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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

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)	
)	Case No. CV08-01258
)	
IN RE: RICHARD A.)	Dept. No. 4
SCHWEICKERT, LANE GROW AND)	
TERRI PATRAW)	
)	
)	

TRANSCRIPT OF PROCEEDINGS
Hearing on Petition
Thursday, September 17, 2009
A.M. Session
RENO, NEVADA

Reported By: BECKY VAN AUKEN, CCR No. 418

APPEARANCES:

For the Petitioners:

IN PROPRIA PERSONA

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I N D E X

WITNESSES: DIRECT
HUSSEIN S. HUSSEIN 32

<u>EXHIBITS:</u>	<u>MARKED:</u>	<u>ADMITTED:</u>
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1 RENO, NEVADA, THURSDAY, SEPTEMBER 17, 2009, 9:09 A.M.

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4 THE COURT: Please be seated. This is the time
5 set for a petition filed by citizens, taxpayers, and we're
6 ready to proceed.

7 The three of you are all here, and I haven't met
8 any of you, so would you introduce yourselves to me,
9 please.

10 MR. SCHWEICKERT: Good morning, Your Honor. My
11 name is Richard Schweickert.

12 MS. PATRAW: Good morning. I'm Terri Patraw.

13 MR. GROW: Good morning. My name is Lane Grow.

14 THE COURT: Thank you. You've all filed
15 corroborating affidavits. Normally there's one affidavit
16 with two corroborating ones. So is there someone who's
17 going to take the lead in the presentation today?

18 MR. SCHWEICKERT: By default, Your Honor, it will
19 probably be me.

20 THE COURT: Okay. And what I'd like to do is
21 sort of to have a little bit of structure to the
22 presentation.

23 You will be the one, then, Mr. Schweickert, who
24 will make the presentation; is that correct?

1 MR. SCHWEICKERT: Yes, Your Honor. That would be
2 correct. 90 percent of the time, I suppose.

3 THE COURT: Okay.

4 MR. SCHWEICKERT: I would like to ask your
5 permission to have my co-petitioners take the podium on
6 occasion.

7 THE COURT: Okay. You can be seated while we
8 work this out.

9 It's my understanding that today is an
10 evidentiary hearing, which would mean that you can present
11 documentary evidence or testimonial evidence.

12 As you move forward with the testimonial
13 evidence, only one person can question each witness. So
14 if your purpose is that maybe one of your co-petitioners
15 will take on a particular witness and that's their
16 witness, that's fine, but I don't want all three of you
17 questioning every witness.

18 Does that make sense?

19 MR. SCHWEICKERT: Yes, Your Honor.

20 THE COURT: Is everyone okay with that?

21 MR. SCHWEICKERT: Yes.

22 THE COURT: And then, also, with regard to the
23 witnesses that you intend to call, do you have a witness
24 list?

1 MR. SCHWEICKERT: No, we do not have a witness
2 list, Your Honor.

3 THE COURT: Okay. Do you know who you're going
4 to call today?

5 MR. SCHWEICKERT: We do.

6 THE COURT: And who is that?

7 MR. SCHWEICKERT: The ones that we will be
8 calling today, Dr. Hussein S. Hussein. Okay. The next
9 one is Mr. Greg MacRenaris, spelled M-a-c-R-e-n-a-r-i-s.

10 THE COURT: Okay.

11 MR. SCHWEICKERT: For the remainder of the day,
12 two of my co-petitioners will be witnesses. There may be
13 occasional appearances of witnesses who have work
14 schedules who would only permit them to show up, and we
15 would like to be able to depart from any sort of normal
16 schedule to accommodate some witnesses that we expect to
17 show up. I think that's mostly going to happen tomorrow.

18 Possibly -- excuse me. Possibly one police
19 officer this afternoon. Would you like to know that name?

20 THE COURT: Yes, please.

21 MR. SCHWEICKERT: Okay. That is Officer Eric
22 Haig, H-a-i-g [sic].

23 THE COURT: Okay. I just want to make sure that
24 we can kind of -- we only have a certain amount of time

1 for this evidentiary hearing. I think it's sufficient to
2 do it, but we're going to have to stay on task and make
3 sure we get through everything. I don't want to have us
4 get to three o'clock tomorrow afternoon and say, Oh, we
5 have five, six, seven witnesses we haven't called.

6 So you're going to have to keep your testimony
7 succinct and clear to the point of what you want to get
8 to.

9 We have nobody on the other side to object. This
10 is a presentation. The Supreme Court really hasn't given
11 me a lot of direction on how I'm supposed to take this
12 evidentiary hearing.

13 I'm going to let you present the evidence as long
14 as I don't find it horribly objectionable. I'm going to
15 let you go and do it the way you want to do it, but I want
16 you to keep it succinct and don't repeat. So I don't want
17 you saying the same thing four or five times. Even though
18 I just did it. Okay?

19 MR. SCHWEICKERT: Thank you, Your Honor.

20 THE COURT: And what I'd like to do is let you
21 know that we are going to be finished tomorrow afternoon
22 by 4 p.m. I do have something with the Chief Justice of
23 the Supreme Court that I can't get out of, so we will end
24 at 4 p.m. tomorrow. And we'll take a lunch hour both

1 days. Okay?

2 Now, did you want to do an overview? Do you just
3 want to start, Mr. Schweickert? Are you ready to go?

4 MR. SCHWEICKERT: Would you like me to stand when
5 I speak to you, Your Honor?

6 THE COURT: It's better to stand when you speak
7 to me, but I don't require you to stand when you question
8 your witnesses if that's more comfortable for you.

9 MR. SCHWEICKERT: Thank you. We do have a couple
10 of preliminary matters we'd like to address.

11 THE COURT: Okay.

12 MR. SCHWEICKERT: The first one has to do with
13 the participation of Ms. Patraw at this hearing, and I'd
14 like to have her explain that.

15 MS. PATRAW: As you are aware from our recent
16 motion, that university president Milton Glick, athletic
17 director Cary Groth, and outside lawyer Kent Robison have
18 done their best to silence me so I can't speak at this
19 hearing.

20 THE COURT: Wait a minute. The temporary
21 restraining order doesn't have anything to do with what
22 happens within the walls of this court.

23 MS. PATRAW: Okay. That's what I would like
24 to -- I wanted to address.

1 I also wanted to let you know I've received a
2 tentative ruling from the Supreme Court on my writ of
3 mandamus and prohibition that says my argument has merit,
4 and they've asked for a supplemental briefing.

5 So I just wanted to make sure I wasn't going to
6 be handcuffed on my way out the door for violation of the
7 unconstitutional --

8 THE COURT: I'm not making any comments about the
9 TRO that was issued. But the TRO does not relate to your
10 presentation here in the courtroom.

11 MS. PATRAW: Okay.

12 THE COURT: It would relate if you were to go to
13 the university and do something, go to someone's home, et
14 cetera. But doesn't relate to what you do here in the
15 courtroom.

16 So if there's a witness that you're calling that
17 you want to question, you may do so; the TRO will not stop
18 from you doing that.

19 MS. PATRAW: They have not served me either, so
20 I'm not sure if it's valid at this point, but thank you.

21 THE COURT: Okay.

22 MR. SCHWEICKERT: The other preliminary matter is
23 we'd like to ask you to enter a couple of more exhibits.
24 One of them is for you, Your Honor, and for the witness.

1 It's a set of color copies of the PowerPoint slides that
2 we'll be using to essentially direct this hearing.

3 THE COURT: Now, what I understand is you've
4 marked with the clerk Exhibits 1A; 2A; 3A; 4A and B; 5C,
5 D, E, F; 6F, 7F; 8F, 8G; 9G, 9H and 9I.

6 Is that correct?

7 MR. SCHWEICKERT: That is correct.

8 THE COURT: And you want me to consider all those
9 at this hearing?

10 MR. SCHWEICKERT: Yes, your Honor.

11 THE COURT: Okay. Then they're admitted for
12 purposes of the hearing.

13 (Exhibit Nos. 1 - 9 admitted.)

14 THE COURT: Now, you want to mark another
15 exhibit?

16 MR. SCHWEICKERT: Yes.

17 THE COURT: Okay. The bailiff will get the
18 exhibit from you. Are they the same --

19 MR. SCHWEICKERT: Those are two identical copies
20 of the PowerPoint slides.

21 THE CLERK: Exhibit 10 marked.

22 (Exhibit No. 10 marked.)

23 THE COURT: As I understand, you've given the
24 Court a copy of Exhibit 10. Correct?

1 MR. SCHWEICKERT: Yes.

2 THE COURT: And I will allow you to present that
3 as we proceed.

4 MR. SCHWEICKERT: Okay, Your Honor, we're
5 prepared to begin.

6 THE COURT: Okay.

7 MR. SCHWEICKERT: As the Court has already
8 indicated, this is an evidentiary hearing on a petition
9 requesting the district judge to summon a grand jury to
10 investigate public corruption at an institution of higher
11 learning, University of Nevada, Reno.

12 THE COURT: Can you dim the light right here,
13 Deputy, for me? Thank you. And the one there.

14 MR. SCHWEICKERT: We are the three petitioners:
15 Richard A. Schweickert, Lane Grow, and Terri Patraw. And
16 on behalf of the citizens of Nevada, we would like to
17 thank the Nevada Supreme Court for mandating this
18 evidentiary hearing. And we also would like to thank Your
19 Honor, the Honorable Connie Steinheimer, for scheduling
20 this hearing for September 17th and 18th, all day both
21 days.

22 Some important words from President Obama. In
23 his inaugural speech, he spoke these words: "To those who
24 cling to power through corruption and deceit and the

1 silencing of dissent, know that you are on the wrong side
2 of history."

3 All around the country there have been important
4 recent attacks on public corruption. There are examples
5 from New Jersey where 44 people were charged, including
6 mayors and rabbis, in a decade-long investigation into
7 public corruption.

8 In Detroit, Michigan, there was a successful
9 prosecution of a mayor and the wife of a powerful
10 democratic congressman.

11 In Illinois, everyone knows about the corruption
12 involving indictments against the governor, former
13 governor and members of his staff.

14 Even in the state of Alaska there have been
15 notable steps forward involving attacks on public
16 corruption.

17 The petitioners submit that it's time for Nevada
18 to do the same.

19 Just to remind the Court, the legal basis of for
20 this petition is NRS 6.130, permissible summoning of grand
21 jury by filing of affidavit or petition by taxpayer. This
22 has been copied from the NRS website.

23 And the important points we believe are outlined
24 here: The district judge may summon a grand jury;

1 petition and affidavits need to be filed by three
2 taxpayers filed with the District Court; we, the
3 petitioners, need to present reasonable evidence upon
4 which a belief is based; and then there are three basic
5 categories of offenses that are specified there that I'll
6 say a bit more about in a moment.

7 As to the question of reasonable evidence, we're
8 not lawyers, so we don't necessarily -- we don't claim to
9 know all the laws and legal authorities that apply to
10 issues such as this. We've searched and we've found some
11 language that applies to grand juries themselves.

12 And the idea there under NRS 172.155 is that the
13 finding of probable cause may be based on slight, even
14 marginal evidence.

15 In case law, Kinsey vs. Sheriff on the lower part
16 of the slide, the authority there says that -- it implies
17 that reasonable evidence is enough evidence to support a
18 reasonable inference. So that is the type of standard
19 that we are trying to address here today and tomorrow.

20 So these, again, are the types of violations that
21 6.130 allows we petitioners to address here in this court.

22 The first one is misappropriation of public money
23 or property by a public officer, past or present. The
24 second is any fraud committed against the county or state

1 by any officer, past or present. The third is any
2 violation of trust by any officer, past or present.

3 What we intend to show the Court in this two-day
4 hearing is information that relates to a RICO operation in
5 the University of Nevada, Reno.

6 We have some information about the RICO statute
7 and the definitions of the RICO laws taken from the FBI
8 website in 2007. On that website, it says organized
9 crime, a RICO operation -- which stands for Racketeer
10 Influenced and Corrupt Organizations -- are organizations
11 run by criminals, most commonly for the purpose of
12 generating a monetary profit.

13 The Organized Crime Control Act of 1970 defines
14 organized crime as the unlawful activities of a highly
15 organized, disciplined association.

16 We submit to you here today that we've already
17 met the burden of proof in our petition, which has been in
18 this court for the last 16 months. In that petition,
19 which we'll have more to discuss as we go along, we have
20 provided a very significant amount of evidence about
21 financial crimes, police crimes, EEO -- that stands for
22 Equal Employment Opportunity -- crimes, legal counsel
23 crimes and abuse of power crimes.

24 There may be some concern about who is a public

1 official. We don't think this is a big issue. Again,
2 we're not lawyers, but this is defined under NRS 281A.160.

3 It says a public officer is: A person elected or
4 appointed to a position which is established by the
5 constitution of this state, a statute of this state or an
6 ordinance of any of its counties or incorporated cities
7 and which involves the exercise of a public power, trust,
8 or duty.

9 The exercise of a public power, trust, or duty
10 means: A, actions taken in an official capacity which
11 involve a substantial and material exercise of
12 administrative discretion in the formulation of public
13 policy; B, the expenditure of public money; and, C, the
14 administration of laws and rules of the state, a county or
15 a city.

16 Whether or not some of the people that we're
17 addressing in this hearing are public officials is a
18 matter for, I suppose, the Court to decide. However, I
19 would remind the Court that part of the Statute 6.130
20 talks about violation of public trust by any officer, past
21 or present.

22 The Supreme Court mandate that ordered this
23 hearing to take place, which we received on October 3rd --
24 the order was actually filed on October 1st, 2008 -- was

1 to conduct an evidentiary hearing and consider the
2 petitioners' petition in light of the proper construction
3 of an NRS code, 172.175, and make findings in support of
4 rejection or of empanel -- sorry, in support or rejection
5 of empaneling a grand jury.

6 As Your Honor has already pointed out, UNR and
7 the Nevada System of Higher Education have no rights in
8 this hearing, which is between we, the petitioners, and
9 the Court. And, in fact, we believe there should be no
10 concern whatsoever at UNR NSHE if they have nothing to
11 hide.

12 However, knowing that this matter is a petition
13 between we citizens and this Court, UNR NSHE has tried
14 very hard to intervene for more than a year through
15 various legal counsels: chief counsel Patterson, general
16 counsel Dugan, assistant general counsels Roberts and
17 Hilsabeck, and deputized attorney general Robison.

18 There are at least six different attempts that
19 are detailed on these slides. The first failed attempt
20 was by Mr. Hilsabeck in June of '08. That was struck down
21 by an order by Judge Janet Berry who was then considering
22 this petition.

23 Judge Berry's words are very important here:
24 "NSHE is not a properly named party to this matter, and

1 any documents filed on its behalf will not be considered
2 by the Court."

3 I'm not going to go through all of these in
4 detail, but the second failed attempt was by
5 Mr. Patterson, who is the chief legal counsel for the
6 entire Nevada System of Higher Education.

7 On December 12th, essentially ignoring the
8 earlier order by Judge Berry, he made a second attempt to
9 intervene, and again Judge Berry stated clearly that NSHE
10 has no statutory right to intervene. Representatives of
11 NSHE and UNR will not be permitted to participate in the
12 evidentiary hearing ordered by the Supreme Court.

13 Petitioners had a July 1 phone case conference
14 hearing with Your Honor, and on that date, July 1, the
15 date of this hearing was set for September 17 and 18.

16 The very next day additional efforts to intervene
17 began, the first one on July 2nd by Mary Dugan, UNR
18 general counsel. She tried to tie the hands of one of our
19 key witnesses, Dr. Hussein S. Hussein, by forcing him to
20 be present at depositions scheduled for yesterday, today
21 and tomorrow, knowing that Dr. Hussein is to be a key
22 witness at this evidentiary hearing. As the Court will
23 learn this morning, this effort failed.

24 There was a fourth attempt directed at me, which

1 I'll skip over right at the moment.

2 A fifth attempt by Mr. Robison on September 3rd,
3 2009. This has already been addressed to Your Honor by
4 Ms. Patraw, but we want this on the record.

5 Using unauthenticated documents, false evidence
6 and wild allegations in a surprise hearing, NSHE and
7 Mr. Robison persuaded District Court Judge Patrick
8 Flanagan to restrict petitioner Patraw from any verbal or
9 written contact with President Glick, some others, and any
10 of his employees until September 19th, the day after this
11 hearing.

12 Both Judge Flanagan and Mr. Robison know the
13 dates of this hearing and knowingly, we believe, violated
14 the orders of Judge Berry and the Nevada Supreme Court.

15 This was calculated, we believe, to prevent
16 Ms. Patraw and me as co-petitioners from interaction and
17 being able to stand here before you. Thankfully you have
18 cleared that problem.

19 The most recent attempt was just a couple of days
20 ago, September 10th. In another surprise hearing, NSHE
21 and their attorneys, Hilsabeck and Dugan, persuaded a
22 federal court judge to restrict a key witness from giving
23 testimony at this hearing. They knew the dates and the
24 purpose of this hearing when they filed those actions.

1 Now, moving on, we need to say that, trying to
2 follow the laws as clearly as we can, NRS 172.175, which
3 instructs as to the matters into which a grand jury shall
4 and may inquire, and the part we believe is pertinent is
5 1(c), the misconduct in office of public officers of every
6 description within the county which may constitute a
7 violation of a provision of chapter 197 of NRS.

8 If you turn to NRS chapter 197, that is titled
9 "Crimes By and Against the Executive Power of the State."

10 Here is the listing of the categories which I'm
11 sure Your Honor is familiar with, the crimes by and
12 against the executive power of the State. Among these are
13 charges or crimes of bribery involving officers and other
14 public officials, asking or receiving bribes, interfering
15 with public officers, influencing public officers,
16 misconduct of public officers, false reports by public
17 officers, public officers making false certificates,
18 falsely auditing claims or paying claims, fraudulent
19 presentation of claims to public officers, extortion,
20 wrongful exercise of official power, obstructing a public
21 officer, oppression under color of office, fraudulent
22 appropriation of property, other violations by officers,
23 which is quite all encompassing of the latter.

24 From the names listed here, which I won't read

1 off to you, we believe that there are many people involved
2 in the UNR administration and their legal counsel who have
3 committed violations of all these statutes.

4 As we go forward with this hearing, Your Honor
5 will see evidence that we believe ties all of these people
6 to crimes of this nature.

7 One other point about a RICO operation. How dare
8 we refer to the University of Nevada as a RICO operation.
9 Let's look at the elements of racketeering that go on in
10 RICO organizations as spelled out by the FBI. The middle
11 part of this slide shows that racketeering activities
12 typically include embezzlement, fraud, obstruction of
13 justice and money laundering.

14 Organized crime is characterized by a few other
15 basic qualities: A, durability over time; B, diversified
16 interests; C, hierarchical structure; D, capital
17 accumulation; E, reinvestment; F, access to political
18 protection; and, G, use of violence to protect those
19 interests. We will address those.

20 UNR is a RICO operation, as we will maintain
21 throughout this hearing.

22 Organized crime is often prosecuted federally
23 under the RICO Act statute there, 18 U.S.C. Part 1,
24 Chapter 96, Articles 1961 to 1968.

1 In addition, anti-SLAPP laws can be applied in an
2 attempt to curb alleged abuses of the legal system by
3 individuals or corporations who use the courts as a weapon
4 to retaliate against whistleblowers, victims, or to
5 silence another's speech.

6 This seems like an odd juxtaposition, a sinister
7 figure like Al Capone and a cartoon of gangsters on the
8 left juxtaposed against a benevolent-appearing man, Milton
9 Glick.

10 It's important for the Court to realize that
11 Mafia gangsters typically relied on corrupt police
12 officers in nearby cities and used bribes and extortion to
13 get them to enforce their will.

14 Mr. Glick, on the other hand, has his own private
15 police force, which is funded by the taxpayers of Nevada,
16 to carry out the will of the UNR administration. Here is
17 an unelected official with his own private police force
18 paid for by Nevada taxpayers.

19 Yet, Your Honor, when told of violations of rules
20 or laws, instead of cleaning it up, UNR covers it up. The
21 whistleblower is attacked and silenced, and public funds
22 are used to protect the alleged wrongdoers. Additionally,
23 UNR, when asked to investigate a matter brought to their
24 attention by a citizen or a faculty or staff or police

1 officer, says: We've investigated ourselves and we've
2 found that we're innocent of wrongdoing.

3 The Court has heard that we have -- we've talked
4 to the FBI, we've talked to the Department of Justice in
5 Las Vegas, we've submitted a complaint a year ago to the
6 Nevada Attorney General, and we've learned from those
7 failed attempts to have honest and full investigations
8 that there are many conflicts of interest within the
9 State.

10 There's a conflict of interest within the Nevada
11 Attorney General's Office, which we will explain to you
12 during this hearing. There are conflicts with the Washoe
13 County D.A. there are conflicts that didn't get put on
14 this slide with the U.S. Department of Justice in
15 Las Vegas. None of those entities is able to investigate
16 our complaint because of conflicts of interest.

17 I need to spend a minute or two explaining how
18 the UNR hierarchy is organized, because we'll be referring
19 to many of these different levels and departments and vice
20 presidents and central administration and so on. So I'm
21 afraid I need to take you through this slide.

22 At the top of the food chain in a university like
23 UNR you have a central administration, the box at the top
24 of this slide, which consists typically of a president, a

1 provost and a vice provost. And then below them in deep
2 orange on the slide are the vice presidents.

3 We have on the right administration and finance,
4 a VP for research. IT stands for instruction technology.
5 Health science is the next one. And then student
6 services. Media relations, which is an important element
7 of keeping the public happy about what we're doing at a
8 university, has direct input to the president's office.

9 At slightly lower levels there are facilities
10 involving marketing, facility services -- this is the
11 physical plant, people that keep things under repair --
12 human resources, and affirmative action. The UNR police
13 department is here, and this answers to the VP of
14 administration and finance, Ron Zurek.

15 Below that we have the sort of academic and
16 athletic functions of the university. In pale blue are
17 the deans and colleges, of which there are many. And then
18 athletics is a separate entity that has perhaps the same
19 position in the hierarchy as deans and colleges.

20 At the lowest levels, at least for employees, we
21 have the faculty and staff. Under the deans and colleges
22 we have coaches in athletics and we have officers, the
23 patrol persons on the street, so to speak, in the UNR
24 police department, and then, of course, not least in terms

1 of significance, the students that we're all trying to
2 serve.

3 What's remarkable about UNR is that within the
4 president's office we have another entity, the general
5 counsel office. This is the legal protection wing of the
6 university. Here it's structured to be entirely within
7 the president's office.

8 And we submit that what this means is that any
9 actions or decisions taken by the UNR general counsel have
10 the explicit approval and direction of the UNR president
11 and the central administration.

12 We will attempt to provide evidence; that's all
13 in the documents we've submitted. We will try to present
14 you with some selections of evidence to show crimes have
15 been committed in the following places: at the faculty
16 and staff level, coaches, officers, at the dean and
17 college level, in the directorship of athletics, facility
18 services, human resources, and the UNRPD.

19 Among some of the vice presidential offices, we
20 know of involvement of the VP for research and the VP for
21 administration and finance. All the people in the central
22 administration we believe are guilty of crimes, including
23 general counsel.

24 So here is a complicated slide that you're going

1 to see many, many times if we get through all of this in
2 two days. How am I doing for time?

3 All of these bright pink boxes show the functions
4 of many of these entities when a whistleblower -- it may
5 be a faculty person, it could be a coach or an officer --
6 comes forward with information about some wrongdoing that
7 they want to bring to the proper authorities to clean it
8 up.

9 Instead, most of these entities have a function
10 that involves intimidation, retaliation and harassment
11 that happens at the low levels among even your own
12 faculty. It could be among your deans or athletic
13 directors.

14 It occurs at the higher levels where more
15 authority is invested such as the directorship of the
16 UNRPD. In fact, UNRPD is used as an arm of the
17 administration to intimidate and harass whistleblowers.
18 Human resources and affirmative action are also part of
19 that. It's centrally coordinated through the central
20 administration.

21 We've got media relations over here that puts out
22 propaganda and they control the local media. And then a
23 very big part of this element is the legal protection,
24 which involves the entire general counsel office. When

1 general counsel is not up to this task, they farm it out
2 to politically connected private law firms with the tacit
3 agreement of the attorney general. And this all is
4 showered down upon by unlimited public money.

5 And that was a duplicate slide.

6 This may help to explain some things. There was
7 a 2005 faculty morale study that was widely circulated and
8 widely published. This was about one year after Mary
9 Dugan was appointed the UNR general counsel. The
10 remarkable thing about this faculty morale study is it
11 said that a very large number of respondents -- these are
12 faculty in the university -- they cited a climate of
13 intimidation, fear, and powerlessness among university
14 faculty and staff. They described their work environment
15 as hostile, and expressed concern for a lack of rule of
16 law on campus.

17 Many of them took great pains to ensure their
18 anonymity to respond to this survey because they expressed
19 fear of retaliation or even termination for expressing
20 their viewpoints.

21 I think that tells the story of what the climate
22 is on this campus because of this oppressive operation
23 we're calling a RICO operation.

24 A year and four months ago we submitted our

1 petition to the District Court. NRS 6.130 says that this
2 shall be decided by a District Court judge in five days.
3 So we've been 16 months. Why is that?

4 First of all, six of eight state judges in this
5 Second Judicial District recused themselves because of
6 conflict of interest. This means that many of them have
7 some sort of involvement or connection or friendship with
8 people at UNR.

9 What took so long, then, was the fact that we had
10 to go through a large number of judges in the State court.
11 One of those judges actually threw our petition out. We
12 had to appeal it to the Supreme Court. The Supreme Court
13 gave us a writ of mandamus referring it back to the
14 District Court.

15 The other factor that has prolonged our ability
16 to approach the Court is the UNR NSHE intervention.

17 So now in a few moments we will get to trying to
18 present to you some evidence. I'll just remind the Court
19 that our petition was organized in the following way:
20 There were five parts to the evidence that were submitted.
21 We've resubmitted that as part of the documents that the
22 Court has in front of it today.

23 Part 1 was financial crimes; Part 2, police
24 crimes; Part 3 is EEO crimes; Part 4 is legal counsel

1 crimes; and Part 5 is abuse of power crimes.

2 We're not going to attempt to review all of the
3 information that was presented in our original petition.
4 We're going to try to pick and choose among some of the
5 types of evidence that we have. It's also fair to say
6 that we're presenting a very small part of the evidence
7 that we have.

8 We will be calling your attention, Your Honor, to
9 Volume 9, Exhibit H, so I guess it will be listed as 9H
10 for the Court, with Bates Nos. 4352 to 4477. This is the
11 copy of our original complaint that describes the
12 evidence. But it has, in addition, legal statutes
13 inserted where we believe crimes have been committed.

14 It also contains an appendix, Bates Nos. 4479,
15 4503, which is examples of applicable statutes that we
16 believe exist within the Nevada criminal code. We know
17 they exist, but we believe they're applicable to the
18 actions that we're describing in this case.

19 So we won't spend a lot of time here in this
20 hearing saying we think this is a violation of
21 NRS 281.281, but the Court has before it this set of
22 documents that we'll be citing to as we go through the
23 hearing.

24 We've color coded the outline and we've color

1 coded the borders on some of these slides. Red will be
2 the color used for financial; blue, dark blue, for police
3 crimes; light green for EEO; a gold color for legal
4 counsel crimes; and purple for abuse of power.

5 We will also add an additional element here, a
6 sort of case history of how the RICO operation works in
7 pale blue in the athletic department.

8 So we would like to start now and begin having
9 witnesses discuss with you and present some of our
10 evidence.

11 THE COURT: Okay. Deputy, will you turn the
12 lights on. I can still see the PowerPoint, but as we
13 proceed with witnesses I'd like the lights to be on.

14 MR. SCHWEICKERT: So we're going to begin --

15 THE COURT: Call your first witness.

16 MR. SCHWEICKERT: Okay. Thank you very much.

17 We will begin discussing financial crimes. And
18 to take us through some of this information, I'd like to
19 call the first witness, Dr. Hussein S. Hussein.

20 THE COURT: Sir, please come forward and face the
21 court clerk. You have to face her.

22 (Whereupon, the witness was sworn by the
23 clerk of the court.)

24 THE COURT: Do you need this witness to review

1 anything that isn't up on the stand now?

2 MR. SCHWEICKERT: I would like to present to the
3 witness an outline of the series of documents. And I'm
4 afraid I did not make a copy for the Court, but I will
5 provide you with one.

6 THE COURT: These are documents that are in
7 evidence?

8 MR. SCHWEICKERT: These are the documents that
9 are in these volumes. It's more or less a table of
10 contents.

11 THE COURT: Okay. Go ahead and have the bailiff
12 hand Mr. Hussein that.

13 MR. SCHWEICKERT: Okay. Thank you, Your Honor.

14 THE COURT: And at your earliest convenience we
15 need a copy.

16 MR. SCHWEICKERT: Yes. Thank you, Your Honor.

17 THE COURT: Thank you.

18 MR. SCHWEICKERT: We will try to have one for you
19 after the midday break.

20 THE COURT: That's fine.

21 Go ahead and ask -- sir, please state your name,
22 spell your first and last name for the court reporter.

23 THE WITNESS: Okay. My name is Hussein S.

24 Hussein, H-u-s-s-e-i-n.

1 THE COURT: You may proceed, Mr. Schweickert.

2
3 HUSSEIN S. HUSSEIN,

4 having been first duly sworn, testified as follows:

5
6 DIRECT EXAMINATION

7
8 BY MR. SCHWEICKERT:

9 Q Dr. Hussein, would you take a moment and explain
10 to the Court who you are and how you have knowledge of the
11 material you're going to testify on.

12 A I was hired as associate professor at the
13 University of Nevada, Reno, on October 1st of 1997. And I
14 continued in that position, I believe, until April 14,
15 2008. And that's the day I was fired by UNR president
16 Milton Glick.

17 That actually was the second attempt to terminate
18 my employment at UNR. There was another similar attempt,
19 but it failed, in 2005 by the same procedure, which is the
20 only procedure existing to terminate a tenured faculty
21 member. And I was a tenured faculty member.

22 THE COURT: Would you tell us again when you
23 started out with it was the second attempt.

24 THE WITNESS: The second attempt to terminate my

1 employment was in December, I believe, of 2007, and it
2 takes about five, six months to -- it's like a trial in a
3 way. And it ended in -- by the decision of the president
4 to terminate my employment on April 14th -- April 11th of
5 2008.

6 BY MR. SCHWEICKERT:

7 Q Dr. Hussein, it's well known that you have a
8 number of lawsuits against -- civil lawsuits against
9 various officials at the University of Nevada, Reno.

10 You're not here to relitigate those lawsuits, are
11 you?

12 A Not at all.

13 Q The first aspect of the financial crimes that we
14 want to present to the Court has to do with an operation
15 entitled here: Animal abuse for profit at CABNR involving
16 UNR officials named Zanjani, Thawley, Pardini, et al.

17 Would you first explain what "CABNR" stands for.

18 A CABNR is a the College of Agriculture,
19 Biotechnology and Natural Resources. So, practically,
20 it's the College of Agriculture but has a fancy name now.

21 MR. SCHWEICKERT: Here on the next slide, Your
22 Honor -- I'm not sure if the witness can see it -- I
23 believe that there is a set of color copies of these
24 slides up there.

1 Did they make it to the witness stand, the second
2 copy that we entered this morning?

3 THE COURT: The original is not there.

4 Deputy, would you get Exhibit 10 and give it to
5 the witness.

6 MR. SCHWEICKERT: I know it's going to be
7 difficult for the witness to see these slides, but perhaps
8 it might be possible for the witness to follow along.

9 THE COURT: Go ahead and turn to page 15.

10 MR. SCHWEICKERT: Thank you, Your Honor.

11 THE WITNESS: Can I make a request, Your Honor?

12 THE COURT: Yes.

13 THE WITNESS: There are too many volumes of
14 documents, and I'm familiar with lots of these documents,
15 but I believe that I'll be testifying about maybe one or
16 two of these.

17 THE COURT: Well, they all have to stay up there
18 for the witnesses. But if you want to move them out of
19 your way, you can put them in the bookcase.

20 THE WITNESS: Any one I need to keep?

21 THE COURT: I don't know. Let's just stay on
22 task. You can always get another binder out of the
23 bookcase.

24 THE WITNESS: Okay.

1 MR. SCHWEICKERT: Your Honor, we outlined some of
2 the key points in this testimony in bullets on these
3 slides because we were not certain that Dr. Hussein would
4 be able to join us here because of efforts by UNR and
5 their attorneys that we described to you earlier.

6 Thankfully, Dr. Hussein is here, and I'll ask him
7 to comment or speak to some of the bullets that are here
8 on this slide.

9 THE COURT: I think I gave you the wrong page
10 number. I think it's page 14.

11 THE WITNESS: Okay, Your Honor. Thank you.

12 THE COURT: And even though you're using the
13 slides to help you, please refer to the exhibit, because I
14 see in the slides you wanted me to look at an exhibit, but
15 refer to the exhibit so I can correlate it with the actual
16 evidence that you're presenting.

17 MR. SCHWEICKERT: Okay.

18 BY MR. SCHWEICKERT:

19 Q The first point is that there has been in
20 existence an operation in which animal research conducted
21 at UNR has been funded through a private corporation which
22 is known as Sierra Biomedical Research Corporation.

23 Dr. Hussein, would you like to start there and
24 explain what Sierra Biomedical Research Corporation is and

1 how their funding comes to them and how direct and
2 indirect costs are handled with respect to UNR.

3 A That's a broad question, but I'm going to try to
4 do the best --

5 THE COURT: Just a second.

6 Go ahead.

7 THE WITNESS: Sierra Biomedical Research
8 Corporation, it is a non-profit corporation under Nevada
9 statute, and it is put together by, I believe, members of
10 the VA hospital at certain time, maybe 20 years ago. I'm
11 not certain of the date.

12 And there is a federal law which allows the VA
13 hospitals around the country to have a research component
14 to them so they can do research which can hopefully result
15 in helping human beings with regard to their obstacles or
16 things which we don't have solution for.

17 So under that law, the NIH has a certain
18 amount -- that's the National Institutes of Health, which
19 is a federal agency for supporting research and conducting
20 research for human health -- they did have at certain time
21 by law allocating certain amount of money, millions of
22 dollars, for those private corporations which are put
23 together within the VA as an institute.

24 THE COURT: I'm going to stop you there. We need

1 to talk about exactly what is important in this case. So
2 if that's what you meant by "broad," that was too broad
3 and we're not going to have time for all of that.

4 So get to the point of whatever the relationship
5 is to the University of Nevada, Reno.

6 MR. SCHWEICKERT: Thank you, Your Honor.

7 THE WITNESS: So Sierra Biomedical does have as
8 one of its members -- his name is Dr. Esmail Zanjani. And
9 Dr. Esmail Zanjani used to work in that corporation, does
10 his research in the VA hospital.

11 At certain point of time he was appointed to be a
12 faculty member at the University of Nevada, Reno. So when
13 he was appointed I was the chair of the search committee,
14 which ended by -- he was hired as a result of that search.
15 And when he was hired, he stayed at that place, which is a
16 component of the VA hospital. And he was --

17 THE COURT: I'm going to stop you there. What's
18 important here for my purposes is -- you know, we don't
19 have time to hear everything about all of this that
20 happened over all these years. The relationship of him as
21 a university professor and how it relates to the
22 university hierarchy without a lot of worry about whatever
23 goes on in the VA unless that's one of your allegations,
24 which I don't think it is.

1 MR. SCHWEICKERT: It is not, Your Honor.

2 BY MR. SCHWEICKERT:

3 Q So, Dr. Hussein, would you explain something to
4 us about the NIH funds that came to Dr. Zanjani at UNR.

5 A I think I understand the Court's advice, and I'm
6 going to explain it clearly now in terms of -- Dr. Zanjani
7 was hired as a faculty member. So every faculty member
8 has the chance to seek research funds from many entities,
9 including federal agencies. So you apply for those.

10 Dr. Zanjani maintained the private corporation at
11 the same time he is a faculty member at the university.
12 And the thing which is related to this matter is most of
13 the federal grants or federal money, which is millions of
14 dollars, was not received through the UNR, it was received
15 through the private corporation, which he should have
16 ended his relationship with it the moment he was hired as
17 a faculty member I believe in 2002.

18 So during -- I believe we have records here
19 between 2002 and 2006 showing that during that time he
20 obtained about three and a half million dollars in federal
21 money to the private corporation, not through his
22 employer, not through the University of Nevada, Reno.

23 And what's relevant to the allegations is the
24 research which was --

1 Q Before you start onto the research, could I stop
2 you there and just ask you another -- to clarify one
3 point.

4 The amount of money received by Dr. Zanjani when
5 he's at UNR but he's receiving it through his private
6 corporation, the amount of that money -- would you look on
7 page 4370, which is in Volume 9, in Binder No. 9.

8 MR. SCHWEICKERT: I call the Court's attention to
9 Volume 9, and the Bates-numbered page is 4370.

10 BY MR. SCHWEICKERT:

11 Q On that page, if you go down to -- under
12 "background" down to the line labeled Part C, there are
13 some statements. Would you read that.

14 A It says: Of the known funds, between
15 parentheses, \$5.538 million received by Zanjani from NIH,
16 in parentheses, 14 NIH grants. During the period from
17 2002 to 2006, \$3.658 million, comma, \$.1 million and
18 \$1.78 million were granted to Zanjani as SBRC -- which is
19 Sierra Biomedical Research Corporation -- comma, IVT --
20 which is In-Vivo Technologies; that's another private
21 non-profit corporation for Zanjani -- and the third item
22 is UNR, which is University of Nevada, Reno, respectively.

23 So there is a certain amount for each entity
24 during that period of time. The largest amount is for

1 Sierra Biomedical Research Corporation, which is
2 \$3.6 million; \$.1 million for In-Vivo Technology; and
3 \$1.78 million for the University of Nevada, Reno.

4 THE COURT: I understand he's reading from a
5 complaint. Where is the evidence of this? This is the
6 point. It's not his opinion, not his reading from a prior
7 complaint; this is the time to give me the evidence.

8 And it says -- the complaint refers to Exhibit A
9 in the complaint. But, of course, I don't have that.

10 MR. SCHWEICKERT: Yes, Your Honor. It will take
11 a moment to locate the documents here. If the Court would
12 look at Exhibit A, which is in Volume 1.

13 THE COURT: Okay. Exhibit 1A.

14 MR. SCHWEICKERT: Sorry. Exhibit A -- I'm sorry.
15 They're numbered 1A.

16 THE COURT: Okay.

17 MR. SCHWEICKERT: And it's on Bates-numbered
18 pages 136 to 138.

19 THE COURT: Mr. Schweickert, do you have a
20 question for the witness with regard to this page?

21 MR. SCHWEICKERT: Your Honor, starting on pages
22 137 to page 165 is a series of exhibits.

23 BY MR. SCHWEICKERT:

24 Q And, Dr. Hussein, maybe you can explain if this

1 is the source of the information you just read.

2 A Yes, Your Honor. What's relevant to these
3 figures we just discussed, which is the total amount of
4 \$5.538 million, that exists -- this information on that
5 total came from Bates stamps No. 139 to 165.

6 THE COURT: How does that relate?

7 THE WITNESS: Every one of these -- like, for
8 example, 139 and 140 is a description of one of the
9 federal grants from NIH and it says it's going to which
10 entity, whether it's Sierra Biomedical Research
11 Corporation or whether it's In-Vivo Technology or whether
12 it's to the University of Nevada, Reno.

13 And the principal investigator in each one of
14 them is Esmail D. Zanjani. You can see on page 139, Your
15 Honor, for example. It has the organization which --
16 where the money has been released from the federal
17 government to Sierra Biomedical Research Corporation, the
18 name of the -- which is the principal investigator or the
19 person who applied for the grant, and that's Esmail D.
20 Zanjani, and the starting date.

21 There is a starting date. Some of these federal
22 grants are going for 15 years. So you have to apply every
23 two years for renewal, and that's what the new amount of
24 dollars is for.

1 So the initial number -- the initial date is
2 1992. That's the starting date of that particular grant,
3 the first application. And then the amount of money which
4 was released for that entry is -- was released in 2006,
5 like it says on the -- under that picture, and then there
6 is a summary of what the grant is about.

7 And there is a reference number on page 140. And
8 that's if someone calls the NIH to get knowledge or
9 information about particular grant, there's the number the
10 NIH has or the federal government has for that particular
11 research.

12 BY MR. SCHWEICKERT:

13 Q Dr. Hussein, can we then say that these documents
14 are official NIH government documents that are showing the
15 awards to Dr. Zanjani at any one of the entities: UNR,
16 Sierra Biomedical Research Corporation, or In-Vivo
17 Technologies?

18 A That's correct. That's correct only for those
19 particular years here, which I believe 2002 to 2006.

20 THE COURT: I don't see any money on here.

21 THE WITNESS: There should be money, Your Honor,
22 coming. There should be some --

23 BY MR. SCHWEICKERT:

24 Q Dr. Hussein, if I could draw your attention to

1 page 116 in that same exhibit.

2 A I see that exhibit.

3 Q On this page is a table. At the top it says:
4 Zanjani NIH grants for SBRC and IVT, NIH Exhibit. And
5 then it shows year, grant number, granting agency,
6 institute, organization, dollars per grant, total.

7 Is that the information you're referring to, and,
8 if so, where does that information come from?

9 A Your Honor, the -- I mentioned on the first set
10 of exhibits there is a number where it says "reference
11 number." Unfortunately, we can't append that because
12 otherwise it's going to be like thousands of pages on the
13 NIH website. You go to the website of the NIH, you enter
14 that number, and it will give you the exact amount for
15 that grant.

16 THE COURT: Did you do that yourself?

17 THE WITNESS: I did that myself, Your Honor.

18 THE COURT: Did you prepare 116?

19 THE WITNESS: Yes, I did. That's mine.

20 THE COURT: Okay. And when you have SBRC and
21 UNR, those are the two entities that had been given
22 grants?

23 THE WITNESS: Correct, Your Honor. There are
24 three, Your Honor. Because there is one grant for IVT.

1 THE COURT: I understand.

2 THE WITNESS: So to verify, Your Honor, is I use
3 the reference number in every one of those --

4 THE COURT: I got it.

5 THE WITNESS: -- and I got the amount of money
6 for the dollars.

7 THE COURT: I understand how you did it.

8 BY MR. SCHWEICKERT:

9 Q Dr. Hussein, what about the direct and indirect
10 costs? Did any of the direct or indirect costs in these
11 grants to Sierra Biomedical Research Corporation go to
12 University of Nevada, Reno?

13 THE COURT: How does he know the answer? You
14 better explain how he might know that answer.

15 BY MR. SCHWEICKERT:

16 Q And if so -- or perhaps you could explain how you
17 would know.

18 THE COURT: I understand you have an opinion
19 about whether it went, but what do you base that on --

20 THE WITNESS: There are facts, too, Your Honor.
21 There are --

22 THE COURT: But how do you know anything? Are
23 you -- do you have access to the financial records of the
24 university? Is it a public record somewhere that you've

1 reviewed?

2 I understand how you got the amounts of the
3 grant. It looks like a public record. I understand how
4 that can be presented to me. But you now want to make a
5 statement about what funds were received by the university
6 or not received by the university, and I need to know the
7 basis of that statement before you give it to me.

8 THE WITNESS: Okay, Your Honor, I'll do that.

9 I was a faculty member for years. And part of my
10 job duties is to conduct research. In fact, 75 percent of
11 my time is to conduct research. So I had to raise money,
12 and part of my job was to apply for federal grants.

13 So when you apply for a federal grant, for
14 example, I apply through the University of Nevada, Reno.
15 That's my employer. So the responsibility of releasing
16 the grant to the agency has to be signed by the University
17 of Nevada, Reno. That's the agency I worked for.

18 So when the grant -- some grants have -- most of
19 the grants have some component which is called indirect
20 cost, which is if -- some kind of, like, money for the
21 university, not for the researcher, to conduct the
22 research to help with the process sometime.

23 So that indirect cost goes back to the entity
24 which release the grant, which is, for my situation,

1 University of Nevada, Reno.

2 So if I'm working for Sierra Biomedical --

3 THE COURT: I understand how that happened for
4 you. You want to tell me what happened on someone else's
5 grants and I want -- I'm asking you where are you getting
6 that information?

7 I understand how you get it on your grants, how
8 you monitored your own grants. But what puts you in a
9 position to monitor someone else's grants to give me an
10 opinion on that? And maybe it's public record. And if
11 that's it, tell me that.

12 BY MR. SCHWEICKERT:

13 Q Dr. Hussein, may I draw --

14 MR. SCHWEICKERT: Your Honor, may I draw his
15 attention to another series of exhibits?

16 THE COURT: If you have a place to go there.

17 BY MR. SCHWEICKERT:

18 Q Please turn to Bates No. 417 and going to 443.

19 Dr. Hussein, could you explain what these
20 documents are, and do these documents in fact show the
21 distribution of direct and indirect costs, the question
22 that we were trying to address a moment ago?

23 A Actually, I can explain those, but those are not
24 going to answer the question which the Court raised.

1 The question -- the answer to the question which
2 the Court raised is there was testimony during the
3 termination proceedings of my employment at UNR, and I
4 asked through my attorney specific questions about the
5 indirect cost or the money which is coming to Sierra
6 Biomedical going to which entity.

7 So I got two answers, Your Honor. Dr. Zanjani
8 said the money --

9 THE COURT: Where do we have that transcript?

10 MR. SCHWEICKERT: We don't have that transcript
11 here, I believe, Your Honor.

12 THE COURT: So it really wouldn't be appropriate
13 for him to give me hearsay about -- I can't rely on what
14 he told me what Mr. Zanjani testified to in a hearing.

15 MR. SCHWEICKERT: Yes, Your Honor. I understand.
16 We have not been able to produce all of the 40,000 pages
17 of documents.

18 THE COURT: You've given me lots.

19 MR. SCHWEICKERT: We have. But we don't have
20 that back, I'm afraid.

21 THE COURT: Okay. Does he have some other basis?
22 He said two bases. That one doesn't work. Try another
23 one.

24 THE WITNESS: There is another basis, which is

1 | there was a question -- I believe it should be in this
2 | record -- from a reporter from Reno Gazette-Journal, a
3 | question to the University of Nevada, Reno, the office of
4 | sponsored project, which is responsible for the grants for
5 | the university.

6 | And that reporter asked him the question: Where
7 | are these grants? I can't find them in the University of
8 | Nevada, Reno, documents.

9 | So the discussion on those emails, which is part
10 | of the communication -- I believe they are evidence
11 | here -- it says that we have no knowledge of these grants.

12 | So that's -- that evidence is there in the
13 | record.

14 | THE COURT: Okay. Where did Exhibit 417 come
15 | from?

16 | MR. SCHWEICKERT: It's possible, Your Honor, I
17 | directed Dr. Hussein's attention to the wrong series of
18 | documents.

19 | BY MR. SCHWEICKERT:

20 | Q Is that true, Dr. Hussein?

21 | A That's related to Sierra Biomedical and the
22 | University of Nevada, Reno. So that helps the Court in a
23 | way, but it has some other aspects too. It's not what the
24 | Court was asking, if that helps.

1 MR. SCHWEICKERT: So if Your Honor will allow us,
2 we'd like to move on.

3 THE COURT: Well, did you -- you said you knew
4 how much monies were paid to Sierra Biomedical Research
5 Corporation for the research that was done by Mr. Zanjani.

6 THE WITNESS: Zanjani.

7 THE COURT: How did you get those figures? Is
8 that through the litigation? In your termination? Is
9 that what you're saying?

10 THE WITNESS: I brought that information during
11 that termination proceeding for my employer.

12 THE COURT: Okay.

13 THE WITNESS: And I provided that to the
14 university, too, Your Honor.

15 THE COURT: All right. Go ahead.

16 MR. SCHWEICKERT: So it's our presentation to the
17 Court, since we have haven't found the documents to
18 demonstrate that with 100 percent clarity, that no direct
19 or indirect costs in those grants to Sierra Biomedical
20 Research Corporation was ever paid to UNR.

21 THE COURT: And the email transmissions that
22 Mr. Hussein referred to, is that in these documents?

23 MR. SCHWEICKERT: I believe it is, and I have not
24 located it, Your Honor.

1 THE COURT: Okay. When you do, you will let me
2 know.

3 BY MR. SCHWEICKERT:

4 Q So, Dr. Hussein, you began to say something
5 about -- a few moments ago about the research, then, for
6 Sierra Biomedical under these grants. And where was that
7 research done?

8 A The research is done at the University of Nevada,
9 Reno, Main Station, which is off McCarran. And that's the
10 only facilities for the University of Nevada, Reno, with
11 regard to housing sheep. Because --

12 THE COURT: Go ahead.

13 THE WITNESS: -- because all the research
14 proposed on those proposals -- and the Court can read
15 those exhibits which I referred to earlier. They're
16 describing the type of research. They're all related to
17 using sheep as a model for humans to inject those sheep
18 with human stem cells to hopefully find the solution to
19 certain issues.

20 So the research is done in terms of the animal
21 component at the College of Agriculture facilities off
22 McCarran, which is the property of the University of
23 Nevada, Reno. But the lab work is done on campus at the
24 UNR. So there are two components.

1 BY MR. SCHWEICKERT:

2 Q And the research that you just described, a
3 number of the employees conducting that research, what was
4 their relation to Sierra Biomedical Research Corporation?

5 A Dr. Zanjani used to work, like I said, in Sierra
6 Biomedical Research Corporation. He had two employees,
7 main employees, a man and his wife. The first one name is
8 Graca, G-r-a-c-a, Almeida, A-l-m-e-i-d-a, dash, Porada,
9 P-o-r-a-d-a. Her husband name is Christopher Porada. And
10 those are his two arms for conducting his research.

11 So when he moved to the UNR, he moved these two
12 people with him, and the university hired them as faculty
13 members. So that's really the team, or the nucleus of the
14 team.

15 Q Thank you, Dr. Hussein.

16 So now is a good point for you to say a little
17 bit more about the Sierra Biomedical research on pregnant
18 ewes at UNR.

19 You started by saying a moment ago that they were
20 used for stem cell research. And could you address that
21 very, very briefly, and then we'll talk about some of the
22 related issues.

23 A Practically, the research is to get ewes
24 pregnant, pregnant first, and then inject those ewes. We

1 injected the fetus inside the ewe at certain age, very
2 early age.

3 Once we injected the fetus with human stem cell,
4 the theory is the human stem cells will develop into human
5 stem cells inside the sheep or inside the fetus of that
6 ewe, so during that time you can increase the number of
7 cells, human cells, in the liver of sheep.

8 So the whole idea is eventually down the road
9 we'll be able to use animals to produce livers so we can
10 do liver transplant or heart transplant or whatever, so
11 produce full organs. So that's the idea.

12 Q Could you please tell the Court about some issues
13 of animal abuse that arose that you were -- that you were
14 aware of -- became aware of during your employment
15 sometime between about 2003 and 2005.

16 A First, the Court needs to know that there are
17 restrictions on how many animals used for every research
18 experiment. And those are federal regulations.

19 And every university has a component which is
20 called the animal -- Institutional Animal Care and Use
21 Committee, which is the watchdog for any researcher, how
22 many animals you use, why you use that, any other
23 alternative you can use. So the whole idea is to minimize
24 use of animals in research to the minimum as needed.

1 The problem here is for that particular research,
2 which has been going on for long time, there is a huge or
3 very large number of animal have been used regularly. So
4 that was, to me, as a scientist, or animal scientist, was
5 a surprise to me.

6 So I had to ask someone who was involved with the
7 process, and that was Dr. Hudson Glimp, who was a faculty
8 member in my department and closely associated with that
9 human stem cell research with regard to getting the ewes
10 which are used for the research pregnant. So he works on
11 that part.

12 So Dr. Glimp explained to me the process. He
13 said, It's making money operation and everybody is happy.
14 I said, "How can you do that it in a university
15 environment?" He said, It's working. I said, "Explain it
16 to me."

17 So he did explain it to me as following. He
18 said: I buy the ewe, a six, seven, eight years animal,
19 which are really of no value, for \$20 from people who are
20 trying to get rid of them, and I bring it to the college
21 for that money, and then I do -- I get that ewe pregnant
22 and now it becomes of value to Dr. Zanjani because that's
23 the animal he needs, a pregnant ewe. And then the dean
24 would sell it to Dr. Zanjani for \$200. So the value went

1 from \$20 to \$200 to the college.

2 So then I said, "What's the benefit for
3 Dr. Zanjani? He needs 10, 15?" He said Dr. Zanjani used
4 for his own research a certain number and then he sells
5 the ewes for \$2,000 apiece to researchers around the
6 country. And some of the researchers actually come from
7 overseas.

8 So -- and I understand that part because I asked
9 him why and how. There is a -- there are lots of
10 restrictions in many institutions around the country. In
11 fact, it is impossible today in certain institutions
12 around the country to do animal research because of the
13 animal rights people.

14 So those folks in other universities which have
15 very severe restrictions to do research, they come to Reno
16 to Dr. Zanjani with their human stem cells in their hands
17 and inject those ewes. And after the research is done,
18 they kill the ewe, they get the fetus out, they take the
19 samples and ship them to the person who paid for that
20 research, and that's how the work goes on.

21 Dr. Glimp explained to me that that's why Sierra
22 Biomedical component is important for the operation.
23 Because the university can't do that as a university. And
24 that's why Dr. Zanjani is keeping himself or his operation

1 outside of the university. Anybody working in the
2 university cannot do that because you are a full-time
3 employee of that institution. You can't have another
4 position or another conflict-of-interest interest
5 somewhere which is something you do the same at the
6 university.

7 So that's where the research for profit came in
8 and that's where the large number of animals have been
9 used over years.

10 Q Okay. Now, Dr. Hussein, would you try briefly to
11 explain to the Court your reporting of animal abuse to
12 university administrators and so on and some of the
13 consequences that relate to that.

14 A Again, because we're talking about Sierra
15 Biomedical Research Corporation, I think I need to limit
16 the animal abuse component to that, if that's okay.

17 Q I don't believe that -- I don't believe that you
18 need to limit it.

19 A Okay. So the -- with regard to Sierra Biomedical
20 Research Corporation, I discovered during -- there are
21 many issues, Your Honor, regarding animal abuse which I
22 discovered, some of them related to sheep, cattle, and
23 some of them related to pigs.

24 But what's relevant to this component here for

1 the Sierra Biomedical Research Corporation operation was
2 the fact that, surprising to me, the very large number of
3 animals.

4 And then at certain point I discovered that the
5 animals are not incinerated as the law says. That's
6 federal law. When you dispose animal which is injected by
7 any microbe or human cells or any -- or any genetically
8 manipulated tissue, the animal has to be incinerated to
9 protect the environment and to protect any sort of
10 contamination, because some of these -- like human stem
11 cells, to put them in an animal, you have to carry them
12 with a vice [phonetic]. So there is a component of danger
13 here, and that's why the law is set clear.

14 So I found out that at certain time the college
15 stopped incinerating the animals, because it costs,
16 according to an article which was by RGJ --

17 THE COURT: It doesn't really matter why.

18 THE WITNESS: Okay. The -- it was saving money.
19 That's what -- which is related to here.

20 So I traced the process of getting rid of those
21 animals. I found the animals are being sent to a ranch
22 called -- which is university ranch, S Bar S Ranch in
23 Wadsworth. And then they were sent to eat weeds, so they
24 cleaned the areas, and then to allow the predators to

1 consume them. And when they find an animal is still
2 alive, they shoot the animal in the head with a gun and
3 bury them next to the river on that ranch.

4 So I went personally when I discovered this
5 issue, I invited the RGJ, and we dug the ground, and all
6 throughout it we found, I would say, maybe hundreds of
7 carcasses buried next to the water. And all of them are
8 the human stem cell animals.

9 So according to laws, or the federal law with
10 regard to discarding animals that have been injected or
11 injected with such injection, that's a violation of
12 federal law.

13 THE COURT: Well, if it's a violation of federal
14 law and you told everybody about it and it's been in the
15 newspaper, why isn't the federal -- why should a grand
16 jury in Washoe County now investigate it? Hasn't the
17 federal government already investigated this?

18 THE WITNESS: That issue, no, Your Honor.

19 BY MR. SCHWEICKERT:

20 Q There was a USDA report of an investigation.
21 Would you please comment on that.

22 A That investigation -- in fact, the Court is
23 right. I mean, why didn't -- there are four issues I
24 reported, but they investigated only one of them or two --

1 one of them, because the federal investigators, Your
2 Honor, said they need to see the animals personally.

3 So the ones that they had the ability to see
4 alive, those are the ones -- they hit the university with
5 56 violations of the Animal Welfare Act. And they offered
6 the university to settle or to face criminal charges.

7 So the university paid the settlement, and that
8 was the end of that component of the complaint.

9 MR. SCHWEICKERT: Your Honor, the bullets on the
10 slide --

11 THE COURT: When you talk about the "component,"
12 you mean the violation of destroying the animals?

13 THE WITNESS: I mean -- my complaint to the USDA
14 about animal abuse was four components, it related to four
15 different incidents. They addressed only one incidence
16 related to pigs, which is they were alive, because they
17 needed to see the animal alive to --

18 THE COURT: Well, they related to all of it.
19 They looked at what you gave them and then said, We're
20 going to fine on this issue.

21 THE WITNESS: They did not address any of the
22 other issues because they said that they need to see the
23 animals, and the pigs at the time were the only animals
24 available to them to see.

1 BY MR. SCHWEICKERT:

2 Q Would you explain what the other three components
3 of the animal abuse complaint were all about.

4 THE COURT: What's important for me -- and I'll
5 just cut to the chase here -- is the complaint was made,
6 the federal agency investigated. If the federal agency
7 chose not to take action for whatever reason, that is the
8 federal agency's purview.

9 What you must show me is that there's a
10 reasonable reason why I should call citizens of Washoe
11 County to investigate. And if the federal government has
12 already investigated, it's probably not going to happen.

13 So I'm just going to give you that little hint
14 here about my bias here, is if an agency of the federal
15 government has already investigated the allegations, it's
16 going to be difficult for you to convince me that I should
17 have the citizens of Washoe County now investigate it
18 again.

19 So if it hasn't been investigated, that's one
20 thing. If they didn't come back with the result that
21 someone thought they should have, that's a different
22 story. Does that make sense?

23 MR. SCHWEICKERT: It does, Your Honor. It's our
24 position, however, that that investigation was inherently

1 | flawed because the university controlled access to the
2 | animals. They were only allowed to see one of the sets of
3 | animals that had been involved in the animal abuse.

4 | That's our contention, Your Honor.

5 | THE COURT: Okay.

6 | THE WITNESS: May I add something, Your Honor,
7 | to -- to your question earlier about related to -- if they
8 | investigated the issue, which is reasonable, the -- I
9 | think the key component here is, number one, as indicated
10 | by Dr. Schweickert, is the university -- I am the one who
11 | has more information on that. The university controlled
12 | the access to the evidence for the investigator. That's
13 | number one.

14 | But really the most important piece of
15 | information for practically shutting the federal
16 | investigation down is the UNR general counsel herself
17 | prepared a document herself and it got signed by the
18 | individuals who have control over the evidence which the
19 | investigator was looking for himself.

20 | So I -- unfortunately I got access to those
21 | documents way -- like maybe two years or a year and a half
22 | after the investigation was closed.

23 | THE COURT: And where are those documents?

24 | THE WITNESS: Those documents are available, Your

1 Honor, but they are not in these documents.

2 THE COURT: Okay. Go ahead.

3 BY MR. SCHWEICKERT:

4 Q Would you briefly mention the other three parts
5 of the animal abuse complaint.

6 A One of them was related to actually financial
7 issue in these documents, which is the S Bar S Ranch.

8 Q We'll get to that.

9 A And those are cattle. And I can -- you want me
10 to explain it now?

11 Q No.

12 A The other one was related to sheep, which is also
13 a financial issue. And that was related to about 70 or 60
14 ewes. The ewes were locked into a place and the person
15 left out of town for three, four days, and all of them
16 were dead, because it was summertime.

17 And the third one, the pigs, that's where there
18 was the issue, the violations, the 56 violations, mostly
19 related to those pigs.

20 I think that's it.

21 Q The fourth one? Did you already mention the
22 Angus cows?

23 A The Angus cow was number one I mentioned. That's
24 the S Bar S Ranch. And then the pigs. That's the only

1 issue addressed by USDA. And then the sheep which died.

2 And then the fourth one, that's the stem cell
3 sheep. That's the one I just mentioned.

4 Q Thank you.

5 MR. SCHWEICKERT: Your Honor, the slide in front
6 of you shows Exhibit I, which has Bates Nos. 4664 to 4724.

7 THE COURT: Ms. Clerk, what exhibit is that?

8 THE CLERK: I believe it's 9I.

9 MR. SCHWEICKERT: I beg your pardon, Your Honor.
10 That's Volume 9, and it's Exhibit I.

11 THE COURT: And Bates stamp numbers again?

12 MR. SCHWEICKERT: 4664 to 4724.

13 THE COURT: Thank you.

14 MR. SCHWEICKERT: 4664 is Dr. Hussein's
15 declaration where he authenticates these succeeding
16 documents.

17 BY MR. SCHWEICKERT:

18 Q Dr. Hussein, would you read the portion of your
19 declaration here where it describes what these images are,
20 starting where it says "pictures."

21 A I'm just trying to find the page first.

22 Q It's on 4664 in Volume 9.

23 A Okay.

24 Q So there's your declaration, and the lower half

1 of it refers to pictures. Do you see that?

2 A Yes.

3 Q Just read that part, would you.

4 A "These photographs were collected by me and used
5 in my litigation against UNR as evidence. The pictures
6 are related to animal abuse and/or other events that took
7 place after I reported that abuse to federal agencies and
8 the press. I declare under penalty of perjury the
9 foregoing is true and correct of my own personal
10 knowledge."

11 MR. SCHWEICKERT: Okay. So just -- we have some
12 of these images here, Your Honor, as some of the
13 succeeding slides, and I would like to ask Dr. Hussein to
14 go extremely briefly through these and just tell us what
15 we're seeing. Okay?

16 THE COURT: Can you see the --

17 THE WITNESS: Yes, Your Honor.

18 MR. SCHWEICKERT: Is it permissible for the
19 witness to stand?

20 THE COURT: It is. I'm just worried about not
21 having the microphone for him.

22 THE WITNESS: I can do it from here, Your Honor.

23 THE COURT: Okay. Good.

24 THE WITNESS: The pictures -- I will start with

1 the first one in the middle.

2 THE COURT: You have to go with the one that's on
3 the board.

4 THE WITNESS: That one I obtained from the RGJ.
5 That was published in the RGJ. And that was related to
6 one of the sheep in the Main Station Farm. That's when
7 the animal abuse was first discovered by a citizen from
8 Hidden Valley. And that was the first one. The bottom --
9 so that's what I can say about this one.

10 And this slide is -- this is related to the swine
11 the USDA found the violations related to, the 56
12 violations.

13 And that's the veterinarian. I believe that's
14 relevant to the hearing because Dr. Schweickert earlier
15 mentioned to the Court that every member of the
16 institution finds something they believe is wrong or
17 violation of the law, he or she goes to that institution
18 to report it and then, unfortunately, bad things happen.

19 So in this situation that was my laboratory. I
20 built that laboratory by money I raised to do research
21 with animals, and those animals were put there in
22 violation of my laboratory. But when they were in my
23 laboratory, I felt a responsibility toward them.

24 So I found the animals were abused, so I called

1 the veterinarian. I paid \$800 from my own research fund
2 to take care of two out of the ten animals which I believe
3 had some serious health problems, and the veterinarian
4 proved that.

5 And that was the first attempt by the university
6 to terminate me or to fire me. And the allegations were
7 very simple, which is I misappropriated university
8 property.

9 And that misappropriation involved two blood
10 samples and two fecal samples the veterinarian took from
11 two -- from the two sick animals, which his analysis has
12 been proven to be very serious health issues with those
13 animals.

14 BY MR. SCHWEICKERT:

15 Q Now, would you please go through these rather
16 quickly, because we need to get through a lot of material.

17 A The first slide is related to the same pigs. And
18 that's the Indian property, which I believe will come
19 frequently here.

20 The second slide is related to the same -- the
21 incidents of sheep which are reported to the USDA but they
22 did not investigate it because the animals were already
23 dead for a couple of years or so.

24 And that's the 65 or 70 ewes which were left

1 without food or water for four days.

2 And then I believe the bottom one is very
3 important, because the bottom one is related to Sierra
4 Biomedical Research Corporation.

5 When you get federal funds, part of the money is
6 for disposal of the animal after the research is done, and
7 that's a method -- the known or accepted method is
8 incineration, as I said earlier.

9 So you can see -- the Court can see that's not
10 incineration; that's the throwing the carcasses of animals
11 first into a hole on the Main Station of McCarran.

12 And those are pictures --

13 Q Excuse me, Dr. Hussein. The Main Station, where
14 is that?

15 A It's called Main Station Farm, which is off
16 McCarran and Mill Street.

17 Q In Reno?

18 A In Reno, yes.

19 So there is an area -- this particular area I
20 wasn't really aware of, but there is a citizen who
21 discovered all of these carcasses from Hidden Valley. And
22 those were his own pictures, which is about maybe a
23 hundred pictures.

24 Q Dr. Hussein, let's go forward. Here's another

1 one that has four images on it, including a trench on the
2 lower right.

3 A That's what I discovered after that, that they
4 dig a trench, they throw the dead animals every time they
5 come out of the surgery after they get the cells out and
6 throw the animal and the fetus into that hole. And when
7 the hole is full, they cover it and they dig another hole.
8 So that's the way things works.

9 Q Okay, thank you.

10 Now we have some images that have a picture of a
11 lady in the upper left and a sign in the upper right.

12 A At certain time, Your Honor, the idea came that
13 instead of just killing the animals, injecting them with
14 some kind of toxin to kill and throw them in the hole, why
15 don't we sell -- that's Dr. Glimp, again, the same person
16 who told me about how the operation is working. He's the
17 one who came up with the idea that why don't we send those
18 ewes to the S Bar S Ranch, which is the university
19 property. There are lots of weed -- there's tons of weed
20 there, so the ewes can consume that weed and they can
21 clean the area.

22 But the problem was there are lots of predators
23 there. And they said that's okay, so the predators can
24 eat too.

1 So that's the way that the human stem cell sheep
2 went to the S Bar S Ranch. And the university had a --
3 kind of like an agreement with an Indian lady across from
4 the ranch. So they used the two ranches to put the sheep
5 in during that time. And eventually they used the Indian
6 ranch as the burial ground for all of these animals.

7 Q Could you explain what that sign in the picture
8 shows.

9 A That sign is on the ranch, which is called
10 Copeland Ranch. That's the family name, C-o-p-e-l-a-n-d.
11 This is called the Nevada Agricultural Experiment Station.

12 So the university, when they had the agreement
13 and cooperation with that lady, they were supposed to
14 research, but they never really did research. So they put
15 the sign there as this is part of the university or at
16 least association with the university.

17 Q Okay. Would you go on, then, to this slide which
18 has four images.

19 A As I mentioned earlier, when I heard that they're
20 using that facility as burial ground for human stem cells
21 and heard that from the rancher who was supposed to be
22 working there and then left the university, so that was my
23 knowledge, and he said, Go there and find it and get a
24 backhoe and you'll see those dead animals. There are

1 hundreds of them there.

2 So we went -- I went there. I got a person with
3 a backhoe, and the RGJ joined us to see, because we
4 weren't so sure where that stuff is. And finally we found
5 all of these animals buried right next to the river. And
6 that's where the final disposal for those human stem cell
7 sheep.

8 Q The image on the screen shows the backhoe in the
9 upper right corner. Is that the backhoe you're referring
10 to?

11 A Yes. Yes. And that's actually me, my hands
12 there when I was trying to point out which animal for the
13 photographer to take pictures of.

14 Q Would you go back to the importance of finding
15 the large number of carcasses.

16 A That explains -- I was very concerned, first, why
17 do we have all of that number of animals being used for
18 research.

19 And then when I understood how the operation is
20 working and then later on I discovered the way of
21 disposal, which is, I believe, another violation, because
22 you are taking money to incinerate animals to make sure
23 that no evidence of that possible contamination is there.
24 And unfortunately that money is saved and the animals are

1 being fed to wild animals or buried next to the river.

2 Q But is there something about the large number of
3 carcasses that was important?

4 A I believe that explains the -- what we said
5 earlier, the animal abuse for profit. So you don't need
6 hundreds of animals to do research as a scientist. You
7 don't. Especially when you are killing every animal. You
8 don't do that.

9 Q How many carcasses did you find?

10 A There were too many. I can't really give an
11 exact number. Every time we -- the backhoe dig, like
12 maybe 10, 15, 20 carcasses come out, bones and wool and
13 stuff like that. So there are too many of them on that
14 ranch.

15 Q The next picture has a picture of three black
16 Angus cows. Would you comment on that momentarily.

17 A This is actually -- these are pictures from my
18 database from what a blank Angus animal should look like.
19 That's from the -- from any website you can find those
20 pictures. Because those will become relevant.

21 THE COURT: I'm familiar with what a blank Angus
22 cow looks like.

23 THE WITNESS: But they become really important
24 when we make the comparison, because I believe the S Bar S

1 Ranch issue, which is a very, very important component in
2 these documents -- you can see the animals in the second
3 slide --

4 BY MR. SCHWEICKERT:

5 Q So here we have a slide with the healthy animal
6 in the upper right, and then we've got three other images,
7 left, lower left and lower right. What are we looking at
8 here?

9 A These are black Angus animals. And let me say
10 first, before we get further, that the animals, which are
11 the university animals, they were maybe the same or better
12 than the ones in the original picture. And that was -- I
13 saw that myself in 1997, '98 and '99 and 2000 when the --

14 Q Please tell us what these pictures show. That's
15 what we really need to --

16 A These are related to three animals or three
17 pictures of the herd of the Angus cows on the S Bar S
18 Ranch, which is the university ranch.

19 Q What are they showing us about these animals?

20 A What they're showing us, they're showing us
21 animals were all in a very serious starving situation.

22 Q And how is that made clear in these pictures?

23 A You can see that in their bones. You can see
24 that in their color.

1 First of all, you cannot see -- see the healthy
2 animal first and make the comparison. You don't see bones
3 whatsoever. But you can see the bones from all
4 directions, the ribs.

5 And let me say something quickly. Animals are
6 ranked with a body condition score from 1 to 10; 1 as
7 being close to dying, 10 is fat. The best animals you
8 want to see, 8, like the ones on the top, the healthy
9 ones.

10 So according to my colleagues in my department at
11 the time who took those pictures -- I believe Dr. Ben
12 Bruce is the one who took the pictures -- they were --
13 according to his words, they were 1 to 2 for the rank. So
14 that means as bad as it gets with a starving animal.

15 THE COURT: We need to take a short recess now.
16 We've got to take recesses. The court reporter needs a
17 break. So I've seen some people leave, but the rest of us
18 can't. So we're going to take a ten-minute recess.

19 Court is in recess.

20 (A recess was taken.)

21 THE COURT: Mr. Schweickert, you may continue.

22 MR. SCHWEICKERT: Thank you, Your Honor.

23 BY MR. SCHWEICKERT:

24 Q Dr. Hussein, we have a couple more pictures here

1 that we just need to go through very quickly.

2 This is another image with apparently healthy
3 black Angus cows in the upper right and three other images
4 around it. I suppose they show the same things as in the
5 prior image.

6 A Correct.

7 Q Okay. So Her Honor brought up a question about
8 how do we know about the indirect costs and the direct
9 costs and how they come to Sierra Biomedical Research
10 Corporation and how they -- how none of that money goes to
11 UNR.

12 Would you please look at exhibits in Volume 1
13 under Exhibit A, it's 1A, and it's pages 278 to 280.

14 A I see it.

15 I need to apologize to the Court first. I
16 mentioned earlier that there is an email with regard to
17 that information, but there are too many documents here.
18 So this is the email I mentioned earlier.

19 That email was from Frank Mullen, who is a
20 reporter in RGJ. He was investigating the matter at the
21 time. I mean -- when I say "the matter," I mean the money
22 flow from NIH to the Sierra Biomedical Research
23 Corporation.

24 So on page 279 Mr. Mullen is writing an email to

1 Jane Tors, who is the director of the communication office
2 at the university. He's saying, "I have the budget and
3 the abstract for the NIH grants. You may review the
4 protocols again. Dr. Almeida-Porada" -- who was one of
5 the employees of Dr. Zanjani I mentioned that earlier --
6 "is out today."

7 Oh, that's from Jane Tors, I'm sorry, to Mullen.

8 THE COURT: I can read that.

9 THE WITNESS: So he was inquiring into the
10 grants, and Jane Tors was providing him with some
11 information.

12 But I think the most important piece of
13 information in that email is coming on page 278, where the
14 email is coming from Cindy Kiel, who was the director of
15 the office of sponsored project. That means the
16 university office for the grants from any entity.

17 So it says, under the vice president for
18 research, it says: I believe that two NIH grants were not
19 awarded to UNR. Dr. Zanjani holds a position with the VA
20 Research Foundation, Sierra Biomedical Research
21 Corporation. I think the NIH grants were awarded to them.
22 Not to us.

23 Apparently UNR proceeded with animal research
24 protocols for the external agency, and the rest of the

1 email is really related to the same issue.

2 So the most important piece of information here
3 is in answer to the inquiry by the reporter. The
4 university is saying by its top official these two NIH
5 grants -- and, by the way, these two NIH grants are part
6 of the nine grants I mentioned earlier in my spreadsheet
7 and in the documents the Court got to see -- it says they
8 were awarded to Sierra Biomedical, not to the University
9 of Nevada, Reno.

10 Dr. Zanjani was a full-time University of Nevada,
11 Reno, professor from February 15th of 2002. And that
12 email, as the Court can see, is March of 2005.

13 Any faculty member will do something of that
14 nature, he or she will be terminated immediately by the
15 university. But that's what -- that's a violation of the
16 conflict of interest form we have to fill, anyway.

17 MR. SCHWEICKERT: Okay. At this point, if I may,
18 unless the -- Your Honor would like to have a question.

19 THE COURT: No.

20 MR. SCHWEICKERT: Okay. I would like to draw a
21 couple of things together here.

22 What we are representing to the Court is that
23 large sums of money, on the order of \$3.7 million, during
24 a time interval of about 2004 to 2006 is going to a UNR

1 faculty member for his private research, but it's going
2 not to UNR where it should go, where the university and
3 the State would recover indirect costs, instead it's going
4 to a private research corporation which is nowhere near
5 UNR.

6 That same private research corporation does not
7 have research facilities. Therefore, all the research
8 that's funded in those federal grants is carried out on
9 UNR State of Nevada property by UNR employees. That is
10 the research that led to the animal abuse allegations and
11 the findings of the illegal disposal of animal carcasses
12 throughout the east part of Reno, at the S Bar S Ranch
13 near Wadsworth, and on the Copeland property.

14 These are the facts that the university has been
15 attempting to cover up for many years.

16 I'd like to go on now with these slides.

17 BY MR. SCHWEICKERT:

18 Q It says, Dr. Hussein, UNR and NSHE officials --
19 I'm going to just read a couple of things and ask you to
20 comment -- using some of these funds. We have an
21 allegation here about bribes to select officials, false
22 statements to federal and state investigators, false
23 statements to the press, defense of wrongdoers at taxpayer
24 expense --

1 A Excuse me --

2 Q Let me just finish reading through this and
3 then I'll come back and ask you to comment on it.

4 A Before you get into the slide, the Court raised
5 another issue earlier which I just found the answer for
6 right now.

7 The Court asked how do you know about the money
8 goes to UNR or doesn't go to the UNR. And we answered
9 part of that question by the emails.

10 But the remaining answer is I mentioned that
11 there was a testimony at the Chapter 6 hearing, and I
12 found those -- the testimony is part of the record. So --

13 THE COURT: What's the Bates stamp number?

14 THE WITNESS: I need to mention -- the Bates
15 stamp to the Court starts from 289 in the same volume and
16 it ends at 347.

17 THE COURT: Thank you.

18 THE WITNESS: The two most important pieces of
19 information --

20 THE COURT: That's okay. Let's get to
21 Mr. Schweikert's questions first.

22 THE WITNESS: Okay.

23 THE COURT: Mr. Schweickert, your question?

24 /////

1 BY MR. SCHWEICKERT:

2 Q Okay. My question to you, Dr. Hussein, is in
3 that testimony of Dr. Zanjani on the pages you just cited,
4 289 to 337, I believe it was, is there testimony therein
5 in which Dr. Zanjani is commenting on these issues under
6 oath?

7 A Dr. Zanjani answered a question, I believe -- I
8 know that for sure. It's here. Under oath he was asked
9 about how many grants did you receive during your time of
10 employment at the University of Nevada, Reno.

11 The data on the documents, which I don't know if
12 you read or not beforehand, was saying nine grants. He
13 said: Only one, which I could not move to the University
14 of Nevada, Reno.

15 So that was false statements under oath, because
16 there were nine in the record.

17 Number two was he was asked the question who got
18 the indirect cost on the grant that went to Sierra
19 Biomedical -- all the grants that went to Sierra
20 Biomedical. He said that the indirect costs went to the
21 VA hospital.

22 And then we had his secretary, who is managing
23 his funds, immediately after him, and we asked her the
24 same exact question: Who got the indirect costs on all of

1 the grants. She said it was Sierra Biomedical Research
2 Corporation, which is completely the opposite of what he
3 said.

4 Q Thank you.

5 Okay. Now, we want to move on and discuss some
6 allegations and some evidence here regarding what UNR and
7 NSHE officials have been doing with some of those funds
8 that are unaccounted for at UNR.

9 I've read off several bullets about bribes, false
10 statements to federal and state investigators, false
11 statements to the press, defense of wrongdoers at taxpayer
12 expense.

13 And the last bullet I didn't quite get to, but I
14 need to have you discuss these with some evidence:
15 Taxpayers defrauded to hire expensive private law firms to
16 protect those who violated the public trust. And here the
17 reference is to lawyers from McDonald Carano Wilson LLP
18 and Robison, Belaustegui, Sharp and Low. There's more
19 about that coming up tomorrow in Part 4.

20 So what information or evidence can you cite to
21 us on any of these matters?

22 A I still don't understand your question, what
23 exactly the question is.

24 Q The allegation here that we're putting before the

1 Court is that we have evidence of bribes, false
2 statements, defense of wrongdoers at taxpayer expense.

3 A The one we have ample evidence on, I believe, but
4 not -- I don't think it's before me right now, is these
5 law firms were hired to defend individuals, which we do
6 have, or there is lots of evidence here saying we have
7 allegations of wrongdoing or criminal conduct in a way --

8 Q We'll get to that later.

9 A So the issue here is that the law firms were
10 contacted to defend those individuals. But the law firm,
11 what they did is in the defense process they used false
12 evidence to dismiss many of the civil cases.

13 Q Okay. That's getting a little bit ahead of
14 ourself right now.

15 Do we have any evidence in this series of
16 documents about the bribes and false statements?

17 A The only bribes here which you have evidence for
18 was the bribes which were given by Sierra Biomedical to
19 Richard Simmonds, who is the director of the animal care
20 for the whole Nevada System of Higher Education, to -- as
21 I mentioned earlier, he's supposed to be the watchdog for
22 the animal care.

23 So he was being paid during his full-time
24 employment by the university from Sierra Biomedical. I

1 believe it was \$5,000 a year. And I believe there are
2 records here for that amount.

3 Q We'll have to bring these to the Court's
4 attention. We don't have them highlighted here.

5 Okay. I think it's time for us to move forward.

6 A Oh, here they are. I'm sorry. Yeah, I found
7 them. Page 353, Your Honor, including copies of the
8 checks, to page 375.

9 Q Okay. Dr. Hussein, would you please explain to
10 the Court what is shown here on -- for example, page 353,
11 and then some of the ensuing documents.

12 THE COURT: You know, it's very clear to me
13 what's on there. I know you're running out of time. I
14 can see that the -- who the memo was from and that it was
15 approved and the director signed.

16 MR. SCHWEICKERT: Beg your pardon?

17 THE COURT: I can see what's on there. You don't
18 really have to have Dr. Hussein testify to what I can read
19 if you're running out of time.

20 MR. SCHWEICKERT: Thank you.

21 THE COURT: I'm just concerned about your time.

22 THE WITNESS: The only thing I may add, Your
23 Honor, which is not in these records, is I mentioned
24 earlier -- because the Court was concerned about if

1 somebody else investigated the animal abuse, why should we
2 get the citizens to investigate that. That's a legitimate
3 one, because in this case Dr. Simmonds provided false
4 statements to the press, false statements to the USDA
5 investigator about there is no animal abuse whatsoever.
6 And at the time we had no access to those documents
7 whatsoever.

8 BY MR. SCHWEICKERT:

9 Q So, Dr. Hussein, what are these documents showing
10 here, 353 to -- what was the range -- 375? The initial
11 payments to Dr. Simmonds from UNR?

12 A No. From Sierra Biomedical Research Corporation.

13 Q Thank you.

14 THE COURT: The law clerk is a little concerned
15 about how close you are to her. Can you move forward just
16 a little bit, move closer to the microphone. Thank you.

17 Go ahead.

18 BY MR. SCHWEICKERT:

19 Q Okay. Would you repeat to me what you just said.

20 A I just said these are copies of the checks and
21 the tax forms for the payment from Sierra Biomedical
22 Research Corporation.

23 Q So is it your allegation that Dr. Simmonds was on
24 the payroll of Sierra Biomedical Research Corporation at

1 the same time -- overlapping the times when he is supposed
2 to be looking into the animal abuse allegations at UNR and
3 making statements to the press and to the federal and
4 state investigators? Is that your allegation?

5 A That's correct. But there is more, which is for
6 Dr. Zanjani to have a legal authority to use animals at
7 the university property and do research, which is a large
8 number of animals, which is the animal for profit, that
9 kind of signature -- that kind of approval cannot be
10 obtained from that committee without Dr. Simmonds. He is
11 the top person on that approval chain.

12 So I submit a protocol how many animals I need to
13 use for experiment. It goes to committee. Dr. Simmonds
14 is at the top of that entity, which is guarding how many
15 they allow me to use and how many they shouldn't allow me
16 to use.

17 So the flexibility of using large number of
18 animals is another element in addition to just turning the
19 eye about the animal abuse. So that's another issue.

20 The other issue which is important to testify on
21 today, Dr. Simmonds was -- received a contract immediately
22 after the animal abuse allegation came out with increase
23 of salary, which never happens at the university system,
24 you get a new contract in the middle of the year, which is

1 around December time. You get only once a year at the end
2 of June.

3 Q Thank you. We do now have to move on to the next
4 category of criminal activities that we want to talk
5 about.

6 THE COURT: I'm sorry. We have to stop you.

7 Exhibits 357 through 366, there's some discussion
8 about them before each of the checks. Is the date of
9 the -- the date of the check is not readable by me. So
10 can you give me the timeframe? Or are you relying on the
11 first quarter, 2003, which is -- look at page 359. It
12 appears to be the transmittal letter that went with the
13 check. Is that the date of the check, basically?

14 MR. SCHWEICKERT: Yes, Your Honor. That's the
15 way these are organized. So there is routinely a
16 transmittal letter and then a copy of the IRS form. I
17 guess that's part of the check. There's actually a check
18 and then the IRS form.

19 THE COURT: Okay. I just wanted to make sure
20 what those are. Thank you.

21 You may proceed with your next question.

22 BY MR. SCHWEICKERT:

23 Q Very, very briefly, Dr. Hussein, would you
24 mention what happened to you after you reported these

1 things.

2 A Immediately after I reported the things with
3 regard to the animal abuse, the university started the
4 process of -- the first phase of my termination in 2005.

5 So the people who started the termination process
6 was Dr. Zanjani; the dean, Dean Thawley, David Thawley;
7 and the central administration. That means the president,
8 the provost, and the vice provost.

9 So that's immediately after reporting the animal
10 abuse allegation.

11 MR. SCHWEICKERT: So, Your Honor, I'd like to
12 draw your attention to this slide, which shows the
13 organization chart for UNR labeled the "UNR RICO
14 Enterprise." It's identical to the one you saw earlier
15 that shows the coverup and retaliation functions of all of
16 these different aspects of UNR.

17 The green dot down at the bottom shows the --
18 where the whistleblower is. In this case, a faculty
19 member who reports the violation.

20 The retaliation and coverup then takes place
21 immediately in his own department. At the dean's level
22 there are secret investigations brought on by human
23 resources and affirmative action. UNRPD gets involved in
24 some of the retaliation, as you will learn tomorrow. The

1 vice president for research gets involved.

2 The central administration -- president, provost
3 and vice president -- are involved. And they have general
4 counsel doing their bidding in terms of both intimidation
5 and legal defense when lawsuits ultimately ensued.

6 We don't have the opportunity right now to
7 present you with all the evidence of this chain of command
8 working this way. We will -- that will come out as we
9 progress.

10 THE COURT: Okay.

11 BY MR. SCHWEICKERT:

12 Q So our next topic to have you discuss,
13 Dr. Hussein, is labeled "Part B, Embezzlement, Fraud at
14 S Bar S Ranch."

15 This is the S Bar S Ranch that you referred to
16 moments ago, is it not?

17 A Correct.

18 Q And the people involved here who are named are
19 Dean Thawley, Hudson Glimp, Craig Beattie, Ron Pardini,
20 Esmail Zanjani, et al.; is that correct?

21 A Correct.

22 Q Our first bullet under this category, our first
23 topic, has an allegation of embezzlement of over one and a
24 half million dollars in funds from 2002 to 2005

1 restricted -- these funds restricted to the S Bar S Ranch
2 for the maintenance and upkeep.

3 Can you tell us what that allegation is based
4 upon. Are there documents in here that the Court could
5 refer to?

6 A Yes, we do.

7 The allegation, very simply, was I was trying to
8 understand why the animal abuse took place in a university
9 which has lots of resources, and to keep animals at least
10 alive.

11 And with regard to the cattle, that was a very
12 disturbing story because you don't see that type of animal
13 in the United States of America, period.

14 So I talked to people and then I gathered
15 information and I found that the S Bar S Ranch has -- was
16 given to the university I believe in 1947 as a gift from
17 an honorable lady to do one thing and one thing only: to
18 help young men and women to learn about ranching and
19 agriculture.

20 And the ranch had a very large area which was
21 used as a pasture and a herd of -- topnotch herd of Angus
22 cows, about a hundred cows. And what else -- she left, I
23 believe, about \$1 million. Everything related to that
24 endowment is in this court.

1 So she left that money to collect interest, and
2 Wells Fargo was in charge of it. And the money goes -- I
3 checked it myself in the records downstairs. And it was
4 about, at the time, I believe, about 100-, \$150,000 a
5 year. Depends on the market value --

6 Q Okay. Dr. Hussein, you're going to have to kind
7 of --

8 A Yeah, but I'm getting to the money, because the
9 money is very important.

10 MR. SCHWEICKERT: We could call the Court's
11 attention to Volume 1, Exhibit A, pages 469 to 982.
12 There's about 500 pages of documents in that section
13 referring to this testimony.

14 THE WITNESS: So briefly, Your Honor, is the
15 150- -- 100- to \$150,000 of money coming from Wells Fargo
16 from the endowment, and there is about \$100,000 a year
17 coming from selling the offsprings of the cows annually.
18 And so there is about 200-, \$250,000 a year which is used
19 to support the student teaching and learning on the ranch.

20 What happened in 2001, that program was
21 practically terminated in terms of the students who used
22 to be housed there and learning there. They were kicked
23 out of there. And then they stopped buying even food for
24 the animals. So that's where the starvation of the cattle

1 | went really serious.

2 | So within a year, 2001, by 2002 the animals
3 | reached that level of starvation, and after that nobody
4 | knows where the money goes.

5 | So I did -- I made some calculation of how much
6 | money has been lost or -- it's not used for what it's
7 | supposed to be used. And as a citizen I filed a
8 | lawsuit or an action on behalf of the university, on
9 | behalf of the State of Nevada, seeking the return of that
10 | money to be used for what it's supposed to be, which is
11 | teaching and education of young men and women.

12 | When I filed that lawsuit, the University of
13 | Nevada, Reno, supposed to be --

14 | BY MR. SCHWEICKERT:

15 | Q Could you stop there for a moment.

16 | Besides your understanding of the fact that the
17 | program was shut down and the money went someplace else,
18 | what did that mean with regard to the ranch facility
19 | itself?

20 | A Obviously there was no cattle there, so it was
21 | left to practically turn into desert.

22 | Q What about the maintenance and upkeep of the
23 | facilities?

24 | A It's not going on like --

1 Q Now go on and talk about what happened after you
2 filed your lawsuit on behalf of the citizens of Nevada.

3 A Once I filed the lawsuit, the university, instead
4 of standing behind me in support of trying find where did
5 the money go, which is \$1.5 million at the time, the
6 university lawyer -- his name is Charles Hilsabeck, who is
7 assistant to the University of Nevada, Reno, general
8 counsel -- acted on the behalf of the people who I'm
9 accusing of misappropriating the money.

10 And he filed a motion to dismiss and he
11 threatened me to dismiss the case or he'd file sanctions.
12 And finally he convinced the Honorable Bridget Peck that I
13 must go and exhaust the administration or administrative
14 remedies within the university first. So the university
15 can do its own investigation before I approach the Court.

16 We argued that, but we did not succeed. And our
17 argument was based on the fact that he has been defending
18 these people for a year. So they know what that complaint
19 is and they haven't done any investigation yet.

20 But, anyway, the Honorable Bridget Peck ordered
21 me to go and exhaust the administrative process before I
22 come back to the Court.

23 So I did what the Court ordered me to do. I
24 filed a complaint. It's here in the record.

1 Do we need to refer to the page number of that,
2 Your Honor?

3 THE COURT: If you know it, it always helps. But
4 you don't have to delay looking for it.

5 THE WITNESS: It's -- I know the will of the
6 endowment is on page 491 to page 501. And some of the
7 records of the misappropriation of money starts at
8 page 502 and it goes to page, I believe, 572. And then
9 the threat letters from the university lawyer are there,
10 578 -- 577, 578.

11 So the main point, Your Honor, is once --
12 BY MR. SCHWEICKERT:

13 Q The complaint that you filed -- excuse me,
14 Dr. Hussein. The complaint that you filed after you were
15 told to exhaust administrative remedies --

16 A That's very important for us here.

17 Q -- that starts on page 638. So this is a request
18 for an investigation from Dr. Hussein to Tom Judy.

19 Who is Tom Judy?

20 A Tom Judy was the -- I believe the assistant to
21 the finance -- the vice president for finance. He's the
22 top person with regard to the controller's office or the
23 university finance office. So that's where I was supposed
24 to go with my complaint to.

1 What page again, if you don't mind?

2 Q That complaint begins on page 638, Bates No. 638.

3 A Okay.

4 Q Oh, that's at the beginning of Volume 2. Sorry.

5 A Okay. So I followed the court order, Your Honor,
6 and made my request for investigation.

7 And then two months later -- I believe it's here
8 somewhere, coming up after that -- I did not hear anything
9 from the university. I provided Mr. Judy with all the
10 documents which I submitted earlier to the Court and --

11 Q Why don't you just get to the findings of
12 Mr. Judy's investigation.

13 A Can't we find the page number for that finding?

14 Q Okay. I believe that comes up on Bates No. 766.

15 A No, I think there's something more important
16 before that for the Court to know.

17 Two months later, Your Honor, I did not hear
18 anything from Mr. Judy, so I wrote him a memo, and that
19 memo is very important for the Court to be aware of. And
20 that was page 753.

21 Q 653?

22 A I think it's 750 to 752, Your Honor.

23 THE COURT: That must be Exhibit 2?

24 MR. SCHWEICKERT: Now we're in Volume 2. And

1 this is still Exhibit A.

2 THE COURT: Exhibit 2A.

3 MR. SCHWEICKERT: 2A. Beg your pardon. And
4 these are among the documents that we initially submitted
5 to the Court 14 -- 16 months ago.

6 BY MR. SCHWEICKERT:

7 Q Dr. Hussein, it appears to me you're talking
8 about documents starting on page 653. It says: Follow-up
9 request investigation from Hussein to Judy regarding
10 S Bar S Ranch.

11 A That's the one I wanted.

12 Q Page 653?

13 A I think that's the most important document here,
14 Your Honor, because I provided Mr. Judy with all the
15 documents which had been submitted to the Court and I
16 asked the initiation of the investigation. Two months
17 later I did not hear --

18 Q Could you please speak up.

19 A Two months later I did not hear anything from
20 Mr. Judy, so I wrote that memo to him. I provided him
21 with five steps -- I said: I provided you with five steps
22 to conduct your investigation.

23 And the five steps -- the first four were already
24 done for him by me.

1 First of all, I said to him --

2 THE COURT: I don't need you to repeat all of
3 that. We're really running out of time.

4 THE WITNESS: So I covered the first four, which
5 are already evidence he has been given two months earlier,
6 and I asked him to do only the final step, which is
7 checking where did the money go.

8 And, unfortunately, which is very easy job to do
9 in few minutes because he has access to the computer for
10 that database for those two accounts, I received a letter
11 from Mr. Hilsabeck, who is the attorney for the
12 defendant -- or the people who are trying to seek answer
13 from, and he said that you're not supposed to do that;
14 Mr. Judy is very busy and he needs time to conduct
15 investigation, and by the court rules he has six months to
16 conduct his investigation.

17 So four months later we received a document -- I
18 believe it's here too -- saying that they conducted the
19 investigation and they submitted the report to the
20 president and to the dean of the College of Agriculture,
21 and that's the person who is responsible for
22 misappropriating the money.

23 They did not provide me with a copy of that
24 investigation report.

1 BY MR. SCHWEICKERT:

2 Q That document -- that communication from Mr. Judy
3 to Dr. Hussein is on page 758. So let's summarize here
4 momentarily.

5 So you requested that UNR conduct a formal
6 investigation of the allegations about the
7 misappropriation of funds following the Court's request to
8 do so before re-filing your lawsuit. They take the full
9 six months. Their findings at the end of it are what?

10 A The finding was that there was nothing there.
11 There was nothing there. And that was based on there was
12 no records of this, there is no records of that, we
13 couldn't find any record of this or that.

14 So that's all here, Your Honor.

15 Q So now let's move on, Dr. Hussein.

16 What took place after you got that report saying
17 that we've investigated ourselves and we've found that we
18 did not commit a crime? What took place then?

19 A What took place, I found out later that during
20 that time Mr. Hilsabeck tried to -- there is a document
21 here I think you need to identify to the Court. He found
22 he had a meeting with Wells Fargo, a responsible person
23 with regard to the account. He tried --

24 MR. SCHWEICKERT: That's up here on the slide

1 before Your Honor.

2 THE WITNESS: He tried to get Wells Fargo to
3 approve the way the money has been spent during all of
4 these years. The Wells Fargo responsible person did not
5 agree on that.

6 So what they did immediately after that, they
7 filed a petition to this Court asking the Court to approve
8 of the expenses the way they were spent in the previous
9 seven, eight years, and they based that on new
10 interpretation of the will by the donor.

11 BY MR. SCHWEICKERT:

12 Q Thank you, Dr. Hussein.

13 A And the Court approved it, Your Honor.

14 THE COURT: That was the probate court?

15 THE WITNESS: Correct. I tried to intervene, but
16 they prohibited me from intervention. So there was no
17 opposition to their request to the Court.

18 BY MR. SCHWEICKERT:

19 Q The last topic to bring up with regard to the
20 S Bar S Ranch is shown on the slide in front of the Court.
21 This one says "New Fraud in 2006 and 2007."

22 So this is following a different Court's
23 endorsement of the way that the funds for S Bar S Ranch
24 were spent, and in particular spent on other things not

1 including maintenance and upkeep of the S Bar S Ranch.

2 A Or the teaching of students.

3 THE COURT: I couldn't hear that.

4 THE WITNESS: Or the teaching of the students,
5 Your Honor.

6 THE COURT: I'm going to stop you for just a
7 minute.

8 (Pause in the proceedings.)

9 THE COURT: We had a little technical difficulty.
10 You may proceed.

11 MR. SCHWEICKERT: Thank you, Your Honor.

12 BY MR. SCHWEICKERT:

13 Q Dr. Hussein, would you turn to pages 976 to 982.
14 That's in Volume 2, still Exhibit A.

15 A Okay. I have it.

16 Q This is described as a Board of Regents briefing
17 paper. And if you look also on page 982, six pages away,
18 there's another Board of Regents briefing paper.

19 Do you see that one?

20 A Correct. I see it.

21 Q Okay. Do these statements up here characterize
22 what's in that briefing paper?

23 A Yes.

24 Q Okay. So would you read those statements. Can

1 you see them in the PowerPoint? You probably cannot.

2 A No. I can tell you from the document exhibit
3 itself, the evidence.

4 Q Okay.

5 A The first one, Your Honor, is page 977. That's
6 the same individuals who misappropriated the funds at
7 S Bar S went to the Nevada System of Higher Education
8 Board of Regents seeking the approval of \$475,000 to
9 repair the S Bar S.

10 So the allegation here is they destroy S Bar S,
11 they wasted the money to maintain the S Bar S, and they
12 went to the Board of Regents asking for half a million
13 dollars to repair the S Bar S.

14 MR. SCHWEICKERT: And this request, Your Honor,
15 if I may interject, was made by Dean Thawley, who was the
16 person that we maintain misappropriated the funds and had
17 the tacit approval of the UNR administration who knew that
18 he misappropriated the funds.

19 BY MR. SCHWEICKERT:

20 Q They were both together going to the Board of
21 Regents representing that the damage to the S Bar S Ranch
22 is due to what, Dr. Hussein?

23 A Well, the --

24 THE COURT: I can read this.

1 THE WITNESS: I need to --

2 THE COURT: I see what they said --

3 THE WITNESS: Okay --

4 THE COURT: Wait, wait, wait. Dr. Hussein, when
5 I talk, you stop.

6 THE WITNESS: Okay, Your Honor. Sorry.

7 THE COURT: I can see what it says, what the
8 reasons were. They say the floods, '97 to 2005.

9 Let's go forward.

10 BY MR. SCHWEICKERT:

11 Q And the last one on page 982, the second Board of
12 Regents briefing paper, what's the date of that one?

13 A It says here March 2007.

14 Q Okay. Would you, then, explain what that one is.

15 A That's for another request for \$140,000 which was
16 granted by the Board of Regents for, I believe, similar
17 repair issues.

18 Q And who is making that request?

19 A The same individual.

20 MR. SCHWEICKERT: Okay. We have one more topic
21 to get to. I think it can be handled very briefly before
22 we break for lunch, Your Honor. And it has to do with the
23 topic of embezzlement of facilities and administration
24 costs by the UNR central administration. The documents

1 relating to this are Volume 2, Exhibit A, pages 1095 to
2 1125.

3 BY MR. SCHWEICKERT:

4 Q Briefly tell the Court, Dr. Hussein, what
5 facilities and administration costs are.

6 A That's a portion of some of the federal grants,
7 not all, which is a percentage to go to the university
8 to -- for facilities, being lights, doing things related
9 to the facilities, and administrative costs, meaning any
10 support staff which is dealing with those kinds. So
11 that's what it is.

12 Q How does the university acquire F&A costs from
13 the federal government?

14 A It depends on the federal government. Every one
15 of them has certain percentage for certain number for the
16 grants.

17 Q What's the most common percentage for federal
18 grants?

19 A USDA is about 20 percent and NIH is about
20 40 percent, more or less.

21 Q It says here on our bullet that the Nevada
22 Legislature funds all F&A costs for the University of
23 Nevada, Reno.

24 A That's a fact I didn't know until my litigation,

1 was two people from the university who are responsible of
2 that issue. And I believe Mr. -- we have that testimony
3 here somewhere.

4 Q Their names are Bruce Shively and Jerry Best.
5 Bruce Shively is the director of the UNR Offices of
6 Planning and Budget, and Jerry Best is the former
7 director -- he's now retired -- of the UNR Office of
8 Sponsored Projects.

9 Both of these people gave testimony under oath;
10 is that not true, Dr. Hussein?

11 A That's correct. They are here in exhibits.

12 Q And the exhibits are where?

13 A I believe it's page 1098 to --

14 Q Mr. Shively's begins on 1105 and Mr. Best's
15 under-oath testimony is on -- starts on page 1125.

16 A Correct.

17 Q So they have testified under oath, is this
18 correct, that the Nevada Legislature funds all the F&A
19 costs?

20 A That's their answer. And that's unique because I
21 believe we are one of five states in the whole country
22 which the State pays for F&A.

23 THE COURT: And, I'm sorry, who are -- it's your
24 allegation that Mr. Shively and Mr. Best assisted the

1 University of Nevada, Reno, in embezzling money from whom?

2 MR. SCHWEICKERT: Our allegation, Your Honor, is
3 not that they assisted in embezzling money; we know from
4 their testimony under oath that they know this fact.

5 THE COURT: But where's the crime? Who committed
6 a crime?

7 MR. SCHWEICKERT: The crime, Your Honor, is the
8 next bullet. Here we have the State of Nevada paying all
9 the F&A costs that are required to do research at the UNR
10 campus.

11 BY MR. SCHWEICKERT:

12 Q Dr. Hussein, explain what the Office of Sponsored
13 Projects does to the federal government when you write a
14 proposal for an NIH grant.

15 A I believe they don't make that statement to the
16 federal government, Your Honor. I think what's happening
17 here is the University of Nevada, Reno, is demanding
18 facilities and administrative costs from the federal
19 government although they already have that money given to
20 them by the State of Nevada. So they are --

21 THE COURT: So is the argument that the
22 embezzlement is taking place because of misusing federal
23 funds? Is that the argument?

24 THE WITNESS: Correct, Your Honor.

1 MR. SCHWEICKERT: Yes.

2 THE COURT: Thank you.

3 MR. SCHWEICKERT: So as our bullet points out,
4 Your Honor, it's typical for UNR to charge the federal
5 government between 40 and 46 percent overhead on grants,
6 and they say to the federal government that this is to
7 cover F&A costs.

8 So the way the math works out here, Your Honor,
9 is that if we had \$100 million coming in in federal grant
10 monies to the university, about 32 million of that would
11 be the F&A costs. So roughly 32 percent, by this
12 calculation, of the federal monies coming in, if that's
13 the overhead rate, 32 percent of that is being charged to
14 the federal government when it's already been paid by the
15 Nevada State legislature.

16 THE WITNESS: May I clarify something, Your
17 Honor?

18 MR. SCHWEICKERT: Let me just finish summarizing
19 that, Dr. Hussein.

20 Thus, we are claiming that the UNR makes false
21 representations to the federal government about the
22 requirement, the need for that money for F&A costs.

23 Dr. Hussein?

24 THE WITNESS: I think the most important issue

1 here is the University of Nevada, Reno, which is a State
2 entity, should be honest with the State of Nevada, which
3 is supporting the whole entire system, and tell them we
4 are already collecting that money from the federal agency
5 so the State of Nevada can save all of these millions of
6 dollars to do something else for the state of Nevada.

7 But they are doing -- they are double-dipping.
8 That's what they're doing.

9 BY MR. SCHWEICKERT:

10 Q So the fraud really works both ways?

11 THE COURT: But, Dr. Hussein, you're not saying
12 the money isn't being spent at the University of Nevada.

13 THE WITNESS: It is spent. That's the problem.
14 It's not spent on facilities and administrative costs as
15 the legislators order them to do or give them the money to
16 do.

17 THE COURT: Well, how do you know that? What's
18 the budget for facilities and administration for the whole
19 university? Is it the same amount that is being
20 appropriated by the State? Or is it a greater amount that
21 is being subsidized by the federal money?

22 THE WITNESS: I don't have the answer for that,
23 Your Honor.

24 THE COURT: Well, there's the question. You'd

1 have to show that the administration of the university and
2 the facilities of the university is 100 percent financed
3 by the State legislature, and, therefore, the monies that
4 are being -- augmenting facilities and administration in
5 the grants are not being spent that way; they're being
6 spent for something else.

7 THE WITNESS: That's what the Court will find in
8 those testimonies from those two top people responsible,
9 that they said that the money is covered by the State
10 legislatures.

11 THE COURT: They say it's covered 100 percent?

12 THE WITNESS: I haven't read the testimony for
13 some time --

14 THE COURT: Based upon what I saw in the
15 legislature, I find that hard to believe. There's a lot
16 of facilities at the university.

17 THE WITNESS: You could be right, Your Honor.
18 But I'm basing that on what they said. They said --

19 THE COURT: On pages 1105 and 1125?

20 THE WITNESS: Of the pages he gave.

21 THE COURT: Okay. Thank you.

22 MR. SCHWEICKERT: A recent document that we may
23 have forgotten to bring to the Court's attention in the
24 documents we submitted -- it came out just a week ago --

1 was a newsletter from the UNR vice president for research,
2 and it contained a summary of all of the F&A costs
3 received by the federal government, and it showed a
4 breakdown of how those funds have been spent in the recent
5 years, especially in the last year.

6 THE COURT: Do you have that?

7 MR. SCHWEICKERT: I don't have it here, and I
8 will make sure to bring it to the Court's attention here
9 at the earliest possible time.

10 This bullet here summarizes the categories that
11 they show. This is federal F&A money. Here's how it was
12 spent.

13 Property acquisitions -- these are their words --
14 scholarly and creative activities fund, development and
15 alumni relations, president's office, administration and
16 finance, colleges, departments, faculty.

17 They admit in there that the largest sum goes to
18 the vice president for research. And we suspect, but
19 don't have proof, that some of that money is being used
20 for legal defense.

21 As you will see, very large sums of money are
22 being spent by the university, on the order of \$60,000 to
23 \$100,000 a month, to cover legal expenses. There is no
24 state or federal appropriations that allows them to spend

1 those funds that way.

2 This is their own words about how these federal
3 F&A funds are being spent.

4 It's our inference to the Court that we believe a
5 grand jury needs to look at the question are they also
6 spending this for their legal defense. There are vast
7 sums of money that are being spent.

8 I believe that concludes what we had to -- what
9 we'd hoped to present to the Court this morning.

10 BY MR. SCHWEICKERT:

11 Q One more point, Dr. Hussein?

12 A Just to -- on what you just mentioned to the
13 Court about the legal defense, I think that one of the
14 most devastating pieces of information in relation to
15 that, Your Honor --

16 THE COURT: Speak into the microphone. When you
17 start going fast it's hard for us --

18 THE WITNESS: Sorry, Your Honor.

19 I think one of the most devastating pieces of
20 information in relation to the same issue with regard to
21 the legal funds is -- there is document here in these
22 records -- I can't really find it for Your Honor right
23 now, but I can point to that later on, or Mr. Schweickert
24 can do that -- the College of Agriculture funds comes from

1 two sources: federal funds through research, only
2 research, and State funds. And most of the State funds
3 really is for teaching.

4 So based on the records that we have for the
5 private law firm hired to protect or to defend the
6 individuals who have been sued in many lawsuits, half of
7 the monthly cost comes to -- from the law firms. It used
8 to go to the State of Nevada to pay, and the State of
9 Nevada said I don't have money for you anymore, so we're
10 done for you, so the money is now split two ways.

11 50 percent is paid by the office of
12 administration and finance, Mr. Bruce Shively, the name
13 you heard, Your Honor, that signed half of the money. And
14 the other half of the money is signed by the fiscal
15 officer of the College of Agriculture, which is very
16 weird, where that is coming from. And that money goes
17 between 50- and \$60,000 a month from the College of
18 Agriculture. And that has been going for the last four
19 years, Your Honor.

20 And there is no federal fund or state funds for
21 the College of Agriculture for any legal defense
22 whatsoever based on my research up to this point.

23 MR. SCHWEICKERT: Here, Your Honor, we don't have
24 absolute proof of the details of several of these

1 | allegations, but I think we've supplied you with
2 | reasonable evidence or evidence that could support a
3 | reasonable inference that crimes have been committed, the
4 | crimes that we've alleged here before you.

5 | THE COURT: I do need you to figure out where the
6 | evidence of the monies that are being spent for defense of
7 | legal claims is coming out of the department of
8 | agriculture.

9 | MR. SCHWEICKERT: We have not, Your Honor -- we
10 | have -- oh, I'm sorry. The evidence that Dr. Hussein has
11 | just referred to.

12 | THE COURT: Yes. He's going to look for it and
13 | give it to you.

14 | MR. SCHWEICKERT: Okay. Thank you.

15 | THE COURT: So I do need that. Okay.

16 | Anything further?

17 | MR. SCHWEICKERT: I think we're finished for the
18 | morning session. Thank you, Your Honor.

19 | THE COURT: Are you done, Dr. Hussein?

20 | THE WITNESS: Thank you, Your Honor.

21 | THE COURT: All right. Thank you.

22 | Just a minute. I'm going check with the court
23 | clerk about what time we're going to start.

24 | (A discussion was held off the record.)

1 THE COURT: Okay. We'll start back up at
2 1:00 o'clock. Court's in recess.

3 (The lunch recess was taken.)

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1 STATE OF NEVADA,.)
2)
3 COUNTY OF WASHOE.)

4 I, BECKY VAN AUKEN, Certified Shorthand
5 Reporter of the Second Judicial District Court of the
6 State of Nevada, in and for the County of Washoe, do
7 hereby certify:

8 That I was present in Department No. 4 of the
9 above-entitled Court and took stenotype notes of the
10 proceedings entitled herein, and thereafter transcribed
11 the same into typewriting as herein appears;

12 That the foregoing transcript is a full, true
13 and correct transcription of my stenotype notes of said
14 proceedings.

15 DATED: At Reno, Nevada, 09/27/2009.

16
17 /s/Becky Van Auken
18 BECKY VAN AUKEN, CCR No. 418, RPR, RMR