

1 Case No. 11 OC 00042 1B

2 Dept. No. 1

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2011 SEP 21 PM 3:03

ALAN GLOVER
BY Chen CLERK
DEPT. 11

6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR CARSON CITY

9 DORA J. GUY, an individual; LEONEL
10 MURRIETA-SERNA, an individual; EDITH
11 LOU BYRD, an individual; and SAMANTHA
12 STEELMAN, an individual;

13 Plaintiffs,

ORDER Re: REDISTRICTING

14 and

15 KEN KING, an individual; SANCY KING, an
16 individual; ALLEN ROSOFF, an individual,
17 and the NEVADA REPUBLICAN PARTY

18 and

19 ALEX GARZA, an individual,

20 and

21 THE LEAGUE OF WOMAN VOTERS OF
22 LAS VEGAS VALLEY,

23 Plaintiff-Intervenors,

24 vs.

25 ROSS MILLER, in his capacity as Secretary of
26 State for the State of Nevada,

27 Defendant.
28 _____/

29 On August 3, 2011, the Court, through written order, settled on special masters and
30 set a briefing schedule in this case. The Court also ordered the parties to submit briefing

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1 on five legal issues. On August 4, 2011, the Court issued an Amended Order to change
2 some of the briefing schedule.

3 On August 8, 2011, the Plaintiffs filed a "Motion for Clarification and
4 Reconsideration of Amended Order Appointing Special Masters, Establishing Sequence of
5 Events and Deadlines." On August 25, 2011, the Court issued its Order on the briefing of
6 Plaintiffs' Motion for Clarification and changed the hearing date and time on the five legal
7 issues from September 19 to September 21, 2011, at 9:00 a.m.

8 The Court having reviewed all the briefs provided by the parties, and the arguments
9 and evidence presented at the hearing on September 21, 2011, the Court finds as follows:

10 **I. SPECIAL MASTERS.**

11 THE COURT FINDS that no objection pursuant to NRCP 53(a)(2) has been made
12 to any of the special masters appointed by the Court in the August 3 and August 4 Orders.

13 IT IS ORDERED that there being no objection, by any party, pursuant to NRCP
14 53(a)(2) to the special masters appointed by the Court in the August 3 and August 4 Orders
15 that this matter shall be referred to the following panel of special masters: Alan Glover,
16 Carson City Clerk Recorder; Thomas Sheets, Esq., Las Vegas, Nevada; and Robert
17 Erickson, formerly with the legislature Counsel Bureau.

18 IT IS FURTHER ORDERED that as indicated previously by the Court, these
19 Special Masters shall be compensated for their time, pursuant to NRCP 53; and, as
20 determined by the Court.

21 IT IS FURTHER ORDERED that the Secretary of State for the State of Nevada
22 shall apply to the Interim Finance Committee for the State of Nevada for funds to
23 compensate the Special Masters and to pay for any and all costs incurred in this
24 redistricting process, to include payment for any Legislative Counsel Bureau's staff time
25 involved therewith. This is a Statewide issue which should be paid for by the State of
26 Nevada.

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1 **II. LEGAL ISSUES.**

2 **A. United States Congressional Districts.**

3 IT IS ORDERED that the Special Masters shall create a map with four United
4 States congressional districts.

5 **(1) *Population requirements.***

6 IT IS ORDERED that to meet constitutional guidelines for the four proposed
7 United States congressional districts, each congressional district must contain precisely
8 equal population such that the most and least populated districts vary by only one person
9 total if any variation in population is required.

10 **(2) *Criteria to be Considered.***

11 **(a) *Contiguous districts.***

12 IT IS ORDERED that the Special Masters shall draw districts with a goal that the
13 borders are to be contiguous and not irregularly shaped by arbitrary distortions or non-
14 arbitrary distortions.

15 **(b) *Political subdivisions.***

16 IT IS ORDERED that the Special Masters shall, to the extent practicable, draw
17 districts with the goal of not dividing current political subdivisions (municipalities,
18 townships, cities, counties) with district lines where it is not otherwise necessary to do so
19 under the directives given herein.

20 **(c) *Communities of interest.***

21 IT IS ORDERED that the Special Masters, to the extent practicable, shall draw
22 districts to avoid dividing groups of common social (e.g. educational backgrounds, housing
23 patterns), economic (e.g. income levels, living conditions), cultural, or language
24 characteristics.

25 **(d) *General appearance.***

26 IT IS ORDERED the Special Masters shall seek to draw districts that are compact
27 and as regularly shaped as possible (e.g. rectangular or circular).

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1 (e) *Incumbents.*

2 IT IS ORDERED that the Special Masters, to the extent practicable, shall avoid
3 contests between incumbents.

4 (3) **Starting Maps.**

5 IT IS ORDERED that the panel of Special Masters may look at the last political
6 map, established and passed in 2001 by the Nevada State Legislature, and the SB 497
7 maps prepared by the 2011 Nevada State Legislature, if they wish to do so and to assist
8 them in the starting of the redistricting process. However, they are not required to do so.

9 (4) **Voting Rights Act requirement.**

10 IT IS ORDERED that the Special Masters shall determine whether the following
11 three preconditions are met (1) whether any minority group (i.e. hispanics) is "sufficiently
12 large and geographically compact to constitute a majority in a single-member district; (2)
13 that the minority group is "politically cohesive"; and (3) in the absence of special
14 circumstance, bloc voting by the white majority usually defeats the minority's preferred
15 candidate.

16 IT IS FURTHER ORDERED that if the Special Masters determine these three
17 preconditions are met, then the Special Masters shall prepare a report for the Court
18 indicating whether the totality of the circumstances supports a finding of vote dilution in
19 violation of section 2 of the Voting Rights Act, unless the Court creates a majority-
20 minority district.

21 IT IS FURTHER ORDERED that the factors the Special Masters shall consider in
22 making its report are as follows: (a) the history of voting-related discrimination in the State
23 or political subdivision; (b) the extent to which voting in elections of the state or political
24 subdivision is racially polarized; (c) the extent to which the State or political subdivision
25 has used voting practices or procedures that tend to enhance the opportunity for
26 discrimination against the minority group (e.g. unusually large election districts, majority
27 vote requirements, and prohibitions against bullet voting); (d) the exclusion of members of
28 the minority group from candidate slating processes; (e) the extent to which minority

1 group members bear the effects of past discrimination in areas such as education,
2 employment, and health, which hinder their ability to participate effectively in the political
3 process; (f) the use of overt or subtle racial appeals in political campaigns; (g) the
4 extent to which members of the minority group have been elected to public office in the
5 jurisdiction; (h) whether there is a significant lack of responsiveness by elected officials to
6 the needs of a minority group; and (i) whether the policy underlying the use of the voting
7 qualification, standard, practice or procedure is tenuous.

8 **(5) Representative fairness.**

9 IT IS ORDERED that the Special Masters may review the issue of representative
10 fairness in the drawing of the maps, but are not to become enthralled in any representative,
11 racial or partisan gerrymandering.

12 **B. Nevada state legislative districts.**

13 IT IS ORDERED that the Special Masters shall create a state legislative map with
14 twenty-one (21) Senate districts.

15 IT IS ORDERED that the Special Masters shall create a state legislative map with
16 forty-two (42) Assembly districts.

17 **(1) Population requirements.**

18 IT IS ORDERED that the 21 state senate districts shall be as close to equal in
19 population as is practicable, and any proposed deviation from the equal population shall be
20 *de minimis*, but that there shall not be more than two percent population deviation from the
21 equal population for any particular legislative district, with a goal to have one-half percent
22 deviation or less.

23 IT IS ORDERED that the 42 state assembly districts shall be as close to the equal
24 population as is practicable, and any proposed deviation from the equal population shall be
25 *de minimis*, but that there shall not be more than two percent population deviation from the
26 equal population for any particular legislative district, with a goal to have one-half percent
27 deviation or less.

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1 **(2) *Criteria to be Considered.***

2 **(a) *Contiguous districts.***

3 IT IS ORDERED that the Special Masters shall draw districts with a goal that the
4 borders are to be contiguous and not irregularly shaped by arbitrary distortions, non-
5 arbitrary distortions are described herein.

6 **(b) *Political subdivisions.***

7 IT IS ORDERED that the Special Masters shall, to the extent practicable, draw
8 districts with the goal of not dividing current political subdivisions (e.g. cities, counties)
9 with district lines where it is not otherwise necessary to do so under the directives given
10 herein.

11 **(c) *Communities of interest.***

12 IT IS ORDERED that the Special Masters shall, to the extent practicable, draw
13 districts to avoid dividing groups of common social (e.g. educational backgrounds, housing
14 patterns), economic (e.g. income levels, living conditions), cultural, or language
15 characteristics.

16 **(d) *General appearance.***

17 IT IS ORDERED that the Special Masters shall seek to draw districts that are
18 compact and as regularly shaped as possible (e.g. rectangular or circular).

19 **(e) *Incumbents***

20 IT IS ORDERED that the Special Masters, to the extent practicable, shall avoid
21 contests between incumbents.

22 **(f) *Nesting.***

23 IT IS ORDERED that the Special Masters may consider the nesting of state
24 assembly districts within state Senate districts.

25 **(3) *Starting map.***

26 IT IS ORDERED that the panel of Special Masters may look at the last political
27 map, established and passed in 2001 by the Nevada State Legislature, and the SB 497

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1 maps prepared by the 2011 Nevada State Legislature, if they chose to do so and to assist
2 them in the starting of the redistricting process. However, they are not required to do so.

3 **(4) *Voting Rights Act Requirements.***

4 IT IS ORDERED that the Special Masters shall determine whether the following
5 three preconditions are met (1) Whether any minority groups (ie. Hispanics) population is
6 "sufficiently large and geographically compact to constitute a majority in a single-member
7 district; (2) that the minority group is "politically cohesive"; and (3) in the absence of
8 special circumstance, bloc voting by the white majority usually defeats the minority's
9 preferred candidate.

10 IT IS FURTHER ORDERED that if the Special Masters determine these three
11 preconditions are met, then the Special Master shall prepare a report for the Court
12 indicating that the preconditions are met and further reporting on whether the totality of
13 the circumstances supports a finding of vote dilution in violation of section 2 of the Voting
14 Rights Act, unless the Court creates a majority-minority district.

15 IT IS FURTHER ORDERED that the factors the Special Masters shall consider in
16 making their report concerning the totality of the circumstances are as follows: (a) the
17 history of voting-related discrimination in the State or political subdivision; (b) the extent
18 to which voting in elections of the state or political subdivision is racially polarized; (c) the
19 extent to which the State or political subdivision has used voting practices or procedures
20 that tend to enhance the opportunity for discrimination against the minority group (e.g.
21 unusually large election districts, majority vote requirements, and prohibitions against
22 bullet voting); (d) the exclusion of members of the minority group from candidate slating
23 processes; (e) the extent to which minority group members bear the effects of past
24 discrimination in areas such as education, employment, and health, which hinder their
25 ability to participate effectively in the political process; (f) the use of overt or subtle racial
26 appeals in political campaigns; (g) and the extent to which members of the minority group
27 have been elected to public office in the jurisdiction; (h) whether there is a significant lack
28 of responsiveness by elected officials to the needs of a minority group; and (i) whether the

1 policy underlying the use of the voting qualification, standard, practice or procedure is
2 tenuous.

3 **(5) Representative fairness.**

4 IT IS ORDERED that the Special Masters may review the issue of representative
5 fairness in the drawing of the maps, but are not to become enthralled in any representative,
6 racial or partisan gerrymandering.

7 **III. SPECIAL MASTER PROCEEDINGS AND DIRECTIVES.**

8 IT IS HEREBY ORDERED that the Special Masters shall hold their two public
9 hearings, one on October 10, 2011 in Las Vegas, Nevada, and one on October 11, 2011 in
10 Carson City, Nevada. These hearings will be held at the Legislative Buildings at a time to
11 be determined by the Special Masters. Any additional briefs or documents to the Special
12 Masters are required to be hand-delivered thereto no later than 5:00 p.m. on Thursday,
13 October 6, 2011. Delivery may be made to the Court for distribution thereto.

14 IT IS HEREBY ORDERED that the Special Masters shall provide time for the
15 parties to present their arguments and evidence; and, additionally, then provide time for the
16 general public to provide any comments or information thereto.

17 IT IS HEREBY ORDERED that following these public hearings, the Special
18 Masters shall meet in private to work on the establishing of the redistricting maps for the
19 congressional districts, senate districts and assembly districts. The maps will be prepared
20 in that order. Legislative Counsel Bureau's technical assistance will be available to the
21 Special Masters to include, without limitation, Bureau's Brian Davie and Kathy Steinle.
22 The confidentiality of these meetings will be monitored by the Special Masters and the
23 Legislative Counsel personnel involved.

24 IT IS HEREBY ORDERED that the notice of the two public hearings will be
25 provided by the Legislative Counsel Bureau, with notice duly posted and placed on their
26 website. The Legislative Counsel Bureau is to provide web coverage for the two public
27 hearings, if available, and audio recordings of these hearings. If either party wishes to
28 have a court reporter present, they may chose to do so at their expense.

1 IT IS HEREBY ORDERED that the Special Masters shall provide their report and
2 the redistricting maps to the Court no later than October 21, 2011. The Court will then
3 release the Special Masters' report and the redistricting maps to the public.

4 IT IS HEREBY FURTHER ORDERED that following the release of the report and
5 the redistricting maps, that each party will then have ten (10) days to file their opposition
6 thereto. Each party will then have five (5) days to file any response to the other parties
7 opposition. The responses shall include a proposed order including the specific changes to
8 the maps proposed by the Special Master.

9 IT IS FURTHER ORDERED that the Court will hold a hearing on or before
10 November 16, 2011 to make a determination on the proposed maps in light of the
11 responses and replies filed by the parties. The Court will make a determination after this
12 briefing and evidence are considered by the Court whether to: (1) to adopt the maps
13 proposed by the Special Masters; (2) to refer the matter once again to the Special Masters
14 with specific revisions to the proposed maps in light of the briefing and argument of the
15 parties, which will then be adopted by the Court; or (3) render a decision in respect to this
16 matter with changes adopted by the Court.

17 Dated this 21st day of September, 2011.

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19 JAMES T. RUSSELL
20 District Court Judge
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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of September, 2011, I placed a copy of the foregoing Notice in the United States Mail, postage prepaid, addressed as follows:

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