

1 STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2 COUNTY OF WAKE 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.)

9

10 DEPOSITION OF SHERRI JOHNSON

11 In Raleigh, North Carolina
12 Wednesday, January 27, 2010
13 Reported by Sarah A. Bowers

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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
4 of record:

5 (1) That the deposition of Sherri Johnson may
6 be taken on January 27, 2010, beginning at 9:01 a.m., at
7 the offices of Everett, Gaskins, Hancock & Stevens, LLP,
8 127 West Hargett Street, Suite 700, Raleigh, North
9 Carolina, before Sarah A. Bowers, a Court Reporter and
10 Notary Public.

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

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

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

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

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

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

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1 MR. STEVENS: All right.

2 MR. TEETER: If I could just ask one
3 question -- first of all, for the record, I'm
4 Don Teeter. I'm with the Attorney General,
5 and I'm here representing the individual
6 interest of one Michael Easley, who used to be
7 a government official.

8 And I just wanted to inquire for the
9 completeness of my notes the status or the
10 capacity of which Mr. Stith is here.

11 MR. STEVENS: Mr. Stith is here as the
12 representative of the plaintiffs.

13 MR. TEETER: All right.

14 MR. STEVENS: And if we could, how we
15 started out yesterday was to have everybody
16 identify themselves for the record. So if you
17 want to just do that again so we have it clear
18 who's who.

19 MR. TEETER: My name is Donald R. Teeter,
20 Senior. And I'm a Deputy Attorney General and
21 I am here representing the individual interest
22 of former Governor Easley.

23 MR. PETERS: Alexander Peters from the
24 Attorney General's office, representing the

1 defendants in their official or former
2 official capacity.

3 MS. TRIPPE: Melissa Trippe from the
4 Attorney General's office, representing the
5 same as Mr. Peters.

6 MR. O'HALE: My name is John P. "Jack"
7 O'Hale. I'm here on behalf of Ms. Johnson
8 personally.

9 MR. STEVENS: And Hugh Stevens,
10 representing the plaintiffs. And with me as
11 the client representative is Pat Stith.

12

13 Whereupon,

14 Sherri Johnson,
15 having been first duly sworn,
16 was examined and testified
17 as follows:

18

19 DIRECT EXAMINATION BY MR. STEVENS:

20 Q Okay. Ms. Johnson, if you will, would you
21 mind beginning by just stating your name and
22 address for the record, please?

23 A Yes. Sherri Johnson. [address removed by Carolina Journal], Kenly,
24 North Carolina.

1 Q Okay. I can tell you right off the bat that
2 one issue we may have here is that you -- your
3 answer was very soft --

4 A Okay.

5 Q -- and this can be a noisy room --

6 A Okay.

7 Q -- because there's a fire department across
8 the park, there's an EMT station right down
9 the block, there's a police station on the
10 corner, there's a train.

11 And so, for the court reporter's sake, as
12 well as everyone else, I ask you just to speak
13 up.

14 A Yes, sir.

15 Q Let me just begin by asking, have you ever
16 participated in a deposition before?

17 A No, sir.

18 Q Okay. Well, I assume that you have had the
19 process explained to you, so I won't try to do
20 that. But I will say that my purpose here, of
21 course, is to ask you questions and get your
22 answers. And the court reporter, of course,
23 will take down everything that we say to each
24 other.

1 If, at any time, you need to take a break,
2 feel free to let me know that, for whatever
3 personal reason or if you need to consult with
4 your attorneys, we can -- we'll do that.

5 By like sign, if you don't understand a
6 question, please ask me to clarify it. My
7 purpose is not to confuse you. So if you
8 don't understand what I'm asking, just let me
9 know and I'll try to see if I can clarify. Is
10 that okay?

11 A Yes, sir.

12 Q All right. Are you currently employed?

13 A Yes, sir.

14 Q And in what capacity?

15 A I am the communications government relations
16 policy and planning director for the Office of
17 the State Controller.

18 Q And how long have you held that position?

19 A Since January of 2009.

20 Q Okay. Prior to that time, how were you
21 employed?

22 A Prior to that, I was at the governor's office.

23 Q In what capacity?

24 A I was the communications director from the end

1 of 2006, I think about September, until the
2 end of the administration, in 2008.

3 Q Okay. Would you mind just giving me a brief
4 overview of your work history prior to coming
5 to work for the governor?

6 A Yes, sir. I was employed with the Department
7 of Transportation in 1987. And I worked there
8 for 17 years. I started out at the very
9 bottom, as a Public Information Officer I.
10 And I worked my way up until I was the
11 communications director when I left DOT.

12 Q Okay. Did you have any employment prior to
13 going to DOT?

14 A Yes, sir.

15 Q What did you do?

16 A I worked at a country music radio station in
17 Selma. And I also worked at the
18 Johnstonian-Sun in Selma. This was after I
19 graduated from college.

20 Q Okay. Could you give me a brief overview of
21 your educational background?

22 A Yes, sir. I have a degree in
23 radio/television/motion pictures from UNC
24 Chapel Hill.

1 Q Okay. Have you had occasion to have any
2 formal educational training of any kind since
3 graduating from college? For example, are you
4 a certified public manager or have you had any
5 kind of formal classroom training of any kind
6 in -- for a particular purpose?

7 A I don't believe so.

8 Q Okay. I probably heard it and didn't catch
9 it. When did you move from the Department of
10 Transportation to the governor's office?

11 A In 2004. It was March 2004.

12 Q Okay. And what was the first position you
13 held with the governor's office?

14 A I was the press secretary.

15 Q Okay. Did the position of communications
16 director exist at that time?

17 A I believe Cari was the communications
18 director. She was above me.

19 Q Okay.

20 A I'm not sure that that was her official title,
21 but that's what she would have functioned as.

22 Q And is that a reference to Cari Boyce?

23 A Yes, sir. It is, Cari Boyce.

24 Q Okay. So when you -- if I understand you

1 right, when you went to the governor's office,
2 she was your supervisor?

3 A Yes, sir.

4 Q Okay. And did you become the communications
5 director upon her leaving to go in to the
6 private sector?

7 A Yes, sir.

8 Q Okay. Can you just briefly give me an
9 overview of the duties and responsibilities,
10 first, of the press secretary?

11 A As press secretary, I was responsible for
12 managing the office. When I went over there,
13 I believe they felt that the writing and the
14 materials were not very strong. So that's why
15 they brought me over there, because they
16 thought I was a good writer.

17 So I wrote a lot of the materials, the
18 speeches for the press releases and I worked
19 with the other members of the staff on the
20 writing. That's primarily what I did. And I
21 did answer some media questions, as well.

22 Q Approximately how many people were employed in
23 the press office when you went to work there
24 in 2004?

1 A There were about seven or eight, I believe.

2 Q Okay. Who was the press secretary prior to
3 you?

4 A Before me, I believe it was Fred Hartman.

5 Q Was Mr. Hartman still employed at the
6 governor's office when you went there or had
7 he gone somewhere else?

8 A He had already left.

9 Q Okay. When you were the -- at DOT, did you
10 have occasion to respond to requests for
11 public records?

12 A Yes, sir, I did.

13 Q And have you had any -- participated in any
14 formal training sessions with respect to
15 public records, such as seminars or classroom
16 type-presentations or online tutorial or
17 anything of that sort with respect to the
18 public records law?

19 A No. No, sir. The only time I have done that
20 is this year.

21 Q Okay. How -- how, then, did you acquaint
22 yourself with the provisions and requirements
23 of the public records law when you were at
24 DOT?

1 A DOT. There was someone in our office who was
2 in charge -- her name was Claudia Price -- in
3 charge of our records retention. And she made
4 sure that all of the materials that needed to
5 be retained in accordance with those retention
6 schedules were retained.

7 Q Did your role at DOT at any time include
8 responding to public records requests?

9 A Yes, sir.

10 Q And how -- how did that process work at DOT?

11 A At DOT, the process worked at -- we would get
12 the media request, and then we would gather
13 the information. Or we would ask whoever
14 had -- had the information to get it to us,
15 and then we would get it to the lawyers and
16 they would review it. And whatever they said
17 was responsive, we would give to the media.

18 Q Was that the regular, routine process?

19 A Yes, sir.

20 Q So do -- if I understand you right then, all
21 public records requests were vetted, in
22 effect, by the attorneys before the
23 material was released?

24 A Yes, sir. You're speaking at DOT --

1 Q Yes.

2 A At DOT, yes.

3 Q Do you know what the source of that policy
4 was, who -- who instituted that policy?

5 A No.

6 Q Was that policy in place when you went to DOT?

7 A Yes, sir.

8 Q And was it followed invariably for even the
9 most routine sort of request, or was it only
10 when there was some issue about the category
11 or records that had been asked for?

12 MS. TRIPPE: Object to the form.

13 Q (Mr. Stevens) Was it -- do you understand the
14 question? Did -- did every -- was -- was this
15 process that you have just described --

16 A Right.

17 Q -- followed with respect to every public
18 records request at DOT in your experience?

19 A I don't remember. I don't want to say every
20 one. I would -- the only -- I'm trying to
21 think if there was an example where it wasn't
22 followed, and it doesn't come to mind. So I
23 can't recall an instance where it -- we
24 didn't --

1 Q Okay.

2 A -- follow that process.

3 Q And when you say it was "reviewed by the
4 lawyers" --

5 A Yes.

6 Q -- to whom were you -- I don't mean
7 necessarily the individuals, but were these
8 lawyers at DOT or members -- representatives
9 of the Attorney General's office or whom that
10 did the vetting?

11 A With the AG's office.

12 Q Do you recall who was doing that while you
13 were -- I realize you were there a long
14 time --

15 A Right.

16 Q -- but particularly on toward the end of your
17 time perhaps?

18 A I don't remember their names. I know Beth
19 McKay. I think she's still there. She -- she
20 reviewed the documents. So I don't remember
21 the names of the lawyers. I don't remember
22 those.

23 Q Okay. Now, when you became the press
24 secretary for Governor Easley, who in the

1 office was primarily responsible for
2 responding to public records requests?

3 A Do you mean looking at the materials or --

4 Q Well, if -- if Mr. Stith or some other person
5 sent a request for certain records from the
6 governor's office, what happened? What was
7 the routine that was followed?

8 A They would send it in writing to us at the
9 governor's office and we -- what we would do
10 is, once we got, in writing, what the public
11 information request was, we would send that
12 out to all governor's office staff and we
13 would say, "We have this public information
14 request, and if you have any documents
15 pertaining to this request, please get it to
16 us by so-and-so date."

17 And then, we would gather the documents
18 and we would turn all those documents over to
19 Reuben. It could have been Andy Vanore, too,
20 but to Reuben Young.

21 Q Okay. Reuben Young?

22 A Yes, sir.

23 Q Okay.

24 A And he would review all of the -- he would

1 look at -- he would want to have in front of
2 him the public information request and the
3 documents and then he would tell us what was
4 responsive and what was not, if something
5 needed to be redacted or whatever.

6 So he would handle all of that. He saw
7 everything.

8 Q And that was the routine process?

9 A Yes, sir.

10 Q Now, was Mr. Young -- you said Mr. Young or
11 Andy Vanore.

12 Was Reuben Young in place as -- as the
13 governor's counsel or general counsel the
14 entire time that you worked at the governor's
15 office?

16 A Yes, sir.

17 Q Was Mr. Vanore there as special counsel part
18 of the time or all of the time or -- I'm
19 trying to get -- or understand in my mind why
20 one or the other might have vetted the
21 request?

22 A The only reason I say both is because Andy
23 vetted some of those requests during -- when
24 the issue came up with the mental health and

1 Debbie Crane and -- and Reuben was away in
2 China, so Andy handled it part of that time.

3 Q But, generally, it was Mr. Young?

4 A Yes, sir.

5 Q Okay. And again, just to be clear, this was
6 the routine that was followed for every public
7 records request received by the governor's
8 office?

9 A Yes, sir. I cannot think of one where it was
10 not.

11 Q In terms of communicating within the
12 governor's office -- let me ask you some
13 questions about that and --

14 But before I do, let me go back and ask a
15 couple of preliminary questions. What, if
16 anything, did you do to prepare for this
17 deposition?

18 A To prepare for this deposition? I read the
19 packet of information that Melissa sent to me,
20 which included the suit, Debbie Crane's
21 affidavit, the 2002 e-mail guidelines. And I
22 reviewed some of our retention schedules at
23 the press office.

24 Q Okay. Did you talk with anyone other than

1 your lawyers in preparation for this
2 deposition?

3 A Not in preparation. I mentioned it to, of
4 course, my husband, if that's what you -- I
5 told him that I was going to be here.

6 Q Okay.

7 A My boss and --

8 Q And who is that, for the record?

9 A David McCoy.

10 Q Okay.

11 A And a co-worker I work with, I told her where
12 I would be. And Dan Gerlach, when he saw it
13 in the paper, he called me up and just said,
14 "Good luck." Those would be the people I
15 mentioned it to.

16 Q Just to be clear, have you had -- did you have
17 a conversation with Ms. Hoffman, Mr. Effron or
18 Ms. Boyce in preparation for this deposition?

19 A No, sir.

20 Q Okay. Now, Ms. Hoffman, of course, was here
21 yesterday, and she was very helpful in giving
22 me an overview of the way the governor's
23 office was set up both physically and sort of
24 organizationally. So I'm going to try not to

1 go back through that, but I do want to make
2 sure my understandings are clear.

3 She indicated that, for example, she --
4 when she came on board as press secretary,
5 that's the same time you moved up to become
6 communications director; correct?

7 A Yes, sir.

8 Q And that the two of you actually occupied the
9 same physical office; correct?

10 A Yes, we did.

11 Q And -- and -- and then, was that also shared
12 with the deputy press secretary?

13 A With Seth Efron, yes, sir. The three of us
14 were in the same office.

15 Q Was Mr. Efron the deputy press secretary from
16 the time -- all the time that you were the
17 communications director?

18 A Yes, sir.

19 Q Okay. So -- okay. Go ahead.

20 A I do want to just clarify, though, at one
21 point, I did move from that office, which
22 probably would have been April 2008, April or
23 May. I'm not sure. And I moved to another
24 office in the Capitol Building.

1 Q Okay. But most of the time, the three of you
2 actually shared a physical office where you
3 could literally talk across the desks to each
4 other?

5 A For most of the time, yes, sir.

6 Q Okay. Now, she explained that there were
7 certain people whose offices were in the
8 Capitol?

9 A Yes, sir.

10 Q For example, Franklin Freeman. How did you
11 generally communicate with Mr. Freeman?

12 A We talked to him. He would be there in the
13 office just -- and he would come by a lot. We
14 would go by his office.

15 Q Okay. How did you communicate with him when
16 he was away from the office predominantly?

17 A Cell phone.

18 Q Now, it's been public- -- he's publicly stated
19 and Ms. Hoffman confirmed that he never had a
20 computer. Do you -- is that your
21 recollection, as well, Mr. Freeman?

22 A In his office?

23 Q Yes.

24 A His assistant had a computer.

1 Q Right. I understand. I believe she was
2 referring to him personally.

3 A Anita -- oh. I don't think there was one at
4 his desk.

5 Q And his assistant was Anita Berry?

6 A Yes, sir.

7 Q Did you ever have occasion to send e-mail that
8 was intended for Mr. Freeman?

9 A Yes. Anita had an -- Franklin had a state
10 address, I do believe.

11 Q Right.

12 A And you could send it to either Anita or
13 Franklin. But I believe Anita -- of course,
14 Anita would look -- open -- look at Franklin's
15 e-mail.

16 Q Essentially, as I understand it, an e-mail to
17 either address went to her, and she basically
18 handled all of his e-mail for him; is that
19 right?

20 A Yes, sir. That's correct.

21 Q Do you recall -- or do you know whether, from
22 time to time, she actually printed off e-mail
23 messages so that he would have a physical
24 copy?

1 A Yes, sir. I do believe that. I do believe I
2 saw that.

3 Q All right. Were those -- do you have any
4 knowledge as to whether those were retained
5 and filed in any way?

6 A No, sir, I don't.

7 Q I guess, Ms. Berry would be the person that
8 knows that?

9 A Yes, sir.

10 Q Okay. Did you ever have occasion to receive
11 e-mail from Franklin Freeman?

12 A Anita may have sent me some e-mails from him
13 or -- if I sent one to her, she would have
14 responded back to me.

15 Q Okay. So would it -- is it fair to say that
16 she always acted as an intermediary in terms
17 of handling messages back and forth -- e-mail
18 messages back and forth for him, to your
19 knowledge?

20 A Yes. But that wouldn't have happened often,
21 because he didn't use e-mail.

22 Q I understand. I'm just trying to --

23 A We would call him. But yes.

24 Q Okay.

1 A Or he would -- we would talk.

2 Q Did you ever have occasion to know whether he
3 had a private e-mail account?

4 A I do not know that.

5 Q Do you know whether he had a computer at home
6 that had e-mail capability?

7 A I do not know that.

8 Q Did you ever have occasion to send e-mail to a
9 member of his household?

10 A No, sir.

11 Q Did you ever have occasion to receive e-mail
12 from a member of his household --

13 A No.

14 Q -- or from an account in the name of a person
15 in his household?

16 A No, sir. I don't recall any.

17 Q Okay. All right. Now, Ruffin Poole's office
18 was in the Capitol, as well; correct?

19 A Yes, sir.

20 Q What was the most customary way in which you
21 would communicate with him?

22 A Talk to Franklin, because he was at the
23 Capitol Building.

24 Q Okay. If he were away from the Capitol

1 Building, how would you most likely
2 communicate with him?

3 A I could call him on his cell phone or I could
4 e-mail him through the state account, or he
5 had a private account, as well.

6 Q Okay. First of all, you mentioned --
7 actually, you mentioned that both Mr. Freeman
8 and Mr. Poole had cell phones; correct?

9 A Yes, sir.

10 Q Did -- let's start with Franklin. Did
11 Franklin have a BlackBerry or other kind of
12 personal communication device that would
13 accept e-mail?

14 A Not that I'm aware of.

15 Q Did Mr. Poole have a device like that?

16 A I think so.

17 Q You said he --

18 A Yes, he did. Yes, he did. I'm sure, yes, he
19 did.

20 Q Okay. So in other words, if he were away,
21 presumably, you could contact him either
22 through phone or e-mail --

23 A Yes, sir.

24 Q -- correct?

1 A Yes, sir. That's correct.

2 Q Do you know whether that phone or that device,
3 I'll call it, had the capability to receive
4 messages on both his state account and his
5 private account?

6 A I don't know. I can only tell you that,
7 sometimes when I would try to reach him, I
8 may -- if I needed the governor or if I needed
9 to talk to Ruffin, I may e-mail him on either
10 the private or State account. I could do it at
11 the same time. I don't know how it worked,
12 though.

13 Q Well, let me -- let's talk for a minute about
14 the State e-mail generally.

15 A Okay.

16 Q I take it you had a State e-mail address?

17 A Yes, sir, I did.

18 Q Did you also have a private e-mail address?

19 A Yes, I did.

20 Q With respect to your State address --

21 A Yes, sir.

22 Q -- did you have the capability of accessing
23 that account when you were away from your
24 office?

1 A Yes, sir.

2 Q How?

3 A The State account?

4 Q Yes.

5 A At home. I had to use my home computer.

6 Q And what -- how did you go about -- what was
7 the process for accessing your State account
8 from your home computer?

9 A What do you mean, "What was the process?" I'm
10 sorry.

11 Q Well, what did you do? Was there a way for
12 you to sign in to some site that would -- that
13 would connect you to your State account?

14 A Yes, sir.

15 Q Like did you -- was it a towel [phonetic]
16 account, for example?

17 A I don't know a lot of technology.

18 Q Okay.

19 A That's why you're going to stump me on this.

20 Q No, I'm just --

21 A I have a digital camera I've had for two
22 years. There's 500 pictures on it I don't
23 know how to download. So I -- I -- I'm not
24 going to know the answers of how all of this

1 works. I'm sorry.

2 Q I'm sure you and Franklin got along fine.

3 A I'm sorry. I don't.

4 Q Okay.

5 A I can just tell you how I send it, but I don't
6 know the mechanisms of any of that.

7 Q All right. Well, let me just understand.

8 Now, that computer you had at home -- just let
9 me see if we can be a bit more detailed -- was
10 that your personal computer or was it a State
11 computer --

12 A No.

13 Q -- that was -- that you actually had available
14 at home?

15 A It was a personal computer.

16 Q Okay.

17 A We were required to work on our personal
18 computers. They did not issue us laptops.

19 Q I understand. I'm just trying to verify that
20 on the record.

21 Okay. When -- could you access your
22 personal e-mail account from -- I assume you
23 could access it from your home computer?

24 A Yes, sir.

1 Q Could you also access it from your office
2 computer?

3 A Yes, sir.

4 Q Okay. I don't particularly want to know the
5 actual name, but what kind of account was it?
6 Was it like a Gmail account or a Hotmail or RR
7 or Road Runner or whatever?

8 A I have satellite, so it was a Hughes
9 account --

10 Q Okay.

11 A -- Hughes.net.

12 Q Okay. Did you ever have occasion to send
13 messages that related to state government
14 business from your personal account?

15 A Yes, sir.

16 Q What kinds of circumstances would that have
17 happened?

18 A Most of the time, that would be -- I would be
19 at home. I live in the sticks, in the middle
20 of nowhere, in Kenly. And it was really hard
21 a lot of times to access my State e-mail
22 account for some reason.

23 Q You mean it was technically difficult?

24 A Yes, sir.

1 Q Okay.

2 A I could not open the State e-mail account a
3 lot of times. And of course, we had to work
4 at home, whether it was hurricanes, storms,
5 what -- we -- we worked all the time, nights,
6 weekends, whatever. So if I couldn't open
7 that account, I would call Renee or Seth or
8 whoever and say, "I can't get into my State
9 e-mail account. Will you just send it to the
10 other account?"

11 Q Okay. And -- all right. So I take it, you
12 both sent and received e-mail related to your
13 job responsibilities through your private
14 account from time to time?

15 A Yes. Let me add to -- there's -- there's
16 another way. There's another reason I might
17 have done it, as well.

18 When I got home, I did things the quickest
19 possible way that I could. If -- if -- one
20 reason might have been that I couldn't open
21 that account. The other reason might have
22 been -- at the time my son was four or five
23 years old. I'm almost 50.

24 So I would do whatever was the quickest to

1 get it done. So if it was quicker going into
2 the private e-mail account, I would do that.
3 If I couldn't get into the other e-mail
4 account, I would do that, as well. So it --
5 it could have been either way.

6 Q Okay. Now, what was your understanding about
7 the nature of any messages that you sent or
8 received in connection with your State job?

9 A That it really didn't matter the mode, whether
10 it was a private account or State account. If
11 it was state business, it was to be treated
12 like all other e-mails --

13 Q Okay.

14 A -- and to be handled in accordance.

15 So the mode didn't really matter.

16 Q And how did -- when you were using your
17 personal account for state government work --

18 A Yes, sir.

19 Q -- how did you -- what did you do to make sure
20 that those messages were retained and were
21 retrievable?

22 A Right. I used the same criteria that I did at
23 work to evaluate those. Sometimes I would
24 forward them and sometimes I would print it

1 off.

2 Q When you forwarded them, did you forward them
3 to your State account?

4 A Yes. And sometimes I would print them off,
5 as well.

6 Q When you printed them off, what did you do
7 with them?

8 A Took them into work.

9 Q Who within the governor's office was primarily
10 responsible for compliance with the Department
11 of Cultural Resources' document retention
12 files?

13 A That would have been -- are you talking about
14 the e-mail policy?

15 Q Well, either -- any of them. If they were
16 different maybe --

17 Was there somebody in particular who was
18 responsible for compliance with the e-mail
19 policy as opposed to other documents?

20 A Yes. I would make that distinction.

21 Q Okay.

22 A Reuben Young was in charge of the e-mail
23 policies, how they were drafted. I have no
24 knowledge of how the e-mail policies were

1 drafted. We were just given the policies and
2 we were asked to sign them.

3 You know, he would -- he would instruct us
4 as to what they meant. I think we had to sign
5 them for our personnel file.

6 And there was the 2002 guidelines. I
7 don't know who was responsible for writing
8 that. So those are the e-mail guidelines. In
9 our --

10 Q Go ahead.

11 A In our office, in the press office, there were
12 also retention schedules that were specific to
13 the press office, and there was someone in my
14 office who worked directly with Cultural
15 Resources on those records.

16 Q And we're -- and are those -- we're talking
17 about physical copies of records, physical
18 records, as opposed to e-mail or are we
19 talking about both -- both electronic and
20 physical documents?

21 A Both.

22 Q Okay. Let's see if we can make sure we're all
23 on the same page here.

24 E-mail was a category of -- that was

1 really under Mr. Young's responsibility, and
2 he drafted that policy and conveyed that
3 policy to your staff; is that right?

4 A Yes, sir.

5 Q Okay. Other documents, regardless of whether
6 they were electronic in form or in a hard
7 copy, somebody else was responsible for the
8 retention policy, or for the compliance with
9 the retention policy?

10 A There -- well, there's two things. There are
11 specific Cultural Resources guidelines that
12 were specific to the press office. So we
13 worked directly with Cultural Resources on
14 those.

15 I believe, in Reuben's e-mails to us, it
16 also does address documents, as well, in
17 general, such as short-term documents and then
18 there's, also, the general schedules with
19 Cultural Resources that are not agency
20 specific.

21 Q Okay. Let's see if we can go back this way.
22 You have mentioned that you drafted speeches
23 and press releases, I assume other documents,
24 as part of your job?

1 A Yes, sir.

2 Q Who within the -- within the governor's office
3 was primarily responsible for compliance with
4 the retention schedules that applied to those
5 documents, those sorts of documents,
6 whether -- that is speeches, press releases,
7 memos, et cetera?

8 A Renee is the person who worked with our other
9 individual, I think it was Sarah Williams,
10 when we first adopted those. So Renee would
11 let others know what our guidelines were. So
12 our staff knew to keep what were in those
13 guidelines, such as speeches, press releases,
14 et cetera.

15 As a matter of fact, what I will say is
16 Sarah Clark in my office worked with Cultural
17 Resources at the very end of the
18 administration to turn over all those
19 documents. And she did that, and Cultural
20 Resources said there was more than enough. So
21 they got all the documents that they -- that
22 were in the retention schedules.

23 Q You mentioned earlier that you actually had
24 some dealings with Cultural Resources about

1 the press office retention schedules or
2 policies?

3 A I did not personally.

4 Q Okay.

5 A But there were people in my office who did.

6 Q All right. Who in your office primarily dealt
7 with Cultural Resources about that subject?

8 A Renee would know that more than I do because
9 Renee worked with whatever staff -- because
10 she was in charge of running the office, so
11 Renee would know --

12 Q Okay.

13 A -- that more than I would.

14 Q Okay. Were there particular people at
15 Cultural Resources with whom you actually had
16 any dealings about that subject?

17 A No, sir.

18 Q Okay. I'm going to go back to the subject
19 that we sort of drifted away from.

20 You said earlier that Mr. Poole had both a
21 state e-mail account and a private account?

22 A Uh-huh.

23 Q And that you would sometimes send messages to
24 either or both; correct?

- 1 A Yes, sir. Uh-huh.
- 2 Q How did you make the determination as to which
3 account to send messages to?
- 4 A It would depend on the circumstance.
- 5 Q Well, I mean, were there certain types of
6 messages or categories of messages that were
7 only to be sent to his private account --
- 8 A No.
- 9 Q -- or only to his State account?
- 10 A I -- really, both addresses would come up on
11 -- on my -- whatever was in -- I don't know
12 how to describe this.
- 13 When you -- when I pulled up his name, it
14 would come up, and I would usually just send
15 it to whatever came up. Most of the time, I
16 would say I would try to send it on the State
17 account, but if I couldn't get him, I may try
18 the private account. But I didn't use the
19 private account very much for Ruffin at all.
- 20 Q Do you have any personal knowledge as to how
21 messages that went to his personal account
22 were retained or retrieve- -- retrieved?
- 23 A No, sir.
- 24 Q Who would know that?

1 A I guess, Ruffin.

2 Q Was -- did he have anyone -- and I'll just use
3 the term. Did he have an "Anita Berry" who
4 worked for him, somebody who was the principal
5 interface with the public -- or between him
6 and the public?

7 A He did. It was Latanya Rogers.

8 Q Okay. But just to be clear on the record, as
9 I understand it, though, unlike Mr. Freeman,
10 Mr. Poole actually retrieved and responded to
11 e-mail directly, as opposed to having it go
12 through an intermediary; correct?

13 A I believe so. Yes. Yes.

14 Q Do you have any knowledge of what he did with
15 those messages that went to his private
16 account?

17 A I have no knowledge.

18 Q Did you ever have a conversation with him
19 about the e-mail policy or the subject of
20 e-mail retention and retrieval -- retrieval of
21 e-mail?

22 A With Ruffin?

23 Q Yes.

24 A No, sir. Not to my knowledge.

1 Q Okay. Now, Mr. Young, I believe, his office
2 was actually in the Administration Building a
3 block or so from the Capitol; correct?

4 A Yes, sir.

5 Q How did you most often communicate with him?

6 A With Reuben? Phone calls.

7 Q Uh-huh.

8 A Or he would -- if I needed him for something,
9 he may walk over to the Capitol, to the
10 Capitol Building, or I would go to the
11 Administration Building. So it was in person
12 or on the phone.

13 Q Did you ever have occasion to send e-mail to
14 him?

15 A Yes.

16 Q Did you have occasion to receive e-mail from
17 him?

18 A Yes, sir.

19 Q Did he have -- I assume he had a state e-mail
20 account?

21 A Yes, sir.

22 Q Did he also have a private account?

23 A I'm not aware of a private e-mail account for
24 Reuben.

1 Q Okay. So any e-mail that you ever did send to
2 him or received from him, your recollection is
3 that it came -- went or came through his State
4 account?

5 A Yes, sir.

6 Q Who -- other than the people that I have
7 mentioned, Ms. Hoffman, Mr. Efron, Mr. Poole,
8 Mr. Freeman, Mr. Young, were there -- was
9 there anyone else in -- let's start in the
10 Capitol, with whom you had regular
11 communications in the course of your work?
12 Obviously, your subordinate staff, but --

13 A Anyone else I had communications with?

14 Q Yes. Any other -- right.

15 A Susan Raybon was my boss.

16 Q Okay. Let's talk about Susan Raybon. What
17 was her position?

18 A She was the chief -- she and Franklin were
19 really the chiefs of staff. But she was my
20 boss.

21 Q And how did you primarily communicate with
22 her?

23 A By phone.

24 Q Was her office in the Capitol?

1 A No, sir. It was in the Administration
2 Building.

3 Q Did you ever communicate with her by e-mail?

4 A Yes, sir.

5 Q Did -- I assume she had a State e-mail
6 address?

7 A Yes, sir.

8 Q Did she have a private e-mail address?

9 A Yes, sir.

10 Q Did you ever have occasion to send e-mail to
11 her private account?

12 A Yes, sir.

13 Q Did you have occasion to receive e-mail from
14 her private account?

15 A Yes, sir.

16 Q What were the circumstances of your sending
17 e-mail to her privately?

18 A Could have been personal.

19 Q I'm sorry. You need to speak up. I --

20 A Personal. I let her know that I may be sick.
21 I may be out that day. It could have been
22 something totally personal about our children.

23 And if it had to do with work, I would
24 have handled it the same way I would have

1 handled it with our other account. I don't
2 remember sending Susan a lot of work e-mails,
3 but I would have handled them the same way had
4 I done so.

5 Q Did -- what kinds of communications do you
6 recall receiving from her that came through
7 her private account? Were they ever work-
8 related?

9 A Some could have been. But mostly, from Susan,
10 it was just personal.

11 Q Okay. All right. Well, I take it that you
12 communicated with the governor?

13 A Yes, sir.

14 Q How would you most frequently communicate with
15 him?

16 A By phone.

17 Q How about -- was that true regardless of
18 whether he was in the office or away from the
19 office?

20 A Let me make sure I'm clear. You're talking
21 about when I'm communications director?

22 Q Well, let's start -- let's start -- let's go
23 back to the time you were press secretary.

24 Did you ever have occasion, as press

1 secretary, to communicate with Governor Easley
2 himself?

3 A Yes.

4 Q And how did you most frequently communicate
5 with him as press secretary?

6 A Cari mostly communicated with him. I -- if he
7 needed me, he would call me.

8 Q Okay. Then was the protocol or the policy or
9 the procedure, whatever term you want to use,
10 that generally the governor talked to the
11 communications director rather than to the
12 press secretary?

13 A Generally.

14 Q Okay. When you became communications
15 director, how did you most frequently --
16 what -- what mode did you use to most
17 frequently communicate with the governor?

18 A Most frequently, the phone.

19 Q Okay. Did you ever have occasion to send
20 e-mail to the governor?

21 A Yes, I did.

22 Q Did the governor have a State e-mail account?

23 A He did.

24 Q Did he have a private account?

1 A Yes, sir, he did.

2 Q Was his State e-mail account a published
3 account?

4 A Yes, sir. It was.

5 Q Do you recall what it was?

6 A No, I don't.

7 Q Now, Ms. Hoffman explained to us that there
8 was an account that was --
9 Mike.Easley@ncmail.net, or something like that,
10 that was -- that actually went to the Citizen
11 Affairs Office where Ms. Stavinder and others
12 basically received what we call general
13 inquiry e-mail?

14 A Yes, sir.

15 Q Do you recall that?

16 A That is correct. Yes, sir. That's correct.

17 Q But was there -- was there another State
18 e-mail account that was -- we'll call it the
19 governor's personal State e-mail address?

20 A If there was, I'm not aware of it. I am not
21 aware of one.

22 Q Okay. So do I understand correctly that if
23 someone from the outside sent an e-mail to the
24 address that was in the name of Mike Easley,

1 it didn't actually go to him, it actually went
2 to Citizen Affairs?

3 A That's absolutely correct.

4 Q Okay. And if -- and if there was not an
5 account on the State system or -- or an
6 address on the State system that went directly
7 to him?

8 A If there was, I'm not aware of it.

9 Q What kind of private account did he have?

10 A What do you mean, "What kind?"

11 Q Well, I mean, was it a Gmail account, a
12 Hotmail account, an R- -- a Road Runner
13 account?

14 A RR. It was RR.

15 Q What was that address?

16 A It was Nick Danger spelled backwards. And I
17 think it was nc.rr.com, if I remember
18 correctly.

19 Q Who had access to that account, besides
20 yourself?

21 A The only people that I know of -- I believe
22 Susan did. Dan Gerlach, Ruffin. And I don't
23 know if there were others. If there were, I'm
24 not aware.

1 Q And was that the only e-mail account that you
2 could use to send e-mail to the governor
3 regardless of the subject matter?

4 MS. TRIPPE: Object to the form.

5 Q (Mr. Stevens) She's just objecting to the
6 form. If you understand the question --

7 MS. TRIPPE: Or if she knows.

8 Q (Mr. Stevens) Or if you know.

9 A Can you repeat the question?

10 Q To your knowledge, was that the only account
11 to which you could send e-mail to the
12 governor -- through which you could send
13 e-mail to the governor?

14 A Yes, sir.

15 Q Regardless of the subject matter?

16 A Yes, sir.

17 Q So I take it that you sent messages to the
18 governor about state business through that
19 private account?

20 A Yes, sir.

21 Q And did he send messages to you about state
22 government business through that account?

23 A Yes, sir.

24 Q Do you know how that account was set up?

1 A I don't know what you mean by "set up."

2 Q Do you know who paid for it?

3 A No, sir.

4 Q For example, you don't know whether it was
5 paid for by public funds or whether the
6 governor paid for it out of his own pocket?

7 A No, sir. I do not know that.

8 Q Was that the only e-mail account that you ever
9 had through which you could communicate
10 directly with Governor Easley?

11 A Yes, sir.

12 Q Was that account in existence, as far as you
13 can recall, when you became the communications
14 director?

15 A Yes, sir.

16 Q When you were the press secretary, did you
17 have access to that account?

18 A No, sir.

19 Q How did you become aware of that account when
20 you became communications director?

21 A Susan Raybon mentioned it. And I think she
22 may have given the governor my e-mail address.

23 Q Now, you were -- were you aware that the
24 e-mail that was sent and received through

1 state accounts was routinely backed up every
2 day on a stor- -- on a server or storage
3 system?

4 A I don't really understand that process. I
5 thought once you put an e-mail that was on
6 there -- anyways, I really don't understand
7 the technical process.

8 Q Okay. Well, let me ask you this, then. Do
9 you know whether any of the e-mail that was
10 ever sent to or from Governor Easley's
11 private account was ever backed up on the
12 State system?

13 A I do not know the answer to that.

14 Q While you were working for Governor -- while
15 you were communications director, did you ever
16 receive or become aware of a public records
17 request that encompassed a request for
18 messages about state business that were sent
19 to or from Governor Easley?

20 Did anybody ever say, "I would like to see
21 e-mail between Governor Easley and anybody
22 about a certain state subject"?

23 A I believe Pat's request was in the -- in the
24 mental health request, he may have asked

1 for -- if there were some communications with
2 the governor about mental health, I believe.

3 Q Okay. So from time -- sometimes you got --

4 A Sometimes.

5 Q -- requests that would have encompassed
6 messages --

7 A Right.

8 Q -- that were sent to this private address;
9 right?

10 A I don't know if it said -- but it could
11 have -- I don't remember the exact wording
12 of the request. But it said, "Governor
13 Easley's e-mail." It could have said
14 "personal."

15 Q Well, I mean --

16 A Yeah. Whatever.

17 Q Whatever?

18 A It could be whatever exact wording in there.

19 Q Now, did you -- do you -- did you respond to
20 the request by following the routine you
21 described earlier?

22 A Yes, sir.

23 Q Do you recall ever gathering up or retrieving
24 or collecting e-mails, messages, that you had

1 sent to the governor or received from the
2 governor that were within the scope of some
3 public records request?

4 A I would have handled the request the same way
5 as if it had been a State account. I would
6 gather all the records and give them to
7 Reuben.

8 Q Do you know whether any such e-mails were ever
9 produced in response to a public records
10 request?

11 A I don't know. I don't know if they were or
12 not.

13 Q I believe you indicated that you were aware
14 that Ruffin Poole had that private address?

15 A Right.

16 Q And Susan Raybon had it?

17 A Yes, sir.

18 Q Did Reuben Young have it?

19 A No, sir, not that I'm aware.

20 Q Do you ever recall, in response to a public
21 records request, collecting e-mail messages
22 from, say, Susan Raybon to Governor Easley or
23 from Governor Easley to Susan Raybon and
24 turning them over to Reuben Young?

1 A I don't remember. I would have looked at
2 whatever we had and whatever -- because it
3 depends on the request. I just don't
4 remember. I don't recall.

5 Q How -- would you have been able to actually
6 get or retrieve messages that -- say, if Ms.
7 Raybon, for example, sent a message to a
8 governor or got a message back -- got a
9 message from the governor through these
10 private accounts --

11 A Right.

12 Q -- would you have been able to assemble those
13 in response to a public records request?

14 A If I had been given those, I would have.
15 Because what I would have done is followed the
16 same process, sent an e-mail to everyone and
17 say, "Do you have any records in response to
18 this?" And then, I would have gotten all
19 those records and then given them to Reuben.

20 Q Do you specifically recall sending such a
21 message to, for example, Susan Raybon?

22 A For what?

23 Q Saying, "Susan, we have gotten a public
24 records" -- I mean, you sent out this request?

1 A Oh, yes.

2 Q Did it include Ms. Raybon?

3 A Yes, sir. Yes, absolutely.

4 Q Do you recall her turning over to you any
5 e-mail messages that she had sent to the
6 governor or received from the governor?

7 A I don't recall.

8 Q You just don't remember?

9 A I don't --

10 MS. TRIPPE: Objection. Asked and
11 answered.

12 Q (Mr. Stevens) I'm just trying to understand.
13 When you say you don't recall, are you saying
14 you didn't or you don't remember?

15 A I don't remember any.

16 Q How about with messages that may have flowed
17 from Mr. Poole to the governor or vice versa,
18 same response?

19 A Yes.

20 MR. STEVENS: Well, we have been going
21 about an hour. Why don't we take a little
22 five-minute break and let everybody hit the
23 men's room or the ladies' room and coffee, and
24 so forth.

1 MS. TRIPPE: That's great. Thanks.

2 (RECESS, 9:53 - 10:07 A.M.)

3 Q (Mr. Stevens) I know you told me, but I
4 missed it when you told me. Can you tell me
5 again what the address for Governor Easley's
6 private e-mail?

7 A It was Nick Danger spelled backwards.

8 Q Nick Danger, like D-A-N-G-E-R?

9 A G-E-R.

10 Q But then, you spell it backwards? So it's
11 R-E-G-N-A-D.

12 A Because he wrote backwards.

13 MR. STITH: Are you saying Nick?

14 WITNESS: Nick.

15 MR. STITH: N-I-C-K?

16 WITNESS: I am, Pat. See, this is the
17 most entertainment you're going to get. You
18 have got to love it.

19 MR. O'HALE: Can we go off the record
20 just a minute?

21 (DISCUSSION OFF RECORD)

22 Q (Mr. Stevens) I have to ask. Do you know who
23 thought up that?

24 A The governor wrote backwards. I mean, when he

1 wrote, he wrote backwards.

2 MS. TRIPPE: You need to speak up,
3 because she's leaning forward.

4 A But how he -- I didn't want to ask. I
5 don't -- I don't know.

6 Q (Mr. Stevens) All right. You described
7 earlier the process of responding to a public
8 records request that -- that came to the
9 governor's office.

10 When -- when -- when the -- when Mr. Young
11 had vetted the documents and they were ready
12 to be turned over to whomever had requested
13 them, did you customarily see what was
14 actually being turned over?

15 A It wouldn't automatically be me. It would
16 have been Seth, Renee. It could have been me.

17 Q Somebody --

18 A Somebody would have.

19 Q Would -- would -- in effect -- for example, if
20 a stack of documents or records were turned
21 over to, say, Mr. Stith or some other
22 reporter, would a copy customarily go to the
23 press office so you know what they got?

24 A Yes. Well, let me make it clear though. With

1 Andy, when he was dealing with Pat, with the
2 mental health records, we did not see what he
3 turned over.

4 Q Okay.

5 A So we gave all our documents to Andy. I have
6 no idea what was turned over and what --

7 Q But as a general matter, you would know, you
8 would get a copy?

9 A Or somebody --

10 Q Or somebody in the office would?

11 A -- in the office would.

12 Q Do you personally recall ever seeing any
13 e-mail message that was sent to or from the
14 governor's private account that was turned
15 over to anyone in response to a public records
16 request?

17 A To the best of my knowledge, I don't recall.

18 MR. TEETER: Can I -- could you repeat
19 that? I just didn't hear.

20 MR. STEVENS: The question -- her answer
21 was, to the best of her knowledge, she did not
22 recall, I believe.

23 MR. TEETER: Okay. That's what I --

24 WITNESS: That's right.

1 Q (Mr. Stevens) Let me switch topics for a
2 minute or two.

3 WITNESS: May I confer with counsel for a
4 second?

5 MR. STEVENS: Sure. Do you need to go
6 out?

7 MR. O'HALE: Yeah.

8 MR. STEVENS: We'll go off the record.

9 (RECESS, 10:11 - 10:13 A.M.)

10 Q (Mr. Stevens) Okay. Let me just, first of
11 all, hand you a copy of what was already
12 marked yesterday as Exhibit 1.

13 A Okay.

14 MR. STEVENS: You have copies?

15 MS. TRIPPE: Yes.

16 Q (Mr. Stevens) Okay. For the record, this is
17 an e-mail. "As a public record in North
18 Carolina" is the title of this document. And
19 it's a publication in the Department of
20 Cultural Resources, dated August 2002?

21 A Yes, sir.

22 Q And you referred to this earlier --

23 A Yes, sir.

24 Q -- as Cultural Resources guidelines concerning

1 e-mail retention and so forth.

2 First of all, Ms. Johnson, how do you
3 recall your -- how you became acquainted with
4 and acquired whatever understanding you had of
5 this policy? You mentioned earlier that you
6 didn't recall having any formal sit-down
7 training on this.

8 How did you educate yourself about these
9 policies?

10 A I don't remember how I was first educated, but
11 I knew about this policy. It may have been in
12 the packet of information given to me when I
13 went to the governor's office. And I probably
14 had this at DOT, as well.

15 Q I was going to say this would have been in
16 effect --

17 A Absolutely.

18 Q -- during part of your tenure at DOT?

19 A Yes, sir. I would have had it there, as well.

20 Q All right.

21 A So I just don't remember exactly how, but I
22 would have seen that at DOT and at the
23 governor's office.

24 Q Do you ever recall a -- even an informal

1 conference or training session for the
2 governor's staff or the press' office staff or
3 anything like that to go over public records
4 law or these retention policies or anything of
5 that sort?

6 A No. No, sir.

7 Q If you had a -- while you were at the
8 governor's office, if you had a question about
9 these policies -- and by that, I am talking
10 about retention policies for e-mail and other
11 public records -- to whom did you direct such
12 questions?

13 A Reuben.

14 Q Reuben Young?

15 A Reuben Young. Yes, sir.

16 Q And did you, from time to time, make such
17 inquiries of him, about whether certain things
18 were or were not public records and whether
19 they should be retained and for how long and
20 that sort of thing?

21 A Yes. I would ask him questions.

22 Q Okay. But he -- would it be fair to say he
23 was sort of the point person for this subject
24 at the governor's office?

1 A Yes, sir, he was.

2 Q Okay. What was your understanding with
3 respect to your obligation to retain e-mail
4 that you sent or received from your State
5 account?

6 A To handle it in accordance to these guidelines
7 and the memos that Reuben had written, as
8 well, because he had written some memos that
9 briefly outlined what short-term value was,
10 document retention, and explained document
11 retention, I believe short-term value and
12 e-mails.

13 Q Okay. What is your recollection as to what
14 those policies were? Let's talk about, for
15 example, under what circumstances were you --
16 did you understand that you were permitted to
17 delete or discard e-mail either that you had
18 sent or e-mail that you received?

19 A Reuben didn't make it very complicated. When
20 he explained it, he pretty much explained it
21 as you can -- you delete or retain in
22 accordance to your retention schedules. And
23 if it's of a temporary nature, if there's no
24 more reference or administrative value, you

1 did not have to keep it.

2 And I believe that was -- those phrases is
3 what she told us and -- it's what's he told
4 me. I believe that was highlighted in every
5 document that I saw. From -- I think there
6 were -- while I would have been there, there
7 was one set forth in 2004, there was one in
8 2006, too, I believe, that Reuben signed.

9 Q What was your understanding as to what -- by
10 what criteria you were to judge whether
11 something had any administrative value?

12 A It was subjective. We decided that on our
13 own.

14 Q Well, were you given examples or guidelines as
15 to how to make that decision?

16 A Over the guidelines that you -- we would have
17 seen in the written memos that he had. That
18 was -- no. He -- at senior staff meetings, I
19 remember Reuben saying -- he would just say it
20 as I have said it very clearly. And that's
21 pretty much as it was stated in his memos.

22 Q Well, let me -- you also used the term
23 "short-term" or "temporary value" or "purpose"
24 or some such term. I don't want to puts words

1 in your mouth, but what did you understand
2 that to mean?

3 A As far as documents and e-mails, Reuben
4 described that to us. "Short-term" could mean
5 something like I'm going to -- let's meet at
6 3:00 for this meeting so we can discuss the
7 agenda. He also described "short-term value"
8 as draft documents.

9 Q All draft documents?

10 A It's described in his memos. It says, "drafts
11 that are" -- "that are not substantially
12 different than the final version can be
13 considered short-term value." I believe
14 that's in his memo.

15 Q In your role as -- first, as press secretary,
16 what kinds of documents did you draft? You
17 mentioned press releases and --

18 A Speeches.

19 Q -- did you say speeches?

20 A Memos.

21 Q Mem- -- what sort of memos might you recall as
22 having drafted as press secretary?

23 A We would routinely -- any time we did a packet
24 for the governor, we would also do a memo to

1 him, we would do a speech and we would write a
2 press release.

3 Q Now, would this be, for example, when he was
4 going off to do an event and he was going to
5 make a talk and there was going to be what we
6 call a "backgrounder" or something --

7 A Yes.

8 Q -- or information for him to use to prepare
9 and then a speech for him to deliver, that --
10 that sort of thing?

11 A Yes, sir.

12 Q And were -- well, first of all, were the final
13 versions of all of those types of documents
14 always retained?

15 A Yes, sir.

16 Q But -- but I gather, from what you said,
17 drafts not necessarily?

18 A That's correct.

19 Q How would you make a determination as to
20 whether a draft should or should not be
21 retained, or -- or did you?

22 A That would have been up to the individual.

23 Q Did you routinely discard all drafts?

24 A No. No, sir.

1 Q How did you -- what kind of thinking did you
2 do to say, "Okay, this is a draft I can
3 discard," versus "This is one I need to keep"?

4 A Sometimes I didn't think about it. I was so
5 busy, I mean, it may have just sat on my
6 computer and that's -- that's the answer.
7 Sometimes I would keep them and sometimes I
8 wouldn't.

9 Q Realizing you worked in the press office your
10 entire time, you mentioned -- you made a
11 mention of senior staff meetings?

12 A Yes, sir.

13 Q Do you recall Mr. Young differentiating with
14 respect to the policies concerning drafts of,
15 say, policy documents versus letters or press
16 releases or -- or did he -- do you recall any
17 such differentiation?

18 A No, sir. No, sir.

19 Q Did you -- with respect to e-mail, how -- did
20 you have a routine in terms -- or procedure in
21 terms of clearing your e-mail inbox and outbox
22 and so forth from time to time?

23 A It's whenever I had time.

24 Q Okay. And what would you do, typically?

1 A Sometimes what would trigger it is we got
2 messages every month from IT that would tell
3 us if we were over our allotted amount. And I
4 was always over.

5 So those messages, point blank, said to
6 look at your e-mails and to -- according to
7 your retention values, delete and look at
8 them, go through your sent box and look at
9 your e-mails. And it was pretty much, keep
10 what you need and, what you don't, delete.
11 That's what those -- that's what those IT
12 messages said.

13 Q Do you ever recall being advised by anyone
14 that all e-mail sent or received should be
15 retained for at least 24 hours?

16 A No.

17 Q Do you ever recall anyone talking to you about
18 the way e-mail that went through state
19 accounts was backed up on the system or -- on
20 a daily basis?

21 A I remember some brief conversations, but no
22 one really explained to me what that was, for
23 how long and how that works. I do not have an
24 understanding of that.

1 Q Were you generally aware that your e-mail that
2 went through your State account was somehow
3 retrievable as a general matter, even after
4 you deleted it?

5 A I always thought it was. It was my assumption
6 that it was.

7 Q Okay.

8 A Yes.

9 Q All right.

10 A Let me add something here. As a matter of
11 fact, I accidentally deleted a couple of folders
12 one time. As a matter of fact, twice.
13 Because as I told you, technically, I am not
14 literate. I was in a panic because those are
15 very important files. So I asked permission
16 for IT to recover those files, and they did.
17 Because it cost \$100 when they do that.

18 So I think I did that either once or
19 twice. So they were recoverable.

20 Q So this was an e-mail folder?

21 A Yes.

22 Q Where you had organized your e-mail under
23 certain topics, for example?

24 A Yes.

1 Q Okay. So you were generally aware of that?

2 A That I could retrieve them.

3 Q Did anyone ever -- do you ever recall having a
4 conversation with anyone about a process or
5 procedure for deleting e-mail so that it would
6 not be retrievable?

7 A No. The -- the -- let me -- the only time
8 that I remember this being brought up was at a
9 PIO meeting. And there was a discussion of
10 e-mails. And I believe that was Debbie Crane
11 who, actually, mentioned something about
12 deleting e-mails and going in and doing
13 something. I'm not -- I'm not exactly sure
14 what.

15 And then, her affidavit mentions a "double
16 delete." That's the only time I have ever
17 heard of any such phrase.

18 Q Okay. Well, since you mentioned that, let me
19 hand you what was marked yesterday and
20 identified as Exhibit 2 --

21 A Okay.

22 Q -- which is an affidavit of Debbie Crane.

23 A All right. Okay.

24 Q Dated April 2nd, 2008. And I -- you

1 previously said you had reviewed this in
2 preparation for this deposition?

3 A Yes, sir.

4 Q First of all, I take it you are personally
5 acquainted with Debbie Crane?

6 A Yes, sir.

7 Q Can you just give me an overview of how you
8 met her and what your relationship has been
9 through -- through the years?

10 A Yes, sir. She and I met through work, and her
11 and I had a very good working relationship.

12 Q Do you recall what capacity she was employed
13 in when you first met her?

14 A I don't remember exactly. I do believe she
15 switched -- I think she was at DENR at one
16 point.

17 Q That's Department of --

18 A Environment and Natural Resources.

19 Q -- Natural and Economic -- Environment and
20 Natural Resources?

21 A That's right.

22 And then -- yes. That's right. It says
23 here. And then, she was DHHS so --

24 Q So basically, you and she were both PIOs or

1 public affairs representatives of -- of
2 executive branch agencies at the same time for
3 a period in the -- in the '90's; correct?

4 A Yes. I would say she was a communication
5 director longer than I was, though. But yes,
6 generally.

7 Q Okay. Well -- have -- let me just ask you
8 this. Having reviewed this affidavit, is
9 there anything in it which, to your personal
10 knowledge, is not true?

11 A Let me go through it. All right. I'm not --

12 MS. TRIPPE: I'm going to object to the
13 form just because it's sort of a lengthy
14 affidavit, and that would require her to go
15 sentence by sentence.

16 MR. STEVENS: Well, I mean, that's fine.
17 I basically -- feel free to -- I'd like her to
18 mention -- to bring to my attention anything
19 in it that she does not -- that she knows not
20 to be true.

21 Obviously, there may be things she
22 doesn't know, one way or the other.

23 MR. O'HALE: Well, let me suggest, if
24 we're going to answer that question, we take a

1 time out with our client.

2 MR. STEVENS: Well --

3 MR. O'HALE: And the reason I point this
4 out, respectfully, is there are so many things
5 that we'll have to go through line by line
6 which she may not know to be true.

7 MR. STEVENS: No. My question is, what
8 does she know that is not true? I understand
9 there may be things about, for example, Ms.
10 Crane's personal background that she doesn't
11 know one way or the other. I'm asking her
12 to -- anything within her knowledge that she
13 says, "I know that this is not true."

14 MS. TRIPPE: Well, I guess my problem
15 with it, really, is that your question is
16 ambiguous because it implies that what she
17 doesn't say she knows isn't true implies that
18 she believes -- well, I'm objecting for the
19 record.

20 MR. STEVENS: That's fine.

21 MS. TRIPPE: You can answer.

22 Q (Mr. Stevens) Do you understand the question?

23 If you have read this and there are things
24 in here that you -- of your own knowledge that

1 are not -- are not correct, not true, that's
2 what I'm asking you about.

3 MR. TEETER: I'll also object to the form
4 of the question for the record.

5 Q (Mr. Stevens) Well, the only other --

6 MS. TRIPPE: Go ahead and --

7 WITNESS: Go through it? Okay. All
8 right. Just give me one second.

9 Q (Mr. Stevens) Sure. Take all the time you
10 need.

11 A Under Number 5 --

12 Q Okay.

13 A -- where it says, "At several of these
14 meetings the press office representatives
15 discouraged the various public affairs
16 directors from sending e-mail messages to the
17 governor's office because, they said, they did
18 not want to create records that would be
19 subject to disclosure under the public records
20 law," I do not recall a conversation saying
21 that we did not want to create records under
22 the public records law.

23 Q Okay. Do you recall any conversation or -- in
24 which representatives of the press office

1 discouraged the PIOs from sending e-mail
2 messages to the governor?

3 A We -- this next sentence I do recall. "We
4 were told that the preferred means of
5 communication with the governor's office was
6 telephone, particularly if the subject of the
7 communications were likely to be
8 controversial," or sensitive. That's true.

9 Q Okay. Let me just stop you right there and
10 ask you a couple of questions about that.

11 Were you among the press office
12 representatives who conveyed that preference
13 to the PIOs?

14 A Yes. I con- -- yes, sir.

15 Q Was there a particular reason for -- for doing
16 that?

17 A Yes, sir. Reuben Young, our legal counsel,
18 expressed to me that he believed a more
19 appropriate form of communication, if a
20 subject matter was very sensitive, would be,
21 first, pick up the phone and call.

22 We dealt with some very sensitive issues
23 that -- when you look in the e-mail
24 guidelines, it says e-mails are -- as -- it's

1 like a postcard. And some of the issues just
2 were -- were better to be handled just by
3 picking up the phone and -- and -- and letting
4 us know.

5 And sometimes we would just say, "Oh, just
6 send us an e-mail," you know, depending on
7 what it was. You know, just let us know. But
8 we asked them to call us first.

9 Q Do you recall any particular examples of the
10 subject matters that were deemed to be
11 particularly sensitive or controversial
12 that -- that were the basis for this
13 suggestion?

14 A I'm not sure that there was one in particular,
15 but it was just as a general rule.

16 Q Do you recall -- do you recall you or anyone
17 else on behalf of the governor's office giving
18 examples to the PIOs about topics that would
19 be better addressed -- preferably be addressed
20 by the phone?

21 A I'm -- I'm not sure if we did that. I don't
22 remember. I don't recall.

23 Q Was there a policy in the governor's office
24 with respect to notes made in connection with

1 telephone conversations?

2 A Notes -- not that I'm aware of.

3 Q Did you -- did you ever take -- make notes of

4 conversations with, for example, various

5 public information officers?

6 A Oh, yes.

7 Q What did you do with them?

8 A I -- I treated them just like any other

9 document under the -- under the guidelines.

10 So I would have those. Sometimes I would give

11 them to Reu- -- if there was a -- if you are

12 talking about the sensitive issues, where we

13 would talk about them --

14 Q Right.

15 A -- I would call Reuben, because Reuben would

16 want me to let him know about it. So I would

17 call Reuben and sometimes I would give him the

18 notes. Or either -- most of the time, Reuben

19 would just say, "Tell me what's going on."

20 Q Did you routinely keep the notes that you made

21 of telephone conversations?

22 A I -- yes. They would be at the governor's

23 office. I did.

24 Q Did you -- did you have a particular form in

1 which you kept notes? For example, I notice
2 some of the PIOs appear to have like
3 reporters' notebooks, where they routinely
4 took notes at the PIO meetings. Did -- did
5 you do that, or did you just write it down,
6 like I do, on whatever piece of paper happened
7 to be there?

8 A It would be both. But whatever I had.

9 Q Okay.

10 A It was not well organized. So it was just --
11 grab what I could. Sometimes it was in a
12 notebook; sometimes it was on a piece of
13 paper.

14 Q Did you ever -- or routinely put those notes
15 in a file of any kind?

16 A On my desk. Or they could have been in a
17 file. They could have been in a file or they
18 could have been on my desk. So yes. They
19 could have been.

20 Q Do you ever recall turning over any notes of
21 telephone calls to Mr. Young in this process
22 of vetting a potential public records request
23 response?

24 A Yes.

1 Q Okay. I think that's all I want to follow up
2 on that sentence. Do you want to -- is there
3 anything further, let's say, in Paragraph 5
4 that you --

5 A "We were also instructed that if we did send
6 e-mail messages to the governor's office, they
7 were to be deleted from our computer's sent
8 mailbox immediately after they were sent. We
9 were instructed we should then go to our file
10 for trash for deleted messages and delete them
11 again. The purpose of this double delete
12 procedure was to remove the messages from our
13 desktop so that they would not be recorded and
14 archived by the nightly backup of our computer
15 files."

16 No, I don't agree with that.

17 Q Well, when you say you "don't agree with
18 that," are you saying that did not happen or
19 that you did not --

20 A I did not --

21 Q -- tell them that, or what?

22 A I -- I did not tell them that.

23 Q Okay. Do you know whether anyone else told
24 Ms. Crane that?

- 1 A I -- no, I do not.
- 2 Q Now, what is your general view of Ms. Crane's
3 credibility and her rep- -- her reputation for
4 truthfulness?
- 5 A I know Debbie as a -- a colleague, so --
- 6 Q Did you ever, in the times you dealt with her,
7 have any occasion to doubt her veracity or
8 truthfulness?
- 9 A I don't recall. I mean, I don't recall if I
10 -- if that was ever part of an equation. I
11 mean, I never thought of it that way.
- 12 Q What was her reputation in that respect within
13 the governor's office?
- 14 MS. TRIPPE: Object to the form.
- 15 Q (Mr. Stevens) If you know.
- 16 A I don't know that there was a lot of
17 discussion there, so I don't -- I don't know
18 what her reputation would be. I mean, she --
19 she --
- 20 Q You're saying that it never was discussed?
- 21 A Her reputation?
- 22 Q Right.
- 23 A I don't recall a conversation about her
24 reputation.

- 1 Q Do you recall a conversation with Mr. Efron
2 about that, particularly after Ms. Crane
3 resigned or was fired?
- 4 A Oh, are you getting -- are you getting to the
5 statements?
- 6 Q I'm just asking you if you ever -- I'm trying
7 to understand what her reputation was within
8 your office.
- 9 A I think there's some distinctions here that --
10 one, would be before she was fired, and then
11 what happened after she was fired. So that's
12 where I would make the distinction. And some
13 things that happened as a result of the
14 firing. So I think I know what you're talking
15 about. We can -- we can go through that
16 because, you know, that would be here.
- 17 Q First of all, let me ask you this. Do you --
18 do you know any reason why Ms. Crane would
19 have simply made up what she says here in
20 Paragraph 5?
- 21 A I'm just telling you that I did not say that.
22 You asked what I --
- 23 Q Okay.
- 24 A What I did not find --

1 Q All right. Do you recall -- do you know
2 whether anyone acting at your request or on
3 your instructions ever requested or suggested
4 to the public information officers that they
5 delete e-mail messages that had been sent to
6 the governor's office?

7 A Okay. I believe I know what you're talking
8 about here. I do not know the specific
9 conversation.

10 This is what I know. The Secretary of
11 Cultural Resources wanted the governor to be
12 in the North Carolina history book, and he
13 agreed. So we wrote the materials in
14 coordination with the Department of Cultural
15 Resources.

16 Q Just to interject, is this the red book that
17 we're talking about, the so-called?

18 A No, the governor. The History of the
19 Governors in North Carolina.

20 Q Okay.

21 A I think that red book is the Secretary of
22 State Book.

23 Q Okay. Go ahead.

24 A So that -- that happened. The -- the history

1 book was publicized and we sent out the press
2 release. Then, after that, there were some --
3 there was a public information request from
4 the News & Observer for e-mails at the
5 Department of Cultural Resources concerning
6 the history book.

7 So what happened was, in those e-mails, it
8 was determined -- and you could look through
9 those e-mails and -- the governor -- I'll say
10 this. When the governor saw what was in those
11 e-mails, he was highly upset because he
12 believed that he was blind-sided or sabotaged
13 because the people who worked at the
14 Department of Cultural Resources really didn't
15 want him to be in the book. So it just -- he
16 just was highly upset about that.

17 So what happened was, he was -- he was so
18 upset, he wanted the PIO fired.

19 Q Which one?

20 A Maryanne Frend. And she's at Cultural
21 Resources.

22 So Susan Raybon told me, at some point
23 after that, "Look, you probably should just
24 let the PIOs know that it's better to just

1 pick up the phone and call. You know, for the
2 governor to see the e-mails that they didn't
3 really want him to be in the book and to see
4 some of the snide comments, that -- you know,
5 that was just -- you know, he was highly upset
6 about that. So it would be better just to
7 pick up the phone and call. And just to go
8 over the e-mail policy that says, you really
9 should call, and some things are just not
10 appropriate and should be handled differently
11 than just -- just look at the policy,"
12 basically.

13 So Renee -- and I don't remember the exact
14 time frame. And I didn't mention that to
15 Renee. But I was walking up out of the office
16 one day and Renee said, "I am going to have a
17 PIO meeting. Is there anything that we need
18 to tell them?"

19 I said, "Oh" -- I don't remember if I
20 mentioned Susan's name or not. I said, "You
21 might just want to re- -- you know, remember
22 what happened with Maryanne Frend, and just
23 remind the PIOs that it's better to just pick
24 up the phone and call so the governor doesn't

1 read things, you know, when he sees them
2 versed in the paper or whatever. And just
3 remind them of the policy."

4 And Renee -- Renee's comment to me was,
5 "Well, we can't say that. We can't tell them
6 that Maryanne was fired." And I said, "No, we
7 can't do that." She said, "So I'll just say
8 that public information requests are
9 increasing, so be careful what you e-mail."

10 So that is what I thought Renee told the
11 public information officers.

12 Q Okay.

13 A So we -- we go along and we get to the point
14 where Debbie is fired. Then we get a call
15 from the News & Observer and RAL that says,
16 "She says that you -- that the press office
17 has said that you are -- that you have
18 instructed her to destroy or delete messages."

19 At which point, I looked at Seth and Renee
20 and I said, "What -- what are they -- what is
21 she talking about?" Renee said, "I don't know
22 what she's talking about." Seth said, "I
23 never told anybody to do that." And I said,
24 "I wonder if she's talking about the policy

1 that says you can delete. And I wonder if
2 that is what she's talking about."

3 So anyway, that's when we put out the
4 statement about please not telling anyone to
5 destroy or delete e-mails, et cetera.

6 Then the next thing that happened was Pat
7 made a public information request to the -- to
8 me and to other PIOs that asked for the
9 meeting minutes of the PIO meetings. And he
10 was given that.

11 And in some of those meeting minutes,
12 that's when it came up that it said, in those
13 meeting minutes, something to the effect that
14 Renee said, "delete to and from the governor's
15 office."

16 When that happened, Renee actually told me
17 that she didn't say that. She also said that
18 she thought Cari had said that previously.
19 And she wondered why she was getting in
20 trouble, because Cari had said that
21 previously.

22 And then, at another point after that,
23 she -- she said, "Well, I said it because you
24 told me to say that." So she was talking to

1 me. And I said, "Renee, if you said what I
2 told you to say, then there really shouldn't
3 be an issue." So keep in mind, Renee never
4 told me what she said.

5 And I didn't feel like I could ask her,
6 because Andy Vanore was involved and he was
7 serving as our legal counsel and we were
8 instructed not to discuss it. So that's the
9 extent of my knowledge of that.

10 Q With respect to the PIO meetings, Ms. Crane's
11 affidavit says, in Paragraph 7, "that notes or
12 minutes of some of the recent meetings were
13 typed up by Sondra Artis, senior assistant
14 press secretary"; is that correct?

15 A Yes, sir.

16 Q Did Ms. Artis routinely keep minutes or notes
17 of the PIO meetings?

18 A Renee would know that, but I think she did.
19 And so did everybody else, as well.

20 Q But again, I interpret this as, in effect,
21 that Ms. Artis was there for that purpose,
22 that is to -- to kind of keep a record of it;
23 is that right?

24 A No. It wasn't an official record. No. It

1 was not. It was really to -- and Renee would
2 know more about how this was handled because I
3 didn't go to them.

4 But my understanding was Sondra would take
5 notes. Renee would take notes. Sometimes
6 Sondra would type them up. Sometimes she
7 wouldn't. But Renee would know more about
8 that than I would. But they weren't official
9 minutes or anything.

10 Q First of all, do you know, did Ms. Artis work
11 in the press office through the end of the
12 Easley administration?

13 A Yes, sir, she did.

14 Q Do you know where she is now?

15 A I think she's with the current governor.

16 Q Okay.

17 A With the Citizen Affairs Office, I believe.

18 Q All right. Do you personally know what --
19 whether any notes that she did type up were
20 retained?

21 A I believe some were turned over to Pat.

22 Q Well, do you know, generally, were they
23 retained? Do you know?

24 A I don't know that she retained all of those or

1 if she retained them in her handwritten notes
2 or her document form. I don't know.

3 Q Okay. All right. Okay.

4 A But I do know everything that we had was
5 turned over to Pat.

6 Q When you, said a minute ago, that you do not
7 regularly attend those meetings -- is that
8 correct?

9 A Once Renee got there, I did not.

10 Q Okay. So --

11 A That's correct.

12 Q So the press secretary -- was it -- am I
13 understanding the press secretary generally
14 presiding or convened these PIO meetings and
15 then --

16 A Yes, sir.

17 Q -- rather than -- did you ever attend after
18 you became communications director?

19 A I could have, one or two. I didn't attend
20 many, but I could have.

21 Q Okay. All right. Anything else?

22 A Okay. We're at Number 6.

23 Q Okay.

24 A "In addition to the general instructions, we

1 were also given specific direction about some
2 subjects. For example, we were told not to
3 return calls from representatives of the John
4 Locke Foundation."

5 What I would say about that is that
6 that's -- that was the governor's policy.
7 Sometimes we actually did return their calls.
8 And sometimes he instructed us and he
9 instructed the other PIOs not to return their
10 calls, as well so --

11 Q Let me ask about that. First of all, how
12 did -- how were you made aware of that? Did
13 he tell you --

14 A Yes, sir.

15 Q -- not to return their calls?

16 A Yes, sir.

17 Q Did he say why?

18 A He said that they are a -- more of an
19 advocate, so he -- he would say not to return
20 their phone calls. He -- and it would really
21 depend on the situation. At DOT, I did return
22 their phone calls. And at the press office,
23 we did return those phone calls when we could.
24 But when he instructed us not to, of course,

1 we couldn't.

2 Q Do you recall any other particular people
3 whose phone calls were not to be -- that you
4 were ever instructed not to return?

5 A With the press, no. Not -- no.

6 Q How about --

7 A No.

8 Q -- private citizens?

9 A No.

10 Q Were there private citizens whose requests
11 were not to be responded to?

12 A No, not that I'm aware. Not that I'm aware
13 of.

14 Q You said earlier that -- you were describing
15 what happened about this history book and the
16 fact that the governor was very upset about
17 it. I want to be sure I understand this
18 right.

19 He was up- -- was he upset about what was
20 in the book or what was said about what was in
21 the book or what was said about whether he
22 should be in the book? I'm not quite clear.

23 MS. TRIPPE: Object to the form.

24 Q (Mr. Stevens) Well, just help me there. I

1 don't understand what the conversation was.

2 A He was upset -- he was upset about some of the
3 content that was in the e-mails that implied
4 that, you know, should he really be in the
5 books since he's a sitting governor. And I
6 don't remember exactly. There were just some
7 kind of snide comments they made that just
8 made him highly upset.

9 Q And how was it that he became aware of these
10 e-mails?

11 A We told him what were in those e-mails.

12 Q Because they were being turned over --

13 A Right.

14 Q -- in response to a public records request?

15 A Yes, sir.

16 Q Okay. Anything else about Ms. Crane's
17 affidavit?

18 A I think we -- well, Number 8. I -- I did
19 communicate with the governor via the Road
20 Runner e-mail account, but that was handled --
21 I handled all records, if they were, you know,
22 private accounts, just like I would with the
23 state account.

24 Let's get to Number 9. "In response,

1 representatives of the governor's office
2 falsely impugned my personal integrity.
3 Governor Easley's chief legal counsel, Reuben
4 Young, denied that anyone in the governor's
5 office had ever directed me" --

6 Q Speak up a little bit.

7 A Okay. "Denied that anyone in the governor's
8 office had ever directed me or other public
9 information officers to delete or destroy
10 e-mail."

11 Reuben and -- Renee and I had a
12 conversation with Reuben, so I told Reuben
13 what I knew at the time. And Renee told him,
14 as well. I don't know if I am supposed to say
15 what we told counsel but --

16 MS. TRIPPE: More so about what counsel
17 told you, rather than what you told counsel.

18 WITNESS: Okay. Well, we -- I was --
19 okay. That's good. Thank you. That's fine.
20 Because Renee and I talked to Reuben at the
21 same time.

22 Q (Mr. Stevens) Okay. Before he made the
23 statement?

24 A Before he made the statement.

1 Q Okay.

2 A And she never mentioned to him or to me that
3 she had said that.

4 Q Okay.

5 A So Reuben didn't know, and neither did I.

6 "And Seth Effron, Governor Easley's press
7 secretary, said I was fired because I was
8 dishonest, untruthful and insubordinate."

9 I -- I want to say here that Seth did not
10 make that statement on his own. The
11 governor --

12 Q Excuse me?

13 A Seth Effron did not make that statement on his
14 own.

15 Q "On his own," is that what you're saying? I'm
16 just trying to --

17 A Yes. That what's I'm saying.

18 The governor dictated that statement to go
19 out. He dictated it word for word and ordered
20 that be sent out. And Seth was the one who
21 had to -- to give it out.

22 So I mean, it wasn't Seth -- I mean, Seth
23 was the vehicle, but the governor is the one
24 who --

1 Q He was the mouthpiece, but he was --

2 A Yes, sir.

3 Q -- not the speaker?

4 A Yes, sir.

5 Q Okay.

6 A Oh, let me say one more thing. It says, "I
7 was not fired because I was dishonest, but I
8 was -- but that I would not yield to pressure
9 from the governor's office to say things that
10 were false or misleading."

11 I don't -- I don't know about that. I --
12 I was told --

13 Q I understand.

14 A Okay.

15 Q Why she was or wasn't fired is not really part
16 of this.

17 A Okay.

18 Q So I understand.

19 MS. TRIPPE: Oh, maybe a break time? If
20 you get to a good stopping point.

21 MR. STEVENS: Yeah. Okay. It's another
22 hour, let's take one.

23 MS. TRIPPE: It has been.

24 (RECESS, 10:56 - 11:05 A.M.)

1 Q (Mr. Stevens) Ms. Johnson, did you ever have
2 occasion to -- to forward messages to the
3 governor's e-mail account as opposed to
4 actually originating a message yourself?

5 A Forward a message? I don't -- I don't know if
6 I did that or not.

7 Q Okay. Did you ever have occasion to send
8 messages from your personal account to the
9 governor's account?

10 A Did I send --

11 Q Well, you mentioned earlier -- way back a
12 couple hours ago --

13 A Right.

14 Q -- I asked you about using your personal
15 account. And you described the
16 circumstances --

17 A Right.

18 Q -- when you sometimes did.

19 A Right.

20 Q Do you ever recall sending messages to
21 Governor Easley on your private account?

22 A Yes.

23 Q Did he ever -- did he respond to your private
24 account, do you recall, or ever send messages

1 to your private account?

2 A Yes.

3 Q He did?

4 A Yes, sir.

5 Q Okay. Did you ever have occasion to

6 communicate with Mary Easley?

7 A Ra- -- rarely. She and I did not communicate

8 much at all. She and I did not know each

9 other well.

10 Q Okay. And let me ask you, was that true --

11 was there any difference between your -- your

12 communicating with her when you were press

13 secretary and when you were communications

14 director, or is your answer pretty much the

15 same for your whole tenure at the governor's

16 office?

17 A It's pretty much the same.

18 Q Okay. Did you ever have occasion to send an

19 e-mail to Mary Easley?

20 A Yes.

21 Q Did she have a State e-mail address?

22 A I don't know.

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

24 A Yes, she did.

1 Q Do you recall what it was?

2 A I think it was sewgood5 or something like
3 that. S -- S-E-W good.

4 Q Oh, S-E-W?

5 A S-E-W.

6 Q Was it also a Road Runner account?

7 A I don't remember.

8 Q Did -- do you ever recall receiving e-mails
9 from her from that account?

10 A Yes.

11 Q Did any of those e-mails that you sent or
12 received have to do with State business?

13 A I don't remember. I don't recall. Mostly, it
14 was personal. I remember she sent me a bread
15 recipe. She would talk about my son.

16 Q You need to raise your voice just a little.

17 A She sent me a bread recipe. And she would
18 talk about my son.

19 Q Okay.

20 A I did not communicate with her often.

21 Q All right. Did -- did -- her office was at
22 the mansion; correct?

23 A Yes.

24 Q Did she have an assistant or some staff there

1 who had State addresses?

2 A Yes, sir.

3 Q Did you ever have occasion to send e-mails to

4 those folks, whomever they were?

5 A I did. Yes, sir.

6 Q Was there any one person in particular to

7 whom -- with whom you would have communicated

8 at her office?

9 A Her assistant was Amanda Wherry, so I would

10 have sent one to her. That was towards the

11 end of the term.

12 Q Okay. Do you recall the -- the date or the

13 timing of this meeting you described -- this

14 is before the break -- at which this whole

15 conversation came up about e-mails to the

16 governor's office and people preferring to --

17 that they use telephone and all that?

18 A Are you talking about the one with Renee?

19 Q Yes.

20 A I don't remember exactly when that would have

21 been.

22 Q Okay. All right. Let me show you what was

23 marked yesterday as Exhibit 3. And for the

24 record, this was identified yesterday as notes

1 or a portion of notes made by Julia Jarma?

2 A Jurama.

3 Q Well, now we've got three pronunciations.

4 MS. TRIPPE: Then you can't be wrong.

5 Q (Mr. Stevens) Of a meeting that occurred
6 March 20th, 2007. And I guess, my first
7 question is, do you recall attending that
8 meeting?

9 A I don't know. I could have. I don't know.

10 Q Do you see the entry at the top --

11 A Yes.

12 Q -- of this document?

13 Can you read that?

14 A It look like it says, "Watch e-mails." I
15 don't -- "something collect." I don't know
16 what that says. "Clean out fax controversy to
17 Renee Hoffman." I guess, "RH" is "Renee
18 Hoffman."

19 Q Okay. Let me ask you, with respect to that,
20 do you recall ever instructing or asking Ms.
21 Hoffman or anyone else to instruct or suggest
22 to the PIOs that they fax information about
23 controversial matters to -- to her or to the
24 office?

1 A Yes, sir. I said that could be a possibility.

2 Yes.

3 Q Okay. What do you recall about that?

4 A I do remember on occasion I would say, "You
5 know, if it's something particular that it
6 didn't seem appropriate for the e-mail, that
7 fax is possible. That's a possibility."

8 Q Was there some reason in your mind that --
9 that you would differentiate as -- as to why a
10 fax would be more appropriate, to use your
11 term?

12 A Absolutely. When you look in those e-mail
13 guidelines and -- there are suggestions in
14 there that -- it says that some information is
15 not appropriate for e-mail.

16 And Reuben had conversations with me that
17 he did not want our life-sensitive information
18 e-mailed. And if we got a fax, I would treat
19 the fax document just like the e-mail, but it
20 was a more secure form of communication.

21 Q In what way?

22 A Well, e-mails can be forwarded. I can't tell
23 you how many times S-H-E-R-R-Y Johnson got the
24 e-mails that were supposed to go to me,

1 S-H-E-R-R-I Johnson.

2 Q Okay. Was that a specific reason, a concern
3 that was expressed by Mr. Young as to why fax
4 might be more appropriate?

5 A That it could go to someone it's not intended
6 to. That is a reason. That e-mail is just
7 not a good form of communication. And
8 sometimes, when the information is sensitive,
9 there are other ways to handle that.

10 Q Again, do you recall any specific topics or
11 subject matters that you discussed as being
12 more appropriately dealt with by fax?

13 A I don't remember any.

14 Q All right. Let me now hand you then what was
15 marked as yesterday's Exhibit 4.

16 A Okay.

17 Q And I believe the record will reflect that
18 this was identified as some notes taken by
19 Debbie Keys?

20 A Diana Keys.

21 Q Diana Keys. I'm sorry. I knew I was going to
22 make that mistake there.

23 At again, a meeting that occurred on March
24 20th, 2007. And down at the bottom, in

1 particular, there's some sort of bullet
2 points, one of which begins with the word
3 "Sherri"?

4 A Uh-huh.

5 Q Again, do you have any recollection as to
6 whether you did or did not attend this -- this
7 meeting?

8 A I don't have a recollection. No.

9 Q Okay. Can you read that, what that says?

10 A It says -- it seems that it says, "Keep eye on
11 agencies. Limit your e-mails. Clean out sent
12 e-mails."

13 Q Do you know what that refers to?

14 A I guess "clean out sent" -- she wrote it. I'm
15 not sure. But "clean out sent mails" is a
16 direct phrase that comes from the IT
17 instructions that we were given every month to
18 clean out your sent box.

19 Q That's your -- an interpretation?

20 A Yes.

21 Q The thing I want to clarify is, do you recall
22 making any statements of any kind at this
23 meeting about any of these things?

24 A I could have. If so, that's something I could

1 have said, absolutely.

2 Q All right. And lastly, I'm going to hand you

3 what was identified yesterday as Exhibit 5.

4 A Okay.

5 Q And that's Ms. Hoffman's notes about the same

6 meeting. And again, we're at the top. Do you

7 see where it says, "PIO 3/20/07"?

8 A Uh-huh.

9 Q Can you just read what it says there?

10 A "Limit e-mails, clear out sent, careful what's

11 sent, type and fax, don't save."

12 Q Again, do you have any personal recollection

13 as to what that refers to?

14 A No. It could be the same discussion about the

15 e-mails. The other one says, "Limit e-mails,

16 clear out sent, careful what's sent."

17 Q Do you know -- do you have any personal

18 knowledge as to what the reference "don't

19 save" refers to?

20 A It could -- it could mean -- I don't know.

21 Q Okay.

22 A I don't know. I don't know.

23 Q All right. That's fine.

24 Have you ever been asked to assist in

1 collecting or compiling records potentially
2 responsive to a subpoena?

3 A "Responsive to a subpoena"? I don't recall.

4 Q While you were at the governor's office.

5 A I don't recall that, "responsive to a
6 subpoena."

7 Q Have you ever been served -- have you ever
8 been served with a subpoena asking you for
9 records that relate to your work in the
10 governor's office?

11 A No. Is what you sent me a subpoena?

12 Q No.

13 A I'm sorry. Okay.

14 Q I don't have that authority. I'm sorry.

15 A That's the only legal-looking thing I --

16 Q Okay. Did the governor have a BlackBerry or
17 other personal communications device that was
18 capable of receiving and sending e-mails?

19 A Not to my knowledge.

20 Q Did you ever have occasion, when he was away
21 from the office, to communicate with him
22 through his security people, the highway
23 patrol and other security people?

24 A Yes, sir.

1 Q And how did you do that?

2 A Called them on the phone.

3 Q Did you ever send an e-mail to the governor
4 through the highway patrol or security
5 personnel?

6 A Not to the governor. But the state highway
7 patrol had an account. I think it was SHP1 or
8 something like that. And what -- but that's
9 not how I would get in touch. I would use
10 that if the governor was going on an event or
11 something to -- to notify the highway patrol
12 just to -- so they could advance it.

13 Q Okay. But if the governor was away from the
14 office and you needed to get information to
15 him, how would -- how did you pri- -- do that
16 primarily?

17 A I called the security desk at the mansion.

18 Q Well, suppose he was not at the mansion.
19 Suppose he was traveling or he was --

20 A No. I called the security desk at the mansion
21 and they would transfer me to whoever he was
22 with.

23 Q Okay. Were there particular people who
24 traveled with him most often that -- that

1 served as a conduit for these communications?

2 A Are you talking about highway patrol people?

3 Q Anyone.

4 A Or staff people?

5 Q I'm just trying to figure out how you -- if
6 you needed to get an immediate message to the
7 governor and he's at an event somewhere or
8 he's traveling or he's at the National
9 Governors' Conference or wherever he is, how
10 would you go about that?

11 A I would call the security desk at the mansion
12 and they would plug me in to whomever.

13 Q Whomever --

14 A And they rotated, so it wasn't just one
15 person.

16 Q Okay. And if you needed to communicate
17 something other than verbally, that is you
18 needed to send a document or a copy of a
19 document or a letter or something of that
20 sort, how would you do that --

21 A I could --

22 Q -- while he was away?

23 A While he was away?

24 Q Yes.

1 A I could fa- -- fax it to the mansion. Or as I
2 have said before, if Ruffin was with him, we
3 would do that. If a staff person was with
4 him, I would contact the staff person and fax
5 it. Or whatever means of communication that,
6 you know, I could get it to him.

7 MR. STEVENS: We may be just about done.
8 Let's take a short break.

9 (RECESS, 11:22 - 11:23 A.M.)

10 MR. STEVENS: We're back on the record.
11 And that's all the questions I have at this
12 time for Ms. Johnson.

13 MS. TRIPPE: I do have a couple.

14 CROSS EXAMINATION BY MS. TRIPPE:

15 Q Ms. Johnson, you testified about a number of
16 statements in Ms. Crane's affidavit when Mr.
17 Stevens was asking you some questions.

18 Other than the specific statements that
19 you testified about, do you have any opinion
20 as to the truth of anything else that's in
21 that affidavit?

22 A No.

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

24 MR. STEVENS: Anything else? Okay.

1 Thank you all. I appreciate your time, and I
2 hope everybody has a good day.

3 MS. TRIPPE: See you in the morning.

4 (WITNESS EXCUSED)

5 (WHEREUPON, THE DEPOSITION WAS CONCLUDED AT 11:25 A.M.)

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1 STATE OF NORTH CAROLINA
COUNTY OF WAKE

2 CERTIFICATE

3 I, Sarah A. Bowers, 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 27, 2010,
7 Sherri Johnson, being by me personally duly sworn to tell
8 the truth, thereupon testified as above set forth as found
9 in the preceding 106 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,
18 this the 30th day of January, 2010.

19 _____
Notary Public
20 [200620500044] Sarah A. Bowers
21 Worley Reporting
22 6511 Creedmoor Road, Suite 205
23 Raleigh, North Carolina 27613
24 (919) 870-8070

1 STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2 COUNTY OF WAKE 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.)

9 _____
DEPOSITION OF SHERRI JOHNSON
10 CERTIFICATE OF DEPONENT

11 I, Sherri Johnson, hereby certify that I was
12 first duly sworn prior to the commencement of my
13 deposition, which was given before Sarah A. Bowers, on
14 January 27, 2010, in Raleigh, North Carolina; review,
examination and signing of the deposition was not waived.
The foregoing constitutes a true and accurate transcript of
said deposition;

15 (a) and no changes are necessary.

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

17 _____
Sherri Johnson

18 Witness, my hand and seal, on this, the _____ day of
19 _____, 2010,

20
21 _____
22 Notary Public

23 My Commission Expires: _____
24

1 STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
2 COUNTY OF WAKE 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.)

9 ERRATA SHEET TO THE DEPOSITION OF
10 SHERRI JOHNSON

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

Sherri Johnson