

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

LETICIA GARZA GALVAN, et al.
Plaintiffs,

v.

ROLANDO PABLOS, in his official
capacity as Texas Secretary of State, et
al.,
Defendants.

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Civil Case No. 7:18-cv-00113

DECLARATORY AND INJUNCTIVE
RELIEF REQUESTED

PLAINTIFFS' JOINT MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56, Plaintiffs LETICIA GALVAN, MARTIE GARCIA VELA, FEDERICO FLORES, MARIA GUERRERO, VICENTE GUERRERO, and AMELIA MARTINEZ,¹ jointly move for summary judgment for the reasons that follow and for any additional reasons that may appear of record at any hearing on this motion.

Factual and Statutory Background

I. The Plaintiffs

Plaintiff Amelia Martinez is legally blind. **Exhibit 1** (Martinez decl.). However, she is lucid, she takes pride in voting, and she insists on writing her own name when she votes by mail. *Id.* Martinez signed her own name on her application and carrier envelope for the March 2018 primary elections. *Id.* Ms. Martinez's daughter, Magaly Serna, resides with her and has assisted her in voting for approximately the last five years. **Exhibit 2** (Serna decl.). Ms. Serna was with her mother when she voted in the March 2018 primary election and witnessed her sign the carrier envelope. *Id.* Ms. Martinez always insists on signing her own ballot in her hand; she loves to sign

¹ The four voter Plaintiffs have been added via the First Amended Complaint, which was filed November 30, 2018 with the written consent of counsel for all Defendants. See Fed. R. Civ. P. 15(a)(2).

her name when she votes. Exhibit 2. She was very upset when she learned after the election that her ballot was rejected. Exhibit 2.

Plaintiffs Maria and Vicente Guerrero are married and reside together at their home. **Exhibit 3** (Maria Guerrero decl.). They both signed their own name on their applications and carrier envelopes for the March 2018 primary elections. *Id.*; **Exhibit 4** (Vicente Guerrero decl.). When Maria was signing her application to vote by mail, she was worried about running out of space to write her whole name because she wanted to be careful not to write over the word “Date” printed in the box for the signature. Exhibit 3. Therefore, she consciously left two letters out of her name as she signed the application. *Id.*

Plaintiff Federico Flores, Jr. signed his own name on his application and carrier envelope for the March 2018 primary elections. First Amd. Compl. ¶9.²

All four of these voter Plaintiffs’ ballots were rejected for perceived signature discrepancy by the Starr County Early Voting Ballot Board. **Exhibit 5.**

The initial two plaintiffs in this matter, Galvan and Garcia Vela, were candidates in the March 2018 Democratic primary elections. The final (post-recount) canvass was certified on April 2, 2018, and shows:

Starr County Judge

Leticia Garza Galvan **7,032**

Eloy Vera **7,191**

Judge, 229th Dist. Ct.

	Starr	Jim Hogg	Duval	Total
Martie Garcia Vela	6619	898	1928	9445

² The undersigned counsel was not able to visit Plaintiff Flores to secure his signed declaration before filing this motion.

Baldemar Garza 6961 798 1792 **9551**

Accordingly, Plaintiff Galvan's opponent, Eloy Vera, was declared the winner because he purportedly received 159 more votes than Galvan, and Plaintiff Garcia Vela's opponent, Baldemar Garza, was declared the winner because he purportedly received 106 more votes than Garcia Vela. *See Galvan v. Vera*, 04-18-00309-CV, 2018 WL 4096383, *1 (Tex. App.—San Antonio Aug. 29, 2018) (mem. op.). The candidate-Plaintiffs litigated an election contest in state court, which was unsuccessful. *See id.* The candidate-Plaintiffs did not raise the constitutional claims at issue in the instant case in their election contest, nor could they have under established Texas law. (Indeed, this is why they filed the constitutional claims in a separate lawsuit, which the Defendants then removed to this Court.)

II. Summary of Texas framework for applying for, and returning, ballot by mail, and delivery of timely-returned ballots to the Early Voting Ballot Board

Eligible voters in Texas may request a ballot to be voted by mail starting with the beginning of the year of the election. Tex. Elec. Code § 84.007(c). Election administrators must send the mail ballot to the voter within seven days after the clerk accepts the application (if the ballots are already available) or seven days after the ballots become available, as applicable. *Id.* § 86.004(a).³ After completing the ballot, the marked ballot must be mailed back such that it arrives at the elections office before the polls close on Election Day, or by 5:00 p.m. on the day after Election Day, if the carrier envelope was postmarked for delivery by 7:00 p.m. on Election Day. *Id.* § 86.007(a).

Because ballots are generally available approximately several weeks before a given primary election day, voters commonly return marked mail ballots to the elections administrators several weeks before Primary Election Day. However, the ballots are not received and reviewed

³ Some details are left out of this summary, for example, regarding earlier deadlines for sending mail ballots to overseas and military voters.

by the Early Voting Ballot Board (EVBB), to determine whether they meet the requirements for being counted, until much later.

When a carrier envelope is received by the early voting clerk, the clerk determines whether it is timely and, if so, “the clerk shall enclose the carrier envelope and the voter’s early voting ballot application in a jacket envelope.” *Id.* 86.011(a), (b). The clerk shall also include in the jacket envelope a copy of the voter’s federal postcard application if the ballot is voted under chapter 101, and the signature cover sheet, if the ballot is voted under Chapter 105. *Id.* 86.011(b). The early voting clerk holds the jacket envelopes for the timely-delivered mail ballots until they are delivered to the EVBB, along with the other materials required to be delivered to the EVBB (like the ballot boxes, poll lists, list of registered voters, etc.) at a later date determined by statute. Tex. Elec. Code 87.021 - .024. The date of delivery to the EVBB can vary depending on the type of election equipment used and the population of the county conducting the election.

While the “general rule” states that “the materials” shall be delivered to the EVBB during the time the polls are open on election day, *id.* § 87.022, it appears that, in most elections, the materials may be delivered beginning when early voting by personal appearance concludes, with an earlier delivery date possible in elections conducted by populous counties.

In elections using paper ballots for early voting in person or by mail, elections in which early voting in-person is done on “voting machines,” and elections in which early voting ballots are to be “counted by automatic tabulating equipment at a central counting station,” the jacket envelopes may be delivered to the board “between the end of the period for early voting by personal appearance and the closing of the polls on election day, or as soon after closing as practicable[.]” *Id.* § 87.0221; *see also* §§ 87.023, 87.024.

In an election conducted by authority of a county with a population of 100,000 or more (or conducted jointly with such a county), the jacket envelopes may be delivered to the EVBB between

the end of the *ninth* day before the conclusion of early voting and the close of polls on Election Day. *Id.* 87.0222.

III. Procedure for appointment of Early Voting Ballot Board

The EVBB consists of a presiding judge and at least two other members. Tex. Elec. Code § 87.002(a).

In a primary election, the county chair of the political party appoints the presiding judge. *See* § 87.002(b) (“Except as provided by Subsection (d) [dealing with general election for state and county officers], the presiding judge is appointed in the same manner as a presiding election judge.”); § 32.001, .006 (each precinct must have a presiding and alternate election judge, and in a primary, “the judges for each precinct” are appointed by county chair).

The presiding judge then appoints the other members of the EVBB. 87.002(b) (“Except as provided by Subsection (c) [dealing with general election for state and county officers], the other members are appointed by the presiding judge in the same manner as the precinct election clerks.”); § 32.031 (“The presiding judge for each election precinct shall appoint the election clerks to assist the judge in the conduct of an election at the polling place served by the judge.”).

IV. Qualifying ballots voted by mail

The Election Code distinguishes the process of reviewing mail-in ballots to determine whether to accept them from the process of counting the ballots, once they have been accepted. Tex. Elec. Code 87.0241.

“The [EVBB] may determine whether to accept early voting ballots voted by mail in accordance with Section 87.041 at any time after the ballots are delivered to the board.” *Id.* 87.0241(a).

Therefore, only after the ballots are delivered to the EVBB may it examine them to determine if the particular ballots will be accepted or rejected. Election Code § 87.041, “Accepting Voter,” describes the EVBB’s review:

(a) The early voting ballot board shall open each jacket envelope for an early voting ballot voted by mail and determine whether to accept the voter's ballot.

(b) A ballot may be accepted only if:

(1) the carrier envelope certificate is properly executed;

(2) neither the voter's signature on the ballot application nor the signature on the carrier envelope certificate is determined to have been executed by a person other than the voter, unless signed by a witness;

(3) the voter's ballot application states a legal ground for early voting by mail;

(4) the voter is registered to vote, if registration is required by law;

(5) the address to which the ballot was mailed to the voter, as indicated by the application, was outside the voter's county of residence, if the ground for early voting is absence from the county of residence;

(6) for a voter to whom a statement of residence form was required to be sent under Section 86.002(a), the statement of residence is returned in the carrier envelope and indicates that the voter satisfies the residence requirements prescribed by Section 63.0011; and

(7) the address to which the ballot was mailed to the voter is an address that is otherwise required by Sections 84.002 and 86.003.

(c) If a ballot is accepted, the board shall enter the voter's name on the poll list unless the form of the list makes it impracticable to do so. The names of the voters casting ballots by mail shall be listed separately on the poll list from those casting ballots by personal appearance.

(d) A ballot shall be rejected if any requirement prescribed by Subsection (b) is not satisfied. In that case, the board shall indicate the rejection by entering “rejected” on the carrier envelope and on the corresponding jacket envelope.

(e) In making the determination under Subsection (b)(2), the board may also compare the signatures with any two or more signatures of the voter made within the preceding six years and on file with the county clerk or voter registrar to determine whether the signatures are those of the voter.

(f) In making the determination under Subsection (b)(2) for a ballot cast under Chapter 101 or 105, the board shall compare the signature on the carrier envelope or signature cover sheet with the signature of the voter on the federal postcard application.

(g) A person commits an offense if the person intentionally accepts a ballot for voting or causes a ballot to be accepted for voting that the person knows does not

meet the requirements of Subsection (b). An offense under this subsection is a Class A misdemeanor.

Tex. Elec. Code Ann. § 87.041 (emphasis added).

Accepted ballots are removed from the carrier envelope (while remaining within the “ballot envelope”) and set aside to be counted, and rejected carrier envelopes are placed into a larger envelope and sealed. *Id.* § 87.043(a), (b).

The presiding judge of the EVBB is required to provide written notice to the voter of the reason a mail ballot was rejected, but is only required to do so within 10 days after the election. *Id.* 87.0431.

While notice is thus provided for the reason a ballot was rejected, there is no process afforded *the voter* to rectify any deficiency with the carrier envelope that caused the rejection.

While the voter is afforded no means of challenging the rejection of his or her own ballot, the 85th Legislature added a provision permitting a “county election officer” a very limited means of challenging a determination made by the EVBB, but only with court process and, in many cases, only after securing permission from the county chair of all political parties:

(a) If a county election officer, as defined by Section 31.091, determines a ballot was incorrectly rejected or accepted by the early voting ballot board before the time set for convening the canvassing authority, the county election officer may petition a district court for injunctive or other relief as the court determines appropriate.

(b) In an election ordered by the governor or by a county judge, the county election officer must confer with and establish the agreement of the county chair of each political party before petitioning the district court.

Tex. Elec. Code § 87.127.

V. The EVBB’s effectively unreviewable authority to reject mail ballots contrasted with the process for review of provisional ballots.

Voters may vote provisionally pursuant to Election Code § 63.011.

The presiding judge of each precinct in which provisional ballots were cast is required to personally deliver them to the EVBB. *Id.* § 65.053. The statute specifically directs the “secretary

of state” to “prescribe procedures by which the early voting ballot board may have access to the provisional ballots as necessary to implement this chapter.” *Id.*

If a voter is accepted for provisional voting because he or she does not meet the voter ID requirements of Section 63.001(b), the voter has six days after the election day in which to either present an acceptable form of ID “to the voter registrar for examination,” or execute an affidavit in the voter registrar’s presence. *Id.* 65.0541. Here again, the Legislature directed the Secretary of State to prescribe procedures necessary to implement this section. *Id.*

The EVBB must then “verify and count provisional ballots as provided by this subchapter” within either thirteen days (general election for state and county officers) or nine days after election day. *Id.* 65.051(a), (a-1).

The EVBB’s review of provisional ballots to determine whether a ballot is acceptable involves the application of somewhat complex statutes/regulations and requires the board to make factual determinations:

(a) The early voting ballot board shall examine each affidavit executed under Section 63.011 and determine whether to accept the provisional ballot of the voter who executed the affidavit.

(b) A provisional ballot shall be accepted if the board determines that:

(1) from the information in the affidavit or contained in public records, the person is eligible to vote in the election and has not previously voted in that election;

(2) the person:

(A) meets the identification requirements of Section 63.001(b) at the time the ballot was cast or in the period prescribed under Section 65.0541;

(B) notwithstanding Chapter 110, Civil Practice and Remedies Code, executes an affidavit under penalty of perjury that states the voter has a religious objection to being photographed and the voter has consistently refused to be photographed for any governmental purpose from the time the voter has held this belief; or

(C) executes an affidavit under penalty of perjury that states the voter does not have any identification meeting the requirements of Section 63.001(b) as a result of a natural disaster that was declared by the president of the United States or the governor, occurred not earlier than 45 days before the

date the ballot was cast, and caused the destruction of or inability to access the voter's identification; and

(3) the voter has not been challenged and voted a provisional ballot solely because the voter did not meet the requirements for identification prescribed by Section 63.001(b).

(c) If a provisional ballot is accepted, the board shall enter the voter's name on a list of voters whose provisional ballots are accepted.

(d) If a provisional ballot is rejected, the board shall indicate the rejection by marking "rejected" on the envelope containing the provisional ballot.

Tex. Elec. Code Ann. § 65.054.

Because deciding whether a provisional vote is acceptable can necessitate review of voter registration records, the Election Code directs the Secretary of State to prescribe procedures by which the voter registrar shall provide assistance to the EVBB in reviewing the ballots. (In elections held on the date of the general election for state and county officers, "the procedures must allow for seven calendar days for the voter registrar to review a provisional voter's eligibility."). *Id.* 65.052.

Accepted provisional ballots are then to be counted in the manner provided for counting of other early voting ballots. *Id.* 65.057.

VI. Signature rejections in Starr County, and other counties, in the March 2018 Primary Elections.

In the March 2018 Primary election in Starr County, 1123 mail-in ballots were submitted by Starr County voters. **Exhibit 6.** Of those, 976 were accepted and 147 were rejected. *Id.* (see Excel spreadsheets listing all ballots accepted and rejected). Of the 147 rejects, all but one of them were rejected for perceived signature mismatch. *Id.* (see notices of rejected ballot letters). Thus, of all mail ballots submitted in Starr County, more than 13% were rejected for perceived signature discrepancies.

Plaintiffs secured records from the March 2018 primaries from a selection of certain other counties—some large, some of small population—for purposes of comparison. The following table summarizes the numbers for all ballots by mail (BBM) in each county:

County	BBM received	BBM Accepted	BBM Rejected	Rejected-signature mismatch	% of all received BBM rejected for signature mismatch
Starr	1125	976	147	146	13.06%
Duval ⁴	955	920	35	4	0.42%
Jim Hogg ⁵	367	364	3	3	0.82%
Hidalgo ⁶	2758	2716	42	3	0.11%
Dallas ⁷	7826	7746	40	13	0.17%
Galveston ⁸	3927	3859	68	41	0.61%

Armandina Martinez and Yolanda Martinez, both members of the Starr County EVBB, testified by deposition, including as to the severe time constraints. Exhibits 16, 17. Plaintiffs Galvan and Garcia Vela further testified as to the composition and review of the EVBB. Exhibit 14, 15.

VII. Testimony of Dr. Linton Mohammed

Plaintiffs designated Dr. Linton Mohammed, an expert in handwriting and forensic document examination. **Exhibit 12** (Dr. Mohammed expert decl.).⁹ Dr. Mohammed reviewed the Texas statutes and concluded that “elections officials are likely to make erroneous signature-comparison determinations.” *Id.* ¶29. Dr. Mohammed attests that determining whether a signature is genuine is a “difficult task for even a trained FDE (Forensic Document Examiner).” *Id.* ¶30. Laypersons have been determined to have a significantly higher rate of error, even under controlled

⁴ **Exhibit 7** (Duval records). The county record exhibits are being filed by disk with the district clerk’s office due to their size.

⁵ **Exhibit 8** (Jim Hogg records).

⁶ **Exhibit 9** (Hidalgo records).

⁷ **Exhibit 10** (Dallas records).

⁸ **Exhibit 11** (Galveston records).

⁹ Dr. Mohammed’s CV is at **Exhibit 13**.

conditions with appropriate lighting, equipment including magnification, and time, as compared to trained FDEs, *id.*, and “laypersons are also more likely to wrongly determine that authentic signatures are not genuine than to make the opposite error.” *Id.*; *see also id.* ¶43. Dr. Mohammed notes that a person’s signature can vary from time to time for “myriad reasons, including age, health, native language, and writing conditions, and that laypersons incorrectly perceive normal variation due to such factors to be a “difference” indicating that another person signed. *Id.*; *see also id.* ¶36 (further discussing variation versus differences), ¶¶38-40 (further detail as to the differences in types of signatures and explaining how the same individual’s signature can vary significantly, and why training is required to identify variation versus differences that indicate a non-genuine signature). Laypersons’ “failure to properly account for signature *variability* leads to erroneous *inauthenticity* determinations, which are particularly pronounced in populations with greater signature variability, such as elderly, disabled, ill, and non-native English signatories.” *Id.* ¶31 (emphasis added).

Dr. Mohammed further notes that ten signature samples are required for an accurate signature determination to account for an individual’s signature variability, and faults Texas law for requiring a comparison of only one other signature to the signature on the ballot envelope. *Id.* 33.

Dr. Mohammed further notes that FDEs are tested for “form blindness,” a type of impairment in visual perception that affects an individual’s ability to accurately authenticate handwriting. *Id.* 32. Ballot board members are not examined for form blindness.

Further, insufficient time examining signatures is conducive to making errors. *Id.* 37. He concluded that reliable signature comparison is impossible for even trained FDEs under the time constraints and other limitations of the Texas system. *See id.* ¶47-50.

Argument

I. Summary Judgment Standard

Summary judgment is appropriate “where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” *Breen v. Texas A&M Univ.*, 485 F.3d 325, 331 (5th Cir. 2007) (citing Fed. R. Civ. P. 56(c)). “Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment.” *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1423 n.11 (5th Cir. 1996) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).

The nonmoving party’s bare allegations, standing alone, are insufficient to create a material issue of fact and defeat a motion for summary judgment. *Id.* at 247-48. Moreover, conclusory allegations unsupported by specific facts will not prevent an award of summary judgment; the nonmovant cannot rest on his allegations to get to a jury without any significant probative evidence tending to support his position. *Nat’l Ass’n of Gov’t Emps. v. City Pub. Serv. Bd. of San Antonio*, 40 F.3d 698, 713 (5th Cir. 1994). If a reasonable jury could not return a verdict for the nonmoving party, then summary judgment is appropriate. *Liberty Lobby, Inc.*, 477 U.S. at 248. The nonmovant’s burden cannot be satisfied by conclusory allegations, unsubstantiated assertions, or only a scintilla of evidence. *Turner v. Baylor Richardson Med. Ctr.*, 476 F.3d 337, 343 (5th Cir. 2007) (internal quotations omitted). Furthermore, it is not the function of the court to search the record on the nonmovant’s behalf for evidence which may raise a fact issue. *Topalian v. Ehrman*, 954 F.2d 1125, 1137 n.30 (5th Cir. 1992). Therefore, “although we consider the evidence and all reasonable inferences to be drawn therefrom in the light most favorable to the nonmovant, the nonmoving party may not rest on the mere allegations or denials of its pleadings, but must respond by setting forth specific facts indicating a genuine issue for trial.” *Goodson v. City of Corpus Christi*, 202 F.3d 730, 735 (5th Cir. 2000) (internal quotation omitted).

II. The Lack of An Opportunity to Cure by Validating the Ballot Violates the Right to Vote and Procedural Due Process.

a. Procedural due process standard

To determine what process is due, courts, including the Fifth Circuit, analyze the three factors identified in *Mathews v. Eldridge*:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

424 U.S. 319, 334-35 (1976); *see Wilson v. Birnberg*, 667 F.3d 591, 601 (5th Cir. 2012) (applying *Mathews* factors in analyzing candidate's challenge to Texas statute governing rejection of application for place on the ballot). Texas's ballot by mail rejection scheme affords constitutionally insufficient process for the same reasons that similar statutes in other states have been invalidated. *See Martin v. Kemp*, ___ F. Supp. 3d ___, 2018 WL 5276242 (N.D. Ga. Oct. 24, 2018), *appeal docketed* [18-14503] (11th Cir. Oct. 29, 2018); *Saucedo v. Gardner*, ___ F. Supp. 3d ___, 2018 WL 3862704 (D. N.H. Aug. 14, 2018); *Zessar v. Helander*, 05-C-1917, 2006 WL 642646 (N.D. Ill. Mar. 13, 2006).

b. Private interest

The private interest involved here is the fundamental right to vote, which is denied to a voter who finds herself disenfranchised due to a perceived signature mismatch. "It is beyond dispute that the right to vote is of the most fundamental significance under our constitutional structure." *Saucedo, supra*, *10 (internal quotations omitted). While there is no fundamental right to vote *by mail*, "the privilege of absentee voting is certainly deserving of due process," and once the state provides a means of voting by mail, it must be administered in accordance with due process. *Id.* (internal quotations omitted); *Zessar*, 2006 WL 642646, at *6 ("There is no question

that the federal constitution does not require states to create absentee voting regimes...[b]ut once they create such a regime, they must administer it in accordance with the Constitution.”). This Court should accord significant weight to this factor, as the *Saucedo* court did, 2018 WL 3862704, at *10, because in the event of an erroneous deprivation under current law, “there is no recourse for the voter and no way to remedy the loss of that vote in that election.” *Zessar*, 2006 WL 642646, at *7.

c. Risk of erroneous deprivation and probable value of additional or substitute procedures

There is a substantial risk of an erroneous determination of a signature mismatch that will disenfranchise a voter, given that lay election officials are empowered to reject ballots based on a simple eyeball comparison of signatures. Ballot board members under Texas law are required to have no training in handwriting analysis, and the State does not provide any. Even in the absence of any expert testimony as to handwriting analysis, federal courts have recognized that “the task of handwriting analysis by laypersons...is fraught with error.” *Kemp, supra* at *9 (quoting *Saucedo, supra*, at *11, which featured the deposition testimony of Dr. Mohammed).

Plaintiffs here have produced the same expert from *Saucedo*, whose testimony establishes that, even if ballot board members were to undergo some training, it still would be insufficient to allow a sufficient handwriting analysis. Dr. Mohammed avers that even an expert handwriting analyst requires ten signature samples and sufficient time, in appropriate conditions including proper lighting and magnification equipment, to make a reliable determination whether a given signature is genuine.

Not only is the risk of erroneous deprivation high, but it is exceedingly simple to protect against this risk with additional procedures. A perceived signature mismatch flagged by the ballot board would require no more than a simple phone call, email, or letter to the voter, who could

verify that she indeed cast the ballot in question. Even where federal courts have acknowledged that the risk of erroneous deprivation may be *minimal*, they have still found this factor favors the plaintiffs challenging such statutes because the remedy is so very simple. *E.g.*, *Martin*, 2018 WL 5276242 at *9 (“While the Court recognizes that the risk of an erroneous deprivation is by no means enormous, permitting an absentee voter to resolve an alleged signature discrepancy nevertheless has the very tangible benefit of avoiding disenfranchisement.”); *Zessar*, 2006 WL 642646, at *9 (“It is apparent that the risk of erroneous deprivation of the protected interest in absentee voting is not enormous, but the probable value of an additional procedure is likewise great in that it serves to protect the fundamental right to vote.”).

d. Government’s interest

The courts that have declared mail-ballot rejection regimes like Texas’s invalid, and mandated additional procedures to comply with the constitution, have recognized the strong interest the State has in “maintaining the integrity of elections” and avoiding unnecessary burdens, *Martin*, 2018 WL 5276242 at *9, they have held that providing voters a means of curing or validating a perceived signature mismatch imposes minimal burdens that are justified. *Id.*; *Saucedo*, 2018 WL 3862704 at *14; *Zessar*, 2006 WL 642646 at *9.

Texas already provides a means for those who cast provisional ballots to provide certain documentation to election officials within a period of days after Election Day, for example, documents reflecting their true residency and eligibility to vote. This necessarily already tasks election officials in every county in Texas with making factual determinations as to whether a provisional voter was eligible to vote and whether their vote should be counted, during a certain period after the election. There is no reason Texas cannot afford the same period of time for those whose ballots are identified as perceived signature mismatch to confirm that they indeed submitted the ballot and signed the envelope, so that the ballot may be counted. Voters are already invited,

when the apply to vote by mail, to supply their “phone number and/or email address,” “in case our office has questions.” *See, e.g.*, Exhibit 4 (V. Guerrero provided his phone number). The only question at issue is confirming the voters’ identity—that they did submit the ballot, not somebody else pretending to be them. Affording this process would actually assist in combatting fraudulent voting, by requiring the contacting of voters with questionable signatures, which would permit the validation of valid ballots and assist state authorities in identifying those instances in which the voter did not actually sign the envelope attributed to them. If the Court believes a more formal process would be appropriate, it may require some kind of written reply from the voter, or even a personal visit to the voting office (for those who can do so). Whatever level of formality is judged to be necessary, some manner of simply verifying that the voter cast the ballot that was submitted in her name can be easily implemented.

III. The Lack of Uniform Standards for Reviewing Voter Signatures Violates Equal Protection.

a. Equal Protection Standard

“[O]ne source of [the] fundamental nature [of the right to vote] lies in the equal weight accorded to each vote and the equal dignity owed to each voter.” *Bush v. Gore*, 531 U.S. 98, 104 (2000). “[T]he State may not, by...arbitrary and disparate treatment, value one person's vote over that of another.” *Id.* at 104-05. *See, e.g., Harper v. Virginia Bd. of Elections*, 383 U.S. 663, 665 (1966) (“[O]nce the franchise is granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause of the Fourteenth Amendment”). It must be remembered that “the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise.” *Reynolds v. Sims*, 377 U.S. 533, 555 (1964).

The Florida recount procedure at issue in *Bush* required the recount teams to consider the “intent of the voter” as to whether to count an incompletely-perforated chad. *Bush*, 531 U.S. at 530. Like that requirement, the Texas requirement to examine the application and carrier envelope signatures to determine whether one was “executed by a person other than the voter,” Tex. Elec. Code § 87.041(b)(2), may be “unobjectionable as an abstract proposition and a starting principle.” *Bush*, 531 U.S. at 530. But, also like in *Bush*, the “problem inheres in the absence of specific standards to ensure its equal application. The formulation of uniform rules to determine intent based on these recurring circumstances is practicable and, we conclude, necessary.” *Id.*

b. Texas process

Texas imposes no uniform standards governing the review and acceptance of carrier envelopes, which determines whether a ballot is going to be accepted for counting or rejected.

Not only are there no standards governing this review across counties, but there is no training required for EVBB members who will be performing the review. The EVBB members are tasked with, among other things, reviewing voters’ handwriting in the signatures on the carrier envelopes to see if it matches the signature on the voter application. Like the county canvassing boards at issue in *Detzner*, these EVBBs “are staffed by laypersons that are not required to undergo—and many do not participate in—formal handwriting-analysis education or training.” *Detzner, supra*, at *2. The federal district court in *Detzner* further pointed out that “handwriting experts are often challenged under *Daubert*. There is no way that any member of a canvassing board could survive a *Daubert* challenge yet the State of Florida empowers them to declare ballots illegal.” *Id.* at *2 n.3.

Subjecting voters’ mail-ballots to review that in many cases disenfranchises the voter but is guided by no statewide standards or training of those performing the review violates equal protection of the law, as the review inescapably will vary from county to county. A voter’s ballot

that may be rejected by the Starr County EVBB in the March 2018 primary might have been accepted and counted if reviewed by another county's EVBB, or even by the Starr County EVBB when it is staffed by different members in the November election.

The disparities summarized above between counties indicates unequal application is a problem in Texas.

IV. The Manner In Which the Starr County EVBB Reviewed Carrier Envelopes for Acceptance in This Election Violates Equal Protection.

While the procedures challenged herein are unconstitutional even when implemented as required under the statutes and regulations, the Starr County EVBB worsened the constitutional infirmities in the March 2018 primaries by the particular manner in which it undertook review of the carrier envelopes.

Under no circumstances is it permissible under Texas law for an individual member of an EVBB to be vested with the authority to unilaterally determine whether a carrier envelope meets the requirements for acceptance. But that is exactly what happened here. The Starr County EVBB in the March 2018 primaries divided the mail ballot carrier envelopes they received into stacks for each individual member, and each individual member decided whether to accept or reject a given ballot in their stack. **Exhibits 16, 17.**

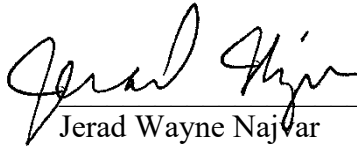
Thus, in this case, the Plaintiffs and the voters whose ballots were cast in Starr County were subjected to unequal treatment within the EVBB itself, as the standards of review applied by each member of the board inarguably varied.

Conclusion

For the above reasons, Plaintiffs respectfully request that the Court grant this motion for summary judgment and enter a declaratory judgment declaring the challenged statutes and procedures unconstitutional. Plaintiffs further request that, after any consideration the Court

deems necessary of the particular additional procedures appropriate, the Court enter a permanent injunction by separate order, requiring that constitutionally sufficient procedures be afforded to voters. Plaintiffs further request any additional relief to which they are justly entitled.

Respectfully submitted,



Jerad Wayne Najvar
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Southern Dist. No. 1155651
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2180 North Loop West, Suite 255
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281.404.4696 phone
281.582.4138 fax
Attorney in Charge for Plaintiffs

Of Counsel:

Najvar Law Firm, PLLC
2180 North Loop West, Ste. 255
Houston, TX 77018
Telephone: (281) 404-4696

RANDY ELF, N. Y. No. 2863553 (*motion for admission *pro hac vice* forthcoming)
Post Office Box 525
Lakewood, N. Y. 14750
Telephone (202) 423-2122
ForEFilingOnly@gmail.com

Certificate of Service

The undersigned counsel hereby certifies that on November 30, 2018, the foregoing document, and any accompanying exhibits and proposed order, was served on the counsel of record in this matter by means of the court's CM/ECF system:

Mr. Eric Hudson
Mr. H. Carl Myers
PO Box 12548, Capitol Station
Austin, TX 78711

Counsel for Defendant Pablos

Mr. Martin Golando
405 N. Saint Mary's, Suite 700
San Antonio, TX 78205
Counsel for ballot board Defendants

/s/ Jerad Najvar
Jerad Najvar

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

LETICIA GARZA GALVAN, et al.,
Plaintiffs,

v.

ROLANDO PABLOS, in his official
capacity as Texas Secretary of State, et
al.,
Defendants.

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Civil Case No. 7:18-cv-00113

DECLARATORY AND INJUNCTIVE
RELIEF REQUESTED

[PROPOSED] ORDER

On this day came on to be considered the Plaintiffs' joint motion for summary judgment. Having considered the motion, all exhibits filed with the papers, and the argument of counsel, if any, the Court is of the opinion that the motion should be GRANTED.

IT IS HEREBY ORDERED AND DECLARED that the Texas ballot by mail statutes and process, to the extent that it permits and/or requires the rejection of mail-in ballots for perceived signature discrepancy, violate the right to vote, due process of law under the Fourteenth Amendment to the United States Constitution, and the equal protection of the law as alleged and argued in Plaintiffs' pleadings.

[continued]

The Court hereby further ORDERS the parties to submit a proposed order of permanent injunction suggesting the precise procedures that must be, and can most reasonably and efficiently be enforced to afford appropriate process, within ten days of the entry of this order. If the parties can agree, they shall file such document jointly; if not, they shall file separately and identify the points of disagreement.

SO ORDERED this _____ day of _____ 2018

JUDGE PRESIDING

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

LETICIA GARZA GALVAN et al.
Plaintiffs,

v.

ROLANDO PABLOS et al.
Defendants.

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Civil Case No. 7:18-cv-00113

DECLARATION

1. My name is Amelia Martinez, and I reside at 232 Baldemar Ave., in Roma, TX. I am legally blind. I know how to write, voting is important to me, and I like to sign my own ballot envelope.
2. I signed my own application for a mail-in ballot for the March 2018 primary elections, and after completing my ballot, I signed my own envelope to return the ballot.
3. My daughter Magaly Serna assisted me with completing the ballot. She saw me sign the envelope.

4. I like to sign my name in cursive because that
is better for a signature, and that is the way I was
taught.

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury that the statements contained in this verification are true and correct. Executed in Starr County, State of Texas, on November 29, 2018.

Amelia Martinez
DECLARANT NAME

Amelia
SIGNATURE

Application for Ballot by Mail		Prescribed by the Office of the Secretary of State of Texas AS-15e 08/15	For Official Use Only VOID if County Election Precinct is Statement of Residence, etc.
1	Last Name (Please print information) <u>Martinez</u>	Suffix (Jr., Sr., III, etc)	First Name <u>Amelia</u>
2	Residence Address: See back of this application for instructions. <u>232 Baldemar Ave.</u>	City <u>Roma</u>	State <u>TX</u>
3	Mail my ballot to: If mailing address differs from residence address, please complete Box #7. <u>232 Baldemar Ave.</u>	City <u>Roma</u>	State <u>TX</u>
4	Date of Birth (mm/dd/yyyy) (Optional) 1945		
5	Reason for Voting by Mail: ☒ 65 years of age or older. (Complete Box #6a) ☐ Disability. (Complete Box #6a) ☐ Expected absence from the county. (Complete Box #6b and Box #8) You will receive a ballot for the upcoming election only. ☐ Confinement in jail. (Complete Box #6b) You will receive a ballot for the upcoming election only.		
6a	ONLY Voters 65 Years of Age or Older or Voters with a Disability: If applying for one election, select appropriate box. If applying once for elections in the calendar year, select "Annual Application." ☐ Annual Application Uniform and Other Elections: ☐ May Election ☐ November Election ☐ Other _____ ☒ Any Resulting Runoff Primary Elections: You must declare one political party to vote in a primary: ☒ Democratic Primary ☐ Republican Primary		
7	If you are requesting this ballot be mailed to a different address (other than residence), indicate where the ballot will be mailed. See reverse for instructions. ☒ Mailing Address as listed on my voter registration certificate ☐ Nursing home, assisted living facility, or long term care facility ☐ Hospital ☐ Retirement Center ☐ Address of this Ballot ☐ Relative; relationship _____ ☐ Address outside the county (see Box #8)		
8	If you selected "expected absence from the county," see reverse for instructions Date you can begin to receive mail at this address Date of return to residence address		
9	Contact Information (Optional)* Please list phone number and/or email address: * Used in case our office has questions. Notice to Voter: Effective September 1, 2015, you may submit a completed, signed and scanned application to the early voting clerk at _____ (early voting clerk's e-mail address)		
10	"I certify that the information given in this application is true, and I understand that giving false information in this application is a crime." → X Amelia Date <u>12/28/17</u> SIGN HERE If applicant is unable to sign or make a mark in the presence of a witness, the witness shall complete Box #11.		
If someone helped you to complete this form or mails the form for you, then that person must complete the sections below.			
11	See back for Witness and Assistant definitions. If applicant is unable to mark Box #10 and you are acting as a Witness to that fact, please check this box and sign below. ☐ If you assisted the applicant in completing this application in the applicant's presence or e-mailed/mailed or faxed the application on behalf of the applicant, please check this box as an Assistant and sign below. ☒ *If you are acting as Witness and Assistant, please check both boxes. Failure to complete this information is a Class A misdemeanor if signature was witnessed or applicant was assisted in completing the application.		
Signature of Witness/Assistant <u>495 Dr. Maria Ramirez</u> Street Address <u>TX</u> State		Printed Name of Witness/Assistant <u>Roma</u> City <u>78584</u> Zip	
Witness' Relationship to Applicant (Refer to Instructions on back for clarification)			

Este formulario está disponible en Español. Para conseguir la versión en Español favor de llamar sin cargo al 1.800.252.8683 a la oficina del Secretario de Estado o la Secretaría de Votación por Adelantado.

Case 7:18-cv-00113 Document 25-2 Filed 01/13/2018 in TXSD Page 3 of 3

envelope unless the ballot has been marked by you or your direction. This carrier envelope must be used to return more than one voter's ballot. However, more than one carrier envelope may be placed together in another envelope if the additional carrier envelope(s) belong to a person registered to vote at the same address. This carrier envelope must be returned by mail, by common or contract carrier, or in person by the voter on election day at the early voting clerk's office. (Instrucciones al Votante: Selle este sobre, y después firme su nombre en el espacio proporcionado abajo. Este sobre debe de ser sellado por el votante antes de que el votante lo entregue. No firme este sobre a menos de que la boleta haya sido llenada por usted, o bajo su dirección. Este sobre oficial no debe ser utilizado para entregar la boleta de más de un solo votante. Sin embargo, más de un solo sobre oficial puede ser colocado dentro de otro sobre si el sobre(s) oficial adicional le pertenece a un votante registrado para votar bajo la misma dirección. Este sobre oficial debe ser enviado por correo, por medio de un transportista público o comercial, o ser entregado en persona por el votante el día de la elección en la oficina del secretario de votación temprana.)

I certify that the enclosed ballot expresses my wishes independent of any dictation or undue persuasion by any person. (Certifico que la boleta adjunta expresa mis deseos independientemente de ningún dictado o persuasión indebida por parte de cualquier persona.)

SEAL ENVELOPE AND SIGN OVER SEALED FLAP

X Amelia
SIGNATURE OR MARK OF VOTER (FIRMA O MARCA DEL VOTANTE)

Instructions to Assistant: A voter may only be assisted with reading or marking the ballot if they have a physical disability that renders them unable to write or see, or have an inability to read the language in which the ballot is written. If you are assisting the voter, you must read the oath and complete the section below for assisting the voter. (Instrucciones al Asistente: Un votante puede recibir ayuda para leer o llenar la boleta solamente si el votante tiene una discapacidad física la cual le impide escribir o ver o no tiene la habilidad de leer el lenguaje en el cual la boleta está escrita. Si usted le proporcionará ayuda a un votante, usted debe leer el juramento y llenar la siguiente sección abajo, antes de asistir al votante.)

Oath of Person Assisting Voter: I swear (or affirm) that I will not suggest, by word, sign, or gesture, how the voter should vote; I will confine my assistance to answering the voter's questions, to stating propositions on the ballot, and to naming candidates and, if listed, their political parties; I will prepare the voter's ballot as the voter directs; and I am not the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs. (Juramento de la Persona Asistiendo al Votante: Juro (o afirmo) que no sugeriré con palabras, señales, o gestos, la manera en la cual el votante debe votar; limitare mi asistencia a responder las preguntas del votante, leer propuestas en la boleta, nombrar a los candidatos, y si es mencionado, su partido político; prepararé la boleta del votante de acuerdo a sus instrucciones; y yo no soy el empleador del votante, un agente del empleador del votante, o un oficial o agente de un sindicato al cual el votante pertenece.)

Instructions to Witness: You are serving as a witness for _____ (name of voter). You must complete the section below if you witness the mark of the voter, or if the voter cannot make a mark. If the voter cannot make a mark, check here _____. (Instrucciones al Testigo: Usted está fungiendo como testigo para _____ (nombre del votante). Usted debe llenar la siguiente sección abajo si usted fue testigo de que el votante firmo, o de que el votante no puede firmar. Si el votante no puede firmar, marque sus Iniciales aquí _____.)

Instructions to Person Depositing Carrier Envelope in Mail or to Common or Contract Carrier: If you are assisting a voter by depositing the carrier envelope in the mail or with a common or contract carrier, you must complete the section below. (Instrucciones a la Persona Quien Deposite el Sobre Oficial en el Correo o Entregue al Transportista Público o Comercial: Si usted asistirá al votante a depositar el sobre oficial en el correo o con un transportista público o comercial, usted debe llenar la sección que aparece abajo.)

If you are an assistant or witness, check the appropriate box below and provide information: (Si usted es un asistente o testigo, marque la casilla correcta y proporcione su información):

☒ Assistant/ Asistente	<u>[Signature]</u>	<u>Margaly Serna</u>	<u>232.5 Baldemar Ave</u>
☐ Witness/ Testigo	Signature (Firma)	Printed Name (Nombre impreso)	Street Address (Domicilio residencial)
☐ Assistant/ Asistente			
☐ Witness/ Testigo	Signature (Firma)	Printed Name (Nombre impreso)	Street Address (Domicilio residencial)

Completed by Early Voting Clerk: Name of Election (Nombre de Elección): PRIMARY ELECTION Pt 6 # 1006031422

Name of Voter (Nombre del votante): Martinez Amelia Date of Election (Fecha de Elección): 3/6/2018

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

LETICIA GARZA GALVAN et al.
Plaintiffs,

v.

ROLANDO PABLOS et al.
Defendants.

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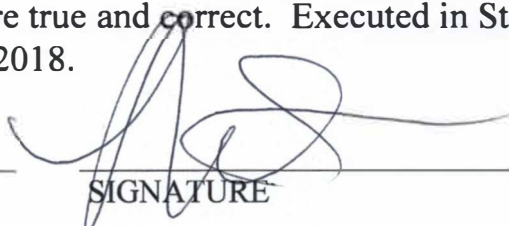
Civil Case No. 7:18-cv-00113

DECLARATION

1. My name is Magaly Serna, and I reside at _____.
2. Amelia Martínez is my mother. I live with her. I have been helping her as an assistant with her ballot for about the last five years. Before that, my brother would usually help her. She has been blind for about 11 years. She always insists to sign the ballot herself. She loves to sign her own name. When we received the letter after the election saying that the ballot was rejected, my mother was very upset.

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury that the statements contained in this verification are true and correct. Executed in Starr County, State of Texas, on November 29, 2018.

Magaly Serna
DECLARANT NAME


SIGNATURE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

LETICIA GARZA GALVAN et al.
Plaintiffs,

v.

ROLANDO PABLOS et al.
Defendants.

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Civil Case No. 7:18-cv-00113

DECLARATION

1. My name is Maria Guerrero, and I reside at 19 Flores St., in Roma, TX. Vicente Guerrero is my husband.
2. Attached as **Exhibit A** to this declaration is a copy of the application to vote by mail that I signed. I signed the application myself. I was very careful writing, and I left some letters out of my last name because I did not want to write over the word "date."
3. Attached as **Exhibit B** to this declaration is a copy of the envelope for my ballot that I completed for the March 2018 primary elections. I completed my ballot, and I signed the envelope myself.
4. I was home with my husband when we voted
in the March 2018 primary elections. We both signed
our own applications and the ballot envelopes.

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury that the statements contained in this verification are true and correct. Executed in Starr County, State of Texas, on November 29, 2018.

DECLARANT NAME

Maria R Guerrero
SIGNATURE

Prescribed by the

of the Secretary of State of Texas
A5-15e 08/15
173711For Official Use Only
VUID #, County Election Precinct #,
Statement of Residence, etc.

Pct 3 # 100913375

1	Name (Please print information) Guerrero	Suffix (Jr., Sr., III, etc.)	First Name Maria	Middle Initial R
2	Residence Address: See back of this application for instructions. 19 Florez St	City Roma	State TX	Zip Code 78584
3	Mail my ballot to: If mailing address differs from residence address, please complete Box # 7. 19 Florez St	City Roma	State TX	Zip Code 78584
4	Date of Birth (mm/dd/yyyy) (Optional) 1/9/39			

5	Reason for Voting by Mail: ☒ 65 years of age or older. (Complete Box #6a) ☐ Disability. (Complete Box #6a) ☐ Expected absence from the county. (Complete Box #6b and Box #8) You will receive a ballot for the upcoming election only ☐ Confinement in jail. (Complete Box #6b) You will receive a ballot for the upcoming election only	7	If you are requesting this ballot be mailed to a different address (other than residence), indicate where the ballot will be mailed. See reverse for instructions. ☐ Mailing Address as listed on my voter registration certificate ☐ Nursing home, assisted living facility, or long-term care facility ☐ Hospital ☐ Retirement Center ☐ Address of the jail ☐ Relative, relationship _____ ☐ Address outside the county (see Box #8)
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6a	ONLY Voters 65 Years of Age or Older or Voters with a Disability: If applying for one election, select appropriate box. If applying once for elections in the calendar year, select "Annual Application." ☒ Annual Application Uniform and Other Elections: ☐ May Election ☐ November Election ☐ Other _____ ☒ Any Resulting Runoff Primary Elections: You must declare one political party to vote in a primary: ☒ Democratic Primary ☐ Republican Primary	8	If you selected "expected absence from the county," see reverse for instructions Date you can begin to receive mail at this address: 1/9/39 Date of return to residence address: 1/9/39	9	Contact information (Optional)* Please list phone number and/or email address: * Used in case our office has questions. (956) 8194348 Notice to Voter: Effective September 1, 2015, you may submit a completed, signed and scanned application to the early voting clerk at: (early voting clerk's e-mail address)
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6b	ONLY Voters Absent from County or Voters Confined in Jail: You may only apply for a ballot by mail for one election, and any resulting runoff. Please select the appropriate box. Uniform and Other Elections: ☐ May Election ☐ November Election ☐ Other _____ ☐ Any Resulting Runoff Primary Elections: You must declare one political party to vote in a primary: ☐ Democratic Primary ☐ Republican Primary	10	"I certify that the information given in this application is true, and I understand that giving false information in this application is a crime." X Maria R. Guerrero Date _____ SIGN HERE If applicant is unable to sign or make a mark in the presence of a witness, the witness shall complete Box #11.
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11		See back for Witness and Assistant definitions. If applicant is unable to mark Box #10 and you are acting as a Witness to that fact, please check this box and sign below. ☐	
If you assisted the applicant in completing this application in the applicant's presence or e-mailed/mailed or faxed the application on behalf of the applicant, please check this box as an Assistant and sign below. ☒		* If you are acting as Witness and Assistant, please check both boxes. Failure to complete this information is a Class A misdemeanor if signature was witnessed or applicant was assisted in completing the application.	
Signature of Witness/Assistant x [Signature] Street Address 7 W. Gonzalez Ave Apt Number (if applicable)		Printed Name of Witness/Assistant x Yoderda Vela City Roma Zip 78584	
Exhibit 3 Pffs MSJ		Witness' Relationship to Applicant (Refer to Instructions on back for clarification) A	

Galvan 209

envelope unless the ballot has been marked by you or at your direction. This carrier envelope may not be used to return more than one voter's ballot. However, more than one carrier envelope may be placed together in another envelope if the additional carrier envelope(s) belong to a person registered to vote at the same address. This carrier envelope must be returned by mail, common or contract carrier, or in person by the voter on election day at the early voting clerk's office. (Instrucciones al Votante: Selle este sobre, y después firme su nombre en el espacio proporcionado abajo. Este sobre debe de ser sellado por el votante antes de que el votante lo entregue. No firme este sobre a menos de que la boleta haya sido llenada por usted, o bajo su dirección. Este sobre oficial no debe ser utilizado para entregar la boleta de más de un solo votante. Sin embargo, más de un solo sobre oficial puede ser colocado dentro de otro sobre si el sobre(s) oficial adicional le pertenece a un votante registrado para votar bajo la misma dirección. Este sobre oficial debe ser enviado por correo, por medio de un transportista público o comercial, o ser entregado en persona por el votante el día de la elección en la oficina del secretario de votación temprana.)

I certify that the enclosed ballot expresses my wishes independent of any dictation or undue persuasion by any person. (Certifico que la boleta adjunta expresa mis deseos de ningún dictado o persuasión indebida por parte de cualquier persona.)

SEAL ENVELOPE AND SIGN OVER SEALED FLAP

SIGNATURE OR MARK OF VOTER (FIRMA O MARCA DEL VOTANTE)

Instructions to Assistant: A voter may only be assisted with reading or marking the ballot if they have a physical disability that renders them unable to write or see, or have an inability to read the language in which the ballot is written. If you are assisting the voter, you must read the oath and complete the section below, before assisting the voter. (Instrucciones al Asistente: Un votante puede recibir ayuda para leer o llenar la boleta solamente si el votante tiene una discapacidad física la cual le impide escribir o ver, o si no tiene la habilidad de leer el lenguaje en el cual la boleta está escrita. Si usted le proporcionará ayuda a un votante, usted debe leer el juramento y llenar la siguiente sección abajo, antes de asistir al votante.)

Oath of Person Assisting Voter: I swear (or affirm) that I will not suggest, by word, sign, or gesture, how the voter should vote; I will confine my assistance to answering the voter's questions, to stating propositions on the ballot, and to naming candidates and, if listed, their political parties; I will prepare the voter's ballot as the voter directs; and I am not the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs. (Juramento de la Persona Asistiendo al Votante: Juro (o afirmo) que no sugeriré con palabras, señales, o gestos, la manera en la cual el votante debe votar; limitare mi asistencia a responder las preguntas del votante, leer propuestas en la boleta, nombrar a los candidatos, y si es mencionado, su partido político; prepararé la boleta del votante de acuerdo a sus instrucciones; y yo no soy el empleador del votante, un agente del empleador del votante, o un oficial o agente de un sindicato al cual el votante pertenece.)

Instructions to Witness: You are serving as a witness for _____ (name of voter). You must complete the section below if you witness the mark of the voter, or if the voter cannot make a mark. If the voter cannot make a mark, check here _____. (Instrucciones al Testigo: Usted está fungiendo como testigo para el votante _____ (nombre del votante). Usted debe llenar la siguiente sección abajo si usted fue testigo de que el votante firmo, o de que el votante no puede firmar. Si el votante no puede firmar, marque sus iniciales aquí _____.)

Instructions to Person Depositing Carrier Envelope In Mail or to Common or Contract Carrier: If you are assisting a voter by depositing the carrier envelope in the mail or with a common or contract carrier, you must complete the section below. (Instrucciones a la Persona Quien Deposita el Sobre Oficial en el Correo o Entregue al Transportista Público o Comercial: Si usted asistirá al votante a depositar el sobre oficial en el correo o con un transportista público o comercial, usted debe llenar la sección que aparece abajo.)

If you are an assistant or witness, check the appropriate box below and provide information: (Si usted es un asistente o testigo, marque la casilla correcta y proporcione su información):

☒ Assistant/ Asistente	<u>Barbara E. Barrios</u>	<u>Barbara E Barrios</u>	<u>2351 E. Main St</u>
	Signature (Firma)	Printed Name (Nombre impreso)	Street Address (Domicilio residencial)
☐ Witness/ Testigo			<u>Roma Tx 78584</u>
☐ Assistant/ Asistente			
☐ Witness/ Testigo			

Completed by Early Voting Clerk: Name of Election (Nombre de Elección): Primary Election Pt 3 #1009133759

Name of Voter (Nombre del votante): Guerrero, Maria R Date of Election (Fecha de Elección): 3/6/2018

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

LETICIA GARZA GALVAN et al.
Plaintiffs,

v.

ROLANDO PABLOS et al.
Defendants.

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Civil Case No. 7:18-cv-00113

DECLARATION

1. My name is Vicente Guerrero, and I reside at 19 Flores St., in Roma, TX. Maria Guerrero is my wife.
2. Attached as **Exhibit A** to this declaration is a copy of the application to vote by mail that I signed. I signed the application myself.
3. Attached as **Exhibit B** to this declaration is a copy of the envelope for my ballot that I completed for the March 2018 primary elections. I completed my ballot, and I signed the envelope myself.

4. _____

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury that the statements contained in this verification are true and correct. Executed in Starr County, State of Texas, on November 29, 2018.

DECLARANT NAME

SIGNATURE



Application for Ballot by Mail

Prescribed by the Office of the Secretary of State of Texas
AS-15e 08/15For Official Use Only
VUJD #, County Election Precinct #,
Statement of Residence, etc.

PC 3 # 100933763

1	Last Name (Please print information) Guerrero	Suffix (Mr., Sr., III, etc.)	First Name Vicente	Middle Initial
2	Residence Address: See back of this application for instructions. 19 Flores St	City Roma	State TX	Zip Code 78584
3	Mail my ballot to: If mailing address differs from residence address, please complete Box #7. 19 Flores St	City	State	Zip Code
4	Date of Birth (mm/dd/yyyy) (Optional) 1935			

REJECTED

5	Reason for Voting by Mail: ☒ 65 years of age or older. (Complete Box #6a) ☐ Disability. (Complete Box #6a) ☐ Expected absence from the county. (Complete Box #6b and Box #8) You will receive a ballot for the upcoming election <u>only</u> ☐ Confinement in jail. (Complete Box #6b) You will receive a ballot for the upcoming election <u>only</u>	7	If you are requesting this ballot be mailed to a different address (other than residence), indicate where the ballot will be mailed. See reverse for instructions. ☐ Mailing Address as listed on my voter registration certificate ☐ Nursing home, assisted living facility, or long term care facility ☐ Hospital ☐ Retirement Center ☐ Address of the jail ☐ Relative: relationship _____ ☐ Address outside the county (see Box #8)
6a	ONLY Voters 65 Years of Age or Older or Voters with a Disability: If applying for one election, select appropriate box. If applying once for elections in the calendar year, select "Annual Application." ☒ Annual Application Uniform and Other Elections: ☐ May Election ☐ November Election ☐ Other _____ ☒ Any Resulting Runoff Primary Elections: You must declare <u>one</u> political party to vote in a primary. ☒ Democratic Primary ☐ Republican Primary	8	If you selected "expected absence from the county," see reverse for instructions Date you can begin to receive mail at this address: 00/00/0000 — Date of return to residence address: 00/00/0000
		9	Contact Information (Optional) Please list phone number and/or email address. *Used in case our office has questions. 849 4348

Notice to Voter: Effective September 1, 2015, you may submit a completed, signed and scanned application to the early voting clerk at _____ (early voting clerk's e-mail address)

6b	ONLY Voters Absent from County or Voters Confined in Jail: You may only apply for a ballot by mail for one election, and any resulting runoff. Please select the appropriate box. Uniform and Other Elections: ☐ May Election ☐ November Election ☐ Other _____ ☐ Any Resulting Runoff Primary Elections: You must declare <u>one</u> political party to vote in a primary. ☐ Democratic Primary ☐ Republican Primary	10	"I certify that the information given in this application is true, and I understand that giving false information in this application is a crime." X <i>Galvan 206</i> SIGN HERE If applicant is unable to sign or make a mark in the presence of a witness, the witness shall complete Box #11.
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If someone helped you to complete this form or mails the form for you, then that person must complete the sections below.

11	See back for Witness and Assistant definitions. If applicant is unable to mark Box #10 and you are acting as a Witness to that fact, please check this box and sign below. ☐ If you assisted the applicant in completing this application in the applicant's presence or e-mailed/mailed or faxed the application on behalf of the applicant, please check this box as an Assistant and sign below. ☒ *If you are acting as Witness and Assistant , please check both boxes . Failure to complete this information is a Class A misdemeanor if signature was witnessed or applicant was assisted in completing the application.	Signature of Witness/Assistant: x N. N. Gonzalez Street Address: 7110 Gonzalez Ave Apt Number (if applicable): City: Roma Zip: 78584	Signature of Witness/Assistant: x Modesta Vela Street Address: Roma City: Roma Zip: 78584	Witness' Relationship to Applicant (Refer to Instructions on back for clarification)
----	---	--	--	---

Galvan 206

Exhibit 4
Pifs MSJ

Instructions to Voter: Seal this envelope, and return it to the election official. This carrier envelope may not be used to return more than one voter's ballot. However, more than one ballot has been marked by you or at your direction. This carrier envelope may not be used to return more than one voter's ballot. However, more than one carrier envelope may be placed together in another envelope if the additional carrier envelope(s) belong to a person registered to vote at the same address. This carrier envelope must be returned by mail, by common or contract carrier, or in person by the voter on election day at the early voting center's office. (Instrucciones al Votante: Selle este sobre, y después firme su nombre en el espacio proporcionado abajo. Este sobre debe de ser sellado por el votante antes de que el votante lo entregue. No firme este sobre a menos de que la boleta haya sido llenada por usted, o bajo su dirección. Este sobre oficial no debe ser utilizado para entregar la boleta de más de un solo votante. Sin embargo, más de un solo sobre oficial puede ser colocado dentro de otro sobre si el sobre(s) oficial adicional le pertenece a un votante registrado para votar bajo la misma dirección. Este sobre oficial debe ser enviado por correo, por medio de un transportista público o comercial, o ser entregado en persona por el votante el día de la elección en la oficina del secretario de votación temprana.)

I certify that the enclosed ballot expresses my wishes independent of any dictation or undue persuasion by any person. (Certifico que la boleta adjunta expresa mis deseos independientemente de ningún dictado o persuasión indebida por parte de cualquier persona.)

SEAL ENVELOPE AND SIGN OVER SEALED FLAP

SIGNATURE OR MARK OF VOTER (FIRMA O MARCA DEL VOTANTE)

Instructions to Assistant: A voter may only be assisted with reading or marking the ballot if they have a physical disability that renders them unable to write or see, or have an inability to read the language in which the ballot is written. If you are assisting the voter, you must read the oath and complete the section below, before assisting the voter. (Instrucciones al Asistente: Un votante puede recibir ayuda para leer o llenar la boleta solamente si el votante tiene una discapacidad física la cual le impide escribir o ver, o si no tiene la habilidad de leer el lenguaje en el cual la boleta está escrita. Si usted le proporcionará ayuda a un votante, usted debe leer el juramento y llenar la siguiente sección abajo, antes de asistir al votante.)

Oath of Person Assisting Voter: I swear (or affirm) that I will not suggest, by word, sign, or gesture, how the voter should vote; I will confine my assistance to answering the voter's questions, to stating propositions on the ballot, and to naming candidates and, if listed, their political parties; I will prepare the voter's ballot as the voter directs; and I am not the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs. (Juramento de la Persona Asistiendo al Votante: Juro (o afirmo) que no sugeriré con palabras, señales, o gestos, la manera en la cual el votante debe votar; limitare mi asistencia a responder las preguntas del votante, leer propuestas en la boleta, nombrar a los candidatos, y si es mencionado, su partido político; prepararé la boleta del votante de acuerdo a sus instrucciones; y yo no soy el empleador del votante, un agente del empleador del votante, o un oficial o agente de un sindicato al cual el votante pertenece.)

Instructions to Witness: You are serving as a witness for _____ (name of voter). You must complete the section below if you witness the mark of the voter, or if the voter cannot make a mark. If the voter cannot make a mark, check here _____. (Instrucciones al Testigo: Usted está fungiendo como testigo para _____ (nombre del votante). Usted debe llenar la siguiente sección abajo si usted fue testigo de que el votante firmo, o de que el votante no puede firmar. Si el votante no puede firmar, marque sus iniciales aquí _____.)

Instructions to Person Depositing Carrier Envelope In Mail or to Common or Contract Carrier: If you are assisting a voter by depositing the carrier envelope in the mail or with a common or contract carrier, you must complete the section below. (Instrucciones a la Persona Quien Deposite el Sobre Oficial en el Correo o Entregue al Transportista Público o Comercial: Si usted asistirá al votante a depositar el sobre oficial en el correo o con un transportista público o comercial, usted debe llenar la sección que aparece abajo.)

If you are an assistant or witness, check the appropriate box below and provide information: (Si usted es un asistente o testigo, marque la casilla correcta y proporcione su información):

☒ Assistant/
Asistente Signature (Firma) Printed Name (Nombre Impreso) Street Address (Domicilio residencial)
Barbara E. Barrios Barbara E Barrios 2351 E Mark St
Roma TX 78584

☐ Witness/
Testigo
☐ Assistant/
Asistente
☐ Witness/
Testigo Signature (Firma) Printed Name (Nombre Impreso) Street Address (Domicilio residencial)

Completed by Early Voting Clerk: Name of Election (Nombre de Elección): Primary Election Pt 3 # 1009133763

Name of Voter (Nombre del votante): Guerrero, Vicente Date of Election (Fecha de Elección): 3/6/2018

3

AW5-42
Prescribed by Secretary of State
Sec. 87.0431, Texas Election Code
3/07

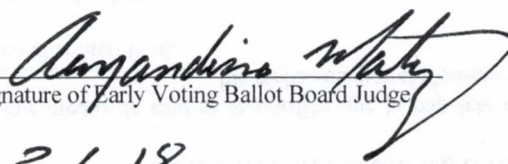
NOTICE OF REJECTED BALLOT

This is to serve as notice that your ballot for the Primary Election was rejected by the early voting ballot board and was not counted.

Name of Voter Federico Flores
VUID Number 1005981329

Reason for Rejection: (Check As Appropriate)

- ☐ 1) Certificate on carrier envelope was not properly executed.
☐ You failed to sign your signature or make your mark.
☐ The witness failed to indicate on the envelope that you could not make a mark.
☐ The assistant or witness failed to print their name.
☐ The assistant or witness failed to sign their name.
☐ The residence address of the assistant or witness was not given.
- ☒ 2) It was determined that the signature on the application for ballot by mail and carrier envelope was not signed by the same person.
- ☐ 3) Application for ballot by mail did not state a legal ground for voting by mail.
- ☐ 4) Voter registration records indicated you did not have an effective registration for this election.
- ☐ 5) Address to which ballot was mailed was not outside the county. Voting early by mail due to expected absence from the county requires balloting materials be mailed to an address outside the county.
- ☐ 6) The residence address on the statement of residence is not located in the political subdivision conducting the election.
- ☐ 7) The mailing address on the application for ballot by mail did not match your voter registration address nor did the mailing address match any addresses provided on your statement of residence. Since you did not indicate on your application for a ballot by mail that you were having your ballot mailed to a hospital, retirement center, long term care facility, nursing home, jail, or a relative, your ballot was rejected.
- ☐ 8) The statement of residence was not included in the carrier envelope.
- ☐ 9) No identification was included with your mail ballot.
- ☐ 10) Other: _____


Signature of Early Voting Ballot Board Judge

3-6-18
Date

AW5-42
 Prescribed by Secretary of State
 Sec. 87.0431, Texas Election Code
 3/07

NOTICE OF REJECTED BALLOT

This is to serve as notice that your ballot for the Primary Election was rejected by the early voting ballot board and was not counted.

Name of Voter Maria Guerrero
 VUID Number 1009133759

Reason for Rejection: (Check As Appropriate)

- ☐ 1) Certificate on carrier envelope was not properly executed.
 ☐ You failed to sign your signature or make your mark.
 ☐ The witness failed to indicate on the envelope that you could not make a mark.
 ☐ The assistant or witness failed to print their name.
 ☐ The assistant or witness failed to sign their name.
 ☐ The residence address of the assistant or witness was not given.
- ☒ 2) It was determined that the signature on the application for ballot by mail and carrier envelope was not signed by the same person.
- ☐ 3) Application for ballot by mail did not state a legal ground for voting by mail.
- ☐ 4) Voter registration records indicated you did not have an effective registration for this election.
- ☐ 5) Address to which ballot was mailed was not outside the county. Voting early by mail due to expected absence from the county requires balloting materials be mailed to an address outside the county.
- ☐ 6) The residence address on the statement of residence is not located in the political subdivision conducting the election.
- ☐ 7) The mailing address on the application for ballot by mail did not match your voter registration address nor did the mailing address match any addresses provided on your statement of residence. Since you did not indicate on your application for a ballot by mail that you were having your ballot mailed to a hospital, retirement center, long term care facility, nursing home, jail, or a relative, your ballot was rejected.
- ☐ 8) The statement of residence was not included in the carrier envelope.
- ☐ 9) No identification was included with your mail ballot.
- ☐ 10) Other:


 Signature of Early Voting Ballot Board Judge

3-6-18
 Date

AW5-42
Prescribed by Secretary of State
Sec. 87.0431, Texas Election Code
3/07

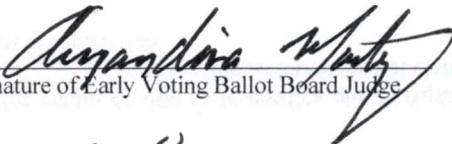
NOTICE OF REJECTED BALLOT

This is to serve as notice that your ballot for the Primary Election was rejected by the early voting ballot board and was not counted.

Name of Voter Vicente Guerrero
VUID Number 1069133763

Reason for Rejection: (Check As Appropriate)

- ☐ 1) Certificate on carrier envelope was not properly executed.
☐ You failed to sign your signature or make your mark.
☐ The witness failed to indicate on the envelope that you could not make a mark.
☐ The assistant or witness failed to print their name.
☐ The assistant or witness failed to sign their name.
☐ The residence address of the assistant or witness was not given.
- ☒ 2) It was determined that the signature on the application for ballot by mail and carrier envelope was not signed by the same person.
- ☐ 3) Application for ballot by mail did not state a legal ground for voting by mail.
- ☐ 4) Voter registration records indicated you did not have an effective registration for this election.
- ☐ 5) Address to which ballot was mailed was not outside the county. Voting early by mail due to expected absence from the county requires balloting materials be mailed to an address outside the county.
- ☐ 6) The residence address on the statement of residence is not located in the political subdivision conducting the election.
- ☐ 7) The mailing address on the application for ballot by mail did not match your voter registration address nor did the mailing address match any addresses provided on your statement of residence. Since you did not indicate on your application for a ballot by mail that you were having your ballot mailed to a hospital, retirement center, long term care facility, nursing home, jail, or a relative, your ballot was rejected.
- ☐ 8) The statement of residence was not included in the carrier envelope.
- ☐ 9) No identification was included with your mail ballot.
- ☐ 10) Other: _____


Signature of Early Voting Ballot Board Judge

3-6-18
Date

AW5-42
Prescribed by Secretary of State
Sec. 87.0431, Texas Election Code
3/07

NOTICE OF REJECTED BALLOT

This is to serve as notice that your ballot for the Primary Election was rejected by the early voting ballot board and was not counted.

Name of Voter Arnelia Martinez
VOID Number 1006031422

Reason for Rejection: (Check As Appropriate)

- ☐ 1) Certificate on carrier envelope was not properly executed.
☐ You failed to sign your signature or make your mark.
☐ The witness failed to indicate on the envelope that you could not make a mark.
☐ The assistant or witness failed to print their name.
☐ The assistant or witness failed to sign their name.
☐ The residence address of the assistant or witness was not given.
- ☒ 2) It was determined that the signature on the application for ballot by mail and carrier envelope was not signed by the same person.
- ☐ 3) Application for ballot by mail did not state a legal ground for voting by mail.
- ☐ 4) Voter registration records indicated you did not have an effective registration for this election.
- ☐ 5) Address to which ballot was mailed was not outside the county. Voting early by mail due to expected absence from the county requires balloting materials be mailed to an address outside the county.
- ☐ 6) The residence address on the statement of residence is not located in the political subdivision conducting the election.
- ☐ 7) The mailing address on the application for ballot by mail did not match your voter registration address nor did the mailing address match any addresses provided on your statement of residence. Since you did not indicate on your application for a ballot by mail that you were having your ballot mailed to a hospital, retirement center, long term care facility, nursing home, jail, or a relative, your ballot was rejected.
- ☐ 8) The statement of residence was not included in the carrier envelope.
- ☐ 9) No identification was included with your mail ballot.
- ☐ 10) Other:

Argandine Huty
Signature of Early Voting Ballot Board Judge

3-6-18
Date

**381st DISTRICT COURT
TEXAS, TEXAS**

LETICIA GARZA GALVAN and
MARTIE GARCIA VELA,

Plaintiffs,

v.

ROLANDO PABLOS, in his official
capacity as Texas Secretary of State, and
ARMANDINA MARTINEZ, ALMA
GARCIA, ALICIA DOUGHERTY NO. 1,
ALICIA DOUGHERTY NO. 2,
YOLANDA MARTINEZ,

Defendants.

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Case. No. DC-18-189

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DECLARATION OF LINTON A. MOHAMMED

I, LINTON A. MOHAMMED, declare that:

1. I am a Forensic Document Examiner (“FDE”), certified by the American Board of Forensic Document Examiners. I have been engaged in this matter on behalf of Plaintiffs. I make this declaration based upon my personal knowledge unless otherwise specified.

I. QUALIFICATIONS

2. I am a U.S.-certified and internationally recognized FDE, and the focus of my research and professional experience is on handwriting and signature identification and the scientific approach to analyzing questioned signatures. I am, and since 1998 continuously have been, certified by the American Board of Forensic Document Examiners (ABFDE), the certifying board for FDEs in North America. I am also certified in document examination by the Chartered Society of Forensic Sciences (United Kingdom). I specialize in the forensic science of analyzing genuine, disguised, and simulated signatures.

3. I co-founded, and I am currently the principal at Forensic Science Consultants, Inc., where I conduct forensic document examination casework and research on handwriting and signature identification as well as other forensic document examination (e.g., document alterations, obliterations, indented impressions, or pages added or removed). I am also an adjunct instructor at Oklahoma State University, where I teach graduate courses on the scientific examination of questioned documents. I previously spent approximately fourteen years conducting forensic document, handwriting, and signature examination and research at Forensic Science Consultants, Inc. doing business as Rile, Hicks, & Mohammed and Associated Document Examiners.

4. During and prior to my time with Associated Document Examiners, and for nearly fourteen years, I worked as Forensic Document Examiner and Senior Document Examiner for the San Diego Sheriff's Department Regional Crime Laboratory. There I conducted examinations of signatures and handwriting for cases investigated by San Diego County agencies as well as by local police, state, and federal agencies. I also served as Technical Lead of the Questioned Documents Section of the Regional Crime Laboratory, trained investigators and attorneys, provided expert testimony, conducted research, and produced the Questioned Documents Section Quality Manuals. Prior to that, I worked internationally as an FDE at the Laboratory of the Government Chemist (England), Caribbean Institute of Forensic Investigations Ltd. (West Indies), and Trinidad and Tobago Forensic Science Center (West Indies). In those roles, I conducted forensic document examinations and testified in criminal and civil cases for multiple police forces and other government agencies.

5. I am a Fellow of the Questioned Documents Section of the American Academy of Forensic Sciences (AAFS), a member and diplomate of the Forensic Science Society, and a

member of the Canadian Society of Forensic Science. I served as the Chair of the AAFS Questioned Documents Section from 2016-2018. I am an appointed member of the Academy Standards Board, which was formed by the AAFS to develop documentary standards for the forensic sciences. I served as a member of the National Institute of Standards and Technology's Expert Working Group on Human Factors in Handwriting Examination, the National Institute of Standards and Technology Organization of Scientific Area Committees Physics/Pattern Interpretation Scientific Area Committee, and the Scientific Working Group on Documents. I have previously served as President, Vice President, Treasurer, and Director of the American Society of Questioned Document Examiners (ASQDE).

6. I am also an editorial reviewer of forensic sciences and document examination journals. In particular, I am an editorial review board member of the Journal of Forensic Sciences, Journal of the American Society of Questioned Document Examiners, and Forensic Science and Technology. I am also a guest reviewer for the following journals: Forensic Science International, Science & Justice, Australian Journal of Forensic Science, Egyptian Journal of Forensic Sciences, and IEEE Transactions on Cybernetics.

7. I have published thirteen articles on handwriting identification and forensic document examination. Many of my articles focus on the analysis of genuine and forged signatures and handwriting comparison. I co-authored a book in 2012 titled "The Neuroscience of Handwriting: Applications for Forensic Document Examination," which integrates research in the fields of motor control, neuroscience, kinematics, and robotics to evaluate questioned signatures and handwriting. In particular, the book sets forth, among other things, the scientific fundamentals of motor control as relevant to handwriting; the impact of age, disease, and medication on handwriting; and a quantitative approach to signature authentication, including kinematic and

laboratory analyses of genuine versus disguised versus forged signatures. I have also given numerous presentations on signature examination worldwide, including in the United States, Saudi Arabia, Australia, China, Canada, Brazil, Latvia, Turkey, and Poland. In 2012, I received the American Board of Forensic Document Examiners' New Horizon Award in recognition of my "exceptional contributions in scientific research for the advancement of forensic document examination."

8. In addition, I have testified as an expert witness more than 100 times on issues of signature, handwriting, and document examination in both civil and criminal cases, including cases in the United States, England, Trinidad & Tobago, and St. Vincent. I have also written and presented on robust empirical- and scientific-based expert witness testimony in the field of document examination.

9. I received a Ph.D. from La Trobe University in Melbourne, Australia in human biosciences, where I wrote my thesis on signature identification: "Elucidating static and dynamic features to discriminate between signature disguise and signature forgery behavior." Prior to that, I received my undergraduate degree in science at the University of West Indies; underwent a two-year training program in document examination at the Trinidad and Tobago Forensic Science Center; and received a master's degree in forensic sciences at National University in San Diego, California.

10. My *curriculum vitae* is attached as Exhibit 1. I am being compensated at a rate of \$350.00 per hour. My compensation in this matter is not in any way contingent on the content of my opinion or the outcome of this matter.

II. BACKGROUND

11. Based on my review of the Complaint in this lawsuit, I understand Texas election law requires local election officials to reject an absentee ballot if “neither the voter's signature on the ballot application nor the signature on the carrier envelope certificate is determined to have been executed by a person other than the voter, unless signed by a witness . See Election Code 87.041.
12. “In making the determination under Subsection (b)(2), the board may also compare the signatures with any two or more signatures of the voter made within the preceding six years and on file with the county clerk or voter registrar to determine whether the signatures are those of the voter”. Election Code 87.041 Subsection (b)(2).
13. “In making the determination under Subsection (b)(2) for a ballot cast under Chapter 101 or 105, the board shall compare the signature on the carrier envelope or signature cover sheet with the signature of the voter on the federal postcard application.”
14. As per Election Code 87.027 a Signature Verification Committee may be appointed.
“(a) Except as provided by Subsection (a-1), a signature verification committee may be appointed in any election. The early voting clerk is the authority responsible for determining whether a signature verification committee is to be appointed. If the clerk determines that a committee is to be appointed, the clerk shall issue a written order calling for the appointment.”
15. “(a-1) A signature verification committee shall be appointed in the general election for state and county officers on submission to the early voting clerk of a written request for the committee by at least 15 registered voters of the county. The request must be submitted not later

than the preceding October 1, and a request submitted by mail is considered to be submitted at the time of its receipt by the clerk.”

16. This statute requires election officials from the Early Voting Ballot Board (EVBB) to reject absentee ballots which, in their judgment, appear to contain signatures on the absentee ballot affidavit envelope that differ from the signatures on the absentee ballot application.

17. Under statute 87.0431, when an election official rejects an absentee ballot under this statute, the voter is required to be notified within ten days after election day of the reason for the rejection.

18. I understand that elections officials are lay individuals, meaning that they are not required to have any training, certification, or experience in document examination or signature comparison.

19. I understand that there are no meaningful formalized statewide standards or procedures for officials to evaluate whether the carrier envelope signature matches the signature used to apply for the mail ballot. To be eligible for appointment to the EVBB, a person must meet the requirements for eligibility for service as a presiding election judge, except that the appointee must be a qualified voter of the territory served by the early voting clerk, and is not required to be a qualified voter of any other particular territory.

20. (i) The signature verification committee shall compare the signature on each carrier envelope certificate, except those signed for a voter by a witness, with the signature on the voter's ballot application to determine whether the signatures are those of the voter. The committee may also compare the signatures with any two or more signatures of the voter made within the preceding six years and on file with the county clerk or voter registrar to determine whether the signatures are those of the voter. Except as provided by Subsection (l), a

determination under this subsection that the signatures are not those of the voter must be made by a majority vote of the committee's membership. The committee shall place the jacket envelopes, carrier envelopes, and applications of voters whose signatures are not those of the voter in separate containers from those of voters whose signatures are those of the voter. The committee chair shall deliver the sorted materials to the early voting ballot board at the time specified by the board's presiding judge.

21. 87.027 (j). If a signature verification committee is appointed, the early voting ballot board shall follow the same procedure for accepting the early voting ballots voted by mail as in an election without a signature verification committee, except that the board may not determine whether a voter's signatures on the carrier envelope certificate and ballot application are those of the same person if the committee has determined that the signatures are those of the same person. If the committee has determined that the signatures are not those of the same person, the board may make a determination that the signatures are those of the same person by a majority vote of the board's membership.

22. 87.041. (b) A ballot may be accepted only if:

“(2) neither the voter's signature on the ballot application nor the signature on the carrier envelope certificate is determined to have been executed by a person other than the voter, unless signed by a witness;”

23. (e) In making the determination under Subsection (b)(2), the board may also compare the signatures with any two or more signatures of the voter made within the preceding six years and on file with the county clerk or voter registrar to determine whether the signatures are those of the voter.

24. Election Code 87.041(b)(2) states that a ballot may only be accepted if, “ neither the voter's signature on the ballot application nor the signature on the carrier envelope certificate is determined to have been executed by a person other than the voter, unless signed by a witness;” It does not set forth standards or guidelines for making this determination.

25. I was retained by Plaintiffs to determine existing flaws, if any, in the procedures and techniques of the Texas signature-verification process for absentee ballots as set forth in Texas elections laws.

26. In reaching my conclusions, I reviewed (i) Texas Election Code Chapter 87, and (ii) Plaintiffs’ Original Petition And Motion To Consolidate.

27. As discovery is ongoing and documents continue to be exchanged as part of this process, I reserve the right to supplement my opinions if and when new information becomes available during the course of this litigation.

III. SUMMARY OF CONCLUSIONS

28. The Texas signature match requirement, and related guidance, does not set forth functional standards for determining when an absentee ballot application and envelope affidavit are not signed by the same person.

29. Texas also does not require elections officials to have any training in signature examination, and does not require elections officials be provided examination equipment. Based on my experience and my review of the academic literature, it is my opinion that in these circumstances, elections officials are likely to make erroneous signature-comparison determinations.

30. Determining whether a signature is genuine is a difficult task for even a trained FDE, as signatures are written in different styles with varying levels of readability and variability. And laypersons have a significantly higher rate of error in determining whether signatures are genuine. Laypersons are also more likely to wrongly determine that authentic signatures are *not* genuine than to make the opposite error. In other words, lay elections officials are more likely than trained examiners to make an incorrect signature-comparison determination and are particularly likely to incorrectly decide that the signatures do *not* “compare.”

31. In my opinion, this high rate of error among laypersons generally results from an incorrect determination that “variations” between one individual’s signatures are instead “differences” between multiple individuals’ signatures. An individual’s signatures may vary for myriad reasons, including age, health, native language, and writing conditions. Laypersons’ failure to properly account for signature variability leads to erroneous inauthenticity determinations, which are particularly pronounced in populations with greater signature variability, such as elderly, disabled, ill, and non-native English signatories.

32. These signature-determination errors are further compounded for elections officials with diminished eyesight or “form blindness” (a type of impairment in visual perception defined below)—both of which impact an individual’s ability to make accurate handwriting authenticity determinations. While FDEs are screened for these traits, elections officials are not required to undergo such a screening.

33. Nor does Texas require that election officials compare more than two signatures or spend a minimal amount of time in making a signature determination. These omissions are likely to lead to additional erroneous determinations. At a minimum, ten signature samples are required for an accurate signature determination to account for an individual’s signature

variability, but Texas only requires elections officials to compare ballot-envelope affidavit signatures to one sample. Further, elections officials are likely to have insufficient time to make accurate signature determinations.

34. In sum, it is my opinion that that the TEC 87.027 (i), (j) requirements that lay persons, without training or standards, reject ballots with envelope signatures they deem non-genuine will result in a significant number of erroneous ballot rejections.

IV. ANALYSIS AND OPINIONS

A. Lay Individuals Are Likely to Make Erroneous Signature Comparison

Determinations.

35. Lay individuals are highly likely to make mistakes in making signature-comparison determinations and are particularly likely to conclude that signatures do not compare when they are in fact written by the same individual.

36. Determining whether signatures are made by the same individual or by different individuals requires a reviewer to determine whether a feature or combination of features in signatures are “differences” or “variations.” In the field of signature examination, unexplainable “*differences*” between signatures mean that different individuals wrote the signatures; whereas “*variations*” between signatures mean that one individual wrote the signatures. Determining whether signature features are “differences” or “variations” is one of the most difficult determinations in forensic signature examination.

37. To reliably make such a judgment requires, at a minimum:

- Extensive training with different types of signatures: Becoming an FDE requires at least two, generally three, years of full-time training with an experienced examiner, with at least eighteen months of training in the examination of signatures and handwriting. FDEs

learn the science of signature examination, gain experience in casework, and are tested for proficiency.

- Adequate magnification and lighting equipment.
- Excellent eyesight.
- Adequate time: Insufficient time examining signatures is conducive to making errors.

For example, Merlino, et al. (2014),¹ found that FDEs spent more time looking at the questioned and known signatures than laypersons and were more accurate in the evaluation of the genuineness of signatures.

Without these elements, lay individuals are likely to mistake legitimate and expected “variations” between one individual’s signatures for “differences” in signatures between two individuals and conclude, incorrectly, that someone other than the registered voter signed a ballot envelope.

38. In fact, signature verification is inherently difficult, even for a trained FDE. For one, signatures are written in three different styles:

- Text-based: Nearly all of the letters can be interpreted.
- Mixed: More than two, but not all, letters can be interpreted.
- Stylized: No letters can be interpreted.

These signature styles exhibit significantly different characteristics that impact a determination of whether signatures are genuine. For example, kinematic features of signatures, such as size, velocity, changes of acceleration, and pen pressure are important in determining whether a signature is genuine. Yet these kinematic features vary between the same individual’s

¹ Merlino, M., Freeman, T., Dahis, V., Springer, V., et al. (2014). *Validity, Accuracy, Reliability, and Bias in Forensic Signature Identification*. NIJ Award Number: 2010-DN-BX-K271.

signatures, with the degree of variations often dependent on the signature style. The kinematic features of stylized signatures, for example, vary more significantly than the kinematic features of text-based signatures. These variations impact a reviewer's ability to determine whether a signature is genuine and would likely cause a lay person to decide that signatures exhibit "differences" when the changes in features are simply "variations."

39. In addition, to determine whether signatures are made by the same individual, a reviewer should focus on holistic features of signatures, such as alignment, slant, pen lifts, rhythm, the size of writing, the slope or slant of the letters, or other characteristics that are diagnostic of the process used to create signatures. These features are subtle, and a writer is usually unaware of the features, as they are excited via the writer's subconscious motor program. These subtle features are significant as evidence of genuineness because they occur in naturally occurring handwriting. Lay persons, however, often focus instead on more eye-catching features in evaluating signatures. For example, an eye-tracking study on signature examination conducted by Merlino, et al. found that ". . . lay participants focused to a greater extent on individual features such as arches, eyelets, hooks, shoulders, connections, troughs, or other individual features" that catch the eye, and "appear[ed] less likely to use holistic features." But focusing on these eye-catching features is problematic because these are also the features that a simulator will try to capture. Properly utilizing the subtle, holistic features of signatures to determine genuineness, however, requires both training and adequate time for review.

40. Further, an individual's signatures may vary for myriad reasons, and to properly determine whether signatures are written by the same individual, one must know why features of the same individual's signatures may visually appear different. In one of the leading textbooks

on handwriting examination, authors Roy Huber & A.M. Headrick² identified twenty reasons an individual's signatures may vary:

- Adequacy of standards—inadequate standards in terms of quantity and contemporaneousness will not be representative of the writer's range of variation. Variations may therefore be interpreted as differences.
- Accidental occurrences—i.e., these are one-off variations that will not appear in the specimen signatures. Misinterpretation may lead to a decision of difference versus variation.
- Alternative styles—i.e., some writers have alternate signatures styles. This may not be represented in the specimens.
- Ambidexterity.
- Carelessness or negligence.
- Changes in the health condition of writer.
- Changes in the physical condition of writer—e.g., fractures, fatigue, or weakness may alter features of an individual's signature.
- Changes in the mental condition or state of the writer.
- Concentration on the act of writing.
- Disguise or deliberate change.
- Drugs or alcohol.
- Influence of medications.
- Intentional change for later denial.

² Huber, R. A. & Headrick, A.M. (1999). *Handwriting Identification: Facts and Fundamentals*. CRC Press, Boca Raton, FL.

- Nervous tension.
- Natural variations—i.e., inherent variation as a result of differences in neuromuscular coordination.
- Writing conditions—e.g., the individual’s place or circumstances, such as in a moving vehicle or at a stationary table.
- Writing instrument—e.g., a pen versus a stylus.
- Writing position—e.g., the individual’s stance.
- Writing surface—e.g., paper versus electronic screen.
- Writing under stress.

Examiners must consider each of these reasons in determining whether a feature is “different” between two signatures or whether the feature is simply a “variation” from the same writer. A lay individual will not have the knowledge, training, and experience to properly account for these factors.

41. In addition, the signatures of poorly educated writers, writers for whom English is a second language, elderly writers, disabled writers (discussed in more detail below), and ill writers are more likely to exhibit wide ranges of variation. For instance, a writer who first learned to write in a non-Latin-based script, such as Chinese, will naturally show more variation when signing a document in English than a native writer. Likewise, where the voter’s native script is written right to left, such as Urdu, the voter’s signature may also be more likely to show variations in letter slanting. Qualified, experienced experts in the area of signature verification would know and account for these factors in evaluating signatures; lay people, even if put through a short training session, are unlikely to be able to accurately account for these

differences, particularly in an expedient time frame or when only one or a few samples are available for comparison.

42. Laypersons also may have an issue called “form blindness” that impacts their ability to make consistently correct determinations as to the genuineness of a signature. Form blindness is defined by Byrd and Bertram as “a combined physical and mental fault, an imperfection in the brain which causes the inability to interpret and correctly store what is actually focused on the human retina.”³ Form blindness affects “the ability to see minute differences in angles, forms, and sizes.”⁴ Most ophthalmologists agree that form perception is not an eye problem but rather a translational problem. Therefore, in most cases, form blindness goes undetected.⁵ Form blindness, however, diminishes a reviewer’s ability to make accurate determinations of a signature’s genuineness. In *Questioned Document Problems*, considered an authoritative text in document examination, Albert S. Osborn reviews the effects of form blindness and concludes that “[i]n disputed document cases . . . difficult problems should not be submitted to untrained jurors, or judges, who are even only partially [form] blind.”⁶ Osborn’s conclusion is further supported by a study with latent print (fingerprint) examiners, which showed that examiners who exhibited form blindness were significantly less likely to make accurate fingerprint comparisons. Signature comparison, like fingerprint comparison, is inherently reliant on the ability of the examiner to observe and retain fine details; thus, a reviewer who is form blind will be

³ Byrd, J. & Bertram, D. (2003). *Form-blindness*. J. Forensic Identification 53 (3).

⁴ Bertram, Dean James, “Form Blindness Testing: Assessing the Ability to Perform Latent Print Examination by Traditional Versus Nontraditional Students” (2009). Dissertations. 996 <http://aquilausm.edu/dissertations/996>.

⁵ *Id.*

⁶ Osborn, A.S. (1991). *Questioned Document Problems 2nd Ed.*, Chapter XXIV Montclair, New Jersey Patterson Smith.

particularly likely to make egregious errors in calling a signature genuine or non-genuine. But while FDEs must pass a form blindness test before being trained in handwriting identification, Texas requires no such test for elections officials. There is thus a risk that some elections officials have form blindness and are particularly prone to making erroneous signature determinations.

43. Ultimately, laypersons make significantly more errors in determining the genuineness of signatures than FDEs. The most pronounced difference is in so-called Type II error rates, in which authentic signatures are declared non-genuine. In a 2001 study comparing the error rates of FDEs with the error rates of laypersons in comparing six genuine signatures with six non-genuine signatures, laypersons made Type II errors in 26.1% of cases while trained signature FDEs made such errors in 7.05% of cases.⁷ That means that laypersons are more than 3 ½ times more likely to declare an authentic signature non-genuine—which, in the case of absentee ballot signatures, would mean that elections officials would reject more than 3 ½ times the number of ballots than FDEs.

44. This study also found that laypersons are much more likely to make these Type II errors than Type I errors (Type I meaning an incorrect determination that non-genuine signatures are authentic), although laypersons are still substantially more likely to make Type I errors than trained FDEs (laypersons made Type I errors in 6.47% of cases while trained FDEs made such errors in 0.49% of cases).⁸ A Type II error is considered among FDEs as being more egregious than a Type I error for signature verification and would mean in Texas's absentee balloting system that a genuine signature is called non-genuine, and the voter's ballot rejected incorrectly.

⁷ Kam M., Gummadidala K., Fielding G., Conn R. (2001). *Signature authentication by forensic document examiners*. J. Forensic Sci., 46 (4):884-888.

⁸ *Id.*

45. Similarly, a study conducted in Australia found that FDEs were statistically better than laypersons in determining genuineness or non-genuineness. The FDE group had a 3.4% error rate while the laypersons had a 19.3% error rate.⁹ It must be noted that these error rates occurred when adequate signature samples and examination time were available. It can safely be assumed that the error rate will rise when inadequate comparison samples and time are available to the screener.

46. It must be also noted that laypersons are all the more likely to incorrectly find authentic signatures of poorly educated writers, writers for whom English is a second language, elderly writers, disabled writers, and ill writers to be non-genuine. The increased variations in the signatures of these groups only compound laypersons' tendencies to err on the side of incorrectly finding authentic signatures to be non-genuine.

B. Even Trained Forensic Document Examiners Are Likely to Make Erroneous Signature Comparison Determinations Under Texas's Standards for Examining Absentee Ballots.

47. Even for trained FDEs, Texas's absentee ballot signature comparisons are prone to erroneous determinations due to the limited number of comparison signatures, and the lack of proper equipment.

48. Normally, FDEs require at least 10 specimen signatures for comparison with a questioned signature, and often more if issues such as age or illness are involved. These specimens are required to adequately determine the range of variation of the writer and properly account for the reasons for variation within an individual's signatures discussed above. Indeed, nobody signs the same way twice: no two complex, skillfully written, genuine signatures of one

⁹ Sita, J., Found, B., & Rogers, D. (2002). *Forensic handwriting examiners expertise for signature comparison*. J. Forensic Sci. 47(5).

writer have ever been found to be exactly alike at the microscopic level. This is so because signatures are the product of a motor program developed in the brain after practice and then executed with neuro-muscular coordination, and many factors can influence an individual's motor program and neuro-muscular coordination, including the factors discussed above.

Inadequacy of standards is cited as a source of error by Huber & Headrick.¹⁰ Inadequate standards means that the writer's range of variation is not represented fully. Features observed in the questioned signature(s) may not be observed in the inadequate specimens. This may lead to an erroneous interpretation of a feature as a difference (two writers) or variation (one writer). Elections officials, however, are required to compare the ballot-envelope signature with only the absentee ballot application signature.

49. Finally, as discussed above, Texas law does not require elections officials be provided proper equipment, such as magnification and lighting equipment. Without this equipment, even a well-trained eye may make errors in a signature authenticity determination.

50. For the reasons stated herein, it is my professional opinion that Texas election officials are likely to make erroneous determinations of whether ballot-envelope affidavit signatures compare to absentee ballot application signatures, and, in particular, determine that authentic signatures are not genuine. These erroneous determinations result from an inherent difficulty in making reliable forensic signature determinations, a system in which inadequate comparison signatures and equipment are available, and an inability of untrained laypersons to distinguish between signature variations of one individual and signature difference between multiple individuals. In this context, an incorrect signature determination can lead to voters'

¹⁰ Huber, R.A. & Headrick, A.M. (1999). *Handwriting Identification: Facts and Fundamentals*. CRC Press, Boca Raton, FL.

ballots being rejected even though the signature on the application was written by the same individual who signed the absentee ballot affidavit envelope.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Barlingame, CA on this 7 day of September, 2018.


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Forensic Document Examiner

Diplomate: American Board of Forensic Document Examiners
Diploma in Document Examination - Forensic Science Society (England)
American Society of Questioned Document Examiners
(Member & Past-President)
American Academy of Forensic Sciences (Fellow)

Linton A. Mohammed CURRICULUM VITAE

WORK EXPERIENCE

Forensic Science Consultants, Inc., 01/2012 - present

San Francisco, CA

Duties: Forensic Document Examination, expert testimony; research; management.

dba Rile, Hicks, & Mohammed, Forensic Document Examiners, 10/2010 – 01/2012

Long Beach, CA; San Francisco, CA

Duties: Forensic Document Examination, expert testimony; research; management.

dba Associated Document Examiners, 10/1997 – 09/2010

[with approval of San Diego County Sheriff's Department]

San Diego, CA

Duties: Forensic Document Examination, expert testimony; research; management.

San Diego County Sheriff's Department Regional Crime Laboratory, 08/1996 – 10/2010

San Diego, CA

Senior Forensic Document Examiner, (2002 – 2010)

Forensic Document Examiner, (1996 – 2002)

Duties:

Conducted examinations in the most complex cases involving: signatures, handwriting, typewriting, machine printing, commercial printing, photocopies, hand stamps, ink, paper, indented impressions, binding materials; restoration and decipherment of alterations, erasures, and obliterations.

Technical Lead - Questioned Documents Section.

Provided training and mentorship for junior examiners. Principal trainer in Forensic Document Examination for Marie Durina (07/2003- 08/2006) and Brenda Lanners (10/2009- 09/2010).

Provided training for investigators and attorneys.

Provided expert testimony in courts of law.

CURRICULUM VITAE – LINTON A. MOHAMMED

Conducted research, presented results at forensic science conferences, and published in peer-reviewed journals.
Produced and maintained the Questioned Documents Section Quality Manuals.
Oversaw the Questioned Documents Section's ASCLD-LAB accreditation status.
Acted as an Audit Team Captain or part of audit teams as per the Laboratory's ASCLD-LAB accreditation protocols.
Participated in proficiency testing.

Laboratory of the Government Chemist, 07/1993 – 07/1996

Teddington, Middlesex, England
Forensic Document Examiner

Caribbean Institute of Forensic Investigations Ltd., 06/1992 – 07/1993

Forensic Document Examiner
Trinidad, West Indies

Trinidad and Tobago Forensic Science Center, 01/1989 – 06/1992

Forensic Document Examiner; Safety Officer
Trinidad, West Indies

Trinidad and Tobago Forensic Science Center, 12/1986 – 12/1988

Chemist 1

Two-year full-time training program in Document Examination. (December 1986-December 1988) at the Trinidad and Tobago Forensic Science Center, Port of Spain, Trinidad. Mr. Robert Fawcett (Staff Sergeant [retired], Royal Canadian Mounted Police) conducted the training, which included the examination of: signatures, handwriting, typewriting, machine printing, commercial printing, photocopies, hand stamps, ink, paper, indented impressions, binding materials; restoration of alterations, erasures, and obliterations, photography, and court testimony.

EDUCATION

Ph.D. (Human Biosciences)

La Trobe University, Melbourne, Australia, 2012 Thesis: *"Elucidating spatial and dynamic features to discriminate between signature disguise and signature forgery behavior"*

Supervisors: Assoc. Prof. Doug Rogers and Dr. Bryan Found

Master of Forensic Sciences

National University, San Diego, CA, 2005

Bachelor of Science (General) [Honors]

University of the West Indies, St. Augustine, Trinidad & Tobago, 1984

CURRICULUM VITAE – LINTON A. MOHAMMED

TEACHING EXPERIENCE

Oklahoma State University, 2006 – present:

Adjunct Instructor,

Master of Forensic Sciences Administration and Graduate Certificate in Questioned Documents (online programs)

- Graduate course: Historical Aspects of Questioned Documents (4 hours per week during a semester)
- Graduate course: Technical Aspects of Questioned Documents (4 hours per week during a semester).

PROFESSIONAL CERTIFICATIONS

- Certificate of Qualification in Forensic Document Examination (No. 298) *American Board of Forensic Document Examiners, Inc.*, 1998 (re-certified every 5 years since 1998 to present).
- Diploma in Document Examination *Chartered Society of Forensic Sciences*, 1996 (re-certified every 5 years since 1996 to present).

TESTIMONY EXPERIENCE

Testified over 100 times as an expert witness in Forensic Document Examination in USA (Federal & State courts, depositions), England (High Court & Magistrates' Court), and the Caribbean (High Court & Magistrates' Court).

AWARDS

New Horizon Award – American Board of Forensic Document Examiners, Inc., 2012. (In Recognition of Exceptional Contributions in Scientific Research for the Advancement of Forensic Document Examination).

PUBLICATIONS

Book

Caligiuri, M. & Mohammed, L. *The Neuroscience of Handwriting: Applications for Forensic Document Examination*. Taylor & Francis: Boca Raton, 2012.

Papers

1. Caligiuri, M., Mohammed, L., Lanners, B., Hunter, G. (2018). *Kinematic Validation of FDE Determinations about writership in handwriting examination: A preliminary study*. Journal of the American Society of Questioned Document Examiners, Vol, 21, No. 1.

CURRICULUM VITAE – LINTON A. MOHAMMED

2. Mohammed, L., Found, B., Caligiuri, M., Rogers, D. (2015). *Dynamic Characteristics of Signatures: Effects of Writer Style on Genuine and Simulated Signatures*. Journal of Forensic Sciences, January 2015, Vol. 60, No.1.
3. Mohammed L.A. (2013). *History of the Forensic Examination of Documents*. In: Siegel JA and Saukko PJ (eds.) Encyclopedia of Forensic Sciences, Second Edition, pp. 386-390. Waltham: Academic Press.
4. Caligiuri, M., Mohammed, L., Found, B., & Rogers, D. (2012). *Nonadherence to the Isochrony Principle in Forged Signatures*. Forensic Science International 223 (2012) 228–232.
5. Mohammed, L., Found, B., Caligiuri, M., Rogers, D. (2011). *The Dynamic Character of Disguise Behavior for Text-Based, Mixed, and Stylized Signatures*. J Forensic Sci, January 2011, Vol. 56, No. S1 pp. S136-141).
6. Mohammed, L., Ostrum, B. (2010). *Using Adobe Photomerge™ for Demonstrative Evidence*, Journal of the American Society of Questioned Document Examiners, Vol. 13, No. 1.
7. Mohammed, L.A. (2009). *Alterations, Erasures, and Obliterations of Documents*, in Wiley Encyclopedia of Forensic Science, Jamieson, A., Moenssens, A. (eds). John Wiley & Sons Ltd., Chichester, UK, pp. 128-134.
8. Mohammed, L., Found, B., Rogers, D. (2008). *Frequency of Signature Styles in San Diego County* – Journal of the American Society of Questioned Document Examiners, Vol. 11 (1).
9. Mohammed, L., Richards, G. (2006). *Thinking Outside the Box* – Journal of the American Society of Questioned Document Examiners, Vol. 9 (2).
10. Mohammed, L., Jenkinson, G. (2002). *Association of counterfeit documents to a printing plate by means of half tone dots* – Journal of the American Society of Questioned Document Examiners, Vol. 5 (1).
11. Mohammed, L. (1999). *Write-On™: A new tool for handwriting comparison* - Journal of the American Society of Questioned Document Examiners, Vol. 2 (2).
12. Mohammed, L. (1999). *An evaluation of documents produced by a high-speed, high-volume scanning process* - Forensic Science Communications, Vol. 1 (3).
13. Mohammed, L. (1998). *Sequencing writing impressions and laser printing or ink-jet printing using the ESDA* - Journal of the American Society of Questioned Document Examiners, Vol. 1 (1).

CURRICULUM VITAE – LINTON A. MOHAMMED

14. Mohammed, L. (1993). *Signature disguise in Trinidad and Tobago* - Journal of the Forensic Science Society, Vol. 33 (1).

PRESENTATIONS

Workshops

- *The Forensic Examination of Original and Copied Signatures*
 - Presented at The Midwestern Association of Forensic Sciences Conference, Cincinnati, OH 2017
- *Likelihood Approach and Document Examination: What For?*
 - Co-presented with Liv Cadola and Tobin Tanaka at the 21st Triennial Meeting of the International Association of Forensic Sciences, Toronto, Canada 2017
- *The Examination of Skillfully Simulated Arabic Signatures*
 - Presented at the 2nd Saudi International Conference on Forensic Medicine and Sciences, Riyadh, Kingdom of Saudi Arabia 2017
- *The Forensic Examination of Genuine, Disguised, and Simulated Signatures with an Introduction to Kinematics of Handwriting*
 - Presented at the Midwestern Association of Forensic Sciences 2016 Conference, Branson, MO.
- *Genuine, Disguised, and Simulated Signatures; Kinematics of Handwriting; Formal and Informal Signatures*
 - Co-presented with Lloyd Cunningham at the Australasian Society of Forensic Document Examiners, Inc., Sydney, Australia 2016.
- *Document Examination in the USA*
 - 2-day seminar presented at the Institute of Forensic Science Seminar, Beijing, China 2015.
- *Are Fountain Pens Back in Vogue? Characteristics of Fountain Pen Writing and Aqueous Ink Analysis*
 - Co-presented with Lloyd Cunningham, Dr. Valery Aginsky, & William J. Flynn at the 73rd Annual Meeting of the American Society of Questioned Document Examiners, Toronto, Canada 2015.
- *The Forensic Examination of Genuine, Disguised, and Simulated Signatures – with an introduction to the Neuroscience and Kinematics of Handwriting (2 days)*
 - 2-day workshop conducted at the II Brazilian Symposium on Forensic Science, Brazilia, Brazil 2015.

CURRICULUM VITAE – LINTON A. MOHAMMED

- *The Examination of Skillfully Simulated Signatures*
 - Presented at the 67th Annual Meeting of the American Academy of Forensic Sciences, Orlando, FL, 2015.
 - Presented at Canada Border Services Forensic Laboratory, Ottawa, Canada, 2015.
- *Skillful Freehand Signature Simulation* - co-presented with Lloyd Cunningham at the Joint Meeting of the American Society of Questioned Documents Examiners, Inc. & the Australasian Society of Forensic Document Examiners, Inc., Honolulu, HI, 2014.
- *Skillfully Simulated Signatures (1/2 day)* – presented at the European Network of Forensic Handwriting Examiners (ENFHEX) meeting, Riga, Latvia, 2013.
- *Signature Examination of Healthy and Impaired Writers (1 day)* - co-presented with Prof. Michael Caligiuri, UCSD, at the American Academy of Forensic Sciences Annual Conference, Washington DC, 2013.
- *Neural Bases and Characteristics of Signature Formation in Writers with Dementia (1/2 day)*
 - Co-presented with Prof. Michael Caligiuri, UCSD, at the 70th Annual General Meeting of the American Society of Questioned Document Examiners, Charleston, SC, 2012.
- *Signature Examination - Translating Basic Science into Practice (1 day)*
 - Co-presented with Prof. Michael Caligiuri, UCSD at the American Academy of Forensic Sciences Annual Conference, Seattle, WA, 2010.
 - Co-presented with Prof. Michael Caligiuri, UCSD at the American Society of Questioned Document Examiners 68th Annual General Meeting, Victoria, BC, Canada, 2010.
- *Genuine, Disguised, and Forged Signatures (1/2 day)*
 - Presented at the 1st Eurasian Congress on Forensic Sciences, Istanbul, Turkey, 2008.
 - Presented at the Victoria Forensic Science Centre, Melbourne, Australia, 2008.
 - Presented at the European Network of Forensic Handwriting Experts (ENFHEX) Meeting, Krakow, Poland, 2009.

CURRICULUM VITAE – LINTON A. MOHAMMED

Papers

1. Fuglsby, C., Saunders, C., Ommen, D., Caligiuri, M., Mohammed, L., Buscaglia, J. (2018). *FDE Conclusion Scales: Reverend Bayes or Professor Kirk?* Presented at the 76th Annual Conference of the American Society of Questioned Document Examiners, Park City, UT.
2. McClary, C., Mohammed, L., Caligiuri, M. (2018). *An Analysis of Forensic Document Examiner (FDE) Aptitude in Determining Velocity Rates of Strokes.* Presented at the American Academy of Forensic Sciences Conference, Seattle, WA.
3. Fuglsby, C., Mohammed, L., Buscaglia, J., Saunders, C. (2018). *Sufficiency and Complexity Factors in Handwriting Examination.* Presented at the Impression, Pattern, & Trace Evidence Symposium, Washington, DC.
4. Caligiuri, M., Mohammed, L. (2018). *Error Rates in Handwriting Examination.* Presented at the CSAFE Error Rates Symposium, Arlington, VA.
5. Caligiuri, M., Mohammed, L., Lanners, B. & Hunter G. (2017). *Kinematic Validation of FDE Determinations About Authorship in Handwriting Examination.* Presented at the 75th Annual Conference of the American Society of Questioned Document Examiners, San Diego, CA.
6. Mohammed, L. (2017). *The Kinematics of Signatures and Handwriting.* Presented at the 2nd Saudi International Conference on Forensic Medicine and Sciences, Riyadh, Kingdom of Saudi Arabia
7. Domitrovich, S. Judge, Seaman Kelly, J., Mohammed, L. (2017). *A Review of the Almeciga V. Center for Investigative Reporting, Inc. Decision: Analysis and Counter-Analysis.* Presented at the American Academy of Forensic Science Conference, New Orleans, LA.
8. Mohammed, L. (2016). *Document Examination – not just handwriting.* Presented to the Young Forensic Scientists Forum, American Academy of Forensic Science Conference, Las Vegas, NV.
9. Mohammed, L. (2014). *Kinematic approach to signature analysis.* Presented at the 3rd. International Workshop on Automated Forensic Handwriting Analysis, Honolulu, HI.
10. Mohammed, L. (2013). *Handwriting stroke kinematics.* Presented at the Measurement Science and Standards in Forensic Handwriting Analysis conference, NIST, Gaithersburg, MD.
11. Mohammed, L., Found, B., Caligiuri, M., Rogers, D. (2012). *Dynamics of stroke direction in genuine and forged signatures.* Presented at the American Academy of Forensic Sciences Conference, Atlanta, GA.

CURRICULUM VITAE – LINTON A. MOHAMMED

12. Mohammed, L., Found, B., Caligiuri, M., Rogers, D. (2009). *Pen pressure as a discriminating feature between genuine and forged signatures* – Presented at the International Graphonomics Society Conference, Dijon, France.
13. Mohammed, L., Found, B., Caligiuri, M, Rogers, D. (2009). *Can dynamic features be used to discriminate between genuine, auto-Simulated, and simulated signatures?* - Presented at the 61st Annual Conference of the American Academy of Forensic Sciences, Denver, CO.
14. Mohammed, L. (2008). *Judicial challenges to expert witness testimony in the USA: The Daubert Trilogy* -Presented at the 1st. Eurasian Congress on Forensic Sciences, Istanbul, Turkey.
15. Mohammed, L., Found, B., Rogers, D. (2008). *Genuine and disguised signatures – An empirical approach* - Presented at the 60th Annual Conference of the American Academy of Forensic Sciences, Washington, DC.
16. Mohammed, L., Williams, D. (2006). *Preparing demonstrative charts with the use of Adobe Photomerge®* - Poster presentation, American Academy of Forensic Sciences, Seattle, WA.
17. Mohammed, L. (2005). *The Edge of Light™ Scanner* - Presented at the American Academy of Forensic Sciences Conference, New Orleans, LA.
18. Mohammed, L. (2003). *Daubert and documents* – Presented at the California Association of Criminalists Fall Conference, San Diego, CA.
19. Mohammed, L. (2003). *A standardized training program for Forensic Document Examiners – A proposal*- Presented at the 61st Annual Conference of the American Society of Questioned Document Examiners, Baltimore, MD.
20. Mohammed, L. (2001). *Demonstrative evidence and multi-media technology* - Presented at the 59th Annual Conference of the American Society of Questioned Document Examiners, Des Moines, IA.
21. Mohammed, L., Buglio, J., Shafer, A. (2000). *The influence of paper on the performance of the VSC-2000 spectrometer* - Presented at the 58th Annual Conference of the American Society of Questioned Document Examiners, Ottawa, Ontario, Canada.
22. Mohammed, L., Buglio, J. (2000). *The Association of Forensic Document Examiners* - Prepared for the 58th Annual Conference of the American Society of Questioned Document Examiners, Ottawa, Ontario, Canada.
23. Mohammed, L. (1992). *Cocaine and handwriting* - presented at the 50th Annual Conference of the American Society of Questioned Document Examiners, Milwaukee, WI.

CURRICULUM VITAE – LINTON A. MOHAMMED

24. Mohammed, L. (1991). *Signature disguise in Trinidad and Tobago* - presented at the 49th Annual Conference of the American Society of Questioned Document Examiners, Orlando, FL.

PROFESSIONAL AFFILIATIONS

- American Society of Questioned Document Examiners
 - President, 2010 – 2012
 - Vice-President, 2008 – 2010
 - Treasurer, 2006 – 2008
 - Director, 2004 – 2006;
 - Annual Conference Program Chair, 2006 & 2017
 - Chair, Evaluation and Examination Committee, 2002 – 2006
 - Annual Conference Site Chair, 2002
- American Academy of Forensic Sciences
 - Fellow – Questioned Documents Section
 - Chair – Questioned Documents Section, 2016 – 2018
 - Chair – Inter-Disciplinary Symposium 2018
 - Co-Chair – Inter-Disciplinary Symposium 2017
 - Secretary – Questioned Documents Section, 2014 – 2016
- Canadian Society of Forensic Science
- Chartered Society of Forensic Sciences

PROFESSIONAL ACTIVITIES

- Member – Academy Standards Board, 2017 –
- Member – Expert Working Group on Human Factors in Handwriting Examination, National Institute of Standards and Technology, 2015 –
- Member – Physics/Pattern Scientific Area Committee within the National Institute of Standards and Technology Organization of Scientific Area Committees (NIST/OSAC), 2014 –2016.
- Participant in the General Forensics Technology Working Group, National Institute of Justice, 2011
- Participant in Scientific Working Group on Documents (SWGDOC), 2009 – present
- Grant reviewer for the National Institute of Justice and affiliated agencies, 2009 – present
- Editorial Review Board Member:
 - Journal of Forensic Sciences
 - Journal of the American Society of Questioned Document Examiners
 - Forensic Science and Technology (China)

CURRICULUM VITAE – LINTON A. MOHAMMED

- Guest Reviewer:
 - Forensic Science International
 - Science & Justice
 - Australian Journal of Forensic Science
 - Egyptian Journal of Forensic Sciences
 - IEEE Transactions on Cybernetics

CONTINUING EDUCATION

- American Society of Questioned Document Examiners, Park City, UT 2018
 - Write-On 3.0 Workshop
 - The Greatest Forger to Ever Get Caught
- American Society of Questioned Document Examiners, San Diego, CA 2017
 - Forensic Science Research: Your Mission to Propose, Innovate, and Collaborate
 - Preparing a Digital Signature File for Forensic Analysis
 - Chinese Handwriting and Signatures Workshop: Hanzi Through the Eyes of the Forensic Document Examiner
 - Write or Wrong? Bias, Decision-Making, and the Use of Contextual Information in Forensic Document Examination
- American Society of Questioned Document Examiners, Pensacola, FL 2016
 - Measuring Frequency Occurrence in Handwriting and Hand Printing Characteristics
 - Sequence of Entries Determination – New Approach to Additional Print
- American Society of Questioned Document Examiners, Toronto, Canada 2016
 - Principles of Forensic Examination of Arabic Signatures
- American Society of Questioned Document Examiners, Honolulu, HI 2014
 - Adobe - Digital Media & Evidence
- American Academy of Forensic Sciences, Seattle, WA 2014
 - Science, Law, and the Inferential Process: The Epistemology of Scientific Conclusions
- National Institute of Standards and Technology (NIST), Gaithersburg, MD 2013.
 - Measurement Science and Standards in Forensic Handwriting Analysis
- American Academy of Forensic Sciences, Atlanta, GA, 2012
 - Paper Fundamentals for Forensic Document Examiners
 - Digital Photography for Forensic Document Examiners
- American Society of Questioned Document Examiners, Philadelphia, PA, 2011
 - Printing Process Identification for Forensic Document Examiners
 - Using Adobe Photoshop in a QD Workflow

CURRICULUM VITAE – LINTON A. MOHAMMED

- American Society of Questioned Document Examiners, Victoria, BC, Canada, 2010
 - Electronic Recording and Analysis of Handwritten Signatures & Writing
- Cedar Crest College, Allentown, PA, 2010
 - Multivariate Analysis for Forensic Scientists: Statistical Pattern Recognition for Physical Evidence Analysis and Chemometrics
- American Academy of Forensic Sciences, Denver, CO, 2009
 - Estimation of Uncertainty – Is Anyone Certain What This Means?
 - Security Documents before and After the Crime: REAL ID, Physical and Electronic Security Features, Developments in Commercial Printing Technology, and an Introduction to Counterfeit Link Analysis
- American Academy of Forensic Sciences, Washington DC, 2008
 - The Applications of Color Analysis and Light Theory in the Forensic Examination of Documents Workshop
- American Society of Questioned Document Examiners, Portland, OR 2006
 - Fine and Subtle Features of Handwriting Workshop
 - Signature Workshop
- Southeastern Association of Forensic Document Examiners, Atlanta, GA, 2006
 - Disguised and Forged Signatures Workshop
- American Academy of Forensic Sciences, New Orleans, LA, 2005
 - State of the Art Infrared and Ultraviolet Examinations of Documents by the Video Spectral Comparator
- California Criminalistics Institute, Sacramento, CA, 2005
 - Technical Writing for Criminalists
- American Board of Forensic Document Examiners, Las Vegas, NV, 2004
 - Daubert Seminar
- American Academy of Forensic Sciences, Chicago, IL, 2002
 - Note Taking for Forensic Document Examiners Workshop
- Rochester Institute of Technology, Rochester, NY, 2002:
 - Printing Process Identification and Image Analysis for Forensic Document Examiners
- Limbic Systems, Inc., Bellingham, WA, 2001:
 - Measurement of Internal Consistencies Software (MICS)
- American Board of Forensic Document Examiners, Norcross, GA, 2000:
 - Canon Photocopier and Facsimile Training Workshop

CURRICULUM VITAE – LINTON A. MOHAMMED

- California Criminalistics Institute, Sacramento, CA, 2000:
 - Special Topics in Questioned Documents
- Southwestern Association of Forensic Document Examiners, Las Vegas, NV, 1999:
 - Typewriter Examination & Classification Workshop
- American Board of Forensic Document Examiners, Las Vegas, NV, 1998:
 - Examination Techniques in Handwriting & Rubber Stamp Cases Seminar
- Canadian Society of Forensic Science 44th Annual Conference, Regina, Saskatchewan, Canada, 1997:
 - Digital Image Processing Workshop
- California Criminalistics Institute, Sacramento, CA, 1997:
 - Courtroom Presentation of Evidence
- American Society of Questioned Document Examiners 55th Annual Conference, Scottsdale, AZ, 1997:
 - Handwriting Workshop
- American Society of Questioned Document Examiners 51st Annual Conference, Ottawa, Canada, 1993:
 - Laser Printer Workshop
 - Miscellaneous Document Examination Workshop
- American Society of Questioned Document Examiners 50th Annual Conference, Milwaukee, WI, 1992:
 - Signature Workshop
- American Society of Questioned Document Examiners 49th Annual Conference, Orlando, FL, 1991:
 - Canon Fax Workshop
 - Deposition Testimony Workshop
 - Expert Witness Workshop
 - Signature Comparison Workshop

October 28, 2018

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

LETICIA GARZA GALVAN AND	)	(	
MARTIE GARCIA VELA	)	(	
Plaintiffs	)	(	
	)	(	
VS.	)	(	CASE NO. 7:18-cv-113
	)	(	
ROLANDO PABLOS, IN HIS	)	(	
OFFICIAL CAPACITY AS	)	(	
TEXAS SECRETARY OF	)	(	
STATE, AND ARMANDINA	)	(	
MARTINEZ, ALMA GARCIA,	)	(	
ALICIA DOUGHERTY NO. 1,	)	(	
ALICIA DOUGHERTY NO. 2,	)	(	
YOLANDA MARTINEZ	)	(	
Defendants	)	(	

ORAL AND VIDEOTAPED DEPOSITION OF
LETICIA GARZA GALVAN
SEPTEMBER 13, 2018

2 1 ORAL AND VIDEOTAPED DEPOSITION OF LETICIA GARZA 2 GALVAN, produced as a witness at the instance of the 3 DEFENDANTS, taken in the above styled and numbered 4 cause on September 13, 2018, between the hours of 2:04 5 p.m. and 2:41 p.m., reported stenographically by JOHN 6 W. FELLOWS, Certified Court Reporter No. 3335, in and 7 for the State of Texas, at the offices of GARCIA LAW 8 OFFICES, 509 North San Antonio, Rio Grande City, Texas, 9 pursuant to the Federal Rules of Civil Procedure and 10 any provisions stated on the record or attached 11 therein. 12 APPEARANCES 13 COUNSEL FOR PLAINTIFFS: 14 JERAD WAYNE NAJVAR 15 NAJVAR LAW FIRM, PLLC 16 2180 North Loop West, Suite 255 17 Houston, Texas 18 COUNSEL FOR DEFENDANTS: 19 ERIC A. HUDSON 20 OFFICE OF THE ATTORNEY GENERAL-019 21 Post Office Box 12548, Capitol Station 22 Austin, Texas 23 COUNSEL FOR DEFENDANTS: 24 JOSE GARZA 25 LAW OFFICE OF JOSE GARZA 26 2414 Robin Reut Drive 27 San Antonio, Texas 28 ALSO PRESENT: 29 RENE ORTIZ, Videographer	4 1 THE VIDEOGRAPHER: Today's September 13, 2 2018. This is the deposition of Leticia Garza Galvan. 3 It is 2:04 p.m. We're on the record. 4 LETICIA GARZA GALVAN, 5 having been duly sworn, testified as follows: 6 EXAMINATION 7 BY MR. HUDSON: 8 Q. How do you do? 9 A. How do -- I'm good. I'm good. 10 Q. Good. My name is Eric Hudson. I'm with the 11 Office of the Attorney General. I represent Rolando 12 Pablos in the lawsuit that you have filed against the 13 Secretary of State and against Starr County. 14 A. Okay. 15 Q. I -- well, let me ask, have we ever met before? 16 A. I don't know. Your name sounds familiar. I 17 don't know if I've just seen it in all the E-mails or 18 something, but your name sounds familiar. 19 Q. I got you. Well, I'll represent to you I don't 20 believe we've met before. But, you know, if you recall 21 a circumstance, please let me know. 22 A. Okay. 23 Q. So we're here to ask a few questions today 24 about your lawsuit. Have you ever been deposed before? 25 A. No. I don't think so.
3 1 INDEX 2 PAGE 3 Appearances..... 2 4 LETICIA GARZA GALVAN 5 Examination by Mr. Hudson..... 4 6 Examination by Mr. Garza..... 25 7 Examination by Mr. Najvar..... 37 8 Changes and Signature..... 39 9 Reporter's Certificate..... 41 10 Attached to the end of the transcript: Stipulations 11 12 EXHIBITS 13 (No exhibits marked) 14 15 16 17 18 19 20 21 22 23 24 25	5 1 Q. Well, just a few things I want to go over, just 2 a little bit of deposition etiquette. The first one 3 is, I'm going to be asking a series of questions. 4 Obviously, that's why we're here. 5 So one of the things that will put off our 6 court reporter is, if I ask a question and while I'm in 7 the middle of asking the question, you start 8 responding. So during the course of this deposition, 9 can we agree that you'll let me finish my question and 10 I'll extend you the same courtesy? 11 A. I'm going to try my best. 12 Q. Okay. If we start talking -- 13 A. Because I don't catch myself doing it. 14 Q. If we start talking over one another, then I 15 think -- I think we can probably catch it, so that the 16 court reporter's not losing his mind over there. The 17 second thing that I want to ask is, that during the 18 course of the questioning if I ask you a question and 19 you don't understand, I need you to let me know. 20 And the reason for that's very simple. If 21 you -- if I ask you a question and you give me an 22 answer, I'm going to presume you understood it. And 23 what I would hate to see happen is, that at the end of 24 the deposition you come back and say, Well, I didn't 25 understand or I don't, you know, know what you meant by

6 1 that. So can we agree that today, when I ask you a 2 question, if you don't understand or -- or don't 3 comprehend the question, you're going to let me know? 4 A. Yes, sir. 5 Q. You're also doing a very good job of it. What 6 you're doing a good job of is, when I ask a question 7 you're answering verbally. This is not so much a 8 question, but just a request that when I ask you a 9 question, if you can respond verbally. We do have a 10 camera here, we're going to catch it, but the court 11 reporter's transcript isn't going to capture head nods 12 and nonverbal answers; make sense? 13 A. Yes, sir. 14 Q. Okay. So where do you live? 15 A. Roma, Texas. 16 Q. How long have you lived here? 17 A. All my life. Thirty-seven, so 37 years. 18 Q. So long time resident. Could you introduce 19 yourself to the jury? 20 A. Yes. My name is Leticia Garza Galvan. And I 21 live in Roma, Texas, and I've lived there for 37 years. 22 Q. You're going to have to forgive me. There's 23 not going to be a jury in this. It's just force of 24 habit -- 25 A. Okay.	8 1 Q. What was the result of the election contest? 2 A. The -- I believe the Judge ruled that the 3 results were as is. 4 Q. Well, let's talk a little bit about the lawsuit 5 you filed against the Texas Secretary of State. Why 6 did you sue Rolando Pablos? 7 A. Rolando Pablos. And who -- 8 MR. NAJVAR: Objection. Calls for a legal 9 conclusion. 10 Q. So during -- during the course of the 11 deposition, he -- you may hear objections. Unless your 12 attorney looks at you and tells you not to answer a 13 question, you can go ahead and answer it; if you know 14 the answer. 15 A. Okay. And I'm sorry, Pablos is? 16 Q. Rolando Pablos is the Texas Secretary of State. 17 A. Okay. I do not know the answer. 18 Q. Okay. Did you vote by mail in the 2018 19 Democratic Primary? 20 A. No, sir. 21 Q. Are you planning on voting in the general 22 election in November of this year? 23 A. Definitely, yes. 24 Q. Are you planning on voting absentee? 25 A. Absentee? I usually wait for election day. I
7 1 Q. -- so -- what's your current position? 2 A. I am -- as in my occupation or as in political 3 position? 4 Q. Let's start with your occupation. 5 A. Okay. I'm a speech language pathologist, and 6 I've been a speech language pathologist since 2004. 7 December 2004. I was an assistant before that for a 8 year-and-a-half, and I started working as speech 9 language pathologist in January of 2005. 10 Q. What's your political position? 11 A. I am currently on the Roma ISD School Board of 12 Trustees. 13 Q. Okay. How long have you held that spot? 14 A. Since December 2011. I was appointed and I won 15 my first election in November 2013. 16 Q. And, obviously, you ran for the Democratic 17 Primary in 2018? 18 A. Yes. 19 Q. What position was that? 20 A. For the Starr County Judge position. 21 Q. Did you win that election? 22 A. No, I did not. 23 Q. So now you filed an election contest from what 24 I understand, right? 25 A. We filed an election contest, yes, sir.	9 1 don't think I vote absentee. 2 Q. So in other words, you're not going to vote by 3 mail in November? 4 A. No, sir. 5 Q. Have you ever worked for the Texas Secretary of 6 State? 7 A. No. 8 Q. Have you talked to anybody from the Texas 9 Secretary of State's office about the election results 10 in the Democratic Primary in Spring of this year? 11 A. I believe I did; just regarding some issues 12 with unsigned ballots. 13 Q. Who did you talk to? 14 A. I don't recall. I don't recall the person that 15 I spoke to. It was just a concern, because when we 16 were doing the recount, there was a lot of ballots that 17 were unsigned by an election Judge. And I think that 18 they agreed that those ballots should not count, but 19 that it needed to be addressed in an election contest. 20 Q. Who -- who is they? 21 A. Whoever answered in the Secretary of State. 22 Q. Well, let me ask you this: Did you just -- how 23 did you get a number to call the Secretary of State's 24 office? 25 A. I asked Judy Solis, the Democratic Chair.

10 1 Q. And so you don't recall who you actually spoke 2 to? 3 A. I don't. All they told us was, you need to get 4 an attorney and an election contest needs to be filed 5 if you want to contest those ballots that were 6 unsigned. 7 Q. Were you trying to get some assistance from the 8 Secretary of State's office in how to handle those 9 ballots? 10 A. No. We had the recount, and there was a lot of 11 controversy, whether they were going to count or not 12 during the recount. They gave us a policy and that, 13 specifically, said that those ballots should not count. 14 But during the recount, they couldn't do 15 that. They had to do it in election contest. But the 16 only way that they would address it would be in an 17 election contest. 18 Q. When you say they? 19 A. The Secretary of State, whoever answered. I 20 don't -- I don't recall, sir. 21 Q. Well, when you say they would address it, 22 are -- where did you file your election contest? 23 A. Oh, with Starr County, I guess. 24 Q. That was here in Starr County, right? 25 A. Yes.	12 1 Q. They being? 2 A. The -- the counters at the election, the 3 election judges. During the recount. 4 Q. Well, so let me ask you this: If the 5 Democratic Chair told you that the Secretary of State's 6 office was the organization that decides whether 7 mail-in ballots were counted, did you ever get the 8 Secretary of State's office to decide whether any of 9 the mail-in ballots counted? 10 A. I think that would've been better than having a 11 board chosen here locally decide, to tell you the 12 truth. 13 Q. Right. But what I'm asking is, is are you 14 aware of the Secretary of State's office being involved 15 in any way in the vote counting? 16 A. I think what she wanted to say was, they'd be 17 the ones to know the law, or to know whether or not 18 there's a policy or something with elections. That's, 19 pretty much, what it is. 20 And the Secretary of State was very clear 21 as you have to file an election contest, so that means 22 that the Judge would, ultimately, decide. But they're 23 the ones that gave us the advice as, You need to file a 24 contest if you want to question those ballots. 25 Q. So in other words, Secretary of State's office
11 1 Q. So in other words, you didn't have an election 2 contest at the Secretary of State's office? 3 A. No. 4 Q. So they're not the ones who came down and 5 decided whether the votes were or were not properly 6 counted? 7 A. No. No. Our Democratic Chair told us that 8 they would be ones to make the ultimate decision. 9 Q. They being? 10 A. The Secretary of State. I believe she called a 11 Jim Boynton. That's who she contacted for -- for that 12 information. 13 Q. Jim who? 14 A. Boynton. Boynton or Boynton. I don't remember 15 exactly, the -- the last name. I don't know how to 16 spell it. They kept mentioning him a lot. But I did 17 not speak directly to him. 18 Q. So the Democratic Chair told you that the 19 Secretary of State's office would be the one who would 20 decide which votes counted? 21 A. In a recount, yes. 22 Q. What was the Democratic Chair's name again? 23 A. Judy Solis. In fact, during the recount they 24 counted them and then they uncounted them and then they 25 counted them again. There was that much controversy.	13 1 told you if you want relief you had to go to court? 2 A. Exactly. 3 Q. Okay. 4 A. Uh-huh. 5 Q. So you would agree with me, then, the Secretary 6 of State's office never evaluated whether mail-in 7 ballots were or were not properly counted? 8 A. In regards to mail-in, I'm not sure. This was 9 a recount of just the regular ballots. 10 Q. Okay. Are you aware of the Secretary of 11 State's office actually counting any ballots in your 12 election? 13 A. No. But, again, that would've been great. 14 Q. Have you ever actually seen any kind of 15 guidance from the Secretary of State's office to Starr 16 County about how to count mail-in ballots? 17 A. I don't know if that directly. I've seen a lot 18 of E-mails, just responses to E-mails about complaints 19 that have been filed, and, you know, just guidance as 20 to what to do or how to proceed with that. 21 Q. Well, tell me about the E-mails that you've 22 seen. 23 A. There was another candidate running for County 24 Commissioner, Clarissa Gonzalez. She submitted several 25 complaints to the Secretary of State, and they

14 1 responded. I believe she sent me a few. I didn't read 2 them in it's entirety. We had filed the lawsuit by 3 then, so it wasn't something that, you know, I really 4 needed or that I could use on my behalf. 5 And then there was another candidate who 6 also filed a complaint against his opponent, because he 7 didn't live within the precinct. So it's just my 8 understanding that the Secretary of State would be the 9 ones who would possibly -- I don't want to say enforce 10 the law, but maybe -- I guess, maybe state the policy 11 or what's in place, you know, when it comes to 12 elections. 13 Q. What makes you believe that? 14 A. Because if it says file a complaint, you file 15 it to the Secretary of State. 16 Q. What kind of complaints get filed with the 17 Secretary of State's office? 18 A. I would assume any complaints regarding the 19 elections. There's an -- there's actually an elections 20 department with the Secretary of State. 21 Q. Well, I guess let me ask you this: Here's what 22 I'm trying to figure out. Have you ever filed a 23 complaint with the Secretary of State's office? 24 A. I was going to and then I was notified that 25 Clarissa Gonzalez had done it, so I did not.	16 1 Q. Okay. And so that'll be something that you'll 2 be turning over, then, with the discovery requests? 3 A. If you need it, that's fine. I didn't know. 4 Like I say, it's -- it's not an E-mail that was mine or 5 that I sent to the Secretary of State. Clarissa 6 Gonzalez was the candidate for Commissioner, submitted 7 the complaint and she just sent the reply. 8 Q. Okay. Now, you understand you have two 9 different lawsuits here: One's an election contest 10 that you file in State Court. This case is actually 11 pending in Federal Court. Are you aware of that? 12 A. Yes, sir. 13 Q. Are you aware of the distinction between the 14 two venues? 15 A. Yes. 16 Q. Okay. So let me ask you this: The lawsuit 17 that's in the Federal Courthouse, what are you asking 18 the Judge to direct the Secretary of State's office to 19 do? 20 A. I think that -- 21 MR. NAJVAR: Objection. Calls for a legal 22 conclusion. 23 A. Okay. It just -- it needs to be -- the process 24 in which the -- the ballots are revised, I think there 25 has to be a better way to do it. You know, the -- the
15 1 Q. So you never actually filed anything with the 2 Secretary of State's office challenging the election 3 results in Spring of 2018 in the Democratic Primary? 4 A. No. Because I was told that we needed to file 5 an election contest. 6 Q. By? 7 A. Whoever answered on the other end -- the other 8 line. I'm sorry, I -- I didn't -- I didn't keep it. 9 Q. Okay. 10 A. Yeah. Someone -- someone that answered in the 11 Secretary of State and I know it was the elections 12 hotline or department. I can Google and I can give you 13 the number I called, because that's what I did. 14 Q. Well, let's put a pin in that for right now. 15 A. Uh-huh. 16 Q. These E-mails that you say show the Secretary 17 of State's office given some sort of guidance. Did you 18 preserve those? 19 A. Yes. I believe I have them in my E-mail. I 20 need to make sure, but I might have them. 21 Q. Okay. So you understand that you've received a 22 set of discovery requests in this case, right? 23 A. That I received a what? 24 Q. Set of discovery requests in this case. 25 A. I believe our attorney received that.	17 1 board that's chosen is usually chosen by the majority 2 of a school board or the majority of a city, you know, 3 entity. 4 In this case it was, supposedly, Judy 5 Solis was the Democratic Chair, which she testified 6 that she didn't want to have any problems with the 7 County Judge, and she allowed them to choose a few. 8 So, you know, I always feel that whoever's 9 on the ballot board could kind of weigh their decision 10 on what to accept and what not to accept to the way 11 that, you know, they're trying to get their party to 12 win. It's -- I -- I think it happened to us. I really 13 do. 14 When we got the list of all the mail-ins 15 that were returned, I can tell you that I feel that 75 16 to 80 percent of those were -- were ours. Several of 17 mine, I think just because my name on there -- was on 18 there were not accepted. 19 I think there was a woman who testified as 20 well, and she said I send it. I signed it. I have two 21 different signatures, which is, you know, that's 22 another thing. You can't compare it just on one 23 signature. 24 You know, we all sign different. If I 25 signed three different papers, they may look different.

18 1 It depends what pen I'm using. It depends, you know, 2 if I'm actually on a desk, if I'm using a -- a book or 3 something to write on. So I think that, you know, 4 everybody has a right to vote and that their vote 5 should count. 6 Q. So I thought I heard two things there, so let's 7 see if I can make sure I understand what you're saying. 8 It sounds like the first problem you have is, that you 9 want the Secretary of State's office to play a role in 10 who actually gets picked to be on the early voting 11 ballot board? 12 A. That would be great, too, you know, just 13 or -- or some type of a court the way that they do jury 14 selection, you know, or something like that, but not 15 someone who's a public official who's going to be able 16 to side with certain politicians and say, You know 17 what? I have the advantage, because now I was able to 18 choose the ballot board. 19 And this ballot board knows, you know, who 20 is with her and who is there, who's not and who 21 possibly was assisting or, you know, just -- we -- we 22 live in a very small town, I guess I can say, and 23 everybody knows everybody. So, you know, there's 24 posters up. Everybody knows where you stand mostly 25 during election time.	20 1 attest to it. What do I need to do so my vote counts? 2 So I mean, once you hear people that actually go out 3 and vote, or -- or vote for me and knowing that I plan 4 to run, you know, for another position later on, and 5 knowing how close the race was, you know, it can come 6 down to those 149 votes, 159 votes that were thrown 7 out. It can really overturn an election. 8 I think Martie, you know, one of the 9 candidates was down, maybe about 30 votes. So I'm 10 pretty sure that she would've taken the election if 11 those 149 ballots would've counted, or if they 12 would've at least verified; send a letter, You know 13 what? We -- they receive them a month before or they 14 have them a month before to send them; send a letter, 15 You know what? We're questioning your ballot. You 16 have five days to answer, 10 days to answer. 17 And it's just something I think about, 18 obviously. You have five days to answers or 10 days to 19 answer. And if you don't answer, then your ballot 20 won't count. But at least give them a chance to, you 21 know, make up or -- or show that it was them that 22 submitted the ballot. 23 Q. Did you have the chance to bring this up in the 24 election contest? 25 A. We brought up a lot of stuff; unfortunately,
19 1 Q. And so the second thing I thought I heard you 2 say was, that you don't like the way that people have 3 discretion to evaluate the signatures? 4 A. Exactly. 5 Q. So those are the two things that you're 6 challenging with regard to the Secretary of State? 7 MR. NAJVAR: Objection. Calls for legal 8 conclusion. 9 A. I just think those two things are important. 10 Like I say, if people took the time to send a 11 request -- it's not easy, you know. I mean, you have 12 to send the request, get -- you know, get your stamps, 13 get everything together, wait for your ballot, then go 14 back and send the ballot the way that it is set, you 15 know, on the -- on the instruction sheet. 16 It's terrible to see, you know, that 150 17 people didn't get to vote. I got calls from at least 18 30 people telling me, you know, I'm very upset. What 19 can we do? Who do we talk to, and you say, You need to 20 call elections office. 21 I have my signature. It was the same 22 signature. One of the ladies told me, You know what? 23 I had a broken arm. I was in the hospital or she had 24 the IV or something. 25 She said, But it's my signature and I can	21 1 the Judge, I think, didn't consider a lot of those 2 issues. It -- you know, an election contest isn't 3 easy, especially when you have an elections department 4 that's not willing to give you information. 5 So we were getting information, I think, 6 three days into the trial. And still, the last day of 7 trial, after we had already, you know, finished with 8 our part, we received the last portion. 9 So it's -- it's -- the time frame is very, 10 very short. You know, they don't grant extensions 11 usually for all that. I think that if we would've had 12 a little bit more time, we would've been able to prove 13 a few more votes that would've overturned the -- the 14 election. 15 I think we proved about 70 -- about 75 16 votes. So my 159 margin came down almost half. So 17 when you see 149 ballots thrown out, because the 18 signatures, then you have four, five people testifying 19 that they did submit, you know, their -- their ballot 20 and that they signed for it, it's kind of 21 disappointing. 22 Q. So those are the -- the two things that I -- I 23 thought I heard you say. I think I've got confirmation 24 of that. Aside from the -- the two issues, the -- who 25 sits on the board and how to evaluate the signatures,

22 1 are there any other issues that you're -- you're 2 contesting in this -- in this claim? 3 A. One of the other issues that I saw, at least 4 this election, I had never seen it before, never done 5 it before, usually they gave -- I think they send out 6 the ballots maybe about six weeks before, a little bit 7 more. 8 And for some reason these were sent 9 out like 29, 28 days before. By the time it went 10 to -- here, locally, what they do, and just so there's 11 no problems with the Post Office, I'm sorry, they send 12 the ballots to McAllen, and the request -- they send 13 everything to McAllen, and then back to the -- to the 14 city here, Roma, Rio Grande, whatever. 15 So it was really a very short time frame 16 before they were able to turn in their ballots. I 17 think there was about 6- or 700 ballots that were not 18 returned. So that's one of the other things I think 19 that maybe the time frame for -- for them to send out 20 the ballots, and make sure that they're keeping correct 21 documentation. 22 I think that when we asked selections 23 office for the information, they told us they mailed 24 out the ballots on January the 5th, or that's what's on 25 all their forms. They didn't even get the ballots 'til	24 1 A. No. Well, if they have a role, they didn't do 2 it here. That's all I can tell you. So I mean, 3 obviously, there's no role, because they were not here. 4 Q. And then the -- the last piece, the timing of 5 when things are actually sent out, do you know what 6 role, if any, the Secretary of State's office plays in 7 deciding when to send out earlier ballots? 8 A. I'm not sure. Like I said, I did review an 9 election code. I don't know who enforces that or who 10 looks into that. I'm not -- I'm not sure how that 11 works. You asked me about the roles, and I think 12 that's important because I think that they should play 13 a bigger role. I think that's why we're here. You 14 can't leave it just to the local all the time, because 15 there's always a chance for something to go wrong. 16 Q. Let me ask you this: We've been at this now 17 for about 30 minutes. I know it doesn't feel like it, 18 right? 19 A. No. 20 Q. Is there anything I haven't asked you that you 21 want to tell me about today? Now's your chance. 22 A. In regards to mail-ins? 23 Q. In regards to anything. 24 A. In regards to anything? No. 25 MR. HUDSON: Tender the witness.
23 1 January 29th. So how could you mail-out a ballot on 2 January the 5th? It didn't make sense. But there is 3 some policies, I believe, I think it's 30 days. I just 4 don't know who enforces them, because I know that they 5 did not send them 30 days before. 6 Q. So other than those three issues, are -- is 7 there anything else? 8 A. That I can think of, probably just the -- the 9 signature verification; the time that they take to send 10 them. In regards to mail-ins in general, like what 11 else I think might be an issue or -- 12 Q. Well, no. I'm just talking about in terms of 13 the lawsuit. 14 A. Okay. Yeah, I think so, pretty much. 15 Q. All right. So let's go back over those. The 16 first one was the way that people are actually picked 17 to sit on the earlier voting ballot board. Do you know 18 what relationship the Secretary of State's office has 19 with regard to picking people to sit on the early 20 voting ballot board? 21 A. No. Well, obviously, they don't have any. 22 Yeah. 23 Q. What about with comparing signatures? Do you 24 know what the Secretary of State's office role is in 25 deciding whether signatures match?	25 1 EXAMINATION 2 BY MR. GARZA: 3 Q. My name's Jose Garza, and -- 4 THE VIDEOGRAPHER: Mr. Garza. 5 MR. GARZA: Thanks. 6 Q. And I represent Armandina Martinez and Alma 7 Garcia -- 8 A. Uh-huh. 9 Q. -- and Alicia Dougherty and Alicia Dougherty 10 Number 2. 11 A. Yes. The daughter. 12 Q. And Yolanda Martinez. 13 A. Okay. 14 Q. You've sued all five of these ladies, correct? 15 A. Yes. 16 Q. Okay. And they were all members of the early 17 vote ballot board, right? 18 A. Yes. 19 Q. Okay. 20 A. That's my understanding. 21 Q. Do you know how Yolanda Martinez was selected 22 for the board? 23 A. I believe the elections administrator, John 24 Rodriguez, requested that she be on there, because 25 she's done it before.

26 1 Q. Who did he request that -- who did he make that 2 question to? 3 A. Judy Solis. She testified in court. 4 Q. And Judy Solis is the -- 5 A. Democratic Chair. 6 Q. So Martinez was put on the board by Ms. Solis? 7 A. I believe so, based on the recommendations of 8 John Rodriguez. 9 Q. Okay. And Alicia Dougherty Number 2, do you 10 know how she was selected to the -- to the board? 11 A. I believe Judy Solis chose her. 12 Q. Okay. And Alicia Dougherty Number 1, do you 13 know how she was elected? 14 A. Judy Solis. 15 Q. Okay. And Alma Garcia, do you know how she was 16 selected -- 17 A. John Rodriguez recommended as well. 18 Q. Did John Rodriguez put her on the board? 19 A. He recommended to Judy that he wanted those 20 three people, the three that had the majority. 21 Q. So, again, Solis made the determination to put 22 her on the board? 23 A. I believe Judy Solis put in the request, but 24 the recommendation came from John Rodriguez. 25 Q. And Armandina Martinez, do you know how she was	28 1 elections that were being conducted in Starr County? 2 A. No, sir. 3 Q. And Alicia Dougherty Number 1, do you have any 4 information about whether she was engaged in any of the 5 campaigns? 6 A. No. 7 Q. And Alma Garcia, do you know if she was a 8 campaign worker on any of the campaigns that were going 9 on in that primary? 10 A. No. 11 Q. And Armandina Martinez, do you know if she had 12 any active role, was a campaign worker in any of the 13 elections that were going on in -- in -- in that 14 primary? 15 A. No. 16 Q. I'm going to ask you a few questions about your 17 campaign. Did you have a campaign chairman? 18 A. No. Well, my sister helps me out, but no. 19 Like -- like an official chairman, no. 20 Q. Did you run the campaign yourself then? 21 A. Pretty much. 22 Q. You -- 23 A. Me and my sister. 24 Q. Your sister? 25 A. Yes.
27 1 selected to the board? 2 A. Yes. John Rodriguez as well. 3 Q. And John Rodriguez is the Starr County 4 Elections Administrator? 5 A. Yes. He just took on that role. He worked 6 with the elections office for a few years, but I 7 believe he's been a election administrator for one or 8 two years. 9 Q. Okay. Do you have any information that Yolanda 10 Martinez participated in any of the campaigns that were 11 being run in Starr County in that election? 12 A. I don't know her well. I just know that she 13 works and is under the official -- or that she is under 14 the supervision of Judge Eloy Vera. 15 Q. So that wasn't my question. My question is, do 16 you know if she had any active role in any of the 17 campaigns in Starr County? 18 A. I don't know her well. Like I said, I wouldn't 19 be able to tell you if she participated or not. I 20 don't -- I don't, I guess, associate with her. 21 Q. So the answer is no, you don't have any 22 information? 23 A. That I know of, no. 24 Q. Okay. And Alicia Dougherty, do you have any 25 information that she participated in any of the	29 1 Q. Did you have volunteers in your campaign? 2 A. Several. 3 Q. Okay. Did you -- what kinds of activities did 4 you participate in your campaign? 5 A. Well, we had different events. We had a 6 teacher's forum. We had a debate. We had several 7 burger drives. We had several meet the candidates. We 8 did block walks. Just all sorts of event, you know, 9 just to get our name out there. 10 Q. Okay. So how many volunteers would you 11 estimate you had in your campaign? 12 A. Several. About a hundred. 13 Q. About a hundred volunteers? 14 A. Yes. 15 Q. Did you have volunteers on election day that 16 worked for you? 17 A. On election day? Yes. And then we also had 18 some pole watchers. 19 Q. Okay. Did anybody in your campaign -- was 20 anybody in your campaign involved in encouraging voters 21 to vote by mail? 22 A. I'm sure, yes. It's just get out the vote. So 23 whether it's through mail or in person election day, 24 yeah. It's important -- 25 Q. Can you describe some of the activities that

30 1 your campaign engaged in in turning out mail-in vote? 2 A. In the mail-in vote? Usually they request it. 3 Usually it's the elderly that'll request that they 4 won't be able to go. The other big group of -- of 5 people that I know supported me or wanted to work with 6 the mail-ins is the youth, the people that are in 7 college. 8 Q. Uh-huh. 9 A. All those students that were in college wanted 10 to make sure they got their ballot on time and 11 submitted it. I think my nephew, in fact, is in 12 medical school in Arizona, and he never received his 13 ballot, so he wasn't able to vote for me and he turned 14 everything in within, I think, 45 days before. 15 But, pretty much, it was just, you know, 16 encouraging them to vote. And if they said, You know 17 what? We're not going to be here or I'm going to have 18 surgery or whatever it is, you know, the elderly that 19 couldn't get out, they submitted a request for a 20 mail-in. 21 Q. And how did you identify the people that were 22 going to need mail-in ballots? 23 A. Usually when we're doing the block walks, they 24 mentioned it to us. 25 Q. Okay. And so you kept a record of the folks	32 1 that usually need help. 2 Q. Yeah. I'm talking about your -- your campaign 3 volunteers. 4 A. You want me to give you names of people that 5 actually did it? 6 Q. Yeah. Yes. 7 A. Oh, there was several. You know, I -- I 8 wouldn't be able to give all the names. 9 Q. Did you keep track of the number of -- of 10 people that your campaign assisted -- 11 A. No. 12 Q. -- with mail-in ballots? 13 A. No. No. We can't do that. Like keep track of 14 every single one that was submitting a mail-in? 15 Q. Uh-huh. Yes. 16 A. No. 17 Q. No? 18 A. No, sir. 19 Q. But you suspect that the majority of mail-in 20 ballots were cast for you? 21 A. I suspect that what? 22 Q. That a majority of the mail-in ballots that 23 were submitted were actually votes for -- for you? 24 A. I believe I said that the ones that were 25 rejected. And I have a reason for that, why I said
31 1 that you felt were going to need mail-in ballots? How 2 did you ensure that -- or how did you know whether they 3 received their ballot or not? 4 A. They called us. Yeah. I had -- I know I 5 assisted about 10 for sure. So when they got the 6 ballot, they called me, What do we do? You know, it's 7 a long process. It's showing me -- telling me here 8 what to do. How do I do it? Can you come help me? So 9 whoever I assisted, I made sure that I signed and -- 10 Q. Okay. 11 A. -- and helped them. But they called me. Like 12 I wasn't calling them and asking them, Did you get 13 your ballot? No. 14 Q. Okay. So you actually visited with some of the 15 voters that voted by mail? 16 A. Oh, yes. Definitely. 17 Q. Okay. And on each of those you signed 18 the -- the -- the envelope identifying your assistance? 19 A. Yes. 20 Q. Okay. Did anybody else in your campaign visit 21 with voters who voted by mail? 22 A. I'm sure they did. 23 Q. Can you give me some examples of folks that 24 would've done it? 25 A. The same, you know, the elderly are the ones	33 1 that. When the election results were coming up, 2 there was a lot of talk within the -- at least three of 3 the -- of the people that -- in the ballot board. 4 And they said, Okay. Wait. That -- that 5 person was helping this person, and that person was 6 helping this person, and they would just throw it out 7 or look at that name, look who assisted and they were 8 throwing them out. So we had three pole watchers that, 9 pretty much, observed the same thing. 10 Q. So you had three pole watchers inside 11 the -- inside the building that -- where the early vote 12 ballot board was doing their business? 13 A. I had one and then Martie Vela had another one. 14 And then one of the other candidates, Fernando, had 15 another one. 16 Q. Okay. 17 A. So after -- after we met with them when the 18 results came out, that's one of the things that they 19 discussed. 20 Q. So while they were inside the -- the -- while 21 they were observing the ballots being counted or 22 rejected or placed in one stack or another, did any of 23 your campaign volunteers object to a particular ballot 24 going one way or the other? 25 A. They tried to; especially, in one of them where

34 1 one of them -- I believe it was Armendina. She -- she 2 was throwing out a ballot, because she said, There's no 3 way there -- they can have two disabled voters in their 4 house. So she threw out one of them. I don't know 5 which one it was -- I don't know how she decided which 6 disabled to throw out, but she threw out one of the 7 disabled voters. 8 And when one of our pole watchers tried 9 to -- to make the comment they said, You're here to 10 observe. You can't contest to anything. You can't say 11 anything. You're going to be observing here or we're 12 going to take you out. 13 Q. Did any of your campaign workers lodge a 14 complaint with the party chairman on that day? 15 A. Yes. 16 Q. And were they written complaints? 17 A. No. I don't think so. I'm not sure. I didn't 18 make the complaint, so I'm not sure. And for the 19 record, those two disabled, they really are disabled. 20 Both legally blind, live in the same home; a very close 21 friends of mine. So when they said the name right 22 away, they knew who it was. And that's why they 23 questioned it. 24 Q. Okay. And who was that voter? 25 A. Last name is Salinas. I can't give you the	36 1 A. I don't intend to do it. But if I were to have 2 to do it, then, obviously, I would. I've voted in 3 every election, I think, since I could vote. 4 Q. And in every election that you have voted in, 5 in any of those instances did you vote by mail? 6 A. Until today, no. 7 Q. No. 8 A. I think I submitted a request once, because I 9 was pregnant and I was supposed to -- I think I was due 10 during the time that the election was going to go on. 11 But no, I was able to make it. 12 Q. Okay. So you've never voted by mail? 13 A. No. 14 Q. And you've -- but you've asked for a mail-in 15 ballot one time? 16 A. I believe I did. I'm trying to remember, but I 17 believe I requested a bail -- a ballot once, when I had 18 my youngest. 19 Q. Okay. Do you know if anybody on the early vote 20 ballot board had anything to do with when mail ballots 21 were sent out to applicants for them? 22 A. The ones on the ballot board, I don't know. I 23 don't think so. 24 Q. Okay. And you've not sued the elections 25 administrator or the party chairman in your lawsuit,
35 1 first names. 2 Q. And was it a man or a woman? 3 A. They were two gentlemen. 4 Q. So Mr. Salinas' ballot was rejected? 5 A. One -- there were two, one of them was 6 rejected. 7 Q. One -- 8 A. Because there could not be two disabled voters 9 in the same house. 10 Q. And the Salinases were related? 11 A. No. They're not related, just good friends of 12 ours. 13 Q. They were related to each other? 14 A. Oh, yes. Brothers. 15 Q. Brothers. 16 A. Uh-huh. 17 Q. So two disabled brothers that live together, 18 one was counted, one was not? 19 A. Exactly. 20 Q. Okay. You were asked earlier if you voted by 21 mail and you did not, correct? 22 A. No, I did not. 23 Q. And you were asked if you intended to vote by 24 mail in a future election, and your answer was that you 25 did not, correct?	37 1 correct? 2 A. I'm not sure. 3 MR. GARZA: Pass the witness. 4 EXAMINATION 5 BY MR. NAJVAR: 6 Q. Just a quick couple of questions, Ms. Galvan. 7 You said earlier, I think your -- what is your 8 position -- your political position right now? 9 A. I'm on the Roma ISD School Board of Trustees. 10 Q. Okay. And when is your next election for this 11 position? 12 A. November 2020. 13 Q. Do you intend to run for re-election? 14 A. Yes. 15 Q. Have -- well, this -- this past -- this year in 16 2018, you ran for a different office, right? For 17 County Judge? 18 A. Yes. 19 Q. Do you intend to run for that position again? 20 A. If the opportunity arises, yes. Definitely. 21 Q. Okay. So can you just describe 22 how -- it -- it -- like how are you going to 23 decide -- well, let me ask you this: When is the next 24 election for County Judge? 25 A. 2022. 2022.

38 1 Q. Okay. 2 A. March. Well, the -- the primaries will be in 3 March of 2022. 4 Q. Okay. 5 MR. NAJVAR: No further questions. At 6 this time, we'll reserve the remainder of questions for 7 trial. 8 MR. HUDSON: That's it for me. You're all 9 done. Thank you. 10 THE WITNESS: Thank you. 11 THE VIDEOGRAPHER: We're off the record. 12 MR. HUDSON: Requesting a read and sign. 13 Now, we're done. 14 THE VIDEOGRAPHER: We're off the record. 15 (Deposition concluded) 16 17 18 19 20 21 22 23 24 25	40 1 I, LETICIA GARZA GALVAN, have read the 2 foregoing transcript and hereby affix my signature that 3 same is true and correct, except as noted above. 4 5 _____ 6 LETICIA GARZA GALVAN 7 THE STATE OF TEXAS)(8 COUNTY OF _____)(9 Before me, _____, 10 on this day personally appeared LETICIA GARZA GALVAN, 11 known to me (or proved to me under oath or through 12 _____) (description of identity 13 card or other document) to be the person whose name is 14 subscribed to the foregoing instrument and acknowledged 15 to me that they executed the same for the purposes and 16 consideration therein expressed. 17 18 Given under my hand and seal of office 19 this _____ day of _____, 2018. 20 21 _____ 22 Notary Public in and for 23 The State of Texas 24 25
39 1 CHANGES AND SIGNATURE 2 WITNESS NAME: LETICIA GARZA GALVAN 3 DATE OF DEPOSITION: SEPTEMBER 13, 2018 4 PAGE LINE CHANGE REASON 5 _____ 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 _____ 25 _____	41 1 UNITED STATES DISTRICT COURT 2 SOUTHERN DISTRICT OF TEXAS 3 MCALLEN DIVISION 4 LETICIA GARZA GALVAN AND)(5 MARTIE GARCIA VELA)(6 Plaintiffs)(7 VS.)(CASE NO. 7:18-cv-113 8)(9 ROLANDO PABLOS, IN HIS)(10 OFFICIAL CAPACITY AS)(11 TEXAS SECRETARY OF)(12 STATE, AND ARMANDINA)(13 MARTINEZ, ALMA GARCIA,)(14 ALICIA DOUGHERTY NO. 1,)(15 ALICIA DOUGHERTY NO. 2,)(16 YOLANDA MARTINEZ)(17 Defendants)(18 19 REPORTER'S CERTIFICATION 20 ORAL AND VIDEOTAPED DEPOSITION OF 21 LETICIA GARZA GALVAN 22 SEPTEMBER 13, 2018 23 I, JOHN W. FELLOWS, Certified Court 24 Reporter, certify that the witness, LETICIA GARZA 25 GALVAN, was duly sworn by me, and that the transcript is a true and correct record of the testimony given by the witness on September 13, 2018; that the deposition was reported by me in stenograph and was subsequently transcribed under my supervision; Pursuant to Federal Rule 30(5)(e)(2), a review of the transcript was requested. I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, nor am I financially interested in the action. WITNESS MY HAND on this the _____ day of _____, 2018. JOHN W. FELLOWS, Texas CSR 3335 Expiration Date: 12-31-18 Integrity Legal Support, CRN No. 528 3100 W. Slaughter Ln., #101 Austin, Texas 78748 (512) 320-8690

	Alicia 25:9 25:9 26:9,12 27:24 28:3 allowed 17:7 Alma 25:6 26:15 28:7 almost 21:16 already 21:7 also 6:5 14:6 29:17 always 17:8 24:15 another 5:14 13:23 14:5 17:22 20:4 33:13,15,22 answer 5:22 8:12,13, 14,17 20:16 20:16, 19,19 27:21 35:24 answered 9:21 10:19 15:7,10 answering 6:7 answers 6:12 20:18 anybody 9:8 29:19,20 31:20 36:19 anything 15:1 23:7 24:20,23,24 34:10, 11 36:20 applicants 36:21 appointed 7:14 arises 37:20 Arizona 30:12 arm 19:23 Armandina 25:6 26:25 28:11 Armendina 34:1 Aside 21:24 ask 4:15,23 5:6,17, 18,21 6:1,6,8 9:22 12:4 14:21 16:16 24:16 28:16 37:23 asked 9:25 22:22 24:11,20 35:20,23 36:14 asking 5:3,7 12:13 16:17 31:12 assistance 10:7 31:18 assistant 7:7 assisted 31:5,9 32:10 33:7 assisting 18:21 associate 27:20 assume 14:18 attest 20:1	Attorney 4:11 8:12 10:4 15:25 aware 12:14 13:10 16:11,13 away 34:22
Numbers		B
149 20:6,11 21:17 150 19:16 159 20:6 21:16 2004 7:6,7 2005 7:9 2011 7:14 2013 7:15 2018 4:2 7:17 8:18 15:3 37:16 2020 37:12 2022 37:25 37:25 38:3 29th 23:1 2:04 4:3 5th 22:24 23:2 700 22:17		back 5:24 19:14 22:13 23:15 bail 36:17 ballot 17:9 18:11,18, 19 19:13,14 20:15, 19,22 21:19 23:1, 17,20 25:17 30:10, 13 31:3,6,13 33:3, 12,23 34:2 35:4 36:15,17,20,22 ballots 9:12,16,18 10:5,9,13 12:7,9, 24 13:7,9,11,16 16:24 20:11 21:17 22:6,12,16,17,20, 24,25 24:7 30:22 31:1 32:12,20,22 33:21 36:20 based 26:7 before 4:15,20,24 7:7 20:13,14 22:4, 5,6,9,16 23:5 25:25 30:14 behalf 14:4 being 11:9 12:1,14 27:11 28:1 33:21 believe 4:20 8:2 9:11 11:10 14:1,13 15:19,25 23:3 25:23 26:7,11,23 27:7 32:24 34:1 36:16,17 best 5:11 better 12:10 16:25 between 16:13 big 30:4 bigger 24:13 bit 5:2 8:4 21:12 22:6 blind 34:20 block 29:8 30:23 Board 7:11 12:11
A		
able 18:15,17 21:12 22:16 27:19 30:4, 13 32:8 36:11 absentee 8:24,25 9:1 accept 17:10 17:10 accepted 17:18 active 27:16 28:12 activities 29:3,25 actually 10:1 13:11, 14 14:19 15:1 16:10 18:2,10 20:2 23:16 24:5 31:14 32:5,23 address 10:16,21 addressed 9:19 administrator 25:23 27:4,7 36:25 advantage 18:17 advice 12:23 after 21:7 33:17 33:17 again 11:22,25 13:13 26:21 37:19 against 4:12,13 8:5 14:6 agree 5:9 6:1 13:5 agreed 9:18 ahead 8:13		

17:1,2,9 18:11,18, 19 21:25 23:17,20 25:17,22 26:6,10, 18,22 27:1 33:3,12 36:20,22 37:9 book 18:2 Both 34:20 Boynton 11:11,14,14, 14 bring 20:23 broken 19:23 Brothers 35:14,15,17 brought 20:25 building 33:11 burger 29:7 business 33:12	cast 32:20 catch 5:13,15 6:10 certain 18:16 Chair 9:25 11:7,18 12:5 17:5 26:5 chairman 28:17,19 34:14 36:25 Chair's 11:22 challenging 15:2 19:6 chance 20:20,23 24:15,21 choose 17:7 18:18 chose 26:11 chosen 12:11 17:1 17:1 circumstance 4:21 city 17:2 22:14 claim 22:2 Clarissa 13:24 14:25 16:5 clear 12:20 close 20:5 34:20 code 24:9 college 30:7,9 come 5:24 20:5 31:8 comes 14:11 coming 33:1 comment 34:9 Commissioner 13:24 16:6 compare 17:22 comparing 23:23 complaint 14:6,14,23 16:7 34:14,18 complaints 13:18,25 14:16,18 34:16 comprehend 6:3 concern 9:15 concluded 38:15 conclusion 8:9 16:22 19:8 conducted 28:1 confirmation 21:23 consider 21:1 contacted 11:11 contest 7:23,25 8:1 9:19 10:4,5,15,17, 22 11:2 12:21,24 15:5 16:9 20:24	21:2 34:10 contesting 22:2 controversy 10:11 11:25 correct 22:20 25:14 35:21,25 37:1 Could 6:18 14:4 17:9 23:1 35:8 36:3 couldn't 10:14 30:19 count 9:18 10:11,13 13:16 18:5 20:20 counted 11:6,20,24, 25 12:7,9 13:7 20:11 33:21 35:18 counters 12:2 counting 12:15 13:11 counts 20:1 County 4:13 7:20 10:23,24 13:16,23 17:7 27:3,11,17 28:1 37:17,24 couple 37:6 course 5:8,18 8:10 court 5:6,16 6:10 13:1 16:10,11 18:13 26:3 courtesy 5:10 Courthouse 16:17 current 7:1 currently 7:11
C		D
call 9:23 19:20 called 11:10 15:13 31:4,6,11 calling 31:12 Calls 8:8 16:21 19:7, 17 came 11:4 21:16 26:24 33:18 camera 6:10 campaign 28:8,12,17, 17,20 29:1,4,11,19, 20 30:1 31:20 32:2, 10 33:23 34:13 campaigns 27:10,17 28:5,8 can 5:9,15 6:1,9 8:13 15:12 15:12 17:15 18:7,22 19:19,25 20:5,7 23:8 24:2 29:25 31:8,23 34:3 37:21 candidate 13:23 14:5 16:6 candidates 20:9 29:7 33:14 can't 17:22 24:14 32:13 34:10 34:10, 25 capture 6:11 case 15:22,24 16:10 17:4	cast 32:20 catch 5:13,15 6:10 certain 18:16 Chair 9:25 11:7,18 12:5 17:5 26:5 chairman 28:17,19 34:14 36:25 Chair's 11:22 challenging 15:2 19:6 chance 20:20,23 24:15,21 choose 17:7 18:18 chose 26:11 chosen 12:11 17:1 17:1 circumstance 4:21 city 17:2 22:14 claim 22:2 Clarissa 13:24 14:25 16:5 clear 12:20 close 20:5 34:20 code 24:9 college 30:7,9 come 5:24 20:5 31:8 comes 14:11 coming 33:1 comment 34:9 Commissioner 13:24 16:6 compare 17:22 comparing 23:23 complaint 14:6,14,23 16:7 34:14,18 complaints 13:18,25 14:16,18 34:16 comprehend 6:3 concern 9:15 concluded 38:15 conclusion 8:9 16:22 19:8 conducted 28:1 confirmation 21:23 consider 21:1 contacted 11:11 contest 7:23,25 8:1 9:19 10:4,5,15,17, 22 11:2 12:21,24 15:5 16:9 20:24	daughter 25:11 day 8:25 21:6 29:15, 17,23 34:14 days 20:16 20:16,18, 18 21:6 22:9 23:3, 5 30:14 debate 29:6 December 7:7,14 decide 11:20 12:8,11, 22 37:23 decided 11:5 34:5 decides 12:6 deciding 23:25 24:7 decision 11:8 17:9 Definitely 8:23 31:16 37:20 Democratic 7:16 8:19

9:10,25 11:7,18,22 12:5 15:3 17:5 26:5 department 14:20 15:12 21:3 depends 18:1 18:1 deposed 4:24 deposition 4:2 5:2,8, 24 8:11 38:15 describe 29:25 37:21 desk 18:2 determination 26:21 different 16:9 17:21, 24,25,25 29:5 37:16 direct 16:18 directly 11:17 13:17 disabled 34:3,6,7,19, 19 35:8,17 disappointing 21:21 discovery 15:22,24 16:2 discretion 19:3 discussed 33:19 distinction 16:13 documentation 22:21 doesn't 24:17 doing 5:13 6:5,6 9:16 30:23 33:12 done 14:25 22:4 25:25 31:24 38:9, 13 Dougherty 25:9 25:9 26:9,12 27:24 28:3 down 11:4 20:6,9 21:16 drives 29:7 due 36:9 duly 4:5 during 5:8,17 8:10 8:10 10:12,14 11:23 12:3 18:25 36:10	25:16 33:11 36:19 easy 19:11 21:3 elderly 30:3,18 31:25 elected 26:13 election 7:15,21,23, 25 8:1,22,25 9:9, 17,19 10:4,15,17, 22 11:1 12:2,3,21 13:12 15:2,5 16:9 18:25 20:7,10,24 21:2,14 22:4 24:9 27:7,11 29:15,17, 23 33:1 35:24 36:3, 4,10 37:10,24 elections 12:18 14:12,19,19 15:11 19:20 21:3 25:23 27:4,6 28:1,13 36:24 Eloy 27:14 else 23:7,11 31:20 E-mail 15:19 16:4 E-mails 4:17 13:18 13:18,21 15:16 encouraging 29:20 30:16 end 5:23 15:7 enforce 14:9 enforces 23:4 24:9 engaged 28:4 30:1 ensure 31:2 entirety 14:2 entity 17:3 envelope 31:18 Eric 4:10 especially 21:3 33:25 estimate 29:11 etiquette 5:2 evaluate 19:3 21:25 evaluated 13:6 even 22:25 event 29:8 events 29:5 ever 4:15,24 9:5 12:7 13:14 14:22 every 32:14 36:3,4 everybody 18:4,23,23, 24	everything 19:13 22:13 30:14 exactly 11:15 13:2 19:4 35:19 examples 31:23 extend 5:10 extensions 21:10 F fact 11:23 30:11 familiar 4:16,18 Federal 16:11,17 feel 17:8,15 24:17 felt 31:1 Fernando 33:14 few 4:23 5:1 14:1 17:7 21:13 27:6 28:16 figure 14:22 file 10:22 12:21,23 14:14 14:14 15:4 16:10 filed 4:12 7:23,25 8:5 10:4 13:19 14:2,6,16,22 15:1 fine 16:3 finish 5:9 finished 21:7 first 5:2 7:15 18:8 23:16 35:1 five 20:16,18 21:18 25:14 folks 30:25 31:23 follows 4:5 force 6:23 forgive 6:22 forms 22:25 forum 29:6 four 21:18 frame 21:9 22:15,19 friends 34:21 35:11 from 7:23 9:8 10:7 13:15 19:17 21:24 26:24 further 38:5 future 35:24 G
E		
each 31:17 35:13 earlier 23:17 24:7 35:20 37:7 early 18:10 23:19		

Galvan 4:2 6:20 37:6 Garcia 25:7 26:15 28:7 Garza 4:2 6:20 25:3, 4 gave 10:12 12:23 22:5 General 4:11 8:21 23:10 gentlemen 35:3 get 9:23 10:3,7 12:7 14:16 17:11 19:12 19:12,13,17 22:25 29:9,22 30:19 31:12 gets 18:10 getting 21:5 give 5:21 15:12 20:20 21:4 31:23 32:4,8 34:25 given 15:17 going 5:3,11,22 6:3, 10,11,22,23 9:2 10:11 14:24 18:15 28:8,13,16 30:17 30:17,22 31:1 33:24 34:11,12 36:10 37:22 Gonzalez 13:24 14:25 16:6 good 4:9 4:9,10 6:5, 6 35:11 Google 15:12 got 4:19 17:14 19:17 21:23 30:10 31:5 Grande 22:14 grant 21:10 great 13:13 18:12 group 30:4 guess 10:23 14:10,21 18:22 27:20 guidance 13:15,19 15:17	happened 17:12 has 16:25 18:4 23:18 hate 5:23 haven't 24:20 having 4:5 12:10 head 6:11 hear 8:11 20:2 heard 18:6 19:1 21:23 held 7:13 help 31:8 32:1 helped 31:11 helping 33:5,6 helps 28:18 here 4:23 5:4 6:10, 16 10:24 12:11 16:9 22:10,14 24:2, 3,13 30:17 31:7 34:9,11 Here's 14:21 he's 27:7 home 34:20 hospital 19:23 hotline 15:12 house 34:4 35:9 Hudson 4:10 hundred 29:12,13	intend 36:1 37:13,19 intended 35:23 into 21:6 24:10 introduce 6:18 involved 12:14 29:20 isn't 6:11 21:2 issue 23:11 issues 9:11 21:2,24 22:1,3 23:6 It's 6:23 14:2,7 16:4 16:4 17:12 19:11,16,25 20:17 21:9 21:9,20 23:3 29:22,23,24 30:3 31:6,7 I've 4:17 6:21 7:6 13:17 21:23 36:2
	I	J
	identify 30:21 identifying 31:18 I'll 4:19 5:10 I'm 4:9 4:9,10 5:3,6, 11,22 7:5 8:15 12:13 13:8 14:22 15:8 18:1,2,2 19:18 20:9 22:11 23:12 24:8,10,10 28:16 29:22 30:17 31:22 32:2 34:17, 18 36:16 37:2,9 important 19:9 24:12 29:24 information 11:12 21:4,5 22:23 27:9, 22,25 28:4 inside 33:10,11,20 instances 36:5 instruction 19:15	January 7:9 22:24 23:1,2 Jim 11:11,13 job 6:5,6 John 25:23 26:8,17, 18,24 27:2,3 Jose 25:3 Judge 7:20 8:2 9:17 12:22 16:18 17:7 21:1 27:14 37:17, 24 judges 12:3 Judy 9:25 11:23 17:4 26:3,4,11,14,19,23 jury 6:19,23 18:13 just 4:17 5:1 5:1 6:8,23 9:11,15,22 13:9,18,19 14:7 16:7,23 17:17,22 18:12,21 19:9 20:17 22:10 23:3,8, 12 24:14 27:5,12 29:8,9,22 30:15 33:6 35:11 37:6,21
H		K
habit 6:24 half 21:16 handle 10:8 happen 5:23		keep 15:8 32:9,13 keeping 22:20 kept 11:16 30:25

kind 13:14 14:16 17:9 21:20 kinds 29:3 knew 34:22 know 4:16,17,20,21 5:19,25,25 6:3 8:13,17 11:15 12:17 12:17 13:17, 19 14:3,11 15:11 16:3,25 17:2,8,11, 21,24 18:1,3,12,14, 16,19,21,23 19:11, 12,15,16,18,22 20:4,5,8,12,15,21 21:2,7,10,19 23:4 23:4,17,24 24:5,9, 17 25:21 26:10,13, 15,25 27:12 27:12, 16,18,23 28:7,11 29:8 30:5,15,16,18 31:2,4,6,25 32:7 34:4,5 36:19,22 knowing 20:3,5 knows 18:19,23,24	life 6:17 Like 16:4 18:8,14 19:2,10 22:9 23:10 24:8,17 27:18 28:19 28:19 31:11 32:13 37:22 line 15:8 list 17:14 little 5:2 8:4 21:12 22:6 live 6:14,21 14:7 18:22 34:20 35:17 lived 6:16,21 local 24:14 locally 12:11 22:10 lodge 34:13 long 6:16,18 7:13 31:7 look 17:25 33:7 33:7 looks 8:12 24:10 losing 5:16 lot 9:16 10:10 11:16 13:17 20:25 21:1 33:2	Martie 20:8 33:13 Martinez 25:6,12,21 26:6,25 27:10 28:11 match 23:25 may 8:11 17:25 maybe 14:10 14:10 20:9 22:6,19 McAllen 22:12,13 mean 19:11 20:2 24:2 means 12:21 meant 5:25 medical 30:12 meet 29:7 members 25:16 mentioned 30:24 mentioning 11:16 met 4:15,20 33:17 middle 5:7 might 15:20 23:11 mind 5:16 mine 16:4 17:17 34:21 minutes 24:17 month 20:13,14 more 21:12,13 22:7 mostly 18:24 much 6:7 11:25 12:19 23:14 28:21 30:15 33:9 myself 5:13
L	M	N
ladies 19:22 25:14 language 7:5,6,9 last 11:15 21:6,8 24:4 34:25 later 20:4 law 12:17 14:10 lawsuit 4:12,24 8:4 14:2 16:16 23:13 36:25 lawsuits 16:9 least 19:17 20:12,20 22:3 33:2 leave 24:14 legal 8:8 16:21 19:7 legally 34:20 let 4:15,21 5:9,19 6:3 9:22 12:4 14:21 16:16 24:16 37:23 Leticia 4:2 6:20 Let's 7:4 8:4 15:14 18:6 23:15 letter 20:12,14	made 26:21 31:9 mail 8:18 9:3 29:21, 23 31:15,21 35:21, 24 36:5,12,20 mailed 22:23 mail-in 12:7,9 13:6, 8,16 30:1,2,20,22 31:1 32:12,14,19, 22 36:14 mail-ins 17:14 23:10 24:22 30:6 mail-out 23:1 majority 17:1,2 26:20 32:19,22 make 6:12 11:8 15:20 18:7 20:21 22:20 23:2 26:1 30:10 34:9,18 36:11 makes 14:13 man 35:2 many 29:10 March 38:2,3 margin 21:16	name 4:10,16,18 6:20 11:15,22 17:17 29:9 33:7 34:21,25 names 32:4,8 35:1 name's 25:3 need 5:19 10:3 12:23 15:20 16:3 19:19 20:1 30:22 31:1 32:1 needed 9:19 14:4 15:4 needs 10:4 16:23 nephew 30:11 never 13:6 15:1 22:4 22:4 30:12 36:12 next 37:10,23

nods 6:11 nonverbal 6:12 notified 14:24 November 7:15 8:22 9:3 37:12 now 7:23 15:14 16:8 18:17 24:16 37:8 38:13 Now's 24:21 number 9:23 15:13 25:10 26:9,12 28:3 32:9	opponent 14:6 opportunity 37:20 organization 12:6 other 9:2 11:1 12:25 15:7 15:7 22:1,3, 18 23:6 30:4 33:14, 24 35:13 ours 17:16 35:12 out 14:22 20:2,7 21:17 22:5,9,19,24 24:5,7 28:18 29:9, 22 30:1,19 33:6,8, 18 34:2,4,6,6,12 36:21 over 5:1,14,16 16:2 23:15 overturn 20:7 overturned 21:13	plan 20:3 planning 8:21,24 play 18:9 24:12 plays 24:6 please 4:21 pole 29:18 33:8,10 34:8 policies 23:3 policy 10:12 12:18 14:10 political 7:2,10 37:8 politicians 18:16 portion 21:8 position 7:1,3,10,19, 20 20:4 37:8 37:8, 11,19 possibly 14:9 18:21 Post 22:11 posters 18:24 precinct 14:7 pregnant 36:9 preserve 15:18 presume 5:22 pretty 12:19 20:10 23:14 28:21 30:15 33:9 primaries 38:2 Primary 7:17 8:19 9:10 15:3 28:9,14 probably 5:15 23:8 problem 18:8 problems 17:6 22:11 proceed 13:20 process 16:23 31:7 properly 11:5 13:7 prove 21:12 proved 21:15 public 18:15 put 5:5 15:14 26:6, 18,21,23
0	P	Q
object 33:23 Objection 8:8 16:21 19:7 objections 8:11 observe 34:10 observed 33:9 observing 33:21 34:11 Obviously 5:4 7:16 20:18 23:21 24:3 36:2 occupation 7:2,4 off 5:5 38:11,14 Office 4:11 9:9,24 10:8 11:2,19 12:6, 8,14,25 13:6,11,15 14:17,23 15:2,17 16:18 18:9 19:20 22:11,23 23:18,24 24:6 27:6 37:16 official 18:15 27:13 28:19 once 20:2 36:8,17 one 5:2,5,14 11:19 17:22 19:22 20:8 22:3,18 23:16 27:7 32:14 33:13 33:13, 14,15,18,22,24,25 34:1,4,5,6,8 35:5 35:5,7,18,18 36:15 ones 11:4,8 12:17,23 14:9 31:25 32:24 36:22 One's 16:9 only 10:16	p.m 4:3 Pablos 4:12 8:6,7,15, 16 papers 17:25 part 21:8 participate 29:4 participated 27:10, 19,25 particular 33:23 party 17:11 34:14 36:25 Pass 37:3 past 37:15 pathologist 7:5,6,9 pen 18:1 pending 16:11 people 19:2,10,17,18 20:2 21:18 23:16, 19 26:20 30:5,6,21 32:4,10 33:3 percent 17:16 person 9:14 29:23 33:5 33:5 33:5,6 picked 18:10 23:16 picking 23:19 piece 24:4 pin 15:14 place 14:11 placed 33:22	question 5:6,7,9,18, 21 6:2,3,6,8,9 8:13 12:24 26:2 27:15 27:15 questioned 34:23 questioning 5:18

20:15 questions 4:23 5:3 28:16 37:6 38:5,6 quick 37:6	requested 25:24 36:17 Requesting 38:12 requests 15:22,24 16:2 reserve 38:6 resident 6:18 respond 6:9 responded 14:1 responding 5:8 responses 13:18 result 8:1 results 8:3 9:9 15:3 33:1,18 returned 17:15 22:18 review 24:8 revised 16:24 right 7:24 10:24 12:13 15:14,22 18:4 23:15 24:18 25:17 34:21 37:8, 16 Rio 22:14 Rodriguez 25:24 26:8, 17,18,24 27:2,3 Rolando 4:11 8:6,7, 16 role 18:9 23:24 24:1, 3,6,13 27:5,16 28:12 roles 24:11 Roma 6:15,21 7:11 22:14 37:9 ruled 8:2 run 20:4 27:11 28:20 37:13,19 running 13:23	saw 22:3 say 5:24 10:18,21 12:16 14:9 15:16 16:4 18:16,22 19:2, 10,19 21:23 34:10 saying 18:7 says 14:14 School 7:11 17:2 30:12 37:9 second 5:17 19:1 Secretary 4:13 8:5, 16 9:5,9,21,23 10:8,19 11:2,10,19 12:5,8,14,20,25 13:5,10,15,25 14:8, 15,17,20,23 15:2, 11,16 16:5,18 18:9 19:6 23:18,24 24:6 see 5:23 18:7 19:16 21:17 seen 4:17 13:14,17, 22 22:4 selected 25:21 26:10, 16 27:1 selection 18:14 selections 22:22 send 17:20 19:10,12, 14 20:12,14,14 22:5,11,12,19 23:5, 9 24:7 sense 6:12 23:2 sent 14:1 16:5,7 22:8 24:5 36:21 September 4:1 series 5:3 set 15:22,24 19:14 several 13:24 17:16 29:2,6,7,12 32:7 sheet 19:15 she's 25:25 short 21:10 22:15 should 9:18 10:13 18:5 24:12 show 15:16 20:21 showing 31:7 side 18:16 sign 17:24 38:12 signature 17:23 19:21,22,25 23:9 signatures 17:21
R		
race 20:5 ran 7:16 37:16 read 14:1 38:12 really 14:3 17:12 20:7 22:15 34:19 reason 5:20 22:8 32:25 recall 4:20 9:14 9:14 10:1,20 receive 20:13 received 15:21,23,25 21:8 30:12 31:3 recommendation 26:24 recommendations 26:7 recommended 26:17,19 record 4:3 30:25 34:19 38:11,14 recount 9:16 10:10, 12,14 11:21,23 12:3 13:9 re-election 37:13 regard 19:6 23:19 regarding 9:11 14:18 regards 13:8 23:10 24:22,23,24 regular 13:9 rejected 32:25 33:22 35:4,6 related 35:10,11,13 relationship 23:18 relief 13:1 remainder 38:6 remember 11:14 36:16 reply 16:7 reporter 5:6 reporter's 5:16 6:11 represent 4:11,19 25:6 request 6:8 19:11,12 22:12 26:1,23 30:2, 3,19 36:8	S	
	said 10:13 17:20 19:25 24:8 27:18 30:16 32:24,25 33:4 34:2,9,21 37:7 Salinas 34:25 35:4 Salinases 35:10 same 5:10 19:21 31:25 33:9 34:20 35:9	

19:3 21:18, 25 23:23, 25 signed 17:20, 25 21:20 31:9, 17 simple 5:20 since 7:6, 14 36:3 single 32:14 sir 6:4, 13 7:25 8:20 9:4 10:20 16:12 28:2 32:18 sister 28:18, 23, 24 sit 23:17, 19 sits 21:25 six 22:6 small 18:22 Solis 9:25 11:23 17:5 26:3, 4, 6, 11, 14, 21, 23 some 9:11 10:7 15:17 18:13 22:8 23:3 29:18, 25 31:14, 23 Someone 15:10 15:10 18:15 something 4:18 12:18 14:3 16:1 18:3, 14 19:24 20:17 24:15 sorry 8:15 15:8 22:11 sort 15:17 sorts 29:8 sounds 4:16, 18 18:8 speak 11:17 specifically 10:13 speech 7:5, 6, 8 spell 11:16 spoke 9:15 10:1 spot 7:13 Spring 9:10 15:3 stack 33:22 stamps 19:12 stand 18:24 Starr 4:13 7:20 10:23, 24 13:15 27:3, 11, 17 28:1 start 5:7, 12, 14 7:4 started 7:8 State 4:13 8:5, 16 9:6, 21 10:19 11:10 12:20 13:25 14:8, 10, 15, 20 15:11	16:5, 10 19:6 State's 9:9, 23 10:8 11:2, 19 12:5, 8, 14, 25 13:6, 11, 15 14:17, 23 15:2, 17 16:18 18:9 23:18, 24 24:6 still 21:6 students 30:9 stuff 20:25 submit 21:19 submitted 13:24 16:6 20:22 30:11, 19 32:23 36:8 submitting 32:14 sue 8:6 sued 25:14 36:24 supervision 27:14 supported 30:5 supposed 36:9 supposedly 17:4 sure 13:8 15:20 18:7 20:10 22:20 24:8, 10 29:22 30:10 31:5, 9, 22 34:17, 18 37:2 surgery 30:18 suspect 32:19, 21 sworn 4:5	testifying 21:18 Texas 6:15, 21 8:5, 16 9:5, 8 than 12:10 23:6 Thank 38:9, 10 Thanks 25:5 that'll 16:1 30:3 that's 5:4, 20 11:11 12:18 15:13 16:3, 17 17:1, 21 21:4 22:18, 24 24:2, 12, 13 25:20 33:18 34:22 38:8 their 17:9, 11 18:4 21:19 21:19 22:16, 25 30:10 31:3 33:12 34:3 then 5:14 11:24 11:24 13:5 14:3, 5, 24 16:2 19:13 20:19 21:18 22:13 24:4 28:20 29:17 33:13, 14 36:2 there 5:16 6:21 9:16 10:10 11:25 13:23 14:5 16:24 17:17, 18, 19 18:6, 20 22:1, 17 23:2, 7 24:20 25:24 29:9 32:7 33:2 34:3 35:5, 8 There's 6:22 12:18 14:19 14:19 18:23 22:10 24:3, 15 34:2 These 15:16 22:8 25:14 they'd 12:16 they're 11:4 12:22 17:11 22:20 35:11 thing 5:17 17:22 19:1 33:9 things 5:1, 5 18:6 19:5, 9 21:22 22:18 24:5 33:18 think 4:25 5:15 5:15 9:1, 17 12:10, 16 16:20, 24 17:12, 17, 19 18:3 19:9 20:8, 17 21:1, 5, 11, 15, 23 22:5, 17, 18, 22 23:3, 8, 11, 14 24:11, 12,
	T	
	take 23:9 34:12 taken 20:10 talk 8:4 9:13 19:19 33:2 talked 9:8 talking 5:12, 14 23:12 32:2 teacher's 29:6 tell 12:11 13:21 17:15 24:2, 21 27:19 telling 19:18 31:7 tells 8:12 Tender 24:25 terms 23:12 terrible 19:16 testified 4:5 17:5, 19 26:3	

13 30:11,14 34:17 36:3,8,9,23 37:7 Thirty-seven 6:17 those 9:18 10:5,8,13 12:24 15:18 17:16 19:5,9 20:6,11 21:1,22 23:6,15 26:19 30:9 31:17 34:19 36:5 thought 18:6 19:1 21:23 three 17:25 21:6 23:6 26:20 26:20 33:2,8,10 threw 34:4,6 through 29:23 throw 33:6 34:6 throwing 33:8 34:2 thrown 20:6 21:17 til 22:25 time 6:18 18:25 19:10 21:9,12 22:9, 15,19 23:9 24:14 30:10 36:10,15 38:6 timing 24:4 today 4:23 6:1 24:21 36:6 Today's 4:1 together 19:13 35:17 told 10:3 11:7,18 12:5 13:1 15:4 19:22 22:23 too 18:12 took 19:10 27:5 town 18:22 track 32:9,13 transcript 6:11 trial 21:6,7 38:7 tried 33:25 34:8 Trustees 7:12 37:9 truth 12:12 try 5:11 trying 10:7 14:22 17:11 36:16 turn 22:16 turned 30:13 turning 16:2 30:1 two 16:8,14 17:20 18:6 19:5,9 21:22,	24 27:8 34:3,19 35:3,5,8,17 type 18:13 U Uh-huh 13:4 15:15 25:8 30:8 32:15 35:16 ultimate 11:8 ultimately 12:22 uncounted 11:24 under 27:13 27:13 understand 5:19,25 6:2 7:24 15:21 16:8 18:7 understanding 14:8 25:20 understood 5:22 unfortunately 20:25 Unless 8:11 unsigned 9:12,17 10:6 Until 36:6 upset 19:18 use 14:4 using 18:1,2 usually 8:25 17:1 21:11 22:5 30:2,3, 23 32:1 V Vela 33:13 venues 16:14 Vera 27:14 verbally 6:7,9 verification 23:9 verified 20:12 very 5:20 6:5 12:20 18:22 19:18 21:9, 10 22:15 34:20 visit 31:20 visited 31:14 volunteers 29:1,10, 13,15 32:3 33:23 vote 8:18 9:1,2 12:15 18:4 18:4 19:17 20:1,3,3 25:17 29:21,22	30:1,2,13,16 33:11 35:23 36:3,5,19 voted 31:15,21 35:20 36:2,4,12 voter 34:24 voters 29:20 31:15, 21 34:3,7 35:8 votes 11:5,20 20:6 20:6,9 21:13,16 32:23 voting 8:21,24 18:10 23:17,20 W wait 8:25 19:13 33:4 walks 29:8 30:23 want 5:1,17 10:5 12:24 13:1 14:9 17:6 18:9 24:21 32:4 wanted 12:16 26:19 30:5,9 wasn't 14:3 27:15 30:13 31:12 watchers 29:18 33:8, 10 34:8 way 10:16 12:15 16:25 17:10 18:13 19:2,14 23:16 33:24 34:3 weeks 22:6 weigh 17:9 well 4:15,19 5:1,24 8:4 9:22 10:21 12:4 13:21 14:21 15:14 17:20 23:12, 21 24:1 26:17 27:2, 12,18 28:18 29:5 37:15,23 38:2 we'll 38:6 went 22:9 We're 4:3,23 5:4 6:10 20:15 24:13 30:17,23 34:11 38:11,13,14 we've 4:20 24:16 whatever 22:14 30:18 what's 7:1,10 14:11 22:24
--	--	--

whether 10:11 11:5 12:6,8,17 13:6 23:25 28:4 29:23 31:2 which 11:20 16:24 17:5,21 34:5 34:5 while 5:6 33:20 33:20 who 8:7 9:13,20,20 10:1 11:4,11,13,19 14:5,9 17:19 18:10, 19,20,20 19:19 21:24 23:4 24:9 24:9 26:1 26:1 31:21 33:7 34:22, 24 Whoever 9:21 10:19 15:7 31:9 whoever's 17:8 who's 18:15 18:15,20 why 5:4 8:5 24:13 32:25 34:22 will 5:5 38:2 willing 21:4 win 7:21 17:12 within 14:7 30:14 33:2 witness 24:25 37:3 woman 17:19 35:2 won 7:14 won't 20:20 30:4 words 9:2 11:1 12:25 work 30:5 worked 9:5 27:5 29:16 worker 28:8,12 workers 34:13 working 7:8 works 24:11 27:13 wouldn't 27:18 32:8 would've 12:10 13:13 20:10,11,12 21:11, 12,13 31:24 write 18:3 written 34:16 wrong 24:15	year-and-a-half 7:8 years 6:17,21 27:6,8 Yolanda 25:12,21 27:9 you'll 5:9 16:1 youngest 36:18 you're 6:3,5,6,7,22 9:2 18:7 19:5 22:1 22:1 34:9,11 38:8 yourself 6:19 28:20 youth 30:6 you've 13:21 15:21 25:14 36:12,14,14, 24	
Y		
year 8:22 9:10 37:15		

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

LETICIA GARZA GALVAN AND	)	(	
MARTIE GARCIA VELA	)	(	
Plaintiffs	)	(	
	)	(	
VS.	)	(	CASE NO. 7:18-cv-113
	)	(	
ROLANDO PABLOS, IN HIS	)	(	
OFFICIAL CAPACITY AS	)	(	
TEXAS SECRETARY OF	)	(	
STATE, AND ARMANDINA	)	(	
MARTINEZ, ALMA GARCIA,	)	(	
ALICIA DOUGHERTY NO. 1,	)	(	
ALICIA DOUGHERTY NO. 2,	)	(	
YOLANDA MARTINEZ	)	(	
Defendants	)	(	

ORAL AND VIDEOTAPED DEPOSITION OF
MARTIE GARCIA VELA
SEPTEMBER 13, 2018

2 1 ORAL AND VIDEOTAPED DEPOSITION OF MARTIE GARCIA 2 VELA, produced as a witness at the instance of the 3 DEFENDANT, taken in the above styled and numbered cause 4 on September 13, 2018, between the hours of 2:42 p.m. 5 and 3:34 p.m., reported stenographically by JOHN W. 6 FELLOWS, Certified Court Reporter No. 3335, in and for 7 the State of Texas, at the offices of GARCIA LAW 8 OFFICES, 509 North San Antonio, Rio Grande City, Texas, 9 pursuant to the Federal Rules of Civil Procedure and 10 any provisions stated on the record or attached 11 therein. 12 13 APPEARANCES 14 COUNSEL FOR PLAINTIFFS: 15 JERAD WAYNE NAJVAR 16 NAJVAR LAW FIRM, PLLC 2180 North Loop West, Suite 255 Houston, Texas 17 COUNSEL FOR DEFENDANTS: 18 ERIC A. HUDSON OFFICE OF THE ATTORNEY GENERAL-019 Post Office Box 12548, Capitol Station Austin, Texas 19 COUNSEL FOR DEFENDANTS: 20 JOSE GARZA 21 LAW OFFICE OF JOSE GARZA 2414 Robin Reut Drive San Antonio, Texas 22 ALSO PRESENT: 23 RENE ORTIZ, Videographer 24 25	4 1 THE VIDEOGRAPHER: Today is September 13, 2 2018. This is the deposition of Martie Garcia Vela. 3 It is 2:44 p.m. We're on the record. 4 MARTIE GARCIA VELA, 5 having been duly sworn, testified as follows: 6 EXAMINATION 7 BY MR. HUDSON: 8 Q. Good afternoon, Mrs. Vela. 9 A. Good afternoon. 10 Q. My name is Eric Hudson. I'm with the Office of 11 the Attorney General. I represent Rolando Pablos in 12 the case that you filed against him in Federal Court. 13 Have we ever met before? 14 A. I don't think so. 15 Q. I don't think so either, but I figured I'd ask. 16 Thank you for joining here -- joining us here this 17 afternoon. I've got a few questions to go over with 18 you. Before we get started, though, have you ever been 19 deposed before? 20 A. No. 21 Q. But I understand you're a Judge, right? 22 A. No. 23 Q. No. What -- wanted to be a Judge? 24 A. Right. 25 Q. Okay. So you -- I'm assuming you've been in
3 1 INDEX 2 PAGE 3 Appearances..... 2 4 MARTIE GARCIA VELA 5 Examination by Mr. Hudson..... 4 Examination by Mr. Garza..... 15 6 Examination by Mr. Najvar..... 21 Further Examination by Mr. Hudson..... 24 7 Further Examination by Mr. Garza..... 25 Further Examination by Mr. Najvar..... 38 8 Further Examination by Mr. Hudson..... 39 Further Examination by Mr. Najvar..... 40 9 Changes and Signature..... 44 10 Reporter's Certificate..... 46 11 Attached to the end of the transcript: Stipulations 12 13 EXHIBITS 14 (No exhibits marked) 15 16 17 18 19 20 21 22 23 24 25	5 1 court a time or two? 2 A. Yes, sir. 3 Q. All right. So the way the question will go 4 here -- have you ever taken a deposition before? 5 A. Yes, sir. 6 Q. All right. So you know the -- the run-down? 7 A. Yes. 8 Q. All right. Well, let's talk just a little bit 9 about etiquette to make sure we're all on the same 10 page. The first thing I'll say, you know, and please 11 don't take this as condescension. I just want to make 12 sure I've got on the record a few agreements. 13 The first one is, I'm going to be asking 14 questions, and what I'm going to ask for you to do this 15 afternoon is, wait until I finished the question and 16 I'll extend you the same courtesy. That way we're not 17 stepping on each other for the court reporter. He'd 18 appreciate that very much. Do you think we can agree 19 to do that this afternoon? 20 A. Yes, sir. 21 Q. And you're already doing it now, but I'll go 22 ahead and mention it. Please make sure that you answer 23 verbally. I don't think we'll have an issue with that 24 this afternoon, but can we agree that you'll do that? 25 A. Yes, sir.

6 1 Q. Let's talk a little bit about the lawsuit. 2 So -- well, actually you know what? Let's talk about 3 your background just a little bit. What's your -- your 4 current occupation? 5 A. I'm an attorney. 6 Q. Where do you work? 7 A. I work for my law office, Law Office of Martie 8 Garcia Vela, P.C. 9 Q. Is that a solo practice? 10 A. Yes. 11 Q. Do you hold any political position? 12 A. No. 13 Q. Did you vote by mail in the Democratic Primary 14 in 2018? 15 A. No. 16 Q. Are you planning on voting in the general 17 election this here? 18 A. Yes. 19 Q. Are you intending to vote by mail in the 20 general election? 21 A. Not the general election, no. 22 Q. Is there some other election where you're 23 intending to vote by mail? 24 A. Well, I've voted by mail in the past I -- when 25 I lived in Houston when I was in law school, I voted by	8 1 in front of Judge Hinojosa here in McAllen. Are you 2 familiar with the two separate lawsuits? 3 A. Yes, sir. 4 Q. Well, let's talk a little bit about the -- the 5 federal lawsuit, which, obviously, is the one that I'm 6 on, the one that interests me. Why have you sued 7 Rolando Pablos? 8 A. Well -- 9 MR. NAJVAR: Objection. Calls for a legal 10 conclusion. 11 A. I believe that after this election, a lot of 12 supporters reached out and advised me that they had 13 intended to vote by mail. They had signed, they had 14 sent their ballot, and their vote was rejected. 15 So I think that a lot of supporters were 16 disenfranchised and I believe in accountability. So I, 17 along with my attorney and Letty, decided to follow 18 through and see if we could get some remedies for the 19 people that weren't -- weren't -- their vote wasn't 20 counted. 21 Q. To your mind, where does Rolando Pablos fit 22 into that? 23 MR. NAJVAR: Objection. Calls for legal 24 conclusion. 25 A. Well, I believe he's the head of the department
7 1 mail. And my husband's currently finishing his last 2 year in college, and he's planning to attend law 3 school. So we would move and -- if that happens, I 4 would probably vote by mail in the future. 5 Q. But not this year? 6 A. Not this year. 7 Q. Potentially in the future? 8 A. Potentially next year. 9 Q. Are you planning on running for office again? 10 A. Maybe. 11 Q. Here in the Valley? 12 A. Yes. 13 Q. I'm assuming after your husband graduates, then 14 you'll be moving back? 15 A. Right. 16 Q. You don't want to just send him wherever by 17 himself? 18 A. No. I know what happens in those libraries. 19 Q. Fair enough. Let's talk a little bit about 20 the -- the lawsuit itself. You understand, obviously, 21 there are two separate tracks here. There's an 22 election contest in the State Court. 23 I'm not involved in that one, and neither 24 is Rolando Pablos, I don't believe. But we are 25 involved in the federal lawsuit that you have pending	9 1 that oversees elections in our state, so I think it's 2 important that he be involved in the process. 3 Q. Well, let's talk a little bit about the 4 process. So, obviously, you filed an election 5 challenge to the early voting ballot board's decision 6 not to count certain mail-in ballots, right? 7 A. Right. 8 Q. Do you know what role the Secretary of State's 9 office plays in deciding which mail-in ballots to 10 accept and which mail-in ballots to reject? 11 A. I don't. 12 Q. Aside from the acceptance and rejection of 13 mail-in ballots, are there other areas of the election 14 that you're challenging that you believe Rolando Pablos 15 has authority as Secretary of State to control? 16 A. I believe those were all enumerated in the 17 Petition. 18 Q. Well, but what I'm trying to figure out is, is 19 what exactly is it that happened that you're 20 challenging that you want Rolando Pablos to fix? 21 MR. NAJVAR: Objection. Calls for legal 22 conclusion. 23 A. I would like for him to fix the process of when 24 somebody mails in their ballot and signs it, that it is 25 counted.

10 1 Q. Okay. Is there any other part of the election 2 that you believe Rolando Pablos -- well, let me see if 3 I can ask it like this: So you filed the lawsuit and 4 you're asking for injunctive relief, right? 5 A. Right. 6 Q. What, in your mind, does an injunction look 7 like? 8 A. It's a remedy to stop or allow something to 9 happen. 10 Q. Right. So what do you want Rolando Pablos to 11 stop doing? 12 MR. NAJVAR: Objection, legal conclusion. 13 A. I don't necessarily want him to stop doing 14 anything, but I do feel that all of those voters are 15 entitled to due process, and I would like him to 16 address the issue. 17 Q. Okay. So what, exactly -- what, exactly, are 18 you looking for Rolando Pablos to do if you win this 19 lawsuit? 20 MR. NAJVAR: Objection, legal conclusion. 21 A. I would like for him to fix the problem. 22 Q. Okay. Tell me the problems. That's where I'm 23 trying to get. 24 A. People want to vote and they're not allowed to 25 vote, and there's no remedy, so there's no way for them	12 1 office had a hand in actually counting any ballots in 2 Starr County in the Democratic Primary in 2018? 3 A. I don't know. 4 Q. What about the decision to reject ballots? Do 5 you know whether the Secretary of State's office played 6 any role in rejecting ballots in the 2018 Democratic 7 Primary? 8 A. I don't know. 9 Q. What role do you -- if any, do you believe the 10 Secretary of State's office played in the 2018 11 Democratic Primary in Starr County? 12 A. What role, if any? Maybe answering questions 13 for election Judges or the elections administrative, 14 the county. So mine was district, and I ran in Jim 15 Hogg, Duval, and Starr County. They may have reached 16 out to the Secretary of State. I don't know. 17 Q. As you sit here today, do you know one way or 18 the other whether anybody from any of those counties 19 reached out to Secretary of State about any voting 20 issues and -- 21 A. I believe -- 22 Q. -- the 2018 Democratic Primary? 23 A. I believe there is testimony by Monica Pena 24 and -- and E-mails that she provided during our 25 election contest to and from the Secretary of State. I
11 1 to be heard, you know. And if this is a reoccurring 2 issue, I want it addressed because there are 142, from 3 my recollection, ballots that were rejected by the 4 ballot board. My race was a margin 106. There's no 5 way for us to tell whether that would've made a 6 difference, but I think it's important to address it 7 now for future elections. 8 Q. Do you know who picks people to sit on the 9 early voting ballot board? 10 A. I do now. 11 Q. Who? 12 A. The Democratic Chair. 13 Q. And who is that? 14 A. Judy Solis. 15 Q. Do you know if the Democratic Chair works for 16 the Secretary of State's office? 17 A. I don't believe so. 18 Q. Do you know who actually sat on the early 19 voting ballot board? 20 A. I do now. 21 Q. Without going through each of the names, are 22 you aware of whether any of them work for the Texas 23 Secretary of State's office? 24 A. I don't believe they do. 25 Q. Do you know if the Texas Secretary of State's	13 1 believe that John Rodriguez also testified that he 2 reached out to the Secretary of State at least during 3 the recount. Other than that, I don't have any 4 knowledge of who else. 5 Q. Do you know why either one of them did that? 6 A. Monica Pena was a pole watcher. Her 7 father-in-law was a candidate, and she had very serious 8 concerns about the curb voting procedures. The voters 9 were not asking for assistance as required. 10 And, basically, her testimony was that 11 whoever was assisting was voting for the voter. So she 12 exchanged some E-mails with the Secretary of State and 13 brought them to court when she testified. 14 Q. Do you know whether she reached out to the 15 Secretary of State's office about deciding which early 16 mail-in ballots to accept or reject? 17 A. I don't know. 18 Q. What about John Rodriguez? Do you know why he 19 reached out to Secretary of State's office? 20 A. There were unsigned ballots in sequential order 21 in several ballot boxes, and the question arose whether 22 or not those ballots should be counted at the recount. 23 And I believe he reached out to the Secretary of State 24 and got some guidance from them. 25 Q. Do you know what the guidance was?

14 1 A. I believe it was to count them, but to set them 2 aside and that it would be an election contest issue. 3 Q. Do you know if guidance from the Secretary of 4 State's office is binding on the county? 5 A. I don't know. 6 Q. And by binding, just so we're clear, what I'm 7 asking you is, is if John Rodriguez had called the 8 Secretary of State's office and gotten advice that he 9 didn't like, do you know whether the Secretary of 10 State's office would have the ability to make him 11 follow their guidance? 12 A. I don't know the answer. 13 Q. Are you familiar with any particular Secretary 14 of State policies or guidance documents related to 15 early voting? 16 A. No. 17 Q. Do you know whether Starr County adheres to any 18 guidance from the Secretary of State's office about 19 early voting? 20 A. From what I could tell, no, but I don't know. 21 Q. As you sit here today, are you aware of anybody 22 from the Secretary of State's office who actually 23 played a direct role in counting any vote with regard 24 to your election? 25 A. I don't know.	16 1 Q. Okay. And you campaigned yourself, you 2 were -- you did grass roots campaigning, correct? 3 A. Yes, sir. 4 Q. Did you see or do you know of Ms. Martinez 5 being involved in any of the campaigns that were going 6 on at that time? 7 A. I don't know. 8 Q. Do you know Alma Garcia? 9 A. Yes. 10 Q. And did you see or are you aware of whether 11 Ms. Garcia was involved with any of the campaigns -- 12 A. I don't know. 13 Q. Okay. Do you know Alicia Dougherty, the 14 daughter? 15 A. No. 16 Q. You don't know her. Do you know Alicia 17 Dougherty, the -- the mother of the daughter? 18 A. No. 19 Q. No? Do you know Yolanda Martinez? 20 A. Yes. 21 Q. And in your activity in the campaign, did you 22 ever see Ms. Martinez working for or campaigning or 23 being active in any of the campaigns that were going 24 on? 25 A. I don't know.
15 1 MR. HUDSON: I tender the witness. 2 EXAMINATION 3 BY MR. GARZA: 4 Q. Good afternoon, Mrs. Vela. 5 A. Good afternoon. 6 Q. My name's Jose Garza, and I represent the five 7 members of the early vote counting board. Do you know 8 Armandina Martinez? 9 A. I do know her, not very personally, just I 10 worked for the county for almost 10 years, so I've had 11 dealings with her. 12 Q. Okay. In -- in the -- so you ran for District 13 Judge? 14 A. Yes, sir. 15 Q. In the last primary -- in the Democratic 16 Primary? 17 A. Yes, sir. 18 Q. And you had a campaign? 19 A. Yes, sir. 20 Q. You had campaign workers? 21 A. Yes, sir. 22 Q. Volunteers? 23 A. Yes, sir. 24 Q. Did you have a campaign manager? 25 A. No.	17 1 Q. Okay. You mentioned that you had an active 2 campaign for District Judge -- 3 A. Yes. 4 Q. -- correct? And the District Judge position 5 that you ran for is a multi-county position? 6 A. Yes, sir. 7 Q. Okay. And do you know if there were mail-in 8 ballots that were cast in the other counties? 9 A. Yes, sir. 10 Q. And do you know what their mail ballots that 11 were cast in the other counties were -- some were 12 accepted and some were rejected? 13 A. I believe so. 14 Q. Okay. You didn't sue any of the early 15 vote -- early vote ballot board members in the other 16 counties, correct? 17 A. No. 18 Q. Okay. Did you have campaign workers present 19 when the early vote ballot board met to review the 20 mail-in ballots? 21 A. I don't believe so. 22 Q. Okay. You don't remember? 23 A. I don't remember. 24 Q. You don't think so? 25 A. I don't think so.

18 1 Q. Okay. Are you aware of what sorts of things 2 the earlier vote ballot board was looking for when they 3 were examining the ballots? 4 A. May I answer the last question? I remembered. 5 Q. You do remember now? 6 A. Yes. There was one individual. 7 Q. So you did have a volunteer, somebody 8 affiliated with your campaign? 9 A. Yes, sir. 10 Q. And -- and do you know the sort of things that 11 the ballot board was doing to -- in evaluating the 12 ballots, the early -- the mail-in ballots? 13 A. I understood from him and his notes that they 14 set up stations. 15 Q. Uh-huh. 16 A. And each member of the ballot board had a stack 17 of ballots that they were individually looking at and 18 deciding whether or not they were going to accept or 19 reject. And on several occasions they would discuss a 20 certain ballot and talk about politiqueras on the -- I 21 guess the ballots. 22 Q. That had signed the -- the envelope? 23 A. Right. 24 Q. That they had assisted the voter? 25 A. Right.	20 1 A. I assume. I -- I don't know. 2 Q. Okay. So you also mentioned that you had a 3 campaign. Did you have a mail-in ballot component to 4 your campaign? 5 A. Just relatives that, you know, we know or out 6 of town or working. But as far as a mail-in ballot 7 component, no. 8 Q. You didn't hire anyone to assist with mail-in 9 ballots -- 10 A. No. 11 Q. -- specifically? 12 A. No. 13 Q. Did you assist anyone with a mail-in ballot? 14 A. With a mail-in ballot, no. 15 Q. Okay. Do you know if anybody in your campaign 16 assisted with mail-in ballot? 17 A. I'm sure somebody did, but I don't know offhand 18 who assisted who or -- maybe my mom assisted my Great 19 Aunt Maria Bocanegra. 20 Q. But you don't have any specific knowledge of 21 anybody assisting a voter? 22 A. No. 23 Q. Did you hand out stamps for mail-in ballots? 24 A. No. 25 Q. Did anybody in your campaign hand out stamps
19 1 Q. Okay. At -- one of the things that they were 2 looking for, is to see whether the signature on the 3 application for mail-in ballot matched the signature on 4 the envelope, correct? 5 A. Correct. 6 Q. Okay. And do you know why they did that? 7 A. Probably to verify that the signature matched. 8 Q. But do you know whether state law requires that 9 they actually review and see if they match? 10 A. I believe it does. 11 Q. You believe it does. Do you know if any of the 12 ballots were opened to see how they -- votes were cast 13 before decision was made to either accept or reject a 14 ballot? 15 A. I don't know. 16 Q. Did the -- your volunteer report to you that 17 anybody examined the ballots that opened the -- the 18 envelope where the ballot was contained before a 19 decision was made to accept or reject the ballot? 20 A. I know he discussed somebody coming in and 21 taking two ballots away, but I don't remember him 22 saying that any of them were opened. 23 Q. Okay. So whatever decisions were made on 24 whether to accept or reject a ballot, it was without 25 knowing how those ballots were cast, correct?	21 1 for mail-in ballots? 2 A. Not that I'm aware of. 3 Q. Okay. 4 MR. GARZA: Pass the witness. 5 EXAMINATION 6 BY MR. NAJVAR: 7 Q. Ms. Garcia Vela, just a couple of questions to 8 follow-up on -- on some of the questions you were just 9 asked. First, I want to talk about -- you used the 10 word politiquera earlier. Can you just explain what 11 you mean by that? 12 A. Usually a politiquera, it's a person -- a term 13 used here when a person works elections. They're hired 14 by candidates to bring in votes or block walk or 15 mail-in ballots. It's a slang term that's used around 16 here to describe people that work elections. 17 Q. Okay. So what is the politiqueras do, to your 18 understanding, with regard to mail-in ballots? 19 A. They will go and assist voters at their homes 20 with the ballots, pick them up. At some point, put 21 stamps on them for the voters and take them to the mail 22 for the voters to ensure that they are sent off. 23 Q. Okay. And what is your understanding of -- you 24 discussed, I think, with -- with Mr. Palmer earlier the 25 assistance of being identified on some of these

22 1 documents that the ballot board is looking at? 2 The -- where is the assistant identified? 3 A. There is a line on the -- I've never actually, 4 like -- I've voted by mail, but I haven't ever assisted 5 anybody. But I -- I know that there's a line on the 6 ballot somewhere. 7 I don't know if it's on the carrier 8 envelope or on the -- I think it's on the carrier 9 envelope -- where it's required by law that the person 10 assisting identify themselves as having handled the 11 ballot itself. 12 And -- so there were two camps in our 13 election: It was their camp and our camp, and 14 everybody knows who's helping who. So it was -- if the 15 person's name was on there, it was going to be common 16 knowledge who -- 17 Q. So -- 18 A. -- supporting who. 19 Q. Make sure I understand. So are you -- are you 20 saying that when a ballot board member is looking at 21 these -- the carrier envelope and they -- if an 22 assistance information is on the envelope, what -- what 23 does that -- what are you saying that that means to a 24 ballot board member? 25 A. That they helped the voter or handled the	24 1 or use forms provided for free on the Secretary of 2 State's website. 3 MR. NAJVAR: I'll reserve the remainder of 4 questions for trial. 5 FURTHER EXAMINATION 6 BY MR. HUDSON: 7 Q. Just a couple follow-ups. First, you talking 8 about politiqueras, P-O-L-I-T-I-Q-U-E-R-A-S, is that 9 how you spell that? 10 A. Yes, sir. 11 Q. That's for the benefit of the court reporter. 12 Let me ask, I thought I just heard you tell your lawyer 13 people in the early voting ballot board identified 14 politiqueras, and that they were then able to determine 15 who a vote was for; is that your understanding? 16 A. Yes. 17 Q. Okay. Did you use politiqueras? 18 A. Yes. 19 Q. Okay. Who did you hire? 20 A. I believe the main ones were in Jim Hogg and 21 Duval. I would need to look at my finance report and 22 tell you, because I don't want to misrepresent, you 23 know, the list of who it was that I hired. 24 Q. So it was people that you hired that you listed 25 on your finance report. Is that a finance report that
23 1 ballot. 2 Q. Well, does it -- does that tell the ballot 3 board member -- can they tell which campaign that 4 person might be helping votes for? 5 A. Yes. 6 Q. Okay. Mr. Hudson asked you a question 7 earlier about whether Starr County or -- or John 8 Rodriguez, to your knowledge, follows guidance from the 9 SOS and -- and with regard to earlier voting; do you 10 remember that question? 11 A. Yes. 12 Q. And you kind of laughed at -- at that question? 13 A. Yes. 14 Q. Can you just explain why you laughed at the 15 question? 16 A. During the trial of the election contest, and 17 even the recount itself, there's just so many flaws 18 identified. There is so many forms that you asked John 19 if he had come complied with the Secretary of State's 20 forms and he would just brazenly brush them off like 21 they're just -- they're not necessary. 22 Ballot boxes with no seal numbers, no 23 record of seal numbers, there was a lot of different 24 factors identified that he was just completely reckless 25 and not following the law. No need to follow procedure	25 1 went to the Secretary of State's office? 2 A. Ethics. 3 Q. To the ethics commission? 4 A. Yes. 5 Q. How would the early voting ballot board know 6 which politiqueras worked for who? 7 A. Well, it's a small community. I mean, I think 8 that with social media and with, you know, it -- it 9 doesn't take a whole lot to determine who supports who 10 around here. And there is only, really, two teams, if 11 you want to call it that, and it was a lot of 12 candidates on both sides. 13 MR. HUDSON: Tender the witness. 14 FURTHER EXAMINATION 15 BY MR. GARZA: 16 Q. Who are the politiqueras in Starr County? 17 A. I would need to look. It was -- I had a lot of 18 volunteers, but the ones that I actually hired I would 19 need to look at my report and -- and tender that to 20 you, because I -- 21 Q. Yes. 22 A. -- can't remember. 23 Q. I understand. But you said that everybody 24 knows politiquera A works for one team, politiquera B 25 works for another team. Who are those politiqueras?

26 1 A. There's a lot. You want me to list all of 2 them? 3 Q. Yeah. 4 A. Okay. Bebita Rocha. 5 Q. Who? Which team does she work for? 6 A. I believe ours. 7 MR. HUDSON: I don't mean to step on you, 8 can you have her spell it? 9 Q. Sure. And what was her first name again? 10 A. B-E-B-I-T-A. 11 Q. And her last name was Rocha? 12 A. Rocha. 13 Q. R-O-C-H-A? 14 A. Yes. 15 Q. And she worked on your team? 16 A. Yes. 17 Q. Were there a number of candidates on your team? 18 A. There was a lot. 19 Q. There were a lot of candidates that were on 20 your team. 21 A. There were -- do you want me to kind of list -- 22 Q. Yeah. 23 A. -- how many? 24 Q. Sure. 25 A. So it was County Judge, District Judge, County	28 1 Q. Yours as well? 2 A. Uh-huh. 3 Q. And would it be the same candidates that you 4 identified earlier, the same positions that you 5 identified earlier? 6 A. Yes, sir. 7 Q. Okay. And were any of those candidates 8 incumbents, by the way? 9 A. Yes. 10 Q. Some of them were? 11 A. Most of them. 12 Q. Most of them were incumbent. And did all of 13 those candidates lose? 14 A. No. 15 Q. And do you know if ballots that 16 were -- did -- does Ernestina Barron make it a habit of 17 harvesting mail-in ballots? 18 A. I don't know if she makes it a habit. I don't 19 know. 20 Q. Is that part of her strategy? 21 A. Well, I know she's a nurse, and she has a lot 22 of people that call her to assist. 23 Q. Okay. But you don't know if she has -- if 24 that's part of her strategy in terms of how she helps 25 candidates that hire her?
27 1 Court at Law, District Clerk, County Clerk, a few of 2 the precincts, chair positions. 3 Q. Uh-huh. 4 A. Treasurer -- county treasurer. I know there is 5 seven county wide for sure, and then a few precinct. 6 Q. Okay. And all of those candidates lost? 7 A. No. 8 Q. Some of them won? 9 A. Yes. 10 Q. Was it your impression that -- that if in the 11 early vote if Ms. Rocha's name appeared as an 12 assistant, that that vote was rejected? 13 A. I don't know. 14 Q. You don't know? 15 A. I don't know. 16 Q. If we -- if we looked at the mail-in votes, 17 would you expect that the Rocha assisted mail-in votes 18 would be in the reject pile or in the accepted pile? 19 A. I don't know. 20 Q. You don't know. Who else? 21 A. Ernestina Barron, E-R-N-E-S-T-I-N-A 22 B-A-R-R-O-N. 23 Q. Thank you. And which team did Ms. Barron work 24 for? 25 A. Ours.	29 1 A. I don't know. 2 Q. Okay. Do you know if -- if -- if there were 3 any ballots that Ms. Barron assisted with on mail-in 4 ballots that were rejected? 5 A. I don't know. 6 Q. You don't know. Okay. Can -- is there a third 7 Starr County politiquera that was used in the -- 8 A. Frances Mendoza. 9 Q. And which team was she in? 10 A. Theirs. 11 Q. When you say theirs, what does that mean? 12 A. The opposing slate. 13 Q. Okay. 14 A. My opponent. 15 Q. Okay. The opposing slate that included 16 your -- your opponent? 17 A. Right. 18 Q. For the district bench? 19 A. Yes, sir. 20 Q. Okay. And what other positions are associated 21 with that slate? 22 A. County Judge -- the same ones. 23 Q. Okay. And did all of those candidates win? 24 A. No. 25 Q. Some won and some lost?

30 1 A. Yes, sir. 2 Q. Okay. And -- but is it your testimony that 3 Alicia Dougherty Number 1 knew who Frances Mendoza was 4 and which slate she was working for? 5 A. Well, Frances didn't put her name on any of the 6 ones she assisted. 7 Q. Okay. So there's no way of knowing which 8 candidates -- which ballots were submitted were 9 assisted by Frances Mendoza in the mail-in ballots? 10 A. She -- I testified that she assisted at least 11 50 without putting her name on. 12 Q. Okay. But there's no way for the ballot board 13 to know which those were? 14 A. I don't know. I don't assume they would, 15 because there's no signature. 16 Q. Right. So you don't have any information that 17 anybody on the ballot board could identify mail-in 18 ballots that were assisted by Frances Mendoza? 19 A. No. 20 Q. Because she didn't put her name on any of them? 21 A. Right. 22 Q. Okay. So any ballots that -- strike that. 23 Who else? Anybody else that you can think 24 of? 25 A. I know there's more. I just can't think of	32 1 her name on the ballot the way the law requires? 2 A. I believe so. 3 Q. Okay. And do you know if Alma Garcia would've 4 known that Yvonne Vera was an politiquera affiliated 5 with your slate of candidates? 6 A. I believe she might. 7 Q. How would show she know that? 8 A. Well, I know that Yvonne's husband worked at 9 the city, and usually when you work for the city or the 10 county, you usually run in circles where you know who 11 supports who. 12 Q. And what is Alma Garcia's affiliation with any 13 of those connections? 14 A. I mean, she lives here. She works at HR. 15 Q. That's the only information that you have that 16 would link Alma Garcia to Yvonne Vera? 17 A. That's the only information I have. 18 Q. What about Yolanda Martinez? 19 A. Same. I don't know. 20 Q. You don't know? 21 A. I don't know. 22 Q. And Armandina Martinez, does she have any 23 connection or knowledge of Yvonne Vera and the work 24 that she does? 25 A. I don't know.
31 1 names right now. 2 Q. Well, that's all right. Whatever -- whatever 3 you can think of today. 4 A. Yvonne Vera. Y-V-O-N-N-E V-E-R-A. 5 Q. Okay. And which camp did she work for? 6 A. Ours. 7 Q. So she was a paid politiquera -- 8 A. I believe so. 9 Q. -- in the campaign? Did your campaign 10 contribute to the fund that paid Ms. Vera? 11 A. I'm not sure. 12 Q. Might have? 13 A. Might have. 14 Q. But other members associated with your informal 15 slate -- 16 A. Right. 17 Q. -- would've paid for her? 18 A. (No audible response). 19 Q. Do you know if either of the Alicia Dougherty's 20 knew that Yvonne Vera was working for your slate? 21 A. I don't know. 22 Q. Do you know if Ms. Vera assisted mail-in 23 ballot -- 24 A. I believe she does. 25 Q. You believe she did. Do you know if she listed	33 1 Q. Okay. Anybody else that you can think of 2 today? 3 A. Amalia Gonzalez. Amalia, A-M-A-L-I-A, 4 Gonzalez, G-O-N-Z-A-L-E-Z. 5 Q. Okay. And which slate did she -- did 6 Ms. Gonzalez work for? 7 A. Ours. 8 Q. And so she was paid by one or more of the 9 candidates that you've identified? 10 A. I don't know if she was paid. I'm not sure. 11 Q. She may have just been a volunteer? 12 A. Right. 13 Q. But she also probably assisted with the mail-in 14 ballots? 15 A. Probably. 16 Q. Probably. And would she have identified 17 herself on -- 18 A. Yes. 19 Q. -- the envelope? 20 A. Yes, sir. 21 Q. Do you know how many mail-in ballots she 22 would've been affiliated with? 23 A. I don't know. 24 Q. Okay. Do you know anything about her 25 background or her work in that arena that would've

34 1 identified her to any member of the ballot board? 2 A. No, sir. 3 Q. Okay. Anybody else? 4 A. I know there's a lady named Denise, and she 5 works with another -- she works with a partner. They 6 both work for Commissioner -- oh, that was another 7 campaign that I forgot to mention, was the County 8 Commissioners. Commissioner Ruben Saenz, Precinct 4, 9 Denise and Ester. I don't know their last names. 10 Q. Okay. Denise and Ester are politiqueras? 11 A. Yes, sir. 12 Q. That are affiliated with Commissioner Saenz? 13 A. Yes, sir. 14 Q. Are they affiliated with anybody else's 15 campaign? 16 A. With Eloy Vera, Balde Garza, all of the slate. 17 Q. So the slate that was opposing the slate that 18 you identified as yours? 19 A. Yes, sir. 20 Q. Okay. Now, these were not formal slates, or 21 were they? 22 A. Not formal, but everything on social media 23 involved all of them and all of us. So, I mean, I 24 don't know the definition of formal, but everybody 25 knew.	36 1 but I know that they've been politiqueras for a long 2 time, so -- 3 Q. Right. 4 A. -- it would be common knowledge. 5 Q. Right. But you know that -- the members of the 6 ballot board were not involved in any of the campaigns? 7 A. I don't know if they were involved. 8 Q. You don't have any information that they were? 9 A. I do not. 10 Q. Okay. Anybody else? 11 A. I know there was some in Roma, but I don't 12 recall names. Again, I'd need to refresh my memory on 13 that, because they're some volunteers; some people that 14 testified, but I can't remember their names. 15 Q. Okay. And were any of the Roma politiqueras 16 affiliated with your slate? 17 A. Yes. 18 Q. Do you -- without -- do you know how many? 19 A. I know Erica Pelayo is from Roma. E-R-I-C-A -- 20 Q. Uh-huh. 21 A. -- I think. P-E-L-A-Y-O. 22 Q. And she's affiliated with your camp? 23 A. Yes. 24 Q. Okay. Do you know anybody else in Roma? 25 A. Belinda, B-E-L-I-N-D-A, Garcia, G-A-R-C-I-A.
35 1 Q. They were coordinating their campaigns? 2 A. Right. Everybody would pitch in something to 3 help the group. 4 Q. Okay. Were there meetings of these slates? 5 A. I mean, we'd meet up to block walk and stuff 6 like that, but -- 7 Q. Uh-huh. 8 A. -- as far as like formal meetings, not really. 9 Q. Uh-huh. And so Denise and Ester you would 10 characterize as politiqueras on the other side? 11 A. Yes, sir. 12 Q. Okay. And do you know anything that in 13 Denise and Ester's background or their activity that 14 would've -- that would've crossed paths with any member 15 of the ballot board, so that they would've been able to 16 identify? 17 A. Yes. 18 Q. And what is that? 19 A. They both work for the county. So any HR 20 issue, they would have to deal with Alma, Armandina, 21 and the other lady. 22 Q. And what about that tells Armandina and, et 23 cetera, that they were involved as politiqueras for 24 that slate? 25 A. I don't know what about that would tell them,	37 1 Q. Uh-huh. And he's a politiquera from Roma? 2 A. Yes. 3 Q. Which camp was she affiliated with? 4 A. Ours. 5 Q. Anybody else? 6 A. That's all I can remember. I don't remember 7 other names. 8 Q. And do you know if Erica and Belinda, as part 9 of their assistance to the campaigns, that they were 10 hired on assisted voters with mail-in ballots? 11 A. I believe so. 12 Q. Okay. And is it your testimony that in each of 13 those instances, Ms. Pelayo and -- and Belinda would 14 sign on the carrier envelope? 15 A. Yes, sir. 16 Q. Okay. And what in their background or their 17 activity would have alerted any member of the ballot 18 board that they were politiqueras for your camp? 19 A. I don't know. 20 Q. Okay. Anybody else? 21 A. That's all I can recall. 22 Q. So there were about 140 mail-in ballots that 23 were rejected? 24 A. I think 142. 25 Q. 142. Did all of those rejected ballots come

38 1 from either Ms. Pelayo or Belinda -- what was her last 2 name again? 3 A. Garcia. 4 Q. Garcia. Can't read my writing. 5 A. Garcia. 6 Q. Or Amalia Gonzalez or Yvonne Vera or Ernestina 7 Barron? 8 A. I haven't had the stomach to check. I don't 9 know. 10 Q. You don't know? 11 A. (No audible response). 12 Q. Okay. 13 MR. GARZA: Pass the witness. 14 FURTHER EXAMINATION 15 BY MR. NAJVAR: 16 Q. Ms. -- I don't know whether to call you -- 17 A. Vela's fine. 18 Q. -- but I don't know if I call you Garcia Vela 19 or Vela or Garcia? 20 A. Vela's fine. Shorter. 21 Q. Ms. Vela. So are Erica -- Erica Pelayo and 22 Belinda Garcia, is it -- you mentioned earlier that 23 with regard to Denise and Ester who work for 24 Commissioner Saenz, that it was common knowledge, you 25 said, that they were politiqueras or did this kind of	40 1 MR. HUDSON: We'll reserve. 2 FURTHER EXAMINATION 3 BY MR. NAJVAR: 4 Q. Well, is that -- I don't -- I don't want to go 5 deep into, but I do -- since we're on the record here, 6 maybe it helps clarify for everybody. If you know, why 7 were those three individuals arrested? 8 A. I believe in Erica's case, she allegedly put a 9 date on an application for a mail ballot after the 10 person had deceased. I think that those were the facts 11 on her. On Ernestina, I -- 12 Q. Well, you've -- I know you said you don't -- 13 MR. HUDSON: Well, let her finish her 14 answer, Counsel. 15 Q. Sure. 16 A. I don't know the facts on Ernestina, but it 17 also had to do with mail-in ballots and same for 18 Belinda. 19 Q. Okay. What agency arrested them? 20 A. The D.A.'s Office. Starr County D.A.'s Office. 21 Q. Who is that? 22 A. Omar Escobar. 23 Q. Okay. Why do you -- if -- if you know, why do 24 you think -- or why did Omar Escobar arrest those three 25 individuals?
39 1 campaign work, right? 2 A. Right. 3 Q. Would you -- would you characterize Erica 4 and -- and Belinda as in that same kind of category 5 as -- do people know that they do campaign work and, 6 you know, recurring elections? 7 A. Yes. In the middle of the election, Erica, 8 Belinda, and Ernestina were arrested. 9 Q. Okay. Well, I'm not -- you told me -- I 10 don't know if -- if we want to get into all this. Are 11 you -- are you -- you're an attorney, right? 12 A. Yes. 13 Q. Are you representing any one of them? 14 A. No. 15 Q. Were you previously? 16 A. No. 17 Q. Okay. 18 A. Jay Pena was representing one of them. 19 MR. NAJVAR: Well, I'll reserve the 20 remainder of questions for trial. 21 FURTHER EXAMINATION 22 BY MR. HUDSON: 23 Q. I can't leave without knowing. Why were they 24 arrested? 25 A. They were charged with voter fraud.	41 1 MR. HUDSON: Objection, form. Foundation. 2 Q. As opposed to all the other politiqueras active 3 in the election? 4 MR. HUDSON: Objection, form. Foundation. 5 A. Because they were helping us. 6 MR. NAJVAR: Okay. And just for the 7 record, I prefaced the question by saying if you know, 8 okay, Eric? 9 Q. So why do you believe that it was because they 10 were helping you? 11 A. Because nobody else was arrested before or 12 after when testimony under oath, one politiquera on 13 their side admitted to at least 50 felonies and she 14 hasn't been arrested. 15 But yet these people were targeted, I 16 believe, because they were supporting us, helping us. 17 And arrested before the primary, it made the news 18 everywhere. Again, it's a small community. People 19 knew that they were helping our side, so it -- it sent 20 a very chilling effect. Women, mothers, no criminal 21 history. 22 Q. Do you have any reason to believe that any of 23 the politiqueras working for the opposing slate were 24 breaking any laws? 25 A. Yes.

42 1 Q. What? 2 A. Not identifying themselves on mail-in ballots 3 that they handled, that they took from the voter, took 4 home, and then put in the mail the next day. And so if 5 a name's not on there, how is anybody on the ballot 6 board going -- or maybe that was their strategy. I 7 don't know. 8 Q. Well, if -- when were these -- these three 9 arrests made; if you recall? 10 A. I believe in January. 11 Q. January of 2018? 12 A. Yes, sir. 13 Q. Okay. 14 A. Maybe February. 15 Q. After the testimony in our cause in the 16 election contest in -- in Starr County District Court, 17 did you get any inquiries from the District Attorney's 18 Office looking into any of the facts from the case? 19 A. None. 20 Q. Do you know people at the District Attorney's 21 Office? 22 A. Yes. I used to work there. 23 Q. Okay. 24 MR. NAJVAR: No further questions at this 25 time.	44 1 CHANGES AND SIGNATURE 2 WITNESS NAME: MARTIE GARCIA VELA 3 DATE OF DEPOSITION: SEPTEMBER 13, 2018 4 5 PAGE LINE CHANGE REASON 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
43 1 MR. HUDSON: Nothing from me. 2 MR. GARZA: I don't have anything else. 3 MR. NAJVAR: Thank you. 4 THE WITNESS: Thank you. 5 MR. HUDSON: Read and sign. I'm 6 requesting one. 7 THE VIDEOGRAPHER: Off the record. 8 (Deposition concluded) 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	45 1 I, MARTIE GARCIA VELA, have read the foregoing 2 transcript and hereby affix my signature that same is 3 true and correct, except as noted above. 4 5 6 MARTIE GARCIA VELA 7 8 THE STATE OF TEXAS)(9 COUNTY OF _____)(10 Before me, _____, 11 on this day personally appeared MARTIE GARCIA VELA, 12 known to me (or proved to me under oath or through 13 _____) (description of identity 14 card or other document) to be the person whose name is 15 subscribed to the foregoing instrument and acknowledged 16 to me that they executed the same for the purposes and 17 consideration therein expressed. 18 19 Given under my hand and seal of office 20 this _____ day of _____, 2018. 21 22 23 Notary Public in and for 24 The State of Texas 25

46

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF TEXAS
3 MCALLEN DIVISION
4 LETICIA GARZA GALVAN AND)(
5 MARTIE GARCIA VELA)(
6 Plaintiffs)(
7 VS.)(CASE NO. 7:18-cv-113
8)(
9 ROLANDO PABLOS, IN HIS)(
10 OFFICIAL CAPACITY AS)(
11 TEXAS SECRETARY OF)(
12 STATE, AND ARMANDINA)(
13 MARTINEZ, ALMA GARCIA,)(
14 ALICIA DOUGHERTY NO. 1,)(
15 ALICIA DOUGHERTY NO. 2,)(
16 YOLANDA MARTINEZ)(
17 Defendants)(
18 REPORTER'S CERTIFICATION
19 ORAL AND VIDEOTAPED DEPOSITION OF
20 MARTIE GARCIA VELA
21 SEPTEMBER 13, 2018
22 I, JOHN W. FELLOWS, Certified Court
23 Reporter, certify that the witness, MARTIE GARCIA VELA,
24 was duly sworn by me, and that the transcript is a true
25 and correct record of the testimony given by the
witness on September 13, 2018; that the deposition was
reported by me in stenograph and was subsequently
transcribed under my supervision;
Pursuant to Federal Rule 30(5)(e)(2), a
review of the transcript was requested.
I FURTHER CERTIFY that I am not a relative,
employee, attorney or counsel of any of the parties,
nor a relative or employee of such attorney or counsel,
nor am I financially interested in the action.
WITNESS MY HAND on this the ____ day of
_____, 2018.

JOHN W. FELLOWS, Texas CSR 3335
Expiration Date: 12-31-18
Integrity Legal Support, CRN No. 528
3100 W. Slaughter Ln., #101
Austin, Texas
(512) 320-8690

	Alicia 16:13,16 30:3 31:19 allegedly 40:8 allow 10:8 allowed 10:24 Alma 16:8 32:3,12,16 35:20 almost 15:10 along 8:17 already 5:21 also 13:1 20:2 33:13 40:17 Amalia 33:3 33:3 38:6 another 25:25 34:5,6 answer 5:22 14:12 18:4 40:14 answering 12:12 anybody 12:18 14:21 19:17 20:15,21,25 22:5 30:17,23 33:1 34:3,14 36:10,24 37:5,20 42:5 anyone 20:8,13 anything 10:14 33:24 35:12 43:2 appeared 27:11 application 19:3 40:9 appreciate 5:18 areas 9:13 arena 33:25 Armandina 15:8 32:22 35:20,22 arose 13:21 around 21:15 25:10 arrest 40:24 arrested 39:8,24 40:7,19 41:11,14, 17 arrests 42:9 Aside 9:12 14:2 ask 4:15 5:14 10:3 24:12 asked 21:9 23:6,18 asking 5:13 10:4 13:9 14:7 assist 20:8,13 21:19 28:22 assistance 13:9	21:25 22:22 37:9 assistant 22:2 27:12 assisted 18:24 20:16, 18,18 22:4 27:17 29:3 30:6,9,10,18 31:22 33:13 37:10 assisting 13:11 20:21 22:10 associated 29:20 31:14 assume 20:1 30:14 assuming 4:25 7:13 attend 7:2 Attorney 4:11 6:5 8:17 39:11 Attorney's 42:17,20 audible 31:18 38:11 Aunt 20:19 authority 9:15 aware 11:22 14:21 16:10 18:1 21:2 away 19:21
Numbers		
106 11:4 140 37:22 142 11:2 37:24,25 2018 4:2 6:14 12:2,6, 10,22 42:11 2:44 4:3		
A		B
ability 14:10 able 24:14 35:15 accept 9:10 13:16 18:18 19:13,19,24 acceptance 9:12 accepted 17:12 27:18 accountability 8:16 active 16:23 17:1 41:2 activity 16:21 35:13 37:17 actually 6:2 11:18 12:1 14:22 19:9 22:3 25:18 address 10:16 11:6 addressed 11:2 adheres 14:17 administrative 12:13 admitted 41:13 advice 14:8 advised 8:12 affiliated 18:8 32:4 33:22 34:12,14 36:16,22 37:3 affiliation 32:12 after 7:13 8:11 40:9 41:12 42:15 afternoon 4:8,9,17 5:15,19,24 15:4,5 again 7:9 26:9 36:12 38:2 41:18 against 4:12 agency 40:19 agree 5:18,24 agreements 5:12 ahead 5:22 alerted 37:17		back 7:14 background 6:3 33:25 35:13 37:16 Balde 34:16 ballot 8:14 9:5,24 11:4,9,19 13:21 17:15,19 18:2,11, 16,20 19:3,14,18, 19,24 20:3,6,13,14, 16 22:1,6,11,20,24 23:1,2,22 24:13 25:5 30:12,17 31:23 32:1 34:1 35:15 36:6 37:17 40:9 42:5 ballots 9:6,9,10,13 11:3 12:1,4,6 13:16,20,22 17:8, 10,20 18:3,12,12, 17,21 19:12,17,21, 25 20:9,23 21:1,15, 18,20 28:15,17 29:3,4 30:8,9,18, 22 33:14,21 37:10, 22,25 40:17 42:2

Barron 27:21,23 28:16 29:3 38:7 basically 13:10 Bebita 26:4 before 4:13,18,19 5:4 19:13,18 41:11, 17 being 16:5,23 21:25 believe 7:24 8:11,16, 25 9:14,16 10:2 11:17,24 12:9,21, 23 13:1,23 14:1 17:13,21 19:10,11 24:20 26:6 31:8,24, 25 32:2,6 37:11 40:8 41:9,16,22 42:10 Belinda 36:25 37:8, 13 38:1,22 39:4,8 40:18 bench 29:18 benefit 24:11 binding 14:4,6 bit 5:8 6:1,3 7:19 8:4 9:3 block 21:14 35:5 board 11:4,9,19 15:7 17:15,19 18:2,11, 16 22:1,20,24 23:3 24:13 25:5 30:12, 17 34:1 35:15 36:6 37:18 42:6 board's 9:5 Bocanegra 20:19 both 25:12 34:6 35:19 boxes 13:21 23:22 brazenly 23:20 breaking 41:24 bring 21:14 brought 13:13 brush 23:20	31:5 36:22 37:3,18 campaign 15:18,20,24 16:21 17:2,18 18:8 20:3,4,15,25 23:3 31:9 31:9 34:7,15 39:1,5 campaigned 16:1 campaigning 16:2,22 campaigns 16:5,11,23 35:1 36:6 37:9 camps 22:12 can 5:18,24 10:3 21:10 23:3,14 26:8 29:6 30:23 31:3 33:1 37:6,21 candidate 13:7 candidates 21:14 25:12 26:17,19 27:6 28:3,7,13,25 29:23 30:8 32:5 33:9 can't 25:22 30:25 36:14 38:4 39:23 carrier 22:7,8,21 37:14 case 4:12 40:8 42:18 cast 17:8,11 19:12, 25 category 39:4 cause 42:15 certain 9:6 18:20 cetera 35:23 Chair 11:12,15 27:2 challenge 9:5 challenging 9:14,20 characterize 35:10 39:3 charged 39:25 check 38:8 chilling 41:20 circles 32:10 city 32:9 32:9 clarify 40:6 clear 14:6 Clerk 27:1 27:1 college 7:2 come 23:19 37:25 coming 19:20 commission 25:3 Commissioner 34:6,8,	12 38:24 Commissioners 34:8 common 22:15 36:4 38:24 community 25:7 41:18 completely 23:24 complied 23:19 component 20:3,7 concerns 13:8 concluded 43:8 conclusion 8:10,24 9:22 10:12,20 condescension 5:11 connection 32:23 connections 32:13 contained 19:18 contest 7:22 12:25 14:2 23:16 42:16 contribute 31:10 control 9:15 coordinating 35:1 correct 16:2 17:4,16 19:4,5,25 could 8:18 14:20 30:17 Counsel 40:14 count 9:6 14:1 counted 8:20 9:25 13:22 counties 12:18 17:8, 11,16 counting 12:1 14:23 15:7 County 12:2,11,14,15 14:4,17 15:10 23:7 25:16 26:25 26:25 27:1,4,5 29:7,22 32:10 34:7 35:19 40:20 42:16 couple 21:7 24:7 Court 4:12 5:1,17 7:22 13:13 24:11 27:1 42:16 courtesy 5:16 criminal 41:20 crossed 35:14 curb 13:8 current 6:4 currently 7:1
C		
call 25:11 28:22 38:16,18 called 14:7 Calls 8:9,23 9:21 camp 22:13 22:13	can 5:18,24 10:3 21:10 23:3,14 26:8 29:6 30:23 31:3 33:1 37:6,21 candidate 13:7 candidates 21:14 25:12 26:17,19 27:6 28:3,7,13,25 29:23 30:8 32:5 33:9 can't 25:22 30:25 36:14 38:4 39:23 carrier 22:7,8,21 37:14 case 4:12 40:8 42:18 cast 17:8,11 19:12, 25 category 39:4 cause 42:15 certain 9:6 18:20 cetera 35:23 Chair 11:12,15 27:2 challenge 9:5 challenging 9:14,20 characterize 35:10 39:3 charged 39:25 check 38:8 chilling 41:20 circles 32:10 city 32:9 32:9 clarify 40:6 clear 14:6 Clerk 27:1 27:1 college 7:2 come 23:19 37:25 coming 19:20 commission 25:3 Commissioner 34:6,8,	12 38:24 Commissioners 34:8 common 22:15 36:4 38:24 community 25:7 41:18 completely 23:24 complied 23:19 component 20:3,7 concerns 13:8 concluded 43:8 conclusion 8:10,24 9:22 10:12,20 condescension 5:11 connection 32:23 connections 32:13 contained 19:18 contest 7:22 12:25 14:2 23:16 42:16 contribute 31:10 control 9:15 coordinating 35:1 correct 16:2 17:4,16 19:4,5,25 could 8:18 14:20 30:17 Counsel 40:14 count 9:6 14:1 counted 8:20 9:25 13:22 counties 12:18 17:8, 11,16 counting 12:1 14:23 15:7 County 12:2,11,14,15 14:4,17 15:10 23:7 25:16 26:25 26:25 27:1,4,5 29:7,22 32:10 34:7 35:19 40:20 42:16 couple 21:7 24:7 Court 4:12 5:1,17 7:22 13:13 24:11 27:1 42:16 courtesy 5:16 criminal 41:20 crossed 35:14 curb 13:8 current 6:4 currently 7:1

D D.A.'s 40:20 40:20 date 40:9 daughter 16:14,17 day 42:4 deal 35:20 dealings 15:11 deceased 40:10 decided 8:17 deciding 9:9 13:15 18:18 decision 9:5 12:4 19:13,19 decisions 19:23 deep 40:5 definition 34:24 Democratic 6:13 11:12,15 12:2,6,11,22 15:15 Denise 34:4,9,10 35:9,13 38:23 department 8:25 deposed 4:19 deposition 4:2 5:4 43:8 describe 21:16 determine 24:14 25:9 difference 11:6 different 23:23 direct 14:23 discuss 18:19 discussed 19:20 21:24 disenfranchised 8:16 district 12:14 15:12 17:2,4 26:25 27:1 29:18 42:16,17,20 documents 14:14 22:1 does 8:21 10:6 19:10,11 22:23 23:2 23:2 26:5 28:16 29:11 31:24 32:22,24 doesn't 25:9 doing 5:21 10:11,13 18:11 Dougherty 16:13,17 30:3 Dougherty's 31:19	due 10:15 duly 4:5 during 12:24 13:2 23:16 Duval 12:15 24:21 E each 5:17 11:21 18:16 37:12 earlier 18:2 21:10,24 23:7,9 28:4,5 38:22 early 9:5 11:9,18 13:15 14:15,19 15:7 17:14,15,19 18:12 24:13 25:5 27:11 effect 41:20 either 4:15 13:5 19:13 31:19 38:1 election 6:17,20,21,22 7:22 8:11 9:4,13 10:1 12:13,25 14:2,24 22:13 23:16 39:7 41:3 42:16 elections 9:1 11:7 12:13 21:13,16 39:6 Eloy 34:16 else 13:4 27:20 30:23 30:23 33:1 34:3 36:10,24 37:5,20 41:11 43:2 else's 34:14 E-mails 12:24 13:12 enough 7:19 ensure 21:22 entitled 10:15 enumerated 9:16 envelope 18:22 19:4,18 22:8,9,21,22 33:19 37:14 Eric 4:10 41:8 Erica 36:19 37:8 38:21 38:21 39:3,7 Erica's 40:8 Ernestina 27:21 28:16 38:6 39:8	40:11,16 Escobar 40:22,24 Ester 34:9,10 35:9 38:23 Ester's 35:13 Ethics 25:2,3 etiquette 5:9 evaluating 18:11 even 23:17 ever 4:13,18 5:4 16:22 22:4 everybody 22:14 25:23 34:24 35:2 40:6 everything 34:22 everywhere 41:18 exactly 9:19 10:17 10:17 examined 19:17 examining 18:3 exchanged 13:12 expect 27:17 explain 21:10 23:14 extend 5:16 F factors 23:24 facts 40:10,16 42:18 Fair 7:19 familiar 8:2 14:13 far 20:6 35:8 father-in-law 13:7 February 42:14 Federal 4:12 7:25 8:5 feel 10:14 felonies 41:13 few 4:17 5:12 27:1,5 figure 9:18 figured 4:15 filed 4:12 9:4 10:3 finance 24:21,25,25 fine 38:17,20 finish 40:13 finished 5:15 finishing 7:1 first 5:10,13 21:9 24:7 26:9 fit 8:21
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five 15:6 fix 9:20,23 10:21 flaws 23:17 follow 8:17 14:11 23:25 following 23:25 follows 4:5 23:8 follow-up 21:8 follow-ups 24:7 forgot 34:7 form 41:1,4 formal 34:20,22,24 35:8 forms 23:18,20 24:1 Foundation 41:1,4 Frances 29:8 30:3,5, 9,18 fraud 39:25 free 24:1 from 9:12 11:2 12:18, 25 13:24 14:3,18, 20,22 18:13 23:8 36:19 37:1 38:1 42:3,17,18 43:1 front 8:1 fund 31:10 further 42:24 future 7:4,7 11:7	grass 16:2 Great 20:18 group 35:3 guess 18:21 guidance 13:24,25 14:3,11,14,18 23:8 H habit 28:16,18 hand 12:1 20:23,25 handled 22:10,25 42:3 happen 10:9 happened 9:19 happens 7:3,18 harvesting 28:17 has 9:15 28:21,23 hasn't 41:14 haven't 22:4 38:8 having 4:5 22:10 head 8:25 heard 11:1 24:12 He'd 5:17 help 35:3 helped 22:25 helping 22:14 23:4 41:5,10,16,19 helps 28:24 40:6 here 4:16 4:16 5:4 6:17 7:11,21 8:1 12:17 14:21 21:13, 16 25:10 32:14 40:5 herself 33:17 he's 7:2 8:25 37:1 himself 7:17 Hinojosa 8:1 hire 20:8 24:19 28:25 hired 21:13 24:23,24 25:18 37:10 history 41:21 Hogg 12:15 24:20 hold 6:11 home 42:4 homes 21:19 Houston 6:25 Hudson 4:10 23:6 husband 7:13 32:8	husband's 7:1 I I'd 4:15 36:12 identified 21:25 22:2 23:18,24 24:13 28:4,5 33:9, 16 34:1,18 identify 22:10 30:17 35:16 identifying 42:2 I'll 5:10,16,21 24:3 39:19 I'm 4:10,25 5:13,14 6:5 7:13,23 8:5 9:18 10:22 14:6 20:17 21:2 31:11 33:10 39:9 43:5 important 9:2 11:6 impression 27:10 included 29:15 incumbent 28:12 incumbents 28:8 individual 18:6 individually 18:17 individuals 40:7,25 informal 31:14 information 22:22 30:16 32:15,17 36:8 injunction 10:6 injunctive 10:4 inquiries 42:17 instances 37:13 intended 8:13 intending 6:19,23 interests 8:6 into 8:22 39:10 40:5 42:18 involved 7:23,25 9:2 16:5,11 34:23 35:23 36:6,7 issue 5:23 10:16 11:2 14:2 35:20 issues 12:20 it's 9:1 10:8 11:6 21:12,15 22:7,8,9 25:7 41:18 itself 7:20 22:11
G		
Garcia 4:2 6:8 16:8, 11 21:7 32:3,16 36:25 38:3,4,5,18, 19,22 Garcia's 32:12 Garza 15:6 34:16 General 4:11 6:16,20, 21 get 4:18 8:18 10:23 39:10 42:17 going 5:13,14 11:21 16:5,23 18:18 22:15 42:6 Gonzalez 33:3,4,6 38:6 Good 4:8,9 15:4,5 got 4:17 5:12 13:24 gotten 14:8 graduates 7:13		

23:17 I've 4:17 5:12 6:24 15:10 22:3,4	19 38:9,10,16,18 39:5,6,10 40:6,12, 16,23 41:7 42:7,20 knowing 19:25 30:7 39:23 knowledge 13:4 20:20 22:16 23:8 32:23 36:4 38:24 known 32:4 knows 22:14 25:24	looking 10:18 18:2, 17 19:2 22:1,20 42:18 lose 28:13 lost 27:6 29:25 lot 8:11,15 23:23 25:9,11,17 26:1,18, 19 28:21
J		M
January 42:10,11 Jay 39:18 Jim 12:14 24:20 John 13:1,18 14:7 23:7,18 joining 4:16 4:16 Jose 15:6 Judge 4:21,23 8:1 15:13 17:2,4 26:25 26:25 29:22 Judges 12:13 Judy 11:14 just 5:8,11 6:3 7:16 14:6 15:9 20:5 21:7,8,10 23:14,17, 20,21,24 24:7,12 30:25 33:11 41:6	L lady 34:4 35:21 last 7:1 15:15 18:4 26:11 34:9 38:1 laughed 23:12,14 law 6:7 6:7,25 7:2 19:8 22:9 23:25 27:1 32:1 laws 41:24 lawsuit 6:1 7:20,25 8:5 10:3,19 lawsuits 8:2 lawyer 24:12 least 13:2 30:10 41:13 leave 39:23 legal 8:9,23 9:21 10:12,20 let 10:2 24:12 40:13 let's 5:8 6:1,2 7:19 8:4 9:3 Letty 8:17 libraries 7:18 like 9:23 10:3,7,15, 21 14:9 22:4 23:20 35:6,8 line 22:3,5 link 32:16 list 24:23 26:1,21 listed 24:24 31:25 little 5:8 6:1,3 7:19 8:4 9:3 lived 6:25 lives 32:14 long 36:1 look 10:6 24:21 25:17,19 looked 27:16	made 11:5 19:13,19, 23 41:17 42:9 mail 6:13,19,23,24 7:1,4 8:13 17:10 21:21 22:4 40:9 42:4 mail-in 9:6,9,10,13 13:16 17:7,20 18:12 19:3 20:3,6, 8,13,14,16,23 21:1, 15,18 27:16,17 28:17 29:3 30:9,17 31:22 33:13,21 37:10,22 40:17 42:2 mails 9:24 main 24:20 make 5:9,11,22 14:10 22:19 28:16 makes 28:18 manager 15:24 many 23:17,18 26:23 33:21 36:18 margin 11:4 Maria 20:19 Martie 4:2 6:7 Martinez 15:8 16:4, 19,22 32:18,22 match 19:9 matched 19:3,7 may 12:15 18:4 33:11 Maybe 7:10 12:12 20:18 40:6 42:6,14 McAllen 8:1 mean 21:11 25:7 26:7 29:11 32:14 34:23 35:5 means 22:23 media 25:8 34:22
K		
kind 23:12 26:21 38:25 39:4 knew 30:3 31:20 34:25 41:19 know 5:6,10 6:2 7:18 9:8 11:1,8,15,18, 25 12:3,5,8,16,17 13:5,14,17,18,25 14:3,5,9,12,17,20, 25 15:7,9 16:4,7,8, 12,13,16,16,19,25 17:7,10 18:10 19:6, 8,11,15,20 20:1,5, 5,15,17 22:5,7 24:23 25:5,8 27:4, 13,14,15,19,20 28:15,18,19,21,23 29:1,2,5,6 30:13, 14,25 31:19,21,22, 25 32:3,7,8,10,19, 20,21,25 33:10,21, 23,24 34:4,9,24 35:12,25 36:1,5,7, 11,18,19,24 37:8,		

meet 35:5 meetings 35:4,8 member 18:16 22:20, 24 23:3 34:1 35:14 37:17 members 15:7 17:15 31:14 36:5 memory 36:12 Mendoza 29:8 30:3,9, 18 mention 5:22 34:7 mentioned 17:1 20:2 38:22 met 4:13 17:19 middle 39:7 might 23:4 31:12,13 32:6 mind 8:21 10:6 mine 12:14 misrepresent 24:22 mom 20:18 Monica 12:23 13:6 more 30:25 33:8 Most 28:11,12 mother 16:17 mothers 41:20 move 7:3 moving 7:14 Mrs 4:8 15:4 much 5:18 multi-county 17:5	None 42:19 notes 18:13 Nothing 43:1 now 5:21 11:7,10,20 18:5 31:1 34:20 number 26:17 30:3 numbers 23:22,23 nurse 28:21	19 13:2,14,19,23 20:5,23,25 over 4:17 oversees 9:1
N	O	P
	oath 41:12 Objection 8:9,23 9:21 10:12,20 41:1, 4 obviously 7:20 8:5 9:4 occasions 18:19 occupation 6:4 off 21:22 23:20 43:7 offhand 20:17 Office 4:10 6:7 6:7 7:9 9:9 11:16,23 12:1,5,10 13:15,19 14:4,8,10,18,22 25:1 40:20 40:20 42:18,21 Omar 40:22,24 one 5:13 7:23 8:5,6 12:17 13:5 18:6 19:1 25:24 33:8 39:13,18 41:12 43:6 ones 24:20 25:18 29:22 30:6 only 25:10 32:15,17 opened 19:12,17,22 opponent 29:14,16 opposed 41:2 opposing 29:12,15 34:17 41:23 order 13:20 other 5:17 6:22 9:13 10:1 12:18 13:3 17:8,11,15 29:20 31:14 35:10,21 37:7 41:2 ours 26:6 27:25 31:6 33:7 37:4 out 8:12 9:18 12:16,	p.m 4:3 Pablos 4:11 7:24 8:7, 21 9:14,20 10:2,10, 18 page 5:10 paid 31:7,10,17 33:8, 10 Palmer 21:24 part 10:1 28:20,24 37:8 particular 14:13 partner 34:5 Pass 21:4 38:13 past 6:24 paths 35:14 Pelayo 36:19 37:13 38:1,21 Pena 12:23 13:6 39:18 pending 7:25 people 8:19 10:24 11:8 21:16 24:13, 24 28:22 36:13 39:5 41:15,18 42:20 person 21:12,13 22:9 23:4 40:10 personally 15:9 person's 22:15 Petition 9:17 pick 21:20 picks 11:8 pile 27:18 27:18 pitch 35:2 planning 6:16 7:2,9 played 12:5,10 14:23 plays 9:9 please 5:10,22 point 21:20 pole 13:6 policies 14:14 political 6:11 politiquera 21:10,12

25:24 25:24 29:7 31:7 32:4 37:1 41:12 politiqueras 18:20 21:17 24:8,14,17 25:6,16,25 34:10 35:10,23 36:1,15 37:18 38:25 41:2, 23 position 6:11 17:4,5 positions 27:2 28:4 29:20 Potentially 7:7,8 practice 6:9 precinct 27:5 34:8 precincts 27:2 prefaced 41:7 present 17:18 previously 39:15 Primary 6:13 12:2,7, 11,22 15:15,16 41:17 probably 7:4 19:7 33:13,15,16 problem 10:21 problems 10:22 procedure 23:25 procedures 13:8 process 9:2,4,23 10:15 provided 12:24 24:1 put 21:20 30:5,20 40:8 42:4 putting 30:11	read 38:4 43:5 really 25:10 35:8 reason 41:22 recall 36:12 37:21 42:9 reckless 23:24 recollection 11:3 record 4:3 5:12 23:23 40:5 41:7 43:7 recount 13:3,22 23:17 recurring 39:6 refresh 36:12 regard 14:23 21:18 23:9 38:23 reject 9:10 12:4 13:16 18:19 19:13, 19,24 27:18 rejected 8:14 11:3 17:12 27:12 29:4 37:23,25 rejecting 12:6 rejection 9:12 related 14:14 relatives 20:5 relief 10:4 remainder 24:3 39:20 remedies 8:18 remedy 10:8,25 remember 17:22,23 18:5 19:21 23:10 25:22 36:14 37:6 37:6 remembered 18:4 reoccurring 11:1 report 19:16 24:21, 25,25 25:19 reporter 5:17 24:11 represent 4:11 15:6 representing 39:13, 18 requesting 43:6 required 13:9 22:9 requires 19:8 32:1 reserve 24:3 39:19 40:1 response 31:18 38:11 review 17:19 19:9 right 4:21,24 5:3,6,	8 7:15 9:6,7 10:4, 5,10 18:23,25 29:17 30:16,21 31:1,2,16 33:12 35:2 36:3,5 39:1,2, 11 Rocha 26:4,11,12 27:17 Rocha's 27:11 Rodriguez 13:1,18 14:7 23:8 Rolando 4:11 7:24 8:7,21 9:14,20 10:2,10,18 role 9:8 12:6,9,12 14:23 Roma 36:11,15,19,24 37:1 roots 16:2 Ruben 34:8 run 32:10 run-down 5:6 running 7:9
Q		S
question 5:3,15 13:21 18:4 23:6,10, 12,15 41:7 questions 4:17 5:14 12:12 21:7,8 24:4 39:20 42:24		Saenz 34:8,12 38:24 said 25:23 38:25 40:12 same 5:9,16 28:3,4 29:22 32:19 39:4 40:17 sat 11:18 say 5:10 29:11 saying 19:22 22:20, 23 41:7 school 6:25 7:3 seal 23:22,23 Secretary 9:8,15 11:16,23,25 12:5, 10,16,19,25 13:2, 12,15,19,23 14:3,8, 9,13,18,22 23:19 24:1 25:1 see 8:18 10:2 16:4, 10,22 19:2,9,12 send 7:16 sent 8:14 21:22 41:19 separate 7:21 8:2
R		
race 11:4 ran 12:14 15:12 17:5 reached 8:12 12:15, 19 13:2,14,19,23		

September 4:1 sequential 13:20 serious 13:7 set 14:1 18:14 seven 27:5 several 13:21 18:19 she's 28:21 36:22 Shorter 38:20 should 13:22 show 32:7 side 35:10 41:13,19 sides 25:12 sign 37:14 43:5 signature 19:2,3,7 30:15 signed 8:13 18:22 signs 9:24 since 40:5 sir 5:2,5,20,25 8:3 15:14,17,19,21,23 16:3 17:6,9 18:9 24:10 28:6 29:19 30:1 33:20 34:2,11, 13,19 35:11 37:15 42:12 sit 11:8 12:17 14:21 slang 21:15 slate 29:12,15,21 30:4 31:15,20 32:5 33:5 34:16,17,17 35:24 36:16 41:23 slates 34:20 35:4 small 25:7 41:18 social 25:8 34:22 Solis 11:14 solo 6:9 some 6:22 8:18 13:12, 24 17:11,12 21:8, 20,25 27:8 28:10 29:25 29:25 36:11, 13,13 somebody 9:24 18:7 19:20 20:17 something 10:8 35:2 somewhere 22:6 sort 18:10 sorts 18:1 specific 20:20 specifically 20:11 spell 24:9 26:8	stack 18:16 stamps 20:23,25 21:21 Starr 12:2,11,15 14:17 23:7 25:16 29:7 40:20 42:16 started 4:18 State 7:22 9:1,15 12:16,19,25 13:2, 12,23 14:14 19:8 State's 9:8 11:16,23, 25 12:5,10 13:15, 19 14:4,8,10,18,22 23:19 24:2 25:1 stations 18:14 step 26:7 stepping 5:17 stomach 38:8 stop 10:8,11,13 strategy 28:20,24 42:6 strike 30:22 stuff 35:5 submitted 30:8 sue 17:14 sued 8:6 supporters 8:12,15 supporting 22:18 41:16 supports 25:9 32:11 sure 5:9,12,22 20:17 22:19 26:9,24 27:5 31:11 33:10 40:15 sworn 4:5	22 35:25 tells 35:22 tender 15:1 25:13,19 term 21:12,15 terms 28:24 testified 4:5 13:1, 13 30:10 36:14 testimony 12:23 13:10 30:2 37:12 41:12 42:15 Texas 11:22,25 than 13:3 Thank 4:16 27:23 43:3,4 That's 10:22 21:15 24:11 28:24 31:2 32:15,17 37:6,21 their 8:14 8:14,19 9:24 14:11 17:10 21:19 22:13 34:9 35:1,13 36:14 37:9, 16,16 41:13 42:6 Theirs 29:10,11 themselves 22:10 42:2 then 7:13 24:14 27:5 42:4 there 6:22 7:21 9:13 10:1 11:2 12:23 13:20 17:7 18:6 22:3,12,15 23:18, 23 25:10 26:17,18, 19,21 27:4 29:2,6 35:4 36:11 37:22 42:5,22 There's 7:21 10:25 10:25 11:4 22:5 23:17 26:1 30:7,12, 15,25 34:4 these 21:25 22:21 34:20 35:4 41:15 42:8 42:8 they're 10:24 21:13 23:21 23:21 36:13 they've 36:1 thing 5:10 things 18:1,10 19:1 think 4:14,15 5:18, 23 8:15 9:1 11:6 17:24,25 21:24
	T	
	take 5:11 21:21 25:9 taken 5:4 taking 19:21 talk 5:8 6:1,2 7:19 8:4 9:3 18:20 21:9 talking 24:7 targeted 41:15 team 25:24,25 26:5, 15,17,20 27:23 29:9 teams 25:10 Tell 10:22 11:5 14:20 23:2,3 24:12,	

22:8 25:7 30:23, 25 31:3 33:1 36:21 37:24 40:10, 24 third 29:6 those 7:18 9:16 10:14 12:18 13:22 19:25 25:25 27:6 28:7, 13 29:23 30:13 32:13 37:13, 25 40:7, 10, 24 though 4:18 thought 24:12 three 40:7, 24 42:8 through 8:18 11:21 time 5:1 16:6 36:2 42:25 Today 4:1 12:17 14:21 31:3 33:2 told 39:9 took 42:3 42:3 town 20:6 tracks 7:21 Treasurer 27:4 27:4 trial 23:16 24:4 39:20 trying 9:18 10:23 two 5:1 7:21 8:2 19:21 22:12 25:10	Valley 7:11 Vela 4:2, 8 6:8 15:4 21:7 38:18, 19, 21 Vela's 38:17, 20 Vera 31:4, 10, 20, 22 32:4, 16, 23 34:16 38:6 verbally 5:23 verify 19:7 very 5:18 13:7 15:9 41:20 volunteer 18:7 19:16 33:11 Volunteers 15:22 25:18 36:13 vote 6:13, 19, 23 7:4 8:13, 14, 19 10:24, 25 14:23 15:7 17:15 17:15, 19 18:2 24:15 27:11, 12 voted 6:24, 25 22:4 voter 13:11 18:24 20:21 22:25 39:25 42:3 voters 10:14 13:8 21:19, 21, 22 37:10 votes 19:12 21:14 23:4 27:16, 17 voting 6:16 9:5 11:9, 19 12:19 13:8, 11 14:15, 19 23:9 24:13 25:5	we'll 5:23 40:1 Well 5:8 6:2, 24 8:4, 8, 25 9:3, 18 10:2 23:2 25:7 28:1, 21 30:5 31:2 32:8 39:9, 19 40:4, 12, 13 42:8 went 25:1 We're 4:3 5:9, 16 14:6 40:5 weren't 8:19 8:19 whatever 19:23 31:2 31:2 What's 6:3 wherever 7:16 whether 11:5, 22 12:5, 18 13:14, 21 14:9, 17 16:10 18:18 19:2, 8, 24 23:7 38:16 which 8:5 9:9, 10 13:15 23:3 25:6 26:5 27:23 29:9 30:4, 7, 8, 13 31:5 33:5 37:3 who 11:8, 11, 13, 18 13:4 14:22 20:18 20:18 22:14, 16, 18 24:15, 19, 23 25:6, 9, 9, 16, 25 26:5 27:20 30:3, 23 32:10, 11 38:23 40:21 whoever 13:11 whole 25:9 who's 22:14 Why 8:6 13:5, 18 19:6 23:14 39:23 40:6, 23, 23, 24 41:9 wide 27:5 will 5:3 21:19 win 10:18 29:23 Without 11:21 19:24 30:11 36:18 39:23 witness 15:1 21:4 25:13 38:13 Women 41:20 won 27:8 29:25 word 21:10 work 6:6, 7 11:22 21:16 26:5 27:23
U		
Uh-huh 18:15 27:3 28:2 35:7, 9 36:20 37:1 under 41:12 understand 4:21 7:20 22:19 25:23 understanding 21:18, 23 24:15 understood 18:13 unsigned 13:20 until 5:15 use 24:1, 17 used 21:9, 13, 15 29:7 42:22 Usually 21:12 32:9, 10		
V	W	
	wait 5:15 walk 21:14 35:5 want 5:11 7:16 9:20 10:10, 13, 24 11:2 21:9 24:22 25:11 26:1, 21 39:10 40:4 wanted 4:23 wasn't 8:19 watcher 13:6 way 5:3, 16 10:25 11:5 12:17 28:8 30:7, 12 32:1 website 24:2 we'd 35:5	

31:5 32:9,23 33:6, 25 34:6 35:19 38:23 39:1,5 42:22 worked 15:10 25:6 26:15 32:8 workers 15:20 17:18 working 16:22 20:6 30:4 31:20 41:23 works 11:15 21:13 25:24,25 32:14 34:5 34:5 would've 11:5 31:17 32:3 33:22,25 35:14 35:14,15 writing 38:4		
Y		
year 7:2,5,6,8 years 15:10 yet 41:15 Yolanda 16:19 32:18 you'll 5:24 7:14 you're 4:21 5:21 6:22 9:14,19 10:4 39:11 Yours 28:1 34:18 yourself 16:1 you've 4:25 33:9 40:12 Yvonne 31:4,20 32:4, 16,23 38:6 Yvonne's 32:8		

1 IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS MCALLEN DIVISION LETICIA GALVAN AND MARTIE GARCIA VELA) vs.) CASE NO. 7:18-CV-00113 ROLANDO PABLOS, IN HIS OFFICIAL CAPACITY AS TEXAS SECRETARY OF STATE, AND ARMANDINA MARTINEZ, ALMA GARCIA, ALICIA DOUGHERTY NO. 1, ALICIA DOUGHERTY) NO. 2, YOLANDA MARTINEZ) ORAL DEPOSITION AMANDINA MARTINEZ September 13, 2018 ORAL DEPOSITION OF AMANDINA MARTINEZ, produced as a witness at the instance of the Plaintiffs and duly sworn, was taken in the above-styled and numbered cause on the 13th day of September, 2018, from 8:48 a.m. to 9:48 a.m., before Dora Canizales, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the Garcia Law Offices, 509 N. San Antonio, Rio Grande City, Texas 78582, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.	3 1 2 INDEX 3 PAGE 4 AMANDINA MARTINEZ 5 Examination by Mr. Navjar4 6 Examination by Mr. Hudson39 7 Signature Page46 8 Court Reporter's Certificate48 9 /// 10 /// 11 /// 12 /// 13 /// 14 /// 15 /// 16 /// 17 /// 18 /// 19 /// 20 /// 21 /// 22 /// 23 /// 24 /// 25 ///
2 APPEARANCES FOR PLAINTIFFS: Jerad Wayne Najvar Najvar Law Firm, PLLC 2180 North Loop West, Suite 255 Houston, Texas 77018 E-mail: jerad@najvarlaw.com FOR DEFENDANTS ARMANDINA MARTINEZ, ALMA GARCIA, ALICIA DOUGHERTY, ALICIA DOUGHERTY, AND YOLANDA MARTINEZ: Jose Garza Garza Golando Moran, PLLC Martin Golando 405 N. Saint Marys, Suite 700 E-mail: martin.golando@gmail.com FOR DEFENDANT ROLANDO PABLOS: Eric Hudson Assistant Attorney General P.O. Box 12548, Capitol Station Austin, Texas 78711 E-mail: eric.hudson@oag.texas.gov	4 1 AMANDINA MARTINEZ, 2 having been first duly sworn, testified as follows: 3 EXAMINATION 4 Q. (BY MR. NAVJAR) Okay. Good morning of the 5 letter Ms. Martinez, my name is Jerry Najvar. And I'm 6 representing two plaintiffs in this case which involves 7 a challenge to some of the Texas statutes regarding the 8 review of mail-in ballots. 9 Are you generally aware of that, that you 10 are here to answer questions in that lawsuit? 11 A Yes. 12 Q And have you given a deposition before? 13 A A deposition? Well, just the one we had from 14 the other lawsuit. 15 Q You testified in court, right? 16 A Yeah. 17 Q But is this the first time you testify like out 18 of court in this thing? 19 A Yes. 20 Q So just a few ground rules. It might seem kind 21 of awkward, but kind of the same thing at the trial, the 22 court reporter has to take down everything we say. So 23 if you let me finish the question and then -- before you 24 start to answer. And I'll let you finish your answer 25 before I -- you know, so we are not talking over each

5

1 other.
 2 A Okay.
 3 Q I don't think it's going to take very long at
 4 all, but if you need a break for the restroom or for
 5 whatever reason, just let me know. I would just ask
 6 that you finish answering the question on the table and
 7 then we could take the break.

8 And if anything is unclear that I ask,
 9 that's fine. Just tell me you don't understand and I
 10 can restate the question. So that's about it.

11 So can you state your name for the record,
 12 please.

13 A Armandina Martinez.

14 Q Okay. And where do you reside?

15 A In Rio Grande City.

16 Q And what's your residence address?

17 A 602 West Third Street, Apartment 1, in Rio
 18 Grande City, Texas.

19 Q Okay. And how are you employed?

20 A I am the Human Resources Director for Starr
 21 County.

22 Q How long have you served in that position?

23 A In that position, a little bit over a year.

24 Q Okay. And I know we went over this at trial
 25 and it might seem redundant, but this is a different

6

1 case, so I got to get some of the same things on the
 2 record. So I will just ask you, so how long have you
 3 been employed by Starr County?

4 A Eleven years.

5 Q Okay. And can you kind of walk me through the
 6 progression. Where were you when you started and then,
 7 you know, the different positions you've had until now.

8 A Okay. I started working for the county in 2001
 9 for the Election Administration. My boss was Rafael
 10 Montalvo. When he got -- he was the election
 11 administrator. When he got the position of also being
 12 the Human Resources Director, I went with him to Human
 13 Resources. And I was his assistant in Human Resources
 14 from like 2009 until he passed away, like a little bit
 15 over a year ago. And that's when I was placed as a
 16 Human Resources Director.

17 Q Okay. And so, I'm sorry, as of 2009, you were
 18 in what position?

19 A I was the Benefits Administrator for Human
 20 Resources. I was the director's assistant in Human
 21 Resources.

22 Q Okay. And then he passed away when?

23 A In April of -- a year ago, 2017.

24 Q Okay. And when did you become the Human
 25 Resources Director?

7

1 A Around June of 2017.

2 Q Okay. And how did you get promoted -- or was
 3 that a promotion for you, to become the HR Director?

4 A Yes.

5 Q And how did you -- did you have to apply for
 6 that position or how did that happen?

7 A Well, I had been Mr. Montalvo's assistant for
 8 many years. So when he passed away, I was asked by the
 9 judge if I wanted that position and I said yes. It went
 10 through Commissioner's Court. And then I was appointed
 11 Human Resources Director.

12 Q Okay. When you said you were asked by the
 13 judge, who is that?

14 A Eloy Vera.

15 Q And was there an interview process for the
 16 position? Did you interview for it?

17 A No.

18 Q So was it -- can you just elaborate on why --
 19 you said the county judge, Judge Vera, asked you if you
 20 were interested. Is that what you said?

21 A Yes.

22 Q So what is your understanding of his role in
 23 the process of, you know, how you got the promotion?

24 A Well, as the judge, I don't know, I guess it's
 25 his position to hire someone to replace that position.

8

1 Q Okay. Did the Commissioner's Court have to
 2 vote on it?

3 A Yes.

4 Q Does the county judge have -- well, are you
 5 aware of whether he made a recommendation that you be
 6 hired for that position?

7 A I don't know. Probably.

8 Q Okay. Okay. And let's talk about your
 9 experience in Elections. With regard to the March 2018
 10 Primary Elections, what was your role?

11 A I was the Early Voting Election Board Judge.

12 Q Okay. And have you served in that position
 13 before?

14 A No, it was the first time being on the Early
 15 Election Board.

16 Q And have you done other -- have you had other
 17 kind of roles in an election capacity before?

18 A Yes.

19 Q And what were those?

20 A Well, when I started working for the county in
 21 2007, I worked for the Election Administration, so I did
 22 all of the background stuff.

23 When I moved to Human Resources, since I
 24 already knew all the background stuff, since then, I've
 25 always worked almost every election as presiding judge

9

1 at one of the precincts or one of the sites.

2 Q Okay. Okay. And so aside from -- in the 2018

3 Primaries you were the presiding judge of the Ballot

4 Board, right?

5 A Yes.

6 Q Had you ever served on the Ballot Board as

7 presiding judge before this year?

8 A No.

9 Q Okay. Did you ever do anything with regard to

10 reviewing mail-in ballots before the 2018 Primaries?

11 A When I worked for Elections, we were the ones

12 that received them and -- like the whole process of

13 mailing it out, getting the application, get it out,

14 receiving it, putting it in a box until the Board got a

15 chance to look at them.

16 Q Okay. When you worked in the Elections

17 Department, how many people would work in the

18 Department? How many people worked in the County

19 Elections Office?

20 A I believe it was four of us. Five at the most.

21 Q Is it still about the same now?

22 A Yeah, I think so.

23 Q Okay. Did you have any responsibility with

24 regard to provisional ballots?

25 A Other than collecting them and placing them in

10

1 the boxes or wherever they belong until the Election

2 Board got a chance to look at them.

3 Q Okay. So with regard to the March 2018

4 Primaries, can you just describe what the Ballot Board

5 did with the mail-in ballots?

6 A Okay. We came in around seven in the morning.

7 We already had a class, you know, on the procedures that

8 week before. The Election Administration gave us like a

9 run-through of what we were supposed to do. We came in

10 that morning. The Election Administration put all the

11 boxes in numbers.

12 Q And let me just clarify as you go along. Well,

13 first I should ask, when were you appointed as a

14 presiding judge in relation to Election Day? How far

15 ahead of time were you appointed?

16 A I usually get a letter a few weeks before the

17 election.

18 Q Okay. And so then -- so you can continue with

19 your answer, but are you -- you said you got there at

20 seven a.m. on what day?

21 A On Election Day.

22 Q Okay. So continue, please.

23 MR. HUDSON: Objection, form. Calls for

24 narrative response.

25 Q. (BY MR. NAVJAR) Okay. What kind of training

11

1 did you receive before Election Day?

2 A The Election Administration goes over the

3 procedures for the -- what our job is, pretty much. Get

4 the ballots, you know, check for signatures, if they are

5 not signed and stuff like that.

6 What reasons are there for rejecting or

7 accepting a ballot. And then counting and all that.

8 Q Okay. With regard to -- who is conducting the

9 training?

10 A John Rodriguez. He's Election Administrator.

11 Q Okay. Is he the one who is actually giving the

12 instructions, or is it somebody else in the office?

13 MR. HUDSON: Objection, form. Foundation.

14 Q. (BY MR. NAVJAR) Well, you were at the training

15 yourself, right?

16 A Yes.

17 Q So who was actually there conducting the

18 training?

19 A Lupita.

20 Q Okay.

21 A Guadalupe Gonzalez. She works for Elections

22 Administration.

23 Q Was she the one who was describing how you

24 review the ballots to decide whether to accept them?

25 A I can't remember if it was her or John.

12

1 Q Okay. So in as much as detail as you can

2 remember, can you describe the training, the

3 instructions you received with regard to reviewing the

4 signatures on the -- reviewing the signatures on the

5 mail ballots to determine whether they are acceptable or

6 not?

7 A Well, just that, you know, that we had to look

8 at the signatures. And if they are not signed, they are

9 rejected automatically. I mean, just that.

10 Q Okay. So if a ballot comes in and it has no

11 signature at all on the carrier envelope, were you

12 instructed to -- that that's just automatically

13 rejected?

14 A Yes.

15 Q Okay. Okay. So what about the -- so setting

16 those aside, the ones that don't have a signature at

17 all, how were you instructed to review the signatures?

18 And what does a signature review entail?

19 A If they don't match. And most of them, common

20 sense. You know, one is in print, one is in cursive.

21 They are not a match.

22 Q Okay. And what are you comparing? What

23 signatures are you comparing, actually?

24 A I'm comparing the signature on the application

25 for the mail-in ballot and the envelope where they

13

1 mailed in the ballot.

2 Q Okay. I'm still talking about the training

3 before the election.

4 Did Lupita or John or anybody else give

5 you any more detail, any specific instructions about how

6 you are supposed to decide if signatures match or don't

7 match?

8 MR. HUDSON: Objection, form. Vague.

9 Q. (BY MR. NAVJAR) He can object for the record,

10 and you can still answer.

11 And since he objected that the question is

12 vague -- and going forward in the deposition, if a

13 question is unclear, please tell me. I am happy to

14 restate it.

15 If you understand it, you are free to

16 answer.

17 A Okay.

18 Q So just to restate the question.

19 Did Lupita or John or anybody else who was

20 providing training on how to review signatures on these

21 mail-in ballots, did they give you any specific

22 instructions or things to look for in terms of

23 determining whether signatures match?

24 MR. HUDSON: Objection, form. Vague.

25 A I guess it's mostly just common sense, you

14

1 know, if they match or don't match. They also -- we

2 were also told that we could ask for a third signature

3 if we wanted to, either the original -- the original

4 application for voter registration. We could also ask

5 for that, if we were still unsure if they matched or

6 not.

7 Q Okay. And did they describe a process for how

8 you can request additional -- the third signature?

9 MR. HUDSON: Objection, form. Vague.

10 A Well, we have to ask the Election

11 Administration if we wanted -- if we wanted a third

12 signature.

13 Q. (BY MR. NAVJAR) Okay. How many people were on

14 the ballot board on March 2018?

15 A Five.

16 Q Five including you?

17 A Yes.

18 Q Were all of other four people there at the

19 training?

20 A Yes.

21 Q Did you have any questions, like you

22 personally, when -- did you have any questions about --

23 like did you have any questions in your mind, or did you

24 ask them for more specific instructions on what you are

25 supposed to look for in reviewing the signatures?

15

1 A No.

2 Q Did it seemed to make sense to you?

3 A Yeah.

4 Q Did anybody else there, that you recall, ask

5 any questions about, you know, the process for reviewing

6 signatures?

7 A That I can remember, no.

8 Q Okay. So is there anything else relevant about

9 the training you received with regard to signature

10 review that we haven't talked about yet?

11 MR. HUDSON: Objection, form. Calls for a

12 legal objection. Objection, form. Foundation.

13 A No.

14 Q. (BY MR. NAVJAR) Okay. So let's go to Election

15 Day, which is when you said you showed up to work,

16 right?

17 A Uh-huh.

18 Q So can you just describe what you did when you

19 arrived? Well, first, where did you go?

20 A It was the large conference room in the Annex

21 Building.

22 Q Okay.

23 A We got there around seven in the morning. We

24 had -- already had the count. It was 1,100-and some.

25 We first counted the votes on the early voting machines

16

1 to get those out of the way. So we did those right away

2 in the morning.

3 And that pretty much is just getting the

4 sticker out of the machines with the count.

5 And then we started on the boxes for

6 the -- for the Early Voting ballots.

7 We went box through box and probably got

8 done just a few minutes before seven with the counting.

9 Like you finish those and then the

10 machines from that date got there. And then you count

11 those.

12 MR. HUDSON: Objection, nonresponsive.

13 Q. (BY MR. NAVJAR) Okay. So with regard to the

14 mail-in ballots, how did this actually work in terms of

15 -- well, first, can you describe how the Ballot Board

16 members were arranged?

17 A Okay.

18 MR. HUDSON: Objection, form, as to the

19 word "arrange."

20 A This is a large table, probably larger -- a

21 little bit larger than this one. We are all sitting on

22 one side.

23 On the right side of the room, I think it

24 was eight boxes in total, of early -- of boxes of early

25 ballots. And we started with Box 1. I would place it

17

1 on the table. I would say how much the count is.
 2 In some, we had -- we had a request from
 3 the DA that they wanted -- I think it was some ballots,
 4 early voting ballots. So when we came up with those, we
 5 had to get those out. And also people that mailed them
 6 early voting, and then they went and voted in person,
 7 the Election Administration gave us a list of those
 8 people that did that.

9 So we had to -- first, we would remove, if
 10 any of those were in there. Persons that voted in
 11 person, we would remove those. And then proceed from
 12 there to -- it was five of us sitting at a table. We
 13 would kind of -- each, you know, get some of the ballots
 14 and we would start with the procedure of opening
 15 envelopes. There is like ten envelopes per envelope.

16 Q Okay. I will ask some very specific questions
 17 as we go through it.

18 So were you all seated like around the
 19 table or were you on the same side of the table? How
 20 were you seated?

21 A We were like on the same side of the table.

22 Q Okay, you're making a gesture.

23 A Well, it's an oval table, so the ones in the
 24 end were more towards the end. Because there is five of
 25 us on one side.

18

1 Q Okay. So once you remove the ballots that
 2 should be removed like you just described, how did
 3 you -- what happened next in terms of reviewing the
 4 mail-in ballots?

5 A Well, each box had over 100 ballots in it. We
 6 would each get, you know, five, six, you know, and then
 7 kind of, at the same time we were opening them,
 8 collecting the yellow envelopes. And then we would all
 9 proceed to open the rest. We were kind of like doing it
 10 at the same time so that -- and then we collect all the
 11 empty envelopes, put them back in the box. And then --
 12 we all have stamps for "reject" and "accept," all five
 13 of the members.

14 Q Okay.

15 A And then you proceed to checking, you know, the
 16 application with the envelope.

17 Q Okay. So let's just -- we have to go through
 18 this in some detail, but so you talked about a box,
 19 right? So what is in the box?

20 A The box -- there was like eight boxes, all
 21 1,100-and-some mail-in ballots are in those boxes and
 22 these are all by date. When the Election Administration
 23 receives the ballots, they date the box of when it
 24 started. When it's full, they put an end date so that
 25 each box had like a beginning date and an end date of

19

1 when it was received. And so we get one box. You know,
 2 I would say out loud, you know. This is Box 1 from date
 3 this to date this. And then I proceed to take them all
 4 out. We would open them, go through them. We all
 5 have --

6 Q Okay. Let me stop you there. So you get Box 1
 7 and the box is open. At that point, is it like on the
 8 table with the Ballot Board members?

9 A Yes.

10 Q Okay. And then -- so there is how many
 11 ballots, or how many envelopes with ballots are in that
 12 box, Box 1, approximately?

13 A I can't remember. But it was -- they were
 14 pretty full. Over 100, I would say, in each box.

15 Q Okay. So when that box is opened, what
 16 happens?

17 A I would get a few. I kind of spread it all
 18 out, give a few to each of the board members. And then
 19 we proceed to -- and then I kind of put piles in the
 20 center of the table so that when we are done with the
 21 few that we had, we would proceed with the rest. And we
 22 would all kind of go -- we get rid of the yellow
 23 envelope, first; collect all the empty envelopes, put
 24 them back in the box, into the empty box now, and then
 25 we proceed with the next envelope.

20

1 Q Well, you are talking envelopes. Just for the
 2 record, can you describe -- for each mail-in ballot,
 3 what are you talking about? What do you have?

4 A Okay. For each mail-in ballot, there is going
 5 to be at least five envelopes or six, if I remember
 6 correctly.

7 The original yellow envelope inside of it
 8 is another envelope with the envelope where they --
 9 where they have the ballot, it's another with a yellow
 10 one.

11 And then the application is in there, so
 12 you kind of have to separate the application that has
 13 the signature with the envelope that has the mail-in
 14 ballot. You proceed to -- and then we get rid of the
 15 empty ballot. We put it back in the box.

16 We proceed to compare, you know, signature
 17 or even if it has a signature. So then we either accept
 18 or reject the mail-in after we compare it to the
 19 signature.

20 If it's rejected, we get a pile. If it's
 21 accepted, we leave it there.

22 After we are done with our pile, we
 23 collect all the rejected ones and count them and say,
 24 okay, so many mail-in ballots were rejected out of the
 25 box. We come back in there. Out of the accepted ones,

21

1 we then proceed to open that envelope. Inside it is
 2 another envelope with the ballot inside that envelope.
 3 Q Okay. Let me stop you there. If you decide to
 4 accept the ballot, you say you then open the envelope.
 5 Which envelope are you opening?
 6 A The one that has the signature on it.
 7 Q And where is the signature?
 8 A It's on the front of the envelope or back of
 9 it.
 10 Q Like on the seal?
 11 A Yeah.
 12 Q Okay. And what is that envelope called?
 13 A To be honest, "yellow envelope," I think.
 14 Q Okay. And when you open that, what's inside?
 15 A The envelope with another envelope with a
 16 ballot inside of it.
 17 Q Okay. And what color is that envelope with the
 18 ballot inside of it?
 19 A White.
 20 Q Okay. So you said you don't -- you don't
 21 decide to accept a ballot until after you've compared it
 22 with the application signature; is that right?
 23 A Yes.
 24 Q Okay. So where is the application at this
 25 time?

22

1 A In the first large envelope you have the
 2 application and you have the envelope where the ballot
 3 was mailed in.
 4 Q And is there a name for that first large
 5 envelope?
 6 A It's a yellow envelope.
 7 Q Okay.
 8 A I believe when you request a mail-in, you mail
 9 in your application. And then Election Administration
 10 mails you the ballot with an envelope, so you mail that
 11 back in. So then when that gets mailed back in, then
 12 the Election puts it in a yellow envelope, the
 13 application with the envelope that the ballot came in.
 14 Q With the envelope that the voter signed,
 15 correct?
 16 A Yes.
 17 Q Okay. So let's go back to where -- you have a
 18 box open and you have -- you said you distributed, I
 19 guess, how many to each ballot board member?
 20 A We pretty much do it evenly, at whichever pace
 21 each person would go. But we pretty much separate it
 22 evenly within all five of us.
 23 Q Okay. Are you guys talking to each other as
 24 each person is reviewing the ballots at all or --
 25 A Yes.

23

1 Q Okay. Where were you seated at the table in
 2 relation to the other board members?
 3 A I was in the center. And then I had two and
 4 two.
 5 Q Okay. So did you have a stack of ballots that
 6 you were reviewing?
 7 A Yes.
 8 Q As you were reviewing those ballots, were you
 9 -- were you stamping them, "accepted" or "rejected," you
 10 know, on your own, or were you conferring with the
 11 people at the table, your other members?
 12 A We were doing it as a group. If I felt that I
 13 needed a second opinion or -- I would ask, you know,
 14 whoever was next to me, hey, you know, what are you
 15 thinking. And that's -- you know.
 16 Q Okay. So how many times do you think -- or
 17 what percentage of the time do you think you asked for
 18 somebody's second opinion about a signature?
 19 MR. HUDSON: Objection, form.
 20 A I don't know, maybe 50 percent of the time.
 21 Q. (BY MR. NAVJAR) Okay. So for the rest of the
 22 time, what was happening the times that you were not
 23 conferring with anybody.
 24 A Well, I was checking signatures. And if I felt
 25 it was the same, I would accept it. And if I felt they

24

1 did not match, or if there was a signature missing, I
 2 would reject and put them in a separate pile.
 3 Q Okay. Did you ever ask for additional
 4 signature samples?
 5 A Yes, I did.
 6 Q How many times?
 7 A Well, we did mostly on the first box, because
 8 it was -- it was new. You know, all the times that I
 9 have been working in Elections as a presiding judge for
 10 the elections sites, I didn't know so then on the first
 11 box -- there was some that were the kind of matching so
 12 you don't know if it was because, you know, the elderly
 13 had arthritis hand. So we did request a lot. But it
 14 was very time-consuming. So then I decided that it was
 15 best for just -- and I did request, later on, but we
 16 mostly did on that first box.
 17 Q Okay. So how long -- if you remember, how long
 18 do you think the first box took to get through
 19 completely?
 20 A I think it took almost two hours.
 21 Q And were other members of the Ballot Board
 22 asking for additional signature sample?
 23 A Yes.
 24 Q Sometimes?
 25 A Yes.

25

1 Q Okay. And you mentioned something about --
 2 like somebody with arthritis hand I think you said.
 3 What do you mean by that?
 4 A Well, on the signatures, you know, they don't
 5 match. You know, we are not professional, you know. I
 6 don't know what that profession is called where you
 7 compare signatures, but, you know, it looks similar, but
 8 one is a little more crooked than the other, so you want
 9 to make sure, you know, that it is the same person. So
 10 then we request for a third one and then kind of compare
 11 it to that.
 12 Q And did that -- so the times when you requested
 13 the additional sample, do you think that helped?
 14 A Not really, because sometimes then we have
 15 three signatures that didn't match. Some of these
 16 original applications was -- most people that do
 17 mail-ins are elderly.
 18 So when the original application for the
 19 election, their handwriting wasn't the same as, you
 20 know, twenty years later, you know, and they've got
 21 arthritis.
 22 So we were having problems where there was
 23 three different signatures, you know, that didn't match
 24 exactly.
 25 So that's why we came to the conclusion

26

1 that, you know, it was just -- unless we really -- I did
 2 request someone put an X. And then I wanted to know,
 3 well, you know, if they signed here, they put an X here,
 4 I want to know what they put on the original.
 5 But other than that, we came to the
 6 conclusion that it was just too time-consuming to be
 7 requesting a third signature, and it wasn't really
 8 helping us out.
 9 Q So what is your -- so with regard to this third
 10 signature that you can request, what was that signature
 11 on, what document?
 12 A It's the original request to be a registered
 13 voter. It's kind of like a little board where they --
 14 the original application to register to vote.
 15 Q Okay. And in some cases -- so you mentioned
 16 that could be twenty years old. Why do you say that?
 17 A Because some registrations are -- you register
 18 once. I go register to vote. And unless I change my
 19 address or have some change, I have that same
 20 application. I don't have to be renewing it every year.
 21 So some of those original applications are
 22 older.
 23 Q So out of the times that you requested an
 24 additional signature from the Elections Department, were
 25 they always, you know, old like that? Were they recent

27

1 sometimes? Can you remember?
 2 MR. HUDSON: Objection, form.
 3 A Not specifically, no. But, yeah. They were
 4 giving us copies of the original application. So I
 5 won't know if we were getting like copies of the
 6 originals. So I wouldn't know. Like I didn't get a
 7 chance to look at the original application itself.
 8 Q. (BY MR. NAVJAR) What if you wanted an
 9 additional signature, like a fourth or a fifth
 10 signature? Were you able to ask for that?
 11 A I guess if I wanted to, they would have
 12 probably provided it.
 13 Q Do they have a fourth or a fifth signature?
 14 A Not that I know of.
 15 MR. HUDSON: Objection, form.
 16 Q. (BY MR. NAVJAR) To your knowledge?
 17 A Huh-uh. Other than the original application.
 18 Unless they have a different original application.
 19 Q Okay. So can you just describe for me what
 20 your rationale or your reasoning was when you are
 21 looking at the other signature on the application to
 22 vote by mail and the signature on the envelope, right?
 23 What are you thinking as you try to decide whether these
 24 are, you know, from the same person?
 25 MR. HUDSON: Objection, form. Calls

28

1 narrative response.
 2 A If they match, they match. If they don't
 3 match, they don't match.
 4 Q. (BY MR. NAVJAR) Well, what makes a signature
 5 not match?
 6 A One is in script and very messy. And then the
 7 other one is like in cursive, bubbly, you know. I mean,
 8 it's obviously not a match.
 9 Q What if there is a slight difference in, like,
 10 you know, maybe on one some of the letters -- you can
 11 read the whole name; on the other one, you know, all the
 12 letters in the name are not spelled out?
 13 MR. HUDSON: Objection, form.
 14 A Those it did not match.
 15 Q. (BY MR. NAVJAR) When you sign your name, do
 16 you always sign it the same way?
 17 A Yes, I do. Unless they tell me to initial,
 18 then, you know, it's different, but ...
 19 Q Okay. So after you got through the first box,
 20 can you describe what happened with the next box?
 21 A Well, we went through the same procedure.
 22 After one box was done and we collect, you know, all the
 23 accepted -- all the rejected and put them back, we got
 24 the accepted ones.
 25 We would then go do the exact -- do the

29

1 exact same thing with the next box. I put it in the
2 center, I open it, look at the seals at were on it and
3 then proceed, again, spreading them on the table so all
4 of us could start all over again. And we did this with
5 like eight boxes.

6 Q Okay. And at what point -- you mentioned the
7 decision was being made earlier to not request the
8 additional signatures, is that what you said?

9 A Yes.

10 Q At what point was that made?

11 A After the first box.

12 Q And, again, why was that?

13 A It was very time-consuming. By the time the
14 Election Administration would bring me the third
15 signature. That first box took us almost two hours. We
16 only have until seven o'clock to have these counted.
17 And it wasn't really helping us much because, like I
18 said, there was a third signature and sometimes that
19 third signature didn't even match the two that we
20 already had there, or didn't match either. So it was
21 just -- I felt that we didn't need a third signature to
22 -- it would just be more confusing. It wasn't really
23 helping out much. You know, we couldn't conclude. Now
24 we have three different signatures. So then I
25 concluded, you know what, if they don't match, they

30

1 don't match, reject, and let's go to the next one.

2 Q Okay.

3 A I did request for one or two maybe in the other
4 boxes, but not --

5 Q And why in those instances did you request?

6 A One of them was because the birth was 1989 and
7 they put an X as signature. So I'm figuring 1989. This
8 person is kind of young, you know. Why are they putting
9 an X? You know, it's kind of like, you know,
10 questionable.

11 So then I would request, you know, what
12 did they put in the original application, you know.
13 Because 1989, you are not that old, so why are you
14 putting an X.

15 So then I would get a third one.

16 Q Okay. And how do you know how old the person
17 is?

18 A On the original application, the person's name,
19 date of birth, address, and signature is on there.

20 Q So did that -- were you referring to the
21 person's birthdate, their age? Like was that a factor
22 in other signatures you reviewed?

23 A Yeah, because sometimes when it's a little bit
24 shaky and you see they were born -- and we had a voter
25 that from 1928, I think. And, of course, they are going

31

1 to have -- they were like, oh, my Gosh, this person is
2 like 90 years old, you know. And it's understandable.
3 So I, personally, that's why I look at the date.

4 Q Okay. Did you receive any instruction from the
5 Elections Department about, you know, how the date, the
6 person's birthdate might affect that?

7 MR. HUDSON: Objection, form. Vague as to
8 "Elections Department."

9 Q. (BY MR. NAVJAR) And just for the record, when
10 I say "Elections Department" and I am asking the
11 question about training, or did they say something, I'm
12 asking about anybody from the Elections Department in
13 Starr County providing you training or instruction with
14 regard to whatever the issue is, is what I'm referring
15 to, okay?

16 A No. They didn't specifically say, look at the
17 date of birth, no. That's just -- I like to read
18 everything and that's just how I am.

19 Q Are you aware of whether the other members of
20 the Ballot Board did that as well, refer to the person's
21 age?

22 A They might have. I'm not completely sure.

23 Q Okay. Did you receive any -- other than the --
24 well, of course the training that you received before
25 Election Day from the Elections Department in Starr

32

1 County, was it just verbal instruction, or did they
2 include -- did they give you any materials?

3 A They did give us. They gave us like sample
4 envelope, where the yellow envelope with the application
5 and the other envelope are inside. And then, you know,
6 we are instructed on, you know, first open this envelope
7 and then compare this. And then open and then you have
8 to -- so, yeah, they did give us a sample envelope.

9 Q Okay. And did they give you any other written
10 materials?

11 A No, just the sample, the envelopes.

12 Q Okay.

13 A We kind of went through the steps.

14 Q Okay. Did you do any research on your own
15 before Election Day to figure out, you know, what am
16 I -- like how to review the signatures to determine if
17 they match?

18 A No. Just -- I don't know. I worked in
19 elections before, so I was -- you have to look at
20 signature all the time. I worked in HR, so signatures
21 are really important. So it's, you know, it's just in
22 my nature to ...

23 Q Okay. But -- and just for the record -- but do
24 you have any formal training in handwriting analysis?

25 A No.

33

1 Q Okay. Do you have any formal training in like
2 forensic document analysis?

3 A No.

4 Q Is handwriting training or -- strike that.

5 To be a member of the Ballot Board, are
6 you required to have any training with regard to
7 reviewing signatures?

8 A No.

9 Q Do you recall any comments like from any of the
10 other board members about, like, whether they were
11 having a hard time or confused about reviewing
12 signatures?

13 A Yes, a few times I asked the -- I was the
14 judge, so I told them, if you can't determine, ask, you
15 know, one of the other judges, you know, on their
16 opinion, on what they think.

17 Now, if two or three of us thought, you
18 know, it didn't match, we would reject it.

19 Q So the times when that kind of thing would
20 happen when two or three of you would be looking at the
21 same signatures to determine, did you have a discussion
22 about specific aspects of the signature, characteristics
23 of the signature about whether it matched or not?

24 A No. We were just kind of like, what do you
25 think, what do you think.

34

1 And then, I, as the judge, would have the
2 final say on whether it was accepted or rejected.

3 Q Okay. So is it fair to say that it was --
4 whether a signature matches or does not match, it was
5 the sort of your common sense reaction to it?

6 A Yeah.

7 Q Okay. Was there ever a time when you or -- let
8 me ask you about you first.

9 Was there ever a time when you were
10 reviewing a mail-in ballot where you knew the person and
11 you thought -- or you had personal knowledge of their
12 signature and then played into your analysis?

13 A No.

14 Q What about anybody else on the board, to your
15 knowledge?

16 A No, I don't think so.

17 Q Did the Ballot Board work -- well, strike that.

18 Was John Rodriguez in the room kind of
19 supervising your work on the Ballot Board as it went
20 along?

21 MR. HUDSON: Objection, form.

22 A On Election Day?

23 MR. HUDSON: Objection, form.

24 Q. (BY MR. NAVJAR) On Election day?

25 MR. HUDSON: Objection, form.

35

1 A No.

2 Q. (BY MR. NAVJAR) Was anybody else from the
3 Elections Department there kind of supervising?

4 A Well, they weren't really supervising, but they
5 were in case we requested something, we needed to ask --
6 you know, kind of someone. So we knew they were right
7 there in that building.

8 Q Okay. And you mentioned earlier something
9 about -- you mentioned -- like you had to get finished
10 by a certain time.

11 Is that what you said?

12 A Yeah.

13 Q Were you instructed that you had to finish the
14 review by a certain time?

15 A No, but we knew that election was going to
16 close at seven o'clock. So at seven o'clock, we were
17 going to start getting the machines for Election Day.

18 So it kind of -- you know, we were like
19 hopefully, you know, were are done by then because then
20 we are going to be here until midnight.

21 Q Okay.

22 A But no one said, you have to be done, you know,
23 by this time.

24 Q As the presiding judge of the Ballot Board, do
25 you have any responsibility that carries on after the

36

1 election is canvased?

2 A No. Then the provisionals, I believe a week
3 later, I think it's like five days later, we do the
4 provisionals.

5 Q "We." Who is "we"?

6 A The same Early Voting Election Board. We do
7 the provisional ballots.

8 Q And so what do you do with the provisional
9 ballots?

10 A Well, kind of the same procedure. Provisional
11 ballots are ballots on that day that for whatever reason
12 they either voted in the wrong precinct or they weren't
13 registered to vote, you know.

14 You know, they all have different reasons
15 of why they voted provisional.

16 So all those provisional ballots are in a
17 green envelope.

18 Again, we have to check -- provisional
19 ballots, the judge writes on there a reason why the
20 person voted provisional.

21 You know, it could have been, you know,
22 they voted in the wrong precinct or they are not
23 registered to vote or, you know, a specific reason. And
24 then the other half of the envelope, you know, gives
25 what the election puts on there. You know, like, yes,

37

1 this person is not registered to vote or -- so then we
 2 get those. We see the reason.
 3 If the reason is justifiable, we will
 4 accept it. If they weren't registered to vote, you
 5 weren't registered to vote. It's an automatic reject.
 6 We put that in a pile. Put it in a box.
 7 And then the ones that were accepted, we
 8 then open, you know, the other envelope where the ballot
 9 is and count those.
 10 Q Okay. Okay. So between the time that the
 11 person voted on the provisional ballots at the poles and
 12 the time that you are going through the process you just
 13 described, what's happened with those provisional
 14 ballots?
 15 A I believe the Election Administration should
 16 have them.
 17 Q But who is -- who is like -- who is checking
 18 whether the -- you are referring to notes on some
 19 document that you are looking at as a Ballot Board,
 20 right? Whom made those notes as to each voter?
 21 A The Election Administration.
 22 Q So is the Elections Administration the ones who
 23 were like -- they are checking whether the person was in
 24 the right precinct when they voted or things like that?
 25 A Yes.

38

1 Q Whether they were registered to vote?
 2 A Yes.
 3 Q Okay. So if I understand you correctly, the
 4 Elections Department will do that review or check for
 5 each voter. And how do they -- how do they get the
 6 information to you with regard to, you know, their notes
 7 about each voter?
 8 A The provisional ballot itself, on one side of
 9 it, it's kind of like divided by two. It has -- the
 10 original presiding judge that received it during
 11 Election Day, they have to checkmark why the person
 12 voted provisional and signed it.
 13 From there, on Election Day, after that
 14 election gets it, and then they check it.
 15 Yes, this person, is he eligible to vote;
 16 or no, this person is not registered. And then the
 17 other half, it has for them to mark, you know.
 18 Q Okay.
 19 A And then we kind of, you know, see it; and no,
 20 they weren't registered to vote.
 21 Q Okay. So when you get it after Election Day,
 22 when you go back to do this review, you are getting a
 23 document -- like is it a separate document for each
 24 provisional ballot?
 25 A No. It's just that same envelope.

39

1 Q Which envelope?
 2 A The provisional ballot envelope. It's a green
 3 one.
 4 Q Okay. Is that an envelope that contains all
 5 the provisional ballots?
 6 A No. Each ballot itself has a green envelope.
 7 Q Okay.
 8 A And then inside that green envelope, the ballot
 9 is inside another envelope sealed inside that green one.
 10 Q Did you ever get contacted by anybody after the
 11 election whose ballot was rejected, whose mail-in ballot
 12 was rejected?
 13 A No. No.
 14 MR. NAVJAR: Okay. No further questions?
 15 DEFENSE ATTY TWO: We will reserve
 16 questions until time of trial.
 17 MR. HUDSON: I have a few.
 18 EXAMINATION
 19 Q. (BY MR. HUDSON) My name is Eric Hudson. I
 20 work for the Office of the Attorney General. I
 21 represent the Texas Secretary of State in this case.
 22 We've never met before, right?
 23 A No.
 24 Q Do you know what the Texas Secretary State's
 25 office is?

40

1 A Yes.
 2 Q Explain to me what you know about the Texas
 3 Secretary of State.
 4 A Secretary of State pretty much -- well, when I
 5 worked with elections, we had to sign information for
 6 the ballots and the elections. And so they are pretty
 7 much in charge of the elections pretty much.
 8 Q When you say we are "in charge," what do you
 9 mean.
 10 A Well, like, you -- all the information that the
 11 Election Administration gets is through the Secretary of
 12 State.
 13 Q Okay. Well, what information do you get from
 14 the Texas Secretary of State?
 15 A Well, when I worked for Elections, the
 16 administrator would -- with the ballots and all this
 17 kind of stuff. When you have to -- there is a certain
 18 time limit when you have to, like, request for an
 19 election and stuff like that. I think. Maybe.
 20 I'm getting it confused.
 21 Q Let me see if I can make this a little simpler.
 22 Have you ever worked for the Texas Secretary of State?
 23 A No.
 24 Q When you say that the Texas Secretary of State
 25 is in charge of an election, are you saying that Texas

41

1 Secretary of State comes down to Starr County to run
2 your elections?
3 A No.
4 Q Okay. So just by way of clarification, you are
5 not suggesting that the Texas Secretary of State is in
6 charge of Starr County's elections, are you?
7 A No.
8 Q Okay. Tell me the name of each person that was
9 sitting at the table with you when you counted mail-in
10 ballots in the spring of 2018.
11 A Yolanda Martinez, Alma Garcia, Alicia Dougherty
12 and Alice Dougherty Sr. I don't know if she is senior,
13 but ...
14 Q I've already asked you whether you worked for
15 the Texas Secretary of State. Do you know whether
16 Yolanda Martinez works for the Texas Secretary of State?
17 A No.
18 Q No, you don't know; or no, she doesn't?
19 A She does not.
20 Q What about Alma Garcia, does she work for the
21 Texas Secretary of State?
22 A No, she does not.
23 Q Do you know whether Alicia Dougherty Jr -- I'm
24 going to say junior; I know that's not the right
25 appellation for a female, but the younger Alicia

42

1 Dougherty -- did she work for the Texas Secretary of
2 State?
3 A No, she did not.
4 Q What about her mother?
5 A No, she did not.
6 Q You mentioned two trainers who came and trained
7 you as part of the election. What were their names
8 again?
9 A John Rodriguez, he's the elections
10 administrator, and Guadalupe Gonzalez.
11 Q Do you know whether John Rodriguez works for
12 Texas Secretary of State?
13 A No, he does not.
14 Q He does not work for Texas Secretary of State.
15 A No.
16 Q What Guadalupe Gonzalez?
17 A No, she does not.
18 Q Did you have any other trainers who came and
19 trained you about how to look at mail-in ballots?
20 A No.
21 Q Did anyone from the Texas Secretary of State's
22 Office ever come down to train you on how to review
23 mail-in ballots?
24 A No.
25 Q Did anybody from the Texas Secretary of State's

43

1 Office ever tell you how you should go about comparing
2 signatures?
3 A No.
4 Q You mentioned that you were able to request a
5 third signature if you had issues with examining
6 signatures, right?
7 A Yes.
8 Q How did you go about requesting the third
9 signature? Tell me the process.
10 A If we felt that we needed a third signature --
11 we are in an annex building and a large conference room
12 in that same building that Election Administration
13 office is. We would always have someone from Election,
14 you know, just kind of looking in to see if we needed
15 anything.
16 So we would contact that election
17 personnel, and we would request, you know, and we would
18 give them -- we would give her the name and the date of
19 birth so that they could go and bring us a copy of the
20 original application itself.
21 Q Did you ever ask anybody from the Texas
22 Secretary of State's Office to provide a third
23 signature?
24 A No.
25 Q When you were reviewing mail-in ballots, did

44

1 you ever call Texas Secretary of State's Office to ask
2 them how you should review mail-in ballot?
3 A No, I did not.
4 Q Did you ever call the Texas Secretary of
5 State's Office to ask whether signatures matched?
6 A No.
7 Q Since the time that you counted mail-in ballots
8 for the Democratic Primary in 2018, has anyone from the
9 Texas Secretary of State's Office called to discuss the
10 review of mail-in ballots with you?
11 A No.
12 Q Prior to reviewing ballots, mail-in ballots,
13 from the Democratic Primary that you reviewed in the
14 spring of 2018, did you call anybody from the Texas
15 Secretary of State's Office to ask them how to go about
16 reviewing mail-in ballots?
17 A No, I did not.
18 Q Did you speak to anyone from the Texas
19 Secretary of State's Office in person?
20 A No.
21 Q Has the Texas Secretary of State's Office had
22 any role in the counting the mail-in ballots, in your
23 experience, as elections official in Starr County?
24 A No.
25 MR. HUDSON: I tender the witness.

45

1 MR. GARZA: No more questions.
 2 THE WITNESS: That's it?
 3 MR. NAVJAR: Maybe. Just one moment.
 4 That's all.
 5 (Deposition concluded at 9:48 a.m.)
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1 CHANGES AND SIGNATURE
 2 PAGE LINE CHANGE REASON
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1 I, AMANDINA MARTINEZ, have read the foregoing
 2 deposition and hereby affix my signature that same is
 3 true and correct, except as noted above.
 4
 5
 6 AMANDINA MARTINEZ
 7
 8 THE STATE OF _____)
 9 COUNTY OF _____)
 10
 11 Before me, _____, on this day
 12 personally appeared AMANDINA MARTINEZ, known to me or
 13 proved to me on the oath of _____ or through
 14 _____ (description of identity card
 15 or other document) to be the person whose name is
 16 subscribed to the foregoing instrument and acknowledged
 17 to me that he/she executed the same for the purpose and
 18 consideration therein expressed.
 19 Given under my hand and seal of office on this ____
 20 day of _____, _____.
 21
 22
 23 NOTARY PUBLIC IN AND FOR
 24 THE STATE OF _____
 25 My Commission Expires: _____

48

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE SOUTHERN DISTRICT OF TEXAS
 3 McALLEN DIVISION
 4 LETICIA GALVAN AND MARTIE)
 5 GARCIA VELA)
 6 vs.) CASE NO. 7:18-CV-00113
 7 ROLANDO PABLOS, IN HIS)
 8 OFFICIAL CAPACITY AS TEXAS)
 9 SECRETARY OF STATE, AND)
 10 ARMANDINA MARTINEZ, ALMA)
 11 GARCIA, ALICIA DOUGHERTY)
 12 NO. 1, ALICIA DOUGHERTY)
 13 NO. 2, YOLANDA MARTINEZ)
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1 REPORTER'S CERTIFICATE
 2 ORAL DEPOSITION OF AMANDINA MARTINEZ
 3 September 13, 2018
 4 I, Dora Canizales, Certified Shorthand Reporter in
 5 and for the State of Texas, hereby certify to the
 6 following:
 7 That the witness, AMANDINA MARTINEZ, was duly sworn
 8 and that the transcript of the deposition is a true
 9 record of the testimony given by the witness;
 10 That the deposition transcript was duly submitted on
 11 _____ to the witness or to the attorney for
 12 the witness for examination, signature, and return to me
 13 by _____.
 14 That pursuant to information given to the deposition
 15 officer at the time said testimony was taken, the
 16 following includes all parties of record and the amount

1 of time used by each party at the time of the
2 deposition:

3 MR. NAVJAR: 00:39:74

4 MR. HUDSON: 00:05:23

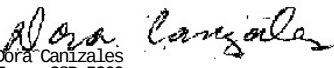
5 MR. GARZA: 00:00:00

6 That a copy of this certificate was served on all
7 parties shown herein on _____ and filed
8 with the Clerk.

9 I further certify that I am neither counsel for,
10 related to, nor employed by any of the parties in the
11 action in which this proceeding was taken, and further
12 that I am not financially or otherwise interested in the
13 outcome of this action.

14 Further certification requirements pursuant to
15 Rule 203 of the Texas Code of Civil Procedure will be
16 complied with after they have occurred.

17 Certified to by me on this _____ day of
18 _____, _____.
19
20


Dora Canizales
Texas CSR 5360
Expiration: 12/31/2019
Hill & Romero
Certified Court Reporters
3700 N. 10th Street, Suite 220
McAllen, Texas 78501
Phone: (956)287-8898

1 FURTHER CERTIFICATION UNDER TRCP RULE 203

2

3 The original deposition was/was not returned to the
4 deposition officer on _____.

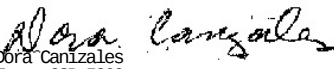
5 If returned, the attached Changes and Signature
6 page(s) contain(s) any changes and the reasons therefor.

7 If returned, the original deposition was delivered
8 to Mr. Navjar, Custodial Attorney.

9 \$_____ is the deposition officer's charges to the
10 Plaintiffs for preparing the original deposition and any
11 copies of exhibits;

12 The deposition was delivered in accordance with Rule
13 203.3, and a copy of this certificate, served on all
14 parties shown herein, was filed with the Clerk.

15 Certified to by me on this _____ day of
16 _____, _____.
17
18


Dora Canizales
Texas CSR 5360
Expiration: 12/31/2019
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1 IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS McALLEN DIVISION LETICIA GALVAN AND MARTIE GARCIA VELA) vs.) CASE NO. 7:18-CV-00113 ROLANDO PABLOS, IN HIS OFFICIAL CAPACITY AS TEXAS SECRETARY OF STATE, AND ARMANDINA MARTINEZ, ALMA GARCIA, ALICIA DOUGHERTY NO. 1, ALICIA DOUGHERTY NO. 2, YOLANDA MARTINEZ) ORAL DEPOSITION YOLANDA MARTINEZ September 13, 2018 ORAL DEPOSITION OF YOLANDA MARTINEZ, produced as a witness at the instance of the Plaintiffs and duly sworn, was taken in the above-styled and numbered cause on the 13th day of September, 2018, from 10:00 a.m. to 10:24 a.m., before Dora Canizales, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the Garcia Law Offices, 509 N. San Antonio, Rio Grande City, Texas 78582, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.	3 1 2 INDEX 3 PAGE 4 YOLANDA MARTINEZ 5 Examination by Mr. Najvar4 6 Examination by Mr. Hudson19 7 Signature Page20 8 Court Reporter's Certificate22 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
2 APPEARANCES FOR PLAINTIFFS: Jerad Wayne Najvar Najvar Law Firm, PLLC 2180 North Loop West, Suite 255 Houston, Texas 77018 E-mail: jerad@najvarlaw.com FOR DEFENDANTS ARMANDINA MARTINEZ, ALMA GARCIA, ALICIA DOUGHERTY, ALICIA DOUGHERTY, AND YOLANDA MARTINEZ: Jose Garza Garza Golando Moran, PLLC Martin Golando 405 N. Saint Marys, Suite 700 E-mail: martin.golando@gmail.com FOR DEFENDANT ROLANDO PABLOS: Eric A. Hudson Assistant Attorney General P.O. Box 12548, Capitol Station Austin, Texas 78711 E-mail: eric.hudson@oag.texas.gov	4 1 2 YOLANDA MARTINEZ, 3 having been first duly sworn, testified as follows: 4 EXAMINATION 5 Q. (BY MR. NAVJAR) Good morning. Ms. Martinez, 6 right? 7 A Yes. 8 Q My name is Jerad Najvar. And I think you know 9 me from the other case, the election contest, right? 10 A Yes. 11 Q So I'm representing a couple of plaintiffs who 12 have filed a challenge basically dealing with the review 13 process for mail-in ballots. 14 Are you generally aware that you're here 15 to answer some questions about that today? 16 A Yes. 17 Q And have you ever given a deposition before? 18 A Like this? 19 Q Yes. 20 A No. 21 Q Okay. So just some ground rules to begin. The 22 court reporter has to take down everything, so please 23 let me finish my question before you answer and I'll do 24 the same for you before I ask my next question. 25 If you need to take a break, just let me

5

1 know. I don't think we'll get there, it should go very
2 quickly. But if you need a break, just let me know.
3 And I would just ask that you finish answering the
4 question on the table before we take the break.

5 And if anything is unclear, just let me
6 know and I can restate the question.

7 A Okay.

8 Q Okay. So can you state your name for the
9 record, please?

10 A Yolanda Martinez.

11 Q And where do you reside?

12 A Rio Grande City.

13 Q What's your residence address?

14 A 309 South Cox.

15 Q How do you spell Cox?

16 A C-O-X.

17 Q And how are you employed?

18 A Starr County Payroll.

19 Q You said payroll?

20 A Yes.

21 Q How long have you been employed there?

22 A Since 2006.

23 Q What department is that under?

24 A Human Resources.

25 Q Do you work with Armandina Martinez?

6

1 A Yes.

2 Q What is your work relationship with her in
3 terms of the hierarchy?

4 A She's a director. I'm a supervisor.

5 Q Okay. Have you -- well, what was your role
6 with regard to the March 201 Primary Election in Starr
7 County?

8 A I was one of the judges.

9 Q The judges. What judges?

10 A I forgot. I don't remember what they call
11 them. Some kind of board.

12 Q What was your function?

13 A I was to look at ballots. Open envelopes, look
14 at ballots, check signatures.

15 Q And was this the first time you served on that
16 board?

17 A No. Second.

18 Q When was the first time?

19 A I think it's when President Trump was coming
20 into office. I think that was the last time. I'm not
21 exactly sure of the date. I don't remember which ones.

22 Q Okay. But definitely for two elections, you've
23 done the same work, is that what you are saying?

24 A Yes.

25 Q So how far in advance of the election, of

7

1 Election Day, were you notified or, you know, did you
2 find out that you were on this board?

3 A It was long before. They were trying to find
4 someone and I really didn't want to do it, but they
5 couldn't find anybody else, so I went ahead and did it.

6 Q Okay. So when you found out you were on the
7 board, or you agreed to accept the position, did you
8 understand what this would entail?

9 A Yes.

10 Q Did anybody describe to you what your duties
11 would be?

12 A Yes.

13 Q Who?

14 A The Elections. Lupita mostly.

15 Q Lupita. What's her full name?

16 A Lupita Gonzalez, I think.

17 Q Okay. What did she tell you?

18 A That we had to get the box. And when we got
19 the box, we were to open the box. We opened the seals,
20 take numbers off the seals. Write the number down. And
21 then there was supposed to be a sheet of paper on there
22 on top of the boxes, not all of them. That some of
23 those ballots would need to be taken out because they
24 were already counted. So they didn't want to count them
25 twice.

8

1 And then after that we got -- we got a
2 batch of envelopes, all of us, and we would open them.

3 Q So are you talking about what you did on
4 Election Day?

5 A Yeah.

6 Q Okay. Let me start a little earlier than that.

7 Okay. Did you receive any kind of
8 training before Election Day?

9 A Yeah. It was a little bit of training. What
10 I'm explaining to you right now, yes.

11 Q So can you describe -- can you describe the
12 training with respect to how you were supposed to review
13 the mail-in ballots to decide whether to accept the
14 ballot?

15 A If the signatures are different.

16 Q Okay.

17 A Or if there is not a signature there.

18 Q With regard to -- so if there is no signature
19 there, what were you instructed to do?

20 A Reject.

21 Q Okay. If there is a signature there, did they
22 describe -- did the Elections Department, anybody in the
23 Elections Department describe for you how you are
24 supposed to review the signatures?

25 A Well, they said just to see if they are

9

1 different or not. I mean, more likely, something looks
2 different. If they were different signatures or it was
3 written different.

4 Q Okay. And is this Lupita who is giving you
5 this instruction?

6 A Yes.

7 Q Was John Rodriguez also there for the training?

8 A He was in and out.

9 Q Okay. So did Lupita or John or anybody else
10 conducting this training, did they give you any more
11 specifics in terms of how you are supposed to determine
12 signatures if they match or not?

13 A No, not that I recall.

14 Q Can you remember what they actually told you?
15 Like what their words were to you in terms of reviewing
16 the signatures?

17 A Verbatim, no, I can't remember exactly. Just
18 if the signature is different, then you need to reject.
19 Or you can ask the person next to you if they think it
20 looks different or not.

21 Q Okay. Do you have any kind of formal training
22 in reviewing signatures?

23 A No.

24 Q Do you have any kind of formal training in
25 forensic document analysis?

10

1 A No.

2 Q To your knowledge -- well, how many other
3 people served on the Ballot Board?

4 A Four other people besides myself.

5 Q To your knowledge, did any of those other
6 individuals have any formal training in handwriting
7 analysis?

8 A I do not know.

9 Q Okay. So I think you mentioned that -- were
10 you instructed at the training -- I'm sorry.

11 Were you instructed at the training that
12 you could request an additional signature sample if you
13 had a question?

14 A I don't remember if it was the training or
15 during that day. I don't remember.

16 Q Okay. And so let's go to Election Day itself.
17 Can you describe what happened when you arrived to work
18 as a member of the Ballot Board?

19 A We just went straight into the room.

20 Q Okay. And describe for me the process of
21 reviewing the mail-in ballots. How did it start?

22 A Okay. The boxes were in there and we were
23 instructed first that if there is a piece of paper in
24 there stating we need take those ballots out because
25 they had already voted. So we did each box

11

1 individually, all five of us at the same time. We would
2 open up the box. Get those -- get those envelopes out,
3 and then we would divide the envelopes between the five
4 of us.

5 And the first thing to do was to open up
6 the first envelope, which is a white envelope.

7 Everybody would do the same thing through
8 the whole batch, they would get all the envelopes,
9 separate them, rubber-band them, and put them in the
10 box.

11 Then the next envelope, we would open up
12 also. And they would separate the envelope from what
13 was inside. Get all the empty envelopes, rubber-band
14 them, put them in the box until we got to where we
15 checked the signatures on the the envelope as the -- I
16 guess it's the application, I'm not for sure. That's
17 when we doublechecked the signatures to see if we reject
18 or accept.

19 From there, it was either reject or accept
20 or ask the person next to you what they thought, if it
21 was reject or accept.

22 And then we would separate the rejected
23 ones and the accepted ones. But we had to stamp it
24 either way if it was reject or accepted.

25 All the rejects, we would send them to

12

1 Tina and she would wrap them all up and put them in a
2 box.

3 And then the accepted ones, we would open
4 them up, take the ballots out, face down, and put the
5 envelopes together and put them in a box. After each
6 step, we counted the envelopes just to make sure they
7 matched the amount we first started.

8 And then we would stack up the ballots and
9 then Armandina or Alicia would put it through the
10 machine.

11 Q Would put which ones through the machine?

12 A The ballots.

13 Q Okay. But the ones that were accepted?

14 A The ones that were accepted. The ones that
15 were rejected go back into the box.

16 Q When you reject a mail-in ballot, what are you
17 actually stamping? What do you actually stamp? What
18 document are you stamping?

19 A The envelope.

20 Q Which envelope?

21 A The one that was rejected because we didn't
22 open it because it was rejected.

23 Q Okay. Where does the ballot -- where is the
24 ballot with regard to a rejected mail-in ballot? Where
25 is the ballot after it's rejected?

13

1 A In the envelope inside the box.
 2 Q So does that envelope stay closed?
 3 A Yes.
 4 Q So were you -- did you have -- were you
 5 reviewing a stack of ballots yourself to decide whether
 6 to accept and reject?
 7 A Yes.
 8 Q Did you have your own stamp to use?
 9 A Yes.
 10 Q Okay. How often did you -- or did you ever ask
 11 another member of the Ballot Board for help in
 12 determining whether a ballot should be accepted?
 13 A I cannot recall how many times, but I know that
 14 I did ask her a few times. I don't know how many times.
 15 Q You say "her," who do you mean?
 16 A One of the Alice's.
 17 Q Okay. Why would you ask one of Alicia's?
 18 A Because she was sitting next to me.
 19 Q Out of the all ballots you reviewed, can you --
 20 can you recall approximately how many, you know, what
 21 percentage of the time you were asking the person next
 22 to you, you know, for their opinion?
 23 A I really couldn't.
 24 MR. HUDSON: Objection, form, foundation.
 25 Q. (BY MR. NAVJAR) I'm sorry. Go ahead.

14

1 A I really couldn't tell you what the percentage
 2 was.
 3 Q Okay. Do you think it was half or more than
 4 half or less than half?
 5 A It was less than half.
 6 MR. HUDSON: Objection, form. Objection,
 7 asked and answered. Objection, calls for speculation.
 8 Q. (BY MR. NAVJAR) Just so you know, he can
 9 object for the record. At the deposition, there is no
 10 judgment. He can make his objection for the record and
 11 then you can continue with your answer.
 12 Okay. So with regard to reviewing the
 13 signatures, what signatures are you actually looking at?
 14 What signatures are you comparing?
 15 A Well, there is two envelopes. I know there was
 16 one envelope. It was two different envelopes.
 17 Q Okay.
 18 A A white one and a yellow one. Those two were
 19 the ones that we're checking.
 20 Q Did you ever have any trouble deciding whether
 21 the signatures were sufficiently similar that you should
 22 accept the ballot?
 23 A Can you repeat that, please?
 24 Q Did you ever have any trouble deciding -- did
 25 you ever see like -- was it hard for you to determine

15

1 whether the signatures matched enough that the ballots
 2 should be accepted?
 3 MR. HUDSON: Objection as to the word
 4 "hard."
 5 A Yeah, it was a couple of times.
 6 Q. (BY MR. NAVJAR) And what would make it
 7 difficult or hard?
 8 A I guess it just looks a little different. I
 9 mean, that's all I can think of.
 10 Q Well, let me ask you this. You said you didn't
 11 have any formal handwriting training, right?
 12 A No.
 13 Q So what kind of -- what kind of markers or
 14 characteristics of the signatures are you looking at to
 15 determine whether they are the same or not?
 16 A The shapes of the letters or if they are going
 17 forwards or backwards. Just that.
 18 Q Okay. During the -- in the instances when you
 19 would ask for, I think you said Alicia's opinion, right?
 20 A Uh-huh.
 21 Q Did you and Alicia have a discussion about
 22 specific aspects of a signature?
 23 A I would just ask her, does it look the same or
 24 not, what do you think?
 25 Q Okay. And what if you and her disagreed?

16

1 A I don't think I had that instance, really. I
 2 don't remember having where we both disagreed.
 3 Q Aside from looking just at the signatures
 4 themselves, did you ever -- was there anything else you
 5 considered in determining whether a signature matched or
 6 not?
 7 A If there wasn't a signature there or there was
 8 a different name.
 9 Q What do you mean a "different name"?
 10 A I had about, I think, one or two that had a
 11 different name that was on there from the other
 12 envelope.
 13 Q Like a different name entirely or just a
 14 different -- you know, because sometimes somebody maybe
 15 could write -- maybe on one signature they don't write
 16 the middle name in it, and the other one they include a
 17 middle initial or something. Is that what you are
 18 talking about or completely different names?
 19 A Completely different names.
 20 MR. HUDSON: Objection, form.
 21 Argumentative.
 22 Q. (BY MR. NAVJAR) How many times do you remember
 23 asking for another signature sample from the Elections
 24 Department?
 25 MR. HUDSON: Objection, form.

17

1 A I don't remember asking for any myself.

2 Q Did you ever refer to any other information

3 that you had about a voter, whether it's on the

4 application or whether it's something, you know,

5 personally to determine whether signatures matched?

6 A I don't know. I don't know.

7 Q Well, like, just for an example, hypothetical

8 example, you might -- maybe there was an occasion where

9 you got a ballot and you know the person or you know

10 their family, and you know something about them that

11 might play into how you review their signature, you

12 know. Or maybe you consider the person's age, if you

13 know them, or if you look at the application. Did you

14 consider any kind of information like that, that you can

15 recall?

16 MR. HUDSON: Objection, form. Foundation.

17 Objection, asked and answered. Objection, calls for

18 speculation.

19 A No.

20 Q. (BY MR. NAVJAR) Did the Ballot Board's work

21 extend beyond Election Day? Like did you have any

22 responsibility after Election Day as a Ballot Board

23 member?

24 A No.

25 Q Did anybody contact you after the election

18

1 about about like whose ballots had been rejected and

2 asking questions or protesting in any way?

3 A No.

4 Q Are you aware of whether anybody contacted the

5 Elections Department --

6 A No.

7 Q -- about a rejected mail-in ballot?

8 A I don't know.

9 Q Okay. Let's go back to the training you

10 received before Election Day. Was that training just

11 verbal or did it include written materials that you

12 received?

13 A It was verbal and then she was just showing us

14 the envelopes that we would go through, that was it.

15 Q Did you receive anything that gave you -- any,

16 any written material that provided any elaboration on

17 how you are supposed to review signatures?

18 A No.

19 Q Did you ever try to research your finding, any

20 guidance on that on your own with respect to how you are

21 supposed to know whether the signatures matched or not?

22 A No.

23 MR. NAVJAR: No further questions.

24 MR. GARZA: We will reserve questions

25 until time of trial.

19

1 EXAMINATION

2 Q. (BY MR. HUDSON) Have you ever worked -- my

3 name is Eric Hudson. I'm with the Office of the

4 Attorney General. I represent the plaintiffs in the

5 case. I have one question. Have you ever worked for

6 the Texas Secretary of State?

7 A No.

8 MR. HUDSON: Tender.

9 (Deposition concluded at 10:24 a.m.)

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1 CHANGES AND SIGNATURE

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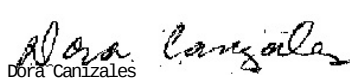
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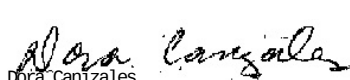
1 I, YOLANDA MARTINEZ, have read the foregoing
 2 deposition and hereby affix my signature that same is
 3 true and correct, except as noted above.
 4
 5 _____
 6 YOLANDA MARTINEZ
 7
 8 THE STATE OF _____)
 9 COUNTY OF _____)
 10
 11 Before me, _____, on this day
 12 personally appeared YOLANDA MARTINEZ, known to me or
 13 proved to me on the oath of _____ or through
 14 _____ (description of identity card
 15 or other document) to be the person whose name is
 16 subscribed to the foregoing instrument and acknowledged
 17 to me that he/she executed the same for the purpose and
 18 consideration therein expressed.
 19 Given under my hand and seal of office on this ____
 20 day of _____, _____.
 21
 22 _____
 23 NOTARY PUBLIC IN AND FOR
 24 THE STATE OF _____
 25 My Commission Expires: _____

22

1
 2 IN THE UNITED STATES DISTRICT COURT
 3 FOR THE SOUTHERN DISTRICT OF TEXAS
 4 McALLEN DIVISION
 5 LETICIA GALVAN AND MARTIE)
 6 GARCIA VELA)
 7 vs.) CASE NO. 7:18-CV-00113
 8 ROLANDO PABLOS, IN HIS)
 9 OFFICIAL CAPACITY AS TEXAS)
 10 SECRETARY OF STATE, AND)
 11 ARMANDINA MARTINEZ, ALMA)
 12 GARCIA, ALICIA DOUGHERTY)
 13 NO. 1, ALICIA DOUGHERTY)
 14 NO. 2, YOLANDA MARTINEZ)
 15
 16 REPORTER'S CERTIFICATE
 17 ORAL DEPOSITION OF YOLANDA MARTINEZ
 18 September 13, 2018
 19 I, Dora Canizales, Certified Shorthand Reporter in
 20 and for the State of Texas, hereby certify to the
 21 following:
 22 That the witness, YOLANDA MARTINEZ, was duly sworn
 23 and that the transcript of the deposition is a true
 24 record of the testimony given by the witness;
 25 That the deposition transcript was duly submitted on
 _____ to the witness or to the attorney for
 the witness for examination, signature, and return to me
 by _____.
 That pursuant to information given to the deposition

23

1 officer at the time said testimony was taken, the
 2 following includes all parties of record and the amount
 3 of time used by each party at the time of the
 4 deposition:
 5 MR. NAVJAR: 00:08:41
 6 MR. HUDSON: 00:04:00
 7 MR. GARZA: 00:00:00
 8 That a copy of this certificate was served on all
 9 parties shown herein on _____ and filed
 10 with the Clerk.
 11 I further certify that I am neither counsel for,
 12 related to, nor employed by any of the parties in the
 13 action in which this proceeding was taken, and further
 14 that I am not financially or otherwise interested in the
 15 outcome of this action.
 16 Further certification requirements pursuant to
 17 Rule 203 of the Texas Code of Civil Procedure will be
 18 complied with after they have occurred.
 19 Certified to by me on this ____ day of
 20 _____, _____.
 21
 22 
 23 Dora Canizales
 24 Texas CSR 5360
 25 Expiration: 12/31/2019
 Hill & Romero
 Certified Court Reporters
 3700 N. 10th Street, Suite 220
 McAllen, Texas 78501
 Phone: (956)287-8898

1 FURTHER CERTIFICATION UNDER TRCP RULE 203
 2
 3 The original deposition was/was not returned to the
 4 deposition officer on _____.
 5 If returned, the attached Changes and Signature
 6 page(s) contain(s) any changes and the reasons therefor.
 7 If returned, the original deposition was delivered
 8 to Mr. Najvar, Custodial Attorney.
 9 \$_____ is the deposition officer's charges to the
 10 Plaintiff for preparing the original deposition and any
 11 copies of exhibits;
 12 The deposition was delivered in accordance with Rule
 13 203.3, and a copy of this certificate, served on all
 14 parties shown herein, was filed with the Clerk.
 15 Certified to by me on this ____ day of
 16 _____, _____.
 17
 18
 19
 20 
 21 Dora Canizales
 22 Texas CSR 5360
 23 Expiration: 12/31/2019
 24 Hill & Romero
 25 Certified Court Reporters
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