

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

STAVROS ANTHONY, an individual,

Appellant,

v.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government  
entity; ROSS MILLER, an individual,

Respondents.

Supreme Court No. 82269

District Case No. 20-82187-1  
Electronically Filed  
Jan 07 2021 05:30 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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**APPENDIX TO APPELLANT'S OPENING BRIEF  
VOLUME II of II**

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HUTCHISON & STEFFEN, PLLC

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### Chronological Index

Doc No.	Description	Vol.	Bates Nos.
1	Complaint; filed 11/17/2020	I	AA000001-AA000010
2	Transcript of Proceedings; hearing held 11/20/2020	I	AA000011-AA000028
3	Intervenor Complaint; filed 11/24/2020	I	AA000029-AA000043
4	Motion for Preliminary Injunction; filed 11/25/2020	I	AA000044-AA000076
5	Transcript of Proceedings; hearing held 11/30/2020	I	AA000077-AA000101
6	Reply in Support of Motion for Preliminary Injunction; filed 11/30/2020	I	AA000102-AA0000111
7	Response to Motion for Preliminary Injunction; filed 11/30/2020	I	AA000112-AA000124
8	Transcript of Proceedings; hearing held 11/30/2020	I	AA000125-AA000149
9	First Amended Complaint in Intervention; filed 12/01/2020	I	AA000150-AA000165
10	Stipulation and Order; filed 12/01/2020	I	AA000166-AA000169
11	Order Denying Preliminary Injunction; filed 12/04/2020	I	AA000170-AA000171
12	Motion for a Writ of Mandamus; filed 12/10/2020	I, II	AA000172-AA000320
13	Opposition to Motion for a Writ of Mandamus; filed 12/14/2020	II	AA000321-AA000331
14	Supplement to Opposition to Motion for a Writ of Mandamus; filed 12/14/2020	II	AA000332-AA000337

15	Joinder to Opposition to Motion for a Writ of Mandamus; filed 12/14/2020	II	AA000338-AA000340
16	Reply in Support of Motion for a Writ of Mandamus; filed 12/16/2020	II	AA000341-AA000372
17	Notice of Entry of Order Denying Motion for Preliminary Injunction; filed 12/19/2020	II	AA000373-AA000377
18	Notice of Appeal; filed 12/29/2020	II	AA000378-AA000380
19	Order Denying Motion for a Writ of Mandamus; filed 12/31/2020	II	AA000381-AA000383
20	Notice of Entry of Order Denying Motion for a Writ of Mandamus; filed 12/31/2020	II	AA000384-AA000388
21	Amended Notice of Appeal; filed 01/01/2021	II	AA000389-AA000391
22	Order Dismissing Complaint in Intervention; filed 01/06/2021	II	AA000392-AA000394
23	Notice of Entry of Order Dismissing Complaint in Intervention; filed 01/06/2021	II	AA000395-AA000400
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9	First Amended Complaint in Intervention; filed 12/01/2020	I	AA000150-AA000165

3	Intervenor Complaint; filed 11/24/2020	I	AA000029-AA000043
15	Joinder to Opposition to Motion for a Writ of Mandamus; filed 12/14/2020	II	AA000338-AA000340
12	Motion for a Writ of Mandamus; filed 12/10/2020	I, II	AA000172-AA000320
4	Motion for Preliminary Injunction; filed 11/25/2020	I	AA000044-AA000076
18	Notice of Appeal; filed 12/29/2020	II	AA000378-AA000380
20	Notice of Entry of Order Denying Motion for a Writ of Mandamus; filed 12/31/2020	II	AA000384-AA000388
17	Notice of Entry of Order Denying Motion for Preliminary Injunction; filed 12/19/2020	II	AA000373-AA000377
23	Notice of Entry of Order Dismissing Complaint in Intervention; filed 01/06/2021	II	AA000395-AA000400
13	Opposition to Motion for a Writ of Mandamus; filed 12/14/2020	II	AA000321-AA000331
19	Order Denying Motion for a Writ of Mandamus; filed 12/31/2020	II	AA000381-AA000383
11	Order Denying Preliminary Injunction; filed 12/04/2020	I	AA000170-AA000171
22	Order Dismissing Complaint in Intervention; filed 01/06/2021	II	AA000392-AA000394
16	Reply in Support of Motion for a Writ of Mandamus; filed 12/16/2020	II	AA000341-AA000372
6	Reply in Support of Motion for Preliminary Injunction; filed 11/30/2020	I	AA000102-AA0000111
7	Response to Motion for Preliminary Injunction; filed 11/30/2020	I	AA000112-AA000124
24	Second Amended Notice of Appeal; filed 01/06/2020	II	AA000401-AA000403

10	Stipulation and Order; filed 12/01/2020	I	AA000166- AA000169
14	Supplement to Opposition to Motion for a Writ of Mandamus; filed 12/14/2020	II	AA000332- AA000337
2	Transcript of Proceedings; hearing held 11/20/2020	I	AA000011- AA000028
5	Transcript of Proceedings; hearing held 11/30/2020	I	AA000077- AA000101
8	Transcript of Proceedings; hearing held 11/30/2020	I	AA000125- AA000149

## **CERTIFICATE OF SERVICE**

I certify that I am an employee of HUTCHISON & STEFFEN, PLLC and that on the 7<sup>th</sup> day of January, 2021 the foregoing **APPENDIX TO APPELLANT’S OPENING BRIEF VOLUME II of II** was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list below.

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*Clark County Board of Commissioners*

*/s/ Kaylee Conradi*

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An Employee of Hutchison & Steffen, PLLC

1 truth that Mr. Gloria's Affidavit restates what he said to  
2 the County Commission. But, important is what he doesn't  
3 say is by the power invested in me by 293.465, he doesn't  
4 use the word: Prevented. There's no claim any ballots are  
5 decreasing or there was a prevention. There are none of  
6 the things that .465 would require, if someone is seeking  
7 the drastic and incredibly rare, you know, relief of the --  
8 essentially the canceling of an election.

9         And, in fact, what Mr. Gloria doesn't say is that,  
10 yes, there would be discrepancies. And as counsel pointed  
11 out, sometimes people sign in and don't vote. Sometimes  
12 people vote that didn't sign in. Those things happen in  
13 every election and Mr. Gloria realizes these are the usual  
14 anomalies in every statistical audit or [indiscernible] of  
15 what happens in an election. It does not mean there are  
16 139 people who voted who shouldn't have. It doesn't mean  
17 that there's a stack of ballots somewhere that Mr. Gloria  
18 needs to count but didn't. In fact, he would have said  
19 that. Mr. Gloria counted every ballot he was supposed to,  
20 didn't count any that he wasn't supposed to, and he gave  
21 his report. And that's the end to the story.

22         You cannot ever prevent an election with 150,000  
23 people, voting into the race, 139 unidentifiable,  
24 unresolvable, but normal statistical anomalies with a sign-  
25 in sheet and say that the election was prevented. No other

1 race of the other districts, assembly, or state senate,  
2 with any information the Commission has received were  
3 prevented. So, you cannot say an election was prevented.  
4 What was prevented by the results themselves was Mr.  
5 Anthony's goal of leading the election until the final  
6 results came in. That's not the same thing.

7           So, I mean, it just -- it strikes us very clearly  
8 that that there are no grounds either to enjoin the Board  
9 from doing this whatever -- discretionary duties, well, he  
10 has no idea what they're going to do. We have no idea if  
11 they're going to keep it on, if they're going to  
12 reconsider, if they're going to fail to reconsider it.  
13 They're going to -- we don't know. But they get to do  
14 whatever they're going to do, all right, and the  
15 legislative body with an agenda item placed, the Board.

16           So, I mean, it is -- it's very clear to us that  
17 the duty of canvassing is mandatory and enforcing the  
18 [indiscernible] does not apply because no election was  
19 prevented.

20           And, so, I'd be happy to answer any questions that  
21 you have, Your Honor, but we'll submit it on that.

22           THE COURT: Thank you, Mr. Schrager. Ms. Miller,  
23 do you have anything you'd like to add?

24           MS. MILLER: Just that I agree with Mr. Schrager  
25 that the County Commission should take heed of whatever the



1 Court does today. If the Court -- because I don't think  
2 the arguments are going to change in a week or so. So, if  
3 the Court has already determined that it is a ministerial  
4 duty or, in the alternative, that the Board has a mandatory  
5 duty for a special election, the sooner we know the better.

6 THE COURT: Okay. Mr. Hutchison.

7 MR. HUTCHISON: Your Honor, a couple of different  
8 points. I just -- I want to just bring up aside, this is  
9 not *Cherchio*. There is evidence that has been presented of  
10 an election having been prevented. Let me just respond to  
11 my opposing counsel's argument about statutes, that you --  
12 coming up, and the Court's ordered to, and Mr. Schrager  
13 cited at the end, as he had in his briefing, NRS 293.3872  
14 subsection (a), and he emphasized that's where the  
15 Commission is commanded to note separately any clerical  
16 errors discovered. And, then, essentially, you know, the  
17 argument is: Well, that just is merely a ministerial act  
18 then. You then simply note those errors that were found by  
19 Mr. Gloria and that becomes a part of your canvass, and  
20 that's -- they need canvass, but that's not before reading  
21 the statute.

22 Subsection (b) continues: And take into the  
23 account of the changes resulting of discovery so that  
24 the result declared represents the true vote cast.

25 That is what Mr. Gloria did on November 16<sup>th</sup>. He

1 went before the County Commission at great pressure, great  
2 stress, I'm sure, to himself, and said: I cannot declare  
3 to you that Commission C represents the true vote cast. I  
4 can't do it.

5 And, when you pair that, Your Honor, with the  
6 legislative directive of NRS 293.127(1)(c), that the  
7 statutes are to be:

8 Liberally construed to the end that: The real  
9 will of the electors is not defeated.

10 Now, I think, Your Honor, the argument that this  
11 is a ministerial task when you're presented with 139  
12 discrepancies that make your election official, the  
13 official who the Clark County Commission themselves  
14 appointed for purposes of running a fair election, and you  
15 call that into question, that the statutory provisions that  
16 are relied upon by the plaintiff simply are not satisfied,  
17 Your Honor.

18 They also continue to cite in the brief, you know,  
19 that the Board meets after each general election, canvass  
20 the election, and return to the matter provided by law.  
21 And, as counsel said, that's statutory law, including NRS  
22 293.465. They also point to NRS 234.146, which mandates  
23 that:

24 Express -- except as expressly authorized by  
25 statute, the Board of County Commissioners shall not

1 order or conduct an election.

2 Well, NRS 293.465 is that statute, Your Honor.

3 So, Your Honor, the Court needs to take into  
4 consideration, and the Court has done this many, many  
5 times, as we all know, the entire lay of the land when it  
6 comes to the statutory obligations and duties. If, in  
7 fact, you rule in favor of the plaintiff, you are writing  
8 out of existence NRS 293.465. You are saying that, in  
9 fact, the County Commission and the City Council does not  
10 have the discretion, or the authority, or is not mandated,  
11 when their own election official comes before them and  
12 calls into question whether or not the -- an election  
13 result reflects the vote of the people.

14 And the only thing you can do is just go to a  
15 recount or go to election contest, neither of which result  
16 in a new election, neither of which result in a new  
17 election. It wipes the remedy out of the law, Your Honor.  
18 And *LaPorta* is contrary to that. *LaPorta* does not require  
19 any particular showing by the election official as to how  
20 it's prevented. The Court, itself, determined that the  
21 facts of the case resulted in a prevented election. And  
22 that's what we are asking the Court to do here as well,  
23 Your Honor, that, in fact, because of what Mr. Gloria has  
24 done, he went before the County Commission. He said  
25 there's 139 discrepancies in an election that was decided

1 by 10 votes and I really have serious doubts whether or not  
2 the election tally reflects the will of the people, the  
3 will of the elector. I'm asking, I'm recommending for a  
4 new election. And the County Commission did the right  
5 thing at that point. They didn't certify and they called  
6 for a new election. We're not asking that this Court issue  
7 a mandatory injunction. We're simply saying that the Court  
8 prevent the County Commission from doing what it already  
9 did, legally, and was mandated -- and what it was mandated  
10 to do.

11 My final point, Your Honor, is this. If, in fact,  
12 the Court is not going to grant us relief, the idea that  
13 this accelerates everything, and there's no need for a  
14 hearing is something that we don't agree with and certainly  
15 don't agree that discovery is otherwise eliminated. The  
16 Court's already ordered or at least the parties to  
17 stipulate to it at this point.

18 THE COURT: Thank you. The Motion for a  
19 Preliminary Injunction or Temporary Restraining Order is  
20 denied. NRS 293.465 is clear that the election must be  
21 prevented. There are a number of ways it could be  
22 prevented that don't include natural disasters. There  
23 could be an accident that is transmitting the vehicle that  
24 has the thumb drives in it. There's a lot of different  
25 ways the election could have been prevented. That is not

1 what is included in Mr. Gloria's affidavit. There are  
2 discrepancies of 139. That does not mean that there was  
3 any election that was prevented in any precinct or  
4 district.

5           While I read the statute more broadly than Mr.  
6 Schrager does, it does not fall -- the Affidavit does not  
7 fall within the scope of NRS 293.465. For that reason, I  
8 am not going to enjoin the County Commission from  
9 addressing whatever it thinks appropriate to do tomorrow at  
10 their meeting. I do have, on December 4<sup>th</sup>, which is this  
11 Friday, your hearing on my chamber's calendar on the writ  
12 of prohibition. I will await the remaining briefs before  
13 I tell you my opinion on the writ that Mr. Schrager is  
14 seeking.

15           So, Mr. Schrager, if you would please prepare an  
16 Order, submit to Mr. Hutchison and Ms. Miller. Please have  
17 fun tomorrow morning at the County Commission meeting.

18           MR. SCHRAGER: Your Honor, I will indeed, Your  
19 Honor. I also pointed out, if it helps at all, that the --  
20 the stipulations regarding dec relief of the remainder of  
21 the case, --

22           THE COURT: Yeah. It --

23           MR. SCHRAGER: -- Wednesday and the brief 30 days  
24 from today. And, so, --

25           THE COURT: It --

1           MR. SCHRAGER: -- the December 4<sup>th</sup> status check, we  
2 had had a little trouble getting scheduling for Mr.  
3 Gloria's deposition and nobody wanted to file briefs prior  
4 to that, so there's a schedule in the stipulation that may  
5 cross Your Honor forsaking status hearing or hearing on the  
6 4<sup>th</sup> and reset along the lines that are suggested.

7           THE COURT: I know, but I'm going to look on  
8 December 4<sup>th</sup> to see if I have all the briefs yet. And, if I  
9 have all the briefs, I'll issue a minute order. If I  
10 don't, I'll continue it until I get all the briefs.

11          MR. SCHRAGER: Thank you.

12          THE COURT: I saw your stipulation and Dan filed  
13 it, but we kept the December 4<sup>th</sup> date just so that we can  
14 make sure we decide as quickly as we are able, given the  
15 pending deadline. I think the meeting that you want me to  
16 have a decision for is prior to December 18<sup>th</sup>.

17          MR. SCHRAGER: Very good.

18          MR. HUTCHISON: That's right, Your Honor.

19          THE COURT: All right. Anything else?

20          MR. SCHRAGER: Thank you very much, Your Honor.

21          THE COURT: Everyone stay well. Ms. Miller, I  
22 hope you're feeling better.

23 ...

24 ...

25 ...

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MS. MILLER: Thank you, Your Honor.

THE COURT: All right. Be well. We will be in  
recess.

PROCEEDING CONCLUDED AT 1:27 P.M.

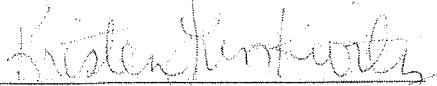
\* \* \* \* \*

**CERTIFICATION**

I certify that the foregoing is a correct transcript from the audio-visual recording of the proceedings in the above-entitled matter.

**AFFIRMATION**

I affirm that this transcript does not contain the social security or tax identification number of any person or entity.



KRISTEN LUNKWITZ  
INDEPENDENT TRANSCRIBER



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EXHIBIT PAGE ONLY

## EXHIBIT 8

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

**Ross Miller**

**v.**

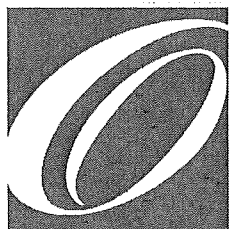
**Clark County Board of Commissioners**

**Transcript of**

**Joseph P. Gloria**

**Volume I**

**December 7, 2020**



**OASIS**  
**REPORTING SERVICES**

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1 EIGHTH JUDICIAL DISTRICT COURT  
2 IN AND FOR CLARK COUNTY, STATE OF NEVADA

3 ROSS MILLER, an )  
individual, )  
4 Plaintiff/Petitioner, ) CASE NO.:  
5 ) A-20-824971-W  
vs. )  
6 )

7 CLARK COUNTY BOARD OF )  
COMMISSIONERS, a local )  
government entity; and )  
8 DOES I-X, inclusive, )  
9 Defendant. )

10 STAVROS ANTHONY, an )  
individual, )  
11 Intervenor-Plaintiff, )  
12 vs. )  
13 )

14 CLARK COUNTY BOARD OF )  
COMMISSIONERS, a local )  
government entity; ROSS )  
15 MILLER, an individual, )  
and DOES I-X, inclusive, )  
16 Defendant. )  
17 )

18 VIDEOCONFERENCED DEPOSITION OF JOSEPH P. GLORIA  
19

20 Taken on Monday, December 7, 2020  
At 1:00 p.m.  
21 By a Certified Court Reporter  
At 10080 West Alta Drive  
22 Las Vegas, Nevada  
23

24 Reported By: Karen L. Jones, CCR NO. 694  
25 Job No.: 42907

1	2	4
2	1	PROCEEDINGS
3	2	*****
4	3	(Exhibit 1 through 7 marked.)
5	4	
6	5	JOSEPH P. GLORIA,
7	6	having been first duly sworn to testify to the
8	7	truth, the whole truth, and nothing but the truth,
9	8	was examined and testified as follows:
10	9	
11	10	EXAMINATION
12	11	BY MR. REYNOLDS:
13	12	Q. Mr. Gloria, thank you so much for coming
14	13	today and everybody else for accommodating this.
15	14	Given that we're going over Zoom, I'm just going to
16	15	go over some of the ground rules.
17	16	Mr. Gloria, have you been deposed
18	17	previously?
19	18	A. Yes, I have.
20	19	Q. How many times have you been deposed
21	20	previously?
22	21	A. Probably three or four times in the
23	22	recent future -- recent past. I'm sorry.
24	23	Q. Okay. And so I'm just going -- since
25	24	we're doing this over Zoom, I want you to know that
	25	if you don't hear me or don't understand a question,
1	3	5
2	1	just -- you know, I can see you, so you can raise
3	2	your hand and say I didn't understand. Let me know.
4	3	But if you answer a question, I'm going to assume
5	4	you understood it. Okay?
6	5	A. That's fair.
7	6	Q. Okay. And also if you have anything
8	7	that you say on the record today and you want to
9	8	clarify it -- you know that we're in an expedited
10	9	case here, so if there's anything that you would
11	10	like to clarify or if you think I take something you
12	11	said out of context, can you please just once again
13	12	let me know that you want to change what you said or
14	13	clarify what you've said on the record so we have
15	14	that today. Is that okay?
16	15	A. Yes, it is.
17	16	Q. All right. Now, if we ever need to take
18	17	any breaks or if you need to take a break, just let
19	18	me know, I'm not -- I mean, we are on an expedited
20	19	case, but if you need to do anything, we can
21	20	certainly take breaks. After every break, I will do
22	21	my best to ask you if you have anything to add to
23	22	your previous testimony or clarify, but if I don't,
24	23	please, once again, I'm perfectly willing to have
25	24	you volunteer it. Okay?
	25	A. Thank you.



<p>6</p> <p>1 Q. All right. And you're doing a great job</p> <p>2 right now. We just need to make sure that as I am</p> <p>3 asking questions, that if you have any -- that you</p> <p>4 allow me to finish asking the question before you</p> <p>5 respond.</p> <p>6 You're doing well right now, but there's</p> <p>7 a reporter here taking down everything we say. This</p> <p>8 is not being video recorded even though we're all on</p> <p>9 video currently. So just so you know, she needs to</p> <p>10 take down everything we say and it helps if we don't</p> <p>11 talk over each other. Okay?</p> <p>12 <b>A. Makes sense.</b></p> <p>13 Q. All right. Now, is there any reason why</p> <p>14 you cannot give your full and honest testimony</p> <p>15 today?</p> <p>16 <b>A. Not that I know of.</b></p> <p>17 Q. And do you understand that the oath that</p> <p>18 the court reporter has administrated is equivalent</p> <p>19 to you agreeing to testify honestly as if you were</p> <p>20 in a court of law?</p> <p>21 <b>A. Yes, sir.</b></p> <p>22 Q. Okay. Do you understand that I</p> <p>23 represent Stavros Anthony in this case?</p> <p>24 <b>A. Yes, I do.</b></p> <p>25 Q. And you understand that Stavros was a</p>	<p>8</p> <p>1 Q. So as registrar, how many elections were</p> <p>2 you responsible for canvassing in the November 2020</p> <p>3 general election?</p> <p>4 <b>A. City of Mesquite and Clark County.</b></p> <p>5 Q. Do you know how many, like, total</p> <p>6 candidates or total races you had to canvas?</p> <p>7 <b>A. Not off the top of my head.</b></p> <p>8 Q. Was it over a hundred?</p> <p>9 <b>A. Easily.</b></p> <p>10 Q. Was it over 150?</p> <p>11 <b>A. I believe so.</b></p> <p>12 Q. And did you recommend as part of your</p> <p>13 duties as registrar, that there be a new election</p> <p>14 for any particular race based on your canvas of the</p> <p>15 2020 General Election?</p> <p>16 <b>A. I believe I reported that the</b></p> <p>17 <b>discrepancies in Clark County District C surpassed</b></p> <p>18 <b>the margin of votes.</b></p> <p>19 Q. And did you make a recommendation that</p> <p>20 there be a new election in Clark County District C</p> <p>21 based on the discrepancies?</p> <p>22 <b>A. I don't think that was exactly the way</b></p> <p>23 <b>it was worded. I provided the report to the Board</b></p> <p>24 <b>of County Commissioners letting them know the</b></p> <p>25 <b>discrepancies surpassed the margin of victory, and I</b></p>
<p>7</p> <p>1 candidate for Clark County Commission District C in</p> <p>2 the November 2020 General Election, correct?</p> <p>3 <b>A. That is correct.</b></p> <p>4 Q. Are you the registrar for all elections</p> <p>5 that have Clark County as part of their district?</p> <p>6 <b>A. Yes, I am.</b></p> <p>7 Q. So there are some elections, like for</p> <p>8 example, Congressional District 4 only takes in part</p> <p>9 of Clark County. What is your role in the</p> <p>10 Congressional District 4 race?</p> <p>11 <b>A. I have to tally the votes for the</b></p> <p>12 <b>precincts that reside within Clark County for that.</b></p> <p>13 Q. And similarly, for a district like the</p> <p>14 Justice of the Peace of North Las Vegas, that's a</p> <p>15 municipality that's wholly enclosed within</p> <p>16 Clark County. What is your role with the Justice of</p> <p>17 the Peace election in North Las Vegas?</p> <p>18 <b>A. With all of the municipalities, we</b></p> <p>19 <b>support their elections so I serve as their</b></p> <p>20 <b>contractor for elections.</b></p> <p>21 Q. And so is your job the same for all the</p> <p>22 precincts across Clark County?</p> <p>23 <b>A. I would say that that's accurate,</b></p> <p>24 <b>managing the voter registration and conducting the</b></p> <p>25 <b>election, yes.</b></p>	<p>9</p> <p>1 <b>don't have the authority to do so.</b></p> <p>2 Q. Was Clark County District C the only</p> <p>3 race wherein the number of discrepancies was more</p> <p>4 than the vote differential?</p> <p>5 <b>A. Than the margin of victory, yes, sir,</b></p> <p>6 <b>that was the only contest.</b></p> <p>7 Q. Now, I have given you a proposed</p> <p>8 transcript of the hearing before the Clark County</p> <p>9 Commission on November 16th, 2020.</p> <p>10 Did you have an opportunity to review</p> <p>11 that prior to this Zoom call?</p> <p>12 <b>A. Yes, I did.</b></p> <p>13 Q. Did you find --</p> <p>14 MR. SCHRAGER: Just one second, Jacob.</p> <p>15 Can I ask you on the record how and when this was</p> <p>16 prepared and why it doesn't say -- have an affidavit</p> <p>17 or a declaration just so we're clear for the record?</p> <p>18 MR. REYNOLDS: Excellent. So, yes.</p> <p>19 This is being submitted -- attached to the -- to the</p> <p>20 transcript as -- excuse me, this transcript as being</p> <p>21 attached to our deposition today as Exhibit 4.</p> <p>22 The only thing that it is is my office's</p> <p>23 attempt to transcribe the video record of --</p> <p>24 Clark County's video record, and we admit openly</p> <p>25 officially that the video is the official record,</p>

<p>10</p> <p>1 but given how this deposition's taking place over 2 Zoom, we wanted to provide a transcript to 3 Mr. Gloria of what we believe was said. 4 MR. SCHRAGER: Okay. Will you be 5 providing an official sort of declared or an 6 affidavit-based transcript as evidence, or will you 7 be putting this before the court? 8 MR. REYNOLDS: I may put it before the 9 court, but we're also going to be submitting the 10 video record to the court. 11 MR. SCHRAGER: Okay. 12 MR. REYNOLDS: So we're counting on the 13 video record being the official record. 14 MR. SCHRAGER: Okay. 15 BY MR. REYNOLDS: 16 Q. So, Mr. Gloria, in your review of 17 Exhibit 4, did you find any problems with what was 18 attributed to you? 19 A. <b>No, I did not.</b> 20 Q. Is there anything -- as you reviewed the 21 transcript attached as Exhibit 4, was there anything 22 that stood out to you that seemed incorrect that you 23 would like to revise or change? 24 A. <b>No, sir, not in my review.</b> 25 Q. Okay. I'm going to go to Exhibit 1 now,</p>	<p>12</p> <p>1 Q. And do you know when you prepared this 2 affidavit? 3 A. <b>I can easily get that information for 4 you. I'd be happy to go get the sign-in sheet, but 5 I'm sorry, there's been a lot going on. I don't 6 have it all straight.</b> 7 Q. That's fine. All right. 8 Did you discuss this affidavit with 9 anybody prior to submitting it to the Clark County 10 Commission? 11 A. <b>My civil DA representative.</b> 12 Q. Other than -- and is that Mary-Anne 13 Miller? 14 A. <b>That is correct.</b> 15 Q. Other than with your attorney, was there 16 anybody else that you discussed this affidavit with 17 before you submitted to the Commission? 18 A. <b>No, sir. No, I did not.</b> 19 Q. Did you read the document before you 20 signed it? 21 A. <b>Yes, I did.</b> 22 Q. Do you agree that the information in 23 this document is true? 24 A. <b>Yes.</b> 25 Q. Why did you prepare this document?</p>
<p>11</p> <p>1 which is your affidavit. Do you have that? 2 A. <b>Yes, I do.</b> 3 Q. Do you recognize this document? 4 A. <b>I do.</b> 5 Q. Do you remember when you prepared this 6 document? 7 A. <b>It would be on the date that it was 8 notarized.</b> 9 Q. Did you personally prepare the document? 10 A. <b>Notarized on page 2? It doesn't have a 11 date on it, though. I recognize the document, but I 12 couldn't tell you exactly what date without looking 13 at the notary's declaration sheet. I can get that 14 information.</b> 15 Q. Maybe if it will refresh your 16 recollection just to recount some of the history on 17 the case. On November 16th, was the vote from the 18 Clark County Commission to hold a new election, and 19 then on the 20th, that Friday, was a hearing before 20 the court, and on -- the 23rd was a Monday. And on 21 the 23rd, Monday, is when we get Exhibit 2, which is 22 Stavros Anthony's letter to the Commission. 23 Does that help you understand when you 24 prepared your affidavit? 25 A. <b>Yes.</b></p>	<p>13</p> <p>1 A. <b>I was instructed to do so by my civil DA 2 representative.</b> 3 Q. And in the first paragraph of the 4 document it says that "I am the Registrar of Voters 5 for Clark County, and this declaration formalizes 6 the statements I made to the Commissioners on 7 November 16th, 2020, during the canvas of the 2020 8 General Election." 9 Did I read that correctly? 10 A. <b>Verbatim, it looks like.</b> 11 Q. Okay. And was it your intent to 12 essentially incorporate by reference your testimony 13 before the Clark County Commission on November 16th, 14 2020, when you made this affidavit? 15 A. <b>Yes.</b> 16 Q. All right. Before you submitted this -- 17 so I've given you as Exhibit 3 a copy of the statute 18 NRS 293.465. Do you have that? 19 A. <b>Yes, I do.</b> 20 Q. Okay. And were you aware -- have you 21 read NRS 293.465 before? 22 A. <b>Yes, sir, I have.</b> 23 Q. And did you read this statute, 24 Exhibit 3, before you submitted your affidavit, 25 Exhibit 1?</p>

<p>14</p> <p>1 <b>A. At one point in time I know I read it,</b>  2 <b>but not right before it, no.</b>  3 Q. Okay. When you submitted your affidavit  4 in Exhibit 1, was it your understanding that you  5 were submitting the affidavit to comply with the  6 affidavit requirement in NRS 293.465?  7 <b>A. No, I don't believe I correlated the</b>  8 <b>two. I simply was following the directive given to</b>  9 <b>me in preparing the affidavit by my civil DA.</b>  10 Q. Okay. In the Clark County Commission  11 district hearing on November 16, 2020, Larry Brown  12 alluded to private meetings that he had had to be  13 informed about the issue of County Commission  14 District C.  15 So my question is, did you participate  16 in any private meetings with Clark County  17 Commissioners to inform them about the voting  18 discrepancies in District C?  19 <b>A. No, sir.</b>  20 MR. SCHRAGER: I'm sorry, Jacob, there's  21 some sort of associated noise. If everyone who  22 isn't open mic'd can mute or if there's something  23 else, that would be helpful, I think. I'm having a  24 hard time with the last set of questions.  25 MR. REYNOLDS: The only person I'm</p>	<p>16</p> <p>1 Exhibit 1, to the County Commission, did you  2 understand that Stavros Anthony was going to follow  3 up with a written application for a new election?  4 <b>A. I don't believe I did at the time.</b>  5 Q. Before you submitted your affidavit, did  6 you understand that Stavros -- never mind.  7 When did you become aware that Stavros  8 Anthony was going to apply for a new election?  9 <b>A. I don't have that date in my head. I'm</b>  10 <b>sorry. I know I saw this letter and I read it when</b>  11 <b>it was provided to me.</b>  12 Q. Okay. Maybe the question better asked  13 is, was receiving this letter the first time you  14 understood that Stavros Anthony was going to apply  15 for a new election?  16 <b>A. I believe officially, yes. I had heard</b>  17 <b>hearsay. Many people were talking about the</b>  18 <b>possibility.</b>  19 Q. When you received Stavros Anthony's  20 letter, Exhibit 2, was it your understanding that a  21 new election would be mandatory under NRS 293.465?  22 MR. SCHRAGER: I'm going to object to  23 that as calling for a legal conclusion, but he can  24 state his understanding.  25 ///</p>
<p>15</p> <p>1 seeing is Dominic. Does that resolve it?  2 MR. SCHRAGER: No, I think it's coming  3 from one of you two, then.  4 MR. REYNOLDS: Well, we don't have  5 anything here.  6 MR. SCHRAGER: Okay. Keep going.  7 BY MR. REYNOLDS:  8 Q. Can you look at Exhibit 2, please. It's  9 the letter from Stavros Anthony.  10 <b>A. Okay. It's in front of me.</b>  11 Q. Have you seen this document before?  12 <b>A. Yes, I have.</b>  13 Q. Do you recall when you received this  14 document?  15 <b>A. Well, I know it's dated November 23rd,</b>  16 <b>but, no, I couldn't tell you the exact date I got</b>  17 <b>it.</b>  18 Q. But do you specifically recall receiving  19 this document? I'm interested in the first time you  20 received it.  21 <b>A. I believe that I received it from my</b>  22 <b>civil DA representative. She would have e-mailed it</b>  23 <b>to me, I believe.</b>  24 Q. Okay. And before -- now, so I want to  25 go back. Before you submitted your affidavit,</p>	<p>17</p> <p>1 BY MR. REYNOLDS:  2 Q. Go ahead.  3 <b>A. Yes. I don't have the authority to call</b>  4 <b>for an election, so I wasn't under that assumption.</b>  5 <b>I knew it was a possibility.</b>  6 Q. I'm not asking whether or not you -- I'm  7 not asking whether or not you were going to call for  8 an election or whether or not you were going to  9 recommend a new election.  10 What I'm simply asking is what your  11 understanding is, understanding you're not an  12 attorney, but I'm just wondering as the Clark County  13 Registrar, did you have an understanding that once  14 Mr. Anthony submitted this application, that a new  15 election would be mandatory?  16 <b>A. No, I was not under that assumption. I</b>  17 <b>knew it was a possibility.</b>  18 Q. Mr. Gloria, is it your opinion that a  19 new election should be held in Clark County  20 Commission District C?  21 MR. SCHRAGER: I'm going to object to  22 that on --  23 <b>THE WITNESS: I --</b>  24 MR. SCHRAGER: -- basis, please.  25 <b>THE WITNESS: It's not under my purview</b></p>

<p>18</p> <p>1 to have an opinion based on that. What I do is</p> <p>2 report to the Board of County Commissioners what my</p> <p>3 discrepancies are, and it's up to them to give me</p> <p>4 direction as to what to do.</p> <p>5 BY MR. REYNOLDS:</p> <p>6 Q. In paragraph 3 of your -- going back to</p> <p>7 Exhibit 1. In paragraph 3 of your affidavit --</p> <p>8 A. Got it.</p> <p>9 Q. -- you identified 139 discrepancies in</p> <p>10 your canvas of the Clark County Commission District</p> <p>11 C race, correct?</p> <p>12 A. Yes, sir, we did.</p> <p>13 Q. All right. And you would agree that 139</p> <p>14 discrepancies represent just a small percentage of</p> <p>15 votes compared to the number of votes cast in the</p> <p>16 District C race, correct?</p> <p>17 A. Yes, I would agree with that.</p> <p>18 Q. And so what I would like to do,</p> <p>19 Mr. Gloria, is there's been a lot of attempt to tie</p> <p>20 Mr. Anthony to a lot of other election challenges</p> <p>21 that are happening, so what I want to do is</p> <p>22 distinguish what we're talking about here. Okay?</p> <p>23 So, for example, there have been a</p> <p>24 number of reports that in the primary election</p> <p>25 thousands of ballots were mailed out to people that</p>	<p>20</p> <p>1 Q. Okay.</p> <p>2 A. If I could, I'd like to clarify that</p> <p>3 statement.</p> <p>4 Q. Sure.</p> <p>5 A. Now, I can't really correlate those</p> <p>6 discrepancies to any one particular item. That's</p> <p>7 why they're discrepancies. I don't have any</p> <p>8 documentation in most of these cases. Some of those</p> <p>9 I do, and those are identified in the sheets that we</p> <p>10 provided. But the majority of these discrepancies</p> <p>11 are unknown discrepancies, so I couldn't tie them to</p> <p>12 anything.</p> <p>13 Q. Okay. Now, in your report -- in your</p> <p>14 report to the Clark County Commission on the audit,</p> <p>15 you identified that there are something like 60,000</p> <p>16 provisional ballots, and of those 60,000 provisional</p> <p>17 ballots, 115 of those ballots were not allowed</p> <p>18 because the person had already voted.</p> <p>19 Do you recall that testimony to the</p> <p>20 Commission?</p> <p>21 A. I do.</p> <p>22 Q. Okay. Then separately, you testified</p> <p>23 that six people voted twice. Do you recall that</p> <p>24 testimony?</p> <p>25 A. Yes, I do.</p>
<p>19</p> <p>1 were returned as undeliverable by the post office,</p> <p>2 yet thousands of those people still voted in the</p> <p>3 General Election.</p> <p>4 Are you familiar with this story?</p> <p>5 A. I am familiar with that, yes.</p> <p>6 Q. Okay. And that is not -- that kind</p> <p>7 of -- if you want to call it a problem, that issue</p> <p>8 is not relevant to these 139 ballots -- excuse me,</p> <p>9 139 discrepancies, correct?</p> <p>10 A. Well, I don't know if I would call those</p> <p>11 "issues;" the votes are still eligible. So if they</p> <p>12 got their ballot and sent it in, that was done</p> <p>13 legally. I wouldn't call those an issue. No, I</p> <p>14 wouldn't correlate one with the other.</p> <p>15 Q. Are those 139 discrepancies -- the 139</p> <p>16 discrepancies you related you found, are they</p> <p>17 related to that kind of thing?</p> <p>18 A. That type of issue?</p> <p>19 Q. Correct.</p> <p>20 A. No, sir.</p> <p>21 Q. Now, there's also been stories in the</p> <p>22 press about dead people voting. Are the 139</p> <p>23 discrepancies you identified related at all to dead</p> <p>24 people voting?</p> <p>25 A. No, sir.</p>	<p>21</p> <p>1 Q. Okay. Now, could you just tell me</p> <p>2 what's the difference between those 115 ballots that</p> <p>3 were denied for people already voting and the six</p> <p>4 people who voted twice?</p> <p>5 A. Well, the 115 provisionals that were</p> <p>6 rejected were as a result of them already voting in</p> <p>7 the mail tally type, and so we were able to identify</p> <p>8 that, and as a result, we did not count their</p> <p>9 provisional ballots, which were cast in person</p> <p>10 either during the early voting or Election Day</p> <p>11 cycle.</p> <p>12 The six individuals that we identified</p> <p>13 we used back-tabbed reports that indicates two votes</p> <p>14 for those individuals were cast.</p> <p>15 Q. You say -- okay. So when we talk about</p> <p>16 the 115 provisional ballots that were not allowed</p> <p>17 because the person had already voted, you're able to</p> <p>18 stop those votes from ever being tabulated, correct?</p> <p>19 A. They were provisional, that is correct.</p> <p>20 Q. So are those just thrown away; there's</p> <p>21 no way to access those anymore?</p> <p>22 A. They're not thrown away. They would</p> <p>23 just exist in the database.</p> <p>24 Q. But there are actually six individuals</p> <p>25 who managed to have their vote counted twice; is</p>



<p>22</p> <p>1 that correct?</p> <p>2 <b>A. That is correct.</b></p> <p>3 Q. Are any of those individuals in Clark</p> <p>4 County Commission District C?</p> <p>5 <b>A. I could confirm that for you. I can't</b></p> <p>6 <b>tell you right off the top of my head, but that</b></p> <p>7 <b>information is available.</b></p> <p>8 Q. Do you know the party affiliation of any</p> <p>9 of the people who voted twice?</p> <p>10 <b>A. No. That wasn't a part of our research.</b></p> <p>11 <b>No.</b></p> <p>12 Q. So, Mr. Gloria, would you agree that the</p> <p>13 139 discrepancies identified in your affidavit are</p> <p>14 simply the result of errors in the conduct of the</p> <p>15 election?</p> <p>16 <b>A. Again, I'd have to clarify and say that</b></p> <p>17 <b>many of those discrepancies, I don't know exactly</b></p> <p>18 <b>what they are. They are discrepancies because we</b></p> <p>19 <b>don't have anything -- we're off from our VEMACS</b></p> <p>20 <b>total, which is our poll vote to our Democracy Suite</b></p> <p>21 <b>total, which are our actual votes that do not</b></p> <p>22 <b>change. And because I don't balance there, I have a</b></p> <p>23 <b>discrepancy.</b></p> <p>24 Q. I'm just saying -- and that's what I'm</p> <p>25 trying to say, keeping it general, you don't know</p>	<p>24</p> <p>1 <b>wouldn't disagree that they're simply errors in the</b></p> <p>2 <b>election.</b></p> <p>3 Q. And how many of them are unknown? And</p> <p>4 speaking about the 139 discrepancies, how many of</p> <p>5 them are unknown?</p> <p>6 <b>A. I would have to review the sheets that</b></p> <p>7 <b>we provided, but they're pretty clearly indicated</b></p> <p>8 <b>there on the three tally types for absentee in</b></p> <p>9 <b>Exhibit 5, 6 and 7.</b></p> <p>10 <b>I believe on Election Day on the</b></p> <p>11 <b>comments category over to the right, we do have some</b></p> <p>12 <b>explanation. And those that are typically marked</b></p> <p>13 <b>discrepancy, we don't know. Those are unknown</b></p> <p>14 <b>discrepancies. We just know that we're off from</b></p> <p>15 <b>VEMACS, which is the poll book to Democracy Suite,</b></p> <p>16 <b>which are the actual votes that are counted.</b></p> <p>17 Q. So let's get into that, then.</p> <p>18 When you say Exhibits 5, 6 and 7 all</p> <p>19 have issue or justification or a comment column, and</p> <p>20 you're saying, then, when it says "unknown," that</p> <p>21 that would be an error?</p> <p>22 <b>A. It could be, yes.</b></p> <p>23 Q. Okay.</p> <p>24 <b>A. If I could refer to the absentee in</b></p> <p>25 <b>Exhibit 5, if you can go to Precinct 3547 on the</b></p>
<p>23</p> <p>1 what it is, you don't know if it's somebody voting</p> <p>2 twice, you don't know if it's dead people voting,</p> <p>3 you don't know what it is.</p> <p>4 I'm just saying, what I'm asking is are</p> <p>5 these just errors in the conduct of an election?</p> <p>6 You have 139 errors that you cannot reconcile?</p> <p>7 <b>A. We would call them "unknown</b></p> <p>8 <b>discrepancies." So if that answers the question,</b></p> <p>9 <b>then yes.</b></p> <p>10 Q. Okay.</p> <p>11 <b>A. They're unknown. We don't know on all</b></p> <p>12 <b>of them.</b></p> <p>13 Q. Right. What is the -- and maybe I don't</p> <p>14 know. Why are you uncomfortable using the term</p> <p>15 "error" as opposed to "discrepancy"?</p> <p>16 <b>A. Well, because we do have explanations</b></p> <p>17 <b>for some of those, and so they're not errors. We</b></p> <p>18 <b>were able to document exactly what the discrepancy</b></p> <p>19 <b>was. And in most cases, it could have been a</b></p> <p>20 <b>duplicate entry. It could have been a mistake in</b></p> <p>21 <b>the field by one of our poll workers. So they don't</b></p> <p>22 <b>all fit into one -- one category. There are</b></p> <p>23 <b>different discrepancies there that fall under</b></p> <p>24 <b>different categories.</b></p> <p>25 <b>But those that are unknown and -- I -- I</b></p>	<p>25</p> <p>1 <b>first page, fourth from the bottom, in the</b></p> <p>2 <b>"Justification," you'll note there that I have one</b></p> <p>3 <b>lead card missing.</b></p> <p>4 Q. Right.</p> <p>5 <b>A. Do you see that same -- so that would be</b></p> <p>6 <b>a circumstance where that's not unreconcilable; we</b></p> <p>7 <b>know exactly what happened. Part of our process for</b></p> <p>8 <b>the two-card ballot that was sent in, but the voter</b></p> <p>9 <b>does not provide the first card with the return,</b></p> <p>10 <b>then we don't have an ability for our system to read</b></p> <p>11 <b>that precinct into the system. And so that wouldn't</b></p> <p>12 <b>have been a discrepancy that we counted against the</b></p> <p>13 <b>margin of victory. But right next to that is one</b></p> <p>14 <b>unreconcilable. So you can see that I have a 1 off</b></p> <p>15 <b>to the right there, and that's what was tallied into</b></p> <p>16 <b>the discrepancies. Not the 2 under the "Difference"</b></p> <p>17 <b>column. I don't know if that helps to clarify, but</b></p> <p>18 <b>I thought I would make that clear.</b></p> <p>19 Q. Thank you very much for that</p> <p>20 clarification. It does help. So let me reword so I</p> <p>21 can understand.</p> <p>22 So where it says -- all three of these</p> <p>23 Exhibits 5, 6 and 7 have a column. In Exhibit 7,</p> <p>24 you're only saying "unknown;" you never say</p> <p>25 "unreconcilable." In Exhibits 5 and 6, it says</p>

<p>1 "unreconcilable."  <b>2 A. Yes.</b>  3 Q. So but where -- but there's also  4 instances where you identify a specific thing that  5 you -- so staying with Exhibit 5, the exhibit you  6 had, if I go down to the next page on Precinct 3719,  7 exhibit -- excuse me, Precinct 3719, it says there  8 are 2 lead cards missing and there's 1  9 unreconcilable. Do you see that?  <b>10 A. I do. And you'll notice off to the</b>  <b>11 right there's a 1.</b>  12 Q. Correct.  <b>13 A. And so that 1 was counted into the</b>  <b>14 discrepancy category, not the 3 because we were able</b>  <b>15 to explain the first 2.</b>  16 Q. Great. And so you're able to explain  17 the first two problems. And then the next one is  18 unreconcilable; you don't know what caused it. Is  19 that --  <b>20 A. That is correct.</b>  21 Q. All right. So then just referring to  22 these unreconcilable notations, would you attribute  23 those to errors in the way the election was  24 conducted?  <b>25 A. It could be.</b></p>	26	<p>1 track that activity." And then you go through it.  2 And over onto the next page it starts  3 talking about these two errors.  4 <b>A. I think what I was trying to do in my</b>  <b>5 description there, sir, was to make sure that he</b>  <b>6 understood there are those discrepancies that we</b>  <b>7 tally to hold against the margin of victory.</b>  8 In Mary's first description, she's  9 correct in stating that is a discrepancy, however,  10 if we know that it was a fleeing voter, then that's  11 not a discrepancy we would hold against the margin  12 of victory.  13 But there could be a scenario where you  14 have the same one up in VEMACS or the poll book and  15 you're one down in Democracy Suite where there are  16 other scenarios that could fill the description, but  17 those wouldn't be counted as discrepancies.  18 Q. All right. So do you have a particular  19 name for that type of discrepancy where it's -- you  20 have 50 sign-ins, for example, and then you only  21 have 49 ballots, do you have a name for that type of  22 discrepancy?  23 <b>A. When we can identify documentation, then</b>  <b>24 we have a fleeing voter where we have documentation</b>  <b>25 from the team leader for either early voting or</b></p>
<p>1 Q. Okay. Now, at the Commission hearing on  2 November 16th, 2020, you identified a specific type  3 of error that I want to discuss.  4 One was where you had -- for example,  5 you gave the example of 50 people sign in, but you  6 only have 49 ballots. Do you recall giving that  7 example?  <b>8 A. I remember a discussion along those</b>  <b>9 lines. I don't remember if it was myself or Mary</b>  <b>10 that made it.</b>  11 Q. Well, I can tell you in my review of the  12 records, you both made it. Mary-Anne made it first.  13 And if you want me to point you to the specific  14 section of the transcript I'm talking about, I can  15 do that.  16 So Ms. Miller -- if you go to the  17 transcript, page 7.  <b>18 A. Line number?</b>  19 Q. Well, so Ms. Miller starts hers in  20 verse -- speaking scripture, sorry -- line 31 and  21 she gives an example of a discrepancy, but then you  22 started talking in line 49.  23 And you say "If I could follow up as  24 well, Commissioner. You may have 50 voters who vote  25 at a precinct 1105. There are two areas where we</p>	27	<p>1 <b>Election Day. Then we call that a fleeing voter.</b>  2 <b>But that could also be in different</b>  <b>3 scenarios that would have to do with the tracking or</b>  <b>4 reactivation of a card that was handled incorrectly.</b>  5 Q. So if you have documentation, it's  6 called a fleeing voter?  7 <b>A. Yes.</b>  8 Q. Now, there's another example you gave of  9 maybe the discrepancy is there's 50 sign-ins, but  10 you actually have 51 ballots.  11 Do you recall talking --  12 <b>A. One more, yes.</b>  13 Q. So is there a discrepancy -- is there a  14 name for that discrepancy where you actually have  15 more ballots than people who signed in?  16 <b>A. There are more than one scenario that</b>  <b>17 could fit that discrepancy there. So it could be</b>  <b>18 that somebody inadvertently, not following the</b>  <b>19 instructions that were provided, they didn't check</b>  <b>20 the status of a card when a voter came to report an</b>  <b>21 error while voting on the machine, and they had, in</b>  <b>22 fact, voted, but they took it on the word of the</b>  <b>23 voter without checking the status and reactivated</b>  <b>24 the card for them.</b>  25 <b>So that voter may have inadvertently</b></p>

<p style="text-align: right;">30</p> <p>1 been able to vote twice because they didn't follow  2 procedure. But we can only document that when it's  3 reported by the team leader at that site in that  4 precinct.  5 Q. So if you had -- and once again, is that  6 just something that's understood to happen in  7 elections in your experience, that that error of  8 having an additional ballot more than the sign-ins  9 happens for that specific reason you gave?  10 A. Yes, sure. It's not uncommon.  11 Q. And you mentioned it could be that the  12 voter believes there's an error with their voting  13 machine, but it may not actually be an error?  14 A. That's correct. And the team leader,  15 who is trained and has instructions to make sure to  16 check the status of that card, which would have  17 prevented them from reactivating the card and giving  18 them another opportunity to vote, failed to do so.  19 Q. So the person on site in that situation  20 is supposed to do a double-check to make sure the  21 vote didn't go through?  22 A. That is correct. Those are the  23 procedures that we outline in our training.  24 Q. And when -- so when we talk about there  25 being 139 discrepancies, do you know how many fit</p>	<p style="text-align: right;">32</p> <p>1 balanced.  2 Q. All right. So going back to the fleeing  3 voter example, you could go to a precinct doing your  4 audit, and you can say, well, 50 people signed in,  5 but we only have 49 ballots, but we also have this  6 document from the person in charge of the precinct  7 saying, yeah, this person came in, they got a phone  8 call and they ran out the door, they never voted.  9 So that's why we have -- so we have documentation to  10 say why there's a difference. So that does not  11 count as a discrepancy; is that correct?  12 A. Yes.  13 Q. So in the example of the -- when you  14 describe this -- I believe you actually described it  15 twice. I think my recollection is that you  16 described it again on December 1st before the  17 Commission that some of these, when you have an  18 extra ballot, it's a machine giving two ballots to  19 one voter. That can happen, correct?  20 A. I believe I described that as one  21 possible scenario. Again, if they're  22 unreconcilable, I don't know what happened, but I  23 did the best I could to provide the Commissioners  24 with what the possibilities could be, which are  25 sometimes difficult to describe.</p>
<p style="text-align: right;">31</p> <p>1 into the category of -- I guess you call it the  2 fleeing voter type of errors versus the extra ballot  3 type of errors?  4 A. The fleeing voters aren't even  5 recognized on either of those documents when we can  6 document them. So the only items that you see  7 listed on those three reports that I provided, one  8 for absentee, early voting and Election Day, those  9 only include votes that we verified are  10 discrepancies that should be measured against the  11 margin of victory.  12 Q. Now, when you say they should be  13 measured against the margin of victory, what do you  14 mean by that?  15 A. Well, in reporting to the Commission, we  16 have to give them all of the information and the  17 requirement's for us to send our official ballot  18 statements to the Secretary, we have to have an  19 explanation even if it's unknown when those numbers  20 aren't balanced, 50 and 51, 51 and 51. All of  21 those, we don't need an explanation, but when you  22 have one up or one in those categories, we have to  23 characterize it as something. If we don't have  24 documentation, then it's just unreconcilable; we  25 don't know what happened, but we know that we're not</p>	<p style="text-align: right;">33</p> <p>1 Q. Right. And so let me just go through  2 it. What is another way, in your experience, that  3 you could end up with an additional ballot over  4 sign-ins?  5 A. Well, there are many scenarios that  6 could happen with the voter on the description where  7 the team leader doesn't check the status of the  8 card. They could have had a VVPAT failure, which is  9 the Voter Verified Paper Audit Trail on the machine.  10 However, the machine reported to them thank you for  11 your vote and please remove your card, but because  12 there was a printer jam or it ran out of paper, the  13 monitor could have reported to the team leader, I  14 don't think this voter voted. And that voter  15 without checking the status could very well have  16 reactivated that card and allowed that voter  17 inadvertently to vote twice. The voter wouldn't  18 even know any better. That's one.  19 Q. All right. That's one example.  20 And let's switch back to the other side  21 of the equation. We have 50 people sign in, but we  22 only have 49 ballots. Can that be attributed to  23 somebody trying to vote, but their vote is not  24 counted unbeknownst to the voter?  25 A. It could be. It's possible. I --</p>

<p>34</p> <p>1 you're asking me to describe scenarios where I'm 2 only using my experience as a technician and as the 3 registrar to try to explain to the general public 4 what may have happened, but I don't know. 5 Q. Right. 6 A. That's why they're unreconcilable. 7 Q. Right. But you would attribute -- you 8 wouldn't attribute those to some kind of mass 9 conspiracy to push the election, right? 10 A. Well, if that was it, they were 11 unsuccessful. I mean, the sheer number of 12 discrepancies, really we did a pretty darn good job 13 with 974,000 ballots cast and there's a 218 14 contest -- precinct contest where we had 139 15 discrepancies. It's the margin of victory in this 16 case that is unique and very difficult to -- 17 Q. So these are errors in the conduct of an 18 election that you might even expect to see? 19 A. Oh, we definitely would. You never have 20 a perfect election. There's no such thing. That's 21 why I say I was able to certify the other contests 22 because we had discrepancies in all contests, but 23 they didn't raise a concern because there were 24 nowhere near the margin of victory. 25 Q. Right. So when you have -- back to this</p>	<p>36</p> <p>1 counted, correct? 2 A. Yes, that's a possible scenario. Yes. 3 Q. And going the other way, a possible 4 scenario is that somebody voted and their ballot is 5 actually counted twice simply because of the way the 6 person in charge of the site handled the situation, 7 correct? 8 A. Yes. 9 Q. And once again, those are hypotheticals 10 because you don't know exactly what happened in 11 those scenarios, correct? 12 A. Exactly. 13 Q. Because if you knew what happened in 14 those scenarios and you had documentation about what 15 happened, they would not be considered 16 discrepancies, correct? 17 A. No, that only holds true for the fleeing 18 voter. 19 Q. Okay. So let's get that right. 20 A. It's still a discrepancy if somebody 21 documented that they inadvertently activated the 22 card for a voter twice; that's still a discrepancy 23 that should be measured against the margin of 24 victory, but we can tell you exactly what the 25 discrepancy was in that case because it's</p>
<p>35</p> <p>1 example. We're talking about the example of 50 2 voters -- excuse me, 50 people sign in and only 49 3 ballots. If that is multiplied a hundred times, 4 then you perhaps have a situation where you have the 5 voters are there, but the ballots are not, correct? 6 A. In your hypothetical, yes, that's 7 possible. If it was in one polling place, one 8 precinct, that would definitely raise some concern. 9 Q. Right. And I'm not saying this happened 10 at one precinct. I'm saying this happened across 11 Commission District C. For example, I'm not trying 12 to say there was one -- in fact, you could say that 13 there was no individual problematic precinct in your 14 experience, correct? 15 A. Not in this election. 16 Q. And so these errors that we found are 17 errors that you would expect in a -- in any 18 election, correct? 19 A. An election this size, yes. 20 Q. And those errors just simply result from 21 the conduct of the election, correct? 22 A. I would agree with that. 23 Q. And some of those errors, because you 24 don't know what they are, some of those could be 25 that somebody tried to vote, but their vote was not</p>	<p>37</p> <p>1 documented. 2 Q. So say that happened and you have an 3 extra ballot for somebody, the machine casts an 4 extra ballot, you get documentation for it, you know 5 it happened. You would still count that as a 6 discrepancy? 7 A. Yes, because that voter should not have 8 been allowed to vote twice. We can explain what the 9 discrepancy was. 10 Q. So they avoid a prosecution, but we 11 still have a discrepancy; is that right? 12 A. That's correct. Yes. 13 Q. All right. Now, is there any way to 14 find these ballots that -- that relate to the 15 discrepancy? 16 A. No, sir, there's no way. 17 Q. When are the discrepancies discovered? 18 So this -- let me back up a bit. 19 The election takes place over several 20 weeks. People are voting over several weeks. When 21 are these discrepancies discovered? 22 A. We have a period of time -- obviously 23 the mail ballots, we had to wait for nine days 24 before we could stop receiving them and also for the 25 cure. So we have to wait until all of the ballots</p>

<p style="text-align: right;">38</p> <p>1 have been received before we can compare our VEMACS  2 database with the actual ballots that were counted  3 by precinct in each tally type.  4 For the in-person early voting and  5 Election Day, there are two different periods. The  6 early voting, we have to get all of those laptops  7 in. Because from time to time, they lose  8 connectivity in the field, so if they have records  9 in the queue, we need to go through all of the  10 laptops that we use for early voting and  11 individually go through all of them to verify that  12 they have zero records in the queue, telling us that  13 everything's been downloaded to the database.  14 For Election Day, we have to wait,  15 number one, until all of the equipment returns to  16 the facility. We voted on Tuesday, and all of the  17 equipment wasn't returned until Thursday. It took  18 them, I believe, until Friday morning after the  19 election to review all of the laptops, which I think  20 there were nearly 1300 that were in the field to  21 support Election Day, verify that they were zero in  22 the queue.  23 So in those three tally types, there's  24 different dates when we have to make sure that we've  25 got everything in the database so that we can run</p>	<p style="text-align: right;">40</p> <p>1 determination we voted the wrong record.  2 In that case, we can fix it the same day  3 and I would be able to vote once they contacted our  4 supervisors here in the Election Department.  5 Q. Okay. Thank you for that verification.  6 Let me go back to the errors again.  7 You're really just doing a -- these discrepancies  8 are really just identifying an accounting  9 difference, correct?  10 A. Well, we know that we don't balance,  11 number one. Looking from the poll book to the  12 actual votes that are counted, that's never  13 changing. It's not always just an error. We do  14 find scenarios where somebody was inadvertently  15 allowed to vote twice. So those that are  16 unreconcilable, we don't know -- we don't know what  17 happened there.  18 Q. Okay. So let me give you another  19 example that kind of highlights what I'm suggesting  20 here.  21 I've gone over like you have an extra  22 ballot situation where you have 50 -- 50 sign-ins  23 but 51 ballots. And then you have this unknown  24 error where you may have 49 ballots and 50 people  25 who signed in, and it's not a fleeing voter; we</p>
<p style="text-align: right;">39</p> <p>1 our OBS statement, which is the official ballot  2 statement. So we actually started reconciling the  3 Friday before the canvas on November 16th. Because  4 that's when we knew that all of the data was  5 available in the system to run a report.  6 Q. So there's never an instance, then, when  7 you find a discrepancy the day the discrepancy  8 happens, correct?  9 A. In early voting, we do. Because we have  10 to reconcile every day. And sometimes we'll have  11 somebody that calls in. For instance, at my  12 household, my son's name is also Joseph. So this is  13 a common occurrence in the field where -- I'm going  14 to use my name -- Joseph Gloria, Jr. and Joseph  15 Gloria, Sr. go and vote, but the voter and the clerk  16 are more interested in conversation out at the  17 polls, so my son inadvertently signs in on my record  18 because of the same name.  19 So I may show up the same day and  20 they're trying to tell me I voted, but I tell them  21 there's absolutely no way I've voted, I know I've  22 never been there. So the team leadership should  23 call in to verify that. Our staff back here can  24 make a determination as to whether there's another  25 voter with the same name. And so we can make the</p>	<p style="text-align: right;">41</p> <p>1 don't have documentation. So all we have is -- so  2 you have those two different scenarios. I'll call  3 them missing ballot and extra ballot. Okay?  4 Understanding that fleeing voter is something else  5 where we have that documentation.  6 Okay. So with that scenario set up, if  7 you had two -- is it possible that you have two  8 extra ballot scenarios and one missing ballot  9 scenario at the same precinct and you would only  10 find that as one discrepancy?  11 A. Well, that would be rare, but it's  12 possible. It's not impossible.  13 Q. Right. And all I'm -- I'm not saying  14 it's a common thing or it's a rare thing. I'm just  15 saying by the way these numbers are identified, the  16 discrepancies, if you had two extra ballot issues  17 and one missing ballot issue in the same precinct,  18 that would only show up -- all hypothetically, that  19 would only show up as one discrepancy in your  20 canvas, correct?  21 A. In the scenario where we don't have any  22 documentation from the team leader to describe what  23 the discrepancy was, that is possible.  24 Q. And once again, there's no way to  25 identify any particular ballot cast into the</p>

<p>42</p> <p>1 election that is associated with the discrepancy, 2 correct?</p> <p>3 <b>A. No. We have privacy of the ballot.</b></p> <p>4 Q. So there's no way to find any ballot and 5 connect it to an individual voter, correct?</p> <p>6 <b>A. Well, there are many different 7 scenarios, and you're asking me to speak in 8 generalities.</b></p> <p>9 Q. Yes.</p> <p>10 <b>A. I just described a situation where we 11 were able to, a son and a father. So we were able 12 to identify it. There are other scenarios where we 13 find it, as well. But in the ones where we have a 14 discrepancy with no documentation, then I guess that 15 would be true.</b></p> <p>16 Q. But even in the -- but even in the 17 scenario you identified with the father and son, you 18 can't go back and identify your son's ballot, can 19 you?</p> <p>20 <b>A. No. Once it's voted, we cannot.</b></p> <p>21 Q. Right. So even in the scenario you 22 suggested, you cannot find the ballot associated 23 with the voter, correct?</p> <p>24 <b>A. No, except for some very unique 25 situations like an election where there's very low</b></p>	<p>44</p> <p>1 MR. SCHRAGER: I'm sorry, Jacob. It 2 went -- sort of went through here and I wasn't able 3 to state my objection. I wanted to object to the 4 two questions before the last two that had to do 5 with the ability to challenge as irrelevant to the 6 case that you're currently prosecuting.</p> <p>7 MR. REYNOLDS: Okay. Thank you.</p> <p>8 BY MR. REYNOLDS:</p> <p>9 Q. Mr. Gloria, you gave me an example of -- 10 so going back to the scenario where you've got 50 11 sign-ins and 51 ballots, an extra ballot scenario. 12 Okay?</p> <p>13 You identified a possibility where 14 somebody votes and the person -- the person who's -- 15 and they think they didn't vote, but they actually 16 did, they go get another voting card and they get to 17 vote. Do you remember that scenario you described?</p> <p>18 <b>A. I do.</b></p> <p>19 Q. So take that example. Is there another 20 way -- like can the machine itself -- is there a 21 possibility that the machine itself does an error 22 that causes the ballot to be voted twice?</p> <p>23 <b>A. No, sir, not that I'm aware of.</b></p> <p>24 Q. Okay. So when we're discussing that 25 extra ballot -- are you raising your hand for me</p>
<p>43</p> <p>1 turnout.</p> <p>2 Q. Right. So then once again, there's 3 no -- and there's no -- because you can't find any 4 particular voter's ballot, you also cannot find any 5 ballot associated with a particular discrepancy, 6 correct?</p> <p>7 <b>A. No. I can make no association.</b></p> <p>8 Q. Okay. Now, is there any ability at this 9 point to challenge any particular ballot based on a 10 signature discrepancy?</p> <p>11 <b>A. No.</b></p> <p>12 Q. And if a signature doesn't match, is 13 that counted as a discrepancy?</p> <p>14 <b>A. Well, we have the cure process now. So 15 there's a whole different aspect to mail ballot 16 voting that has changed here in the State of Nevada 17 and Clark County.</b></p> <p>18 <b>So the voter has an opportunity to cure 19 if they haven't signed or also cure if their 20 signature does not match the database.</b></p> <p>21 Q. So if a vote is not going to be counted 22 because the signature doesn't match, that's not 23 going to count as a discrepancy, correct?</p> <p>24 <b>A. No. It never gets counted, so it's 25 never entered into the system on VEMACS.</b></p>	<p>45</p> <p>1 or --</p> <p>2 <b>A. I was waving bye. I'm sorry. There's a 3 big window in front of me.</b></p> <p>4 Q. I'm trying to be sensitive to getting in 5 changes.</p> <p>6 <b>A. No. I appreciate that.</b></p> <p>7 Q. So the issue of -- like when we're 8 talking about this extra ballot problem, we're 9 really talking about an error in the conduct of the 10 election; we're not talking about a machine error. 11 Is that fair to say?</p> <p>12 <b>A. That's correct.</b></p> <p>13 Q. Okay.</p> <p>14 <b>A. As far as the machine tallying the vote 15 inadvertently twice, that's not correct. Now, there 16 could be a machine error as far as a printer issue, 17 running out of paper or a printer jam that could 18 lead to that second vote because the team leader 19 doesn't follow the instructions provided to them. 20 But no. The machine itself duplicating a ballot, 21 no.</b></p> <p>22 Q. Right. So I'm trying to clarify that. 23 We're not talking about -- if there's a double vote 24 for a single voter in this scenario to get 51 25 ballots over 50 sign-ins, right, we're not talking</p>

<p style="text-align: right;">46</p> <p>1 about the machine gratuitously giving an extra vote, 2 correct? 3 <b>A. No, absolutely not. It would require</b> 4 <b>human error and then activating a card twice for the</b> 5 <b>same voter.</b> 6 Q. So that's more of the conduct of the 7 people that are running the election that causes the 8 error; it's not a machine error. Is that correct? 9 <b>A. Yes.</b> 10 Q. Okay. Thank you. 11 And is there -- so just clearly, is 12 there any way to cure these 139 discrepancies from 13 the total vote reported? 14 <b>A. No, I cannot. There is no way. Even</b> 15 <b>after the recount, there still will be 139</b> 16 <b>discrepancies in the district.</b> 17 Q. Based on what you have seen on these 18 discrepancies, can you confirm that all the voting 19 machines operated appropriately? 20 <b>A. Not based on what I've seen with the</b> 21 <b>discrepancies, but we followed statute in our</b> 22 <b>certification, our audits on the voting machines and</b> 23 <b>the paper rolls. So based on that information, I</b> 24 <b>can tell you that I have a great deal of confidence</b> 25 <b>that the system performed accurately.</b></p>	<p style="text-align: right;">48</p> <p>1 <b>them are minus. But there's a discrepancy.</b> 2 Q. And you don't know whether or not any of 3 those discrepancies actually represents a difference 4 from the will of the voter; is that correct? 5 <b>A. Correct.</b> 6 Q. Okay. Now, given your experience in 7 conducting elections, would you agree that it is 8 likely that these errors come from the type of 9 scenarios you've described where, for example, a 10 person gets their ballot counted twice because the 11 person conducting the election has made an error? 12 <b>A. No, I can't answer that question.</b> 13 Q. Why not? 14 <b>A. What I've been trying to emphasize is</b> 15 <b>that I don't know what those discrepancies are.</b> 16 <b>There's no way for me to even guess or tell you</b> 17 <b>where I think -- they're unknown discrepancies, the</b> 18 <b>majority of these.</b> 19 <b>Only those that we documented which we</b> 20 <b>removed from the discrepancy list or those that</b> 21 <b>still remain as discrepancy but have a description,</b> 22 <b>can I tell you for certain exactly what happened.</b> 23 <b>But on the other ones, I can't tell you. I don't</b> 24 <b>know. I wish I could add some clarity there.</b> 25 Q. Right. And that was my first point of</p>
<p style="text-align: right;">47</p> <p>1 Q. So you -- you have a great deal of 2 confidence that the machines operated appropriately; 3 is that correct? 4 <b>A. Tabulated properly, yes.</b> 5 Q. As registrar, though, do you agree that 6 at least in 139 instances the votes were not 7 correctly tabulated and counted? 8 <b>A. No, not if you're trying to correlate</b> 9 <b>that to the tabulation system. The tabulation</b> 10 <b>system did exactly what we asked it to do.</b> 11 Q. Okay. All right. Let me back up, then. 12 Okay. Let me ask a slightly different question. 13 In your opinion, is it likely that these 14 139 discrepancies represent voters that did not have 15 their votes counted correctly? 16 <b>A. I can't say that either. I don't know</b> 17 <b>what those discrepancies are.</b> 18 Q. Right. 19 <b>A. I don't know. So I can't say that that</b> 20 <b>resulted in a ballot being counted or not being</b> 21 <b>counted. I just know there's a discrepancy. We're</b> 22 <b>not matching.</b> 23 Q. So let me ask it this way then: There's 24 139 discrepancies in Commission District C, correct? 25 <b>A. Yes. Some of them are plus. Some of</b></p>	<p style="text-align: right;">49</p> <p>1 my question is you don't know if any of them -- like 2 for example, we go back to the 50 people sign in and 3 you only have 49 ballots, okay, so a missing ballot. 4 You don't know if that person intended to vote but 5 couldn't, or if they intended to vote but they 6 didn't, they decided not to and they just leave. 7 You don't know, correct? 8 <b>A. That's right. They're unknown.</b> 9 Q. Now, in the other scenario, 51 ballots 10 counted but 50 ballots -- 50 sign-ins. Okay, 51 11 ballots counted but 50 sign-ins. You don't know -- 12 like in that scenario, how can you say that the 13 ballots counted represent the will of the voter? 14 <b>A. I don't know how to answer that question</b> 15 <b>to be honest with you, sir. Those voters went</b> 16 <b>through and they had an opportunity to review their</b> 17 <b>screen and then they printed out their voter</b> 18 <b>verifiable paper audit trail, had another</b> 19 <b>opportunity to review that screen. So why wouldn't</b> 20 <b>I think that they had an opportunity to verify their</b> 21 <b>ballot and vote.</b> 22 Q. Well, I'm not saying that. I'm just 23 saying that we've discussed several errors that you 24 agree are common types of errors that occur in the 25 process of conducting an election, correct?</p>

<p>50</p> <p>1 A. I do, but I didn't attach them to any of 2 my discrepancies. All I'm trying to do is draw a 3 picture so that it seems reasonable for the general 4 public and you, as well, so that we're not just 5 pulling things out of the air. Those are possible. 6 But I can't associate them to any of my 7 discrepancies.</p> <p>8 Q. Right. I understand that, Joe. We've 9 made a very clear record that you cannot identify 10 any specific -- they're unknown. You said they're 11 unreconcilable. All your documentation says they're 12 unreconcilable, and you have said plenty of times in 13 this deposition that you don't know what caused them 14 to be unreconcilable. So I've said it now and 15 you've said it. I recognize that.</p> <p>16 So moving on. I want to go back to one 17 of the questions I asked earlier about briefing the 18 Clark County Commission.</p> <p>19 Did you participate in briefing any 20 member of the Clark County Commission about holding 21 a special election in District C?</p> <p>22 A. No, sir, I did not.</p> <p>23 Q. Okay.</p> <p>24 A. My communication was with my manager and 25 my civil DA.</p>	<p>52</p> <p>1 what I've done at each canvas.</p> <p>2 Q. How long have you been registrar?</p> <p>3 A. Since June of 2013.</p> <p>4 Q. All right. And have there been any 5 other instances where there has been -- while you've 6 been registrar, has there been any other instances 7 where a special election has been held because the 8 amount of discrepancies was greater than the 9 difference in the vote total?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Okay. How many times has that happened 12 while you've been registrar?</p> <p>13 A. Once while I've been registrar, in 2018, 14 after the primary election, public administrator on 15 the Republican side.</p> <p>16 Q. And what -- you said before you became 17 registrar, you had experience as a technician and 18 such; is that correct?</p> <p>19 A. That's going way back, but yep.</p> <p>20 Q. Was that immediately before you became 21 registrar?</p> <p>22 A. No. I went up in the managerial role on 23 that side. Not to say that I wasn't familiar with 24 the voting system. I was very familiar with it, but 25 I wasn't doing work as a technician.</p>
<p>51</p> <p>1 Q. All right. Mr. Gloria, I'd like you to 2 go to your transcript, the transcript that's marked 3 as Exhibit 4, and I want you to go to page 11, 4 please.</p> <p>5 A. Okay. I'm on page 11.</p> <p>6 Q. Okay. I want you to go to Mr. Brown's 7 question that starts in line 13 and it says -- I'll 8 read it to you and you can follow along. I'll ask 9 you if I read it correctly.</p> <p>10 "So the past practice of disregarding 11 discrepancies in those races that the total number 12 would have no impact on the outcome. That has been 13 the standard practice at the county and probably 14 challenged on a rare occasion."</p> <p>15 "Mr. Gloria: That is correct, 16 Commissioner Brown. We have, for as long as I can 17 remember since we've been here, it is always been 18 the practice to go through and identify what the 19 discrepancies are and ensure that the margin of 20 victory surpasses that so you can certify."</p> <p>21 Did I read that correctly?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Now, do you believe that to be an 24 accurate statement?</p> <p>25 A. As long as I've been registrar, that's</p>	<p>53</p> <p>1 Q. Okay. When you -- even before you 2 became registrar, are you aware of other times in 3 Clark County that Clark County has held special 4 elections for this problem, that there were more 5 discrepancies than the total number of votes 6 differential in a race?</p> <p>7 A. I wasn't involved at the administrative 8 level, however, I do remember that there were other 9 instances of the same scenario.</p> <p>10 Q. All right. Can you recall any of those 11 instances today?</p> <p>12 A. I know in the '90s I believe we had an 13 assembly race that we had to do a couple of times in 14 between. It was an even closer margin of error, and 15 elections were conducted in a much different way 16 back then. It wasn't a vote center which makes it 17 more difficult for us to reconcile. But back then 18 it was voters going to a specific polling place on 19 Election Day. There was that race.</p> <p>20 And then I believe there was a City of 21 North Las Vegas council race that also fell in the 22 same category sometime around 2010, '11, I believe, 23 approximately.</p> <p>24 MR. REYNOLDS: I'm ready to take just a 25 short break if we can. I may be ready to pass the</p>



<p>54</p> <p>1 witness after the break, Bradley. Is that okay?</p> <p>2 MR. SCHRAGER: Yeah, it's almost 2:10</p> <p>3 now. How's 2:20 back?</p> <p>4 MR. REYNOLDS: That's great. So we've</p> <p>5 been going for about an hour. We'll be back at 2:20</p> <p>6 to go back on the record.</p> <p>7 MR. SCHRAGER: No problem.</p> <p>8 MR. REYNOLDS: Thank you.</p> <p>9 (A recess is taken.)</p> <p>10 BY MR. REYNOLDS:</p> <p>11 Q. So we are back on the record, Joe.</p> <p>12 Thank you very much for letting me take a break real</p> <p>13 quick to review my notes.</p> <p>14 Now that we've taken a break, is there</p> <p>15 anything about your prior testimony that you've</p> <p>16 given today that you would like to amend, correct or</p> <p>17 add to in any way?</p> <p>18 A. No, sir.</p> <p>19 Q. Okay. I just want to ask, did the Clark</p> <p>20 County Commission make any changes to the tabulated</p> <p>21 votes based upon the 139 discrepancies you</p> <p>22 identified in District C?</p> <p>23 A. Can you say that again? The way I heard</p> <p>24 that question is you're asking if they asked me to</p> <p>25 change the votes.</p>	<p>56</p> <p>1 C -- excuse me, paragraph 3 which is our -- C is our</p> <p>2 third letter. Sorry. So paragraph 3 continuing.</p> <p>3 "There are 218 precincts in District C.</p> <p>4 There were 139 discrepancies which the election</p> <p>5 boards were unable to reconcile. As a result, I</p> <p>6 cannot certify that the vote is an accurate</p> <p>7 representation of the will of the voters in that</p> <p>8 district, and in my professional opinion as an</p> <p>9 election official it raises a reasonable doubt as to</p> <p>10 the outcome of the election."</p> <p>11 Did I read that correctly?</p> <p>12 A. You did, sir.</p> <p>13 Q. Is there anything in that statement that</p> <p>14 is inaccurate?</p> <p>15 A. Not in the statement. But you asked me</p> <p>16 if I had a concern with my tabulated results, and I</p> <p>17 do not.</p> <p>18 Q. Fine. But I'm just coming back to the</p> <p>19 statement. Is there anything about paragraph 3 of</p> <p>20 your affidavit that you would like to change?</p> <p>21 A. I identified the discrepancies and</p> <p>22 reported them as I have for many years, so no. But</p> <p>23 it's not under my authority to call for an election.</p> <p>24 Q. All right. And I want to talk about</p> <p>25 that. So at several moments today I've asked you</p>
<p>55</p> <p>1 Q. Right. Did they make any cures or</p> <p>2 corrections to the tabulated votes based on the 139</p> <p>3 discrepancies you identified in District C?</p> <p>4 A. Absolutely not. That would be illegal.</p> <p>5 Q. Okay. As registrar for Clark County,</p> <p>6 Nevada, do you believe you know the true vote cast</p> <p>7 in District C?</p> <p>8 A. I know what I reported, and I have full</p> <p>9 confidence in my tabulation system.</p> <p>10 Q. I'm referring more to your -- in</p> <p>11 paragraph 3 of your affidavit. It's Exhibit 1.</p> <p>12 A. Oh, this one. Paragraph 3. Okay. I'm</p> <p>13 on it.</p> <p>14 Q. This says "In the case of the</p> <p>15 Commission, District C race, the members of counting</p> <p>16 and auditing boards found discrepancies such that</p> <p>17 the margin of victory in that race is called into</p> <p>18 doubt."</p> <p>19 Now, I'm going to stop right there. I</p> <p>20 believe you testified to this previously, but you</p> <p>21 previously said these are 139 discrepancies that you</p> <p>22 believe should be counted against the margin of</p> <p>23 error, correct?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Now, moving on in your paragraph</p>	<p>57</p> <p>1 about recommending a new election -- about you</p> <p>2 recommending a new election.</p> <p>3 Do you recall those questions I've asked</p> <p>4 today?</p> <p>5 A. Sure. Yes, sir.</p> <p>6 Q. And you believe it is not your</p> <p>7 responsibility to recommend that a new election be</p> <p>8 called, correct?</p> <p>9 A. Well, I identified the discrepancies, so</p> <p>10 I think -- I don't have the authority to call for an</p> <p>11 election. That doesn't fall under my purview. But</p> <p>12 I did report what the discrepancies were in that</p> <p>13 race.</p> <p>14 Q. Right. And I'm going to back up.</p> <p>15 MR. REYNOLDS: Bradley, I think I saw</p> <p>16 you trying to speak on that last one. Did you have</p> <p>17 an objection to that?</p> <p>18 MR. SCHRAGER: (Shakes head in the</p> <p>19 negative.)</p> <p>20 BY MR. REYNOLDS:</p> <p>21 Q. Going back to Joe. I just want to make</p> <p>22 sure it gets on the record. Joe, what I'm asking, I</p> <p>23 think, is something different from --</p> <p>24 MR. SCHRAGER: Actually, I am sorry. I</p> <p>25 don't have an objection, but Ross, I think, is in</p>

<p>58</p> <p>1 the waiting room trying to get in.</p> <p>2 MR. REYNOLDS: We'll go off the record</p> <p>3 so he can get back in.</p> <p>4 (A discussion is held off the record.)</p> <p>5 MR. REYNOLDS: Back on the record.</p> <p>6 BY MR. REYNOLDS:</p> <p>7 Q. So we're back on the record, and</p> <p>8 Mr. Miller and Mr. Ferrence has now joined us on</p> <p>9 Zoom.</p> <p>10 So going back to what I was asking Joe</p> <p>11 before we took this break to get everyone back in</p> <p>12 the Zoom meeting. I understand that the tabulations</p> <p>13 you identified are correct to what you're saying.</p> <p>14 What I'm asking is something different.</p> <p>15 You don't believe — let me back up</p> <p>16 further. You've never made a recommendation to the</p> <p>17 Clark County Commission that they hold a new</p> <p>18 election in Commission (sic) C; is that correct?</p> <p>19 <b>A. That's correct.</b></p> <p>20 Q. Okay. And basically you wouldn't do</p> <p>21 that because you believe it is not your</p> <p>22 responsibility to make a recommendation to hold a</p> <p>23 new election; is that correct?</p> <p>24 <b>A. I think what I was trying to avoid out</b></p> <p>25 <b>there was that I don't have the authority to do so.</b></p>	<p>60</p> <p>1 your responsibility to recommend that they have a</p> <p>2 new election or do you simply report that fact to</p> <p>3 the Clark County Commission and they make the</p> <p>4 decision to hold a new election?</p> <p>5 <b>A. You're trying to describe a scenario,</b></p> <p>6 <b>sir, that makes for a very irresponsible Election</b></p> <p>7 <b>Department. We would never let a machine function</b></p> <p>8 <b>for a long enough period of time that it would</b></p> <p>9 <b>impact the outcome of the election.</b></p> <p>10 <b>We've got poll workers who are trained.</b></p> <p>11 <b>We have full time staff here who maintain the voting</b></p> <p>12 <b>system. So I'm not really comfortable answering</b></p> <p>13 <b>that question. That's not a scenario that would</b></p> <p>14 <b>exist here in Clark County. We're very diligent</b></p> <p>15 <b>about monitoring the performance of the machine.</b></p> <p>16 Q. Okay. Mainly, I'm just getting to this</p> <p>17 point: You don't feel it's your responsibility to</p> <p>18 recommend holding new elections; that's the Clark</p> <p>19 County Commission's responsibility. Is that</p> <p>20 correct?</p> <p>21 <b>A. Yes. Yes.</b></p> <p>22 Q. And so you would not — all right. So</p> <p>23 all right. I think I got what I needed there. All</p> <p>24 right. So say there was something outside of your</p> <p>25 control like you found out there was voter</p>
<p>59</p> <p>1 <b>I would be telling my bosses what to do, and I don't</b></p> <p>2 <b>do that.</b></p> <p>3 Q. Right. So that's correct. You would</p> <p>4 not make such a recommendation; is that correct?</p> <p>5 <b>A. No.</b></p> <p>6 Q. It's not correct or is it correct?</p> <p>7 <b>A. No, I would not.</b></p> <p>8 Q. So you would not make a recommendation</p> <p>9 to hold a special election. Really, you're just</p> <p>10 trying to provide them the information and let them</p> <p>11 make the decision; is that correct?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. All right. So let's give an example.</p> <p>14 So if there was a machine — let's say there was a</p> <p>15 machine that was preventing people from voting in</p> <p>16 the election.</p> <p>17 <b>A. That's a different scenario.</b></p> <p>18 Q. Okay. Well, that's what I'm asking</p> <p>19 about.</p> <p>20 <b>A. That's a whole different set of NRS and</b></p> <p>21 <b>a whole different scenario.</b></p> <p>22 Q. Let me finish the question.</p> <p>23 If you have a machine that was</p> <p>24 malfunctioning and was preventing people from</p> <p>25 holding a new — from voting, do you see that as</p>	<p>61</p> <p>1 intimidation happening, for example. That there's</p> <p>2 people outside of a voting election location that</p> <p>3 are intimidating voters, one party or the other, and</p> <p>4 you know that they've scared some voters away.</p> <p>5 In that scenario, is it your</p> <p>6 responsibility to recommend a new election or do you</p> <p>7 simply say to the Clark County Commission, hey, this</p> <p>8 is what happened, this is our reporting of what</p> <p>9 happened, now you know?</p> <p>10 MR. SCHRAGER: I'm going to object.</p> <p>11 Sorry, Joe. I'm going to go object to that, number</p> <p>12 one, calling for a hypothetical, answering a</p> <p>13 hypothetical, but that it's irrelevant as well.</p> <p>14 BY MR. REYNOLDS:</p> <p>15 Q. Go ahead.</p> <p>16 <b>A. Yes, I would certainly make the report</b></p> <p>17 <b>to the Secretary of State and the County Commission</b></p> <p>18 <b>if that instance were to occur in my county.</b></p> <p>19 Q. All right. I've got no more questions</p> <p>20 at this time, I don't think.</p> <p>21 Before I end, Joe, is there anything</p> <p>22 about your prior testimony today that you would like</p> <p>23 to amend or correct in any way?</p> <p>24 <b>A. No, sir.</b></p> <p>25 MR. REYNOLDS: All right, Bradley, I'll</p>

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1 let you ask questions.  
 2 EXAMINATION  
 3 BY MR. SCHRAGER:  
 4 Q. Thank you very much, Jacob.  
 5 Good afternoon, Mr. Gloria, how are you?  
 6 **A. I'm doing well. Thanks for asking.**  
 7 Q. Very good. Thanks for sitting down with  
 8 us.  
 9 My name is Bradley Schrager, and you  
 10 know that I represent Commission Elect Ross Miller  
 11 in this matter, correct?  
 12 **A. Yes, I do.**  
 13 Q. It's been quite a few weeks for you,  
 14 hasn't it, Joe?  
 15 **A. It's been quite a year, yes.**  
 16 Q. Are you familiar with the elections  
 17 official's prayer, Joe?  
 18 **A. I don't have it memorized, but I think I**  
 19 **know what you're referring to.**  
 20 Q. You know what I mean when I say that?  
 21 **A. I think I've heard of it, yes.**  
 22 Q. Yeah. It's "Oh, Lord, please don't let  
 23 it be close," right?  
 24 **A. Right.**  
 25 Q. And that's because obviously close

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1 elections magnify the granular aspects of elections,  
 2 correct?  
 3 **A. Yes.**  
 4 Q. Elections are not perfect, right? They  
 5 never are.  
 6 **A. That's correct, they never are.**  
 7 Q. It is the attempt to capture as best we  
 8 can through the legal processes we have, the choices  
 9 among the electorate, whom they'd like to represent  
 10 them; is that fair?  
 11 **A. I would agree with that.**  
 12 Q. And things happen, right? We have  
 13 talked for almost two hours now, an hour and a half,  
 14 that things happen within elections that are  
 15 discrepancies but are utterly normal within the  
 16 conduct of an election, correct?  
 17 **A. Yes.**  
 18 Q. Now, opposing counsel has been referring  
 19 to these as errors. You never used the word "error"  
 20 to the County Commission, did you?  
 21 **A. No, we called them pretty clearly**  
 22 **discrepancies, except for the areas where we could**  
 23 **explain exactly what happened.**  
 24 Q. Right. And you call them discrepancies  
 25 because you don't know if they're errors. You don't

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1 know what happened in these 139 instances, correct?  
 2 **A. Unfortunately, with a majority of them I**  
 3 **do not. I can only give an idea of what they could**  
 4 **be, but I don't know what those are.**  
 5 Q. And so all the examples that opposing  
 6 counsel led you through or had you bring to the  
 7 floor, those are merely hypothetical examples of  
 8 things that may have happened to cause these  
 9 discrepancies, correct?  
 10 **A. That's correct.**  
 11 Q. Okay. We don't even know if there were  
 12 any ballots associated with these discrepancies,  
 13 there may not be any ballots. There may just be  
 14 discrepancies that will never be reconciled or  
 15 explained, correct?  
 16 **A. That is also correct.**  
 17 Q. Okay. And there's certainly no way to  
 18 understand whether these discrepancies favored or  
 19 disfavored any particular candidate, correct?  
 20 **A. There's no way for me to know.**  
 21 Q. So calling them errors is assuming a bit  
 22 too much, right? The evidence is we don't know what  
 23 happened, correct?  
 24 **A. I can't disagree with that. I can't**  
 25 **give you an explanation. I don't have anything**

65

1 **documented.**  
 2 Q. And I know you wish you could. Because  
 3 these are the sorts of things that someone who as  
 4 much as a perfectionist at his job and professional  
 5 as you are, this bothers you that these  
 6 discrepancies persist, correct? You'd like to run a  
 7 perfect election?  
 8 **A. If that was possible, yes. Zero defect**  
 9 **is difficult in elections, but it keeps me up at**  
 10 **night.**  
 11 Q. Absolutely. Absolutely. Now, when you  
 12 talked about the six double voters in the  
 13 election --  
 14 **A. Yes.**  
 15 Q. -- let me just clarify. That's  
 16 countywide, correct?  
 17 **A. Yes, sir.**  
 18 Q. So out of the 1.4 or 1.5 million people  
 19 who voted in the entire county, you have six  
 20 instances of all of them where there were double  
 21 votes, correct?  
 22 **A. It was a bit lower than that. I think**  
 23 **we voted just under a million, but that is correct.**  
 24 Q. Now, you told the Commission that there  
 25 were no tabulation errors in the 1150 precincts in

<p>66</p> <p>1 this election, correct?</p> <p>2 <b>A. That was in my canvas report, yes, sir.</b></p> <p>3 Q. And you stand by that here today?</p> <p>4 <b>A. I do. There was no issue with what we</b></p> <p>5 <b>tabulated.</b></p> <p>6 Q. Okay. And --</p> <p>7 <b>A. That we knew of.</b></p> <p>8 Q. Okay. And then what you tallied</p> <p>9 represented the results of all the contests</p> <p>10 including Commission race C, correct?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Now, there were -- I think you told the</p> <p>13 Commission there were some 900 total discrepancies,</p> <p>14 correct?</p> <p>15 <b>A. It was in the area of 900, that's</b></p> <p>16 <b>correct.</b></p> <p>17 Q. And 139 of them actually within</p> <p>18 Commission District C. Are those within the normal</p> <p>19 range of discrepancies given the size of the vote</p> <p>20 pool?</p> <p>21 <b>A. I would say that those are historically</b></p> <p>22 <b>lower.</b></p> <p>23 Q. Historically lower?</p> <p>24 <b>A. Yes, in a normal election. It was the</b></p> <p>25 <b>margin of victory that did us in.</b></p>	<p>68</p> <p>1 Q. Okay. So no court said, yes, this is</p> <p>2 the appropriate application of law or it's an</p> <p>3 inappropriate application of law? No court said</p> <p>4 that, correct?</p> <p>5 <b>A. Not that I'm aware of.</b></p> <p>6 Q. Okay. And you also mentioned the 2011</p> <p>7 North Las Vegas City Council race, correct, do you</p> <p>8 remember that one?</p> <p>9 <b>A. I do roughly, yes. I wasn't in</b></p> <p>10 <b>administration at that time so I wouldn't have been</b></p> <p>11 <b>directly related to everything that was going on.</b></p> <p>12 MR. REYNOLDS: Hold on. I'm just going</p> <p>13 to throw in an objection that I don't believe we did</p> <p>14 discuss that, but go ahead.</p> <p>15 BY MR. SCHRAGER:</p> <p>16 Q. That's fine. I actually think he</p> <p>17 brought up a North Las Vegas City Council race from</p> <p>18 ten years ago.</p> <p>19 Joe, was that the one you were referring</p> <p>20 to?</p> <p>21 <b>A. Yes, I believe so.</b></p> <p>22 Q. Okay. And that would have been under</p> <p>23 your predecessor, Harvard Lomax, correct?</p> <p>24 <b>A. Mr. Lomax, yes.</b></p> <p>25 Q. Do you know whether that was litigated?</p>
<p>67</p> <p>1 Q. So had this not been such a close</p> <p>2 result, you would have been incredibly proud of the</p> <p>3 fact that you emerged from an election during a</p> <p>4 pandemic with all the things you had to do to</p> <p>5 prepare and logistics and all of those things, you</p> <p>6 emerged from this election with a lower frequency of</p> <p>7 discrepancies than you normally would, correct, in</p> <p>8 your mind?</p> <p>9 <b>A. Yes, I would agree with that. It was a</b></p> <p>10 <b>tremendous achievement by my staff.</b></p> <p>11 Q. So you just got a bit unlucky that there</p> <p>12 was a really close election, right?</p> <p>13 <b>A. Yes, I did.</b></p> <p>14 Q. Yeah. Now, you mentioned the 2018, I</p> <p>15 believe it was an assessor's race in a primary in</p> <p>16 the summer of 2018 that --</p> <p>17 <b>A. Public administrator.</b></p> <p>18 Q. That's right. That's right. That's</p> <p>19 right. Public administrator. You remember that,</p> <p>20 right?</p> <p>21 <b>A. I do.</b></p> <p>22 Q. Do you know if anybody litigated that</p> <p>23 issue? Did either of the candidates sue and say,</p> <p>24 no, this isn't right, you shouldn't do it this way?</p> <p>25 <b>A. No, I do not believe that was the case.</b></p>	<p>69</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. It was. Okay.</p> <p>3 MR. SCHRAGER: Joe, that's all I have</p> <p>4 for you. Jacob, it's yours.</p> <p>5 MR. REYNOLDS: This is so great. I knew</p> <p>6 we could get this done early. All right. That's</p> <p>7 what happens when we know each other and respect</p> <p>8 each other. I've just got a couple of follow-ups.</p> <p>9 EXAMINATION</p> <p>10 BY MR. REYNOLDS:</p> <p>11 Q. Joe, I don't think I've properly</p> <p>12 identified what we've submitted as Exhibit 5, 6 and</p> <p>13 7, which came from Mary-Anne before this depo. So</p> <p>14 can you look at those exhibits and identify what</p> <p>15 those are for the record, please.</p> <p>16 <b>A. From what I understood, the absentee OBS</b></p> <p>17 <b>is Exhibit Number 5.</b></p> <p>18 Q. And what is that?</p> <p>19 <b>A. Early voting -- that is a report of the</b></p> <p>20 <b>discrepancies specific to Commission C in the</b></p> <p>21 <b>absentee tally type in the official ballot</b></p> <p>22 <b>statement.</b></p> <p>23 Q. Okay.</p> <p>24 <b>A. Which compares VEMACS to D-Suite.</b></p> <p>25 Q. And what is Exhibit 6?</p>

<p style="text-align: right;">70</p> <p>1 A. Exhibit 6 is the same type of report for 2 a different tally type, early voting. 3 Q. Okay. And what is Exhibit 7? 4 A. Again, it's the same type of report, but 5 this is for Election Day. The last of the three 6 tally types. 7 Q. Okay. And where -- where does mail-in 8 voting -- is that on Exhibit 5? 9 A. Yes. 10 Q. Okay. So any discrepancies with the 11 mail-in voting are identified on Exhibit 5, correct? 12 A. For the Commission C race. 13 Q. Correct. And then in Exhibit 6, when 14 you say early voting, is that people who show up at 15 the location and actually vote on a machine for 16 early voting? 17 A. During the 14-day period, yes. 18 Q. And then Exhibit 7 is Election Day. 19 That is also on machines at a voting location, 20 correct? 21 A. On Election Day. One day of activity. 22 Q. Great. I have -- I do have a couple -- 23 just a couple other follow-ups on what Bradley was 24 asking. 25 When you state there are no tabulation</p>	<p style="text-align: right;">72</p> <p>1 the VVPAT. I guess I'm having trouble. 2 Q. What I'm saying is your tabulation 3 counts all 51 votes, correct? 4 A. Yes. 5 Q. Even if one of those votes should not 6 have been cast, correct? 7 A. Yes. 8 Q. Okay. Bradley, can we just take a short 9 five-minute break to review my notes again? 10 MR. SCHRAGER: Certainly. 11 MR. REYNOLDS: Then I think we'll be 12 done. Thank you. Off the record. 13 (A recess is taken.) 14 BY MR. REYNOLDS: 15 Q. All right, Mr. Gloria, can you hear me? 16 A. I can hear you. 17 Q. Great. So we've just taken a break. Do 18 you have anything about your prior testimony today 19 that you would like to amend or correct in any way? 20 A. No, sir. 21 Q. Okay. I've got two general questions 22 for you. I don't think we've had a very good 23 explanation on the record here. 24 What is the voting process for somebody 25 who shows up to vote at a voting location, like</p>
<p style="text-align: right;">71</p> <p>1 errors, I want to go back to our -- admittedly a 2 hypothetical example. When we were discussing these 3 discrepancies, one example you gave on November 16th 4 of a possible cause of the discrepancy is 50 people 5 sign in, but we have 51 ballots. 6 When you say those ballots were 7 correctly tabulated, you're talking you have 8 correctly counted all 51 ballots, correct? 9 A. Yes, exactly. My tabulation had no 10 errors. 11 Q. Right. So then when we count those 51 12 ballots in that example, that's an example you gave 13 where one of those ballots is possibly a mirror 14 ballot that was cast twice by one voter, correct? 15 A. It is possible. That's a possible 16 scenario. 17 Q. Right. So simply saying the tabulation 18 is correct doesn't mean that it represents the 19 correct vote intended to be cast, correct? 20 A. Well, I think we talked about this 21 earlier. I don't know that it doesn't truly 22 represent the will of the voter -- 23 Q. I didn't ask that. 24 A. -- tabulated correctly. The voter had 25 an opportunity to review that on the machine and on</p>	<p style="text-align: right;">73</p> <p>1 what's supposed to happen? 2 A. The voter obviously would queue in line, 3 then they would check in at one of our kiosks, which 4 we call the laptop that's hooked up to our voter 5 database system. 6 They would provide their name, and we 7 would look them up in the system and find out 8 whether they're registered or not. Now, with 9 same-day registration, if we did not find them in 10 the system -- of course, we would ask them for some 11 different information like their residential address 12 or date of birth to make sure that we didn't 13 incorrectly log their name. If not, then they would 14 have to have a Nevada driver's license or ID to 15 register same day. Those people could have also 16 registered online, had been required to show a 17 Nevada ID on site. 18 But long story short, they check in. 19 They sign in. Their signatures match unless they're 20 an SDR. And then they're given a voter card and 21 proceed to the voting machine where we have monitors 22 that are there to help ask any questions or the 23 system along the way, offer Spanish or Filipino 24 translation if need be. 25 If they have any trouble, they can give</p>

<p>74</p> <p>1 that information to the monitor for assistance. If  2 their transaction goes smoothly, they cast their  3 ballot, they turn their card in and they get an  4 award winning sticker.  5 Q. Excellent. Thank you very much for that  6 summation. And I think you very well described the  7 potential errors so we don't need to go over those  8 anymore.  9 The next question I have is go over your  10 experience one more time. You said you've been the  11 registrar since 2013; is that correct?  12 A. That's correct. I started my election  13 career in 1992 in Las Cruces, New Mexico. I was a  14 voting machine tech there. I applied for the job in  15 Clark County in 1995. Was successful in getting a  16 position. And moved to Las Vegas with my family in  17 March of 1995. Go ahead. I'm sorry?  18 Q. What position did you get in  19 Clark County, Nevada, in 1995?  20 A. Voting machine technician.  21 Q. Okay. Please continue.  22 A. And from there I progressed up until  23 2013. I became the senior voting machine  24 technician. I became the election manager. And  25 then there was an election operations supervisor</p>	<p>76</p> <p>1 MR. SCHRAGER: For the seventh time.  2 He's answered the question.  3 MR. REYNOLDS: I know. And if there's  4 any changes, I'm going to cite seven times where I  5 asked him --  6 THE WITNESS: You sure did. I had  7 plenty of opportunity.  8 MR. REYNOLDS: All right. Thank you  9 very much for your time. We'll go off the record.  10 (A discussion is held off the record.)  11 THE REPORTER: So, Mr. Schrager, you  12 also need the final Wednesday?  13 MR. SCHRAGER: Yes. And the rough.  14  15 (The deposition concluded at 2:52 p.m.)  16 -oOo-  17  18  19  20  21  22  23  24  25</p>
<p>75</p> <p>1 position and I became a senior elections supervisor  2 prior to becoming the registrar of voters.  3 Q. And did you become the registrar of  4 voters by election or by appointment?  5 A. Oh, no. This office is appointed in  6 Clark County.  7 Q. And who's responsible for appointing  8 you?  9 A. The Board of County Commissioners.  10 Q. Was the -- do you serve on a term of  11 appointment or how long do you serve until your  12 appointment's reconsidered?  13 A. I serve until they're unhappy with me or  14 I happily retire.  15 Q. Joe, I believe that is all the questions  16 I have today. Thank you very much for your time and  17 for making yourself available. I know you've been  18 doing a whole heck of a lot lately, but we certainly  19 appreciate you in giving us your time.  20 Before we close, is there anything else  21 you would like to amend or correct about your  22 deposition today?  23 A. No, but thanks for asking.  24 MR. REYNOLDS: Bradley, do you have new  25 additional questions? What? Go ahead, Bradley.</p>	<p>77</p> <p>1 CERTIFICATE OF DEPONENT  2 PAGE LINE CHANGE REASON  3  4  5  6  7  8  9  10  11  12  13  14 * * * * *  15 I, JOSEPH P. GLORIA, deponent herein, do  16 hereby certify and declare the within and foregoing  17 transcription to be my deposition in said action;  18 that I have read, corrected and do hereby affix my  19 signature to said deposition under penalty of  20 perjury.  21  22  23  24  25</p> <p>JOSEPH P. GLORIA, Deponent</p>

1 CERTIFICATE OF REPORTER  
2 STATE OF NEVADA )  
 )SS:  
3 COUNTY OF CLARK )  
4

5 I, Karen L. Jones, a duly commissioned and  
6 licensed Court Reporter, Clark County, State of  
7 Nevada, do hereby certify: That I reported the  
8 taking of the deposition of the witness, JOSEPH P.  
9 GLORIA, commencing on Monday, December 7, 2020 at  
10 1:00 p.m.

11 That prior to being examined, the witness was,  
12 by me, duly sworn to testify to the truth. That I  
13 thereafter transcribed my said shorthand notes into  
14 typewriting and that the typewritten transcript of  
15 said deposition is a complete, true and accurate  
16 transcription of said shorthand notes.

17 I further certify that (1) I am not a relative  
18 or employee of an attorney or counsel of any of the  
19 parties, nor a relative or employee of an attorney  
20 or counsel involved in said action, nor a person  
21 financially interested in the action; nor do I have  
22 any other relationship with any of the parties or  
with counsel of any of the parties involved in the  
action that may reasonably cause my impartiality to  
be questioned; and (2) that transcript review  
pursuant to NRCP 30(e) was not requested.

23 IN WITNESS WHEREOF, I have hereunto set my  
24 hand, in my office, in the County of Clark, State of  
25 Nevada, this 8th day of December, 2020.

*Karen L. Jones*

KAREN L. JONES, CCR NO. 694

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<hr/> <p style="text-align: center;"><b>V</b></p> <hr/> <p><b>Vegas</b> 7:14,17 53:21 68:7,17 74:16</p> <p><b>VEMACS</b> 22:19 24:15 28:14 38:1 43:25 69:24</p> <p><b>Verbatim</b> 13:10</p> <p><b>verifiable</b> 49:18</p> <p><b>verification</b> 40:5</p> <p><b>verified</b> 31:9 33:9</p> <p><b>verify</b> 38:11,21 39:23 49:20</p> <p><b>verse</b> 27:20</p> <p><b>versus</b> 31:2</p> <p><b>victory</b> 8:25 9:5 25:13 28:7,12 31:11,13 34:15,24 36:24 51:20 55:17 66:25</p> <p><b>video</b> 6:8,9 9:23,24,25 10:10,13</p> <p><b>volunteer</b> 5:24</p> <p><b>vote</b> 9:4 11:17 21:25 22:20 27:24 30:1,18,21 33:11,17,23 35:25 37:8 39:15 40:3,15 43:21 44:15,17 45:14,18,23 46:1,13 49:4,5,21 52:9 53:16 55:6 56:6 66:19 70:15 71:19 72:25</p> <p><b>voted</b> 19:2 20:18,23 21:4,17 22:9 29:22 32:8 33:14 36:4 38:16 39:20,21 40:1 42:20 44:22 65:19,23</p> <p><b>voter</b> 7:24 25:8 28:10,24 29:1,6, 20,23,25 30:12 31:2 32:3,19 33:6,9,14,16,17,24 36:18,22 37:7 39:15,25 40:25 41:4 42:5,23 43:18 45:24 46:5 48:4 49:13,17 60:25 71:14, 22,24 73:2,4,20</p>	<p><b>voter's</b> 43:4</p> <p><b>voters</b> 13:4 27:24 31:4 35:2,5 47:14 49:15 53:18 56:7 61:3,4 65:12 75:2,4</p> <p><b>votes</b> 7:11 8:18 18:15 19:11 21:13, 18 22:21 24:16 31:9 40:12 44:14 47:6,15 53:5 54:21,25 55:2 65:21 72:3,5</p> <p><b>voting</b> 14:17 19:22,24 21:3,6,10 23:1,2 28:25 29:21 30:12 31:8 37:20 38:4,6,10 39:9 43:16 44:16 46:18,22 52:24 59:15,25 60:11 61:2 69:19 70:2,8,11,14,16,19 72:24,25 73:21 74:14,20,23</p> <p><b>VVPAT</b> 33:8 72:1</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>wait</b> 37:23,25 38:14</p> <p><b>waiting</b> 58:1</p> <p><b>wanted</b> 10:2 44:3</p> <p><b>waving</b> 45:2</p> <p><b>Wednesday</b> 76:12</p> <p><b>weeks</b> 37:20 62:13</p> <p><b>wholly</b> 7:15</p> <p><b>window</b> 45:3</p> <p><b>winning</b> 74:4</p> <p><b>wondering</b> 17:12</p> <p><b>word</b> 29:22 63:19</p> <p><b>worded</b> 8:23</p> <p><b>work</b> 52:25</p>	<p><b>workers</b> 23:21 60:10</p> <p><b>written</b> 16:3</p> <p><b>wrong</b> 40:1</p> <hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p><b>year</b> 62:15</p> <p><b>years</b> 56:22 68:18</p> <hr/> <p style="text-align: center;"><b>Z</b></p> <hr/> <p><b>Zoom</b> 4:14,24 9:11 10:2 58:9,12</p>	
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## AFFIDAVIT OF JOSEPH GLORIA

State of Nevada )

) ss:

County of Clark )

1. I am the Registrar of Voters for Clark County, and this declaration formalizes the statements I made to the Commissioners on November 16, 2020 during the canvass of the 2020 General Election.

2. It is a routine procedure for the election boards after each election and before the canvass of that election to examine the voter sign ins with the vote tallies of each precinct to ensure that they balance. In the event that they do not balance (match), members of the board examine the records available in order to ascertain why the numbers do not match. There are a number of reasons that a voter number will not match with the vote tally and it is not unusual for these discrepancies to occur and for the election boards to be unable to discern the reason for the discrepancy.

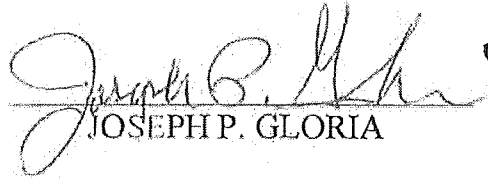
3. In the case of the Commission, District C race, the members of counting and auditing boards found discrepancies such that the margin of victory in that race is called into doubt. There are 218 precincts in District C. There were 139 discrepancies which the election boards were unable to reconcile. As a result, I cannot certify that the vote is an accurate representation of the will of the voters in

EXHIBIT 1  
DATE 12/7/20  
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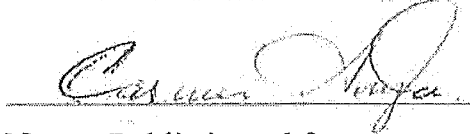
that district, and in my professional opinion as an election official, it raises a reasonable doubt as to the outcome of the election.

4. The discrepancies found in other races in the General Election were not of sufficient magnitude to call into question the results of that race.

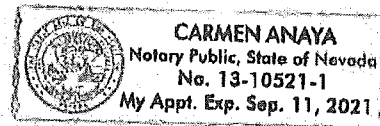
FURTHER YOUR AFFIANT SAYETH NAUGHT.

  
JOSEPH P. GLORIA

Subscribed and Sworn to before me



Notary Public in and for  
said County and State



November 23, 2020

***Via Email***

Clark County Commission  
c/o Lynn Marie Goya  
Clark County Clerk  
[Lynn.Goya@clarkcountynv.gov](mailto:Lynn.Goya@clarkcountynv.gov)

Registrar of Voters  
[jpg@clarkcountynv.gov](mailto:jpg@clarkcountynv.gov)

Clark County Commission  
c/o Mary-Anne Miller  
District Attorney, Clark County Commission  
[Mary-Anne.Miller@clarkcountyyda.com](mailto:Mary-Anne.Miller@clarkcountyyda.com)

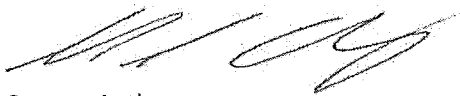
**Re: Stavros Anthony's application for a new election in the Clark County Commission District C race pursuant to NRS 293.465.**

To the Clark County Commission,

By this letter I formalize my request for a new election in the Clark County Commission District C race pursuant to NRS 293.465 based on *at a minimum* the irregularities identified by the Registrar of Voters. I have additional evidence supported by affidavits if the Commission is willing to receive it. I submit this application now because my understanding is that the Registrar of Voters submitted a written affidavit this morning pursuant to NRS 293.465, to formalize his affirmative statements before the Commission on November 16, 2020. I did not previously submit this letter as my understanding was that the Commission did in fact agree with the Registrar's recommendation and did in fact vote at its meeting on November 16, 2020, to have a new election in Clark County Commission District C race.

However, following the lead of the Registrar of Voters, by this document, I also want to confirm my desire and make my formal application for a new election in the Clark County Commission District C race pursuant to NRS 293.465. My understanding is that the new election is not discretionary but based on NRS 293.465 is mandatory.

Sincerely,



Stavros Anthony  
Candidate, Clark County Commission District C

Cc: Hutchison & Steffen Attorneys

EXHIBIT 2  
DATE 12/7/20  
WITNESS: GLORIA  
PAGE(S)

AA000293

**NRS 293.465 Loss or destruction of ballots, or other cause, preventing election in precinct or district; new election.** If an election is prevented in any precinct or district by reason of the loss or destruction of the ballots intended for that precinct, or any other cause, the appropriate election officers in that precinct or district shall make an affidavit setting forth that fact and transmit it to the appropriate board of county commissioners. Upon receipt of the affidavit and upon the application of any candidate for any office to be voted for by the registered voters of that precinct or district, the board of county commissioners shall order a new election in that precinct or district.

(Added to NRS by 1960, 268; A 1987, 353; 1999, 264; 2015, 3158)

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WITNESS: Gloria  
PAGE(S)



00:00-5:45 - meeting set up

5:46

MS. KIRKPATRICK: okay, were going to go ahead and call to order the special meeting for Monday, November 16<sup>th</sup>.

MS. KING: Good afternoon, Madam Chair and Commissioners. The first item on your agenda is public comment.

MS. KIRKPATRICK: This is the first time set aside for public comment. Anybody wishing to speak on public comment regarding this item. Please come forward. Please state your name for the record.

MS. DERISO: I haven't been here for public comment. Can I talk without this?

INDISTINCT TALKING

MS. KIRKPATRICK: Okay, Lisa. If you can wipe off the mike when you're done and absolutely everything it would be great.

Ms. DERISO: My name is Lisa Mayo Deriso and I'm here. I want to put in public record this letter. I'm here on behalf of the Stavros Anthony campaign for Clark County Commission and I'd like to read this letter into the record. I believe you should have received it this morning by email. Thank you, but I just wanted to make sure that we write it into the record. Its addressed to Joe Gloria, Registrar of Voters, Clark County Election Department:

6:56 - BEGINNING OF LETTER

Dear Mr. Gloria,

The law firm of Hutchison & Steffen serves as legal counsel for the Stavros Anthony for County Commission campaign (the Anthony Campaign). As you prepare to report to the Clark County Board of Commissioners on the canvassing of the 2020 general election returns on Monday, November 16<sup>th</sup>, we ask respectfully on behalf of the Anthony Campaign that you seriously consider delaying the presentation for approval of the vote for Clark County Commission District C.

As the Anthony Campaign reviewed Election Department voter data, some possible voter irregularities may have occurred in District C including: over two dozen District C residents have provided written statements that they had a ballot return from their address by people who do not live there. This information has been researched and gathered by the Anthony Campaign's field and phone teams. This research and outreach is continuing and very well may result in securing additional affidavits. There were approximately 160 voters were mailed ballots in the primary election that were returned to the post office as undeliverable. Those same voters were again mailed ballots in the general election to the same addresses that were previously shown as undeliverable, yet votes were case in the general election for those 160 votes.

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BY GLORIA  
PAGE(S)

1 There are 19 voters who cast two ballots. There are approximately 150  
2 addresses to which mail was delivered and from which votes were cast, but  
3 the addresses were inaccurate. This should have resulted in the ballot  
4 being returned to the Clark County - to Clark County.

5  
6 The Anthony Campaign respectfully requests that you investigate and give  
7 due consideration to these potential voting irregularities before  
8 presenting the election results to the County Commission for approval.  
9 With a 10 vote margin, which is .000653 difference in the separating Mr.  
10 Anthony and Mr. Miller, the utmost consideration and careful review  
11 should be given to the voters of District C and the counting of their  
12 votes so that an accurate final tally can be confidently given. Anthony,  
13 additionally as the Anthony campaign proceeds in the days ahead and  
14 weighs its options, including a recount, the Anthony Campaign  
15 respectfully requests that you seriously consider and make all necessary  
16 arrangements to include not just a recount of ballots but a thorough  
17 review of all Mail envelopes that contained the ballots and signatures to  
18 ensure they comply with the Nevada law. With the - can I continue? Thank  
19 you - with the extraordinary circumstances of the 2020 general election  
20 when the normal mail ballot load received by Election Department  
21 increased from 5% of the total vote to roughly 50% of the total vote, the  
22 envelopes take on critical importance. In addition, the corresponding  
23 workload placed on County staff was significantly higher than a normal  
24 general election and must be considered ensuring that the final vote  
25 count is accurate.

26  
27 10:00

28  
29 Because the legitimacy of all mail-in ballots are tied directly to the  
30 envelopes that they were mailed in, a complete review and careful  
31 evaluation of all envelopes should be undertaken. It is imperative that  
32 any envelope from which a ballot was received, extracted, accepted, and  
33 then counted meets all requirements for legal submission. Ballots  
34 arriving in envelopes that fail to comply with the County guidelines or  
35 Nevada law should be considered for rejection.

36  
37 On behalf of the Anthony Campaign, and Stavros Anthony personally, thank  
38 you for taking the time to ensure that the final vote tally is correct  
39 and the voters of Clark County Commission District D can be confident the  
40 canvassing of the election is accurate because it was completed a careful  
41 and deliberate matter in light of the concerns expressed above.

42  
43 10:48 - END OF LETTER

44  
45 MS. DERISO: I just wanted to do that. Thank you very much for allowing  
46 me to do that.

47  
48 MS. KIRKPATRICK: Thank you. Anybody else wishing to speak during public  
49 comment?

50  
51 MR. MUELLER: Good afternoon Commissioners. May I speak? My name is Craig  
52 Mueller. I'm an attorney. I was on the phone yesterday with Stavros  
53 Anthony and also second his motion for a continuation. I'm actually also

here on behalf of April Becker, Dan Gilliam, William Kephart, Jim Merchant and Melinda Schumacher.

We had a little more time to go through the data and we believe that pursuant to statute that a partial or total revote is necessary. I draw the Commission's attention to Nevada Revised Statute 293.465, upon receipt of affidavits or application of any candidate or any office to be revoted, the Registrar of Voters for that Precinct, the Board of County Commissioners shall order a new election and precincts or District.

What our investigation has revealed is Mr. Gloria, for whatever reason, flooded the county with 93,000 additional ballots. The 93,000 ballots should not have gone out. Normally, that wouldn't necessarily have been a problem had there been a meaningful signature verification of these ballots as they came in. Unfortunately, there was not. Mr. Gloria, apparently on his own initiative, decided to use an artificial intelligence program called AGILUS so that he didn't have to manually check them.

MS. KIRKPATRICK: Mr. Mueller, here's what I'm going to tell you. Please be respectful. Mr. Gloria has done yeoman's work.

MR. MUELLER: Yes he has.

MS. KIRKPATRICK: So you do not have to call him out by name as you speak and he's THE registrar if you'd like to refer to him, but it is not solely His decision. We all direct him to do things. So please be respectful of Mr. Gloria.

MR. MUELLER: Thank you Commissioner. The answer is there are so many fundamental flaws here with this election that nobody could reasonably believe that these outcomes, whatever side of the party, whichever side your issues are going to believe that these election reflects the will of the people. I have assembled what I was able to attend to and get it put together on short notice. I've got a copy for each other Commissioners. There are statutory provisions for such a circumstance. Those of you who have been in Las Vegas for a long time may remember we actually revoted an Assembly District back in 94-96. That was actually my home District and I actually participated as a voter.

There is authority to revote. There is reason to revote and if the Anthony Campaign wants to ask for a few additional days, we would join them but I believe statutorily and factually there is actually no other option here, but the revote the entire election and I will submit this to the clerk so that you will have a copy of the exhibits and information we put together. I have a copy for everybody.

MS. KIRKPATRICK: Thank you Mr. Mueller. We appreciate that. Is there anybody else wishing to speak during public comment? OK I'm going to go ahead and close the public comment, and I just want to start by saying Mr. Gloria I know that you and your staff have worked tirelessly, and we can't say thank you enough, and we appreciate all the work that they have done and everything that they've done to ensure that our process is fair. So, thank you. Miss King.

MS. KING: The next item on the agenda is item number 2, approval of the agenda.

MS. KIRKPATRICK: Entertain a motion to approve the heaven motion by commissioner Gibson to approve the agenda. Any discussion? Seeing none, please cast your vote. And that motion passes.

15:00

MS. KING: Next, we have a number 3, which is to receive the report from the Registrar of Voters, canvas the returns of the general election held on November 3rd of 2020 and direct the Registrar to submit a copy of the abstract of votes cast to the Nevada Secretary of State within 13 days after the election pursuant to Assembly Bill 4.

MS. KIRKPATRICK: Mr. Gloria.

MR. GLORIA: Good afternoon. For the record, Joe Gloria, Registrar of Voters Clark County, Nevada. I'd like to start by thanking a long list of people who provided critical support to us this election season. We couldn't have done what we did without assistance from so many different areas. And first, I'd like to thank the Commissioners for your support and the resources as we communicated and what are concerns where you consistently came through with what are office needed in order to carry out this election. So it really means a lot to our department that you are here for us. Also, the County Manager and Senior Management team and a long list of agencies and departments that I hope you'll bear with me because they all deserve praise: Human Resources, Risk Management, Parks and Recreation, with all the facilities that we used in order to provide voting, IT, Cyber Security Protection and all of the work that they did to support. We can't provide the process that we do efficiently without constant IT support so thanks to them. Automotive, Park Police for providing security, Metro Police for additional security provided at our facility and also throughout the early voting and election day. The city of North Las Vegas and their Police Department, city of Henderson, the city of Boulder City and their Police Department, the City of Mesquite and their fire department, the city of Las Vegas and the city Marshals, all of the owners of the shopping centers that let us have polling places on their property. There are many challenges that come with allowing us to come in and provide this service. They provided support for additional parking, additional security all throughout the period, so thank you to all of those Property Owners. The more than 3,400 County residents who stepped up to work at the poles during such a difficult process with a pandemic going on in the large number of Voters who showed up to vote. My staff at the Election Department do I simply cannot say enough about sticking it through long hours day after day without any days off. I simply can't say enough for the effort that they put forth in supporting this election. And then, most importantly, the voters in Clark County.

With that, I'll go ahead and read the results of the canvassing into the record and then answer any questions that you may have.

1 Results of the canvas for the 2020 general election November 3<sup>rd</sup>, 2020.  
2 The results of the November 3<sup>rd</sup>, 2020 general election were canvased  
3 comparing the computer printout of ballots counted in the results thereof  
4 with the official ballot statement for each of the 1150 precincts  
5 utilized in this election. Of the 974,185 ballots cast in the 1150  
6 precincts, we identified 936 discrepancies: 710 were in the mail  
7 precincts, 121 in the early voting precincts, and 105 in the election day  
8 precincts. Six voters have been identified who voted twice in this  
9 election. The mail ballot discrepancies represent issues related to  
10 tracking the process of ballots, moving from signature verification to  
11 manual signature verification, the ballot cure process and Counting board  
12 process.

13  
14 The early voting and election day discrepancies are related to  
15 inadvertent canceled voter check-ins, reactivated voter cards, duplicate  
16 activations or check-in errors. Of the 60,109 provisional ballots cast  
17 in the election, 57,866 were accepted and 2,243 were rejected. Of those  
18 that were rejected, 115 had already voted in the election, 142 voted in  
19 the wrong District or Precinct, 8 were not eligible to vote, 1,925 were  
20 not registered to vote and 53 did not provide adequate proof of residence  
21 or identification. There were no tabulation errors in the 1150 precincts  
22 and that ends my report.

23  
24 MS. KIRKPATRICK: Thank you Mr. Gloria. Did anybody have any questions?

25  
26 MR. BROWN: Madame Chair, thank you. I'd like to make a motion  
27 understanding that I would welcome comments and questions from my  
28 colleagues. Based upon the report of the Registrar of Voters, I would  
29 like to make the following motion: that we accept the canvas of the vote  
30 and certify the election results with the exception of County Commission  
31 District C.

32  
33 20:00

34  
35 The commission has received individual briefings in the last 24 hours and  
36 to the best of my knowledge some of the discrepancies outlined by the  
37 Registrar indicate that those discrepancies surpassed the narrow margin  
38 of victory in the District C race calling into question the validity of  
39 the election results in just District C. I would like to ask the  
40 Registrar as part of my motion to come back at the next regular scheduled  
41 BCC meeting with options for a District C resolution.

42  
43 MS. KIRKPATRICK: OK. Commissioner Jones.

44  
45 MR. JONES: Thank you Madame Chair, and I appreciate my colleague from  
46 District C's motion. I would suggest that under NRS 293.032, our job in  
47 conducting a canvas in the review of the election results by the board of  
48 County Commissioners by which any errors within the election results are  
49 officially noted and the official election results are declared. So our  
50 job in canvassing the vote is not to ensure that every single ballot has  
51 been double checked and triple checked in and quadruple checked. It's  
52 simply to note any election roll any errors within the election results  
53 to note them and the official election results are declared. And we are

1 to complete that under NRS 293.387 today, the tenth day following the  
2 election.

3  
4 In terms of how to resolve any concerns that are brought up that is,  
5 under NRS 293, designated for a recount in which the candidate can ask  
6 for a recount and under NRS 293.405, the costs of the recount are born by  
7 the challenging party. So, I can't support the motion. I think that our  
8 job here is to note any discrepancies. I think that Mr. Gloria has in his  
9 canvas noted any discrepancies and our job is simply to accept them and  
10 any candidate can challenge them through the recount process.

11  
12 MS. KIRKPATRICK: Okay. Thank you. Commissioner Gibson.

13  
14 MR. GIBSON: Thank you Madame Chair. A couple of questions. First, to  
15 our Counsel - What is your counsel to us respecting the things that are  
16 just been commented upon by my colleague?

17  
18 COUNSEL: Which colleague?

19  
20 MR. GIBSON: Mr. Jones.

21  
22 COUNSEL: There is some authority for the proposition that your job here  
23 is just ministerial, that is not been that the custom of the Commission  
24 in the past when there's been discrepancies that make it impossible for  
25 the Registrar to say that the results aren't totally valid and the will  
26 of the people.

27  
28 MR. GIBSON: So, is the motion that Commissioner Brown offered up  
29 something that goes without or beyond the authority of this board to do?

30  
31 COUNSEL: I think it's within the authority and responsibility for the  
32 board.

33  
34 MR. GIBSON: I have a question about the discrepancies. We've talked  
35 about a number of discrepancies, 936 discrepancies countywide, I take it.  
36 What is the circumstance respecting discrepancies in District C in the  
37 District C vote? Are there ballots that are District C ballots where you  
38 found discrepancies? And what are the nature of the discrepancies?

39  
40 MR. GLORIA: Commissioner Gibson, in my review I have found discrepancies  
41 that surpass the amount of the margin of victory, in Commission C  
42 specifically.

43  
44 MR. GIBSON: Can you give us a number and then tell us, give us a sense  
45 of what these discrepancies are?

46  
47 MR. GLORIA: I've identified 139 discrepancies in the Commission C race  
48 that follow pretty closely to what I described in the canvas document.  
49 Basically, there are records that were transferred back and forth from  
50 different responsibilities within the mail process that canceled check-  
51 ins and things of that nature that we can't reconcile and so they very  
52 much or very well could represent a discrepancy that would affect the  
53 outcome of the election.  
54

1 MR. GIBSON: So, the nature of these discrepancies is such that you can't  
2 just look at them again, or in the context of a recount apply them to one  
3 candidate or another. You cannot do that.

4  
5 25:00  
6

7 MR. GLORIA: That is correct sir. The privacy of the ballot prevents us  
8 from doing anything with identifying specific ballots according to a  
9 particular voter where we would have the ability to pull those out. It's  
10 not possible.

11  
12 MR. GIBSON: For now, I have a couple other questions, but I'd like to  
13 wait just for a minute.

14  
15 MS. KIRKPATRICK: Does anybody else have any questions that they'd like  
16 answered? Commissioner Segerblom.

17  
18 MR. SEGERBLOM: I'm still not clear. So you're saying that that 900  
19 people in this district, there are a hundred people show they have voted  
20 but you don't have actual vote counts for that or...

21  
22 MR. GLORIA: The vote count will not change. So what we've tallied  
23 represent the results in all of the contests within the election.  
24 However, we have found discrepancies that we can't explain that would  
25 cast a doubt on whether or not that margin of Victory is solid and that I  
26 could certify it to say that is definitely accurate.

27  
28 MR. SEGERBLOM: But it's a discrepancy that that you don't know if the  
29 person's vote was counted or not counted? What is the discrepancy?

30  
31 MS. MILLER: An example of a discrepancy is when you sign in, when you go  
32 to vote in person, you sign in at the check in table and then they check  
33 - you're given a card and led to a machine. If somebody fails to  
34 actually sign in but is then led to a voter machine and votes than that  
35 printing is going to be off by one vote. Or, conversely, if that person  
36 checks in to vote and for some reason he decides he doesn't want to hit  
37 the cast button, cast ballot button, but he leaves and doesn't tell a  
38 clerk what has happened? There's going to be a discrepancy there in the  
39 number of voters in each precinct and the number of votes recorded for  
40 that precinct.

41  
42 MR. SEGERBLOM: So you would know the person who...

43  
44 MS. MILLER: Not necessarily. Like for example if they haven't signed  
45 in, we don't know who that extra person is necessarily. Sometimes we're  
46 able to do enough investigation that we can figure it out but not in  
47 these cases, not in these particular ones Mr. Gloria is reporting today.

48  
49 MR. GLORIA: If I could follow up as well commissioner to maybe clarify.  
50 In the course of a day at a particular site, you may have 50 voters who  
51 vote at a precinct 1105. There are two areas where we track that  
52 activity. One is in the voter registration database where we have our  
53 pole book that signs voters in. That varies from time to time. What we  
54 tally into the system as a vote does not change. So if I end up with 50

1 votes in my voter registration, but then only 49 in my Democracy Suite or  
2 tabulation for voting systems, I have a discrepancy and because there  
3 were 50 votes in that I can't determine exactly which individual it was  
4 affected by, but I know that I'm off. And so, we go through with every  
5 single precinct by tally type: mail, early voting and election day and  
6 wherever there's a discrepancy, it should be a balance. It should be  
7 50/50 but where we have areas in a Precinct where is 51 and 50 or 49 and  
8 50 there's a discrepancy there. And so, we search through our  
9 documentation to identify if the team leader has identified with  
10 paperwork to document that so that we can explain it. If we don't have  
11 documentation, then we can't make a determination as to exactly why that  
12 discrepancy occurred but we know we have one. In the Commission C race,  
13 I've identified 139. That's the only race in the entire election where  
14 we have any concern related to the outcome and it's because of the close  
15 margin. It's a district with 218 precincts A margin to 10 is very  
16 difficult to audit.

17  
18 MR. SEGERBLOM: So to follow up on that. If there's a recount, the  
19 recount would still be the same based on this discrepancy.

20  
21 MR. GLORIA: Not necessarily. I couldn't guarantee it would come out 100%  
22 the same. In 2016, we recounted over 800,000 ballots I believe it was,  
23 and at the end of the day, we had a discrepancy of 4 so it was very tight  
24 and all those votes that were cast, it was only changed by 4. That's  
25 pretty tight as far as the process and the fact that we counted fairly  
26 accurately in that election. I can't tell you whether or not it would be  
27 that close or if there would be a wider margin with a recount.

28  
29 MR. SEGERBLOM: But I'm saying this discrepancy would not be identified  
30 by the recount because the recount just counts the 50 or the 49.

31  
32 30:00

33  
34 MR. GLORIA: Precisely. According to statute, we would count those  
35 ballots in the exact same way we counted them in for this result.

36  
37 MR. SEGERBLOM: So I'm going to ask the attorney then what happens if we  
38 if we have a recount and the same thing happens? Is there ... the winner  
39 have a recourse to go to court or something?

40  
41 MS. MILLER: Contestant's always have the ability to file a contest  
42 rather than a recount and the contest grounds are more Broad. In this  
43 case, there would be grounds for a contest because there were enough  
44 discrepancies to raise a question about the final vote. So, rather than a  
45 recount, it be more likely that somebody would file a contest. As Mr.  
46 Gloria said, a recount's not going to solve those discrepancies for you.

47  
48 MR. SEGERBLOM: And just one more question. So, if we do certify today  
49 that this does not prevent a request for a recount or for the other  
50 processes you talked about.

51  
52 MS. MILLER: Well, for the other races, they can file their contest. You  
53 can't file a contest of a race that hasn't been certified because  
54 technically there's not a winner. Somebody hasn't been declared a winner



1 in there. There might be the other legal avenues that they could follow but  
2 not technically a contest.

3  
4 MR. SEGERBLUM: So, if we don't certify then, are we then saying  
5 potentially we're going to ask for a revote ourselves?

6  
7 MS. MILLER: That's what the Board has done in the past, is set up a  
8 special election just with those two candidates to re-run the election.

9  
10 MS. KIRKPATRICK: Can I ask who bears that cost? Do we as the County? Is  
11 that what we did? I feel like there is a public administrator that we  
12 did this for.

13  
14 MS. MILLER: It's not the only time. It's not an unusual practice. So  
15 that most recently did we did it with the Republican primary for the  
16 public administrator in 2018. It happens more likely in assembly races  
17 because they're smaller and then they're more likely to be close than a  
18 bigger race, but

19  
20 MS. KIRKPATRICK: Commissioner Jones.

21  
22 MR. JONES: Ms. Miller, what's the statutory basis for holding a special  
23 election? I'm trying to understand that.

24  
25 MS. MILLER: In this case, you could use the same statute that you cited  
26 saying that because there's a catch-all clause there. You could determine  
27 that the will of the voters had not been determined then hold a special  
28 election.

29  
30 MR. JONES: Which statute specifically?

31  
32 MS. MILLER: I think you cited 293.045

33  
34 MS. KIRKPATRICK: All these attorneys up here feel nervous. Commissioner  
35 Naft.

36  
37 MR. NAFT: Thank you Madame Chair. While he's reviewing that...Ms. Miller,  
38 could you speak a little bit more to where the proper forum for this to  
39 proceed would be? I understand, from your interpretation, it is in this  
40 body's ability not to certify but if we don't, it would go to the court  
41 process leaving candidates some options still to protest the outcome.

42  
43 MS. MILLER: If you certified the results, the candidates - the losing  
44 candidate could file a contest tomorrow. I believe that's the deadline is  
45 why I mentioned tomorrow.

46  
47 MS. KIRKPATRICK: So explain to me again. What does that mean?

48  
49 MS. MILLER: So a contest is going to court and essentially doing the  
50 same sort of analysis that a judge would do the same sort of analysis you  
51 are doing today and determine whether or not the person declared the  
52 winner was legally declared the winner.

1 MS. KIRKPATRICK: OK. Commissioner Weekly.  
2  
3 MR. WEEKLY: And with that being said, Ms. Miller, the judge could  
4 declare another race?  
5  
6 MS. MILLER: Yes.  
7  
8 MR. WEEKLY: Or the judge could defer it back to us for us to make a  
9 decision. Could it go back that way as well? I'm just trying to  
10 understand as well.  
11  
12 MS. MILLER: They would - the judge would probably say yes there has to  
13 be another race, but the County Commissioners have to call that and the  
14 circumstances under which is called that he wouldn't set the date for  
15 probably.  
16  
17 MS. KIRKPATRICK: Commissioner Gibson.  
18  
19 MR. GIBSON: In the motion, it seems as though the objective there would  
20 be a special election.  
21  
22 MS. MILLER: Yes.  
23  
24 35:00  
25  
26 MR. GIBSON: Because you can't, I mean, unless the candidate who is  
27 behind gives up in a negotiation and says I'm not going to contest this.  
28 Otherwise, the only way you get something that you can certify is by  
29 taking into... once you given you have to take into account these  
30 discrepancies would be if you held the election again. So the question  
31 is what if... Do we have authority to withhold a certification and direct  
32 that there be a second vote? Do we have that authority?  
33  
34 MS. MILLER: Yes.  
35  
36 MR. GIBSON: Does it require that all the parties or the two parties come  
37 together and agree to that end?  
38  
39 MS. MILLER: No.  
40  
41 MR. GIBSON: Or do we have authority, Plenary Authority, under the  
42 statutes today or in 2 weeks?  
43  
44 MS. MILLER: I don't know that its plenary authority, but you do have  
45 authority to declare that there's enough concerns about an election in a  
46 particular race that you won't certify the result and direct staff to -  
47 you guys have to call this special election.  
48  
49 MR. GIBSON: So we have that Authority today. We don't need to wait for a  
50 judge to decide that.  
51  
52 MS. MILLER: Yes, that's correct.  
53  
54 MS. KIRKPATRICK: Commissioner Brown.

1  
2 MR. BROWN: Thank you. Couple questions. Joe, the discrepancies that you  
3 have referenced, are they common in all elections?  
4

5 MR. GLORIA: Commissioner Brown, yes. There's no election that goes  
6 without discrepancies that are identified in particular this time with  
7 such a large mail ballot number that the number that I've identified is  
8 actually in the thousands of percent. So it was fairly accurate where it  
9 gets as a result of such a close margin of victory with 218 precincts in  
10 the margin of victory of ten, it's very difficult to get through that  
11 without having the discrepancy being larger than the margin of victory.  
12

13 MR. BROWN: So the past practice of disregarding discrepancies in those  
14 races that the total number would have no impact on the outcome. That  
15 has been standard practice at the county and probably challenged on a  
16 rare occasion.  
17

18 MR. GLORIA: That is correct, Commissioner Brown. We have, for as long as  
19 I can remember since I've been here, it is always been the practice to go  
20 through and identify what the discrepancies are and ensure that the  
21 margin of victory surpasses that so that you can certify.  
22

23 MR. BROWN: In the, Joe or Mary on this one, questions that were brought  
24 up in the earlier speakers reference to the letter received. Do we have  
25 the ability to, or do we have an obligation, to look into those  
26 accusations?  
27

28 MS. MILLER: In the letter that you were sent it is certainly within the  
29 board's discretion. There's not a lot of backup on there. You'd have to  
30 create your own back up to support those allegations or perhaps that  
31 candidate would provide it to you.  
32

33 MR. BROWN: And to Commissioner Segerblom's point, so a recount is going  
34 to serve no purpose to change what we know today? Is that correct? Other  
35 than perhaps 4 out of 800,000 that you reference. It doesn't address the  
36 discrepancies.  
37

38 MR. GLORIA: No, it does not. We have the ability to recount and we  
39 would recount in the same manner according to statute as we read them  
40 originally into the system, but that wouldn't change the discrepancies  
41 that I've identified.  
42

43 MR. BROWN: Madam Chairwoman and, MaryAnn correct me if I overstep here,  
44 but I'd like to amend the last portion of my Amendment where I indicated  
45 at the next regular meeting with options for the District C race only. I  
46 would say the Registrar to come back at the next regular scheduled  
47 meeting with options for a special election in that race only. Would that  
48 be allowable?  
49

50 MS. KIRKPATRICK: Can I ask for some clarification Commissioner Brown,  
51 tomorrow is our next regular scheduled meeting, so you don't mean  
52 tomorrow, right?  
53

1 MR. BROWN: How about the first meeting in December? Is that appropriate?  
2 And during that time again, I for one, with less than 20 hours of  
3 briefing, have so many additional questions if we could during that two-  
4 week time frame meet with Joe and Counsel to find out all the other  
5 pieces that have come into this and I'm guessing would it be appropriate  
6 as was mentioned really at the register reach out to both candidates to  
7 get some sense of what a special election looks like from a programmable  
8 standpoint, from a practical standpoint, from a timing standpoint. Would  
9 that be appropriate?

10  
11 40:00  
12

13 MS. MILLER: That would certainly be my recommendation.  
14

15 MS. KIRKPATRICK: Commissioner Naft, and then Commissioner Jones.  
16

17 MR. NAFT: Commissioner Brown, I was going to suggest if there is more  
18 briefings that's required which I think would be helpful. Do we then want  
19 to broaden the direction to Mr. Gloria rather than make it more specific?  
20

21 MR. BROWN: That was by earlier motion, but I got the sense that we are  
22 focusing in on the only thing that could happen.  
23

24 MR. NAFT: That might be the will of the Board. I just raised the  
25 question if there if there is more briefings required or perhaps you  
26 you're meaning more briefing specifically on what a future subsequent  
27 election would look like.  
28

29 MS. KIRKPATRICK: Commissioner Jones.  
30

31 MR. JONES: Thank you Madame Chair. NRS 293.387 requires us to canvas -  
32 complete our canvas today. So, I guess in terms of reviewing  
33 discrepancies before the December meeting. Do we even have discretion Ms.  
34 Miller to do anything other than hold a special election if we don't  
35 certify today?  
36

37 MS. MILLER: I'm not aware of any other options.  
38

39 MR. JONES: So we either certify today or we don't and it has to go to a  
40 special election.  
41

42 MS. MILLER: That's my understanding.  
43

44 MR. JONES: Okay, so we're not gonna look at discrepancies because  
45 looking at discrepancies isn't going to matter, right?  
46

47 MS. MILLER: [not audible]  
48

49 MS. KIRKPATRICK: Commissioner Segerblom and then Commissioner Gibson.  
50

51 MR. SEGERBLOM: Just to clarify, Commissioner Jones, when you initially  
52 stated this, you said, I thought you said, you interpreted state law to  
53 say our only obligation was to certify. That's your legal interpretation  
54 of what's at stake, right?

1  
2 MR. JONES: Yes. I'm not counsel for the board, though.  
3

4 MR. SEGERBLOM: I know, but I'm saying there's certainly an argument to  
5 be made that we don't have the discretion to say we're going to call and  
6 election. We're just saying certified.  
7

8 MR. KIRKPATRICK: Anything else, Commissioner? Any other  
9 Commissioners? Commissioner Gibson.  
10

11 MR. GIBSON: Of course, when the phone started ringing last week and  
12 people from both sides were reaching out, the first thing that occurred  
13 to me was this is easy. We'll just do a recount and that'll be the end of  
14 it. This additional complication in my estimation elevates it to a place  
15 where the transcendent importance of the commission and this institution,  
16 the County, Mr. Gloria's reputation, and the entire Election Department's  
17 reputation in my estimation is affected by the action that we take. And I  
18 believe that the way that we address it, as imperfect as it may be, may  
19 apparently only is to do a special election. So I guess for that reason,  
20 since there really are no other viable options, we can either wait and  
21 some Court tells us to do a special election or we can get out of the way  
22 and get something going, so the people at District C can find a new  
23 Commissioner and it's disappointing that there have been things like the  
24 ones that are described. I imagine there are other things that have  
25 happened. Were any of the ballots returned and not readable? Marked in  
26 a way that is confusing? Did that happen? I don't know how you do that.  
27 But are there any other things? Is there any voter negligence in the way  
28 that these discrepancies get characterized?  
29

30 MR. GLORIA: In the hundreds of thousands of ballots, Commissioner, that  
31 were reviewed, there are issues with ballots. That's why we have a  
32 duplication board that can take a look at the ballot and as long as we  
33 follow the prescribed determinations that we've reviewed with our County  
34 DA they have the ability to duplicate a ballot and then we can get it  
35 into the system.  
36

37 45:00  
38

39 The system performed relatively flawlessly because we are able to review  
40 the document and make sure that it's not in a condition that would damage  
41 the machine. So, there weren't many instances where the ICC scanner was  
42 unable to read ballots, but we did see ballots that were identified. We  
43 did see ballots that were damaged that had to be duplicated to run into  
44 the system. But nothing that would reach to the level of we call it a  
45 discrepancy. That's just the normal course of an election.  
46

47 Mr. GIBSON: So the work that would be done for any race was on this  
48 ballot has been done. Everything has been reviewed and what we're  
49 suggesting here today has no implication, or bears not at all on outcomes  
50 in any other race. It is only in this race. We had a couple up here I  
51 went back and looked at the report and looks like there's several  
52 thousand votes different in the case of some of the people whose names  
53 were mentioned as candidates who are seeking relief and then maybe there  
54 is something they can do but I see this so dramatically differently from

1 any of the rest of them because of the number and you've isolated it down  
2 to 139, I think you said, of ballots and I just don't think we have any  
3 option. I think that the credibility of everything that we do is  
4 something that can be affirmed by simply doing that rather than waiting  
5 for some Court to tell us how to conduct our business. So I think that's  
6 where I come down. But thank you very much Madame Chair.

7  
8 MS. KIRKPATRICK: OK, Commissioner Jones.

9  
10 MR. JONES: What is the estimated cost of a special election  
11 commissioner?

12  
13 MR. GLORIA: That would depend how we hold the election, commissioner.  
14 So, I will have those costs with me when I present to you and what the  
15 options are in if there are any discussions between now and the next  
16 Commission meeting. I would be prepared to have those numbers.

17  
18 MR. JONES: If a, Ms. Miller, a contest where if we certified today and a  
19 contest were filed and a judge were to not agree with our certification  
20 canvas of the result. Would the cost then be borne by Mr. Anthony?

21  
22 MS. MILLER: Not the cost of the election. I think they can recover court  
23 costs against the other parties to the contest but if a judge orders a  
24 new election, that the jurisdiction bears the cost of that election.

25  
26 MS. KIRKPATRICK: OK, Commissioner Naft.

27  
28 MR. NAFT: Ms. Miller, could you speak a little bit more to the  
29 eventuality that the court would rule or your estimation that a court  
30 would rule that a revote needs to occur.

31  
32 MS. MILLER: I don't think because of the nature of the discrepancies  
33 then any Court presented with these discrepancies would be comfortable  
34 saying that with the results really reflect the will of the voters and  
35 Commission C. It's just such a close race. We're unable to go back and  
36 find out which way those votes went one way or the other a Court would  
37 not be able to do that in any event, so the court would really be in very  
38 similar situation to you, where the Commissioners are today.

39  
40 MS. KIRKPATRICK: OK. Commissioner Brown you want to receipt your  
41 amended motion?

42  
43 MR. BROWN: Thank you Madame Chair. I would like to make the following  
44 motion that we accept the canvas of the vote and certify the election  
45 results, with the exception of County Commission District C. The  
46 Commissioners received into individual briefings and over the last 24  
47 hours and some of the discrepancies Outline by the Registrar indicate  
48 that the discrepancies surpassed the narrow margin of victory in that  
49 race, calling into question the validity of the election results in just  
50 the District C race. I would like to ask the Registrar to come back at  
51 the next regular meeting. No, I take that back. I would like the  
52 Registrar to come back at the first meeting in December with options for  
53 a special election in the District C race only, and submit a copy of the  
54 abstract of votes cast for the Nevada Secretary of State 4AB4.

1  
2 MS. KIRKPATRICK: OK. You've heard the motion. Any other discussion?  
3 Please cast your vote. That motion passes. Can I ask a question?

4  
5 50:00

6  
7 Mr. Gloria, outside of that long discussion we just had. So, what  
8 happens to the people that voted twice? I hope that we're going to go  
9 after them. Correct? If we can prove that it was egregious and on  
10 purpose?

11  
12 MR. GLORIA: There would need to be an investigation done where they  
13 interview the individuals. We definitely have the evidence  
14 to provide that they did in fact vote twice, so I can't tell you exactly  
15 in each scenario what might or might not happen, but we'll definitely be  
16 submitting them to the Secretary of State.

17  
18 MS. KIRKPATRICK: And then how long does that process? I mean, I just  
19 would like you to put us back in the loop because I just want to make  
20 sure that we keep up with the integrity of elections and we remind folks  
21 of the importance of doing it the right way.

22  
23 MR. GLORIA: Sure, at your request Madame Chair. I'll be sure to stay  
24 abreast of what's going on in the investigation once we submit.

25  
26 MS. KIRKPATRICK: OK. Ms. King, does that conclude us?

27  
28 MS. KING: Yes it does, Madame Chair.

29  
30 MS. KIRKPATRICK: This is the second time set aside for public comment.  
31 Anybody wishing to speak on public comment? Seeing none, we're going to  
32 go ahead and close the public comment and we are adjourned.

33  
34

Clark County Election Department  
Absentee/ Official Ballot Statement- VEMACS/DSuite  
2020 General Election

City/County = ALL

County/City Precinct	VEMACS	DSuite	Difference	Justifications	Column1
LAS	3040	564	563	1 Unreconcilable	
CC	3152	31	30	1 Unreconcilable	
LAS	3217	638	636	2 Unreconcilable	
LAS	3361	622	623	1 Unreconcilable	
LAS	3364	754	756	2 Unreconcilable	
LAS	3372	482	481	1 Unreconcilable	
LAS	3373	585	586	1 Unreconcilable	
LAS	3374	430	431	1 Unreconcilable	
LAS	3380	191	190	1 Unreconcilable	
LAS	3381	539	540	1 Unreconcilable	
LAS	3383	599	598	1 Unreconcilable	
LAS	3413	479	480	1 Unreconcilable	
LAS	3414	396	395	1 Unreconcilable	
LAS	3431	464	462	2 Unreconcilable	
LAS	3464	526	527	1 Unreconcilable	
LAS	3547	780	778	2 1 Lead Card Missing/ 1 Unreconcilable	1
LAS	3557	768	766	2 Unreconcilable	
LAS	3565	493	494	1 Unreconcilable	
LAS	3576	289	288	1 Unreconcilable	

5  
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DATE 12/7/20  
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LAS	3587	492	493	1	Unreconcilable	
LAS	3602	834	832	2	1 Lead Card Missing/ 1 Unreconcilable	1
LAS	3604	907	905	2	Unreconcilable	
LAS	3606	418	417	1	Unreconcilable	
CC	3609	442	444	2	Unreconcilable	
LAS	3610	589	590	1	Unreconcilable	
LAS	3613	518	519	1	Unreconcilable	
LAS	3705	414	413	1	Unreconcilable	
LAS	3707	671	670	1	Unreconcilable	
LAS	3708	429	430	1	Unreconcilable	
LAS	3709	945	942	3	Unreconcilable	
CC	3711	75	76	1	Unreconcilable	
LAS	3716	295	294	1	Unreconcilable	
LAS	3719	674	671	3	2 Lead Cards Missing/ 1 Unreconcilable	1
LAS	3721	416	413	3	2 Lead Cards Missing/ 1 Unreconcilable	1
LAS	3724	470	468	2	Unreconcilable	
LAS	3726	701	699	2	Unreconcilable	
LAS	3727	745	746	1	Unreconcilable	
LAS	3729	474	473	1	Unreconcilable	
LAS	3730	697	696	1	Unreconcilable	
CC	3731	2	3	1	Unreconcilable	
LAS	3738	204	203	1	Unreconcilable	
LAS	3739	469	466	3	2 Lead Cards Missing/ 1 Unreconcilable	1
CC	3741	183	184	1	Unreconcilable	
LAS	3743	559	558	1	Unreconcilable	
LAS	3746	645	646	1	Unreconcilable	
LAS	3747	410	411	1	Unreconcilable	

LAS	3749	645	647	2	1 CAP/ 1 Unreconcilable	1
LAS	3754	819	818	1	Unreconcilable	
LAS	3755	405	404	1	Unreconcilable	
CC	3758	356	355	1	Unreconcilable	
LAS	3760	703	704	1	Unreconcilable	
LAS	3764	665	664	1	Unreconcilable	
LAS	3768	438	440	2	Unreconcilable	
LAS	3769	448	446	2	Unreconcilable	
LAS	3770	516	517	1	Unreconcilable	
LAS	3771	335	337	2	1 CAP/ 1 Unreconcilable	1
LAS	3772	520	519	1	Unreconcilable	
LAS	3775	335	336	1	Unreconcilable	
LAS	3780	603	602	1	Unreconcilable	
LAS	3783	474	476	2	1 CAP/ 1 Unreconcilable	1
LAS	3784	374	373	1	Unreconcilable	
LAS	3788	744	741	3	2 Lead Cards Missing/ 1 Unreconcilable	1
LAS	3789	611	612	1	Unreconcilable	
LAS	3790	602	600	2	1 Lead Card Missing/ 1 Unreconcilable	1
LAS	3792	413	414	1	Unreconcilable	
LAS	3794	385	384	1	Unreconcilable	
LAS	3795	318	317	1	Unreconcilable	
CC	3803	35	36	1	Unreconcilable	
LAS	3807	565	566	1	Unreconcilable	
LAS	3814	394	395	1	Unreconcilable	
LAS	3815	388	387	1	Unreconcilable	
LAS	3826	160	162	2	Unreconcilable	
LAS	3841	564	566	2	Unreconcilable	

LAS	3842	482	479	3	2 Lead Cards Missing/ 1 Unreconcilable	1
LAS	3844	353	351	2	Unreconcilable	
LAS	3863	403	402	1	Unreconcilable	
107						

Clark County Election Department  
Early Voting - Official Ballot Statement - Vemacs/Dsuite  
2020 General Election

COUNTY/CITY	PRECINCT	VEMACS	D-SUITE	DIFFERENCE	ISSUE
LAS	3217	755	756	1	Unreconcilable
LAS	3361	505	506	1	Unreconcilable
LAS	3363	674	675	1	Unreconcilable
LAS	3375	717	718	1	Unreconcilable
LAS	3381	827	828	1	Unreconcilable
LAS	3464	496	497	1	Unreconcilable
LAS	3465	389	390	1	Unreconcilable
CC	3532	185	186	1	Unreconcilable
LAS	3576	424	425	1	Unreconcilable
LAS	3588	545	546	1	Unreconcilable
LAS	3719	622	623	1	Unreconcilable
LAS	3749	515	516	1	Unreconcilable
LAS	3751	284	286	2	Unreconcilable
LAS	3759	628	629	1	Unreconcilable
LAS	3789	370	371	1	Unreconcilable
LAS	3792	247	248	1	Unreconcilable
LAS	3841	455	456	1	Unreconcilable

18

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AA000314

Clark County Election Department  
Election Day - Official Ballot Statement - VEMACS/D-Suite  
2020 General Election

COUNTY/CITY	PRECINCT	VEMACS	D-SUITE	DIFFERENCE	code	comments
LAS	3217	171	172	1	17	17. Unknown
LAS	3363	97	98	1	14	14. Cancelled check in incorrectly (Nelson, Ronal #1374320)
LAS	3371	59	60	1	17	17. Unknown
LAS	3465	60	62	2	17, 17	17. Unknown
LAS	3565	80	81	1	16	16. Check In Error / Not on PP Report (Carney, Toi Nicole #1367683)
LAS	3606	124	125	1	14	14. Cancelled check in incorrectly (Katherine, Nicole Belcher)
LAS	3730	159	160	1	16	16. Check in error / not on pp report (Luna, Samantha #1610845)
LAS	3749	194	195	1	17	17. Unknown
LAS	3753	34	35	1	17	17. Unknown
LAS	3764	139	140	1	15	15. Reactivated Card improperly (Ayadi, Nizar #2787554)
LAS	3787	137	138	1	17	17. Unknown
LAS	3826	50	51	1	15	15. Possible reactivation error (Eslava, Dolores #858464)
LAS	3855	187	188	1	15	15. Reactivated card improperly (Keddington, Aaron #1826407)

EXHIBIT: 7  
DATE: 12/7/20  
WITNESS: GLORIA  
PAGE(S):



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EXHIBIT PAGE ONLY

## EXHIBIT 9

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

**DECLARATION OF JACOB A. REYNOLDS IN SUPPORT OF**  
**MOTION FOR WRIT OF MANDAMUS**

I, JACOB A. REYNOLDS, declare:

1. I am a resident of Nevada, and am an attorney at the law firm of Hutchison & Steffen, PLLC, acting as counsel for Stavros Anthony in this matter.

2. As part of Mr. Anthony's Motion for writ of mandamus, I submit this declaration to confirm Joe Gloria submitted his affidavit, attached to this Motion at Exhibit 3, to the Clark County Commission on November 23, 2020.

3. I received the email attached hereto from his Counsel Mary-Anne Miller on November 23, 2020, in confirmation of our conversation that Mr. Gloria would be submitting an affidavit to the Commission pursuant to NRS 293.465. The email clearly indicated it had been submitted to the members of the Commission directly by Mr. Gloria. Ms. Miller directly confirmed this with me as well.

4. The email from Ms. Miller to me indicated Clerk Lynn Goya's email address because I had asked counsel to whom we should direct Mr. Anthony's follow-up application for a new election to fulfill the requirements of NRS 293.465.

5. I have not included the attachment to the email as it is already attached to the Motion at Exhibit 3.

6. I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct based upon my knowledge, information, and belief.

/s/ Jacob A. Reynolds

---

Jacob A. Reynolds



## Jacob A. Reynolds

---

**From:** Mary-Anne Miller <Mary-Anne.Miller@clarkcountyda.com>  
**Sent:** Monday, November 23, 2020 10:49 AM  
**To:** Jacob A. Reynolds  
**Subject:** Fw: Canvass Report Affidavit  
**Attachments:** Canvass Report Affidavit

lynn.goya@clarkcountynv.gov

---

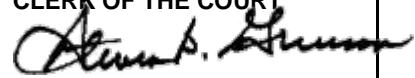
**From:** Mary-Anne Miller <Mary-Anne.Miller@clarkcountyda.com>  
**Sent:** Monday, November 23, 2020 9:37 AM  
**To:** Jacob A. Reynolds <JReynolds@hutchlegal.com>  
**Subject:** Fw: Canvass Report Affidavit

---

**From:** Joseph Gloria (Election) <JPG@ClarkCountyNV.gov>  
**Sent:** Monday, November 23, 2020 7:35 AM  
**To:** Marilyn Kirkpatrick <Marilyn.Kirkpatrick@ClarkCountyNV.gov>; Larry Brown <LBrown@ClarkCountyNV.gov>; Jim Gibson <Jim.Gibson@ClarkCountyNV.gov>; Lawrence Weekly <LWeekly@ClarkCountyNV.gov>; Tick Segerblom <Tsgerblom@ClarkCountyNV.gov>; Michael Naft <Michael.Naft@ClarkCountyNV.gov>; Justin Jones <Justin.Jones@ClarkCountyNV.gov>  
**Cc:** Yolanda King <Yolanda.King@ClarkCountyNV.gov>; Les Lee Shell <LLS@ClarkCountyNV.gov>; Mary-Anne Miller <Mary-Anne.Miller@clarkcountyda.com>  
**Subject:** Canvass Report Affidavit

CAUTION: This email originated from an External Source. Please use caution before opening attachments, clicking links, or responding to this email. Do not sign-in with your DA account credentials.





**RESP**  
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*Attorneys for Plaintiff/Petitioner Ross Miller*

**EIGHTH JUDICIAL DISTRICT COURT**  
**IN AND FOR CLARK CITY, STATE OF NEVADA**

ROSS MILLER, and individual,  
  
Plaintiff/Petitioner,  
  
vs.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government  
entity; and DOES I-X, inclusive,  
  
Defendant.

STAVROS ANTHONY, an individual,  
  
Intervenor-Plaintiff,  
  
vs.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government

Case No.: A-20-824971-W  
Dept. No.: 11

**PLAINTIFF'S OPPOSITION TO  
INTERVENOR'S MOTION FOR WRIT  
OF MANDAMUS REQUIRING THE  
CLARK COUNTY BOARD OF  
COMMISSIONERS TO ORDER A NEW  
ELECTION FOR CLARK COUNTY  
COMMISSION DISTRICT C**

Hearing Date: December 18, 2020  
Hearing Time: In Chambers

1 entity; ROSS MILLER, an individual; and  
2 DOES I-X, inclusive,

3 Defendants.

4 Plaintiff/Petitioner, Ross Miller (“Plaintiff” or “Mr. Miller”), by and through counsel of  
5 record, submits his Opposition to Intervenor-Plaintiff Stavros Anthony’s Motion for Writ of  
6 Mandamus (“Motion”) that requires the Clark County Board of Commissioners (the Board) to  
7 hold a new election in Clark County Commission District C. This Opposition is based on the  
8 memorandum of points and authorities below, any affidavits and exhibits attached hereto, all  
9 papers and pleadings on file, and any oral argument this Court sees fit to allow at a hearing on this  
10 matter.

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **I. INTRODUCTION**

13 Intervenor-Plaintiff Stavros Anthony (“Intervenor” or “Mr. Anthony”) is requesting the  
14 same relief that this Court has already denied: an order from this Court undoing the canvass and  
15 certification of the reported vote results, and requiring the Board to conduct a new election in  
16 District C pursuant to NRS 293.465. In denying Intervenor’s motion for preliminary injunction,  
17 this Court stated that: “NRS 293.465 is clear that the election must be prevented ... There’s a lot  
18 of different ways the election could have been prevented. That is not what is included in Mr.  
19 Gloria’s affidavit. There are discrepancies of 139. *That does not mean that there was any election*  
20 *that was prevented in any precinct or district[.]”* See Tr. Hr’g (Nov. 30, 2020), at 21:18-23-7,  
21 attached to Intervenor’s Motion as Exhibit 7 (emphasis added). Nothing has changed since that  
22 time, and in fact Intervenor’s claim that an election was prevented and that Clark County Registrar  
23 of Voters, Joe Gloria (the “Registrar” or “Mr. Gloria”), submitted an affidavit to that effect has  
24 only become less plausible following his deposition in this action.

25 Following the Court’s hearing on Intervenor’s motion for preliminary injunction, on  
26 December 1, 2020, the Board voted unanimously to reconsider its decision not to canvass the  
27 results of the General Election for the District C race, and subsequently voted unanimously to  
28 canvass those results and directed the Registrar to submit a copy of the abstract of votes cast in the

1 District C race to the Nevada Secretary of State. *See* Joint Meeting of the Board of Clark County  
2 Commissioners, Summary of Final Action, Agenda Items No. 1, 33 (available at  
3 [https://clark.granicus.com/MinutesViewer.php?view\\_id=17&clip\\_id=6923&doc\\_id=75d3b9d8-](https://clark.granicus.com/MinutesViewer.php?view_id=17&clip_id=6923&doc_id=75d3b9d8-342a-11eb-bc32-0050569183fa)  
4 [342a-11eb-bc32-0050569183fa](https://clark.granicus.com/MinutesViewer.php?view_id=17&clip_id=6923&doc_id=75d3b9d8-342a-11eb-bc32-0050569183fa)) (December 1, 2020) (last accessed Dec. 13, 2020). The Board  
5 complied with its ministerial, non-discretionary statutory obligations of NRS 293.387.

6 Intervenor now moves this Court for a writ of mandamus that requires the Board to hold a  
7 new election in District C, again arguing that the District C election was *prevented* pursuant to  
8 NRS 293.465. Mr. Anthony is asking this Court to overturn the expressed will of the people and  
9 have results be declared null and void. NRS 293.465, Intervenor’s statutory basis for his motion  
10 for writ of mandamus, is simply not applicable here, under any analysis. NRS 293.465 does not  
11 apply to these facts, and there is no statute in Nevada that permits the Board, or this Court, to  
12 annul a properly-held election and hold a new election for District C. The Court should deny  
13 Intervenor’s Motion.

## 14 **II. PERTINENT BACKGROUND**

15 The Court is well aware of the basic facts of this matter. Little has changed since the Court  
16 denied Intervenor’s motion for preliminary injunction on December 4, 2020, except that Plaintiff’s  
17 victory margin has widened. On December 3, 2020, Intervenor requested a recount of the results  
18 of the District C race, and the Clark County Elections Department finished the five-day recount on  
19 December 11, 2020. *See* “Republican Stavros Anthony files for recount in Clark County  
20 Commission race he lost by 10 votes,” *The Nevada Independent*, (available at  
21 [https://thenevadaindependent.com/article/republican-stavros-anthony-files-for-recount-in-clark-](https://thenevadaindependent.com/article/republican-stavros-anthony-files-for-recount-in-clark-county-commission-race-he-lost-by-10-votes)  
22 [county-commission-race-he-lost-by-10-votes](https://thenevadaindependent.com/article/republican-stavros-anthony-files-for-recount-in-clark-county-commission-race-he-lost-by-10-votes)) (last accessed Dec. 13, 2020); *see also* Election  
23 Summary Report, General Election, Clark County, November 3, 2020, Summary for: County  
24 Commissioner District C, Recount Unofficial Summary (Dec. 11, 2020), a true and correct copy  
25 of which is attached hereto as **Exhibit 1**. After the recount, Plaintiff’s margin increased from 10  
26 votes to 30; Mr. Miller’s vote count increased from 76,586 votes to 76,633, and Mr. Anthony’s  
27 vote count increased from 76,576 to 76,603. *See* **Exhibit 1**. Recounts of votes in any precinct—  
28 and, hence, any district comprised of precincts— are final under Nevada law. NRS 293.405(4).

1 **III. ARGUMENT**

2 **A. A Writ of Mandamus Should Not Be Issued**

3 A writ of mandamus is available “to compel the performance of an act which the law  
4 especially enjoins as a duty resulting from an office, trust or station.” NRS 34.160. Here,  
5 Intervenor seeks a writ—“requiring the [the Board] to order a new election for Clark County  
6 Commission District C”—pursuant to NRS 293.465. *See generally* Motion. NRS 293.465 has no  
7 application here whatsoever.

8 NRS 293.465 reads, in full:

9 If an election *is prevented* in any precinct or district *by reason of the loss or*  
10 *destruction of the ballots* intended for that precinct, or any other cause, the  
11 appropriate election officers in that precinct or district shall make an affidavit  
12 setting forth that fact and transmit it to the appropriate board of county  
13 commissioners. Upon receipt of the affidavit and upon the application of any  
candidate for any office to be voted for by the registered voters of that precinct  
or district, the board of county commissioners shall order a new election in that  
precinct or district.

14 NRS 293.465 (emphases added). In other words, NRS 293.465 concerns instances in which an  
15 election is prevented from occurring altogether. It makes provision for a new election under those  
16 narrow, limited, and specific circumstances. NRS 293.465 provides a mechanism to respond to  
17 unforeseen circumstances that prevent an election from being carried out; for instance, if an  
18 earthquake, fire, or the loss of ballots prevents the completion of an election in a particular  
19 precinct. It is not a statute permitting a new election if one’s own preferred candidate is not  
20 elected, or when results declared by the Registrar indicate a closely-run election.

21 **1. No election was prevented on November 3, 2020**

22 Clark County had an election on November 3, 2020. The results of every race have been  
23 canvassed and certified. No precinct failed to complete its election. NRS 293.465 cannot apply  
24 here, by its express terms. This Court agreed when denying Intervenor’s motion for preliminary  
25 injunction:

26 The Motion for a Preliminary Injunction or Temporary Restraining Order is  
27 denied. NRS 293.465 is clear that the election must be prevented. There are a  
28 number of ways it could be prevented that don’t include natural disasters. There  
could be an accident that is transmitting the vehicle that has the thumb drives in  
it. There’s a lot of different ways the election could have been prevented. That

1 is not what is included in Mr. Gloria's affidavit. There are discrepancies of 139.  
2 That does not mean that there was any election that was prevented in any  
3 precinct or district ... the Affidavit does not fall within the scope of NRS  
293.465.

4 Tr. Hr'g (Nov. 30, 2020), at 21:18-23-7 (attached to Intervenor's Motion as Exhibit 7). Ballots  
5 were not lost, there was no natural disaster. No election is perfect, but an election *did* take place in  
6 Clark County on November 3, 2020.

7 **2. The Registrar affirms that his affidavit does not fall within the scope of**  
8 **NRS 293.465**

9 In support of his argument that the election was prevented pursuant to NRS 293.465, Mr.  
10 Anthony continues to contend that the Registrar's affidavit, Exhibit 3 to the Motion, satisfies the  
11 affidavit requirement of NRS 293.465. However, the Registrar was very clear and direct in  
12 disclaiming that during his deposition:

13 Q. When you submitted your affidavit ... was it your understanding that you  
14 were submitting the affidavit to comply with the affidavit requirement in  
NRS 293.465?

15 A. No, I don't believe I correlated the two. I simply was following the directive  
16 given to me in preparing the affidavit by my civil DA.

17 Gloria Depo., at 14:3-9, attached to Intervenor's Motion as Exhibit 9. The Registrar's affidavit is  
18 not an NRS 293.465 affidavit, either by its own terms—as the Court has already stated—or by the  
19 expressed intentions of the chief elections officer of Clark County. The affidavit does not declare  
20 that an election was prevented, either in whole or at the level of any particular precinct. It does not  
21 describe or identify any “loss or destruction of the ballots” per NRS 293.465. It cannot be  
22 transformed into a 293.465 affidavit by mere repetition of Intervenor's argument.

23 **3. The Registrar clarifies that the 139 discrepancies are not errors**

24 Intervenor's Motion repeatedly contends that the 139 discrepancies in the District C race  
25 are voting errors that justify a new election. However, the Registrar, during his deposition,  
26 clarifies that he cannot accurately describe what the discrepancies are, but that they are not voting  
27 errors.

28 Q. So, Mr. Gloria, would you agree that the 139 discrepancies identified in

1 your affidavit are simply the result of errors in the conduct of the election?

2 A. Again, I'd have to clarify and say that many of those discrepancies, I don't  
3 know exactly what they are. They are discrepancies because we don't have  
4 anything --we're off from our VEMACS total, which is our poll vote to our  
Democracy Suite total, which are our actual votes that do not change. And  
because I don't balance there, I have a discrepancy.

5 \* \* \*

6 Q. Now, [Intervenor's] counsel has been referring to these as errors. You never  
7 used the word "error" to the County Commission, did you?

8 A. No, we called them pretty clearly discrepancies, except for the areas where  
we could explain exactly what happened.

9 Q. Right. And you call them discrepancies because you don't know if they're  
10 errors. You don't know what happened in these 139 instances, correct?

11 A. Unfortunately, with a majority of them I do not. I can only give an idea of  
what they could be, but I don't know what those are.

12 \* \* \*

13 Q. We don't even know if there were any ballots associated with these  
14 discrepancies, there may not be any ballots. There may just be discrepancies  
that will never be reconciled or explained, correct?

15 A. That is also correct.

16 Q. Okay. And there's certainly no way to understand whether these  
17 discrepancies favored or disfavored any particular candidate, correct?

18 A. There's no way for me to know.

19 Gloria Depo., at 22:12-23, 63:18-64:20. The 139 discrepancies are not errors that prevented an  
20 election; they are not even errors. The Registrar describes them as an accounting imbalance, tally  
21 sheets that do not reconcile. They are not "lost" ballots. Intervenor cannot establish that the 139  
22 discrepancies favored Mr. Miller, nor can he establish that the discrepancies—which Mr. Gloria  
23 has stated time and again are normal in any election—mandate a new election pursuant to  
24 NRS 293.465.<sup>1</sup>

25 \_\_\_\_\_  
26 <sup>1</sup> The Court may also note the following exchange regarding the utter normality of this situation:

27 Q. I think you told the Commission there were some 900 total discrepancies,  
correct?

28 (footnote continued on next page)



1                   **4.       Mr. Anthony has an adequate remedy at law**

2           There is an established, exclusive, mandatory, statutory process including a recount and an  
3 election contest available to address any issues that a defeated candidate may wish to adjudicate.  
4 Mr. Anthony has already begun the process by demanding a recount, which is now complete. The  
5 petition for mandamus should be denied.

6   ///

7   ///

8   ///

9   ///

10   ///

11   ///

12   ///

13   ///

---

14  
15           A. It was in thee area of 900, that's correct.

16           Q. And 139 of them actually within Commission District C. Are those within  
17 the normal range of discrepancies given the size of the vote pool?

18           A. I would say those are historically lower.

19           Q. Historically lower?

20           A. Yes, in a normal election. It was the margin of victory that did us in.

21           Q. So had this not been such a close result, you would have been incredibly  
22 proud of the fact that you emerged from an election during a pandemic with  
23 all the things you had to do to prepare and logistics and all of those things,  
you emerged from this election with a lower frequency of discrepancies  
than you normally would, correct in your mind?

24           A. Yes, I would agree with that. It was a tremendous achievement by my staff.

25           Q. So you just got a bit unlucky that there was a really close election, right?

26           A. Yes, I did.

27 Gloria Depo., at 66:12-25, 67:1-13.

1 **IV. CONCLUSION**

2 For all the reasons described above, Mr. Anthony's motion should be denied by this Court.

3 DATED this 14th day of December, 2020.

4  
5 By: /s/ Bradley S. Schrager

6 DOMINIC P. GENTILE

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8 JOHN A. HUNT

9 Nevada Bar No. 1888

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26 dbravo@wrslawyers.com

27 *Attorneys for Plaintiff/Petitioner Ross Miller*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 14th day of December, 2020, a true and correct copy of the  
3 **PLAINTIFF'S OPPOSITION TO INTERVENOR'S MOTION FOR WRIT OF**  
4 **MANDAMUS REQUIRING THE CLARK COUNTY BOARD OF COMMISSIONERS TO**  
5 **ORDER A NEW ELECTION FOR CLARK COUNTY COMMISSION DISTRICT C** was  
6 served by electronically filing with the Clerk of the Court using the Odyssey eFileNV system and  
7 serving all parties with an email address on record, pursuant to Administrative Order 1402 and  
8 Rule 9 of the N.E.F.C.R.

9  
10 By: /s/ Dannielle Fresquez  
11 Dannielle Fresquez, an Employee of  
12 WOLF, RIFKIN, SHAPIRO, SCHULMAN &  
13 RABKIN, LLP  
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# EXHIBIT 1

# EXHIBIT 1

# Election Summary Report

General Election

Clark County

November 03, 2020

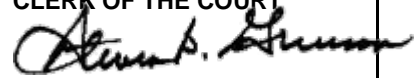
Summary for: County Commissioner District C, All Districts, All Tabulators, All Counting Groups

Recount Unofficial Summary

12/11/2020

## County Commissioner District C (Vote for 1)

Candidate	Party	Total	
Anthony, Stavros	REP	76,603	
Miller, Ross	DEM	76,633	
Total Votes		153,236	



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*Attorneys for Plaintiff/Petitioner Ross Miller*

**EIGHTH JUDICIAL DISTRICT COURT**  
**IN AND FOR CLARK CITY, STATE OF NEVADA**

ROSS MILLER, and individual,  
  
Plaintiff/Petitioner,  
  
vs.  
  
CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government  
entity; and DOES I-X, inclusive,  
  
Defendant.

Case No.: A-20-824971-W  
Dept. No.: 11

**PLAINTIFF'S SUPPLEMENT TO  
OPPOSITION TO INTERVENOR'S  
MOTION FOR WRIT OF MANDAMUS  
REQUIRING THE CLARK COUNTY  
BOARD OF COMMISSIONERS TO  
ORDER A NEW ELECTION FOR  
CLARK COUNTY COMMISSION  
DISTRICT C**

Hearing Date: December 18, 2020  
Hearing Time: In Chambers

STAVROS ANTHONY, an individual,  
  
Intervenor-Plaintiff,  
  
vs.

CLARK COUNTY BOARD OF

1 COMMISSIONERS, a local government  
2 entity; ROSS MILLER, an individual; and  
3 DOES I-X, inclusive,  
4  
5 Defendants.

6 Plaintiff/Petitioner, Ross Miller (“Plaintiff” or “Mr. Miller”), by and through counsel of  
7 record, submits the following Supplement to his Opposition to Intervenor-Plaintiff Stavros  
8 Anthony’s Motion for Writ of Mandamus filed on December 14, 2020. Attached hereto as Exhibit  
9 1 is a true and correct copy of an email from Joe P. Gloria dated December 14, 2020, regarding  
10 official results update of the Election Summary Report. The updated Election Summary Report  
11 details that Plaintiff’s margin increased from 10 votes to 15; Mr. Miller’s vote count increased  
12 from 76,586 votes to 76,592, and Mr. Anthony’s vote count increased from 76,576 to  
13 76,577. *See Exhibit 1.*

14 DATED this 14th day of December, 2020.

15 By: /s/ Bradley S. Schrager

16 DOMINIC P. GENTILE  
Nevada Bar No. 1923  
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Nevada Bar No. 1888  
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25 dbravo@wrslawyers.com  
26

27 *Attorneys for Plaintiff/Petitioner Ross Miller*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 14th day of December, 2020, a true and correct copy of the  
3 **PLAINTIFF'S SUPPLEMENT TO OPPOSITION TO INTERVENOR'S MOTION FOR**  
4 **WRIT OF MANDAMUS REQUIRING THE CLARK COUNTY BOARD OF**  
5 **COMMISSIONERS TO ORDER A NEW ELECTION FOR CLARK COUNTY**  
6 **COMMISSION DISTRICT C** was served by electronically filing with the Clerk of the Court  
7 using the Odyssey eFileNV system and serving all parties with an email address on record,  
8 pursuant to Administrative Order 1402 and Rule 9 of the N.E.F.C.R.

9  
10 By: /s/ Dannielle Fresquez  
11 Dannielle Fresquez, an Employee of  
12 WOLF, RIFKIN, SHAPIRO, SCHULMAN &  
13 RABKIN, LLP  
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# EXHIBIT 1

# EXHIBIT 1

---

**From:** Joseph Gloria (Election)  
**Sent:** Monday, December 14, 2020 10:58 AM  
**To:** Piers R. Tueller; Bradley Schrager  
**Cc:** Mary-Anne Miller; Lorena Portillo; Dan Kulin  
**Subject:** Official Results Update - Clark County Commission District C  
**Attachments:** 2020 Recount ElectionSummaryReportRPT\_SR1.pdf

We have finished our review of the recount and were able to identify the issue we shared with you on Friday. They were in fact duplicate batches of ballots that were read into the system. With assistance from our vendor we were able to identify the batches and have them removed. I have attached the new vote totals and will be canvassing these results tomorrow at the commission meeting.

We are working on getting the images for the adjudicated ballots to you for the November count and an updated batch for the recount, as there were some duplicates in what was originally provided. The files are large so we may need to get them to you with a flash drive. If you have any questions please let me know.

**Joe P. Gloria, MPA, CERA**

**Registrar of Voters**

Clark County Election Department

965 Trade Dr.

North Las Vegas, NV 89030

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# Election Summary Report

General Election

Clark County

November 03, 2020

Summary for: County Commissioner District C, All Districts, All Tabulators, All Counting Groups

Clark County

Official Final Results

2020 Recount

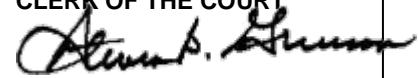
Commission District C

SR1

## County Commissioner District C (Vote for 1)

Candidate	Party	Total	
Anthony, Stavros	REP	76,577	
Miller, Ross	DEM	76,592	
Total Votes		153,169	

AA000337



1 **JOIN**  
2 STEVEN B. WOLFSON  
3 District Attorney  
4 **CIVIL DIVISION**  
5 State Bar No. 001565  
6 By: **MARY-ANNE MILLER**  
7 County Counsel  
8 State Bar No. 001419  
9 500 South Grand Central Pkwy.  
10 Las Vegas, Nevada 89155-2215  
11 (702) 455-4761  
12 Fax (702) 382-5178  
13 E-Mail: Mary-Anne.Miller@ClarkCountyDA.com  
14 Attorneys for Defendant  
15 *Clark County Board of Commissioners*

9 DISTRICT COURT

10 CLARK COUNTY, NEVADA

11 ROSS MILLER, an individual, )  
12 )  
13 Plaintiff/Petitioner, )

13 vs. )

14 CLARK COUNTY BOARD OF COMMISSIONERS, )  
15 a local government entity; and DOES I-X, inclusive,, )  
16 Defendant, )

17 STRAVOS ANTHONY, an individual, )  
18 )  
19 Intervenor-Plaintiff )

19 vs. )

20 CLARK COUNTY BOARD OF COMMISSIONERS, )  
21 a local government entity; ROSS MILLER, an )  
22 individual; and DOES I-X, inclusive, )  
23 Defendants )

Case No: A-20-824884-W  
Dept No: 31

**JOINDER TO PLAINTIFF'S  
OPPOSITION TO  
INTERVENOR'S MOTION  
FOR WRIT OF MANDAMUS  
REQUIRING THE CLARK  
COUNTY BOARD OF  
COMMISSIONERS TO  
ORDER A NEW ELECTION  
FOR CLARK COUNTY  
COMMISSION DISTRICT C**

23 COMES NOW Defendant Clark County Board of Commissioners, by and through its  
24 attorney, STEVEN B. WOLFSON, District Attorney, and Mary-Anne Miller, County  
25 Counsel, hereby joins in Plaintiff's Opposition to Intervenor's Motion for Writ of Mandamus  
26 Requiring the Clark County Board of Commissioners to Order a New Election for Clark  
27 County Commission District C filed on December 14, 2020.

28 . . .

1 Defendant Clark County Board of Commissioners joins Plaintiff's Opposition to  
2 Intervenor's Motion for Writ of Mandamus Requiring the Clark County Board of  
3 Commissioners to Order a New Election for Clark County Commission District C in its  
4 entirety, thereby adopting the supporting points and authorities filed herein.

5 DATED this 14<sup>th</sup> day of December, 2020.

6 STEVEN B. WOLFSON  
7 DISTRICT ATTORNEY

8 By: /s/ Mary-Anne Miller

9 MARY-ANNE MILLER  
10 County Counsel  
11 State Bar No. 001419  
12 500 South Grand Central Pkwy. 5<sup>th</sup> Flr.  
13 Las Vegas, Nevada 89155-2215  
14 Defendant  
15 *Clark County Board of Commissioners*

16 **CERTIFICATE OF ELECTRONIC SERVICE**

17 I hereby certify that I am an employee of the Office of the Clark County District  
18 Attorney and that on this 14<sup>th</sup> day of December, 2020, I served a true and correct copy of the  
19 foregoing **JOINDER TO PLAINTIFF'S OPPOSITION TO INTERVENOR'S**  
20 **MOTION FOR WRIT OF MANDAMUS REQUIRING THE CLARK COUNTY**  
21 **BOARD OF COMMISSIONERS TO ORDER A NEW ELECTION FOR CLARK**  
22 **COUNTY COMMISSION DISTRICT C** (United States District Court Pacer System or  
23 the Eighth Judicial District Wiznet), by e-mailing the same to the following recipients.

24 Service of the foregoing document by e-mail is in place of service via the United States  
25 Postal Service.

26 Dominic P. Gentile, Esq.  
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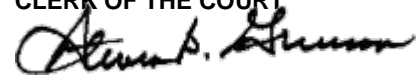
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7 Stravos Anthony

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/s/ Afeni Banks  
An Employee of the Clark County District  
Attorney's Office – Civil Division



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*Attorneys for Intervening Plaintiff*  
*Stavros Anthony*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROSS MILLER, an individual,

Plaintiff/Petitioner,  
v.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government entity;  
and DOES I – X, inclusive,

Defendant

Case No. A-20-824971-W

Dept. No. XI

**Hearing: Currently set for Friday, December  
18, 2020, In Chambers.**

**REPLY IN SUPPORT OF MOTION FOR  
WRIT OF MANDAMUS REQUIRING THE  
CLARK COUNTY BOARD OF  
COMMISSIONERS TO ORDER A NEW  
ELECTION FOR CLARK COUNTY  
COMMISSION DISTRICT C.**

STAVROS ANTHONY, an individual,

Intervening Plaintiff,  
v.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government entity;  
ROSS MILLER, an individual,

Defendants.

Intervening Party Stavros Anthony (“Anthony,” “Intervening Plaintiff”) hereby Replies to Ross Miller’s (“Miller”) Opposition and asks this Court for a Writ of Mandamus that requires the Clark County Board of Commissioners (“the Commission”) to hold a new election for Clark County Commission District C pursuant to Nevada law, including NRS 293.465.

## POINTS AND AUTHORITIES

### 1. Legal Analysis.

#### A. Miller deliberately ignores the correct legal standard of statutory interpretation.

The Court and the Commission must “construe statutes to give meaning to all of their parts and language, and this court will read each sentence, phrase, and word to render it meaningful within the context of the purpose of the legislation. Further, no part of a statute should be rendered meaningless and its language should not be read to produce absurd or unreasonable results.” *Harris Assocs. v. Clark Cty. Sch. Dist.*, 119 Nev. 638, 642, 81 P.3d 532, 534 (2003) (internal citations and quotations omitted). Moreover, when possible, the interpretation of a statute or constitutional provision should be harmonized with other statutory or provisions to avoid unreasonable or absurd results. *See Nevada Power Co. v. Haggerty*, 115 Nev. 353, 364, 989 P.2d 870 (1999); *see also Banegas v. State Indus. Ins. Sys.*, 117 Nev. 222, 225, 19 P.3d 245, 247 (2001)(“[W]ords within a statute must not be read in isolation, and statutes must be construed to give meaning to all of their parts and language within the context of the purpose of the legislation.”); *Orion Portfolio Servs. 2, LLC v. Cty. of Clark ex rel. Univ. Med. Ctr. of So. Nev.*, 126 Nev. 397, 403, 245 P.3d 527, 531 (2010) (The Court must “not render any part of the statute meaningless,” or read it in a way that “produce[s] absurd or unreasonable results.”).

These are the canons of statutory interpretation that must be followed by all lawyers and courts in Nevada. In this case the statutory scheme *expressly* identifies the standard by which the provisions of the NRS 293 *et seq.* are to be interpreted: “1. This title ***must be liberally construed*** to the end that: . . . (c) The real will of the electors is ***not*** defeated by any informality or by failure substantially to comply with the provisions of this title with respect to the giving of any notice or the conducting of an election or ***certifying*** the results thereof.” *See* NRS 293.127 (emphasis added.)

Miller ignores this statutory mandate (“must be”), and fails to make a single reference to any



1 part of the statute throughout his entire opposition. It is as if NRS 293.127 does not exist.

2       Instead Miller makes the argument, which is his clear and unmoving legal argument, that: “The  
3 Board complied with its ministerial, non-discretionary statutory obligations of NRS 293.387.” (*See*  
4 *Opp’n* at 3:4-5.) However, as discussed in the Motion, this argument also *ignores* NRS 293.387(2)(b),  
5 which states clearly the Board is supposed to “(b) Take account of the changes resulting from the  
6 discovery [of errors], *so that* the result declared represents the *true vote cast*.” (Emphasis added.)  
7 Miller literally makes no effort to reconcile this portion of the statute with his absolute legal position  
8 that, if an election happens, it must be certified.

9       Miller makes no counterargument to the obvious fact that the statutory scheme expressly  
10 mandates that steps be taken to *avoid* “certifying an incorrect election outcome.” *See* NRS  
11 293.394(2)(b). It is as if NRS 293.387(2)(b) and NRS 293.394 also do not exist.

12       Under Miller’s reasoning, NRS 293.465, NRS 293.127, and NRS 293.387(2)(b) are rendered  
13 meaningless. Miller’s legal interpretation of NRS 293.387(2)(a) is that that regardless of the troubling  
14 discrepancies that admittedly *prevented* the Registrar from certifying the election results in District C  
15 because he could not identify the actual will of the voters,<sup>1</sup> the election nonetheless should be certified  
16 by the Commission as a “ministerial, non-discretionary statutory obligation[] of NRS 293.387.” (*See*  
17 *Opp’n* at 3:5.)

18       Ironically, this legal approach and interpretation also renders the use of the term “certify” in this  
19 context completely meaningless, other than only to certify what Miller suggests – *i.e.*, that an election  
20 happened: “Ballots were not lost, there was no natural disaster. No election is perfect, but an election  
21 *did* take place in Clark County on November 3, 2020.” (*See Opp’n* 5:4-6) (emphasis *in original*). The  
22 Court cannot allow this meaningless interpretation of the statute to stand, which requires simply  
23 certifying that an election *happened*.

---

24  
25  
26  
27 <sup>1</sup> (Mot., Exhibit 3, Gloria Aff. ¶ 3) (“In the case of the Commission, District C race, the members of counting and auditing  
28 boards found discrepancies such that the margin of victory in that race is called into doubt. There are 218 precincts in  
District C. There were 139 discrepancies which the election boards were unable to reconcile. As a result, I cannot certify  
that the vote is an accurate representation of the will of the voters in that district, and in my professional opinion as an  
election official, it raises a reasonable doubt as to the outcome of the election.”)

1 As argued in the Motion, the election certification by the Commission should be a certification  
2 that the results represent “the true vote cast” (NRS 293.387(2)(b)) and the “real will of the electors”  
3 (NRS 293.127(1)(c)). *That* certification was *prevented*, within the meaning of NRS 293.465, by the  
4 conduct of the election, which yielded 139 irreconcilable discrepancies that far outnumber the margin  
5 of victory in this race.

6 **B. Miller’s narrow interpretation of “prevented” is wrong.**

7 Miller misconstrues the catchall phrase in NRS 293.465 that the election may be prevented by  
8 “any other cause.” In fact, when Miller discusses NRS 293.465 he only italicizes the language “by  
9 reason of the loss or destruction of the ballots” for emphasis. (*See* Opp’n 4:9-13.) Once again, this  
10 argument ignores the statutory mandate to interpret the provisions of NRS 293 *et seq.* liberally: “‘1.  
11 This title ***must be liberally construed*** to the end that: . . . (c) The real will of the electors is ***not***  
12 defeated by any informality or by failure substantially to comply with the provisions of this title with  
13 respect to the giving of any notice or the conducting of an election or ***certifying*** the results thereof.”  
14 *See* NRS 293.127 (emphasis added).

15 Miller ignores this statutory mandate for a *liberal* construction and *expressly* argues the  
16 opposite—*i.e.*, that NRS 293.465’s catchall phrase should be read narrowly, limited, and specifically:  
17 “In other words, NRS 293.465 concerns instances in which an election is prevented from occurring  
18 altogether. It makes provision for a new election under those narrow, limited, and specific  
19 circumstances.” (Opp’n at 4:14-16.)

20 Of course, this interpretation directly contradicts the statutory mandate for liberal construction  
21 in NRS 293.127. This interpretation of the statute also yields an absurd result in contradiction of the  
22 principles of statutory construction that, whenever possible, the interpretation of a statute or  
23 constitutional provision should be harmonized with other statutory or constitutional provisions to  
24 avoid unreasonable or absurd results. *See Nevada Power Co. v. Haggerty*, 115 Nev. 353, 364, 989  
25 P.2d 870 (1999); *Orion Portfolio Servs. 2, LLC v. Cty. of Clark ex rel. Univ. Med. Ctr. of So. Nev.*,  
26 126 Nev. 397, 403, 245 P.3d 527, 531 (2010) (The Court must “not render any part of the statute  
27 meaningless,” or read it in a way that “produce[s] absurd or unreasonable results.”).

1 The admittedly absurd result of Miller’s analysis is that it only analyzes *preventing* an election  
2 from the obstruction side of the coin—*i.e.*, “an earthquake, fire, or the loss of ballots prevents the  
3 completion of an election.” (Opp’n at 4:17-18.)

4 This myopically one-sided interpretation means that hypothetically if it was known that 100  
5 ballots were burned or lost that the election would *then* be considered “prevented,” *but* if there were  
6 100 ballots thought to be wrongfully *added* to the election pool, then the election would *not* be  
7 prevented. After all, the election happened.

8 But why would 100 ballots being *added* to the pool not merit the same remedy as 100 ballots  
9 being *subtracted* from the pool? In a tight election like the one in this case 100 additional ballots are  
10 *just* as troublesome to the public policy considerations, and in fact the general public perception, as are  
11 100 lost or destroyed ballots because both have the *equal* capability of changing the outcome of the  
12 election. The Registrar specifically testified before the Commission that these errors (both the missing  
13 ballot and extra ballot variety) could represent discrepancies that affected the outcome of the election.<sup>2</sup>

14 Therefore, Miller’s interpretation of the term *prevented* in NRS 293.465 is baselessly narrow  
15 and confined, especially for a catchall general phrase that is *supposed* to be interpreted *liberally*. As  
16 previously shown Miller’s proposed interpretation of “prevented” ignores other statutes in NRS 293 *et*  
17 *seq.*, which clearly require determining the “real will of the electors,”<sup>3</sup> certifying the “true vote cast,”<sup>4</sup>  
18 and taking steps to avoid “certifying an incorrect election outcome.”<sup>5</sup> The Commission is not simply  
19 certifying that an election *happened*.

20 **(1) The correct reading of “prevented” in NRS 293.465 embraces a cohesive reading of NRS**  
21 **293.**

22 All of these problems of statutory interpretation are solved if the Court determines that the  
23 correct interpretation of “prevented” in NRS 293.465 is simply this: An election is “prevented”  
24 pursuant to NRS 293.465 if it cannot be determined “by reason of the loss or destruction of the ballots

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26 <sup>2</sup> The Registrar specifically testified to the Commission that these are errors that “we can’t reconcile and so they very much  
27 or *very well could represent a discrepancy that would affect the outcome of the election.*” (See Mot., Exhibit 1, Tr. Special  
Meeting, Nov. 16, 2020 at 6:47-53) (emphasis added).

28 <sup>3</sup> NRS 293.127.

<sup>4</sup> NRs 293.387.

<sup>5</sup> NRS 293.394.

1 intended for that precinct, or any other cause” what the “true vote cast” is or what the “real will of the  
2 electors” is.

3 This interpretation recognizes problems of ballot loss, ballot destruction, *and* ballot addition all  
4 equally, as they *should* be. Rather than the ramrod approach of merely certifying elections because  
5 they “happened,” this interpretation allows discretion for the Commission to order a new election that  
6 in this case *must* occur based on the existence of NRS 293.465. This is the most logical interpretation  
7 of “prevented,” which allows the Court to read the statutory scheme in NRS 293 *et seq.* as a cohesive  
8 whole. It is also a simple interpretation to apply, and promotes greater public confidence in election  
9 outcomes.

10 **C. Miller cannot change the Registrar’s classification of the 139 discrepancies as *errors*.**

11 Miller’s Opposition, “Section 3,” is focused on contending that it is Anthony who calls these  
12 discrepancies errors and not the Registrar. Miller goes so far as to represent to the Court that these are  
13 Anthony’s words only, and quotes the deposition transcript to suggest the Registrar denied using the  
14 term “errors” at all.

15 The assertion that the Registrar does not believe these are errors, or that the term “errors” is not  
16 his word but Anthony’s, is simply not true. The truth is that weeks before his deposition, the Registrar  
17 referred to these discrepancies as errors as part of his *prepared* report, which he read to the Clark  
18 County Commission at the Special Meeting on November 16, 2020:

19 Six voters have been identified who voted twice in this election. The mail ballot  
20 discrepancies represent issues related to tracking the process of ballots, moving from  
21 signature verification to manual signature verification, the ballot cure process and  
22 counting board process. The early voting and election day discrepancies are related  
23 to inadvertent canceled voter check-ins, reactivated voter cards, duplicate activations  
24 or check-in *errors*.<sup>6</sup>

25 It is therefore a misrepresentation of the record to even suggest that it is *Anthony* alone who  
26 calls the discrepancies *errors* when plainly, before Anthony was able to ask the Registrar any  
27 deposition questions at all, the Registrar referred to these discrepancies as errors.

28 

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<sup>6</sup> (See Mot., Exhibit 1, Tr. Special Meeting 5:14-16) (emphasis added).

1 Next, Miller notably *omits* critical points on this topic from the deposition testimony of the  
2 Registrar wherein he was specifically asked — so he could fairly address this exact concern — about  
3 the difference between the use of the term error vs. discrepancy. The interchange is included here in  
4 its entirety for the full understanding and convenience of the Court. What is clear is that the Registrar  
5 *agrees* with the use of the term *error* in connection with the 139 *unreconcilable* discrepancies:

6 Q. Right. What is the -- and maybe I don't know. Why are you uncomfortable using  
7 the term "error" as opposed to "discrepancy"?

8 A. Well, because we do have explanations for some of those, and so they're not  
9 errors. We were able to document exactly what the discrepancy was. And in most  
10 cases, it could have been a duplicate entry. It could have been a mistake in the field  
11 by one of our poll workers. So they don't all fit into one -- one category. There are  
12 different discrepancies there that fall under different categories. But those that are  
13 unknown and -- I -- ***I wouldn't disagree that they're simply errors in the election.***

14 Q. And how many of them are unknown? And speaking about the 139 discrepancies,  
15 how many of them are unknown?

16 A. I would have to review the sheets that we provided, but they're pretty clearly  
17 indicated there on the three tally types for absentee in Exhibit 5, 6 and 7. I believe  
18 on Election Day on the comments category over to the right, we do have some  
19 explanation. And those that are typically marked discrepancy, we don't know. Those  
20 are unknown discrepancies. We just know that we're off from VEMACS, which is  
21 the poll book to Democracy Suite, which are the actual votes that are counted.

22 Q. So let's get into that, then. When you say Exhibits 5, 6 and 7 all have issue or  
23 justification or a comment column, and you're saying, ***then, when it says***  
24 ***"unknown," that that would be an error?***

25 A. ***It could be, yes.***

26 Q. Okay.

27 A. If I could refer to the absentee in Exhibit 5, if you can go to Precinct 3547 on the  
28 first page, fourth from the bottom, in the "Justification," you'll note there that I have  
one lead card missing.

Q. Right.

A. Do you see that same -- so that would be a circumstance where that's not  
unreconcilable; we know exactly what happened. Part of our process for the two-  
card ballot that was sent in, but the voter does not provide the first card with the

1 return, then we don't have an ability for our system to read that precinct into the  
2 system. And so that wouldn't have been a discrepancy that we counted against the  
3 margin of victory. But right next to that is one unreconcilable. So you can see that I  
4 have a 1 off to the right there, and that's what was tallied into the discrepancies. Not  
the 2 under the "Difference" column. I don't know if that helps to clarify, but I  
thought I would make that clear.

5 Q. Thank you very much for that clarification. It does help. So let me reword so I  
6 can understand. So where it says -- all three of these Exhibits 5, 6 and 7 have a  
7 column. In Exhibit 7, you're only saying "unknown;" you never say  
"unreconcilable." In Exhibits 5 and 6, it says "unreconcilable."

8 A. Yes.

9 Q. So but where -- but there's also instances where you identify a specific thing that  
10 you -- so staying with Exhibit 5, the exhibit you had, if I go down to the next page  
11 on Precinct 3719, exhibit -- excuse me, Precinct 3719, it says there are 2 lead cards  
missing and there's 1 unreconcilable. Do you see that?

12 A. I do. And you'll notice off to the right there's a 1.

13 Q. Correct.

14 A. And so that 1 was counted into the discrepancy category, not the 3 because we  
15 were able to explain the first 2.

16 Q. Great. And so you're able to explain the first two problems. And then the next  
17 one is unreconcilable; you don't know what caused it. Is that --

18 A. That is correct.

19 ***Q. All right. So then just referring to these unreconcilable notations, would you***  
20 ***attribute those to errors in the way the election was conducted?***

21 ***A. It could be.***

22 (See Mot. Exhibit 8, Gloria Depo. at 23:13-26:25.)

23 Miller appears to believe that he wins on hairsplitting the "discrepancies" from "errors." But  
24 the Registrar himself, in his prepared report to the Commission, used the term *errors*. When directly  
25 asked about any discomfort he had in the term discrepancy vs. error he stated relating to the  
26 unknown/unreconcilable instances "I wouldn't disagree that they're simply ***errors in the election.***"  
27 Upon further clarification the Registrar specifically agreed *twice* that the *unreconcilable* and *unknown*  
28

1 discrepancies identified in his reports<sup>7</sup> could be classified as “errors.” Those are the Registrar’s words  
2 from his own report to the Commission, and his own words under oath at his deposition when being  
3 *squarely* and *fairly* asked about the difference.

4 Accordingly, these 139 unreconcilable discrepancies represent errors in the conduct of an  
5 election, that the Registrar specifically testified may have had an affect on the outcome of the  
6 election.<sup>8</sup>

7 **D. The significance of *errors* in the conduct of an election.**

8  
9 No one in this case is blaming the Registrar for poorly conducting an election. However, Miller  
10 seems to believe that emphasizing the fact that this was an extremely good election with a statistically  
11 *acceptable* rate of discrepancy generally, which may prove there was no mass *fraud* or conspiracy  
12 (something Anthony has never alleged here), is *also* grounds for simply washing hands, ignoring the  
13 139 discrepancies entirely, and ignoring the statutory constructions designed to prevent certifying an  
14 election outcome that fails to reflect the true vote cast or the will of the voters.

15 Miller goes so far as to *boldly* assert that he *is* the choice of the people: “Mr. Anthony is asking  
16 this Court to overturn the expressed will of the people and have results be declared null and void.”  
17 (Opp’n 3:8-9.) Literally, nothing could be further from the truth.

18 First, *who* has declared, other than Miller himself, that the current results canvassed are the will  
19 of the people? No one. On December 1, 2020, the Commission made clear that the Commissioners  
20 were voting the way they did because they thought the Court ordered them to do so during its hearing  
21 on November 30, 2020.<sup>9</sup> On December 1, 2020, the Commissioners voted the way they did because

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22 <sup>7</sup> (See Mot., Exhibit 8, Gloria Depo. at Exs. 5-7 of the deposition.)

23 <sup>8</sup> (Mot., Exhibit 1, Tr. Special Meeting 6:47-53 (“I’ve identified 139 discrepancies in the Commission C race that follow  
24 pretty closely to what I described in the canvass document. Basically, there are records that were transferred back and  
25 forth from different responsibilities within the mail process that canceled check-ins and things of that nature that we can’t  
reconcile and so they very much or *very well could represent a discrepancy that would affect the outcome of the election.*”)  
(emphasis added)).

26 <sup>9</sup> Video of December 1, 2020, meeting *available at*

27 [https://www.clarkcountynv.gov/government/board\\_of\\_county\\_commissioners/commission\\_meeting\\_agendas.php](https://www.clarkcountynv.gov/government/board_of_county_commissioners/commission_meeting_agendas.php). The  
28 discussion on the item begins at 2:16:20 of the “Video” link and is where discussion of Canvass begins. At 2:17:25 –  
2:20:25. Commissioner Gibson begins speaking and specifically cites his understanding that he previously voted for a new  
election based on his understanding that the Commission had the ability to do so under NRS 293.465. But based on his  
current understanding of the Court’s ruling the Commissioners no longer believe that they have authority under NRS  
293.465 to order a new election. At 2:20:25 Joe Gloria, Registrar of Voters, begins testifying and immediately begins

1 they thought it was as Miller puts it in his brief: “The Board complied with its ministerial, non-  
2 discretionary statutory obligations of NRS 293.387.” Hardly a ringing endorsement of Miller’s self-  
3 declared “expressed will of the people.”

4 The errors are so problematic *because* they expressly *prevent* anyone (including and especially  
5 Miller) from declaring what the “real will of the electors” is or the “true vote cast.” As the Registrar  
6 forthrightly stated in his affidavit submitted to the Commission on November 23, 2020:

7 In the case of the Commission, District C race, the members of counting and  
8 auditing boards found discrepancies such that the margin of victory in that race is  
9 called into doubt. There are 218 precincts in District C. There were 139  
10 discrepancies which the election boards were unable to reconcile. ***As a result, I***  
11 ***cannot certify that the vote is an accurate representation of the will of the voters in***  
***that district***, and in my professional opinion as an election official, ***it raises a***  
***reasonable doubt as to the outcome of the election.***<sup>10</sup>

12 If the Registrar himself, after performing yeoman’s work in trying to canvass the election, “cannot  
13 certify that the vote is an accurate representation of the will of the voters,” how can Miller make this  
14 assertion? How can the Court disregard the Registrar’s sworn statement? How can so little deference  
15 be given to the election professional whose job it is to identify the real will of the voters?

16 These 139 discrepancies are not just any type of discrepancy. These are *unreconcilable* errors  
17 resulting from the conduct of an election by the Registrar’s own admission.<sup>11</sup> The specific cause of the  
18 error is unknown.<sup>12</sup> Meaning, they *could* represent extra ballots cast as duplicates, or they *could*  
19 represent ballots were intended to be cast but not accepted.<sup>13</sup> The Registrar has been clear he *does not*  
20 *know*.<sup>14</sup> He *cannot* reconcile them.<sup>15</sup> But he does know from his decades of election experience that

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21  
22 describing errors that are supposed to be counted “against the margin of victory.” The Registrar specifically identifies that  
23 duplicate votes may have been submitted. (2:21:50-2:22:20.) The discussion of reconsideration ends at 2:26:34.  
24 Commissioner Brown begins speaking and then by 2:29:45 Commissioner Brown makes clear that he is relying on this  
Court’s ruling on the preliminary injunction to make the determination to vote *for certification*. At 2:30:35 the vote is cast  
to certify election.

<sup>10</sup> (Mot., Exhibit 3, Gloria Aff. ¶ 3) (emphasis added).

<sup>11</sup> (Mot., Exhibit 8, Gloria Depo. 35:16-36:12) (“Q. And those errors just simply result from the conduct of the election,  
correct? A. I would agree with that.”).

<sup>12</sup> (Mot. Exhibit 3, Gloria Aff. ¶ 3.)

<sup>13</sup> (Mot. Exhibit 1, Tr. Special Meeting 5:14-16) (specifically identifying duplicate activations in prepared report to the  
commissions); (Mot. Exhibit 8, Gloria Depo. 35:16-36:12) (specifically discussing the possible scenario of ballots being  
cast twice instead of just once, or a voter who tried to vote but the vote wasn’t counted).

<sup>14</sup> (Mot. Exhibit 8, Gloria Depo. 35:16-36:12) (closing discussion of various possible causes of the voting discrepancies  
with statement he doesn’t know exactly what happened).



1 the Missing Ballot example, and the Extra Ballot examples described in the Motion, are *real*  
2 possibilities.<sup>16</sup> For this reason, and the Registrar made this abundantly clear *several* times during his  
3 deposition testimony, these *irreconcilable* discrepancies *should* be counted *against* the margin of  
4 victory.<sup>17</sup>

5 Or as the Nevada Supreme Court has stated in its only case analyzing NRS 293.465: “The  
6 fundamentals of suffrage require that electors shall have the opportunity to participate in elections and  
7 that the real will of the electors should not be defeated by errors in the conduct of an election. NRS  
8 293.127.” *LaPorta v. Broadbent*, 91 Nev. 27, 29, 530 P.2d 1404, 1406 (1975).

9 **E. Miller ignores *LaPorta*.**

10 It is telling that Miller does not cite or otherwise attempt to distinguish *LaPorta*. It is as if the  
11 case does not exist. Once again, Miller should not prevail in this case by simply ignoring  
12 applicable statutes and never addressing applicable Nevada Supreme Court precedent.

13 In *LaPorta* the Nevada Supreme Court issued a writ of mandamus to the Clark County  
14 Commission based on NRS 293.465 simply because staff failed to correctly setup a voting machine.  
15 The machine worked properly in *LaPorta*, it was just set up incorrectly. Accordingly, because of the  
16 staff’s error in setting up the machine, people could not vote for a representative in their district.

17 In *LaPorta*, it was *unknown* how many people voted on the machine in its impaired state.<sup>18</sup> It  
18 was *unknown* if the number of people who voted in the election was sufficient to change the outcome  
19 of the election.<sup>19</sup> It was *unknown* which candidate the error favored in the election.<sup>20</sup> What *was*  
20 known was that staff failed to set up a machine properly at a voting location, that the problem lasted  
21  
22  
23

---

24 <sup>15</sup> (Mot., Exhibit 3, Gloria Aff. ¶ 3.)

25 <sup>16</sup> (Mot. Exhibit 8, Gloria Depo. 35:16-36:12); (*see also id.* at 30:5-10) (explaining Registrar knows from experience that it  
26 happens in elections and that “It’s not uncommon.”); (*see also id.* at 33:1-36:2) (Registrar specifically identifying his  
experience as explaining possibilities for extra ballots being cast erroneously and noting same for questions about missing  
ballots as a possibility).

27 <sup>17</sup> (Mot., Exhibit 8, Gloria Depo. 24:17-25:18; 27:11-28:17; 30:24-31:11; 36:19-37:12; 55:14-24) (multiple times wherein  
the Registrar testified that these discrepancies *should* be counted against the margin of victory).

28 <sup>18</sup> *LaPorta v. Broadbent*, 91 Nev. 27, 28-29, 530 P.2d 1404, 1406 (1975).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

1 approximately three hours, and that the error in conducting the election *could* have prevented the “real  
2 will of the electors” from being determined.<sup>21</sup>

3 When errors in the conduct of an election *prevent* a just determination of the “real will of the  
4 electors” then the election has been effectively *prevented* and a new election must be ordered pursuant  
5 to NRS 293.465 in light of the statutory mandates in NRS 293 et seq. as discussed previously.

6 **F. The Registrar’s affidavit fulfills the requirement of NRS 293.465.**

7 Miller claims that the Registrar “affirm[ed] that his affidavit does not fall within the scope of  
8 NRS 293.465.” (Opp’n at 5:7-8.) Miller then quotes the deposition testimony exchange wherein the  
9 Registrar was asked whether he understood he was submitting the affidavit to comply with NRS  
10 293.465. The quoted response: “No, I don’t believe I correlated the two. I simply was following the  
11 directive given to me in preparing the affidavit by my civil DA.” (See Opp’n at 5:7-16) (quoting Mot.  
12 Exhibit 8, Gloria Depo at 14:3-9). Miller’s argument is legally unsound for multiple reasons.

13 One, the Registrar is not an attorney. Two, the Registrar stating that he drafted the affidavit at  
14 the direction of his attorney is not the same as him saying the affidavit *does not* fulfill NRS 293.465’s  
15 requirements. Third, the fact that the Registrar directly points to his Civil DA’s directive as the reason  
16 for creating the affidavit in this instance actually establishes that the purpose of the affidavit *was* to  
17 fulfill NRS 293.465’s requirements because the Civil DA informed counsel that the affidavit *was*  
18 going to be submitted for that purpose. See Mot., Exhibit 9, Reynolds Decl. ¶¶ 2-4 (describing that  
19 Anthony was prepared to immediately submit his application for a new election on November 23,  
20 2020, *because* counsel had previously agreed that the Registrar would be submitting an affidavit  
21 pursuant to NRS 293.465).

22 However, regardless of counsel’s intent to comply with NRS 293.465, what ultimately makes  
23 the affidavit satisfy the NRS 293.465 requirement is that it does in fact identify the basis of why the  
24 Registrar was *prevented* from certifying the election results. For this reason, the Motion was clear that  
25 this case turns on the interpretation of “prevented.” At the hearing on the Motion for preliminary  
26 injunction the Court concluded that the affidavit did not meet the requirements of NRS 293.465 only  
27

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28 <sup>21</sup> *Id.* (“The fundamentals of suffrage require that electors shall have the opportunity to participate in elections and that the  
real will of the electors should not be defeated by errors in the conduct of an election. NRS 293.127.”)

1 because the Court determined that no election was *prevented* –i.e. from an “obstruction” of the  
2 election perspective:

3 THE COURT: Thank you. The Motion for a Preliminary Injunction or Temporary  
4 Restraining Order is denied. NRS 293.465 is clear that the election must be  
5 prevented. There are a number of ways it could be prevented that don’t include  
6 natural disasters. There could be an accident that is transmitting the vehicle that has  
7 the thumb drives in it. There’s a lot of ways the election could have been prevented.  
8 That is not what is included in Mr. Gloria’s affidavit. There are discrepancies of 139.  
9 That does not mean there was any election that was prevented in any election or  
10 district.

11 See Mot., Exhibit 7, Tr. Hr’g Nov. 30, 2020 at 21:18-22:4.

12 This Motion for Writ of Mandamus directly addresses this concern of the Court. The term  
13 *prevented* cannot be limited to the narrow and preliminary definition that the Court employed at the  
14 hearing for preliminary injunction. As shown previously, a more accurate and meaningful  
15 interpretation of the term “prevented” is one that actually gives NRS 293 *et seq.* a cohesive reading –  
16 *i.e.* that an election is “prevented” pursuant to NRS 293.465 if it cannot be determined “by reason of  
17 the loss or destruction of the ballots intended for that precinct, or any other cause” what the “true vote  
18 cast” is or what the “real will of the electors” is.

19 If the Court embraces this interpretation of *prevented* in NRS 293.465, then the Registrar’s  
20 affidavit *clearly* meets the bill, because the Registrar’s affidavit directly connects the fact that the  
21 nature of the 139 unreconcilable discrepancies *prevents* him from certifying the results of the election:

22 In the case of the Commission, District C race, the members of counting and  
23 auditing boards found discrepancies such that the margin of victory in that race is  
24 called into doubt. There are 218 precincts in District C. There were 139  
25 discrepancies which the election boards were unable to reconcile. ***As a result, I***  
26 ***cannot certify that the vote is an accurate representation of the will of the voters in***  
27 ***that district***, and in my professional opinion as an election official, it raises a  
28 reasonable doubt as to the outcome of the election.<sup>22</sup>

Moreover, the affidavit — by its own terms<sup>23</sup> and as the Registrar clearly testified during his  
deposition<sup>24</sup> — was meant to incorporate the Registrar’s statements to the Commission on November

---

<sup>22</sup> (Mot., Exhibit 3, Gloria Aff. ¶ 3.)

<sup>23</sup> (Mot., Exhibit 3, Gloria Aff. 1.)

<sup>24</sup> (Mot., Exhibit 8, Gloria Depo 13:11-15.)

1 16, 2020, by reference. As part of that report the Registrar clearly stated to the Commission an  
2 additional basis for his concern as to *why* the 139 discrepancies *prevented* him from certifying the  
3 election:

4 I've identified 139 discrepancies in the Commission C race that follow pretty closely  
5 to what I described in the canvass document. Basically, there are records that were  
6 transferred back and forth from different responsibilities within the mail process that  
7 canceled check-ins and things of that nature that we can't reconcile and so they very  
8 much or *very well could represent a discrepancy that would affect the outcome of  
the election.*<sup>25</sup>

9 NRS 293.127 expressly requires the Court to construe the affidavit requirement in NRS 293.465  
10 *liberally* so that a new election is not defeated simply because the Registrar's affidavit does not *cite*  
11 NRS 293.465, or because it incorporates testimony to the Commission by reference rather than  
12 spelling it out again at length.

13 Therefore, as stated in the Motion, the affidavit requirement is satisfied under the factual  
14 circumstances and appropriate statutory standard. What remains for the Court to determine is whether  
15 the 139 unreconcilable discrepancies that *prevented* the Registrar from certifying the election in  
16 Commission District C constitute an election "prevented" pursuant to NRS 293.465.

#### 17 **G. Housekeeping with the Recount of the Election.**

18 As part of Miller's Opposition he submitted the *preliminary* results of the Recount of the  
19 election for District C, and then subsequently submitted a supplement with the final recount numbers.  
20 The Recount shows that Miller increased his lead from 10 to 15 votes. However, this does not change  
21 the analysis of the effect of the 139 discrepancies. Attached as Exhibit 10 are the Registrar's  
22 Responses to Requests for Admission. Of significance he admits that: (1) the new net difference of  
23 15 is still less than the number of irreconcilable differences the Registrar previously identified;<sup>26</sup> (2)  
24 the Recount did not affect the 139 discrepancies previously identified;<sup>27</sup> and (3) the Recount did not  
25 lead to any additional information or explanation of the 139 discrepancies.

26  
27 \_\_\_\_\_  
28 <sup>25</sup> (Mot., Exhibit 1, Tr. Special Meeting 6:47-53) (emphasis added).

<sup>26</sup> See Exhibit 10, Registrar's Responses to Requests for Admission #3.

<sup>27</sup> See Exhibit 10, Registrar's Responses to Requests for Admission #4.

Further, the Responses to Requests for Admission are perhaps muddled somewhat because of the speed of response. For example, the Registrar quibbles with the term that he did not “identify” seven additional ballots as part of the recount, that were not previously tabulated.<sup>28</sup> Granted his response is clear that he did not “identify” seven additional ballots, meaning that he did not locate and positively identify seven *specific* ballots that were not identified previously.<sup>29</sup> However, he also clearly affirmed that (1) the attachment to the Requests for Admission was a “true and authentic copy” of the “Election Summary Report for the Recount;”<sup>30</sup> and (2) the attachment for that summary was certified as correct by him in his official capacity as Registrar.<sup>31</sup> And then it is a matter of simple math to reveal that the number of tabulated votes increased by seven.<sup>32</sup> Anthony increased his vote total by one and Miller increased his vote total by six.<sup>33</sup> This yielded that net result of a new 15-vote margin of victory for Miller, which the Registrar *does* admit.<sup>34</sup> However, even if the Registrar did not identify seven *specific* ballots that were not tabulated in the initial canvass, the Recount underscores that the original tabulation was incorrect. The significance of this of course is that in the *Montandon* case, this Court relied on the vote tabulations being correct as part of its legal analysis.<sup>35</sup> This is a different case than *Montandon*.

## 2. Conclusion.

The Court should issue a writ of mandamus requiring the Commission to order a new election for Clark County Commission District C pursuant to Nevada law, including NRS 293.465.

The election was prevented because the election for District C produced a miniscule margin of victory and 139 irreconcilable discrepancies — which based on the Registrar’s experience could

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<sup>28</sup> See Exhibit 10, Registrar’s Responses to Requests for Admission #7.

<sup>29</sup> *Id.*

<sup>30</sup> See Exhibit 10, Registrar’s Responses to Requests for Admission #11.

<sup>31</sup> See Exhibit 10, Registrar’s Responses to Requests for Admission #12.

<sup>32</sup> In the tabulation identified in the Recount, Anthony has 76,577 votes and Miller has 76,592 votes. See Exhibit 10, Responses to Requests for Admission at *Exhibit 1*. As admitted in Miller’s Opposition, before the Recount Anthony had 76,576 votes and Miller had 76,586 votes. See Opp’n at 3:25-27. This means that the Recount yielded one extra ballot for Anthony and six extra ballots for Miller, netting five additional votes for Miller.

<sup>33</sup> *See id.*

<sup>34</sup> See Exhibit 10, Registrar’s Responses to Requests for Admission #2.

<sup>35</sup> Exhibit 11, *Montandon v. City of North Las Vegas*, 2011 WL 12524104 (2011) (finding of fact 16).

1 include votes cast twice by a single voter, votes cast by a voter but not counted, and other potential  
2 problematic scenarios in conducting the election — that have *prevented* the Registrar from  
3 “certify[ing] that the vote is an accurate representation of the will of the voters in that district.”<sup>36</sup>

4 DATED this 16<sup>th</sup> day of December, 2020.

5 HUTCHISON & STEFFEN, PLLC

6  
7 /s/ Mark A. Hutchison

8 Mark A. Hutchison (4639)  
9 Jacob A. Reynolds (10199)  
10 Piers R. Tueller (14633)  
11 Peccole Professional Park  
12 10080 W. Alta Drive, Suite 200  
13 Las Vegas, Nevada 89145

14 *Attorneys for Intervening Plaintiff*  
15 *Stavros Anthony*  
16  
17  
18  
19  
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28 \_\_\_\_\_  
<sup>36</sup> (See Mot., Exhibit 3, Gloria Aff. ¶ 3.)

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**TO ALL THE PARTIES ON THE E-SERVICE LIST**

/s/ Suzanne Morehead  
An Employee of Hutchison & Steffen, PLLC

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**HUTCHISON & STEFFEN**

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EXHIBIT 10



1 **RSPN**  
2 STEVEN B. WOLFSON  
3 District Attorney  
4 **CIVIL DIVISION**  
5 State Bar No. 001565  
6 By: **MARY-ANNE MILLER**  
7 County Counsel  
8 State Bar No. 001419  
9 500 South Grand Central Pkwy.  
10 P. O. Box 552215  
11 Las Vegas, Nevada 89155-2215  
12 (702) 455-4761  
13 Fax (702) 382-5178  
14 E-Mail: Mary-Anne.Miller@ClarkCountyDA.com  
15 Attorneys for Defendant  
16 *Clark County Board of Commissioners*

DISTRICT COURT  
CLARK COUNTY, NEVADA

11 ROSS MILLER, an individual,  
12  
13 Plaintiff/Petitioner,

14 vs.

15 CLARK COUNTY BOARD OF COMMISSIONERS,  
16 a local government entity; and DOES I-X, inclusive,  
17 Defendant.

Case No: A-20-824971-W  
Dept No: 11

18 **DEFENDANT'S RESPONSE TO REQUEST FOR ADMISSIONS**

19 COMES NOW, the Defendant, CLARK COUNTY BOARD OF COMMISSIONERS,  
20 in answer to the Intervening Plaintiff's Request for Admissions, and makes the following  
21 admissions for the purpose of this action only and subject to all pertinent objections to  
22 admissibility which may be interposed at the trial.

23 **REQUEST FOR ADMISSION NO. 1:**

24 Admit that on Monday, December 14, 2020, You – as the Clark County Registrar of  
25 Voters – and the Clark County Election Department completed the recount of the 2020  
26 General Election ballots for Clark County Board of Commission, District C (the "Recount").

27 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

28 RESPONSE: Admit

1 **REQUEST FOR ADMISSION NO. 2:**

2 Admit that as part of the Recount, Candidate Ross Miller netted additional votes,  
3 increasing his margin of victory to 15 votes over Stavros Anthony.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

5 RESPONSE: Admit

6 **REQUEST FOR ADMISSION NO. 3:**

7 Admit that after the Recount was completed, the margin of victory between Candidate  
8 Ross Miller and Stavros Anthony is still less than the number of irreconcilable discrepancies  
9 You previously identified in the race.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

11 RESPONSE: Admit

12 **REQUEST FOR ADMISSION NO. 4:**

13 Admit that the recount did not affect the 139 discrepancies You previously identified  
14 in Your report to the Clark County Board of Commissioners (the "Commission") on  
15 November 16, 2020.

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

17 RESPONSE: Admit

18 **REQUEST FOR ADMISSION NO. 5:**

19 Admit that, as You previously testified, it is Your opinion that the 139 discrepancies  
20 You previously identified should be counted against the margin of victory.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

22 RESPONSE: Deny; that was not my testimony or statement.

23 **REQUEST FOR ADMISSION NO. 6:**

24 Admit that You discovered no new information or explanation for the 139  
25 discrepancies You previously discovered in the District C race as part of the Recount.

26 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

27 RESPONSE: Admit; I did not investigate the 139 during the Recount  
28



**REQUEST FOR ADMISSION NO. 7:**

Admit that as part of the Recount you identified 7 ballots in the Clark County Commission District C race that had not been previously tabulated.

**RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

RESPONSE: Deny: I did not identify any particular ballots as not previously tabulated.

**REQUEST FOR ADMISSION NO. 8:**

Admit that on November 16, 2020, when you gave Your canvass report to the Clark County Board of Commissioners that the ballots in District C had not been correctly tabulated.

**RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

RESPONSE: Deny; I stated that the ballots had been correctly tabulated.

**REQUEST FOR ADMISSION NO. 9:**

Admit that as part of the Recount, there are over 130 ballots in the District C race that required adjudication ("Adjudicated Ballots") because those ballots had been improperly marked by the voter, in some manner, indicating a potential vote for both Candidate Stavros Anthony and Candidate Ross Miller.

**RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

RESPONSE: If by adjudication, you mean paper ballots that had to be duplicated to be read by the tabulation machine, DENY; there are many reasons that a ballot would need to be duplicated, and all the reasons are not necessarily the fault of the voter.

**REQUEST FOR ADMISSION NO. 10:**

Admit that there is no known relation or connection between the Adjudicated Ballots and the 139 discrepancies, You previously discovered and reported to the Clark County Board of Commissioners

**RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

RESPONSE: Admit; I am unaware at this time of a relation or connection between the duplicated ballots and the 139 discrepancies, although there could be a relationship.

1 **REQUEST FOR ADMISSION NO. 11:**

2 Admit that the Election Summary Report for the Recount, attached hereto as Exhibit  
3 1, is a true and authentic copy of the genuine original document.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

5 RESPONSE: Admit

6 **REQUEST FOR ADMISSION NO. 12:**

7 Admit that the Election Summary Report for the Recount, attached hereto as Exhibit  
8 1, is certified as correct by You, in Your official capacity – authorized to make such a  
9 certification.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

11 RESPONSE: Admit

12 DATED this 13<sup>th</sup> day of January, 2021.

13 STEVEN B. WOLFSON  
14 DISTRICT ATTORNEY

15 By: /s/ Mary-Anne Miller

16 MARY-ANNE MILLER  
17 County Counsel  
18 State Bar No. 001419  
19 500 South Grand Central Pkwy. 5<sup>th</sup> Flr.  
20 Las Vegas, Nevada 89155-2215  
21 Attorneys for Defendant  
22 Clark County Board of Commissioners

23 **VERIFICATION**

24 STATE OF NEVADA }  
25 COUNTY OF CLARK } ss.

26 JOSEPH P. GLORIA, being first duly sworn, upon oath says:

27 That he is the Registrar of Voters for the Clark County Election Department.

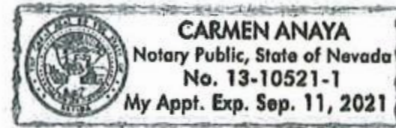
28 That he has read the foregoing **RESPONSE TO REQUEST FOR ADMISSIONS**.

That he knows the contents thereof and that the same are to the best of his knowledge,  
based on information and belief.

JOSEPH P. GLORIA



1 SUBSCRIBED and SWORN to me before me  
2 this 15<sup>th</sup> day of December, 2020.



3  
4 NOTARY PUBLIC

5 **CERTIFICATE OF ELECTRONIC SERVICE**

6 I hereby certify that I am an employee of the Office of the Clark County District  
7 Attorney and that on this 13<sup>th</sup> day of January, 2021, I served a true and correct copy of the  
8 foregoing **DEFENDANT'S RESPONSE TO REQUEST FOR ADMISSIONS** (United  
9 States District Court Pacer System or the Eighth Judicial District Wiznet), by e-mailing the  
10 same to the following recipients. Service of the foregoing document by e-mail is in place of  
11 service via the United States Postal Service.

12 Dominic P. Gentile, Esq.  
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Attorney for Intervenor

23 Stravos Anthony

24 /s/ Afeni Banks  
25 An Employee of the Clark County District  
26 Attorney's Office – Civil Division  
27  
28

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## EXHIBIT 1

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

# Election Summary Report

General Election

Clark County

November 03, 2020

Summary for: County Commissioner District C, All Districts, All Tabulators, All Counting Groups

Clark County

Official Final Results

2020 Recount

Commission District C

SR1

## County Commissioner District C (Vote for 1)

Candidate	Party	Total	
Anthony, Stavros	REP	76,577	
Miller, Ross	DEM	76,592	
Total Votes		153,169	

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# HUTCHISON & STEFFEN

EXHIBIT 11



2011 WL 12524104 (Nev.Dist.Ct.) (Trial Order)  
District Court of Nevada.  
Clark County

Michael MONTANDON and Jay King, Plaintiffs,

v.

CITY OF NORTH LAS VEGAS, et al, Defendants.

Dr. Wade WAGNER, an individual, Plaintiff,

v.

CITY OF NORTH LAS VEGAS, et al, Defendants.

No. 11A643 35.  
July 12, 2011.

**Findings of Fact and Conclusions of Law; and Order Granting Permanent Injunction**

Elizabeth Gonzalez, Judge.

\*1 Plaintiff Wade Wagner's ("Wagner") Application for a Temporary Restraining Order and Preliminary Injunction; Writs of Mandamus and Prohibition; Defendants City of North Las Vegas', Councilwoman Anita Wood's, Councilman Robert Eliason's, and Councilman William Robinson's (collectively the "City") Motion for Summary Judgment; and, Plaintiffs Montandon's and King's Motion for Summary Judgment on Open Meeting Law having come on for hearing before the above-entitled Court<sup>1</sup> on July 8, 2011, Plaintiffs Michael Montandon and Jay King being represented by Mark Hutchison and Richard Doxey of the law firm of Hutchison Steffen; Plaintiff Wagner being represented by Todd Bice of the law firm of Pisanelli Bice; the City being represented by Matthew Griffin of the law firm of Griffin, Rowe and Nave and Sandra Douglas Morgan of the North Las Vegas City Attorneys Office; Defendant Richard Cherchio ("Cherchio") being represented by Bradley Schragger and Matthew Milone of the law firm of Jones Vargas. Pursuant to [NRCP 65\(a\)\(2\)](#), all parties have stipulated to the consideration and consolidation of these motions and advancement of the trial on the merits for Plaintiff Wagner's Application for Temporary Restraining Order, Preliminary Injunction and Writs of Mandamus and Prohibition. The Court having considered the motions, conducted the trial, examined the exhibits admitted and heard the testimony of Harvard L. Lomax ("Lomax") and Cherchio. Having fully considered the pleadings and papers on file herein, the evidence presented during the evidentiary hearing, and the argument of counsel and with good cause appearing, the Court enters the following findings of fact and conclusions of law pursuant to [NRCP 52](#):

**I. FINDINGS OF FACT**

1. The City of North Las Vegas ("City") is divided into four wards, each having an elected representative on the City Council. The Mayor represents the City at-large and sits as the fifth member of the City Council.
2. Defendant Richard Cherchio ("Cherchio") was the incumbent Councilmember for Ward 4, having been appointed in July 2009, to serve as the replacement for Councilmember Shari L. Buck, who had successfully run for Mayor. Cherchio's term of office expired on June 30, 2011, and he was seeking to be elected as Ward 4 Councilman in the 2011 North Las Vegas general election.

3. The 2011 North Las Vegas general election consisted of three races. Wagner and Cherchio were on the ballot for the Ward 4 City Council position. There were also two candidates for the Ward 2 City Council seat and two candidates for Municipal Court Judge. While only those voters registered in Ward 4 or Ward 2 were entitled to vote in the races for those seats, every North Las Vegas voter was entitled to vote in the Municipal Court race.

4. The City held its general election on June 7, 2011. To vote in the City Council race, voters are required to be registered in their respective Ward and vote in their designated precinct. Within Ward 4, there are 21 individual precincts.

\*2 5. The City of North Las Vegas and Clark County have entered into an interlocal agreement, whereby the City's elections are overseen and processed by the Clark County Registrar of Voters, who is presently Lomax.

6. After all polling stations closed, Lomax reported the election results in the Ward 4 race as follows: 1,831 votes for Wagner to 1,830 votes for Cherchio. The margin of victory was one vote.

7. Subsequently, while examining the participation results, Lomax learned that a ballot for the Ward 4 election had been provided to a voter registered in Ward 3. A poll worker assigned to Precinct 4306 in Ward 4 permitted an individual who was now living in Ward 4, but registered at an address in Ward 3, to obtain a ballot containing the Ward 4 race.

8. While this voter had the ability to cast a ballot in the Ward 4 race, no evidence was presented that the voter actually voted in that race, as two people who voted in Precinct 4306 did not vote in the City Council race. And if such a vote were cast, no evidence was presented for which candidate any such vote might have been cast. Thus, all that can be said is that an illegal vote may have been cast in the Ward 4 race, and if it was, then it is possible that such an illegal vote could, if cast for Wagner, make the race a tie.

9. Lomax has confirmed that there is no dispute as to the true vote cast in the Ward 4 race: 1,831 for Wagner, 1,830 for Cherchio.

10. On June 15, 2011, the North Las Vegas City Council, acting as Canvassing Board, was scheduled to canvass the returns for the 2011 general election. The agenda item that was published under Nevada's Open Meeting Law identified the canvassing of the returns as the only item up for discussion and action relating to the general election.

11. On June 15, 2011, shortly before the City Council meeting commenced, Cherchio executed an application for a new election under [NRS 293C.710](#).

12. Cherchio's application was not on the agenda for consideration, discussion or action. The only persons who could have been aware of it were those in attendance at the June 15, 2011 City Council meeting as Cherchio had only signed it moments before the meeting commenced.

13. As for the canvassing of the returns for the Ward 4 race, Mayor Shari Buck and Councilmember Cherchio recused themselves from consideration of the matter. That left only Councilmembers Woods, Eliason and Robinson to conduct the canvass of the Ward 4 returns.

14. The three of them voted not to canvass the returns for the Ward 4 election and instead took action upon Cherchio's application, declaring that they would order a new election pursuant to [NRS 293C.710](#), and limit it to all eligible voters in Precinct 4306.

15. On June 21, 2011, Wagner filed a Verified Complaint against the City and Cherchio challenging the City's authority to grant Cherchio's application for a new election and the City Council's refusal to canvass the votes. Subsequently, on June 29, 2011, Wagner filed a First Amended Verified Complaint.



16. On June 23, 2011, former North Las Vegas Mayor Montandon and North Las Vegas resident King, both of whom reside in Ward 4, filed suit against the City alleging that it violated Nevada's Open Meeting Law by taking action on Cherchio's application at the June 15, 2011 meeting. That same day, The Honorable Allen Earl of the Eighth Judicial District Court entered a temporary restraining order precluding the City from taking any action toward a new election based upon the June 15, 2011 meeting.

\*3 17. Subsequently, on June 24, 2011, the City issued a proper notice under the Open Meeting Law identifying that it would undertake discussion and possible action concerning a new election at a special meeting on June 30, 2011. This notice complied with Nevada's Open Meeting Law, as the earlier notice had not.

18. At the June 30, 2011 meeting, the City Council again voted to accept Cherchio's application and hold a new election, predicated upon [NRS 293C.710](#). Thereafter, on July 5, 2011, Montandon and King filed an Amended Complaint, adding causes of action previously asserted by Wagner and contesting the City's claim that it could order a new election,

19. On July 5, 2011, as Presiding Civil Judge, this Court consolidated the Wagner action into the Montandon/King action so that the matter could be heard expeditiously by The Honorable Allen Earl.<sup>2</sup> By agreement of the parties, Judge Earl had set the matter to be heard for July 8, 2011, at 1:30 p.m. However, Judge Earl was unable to proceed, and thus the undersigned, acting as Presiding Civil Judge, held a telephone conference with all counsel on July 7, 2011, wherein all parties stipulated and agreed to have this matter heard on July 8, 2011, at 8:30 a.m. before the undersigned.

20. Any finding of fact more appropriately designated as a conclusion of law shall be so designated.

## II. CONCLUSIONS OF LAW

1. Although this matter is not a statutory election contest,<sup>3</sup> the statutory provisions governing such contests are instructive in addressing the scope of a canvassing board's authority based upon allegations that an illegal vote may have been cast and may have affected the election. Under [NRS 293.410\(2\)](#), an election, including a municipal election, may be contested on the following grounds:

- (a) That the election board or any member thereof was guilty of malfeasance.
- (b) That a person who has been declared elected to an office was not at the time of election eligible to that office.
- (c) That illegal votes were cast and counted for the defendant, which, if taken from the defendant, will reduce the number of the defendant's legal votes below the number necessary to elect the defendant.
- (d) That the election board, in conducting the election or in canvassing the returns, made errors sufficient to change the result of the election as to any person who has been declared elected.
- (e) That the defendant has given, or offered to give, to any person a bribe for the purpose of procuring his or her election.
- (f) That there was a possible malfunction of any voting or counting device.

2. Thus, Nevada law provides a mechanism for prompt judicial resolution of the precise situation presented in the Ward 4 race (*i.e.*, allegations that an improper vote affected the election). Under the law, the losing candidate who challenges an election must establish that "but for" any such improper vote, the outcome of the election would be different.

3. Nevada law does not vest the City Council, acting as a canvassing board, with authority or jurisdiction to resolve such election contests. That authority is vested with the judiciary pursuant to a properly-commenced statutory election contest.

\*4 4. The City Council's role as a canvassing board is to canvass the returns, which is specified in [NRS 293C.387](#), and provides in pertinent part:

2. After the governing body of a city receives the returns from all the precincts and the districts in the city, it shall meet with the mayor to canvass the returns. The canvass must be completed on or before the sixth working day following the election.

3. In completing the canvass of the returns, the governing body and the city and the mayor shall:

(a) note separately any clerical errors discovered; and

(b) take account of the changes resulting from the discovery, so that the result declared represents the true vote cast.

4. After the canvass is completed, the governing body and the city and mayor shall declare the results of the canvass.

5. No "clerical error" occurred in the recording, reporting or calculating of the total vote cast. And, no evidence was presented of any clerical error.

6. The City Council's duty, acting as a canvassing board, is to canvass the return as presented by election officials. The City Council's duty in that regard is ministerial, and it has no authority to refuse to perform that duty.

7. "This Court may issue a writ of mandamus to compel the performance of an act which the law requires as a duty resulting from an office, or where discretion has been manifestly abused or exercised arbitrarily or capriciously." *Redeker v. Eighth Judicial Dist. Ct.*, 142 Nev. 154, 167, 127 P.2d 520, 522 (2006); *see also Reed v. Wheeler*, 11 Nev. 6, 358 P.2d 112 (1961) (recognizing that mandamus is the proper remedy to compel performance of canvassing board's duty to canvass returns of election).

8. Here, both [NRS 293C.387\(2\)](#) and North Las Vegas Municipal Code § 2.08.180 mandate that the City Council meet as the Canvassing Board and canvass the returns. Thereafter, they are required to declare the winner of the election, which the North Las Vegas Municipal Code defines as the "candidate receiving the highest number of total votes cast". North Las Vegas Municipal Code § 2.08.190.

9. Wagner is the candidate receiving the highest number of total votes cast.

10. The Court finds that the entry of a writ of mandamus is appropriate to compel the North Las Vegas City Council to canvass and certify the Ward 4 election returns as final, in that Wagner has no plain, speedy and accurate remedy in the ordinary course of law, and the City Council exceeded its legal authority and acted arbitrarily and capriciously and abused its discretion in refusing the canvass the Ward 4 returns.

11. The Court also finds that a writ of prohibition should issue in this case to preclude the City Council from ordering a new election based upon the allegations that one improper vote may have been cast in the Ward 4 race.

12. "A writ of prohibition will be issued to arrest the proceedings of any tribunal, corporation, board or person exercising judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or person, and where no plain, speedy and adequate remedy at law exists." *Gaughan v. Eighth Judicial Dist. Ct.*, 93 Nev. 151, 152, 560 P.2d 1372, 1373 (1977) (citing *Heilig v. Christensen*, 91 Nev. 120, 532 P.2d 267 (1975)); *Las Vegas Police Protective Ass'n Metro, Inc. v. Eighth Judicial Dist. Ct.*, 122 Nev. 230, 130 P.3d 182 (2006) ("[W]rits of prohibition are available to arrest the proceedings of any tribunal or board when such proceedings are without or in excess of the tribunal's or board's jurisdiction."); accord *Whitehead v. Nev. Comm'n on Judicial Discipline*, 110 Nev. 128, 906 P.2d 230 (1994). The "classic role of the writ of



prohibition is to provide a speedy remedy at law when a tribunal of limited jurisdiction asserts a power it does not possess.” *Willamette Val. Lumber Co. v. Ellis*, 359 P.2d 98, 100 (Or. 1961).

\*5 13. Additionally, Nevada's Open Meeting Law requires that the City provide an agenda consisting of a “clear and complete statement of the topics scheduled to be considered during the meeting.” NRS 241.020(2)(c)(1). NRS 241.020(2)(c)(2) also mandates that the City provide “a list describing the items in which action may be taken and clearly denoting that action may be taken on those items.” The City is required to strictly comply with the requirements of the Open Meeting Law. *Sandoval v. Board of Regents of University*, 119 Nev. 148, 154, 67 P.3d 902, 905 (2003).

14. Actions taken in violation of Nevada's Open Meeting Law are void. Thus, actions taken by the City concerning a new election at the June 15, 2011 City Council meeting are void.

15. The Court also finds that Wagner is entitled to permanent injunctive relief precluding the City from granting Cherchio's application and moving forward with any new election under NRS 293C.710, as the Statute does not authorize a new election here. NRS 293C.710 applies when an election has been “prevented” due to lost or destroyed ballots or some other cause: Loss or destruction of ballots, or other cause preventing election in precinct or district; new election. If a city election is prevented in any precinct or district by reason of the loss or destruction of the ballots intended for that precinct or district, or any other cause, the election officers for that precinct or district shall make an affidavit setting forth that fact and transmit it to the governing body of the appropriate city. Upon receipt of the affidavit and upon the application of any candidate for any city office to be voted for by the registered voters of that precinct or district, the governing body of the city shall order a new election in that precinct or district.

16. No election was prevented here. Lomax confirmed that the election occurred and that all voting machines operated appropriately and that all ballots were correctly counted and tabulated. No evidence was presented of any election being prevented.

17. NRS 293C.710's “any other cause” language cannot be read in isolation from the remainder of the statute. As stated in *Young Electric Sign Co. v. Irwin Electric Co.*, 86 Nev. 822, 825, 477 P.2d 864, 867 (1970), where “a general term in a statute follows specific words of a like nature, it takes its meaning from those specific words, and it is presumed to embrace the kind of things designated by the specific words.” See also *Orr Ditch Water Co. v. Justice Ct.*, 64 Nev. 138, 147, 178 P.2d 558, 562 (1947) (“Indeed, it is improper, in construing a statute, to take a few words from its context, and, with them thus isolated, attempt to determine their meaning.”).

18. NRS 293C.710 concerns actions that prevent an election from actually taking place, whether it is lost ballots, destroyed ballots, power failures, a fire at the precinct house, etc. This statute mandates a new election under such circumstances, because the election was “prevented,” as people could not vote or have their votes counted. The terms “any other cause” relate to matters of a like nature, which “prevents” the election from having actually occurred.

19. The Court finds that Wagner will face irreparable harm if the City is not enjoined from its attempt to grant Cherchio's application and hold a new election, as Wagner won a majority of the votes cast, and the City has no legal authority pursuant to N.R.S. 293C.710 to order a new election here.

\*6 20. Any conclusion of law more appropriately designated as a finding of fact shall also be so designated.

The Court will issue separate orders entering Writs of Prohibition, Mandamus and Summary Judgment in favor of Montandon and King on the Open Meeting Law.

THEREFORE, THE COURT HEREBY ORDERS, ADJUDGES AND DECREES that the City lacks legal authority to grant Cherchio's application and order a new election pursuant to [NRS 293C.710](#);

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a permanent injunction shall issue precluding the City of North Las Vegas, its City Council, officers, agents, servants, employees and attorneys or those persons in active concert or participation with them, who receive actual notice of this injunction by personal service or otherwise, from effectuating or attempting to effectuate a new election in the 2011 Ward 4 North Las Vegas City Council race based upon [NRS 293C.710](#).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, as this is a permanent injunction following a trial, no security is required.

THIS ORDER disposes of all claims, rights, and liabilities of all the parties to this action, and is final in all respects.

IT IS SO ORDERED.

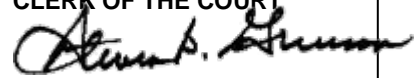
DATED: This 11<sup>th</sup> day of July, 2011

<<signature>>

Elizabeth Gonzalez, District Court Judge

Footnotes

- 1 This matter was heard by this court as Presiding Civil Judge due to the illness of the assigned judge.
- 2 At that time, Judge Earl had a preliminary injunction hearing scheduled for July 6, 2011.
- 3 The Court specifically noted that it was making no ruling or considerations on the merits of a contest and that the parties could choose to file such after the certification of election if they deemed it appropriate.



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23 *Attorneys for Plaintiff/Petitioner Ross Miller*

24 **EIGHTH JUDICIAL DISTRICT COURT**

25 **IN AND FOR CLARK CITY, STATE OF NEVADA**

26 ROSS MILLER, and individual,

27 Plaintiff/Petitioner,

28 vs.

29 CLARK COUNTY BOARD OF  
30 COMMISSIONERS, a local government  
31 entity; and DOES I-X, inclusive,

32 Defendant.

33 STAVROS ANTHONY, an individual,

34 Intervenor-Plaintiff,

35 vs.

36 CLARK COUNTY BOARD OF  
37 COMMISSIONERS, a local government  
38 entity; ROSS MILLER, an individual; and

Case No.: A-20-824971-W

Dept. No.: 11

**NOTICE OF ENTRY OF ORDER  
DENYING INTERVENOR MOTION  
FOR PRELIMINARY INJUNCTION**

1 DOES I-X, inclusive,

2 Defendants.

3  
4 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

5 PLEASE TAKE NOTICE that the ORDER DENYING INTERVENOR MOTION FOR  
6 PRELIMINARY INJUNCTION was signed by the Judge on the 3rd day of December, 2020 and  
7 filed with the Eighth Judicial District Court on December 4, 2020, a true and correct copy of  
8 which is attached hereto.

9 DATED this 29th day of December, 2020  
10  
11

12 By: /s/ Bradley S. Schrager

13 DOMINIC P. GENTILE

14 Nevada Bar No. 1923

15 JOHN A. HUNT

16 Nevada Bar No. 1888

17 **CLARK HILL PLLC**

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28 Attorneys for Plaintiff/Petitioner Ross Miller

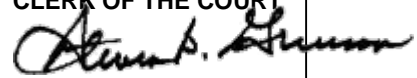


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**CERTIFICATE OF SERVICE**

I hereby certify that on this 29th day of December, 2020, a true and correct copy of NOTICE OF ENTRY OF ORDER DENYING INTERVENOR MOTION FOR PRELIMINARY INJUNCTION was served by electronically filing with the Clerk of the Court using the Odyssey eFileNV system and serving all parties with an email-address on record, pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R.

By /s/ Christie Rehfeld  
Christie Rehfeld, an Employee of  
WOLF, RIFKIN, SHAPIRO, SCHULMAN &  
RABKIN, LLP



**ORDR**

MARK A. HUTCHISON, ESQ.  
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*Stavros Anthony*

**EIGHTH JUDICIAL DISTRICT COURT**

**IN AND FOR CLARK CITY, STATE OF NEVADA**

ROSS MILLER, and individual,  
  
Plaintiff/Petitioner,  
  
vs.

Case No. A-20-824971-W

Dept. ● XI

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government  
entity; and DOES I-X, inclusive,  
  
Defendant.

**ORDER DENYING INTERVENOR'S  
MOTION FOR PRELIMINARY  
INJUNCTION**

STAVROS ANTHONY, an individual,  
  
Intervenor-Plaintiff.  
  
vs.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government  
entity; ROSS MILLER, an individual, and  
DOES I-X, inclusive,  
  
Defendant.

On November 25, 2020, Intervenor-Plaintiff Stavros Anthony ("Intervenor"), by and through counsel of record, filed a Motion for Preliminary Injunction ("Motion for Preliminary Injunction"). Intervenor requested an order enjoining the Clark County

Commission from certifying the election of Clark County Commission, District C, or otherwise reconsidering its vote to hold a new election for District C at its December 1, 2020 meeting or thereafter until this Court has ruled on the merits of this case.

On November 30, 2020, an opposition to Intervenor's Motion for Preliminary Injunction was filed by Plaintiff Ross Miller ("Plaintiff"), and Intervenor filed a reply.

The Court held a hearing on November 30, 2020. The hearing was conducted by teleconference. Mark A. Hutchison, Esq., appeared and argued on behalf of Intervenor. Bradley S. Schrager, Esq. appeared Plaintiff. Mary-Anne Miller, Esq., appeared argued on behalf of Defendant Clark County Board of Commissioners ("Defendant" or the "Board").

Upon review of the papers and pleadings on file herein, the arguments of counsel, and good cause appearing,

Intervenor's Motion for Preliminary Injunction is DENIED.

December 3, 2020

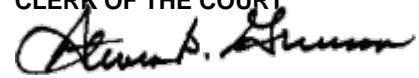
IT IS SO ORDERED.

  
DISTRICT COURT JUDGE

Submitted by

**HUTCHISON & STEFFEN**

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*Attorneys for Intervening Plaintiff*  
*Stavros Anthony*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROSS MILLER, an individual,

Plaintiff/Petitioner,  
v.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government entity;  
and DOES I – X, inclusive,

Defendant

Case No. A-20-824971-W

Dept. No. XI

**NOTICE OF APPEAL**

STAVROS ANTHONY, an individual,

Intervening Plaintiff,  
v.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government entity;  
ROSS MILLER, an individual,

Defendants.

///

1  
2 Notice is given that Stavros Anthony, Intervening Plaintiff in the above captioned matter,  
3 appeals to the Supreme Court of Nevada from the following Orders:

- 4 1. The District Court's Order denying Intervenor Stavros Anthony's Motion for  
5 Preliminary Injunction entered in this action on December 4, 2020; and  
6 2. The District Court's [Minute] Order denying Intervenor Stavros Anthony's Motion for  
7 Writ of Mandamus entered in this action on December 24, 2020; and  
8 3. Any and all orders and judgments rendered appealable by the foregoing.

9 DATED this 29<sup>th</sup> day of December, 2020.

10 HUTCHISON & STEFFEN, PLLC

11  
12 /s/ Mark A. Hutchison

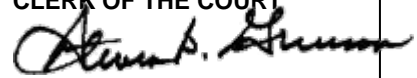
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Las Vegas, Nevada 89145

17 *Attorneys for Intervening Plaintiff*  
18 *Stavros Anthony*  
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**TO ALL THE PARTIES ON THE E-SERVICE LIST**

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1 **ORDR**

2  
3 **EIGHTH JUDICIAL DISTRICT COURT**  
4 **IN AND FOR CLARK CITY, STATE OF NEVADA**

5 ROSS MILLER, an individual,  
6 Plaintiff/Petitioner,

7 vs.

8 CLARK COUNTY BOARD OF  
9 COMMISSIONERS, a local government  
10 entity; and DOES I-X, inclusive,

11 Defendant.

12 STAVROS ANTHONY, an individual,

13 Intervenor-Plaintiff,

14 vs.

15 CLARK COUNTY BOARD OF  
16 COMMISSIONERS, a local government  
17 entity; ROSS MILLER, an individual; and  
18 DOES I-X, inclusive,

19 Defendants.

Case No.: A-20-824971-W  
Dept. No.: XI

**ORDER DENYING INTERVENOR  
PLAINTIFF'S MOTION FOR  
WRIT OF MANDAMUS  
REQUIRING THE CLARK  
COUNTY BOARD OF  
COMMISSIONERS TO ORDER A  
NEW ELECTION FOR CLARK  
COUNTY COMMISSION  
DISTRICT C**

20 On December 10, 2020, Intervenor-Plaintiff Stavros Anthony ("Intervenor"), by and  
21 through counsel of record, filed a Motion for Writ of Mandamus ("Motion for Writ of  
22 Mandamus"). Intervenor requested an order requiring the Clark County Board of  
23 Commissioners (the "Board") to order a new election for Clark County Commission District  
24 C.

25 On December 14, 2020, an opposition to Intervenor's Motion for Writ of Mandamus  
26 was filed by Plaintiff Ross Miller ("Plaintiff") and Defendant Clark County Board of  
27 Commissioners filed a joinder thereto. On December 16, 2020, Intervenor filed a reply in  
28 support of his Motion for Writ of Mandamus.

...

1 ...

2 Upon review of the papers and pleadings on file herein, the arguments of the parties,  
3 and good cause appearing, Intervenor' Motion for Writ of Mandamus is DENIED. The Court  
4 finds the following facts and states the following conclusions of law<sup>1</sup> as follows:

5 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

6 Intervenor, in his Motion for Writ of Mandamus, argues that pursuant to NRS  
7 293.465, the Clark County Board of Commissioners is required to proceed with a new  
8 election for Clark County Commission, District C. Intervenor's Motion for Writ of  
9 Mandamus included an affidavit by the Clark County Registrar of Voters (the "Registrar"),  
10 which states that there were 139 discrepancies in the District C election.

11 The Court finds that NRS 293.465 does not apply in this case. NRS 293.465 states in  
12 full:

13 If an election is prevented in any precinct or district by reason of the loss or  
14 destruction of the ballots intended for that precinct, or any other cause, the  
15 appropriate election officers in that precinct or district shall make an affidavit  
16 setting forth that fact and transmit it to the appropriate board of county  
17 commissioners. Upon receipt of the affidavit and upon the application of any  
candidate for any office to be voted for by the registered voters of that  
precinct or district, the board of county commissioners shall order a new  
election in that precinct or district.

18 NRS 293.465 applies in instances in which an election, or a portion of one, is prevented from  
19 occurring, for instance due to a natural disaster, or an accident suffered by the vehicle  
20 transmitting the ballots, or some similar incident preventing an election from occurring and  
21 makes provision for a new election in those circumstances. The Court finds that NRS  
22 293.465 cannot apply here because the Clark County Commission, District C election was  
23 not prevented. Clark County had an election on November 3, 2020. The results of every race  
24 have been canvassed and certified. No precinct failed to complete its election.

25 The Court further finds that the Registrar's affidavit is not an NRS 293.465 affidavit,  
26 either by its own terms—as the Court has already stated when denying Intervenor's Motion

27 \_\_\_\_\_  
28 <sup>1</sup> If any finding herein is in truth a conclusion of law, or if any conclusion is stated is in truth a  
finding of fact, it shall be deemed so.



1 for Preliminary Injunction—or by the expressed intentions of the Registrar. The affidavit  
2 does not declare that an election was prevented, either in whole or at the level of any  
3 particular precinct. It does not describe or identify any “loss or destruction of the ballots” per  
4 NRS 293.465. Therefore, Intervenor cannot establish that NRS 293.465 mandates a new  
5 election.

6 **THEREFORE**, the Court **DENIES** Intervenor’s Motion for Writ of Mandamus.

7 DATED this 31<sup>st</sup> day of December, 2020.

8  
9   
10 DISTRICT COURT JUDGE

11  
12 Submitted by:

13 STEVEN B. WOLFSON (SBN 1565)  
14 District Attorney

**HUTCHISON & STEFFEN, PLLC**

15 By: /s/ Mary-Anne Miller  
16 MARY-ANNE MILLER (SBN 1419)  
17 County Counsel  
18 500 South Grand Central Pkwy.  
19 Las Vegas, Nevada 89155-2215

*Attorneys for Defendant  
Clark County Board of  
Commissioners*

By: /s/ Jacob A. Reynolds  
MARK A. HUTCHISON (SBN 4639)  
JACOB A. REYNOLDS (SBN  
10199)  
PIERS R. TUELLER (SBN14633)  
Peccole Professional Park  
10080 West Alta Drive, Suite 200  
Las Vegas, Nevada 89145

*Attorneys for Intervenor-Plaintiff  
Stavros Anthony*

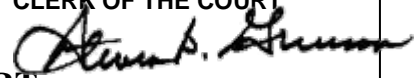
20 Approved by:

**CLARK HILL PLLC**

21 DOMINIC P. GENTILE (SBN 1923)  
22 JOHN A. HUNT (SBN 1888)  
23 3800 Howard Hughes Pkwy., #500  
24 Las Vegas, Nevada 89169

**WOLF, RIFKIN, SHAPIRO, SCHULMAN  
& RABKIN, LLP**

25 By: /s/ Bradley S. Schrager  
26 BRADLEY S. SCHRAGER, ESQ.  
27 (SBN 10217)  
28 DANIEL BRAVO, ESQ. (SBN 13078)  
3556 E. Russell Road, Second Floor  
Las Vegas, Nevada 89120



1 **NOE**

2 **EIGHTH JUDICIAL DISTRICT COURT**

3 **IN AND FOR CLARK CITY, STATE OF NEVADA**

4 ROSS MILLER, an individual,  
5 Plaintiff/Petitioner,

6 vs.

7 CLARK COUNTY BOARD OF  
8 COMMISSIONERS, a local government  
entity; and DOES I-X, inclusive,  
9 Defendant.

10 STAVROS ANTHONY, an individual,  
11 Intervenor-Plaintiff,

12 vs.

13 CLARK COUNTY BOARD OF  
14 COMMISSIONERS, a local government  
entity; ROSS MILLER, an individual; and  
15 DOES I-X, inclusive,  
16 Defendants.

Case No.: A-20-824971-W  
Dept. No.: 11

**NOTICE OF ENTRY OF ORDER  
DENYING INTERVENOR  
PLAINTIFF'S MOTION FOR  
WRIT OF MANDAMUS  
REQUIRING THE CLARK  
COUNTY BOARD OF  
COMMISSIONERS TO ORDER A  
NEW ELECTION FOR CLARK  
COUNTY COMMISSION  
DISTRICT C**

17 **TO: THE ABOVE NAMED PARTIES:**

18 YOU WILL PLEASE TAKE NOTICE that an Order Denying Intervenor Plaintiff's  
19 Motion For Writ Of Mandamus Requiring The Clark County Board Of Commissioner To  
20 Order A New Election For Clark County Commission District C was filed above-entitled  
21 matter on the 31<sup>st</sup> day of December, 2020, a copy of which is attached hereto.

22 DATED this 31<sup>st</sup> day of December, 2020.

23 STEVEN B. WOLFSON  
24 DISTRICT ATTORNEY

25 By: /s/ Mary-Anne Miller  
26 MARY-ANNE MILLER, County Counsel  
27 State Bar No. 001419  
28 500 South Grand Central Pkwy. 5<sup>th</sup> Flr.  
Las Vegas, Nevada 89155-2215  
Attorneys for Defendant  
Clark County Board of Commissioners

1 **CERTIFICATE OF ELECTRONIC SERVICE**

2 I hereby certify that I am an employee of the Office of the Clark County District  
3 Attorney and that on this 31<sup>ST</sup> day of December, 2020, I served a true and correct copy of the  
4 foregoing NOTICE OF ENTRY OF ORDER DENYING INTERVENOR PLAINTIFF'S  
5 MOTION FOR WRIT OF MANDAMUS REQUIRING THE CLARK COUNTY BOARD  
6 OF COMMISSIONERS TO ORDER A NEW ELECTION FOR CLARK COUNTY  
7 COMMISSION DISTRICT C (United States District Court Pacer System or the Eighth  
8 Judicial District Wiznet), by e-mailing the same to the following recipients. Service of the  
9 foregoing document by e-mail is in place of service via the United States Postal Service.

10 Dominic P. Gentile, Esq.  
11 CLARK HILL PLLC  
12 3800 Howard Hughes Pkwy., #500  
Las Vegas, NV 89169  
[dgentile@clarkhill.com](mailto:dgentile@clarkhill.com)

MARK A. HUTCHISON (SBN 4639)  
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10080 West Alta Drive, Suite 200  
Las Vegas, Nevada 89145

13 Bradley S. Schrager, Esq.  
14 Daniel Bravo, Esq.  
15 WOLF RIFKIN SHAPIRO SCHULMAN  
& RABKIN LLP  
16 3556 E. Russell Road, 2<sup>nd</sup> Floor  
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[dbravo@wrslawyers.com](mailto:dbravo@wrslawyers.com)

*Attorneys for Intervenor-Plaintiff  
Stavros Anthony*

17 *Attorneys for Plaintiff*  
18 *Ross Miller*

21  
22 /s/ Afeni Banks  
23 An Employee of the Clark County District  
24 Attorney's Office – Civil Division  
25  
26  
27  
28

1 ODM

2 EIGHTH JUDICIAL DISTRICT COURT  
3 IN AND FOR CLARK CITY, STATE OF NEVADA

4 ROSS MILLER, an individual,  
5 Plaintiff/Petitioner,  
6 vs.

7 CLARK COUNTY BOARD OF  
8 COMMISSIONERS, a local government  
9 entity; and DOES I-X, inclusive,  
10 Defendant.

11 STAVROS ANTHONY, an individual,  
12 Intervenor-Plaintiff,  
13 vs.  
14 CLARK COUNTY BOARD OF  
15 COMMISSIONERS, a local government  
16 entity; ROSS MILLER, an individual; and  
17 DOES I-X, inclusive,  
18 Defendants.

Case No.: A-20-824971-W  
Dept. No.: 11

**ORDER DENYING INTERVENOR  
PLAINTIFF'S MOTION FOR  
WRIT OF MANDAMUS  
REQUIRING THE CLARK  
COUNTY BOARD OF  
COMMISSIONERS TO ORDER A  
NEW ELECTION FOR CLARK  
COUNTY COMMISSION  
DISTRICT C**

19 On December 10, 2020, Intervenor-Plaintiff Stavros Anthony ("Intervenor"), by and  
20 through counsel of record, filed a Motion for Writ of Mandamus ("Motion for Writ of  
21 Mandamus"). Intervenor requested an order requiring the Clark County Board of  
22 Commissioners (the "Board") to order a new election for Clark County Commission District  
23 C.

24 On December 14, 2020, an opposition to Intervenor's Motion for Writ of Mandamus  
25 was filed by Plaintiff Ross Miller ("Plaintiff") and Defendant Clark County Board of  
26 Commissioners filed a joinder thereto. On December 16, 2020, Intervenor filed a reply in  
27 support of his Motion for Writ of Mandamus.

28 . . .

. . .

1 Upon review of the papers and pleadings on file herein, the arguments of the parties,  
2 and good cause appearing, Intervenor' Motion for Writ of Mandamus is DENIED. The Court  
3 finds the following facts and states the following conclusions of law<sup>1</sup> as follows:

4 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

5 Intervenor, in his Motion for Writ of Mandamus, argues that pursuant to NRS 293.465,  
6 the Clark County Board of Commissioners is required to proceed with a new election for Clark  
7 County Commission, District C. Intervenor's Motion for Writ of Mandamus included an  
8 affidavit by the Clark County Registrar of Voters (the "Registrar"), which states that there  
9 were 139 discrepancies in the District C election.

10 The Court finds that NRS 293.465 does not apply in this case. NRS 293.465 states in  
11 full:

12 If an election is prevented in any precinct or district by reason of the loss or  
13 destruction of the ballots intended for that precinct, or any other cause, the  
14 appropriate election officers in that precinct or district shall make an affidavit  
15 setting forth that fact and transmit it to the appropriate board of county  
16 commissioners. Upon receipt of the affidavit and upon the application of any  
candidate for any office to be voted for by the registered voters of that precinct  
or district, the board of county commissioners shall order a new election in that  
precinct or district.

17 NRS 293.465 applies in instances in which an election, or a portion of one, is prevented from  
18 occurring, for instance due to a natural disaster, or an accident suffered by the vehicle  
19 transmitting the ballots, or some similar incident preventing an election from occurring and  
20 makes provision for a new election in those circumstances. The Court finds that NRS 293.465  
21 cannot apply here because the Clark County Commission, District C election was not  
22 prevented. Clark County had an election on November 3, 2020. The results of every race have  
23 been canvassed and certified. No precinct failed to complete its election.

24 The Court further finds that the Registrar's affidavit is not an NRS 293.465 affidavit,  
25 either by its own terms—as the Court has already stated when denying Intervenor's Motion  
26 for Preliminary Injunction—or by the expressed intentions of the Registrar. The affidavit does

27 \_\_\_\_\_  
28 <sup>1</sup> If any finding herein is in truth a conclusion of law, or if any conclusion is stated is in truth a  
finding of fact, it shall be deemed so.

not declare that an election was prevented, either in whole or at the level of any particular precinct. It does not describe or identify any "loss or destruction of the ballots" per NRS 293.465. Therefore, Intervenor cannot establish that NRS 293.465 mandates a new election.

**THEREFORE**, the Court **DENIES** Intervenor's Motion for Writ of Mandamus.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 202\_.

\_\_\_\_\_  
DISTRICT COURT JUDGE

Submitted by:

STEVEN B. WOLFSON (SBN 1565)  
District Attorney

By: /s/ Mary-Anne Miller

MARY-ANNE MILLER (SBN 1419)  
County Counsel  
500 South Grand Central Pkwy.  
Las Vegas, Nevada 89155-2215

*Attorneys for Defendant  
Clark County Board of  
Commissioners*

Approved by:

**CLARK HILL PLLC**

DOMINIC P. GENTILE (SBN 1923)  
JOHN A. HUNT (SBN 1888)  
3800 Howard Hughes Pkwy., #500  
Las Vegas, Nevada 89169

**WOLF, RIFKIN, SHAPIRO, SCHULMAN  
& RABKIN, LLP**

By: /s/ Bradley S. Schrager

BRADLEY S. SCHRAGER, ESQ.  
(SBN 10217)  
DANIEL BRAVO, ESQ. (SBN 13078)  
3556 E. Russell Road, Second Floor  
Las Vegas, Nevada 89120

*Attorneys for Plaintiff/Petitioner  
Ross Miller*

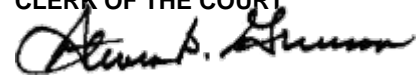
Approved by:

**HUTCHISON & STEFFEN, PLLC**

By: /s/ Jacob A. Reynolds

MARK A. HUTCHISON (SBN 4639)  
JACOB A. REYNOLDS (SBN  
10199)  
PIERS R. TUELLER (SBN14633)  
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Las Vegas, Nevada 89145

*Attorneys for Intervenor-Plaintiff  
Stavros Anthony*



**ANOA**

Mark A. Hutchison (4639)  
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[jreynolds@hutchlegal.com](mailto:jreynolds@hutchlegal.com)  
[ptueller@hutchlegal.com](mailto:ptueller@hutchlegal.com)

*Attorneys for Intervening Plaintiff*  
*Stavros Anthony*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROSS MILLER, an individual,

Plaintiff/Petitioner,  
v.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government entity;  
and DOES I – X, inclusive,

Defendant

STAVROS ANTHONY, an individual,

Intervening Plaintiff,  
v.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government entity;  
ROSS MILLER, an individual,

Defendants.

Case No. A-20-824971-W

Dept. No. XI

**AMENDED NOTICE OF APPEAL**

///

1  
2 Notice is given that Stavros Anthony, Intervening Plaintiff in the above captioned matter,  
3 appeals to the Supreme Court of Nevada from the following Orders:

- 4 1. The District Court's Order denying Intervenor Stavros Anthony's Motion for  
5 Preliminary Injunction entered in this action on December 4, 2020; and  
6 2. The District Court's Order denying Intervenor Stavros Anthony's Motion for Writ of  
7 Mandamus entered in this action on December 31, 2020; and  
8 3. Any and all orders and judgments rendered appealable by the foregoing.

9 DATED this 1<sup>st</sup> day of January, 2021.

10 HUTCHISON & STEFFEN, PLLC

11  
12 /s/ Mark A. Hutchison

13 Mark A. Hutchison (4639)  
14 Jacob A. Reynolds (10199)  
15 Piers R. Tueller (14633)  
16 Peccole Professional Park  
10080 W. Alta Drive, Suite 200  
Las Vegas, Nevada 89145

17 *Attorneys for Intervening Plaintiff*  
18 *Stavros Anthony*  
19  
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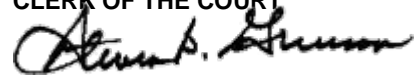


**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of Hutchison & Steffen, PLLC and that on this 1<sup>st</sup> day of January, 2021, I caused the above and foregoing document entitled **AMENDED NOTICE OF APPEAL** to be served through the Court's mandatory electronic service system, per EDCR 8.02, upon the following:

**TO ALL THE PARTIES ON THE E-SERVICE LIST**

/s/ Kaylee Conradi  
An Employee of Hutchison & Steffen, PLLC



**ORDR**

Mark A. Hutchison (4639)  
Jacob A. Reynolds (10199)  
Piers R. Tueller (14633)  
HUTCHISON & STEFFEN, PLLC  
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[jreynolds@hutchlegal.com](mailto:jreynolds@hutchlegal.com)  
[ptueller@hutchlegal.com](mailto:ptueller@hutchlegal.com)

*Attorneys for Intervening Plaintiff*  
*Stavros Anthony*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROSS MILLER, an individual,

Plaintiff/Petitioner,  
v.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government entity;  
and DOES I – X, inclusive,

Defendant

Case No. A-20-824971-W

Dept. No. XI

**ORDER**

STAVROS ANTHONY, an individual,

Intervening Plaintiff,  
v.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government entity;  
ROSS MILLER, an individual,

Defendants.

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Therefore, all claims asserted in Anthony's amended complaint in intervention are denied. This order constitutes this Court's final judgment in this matter.

Submitted by:

*/s/ Mark A. Hutchison*

---

Mark A. Hutchison (4639)  
Jacob A. Reynolds (10199)  
Piers R. Tueller (14633)  
Peccole Professional Park  
10080 W. Alta Drive, Suite 200  
Las Vegas, Nevada 89145

*Attorneys for Intervening Plaintiff  
Stavros Anthony*

2 of 3

AA000393

1 DATED this \_\_day of January, 2021

DATED this \_6th\_day of January, 2021

2 **CLARK HILL PLLC**

**OFFICE OF THE DISTRICT  
ATTORNEY, CIVIL DIVISION**

3  
4 */s/ Bradley S. Schrager*

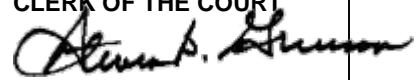
*/s/ Mary-Anne Miller*

5 \_\_\_\_\_  
DOMINIC P. GENTILE (1923)  
JOHN A. HUNT (1888)  
3800 Howard Hughes Pkwy., #500  
6 Las Vegas, Nevada 89169

\_\_\_\_\_ MARY-ANNE MILLER,ESQ. (1565)  
500 South Grand Central Pkwy.  
Las Vegas, Nevada 89155-2215

7  
8 BRADLEY S. SCHRAGER, ESQ.(10217)  
DANIEL BRAVO, ESQ. (13078)  
9 **WOLF, RIFKIN, SHAPIRO,**  
10 **SCHULMAN & RABKIN, LLP**  
3556 E. Russell Road, Second Floor  
11 Las Vegas, Nevada 89120  
12 *Attorneys for Plaintiff/Petitioner Ross  
Miller*

*Attorney for Defendant  
Clark County Board of Commissioners*



**NOTC**

Mark A. Hutchison (4639)  
Jacob A. Reynolds (10199)  
Piers R. Tueller (14633)  
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[jreynolds@hutchlegal.com](mailto:jreynolds@hutchlegal.com)  
[ptueller@hutchlegal.com](mailto:ptueller@hutchlegal.com)

*Attorneys for Necessary Party Stavros Anthony*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

ROSS MILLER, an individual,  
  
Plaintiff/Petitioner,  
  
v.  
  
CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government  
entity; and DOES I – X, inclusive,  
  
Defendant

STAVROS ANTHONY, an individual,  
  
Intervenor-Plaintiff,  
  
v.  
  
CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government  
entity; ROSS MILLER, an individual, and  
DOES I-X, inclusive,  
  
Defendants.

**Case No. A-20-824971-W**

**Dept No. 11**

**NOTICE OF ENTRY OF ORDER  
DISMISSING COMPLAINT IN  
INTERVENTION**

**PLEASE TAKE NOTICE** that an Order Dismissing Complaint in Intervention was entered in the above matter on January 6, 2021.

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A copy is attached hereto.

DATED this 6<sup>th</sup> day of January, 2021.

HUTCHISON & STEFFEN, PLLC

*/s/ Jacob A. Reynolds*

---

Mark A. Hutchison (4639)  
Jacob A. Reynolds (10199)  
Piers R. Tueller (14633)  
Peccole Professional Park  
10080 W. Alta Drive, Suite 200  
Las Vegas, Nevada 89145

*Attorneys for Stavros Anthony*

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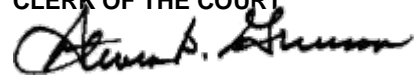
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25

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27

28



**ORDR**

Mark A. Hutchison (4639)  
Jacob A. Reynolds (10199)  
Piers R. Tueller (14633)  
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*Attorneys for Intervening Plaintiff*  
*Stavros Anthony*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROSS MILLER, an individual,

Plaintiff/Petitioner,  
v.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government entity;  
and DOES I – X, inclusive,

Defendant

Case No. A-20-824971-W

Dept. No. XI

**ORDER**

STAVROS ANTHONY, an individual,

Intervening Plaintiff,  
v.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government entity;  
ROSS MILLER, an individual,

Defendants.



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Therefore, all claims asserted in Anthony's amended complaint in intervention are denied. This order constitutes this Court's final judgment in this matter.

Submitted by:

*/s/ Mark A. Hutchison*

---

Mark A. Hutchison (4639)  
Jacob A. Reynolds (10199)  
Piers R. Tueller (14633)  
Peccole Professional Park  
10080 W. Alta Drive, Suite 200  
Las Vegas, Nevada 89145

*Attorneys for Intervening Plaintiff  
Stavros Anthony*

2 of 3

AA000399

1 DATED this \_\_day of January, 2021

DATED this \_6th\_day of January, 2021

2 **CLARK HILL PLLC**

**OFFICE OF THE DISTRICT  
ATTORNEY, CIVIL DIVISION**

3  
4 */s/ Bradley S. Schrager*

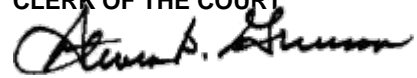
*/s/ Mary-Anne Miller*

5 \_\_\_\_\_  
DOMINIC P. GENTILE (1923)  
JOHN A. HUNT (1888)  
3800 Howard Hughes Pkwy., #500  
6 Las Vegas, Nevada 89169

\_\_\_\_\_ MARY-ANNE MILLER,ESQ. (1565)  
500 South Grand Central Pkwy.  
Las Vegas, Nevada 89155-2215

7  
8 BRADLEY S. SCHRAGER, ESQ.(10217)  
DANIEL BRAVO, ESQ. (13078)  
9 **WOLF, RIFKIN, SHAPIRO,**  
10 **SCHULMAN & RABKIN, LLP**  
3556 E. Russell Road, Second Floor  
11 Las Vegas, Nevada 89120  
12 *Attorneys for Plaintiff/Petitioner Ross  
Miller*

*Attorney for Defendant  
Clark County Board of Commissioners*



**ANOA**

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Jacob A. Reynolds (10199)  
Piers R. Tueller (14633)  
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[ptueller@hutchlegal.com](mailto:ptueller@hutchlegal.com)

*Attorneys for Intervening Plaintiff*  
*Stavros Anthony*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROSS MILLER, an individual,

Plaintiff/Petitioner,  
v.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government entity;  
and DOES I – X, inclusive,

Defendant

Case No. A-20-824971-W

Dept. No. XI

**SECOND AMENDED NOTICE OF APPEAL**

STAVROS ANTHONY, an individual,

Intervening Plaintiff,  
v.

CLARK COUNTY BOARD OF  
COMMISSIONERS, a local government entity;  
ROSS MILLER, an individual,

Defendants.

///

1 Notice is given that Stavros Anthony, Intervening Plaintiff in the above captioned matter,  
2 appeals to the Supreme Court of Nevada from the following Orders:

- 3 1. The District Court's Order Denying Intervenor Stavros Anthony's Motion for  
4 Preliminary Injunction entered in this action on December 4, 2020;
- 5 2. The District Court's Order Denying Intervenor Stavros Anthony's Motion for Writ of  
6 Mandamus entered in this action on December 31, 2020;
- 7 3. The District Court's Order Dismissing Complaint in Intervention entered in this action  
8 on January 6, 2021; and
- 9 4. Any and all orders and judgments rendered appealable by the foregoing.

10 DATED this 6<sup>th</sup> day of January, 2021.

11 HUTCHISON & STEFFEN, PLLC

12  
13 /s/ Mark A. Hutchison

14 Mark A. Hutchison (4639)  
15 Jacob A. Reynolds (10199)  
16 Piers R. Tueller (14633)  
17 Peccole Professional Park  
10080 W. Alta Drive, Suite 200  
Las Vegas, Nevada 89145

18 *Attorneys for Intervening Plaintiff*  
19 *Stavros Anthony*  
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**TO ALL THE PARTIES ON THE E-SERVICE LIST**

/s/ Kaylee Conradi