

1 Code No. 4185

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5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF WASHOE

7 THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

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Case No. CV08-01258

11 )

Dept. No. 4

IN RE: RICHARD A.

SCHWEICKERT, LANE GROW AND

TERRI PATRAW

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16 TRANSCRIPT OF PROCEEDINGS

17 Hearing on Petition

18 P.M. SESSION

19 Friday, September 18, 2009

20 RENO, NEVADA

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24 Reported By: DENISE PHIPPS, CCR No. 234

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APPEARANCES:

For the Petitioners:

IN PROPRIA PERSONA

I N D E X

WITNESSES:

DIRECT

ERIC HAGUE

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RICHARD SCHWEICKERT

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EXHIBITS:

MARKED:

ADMITTED:

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1 RENO, NEVADA, FRIDAY, SEPTEMBER 18, 2009, 1:45 P.M.

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3  
4 THE COURT: You've lost a little time today.  
5 There was a delegation of legislators and judges from  
6 Africa here that I had to host a lunch. So that's why you  
7 lost a little bit of time.

8 So we're trying to figure out if I can take a  
9 recess from 4:00 to 5:00 and deal with my chief justice  
10 issue and then come back and give you another hour from  
11 5:00 to 6:00, but we're trying to figure out if we have a  
12 court reporter. So we're going to make every effort to do  
13 that for you. If we can.

14 I know you lost a little time today. But don't  
15 count on it. So move as quick as you can in case we can't  
16 get it. That's what I'm trying to say.

17 MR. SCHWEICKERT: Thank you, Your Honor.

18 THE COURT: Go ahead.

19 MR. SCHWEICKERT: First of all, Your Honor, we'd  
20 like to offer for admission two additional exhibits. I  
21 believe that they were just given to your clerk. I think  
22 they're Exhibits 20 and 21.

23 THE COURT: Okay.

24 MR. SCHWEICKERT: So Exhibit 20 is the PowerPoint

1 presentation that we've been working off of today and for  
2 this afternoon still to come. And 21 is some documents  
3 relating to some of the testimony that Mr. Grow gave this  
4 morning and yesterday and that we'll hear from shortly  
5 after lunch.

6 By the way, Your Honor, we have a witness that we  
7 were very, very fortunate to get who can only be here for  
8 a few moments, and if you'll permit us, we'd like to have  
9 this witness precede the remaining item on Dr. Hussein's  
10 testimony.

11 THE COURT: That's fine with me. So you want me  
12 to consider -- we'll admit 20 and 21 for purposes of the  
13 hearing.

14 (Exhibit Nos. 20 & 21 admitted.)

15 THE COURT: Go ahead and call your witness out of  
16 order.

17 MR. SCHWEICKERT: We'd like to call officer Eric  
18 Hague to the stand.

19 THE COURT: Please come forward, face the court  
20 clerk and be sworn.

21 (The witness was sworn.)

22 MR. SCHWEICKERT: In addition, Your Honor,  
23 Mr. Grow is going to ask the questions of Officer Hague.

24 THE COURT: Go ahead.

1 ERIC HAGUE

2 Called as a witness on behalf of Petitioners,  
3 being duly sworn,  
4 testified as follows:  
5

6 DIRECT EXAMINATION

7 BY MR. GROW:

8 Q Officer Hague, can you tell the Court your full  
9 name and spell it.

10 A Eric Hague, H-a-g-u-e.

11 Q And, Mr. Hague, kind of explain to us real  
12 quickly what your law enforcement experience is.

13 A I started in 2003, in January. I worked for the  
14 Department of Prisons for about six months, then I was  
15 hired on with the UNR police department in the summer of  
16 2003. I worked there until March of 2006 at which point I  
17 was hired at Reno Police, and I've been there ever since.

18 Q Can I refer you to the Book No. 9 there.

19 THE COURT: It's right in front of you, I think.

20 BY MR. GROW:

21 Q Bates number is 4659 in it.

22 Does that document look familiar to you?

23 A Yes, sir.

24 Q And what is that document?

1           A     It's an oath of office for the UNR police  
2 department.

3           Q     Did you sign a similar document like this when  
4 you came to work for the university?

5           A     Yes, I did.

6           Q     Are you aware of the interlocal agreement with  
7 the university police department and the Reno Police  
8 Department and the Highway Patrol?

9           A     Yes.

10          Q     What is that interlocal agreement?  What does  
11 that give to the UNR police officers?

12          A     To the best of my recollection, the interlocal  
13 agreement -- the main points were it gave us jurisdiction  
14 over the fraternities and sororities, jurisdiction anytime  
15 we were traveling to or from a UNR property, which there  
16 are several properties all around the city and state.  I  
17 believe some even in California.

18          Q     Was that authority limited when you were  
19 traveling to and from properties?  Was it limited to a  
20 specific area of enforcement?

21          A     The only limitations -- the one that sticks in my  
22 mind was for driving, and it had -- I don't remember the  
23 exact wording, something along the lines of dangerous  
24 driving was to be upheld.  But I don't remember any

1 specific limitations on it.

2 Q Anything that had to do with life, limb and  
3 property?

4 A Yes, sir, that's along those lines. It was -- I  
5 don't remember any specific limitations.

6 Q You didn't have authority to stop a jaywalker,  
7 unless they were causing a traffic problem or safety  
8 issue?

9 A That would be correct, yes, sir.

10 Q During your course of employment with UNRPD, were  
11 you ever ordered to stop performing any of the duties of a  
12 police officer?

13 A Yes, I was.

14 Q And what were those duties?

15 A I was told to cut back on DUIs because they were  
16 taking too long.

17 Q And who told you that?

18 A It was Lieutenant Rinne.

19 Q And the reason was because they were taking too  
20 long?

21 A Yes, sir, that was the reason I was given.

22 Q It wasn't that you didn't -- you had other things  
23 to do or anything?

24 A Well, the "take too long" was in reference to

1 there were other things we could be doing on the campus  
2 during that time, and the time taken to do the DUIs took  
3 too long.

4 And so there were other things on campus that  
5 needed to be tended to, the buildings, and specifically  
6 several times to me it was pointed out burglaries that  
7 occurred. But I think it was only one time that a  
8 burglary had occurred, that I can recall.

9 Q How did you feel about being ordered not to  
10 perform your duties as a police officer?

11 A When I was told to cut back on the DUIs, I  
12 specifically told Lieutenant Rinne I considered that an  
13 immoral, unethical order and I wasn't going to follow it.

14 Q Was there any retaliation or anything to you for  
15 not following that directive?

16 A Yes, sir, I felt I was retaliated against in  
17 several ways.

18 Q Can you give us a few.

19 A A couple of them -- the one that sticks to me the  
20 most is I was put on to medical leave for a supposed heart  
21 condition.

22 I don't know if everybody knows, but police  
23 officers have to have an annual physical that they go to,  
24 and part of it is having an EKG done to check for any

1 heart conditions.

2 And I had my annual physical. And several months  
3 later I was told that there was a problem with my EKG when  
4 I had already been cleared for several months. I can't  
5 even remember the time frame. But it was at least two or  
6 three months.

7 And I was told that there was a problem with my  
8 EKG. And I was put on to medical leave, medical  
9 administrative leave I think is what they called it. And  
10 I was told to report to specialty health, which was for  
11 the wellness program that was there.

12 Before I even got a chance to report to specialty  
13 health, I called Dr. Healey, who was the one who had done  
14 my annual physical, and asked him if there was anything  
15 wrong with my EKG. He said no.

16 I called my own personal doctor and I made an  
17 appointment. I went and saw her. She looked at my EKG  
18 from my annual physical and she did a new EKG and said  
19 there was no problem with either one of them.

20 And then when I went to specialty health, I  
21 presented them with that and they said they wanted to do  
22 another EKG. They did another EKG and that one also  
23 didn't have any problems.

24 They said that they wanted me to do a chemical

1 stress test before I could be released to go back to duty.  
2 And I told them that I didn't want to do a chemical stress  
3 test. And they wouldn't release me to go back to duty.

4 They also would never tell me where -- there was  
5 some e-mail that was mentioned, but they would never tell  
6 me where the e-mail came from that was the reason that I  
7 was put onto the medical administrative leave.

8 I also was moved from graveyard shift, which was  
9 the shift I bid. Even with openings on other shifts, I  
10 picked graveyard shift. And I was moved off of graveyard  
11 shift two consecutive bids in what I felt was direct  
12 retaliation for making too many DUI arrests.

13 I actually grieved the issue. During the  
14 grievance, the response from the chief at UNR, Chief  
15 Garcia, it specifically said in his response that I had --  
16 it's not exact words, but I had done too many DUIs. He  
17 listed a certain number of DUIs over a certain day period  
18 and was listing that as the reason that I was moved back  
19 to swing shift from graveyard.

20 Q Are you aware of anybody else that was retaliated  
21 against for the DUI incidence?

22 A I don't have any firsthand knowledge of anything.  
23 I do have probably secondhand or hearsay knowledge, but I  
24 can't say anything firsthand.

1 Q Are you aware of any alcohol violations by UNR  
2 personnel, UNRPD personnel?

3 A There was one sergeant at the time when I worked  
4 there, he was arrested for a DUI. And that's -- the  
5 alcohol violation is the only one I know of, is Sergeant  
6 Youngflesh.

7 Q What ultimately happened with that?

8 A He was demoted and he was an officer for I think  
9 six months, then he was repromoted to sergeant, and then  
10 after I left he was promoted to lieutenant.

11 Q Have you ever had any kind of an order like that  
12 working for another police agency?

13 A No, sir.

14 Q Have you ever been instructed to show any kind of  
15 favoritism to the athletics department?

16 A I cited three coaches while I was there: one was  
17 a baseball coach and two were football coaches. I believe  
18 they were all assistants in some way.

19 When I cited the baseball coach, I was approached  
20 by another officer at the same time the deputy chief was  
21 in the room and the officer said to me, Did you hear what  
22 he said? Referring to the deputy chief. And I hadn't  
23 heard anything that he had said.

24 And the officer told me, He told you you

1 shouldn't have done that. And that was one -- referring  
2 to the citing the coach.

3 And then when I cited two -- two football coaches  
4 were actually pretty close together. I think they were  
5 within two weeks or so. I was approached by my supervisor  
6 and I was asked -- it was told that -- this is not coming  
7 from me, it's coming from the deputy chief -- but I was  
8 told that, Do you know what political suicide is? That's  
9 what I was asked to recognize.

10 Q I'm going to show you a document.

11 MR. GROW: This is Exhibit 21, Your Honor, that  
12 was just admitted.

13 BY MR. GROW:

14 Q Can you look at that real close. Does that look  
15 familiar to you?

16 A Yes, sir.

17 Q What is that document?

18 A This is your copy, but I received the same thing  
19 for a notice of an IA investigation done by Reno IA when I  
20 worked for UNR.

21 Q What time frame was this investigation done in,  
22 in relation to the DUI arrests and the retaliation?

23 A It was in the same time frame.

24 Q Kind of explain to us a little bit what that was

1 all about.

2 A This IA investigation was, I believe, from  
3 something early on. I'll have to explain from the  
4 beginning.

5 I don't remember the exact time frame, but there  
6 was at one point when I was fairly new at UNR, maybe 2004,  
7 end of 2003, 2004, where there was a domestic battery that  
8 occurred at one of the fraternities. At UNR we don't get  
9 a lot of domestic battery experience. I think I worked  
10 three or four of them in the three years that I was there.

11 And we were able to determine it was a boyfriend  
12 of a girl who was beat up at a fraternity, and we were  
13 able to determine who he was. We went to go check for him  
14 at his residence and we couldn't find him.

15 And our supervisor at the time told us, per the  
16 deputy chief, You're not to look for this guy anymore. He  
17 said, But I don't care if you guys keep going and looking  
18 for him. And I don't remember the exact words because it  
19 has been a long time.

20 But the way it was presented to us, it seemed  
21 that the deputy chief or the sergeant who was my sergeant  
22 at the time knew where we could find this guy but wouldn't  
23 tell us where he was. And the specific reason was because  
24 the guy was a hunter and couldn't lose his guns.

1           And as far as I know, I mean, I submitted the  
2 case and I never heard anything about it again. So I  
3 don't know what happened with the case after I submitted  
4 it.

5           Q     Do you know if that person had any relationship  
6 with anybody in the UNR police department?

7           A     The only one -- as I said, it's not firsthand  
8 knowledge; came to me through the sergeant -- was that it  
9 was the father of the guy that we were looking for was a  
10 friend with the deputy chief, Renwick.

11          Q     That's the case that initiated this internal  
12 investigation?

13          A     Yes, sir.

14          Q     What happened with the internal investigation?  
15 What was the allegations in the investigation?

16          A     The allegations were using rumor to initiate  
17 investigation of an officer and not reporting the  
18 wrongdoing to another officer in a timely manner. And my  
19 investigation -- I can't remember if it was exonerated or  
20 unfounded. But it was basically dismissed is what it is.  
21 I can't remember which label they put on it.

22               MR. GROW: That's all I have for this witness.

23               THE COURT: You may step down.

24               MR. SCHWEICKERT: Now, Your Honor, we'd like to

1 return to Dr. Hussein's testimony. So I'd like to ask  
2 Dr. Hussein to get back up on the stand.

3 THE COURT: Dr. Hussein, you're still under oath.  
4 Go ahead and retake the stand.

5 MR. SCHWEICKERT: We have to apologize, Your  
6 Honor. Before lunch Dr. Hussein and I seemed to be  
7 working on two different pages. So there was some  
8 misunderstanding between him and me, and I take full blame  
9 for that.

10 At the end of Dr. Hussein's testimony this  
11 morning, he pointed out that his consolidated cases, after  
12 having been presented to the federal judge, were thrown  
13 out.

14  
15 **DIRECT EXAMINATION CONTINUED**

16 BY MR. SCHWEICKERT:

17 Q So my question to you, Dr. Hussein: Isn't it  
18 true that you initially won that case on summary judgment?

19 A The summary judgment motions were denied by Judge  
20 Mahan at first, yes.

21 Q So how did it happen, then, that your case which  
22 is validated and is supposed to be going to trial is then  
23 reversed after that?

24 A They requested reconsideration. The defense

1 requested reconsideration. Judge Mahan allowed that  
2 option or that remedy to them, request, and then he  
3 allowed supplemental briefing.

4 And their supplemental briefing, they submitted  
5 false evidence to Judge Mahan. And in that false  
6 evidence --

7 Q Let me stop you there, then. We'll go into that.

8 MR. SCHWEICKERT: So based on what Dr. Hussein  
9 was describing this morning, to defeat First Amendment  
10 cases there are two different ways of attacking those  
11 claims.

12 One of them has to do with the motivating factor,  
13 and he described for the Court this morning how they've  
14 used false evidence to defeat that side of the First  
15 Amendment claim, but there's a second one that has come  
16 into the federal court since about 2006, and that's the  
17 Garcetti case, which I'm sure Your Honor is very well  
18 aware of.

19 The most important thing here, I think, is to  
20 point out that all that UNR has to do to defeat his First  
21 Amendment claim is to show that his claim is not protected  
22 speech, it is part of his job duty.

23 BY MR. SCHWEICKERT:

24 Q Okay. So now, Dr. Hussein, show us what they did

1 to convince the judge that it was not protected speech.

2 A There are many examples, but I don't want to talk  
3 about -- I want to talk only about one example, which are  
4 addressed here for the Court as evidence, and that's  
5 related to the First Amendment with regard to the animal  
6 abuse.

7 So to make sure that the judge gets the  
8 perception that my speech was not protected, it has to be  
9 part of my job duties. Official job duties.

10 So what they did is, the -- there is an exhibit  
11 which was submitted into evidence, and that exhibit is a  
12 book, actually, but they submitted just a small portion of  
13 it, which is about 10 or 15 pages. And it's here in the  
14 evidence, Your Honor.

15 Let me refer the Court first to that issue. The  
16 page numbers -- the page numbers start from 3815 to 3844.  
17 Again, it's a similar type: it's about a 30-page document  
18 with all the exhibits attached to it.

19 Q Could you tell us where -- are we in Volume 7?  
20 3815?

21 A Yes. It's the booklet, Your Honor, or a copy of  
22 the 10, 15 pages.

23 Q It's the next volume.

24 A No, it's in the same volume. Volume 8.

1 Q I'm sorry, I'm not hearing your numbers.

2 A I said 3815 to 3844.

3 Your Honor, if you go to page No. 4024. Volume  
4 8, Your Honor. And the page I'm referring to is 4025.

5 THE COURT: What do you want me to look at  
6 between 3815 and 3844?

7 THE WITNESS: Oh, that's a different number.

8 THE COURT: That's the number you gave me in  
9 Volume 8, but now you're telling me -- what am I supposed  
10 to do about 3815 and 3844 before we go to another page?

11 THE WITNESS: I'm sorry. This is an exhibit  
12 which is coming after that number.

13 THE COURT: So there's nothing there you want me  
14 to look at?

15 THE WITNESS: I'd like Your Honor to look at page  
16 4025 in Volume 8.

17 THE COURT: Okay.

18 THE WITNESS: I'm sorry.

19 THE COURT: That's okay.

20 THE WITNESS: I thought I covered everything.  
21 But I did cover only the documents.

22 THE COURT: I'm there.

23 THE WITNESS: This is a guide. It says "Guide  
24 For the Care and Use of Agricultural Animals in

1 Agricultural Research and Teaching."

2 So this guide is published by a federation called  
3 the Federation of Animal Societies -- of Animal  
4 Sciences -- of Animal Science Societies. This is an  
5 international/national association located in Illinois.

6 So what happened here is the defense team  
7 identified these documents early on as what it is, which  
8 is a copy of a document, of a book. It's a big book,  
9 which is a published book, and they labeled what it is.

10 But in the supplemental briefing ordered by Judge  
11 Mahan, when they asked for reconsideration, they described  
12 it as the UNR guide. And their argument in that  
13 supplement here is this is the UNR guide -- and it didn't  
14 stop there; it really got worse -- I can't remember the  
15 exact wording, but it's authored by the UNR Animal Care  
16 and Use Committee.

17 The UNR Animal Care and Use Committee are three  
18 faculty in my department. They never produced a book in  
19 their lifetime. But they labeled this publication as UNR  
20 guide published or prepared by the UNR Animal Care and Use  
21 Committee, and therefore that guide is the guiding copy or  
22 document to Dr. Hussein and Dr. Hussein had the obligation  
23 to abide by it.

24 And actually they went even further. They said

1 this guide is asking me that I report animal abuse as part  
2 of my job duty. And they used the word "must" to Judge  
3 Mahan in their argument. And unfortunately Judge Mahan,  
4 during the oral briefing, he insisted -- actually he said  
5 this is the animal care guide, the UNR animal care guide  
6 and he has to abide by it and therefore he is not acting  
7 as a citizen. So that's their argument.

8 The beauty here, Your Honor -- also there's an  
9 exhibit here. I went through the entire book and I got  
10 every statement saying the word "must." There are 82  
11 statements in the whole entire book. None of those 82  
12 statements say anything about any faculty or any citizen  
13 or anybody to report animal abuse. That doesn't exist  
14 there.

15 So the falsehoods went into five different  
16 categories. I just mentioned number one, which is they  
17 called a non-UNR publication a UNR publication. It's  
18 never been authored by anybody at UNR or UNR committee.  
19 And they said it's authored by the UNR committee.

20 And then they said that I have the obligation as  
21 part of my job duty to report animal abuse, which they  
22 tried to fire me for. So that's -- obviously, if they are  
23 trying to fire you for something, it's all part of your  
24 job duty.

1           And the other thing, which it was very  
2 outrageous, is that they cited testimony from a person who  
3 is in the Animal Care Committee --

4 BY MR. SCHWEICKERT:

5           Q     I want to stop you there.

6           A     Just a second.

7           Q     I need to stop you there.

8           A     Just a second.

9           THE COURT: Wait. Wait. He's asking the  
10 questions. You have to answer them.

11 BY MR. SCHWEICKERT:

12           Q     Dr. Hussein, I know there's a lot more to tell  
13 here, but I think you've hit the truly critical point  
14 here. But you didn't explain who did this.

15           A     The folks who did that are the lawyers from  
16 McDonald Carano Wilson, and those are the lawyers who were  
17 hired by the UNR to defend the defendants and those two  
18 counsel indicated in the case.

19           Q     Who?

20           A     Number one is Mr. Bill Magrath -- I believe he's  
21 sitting in the room -- and number two is Ms. Leigh  
22 Goddard, and number three is Ms. Debbie Soshtech  
23 (phonetic). And Ms. Debbie Soshtech is the one who argued  
24 these falsehoods in front of Judge Mahan in his courtroom.

1 Q You established that they used this falsehood in  
2 reconsideration in summary judgment and that was a  
3 successful approach to defeat your consolidated cases; is  
4 that right?

5 A Correct.

6 Q So then how is this result employed after that?

7 A I don't understand you, I'm sorry.

8 Q How did they make use of Judge Mahan's order  
9 based on these falsehoods?

10 A Okay. Judge Mahan asked the lawyer from McDonald  
11 Carano Wilson to prepare a proposed order. So she  
12 prepared a proposed order or they prepared a proposed  
13 order and they included all the falsehoods I just stated  
14 to this Honorable Court into the order. And Judge Mahan  
15 signed the order and it became a final order.

16 Then Mr. Kent Robison used that order with the  
17 falsehoods in it emphasizing those falsehoods, or whatever  
18 the outcome of it, and said that it wasn't part of his --  
19 it was part of his job duty there so it better be part of  
20 his job duty here.

21 And that's in another case, and that's -- I call  
22 it -- the case number is 05-381; that's the case before  
23 Judge Pro.

24 So he used the falsehoods or order that was

1 produced by the falsehood to provide them preclusion, and  
2 therefore another federal case was dismissed based on the  
3 same exact falsehoods.

4 Q I think that covers the important item on that  
5 one.

6 A There's one other thing. Those 20 pages which  
7 are included here, the only document -- they're going in  
8 sequence exactly as the book goes. The only page which  
9 was taken out of that sequence was the copyright page.

10 THE COURT: Where is that?

11 THE WITNESS: I have a real copy of the same  
12 section, so I need to find it for the Court quickly.

13 THE COURT: Is it 4026?

14 THE WITNESS: That's the one missing the  
15 copyright page. One of these is the same exact thing with  
16 the copyright page included.

17 THE COURT: 4026 was not given to Judge Mahan; is  
18 that what you're saying?

19 THE WITNESS: I can't remember the exact number.

20 THE COURT: Look at it and see.

21 THE WITNESS: The number, when they labeled, when  
22 they included it, there was no number missing. So the  
23 page was taken before they put the Bates stamp on it to  
24 Judge Mahan. So the copyright page was taken before they

1 put the Bates stamp.

2 THE COURT: I understand what you're saying, but  
3 you've given me an exhibit that starts on page 4025.  
4 Please look at that page. The next page is marked 4026.  
5 Is that the page you think was deleted from Judge Mahan's  
6 set?

7 THE WITNESS: Yeah, I can't remember. It's  
8 written here, Your Honor. I don't want to say something  
9 I'm not sure of. But it's written here exactly. I think  
10 this one has Federation of Animal Science, so maybe that's  
11 the one which was taken off. Because there are two copies  
12 in here. One of them --

13 THE COURT: Where is the other copy?

14 THE WITNESS: I'm trying to find it here. I'm  
15 sorry. The original copy is not here. That's in their  
16 motion for summary judgment, because this was given to the  
17 Court. So this is the original copy from the book. But  
18 the copy they gave to Judge Mahan did not include page  
19 4026. You're correct, Your Honor.

20 THE COURT: Thank you.

21 BY MR. SCHWEICKERT:

22 Q Thank you, Dr. Hussein.

23 There's one other matter I'd like you to explain  
24 as briefly as possible, and this has to do with our

1 contention that taxpayer dollars are being used illegally  
2 to support, to pay for the legal defense of UNR officials  
3 who were sued in their individual capacity for committing  
4 crimes against the state and the federal government.

5 MR. SCHWEICKERT: This has to do with some  
6 documents, and I'm going to ask Dr. Hussein to tell me  
7 where they are, having to do with NRS 39.0338 and 41.0339.

8 BY MR. SCHWEICKERT:

9 Q Do you have that document in front of you,  
10 Dr. Hussein?

11 A I do.

12 Q What are the numbers of that?

13 A The number, Your Honor, for that section are 1542  
14 to 1618.

15 Q We're now in Volume 3, if I'm not mistaken.  
16 You've asked us to look at 1542 -- 1542 is a blank page,  
17 so it must be the page after that. Is that right?

18 A That's correct. The basis for that, Your Honor,  
19 is really we believe or we contend -- our contention is I  
20 did that research with Dr. Schweickert and I put it  
21 together. There is a series of NRS I believe they have  
22 violated.

23 THE COURT: So you're referring to 1543 to 1556;  
24 this is your argument of why they violated the law?

1 THE WITNESS: That's correct, Your Honor. And  
2 there is a series of NRS and how they were violated.

3 The basis for it is based on very simple order by  
4 Department 9. The university saw that order and they  
5 received it identifying the Nevada System of Higher  
6 Education as a State entity. So they saw that and they  
7 received that from the Court.

8 So based on that identification of the NSHE, or  
9 Nevada System of Higher Education, all these violations --  
10 they are in violation with regard to spending taxpayers'  
11 money from the Nevada attorney general on any defendant,  
12 any one of the UNR cases in the past God knows how many  
13 years, Your Honor. Maybe four or five. Depends on the  
14 recent cases.

15 BY MR. SCHWEICKERT:

16 Q Okay. Thank you, Dr. Hussein. I believe we've  
17 covered your testimony.

18 MR. SCHWEICKERT: And I guess that's all the  
19 questions we have for Dr. Hussein.

20 Oh, I'm sorry, there is one question I was  
21 reminded of.

22 BY MR. SCHWEICKERT:

23 Q Earlier in your testimony you referred the Court  
24 to the billing records provided to you by Robison,

1 Attorney Robison, where you were expected to pay for the  
2 legal costs in a particular case.

3 Do you recall that?

4 A Correct.

5 Q You showed the Court where those billing records  
6 are?

7 A Correct.

8 Q Is it true that in those billing records you  
9 found a record that was some connection to the U.S.  
10 attorney?

11 A If you give me a second, I'll grab it.

12 Q I'm not sure we need to direct her to the exact  
13 place, but I think in the interests of time here, could  
14 you explain what it is in that billing record that is a  
15 matter of concern.

16 A Okay. In the same section, Your Honor, when we  
17 referred earlier, the 3361 to 3390, in the same section I  
18 referred to different violations with regard to billing  
19 issues.

20 One of those violations was an entry by  
21 Mr. Robison indicating -- stating that discussion of  
22 communication with the U.S. attorney regarding complaints  
23 of perjury, subornation of perjury, I believe, and  
24 obstruction of justice.

1           The seriousness of this matter, first of all,  
2 it's not related to litigation. And, number two, four  
3 citizens flew down to Las Vegas to meet with the U.S.  
4 attorney, and that's myself, Dr. Schweickert, Ms. Patraw  
5 and Lane Grow, and we tried to provide them with our  
6 complaint about what we believe are further violations.

7           They did not want to meet with us. That's number  
8 one. And it was very, very disturbing that you're not  
9 welcome here, that simple. The way we were received. And  
10 we were promised that with a person -- I believe his name  
11 is Russell Mirch, Russell something.

12           Q     Marsh.

13           A     He said he's in charge of the criminal division  
14 and he promised all of us that he will meet with us in  
15 Reno with a U.S. Attorney Brower in the month of May.

16           We were there on May 1st. And the entry which  
17 Mr. Robison indicated was on May, I believe, 8 or 9. It's  
18 stated in the document before the Court. So practically  
19 to date we have never heard from these folks.

20           So practically the U.S. attorney said -- didn't  
21 contact us and they instead contacted the people we are  
22 alleging they have committed some serious crimes.

23           So that really puts a serious issue here with  
24 regard to the conflict of interest between the U.S.

1 Attorney Office and the State of Nevada and our issues.

2 I may add one more thing quickly. That explains  
3 a conversation -- three conversations, actually, between  
4 me and the second-in-command in the FBI. Because the FBI  
5 was very interested to investigate our issues, and he  
6 believed that we have some serious issues.

7 And on two occasions or three occasions he  
8 mentioned to me --

9 Q Could you name who this is?

10 A His name is Special Agent -- he's higher than a  
11 special agent. Bill Warner. That's his name, Your Honor.

12 And he indicated to me that he tried everything  
13 he can but the U.S. attorney is not willing to do it and  
14 he's not going to invest all of these hundreds and God  
15 knows how much money and resources he has to spend, that's  
16 a huge investigation, and then take whatever his findings  
17 and give it to the U.S. attorney.

18 And he said, They can say at that time "I'm not  
19 going to do it." So, for me, before I invest all of these  
20 resources, I need a commitment from them. And he said,  
21 I'm sorry, Dr. Hussein, I tried, but I could not get that  
22 commitment from them.

23 So that's another side of the conflict of  
24 interest with that office with regard to addressing

1 complaint of citizens regarding public corruption.

2 Q Thank you, Dr. Hussein.

3 A You are welcome.

4 MS. PATRAW: I'm going to call him.

5 THE COURT: That's fine.

6 MS. PATRAW: We'd like to call Richard  
7 Schweickert to the stand.

8 THE COURT: Face the court clerk and be sworn.

9 (The witness was sworn.)

10  
11  
12 RICHARD SCHWEICKERT

13 Called as a witness on behalf of Petitioners,  
14 being duly sworn,  
15 testified as follows:

16  
17 DIRECT EXAMINATION

18 BY MS. PATRAW:

19 Q State your name and spell it.

20 A Richard Schweickert, S-c-h-w-e-i-c-k-e-r-t.

21 Q Are you currently working at UNR, and, if so,  
22 what capacity?

23 A I'm a professor of geology.

24 Q Do you have anything to gain by your testimony

1 here today?

2 A I've been a professor of geology at UNR for 25  
3 years, and it may well be ending my career there to be  
4 testifying today. I have nothing to gain and everything  
5 to lose.

6 MS. PATRAW: What we're going to do, Your Honor,  
7 in the interests of time, since he's the expert on his  
8 testimony and the slides here, he's going to kind of  
9 address the Court from the stand, if you're okay with  
10 that.

11 THE COURT: I am.

12 Just give me your testimony, not your argument.

13 THE WITNESS: Thank you, Your Honor. I'll try to  
14 do that.

15 So I would like to direct your attention to  
16 Volume 4, pages starting 1650, running from there to 1723.

17 This is a document that I -- this starts out as a  
18 document that I presented to President Glick on  
19 January 3rd of 2008. And copies of this were sent to my  
20 college dean, Jeff Thompson; my department chair, Gina  
21 Tempel; Mr. Adam Garcia, the director of UNR police  
22 services; and Ms. Gena Jones, the assistant vice president  
23 of the UNR office of human resources.

24 I came to them because I had discovered evidence

1 of a very significant act of fraud and forgery committed  
2 by a member of my own faculty in my department.

3 How this came about was a respected colleague of  
4 mine, a very distinguished professor of geology at the  
5 University of Southern California, and I were at a  
6 conference in late 2007. And I asked him some questions  
7 about some crazy signatures that I had seen on a  
8 dissertation of one of his students.

9 He knew immediately what I was talking about. So  
10 he launched into a big explanation of what happened, how  
11 this student had failed to get the approval of her  
12 committee and months later, after no contact with her, he  
13 found out after the fact that there was a signed and  
14 approved dissertation on file at USC.

15 And he knew he never signed it. And he went back  
16 and looked at it, and clearly that wasn't his signature.  
17 In fact, it was the signature of somebody else, of another  
18 member of the committee.

19 So this distinguished faculty member, Dr. Greg  
20 Davis, told me this. And I thought it was important. So  
21 I asked him, Would you please send me the letter laying  
22 out the facts. So I had those facts directly from him.

23 And then I thought, well, maybe there's some  
24 possible mistake here. So I traveled to USC at my own

1 expense and I went to the library and I got the copy of  
2 the dissertation. And I felt I had to compare the  
3 signatures on a series of copies. I compared a whole  
4 range of signatures of Dr. Davis on a series of  
5 dissertations all written at the same time frame.

6 And I also compared it to signatures of another  
7 faculty member, Dr. Osborne. And it was clear enough to  
8 me that the signatures on this person's dissertation did  
9 not match any of those in that time frame.

10 The person in question is -- is named Patricia  
11 Cashman. So I had that much evidence, and I had some  
12 other evidence from detailed examination of the  
13 dissertations and looking at the graduate school rules at  
14 USC. And this is the information I presented to President  
15 Glick on January 3rd.

16 I didn't hear anything for about a month. And  
17 then I heard from John Burnett, the director of  
18 affirmative action at UNR, that there's a complaint  
19 against me filed for discrimination and retaliation and  
20 harassment by Pat Cashman.

21 Never have heard from Glick on this ever.

22 BY MS. PATRAW:

23 Q Will you clarify to the Court that the person  
24 you're talking about is Ms. Cashman.

1           A     I am talking about Ms. Cashman, yes.

2                     So without UNR doing anything about this  
3 complaint in the way of investigating it, they decided to  
4 ignore the evidence I presented them with and they decided  
5 to investigate me because she was complaining that I was  
6 retaliating against her.

7                     So this document has -- this starts out with the  
8 information that I presented in my letter to President  
9 Glick.

10                    And then starting on about -- yes, on about page  
11 1703, there's a January 25th complaint or letter from  
12 Dr. Burnett to me telling me that they've got a complaint  
13 alleging gender discrimination and retaliation.

14                    And then there are some correspondence going back  
15 and forth between us, some notes of a meeting that I had  
16 with Dr. Burnett. There's a whole series of things going  
17 on here.

18                    I had reported this to UNRPD and I hadn't heard  
19 anything about that from them. The day I spoke to  
20 Dr. Burnett for the first time was I think on  
21 February 13th, if I'm not mistaken. Let me look at this.

22                    Yes, it's on page 1707. So I met with  
23 Dr. Burnett in the afternoon. My wife was there as a  
24 witness. Dr. Hussein was a witness. And we talked until

1 about 4:20 in the afternoon. And I told Dr. Burnett, I  
2 can't figure out what's going on here; UNRPD has never  
3 gotten back to me.

4 Well, that same day, about three hours later, I  
5 get some notification from UNRPD: Well, we've got your  
6 complaint but we forwarded it to the Attorney General's  
7 Office.

8 So I asked them: Well, where is the complaint,  
9 where are the letters? And it took them I think roughly  
10 two more weeks to figure out where my complaint was.

11 So it seemed clear to me that they were about to  
12 do nothing until I brought it to the attention of Burnett  
13 that UNRPD isn't doing their job.

14 Well, there's a lot more to this story. And, in  
15 particular, while the investigation of me is going on, I  
16 decided I needed to get some more information to be sure  
17 that my allegations are strong.

18 So I acquired additional evidence. There was  
19 another trip to USC to get more evidence from looking at  
20 these dissertations and comparing them all, and I also got  
21 an independent forensic report examining the questioned  
22 signatures.

23 And that information is in here. It is in the  
24 page range between 4284 and 4337.

1 Q That's Volume 8.

2 A So in Exhibit 2, there is a report by Allied  
3 Forensic Services on the questioned signatures. That's  
4 dated 4-6-08.

5 I also made an effort to contact one other living  
6 member of the dissertation committee to see if he had any  
7 recollection of it. This was Dr. Don Palmer, who is now  
8 at Penn State University. I contacted him on April 24th  
9 of '08, and so that's on page 4291.

10 I know you're going to tell me this is hearsay,  
11 but I have a detailed transcript of my notes on that phone  
12 conversation. And he verified everything that Dr. Davis  
13 had told me.

14 And he told me one other thing. He said, This is  
15 the worst academic fraud issue I've had in my entire  
16 career. He said, In fact, it changed the way I do  
17 business in the last 30 years.

18 So armed with the forensic analysis, armed with  
19 the comments, not only of Davis and Palmer, two members of  
20 the dissertation committee, I did one more thing. I did  
21 an extremely detailed analysis of my own comparing with  
22 high-resolution imaging the signatures on all the  
23 documents. And I found that this is not just a case of  
24 writing some signatures in, but the entire formatted

1 signature page of the dissertation is a complete fraud.

2 I know that because it's not formatted correctly  
3 for a Ph.D. and it's not formatted correctly for a  
4 master's thesis; in fact, it's some kind of a hybrid in  
5 between and it doesn't match anything in the Ph.D.  
6 category and it doesn't match anything in the master's  
7 category.

8 So the bottom line is I think this is 100 percent  
9 proven that this was fraud and forgery. So what did UNR  
10 do about this? Well, they knew about most of this  
11 evidence because I told them about it along the way. They  
12 didn't know all of it. But there was certainly enough in  
13 my original submission to make the point.

14 Instead, they investigated me and after a couple  
15 of months I think I was pronounced -- let me see if I can  
16 remember the phrasing. It's in here somewhere. I think  
17 it was said that I was found to have made false statements  
18 and to have harassed Dr. Cashman.

19 Since that time, in some documents I haven't  
20 included in here, I decided it was important to challenge  
21 that false and illegal investigation of me. So I fired  
22 back my own affirmative action complaint charging them  
23 with false investigations of me. So that investigation  
24 was done by a person from UNLV.

1           And after I presented her with all this evidence  
2 and a great deal more, she came back to me at the end of  
3 that and said, Well, we've looked into it and there's  
4 nothing there.

5           And, furthermore, she said -- I said, Well, could  
6 I at least see your written report? No, I'm sorry, that's  
7 confidential.

8           So that was the end of this matter.

9           And the reason for bringing this in now is I  
10 think this again shows very, very clearly that the  
11 University of Nevada, Reno, when wrongdoing is exposed and  
12 brought to their attention, instead of cleaning it up,  
13 they cover it up.

14           So now we have a person on our faculty. We now  
15 know we have this person who has committed fraud and  
16 forgery, and she is teaching undergraduate students, has  
17 been for years, and she is high and mighty to them about  
18 ethics and cheating and you've gotta do everything right  
19 because this is how it's done in the real world.

20           And I think what a horrific example this is for  
21 our students. Of course, the students don't know about  
22 it. I tried to bring the facts to light at a faculty  
23 meeting in April of that year. And all those documents  
24 are in here, too. They're in the same range, the first

1 range of documents that I've shown you.

2 I was shut down completely at the faculty  
3 meeting. The provost was there. The dean was there. The  
4 provost spoke out before I even had a chance to present my  
5 evidence and allegations. This is a faculty meeting. And  
6 she basically said, I've looked into it and there's  
7 nothing there.

8 So I said, Okay, Dr. Cashman has had a chance to  
9 have the provost speak on her behalf; now it's my turn to  
10 speak in my faculty and explain the information that I  
11 have.

12 And I was shut down by my department chair, by  
13 Dr. Cashman's husband. They just said -- her husband  
14 said, I object to him having a right to speak on this  
15 matter.

16 And so there was a hurried motion by the chair:  
17 Do I have a motion to close the discussion on this matter?  
18 There was the motion and it carried.

19 So I wrote a letter of protest about that,  
20 because that's a violation of all kinds of internal  
21 department policies and rules and procedures. They're all  
22 over the code.

23 I sent that to President Glick; never got a  
24 reply.

1           So that's the end of that story.

2           Q     I just have three questions for you.  When we're  
3 looking at page 1701, which is your letter to President  
4 Milton Glick in January 3rd of '08, here he's receiving a  
5 letter from a tenured faculty member like yourself  
6 concerned that we have someone defrauding the students at  
7 the university.

8           Did you ever hear from President Glick?

9           A     There was never a reply ever from President  
10 Glick.

11          Q     So President Glick, in your opinion, would it be  
12 safe to say, he does not care if these professors are  
13 defrauding their qualifications to their customer base, so  
14 to speak?

15          A     This proves that statement to be true.

16          Q     Then I was hoping you could point out two  
17 exhibits for us.  The forensic analysis is in here,  
18 correct?

19          A     It is.

20          Q     That's not your forensic analysis?

21          A     No.  That was the one I drew attention to on  
22 pages 4287 and 4290.  It goes until 4290.

23                 And what was the other document?

24          Q     And so I just want to clarify this was done by a

1 professional forensic examiner.

2 A I realized nobody was going to take my word on  
3 this after a while, so I realized that I needed to go  
4 outside and find somebody completely independent. So I  
5 tried first a forensic company in North Carolina and then  
6 Southern California, and then this appeared to me to be  
7 the most credible of all of them that I could find online.

8 Q And then the final document, I wanted to -- you  
9 mentioned -- I don't think you mentioned it in here today,  
10 but your allegations of Ms. Cashman's improprieties were  
11 confirmed by colleagues -- one on campus and one off --  
12 and I think you mentioned a supporting e-mail in here.

13 A Yes. It seems that over the years this matter  
14 had bothered Dr. Davis so much that over the years this  
15 got to be sort of a campfire story he would tell to his  
16 graduate students on field trips. And that story kind of  
17 got around the department there at USC.

18 This is what was told to me by another colleague  
19 of Dr. Davis. So I asked him to write an e-mail, and he  
20 confirmed that. And he also confirmed that there had been  
21 much more recent discussion of this matter and it was well  
22 known to the faculty in the USC faculty.

23 What I did not get around to telling you is that  
24 I presented these same facts and allegations to the

1 University of Southern California prior to presenting this  
2 to UNR. Why did I do that? Because I knew that there  
3 were other documents at USC, particularly in the graduate  
4 school, that would also confirm the fraud and forgery.  
5 The kinds of papers that are used when you go and submit a  
6 dissertation, they would have to have certain signatures,  
7 and that would help prove or disprove my allegation.

8 So I felt I had to go to USC. And I was told  
9 there that: We handle all this stuff in a very formal  
10 manner, formal way, and, in fact, we've revoked degrees in  
11 the past for people who have received them by fraud.

12 Well, by the time that Mr. Burnett and our  
13 provost got around to looking into this, some lawyers must  
14 have talked because their investigation was in the hands  
15 of their lawyer, and Dr. Davis was not able to talk to me  
16 anymore.

17 The only thing he would say formally to  
18 Dr. Burnett when Dr. Burnett called him is: I now repeat  
19 what I've said for years. Dr. Cashman has a bona fide  
20 Ph.D.

21 When asked, Do you support or do you agree with  
22 or do you continue to support what you said to  
23 Dr. Schweickert, he would not answer that question. In  
24 other words: The only thing I can say is the degree is

1     bona fide.

2             I called him up and I said -- or I e-mailed him  
3 back and I said, What's going on here? He said, Look, the  
4 only thing I can say publicly is that. I said, You're  
5 basically undercutting my allegations and I've gone to all  
6 this work. I think I'm right. Why are you doing this?  
7 He said, Well, I just can't do that.

8             And I said, Well -- he said, Well, people will be  
9 able to read between the lines here. They'll see what the  
10 truth is. That's what he told me.

11            So maybe UNR is unclean in some of these matters;  
12 USC is not a whole lot better. That's what I infer from  
13 that.

14            Q     I want to ask you -- I know eventually you're  
15 going to get into the attorney general's alleged  
16 investigation of our complaint, but I want to just take up  
17 a little bit on what I mentioned this morning and  
18 Dr. Hussein mentioned.

19            You would agree that the four of us -- you, me,  
20 Lane Grow and Dr. Hussein -- went to meet with the  
21 attorney general in May of '08?

22            A     That's true.

23            Q     You scheduled that appointment?

24            A     I had scheduled that appointment.

1 Q How did you feel we were received?

2 A Well, I would echo your description of the body  
3 language and facial expressions of her second-in-command,  
4 Mr. Keith Munro.

5 Attorney General Masto was very calm and polite.  
6 And it was quite an honor to meet with her and sit with  
7 her and try to express to her our concerns.

8 But the first words that came out of her mouth  
9 about our package of allegations was: You realize, of  
10 course, that we are defending the people that you're  
11 making these allegations about.

12 She was referring to the fact that their  
13 deputized attorneys general in McDonald Carano Wilson and  
14 Robison who were paid with funds by her office are  
15 essentially defending these UNR officials.

16 So we had to make an instant decision what to do:  
17 Do we walk out the door or do we pursue it? And we had  
18 already been told by the FBI that they're not about to  
19 look into state law violations, crimes, otherwise, so we  
20 have to take this stuff to the attorney general.

21 We had no confidence at all that it was going to  
22 be handled correctly, even especially after she told us  
23 that. We said, Well, we're saying to you today, General  
24 Masto, that we hope your criminal division can keep

1 matters separate from your civil division. And we  
2 described the matters somewhat in the complaint, and then  
3 we left.

4 Q Do you recall her asking us if we were going to  
5 be going to Las Vegas with this complaint?

6 A I don't recall that part, I'm afraid.

7 Q That's fine. So I think it was a few weeks  
8 later. Do you remember the time frame a few weeks later  
9 when we went to Vegas?

10 A It was a couple, two or three weeks later.

11 Q We arrived in Vegas. And you would agree that we  
12 arrived unannounced; we did not call ahead with an  
13 appointment?

14 A That's correct.

15 Q And do you recall the effort it took to get in to  
16 meet with someone at the U.S. Attorney's Office?

17 A Yes, I do. We walked in there without an  
18 appointment. We went to their intake office. And there  
19 were four of us, and we had this big package of documents.  
20 And we were told by the person at the intake desk that  
21 everybody in the back is busy, there's nobody here who can  
22 talk to you. And we tried to explain to her what we were  
23 about.

24 We were trying to help the U.S. attorney

1 understand the issues in this complaint which had already  
2 been to the FBI. And Dr. Hussein was somewhat persistent  
3 and somehow he persuaded this lady at intake to say, Well,  
4 okay, just a minute; I'll find somebody in the back.

5 So out comes Mr. Russell Marsh, who is one of the  
6 deputy U.S. attorneys -- we were never allowed to see  
7 Mr. Brower, who is the U.S. attorney -- and there was  
8 another investigator or official with him. They walked us  
9 back around to a conference room. And I said to  
10 Mr. Marsh, My name is Mr. Schweickert. I'm from UNR.

11 He says, Oh, I know all about you; you're a  
12 professor of geology. And he seemed already to know about  
13 our complaint. And then we had the conversation that  
14 Dr. Hussein referred to.

15 So we were quite startled to think that they did  
16 know about our complaint already and he knew all about who  
17 I was.

18 Q I want to go to the Attorney General's Office.  
19 Did Wayne Fazzino ever meet with you?

20 A I'm sorry?

21 Q Did Wayne Fazzino ever meet with you during his  
22 investigation?

23 A No, he did not.

24 Q I'd like to ask this: Are you aware where Mary

1 Dugan worked prior to her employment at UNR?

2 A Yes. She was employed for some time in a private  
3 law firm. And then after that she was employed for a  
4 certain length of time, I think maybe up to the time she  
5 became an attorney at UNR -- she was employed with the  
6 Nevada Attorney General's Office.

7 Q Are you aware of where Charles Hilsabeck was  
8 employed prior to?

9 A Yes. He was also an attorney in the Nevada  
10 Attorney General's Office.

11 MS. PATRAW: And we would submit, Your Honor,  
12 that that is one of our conflicts of interest here.

13 THE WITNESS: There's one other point that I need  
14 to bring out now that you've asked me. When Mary Dugan  
15 was in private practice, her law partner was Kenneth  
16 Brower, who is now the U.S. attorney, up until George Bush  
17 got out of office.

18 So we felt that was a clear connection of  
19 conflict of interest there.

20 BY MS. PATRAW:

21 Q That the current existing U.S. attorney worked in  
22 private practice with Mary Dugan, correct?

23 A That's correct.

24 Q Now the re-incoming U.S. attorney --

1           A     Daniel Bogden.

2           Q     Are you aware where he's currently leaving his  
3 employer?

4           A     Well, he was the U.S. attorney in the state of  
5 Nevada that was fired in that scandal with Alberto  
6 Gonzales and all that stuff and the Department of Justice.

7                     So after he left the U.S. Attorney's Office, he  
8 was hired by McDonald Carano Wilson where he had been a  
9 partner for several years. And now my understanding he's  
10 been nominated by President Obama to be the U.S. attorney  
11 again. I don't know if that's taken place yet.

12          Q     I think it's a matter of days, if I'm not  
13 mistaken.

14                     Would you agree, then, that that will be a  
15 conflict of interest to ask Mr. Bogden to investigate the  
16 McDonald Carano law firm's role in the public corruption  
17 allegations we have in this grand jury proceeding?

18          A     Yes, it's absolutely clear.

19          Q     Okay. At this point do you want to go through  
20 the AG investigation? Is that what you'd like to do?

21          A     I think that's probably what we should turn to.  
22 And I think there may be some slides coming up after that.

23                     THE WITNESS: Excuse me, Your Honor, have you  
24 determined whether we will have more time later.

1 THE COURT: Yes, we will. We'll have an hour  
2 after 5:00.

3 THE WITNESS: So we should be expecting to come  
4 back here at 5:00?

5 THE COURT: Right.

6 THE WITNESS: After we break at 4:00.

7 THE COURT: You can stay; you don't have to go  
8 anywhere. But I won't be here from 4:00 to 5:00.

9 THE WITNESS: Thank you very much for allowing us  
10 that extra time.

11 BY MS. PATRAW:

12 Q I'm moving through the slides that you've already  
13 gone over. Did you want to address the main slide there?

14 A Could I step down for a moment and find the right  
15 slides?

16 MS. PATRAW: What we're going to do now, and this  
17 is the current slides we gave you since lunch,  
18 Dr. Schweickert has analyzed Wayne Fazzino, who is an  
19 investigator at the Attorney General's Office, his alleged  
20 investigation. And I say "alleged" because he never  
21 talked to any of us -- complaints about the investigation.  
22 I've never met Wayne Fazzino in my life. And we submit he  
23 was the investigator.

24 Dr. Schweickert analyzed what we consider a

1 slipshod investigation and a cover-up investigation to  
2 protect their friends at UNR.

3 THE COURT: And you're in the PowerPoint. Do you  
4 know where in the PowerPoint you are?

5 BY MS. PATRAW:

6 Q This is the big ones, the ones that are a single  
7 page. If you look there's -- am I correct?

8 A Yes, I think that's correct.

9 THE COURT: Okay. Are you ready?

10 THE WITNESS: I'm trying to find that slide, too,  
11 Your Honor.

12 BY MS. PATRAW:

13 Q It's the big ones.

14 A What this slide is showing, Your Honor, is we  
15 started out by delivering our complaint to the Nevada  
16 attorney general, Masto, on April 17th of 2008. And  
17 here's the quote where she told us: You should realize  
18 we're defending the other side, the officials you are  
19 suing. In April of 2008. We know that because we heard  
20 from Mr. Fazzino that he was assigned to investigate that  
21 complaint.

22 And then this slide points out that for over 90  
23 days, during the time that his investigation is going on,  
24 he never once requests additional documents. Our

1 complaint had made it very, very clear that what we had in  
2 the package, which is similar to the original package we  
3 submitted with this petition, was really just a sampling  
4 of some of the evidence but not all of the evidence by any  
5 means. We couldn't package it all up.

6 So this was some of the evidence, and we promised  
7 him that any time you want it, we will provide you with  
8 additional evidence and additional documents if you have  
9 any concerns. But he never did request them.

10 We offered him enumerable times by e-mail. We  
11 don't have the e-mails reproduced here, unfortunately. We  
12 didn't know that we were going to get into this, but I  
13 think it's quite important now.

14 We offered enumerable times to meet with him to  
15 discuss and explain and provide more evidence. He always  
16 kind of shrugged us off, until on August the 1st -- I  
17 believe that's what it says on this slide -- he first asks  
18 to meet with us. And then he says: I just have a few  
19 questions now to clean up some details; we can handle that  
20 over the phone.

21 We could see what was coming. We knew this was a  
22 clear signal that this wasn't much of an investigation.

23 And so between then and the time that he  
24 submitted his report on August the 13th, we replied back

1 to Attorney General Masto and we shared with her our  
2 concerns that this did not appear to be a really serious,  
3 intensive investigation.

4 And in that letter -- and this is in the  
5 documents that you have starting on page 4351 and running  
6 until 4541 -- we could see the handwriting on the wall.  
7 So we thought it was important to present to her to give  
8 to Mr. Fazzino our complaint with the results of our  
9 research on all the criminal statutes that had been  
10 violated by this RICO operation.

11 So we submitted an expanded version of the  
12 complaint. And I called your attention to that at the  
13 very beginning yesterday, those pages, because there is  
14 our same complaint but now we've inserted all of the NRS  
15 criminal code statutes and many others that we believe are  
16 violations. And we also included a 20-page appendix of  
17 statutes we thought applicable.

18 We thought it would be difficult for Mr. Fazzino  
19 if he had all this information to sidestep everything. It  
20 turned out that didn't do any good. He simply ignored  
21 that and presented his findings. And he presented those  
22 findings on August the 13th.

23 THE COURT: When did you provide this to him?

24 THE WITNESS: We did that on August the 7th.

1           So he first calls us to speak with us. And then  
2 on August the 7th we decided we have to do something about  
3 this, maybe we can persuade the attorney general to give  
4 him an updated document that shows where all the criminal  
5 codes are so he doesn't have to look them up.

6           We're not lawyers, but we can read and we thought  
7 we had a pretty good handle on where most of the criminal  
8 statutes are that they had violated. And I still think  
9 that to this day.

10          So Mr. Fazzino issues his report, the gist of  
11 which: I've looked into it and there's nothing criminal  
12 here. But I'm going to get into that in a little bit more  
13 detail here in a moment.

14          The very next day, the Reno Gazette-Journal  
15 trumpets all over the newspaper: UNR officials found  
16 innocent of wrongdoing. And that Reno Gazette-Journal  
17 article is in here, too. Let's see. Well, it doesn't  
18 matter.

19          The very next day that made it to the press,  
20 because that gave a great sigh of relief to all the  
21 officials that we're asking the attorney general to  
22 investigate.

23          So now let me draw your attention to some  
24 analysis of that investigation report. That starts on

1 4558. I'm sorry, 4558 is a different document. The very  
2 next page, 4559.

3 It starts a letter that never got sent. It was  
4 written by me after some extensive examination of all the  
5 details of Mr. Fazzino's investigation report and  
6 comparing his comments to what was in our complaint.

7 THE COURT: So you didn't send this letter?

8 THE WITNESS: I didn't send it. This is a  
9 summary of my observations about that complaint.

10 THE COURT: It's basically your arguments about  
11 why he didn't do a good job?

12 THE WITNESS: Well, I guess let me answer that in  
13 the following way: It seemed to me that you could just  
14 read what he wrote and you could say, well, he looked into  
15 it and there's nothing there. Or you could take his  
16 comments for all the allegations individually that he  
17 addressed and you could compare them to the facts and the  
18 evidence that he had in front of him. So I did that.

19 In fact, I have that document here, and that  
20 document is one of those that was submitted into evidence  
21 this morning. Let's see. Here we go. It's Exhibit 18.

22 So I felt that the only way to examine whether  
23 his comments are reasonable or correct in dismissing all  
24 our complaints was to put his comments side by side with

1 | ours. So I put them all in this document.

2 |           So what you have here, Exhibit 18, is our  
3 | complaint again, and it's got two different colors.

4 |           Do you have that copy in front of you?

5 |           THE COURT: I do.

6 |           THE WITNESS: So the black represents everything  
7 | that was in our original complaint.

8 |           The red are the citations to the criminal code  
9 | and other citations that I just told you about that we  
10 | provided to the attorney general on August 7th.

11 |           The green represents Mr. Fazzino's comments in  
12 | most of those places.

13 |           I have a marked copy of this exhibit which I need  
14 | to gather, if you'll allow me.

15 |           THE COURT: Okay. Go ahead.

16 |           THE WITNESS: What I'm trying to show the Court  
17 | here is that there was a very careful and thorough  
18 | analysis comparing everything that he said, everything we  
19 | said in light of the evidence that we had.

20 |           And so I summarized these comments in this  
21 | document on page 4559, then I want to take you through  
22 | this color-coded copy and show you a few examples.

23 |           So I'm going to read my summary, a few words  
24 | there. First category is: Flawed investigative

1 techniques of Mr. Wayne Fazzino. From the beginning, the  
2 NHE investigation was deeply flawed.

3 And this brings in the fact that we offered to  
4 provide documents. We told him that this is only a  
5 sample. He never showed any interest in getting any more,  
6 nor did he show any interest in meeting with us until he  
7 was all done.

8 So, in fact, his complaint only addresses the  
9 documents originally submitted rather than seeking other  
10 ones.

11 As it became apparent throughout the 90 days or  
12 more that he was doing this investigation, he only seemed  
13 to be interested in phoning the people we alleged had  
14 committed the crimes. And he would ask them when they're  
15 not under oath over the phone, Did you commit a crime?  
16 And then if they said no, he would consider that  
17 allegation as refuted.

18 Part A: The investigator refuses to meet with  
19 complainants. The main heading here is the complainants  
20 offered repeatedly to meet with him. He continuously put  
21 us off.

22 Number two: He asked to meet with us only at the  
23 conclusion of his investigation, and then it was just to  
24 clarify a few points.

1           Number three: Mr. Fazzino says his first  
2 questions for us can be handled over the phone, and he  
3 never makes a request to meet with each complainant.

4           On the next page, when you look in detail at this  
5 document, Exhibit 18, it's clear that he misuses exhibits  
6 provided with the complaint.

7           What I mean there is that documents which were  
8 providing evidence of criminal violations -- documents  
9 providing evidence of criminal violations are refuted by  
10 verbal denials of those people accused.

11           So if there's an accusation against Mr. Zanjani  
12 and Fazzino calls him up and says, Did you commit a  
13 complaint, and Zanjani says no, that allegation is refuted  
14 according to Fazzino.

15           Also, we had documents that provided background  
16 evidence, and he just dismisses those as lacking evidence  
17 of criminal violation.

18           C: He makes no effort to obtain additional  
19 documents. There was no use of subpoena power in his  
20 investigation. He said, We don't ever do subpoenas in our  
21 investigations.

22           Two: No request to us for additional documents.  
23 And then over and over again in his report he said, They  
24 didn't ever provide any additional documents, therefore no

1 crime found.

2 He didn't ask for them. We tried to offer them,  
3 and then he says it's the lack of additional documents so  
4 there's nothing there.

5 D: He made no effort to identify additional  
6 witnesses to interview. We had witnesses that we wanted  
7 him to interview. We would provide the names. We would  
8 make sure that they would be willing to testify. That was  
9 of no interest to him.

10 The investigator bases his entire investigation  
11 on the documents submitted in the original complaint. As  
12 he got into those, anytime there were documents related to  
13 a civil complaint, he would say, Well, civil litigation.  
14 This is already dealt with in a civil case, so therefore  
15 I'm going to dismiss your claims on that one.

16 The point is -- that's obvious to everybody in  
17 this room by now is that civil cases don't deal with  
18 criminal complaints. So just because the information is  
19 coming out of documents in a civil case, that's not  
20 grounds to dismiss a criminal complaint.

21 F: The investigator misuses additional documents  
22 provided on these allegations by complainants. Ms. Patraw  
23 submitted some documents. Even though he hadn't really  
24 asked for them, we submitted some additional documents,

1 the version that had all the criminal code citations in  
2 it.

3 Well, instead of considering them as part of his  
4 investigation, he says, I'm opening up a new investigation  
5 on those documents, so I'm not going to deal with them  
6 here.

7 You see how effective that is. We never have  
8 heard the result of that new investigation on something  
9 else.

10 Okay. G: The investigator conducts the  
11 investigation entirely by phone. In his description of  
12 his investigation, his phone contacts, at least three  
13 times he calls Mr. Hilsabeck at UNR, one of the attorneys;  
14 at least four times he calls Mr. Zanjani to get that  
15 verbal refutation of our allegation; he called Thawley  
16 once; and he called Adam Garcia at least eight times to  
17 get the he needed.

18 There's no indication in his report that he ever  
19 made an effort to interview people in person. And we know  
20 that the phone questions were not taken under oath. But,  
21 again, the verbal denial is characterized as refuting our  
22 allegation.

23 Sometimes in his report he goes off on tangents  
24 and spends time talking about issues that are not even our

1     allegations.

2             And then, finally, H, I and J: He refused to  
3     consider the totality of violations of civil rights,  
4     retaliation against whistleblowers and obstruction of  
5     justice. This is necessary to do so under federal and  
6     state RICO and anti-SLAPP laws.

7             I: The investigator refuses to consider the  
8     conflict of interest in his own office, the NAG. So for  
9     each allegation of wrongdoing we made in the NAG Office,  
10    Mr. Fazzino concludes without discussion no criminal  
11    violation. There's no explanation why the sections of NRS  
12    criminal code did not apply.

13            He refused to acknowledge many of the  
14    allegations, if proven, are criminal. He says they're  
15    just not criminal. And, again, there's no explanation why  
16    the criminal code doesn't apply. This is the official  
17    State of Nevada Attorney General investigation.

18            K: He treats the entire complaint as if it  
19    consists of Dr. Hussein's complaints and allegations, yet  
20    it was submitted and signed by five complainants. Nearly  
21    every allegation is referred to in Mr. Fazzino's report as  
22    "Dr. Hussein alleged" or "Dr. Hussein claimed."

23            L: Towards the end of the thing he starts  
24    threatening and intimidating us, telling us that, I'm

1 really beginning to think you guys should withdraw this  
2 complaint because you might be liable to civil suits or  
3 something. And we refused to respond to that.

4 BY MS. PATRAW:

5 Q I want to interrupt you there, just to make it --  
6 really pronounce that.

7 Do you recall being asked to withdraw our  
8 complaint by the Attorney General's Office through our  
9 attorney?

10 A I can't cite to where it is in here. I'm not  
11 sure we have it in here, but I believe there was an e-mail  
12 from Mr. Fazzino to our attorney at the time, Jeff  
13 Dickerson, who was not involved in this in any way, shape  
14 or form, to tell his clients, I believe, that they really  
15 should think about withdrawing the complaint because  
16 of something, maybe they have some liability here.

17 I remember the communication clearly. Received  
18 it from Mr. Dickerson. I don't remember the exact  
19 wording.

20 MS. PATRAW: That's all.

21 MR. SCHWEICKERT: Okay. So in the few moments --  
22 well, actually we have 45 minutes, so maybe I have some  
23 time --

24 Are you still with me?

1 THE COURT: I'm here.

2 MS. PATRAW: I want to address this slide here.

3 THE COURT: We're going to take a really short  
4 break right now, five, seven minutes or so.

5 (Recess taken.)

6 THE COURT: Go ahead, Mr. Schweickert.

7 MS. PATRAW: May I address the Court, Your Honor?  
8 In standard Kent Robison and Mary Dugan fashion, I need to  
9 call your attention that while we were on break and I was  
10 standing here in a conversation with co-petitioners on  
11 this side of the wall -- I don't know what you call that  
12 formally in the courtroom, I apologize -- Kent Robison had  
13 me served with a restraining order.

14 THE COURT: In the courtroom?

15 MS. PATRAW: In the courtroom.

16 THE COURT: You were served in this courtroom?

17 MS. PATRAW: Yes, I was, Your Honor.

18 THE COURT: That didn't happen, Mr. Robison?

19 MR. ROBISON: I don't know what happened. I was  
20 in Department 7.

21 MS. PATRAW: We can call witnesses to Mr. Robison  
22 talking to the process server.

23 THE COURT: Deputy, why did you let that happen?  
24 You don't let service of process take place in the

1 courtroom ever. Never.

2 Court's in recess.

3 (Recess taken.)

4 THE COURT: Okay. Mr. Schweickert, I think you  
5 were on the stand.

6 Ms. Patraw, I understand from the clerks that you  
7 want to get into the issue of being served with this  
8 document and stuff. I don't want to go there right now.  
9 I want to get the case that we're hearing done.

10 The tangential issues we'll deal with another  
11 time. And I think, Mr. Schweickert, you were on the  
12 stand. So let's get there and let's start moving before  
13 the air conditioning gets turned off.

14 Did you find Exhibit 19 that I understand you all  
15 walked off with?

16 MS. PATRAW: No one can find it. We all took  
17 everything. We had another copy that she did take. He  
18 gave to --

19 MR. GROW: She's going to make another copy.

20 THE COURT: Do we have Exhibit 19? So you handed  
21 it to the other clerk?

22 MR. GROW: She was going to make it a part of the  
23 record.

24 MS. PATRAW: She was really on the ball with it.

1 THE COURT: Do you need it for your testimony?

2 MS. PATRAW: No.

3 THE COURT: Then why don't you go ahead and take  
4 the stand and we'll look for it.

5 MR. SCHWEICKERT: Could I make a quick comment,  
6 Your Honor?

7 THE COURT: You're killing me moving back from  
8 witness to comment to argument.

9 MR. SCHWEICKERT: We would like to point out to  
10 the Court this incident, whether by design or not, has  
11 cost us almost another hour of our short, abbreviated day.  
12 And we're very concerned about that.

13 THE COURT: It was only about 30 minutes. But,  
14 yes, it did cost you 30 minutes. Let's get going.

15 MR. SCHWEICKERT: I beg to differ with you; it  
16 was 40 minutes. And we're now 10 minutes after 5:00. So  
17 I don't mean to be argumentative.

18 THE COURT: Okay. Let's go.

19 MR. SCHWEICKERT: Would you like me to begin?

20 THE COURT: Sure. I'm with you.

21 MR. SCHWEICKERT: Before we took the break, I was  
22 explaining to the Court some of the analysis that was done  
23 by me of the investigative report that was done by the  
24 attorney general that covers some of the allegations and

1 some of the evidence we presented here. But not all of  
2 it. There's a lot of new evidence here.

3 And so the question arises: Well, how did  
4 anybody come up with these assertions, really, about the  
5 flaws in the investigative report?

6 So I need to draw the Court's attention to  
7 Exhibit 18. So this is the exhibit marked which it's a  
8 three-color exhibit where the black represents the  
9 verbatim version of our original complaint that was part  
10 of our petition.

11 It also includes, which I called the Court's  
12 attention to, in red citations of the NRS criminal code  
13 that we believe should be at least considered, we believe  
14 are applicable to our alleged -- the alleged crimes.

15 And in green there are two things: in regular  
16 font is the specific comments in the Fazzino report, NAG  
17 report, and in italics are my comments.

18 So I'm trying to place Mr. Fazzino's comments  
19 directly against our allegations to see did he really  
20 investigate this or not.

21 There's a lot of places I could cite to, and the  
22 Court has this to examine. I'm just going to select --  
23 I've got about 20 or 30 places here. I'm going to select  
24 maybe half a dozen almost at random. On page 12, in black

1 it says: This raises the concern that --

2 THE COURT: Wait. My copy doesn't have a page  
3 12. I'm not kidding you. No page 12. It's very blank.  
4 So you have the original, though, that's been marked? Or  
5 do I have the original?

6 MS. PATRAW: There is another.

7 THE CLERK: His would be the original.

8 THE COURT: Are you using your copy or are you  
9 using one with a yellow sticky?

10 MR. SCHWEICKERT: This was a copy. This is the  
11 original --

12 MS. PATRAW: She's saying there should be a set  
13 up there.

14 THE COURT: Is there a copy up there with a  
15 yellow sticky? Maybe move your own copies off to the side  
16 so we don't mix them up. Not that that can happen.

17 MR. SCHWEICKERT: This one also has a blank page  
18 12. I guess in the duplicating process -- I'll just  
19 ignore page 12. I don't need page 12, really.

20 On page 16 --

21 MS. PATRAW: May I interrupt real quick.  
22 Exhibit 19.

23 THE COURT: Did you find it in Mr. Schweickert's  
24 things? Good job.

1 I don't have a page 16. Look on the original and  
2 see if --

3 MR. SCHWEICKERT: I have the original.

4 THE COURT: What we call the original is the one  
5 that has the yellow sticky. No, it was just out of order.

6 MR. SCHWEICKERT: On page 16, in black are some  
7 items there that are summarizing questions about the NIH  
8 funding operation expenditures of Dr. Zanjani. This is  
9 where the allegation is made that funding goes to SBRC  
10 without overhead being paid to UNR, no direct costs.

11 So here are Mr. Fazzino's investigating report  
12 comments. He says, in green: Under the fraud section,  
13 Dr. Hussein again makes reference to Dr. Zanjani's NIH  
14 funding operation expenditures through UNR. There's a lot  
15 of overlap from previous allegations that can only be  
16 addressed after the NIH grants are audited and it's  
17 determined how funds were utilized. I've not been  
18 presented with any documentation that validates these  
19 accusations.

20 So that's the comment he uses to dismiss that  
21 allegation. He's not saying "I've investigated it"; he's  
22 saying it needs to be looked at by NIH.

23 But the important point is my comment:  
24 Investigator never requested nor even sought additional

1 documents to validate that.

2 So that matter is not dismissed in his report.

3 Let me just pick another one almost at random.

4 18. On pages 17 and 18 are the allegations about  
5 UNR retaliating against Dr. Hussein for his protected  
6 activity by filing a fraudulent counterclaim lawsuit  
7 accusing him of embezzlement of funds. We didn't go into  
8 the details of that here in this hearing, but it's all in  
9 our documents and plenty of evidence.

10 On page 18, this is what Fazzino says about this  
11 allegation. He says: Dr. Hussein alleged he was accused  
12 of fraud surrounding money he brought through UNR gifts  
13 for his research program rather than grants.

14 He says: Criminal allegations have not been  
15 filed with the Nevada Attorney General's Office as of the  
16 date of this report. This matter is part of Dr. Hussein's  
17 lawsuit against UNR regarding the termination of his  
18 employment.

19 Following these allegations, Dr. Hussein claims  
20 the lawsuit filed by the private law firm against  
21 Dr. Hussein is being addressed at the Ninth Circuit Court  
22 of Appeals under the Nevada Anti-SLAPP law.

23 And he says: This is not a criminal matter.

24 So here he's ignoring the Anti-SLAPP law, which

1 is NRS 199.310, 199.320, 207.280, all of which were cited  
2 for him. He's saying even if this wasn't being addressed  
3 somewhere else, this is not a criminal matter.

4 The RICO statute says that filing lawsuits  
5 against whistleblowers for their protected conduct is a  
6 crime. And he's ignoring that.

7 Let me flip to the F&A matter. That was on  
8 page 28. The Court was interested in this matter  
9 yesterday. He has some summary comments in the middle of  
10 page 28 that I've shown here in green.

11 And he says: Based on information provided by  
12 Dr. Hussein, there's no indication F&A costs are owed for  
13 any projects or being diverted. Dr. Hussein did not  
14 provide further information specifying what projects did  
15 not pay F&A costs to UNR. No crime noted.

16 Well, the documents are in here, number one.  
17 Number two, he never requested or sought additional  
18 documents. So there's no crime? Mr. Fazzino did not  
19 investigate.

20 Let me flip to page 42. This has to do with the  
21 allegations about the S Bar S Ranch. Mr. Fazzino ignored  
22 most of the allegations with respect to the S Bar S Ranch.  
23 And then he concludes at the end of that section, based on  
24 the results of the extensive audit and the findings of the

1 District Court, there's no probable cause indicating that  
2 trust funds were abused as alleged by Dr. Hussein. This  
3 is not a criminal matter.

4 He's referring back to UNR's own internal audit  
5 in which it says that we investigate ourselves and found  
6 we've committed no crimes, and that's been the pattern all  
7 along.

8 He also says the District Court said it's okay.  
9 But the District Court action was unopposed because  
10 Dr. Hussein's hands were tied. And so it goes.

11 An important one is on page 56, another example.  
12 There is the allegation that Dr. Hussein referred to  
13 earlier today about the illegal uses of legal funds,  
14 taxpayer dollars for the legal protection of violators of  
15 federal and state laws.

16 We cited, I believe, to you 39.0338 and 39.0339.  
17 If you look at my words in the middle of 56, only my words  
18 are there. The entire section, "legal funds for  
19 protection of violators of federal and state laws," was  
20 not addressed at all.

21 The one above, which had to do with the F&A costs  
22 where we talked about how the university is  
23 double-dipping, charging the State for their F&A costs and  
24 also collecting it again from the federal government, that

1 entire section was not addressed by Mr. Fazzino.

2 So let me see if I can just maybe touch on one  
3 more. There's a whole galaxy of examples here, Your  
4 Honor.

5 If you look at page 83, this section of our  
6 complaint was the part that was discussing the use of the  
7 UNR affirmative action office as a retaliation tool.

8 And at the conclusion of that, Mr. Fazzino says:  
9 Under whistleblower retaliation, Dr. Hussein names himself  
10 and four people as victims of retaliation. All five are  
11 those listed at the beginning of this report as  
12 informants. No supporting documents were provided, nor  
13 did Dr. Hussein expand on this allegation. The  
14 information presented and reviewed does not reflect that  
15 those considered whistleblowers were singled out. It  
16 appears each of the whistleblowers brought attention to  
17 themselves through personnel actions and state and federal  
18 lawsuits they filed. No crime noted.

19 So I guess what I get out of this is that  
20 Mr. Fazzino has concluded that Dr. Hussein was never  
21 retaliated against. And you've seen an overwhelming  
22 amount of evidence, and there's a lot you haven't seen or  
23 that we haven't reviewed here, that shows that he was.

24 Mr. Fazzino, none of these whistleblowers was

1 retaliated against.

2 On 95 -- maybe this is the last one I should hit,  
3 but there are many, many more -- Mr. Fazzino is responding  
4 to our allegations about this being a RICO operation.

5 And so on this page Mr. Fazzino's comments are:  
6 RICO enterprise. This is not a criminal matter. In  
7 reviewing each and every point, Dr. Hussein argues the  
8 Nevada attorney general has violated NRS Chapter 41 by  
9 allowing taxpayer funds to be used for special counsel  
10 fees in matters relating to Dr. Hussein's litigation.  
11 This is not a crime.

12 So he missed or ignored the part that we cited,  
13 NRS 41.0339, 41.03455. He ignores racketeering, unlawful  
14 acts, penalties. He fails to acknowledge his conflict of  
15 interest. He fails to address McDonald Carano Wilson and  
16 Robison violations of their own contracts.

17 So these are examples of some of the dismissive  
18 comments that Mr. Fazzino makes.

19 Let me cut to the end of this. On the last  
20 page -- I believe it is -- of this, page 137, here's what  
21 Mr. Fazzino says at the conclusion of his investigation:  
22 I've reviewed and investigated each allegation of alleged  
23 criminal wrongdoing. I am presenting informant  
24 information and my investigation of the allegations to the

1 chief deputy attorney general for his review and  
2 determination whether any of the presented allegations  
3 rise to the level of criminal prosecution.

4 Period. That's the last word. But what he fails  
5 to note here is that he did not address at least 135 of  
6 the allegations in the complaint. And it's clear from his  
7 comments, it's clear from his investigative approach, it's  
8 clear from what the attorney general told us at the  
9 beginning, it's clear from what Mr. Fazzino told us in  
10 e-mails towards the end, his mission was to dismiss  
11 everything in the complaint.

12 So this is the official State of Nevada Attorney  
13 General investigation that some would argue you should  
14 conclude from there's no need for a grand jury because  
15 it's already been looked at by the attorney general.

16 I hope Your Honor reads this document and  
17 examines Mr. Fazzino's findings and the evidence that we  
18 presented.

19 MS. PATRAW: What we'd like to do now, Your  
20 Honor, is just so he can have a 30-second break before he  
21 does our conclusion to you, if you're okay with this, we  
22 have -- they're already in the record. I have some  
23 authenticated documents from a gentleman by the name of  
24 Ronald Cuzze, president and CEO of the Nevada State Law

1 Enforcement Officers Association. He would have loved to  
2 have been here to testify, but he couldn't be here this  
3 week, so he submitted an affidavit with some documents.

4 So if this is okay and proper evidence, I'd like  
5 to read just a couple statements and point to a couple of  
6 exhibits in the record.

7 THE COURT: You need to submit the affidavit.

8 MS. PATRAW: It's in the record.

9 THE COURT: Where is it?

10 MS. PATRAW: It's 4162. I'd say there's roughly  
11 25 to 30 documents that follow in his name. I direct your  
12 attention to specifically Document 4645.

13 THE COURT: 4645?

14 MS. PATRAW: Correct. And here is a press  
15 release dated February 11, 2009, from the Nevada State Law  
16 Enforcement Officers Association. And in the third  
17 paragraph, it says -- I'm just going to go with NSLEOA.

18 The NSLEOA contends that the university  
19 administration has done everything possible to protect  
20 their fellow administrator, Police Chief Garcia, and by  
21 doing so have caused the continuing problems at UNR.

22 The NSLEOA is calling for Governor Gibbons to  
23 place operational control of the UNR police department  
24 under the Nevada Department of Public Safety as it should

1 be and not under the control of vice president of finance  
2 at UNR, said Cuzze.

3 And then the last sentence at the bottom: The  
4 NSLEOA also believes that the president of UNR should  
5 place all parties involved in the incident on  
6 administrative leave while the investigations are being  
7 conducted.

8 And that's specifically regarding the K-9 issue,  
9 the K-9 dog abuse. There's plenty of information here on  
10 that, but we obviously didn't have time to get to that.

11 The next document I wanted to point out was 4614.  
12 This is an e-mail from Ron Cuzze to the board of regents.  
13 I should say to some police officers and the board of  
14 regents.

15 He's directing it -- the subject is "retaliation  
16 has started," and he's addressing regents Stavros Anthony  
17 and Ron Knecht.

18 And in the first paragraph, he says: I have  
19 advised you over the past few years of dealing with Chief  
20 Garcia his MO has been intimidation and retaliation. Each  
21 time an officer or group of officers have filed a  
22 personnel action against Garcia, the chief waged a  
23 campaign of intimidation and retaliation until the officer  
24 or group either withdrew the complaint or left the

1 department.

2 This, of course, could not have been accomplished  
3 without the backing of the UNR administration including  
4 his own command staff.

5 And in the second paragraph, it says: We know  
6 from past experience that Garcia will continue to  
7 intimidate and threaten my members until this goes away  
8 while performing a smoke-and-mirror act for the UNR  
9 administration. Although my members are truly concerned  
10 about losing their jobs, they're tired of living in a  
11 world of fear and intimidation.

12 And then Document 4617 is a fax cover sheet from  
13 Ron Cuzze to director Jerry Hafen.

14 If I might cheat here and ask: Jerry Hafen works  
15 for?

16 MR. GROW: Nevada Highway Patrol. It's  
17 Department of Public Safety.

18 MS. PATRAW: Nevada Department of Public Safety.

19 In the first paragraph, it says: Jerry, I wanted  
20 to make sure you knew what we were requesting. The  
21 situation at UNRPD is total out of control. It is  
22 affecting not only the safety of my members but the safety  
23 of the university community.

24 Document 4620 is an e-mail from Ron Cuzze to Nick

1 Coltrain. Nick is a reporter and currently the editor of  
2 The Nevada Sagebrush. I think at the time he was just a  
3 reporter.

4 And he says to Nick that: Perhaps after I speak  
5 with them, one of the officers -- bold, capitals -- might  
6 want to talk. The reason I say might is due to an illegal  
7 gag order that Garcia has placed on the officers. The  
8 reason I say illegal, the last time I checked, the First  
9 and Fourth Amendment was not revoked for UNRPD cops.

10 And the following page on 4621 is an e-mail that  
11 Ron Cuzze was copied on from Ed Rinne, who I believe is  
12 the current Lieutenant Ed Rinne, stating: If any officer  
13 is contacted by the media, please refer them to Director  
14 Garcia or Associate Director Todd Renwick. Officers will  
15 not provide any statements to them.

16 I would submit that if we have nothing to hide,  
17 we wouldn't need to silence our officers.

18 4622 and 4623 is a memorandum, and it's got the  
19 signatures of some of the officers. And it looks like  
20 it's either a draft or final copy of the no vote of  
21 confidence.

22 I'm not going to address any issues in this, but  
23 it refers to the DUI and retaliation and different things.  
24 But it refers to the DUIs and no mission -- DUIs are not

1 our mission and different things like that, with several  
2 signatures of the officers.

3 And then I just wanted to direct your attention  
4 to 4640. This is a really lengthy e-mail, but it's  
5 regarding the K-9 abuse. And it's eyewitness testimony  
6 from David Osowski that the chief knew for a long time  
7 that the dog was being beat up and mishandled by his  
8 K-9 -- I don't know the proper terminology -- his owner.

9 THE COURT: Handler.

10 MS. PATRAW: Handler, thank you.

11 And I've read it. It's a breathtaking e-mail.

12 And finally 4648 is just addressing how -- Ron  
13 Cuzze to the Reno Gazette-Journal how Garcia has known for  
14 some time that the officer and K-9 were out of  
15 certification, Garcia has known about the abuse for  
16 months: I believe if you do more investigating and ask  
17 the right people the right questions, you will have enough  
18 evidence to discredit Garcia once and for all. Garcia has  
19 already started his intimidation and retaliation.

20 And then the last one is 4649. And this is a  
21 communication between Tory P. at PETA -- you can tell I  
22 don't own animals. Sorry -- [peta.org](http://peta.org). And they're  
23 communicating to each other.

24 She had said at the bottom: Given our

1 conversation regarding the current climate of the  
2 department, I can understand why no one would want to step  
3 forward but wondered if maybe this is something you could  
4 advise on.

5 And Ron Cuzze says to Tory: I have learned to  
6 speak UNR double-talk. What President Glick said is, I  
7 don't want to deal with this and I will forward it to  
8 Chief Garcia to cover up. What Chief Garcia said is, I  
9 received your complaint. I will take it seriously because  
10 I'm the individual who is ultimately responsible and I'm  
11 not going to take any responsibility.

12 Further down: Tell me who the SOB -- he's  
13 referring to what Garcia's saying. Tell me who the SOBs  
14 are that made this complaint. I will ensure that  
15 they're -- that the appropriate discipline is administered  
16 swiftly. If you call me, I will attempt to circumvent  
17 this issue with smoke and mirrors while I find out who  
18 ratted me out.

19 Again, Cuzze is referring that to be Garcia's  
20 words.

21 So at this time, then, I would let Rich  
22 Schweickert close.

23 MR. SCHWEICKERT: Your Honor, there have been a  
24 great number of disruptions that have truly hampered our

1 ability to prepare for and conduct this hearing. We just  
2 saw one a little over an hour ago.

3 Yet, I think we've succeeded in outlining for the  
4 Court a large amount of evidence based on under-oath  
5 testimony and evidence of the UNR RICO enterprise as  
6 diagrammed for you here on this slide.

7 We've seen examples of faculty and staff, on the  
8 one hand, coaches, even police officers, and outside  
9 citizens who have seen evidence of one sort or another of  
10 criminal violations and they've suffered massive  
11 retaliation at the hands of the whole retaliation  
12 apparatus that protects the upper-level administrators as  
13 you've seen repeatedly on this slide.

14 The retaliation apparatus involves President  
15 Glick's private police force, the UNRPD. It also involves  
16 the human resources and affirmative action offices.

17 Affirmative action is designed to be there as a  
18 protection for faculty and staff and students, protection  
19 for their right. But it's turned around and used as a  
20 tool for harassment by conducting secret investigations of  
21 whistleblowers.

22 The retaliation apparatus works well with the  
23 media. There's a media relations person in the  
24 president's office who has closest connections. You've

1 seen evidence that the president's office and the  
2 attorneys working for the president's office have actually  
3 intimidated the local media to make sure that they're  
4 really just a mouthpiece for the university administration  
5 and won't print most of the allegations that come forth  
6 from whistleblowers.

7 Other parts of the protection and retaliation  
8 apparatus are the general counsel office. And that is  
9 housed within the president's office. So that means that  
10 everything that they do has the explicit recognition and  
11 approval of the upper administration.

12 You saw evidence of large sums of money which are  
13 being used outside of UNR, directed to outside entities  
14 like the highly prized and highly politically connected  
15 law firms. And you've seen what kinds of actions that  
16 they can do.

17 This all has the explicit blessing and support,  
18 financial support, from the Nevada Attorney General's  
19 Office.

20 What is all this trying to protect? It's trying  
21 to protect widespread abuses of the law involving  
22 financial crimes, crimes in the athletic department,  
23 crimes in the police department, EEO crimes, legal counsel  
24 crimes themselves, and the whole UNR abuse of power. All

1 of this is part of the protection that -- these are the  
2 activities that need all of this protection from  
3 whistleblowers.

4 As an example of the misuse of these high-priced  
5 law firms, the taxpayers just paid for the incident in  
6 your courtroom. You said you're not going to address it,  
7 but I'm going to comment on it.

8 The efforts to intimidate a petitioner in this  
9 matter before you, this matter which is mandated by the  
10 Nevada Supreme Court, started a while back. And we  
11 brought these all to the attention of the court in our  
12 motion on 9/11.

13 On September 2nd and 3rd, Petitioner Patraw was  
14 hit with a trial by ambush, hearing by ambush, basically  
15 with zero warning, not even seeing the charges until  
16 5:00 p.m.

17 They have to show up at a hearing the next day to  
18 have themselves slapped with a TRO, temporary restraining  
19 order, against Ms. Patraw. And now what the taxpayers  
20 just paid for is Mr. Robison having the audacity to serve  
21 this unconstitutional TRO to Ms. Patraw in the midst of  
22 her presentation of evidence in this hearing.

23 And then I'm not sure if you're aware of this  
24 yet, then he gives an outright lie to the Court saying he

1 doesn't know what's going on, even though he's just seen  
2 talking to the process server outside. This is a  
3 wonderful example for us of this sort of retaliation and  
4 intimidation, and here it took place in your courtroom,  
5 violated the sanctity of your courtroom. What you've seen  
6 is an illustration of the kind of operation that  
7 whistleblowers are up against.

8           So we've got this RICO operation going on here,  
9 and you've seen evidence that supports our conclusions  
10 about all the elements of this. I think we've touched on  
11 just about every single element with testimony that you've  
12 heard the last two days.

13           We would have liked to have more witnesses come  
14 here, but we've been -- well, number one, most of these  
15 witnesses are afraid to come forward because they know  
16 they'll be retaliated against. You don't see very many  
17 UNR people in this courtroom because they know Mary Dugan  
18 is here most of the time taking names. Enough said on  
19 that.

20           So the summary on here is that over the past  
21 eight years the message to faculty, staff, students and  
22 the public is this: If you challenge our power, we will  
23 threaten, intimidate, harass, demote, fire, sue and  
24 sanction you, and we'll get the taxpayers to pay for it.

1           The laws that we cited that enabled us to have  
2 this petition to approach the court for a grand jury said  
3 that we have to address -- we must address crimes by and  
4 against the executive power of the state.

5           We submit to you that the names that are on here  
6 are documented in the evidence that we've presented to you  
7 and also the evidence in the records here. So we've hit,  
8 maybe not with an overwhelming amount of evidence, but a  
9 reasonable amount of evidence and more on such crimes as  
10 bribery, asking or receiving bribes by public officers,  
11 interfering with public officers, influencing public  
12 officers, misconduct of public officers, false reports by  
13 public officers, public officers making false  
14 certificates, falsely auditing or paying claims,  
15 fraudulently presenting claims to public officers,  
16 extortion by public officers, wrongful exercise of  
17 official power, obstructing public officers, oppression  
18 under color of office, fraudulent appropriation of  
19 property, and other violations by officers, which  
20 incidentally is a very all-encompassing statute that has  
21 many, many crimes that are not listed in those above.

22           I'm sure that when you first heard us say this or  
23 first read our documents you thought this was a pretty  
24 outrageous claim: UNR as a RICO operation. We submit to

1 you that we have described and presented evidence to you  
2 that meets all 11 of the FBI criteria.

3 This is the list of FBI criteria that are the  
4 characteristics of RICO operations in the United States.  
5 They include embezzlement, fraud, obstruction of justice  
6 and money laundering. They have characteristics of  
7 durability over time, diversified interests, hierarchical  
8 structure, capital accumulation, reinvestment, access to  
9 political protection, and use of violence or at least  
10 threats of violence, we submit, to protect their  
11 interests.

12 So, again, we argue to you that we have met our  
13 burden, reasonable evidence, enough evidence to support a  
14 reasonable inference that violations of NRS 6.130 and NRS  
15 197 have occurred.

16 As part of the protection scheme here, we need to  
17 go into that for a moment. There's been a large amount of  
18 evidence presented by Dr. Hussein regarding legal counsel  
19 crimes.

20 It took us some time to get through that, but  
21 there's over a thousand pages of evidence before the  
22 Court. And these fall into five different categories.  
23 But, more importantly, these legal counsel crimes include  
24 fraud, perjury, subornation of perjury and obstruction of

1 justice. We've seen evidence of vast financial crimes,  
2 the taxpayers of the state of Nevada and the federal  
3 government are being defrauded out of millions of dollars  
4 in a variety of different schemes.

5 NCAA violations exist and are being covered up.  
6 False statements are being made to the investigators, to  
7 the press, to anybody who would care. These are criminal  
8 violations of Nevada state law.

9 Title IX violations: Sexual harassment, animal  
10 abuse. All of these things are protected using UNRPD,  
11 private police force, affirmative action, human resources  
12 and media relations to retaliate against the  
13 whistleblower.

14 The highly skilled attorneys whose skills we  
15 greatly admire are used in court as a weapon against  
16 whistleblowers. I have to describe for you some of their  
17 skillful techniques.

18 These are some of the ways that you've heard  
19 about that lawsuits by whistleblowers especially are  
20 defeated in federal and state court. We're aware that  
21 judges are accustomed to hearing a set of facts and having  
22 attorneys on both sides to give a different interpretation  
23 of what the reality is. But in this case the facts are  
24 lies, they're false before the Court, and those are

1 crimes.

2 We have false affidavits rendered by the  
3 affidavit production line. Mr. Robison back there is the  
4 head of the affidavit production line. False affidavits  
5 to validate false testimony.

6 If a whistleblower then discovers evidence to  
7 show that those affidavits are false, what do they do?  
8 They produce another false affidavit to make that one  
9 right. So we can create our own reality here. All it  
10 takes is an officer of the Court to give you or any other  
11 judge a false affidavit and it's okay; it goes away.

12 We've got plenty of evidence of false statements  
13 to the Court. You heard about the lies about the FAS  
14 guide versus the UNR guide that makes it his job duty. A  
15 judge buys into that. That fraud is then spread around  
16 through several other federal courts. And at the same  
17 time that plaintiff, that petitioner, that plaintiff is  
18 being defamed in all the courts as a vexatious litigator.

19 Another fantastically powerful technique is the  
20 use of false investigations. We investigate ourselves and  
21 we found that we committed no crimes. That happens from  
22 the level of affirmative action, within the College of  
23 Agriculture, within your own department, at the dean's  
24 office level, affirmative action level, all the way up to

1 the Attorney General level. That false investigation is  
2 then used somewhere else down the road to defeat the next  
3 whistleblower or the same whistleblower somewhere else.

4 These are powerful techniques. Using these  
5 skillful techniques, these very smart lawyers are using  
6 the court as a weapon against the whistleblower.

7 For attempting to challenge the RICO operation,  
8 some of these whistleblowers are hit with fines or  
9 sanctions: \$110,000, \$90,000. The legal protection may  
10 not be strong enough in some cases, and so we need some  
11 extra help. And where that extra help comes from is from  
12 the Nevada Attorney General who helps fund and add its own  
13 layer of protection. And we've got political connections  
14 that go all the way up to the U.S. Attorney's Office.

15 So in conclusion, I guess I should just ask the  
16 question: Who are these people that you've heard come in  
17 here and at great personal cost, and in some cases great  
18 personal risk, have addressed the Court and tried to  
19 present their evidence? These are Nevada citizens who  
20 have stood up on a matter of public concern. Terri Patraw  
21 stood up for female athletes, and she was fired. She lost  
22 her career. She's been defamed. And she's been  
23 sanctioned. Lane Grow stood up for the rule of law and  
24 the safety of UNR students and faculty and staff. He's

1     been fired. He's lost his job.

2             Hussein Hussein, who I have to note is one of the  
3 most courageous individuals I've ever come across, stood  
4 up against animal abuse for profit and the outrageous  
5 disregard for public health and safety. And you know what  
6 happened to him - he lost his job. He's been sanctioned.  
7 All the courts know him as a vexatious litigator.

8             Greg MacNaris stood up for the Nevada taxpayers.  
9 He's not a UNR guy. He's in business. And he brought  
10 information about \$21 million of fraudulent contracts. He  
11 got it to the State Legislative Counsel Bureau, their own  
12 report shows that those allegations are true even though  
13 they then concluded that there's nothing there. The facts  
14 in that report make that very plain.

15             Mary Lahren stood up against sexual harassment.  
16 She lost her job. She was forced out by constructive  
17 discharge. They defamed her. She lost her entire career.  
18 She has nothing left.

19             Female students now are unprotected, and we have  
20 people that we know, not just in her case, but in other  
21 cases, sexual harassers who are protected at taxpayer  
22 expense running rampant on the campus; is there a female  
23 student who is safe on this campus?

24             I'm just a faculty member. I've been around for

1 a while. I've been there long enough to understand how  
2 the rule of law is supposed to work on this campus and at  
3 another campus, Columbia University, in New York. And I  
4 came here from Columbia University because I thought that  
5 place had kind of an odor to it. And I came to UNR  
6 because it was closer to where I do my research. But I  
7 sensed even early on that there was something funny about  
8 UNR. There's kind of an old boy system.

9 I was a department chair for nine years. And I  
10 understood -- I was reelected twice, so I must not have  
11 been doing too bad a job. I'm a whistleblower, I tried to  
12 help Dr. Lahren. I've tried to help these others. And  
13 I'm totally defamed. I can't even get anybody in my  
14 department to speak to me. I can't even -- I'm not even  
15 allowed to speak at my own faculty meetings.

16 So that's who some of the people are who  
17 testified here before you. You've heard us characterized  
18 in the media with statements from the other side that we  
19 are, what, we're reckless. We're vexatious. Our  
20 allegations are preposterous. You've heard us  
21 characterized as nut cases.

22 Finally, I guess the final point I should make in  
23 summation is we've presented the Court with evidence that  
24 there are conflicts of interest everywhere within this

1 state. A number of them exist within this judicial  
2 district, with judges. We know they exist at the Attorney  
3 General's Office. We know they exist at the Washoe County  
4 DA's Office. We described for you some evidence, although  
5 we didn't present the documents to prove it, that there  
6 are even is UNR influence going into the U.S. Attorney's  
7 Office that can actually block the FBI from doing an  
8 investigation that they want to do.

9 So the bottom line here is that the state cannot  
10 and will not police itself on these matters. That's why  
11 we're pleading to the Court not only to petition a grand  
12 jury, to investigate these allegations, but also to make  
13 sure that if there is such a grand jury convened, that it  
14 should be led by somebody from outside the state. We  
15 don't know how this works in detail, but we suspect that  
16 the only place where we might get a fair prosecutor to  
17 look into this is somebody from the U.S. Department of  
18 Justice in Washington D.C.

19 Thank you, Your Honor, for giving us the time for  
20 this hearing.

21 THE COURT: Thank you. Do any of the other  
22 petitioners have anything to say?

23 MR. GROW: I had one thing to offer, the document  
24 you requested yesterday as far as the investigation that

1 was conducted on myself and Officer Hague that testified,  
2 I got -- we submitted Exhibit 21. But the only thing  
3 that's missing is the results of the investigation. We  
4 made some phone calls and the Police Union contacted Reno  
5 PD and they said if you would send them something on your  
6 letterhead, they'd be more than happy to send it to you  
7 but they won't release it to anybody else. And that was  
8 the conclusion of the investigation.

9 THE COURT: All right. Thank you.

10 MS. PATRAW: Just thank you for the opportunity.

11 THE COURT: I wish I could say thank you to you  
12 all. There's obviously thousands of pieces of paper. In  
13 two days you've gone through some, but you certainly  
14 haven't gone through everything that you submitted to me.  
15 I am going to have to review the documents that you've  
16 provided.

17 The Nevada Supreme Court, when they returned this  
18 case after Judge Berry issued her order that was reversed,  
19 ordered that I make findings of why I give you a grand  
20 jury or don't. So the time that that may take may be  
21 longer than any of us would wish. But in the interim, it  
22 will be under submission to me and I'll make the effort  
23 that I can.

24 With regard to the issue on the subpoena and the

1 TRO and the extension of the TRO that was entered into by  
2 Judge Flanagan today and the Supreme Court decision on the  
3 writ, I don't want to interject myself into that. I think  
4 you have a forum -- you have counsel, Ms. Patraw.

5 You have a judge who is handling it and the  
6 Supreme Court where it is now. So I think that's the  
7 forum at this point. I don't think it's a good thing to  
8 interject my orders or opinions with regard to it. So  
9 that's why I said I really didn't want to get into it.

10 The purpose of today's hearing, I've told you, I  
11 believed you had an absolute right to present your case  
12 here in this courtroom. I still believe that. I hope I  
13 don't get sideways with another judge, but if I do, we  
14 each have our own opinion.

15 And I suppose that would be the Supreme Court  
16 that would ultimately decide that. But I think you had an  
17 absolute right to present your case here and I don't  
18 change from that.

19 We will take it under submission, and hopefully  
20 we have everything you gave us. I think we've found the  
21 exhibit that was missing. We might not have everything.

22 Was this writing on the back of 19?

23 MR. SCHWEICKERT: I don't know, Your Honor.  
24 That's probably my handwriting, yes.

1 THE COURT: Did you want that on the back or  
2 should that be excised? Do you want to look at it?

3 MR. SCHWEICKERT: That's fine. Thank you.

4 THE COURT: Okay. The other thing I want to say  
5 is that all of the staff that serves here with me -- and  
6 we see a lot of cases -- we've all been impressed with the  
7 organization and the level that you have all gone to to  
8 present this in a manner that could make sense to us.

9 And Mr. Schweickert, particularly, you did an  
10 outstanding job for a non-attorney. No matter how any of  
11 this turns out, and I'm not sure how any of it is going to  
12 turn out today, I want you to know that you've been heard,  
13 all of you, and that you did do a good job presenting your  
14 case. So thank you.

15 Court's in recess.

16 (Proceedings concluded at 6:00 p.m.)  
17  
18  
19  
20  
21  
22  
23  
24

1 STATE OF NEVADA. )

2 )

3 COUNTY OF WASHOE )

4

5

6 I, DENISE PHIPPS, Certified Court Reporter of  
7 the Second Judicial District Court of the State of Nevada,  
8 in and for the County of Washoe, do hereby certify:

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

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

16 DATED: At Reno, Nevada, this 25th day of  
17 September, 2009.

18  
19 /s/ Denise Phipps  
20 DENISE PHIPPS, CCR No. 234  
21  
22  
23  
24