

1 Case No. 18-trt-00001-1e

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17  
18 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
19 **IN AND FOR STOREY COUNTY**

20 LANCE GILMAN,

21 Plaintiff(s),

22 vs.

23 SAM TOLL,

24 Defendant(s).  
25 \_\_\_\_\_/

26  
27 **REPLY TO SUPPLEMENTAL OPPOSITION TO SPECIAL ANTI-SLAPP**  
28 **MOTION TO DISMISS**

29 COMES NOW, SAM TOLL, ("Defendant" or "Toll"), by and through the  
undersigned counsel, and hereby files the following Reply to the Plaintiff's Supplemental

**FILED**

2018 JUN -4 PM 1:58

STOREY COUNTY CLERK

BY

DEPUTY

1 Opposition to the Defendant's Anti-SLAPP Motion (hereinafter " Supp. Opp.") filed by  
2  
3 Plaintiff LANCE GILMAN ("Plaintiff" or "Gilman") on May 24, 2018.

4 This Reply is based upon the following Memorandum of Points and Authorities, the  
5 pleadings and papers filed herein, and any oral argument on this matter the the Court  
6 should require.  
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## 8 MEMORANDUM OF POINTS AND AUTHORITIES

### 9 I. *Background*

10  
11 On April 9, 2018, the Court entered an Order Granting Anti-SLAPP Special Motion  
12 to Dismiss in Part, Allowing Limited Discovery, and Staying Further Proceedings  
13 (hereinafter "Court's Order"). The Court's Order found in favor of the Defendant on  
14 seven out of the eight alleged defamatory statements alleged in the Plaintiff's Complaint.  
15 On the remaining claim, the Court concluded that: (1) Toll's statements regarding Gilman  
16 not residing in Storey County (the "resident communications") were made to to procure an  
17 electoral action, result, or outcome (Court's Order at 10:16); (2) were made in direct  
18 connection with an issue of public concern (Court Order at 13:20); (3) were made in a place  
19 open to the public or on a public forum. (Court's Order at 14:9); and (4) were made in  
20 furtherance of the right to free speech in direct connection with an issue of public concern  
21 (Court's Order at 15:19).  
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26 The Court also reviewed Gilman's arguments that Defendant's statement about  
27 Gilman's residency were made with actual malice (Order at 18-20) and held that Gilman  
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1 failed to make the *prima facie* showing of actual malice required by NRS 41.660(3). The  
2 Court, however, granted leave to the Defendant to conduct discovery, "limited solely to  
3 information as to whether Toll knew the resident statements were false or whether he acted  
4 with a high degree of awareness of the probable falsity of the statement or had serious  
5 doubts as to the publication's truth." (Court's Order at 21:8) During the discovery period,  
6 the Plaintiff deposed the Toll and Mr. Austin Osbourne, a Storey County employee to  
7 whom Mr. Toll submitted public records requests. The Plaintiff conducted no other  
8 discovery conducted and thereafter filed his Supplemental Opposition to Defendant's  
9 Anti-SLAPP Motion.  
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14 In the main, Plaintiff's Supplemental Opposition repeats the same arguments already  
15 rejected by the Court (e.g., Toll allegedly did not conduct a meaningful investigation, Toll  
16 was allegedly motivated to lie by extreme dislike of Plaintiff, Toll had evidence that Gilman  
17 claimed his residence was in Storey County, etc.) After shifting through chaff of the  
18 Supplemental Opposition, there is no further or new evidence presented by Gilman that  
19 makes a *prima facie* showing that Toll acted with actual malice towards Gilman.  
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## 22 ***II. Argument***

### 23 ***a. Toll's Good Faith Belief In His Statements Regarding Gilman's Residency***

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25 In its Order, the Court reviewed some of the evidence of Toll's investigation of and  
26 basis for his belief that Gilman did not reside in Storey County. In order to place Gilman's  
27 Supplemental Opposition arguments in context, the basis for Toll's good faith belief is  
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1 summarized here:

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3 (1) Gilman's claim residence is a double-wide mobile home located directly behind  
4 the Mustang Ranch brothel that others also claim as their residence using alternative  
5 addresses. Toll does not believe that Gilman, a wealthy individual, would not likely  
6 live in such circumstances (Exhibit 1 at 79:5);

7  
8 (2) That based on Toll's investigation and reading of the zoning ordinances of Storey  
9 County, that Gilman and the others claiming residence in the same structure would  
10 not be permitted to legally live behind the Mustang Ranch (Exhibit 1 at 76:25);

11  
12 (3) That according to Toll's confidential source, Gilman leaves the Mustang Ranch  
13 and drives towards Reno virtually every night, and that because of the position the  
14 source occupies, they are there to see this happen (Exhibit 1 at 82:10);

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16 (4) That it is the conclusion of the community that Gilman does not live in Storey  
17 County (Exhibit 1 at 77:17);

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19 (5) That Toll checked the websites of Washoe County and determined Gilman owned  
20 other residential properties in Washoe County (Exhibit 1 at 83:23);

21  
22 (6) That Gilman represents to Washoe County that his house at 199 Steptoe Ln. is  
23 his principal residence (Exhibits 7-9);

24  
25 (7) That five other individuals claim the Mustang Ranch as their residence according  
26 to voter registration lists for Storey County (Exhibit 1 at 65:18);

27  
28 (8) That a person who holds a seat on the Tahoe Reno Industrial General

Improvement District has presented a driver's license with 1000 Wild Horse Canyon, which is another Mustang Ranch address, as her legal residence to establish residency in Storey County to sit on the board (Exhibit 1 at 65:23);

(9) That it is not reasonable to believe that Gilman shares his residence with his girlfriend, a bunkmate, and five other individuals who Toll believes may be prostitutes (Exhibit 1 at 65:9); and,

(10) That a confidential informant told Toll that Gilman houses his personal property at a place that is not at the Mustang Ranch compound (Exhibit 1 at 84:17).

It is against this array of evidence that Gilman must show Toll made his statements that Gilman does not live in Storey County with actual malice.

***b. Gilman's "New Evidence" is Insufficient to make a Prima Facie case of Actual Malice***

The nonmoving party to an Anti-SLAPP motion, "must provide more than general allegations and conclusions; it must submit specific factual evidence." *John v. Douglas County Sch. Dist.*, 125 Nev. 746, 753-54 (Nev. 2009). To avoid dismissal, actual malice must be shown by the Plaintiff with "convincing clarity." *New York Times Co. v. Sullivan*, 376 U.S. 254, 285-286 (1964). As argued below, Gilman has failed to carry the burden of proof required to avoid dismissal as his claim that Toll knowingly made false statements about where Gilman lives remains unsubstantiated in the Supplemental Opposition. There is not and has never been any competent admissible evidence presented that Toll knew the resident statements were false, or that he acted with a high degree of awareness of the

1 probable falsity of the statements, or that Toll had serious doubts as to the truth of his  
2 statements.  
3

4 *c. No Evidence Shows that Toll had Actual Knowledge of Falsity*

5 *1. The CCW Permit is unauthenticated hearsay and is irrelevant to the question*  
6 *before the Court*  
7

8 Gilman attaches an uncertified copy of his Concealed Carry Weapons (CCW) permit  
9 and argues that Toll possessed actual knowledge of the falsity of his statements regarding  
10 Gilman's residency. (Supp. Opp. at Exhibit 18) The CCW permit in Exhibit 18 to the  
11 Supp. Opp. is not accompanied by a declaration, certification, or other indicia of its  
12 authenticity - as such, the Defendant objects to its admissibility on the grounds of lack of  
13 identification and authentication (NRS 52.015) and as inadmissible hearsay (NRS 51.065), as  
14 the out-of-court statements in Exhibit 18 to the Supp. Opp. are offered to prove the truth  
15 of Gilman's address.  
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19 Further, the CCW permit does not show in any way that that Toll made the  
20 statements about Gilman with actual malice. Toll's argument is based on the proposition  
21 that Gilman claims to reside in Storey County such that he can be a part of the Storey  
22 County Commission to further his personal business interests, but that other evidence  
23 shows Gilman does not actually reside in Storey County. The CCW permit is not evidence  
24 that undermines Toll's good faith belief that Gilman does not live in Storey County or *prima*  
25 *facie* evidence that Toll disbelieved or entertained serious doubts to the truth of his  
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1 assertions that Gilman does not live in Storey County.

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3 The Plaintiff argues that because the Defendant attached a copy of the Plaintiffs  
4 Driver's License showing that the Plaintiff lives in Storey County at 5B Wildhorse Canyon  
5 Drive in a October 16, 2017 post, that "This clearly [shows] that the Defendant had actual  
6 knowledge of the Plaintiff's residence in Storey County." (Supp. Opp. at 8:14) The phrase  
7 "actual knowledge" appears several times in the Supp. Opp. in similar arguments. (See  
8 Supp. Opp. 8:17, 8:20, 9:7, and 23:3)  
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11 The CCW Permit and Gilman's driver's licence are not evidence of what Toll was  
12 thinking. It is not in dispute that Toll had knowledge that Gilman claimed to live in Storey  
13 County. Toll acknowledges in his allegedly defamatory articles that Gilman claims to live in  
14 Storey County. (See Exhibit 7 to the Supp. Opp. "After I learned where County  
15 Commissioner Gilman and Planning Commissioner Thompson claim to live...") Toll's  
16 whole argument in each relevant post is that Gilman is falsely claiming that he lives in  
17 Storey County. "... the phrase 'made without knowledge of its falsehood' has a well-settled  
18 and ordinarily understood meaning. The declarant must be unaware that the  
19 communication is false at the time it was made." *Shapiro v. Welt*, 133 Nev. Adv. Op. 6, 389  
20 P.3d 262, 267, 2017 WL 462251 (2017) Repeatedly stating that Toll had "actual knowledge"  
21 of Gilman's claim that he lives in Storey County is a red-herring and misses the point.  
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1                   2. *Toll again proved the basis for his good faith belief in his statements regarding*

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3                   *Gilman's residency at his deposition*

4                   At the deposition of Mr. Toll, attached hereto as Exhibit 1, Mr. Toll repeatedly states  
5  
6 under oath that he did not, and does not believe that Gilman resides behind the Mustang  
7 Ranch Brothel at 5 Wild Horse Canyon Drive:

8                   So -- so I don't believe that Mr. Gilman -- I didn't believe that Mr. Gilman  
9 lives in a double-wide trailer behind the brothel, Mustang Ranch, when I  
10 wrote this piece, I didn't believe it when I was sued, I don't believe it today.  
11 Exhibit 1 43:17

12                   My intent was to, to communicate my opinion as to Mr. Gilman's capacity. I --  
13 again, I don't believe he lives there. And since he doesn't live there, in my  
14 opinion, when he filled out paperwork suggesting that he does, he committed  
15 perjury. Exhibit 1 at 48:10

16                   So it is a fact that when you sign a document, as I did when I signed the  
17 paperwork to run as -- for school board, that I attest under the penalty of  
18 perjury that I live where I live; therefore, if I believe he doesn't live there, then  
19 I believe he's committing perjury when he signed that document. Exhibit 1 at  
20 50:15

21                   ... I absolutely do not believe -- and I indeed understand that I'm under oath  
22 -- that Mr. Gilman lives at the double-wide trailer behind the whorehouse. I  
23 just don't believe it. Exhibit 1 at 75:6

24                   Ignoring the Court's prior ruling on this matter, Plaintiff argues that the evidence is  
25 "abundantly clear" that the Defendant has "absolutely no competent evidence whatsoever"  
26 other than his own self serving statements that he believed the Plaintiff was not a resident  
27 of Storey County (Supp. Opp. at 22:16) and that "...the Defendant fail[ed] to avail himself  
28 of any opportunity to meaningfully investigate, he instead, set forth testimony and  
assertions that defy logic, common sense, any stitch of credibility." (Supp. Opp. at 25:3) To



1 be clear, the Court's Order has already found that Toll showed by a preponderance of  
2 evidence that he did not knowingly make a false statement when he published the resident  
3 communications (Court's Order at 15:15). Further, the evidence presented herein below  
4 shows that Gilman himself has claimed to have a primary residence in Washoe County  
5 during the time in which Gilman claims to have lived in Storey County. Toll has presented  
6 both direct and circumstantial evidence to support his good faith belief that Gilman does  
7 not live in Storey County. Here, the burden is on Gilman to show the Court *prima facie*  
8 evidence that Toll was acting with actual malice.  
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12 ***3. Toll's Acquaintance with Sheriff Antinoro Does not Bear on the Truth of His***  
13 ***Statements about Gilman's Residency***  
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15 The Plaintiff argues that the Defendant's website was established as a conduit to  
16 express support for embattled Sheriff Gerald Antinoro during the failed effort to recall the  
17 Sheriff (Supp. Opp. at 23:16) as partial grounds for the Plaintiff's conclusion that, "it  
18 abundantly clear that the Defendant's false and defamatory statements were published with  
19 knowledge that they were false and/or with reckless disregard for their veracity." (Supp.  
20 Opp. at 30:21) Concluding that the Defendant's statements were made with actual malice  
21 because the Plaintiff supported the Sheriff during the recall effort is a non-sequitur, and not  
22 *prima facie* evidence showing that Toll made his statements about Gilman's residence with  
23 knowledge of their falsehood, as Toll provides the specific grounds on which he made his  
24 statements. Taking a position on a particular political issue or a particular candidate does  
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1 not render a news outlet's good faith statements about an opposition candidate actionable  
2 or defamatory, or constitute evidence of such. At Toll's deposition, Gilman's counsel asked  
3 numerous questions about the Sheriff (See Exhibit 1 at 22-23, 25, 28, 80, and 81).  
4 Characterizing the Sheriff as "embattled" is telling, as Gilman is also suing the Sheriff for  
5 defamation in this Court in Department 1 in Case No. 16 OC 0010 E, with Mr. Flangas as  
6 counsel, and Mr. Flangas, Gilman's counsel here, is counsel for a Storey County Deputy  
7 suing Antinoro for sexual harassment, also before this Court in Department 1 in Case No.  
8 16 OC 00007 1E. This case is essentially a proxy battle in the political fight between  
9 Gilman and Sheriff Antinoro, in which Gilman is trying to take down his political opponent  
10 and anyone who supports the Sheriff publicly by mis-using the civil system.

#### 11 *4. Osborne's Opinion of Gilman's Residence Is Irrelevant*

12 In his Supplemental Opposition, Gilman incants several times the opinion expressed  
13 by Austin Osborne that he believes Gilman lives at the Mustang Ranch doublewide. (Supp.  
14 Opp. at 16:1). Mr. Osborne's opinion, however, is irrelevant to the **subjective** belief of  
15 Toll., particularly where Mr. Osborne never informed Toll of his opinion.

16 Moreover, Gilman's reliance on Mr. Osborne's opinion undermines the Gilman's  
17 argument that Toll's belief -- that Gilman does not live in Storey County -- was  
18 unreasonable. When asked by Plaintiff's counsel to explain the basis for his belief that  
19 Gilman resided in the Mustang Ranch doublewide trailer, Mr. Osborne stated: "It's been  
20 told, it's been said, and on one Pictometry aerial image you can see his car [a white county  
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1 Yukon] parked in front of that house.” (Exhibit 2, 26:18-20) Gilman is thus advancing as  
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3 reasonable an opinion of his residence based on unspecified community hearsay and a  
4 one-time aerial image of the doublewide trailer with a county vehicle in front. If that is the  
5 quantum of evidence Plaintiff demands for a rational belief, Toll’s basis for his belief that  
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7 Gilman does not reside at the Mustang Ranch certainly constitutes a good faith belief. And  
8 finally, Mr. Osborne admitted that the entire matter of legality of Gilman’s residence in now  
9 being investigated by Storey County officials (Exhibit 2, at 26:18), meaning that Toll is not  
10 the only person who has questioned Gilman’s claim to live behind a brothel, and that Toll’s  
11 belief that Gilman does not live behind the Mustang Ranch is not “...fabricated, the product  
12 of his imagination, or is based wholly on unverified sources,” (Supp Opp. at 31:9) or “...so  
13 inherently improbable that only a reckless man would have put them in circulation.” (Supp.  
14 Opp. at 31:11)

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18 ***5. The Actual Legal Implications of the Zoning of the Mustang Ranch Is Irrelevant***

19 On May 11, 2018, the Plaintiff deposed Austin Osbourne, a copy of which is attached  
20 hereto as Exhibit 2. The Plaintiff states that Mr. Osborne testified that he never discussed  
21 zoning with the Defendant, but that he only provided documents to the Defendant. (Supp.  
22 Opp. at 15:19). Attached hereto as Exhibit 3<sup>1</sup> is a February 9, 2017 email from Mr.  
23 Osborne to Toll stating that “The subject property is zoned Agriculture,” the “subject  
24 property” being where the Mustang Ranch is located.  
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<sup>1</sup> The email in Exhibit 3 is not offered for the truth of the matter asserted, i.e. the true zoning of the Mustang Ranch property, but is rather is offered to show what Toll believed about the zoning of the Mustang Ranch.

1 The Supp. Opp. states that Osborne testified that had Toll asked him, he would have  
2 told Toll that Osborne believes that Gilman lives at the back of the Mustang Ranch. (Supp.  
3 Opp. at 16:2). From the counterfactual, it is clear that Toll never asked Osbourne his  
4 opinion as to where Gilman resides. At his deposition, when asked questions about the  
5 zoning of the Mustang Ranch Osborne was instructed by his counsel not to answer on the  
6 grounds that the questions sought a legal conclusion and/or any answer he would provide  
7 was based on legal advice and was therefore privileged (See Exhibit 2 at 21:4 to 24:11).  
8 However, nothing in Osborne's deposition is competent admissible evidence that Toll  
9 made a knowingly false statement when Toll claimed and inferred that Gilman does not live  
10 in Storey County.  
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12 The Plaintiff argues at length that the Defendant failed to properly interpret the  
13 zoning ordinances in Storey County: "Even though the Defendant testified that he read the  
14 Ordinances, the Ordinances do not say that to which the Defendant testified." (Supp. Opp.  
15 at 17:11). The Defendant was not presented with any zoning ordinance at his deposition, as  
16 such, he was recalling cold his understanding of the ordinances from his reading them  
17 several months ago. In response to questions regarding the zoning at issue, Toll testified  
18 that he is not a zoning expert (Exhibit 1 at 58:18). Counsel then asked Toll what the zoning  
19 at issue meant (*Id.* at 58:18), and after a objection from the undersigned counsel to calling  
20 for a legal opinion (*Id.* at 58:23), Toll responded that he did not believe that a property  
21 zoned agricultural or industrial would suggest residential use. (*Id.* at 59:55). Again, rather  
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1 than show that Toll acted with actual malice as the Plaintiff suggests, this discussion shows  
2 that Toll conducted an investigation into the zoning issue and interpreted the information  
3 he received in response to public records requests to prohibit Gilman from living at the  
4 Mustang Ranch as Gilman had claimed. This is not *prima facie* evidence of actual malice on  
5 the part of Toll, rather, it shows that Toll was investigating whether Gilman's claim that he  
6 lived behind the Mustang Ranch brothel made practical sense, i.e. whether Gilman could  
7 lawfully reside there. Based on Toll's writings and testimony, Toll did not believe that  
8 Gilman could do so based on his reading of the zoning ordinance. Toll explains his  
9 position in his October 16, 2017 article attached to the Supp. Opp. as Exhibit 7: "Now here  
10 on Mustang property is it zoned residential. So nobody can live there. And nobody can  
11 claim they live there. In order to live there, the property must be zoned ..... residential."

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16 ***6. Toll's Assertion of the News Shield Privilege is not Evidence of Actual Malice***

17 The Plaintiff argues that because Toll invoked the media shield, Toll is precluded  
18 from using information from confidential sources to show that he acted without actual  
19 malice. (Supp. Opp. at 22:14) Nevada's News Shield Statute in NRS 49.275 broadly protects  
20 any information that is gathered in the course of preparing a news story, as well as the  
21 sources of such information. *Aspen Fin. Services, Inc. v. Eighth Judicial Dist. Court of State ex rel.*  
22 *County of Clark*, 129 Nev. 878, 884, 313 P.3d 875, 879, 129 Nev. Adv. Op. 93, 2013 WL  
23 6224478 (2013). Even where application of NRS. 49.275 might significantly impair a  
24 defamation plaintiff's ability to meet his burden of proving actual malice, the News Shield  
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1 Privilege precludes disclosure of confidential sources and information. *Newton v. Nat'l Broad.*  
2 *Co., Inc.*, 109 F.R.D. 522, 530, 2 Fed. R. Serv. 3d 320, 18 Fed. R. Evid. Serv. 118, 11 Media  
3 L. Rep. 1950 (D. Nev. 1985). Broadcast of substance of conversations with confidential  
4 sources does not constitute waiver of privilege against disclosure of identities of such  
5 sources. *Id.* at 531.  
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7  
8 At his deposition, Mr. Toll also provided background as to why Mr. Gilman's claim  
9 that he resides at the Mustang Ranch is of concern. According to Toll, Joe Conforte, the  
10 flamboyant and notorious owner of the Mustang Ranch many years prior to Gilman, had a  
11 block of 200 prostitutes who would vote for Conforte's favored candidate using the  
12 Mustang Ranch address as their legal residence. (Exhibit 1 at 66:92). Toll testified that his  
13 father wrote Joe Conforte's biography.<sup>2</sup>  
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15  
16 The Plaintiff argues that, "the Defendant's false statements are so inherently  
17 improbable that only a reckless man would have put them in circulation." (Supp. Opp. at  
18 31:10). The matter of whether Gilman is a resident of Storey County is not an idea that  
19 originated from Mr. Toll's writings in the Teller. As Toll claimed at his deposition, it is a  
20 common impression in the Storey County community that Gilman does not live in Storey  
21 County (Exhibit 1 at 77:13). Toll's argument that Gilman does not actually live where he  
22 claims to live is based largely on the undeniably strange and improbable nature of Gilman's  
23 claimed living situation, as Toll explained in the October 17, 2017 article attached to the  
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1 Supp. Opp. as Exhibit 7:

2  
3 Lance Gilman, one of the wealthiest men in Northern Nevada, lives in a  
4 mobile home behind the swimming pool with his employee and roommate  
5 Kris Thompson. At a the brothel.

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

9 Where Gilman lives was also a subject of discussions in the Virginia City Highlands  
10 discussion group, a popular online forum for residents of Storey County to discuss local  
11 issues, a copy of certain postings dating back to 2012 from which are attached hereto as  
12 Exhibit 4. According to a post dated August 17, 2012 in Exhibit 4, from "Dave Thomas,  
13 Saddleback Road" raises issues and questions related to Gilman's claims that he resides in  
14 Storey County, including questioning why Gilman designated his property at 199 Steptoe  
15 Ln. in Washoe County as his primary residence.

16  
17 According to a post in Exhibit 4 entitled "Commissioner District 3 Election - Brothel  
18 Violations & County Image" dated 9/26/12, Thomas raises issues and questions related to  
19 Gilman's business practices and the "possible damage to the image and reputation of Storey  
20 County that might result if Mr. Gilman were a County Commissioner." Mr. Thomas also  
21 describes Mr. Conforte's practices regarding manipulating voter registration by packing  
22 voter rolls using the Mustang Ranch:  
23  
24

25 Joe made a big thing about the hundreds of turkeys he gave away at Christmas  
26 each year to the needy and Joe also spread a lot of money around the county.  
27 To maintain his control over the county, he packed the voter roll with a  
28 couple of hundred "ladies" working at the Mustang Ranch. [This problem was  
finally eliminated in 1998 when Charlie Porchia, a then Highlands resident  
running for Storey County Sheriff, successfully challenged the residency status

1 of 195 women working at the county's brothels. Charlie was assisted by  
2 current Highlands residents Cynthia and Patrick Kennedy.] Exhibit 4

3 While the Plaintiff attributes Tolls statements to Toll's personal dislike for Gilman,  
4 essentially alleging that the Plaintiff made up or fabricated his statements that Gilman does  
5 not live in Storey County, (Supp. Opp. at 24:15 and 31:9) the contents of Exhibit 4 show  
6 that Mr. Toll is not the only person in Storey County raising questions about Gilman's  
7 residency, a history of problems associated with electoral and address related shenanigans in  
8 Storey County involving the Mustang Ranch, and that questions about Gilman's residency  
9 for purposes of holding a public office date back to at least 2012, which is the time period  
10 in which Gilman first ran for office as a Storey County Commissioner:  
11  
12

13  
14 I am also deeply concerned that the county's image will be damaged by the  
15 concentration of economic and political power if the county has a  
16 Commissioner who controls the only licensed (large and very high profile)  
17 brothel in the county and who also has a substantial economic interest in TRI.  
(Exhibit 4)

18 Attached hereto as Exhibit 5 is the Declaration of David Thomas, in which the  
19 documents provided in Exhibit 4 are authenticated.  
20

21 ***6. Whether Toll Could Have Made Additional Inquiries or Surveilled Gilman is not***  
22 ***Evidence of Actual Malice***

23  
24 Lastly, Gilman argues that Toll failed to avail himself of any opportunity to  
25 "meaningfully investigate" Giman's residence and instead, "...set forth testimony and  
26 assertions that defy logic, common sense, any stitch of credibility." (Supp Opp. at 25:3)  
27 Whether it is the case that Toll's investigation into Gilman's residence was "meaningful"  
28

1 should be left to the readers of the Teller to determine. As shown in the October 16, 2017  
2  
3 article attached to the Supp. Opp. as Exhibit 7, Toll presented the evidence he had gathered  
4 which made his believe in the falsehood of Gilman's claim that he lives in a trailer behind a  
5 the swimming pool at a brothel with a bunk mate. Toll's belief in the truth of his claims is  
6 well established in the record and the Court has already determined that based on Toll's  
7 investigation:  
8

9  
10 Toll did not prove that Gilman is a resident of Washoe County or that Gilman  
11 is not a resident of Storey County, but he, Toll, did not have to prove either.  
12 Based upon the information Toll had regarding Gilman's residence, the Court  
13 concludes Toll proved by a preponderance of evidence that he did not  
14 knowingly make a false statement when he published the resident  
15 communications. (Court's Order at 15:12)

16  
17 Criticism of Toll's investigatory techniques is not and cannot be *prima facie* evidence of  
18 actual malice from Toll because such an argument does not show that Toll knowingly made  
19 a false statement when he reported on Gilman's residence.  
20

21  
22 *d. Gilman Has Independently Claimed That his Primary Residence was a property in*  
23 *Washoe County, Undermining His Defamation Claim against Toll as a Matter of Law*  
24

25 The Plaintiff again argues that the Defendant has made false and defamatory  
26 statements about Gilman's residency (Supp. Opp. at 4:22). In the Affidavit of Lance  
27 Gilman, attached hereto as Exhibit 6, the Gilman states in paragraph 42: "Contrary to the  
28 Defendant's assertions, I do live in Storey County, Nevada. My address is 5 Wild Horse  
Canyon and I have lived there for around twelve years or more."

At the Deposition of Sam Toll, attached hereto as Exhibit 1, Toll testified that during

1 his investigation into Gilman's residency he checked the websites of Washoe County to  
2  
3 determine whether Gilman owned property in Washoe County and found multiple  
4 properties in Washoe County owned by Gilman. (Exhibit 1 at 83:23 and 83:8)

5 Attached hereto as Exhibit 7 is a certified copy<sup>3</sup> of data from the Washoe County  
6 Assessor's webpage for a property located at 199 Steptoe Ln. in Washoe Valley, APN No.  
7 055-282-02. The record in Exhibit 7 indicates that 199 Steptoe Ln. is owned by L. Lance  
8 Gilman, and that 199 Steptoe Ln. is also Mr. Gilman's mailing address. Under the "Tax  
9 Cap Status" box in Exhibit 7, it states that the property is a, "Low Cap Qualified Primary  
10 Residence."  
11  
12

13 Attached hereto as Exhibit 8 is a certified copy of the July 1, 2008 Tax Cap statement  
14 for 199 Steptoe Ln. in Washoe Valley, APN No. 055-282-02 from the Washoe County  
15 Assessor, which was executed by Mr. Gilman. The document in Exhibit 4 indicates via a  
16 filled in bubble that states, "*This property will be occupied as my primary residence on July*  
17 *1, 2008.*" [emphasis added] The signature box in Exhibit 8, signed by Gilman, states that  
18  
19 Gilman affirms under penalties pursuant to law that the information in Exhibit 8 is true and  
20 accurate and that Gilman will notify the Washoe County Assessor if the property is no  
21 longer to be used as Gilman's primary residence. Gilman has apparently not done so.<sup>4</sup>  
22  
23  
24

25 To the contrary, other public records from Washoe County show that Gilman has  
26

27 <sup>3</sup> Certified copies of public records are presumed to be authentic per NRS 52.125 and admissible per NRS 52.265.

28 <sup>4</sup> The undersigned counsel for the Defendant requested, but was not provided with, any subsequent filing with the Washoe County Assessor where Gilman informed the Assessor that the 199 Steptoe Ln. property was no longer his primary residence.

1 continued as late as 2016 to claim the 199 Steptoe Ln. property as his primary residence.  
2  
3 Attached hereto as Exhibit 9 is a certified copy of a June 15, 2016 Grant, Bargain, and Sale  
4 Deed for APN No. 055-282-02 from the Washoe County Recorder, where Gilman  
5 transferred ownership of the 199 Steptoe Ln. property from a family trust into his own  
6 name. Exhibit 5 also indicates that the recording and tax statements are to be mailed to Mr.  
7 Gilman at 199 Steptoe Ln. in Washoe Valley, which also shows that Gilman was claiming  
8 the Steptoe Ln. property as his primary residence as late as 2016.  
9  
10

11 During the time Mr. Gilman alleges that he was living in Storey County in his  
12 Affidavit in Exhibit 6, Mr. Gilman executed at least one document (Exhibit 8) directly  
13 claiming that his primary residence was in Washoe County during the period in which  
14 Gilman's Affidavit says he was living in Storey County. Further, Gilman executed a deed in  
15 2016 which lists his mailing and tax address in Washoe County (Exhibit 9). Thus, Gilman's  
16 voicerfeous claims that he was defamed by Toll for stating or inferring that Gilman does  
17 not reside in Storey County are not a false statement of fact and Gilman's claim should fail  
18 as a matter of law as under NRS 41.637 as Toll's statement that Gilman does not reside in  
19 Storey County is truthful or substantially truthful based on Gilman's own signed statement  
20 in Exhibit 8.<sup>5</sup> Defamation is a publication of a false statement of fact. *Pegasus v. Reno*  
21 *Newspapers, Inc.*, 118 Nev. 706, 714, 57 P.3d 82, 87, 31 Media L. Rep. 1353, 2002 WL  
22  
23  
24  
25  
26

27  
28 <sup>5</sup> "... we accept as true all evidence favorable to the plaintiff *and assess the defendant's evidence only to determine if it*  
*defeats the plaintiff's submission as a matter of law.*" *Cross v. Facebook, Inc.*, 14 Cal. App. 5th 190, 205, 222 Cal. Rptr. 3d  
250, 262, 45 Media L. Rep. 2552, 17 Cal. Daily Op. Serv. 7719, 2017 Daily Journal D.A.R. 7731, 2017 WL 3404767 (Ct.  
App. 2017) (*Emphasis added*)



1 31487455 (2002) A statement is not defamatory if it is absolutely true, or substantially true.  
2  
3 *Id.* at 715. A party cannot make a *prima facie* case for defamation as required by NRS  
4 41.660(3)(b) based on a claim that a statement of fact is false and defamatory while having  
5 signed several documents indicating that the same statement of fact is true.  
6

7 IV. *Conclusion*

8 As shown above, there is not competent, admissible evidence in this case that has  
9 been presented that shows that Toll has ever disbelieved or even entertained serious doubts  
10 about the truth of his statements that Gilman does not live in Storey County. As Toll made  
11 the communications about Gilman's residency with a good faith belief that the statements  
12 are the truth in furtherance of the right to free speech in direct connection with an issue of  
13 public concern, Toll is immune from any civil action for Gilman's defamation claim based  
14 NRS 41.560.  
15  
16

17 WHEREFORE, the Defendant respectfully requests that this Court grant the  
18 Defendant's Anti-SLAPP Special Motion, dismiss this suit, award the Defendant attorney's  
19 fees and costs associated with the Motion, and any further action the Court deems  
20 appropriate as permitted by NRS 41.670, including \$10,000 in statutory damages to the  
21 Defendant per NRS 41.670(3)(a).  
22  
23

24 ///

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NRS 239B.030(4) AFFIRMATION

I certify that the attached filing includes no social security numbers or other personal information.

Respectfully submitted this June 4, 2018:

By: \_\_\_\_\_

  
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CERTIFICATE OF SERVICE

I certify that on the date indicated below I served the foregoing document on the following parties via US Mail, postage prepaid, and/or electronic service.

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By:

Luke Busby

Dated:

6-4-18

## Exhibit List

1. Deposition of Sam Toll - Sans Exhibits
2. Deposition of Austin Osborne - Sans Exhibits
3. February 9, 2018 Osbourne Email re Zoning
4. Articles from Virginia City Highland Blog
5. Declaration of David Thomas
6. Affidavit of Lance Gilman
7. Certified Copy of Washoe County Assessor's Page for 199 Steptoe Ln.
8. Certified Copy of Tax Residence Statement for 199 Steptoe Ln.
9. Certified Copy of 2016 Deed or 199 Steptoe Ln.

Exhibit 1

Exhibit 1



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## I N D E X

## EXAMINATION: PAGE

By Mr. Flangas 4

## EXHIBITS: DESCRIPTION: PAGE

Exhibit 1	Declaration of Sam Toll.....	23
Exhibit 2	Blog by Mr. Toll, dated February 26	29
Exhibit 3	Blog by Mr. Toll, dated December 14	33
Exhibit 4	Blog by Mr. Toll, dated April 7....	36
Exhibit 5	Blog by Mr. Toll, dated April 18...	38
Exhibit 6	Blog by Mr. Toll, dated May 20.....	40
Exhibit 7	Blog by Mr. Toll, dated October 16.	44

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

6                   -oOo-

7  
8                   SAMUEL TOLL,  
9                   having been duly sworn,  
10                  was examined and testified as follows:

11  
12                   EXAMINATION

13 BY MR. FLANGAS:

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

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

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

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

22           A. I did, yes.

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

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 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 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?

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.



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?

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?

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,

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 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 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

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



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.

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.

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

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.

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

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

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



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 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           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

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

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 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 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?

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



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 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 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

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.

1 Therefore, we object to its use at this deposition.

2 MR. FLANGAS: Okay.

3 BY MR. FLANGAS:

4 Q. Now, sir, if you will turn -- first of all, would  
5 you identify this as your blog?

6 A. Yes, sir. This is an article on my website.

7 Q. Not counting the cover page which says Exhibit 4  
8 on it, if you go to the page where it's got, "Don Norman  
9 promises not to interfere in the sheriff selection." Do  
10 you see that page?

11 A. Yes, sir, I do.

12 Q. In a big box? Yes?

13 A. Yes, sir, I do.

14 Q. At the bottom it says:

15 "Team Gilman would have never subjected the  
16 citizens to the polarizing effect of the recall effort  
17 had it not been for the Washoe County resident who  
18 thinks he knows what is best for the taxpayers who  
19 should shoulder the taxpayer burden of Don Norman, Lance  
20 Gilman, and the rest of the tax escapers at the center."

21 You wrote that, right?

22 A. Yes, I did.

23 Q. Who was the Washoe County resident you were  
24 referring to?

25 A. It's well-known that Mr. Norman lives in Washoe

1 County.

2 Q. You weren't referring to Mr. Gilman there?

3 A. No. The story is about Don Norman.

4 Q. Now, you feel that Mr. Gilman is not a resident  
5 of Storey County. Is that a correct statement?

6 A. You know, I might have been born at night, but I  
7 wasn't born last night.

8 Q. So you think that -- I understand you weren't  
9 born last night. So the question asks for a yes or no  
10 answer. Do you believe that Mr. Gilman is not a  
11 resident of Storey County?

12 A. That is correct.

13 Q. And you have published that in your blogs; is  
14 that a correct statement?

15 A. Yes. That's why we're here today.

16 Q. All right.

17 MR. FLANGAS: Have this marked as Exhibit 5,  
18 please.

19 (Exhibit 5 marked at this time.)

20 MR. BUSBY: May I have a copy? If I may  
21 have a moment.

22 MR. FLANGAS: Sure.

23 MR. BUSBY: All right. Insofar as this  
24 exhibit contains information not related to Mr. Gilman's  
25 residence, which is the subject upon which the Court

1 granted leave for the defendants to conduct discovery on  
2 this matter, I'll object to it's use.

3 BY MR. FLANGAS:

4 Q. Okay. I'm showing you, sir, what's been marked  
5 as Exhibit No. 5. Do you recognize the document?

6 A. Yes, sir, I do.

7 Q. Is this your blog?

8 A. Yes, it is.

9 Q. Written on April 18th?

10 A. I couldn't confirm the date.

11 Q. If you go to the very first page, does that help  
12 you?

13 A. Yes.

14 Q. That says, "Muth's Truths and the Department of  
15 Good News"?

16 A. That's correct, yes.

17 Q. All right. Go to -- then you go to the next  
18 page, it says "Muth's Truths" in big, in big -- in a  
19 big, gray box?

20 A. Yes, sir.

21 Q. And then the next page after that it's got  
22 another box that says "Department of Good News"?

23 A. Yes, sir.

24 Q. And then under that box it's got the words that  
25 says:

1           "The debacle we emerged from a week ago today is  
2 not the kind of thing out county should be making the  
3 news with. Sadly, the most equal member of Storey  
4 County (if you believe he actually lives at 5 Wild Horse  
5 Canyon) cares more about himself than the county he  
6 represents."

7           Who are you referring to there?

8           A. I'm clearly referring to Commissioner Lance  
9 Gilman.

10          Q. And you wrote that; correct?

11          A. Yes, I did.

12          Q. You can put it up.

13                 MR. FLANGAS: I'd like to have this marked  
14 as No. 6.

15                 (Exhibit 6 marked at this time.)

16                 MR. FLANGAS: Let me know when you're ready,  
17 counsel.

18                 MR. BUSBY: All right. I'm going to object  
19 to use of this exhibit insofar as it lists information  
20 not within the scope of the limited discovery granted by  
21 the Court to the defendants in this matter related to  
22 Mr. Gilman's residency. Go ahead.

23 BY MR. FLANGAS:

24          Q. Sir, if you'll look at Exhibit 6. Do you  
25 recognize the document?



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

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

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?

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:

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.

25

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



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 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 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?

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?

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?

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



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.

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.

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

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.

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

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.



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 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           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

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

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

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

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



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.

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

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. 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 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,

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.



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?

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?

1 A. He did not reveal.

2 Q. You have no idea what's in his places, do you?

3 A. I sure don't. I've never been there.

4 Q. You don't know what clothes he has.

5 A. So what's interesting is Mr. Gilman could have,  
6 at any time, invited me to his place, shown me where he  
7 lives, and put an end to this. He could also have, as I  
8 requested in one of my -- no, actually, I didn't request  
9 this in a piece -- in a conversation with someone, that  
10 he could release his cell phone records showing  
11 triangulation of where he parked his cell phone from  
12 midnight -- or 10:00 p.m. to 6:00 a.m. and shut me up at  
13 any time.

14 Q. Why does he have to do that?

15 A. Why doesn't he -- why does he have to sue me for  
16 claiming that he doesn't live there.

17 Q. Because you're the one that did it.

18 A. Right. So if he --

19 Q. But why does he have to prove --

20 A. He doesn't.

21 Q. -- anything to you?

22 A. He absolutely doesn't.

23 Q. So my -- so conveniently you're doing all this  
24 investigation, but you can't give me a single source  
25 other than you're going to invoke this shield.

1           A. I'm not giving you any source, that's correct. I  
2 don't have to.

3           Q. Are you aware that Mr. Gilman lists 5 Wild Horse  
4 on his brothel application?

5           A. Am I aware that he lifts 5 Wild Horse--

6           Q. Lists. Lists, not lifts.

7           A. -- lists 5 Wild Horse -- yes, I am.

8                   MR. BUSBY: Objection, confusing question.  
9 Go ahead.

10 BY MR. FLANGAS:

11           Q. Okay. Are you -- do you know that Mr. Gilman has  
12 a CCW issued by the sheriff of Storey County?

13           A. I do not know that, no.

14           Q. It lists number 5 Wild Horse.

15           A. So what? I contend still, to this day, that he  
16 doesn't live there.

17           Q. Did you ever go check this, or did you --

18           A. As I've stated earlier, I cannot go check it  
19 because he resides behind a locked gate.

20           Q. No. Did you ever go check over there, the  
21 brothel license applications?

22           A. "Over there"? Where is "over there"?

23           Q. The sheriff's office.

24           A. Yes, I did.

25           Q. And it showed number 5; right?

1           A.    I don't recall.

2           Q.    You don't recall. Did you ever talk to the  
3 sheriff about it?

4                   MR. BUSBY: Objection, news shield statute.  
5 Don't answer that.

6 BY MR. FLANGAS:

7           Q.    Did you ever talk to the sheriff about it?

8                   MR. BUSBY: Same objection. Don't answer  
9 that.

10                   MR. FLANGAS: Counsel, I guess we're done  
11 today. I'm going to have to file a motion,  
12 because --

13                   MR. BUSBY: Okay. I'd like to examine the  
14 witness.

15                   MR. FLANGAS: No. We will pick this up  
16 later.

17                   MR. BUSBY: I'd like the record to reflect  
18 that counsel for the defendant has refused to allow  
19 counsel for the plaintiff to examine the witness.

20                   MR. FLANGAS: Let the record reflect that  
21 the issue is is you're not letting your client answer  
22 any questions, and so I'm going to have to go file a  
23 motion with the Court before we go any further in this  
24 deposition, because I can't finish my deposition because  
25 he's hiding behind this -- you know, improperly hiding

1 behind this shield law.

2 MR. BUSBY: I'm sorry you feel that way.

3 (Deposition concluded at 11:50 p.m.)

4 -oOo-

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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

1	ERRATA SHEET/CORRECTIONS		
2			
3	PAGE	LINE	
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1 STATE OF NEVADA )  
2 ) ss.  
3 COUNTY OF WASHOE )

4 I, SUSAN E. BELINGHERI, a Certified Court  
5 Reporter for the State of Nevada, do hereby certify;

6 That on Friday, the 4th day of May, 2018, at the  
7 hour of 10:05 a.m. of said day, at the offices of  
8 Community Chest, 175 E. Carson Street, Virginia City,  
9 Nevada, personally appeared SAMUEL TOLL, who was duly  
10 sworn by me, was thereupon was deposed in the matter  
11 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 92, 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 16th day of May,  
23 2018.

24   
25 SUSAN E. BELINGHERI, CCR #655

1 May 16, 2018

2 Luke A. Busby  
3 Luke Andrew Busby, Ltd.  
4 316 California Avenue  
5 Reno, Nevada 89509

6 Re: Gilman v. Toll, et al.

7 Dear Mr. Busby:

8 Please find enclosed the original deposition transcript  
9 of Samuel Toll taken in the above-entitled matter on May  
10 4, 2018.

11 We have enclosed the transcript in order for your client  
12 to review.

13 Thank you for your prompt attention to this matter.

14 Bonanza Reporting & Videoconference Center

15  
16  
17 cc: Deposition transcript

Exhibit 2

Exhibit 2

1                   IN THE SECOND JUDICIAL DISTRICT COURT OF THE  
2                   STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

3                                   -oOo-

4  
5           LANCE GILMAN, an individual,       :  
6   :  
7                                   Plaintiff,       :  
8   :  
9           vs.                                       : Case No. 18-TRT-00001-1e  
10   : Dept. No. II  
11           SAM TOLL, an individual; DOES :  
12           I-V, and ROE ENTITIES VI-X,       :  
13           inclusive,                               :  
14   :  
15                                   Defendants.       :  
16   :

17 =====

18                                   DEPOSITION OF AUSTIN OSBORNE

19                                   Friday, May 11, 2018

20                                   Reno, Nevada

21  
22  
23  
24  
25           REPORTED BY:                               SUSAN E. BELINGHERI, CCR #655

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APPEARANCES:

For the Plaintiff:

FLANGAS DALACAS LAW GROUP  
Attorneys at Law  
By: GUS W. FLANGAS, ESQ.  
3275 South Jones Blvd., Suite 105  
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For the Defendant:

LAW OFFICE OF JOHN L. MARSHALL  
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For the Witness:

ERICKSON, THORPE & SWAINSTON, LTD.  
Attorneys at Law  
By: REBECCA BRUCH, ESQ.  
99 West Arroyo Street  
Reno, Nevada 89509  
rbruch@etsreno.com

Also Present: SAM TOLL

## I N D E X

EXAMINATION:	PAGE
By Mr. Flangas	4
By Mr. Marshall	63

EXHIBITS:	DESCRIPTION:	PAGE
Exhibit 1	Packet of documents labeled 1 of 21 through 21 of 21.....	13



1                   PURSUANT TO NOTICE, and on Friday, the 11th  
2 day of May, 2018, at the hour of 9:00 a.m. of said day,  
3 at the offices of Bonanza Reporting & Videoconference  
4 Center, 1111 Forest Street, Reno, Nevada, before me,  
5 Susan E. Belingheri, a notary public, personally  
6 appeared AUSTIN OSBORNE.

7                   -oOo-

8  
9                   AUSTIN OSBORNE,  
10                  having been duly sworn,  
11                  was examined and testified as follows:

12  
13                   EXAMINATION

14 BY MR. FLANGAS:

15           Q. Good morning, Mr. Osborne. Could you please  
16 state your name and spell it for the record, please.

17           A. Austin Osborne. A-u-s-t-i-n, O-s-b-o-r-n-e.

18           Q. Mr. Osborne, you just took an oath; is that  
19 correct?

20           A. Yes.

21           Q. And you -- do you understand that that oath has  
22 the same ramifications and solemnity as though you took  
23 it in a court of law?

24           A. Yes.

25           Q. What I mean by "ramifications," it has the same

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

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.

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

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,

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.

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?

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.



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.

1 MR. FLANGAS: Okay. I'm going to have this  
2 marked as Plaintiff -- or just Exhibit No. 1.

3 (Exhibit 1 marked at this time.)

4 MR. FLANGAS: Here, I have a copy for you,  
5 if you want.

6 MS. BRUCH: Oh, thank you.

7 BY MR. FLANGAS:

8 Q. Okay. I'm showing you what is marked as Exhibit  
9 No. 1, and I want you to kind of look at the first page.  
10 Because I don't have these Bates stamped numbered yet,  
11 and so I want to just make sure we're identifying the  
12 document on the record. So if you'll bear with me, the  
13 first page has, at the bottom one-third, it says:  
14 "Teller Files Criminal Complaint with Storey DA,  
15 Sheriff," and it's got the date October 16th. Is that  
16 what you're seeing?

17 A. I'm seeing that about halfway down?

18 Q. Yeah, about probably two-thirds of the way down,  
19 actually. Let me see what you -- look at the first  
20 page.

21 A. Oh, the first? Okay. Oh, okay. Yes.

22 Q. Okay. And then in the upper right-hand corner it  
23 says page 1 of 21 --

24 A. Yes.

25 Q. -- do you see that?

1           And if you'll go through it and make sure that  
2 the document's got all 21 pages in it. Does it?

3           A. There's 21 pages.

4           Q. Okay. Great. So let's look at page 2 of 21.  
5 Are you there?

6           A. Yes.

7           Q. Now, it's got a picture of three individuals, a  
8 man and two women. Do you recognize the man in the  
9 picture?

10          A. Yes.

11          Q. Who is it?

12          A. It looks like Lance Gilman.

13          Q. All right. Let's kind of look at some of the  
14 verbiage, here. It says:

15                "On March 28th, 2017, The Storey Teller filed a  
16 public -- a public record request with Assistant County  
17 Manager, Planning Director, and all around busy guy  
18 Austin Osborne."

19                Do you see that?

20          A. Yes.

21          Q. Did you ever receive a public record request from  
22 the, from The Storey Teller?

23          A. I received a public records request from Sam  
24 Toll, who I believe is The Storey Teller.

25          Q. That's probably a good thing to ask. Are you

1 familiar with The Storey Teller?

2 A. Yes.

3 Q. What is it?

4 A. It's a blog.

5 Q. And who is the author of the blog?

6 A. I believe it to be Sam Toll.

7 Q. Do you know Mr. Sam Toll personally?

8 A. I do know Mr. Toll.

9 Q. How long have you known him?

10 A. Two years? Something about two years. Maybe  
11 three.

12 Q. And how did you come to know Mr. Toll?

13 A. He's come into the picture of attending Storey  
14 County commission meetings and other such events, and  
15 submitting requests.

16 Q. Why would he, by attending Storey County  
17 commission meetings, be coming into the picture? Is he  
18 vocal, or do you just see him there? Or what do you  
19 mean by that?

20 A. I see him there, and he does vocalize things.

21 Q. And what do you mean by "vocalizing things"?  
22 What does he say in some of these meetings?

23 A. I don't know specifically, but he asks questions  
24 of the commissioners and things like that during public  
25 comment.

1 Q. And you said something about submitting. What is  
2 he submitting?

3 A. To me, public document -- or public records  
4 requests.

5 Q. Are you friends with Mr. Toll?

6 A. No.

7 Q. Have you ever socialized with him?

8 A. No.

9 Q. Have you ever --

10 A. Let me clarify that. So for the record to be  
11 very clear, I have on at least one occasion socialized  
12 with my friends at their residence, at a later time in  
13 which he arrived and was there present with us. And  
14 during that time I did not socialize with him.

15 Q. That was actually going to be my next question,  
16 have you ever attended social events where he was  
17 present. Other than the one you just told me, any  
18 others?

19 A. The other ones would be -- I can't remember all  
20 of them, but let's say, like, a county Christmas party,  
21 for example, where the public was there and all kinds of  
22 people were there, I was there and Sam Toll would be  
23 there.

24 Q. Do you like Mr. Toll?

25 MR. MARSHALL: Objection. Irrelevant.

1 BY MR. FLANGAS:

2 Q. Go ahead and answer.

3 A. I don't know.

4 Q. Do you have an opinion about Mr. Toll?

5 MR. MARSHALL: Again, irrelevant and outside  
6 the stope of the authorized discovery in this matter.

7 THE WITNESS: In one or more areas, yes.

8 BY MR. FLANGAS:

9 Q. Okay. What are those areas?

10 MR. MARSHALL: Again, objection based on  
11 this is significantly outside any authorized discovery  
12 and relevance.

13 THE WITNESS: My opinion would be at least  
14 on one other occasion that he said false things about me  
15 on his blog.

16 BY MR. FLANGAS:

17 Q. Such as?

18 A. It had to do with a case involving my  
19 investigation of a sexual harassment case.

20 Q. What sexual harassment case is that?

21 MR. MARSHALL: I'm going to object again.  
22 This is significantly outside any authorized discovery  
23 about the matter at hand.

24 MR. FLANGAS: I'll give you a standing  
25 objection, counsel, if you'd like.

1 MR. MARSHALL: Okay.

2 THE WITNESS: Okay. May I ask you if  
3 there's any confidentiality --

4 MS. BRUCH: Well --

5 THE WITNESS: -- when we talk about this  
6 other case?

7 MR. FLANGAS: I'm not going to go into it  
8 other than just have you identify it, is all. Unless  
9 there's --

10 THE WITNESS: That's a significant --

11 MR. FLANGAS: Okay.

12 MS. BRUCH: Well, so what I would instruct  
13 you is not reveal any kind of names of anyone who was  
14 involved in the, the matter that you're talking about.  
15 So beyond that there was a sexual harassment  
16 investigation, I would instruct you not to answer.

17 THE WITNESS: Okay.

18 MR. FLANGAS: That's fine.

19 THE WITNESS: Thank you.

20 BY MR. FLANGAS:

21 Q. What false things did he say about you?

22 A. That I took an inordinately long period of time  
23 to initiate a sexual harassment investigation, and that  
24 I did not do my job.

25 Q. Okay. Any other things about Mr. Toll and you

1 personally?

2 MR. MARSHALL: I'm going to object. I'm  
3 unclear what the actual question is.

4 THE WITNESS: Not that I can remember at  
5 this time.

6 BY MR. FLANGAS:

7 Q. All right. Now, going back to what I just read  
8 in the record a few minutes ago -- I'll just read it  
9 again.

10 "On March 28th, 2017, The Storey Teller filed a  
11 public record request with assistant county manager,  
12 planning director, and all around busy guy Austin  
13 Osborne."

14 And I think you told me that Mr. Toll was the one  
15 that filed that public records request; right?

16 A. Correct.

17 Q. What was the -- what was he requesting?

18 A. On which public records request? There were  
19 several. I may not remember all of them.

20 Q. Okay. Let's, let's read on here, and this will  
21 probably narrow it down. It says:

22 "In this request we asked for the zoning of the  
23 Mustang Ranch compound, specifically to see if any  
24 section of the property was zoned residential. This  
25 residential zoning inquiry was the result of previous



1 requests filed with county clerk Vanessa Stephens and  
2 county assessor Jana Seddon."

3 Okay. Did Mr. Teller ever file a public records  
4 request pertaining to the zoning of the Mustang Ranch  
5 compound?

6 A. Yes.

7 Q. When did he file that?

8 MR. MARSHALL: I'm going to object. There  
9 is no Mr. Teller.

10 MR. FLANGAS: All right. You're right.  
11 Mr. Toll.

12 THE WITNESS: I would say within the year of  
13 2017.

14 BY MR. FLANGAS:

15 Q. What did the records request specifically seek?

16 A. Specifically I cannot remember the entire  
17 contents of that request.

18 Q. What was the gist, then?

19 A. The general request was regarding zoning of that  
20 property.

21 Q. Was there a specific request that was asking  
22 whether or not it was zoned for residential?

23 A. I believe there was a request of that.

24 Q. Was there a reason stated for the request?

25 A. I would remember yes.

1 Q. What was the reason stated?

2 A. Mr. Toll would have asked if the property is  
3 allowed to be lived upon as a residence.

4 Q. Is the property allowed to be lived upon as a  
5 residence?

6 MS. BRUCH: Objection, calls for a legal  
7 conclusion. And also to the extent that any information  
8 that you have came from legal counsel, I would instruct  
9 you not to answer.

10 BY MR. FLANGAS:

11 Q. You're the, you're the planning director for the  
12 county; right?

13 A. Correct.

14 Q. Okay. So you have to know county ordinances for  
15 planning purposes; right?

16 A. Correct.

17 Q. You have to know the zoning ordinances; correct?

18 A. Correct.

19 Q. And, as you mentioned earlier, it's what your  
20 duties are; correct?

21 A. Correct.

22 Q. All right. So is the -- is any part of that  
23 compound out there zoned for residential?

24 MS. BRUCH: Same objection.

25 MR. MARSHALL: I'm also going to object as

1 to relevancy.

2 THE WITNESS: I'm going to go ahead and  
3 answer, though, for anything that's not attorney-client?

4 MS. BRUCH: Yes.

5 THE WITNESS: For anything that's not  
6 attorney-client, that property is not zoned residential.

7 BY MR. FLANGAS:

8 Q. Does it allow people to live on it?

9 MS. BRUCH: Same objection.

10 MR. MARSHALL: Same objection.

11 THE WITNESS: So I may not answer. There's  
12 some attorney-client privilege in this.

13 MS. BRUCH: Okay. And I'm going to instruct  
14 you not to answer that. Any information you may have  
15 gotten from an attorney, you shouldn't answer. If you  
16 have an opinion without benefit of legal counsel, you  
17 can -- you should answer.

18 THE WITNESS: I won't be able to answer  
19 that, then.

20 MS. BRUCH: Okay.

21 MR. FLANGAS: I'm not quite sure how this is  
22 attorney-client privilege, given that he's the planning  
23 director and I'm asking him a question about zoning and  
24 planning.

25 MS. BRUCH: Well, if he sought, if he sought

1 counsel with, with an attorney in maybe a decision about  
2 whether something -- how something is zoned, then I  
3 think that's attorney-client privilege.

4 BY MR. FLANGAS:

5 Q. Who makes the determination about zoning issues  
6 for, for Storey County?

7 A. Zoning maps are interpreted by me, the planning  
8 commission and board can be involved under certain  
9 circumstances.

10 Q. And you have to -- you're called upon sometimes  
11 by the county commission to interpret how the zoning  
12 should be?

13 A. Yes.

14 MR. FLANGAS: You know, counsel, I don't  
15 quite understand how he -- how this would be  
16 attorney-client privilege on how he answers a question  
17 about zoning.

18 MS. BRUCH: Well, can you repeat the  
19 question so that I can orient myself again and be able  
20 to respond?

21 MR. FLANGAS: Okay.

22 BY MR. FLANGAS:

23 Q. Is -- are people allowed to live out there at the  
24 Mustang Ranch compound?

25 MS. BRUCH: So, so my question to you is:

1 Have you -- did you seek counsel from an attorney with  
2 regard to that topic?

3 THE WITNESS: Yes.

4 MS. BRUCH: And so I don't want you to share  
5 anything that you -- any information that you got based  
6 on that counsel with an attorney.

7 THE WITNESS: Okay.

8 MR. MARSHALL: And I would also object, that  
9 calls for a legal conclusion.

10 MS. BRUCH: And so -- yeah, same objection  
11 that I had before.

12 BY MR. FLANGAS:

13 Q. Were you asked specifically by Mr. Toll about the  
14 residence of Lance Gilman?

15 A. Yes.

16 Q. What were you specifically asked?

17 A. I don't remember the details, but the question  
18 would have been does Lance Gilman live at this site and  
19 can Lance Gilman live at this site.

20 Q. What answers did you give -- first of all, did  
21 you answer those questions?

22 A. I did not answer those questions.

23 Q. Why not?

24 A. It's not a public document request.

25 Q. So what type of request was this?

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.

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

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.



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.

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.

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

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

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.

1                   THE WITNESS: I'm going to suggest that,  
2                   yes, you could live in a single-family dwelling with a  
3                   friend.

4                   BY MR. FLANGAS:

5                   Q. Okay. Let's turn to page 3 of 21. You got a  
6                   picture, it says:

7                   "Lance Gilman and Kris Thompson are roommates  
8                   here."

9                   Do you see that?

10                  A. I do see that.

11                  Q. And then at the bottom there it says this  
12                  following verbiage, if you'll read along with me. It  
13                  says:

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

25                  Any of that true?

1 A. Not all of it is true.

2 MS. BRUCH: Object as to form. Go ahead.

3 THE WITNESS: Okay.

4 MS. BRUCH: If you understand this question.

5 BY MR. FLANGAS:

6 Q. Not all is true?

7 A. Not all of it is true.

8 Q. Okay. So what's true and what's not true in  
9 that, in that paragraph?

10 A. That he sent a public records request to Mr.  
11 Osborne, that is true. That the request was to  
12 determine zoning of the Mustang Ranch, that is true.  
13 That -- there may have been one or more back and forth  
14 email communications, that's true. And that he had  
15 passed me on occasions in person and asked about this is  
16 true.

17 Q. Is there anything false in this?

18 A. Yes.

19 Q. What's false?

20 A. The obvious.

21 Q. The what?

22 A. The obvious. "The dog ate my keyboard" is false.  
23 "We're in the midst of the budget," I don't recall  
24 saying that and I don't believe that I would have said  
25 that. And "I'm in the middle of revising a statute" is

1 likely to have occurred, but not in the context of this  
2 conversation. That "the matter went cold" is not  
3 correct.

4 Q. I might have missed something here, so let's go  
5 back to page 2 of 21. And I apologize if, if my memory  
6 is serving me wrong on this. It says:

7 "On March 28th, 2017, The Storey Teller filed a  
8 public record request with Assistant County Manager,  
9 Planning Director, and all around busy guy Austin  
10 Osborne. In this request we asked for zoning of the  
11 Mustang Ranch compound, specifically to see if any  
12 section of the property was zoned residential."

13 And I thought I asked you about that and you said  
14 it wasn't a public records request, and then now  
15 you're --

16 A. Will you restate your question that you asked at  
17 that time?

18 Q. At that time I asked, looking at page 2 of 21,  
19 when I read that in the record, I asked you if it was a  
20 public record request. You told me it wasn't from The  
21 Storey Teller, but it was from Sam Toll. Is that  
22 correct?

23 A. Yes.

24 Q. And I thought you told me that it wasn't a public  
25 records request that he filed with you.



1           A. He has filed several requests with me. Some of  
2           them contain public records requests, some of them  
3           contained a request to discuss matters.

4           Q. All right. So looking on page 2 of 21, where he  
5           says, "On March 28th, 2017, I filed a public record  
6           request," was that a public record request or was that  
7           a -- what was it? That's probably the best way to ask  
8           that.

9           A. The context of your question that you asked  
10          earlier is answered truthfully. What happened -- I  
11          don't remember an exact March 28 request, and I'm  
12          truthful in answering that either this one or ones  
13          around it, or like it, that there were public records  
14          requests and there are public requests -- or requests  
15          for discussion.

16          Q. And you told me, I believe -- I'm looking still  
17          on page 2 of 21 -- that you didn't respond to that  
18          request but provided him documents. Am I correct in  
19          categorizing your testimony?

20          A. I do recall my telling you that I did provide him  
21          public documents when requested, and that I did do.

22          Q. But you didn't give him any interpretation as to  
23          what the zoning meant?

24          A. Correct.

25          Q. So going back to page 3 of 21, at that bottom bit

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

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?

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

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?

1           A. In -- I do recall that the DA's office is in fact  
2     investigating this matter, and I correct my prior answer  
3     to you a moment ago with that.

4           Q. The DA's office is investigating what, Mr.  
5     Gilman's residency?

6           A. I believe that is a portion of the investigation  
7     into potential matters.

8                   MS. BRUCH: And I'm going to instruct you --  
9     I don't know what's confidential or not confidential.  
10    If, potentially, anything that you know going on at the  
11    DA's office is confidential, I'm going to instruct you  
12    not to answer.

13                   THE WITNESS: Okay.

14    BY MR. FLANGAS:

15           Q. How do you know the DA's investigating this  
16    matter?

17                   MS. BRUCH: Objection.

18                   THE WITNESS: That is an attorney-client.

19                   MS. BRUCH: Yeah.

20    BY MR. FLANGAS:

21           Q. Any information you have about whether or not the  
22    district attorney is investigating this matter would be  
23    secondhand?

24           A. I'm not going to answer that, because I believe  
25    it's attorney-client privilege.

1 Q. I'm not quite sure that that is.

2 MS. BRUCH: Well, even if he thinks it might  
3 be, I'm going to instruct him not to answer.

4 BY MR. FLANGAS:

5 Q. You're not involved in the investigation, are  
6 you?

7 A. I don't believe that I am.

8 Q. What do you know -- you said something about Mr.  
9 Toll's investigation. What do you know about Mr. Toll's  
10 investigation?

11 A. What's being talked about today and what has been  
12 brought to me thirdhand by others in the community, and  
13 by Mr. Toll's inquiry to me on public document requests.

14 Q. All right. So what have you been told about his  
15 investigation from third parties?

16 A. That he has an interest in whether Lance lives at  
17 this property.

18 Q. Other than he has an interest on whether or not  
19 Mr. Gilman lives at the property, did they tell you  
20 anything else about Mr. Toll's investigation of whether  
21 or not Mr. Gilman resides at the property?

22 A. Not that I can remember.

23 Q. Who are some of these third parties?

24 A. I don't remember the individuals, but it would  
25 have been people in a small town talking with people.

1 Q. What are all the requests that you -- what are  
2 all the requests that you've received from Mr. Toll  
3 pertaining to his so-called investigation of Mr.  
4 Gilman's property?

5 A. Can you clarify that? I don't know how to answer  
6 it.

7 Q. Well, you gave me two reasons -- you gave me two  
8 things about Mr. Toll's investigation, what you had  
9 heard from third parties and what was requested of you  
10 by Mr. Toll. So my question is what has been requested  
11 of you by Mr. Toll. We know he's asked for documents;  
12 right?

13 A. Correct.

14 Q. What else has he asked for?

15 A. For me to engage in discussion with him.

16 Q. About what?

17 A. About the zoning or the residential allowances at  
18 the subject property.

19 Q. And did you answer or give him any answers or  
20 information about that?

21 A. No.

22 Q. None?

23 A. None.

24 Q. Did you tell him that you believe Mr. Gilman  
25 lived there?



1 A. I don't remember.

2 Q. Would you have?

3 MS. BRUCH: Objection, calls for  
4 speculation.

5 THE WITNESS: I don't remember if that's  
6 happened.

7 BY MR. FLANGAS:

8 Q. Did you ever tell him that you didn't believe  
9 Mr. Gilman lived there?

10 MS. BRUCH: Same objection.

11 THE WITNESS: No. And can you repeat that  
12 question? I want to make sure I answered it correctly.

13 BY MR. FLANGAS:

14 Q. Certainly. Did you ever tell Mr. Toll that you  
15 did not believe Mr. Gilman lived --

16 A. No.

17 Q. -- on the property on Wild Horse?

18 A. No.

19 Q. Earlier in this deposition when I asked you where  
20 Mr. Gilman lived, you told me the property behind the  
21 Mustang Ranch; right?

22 A. Yeah. When I say "property," I mean the house.

23 Q. The house.

24 A. Correct.

25 Q. Okay. And so if Mr. Toll had asked you whether

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.

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

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

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.

1 MR. MARSHALL: It's also not a question,  
2 it's a statement.

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...

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?

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.

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.

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.



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

1 of the Mustang Ranch complex below via Google Earth).

2 "Somewhere in that complex there are two physical  
3 addresses, 5 and 56 Wild Horse Canyon Drive."

4 And then I can't -- I apologize, I can't read  
5 these two next sentences, but then it goes on to say:

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

9 "According to public documents, there are two  
10 residences located somewhere in the Mustang Ranch  
11 complex (5 and 56 Wild Horse" --

12 MS. BRUCH: Sorry. He wasn't following  
13 along. He didn't flip the page, so...

14 BY MR. FLANGAS:

15 Q. All right. I want you to look at the bottom, and  
16 there is an email that purports to be from the editor  
17 @thestoreyteller sent to Kathy Canfield, dated  
18 March 31st, 2017. Are you there?

19 A. I'm on page ten, which appears to be --

20 Q. I want you to be 9 out of 21.

21 A. I'm on page nine.

22 Q. Okay. At the bottom again there's an email that  
23 purports to be from the editor@thestoreyteller to Kathy  
24 Canfield. Do you see that?

25 A. Uh-huh. Yes.

1 Q. It's dated March 31st, 2017; correct?

2 A. Yes.

3 Q. It says:

4 "Kathy, thank you for your prompt reply.

5 "Yes, that is the location, APN 04-161-21 (detail  
6 of the Mustang Ranch complex below via Google Earth).

7 "Somewhere in that complex there are two physical  
8 addresses, 5 and 56 Wild Horse Canyon Drive."

9 And the next sentence, you can't read it, it's  
10 kind of illegible, so we'll go over to page ten. It  
11 says:

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

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

19 "That is the focus of my query. Is there any  
20 location within that parcel that is zoned residential,  
21 is legally approved for people to reside?

22 "I appreciate your time and effort on this  
23 inquiry."

24 Then it's -- then there's a -- go back to page 9  
25 of 21. This one says -- another one, it says from the

1 editor to Kathy Canfield. And this was cc'ed to you.  
2 It says Tuesday, April 25th, 2017, at 6:57 p.m.; right?  
3 Are you there?

4 A. Yes.

5 Q. It says:

6 "Kathy, have you been able to uncover the  
7 disposition of residential zoning on the parcel APN  
8 04-161-2? I have highlighted in red the area identified  
9 by the assessor as the location of 5, 5B, and 56 Wild  
10 Horse Canyon Drive."

11 Do you see that?

12 A. Yes.

13 Q. Okay. Did you receive that email?

14 A. Yes.

15 Q. Okay. Then let's go up here to the very top on  
16 page nine. This is another email from Austin Osborne to  
17 the editor of the Teller Online -- Storey Teller. And  
18 it's also to Kathy Canfield as well; right?

19 A. Yes.

20 Q. It's dated April 27th at -- 2017 at 7:46 a.m. Is  
21 that right?

22 A. Yes.

23 Q. It says:

24 "Hello, Sam.

25 "I am still looking into the matter and will get

1     you an answer. We have a lot on our plate right now, so  
2     thank you for your patience. Please direct your  
3     follow-up questions directly to me so Kathy can focus on  
4     her other priorities. Thank you for your understanding  
5     and have a good day."

6             You wrote that; right?

7     A. Yes.

8     Q. What was, specifically, was Mr. Toll asking you?

9     A. He's asking two questions: One, if the subject  
10    parcel is zoned residential; secondly, if it's legally  
11    approved for people to reside there.

12    Q. Did you ever answer Mr. Toll and those questions?

13    A. I provided Sam Toll the public documents that  
14    would have shown the zoning of the property.

15    Q. Did you ever give him any verbal confirmation one  
16    way or the other?

17    A. Not that I remember, and I believe not.

18    Q. So you gave him just the zoning documents;  
19    correct?

20    A. Zoning and whatever other documents he requested,  
21    that would have been maps and text.

22    Q. Has there ever been a determination one way or  
23    the other on whether or not Mr. Gilman's -- the house  
24    where Mr. Gilman is living is appropriately zoned?

25             MS. BRUCH: Objection. Just the same

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

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.

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.



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

1       you agree?

2                   MR. MARSHALL: I'm going to object. You've  
3 already asked that question numerous times. It's also  
4 beyond the scope, and ultimately is a legal  
5 determination.

6                   THE WITNESS: Can you repeat the question?

7                   MR. FLANGAS: Could you read the question  
8 back, please?

9                   (Whereupon the reporter read the record.)

10                  THE WITNESS: I would ask what the context  
11 of that is, whether it's appropriately zoned.

12 BY MR. FLANGAS:

13       Q. I'm not following you why you can't understand  
14 this question. There is -- let's say that -- okay.  
15 Let's rephrase it.

16                  The issue is whether or not Mr. Gilman's house is  
17 appropriately zoned. Are you with me? You understand  
18 that; right?

19       A. I understand your question so far.

20       Q. Okay. If there was an inquiry being made about  
21 whether or not his house was appropriately zoned, the  
22 answer to that would be important, would you agree?

23       A. An answer would be important.

24       Q. Okay. So if, if -- now that we've established  
25 that such an answer would be important, would that be

1 something that you would convey to anybody inquiring  
2 about it, or would you turn it over to one of your  
3 minions?

4 MS. BRUCH: Objection to the term "minion."  
5 It's argumentative.

6 THE WITNESS: Knowing that there's -- I  
7 would answer to a public request asking if zoning is  
8 appropriate in any context, or in any property, or any  
9 property.

10 BY MR. FLANGAS:

11 Q. So is it safe to say that the two ladies that  
12 work for you, Ms. Canfield or Ms. Renaud, would not  
13 answer a question like that if Mr. Toll asked them?

14 MR. MARSHALL: Object, mischaracterizes the  
15 testimony.

16 MS. BRUCH: I'll join in that objection.

17 THE WITNESS: Most -- Ms. Canfield, the  
18 planner, would be the qualifying person to provide a  
19 response to a zoning question.

20 BY MR. FLANGAS:

21 Q. Would she inform you that she responded to such a  
22 question?

23 A. It depends. If we get a lot of questions that  
24 come in, she may not go to me on every one of them, so  
25 it's possible that she wouldn't.

1 Q. Would she go to you on this one?

2 A. I think she would treat it pretty similarly to  
3 others.

4 Q. You've got someone questioning the residence of a  
5 county commissioner, she would treat it just like any  
6 other question?

7 A. In that regard she probably would come to me and  
8 ask for some assistance.

9 MR. FLANGAS: I have no further questions.

10 MR. MARSHALL: Can we take a short break and  
11 then come back?

12 MR. FLANGAS: Sure.

13 MR. MARSHALL: Thank you.

14 (A short break was taken at this time.)  
15

16 EXAMINATION

17 BY MR. MARSHALL:

18 Q. Mr. Osborne, my name is John Marshall and I  
19 represent Sam Toll in this matter.

20 Who is your employer?

21 A. Storey County.

22 Q. And who controls and sets the budget in Storey  
23 County?

24 A. The county commissioners.

25 Q. And who is on the county commission?

1           A.   Marshall McBride, Lance Gilman, and Jack  
2 McGuffey.

3           Q.   And it's your understanding that Lance Gilman is  
4 the plaintiff in this litigation that you're here to  
5 give your deposition in?

6           A.   Yes.

7           Q.   Thank you.

8                    You've referenced a letter a number of times, and  
9 I think you said a recently received letter that  
10 regard -- regarding the residence of Mr. Gilman. Can  
11 you describe that letter, please? Who it's from, who  
12 it's to.

13          A.   I don't remember all the details of it, but it  
14 came to me from -- I believe Kris Thompson sent it to me  
15 directly.

16          Q.   Was it a letter that Kris Thompson wrote?

17          A.   No.

18          Q.   Do you know who wrote the letter?

19          A.   I think it was a, like a transcript, but I could  
20 be wrong. I think the actual author may have been some  
21 kind of transcript, but the letter was a statement by  
22 Dean Haymore.

23          Q.   And so you received this document at your county  
24 address?

25          A.   Yeah.

1 Q. Email address?

2 A. Yeah. I'm pretty sure it was brought to me by  
3 email.

4 Q. Okay. And would you consider that a public  
5 document that you would provide at a public records  
6 request?

7 A. I would.

8 Q. Thank you.

9 When did you receive that letter?

10 A. It wasn't that long ago. I don't remember, but  
11 within the last, I want to say month, but it may have  
12 been a little earlier than that.

13 Q. Okay. You've testified that in an agricultural  
14 zone a single-family residence use is allowed. Would  
15 that be an appropriate characterization of your  
16 testimony?

17 A. Yes.

18 Q. And can you -- and, and I believe you defined a  
19 single-family residence -- which I'm going to abbreviate  
20 SFR. Is that okay with you?

21 A. Yes.

22 Q. That an SFR is generally a single building with a  
23 single family or family members in it. Is that an  
24 accurate representation?

25 MR. FLANGAS: Objection, calls for a legal

1 conclusion.

2 THE WITNESS: Yes.

3 BY MR. MARSHALL:

4 Q. And I believe you, in an answer to one of your --  
5 one of the questions, you indicated that an apartment  
6 building would not be within a single-family  
7 residence -- would not be considered a single-family  
8 residence; is that accurate?

9 A. That's correct.

10 Q. And why is that?

11 A. Our zoning ordinance defines the different types  
12 of uses. Multi-family is more than one family living in  
13 a building, single-family is one family living in a  
14 building.

15 Q. And so an apartment building would be one  
16 building with multiple units within it, so therefore it  
17 would not be a single-family residence.

18 A. Correct.

19 Q. And would a duplex be an example of that?

20 A. A duplex that's a rental on both sides would be.

21 Q. And a duplex that's not a rental?

22 A. That could be considered a single-family  
23 attached. Like a townhouse.

24 Q. But you, you would have to know the exact details  
25 of that situation?

1           A.    You would.

2           Q.    Okay.  And what -- would multiple addresses to  
3           the same building indicate, or be an indication that  
4           there might be more than one unit associated with that  
5           building?

6                   MR. FLANGAS:  Objection, calls for a legal  
7           conclusion.

8                   MS. BRUCH:  I join.

9                   THE WITNESS:  I think that's reasonable.  
10          I'm just trying to think about -- we don't do a lot of  
11          townhouses, so you can have addresses for the property  
12          as 100, and then there's a unit A or B.  Possibly a  
13          single-family attached you could have a 100 and a 101.

14                  MR. MARSHALL:  Okay.  I have no further  
15          questions.

16                  MR. FLANGAS:  I have no follow-up.  Counsel?

17                  MS. BRUCH:  I have no questions.

18                  MR. FLANGAS:  Thank you.  We're done.

19          Mr. Osborne, thank you for coming.

20                  THE WITNESS:  Thank you.

21                  (Deposition concluded at 10:30 a.m.)

22                               -oOo-

23

24

25



-oOo-

I, AUSTIN OSBORNE, hereby declare under penalty of perjury that I have read the foregoing pages 1 through 67; that any changes made herein were made and initialed by me; that I have hereunto affixed my signature.

Dated: \_\_\_\_\_

\_\_\_\_\_  
AUSTIN OSBORNE

1	ERRATA SHEET/CORRECTIONS		
2			
3	PAGE	LINE	
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6	_____	_____	_____
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1 STATE OF NEVADA )  
2 ) ss.  
3 COUNTY OF WASHOE )

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   
25 SUSAN E. BELINGHERI, CCR #655

1 May 17, 2018

2

3 Rebecca Bruch, Esq  
4 Erickson, Thorpe & Swainston, Ltd.  
5 99 West Arroyo Street  
6 Reno, Nevada 89509

7

8 Re: Gilman v. Toll, et al.

9

10 Dear Ms. Bruch:

11

12 Please find enclosed the original deposition transcript  
13 of Austin Osborne taken in the above-entitled matter on  
14 May 11, 2018.

15

16 We have enclosed the transcript in order for your client  
17 to review.

18

19 Thank you for your prompt attention to this matter.

20

21

22 Bonanza Reporting & Videoconference Center

23

24

25 cc: Deposition transcript

26

27

28

29

30

31

32

## Exhibit 3

## Exhibit 3

**From:** Austin Osborne aosborne@storeycounty.org

**Subject:** RE: County Code Violation

**Date:** November 9, 2017 at 7:10 AM

**To:** Editor editor@thestoreyteller.online

**Cc:** Gary Hames ghames701@me.com, Gary Hames ghames@storeycounty.org, scda scda@storeycounty.org, Gerald Antinoro gantinoro@hotmail.com, Anne Langer alanger@storeycounty.org, Keith Loomis kloomis@storeycounty.org, Pat Whitten pwhitten@storeycounty.org

AO

Sam,

I responded to all of your document requests per NRS. I will gladly respond to any questions or concerns of the DA's or AG's office upon their request. The subject property is zoned Agriculture. The matter is being addressed otherwise. Thank you and have a good day.

Austin

---

From: Editor [mailto:editor@thestoreyteller.online]

Sent: Wednesday, November 08, 2017 5:33 PM

To: Austin Osborne

Cc: Gary Hames; Gary Hames; scda; Gerald Antinoro

Subject: County Code Violation

Ms. Langer, Mr. Osborne & Mr. Hames,

As you may know, The Storey Teller filed a complaint with the Storey County DA and the Nevada State AG and the Sheriff's Office regarding a public record request regarding the zoning of the Mustang Ranch and 5, 5B and 56 Wild Horse Canyon Drive.

You can read about the complaint [here](#).

Even though the public records request regarding the zoning status of the Mustang Ranch Property, which NRS requires an answer to within 5 days remains open six months after it was filed, I learned the Mustang Property is not zoned residential after a 3 minute visit to Community Development several months ago.

Both Lance Gilman and Kris Thompson claim 5, 5B and 56 Wild Horse Canyon as their legal residence when filing paperwork with the County Clerk to hold elected and appointed office.

Yet the entire Mustang Ranch parcel is not zoned for residential occupancy.

It is not legal for anyone to live there.

Since this is a Storey County Code violation and the proof of residency to hold public office claims the Wild Horse Canyon addresses, what action will be taken now that your departments have been officially advised of the violation?

What are the enforcement procedures?

what are the enforcement procedures:

Fines?

Red Tags?

Jail Time?

Wrist Slaps?

Please advise what action the County is taking to address this violation.

My readers have asked me why the county has not taken action on this matter.

As you know, the law applies to everyone equally, including those in power.

Is there special consideration being made because this involves our County Commissioner and his employee and a county planning commissioner?

Mr. Kris Thompson told the community that there is an effort underway to rezone a portion of the Mustang to “ clean this up “. Is this true?

Respectfully,

Sam Toll - Editor  
[editor@thestoreyteller.online](mailto:editor@thestoreyteller.online)  
[www.thestoreyteller.online](http://www.thestoreyteller.online)  
775-583-8655



Exhibit 4

Exhibit 4



In a recent message posting I expressed the following concern regarding Lance Gilman's residency status:

1. Mr. Gilman's residency status and somewhat related, his ability to understand the individual concerns of residents of the County's communities (the Highlands, VC/Gold Hill, Mark Twain and Rainbow Bend/Lockwood).

My assessment of Mr. Gilman's residency status will include references to Susan Austin, who is the madam of the Mustang Ranch Brothel (according to news media reports) and who, I have been told, is Mr. Gilman's "significant other". Ms. Austin is frequently at Mr. Gilman's side when he is campaigning, and the two of them have produced a reality TV series centering on Mr. Gilman's brothel businesses.

Mr. Gilman and Ms. Austin presumably established residency in Storey County when they became registered voters during 2002 and 2004, respectively. According to Mr. Gilman's Nevada Campaign Financial Disclosure report filed with the Nevada Secretary of State, his address in Storey County is 5 Wild Horse Canyon Drive.

A search of the Storey County Assessor's secured property database indicates that neither Mr. Gilman nor Ms. Austin own any real property in the county held in their own names. Mr. Gilman, however, is owner of a limited liability company Cash Asset Management LLC dba Wild Horse Resort and Spa (the Wild Horse Brothel, prior to being shut down by the County).

One of the assets on the brothel property is a 3,040 square foot three-section mobile home listed by the Storey County Assessor as 1005 Wild Horse Canyon Drive, McCarran, NV. The mobile home was installed in May 2002, the same year that Mr. Gilman established residency in Storey County. This is presumably where Mr. Gilman and Ms. Austin live.

A search of the Washoe County Assessor's secured property database indicates that Mr. Gilman also owns a home located at 199 Steptoe Lane across from Washoe Lake. It appears that he purchased this home during the 1990's. A search of the Lyon County Assessor's secured property database indicates that Ms. Austin owns a house located at 990 Julia Lane in Fernley. She purchased this home in February 2008.

While there is nothing particularly peculiar about owning three residences, either directly or indirectly, in three different counties, there is something peculiar about Mr. Gilman's and Ms. Austin's residences. The Storey, Washoe and Lyon County Assessor's have classified all three residences as being subject to a 3% annual property tax cap, meaning that all three residences are classified as qualified primary residences. Under Nevada law a primary residence is defined as "a residence which is designated by the owner as the primary residence of the owner in this State, exclusive of any other residence of the owner in this State". This means that a person can have only one primary residence. Given that Mr. Gilman and Ms. Austin are registered voters in Storey County, some explanation should be forthcoming regarding why county assessors' records indicate that they have claimed that their primary residences are in Washoe County and Lyon County, respectively.

According to Mr. Gilman's Nevada Campaign Financial Disclosure report, Mr. Gilman lives on the Mustang Ranch/Wild Horse brothel property, and has presumably done so for the last 10 years. Mr. Gilman has never lived in the Highlands, VC/Gold Hill, Mark Twain or Rainbow Bend/Lockwood communities, which account for over 98% of the county's population. I find it difficult to believe that Mr. Gilman has any significant understanding of local issues that concern the residents of each of the county's four primary communities, since he appears to have lived exclusively on the Mustang Ranch/Wild Horse brothel property. Even if Mr. Gilman is technically a resident of Storey County, I feel uncomfortable regarding the history and type of his residency.

Dave Thomas  
Saddleback Road

 Reply

 Like

 More

## Commissioner District 3 Election - Brothel Violations & County Image



dbttlc (/g/main/profile/5851)

9/26/12 (https://VCH.groups.io/g/main/message/34964)

Six weeks ago I posted a message promising more detailed discussions of Lance Gilman's residency status, conflicts of interest that would result in the event that he were to serve as a Storey County Commissioner, and possible damage to the image and reputation of Storey County that might result if Mr. Gilman were a County Commissioner. I have already addressed the first two issues, and will now address the issue of the county's image and reputation.

First, however, I will respond to Kris Thompson's post regarding county ordinance violations at the Mustang Ranch brothel. -- In VCH@..., Kris Thompson wrote:

### The Tax Payments

> The "applicant" for Mr. Gilman's Mustang Ranch brothel was a corporate entity - Cash Processing Services (CPS). This is who was listed as the applicant on the license application, and this was who the County issued the license to. At the time of the most recent renewal - this past June - CPS was totally current on County obligations. Mr. Gilman was in total compliance with the brothel renewal ordinance. These are undisputed facts.

During the last eight years, Cash Processing Services LLC has been delinquent in the payment of 19 out of 32 property tax payments. This is a 59% delinquency rate. During the last three years, Cash Processing Services LLC has been delinquent in the payment of 10 out of 12 property tax payments. This is an 83% delinquency rate.

The Nevada Secretary of State records for Cash Processing Services LLC (the Mustang Ranch) list Lance Gilman as the manager of the company. It is likely that this LLC is a single member LLC (meaning that Lance Gilman is the sole owner). If this is the case, the LLC is a disregarded entity for federal income tax purposes. For all intents and purposes, Cash Processing Services is Lance Gilman. The only purpose of the entity is liability limitation.

> Two other entities owned by Mr. Gilman did have a small amount of outstanding obligations to the County at the time. Under the wording of the ordinance, the fact other entities owed taxes should not have mattered on renewing the Mustang license.

Cash Asset Management LLC (the Wild Horse), another one of Lance Gilman's LLC's, has been delinquent in the payment of 21 out of the last 40 property tax payments, a delinquency rate of 53%. Subsequent to the November 15, 2011 revocation of the Wild Horse brothel license, the Mustang Ranch brothel license was expanded to allow the Wild Horse's physical facility to be used as a Brothel again (under the brothel license of Cash Processing Services LLC aka the Mustang Ranch). Whether or not Cash Asset Management (the Wild Horse) has a brothel license or not is irrelevant. The assets of the Wild Horse are used for brothel purposes, the LLC is clearly engaged in the business of providing physical facilities for a brothel, the LLC should have a Storey County business license, and Storey County ordinances preclude the renewal of the business license of any business that is delinquent with respect to property taxes, not just brothels.

> It is also a fact that during this time Mr. Gilman was continuing to make thousands of dollars of food donations to Lockwood and Mark Twain each week, and was accepting paying late fees on his obligations to the county in order to not miss making these donations.

What does this have to do with the fact that property tax payments have consistently been delinquent? The answer is nothing. In my opinion Mr. Gilman is a not very smart business person if he chooses to first spend money making donations and then pay overdue property taxes including late payment penalties. It seems to me that it would be a tad smarter to first pay the property taxes and then make bigger donations (bigger by the amount of the late payment penalties).

### The Wild Horse Saloon Work Card issue.

> Despite this previous understanding in place for 10 years, there has been a change in interpretation from the County. In the interest of cooperating, all Wild Horse Saloon employees immediately applied for their work cards, and in every single case, received a work card, with one exception. The exception was that one applicant for a work card to be a maid was denied due to a prior domestic incident from 9 years ago.

The portion of the brothel ordinance relating to work cards reads as follows (my emphasis):

#### 5.16.220 Work permit registration required

A. ***It is unlawful for any person*** to be an independent contractor or ***to be employed on the premises of a licensed operation, unless such person is the holder of a valid current work card*** issued by the sheriff in accordance with this chapter and in accordance with Chapter 5.08.

I'm surprised, Kris, given that you practiced as an attorney in California for slightly under 20 years, that you would consider the wording of this ordinance to be ambiguous. I read it to say very precisely: "All people working on the physical premises [of a brothel] are required to have valid current work cards".

> Financial relief for the Storey County government came from TRI and Lance Gilman. They advanced the County \$370,000 dollars, interest free, cold hard cash, for an extended term.

The money was advanced to the Storey County School District, not to Storey County, and the amount was \$360,000 (not that this is materially different). The money was advanced by TRI Foundation, a Nevada nonprofit corporation, not by Lance Gilman. I am surprised that someone who is running for County Commissioner (or his spokesperson) doesn't understand that the School District is an entirely different political/governmental entity.

### Brothels and Motivation

I have nothing against brothels/legalized prostitution per se. I do believe that brothels should be kept "behind the scene" and should not be "in your face". In the seven Nevada counties which have specific regulations and ordinances for brothels (Churchill, Esmeralda, Lander, Lyon, Mineral, Nye and Storey), advertising for brothels is strictly limited. State statutes (NRS 201.430-440) also prohibit brothels from advertising on public streets or highways or in any county, city, or town where prostitution is prohibited. The gist of the statutes and ordinances is essentially: "Where legally permitted, there is nothing wrong with engaging in the oldest profession so long as it is engaged in unobtrusively and out of sight."

At the November 2011 Storey County Commissioners' meeting when the license of the Wild Horse brothel was revoked, Lance Gilman asked the Commissioners whether it was OK for him to have the meeting videotaped. He offered no explanation for why he wanted to do this. Given that it was a public meeting, they indicated that they had no objection. In late spring 2012 Lance Gilman and Susan Austin (madam at the Mustang Ranch and Lance Gilman's significant other) released "Labor of Love", a reality TV miniseries which pretty much glorifies the Mustang Ranch and its unique flavor of "luxury brothel". One of the episodes of "Labor of Love" includes a portion of the November 2011 County Commissioner's meeting which Lance Gilman had videotaped/audio taped. This episode also includes video of Lance Gilman and Susan Austin in a vehicle driving into Virginia City and outside video of the Storey County courthouse. The faces of everyone at the Commissioner's meeting except for Lance Gilman, Susan Austin and their attorney are blurred out. It is easy to spot Sheriff Gerry Antinoro, given that he was in uniform.

Keeping in mind that Lance Gilman forewarned no county officials/employees that the videotape would be used for a reality TV series and keeping in mind that if he were to serve as County Commissioner he would be working with these same people on a daily basis, I just shake my head at the stupidity of the whole situation. What was he thinking? Did he think that this would endear himself to the other senior elected/appointed Storey County officials who were in attendance at that Commissioner's meeting? I somehow don't think this is what happened.

The only conclusion that I can come to is that Lance Gilman is more interested in promoting himself and the Mustang Ranch brothel than he is in the image of Storey County. The reality TV miniseries is about as "in your face" as you can get. Lance Gilman's reality TV series is in total violation of the intent of statutes and ordinances regulating advertising for brothels.

What does he not understand about the concept of "keep it behind the scene"? Why would anyone want a County Commissioner whose priorities rank self promotion and promotion of his personal brothel business ahead of regulatory intent and the image of the county?

#### Conflicts of Interest, Donations and Storey County Image

Kris Thompson's message posting makes no reference to the primary issue that I raised when I posted Sheriff Antinoro's letter to the County Commissioners, Mr. Gilman's conflicts of interest in the event that he became a County Commissioner. Rather, he completely ignores the conflict of interest issue. The conclusion of Gerry Antinoro's letter to the County Commissioners summarizes the essence of Kris Thompson's message posting much better than I am able to:

"For each of the above issues, the licensees makes claims to the effect that "it's always been this way", "this was agreed to by a previous Sheriff", "these are separate businesses" [housed within the brothel], etc. There is always some excuse as to why there is a failure to comply with the Storey County ordinances. Any attempt to regulate or gain compliance by my office is viewed as being heavy handed, stubborn, or changing the rules."

Both Kris Thompson and Lance Gilman's campaign advertisements make repeated reference to donations that Mr. Gilman has made to various worthy causes. While I think that this is admirable, it will definitely not influence my vote, perhaps because I am in my 22<sup>nd</sup> year living in Storey County and I have a vivid memory of what Storey County was like when my wife Pam and I first moved here. At that time the Mustang Ranch brothel was run by Joe Conforte. Joe made a big thing about the hundreds of turkeys he gave away at Christmas each year to the needy and Joe also spread a lot of money around the county. To maintain his control over the county, he packed the voter roll with a couple of hundred "ladies" working at the Mustang Ranch. [This problem was finally eliminated in 1998 when Charlie Porchia, a then Highlands resident running for Storey County Sheriff, successfully challenged the residency status of 195 women working at the county's brothels. Charlie was assisted by current Highlands residents Cynthia and Patrick Kennedy.] The fallout was as follows:

- Storey County was considered to be the most corrupt county in Nevada, if not the entire United States.
- In 1982 a Storey County grand jury, after a 2 ½ year probe, concluded that Joe Conforte had unusual influence and power in the county. The jury found that the then Storey County District Attorney and Sheriff were implicated, but no indictments were made.
- In 1999, Shirley Colletti, a former Storey County Commissioner and a former madam at the Mustang Ranch, was found guilty of racketeering and making illegal wire transfers in federal court and was sentenced to a forty-six-month term in federal prison. A former Storey County Sheriff was an unindicted co-conspirator in the case.

Our county has finally dug itself out of the decades old corruption quagmire that it had sunk into. Storey County's elected Sheriff Gerry Antinoro is a highly qualified by-the-book law enforcement professional. Our elected District Attorney Bill Maddox is a former Nevada District Court judge and is about as good and as ethical as they come. Our two retiring County Commissioners, Bob Kershaw and Bum Hess are not high profile people, but they have served our County exceptionally well and they leave the county's finances in better shape than most of the other counties in Nevada. Storey County is no longer viewed by the rest of the state as a corrupt laughing stock, and Storey County residents can now have justifiable pride in their county.

We should not risk Storey County's current image for anything or anyone if there is the possibility the county will be viewed as sliding back into the old quagmire. I am deeply concerned that this is what will happen if there is the appearance of significant conflicts of interest (if not actual) for the Commissioner from District 3. I am also deeply concerned that the county's image will be damaged by the concentration of economic and political power if the county has a Commissioner who controls the only licensed (large and very high profile) brothel in the county and who also has a substantial economic interest in TRI.

Dave Thomas – Saddleback Road - Virginia City Highlands

Exhibit 5

Exhibit 5

## DECLARATION OF DAVID THOMAS

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 am a resident of the Virginia City Highlands in Storey County on Saddleback Road, where I have lived for 27 years;
4. I have reviewed the document in what has been labeled "Exhibit 6" which contains two internet posts on the Virginia City Highlands discussion group:
  - a. A 8/17/2012 post linked at <https://NCH.groups.io/g/main/message/34625>, which addressed my concerns regarding Lance Gilman's residency status; and
  - b. A 9/26/2012 post linked at <https://NCH.groups.io/g/main/message/34964>, which addressed Lance Gilman's residency status and conflicts of interest that would result in the event that he were to serve as a Storey County Commissioner;
5. I am the author of the two posts in Exhibit 6 described above;
6. The contents of Exhibit 6 are true and correct copies of my posts;
7. 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: David B. Thomas

David B. Thomas

Dated: 05-19-2018

## Exhibit 6

## Exhibit 6



**AFFIDAVIT OF LANCE GILMAN**

STATE OF NEVADA

COUNTY OF Storey

) ss:

LANCE GILMAN, being first duly sworn, deposes and says:

1. I have personal knowledge of all matters set forth herein except for those stated upon information and belief and am competent to testify thereon.

2. I am the Plaintiff in the action entitled, LANCE GILMAN v. SAM TOLL, in Department II of the First Judicial District Court, Storey County, Nevada, Case Number: 18-TRT-00001-1e, and I make this Affidavit in support of the "Opposition to Anti-SLAPP Special Motion," filed in the matter (hereinafter the "Opposition").

3. I have read the contents of the Opposition and the facts contained therein are true as written to the best of my knowledge as though set forth in full in this Affidavit.

4. I have reviewed the Exhibits attached to the Opposition as Exhibits "1" through "15" and verify that they are true and correct copies.

5. The instant suit involves certain false and defamatory statements made about me by the Defendant, SAM TOLL (hereinafter the "Defendant").

6. The Defendant published and publishes a blog online under the website address of <http://thestoreyteller.online> (hereinafter the "Storeyteller Website").

7. Statements by the Defendant on the Storeyteller Website was and is ridiculing, insulting and defaming me.

8. Although I am both a public official and a public figure, many statements published by the Defendant in the Storeyteller Website about me are false and defamatory.

9. The Defendant has published post after post after post on the Storeyteller Website over a period of two years, almost every single one of which has defamed me along with insults, smears, and ridicule.

10. Reading through the stream of posts the Defendant has published on the Storeyteller Website, there is only one conclusion - the Defendant was for some reason obsessed with trying to injure, hurt and destroy my public reputation.



1           11.     I am well aware that I am a public official and public figure and I am used to suffering  
2 the "slings and arrows" from time to time in the public forum.

3           12.     I have, perhaps more than any other public figure in Northern Nevada, withstood  
4 some fairly vicious public attacks by political opponents in the press at times over the past two  
5 decades and I fully understand that attacks against me "come with the territory."

6           13.     The Defendant's attacks on me with false and defamatory statements have been  
7 continuous, unrelenting, and constantly targeting me personally.

8           14.     The false statements made by the Defendant are far beyond acceptable and legal  
9 conduct, and I felt compelled to take action to protect my reputation.

10          15.     Because of the false unending stream of defamatory statements published by the  
11 Defendant about me, I filed a Complaint against the Defendant for Defamation Per Se.

12          16.     As stated above, the Defendant published and publishes the Storeyteller Website. I  
13 have seen that the Home page of the Storeyteller Website and every other section contained therein,  
14 including the "News," "Editorial," "Letters to the Editor," "About the Storey Teller," and  
15 "Community News," sections, all contain the statement: "Support the Teller and Keep Fact Based  
16 News about Storey County Ad Free." Since the filing of this suit, those words about the being Fact  
17 Based News no longer appear.

18          17.     In writing about the instant matter, the Defendant mentions that I have a conflict of  
19 interest "as I wear hats on both sides of the negotiating table." This is completely false.

20          18.     The Defendant further writes about me: "A conflict of interest that places the  
21 self-interest of the Marketing Manager and exclusive Real Estate Broker for TRIC above the  
22 interests of Storey County Taxpayers, voters, and citizens." This is completely false.

23          19.     I am and was a member of the Board of Commissioners for Storey County, Nevada,  
24 an elected position, and I am a principal in and the Director of Marketing for the Tahoe Reno  
25 Industrial Center (hereinafter "TRI").

26          20.     My company, Lance Gilman Commercial Real Estate Services, is and has been the  
27 exclusive broker for TRI, which is a massive 80,000 acre park that encompasses a 30,000 acre  
28 industrial complex approximately nine miles east of Reno, Nevada in Storey County, Nevada, and

1 is the largest industrial park of its kind in the United States.

2 21. TRI presently has over 16 million Square Feet of Industrial space in use by over 130  
3 different companies, with over 15,000 permanent and temporary jobs created in 15 years.

4 22. I have been instrumental in attracting such nationally recognized firms as  
5 Tesla/Panasonic, who is building a "gigafactory," a massive 6 million square foot manufacturing  
6 facility, SWITCH, who is building a huge data storage co-location campus comprised of a number  
7 of buildings totaling more than 7 million square feet under roof, GOOGLE, who just purchased 1200  
8 acres earlier in 2017, as well as other global companies such as eBay, Wal-Mart, Tire Rack, Jet.com,  
9 Petsmart, Blockchains, LLC, and US Ordinance, to name a few.

10 23. TRI has provided thousands of jobs for Northern Nevada and it is anticipated that  
11 Tesla/Panasonic and SWITCH alone will together generate 10,000 more jobs for Northern Nevada  
12 and over \$400 million in payroll annually at full build out.

13 24. I have received a number of awards such as the Reno Small Business Entrepreneur  
14 of the year in 2009, Reno Man of the Year in 2000 and the Development Award for Environmental  
15 Excellence in Development in 1997.

16 25. In or around 2015, Governor Brian Sandoval personally presented me and my two  
17 TRI partners, the EDawn President's Award for completing what the Governor called the "The  
18 Deal of the Century" in landing and closing the Tesla deal.

19 26. I am the face of TRI.

20 27. I also have decades of good service to Northern Nevada.

21 28. Each year my businesses and I deliver and donate over \$100,000 in food donations  
22 and labor to needy seniors in Storey County and to a school "food in a backpack" program for  
23 children from families in need.

24 29. Beginning in 2017, the Defendant in an effort to embarrass, discredit and impugn me,  
25 published a huge number blatantly defamatory statements about me on the Storeyteller Website.

26 30. On the Storeyteller Website, the Defendant published a series of statements accusing  
27 me of not living in my actual residence and even accusing me of committing perjury about my  
28 residence on official documents.

1 31. On or around April 7, 2017, the Defendant published the following on the Storeyteller  
2 Website:

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

6 32. The clear inference from the Defendant's statement is that I am not a resident of  
7 Storey County.

8 33. On or around April 18, 2017, the Defendant wrote on the Storey Teller Website, the  
9 following:

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

13 34. The clear inference from the Defendant's statement is that I am not a resident of  
14 Storey County.

15 35. Then, on or around May 20, 2017, the Defendant wrote the following on the Storey  
16 Teller Website:

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

21 36. The clear inference from the Defendant's statement is that I am not a resident of  
22 Storey County. Also, I never made that statement nor any statement to that effect.

23 37. On or about October 16, 2017, the Defendant published the following statements on  
24 the Storey Teller Website accusing me of perjury:

25 The purpose of this complaint is to hold accountable County Commissioner  
26 Gilman and Planning Commissioner Thompson for committing perjury when they  
27 filed paperwork claiming to live somewhere it is illegal to live. Since they took office  
28 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).

1           38.     In the same publication, the Defendant attaches what appears to be a letter to the  
2 Attorney General.

3           39.     I have never been officially notified by any law enforcement or governmental  
4 organization about any investigation whatsoever challenging my residency in Storey County.

5           40.     On or around December 3, 2017, the Defendant wrote the following on the Storey  
6 Teller Website:

7                   Special Interests

8                   The Commissioner Lance Gilman – TRIC Special Interest merry-go-round that gives  
9 Mr. Gilman and TRIC access to the Storey County check book, tax coffers, real  
property and special consideration regarding rules and regulations.

10                  Failing to require Mr. Gilman to reside in the district he represents within Storey  
11 County.

12           41.     The clear inference from the Defendant's statement is that I am not a resident of  
13 Storey County. In addition, I do not have access to Storey County Checks, tax revenues or real  
14 property.

15           42.     Contrary to the Defendant's assertions, I do live in Storey County, Nevada. My  
16 address is 5 Wild Horse Canyon and I have lived there for around twelve years or more.

17           43.     I certainly never committed perjury as alleged by the Defendant. The Defendant's  
18 statements are not true.

19           44.     On or about August 6, 2017, the Defendant published the following false and  
20 defamatory statements on the Storeyteller Website stating that I engaged in reverse graft:

21                   Back to the Pipeline Hustle.

22                   When this deal is approved by Marshall McBride and Jack McGuffey, TRIC will  
23 have accomplished another spectacular job of bamboozling Storey County officials.  
24 It will mean that Storey County and Nevada Taxpayers have dumped \$100 million  
dollars of what can only be described as "reverse graft" directly into the pockets of  
the band of merry TRICsters.

25           45.     In addition to the foregoing quote, the article was replete with several other false  
26 references to reverse graft on my part and my business associates.

27           46.     The article then alludes to include some feeble attempt at diligence on the part of the  
28

1 Defendant to support his statements without any effort to really verify the truth.

2 47. First of all, there was and is no reverse graft as alleged by the Defendant and there  
3 is certainly no payment of \$100 million into my pockets and those of my business associates.

4 48. The Defendant's statements are not even remotely true.

5 49. The simple truth is that the TRI fronted the costs for the construction of certain  
6 infrastructure to the tune of around \$100 million free of charge and interest free.

7 50. The infrastructure included roads, drainage culverts, bridges, Interchanges, power  
8 lines, water, and sewer to name a few, all of which benefit Storey County.

9 51. Of this infrastructure, TRI dedicated at the time half to Storey County free of Charge.

10 52. Pursuant to certain formulas, Storey County is to reimburse TRI over a lengthy period  
11 of time for the portion of the infrastructure dedicated.

12 53. This payment is to come from any surplus that Storey County has from revenue  
13 generated by the TRI that includes revenues from Real and Personal Property Taxes, Room Taxes,  
14 Fuel Taxes, Franchise Fees and Business License Fees, among other types of reveunes.

15 54. The surplus or loss is calculated at the end of each year by an audit conducted by a  
16 licensed CPA.

17 55. After subtracting an agreed upon amount for expenses, which include the county  
18 payroll, maintenance costs, First Responders, and general administration, the surplus is divided with  
19 Storey County receiving approximately 65% of the surplus and TRI getting approximately 35% of  
20 the surplus as repayment for TRI's outlays for the infrastructure.

21 56. If there is no surplus, TRI eats the expense it fronted for the infrastructure.

22 57. There is no interest for TRI to carry the \$50 million.

23 58. As for the pipeline, Storey County is not paying anything upfront for it nor paying  
24 for the bond processing nor offering.

25 59. It is a new, separate \$60 million project funded by state bonds sold on Wall Street.

26 60. It is my understanding that the bond payments from the Pipeline will be funded by  
27 real and personal property taxes on new construction projects generated because of the pipeline.

28 61. In addition, the State of Nevada covers some of the cost of the bond repayments.

1           62.     Of particular import, these taxes that will be generated on new construction would  
2 not be there but for the pipeline.

3           63.     If there is no money generated from new construction, as is my understanding, TRI  
4 will have to cover the bond.

5           64.     Contrary to the Defendant's assertion, in light of a massive recent deal where over  
6 64,000 acres was sold to a tech company called Blockchains, LLC, TRI is done selling at TRI (with  
7 the exception of a few hundred acres), there is no more money to be made by TRI from land sales  
8 generated by the pipeline water.

9           65.     On or about February 2, 2017, the Defendant published the following false and  
10 defamatory statements on the Storeyteller Website stating that I didn't follow the law when the  
11 Mustang Ranch was relicensed after a related brothel was closed and then reopened as the Mustang  
12 Ranch. Specifically, the Defendant published the following statement on the Storeyteller Website:

13                   . . . . Funny thing is, the courts didn't agree and the investor won. But, in the  
14 meantime, because Lance had shut down the Wildhorse and reopened it as the  
15 Mustang, he thought he didn't need to go through the investigation that the Nevada  
16 Revised Statutes require for the opening of a new brothel. He didn't want to follow  
17 the law. The County Commissioners even agreed with him. Why should Lance, the  
18 man who's been a virtual Santa Claus (at least he tries to convince people he is) for  
19 Storey County, have to follow the law? Sheriff Antinoro said the law had to be  
20 followed and that the Mustang had to be closed for the required number of days, per  
21 state statute, for the investigation with which ALL brothels must comply.

18           66.     The Defendant's statement is not true.

19           67.     I had a lender (a company called TG Investments) who lent money in the mid 2000's.

20           68.     *As part of the loan payment terms, the lender was entitled to a percentage cut of the*  
21 *revenue from the Wild Horse Brothel (Cash Asset Management, LLC, hereinafter "CAM").*

22           69.     Under the County Code, the lender was supposed to get licensed.

23           70.     When it came time to do so, the lender was unable or unwilling to get licensed.

24           71.     This in turn required me to disclose this unlicensed lender relating to Wild  
25 Horse/CAM, which I did indeed do to comply with the law.

26           72.     The County Licensing Board rescinded the Wild Horse/CAM brothel License as it  
27 had a lender with an unlicensed financial interest, but then simultaneously granted an extension to  
28

1 the license of Cash Processing Services, LLC (Mustang Ranch) to operate out of that facility as the  
2 Mustang was not impacted by that lender.

3 73. I did follow the legal requirements precisely.

4 74. I self-reported that my lender failed to get a brothel license.

5 75. I went through a complete licensing process to include a full background check and  
6 financial review by a local CPA, all of which was supervised by my longstanding political opponent,  
7 the Sheriff, Gerald Antinoro.

8 76. In truth and fact, I disclosed in order to comply the applicable law contrary to the  
9 assertions contained in the Defendant's publication.

10 77. On or about December 3, 2017, the Defendant wrote that I am receiving land from  
11 Storey County with zero consideration. Specifically, the Defendant in the Storeyteller Website  
12 wrote:

13 Special Interests

14 The Commissioner Lance Gilman – TRIC Special Interest merry-go-round that gives  
15 Mr. Gilman and TRIC access to the Storey County check book, tax coffers, real  
property and special consideration regarding rules and regulations.

16 Repeatedly reconveying Storey County property to TRIC with zero consideration  
17 or payment that TRIC has turned around and included the free property into lucrative  
18 land deals, including the one that gave a portion of the USA Parkway to TRIC (for  
19 free) which Mr. Gilman and TRIC turned around and sold to NDOT for \$43 Million  
Dollars (without giving us a single penny or paying down the \$47 Million Dollar  
Storey County Credit Card balance).

20 78. This is not true. I, Lance Gilman, have never received title to land from Storey  
21 County in any transaction, never-not once.

22 79. In the first place, TRI built the first 5 miles of USA Parkway and dedicated a part of  
23 the road and drainage facilities to the County.

24 80. In order to bring Tesla and its Gigafactory into Storey County, TRI agreed to give  
25 Tesla 1,000 acres of land free, and give the state of Nevada land for the right of way extension from  
26 the southern end of USA Parkway to Silver Springs.

27 81. TRI received payment from NDOT for that extension right of way, which was  
28 required by law. As part of the transaction, Storey County reconveyed a small segment (less than 2

1 mi) of USA Parkway which TRI transferred in turn transferred to NDOT. This was a massive benefit  
2 for Storey County as the County was getting the Tesla Gigafactory and the massive tax and fee  
3 revenue generated in the future after the abatements ended.

4 82. Storey County was also getting a new State Highway, maintained in perpetuity by  
5 NDOT, and huge positive press, which later drew Tesla, Switch, and Google in to the County.

6 83. Out of all four parties (Tesla, TRI, NDOT, Storey County) Storey County came out  
7 of the deal in a very good financial position - without paying a single cent out of pocket.

8 84. So TRI gave up 1,000 acres of prime industrial land for free and a 400 ft wide right  
9 of way for approximately 15 miles and only received compensation for the 15 miles of right of way.  
10 The concept was that both Storey County and TRI would give up some consideration in order to  
11 secure the Tesla deal.

12 85. TRI did not get the all of USA Parkway back from the County for free, as claimed  
13 by Defendant.

14 86. There have been a couple transactions over the last couple years where Storey County  
15 deeded very small segments of land back to TRI, but in each case the land was either exchanged with  
16 other land given to Storey County, or was part of a deal where a landowner took over maintenance  
17 responsibility for a drainage area.

18 87. Further, in each case these transfers were to facilitate a company moving into TRI  
19 which is of tremendous benefit to Storey County, which would collect future tax and fee revenue  
20 from that company. Thus, the County received substantial consideration in each and every instance.

21 88. This is not a matter of opinion or conjecture as tax and/or fee revenue to the county  
22 is a certainty whenever a private owner takes title to land in TRI, even if they don't build on site as  
23 they still have to pay property taxes.

24 89. For example, take the instance where the County has title to a drainage area, the  
25 county generates no revenue on that drainage area as it is County owned.

26 90. In order to facilitate a company coming in to TRI who desires a pad or site that  
27 slightly encroaches into the drainage area, the county deeds the small encroached area back to TRI  
28 (who initially dedicated it to the County in the first place) so that TRI can include it in the sale to the



1 incoming company.

2 91. The incoming company takes title, and has to maintain the portion of the drainage  
3 facility on their property, and pays property taxes starting immediately.

4 92. Then if the company builds a facility, it generates many different forms of substantial  
5 revenue for the county, including real and personal property taxes, permit fees, business license fees,  
6 power franchise fees, etc.

7 93. The economic benefit to the County is far, far in excess of the minimal fair market  
8 value of the portion of the drainage area transferred to TRI.

9 94. Notwithstanding the foregoing, the Defendant's statements that I as an individual,  
10 have received land for free from Storey County, is a blatant and utter falsehood.

11 95. In two different posts, on or about April 29, 2017, and May 1, 2017, the Defendant  
12 on the Storeyteller Website wrote that my trip to Washington, D.C. partly paid for by Storey County  
13 was not work related and was not a legitimate trip.

14 96. The Defendant also reiterated that the trip was not legitimate on the Storeyteller  
15 Website on or about May 2, 2017.

16 97. This is not true. The trip to Washington by me was on behalf of Storey County and  
17 was taken by me and former Storey County Commissioner and current Storey County Lobbyist, Bum  
18 Hess.

19 98. There was significant lobbying by Mr. Hess and I regarding the zip code bill in  
20 Congress and meetings with Nevada Senator Dean Heller and Congressional staff regarding the  
21 same.

22 99. This was and is an issue where millions of dollars are at issue for Storey County.

23 100. Moreover, the cost of the trip to the County was minimal compared to the potential  
24 gain.

25 101. In addition, Mr. Hess and I had a lengthy private lunch and meeting with retired  
26 Congressman Jon Porter, who is the Storey County lobbyist in Washington, along with his staff.

27 102. In this meeting, Mr. Hess and I covered all the major issues where action is wanted  
28 in Congress, including the zip code issue.

1           103. On or around April 18, 2017, the Defendant wrote on the Storeyteller Website that  
2 I receive special considerations regarding the rules and regulations; specifically, the Defendant  
3 wrote: "That's irked Gilman, who appears to believe that all citizens are created equal – but he  
4 should be treated more equal than others."

5           104. In addition, on or around December 3, 2017, the Defendant wrote on the Storeyteller  
6 Website:

7                   Special Interests

8                   The Commissioner Lance Gilman – TRIC Special Interest merry-go-round that gives  
9 Mr. Gilman and TRIC access to the Storey County check book, tax coffers, real  
property and special consideration regarding rules and regulations.

10           105. This is not true. I neither expect nor receive any special consideration regarding rules  
11 and regulations.

12           106. The Defendant in his papers failed to mention a single incident where this occurred.  
13 I also don't have "access" to Storey County Checks, tax revenue or property.

14           107. On or about May 20, 2017, the Defendant wrote that I represented to him that I would  
15 reimburse the expenses incurred by Storey County, Nevada for the recall election of the Sheriff of  
16 Storey County, held in 2017, and other expenses incurred by Storey County, Nevada for the ethics  
17 investigation into the Sheriff of Storey County.

18           108. Although the Defendant may argue that this is "satire," the statements are still false  
19 and defamatory. This supposed conversation never happened. I have never made such a statement.

20           109. It implies that I have directly and improperly caused Storey County much unwarranted  
21 expense and basically embezzled funds by filing a false claim for expenses.

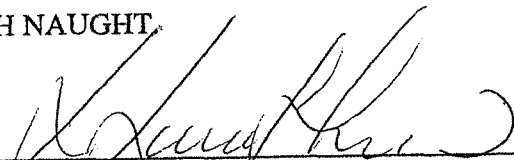
22           110. The Defendant's series of false and defamatory clearly impute that I am unethical and  
23 or criminally predisposed. They falsely accusing me of engaging in criminal behavior.

24           111. The Defendant's false and defamatory statement s further impute my lack of fitness  
25 for trade, business or profession, falsely imputes my dishonesty, lack of fair dealing, want of fidelity,  
26 integrity or business ability, and or tend to injure me in my trade, business or profession.

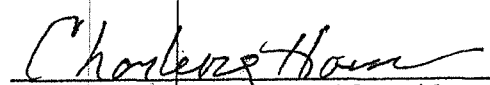
27           112. Because I am the face of TRI and other business ventures, there is no telling how  
28 much damage has been caused by the Defendant to my reputation.

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FURTHER YOUR AFFIANT SAYETH NAUGHT.

  
LANCE GILMAN

SUBSCRIBED AND SWORN to before me  
on this 21<sup>st</sup> day of February, 2018.

  
NOTARY PUBLIC in and for said  
County and State

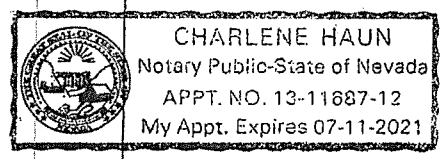
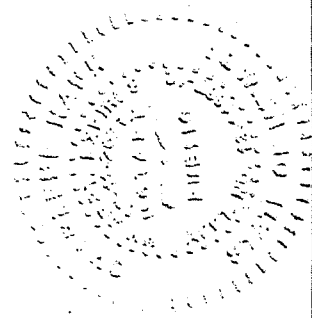


Exhibit 7

Exhibit 7

All data on this form is for use by the Washoe County Assessor for assessment purposes only.

Owner Information & Legal Description				Building Information			
APN	055-282-02	Card 1 of 1		Property Name:			
Situs	199 STEPTOE LN			Quality	R30 Average	Building Type	Sgl Fam Res
Owner 1	GILMAN, L LANCE			Stories	SINGLE STORY		
Owner 2 or Trustee				Year Built	1977	Square Feet	1,620
Owner 3 or Trustee				Weighted Average Year	1977	Square Feet does not include Basement or Garage Conversion Area.	
Mail Address	199 STEPTOE LN			Bedrooms	3	Click here for Improvement Details (building sq ft, Yard Items, etc).	
Copy to Clipboard	WASHOE VALLEY NV 89704			Full Baths	2	Finished Bsmt	0
Keyline Desc	BAER LT 9 BLK B			Half Baths	0	Unfin Bsmt	0
Subdivision	BAER SUBDIVISION			Fixtures	9	Bsmt Type	
Lot 9 Block B	Section		Township 16	Fireplaces	1	Gar Conv Sq Feet	0
	Range 19			Heat Type	FA	Total Garage Area	462
Record of Survey Map : Parcel Map# : Sub Map# 668				2nd Heat Type		Garage Type	ATTACHED
Special Property Code				Exterior Walls	SIDING/FR	Detached Garage	2025
2018 Tax Dist	4000	Prior APN - -		2nd Ext Walls		Basement Gar Door	0
2017 Tax Dist	4000	Additional Tax Info		Roof Cover	WOOD SHAKE	Sub Floor	WOOD
Tax Cap Status	Low Cap Qualified Primary Residence			% Complete	100	Frame	FRAME
Last Activity/ Last Permit				Obso/Bldg Adj	0	Units/Bldg	1
				Construction Modifier	0	Units/Parcel	1

Up to 7 Sales/Transfer Records/Recorded Document (additional information/records)								
Grantor	Grantee	Doc #	Doc Date	DOR	Value/Sale Price	Adjusted Sale Price	Code	Notes
GILMAN FAMILY TRUST, LANCE	GILMAN, L LANCE	4599591	06/15/2016	200	0	0	3BGG	OUT OF TRUST
GILMAN, L LANCE	GILMAN FAMILY TRUST, LANCE	3667564	07/09/2008	200	0	0	3BGG	INTO TRUST
GILMAN, L LANCE & SHARON D	GILMAN, L LANCE	2925644	09/22/2003	200	0	0	3NTT	
	GILMAN, L LANCE & SHARON D	2128826	08/26/1997	200	200,000	0	2D	
		CHK	05/04/1993	200	153,000	0	2D	
		CHK	04/01/1977		40,000	0		

To view sale/transfer/or other recorded documents use EagleRecorder on the Recorder's web site.

Land Information (additional land information)			DOR Code	200	Close Code	0	IG Neighborhoods Map	
Land Use	200	Sewer	Septic	Street	Paved	Zoning	HDR Zoning Info	2018 Neighborhood
Size	2.744 Acre	Water	Well	Value Year	2018	Zoning Maps	Page 055-28   Book 055	2017 Neighborhood
								IGBG AH
								IGBG

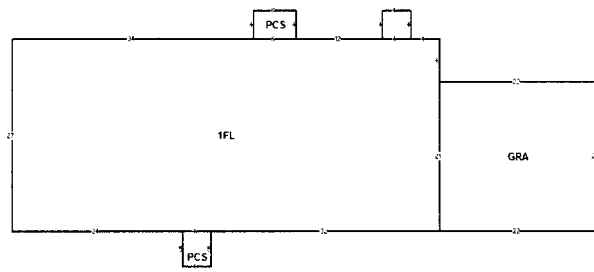
Zoning information should be verified with the appropriate planning agency.

Valuation Information (additional valuation information)									
2018 VN	Taxable Land	Taxable Improvement	Secured PP (rounded)	Taxable Total	Assessed Land	Assessed Improvement	Assessed Pers. Prop	Total Assessed	Supplemental New Const
2018/2019 NR	120,000	119,307	0	239,307	42,000	41,757	0	83,757	0
2017/2018 FV	110,000	121,121	0	231,121	38,500	42,392	0	80,892	0

The 2018/2019 Values are preliminary values and subject to change.

I, Cori Burke,  
Washoe County Assessor, do  
hereby certify that this is a true and  
accurate copy of the records of the  
Washoe County Assessor's Office.  
Cori Burke 5/17/18  
Signature Date





sketch code descriptions

This is a true and accurate copy of the records of the Washoe County Assessor's Office as of 05/16/2018.

## Exhibit 8

## Exhibit 8

APN: 055-282-02

LOCATION: 199 STEPTOE LN

NAME: GILMAN, L LANCE

**FILING DEADLINE: JUNE 15, 2008**

Due to a change the 2008/2009 "tax cap" has been set to the "HIGH CAP" and may result in a higher tax bill. Please return this form to our office by JUNE 15, 2008 to ensure the correct abatement is applied to your tax bill.  
The High Cap for tax year 2008/2009 is 8.0%.

**FILL IN THE APPROPRIATE OVAL(S) (●) below regarding the status of the property as of July 1, 2008. The form will not be processed if oval(s) are not filled in. See instructions on reverse side.**

- ☒ This property will be occupied as my **primary residence** on July 1, 2008.  
(NOTE: Your mobile home that you occupy qualifies as your primary residence even if you do not own the land)
- ☐ This property is occupied as the **primary residence of a family member** that does not pay rent.
- ☐ This is a **vacation home** and I:
- ☐ Do not own another home in Nevada.
  - ☐ Own another home in Nevada.
  - ☐ Rent it out when I am not using it.
- ☐ I also own an additional parcel(s) of land that **connects or shares a boundary line** with this parcel.  
Please provide the parcel number(s) of the parcel(s) that connect or share a boundary line with this parcel: \_\_\_\_\_

(OR)

- ☐ **THIS PROPERTY IS A RENTAL**  
**Provide the following information (see reverse side for further instructions)**

# of Bedrooms	Number of Rental Units of this type on the parcel	Maximum monthly rent charged for this type of unit April 1, 2007 through March 31, 2008.	Mark an "X" if Heat & Electric are included in rent.
Studio (0)			
1 bedroom			
2 bedrooms			
3 bedrooms			
4 bedrooms			
5 bedrooms			
Mobile Home Space*			

\*Only complete information for Mobile Home Space if you own the land.

I, Cori Burke  
Washoe County Family Assessor, do  
hereby certify that this is a true and  
accurate copy of the records of the  
Washoe County Assessor's Office.  
Cori Burke 5/17/18  
Signature Date

(OR)

- ☐ **NONE OF THE ABOVE APPLY**
- ☐ This property is under construction and will not be occupied until after July 1, 2008.
- ☐ This property is abandoned and no longer usable as a dwelling.
- ☐ I will not own this property as of July 1, 2008.
- ☐ This property is unoccupied and is being renovated or up for sale.
- ☐ Other. Please explain: \_\_\_\_\_

I affirm and certify under penalties pursuant to law that I am the owner of this property, the above information is true and accurate, and I will notify the Assessor's Office if this property is no longer used as described above.

**SIGNED** [Signature] Date 7-1-08 Daytime Phone # 775-412-7681

You will not receive the lower tax cap unless form is signed by the owner or their legal representative.  
You can verify your status at [www.washoecounty.us/assessor/cama](http://www.washoecounty.us/assessor/cama) or on your tax bill.

**DEADLINE TO APPEAL 2008/2009 ABATEMENT IS JANUARY 15, 2009.**

This section is for use by the Washoe County Assessor's Office only.

☐ QLC

☐ QHC

☐ QLCR

☐ QHCR

☐ DNQ

☐ NS

Toll - Appx. - 001257

2ND REQUEST. Another form will NOT be mailed for this property unless there is a change in ownership or mailing address.



## Exhibit 9

## Exhibit 9

A.P.N.: 055-282-02  
File No: 121-2503321 (MLR)  
R.P.T.T.: \$0

DOC #4599591

06/15/2016 11:04:02 AM  
Electronic Recording Requested By  
FIRST AMERICAN TITLE RENO  
Washoe County Recorder  
Lawrence R. Burtness  
Fee: \$18.00 RPTT: \$0  
Page 1 of 2

When Recorded Mail To: Mail Tax Statements To:  
L. Lance Gilman  
199 Steptoe Lane  
Washoe Valley, NV 89704

***GRANT, BARGAIN and SALE DEED***

*FOR A VALUABLE CONSIDERATION*, receipt of which is hereby acknowledged,

Leonard Lance Gilman, Trustee of the Lance Gilman Family Trust dated November 9, 2007

do(es) hereby *GRANT, BARGAIN and SELL* to

L. Lance Gilman, an unmarried man

the real property situate in the County of Washoe, State of Nevada, described as follows:

**LOT 9 IN BLOCK B, OF BAER SUBDIVISION, WASHOE COUNTY, NEVADA, ACCORDING TO THE MAP THEREOF, FILED IN THE OFFICE OF THE COUNTY RECORDER OF WASHOE COUNTY, STATE OF NEVADA, ON OCTOBER 24, 1960, AS TRACT MAP NO. 668.**

Subject to

1. All general and special taxes for the current fiscal year.
2. Covenants, Conditions, Restrictions, Reservations, Rights, Rights of Way and Easements now of record.

*TOGETHER* with all tenements, hereditaments and appurtenances, including easements and water rights, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or profits thereof.

Date: 05/31/2016



JOHN L. MARSHALL  
SBN 6733  
570 Marsh Avenue  
Reno, Nevada 89509  
Telephone: (775) 303-4882  
[johnladuemarshall@gmail.com](mailto:johnladuemarshall@gmail.com)

Electronically Filed  
Mar 18 2019 10:32 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Luke Andrew Busby, Ltd.  
Nevada State Bar No. 10319  
316 California Ave #82  
Reno, NV 89509  
775-453-0112  
[luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)

**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 6

1. Reply to Supplemental Opp to Anti-SLAPP Motion 6-4-2018: Nos. 1042-1260

Respectfully submitted March 18, 2019:

By:   
JOHN L. MARSHALL  
SBN 6733  
570 Marsh Avenue  
Reno, Nevada 89509  
Telephone: (775) 303-4882  
johnladuemarshall@gmail.com

Luke Andrew Busby, Ltd.  
Nevada State Bar No. 10319  
316 California Ave #82  
Reno, NV 89509  
775-453-0112  
luke@lukeandrewbusbyltd.com

## 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);

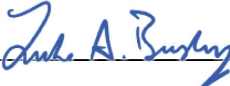
xxxx depositing for mailing in the U.S. mail, with sufficient postage affixed thereto; or,

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

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

GUS W. FLANGAS  
JESSICA K. PETERSON  
Flangas Dalacas Law Group  
3275 South Jones Blvd. Suite 105  
Las Vegas, NV 89146  
702-307-9500  
F - 702-382-9452

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