

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 68450

HONORABLE CATHERINE RAMSEY,
NORTH LAS VEGAS MUNICIPAL JUDGE,
Appellant,

vs.

CITY OF NORTH LAS VEGAS AND BARBARA A. ANDOLINA
City Clerk of NORTH LAS VEGAS, BETTY HAMILTON,
MICHAEL WILLIAM MORENO, and BOB BORGERSEN, individually
and as Members of "REMOVE RAMSEY NOW"
Respondents,

Eighth Judicial District Court, Clark County
The Honorable Eric Johnson, District Court Judge
District Court Cases A-15-719406-P
Consolidated with District Court Case A-15-719651-C

APPELLANT'S APPENDIX

Volume II

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1 went through again those same 420 valid signatures. He
2 had the full opportunity to evaluate it.

3 Even without that opportunity -- I think he a
4 full sufficient opportunity to observe that process --
5 we have the documents. Mr. Mueller's gone through
6 them.

7 What additional information would they have
8 ascertained by being present on Friday that they didn't
9 gain either through Monday or having the full
10 opportunity to review the petition?

11 I just don't see it as a valid basis to open
12 this up. I don't think it's anything that the Court
13 should be concerned with. I think this is a very clean
14 petition, they followed all the procedures, and we
15 could ask you to deny the claims.

16 THE COURT: Okay. Mr. Mueller, just let me
17 ask -- sort of go to that last point, and that is:
18 What -- What prejudice has Judge Ramsey suffered
19 because of missing the -- whatever happened on
20 Friday -- the verification process that happened on
21 Friday, when Mr. Jackson was able to make the
22 completion of the verification, which, from what I
23 understand, is almost a repeat of Friday on Monday?

24 MR. MUELLER: Yes, Judge.

25 THE COURT: I don't know if that made sense,

1 but. . .

2 MR. MUELLER: It did.

3 What she has lost is the integrity -- or
4 concern about the integrity of the process.

5 Now, this -- these are statutes of
6 prescription. I could have gone in and got a
7 mandate -- a writ of mandate against the clerk's office
8 shall not accept.

9 Now, they accepted that petition without the
10 numbers on it. Then they get it in there. Mr. Jackson
11 gets turned away on Friday. Then he finds out later
12 the verification process is done. "Oh, trust us. We
13 did a random sample."

14 I get an investigator go through and find
15 400 -- 356 duplicates. I pull out one at random and
16 find seven duplicates.

17 Now -- I did it to the reasonable inference.
18 I believe that the integrity of this process is
19 meaningfully in question.

20 Now, Mr. Miller is trying to confuse the
21 issue here. He's confusing a local municipal court
22 race of a few thousand signatures with 100- or 200,000
23 samples.

24 Statistically sampling 500 out of 2500
25 doesn't make a lot of sense, specifically since it

1 would have taken just a couple hours more to verify
2 every one. But they didn't.

3 Now, when we go through and we look at What
4 was sampled randomly, I, without any effort, can
5 uncover What appears to be about 400 signatures.

6 Least -- least you wonder about that, that is
7 the margin of error from winning or losing -- or this
8 petition failing or succeeding, go to the voters.

9 There's only 220 vote -- or 220 voters margin
10 for error. And I've got a investigator said he found
11 356. And then if you do some back of --
12 back-of-an-envelope calculations, at seven per 156,
13 that's 7-, 800. Cut it in half for the duplicates
14 appearing twice on each signature, that is more than
15 enough margin for error to turn this petition from
16 valid going forward to invalid and being defeated.
17 That's well within the margin of error here.

18 So what has she lost? What she lost was the
19 integrity of the process.

20 You know, I'm asking -- they violated at
21 least two procedural rights. Strong words: "Shall
22 not" and "must," both of which were violated.

23 Mr. Jackson said he made an effort, was
24 turned away on Friday, and then was given a piece of
25 paper from the county clerk. And when he arrived 15

1 minutes early, he was already 15 minutes late.

2 Now, how is that going to play in the
3 community, and how does that look like it's a just and
4 even playing field behavior on behalf of the government
5 officials?

6 Now, I understand -- thank you for hearing
7 us, Judge. I'm going to ask you to send this back for
8 full recount. I'm going to ask that you reschedule a
9 second session of this hearing so I can get the rest of
10 those witnesses on.

11 THE COURT: Okay. Let me just say in terms
12 of the sufficiency of the process here -- and for the
13 moment, I'm not going to talk about the notice or
14 presence of the public officer provision of NRS
15 293.1277(8).

16 I do find that the use of the random sample
17 is a process specifically provided for by statute.

18 The Supreme Court in Citizens For Honest and
19 Responsible Government versus Peller (phonetic) in 2000
20 found that the process was a accurate, one which aided
21 in the implementation of the recall provisions of
22 Article 2, Section 9.

23 And in that, the court also looked at the
24 issue of the accuracy of the process and found that,
25 when compared with the first petition, which they did

1 order a complete review of the entire number of
2 signatures, that the difference between the statistical
3 sample and the actual complete petition was less than a
4 quarter of 1 percent.

5 In this instance, there was a sampling much,
6 much larger of percentage than What is normally the
7 case, approximately, if I -- 18 percent. The statute
8 requires that 500 signatures or 5 percent, whichever is
9 greater, be utilized.

10 The sample is designed to take into account
11 the issues such as duplicate signatures and signatures
12 that are not valid, address problems, wrong districts,
13 not registered.

14 In looking at the results in Defendant's
15 Exhibit No. 2, it appears that those issues were all
16 considered by the registrar's office in terms of
17 evaluating the signatures. And those 23 of the sample
18 did not vote, seven out of the sample were duplicate on
19 the petition, 14 of the signatures were rejected.

20 You know, I appreciate What Mr. Mueller was
21 able to do. I thought he did an effective job in
22 noting that there was a number of duplicates on the
23 sheets that he looked at.

24 But statically speaking, the amount of
25 duplicates should show up through the representative

1 random sample of 500 signatures, in which case it
2 showed approximately one and a half percent duplicate
3 rate.

4 I'm not going to -- to alter the statutory
5 scheme which the Court has found sufficient, in which I
6 think probably is adequate in terms of verifying,
7 especially when we hit a number approximately 300 over
8 the number that's needed of 1900.

9 So in that regard, as far as the second cause
10 of action, I don't see that cause of action and deny
11 that.

12 The third cause of action, in reference to
13 the recall petition not being above the name of the
14 signatures, I think that the Supreme Court in Cleveland
15 versus State of Judicial District Court in 1976 is
16 noting that generally the purpose of that substantial
17 compliance best furthers the purpose of the recall
18 provision of the constitution in looking at the
19 sufficiency and validity of the petitions involved.

20 I'm not sure that I would find this issue to
21 be one that's substantially -- or that falls outside
22 the substantial compliance realm. There's no evidence
23 that was put on of that.

24 In terms of the fifth cause of action,
25 verification -- I'll come back to that one.

1 Seventh cause of action, in terms of the
2 receipt, I think this issue relating to the receipt
3 provided by the North Las Vegas clerk's office, which
4 states approximately 2700, it meets the obligations of
5 the statute, which requires them to note the number of
6 signatures that the petitioning party represents is
7 included.

8 And I don't find this to be a matter of
9 violating the basic principles of substantial
10 compliance.

11 As far as the eighth cause of action, nobody
12 really discussed that today in regard to dismissing for
13 allegedly illegal funding.

14 I will say looking at Article 2, Section 10,
15 of the constitution, I find that it concerns funding
16 and contributions for individual campaigns for people
17 seeking election to an office, it's not applicable to a
18 recall petition, and consequently deny that cause of
19 action.

20 I do generally understand the -- the
21 defendant's argument relating to the signatures -- or,
22 I mean, not the signatures -- the numbering of the
23 page. I am going to reserve that for the moment, just
24 to take another look at that, since that's something
25 that Mr. Miller brings up as being considered in LVCA

1 versus Miller. I want to take another look at that.

2 And I'm concerned, as I said, primarily with
3 the issue of Mr. Jackson's testimony, which seems to
4 suggest that Mr. Gloria somehow misled him as to when
5 the verification was going to occur.

6 The statute does seem to -- the statutes do
7 state that a public officer who is subject to recall
8 petition must also be allowed to witness the
9 verification of the signatures. It does note "must"
10 and seems to be a mandatory provision.

11 I generally don't think that it requires that
12 notice be given.

13 I think that defense make a good point in
14 terms of the issue of this is a short timetable that
15 everybody has to operate under. You can assume that
16 it's going to happen pretty quickly. And I would think
17 that would generally require the public officer at
18 issue to take the initiative to make sure that they
19 were present for the verification, if they cared to be.

20 Like I said, my concern here is Mr. Jackson's
21 representations that -- and from my recollection of the
22 testimony, that somehow or another Mr. Gloria misled
23 him as to when the verification was going to occur.

24 In -- when did you indicate Mr. Gloria could
25 be available?

1 MR. MILLER: Judge, we understand he's at a
2 conference, but he could potentially get back by
3 July 2nd. I'm not sure if that means he'd be
4 available -- well, July 3rd is a holiday, so -- but
5 he's available on July 2nd.

6 THE COURT: Available -- What day -- that's
7 Thursday?

8 MR. MILLER: Thursday.

9 THE COURT: Correct, Thursday.

10 Okay. All right. I'll look -- let's go
11 ahead and continue the hearing for his testimony on
12 Thursday at 1:00 o'clock.

13 MR. MUELLER: Your Honor, there's another
14 witness or two that were involved in that -- around
15 that time frame, if I could, we would like to have them
16 testify as well.

17 THE COURT: All right. Two witnesses.

18 MR. BYRNE: Who's that, Your Honor?

19 THE COURT: Yeah. Who are we talking about?

20 MR. MUELLER: I believe -- and I will go back
21 and check. But I believe that the gray-haired
22 gentleman, Mr. Borgersen, was referring to is Dan
23 Burdish, but I'm not sure. I'll just verify that that
24 was, in fact, him.

25 THE COURT: So Dan Burdish, and who else?

1 MR. MUELLER: There -- I guess Mr. Rosa would
2 be the universe of everybody that knows something.

3 THE COURT: I'm sorry. What?

4 MR. MUELLER: Mr. Burdish and Mr. Rosa -- or
5 Gloria. I'm sorry.

6 THE COURT: Okay. I was like -- okay. All
7 right. And I assume Mr. Gloria would essentially be on
8 your side.

9 But if there's anybody else you'd want to add
10 to that --

11 MR. MILLER: We don't have any objection.

12 Apparently -- we understand as well as
13 Mr. Burdish may have been involved in those
14 communications, so. . .

15 THE COURT: I also would like to see if you
16 can get it -- Mr. Mueller, this e-mail that Mr. Jackson
17 says that he sent and he got a response on.

18 MR. MUELLER: All right. I'll see to it.

19 THE COURT: All right. And then --

20 THE CLERK: July 2nd, 1:00 p.m.?

21 THE COURT: 1:00 p.m.

22 MR. MUELLER: Your Honor, just a couple
23 housekeeping matters. I'm cleaning up my desk here and
24 saw that I had additional recall petitions. These were
25 two, three, four, seven, five, and six.

1 I'd move to admit these as well.

2 THE CLERK: And nine. What about nine?

3 MR. MUELLER: Well, I think you should have
4 nine already.

5 May I approach?

6 THE COURT: Sure.

7 MR. MUELLER: These are the initial --

8 THE COURT: Any objection?

9 MR. BYRNE: No objection from the City, Your
10 Honor.

11 THE COURT: Okay. Mr. Miller?

12 MR. MILLER: No, Your Honor.

13 THE COURT: Ms. McCarty?

14 MS. McCARTY: No.

15 MR. MUELLER: Those are already duplicates of
16 the ones that you received electronically. I just
17 wanted -- since they marked and admitted them, I wanted
18 to bring them in.

19 THE COURT: All right.

20 (Whereupon, Plaintiff's Exhibits 2, 3, 4, 5,
21 6, 7, and 9 admitted into evidence.)

22 THE COURT: Is there anyone else that you
23 needed, Mr. Mueller?

24 MR. MUELLER: There were several witnesses
25 that I originally had anticipated calling that I was

1 not able to get ahold of.

2 But since we've seemed to have narrowed the
3 issues, I will stick to Mr. Burdish, unless something
4 extraordinary pops up in talking with these other
5 witnesses.

6 THE COURT: All right. Mr. Burdish and
7 Mr. Gloria, that's what we'll look at Thursday
8 afternoon.

9 And like I said, I'd like to see this -- you
10 know, why -- if possible, why don't you also have
11 Mr. Jackson available --

12 MR. MUELLER: I'll see to it.

13 THE COURT: -- Thursday afternoon.

14 I would like to see the e-mail that he's
15 referring to.

16 I'll go back and look at the testimony --
17 of -- of his testimony today. Maybe I'm over --
18 over -- overstating what he said, although that's my
19 general recollection.

20 If somebody has a different recollection, let
21 me know.

22 MR. BYRNE: So, Your Honor, to be clear, we
23 are down to essentially two issues, the notice issue,
24 whether proper notice -- whether Judge Ramsey really
25 had an opportunity or not -- a fair opportunity --

1 THE COURT: I would say the issue more of was
2 she somehow -- I can't think of -- misled as to when
3 the verifications were as opposed to notice.

4 I'm not finding that there's a notice
5 requirement in the statute that has to be given.

6 My concern, like I said, is, if somebody has
7 a right to attend, which it says that it -- the statute
8 does say they have a right to attend -- and the --
9 someone at the office says, "Oh, it's not happening
10 today. It's not going to happen until Monday or
11 Tuesday," then -- then I've got a concern -- concern
12 there, and that's essentially where I'm looking at
13 there.

14 As far as the numbering on the petition, I
15 just want to take another look at the law and make sure
16 I'm comfortable with that, with the -- with your --
17 with -- the position of Mr. Miller says is supported by
18 LVCA versus Miller.

19 Anything else?

20 MR. MUELLER: Yes, Judge. As an
21 administrative matter, you kind of had telegraphed
22 it -- or not telegraphed -- but it was obvious that
23 you're thinking on the first meeting, which you going
24 to rule on the injunctive relief, I went ahead and
25 prepared an order denying the injunctive relief.

1 May I submit it?

2 THE COURT: Sure.

3 MR. MUELLER: This is fairly generic. I
4 wasn't sure exactly What your reasoning was going to
5 be.

6 THE COURT: All right. I'm going to be
7 issuing -- you know, What I went through this morning
8 was not -- clearly not extemporaneous. I'm going to be
9 issuing --

10 MR. MUELLER: You just took some polish off,
11 Judge. I thought you'd done that off the top of your
12 head.

13 THE COURT: I wish that was the case, but not
14 so.

15 But I will issue an order at least on those
16 matters that we've decided and indicate -- we'll get
17 things out. I'm going to resolve this one way or
18 another Thursday afternoon, so. . .

19 MR. MUELLER: All right. Thank you, Judge.

20 THE COURT: Anything else from your side?

21 MR. MILLER: No, Your Honor.

22 MR. BYRNE: Nothing, Your Honor.

23 MR. MILLER: Thank you, Your Honor.

24 THE COURT: All right. Everybody have a good
25 day.

1 THE MARSHAL: All rise.

2 (Whereupon, the proceedings concluded at 1:27
3 p.m.)

4 -o0o-

5 ATTEST: FULL, TRUE, AND ACCURATE TRANSCRIPT OF
6 PROCEEDINGS.

7 *Amber M. Riggio*

8 Amber M. Riggio, CCR No. 914

9 E/S 7/21/2015 at 5:18 a.m.

DISTRICT COURT

CLARK COUNTY, NEVADA

IN THE MATTER OF THE PETITION)
OF)

CATHERINE RAMSEY)

CASE NO.: A-15-719406-P

DEPT. NO.: XX

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE JUDGE ERIC JOHNSON

DEPARTMENT XX

DATED THURSDAY, JULY 2 , 2015

REPORTED BY: AMBER M. RIGGIO, NV CCR #914

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1 LAS VEGAS, NEVADA; THURSDAY, JULY 2, 2015
1:13 P.M.

2 * * * * *

3 P R O C E E D I N G S

* * * * *

4 THE MARSHAL: All rise. District Court
5 Department 20 is now in session. The Honorable Judge
6 Eric Johnson presiding.

7 THE COURT: All right. Good afternoon
8 everybody.

9 THE MARSHAL: Please be seated. Come to
10 order.

11 THE COURT: All right.

12 MR. MUELLER: Your Honor, I apologize --

13 THE COURT: Hold on. Let me call the case.
14 Let me remember what the case name is. All right.
15 Calling in the matter of Petition of Catherine Ramsey,
16 Case No. A719406.

17 Counsel, please note your appearances for the
18 record.

19 MR. MUELLER: Craig Mueller and Steve
20 Goldstein on behalf of Judge Ramsey.

21 MR. MILLER: Ross Miller on behalf of the
22 Committee to Remove Judge Ramsey.

23 MS. McCARTY: Colleen McCarty on behalf of
24 the Committee to Remove Judge Ramsey.

25 MR. GORDON: And Richard Gordon and Dan Ivie

1 on behalf of the City of North Las Vegas and the City
2 Clerk Barbara Andolina.

3 THE COURT: Okay. Thanks a lot everybody.
4 All right.

5 MR. MUELLER: I was going to ask for the coat
6 rule, Judge. Can we relax the coat rule since it's
7 uncomfortable in here?

8 THE COURT: But, you know, I'm -- it's the --
9 I will -- I'm not going to relax the coat rules in
10 general rule but I will relax it in honor of it being
11 before the Fourth of July.

12 MR. MUELLER: All right. Thank you.

13 THE COURT: But don't consider that a trend.
14 Anyway, I had my law clerk reach out to your
15 office to see about possibly getting the investigator,
16 Mr. Preusch, back. It's my understanding you weren't
17 able to make contact with him.

18 MR. MUELLER: No, sir. He had plans for the
19 three-day weekend and was gone before we were able to
20 get in touch with him. We did, however, get his
21 tabulations. We've got them but we don't have the
22 actual investigator.

23 THE COURT: Okay. Do you have just one copy
24 of those?

25 MR. MUELLER: No. This is an additional copy

1 anticipated to -- since you called us that you were
2 interested in a copy of them.

3 THE COURT: I wanted a copy of whatever notes
4 or whatever he was relying upon when he was testifying
5 here.

6 MR. MUELLER: Certainly.

7 THE COURT: Have you provided a copy to the
8 defendants?

9 MR. MUELLER: No. We do not have an extra
10 copy, Judge.

11 THE COURT: Okay.

12 MR. MUELLER: We can send somebody out and go
13 get copies right now, if you'd like.

14 THE COURT: Are these four sets of the same
15 thing?

16 MR. MUELLER: No, sir. Those were the issues
17 that we raised on Monday. Those signatures are
18 duplicates, not voting, multiple signings.

19 THE COURT: Okay. Now, where did he -- you
20 know, looking at his testimony he indicated he didn't
21 really keep any tabulations relating to any of this.
22 These all look like fairly sophisticated tabulations.

23 Is this what he put together?

24 MR. MUELLER: It was a team effort, Judge, I
25 believe. But I had the investigator go through

1 everything and verify that he looked at it and reviewed
2 it all so that he was comfortable testifying to it.

3 THE COURT: Okay. Well, why don't we run off
4 a copy of this for -- Travis of course isn't here.

5 Can you grab Travis real quick?

6 THE MARSHAL: Yes, sir.

7 THE COURT: All right. I guess, like I said,
8 Mr. Mueller, I'm concerned because I go back to
9 Mr. Preusch's testimony and he, for instance, comes up
10 with, for instance, the number of 356 signatures that
11 he found were duplicate.

12 MR. MUELLER: Mm-hmm.

13 THE COURT: And --

14 MR. MUELLER: We have them listed by --

15 THE COURT: And I asked him, I said: "All
16 right. Again, you didn't keep any list or any
17 notations as to which ones you found?" And he answered
18 no. And that was consistently his answer with almost
19 all of his other testimony when he was asked about, for
20 instance, the 292 names that were not on the registered
21 voter list. And Mr. Byrne asked him: "Did you make a
22 tabulation of those names?" And he says: "No, I did
23 not."

24 And then Mr. Byrne followed: "Okay. So you
25 don't have anything with us right now that you can show

1 the Court where those names came from?"

2 "No, I do not."

3 And then Mr. Byrne asked: "Now, you also did
4 a tabulation where you said many signatures were
5 similar? We identified some with respect to that
6 number being the 112. Correct?" And again, it gets
7 into there's no tabulation.

8 I guess where did these come from?

9 MR. MUELLER: These were done by a team
10 effort. They went through and several people friendly
11 with the judge went through and tabulated them. I was
12 concerned that they were perhaps optimistic so I
13 independently had an investigator review and go through
14 the tabulations to make sure they were accurate.

15 THE COURT: Okay. So this was done before
16 you got the investigator involved?

17 MR. MUELLER: Yes, sir.

18 THE COURT: Okay.

19 MR. MUELLER: But --

20 THE COURT: So these were not his -- you're
21 saying these were not his tabulations; these were just
22 tabulations done by supporters of the judge.

23 MR. MUELLER: And independent.

24 THE COURT: Which you then looked at to
25 prepare.

1 MR. MUELLER: I was concerned that we present
2 only accurate information to the Court and I know that
3 there are a lot of motions here so I asked an
4 independent and disinterested observer to review and
5 handle every piece of paper and double-check things and
6 review it that they were accurate. You now have the
7 actual tabulations that support every one of these
8 figures. So those figures are indeed accurate.

9 THE COURT: Okay. Do you have a phone number
10 for him, cell phone number?

11 MR. MUELLER: Yes, sir. Not handy, but yeah
12 if you give me a second.

13 THE COURT: Do we have the ability to call
14 from up here?

15 THE CLERK: There's a phone over here.

16 THE COURT: What's the number?

17 MR. MUELLER: Certainly, Judge, my cell
18 phone's booting up. I turned it off.

19 May I approach?

20 THE COURT: Sure.

21 MR. MUELLER: (702) 328-2464.

22 THE COURT: Let's just take a shot in the
23 dark.

24 Marshal, can you try to reach Mr. Preusch?

25 THE MARSHAL: Sure.

1 THE COURT: Because I'll be honest, I just
2 was concerned in looking at the number of what's listed
3 as duplicates and it doesn't show any tabulations and
4 so I want to make sure that I've got --

5 MR. MUELLER: Have you got the list?

6 THE COURT: -- possible, if this by chance is
7 appealed.

8 Let's see. One, two, three. At least four
9 sets -- yeah, why don't you hand out to. . .

10 Do you have a copy of this, Mr. Mueller?

11 MR. MUELLER: Yes, sir.

12 THE COURT: Okay. I just want to make sure.

13 Okay. It went to voice mail. So without
14 Mr. Preusch -- but I guess how long have you had
15 this -- these tabulations, Mr. Mueller?

16 MR. MUELLER: I think -- don't recall
17 exactly, Judge, middle of last week or some time. We
18 got them completed some time Tuesday, Wednesday last
19 week.

20 THE COURT: And these tabulations are what
21 Mr. Preusch was testifying to?

22 MR. MUELLER: Yes, sir, the tabulations. And
23 I also had him at my request since he was new to the
24 case that I actually insisted that he go through and
25 handle and touch every one of the petitions and verify

1 that he was comfortable with this information.

2 THE COURT: All right. Like I said, I just
3 find that mind boggling that he doesn't refer to any of
4 this when he's asked repeatedly if he has any sort of
5 tabulation of -- in support of his testimony.

6 MR. MUELLER: Well, sir, the information is
7 actually readily and easily verifiable. It's all
8 accurate.

9 THE COURT: All right.

10 MR. MILLER: Your Honor, can we ask a point
11 of clarification just based on the representations from
12 counsel. I'm looking through this document for the
13 first time. It shows that there are 356 occurrences
14 where the petition was signed multiple times. Each
15 name is listed twice.

16 So are there 356 occurred and 356 duplicates
17 or are there simply half that number of duplicates in
18 which they're repeated twice?

19 MR. MUELLER: Well, the answer to that is it
20 depends on how my colleague wants to consider the
21 places where people actually signed three times and
22 four times.

23 MR. MILLER: Well, excepting those, I mean is
24 it about half or is it 356?

25 MR. MUELLER: It would be approximately 172

1 sets but there's another, as you can see from the
2 listings there, large number of people who signed three
3 and four times including several people who signed
4 their married names and then their maiden names.

5 MR. MILLER: And I ask that, Judge, because
6 I'm not sure to what extent you want to allow
7 additional testimony today but we have had somebody
8 internally look at the overall file as well, including
9 those that were not selected from the random sample and
10 we found about half of that but if you double that
11 amount that would get to about 356. And so we'd be
12 prepared to introduce testimony to substantiate that.

13 THE COURT: So you found about 170 duplicates
14 yourself; is that what you're saying to me?

15 MR. MILLER: We found apparently 20
16 duplicates out of the first thousand.

17 THE COURT: Twenty duplicates out of the
18 first thousand?

19 MR. MILLER: Yes, sir.

20 THE COURT: Okay.

21 MR. GORDON: Your Honor, I would just
22 reiterate something that was already stated in the last
23 hearing just, you know, this document if Plaintiffs had
24 this a week ago they made no production when the Court
25 had ordered it when arguably this should have been

1 produced and I mean it's a little surprising.

2 THE COURT: I am going to say, Mr. Mueller,
3 when your investigator gets up here and starts being
4 asked, you know, what did you use to, you know, do you
5 have any records or any tabulations, it seems to me
6 this should have been, at that point in time been
7 affronted.

8 But I want to go on forward today. Let's --
9 you were going to call Mr. Gloria, Mr. Mueller.

10 MR. MUELLER: Actually they were going to
11 call him, Judge.

12 THE COURT: Okay.

13 MR. MUELLER: Either way but if they were --

14 THE COURT: Either way you want to -- the
15 issue was when we left it in terms of my primary issue
16 was Mr. Jackson testified -- let's see -- that
17 Mr. Gloria he says you were unaware as to whether or
18 not the county could have set up -- Mr. Miller asked
19 him: "You were unaware as to whether or not the county
20 could have set up a random process before you got there
21 to select about 500 signatures?"

22 And Mr. Jackson answered: "Because
23 Mr. Gloria said we were going to start in one or two
24 days," quote/unquote, and that's in an e-mail.

25 And so that was sort of the issue in my mind

1 when we left things on Monday was my concern because I
2 do read the statute as saying that the person who's the
3 subject of recall must be allowed to witness the
4 verification process and if there is, Mr. Gloria is
5 telling people that it's not starting for a couple of
6 days and the recall is, you know, gets started in that
7 time that sort of undermines that provision of the
8 statute.

9 So I -- to be honest, Mr. Mueller, this is
10 really a point for you so it seems to me that it should
11 be your witness, but if not --

12 MR. MUELLER: No, I'll --

13 THE COURT: -- I would encourage the
14 defendants to put Mr. Gloria on.

15 MR. MUELLER: Thank you, Judge.
16 Understanding what you're saying and that you were also
17 asking Mr. Jackson briefly about the e-mail he sent to
18 Mr. Rosa. He's present in the courtroom. I now have
19 the e-mails and we can authenticate them and then we
20 can excuse Mr. Jackson.

21 THE COURT: Okay. Why don't you -- you want
22 to bring Mr. Jackson up?

23 MR. MUELLER: Jackson up, I can authenticate
24 these e-mails and then get them to the Court and then
25 we can do Mr. Rosa.

1 THE COURT: All right.

2 MR. MUELLER: I thank you, Judge. And we
3 would also ask to re-invoke the exclusionary rule.

4 THE COURT: All right.

5 MR. MUELLER: All right. Plaintiffs would
6 recall Mr. John Jackson.

7 THE COURT: Let's swear him in again to cover
8 all our bases.

9 Whereupon,

10 JOHN JACKSON,
11 having been sworn to testify to the truth, the whole
12 truth, and nothing but the truth, was examined and
13 testified under oath as follows:

14 THE WITNESS: I do.

15 THE CLERK: Please be seated.

16 THE COURT: Okay. Thank you, Mr. Jackson.

17 THE CLERK: Please state your name and spell
18 your first and last name for the record.

19 THE WITNESS: John Jackson. J-o-h-n,
20 J-a-c-k-s-o-n.

21 FURTHER REDIRECT EXAMINATION

22 BY MR. MUELLER:

23 Q. Mr. Jackson, you've previously testified in
24 these proceedings on Monday. Do you recall, sir?

25 A. Yes, I do.

1 Q. Drawing your attention, you had indicated
2 that you had sent an e-mail to Mr. Gloria. Do you
3 remember that, sir?

4 A. Yes, I do.

5 Q. And did you subsequently have an opportunity
6 after getting off the witness stand on Monday to go
7 back and check your records?

8 A. Yes, I did.

9 Q. And did those records actually reveal the
10 e-mail that you sent to Mr. Rosa?

11 A. Yes. Per the conversation I had with him.

12 MR. MUELLER: All right. And may I approach,
13 Your Honor?

14 THE COURT: Sure.

15 MR. MUELLER: Madam clerk, I'm sorry I need a
16 witness tag.

17 Counsel, you should have copies. Ninety-two.

18 May I approach?

19 Q. (By Mr. Mueller) Sir, show you what's been
20 marked as Plaintiff's Exhibit 14. Do you recognize
21 that document, sir?

22 A. Yes, I do.

23 Q. And is that, in fact, the true and accurate
24 copy of the e-mail you sent to Mr. Rosa on the day in
25 question?

1 A. Yes, it is.

2 Q. And since it's a very brief e-mail, can you
3 read it, including the date and the time it was sent?

4 A. Okay. It was sent from my company,
5 Alohaconsulting@gmail to JPGclarkcountynv.gov.
6 Subject: Judge Ramsey. It was sent on Friday,
7 May 19th, at 3:13 p.m.

8 And it says: "Hi, Joe. In regards to our
9 conversation today regarding getting a copy of the
10 signatures of the recall petition, accept this e-mail
11 as a formal request. Please let us know the process
12 and the cost. Also we are asking again for permission
13 to observe your counting and verification of the
14 signatures. Thank you for speaking with me.

15 "Johnny Jackson." And my phone number.

16 MR. MUELLER: All right. Move to admit the
17 Plaintiff's 14.

18 THE COURT: Any objection?

19 MR. MILLER: No objection.

20 MR. GORDON: No objection.

21 THE COURT: Okay. It will be admitted.

22 MR. MUELLER: Thank you, sir.

23 (Whereupon, Plaintiff's Exhibit 14 admitted
24 into evidence.)

25 Q. (By Mr. Mueller) Do you recall -- after you

1 sent that e-mail to Mr. Gloria, do you remember being
2 asked to recall the events or write down while your
3 memory was still fresh the events and what happened at
4 the County Registrar that day?

5 A. Yes, I did.

6 Q. And did you commit that to an e-mail and send
7 it over to Judge Ramsey?

8 A. Yes, I did.

9 MR. MUELLER: May I have this marked as
10 Plaintiff's 15, please?

11 Counsel, you guys should all have a copy of
12 this.

13 THE COURT: Do you have a copy of this?

14 MR. MILLER: We do, Your Honor.

15 MR. GORDON: We do, Your Honor.

16 Q. (By Mr. Mueller) And, sir, when you
17 recorded -- sent this e-mail were your recollections
18 fresh from the conversation that had occurred down at
19 the County Elections Department?

20 A. Yeah. I did it right away.

21 MR. MUELLER: All right. May I approach?

22 THE COURT: Sure.

23 Q. (By Mr. Mueller) Showing you what's been
24 marked as Plaintiff's 15 for identification. Did you,
25 in fact, record exactly what transpired down at the

1 County Commission on Friday?

2 A. Yes, I did.

3 Q. All right. And was that recollection fresh
4 when you -- it was recorded?

5 A. Yes, it was like two hours after I was there.

6 Q. Sir, will you take -- since it's a brief
7 e-mail will you just read it, please.

8 A. Okay. It says: Statement of Johnny Jackson
9 on -- again from --

10 THE COURT: Are you moving to admit it?

11 MR. MUELLER: He can read it or we can admit
12 it. Either way, Judge.

13 THE COURT: I would rather admit it than be
14 reading it into the record.

15 MR. MUELLER: All right. Thank you, sir.

16 THE COURT: Objection, Mr. Miller or
17 Mr. Gordon?

18 MR. MILLER: No, Your Honor.

19 MR. GORDON: No.

20 MR. MUELLER: All right. Thank you. We move
21 to admit 15.

22 (Whereupon, Plaintiff's Exhibit 15 admitted
23 into evidence.)

24 Q. (By Mr. Mueller) Sir, having reviewed this
25 statement prior to court today, can you tell the Court

1 just what happened when you arrived on the morning --
2 Friday morning?

3 A. Okay. At the County building?

4 Q. Yes, sir. When you went down to observe
5 the --

6 A. Okay. I got there about -- well, I didn't
7 even know because I never got a reply to that one
8 e-mail what time it was going to happen. Judge Ramsey
9 called me and said they're going to do the counting
10 today, right now, at 9:30 or something like that. I
11 can't remember exactly.

12 THE COURT: Which day are you talking about?

13 THE WITNESS: On Monday. On Monday. So I
14 zoomed over to Cheyenne, when I -- it had to have been
15 around 9:15, 9:20, right in there. I was speaking with
16 a woman at the desk. She made a couple calls and then
17 we walked to the back to an area, a waiting room and
18 that's when I met Mr. Gloria. And then he walked us to
19 the back of the building where there were four or five
20 cubicles and people were already there.

21 Q. (By Mr. Mueller) And that was on Monday, sir.
22 Correct?

23 A. That was on Monday.

24 Q. I want to draw your attention back to Friday.
25 What happened when you went down there on Friday?

1 A. I didn't -- Friday was at the county building
2 over on Grand Central. I went to the Office of
3 Elections. There was a Filipino lady there. I spoke
4 with her. She wasn't sure on what to do. She called
5 someone else and then put me on the phone with
6 Mr. Gloria. I didn't know who he was at that point,
7 she just put me on the phone with him. I explained
8 what I wanted, what we needed. He said that he doesn't
9 do this over the phone, to send him an e-mail, so on
10 and so forth, requesting what I wanted.

11 Q. And that was the -- and that's what prompted
12 the second e-mail, the one that we just admitted?

13 A. Right.

14 Q. All right. So you're certain, sir, that you
15 had expressed a desire on behalf of Judge Ramsey to
16 watch the recall and --

17 A. Yes.

18 Q. All right. And unambiguously Mr. Rosa could
19 not have misunderstood that?

20 A. No.

21 Q. Mr. Gloria?

22 THE COURT: I was going to say, you keep
23 saying Mr. Rosa and I --

24 MR. MUELLER: I have a client that has that
25 name, Judge, and I'm sorry.

1 THE COURT: All right. We're talking about
2 Mr. Gloria?

3 MR. MUELLER: Mr. Gloria. Sorry. I've
4 got -- same last name, different first name.

5 THE WITNESS: I emphasized three things to
6 observe, what was the methodology and what was the cost
7 of obtaining the petitions so we could verify them
8 ourselves.

9 Q. (By Mr. Mueller) All right. And you're
10 certain, sir, that your request was not ambiguous and
11 that you made it very clear that you wanted to observe
12 it?

13 A. Yeah.

14 MR. MUELLER: All right. Nothing further
15 from this witness.

16 THE COURT: Mr. Miller?

17 FURTHER RECROSS-EXAMINATION

18 BY MR. MILLER:

19 Q. Afternoon, Mr. Jackson.

20 A. How are you doing, Mr. Miller?

21 Q. So in looking at this e-mail, you'll concede
22 that the first time that you contacted the Clark County
23 Elections Department was at about 1:15 on Friday; is
24 that right?

25 A. Yeah.

1 Q. Okay. But you were nevertheless present the
2 day before when the signatures were dropped off at the
3 North Las Vegas City Clerks Office; is that correct?

4 A. Yes.

5 Q. And you were aware at that time that the
6 signature verification process was going to happen at
7 the county in some short timeline thereafter; is that
8 right?

9 A. Yeah. According to what the woman told me at
10 North Las Vegas they were going to go over there that
11 afternoon, yeah.

12 Q. Okay. So you were aware that those
13 signatures were getting dropped off that same
14 afternoon, that is Thursday, May 28th; is that right?

15 A. Right.

16 Q. Okay. And you nevertheless waited the
17 entirety of the morning of Friday, May 19th, before
18 reaching out to the Clark County Elections Department
19 so that you could let them know that you wanted to
20 watch the verification process; is that right?

21 A. Right, because I was told that it wasn't
22 going to happen in one or two days. I didn't expect it
23 to start right then and there. If it weren't for Judge
24 Ramsey letting me know, I would have never have know.

25 Q. But you established before that you'd been

1 through these petitions before; is that correct?

2 A. Right.

3 Q. And you understand that there's an
4 accelerated timeline and they're expected to meet
5 statutory deadlines. But you nevertheless waited those
6 four hours in order to at least initiate any
7 conversation at all with them?

8 A. Because according to North Las Vegas the
9 woman I spoke with there I guess they had to be
10 recorded there or whatever and then taken over to the
11 county, but I didn't know it was going to happen in
12 three hours, no.

13 Q. Okay. When you spoke with Mr. Gloria when
14 you went down to the Clark County Government Center, in
15 fact, he indicated to you that they had already begun
16 verifying those signatures on that day; is that right?

17 A. Yes.

18 Q. Okay. Did you make any effort at that point
19 to go down and continue watching the verification
20 process later that afternoon?

21 A. He wanted it in writing. He wanted the
22 request in writing. He said he didn't do things over
23 the phone.

24 Q. And so how much after that did you wait
25 before putting it in writing?

1 A. Maybe, what, 20, 30 minutes.

2 Q. Okay. But you understood at that point that
3 the verification was already taking place?

4 A. Right.

5 Q. All right. I want to talk to you about who
6 else was present in this effort to verify, to watch the
7 verification process. I asked you in your previous
8 testimony whether or not you knew an individual by the
9 name of Dan Burdish?

10 A. I don't know him. I know the name, as I
11 said.

12 Q. But you don't know him personally?

13 A. Not personally.

14 Q. Was he, to your knowledge, involved in this
15 effort?

16 A. He just stood there. I didn't even know who
17 he was at first.

18 Q. When you say "stood there," where are you
19 referring to?

20 A. I would say there were four or five cubicles,
21 he stood at the end and we barely even said a few words
22 to each other and I was watching the verification
23 process. I didn't really know who he was at that
24 point.

25 Q. So when you say stood in the cubicles, are

1 you talking about the verification process --

2 A. Yes.

3 Q. -- that happened on Monday?

4 A. Yes.

5 Q. Sorry. We can't talk at the same time for
6 the court reporter.

7 You're talking about on Monday; is that
8 correct?

9 A. Right.

10 Q. Are you aware of who he is now, have you been
11 later introduced to him?

12 A. Yeah. We talked here for a second. I heard
13 the name but I did not know who he was.

14 Q. At the time? Okay. But he's present in the
15 courtroom?

16 A. Yeah, he was, yes.

17 MR. MILLER: Thank you. I have nothing
18 further.

19 MR. GORDON: I just have a --

20 THE COURT: Mr. Gordon.

21 MR. GORDON: -- a brief question or two for
22 you, Mr. Jackson.

23 RECROSS-EXAMINATION

24 BY MR. GORDON:

25 Q. Mr. Jackson, you testified that you never got

1 a reply to the e-mail that you sent to Mr. Gloria; is
2 that correct?

3 A. To my recollection I never got a reply.

4 Q. Okay. Did you get a reply from Barbara
5 Andolina, the city clerk, who indicated that she was
6 replying on behalf of Mr. Gloria?

7 A. Yes, I did. It was in my spam folder.
8 You're right, I did.

9 Q. What do you recall Ms. Andolina telling you,
10 Mr. Jackson?

11 A. I'd have to see the e-mail, because, as I
12 said, I found it like a couple days afterwards in my
13 spam folder but I was looking for it yesterday.

14 THE COURT: You may.

15 MR. GORDON: Counsel, I -- Counsel, this is a
16 supplemental production that I provided.

17 May I approach, Your Honor?

18 THE COURT: Sure.

19 MR. GORDON: This is a supplemental
20 production that we made today, Your Honor.

21 THE COURT: I saw this. Thank you.

22 MR. GORDON: Yeah. And may I approach the
23 witness, Your Honor?

24 THE COURT: Yes, you may.

25 MR. GORDON: Okay.

1 Q. (By Mr. Gordon) Mr. Jackson, I'm going to
2 hand you an e-mail which is dated June 1st, 2015, at
3 8:31 a.m. Take a moment to look that over, please.

4 A. Okay.

5 Q. Okay. If you look down in that e-mail chain,
6 Mr. Jackson, is that your e-mail to Mr. Gloria?

7 A. Yes, it is.

8 Q. Okay. And that's the e-mail that you just
9 testified to?

10 A. Right.

11 Q. And that's the e-mail that you just admitted
12 into evidence?

13 A. Mm-hmm.

14 Q. That's the e-mail you said you didn't get a
15 reply to. Correct?

16 A. Right.

17 Q. Okay. Have you had a chance to read the
18 e-mail from Barbara Andolina?

19 A. Yeah, I have. I just -- I think it was in my
20 spam and I just forget about it.

21 Q. Do you know who Barbara Andolina is?

22 A. I know the name. She's the clerk.

23 Q. Clerk of North Las Vegas?

24 A. (Nods head.)

25 Q. Okay. And what does Ms. Andolina inform you

1 in this e-mail?

2 A. The signature verification process will begin
3 this morning at 9:30 at the Clark County Election
4 Department for Monday, June 1st, at 9:30. And will you
5 please bring verification that you are a representative
6 for Judge Catherine Ramsey.

7 Q. And did you ever respond to this e-mail?

8 A. No, because, as I said, it was in my spam
9 folder. I had never saw it until Judge Ramsey told me
10 they were starting as I had testified.

11 Q. So Judge Ramsey informed you?

12 A. Yes.

13 Q. They were starting?

14 A. Right.

15 Q. So she knew?

16 A. Yes.

17 MR. GORDON: Okay. Thank you.

18 Your Honor, no further questions.

19 THE COURT: All right. Mr. Mueller, do you
20 have any other questions?

21 MR. MUELLER: No, Your Honor.

22 THE COURT: Just so I'm clear, Mr. Jackson,
23 when you say you -- Mr. Gloria asked for something in
24 writing from you and you went and provided it, by
25 writing, are you referring to your e-mail on Friday at

1 3:13 p.m.?

2 THE WITNESS: Yes.

3 THE COURT: Okay. All right. Thank you very
4 much, Mr. Jackson.

5 MR. MUELLER: Your Honor, that does raise a
6 point, if I could just follow up on that.

7 THE COURT: Sorry. I should have asked.

8 MR. MUELLER: No, that's quite all right.

9 FURTHER REDIRECT EXAMINATION

10 BY MR. MUELLER:

11 Q. Sir, when you sent that e-mail at 3:30 that
12 was the same day that you had been turned away from the
13 office about 9:00 that morning?

14 A. Right.

15 Q. Okay. So you had already been there?

16 A. Yeah, I had. The Office of Elections, you're
17 talking about at the government center on Grand Central
18 Parkway. Right?

19 Q. Yes.

20 MR. MUELLER: Judge, I'll object. I didn't
21 understand the testimony but I think that misstates the
22 testimony. I didn't hear any testimony about 9:00 a.m.

23 THE COURT: I'm was going to say I'm confused
24 now too.

25 MR. GORDON: Same objection.

1 THE COURT: Mr. Jackson, all right, on Friday
2 when did you go down to --

3 THE WITNESS: Around 1:00 o'clock.

4 THE COURT: All right. 1:00 o'clock. What
5 are you referring to by 9:00 o'clock just now?

6 THE WITNESS: That was on Monday.

7 THE COURT: That's on Monday. Okay.

8 THE WITNESS: Maybe I confused myself here.

9 THE COURT: All right. That's fine. I just
10 want to make sure we're not confused. So on Friday you
11 went down to the Elections Department around --

12 THE WITNESS: 1:00 o'clock.

13 THE COURT: -- 1:15?

14 THE WITNESS: Right.

15 THE COURT: In the afternoon?

16 THE WITNESS: Yes.

17 THE COURT: Okay. All right. Does that
18 clear it up for everybody?

19 MR. MUELLER: Yes, thank you, Judge.

20 THE COURT: All right. Thank you,
21 Mr. Jackson.

22 THE CLERK: Are we doing anything with this
23 document or is it just for --

24 MR. GORDON: Just to assist the witness.

25 THE CLERK: Okay.

1 THE COURT: All right. Mr. Mueller, do you
2 want to call another witness?

3 MR. MUELLER: Yes. I'll call Dan Burdish
4 since he'll be brief, and then I suspect we'll be
5 talking to Mr. Gloria for a while.

6 THE COURT: All right. Mr. Burdish, you can
7 come up here. This is where we have the witnesses.
8 When you get up here please stand for a second or two
9 and the clerk will swear you in.

10 THE CLERK: Please raise your right hand.
11 Whereupon,

12 DANIEL BURDISH,
13 having been sworn to testify to the truth, the whole
14 truth, and nothing but the truth, was examined and
15 testified under oath as follows:

16 THE WITNESS: I do.

17 THE CLERK: Please be seated. Please state
18 your name and spell your first and last name for the
19 record.

20 THE WITNESS: Daniel Charles Burdish,
21 D-a-n-i-e-l. And Burdish, B as in "boy," u-r, D as in
22 "dog," i-s-h.

23 DIRECT EXAMINATION

24 BY MR. MUELLER:

25 Q. Mr. Burdish, how long have you lived in the

1 Las Vegas valley?

2 A. Since 1969, except for a three-year hiatus
3 when I left in the early 2000s.

4 Q. All right. Now, sir, you've had a number of
5 employments over the years, have you not?

6 A. Yes, sir.

7 Q. All right. Currently, sir, the last few
8 years, how have you been spending your time?

9 A. I'm employed by you.

10 Q. All right.

11 A. Mueller, Hinds & Associates.

12 Q. And you also work in the political arena?

13 A. Occasionally.

14 Q. And in the -- have you served more recently
15 in the 2015 Nevada Legislature?

16 A. Not served, but I worked personally for
17 Assemblywoman Michele Fiore.

18 Q. And it's fair to say that you are active in
19 politics, sir?

20 A. Yes.

21 Q. All right. You're familiar with the case at
22 issue here of why we're here in Judge Ramsey's case?

23 A. Yes.

24 Q. Sir, I'm drawing your attention back to
25 Friday, was it May 29th. Do you recall having a

1 meeting with Judge Ramsey and I and Mr. Goldstein?

2 A. Yes.

3 Q. All right. And what was the purpose of that
4 meeting, sir?

5 A. It was to discuss the recall that she was
6 going through and your representing her.

7 Q. All right. Did you make an effort to go down
8 and observe or get in contact with anybody from the
9 Elections Department?

10 A. Yes. Judge Ramsey said something about that
11 her representatives were not allowed to go and watch
12 the verification of the signatures.

13 Q. And based on your extensive experience in
14 Nevada politics did that strike you as unusual?

15 A. Not just unusual but illegal.

16 Q. All right. And as a result of being told by
17 Judge Ramsey that her representatives had been turned
18 away what, if anything, did you do at my request?

19 A. I left the meeting and called the Clark
20 County Registrar of Voters.

21 Q. And did you know who the Clark County
22 Registrar of Voters was?

23 A. Yes, sir I did, Joe Gloria.

24 Q. All right. And you'd previously met him?

25 A. Yes, I had.

1 Q. And about what time was this?

2 A. It would be late in the afternoon, probably
3 3:30 to 4:30, possibly.

4 Q. All right. And did you in fact talk to
5 Mr. Rosa -- or Mr. Gloria?

6 A. Mr. Gloria. Yes, I did.

7 Q. All right. And can you recall the -- or do
8 you recall the gist of that conversation, sir?

9 A. Mr. Gloria said that he could not imagine
10 that somebody from his office would not allow somebody
11 to participate in the verification of the signatures.

12 Q. All right. And did you express an emphatic
13 interest on behalf of Judge Ramsey to have a
14 representative from her campaign present there?

15 A. Yes, I did. In fact, I told Mr. Gloria that
16 Judge Ramsey was here or was in the adjoining room and
17 that she was sure that no one -- that her people were
18 turned away and that I did not think that I could not
19 imagine that the registrar would do that.

20 Q. And did you in fact at that late hour, did
21 you in fact volunteer to go down and observe the count?

22 A. Yes, I did.

23 Q. And what did Mr. Rosa tell you -- or
24 Mr. Gloria tell you?

25 A. Mr. Gloria told me it wouldn't do any good,

1 by the time I got down there it would be over.

2 Q. They were already done counting?

3 A. Yes, sir.

4 Q. All right. And what, if anything, did you do
5 then?

6 A. That was really the extent of that on that
7 day. I came back and reported to you and Mr. Goldstein
8 and Judge Ramsey.

9 Q. All right. The following Monday did you do
10 anything in connection with the campaign?

11 A. Yes. The following Monday I was in my car
12 and I'm going to -- once again, I'm that exactly sure
13 of the times but it was approximately 8:30 or
14 9:00 o'clock.

15 Q. A.m.?

16 A. A.m. When Maria from your office called me
17 and told me that the registrar was trying to get ahold
18 of me and I then called Mr. Gloria.

19 Q. All right. And what did you do then, sir?

20 A. Mr. Gloria told me that they were continuing
21 with the verification of the signatures and would start
22 at 9:00 a.m.

23 Q. All right. And did you -- what did you do
24 then, sir?

25 A. I told Mr. Gloria that Mr. Johnny Jackson

1 would be showing up and that I would be showing up and
2 wanted to make sure that there was no problems with
3 Mr. Jackson being allowed to witness the verifications
4 and he said there would not be that, that was all
5 cleared up.

6 Q. And did you, in fact, go over and watch the
7 verifications?

8 A. I did. Actually a little bit more than --
9 than that, Mr. Gloria told me that, excuse my lack of
10 remembering exactly but it was either that they were
11 going to start at either 9:00 a.m. or 9:30 a.m. I told
12 him that I was a little bit over a half an hour away
13 and that I would not be able to get there by that time
14 and I was told that whether we were there or not that
15 they would be starting at that point.

16 Q. All right. And when you arrived were they
17 already started?

18 A. Yes, I was probably 10 or 15 minutes late but
19 they had already started and Mr. Jackson was already
20 there.

21 Q. And this was after on the preceding Friday he
22 told you not to come down because they were already
23 done?

24 A. Yes.

25 Q. Sir, what -- when you arrived did you

1 actually go down and watch the part of the verification
2 process or did you see its finale?

3 A. It was probably just the last part. When I
4 came in I asked for Mr. Gloria. He took me to the
5 back, introduced me to -- and I don't remember the
6 people who I was introduced to, but the gal that was
7 supervising it. She informed me that all they were
8 doing was checking on what they had done the previous
9 day.

10 Q. All right. So --

11 A. The previous workday.

12 Q. -- the actual verification was already done
13 when you arrived?

14 A. Yes.

15 Q. All right. And they were just double
16 checking?

17 A. Yes.

18 MR. MUELLER: Nothing further, Judge.

19 THE COURT: Mr. Miller.

20 MR. MILLER: Thank you.

21 CROSS-EXAMINATION

22 BY MR. MILLER:

23 Q. Mr. Burdish, I want to walk you back to the
24 meeting that took place on Friday, May 29th, with
25 Mr. Mueller. Do you recall what time that meeting

1 happened?

2 A. I can't tell you exactly what time but I'm --
3 it's probably late in the afternoon because when I --
4 when I called Mr. Gloria I got the impression that they
5 were wrapping up for the day but I cannot remember
6 exactly what time it was, no.

7 Q. Where did that meeting take place?

8 A. In the conference room of Mueller, Hinds &
9 Associates.

10 Q. And was it generally understood between the
11 parties within that meeting that -- that the signatures
12 in fact had been turned in the day before?

13 A. I don't know that it was the day before but
14 the signatures had in fact been turned in.

15 Q. And -- but it was generally understood that
16 the verification could have been taking place at that
17 point; is that correct?

18 A. As I understand it, at the meeting Judge
19 Ramsey said that she had sent somebody down to watch
20 the verification of the signatures and they had -- they
21 had been turned around and that's why I suggested we
22 call Mr. Gloria.

23 Q. Okay. And so when you're referring to the
24 representations made by Judge Ramsey to you in that
25 what you testified to she -- she was told that there

1 was no one allowed to observe the process, is it
2 possible that she could have been referring to Johnny
3 Jackson going down to the Elections Department at about
4 1:15 that afternoon and being put on the phone with
5 Mr. Gloria?

6 A. One, she did not make the representation to
7 me personally, she made it to Mr. Mueller. I was in
8 the office. She was not specifically talking to me
9 telling me that. I was in the same room but she was
10 not making it to me specifically.

11 Q. Fair enough.

12 A. I'm guessing it's probably that's what she
13 was talking about but I cannot say that for a
14 certainty.

15 Q. But -- okay. So it's your opinion in hearing
16 that conversation between Mr. Mueller and Judge Ramsey
17 that she was likely referring to the fact that
18 Mr. Jackson had gone down to the Clark County
19 government building and been told that he needed to put
20 his request in writing in order to verify the process?

21 A. I can't say that that is correct or
22 incorrect. She did not say Johnny Jackson was not
23 allowed. She said that her people were not allowed to
24 watch the verifications.

25 Q. Okay. But you're not -- no one asked Judge

1 Ramsey --

2 A. No.

3 Q. -- who -- who she had had that conversation
4 with; is that right?

5 A. No one asked me. I did not ask them. All I
6 did was offer to call Mr. Gloria.

7 Q. Okay. And then what time did you go down to
8 meet with Mr. Gloria?

9 A. That was on the following week and it was
10 shortly after they had started -- or the following
11 Monday either at 9:15 or 9:45, approximately, a.m.

12 Q. Did you testify that you had some -- at some
13 point contacted Mr. Gloria on that same day, the Friday
14 that you met with --

15 A. Yes, I had called the Clark County registrar.

16 Q. Okay. And so this was communication that
17 happened over the phone?

18 A. Yes.

19 Q. And you talked directly with Mr. Gloria?

20 A. Yes.

21 Q. And what did that conversation entail?

22 A. That was -- I called and said I had been in a
23 meeting with Judge Ramsey and was told that her
24 representatives were not allowed to watch the
25 verification process. Mr. Gloria said that is not

1 true, I shouldn't say that he said it was not true that
2 they were told they could not, but he said to me that
3 they were allowed to watch.

4 Q. Okay.

5 A. And that's when I said that I would come down
6 and watch them at that point and he told me not to
7 bother that they were almost done.

8 Q. Okay. And then you did show up on Monday
9 morning to watch the verification process?

10 A. I was not told at that point that they would
11 be continuing on Monday morning. I did not learn until
12 approximately 30 to 45 minutes before I showed up that
13 they were continuing to verify signatures.

14 Q. Okay. But you were present for the
15 verification that took place on Monday; is that right?

16 A. I -- I can't say it was a verification. What
17 they told me was that they were going back over what
18 they had done on Friday to double-check it.

19 Q. But you were present for that process and --

20 A. Part of the process, yes.

21 Q. Sorry. You can't talk over me for the court
22 reporter.

23 A. Sorry.

24 Q. You were present for part of that process and
25 had a fair opportunity --

1 A. Yes.

2 Q. -- you feel, in order to watch that process?

3 A. Yes, sir.

4 Q. Okay. And did you see during that -- that
5 process them comparing signatures that were on file
6 with the signatures that were submitted as part of the
7 petition?

8 A. Some of them. There was approximately and I
9 can't remember if there was six or eight of them but
10 there was two rows of people, ladies, that were pulling
11 up on their computer screens based upon the petitions
12 and the page of the petition that they were on. Some
13 of the woman were checking nothing but the address of
14 the people and the -- whether they had voted. Some of
15 them were doing that and checking signatures. So it
16 was -- some of them were doing some things and they
17 weren't going from one to one to the next so that you
18 could have had signatures if they were not verifying --
19 or pardon me. Signatories where they were not
20 verifying the signatures, they were just verifying
21 their address and that they voted in the election.

22 There were different signatories that were
23 not checking the signatures -- where the signatures
24 were not checked.

25 Q. But is it fair to say that they didn't -- the

1 registrar's office didn't in any way limit your ability
2 to witness that process?

3 A. No, none whatsoever.

4 Q. And did they gave you a fair opportunity to
5 ask any questions you thought relevant about --

6 A. Yes, they were very fair.

7 MR. MILLER: Okay. Thank you.

8 Thank you, Judge.

9 THE COURT: Thank you.

10 MR. GORDON: Just a few brief questions.

11 CROSS-EXAMINATION

12 BY MR. GORDON:

13 Q. Mr. Burdish, I just want to clarify some of
14 your testimony as to what is actually your firsthand
15 knowledge opposed to what you heard others say. So the
16 record is very clear.

17 Who told you, Mr. Burdish, that Judge
18 Ramsey's representatives were not invited to witness
19 the verification process?

20 A. Okay. Once again, no one specifically told
21 me. I was in a meeting where Judge Ramsey and
22 Mr. Mueller were discussing the case. Judge Ramsey
23 said, not to me but to Mr. Mueller when I'm sitting
24 next to him, that her representatives were not allowed
25 to verify or to watch the verification, how's that.

1 Q. Right, right. And I -- I -- but my question,
2 somebody told you that that was what Judge Ramsey had
3 represented. Correct?

4 A. No. I was sitting in a meeting with Judge
5 Ramsey and Mr. Mueller and Mr. Goldstein when Judge
6 Ramsey said to Mr. Mueller, "My representatives were
7 not allowed."

8 Q. That helps because now you were present in
9 the room, I didn't understand that before, Mr. Burdish.
10 So you actually were hearing firsthand Judge Ramsey
11 say --

12 A. Yes.

13 Q. -- in fact that my representatives were not
14 permitted to -- in the verification. Correct?

15 A. Yes.

16 Q. You heard that with your own ears from Judge
17 Ramsey?

18 A. Yes.

19 Q. Okay. And did you ask Judge Ramsey what she
20 was referring to?

21 A. No.

22 Q. Why not?

23 A. Because I got up and called the registrar to
24 verify this and find out what was going on and to let
25 the registrar know that somebody in his office had not

1 allowed Judge Ramsey's representatives to be there when
2 they were verifying the signatures.

3 Q. And was that your first effort to reach out
4 to the county pertaining to the verification process?

5 A. Yes.

6 Q. Okay. I believe you also testified,
7 Mr. Burdish, that you contacted the county again on
8 Monday while you were in transit to the county for the
9 verification audit; is that correct?

10 A. No. I was in transit. Maria, from our
11 office, called me and told me that Mr. Gloria was
12 trying to get in touch with me and then I called
13 Mr. Gloria.

14 Q. Okay.

15 A. I was not in transit to the county at that
16 point. I was in transit for something else.

17 Q. Did Judge Ramsey or did anyone from
18 Mr. Mueller's office contact you to inform you that the
19 verification audit was going to begin at 9:30?

20 A. Maria, from our office, called me and said
21 that the county was trying to get in touch with us and
22 that's when I called the county and the -- Mr. Gloria
23 told me that they were starting.

24 Q. Do you know when Judge Ramsey was informed of
25 the verification audit?

1 A. I have no idea.

2 MR. GORDON: Okay. Thank you.

3 THE COURT: Thank you.

4 Mr. Mueller, anything else?

5 MR. MUELLER: No, nothing further.

6 THE COURT: Mr. Burdish, just let me make
7 sure I'm clear in terms of when you called Mr. Gloria
8 on Friday afternoon.

9 What -- one second. When you said to
10 Mr. Gloria that Judge Ramsey said that her
11 representatives were not allowed to watch the
12 verification process, what, to the best of your
13 recollection, did Mr. Gloria respond to you?

14 THE WITNESS: That that would not happen and
15 if did happen that he would fix it. Mr. Gloria did not
16 try to, you know, say it did not happen. He just said
17 it should not happen, if it did happen, and that they
18 had every right to -- to watch the verification.

19 THE COURT: When you asked him about coming
20 down yourself on Friday afternoon, as best as you can
21 recall, what did he say to you when you --

22 THE WITNESS: That they were about done and
23 that there would be no reason -- by the time I got
24 there that they would be done that there was no reason
25 to come down.

1 THE COURT: Okay. Does that generate any
2 questions by either side?

3 MR. MUELLER: No, Your Honor.

4 THE COURT: All right. Thank you, sir. I
5 appreciate you coming down today and taking the time to
6 testify.

7 THE WITNESS: Thank you.

8 THE COURT: All right. Mr. Mueller.

9 MR. MUELLER: All right. Thank you, Judge.
10 We'd call Mr. Gloria.

11 THE COURT: Come up here, Mr. Gloria.

12 THE WITNESS: Yes, sir.

13 THE COURT: We're going to have you sit right
14 here. When you get up here stand for just a minute and
15 our clerk will swear you in.

16 THE CLERK: Please raise your right hand.
17 Whereupon,

18 JOE GLORIA,
19 having been sworn to testify to the truth, the whole
20 truth, and nothing but the truth, was examined and
21 testified under oath as follows:

22 THE WITNESS: I do.

23 THE CLERK: Please be seated. Please state
24 your name and spell your first and last name for the
25 record.

1 THE WITNESS: Joe Gloria. J-o-e G-l-o-r-i-a.

2 DIRECT EXAMINATION

3 BY MR. MUELLER:

4 Q. Mr. Gloria, how are you employed, sir?

5 A. I'm the Registrar of Voters for Clark County.

6 Q. And how long have you been the Registrar of
7 Voters for Clark County?

8 A. Two years this June.

9 Q. All right. And so you started the duties in
10 June of '13?

11 A. Correct.

12 Q. All right. Sir, prior to assuming your
13 duties as registrar of voters what training and
14 experience have you had for this position?

15 A. I've been in elections for 23 years. There
16 really isn't a facet of elections I haven't been
17 involved in in my career.

18 Q. All right. So you are widely experienced
19 here in Clark County. Correct?

20 A. Yes, sir.

21 Q. All right. You've done a number of recall
22 petitions. Correct?

23 A. Several.

24 Q. Several.

25 All right, sir. Now, have you had any formal

1 legal training or do you get continuing education down
2 at the registrar of voters to make sure that you're
3 current with the law?

4 A. There's several workshops that are held by
5 the secretary of state's office, the COFOA training
6 that's held on an annual basis.

7 Q. The secretary of state, is that the person
8 who provides you training?

9 A. That's -- personnel from that office do
10 partake in the training.

11 Q. So people here from Mr. Miller's office
12 actually provide the training?

13 A. Formerly.

14 Q. Formerly, okay. Now, you came to be
15 presented with a series of petitions regarding Judge
16 Ramsey, did you not?

17 A. Yes, sir.

18 Q. All right. Now, were you present when these
19 petitions were presented?

20 A. To the city clerk or to my office?

21 Q. To your office.

22 A. Yes, I was.

23 Q. All right. So you were actually there doing
24 the intake?

25 A. Yes, sir.

1 Q. Now, there are several legalities that need
2 to be followed when accepting a petition, are there
3 not?

4 A. Yes, sir.

5 Q. And based on your training and experience
6 with the system, Mr. Miller's office what legalities
7 need to be observed there?

8 A. There are several, several. We have to go
9 through the statute to go through all of the
10 particulars, but there are requirements for the
11 petition itself.

12 Q. All right.

13 A. There are requirements for the criteria of
14 who can sign and be considered a valid signer. There
15 are many different areas.

16 Q. All right. And specifically in this
17 particular petition, sir, what exactly did you guys do?

18 A. You want me to walk you through the entire
19 process of the petition?

20 Q. If you could, sir, until we come to a point,
21 yes.

22 A. Okay. In receiving the petition from the
23 city clerk's office we immediately did a rough count of
24 the number of documents and pages included in the
25 document and provided the city clerk with a receipt.

1 Q. Okay. So you did a rough count, gave the
2 clerk a receipt. Then what did you do?

3 A. The city clerk being Barbara Andolina.

4 Q. Yes, sir, we've met her. Thank you.

5 A. Then the staff continued with a raw count
6 which was done in an effort to determine how many
7 signatures were actually on the documents.

8 Q. And to the best of your recollection, sir,
9 before we go too far, what day of the week was this?

10 A. The raw count took place on the 29th of May.

11 Q. And for a calendarwise, was that Thursday or
12 is that Friday?

13 A. That would be a Friday.

14 Q. That was a Friday.

15 Now, did you personally get down in this
16 paperwork or did you supervise and have other people
17 look at it?

18 A. I supervised and had a staff.

19 Q. You had supervised it and had staff?

20 A. Yes, sir.

21 Q. Now, did your staff put any numbers on these
22 documents?

23 A. Yes, we do.

24 Q. I want to make sure I understand here, sir.
25 Did you or your staff actually number these documents

1 when they came in?

2 A. Yes, sir, we do. After the raw count we
3 start -- before the raw count, excuse me. We put --

4 Q. You put numbers on it?

5 A. We put numbers on each document.

6 Q. All right. Were there numbers on them when
7 you received there?

8 A. They were numbered sequentially but there
9 were no numbers on each document, no.

10 Q. They were numbered sequentially, are you
11 quite sure?

12 A. The page numbers one through four, each
13 document, as required by statute.

14 Q. All right. Page numbers one through four.
15 How about the actual petitions themselves?

16 A. No, sir, they were not.

17 Q. They were not.

18 Now, sir, you being responsible for the
19 operation of the office, the clerk's office is not
20 supposed to receive a petition unless it's been
21 sequentially numbered?

22 A. Each document, that's correct, and they were.

23 Q. All right. But you said only one through
24 four?

25 A. Sequentially, the pages.

1 Q. The petitions --

2 A. Each page of each document.

3 Q. Mr. Rosa, there's no question, sir.

4 A. My name is not Mr. Rosa.

5 Q. I'm sorry. I apologize.

6 Sir, Mr. Gloria, if you can answer my
7 questions, please.

8 A. Could you repeat it?

9 Q. Yes, sir. You received how many documents
10 from the committee?

11 A. I don't have that number memorized in my -- I
12 believe it was 159.

13 Q. And when you got those 159, did they have
14 consecutive numbers on them from 1 to 159?

15 A. They were numbered sequentially by each
16 document which is required by Statute NAC 293.182.

17 Q. Yes, sir. If you could finish answering my
18 question, please.

19 THE COURT: I think he did answer your
20 question. I mean you may not be getting the answer you
21 want but I mean I think he did answer your question.
22 Go ahead and ask another one.

23 Q. (By Mr. Mueller) All right, sir. Once you
24 received these documents into -- from the North Las
25 Vegas City Clerk, what did you do? What did your

1 office do with them?

2 A. As I previously mentioned, we went through
3 and verified the number of documents and lines.

4 Q. Yes, sir.

5 A. And we provided the City Clerk Barbara
6 Andolina with a receipt.

7 Q. All right. And then what happened?

8 A. And then we continued with the process of the
9 raw count.

10 Q. And what is the process of the raw count?

11 A. Staff has to go through and identify each of
12 the lines we consider to have a signature and the
13 listing of the voter's name and address and the date
14 they signed.

15 Q. Okay. Then what did you do, sir?

16 A. Once we were through with the raw count, we
17 sent it up to the secretary of state, our raw count
18 documentation, and they followed up with instructions
19 for us to move forward with signature verification
20 because there were more than enough signatures to
21 qualify the petition.

22 Q. Raw count?

23 A. Yes, sir.

24 Q. All right. And what time was it that you got
25 permission from the secretary of state's office to

1 continue?

2 A. It would have been in the a.m. on the 29th of
3 May.

4 Q. And that would have been Friday?

5 A. That's correct, yes, sir.

6 Q. Now, sir, you quoted a statute to me,
7 unsolicited, just a few moments ago. Is it fair to say
8 that you are familiar with the statutes?

9 A. I'm familiar with most statutes, yes.

10 Q. All right. Now, are you aware of the statute
11 that allows the subject of a recall to have a
12 representative present at the count?

13 A. Yes, sir.

14 Q. All right. And what effort at all did you
15 make on the morning of the 29th to contact Judge Ramsey
16 and see if she wanted to have a representative present?

17 A. I did not. I was not the filing officer.
18 Barbara Andolina is the filing officer in this
19 petition. I am a custodian of the record.

20 Q. All right. So you made no effort to contact
21 Judge Ramsey?

22 A. I did not personally, no.

23 Q. All right. Did you send an e-mail to -- or
24 did you instruct any of your staff to contact Judge
25 Ramsey?

1 A. No, sir. It would not have been the duty of
2 my office to do so.

3 Q. All right. Whose obligation was that?

4 A. Secretary of state.

5 Q. Secretary of state's office is responsible
6 for indicating and telling the candidate when and where
7 to get a representative to?

8 A. It would have been required to notify them
9 that there were enough signatures and that they were
10 giving us permission to move forward with the
11 verification of signatures.

12 Q. And who was responsible for telling Judge
13 Ramsey when the count and verification was going to be
14 done?

15 A. As I said, I believe it's the secretary of
16 state's office.

17 Q. As you sit here, sir, do you know as a simple
18 statement of fact, did anybody from any government
19 instrumentality tell Judge Ramsey when the verification
20 was going to be done?

21 A. I do not.

22 Q. On the morning of Friday, the 29th, or in the
23 early afternoon, did you have contact with a
24 Mr. Jackson?

25 A. Well, the 29th?

1 Q. Yes, sir.

2 A. He made a call to my office and it was
3 forwarded to me.

4 Q. All right. And do you recall what the nature
5 of that conversation was?

6 A. Mr. Jackson was wanting to review our
7 process, as he has a right to -- as required by
8 statute, but I informed him that he would need to come
9 back on Monday because we had already finished for the
10 day what we had started.

11 We have two steps in our process. One is to
12 enter them into the system and actually go through the
13 first verification verifying that the voter voted in
14 the '11 general, that they still reside in North Las
15 Vegas, that they still are registered, and then we
16 verify the signature.

17 Q. Yes, sir. But the fact of the matter is by
18 mid morning or early afternoon Friday you were already
19 done with this important step, were you not?

20 A. We were done with the first step in the
21 process.

22 Q. And Mr. Jackson expressed interest to you or
23 early in the afternoon on the 29th that he wanted or
24 that Judge Ramsey wanted someone to be present.
25 Correct?

1 A. Late in the afternoon, yes, he did.

2 Q. And what was your response to that?

3 A. That he could come in on Monday and view the
4 process, the second half of the process which was
5 verifying the 420 signatures that we had verified as
6 valid.

7 Q. Now, sir, did you talk with anybody else
8 regarding having someone present for the verification?

9 A. I did. Not long after I spoke with
10 Mr. Jackson I spoke with Dan Burdish who I confirmed
11 that Mr. Jackson was a member of the Ramsey team before
12 I did -- had any verification that he was involved with
13 the group. And I instructed him that we only had 500
14 signatures, that the process moved relatively quickly
15 that morning but that he was more than welcome and had
16 they given us an indication beforehand we would have
17 had them there on Friday as well.

18 Q. But you received them early in the morning on
19 the Friday. Correct?

20 A. Can you repeat the question?

21 Q. You received the signatures from Ms. Andolina
22 in North Las Vegas on Friday morning?

23 A. No, sir. We received them on Thursday.

24 Q. Thursday. What time Thursday?

25 A. In the afternoon.

1 Q. Now, sir, let's talk about 500. 500 is an
2 important number here, is it not?

3 A. Yes.

4 Q. All right. Since you seem conversant with
5 the statute, sir, what is the significance of the
6 number of 500?

7 A. 500. We are required to review 5 percent or
8 500, whichever is greater, of the number of signatures
9 that are turned in for verification.

10 Q. And that's required by statute. Correct,
11 sir?

12 A. Yes, sir.

13 Q. Now, would you agree, then, that if a sample
14 was less than 500 it was not being require -- it would
15 not be in compliance with the statute?

16 A. If a sample was less than 500?

17 Q. If you sampled -- now, let me -- I want to
18 make sure I understand this. You didn't verify every
19 signature, did you?

20 A. We weren't required to. No, we did not.

21 Q. All right. So you did not verify every
22 signature. You picked a sample of 500. Correct?

23 A. As was required by statute, yes.

24 Q. Allowed by statute or required, sir? You can
25 do it either way.

1 A. It's 5 percent or 500, whichever is greater.
2 We took the number that was -- 500 because it was
3 greater than what 5 percent would have been.

4 Q. The statute's don't prevent you from
5 verifying every signature, do they?

6 A. We follow the statute.

7 MR. MILLER: I'm going to object, Your Honor,
8 that calls for a legal conclusion.

9 MR. MUELLER: He's been testifying to legal
10 conclusions every question.

11 MR. MILLER: We've been giving him latitude
12 to do so, but.

13 THE COURT: I'll let him answer this question
14 but, I mean, let's focus on the facts here.

15 Q. (By Mr. Mueller) Sir, there's nothing that
16 you're aware of that prevents you from counting or
17 verifying all the signatures?

18 A. We would not have verified all the signatures
19 unless we were directly instructed by the secretary of
20 state to do so. That's another step in the process.

21 Q. Yes, sir. But you still didn't answer my
22 question. Is there anything that you're aware of that
23 prevents you from verifying all the signatures?

24 A. And I'm telling you, we would not have
25 verified all of the signatures unless the Secretary of

1 State would have instructed us to do so because that is
2 in the statute.

3 Q. All right. Now, sir, you would agree that if
4 there was less than 500 sample taken it would not have
5 been in accordance with the statute. Correct?

6 A. If there were less than 500 that would have
7 meant there was less than 500 signatures in the
8 document.

9 Q. If you did a random sample that was less than
10 500, would that be in accordance with the law?

11 A. It's 5 percent or 500, whichever is great.

12 Q. Yes, sir. I know. The question is: If your
13 office actually didn't sample 500, that would not be in
14 accordance with the law. Correct?

15 THE COURT: Well, are you suggesting that
16 there was less than 500 on the sample, Mr. Mueller?
17 Otherwise, I'm not sure why we're spending time on
18 this.

19 MR. MUELLER: I'm going to show as a simple
20 fact that there was less than 500 taken and I just want
21 to make sure he understands the implications here.

22 THE COURT: Why don't you go ahead and show
23 that there was less than 500 taken and then we'll ask
24 for the implications.

25 Q. (By Mr. Mueller) All right. Sir, how did you

1 arrive at your sample of 500?

2 A. The system that we use is automated and so
3 when we request for the sample it generates a sample of
4 500 for us being that there were less than 10,000
5 signatures submitted.

6 Q. The computer generates this sample?

7 A. That's correct.

8 Q. Do you have any input over these 500?

9 A. Input over -- nobody does. It wouldn't be a
10 random sample if anybody had input.

11 Q. So you press a button and you get 500.
12 Correct?

13 A. That is correct. The sample is derived from
14 an algorithm that the vendor puts in place to ensure
15 that one and only one opportunity is given to each
16 record in the sample.

17 Q. One and only one opportunity?

18 A. Yes, sir.

19 Q. That's the phrase, okay.

20 MR. MUELLER: I need Petition No. 20 -- oh,
21 here it is I've got it.

22 Madam Clerk, may I have this marked as
23 Defense 16 -- or Plaintiff's 16.

24 Counsel, from the electronic discovery and
25 the paper copy this petition No. 4.

1 MR. MILLER: Four or 20?

2 MR. MUELLER: This is 4 and I'll draw his
3 attention to 20.

4 THE COURT: I'm sorry. Which petition?

5 MR. MUELLER: This is petition 4, signature
6 Line 20. Sir, may I approach?

7 THE COURT: Sure.

8 Q. (By Mr. Mueller) Showing you petition 4. Do
9 you recognize that document, sir?

10 A. It appears to be one of the documents
11 submitted.

12 Q. All right. Now, did you generate from that
13 list a random set of lists and numbers to check. You
14 said the computer prints 500.

15 A. From this particular sheet?

16 Q. Yes, sir.

17 A. In totality --

18 Q. Yes, sir.

19 A. -- of the 2,717 that were submitted --

20 Q. Yes, sir.

21 A. -- there was a random sample generated from
22 those 2,717. Yes, sir.

23 Q. Okay. Now, I want to draw your attention to
24 Line 20, sir.

25 A. Yes.

1 Q. Okay. And do you see what's on Line 20?

2 A. It appears to be a squiggle.

3 Q. A squiggle?

4 A. A signature.

5 Q. Is it going out of the way, sir, to say that
6 someone signed it and then crossed their name out?

7 A. The -- yes, it looks like somebody squiggled
8 through, whether they crossed their name out or not, we
9 don't know. We don't know that that was actually done
10 by the signer.

11 Q. All right. Now, the fact of the matter is,
12 sir, that actually counted as a signature in you
13 sample, was it not?

14 A. And I can tell you why.

15 Q. All right. It was counted as a signature in
16 you sample despite the fact that it was crossed out?

17 A. We don't know who crossed that out.

18 Q. All right. Sir, if you'll received into
19 evidence -- or you received a petition drive with
20 crossed-out signatures, isn't that self-evident that
21 it's not a signature?

22 A. No, sir, it is not.

23 Q. Who would have crossed it out?

24 A. We don't know.

25 Q. So why are you counting it?

1 A. Because we could read the signature, we could
2 find them in the system and we identified that they
3 were not only registered, they lived within the
4 boundaries of North Las Vegas, and they also voted in
5 the 2011 general. That's too big a coincidence for us
6 to leave out.

7 Q. All right. And the fact that it was crossed
8 out, you actually included that in your sample?

9 A. That's our standard practice, yes, sir. We
10 don't know who put the squiggle on that page.

11 Q. So that wasn't 500 signatures, that's 499
12 because you're counting a crossed-out line?

13 MR. GORDON: Objection. Mischaracterizes his
14 testimony.

15 THE COURT: I'll sustain the objection.

16 MR. MUELLER: I'll move on to the next point,
17 Judge.

18 Q. (By Mr. Mueller) Now, sir, you would agree --

19 MR. MUELLER: If I may approach?

20 THE COURT: Sure.

21 Q. (By Mr. Mueller) Sir, showing you Election
22 Department Random Sample Petition. Do you see that
23 document?

24 A. Yes, sir, I do.

25 Q. All right. And is that a computer printout

1 of the samples that you used on this particular recall
2 election?

3 MR. GORDON: Your Honor, I would like to just
4 raise an objection. It looks like a -- Mr. Burdish a
5 witness is back in the room. I don't know if he needs
6 to --

7 THE COURT: If he's no longer going to be
8 testifying --

9 MR. MUELLER: No, he's not.

10 THE COURT: -- then I don't have a problem --

11 MR. GORDON: Sure.

12 THE COURT: -- if he's here in the courtroom.

13 MR. GORDON: I'm just not sure.

14 THE WITNESS: It appears to be a document
15 generated from our system.

16 Q. (By Mr. Mueller) All right, sir. And go back
17 for just a minute and go back and verify the signature
18 on petition 4, Line 20. You would agree that's on your
19 sample?

20 A. You would like me to look into this report
21 and see if that's one that's included in the sample?

22 Q. Yes, sir.

23 A. Page 4, Line 20, it appears to be in the
24 sample.

25 Q. Okay. So you -- drawing your attention now,

1 sir, showing you another petition.

2 MR. MUELLER: Madam clerk, may I have this
3 marked a Defense 17 -- or Plaintiff's 17?

4 Counsel, 75. And I'm going to be asking her
5 about -- asking him about.

6 THE COURT: Which one so I'll try and track
7 which petition?

8 MR. MUELLER: Petition 75 and I'm going to be
9 asking him about Line 15.

10 Q. (By Mr. Mueller) Sir, on your sample, drawing
11 your attention to your sample list there?

12 A. Mm-hmm.

13 Q. Ask you to look at -- and was a signature
14 verified as being valid on Page -- or petition 75, Line
15 15?

16 A. That is correct.

17 Q. All right. Showing you a petition, sir,
18 marked Defense 17 [sic] for identification. Do you see
19 that?

20 A. I do see it.

21 Q. All right. Will you look at signature 15?

22 A. Yes, sir.

23 Q. Now, Line 15 was crossed out, in fact, Line
24 14 and 15 was crossed out. Correct?

25 A. It appears to be crossed out.

1 Q. All right. But yet, you used that and
2 validated that as a valid sample on the 500, did you
3 not?

4 A. Yes, we did.

5 Q. All right. Now, I'm a little confused, sir.
6 I want to ask about one more and then I'll come to a
7 point here.

8 Drawing your attention to petition 85,
9 Line 25.

10 A. Okay.

11 MR. MUELLER: May I approach?

12 THE COURT: Sure. Go ahead.

13 Q. (By Mr. Mueller) Showing you a document
14 marked 85, sir. Do you see -- recognize that document,
15 sir?

16 A. Yes.

17 Q. And drawing your attention to Line 25. Do
18 you see that?

19 A. I do see it.

20 Q. That was crossed out. In fact, it wasn't
21 even a full signature, it was a half of a line and it
22 was crossed out. Correct, sir?

23 A. It appears to be.

24 Q. Drawing your attention to your random sample,
25 sir, was that scored as a valid signature?

1 A. No. It says "signature required."

2 Q. But it was counted as a -- one of your sample
3 of 500, was it not?

4 A. It was because we could read the name.

5 Q. All right.

6 A. Their failure not to sign is not a reason not
7 to include it.

8 Q. Now, sir, let me ask you a question. If you
9 would look at all three of those petitions and you'll
10 see and look at the bottoms of them, please.

11 You got the three up there?

12 A. The bottoms of all the petitions?

13 Q. You've got 4 -- petition 4, 75, and 85 on the
14 witness stand, do you not?

15 A. Yes, I do.

16 Q. All right. Now, each one of those indicates
17 a number that was less than 25 as being submitted.
18 Correct? Can you tell us, go one at a time please,
19 sir.

20 For the record, I'm showing you the petition
21 No. 4. Do you see that?

22 A. Yes, I do.

23 Q. And the people who submitted this document
24 indicated there was only 24 valid signatures on there.
25 Do you see that?

1 A. I do.

2 Q. All right. But your sample indicated that
3 there was 25?

4 A. That's correct. As I review this I do see it
5 as 25.

6 Q. And you would agree, sir, that that's not
7 correct.

8 Now, showing you what's been marked --

9 A. I have to say, I want to know what your
10 definition of correct is.

11 Q. Okay. You indicated 25 valid signatures as
12 towards your database and in fact there was only 24 in
13 that particular petition?

14 A. Now, you have to understand that there are
15 two different people who are determining the number on
16 that last page.

17 Q. All right, sir.

18 A. The person that circulated and my staff.

19 Q. Okay. Drawing your attention to petition
20 No. 75.

21 A. Okay.

22 Q. This indicated there was only 23 signatures
23 on that petition. Correct?

24 A. Yes, it does.

25 Q. But, once again, the clerk -- your office

1 counted it as 25 signatures for sampling and counting.

2 Correct?

3 A. And we would have done the same thing.

4 Q. All right. Drawing your attention to the last
5 petition here, sir.

6 A. If you're going to show me the same thing, I
7 agree.

8 Q. Okay. So you agree that there's a systematic
9 error and that you guys --

10 A. No, I do not agree to that.

11 Q. Sir, if you would let me finish my sentence,
12 sir.

13 Now, here's three petitions where you've
14 overstated the number of signatures that were on --
15 your office overstated the number of signatures that
16 were on the petitions. Correct?

17 MR. GORDON: Objection. Mischaracterizes the
18 prior testimony.

19 MR. MUELLER: No, I don't think it does,
20 Judge.

21 THE COURT: You can ask him what he did, but,
22 I mean, your statement in terms of overstatement. He's
23 testified that they don't consider it an overstatement.
24 You can say that you certified more than what the
25 verifier indicated were on the petition.

1 MR. MUELLER: All right. You've got the
2 point, Judge. I'll move on. If I may move to admit
3 16, 17, and 18.

4 THE COURT: Any objection?

5 MR. MILLER: No, Your Honor.

6 MR. GORDON: No objection.

7 THE COURT: Okay. Those will be admitted.

8 (Whereupon, Plaintiff's Exhibits 16, 17, & 18
9 admitted into evidence.)

10 Q. (By Mr. Mueller) Now, sir, I want to
11 understand something, if I could. If you could draw
12 your summary sheet back on the witness stand.

13 Now, you can verify if a signature is on the
14 database, can you not? You can look up and see if
15 someone's a registered voter?

16 A. As long as I know who the voter is, yes.

17 Q. Yes, sir. But there's a more difficult
18 problem to determine if there's duplicates. Correct?

19 A. I wouldn't say that it's more difficult, no.

20 Q. Well, let me ask you a question, sir. Your
21 petition says there are how many duplicate signatures
22 on your sample?

23 A. I don't have that sheet in front of me.

24 Q. Yes, you do.

25 A. Oh, this? Okay. This is the same as our

1 certification results.

2 Q. And your sample of 500 says there was how
3 many duplicate signatures detected by your team?

4 A. The line that I'm reading says, "valid
5 duplicate on petition."

6 Q. Yes, sir.

7 A. My certificate of results specifically states
8 how many there would be.

9 Q. And how many was that number, sir?

10 A. On this document it's seven.

11 Q. Seven.

12 Seven. And that's what you certified as
13 there was seven duplicates and you took that off of the
14 valid total. Correct?

15 A. That's what I certified. I don't have my
16 certification of results in front of me.

17 Q. All right. Now --

18 MR. MUELLER: Ready to proceed, Judge.

19 THE COURT: Yes.

20 Q. (By Mr. Mueller) Sir, what methodology is in
21 place to determine if there is a duplicate signature?

22 A. The staffer would identify -- once they have
23 the initial voter in the system, the system identifies
24 a duplicate as they proceed through the verification.

25 Q. Is there any possible way that the system is

1 not as effective at determining duplicates?

2 A. Not that I know of.

3 Q. Not that you know of. How is it that the
4 system checks for duplicates?

5 A. It's the staffer's step in the process to
6 enter line by line what they see in the petition
7 document.

8 Q. Okay.

9 A. The first time they enter somebody who's in
10 the document, then that goes in as whether it's valid
11 or invalid for whatever reason. If it appears again,
12 it would be a staffer who entered that information into
13 the system and it matched what was already there.

14 Q. Okay. Let me draw your attention -- you've
15 got your list on the witness stand, sir?

16 A. Yes, I do.

17 Q. All right. Let's just pick one of these at
18 random. Can you go to Page 40, signature Line 1.
19 Petition 40, signature Line 1?

20 A. Signature Line 1?

21 Q. Yes, sir. Can you read the name there, sir?

22 A. Grunts, Thomas Christopher.

23 Q. And did you indicate that that was a valid
24 signature?

25 A. The status code is "duplicate."

1 Q. All right. So you can detect duplicates.
2 Correct? I mean there is a methodology in place for
3 detecting duplicates?

4 A. Yes.

5 Q. All right. So there was a duplicate there.
6 Now, let's go to -- let's go to petition 147,
7 Line 10. Do you recognize that name, sir?

8 A. Do I recognize it? No. I can read it.

9 Q. Can you read it, please.

10 A. Hampton, Ruby.

11 Q. And what's the indication of the sample?

12 A. The status code is "okay."

13 Q. Okay. Now, sir, I want to show you a copy of
14 petition 74, Line 10.

15 MR. MUELLER: Madam Clerk, may I have this
16 marked?

17 Counsel, 19 is Petition 74, Line 10.

18 MR. GORDON: What line, Craig, I'm sorry?

19 MR. MUELLER: I'm looking at Line 10 is what
20 I'm interested in.

21 May I approach?

22 THE COURT: Yes, you may.

23 Q. (By Mr. Mueller) Sir, I'm showing you
24 Petition 74, Line 10. Do you see that document, sir?
25 If you could turn it over to Line 10.

1 A. Yes.

2 Q. All right. Can you read that name off?

3 A. Ruby L. Hampton.

4 Q. Now, that was the same name that you just
5 said was okay and not a duplicate a moment ago.

6 A. Because it wasn't in the sample.

7 Q. It wasn't in the sample. So your sample
8 didn't detect a duplicate?

9 A. We weren't required to review anything other
10 than the sample.

11 Q. All right. But you did. You actually used
12 her signature as a valid signature and then --

13 A. Because it appeared one time in the sample.
14 We were only required statutorily to review the random
15 sample unless instructed by the secretary of state to
16 go to full verification.

17 Q. All right. So you would agree then, sir,
18 that your methodology leaves duplicate signatures
19 potentially undetected?

20 A. No, sir, I do not.

21 Q. Okay. Well, let's go look at a few other
22 petitions.

23 MR. MUELLER: May I move to admit, Judge?

24 THE COURT: Any objection?

25 MR. MILLER: No, Your Honor.

1 MR. GORDON: No objection.

2 (Whereupon, Plaintiff's Exhibit 19 admitted
3 into evidence.)

4 THE COURT: It will be admitted.

5 Q. (By Mr. Mueller) Sir, if you would go to
6 Petition 1, Line 3, please.

7 A. Petition 1, Line 3, for Jackson, Mary Alice?

8 Q. Yes, sir. What did you and your office say
9 was okay with the status on that?

10 A. Status is okay on that.

11 Q. All right. Were you aware that Ms. Jackson
12 actually signed three times?

13 A. If it was in the sample then we should have
14 been.

15 MR. MUELLER: Madam Clerk, may I have these
16 stapled and marked? Okay. We'll just take this one.

17 Q. (By Mr. Mueller) All right. Showing you
18 Petition 4, sir, Exhibit 16.

19 A. Which line?

20 Q. One moment. Eighteen.

21 A. That is not in the sample, sir.

22 Q. All right. You would agree that that's a
23 duplicate to a signature that you consider valid?

24 A. And we're comparing it to document 1, Line 3?

25 Q. Yes.

1 A. And we're looking at -- just to be certain,
2 you're looking at document 4, which line?

3 Q. Eighteen.

4 A. Eighteen. It does appear to be Mary Jackson.

5 Q. All right.

6 MR. MUELLER: And if I could have petition
7 No. 124 marked as the next in sequence, Madam Clerk,
8 sorry.

9 May I approach?

10 THE COURT: Yes, you may.

11 Q. (By Mr. Mueller) I'm assuming you know
12 Ms. Jackson's handwriting, you can now recognize it?

13 A. No, I wouldn't say so. What do you mean
14 recognize it? Are you referring to a line?

15 Q. Here's petition No. 124, drawing your
16 attention to Line 24 please, sir. And can you just
17 give the name on that one?

18 A. This is the document 124, and what line are
19 you asking me to refer to?

20 Q. Twenty-four.

21 A. That appears to be a Mary L. Jackson.

22 Q. All right, sir. And that was considered a
23 valid and in the count a valid signature despite that
24 it was actually triplicate. Correct?

25 A. No. You're assuming that it was a

1 triplicate. There could be more than one Mary Jackson
2 in the system.

3 Q. Sir, please look at all three of those
4 handwritings. Do you have all three of the petitions
5 up there?

6 A. You're asking me to tell you whether I think
7 they are the same?

8 Q. Yes, sir.

9 A. Can you please remind me on document 4 which
10 line I was looking at?

11 Q. Eighteen.

12 A. No, at first glance, I would say it's not the
13 same.

14 Q. What's the address listed on all these of
15 those addresses sir?

16 A. 505, it looks like, Recco Avenue. 505 Recco
17 Avenue, they're the same. That doesn't mean it's not a
18 mother and a daughter.

19 Q. All right. So Mary L. Jackson has got the
20 same address, appears three different times and this
21 went undetected by your office when you did the
22 verification?

23 A. No, it did not go undetected. It wasn't in
24 the sample and this one I'm saying is a different
25 person. In my household I have two people with two

1 identical names and in a petition they would appear to
2 be same person, Joe Gloria and Joe Gloria; my son and
3 myself.

4 MR. MUELLER: Move to admit, Judge, 20.

5 THE COURT: I'm sorry. What number?

6 MR. MUELLER: Twenty.

7 THE COURT: There's two documents there.

8 THE CLERK: Yeah, this is 16.

9 THE COURT: Do you think any objection?

10 MR. MILLER: No, Your Honor.

11 MR. GORDON: No objection.

12 (Whereupon, Plaintiff's Exhibit 20 admitted
13 into evidence.)

14 Q. (By Mr. Mueller) Now, when you got the raw
15 count, sir, did anybody go through before you picked
16 the random sample to see if the signatures were
17 duplicates before you picked the 500?

18 A. No, sir. We just identify lines that appear
19 to us to be good.

20 Q. All right. So in using your systematology
21 there could be whole-scale large amounts of duplicate
22 signatures and if they didn't happen to pick up in your
23 random seven you would never have noticed it?

24 A. Statistically speaking, that's not true.

25 Q. It assumes that statistically speaking that

1 the 500 samples were in fact random. Correct, sir?

2 A. That is correct.

3 Q. Now --

4 A. Within a margin of error.

5 Q. I understand, sir. I'm familiar with margin
6 of error. My question for you, sir, is: Why didn't
7 you check for duplicates before you ran your
8 statistical sample?

9 A. That's not the process, sir. We look at
10 lines that appear to be valid and then we draw a
11 statistical sample.

12 Q. Sir, this wasn't hundreds of thousands of
13 signatures, sir. It was 2700.

14 A. The statute is clear, sir, 5 percent or 500.

15 Q. Let me ask you a question. You took how long
16 to do all 500 signatures?

17 A. It took us a day.

18 Q. A day?

19 A. Yes. And then we took the step to verify all
20 of those signatures on a totally separate day to be
21 sure we were doing good work.

22 Q. All right. And it would have taken, what,
23 another day to do all 2700?

24 A. Sir, we're not in the habit of making up
25 rules. We follow the statutes as well as we can.

1 Q. All right. But you didn't. Now, let me ask
2 you a question. Did you -- or who put the numbers on
3 these petitions, the sequence 1 through 159?

4 A. My staff did. They do on every petition
5 we've done since the early '90s.

6 Q. Your staff put them on there; nobody else
7 did?

8 A. If you're referring to the number that's at
9 the top of each document?

10 Q. Yes, sir.

11 A. Then that number is put on by staff, yes.

12 Q. All right. Now, I thought the statute says
13 the clerk wasn't to receive petitions that were not
14 numbered?

15 A. They were numbered, each page of each
16 document, sequentially one through four. Again, I cite
17 NAC 293.182.

18 Q. Let me ask you another question, sir. Do
19 you -- the statute requires that the petitions be
20 notarized, do they not?

21 A. That is one of the requirements.

22 Q. All right.

23 MR. MUELLER: Madam Clerk, there should be
24 one through five somewhere.

25 Q. (By Mr. Mueller) Ninety-two, sir, being

1 notarized and attested to is an important function of a
2 signature recall. Correct? Procedures need to be --

3 A. As far as requirements for the document as
4 they're being submitted, yes, sir.

5 Q. All right. And you would agree that the
6 potential for shenanigans and problems is great. So
7 the statute's designed to protect --

8 A. That's your characterization. I don't
9 believe that people in good faith are doing anything
10 illegal.

11 Q. Sir, I'm showing you at the bottom of
12 Page 117, drawing your attention to that document.

13 MR. MILLER: Which document?

14 MR. MUELLER: 117.

15 THE WITNESS: This is 117.

16 Q. (By Mr. Mueller) Drawing your attention to
17 the bottom of that document, sir. Do you see anything
18 unusual about that?

19 A. Can you tell me in particular what you're
20 asking?

21 Q. Who notarized it as being true and accurate,
22 sir?

23 A. Notary public or person authorized to
24 administrate the oath. Are you asking me if --

25 Q. Is there a notary stamp on that document,

1 sir?

2 A. There doesn't appear to be. I don't know if
3 there was a problem with duplication.

4 Q. All right. There's no notary stamp on that
5 document. Correct?

6 A. There does not appear to be.

7 Q. Now, petitions that are not notarized are not
8 to be accepted, are they?

9 A. If we can verify that the notary is licensed
10 then we would accept the document. If they are listed
11 with the secretary of state then we would do research
12 on that to make sure to see if that individual had, in
13 fact, been a notary.

14 Q. Is there a notary stamp on that document?

15 A. I do not see one. I don't know if that's a
16 problem with duplication. This is a copy of the
17 original.

18 Q. Sir, if you could get you to look at your
19 random sample. How many signatures were accepted on
20 page -- on Petition 117 and included in your random
21 sample?

22 A. Five.

23 Q. Five. So that's five on your random sample
24 that on a document that should not have been counted
25 towards the signatures because it's not properly

1 notarized?

2 A. By looking at this document I can't tell you
3 whether or not that stamp should or should not be
4 there. This is a copy. I'm assuming that there may
5 have been a problem with duplication. But, again, I
6 would stress that my staff would be instructed to
7 verify whether or not the notary public was, in fact,
8 listed as a notary.

9 Q. All right. Well, let me ask you a question,
10 sir. Did you bring any notes with you regarding this
11 particular recall effort?

12 A. No, I did not.

13 Q. Do you have any recollection of somebody
14 saying, Hey, boss, I got one of these petitions that
15 doesn't appear to be notarized.

16 Do you remember dealing with this issue or
17 does it just escape detection completely?

18 A. I do not -- not to my level, it could have
19 gone to mine or Cathy or Richard.

20 Q. All right. How many people were actually
21 counting these signatures, sir?

22 A. Counting the signatures?

23 Q. Yes, sir.

24 A. Entered into the system?

25 Q. Yep.

1 A. Could have been as many as five or six.

2 Q. All right.

3 MR. MUELLER: May I get the Court's
4 indulgence for just a moment?

5 THE COURT: Sure.

6 Q. (By Mr. Mueller) Now, sir, your office is
7 that of a referee, an umpire. Correct?

8 A. We're the custodians of the record.

9 Q. But you're an umpire. You're not a partisan
10 party in any regards?

11 A. I'm not a partisan, that would be correct.

12 Q. Okay. Your job is not to help the petition,
13 or defeat the petition. Your job is just to call the
14 balls and strikes. Correct?

15 A. That's correct, sir, to the best of our
16 abilities.

17 Q. Now, sir, when you go through and look at
18 signatures and they don't match or the names don't
19 match, what is supposed to be done?

20 A. If a frontline staffer identifies a signature
21 that's questionable, we fill out assertion and send
22 that to a supervisor for review.

23 Q. Drawing your attention, sir, and since it's
24 already up -- you got it right there. I'll stick on
25 the same petitions. Go to petition 4, Line 3.

1 A. I don't have petition 4 with me.

2 Q. You have your summary there, do you not?

3 A. No. You said petition. You mean the report?

4 Q. The report, yes, sir.

5 A. Page 4, document 4. What line?

6 Q. Three.

7 A. Okay. I have it.

8 Q. And what was the name that was certified
9 there?

10 A. Ethel L. Randolph.

11 Q. Ethel L. Randolph.

12 MR. MUELLER: Sir, may I approach, Your
13 Honor?

14 THE COURT: Yes.

15 Q. (By Mr. Mueller) Petition 4, signature Line
16 3, do you see that, sir?

17 A. Yes, I do.

18 Q. That doesn't say Ethel L. Randolph, does it,
19 sir? It's actually just a little squiggle.

20 A. You can determine the name by the signature.

21 Q. How did that little signature become Ethel L.
22 Randolph?

23 A. Because if we can identify that the signature
24 matches what's in the system for 2244 Revere Street,
25 and then we can also corroborate that they voted in the

1 2011 general, still live in Las Vegas, and are
2 currently registered, then that collection of
3 information indicates to us that that would be a good
4 signature. And since the signature matched all of
5 those other variables we counted it.

6 Q. Sir, you would agree that by looking at
7 document 4, Line 3 that any person disinclined to be
8 interested in this thing can't read that signature and
9 can't make a name out?

10 A. No, I wouldn't agree.

11 Q. That little bitty squiggle is a signature, a
12 name?

13 A. I would say that my staffer, if they're doing
14 their job, would have looked at that signature and
15 would have been able to do the research to qualify this
16 signature, that's what I would say.

17 Q. That's what becomes a signature?

18 A. You're talking about the name. The signature
19 is not a squiggle. It's a full signature and it
20 matched what we had in the system.

21 Q. Drawing your --

22 THE COURT: What line are you looking at on?

23 MR. MUELLER: Line 3, Judge.

24 THE WITNESS: I believe it's 4, Line 3,
25 Judge.

1 THE COURT: Thank you.

2 Q. (By Mr. Mueller) And, sir, what was the name
3 that you gave credit to and put in that spot?

4 A. Four, Line 3. Ethel L. Randolph.

5 Q. All right. And it's signed Davis. How did
6 you get Randolph there?

7 A. Ethel L. Randolph. I can't explain why it
8 says Ethel L. Randolph, but I can tell how you what the
9 procedure would be.

10 Q. Thank you, sir. May I have the exhibit back,
11 please?

12 THE CLERK: It's Exhibit No. 16.

13 MR. MUELLER: Okay. Thank you, Madam Clerk.

14 Judge, do you have petition 21 and 104,
15 please?

16 Thank you, Steve. Twenty-one and 104 we'll
17 have these marked as the next two.

18 Q. (By Mr. Mueller) Sir, drawing your attention
19 to your random sample printout. Can you look at the
20 signatures accepted off of petition 21?

21 A. I don't have petition 21 in front of me.

22 Q. No, sir. Your random sample, the list of
23 signatures accepted off of 21. Random sample.

24 A. Twenty-one. Page 21, Line 2?

25 Q. Yes, sir.

1 A. Is that what your referring to?

2 Q. Yes, sir. And do you see Line 2 on your
3 report there, sir?

4 A. I see the reference for Page 21, Line 2.

5 Q. And what was the name that was accepted as
6 valid on that page?

7 A. It's listed a Kiss, Setsuko.

8 Q. Kiss, correct, is the last name?

9 A. That's what I'm seeing on the report.

10 Q. All right. Showing you what's been marked
11 Plaintiff's 21, petition 21, draw your attention to
12 Line 2. What's the last name there, sir?

13 A. It appears to be Stickles.

14 Q. Stickles, that's not the same name. Correct,
15 sir?

16 A. No, it is not.

17 THE COURT: Sir, what petition are you
18 looking at again?

19 THE WITNESS: It's document 21, Line 2.

20 THE COURT: Thank you.

21 MR. MUELLER: Also Plaintiff's Exhibit 21.

22 THE COURT: Plaintiff's -- oh, both.

23 MR. MUELLER: Both yes, sir.

24 THE COURT: Okay.

25 MR. MUELLER: Move to admit Plaintiff's 21.

1 THE COURT: Any objection?

2 MR. GORDON: No objection, Your Honor.

3 THE COURT: We'll admit it.

4 (Whereupon, Plaintiff's Exhibit 21 admitted
5 into evidence.)

6 Q. (By Mr. Mueller) Drawing your attention to
7 document 104, sir, can you go to Line 8?

8 A. 108 [sic], Line 8?

9 Q. Yes, sir.

10 A. It appears to be Marks, Levon Gene.

11 Q. All right. And you accepted that as a valid
12 signature. Correct?

13 A. According to this document, yes.

14 Q. Showing you Petitioner Exhibit 22, document
15 petition No. 104. Will you check that?

16 A. You showed me 108.

17 Q. I'm sorry. It's getting late. 104. 104,
18 Line 8.

19 A. It appears to be Jefferson, Jenny Lee.

20 Q. And what is it signed on the petition, sir?

21 A. Jenny Edwards.

22 Q. Edwards, thank you.

23 Now, do you know why the name was changed or
24 why you accepted a different name than the one that was
25 on the petition?

1 A. It could have been a matter of a change of
2 address or a name change and the system wasn't updated
3 at the moment. There are many explanations. It can be
4 made without accessing the data directly, but it was
5 verified twice, and so I stand by what they verified as
6 valid.

7 Q. By whom, sir? Do you have any notes?

8 A. By my staff.

9 Q. By your staff?

10 THE COURT: What line is that again?

11 MR. MUELLER: That was petition 108, Line 8.

12 THE COURT: Okay. Thank you.

13 MR. GORDON: That's 104, Your Honor.

14 MR. MUELLER: I'm sorry. 104, Line 8. If I
15 can get the Court's indulgence for just a moment.

16 Q. (By Mr. Mueller) Sir, one last question in
17 this vein. If you could turn to the last petition,
18 petition 159.

19 A. Yes.

20 Q. And if I could get you to look at signature
21 Line 13?

22 A. Yes.

23 Q. And what does your petition say is the name
24 that you accepted as valid on that?

25 A. We did not, sir. Did you say 159, Line 13?

1 Q. Yes, sir.

2 A. We did not accept that as valid.

3 Q. What is the name on there, sir?

4 A. Tony, Joyce.

5 Q. Now, why was that not valid?

6 A. "Signature required."

7 Q. Showing you Petition 159. Take a look at
8 that for me, sir.

9 A. Okay, I see it.

10 Q. Yes, sir. Now, there's actually a signature
11 there?

12 A. That's correct.

13 Q. Okay. Now, the name that you accepted was,
14 what, that was on your sample recall sample?

15 A. Tony, Joyce.

16 Q. All right. And what was the actual signature
17 name?

18 A. It appears to be Jocelyn Chaney.

19 MR. MUELLER: I move to admit 159.

20 THE COURT: Any objection?

21 MR. GORDON: No objection.

22 THE COURT: Okay. It will be admitted.

23 MR. MUELLER: Move to admit Plaintiff's
24 Exhibit 22, Petition 104.

25 (Whereupon, Plaintiff's Exhibit 22 admitted

1 into evidence.)

2 Q. (By Mr. Mueller) Sir, did you have any
3 discussions with Mr. Miller before testifying today?

4 A. Yes, we did.

5 Q. All right. And when and where did you meet
6 with Mr. Miller?

7 A. Mr. Miller asked to meet with me and my staff
8 at my location.

9 Q. All right. And did you in fact do so?

10 A. Yes, we did.

11 Q. And when was that, sir?

12 A. It was last week some time. I don't know of
13 the date.

14 Q. All right. Now, did you meet with Mr. Miller
15 because he was the former Secretary of State or because
16 you would meet with any attorney who called you?

17 A. I would meet with any attorney who called me.

18 Q. All right. And what was the purpose of this
19 meeting, sir?

20 A. They wanted to go over some questions that
21 they had related to the petition.

22 Q. Okay. And did Mr. Miller suggest any answers
23 to you?

24 A. No, he did not.

25 Q. All right. What other staff members did you

1 meet with?

2 A. What other staffers did I meet with?

3 Q. Did he meet with?

4 A. With my registration supervisor and my
5 assistant registrar of voters.

6 Q. And did he ask you about anything in
7 particular?

8 A. There were various issues related to the
9 petition, not unlike the questions you're asking.

10 Q. Did he ask you why the numbers -- why the
11 petitions were accepted without numbers on them?

12 A. No, he did not I don't believe. Don't recall
13 that question being asked.

14 Q. And, sir, just one or two last questions and
15 I'll let you go.

16 Do you have any evidence at all that you or
17 anybody from the government attempted to notify Judge
18 Ramsey to come down and observe these signatures being
19 verified?

20 A. Do I have any evidence?

21 Q. Do you have any --

22 A. I mean we have string of documentation that
23 the city clerk that you were sent --

24 Q. Yes, sir. Okay.

25 A. -- as far as the notification, what came from

1 the secretary of state. I have a copy of that
2 document.

3 MR. MUELLER: May I approach, Your Honor?

4 THE COURT: Yes.

5 Q. (By Mr. Mueller) Showing you Plaintiff's 1,
6 sir, do you recognize -- you said the City Clerk
7 notified Judge Ramsey when the verification process was
8 going to be?

9 A. I -- okay. I see the document.

10 Q. All right. By 9:30 on Monday morning it was
11 already over with. Correct?

12 A. No.

13 Q. You had already gone through and -- verified
14 and gone through the signatures. Correct?

15 A. No. We were in the second step of our
16 process, as I communicated earlier.

17 Q. Which was what?

18 A. To go through and do a double-check on all of
19 the work that we had done.

20 Q. Double-check. The work was already done by
21 the time --

22 A. It's not done until we do the verification,
23 the second verification.

24 Q. Yes, sir. But the fact of the matter was,
25 there was nobody from Judge Ramsey's campaign when you

1 guys were going through these signature originally?

2 A. The request wasn't made to my office to be
3 there.

4 Q. All right. I have no --

5 A. And there was no one there on Friday.

6 MR. MUELLER: I have nothing further.

7 THE COURT: All right. I assume you have
8 some questions, Mr. Miller?

9 MR. MILLER: I'll try to keep it as brief
10 as --

11 THE COURT: Let me -- I think my staff --
12 it's been two hours. I'm going to have to let them
13 have a bathroom break.

14 MR. MILLER: Fair enough.

15 THE COURT: I don't know. I'm guessing, just
16 from experience, that they're probably going to need to
17 take a bathroom break so let's take ten minutes.

18 THE MARSHAL: All rise.

19 (A brief recess was taken from 3:02 p.m.
20 until 3:14 p.m.)

21 THE MARSHAL: All rise. Come to order.

22 THE COURT: Please be seated. Thank you.

23 All right. Mr. Miller, whenever you're
24 ready.

25 MR. MILLER: All right. I'll try to be

1 brief, Your Honor.

2 THE COURT: I'm looking forward to your
3 succinct exam.

4 MR. MILLER: Okay. I'm hoping I'm reading
5 the tea leaves correctly and I'll work with my best
6 diligence to do that.

7 THE COURT: Do what you need to do.

8 MR. MILLER: All right.

9 CROSS-EXAMINATION

10 BY MR. MILLER:

11 Q. Mr. Gloria, I want to talk to you a little
12 bit about the random sample and get an understanding of
13 how that process works.

14 Can you describe in general how that random
15 sample is generated when this petition comes in to the
16 system?

17 A. Well, we base it on the number of signatures
18 that are submitted and the statute has us call for
19 5 percent or 500 signatures, whichever is greater. The
20 system generates that random sample, utilizing an
21 algorithm, as I mentioned, that gives each sample one
22 and only one opportunity to be selected.

23 Q. This is a computerized system that you've had
24 in place in the Clark County Elections Department; is
25 that correct?

1 A. Since the early 2000s.

2 Q. Since the early 2000s. And that system was
3 certified by the secretary of state's office?

4 A. Yes, sir.

5 Q. And so, how does the random process work? Do
6 you input all of the names or do you input lines or can
7 you describe that process as to how you input the
8 information in order for the system to select those 500
9 lines?

10 A. They go through and they enter each line in
11 the petition by document number, which would be page in
12 our system on the reports, and then the line number.
13 So a staffer has to take each one of those and enter
14 them in the system for them to be recognized, but it's
15 just -- they just indicate which lines are used. They
16 don't actually enter any of the names. It's just
17 document 1, Lines 1 through 10 and so on.

18 Q. All right. And so we're clear, you're only
19 entering in the page number that your office was
20 provided and the line that would be selected, there's
21 no additional information as to --

22 A. No, not at that point.

23 Q. Sorry. Let me finish the question.

24 Nothing additional that would relate to the
25 signature or the address or any of the other

1 verification process that would take place; is that
2 right?

3 A. That is correct.

4 Q. Okay. And why is it set up that way as
5 opposed to making any kind of verification before the
6 random sample is generated?

7 A. Because we'd be doing work that would be
8 unnecessary. We're waiting to see what the sample is,
9 which is what we're statutorily required to go in and
10 review.

11 Q. And when you determine which lines you're
12 going to actually qualify as being eligible to enter
13 into the system, what criteria do you use to make that
14 determination?

15 A. As far as the lines that are selected in the
16 system?

17 Q. Yes, sir.

18 A. Or each individual staffer as they entered it
19 in; is that what you're asking?

20 Q. Yes, sir.

21 A. We take the report that's generated from the
22 system on the random sample and our staffer then goes
23 in and identifies those lines and then begins to enter
24 the information for the actual voter as they see it in
25 the petition.

1 Q. Okay. But let me back you up.

2 When you first generate the raw count, you
3 begin to look at each individual signature line to
4 determine whether -- how many signatures in sum total
5 were selected; is that right?

6 A. That's correct. For the raw count, just the
7 number of lines.

8 Q. Right. And then you then go in and make a
9 determination as to how many signatures you want to
10 select to be eligible for the overall random sampling;
11 is that right?

12 A. Yes.

13 Q. Okay. And so we heard testimony that related
14 to specific lines where some portion may not have been
15 filled out, in some instances it was simply a
16 signature, in some instances it may have been an
17 address. What criteria do you use in determining
18 whether or not those lines would be included as part of
19 the random sampling?

20 A. Basically, if there's information there that
21 my staff can read, then they consider that as a line
22 that should be included in the sample.

23 Q. Okay. All right. But all of the entries in
24 the entire petition are given a fair opportunity to be
25 included; is that correct?

1 A. Correct.

2 Q. I want to talk to you about the page
3 numbering issue and how these are numbered.

4 How many petitions would you estimate that
5 you've overseen since you've been involved with
6 elections here in Clark County?

7 A. Overseen as the registrar, we had two very
8 big petitions turned in last year with the gun and the
9 marijuana. We had a recall for Hambrick and you also
10 had the Ramsey recall. Before that, I'd been involved
11 with the work involved with each petition on many
12 dating back to the late '90s.

13 Q. Okay. And so how many would you estimate in
14 sum total have you been involved in?

15 A. Thirty to forty.

16 Q. Okay. So it's fair to say you're pretty
17 experienced with this process. Is that a yes?

18 A. Yes.

19 Q. Okay. And you're familiar that the secretary
20 of state puts out a guide as to how these petitions
21 should be submitted; is that right?

22 A. Yes. They're required to.

23 Q. Okay. And per that requirement, that also
24 includes a form that these groups in many instances use
25 in order to circulate; is that right?

1 A. Yes.

2 Q. Okay. Was this particular petition that
3 we're talking about today submitted in substantially
4 the same form as that guide?

5 A. Yes, it was.

6 Q. Okay. And in terms of the way that the
7 documents were numbered, is that consistent with how
8 other petitions have been submitted in previous
9 instances?

10 A. Every single petition that's been submitted
11 to our office is handled in the same way. It's the
12 only way that we can keep order in the system.

13 Q. Okay. But in terms of the specific
14 numbering, that they would submit a document which may
15 consist of a number of pages and only numbering one --
16 pages one through four in this instance -- is that
17 consistent with how other petitions have been numbered?

18 A. Yes, that is consistent.

19 Q. Okay. And would that seem to make sense
20 based on your experience as to the -- those documents
21 being numbered in that fashion?

22 A. Yes, it would.

23 Q. And why is that?

24 A. Because as -- if you print up your petition
25 and hand it out, you have many circulators out in the

1 field who are working. There's no guarantee that
2 they're going to use each one of those books, whether
3 they use a portion or all of them. And so, when they
4 turn those in, they would be out of sequence and of
5 absolutely no use to us.

6 Q. And you see that in some instances; is that
7 correct? Where different circulators would come into
8 your office and convene at the same time and present
9 their documents all at the same time, but they may not
10 be numbered sequentially or Bates-stamped, as it would
11 be?

12 A. Yes, I've seen.

13 Q. And there are also instances where you may
14 have a statewide petition; is that right?

15 A. Yes.

16 Q. And those petitions would be required to be
17 submitted in 17 counties?

18 A. That's correct, according to petition
19 district.

20 Q. And so, in that instance, it would be
21 impractical, if not impossible, to Bates stamp those
22 documents from one through the entirety of the
23 document; is that right?

24 A. I would lean towards impossible.

25 Q. Okay. I want to direct your attention to the

1 testimony relating to the notification and whether or
2 not the subject of the recall was given a fair
3 opportunity to witness the process.

4 When do you believe you were first contacted
5 by a representative of Judge Ramsey notifying you that
6 they wanted to be involved and witness the process?

7 A. In the afternoon on the 29th of May.

8 Q. Okay. And when did the verification actually
9 occur, beginning?

10 A. The verification started, according to our
11 system, at 8:40 a.m. on the 29th.

12 Q. On Friday the 29th?

13 A. Friday, the 29th of May.

14 Q. Okay. Nobody had reached out to you at any
15 point prior to that date?

16 A. No, not at that point.

17 Q. Okay. You're aware that there are a series
18 of statutes involved in a recall that require some
19 governmental agency to notify the subject of a recall
20 that a petition has been filed; is that right?

21 A. That's correct.

22 Q. And you're aware that there are also
23 notifications that occur -- that occur when the recall
24 petition is turned in; is that correct?

25 A. Yes, that's correct.

1 Q. And when you are, in fact, the filing office,
2 although you weren't in this case, do you in fact
3 notify those parties under that statute?

4 A. Yes.

5 Q. Okay. And is it your understanding that
6 those notifications took place in this case?

7 A. Yes, it is.

8 Q. Okay. But at any point, did anybody from
9 Judge Ramsey, through that lengthy process, contact
10 you?

11 A. No.

12 Q. Okay. How long does a group have in order to
13 circulate these petitions?

14 A. From the notice -- date of the notice of
15 intent they have 90 days.

16 Q. Okay. And so on this instance they had at
17 least 90 days in order to circulate and turn in this
18 petition; is that right?

19 A. Yes.

20 Q. At no point in those 90 days did anybody from
21 Judge Ramsey's office notify you that when the
22 verification was to take place that they wanted to
23 witness the process?

24 A. Not my office.

25 Q. Okay. But you're not aware of any request

1 made on her behalf?

2 A. I am not.

3 Q. Okay. And I want to direct your attention to
4 when the verification was actually taking place. You,
5 I believe, testified that they had a fair opportunity
6 to view that process; is that right?

7 A. Yes.

8 Q. Was that substantially the same process that
9 took place on Friday?

10 A. Yes.

11 Q. Okay. So they had a fair opportunity to
12 watch the same process that occurred on Friday, in fact
13 happen on Monday as well; is that right?

14 A. That is correct.

15 Q. Okay. And how many representatives do you
16 recall being there on behalf of Judge Ramsey?

17 A. That Monday, I recall three.

18 Q. And did you in any way inhibit their ability
19 to watch the verification process?

20 A. No, we did. We walked with them and walked
21 them back to the site and encouraged to them to ask
22 questions.

23 Q. Okay. And did they have any questions?

24 A. Not of me directly. After reviewing with my
25 staff, they didn't have any questions for them.

1 Q. Were you aware of any objections that they
2 raised as to how the process --

3 A. No.

4 Q. Sorry.

5 Were you aware of any objections that they
6 raised as to how the process was proceeding?

7 A. No.

8 Q. Okay. But they were able to witness the
9 signature verification to make sure that the signatures
10 matched; is that right?

11 A. They were able to witness the entire process.

12 Q. That would include the signatures that are on
13 file which are the signatures that were submitted?

14 A. That's correct.

15 Q. That would include the ability to verify the
16 same addresses; is that right?

17 A. That's correct.

18 Q. Okay. I want to direct your attention to a
19 series of specific petitions that you were asked to
20 testify about. Are those exhibits up there or . . .

21 A. I have the report, that's all that I have.

22 MR. MILLER: I'm looking for a document 116
23 and 117.

24 Q. (By Mr. Miller) I'll direct your attention
25 again to Plaintiff's Exhibit No. 5, which is document

1 117. And you were asked to specifically testify about
2 the notarization relating to the affidavit of the
3 circulator. Do you recall that?

4 A. Yes, I do recall that.

5 Q. Okay. And whether or not there was a notary
6 stamp that was attached; is that correct?

7 A. That's correct.

8 Q. Okay. And I believe you testified that the
9 intent from your office and the process that's in place
10 is to make sure and check that the notary is in fact a
11 licensed notary with the secretary of state's office;
12 is that right?

13 A. That's correct.

14 Q. Okay. And you may do that by looking, you
15 testified, at other documents; is that correct?

16 A. That's correct.

17 Q. All right. I want to direct your attention
18 to document 116, which is the document that immediately
19 precedes Plaintiff's Exhibit 5, that is included in
20 Defense's Exhibit 2.

21 Do you see the Affidavit of Circulator
22 attached on that document?

23 A. I do.

24 Q. Okay. And on the bottom here it says,
25 subscribed and sworn to affirm for me, and then it

1 lists the date, and there's a signature by the notary
2 public. Do you notice that?

3 A. I do.

4 Q. Okay. And this one, in fact, does have a
5 stamp; is that correct?

6 A. That is correct.

7 Q. Whereas the one on document 117 does not have
8 the notary stamp?

9 A. Yes.

10 Q. Okay. Can you compare the signatures that on
11 are file with document 116 to those on 117?

12 A. I can.

13 Q. Okay. And what's your assessment of the
14 comparison of those signatures?

15 A. They appear to be the same person.

16 Q. Okay. And so your process would allow for
17 some evaluation of that type; is that right?

18 A. Yes, that's correct.

19 Q. Okay. So even though it may not have the
20 document -- the notary's stamp to verify that they are,
21 in fact, a licensed notary you can conclude in other
22 context other documents noted by the same notary?

23 A. That's correct.

24 Q. Okay. So in this instance, does it appear to
25 you that Gabriella Fernandez is the same notary that

1 notarized the documents in documents 116 is the same
2 notary that also signed under the statute on -- on
3 document 117?

4 A. Yes.

5 Q. Thank you.

6 You heard a lot of testimony relating to
7 different names that may have been included --
8 signatures that may have been signed differently
9 than -- than those registered names; is that right?

10 A. Yes, sir.

11 Q. Okay. And when you go through that process
12 what is the purpose in trying to verify the individual
13 signatures and make those comparisons?

14 A. We want to make sure that the people are who
15 could actually be in the system, but our underlining
16 goal is always to try to enfranchise those who have
17 signed the petition not disenfranchise.

18 Q. Okay. But this is the same safeguard that is
19 in place in comparing signatures that we have at the
20 ballot box; is that correct?

21 A. That is correct.

22 Q. Okay. And oftentimes a voter may change
23 their name or write their name in a different way, that
24 they could have married and not updated it, et cetera,
25 but the signature, so long as the signature is the same

1 that's what controls; is that right?

2 A. That's correct. And my staff has the benefit
3 by having the system in front of them of having all the
4 affidavits that that particular voter has submitted
5 over a period, since they've been in the system. I do
6 not at this point.

7 Q. Okay. So explain that for me. When you're
8 reviewing it and undertaking this process, if the name
9 is not listed in exactly the same way, what other
10 evidence would your staff look at in trying to make a
11 determination as to whether or not this was the same
12 individual or whether or not any fraud may have been
13 involved?

14 A. We would look at past records. The first
15 thing that we'd do is to ensure that they'd meet the
16 minimum requirements. If they voted in the 2011
17 general, that they still reside within the City of
18 North Las Vegas, and that they are currently
19 registered. But then we can look at the affidavits in
20 the system that they've previously signed and
21 submitted. Those are also -- we're authorized to use
22 those as records as well.

23 Q. Okay. So if they had previously submitted an
24 affidavit that listed a different variation of their
25 printed name, you could look at that in context; is

1 that correct?

2 A. That's correct.

3 Q. Okay. And does that happen regularly in an
4 instance like this, where you've got many signatures on
5 a petition that you would look at those documents and
6 try to make an assessment?

7 A. Yes, it does, on a regular basis.

8 Q. Okay. But you wouldn't approve any signature
9 as valid if you believe that there was any indication
10 that there may be any fraud involved; is that right?

11 A. Certainly not.

12 Q. And, in fact, you rejected a number of
13 signatures on that basis in this petition, didn't you?

14 A. Yes, we did.

15 Q. Okay. You indicated that at the conclusion
16 of your process you generated a certificate of results
17 of signature examination; is that correct?

18 A. Yes. We did as required.

19 Q. I have in my hand a copy of proposed
20 Defendant's Exhibit 3. Would you look at a copy of
21 that document?

22 A. Yes.

23 Q. Okay. Is that, in fact, a certificate of
24 results that you prepared according to this process?

25 A. This is the document that was submitted.

1 Q. Okay. What does that document establish?

2 A. This establishes the random sample and the
3 results of that random sample and what's reported to
4 the secretary of state to give them the information
5 they need to deem it as qualified or not qualified.

6 Q. Okay. And was that prepared in the ordinary
7 course of business?

8 A. Yes, it was.

9 MR. MILLER: All right. Your Honor, I'd move
10 for the admission of Defense Exhibit 3.

11 MR. MUELLER: No objection.

12 THE COURT: It will be admitted.

13 (Whereupon, Defendant's Exhibit 3 admitted
14 into evidence.)

15 Q. (By Mr. Miller) And in looking at that
16 document, there in fact were a record of a number of
17 signatures within the random sample --

18 A. Within the random sample, yes.

19 Q. -- that were rejected.

20 How many in total were rejected?

21 A. Eighty.

22 Q. Okay. Relating back to the random sample and
23 how that is generated, you obviously have an approach
24 that if anything is included on any of the signature
25 lines that then is included as a signature that could

1 possibly be included as part of the 500 signatures that
2 you have to select; is that right?

3 A. Yes.

4 Q. Okay. Now, if an individual just put an
5 address on that line, that ultimately wouldn't meet the
6 verification process; is that right?

7 A. No, not at that point.

8 Q. Okay. So if they didn't include a signature
9 at all on that line, it wouldn't be included; is that
10 right?

11 A. No.

12 Q. And you were asked to testify about a number
13 of instances where something had been crossed out
14 entirely where the lines clearly weren't met; is that
15 right?

16 A. Right.

17 Q. Okay. But you nevertheless included those as
18 part of the random sample; is that correct?

19 A. Yes.

20 Q. And some of those were included and then
21 rejected; is that right?

22 A. That's correct.

23 Q. But statistically speaking, by including
24 those, what's the end result of that?

25 A. Well, that makes it harder to qualify the

1 petition, the more the signatures.

2 Q. Okay. So from the petition circulator's
3 perspective, they would prefer not to have that
4 included; is that correct?

5 A. Yes.

6 Q. Okay. Because including those in the random
7 sample and then denying those actually would result in
8 a lower percentage of qualification; is that right?

9 A. That's correct.

10 Q. Okay. You've said that -- you testified that
11 you've been involved in 40 or 50 petitions overall
12 during the course of the career?

13 A. I think it was 30 to 40.

14 Q. 30 to 40, I apologize. 30 to 40 petitions,
15 all right.

16 You've seen quite a few?

17 A. Yes.

18 Q. How overall did this petition compare to
19 other petitions that had been circulated in terms of --

20 MR. MUELLER: Objection.

21 Q. (By Mr. Miller) -- following the
22 requirements?

23 THE COURT: I'm not sure I understand the
24 question.

25 MR. MILLER: I'll restate.

1 THE COURT: I'll sustain it on --

2 MR. MILLER: All right.

3 Q. (By Mr. Miller) You've seen 40 or other -- 30
4 to 40 other petitions that have been submitted.

5 A. Yes.

6 Q. Through the course of your career.

7 In terms of following the procedures, how
8 would you characterize this petition relative to the 30
9 to 40 others that you've been involved with?

10 A. This was a petition of very high quality.

11 Q. It was fairly clean?

12 A. It was fairly clean and I state that on the
13 fact that, keep in mind that statutory we're required
14 to have 5 percent or 500, the mere fact that we had 500
15 means that that represents nearly 20 percent of the
16 total petition, which means it's more stringent with a
17 smaller number of signatures that were provided and the
18 fact that they came back at 84 percent puts them in a
19 class by themselves really.

20 MR. MILLER: Okay. Thank you.

21 I have nothing further.

22 THE COURT: Okay. Well, hold on, Mr.
23 Mueller.

24 Mr. Gordon.

25 MR. MUELLER: Oh, sorry.

1 MR. GORDON: Thank you just.

2 THE CLERK: Mr. Miller, excuse me, may I get
3 the exhibit?

4 MR. MILLER: I'm sorry.

5 THE CLERK: I need Exhibit 3.

6 MR. MUELLER: Judge, I left my verification
7 list on the witness stand, may I get it from the
8 witness stand?

9 THE COURT: Yes.

10 CROSS-EXAMINATION

11 BY MR. GORDON:

12 Q. Hello, Mr. Gloria.

13 A. Hello.

14 Q. I just have a few brief questions for you.

15 MR. GORDON: Your Honor, I'd like to show the
16 witness a document. May I approach the witness?

17 THE COURT: Sure.

18 MR. GORDON: And it's Bates-numbered, I don't
19 know if the Court has this electronic, it
20 Bates-numbered CNLV35 and I have a hard copy if that
21 would help.

22 THE COURT: You mean this is terms of what
23 you provided?

24 MR. GORDON: Yes. It was what was part of
25 our initial disclosures produced last Thursday but I

1 have a hard copy, Your Honor.

2 THE COURT: Okay.

3 MR. GORDON: That I can show you.

4 THE COURT: What's the Bates Number?

5 MR. GORDON: It is Bates Number CNLV35.

6 THE COURT: I'm not sure I do.

7 MR. MUELLER: May I see it before the Judge
8 does.

9 MR. GORDON: Yeah, sure.

10 I have a copy here you go, Your Honor.

11 THE COURT: Thank you.

12 MR. GORDON: You're welcome.

13 THE COURT: Is this mine for now or do you
14 need it back?

15 MR. GORDON: You can keep it.

16 May I approach the witness, Your Honor?

17 THE COURT: Sure.

18 Q. (By Mr. Gordon) Okay. Mr. Gloria.

19 A. Yes, sir.

20 Q. I'm going to ask you a few questions about
21 what's marked as CNLV35.

22 MR. MUELLER: Objection. Lack of foundation.
23 If he knows anything about the document.

24 MR. GORDON: We'll get there, yeah.

25 Q. (By Mr. Gordon) Mr. Gloria, have you seen

1 this document before?

2 A. I have.

3 Q. Okay. Are you cc'd on this document?

4 A. Yes.

5 Q. Okay. And based on your review of the
6 document, who is this document addressed to?

7 A. Catherine Ramsey.

8 Q. And who does it appear is the author of this
9 document?

10 A. Barbara Andolina.

11 Q. Okay. Would you please --

12 MR. MUELLER: Objection, Judge. Ms. Andolina
13 was on the stand, if she would be the proper witness to
14 authenticate this document.

15 THE COURT: I'll let it go, but I mean I --
16 she probably would have been the better person.

17 MR. GORDON: She would have and she's
18 actually, if the Court would like, we can get her on
19 the phone. She has some fact issues but -- but we can
20 get her on the phone. As a recipient of the document,
21 though, I think I can ask about certainly Mr. Gloria's
22 understanding of what this document conveys. He was
23 also a recipient.

24 THE COURT: Mr. Mueller, I mean, are you
25 contesting whether or not this notice was actually

1 prepared by Ms. Andolina and sent out by her?

2 MR. MUELLER: Well, she did -- respectfully,
3 Judge, she didn't mention it at all during her
4 testimony. In fact, the only document that came out
5 was the e-mail and it doesn't take a lot of thought to
6 realize that this document wouldn't have been received
7 by nobody until after this recall was completed anyway
8 or that recount was.

9 THE COURT: No. I understand what you're
10 saying, I was --

11 MR. MUELLER: Well, with those provisos,
12 Judge, I don't want to delay the afternoon. We've got
13 a lot of work to do yet.

14 Q. (By Mr. Gordon) And so, Mr. Gloria, who does
15 it appear authored this document?

16 A. Clerk Barbara Andolina.

17 Q. Okay. And would you review the first
18 sentence of this letter?

19 A. Would you like me to read it out loud or just
20 review it?

21 Q. You can read it aloud.

22 A. "In accordance with the Nevada administrative
23 Court of Appeals 6.023, I am notifying you that a
24 petition to recall Catherine Ramsey was submitted to
25 the City Clerk's Office today for signature

1 verification."

2 Q. And what is the date of that letter?

3 A. May 28th, 2015.

4 Q. Do you have any reason to believe that Judge
5 Ramsey did not receive this letter?

6 MR. MUELLER: Objection. That calls for
7 speculation from the witness who drafted this letter
8 who was on the witness stand.

9 This is a guy who just --

10 THE COURT: I'm going to sustain that one.

11 MR. GORDON: Sure.

12 Q. (By Mr. Gordon) Okay. And, Mr. Gloria, do
13 you recall Mr. Mueller asking you some questions about
14 certain squiggles and lines that --

15 A. Yes, I do.

16 Q. -- that appeared in the petition?

17 And Mr. Mueller was -- was questioning you
18 about whether those signatures where there appears to
19 be a squiggle or a line were counted in your sample.
20 Do you recall that, that questioning?

21 A. Yes, I do.

22 Q. And are you familiar, Mr. Gloria, with what
23 Nevada law requires if an individual wants to remove
24 their name from a petition?

25 A. They need to submit a request in writing.

1 Q. And do you recall specifically with regard to
2 this petition whether you received any written requests
3 for the removal of a name?

4 A. We did not.

5 MR. GORDON: I have no further questions,
6 Your Honor. Thank you.

7 THE COURT: Okay. Thank you.
8 Mr. Mueller?

9 MR. MUELLER: Your Honor, thank you.

10 REDIRECT EXAMINATION

11 BY MR. MUELLER:

12 Q. Sir, I thought you said that you were an
13 umpire, calling the balls and strikes, that's the words
14 you used when I asked you on direct examination. Do
15 you remember that?

16 A. I believe they were your words.

17 Q. Okay. I put them in your mouth. Do they
18 sound about right, though?

19 A. I'm a nonpartisan officer.

20 Q. Then why is this dramatic policy in favor of
21 enfranchising voters instead of disenfranchising them.
22 I found that nowhere in the statute books.

23 Who told you that you should enfranchise or
24 disenfranchise?

25 A. It's what we've done for a long time, that

1 the policy that's been in place for a long time.

2 Q. So that is what made you take such dramatic
3 efforts to save signatures that were crossed out, to
4 save signatures that were duplicated, to save
5 signatures that matched. You were trying to make the
6 signatures work?

7 A. It's an evolving process. There are court
8 cases that take place and we use those court cases in
9 decisions to bolster what we're doing as well.

10 Q. And it was this policy of disenfranchisement
11 that allowed you to count the 25 signatures that were
12 on the petition that wasn't verified?

13 A. I don't know which signatures you're
14 referring to.

15 Q. Petition 117, the one that wasn't notarized?

16 A. The one that was not notarized. I think I
17 explained to you that we have a policy to verify
18 whether or not we can determine that that notary is in
19 fact a notary.

20 Q. So the answer is yes, that was part of your
21 enfranchise policy to include those 25 signatures?

22 MR. GORDON: Objection. Mischaracterizes
23 testimony.

24 THE WITNESS: I don't have a written
25 enfranchise policy. I don't know what you're referring

1 to.

2 MR. MUELLER: All right, sir.

3 May I see 3? I didn't realize -- Defendant's

4 3.

5 May I approach?

6 THE COURT: Yes.

7 Q. (By Mr. Mueller) Sir, you took a random
8 sample or you believe you took a random sample of 500
9 signatures. Correct?

10 A. We took a random sample of 500. That's
11 correct.

12 Q. All right. Well, and at that point you came
13 up with a number and you multiplied it by the total.
14 Correct?

15 A. I don't follow you.

16 Q. Well, you received a gross of 2700
17 signatures, did you not?

18 A. Yes. But what does that have to do with the
19 500?

20 Q. Sir, it's my questioning, please.

21 A. Okay.

22 Q. Now, you took 84 percent and you multiplied
23 it 2700. Correct?

24 A. No, we did not.

25 Q. What is the exact number that you qualified,

1 signatures?

2 A. Of the random sample? 84 percent were valid.

3 Q. All right. So you multiplied 84 by 2700 and
4 that's what you got as the representative sample
5 sufficient to qualify this petition?

6 A. No, that has nothing to do with the other.
7 You're not generating the numbers correctly.

8 Q. All right. Let me ask you a question, sir.
9 How many valid signatures did you estimate were in this
10 sample submitted to your office?

11 A. We didn't estimate. The numbers are right
12 here on paper. It's 84 percent.

13 Q. All right. You multiplied 84 times 2700 and
14 came up with --

15 A. To get the total number?

16 Q. Yes, sir.

17 A. Yes, that's correct.

18 Q. Okay. Now, I'm showing you your sample
19 again. What exactly is a blank line on that sample?

20 MR. MILLER: I'm sorry, Your Honor, which
21 exhibit are we referring to?

22 MR. MUELLER: This is the summary sheet of
23 his results, this is his 500 random sample.

24 THE COURT: Yeah. For the record, though, we
25 should have it -- what exhibit is it?

1 MR. MUELLER: Sure. I'll put it in the
2 record if you'd like, Judge, you're absolutely right.

3 Madam clerk, may I have this marked. This is
4 the document entitled Clark County Election Department
5 Random Sample Petition Signers Detail List, and I
6 believe it would be the next in sequence.

7 THE COURT: That's not already been entered
8 in?

9 MR. MUELLER: I believe they already have,
10 that's why I didn't ask for it to be admitted, but for
11 the record I will make it complete and I'll put a copy
12 of mine. I know they've introduced it, Judge.

13 THE COURT: What about the notes and is that
14 part of the original?

15 Show it to Mr. Miller.

16 MR. MUELLER: Sure, just a hard copy.

17 MR. MILLER: I believe this is Defense
18 Exhibit 2, Your Honor.

19 THE COURT: I mean, if it's already been
20 admitted, I'd rather just use Defense Exhibit 2.

21 MR. MUELLER: No problem at all.

22 THE COURT: I have Defense Exhibit 2? That's
23 why I've been looking at -- hold on.

24 Is this what you're referring to?

25 MR. MUELLER: Yes, sir. That's the exact

1 same document. Here's your copy of it.

2 MS. McCARTY: Where are we?

3 MR. MUELLER: Defense Exhibit 2.

4 May I approach?

5 THE COURT: Yes.

6 Q. (By Mr. Mueller) Sir, showing you Defense
7 Exhibit 2 for identification, Page 3, on the list of
8 lines between Jose Castro and Carl D. Johnson, there's
9 a blank line. What is the significance of that blank
10 line?

11 A. Referring to Page 8, Line 16?

12 Q. Yes, sir.

13 A. I'd have to see the -- can I see the exhibit?

14 Q. Well, why is there a blank line? Shouldn't
15 there be a list of 500 names that have been verified?

16 A. I'd have to look at the document to tell me
17 why, but the code that's entered here is "not
18 registered."

19 Q. Sir, I like you to go ahead and flip through
20 that page and find out how many more blank lines are on
21 that Defense Exhibit 2.

22 A. You want me to flip through the entire
23 document?

24 Q. Yes, sir. Just count the blank lines where
25 there's supposed to be names.

1 A. I see four.

2 Q. Four. Now, why is there four blank lines?

3 A. In each case they're listed as not
4 registered.

5 Q. Why is their name not there?

6 A. Can I see the document?

7 Q. Do you know why the name --

8 A. Can I see the petition?

9 Q. Sir, do you know why the name is not there?

10 A. Not without looking at the document, I do
11 not.

12 Q. All right. So were they people included or
13 not included in your 500-hundred person sample?

14 A. If it's in the report then they were
15 included.

16 Q. But their names are not there?

17 A. Not in the report, no they're not.

18 Q. So did you check 500 or 496?

19 A. We checked 500.

20 Q. But you don't know why the blanks are there?

21 A. Sir, if I show me the documents I can tell
22 you why the blanks are there. Without seeing the
23 documents I don't have all 500 blanks.

24 Q. Go to petition 8.

25 A. Petition 8.

1 Q. Line 16.

2 A. Petition 8, Line 16, yes.

3 Q. All right. Is there a name there?

4 A. No.

5 MR. MUELLER: Madam Clerk, may I have this
6 marked?

7 THE CLERK: This will be 25.

8 Q. (By Mr. Mueller) Okay. Corresponding to the
9 blank line, sir, showing you what's been marked as --

10 A. Eight, 16. Okay. Since the information is
11 here I can tell you that reason the line is blank is
12 because it's not in the system, so there's no data to
13 draw on that record. There would be nothing to put on
14 the record. It's not registered.

15 Q. Then why was that person's name put on there?

16 A. Because we could see the name and we didn't
17 know until we went through and we did the verification.

18 Q. But shouldn't they have been on the 500
19 sample as not registered?

20 A. Yes, because when we went through, as
21 Mr. Miller pointed out, when we initially put the lines
22 in we just look at the lines and look at what appears
23 to be valid. We don't know until we actually go
24 through and do the verification after the sample is
25 drawn.

1 Q. All right. Now, let me ask you another
2 question, sir. Why were the duplicate signatures not
3 taken out of the sample before you did a 500-signature
4 verification?

5 MR. GORDON: Objection. Asked and answered.

6 THE COURT: It has been but I'll let you ask
7 it one more time.

8 THE WITNESS: Why were they not taken out?

9 Q. (By Mr. Mueller) Yes, sir.

10 A. Because they were a line that my staff
11 identified that could be valid so we included it in the
12 sample.

13 Q. Could be valid. That would have changed the
14 outcome of the amount of certified signatures if the
15 duplicates had been taken out before the 500 sample was
16 taken. Correct?

17 A. If they'd been taken out beforehand would it
18 have increased?

19 Q. It would have decreased, dramatically
20 decreased this petition drive, wouldn't it?

21 A. If it had been a smaller number the sample
22 would have been 500 conceivably.

23 MR. MUELLER: Nothing further.

24 THE COURT: Mr. Miller or Mr. Gordon?

25 MR. MUELLER: And move to admit that last

1 petition, Judge, I believe it's 28.

2 THE COURT: Any objection?

3 THE CLERK: Twenty-four.

4 MR. MILLER: You're moving to admit the
5 one -- okay. Got it.

6 THE COURT: I'll admit it.

7 MR. MILLER: No objection.

8 (Whereupon, Plaintiff's Exhibit 24 admitted
9 into evidence.)

10 RECROSS-EXAMINATION

11 BY MR. MILLER:

12 Q. Document 8, Line 16, there is, in fact, a
13 name and address included on that; is that correct?

14 A. Yes.

15 Q. And for that purpose it would have been
16 included as part of a name that could be collected as
17 of the random sample; is that right?

18 A. That is correct, because we were at a step in
19 the process before the secretary of state has asked us
20 to verify. It's the raw count. It's defined in the
21 statute.

22 Q. Okay. And so that was in fact included in
23 the random sample; is that correct?

24 A. Yes.

25 Q. You attempted to locate whether or not this

1 was a registered voter?

2 A. We did.

3 Q. And what was the result?

4 A. There was no entry in the system, which is
5 why the dotted line was there. There's no data for the
6 report to draw from.

7 Q. All right. But it nevertheless was included
8 as part of the random sample and rejected; is that
9 right?

10 A. That's correct.

11 Q. Which worked against the sufficiency of the
12 petition?

13 A. Conceivably, that is the case.

14 Q. Okay. When you talk about 420 names, that
15 name was not included as part of the 420 valid
16 signatures?

17 A. No, it was rejected.

18 Q. This document that we're talking about,
19 Defense Exhibit 2, that's just an internal document
20 that you use; is that right?

21 A. Yes.

22 Q. Okay. There's no statutory requirement to
23 put that document in place; is that correct?

24 A. No.

25 Q. The purpose of that document is to assist in

1 your process; is that correct?

2 A. That's right.

3 Q. Okay. So there is no direct procedures in
4 place or requirements that every line has to be filled
5 out; is that right?

6 A. Right.

7 Q. Okay. So it would be analogous to notes that
8 you use in the process in order to make the final
9 determination?

10 A. Yes.

11 Q. And just very briefly, did you at any point
12 direct anybody that they would be unable to witness the
13 verification process?

14 A. No, I did not.

15 Q. And would that be against your policy to do
16 so?

17 A. Certainly so. And it would be shooting
18 myself in the foot, there's no reason why we wouldn't
19 want as many people who wanted to witness the process.

20 MR. MILLER: Okay. Nothing further.

21 MR. GORDON: Nothing further, Your Honor.

22 THE COURT: Mr. Mueller?

23 Mr. Gloria, I just had one -- a couple
24 questions.

25 THE WITNESS: Yes, sir.

1 THE COURT: In terms of the process on Friday
2 you've -- the day after the petition?

3 THE WITNESS: On the 29th of May.

4 THE COURT: Twenty-ninth, yes.

5 THE WITNESS: Yes.

6 THE COURT: You indicated that you started
7 the verification process around 8:40 a.m.?

8 THE WITNESS: That's what's logged in the
9 system.

10 THE COURT: All right. When did you finish
11 up we'll say step one for that day?

12 THE WITNESS: Step one for that day was
13 finished according to the system at 1:53 p.m.

14 THE COURT: At 1:53 p.m.?

15 THE WITNESS: Yes.

16 THE COURT: Okay. And then it didn't start
17 again until Monday at 9:30?

18 THE WITNESS: Monday at 9:30, which we had
19 communicated to Mr. Burdish.

20 THE COURT: Okay. All right.

21 Does that generate new questions by anybody?

22 MR. MUELLER: No, Your Honor.

23 THE COURT: Okay. Mr. Gloria, thank you very
24 much for coming down and testifying here today. I
25 appreciate your time.

1 Mr. Mueller, do you have anybody else?

2 MR. MUELLER: Your Honor, pursuant to the
3 conversation we had on Monday, I have presented all the
4 evidence that we've asked for.

5 THE COURT: All right. Anybody on your side,
6 Mr. Miller, Mr. Gordon?

7 MR. MILLER: Judge, just to preserve the
8 record, if we give us latitude to call one witness. I
9 promise I can get it done in maybe three questions.

10 THE COURT: Okay.

11 MR. MILLER: As I talked about just to talk
12 about the duplication.

13 THE COURT: It's late. It's the Friday
14 before the holiday weekend, but this is important so
15 you aren't limited to three questions.

16 MR. MILLER: Thank you.

17 THE COURT: Do what you need to do.

18 MR. MILLER: Okay.

19 THE COURT: But I'd prefer you not to do more
20 than that.

21 MR. MILLER: I understand, Judge. Thank you.
22 We'll called Lauren Paglini.

23 MR. MUELLER: I'm sorry what was that name,
24 sir?

25 MR. MILLER: Lauren Paglini.

1 THE COURT: Ms. Paglini, come up here stand
2 for just a minute and our clerk will swear you in.

3 THE WITNESS: No problem.

4 THE CLERK: Please raise your right hand.
5 Whereupon,

6 LAUREN PAGLINI,
7 having been sworn to testify to the truth, the whole
8 truth, and nothing but the truth, was examined and
9 testified under oath as follows:

10 THE WITNESS: I do.

11 THE CLERK: Please be seated. Please state
12 your name and spell your first and last name for the
13 record.

14 THE WITNESS: First name L-a-u-r-e-n, Lauren.
15 Last name Paglini, P-a-g-l-i-n-i.

16 THE COURT: All right. Mr. Miller, go ahead.

17 DIRECT EXAMINATION

18 BY MR. MILLER:

19 Q. Good afternoon. Are you currently a law
20 student?

21 A. Yes.

22 Q. Okay. And what year?

23 A. I'm a rising three so I just finished my
24 second year.

25 Q. And what school do you attend?

1 A. American University, Washington College of
2 Law.

3 Q. And are you currently involved in an
4 internship or an externship with my law firm?

5 A. Correct.

6 Q. Okay. And as part of work for the summer
7 have you been involved in the case on the Committee to
8 Recall Judge Ramsey?

9 A. Yes.

10 Q. Okay. And as part of that work, were you
11 asked by a representative of our office to get engaged
12 on a review of the verification of signatures?

13 A. Yes.

14 Q. Okay. I want to direct your attention
15 specifically to work that you conducted in order to
16 find out whether or not there were any duplicates --

17 A. Yes.

18 Q. -- included in that petition.

19 Can you describe briefly what process you
20 undertook, how far you got, and what the results were?

21 A. Yeah. So I had a printed copy of all of the
22 petitions. They were a little disorganized between --
23 they went through the books from Page 1 through 4, but
24 then book numbers were a little out of order. But then
25 I took each petition and I put them in alphabetical

1 order by names as they came in. And I got through
2 1,173 names and in those 1,173 names I had 16
3 duplicates.

4 Q. Okay. And did you also find some duplicates
5 that you believed that were not duplicates where you
6 were referencing the report?

7 A. Yeah. For example, I can't remember the
8 exact name but there was one name where the last
9 name -- the last name and the first name added up but
10 there was a junior and a senior and those were counted
11 as duplicates but they shouldn't have been and they had
12 different addresses.

13 Q. Okay. So just to be clear, they were counted
14 as duplicates in the overall report but you don't
15 believe, based on you evaluation, they should have been
16 counted as duplicates?

17 A. Correct, because the senior and junior were
18 different and addresses as well.

19 MR. MILLER: Thank you.

20 Nothing further, Judge.

21 THE COURT: I said you really could have got
22 that done in three questions.

23 MR. MILLER: It was pretty close. Right?

24 THE COURT: Well, all right.

25 Mr. Gordon, do you want to question?

1 MR. GORDON: No questions for this witness.

2 THE COURT: Mr. Mueller?

3 CROSS-EXAMINATION

4 BY MR. MUELLER:

5 Q. You didn't question -- you did not go through
6 all signatures, then?

7 A. No, I only got about to -- I only got to
8 1,173.

9 Q. And you said you were a little confused and
10 were having difficulties because the petitions were not
11 in order?

12 A. Well, the way they came, they just were
13 printed out by PDF document and it would say -- it
14 would say like it came from book No. 1 or book No. 4 or
15 book No. 3, but it only went up to 1, 2, 3, 4.

16 Q. So they weren't handed you to you in
17 sequential order 1 through 159?

18 A. The ones that I was -- I received they were
19 not Bates-stamped.

20 MR. MUELLER: Okay. Nothing further.

21 THE COURT: All right. Anything in response?

22 MR. MILLER: No, Judge, thank you.

23 THE COURT: All right. Thank you, ma'am.

24 THE WITNESS: Thank you.

25 THE COURT: Appreciate your time.

1 All right. Anything else, Mr. Miller,
2 Mr. Gordon?

3 MR. GORDON: Your Honor, we can get Barbara
4 Andolina on the phone. I don't know if it's -- if we
5 will find that testimony helpful or not.

6 THE COURT: I guess, you know, if she's going
7 to say that she like faxed this or called or something
8 like that, yes, I find it helpful, but if it's going to
9 be I just put a letter in the mailbox on Thursday, the
10 28th, I don't think that's going to add.

11 MR. GORDON: Then I think it may be helpful
12 so.

13 MR. MUELLER: Well, I'm more than happy to
14 help me colleague here or at least cooperate with my
15 colleague here, will he offer a stipulation that the
16 City North Las Vegas is, in fact, closed on Fridays and
17 was closed for business on the 29th of May.

18 THE COURT: I mean --

19 MR. GORDON: The City, I think it's fairly
20 well known that the City is closed on Friday, the 29th,
21 but the notification was on the 28th.

22 MR. MUELLER: There being a stipulation, we'd
23 ask the Court to take judicial notice that the City of
24 North Las Vegas was closed for business on the 29th of
25 May.

1 THE COURT: That's okay. Unless there's any
2 objection I don't have a problem taking notice, I mean,
3 of that fact.

4 MR. GORDON: I don't know that it's fairly
5 well known, Your Honor, so I don't think --

6 THE COURT: Yeah, I mean that's what I heard.
7 I've never gone down to the offices on Fridays but, all
8 right.

9 So do you think that we can?

10 MR. GORDON: Yeah. She's available. If we
11 can call her and put her on, it will be very limited,
12 Your Honor, just to that notification of Judge Ramsey.

13 (Pause in the proceedings.)

14 UNIDENTIFIED SPEAKER: Good afternoon. City
15 Clerk's Office. May I help you?

16 MR. GORDON: Yes. This is Richard Gordon.
17 May I be connected with Barbara Andolina?

18 UNIDENTIFIED SPEAKER: Is she expecting your
19 call?

20 MR. GORDON: She is.

21 UNIDENTIFIED SPEAKER: She is.

22 Richard. Right?

23 MR. GORDON: Correct.

24 UNIDENTIFIED SPEAKER: Give me just a second.
25 Yes. Thank you for holding, sir.

1 MS. ANDOLINA: Hey, Rick.

2 MR. GORDON: Hello, Barbara.

3 MS. ANDOLINA: Hey, let me put you on
4 speakerphone. I've got Sandra in here with me.

5 MR. GORDON: Okay.

6 THE COURT: Why don't you make sure she
7 understands what's happening at the moment.

8 MR. GORDON: Yes. I think counsel already --

9 Yes. Barbara, we're in the court and we're
10 going to put you under oath again.

11 MR. MUELLER: Your Honor, if I understood
12 right, she's got an attorney standing next to her. If
13 the attorney would step outside of the office, please.

14 THE COURT: I don't see any need. I'm going
15 to trust that the attorney's not going to do any hand
16 signals or anything like that. Who is the attorney?

17 MR. GORDON: Sandra Douglass-Morgan, city
18 attorney for North Las Vegas.

19 THE COURT: All right.

20 MR. MUELLER: The woman who once --

21 THE COURT: All right. I'm not going to make
22 her. I assume she can hear me.

23 MS. DOUGLASS-MORGAN: Yes, Your Honor. This
24 Sandra Morgan. And if you want me to leave the room,
25 I'd be glad to do so.

1 THE COURT: No. I mean, I will rely on you
2 as an officer of the court that you're not going to
3 talk, pass notes, signal, or, essentially, do any type
4 of communication to assist Ms. Andolina in her
5 testimony.

6 MS. DOUGLASS-MORGAN: Of course not.

7 MR. MUELLER: For the record, Judge, we
8 object.

9 THE COURT: All right.

10 MR. GORDON: Okay.

11 THE COURT: Go ahead and swear in
12 Ms. Andolina.

13 THE CLERK: Okay. Ms. Andolina please raise
14 your right hand.

15 Whereupon,

16 BARBARA ANDOLINA,
17 having been sworn to testify to the truth, the whole
18 truth, and nothing but the truth, was examined and
19 testified under oath as follows:

20 THE WITNESS: I do.

21 THE CLERK: Please state your name and spell
22 your first and last name for the record.

23 THE WITNESS: My name is Barbara Andolina,
24 B-a-r-b-a-r-a. Last name, Andolina, A-n, D like
25 "David" o-l-i-n-a.

1 THE CLERK: Thank you.

2 THE COURT: Go ahead, Mr. Gordon.

3 DIRECT EXAMINATION

4 BY MR. GORDON:

5 Q. Thank you, Ms. Andolina. I only have a few
6 questions for you today. When you were here on Monday
7 you testified already about the process of receiving
8 the petition and then the steps you took to deliver the
9 petition to the county clerk.

10 Do you recall that testimony?

11 A. I do.

12 Q. My question -- today I'd like to talk to you
13 about what you did to notify Judge Ramsey.

14 Did you notify Judge Ramsey that the petition
15 was going to be sent to the Clark County -- to Clark
16 County?

17 A. Yes, I did.

18 Q. And how did you notify Judge Ramsey?

19 A. There was a letter that was sent to Judge
20 Ramsey. It was dated May the 28th. The letter was
21 sent out via FedEx, it was overnighted and delivered
22 the next day. I also sent an e-mail to Judge Ramsey
23 with the same information.

24 Q. And when did you send that e-mail to Judge
25 Ramsey?

1 A. On May the 28th.

2 Q. Did you receive any kind of return receipt
3 indicating that the e-mail was not received?

4 A. No, I did not.

5 Q. And in your letter of May 28th, did you
6 advise Judge Ramsey that the signature verification
7 process would be beginning?

8 A. What I notified her was that the petition was
9 received and that it would be delivered to the Clark
10 County registrar to begin the raw count process.

11 Q. Okay.

12 A. That's the first process in the verification
13 process.

14 Q. Okay. Okay. And, again, that was sent on
15 May 28th. Correct?

16 A. That is correct.

17 MR. GORDON: Okay. I have no further
18 questions for you.

19 THE WITNESS: Thank you.

20 THE COURT: Mr. Mueller, are you going to go
21 next?

22 CROSS-EXAMINATION

23 BY MR. MUELLER:

24 Q. Ma'am, are you there?

25 A. Yes.

1 Q. Why was it necessary then to send an e-mail
2 at 5:47 a.m. on the 1st of June, on Monday, if you sent
3 out a FedEx and an e-mail on Thursday afternoon?

4 A. The e-mail on Thursday afternoon and the
5 letter on Thursday afternoon was to advise the judge
6 that the petition had been received and that I was
7 delivering it in accordance to the -- the NRS and the
8 NAC to the Clark County Registrar of Voters so that the
9 raw count process would begin.

10 Q. Did either that e-mail which -- or that
11 letter say when and how to go down and observe it?

12 A. No. This was specifically addressing that
13 the raw count would begin and that's the first stage of
14 the signature verification process.

15 Q. You would agree that you actually told her in
16 the e-mail that you brought in to live court that it was
17 going to be 9:30 on Monday morning. Correct?

18 A. What was sent to her Monday morning --

19 Q. Ma'am, will you answer my question.

20 A. Yes. Can you repeat it again, please?

21 Q. The e-mail you sent to her said that the
22 verification was going to be done 9:30 Monday morning.
23 Correct?

24 A. That's what I was advised, yes.

25 Q. And that's what you told Judge Ramsey.

1 Correct?

2 A. In the e-mail, yes.

3 Q. You didn't produce the other e-mail, the
4 Thursday afternoon e-mail, when you were in court here,
5 did you?

6 A. It was not brought -- no one introduced it to
7 me, no.

8 MR. MUELLER: Nothing further.

9 THE WITNESS: Nobody asked me question.

10 THE COURT: Mr. Miller, do you have anything?

11 MR. MILLER: I do not, Your Honor.

12 THE COURT: Mr. Gordon, any redirect?

13 REDIRECT EXAMINATION

14 BY MR. GORDON:

15 Q. The only additional question, Ms. Andolina,
16 is in your letter of May 28th, do you recall that
17 letter specifically?

18 A. Yes, I have a copy of it in front of me.

19 Q. Okay. And would you just read the first
20 sentence of that letter?

21 A. "In accordance with the Nevada Administration
22 Code 306.023, I am notifying you that a petition to
23 recall judge -- to recall Catherine Ramsey was
24 submitted to the city clerk's office today for
25 signature verification."

1 Q. And so you did indicate on May 28th that the
2 signature verification process was beginning; is that
3 correct?

4 A. I indicated that the petition was received
5 and needed to be sent over for the signature
6 verification process which is done through the
7 registrar of voters, but the letter also includes that
8 the first thing that they would do is begin the raw
9 count process.

10 MR. GORDON: Yep. Thank you.

11 No further questions.

12 THE WITNESS: You're welcome.

13 THE COURT: Anything else, Mr. Mueller?

14 MR. MUELLER: No.

15 THE COURT: Mr. Miller?

16 MR. MILLER: No, Your Honor.

17 THE COURT: Ms. Andolina, one question. In
18 terms of the last sentence where it says per NRS
19 293.1276 subsection 1, this process must be completed
20 in four working days after today's date which is
21 June 3rd, 2015.

22 THE WITNESS: Correct.

23 THE COURT: What process are you talking
24 about? The raw count process or what?

25 THE WITNESS: The raw count process, sir.

1 THE COURT: Okay. All right.

2 Did that generate any questions by anybody?

3 RECROSS-EXAMINATION

4 BY MR. MUELLER:

5 Q. Ma'am, the raw count process is different
6 from the verification process. Correct?

7 A. Yes, it is.

8 MR. MUELLER: Nothing further.

9 THE COURT: Okay. Anything else?

10 MR. MILLER: No, Your Honor.

11 THE COURT: Go ahead, Mr. Gordon.

12 FURTHER REDIRECT EXAMINATION

13 BY MR. GORDON:

14 Q. Just one final question, Ms. Andolina. Did
15 Judge Ramsey -- after you e-mailed her on May 28th and
16 sent this letter on May 28th, when was the next time
17 that Judge Ramsey contacted you?

18 A. She contacted me on June the 3rd and
19 requested a copy of the petition.

20 Q. So between May 28th and June 3rd Judge Ramsey
21 did not contact you at all regarding this process?

22 A. That is correct.

23 MR. GORDON: Okay. Nothing further.

24 THE COURT: Does that generate anything on
25 your side?

1 MR. MUELLER: No, Your Honor.

2 THE COURT: Mr. Miller?

3 MR. MILLER: No, Your Honor.

4 THE COURT: Let me just make sure I'm clear
5 in terms of Judge Ramsey didn't contact you from the
6 28th to the 3rd. Did anybody from her -- and I'm
7 trying to remember back to your testimony on Monday,
8 did anyone indicating they were representing her
9 contact you from the 28th to the 3rd?

10 THE WITNESS: They did not, Judge.

11 THE COURT: Okay. Did that generate
12 anything?

13 MR. MILLER: Thank you.

14 CROSS-EXAMINATION

15 BY MR. MILLER:

16 Q. Thank you. You initially sent out a notice
17 to Judge Ramsey that she was the subject of a recall
18 petition when that was first filed; is that correct?

19 A. Are you -- is someone asking me the question?

20 THE COURT: Yes.

21 THE WITNESS: I did not hear that. Could you
22 repeat it please?

23 Q. (By Mr. Miller) Sure. When the recall -- the
24 notice of recall was first filed you said Judge Ramsey
25 had notice that that process had begun; is that

1 correct?

2 A. You're talking about the notice of intent?

3 Q. Yes.

4 A. Yes, that was back on March the 11th.

5 Q. Okay. Between March the 11th and the date
6 that the petition was submitted, did Judge Ramsey or
7 any representative of Judge Ramsey reach out to you to
8 want to be involved in witnessing the verification
9 process?

10 A. No. Judge Ramsey contacted me on April the
11 30th and that was by telephone and she had asked what
12 the wording of the petition contained.

13 Q. Okay. But at no point prior to the first
14 instance that you talked about, did anybody contact you
15 to make attempts to coordinate to witness the
16 verification process?

17 A. No. No one contacted me at all.

18 MR. MILLER: Thank you.

19 THE COURT: All right. Go around again.

20 Mr. Gordon?

21 MR. GORDON: No. No more questions.

22 THE COURT: Mr. Mueller?

23 FURTHER RECROSS-EXAMINATION

24 BY MR. MUELLER:

25 Q. Ma'am, do you know John Jackson?

1 A. I know of John Jackson. I know he was here
2 the day that the petition came in on May the 28th.

3 Q. And did you have a conversation or did you
4 have any interaction with Mr. Jackson?

5 A. The only interaction was he was here prior to
6 the petition being received. He said he was here to
7 get a copy of the petition and I said I had not been
8 given the petition at that point in time.

9 Q. And he expressed interest to you in the
10 petition, being notified about it, and getting a copy
11 of it. Correct?

12 A. He asked -- he said he would be interested in
13 getting a copy of the petition and I told him at that
14 point when the petition was received the protocol was
15 to take the original documents over to the Clark County
16 Registrar of Voters where they could indeed do the
17 signature verification process. Once I had it back in
18 my hand I would be happy to give him a copy.

19 Q. And that was on the morning of the 28th?

20 A. That's correct.

21 MR. MUELLER: Nothing further.

22 THE COURT: Okay. We'll go back.

23 Mr. Miller?

24 MR. MILLER: Nothing, Your Honor.

25 MR. GORDON: Nothing further, Your Honor.

1 THE COURT: Mr. Gordon? Okay. And the Court
2 doesn't either.

3 So, Ms. Andolina, thank you for your time
4 here today. We appreciate it.

5 THE WITNESS: Thank you.

6 THE COURT: All right. Anything else,
7 Mr. Gordon?

8 MR. GORDON: Nothing further.

9 THE COURT: All right. Mr. Mueller?

10 MR. MUELLER: No, Your Honor, ready to argue.

11 THE COURT: All right. I'll just
12 double-check. Mr. Miller, anything further?

13 MR. MILLER: No, Your Honor, we're fine.

14 THE COURT: All right. Mr. Mueller.

15 MR. MUELLER: Thank you, Your Honor. And for
16 the record, I believe that's the close of testimony?

17 THE COURT: Yes.

18 MR. MUELLER: All right. And since I've been
19 taught, Your Honor, to give the Court every opportunity
20 consider things thoughtfully and thoroughly and I
21 appreciate the amount of effort that you've clearly put
22 into this. So I unfortunately my duties here are going
23 to be -- require me to at least be repetitive on a
24 couple points and I'll be brief.

25 THE COURT: Okay.

1 MR. MUELLER: Your Honor, respectfully this
2 effort should be dismissed and this recall should fail.
3 I'm going to first advance the legal arguments and then
4 I'm going to advance technical arguments in favor of
5 dismissing this petition and not allowing it to go
6 forward.

7 No. 1, with deference to the Court, I believe
8 that you are in error. I believe that Article 6
9 Section 21, the subsequent formation and amendment of
10 the Nevada Constitution to form the judicial
11 disciplinary committee is a specific provision of the
12 Constitution. It clearly would have pre-dated or
13 trumps the earlier 90-year old petition Article 2 of
14 the Nevada Constitution which allows for the recall of
15 public officials.

16 I believe that's true for two reasons.
17 No. 1, the statutory definition of a public official
18 which Mr. Miller certainly knows of does not include
19 judicial -- judicial officers, I believe. Two, the
20 legislation which clearly conveys exclusive
21 jurisdiction under NRS 1440 to the Judicial
22 Disciplinary Committee means that the only grounds by
23 which you can recall a judge in Nevada is through the
24 Judicial Disciplinary Committee.

25 As a matter of public policy I do not believe

1 that we want judges being recalled when they cross
2 swords with the other branches of the government. I do
3 not believe that serves Nevada's, the community's
4 interest, or anybody's interest as a matter of public
5 policy.

6 Now, from that point moving forward. I am
7 deeply troubled by Mr. Gloria. I don't understand and
8 cannot find his policy of enfranchisement anywhere in
9 the Nevada statutes. I do, however, find many Nevada
10 statutes that have been violated and I also find
11 mathematically in-sound reasoning undergirding this
12 effort.

13 No. 1, the purpose of this petition is to
14 collect valid signatures of voters. Now, what they
15 have done is they've done it backwards. Instead of
16 going through and eliminating duplicates out of the
17 sample base, and then seeing, of those signatures, if
18 they are valid, they took the whole kit and caboodle
19 and just took a sample, paying no meaningful attention
20 to duplicate voters.

21 Now, we could have gone on today and into the
22 night and well through into the middle of next week
23 going through all the duplicate voters that are on that
24 list. You do not need to accept my representations.
25 You have a law clerk who can go through, you have the

1 exact petition, verified what date and what line and
2 where the duplicate appears. That would eliminate
3 almost 300 signatures from this petition which means it
4 would fail.

5 Now, the simple policy choice of not -- of
6 looking for duplicates after you pull a sample instead
7 of before changes the outcome of this petition. I can
8 find no support in the law for that proposition.
9 Nowhere. It's -- no mathematician will support that,
10 no logic supports that, what should have been supported
11 was signatures that the gathers believed to have been
12 valid. When they're valid, verified that they are
13 indeed then you do a statistical sampling to see if
14 they are indeed the same people and proper.

15 Mr. Miller can address the Court as to why
16 this benefit of the bargain goes to the petitioners
17 when there is at least 356 problems with these
18 signatures.

19 Now, getting down to brass tacks. It's
20 been -- my short time I've been in front of the bench
21 it's obvious the Court pays very close attention both
22 to the letter and to the spirit of the law.

23 So let's get down to the spirit of the law,
24 or letter of the law. NRS 306.030 the pages of the
25 petitioner's subsection 1 goes to the second sentence,

1 The "pages of the petition with the signatures of any
2 copy must be consecutively numbered."

3 We have no numbers here. Mr. Miller's own
4 witness, the dutiful third-year law student from
5 Washington came in and had trouble with them because
6 they weren't in order. Now the reasons specifically
7 that this statute exists is so that we can all get on
8 the same page and review to see if the same signatures
9 are being counted in the same order. That signature
10 is -- that statute is violated.

11 Subsection 2, the last sentence: "The
12 verification must also contain a statement of the
13 number of signatures being verified by the circulator."

14 Mr. Rosa by his own admission -- or
15 Mr. Gloria. I apologize. That's not intentional, I've
16 got a client with that name. Mr. Gloria by his own
17 admission is -- admits that they counted signatures
18 that they shouldn't have. I showed him at least three
19 where they counted them as 25, 3 times over they were
20 23, 24, and 24. They were countering signatures that
21 were not verified.

22 Statute violated NRS 293.125.758 subsection
23 3, "The county clerk shall not," this is a word of
24 prohibition, "shall not accept a petition unless each
25 page of the petition is numbered."

1 And here we are in court when Mr. Miller's
2 own witness says she's having trouble because there
3 were no numbers on them.

4 Subsection 32 of 293-1277, If more -- or
5 500 -- statute that allows them to take 500 random
6 signatures. Well, that signature is violated. They
7 didn't take 500 random signatures. They took, by my
8 count just this afternoon, 493. There was the four
9 that were blocked out, he couldn't explain why, and
10 then there was the three crossed out.

11 Now, I want the Court to stop for a second
12 and understand how biased this procedure was. There
13 are signatures on these petitions that were crossed
14 out. Somebody signed it and decided not to and put an
15 X through it. Mr. Gloria undeterred by his policy of
16 enfranchisement includes those signatures anyway. What
17 was his reasoning? What is a cross-out in the every
18 day common sense and parlance in our society, it means
19 it's a mistake. Mr. Gloria says I don't know why, so I
20 count it.

21 Now, that's not proper procedure and that's
22 not a sample of 500. That is deeply troubling and I
23 can find no support for his proposition at law.

24 No. 8 of the same Section 8 293.1277, A
25 public officer who is the subject of a recall petition

1 must -- this is not discretionary, Judge -- must be
2 allowed to witness the verification of the signatures
3 on the petition. Now, this is a small community,
4 everyone knows everybody. It takes about two seconds
5 to make some phone calls.

6 Mr. Gloria, did you notify anybody?

7 No, not my responsibility. Not my job.

8 Sir, how many of these have you done?

9 Mr. Miller goes through great lengths to tell what
10 great experience he is, well, I've been involved in 30
11 or 40 of these. He sits around and starts doing the
12 raw count vote at 8:40 in the morning. There's nobody
13 here from the campaign, maybe I made a call over to the
14 judge's chambers, see what's going on. No.

15 What do we have? We have after-the-fact
16 trying-to-justify the fact that we get no notice by
17 sending a letter that would have been drafted the day
18 before the court was closed and would have been
19 received after the raw count was over with. That's
20 hardly notice.

21 Mr. Jackson, by their own admission was down
22 there on the morning of the 28th, asking for what,
23 Judge? A copy of the petition. That's what she said,
24 that's what their witness said, Jackson was down there
25 in the morning of the 28th asking about the petitions

1 wanting a copy of it to examine himself -- examine
2 them.

3 Do they know he's involved with the campaign?
4 What notice does he get? He goes down there on Monday,
5 he gets -- or goes down there on Friday, he gets turned
6 away.

7 We, my office, calls late on Monday
8 afternoon, oh, don't bother coming down, we're already
9 done. Now you would think that a man who's done 30 or
10 40 or these petitions would have been a little more on
11 the ball. No. This is a statutory right and it's a
12 procedural due process right. It was not complied
13 with.

14 Now, this court clerk is an administerial
15 function or the registrar of function is an
16 administerial function, that is a person whose duties
17 and obligations do not generally just glide in the
18 world of discretion. You are not an administerial
19 officer. You have huge discretion in how your handle
20 cases and how you apply the law. Administerial
21 functions are subject to writs. They are people who
22 must be and can be compelled to do their duty.

23 Here. Mr. Gloria can find no support for his
24 policy of enfranchisement. The policy of
25 enfranchisement could very well and easily and readily

1 be interpreted as we're going to just make sure this
2 petition gets through the wickets. Including, and as
3 you saw how -- you saw his demeanor on the stand. Did
4 he look happy when I pointed out that that signature
5 was a squiggle?

6 No, it's not a squiggle.

7 Well, how did you to get signature out of it?

8 I don't know.

9 Now, Your Honor, this was not a valid
10 petition. The methodology was not used properly. The
11 signatures were not collected properly and most
12 importantly and I know you probably don't want to hear
13 it again, Judge, but the fact of the matter is this
14 also unconstitutional. And I'm very, very, very
15 greatly concerned about the policy implications of a
16 decision to allowing this to go forward.

17 I'm -- in my mid 50s now, many of my
18 contemporaries and my colleagues and my friends are on
19 the bench. I do not, even though I don't wish to be on
20 the bench, I am horrified by the prospect of judges
21 being removed when they have to make tough calls or
22 when they have to tell government agencies that they're
23 not doing a good enough job. We cannot, as a state,
24 get better if we tolerate this sort of behavior. This
25 is -- and I'm going to wrap it up in closing here.

1 This is a petulant temper tantrum by the
2 North Las Vegas city officials, nothing more. A former
3 direct attorney, a district attorney who I handled a
4 murder case against who knows her stuff, tells them
5 they're not doing a good job, you got to do it the
6 right way. If you don't do it the right way I'm going
7 to start dismissing your cases. They can't be
8 bothered; she dismissed their cases.

9 And what do they complain of? Not because of
10 a declaration of the quality of law, not because
11 citizens' rights are being voted on, their upset with
12 her because the City's not getting revenue and she's
13 not playing ball with them and now she's subject to a
14 recall.

15 Your Honor, I'm sorry. I'm getting wound up
16 here but this is wrong. It's wrong as a matter of
17 policy. It's wrong as a matter of the state
18 constitution. It's wrong as a matter of administration
19 and this petition should be dismissed and seen for the
20 sham that it is.

21 THE COURT: Thank you, Mr. Mueller.

22 Mr. Miller?

23 MR. MILLER: I think what's clear in this
24 case is that this, as we've heard testimony, this is
25 one of the cleanest petitions that these election

1 workers have seen since they've encountered initiative
2 petitions in any process. And the election workers
3 completely followed the process.

4 Mr. Mueller has made a big deal about this
5 issue of the policy of trying to enfranchise the voter.
6 And that only makes sense. Because if you're striking
7 somebody's name from a petition you're essentially
8 invalidating their voice and that is entirely
9 consistent with what the case law says about this.

10 In the Cleland case, Your Honor, they say
11 that recall statutes should be liberally construed and
12 that the standard here is substantial compliance. To
13 the extent that we found any mistakes in this petition,
14 they did not negate the purpose of the statute.
15 There's simply been no fraud here, which is the only
16 reason that you would look to as to why you would
17 invalidate somebody's name on a petition. That there's
18 enough indication on there that they didn't follow the
19 rules, that this signature shouldn't be counted because
20 it wasn't an accurate voice of that individual that
21 this judge should proceed to a recall election.

22 What's notable in that the defense has the
23 burden of showing that this process wasn't involved is
24 the testimony that we did not hear. They have the
25 burden show that. You did not hear testimony from one

1 single individual that could have come up on this
2 witness stand and said, you're right, my name appears
3 on this, looks like a signature, it appears to be my
4 address. I didn't sign this petition.

5 They could have done that. Those addresses
6 are easily provided. You can find contact information.
7 Not one instance of fraud were they able to produce
8 because it simply doesn't exist. There were a number
9 of instances where people may have not followed the
10 explicit requirements where the signature didn't match,
11 those weren't counted. And, nevertheless, we qualified
12 with 84 percent, which Mr. Gloria testified to was the
13 gold standard, and he'd never seen a number that high.

14 In terms of the arguments about the random
15 sample, Mr. Mueller I think is just trying to fabricate
16 a process that doesn't exist in the statute. It's very
17 clear as to how that random sample is intended to be
18 generated. You make sure that every signature on every
19 line has a fair opportunity to be included. You
20 generate that random sample and then you verify
21 thereafter. It would make absolutely no sense to do it
22 the way that he's suggesting. That's certainly not the
23 way the law is written and I don't think it's relevant
24 at all.

25 In terms of the numbering that we've spent a

1 lot of time on today. Again, I'll point you to
2 Mr. Gloria's testimony where he concluded that
3 numbering those pages and the way that Mr. Mueller is
4 suggesting that that statute reads would be impossible.
5 And it would be completely inconsistent with the way
6 that this process should work because you have multiple
7 circulators out there turning in different petitions.
8 The purposes -- purpose of that numbering is so that
9 you can get an idea as to how many pages are in each
10 document so that you can't slip in another page
11 thereafter. It's to prevent fraud and there's simply
12 been no testimony that would substantiate that any
13 fraud took place.

14 His argument that -- that including
15 signatures and the random sample that were in some way
16 stricken or crossed out that actually works against his
17 case, as Mr. Gloria testified to. Including signatures
18 in the random sample that would then be rejected would
19 result in a lower qualification percentage which would
20 work against the petition being sufficient.
21 Nevertheless those were included, because they took a
22 very broad approach to it, included those, and they
23 rejected them and so that was part of the 80 signatures
24 of the 500 that didn't meet the criteria. Had they not
25 been included we would have, in effect, a much higher

1 percentage.

2 And finally on the notification issue because
3 we've heard so much testimony on it. I think it's
4 clear that Judge Ramsey didn't make hardly any attempt
5 to be present for the verification on Friday morning.
6 There's certainly no requirement that that process
7 halts until Judge Ramsey is present. But the bottom
8 line is, they were there to witness the entire
9 verification process.

10 Joe Gloria testified that on the verification
11 process on Monday it was substantially the same and
12 identical, I believe he testified to, as to what
13 occurred on Friday. The only step missing was that
14 they had already rejected 80 signatures. Now that may
15 have worked against our side, Your Honor, if we wanted
16 to go in and miss the opportunity to witness the
17 process as to why those 80 signatures were excluded.
18 But in terms of their interest, they got to see the
19 entire process because it was only going through those
20 420 signatures to make doubly sure that they had met
21 all the qualifications and were nevertheless going to
22 be included. So they had a full opportunity to witness
23 the verification process.

24 I just think, Judge, that they have not made
25 any colorable claim that there was a deficiency in this

1 process in order to meet their burden. We would ask
2 that you deny their claims in their entirety.

3 THE COURT: All right. Thank you.

4 Mr. Gordon.

5 MR. GORDON: I have nothing, Your Honor.

6 THE COURT: All right. Mr. Mueller, I'll
7 give you a chance to do a very, very short.

8 MR. MUELLER: I appreciate it, Judge. I've
9 had my say. Thank you.

10 THE COURT: All right. Well, I appreciate
11 everybody's time and effort in this. All parties have
12 conducted themselves, I think, professionally and it
13 obviously deals with an important issue in regards to
14 the handling of the recall process as it relates to our
15 public officials.

16 In regard to this matter, I appreciate the
17 importance of it. I appreciate the need to move on and
18 in a timely manner. I will get out a written order
19 Monday morning in reference to that. But I'll go ahead
20 and state my, essentially my decision here today based
21 upon the evidence that's been submitted.

22 First of all, I previously have ruled that
23 the Article 2, Section 9 of the Nevada Constitution
24 does allow the recall of judges. That term is broad
25 enough and in the normal ordinary course of

1 understanding the term includes all public officials;
2 legislative, executive, and judicial. So I find that
3 at the time it was adopted in 1912 the intent of the
4 voting public at that point in time was to include
5 judges within the provisions of the recall article.

6 I do not find that the Nevada Judicial
7 Discipline Commission amendment in I believe 2000 or
8 approximately or a little earlier than that is
9 inconsistent with the recall. As I noted before, the
10 judicial commission deals with the concept of
11 disciplining judges. There are also -- that's the same
12 procedure in terms of impeachment which deals with the
13 concept of disciplining or removing a judge for
14 misfeasance or misdemeanor.

15 Recall is just a broader animal and there's
16 nothing in the ballot provision at time of the judicial
17 commission, disciplinary commission which suggests that
18 people were under the impression at all that they were
19 giving up their right to recall. Recall allows for a
20 public official to be removed any time the public and
21 the voting public determine that a good reason exists
22 to remove them.

23 I appreciate Mr. Mueller's comments regarding
24 how that does subject judges potentially to the
25 electoral whims of the public, but right now the

1 current system where we elect judges has the same
2 impact. That issue has been raised with Nevada voters
3 on multiple occasions and they have consistently
4 rejected any change from them being able to elect their
5 judges.

6 In terms of the concerns as far as the
7 judiciary, I note, as I have noted before, that the
8 fact is that in the 150-year history of Nevada --
9 Nevada, no judge has been recalled. This shows, in my
10 mind, that the public appreciates the responsibility
11 that recall places upon them and that they do not just
12 allow the recall of public officials, including judges,
13 at the whim of any particular political win.

14 Consequently, again, I find that it is
15 constitutional and we turn to the issue of recall
16 petition. As I said before on Monday, the -- I
17 generally have no issue with the process in this case.
18 I find that the statute which provides for the taking
19 of a random sample, the 500 signatures, to be
20 constitutional pursuant to the Supreme Court's decision
21 in *The Citizens for Honest & Responsible Government*
22 *versus Heller* in 2000. In that decision the court
23 specifically approved the process of using a random
24 sample as a procedure which aids in the operation of
25 the recall right, and as consequence is constitutional.

1 And so, I'm not going to undermine what has been passed
2 by the Nevada Legislature and approved by the Supreme
3 Court.

4 In that regard, I find that the procedures
5 relating to doing the random sample were properly
6 followed in this instance. I listened to the testimony
7 of Ms. Andolina on Monday and Mr. Gloria today. And
8 believe that they did conduct a pure random sample of
9 500 names. That they did then go through the
10 verification process and determine names that should be
11 excluded, coming up with a percentage of approximately
12 84 percent, I believe, which then translated into a
13 number of 200 -- 2,282 good signatures when about 1,980
14 I believe was needed. This is about 15 percent more
15 than the signatures needed. So in that regard,
16 considering the use of the sampling process, again also
17 considering that it was a high sampling of the total
18 number of signatures I see nothing that suggests that
19 the process should not be considered reliable in this
20 instance.

21 In terms of how the process was handled, I do
22 find whereas Mr. Gloria talks about the policy of
23 enfranchisement as I think I mentioned on Monday,
24 Cleland versus Eighth Judicial District Court, and
25 Mr. Miller also mentioned it today, the Supreme Court

1 specifically found that the concept of substantial
2 compliance with the statute furthers its purpose of
3 most electoral statutes in determining the sufficiency
4 and validity of petitions.

5 In that regard, this key is -- the purpose of
6 the statute is to ensure that people signing it are
7 real people, that they are in the district they're
8 supposed to be, that they voted in the last election,
9 and that they signed the petition in the period of time
10 that's provided for the recall petition.

11 In that regard how the clerk's office handled
12 issues such as not including the day or a date not
13 being on the same -- on the right place on the petition
14 Mr. Andolina's explanation that in such instances that
15 they would look at the petition and signatures
16 surrounding that and the dates that they had to
17 determine if it was signed within the period allowed by
18 the petition, I think is in substantial compliance.

19 In terms of the notary issues that Mr. Gloria
20 had discussed. Again, the use of various research
21 avenues to determine if the person is a notary and that
22 they would have been in a position to sign and notarize
23 the certificate I think, again, is substantial
24 compliance with the statute.

25 I do -- I did listen to the testimony today.

1 I thought Mr. Mueller brought out a number of good
2 points in terms of various names that show up multiple
3 times on the -- on the petitions. However, you know,
4 the -- the differences in names, for instance, between
5 what was on the informal -- or the registrar's
6 breakdown of the 500 names, looking at it they could be
7 due to a variety of different reasons such as people
8 getting married, using their husband's married name or
9 using their maiden name and then a number of instances.
10 In terms of the duplicates, just looking at some of the
11 duplicates that Mr. Mueller brought up, while I can
12 understand his point, the signatures actually look
13 different to me, which I think lends to the issue of
14 it's debatable how many duplicates are out there.

15 Mr. Miller's witness put on -- indicated, I
16 think, 16 or 19 out of 170. In any case the --
17 Mr. Mueller indicated approximately 184 signatures or
18 duplicate signatures that had been previously signed on
19 the petition. You know, we can debate this issue back
20 and forth.

21 But I do think that the statistical sampling
22 here was sufficient for the clerk's office to reach a
23 reasonable conclusion in terms of the number of
24 duplicate signatures.

25 Factoring in even the duplicate number of

1 signatures and subtracting out 184 signatures from the
2 282 that were approved or determined from the
3 statistical sampling would leave you 2,098 signatures,
4 still enough to qualify. Actually you -- out of the
5 184 signatures that Mr. Mueller contests you would have
6 to remove approximately 38 for the statistical
7 percentage that was already included in the 84 percent.
8 That would essentially cut it down to about 146
9 signatures to remove which would be 2,136. Again,
10 approximately 6 to 7 percent over the number of
11 signatures needed for the approval of the petition.

12 It is significant to the Court that the
13 sample shows that 14 percent of the signatures were
14 excluded. And the reasons for the exclusions seemed to
15 be consistent with generally the various testimonies
16 that have been brought out and issues that have been
17 brought out in this case.

18 As far as the numbering issue, I've looked at
19 the statute. I've looked at other cases which seem to
20 talk in terms of the petitions in plural or the
21 documents making up the petition in plural. I find
22 that the numbering of the documents or the sub
23 petitions, however, you want to look at it, pages one
24 through four, is sufficient to meet the requirements of
25 the statute.

1 My big concern, why I really wanted to have a
2 hearing today was on the issue of whether or not Judge
3 Ramsey was excluded from the verification process.

4 In that regard, the testimony today is -- has
5 convinced me that she was not excluded from the
6 process. The statute which provides for review states,
7 "That a public officer who's subject to recall petition
8 must also be allowed to witness the verification of the
9 signatures on the petition."

10 The statute does not require any specific
11 notice requirement or any specific requirement that the
12 public official be notified or any sort of meeting or
13 arrangement be made to verify the petition. It's --
14 the evidence shows that she had a representative,
15 Mr. Jackson, at the time that the -- present at the
16 time that the petition was presented to the North Las
17 Vegas clerk. And also, that the North Las Vegas clerk
18 sent an e-mail out on the Thursday, the 28th, notifying
19 Judge Ramsey that the petition was being submitted for
20 raw count and that that process had to begin relatively
21 quickly because of the deadlines in the statute.

22 At that point in time Judge Ramsey has the
23 obligation under the statute to take the affirmative
24 action that she wishes to to view the petition.
25 Mr. Jackson went down on Friday the 29th. He indicates

1 that around 1:15 -- and Mr. Gloria indicated that about
2 approximately 1:00 p.m. the first step of the process
3 was completed. Consequently he essentially got there
4 at the end or after the end of the process. I was
5 concerned in his testimony on Monday he expressed that
6 Mr. Gloria had told him that the process was not going
7 to start for one or two days. In that he was told that
8 on Friday.

9 However, looking at his e-mail to Judge
10 Ramsey today. And going through the e-mail.

11 I'm sorry. He does not indicate anywhere in
12 there that he was told that the process would begin in
13 one or two days. Mr. Gloria indicated that he never
14 made such a comment to Mr. Jackson and that essentially
15 when Mr. Jackson called him he had told him that
16 essentially the process had been finished for that day.

17 I don't think Mr. Jackson was trying to
18 mislead the Court in any way. I think he was confused
19 in terms of the various notifications that he got and
20 when he eventually got down there on Monday to do the
21 witnessing of the second part of the verification
22 process but, you know, looking at his e-mail to Judge
23 Ramsey I don't -- see anything to indicate that he was
24 misled as to when the process would begin.

25 In terms of Monday, Mr. Jackson and

1 Mr. Burdish both were able to make it. Mr. Gloria
2 indicated another representative was also present.

3 I know there was some issue as to the
4 recounts or the verifications starting before
5 Mr. Jackson got there. According to Ms. Andolina that
6 was only five to ten minutes after the process started.
7 I don't think that that sufficiently undermines the
8 rights, even if there was some of Ms. -- of Judge
9 Ramsey even if there was some confusion which at this
10 point I would say confusion as to what time anyone was
11 told that the process was going to begin, either 9:00
12 or 9:30. Essentially, from what I understand, the
13 process was repeated to make sure that there were no
14 errors so essentially the Ramsey representatives were
15 in a position to review what the clerk's office had
16 done in times of verifying the signatures on the random
17 sample.

18 As I said, I'll get out an order early Monday
19 because I'm anticipating that the parties will want to
20 seek further review of my decision.

21 At this point in time I will -- I am going to
22 find that the -- as I've said previously I found as to
23 the petition to -- for emergency injunction treating
24 that as first a complaint for alleging a violation of
25 Judge Ramsey's constitutional rights or concerning

1 recall to be -- to deny that complaint and then deny
2 injunction.

3 As to the separate complaint challenging the
4 sufficiency of the petition process, I find that the
5 eight causes of action are not sufficient -- are not
6 sufficient to undermine the petition and I would deny
7 the complaint.

8 MR. MUELLER: Your Honor, at this time the
9 defense has put -- we intend to file a notice out of
10 appeal. I'm going to ask for you to stay your decision
11 pending the appeal, please.

12 THE COURT: I'm going to get out an order on
13 Monday. At that point in time I'll take a look at
14 whatever you want to file in regard to a stay.

15 MR. MUELLER: All right. Thank you, Judge.

16 MR. MILLER: Can we be heard on that point.
17 We appreciate the Court expediting this matter.

18 306.040 says that upon the conclusion of the
19 hearing if the Court determines that the petition is
20 sufficient it shall order the office with whom the
21 petition is filed to issue a call for a special
22 election in the jurisdiction.

23 The statute does not establish a clear
24 timeline as to when the -- that order should -- should
25 designate that the clerk has to issue the call. The

1 constitution requires that once the clerk issues the
2 call for a special election, the election must be heard
3 within 30 days. But if a complaint had not been filed
4 in Section 3 of that same statute it says that not
5 sooner than 10 days or more than 20 days after the
6 secretary of state completes the notification that the
7 county clerk shall issue the call for a special
8 election.

9 We take the position that that should be of
10 some guidance to the Court as to when she should be
11 ordered to issue the call. There is a separate
12 regulation in the statutes that says that after the
13 court issues this order the clerk has three days to
14 notify the secretary of state as to when she intends to
15 issue the call and when the special election would
16 occur.

17 Obviously, the entire policy behind the
18 constitution and these statutes is to get to an
19 election as soon as you possibly can. That is our
20 interest. We would ask the Court respectfully to
21 include in the order that the clerk is also ordered to
22 issue a call for a special election within 10 to 20
23 days and that the election be held no later than
24 August 25th.

25 MR. GORDON: Your Honor, if I could just add

1 also, just practically from the clerk's perspective. I
2 know that the clerk I think will need at least ten days
3 before we put something in the order. There is a --
4 several steps in the process to call the election.
5 Publication has to be in three different languages,
6 getting the election space. So I echo Mr. Miller's
7 concerns. If we can have at least ten days for the
8 call of the special election if that could be put in
9 the order that would be great.

10 MR. MILLER: If I could just finish, Your
11 Honor, if it's appropriate. Regarding the request for
12 a stay. We would oppose that. Rule 8 requires that
13 the initial motion be made to the district courts and
14 so we ask that their ruling be made on that if you're
15 inclined to rule very quickly. Once that motion is
16 made, then the Supreme Court can also issue a stay, so.

17 THE COURT: No, I understand.

18 MR. MILLER: Okay.

19 THE COURT: I'll be frank, at this point I
20 mean, I'll be glad to hear anything you want to argue
21 in terms of the stay but I would, at this point, not
22 anticipate me staying it. I'm very comfortable with my
23 ruling and I don't see this being one that necessarily
24 requires the appellant court review and I'm sure you're
25 going to do that. But I have no issue in terms of my

1 ruling.

2 MR. MILLER: Your Honor, I'm going ask you to
3 stay this. My colleague here is stampeding the Court
4 to be an unprecedented event. I mean I've challenged
5 him to pull the history books in the history of the
6 state. They are stampeding you in an unprecedented
7 event.

8 Now, I've been involved in about six or eight
9 of these over the years and every one of them ends up
10 in Nevada Supreme Court, and everyone ends up with the
11 stay pending the Nevada Supreme Court. They're not
12 going to let this election happen --

13 THE COURT: Oh, I'm sure.

14 MR. MUELLER: -- without them getting their
15 cut on it. That's just -- that's just not personal,
16 Judge, that's just hard experience.

17 THE COURT: No. I have -- that's why I'm
18 going to try get out a written order as soon as
19 possible. I think it is important to move this
20 forward -- process forward/the statute itself requires
21 the Court to move this process forward in an
22 expeditious manner.

23 MR. MUELLER: The law requires.

24 THE COURT: I'm just saying that as far as
25 I'm concerned I don't see any reason to stay my ruling

1 because I'm very comfortable with it and don't see it
2 as being one that's a close call on -- on either front.
3 The closest call, like I said, was over the issue of
4 whether or not she had sufficient opportunity to view
5 the verification.

6 I think under the testimony we took today
7 we -- she did as far as the statute requires in that
8 regard. But I have, you know, Supreme Court is
9 certainly free to stay me. That's why we have a
10 Supreme Court so.

11 MR. MUELLER: All right. Judge, I'll submit
12 it. I believe you're in error.

13 THE COURT: Okay. I mean if you have some
14 basis that I'm required to issue a stay in this matter
15 I'd be thrilled to see the case law or -- or that you
16 have in that regard.

17 MR. MUELLER: Excuse me, Judge. Very simply,
18 Judge, the answer is irreparable harm. Now,
19 hypothetically if you don't issue a stay and they call
20 for this reelection -- or recall election, we're
21 halfway through it and the Nevada Supreme Court does
22 something. Say they overturn you in part or they want
23 to hear some more evidence.

24 Now, where are we at? We're a couple hundred
25 thousand dollars in the election process and Judge

1 Ramsey is out there campaigning now doing her job for
2 the City of North Los Vegas. Now this is irreparable
3 harm and this is actually the case that you would
4 expect a stated issue on because of the confusion to
5 the voters and the public and the application of law to
6 facts.

7 And regardless, I know you did, you know,
8 regardless of your analysis this is a question of first
9 impression, Judge, and I, you know, we're --

10 And so the Nevada Supreme Court's going to
11 chew this case up very thoroughly. I can't imagine
12 we'll make less than a 25- or 30-page opinion.

13 THE COURT: Well, and that may very well be
14 the case. I will take a look at the rule on stay.
15 Like I said, if you've got some case law, I'm not going
16 to be issuing any order until, like I said, Monday
17 morning. If you've got -- want to submit anything,
18 I'll be glad to take a look at it.

19 MR. MUELLER: All right. Thank you.

20 THE COURT: But my initial gut is I don't see
21 a reason to grant a stay in this case.

22 MR. MUELLER: Thank you.

23 THE COURT: All right.

24 Anything further by anybody else?

25 MR. GORDON: No. The only thing, Your Honor,

1 is that the standard for stay is similar to standard
2 for injunctive relief. And they have to -- they
3 clearly, from the Court's evidence that's heard in its
4 ruling, that they don't have a very high likelihood
5 success in regards on the merits, so we don't think
6 that that merits a stay.

7 THE COURT: No, I appreciate that. And
8 that's why, like I said, I feel comfortable with what
9 I'm doing at this point in time. Like I said, I don't
10 think it's a close call but I do think it's a call that
11 was required to be made.

12 Anyway, anything else?

13 MR. MUELLER: No, Your Honor.

14 MR. MILLER: Have a happy Fourth. Thank you.

15 THE COURT: Yes. Everybody a happy Fourth of
16 July.

17 THE MARSHAL: All rise.

18 (Whereupon, the proceedings concluded at 4:59
19 p.m.)

20 -o0o-

21 ATTEST: FULL, TRUE, AND ACCURATE TRANSCRIPT OF
22 PROCEEDINGS.

23
24 *Amber M. Riggio*

25 Amber M. Riggio, CCR No. 914
E/S 7/21/2015 at 5:19 a.m.

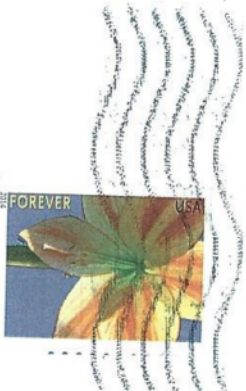
Catherine Ramsey
P.O. Box 363115
North Las Vegas, NV
89036-7115



for better address

MEMPHIS TN 381

25 JUN 2015 PM 2:11



Catherine Ramsey
4523 Steeplechase Ave
NV Clark

Catherine Ramsey
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89036-7115

NOT DELIVERABLE
AS ADDRESSED,
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THOMPSON, WMA, 9883
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Catherine Ramsey
4523 Steeplechase Ave
nv Clark

1 Case No. 3300

NO. _____
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JOAN SHANGLE, CLERK
BY M. Elliott DEPUTY

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5
6 IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8

9 IN THE MATTER OF THE PETITION TO
10 RECALL WILLIAM SCHAEFFER FROM THE
11 OFFICE OF DISTRICT ATTORNEY OF
12 EUREKA COUNTY, NEVADA,

ORDER

13
14 _____/
15 A hearing was held upon the recall petition in the
16 aforementioned matter on April 6, 1992.

17 The Petitioners were represented by Matthew Stermitz,
18 Esquire and Respondent by Hy Forgeron, Esquire, and the County
19 Clerk by Kateri Cavin, Esquire.

20 At the conclusion of the hearing the undersigned Judge
21 rendered a decision in open court stating specific reasons for
22 the court's decision to declare the petition invalid and dismiss
23 the petition.

24 The oath forms for verifying said petitions are
25 invalid. Two of said petitions fail to contain a statement as to
26 the number of signatures verified as require by NRS
306.020(2)(b). Petitions are not subject to curative

1 amendments.

2 Good cause appearing,

3 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the
4 above recall petition regarding WILLIAM SCHAEFFER be and the same
5 is dismissed.

6 DATED this 20 day of April, 1992.

7 Peter J. Breen
8 DISTRICT JUDGE

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CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 20
day of April, 1992, she deposited for mailing a copy of
the attached Order to the following:

Hy T. Forgeron, Esq.
P. O. Box 1179
Battle Mountain, NV 89820

Kateri Cavin, Esq.
Deputy Attorney General
Capitol Complex
Carson City, NV 89710

Matthew Stermitz, Esq.
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KIM DRIGGS
Administrative Assistant

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 68450

Electronically Filed
Aug 25 2015 09:27 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

HONORABLE CATHERINE RAMSEY,
NORTH LAS VEGAS MUNICIPAL JUDGE,
Appellant,

vs.

CITY OF NORTH LAS VEGAS AND BARBARA A. ANDOLINA
City Clerk of NORTH LAS VEGAS, BETTY HAMILTON,
MICHAEL WILLIAM MORENO, and BOB BORGERSEN, individually
and as Members of "REMOVE RAMSEY NOW"
Respondents,

Eighth Judicial District Court, Clark County
The Honorable Eric Johnson, District Court Judge
District Court Cases A-15-719406-P
Consolidated with District Court Case A-15-719651-C

APPELLANT'S APPENDIX

Volume I

Craig A. Mueller, Esq.
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DISTRICT COURT
CLARK COUNTY, NEVADA
IN THE MATTER OF THE PETITION)
OF)
)
)
CATHERINE RAMSEY) CASE NO.: A-15-719406-P
) DEPT. NO.: XX
)
)
)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JUDGE ERIC JOHNSON
DEPARTMENT XX
DATED THURSDAY, JUNE 18, 2015

REPORTED BY: AMBER M. RIGGIO, NV CCR #914

1 APPEARANCES:

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21 * * * * *

1 LAS VEGAS, NEVADA; THURSDAY, JUNE 18, 2015
2 8:45 A.M.

* * * * *

3 P R O C E E D I N G S

* * * * *

4 THE COURT: Good morning, everyone. I
5 thought I'd wait out here for Mr. Mueller so that we
6 can get started as soon as he gets in. You can be
7 seated.

8 MR. MUELLER: Good morning, Judge.

9 THE COURT: Good morning, Mr. Mueller.

10 Mr. Mueller, I set this hearing primarily at
11 your urging. I've got a 9:00 o'clock full criminal
12 calendar and then a jury trial starting right after
13 that.

14 Is there any reason you were not here until
15 15 minutes until 9:00?

16 MR. MUELLER: No, sir. I just had an
17 in-custody -- client got arrested last night. No
18 excuse.

19 THE COURT: All right. Let's get started,
20 because I do have a calendar at 9:00 o'clock.

21 I'm calling the Honorable Catherine Ramsey,
22 North Las Vegas Municipal Judge versus City of North
23 Las Vegas, et al., respondents, Case No. A-719406.

24 Counsel, please state your appearances for
25 the record.

1 MR. MUELLER: Certainly. Craig Mueller on
2 behalf of Judge Ramsey.

3 MR. MILLER: Ross Miller on behalf of the
4 Committee to Recall Judge Ramsey.

5 MS. McCARTY: Colleen McCarty on behalf of
6 the Committee to Recall Judge Ramsey.

7 MR. GORDON: And Richard Gordon from Snell &
8 Wilmer on behalf of the City of North Las Vegas and the
9 City Clerk Barbara Andolina.

10 MR. GENTILE: And Dominic Gentile by
11 telephone, Your Honor.

12 THE COURT: I'm sorry, Mr. Gentile. I didn't
13 mean cut you off.

14 Who do you represent?

15 MR. GENTILE: I am representing the same
16 parties as Ross Miller and Colleen McCarty.

17 THE COURT: Okay. I just wanted to make sure
18 we had that on the record.

19 Everybody can be seated.

20 Let me sort of tell you where I'm at this
21 point, and being that you primarily called the hearing
22 today is I wanted to see where we were with this
23 process. And to be quite frank with you, I actually
24 see something improper before me.

25 When I got assigned this emergency petition

1 for injunction approximately a week ago and noted that
2 it was filed and requesting a hearing within three days
3 under Nevada Revised Statute Section 295.105(4), when I
4 looked at the statute, I looked at it and thought this
5 statute relates to ballot questions and initiatives
6 rather than recall.

7 And then in doing a little bit of further
8 research, I found Nevada Revised Statute 306, which
9 seems to deal specifically with recall petitions. And
10 this is the reason why I did not act on this petition
11 within the three days I was requested and went ahead
12 and kept at that time the original setting for the
13 hearing of June 24th.

14 Then I got the motion by the committee to
15 recall or to remove Ramsey now, asking for -- on
16 Rule 42, for me to consolidate a separately filed
17 complaint by Judge Ramsey that had eventually made its
18 way to Judge Cory's court under Rule 42.

19 Looking at that motion and then looking at
20 the emergency petition in front of me, I began to then
21 take a look at a couple of issues. One, the statute
22 allowing for an injunction essentially talks in terms
23 of granting an injunction when it shall appear by
24 complaint that the plaintiff, or it shall appear by --
25 subsection one, and it shall appear by complaint,

1 subsection two, and it shall appear by complaint.

2 Looking at the petition, just in the short
3 time that I've been here on the bench, generally when
4 I've seen motions for TRO or an injunction, I see a
5 motion and then a complaint filed with the motion. And
6 so I'm sort of at a loss whether or not this is -- I
7 can or -- and should consider this emergency petition
8 for an injunction.

9 One, both the motion for an injunction and a
10 complaint for an injunction; and then, two, since it's
11 brought under NRS 295.15, whether there is a valid
12 underlying basis for the petition or whether I can
13 change, you know -- look at it and say, well, the facts
14 alleged clearly do fit under 306, and it would be
15 appropriate to look at it under that, or whether there
16 is a separate Nevada constitutionally basis for the
17 motion separate from Nevada Revised Statute 295.

18 So as I said, I sort was at a point where I
19 wasn't sure, if I even had the matter in front of me,
20 that I could consolidate with.

21 So that's why I decided to go ahead and set
22 the hearing today, primarily to see where we stood,
23 what the -- see if I could see if we were all on the
24 same page; and if we weren't on the same page, what
25 page everybody thought I should be on.

1 So with that sort of general preface,
2 Mr. Mueller, can you sort of tell me --

3 MR. MUELLER: Certainly.

4 THE COURT: -- where you think I should be
5 and how procedurally this actually works.

6 MR. MUELLER: Thank you, Your Honor.

7 The reason we proceeded in this form, if I
8 may address the Court, is because the injection is a
9 complaint. We actually thought about the issues you've
10 raised. And when we were roundtabling it in my law
11 firm, we concluded that the complaint in the petition
12 for declaration for injunctive relief is, in fact, the
13 complaint. It lays out with specificity what relief is
14 sought, why the relief is important, and the grounds
15 for the injunction.

16 I believe the document that you have should
17 be considered a document for complaint. We considered
18 your concerns, and we reached the independent
19 conclusion there was no sense filing a second document
20 that laid out the facts specifically and then just
21 said -- and then added the same allegations and then
22 asked for injunctive relief.

23 Specifically why injunctive relief is proper
24 here is the statutory scheme gives the city clerk of
25 North Las Vegas five days to call for an election. At

1 that point, going forward, there is a practical
2 problem.

3 Now, if they've got a parallel -- they're
4 going out there and spending 2-, 3-, \$400,000 to do a
5 recall election in an improper format for -- under bad
6 law, that's injunctive relief. Now, that's sort of the
7 thing that can't be fixed, and now we have a huge
8 practical problem.

9 The other reason we petitioned independently
10 of the complaint -- and we did file a second complaint
11 challenging the sufficiency of the signatures. But
12 this relief sought here is a relief that they are
13 proceeding under the wrong article of the constitution
14 of the state, and they are using inapplicable law to
15 attempt to remove a judgment.

16 Now, this is the threshold issue by which --
17 behind all of which becomes moot. So I believe you
18 have a jurisdiction, I believe it is proper, and I
19 believe you should hear our petition for injunctive
20 relief before the independent challenge to the election
21 sufficiency goes forward.

22 My colleagues are -- apparently don't
23 appreciate what the challenge of sufficiency would
24 entail.

25 Now, they -- this is the most unprecedented

1 political attack on the judicial independence I have
2 seen in my lifetime, and that's 50 years of living in
3 Southern Nevada and corporate memory.

4 Now, they're proceeding incorrectly, they're
5 proceeding wrongly, and this is -- it's something that
6 needs to be enjoined.

7 THE COURT: Let me just, though, generally
8 turn to whether you're proceeding correctly under --
9 with you noting the basis for your petition is NRS
10 295.1 -- 210. Like I said, that looks to me to be a
11 statute of ballot initiatives rather than recall.

12 And then it's noted by -- I can't remember
13 which one of the parties in their responses -- you
14 filed a complaint that's in the other court under
15 Nevada Revised Statute 306.

16 MR. MUELLER: Yes, sir.

17 THE COURT: So --

18 MR. MUELLER: It was a -- there was a
19 five-day deadline on that one, that had to be filed
20 that fifth day, so there was no alternative.

21 This is independently an interpretation.
22 This is not -- strictly speaking, this is not about
23 recall. This is about the interpretation of the state
24 constitution and what law, if any, applies to these
25 people's efforts, in which it's -- it's quasi -- almost

1 quasi declarative relief.

2 But they're proceeding correctly, and we have
3 the great weight of authority, in fact, behind us.

4 Now, there --

5 THE COURT: Okay. So essentially your
6 position is, regardless of whether you cited the right
7 statute in reference to the -- the procedure for
8 recall, the underlying claim here is essentially a
9 violation of the Nevada constitution?

10 MR. MUELLER: Yes, sir. The wrong law is
11 being applied, and the proceedings cannot go forward
12 with -- as properly constituted, and that's what relief
13 we are seeking here today, and it's with those points
14 and authority to support it.

15 THE COURT: Okay. Mr. Miller.

16 MR. MILLER: Thank you, Your Honor.

17 Yeah, I think it's clear that this instant
18 matter was not properly filed. It's wasn't filed in
19 the proper procedure. And the Court would -- could, in
20 fact, dismiss it, if the Court was so inclined on that
21 basis.

22 What they've done is they've used this
23 statute, which wholly doesn't apply. As the Court
24 pointed out, it applies to the county referendums and
25 initiatives, a completely different context.

1 It's filed in this case on a more limited
2 basis and then use the more applicable statute to get
3 in front of a different court.

4 And in that complaint, they've raised the
5 same identical issue. So if we went forward without
6 consolidation and without you dismissing this instant
7 complaint, they would have, in essence, be allowed to
8 forum shop and hope for a different opinion on the same
9 legal issue. And there's no reason for it.

10 This is clearly a recall election. The
11 legislature has contemplated judicial review within
12 that context, and they specifically provided for that
13 process. And the plaintiff's clearly know that,
14 because they filed that complaint, in fact.

15 There is no harm to this judge in moving
16 forward with this. We can't move forward with the
17 recall election until is there a judgment by the court
18 on that complaint. And that's clear from -- from the
19 statute that's -- was cited, NRS 306.040(3), which says
20 that:

21 "Not sooner than 10 days nor more than 20
22 days" after we complete the notification
23 required by subsection 1, which is the
24 verification process, "if a complaint is not
25 filed pursuant to Section 5."

1 And if you look at Section 5, that is what
2 contemplates judicial review as to whether or not this
3 is legally sufficient.

4 So we're going to hear all of this in one
5 court or another. Our preference is to hear it as soon
6 as possible in one court and not allow them to have two
7 bites the apple to hear these challenges in front of
8 two different courts and be allowed to forum shop.

9 Our interest is trying to get to -- through
10 that process as quickly as possible. That's why we
11 didn't object to the deficiency in their initial
12 filing. Even though it was titled inappropriately and
13 probably didn't follow the right procedures, we didn't
14 object to them trying to expedite the time line,
15 because that's our same interest.

16 The judge isn't prejudiced by this stretching
17 out. She'll remain on the bench. The people have
18 spoken in this case. We've gotten enough signatures in
19 order to qualify. That's an extraordinarily high
20 barrier to reach.

21 If you look at the policy behind all of these
22 statutes, it specifically contemplates the process
23 that's moves forward as fast as possible, because --

24 THE COURT: Well, that sort of gets into the
25 issue that I raised, and that is what do I have exactly

1 here in front of me?

2 For me, I think, to hear this matter and make
3 a decision, at least on the constitutionality issue,
4 not dealing for a second with the issue as far as
5 consolidation, we'd have to -- I'd like to see general
6 agreement that the petition -- or emergency petition
7 for injunction is sufficient to constitute a complaint;
8 that we agree that it's -- should be treated as a
9 complaint under NRS 306.

10 You know, absent that, then I think I've got
11 to sit back and make a decision whether there's
12 really -- there is a requirement that it be dismissed
13 because it's not properly before me. And a proper
14 procedure wasn't followed in this instance.

15 And so do you have any thoughts in regard to
16 that? Do you want me to essentially modify it in that
17 regard to get it before me? Because otherwise, if it's
18 not properly before me, it should be dismissed; and
19 then, as I said, there's nothing to consolidate under
20 Rule 42.

21 MR. MILLER: It's clearly not -- you know,
22 it's not properly filed. I think this Court could
23 clearly dismiss this claim and just allow us to proceed
24 in Department 1 on the hearing that's scheduled for
25 June 30th, if not earlier, on all of those claims,

1 where the exact same issue is raised.

2 If the Court were going to look at this and
3 say, "We're going to accept the defect and nevertheless
4 move forward," we'd ask you to consolidate and reach
5 into those other issues, because it's the same case of
6 controversy. It's essentially the same examination as
7 to whether or not we have met the legal sufficiency
8 standard, along with the City, in order to move forward
9 with the recall election.

10 THE COURT: What's the City of North of Las
11 Vegas's position?

12 MR. GORDON: Yeah. Thank you, Your Honor.

13 Well, initially I would say, Your Honor, we
14 certainly shared some of the Court's initial concerns
15 at the filing of the petition, whereas the complaint --
16 how does a court evaluate likely the success on the
17 merits here when there's no, really, claims alleged,
18 other than, you know, reading the constitutional claims
19 from the petition.

20 But I think certainly the challenge in the
21 constitution -- you know, the constitutionality of the
22 process going forward, you know, trying to -- to read
23 it as broadly as possible, challenging the
24 constitutionality of the process, in a sense, may be a
25 type of challenge to the sufficiency of the petition.

1 And so, for that reason, we responded to the
2 petition. And --

3 THE COURT: But do you think it is an
4 appropriate basis for an action here before the court?

5 MR. GORDON: Yeah. I mean, again,
6 challenging the constitutionality of -- of the process
7 going forward, I think, is -- you know, could be deemed
8 a -- you know, a challenge to the sufficiency of the
9 petition.

10 Obviously, they filed another complaint under
11 Chapter 306 in another department, but -- and we
12 certainly think that NRS 295 -- that sort of the method
13 by which they -- you know, petitioner brought the
14 parties here on an expedited basis is not a proper
15 method for expediting it, but -- but they are, I guess
16 you can say, related matters enough to the sufficiency
17 of the petition that this Court could entertain it.

18 THE COURT: All right. Let me just ask, if I
19 was to essentially treat it as a complaint challenging
20 the constitutionality of the recall process generally
21 and ignore the reference to NRS 295.210 and also treat
22 it -- the petition as an equivalent of a complaint
23 under the -- for purposes of the injunctive relief, if
24 I just -- if I did that and then denied the -- denied
25 the motion -- let's say I denied the motion -- that

1 would end it in this court, for all practical purposes,
2 and it wouldn't be a real reason for me to consolidate
3 the case over.

4 Is that something that you would be opposed
5 to me doing?

6 MR. MILLER: Your Honor, obviously, that
7 would be a favorable ruling to us. Our only concern is
8 that your decision may not be binding in front of that
9 other court, and so they would, in essence, get the
10 benefit of being able to shop the same legal issue in
11 different -- in different departments and forum shop
12 for a different result.

13 But if you were going to go that route and
14 dismiss their complaint, I don't think we'd have any
15 objection to that.

16 THE COURT: What -- Mr. Mueller, what's your
17 thoughts in terms of the issue of consolidation?

18 MR. MUELLER: Certainly, Judge.

19 My colleagues -- all right. There is a
20 recall petition effort. It's politically motivated and
21 sloppily done. The evidence at that hearing is going
22 to be a day-long hearing about 11 -- or the same person
23 signing 11 times, improper format, all sorts of issues
24 that are a lot of "Who shot Johnny?"

25 Before we go there -- and the reason we did

1 it this way is so that we could get a clear, concise,
2 stand-alone ruling from a legal scholar looking at the
3 Nevada constitution in deciding if this is proper
4 procedure.

5 Now --

6 THE COURT: But your first cause of action,
7 if I remember looking at your complaint, that was
8 before Judge Cory essentially is a repeat of the
9 underlying complaint that you're making in this case?

10 MR. MUELLER: Yes, sir.

11 THE COURT: So, I mean, Mr. Miller's point
12 that this appears that you're making a -- seeking a
13 double bite at the apple as far as -- as far as the
14 underlying issue of the constitutionality of the -- of
15 the recall process --

16 MR. MUELLER: No, sir. There's no intent to
17 get a double bite at the apple. My colleague did not
18 stand up nor address the actual underlying merits of
19 the case.

20 Now, Nevada has a matter of public policy
21 notice of pleading. Everyone in this courtroom knows
22 why we're here today. They're on notice of what we are
23 seeking and why we're seeking it. So that the
24 complaint is sufficient legally under Nevada law for
25 you to go forward.

1 Secondarily, it's a constitutional issue.
2 It's a Constitutional issue. I can show you black
3 letter law. They are proceeding incorrectly as a
4 matter law, and they are attacking the judicial
5 official because they don't like it.

6 Now, this is the sort of action that needs to
7 be enjoined, and it's -- and we properly cited the
8 injunction, we cited the statute, and we're hoping to
9 get to basically get this action stopped.

10 Now, that is very -- this is -- the
11 importance of this issue -- and I'm sorry. I know --

12 THE COURT: Let me ask you, if I was -- let
13 me just -- if I was to rule one way or another on the
14 issue of the constitutionality, wouldn't you be also
15 there in court in front of Judge Cory asking him to
16 make the same essential determination?

17 MR. MUELLER: No. Our -- the action -- we
18 were compelled -- the reason we did it this way -- and
19 I had to -- by statute, I had to file a challenge on
20 the fifth day -- this is the threshold issue.

21 Now, if this is -- if this is constitutional,
22 then we go down to Ken Cory, and we have a long -- we
23 have a long, drawn-out hearing and a debate -- we got a
24 lot of litigation to do down there.

25 Now, the question is, if it's not

1 constitutional, the issue stops here, and then they're
2 free to use their Article 6 or Article 7 remedies, but
3 that they are -- that they are proceeding incorrectly
4 does not meaningfully endow. There are. I've got case
5 law. I've got statute law. I've got the constitution.
6 I mean, it's not in doubt.

7 Now, the petition for relief -- we've cited
8 the injunctive relief statute, which cited the relevant
9 chapters, put everyone on meaningful notice --

10 THE COURT: And let me just ask, if I was to
11 rule, like I said, one way or another, are you going to
12 treat that as issue conclusion in front of Judge Cory
13 on June 30th?

14 MR. MUELLER: I would have to say it depends,
15 and I'm not trying to be smart aleck. I mean, it
16 really would have to depend on the definitive ruling.

17 Now, there is controlling case law. And if
18 this Court's decision in accordance with the
19 controlling case law and it's the proper decision --

20 THE COURT: Well -- okay. So -- from what
21 I'm reading, you're essentially saying, if I grant the
22 injunction, you're willing to treat it as an issue of
23 conclusion; but if I deny the injunction, you're going
24 to take second bite at the apple.

25 MR. MUELLER: All right, Judge. You got me.

1 All right. The answer -- the promise is this is so
2 clear and concise to me that I -- I mean, this is a
3 strong issue here.

4 Now, this is a politically motivated attack
5 on a judicial official, and it's improper. And I
6 feel -- as you can tell, I feel fairly strongly that
7 you should declare this unconstitutional under the
8 Nevada constitution, and that's the relief I'm here
9 asking for.

10 Now, if I were in their shoes, yes, I would
11 try to find some administrative -- a way to avoid a day
12 of reckoning on the issue, even if it's just for a few
13 days. But the reality is -- is, I don't see
14 consolidating a very clear and concise, simple legal
15 issue with a bunch of "Who shot Johnny?" down the
16 hallway, which is going to take lot of time to serve --
17 to sort out.

18 THE COURT: Well -- and, I mean, I do think
19 that that's two totally different things, one being the
20 constitutional issue, the other one being the
21 sufficiency of the signature under the statute and the
22 constitution.

23 Like I said, my concern here is as far as
24 whether you have a proper -- proper procedurally
25 followed document here in front of me for me going

1 ahead and making a ruling and not consolidating or me
2 going ahead and adjusting everything so that it's -- I
3 can properly make a ruling and not consolidating,
4 essentially maybe giving you two bites at the apple
5 that Mr. Miller and his colleagues feel is
6 inappropriate in this instance.

7 MR. MUELLER: Yes, sir. I tell you what
8 Judge. Number one, I didn't get their motion to
9 consolidate. If they got it to us in a timely manner,
10 I've not had a chance to review it.

11 If my colleagues are willing to -- that this
12 matter be stayed under the statute and not go
13 forward -- you seem uncomfortable. And I understand.
14 I don't want to push you. If you're uncomfortable,
15 then we'll go ahead and consolidate it with Judge Cory
16 and let him have the whole shooting match.

17 We're not pulling a fast one. We're not
18 trying to do anything improper here. I was trying to
19 saver the taxpayers a lot of time and effort and --
20 from a legal effort.

21 Now, if you are comfortable that one judge
22 has it all -- you know, I don't have the pleadings, but
23 I've read and thought about this long enough -- I'm
24 comfortable with it. If you want to send it down -- or
25 consolidate it with Ken Cory's and you think that's

1 better and you're uncomfortable with this procedure,
2 that's fine. Consolidate it, and we'll just take
3 everything up in front of Judge Cory.

4 THE COURT: All right. Thank you,
5 Mr. Mueller.

6 Mr. Miller, you've been standing for a few
7 minutes, which I seem to take you want to make some
8 comments.

9 MR. MILLER: Just briefly, Judge.

10 You know, I just point out that I have
11 difficulty, with all due respect, with Mr. Mueller
12 reconciling his earlier comments about not attempting
13 to forum shop and filing this same issue in two
14 different courts, when -- and then when asked directly
15 by Your Honor as to whether or not, if he had an
16 adverse ruling, if he intended to try to raise the same
17 issue in front of Judge Cory, you know, he said, "It
18 depends."

19 I'm not sure what that depends on. If we
20 have an adverse ruling here and the Court determines
21 that this is, in fact, unconstitutional, to try to
22 recall a judge, we're done. We don't need to get into
23 a hearing on the legal sufficiency of whether or not we
24 counted the signatures accurately.

25 So the only purpose in having it heard in

1 front of two courts is to try to forum shop.

2 If Mr. Mueller would agree to dismiss that
3 part of the claim in front of Judge Cory, because, as
4 he said, it may be too confusing to have the legal
5 issue and then put on the full hearing, we're prepared
6 to hear this today, and we'd like to go forward and
7 resolve this today.

8 THE COURT: Well, what about -- Mr. Mueller,
9 I'm prepared to make a ruling -- I'm prepared to hear
10 argument and make a ruling on the issue of
11 constitutionality, but are you essentially going to try
12 to re-litigate that whole issue again in front of Judge
13 Cory if I was to rule against you?

14 MR. MUELLER: The practical problem -- say
15 hypothetically if you did rule that this is
16 constitutional, then the issue --

17 No. You're right. Maybe my colleague was
18 correct. Maybe we should consolidate this in front of
19 Judge Ken Cory.

20 I mean, I'd like to get it done today. I
21 think it's in the public interest that it be done
22 today. I think it's an important issue.

23 But if they're consolidated and they think
24 we're trying to pull a fast one --

25 Now, remember, when we filed this, we were

1 looking for a three-day hearing. The second complaint
2 had to be filed -- matter of law to file it. Now,
3 there's was no effort to forum shop. But at least, if
4 they think there's any sort of impropriety, consolidate
5 it with Judge Cory. That's fine. I mean -- or we can
6 pull it up here, Judge. I'm not forum shopping.

7 This is an important constitutional issue, it
8 need to be addressed as a matter of public concern, and
9 it is impinging on the function of the North Las Vegas
10 judiciary.

11 MR. MILLER: Your Honor, I would just point
12 out that we have a pending motion to try to consolidate
13 it in this courtroom. This is the earlier case number;
14 this was where it was originally filed. This Court has
15 jurisdiction to hear all these claims, and so we'd ask
16 you to do that.

17 We can hear the constitutional issue today.
18 Obviously, the hearing's going to take a little bit
19 longer, but you can set that according to your
20 schedule, but the statute asks you to set it and give
21 it priority over all matters except criminal matters,
22 but, you know, there's no reason that this should be in
23 front of Judge Cory at all.

24 And the only reason that that other case is
25 even filed and outstanding there is because they

1 inappropriately filed its first motion and then
2 attempted to file under the inappropriate statute
3 thereafter.

4 THE COURT: North Las Vegas, you have a
5 position?

6 MR. GORDON: Yeah, Your Honor, and I think,
7 again, this is really just as a matter of efficiency,
8 if nothing else.

9 The matter is before this Court now and --
10 and, you know, I think we've heard enough from the
11 petitioner that -- that, you know, depending on how you
12 rule, then maybe we re-litigate it again in other
13 forum.

14 And so -- and for that reason, that was
15 certainly expressed in the papers that the City filed,
16 that, as a matter of efficiency, these multiple --
17 multiple proceedings should be consolidated here.

18 And this type of thing happens all the time,
19 Your Honor. I know before you is a motion for
20 injunctive relief. Motions for injunctive relief are
21 very common, obviously, and often they are denied, but
22 they're granted, but the case then proceeds.

23 So in other words, I think the Court can make
24 a ruling on the motion for injunctive relief, and we
25 hope that it does, but that -- the matter still -- so

1 that the parties aren't having to go to another forum,
2 another court. And I can -- seems to guarantee you
3 that we'll be making the same arguments there.

4 As a matter of efficiency, we think the Court
5 should rule on the motion, maintain jurisdiction, and
6 consolidate in this -- in this department, which was
7 the first filed action.

8 THE COURT: All right. I'm going to take the
9 issue of consolidation under advisement at this point
10 in time.

11 I'll be frank that I would -- I would -- that
12 in looking at the issues here, I am concerned that if I
13 was to rule against Judge Ramsey that she would
14 essentially seek to try to get a second bite at the
15 apple through Judge Cory, although I do think there
16 would be an argument issue preclusion at that
17 subsequent proceeding.

18 I am troubled with the idea of manipulating
19 the process to find the sufficiency of the document
20 here in front of me and then using that as the basis
21 for a Rule 42 consolidation if, arguably, it's not even
22 properly here before me.

23 So I'm going to take that under advisement.

24 If I decide to go ahead and consolidate, I
25 would at that time also make a ruling on the issue of

1 the constitutionality.

2 If you want to -- each party can give me five
3 minutes of argument in that regard at this point in
4 time, if you want, or otherwise -- I have read the
5 briefings completely, and I feel pretty comfortable
6 with the issues.

7 MR. MUELLER: Your Honor, if you've -- it's
8 obvious that you've read everything in detail, and I
9 don't know that we need to repeat the briefs, and
10 I've -- if my colleagues want to submit it on the
11 briefs, I'll submit it.

12 THE COURT: Mr. Miller?

13 MR. MILLER: Your Honor, it sounds, again,
14 like you've done your homework, but I'd just like to
15 point out just very briefly a couple areas that I just
16 want to highlight for the Court.

17 Just as a clear matter of statutory
18 construction, the plain meaning that every public
19 officer can be recalled -- this isn't even a close
20 case. And you only need to look to a few Supreme Court
21 decisions where -- not as a holding of the case, but
22 just in their explanations, have already made that
23 clear, that this isn't even a point of interpretation.

24 First is the case that we cited, Halverson
25 versus Hardcastle, where, despite the plaintiff's

1 argument that there's only one exclusive means of
2 removing a judge in the state of Nevada, there are
3 actually four within the constitution.

4 And in that case, they point out that, under
5 the Nevada constitution, a judge can be removed from --
6 from office only by the voters, by the legislature, or,
7 as of 1996 -- 1976, by the Nevada Commission on
8 Judicial Discipline. So that's clear, that the Supreme
9 Court has taken that interpretation as well.

10 Also in the case that they cite -- you don't
11 have to go any further than their brief. It certainly
12 wasn't bolded or highlighted. But in their brief, they
13 have this exact section, where it says, "In this case,
14 all public financials, whether legislative, executive,
15 or judicial, are lumped into one initiative," meaning
16 that judges are public officials. And if they're
17 public officials, they're subject to the recall.

18 We have referenced the Attorney General
19 opinion, I think, if the Court wants to get that far as
20 to the --

21 THE COURT: I read the Attorney General's
22 opinion.

23 MR. MILLER: So I think that outlines
24 beautifully the history of why this was put in place.

25 I just don't think this is a clear case. I

1 think this could -- this case couldn't be clearer at
2 all, and so we would ask you to deny their motion.

3 MR. MUELLER: That would appear to be the one
4 thing that Mr. Miller and I can, in fact, agree upon,
5 that this case could not be clearer.

6 We have the statutory definition, which says
7 public employees are all elected officials, but for the
8 Supreme Court justices, district court justices,
9 justices of the peace, and municipal court justices.
10 That's found in 281A.

11 One of their points was, well, 281, not 281A,
12 defines public official, and they went back and defined
13 it.

14 What they didn't point out was that
15 recodification, the one that we cite, 281(a), was, in
16 fact, the same law. It was moved forward. It used to
17 be 281.4836. So it's always been the state of Nevada
18 has always had a different procedure for removing
19 judges. If they didn't, they would point out the case
20 where it's actually been successfully done before. It
21 cannot be.

22 Additionally, Gary Davis case -- the Gary
23 Davis case says:

24 "The Nevada Supreme Court has ruled on the
25 issue. Original exclusive jurisdiction in

1 the State of Nevada is in the Commission for
2 Judicial Discipline, Article 6, Sections 19
3 through 21."

4 That is where -- the authority to remove.

5 There's also old school Article 7, where a
6 judge can be removed by impeachment, similar to the
7 feds. To my knowledge, that's never been used in the
8 Nevada since its inception.

9 Article 6 is what governs.

10 If there's any meaningful doubt that that's
11 the correct position, you only have to look at the
12 Judicial Association versus Lau case. Nevada Supreme
13 Court ruled you have to rule out -- or you have to
14 partition out the referendum the difference between
15 public officials for term limits and judicial
16 officials, and the sua sponte split that initiative so
17 that it was two separate questions on the ballot.

18 Nevada's constitution -- or the Nevada
19 Supreme Court has made it abundantly clear judicial
20 officers are not constitutional officers. They're not
21 public officials under the definition of the statute,
22 nor is this lawyer pettifogging.

23 We found a case just out -- from the United
24 States Supreme Court just two months old. And I just
25 passed this on. There's a copy for you, Counsel. And

1 here's what the Supreme Court said on the issue:

2 "A state's interest in producing and
3 preserving public confidence in the integrity
4 of its judiciary extends beyond its interest
5 in preventing the appearance of corruption in
6 legislation and executive rules, because the
7 judge's role differs from that of a
8 politician." Case cited. "Unlike a
9 politician, who is expected to be
10 appropriately responsive to the preferences
11 of supporters, a judge in deciding cases may
12 not follow the preference of his supporters
13 or provide any special consideration to his
14 campaign donors."

15 And that is found in United States Supreme
16 Court from this term, Williams versus Florida Bar.

17 Now, there is public policy from the highest
18 level recognized to have different procedures for
19 removing judges than from removing politicians. You
20 cannot --

21 THE COURT: But every state can set their own
22 procedures, and the citizens of that state can,
23 obviously, decide how they want to elect and remove
24 their -- their judges, because Florida may have set up
25 a system which restricts, in certain ways, and tries to

1 take out of the process the issue of electoral
2 process.

3 Wouldn't you say that Nevada, at least twice
4 during my recollection since I've been here, has
5 rejected the idea of appointing of judges, and there's
6 nothing in the adoption of the judicial disciplinary
7 commission amendment which says that the recall process
8 is no longer a valid basis for removal of a judge.

9 Nevada seemed to like the opportunity to have
10 a direct say in their judges.

11 MR. MUELLER: Yes, sir.

12 THE COURT: And by that same token, with the
13 existence of the recall position referencing any public
14 official without the delineation as to state
15 legislative, executive, or judicial officer, as
16 Mr. Miller notes with the decision in -- in Lau, it
17 would seem that Nevadans want and -- to keep the right
18 to have control, through their voice at the voting box,
19 in the judges and the recall of judges.

20 I don't see -- I don't see how Florida's
21 system or any other state's system necessarily
22 interprets the policy here, in Nevada.

23 And I know you've expressed the concern about
24 Nevada recalling judges for the wrong reasons or for
25 bad reasons or for whatever reasons they -- they do.

1 But that is the recall process, and I don't see
2 anything that suggests that's Nevadans take that
3 responsibility lightly or are irresponsible in using
4 the authority of recall elections because, as you point
5 out in your brief, in the 150-year term -- or existence
6 of Nevada as a state, there's never been a successful
7 recall of a judge.

8 So the Nevadans aren't just out there
9 throwing out every judge and subjecting them to the --
10 the political whims of the time. And they haven't in
11 this instance because -- regardless of -- if the -- if
12 it is constitutional to do the recall, you still have
13 an election and still have a recall process that may
14 not actually recall the judge.

15 So I don't see whatever the Supreme Court
16 says with Florida or the concern in terms of
17 potentially irresponsibility on the part of Nevada
18 citizens as driving in any way a constitutional
19 interpretation of this case.

20 The issue in my mind needs to be whether, in
21 1912, when Nevada adopted the recall petition -- did it
22 at that point in time -- did the citizens -- the
23 legislature and the citizens of the state perceive that
24 this included judicial officers?

25 If they did, then I don't see anything in the

1 2001 creation of the Judicial Disciplinary Committee
2 which specifically obligate -- specifically abolishes
3 that part of the recall process.

4 So ultimately the issue, at least to me, is
5 what did the people of the state of Nevada think in
6 2012 and not what, you know, the legislature may have
7 defined as a public official in the 1990s.

8 MR. MUELLER: Well, two things, Judge:

9 Number one, the Gary Davis case. And,
10 please, before you finally let your thoughts settle,
11 you need to read that case very closely. The language
12 says:

13 "Original exclusive jurisdiction in removal
14 of judges vests in the newly created Judicial
15 Disciplinary Commission under Article 6."

16 That was not part of the constitution when
17 the recall initiative was posted in 1912.

18 The reason I mentioned this Florida case from
19 the U.S. Supreme Court is persuasive authority is
20 because, at the highest levels, there's a recognition
21 that judges, as elected officials, are different than
22 politicians. Their charge is different.

23 You have a difficult decision to make here.
24 You're going to make somebody unhappy, just so -- do
25 you -- I mean, every day that has to happen in this

1 court. It happens a hundred times a day.

2 Do judges get recalled because their
3 interpretation of law is not popular? The answer is
4 no.

5 They get recalled for malfeasance, for
6 intemperance, or refusal to do their duties. Those
7 were the language in this recall -- or in the scheme.

8 Now, this is -- has to be limited, and it
9 cannot be as they would have you advocate.

10 THE COURT: But if the people in Nevada
11 decide and make as part of the constitution that,
12 regardless of whether malfeasance or unethical conduct
13 occurs, we want to have the ability to recall the
14 judge, is there anything wrong with that?

15 MR. MUELLER: Yes, sir. Nevada Supreme Court
16 has said that that's not the law of the land. Nevada
17 Supreme Court says exclusive recall jurisdiction lies
18 in the Judicial Disciplinary Committee. It said it
19 repeatedly.

20 THE COURT: All right.

21 MR. MUELLER: All right. And the statutory
22 definition of what a public official is is also very
23 clear.

24 THE COURT: All right.

25 Mr. Miller, one minute, and then one minute

1 to you. I've got a big criminal calendar.

2 MR. MILLER: Yeah. I'll just briefly point
3 out that he's misconstruing the Davis case as well as
4 the Lau case.

5 That provision, Article 6, is not the only
6 means to remove a judge.

7 Article 7 specifically contemplates another
8 method of removal of judges, and that's the legislative
9 address.

10 As all of these documents point out, even the
11 ones that they reference, this legislative document
12 that goes through the background, they failed to point
13 out that it suggests that the reason that the Judicial
14 Discipline Commission was put forward was because there
15 had never been a recall, that impeachment had never
16 occurred, and it was extraordinarily difficult. So
17 they wanted to provide another means of censure of
18 judges. And it specifically references that, that
19 recall is another one of those means.

20 And I'll -- the only other point that I would
21 point out is, if you're going to look to others states,
22 you should do that and look at the historical context
23 that you pointed out. When this was passed in 2012, it
24 was a western phenomenon. It was primarily concerned
25 with recalling judges through the progressive movement.

1 Arizona, Colorado, and one other state -- I
2 believe Utah -- had the same exact language as Nevada.

3 Washington and Idaho opted to -- opted to
4 specifically exclude judges from being able to be
5 recalled. And the Bar Association took issue with
6 that. The American Bar Association opposed it. The
7 Nevada Bar Association voted 45 to 40 to oppose it,
8 because they didn't think judges should be able to be
9 recalled. The public voted 88 percent to 12 percent in
10 favor of recalling judges.

11 So it's clear --

12 THE COURT: I saw that in the Attorney
13 General's opinion.

14 MR. MILLER: Thank you.

15 THE COURT: You took most of your minute, if
16 you have a final comment?

17 MR. GORDON: Final comment. The City -- just
18 one additional thought for the Court's consideration.

19 You know, as the Court knows, we take no
20 position on the recall itself. We joined the legal
21 argument of co-respondents here.

22 And in our joinder, we make only one
23 additional argument, but I think it's important for the
24 Court to consider, especially because it was
25 highlighted not only in both briefs of petitioners but

1 today, before the Court in argument, that is the -- and
2 this sort of highlights what I think is really the
3 statutory gymnastics that petitioner is making in order
4 to try to make the argument.

5 Petitioner correctly cites the Court
6 initially to Chapter NRS 281 on public officers.

7 And then as we heard just today, instead
8 of -- you know, once it reads the definition of public
9 officer, instead of looking to the very next provision,
10 Your Honor, which is Section 281.010 in Chapter 281,
11 which they conveniently ignore for very a obvious
12 reason, because that provision expressly includes
13 judges within the category of elected officials and
14 therefore as a public official under 281.

15 What does petitioner do instead?

16 Conveniently avoid that provision and take
17 the Court to an entirely different chapter, Your Honor,
18 281A on ethics and government, which is unrelated to
19 ethical guidelines for judges. And it's understandable
20 why judges don't appear in that -- in that Chapter.

21 So, you know, it's -- just the mere fact,
22 Your Honor, that -- that that is the -- the text that
23 petitioner is coming to the Court with to say, "Look.
24 Judges aren't public financials," you know, we try to
25 highlight in our joinder.

1 And I think it's very relevant, because it
2 really does show the extent of -- I think, in and of
3 itself, of the futility of the request.

4 THE COURT: And I appreciate it, but I'll be
5 frank with you. I'll remind you of the issue -- what
6 the legislature did in the 19 --

7 MR. MILLER: Twelve.

8 THE COURT: -- 80s and '90s wasn't
9 controlling as to what the legislature and the people
10 understood they were doing in 1912, which seems to be
11 the controlling thing here, then looking at whether
12 there is any inconsistency with the Judicial
13 Disciplinary Review Committee provision, which
14 generally -- in terms of its purpose, as opposed to
15 that recall, I don't see any inconsistencies, but I'll
16 take a closer look at it.

17 I'm going to take this under advisement. I'm
18 will issue something no later than on an Monday,
19 because I know we've got the hearing set in front of
20 Mr. Cory, if that needs to go forward.

21 Otherwise, thank you, Counsel, for coming in
22 this morning. I appreciate it was on short notice.

23 MR. MUELLER: Thank you, Judge.

24 MR. MILLER: Thank you, Your Honor.

25 (Whereupon, the proceedings concluded at 9:29

1 a.m.)

2 -o0o-

3 ATTEST: FULL, TRUE, AND ACCURATE TRANSCRIPT OF
4 PROCEEDINGS.

5
6 *Amber M. Riggio*

7 Amber M. Riggio, CCR No. 914

8 E/S 7/21/2015 at 5:17 a.m.
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DISTRICT COURT

CLARK COUNTY, NEVADA

IN THE MATTER OF THE PETITION)
OF)

CATHERINE RAMSEY)

CASE NO.: A-15-719406-P

DEPT. NO.: XX

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE JUDGE ERIC JOHNSON

DEPARTMENT XX

DATED MONDAY, JUNE 29, 2015

REPORTED BY: AMBER M. RIGGIO, NV CCR #914

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1 LAS VEGAS, NEVADA; MONDAY, JUNE 29, 2015
2 9:08 A.M.

3 * * * * *

4 P R O C E E D I N G S

5 * * * * *

6 THE MARSHAL: All rise. District Court
7 Department 20 is now in session. The Honorable Judge
8 Eric Johnson presiding.

9 THE COURT: All right. Good morning,
10 everybody.

11 THE MARSHAL: Please be seated.

12 THE CLERK: Your Honor, Case No. A719406 in
13 the matter of the Petition of Catherine Ramsey.

14 THE COURT: Counsel, would you note your
15 appearances for the record, please?

16 MR. MUELLER: Certainly. I'm Craig Mueller
17 of the law firm of Mueller, Hinds & Associates, on
18 behalf of Judge Ramsey.

19 MR. MILLER: Ross Miller on behalf the
20 defense, the Committee to Recall Judge Ramsey.

21 MS. McCARTY: Colleen McCarty on behalf of
22 the Committee to Recall Judge Ramsey.

23 MR. BYRNE: Good morning, Your Honor. Pat
24 Byrne, and with me is Rick Gordon, on behalf of the
25 City of North Las Vegas and Barbara Andolina.

THE COURT: All right. Thank you, Counsel.
I appreciate everybody coming here. I pushed this

1 because, one, it's an important issue, and, two, the
2 statute requires us to consider this in an expedited
3 manner.

4 I have reached a decision relating to the
5 constitutionality of the recall petition of a judge in
6 this matter, and I thought I'd go through that first,
7 as that will impact what we have to look at the
8 remainder of today.

9 All right. First of all, as the Court noted
10 at the first hearing on this matter on June 18th of
11 2015, the petitioner/plaintiff Judge Ramsey filed for
12 an emergency petition for injunction under Nevada
13 Revised Statute Section 295.105 and NRS 33.010.
14 However, the Nevada Revised Statute 295.105 does not
15 concern petitions for recall, but rather concerns
16 petitions for ballot questions or referendums for use
17 in municipalities.

18 Consequently, RS -- NRS 295.105 does not
19 provide a basis for plaintiff to seek her requested
20 injunctive reliefs. The proper statutory basis under
21 which plaintiff should have sought relief was Nevada
22 Revised Statute 306.040, which specifically concerns
23 recall petitions.

24 Additionally, under the Nevada Rules of Civil
25 Procedure, and particularly Rule 3, civil actions are

1 commenced by filing a complaint with the court.

2 Nevada Revised Statute 33.010, which provides
3 for injunctive reliefs, states that an injunction may
4 be granted in certain instances after the plaintiff has
5 filed the complaint or the parties have otherwise
6 initiated litigation.

7 Indeed, both 306.040, concerning recall
8 petitions, and NRS 295.105, concerning civil -- city
9 ballot initiatives, speak in terms of the challenging
10 party filing the complaint to initiate bringing the
11 matter before the Court.

12 At the hearing, the Court questioned whether
13 plaintiff had properly proceeded in this matter in that
14 the plaintiff had not filed a complaint to initiate
15 litigation, much less one setting out a proper basis
16 for relief under Nevada Revised Statute 295.105, and
17 had only filed an emergency petition for injunction,
18 which, under Nevada Revised Statute 33.010, seemed to
19 require a separate initiation of litigation by
20 complaint.

21 At the hearing, petitioner suggested that her
22 filing a single petition for injunction without filing
23 a separate complaint in asserting the cause of action
24 was intentional, as her counsel did not see the reason
25 or the need to file two documents when one could do if

1 it provided all the necessary allegations and demands
2 to satisfy the purposes of the Nevada Rules of Civil
3 Procedure.

4 The plaintiff asked the Court to construe the
5 petition for injunction as both a complaint initiating
6 litigation and a separate motion for injunctive relief,
7 although not labeled as such.

8 The plaintiff further argued that while a
9 statutory basis for action may be incorrect, her
10 petition for injunction set out a sufficient statement
11 of facts and law to allege a constitutional violation
12 of her rights and the desired injunctive relief,
13 meeting the requirements of the Nevada Rules of Civil
14 Procedure 8A, requiring all pleadings to set forth a
15 complaint -- setting forth a complaint of relief to
16 contain short and plain statement of the claim showing
17 that the pleader is entitled to relief and demand for
18 judgment that it has sought.

19 Although defendants in the instant matter
20 also seemed to question at the hearing the complaint's
21 procedural approach, they expressed at the hearing a
22 willingness to allow the Court to construe plaintiff's
23 filing in this manner so that to allow a decision on
24 the underlying constitutional issue.

25 At that point, the defendants did express

1 concern about the possibility that the plaintiff might
2 seek to -- seek a, quote, unquote, second bite at the
3 apple pursuant to the complaint that was filed and is
4 separately being considered in Department 1.

5 This Court subsequently did consolidate the
6 two actions under Nevada Rules of Civil Procedure 42A.

7 Consequently, to effectuate the interests of
8 the parties and expedite the orderly progression of
9 this litigation, the Court will treat the emergency
10 petition for injunction as a complaint alleging a
11 violation of the Nevada constitution as its cause of
12 action, and in demanding injunctive relief -- or,
13 excuse me -- demanding clarity of relief for all as to
14 treat the petition as a motion for injunction under
15 Nevada Revised Statute 33.010.

16 And let's see. In looking at the petition
17 for injunction and also the cause of action in
18 petitioner's/plaintiff's complaint at Cause of Action
19 1, the plaintiff contends that she's not subject to
20 recall pursuant to provisions of Article 2, Section 9,
21 of the Nevada constitution, and that she may only be
22 removed from the bench pursuant to Article 6,
23 Section 21, concerning Nevada Commission on Judicial
24 Discipline.

25 To answer this question, the Court must first

1 determine whether the legislature and Nevada voters
2 approved Article 2 and if, when approving Article 2,
3 Section 9, in 1912, understood the term "every public
4 officer," as used in the article, to include judges.

5 If so, the Court must then determine whether
6 the legislature and Nevada voters understood their
7 passage of Article 6, Section 21, subsequent to
8 Article 2, Section 9, creating the Judicial
9 Disciplinary Commission, repealed, essentially, Nevada
10 citizens' rights to recall their judges.

11 The Nevada constitution Article 2, Section 9,
12 sets out Nevada's right to recall public officials. It
13 provides, in pertinent part, every public official in
14 the State of Nevada is subject, as herein provided, to
15 recall from office by the registered voters of the
16 state or the county, district, or municipality which he
17 represents.

18 The legislature, in drafting the amendment,
19 did not set out an exclusive list of offices or
20 descriptions of positions. Instead, the legislature
21 and Nevada citizens approved the amendment which
22 broadly provides for, quote, "every public officer,"
23 end quote, to be subject to recall.

24 In determining whether a judge is a public
25 officer, within Article 2, Section 9, this Court is

1 mindful of the basic interpretive principle that the
2 Nevada constitution should be construed in its ordinary
3 sense, unless some apparent absurdity or unmistakable
4 interest of its frameworks forbids such a construction.

5 Consequently, where the language of the
6 Nevada constitution is plain and not ambiguous, it
7 should be read in those plain and unambiguous terms.
8 These principles were recently re-affirmed by the
9 Supreme Court -- the Nevada Supreme Court in the
10 context of interpreting Article 2, Section 9, in
11 *Stickland versus Waymire*, with the Court explaining
12 that we, like the United States Supreme Court, are
13 guided by the principle that the constitution was
14 written to be understood by the voters. Its words and
15 phrases were used in their normal and ordinary, as
16 distinguished from technical, meaning.

17 Consequently, the Court must first consider
18 whether "public officer," in the normal and ordinary
19 sense of the term, includes a judge.

20 In that regard, the Court believes an average
21 voter would normally and ordinarily perceive the term
22 "every public officer" to include all officials
23 exercising some level of public authority, inclusive of
24 all executive, legislative, and judicial officers.

25 The Court finds support for its perception of

1 the normal and ordinary meaning of "every public
2 officer" from a variety of sources. For example, the
3 Nevada Supreme Court, in its opinion in Nevada Judges
4 Association versus Lau, indicated that its members
5 generally understood the term "all public officials" to
6 typically include judicial officers.

7 In discussing the language of the proposed
8 amendment setting term limits for state and local
9 public officials, the Court referenced how the
10 initiative's original language lumped together, quote,
11 "all public officials -- whether legislative,
12 executive, or judicial," end quote.

13 In its advisory opinion last month, some
14 members of the State of Nevada's standing Committee on
15 Judicial Ethics, while not specifically dealing with
16 the definition of "public officer" under Section --
17 Article 2, Section 9, clearly indicated that they read
18 the term's general meaning to include judges,
19 commenting that under Article 2, Section 9, sitting
20 judges are subject to recall petition and election just
21 as they are subject to regular election.

22 While the Nevada Supreme Court and the Ethics
23 Committee and other sources noted by
24 defendants/respondents were not specifically being
25 asked to define "public officer" or "official" in their

1 writings or decisions, their use of the term in the
2 manners that they did reinforces the Court's general
3 view that the normal and ordinary understanding of the
4 term "every public official" in Article 9, Section 2,
5 includes judicial officers.

6 The Nevada Supreme Court has not had the
7 opportunity to consider the question of whether a judge
8 is a public officer subject to recall.

9 However, the Court, just three years after
10 the recall amendment in 1915, had the opportunity to
11 consider generally whether a government position should
12 be considered civil office or profit, as included in
13 the Nevada constitution Article 4, Section 8.

14 In State ex rel. Kendall versus Cole, the
15 Court discussed at length the concept of a public
16 office, listing and approving a number of prior court
17 cases from different jurisdictions discussing the
18 attributes of a public officer as opposed to a public
19 employee or private office. These factors included:

20 1, whether the holder of the office is
21 entrusted with some portion of the sovereign authority
22 of the State;

23 2, whether his duties involve the continuous
24 exercise as part of the regular and permanent
25 administration of the government of a public power,

1 trust, or duty;

2 3, whether his compensation, period of
3 employment, and details of his duties are set forth in
4 the statute or in the constitution;

5 4, whether he must take the oath of public
6 office pursuant to the Nevada constitution;

7 And 5, whether he must keep a record of his
8 official acts.

9 All of these attributes can be found in the
10 position of a judge. Judges take an oath of office.
11 Their compensation, terms of office, and jurisdiction
12 and general duties are set by law. They exercise some
13 portion of the sovereign authority of the state. They
14 exercise the public power and trust and keep records of
15 their official acts.

16 The petitioner and plaintiff in this case
17 points to Nevada Revised Statute 281A.160, a provision
18 of the overall Nevada Revised Statute 281A, which
19 concerns ethics in government and contains certain
20 provisions generally applicable to public officers.

21 The petitioner argues that in Nevada Revised
22 Statute Section 281A.160, in defining public officers
23 to exclude judicial officers, that this statute -- or
24 that by this statute, the legislature essentially
25 demonstrated that the term "public officer" does not

1 include judicial officers.

2 However, the legislature frequently uses
3 general terms in a statute and then provides specific
4 definition of the term applicable to the statute only.

5 Indeed, in Nevada Revised Statute 281A.030,
6 the statute expressly states that the definitions in
7 Section -- in Nevada Revised Statutes 281A "are for the
8 words and terms as used in this chapter relating to
9 ethics and government, and are not broadly applied to
10 all statutes and the constitution."

11 As respondents point out, the ethics in
12 government statute logically excludes judges because
13 the ethical requirements for judges are set out in the
14 Nevada Code of Judicial Conduct, and discipline is
15 administered through the Nevada Commission on Judicial
16 Discipline. Consequently, the legislature simply
17 excluded judicial officers from the public officers,
18 whose ethical requirements are defined in Nevada
19 Revised Statute 281A.

20 What this Court finds significant, however,
21 is that the legislature, in excluding judicial officers
22 as public officers under 281A, must believe that the
23 general understanding of the term "public officer"
24 would include judicial officers. Otherwise, there
25 would have been no reason to specifically exclude them

1 in the statute.

2 Because the Court finds the constitution
3 language clear on its face and not ambiguous and
4 susceptible to two or more reasonable interpretations,
5 the Court has no need to look and consider anything
6 beyond the language of Article 2, Section 9.

7 However, the Court also finds that the
8 Attorney General's 1987 opinion, detailing the analysis
9 of the history and legislative background concerning
10 the passage of the amendment in 1912, this history
11 strongly indicates that the amendment was part of a
12 progressive movement at that time which involved, in
13 part, anti-judicial sentiment.

14 A particular interest to this Court is that
15 the three other western states at that approximate time
16 passed recall amendments with very similar language to
17 Nevada's, allowing for the recall of public officers
18 without any limitation.

19 As the Attorney General points out in his
20 advisory opinion, unlike Nevada, in Arizona, Colorado,
21 and Oregon, their recall provisions have been subjected
22 to judicial scrutiny. In all three states, the courts
23 have held that judges are public officers subject to
24 recall pursuant to their constitution.

25 The Court also notes the authorities the

1 Attorney General cites, which discusses the bad of our
2 association, following the lead of the American Bar
3 Association, formally opposing the passage of the
4 recall amendment in 1912 because it permitted the
5 recall of judicial officers.

6 Despite the opposition of the Nevada Bar
7 Association and the American Bar Association, Nevada
8 voters overwhelmingly approved the amending of the
9 constitution to allow the recall of every public
10 official.

11 Considering the plain and ambiguous language
12 of Article 2, Section 9, the relevant history
13 surrounding the passage of the recall amendment in
14 1912, the Court finds that the term "every public
15 official" used in the article includes judges and the
16 article permanents voters to recall the judge.

17 The Court now turns to plaintiff's contention
18 that the legislature and voters, in approving
19 Article 6, Section 21, creating the Judicial
20 Commission -- the Commission on Judicial Discipline,
21 intended to limit the removal of judges to proceedings
22 brought under the auspices of the commission, or, in
23 turn, enacted a constitutional amendment inconsistent
24 with Article 2, Section 9, and consequently essentially
25 superseding it.

1 The petitioner/plaintiff also contends that
2 this section was intended by the legislature -- let me
3 try that again -- the legislature, through its drafting
4 and passage, to be the sole mechanism for removal of
5 judges. However, neither the language of the amendment
6 nor the valid explanation expressed the Nevada voters
7 are giving up their right to recall their judges by
8 approval of the amendment.

9 Indeed, the legislature could have easily
10 made such provisions in the amendment's language to
11 modify Article 2, Section 9, if that was the
12 legislature's intent, in that several provisions of the
13 amendment modified or changed other portions of the
14 constitution making various sections consistent with
15 the amendment's provisions.

16 If the legislature and voters in 1974
17 intended the passage of Article 6, Section 21, to
18 eliminate the right to recall judges under Article 2,
19 Section 9, the Court would expect a direct and express
20 language to that effect. Nowhere in the valid
21 explanation does it suggest, much less clearly state,
22 the voters, in approving the amendment, are modifying
23 Article 2, Section 9, and surrendering their right to
24 recall judges.

25 The amendment creating the Judicial

1 Disciplinary Commission is not inconsistent with the
2 constitutional provisions providing for recall of
3 public officers.

4 Article 6, Section 21, like impeachment, as
5 provided in Article 7, Section 2, provides for
6 discipline of judges for misdemeanor or malfeasance
7 while in office.

8 Article 2, Section 9, providing voters the
9 right to recall public officials, does not require any
10 allegation of misfeasance, nonfeasance, or malfeasance.
11 All that is demanded is that voters seek to recall an
12 official, state a reason. The merits of that reason is
13 grounds for removal -- is for the electorate to
14 determine.

15 Consequently, recall provides a separate
16 basis independent of the disciplinary function of the
17 Judicial Commission to remove a judge.

18 As the Nevada Attorney General, in his 1987
19 advisory opinion, points out, we are of the opinion
20 that Nevada Constitution, Article 6, Section 21, is not
21 applicable for analysis of whether a district judge is
22 a public officer subject to recall.

23 Since provisions Article 2, Section 9, and
24 Article 6, Section 21, are not inconsistent, in
25 contrast to any disciplinary action, there need not

1 exist a good reason for recall of the public officer,
2 nor is there any requirement that cause be shown. The
3 merits of the recall petition is for the people to
4 decide.

5 The plaintiff/petitioner argues that public
6 policy considerations support finding that judges
7 should not be subject to recall and put at risk of
8 being influenced by public opinion and electoral
9 pressures.

10 Whether judges should be subject to election
11 and effectively removed by voters is a debate that
12 various states have answered in different ways. Nevada
13 voters have, on more than one occasion, considered
14 constitutional amendments providing for the initial
15 appointment of judges with a subsequent retention votes
16 by the electorate and have rejected all such proposals.

17 Nevada citizens plainly want the right to
18 elect their judges. This desire to elect their judges
19 and Nevada's history suggest that they also want the
20 right to remove their judges by recall.

21 Nevada citizens have not abused the
22 privilege, and Nevada history demonstrates that they
23 appreciate the significance of their responsibility.

24 As plaintiff notes, in Nevada's 150-year
25 history, voters have never recalled a judge. The

1 precedence show that judges should not be subject to
2 recall. This fact demonstrates that Nevada voters are
3 prudent and considerate in exercising their right to
4 recall.

5 Indeed the approval of a recall petition in
6 this matter, if it occurs, does not mean that the
7 plaintiff will ultimately be recalled. The voters will
8 be asked to consider the reasons for recalling the
9 plaintiff and decide whether they are sufficient to
10 recall her. They can reject those reasons or accept
11 them, as their wisdom demands.

12 Consequently, the Court finds that Article 2,
13 Section 9, does allow for the recall of judges. And,
14 as a sense -- and, in that sense, finds that the
15 complaint seeking declaratory relief is denied. The
16 injunction sought by that petition is denied.

17 The Court will reserve for now the issue of
18 any sanctions as requested by defendant's
19 countermotion.

20 And in terms of plaintiff's complaint as to
21 Cause Of Action No. 1, which challenges the sufficiency
22 of the petition for lack of jurisdiction, claiming that
23 NRS 306.2 -- 020 calls for a recall of a public officer
24 and the judge is not a public officer will deny the
25 first cause of action. So we don't need to deal with

1 those two issues today.

2 The Court also has looked at defendant's --
3 or plaintiff's cause -- sixth cause of action, which
4 provides or challenges the sufficiency of petition in
5 this case pursuant to Nevada Revised Statute 293.1277
6 and 293.1279.

7 In that cause of action, the plaintiff reads
8 Section 293.1278, which provides, "If the certificates
9 received by the Secretary of State from all the county
10 clerks establish that the number of valid signatures is
11 less than 90 percent of the required number of
12 registered voters, the petition shall be deemed to have
13 failed to qualify, plaintiff then argues that of the
14 random sample of 500 signatures used to validate the
15 petition, that it found that 83.3 percent of the 500
16 were valid and that consequently the petition is valid
17 because less than 90 percent of the signatures in the
18 petition were valid pursuant to the statistical
19 sampling.

20 The Court, in looking at the statute, thinks
21 that the plaintiff has -- well, doesn't think -- finds
22 that's the plaintiff has misread the statute in that
23 regard.

24 Section 293.1278 concerns whether or not --
25 after applying the percentage determined from the

1 statical sample to the overall number of signatures,
2 whether or not 90 percent of the required number of
3 registered voters was reached, the statute does not
4 indicate that -- if you don't have 90 percent validity
5 of the statical sampling, that the petition fails. So
6 we don't need to deal with the sixth cause of action in
7 this case.

8 So looking at that, let's go to the second
9 cause of action. And in this one, the plaintiff
10 challenges a number of signatures in the -- in the
11 petition.

12 And, Mr. Mueller, why don't we start with you
13 and talk about what you're essentially alleging in this
14 second cause of action.

15 MR. MUELLER: Thank you, Your Honor.

16 Defense -- for a moment, I want to thank the
17 Court for, obviously, putting a lot of time in over the
18 weekend, and I appreciate the effort and -- sincerely.

19 Having said that, Your Honor, the one thing
20 that in your thorough and exhaustive opinion that you
21 did not address, and I'd ask you to at least address
22 before the finding of facts here, is NRS 1.440, the
23 jurisdictional statute over judges. I quote, 144 --
24 1.440(1):

25 "The Commission has exclusive jurisdiction

1 over the censure, removal, involuntary
2 retirement or other discipline of judges
3 which is coextensive with jurisdiction over
4 justices of the Supreme Court and must be
5 exercised in the same manner and by the same
6 rules."

7 In your analysis -- and you did not touch on
8 that statute.

9 THE COURT: Well, I thought I did. And I
10 perhaps didn't deal with it specifically.

11 But essentially I find that that is
12 essentially an implementing statute of Article 6,
13 Section 21, and does not impact upon Article 2,
14 Section 9, which provides for a totally different basis
15 of removal than the disciplining of judges.

16 And so to the degree that -- if you are
17 arguing that that legislative statute somehow limits
18 the application of the constitutional provision of
19 Article 2, Section 9, I'll deny that.

20 MR. MUELLER: I understand, Judge. Thank
21 you.

22 A couple of things administratively, Your
23 Honor.

24 We've got several witnesses here, and I'd be
25 ready to proceed. I've done my best.

1 As a practical matter, however -- and we got
2 your order late -- apparently you signed it out late
3 Wednesday night. It was filed after business hours
4 last Wednesday.

5 I got your order scheduling today's
6 appearance on Thursday midday, when I returned from
7 court to find it.

8 We have done everything we could to get the
9 investigator -- get all the witnesses served. What we
10 found was -- and you may not be aware -- is North Las
11 Vegas is closed on Friday. So as a practical matter,
12 I've had about a half a business day to put this
13 hearing together. And I've endeavored to do my best.
14 I've got several witnesses to begin the testimony here.

15 I do not have the case completely assembled,
16 not for lack of diligence in my office. I, too, was in
17 the office all weekend preparing for hearing.

18 Unfortunately, the investigator was not able
19 to find most of the witnesses. It was 110, and I
20 believe most of them left town to beat the heat, as you
21 know.

22 So I've got several witnesses. I can begin,
23 but I am not ready to prepare -- present. I'd ask at
24 least for a brief continuance of a few days for my
25 investigator to continue to serve the witnesses.

1 THE COURT: Well, let's go through -- I mean,
2 I'll be honest. When I saw your witness list on
3 Thursday night or Friday, I was surprised at the extent
4 of it.

5 In terms of witnesses and exhibits, it's my
6 general view that we should be looking at witnesses
7 that are going to identify either some fraud or some
8 inconsistency or -- or failure of the process.

9 I don't see this as a discovery proceeding
10 where we're going to essentially put on everybody who
11 was involved with the process and ask them was there
12 anything wrong.

13 You're essentially challenging the process.
14 I assume that you have some witnesses who are going to
15 say that there were either fraud or some sort of
16 specific failure of procedure that occurred in handling
17 the petitions and processing them and reaching the
18 determination that they were sufficient.

19 MR. MUELLER: Certainly, Judge. And if you
20 would like to start right into it, I can recall my
21 first witness.

22 THE COURT: Let's -- let me just start
23 with -- let's sort of figure out what we're looking at
24 with these first, and let's start with the second cause
25 of action.

1 What exactly are you alleging here, with the
2 second cause of action?

3 MR. MUELLER: Specifically, Judge, my reading
4 of the statutes and counting several irregularities
5 here, the requirement is for 1,984 valid signatures.

6 The allegation was -- or the clerk of the
7 court concluded that there was about a 83 percent
8 success rate, so about 16 percent of the signatures
9 were valid. Now, by my math, that knocks us down to
10 about, let's see, 2,274 valid signatures.

11 I have located, and we have -- and the
12 testimony will show that we have approximately 300
13 duplicate signatures, which gets the tally below the
14 number necessary.

15 Now, I also have a witness who will
16 testify -- who was present for the tallying of the
17 signatures, who will testify that they were not sampled
18 in a particularly random way.

19 Now, the methodology used here was
20 insufficient to obtain a true random sample, and I
21 believe that, if the entire sample was counted, there
22 would be insufficient signatures to sustain the
23 petition.

24 And considering the small number of
25 signatures here, I don't see any reason

1 administratively or practically that we don't have a
2 full reconciling of all the signatures.

3 THE COURT: Okay. So you have somebody's
4 who's going to say that, in terms of the -- going --
5 determining the sample, that a true random sample was
6 not obtained?

7 MR. MUELLER: That's correct, Judge.

8 THE COURT: Who is that going to be?

9 MR. MUELLER: That's Mr. Jackson. He's
10 present in the courtroom.

11 THE COURT: Okay. Just looking at this, I
12 note on Paragraph 64, the petition is sufficient
13 because it fails to meet the requirements of NRS
14 306.020(3)(8), because about 2,549 signatures do not
15 contain the resident's address.

16 MR. MUELLER: Yes, Judge. The assertion here
17 is, when they put down -- or when a petition --

18 Now, this is an unusual law, as it requires.
19 It cannot be just any voter. It must be an actual
20 voter from the last general election. So what has to
21 happen is they have to give a valid signature (sic).

22 Now, depending on how particular you want to
23 be, 2500 of these 27 signatures did not have an
24 address, city, and ZIP code for which you could receive
25 mail at. Particularly, most of them are missing the

1 ZIP code.

2 Now, the -- we've got at least a couple
3 hundred more -- or 105 more are not -- do not have the
4 proper dates on them.

5 And I've got at least 295 -- and I think 300
6 are approaching -- are duplicate signatures, and I've
7 got another 295 signatures, by my reconciliation, are
8 people signed for family members, which, of course, is
9 not a valid signature at all.

10 THE COURT: Just out of interest, how did you
11 determine that people signed for family members?

12 MR. MUELLER: Well, you can see -- just a
13 hypothetical, Johnny Jones, and the handwriting is
14 clearly the same, Mr. Johnny Jones, son of Johnny
15 Jones, Susie Johnny Jones, the whole -- handwriting is
16 the exact same and clearly not the signature -- or at
17 least several instances of that, by our count,
18 reckoning almost 300 signatures that are clearly not
19 signed or signed in the handwriting identical to the
20 one above.

21 THE COURT: Do you have any -- do you have a
22 listing of these signatures that -- on the one -- 102
23 that do not contain a date, and the 295 that are
24 duplicate, and the 295 that are signed for multiple
25 persons?

1 MR. MUELLER: Yes, Judge. What I did was --
2 is I had a detached third party, a police -- retired
3 police officer go through and tabulate the errors that
4 he has found specifically.

5 And we also went ahead and have a summary of
6 the -- summary of the signatures by petition number and
7 by slot.

8 THE COURT: Okay. Let me just say in terms
9 of the issue of the resident's addresses, the Court
10 doesn't view the need for a ZIP code to be a
11 requirement of the statute.

12 So if you're saying that an address is
13 inadequate because it doesn't include the ZIP code, I'm
14 not going to go there. I don't think the statute
15 requires that you put down the ZIP code, if you put
16 down the street and the city.

17 MR. MUELLER: No, sir. And I --

18 THE COURT: I mean, the mail will even
19 deliver to your address without the ZIP code. It goes
20 slower, but they'll still mail -- take mail to your
21 address without the ZIP code, so. . .

22 MR. MUELLER: No, sir. I didn't come in here
23 hanging my hat on that argument either, but I did --
24 when I did check it, I could not find any definition of
25 exactly what a valid address was. So I put that in

1 there.

2 THE COURT: All right. I just want to make
3 sure we aren't going to be spending any significant
4 time on that.

5 MR. MUELLER: I hear you loud and clear,
6 Judge.

7 THE COURT: Now, let me just ask you, in
8 terms of the -- not containing a date, duplicate,
9 multiple persons -- I mean, these are all things that
10 should be developed in the course of a random sample,
11 if it's conducted properly, shouldn't it?

12 MR. MUELLER: Yes, sir.

13 And that's the first-out-of-the-gate box. I
14 had probability of statics in college.

15 The sampling methodology here was not random
16 by any definition.

17 THE COURT: Okay. Let me -- before we start
18 off with witnesses then, let me look now at the third
19 cause of action.

20 And what essentially are you going for here?

21 MR. MUELLER: There was -- a requirement is
22 found at 2 -- 306.020(3)(c). It says you've got to
23 sign above the signature line. There's a box on the
24 form, and it's a requirement there, in the statute.

25 There was a number of those that were not

1 signed properly. They flipped the address and the --

2 THE COURT: Flipped the print your name and
3 the signature?

4 MR. MUELLER: Yes, sir, on several occasions.

5 THE COURT: Okay. So that's what you're
6 alleging here, on this one?

7 MR. MUELLER: Yes, sir.

8 THE COURT: Okay.

9 MR. MUELLER: In general -- on the most
10 general level, there was no quality control done on
11 these signatures, and I have zero confidence that a
12 statically random sample was done here.

13 THE COURT: Well, I understand -- and we can
14 talk about the sample, you know, in -- I mean, the
15 statute puts in the clerk's office the obligation of
16 reviewing the signatures.

17 And, you know, if you look at the signatures
18 that were looked at, the clerk's office notes which
19 ones they find okay and the reason they found those 16
20 percent not okay. You know, if -- if there's anything
21 that you're going to be calling or introducing to
22 suggest that the clerk's office, in good faith, didn't
23 attempt to perform its review of the signatures of the
24 sample that it took?

25 MR. MUELLER: Yes, sir. I believe the

1 testimony will show that there was not a particularly
2 rigorous effort made to square these.

3 This is particularly egregious because this
4 isn't a petition like for the stadium recall or the
5 stadium effort, where they just had to verify voters.
6 They had to actually specifically verify specific
7 voters --

8 THE COURT: No. I -- who besides
9 Mr. Jackson -- or is Mr. Jackson going to be the one
10 who testifies to that?

11 MR. MUELLER: Mr. Jackson was the one I could
12 get on short notice.

13 My investigator, who's a remarkably good
14 sport -- retired Officer Preusch is in the hallway --
15 he will be able to testify what -- the summary, when he
16 looked at every one them and what his conclusions were
17 as to the signatures.

18 THE COURT: All right. Okay. What kind
19 of -- I mean, we can always debate whether the
20 signature looks close or it doesn't look close.

21 What kind of standard -- or what do you think
22 should be the standard that the Court should be using
23 to decide whether your investigator's view of what's a
24 good signature should be accepted over what the clerk's
25 office has determined to be a good signature?

1 MR. MUELLER: The law of this case, and as
2 the law should function in accordance in this case,
3 when we have such a remarkably small signature base, to
4 start with, because the voter turn-out on this
5 particular election was abysmal, it should be that they
6 go back and verify each and every signature, and they
7 verify them within context.

8 Now, where I can show that some family
9 members signed for every registered voter in the house,
10 and the signature and the handwriting is clearly the
11 same above and below that signature, that's not a valid
12 signature.

13 Now, I would -- at a minimum, when we get
14 done today, I'm going to ask you to refer this back to
15 the clerk's office and actually verify the exact number
16 of signatures and not estimate.

17 And the estimation -- I mean, here's the
18 thing you can do, Judge, and here's -- this is -- I've
19 never minced my words, and I'm not going to mince them
20 now. This is political skullduggery at its finest.

21 Now, if you turn 2700 signatures in, and you
22 direct people to check one or two wards very carefully,
23 you can get past this hurdle. And I believe that's
24 exactly what has happened here, and I believe I can
25 show it, if you'll give me a chance to put Mr. Jackson

1 on the stand.

2 THE COURT: All right. Well, you -- if
3 Mr. Jackson's going to testify as to -- you know, I'm
4 not going to -- I don't plan to get into the
5 personalities or the personal issues here between the
6 various parties involved here. I -- you know, whether
7 X likes Y, whether X wants to work at -- with Y,
8 whether X feels that Y is doing the job rightly or not
9 doing the job right.

10 The issue, as far as I'm concerned, is: Did
11 people go out, get signatures that -- valid signatures,
12 meeting the number? Because at that point, as the
13 Court has -- the Supreme Court has previously ruled,
14 recall essentially doesn't require you have a good
15 reason.

16 The whole concept behind recall is that
17 voters have the right to essentially remove someone for
18 any reason. But generally voters are pretty good at
19 removing people only for good reasons.

20 So I don't want to be getting into the
21 history of why this petition may have grew up,
22 whether --

23 MR. MUELLER: I'm not interested in --

24 THE COURT: -- plaintiff is being righted or
25 wronged here, so. . .

1 MR. MUELLER: No, sir. This is political,
2 and I'm not interested particularly in any -- a lot of
3 "Who shot Johnny?" either. I'm interested in showing
4 you that -- by whatever mechanism was used here was not
5 proper or -- and gives me, as an officer of the court,
6 great cause for pause as to the methodology used --

7 THE COURT: Okay.

8 MR. MUELLER: -- and I'm ready to show that.

9 THE COURT: All right. Let me -- well, I
10 just want to make -- sort of get to where we're going
11 to go with the witnesses, to make sure we're -- we
12 expedite this as much as possible.

13 I'm going to look at your fourth cause of
14 action, which talks about the petitions submitted are
15 not in identical form, they're not sequentially
16 numbered.

17 And I'll be honest, where are you going with
18 that? Because I looked at these petitions, and I --
19 you know, at the bottom there is a number sequentially
20 stamped on all of them, and the petitions all look to
21 be in identical form to me.

22 So where are we going with this one?

23 MR. MUELLER: Specifically, Your Honor,
24 the -- and when I first read this statute in preparing
25 this case, I was wondering about what the purpose of

1 that statute was.

2 And it occurred to me, after some reflexion,
3 was so that page numbers can't get slipped in or
4 slipped out; that there's an exact repetition.

5 Now, for whatever reason, these parties
6 chose, instead of to do the traditional method one,
7 two, three, four, and number them in sequence, they
8 took a bifold or a double bifold, and these petitions
9 now have not one, but they're numbered in batches,
10 which means that there's a lot more opportunity for
11 mischief here to slide these things in and slide them
12 out.

13 Now, I'm just concerned the statute and --
14 you'll see when we get into this, but I believe that
15 the statute requires them to have a sequentially
16 numbered statute (sic). So no monkey business.

17 One of the things the district attorney does,
18 as an aside, is, when an officer makes an arrest, the
19 case number gets assigned at the arrest. So if
20 somebody later wants to loose some paperwork, there
21 will be a mechanism to track it.

22 THE COURT: So are you saying then that, in
23 putting -- doing the petition, it was necessary for
24 people to fill out one page first, number it one, file
25 out another page next, number it two, fill out another

1 page next, number it three, fill out another page next,
2 number it four, fill out another page next, number it
3 five, and on and on?

4 MR. MUELLER: No, sir. What I'm saying is --
5 is -- very simply was, when I come in and when --

6 Give me a stack, Catherine.

7 All right. I come in, and I submit this bag
8 of petitions or this box of petitions to the county
9 clerk for recordation.

10 Now, if, God forbid, I were to drop this on
11 the floor and my 340 pages or so of petitions would
12 fall loose, there's no sequence in how to put these
13 back together.

14 Now, these need to have been and should have
15 been submitted sequentially, i.e., 1, 2, 3, 4, and so
16 that, when the copy is made, I know if there's got an
17 additional copy.

18 Instead now, I have one of four, two of four,
19 three of four, ad infinitum, out through the several
20 thousand -- or the 2,000 supposed signatures.

21 There is no Page 176. There is Page Folder
22 No. --

23 THE COURT: When I'm looking at this, I see
24 RRN 00110 and then 000111.

25 I mean, to me, there -- I mean, you do have

1 each of the petitions that each circulator takes out as
2 numbered pages 1 through 4.

3 But then in terms of, once it was put all
4 together, it looks like it's been numbered sequentially
5 from 1 to 600 or whatever.

6 MR. MUELLER: Yes, sir.

7 THE COURT: So what -- what more does the
8 statute require?

9 So they bring it in, numbered 1 to 600 --

10 MR. MUELLER: So that when a copy is made,
11 that you and I and anybody else who wants to review
12 these signatures can. You can tell, A, that you've got
13 a full set; B, you can tell that you have an unaltered
14 full set; and, C, you can detect deletions or
15 additions.

16 Now, that's not this case. It would be very
17 hard in this format to determine if someone slipped out
18 a page or slipped in a page.

19 THE COURT: But like I said, I'm looking
20 at -- every page has got this RRN number, and it's
21 numbered sequentially. I just don't follow how
22 that's -- is not sufficient by your --

23 MR. MUELLER: Please, if I may approach,
24 Judge?

25 MR. MILLER: Judge, can we just clarify. I'm

1 not sure which numbers we're talking about. We may be
2 looking at the Bates stamp that our office put on.

3 THE COURT: Oh okay.

4 MR. MILLER: And then are also additional
5 numbers that are at the top of the petition, which we
6 understand were numbered by the clerk's office during
7 their review process.

8 But irrespective of those two issues, as to
9 those two sequential numbers, you know, I can
10 articulate that the reason and the purpose for the
11 statute in our opinion and why --

12 THE COURT: Well, I'll give you a chance to
13 do that.

14 But is there a sequential number that was put
15 on here somewhere?

16 MR. MILLER: There's the Bates stamp that we
17 applied.

18 THE COURT: But that was --

19 MR. MILLER: The clerks also -- applied also
20 another number so that they could track it.

21 But the sequential numbers that we believe
22 the statute requires are those individual numbers that
23 you had referenced, 1 through 4, in each packet.

24 THE COURT: Okay.

25 MR. MILLER: And the reason for that is,

1 these are grassroots efforts. They can happen
2 throughout the state. You're going to have circulators
3 in different counties all across the state. It would
4 be impossible to -- for them to sequentially number
5 that, because they're going to be turning them in in
6 different counties. So they --

7 THE COURT: No. I'll let you go into that.
8 We'll talk about that.

9 I want to let Mr. Mueller finish up, but I
10 follow what you're saying.

11 MR. MUELLER: All right. Thank you, Your
12 Honor.

13 Now, specifically -- I've got page -- the
14 first page has got a number on it.

15 But if I were to pull up Page 204 and replace
16 it, there's no way to track that. You'd have to go
17 through and site-check an identical copy.

18 Now, when you turn these things in, you're
19 supposed to turn these things in Bates stamp them one
20 at a time, so each page is numerically numbered, so you
21 can tell if there's been alterations.

22 THE COURT: No. I'm following your argument
23 now.

24 MR. MUELLER: Okay.

25 THE COURT: What about in terms of not an

1 identical form?

2 MR. MUELLER: Well -- what are you referring
3 to, sir?

4 THE COURT: I mean, because I do -- from
5 looking at it, the one -- the -- each petition that's
6 grouped from one to four pages looks identical to each
7 of the other petitions of one to four pages in there.

8 So, I guess, where are we going with
9 petitions are not submitted in identical form?

10 MR. MUELLER: May I get the Court's
11 indulgence for just one moment?

12 THE COURT: Sure.

13 MR. MUELLER: I want to make sure. I don't
14 want to misspeak.

15 All right. The highlight -- the problem with
16 the Bates stamping on the coversheet of folder -- I
17 guess, not page -- but folder No. 0093 --

18 THE COURT: Hold on. Zero, zero --

19 MR. MUELLER: -- ninety-three.

20 THE COURT: Where am I looking for this
21 number?

22 MR. MUELLER: Once again, that's -- to
23 highlight the problem. This would be on the top -- I
24 don't know if this is Ross' Bates stamp or if that's
25 the petition's --

1 MR. BYRNE: It's at the top of the document,
2 Your Honor. That's what the --

3 MR. MUELLER: It would be 00093.

4 THE COURT: Oh, I see.

5 MR. MUELLER: Okay?

6 THE COURT: Okay. Hold on.

7 You have to have some patience with me. I've
8 got this on a computer, and this is not the fastest
9 machine.

10 MR. MUELLER: No, sir. I appreciate all the
11 time and effort you've obviously put into this, so. . .

12 THE COURT: Okay. I found 93.

13 MR. MUELLER: All right. Thank you, Judge.

14 Someone's made pen and ink changes onto the
15 language of the petition as it was signed.

16 And another -- if I could back up.

17 THE COURT: You're talking to where it's
18 underlined and has "cost taxpayers an excessive amount
19 of money" --

20 MR. MUELLER: Yes, sir.

21 THE WITNESS: -- and worked 68 -- I mean, the
22 number 68, and 196 being underlined?

23 MR. MUELLER: Yes, sir. And that
24 highlights -- it brings about -- and I'll tie this
25 together for a second. But that points out a couple

1 things.

2 This is actually a known falsehood. 68 days,
3 that's actually demonstrably false and not a statement
4 of fact.

5 THE COURT: All right. Well, that -- like I
6 said, the Supreme Court has said people can say
7 whatever they want in that 200-word -- all they need to
8 do is say something.

9 MR. MUELLER: But it has to be truthful and
10 not liable.

11 THE COURT: You know, I disagree with you
12 there. The Supreme Court has pretty much said --
13 that's the whole idea then, is the voters are supposed
14 to determine when something is -- is baseless or
15 groundless or not justification for removing somebody.
16 That's the whole purpose of the process.

17 One side is claiming that 68 times out of 196
18 workdays such and such occurred; you're saying that
19 that's not the case. That's certainly that can be
20 raised. The petition was approved, and that's
21 something the people and voters are going to have to
22 consider.

23 But the fact that there's an error in the
24 recall petition, one, it's not one of the causes of
25 action that's listed, but, two, we're not -- we're just

1 not going to go there. It's pretty clear that people
2 can list whatever reason they want.

3 Let me ask you though, other than that one,
4 00093, are there any other petitions which are not in
5 identical form?

6 MR. MUELLER: No, sir, not that I'm aware of.

7 THE COURT: Okay. So just -- we're dealing
8 with that -- the whole issue, then, is with 00093?

9 MR. MUELLER: Yes, sir.

10 THE COURT: Okay. And then, in terms of the
11 sequentially numbered I'm following now, the clerk's
12 office put a number on each one of the four-page
13 petitions. That was sequential; is that right,
14 Mr. Miller?

15 MR. MILLER: Yes. The number at top was
16 provided by the clerk's office in their review process.
17 So the 00093 was provided by the clerk's office to
18 indicate that this is that packet and these numbers
19 that follow.

20 THE COURT: Okay. All right. I'm following
21 now.

22 MR. MILLER: And the RN number at the bottom
23 was done by our office. And, unfortunately, we
24 Bates-stamped over the page numbering that was required
25 by the statute. But you can still see, for example, on

1 that page --

2 THE COURT: No, I see it. I know what you're
3 talking about it. I see it.

4 MR. MILLER: Thank you.

5 THE COURT: Okay.

6 Now, looking at your fifth cause of action,
7 which essentially says the petition is invalid because
8 some copies are not verified by the person signing the
9 particular copy, what are you going for there?

10 MR. MUELLER: Sir, what the statute very
11 clearly contemplates here is that the person who went
12 out and collected these signatures go before a notary
13 and attest that they were valid and legitimate
14 signatures.

15 When we went back and reviewed these
16 signatures, it appears that same notary signed for
17 every one of them. Now, that's not appropriate, and
18 it's grounds to disqualify the petition outright.

19 THE COURT: Okay. What's wrong with the
20 notary -- if I remember, I thought there were several
21 notaries that signed, but, I mean -- I think they only
22 used maybe three, four, five -- six notaries -- but I
23 mean, what's -- even if they used just one, where is
24 that --

25 MR. MUELLER: Here's the --

1 THE COURT: -- somehow wrong in terms of
2 verifying the petition that the circulators circulated?

3 MR. MUELLER: It's very simple, Judge. If
4 you are going to put -- and, for example, here's an
5 unstamped, uncopied -- or un-Bates-Stamped copy -- I'm
6 just -- it's not got a Bates stamp on it.

7 If I may approach real quick?

8 THE COURT: Sure.

9 MR. MUELLER: Showing you signatures 14 and
10 15. Now, you don't need to be a handwriting analysis
11 comparison guy to see that somebody signed for their
12 spouse there.

13 MR. MILLER: No. I'm sorry, Judge. I didn't
14 look at that close enough.

15 Is that the same 00093 that we were --

16 MR. MUELLER: It doesn't have a Bates stamp.
17 That's the problem.

18 THE COURT: I don't know. It doesn't have a
19 number at the top or whatever.

20 Do you want to show it to Mr. Miller?

21 MR. MUELLER: Certainly. Absolutely.

22 Now, the practical problem is -- there is
23 that signature clearly is not valid. Somebody signed
24 for their spouse.

25 Now, the question is, if somebody took that

1 in front of a notary and said, "Under penalty of
2 perjury, I collected these signatures, and these are
3 the people who I know signed them," they've committed
4 perjury.

5 That's why the statute is there. That when
6 the person collects those signatures, they go get them
7 notarized.

8 What is clear, and we believe the evidence
9 will show, is someone went out and got a bunch of
10 signatures, and they threw them in front of a notary,
11 and they stamped them and put them through.

12 Now, no one could have possibly notarized
13 that signature as being valid. I mean. . .

14 THE COURT: Well, the notary isn't notarizing
15 the signature on the 25 or whatever number of
16 signatures on it. The notary is notarizing the
17 signature of the --

18 MR. MUELLER: Collector.

19 THE COURT: -- of the collector who
20 affirms --

21 MR. MUELLER: Under penalty of perjury that
22 these are --

23 THE COURT: -- under penalty of perjury.

24 MR. MUELLER: Now, failing that process, the
25 whole initiative should fail.

1 Now, these -- they've got to certify that
2 those are legitimate signatures, and very clearly --
3 very clearly they are not.

4 And the signature effort and the way they
5 randomly sampled these -- this sort of stuff would not
6 have been detected.

7 Now, when we're done with testimony, I
8 believe the evidence is going to show that this was --
9 I've called it out. I'll call it again. It's
10 political skullduggery.

11 THE COURT: Okay. Well, like I said, I'm
12 only concerned with whether or not proper procedure was
13 followed in the collection and approval -- certifying
14 of the signatures. So essentially you're --

15 Yeah, okay. So you've identified one
16 petition -- circulator's petition that you felt has
17 somebody from the same household signing for two people
18 in the household.

19 MR. MUELLER: Actually, we found about 300 of
20 these, then, in the totality of the circumstances.

21 I only brought this one up because it was on
22 top and it highlighted my concerns: Number 1, there's
23 no Bates stamp; number 2, there's no attestation;
24 number 3, you know, even on this very same page,
25 there's another family that somebody signed for a

1 spouse in spots 12 and 13.

2 Now --

3 THE COURT: All right. And so your
4 contention is that the -- in Cause of Action No. 5,
5 then, is that the circulators essentially --

6 MR. MUELLER: Not properly --

7 THE COURT: -- gave a false oath when they
8 certified having collected the signatures.

9 MR. MUELLER: Yes, Judge. In fact, there's
10 actually -- and to -- and there's actually specifically
11 some bite to this. There's actually two cases in
12 Nevada; Fiannaca versus Gill, found in 78 Nevada 337;
13 and Lundberg versus Koontz at 82 Nevada 360, both of
14 which held that such signatures are not valid, and
15 failure to get them properly testified defeats --
16 attested to defeats the initiative.

17 THE COURT: Well, I mean, they obvious --
18 both of those cases obviously stand for the importance
19 of the verification process by the circulator, but I
20 sort of read those as concerning whether or not a
21 petition was valid if not verified by the person
22 signing the actual petition, which, looking at the
23 statute in 1962 and '66, it's been changed to not
24 require that requirement now.

25 I didn't look at those two cases as saying

1 that if -- I'm not minimizing -- if the circulator did
2 lie, in terms of validly collecting the signatures,
3 that obviously is a concern to the Court.

4 Now, you've indicated there's 300 instances
5 where this occurred.

6 Have you identified the circulators for those
7 300 incidents?

8 MR. MUELLER: Yes, Judge. And we actually
9 had subpoenaed them -- or attempted to subpoena them
10 today. Those were the part of the problems we were
11 having on Friday, getting anybody at home during the --
12 on -- over the weekend.

13 THE COURT: Okay. All right. Well --
14 because I don't want to just be putting circulators up
15 on the stand and saying, "Did you circulate this, and
16 did you lie?"

17 I expect you to be sitting there going, "Look
18 at this signature. Are you going to tell me that this
19 is a" --

20 MR. MUELLER: Yes, Judge.

21 THE COURT: -- "this is a different signature
22 than this? Did you have the same person sign for both
23 people in the household? And did" -- you know --

24 MR. MUELLER: Yes, sir. I had no desire to
25 sit here for eight or ten hours doing that either.

1 THE COURT: Okay. I just wanted to make sure
2 that that's where we're going on this.

3 MR. MUELLER: All right. I'm coming here
4 with legitimate complaints, Judge.

5 THE COURT: Okay. No -- I understand. I
6 just want to make sure we're aren't fishing.

7 I mean, if you've got a good faith belief
8 that two signatures are essentially the same and a
9 circulator then failed to be honest in his
10 verification, then that's obviously something the Court
11 is concerned with.

12 We've already dealt with the sixth cause of
13 action.

14 Your seventh cause of action relating to the
15 receipt by the county clerk is -- gets into the issue
16 of the clerk issuing the receipt, noting approximately
17 2700 signatures?

18 MR. MUELLER: Yes, Judge. The statute --
19 actually, specifically, 293 -- and the more the
20 numbers, the smaller the point -- but 293.12758
21 requires her to count and actually issue a receipt for
22 each signature, not approximate numbers.

23 THE COURT: Okay. All right. I'm following
24 there. All right.

25 So at this point, in terms of what we need to

1 do, as far as the -- what you're -- you're attempting
2 to show and the Court believes is relevant, is that
3 there was not an adequate sample that was -- or
4 appropriate sample that was taken and then reviewed by
5 the clerk's office, and that there are a number of
6 incidents where your investigator believes that the
7 clerk's office failed to properly use its discretion in
8 approving or disapproving a signature.

9 And then also that there are at least some
10 circulators who may have been less than honest in their
11 affirmations. So that's where I see us going at this
12 point in time.

13 MR. MUELLER: Yes, sir. I think that's a
14 fair summary.

15 THE COURT: All right. Before we have you
16 start calling anybody, let me let the defense side talk
17 for a second.

18 Who is the spokesman over there?

19 MR. MILLER: I'm not sure what else we need
20 to address, Your Honor.

21 I can address the purposes of the
22 sequentially numbering requirements in the statute. I
23 think that's outlined in the LVCVA, which is the Miller
24 case which came out in 2008.

25 There were substantial revisions to the

1 petition process in 1997 that put those requirements in
2 place. There was legislative testimony at the time
3 that discussed the need for enhancing those provisions
4 to make sure that there's no fraud in the process.
5 That is where they enhanced, in fact, the affidavit
6 requirement of the circulator, which added a couple of
7 additional requirements.

8 And then the Court held in that case, because
9 they were using an outdated version of the recall
10 petition that didn't include a couple of provisions,
11 that all of those signatures were invalid.

12 It also made clear that you only need to
13 substantially comply with the requirements, meaning
14 that if we look individually to each of the
15 requirements that are required under the petition and
16 as long as the purpose of that statute is met, that
17 that is sufficient.

18 And clearly, in any of these kind of
19 grassroots efforts of a circulation this large -- and
20 this is a relatively small one -- you know, many times
21 an initiative petition may have 80- to 100,000
22 signatures that they are required to verify. You know,
23 there's going to be mistakes.

24 And I think that is the purpose of requiring
25 the substantial compliance standard, because you've got

1 to understand, when you're going out there trying to
2 get signatures, you know, you may have an instance
3 where a wife signs for a husband or the address is not
4 completely filled out, et cetera.

5 And the court has consistently held, in other
6 cases looking at this, that substantial compliance is
7 the standard, and I think it's been met in all these
8 instances.

9 But we're happy to go through any of the
10 other allegations specifically that he may bring in --

11 THE COURT: No. I think that, in terms of
12 the issued sequentially numbered, you know, that's
13 something that we just -- the Court will take a look
14 at.

15 And I understand your argument and position.
16 I wasn't sure where the number was, so now I understand
17 what -- the number you're talking about. I don't think
18 we're going to need any testimony with that. The Court
19 has the petition.

20 Like I said, the issue -- let me just ask
21 you: In terms of the circulators, you made a comment
22 of substantial compliance. The circulator who signed
23 the petition says that these are all valid signatures.
24 He's sitting there and sees the guy sign for himself
25 and his wife, and then affirms it.

1 What's your view as to how that impacts on
2 what the Court should be deciding here?

3 MR. MILLER: Yes. So the process there is
4 that if it's within the random sample and the registrar
5 in the examination determines that that signature's not
6 valid, it doesn't count. That's what the entire
7 statutory scheme's set up for, is that some of these
8 signatures may not be valid and that they might not be
9 signed by a registered voter, they may not be signed by
10 the actual person. You invalidate that signature. You
11 don't only have to get above 100 percent in order to
12 qualify. And that's what happened here.

13 Clearly, there's going to be some mistakes.
14 Some people didn't list an address, there may have
15 been -- not be signatures that match, you may have, you
16 know, an elderly spouse who simply signs and the
17 circulator missed it, didn't see it happen.

18 So, you know, absent wide-scale fraud, I just
19 don't think that there's any basis for it, and that's
20 what the Supreme Court's absolutely consistently held
21 in implying the substantial compliance standard.

22 THE COURT: Okay. Let me just ask you: In
23 terms of the issue of their investigator's view of the
24 signatures versus the clerk's office view of the
25 signatures, what do you think the Court should be using

1 as far as the standard in terms of evaluating whether
2 the clerk's office abused or inappropriately acted in
3 approving this signature as opposed to that signature?

4 MR. MILLER: Again, that 1998 case, LVCVA
5 versus Miller, discusses the standard and makes it
6 clear that the defense has the burden here to show by
7 preponderance of the evidence that the procedure
8 through the verification process was somehow deficient.

9 We are prepared to put on witnesses from the
10 registrar's office that they conduct these examinations
11 regularly. It's a very rigorous process. They make a
12 comparison with each signature. It's often done -- at
13 times done through a committee, and if they don't think
14 that it exactly matches, and then the Registrar himself
15 will make the final determination in the event that
16 there's somehow any ambiguity.

17 So they have a lot of experience doing this,
18 and I think, you know, that that should be give a lot
19 of credibility and weight.

20 THE COURT: Okay. All right. Well, then
21 let's get started.

22 MR. BYRNE: Your Honor, before we get
23 started, just one request --

24 THE COURT: Sure.

25 MR. BYRNE: -- on behalf of the City of North

1 Las Vegas.

2 Only one of the causes of action appears to
3 affect the City -- or involve the City of North Las
4 Vegas, and that's the 7th cause of action, where
5 Ms. Andolina, in taking the receipt or providing the
6 receipt, received the information for the number of
7 signatures -- she was told approximately 2700 -- and
8 pursuant to the statute, where she is supposed to put
9 down what she was told, that's exactly what she put
10 down.

11 There are no disputed facts on that issue,
12 Your Honor, and we think the Court should just go ahead
13 and rule as a matter of law now, so that I can dismiss
14 her and let her go home at this stage. Because, with
15 respect to the 7th cause of action, we think if you can
16 rule on that, it's undisputed -- there's not going to
17 be any additional testimony. Counsel certainly didn't
18 identify any additional testimony, so. . .

19 THE COURT: Well, I agree to that. I don't
20 think we need to be putting on any testimony or
21 anything with regard to that.

22 In terms of ruling on it right this --

23 MR. MUELLER: Actually, there was some key
24 issues that a witness would be potentially talking to.
25 Were they all presented at once, or were they

1 sequentially numbered?

2 So I respectfully dissent from my colleague's
3 view on that.

4 THE COURT: Do you have some reason to
5 believe they weren't all presented at once?

6 And I think we do have the understanding that
7 the clerk's office did put on the number at the top of
8 Page 1 of each of the four-page documents.

9 MR. BYRNE: And to be clear, Your Honor, the
10 original petition is received by the City, and
11 Ms. Andolina's here to testify about the receipt. She
12 then hand-delivered that petition to the -- to the
13 County.

14 THE COURT: Right.

15 MR. BYRNE: So, if we're going to accept this
16 theory that perhaps something was done in the
17 transport, that, in theory, something could have
18 happened, my witness is certainly here to testify, if
19 the Court wants to hear that.

20 THE COURT: She received the petition.

21 Is she the one who puts the numbers -- now,
22 who puts the numbers at the top of the page?

23 MR. BYRNE: She did not put the numbers on
24 the page. She was the one that counted the pages and
25 does the receipt and puts the number -- total number of

1 pages. She also reports the number of signatures that
2 she's told by the person submitting the petition, and
3 then she submits them to the County, where, I believe,
4 they stamped sequentially the numbers.

5 Now, each individual signature page is
6 sequentially numbered -- as you'll see, Your Honor --
7 with respect to each packet, which we believe that's
8 what the statute requires. The Court can, obviously,
9 address that. But it was later sequentially numbered
10 at the County when it was submitted with the County.

11 THE COURT: Okay.

12 MR. BYRNE: And I will certainly leave the
13 witness here, Your Honor, to the extent that she was
14 prepared to be here, but I was thinking that the only
15 thing they were implicating was the 7th cause of
16 action.

17 And if Counsel is suggesting there's more,
18 then we can certainly leave her here.

19 THE COURT: Is there something really more
20 that -- I mean, I think -- what else would you want to
21 be getting out of her?

22 MR. MUELLER: Your Honor, I don't -- I have
23 reason to believe that these weren't all submitted at
24 the same time, and I also am very concerned about the
25 sequential numbering here.

1 THE COURT: Okay.

2 MR. MUELLER: Now, we are very --

3 THE COURT: Are you telling me you have a
4 good faith reason to believe they --

5 MR. MUELLER: Yes, sir.

6 THE COURT: -- were all --

7 Okay.

8 MR. MUELLER: I believe -- after burning my
9 eyes out this weekend going through these signatures, I
10 believe at least upwards of 10 to 15 percent of these
11 that were validated are invalid signatures.

12 And I've got these numbers. And you'll
13 see --

14 THE COURT: What's signatures are you talking
15 about?

16 MR. MUELLER: The signatures where we've got
17 duplicates of people clearly signing for other people.

18 THE COURT: But she doesn't go through
19 those -- I guess I'm asking, in terms of what she does,
20 which is, from what I understand, she takes the packet
21 that's handed to her and then essentially gives a
22 receipt that talks about the number of documents
23 submitted, the number of pages of each document, number
24 of signatures that person declares are on the petition,
25 and then she hands it over to the County. And then

1 they're the ones who Bates stamp it.

2 I mean, is there anything that -- else you
3 think she's going to be able to add?

4 MR. MUELLER: Yes, sir. By the time these
5 documents made it to my office, and from my review,
6 I've got an endless series of 1 of 4, 2 of 4, 3 of 4, 4
7 of 4, none of which relate back to any other document.
8 Now -- which is part of my complaint.

9 THE COURT: All right. Well, let's leave her
10 here for right now. I want to try to get this done
11 today, if we can.

12 So, all right, Mr. Miller, why don't you go
13 ahead and call your first witness.

14 MR. MUELLER: Thank you. We'd call
15 Mr. Jackson.

16 And if we can have the exclusionary rule
17 invoked?

18 THE COURT: It's invoked.

19 Hello.

20 THE CLERK: Raise your right hand.

21

22

23

24

25

1 Whereupon,

2 JOHN JACKSON,

3 having been sworn to testify to the truth, the whole
4 truth, and nothing but the truth, was examined and
5 testified under oath as follows:

6 THE WITNESS: Yes, I do.

7 THE CLERK: Thank you. Please seated.

8 State and spell your name for the record.

9 THE WITNESS: John Jackson, J-a-c-k-s-o-n.

10 THE COURT: Hold on just a second while we --

11 DIRECT EXAMINATION

12 BY MR. MUELLER:

13 Q. Mr. Jackson, sir, how are you employed?

14 A. I have a company called Aloha Consulting. I
15 do political work and the Hawaiian/Filipino events here
16 in town.

17 Q. When you say political consulting, what
18 duties do you perform, sir?

19 A. Campaign manager, get -- get visibility for
20 candidates, get them at events, help raise money, so on
21 and so forth.

22 Q. All right. So a political consultant?

23 A. Yeah.

24 Q. And you do other things beside political
25 consulting?

1 A. Yes, I do.

2 Q. What are those?

3 A. All the Hawaiian/Filipino events, I do all
4 the events here in Las Vegas.

5 Q. All right. And did you come to know
6 Catherine Ramsey?

7 A. Yes, when she was running, when she first ran
8 for office.

9 Q. All right. And did you assist her with her
10 campaign?

11 A. Yes, we did.

12 Q. Now, you came to learn about her butting
13 heads with the city officials in North Las Vegas?

14 A. Yes.

15 Q. All right. Did you later come to learn about
16 the recall effort?

17 A. Yes. Yes, I did. And then some people
18 approached me about, you know, saying this was wrong
19 and we treated --

20 Q. All right, sir, if I could, I know -- we want
21 to stick close to the issue here, sir.

22 A. Okay.

23 Q. As -- were you on -- remain on friendly terms
24 with Judge Ramsey?

25 A. Yes.

1 Q. Okay. Did you, at her request, go down and
2 watch the signature verification process?

3 A. Yes, I did.

4 Q. All right. And where specifically did you
5 go?

6 A. Over on Cheyenne, over there at the county
7 Registrar of Voters office over there.

8 Q. And did you meet with anybody in particular
9 when you went to the Registrar of Voters office?

10 A. Yeah, Joe Gloria --

11 Q. Joe Gloria?

12 A. -- who -- Joe Gloria who is the Registrar of
13 Voters.

14 Q. All right, sir. And when you met with
15 Mr. Gloria what, if anything, did you do then?

16 A. We spoke for a little bit, and then he took
17 me in the back and I noticed that they already had
18 started without --

19 Q. When you say "they," who are you referring
20 to?

21 A. There were like four or five cubicles where
22 people were verifying signatures.

23 Q. So they actually started the verification
24 process before you arrived?

25 A. Yes.

1 Q. Is that unusual?

2 A. Yeah, because I had requested through an
3 e-mail that Judge Ramsey would like to have a
4 representative there and just thought that was kind of
5 bizarre that they started earlier.

6 Q. All right. And over the years, sir, without
7 any reference to this recall, have you been involved in
8 other recall efforts?

9 A. Many. Many.

10 Q. All right. And you've been involved in many
11 other verification processes?

12 A. Yes.

13 Q. All right. So you're familiar with how
14 things work?

15 A. The usual way --

16 Q. Well --

17 A. Yes.

18 Q. You've seen --

19 A. Yes.

20 Q. Okay. Now, when you arrived and you found
21 people already verifying the signatures, that was
22 unusual?

23 A. I thought so because usually, if there's an
24 observer, the observer's briefed on what's going to
25 take place. He kind of just told me what was going on,

1 and then when I went back there, there were four women,
2 maybe five, that were already -- had stacks of the
3 petition in front of them and were verifying
4 signatures.

5 Q. And how long were you there watching the
6 verification effort?

7 A. At least a couple hours. It was about two
8 hours.

9 Q. All right. And what specifically procedure
10 did you see the County verification process to include?

11 A. I thought it was a little bit bizarre that
12 there were no instructions on verifying -- see,
13 usually --

14 Q. If I can stop you there. There was no
15 instructions? What are you referring to?

16 A. Instruction to the -- to the verifiers, Okay,
17 every fourth page verify signature seven. They were
18 just going down the page -- and I didn't catch it at
19 first, and then I kind of noticed they were going down
20 the page and looking for certain streets. That's how I
21 took it.

22 Q. All right. And what specifically did you see
23 that led you to that conclusion?

24 A. Because all those streets were in areas that
25 probably were for Judge Ramsey's opponent.

1 Q. All right. So they went -- you were --
2 noticed -- what area are you referring to, sir?

3 A. Off of Alexander Road. You know, I go
4 door-to-door all the time during my campaigning. I
5 know where many streets are and what areas they're in.

6 Q. All right. So you're more than casually
7 acquainted with the demographics and electoral
8 processes in North Las Vegas?

9 A. Yes. Judge, I verified signatures before,
10 and I just thought the way they were doing it just
11 didn't -- it just didn't -- in my experience, just
12 didn't seem the way I would do it --

13 Q. All right. What --

14 A. -- or the Registrar of Voters would instruct.

15 Q. And what area did -- you said you thought
16 that they were looking for signatures in a particular
17 area?

18 A. Off of Martin Luther King. Off of Alexander.
19 What else? Carey. Some of those side streets up
20 there.

21 Q. Did you notice any effort at all to find
22 signatures at random?

23 A. No. They were going down the list, and I
24 think they were looking for streets. That's how I took
25 it.

1 Q. All right. And then they would pick one --
2 or the verifiers would pick one and then verify that --

3 A. And -- and some of the names. I just thought
4 it was bizarre. Because, again, usually the registrar
5 would say, Okay, go to every fourth page, hit signature
6 five. Okay? And then after you go through the stack,
7 go through it again. Now hit the one above or the one
8 below it, and that's how you do a random sampling.

9 Q. Okay. So there appeared to be no effort to
10 randomly sample; they were actually specifically
11 looking for street names and --

12 A. I'm not saying every one, but there were at
13 least three or four times that I observed that they
14 were not -- they were looking for certain streets.

15 Q. Okay. And they would --

16 A. -- and they --

17 MS. COURT REPORTER: One at a time. Thank
18 you.

19 Q. (By Mr. Mueller) And they would find voters
20 on those streets?

21 A. Sometimes. Sometimes they would cross the
22 name off and go to the next page.

23 Q. All right. And did you bring your concerns
24 up to Mr. Gloria's attention?

25 A. Yes, I did.

1 Q. And what specifically did you tell
2 Mr. Gloria?

3 A. He said, "Well, it's a random sampling." I
4 said, "Sir, that's not really random." You know? And
5 then he took me in the back after -- and another thing,
6 I thought they were done rather quickly.

7 Q. Okay.

8 A. You know because usually when you verify --
9 if I can continue on -- when you verify a signature,
10 before you get someone to sign them, the person running
11 the petition goes to the VAN -- which is the Voter
12 Access Network -- or to Voter Vault or to the city
13 voter list to make sure that before you -- the
14 circulator signs it, those signatures are verified.
15 That's how I do it. I verify every signature before I
16 have the person getting them sign an affidavit through
17 a notary.

18 Q. All right. And when you brought your concerns
19 to Mr. Gloria, what, if anything, did he do?

20 A. Nothing. He a hard time bringing up the
21 queue to show me -- which weren't.

22 Q. What do you mean he had a --

23 A. He had to call someone. When I asked him to
24 go on the computer --

25 Q. Mr. Jackson --

1 A. -- and please let me know how many were
2 valid, how many were invalid, and are they broke down
3 for what reason they were invalid; couldn't read them,
4 whatever it was. None of that happened.

5 Q. What specifically did you see happen?

6 A. Nothing. That's my whole point.

7 Q. Okay.

8 A. I just thought it was bizarre. Again, in my
9 experience, before I turn in any signatures, I'm
10 verifying that my circulator did the right thing and
11 just weren't out writing people's names down.

12 Q. Okay. Now, did you personally look at the
13 petition, sir?

14 A. Yes, I did.

15 Q. All right. Did you notice any
16 irregularities?

17 A. I thought that the days off thing was kind of
18 misleading.

19 Q. I'm talking -- okay. And drawing your
20 attention specifically to the signatures, did you
21 actually look at the petitions?

22 A. Yes, I did. On some of them I did.

23 Q. All right. Did you notice any instances
24 where people clearly hadn't signed or somebody signed
25 it and other names?

1 A. You know, I had done a petition one time
2 where if you didn't have the first name printed or
3 signed or whatever, you kicked it out.

4 Q. All right.

5 A. Right? So there were many of those. There
6 were some that were just scribbled. You know, I didn't
7 look at all of them, but I would say that it was a
8 sloppy job. I'm sorry, but it's a sloppy job. Because
9 I had a petition kicked back just for that reason one
10 time, of not having all my -- you know, my I's dotted
11 and my T's crossed.

12 Q. So you would say, sir, it's fair to say that
13 the sampling procedure was not -- did not appear to be
14 random?

15 A. No, it wasn't.

16 Q. Was there any systematic way of doing it as
17 in the 15th signature on every page or the 2nd
18 signature?

19 A. That's what you usually do. That's how you
20 get a random.

21 Q. All right. And did you notice any procedures
22 like that being followed?

23 A. I didn't see any, and I was there a good two
24 hours.

25 Q. All right. Did you watch the entire -- after

1 you -- other than the first few minutes that you missed
2 when you arrived, did you stay for the entire
3 verification process?

4 A. I stayed there completely. That's what I was
5 saying. It was done rather quickly.

6 Q. All right. Did they verify every signature
7 or just a random -- just the ones that they chose?

8 A. Just the ones that they were going down the
9 list on, and then they said, "We're done." And then
10 Mr. Gloria took me to where a computer was, and I asked
11 him if he could queue that and let me know how many
12 were valid, how many were invalid, how many -- and the
13 reasons they were invalid. He had to call somebody up
14 to get into it. I don't know who he spoke with. And
15 he goes, "Well, we got enough." I said, "It doesn't
16 look like you got enough to me, sir." But I kind of
17 left it at that.

18 Q. Okay. So you didn't make it -- you expressed
19 your concern but didn't make an issue of it?

20 A. Yeah.

21 MR. MUELLER: The Court's indulgence's for
22 just a moment.

23 THE COURT: Sure.

24 Q. (By Mr. Mueller) Sir, just a couple of
25 questions, follow-up on scheduling.

1 The day that you actually got down there and
2 saw at least part of the verification process, what day
3 was that?

4 A. That was I think Monday.

5 Q. Monday. What day?

6 A. Let's see. The 20 -- no. Because I had sent
7 an e-mail to Mr. Gloria, and I made a statement when I
8 was at the County building. And then -- I can't
9 remember. I'm sorry.

10 Q. But it was a Monday.

11 Now, had you -- on the preceding Friday of
12 that Monday, did you try to go down there or --

13 A. Yes, I went -- not there. I went to also the
14 County building over on Grand Central; went over there
15 to find out what was going on, how much it would cost
16 to purchase a copy of the petition so we could -- so I
17 could verify some myself. It was utter confusion down
18 there. I met with this Filipino woman, and she goes,
19 "Oh, I'm going to go talk to somebody." That's when I
20 first spoke with Joe Gloria. I hadn't met him yet. I
21 had met him at the Cheyenne office but not at the --
22 and he was very evasive. I said, you know -- he goes,
23 "Well, we followed the NRS." I said, "Sir, I just want
24 to know what time you're going to be verifying so that
25 I can be there to observe."

1 Q. Okay.

2 A. I never heard nothing back until Judge Ramsey
3 told me they were verifying. I got there at 9:15.

4 Q. That was 9:15 on --

5 A. On Cheyenne.

6 Q. Okay. That was Saturday -- or Monday?

7 A. Right.

8 Q. All right. On the preceding Friday, was
9 there any effort to verify that you know of?

10 A. They said they had started already.

11 Q. On Friday?

12 A. Yeah, that's what they told me.

13 Q. Who told you that?

14 A. Joe Gloria.

15 Q. Okay.

16 A. And that's when I said it's kind of bizarre
17 that, you know, we asked to have an observer there and
18 it was like I was speaking Russian or something. And
19 the guy's just like -- he goes, "Well, send me an
20 e-mail in writing. I just can't let anybody go back
21 there." And I did it right away, and I sent a copy --
22 I copied Judge Ramsey on it.

23 Q. So in light of this, this verification
24 process was done unobserved then?

25 A. Initially, yeah. That's -- that's the

1 statement that I gave because they said they had
2 started already.

3 Q. And you're certain that Mr. Gloria was put on
4 notice that you wanted to be there for --

5 A. Oh yes. I sent an e-mail.

6 Q. And he acknowledged that he got the e-mail?

7 A. Yes.

8 MR. MUELLER: Nothing further, Judge.

9 THE COURT: Thank you.

10 Who wants to go on this side first?

11 MR. BYRNE: Your Honor, before we start, I
12 would note that I don't recall seeing the production of
13 any e-mail that was provided as part of the plaintiff's
14 exhibits. So I just -- if there's one that exists, we
15 haven't seen it.

16 THE COURT: Okay. I haven't seen anything
17 either so. . .

18 MR. MILLER: Thank you.

19 THE COURT: Go ahead, Mr. Miller.

20
21 CROSS-EXAMINATION

22 BY MR. MILLER:

23 Q. So let me walk you back, if I can, as to your
24 involvement in the initiative -- in the recall petition
25 when it first started.

1 The signatures were turned in on Thursday the
2 28th at the City Clerk's office; is that correct?

3 A. Right.

4 Q. And you were present --

5 A. Yes, I was.

6 Q. -- when we held a press conference and turned
7 those signatures in?

8 A. (Nods head.)

9 Q. So you were aware on that day that the recall
10 petition had been turned in and was proceeding for
11 verification?

12 A. Right.

13 Q. At what point did you contact Mr. Gloria?

14 A. The next day. Because I went back upstairs
15 to -- in North Las Vegas and spoke -- I can't remember
16 the woman's name, and she said that she was going to be
17 taking them over to the County building that afternoon
18 or the next day.

19 Q. Okay. So who did you speak with at the City
20 Clerk's office? Was it Barbara Andolina, the clerk, or
21 somebody else?

22 A. I'm not certain.

23 Q. But you were aware that it was being taken to
24 the Clerk's office --

25 A. Yes.

1 Q. -- to proceed with verification the next day?

2 A. Yes.

3 Q. And you've certainly been through enough of
4 these petitions that you know of that these things
5 happen on a very expedited basis?

6 A. Right.

7 Q. Okay. So it wasn't until Friday, the next
8 day, that you believe you sent an e-mail to Mr. Gloria?

9 A. Right.

10 Q. Okay. And what date --

11 A. Let me back up. I went down there and then I
12 spoke with Mr. Gloria on the phone in the Office of
13 Elections at the County building, and he said, Send me
14 an e-mail asking that -- because I don't know who you
15 are and I don't have take stuff over the phone, and so
16 on and so forth. And then I sent the e-mail.

17 Q. So when did that occur?

18 A. Friday.

19 Q. Friday.

20 At about what time?

21 A. I went there probably about 2:00. It had to
22 have been in the afternoon. I couldn't say exactly. I
23 have the e-mail. I just don't have it with me, but I
24 have the e-mail.

25 Q. Okay. So you did not communicate with him

1 and send an e-mail until Friday afternoon?

2 A. Right.

3 THE COURT: This would have been Friday, the
4 29th?

5 MR. MILLER: Friday, the 29th. I'm sorry,
6 Judge.

7 Q. (By Mr. Miller) You did not actually go to
8 the County Registrar's office until Monday --

9 A. No, no, no.

10 Q. -- June 1st.

11 A. I went -- Friday I went after I spoke with
12 Joe Gloria on the phone at the County building.
13 Monday, when they were doing the one over on Cheyenne,
14 is when I went over there to observe.

15 Q. Okay. Okay. And what time did you get there
16 Monday --

17 A. About 9:20.

18 Q. You said about 9:20. Okay.

19 All right. But so you understood when you
20 arrived that the verification process had already
21 begun?

22 A. Yeah.

23 Q. Okay. So you were not there when they
24 conducted the raw signature count; is that correct?

25 A. I was there when they were verifying the

1 signatures.

2 Q. Okay. But you're aware, having been through
3 a number of these procedures, that the first step is
4 that they -- the County Clerk's office would take ahold
5 of all of the recall signatures and count them in their
6 entirety to determine how many signatures exactly were
7 turned in. Right?

8 A. Yes, yes.

9 Q. You weren't there to observe that process?

10 A. No, I was not.

11 Q. Okay. And you were not there when they, in
12 fact, conducted the random sample either; is that
13 correct?

14 A. I got -- well, I was in the middle of it.
15 Because I thought they opened it at 9:00, and then I
16 got there about 9:15, 9:20.

17 We're talking about on Cheyenne. Right,
18 Mr. Miller?

19 Q. Yes, sir.

20 A. Okay.

21 Q. Yes, sir.

22 But are you aware that the County uses a
23 software program, in fact, to setup the random sample
24 so they can identify 500 signatures in order to pull
25 out? Did you become aware of that at some point?

1 A. Yes, I am.

2 Q. When did you become aware of that?

3 A. Well, while I was watching them, they were
4 looking at the names. Right? And then they'd punch
5 them in the computer and bring up the signature and the
6 address and so on and so forth.

7 Q. Okay. But we've already established that you
8 were there much later than when the verification first
9 began on Friday.

10 A. Right.

11 Q. So this verification process began -- are you
12 aware that the -- the initial random sample is
13 generated as one of the first actions that the
14 registrar takes in verifying those signatures?

15 A. That's right.

16 Q. Okay. And so they take a batch that's setup
17 by a computer system which randomly generates that
18 sample?

19 A. No, that's not how it was going from when I
20 was there, Mr. Miller. When I was there, they had the
21 petition in front of them, looking up names, then
22 punched in the names.

23 Q. But you missed the entirety of Friday; is
24 that correct?

25 A. Because -- yeah, because we didn't know it

1 was going. I had asked to be -- to be told, and I was
2 never told.

3 Q. Okay. But you weren't there during the
4 initial verification process so you can't say that that
5 didn't take place; is that correct?

6 A. That's -- no, not the initial. No.

7 Q. Okay. So it's entirely possible, from what
8 you observed, that the County could have used this
9 computer system to, in fact, setup a random sample?

10 MR. MUELLER: Objection for speculation.

11 THE COURT: I'm sorry, what was the --

12 MR. MUELLER: It's a speculative question.

13 He's asking him to speculate what the --

14 THE WITNESS: That's not --

15 THE COURT: Mr. Jackson, just hold on one
16 second.

17 Yeah, I'll sustain that.

18 MR. MILLER: Okay.

19 Q. (By Mr. Miller) You're unaware --

20 A. No.

21 Q. -- as to whether or not the County could have
22 setup a random process before you got there to select
23 the 500 signatures?

24 A. Because Mr. Gloria said we were going to
25 start in one or two days, quote/unquote, and that's in

1 an e-mail --

2 Q. Okay.

3 A. -- one or two days. And all the sudden they
4 started already.

5 Q. But setting aside whether or not you were
6 there to observe it, you can't testify to the fact of
7 whether or not they actually followed those procedures
8 initially on Friday and you just happened to catch --

9 A. No, I can't.

10 Q. Okay. But is it possible that what you
11 observed on Monday wasn't, in fact, the verification
12 process; it was, in fact, the audit?

13 A. No, it was verification. They were verifying
14 signatures and verifying names.

15 Q. Okay. And when you say "verifying names,"
16 what exactly were they doing to --

17 A. Making sure that the name that they had on
18 the petition matched the one in the computer, signature
19 and all.

20 Q. Okay. And were they going through any list
21 of any type?

22 A. Yeah, they had the petition right in front of
23 them.

24 Q. Okay. In addition to the petition, did they,
25 in fact, have a sampling that pulled out the 500 names

1 that they were going through?

2 A. No. They picked them out at random off the
3 list.

4 Q. Off what list?

5 A. Off the petition. As I said, they were going
6 down the petition and then -- and the way I observed --
7 again, you know, I'm standing behind and I'm watching,
8 and I thought it was just kind of funny that, instead
9 of the usual way, every Page 4, Line No. 3, they would
10 go down, see a certain street -- like Stella Lake -- so
11 on and so forth, and then punch it in.

12 Q. Okay.

13 MR. MILLER: Judge, I have premarked two
14 exhibits, Defense Exhibit 1 and 2, which I believe is
15 the petition which may be on disc. I've got a printed
16 copy of the petition itself, as well as Exhibit 2,
17 which is up there which I have a copy of. With your
18 permission, I'd like to approach and have the witness
19 just indicate what exactly the clerks were going
20 through and the process at the time that he observed?

21 THE COURT: Sure. Which exhibit are you
22 going to be -- are you going to be showing both?

23 MR. MILLER: Both.

24 THE COURT: Okay. Just be clear what you're
25 showing him.

1 MR. MILLER: Yes, sir. Thank you.

2 Q. (By Mr. Miller) I have in my hand a copy what
3 has previously marked as Defense Exhibit 1, which is,
4 in fact, a copy of the recall petition.

5 A. Mm-hmm.

6 Q. What you're telling me is that, when you
7 arrived, they were going through this recall petition?

8 A. This [indicating].

9 Q. Okay. So they were going through the
10 petition itself?

11 A. Right.

12 Q. All right. And were they referencing a
13 separate list at all as to which signatures that they
14 were looking at?

15 A. No, not from what I saw. They had the
16 petition here, the computer keyboard, they were going
17 down looking for -- and then they would type it in and
18 see what popped up. And when the signature page would
19 pop up, they'd verify the signature was right and the
20 name and so on and so forth.

21 (Witness indicating throughout.)

22 Q. (By Mr. Miller) Okay.

23 A. Now, if they did any of that before I got
24 there, I don't know.

25 Q. Okay. Defense Exhibit 2 is a document

1 entitled "Clark County Election Department Petition
2 Signature Detail Recall Judge Ramsey." It includes a
3 list which is purported to be the 500 names that they
4 generated as a random sample, along with the status
5 code in the verification process.

6 Did you, at any point, see this list --

7 A. No, I --

8 Q. -- go through this?

9 A. -- did not.

10 Q. Okay. And so through the process that you
11 conducted, you didn't see them verify --

12 A. I did not see --

13 MS. COURT REPORTER: One at a time, please.

14 THE WITNESS: -- was the petition.

15 MR. MILLER: Thank you.

16 THE WITNESS: Now, if it was covered up or
17 something, I don't know. If it was set to the side.
18 All I saw was the petition.

19 Q. (By Mr. Miller) You said that you only stayed
20 for about two hours; is that right?

21 A. That's right. Because they said they were
22 done.

23 Q. You stayed for the entirety of the process
24 for --

25 A. From when I got there.

1 Q. When you got there. Okay.

2 MR. MILLER: I don't have anything further,
3 Judge. Thank you.

4

5 REDIRECT EXAMINATION

6 BY MR. MUELLER:

7 Q. Mr. Jackson, what time did you say you --

8 MR. BYRNE: I'm sorry, Your Honor. I've
9 got --

10 MR. MUELLER: Sorry about that. I'm used to
11 criminal trials.

12 THE COURT: All right.

13

14 CROSS-EXAMINATION

15 BY MR. BYRNE:

16 Q. Mr. Jackson, was there anyone else there
17 present on behalf of Judge Ramsey?

18 A. On behalf of Judge Ramsey?

19 Q. Correct.

20 A. Yeah, my girlfriend. But she was just there.
21 She didn't observe anything. She was --

22 Q. Was there anyone there from Mr. Mueller's
23 office?

24 A. Another guy there, but I don't remember his
25 name right offhand.

1 Q. So you do recall another gentleman there?

2 A. (Nods head.)

3 Q. Is that a yes?

4 A. Yes.

5 Q. The court reporter can't take down --

6 A. I'm sorry.

7 Q. And was that representative there before you
8 arrived?

9 A. No, after.

10 Q. Okay.

11 MR. BYRNE: No further questions, Your Honor.

12 THE COURT: All right. Anybody else over
13 on --

14

15 RECROSS-EXAMINATION

16 BY MR. MILLER:

17 Q. Was Dan Burdish also there?

18 A. I can't remember his name at this moment.

19 He's kind of an older guy. I've never met him.

20 Q. You're not familiar with political lobbyist
21 Dan Burdish?

22 A. Yeah, I know who is he. I've never really
23 met him, but I know who he is.

24 Q. But he wasn't there?

25 A. If he's the older guy that was there, yeah,

1 then that's him. I just don't remember. I just don't
2 remember.

3 Q. Okay.

4 THE COURT: Okay. Mr. Mueller?

5

6 REDIRECT EXAMINATION

7 BY MR. MUELLER:

8 Q. One last question, sir. When you arrived on
9 the 1st, what time was it?

10 A. About 9:20.

11 Q. 9:20.

12 And they had already begun?

13 A. Yes.

14 Q. All right.

15 MR. MUELLER: Nothing further.

16 THE COURT: All right. Mr. Jackson, just one
17 thing that wasn't clear to me.

18 On Friday, the 29th, you went down to the
19 County Registrar of Voters --

20 THE WITNESS: Right off of -- yeah.

21 THE COURT: At what time?

22 THE WITNESS: Oh, God. It had to have
23 been -- it was right after the press conference. So it
24 was right after the press conference. I can't remember
25 what time the press conference was that they had at the

1 North Las Vegas City Hall. I went down there right
2 after that to find out about when would be available to
3 watch the verification of the signatures.

4 THE COURT: All right. And you indicated --
5 so you personally went down there to the office?

6 THE WITNESS: Yes, I did.

7 THE COURT: You indicated something about
8 speaking with Mr. Gloria.

9 THE WITNESS: On the phone.

10 THE COURT: Did you recall by a phone there
11 or --

12 THE WITNESS: Yes.

13 THE COURT: -- your cell phone?

14 THE WITNESS: No. The woman that was there,
15 the receptionist, after finally figuring out what I
16 needed, she got him on the phone.

17 THE COURT: All right. And what exactly --
18 and, at this point in time, had you been asked by Judge
19 Ramsey to do anything or are you doing this on your
20 own?

21 THE WITNESS: Well, yeah, I told her what
22 needed to be done, and she gave me permission to do it.

23 THE COURT: All right. So this was prior to
24 you going down to the election --

25 THE WITNESS: Yes.

1 THE COURT: -- office?

2 THE WITNESS: I had told her what happened at
3 the press conference, and then -- and what happened at
4 the City Clerk in North Las Vegas, and then I told her,
5 I said, "I'm going to the Office of Elections to find
6 out what time they're going to start doing the
7 verification because we need to have a presence."

8 THE COURT: All right. So then, while you're
9 there, you called --

10 THE WITNESS: They called.

11 THE COURT: -- Mr. Gloria -- or they -- the
12 office staff called Mr. Gloria and put you on the
13 phone?

14 THE WITNESS: Yes.

15 THE COURT: And what exactly did you say to
16 Mr. Gloria?

17 THE WITNESS: I told him who I was and
18 explained to him what I -- I know you guys are doing
19 the verification process on the petitions, and we would
20 like to have an observer there. And how many
21 signatures are you going to verify? And then he
22 stated, "We're going to follow the NRS." I said,
23 "Okay, that's fine. What time do you plan on starting
24 so we can have an observer?"

25 "Well, I don't know who you are, and I

1 want -- send me an e-mail. I want it in writing. I
2 don't do things over the phone."

3 And so I immediately sent an e-mail when I
4 got home.

5 THE COURT: All right. And that was the last
6 time you spoke with Mr. Gloria or anyone from his
7 office until you got there on Monday?

8 THE WITNESS: Right.

9 THE COURT: All right. Did he tell you any
10 time in that conversation that the verification process
11 was going to start on Monday?

12 THE WITNESS: No. He just said -- I guess,
13 because he didn't who I was, he was kind of evasive on,
14 you know, telling me he wanted everything in writing
15 first because he didn't who I was. And I understand
16 that. So I waited until after I got home, sent him the
17 e-mail, and then I got a response from -- not from him
18 directly but from -- I don't have it in front of me --
19 that they were going to be over on the Cheyenne office.

20 THE COURT: Did they give you a time --

21 THE WITNESS: No.

22 THE COURT: -- in that e-mail?

23 THE WITNESS: No.

24 THE COURT: All right. So what prompted you
25 to show up at 9:20, at that particular time, on Monday?

1 THE WITNESS: Judge Ramsey called me and said
2 they started already. I said, "What do you mean they
3 started already? They told me a couple of days."

4 And that's when I zoomed over there.

5 THE COURT: All right. And who told you a
6 couple of days?

7 THE WITNESS: Joe Gloria.

8 THE COURT: Okay. All right.

9 I'm sorry, Counsel. Does that generate any
10 questions by either side? Mr. Mueller?

11 MR. MUELLER: Yes, it does. Real quick,
12 Judge.

13

14 FURTHER REDIRECT EXAMINATION

15 BY MR. MUELLER:

16 Q. Did Judge Ramsey forward you an e-mail from
17 the clerk?

18 A. I'm sorry?

19 Q. Did Judge Ramsey forward you an e-mail from
20 the clerk?

21 A. I believe she did, yeah.

22 MR. MUELLER: May I approach, Your Honor?

23 THE COURT: Do you need to mark that?

24 MR. MUELLER: Yes, I will.

25 Madam Clerk, may I have this marked?

1 MR. BYRNE: So when you're saying "the
2 clerk," we should clarify that we're talking about the
3 clerk for the City of North Las Vegas, Your Honor.

4 MR. MUELLER: Thank you.

5 May I approach the witness, Your Honor?

6 THE COURT: Sure.

7 Q. (By Mr. Mueller) Sir, did Judge Ramsey
8 forward you an e-mail from the clerk?

9 A. I believe she did, yeah.

10 THE COURT: And what clerk are we talking
11 about?

12 MR. MUELLER: This would be the North Las
13 Vegas clerk.

14 THE COURT: All right.

15 Q. (By Mr. Mueller) I'm showing what's been
16 marked as Defendant's A -- or Defense 1 -- or
17 Plaintiff's 1 for identification.

18 Do you recognize that document?

19 A. Yeah, I do.

20 Q. All right. Is that, in fact, a copy of the
21 e-mail that Judge Ramsey forwarded to you?

22 A. Yes, it is.

23 MR. MUELLER: All right. Move to admit.

24 MR. MILLER: No objection.

25 THE COURT: Okay. It will be admitted.

1 (Whereupon, Plaintiff's 1 admitted into
2 evidence.)

3 Q. (By Mr. Mueller) All right. Sir, now that
4 e-mail very clearly says the verification process was
5 going to start at 9:30?

6 A. Right.

7 Q. And when -- you arrived at what time?

8 A. About 9:20.

9 Q. And was it -- and then you said you found --
10 arrived early and still found that the verification
11 process was already underway?

12 A. Yes.

13 Q. All right.

14 MR. MUELLER: Nothing further.

15 THE COURT: Anything from defendants?

16 MR. MILLER: No redirect. Thank you.

17 THE COURT: Okay. All right. Mr. Jackson,
18 thank you for your time. Appreciate you coming in here
19 today.

20 MR. MUELLER: Could I give just a brief
21 recess, Judge?

22 THE COURT: Yeah it's probably a good time.
23 Ten minutes.

24 MR. MUELLER: Please.

25 THE COURT: All right. Come back at five

1 till 11:00.

2 THE MARSHAL: All rise.

3 (A brief recess was taken from 10: 42 a.m.
4 until 10:57 a.m.)

5 THE MARSHAL: Remain seated. Come to order.
6 Court is back in session.

7 THE COURT: All right. Who are we calling
8 next, Mr. Mueller?

9 MR. MUELLER: Thank you, Judge.

10 The next witness will be investigator Mark
11 Preusch.

12 THE CLERK: Raise your right hand.

13 Whereupon,

14 MARK PREUSCH,
15 having been sworn to testify to the truth, the whole
16 truth, and nothing but the truth, was examined and
17 testified under oath as follows:.

18 THE WITNESS: Yes, ma'am. I do.

19 THE CLERK: Thank you.

20 Please be seated. State and spell your name
21 for the record.

22 THE WITNESS: My name is Mark Preusch, and
23 the spelling of the last name is P, as in Paul,
24 r-e-u-s-c-h.

25

1 DIRECT EXAMINATION

2 BY MR. MUELLER:

3 Q. Mr. Preusch, how are you employed?

4 A. I'm employed as a private investigator for
5 Global Reliance Investigations.6 Q. All right. And before you became a private
7 investigator, sir, what did you do?

8 A. I was a police officer for 27 years.

9 Q. And for what agency were you a police
10 officer?11 A. The last -- well, 23 of those years was with
12 the Las Vegas Metropolitan Police Department.

13 Q. And you retired from the police department?

14 A. I did.

15 Q. And that's when you decided to start your own
16 investigation -- or work as a private investigator?

17 A. Yes.

18 Q. All right. Now, sir, at my request did you
19 get involved with Judge Ramsey's recall?

20 A. I did.

21 Q. All right. And at my request, did you have
22 an opportunity to look at the stack of recall
23 signatures?

24 A. I did.

25 Q. All right. And what was the purpose of

1 looking at these signatures, sir?

2 A. So I was requested to do a comprehensive
3 review of all of the signatures, the petitions. I
4 believe there was 159 petitions with over 2,000
5 signatures.

6 Q. All right. And what was the purpose of
7 looking at them, sir?

8 A. It was for accuracy to see if there were any
9 duplicate signatures, to make sure that the paperwork
10 was accurate and in order.

11 Q. And did you, in fact, make some tabulations
12 of your results and did you make some notes?

13 A. I did.

14 Q. All right. Do you have those notes with you?

15 A. I do.

16 Q. All right. If you need to refer to those
17 notes as I ask you questions, please let me know.

18 A. Okay. Great.

19 Q. Now, sir, did you, in fact, check all of the
20 petitions?

21 A. I did.

22 Q. And how many petitions were there?

23 A. So there were 159 petitions.

24 Q. All right. And did you find -- were they all

25 --

1 MR. BYRNE: Your Honor, we have never seen a
2 report with a tabulation of any of the findings that
3 supposedly were prepared. So are we -- is that going
4 to be produced? Is it going to be admitted into
5 evidence? This is the first we've heard of it.

6 MR. MUELLER: No.

7 MR. BYRNE: They're supposed to have
8 submitted documents last week, which we did. We never
9 got anything from the plaintiffs. So it's just a
10 little strange to be talking about a document that
11 supposedly has his findings that we haven't seen it.

12 MR. MUELLER: He's got his notes is what I
13 had said, and there was no report prepared. And we had
14 a half a day business day to get this put together. So
15 I had an investigator independently review the
16 documents.

17 MR. BYRNE: Your Honor, we've heard that now
18 twice, but let's just make sure the record's clear.
19 Judge Cory set this several weeks ago for the 30th --
20 for the 29th -- the 29th -- the 30th.

21 THE COURT: Thirtieth.

22 MR. BYRNE: You moved it back one day. So
23 we're crying foul a lot in terms of the timing. They
24 requested an expedition of their petition and so -- and
25 we have 30 days. So we've got the holiday coming up.

1 So I keep hearing this as if somehow he's getting
2 sandbagged. And, Your Honor, I mean --

3 THE COURT: I understand. I know. I
4 understand where you're going. Let's just see where
5 this is going, and then we'll deal with the issue once
6 we have a better sense of what exactly Mr. Mueller is
7 planning on bringing in with this witness.

8 MR. MUELLER: Thank you, Your Honor.

9 Q. (By Mr. Mueller) Sir, did you have a chance
10 to review all the petitions?

11 A. I did.

12 Q. All right. Did you examine them to see if
13 they were properly notarized?

14 A. I did.

15 Q. All right. And did you find discrepancies in
16 the notaries?

17 A. Yes.

18 Q. All right. And what specifically did you
19 find?

20 A. So in regards to the notaries, it looks like
21 111 names and six of the petitions, that would be
22 Petition 30, 50, 87, 117 --

23 THE COURT: Hold on. Slow down a second.

24 THE WITNESS: I'm sorry.

25 THE COURT: Go ahead.

1 THE WITNESS: So 111 names and six petitions,
2 Petitions 30, 50, 87, 117, 123, and 147 were not
3 properly notarized. They were either missing -- I
4 think one was missing a notary stamp. There was some
5 issues with the signatures. For instance, in the
6 affidavit where the notary, either he or she, would
7 write in her name, that was missing or the county
8 wasn't written in on the notary page.

9 MR. MUELLER: Clerk, may have these marked as
10 exhibits, please?

11 THE COURT: Are those the reports you just
12 read?

13 MR. MUELLER: Those are the petitions he just
14 read, Judge.

15 THE COURT: Oh. Okay.

16 MR. MUELLER: Your Honor, have you had a
17 chance to review the exhibits?

18 THE COURT: She's marking them right now.

19 MR. MUELLER: All right. Thank you.

20 THE COURT: If you want to start with one of
21 them in particular, she can mark that while she's
22 marking the rest.

23 Have you shown those to defense counsel?

24 MR. MUELLER: Yes, I have, Judge.

25 Thank you.

1 Q. (By Mr. Mueller) Detective, drawing your
2 attention to Petition 117 marked as Plaintiff's
3 Exhibit 5, sir, can you examine that document or review
4 that document for me? Is this one of the petitions you
5 found to be deficient?

6 A. Yes.

7 Q. And what specifically is deficient about it,
8 sir?

9 A. On this particular one, there's no notary
10 stamp.

11 Q. No notary stamp?

12 A. Yes.

13 Q. And how many signatures are on that page?

14 A. It looks like there are two signatures;
15 signature of the circulator and signature of a notary
16 public.

17 Q. Yes, sir. But on the petition itself, how
18 many signatures on there?

19 A. Oh, I'm sorry. Eight, 16, 24 -- 24.

20 Q. Twenty-four signatures.

21 If you could turn that face down, please.

22 Showing you what's been marked now as Bates
23 stamp 0000301 through 4, Plaintiff's Exhibit 2, did you
24 examine that document and review it for its
25 completeness?

1 A. Yes. This is one of the documents that I
2 reviewed.

3 Q. All right. And did you find any deficiencies
4 in that document, sir?

5 Can you tell the name of the person who
6 actually verified that, sir?

7 A. This was -- yeah, this is one of the ones
8 where the name of the notary was printed in on the
9 document, on the affidavit.

10 Q. So no notary name on it?

11 A. Right. Other than the stamp and the
12 signature, but in the affidavit where you write in your
13 name, it's missing.

14 Q. All right.

15 THE COURT: What number -- petition number
16 was that?

17 THE WITNESS: Thirty.

18 THE COURT: Thirty.

19 MR. BYRNE: Your Honor, I just want to make
20 sure we're clear. We're on 30 and the deficiency is
21 that it's signed by the verifier but not -- the name's
22 not printed in; is that correct?

23 THE WITNESS: That's correct.

24 MR. BYRNE: All right.

25 Q. (By Mr. Mueller) Sir, showing you Petitions

1 40 -- or Petitions 50, 87, 123, and 147. Are these
2 documents that you reviewed at my request?

3 A. Yes, they are.

4 Q. All right. And were those documents -- did
5 you note any deficiencies on those four petitions, sir?

6 A. So on 50 -- on 50, on the notary page of --
7 the county is not written in. It's missing "Clark
8 County" on that particular one.

9 Q. All right. Sir, if you'd look at the other
10 three.

11 A. On Petition 87, it's the same thing. The
12 county -- Clark County's not written in on the
13 affidavit.

14 Q. All right. And how many signatures on that
15 particular petition, sir?

16 A. This petition contains 12 signatures.

17 Q. All right. Thank you.

18 And if you'd look at the next one, what
19 number is that?

20 A. This is Petition 123.

21 Q. And did you notice anything about that, sir?

22 A. Yes. Also the County is not written in on
23 the affidavit.

24 Q. All right. And do you have one last
25 signature up there -- one last petition up there?

1 A. Yes.

2 Q. What number is that, sir?

3 A. 147.

4 Q. All right. And what is -- did you find any
5 deficiencies in that one?

6 A. Yeah. That also was the same, the county was
7 not written in on that affidavit as well.

8 Q. All right. Thank you, sir.

9 Now, other than reviewing the petitions for
10 technical sufficiency, did you actually review or look
11 at them to see if they were -- contained the names of
12 actual registered voters?

13 A. Yes. What we did was compared the
14 signatories on the petitions, the 159 petitions, with
15 the people that were registered to vote in the 2011
16 general election, that was the election that Judge
17 Ramsey was elected in, and we found that 292 of the
18 people that had signed the petition were not on that
19 list of registered voters for the 2011 general
20 election.

21 Q. Now, sir, did you also investigate or look at
22 the signatures of the petitions as a whole to see if
23 the handwriting was the same or they looked like
24 someone had signed it for multiple parties?

25 A. So I did. You know, there was -- there were

1 a lot of signatures. So, after a while, I mean, it's a
2 lot to look at and comprehend and let your brain
3 process, but I did find several that it looked like the
4 same person. To me, it looked like the same signature.
5 What I recall, I think a husband and wife, you know,
6 where sometimes where your husband or wife might sign
7 for you. That's what it looked like to me.

8 Q. And you found those -- recall those multiple
9 signatures, somebody signing for somebody else?

10 A. Yeah, forgery, I guess, or whatever. I'm not
11 sure.

12 Q. All right. It's not a criminal case,
13 Detective. Just if we could -- just multiple
14 signatures?

15 A. Yes.

16 Q. All right. And how many multiple signatures
17 were you able to identify?

18 A. You know, I don't recall.

19 Q. Would it refresh your recollection to review
20 your notes?

21 A. Yeah, let me look at my notes. Yeah, I
22 didn't document -- you know, I didn't -- a particular
23 number. I just remember -- remember seeing that, that
24 it looked like at least one or a couple of times, but I
25 can't remember. Like I said, there were so many to go

1 through. I don't have a particular number on that.

2 Q. Okay. You didn't find -- you did find
3 numerous cases where there was multiple signatures?

4 THE COURT: Well, I think he said one or two
5 times.

6 How many times did you?

7 THE WITNESS: I want to say a couple. I
8 can't remember honestly. There's so many of them.

9 Q. (By Mr. Mueller) Okay. All right, sir. Did
10 you review and check the petitions for dates?

11 A. I did.

12 Q. And did you find -- were any signatures
13 missing dates?

14 A. So 117 were missing dates. 117 signatures
15 were missing dates.

16 Q. All right.

17 A. Twenty-two had partial dates. Another 124
18 had written the dates in the wrong place.

19 MR. MUELLER: May I get the Court's
20 indulgence for just a moment?

21 THE COURT: Sure.

22 MR. MUELLER: Madam Clerk, can I have this
23 marked, please? This is Petition 112.

24 THE COURT: Would it help you at all if we
25 pulled up a chair that you could set stuff on?

1 MR. MUELLER: I think I've got it, Judge, but
2 thank you. If I have to make one more pile, I will.

3 THE COURT: I just worry about that pile and
4 the thought of it tipping off on the floor. It's just
5 concerning.

6 MR. MUELLER: Thank you.

7 May I approach?

8 THE COURT: Sure.

9 Q. (By Mr. Mueller) Sir, I'm showing you what's
10 been marked now as Plaintiff's Exhibit 8, and this is
11 Bates-stamped Petition No. 112.

12 Drawing your attention to the second page,
13 specifically line -- signature lines 12 and 13 and then
14 14 and 15. Do you notice that, sir?

15 THE COURT: Where are you directing his
16 attention again?

17 MR. MUELLER: Eleven and 12 and 13 and 14.

18 THE WITNESS: Or I think you meant 12 and 13
19 and 14 and 15?

20 Q. (By Mr. Mueller) Yes, sir. The signatures.
21 Do you see those signatures, sir?

22 A. I do.

23 Q. And did you, in fact, examine those last
24 night or yesterday at my request?

25 A. This is 112. Yes, I did.

1 Q. All right. Sir, did you notice anything
2 unusual about signatures 11 and 12 and 13 and 14?

3 A. So specifically 14 and 15.

4 Q. Yes, sir.

5 A. The printed names are Tiffany Kuykendall, it
6 looks like, and Dwight Kuykendall, but the signature
7 looks almost exactly identical for both names.

8 Q. So either the husband and wife have identical
9 signatures or someone signed for a voter?

10 A. It looks -- I mean, the same loops and it
11 looks very similar to me.

12 Q. Moving your attention up a little further in
13 the petition, can you see other instances where someone
14 signed for somebody else?

15 A. So on 12 and 13, it's -- the printed names
16 are Ron Turner and Diane Turner. Those signatures
17 don't look as identical as 14 and 15, but they also
18 look like the same script, the same person had signed
19 the names -- signatures.

20 Q. On No. 112 there, just staying within 112, do
21 you see any other instances where you -- or handwriting
22 appears to be identical or nearly identical?

23 A. Yeah. On 20 and 21, printed names looks like
24 Charles Hay and -- I couldn't tell you the other one,
25 but the script on that one also looks similar.

1 Let me look at the first page.

2 Q. All right, sir. Now I want to make sure --
3 did you find -- did you tabulate how many times it
4 appeared to you that someone else had signed for family
5 members or somebody else?

6 A. I did not tabulate that.

7 Q. Okay. Did you find --

8 A. I don't recall tabulating that. There were
9 so many numbers. No, I did not tabulate that.

10 Q. All right. Did you find many occasions where
11 someone -- you don't -- didn't keep a running
12 tabulation of how many times somebody had signed for
13 somebody else?

14 A. I'm sorry, could you repeat that?

15 Q. You did not keep or you did not keep a
16 tabulation or did you keep a tabulation of where you --
17 somebody was clearly signing for multiple parties?

18 A. I did not.

19 Q. Okay.

20 MR. MUELLER: I have nothing further at this
21 time.

22 THE COURT: All right. Anything on the
23 defense side of the equation?

24 MR. MILLER: Briefly, Judge.
25

1 CROSS-EXAMINATION

2 BY MR. MILLER:

3 Q. Good morning, Mr. Preusch.

4 I want to redirect your attention to the
5 alleged irregularities that you identified with the
6 notary provisions. In going through that, did you
7 review the applicable statutes for notaries,
8 specifically Chapter 240 of what's required in a
9 notarized document?

10 A. I did not.

11 Q. Okay. And so you're generally unfamiliar
12 with the requirements as to a properly notarized
13 document?

14 A. That's correct.

15 Q. Okay. And so, when you identify these --
16 what you've described as deficiencies, how did you come
17 about arriving at a conclusion that there were any
18 deficiencies in the notarized documents if you hadn't
19 reviewed the statutes?

20 A. So in discussions with Attorney Mueller and
21 Judge Ramsey.

22 Q. In discussions with them what?

23 A. Well, specifically about what the
24 irregularities were, what to look for, that kind of
25 thing.

1 Q. Okay. And in reviewing those, generally fair
2 to characterize them as including just minor
3 deficiencies, clerical errors, where they were supposed
4 to put a name or the name was put in the wrong area and
5 sometimes they didn't list the date on the
6 notarization; is that correct?

7 A. I'm sorry. So the question is?

8 Q. Is it generally fair to characterize that as
9 clerical errors, that they were committed in the
10 notarizations?

11 A. It could be, yes.

12 Q. Okay. And through this process, are you
13 aware -- did the attorneys or anybody in this process
14 make you aware that, in the verification process, the
15 County Clerk is not required to review all of the
16 signatures that are submitted as part of a petition
17 but, in fact, they conduct a random sample and only
18 review a portion of the signatures that were submitted?

19 A. I have heard that, yes.

20 Q. Okay. And through your investigation, were
21 you provided with any kind of summary as to the
22 specific signatures that were selected as part of that
23 random sample?

24 A. No, I was not.

25 Q. Okay.

1 MR. MILLER: Your Honor, may I approach?

2 THE COURT: Sure.

3 MR. MILLER: Okay.

4 Q. (By Mr. Miller) I have in my hand a copy
5 again of what appears to have been marked as Defense
6 Exhibit 2. This is a document that I plan to admit.
7 I'll acknowledge that I can't lay the proper foundation
8 now.

9 MR. MILLER: If the defense doesn't have any
10 objection to it, I'll admit Defense Exhibit 1 and 2 at
11 this time.

12 MR. MUELLER: I'd like to see some foundation
13 before I stipulate.

14 MR. MILLER: Okay. For the purposes of
15 reference then, this is a document that was prepared by
16 the Clark County Election Department where they have
17 gone through and selected specific pages and lines that
18 were generated by a random sample and then gone through
19 and made a determination. This is essentially their
20 log as to which signatures were verified as being
21 accurate and which ones were discarded.

22 Is the defense -- I can't remember which --
23 or the Plaintiff's Exhibit called out 112, is that up
24 here somewhere?

25 MR. MUELLER: I got it sitting right here,

1 sir.

2 MR. MILLER: Thank you.

3 MR. MUELLER: For the record, I'm handing
4 Mr. Miller a copy of all the petitions that I've
5 actually had marked and made specific reference to.

6 Q. (By Mr. Miller) Drawing your attention to
7 112, which is marked as Plaintiff's Exhibit 8, you
8 provided specific testimony to, I believe, signatures
9 12 through 15 and 20 through 21; is that correct?

10 A. In regards to 12 and 13 -- yeah, I said 14
11 and 15, the signatures looked very similar; 12 and 13
12 also. Not as much as those two. And then what was the
13 other -- I think 17 and 18 look very similar as well.

14 Q. Okay. But again, you didn't make any efforts
15 to ascertain whether or not those signatures were
16 included in the random sample at all?

17 A. I did not.

18 Q. Okay. And so if I show you this document
19 that purports to show Page No. 112, it doesn't appear
20 that those signatures are, in fact, included in the
21 random sample, does it?

22 A. I'm not familiar with this document, but if
23 that's what you say it is, then -- so again, the
24 highlighted ones are the names that were sampled; is
25 that what you're saying?

1 Q. Yes.

2 A. Okay.

3 Q. Thank you.

4 When you were going through your process of
5 trying to compare the signatures, you didn't obviously
6 have access to the signatures that were on file with
7 the Clark County Elections Department; is that correct?

8 A. I did not have any exemplars, that's correct.

9 Q. Okay. So you're aware that their process
10 generally involves taking the signature that was
11 provided on the petition and comparing it with the
12 voter registration records in order to make a
13 determination on that basis?

14 A. I'm not aware of the process.

15 Q. Okay. But you didn't have access to any of
16 that?

17 A. No, sir.

18 Q. Okay. So you were just eyeballing this and
19 trying to ascertain whether or not there appeared to be
20 signatures that looked similar to one another, and
21 therefore, may not be valid?

22 A. That's correct.

23 Q. Thank you.

24 MR. MILLER: Nothing further.

25 THE COURT: Okay. Anything else from the

1 City?

2 MR. BYRNE: Just a couple brief questions,
3 Your Honor.

4 CROSS-EXAMINATION

5 BY MR. BYRNE:

6 Q. So we've gone through and specifically
7 identified the pages for most of the discrepancies
8 except for a couple.

9 With respect to the 292 signatures that were
10 not on the list of registered voters, did you make a
11 tabulation of that list?

12 A. The -- just that there were -- that the 292
13 names that were on the petition were not on that
14 registered voter list.

15 Q. Right. So you went through every single
16 address on the petition and compared it to who was --
17 who actually voted on the voter list?

18 A. I just looked at the names.

19 Q. Right. And -- and, in that review, you
20 identified 292 names?

21 A. That's correct.

22 Q. And did you make a tabulation of those names?

23 A. No, I did not.

24 Q. Okay. So you don't have anything with us
25 right now that you can show the Court where those names

1 came from?

2 A. I do not.

3 Q. Now, you also did a tabulation where you said
4 many signatures were similar, and we identified some
5 with respect to the one that was numbered 112.

6 Correct?

7 A. I believe so.

8 Q. That was the one that had the -- I think
9 there was three signatures where it appeared that they
10 were signed by the same person or a total of six
11 signatures, two each. Correct?

12 A. Yes.

13 Q. All right. You don't know how many of those
14 you came across specifically, do you?

15 A. No. And when I was looking at those, I mean,
16 there's so many signatures that just -- it wasn't
17 something, like, I was really focusing on. But like
18 I -- like I mentioned, I saw a couple of these that
19 looked really similar.

20 Q. Did you look at the statistics from the
21 random sample of what was ultimately concluded?

22 A. I did not.

23 Q. Did you know that 14 percent of the 500 in
24 the random sample were rejected because the signatures
25 were not similar?

1 A. I did not.

2 MR. BYRNE: No further questions, Your Honor.

3 THE COURT: Anything else further,

4 Mr. Mueller?

5 REDIRECT EXAMINATION

6 BY MR. MUELLER:

7 Q. Detective, did you find or did you locate
8 somebody -- individuals who had signed multiple times,
9 the same signature on the -- or different positions?

10 A. Yeah, there was 356 names.

11 Q. 356 names.

12 And that's people who'd sign more than once?

13 A. More than one petition, that's correct.

14 MR. MUELLER: Nothing further.

15 THE COURT: Mr. Miller?

16 MR. MILLER: No.

17 MR. BYRNE: Nothing.

18 THE COURT: Before you step off the stand, in
19 terms of you indicated that you had also checked for
20 dates, and you indicated there were 117 missing dates,
21 22 partial dates, and another 124 had written things in
22 the wrong place. Did you do any tabulation or listing
23 out of those --

24 THE WITNESS: Like the petition and the names
25 and what have you?

1 THE COURT: Yeah.

2 THE WITNESS: No.

3 THE COURT: All right. So there's no way to
4 go back and figure out at this -- without looking at
5 the whole petition again, which ones you're talking
6 about by missing dates or partial dates?

7 THE WITNESS: No, Your Honor. I didn't have
8 a lot of time.

9 THE COURT: Okay. What was the last thing
10 that you talked about where you said there were 356
11 names? What are you talking about there?

12 THE WITNESS: So 356 people that had signed
13 the petition had also signed one of the other petitions
14 as well. Particularly what I noticed is that, say,
15 someone had signed on say Petition 12 -- just making
16 that up -- Line 3 and then I found the same person,
17 same address, signed petition, you know, 35, Line 7,
18 different date.

19 THE COURT: Okay. All right. You say you
20 found 356 occasions of that?

21 THE WITNESS: Yes, sir.

22 THE COURT: All right. Again, you didn't
23 keep any list or any notations as to which ones you
24 found?

25 THE WITNESS: No.

1 THE COURT: Okay.

2 Does that generate any questions by either
3 site?

4 MR. BYRNE: Just one, Your Honor. I'm still
5 is not clear with respect to the 356. Was it the
6 witness' testimony that then there's approximately 180
7 examples where there's duplicates and that comes up to
8 the 356 number, or are we suggesting that there are
9 actually -- how many would you say, of the 356, would
10 actually need to be removed is what I'm --

11 THE COURT: Okay.

12 THE WITNESS: Jeez, you know, I couldn't
13 answer that. We'd really have to go through each one
14 again and come up with that tabulation.

15 THE COURT: Okay. But, generally, did you
16 find, when you saw a duplicate, it was just a duplicate
17 once?

18 THE WITNESS: Generally.

19 THE COURT: Okay.

20 THE WITNESS: But there were a couple that
21 were on at least two others, I think.

22 THE COURT: All right. Does that get your
23 question?

24 MR. BYRNE: (Nods head.)

25 THE COURT: Okay. Anything else?

1 MR. MUELLER: No, Your Honor.

2 THE COURT: All right. Thank you very much,
3 sir, for coming in today. I appreciate you taking the
4 time and giving us your testimony.

5 THE WITNESS: Thank you. I appreciate it.

6 THE COURT: All right.

7 MR. MUELLER: Petitioner's next witness would
8 be Barbara Andolina.

9 THE COURT: This is our witness area up here,
10 Ms. Andolina. When you get here, stand for just a
11 minute, and the clerk will swear you in.

12 THE CLERK: Raise your right hand.
13 Whereupon,

14 BARBARA ANDOLINA,
15 having been sworn to testify to the truth, the whole
16 truth, and nothing but the truth, was examined and
17 testified under oath as follows:

18 THE WITNESS: I do.

19 THE CLERK: Thank you. Please be seated.
20 State and spell your name for the record.

21 THE WITNESS: My name is Barbara A. Andolina,
22 A-n-d-o-l-i-n-a.

23 DIRECT EXAMINATION

24 BY MR. MUELLER:

25 Q. Good morning, Ms. Andolina. How are you?

1 A. Good morning. I'm fine. Thank you.

2 Q. And how are you employed, ma'am?

3 A. I'm the city clerk for the city of North Las
4 Vegas.

5 Q. And what do your duties consist of as the
6 city clerk, generally?

7 A. Some of my responsibilities have to do with
8 overseeing the clerical functions and responsibilities
9 that are put out by the City Council. I'm required to
10 attend all City Council meetings, record the votes,
11 transcribe the minutes, and do an audio of the Council
12 items.

13 I countersign all legal documents. I'm the
14 keeper of the City's corporate seal and basically the
15 custodian of all official records.

16 Another responsibility -- a primary
17 responsibility is conduction of the City municipal
18 elections and special elections, should one be needed.

19 Q. All right. And certainly know why we are
20 here today, do you not?

21 A. I do.

22 Q. All right. Now, you've -- prior to the
23 recall, you've had some occasion to deal with Judge
24 Ramsey, have you not?

25 A. I -- when she filed for candidacy, I was the

1 filing officer, when she filed.

2 And there are times I send correspondence as
3 reminders of when the judicial financial disclosure
4 statements are due, as well as C&E reports.

5 Q. All right. Now, when the signatures here, in
6 this particular recall, were submitted to the Clark
7 County elections department, did you have occasion to
8 send Judge Ramsey an e-mail?

9 A. I did.

10 Q. All right. And may I approach?

11 A. Sure.

12 Q. Showing you what's mark as Plaintiff's 1,
13 ma'am, do you recognize that document?

14 A. Yes.

15 Q. All right. And can you identify it?

16 A. Yes. This is my notification to Judge Ramsey
17 that I received a raw count and that the raw count was
18 considered validated.

19 Q. All right, ma'am. And did you inform Judge
20 Ramsey as to when the verification process was going to
21 begin?

22 A. Yes. It stated here 9:30.

23 Q. 9:30. I'm sorry. You said 9:30?

24 A. 9:30 a.m., yes.

25 Q. And so if someone would have shown up at 9:00

1 o'clock or 9:15, it shouldn't have begun by then?

2 A. That part of it is not my responsibility,
3 sir.

4 Q. No. I understand that, ma'am. I understand.

5 But you were told -- who specifically told
6 you to have -- have a representative there for Judge
7 Ramsey at 9:30?

8 A. It wasn't put to me like that.

9 I was advised that the signature verification
10 process would begin at 9:30, and that was provided to
11 me from the registrar of voters, Mr. Joe Gloria.

12 Q. Okay. So Mr. Gloria would have told you to
13 have them there at 9:30, have somebody there?

14 A. Mr. Gloria told me that it would begin at
15 9:30.

16 Q. Okay. And that's what you informed the
17 judge?

18 A. Yes.

19 Q. All right. Now, ma'am, did you receive in
20 the clerk's office the petitions?

21 A. I did.

22 Q. All right. And were they in numerical
23 sequence order when you received them?

24 A. No. When the signature is -- the petition is
25 presented to me, it was presented in bulk, all of

1 the -- the booklets, or the documents, as we call them,
2 were provided to me in whole.

3 Q. Okay. And were they -- they were -- but were
4 they sent to you in sequence order, so that you knew
5 you had them all or that any were missing?

6 A. No. What was presented to me is what I took.
7 And from that point, I counted -- I had staff count
8 the -- the number of documents that were provided.

9 Q. All right. And so you assigned the numbers
10 then? Your office assigned the numbers?

11 A. We do not assign the numbers. However, we do
12 verify the number of documents that are given that
13 is -- that's noted in the petition receipt that I
14 returned to the committee member.

15 Q. Okay. Now, at any time did these documents
16 get assigned a number, numbers so we can refer to them
17 individually or specifically, or were you just handed a
18 big stack of paper, and you started counting?

19 A. They provided me the petitions. They were
20 made up of booklets -- booklet style, and they were
21 given to me in total.

22 At that point, I did not know the number of
23 documents. And I'm not responsible for numbering the
24 documents.

25 Q. Okay. So when you got them, they weren't

1 numbered?

2 A. No.

3 Q. All right.

4 MR. MUELLER: Madam Clerk, may I have this
5 marked as next in sequence?

6 Q. (By Mr. Mueller) And as a result of receiving
7 those signatures, did you prepare a document?

8 A. As a result of receiving the -- the petition?

9 Q. Yes, ma'am.

10 A. I received all the petitions.

11 Q. All right. And did you prepare a receipt?

12 A. Yes, after we did a count.

13 Q. All right. May I approach, Your Honor?

14 A. Sure.

15 THE COURT: Yes.

16 THE WITNESS: I'm sorry.

17 THE COURT: That's okay.

18 MR. MUELLER: That's the judge's authority.

19 THE COURT: We're getting things done. Don't
20 worry.

21 THE WITNESS: Okay.

22 Q. (By Mr. Mueller) Ma'am, I'm showing you
23 what's been marked as the next --

24 Sorry. What's the number on there? Nine?

25 -- Plaintiff's 9.

1 Do you recognize that document?

2 A. Yes.

3 Q. All right. And you gave a receipt for how
4 many documents?

5 A. 159.

6 Q. 159. Now, how do we know we have all of
7 them?

8 A. May I explain the way we -- we do our count?

9 Q. Certainly.

10 A. When the information -- when the petition is
11 provided to me, I have two staff members. I take the
12 petition. I divide it in half. I give each staff
13 member a section. They do a count. The count is based
14 on the document, which is the booklet.

15 So their responsibility is to do a count.
16 Then they take what I've given them, they swap with
17 what their stack is, they do another count to make sure
18 that their numbers match, and they did indeed match,
19 and at that point we had 159.

20 Q. Okay. Now, did you guys actually do a raw
21 count on the signatures?

22 A. We do not do a raw count. That's not our
23 responsibility.

24 The very next step that we do is go through
25 each of the documents to verify that there are four --

1 there are -- what the number of pages are.

2 And there were four pages to every document
3 that we received. And that's what's noted here on
4 the -- the petition receipt.

5 Then we take the total number of pages times
6 the number of documents to come up with the total
7 number of pages being 636.

8 Q. All right. And at no time at all was there a
9 sequence number anywhere to serialize these and to keep
10 them in control?

11 A. No. That is not our responsibility when
12 receiving the petition.

13 Q. Nothing further.

14 THE COURT: All right. Mr. Miller.

15 CROSS-EXAMINATION

16 BY MR. MILLER:

17 Q. The -- good morning.

18 A. Good morning.

19 Q. The signatures were turned in on Thursday,
20 May 28th; is that correct?

21 A. That is correct.

22 Q. Okay. And you recall that members of the
23 recall committee were, in fact, present when those
24 signatures were turned in?

25 A. Yes, they were.

1 Q. Okay. And who did you come into contact
2 with?

3 Do you remember coming into contact with a
4 Bob Borgersen --

5 A. Yes.

6 Q. -- who's a member of the Recall Committee?

7 A. Yes. It was Mr. Borgersen who actually
8 turned the petitions over to me.

9 Q. Okay. And how -- how were they packaged?
10 How did they come to you?

11 A. They were in a stack, and there was a rubber
12 band around them.

13 Q. Okay.

14 A. They were total.

15 Q. And as you explained, those were in separate
16 packets that you then counted; is that right?

17 A. Right. When I took the petition in its
18 totality, having two staff members, I took that, and I
19 divided the two packets.

20 And there were people present in addition to
21 my staff. There was Mr. Borgersen, and there was also
22 a member of the organization present that watched us.

23 Q. Okay. And also members of the media; is that
24 correct?

25 A. Yes, the media was there as well.

1 Q. Okay. And the way that that petition was
2 organized in separate packets, is that typical for
3 other petitions that you've seen?

4 A. No, actually, it is not. In my opinion, if I
5 can use the term, it was a very clean, good-looking
6 petition. And by that I mean it was in booklet style,
7 all of the pages were together, nothing was spilled on
8 them, the pages weren't ripped or torn, curled, and
9 things of that nature. It was very easy to do this
10 portion of it, that being the petition receipt for
11 counting the documents and the numbers of pages.

12 Q. Okay. And I believe you testified that there
13 was not -- that the pages, in fact, weren't numbered.

14 But when you say that they weren't numbered,
15 they weren't Bates-stamped sequentially as an entire
16 packet, but each of those packets contained a page
17 number 1 through 4; is that correct?

18 A. That is correct.

19 And I think sometimes we -- we use the term
20 "page" synonymously with the term "document." A
21 document is a -- lists -- a document is made up of
22 pages to a part of the petition.

23 So when it is in booklet style -- again, the
24 booklet had four pages in it. They were numbered 1
25 through 4.

1 But the document in its totality is that
2 booklet. So some people use that as a page, but it --
3 but it's an actual document.

4 Q. There was some testimony relating to
5 interaction that you had with James Jackson.

6 Do you know Mr. Jackson?

7 A. Yes, I do.

8 Q. Okay. And in this process on that date, when
9 the signatures were submitted, when was the first
10 contact that you had with Mr. Jackson?

11 A. Actually, Mr. Jackson came to the city
12 clerk's office, and he came prior to the petition being
13 actually delivered to the city clerk's office.

14 I believe the petitioners and some of the
15 media were down in the lobby of city hall. Mr. Jackson
16 came directly up to the eighth floor, which is where
17 the city clerk's office is located.

18 Q. Okay. And what was his purpose in coming up?

19 A. He had asked for a copy of the petition.

20 And I told him that I hadn't even received
21 the petition at that point in time; that due diligence
22 would be that, once I receive it and seal it in a box
23 and take it over to the Clark County registrar of
24 voters for the verification -- the raw count and the
25 verification process, no one would be touching that --

1 those documents.

2 Q. Okay. And at that point did you give
3 Mr. Jackson any sense of the timing as to how quickly
4 that might occur?

5 A. No, I did not.

6 Q. Did he inquire?

7 A. Not really --

8 Q. Okay.

9 A. -- not to my recollection.

10 Q. Okay. Did you have any further contact with
11 Mr. Jackson on that day?

12 A. No, I did not.

13 Q. Okay. The next day was a Friday.

14 As I understand, your offices are closed.

15 Did you have any communication with him then?

16 A. Mr. Jackson?

17 Q. Yes.

18 A. No, I did not.

19 Q. Okay. At some point you received an e-mail
20 from Mr. Jackson or a request to reach out to
21 Mr. Jackson.

22 How did that occur?

23 A. The e-mail was not directly to me from
24 Mr. Jackson. It was sent to Mr. Joe Gloria, the
25 Registrar of Voters, and the Registrar of Voters

1 forwarded the e-mail to me.

2 Q. Okay. And when did you receive that e-mail?

3 A. I actually received it Monday morning,
4 because we're -- we're off on Friday.

5 Q. Okay.

6 A. I received nothing prior from him, after the
7 close of business on Thursday.

8 Q. Do you recall when it was sent?

9 A. From Mr. Gloria?

10 Q. Yes.

11 A. I -- I'm not 100 percent sure, but I believe
12 it was sent on Friday --

13 Q. On Friday, okay.

14 A. -- to my e-mail address.

15 Q. But you didn't get to your office until
16 Monday; is that right?

17 A. That's correct, sir.

18 Q. And it was at that point that you responded
19 to Mr. Jackson via e-mail; is that correct?

20 A. Yes, I had sent him an e-mail.

21 MR. MILLER: Judge, may I approach?

22 THE COURT: Sure.

23 MR. MILLER: I didn't get an advance
24 opportunity to look at this e-mail.

25 Q. (By Mr. Miller) So I'm looking at Plaintiff's

1 Exhibit 1, which is a copy of the e-mail.

2 It looks like you sent the e-mail out at
3 5:47 a.m.; is that right?

4 A. I did. I get into the office early.

5 Q. I'd say pretty early.

6 And in this e-mail, you indicate that:

7 "Should your representative wish to view the
8 process of the election, we'll provide
9 viewing today beginning at 9:30 a.m."

10 Is that right?

11 A. Yes.

12 Q. Okay. Now, when you were making that
13 statement, you were generally aware that some
14 verification had already taken place on Friday; is that
15 right?

16 A. Yes. I had spoke with Mr. Gloria over the
17 weekend.

18 Q. Okay. And so you knew that the verification
19 process had already begun?

20 A. I knew that the raw count was finished and
21 the results were sent to the Secretary of State per
22 Mr. Gloria and that they were looking into beginning
23 the signature verification process, but that's --
24 that's all that I knew at that point.

25 Q. Okay. But since you were off on Friday, it

1 could have happened that they could have proceeded even
2 quicker than they had originally anticipated per their
3 communication on Friday and got through more of that
4 verification?

5 A. Yes.

6 Q. Okay. And so is it fair to say that you were
7 just letting Mr. Jackson know that, to your knowledge,
8 the verification was, in fact, continuing at 9:30 a.m.
9 on Monday morning?

10 A. Right. Nothing would start until 9:30 Monday
11 morning.

12 Q. Okay. Thank you.

13 MR. MILLER: Nothing further, Judge.

14 THE COURT: Okay.

15 MR. BYRNE: Your Honor, I'm going to ask a
16 couple of questions related strictly to the
17 cross-examination so that I preserve my ability to
18 recall the witness, should I need to, for other
19 reasons.

20 THE COURT: All right.

21 MR. BYRNE: So I'll limit it to rebuttal.

22 CROSS-EXAMINATION

23 BY MR. BYRNE:

24 Q. When you met Mr. Jackson, had you met him
25 before?

1 A. No.

2 Q. Did you know he represented Judge Ramsey?

3 A. No. He never identified himself that way.

4 Q. Had Judge Ramsey told you at that time that
5 he represented her?

6 A. No, she did not.

7 Q. Did you ever inquire with Judge Ramsey as to
8 whether Mr. Jackson actually had authority to represent
9 her?

10 A. I did. I had sent an e-mail to Judge
11 Ramsey -- that was June the 1st, Monday morning --
12 asking if Mr. Jackson was a representative of hers.

13 Q. And did Judge Ramsey ever respond to that
14 e-mail?

15 A. She did not.

16 Q. Now, when you took receipt of the petition
17 from the -- it was from one of the committee members.
18 Correct?

19 A. Yes.

20 Q. And who was that?

21 A. Mr. Borgersen.

22 Q. All right. Once you took receipt of the
23 petition, was there ever a time that you or the staff
24 that you were supervising removed a document or pages
25 from that petition?

1 A. Absolutely not.

2 Q. Okay. Was there ever a time during your
3 review of the petition where somebody on your staff or
4 yourself inserted a page or documents to the petition?

5 A. Absolutely not.

6 Q. Okay. Did you take steps to ensure that the
7 integrity of the document was maintained?

8 A. Yes. That's my primary responsibility.

9 Q. Once you finished your count that you
10 described to the Court and you prepared the receipt --

11 A. Yes.

12 Q. -- you gave the receipt to who?

13 A. Mr. Borgersen.

14 Q. All right. What did you do with the petition
15 at that point?

16 A. The petition was put in a banker's box, and
17 the petition was sealed with tape.

18 Q. Okay. And who sealed it up -- who sealed the
19 box?

20 A. I sealed the box.

21 Q. What did you do with the box then?

22 A. At that point, I had -- a staff member and
23 myself went directly from our office to the Clark
24 County registrar's office to deliver the box.

25 Q. So the box stayed in your possession up until

1 delivery?

2 A. Yes.

3 Q. And you personally drove it --

4 A. Yes.

5 Q. -- to the County?

6 A. Yes.

7 Q. And dropped it off?

8 A. Yes.

9 Q. Okay. Now, during this period of time, were
10 there any documents added or removed from the banker's
11 box?

12 A. They were not.

13 If I can just add, when we put the petition
14 in the sealed box, there were still -- Mr. Borgersen
15 was there and another committee member was there
16 observing as well -- that I had placed the petition in
17 the banker's box and sealed it.

18 MR. BYRNE: No further questions, Your Honor.

19 THE COURT: Okay.

20 MR. BYRNE: I do reserve my right to recall
21 the witness, should there be a need.

22 THE COURT: I understand.

23 Mr. Mueller?

24 REDIRECT EXAMINATION

25 BY MR. MUELLER:

1 Q. Ma'am, it was your understanding that they
2 actually started the verification project Friday
3 before?

4 A. It was my understanding that the raw count
5 was completed. And I was advised that if there was
6 time, that they may begin that -- that part of the
7 process.

8 Q. But -- on Friday?

9 A. No. That was not Friday, because I don't
10 work on Friday.

11 I received that information when I delivered
12 it on Thursday.

13 Q. Okay. So they told you that they were going
14 to start right away, maybe Friday?

15 A. They said that they would start as soon as
16 possible --

17 Q. Okay.

18 A. -- but there were no specific dates and times
19 at that point.

20 MR. MUELLER: All right. I have nothing
21 further, Judge.

22 THE COURT: Anything else?

23 All right, ma'am. Thank you very much for
24 coming in today.

25 THE WITNESS: Thank you, Judge.

1 Sorry I spoke on your behalf.

2 THE COURT: That's okay. It won't be the
3 worst thing that happens to me, I'm sure.

4 MR. MUELLER: Thank you, ma'am.

5 Your Honor, may I be heard?

6 THE COURT: Sure.

7 MR. MUELLER: Drawing the Court's attention
8 to NRS 293.1277(8):

9 "A person who submits a petition to Clark
10 County court which is required to be verified
11 pursuant to," and it lists a whole laundry
12 list of statutes, "must be allowed to witness
13 a verification of the signatures. A public
14 officer who is the subject of recall must" --
15 that's not discretionary -- "must be allowed
16 to witness the signature verification on the
17 signatures of the petition."

18 Now, at a minimum, this morning we have
19 established that the sampling was irregular.

20 We now have established that the clerk was a
21 conduit of information to tell Judge Ramsey to be there
22 at 9:30. Her representative reached -- arrived at 9:15
23 to find the count already well under way. That has
24 violated her procedural due process rights.

25 We believe, at least as far as this morning's

1 count, we've uncovered irregularities approaching
2 10 percent of the required signatures, including
3 multiple signatures -- and you've got these documents,
4 Judge, so you can look at them. We're not -- we're not
5 talking out of school here -- multiple signatures,
6 irregularities in the verification process, clearly
7 people signing for other people.

8 We're talking about such a small number of
9 signatures, 2300.

10 It would be the defense's motion right now to
11 stay these proceedings further. I'm asking the Court
12 to remand this order to the clerk's office for a full
13 verification of all the signatures, including
14 doublechecking for duplicate signatures.

15 And, in particular, you heard from
16 Mr. Jackson. They had four, five people operating in
17 parallel. If the name pops up here or pops up there,
18 it's a duplicate. Their procedure would not have
19 caught -- or recovered that.

20 And at a minimum, we know that Judge Ramsey's
21 procedural due process rights were violated under
22 subsection 8, in that she did not have a time or was
23 not there for the recall.

24 And the statute here is not discretionary.
25 It is must.

1 Now, we've introduced the e-mail showing --
2 and maybe it was just inadvertence. Maybe it was just
3 people being -- miscommunicating, and that result is --
4 is we were not there and did not have an opportunity to
5 verify these signatures.

6 Mr. Jackson, a veteran political operative,
7 been through a dozen recalls or so -- I forget the
8 exact number of what he said -- he said, "This wasn't
9 done like any other recall I'd seen, which is you pick
10 the random number off the random page, and you go
11 through."

12 Now, I'm going to ask that this -- and since
13 the numbers so small, and then considering what we've
14 uncovered is 10 percent of what they needed, which
15 would put this petition under, I'm going to ask that --
16 and the small cost and expense at this time would be
17 significantly cheaper and more efficient and provide
18 confidence in this process if a complete verification
19 was done before we resume these proceedings.

20 THE COURT: All right. Do you have any other
21 witnesses that you intend to call in this?

22 To me, it looks like you have pretty much
23 have gone through and introduced whatever it is you're
24 going to need to introduce as far as your various
25 counts.

1 MR. MUELLER: Yes, sir. I've introduced what
2 I've been able to get into.

3 There were several other witnesses that I had
4 wanted to have on the witness stand that were not able
5 to get under subpoena on short notice.

6 THE COURT: Okay. Well, we'll deal with that
7 in a little bit.

8 What's -- in terms of the defense, I assume
9 that you're in a position to explain -- or going to
10 explain how this was all done in the regular course of
11 business; is that correct?

12 MR. MILLER: Yes, Your Honor. We are
13 prepared to put on a representative from the
14 registrar's office to testify to the extensive
15 procedures they went through on the verification.

16 THE COURT: And I understand. And then the
17 notice issue is obviously something that can -- notice
18 and availability to witness the verification is
19 something else the Court would --

20 MR. MILLER: Mr. Gloria, unfortunately,
21 appears to have had most of the conversations with
22 Mr. Jackson. He's unavailable to testify today.

23 With limited hearsay, I think we can rebut
24 it.

25 And our basic position is that Mr. Jackson

1 didn't take sufficient steps to come in and witness
2 this. He knew that this was going to happen
3 immediately. He was there on Thursday. It was
4 apparent that these were going to get transmitted on
5 Friday. He's familiar enough with the petitions that
6 he knows that the county clerk -- the registrar,
7 rather, only has four days to complete a raw count.

8 You know, why he wouldn't have shown up to
9 the office to witness it on Friday I think is entirely
10 on him.

11 He sent one e-mail, which they haven't
12 produced. No documentation, no written request from
13 the public officer to be present, or that -- the
14 information as to when the verification was going to
15 proceed.

16 THE COURT: All right. I'm sorry.

17 MR. BYRNE: The only thing I would add, Your
18 Honor, with respect to Ms. Andolina, she was not
19 responsible with providing the notice. She provided
20 supplemental notice at best, Your Honor.

21 But that doesn't really answer the question
22 as to whether they had notice and they had an
23 opportunity, because it's not her responsibility as the
24 city clerk, who's not --

25 THE COURT: I understand.

1 MR. BYRNE: So we still haven't heard the
2 evidence on that issue.

3 And I don't believe what we did hear from
4 Mr. Jackson has sufficient foundation to establish that
5 Judge Ramsey did not have knowledge, who has not
6 testified, Your Honor.

7 THE COURT: Okay. All right. If you want to
8 go ahead and put on your witness or witnesses in
9 reference to the verification process.

10 MR. MILLER: Thank you. We'll call Monica
11 Eisenman.

12 THE CLERK: Raise your right hand.
13 Whereupon,

14 MONICA EISENMAN,
15 having been sworn to testify to the truth, the whole
16 truth, and nothing but the truth, was examined and
17 testified under oath as follows:

18 THE WITNESS: I do.

19 THE CLERK: Thank you. Please be seated.
20 State and spell your name for the record.

21 THE WITNESS: Name is Monica Eisenman,
22 M-o-n-i-c-a, E-i-s-e-n-m-a-n.

23 EXAMINATION

24 BY MR. MILLER:

25 Q. How are you? Good morning.

1 A. Hi.

2 Q. How are you presently employed?

3 A. With Clark County Election Department.

4 Q. And how long have you been employed in that
5 capacity?

6 A. Seventeen years.

7 Q. And what's your position with the Clark
8 County Elections Department?

9 A. Senior election operations supervisor.

10 Q. And what are your duties and responsibilities
11 with respect to that position?

12 A. I supervise the registration area, the ballot
13 area, and we do petitions.

14 Q. Okay. And so part of your responsibility is
15 to oversee the initial petition verification process;
16 is that right?

17 A. Yes, sir.

18 Q. Okay. And how long have you been involved in
19 initial (sic) petitions with the Elections Department?

20 A. Seventeen years.

21 Q. Seventeen years.

22 So over that course of time, approximately
23 how many petitions have you been asked to verify?

24 A. I don't know. At least 50 maybe.

25 Q. So it's a fairly regular process for you; is

1 that right?

2 A. Yes.

3 Q. Okay. And has the County established
4 specific protocols as to what they need to do in order
5 to verify these signatures?

6 A. Yes.

7 Q. Okay. So I want you to walk me through that.
8 You're familiar generally with the recall
9 petitions that were submitted to your office, I
10 believe, on Thursday May 28th --

11 A. Yes.

12 Q. -- related to Judge Ramsey; is that right?

13 A. Yes.

14 Q. Okay. What was the first step that happened
15 in the process when you received that petition?

16 A. We received the petition from Barbara
17 Andolina from North Las Vegas. She brought it into our
18 office.

19 What we do is we take it into the conference
20 room, and we count the number of pages and documents,
21 and then we issue a receipt to the city clerk, and then
22 we keep the petition. She takes her receipt. And we
23 number the pages.

24 Q. Okay.

25 A. And then after that --

1 Q. Let me back you up there.

2 When you count the number of documents, each
3 of the petitions -- each of those documents are
4 separated.

5 There's about four pages in each document; is
6 that correct?

7 A. Yes.

8 Q. So you count the number of documents within
9 the recall petition itself, and then you further count
10 the total number of pages?

11 A. Yes.

12 Q. All right. And then the next step is that
13 you, in fact, number all of those pages?

14 A. We number the documents.

15 Q. You number the documents.

16 A. Mm-hmm.

17 Q. Okay. So you don't number the pages
18 individually. You number each booklet?

19 A. Each booklet.

20 Q. And what's the purpose of that?

21 A. It's to put it into our database.

22 In this particular case, each booklet
23 contained 25 lines. So in order to enter it into VMAX,
24 we had to have a page number carrying like 25 lines or
25 nine lines, whatever the last line was signed.

1 Q. Okay. And you've certainly been involved in
2 initial petition verification procedures that have
3 involved multiple counties that are, in fact,
4 statewide; is that right?

5 A. Yes.

6 Q. And so you're familiar with the fact that
7 sometimes these petitions are submitted to multiple
8 county clerks or registrars at the same time for
9 verification; is that right?

10 A. Yes.

11 Q. Okay. And so was the numbering that was done
12 with this specific petition, in the way that it was
13 provided by the circulators -- was that consistent with
14 how it's typically done?

15 A. Exactly the same.

16 Q. Okay. Did it appear that they followed the
17 letter of the law to your understanding?

18 A. Yes.

19 Q. Okay. All right. So after you number these
20 documents, you then conduct a raw count?

21 A. Yes.

22 Q. Okay. And how is that done?

23 A. We have the page number on the top. And
24 where we put it into the database, we'll put down which
25 page number it is and how many lines are signed.

1 Sometimes it's the full 25 lines. In this
2 case, sometimes it might only have two lines signed.
3 But we'll list how many lines were signed.

4 Q. Okay. And so when you say put it into the
5 database, is this a computer system that you use?

6 A. It's our VMAX system.

7 Q. VMAX. And what is VMAX?

8 A. VMAX is a computer software -- voter
9 registration software that handles petitions.

10 Q. All right. And this is a software program
11 through a third-party vendor that provided it to the
12 County?

13 A. Yes.

14 Q. How long have you been using this software
15 program?

16 A. Oh, I'm trying to think when we got it.
17 I think we may have gotten it in 2000 maybe.

18 Q. Approximately 2000's. Fine.

19 Okay. So you've been using this system for
20 quite some time?

21 A. Yes.

22 Q. And how does the system work? How do you
23 actually input the petition into the system?

24 A. We'll -- a couple of us -- in this case, it
25 was a couple people -- would take the -- the petition,

1 divided up, and then we just go in, and we list the
2 line -- we look at the petition, list the line and the
3 page, put it in, go on to the next page, list how many
4 lines.

5 Q. And so when you say lines --

6 A. Signature lines.

7 Q. Signature lines.

8 So on this specific recall petition, it would
9 be numbered, and each of those documents -- the
10 four-page documents, there would be signature that line
11 that has a specific number; is that right?

12 A. Yes.

13 Q. And so you'd go through, and you'd input all
14 of those signature lines.

15 So a document that maybe has -- maybe has 20
16 signatures, would look through and input their 20
17 signatures with this document; is that right?

18 A. Yes.

19 Q. Okay. And then how does VMAX work from there
20 once you've inputted all the total signatures within
21 the petition itself?

22 A. It will give us a total of how many pages and
23 lines we put in, and that would be our raw count.

24 Q. So that's you know how many total signatures
25 were submitted in the petition itself?

1 A. Yes.

2 Q. And what do you do at that point?

3 A. We put it onto a raw count form for the
4 Secretary of State.

5 Q. And that's required by statute --

6 A. Yes.

7 Q. -- that you conduct a raw count?

8 A. Yes.

9 Q. And you had four days, am I right, to conduct
10 that process?

11 A. Four working days.

12 Q. Yes.

13 How long did that take in this instance?

14 A. I believe the raw count went up the next day.

15 Q. I'm sorry?

16 A. I believe the raw count went to the Secretary
17 of State the next day after we got it.

18 Q. Okay. But how long did it take you to
19 complete the raw count?

20 A. To complete it?

21 Q. Yes.

22 A. After auditing it Friday morning. So it
23 would have been four, maybe five hours.

24 Q. Five hours.

25 So you did it once, and then you do it again.

1 As part of your standard practice, you audit?

2 A. We audit it, yeah.

3 Q. Okay. All right. And the raw signatures
4 were sufficient; is that correct?

5 A. According to the Secretary of State.

6 Q. Okay.

7 A. That he -- he doesn't get to me. He gets to
8 the registrar, so. . .

9 Q. I understand. Okay.

10 So after that part is completed and the
11 Secretary of State informs you that the raw count was
12 sufficient and you can proceed with the verification,
13 what happened at that point?

14 A. That's all taken care of by the registrar.

15 So at that point, after the registrar tells
16 me, we'll go ahead -- we run what we call a random
17 sample --

18 Q. Okay.

19 A. -- and that's done in VMAX.

20 Q. Okay. And so tell me how this random sample
21 is conducted.

22 A. After we have all of the pages in, we can go
23 into the petition sample. And I tell it -- depending
24 on the petition -- in this particular case, it was 500
25 that we had to check. So I put in 500, it calculates a

1 percentage, and then it just runs a random sample, and
2 then it will come up with whatever lines it picks.

3 Q. Okay. So you input into the system the total
4 number of signatures that you're required to verify per
5 the random sample, and in this instance it was 500?

6 A. Yes.

7 Q. You put into the VMAX computer system that it
8 was required to generate a random sample of 500
9 signatures; is that right?

10 A. Yes.

11 Q. Then the computer system, at random, then
12 tells you which lines you are to verify?

13 A. Yes.

14 Q. Okay. But it -- does it tell you which
15 signatures or give you any other data, or is it simply
16 the page number and the line?

17 A. Just the page and the line. That's all it
18 does at that time.

19 Q. Okay. And so does it generate a report then
20 that you're working off of?

21 A. Before a random?

22 Q. Yes.

23 A. Yes, you can generate a report. Or it -- it
24 will also -- when you call up the signature portion --
25 like, if you're getting ready to okay signatures,

1 verify signatures, it will automatically put those
2 lines there. So you don't see anything but those
3 random lines.

4 Q. But every line and every signature had a fair
5 opportunity to be included in the random sample through
6 the use of that system?

7 MR. MUELLER: Objection as to leading.

8 THE WITNESS: Mm-hmm.

9 THE COURT: No. It's overruled.

10 THE WITNESS: Yes.

11 THE COURT: You need to answer verbally.

12 THE WITNESS: Yes.

13 Q. (By Mr. Miller) Is that a yes?

14 A. Yes.

15 Q. All right. Thank you.

16 And so once you generated this random sample
17 and you have an idea of the 500 signatures that you
18 need to compare, what is the next step in the process?

19 A. Then we get ready to verify. There's -- some
20 of my staff members that each sit down at a computer,
21 and we go into the petition. Each petition is named.
22 So we'll go into the petition, and they each -- I'll
23 divide the petition into stacks. Like, if I have -- in
24 this case, I had five people working on it. So I gave
25 them each a stack of the petition.

1 So the first person would start with, say,
2 Page 1, and they'd call it up, and it would just show
3 the lines that they're supposed to look at. And then
4 they go through, and they start putting the -- the
5 names into the system.

6 So like, for instance, Page 1, Line 1, they
7 would do a query. They'd read the name on the
8 petition. They would look at it, see if they were in
9 our voter base.

10 Q. Okay. And so -- because you were -- the
11 system initially only gives you the page number and the
12 line, you're now inputting the name that was provided
13 on the petition --

14 A. Mm-hmm.

15 Q. -- is that right?

16 And then --

17 THE COURT: You need answer yes or no.

18 MR. MILLER: Sorry.

19 THE WITNESS: Yes.

20 Q. (By Mr. Miller) And then, at that point, you
21 look into a separate system to see whether or not they
22 are a registered voter?

23 A. It's the same database.

24 Q. Same database?

25 A. (Nods head.)

1 Q. Okay. But you would pull up that name and
2 determine whether or not they were a registered voter?

3 A. Yes.

4 Q. And then what happens at that point?

5 A. If they are a registered voter, we'll choose
6 the okay or whatever, and it will come up, and it will
7 show a signature, and then they'll compare that
8 signature with the signature on the petition.

9 Q. Okay. And where does the signature that
10 you're making the comparison come from?

11 A. Our database --

12 Q. But --

13 A. -- against the petition page.

14 Q. Okay. But where is it -- where does that
15 signature originate?

16 A. It's captured off of the original
17 registration application that the voters signs --

18 Q. Okay.

19 A. -- when they register.

20 Q. So the first time that a person registers to
21 vote in this state, they sign their voter registration;
22 is that right?

23 A. Mm-hmm.

24 Q. And that image of that signature is then
25 captured and put into the system?

1 A. Yes. Each time they register to vote --

2 Q. Okay.

3 A. -- it's captured.

4 Q. And so if they change their signature over
5 time, then the newest signature would then apply and be
6 in the system; is that correct?

7 A. Yes.

8 Q. Okay. And so you're making a comparison with
9 that signature that you have on file, that image, with
10 the signature that was provided on the petition?

11 A. Yes.

12 Q. And what criteria do you use to determine
13 whether or not that signature matches?

14 A. Well, they just -- they just look at it, and
15 you can visually see if -- if it matches or not.

16 If they have a question, they'll mark that
17 signature, and it will go to research.

18 Q. Okay. You have had some level of training on
19 looking at signatures, in a broad breadth of
20 experience, in conducting that; is that correct?

21 A. Yeah. These people look at signatures all
22 day -- all day long.

23 Q. In fact, isn't that --

24 A. They --

25 Q. -- the same process that they use when we run

1 elections; when somebody signs in to vote, you compare
2 the signatures in much the same fashion; is that right?

3 A. Yes.

4 Q. And that's the safeguard that we have to
5 protect against fraud in our electoral polling
6 locations?

7 A. Yes.

8 Q. Okay. But this is also the same procedure
9 that you use in verifying any petition, to look at
10 these signatures and make comparisons?

11 A. Yes.

12 Q. Okay. And so you had five other people with
13 other levels of experience looking at these signatures
14 and making the comparison?

15 A. Yes.

16 Q. If they feel that there's a discrepancy
17 between one signature and another, what is the process
18 at that point?

19 A. They fill out something we call a research
20 slip. It's just something that our office developed to
21 verify petitions. So they'll fill a research slip out,
22 they'll put the person's registration number down, and
23 they'll send it to some other people that we have doing
24 research. So they all -- they'll attach it to the
25 petition page, the research slip, and that -- and the

1 petition page goes to the research.

2 Q. So this goes to like a research committee; is
3 that fair to say?

4 A. Yes.

5 Q. Okay. So a group of people that would then
6 look at that same signature and see if they can
7 deliberate towards a conclusion as to whether or not it
8 was the same?

9 A. Yes.

10 Q. Okay. And if they are unable to resolve it,
11 what happens at that point?

12 A. Then it's taken to the registrar, and he will
13 look at it and make the determination.

14 Q. Okay. And is that a frequent issue?
15 How often does this occur?

16 A. Every petition.

17 Q. Okay. And in this particular petition, how
18 often did that occur, if you can give me some estimate?

19 A. I don't have the numbers of the signatures
20 that may have been rejected. Maybe seven to ten. I
21 don't know.

22 Q. Okay. Seven to ten times it had to go before
23 this committee; is that right?

24 A. No. One signature, if it was determined that
25 it wasn't a match, it would go to the committee. And

1 there were a couple people that would look at that.

2 And then if they couldn't make the determination, it
3 would go to the registrar.

4 Q. Okay. And so you look at these individually.

5 You may look at Page 1, Line 3, for example?

6 A. Yes.

7 Q. And Mary Alice Jackson, the first step is to
8 compare the signature to see if it matches; is that
9 right?

10 A. Yes.

11 Q. What else do you look at as part of your
12 verification to make sure that they've met all the
13 statutory requirements?

14 A. In this particular petition, we had to make
15 sure that the voter voted in the correct district and
16 also that they voted in the 2011 general election.

17 Q. Okay. Did you also make an assessment as to
18 whether or not they had provided their address?

19 A. Yes.

20 Q. And how is that process conducted?

21 A. You can -- when they sign the petition, they
22 put an address on there. And if the address matches
23 our database, then it's fine. If it doesn't match our
24 data basis, then it's researched.

25 Q. Okay. And what does that research entail?

1 A. Whether or not they were registered in the
2 district at the time of the general 11 election.

3 Q. Okay. But for all of these signatures, you
4 make a comparison not only to the signature, but also
5 ensure that they have listed an address, which can then
6 be researched, and that you have verified that at the
7 end of each document that there is an affidavit that
8 was submitted by the circulator; is that correct?

9 A. Mm-hmm.

10 Q. Okay. And in instances where a date may not
11 have been provided on -- on an individual signature,
12 what happens in that instance?

13 A. We look at the date of the signer above and
14 the date of the signer below, and then we determine --
15 you know, like, if both of those signed on a particular
16 date, we would make the assumption that that person
17 signed on that date.

18 Q. Okay. But if all of the other requirements
19 are met -- the address matches, they've signed, they've
20 voted in the 2011 election -- but they just simply
21 didn't provide the date on that, is it rejected or is
22 it counted?

23 A. It's -- it's not rejected because of the
24 date. It would be counted if everything else was
25 included.

1 Q. And that consistent with how you've conducted
2 other initiative petitions and other recalls?

3 A. Yes, it is.

4 Q. Okay. All right. I want to direct your
5 attention to a log that was prepared that --

6 MR. MILLER: Judge, may I approach?

7 THE COURT: Sure.

8 Q. (By Mr. Miller) -- what we have previously
9 marked as Defense Exhibit 2.

10 Do you recognize this document?

11 A. Yes.

12 MR. MILLER: Should I -- do you mind if I --
13 is a copy fine, or should I operate with the actual --

14 THE COURT: You can use the copy over there,
15 if we've got the original over here, as long as
16 everybody is on the same page.

17 MR. MILLER: Thank you.

18 Q. (By Mr. Miller) Do you recognize this
19 document?

20 A. Yes.

21 Q. And what is this document?

22 A. This is a report from our VMAX system.

23 Q. Okay. So that's the computer system that
24 helps you generate the random sample; is that correct?

25 A. Yes.

1 Q. Okay. And can you walk me through a little
2 bit as to what's contained in this document?

3 A. There's codes that we use. These are usually
4 reject codes, why we would reject a signature. We
5 don't use them all. We just use a small portion of
6 them.

7 Q. Okay. And so there's an explanation of
8 validation votes; is that correct?

9 And these were all the -- a basis for
10 rejecting that signature within the random sample; is
11 that right?

12 A. Yes.

13 Q. Okay. So the first two pages are a log which
14 would indicate how we'd identified that in the actual
15 sample listing; is that right?

16 A. That's correct.

17 Q. Okay. And when we come to Page 3 through 15,
18 can you describe what this entails and what this is?

19 A. It gives you the page number, the line
20 number, what the person's status is -- for instance, we
21 found this one okay -- what date they signed, what
22 their voter ID is, which is what we give them when they
23 register, and what the name is.

24 Q. Okay. And so if the status code says "okay,"
25 that was a signature that was determined to be valid;

1 is that right?

2 A. Yes.

3 Q. Okay. And these other codes -- for example,
4 on Page 3 of this document -- and it identifies Page 4,
5 Line 1, for Kimtari Fortson (phonetic), that was
6 rejected; is that right?

7 A. Yes.

8 Q. And so the "WD" would stand for?

9 A. That she voted in the wrong district.

10 Q. Okay. So she was not eligible to sign the
11 petition because she was not a registered voter in the
12 district; is that right?

13 A. Right, not at that time.

14 Q. Okay. There are other codes in there.

15 DNV on that same page which would indicate?

16 A. That they did not vote in that election.

17 Q. That did not vote in the 2012 election, so --

18 A. 2011.

19 Q. 2011 election. Thank you. Sorry.

20 On Page 5 of that document there's another
21 one. It says -- on Page 28, as has been indicated by
22 the VMAX system, it appears to be a duplicate; is that
23 right?

24 A. That's correct.

25 Q. Okay. And so when you went through this

1 verification process, how many total signatures of that
2 sample did you determine to be valid?

3 A. I don't recall without -- I think it's four
4 and something. I don't recall.

5 Q. At the end of this is a summary. And if you
6 looked at Page 16, would that refresh your recollection
7 as to how many were, in fact, valid?

8 A. 420.

9 Q. Okay. And so then can you tell us as to how
10 many you determined did not vote?

11 A. Twenty-three.

12 Q. And there were two address changes; is that
13 right?

14 A. Mm-hmm.

15 Q. Seven duplicates on the petitions?

16 A. Correct.

17 Q. Fourteen signatures that were rejected?

18 A. Yes.

19 Q. So 14 signatures, in looking at the
20 comparison, didn't appear to be the same; is that
21 right?

22 A. Correct.

23 Q. Twenty-five, the wrong district?

24 A. Correct.

25 Q. Three of a district invalid.

1 What does that mean?

2 A. It means that they didn't live in North Las
3 Vegas when they signed the petition.

4 Q. Okay. And four that were not registered to
5 vote --

6 A. Correct.

7 Q. -- is that right?

8 I want to turn your attention to specific
9 document numbers that relate to previous testimony.

10 Specifically, it would be document 30.

11 A. Okay.

12 Q. Was document 30 included as part of the
13 random sample?

14 A. No.

15 Q. Okay. So the VMAX system did not select any
16 of those signatures from that document as part of the
17 sample; is that correct?

18 A. That's correct.

19 Q. Okay. I want to turn your attention to
20 document 50.

21 How many signatures were drawn from the
22 random sample in that booklet?

23 A. Can I get my glasses?

24 Q. Sure. Absolutely.

25 A. Hold on.

1 Okay. From Page 50, we had one, two,
2 three -- four.

3 Q. Four.

4 And all of those were valid; is that correct?

5 A. Yes.

6 Q. Okay. Thank you.

7 And I want to turn your attention to document
8 87.

9 How many signatures were randomly generated
10 from a statistical sample from that document?

11 A. Three.

12 Q. Three.

13 And were all three of them valid?

14 A. Correct.

15 Q. 117.

16 If I turn your attention to 117, how many
17 were selected from that document?

18 A. Five.

19 Q. Five.

20 And how many were valid?

21 A. Four.

22 Q. And finally, No. 147.

23 How many were selected as part of that
24 document?

25 A. One, two -- five.

1 Q. Five. Okay.

2 So 21 signatures total as part of those
3 documents that were valid.

4 And finally -- sorry. There was additional
5 testimony that related to document No. 112.

6 Specifically signatures that would have
7 appeared on lines 12 through 15 and 20 through 21, were
8 those included as part of the random sample?

9 A. 112?

10 Q. 112, yes. Signatures 12 through 15 or 20
11 through 21.

12 A. No. They're not on here.

13 Q. So those signatures also would not have been
14 added; is that correct?

15 A. That's correct.

16 Q. Is this report generated in the ordinary
17 course of business?

18 A. For a petition, yes.

19 MR. MILLER: All right. Judge, I'd move to
20 admit Defense Exhibit 2.

21 THE COURT: Any objection?

22 MR. MUELLER: No, Your Honor.

23 (Whereupon, Defendant's Exhibit 2 admitted
24 into evidence.)

25 MR. MILLER: And I'd also move to admit

1 Defense Exhibit 1, which is just a copy of the entire
2 petition, which we have in digital format, that's
3 previously been provided to --

4 MR. MUELLER: I thought we already had that
5 in evidence, but okay. No objection.

6 THE COURT: Okay. Exhibit 1 admitted.

7 (Whereupon, Defendant's Exhibit 1 admitted
8 into evidence.)

9 MR. MILLER: Thank you.

10 Q. (By Mr. Miller) So when you prepared that
11 final report, did that conclude your verification
12 process?

13 A. On that report?

14 Q. Yes.

15 A. That would be the last report.

16 Q. Okay.

17 A. Yes.

18 Q. And when did you finish that?

19 A. That one we finished on Monday, I believe.

20 Q. Monday? At what time?

21 A. I -- that's a tough one.

22 Q. You're having difficulty remembering?

23 A. I just don't recall what time.

24 Q. It's all right.

25 It took you about, as you testified, five

1 hours to conduct the raw count on Friday.

2 The registrar submitted that notification of
3 the Secretary of State, who then got back to you, and,
4 in your understanding, told you to proceed with the
5 full verification; is that right?

6 A. Yes. And we verified -- it took Friday,
7 between the verification and the research and then --
8 then we go back on Monday and look at everything again,
9 and that's what we did. I want to say it's in the
10 morning.

11 Q. Okay. So by the conclusion of Friday, had
12 you gone through all those 500 signatures and conducted
13 that verification process of an initial time?

14 A. Yes.

15 Q. Okay. And so what was left for you to do on
16 Monday?

17 A. We go back, and we look at everything that's
18 valid again, just to make sure that nothing is missed.

19 Q. Okay. So you conduct a secondary audit of
20 your initial results; is that right?

21 A. Yes, if time permits.

22 Q. And what time did you begin that process on
23 Monday morning?

24 A. Monday morning? I believe it was 9:30 maybe.

25 Q. Okay. And do you remember some observers

1 being present through that audit process?

2 A. Yes.

3 Q. James Jackson, who you may have seen in the
4 courthouse, was he present?

5 A. There's -- yeah. A Johnny?

6 Q. Johnny Jackson?

7 A. Johnny Jackson, he was present. He arrived a
8 little late, but -- and there was, like, another woman
9 with him. And later on Dan Burdish came in.

10 Q. And where did this audit occur?

11 A. In the same place as the verification, in
12 the -- there's an area in our mail ballot division that
13 is set up with a line of computers.

14 Q. Okay. And they were present and given a fair
15 opportunity to observe the process?

16 A. On Monday? Yes.

17 Q. Yes.

18 A. Mm-hmm.

19 Q. Okay. And was the process substantially
20 similar on Monday to the verification that you had
21 completed on Friday?

22 A. Yes. Yeah.

23 Q. What did you do on Monday in going back
24 through to verify that?

25 A. On Monday, we called up the -- the pages

1 again, and we had some people sitting there again with
2 the petition pages, and we went through each one that
3 was listed as okay and doublechecked it. We
4 doublechecked everything.

5 Q. So you double-checked the exact same
6 requirements? You made sure that each signature
7 matched the signature that you had on the file?

8 A. Yes.

9 Q. You made sure that each of those had an
10 appropriate address that matched the voter registration
11 address?

12 A. Yes.

13 Q. And you made sure that each of those
14 individuals voted, in fact, in the 2011 election --

15 A. The vote history, yes.

16 Q. -- is that right?

17 A. Mm-hmm.

18 Q. Okay. And Mr. Jackson was there to observe
19 that entire process?

20 A. He was a little late, just a few minutes
21 late.

22 Q. Okay. But he saw the majority of the
23 verification process?

24 A. Yes.

25 Q. Did he ask any questions?

1 A. No. I explained to him, you know, what we
2 were doing, and I don't recall him asking any
3 questions.

4 Q. Okay. But he saw a substantial portion of
5 the verification?

6 A. Yes.

7 Q. Okay. Great.

8 A. Yeah.

9 Q. After you completed that audit and determined
10 that you still had 420 valid signatures, what did you
11 do at that point?

12 A. At that point, I run the report and give it
13 to the registrar, and he sends it to the Secretary of
14 State.

15 Q. Okay. That it was -- that the petition was
16 certified as sufficient --

17 A. Yes.

18 Q. -- is that correct?

19 You've certainly seen a number of other
20 petitions in your career. You testified maybe you've
21 done this 50 times.

22 How did this petition compare in terms of the
23 statutes and procedures being followed relative to
24 other petitions?

25 A. It looked very clean compared to other ones

1 that had come in. It was very uniform and readable,
2 you know. We were able to read most of the signatures
3 and addresses.

4 You know, sometimes they come in, and you
5 can't make out who they are, you know.

6 Q. Okay. You did find a couple of instances
7 where it appeared as though somebody in the same
8 household had filled out, as part of the random sample,
9 the -- filled out the address or the date; is that
10 right?

11 A. If it showed up on the random?

12 Q. Yes.

13 A. I couldn't -- I guess I don't understand the
14 question. If the person signed the same --

15 Q. Where it appears as though the signature may
16 be the same or the handwriting is the same on -- on --
17 listing the address or -- or the printed name; is that
18 right?

19 A. Well, we're only looking at a few signatures.
20 So if that signature came up on the random, and we see
21 it, and it doesn't match what we have in the database,
22 then we'll assume that that's not the person. So we'll
23 mark it as a signature (sic).

24 Q. As an invalid signature?

25 A. Yeah.

1 Q. Okay. Thank you.

2 I have nothing further.

3 THE COURT: Okay. Anything from the City?

4 MR. BYRNE: Nothing from the City, Your
5 Honor.

6 THE COURT: Okay. Mr. Mueller?

7 MR. MUELLER: Thank you, Your Honor.

8 Madam Clerk, I hate to do this to you, but I
9 need these petitions stapled and marked as the next
10 numbers in sequence, times four. And just give me a
11 nod when you're done.

12 CROSS-EXAMINATION

13 BY MR. MUELLER:

14 Q. Ma'am, you did not put a number on these
15 petitions when these -- when the 159 documents showed
16 up for you, you did not number them?

17 A. I myself?

18 Q. Yes, ma'am.

19 A. I did not number them. A staff member
20 numbered them.

21 Q. Staff member numbered them.

22 Did you direct them to be numbered?

23 A. Yes.

24 Q. All right. Now, ma'am, you said you did this
25 in accordance with law, correct, to the best of your

1 ability?

2 A. This is our procedure.

3 Q. Yes, ma'am.

4 Now, have 17, 18 years of experience down at
5 the Registrar of Voters -- did you get a chance to read
6 any law or did you get a chance to review it, the
7 procedures?

8 A. Yes.

9 Q. Okay.

10 A. Some.

11 Q. Now, when they arrive to your office, there
12 was no numbers on them?

13 A. The pages were numbered 1 through 4 on each
14 document.

15 Q. One through four. But that was it?

16 A. Yes.

17 Q. All right. Now, ma'am, are you familiar with
18 Nevada Revised Statute 293.12758 (3)? It says: "A
19 counted clerk shall not accept a petition unless each
20 page of the petition is numbered."

21 A. And each page had a number on it.

22 Q. Yes. All right. And these petitions were,
23 in fact, unnumbered, but you guys accepted them anyway?

24 A. No, that's not correct.

25 Q. Well --

1 A. Each page had a number.

2 Q. 1, 2, and 3 and 4?

3 A. 1, 2, 3, 4.

4 Q. Repeated 159 times? There was not 100 --
5 there was not numbers 1 through 159 on these petitions,
6 were there?

7 A. No. We put those on.

8 Q. Okay. And you did that in direct violation
9 of the statute that says that you shall not accept
10 unless there's a number assigned to them?

11 MR. MILLER: Objection, Your Honor. It
12 states a legal conclusion that we think, frankly, is
13 wrong.

14 MR. MUELLER: Well, I'd actually have him
15 make that and ask the Court to check the judicial
16 notice. Here's the statute. I can mark it and give it
17 to the Court.

18 THE COURT: Just -- we are going to get --
19 just find out what her procedure is, and what she did
20 and what she took. That's all I want to do, all right?
21 We can argue whether or not her procedure is in
22 pursuant to the statute.

23 Q. (By Mr. Mueller) So you directed the -- one
24 of the staff members to put numbers on there?

25 MR. MUELLER: Thank you, sir.

1 THE WITNESS: Mm-hmm. Yes.

2 Q. (By Mr. Mueller) All right. Now, ma'am,
3 Mr. Miller went at great length to talk about the
4 verification process. So let's go through a few
5 things.

6 The verification process was done on
7 Friday -- or started on Friday?

8 A. Yes.

9 Q. Do you have with you the e-mail that you sent
10 to Judge Ramsey indicating that the recall -- or
11 signatures were going to be counted on Friday?

12 A. I did not send an e-mail to Judge Ramsey.

13 Q. You obviously gave her a telephone call,
14 then, on Friday, telling her that you guys were going
15 to start the count on Friday instead of Monday?

16 A. No. I've had no contact with Judge Ramsey.

17 Q. You had no contact. Did you have any contact
18 on Friday with anybody from Judge Ramsey's campaign?

19 A. No.

20 Q. Did you tell anybody from Judge Ramsey's
21 campaign on Friday that you were going to start the
22 verification process on Friday instead of Monday?

23 A. No.

24 Q. Were you the one who told the court clerk
25 from -- or the clerk of the City of North Las Vegas

1 that the process was going to start 9:30 on Monday?

2 A. No.

3 Q. Now, ma'am, you -- let's go to -- believe
4 that of the 500 signatures that you randomly sampled,
5 that what was the verification rate?

6 A. Verification rate of the random sample?

7 Q. Yes, ma'am.

8 A. It was 83, 84 percent.

9 Q. Eighty-three, eighty-four percent. Now,
10 showing you what's been marked as Plaintiff's 8,
11 petition Bates-stamped No. 112.

12 Mr. Miller went out of his way to show you in
13 his report -- Ross, do you have your report or did you
14 leave it with the Judge?

15 MR. MILLER: The clerk has the copy.

16 MR. MUELLER: The clerk?

17 Q. (By Mr. Mueller) For the record, I'm now
18 walking with a document entitled -- a stapled
19 document -- Clark County Election Department, Random
20 Sample Petition Signers Detail List, Recall Judge
21 Ramsey.

22 Ma'am, I'm going to ask you to turn on this
23 list to Page 112 in the signatures.

24 THE COURT: That's Defendant's Exhibit 2?

25 MR. MUELLER: Yes, I believe so, Judge.

1 Ross, is that correct?

2 MR. MILLER: Yes, Your Honor.

3 MR. MUELLER: All right.

4 Q. (By Mr. Mueller) And on 112, which samples
5 did you say -- or which signatures did you sample?

6 A. On 112, we sampled No. 1, No. 7, No. 11, and
7 No. 17.

8 Q. All right. Drawing your attention now,
9 ma'am, if you could, to signatures -- I believe it's
10 four and five, the Escobars (phonetic). Arturo Escobar
11 and Victoria Escobar.

12 Do you see those signatures?

13 A. I do.

14 Q. All right. And those signatures were not
15 picked up in your random sample, were they?

16 A. No.

17 Q. Showing you what's been marked -- this is
18 from Page 62, Counsel -- or Petition 62 -- showing as
19 Page 62, lines 12 and 13.

20 Can you look at Lines 12 and 13?

21 A. Yes.

22 Q. All right. And what are the names on lines
23 12 and 13 of Petition 62?

24 A. Arturo and Victoria Escobar.

25 Q. I'm sorry, ma'am, did you say Arturo?

1 A. And Victoria Escobar.

2 Q. And is the handwriting and the names
3 identical to the same Arturo and Victoria Escobar that
4 appear on 112?

5 A. It appears to be.

6 Q. And did your random sampling, in fact,
7 disclose that those were duplicate signatures?

8 A. The random sampling didn't pick up those
9 lines.

10 Q. So those are two signatures that were counted
11 towards the verification process that were, in fact,
12 not valid?

13 A. No. They were not counted toward the
14 verification.

15 Q. Well, you multiplied the wrong number by the
16 verification process, and that would have included
17 those two signatures. Correct?

18 A. No.

19 Q. All right. Let me show you -- go to lines --
20 or -- if I can get your attention back to Petition 112,
21 please?

22 A. Okay.

23 Q. Go to Line 6, if you would.

24 A. Okay.

25 Q. And could you read that name out loud for me,

1 please?

2 A. Looks like Carolyn Tanger (phonetic).

3 You did say line six. Correct?

4 Q. 112, line 6.

5 A. Carolyn Tanger.

6 MR. MUELLER: And if I may approach, Your
7 Honor?

8 THE COURT: Sure.

9 Q. (By Mr. Mueller) Showing you Line 16 of
10 Petition No. 142.

11 Could you read that signature out loud,
12 please?

13 A. Carolyn Tanger.

14 Q. Carolyn Tanger?

15 A. Mm-hmm.

16 Q. Does that signature and handwriting appear to
17 look the same?

18 A. Yeah.

19 Q. All right. And that was another, third
20 signature off of Petition 112 that was, in fact, a
21 duplicate and your random sampling did not pick it up.

22 If I could draw your attention to Page -- go
23 back to Petition 112 and look signature 10, please.

24 MR. MILLER: Judge, I'm going to object to
25 relevance. None of the signatures that he's going

1 through methodically here were selected as part of the
2 random sample.

3 THE COURT: No, I understand that. I'll let
4 it go for a little bit further, but I understand what
5 you're saying.

6 Q. (By Mr. Mueller) Ma'am, if I could?

7 A. What line did you say?

8 Q. Go to Line 10 please?

9 A. On Page 112?

10 Q. 112?

11 A. Okay.

12 Q. And what's the name there?

13 A. Yvonne Brown (phonetic).

14 Q. If I could get your attention on Page 142,
15 Line 6?

16 A. 142. Hold on. Yvonne Brown.

17 Q. And does that handwriting appear to be
18 duplicate?

19 A. It appears to be the same.

20 Q. All right. So your random sampling failed to
21 disclose one, two, three, four duplicates on
22 Petition 112 alone.

23 Maybe -- maybe it's a mistake. Can I get you
24 to look at Page 112, Line 13?

25 A. Line 13 is Diana Turner (phonetic).

1 Q. Showing you Petition No. 75, Line 19.

2 What is the name on that petition, ma'am?

3 A. Diana Turner.

4 Q. And that was another duplicate that was
5 not -- off of 112 that was not caught in random
6 sampling.

7 Can I get you to go to Page 112, Line 13.

8 A. Okay.

9 Q. And do you read that name?

10 A. Diana Turner.

11 Q. Okay. I'm sorry. So we got that one. All
12 right. Go to Line 112, Page -- Petition 112, Line 15,
13 please.

14 A. Dwight-something "Kendall".

15 Q. Dwight Kendall, you believe, is the name?

16 A. No. It's -- I can't read the first part.

17 Q. Kuykendall?

18 A. Kykendole or something.

19 Q. Cukendole?

20 MR. MUELLER: Counsel, drawing your attention
21 to Petition 76 -- or submittal 76.

22 Q. (By Mr. Mueller) And drawing your attention,
23 ma'am, to Line 22.

24 Can you read that name?

25 A. That one is Dwight Kuykendall.

1 Q. Dwight Kuykendall.

2 So it appears that there are now one, two,
3 three, four, five, six duplicates on Petition 112
4 alone, and none of your random sampling picked it up.
5 Perhaps there's a mistake.

6 Can I get you to look at signature 112,
7 signature 22, please?

8 A. Okay.

9 Q. And can you tell me what the name on that is?

10 A. Sue Collums (phonetic).

11 Q. Sue Collums? And showing you what's been
12 marked as Defense 11, Petition 11, Line 15.

13 Can you tell me what that name is?

14 MR. MILLER: Which document?

15 MR. MUELLER: That's petition -- here we go.

16 THE WITNESS: Seventy-six.

17 MR. MUELLER: It's Petition 76, Line 15.

18 THE WITNESS: Line 15 is Susan Collums.

19 Q. (By Mr. Mueller) So that's another duplicate.

20 Now, by my count, on Petition 112 alone, we
21 have one, two, three, four, five, six, seven duplicate
22 signatures, none of which were caught by your random
23 sampling methodology. Correct?

24 A. If they were not in the random sample.

25 Q. All right. Now, if I were to tell you an

1 investigator went through the signatures and found 356
2 duplicate signatures, would that strike you as possible
3 and reasonable?

4 A. If they -- I don't understand your question.

5 Q. Well, ma'am, just looking at one petition
6 alone, we have found one, two, three, four, five, six,
7 seven duplicates. Correct?

8 A. Okay.

9 Q. Correct?

10 A. On this page.

11 Q. Yes, ma'am?

12 A. The ones that you just --

13 Q. Yes, ma'am. There's seven signatures that
14 should not have been counted?

15 A. They were not in the random, no.

16 Q. Okay. So there's seven signatures that you
17 counted as valid or would have been counted towards the
18 valid -- tally as being valid that were, in fact,
19 duplicate signatures?

20 A. No, these weren't about counted.

21 Q. Okay. What I'm saying, ma'am, is your random
22 sampling error missed a large number of duplicate pages
23 on seven -- there are seven on just this one alone.

24 A. The random sampling is generated by the
25 computer.

1 Q. All right. Let me ask you a question, ma'am.

2 The people that were counting out and
3 verifying these signatures, are they full-time county
4 employees?

5 A. Yes.

6 Q. Are they available and will they be at work
7 tomorrow?

8 A. Some.

9 Q. Okay. Would they be able to sit down and
10 count and verify every one of these signatures and
11 start checking for duplicates?

12 A. Would they be able to?

13 Q. Yes, ma'am.

14 A. We weren't told to go to 100 percent.

15 Q. Technically, would it be easily and feasible
16 for you to sit down and count all these signatures and
17 eliminate duplicates, seven of which appear in one
18 petition alone?

19 A. They could sit down and look at it.

20 Q. All right. Did you instruct them to do so?

21 A. No.

22 Q. All right. Now, isn't it proper procedure
23 for a representative of a recall or a subject to recall
24 election to have a representative at the recall
25 petition?

1 A. Yes.

2 Q. All right. Was anybody from Judge Ramsey's
3 campaign present on Friday?

4 A. No.

5 Q. All right. The majority of the work was done
6 on Friday. Correct?

7 A. Yes.

8 Q. Do you know if anybody made any effort to
9 contact Judge Ramsey?

10 A. I do not know that.

11 Q. Did you personally, as an experienced, 17 or
12 18 year county employee say, "Hmm, it's odd that
13 there's not somebody here from the campaign. Maybe I
14 should make a phone call"?

15 A. No. Because I don't do that.

16 Q. It's not your responsibility?

17 A. No.

18 MR. MUELLER: I have no further questions for
19 this witness, Judge.

20 THE COURT: Thank you. Mr. Miller?

21 REDIRECT EXAMINATION

22 BY MR. MILLER:

23 Q. Very briefly.

24 Turning again to Defense Exhibit 2, as part
25 of the random sample you did, in fact, reject a number

1 of signatures that were duplicates, that were selected
2 as part of the sample. Right?

3 A. Correct.

4 Q. And how many did you find?

5 A. Seven.

6 Q. Okay. And so the reason that the others
7 weren't rejected as duplicates were because they
8 weren't included in the part of the random sample that
9 the Defense Counsel just outlined; is that correct?

10 A. That's correct.

11 Q. Okay. You've conducted this process, you
12 said, approximately 50 times.

13 Have there been instances before where you
14 proceed with a verification and the individuals who may
15 be opposing the petition don't show up to watch the
16 verification process?

17 A. Yes.

18 Q. How frequently does that occur?

19 A. Probably more times they don't -- they don't
20 ask about it.

21 Q. Okay. So and if they don't ask, the process
22 is just to proceed with the verification. Right?

23 A. Yeah.

24 Q. Because you're under strict timelines in
25 order to turn this thing around as quickly as possible?

1 A. Correct.

2 Q. So if they don't show any interest in coming
3 down or don't make themselves available when the
4 process starts, you just proceed with the verification
5 as your ordinary course. Correct?

6 A. Yes. If they show interest, we tell them
7 what time. That's when we start.

8 Q. Thank you.

9 THE COURT: Anything from the City?

10 MR. BYRNE: Nothing from the City, Your
11 Honor.

12 THE COURT: Okay. Nothing further,
13 Mr. Mueller?

14 MR. MUELLER: No, Your Honor.

15 THE COURT: I just want to go back to Monday
16 when you were doing, I guess you said, the audit.

17 That started at 9:30?

18 THE WITNESS: I believe so. I believe so.

19 THE COURT: All right. And why do you
20 believe that? Any particular reason?

21 THE WITNESS: Because I -- I really can't
22 recall if it was 9:00 or 9:30. It was in the morning.
23 I believe -- yeah, I think it was 9:30.

24 THE COURT: Okay. And it's your recollection
25 that Mr. Jackson showed up a little bit late?

1 THE WITNESS: Oh, yes he did. A little.

2 THE COURT: How much -- how long had you
3 started the audit before he showed up?

4 THE WITNESS: Oh, maybe five, ten minutes.

5 THE COURT: All right. So how long,
6 approximately, did the whole process take on Monday?

7 THE WITNESS: On Monday, about an hour. I
8 think it was about an hour.

9 THE COURT: Okay. All right. And how long
10 would the process have taken on Friday, the initial
11 verification?

12 THE WITNESS: Just putting the names into the
13 system was probably about two hours, and then it took a
14 while for the research.

15 THE COURT: Okay.

16 THE WITNESS: So I'd guess maybe another two,
17 three hours.

18 THE COURT: All right. All right. Does that
19 generate any questions by any party?

20 MR. MUELLER: No, Your Honor.

21 MR. MILLER: No, Your Honor.

22 THE COURT: Okay. Thank you very much for
23 your time today. I appreciate it.

24 THE WITNESS: Yeah.

25 THE COURT: The Court appreciates you coming

1 down and testifying. Thank you.

2 THE WITNESS: Okay. Thanks.

3 THE COURT: Mr. Miller, do you have anybody
4 else you're going to call?

5 MR. MILLER: Court's indulgence if I can
6 confer with --

7 THE COURT: Sure. If you want -- why don't
8 we go ahead and break for lunch and come back in an
9 hour.

10 MR. MILLER: I'm not sure what else we have.
11 I'm not sure else we have.

12 THE COURT: Okay. All right.

13 MR. MILLER: Because if you want to give us a
14 couple minutes, we'll probably rest, Your Honor.

15 THE COURT: All right. Why don't you take a
16 couple minutes.

17 MR. MILLER: Okay. Thank you.

18 (A brief recess was taken from 12:46 p.m.
19 until 12:51 p.m.)

20 THE COURT: All right. Where do we stand
21 now?

22 MR. MILLER: Judge, we don't have any further
23 witness, so the defense would rest as well.

24 THE COURT: All right. Let me ask --
25 Mr. Mueller, you indicated that you -- there was

1 possibly some other individuals you would have called.
2 Who would you have called and why?

3 MR. MUELLER: I would have called Mr. Gloria,
4 the Registrar of Voters, for his side of the
5 conversations with Mr. Jackson. I think his testimony
6 that you anticipate would -- why we need it.

7 I wanted particularly -- I wanted to call
8 the -- the name escapes me -- the person who notarized
9 the Petition 112, in particular. I just grabbed that
10 one at random, and show what appears to be a systematic
11 effort to conceal and inflate these numbers.

12 There are several others. The -- I've got --
13 I could go on for a couple hours with the duplicate
14 signatures, Judge. I didn't do it, because it's
15 duplicative, pardon the pun.

16 Those were people I was not able to get
17 served on short notice. I'm sorry.

18 THE COURT: All right. I understand.

19 Let me just ask: Where is Mr. Gloria?

20 MR. MILLER: He apparently had a conference
21 that he couldn't get out of, Your Honor. He was
22 disappointed on that. Apparently he will be back -- he
23 could get back on the 2nd of July.

24 THE COURT: About when?

25 MR. MILLER: The 2nd of July.

1 THE COURT: Oh, okay. I thought you said the
2 7th. I thought, Wow, that's some conference. But all
3 right.

4 Let's go ahead, you know, at this point, in
5 terms of where you stand as far as the remaining
6 seven -- or 2 through 8 of your -- minus 6 of your
7 Causes of Action, Mr. Mueller. I'll be willing to take
8 any additional argument that you have.

9 MR. MUELLER: Certainly, Judge. If I can get
10 a moment to compose my thoughts.

11 Now, Your Honor, by my reckoning, they have
12 to get 1,984 valid signatures. The submitted their
13 estimate -- estimate is 2,274. I believe I've shown to
14 a reasonable certitude, both through detective and
15 investigators -- I'm sorry; I keep calling him
16 detective, that's how I know him as an attorney. He's
17 now an investigator. The investigator documented 356
18 duplicate signatures that apparently almost all of
19 which went undetected. 112 is not an anomaly. I've
20 got at least another half-dozen or dozen sheets with
21 that number.

22 If you multiply seven per sheet out, the
23 total is 159, cut it in half, that number almost agrees
24 exactly with the number that the investigator came up
25 with of about 356. So we've got two sources for that

1 number. And if you subtract 200 -- 356 from the 200 --
2 2,274, you are below the cutoff limit at 1969 (sic).

3 Now, I believe that the evidence has shown to
4 a reasonable certainty that these -- to warrant an
5 entire audit of every signature of all those gathered,
6 and verify them against duplicates. I do not believe
7 the evidence shows and the sample shows that there are
8 1984 independent, once-listed signatures to make this
9 petition valid. And based on the statistical sampling,
10 you saw how effective that was. She missed seven on
11 one sheet alone.

12 Second -- so that's -- as a matter of law,
13 the petition is insufficient. There is no need to
14 accept my representations here. You can and you do
15 have it within your power to go back and order a
16 complete recount. The employees are all full-time
17 county employees. The -- there's really -- before we
18 spend -- or before I put you in a tough spot of having
19 to make a decision, I certainly would want you to have
20 the full information. You've got a few -- the statute
21 gives us up to 30 days. That's July 9th. There would
22 be absolutely no reason that they couldn't go back and
23 verify all these signatures.

24 If the estimates that we've come up with and
25 what we've shown the Court today are correct, this

1 petition will fail. So that's argument No. 2.

2 There are several arguments even I'll concede
3 are a little niggling. And I -- you know, the question
4 here on something like this is, what is a substantive
5 violation, and what is just people going out and doing
6 paperwork.

7 Now, the ZIP codes, clearly, you know, we'll
8 write that one off. The signatures that don't contain
9 the date, yeah, okay. You know, we're not going to get
10 excited about that.

11 But I want to focus in on what is really key
12 here. No. 1, the statute. Statute says: "Shall not
13 accept unless a petition is numbered." Now, we put the
14 clerk of North Las Vegas on, we put the woman in charge
15 of the recall petition, and despite the very clear
16 admonition against, the statute of prohibition, that
17 subsection 3, "Shall not accept," it was done anyway,
18 in violation of the statute.

19 Well, okay. Come on Craig, what's the --
20 what it's the big deal here? Well, the big deal is is
21 that means petitions can -- paperwork can get slipped
22 in, paperwork can get slipped out. There's no numbers.
23 That's why -- that's why the statute exists. To
24 prevent the petition or the appearance of impropriety.

25 What is particularly troubling to someone who

1 believes in democracy is that this petition and this
2 effort went on all day Friday, and nobody informed
3 Judge Ramsey.

4 Now, when Judge -- or Mr. Jackson gets down
5 there, it's over. He's not even -- I mean, they don't
6 even give him or they're not doing anything
7 particularly random, they're just picking signatures
8 out the block. Now, how does that enhance a democratic
9 process?

10 THE COURT: Well, I mean, looking at that
11 statute, they can -- or the recall subject has the
12 right to view the -- the verification process, but it
13 doesn't say anything about that the petitioner has --
14 or not the petitioner. The recall subject has a right
15 to receive notice and -- and anything like that. I
16 guess, sort of my -- I guess, you know, what -- how
17 much falls -- I guess, and I mean, how much falls on
18 the clerk's office to have to give -- or the
19 registrar's office to have to give notice or somebody
20 to have to give notice, and how much of it falls, once
21 the recall subject is aware that a petition has been
22 accepted?

23 MR. MUELLER: All right. Fair enough.

24 THE COURT: And it falls on them to find out
25 and figure out what's going on.

1 MR. MUELLER: Reasoning by analogy -- and
2 Mr. Miller will be familiar with this example -- State
3 of Nevada gives an unprecedented right -- something
4 you'd be surprised about in the federal system -- they
5 give the defendant a right -- the target of a Grand
6 Jury the right to speak to the Grand Jury. But for the
7 first 100 years, no one ever told the target that he
8 had the right to speak to a Grand Jury.

9 In a case called State of Nevada versus
10 Marcum, the Nevada Supreme Court says, Well, if you're
11 not informed of these rights, this right doesn't mean
12 anything. Now, State of Nevada -- if a state goes to
13 the Grand Jury now and doesn't give the defendant
14 notice of the time and place to speak to the Grand
15 Jury, the indictment is dismissed.

16 Now, that's a statutory right, and the state
17 is the position to control and enforce that statutory
18 right. Now we have the same analogy. We have
19 government employees who are charged with carrying out
20 an important public function. The very core of which
21 is essentially to our democracy.

22 Now, Judge Ramsey very clearly had expressed
23 interest in the supervising or overseeing this
24 petition, and you saw the e-mail: 9:30 Monday morning.
25 That's not -- that's not a matter of any discussion or

1 debate; that's what she's told. Now, at what point
2 does anybody in the government remain responsible for
3 any action? Well, the woman's been there 17 years.
4 We're starting the recall. Shouldn't be call somebody?
5 The statutory right -- and I'm reading right from the
6 statute --

7 THE COURT: Well, I don't --

8 MR. MUELLER: And I know you've read
9 everything, Judge. I'm not -- but I do want to
10 emphasize. "Must" is the word. "Must be allowed to
11 witness a verification of the signatures on a
12 petition." That did not occur here.

13 Now, that is a statutory right and a
14 procedural due process right. I believe it has been
15 violated here, whether it was done through slovenly
16 indifference or intent, based the against large number
17 of duplicate signatures, I will leave the Court to draw
18 its own conclusion.

19 Now, the submitted number is not actual.
20 Now, the verification. One of the people we tried to
21 serve -- or this weekend, was one of the verifiers, who
22 promptly threw our subpoena on the ground and said he
23 wasn't coming to court. Now, verification -- and the
24 reason those signatures are verified is so just exactly
25 the problem we've outlined on the witness stand here

1 today doesn't occur. Someone's actually verified those
2 petitions. And while I'm thinking about it, Your
3 Honor, even though these are, strictly speaking,
4 electronic duplicative copies, I'm going to move to
5 admit these petitions. I'll read them into the record
6 so that the record's complete.

7 Mr. Miller's got the county electoral -- he's
8 got electronic copy for you there. I'm going to move
9 to admit Petition No. 112, that is Plaintiff's
10 Exhibit 8. Move to admit Petition 142, that's
11 Plaintiff's Exhibit 12. I'm going to move to admit
12 Petition 0076, which is Plaintiff's 11. I'm going to
13 move to admit Petition 75, which is Plaintiff's 10.
14 And I'm going to move to admit Petition 62, which is
15 Plaintiff's 13.

16 These should be duplicative of the electronic
17 copies you already have, but since --

18 THE CLERK: Thank you.

19 THE COURT: Any objection?

20 MR. MILLER: No, Your Honor.

21 THE COURT: All right. Those will be
22 admitted.

23 (Whereupon, Plaintiff's Exhibits 8, 10, 11,
24 12, and 13 were admitted into evidence.)

25 MR. MUELLER: Thank you, Your Honor.

1 Now, I would ask -- and I believe the proper
2 course of this Court, at this point, is to get good
3 information before you get forced to make a tough
4 decision. I'm going to ask the Court to ask the
5 clerk's office to go back and verify all 2700
6 submissions, paying particular attention to duplicate
7 signatures. I think that's -- the number is small.
8 They were able to blow through a 500-person signature
9 sample in about an hour, hour and a half. The
10 employees necessary to do it are already county
11 employees. There would be no additional expense to the
12 county or very little additional expense to the county.
13 And then they can come back and say, "Well, you're
14 right, Mr. Mueller, there's not enough qualifying
15 signatures," or, "Yeah, there's -- right. There's a
16 couple hundred extra."

17 And then we can -- then a lot of these issues
18 get put to bed. But at this point, I believe to a
19 reasonable inference that there's -- additional work
20 needs to be done. Then we can stay the proceedings
21 depending on the result, and that will allow me a
22 chance to identify and subpoena those remaining
23 witnesses.

24 THE COURT: Okay. I'll hear from Defense
25 now.

1 MR. MUELLER: Thank you.

2 MR. MILLER: Thank you, Your Honor.

3 I think what's clear in this case is that
4 these were very clear petitions -- clean petitions,
5 rather. We heard that both from Barbara Andolina and
6 from the Clark County Registrar's Office that have
7 quite a bit of experience. Both testified that they've
8 seen any number of petitions and that these were clean.

9 The verification process that they walked you
10 through, I think, is very extensive. They've done this
11 in every other instance. And it came about that these
12 qualified and are clearly sufficient.

13 What Mr. Mueller's asking for is to
14 completely negate the entire statutory scheme that our
15 legislature has established for verification of these
16 initiative petitions. And they are long-established
17 statutes and long-established procedures to set up a
18 random sampling.

19 Some of these initiative petitions can have
20 upwards of 100,000 signatures. That random sampling
21 exists for a reason, because it is a reliable means of
22 determining whether or not there is sufficient basis
23 for a recall election or to put something on a ballot,
24 to know whether or not they've met the threshold. And
25 I think we've established they clearly did that, Your

1 Honor. The random sampling that was put in place is
2 generated by a computer system that -- that the
3 Registrar's office testified has been in place since
4 2000. Using an algorithm, it selected those
5 signatures. They went through their process to make
6 sure, just methodically, that all of those requirements
7 had been met.

8 And Mr. Mueller is trying to introduce a lot
9 of evidence about signatures that weren't included in
10 the random sample, and that's just simply not
11 appropriate. And it wouldn't be appropriate for this
12 Court to require the clerk to just completely
13 invalidate the statutory process to rely on a random
14 sampling. And it would set a terrible precedent,
15 because everybody would want that. They'd want a full
16 review of the 100,000 signatures, and it's just not
17 necessary. We know through the random sampling that
18 there were sufficient signatures in order to qualify.

19 With respect to the notarized affidavit, it
20 sounded like Mr. Mueller almost conceded on that issue
21 in being a little nitpicky on whether or not that a
22 date was included or there may have been clerical
23 errors. We would simply point out that the substantial
24 compliance argument -- or the substantial compliance
25 standard, rather, would apply. And even if you were to

1 take all of those signatures that were included and
2 valid with those allegedly defective notarizations, it
3 would still qualify. We'd still have enough signatures
4 if you wiped out all of those valid signatures.

5 With respect to the numbering, Mr. Mueller
6 points out that NRS 293.12758 says that the county
7 clerk shall not accept a petition unless each page of
8 the petition is numbered. I think he's misreading the
9 statute, Your Honor. It says unless each page of the
10 petition is numbered. That was done in this case. In
11 each document you've got a specific numbering; 1, 2, 3,
12 4. We've heard plenty of testimony about that.

13 If the Court, again, looks through that case,
14 LVCVA versus Miller, they talk about that, because that
15 was one of the key issues in that case as to why that
16 legislation was put in place in 1997.

17 And that, of course, doesn't refer to a
18 requirement that you sequentially Bates stamp all of
19 these petitions. In fact, that would be impossible to
20 do for a statewide initiative petition, because, as I
21 said, you've got packets of documents that are
22 submitted in 17 different counties. You couldn't
23 possibly assemble those and Bates stamp them across the
24 board.

25 The reason that that requirement exists --

1 and there was testimony about this in front of the
2 legislature in 1997 -- is to prevent fraud.

3 They had what they called Lake Mead signing
4 parties, where they'd go out to the lake, and they
5 would slip another page in there, and so you'd have
6 signatures that weren't properly notarized and didn't
7 have the affidavit of the circulator.

8 So those page numberings ensure that you only
9 have four pages per document, and that that is -- is
10 notarized so that you can make sure that those
11 requirements are met that the circulator says, "This
12 was signed in my presence," and it's to prevent fraud
13 in that way.

14 And that was absolutely done in this
15 instance. They followed the law. And as was testified
16 before, again, this was entirely a clean way of doing
17 it.

18 In addressing the notification, Your Honor,
19 the plaintiff just clearly didn't make enough of an
20 effort to come down and observe this process.

21 Mr. Mueller would have you believe that this
22 was a complete surprise to Judge Ramsey, that they had
23 turned in these signatures.

24 The media was there. It's in the same
25 building where her courthouse is. Certainly her

1 representative, Mr. Jackson, testified that he was
2 there. He was present.

3 THE COURT: I guess the only problem I'm sort
4 of having -- and, I mean, I may be wrong with his
5 testimony. And if I am, correct me. But my
6 recollection of his testimony is that he reached out to
7 Gloria and indicated he was a representative for Judge
8 Ramsey on the -- right after the petitions were
9 presented, and that Gloria allegedly told him this
10 verification process wasn't going to happen for a
11 couple of days, and then he sends him -- you know, and
12 send him an e-mail.

13 And so I guess that's the only thing I'm sort
14 of sitting here in terms of Mr. Jackson's testimony is,
15 you know -- is there something that -- you know,
16 it's -- I agree that I don't think necessarily there's
17 anything requiring the State, like in the grand jury
18 situation, to make a -- you know, a notice.

19 But is there here a situation where somebody
20 was misled -- led in terms of when the verification
21 process was going to occur?

22 And that's -- I'll be honest, is where I --
23 at this point in time, it's really about the only main
24 issue that I've got.

25 MR. MILLER: Okay. Well, I suggest this,

1 that certainly Judge Ramsey was aware that the
2 signatures had been turned in. She was notified by the
3 city clerk, in fact, by a letter that that had
4 happened.

5 I believe Mr. Jackson testified that he was
6 aware that the signatures were being transported to the
7 county registrar's office that same day.

8 He also testified, through my
9 cross-examination, that he's familiar enough with that
10 process that he knows that there's a very accelerated
11 time line for that to take place; that the raw count
12 has to be completed within four days.

13 Clearly they knew that this was going to
14 start immediately.

15 He was a little unclear that he when he
16 believe he's communicated with Mr. Gloria. I believe
17 the testimony was some point on Friday afternoon. But
18 by then, the process had obviously already started.

19 But even setting that aside, he was clearly
20 there and present at 9:30 on Monday morning to go
21 through the verification process, had a full
22 opportunity to observe it, ask any questions that he
23 wanted.

24 The testimony was that he didn't ask many
25 questions. They explained the process to him. They