17 A Yes.

18 Q What was the nature of your interaction with her?

19 A Dealing with the day-to-day business as it related
20 to the Governor's Office in that department and
21 public affairs issues.

22 Q How frequently did you have reason to communicate
23 with her?

24 A On occasion, as necessary.

1 Q And what form or mode did those communications
2 customarily take?

3 A Telephone conversations, e-mail exchanges, personal
4 conversations.

5 Q And did any of those relate to public records
6 requests that had been directed to the Department
7 of Health and Human Services?

8 A There was a -- I recall a conversation.

9 Q And what was that about?

10 A She had been talking about just the volume of
11 things that had been requested and -- and that sort
12 of thing, and was -- was sort of expressing concern
13 about meeting all of them and what was a -- I think
14 we talked about what a burden it was, and we just
15 had a general discussion about having to do all of
16 that.

17 Q Did you ever participate in a meeting in which
18 employees of the Governor's Office discussed with
19 Ms. Crane the response that Health and Human
20 Services should make, or would make, to a public
21 records request?

22 A No.

23 Q Did -- do you recall a situation in -- around
24 February 2008, when the News & Observer and others

1 had made particularly -- made a public records
2 request to the Department of Health and Human
3 Services with respect to records relating to that
4 department's dealings with certain legislation that
5 had reformed the mental health system?

6 A No.

7 Q You don't recall that?

8 A I don't.

9 Q Okay. Do you recall the fact that -- that --
10 sometime in early March of 2008, did you become
11 aware that Ms. Crane had been dismissed or fired
12 from her job?

13 A Yes.

14 Q And how did you become aware of that?

15 A I was told in the office.

16 Q Do you recall who told you?

17 A I think it might have been Franklin Freeman or
18 Sherri. I don't remember.

19 Q What do you recall being told about that?

20 A That she had been dismissed because she had
21 gotten -- had -- had interrupted efforts, among
22 other things, was my understanding, to have an
23 interview with Carmen Hooker Odom and the News &
24 Observer.

1 Q Did you ever have a conversation with Ms. Crane
2 about that?

3 A No.

4 Q What was Ms. Crane's reputation within the press
5 office in terms of her competency and her integrity
6 as a public information officer?

7 A I don't know anything about her job evaluations.

8 Q Well, was there ever talk within the press office
9 about the various public information officers and
10 who was good and who wasn't, and who was really on
11 the ball and who wasn't, that sort of thing? Did
12 that ever happen?

13 A Yes.

14 Q Did Ms. Crane's name ever come up in those
15 discussions?

16 A Not that I recall.

17 Q Were you told by anyone who had made the decision
18 to dismiss Ms. Crane?

19 A No. I know that it was communicated from Franklin
20 Freeman to the secretary.

21 Q Okay. Let me ask you to look at what's been
22 previously identified as -- marked as Exhibit 2,
23 which is Ms. Crane's affidavit that's attached to
24 both the original and amended Complaints in this

1 action. I believe you indicated this is one of the
2 documents that you reviewed in preparation for this
3 deposition, correct?

4 A Yes.

5 Q If you need to take additional time to review it
6 again, feel free.

7 My question is simple. Of your own
8 personal knowledge, is there anything stated in Ms.
9 Crane's affidavit that's not true?

10 MS. TRIPPE: Object to the form.

11 MR. TEETER: Object to the form.

12 A (Examines document.) There are portions of this
13 that I cannot say whether they are or are not true.

14 Q No, I understand that. Let me put the question
15 differently.

16 Do you have any personal knowledge on the
17 basis of which to dispute anything that's stated in
18 that affidavit?

19 MR. TEETER: Object to the form.

20 A As I said, there are things here that are stated
21 that I have no knowledge of as to whether they are
22 or are not true.

23 Q So, you don't -- you have -- you would have no
24 basis to verify or to dispute those things, right?

1 MR. TEETER: Object to the form.

2 A Whether they are or are not true, there are
3 elements -- things in there that I just don't have
4 the knowledge of to --

5 Q I understand that.

6 A -- to answer that.

7 Q So -- so, if you don't know, then you can't dispute
8 them and you can't verify them, can you?

9 A I can neither acknowledge whether they are or are
10 not truthful.

11 Q Okay. All right. Now, do you recall making the
12 statement that Ms. Crane was "dishonest,
13 untruthful, and insubordinate"?

14 A Yes.

15 Q What was the occasion or circumstances for your
16 making that statement?

17 A A reporter had called the press office inquiring to
18 get information about Debbie Crane's dismissal, and
19 that was the statement I was given to use as the
20 response.

21 Q Did you, at the time, have any personal reason to
22 believe that Ms. Crane was dishonest?

23 A No.

24 Q Did you have any reason, at the time, any personal

1 reason or basis to believe that she was untruthful?

2 A No.

3 Q Did you have any personal knowledge or information
4 that caused you to believe that -- that she was
5 insubordinate?

6 A Yes.

7 Q And what was that?

8 A As I stated previously, there were efforts to have
9 Carmen Hooker Odom talk to the News & Observer, and
10 I -- I learned that she had advised and discouraged
11 Carmen Hooker Odom from doing that.

12 Q And, first of all, who told you that she had taken
13 some steps to discourage or prevent Secretary Odom
14 from speaking with the News & Observer?

15 A I believe it was Franklin Freeman.

16 Q Did you have any other source of information about
17 that subject, other than Mr. Freeman?

18 A No.

19 Q Okay. And did -- were you told by Mr. Freeman or
20 anyone else that -- exactly what Ms. Crane had done
21 that -- to dissuade or to prevent Secretary Odom
22 from talking to the News & Observer?

23 A Other than communicating directly with her and
24 saying that she shouldn't do it. That's what

1 Franklin told me.

2 Q Were you -- were you told by Mr. Freeman or anyone
3 else that Ms. Crane had been specifically directed
4 not to do that?

5 A That was not a part of the conversation one way or
6 the other.

7 Q Okay. You said earlier that you made that
8 statement because that's what you were directed or
9 told to say, correct?

10 A Yes.

11 Q Who told you to say that?

12 A I recall that I got it from Sherri Johnson.

13 Q Did she say that those were her words?

14 A She said that was the statement that was to be
15 given.

16 Q Did she say by whose authority or at whose
17 direction she was making -- telling you to do that?

18 A No, but I assume it come -- had come from senior
19 staff.

20 Q Do you know if it came from the Governor himself?

21 A I don't know.

22 Q I take it that you don't know, of your own
23 knowledge, what, if anything, Ms. Crane actually
24 did with respect to Ms. Odom's talking to or not

1 talking to the News & Observer, correct?

2 A I know what was told to me.

3 Q And only that, correct?

4 A Correct.

5 Q Do you recall -- subsequent to Ms. Crane's
6 dismissal, do you recall anything else happening in
7 the press office with respect to the public records
8 request that had been directed to the Department of
9 Health and Human Services concerning these mental
10 health reforms?

11 A I don't know anything about any of the public
12 requests -- public records requests that were made
13 to the mental health -- to the Division -- or to
14 the Department. I had nothing to do with that.

15 Q You said earlier that, from time to time, you did
16 attend the meetings of the various PIO's from the
17 cabinet agencies, correct?

18 A Yes.

19 Q Do you recall -- do you specifically recall
20 attending such a meeting on March 20th, 2007?

21 A No.

22 Q Was it your practice to attend, or did -- or,
23 generally, did you -- were you more likely not to
24 have been there?

1 A I generally did not attend those meetings.

2 Q Okay. Were you ever asked -- did you ever receive
3 a request for any notes or records -- other records
4 that you made at such meetings?

5 A No.

6 Q How did you maintain your personal files when you
7 were employed in the Governor's Office? And I
8 realize that's kind of a -- let's take -- let's
9 take hard copies of documents. Did you have a
10 filing cabinet or a file drawer or some other place
11 that you kept those records?

12 A There was a filing cabinet where I kept information
13 that I would think I would need to go back to or
14 something like that, yes.

15 MS. TRIPPE: I'm sorry. Excuse me. Did
16 you say that the question was, "How did you
17 maintain your personal files?" Did is mishear
18 that?

19 Q Well, no. What I mean is, the -- the -- the
20 records that you personally worked with in -- in --

21 MS. TRIPPE: In his state --

22 Q -- carrying out your job.

23 MR. STEVENS: Yes.

24 MS. TRIPPE: Okay.

1 Q (Mr. Stevens) I mean, with all due respect, a lot
2 of people just sort of keep them on top of their
3 desk, and maybe that's what you did.

4 A Well, you know -- well --

5 Q Including some present company, of which I'm --

6 A My -- my desk was my filing cabinet in some cases.

7 Q Okay.

8 A And -- but I -- I did keep a few things that remain
9 in that office in a -- in an actual filing cabinet.

10 Q Okay. Now, you stayed on at the press office for a
11 time after Governor Easley left office, correct?

12 A Yes.

13 Q And -- and what was your position or role within
14 the Perdue Administration?

15 A I think my -- my title continued to be deputy press
16 secretary, but I was just -- I helped with a
17 variety of specific assignments that they had.

18 Q Was it more of a transitional role, or did you --

19 A No. I had some very specific assignments.

20 Q Okay. When you left the -- the Perdue
21 Administration, the Governor's Office --

22 A Yes.

23 Q -- and went over to your current position, what
24 happened to the documents and records that you had

1 accumulated in your role as deputy press secretary?

2 A They stayed in that office.

3 Q Do you have -- have you any occasion or basis to
4 know what's happened to them subsequently?

5 A No.

6 Q When you -- I take it that, as deputy press
7 secretary in the Easley Administration, you had
8 fairly frequent occasion to talk to people on the
9 telephone, correct?

10 A Yes.

11 Q Including reporters, state employees, various
12 people, correct?

13 A Yes.

14 Q Did you customarily keep notes of those telephone
15 conversations?

16 A No.

17 Q Did you ever make notes of those conversations?

18 A I made notes of phone numbers to be returned and --
19 and that sort of thing, on scratch paper.

20 Q Okay. You didn't maintain some kind of diary or
21 notebook in which you recorded --

22 A No.

23 Q -- the -- kind of logged your calls and made notes
24 of the subject matter?

1 A No.

2 Q Okay. Do you recall, while you were employed in
3 the press office by Governor Easley, ever receiving
4 or becoming aware of a public records request that
5 asked for, among other things, e-mail messages sent
6 to or from Governor Easley?

7 A Yes.

8 Q What do you recall about that?

9 A Jim Morrill asked for -- and I don't remember
10 when -- all of the e-mails sent to and from the
11 Governor's Office or the Governor, and he was sent
12 diskettes of all of the things that had been
13 compiled by the -- I guess, the citizen affairs
14 folks.

15 Q And, for the record, Jim Morrill was and is a
16 reporter for the Charlotte Observer, correct?

17 A Correct.

18 Q And you knew Jim from your prior experience,
19 correct?

20 A Yes.

21 Q Okay. Did you have any personal involvement in the
22 process of responding to that request?

23 A Other than taking the call, running it through
24 Reuben, and then getting the information on a

1 diskette and sending it to Jim, no.

2 Q Did you review the documents or the records that
3 were on that diskette?

4 A No.

5 Q What was your understanding as to what they were?

6 A My understanding was that it was correspondence
7 received by the Governor's Office.

8 Q In your mind, did -- did the request for
9 correspondence sent or received by the Governor's
10 Office encompass correspondence that actually went
11 to or from Governor Easley personally?

12 A I think the request was for e-mails, and that's --
13 I asked for and that was the information I received
14 back through that request.

15 Q To your knowledge, did any of the records that were
16 produced on that diskette include any e-mails that
17 were sent to or from Governor Easley's personal or
18 private e-mail account?

19 A I didn't review it, and I don't know if the
20 Governor did or did not have a personal e-mail
21 account at the time.

22 Q Did you ever have occasion to communicate with Mary
23 Easley?

24 A Yes.

- 1 Q Through what means or mode did you most frequently
2 communicate with her?
- 3 A Either it was a personal conversation or a
4 telephone call.
- 5 Q Did you ever have occasion to send an e-mail
6 message to Mary Easley?
- 7 A No.
- 8 Q Do you recall ever having received an e-mail
9 message from Mary Easley?
- 10 A No.
- 11 Q What did you know about whether and how Mary Easley
12 could send or receive e-mail?
- 13 A Nothing.
- 14 Q Did you ever have occasion to have a conversation
15 with anybody at the press office about that
16 subject?
- 17 A No.
- 18 Q I may have asked this before and, if I did, I
19 apologize for the redundancy, but did -- did you
20 have occasion to send e-mail to Ruffin Poole?
- 21 A Yes.
- 22 Q And to receive e-mail from Ruffin Poole?
- 23 A Yes.
- 24 Q And did you -- did -- did you send e-mail to Ruffin

1 Poole's state e-mail account?

2 A Yes.

3 Q And received messages from that account?

4 A Yes.

5 Q Did you also send e-mail to Ruffin Poole at his
6 private or personal e-mail account?

7 A Yes.

8 Q And did you receive e-mail from that account?

9 A Yes.

10 Q Did any of the e-mail that you sent to or received
11 from Ruffin Poole's personal account relate to
12 state business?

13 A No.

14 Q What kinds of subjects did it relate to?

15 A They would be personal things.

16 Q Okay. Did you ever have occasion, while you were
17 employed in the press office, to send e-mail to Dan
18 Gerlach?

19 A Yes.

20 Q And to receive e-mail from Dan Gerlach?

21 A Yes.

22 Q Did you send e-mail to Dan Gerlach's private or
23 personal account?

24 A No.

1 Q Did you ever recall receiving an e-mail from Dan
2 Gerlach that was generated from a private or
3 personal account?

4 A No.

5 MR. STEVENS: Let's take a break and see
6 where we are.

7 (RECESS, 10:39 - 10:48 A.M.)

8 Q Mr. Effron, did you ask anyone employed by the
9 state to provide you with private counsel for
10 this -- in connection with this matter?

11 MS. TRIPPE: Object to the form.

12 A Repeat the question.

13 Q Did you -- did you ask anyone to -- on behalf of
14 the state, to provide -- that the state provide you
15 with private counsel in this matter?

16 A No.

17 Q Is the state providing you with private counsel in
18 this matter?

19 A No.

20 MR. STEVENS: I think that's all I have.

21 MS. TRIPPE: I've got just a couple of
22 follow-up questions.

23 CROSS EXAMINATION BY MS. TRIPPE:

24 Q Mr. Effron, Mr. Stevens asked you a number of

1 questions about the process that the press office
2 would go through when public records requests came
3 in. And one of the things that you said is that,
4 after you got a packet of documents back from
5 the -- the Governor's legal counsel, that you
6 sometimes would thumb through those --

7 A Yes.

8 Q -- before you released them to the -- before you
9 released them to the -- to the requester.

10 What were you looking for when you did
11 that?

12 A I was going through for the content of the various
13 records and other information, to be sure that, if
14 there were questions from the news media or the
15 requester, that we were able to answer them.

16 Q And, finally, Mr. Stevens asked you some questions
17 about The John Locke Foundation and the Carolina
18 Journal. While you were in the Governor's press
19 office, did you ever not respond to any public
20 records requests made by either The John Locke
21 Foundation or the Carolina Journal?

22 A I responded to their requests.

23 MS. TRIPPE: That's all I have.

24 MR. STEVENS: Then I guess we're done,

1 unless somebody else has questions.

2 MS. TRIPPE: He is going to read and
3 sign.

4 (WITNESS EXCUSED)

5 (WHEREUPON, THE DEPOSITION WAS CONCLUDED AT 10:51 A.M.)

6 (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 29, 2010,
7 Seth Effron, being by me personally duly sworn to tell the
8 truth, thereupon testified as above set forth as found in
9 the preceding 63 pages, this examination being reported by
10 me verbatim and then reduced to typewritten form under my
11 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.)

10 DEPOSITION OF SETH EFFRON
11 CERTIFICATE OF DEPONENT

12 I, Seth Effron, hereby certify that I was first
13 duly sworn prior to the commencement of my deposition,
14 which was given before Brenda J. Thissen, on January 29,
15 2010, in Raleigh, North Carolina; review, examination and
16 signing of the deposition was not waived. The foregoing
17 constitutes a true and accurate transcript of said
18 deposition;

19 (a) and no changes are necessary.

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

23 _____
24 Seth Effron

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.)

ERRATA SHEET TO THE DEPOSITION OF
 SETH EFFRON

PAGE	LINE	SHOULD READ	REASON FOR CHANGE
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Signed this the _____ day of _____, 2010.

 Seth Effron