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IN THE SUPREME COURT OF THE STATE OF NEVADA

SAM TOLL,

Petitioner,

vs.

THE FIRST JUDICIAL DISTRICT COURT
FOR THE STATE OF NEVADA, IN AND FOR
STOREY COUNTY, AND THE HONORABLE
JAMES WILSON JR., DISTRICT JUDGE,

Respondents,

and

LANCE GILMAN,

Real Party in Interest,

_____ /

Case No. 78333

D.C. Case No.
18-trt-00001

PETITIONER'S APPENDIX

VOLUME 5

1. Supplemental Opposition to Anti-SLAPP Motion - 5-24-2018: Nos. 920-929
2. Reply to Opposition to Motion to Compel - 6-4-2018: Nos. 930-1041

Respectfully submitted March 18, 2019:

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CERTIFICATE OF SERVICE

I certify that on the date indicated below, I caused service of the foregoing documents to be completed by:

_____ personally delivering;

_____ delivery via Reno/Carson Messenger Service;

_____ sending via Federal Express (or other overnight delivery service);

xxxx depositing for mailing in the U.S. mail, with sufficient postage affixed thereto; or,

_____ delivery via electronic means (fax, eflex, NEF, etc.)

a true and correct copy of the foregoing pleading addressed to:

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The First Jud. Dist. Ct. - Storey County
Honorable James E Wilson Jr.
26 S. B St.
Virginia City, NV 89440
775-847-0969

By: 
Luke Busby

Dated: 3/18/2019

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10 **IN THE FIRST JUDICIAL DISTRICT COURT**

11 **IN AND FOR STOREY, COUNTY, NEVADA**
12
13

14 LANCE GILMAN, an individual,
15 Plaintiff,

16 vs.

17 SAM TOLL, an individual; DOES I-V,
18 inclusive; and ROE ENTITIES VI-X,
inclusive,
19 Defendants.

Case No.: 18-TRT-00001-1e
Dept No.: II


PLAINTIFF'S SUPPLEMENTAL
OPPOSITION TO THE DEFENDANT'S
ANTI-SLAPP MOTION

20 COMES NOW the Plaintiff, LANCE GILMAN, by and through his attorneys, GUS W.
21 FLANGAS, ESQ. and JESSICA K. PETERSON, ESQ., of the FLANGAS DALACAS LAW
22 GROUP, and hereby submits this "Plaintiff's Supplemental Opposition to the Defendant's Anti-
23 SLAPP Motion," pursuant to the Court's "Order Granting Anti-SLAPP Special Motion to Dismiss
24 in Part, Allowing Limited Discovery and Staying Further Proceedings."

25 This Supplemental Opposition is based upon the Pleadings and Papers on file herein, the
26
27
28

1 attached Points and Authorities and oral argument to be made by Counsel at any Hearing of this
2 Matter.

3 Dated this 24th day of May, 2018.

4
5 
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18 POINTS AND AUTHORITIES

19 I. 20 INTRODUCTION.

21 The instant suit involves certain false and defamatory statements made by the Defendant
22 about the Plaintiff. The Defendant, SAM TOLL (hereinafter the "Defendant"), published and
23 publishes a blog online under the website address of <http://thestoreyteller.online> (hereinafter the
24 "Storeyteller Website"). The central focus of the Storeyteller Website seems to be ridiculing,
25 insulting and defaming the Plaintiff, LANCE GILMAN (hereinafter the "Plaintiff").

26 The Defendant's attacks on the Plaintiff with false and defamatory statements have been
27 continuous, unrelenting, and constantly targeting him personally. The false statements made by
28 the Defendant are so far beyond acceptable and legal conduct, that the Plaintiff felt compelled to
take action to protect his reputation. Because of the false unending stream of defamatory
statements published by the Defendant about the Plaintiff, the Plaintiff filed a Complaint against
the Defendant for Defamation Per Se.

The Defendant filed a Special Motion to Dismiss based on Nevada's Anti- SLAPP
statute, NRS 41.635 et. Seq, which the Plaintiff opposed. On or about April 9, 2018, the Court

1 issued its “Order Granting Anti-SLAPP Special Motion to Dismiss in Part, Allowing Limited
2 Discovery and Staying Further Proceedings” (hereinafter the “Order”). In the Order, the Court
3 gave the Plaintiff until May 11, 2018, to conduct discovery “limited solely to information as to
4 whether Toll knew the resident communications were false or whether he acted with high degree
5 of awareness of the probable falsity of the statement or had serious doubts as to the publication’s
6 truth,” and gave the Plaintiff until May 25, 2018, to file this “Plaintiff’s Supplemental Opposition
7 to the Defendant’s Anti-SLAPP Motion.”

8 After the Court issued its Order, the remaining issues pertains to the Defendant’s false
9 publications that the Plaintiff is not a resident of Storey County and committed perjury when he
10 filled out Official Paperwork pertaining to his residency. NRS 199.120, entitled, “Definition;
11 penalties,” states:

12 A person, having taken a lawful oath or made affirmation in a judicial proceeding
13 or in any other matter where, by law, an oath or affirmation is required and no other
penalty is prescribed, who:

14 1. Willfully makes an unqualified statement of that which the person does
15 not know to be true;

16 2. Swears or affirms willfully and falsely in a matter material to the issue
or point in question;

17 3. Suborns any other person to make such an unqualified statement or to
18 swear or affirm in such a manner;

19 4. Executes an affidavit pursuant to NRS 15.010 which contains a false
statement, or suborns any other person to do so; or

20 5. Executes an affidavit or other instrument which contains a false
21 statement before a person authorized to administer oaths or suborns any other
22 person to do so, is guilty of perjury or subornation of perjury, as the case may be,
which is a category D felony and shall be punished as provided in NRS 193.130.
(Emphasis added).¹

23 In other words, the Defendant accused the Plaintiff of committing a Felony.

24 After coordinating schedules of the counsel for both Parties, the Deposition of the
25 Defendant was scheduled for and conducted on Friday, May 4, 2018, in Virginia City, Nevada.
26 During the course of the Deposition, questions were asked by the undersigned counsel about how
27

28 ¹ Perjury is an offense against the public only, and subject only to the criminal law.
Eikelberger v. Tolotti, 96 Nev. 525, 611 P.2d 1086 (1980).

1 the Defendant arrived at his so-called knowledge about the Plaintiff's residency. Instead of
2 answering many of the questions, the Defendant under the advice of his counsel asserted
3 privilege under the Nevada Media Shield Statute that is set forth in NRS 49.275. Because the
4 Defendant refused to answer the questions presented and asserted the Media Shield privilege, the
5 undersigned counsel terminated the Deposition, and subsequently filed "Plaintiff's Motion to
6 Compel; Motion for Sanctions; Motion to Extend the Time Period for Discovery; and in the
7 Alternative, Motion for Partial Summary Judgement."

8 On Friday, May 11, 2018, after coordinating schedules of the counsel for both Parties,
9 and the counsel for the Deponent, the Deposition was taken of Austin Osborne, the Planning
10 Director for Storey County. During the course of his Deposition, Mr. Osborne asserted attorney
11 client privilege when asked about his interpretation of zoning matters.

12 **II.**
13 **THE DEFENDANT'S FALSE STATEMENTS WERE MADE WITH**
14 **KNOWLEDGE THAT THEY WERE FALSE AND/OR WITH RECKLESS**
15 **DISREGARD OF WHETHER THEY WERE FALSE OR NOT.**

16 The Defendant in effort to escape liability for his false statements about the Plaintiff has
17 asserted that he undertook certain investigatory efforts to verify whether or not the Plaintiff
18 resided in Storey County. This so-called investigation of the Defendant is being set forth by the
19 Defendant in an attempt to show that the false statements he made about the Defendant were
20 made without actual malice. As will be shown below, the Defendant clearly acted with
21 knowledge that his false statements were made with knowledge that they were false and/or with
22 reckless disregard of whether they were false or not.

23 **A. The Defendant's Defamatory Statements Pertaining to the Plaintiff's Residency in**
24 **Storey County and the Plaintiff having committed perjury.**

25 As set forth in the Plaintiff's "Opposition to Anti-SLAPP Special Motion to Dismiss per
26 NRS 41.660" (hereinafter the "Plaintiff's Opposition"), on the Storeyteller Website, the
27 Defendant published a series of statements accusing the Plaintiff of not living in his actual
28 residence and even accusing him of committing perjury about his residence on official
documents. Starting on around April 7, 2017, the Defendant published the following on the

1 Storeyteller Website:

2 Team Gilman would have never subjected the citizens to the polarizing effect of
3 the recall effort had it not been for **the Washoe County resident** who thinks he
4 knows what is best for the taxpayers who shoulder the tax burden of Don Norman,
Lance Gilman and the rest of the tax escapers at the Center. (Emphasis added).²

5 The clear inference from the Defendant's statement is that Mr. Gilman is not a resident of Storey
6 County.³ Then, on or around April 18, 2017, the Defendant wrote on the Storey Teller Website,
7 the following:

8 The debacle we emerged from a week ago today is not the kind of thing our
9 county should be making the news with. Sadly, the most equal member of Storey
10 County (**if you believe he actually lives at 5 Wild Horse Canyon**) cares more
about himself than the county he represents. (Emphasis added).⁴

11 The clear inference from the Defendant's statement is that Mr. Gilman is again not a resident of
12 Storey County. Then, on or around May 20, 2017, the Defendant wrote the following on the
13 Storey Teller Website:

14 "I want the people of Storey County to know that I am a man of integrity and my
15 word is more valuable than gold. This County has been very, very good to me and
16 I want to deliver on promises I made over and over to the good people of Storey
17 County regarding the cash that would be gushing around here. I want to thank
them along with the entire Team Storey Team for helping Mr. Norman and me
becoming the wealthiest people who do business in Storey County but **don't**
actually live here" said Mr. Gilman. (Emphasis added).⁵

18 Although the Defendant may argue that this is satire, the clear inference from his statement still
19

20
21 ² See **Exhibit "4"** to the Plaintiff's Opposition, for a copy of the Defendant's blog at the
22 Storeyteller Website, dated April 7, 2017, and located at the internet address of
<http://thestoreyteller.online/2017/04/07/trics-don-norman-vows-not-to-influence-sheriff-selection/>.

23 ³ In his Deposition, the Defendant testified that he was referring to Roger Norman as the
24 "Washoe County Resident," in the article. See **Exhibit "16"**, for a copy of the Defendant's
Deposition (hereinafter the "Defendant's Depo") on pages 37-38.

25 ⁴ See **Exhibit "5"** to the Plaintiff's Opposition, for a copy of the Defendant's blog at the
26 Storeyteller Website, dated April 18, 2017, and located at the internet address of
<http://thestoreyteller.online/2017/04/18/muths-truths-and-the-department-of-good-news/>.

27 ⁵ See **Exhibit "6"** to the Plaintiff's Opposition, for a copy of the Defendant's blog at the
28 Storeyteller Website, dated May 20, 2017, and located at the internet address of
<http://thestoreyteller.online/2017/05/20/lance-gilman-vows-pay-antinoros-ethics-fine/>.

1 remains that Mr. Gilman is not a resident of Storey County. In addition, the Plaintiff never made
2 that statement nor any statement to that effect. Ultimately, on or about October 16, 2017, the
3 Defendant published the following statements on the Storey Teller Website accusing the Plaintiff
4 of perjury:

5 The purpose of this complaint is to **hold accountable County Commissioner**
6 **Gilman** and Planning Commissioner Thompson **for committing perjury** when
7 they filed paperwork claiming to live somewhere it is illegal to live. Since they
8 took office illegally and since they don't actually live at Wild Horse Canyon Drive
 (or anywhere else in the county for that matter) and can't legally reside where they
 claimed they did, **we conclude and insist they be prosecuted for perjury** and
 removed from office. (Emphasis added).⁶

9 The clear inference from the Defendant's statement is that Mr. Gilman is again not a resident of
10 Storey County.

11 **B. The Defendant's Assertions on his Efforts to Verify that the Plaintiff is not a**
12 **Resident of Storey County and his Efforts to Verify that the Plaintiff Committed**
13 **Perjury.**

14 The Defendant in effort to escape liability for his false statements about the Plaintiff's
15 residency and the Plaintiff's so-called perjury, has asserted that he undertook certain
16 investigatory efforts to verify whether or not the Plaintiff resided in Storey County. To begin, the
17 Defendant in his Second Declaration attached to his "Defendant's Reply to Opposition to Anti-
SLAPP Special Motion to Dismiss," states that he undertook the following efforts as follows:

18 As described below, for each statement I made that Gilman claims is defamatory, I
19 investigated the facts before making the statement:

20 a. My opinion that Gilman does not live in Storey County is a result of
21 my investigation into the matter, including reports from a confidential
22 informant that states that Gilman leaves the Mustang Ranch and heads
23 towards Reno every evening around 8:00 pm, the fact that where Gilman
24 claims to live is not zoned for multi-family residences, the fact that the
25 double wide in which Gilman claims to live is right behind a brothel, and
 that the fact that it just doesn't make sense that Gilman, one of the richest
 people in the State, live in a double wide (as defined in a response by the
 Storey County Assessor to a public records request I made inquiring about
 the structure) trailer with two bunk mate, Kris Thompson and Jennifer
 Barnes-Milsap, who I discovered list the same address as their residence in

26 ⁶ See **Exhibit "7"** to the Plaintiff's Opposition, for a copy of the Defendant's blog at the
27 Storeyteller Website, dated October 16, 2017, and located at the internet address of
28 <http://thestoreyteller.online/2017/10/16/teller-files-criminal-complaint-storey-county-da-sheriff/>.
A copy is also being attached to this Motion for the Court's convenience.

1 a response to a public records request on registered voting addresses I
2 made with the Storey County Clerk;⁷

3 The Court in its Order⁸ on Pages 19 and 20, states as follows based upon the Defendant's
4 own statements of what he undertook in the way of an investigation: ⁹

5 Toll testified he investigated the facts before making the statements
6 Gilman alleged are defamatory, and that he believes the contents of his stories
7 were true, including his October 16, 2017 communication. In his October 16,
8 2017 communication, which was made nearly two months before Gilman filed
9 this action, Toll stated:

- 10 (1) he made a public records request to the Storey County Assistant
11 Manager requesting the zoning of the Mustang Ranch compound
12 and that the Assistant County Manager failed to provide the
13 requested information for six months:
- 14 (2) He made a request of the Storey County Clerk before his first
15 resident communication requesting proof of Gilman's residence
16 and received a response that Gilman resides at 5B Wild Horse
17 Canyon Drive;
- 18 (3) He asked the Storey County Assessor where 5B Wild Horse
19 Canyon was physically located and was informed that Gilman
20 resides in a double wide mobile home located behind the
21 swimming pool at the Mustang Ranch.

22 Again, the statements of the Storey County Clerk and Assessor are not
23 considered here as proof of truth of the matter asserted but only to show what
24 knowledge Toll had when he made the communications.

25 Toll included as part of his October 16, 2007 a letter he sent to the Storey
26 County District Attorney and Nevada Attorney General. In the letter Toll relates
27 that he received information from the Storey County Community Development
28 Department that none of the property on which the Mustang Ranch sits is zoned
residential. Toll continued, "in other words neither 5 nor 56 Wild Horse Canyon
Drive are legal residences; nobody can legally reside there or claim either
addresses as their legal residence." Opp. Ex. 9.

Toll also knew, as any informed Northern Nevadan would, that Gilman is
a financially successful businessman.

⁷ See Exhibit "17" for a copy of the Defendant's Second Declaration, section 10.

⁸ See the Order Granting Anti-SLAPP Special Motion to Dismiss in Part, Allowing Limited
Discovery and Staying Further Proceedings, on file herein.

⁹ Interestingly, the Defendant never really states the results of what his so-called investigation
discovered neither in publications nor his Declaration. To the contrary, he merely makes his own
assumptions based upon his own self-serving agenda.

1 Based upon the information he had, Toll did not believe Gilman the -
2 successful-businessman lives in a trailer. Toll stated in his October 16, 2017
3 communication: "Lance Gilman, one of the wealthiest men in Northern Nevada,
lives in a mobile home behind the swimming pool with his employee and
roommate Kris Thompson."

4 The Court finds Toll did conduct some research on Gilman's residence
5 before he published the resident communications and that the information he
6 received as a result of that research caused him to disbelieve that Gilman lives in a
trailer behind the Mustang Ranch pool.

7 **C. The Salient Facts Showing the Defendant's False Statements Were Made with**
8 **Knowledge that They Were False and/or with Reckless Disregard of Whether They**
Were False or Not.

9 1. The Defendant made false statements that the Plaintiff was not a resident of
10 Storey County. He further exacerbated the severity of his false statements by also asserting that
11 the Plaintiff committed perjury, which is a felony.¹⁰ The Defendant even has testified that the
12 Plaintiff committed perjury.¹¹ The Defendant testified he was conveying to the public that the
13 Plaintiff does not live where he says he lives.¹²

14 2. In his October 16, 2017 Blog, the same Blog accusing the Plaintiff of committing
15 perjury, the Defendant attached a copy of the Plaintiff's Driver's License showing that the
16 Plaintiff lives in Storey County at 5B Wildhorse Canyon Drive.¹³ This shows that the Defendant
17 had actual knowledge of the Plaintiff's residence being in Storey County.

18 3. In his October 16, 2017 Blog, the same Blog accusing the Plaintiff of committing
19 perjury, the Defendant attached a copy of a Google view showing the Plaintiff's residence behind
20 the Mustang Ranch.¹⁴ This again shows that the Defendant had actual knowledge of the
21 Plaintiff's residence being in Storey County.

22
23 ¹⁰ See **Exhibit "7"** to the Plaintiff's Opposition, a copy of which is attached hereto as well
24 as **Exhibit "7"**. See also Section B(1) above to this Supplement.

25 ¹¹ See the Defendant's Depo attached as **Exhibit "16"**, pages 46, 48, and 50.

26 ¹² See the Defendant's Depo attached as **Exhibit "16"**, page 44.

27 ¹³ See **Exhibit "7"**, page 11 of 21.

28 ¹⁴ See **Exhibit "7"**, page 3 of 21.

1 4. In his October 16, 2017 Blog, the same Blog accusing the Plaintiff of committing
2 perjury, the Defendant attached a copy of a Statement made by the Plaintiff which verifies the
3 address of his roommate, Kris Thompson.¹⁵ This again shows that the Defendant had actual
4 knowledge of the Plaintiff's residence being in Storey County.

5 5. In his October 16, 2017 Blog, the same Blog accusing the Plaintiff of committing
6 perjury, the Defendant attached a copy of Mr. Thompson's Certification of Residency.¹⁶ This
7 again shows that the Defendant had actual knowledge of the Plaintiff's residence being in Storey
8 County. Even though, one of his own postings contains a copy of the Plaintiff's Driver's License
9 showing the Plaintiff lives in Storey County, even though there is in fact a structure at the address
10 of the Plaintiff, even though the Plaintiff has made it abundantly clear that he lives there at the
11 address, the Defendant is still tried to making it an issue.

12 6. The Home page of the Storeyteller Website and every other section contained
13 therein, including the "News," "Editorial," "Letters to the Editor," "About the Storey Teller,"
14 and "Community News," sections, all contain the statement: "Support the Teller and Keep **Fact**
15 **Based News** about Storey County Ad Free." (Emphasis added).¹⁷ The Defendant testified that
16 he holds himself out as fact based news.¹⁸

17 7. According to the Defendant, he started the Storeyteller Website as a conduit to
18 express support for embattled Sheriff Gerald Antinoro during a failed recall effort of him.¹⁹

19 8. Also according to the Defendant, his purpose was to "counter the failed effort of
20

21 ¹⁵ See **Exhibit "7"**, page 12 of 21.

22 ¹⁶ See **Exhibit "7"**, page 13 of 21.

23 ¹⁷ See **Exhibit "1"** to the Plaintiff's Opposition, for a copy of the Storeyteller Home
24 Webpage.

25 ¹⁸ See the Defendant's Depo attached as **Exhibit "16"**, pages 30 and 31.

26 ¹⁹ See **Exhibit "2"** to the Plaintiff's Opposition, for a copy of the Defendant's blog at the
27 Storeyteller Website, dated December 14, 2017, and located at the internet address of
28 <http://thestoreyteller.online/2017/12/14/storey-teller-sued-by-storey-county-commissioner-lance-gilman/>.

1 Storey County Commissioner Lance Gilman [the Plaintiff], TRIC owner Roger Norman and
2 TRIC Project Manager Kris Thompson to oust our duly elected Sheriff.”²⁰

3 9. The Defendant writes on the Storeyteller website that “We created The Storey
4 Teller to provide a source of irritation to the Good Old Boys who operate The Biggest Little
5 County in the World with selfish impunity since forever.”²¹

6 10. The Defendant testified that the Sheriff duly elected, coming up for reelection and
7 was in the midst of a very ugly and divisive recall effort.”²²

8 11. In his writings, the Defendant mentions that the Plaintiff has a conflict of interest
9 “as he wears hats on both sides of the negotiating table.”²³ The Defendant further wrote: “A
10 conflict of interest that places the self-interest of the Marketing Manager and exclusive Real
11 Estate Broker for TRIC above the interests of Storey County Taxpayers, voters, and citizens.”²⁴
12 The foregoing would suggest that the Defendant has a personal dislike of the Plaintiff. The
13 Defendant’s personal dislike of the Plaintiff is further exemplified in an article the Defendant
14 wrote on another blog, although arguably satire, he writes about the Plaintiff and his business
15 associates having sex with animals.”²⁵ In his self-serving Affidavit, the Defendant writes:

16 . . . I believe that Gilman’s [the Plaintiff] conduct as a government official combined with
17 his business interest in our County creates a massive conflict of interest to the detriment
18 of the public good. The articles I have written in the Teller are highly bombastically
critical of Gilman because I believe the facts show that Gilman uses his position as Storey

19 ²⁰ See **Exhibit “2”** to the Plaintiff’s Opposition, for a copy of the Defendant’s article from
20 the Storeyteller Website, dated December 14, 2017, located at the internet address of
21 <http://thestoreyteller.online/2017/12/14/storey-teller-sued-by-storey-county-commissioner-lance-gilman/>.

22 ²¹ See **Exhibit “15”** to the Plaintiff’s Opposition, for a copy of an example of the Storeyteller
23 Website.

24 ²² See the Defendant’s Depo attached as **Exhibit “16”**, page 21.

25 ²³ See **Exhibit “2”** to the Plaintiff’s Opposition.

26 ²⁴ *Id.*

27 ²⁵ See **Exhibit “14”** to the Plaintiff’s Opposition, for a copy of the Defendant’s blog posted
28 at the internet address of <http://bardeblog.com/2017/12/06/mustang-ranch-opens-nations-first-petting-zoo-inside-a-brothel/>.

1 County Commissioner to enrich himself and his associates, and that Gilman does not
2 even live in Storey County.²⁶

3 Virtually every single one of the Defendant's published statements on the Storeyteller Website
4 show the Defendant having a deep dislike of the Plaintiff.

5 12. The Defendant testified that he is a supporter of Sheriff Antinoro.²⁷ It is clear
6 from the Defendant's words that he is a supporter of the Sheriff Gerald Antinoro. Why else
7 would he have started a blog to support him?

8 13. The Defendant testified that he is an acquaintance of the Sheriff, socializes with
9 the Sheriff, albeit infrequently, and interacts with the Sheriff around three time a month.²⁸ The
10 Defendant further testified that he can go in see the Sheriff anytime he wants to at the Sheriff's
11 office just like any other citizen of Storey County.²⁹

12 14. The Defendant testified that he does a Podcast with Sheriff Antinoro.³⁰

13 15. The Defendant testified that he was a "public witness" selected by Sheriff
14 Antinoro to witness the recall signature verification process in the effort to recall Sheriff
15 Antinoro.³¹

16 16. The Defendant testified that he is very familiar with the government of Storey
17 County, and familiar with the County Commission.³² The Defendant also testified that he is
18 familiar with the Brothel Board, and testified that it is comprised of the Commissioners and the
19
20

21 ²⁶ See Declaration of Sam Toll attached to the Anti-SLAPP Motion to Dismiss per NRS
22 41.650, on file herein.

23 ²⁷ See the Defendant's Depo attached as **Exhibit "16"**, page 22.

24 ²⁸ See the Defendant's Depo attached as **Exhibit "16"**, pages 21-23.

25 ²⁹ See the Defendant's Depo attached as **Exhibit "16"**, page 80-81.

26 ³⁰ See the Defendant's Depo attached as **Exhibit "16"**, page 23.

27 ³¹ See the Defendant's Depo attached as **Exhibit "16"**, pages 24 and 26.

28 ³² See the Defendant's Depo attached as **Exhibit "16"**, pages 27-28.

1 Sheriff.³³ He further testified that the Sheriff's office regulates the brothels.³⁴ Being very
2 familiar with Storey County government, the Defendant should have known how to verify the
3 residence of the Plaintiff.

4 17. Knowing that the Sheriff's office regulates the brothels in Storey County, when
5 the Defendant was asked about whether he consulted with the Sheriff about the Plaintiff's
6 residency, the Defendant refused to answer on the grounds of privilege pursuant to the Media
7 Shield Statute [NRS 49.275].³⁵ When the Defendant was asked about whether he went to the
8 Sheriff's office to verify the Plaintiff's residency, he again refused to answer on the grounds of
9 privilege pursuant to the Media Shield Statute.³⁶ The Defendant could have very easily verified
10 the Plaintiff's address by either asking the Sheriff or by going to the Sheriff's office. Given that
11 the Sheriff's office regulates the brothels, it follows that the Sheriff's office would have accurate
12 information as to the residency of the Plaintiff. The Plaintiff testified he was aware that the
13 Plaintiff listed 5 Wildhorse Canyon on his brothel application as his residence.³⁷ When asked
14 whether he went to the Sheriff's office and checked the Plaintiff's brothel application, the
15 Defendant testified that he did, but could not recall whether the Plaintiff's application showed
16 number 5.³⁸ When asked whether he asked the Sheriff about it, he again refused to answer on the
17 grounds of privilege pursuant to the Media Shield Statute.³⁹ Of particular note, the Plaintiff has a
18 CCW permit issued by the Sheriff's office that list his address as 5 Wildhorse Canyon Drive.⁴⁰

20 ³³ See the Defendant's Depo attached as **Exhibit "16"**, page 28.

21 ³⁴ See the Defendant's Depo attached as **Exhibit "16"**, page 28.

22 ³⁵ See the Defendant's Depo attached as **Exhibit "16"**, page 80.

23 ³⁶ See the Defendant's Depo attached as **Exhibit "16"**, page 80.

24 ³⁷ See the Defendant's Depo attached as **Exhibit "16"**, page 86.

25 ³⁸ See the Defendant's Depo attached as **Exhibit "16"**, pages 86-87.

26 ³⁹ See the Defendant's Depo attached as **Exhibit "16"**, page 87.

27 ⁴⁰ See **Exhibit "18"**, for a copy of the Plaintiff's CCW Permit.

1 18. When asked on what he based his assertion on the Plaintiff's lack of residency, the
2 Defendant testified as follows:

3 Q. Now, you're claiming Mr. Gilman doesn't live at number 5 Wild Horse Drive; right?

4 A. Yes.

5 Q. Now, one of the grounds for you to make that statement is because you find it hard to
6 believe that one of the wealthiest men in Northern Nevada would be residing where he resides;
right?

7 A. I'm also basing that opinion upon -- the answer to your question is yes. However, I'm
8 also basing that opinion upon interviews and information that have been given to me by third-party
sources.

9 Q. And you're not going to divulge who these third-party sources are?

10 A. No, sir.

11 **MR. BUSBY:** Objection, news shield statute.

12 **MR. FLANGAS:** The news shield statute doesn't really shield against official sources and things
13 like that.

14 **BY MR. FLANGAS:**

15 Q. So the question is to the official sources. Did you consult any official sources ?

16 **MR. BUSBY:** Same objection, news shield statute. Don't answer that.

17 **BY MR. FLANGAS:**

18 Q. Are you not going to answer?

19 A. Based upon the advice of my counsel, I will not answer that question.

20 19. The Defendant in his Second Declaration stated that an informant told him that
21 the Plaintiff was leaving every day at around 8:00 every evening and going to Reno.⁴¹ When
22 asked about this so-called informant, the Defendant refused to answer on the grounds of privilege
23 pursuant to the Media Shield Statute.⁴²

24 20. When asked about his doing all this investigation, the Defendant testified that he
25 was not going to provide any source and he didn't have to and was going to invoke the media
26

27 ⁴¹ See **Exhibit "17"** for a copy of the Defendant's Second Declaration, section 10.

28 ⁴² See the Defendant's Depo attached as **Exhibit "16"**, page 82.

1 shield.⁴³ When asked whether he consulted any official sources pertaining to the Plaintiff's
2 residency, the Defendant again refused to answer on the grounds of privilege pursuant to the
3 Media Shield Statute.⁴⁴

4 21. In further delving into the Defendant's so-called investigation, the Defendant
5 testified that he has never been to the Plaintiff's residence to verify whether he lives there or
6 not.⁴⁵ Mainly because the Defendant cannot get to the Plaintiff's property without buzzing the
7 gate.⁴⁶ The Defendant also testified that he has never seen any other residence where the Plaintiff
8 might be living.⁴⁷ When further asked about where the Plaintiff lives and how he knows, the
9 Defendant responded as follows:⁴⁸

10 Q. Have you ever seen a residence that Mr. Gilman lives in Reno?

11 A. Have I seen a residence?

12 Q. Yes.

13 A. I have seen multiple properties that are owned by Mr. Gilman that are in Washoe
14 County. I have not seen a residence of Mr. Gilman.

15 Q. Have you ever seen Mr. Gilman in any other residence?

16 A. I don't follow Mr. Gilman around. I have no -- I did not personally pursue Mr.
17 Gilman. I did not do any of that.

18 Q. Well, see, I'm kind of confused, here, because you're telling me about all of this in
19 your second declaration -- let's go with your first declaration. In paragraph 18 you talk about all
20 this diligence you're doing, but you never once went to see whether or not Mr. Gilman lived
21 anywhere else other than number 5 Wild Horse?

22 A. So I did public records requests, I checked the websites of Washoe County to
23 determine ownership of properties. The Mustang Ranch, as you know, is behind a locked gate,
24 which, which prevents casual observers from making any observations. And so the answer to your
25 question is as, as phrased, did I drive by, did I go look for Mr. Gilman anywhere in Washoe

26 ⁴³ See the Defendant's Depo attached as **Exhibit "16"**, page 85.

27 ⁴⁴ See the Defendant's Depo attached as **Exhibit "16"**, page 78.

28 ⁴⁵ See the Defendant's Depo attached as **Exhibit "16"**, pages 63 and 79.

⁴⁶ See the Defendant's Depo attached as **Exhibit "16"**, page 79.

⁴⁷ See the Defendant's Depo attached as **Exhibit "16"**, page 83.

⁴⁸ See the Defendant's Depo attached as **Exhibit "16"**, pages 82-84.

1 County, no, I did not.

2 Q. You have no idea where Mr. Gilman lives, do you?

3 A. I have a pretty good idea of where he lives, yes.

4 Q. Why don't you give me that pretty good idea and what your basis for it is.

5 A. I interviewed an individual who told me that Mr. Gilman's toys, his cars, his
6 motorcycles, all his fancy clothes, all his cool stuff, is at a place that is not on the Mustang Ranch
property.

7 Q. Who's this interview?

8 MR. BUSBY: News shield statute. Don't answer that.

9 When asked whether he had an address for the Plaintiff other than his Storey County address, the
10 Defendant was unable to provide one.⁴⁹

11 22. The Defendant testified that he verified the zoning on the property where the
12 Plaintiff lives.⁵⁰ As part of his so-called investigation, he testified that he filed a public records
13 request for the zoning on the Plaintiff's residence with Austin Osborne, the Planning Director for
14 Storey County.⁵¹ The Defendant testified that Mr. Osborne told him he was super busy.⁵² The
15 Defendant also testified that he sent a public records request to Gary Hames, a retired fire chief,
16 appointed as community development director in a no bid sole source contracts with the county.⁵³
17 The Defendant further testified that it took sixth months for Mr. Osborne to answer him.⁵⁴ Mr.
18 Osborne disputes this.⁵⁵

19 23. Mr. Osborne testified that he never discussed zoning with the Defendant, and only
20

21 ⁴⁹ See the Defendant's Depo attached as **Exhibit "16"**, pages 84-85.

22 ⁵⁰ See the Defendant's Depo attached as **Exhibit "16"**, page 55.

23 ⁵¹ See the Defendant's Depo attached as **Exhibit "16"**, pages 52 and 57.

24 ⁵² See the Defendant's Depo attached as **Exhibit "16"**, page 52.

25 ⁵³ See the Defendant's Depo attached as **Exhibit "16"**, pages 53-54.

26 ⁵⁴ See the Defendant's Depo attached as **Exhibit "16"**, page 57.

27 ⁵⁵ See the Deposition of Austin Osborne (hereinafter the "Osborne Depo") attached as
28 **Exhibit "18"**, page 46.

1 provided documents.⁵⁶ Mr. Osborne further testified that he believes the Plaintiff lives at the
2 back of the Mustang Ranch.⁵⁷ Mr. Osborne further testified that if the Defendant has asked him,
3 he would have told him that the Plaintiff lived behind the Mustang Ranch.⁵⁸ Interestingly, Mr.
4 Osborne testified that the Defendant said false things about him as well in his Blog.⁵⁹

5 24. The Defendant testified that he eventually went to the community development
6 department and asked them what the zoning was and got a printout from the clerk saying the
7 property was zoned agricultural/industrial 2.⁶⁰

8 25. He testified that the words “agricultural” and “industrial” are self explanatory and
9 you cannot extract, condense, distill, or otherwise torture into suggesting residential use.⁶¹ He
10 then testified that he consulted Ordinances as to what is allowed under agricultural or industrial
11 use and found that single family dwellings are allowed under an agricultural use.⁶² He further
12 testified that it is not his place to decide where what and how if the property is on the agricultural
13 side or industrial side.⁶³ He also testified that the Ordinances suggest that a single family
14 dwelling can exist there.⁶⁴

15 26. In his testimony, the Defendant implied that the Plaintiff committed perjury and
16 when asked how, he replied that “anyone, with you know, a functioning set of synapses in their
17 brain would question and consider highly unlikely that one of the richest men in Storey – in
18

19 ⁵⁶ See the Osborne Depo attached as **Exhibit “19”**, page 44.

20 ⁵⁷ See the Osborne Depo attached as **Exhibit “19”**, page 26.

21 ⁵⁸ See the Osborne Depo attached as **Exhibit “19”**, page 45.

22 ⁵⁹ See the Osborne Depo attached as **Exhibit “19”**, page 17.

23 ⁶⁰ See the Defendant’s Depo attached as **Exhibit “16”**, page 57.

24 ⁶¹ See the Defendant’s Depo attached as **Exhibit “16”**, page 59.

25 ⁶² See the Defendant’s Depo attached as **Exhibit “16”**, page 59.

26 ⁶³ See the Defendant’s Depo attached as **Exhibit “16”**, page 59.

27 ⁶⁴ See the Defendant’s Depo attached as **Exhibit “16”**, page 59.

1 Northern Nevada is roommates with his girlfriend and his employee in a double-wide trailer.”⁶⁵

2 He further stated that “It is, it is – let’s just say it stretches the imagination.”⁶⁶

3 27. When asked about how the Plaintiff’s living situation was against the zoning, the
4 Defendant testified that the Plaintiff living with his girlfriend and a roommate made it a
5 multifamily dwelling and thus in conflict with the zoning.⁶⁷ He then testified that unless Mr.
6 Thompson and the Plaintiff are married, it’s not legal for Mr. Thompson to live there with him.⁶⁸
7 The Defendant also testified that the way he reads the ordinance, the Plaintiff cannot have
8 roommate.⁶⁹ According to the Defendant’s testimony, single family means you can have your
9 kids, girlfriend, boyfriend and the minute that more than one person lives there, it becomes a
10 multi-family dwelling and violates the code.⁷⁰ P62-63.

11 28. Even though the Defendant testified that he read the Ordinances, the Ordinances
12 do not say that to which the Defendant testified. The applicable Ordinances read as follows:

13 Single-family dwelling. **The term "single-family dwelling" refers to a building**
14 **used to house not more than one family or a group of not more than four**
15 **unrelated persons living together and sharing a noncommercial single**
16 **dwelling unit with common housekeeping facilities.** The term includes factory
built homes and manufactured homes in compliance with NRS 278, 461, and 489.
(Emphasis added).

17 Single-family dwelling, attached. The term "single-family dwelling, attached"
18 refers to a single-family dwelling intended for occupancy by one family. This term
19 includes "rowhouses," "townhouses," "twinhomes," and "condominiums," but
20 does not include "duplexes," "triplexes," "fourplexes," "apartment buildings,"
21 "rooming houses," and other multifamily dwellings.

22 Single-family dwelling, detached. The term "single-family dwelling, detached"
23 refers to a free-standing structure intended for occupancy by one family, and
24 constructed on a separate building lot, that is owned in fee simple. Each building
25 has a front yard, a rear yard, and two side yards.

26 ⁶⁵ See the Defendant’s Depo attached as **Exhibit “16”**, page 60.

27 ⁶⁶ See the Defendant’s Depo attached as **Exhibit “16”**, page 60.

28 ⁶⁷ See the Defendant’s Depo attached as **Exhibit “16”**, page 60.

⁶⁸ See the Defendant’s Depo attached as **Exhibit “16”**, page 61.

⁶⁹ See the Defendant’s Depo attached as **Exhibit “16”**, page 62.

⁷⁰ See the Defendant’s Depo attached as **Exhibit “16”**, pages 62-63.

1 Storey County Code, Title 17, Zoning Ordinance, Chapter 17.10 "Definitions." Even the most
2 cursory look would have revealed that the living arrangement of the Plaintiff did not violate any
3 zoning laws. The Defendant also testified that he got the definition of multi-family from the
4 Storey County Ordinance as well.⁷¹ The Ordinance reads as follows:

5 Multifamily dwelling. The term "multifamily dwelling" refers to a building
6 designed or used to house multiple families living independently of each other.
7 The term includes duplexes, triplexes, or fourplexes, but does not include row
houses, townhouses, or apartment hotels. Storey County Code, Title 17, Zoning
Ordinance, Chapter 17.10 "Definitions."

8 Nothing in the multifamily definition applies to the Plaintiff's situation.

9 29. Mr. Osborne testified that you can live with a girlfriend in a residence and it
10 would still remain a single family residence.⁷² He further testified that you can live there with a
11 friend as well and it still doesn't change the nature.⁷³ He further testified that you could have
12 more than one address for a single family attached residence.⁷⁴

13 30. When the Defendant was asked whether he consulted anybody to make an opinion
14 as to what's right and what's wrong as to the Plaintiff's zoning, he testified that he consulted
15 dozens and dozens of other concerned citizens in the county.⁷⁵ When further asked about the
16 names of anyone he consulted, the Defendant refused to answer on the grounds of privilege
17 pursuant to the Media Shield Statute.⁷⁶

18 31. When further challenged about his definitions of single family dwellings and
19
20
21

22 ⁷¹ See the Defendant's Depo attached as **Exhibit "16"**, pages 75-76.

23 ⁷² See the Osborne Depo attached as **Exhibit "19"**, page 32.

24 ⁷³ See the Osborne Depo attached as **Exhibit "19"**, page 32-33.

25 ⁷⁴ See the Osborne Depo attached as **Exhibit "19"**, page 67.

26 ⁷⁵ See the Defendant's Depo attached as **Exhibit "16"**, page 69.

27 ⁷⁶ See the Defendant's Depo attached as **Exhibit "16"**, pages 69-70.

1 multifamily dwellings, the Defendant answered as follows:⁷⁷

2 Q. Okay. I'm going to go back to my question, because you, again, weren't responsive to
3 my question. You can say "I don't know" if you don't know. That's fine. The question is: What
4 did -- where did you come up with your definition -- and I know I've asked and answered this, but
5 I'm going to ask the follow-on. Where did you come up with your definition of what constitutes a
6 multi-family dwelling? You told me the ordinance. I'm asking you: What does the ordinance say
7 what constitutes a multi-family dwelling?

8 MR. BUSBY: Same objection. Go ahead and answer, Mr. Toll.

9 THE WITNESS: Technically, in my recollection of ordinance, says that a single-family
10 dwelling is all that is permitted. A multi-family dwellings is not permitted. Using the reasonable
11 man statute that I have inside my brain, a multi-family dwelling is -- could be considered -- you
12 know, obviously we don't live in the day of the nuclear family anymore; however, a family unit
13 consists typically of a -- it's two sets of adults and then any children that may be a result of that
14 union.

15 BY MR. FLANGAS:

16 Q. This reasonable man standard, that's your own reasonable man standard; is that
17 correct?

18 A. Based upon the information that has been given to me by people who I have consulted
19 with, as we've described earlier, those people are also reasonable men and women, and they also
20 have come to the same conclusion. So no, it's not just my conclusion, it's the conclusion of the
21 community.

22 When asked who the members of the community that have this conclusion, the Defendant
23 refused to answer on the grounds of privilege pursuant to the Media Shield Statute.⁷⁸

24 **D. The Applicable Law and Argument.**

25 Under Nevada's anti-SLAPP statutes, a defendant may file a special motion to dismiss if
26 the defendant can show "by a preponderance of the evidence, that the claim is based upon a good
27 faith communication in furtherance of the right to petition or the right to free speech in direct
28 connection with an issue of public concern." Shapiro v. Welt, 133 Nev. Adv. Op. 6, 389 P.3d
29 262, 267 (2017) citing NRS 41.660(3)(a). (Emphasis added). If a defendant makes this initial
30 showing, the burden shifts to the plaintiff to show "with prima facie evidence a probability of
31 prevailing on the claim." Shapiro v. Welt, 133 Nev. Adv. Op. 6, 389 P.3d at 267 citing NRS
32 41.660(3)(b). As stated in the Court's Order, the Defendant made his initial showing and the

33 ⁷⁷ See the Defendant's Depo attached as **Exhibit "16"**, pages 76-77.

34 ⁷⁸ See the Defendant's Depo attached as **Exhibit "16"**, page 77.

1 burden therefore, shifts to the Plaintiff to show “with prima facie evidence a probability of
2 prevailing on the claim. The issue before the Court is whether the Defendant’s statement were
3 made with knowledge that it was false or with reckless disregard of whether it was false or not.

4 The U.S. Supreme Court held that the First and Fourteenth Amendments require ‘a federal
5 rule that prohibits a public official/public figure from recovering damages for a defamatory
6 falsehood relating to his official conduct unless he proves that the statement was made with
7 ‘actual malice’--that is, with knowledge that it was false or with reckless disregard of whether it
8 was false or not.’ New York Times Co. v. Sullivan, 376 U.S. 254, 279--280, 84 S.Ct. 710, 726,
9 11 L.Ed.2d 686 (1964); Curtis Publishing Co. v. Butts, 388 U.S. 130, 87 S.Ct. 1975, 18 L.Ed.2d
10 1094 (1967).

11 Actual malice is proven when a statement is published with knowledge that it was false or
12 with reckless disregard for its veracity. Pegasus v. Reno Newspapers, Inc., 118 Nev. 706, 719,
13 721, 57 P.3d 82, 90-91, 92 (2002). Reckless disregard for the truth may be found when the
14 “defendant entertained serious doubts as to the truth of the statement, but published it anyway.”
15 Id. This test is a subjective one, relying as it does on “what the defendant believed and intended
16 to convey, and not what a reasonable person would have understood the message to be. Id.
17 Recklessness or actual malice may be established through cumulative evidence of negligence,
18 motive, and intent. Pegasus v. Reno Newspapers, Inc., 118 Nev. at 722, 57 P.3d at 92-93.

19 The question of actual malice goes to the jury only if there is sufficient evidence for the
20 jury, by clear and convincing evidence, to reasonably infer that the publication was made with
21 actual malice. Pegasus v. Reno Newspapers, Inc., 118 Nev. at 721-722, 57 P.3d at 92. The
22 relevant standard on a motion to strike [pursuant to an Anti-SLAPP motion] is not “clear and
23 convincing evidence,” but a “reasonable probability that [plaintiff] can produce clear and
24 convincing evidence showing that the statements were made with actual malice.” Shelton v.
25 Bauer Publishing Company, L.P., 2016 WL 1574025, Page 12 (U.S.Dis.Ct. Cal. 2016) citing
26 Young v. CBS Broad., Inc., 212 Cal.App.4th 551, 563 (2012).

27 The defendant in a defamation action brought by a public official cannot, however,
28 automatically insure a favorable verdict by testifying that he published with a belief that the

1 statements were true. St. Amant v. Thompson, 390 U.S. 727, 728, 731, 732, 88 S.Ct. 1323, 1324,
2 1325, 1326, 20 L.Ed.2d 262 (1968). The finder of fact must determine whether the publication
3 was indeed made in good faith. Id. The U.S. Supreme Court stressed that proof of actual malice
4 could not be defeated with simply the defendant's self-serving protestations of sincerity wherein
5 it stated:

6 The defendant in a defamation action brought by a public official cannot,
7 however, automatically insure a favorable verdict by testifying that he published
8 with a belief that the statements were true. The finder of fact must determine
9 whether the publication was indeed made in good faith. Professions of good faith
10 will be unlikely to prove persuasive, for example, where a story is fabricated by
11 the defendant, is the product of his imagination, or is based wholly on an
12 unverified anonymous telephone call. Nor will they be likely to prevail when the
13 publisher's allegations are so inherently improbable that only a reckless man
14 would have put them in circulation. Likewise, recklessness may be found where
15 there are obvious reasons to doubt the veracity of the informant or the accuracy of
16 his reports. St. Amant, 390 U.S., at 732, 88 S.Ct., at 1323. Cited by Bentley v.
17 Bunton, 94 S.W.3d 561, 596 (Tex.S.Ct 2002).

13 See Mindys Cosmetics, Inc. v. Dakar, 611 F.3d 590, 599 (9th Cir. 2010) (noting that on an
14 anti-SLAPP motion to strike, "[t]he court 'does not weigh the credibility or comparative
15 probative strength of competing evidence'").

16 Failure to investigate alone, or to read other previously printed material is not grounds for
17 a finding of actual malice. Pegasus v. Reno Newspapers, Inc., 118 Nev. At 722, 57 P.3d at 93.

18 Although failure to investigate will not alone support a finding of actual malice, see St. Amant,
19 390 U.S., at 731, 733, 88 S.Ct., at 1325, 1326, the purposeful avoidance of the truth is in a
20 different category. Harte-Hanks Communications, Inc. v. Connaughton, 491 U.S. 657, 692, 109
21 S.Ct. 2678, 2698, 105 L.Ed.2d 562 (1989).

22 The Nevada Supreme Court has ruled that once a media litigant has invoked the
23 protection of the news shield statute to resist discovery, the defendant may not later rely on the
24 privileged information as a defense. See Diaz v. Eighth Judicial Dist. Court ex rel. County of
25 Clark, 116 Nev. 88, 101, 993 P.2d 50, 58-59 (2000) citing Las Vegas Sun, Inc. v. Eighth Judicial
26 Dist. Court In and For County of Clark, 104 Nev. 508, 514, 761 P.2d 849, 853-854 (1988).

27 Moreover, to the extent that a plaintiff in a defamation action is required to prove that a media
28 litigant either knew that the published information was false or acted in reckless disregard of the

1 truth, an assertion of the shield statute may result in discovery sanctions. Diaz v. Eighth Judicial
2 Dist. Court ex rel. County of Clark, supra at Footnote 6.

3 In the instant case, the Defendant has made false and defamatory statements that the
4 Plaintiff was not a resident of Storey County and further exacerbated the severity of his false and
5 defamatory statements by asserting that the Plaintiff committed perjury, which is a felony. To
6 escape liability for his actions, the Defendant has asserted that he acted in good faith because he
7 undertook certain investigations into whether the Defendant was actually a resident of Storey
8 County and therefore, did not act with actual malice. As the evidence shows above, the
9 Defendant not only failed to undertake any meaningful investigation, he also still published his
10 false and defamatory statements even though he had in his possession, evidence that showed
11 otherwise. Moreover, the Defendant claims he received evidence of the Plaintiff's lack of
12 residency in Storey County from undisclosed informants and undisclosed third parties. When
13 asked about the details such as who said what and when, the Defendant refused to answer on the
14 grounds of privilege pursuant to the Media Shield Statute. Because he invoked the media shield,
15 the Defendant is precluded from using these sources to show that he acted without actual malice.
16 The evidence is abundantly clear that the Defendant has absolutely no competent evidence
17 whatsoever other than his own self serving statements that he believed the Plaintiff was not a
18 resident of Storey County. The central gist of the Defendant's quixotic assertions that he acted
19 without malice centers on his own preoccupation that someone as wealthy as the Plaintiff would
20 not live in a residence where he lives. In his testimony, the Defendant implied that the Plaintiff
21 committed perjury and when asked how, he replied that "anyone, with you know, a functioning
22 set of synapses in their brain would question and consider highly unlikely that one of the richest
23 men in Storey – in Northern Nevada is roommates with his girlfriend and his employee in a
24 double-wide trailer." He further stated that "It is, it is – let's just say it stretches the
25 imagination."

26 In his October 16, 2017 Blog, the same Blog accusing the Plaintiff of committing perjury,
27 the Defendant attached a copy of the Plaintiff's Driver's License showing that the Plaintiff lives
28 in Storey County at 5B Wildhorse Canyon Drive. This clearly that the Defendant had actual

1 knowledge of the Plaintiff's residence in Storey County. In addition, in the same Blog, the
2 Defendant attached a copy of a Google view showing the Plaintiff's residence behind the
3 Mustang Ranch. This again is further proof that the Defendant had actual knowledge of the
4 Plaintiff's residence in Storey County. In the same Blog, he attached a copy of a Statement made
5 by the Plaintiff which verifies the address of his roommate, Kris Thompson. This again shows
6 that the Defendant had actual knowledge of the Plaintiff's residence in Storey County. Lastly, in
7 the same Blog, he attached a copy of Mr. Thompson's Certification of Residency. This again
8 shows that the Defendant had actual knowledge of the Plaintiff's residence in Storey County.
9 Even though, one of his own postings contains a copy of the Plaintiff's Driver's License showing
10 the Plaintiff lives in Storey County, even though there is in fact a structure at the address of the
11 Plaintiff, even though the Plaintiff has made it abundantly clear that he lives there at the address,
12 the Defendant not only made false statements about the Plaintiff's residency, but also went much
13 further and unacceptably accused the Plaintiff of perjury, which as stated is a felony.

14 The Defendant by his own writings and testimony had plenty of motive to utter his false
15 and defamatory statements about the Plaintiff. Although he holds himself out as being a fact
16 based news publication, it appears that the Defendant has other motives. According to the
17 Defendant, he started the Storeyteller Website as a conduit to express support for embattled
18 Sheriff Gerald Antinoro during a failed recall effort of him. The Defendant is a staunch
19 supporter of Sheriff Antinoro. Why else would he have started a blog to support him? The
20 Defendant is an "acquaintance"⁷⁹ of the Sheriff, socializes with the Sheriff, albeit infrequently,
21 and interacts with the Sheriff around three times a month. The Defendant testified that he was
22 "public witness" selected by Sheriff Antinoro to witness the recall signature verification process
23 in the effort to recall Sheriff Antinoro. The Defendant also testified that he does a Podcast with
24 Sheriff Antinoro.

25 According to the Defendant, his purpose was to "counter the failed effort of Storey
26

27 ⁷⁹ This term "acquaintance" defies all logic and credibility. The Defendant's efforts on behalf
28 of Sheriff Antinoro clearly show that he is much more than an "acquaintance."

1 County Commissioner Lance Gilman [the Plaintiff], TRIC owner Roger Norman and TRIC
2 Project Manager Kris Thompson to oust our duly elected Sheriff.” The Defendant testified that
3 the Sheriff duly elected, coming up for reelection and was in the midst of a very ugly and divisive
4 recall effort. Surely a jury could infer from the Defendant’s support of Antinoro and this stated
5 purpose of his Blog to infer that the Defendant had an axe to grind with the Plaintiff. This is
6 even more evident when you look at some of the other statements the Defendant has made in
7 reference to the Plaintiff. The Defendant writes on the Storeyteller website that “We created The
8 Storey Teller to provide a source of irritation to the Good Old Boys who operate The Biggest
9 Little County in the World with selfish impunity since forever.” Meaning, the Plaintiff and his
10 business and political associates. In his writings, the Defendant mentions that the Plaintiff has a
11 conflict of interest “as he wears hats on both sides of the negotiating table.” The Defendant
12 further wrote: “A conflict of interest that places the self-interest of the Marketing Manager and
13 exclusive Real Estate Broker for TRIC above the interests of Storey County Taxpayers, voters,
14 and citizens.” The foregoing would clearly suggest that the Defendant has a personal dislike of
15 the Plaintiff. The Defendant’s personal dislike of the Plaintiff is further exemplified in an article
16 the Defendant wrote on another blog, although arguably satire, he writes about the Plaintiff and
17 his business associates having sex with animals. In his self-serving Affidavit, the Defendant
18 writes:

19 . . . I believe that Gilman’s [the Plaintiff] conduct as a government official combined with
20 his business interest in our County creates a massive conflict of interest to the detriment
21 of the public good. The articles I have written in the Teller are highly bombastically
22 critical of Gilman because I believe the facts show that Gilman uses his position as Storey
County Commissioner to enrich himself and his associates, and that Gilman does not
even live in Storey County.

23 Virtually every single one of the Defendant’s published statements on the Storeyteller Website
24 also show the Defendant having a deep dislike of the Plaintiff.

25 In looking at the Defendant’s so-called investigation into the residency of the Plaintiff,
26 The Defendant testified that he is very familiar with the government of Storey County, and
27 familiar with the County Commission. He also testified that he is familiar with the Brothel
28 Board, and testified that it is comprised of the Commissioners and the Sheriff. He further

1 testified that the Sheriff's office regulates the brothels. Being very familiar with Storey County
2 government, the Defendant should have known how to correctly verify the residence of the
3 Plaintiff. Unfortunately, not only did the Defendant fail to avail himself of any opportunity to
4 meaningfully investigate, he instead, set forth testimony and assertions that defy logic, common
5 sense, any stitch of credibility.

6 As stated above, the Defendant espoused his support for Sheriff Antinoro. He socializes
7 with him somewhat, sees him several times a month, does a Podcast with him, and testified that
8 he can go in see the Sheriff anytime he wants to at the Sheriff's office just like any other citizen
9 of Storey County. Knowing that the Sheriff's office regulates the brothels in Storey County,
10 when the Defendant was asked about whether he consulted with the Sheriff about the Plaintiff's
11 residency, the Defendant refused to answer on the grounds of privilege pursuant to the Media
12 Shield Statute. When the Defendant was asked about whether he went to the Sheriff's office to
13 verify the Plaintiff's residency, he again refused to answer on the grounds of privilege pursuant to
14 the Media Shield Statute. The Defendant could have very easily verified the Plaintiff's address
15 by either asking the Sheriff or by going to the Sheriff's office. Given that the Sheriff's office
16 regulates the brothels, it follows that the Sheriff's office would have accurate information as to
17 the residency of the Plaintiff. The Plaintiff testified he was aware that the Plaintiff listed 5
18 Wildhorse Canyon on his brothel application as his residence. However, when asked whether he
19 went to the Sheriff's office and checked the Plaintiff's brothel application, the Defendant
20 testified that he did, but could not recall whether the Plaintiff's application showed number 5 as
21 the Plaintiff's residence. When asked whether he asked the Sheriff about it, he again refused to
22 answer on the grounds of privilege pursuant to the Media Shield Statute.

23 When asked on what he based his assertion on the Plaintiff's lack of residency, the
24 Defendant testified that he found it hard to believe that one of the wealthiest men in Northern
25 Nevada would be residing where he resides. He further testified that he was basing his opinion
26 upon interviews and information that had been given to him by third-party sources. When asked
27 about the third-party sources, the Defendant again refused to answer on the grounds of privilege
28 pursuant to the Media Shield Statute. When asked if he consulted any official sources, the

1 Defendant again refused to answer on the grounds of privilege pursuant to the Media Shield
2 Statute.

3 In an attempt to further bolster his dubious credibility, the Defendant in his Second
4 Declaration stated that an informant told him that Plaintiff was leaving every day at around 8:00
5 every evening and going to Reno. When asked about this so-called informant, the Defendant
6 refused to answer on the grounds of privilege pursuant to the Media Shield Statute. When asked
7 about his doing all this investigation, the Defendant testified that was not going to provide any
8 source and he didn't have to and was going to invoke the media shield. When asked whether he
9 consulted any official sources pertaining to the Plaintiff's residency, the Defendant again refused
10 to answer on the grounds of privilege pursuant to the Media Shield Statute.

11 Even though he was in possession of documents showing the Plaintiff's residency, the
12 still maintained that the Plaintiff was not a resident of Storey County. However, the Defendant
13 testified that he has never been to the Plaintiff's residence to verify whether he lives there or not.
14 Mainly because the Defendant cannot get to the Plaintiff's property without buzzing the gate.
15 The Defendant also testified that he has never seen any other residence where the Plaintiff might
16 be living. When asked about where the Plaintiff lives and how he knows, the Defendant
17 responded that he had never seen a residence of the Plaintiff nor had he ever seen the Plaintiff in
18 an other residence. Even though the Defendant talked in his first Declaration about all this
19 diligence he was doing, he never once went to see whether or not the Plaintiff lived anywhere
20 else other than number 5 Wild Horse. He further testified that he had a pretty good idea where
21 the Plaintiff lived but could not provide an address. He said the basis for his idea was from
22 undisclosed individual who told him that the Plaintiff stored items of property at a certain
23 residence. When asked about this undisclosed individual, the Defendant again refused to answer
24 on the grounds of privilege pursuant to the Media Shield Statute.

25 In a further effort to bolster his dubious credibility, the Defendant testified that he verified
26 the zoning on the property where the Plaintiff lives. According to the Defendant, this was part of
27 his investigation as to whether the Plaintiff lived in Storey County. It is important to bear in
28 mind that the Defendant asserted the Plaintiff committed perjury by signing forms related to his

1 residency. The Defendant's false assertion at issue in this matter did not pertain to the zoning of
2 the Plaintiff's residence. It begs the question as to how checking the zoning would be even
3 remotely conclusive on whether the Plaintiff lives in Storey County.

4 As part of his so-called investigation, the Defendant testified that he filed a public records
5 request for the zoning on the Plaintiff's residence with Austin Osborne, the Planning Director for
6 Storey County. The Defendant testified that Mr. Osborne told him he was super busy. The
7 Defendant also testified that he sent public records request to Gary Hames, a retired fire chief,
8 appointed as community development director in a no bid sole source contracts with the county.
9 The Defendant further testified that it took sixth months for Mr. Osborne to answer him;
10 however, Mr. Osborne adamantly disputes this.

11 Interestingly Mr. Osborne testified that he never discussed zoning with the Defendant,
12 and only provided documents. Mr. Osborne further testified that he believes the Plaintiff lives at
13 the back of the Mustang Ranch at the place the Plaintiff is asserting as his residence. Mr.
14 Osborne further testified that if the Defendant had asked him, he would have told him that the
15 Plaintiff lived behind the Mustang Ranch. Interestingly, Mr. Osborne testified that the Defendant
16 said false things about him as well in his Blog as well. The Defendant testified that he eventually
17 went to community development department and asked them what the zoning was and got a
18 printout from the clerk saying the property was zoned agricultural/industrial 2. The Defendant's
19 testimony in this regard is bizarre and further illustrates his motive and intent and his negligence
20 as well.

21 The Defendant testified that the words "agricultural" and "industrial" are self explanatory
22 and you cannot extract, condense, distill, or otherwise torture into suggesting residential use. But
23 then he testified that he consulted ordinances as to what was allowed under agricultural or
24 industrial use and found that single family dwellings are allowed under an agricultural use. He
25 further testified that it is not his place to decide where what and how if the property is on the
26 agricultural side or industrial side; but, he also testified that the ordinances suggest that a single
27 family dwelling can exist there.

28 In his testimony, the Defendant implied that the Plaintiff committed perjury and when

1 asked how, he replied that “anyone, with you know, a functioning set of synapses in their brain
2 would question and consider highly unlikely that one of the richest men in Storey – in Northern
3 Nevada is roommates with his girlfriend and his employee in a double-wide trailer.” He further
4 stated that “It is, it is – let’s just say it stretches the imagination.” When asked about how the
5 Plaintiff’s living situation was against the zoning, the Defendant testified that the Plaintiff living
6 with his girlfriend and a roommate made it a multifamily dwelling and thus in conflict with the
7 zoning. He then testified without any basis in law that unless Mr. Thompson and the Plaintiff are
8 married, it’s not legal for Mr. Thompson to live there with him. The Defendant also testified that
9 the way he reads the ordinance, the Plaintiff cannot have roommate. According to the
10 Defendant’s testimony, single family means you can have your kids, girlfriend, boyfriend and the
11 minute that more than one person lives there, it becomes a multi-family dwelling and violates the
12 code. Even though the Defendant testified adamantly that he read the ordinances, the ordinances
13 do not say that to which the Defendant testified. The applicable Ordinances read as follows:

14 Single-family dwelling. **The term "single-family dwelling" refers to a building**
15 **used to house not more than one family or a group of not more than four**
16 **unrelated persons living together and sharing a noncommercial single**
17 **dwelling unit with common housekeeping facilities.** The term includes factory
18 built homes and manufactured homes in compliance with NRS 278, 461, and 489.
19 (Emphasis added).

20 Single-family dwelling, attached. The term "single-family dwelling, attached"
21 refers to a single-family dwelling intended for occupancy by one family. This term
22 includes "rowhouses," "townhouses," "twinhomes," and "condominiums," but
23 does not include "duplexes," "triplexes," "fourplexes," "apartment buildings,"
24 "rooming houses," and other multifamily dwellings.

25 Single-family dwelling, detached. The term "single-family dwelling, detached"
26 refers to a free-standing structure intended for occupancy by one family, and
27 constructed on a separate building lot, that is owned in fee simple. Each building
28 has a front yard, a rear yard, and two side yards.

23 Storey County Code, Title 17, Zoning Ordinance, Chapter 17.10 “Definitions.” Even the most
24 cursory look would have revealed that the living arrangement of the Plaintiff did not violate any
25 zoning laws for single family dwellings. The Defendant also testified that he got the definition of
26 multi-family from the Storey County Ordinance as well, which reads as follows:

27 Multifamily dwelling. The term "multifamily dwelling" refers to a building
28 designed or used to house multiple families living independently of each other.
 The term includes duplexes, triplexes, or fourplexes, but does not include row

1 houses, townhouses, or apartment hotels. Storey County Code, Title 17, Zoning
2 Ordinance, Chapter 17.10 "Definitions."

3 Nothing in the multifamily definition applies to the Plaintiff's situation. Mr. Osborne testified
4 that you can live with a girlfriend in a residence and it would still remain a single family
5 residence. He further testified that you can live there with a friend as well and it still doesn't
6 change the nature. He further testified that you could have more than one address for a single
7 family attached residence. In looking at the Ordinances and Mr. Osborne's testimony, there is no
8 plausible way that the Defendant could have arrived at the conclusions he holds. When the
9 Defendant was asked whether he consulted anybody to make an opinion as to what's right and
10 what's wrong as to the Plaintiff's zoning, he testified that he consulted dozens and dozens of
11 other concerned citizens in the county. When further asked about the names of anyone he
12 consulted, the Defendant refused to answer on the grounds of privilege pursuant to the Media
13 Shield Statute. When further challenged about his definitions of single family dwellings and
14 multifamily dwellings, the Defendant answered as follows:⁸⁰

15 Q. Okay. I'm going to go back to my question, because you, again, weren't responsive to
16 my question. You can say "I don't know" if you don't know. That's fine. The question is: What
17 did -- where did you come up with your definition -- and I know I've asked and answered this, but
18 I'm going to ask the follow-on. Where did you come up with your definition of what constitutes a
19 multi-family dwelling? You told me the ordinance. I'm asking you: What does the ordinance say
20 what constitutes a multi-family dwelling?

21 **MR. BUSBY:** Same objection. Go ahead and answer, Mr. Toll.

22 **THE WITNESS:** Technically, in my recollection of ordinance, says that a single-family
23 dwelling is all that is permitted. A multi-family dwellings is not permitted. Using the reasonable
24 man statute that I have inside my brain, a multi-family dwelling is -- could be considered -- you
25 know, obviously we don't live in the day of the nuclear family anymore; however, a family unit
26 consists typically of a -- it's two sets of adults and then any children that may be a result of that
27 union.

28 **BY MR. FLANGAS:**

Q. This reasonable man standard, that's your own reasonable man standard; is that
correct?

A. Based upon the information that has been given to me by people who I have consulted
with, as we've described earlier, those people are also reasonable men and women, and they also

⁸⁰ See the Defendant's Depo attached as **Exhibit "16"**, pages 76-77.

1 have come to the same conclusion. So no, it's not just my conclusion, it's the conclusion of the
2 community.

3 When asked who the members of the community that have this conclusion, the Defendant
4 conveniently refused to answer again on the grounds of privilege pursuant to the Media Shield
5 Statute.

6 III. 7 CONCLUSION

8 When looking at the facts, which involve the Defendant's knowledge of the Plaintiff's
9 residency in official documents, his purposes for establishing his Blog, his staunch support for
10 the Sheriff, his dislike for the Plaintiff because of the Plaintiff's efforts in the recall election, his
11 failure to properly investigate the matter even though his self serving Declarations and writings
12 assert all this so-called diligence, his outlandish and unsupported conclusions about the
13 Plaintiff's residency and zoning for his residency, his own preoccupation about the Plaintiff
14 being wealthy and living where he lives as not being possible, his incredible statements about
15 him checking the Ordinances when it is patently clear that he had no idea whatsoever of their
16 contents, he failure to consult official sources such as the Sheriff or Sheriff's office about the
17 Plaintiff's residency, his assertion of undisclosed parties given him unverified information, his
18 refusals to answer question about the undisclosed parties on the grounds of privilege pursuant to
19 the Media Shield Statute, his refusal to answer questions about how he arrived at his conclusions
20 about the Plaintiff's residency and zoning on the grounds of privilege pursuant to the Media
21 Shield Statute, it abundantly clear that the Defendant's false and defamatory statements were
22 published with knowledge that they were false and/or with reckless disregard for their veracity.

23 Whether the Defendant acted with high degree of awareness of the probable falsity of the
24 statement or had serious doubts as to the publication's truth, can only be inferred from his actions
25 in this matter. See Bentley v. Bunton, 94 S.W.3d at 596 (The defendant's state of mind can-
26 indeed, must usually-be proved by circumstantial evidence). Recklessness or actual malice may
27 be established through cumulative evidence of negligence, motive, and intent. Pegasus v. Reno
28 Newspapers, Inc., 118 Nev. at 722, 57 P.3d at 92-93. Clearly, in this case, there was sufficient

1 evidence of negligence, motive, and intent to show a reasonable probability the Plaintiff can
2 produce clear and convincing evidence showing that the Defendant's statements were made with
3 actual malice. The evidence clearly constitutes circumstantial evidence as to the Defendant's
4 awareness of the probable falsity of his statements or that he had serious doubts as to the truth of
5 his statements. The proof of actual malice can not be defeated with simply the Defendant's
6 self-serving protestations of sincerity, and cannot automatically insure a favorable verdict by
7 testifying that he published with a belief that the statements were true. The finder of fact must
8 determine whether the publication was indeed made in good faith. Much of the Defendant's self
9 serving statement appear either fabricated, the product of his imagination, or is based wholly on
10 an unverified sources and the Defendant is therefore likely to prevail. The Defendant's false
11 statements are so inherently improbable that only a reckless man would have put them in
12 circulation. Although the failure to investigate alone is not grounds for a finding of actual
13 malice. There is so much more in this instance. The Defendant clearly and purposely avoided
14 the truth in this matter. Therefore, the Court should find that the Plaintiff met his burden of
15 showing the Defendant acted with actual malice.

16 **AFFIRMATION**
17 **Pursuant to NRS 239B.030**

18 The undersigned hereby affirms that this document does not contain the social security
19 number of any person.

20 DATED this 24th day of May, 2018.

21
22
23 
GUS W. FLANGAS, ESQ.
Nevada Bar No. 004989
Email: gwf@fdlawlv.com
JESSICA K. PETERSON, ESQ.
Nevada Bar NO. 10670
Email: jkp@fdlawlv.com
FLANGAS DALACAS LAW GROUP
3275 South Jones Blvd., Suite 105
Las Vegas, Nevada 89146
Telephone: (702) 307-9500
Facsimile: (702) 382-9452
Attorneys for Plaintiff

EXHIBIT LIST

Exhibit "7": Copy of the Defendant's blog at the Storeyteller Website, dated October 16, 2017, and located at the internet address of <http://thestoreyteller.online/2017/10/16/teller-files-criminal-complaint-storey-county-da-sheriff/>.

Exhibit "16: Copy of the Defendant Deposition.

Exhibit "17": Copy of the Defendant's Second Declaration.

Exhibit "18: copy of the Plaintiff's CCW Permit.

Exhibit "19" Copy of the Deposition of Austin Osborne.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of FLANGAS DALACAS LAW GROUP, and that on this 24th day of May, 2018 served a true and correct copy of PLAINTIFF'S SUPPLEMENTAL OPPOSITION TO THE DEFENDANT'S ANTI-SLAPP MOTION as indicated below:

 X By depositing the same in the United States mail, first-class, postage prepaid, in a sealed envelope, at Las Vegas, Nevada pursuant to N.R.C.P. 5(b) addressed as follows

 By electronic mail.

John L. Marshall
570 Marsh Avenue
Reno, NV 89509
Tel: 775-303-4882
johnmarshall@charter.net

Luke A. Busby
Luke Andrew Busby, Ltd.
216 East Liberty Street
Reno, NV 89501
Tel: 775-453-0112
luke@lukeandrewbusbyltd.com

Attorneys for Defendant

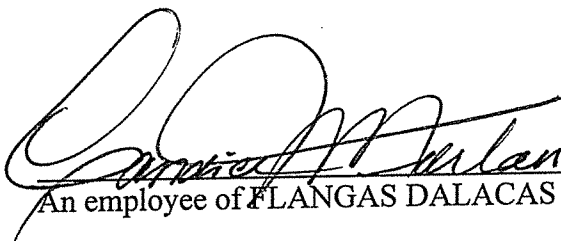

An employee of FLANGAS DALACAS LAW GROUP

EXHIBIT "7"

EXHIBIT 7

EXHIBIT 7

HOME ([HTTP://THESTOREYTELLER.ONLINE](http://thestoreyteller.online))

NEWS ([HTTP://THESTOREYTELLER.ONLINE/NEWS/](http://thestoreyteller.online/news/))

EDITORIAL ([HTTP://THESTOREYTELLER.ONLINE/EDITORIAL/](http://thestoreyteller.online/editorial/))

LETTERS TO THE EDITOR ([HTTP://THESTOREYTELLER.ONLINE/LETTER-TO-THE-EDITOR/](http://thestoreyteller.online/letter-to-the-editor/))

ABOUT THE STOREY TELLER ([HTTP://THESTOREYTELLER.ONLINE/ABOUT-US/](http://thestoreyteller.online/about-us/))

COMMUNITY NEWS ([HTTP://THESTOREYTELLER.ONLINE/COMMUNITY-NEWS/](http://thestoreyteller.online/community-news/))

Teller Files Criminal Complaint with Storey DA, Sheriff

OCT
16



 EDITOR ([HTTP://THESTOREYTELLER.ONLINE/AUTHOR/SAMTOLL/](http://thestoreyteller.online/author/samtoll/))



On March 28th, 2017, The Storey Teller filed a public record request with Assistant County Manager, Planning Director and all around busy guy Austin Osborne. In this request we asked for the zoning of the Mustang Ranch Compound, specifically to see if any section of the property was zoned residential. This residential zoning inquiry was the result of previous requests filed with County Clerk Vanessa Stephens and County Assessor Jana Seddon.

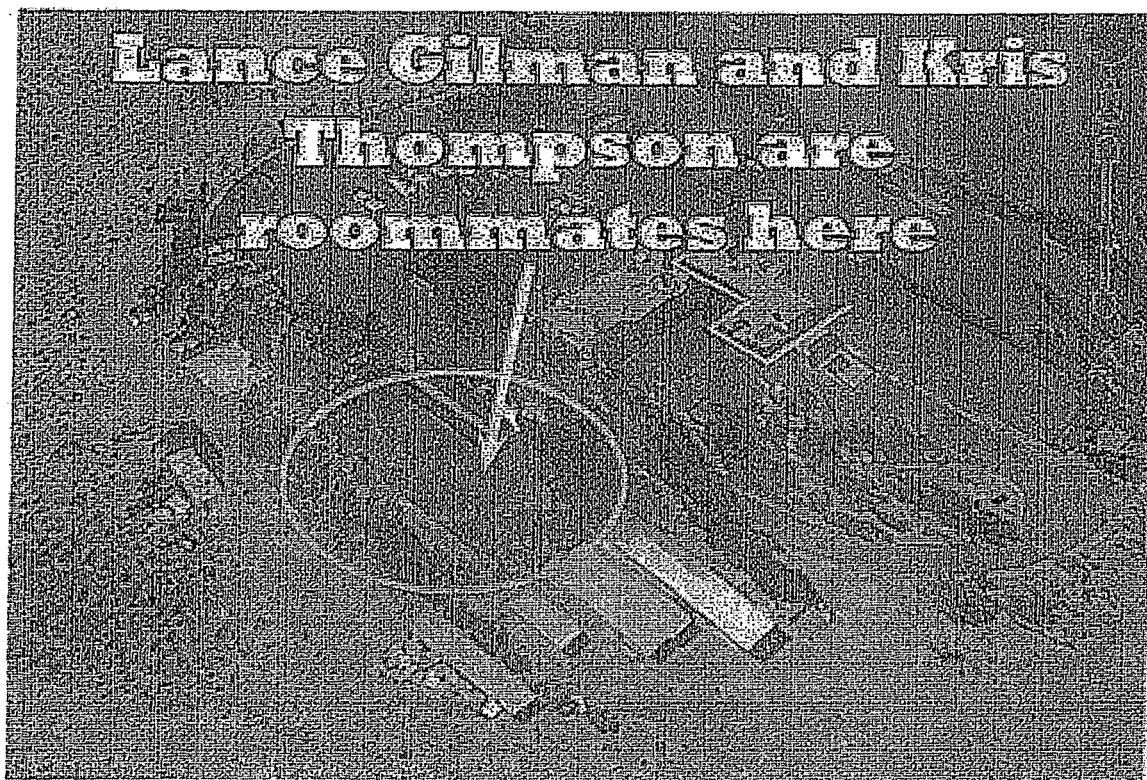
We asked Clerk Stephens for the proof of legal residences claimed by Leonard Lance Gilman and Kris Thompson required by Nevada State Law for anyone running for office or holding an appointed office. The request from County Clerk Stephens was fulfilled in one business day. It revealed that Leonard Lance Gilman resides at 5B Wild Horse Canyon Drive and Kris Thompson resides at 56 Wild Horse Canyon Drive.

Since the United States Post Office does not show 5B or 56 Wild Horse Canyon as addresses in their system (they will return any correspondence sent there as "Address Unknown") we asked Assessor Jana Seddon where these addresses physically were. Her response, delivered in two business days, was remarkable; Lance and Kris reside in a dual wide mobile home located behind the swimming pool at the Mustang Ranch.

Let me say that again.

Lance Gilman, one of the wealthiest men in Northern Nevada, lives in a mobile home behind the swimming pool with his employee and roommate Kris Thompson. At a the brothel.

While many Storey County Resident were born at night, none of us reading this were born last night. Suggesting this is a fact stretches credulity around the planet. Twice.



Must be exciting living in an actual cathouse; think of all the interesting people you meet!

After I learned where County Commissioner Gilman and Planning Commissioner Thompson claim to live, I then sent my public record request to Mr Osborne. As stated above, this request was to determine the zoning of the Mustang Ranch and was filed on March 28. After several back and forth emails, included below, the matter went cold. I saw Mr Osborne on multiple occasions and asked him about the inquiry. I got the usual dismissive reason, "We're in the midst of the Budget" or "I'm in the middle of revising a statute" or "My dog ate my keyboard".

During the months of delay on the simple request of what is the zoning of the Mustang Ranch, I decided to stroll into the Community Development Department and ask them. Within 5 minutes I was holding the printout containing the zoning of the Mustang Ranch.

Nowhere on Mustang property is it zoned residential. So nobody can live there. And nobody can claim they live there. In order to live there, the property must be zoned.... residential.

Six months later...

On the six month anniversary of the initial, unfilled, public record request The Teller filed a criminal complaint with Storey County District Attorney Anne Langer and Nevada Attorney General Adam Laxalt. DA Langer advised me that since I was making a criminal complaint I needed to file the complaint with the Sheriff's Office before she could proceed.

The purpose of this complaint is to hold accountable County Commissioner Gilman and Planning Commissioner Thompson for committing perjury when they filed paperwork, claiming to live somewhere it is illegal to live. Since they took office illegally and since they don't actually live at Wild Horse Canyon Drive (or anywhere else in the county for that matter) and can't legally reside where they claimed they did, we conclude and insist they be prosecuted for perjury and removed from office.

My complaint also charged that Mr Thompson was most likely in violation of county ordinance 5.16.220 which reads in part:

5.16.220 Work card registration required.

A. It is unlawful for any person to work as an independent contractor or be employed or for a licensee to employ or allow a person on the premises of a licensed operation, unless the person is the holder of a valid current work card issued by the sheriff. Customers of the brothel are exempt from this requirement.

Because brothel work cards are not public record, I can only make the claim without actual proof. The Sheriff's Office issues the work cards so they will immediately know if Mr Thompson holds one.

Once the Criminal Complaint is completed I will share the results with you, kind reader.

Below, find the public documents and emails filed with DA Langer, AG Laxalt and Sheriff Antinoro.

Stay Tuned...

September 28th, 2017

Ms. Anne Langer
Storey County District Attorney
205 South C Street
P.O. Box 496 Virginia City, NV 89440
Mr. Paul Laxalt
Nevada Attorney General
100 North Carson Street Carson City, NV 89701
Subject: Public Records Request and Obstruction Complaint
against Storey County

I am writing to you today on the six month anniversary of a public records request whose purpose is to verify the status of the residences of two Storey County Officials. I have attached the email correspondence between myself and Storey County regarding the zoning of the addresses supplied by Lance Gilman when he submitted required documents to run for County Commissioner and Kris Thompson to confirm his residence to qualify for being appointed to serve on the Storey County Planning Commission.

According to various NRS statutes and Storey County Code, in order for an elected or appointed official to hold office or be appointed to a board in Storey County, the elected official or appointed board member must reside in Storey County.

The purpose of my query was to confirm that the residence addresses supplied by Mr. Gilman and Mr. Thompson, two sides of a small double wide mobile home, located behind the swimming pool at the Mustang Ranch Brothel, are zoned as legal residence addresses by Storey County Statute.

This request now has collected six months worth of dust and remains unanswered.

According to Mr. Austin Osborne, assistant Storey County Manager, when I asked him about it he claimed the matter was still under investigation.

Yet when I went into the Storey County Community Development Department several weeks after the last email communication from Storey County on this matter, I was able to leave with the zoning status of the property in less than 5 minutes. I discovered that there is no place on Mustang Ranch parcel zoned residential, not even a watchman's residence.

In other words neither 5 and 56 Wild Horse Canyon Drive are legal residences; nobody can legally reside there or claim either address as their legal residence.

It is my contention that by supplying this address, both Mr. Thompson and Mr. Gilman appear to be guilty of perjury.

Further, as they do not reside in Storey County, they are exempt and prohibited from holding office of any kind in Storey County.

I further contend that by stonewalling this public records request, Storey County, Mr. Pat Whitten and Mr. Austin Osborn are obstructing justice.

It is common knowledge to anyone paying attention that Lance Gilman, who has multiple residence properties in Washoe county and is extremely wealthy, does not bunk with Kris Thompson in a doublewide trailer. I respectfully request an immediate investigation into this matter in an effort to restore integrity in our elected and appointed officials and look forward to the fair and just application of law by removing these men from office.

Thank you for your kind attention to this matter.

Respectfully,

Sam Toll - Editor
editor@thestoreyteller.online
www.thestoreyteller.online
775-583-8655

From: Austin Osborne osbornea@storeycounty.org
 Subject: RE: Public Records Request
 Date: March 29, 2017 at 6:42 PM
 To: Editor editor@thestoreytelleronline.com
 Cc: Lynn Harnold harnold@storeycounty.org, Kathy Canfield canfield@storeycounty.org

Sam,

Lyndi will look into this and get back with you on the zoning within the NRS period.

Thank you,
 Austin

From: Editor [<mailto:editor@thestoreytelleronline.com>]
 Sent: Wednesday, March 29, 2017 12:35 PM
 To: Austin Osborne
 Subject: Public Records Request

Greetings Mr. Osborne:

This email represents a public records request for the zoning of two Storey County addresses. I was advised that your office handles this request from Cynthia at Community Development.

These addresses are 56 Wild Horse Canyon Drive and 5 Wild Horse Canyon Drive, Sparks.

Thank you for your kind attention to this matter.

Sam Toll - Editor
editor@thestoreytelleronline.com
www.thestoreytelleronline.com
 775-683-8855
 Got a story? Got an idea? Tell us!
 Help stir the pot and keep the kettle hot.



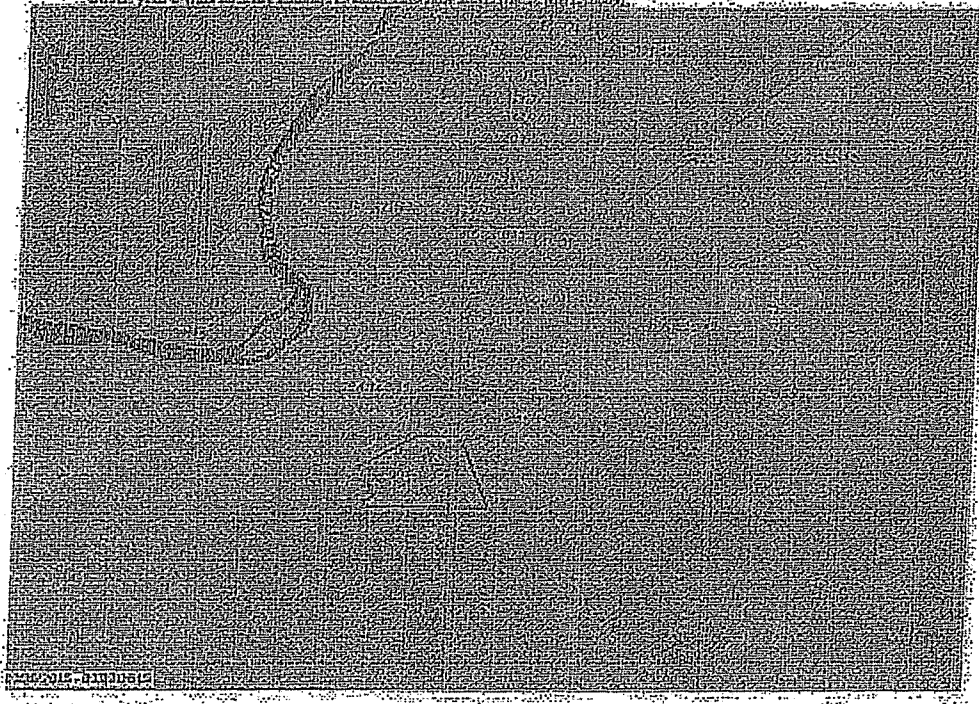
From: Kathy Confield [mailto:kconfield@comcast.net]
Subject: Emailing: NVSTOR15 (15)
Date: March 31, 2017 at 8:48 AM
To: Editor [mailto:editor@tellerjournal.com]

The attached map documents the location of 1000 West Horse Canyon Drive, APN 04-181-21. I don't show any parcels identified as 1100 West Horse Canyon Drive when I query the mapping program. Am I in the right location for what you are looking for?

Your message is ready to be sent with the following file or files attached:

NVSTOR15 (15)

Click To protect confidential information, email addresses and phone numbers in outgoing emails are redacted. One day your e-mail address will be published here with the subject line "Redacted".



From: Austin Osborne <aosborne@storeycounty.org>
 Subject: RE: Emailing: NVSTOR15 (15)
 Date: April 27, 2017 at 7:45 AM
 To: Editor <editor@thestoreytelleronline>, Kathy Canfield <kcanfield@storeycounty.org>

Hello Sam,

I am still looking into the matter and will get you an answer. We have a lot on our plate right now, so thank you for your patience. Please direct your follow up questions directly to me so that Kathy can focus on her other priorities. Thank you for your understanding and have a good day.

Austin

From: Editor [mailto:editor@thestoreytelleronline]
 Sent: Tuesday, April 25, 2017 6:57 PM
 To: Kathy Canfield
 Cc: Austin Osborne
 Subject: Fwd: Emailing: NVSTOR15 (15)

Kathy,

Have you been able to uncover the disposition of residential zoning on the parcel APN 04-161-2. I have highlighted in red the area identified by the assessor as the location of J, 5B and 56 Wild Horse Canyon Drive.

Thank you for your kind attention to this matter.

Sam

Begin forwarded message:

From: Editor <editor@thestoreytelleronline>
 Subject: Re: Emailing: NVSTOR15 (15)
 Date: March 31, 2017 at 10:47:13 AM PDT
 To: Kathy Canfield <kcanfield@storeycounty.org>

Kathy,

Thank you for your prompt reply.

Yes that is the location, APN 04-161-21 (detail of the Mustang Ranch Complex below via google earth).

Somewhere in that complex there are two physical addresses, J and 56 Wild Horse Canyon Drive.

Based on what I know, the entire parcel is zoned Commercial/Industrial.

Based on what I saw, the entire parcel is zoned commercial/industrial.

Are there any nooks and crannies somewhere in there designated residential, specifically 5 and 56 Wild Horse Canyon Drive?

According to public documents there are two residences located somewhere in the Mustang Ranch complex (5 and 56 Wild Horse Canyon Drive) and if so, they would require residential zoning.

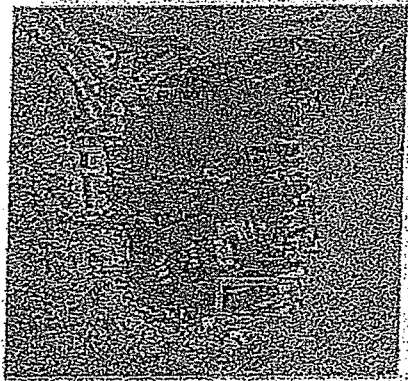
That is the focus of my query, is there any location within that parcel that is zoned residential and is legally approved for people to reside?

I appreciate your time and effort on this inquiry.

Respectfully,

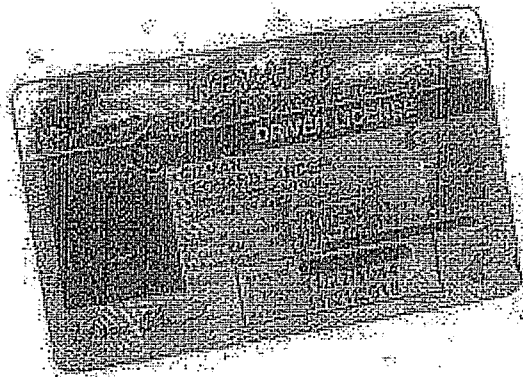
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Sam Toll - Editor
editor@thestoreyteller.online
www.thestoreyteller.online

Lance Gilman's Proof of residency on file with Clerk Stephens




STATEMENT OF LANCE GILMAN
RE: RENT FOR KRIS THOMPSON

November 30, 2015

Kris Thompson resides by my permission at 5B Wild Horse Canyon Drive, Sparks, NV 89434 as part of an employment arrangement he has with Lance Gilman Commercial Real Estate Services Co. He does not pay rent for this living space.

Thank you for your consideration.


L. Lance Gilman



Reno/Sparks/Carson City (775) 684-4DMV (4368)
 Las Vegas Area (702) 486-4DMV (4368)
 Rural Nevada (877) 388-7328
 Fax: (775) 884-4992
 Website: www.dmvnv.com

Certification of Nevada Residency

This certification is used to support a claim that you are a Nevada resident. You must be a resident of Nevada to be eligible for a Driver's License (DL), Driver Authorization Card (DAC) or Identification Card (ID) [NRS 483.250 (7), 483.290 (5)(b), and 483.934]. The definition of "resident" is found in NRS 483.141.

Customer Information			
Name <u>KRIST THOMPSON</u>			
Residential Address <u>5 B. Wila Horse Canyon Dr.</u>	City <u>Sparks</u>	State <u>NV</u>	Zip <u>89413</u>
Mailing Address if different <u>424501 WIA Parkway</u>	City <u>Sparks</u>	State <u>NV</u>	Zip <u>89413</u>
DL/DAC/ID Number		Social Security Number (not required for a DAC)	

This form and one of the following documents must be submitted to show proof of Nevada residency.

ORIGINAL OR CERTIFIED COPY DATED WITHIN 60 DAYS	ORIGINAL OR CERTIFIED COPY OF LAST ISSUED DOCUMENT
<ul style="list-style-type: none"> • Receipt for rent of a residential address • A record from a public utility for residential service • A bank or credit card statement • A paycheck stub • A document from a state or federal court • A record, receipt or bill requesting payment • Hotel, motel, campground or recreational vehicle park receipts showing that you have been residing in Nevada for at least 30 consecutive days • A Nevada Voter registration card issued pursuant to NRS 293.517 • A document showing receipt of public assistance or benefits from a State of Nevada agency • Military Leave and Earnings Statement (LES) to evidence Nevada residency of applicant deployed outside of Nevada while serving on active duty • A student identification card from a Nevada educational institution • FORM DMV115 - Relief Agency or Shelter Certification • FORM DMV116 - Property Owner Residency Affidavit 	<ul style="list-style-type: none"> • A property tax record, lease, rental agreement, mortgage document or deed of a Nevada residence • Enrollment records from a Nevada educational institution • A vehicle liability insurance card, binder or bill issued by a Nevada-based carrier (cannot be handwritten) • Confidential Address Program (CAP) documents issued pursuant to NRS 217.462 to 217.471, inclusive • Tax records other than property taxes

DISCLOSURE STATEMENT: The Privacy Act as passed by the United States Congress authorizes the use of your Social Security number for the purpose of verifying your identity. This number must be provided and will be used in the administration of driver's license laws as required by NRS 483.290. (This is not required for a DAC).

I hereby certify under penalty of perjury that all statements in this application are true and correct. I agree and understand that any misstatement of material facts may cause cancellation and/or denial of my driver's license or identification card under NRS 483.420 and NRS 483.530, respectively. I further understand that any misstatement of facts may be a misdemeanor or felony under NRS 483.530 and may be punishable pursuant to NRS 193.130.


Applicant's Signature [Signature] Date Nov 30, 2015


IF the applicant is not able to produce one of the above required documents in his or her name, this certification must be signed by a second resident living at the same residential address. The applicant must present proof of residency showing the second resident's name and residential address in the form of one document listed above. The second resident does not need to accompany the applicant to the DMV.

Signature of Second Resident Attesting to Nevada Residency [Signature] Driver's License or Identification Card No. 0800486477


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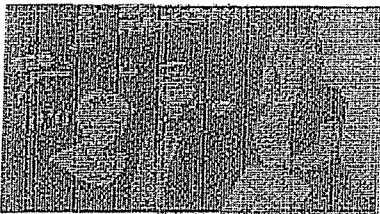
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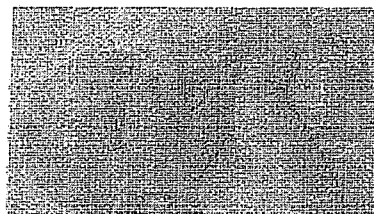
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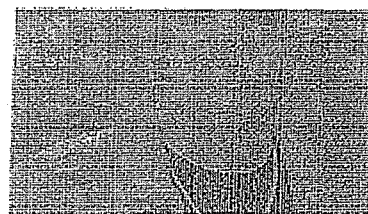
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8 thoughts on “Teller Files Criminal Complaint with Storey DA, Sheriff”

Ann Mack (<http://thestoreyteller.online/2017/10/16/teller-files-criminal-complaint-storey-county-da-sheriff/#comment-377>)

October 17, 2017

I love you! Be prepared for some weird government thing to arrive at your door. Rich cheaters do not like publicity. Hillary Clinton for example. Best of luck getting something accomplished, get rid of thieves like Denny Dotson, the political kickback meter from Virginia city, NV and his family taking money under a promotions scam called liquid blue. Is there any honest people willing to stand up to these money hungry clods? Enough!

Reply (<http://thestoreyteller.online/2017/10/16/teller-files-criminal-complaint-storey-county-da-sheriff/?replytocom=377#respond>)

Editor (<http://thestoreyteller.online>)

(<http://thestoreyteller.online/2017/10/16/teller-files-criminal-complaint-storey-county-da-sheriff/#comment-378>)

October 18, 2017

People warn me to check my lug nuts and watch my back. Both Heckler & Koch and Mossberg are my co-pilots so I worry very little about my back.

Your point about government arriving at my door is more like it. Thank goodness we elected a Sheriff that will not be their intimidation department. Instead they will have to resort to using county code to hassle me and since that won't work, they'll just have to sit and spin.

I plan on busting out a piece about the VCTC and the graft that goes on there, asking the question why do we spend 10% of our budget on 100 businesses in the County, many of whom don't live or own property in Storey County.

Reply (<http://thestoreyteller.online/2017/10/16/teller-files-criminal-complaint-storey-county-da-sheriff/?replytocom=378#respond>)

Susan Stubbs (<http://thestoreyteller.online/2017/10/16/teller-files-criminal-complaint-storey-county-da-sheriff/#comment-379>)

October 18, 2017

What is “At a the brothel”? Unbelievable that you will report on the violation of this law, yet say nothing about the criminal you have for a sheriff. I have, in my hands, a rape report from 2014 involving the sheriff and Deputy Tony Docen. Sparks criminal report number 14-430. You can get your own intriguing copy for only \$5.00. The sheriff is also guilty of a class D felony; that of assisting in the concealment of a child from her biological father. I have documentation of this as well. At least the Mustang is contributing to the community. What is the sheriff doing for the community other than getting charged with ethics violations and sexual harassment? Why aren't you reporting on any of this? Sounds to me that you're pretty biased in your reporting and are not

taking a non-biased, third person point of view; something that all seasoned reporters do. Oh, and it may behoove you to take a grammar class or two to brush up on your writing skills. I guarantee you'll hear nothing but crickets from the direction of Anne Langer's office. Good luck with that!

Reply (<http://thestoreyteller.online/2017/10/16/teller-files-criminal-complaint-storey-county-da-sheriff/?replytocom=379#respond>)

Editor (<http://thestoreyteller.online>)

(<http://thestoreyteller.online/2017/10/16/teller-files-criminal-complaint-storey-county-da-sheriff/#comment-380>) October 18, 2017

Susan, thanks for reading The Teller.

I have read the Sparks Police report. The entire county read similar things when Lance Gilman sent us the smeary stuff and dropped \$ 160,000 on the Recall Effort. All the charges in the world have yet to result in arrest or conviction.

I have read the Family Court Custody Documents. It's pretty hard to conceal a child from a father who abandoned the child and fled the state. The father is concealing himself from his responsibility while imposing a hardship on the child's mother by not fulfilling his child support responsibility.

Interestingly, this matter has nothing to do with the fact that the County Commissioner doesn't live in the county and committed perjury.

If you'd like you can report me to Sheriff Antinoro.

He has an entire Internet division of grammar police standing at the ready to correct and serve.

I called them on you for not capitalizing the proper noun "Sheriff"... ☹

Reply (<http://thestoreyteller.online/2017/10/16/teller-files-criminal-complaint-storey-county-da-sheriff/?replytocom=380#respond>)

Pingback: TRIC Executive Shoves Foot in Mouth - Part Three – The Storey Teller

(<http://thestoreyteller.online/2017/10/19/tric-executive-shoves-foot-in-mouth-part-three/>)

Susan Stubbs (<http://thestoreyteller.online/2017/10/16/teller-files-criminal-complaint-storey-county-da-sheriff/#comment-388>) October 19, 2017

Wow...you are obviously reading the smear campaign against my husband. Your 'facts' are incredibly skewed. The fact that you've "read the family court documents" tells me you're in bed with the sheriff as well and much of the rest of Storey County. As for "sheriff" being a proper noun, the word is only capitalized if it is followed by a proper noun; for example the name of the sheriff himself. I dusted off my master's degree in English and clarified this rule. Truth be told there is nothing proper about your sheriff, therefore I would not capitalize his name regardless of the English rules of capitalization. My husband did not flee the state. He merely moved. My husband pays

child support as well as health insurance for his daughter. If you would like to hear the other side of the story, something all good reporters should do, please contact me directly.

Reply (<http://thestoreyteller.online/2017/10/16/teller-files-criminal-complaint-storey-county-da-sheriff/?replytocom=388#respond>)

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(<http://bardeblog.com/2017/11/19/mustang-ranch-zoned-as-agricultural-animal-farm/>)

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59:13

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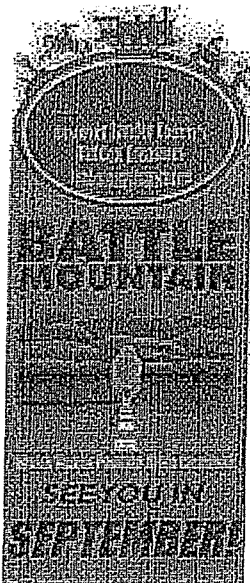
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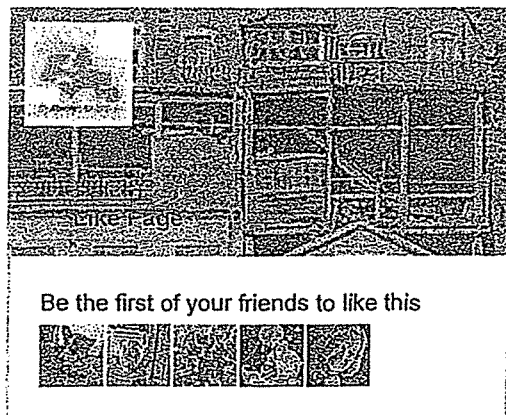
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EXHIBIT "16"

IN THE FIRST JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF STOREY, NEVADA

-oOo-

LANCE GILMAN, an individual, :

Plaintiff, :

vs. : Case No. 18-TRT-00001-1e
: Dept. No. II

SAM TOLL, an individual; DOES :
I-V, and ROE ENTITIES VI-X, :
inclusive, :

Defendant. :

DEPOSITION OF SAMUEL TOLL

Friday, May 4, 2018

Virginia City, Nevada

REPORTED BY: SUSAN E. BELINGHERI, CCR #655

APPEARANCES:

For the Plaintiff:

FLANGAS DALACAS LAW GROUP
Attorneys at Law
By: GUS W. FLANGAS, ESQ.
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Las Vegas, Nevada 89146
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For the Defendant:

LUKE ANDREW BUSBY, LTD
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EXAMINATION:

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By Mr. Flangas

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PURSUANT TO NOTICE, and on Friday, the 4th day of May, 2018, at the hour of 10:05 a.m. of said day, at the offices of Community Chest, 175 E. Carson Street, Virginia City, Nevada, before me, Susan E. Belingheri, a notary public, personally appeared SAMUEL TOLL.

-oOo-

SAMUEL TOLL,
having been duly sworn,
was examined and testified as follows:

EXAMINATION

BY MR. FLANGAS:

Q. Good morning, sir. We've already met. I'm Gus Flangas. I represent the plaintiff in this action, Lance Gilman.

Could you please state your name and spell it for the record.

A. My name is Samuel Clover Toll. S-a-m-u-e-l, C-l-o-v-e-r, T-o-l-l, just like the bridge.

Q. Mr. Toll, you just took an oath; correct?

A. I did, yes.

Q. You understand that that oath has the same ramifications and solemnity as though you took it in a court of law?

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Page 7

1 A. I do.

2 Q. When I say "ramifications," what I mean is the
3 same ramifications for perjury as though you took it in
4 a court of law. Do you understand that?

5 A. I do.

6 Q. Have you ever had your deposition taken before?

7 A. No, sir.

8 Q. I'm going to go over some ground rules to do this
9 deposition, which will make it easier for everybody
10 here.

11 First of all, I want you to notice to your
12 immediate left is the court reporter. She is taking
13 down everything that's being said here today. And I
14 want you to notice, she's doing that with her fingers.
15 And the reason I point that out is because it's
16 virtually impossible for her to record both of us
17 speaking at the same time. So what that means for you
18 and I is you need to wait until I finish my question
19 before you give me your answer. Okay?

20 A. Understood.

21 Q. And I'll do the same, hopefully try to abide by
22 the same rule and wait until you finish your answer
23 before I start my next question. Okay?

24 A. Thank you.

25 Q. During the course of my questioning, some of the

1 to take a break, need to use the facilities, or get a
2 drink or whatever, let me know and we'll, you know,
3 we'll help you out on that. The only thing I ask is if
4 there's a question pending, that you finish the answer
5 to that question. Okay?

6 A. Of course.

7 Q. At the conclusion of this deposition, the court
8 reporter is going to take everything that's been said
9 here today and she's going to transcribe it and she's
10 going to put it into a booklet. That booklet is called
11 a transcript. Are you following me so far?

12 A. I am.

13 Q. You're going to be given an opportunity to review
14 this transcript, should you so desire. Do you
15 understand that?

16 A. I do.

17 Q. You will also be given the opportunity to make
18 changes to that transcript if you desire. Do you
19 understand that?

20 A. I do.

21 Q. I need to caution you, though, if you do make
22 changes to that transcript of a substantive amount, I
23 will be able to comment upon that at any trial,
24 evidentiary hearing, or as the case may be. Do you
25 understand that?

Page 6

Page 8

1 answers may call for a yes or no answer, and you need to
2 audibilize it by saying "yes" or "no," because a nod, a
3 shake of the head, an "uh-huh" or an "uh-uh" will not
4 come out on the deposition transcript. Do you
5 understand that?

6 A. I do.

7 Q. Today I'm not here to try and trick you with my
8 questions; however, if you do answer my question it will
9 be assumed that you understood the question. Okay?

10 A. Yes.

11 Q. If you don't understand my question, tell me you
12 don't understand it, I'll say it again, I'll rephrase
13 it, I'll try to break it down to facilitate your
14 understanding. Okay?

15 A. Excellent. Thank you.

16 Q. During the course of this deposition, your
17 attorney -- who I'm assuming this is your attorney to
18 your immediate, to your immediate right -- may interject
19 an objection to one of the questions, or more than one
20 of the questions, I may answer. That's for the record,
21 and you'll still have to answer the question unless you
22 get further instructions from your attorney. Do you
23 understand that?

24 A. Yes, I do.

25 Q. During the course of this deposition, if you need

1 A. I do.

2 Q. What I mean by "comment," so that you fully
3 understand this, is that I will be able to bring your
4 credibility into question. Do you understand that?

5 A. I do.

6 Q. We call it impeachment in the legal field. I
7 don't know if you've ever heard that term or not.

8 A. I think I remember it when we had a president in
9 the late '90s.

10 Q. Okay. Now, also if you testify differently at a,
11 at an evidentiary hearing or a trial, as the case may
12 be, than you do today, as well I'll be able to comment
13 upon that. Do you understand that?

14 A. Yes, I do.

15 Q. And again, when I say "comment," I'll be able to
16 bring your credibility into question. Do you understand
17 that?

18 A. Yes, I do.

19 Q. And I've got to go through a couple questions
20 that I hate asking people, but I'm going to ask it
21 because I need to.

22 First of all, are you on any type of medication
23 today that would affect your ability to understand my
24 questions or answer them accurately?

25 A. No, sir.

Page 9

Page 11

1 Q. Have you ever been convicted of a felony?

2 A. No, sir.

3 Q. Have you ever been convicted of a misdemeanor
4 that involved theft, dishonesty, or fraud?

5 A. No, sir.

6 Q. Now, I'm going to go into your background a
7 little bit. First of all, what's your level of
8 education?

9 A. Formal education in school?

10 Q. Yes.

11 A. I've got 60 units of college credits.

12 Q. From where?

13 A. Sierra College in, in Rocklin, California.

14 Q. When did you get these credits, from when to
15 when?

16 A. Most of them were obtained in the early '80s;
17 however, I've obtained a few more in the last 18 to --
18 oh, no. Actually, it was earlier than that. Within the
19 last three or four years.

20 Q. What, what -- did you get any type of degree,
21 associate's degree or anything --

22 A. No.

23 Q. -- like that? Any certificates?

24 A. Nope.

25 Q. Primarily, what was your area of study?

Page 10

1 A. General education, English, and science.

2 Political science as well.

3 Q. I'm assuming you graduated high school.

4 A. Yes, I did.

5 Q. When and where?

6 A. Carson City, 1980.

7 Q. I don't need your address, just the town. Where
8 do you presently live?

9 A. Gold Hill.

10 Q. Where is that located?

11 A. It's approximately a mile and a quarter from
12 where we're sitting. To the south.

13 Q. How long have you lived there?

14 A. I've lived in Gold Hill, in the current house,
15 since 2016. I, of course, was born and raised here,
16 being raised in the house that my great,
17 great-granduncle occupied from about 19 -- 1870 through
18 1903 when he was serving Nevada as the state senator.

19 Q. Federal senate or state senate?

20 A. United States Senate.

21 Q. His name? Just out of curiosity.

22 A. John Percival Jones.

23 Q. And you said you were born and raised "here."
24 You mean right here in Virginia City?

25 A. Gold Hill.

1 Q. Have you lived anywhere else?

2 A. Yes. Thirty years in the Sacramento Valley,
3 south Placer County, town of Loomis.

4 Q. All 30 years in Loomis?

5 A. Approximately, yes.

6 Q. What years was that?

7 A. 1982 through 2016.

8 Q. And you moved back -- obviously, moved back here
9 in 2016?

10 A. That's correct.

11 Q. What did you do for a living while you were in
12 Loomis?

13 A. I was an entrepreneur. I managed -- I owned a
14 company that had up to 75 employees, did five million a
15 year in business. We were in the communications
16 business.

17 Q. Were you the owner or the manager?

18 A. I was the owner.

19 Q. What's the name of the business?

20 A. The Electric Page.

21 Q. V-E as in Victor echo?

22 A. T-h-e, as in "the."

23 Q. Oh. The -- I'm sorry. Go ahead.

24 A. That's okay. The Electric Page.

25 Q. And that was in Loomis?

Page 12

1 A. No, it was downtown Sacramento.

2 Q. What happened to the business?

3 A. I shut 'er down.

4 Q. When?

5 A. The air quality control district of Sacramento
6 Valley insisted that I install a \$180,000 ventilation
7 system over a printing press that I owned, and the
8 reason for that was because I did a job that required
9 the use of ethyl alcohol. We did that job once a
10 quarter. I made about \$500 on the purchase -- or on the
11 transaction. And after 25 years of dealing with
12 increasingly onerous California regulation, I gave them
13 the fine finger of happiness and closed the business.

14 Q. What year did you close it?

15 A. That's a good question. 2006.

16 Q. What did you do for the other ten years you were
17 in Loomis?

18 A. I've basically been a consultant, I've done
19 print, what we call print brokering, and have enjoyed
20 free time.

21 Q. A lot less time when you don't own the company,
22 huh?

23 A. That's right.

24 Q. What type of consultant were you?

25 A. Communications consultant. Public relations,

Page 13

Page 15

1 marketing.

2 Q. From when to when?

3 A. From 2006 to present.

4 Q. Do you have a name of your -- do you have a
5 company as a consultant, or do you do it as an
6 individual?

7 A. There's been a number of different businesses.
8 Today I'm operating as Battle Born Digital Media &
9 Marketing.

10 Q. Is that a corporation, or --

11 A. Sole proprietorship.

12 Q. How long have you been operating as Battle Born
13 Digital Media?

14 A. I purchased a business license from Storey County
15 in -- on or about the first quarter of 2017.

16 Q. As a consultant, have you operated under any
17 other names?

18 A. No.

19 Q. Do you have any employees for Battle Born Digital
20 Media?

21 A. No, sir.

22 Q. What type -- you do communications consulting.
23 Can you go over that a little bit more for me as to what
24 that is?

25 A. Well, social media marketing, print, direct mail,

1 A. Yes, it would.

2 Q. When you're doing print brokering -- I know you
3 had your company that we've just discussed.

4 A. The Electric Page.

5 Q. The Electric. Other than that company, did you
6 operate under any other names for print brokering?

7 A. No, sir.

8 Q. Now, you told me about your almost 60 credits of
9 college. Do you have any other type of education?

10 A. Well, I think that when you run a business for
11 30 years and you deal with Fortune 500 companies, as
12 well as sole proprietorships, start-ups, single moms
13 working in their house, when you have 75 employees, I
14 think you could suggest that that is an educational
15 experience in the school of hard knocks that no college
16 is capable of providing.

17 Q. So the answer to my question is -- I understand
18 you got the hard knocks education, but any other type of
19 education?

20 A. Sure. Yes. For example, I went through Apple's
21 authorized service program. I became an authorized
22 Apple service technician in 1983. I went through Adobe
23 corporation's certified trainer program -- honestly, I
24 can't remember when I did that. I went through
25 Heidelberg's digital imaging qualifications. I've

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1 and other types of communication. You want a set of
2 business cards? I can bust those out for you. If you
3 want to put a banner up, put a billboard up, I can help
4 you with that.

5 Q. Do you have a printing press?

6 A. I do not.

7 Q. How do you get the, how do you get the things
8 printed up?

9 A. I have a 30-year network of professional
10 relationships with companies in California, and operate
11 with them on a wholesale basis.

12 Q. Now, you said you do print -- before you go into
13 that, have you operated under any other names as a
14 consultant?

15 A. No, sir.

16 Q. What's that?

17 A. No, sir.

18 Q. How about print brokering, when were you doing
19 that?

20 A. I've been doing it since -- well, I mean, you can
21 argue that I did it since 1986.

22 Q. Still do it now?

23 A. When the time arises, although it's infrequent.

24 Q. Is that -- would that be part of your
25 communications consulting?

1 probably got a dozen more professional educational
2 opportunities that I couldn't name off the top of my
3 head.

4 Q. These courses, like the Apple authorized service,
5 how long was that course?

6 A. The course itself I believe was two weeks.

7 Q. The Adobe?

8 A. The Adobe class was two weeks.

9 Q. Same with Heidelberg?

10 A. Heidelberg, it was about a week, in New York
11 City, yeah.

12 Q. Did you -- you mentioned New York City. You
13 didn't live there, you just went there --

14 A. No. Went there for the training.

15 Q. Okay. What do you do for a living today?

16 A. I've already described what I do.

17 Q. Strictly the communications consulting?

18 A. That's correct.

19 Q. Do you have any other sources -- do you have any
20 other sources of income other than the communications
21 consulting business?

22 A. None that are substantial or worth mentioning.

23 Q. I don't mean to bicker with you. You may not
24 think they're worth mentioning, but I do. Do you have
25 any sources of income that derive from any type of

Page 17

Page 19

1 employment or business dealings other than your
2 communications business?

3 A. No, sir. And I assume you're excluding hobbies
4 from that list of information.

5 Q. Yeah. Well, hobbies are -- you know, there's a
6 definite -- hobbies are different than employment.

7 A. Correct.

8 Q. So what I'm really looking for is your
9 employment.

10 A. That's correct. No. The answer to that question
11 then is no.

12 Q. So what are your hobbies that you just referred
13 to?

14 A. I like to work on cars.

15 Q. Any others?

16 A. I like to play golf; however, I'm not very
17 successful at winning money at that.

18 Q. Now, you author a blog; right?

19 A. I do.

20 Q. What's the name of the blog?

21 A. The blog, as I'm sure you're aware, is The Storey
22 Teller Online. And that's,
23 t-h-e-s-t-o-r-e-y-t-e-l-l-e-r-o-n-l-i-n-e.

24 Q. Dot what?

25 A. O-n-l-i-n-e.

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1 Q. And just for going forward in the depo --

2 MR. FLANGAS: Let's go off record on that.
3 (An off the record discussion was held at this time.)

4 MR. FLANGAS: All right. Back online.
5 BY MR. FLANGAS:

6 Q. How long have you been publishing The Storey
7 Teller online blog?

8 A. I bought the URL in February of 2017, and posted
9 my first post shortly thereafter.

10 Q. What was the purpose of your blog?

11 A. The purpose of the blog was to provide
12 communications on political activities that occur in
13 Storey County.

14 Q. What type of political activities?

15 A. Any and all. The families, the five families
16 that think they run this place since they were beating
17 me up as a little kid, are the same ones that are --
18 that think they're in power today, and I like to provide
19 an alternative voice to the, the messaging and the
20 communications that they put forth.

21 Q. Who are the five families you're referring to?

22 A. They've changed over the years, but there are
23 five prominent families here in Virginia City.

24 Q. And they are?

25 A. Well, let's see. A couple of them have moved

1 off. You could refer to the Hess family, you could
2 refer to the Nevin family, you could refer to the Bacus
3 family. There are other families that have changed and
4 morphed over the years. The Adams family back when I
5 was a kid. But -- yeah. Oh, yeah.

6 So, yeah, there's a collection of those, those
7 folks and their offspring that are -- continue to be
8 employed in county politics and that own properties here
9 on C Street.

10 Q. These families, you gave me four: Hess, Nevin,
11 Bacus, and Adams. Who is the fifth one?

12 A. You could insert a half dozen different family
13 names. Curtis might be -- you might insert Curtis
14 there, you can insert Gallagher there. You can insert a
15 number of smaller players.

16 Q. Was there any other reason why you started your
17 blog other than to report and provide an alternative
18 voice against these five families that you just
19 mentioned?

20 MR. BUSBY: Objection, asked and answered.
21 Go ahead.

22 THE WITNESS: So -- I'm sorry. Being a
23 novice, so answer this?

24 MR. BUSBY: Yes. Go ahead.

25 THE WITNESS: Okay.

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1 MR. BUSBY: I'll either direct you to answer
2 or not.

3 THE WITNESS: Oh, okay.

4 MR. BUSBY: Go ahead and answer.

5 BY MR. FLANGAS:

6 Q. If you remember -- and I'll ask that question
7 again to get us back on track. If you remember, during
8 the admonition phase I told you your attorney is going
9 to register an objection from time to time, and you do
10 need to answer the question --

11 A. Oh, okay.

12 Q. -- unless you receive further instruction from
13 him not to.

14 A. Thank you. So, yes.

15 Q. Let me go ahead and ask the question again --

16 A. Please.

17 Q. -- so that way we've got a cleaner transcript.

18 So you said the, the purpose of the blog was to
19 provide an alternative voice against the five families
20 that we just talked about. My question: Was there any
21 other purpose for your, for your blog?

22 MR. BUSBY: Objection, mischaracterizes
23 earlier testimony, asked and answered. Go ahead.

24 THE WITNESS: So the -- there were a number
25 of purposes. There's no primary purpose to starting the

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1 blog. To answer your question directly, I started it
2 because I'm an activist, and when I see shenanigans,
3 when I see waste, when I abuse, when I see fraud, when I
4 see monkey business, I'm one of few people who has
5 enough courage up here to stand up, paint a target on my
6 shirt, and voice opposition. Because I don't have a job
7 for the county, because my kids don't go to school here,
8 because there's no method of intimidation.

9 Because the sheriff, who's duly elected,
10 coming up for re-election, and was in the midst of a
11 recall, a very ugly and divisive recall effort, is not
12 in the pockets of any of those five families or any of
13 the employees of the County, I don't have to worry about
14 the fear of intimidation of a no knock raid and planted
15 evidence, as was customary in days gone by.

16 BY MR. FLANGAS:

17 Q. Okay. Let's talk about, first of all, the
18 sheriff. You're referring to Sheriff Jerry Antinoro?

19 A. That is correct.

20 Q. Are you friends with Mr. Antinoro?

21 A. Am I friends with him?

22 Q. Yes.

23 A. He's an, an acquaintance of mine, yes.

24 Q. Do you socialize with him?

25 A. Infrequently. I do so in public.

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1 Q. When you say "in public," you mean like at a bar
2 or a restaurant or something?

3 A. At his office, at public functions, public
4 events.

5 Q. Safe to say you're a supporter of Mr. Antinoro?

6 A. It is.

7 Q. How frequently do you speak with Mr. Antinoro?

8 A. Well, I ran into him at the coffee house while we
9 were waiting for the court reporter this morning.

10 MR. BUSBY: For the record, I'd like to
11 lodge a continuing objection to any questions about
12 Sheriff Antinoro. The Court has already dismissed all
13 of the claims in this matter related to the sheriff, and
14 directed the discovery be limited solely to information
15 as to whether Mr. Toll knew the residence statements he
16 made about Mr. Gilman were false, or whether he acted
17 with a high degree of awareness of the probable falsity
18 of the statement, or had serious doubts as to the
19 publication's truth. Therefore, the questions, any
20 questions about Sheriff Antinoro have nothing to do with
21 that limited scope of discovery, and I object.

22 MR. FLANGAS: Thank you.

23 MR. BUSBY: Go ahead.

24 BY MR. FLANGAS:

25 Q. How frequently do you interact -- and you said

Page 23

1 you just saw him at coffee, but my question is how
2 frequently do you interact with Mr. Antinoro.

3 A. I would characterize the frequency as perhaps two
4 or three times a month.

5 Q. Do you and Mr. Antinoro have this -- some type of
6 video things that you all do, or TV thing or broadcast
7 thing that you do together?

8 A. There's no video involved, no. I have recorded
9 interviews with Mr. Antinoro which have been published
10 on The Storey Teller. The term folks are using today is
11 podcast, for audio.

12 Q. And in one of your affidavits -- I want to just
13 kind of read it into the record. I can give you a copy.
14 If you want to follow along with me, that's fine.

15 MR. FLANGAS: As a matter of fact, I'll go
16 ahead and give you each a copy so you don't have to --
17 let's go ahead and just have this marked as Plaintiff's
18 Exhibit 1.

19 (Exhibit 1 marked at this time.)

20 BY MR. FLANGAS:

21 Q. Okay. What I'm going to do is I'm going to be
22 looking at -- first of all, this is a declaration you
23 did? Or a copy of one, I should --

24 A. That's correct. My signature is on page three.

25 Q. All right. And you read everything in this

Page 24

1 affidavit?

2 A. I did.

3 Q. You fully understood what you wrote?

4 A. I do.

5 Q. And let me rephrase that. You fully understand
6 what you signed; right?

7 A. I do and did, yes.

8 Q. I want to just start with 18, which is paragraph
9 18. Now, you talk here that you conduct research for
10 pieces you write in the Teller by gathering information
11 from a variety of sources.

12 "This includes using the internet to access
13 places like the Storey County Website, Las Vegas Sun,
14 RGJ, the Nevada Revised Statutes, Nevada Appeal,
15 Transparent Nevada, and others. I attend and actively
16 participate in the Storey County commissioner meetings
17 regularly, as well as the Storey County Planning
18 Department and the Virginia City Tourism Commission
19 meetings. I was selected as a public witness during the
20 effort to recall the sheriff?"

21 I read that correctly so far?

22 A. That is an accurate representation of what was
23 written.

24 Q. Before I go into the questions I wanted to do,
25 what is -- when you say you were a public witness during

Page 25

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1 the effort to recall the sheriff, what does that mean?

2 MR. BUSBY: I'm going to object for the
3 record. Mr. Flangas, this question is beyond the scope
4 of the discovery permitted by the Court and its order.
5 You're asking questions about the sheriff. The sheriff
6 has nothing to do with the scope of discovery that's
7 been delineated by the Court. It's clear, in my mind,
8 that you're directly disobeying the Court's order. Can
9 you please explain how your question is relevant to Mr.
10 Toll's questioning Mr. Gilman's residence?

11 MR. FLANGAS: I will get there shortly, but
12 I'm laying background information first because -- and I
13 disagree with you. I'm not disobeying the Court's order
14 by any stretch of the imagination. I will just tell
15 you, if you look at the Posadas case -- and I can give
16 you an exact site if you want it, on it. But it says --
17 the Posadas case, which has been cited by both parties
18 pretty, pretty, pretty frequently in this case, says,
19 "Recklessness or actual malice may be established
20 through cumulative evidence of negligence, motive, and
21 intent." So I think, based on the Posadas case, I'm
22 within the realm to ask about his motive and his intent
23 on what he's doing.

24 MR. BUSBY: You haven't asked any questions
25 related to his motive and intents of the issue with

1 A. Not as his representative. As a member of the
2 public witnessing the event.

3 Q. Who else had opportunities to select witness --
4 public witnesses?

5 A. Commissioner Gilman let Kris Thompson and the
6 group -- and Don Norman, who paid for, funded, and were
7 the driving force behind the recall.

8 Q. They got to observe, too?

9 A. Mr. Kris Thompson and Mr. Gilman's counsel were
10 also there.

11 Q. You're not referring to me, by Mr. --

12 A. No, sir. No, sir.

13 Q. Okay.

14 A. It was an attorney from Carson City, whose name
15 escapes me.

16 Q. I just want to make sure for the record on that.

17 All right. So based on kind of -- I'm going to
18 go now to the questions when I read number 18 in the
19 record. It appears you're very familiar with the
20 government here in Storey County?

21 A. I'm familiar with the government in Storey
22 County, I'm familiar with the state government, I'm
23 familiar with the federal government, as well as the
24 government in California.

25 Q. Now, you're obviously familiar with the county

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1 Lance Gilman's residence.

2 MR. FLANGAS: I will get there.

3 MR. BUSBY: Okay. I just want to lodge that
4 objection for the record.

5 BY MR. FLANGAS:

6 Q. Okay. First of all --

7 MR. BUSBY: Go ahead, Mr. Toll.

8 BY MR. FLANGAS:

9 Q. First of all, what is a public record?

10 A. I'm sorry. What is --

11 Q. Excuse me.

12 A. Yeah. Yeah.

13 Q. I'm sorry.

14 A. That's okay.

15 Q. You mentioned a -- you were a public witness. So
16 what did you mean by that?

17 A. A public witness is a person who is selected and
18 identified as a witness to an event. In this case, the
19 event was the recall signature verification process
20 conducted by county clerk/treasurer, Vanessa Stephens
21 and her staff.

22 Q. And you were selected by who?

23 A. I was selected by Sheriff Antinoro.

24 Q. As his representative to oversee the counting of
25 signatures?

1 commission; right?

2 A. I am.

3 Q. You're also familiar with the brothel boards?

4 A. Yes, I am.

5 Q. And that's comprised of who?

6 A. There's two commissioners and the sheriff.

7 Q. It's actually three commissioners, but one has to
8 abstain; right?

9 A. Well, practically speaking -- I've attended
10 county commission meetings. Only two of the
11 commissioners have been able to have participated in the
12 board, and the sheriff as well. So from my practical
13 experience, there are only two commissioners that
14 participate on the brothel board.

15 Q. And who are they?

16 A. They would be Chair Marshall McBride, and
17 Commissioner Jack McGuffey, and of course the
18 aforementioned Sheriff Gerald Antinoro.

19 Q. Now, the sheriff's office regulates the brothels?

20 A. Yes, that's correct. My father wrote Joe
21 Conforte's biography, and Sheriff Bob Del Carlo was
22 overseeing Joe Conforte's operation in the mid '70s.

23 Q. Now, you said that there was some certain things,
24 you know -- well, let's stop for a second, here. Let's
25 kind of go through a few things first, just for

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1 identification purposes.

2 MR. FLANGAS: If I could have this marked as
3 No. 2, please.

4 (Exhibit 2 marked at this time.)

5 MR. BUSBY: I'm going to --

6 MR. FLANGAS: I'm showing --

7 MR. BUSBY: Can I have a minute to review
8 this, please?

9 MR. FLANGAS: Oh, absolutely. Just so you
10 know, those are the exhibits that were attached to my
11 opposition to your SLAPP -- anti-SLAPP suit.

12 MR. BUSBY: Okay. Just one second.

13 I don't believe this exhibit contains any
14 content related to the scope of discovery as delineated
15 by the Court; therefore, I will object to its use at the
16 deposition. Go ahead, please.

17 MR. FLANGAS: Okay.

18 BY MR. FLANGAS:

19 Q. Now, I'm showing you what's marked as Exhibit
20 No. 2. Do you recognize the content of this exhibit?

21 A. I do.

22 Q. That's one of your blogs?

23 A. That's correct.

24 Q. Now, if you'll turn to the, what appears to be
25 the third page of the exhibit, not including the cover

1 free," your intent is to let everybody know, that reads
2 your blog, that this is based on fact; right?

3 MR. BUSBY: Objection, asked and answered.
4 Objection, mischaracterizes earlier testimony, and
5 compound question, confusing. And go ahead.

6 THE WITNESS: As I just explained to you in
7 an earlier answer to your question, yes, what I write is
8 facts based. However, satire is not facts based. I
9 write that. Opinion is also not facts based, and I
10 write that as well.

11 BY MR. FLANGAS:

12 Q. Okay.

13 A. Just like The New York Times.

14 Q. Now, when you first started writing your blog,
15 what was your intent? You mentioned several things,
16 too, but were you expecting a lot of people to read it?

17 MR. BUSBY: Objection, compound question,
18 confusing, mischaracterizes earlier testimony, and asked
19 and answered. Go ahead.

20 THE WITNESS: You're asking what my intent
21 was?

22 BY MR. FLANGAS:

23 Q. Well, let me rephrase the question, here.

24 Did you intend for a lot of people to read your
25 blog?

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1 page. Actually, it's the fourth page. I'm sorry.

2 Fourth page, not including the -- it says, at the top it
3 says, "Leave a Reply."

4 A. Yes, sir.

5 Q. It says, "Your email address will not be
6 published." And it says, "Required fields are marked."
7 Right?

8 A. Yes, sir.

9 Q. Now, down below it says, "Support the Teller and
10 keep fact based news about Storey County ad free." Is
11 that correct?

12 A. That's what it says, yes.

13 Q. So you hold yourself out as a facts-based type of
14 news; correct?

15 A. That's correct, yes. For example, yesterday I
16 posted a piece on Storey County's budget provided --
17 with numbers provided by the Storey County comptroller.
18 Two days before that I posted a piece that was
19 conducted -- that was the synopsis of data collected
20 from the Nevada Department of Taxation. So yes, I do
21 collect facts and I present them to the readers to make
22 their own opinion. I do also create editorials and
23 satire as part of what I do.

24 Q. And with that that I just read, "Support the
25 Teller and keep fact based news about Storey County ad

1 A. I had hoped for a lot of people to read my blog,
2 yes.

3 Q. What were you expecting in the way of people to
4 read your blog?

5 A. I had no idea.

6 Q. How many people are reading your blog?

7 A. How many people are reading it today?

8 Q. Yes.

9 A. We filed a, a printout of a stat report, which
10 I'm sure you're familiar with in papers that you've
11 received. Our current readership stats are between
12 eight hundred and a thousand readers a week. They
13 certainly were not that when I started.

14 Q. Now, how do you know they're readers? Are you
15 able to get a stat that said people are actually reading
16 this, or --

17 A. That's correct. If you're --

18 Q. -- or visiting it? Or what -- how does that
19 work?

20 MR. BUSBY: Objection, compound question.
21 Go ahead.

22 THE WITNESS: If you're familiar with
23 internet statistic software packages, they're capable of
24 some very sophisticated things. You can find out how
25 many seconds people are on your page, you can find out

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1 the incoming and outgoing buckets on which they travel,
2 their navigational habits, what page they come in on,
3 what page they exit on, how much time they spend on each
4 page. And from those data points, you can create a very
5 clear case as to who, what, where, when, and why people
6 are on your, on your website.

7 MR. FLANGAS: Okay. I'm going to have this
8 next one marked as Exhibit No. 3.

9 (Exhibit 3 marked at this time.)

10 MR. BUSBY: I need a moment to review this.

11 MR. FLANGAS: Just let me know when you're
12 ready, counsel.

13 MR. BUSBY: Okay. It seems to be missing
14 some pages. All I'm seeing here is a --

15 MR. FLANGAS: I think --

16 MR. BUSBY: -- summons. Page numbers are
17 not printed out. I'm not sure if this is the entire
18 document, but --

19 MR. FLANGAS: Let me see what you have for a
20 moment.

21 MR. BUSBY: I'm going to lodge an objection
22 anyway, based on the fact that there's nothing in this
23 document about Mr. Gilman's residency or Mr. Toll's
24 allegations about Mr. Gilman's residency. So therefore,
25 it's beyond the scope of the discovery permitted by the

1 A. I am.

2 Q. Okay. Down at the bottom it says:

3 "Most of all, they mentioned the conflict of
4 interest that Commissioner Gilman enjoys as he wears" --
5 gosh, it's -- "h on both sides of the negotiating table.
6 A conflict of interest that places the self-interest of
7 the mark manager and exclusive real estate broker above
8 the interests of Storey County taxpayers and voters."

9 Is that what it says?

10 A. Actually, what it should read is:

11 -- "Commissioner Gilman enjoys, as he wears his
12 hat on both sides of the negotiating table. A conflict
13 of interest that places the self-interest of marketing
14 manager and exclusive real estate broker of TRIC above
15 the interests of Storey County taxpayers and voters."

16 Q. Do you like Mr. Gilman?

17 A. I, I have no personal opinion of Mr. Gilman,
18 personally, on a personal level, one way or another. I
19 have shaken his hand two or three times in public. I
20 have no knowledge of him on a personal level.

21 Q. Do you dislike him, though?

22 A. I have no opinion of his character.

23 MR. BUSBY: Objection, asked and answered.
24 Go ahead.

25 THE WITNESS: I have no opinion of him

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1 Court in this matter.

2 MR. FLANGAS: I think this is the full
3 document, personally --

4 MR. BUSBY: Okay.

5 MR. FLANGAS: -- but that's for you to...

6 BY MR. FLANGAS:

7 Q. Okay. I'm showing you what's been marked as
8 Exhibit No. 3. Do you recognize that?

9 A. I do.

10 Q. Is that your blog?

11 MR. BUSBY: Just for the record, the page
12 numbers aren't visible on the copy you provided to
13 counsel or the copy provided to the witness, so...

14 MR. FLANGAS: I will agree with counsel. On
15 there it just seems to show "of 12." It doesn't have
16 the number.

17 BY MR. FLANGAS:

18 Q. But do you recognize the document?

19 A. I do, yes.

20 Q. And that's your blog?

21 A. Yes, it is.

22 Q. All right. Let's look at -- if you go to the
23 third page in where it says at the top, "After all, who
24 really cares about Storey County politics?" Are you
25 there?

1 personally.

2 MR. FLANGAS: If I could have this one
3 marked as No. 4, please.

4 (Exhibit 4 marked at this time.)

5 MR. FLANGAS: Let me know when you're ready,
6 counsel.

7 MR. BUSBY: Okay. All right. I'm going to
8 object to the use of this document, which I believe is
9 the affidavit of Lance Gilman, insofar as it's used for
10 any purpose beyond the scope of the very limited
11 discovery which the Court has granted the defendant
12 leave to participate in in this case.

13 MR. FLANGAS: This is embarrassing. I meant
14 the other one. Sorry about that. If you want to hand
15 that back, we will withdraw it.

16 This is the one that was supposed to be
17 next.

18 (Exhibit 4 re-marked at this time.)

19 MR. BUSBY: Just a moment, please.

20 MR. FLANGAS: Just tell me when you're
21 ready.

22 MR. BUSBY: Same objection. I don't see
23 where this document, how or where it relates to Mr.
24 Gilman's residency in any way, which is what the Court
25 permitted the defendants leave to effect discovery upon.

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<p>1 Therefore, we object to its use at this deposition.</p> <p>2 MR. FLANGAS: Okay.</p> <p>3 BY MR. FLANGAS:</p> <p>4 Q. Now, sir, if you will turn -- first of all, would</p> <p>5 you identify this as your blog?</p> <p>6 A. Yes, sir. This is an article on my website.</p> <p>7 Q. Not counting the cover page which says Exhibit 4</p> <p>8 on it, if you go to the page where it's got, "Don Norman</p> <p>9 promises not to interfere in the sheriff selection." Do</p> <p>10 you see that page?</p> <p>11 A. Yes, sir, I do.</p> <p>12 Q. In a big box? Yes?</p> <p>13 A. Yes, sir, I do.</p> <p>14 Q. At the bottom it says:</p> <p>15 "Team Gilman would have never subjected the</p> <p>16 citizens to the polarizing effect of the recall effort</p> <p>17 had it not been for the Washoe County resident who</p> <p>18 thinks he knows what is best for the taxpayers who</p> <p>19 should shoulder the taxpayer burden of Don Norman, Lance</p> <p>20 Gilman, and the rest of the tax escapers at the center."</p> <p>21 You wrote that, right?</p> <p>22 A. Yes, I did.</p> <p>23 Q. Who was the Washoe County resident you were</p> <p>24 referring to?</p> <p>25 A. It's well-known that Mr. Norman lives in Washoe</p>	<p>1 granted leave for the defendants to conduct discovery on</p> <p>2 this matter, I'll object to its use.</p> <p>3 BY MR. FLANGAS:</p> <p>4 Q. Okay. I'm showing you, sir, what's been marked</p> <p>5 as Exhibit No. 5. Do you recognize the document?</p> <p>6 A. Yes, sir, I do.</p> <p>7 Q. Is this your blog?</p> <p>8 A. Yes, it is.</p> <p>9 Q. Written on April 18th?</p> <p>10 A. I couldn't confirm the date.</p> <p>11 Q. If you go to the very first page, does that help</p> <p>12 you?</p> <p>13 A. Yes.</p> <p>14 Q. That says, "Muth's Truths and the Department of</p> <p>15 Good News"?</p> <p>16 A. That's correct, yes.</p> <p>17 Q. All right. Go to -- then you go to the next</p> <p>18 page, it says "Muth's Truths" in big, in big -- in a</p> <p>19 big, gray box?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And then the next page after that it's got</p> <p>22 another box that says "Department of Good News"?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And then under that box it's got the words that</p> <p>25 says:</p>
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<p>1 County.</p> <p>2 Q. You weren't referring to Mr. Gilman there?</p> <p>3 A. No. The story is about Don Norman.</p> <p>4 Q. Now, you feel that Mr. Gilman is not a resident</p> <p>5 of Storey County. Is that a correct statement?</p> <p>6 A. You know, I might have been born at night, but I</p> <p>7 wasn't born last night.</p> <p>8 Q. So you think that -- I understand you weren't</p> <p>9 born last night. So the question asks for a yes or no</p> <p>10 answer. Do you believe that Mr. Gilman is not a</p> <p>11 resident of Storey County?</p> <p>12 A. That is correct.</p> <p>13 Q. And you have published that in your blogs; is</p> <p>14 that a correct statement?</p> <p>15 A. Yes. That's why we're here today.</p> <p>16 Q. All right.</p> <p>17 MR. FLANGAS: Have this marked as Exhibit 5,</p> <p>18 please.</p> <p>19 (Exhibit 5 marked at this time.)</p> <p>20 MR. BUSBY: May I have a copy? If I may</p> <p>21 have a moment.</p> <p>22 MR. FLANGAS: Sure.</p> <p>23 MR. BUSBY: All right. Insofar as this</p> <p>24 exhibit contains information not related to Mr. Gilman's</p> <p>25 residence, which is the subject upon which the Court</p>	<p>1 "The debacle we emerged from a week ago today is</p> <p>2 not the kind of thing out county should be making the</p> <p>3 news with. Sadly, the most equal member of Storey</p> <p>4 County (if you believe he actually lives at 5 Wild Horse</p> <p>5 Canyon) cares more about himself than the county he</p> <p>6 represents."</p> <p>7 Who are you referring to there?</p> <p>8 A. I'm clearly referring to Commissioner Lance</p> <p>9 Gilman.</p> <p>10 Q. And you wrote that; correct?</p> <p>11 A. Yes, I did.</p> <p>12 Q. You can put it up.</p> <p>13 MR. FLANGAS: I'd like to have this marked</p> <p>14 as No. 6.</p> <p>15 (Exhibit 6 marked at this time.)</p> <p>16 MR. FLANGAS: Let me know when you're ready,</p> <p>17 counsel.</p> <p>18 MR. BUSBY: All right. I'm going to object</p> <p>19 to use of this exhibit insofar as it lists information</p> <p>20 not within the scope of the limited discovery granted by</p> <p>21 the Court to the defendants in this matter related to</p> <p>22 Mr. Gilman's residency. Go ahead.</p> <p>23 BY MR. FLANGAS:</p> <p>24 Q. Sir, if you'll look at Exhibit 6. Do you</p> <p>25 recognize the document?</p>

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1 A. Yes, sir, I do.

2 Q. This is a blog you wrote?

3 A. Yes, sir, it is.

4 Q. And what was the date of this blog?

5 A. The second page reflects May 20th, 2017.

6 Q. All right. If you'll go to the next page, there
7 appears to be a picture. And who is that picture of?

8 A. That's a picture of Commissioner Lance Gilman.

9 Q. And then the next page, if you go to that, it
10 says at the top, page 3 of 10.

11 A. Yes, sir.

12 Q. Now, there's a second paragraph. It says, in
13 quotes: "I want the people of Storey County to know
14 that I am a man of integrity," and it goes on and on;
15 right?

16 A. Yes, sir. That is what the second paragraph
17 reads.

18 Q. And I'm assuming this was meant to be satire on
19 your part?

20 A. Yes, sir. It's clearly is indicated as satire by
21 the closing paragraph at the end of the piece.

22 Q. Okay. And in that same paragraph that I just
23 mentioned, the last full sentence says:

24 "I want to thank them, along with the entire

25 Team Storey team for helping Mr. Norman and me becoming

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1 the wealthiest people who do business in Storey County
2 but don't actually live here,' said Mr. Gilman."

3 You wrote that, right?

4 A. Yes, I did.

5 Q. And the intent, again, is to convey the message
6 that Mr. Gilman doesn't live in Storey County --

7 MR. BUSBY: Objection.

8 BY MR. FLANGAS:

9 Q. -- is that a correct statement?

10 MR. BUSBY: Objection, asked and answered.
11 Go ahead.

12 THE WITNESS: Well, as I've already
13 described, this is a satire piece, and therefore nothing
14 in this piece should be taken literally.

15 BY MR. FLANGAS:

16 Q. Well, I understand, but I've asked you what is --

17 MR. BUSBY: I would ask you to let my
18 witness finish answering the question, please.

19 THE WITNESS: As you may recall, in the mid
20 '80s Jerry Falwell sued Larry Flynt for character
21 defamation in very similar circumstances to what
22 we're -- what's being done here. And in fact, the
23 supreme court ruled in Mr. Flynt's favor. Satire is --
24 you know, you can sue someone, but you can't sue them
25 for having your feelings hurt. And so satire is

1 consistent with free speech. And so, you know, this,
2 this piece, nothing in it can be characterized as actual
3 fact or an actual quote from Mr. Gilman.

4 BY MR. FLANGAS:

5 Q. Okay. Well, I appreciate the law lesson, but I
6 had a specific question. On that sentence, again, it
7 says:

8 "I want to thank them, along with the entire

9 Team Storey team, for helping Mr. Norman and me becoming
10 the wealthiest people who do business in Storey County
11 that don't actually live here,' said Mr. Gilman."

12 Was your intent to further convey the message to
13 your reading public that Mr. Gilman does not live in
14 Storey County?

15 MR. BUSBY: Objection, asked and answered.
16 Go ahead.

17 THE WITNESS: So -- so I don't believe that
18 Mr. Gilman -- I didn't believe that Mr. Gilman lives in
19 a double-wide trailer behind the brothel, Mustang Ranch,
20 when I wrote this piece, I didn't believe it when I was
21 sued, I don't believe it today.

22 BY MR. FLANGAS:

23 Q. All right.

24 A. So the answer to your question is yes, it

25 absolutely was to convey the message that Mr. Gilman, in

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1 my opinion, in my belief, and from what I've gathered,
2 does not live at the Mustang Ranch.

3 MR. FLANGAS: Okay. If we could have that
4 marked as No. 7, please.

5 (Exhibit 7 marked at this time.)

6 MR. BUSBY: No objection. Go ahead.

7 MR. FLANGAS: Well, that's a first.

8 BY MR. FLANGAS:

9 Q. Okay. I'm showing you what's been marked as
10 Exhibit No. 7. Do you recognize the document?

11 A. Yes, sir, I do.

12 Q. And this is one of your blogs?

13 A. That is an article that I posted on my website,
14 yes.

15 Q. And this is dated October 16th; is that a correct
16 statement?

17 A. Let's take a look. Yes, it is.

18 Q. And that would be what year, 2016?

19 A. 2017.

20 Q. 2017? Okay. Now, let's look at your -- the
21 second page of the document has got a picture of Lance
22 Gilman and two ladies; right?

23 A. That's correct.

24 Q. In its upper right-hand corner it says "page 2 of
25 21;" is that a correct statement?

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1 A. That's what it says here, yes.

2 Q. All right. We're going to come back to that. I
3 just wanted to make sure we got it identified. And I
4 want you to go to page 4 of 21, it's listed in the upper
5 right-hand corner, of Exhibit 7.

6 A. Okay.

7 Q. Are you there?

8 A. I am, yes.

9 Q. All right. And it's got in the bold language
10 there, "Six months later;" right?

11 A. That's correct.

12 Q. Did you write this?

13 A. Yes, I did.

14 Q. And it says:

15 "On the sixth-month anniversary of the initial,
16 unfilled public record request The Teller filed a
17 criminal complaint with Storey County District Attorney
18 Anne Langer, and Nevada Attorney General Adam Laxalt.
19 DA Langer advised me that since I was making a criminal
20 complaint, I needed to file the complaint with the
21 sheriff's office" once before -- excuse me -- "sheriff's
22 office before she could proceed."

23 You wrote that; right?

24 A. I did.

25 Q. And it says:

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1 "The purpose of this complaint is to hold
2 accountable County Commissioner Gilman and Planning
3 Commissioner Thompson for committing perjury when they
4 filed paperwork claiming to live somewhere it is illegal
5 to live. Since they took office illegally and since
6 they don't actually live at Wild Horse Canyon Drive (or
7 anywhere else in the county for that matter) and can't
8 legally reside where they claim they did, we conclude
9 and insist they be prosecuted for perjury and removed
10 from office."

11 You wrote that?

12 A. Yes, I did.

13 Q. Was your intent to convey the message that Mr.
14 Gilman committed perjury?

15 A. My content was to --

16 Q. Do you mean your intent, or -- you said
17 "content."

18 A. Thank you for clarifying that.

19 So my intent in writing this paragraph, and in
20 fact my intent in writing this entire piece, was to
21 illustrate the fact that Mr. Gilman enjoys a different
22 set of rules, under which he conducts his personal and
23 business activities, than the rest of us. You may
24 remember, George Orwell wrote in Animal Farm, "All
25 animals are created equal, but some are more equal than

1 others" as a criticism of the communists in the mid
2 '50s. I believe that's very applicable here.

3 So my intent was to illustrate that the county
4 holds two sets of rules for special people and, and the
5 rest of us.

6 Q. Okay. Now I want you to answer the question I
7 asked. Was your intent to convey to your reading public
8 that Mr. Gilman committed perjury?

9 MR. BUSBY: Objection, asked and answered.

10 MR. FLANGAS: It has not been answered,
11 counsel, and those are improper objections.

12 MR. BUSBY: You just asked the question
13 saying, "I'm going to ask you again." He answered your
14 first question. Objection, asked and answered.

15 MR. FLANGAS: The objection for asked and
16 answered requires a question and an answer. He did not
17 answer. He gave me a, he gave me a, a diversion off to
18 George Orwell, and my question was very specific.

19 MR. BUSBY: Dissatisfaction with the
20 witness' answer is not grounds for asking the same
21 question over and over.

22 Go ahead, Mr. Toll.

23 THE WITNESS: So can you repeat the question
24 for me, please.

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1 BY MR. FLANGAS:

2 Q. Certainly. Was your intent here to convey to
3 your reading public that, that Mr. Gilman committed
4 perjury?

5 A. My intent --

6 MR. BUSBY: Same objection. Go ahead, Mr.
7 Toll.

8 THE WITNESS: My intent was to, to
9 communicate my opinion as to Mr. Gilman's capacity.
10 I -- again, I don't believe he lives there. And since
11 he doesn't live there, in my opinion, when he filled out
12 paperwork suggesting that he does, he committed perjury.
13 Because filling that paperwork out requires a, a --
14 requires telling the truth. And in fact, you are
15 compelled by law to tell the truth, with suffering the
16 consequences of perjury if you don't.

17 BY MR. FLANGAS:

18 Q. So you wanted your reading -- your readers to
19 believe that Mr. Gilman created -- committed perjury;
20 right?

21 A. I wanted --

22 MR. BUSBY: Objection, asked and answered.
23 Go ahead.

24 THE WITNESS: I wanted them to believe that
25 it's my opinion that he doesn't live there. What they

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1 conclude is something that only they can -- I have no
2 control over.

3 For example, it's very interesting that what
4 I'm being charged of is defamation, because what it
5 predicts and concludes and projects is that I am
6 capable, through my words, of, of forcing people, or
7 creating thoughts in their head that they may not have
8 otherwise had. I have no control over what people
9 think.

10 BY MR. FLANGAS:

11 Q. So why did you use the word "perjury," then?

12 A. Because it's an appropriate use of the word.
13 When you sign the paperwork stating that that's where
14 you live under penalty of perjury, penalty of lying is
15 perjury. That's the consequence.

16 Q. And that's what you wanted your readers to
17 believe; correct?

18 MR. BUSBY: Objection, asked and answered --

19 THE WITNESS: I don't care what my
20 readers -- I'm sorry.

21 MR. BUSBY: Hang on.

22 Objection asked and answered. I believe
23 it's the third or fourth time that question has been
24 asked. Go ahead, Mr. Toll.

25 THE WITNESS: I don't care what my -- who

1 months later," it says:

2 "On the six-month anniversary of the initial,
3 unfilled public record request, The Teller filed a
4 criminal complaint with Storey County District Attorney
5 Anne Langer and Nevada Attorney General Adam Laxalt. DA
6 Langer advised me that since I was making a criminal
7 complaint I needed to file the complaint with the
8 sheriff's office before she could proceed."

9 First of all, let's talk about your public record
10 request. What public record request are you referring
11 to?

12 A. So we have -- I believe that Mr. Busby has
13 provided to you some attachments. This document
14 contains those attachments. If you look at --

15 THE WITNESS: Do you have, do you have those
16 printouts of the attachments that we've provided?

17 MR. BUSBY: So I'm not allowed to
18 participate in the deposition.

19 THE WITNESS: I'm sorry.

20 MR. BUSBY: Just answer the question --

21 THE WITNESS: Thank you.

22 MR. BUSBY: -- to the best of your
23 knowledge.

24 THE WITNESS: Can you repeat your question,
25 please?

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1 reads this, and I don't care what they believe. It's --

2 BY MR. FLANGAS:

3 Q. You hold yourself as facts-based --

4 MR. BUSBY: Mr. Flangas --

5 BY MR. FLANGAS:

6 Q. -- as a facts-based publication; right?

7 MR. BUSBY: Mr. Flangas, I would ask that
8 you allow the witness to finish his answer before you
9 move on.

10 Mr. Toll, please.

11 THE WITNESS: So it is a fact that when you
12 sign a document, as I did when I signed the paperwork to
13 run as -- for school board, that I attest under the
14 penalty of perjury that I live where I live; therefore,
15 if I believe he doesn't live there, then I believe he's
16 committing perjury when he signed that document.

17 BY MR. FLANGAS:

18 Q. So you're accusing Mr. Gilman of committing
19 perjury; right?

20 THE WITNESS: That's --

21 MR. BUSBY: Objection, asked and answered.
22 I believe that's four or five. Go ahead, Mr. Toll.

23 THE WITNESS: That's correct.

24 BY MR. FLANGAS:

25 Q. Now, under that same part where it says, "Six

1 BY MR. FLANGAS:

2 Q. Yeah. The question is: What was the public
3 records request that The Teller filed?

4 A. The initial public records request was for the
5 zoning -- what's the word I'm looking for? -- the zoning
6 of a specific parcel that the Mustang Ranch exists upon.

7 Q. And who did you file this public record request
8 to?

9 A. With Mr. Austin Osborne.

10 Q. What did Mr. Osborne tell you?

11 A. We're busy. We're super busy. We'll look into
12 it. As you can see, from page 7 of 21, his response
13 was -- actually, I'm sorry. I'm looking right at this
14 page.

15 My initial public records request is page 7 of 21
16 in the document you've provided me, which we're calling
17 Exhibit 7.

18 Q. And that's to Mr. Osborne; right?

19 A. That's correct, sir.

20 Q. And he said we'll get back to you?

21 A. "Lyndi will look into this and get back to you on
22 zoning within the NRS period."

23 Q. All right. So let's kind of stop right there.

24 We're looking at page 7 of 21. These appear to be two
25 emails; right?

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1 A. It is my -- yes, it is. Yes.

2 Q. All right. So my question for you is: You sent
3 this email to Austin Osborne; is that correct?

4 A. That is correct, yes.

5 Q. And then on -- you sent that on Wednesday,
6 March 29th, 2017; correct?

7 A. That is correct.

8 Q. Then you received a response from Mr. Osborne the
9 same day; is that a correct statement?

10 A. That is correct.

11 Q. And what's depicted on this document is the
12 response you received from Mr. Osborne; right?

13 A. That is correct.

14 Q. So your initial, unfilled public request was this
15 that we just went over, that you -- where you sent an
16 email to Mr. Osborne; is that correct?

17 A. Yes. I've answered that to you, yes.

18 Q. All right. Did you file any other public request
19 pertaining to zoning?

20 A. Sure.

21 Q. Who did you file it with?

22 A. I've sent a number of them to Gary Hames.

23 Q. Okay. Can you spell Gary's last name?

24 A. H-a-m-e-s.

25 Q. And who is Gary Hames?

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1 A. Gary Hames is the retired fire chief who was
2 appointed as community development director in a no bid,
3 sole source contract with the county.

4 Q. So what was the result of your public records
5 request to Mr. Hames?

6 A. He said, "Not my job, mate," and referred me back
7 to Mr. Osborne.

8 Q. When you used this funny accent that you just
9 used right now, are you making fun of his accent or are
10 you just using satire?

11 A. That's satire. That is, I meant to say, "It's
12 not my job, Mr. Toll. The community development
13 department does not deal with any zoning ordinances. In
14 fact, I'm referring you back to Mr. Osborne."

15 Q. Now, this request to Mr. Hames, was that in
16 writing, by email? How did that --

17 A. I made several requests to Mr. Hames, yes. Via
18 email.

19 Q. Are they attached to this article?

20 A. Probably not.

21 Q. Well, take a look. I don't want you to guess on
22 that. I just want you to just look and see if they're
23 attached to your article.

24 A. No, they are not.

25 Q. Any other public request that you did pertaining

1 to the zoning?

2 A. No. I mean, the bottom line is that this zoning
3 request remains open here a year and two months later.

4 As, as Mr. Osborne points out on page 7 of 21, he will
5 get back to me within the NRS period. NRS states you've
6 got five days. We're a little over that now. Now --

7 Q. So -- go ahead.

8 A. I was going to say, we provided you with exhibits
9 that fully illustrate the email train -- or thread, I
10 should say --

11 MR. BUSBY: Just for clarity of the record,
12 do you mind if I interject?

13 MR. FLANGAS: No. Really, he just goes --

14 MR. BUSBY: Okay. Go ahead.

15 THE WITNESS: Where the, the communications
16 exist.

17 BY MR. FLANGAS:

18 Q. All right. So did you ever verify the zoning on
19 the property of which Mr. Gilman lives?

20 A. Sure.

21 Q. When and how?

22 A. When and how. So interestingly, when I filed
23 this complaint and received a stonewall lack of response
24 from Mr. Osborne -- I'm answering your question.

25 Q. I know. I just need to --

1 A. I'm sorry.

2 Q. -- interrupt you --

3 A. Please.

4 Q. -- because you mentioned when you filed this
5 complaint. So I --

6 A. I'm sorry.

7 Q. -- hadn't heard what complaint you're referring
8 to.

9 A. I'm --

10 MR. BUSBY: Mr. Flangas, I'd ask that you
11 allow the witness to answer the question in full before
12 you interrupt and ask another question. Go ahead.

13 MR. FLANGAS: With all due respect, counsel,
14 he just mentioned something that we hadn't been talking
15 about. I just wanted clarification so I could follow
16 along with his story.

17 MR. BUSBY: Mr. Flangas, I understand. I
18 just ask that you allow the witness to complete his
19 answer to the questions before you ask another question.

20 BY MR. FLANGAS:

21 Q. The question is what complaint were you referring
22 to.

23 A. We're talking about a story that talks about The
24 Teller filing a criminal complaint.

25 Q. I was, right now, I think I was talking more

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<p>1 about did you verify the zoning. 2 A. Yes, I did verify the zoning. 3 Q. Okay. And then I asked you how, and you 4 mentioned a complaint, and I just asked you to tell me 5 what complaint you're referring to. 6 A. I'm sorry I mischaracterized what it is that 7 we're talking about. 8 So basically what I did was, independently of my 9 request from Mr. Austin Osborne, I went to the community 10 development department and asked them what the zoning 11 was. 12 Q. And what did they tell you? 13 A. Rather than taking six months to not answer me, 14 in five minutes I walked out with a printout telling me 15 that the property is zoned agriculture/industrial 2. 16 Q. And so who gave you that information? 17 A. One of the clerks at the, at the community 18 development department. 19 Q. What was the name of the clerk? 20 A. I don't recall. 21 Q. Is that clerk still there today? 22 A. I don't believe so. 23 Q. And so you believe it was agriculture and 24 industrial? 25 A. Yes, sir.</p>	<p>1 BY MR. FLANGAS: 2 Q. Based on your knowledge, your own personal 3 knowledge, what is, what is agricultural zoning and 4 industrial zoning? 5 A. Well, the, the words "agricultural" and 6 "industrial" are fairly self-explanatory. Nowhere in 7 either of those two words can you extract, condense, 8 distill, or otherwise torture into suggesting 9 residential use. 10 Q. Did you consult any ordinances as what's allowed 11 under agricultural or industrial use? 12 A. Absolutely. 13 Q. What did you locate? 14 A. Single-family dwellings are permitted on 15 agricultural use. The only type of overnight stay that 16 can happen in an industrial center, in I-2, is a 17 watchman's quarters that has to be approved by the 18 county commission. 19 Q. So is the, according to you, is the Gilman 20 property on the agricultural side or on the industrial 21 side? 22 A. It's not my place to decide where and what and 23 how. The ordinance suggests a single-family dwelling 24 can exist there. According to Mr. Gilman's own signed 25 documents, which he filed, again, under the stipulation</p>
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<p>1 Q. So did you do anything else? 2 MR. BUSBY: Objection, mischaracterizes 3 testimony. Go ahead and answer. 4 THE WITNESS: Can you repeat the question? 5 BY MR. FLANGAS: 6 Q. You said that you received information that the 7 property was zoned agriculture/industrial; right? 8 A. That is correct. 9 Q. All right. What else did you do to verify 10 zoning? 11 A. There's no need to continue searching, from my 12 perspective, because the property is zoned what it's 13 zoned. 14 Q. All right. Are you a zoning expert? 15 A. Absolutely not, that's why I relied upon the 16 expertise and the computer printout from the county 17 representative, who actually is the zoning expert. 18 Q. So what does agricultural property/industrial 19 property zoning, what does that mean? 20 A. It restricts the use of the property -- 21 MR. BUSBY: Just -- 22 THE WITNESS: I'm sorry. Go ahead. 23 MR. BUSBY: -- for the record, I'm going to 24 object. It calls for a legal conclusion. The witness 25 is not an attorney. Go ahead.</p>	<p>1 of perjury, page 12 of 21 he states specifically that: 2 "Kris Thompson resides" at my -- "by my 3 permission on 5B Wild Horse Canyon Drive, Sparks, 89434, 4 as part of an employment agreement he has with Lance 5 Gilman Commercial Real Estate Services Company. He does 6 not pay rent for this living space." 7 5B, as the Storey County assessor advises me, is 8 half of the double-wide trailer that Mr. Thompson and 9 Mr. Gilman claim to live in. Again, anyone with, you 10 know, a functioning set of synapses in their brain would 11 question and consider highly unlikely that one of the 12 richest men in Storey -- in Northern Nevada is roommates 13 with his girlfriend and his employee in a double-wide 14 trailer. It is, it is -- let's just say it stretches 15 the imagination. 16 Q. All right. So let's, let's examine what you've 17 just told us. First of all -- 18 A. And then -- I'm sorry. Let me directly answer 19 your question. 20 And that means that, if it's a multi-family 21 dwelling, then it is in direct conflict with the, with 22 the code, the agricultural code, as it relates to 23 single-family dwellings. 24 Q. What's a multi-family dwelling? 25 A. It's a duplex, for example, it's an apartment.</p>

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1 It's a place where more than one family lives. Unless
2 Mr. Thompson and Mr. Gilman are married, it's not legal
3 for Mr. Thompson to live there.

4 Q. What do you base that assumption on?

5 A. The definition of, of multi-family dwelling. Not
6 that I'm a lawyer.

7 Q. So if I had a roommate, I'm not allowed -- let me
8 just give you a hypothetical. Well, let me just use the
9 thing in front of us.

10 Is Mr. Gilman allowed to have a roommate --

11 MR. BUSBY: Objection, calls --

12 BY MR. FLANGAS:

13 Q. -- without it being in violation of any
14 ordinance?

15 MR. BUSBY: Objection, calls for a legal
16 conclusion, calls for speculation. Go ahead. Go ahead
17 and answer.

18 THE WITNESS: Not the way I read the
19 ordinance, and not the way that other people in the
20 county read the ordinance. Again, I'm not an attorney,
21 I have no idea, but --

22 BY MR. FLANGAS:

23 Q. Okay. I'm not quite sure that that's going to
24 come out clear on the record.

25 Is Mr. Gilman allowed to have a roommate in his

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1 residence without being in violation of the ordinance,
2 per you?

3 A. He's, he's --

4 MR. BUSBY: Mr. -- objection, asked and
5 answered, calls for speculation, calls for a legal
6 conclusion. Go ahead and answer, Mr. Toll.

7 THE WITNESS: Mr. Gilman is already claiming
8 to have a roommate. Her name is Jennifer
9 Barnes-Millsap. And therefore -- now could all three of
10 them be roommates together? Sure. Absolutely. Does
11 that mean that he's living, as stated, in two separate
12 addresses, therefore utilizing a double-wide trailer as
13 a multi-family dwelling? Absolutely, it does.

14 And not only that, let's also take a look
15 at -- which we don't have in front of us but I would be
16 happy to provide you with -- the voter registration
17 rules for Storey County. There are five other people
18 who claim to live at the Mustang Ranch. That is part of
19 this issue.

20 "Single-family" means a, a -- you can have
21 your kids, you can have your girlfriend, you can have
22 your boyfriend, you can have whoever it is, a single
23 significant other. The minute that more than one person
24 lives there, it becomes a multi-family dwelling, or a
25 multi-family address, and it becomes in violation of the

1 Storey County code.

2 BY MR. FLANGAS:

3 Q. You keep mentioning that this is a double-wide
4 trailer. How do you know it's a double-wide?

5 A. Because that's the way that the assessor
6 characterized it. She told me that it is a double-wide
7 trailer that has, actually, interestingly, not even been
8 converted to real property, so that theoretically it
9 still has the wheels on it.

10 Q. Who told you this, now?

11 A. The assessor, Jana Seddon.

12 Q. Spell Janice's last name, please.

13 A. I believe it's S-e-d-d-o-n.

14 Q. Are you aware it's pre-fab house?

15 MR. BUSBY: Objection, asked and answered.

16 THE WITNESS: I've never been to the
17 property, I have no idea what its configuration is, but
18 I do know that it is registered in the county as a
19 non-converted mobile home. And that means that,
20 technically, as far as the county's concerned from a
21 taxation standpoint, it still has its wheel on it and
22 could be rolled off tomorrow if -- obviously they
23 haven't confirmed that. But in order to enjoy a better
24 tax rate, you then consider it to be conveyed, or
25 converted, and then it becomes taxed at a different

1 rate. They still have it as if it's got its wheel on
2 it.

3 MR. BUSBY: I'm sorry. I've got to go to
4 the bathroom. Do you mind if we take a minute?

5 MR. FLANGAS: Let's take a break.

6 (A short break was taken at this time.)

7 BY MR. FLANGAS:

8 Q. Okay. When we left off we were talking about the
9 zoning and stuff of the -- Mr. Gilman's residence, and
10 you started talking about this tax rate. What's your
11 source of information for that?

12 A. I mentioned that information came from the
13 assessor, Jana Seddon.

14 Q. Now, in your article we talked about the perjury.
15 Was the perjury that you're referring to by Mr. Gilman
16 related to where he lives, or the zoning?

17 A. It's completely related to where he lives.

18 Q. Now, you mentioned that it -- and I, if I use
19 your words wrong, you can tell me on your answer -- that
20 it stretches the imagination that somebody like Mr.
21 Gilman, with his wealth, would live in a place that,
22 that he lives in. Why does that stretch the
23 imagination?

24 MR. BUSBY: Objection, mischaracterizes
25 earlier testimony. Go ahead.

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1 BY MR. FLANGAS:

2 Q. Or why would that give you any cause for concern,
3 where he lives?

4 MR. BUSBY: Same objection. Go ahead.

5 THE WITNESS: Why would it give me any cause
6 for concern, or why does it stretch the imagination?

7 BY MR. FLANGAS:

8 Q. Both.

9 A. Well, let's use the reasonable man principle. Is
10 it reasonable to suggest that one of the wealthiest men
11 in Northern Nevada lives behind a whore house with his
12 girlfriend, a bunk mate, five other prostitutes, in a
13 double-wide trailer? I think if you were to ask the
14 reasonable man -- and I think that many, many, many
15 reasonable voters in Storey County have raised the same
16 question.

17 Q. What five prostitutes is he living with?

18 A. Do a public records request for the voter
19 registration in, in, I believe it's Precinct 11, and you
20 will find a list of names. I'm assuming they're
21 prostitutes. I could be mistaken. They could be
22 employees.

23 Also, a resident of the person who holds the seat
24 of the TRIGID, the Tahoe Reno Industrial General
25 Improvement District, also has presented a driver's

1 A. I've just described those to you, to my

2 knowledge. We can check with the assessor. I believe
3 that I've got an email, which we included and attached
4 in one of the attachments that we provided for this
5 deposition, that describes the range of addresses.

6 Q. So is the brothel number 5 Wild Horse, according
7 to you?

8 A. No. According to the assessor -- if you look at
9 page 3 of 21 there's a Google Earth picture with a
10 circle around -- the document is nearly impossible to
11 make out in this printout -- where it says, "Lance
12 Gilman and Kris Thompson are roommates here."

13 Q. Where did that picture come from?

14 A. As I stated, Google Earth.

15 Q. Did you -- were you the one that Googled it?

16 A. I am.

17 Q. You're the one that put it there in that article?

18 A. That's my handiwork.

19 Q. All right. So my question for you: Is the
20 address number 5, where Mr. Gilman resides, the same as
21 the address for the brothel?

22 MR. BUSBY: Objection, asked and answered.
23 Go ahead.

24 THE WITNESS: No, it is not. However,
25 however, the compound, the complex, is all in the same

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1 license with 1000 Wild Horse Canyon as her legal address
2 to establish residency to sit on that elected board.

3 Q. 1000 what?

4 A. 1000 Wild Horse Canyon Drive.

5 Q. What is -- and how about those five prostitutes,
6 what's their address?

7 A. They are either 1000, or 1011, 1000 -- 1101.

8 There's a range of addresses that are assigned to that
9 physical parcel, which the Mustang Ranch occupies, that
10 fall in that range. As is 56, 52 -- or 5 and 5B Wild
11 Horse Canyon Drive.

12 Q. So what's Mr. Gilman's residence?

13 A. According to his driver's license, it is 5 Wild
14 Horse Canyon Drive, and I believe --

15 Q. Okay. So --

16 A. -- that that is, that is on page 11 of 21 of
17 Exhibit 7.

18 Q. So the five prostitutes residing at 1000 Wild
19 Horse, how do you make the connection that they reside
20 with Mr. Gilman?

21 A. They're all one -- part of the same property.
22 And in fact, back in the good old days, you know, Joe
23 Conforte had a block of 200 prostitutes that all voted
24 using his address at the brothel.

25 Q. What's the address of the brothel?

1 parcel, and that parcel is zoned agricultural/industrial
2 2, which permits only a single-family dwelling. Which I
3 guess we could, you know, go online and look up from
4 Merriam's dictionary what a single family is, but I'm
5 pretty sure, unless you live in Utah, it doesn't consist
6 of two men and a woman as a family.

7 BY MR. FLANGAS:

8 Q. You mentioned a minute ago five prostitutes are
9 residing with him, too, and you told me -- I asked you
10 where are you getting that five prostitutes are residing
11 with him, and then you're telling me that the
12 prostitutes reside at 1000, and Mr. Gilman resides at 5.
13 So I'm trying to see how they're all living under the
14 same roof, here.

15 A. I have no idea who's sleeping with who, but I do
16 know this, if you look at the parcel number -- and I
17 believe it's 001-161-121, although I may be not
18 accurately reflecting the, the lot. There are four lots
19 that actually make up the compound. They're all zoned
20 the same, and they all have the same zoning
21 requirements, which means that only a man and a woman,
22 or their kids, or a man and a man and their kids, or a
23 woman and a woman and their kids, but a single family,
24 and not a multiple family, not a bunch of people, not a
25 commune, not a group of prostitutes and their pimp, can

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1 live there.

2 Q. Are you -- you mentioned earlier you're not a
3 zoning expert; right?

4 MR. BUSBY: Objection, asked and answered.

5 THE WITNESS: Yes. As I've already
6 stated --

7 BY MR. FLANGAS:

8 Q. Just a yes or no so I can go on to my next
9 question.

10 A. Yes.

11 Q. Did you consult anybody to make an opinion as to
12 what's right and what's wrong as to the zoning out
13 there?

14 A. Yes.

15 MR. BUSBY: Objection, asked and answered.
16 Go ahead, Mr. Toll.

17 THE WITNESS: Yes.

18 BY MR. FLANGAS:

19 Q. Who did you consult?

20 A. Dozens and dozens of other concerned citizens in
21 the county.

22 Q. Okay. What are the names of some of the folks
23 that you consulted about whether or not the zoning was
24 correct or how they were using the zoning was correct?

25 MR. BUSBY: I'm going to go ahead and object

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1 based on the news privilege statute, which --

2 BY MR. FLANGAS:

3 Q. Well, first of all, were any of these people your
4 attorney?

5 MR. BUSBY: Not "first of all." Please let
6 me finish my objection, sir.

7 I'm citing to Nevada's shield law, codified
8 under NRS 49.275, the news media:

9 "No reporter, former reporter or editorial
10 employee of any newspaper, periodical or press
11 association, or any employee of any radio or television
12 station may be required to disclose any published or
13 unpublished information obtained or prepared by such a
14 person in such person's professional capacity in
15 gathering, receiving or processing information for
16 communication to the public, or the source of any
17 information procured or obtained by such a person, in
18 any legal proceeding, trial or investigation."

19 And that includes issues before courts. So
20 Mr. Toll, I'm going to go ahead and invoke the news
21 shield law in response to Mr. Flangas' question, and I'm
22 going to direct you not to answer.

23 BY MR. FLANGAS:

24 Q. Are you going to invoke the news shield?

25 A. Absolutely.

1 Q. Were you looking -- were these consultants, was
2 this in your trying to do this to gather news for a news
3 story?

4 A. Every person who I talked to who provides me
5 information that I later write about is a source.

6 Q. Every single person. So you relied on these
7 so-called news source consultants to arrive at your
8 opinion that what Mr. Gilman -- how he was occupying
9 those premises was incorrect. Am I stating your answer
10 correctly?

11 A. Yes.

12 Q. Now, you said you consulted with many people to
13 arrive at that opinion; right?

14 A. Yes. And let me clarify.

15 Q. Just let's start with that first --

16 MR. BUSBY: Mr. Flangas, please --

17 BY MR. FLANGAS:

18 Q. -- and then you can clarify.

19 MR. BUSBY: -- let the witness answer the
20 question before you move on.

21 MR. FLANGAS: Well, the question, with all
22 due respect, counsel, the question called for a yes or
23 no answer, and then I can go into the next one and he
24 can verify all -- clarify all he wants.

25 MR. BUSBY: Mr. Flangas, I'd like the record

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1 to reflect that the witness is not being permitted to
2 fully answer his questions before being interrupted by
3 the examiner, and I object on that basis and I ask that
4 the witness be allowed to answer the question that
5 you're asking before you continue.

6 MR. FLANGAS: With all due respect, counsel,
7 you have been interjecting improper objections
8 throughout this entire deposition. You're using the
9 "asked and answered" when he isn't -- obviously, clearly
10 not answering the questions that I asked. He's gone off
11 on several tangents. You've been coming up with a host
12 of objections that, I think, are completely designed to,
13 you know, to muddle -- muddy up the record. Not only
14 muddy up the record, but to try to -- you know, whatever
15 attempt you're trying do to throw me off, which it's
16 obviously not working.

17 So I would appreciate that the objections be
18 legally valid objections. And, you know, the reason
19 we're having so much trouble getting through this depo
20 is because every single question I've asked, you've
21 interspersed some form of objections.

22 MR. BUSBY: Mr. Flangas, if you continue to
23 ask questions and not allow the deponent to answer them
24 fully before interrupting him, we'll cease the
25 deposition and we'll ask for a conference to -- with the

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1 judge to resolve the matter.

2 I've stated the exact basis for every single
3 objection that I've made on the record. They're
4 permitted under law, perfectly proper. So I guess we
5 can either proceed or not.

6 MR. FLANGAS: The record speaks for itself,
7 counsel. I fully intend to proceed on this. If you
8 want to cancel the depo, please, you have whatever
9 rights you want to -- you know, however you want to do
10 it. The bottom line is I asked for a yes or no question
11 and I get -- I start getting quotations to certain
12 things, everything from the Jerry Falwell case to what
13 George Orwell said. So --

14 MR. BUSBY: Mr. Flangas, disagreeing with
15 the substance of the answer of the witness is not
16 grounds for interrupting and proceeding with another
17 question without letting the witness completely answer
18 the question you've asked.

19 BY MR. FLANGAS:

20 Q. Go ahead and answer the question.

21 A. Can you repeat the question, please?

22 MR. FLANGAS: Can you read back the
23 question, please?

24 (Whereupon the reporter read the record.)

25 THE WITNESS: Yes.

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1 BY MR. FLANGAS:

2 Q. Did you want to clarify so we can appease your
3 counsel on this one?

4 A. To clarify, as I earlier suggested, I speak to a
5 variety of people, locally, the state level, and people
6 who have professional capacities and people who do not,
7 and all of those people are considered sources.

8 Q. Now, you mentioned that you consulted with a
9 number of people to determine whether or not Mr. Gilman
10 was residing properly, as pertaining to the zoning in
11 his residence; right?

12 MR. BUSBY: Objection, asked and answered.
13 Go ahead.

14 THE WITNESS: In regards to the zoning, yes.
15 As you can see, the, the public records request reflect
16 that.

17 BY MR. FLANGAS:

18 Q. How many people did you consult?

19 A. On the zoning issue?

20 Q. Yes.

21 A. I've only really talked to a half-dozen
22 individuals, and Mr. Osborne, and the -- Lyndi and Kathy
23 in the planning department.

24 Q. The reason you consulted with those folks is
25 because you entertained doubts as to what the zoning

1 was; right?

2 A. I have no doubts as to what the zoning is, and I
3 have no doubts as to what the, what the zoning says and
4 what they allow and what they don't allow. However, the
5 whole purpose of going down the zoning route has
6 absolutely nothing to do with the fact that I absolutely
7 do not believe -- and I indeed understand that I'm under
8 oath -- that Mr. Gilman lives at the double-wide trailer
9 behind the whorehouse. I just don't believe it. In
10 fact, the investigation that I've done prior to even
11 being served, recent investigation, confirms that even
12 more stringently.

13 However, the purpose, since we're talking about
14 zoning, is to illustrate to the gentle readers of The,
15 of The Teller and to the citizens and voters and
16 taxpayers of Storey County, that there are two sets of
17 rules under which we exist. And there's one set of
18 rules for the privileged Mr. Gilman, and there's another
19 set of rules for folks who can't buy a thousand hogs and
20 set them up on their residential property that's not
21 zoned agricultural without seeing the sheriff and
22 getting shut down.

23 Q. Where did you arrive for your definition and
24 what's appropriate for multi-family use?

25 A. From the Storey County ordinance.

1 Q. What ordinance did you look at?

2 A. It's in the Storey County ordinance book. I
3 don't have it -- I can't quote it gospel -- or paragraph
4 and verse.

5 Q. What did it tell you?

6 A. As I've stated on record before, that the only
7 thing that can exist on -- as far as dwellings are
8 concerned on agricultural zoned property, is a
9 single-family dwelling. The, the parcel is also zoned
10 industrial. The only thing that a person can sleep in
11 on an industrial park is a, is a watchman's quarters.

12 Q. Okay. I'm going to go back to my question,
13 because you, again, weren't responsive to my question.
14 You can say "I don't know" if you don't know. That's
15 fine.

16 The question is: What did -- where did you come
17 up with your definition -- and I know I've asked and
18 answered this, but I'm going to ask the follow-on.
19 Where did you come up with your definition of what
20 constitutes a multi-family dwelling? You told me the
21 ordinance. I'm asking you: What does the ordinance say
22 what constitutes a multi-family dwelling?

23 MR. BUSBY: Same objection. Go ahead and
24 answer, Mr. Toll.

25 THE WITNESS: Technically, in my

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1 recollection of the ordinance, says that a single-family
2 dwelling is all that is permitted. A multi-family
3 dwellings is not permitted. Using the reasonable man
4 statute that I have inside my brain, a multi-family
5 dwelling is -- could be considered -- you know,
6 obviously we don't live in the day of the nuclear family
7 anymore; however, a family unit consists typically of
8 a -- it's two sets of adults and then any children that
9 may be a result of that union.

10 BY MR. FLANGAS:

11 Q. This reasonable man standard, that's your own
12 reasonable man standard; is that correct?

13 A. Based upon the information that has been given to
14 me by people who I have consulted with, as we've
15 described earlier, those people are also reasonable men
16 and women, and they also have come to the same
17 conclusion. So no, it's not just my conclusion, it's
18 the conclusion of the community.

19 Q. And you're not going to disclose who these -- the
20 members of the community that have this conclusion?

21 A. No, sir.

22 MR. BUSBY: Same objection, news shield
23 statute.

24 MR. FLANGAS: I'll probably have to file a
25 motion on that.

1 BY MR. FLANGAS:

2 Q. Are you not going to answer?

3 A. Based upon the advice of my counsel, I will not
4 answer that question.

5 Q. So we've established one of the reasons you don't
6 believe he lives there is based on -- and it's been
7 asked and answered, I know, but it's to lead into the
8 next question. One of the reasons you're saying this is
9 because you find it hard to believe that Mr. Gilman
10 would live where he does because he's a wealthy man;
11 right?

12 A. Yes.

13 Q. Now, let's, let's talk about what investigation
14 you did to confirm whether or not Mr. Gilman lives where
15 he lives. Okay? First question: Did you ever drive by
16 to see if he was there?

17 A. Can't get into the property without buzzing the
18 gate.

19 Q. All right. So the answer is no, you've never
20 been by to see if he's there or not?

21 A. It's not possible for me to drive by there. It
22 is impossible for me to drive by there.

23 Q. Now, I asked you in the first part of this
24 deposition about your relationship with Mr. Antinoro,
25 and that Mr. Antinoro is on the brothel board, and you,

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1 BY MR. FLANGAS:

2 Q. Now, you're claiming Mr. Gilman doesn't live at
3 number 5 Wild Horse Drive; right?

4 A. Yes.

5 Q. Now, one of the grounds for you to make that
6 statement is because you find it hard to believe that
7 one of the wealthiest men in Northern Nevada would be
8 residing where he resides; right?

9 A. I'm also basing that opinion upon -- the answer
10 to your question is yes. However, I'm also basing that
11 opinion upon interviews and information that have been
12 given to me by third-party sources.

13 Q. And you're not going to divulge who these
14 third-party sources are?

15 A. No, sir.

16 MR. BUSBY: Objection, news shield statute.

17 MR. FLANGAS: The news shield statute
18 doesn't really shield against official sources and
19 things like that.

20 BY MR. FLANGAS:

21 Q. So the question is to the official sources. Did
22 you consult any official forces?

23 MR. BUSBY: Same objection, news shield
24 statute. Don't answer that.
25

1 you told me that; right?

2 A. Yes.

3 Q. You also told me that Mr. Antinoro is -- his
4 office also oversees regulation of the brothels; right?

5 A. Per county code, yes, he does.

6 Q. And I think you even gave me an anecdote that one
7 of your family members, or somebody else you knew, did
8 the same years ago; right?

9 A. No. What I was alluding to, to clarify, is that
10 my father wrote Joe Conforte's biography.

11 Q. Okay. There you go.

12 So you meet with Mr. Antinoro about three times a
13 month, you said?

14 A. I do not meet with --

15 MR. BUSBY: Hold on. Objection,
16 mischaracterizes earlier testimony and asked and
17 answered.

18 BY MR. FLANGAS:

19 Q. Well, you interact with him about three times a
20 month; right?

21 A. Virginia City is a small town and I occupy the
22 same space as Mr. Antinoro occasionally.

23 Q. You can go and see him any time you want in the
24 sheriff's department, virtually?

25 A. Just like any other citizen in Storey County.

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1 Q. All right. Did you ever ask Mr. Antinoro about
2 Mr. Gilman's residency?

3 MR. BUSBY: Objection, news shield statute.

4 MR. FLANGAS: That's not a shield statute
5 there, counsel.

6 MR. BUSBY: Mr. Flangas, you're welcome to
7 file your motion and disagree, but I'm going to direct
8 my client to not answer that question.

9 THE WITNESS: Based upon my counsel's
10 advice, I am not going to answer that question.

11 BY MR. FLANGAS:

12 Q. Did you ever go to the sheriff's office to verify
13 Mr. Antinoro's -- excuse me -- Mr. Gilman's residency?

14 MR. BUSBY: Same objection. Don't answer
15 that question.

16 MR. FLANGAS: Are you really going to invoke
17 the shield on whether or not somebody went to the
18 sheriff's office to verify residency, counsel?

19 MR. BUSBY: Mr. Flangas, we can argue about
20 this later before the Court. If you have any questions
21 for my witness, please go ahead.

22 BY MR. FLANGAS:

23 Q. So did you -- so you're not going to answer the
24 question on whether or not you went to the sheriff's
25 office to verify the residency of Mr. Gilman?

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1 MR. BUSBY: Same objection. Don't answer
2 that.

3 BY MR. FLANGAS:

4 Q. Are you going to take the same tact on virtually
5 every question I ask now as to what you did to verify
6 the residency of Mr. Gilman?

7 MR. BUSBY: Objection, calls for legal
8 opinion. Don't answer that question. Go ahead.

9 BY MR. FLANGAS:

10 Q. You talk in your affidavit about a -- an
11 informant, or somebody, that told you that Mr. Gilman
12 was leaving the premises at 8:00 every evening and going
13 towards Reno. Who was this informant?

14 MR. BUSBY: Objection, news shield statute.
15 Don't answer that question.

16 BY MR. FLANGAS:

17 Q. And so what is it, that if Mr. Gilman goes
18 towards -- if Mr. Gilman is heading towards Reno at
19 8:00 -- scratch that.

20 How many times a week does Mr. Gilman leave and
21 go towards Reno at 8:00, according to your source?

22 A. According to my source, it's virtually every
23 night.

24 Q. And how does your source know this?

25 A. Because of the position that they occupy, they

1 are there.

2 Q. Do they have -- do they follow Mr. Gilman?

3 A. No.

4 Q. Have you ever seen a residence that Mr. Gilman
5 lives in in Reno?

6 A. Have I seen a residence?

7 Q. Yes.

8 A. I have seen multiple properties that are owned by
9 Mr. Gilman that are in Washoe County. I have not seen a
10 residence of Mr. Gilman.

11 Q. Have you ever seen Mr. Gilman in any other
12 residence?

13 A. I don't follow Mr. Gilman around. I have no -- I
14 did not personally pursue Mr. Gilman. I did not do any
15 of that.

16 Q. Well, see, I'm kind of confused, here, because
17 you're telling me about all of this in your second
18 declaration -- let's go with your first declaration. In
19 paragraph 18 you talk about all this diligence you're
20 doing, but you never once went to see whether or not Mr.
21 Gilman lived anywhere else other than number 5 Wild
22 Horse?

23 A. So I did public records requests, I checked the
24 websites of Washoe County to determine ownership of
25 properties. The Mustang Ranch, as you know, is behind a

1 locked gate, which, which prevents casual observers from
2 making any observations. And so the answer to your
3 question is, as phrased, did I drive by, did I go look
4 for Mr. Gilman anywhere in Washoe County, no, I did not.

5 Q. You have no idea where Mr. Gilman lives, do you?

6 A. I have a pretty good idea of where he lives, yes.

7 Q. Why don't you give me that pretty good idea and
8 what your basis for it is.

9 A. I interviewed an individual who told me that Mr.
10 Gilman's toys, his cars, his motorcycles, all his fancy
11 clothes, all his cool stuff, is at a place that is not
12 on the Mustang Ranch property.

13 Q. Who's this interview?

14 MR. BUSBY: News shield statute. Don't
15 answer that.

16 BY MR. FLANGAS:

17 Q. And they told you that Mr. Gilman's got a house,
18 this source?

19 A. Mr. Gilman houses his nice clothes, his
20 motorcycles, his vehicles, his, his rich -- his
21 expensive cars, all his, you know, jewelry and all of
22 his personal effects -- perhaps not all, but certainly a
23 majority of them -- at a place that is not on the
24 Mustang Ranch compound.

25 Q. What's the address of the place?

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<p>1 A. He did not reveal.</p> <p>2 Q. You have no idea what's in his places, do you?</p> <p>3 A. I sure don't. I've never been there.</p> <p>4 Q. You don't know what clothes he has.</p> <p>5 A. So what's interesting is Mr. Gilman could have,</p> <p>6 at any time, invited me to his place, shown me where he</p> <p>7 lives, and put an end to this. He could also have, as I</p> <p>8 requested in one of my -- no, actually, I didn't request</p> <p>9 this in a piece -- in a conversation with someone, that</p> <p>10 he could release his cell phone records showing</p> <p>11 triangulation of where he parked his cell phone from</p> <p>12 midnight -- or 10:00 p.m. to 6:00 a.m. and shut me up at</p> <p>13 any time.</p> <p>14 Q. Why does he have to do that?</p> <p>15 A. Why doesn't he -- why does he have to sue me for</p> <p>16 claiming that he doesn't live there.</p> <p>17 Q. Because you're the one that did it.</p> <p>18 A. Right. So if he --</p> <p>19 Q. But why does he have to prove --</p> <p>20 A. He doesn't.</p> <p>21 Q. -- anything to you?</p> <p>22 A. He absolutely doesn't.</p> <p>23 Q. So my -- so conveniently you're doing all this</p> <p>24 investigation, but you can't give me a single source</p> <p>25 other than you're going to invoke this shield.</p>	<p>1 A. I don't recall.</p> <p>2 Q. You don't recall. Did you ever talk to the</p> <p>3 sheriff about it?</p> <p>4 MR. BUSBY: Objection, news shield statute.</p> <p>5 Don't answer that.</p> <p>6 BY MR. FLANGAS:</p> <p>7 Q. Did you ever talk to the sheriff about it?</p> <p>8 MR. BUSBY: Same objection. Don't answer</p> <p>9 that.</p> <p>10 MR. FLANGAS: Counsel, I guess we're done</p> <p>11 today. I'm going to have to file a motion,</p> <p>12 because --</p> <p>13 MR. BUSBY: Okay. I'd like to examine the</p> <p>14 witness.</p> <p>15 MR. FLANGAS: No. We will pick this up</p> <p>16 later.</p> <p>17 MR. BUSBY: I'd like the record to reflect</p> <p>18 that counsel for the defendant has refused to allow</p> <p>19 counsel for the plaintiff to examine the witness.</p> <p>20 MR. FLANGAS: Let the record reflect that</p> <p>21 the issue is is you're not letting your client answer</p> <p>22 any questions, and so I'm going to have to go file a</p> <p>23 motion with the Court before we go any further in this</p> <p>24 deposition, because I can't finish my deposition because</p> <p>25 he's hiding behind this -- you know, improperly hiding</p>
Page 86	Page 88
<p>1 A. I'm not giving you any source, that's correct. I</p> <p>2 don't have to.</p> <p>3 Q. Are you aware that Mr. Gilman lists 5 Wild Horse</p> <p>4 on his brothel application?</p> <p>5 A. Am I aware that he lifts 5 Wild Horse--</p> <p>6 Q. Lists. Lists, not lifts.</p> <p>7 A. -- lists 5 Wild Horse -- yes, I am.</p> <p>8 MR. BUSBY: Objection, confusing question.</p> <p>9 Go ahead.</p> <p>10 BY MR. FLANGAS:</p> <p>11 Q. Okay. Are you -- do you know that Mr. Gilman has</p> <p>12 a CCW issued by the sheriff of Storey County?</p> <p>13 A. I do not know that, no.</p> <p>14 Q. It lists number 5 Wild Horse.</p> <p>15 A. So what? I contend still, to this day, that he</p> <p>16 doesn't live there.</p> <p>17 Q. Did you ever go check this, or did you --</p> <p>18 A. As I've stated earlier, I cannot go check it</p> <p>19 because he resides behind a locked gate.</p> <p>20 Q. No. Did you ever go check over there, the</p> <p>21 brothel license applications?</p> <p>22 A. "Over there"? Where is "over there"?</p> <p>23 Q. The sheriff's office.</p> <p>24 A. Yes, I did.</p> <p>25 Q. And it showed number 5; right?</p>	<p>1 behind this shield law.</p> <p>2 MR. BUSBY: I'm sorry you feel that way.</p> <p>3 (Deposition concluded at 11:50 p.m.)</p> <p>4 -oOo-</p>

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-oOo-

I, SAMUEL TOLL, hereby declare under penalty of perjury that I have read the foregoing pages 1 through 88; that any changes made herein were made and initialed by me; that I have hereunto affixed my signature.

Dated: _____

SAMUEL TOLL

STATE OF NEVADA)
COUNTY OF WASHOE)

I, SUSAN E. BELINGHERI, a Certified Court Reporter for the State of Nevada, do hereby certify;

That on Friday, the 4th day of May, 2018, at the hour of 10:05 a.m. of said day, at the offices of Community Chest, 175 E. Carson Street, Virginia City, Nevada, personally appeared SAMUEL TOLL, who was duly sworn by me, was thereupon was deposed in the matter entitled herein, and that before the proceeding's completion the reading and signing of the deposition has been requested by the deponent or party;

That the foregoing transcript, consisting of pages 1 through 92, is a full, true, and correct transcript of my stenotype notes of said deposition to the best of my knowledge, skill, and ability.

I further certify that I am not an attorney or counsel for any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

DATED: At Reno, Nevada, this 16th day of May, 2018.

SUSAN E. BELINGHERI, CCR #655

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ERRATA SHEET/CORRECTIONS

PAGE LINE

May 16, 2018
Luke A. Busby
Luke Andrew Busby, Ltd.
316 California Avenue
Reno, Nevada 89509

Re: Gilman v. Toll, et al.

Dear Mr. Busby:

Please find enclosed the original deposition transcript of Samuel Toll taken in the above-entitled matter on May 4, 2018.

We have enclosed the transcript in order for your client to review.

Thank you for your prompt attention to this matter.

Bonanza Reporting & Videoconference Center

cc: Deposition transcript

EXHIBIT "17"

Exhibit 2

Exhibit 2

SECOND DECLARATION OF SAM TOLL

1. I am the declarant and I am competent to make this testimony;
2. I have personal knowledge of each and every fact attested to herein;
3. I have been named as the Defendant in Case No. 18-trt-00001-1e in the First Judicial District Court in Storey County;
4. I have reviewed the February 21, 2018 Opposition to Anti-SLAPP Special Motion to Dismiss ("Opposition") filed by Lance Gilman's attorneys. I have also reviewed the Affidavit of Lance Gilman with is attached to the Opposition as Exhibit 3. Both the Opposition and the Affidavit contain statements of fact that are not accurate;
5. On Page 3 Line 11 of the Opposition it claims that I have published post after post "over a period of two years" defaming Gilman on the Storey Teller Website. I started the Teller in February of 2017, just over a year ago, so this statement is not accurate;
6. Also on Page 3 at Line 12 of the Opposition it claims that almost every single one of one of my posts on the Teller has defamed Gilman. This is not accurate. I have published approximately 247 posts on the Teller since its inception. The Opposition states on Page 25 Line 11 that "in excess of 40" posts on the Teller are about Gilman. So by Gilman's own number about 16% of my postings are about Gilman. Gilman's claims that I started the Teller just to target him or that in virtually every post I insult Gilman is not supported by the facts. I write about Gilman because some of the newsworthy business conducted in Storey County or by the Storey County Commission involves the Tahoe Reno Industrial Complex ("TRIC") and/or the Mustang Ranch;
7. Page 14 lines 1-2 of the Opposition it states that Gilman has never received title to land from Storey County in any transaction. Throughout my articles, I use Lance Gilman and TRIC interchangeably. I understand that Gilman has an ownership stake in TRIC, and that he presents himself to the world as the face of TRIC, it is accurate to describe Gilman as representing TRIC. TRIC has received title to land from Storey County;
8. During a normal week the Teller website now receives between 800 and 1000 visitors. These basic numbers are confirmed by the Attachment 1 to this Declaration, which is a true and correct copy of a printout of the statcounter.com Weekly Status Report for my website from December 11, 2017 to December 17, 2017, and which shows I had 888 unique visits to the site that week. Given that I write about news in Storey County, and there are only about 4500 people in Storey County, it's reasonable to conclude that a large percentage of Storey County residents visit the Teller website and are interested in the issues that I am writing about, including Gilman, the Storey County Commission, TRIC, and the Mustang Ranch, among other topics.

9. Gilman's statement that we are involved in a "private and quixotic fight" is not accurate. Everything I write about Gilman relates to his status as a Storey County Commissioner, as a principal of TRIC, or as owner of the Mustang Ranch. Even my statements about Gilman's residence are of interest to the public because as a Storey County Commissioner, Gilman is supposed to reside in his district and represent the interests of his constituents, not just those of TRIC or the Mustang Ranch. If Gilman does not live in Storey County, he is much less likely to represent the interests of Storey County residents. I also routinely criticize other Storey County officials, such as the County Manager Pat Whitten and Community Development Director Gary Hames, among others.
10. At various points in the Opposition, such as on Page 43 line 1, it states that I did little or no diligence before making false statements about Gilman. This is untrue as well. As described below, for each statement I made that Gilman claims is defamatory, I investigated the facts before making the statement:
- a. My opinion that Gilman does not live in Storey County is a result of my investigation into the matter, including: reports from a confidential informant that states that Gilman leaves the Mustang Ranch and heads towards Reno every evening around 8:00 pm, the fact that where Gilman claims to live is not zoned for multi-family residences, the fact that the double wide in which Gilman claims to live is right behind a brothel, and the fact that it just doesn't make sense that Gilman, one of the richest people in the State, lives in a double wide (as defined in a response by the Storey County Assessor to a public records request I made inquiring about the structure) trailer with two bunk mates, Kris Thompson and Jennifer Barnes-Milsap, who I discovered list the same address as their residence in a response to a public records request on registered voting addresses I made with the Storey County Clerk;
 - b. My opinion that Gilman engaged in Reverse Graft is set out in the article attached to my first Declaration as Attachment 1, Storey County has been strapped with debt to pay for infrastructure for TRIC developer expenses which should have been paid for by TRIC and the debt for which not assumed by Storey County. The proposed "pipeline deal" that Gilman discusses in this Affidavit is just one example. The article explains that the pipeline deal would divert taxes to pay for a pipeline that will benefit TRIC and TRIC occupants only, and that TRIC and the occupants should pay for such infrastructure;
 - c. My opinion that Gilman receives special consideration regarding rules and regulations is based on the fact, in the big picture, TRIC has received free land from Storey County, that Storey County modifies, changes, and amends rules and regulations for both the Mustang Ranch and TRIC. In the article attached to my first Declaration as Attachment 6, I specifically spell out what I mean when I say that Gilman receives special consideration regarding rules and regulations;

- d. My opinion that Gilman received land for free from Storey County is supported by the fact that as part of the USA Parkway/Tesla deal, Storey County gave TRIC a portion of the parkway for free. Although Gilman claims in his Affidavit that this benefits the County because it decreases maintenance costs and the entire Tesla deal will result in increased tax revenue to the County in the future, it doesn't change the fact that Storey County gave land to TRIC for free, which TRIC then sold to the State at a huge profit. While the USA Parkway giveaway is the most egregious, reconveyance of land from Storey County to TRIC for no consideration is a frequent occurrence on the public record at Storey County Commission Meetings;
 - e. My opinion that Gilman's trip to Washington DC was a personal trip is supported by my investigation into the matter. Before I wrote the article in Attachment 10 to my first Declaration, I called the Storey County Manager Pat Whitten regarding any documentation of lobbying efforts during the trip in question, and he responded that there was none. I also made a public records request. The documents I obtained as a result of this public records request stated that the trip was for Trump's inauguration - a personal purpose; the documents are reproduced in the article itself. There was no evidence that the DC trip involved any public business at all when I published my article.
11. The statement that Gilman did not want follow the law when relicensing the Mustang Ranch brothel was not made by me, but I believed the statement was a true expression of Gilman's attitude at the time it was published and that the statement represented the author's opinion, not a statement of fact about whether Gilman actually followed the law. Gilman was involved in an ongoing dispute with a lender over licensing issues related to the Wild Horse brothel, as he describes in his own Affidavit. Before publishing the article, I read reports in the Comstock Chronicle about the lawsuit between Gilman and the lender. I also researched and obtained the investigation into Gilman by the Ethics Commission (attached to the underlying Motion as Exhibit 1) and the Nevada Supreme Court's decision in Case No. 65104, in which the Supreme Court affirming Gilman's loss to the lender (Attached hereto as Attachment 2) and concluded that Gilman breached the covenant of good faith and fair dealing and that Gilman failed to fight the revocation of the license of the Wild Horse. Based on my research, I believe that Gilman's act of merging the two properties in combination with the revocation of the Wild Horse shows that he did not want to follow the law by obtaining a new license for the Wild Horse or "expanding" the license for the Mustang Ranch brothel, he wanted special rules and consideration from Storey County to justify his actions;
12. My statement in the article in Attachment 4 to my first Declaration that Gilman would reimburse Storey County for the estimated \$30,000 spent on the Recall Election of Sheriff Antinoro was satire, as it is humorous given the circumstances the piece describes. The article very clearly says this at the bottom of the piece. No

reasonable person could construe the contents of the article as being factual statements. The first comment at the bottom of the article made on May 20, 2017 states, "I love Satire." along with a laugh-out-loud emoji.

13. As a result of Gilman's lawsuit against me, I have had to amend the appeal for funds to support the Teller to a go fund me page asking for help to pay to defend this suit.

Before I collected money to keep the Teller ad-free by stating, "support the Teller and keep fact-based news about Storey County Ad Free," but the money I collect from the site now goes to pay to defend this suit. I also have been spending considerable of my time aiding in the defense of Gilman's lawsuit; time I would have otherwise spent investigating and reporting on the political affairs of Storey County, which I believe is the whole point of Gilman's suing me.

14. If I were to give testimony in open court, it would be substantively the same as that set forth herein above.

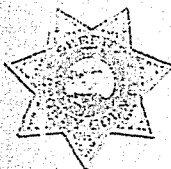
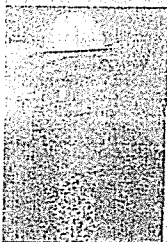
Pursuant to the provisions of NRS 53.045, I declare under penalty of perjury that the foregoing is true and correct.

By:  Dated: 2/26/18

Sam Toll

EXHIBIT “18”

STOREY COUNTY SHERIFF'S OFFICE
NEVADA
CONCEALED FIREARM PERMIT



#1128

Issued: 01/14/2014

Expires: 01/14/2019

Lance L. Gilman
5 Wild Horse Canyon Dr.
Sparks, Nevada 89434

Date of Birth: 11/21/44
Height: 6'2" Weight: 260

Semi-automatic firearms authorized: Yes
Revolvers authorized: Yes

Issued by:

Sheriff Gerald Antinoro

P.O. Box 493
Virginia City NV 89440
775-847-0950 Dispatch
775-847-0959 Business
sheriff@storeycounty.org

EXHIBIT “19”

Page 1	Page 3
<p>1 IN THE SECOND JUDICIAL DISTRICT COURT OF THE</p> <p>2 STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE</p> <p>3 -oOo-</p> <p>4</p> <p>5 LANCE GILMAN, an individual, :</p> <p>6 Plaintiff, :</p> <p>7 vs. : Case No. 18-TRT-00001-1e</p> <p>8 : Dept. No. II</p> <p>9 SAM TOLL, an individual; DOES :</p> <p>10 I-V, and ROE ENTITIES VI-X, :</p> <p>11 inclusive, :</p> <p>12 Defendants. :</p> <hr/> <p>13</p> <p>14</p> <p>15</p> <p>16 DEPOSITION OF AUSTIN OSBORNE</p> <p>17 Friday, May 11, 2018</p> <p>18 Reno, Nevada</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 REPORTED BY: SUSAN E. BELINGHERI, CCR #655</p>	<p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION: PAGE</p> <p>4 By Mr. Flangas 4</p> <p>5 By Mr. Marshall 63</p> <p>6</p> <p>7 EXHIBITS: DESCRIPTION: PAGE</p> <p>8 Exhibit 1 Packet of documents labeled 1 of</p> <p>9 21 through 21 of 21..... 13</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 2	Page 4
<p>1 APPEARANCES:</p> <p>2</p> <p>3</p> <p>4 For the Plaintiff:</p> <p>5 FLANGAS DALACAS LAW GROUP</p> <p>6 Attorneys at Law</p> <p>7 By: GUS W. FLANGAS, ESQ.</p> <p>8 3275 South Jones Blvd., Suite 105</p> <p>9 Las Vegas, Nevada 89146</p> <p>10 gwf@fdlawlv.com</p> <p>11</p> <p>12 For the Defendant:</p> <p>13 LAW OFFICE OF JOHN L. MARSHALL</p> <p>14 Attorneys at Law</p> <p>15 By: JOHN L. MARSHALL, ESQ.</p> <p>16 570 Marsh Avenue</p> <p>17 Reno, Nevada 89509</p> <p>18 johnmarshall@charter.net</p> <p>19</p> <p>20 For the Witness:</p> <p>21 ERICKSON, THORPE & SWAINSTON, LTD.</p> <p>22 Attorneys at Law</p> <p>23 By: REBECCA BRUCH, ESQ.</p> <p>24 99 West Arroyo Street</p> <p>25 Reno, Nevada 89509</p> <p>rbruch@etsreno.com</p> <p>Also Present: SAM TOLL</p>	<p>1 PURSUANT TO NOTICE, and on Friday, the 11th</p> <p>2 day of May, 2018, at the hour of 9:00 a.m. of said day,</p> <p>3 at the offices of Bonanza Reporting & Videoconference</p> <p>4 Center, 1111 Forest Street, Reno, Nevada, before me,</p> <p>5 Susan E. Belingheri, a notary public, personally</p> <p>6 appeared AUSTIN OSBORNE.</p> <p>7 -oOo-</p> <p>8</p> <p>9 AUSTIN OSBORNE,</p> <p>10 having been duly sworn,</p> <p>11 was examined and testified as follows:</p> <p>12</p> <p>13 EXAMINATION</p> <p>14 BY MR. FLANGAS:</p> <p>15 Q. Good morning, Mr. Osborne. Could you please</p> <p>16 state your name and spell it for the record, please.</p> <p>17 A. Austin Osborne. A-u-s-t-i-n, O-s-b-o-r-n-e.</p> <p>18 Q. Mr. Osborne, you just took an oath; is that</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. And you -- do you understand that that oath has</p> <p>22 the same ramifications and solemnity as though you took</p> <p>23 it in a court of law?</p> <p>24 A. Yes.</p> <p>25 Q. What I mean by "ramifications," it has the same</p>

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1 ramifications for perjury. Do you understand that?

2 A. Yes.

3 Q. I know you've had your depo taken once before,
4 but I'll go ahead and go over some ground rules again
5 just to make sure that we have -- try to have a clean
6 transcript and an easy time with this deposition.

7 First of all, again, if you'll notice, the lady
8 to your right is -- to your left is the court reporter,
9 and you'll notice -- I will tell you, she's taking down
10 everything that's being said here today. And if you'll
11 notice, she's doing that with fingers. The reason I
12 point that out is because she cannot record us both
13 speaking at the same time. So what that means for you
14 and I is that you have to wait until I finish my
15 question before you give me your answer. Okay?

16 A. Yes.

17 Q. I'll try to do the same for you, wait until you
18 finish your answer before I start my next question. All
19 right?

20 A. Yes.

21 Q. Often -- not often, but a few times during the
22 course of this deposition the question may call for a
23 yes or no answer, and if it does you need to audibilize
24 "yes" or "no," because a nod of the head, a shake of the
25 head, an "uh-huh" or an "uh-uh" will not come out clean

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1 on the transcript. Do you understand that?

2 A. Yes.

3 Q. You might be nodding in the affirmative when you
4 actually -- and it comes out on the transcript you did
5 it in a negative, and it could, you know, cause you some
6 consternation later on. Do you understand that?

7 A. Yes.

8 Q. I'm not here today to try and trick you with my
9 questions; however, if you do answer my question it will
10 be assumed that you understood it. All right?

11 A. Correct.

12 Q. If you don't understand my question, please tell
13 me you don't understand and I'll rephrase it, I'll ask
14 it again, break it down. I'll do whatever is reasonably
15 necessary to facilitate your understanding. Okay?

16 A. Yes.

17 Q. During the course of this deposition the
18 attorneys that are present here will register
19 objections, and if they do you still -- that's usually
20 for the record, so you'll still need to answer the
21 question. Do you understand that?

22 A. Yes.

23 Q. Now, I believe you have counsel representing you
24 here today?

25 A. Yes.

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1 Q. So in terms of that objection, if she registers
2 an objection, I just told you you have to answer it. If
3 she gives you further -- you'll have to answer unless
4 she gives you further instruction not to answer. Do you
5 understand that?

6 A. Yes.

7 Q. During the course of the deposition if you need a
8 break, just tell me you need one. All I ask is that you
9 finish the question that's before you before going on
10 the break. All right?

11 A. Correct.

12 Q. At the conclusion of this deposition, the court
13 reporter is going to take everything that was said here
14 today, transcribe it, put it into a booklet called a
15 transcript. Do you understand that?

16 A. Yes.

17 Q. You're going to be given an opportunity to review
18 that transcript, should you so desire. Do you
19 understand that?

20 A. Yes.

21 Q. You will also be provided an opportunity to make
22 changes to that transcript, should you desire. Do you
23 understand that?

24 A. Yes.

25 Q. I need to caution you, though, that if you do

Page 8

1 make changes to that transcript of a substantive nature,
2 I will be able to comment upon it at any evidentiary
3 hearing -- any evidentiary hearing or trial of this
4 matter. Do you understand?

5 A. Yes.

6 Q. When I say "comment," what I mean is that I'll be
7 able to bring your credibility into question. Do you
8 understand that?

9 A. Yes.

10 Q. Also, should you testify differently at any
11 evidentiary hearing or trial, as the case may be, than
12 you do today, I will also be able to comment upon that
13 as well. Do you understand that?

14 A. Yes.

15 Q. And again, what I mean by "comment" on it, I will
16 be able to bring your credibility into question. Do you
17 understand that?

18 A. Yes.

19 Q. And I, I hate to ask these questions, as usual,
20 but are you on any type of medication today that would
21 affect your ability to answer -- to understand my
22 questions and answer them accurately?

23 A. No.

24 Q. Mr. Osborne, what's your occupation?

25 A. I'm a Storey County planning director,

Page 9	Page 11
<p>1 administrative officer, which is also human resources 2 director. 3 Q. Any other titles? 4 A. No. 5 Q. What's your level of education? 6 A. I have a master's degree. 7 Q. In what? 8 A. It is in education leadership, or public 9 administration. 10 Q. When did you get your master's degree? 11 A. About 2005. On or about that year. 12 Q. From where? 13 A. University of Nevada, Reno. 14 Q. What was your undergrad? 15 A. Education. Bachelor of Science. 16 Q. Where did you go to high school? 17 A. Dayton High School. 18 Q. Dayton, Nevada? 19 A. Yes. 20 Q. Now, as, as the planning director, what are your 21 duties? 22 A. The full range of land use planning issues. 23 Q. And go ahead and elaborate on that some more, if 24 you don't mind. 25 A. Zoning, master plan, land use, maps, codes.</p>	<p>1 A. She is a planner, so she has similar duties to 2 mine. Ordinances, special uses, variances, land use 3 entitlements. 4 Q. Any other duties? 5 A. She's working on floodplain manager. 6 Q. Excuse me? 7 A. She's working on floodplain management. 8 Q. Any others? 9 A. Anything else would be directly related to 10 planning. 11 Q. Okay. And then Lyndi Renaud, what's her duties? 12 A. She is mostly administrative. So minutes, 13 posting agendas, public noticing. She also does review 14 of maps and legal descriptions for planning 15 applications. 16 Q. Where is your office located? 17 A. In the Storey County courthouse in Virginia City. 18 Q. Ms. Canfield and Ms. Renaud's offices are there 19 as well? 20 A. Yes. 21 Q. Where are the records kept for all the zoning and 22 planning? 23 A. In the courthouse. 24 Q. Is there a front desk or anything? 25 A. Not really.</p>
Page 10	Page 12
<p>1 Q. When you say "codes," building codes? 2 A. No. 3 Q. Ordinances? 4 A. Zoning codes. 5 Q. Zoning codes? 6 A. Zoning ordinances. And variances, special use 7 permits, and entitled uses. Those sorts of things. 8 Q. Do you have anybody working for you? 9 A. Yes. 10 Q. Who and what are their titles? 11 A. Kathy Canfield. K-a-n-t-h-y. She is my planner. 12 And Lyndi Renaud. 13 Q. Can you spell Wendy's last name for the court 14 reporter? 15 A. L-y-n-d-i. And Renaud is R-e-n-a-u-d. She is my 16 administrative assistant. 17 Q. Anybody else? 18 A. No. 19 Q. What is -- I think it's Kathy Canfield -- 20 A. Yes. C -- 21 Q. -- is your planner? 22 A. Canfield, correct. 23 Q. Canfield. 24 A. C-a-n-f-i-e-l-d. 25 Q. What's her duties?</p>	<p>1 Q. Just offices? 2 A. It's pretty much offices, with our department. 3 In my side. To be clear, I'm across the hall in another 4 office, and there's somewhat of a -- you would walk into 5 a suite and there would be an administrative assistant 6 there. In their side, there would not. You walk right 7 into their office. 8 Q. Do you know a Vanessa Stephens? 9 A. Yes. 10 Q. Who is she? 11 A. She's the Storey County clerk/treasurer. 12 Q. Is that an elected position? 13 A. Yes. 14 Q. Where is her office? 15 A. Upstairs in the courthouse. 16 Q. Who do you report to? 17 A. Pat Whitten. 18 Q. He's the county manager? 19 A. Yes. 20 Q. Do you report to Ms. Stephens at all? 21 A. No. 22 Q. And who's Jana Seddon? 23 A. She's the Storey County assessor. 24 Q. Her office in the courthouse as well? 25 A. Yes.</p>

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<p>1 MR. FLANGAS: Okay. I'm going to have this</p> <p>2 marked as Plaintiff -- or just Exhibit No. 1.</p> <p>3 (Exhibit 1 marked at this time.)</p> <p>4 MR. FLANGAS: Here, I have a copy for you,</p> <p>5 if you want.</p> <p>6 MS. BRUCH: Oh, thank you.</p> <p>7 BY MR. FLANGAS:</p> <p>8 Q. Okay. I'm showing you what is marked as Exhibit</p> <p>9 No. 1, and I want you to kind of look at the first page.</p> <p>10 Because I don't have these Bates stamped numbered yet,</p> <p>11 and so I want to just make sure we're identifying the</p> <p>12 document on the record. So if you'll bear with me, the</p> <p>13 first page has, at the bottom one-third, it says:</p> <p>14 "Teller Files Criminal Complaint with Storey DA,</p> <p>15 Sheriff," and it's got the date October 16th. Is that</p> <p>16 what you're seeing?</p> <p>17 A. I'm seeing that about halfway down?</p> <p>18 Q. Yeah, about probably two-thirds of the way down,</p> <p>19 actually. Let me see what you -- look at the first</p> <p>20 page.</p> <p>21 A. Oh, the first? Okay. Oh, okay. Yes.</p> <p>22 Q. Okay. And then in the upper right-hand corner it</p> <p>23 says page 1 of 21 --</p> <p>24 A. Yes.</p> <p>25 Q. -- do you see that?</p>	<p>1 familiar with The Storey Teller?</p> <p>2 A. Yes.</p> <p>3 Q. What is it?</p> <p>4 A. It's a blog.</p> <p>5 Q. And who is the author of the blog?</p> <p>6 A. I believe it to be Sam Toll.</p> <p>7 Q. Do you know Mr. Sam Toll personally?</p> <p>8 A. I do know Mr. Toll.</p> <p>9 Q. How long have you known him?</p> <p>10 A. Two years? Something about two years. Maybe</p> <p>11 three.</p> <p>12 Q. And how did you come to know Mr. Toll?</p> <p>13 A. He's come into the picture of attending Storey</p> <p>14 County commission meetings and other such events, and</p> <p>15 submitting requests.</p> <p>16 Q. Why would he, by attending Storey County</p> <p>17 commission meetings, be coming into the picture? Is he</p> <p>18 vocal, or do you just see him there? Or what do you</p> <p>19 mean by that?</p> <p>20 A. I see him there, and he does vocalize things.</p> <p>21 Q. And what do you mean by "vocalizing things"?</p> <p>22 What does he say in some of these meetings?</p> <p>23 A. I don't know specifically, but he asks questions</p> <p>24 of the commissioners and things like that during public</p> <p>25 comment.</p>
Page 14	Page 16
<p>1 And if you'll go through it and make sure that</p> <p>2 the document's got all 21 pages in it. Does it?</p> <p>3 A. There's 21 pages.</p> <p>4 Q. Okay. Great. So let's look at page 2 of 21.</p> <p>5 Are you there?</p> <p>6 A. Yes.</p> <p>7 Q. Now, it's got a picture of three individuals, a</p> <p>8 man and two women. Do you recognize the man in the</p> <p>9 picture?</p> <p>10 A. Yes.</p> <p>11 Q. Who is it?</p> <p>12 A. It looks like Lance Gilman.</p> <p>13 Q. All right. Let's kind of look at some of the</p> <p>14 verbiage, here. It says:</p> <p>15 "On March 28th, 2017, The Storey Teller filed a</p> <p>16 public -- a public record request with Assistant County</p> <p>17 Manager, Planning Director, and all around busy guy</p> <p>18 Austin Osborne."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Did you ever receive a public record request from</p> <p>22 the, from The Storey Teller?</p> <p>23 A. I received a public records request from Sam</p> <p>24 Toll, who I believe is The Storey Teller.</p> <p>25 Q. That's probably a good thing to ask. Are you</p>	<p>1 Q. And you said something about submitting. What is</p> <p>2 he submitting?</p> <p>3 A. To me, public document -- or public records</p> <p>4 requests.</p> <p>5 Q. Are you friends with Mr. Toll?</p> <p>6 A. No.</p> <p>7 Q. Have you ever socialized with him?</p> <p>8 A. No.</p> <p>9 Q. Have you ever --</p> <p>10 A. Let me clarify that. So for the record to be</p> <p>11 very clear, I have on at least one occasion socialized</p> <p>12 with my friends at their residence, at a later time in</p> <p>13 which he arrived and was there present with us. And</p> <p>14 during that time I did not socialize with him.</p> <p>15 Q. That was actually going to be my next question,</p> <p>16 have you ever attended social events where he was</p> <p>17 present. Other than the one you just told me, any</p> <p>18 others?</p> <p>19 A. The other ones would be -- I can't remember all</p> <p>20 of them, but let's say, like, a county Christmas party,</p> <p>21 for example, where the public was there and all kinds of</p> <p>22 people were there, I was there and Sam Toll would be</p> <p>23 there.</p> <p>24 Q. Do you like Mr. Toll?</p> <p>25 MR. MARSHALL: Objection. Irrelevant.</p>

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<p>1 BY MR. FLANGAS:</p> <p>2 Q. Go ahead and answer.</p> <p>3 A. I don't know.</p> <p>4 Q. Do you have an opinion about Mr. Toll?</p> <p>5 MR. MARSHALL: Again, irrelevant and outside</p> <p>6 the stope of the authorized discovery in this matter.</p> <p>7 THE WITNESS: In one or more areas, yes.</p> <p>8 BY MR. FLANGAS:</p> <p>9 Q. Okay. What are those areas?</p> <p>10 MR. MARSHALL: Again, objection based on</p> <p>11 this is significantly outside any authorized discovery</p> <p>12 and relevance.</p> <p>13 THE WITNESS: My opinion would be at least</p> <p>14 on one other occasion that he said false things about me</p> <p>15 on his blog.</p> <p>16 BY MR. FLANGAS:</p> <p>17 Q. Such as?</p> <p>18 A. It had to do with a case involving my</p> <p>19 investigation of a sexual harassment case.</p> <p>20 Q. What sexual harassment case is that?</p> <p>21 MR. MARSHALL: I'm going to object again.</p> <p>22 This is significantly outside any authorized discovery</p> <p>23 about the matter at hand.</p> <p>24 MR. FLANGAS: I'll give you a standing</p> <p>25 objection, counsel, if you'd like.</p>	<p>1 personally?</p> <p>2 MR. MARSHALL: I'm going to object. I'm</p> <p>3 unclear what the actual question is.</p> <p>4 THE WITNESS: Not that I can remember at</p> <p>5 this time.</p> <p>6 BY MR. FLANGAS:</p> <p>7 Q. All right. Now, going back to what I just read</p> <p>8 in the record a few minutes ago -- I'll just read it</p> <p>9 again.</p> <p>10 "On March 28th, 2017, The Storey Teller filed a</p> <p>11 public record request with assistant county manager,</p> <p>12 planning director, and all around busy guy Austin</p> <p>13 Osborne."</p> <p>14 And I think you told me that Mr. Toll was the one</p> <p>15 that filed that public records request; right?</p> <p>16 A. Correct.</p> <p>17 Q. What was the -- what was he requesting?</p> <p>18 A. On which public records request? There were</p> <p>19 several. I may not remember all of them.</p> <p>20 Q. Okay. Let's, let's read on here, and this will</p> <p>21 probably narrow it down. It says:</p> <p>22 "In this request we asked for the zoning of the</p> <p>23 Mustang Ranch compound, specifically to see if any</p> <p>24 section of the property was zoned residential. This</p> <p>25 residential zoning inquiry was the result of previous</p>
Page 18	Page 20
<p>1 MR. MARSHALL: Okay.</p> <p>2 THE WITNESS: Okay. May I ask you if</p> <p>3 there's any confidentiality --</p> <p>4 MS. BRUCH: Well --</p> <p>5 THE WITNESS: -- when we talk about this</p> <p>6 other case?</p> <p>7 MR. FLANGAS: I'm not going to go into it</p> <p>8 other than just have you identify it, is all. Unless</p> <p>9 there's --</p> <p>10 THE WITNESS: That's a significant --</p> <p>11 MR. FLANGAS: Okay.</p> <p>12 MS. BRUCH: Well, so what I would instruct</p> <p>13 you is not reveal any kind of names of anyone who was</p> <p>14 involved in the, the matter that you're talking about.</p> <p>15 So beyond that there was a sexual harassment</p> <p>16 investigation, I would instruct you not to answer.</p> <p>17 THE WITNESS: Okay.</p> <p>18 MR. FLANGAS: That's fine.</p> <p>19 THE WITNESS: Thank you.</p> <p>20 BY MR. FLANGAS:</p> <p>21 Q. What false things did he say about you?</p> <p>22 A. That I took an inordinately long period of time</p> <p>23 to initiate a sexual harassment investigation, and that</p> <p>24 I did not do my job.</p> <p>25 Q. Okay. Any other things about Mr. Toll and you</p>	<p>1 requests filed with county clerk Vanessa Stephens and</p> <p>2 county assessor Jana Seddon."</p> <p>3 Okay. Did Mr. Teller ever file a public records</p> <p>4 request pertaining to the zoning of the Mustang Ranch</p> <p>5 compound?</p> <p>6 A. Yes.</p> <p>7 Q. When did he file that?</p> <p>8 MR. MARSHALL: I'm going to object. There</p> <p>9 is no Mr. Teller.</p> <p>10 MR. FLANGAS: All right. You're right.</p> <p>11 Mr. Toll.</p> <p>12 THE WITNESS: I would say within the year of</p> <p>13 2017.</p> <p>14 BY MR. FLANGAS:</p> <p>15 Q. What did the records request specifically seek?</p> <p>16 A. Specifically I cannot remember the entire</p> <p>17 contents of that request.</p> <p>18 Q. What was the gist, then?</p> <p>19 A. The general request was regarding zoning of that</p> <p>20 property.</p> <p>21 Q. Was there a specific request that was asking</p> <p>22 whether or not it was zoned for residential?</p> <p>23 A. I believe there was a request of that.</p> <p>24 Q. Was there a reason stated for the request?</p> <p>25 A. I would remember yes.</p>

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<p>1 Q. What was the reason stated?</p> <p>2 A. Mr. Toll would have asked if the property is</p> <p>3 allowed to be lived upon as a residence.</p> <p>4 Q. Is the property allowed to be lived upon as a</p> <p>5 residence?</p> <p>6 MS. BRUCH: Objection, calls for a legal</p> <p>7 conclusion. And also to the extent that any information</p> <p>8 that you have came from legal counsel, I would instruct</p> <p>9 you not to answer.</p> <p>10 BY MR. FLANGAS:</p> <p>11 Q. You're the, you're the planning director for the</p> <p>12 county; right?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. So you have to know county ordinances for</p> <p>15 planning purposes; right?</p> <p>16 A. Correct.</p> <p>17 Q. You have to know the zoning ordinances; correct?</p> <p>18 A. Correct.</p> <p>19 Q. And, as you mentioned earlier, it's what your</p> <p>20 duties are; correct?</p> <p>21 A. Correct.</p> <p>22 Q. All right. So is the -- is any part of that</p> <p>23 compound out there zoned for residential?</p> <p>24 MS. BRUCH: Same objection.</p> <p>25 MR. MARSHALL: I'm also going to object as</p>	<p>1 counsel with, with an attorney in maybe a decision about</p> <p>2 whether something -- how something is zoned, then I</p> <p>3 think that's attorney-client privilege.</p> <p>4 BY MR. FLANGAS:</p> <p>5 Q. Who makes the determination about zoning issues</p> <p>6 for, for Storey County?</p> <p>7 A. Zoning maps are interpreted by me, the planning</p> <p>8 commission and board can be involved under certain</p> <p>9 circumstances.</p> <p>10 Q. And you have to -- you're called upon sometimes</p> <p>11 by the county commission to interpret how the zoning</p> <p>12 should be?</p> <p>13 A. Yes.</p> <p>14 MR. FLANGAS: You know, counsel, I don't</p> <p>15 quite understand how he -- how this would be</p> <p>16 attorney-client privilege on how he answers a question</p> <p>17 about zoning.</p> <p>18 MS. BRUCH: Well, can you repeat the</p> <p>19 question so that I can orient myself again and be able</p> <p>20 to respond?</p> <p>21 MR. FLANGAS: Okay.</p> <p>22 BY MR. FLANGAS:</p> <p>23 Q. Is -- are people allowed to live out there at the</p> <p>24 Mustang Ranch compound?</p> <p>25 MS. BRUCH: So, so my question to you is:</p>
Page 22	Page 24
<p>1 to relevancy.</p> <p>2 THE WITNESS: I'm going to go ahead and</p> <p>3 answer, though, for anything that's not attorney-client?</p> <p>4 MS. BRUCH: Yes.</p> <p>5 THE WITNESS: For anything that's not</p> <p>6 attorney-client, that property is not zoned residential.</p> <p>7 BY MR. FLANGAS:</p> <p>8 Q. Does it allow people to live on it?</p> <p>9 MS. BRUCH: Same objection.</p> <p>10 MR. MARSHALL: Same objection.</p> <p>11 THE WITNESS: So I may not answer. There's</p> <p>12 some attorney-client privilege in this.</p> <p>13 MS. BRUCH: Okay. And I'm going to instruct</p> <p>14 you not to answer that. Any information you may have</p> <p>15 gotten from an attorney, you shouldn't answer. If you</p> <p>16 have an opinion without benefit of legal counsel, you</p> <p>17 can -- you should answer.</p> <p>18 THE WITNESS: I won't be able to answer</p> <p>19 that, then.</p> <p>20 MS. BRUCH: Okay.</p> <p>21 MR. FLANGAS: I'm not quite sure how this is</p> <p>22 attorney-client privilege, given that he's the planning</p> <p>23 director and I'm asking him a question about zoning and</p> <p>24 planning.</p> <p>25 MS. BRUCH: Well, if he sought, if he sought</p>	<p>1 Have you -- did you seek counsel from an attorney with</p> <p>2 regard to that topic?</p> <p>3 THE WITNESS: Yes.</p> <p>4 MS. BRUCH: And so I don't want you to share</p> <p>5 anything that you -- any information that you got based</p> <p>6 on that counsel with an attorney.</p> <p>7 THE WITNESS: Okay.</p> <p>8 MR. MARSHALL: And I would also object, that</p> <p>9 calls for a legal conclusion.</p> <p>10 MS. BRUCH: And so -- yeah, same objection</p> <p>11 that I had before.</p> <p>12 BY MR. FLANGAS:</p> <p>13 Q. Were you asked specifically by Mr. Toll about the</p> <p>14 residence of Lance Gilman?</p> <p>15 A. Yes.</p> <p>16 Q. What were you specifically asked?</p> <p>17 A. I don't remember the details, but the question</p> <p>18 would have been does Lance Gilman live at this site and</p> <p>19 can Lance Gilman live at this site.</p> <p>20 Q. What answers did you give -- first of all, did</p> <p>21 you answer those questions?</p> <p>22 A. I did not answer those questions.</p> <p>23 Q. Why not?</p> <p>24 A. It's not a public document request.</p> <p>25 Q. So what type of request was this?</p>

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<p>1 A. An opinion or an information request that is not 2 a document. 3 Q. So you didn't answer any part of this? 4 A. I did not. Not that question. 5 Q. Okay. You said not that question. What question 6 did you answer? 7 A. I provided him all public documents that he 8 requested, such as zoning maps, et cetera. 9 Q. And zoning maps of what? 10 A. Of the subject area in McCarran, including the, 11 the Mustang Ranch properties area. 12 Q. Did you say in McCarran? 13 A. Yeah. McCarran is the area that we're talking 14 about. 15 Q. What is the, the rough boundaries of McCarran? 16 A. Mostly the Tahoe Reno Industrial Center and its 17 outlying areas. 18 Q. So you gave him a map that showed the McCarran 19 area? 20 A. I gave him a map showing the zoning of the area 21 that he had concerns about, which would have been the 22 Northwestern area, mostly, of McCarran. 23 Q. Did you show him anything else? 24 A. I believe that I provided him zone text that he 25 requested.</p>	<p>1 residence? 2 A. It is not zoned for residential use. 3 Q. What is it zoned for? 4 A. It's questionable, at least on maps. 5 Q. So it could, could be residential or it couldn't 6 be residential? 7 MS. BRUCH: Objection, it calls for a legal 8 conclusion. But go ahead. 9 THE WITNESS: Residential zoning is R-1, or 10 just R, residential. It is not fully clear whether the 11 property is zoned agriculture or industrial. 12 BY MR. FLANGAS: 13 Q. What uses are allowed under agriculture? 14 A. Agriculture uses, animal, farms, and residences. 15 Meaning single-family residence. 16 Q. Industrial, what uses are allowed under 17 industrial? 18 A. Warehousing, manufacturing, R&D. Stuff like 19 that. 20 Q. R&D being what? 21 A. Research and development. Typical industrial 22 uses. 23 Q. Who is your predecessor? 24 A. For -- you're going to have to be more specific 25 than that.</p>
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<p>1 Q. Do you know where Mr. Gilman lives? 2 A. I do. 3 Q. Where does he live? 4 MR. MARSHALL: I'm going to object, calls 5 for a, I think a legal conclusion, and it's also 6 irrelevant to the questions before the Court, and 7 outside the scope of authorized discovery. 8 MR. FLANGAS: Where somebody lives is a 9 legal conclusion, counsel? 10 MR. MARSHALL: I think you're getting at 11 where his identified residence is. 12 BY MR. FLANGAS: 13 Q. Go ahead and answer the question. 14 A. I believe him to live at the residence at the 15 back of the Mustang Ranch Wild Horse property. 16 Q. What do you base that on? 17 MR. MARSHALL: Same objections. 18 THE WITNESS: It's been told, it's been 19 said, and on one Pictometry aerial image you can see his 20 car parked in front of that house. 21 BY MR. FLANGAS: 22 Q. What type of car? 23 A. I believe it was the white county Yukon. 24 Q. That residence of Mr. Gilman's that you just 25 testified about, is it, is it zoned for that type of</p>	<p>1 Q. Okay. Who was your predecessor as the planning 2 director? 3 A. Dean Haymore. 4 Q. Can you spell his name, please? 5 A. D-e-a-n, H-a-y-m-o-r-e. 6 Q. Did Mr. Haymore ever talk to you about the zoning 7 for Mr. Gilman's residences? 8 A. I don't remember. 9 Q. Did he ever give you a letter? 10 A. No. Before -- I want to make sure. Recently I 11 did receive a letter, not directly from him. I'm trying 12 to think what the letter said. 13 Q. Did it pertain to Mr. Gilman's zoning? 14 A. Yes. Well, it pertained either to the zoning or 15 to the -- a residential nature or use allowance on that 16 property. I don't remember the specifics of that 17 letter. 18 Q. The letter stated that Mr. Gilman's use of the 19 property was proper; correct? 20 MR. MARSHALL: I'm going to object. There's 21 no evidence of the date, whatever the letter is, and 22 again, my standing objections as to relevancy and beyond 23 the scope of discovery. 24 THE WITNESS: I'm going to say the letter 25 did -- was in that direction, yes.</p>

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1 BY MR. FLANGAS:

2 Q. And the letter stated that Mr. Gilman's use of --
3 let me scratch that.

4 The letter did state, though, that Mr. Gilman's
5 use was proper pursuant to the zoning?

6 MS. BRUCH: Do you have a copy of the letter
7 that you can put in front of him? It would make this a
8 whole lot easier.

9 MR. FLANGAS: Not right now.

10 MS. BRUCH: Okay. Don't guess.

11 THE WITNESS: I'm going to disagree with
12 that entire statement.

13 BY MR. FLANGAS:

14 Q. Okay. What did it say about his use?

15 A. Just what I described a moment ago.

16 Q. Now, you mentioned under agriculture
17 single-family dwellings are allowed?

18 A. Yes.

19 Q. What is a -- the description of a single-family
20 dwelling?

21 A. A typical residence that's not an apartment where
22 you have more than one family living in a building.

23 Q. It's not where you have to have a mom and a dad
24 and kids; right?

25 A. It is not.

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1 Q. It's strictly about the way the building is
2 constructed?

3 A. Not by the way it's constructed, by its nature
4 and what it would typically house.

5 Q. So what is the -- so when I asked you about
6 single-family dwellings, you mentioned it's not an
7 apartment. Is there any other definition for
8 single-family dwelling?

9 MR. MARSHALL: I'm going to object. You
10 mischaracterized his testimony.

11 THE WITNESS: I think I said it.

12 BY MR. FLANGAS:

13 Q. What's that?

14 A. I think I said it, a single-family residence is a
15 dwelling intended to house a single family. Not more
16 than one family, like an apartment.

17 Q. So under a single-family dwelling you could have
18 roommates that aren't related?

19 MS. BRUCH: Objection, calls for a legal
20 conclusion. You can answer.

21 THE WITNESS: The way the definition I'm
22 recalling in the zoning is that people that are related
23 to one -- in a family, would be able to live in that
24 dwelling unit, that house. I don't believe that our
25 zoning ordinance talks about -- goes into roommates and

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1 other such situations. But a family can include a wife,
2 husband, girlfriend, boyfriend. You know, those types
3 of arrangements. To go any further, I believe I would
4 be speculating. I would have to look at that definition
5 again to make sure.

6 BY MR. FLANGAS:

7 Q. All right. Outside the window right here there's
8 a house across the street, and if you want to look at
9 it, you can take a look. Would you classify that house
10 across the street as a single-family dwelling?

11 MS. BRUCH: Objection, calls for speculation
12 and a legal conclusion.

13 THE WITNESS: I do agree that that's
14 speculative. I don't know the zoning, I don't know how
15 that house is divided up.

16 BY MR. FLANGAS:

17 Q. All right. Let's just take a typical house in
18 Storey County. Are you with me so far?

19 A. Okay.

20 Q. All right. And I want you to -- under this
21 hypothetical, the house is in a single-family dwelling
22 area. Are you with me so far?

23 A. Yes.

24 Q. And it's just a house, it stands alone in a
25 single-family dwelling area. Right? Are you with me on

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1 the hypothetical?

2 A. Okay.

3 Q. Okay. If I'm living in there with my wife, it
4 remains a single-family dwelling?

5 MR. MARSHALL: I'm going to object, it calls
6 for speculation.

7 MS. BRUCH: Same objection.

8 THE WITNESS: Okay. I would suggest yes.

9 BY MR. FLANGAS:

10 Q. All right. I live in there with my girlfriend.
11 Does it remain a single-family dwelling?

12 MS. BRUCH: Same objection.

13 THE WITNESS: I would suggest yes.

14 BY MR. FLANGAS:

15 Q. If I live in there with a friend, does that
16 change the nature of the single-family dwelling?

17 MS. BRUCH: Same objection.

18 THE WITNESS: I don't believe it changes the
19 nature.

20 BY MR. FLANGAS:

21 Q. So then the logical conclusion is it's okay to
22 have a roommate in a single-family dwelling; correct?

23 MR. MARSHALL: I'm going to object. It
24 calls for a legal conclusion, and also my standing
25 objections regarding relevancy and the scope.

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<p>1 THE WITNESS: I'm going to suggest that,</p> <p>2 yes, you could live in a single-family dwelling with a</p> <p>3 friend.</p> <p>4 BY MR. FLANGAS:</p> <p>5 Q. Okay. Let's turn to page 3 of 21. You got a</p> <p>6 picture, it says:</p> <p>7 "Lance Gilman and Kris Thompson are roommates</p> <p>8 here."</p> <p>9 Do you see that?</p> <p>10 A. I do see that.</p> <p>11 Q. And then at the bottom there it says this</p> <p>12 following verbiage, if you'll read along with me. It</p> <p>13 says:</p> <p>14 "After I learned where County Commissioner Gilman</p> <p>15 and Planning Commissioner Thompson claimed to live, I</p> <p>16 then sent my public record request to Mr. Osborne. As</p> <p>17 stated above, this request was to determine the zoning</p> <p>18 of the Mustang Ranch and was filed on March 28th. After</p> <p>19 several back and forth emails, included below, the</p> <p>20 matter went cold. I saw Mr. Osborne on multiple</p> <p>21 occasions and asked him about the inquiry. I got the</p> <p>22 usual dismissive reason, 'We're in the midst of the</p> <p>23 budget' or 'I'm in the middle of revising a statute' or</p> <p>24 'My dog ate my keyboard.'"</p> <p>25 Any of that true?</p>	<p>1 likely to have occurred, but not in the context of this</p> <p>2 conversation. That "the matter went cold" is not</p> <p>3 correct.</p> <p>4 Q. I might have missed something here, so let's go</p> <p>5 back to page 2 of 21. And I apologize if, if my memory</p> <p>6 is serving me wrong on this. It says:</p> <p>7 "On March 28th, 2017, The Storey Teller filed a</p> <p>8 public record request with Assistant County Manager,</p> <p>9 Planning Director, and all around busy guy Austin</p> <p>10 Osborne. In this request we asked for zoning of the</p> <p>11 Mustang Ranch compound, specifically to see if any</p> <p>12 section of the property was zoned residential."</p> <p>13 And I thought I asked you about that and you said</p> <p>14 it wasn't a public records request, and then now</p> <p>15 you're --</p> <p>16 A. Will you restate your question that you asked at</p> <p>17 that time?</p> <p>18 Q. At that time I asked, looking at page 2 of 21,</p> <p>19 when I read that in the record, I asked you if it was a</p> <p>20 public record request. You told me it wasn't from The</p> <p>21 Storey Teller, but it was from Sam Toll. Is that</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. And I thought you told me that it wasn't a public</p> <p>25 records request that he filed with you.</p>
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<p>1 A. Not all of it is true.</p> <p>2 MS. BRUCH: Object as to form. Go ahead.</p> <p>3 THE WITNESS: Okay.</p> <p>4 MS. BRUCH: If you understand this question.</p> <p>5 BY MR. FLANGAS:</p> <p>6 Q. Not all is true?</p> <p>7 A. Not all of it is true.</p> <p>8 Q. Okay. So what's true and what's not true in</p> <p>9 that, in that paragraph?</p> <p>10 A. That he sent a public records request to Mr.</p> <p>11 Osborne, that is true. That the request was to</p> <p>12 determine zoning of the Mustang Ranch, that is true.</p> <p>13 That -- there may have been one or more back and forth</p> <p>14 email communications, that's true. And that he had</p> <p>15 passed me on occasions in person and asked about this is</p> <p>16 true.</p> <p>17 Q. Is there anything false in this?</p> <p>18 A. Yes.</p> <p>19 Q. What's false?</p> <p>20 A. The obvious.</p> <p>21 Q. The what?</p> <p>22 A. The obvious. "The dog ate my keyboard" is false.</p> <p>23 "We're in the midst of the budget," I don't recall</p> <p>24 saying that and I don't believe that I would have said</p> <p>25 that. And "I'm in the middle of revising a statute" is</p>	<p>1 A. He has filed several requests with me. Some of</p> <p>2 them contain public records requests, some of them</p> <p>3 contained a request to discuss matters.</p> <p>4 Q. All right. So looking on page 2 of 21, where he</p> <p>5 says, "On March 28th, 2017, I filed a public record</p> <p>6 request," was that a public record request or was that</p> <p>7 a -- what was it? That's probably the best way to ask</p> <p>8 that.</p> <p>9 A. The context of your question that you asked</p> <p>10 earlier is answered truthfully. What happened -- I</p> <p>11 don't remember an exact March 28 request, and I'm</p> <p>12 truthful in answering that either this one or ones</p> <p>13 around it, or like it, that there were public records</p> <p>14 requests and there are public requests -- or requests</p> <p>15 for discussion.</p> <p>16 Q. And you told me, I believe -- I'm looking still</p> <p>17 on page 2 of 21 -- that you didn't respond to that</p> <p>18 request but provided him documents. Am I correct in</p> <p>19 categorizing your testimony?</p> <p>20 A. I do recall my telling you that I did provide him</p> <p>21 public documents when requested, and that I did do.</p> <p>22 Q. But you didn't give him any interpretation as to</p> <p>23 what the zoning meant?</p> <p>24 A. Correct.</p> <p>25 Q. So going back to page 3 of 21, at that bottom bit</p>

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<p>1 of language that we were looking at before, and in that 2 bottom paragraph -- and I'll just read it so we're on, 3 on track, here. It says: 4 "As stated above, this request was to determine 5 the zoning of the Mustang Ranch and was filed on 6 March 28th. After several back and forth emails, 7 included below, the matter went cold." 8 Do you agree or disagree with what he's saying 9 there? 10 A. I -- 11 MS. BRUCH: Objection, asked and answered. 12 THE WITNESS: You want me to answer? 13 MS. BRUCH: Yes. You already have, but go 14 ahead. 15 THE WITNESS: I disagree that the matter 16 went cold. 17 BY MR. FLANGAS: 18 Q. Okay. And why is it that you disagree that the 19 matter went cold? 20 A. Because at least on one or more occasions -- I 21 don't know if that's the occasion he's describing 22 exactly right here -- Mr. Toll had asked for public 23 documents, and I provided him those public documents. 24 Q. If somebody's coming to your office to ask about 25 a zoning matter, can I build this on the -- a certain</p>	<p>1 A. Gary Hames. 2 Q. Can you spell Gary's last name? 3 A. Yes. H-a-m -- as in Mickey -- e-s. 4 Q. What's Mr. Hames' title? 5 A. Community development director. 6 Q. What are his duties? 7 A. He is in charge of building officials, building 8 codes, and fire prevention codes, and business license, 9 and nuisance. 10 Q. Have you looked at the map of the McCarran area 11 and also the area where the Mustang Ranch is zoned? 12 A. Yes. 13 Q. What was the purpose of you looking at that map? 14 A. In what context? 15 Q. First of all, when did you first look at it? 16 A. First? 17 Q. Yes. 18 A. 2008. 19 Q. Okay. So you've probably looked at it many 20 times, it would probably be safe to say; right? 21 A. Yes. 22 Q. And what, what are some of the reasons you would 23 be looking at that map? 24 A. To determine what zoning applies to a property. 25 Q. And where Mr. Gilman's residence is located, you</p>
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<p>1 piece of property on the way it's zoned, who answers 2 that question for that person? 3 A. It would be me or my planner, my team. 4 Q. Your team. You had the team; right? 5 A. What do you mean? 6 Q. You're the leader of the team, the -- 7 A. Yes. 8 Q. -- boss? 9 Kind of also just pause a little second longer 10 before you give me your answer, because you were giving 11 me your "yes" before I was quite done with my question. 12 Okay? 13 A. Sorry. 14 Q. No problem. It's hard not to do. I understand. 15 Now, you said -- all right. Let's go on to page 16 4 of 21. I'm going to start at the top. It says: 17 "During the months of delay on the simple request 18 of what is the zoning of the Mustang Ranch, I decided to 19 stroll into the community development department and ask 20 them -- ask them. Within five minutes I was holding the 21 printout containing the zoning of the Mustang Ranch." 22 First of all, the community development 23 department, is that under you? 24 A. No. 25 Q. Who is that under?</p>	<p>1 said the zoning was kind of questionable there; right? 2 A. It appears to be. 3 Q. Okay. Because you're not sure whether it's 4 agricultural or industrial? 5 A. That is somewhat correct. 6 Q. And if it's agricultural, a residence is allowed 7 there; correct? 8 A. Yes. 9 Q. If it's industrial, is a residence allowed? 10 A. A residence is not allowed in an industrial zone 11 under the zoning ordinance. 12 Q. Has there been any investigations, that you're 13 aware of, pertaining to Mr. Gilman's residency? 14 A. Can you elaborate on "investigations"? 15 Q. I just want to know if you know of any, and then 16 I'll ask you about them. Are there any investigations, 17 that you're aware of, pertaining to Mr. Gilman's 18 residency? 19 A. Are you including Mr. Toll's investigation in 20 this question? 21 Q. We'll come to Mr. Toll's, but I'm talking about 22 anybody else besides Mr. Toll's investigation. 23 A. No, I'm not. 24 Q. Do you know whether or not the DA has ever 25 investigated Mr. Gilman's residency?</p>

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<p>1 A. In -- I do recall that the DA's office is in fact</p> <p>2 investigating this matter, and I correct my prior answer</p> <p>3 to you a moment ago with that.</p> <p>4 Q. The DA's office is investigating what, Mr.</p> <p>5 Gilman's residency?</p> <p>6 A. I believe that is a portion of the investigation</p> <p>7 into potential matters.</p> <p>8 MS. BRUCH: And I'm going to instruct you --</p> <p>9 I don't know what's confidential or not confidential.</p> <p>10 If, potentially, anything that you know going on at the</p> <p>11 DA's office is confidential, I'm going to instruct you</p> <p>12 not to answer.</p> <p>13 THE WITNESS: Okay.</p> <p>14 BY MR. FLANGAS:</p> <p>15 Q. How do you know the DA's investigating this</p> <p>16 matter?</p> <p>17 MS. BRUCH: Objection.</p> <p>18 THE WITNESS: That is an attorney-client.</p> <p>19 MS. BRUCH: Yeah.</p> <p>20 BY MR. FLANGAS:</p> <p>21 Q. Any information you have about whether or not the</p> <p>22 district attorney is investigating this matter would be</p> <p>23 secondhand?</p> <p>24 A. I'm not going to answer that, because I believe</p> <p>25 it's attorney-client privilege.</p>	<p>1 Q. What are all the requests that you -- what are</p> <p>2 all the requests that you've received from Mr. Toll</p> <p>3 pertaining to his so-called investigation of Mr.</p> <p>4 Gilman's property?</p> <p>5 A. Can you clarify that? I don't know how to answer</p> <p>6 it.</p> <p>7 Q. Well, you gave me two reasons -- you gave me two</p> <p>8 things about Mr. Toll's investigation, what you had</p> <p>9 heard from third parties and what was requested of you</p> <p>10 by Mr. Toll. So my question is what has been requested</p> <p>11 of you by Mr. Toll. We know he's asked for documents;</p> <p>12 right?</p> <p>13 A. Correct.</p> <p>14 Q. What else has he asked for?</p> <p>15 A. For me to engage in discussion with him.</p> <p>16 Q. About what?</p> <p>17 A. About the zoning or the residential allowances at</p> <p>18 the subject property.</p> <p>19 Q. And did you answer or give him any answers or</p> <p>20 information about that?</p> <p>21 A. No.</p> <p>22 Q. None?</p> <p>23 A. None.</p> <p>24 Q. Did you tell him that you believe Mr. Gilman</p> <p>25 lived there?</p>
Page 42	Page 44
<p>1 Q. I'm not quite sure that that is.</p> <p>2 MS. BRUCH: Well, even if he thinks it might</p> <p>3 be, I'm going to instruct him not to answer.</p> <p>4 BY MR. FLANGAS:</p> <p>5 Q. You're not involved in the investigation, are</p> <p>6 you?</p> <p>7 A. I don't believe that I am.</p> <p>8 Q. What do you know -- you said something about Mr.</p> <p>9 Toll's investigation. What do you know about Mr. Toll's</p> <p>10 investigation?</p> <p>11 A. What's being talked about today and what has been</p> <p>12 brought to me thirdhand by others in the community, and</p> <p>13 by Mr. Toll's inquiry to me on public document requests.</p> <p>14 Q. All right. So what have you been told about his</p> <p>15 investigation from third parties?</p> <p>16 A. That he has an interest in whether Lance lives at</p> <p>17 this property.</p> <p>18 Q. Other than he has an interest on whether or not</p> <p>19 Mr. Gilman lives at the property, did they tell you</p> <p>20 anything else about Mr. Toll's investigation of whether</p> <p>21 or not Mr. Gilman resides at the property?</p> <p>22 A. Not that I can remember.</p> <p>23 Q. Who are some of these third parties?</p> <p>24 A. I don't remember the individuals, but it would</p> <p>25 have been people in a small town talking with people.</p>	<p>1 A. I don't remember.</p> <p>2 Q. Would you have?</p> <p>3 MS. BRUCH: Objection, calls for</p> <p>4 speculation.</p> <p>5 THE WITNESS: I don't remember if that's</p> <p>6 happened.</p> <p>7 BY MR. FLANGAS:</p> <p>8 Q. Did you ever tell him that you didn't believe</p> <p>9 Mr. Gilman lived there?</p> <p>10 MS. BRUCH: Same objection.</p> <p>11 THE WITNESS: No. And can you repeat that</p> <p>12 question? I want to make sure I answered it correctly.</p> <p>13 BY MR. FLANGAS:</p> <p>14 Q. Certainly. Did you ever tell Mr. Toll that you</p> <p>15 did not believe Mr. Gilman lived --</p> <p>16 A. No.</p> <p>17 Q. -- on the property on Wild Horse?</p> <p>18 A. No.</p> <p>19 Q. Earlier in this deposition when I asked you where</p> <p>20 Mr. Gilman lived, you told me the property behind the</p> <p>21 Mustang Ranch; right?</p> <p>22 A. Yeah. When I say "property," I mean the house.</p> <p>23 Q. The house.</p> <p>24 A. Correct.</p> <p>25 Q. Okay. And so if Mr. Toll had asked you whether</p>

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<p>1 or not Mr. Gilman lived there, or where Mr. Gilman 2 lived, would you have told him the house behind the 3 property -- the house behind the Mustang? 4 MS. BRUCH: Objection, asked and answered, 5 misstates his testimony. Go ahead. 6 THE WITNESS: Go ahead. Can repeat that 7 question? 8 BY MR. FLANGAS: 9 Q. If Mr. -- given that you have already testified 10 that you believe Mr. Gilman lives in the house behind 11 the Mustang, had Mr. Toll asked you where Mr. Gilman 12 lived -- where Mr. Gilman lives, would you have told him 13 the house behind the Mustang? 14 A. That would be a somewhat typical answer. 15 Q. Let's turn to page 5 of 21. Now, this page and 16 the following page, which is 6 of 21, purports to be a 17 letter that was written by Mr. Toll to Ms. Anne Langer, 18 the Storey County district attorney. And it's also to 19 Mr. Paul Laxalt, Nevada attorney general. Do you see 20 that in the upper left-hand corner? 21 A. Yes. 22 Q. Now, about halfway down, it's in -- I'm going to 23 try to help you. It starts with the sentence, "The 24 purpose of my query." Are you there? 25 A. Yes.</p>	<p>1 Canyon Drive are legal residences. Nobody can legally 2 reside there or claim either address as their legal 3 residence." 4 Do you agree with that statement? 5 MR. MARSHALL: I'm going to object. It 6 calls for a legal conclusion. 7 MS. BRUCH: I join. 8 THE WITNESS: And that is an area that is, 9 like I stated earlier, attorney-client privilege, I 10 believe. I don't believe I can answer that. 11 BY MR. FLANGAS: 12 Q. You're the zoning director, the planning director 13 for the county. You can't render an opinion as to the 14 appropriate use of property without an attorney 15 consultation? 16 MS. BRUCH: Objection, argumentative. And 17 that's a different question than the first question, so 18 object to the form. Go ahead. 19 THE WITNESS: Okay. This -- if I -- 20 BY MR. FLANGAS: 21 Q. And let me, let me just -- I'm going to re-ask 22 the question. You're not allowed to make objections, 23 your attorney is. Okay? So I'm going to ask you this 24 question again. 25 "In other words, neither 5 or 56 Wild Horse</p>
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<p>1 Q. I'm going to read it now. 2 "The purpose of my query was to confirm that the 3 residence addresses supplied by Mr. Gilman and Mr. 4 Thompson, two sides of a small double-wide mobile home, 5 located behind the swimming pool at the Mustang Ranch 6 brothel, are zoned as legal residence addresses by 7 Storey County statute. 8 "The request has now collected six-months' worth 9 of dust and remains unanswered. 10 "According to Mr. Osborne -- Mr. Austin Osborne, 11 assistant Storey County manager, when I asked him about 12 it he claimed," quote, "The matter was still under 13 investigation," unquote. 14 Do you agree with what's been said there? 15 A. I agree with the sentence that says the matter is 16 still under investigation, something to that effect. I 17 would have responded with something like that. 18 Q. Was it six-months' worth of dust, as stated in 19 the previous sentence? 20 A. I would disagree that six months went by without 21 Mr. Toll getting what he requested, what's required of 22 me. 23 Q. Then let's go down further in the letter. It 24 says: 25 "In other words, neither 5 and 56 Wild Horse</p>	<p>1 Canyon Drive are legal residences. Nobody can legally 2 reside there or claim either address as their legal 3 residence." 4 Do you agree with that statement? 5 MR. MARSHALL: I'm going to object based on 6 calling for a legal conclusion and my list of standing 7 objections. 8 MS. BRUCH: Same objection. 9 THE WITNESS: And this is an attorney-client 10 privilege. 11 MS. BRUCH: And that's, you know, that's my 12 standing instruction, is that any of this information 13 that you have by way of communications with an attorney, 14 I would instruct you not to answer. 15 MR. FLANGAS: For the record, I'm not quite 16 sure, in doing his job, he can hide behind the shield of 17 an attorney by saying I consulted with an attorney to do 18 my job. Meaning you're the person that's responsible 19 for making the decisions on whether or not zoning is 20 appropriate or not. And then asking whether or not this 21 zoning is appropriate and saying I talked to an attorney 22 about it, I don't think that gives him the, I don't 23 think that gives him the privilege. 24 THE WITNESS: This is not a zoning question. 25 MS. BRUCH: Same objection.</p>

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<p>1 MR. MARSHALL: It's also not a question, 2 it's a statement.</p> <p>3 MS. BRUCH: And just looking at the judge's 4 order, I think it's outside the scope of what the judge 5 has allowed. And you have that standing objection, 6 so...</p> <p>7 BY MR. FLANGAS: 8 Q. At the bottom of this it says: 9 "I further contend by stonewalling this public 10 records request, Storey County, Mr. Pat Whitten, and Mr. 11 Osborne are obstructing justice." 12 Do you agree with that statement? 13 A. No, I do not. 14 Q. That sentence I just read to you, how do you 15 respond to that? 16 A. Which one? 17 Q. It says: 18 "I further contend that by stonewalling this 19 public records request, Storey County, Mr. Pat Whitten, 20 and Mr. Austin Osborne are obstructing justice." 21 MR. MARSHALL: I'm going to object. That is 22 far beyond any allowable scope of this -- 23 MS. BRUCH: And it's asked and answered. He 24 told you he disagrees. Go ahead. Do you have anything 25 else to say?</p>	<p>1 "Sam Toll -- editor." 2 Did you receive that email? 3 A. I don't remember it specifically, but I believe 4 that I did. 5 Q. And that's the public records request you 6 received from Mr. Toll? 7 A. Yes. And I will clarify, to be honest, based on 8 my response I would say yes, I did receive this. 9 Q. Okay. And then the next email, which was sent 10 later that day at 5:42, it says: 11 "Sam, Lyndi will look into this and get back with 12 you on the zoning with the -- within the NRS period. 13 "Thank you, Austin." 14 Now, you wrote that; right? 15 A. Yes. 16 Q. Now, who is Lyndi? 17 A. She's my administrative assistant in planning. 18 Q. And the last name again, just so we're clear? 19 A. Renaud. 20 Q. Okay. Now, did you get back with Mr. Toll on the 21 zoning within the NRS period? 22 A. I believe that I did. 23 Q. Let's turn to page 8 of 21. It says, "From Kathy 24 Canfield." And she's your planner? 25 A. Yes.</p>
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<p>1 THE WITNESS: I can't speak to Pat Whitten, 2 I'm not Pat Whitten, but as far as myself, I have not 3 stonewalled Mr. Toll's public document request. The 4 records that he requested were provided to him.</p> <p>5 BY MR. FLANGAS: 6 Q. Let's turn to page 7 of 21. At the top it 7 purports to be an email -- let's go kind of down to the 8 second part. Page 7 of 21 purports to be two emails; 9 right? 10 A. An email with a response, correct. 11 Q. All right. So now let's look at the first email, 12 which appears to have been sent on March 29th, 2017, at 13 12:35 p.m. It's from Editor [mailto:editor@thestorey 14 teller.online]. And it's sent to you; is that correct? 15 A. Yes. 16 Q. It says: 17 "Greetings Mr. Osborne. 18 "This email represents a public records request 19 for the zoning of two Storey County addresses. I was 20 advised that your office handles this request from 21 Cynthia at Community Development. 22 "These addresses are 56 Wild Horse Canyon Drive 23 and 5 Wild Horse Canyon Drive, Sparks. 24 "Thank you for your kind attention to this 25 matter.</p>	<p>1 Q. And it says: "To: editor@thestoreyteller 2 .online;" right? 3 A. It's hard to see, but it appears so. 4 Q. And that was on March 31st, 2017? 5 A. It appears so. 6 Q. Now, that would have been the zoning information 7 you supplied, or your office supplied, in response to 8 Mr. Toll's public records request? 9 A. Yes. And I believe there were more documents 10 supplied to him as well, but this is -- appears to be 11 one of them. 12 Q. What other documents would have been supplied to 13 him? 14 A. The actual zone maps for the area property. This 15 is, this is, I can't really tell exactly what's behind 16 it, it's grainy, but this would be an excerpt of that 17 map or a map of zoning, or of the property. 18 Q. Now, let's look at page 9 of 21. This is another 19 email chain. And I apologize, the bottom part got a 20 little bit left off on this, but we can still get the 21 gist of it. At the bottom it says from the editor@the 22 storeyteller.online, and it's directed towards Ms. Kathy 23 Canfield. It says: 24 "Kathy, thank you for your prompt reply. 25 "Yes, that is the location, APN 04-161-21 (detail</p>

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<p>1 of the Mustang Ranch complex below via Google Earth).</p> <p>2 "Somewhere in that complex there are two physical</p> <p>3 addresses, 5 and 56 Wild Horse Canyon Drive."</p> <p>4 And then I can't -- I apologize, I can't read</p> <p>5 these two next sentences, but then it goes on to say:</p> <p>6 "Are there any nooks and crannies somewhere in</p> <p>7 there designated residential, specifically 5 and 56 Wild</p> <p>8 Horse Canyon Drive?</p> <p>9 "According to public documents, there are two</p> <p>10 residences located somewhere in the Mustang Ranch</p> <p>11 complex (5 and 56 Wild Horse" --</p> <p>12 MS. BRUCH: Sorry. He wasn't following</p> <p>13 along. He didn't flip the page, so...</p> <p>14 BY MR. FLANGAS:</p> <p>15 Q. All right. I want you to look at the bottom, and</p> <p>16 there is an email that purports to be from the editor</p> <p>17 @thestoreyteller sent to Kathy Canfield, dated</p> <p>18 March 31st, 2017. Are you there?</p> <p>19 A. I'm on page ten, which appears to be --</p> <p>20 Q. I want you to be 9 out of 21.</p> <p>21 A. I'm on page nine.</p> <p>22 Q. Okay. At the bottom again there's an email that</p> <p>23 purports to be from the editor@thestoreyteller to Kathy</p> <p>24 Canfield. Do you see that?</p> <p>25 A. Uh-huh. Yes.</p>	<p>1 editor to Kathy Canfield. And this was cc'ed to you.</p> <p>2 It says Tuesday, April 25th, 2017, at 6:57 p.m.; right?</p> <p>3 Are you there?</p> <p>4 A. Yes.</p> <p>5 Q. It says:</p> <p>6 "Kathy, have you been able to uncover the</p> <p>7 disposition of residential zoning on the parcel APN</p> <p>8 04-161-2? I have highlighted in red the area identified</p> <p>9 by the assessor as the location of 5, 5B, and 56 Wild</p> <p>10 Horse Canyon Drive."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Did you receive that email?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Then let's go up here to the very top on</p> <p>16 page nine. This is another email from Austin Osborne to</p> <p>17 the editor of the Teller Online -- Storey Teller. And</p> <p>18 it's also to Kathy Canfield as well; right?</p> <p>19 A. Yes.</p> <p>20 Q. It's dated April 27th at -- 2017 at 7:46 a.m. Is</p> <p>21 that right?</p> <p>22 A. Yes.</p> <p>23 Q. It says:</p> <p>24 "Hello, Sam.</p> <p>25 "I am still looking into the matter and will get</p>
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<p>1 Q. It's dated March 31st, 2017; correct?</p> <p>2 A. Yes.</p> <p>3 Q. It says:</p> <p>4 "Kathy, thank you for your prompt reply.</p> <p>5 "Yes, that is the location, APN 04-161-21 (detail</p> <p>6 of the Mustang Ranch complex below via Google Earth).</p> <p>7 "Somewhere in that complex there are two physical</p> <p>8 addresses, 5 and 56 Wild Horse Canyon Drive."</p> <p>9 And the next sentence, you can't read it, it's</p> <p>10 kind of illegible, so we'll go over to page ten. It</p> <p>11 says:</p> <p>12 "Are there any nooks and crannies somewhere in</p> <p>13 there designated residential, specifically 5 and 56 Wild</p> <p>14 Horse Canyon Drive?</p> <p>15 "According to the public documents, there are two</p> <p>16 residences located somewhere in the Mustang Ranch</p> <p>17 complex (5 and 56 Wild Horse Canyon Drive) and, if so,</p> <p>18 they would require residential zoning.</p> <p>19 "That is the focus of my query. Is there any</p> <p>20 location within that parcel that is zoned residential,</p> <p>21 is legally approved for people to reside?</p> <p>22 "I appreciate your time and effort on this</p> <p>23 inquiry."</p> <p>24 Then it's -- then there's a -- go back to page 9</p> <p>25 of 21. This one says -- another one, it says from the</p>	<p>1 you an answer. We have a lot on our plate right now, so</p> <p>2 thank you for your patience. Please direct your</p> <p>3 follow-up questions directly to me so Kathy can focus on</p> <p>4 her other priorities. Thank you for your understanding</p> <p>5 and have a good day."</p> <p>6 You wrote that; right?</p> <p>7 A. Yes.</p> <p>8 Q. What was, specifically, was Mr. Toll asking you?</p> <p>9 A. He's asking two questions: One, if the subject</p> <p>10 parcel is zoned residential; secondly, if it's legally</p> <p>11 approved for people to reside there.</p> <p>12 Q. Did you ever answer Mr. Toll and those questions?</p> <p>13 A. I provided Sam Toll the public documents that</p> <p>14 would have shown the zoning of the property.</p> <p>15 Q. Did you ever give him any verbal confirmation one</p> <p>16 way or the other?</p> <p>17 A. Not that I remember, and I believe not.</p> <p>18 Q. So you gave him just the zoning documents;</p> <p>19 correct?</p> <p>20 A. Zoning and whatever other documents he requested,</p> <p>21 that would have been maps and text.</p> <p>22 Q. Has there ever been a determination one way or</p> <p>23 the other on whether or not Mr. Gilman's -- the house</p> <p>24 where Mr. Gilman is living is appropriately zoned?</p> <p>25 MS. BRUCH: Objection. Just the same</p>

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1 caution, that any information you may have in response
2 to that question comes from an attorney, I instruct you
3 not to answer.

4 THE WITNESS: There hasn't been an absolute
5 final determination that the subject property is or is
6 not properly zoned.

7 BY MR. FLANGAS:

8 Q. Have you been asked to make that determination?

9 A. I've been asked to assist in that determination
10 and --

11 Q. Asked by who, Mr. Toll?

12 A. No.

13 Q. Who?

14 A. By our, our district attorney's office.

15 Q. Have you made the determination?

16 MS. BRUCH: Same objection.

17 THE WITNESS: I don't believe I have
18 attorney-client on this question.

19 MS. BRUCH: That's fine. Go ahead and
20 answer.

21 THE WITNESS: Can you restate the question,
22 make sure I answer it properly?

23 BY MR. FLANGAS:

24 Q. Certainly. Have you made the determination on
25 whether or not the zoning is appropriate for the

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1 residences located where Mr. Gilman's residence is
2 located?

3 MR. MARSHALL: I'm going to object. His
4 testimony was that he was to assist in the
5 determination.

6 THE WITNESS: The final determination of how
7 the zoning applies to the property is not made yet. I
8 have provided determination on in which zones residences
9 can be located pursuant to the zoning ordinance.

10 BY MR. FLANGAS:

11 Q. And as it pertains to Mr. Gilman's residence,
12 what have you concluded?

13 MR. MARSHALL: I'm going to object. That's
14 already been asked and answered, together with my other
15 standing objection.

16 THE WITNESS: That the zoning of the
17 property is not conclusive.

18 BY MR. FLANGAS:

19 Q. And, again, counsel is right, I already asked. I
20 just thought there was a different context. So it has
21 already been asked and answered.

22 Has anybody else made a determination on this
23 yet, or is it still pending?

24 MS. BRUCH: Objection, calls for
25 speculation.

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1 MR. FLANGAS: Let me rephrase the question.

2 BY MR. FLANGAS:

3 Q. Has anybody from Storey County made an official
4 determination on the zoning of that property?

5 MS. BRUCH: Same objection.

6 THE WITNESS: There has been determinations
7 of the zoning maps, and the zoning maps that do apply to
8 that property.

9 BY MR. FLANGAS:

10 Q. And it's the same determination that it's not
11 clear-cut?

12 A. It is my opinion that it's not clear-cut.

13 Q. And has anybody made an official finding that's
14 contrary to what your opinion is?

15 A. Regarding the zoning of the property, I don't
16 remember exactly what was said in that letter that you
17 were talking about earlier in this meeting, so I have to
18 answer that I don't know.

19 Q. Okay. Have you or anybody from your department
20 ever told Mr. Toll that the zoning wasn't proper for
21 Mr. Gilman's residence?

22 A. I can't speak to the other people in my
23 department, because I'm not aware, necessarily, of every
24 conversation that may have happened between them, but
25 myself, I do not remember saying anything like that.

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1 But I would believe no, that I would not have provided
2 that kind of a comment.

3 Q. To provide such a comment -- let's scratch that.

4 You would agree with me determining whether or
5 not the zoning is proper for a residence would be,
6 especially this one, would be an important matter?

7 A. I'm not a hundred percent in agreement with that.

8 Q. You don't think --

9 A. Zoning is important. It may not be the only
10 important matter.

11 Q. I didn't say it's the only, I said you would
12 agree with me it's an important matter?

13 A. In regard to what specific context? I need you
14 to clarify that for me to provide a proper answer.

15 Q. I'm not sure I can give you any more context.

16 I'm just asking you whether or not Mr. Gilman's
17 residence is properly zoned. Would you agree with me
18 that that's an important matter?

19 MS. BRUCH: Asked and answered.

20 THE WITNESS: I would agree that zoning is
21 an important matter to a property.

22 BY MR. FLANGAS:

23 Q. Somebody making an inquiry to your office on
24 whether or not Mr. Gilman's property is appropriately
25 zoned, that would be something for you to answer, would

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<p>1 you agree?</p> <p>2 MR. MARSHALL: I'm going to object. You've</p> <p>3 already asked that question numerous times. It's also</p> <p>4 beyond the scope, and ultimately is a legal</p> <p>5 determination.</p> <p>6 THE WITNESS: Can you repeat the question?</p> <p>7 MR. FLANGAS: Could you read the question</p> <p>8 back, please?</p> <p>9 (Whereupon the reporter read the record.)</p> <p>10 THE WITNESS: I would ask what the context</p> <p>11 of that is, whether it's appropriately zoned.</p> <p>12 BY MR. FLANGAS:</p> <p>13 Q. I'm not following you why you can't understand</p> <p>14 this question. There is -- let's say that -- okay.</p> <p>15 Let's rephrase it.</p> <p>16 The issue is whether or not Mr. Gilman's house is</p> <p>17 appropriately zoned. Are you with me? You understand</p> <p>18 that; right?</p> <p>19 A. I understand your question so far.</p> <p>20 Q. Okay. If there was an inquiry being made about</p> <p>21 whether or not his house was appropriately zoned, the</p> <p>22 answer to that would be important, would you agree?</p> <p>23 A. An answer would be important.</p> <p>24 Q. Okay. So if, if -- now that we've established</p> <p>25 that such an answer would be important, would that be</p>	<p>1 Q. Would she go to you on this one?</p> <p>2 A. I think she would treat it pretty similarly to</p> <p>3 others.</p> <p>4 Q. You've got someone questioning the residence of a</p> <p>5 county commissioner, she would treat it just like any</p> <p>6 other question?</p> <p>7 A. In that regard she probably would come to me and</p> <p>8 ask for some assistance.</p> <p>9 MR. FLANGAS: I have no further questions.</p> <p>10 MR. MARSHALL: Can we take a short break and</p> <p>11 then come back?</p> <p>12 MR. FLANGAS: Sure.</p> <p>13 MR. MARSHALL: Thank you.</p> <p>14 (A short break was taken at this time.)</p> <p>15</p> <p>16 EXAMINATION</p> <p>17 BY MR. MARSHALL:</p> <p>18 Q. Mr. Osborne, my name is John Marshall and I</p> <p>19 represent Sam Toll in this matter.</p> <p>20 Who is your employer?</p> <p>21 A. Storey County.</p> <p>22 Q. And who controls and sets the budget in Storey</p> <p>23 County?</p> <p>24 A. The county commissioners.</p> <p>25 Q. And who is on the county commission?</p>
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<p>1 something that you would convey to anybody inquiring</p> <p>2 about it, or would you turn it over to one of your</p> <p>3 minions?</p> <p>4 MS. BRUCH: Objection to the term "minion."</p> <p>5 It's argumentative.</p> <p>6 THE WITNESS: Knowing that there's -- I</p> <p>7 would answer to a public request asking if zoning is</p> <p>8 appropriate in any context, or in any property, or any</p> <p>9 property.</p> <p>10 BY MR. FLANGAS:</p> <p>11 Q. So is it safe to say that the two ladies that</p> <p>12 work for you, Ms. Canfield or Ms. Renaud, would not</p> <p>13 answer a question like that if Mr. Toll asked them?</p> <p>14 MR. MARSHALL: Object, mischaracterizes the</p> <p>15 testimony.</p> <p>16 MS. BRUCH: I'll join in that objection.</p> <p>17 THE WITNESS: Most -- Ms. Canfield, the</p> <p>18 planner, would be the qualifying person to provide a</p> <p>19 response to a zoning question.</p> <p>20 BY MR. FLANGAS:</p> <p>21 Q. Would she inform you that she responded to such a</p> <p>22 question?</p> <p>23 A. It depends. If we get a lot of questions that</p> <p>24 come in, she may not go to me on every one of them, so</p> <p>25 it's possible that she wouldn't.</p>	<p>1 A. Marshall McBride, Lance Gilman, and Jack</p> <p>2 McGuffey.</p> <p>3 Q. And it's your understanding that Lance Gilman is</p> <p>4 the plaintiff in this litigation that you're here to</p> <p>5 give your deposition in?</p> <p>6 A. Yes.</p> <p>7 Q. Thank you.</p> <p>8 You've referenced a letter a number of times, and</p> <p>9 I think you said a recently received letter that</p> <p>10 regard -- regarding the residence of Mr. Gilman. Can</p> <p>11 you describe that letter, please? Who it's from, who</p> <p>12 it's to.</p> <p>13 A. I don't remember all the details of it, but it</p> <p>14 came to me from -- I believe Kris Thompson sent it to me</p> <p>15 directly.</p> <p>16 Q. Was it a letter that Kris Thompson wrote?</p> <p>17 A. No.</p> <p>18 Q. Do you know who wrote the letter?</p> <p>19 A. I think it was a, like a transcript, but I could</p> <p>20 be wrong. I think the actual author may have been some</p> <p>21 kind of transcript, but the letter was a statement by</p> <p>22 Dean Haymore.</p> <p>23 Q. And so you received this document at your county</p> <p>24 address?</p> <p>25 A. Yeah.</p>

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<p>1 Q. Email address?</p> <p>2 A. Yeah. I'm pretty sure it was brought to me by</p> <p>3 email.</p> <p>4 Q. Okay. And would you consider that a public</p> <p>5 document that you would provide at a public records</p> <p>6 request?</p> <p>7 A. I would.</p> <p>8 Q. Thank you.</p> <p>9 When did you receive that letter?</p> <p>10 A. It wasn't that long ago. I don't remember, but</p> <p>11 within the last, I want to say month, but it may have</p> <p>12 been a little earlier than that.</p> <p>13 Q. Okay. You've testified that in an agricultural</p> <p>14 zone a single-family residence use is allowed. Would</p> <p>15 that be an appropriate characterization of your</p> <p>16 testimony?</p> <p>17 A. Yes.</p> <p>18 Q. And can you -- and, and I believe you defined a</p> <p>19 single-family residence -- which I'm going to abbreviate</p> <p>20 SFR. Is that okay with you?</p> <p>21 A. Yes.</p> <p>22 Q. That an SFR is generally a single building with a</p> <p>23 single family or family members in it. Is that an</p> <p>24 accurate representation?</p> <p>25 MR. FLANGAS: Objection, calls for a legal</p>	<p>1 A. You would.</p> <p>2 Q. Okay. And what -- would multiple addresses to</p> <p>3 the same building indicate, or be an indication that</p> <p>4 there might be more than one unit associated with that</p> <p>5 building?</p> <p>6 MR. FLANGAS: Objection, calls for a legal</p> <p>7 conclusion.</p> <p>8 MS. BRUCH: I join.</p> <p>9 THE WITNESS: I think that's reasonable.</p> <p>10 I'm just trying to think about -- we don't do a lot of</p> <p>11 townhouses, so you can have addresses for the property</p> <p>12 as 100, and then there's a unit A or B. Possibly a</p> <p>13 single-family attached you could have a 100 and a 101.</p> <p>14 MR. MARSHALL: Okay. I have no further</p> <p>15 questions.</p> <p>16 MR. FLANGAS: I have no follow-up. Counsel?</p> <p>17 MS. BRUCH: I have no questions.</p> <p>18 MR. FLANGAS: Thank you. We're done.</p> <p>19 Mr. Osborne, thank you for coming.</p> <p>20 THE WITNESS: Thank you.</p> <p>21 (Deposition concluded at 10:30 a.m.)</p> <p>22 -oOo-</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 conclusion.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. MARSHALL:</p> <p>4 Q. And I believe you, in an answer to one of your --</p> <p>5 one of the questions, you indicated that an apartment</p> <p>6 building would not be within a single-family</p> <p>7 residence -- would not be considered a single-family</p> <p>8 residence; is that accurate?</p> <p>9 A. That's correct.</p> <p>10 Q. And why is that?</p> <p>11 A. Our zoning ordinance defines the different types</p> <p>12 of uses. Multi-family is more than one family living in</p> <p>13 a building, single-family is one family living in a</p> <p>14 building.</p> <p>15 Q. And so an apartment building would be one</p> <p>16 building with multiple units within it, so therefore it</p> <p>17 would not be a single-family residence.</p> <p>18 A. Correct.</p> <p>19 Q. And would a duplex be an example of that?</p> <p>20 A. A duplex that's a rental on both sides would be.</p> <p>21 Q. And a duplex that's not a rental?</p> <p>22 A. That could be considered a single-family</p> <p>23 attached. Like a townhouse.</p> <p>24 Q. But you, you would have to know the exact details</p> <p>25 of that situation?</p>	<p>1 -oOo-</p> <p>2</p> <p>3 I, AUSTIN OSBORNE, hereby declare under</p> <p>4 penalty of perjury that I have read the foregoing pages</p> <p>5 1 through 67; that any changes made herein were made and</p> <p>6 initialed by me; that I have hereunto affixed my</p> <p>7 signature.</p> <p>8</p> <p>9 Dated: _____</p> <p>10</p> <p>11 _____</p> <p>12 AUSTIN OSBORNE</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1	ERRATA SHEET/CORRECTIONS	1	May 17, 2018
2		2	
3	PAGE LINE	3	Rebecca Bruch, Esq
4		4	Erickson, Thorpe & Swainston, Ltd.
5		5	99 West Arroyo Street
6		6	Reno, Nevada 89509
7		7	
8		8	Re: Gilman v. Toll, et al.
9		9	Dear Ms. Bruch:
10		10	Please find enclosed the original deposition transcript
11		11	of Austin Osborne taken in the above-entitled matter on
12		12	May 11, 2018.
13		13	We have enclosed the transcript in order for your client
14		14	to review.
15		15	Thank you for your prompt attention to this matter.
16		16	
17		17	
18		18	Bonanza Reporting & Videoconference Center
19		19	
20		20	cc: Deposition transcript
21		21	
22		22	
23		23	
24		24	
25		25	

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1	STATE OF NEVADA)
2	COUNTY OF WASHOE)
3	
4	I, SUSAN E. BELINGHERI, a Certified Court
5	Reporter for the State of Nevada, do hereby certify;
6	That on Friday, the 11th day of May, 2018, at the
7	hour of 9:00 a.m. of said day, at the offices of Bonanza
8	Reporting & Videoconference Center, 1111 Forest Street,
9	Reno, Nevada, personally appeared AUSTIN OSBORNE, who
10	was duly sworn by me, was thereupon was deposed in the
11	matter entitled herein, and that before the proceeding's
12	completion the reading and signing of the deposition has
13	been requested by the deponent or party;
14	That the foregoing transcript, consisting of
15	pages 1 through 71, is a full, true, and correct
16	transcript of my stenotype notes of said deposition to
17	the best of my knowledge, skill, and ability.
18	I further certify that I am not an attorney or
19	counsel for any of the parties, nor a relative or
20	employee of any attorney or counsel connected with the
21	action, nor financially interested in the action.
22	DATED: At Reno, Nevada, this 17th day of May,
23	2018.
24	SUSAN E. BELINGHERI, CCR #655
25	