

1 Case No. 11 OC 00042 1B

2 Dept. No. 1

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7

IN AND FOR CARSON CITY

8

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

Plaintiffs,

**REPORT OF SPECIAL MASTERS**

12

13 and

14 KEN KING, an individual; SANCY KING, an  
15 Individual; ALLEN ROSOFF, an individual,  
16 And the NEVADA REPUBLICAN PARTY

16 and

17 ALEX GARZA, an individual,

18 and

19 THE LEAGUE OF WOMEN VOTERS OF  
20 LAS VEGAS VALLEY,

Plaintiff-Intervenors,

21

vs.

22

23 ROSS MILLER, in his capacity as Secretary of  
24 State for the State of Nevada,

24

Defendant

1 **I. BACKGROUND**

2 The United States Constitution requires that representatives of Congress be apportioned  
3 among the several states according to their respective numbers. The Nevada Constitution assigns  
4 to the State Legislature the duty to establish redistricting plans for legislative districts. As a result  
5 of the 2010 census, the Legislature, during its 2011 session, considered these matters. The  
6 Legislature passed Senate Bill No. 497 and Assembly Bill No. 566 which provided for the  
7 redistricting of the state's U.S. congressional districts, including the need to add a fourth district,  
8 and to redistrict the state's Assembly and Senate districts to take into account, among other things,  
9 the state's population growth over the last decade. These bills were vetoed by the Governor. The  
10 Legislature thereafter neither overrode the Governor's vetoes nor presented further redistricting  
11 plans. The 2011 regular session ended without redistricting being accomplished. Thereafter the  
12 Governor indicated that he would not call a special session of the Legislature for the purpose of the  
13 Legislature further considering redistricting issues. The district court case in which this report is  
14 being filed and other litigation in Federal and State courts ensued as a means to attempt to resolve  
15 the redistricting issues.

16 In this redistricting case in orders dated August 3rd and August 4th, 2011, and pursuant to  
17 Rule 53 of the Nevada Rules of Civil Procedure this court appointed Robert Erickson, Alan Glover  
18 and Thomas Sheets to serve as non-partisan Special Masters. In a September 21, 2011, order this  
19 court provided material guidance to the Special Masters as to specific items and legal issues to be  
20 given consideration in performing the redistricting work. In that order the court referenced the  
21 statewide significance of the redistricting issues and directed the Special Masters to hold hearings  
22 at which public input could be received.

23 The Special Master hearings in the first instance were judicial proceedings. But the  
24 hearings also were in the nature of public comment sessions designed to allow interested

1 individuals and entities the opportunity to share with the Special Masters their perspectives on the  
2 facts and law to be considered in redistricting deliberations. These hearings, which were held on  
3 October 10, 2011, in Las Vegas and on October 11, 2011, in Carson City, were noticed in a  
4 manner not dissimilar to that which would be required under the state's open meeting laws even  
5 though these hearings were part of a judicial process. Copies of the notices are attached hereto as  
6 Exhibits A and B.

7 Over the course of the two full day hearings, at least 35 members of the public appeared  
8 and offered advice, opinions and recommendations about redistricting efforts. Additionally, each  
9 of the parties to the litigation appeared at the hearings, represented by counsel, and each party  
10 provided the Special Masters with comments, reports, and materials.

11 It should be noted that this court outlined the Special Master procedure it intended to use  
12 and the Masters it intended to appoint in early August 2011. No objection by any party was made  
13 to the court about the judicial process to be employed or the Masters who were to be appointed.

14 Prior to the October 10 and 11 hearings there were questions raised as to the whether the  
15 Special Master's activities should be placed on hold pending consideration by the Nevada Supreme  
16 Court of certain legal, jurisdictional and procedural issues. The Supreme Court concluded that the  
17 process should continue on a dual track with the Supreme Court's own activities for reason of the  
18 public good and toward a swift resolution of the redistricting issues. The court said "Strong public  
19 policy reasons dictate that the parties concerns are subordinate to the general public's interest in  
20 having this redistricting matter resolved expediently so as to avoid continued and ongoing  
21 disruption to Nevada's election process." The Special Masters were mindful of the Supreme  
22 Court's direction as the Masters went about completing their redistricting activities in a timely and  
23 expeditious fashion.

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1 Governor Sandoval reportedly commented on the ongoing judicial activities stating “I have  
2 confidence in the judicial process.” He went on to further to say that he respected the specific  
3 process laid out by this district court. The Special Masters conducted their hearings and went  
4 about their deliberations on the statewide redistricting issues employing that very process.

5 Governor Sandoval said in his State of the State address on January 24, 2011, that  
6 legislative and congressional districts should be drawn for a fair representation of all constituents  
7 and that they must be consistent with the law. In his May 14, 2011, veto message of Senate Bill  
8 497, the Governor stated that fair representation of all Nevadans is the goal of redistricting rather  
9 than redistricting for the sake of partisan opportunity. The Special Masters were mindful of  
10 Governor Sandoval’s reasoned comments as they went about their deliberations and constructed  
11 the nonpartisan recommendations on the statewide redistricting issues which are submitted in this  
12 report.

13 The Special Masters viewed the task which was assigned to them as exceptional,  
14 extraordinary and unique. The Masters were both honored and humbled to have been afforded the  
15 opportunity to contribute meaningfully to our state’s election process. The Special Masters  
16 endeavored to act in a non-partisan fashion and took their overall responsibility very seriously.  
17 The Special Masters read all the pleadings submitted in this litigation including all of the briefs  
18 submitted dealing with both legal and factual issues. The Special Masters reviewed all of the  
19 documents which were filed with the Nevada Supreme Court and the court’s orders with respect  
20 thereto.

## 21 **II. UNITED STATES CONGRESSIONAL DISTRICTS**

22 The court ordered the Special Masters to create a map with four United States  
23 Congressional districts. The map along with accompanying schedules and materials is attached  
24 hereto as Exhibit C.

1           The congressional map which the Special Masters are submitting is drawn so that each  
2 district contains equal population other than one district which varies by only one person from the  
3 other three districts. In this map the Special Masters were able to create: a distinct northern  
4 Nevada district; a distinct central Nevada and northern Clark County district; a distinct Las Vegas  
5 valley urban core district; and a distinct southern Clark County district.

6           The districts are drawn to be contiguous and the Special Masters have endeavored to not  
7 irregularly shape by arbitrary distortion or non-arbitrary distortion any district. To the extent  
8 practicable the districts have been drawn with the goal of not dividing current political  
9 subdivisions with district lines where it was not otherwise necessary to do so.

10          The Special Masters to the extent practicable have drawn the districts to avoid dividing  
11 groups of common social, economic, cultural, or language characteristics where it was not  
12 otherwise necessary to do so. To the extent practicable the districts have been drawn to be as  
13 compact and regularly shaped as possible. To the extent practicable the Special Masters have  
14 endeavored to avoid creating contests between incumbents.

15          The Special Masters in undertaking their efforts to create a map with four United States  
16 Congressional districts reviewed the last political map established and passed in 2001 by the  
17 Nevada State Legislature, and the maps approved and submitted to the Governor by the 2011  
18 Nevada State Legislature with respect to Senate Bill 497 and Assembly Bill 566. The Special  
19 Masters reviewed maps submitted by Artie Blanco; Dwayne Chesnut, Forrest Darby and Mike  
20 Selvage (2 maps); Ed Gobel and Linda West Myers; Vicenta Montoya (2 maps); Jose Solorio (3  
21 maps); Andres Ramirez; Alex Garza; and Mike Green; and all other maps and concepts submitted  
22 to the Masters by parties to the litigation and interested members of the public who participated in  
23 the October 10th and 11th hearings or who otherwise submitted maps and concepts suggesting  
24 alternatives to be considered for congressional redistricting.

1           The Special Masters in creating a map with four United States Congressional districts  
2 carefully considered the issues associated with treatment of minority groups. The Special Masters  
3 considered the facts presented, testimony, argument and the law as they understood it. The Special  
4 Masters concluded that no particular minority group was sufficiently and geographically compact  
5 to constitute a majority in a single member district. The Special Masters concluded that there was  
6 evidence that a minority group or groups were “politically cohesive.” The Special Masters  
7 concluded that bloc voting by the white majority was not shown to usually defeat a minority’s  
8 preferred candidate. Because the Special Masters believed that all three preconditions under the  
9 Voting Rights Act of 1965 were not met they did not further examine the issue of vote dilution.

10           The Special Masters considered to the extent of available information any history of  
11 voting-related discrimination in the State and in its political subdivisions; the extent to which  
12 voting in elections of the state and political subdivisions has been racially polarized; the extent to  
13 which the State or political subdivision has used voting practices or procedures that tend to  
14 enhance the opportunity for discrimination against the minority group such as unusually large  
15 election districts, majority vote requirements, and prohibitions against bullet voting; the exclusion  
16 of members of minority groups from candidate slating processes; the extent to which minority  
17 group members bear the effects of past discrimination in areas such as education, employment and  
18 health, which have hindered their ability to participate effectively in the political process; the use  
19 of overt or subtle racial appeals in political campaigns; the extent to which members of the  
20 minority group have been elected to public office in the jurisdiction; whether there has been a  
21 significant lack of responsiveness by elected officials to the needs of a minority group; and  
22 whether the policy underlying the use of the voting qualification, standard, practice or procedure  
23 has created a tenuous process.

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1           The Special Masters reviewed the issue of representational fairness in drawing the map of  
2 the United States congressional districts and gave that issue the weight which the Special Masters  
3 believed was appropriate.

4           The Special Masters reviewed citizen voting age population, voting age population, total  
5 population and 2010 census data, among other items, in examining the redistricting issues.

6 **III. NEVADA STATE LEGISLATIVE DISTRICTS**

7           The court ordered the Special Masters to create a state legislative map with 21 Senate  
8 districts and a state legislative map with 42 Assembly districts. Those maps and accompanying  
9 schedules and materials are attached hereto as Exhibits D and E.

10           The maps which the Special Masters are submitting are drawn so that each legislative  
11 district is as close to equal in population as is practicable, and any deviations from equal  
12 population are de minimus. The court instructed the Special Masters that there should be no more  
13 than two percent population deviation from the equal population for any particular legislative  
14 district, with a goal of one-half percent deviation or less. In Exhibit D, the Senate map which is  
15 being submitted, the population deviation for all Senate districts, other than Senate District 17,  
16 meets or exceeds the goal of no more than one-half percent population deviation or less. In order  
17 to respect the boundaries of Storey, Churchill, Lyon and Douglas counties in their entirety, the  
18 population deviation for District 17 is 0.57 %, slightly more than the optimal one-half percent goal  
19 but significantly less than the two percent population deviation ceiling established by the court.

20           In Exhibit E, the Assembly map which is being submitted, the population deviation for all  
21 Assembly districts, other than Assembly District 38, meets or exceeds the goal of no more than  
22 one-half percent population deviation or less. In order to reasonably consider a boundary issue the  
23 population deviation for Assembly District 38 is 0.82 %. This is slightly more than the optimal  
24 one-half percent goal but significantly less than the two percent population deviation ceiling

1 established by the court. To the extent practicable the Assembly districts have been nested within  
2 the State Senate districts which are being recommended.

3 The Special Masters in undertaking their efforts to create maps with state legislative  
4 districts reviewed the last political maps established and passed in 2001 by the Nevada State  
5 Legislature, and maps approved and submitted to the Governor by the 2011 Nevada State  
6 Legislature with respect to Senate Bill 497 and Assembly Bill 566. The Special Masters reviewed  
7 maps submitted by Alex Garza and all other maps and concepts submitted to the Masters by parties  
8 to the litigation and interested members of the public who participated in the October 10th and  
9 11th hearings or who otherwise submitted maps and concepts suggesting alternatives considered  
10 for state legislative redistricting.

11 Pursuant to this court's order in drawing the State Senate and Assembly districts, the  
12 Special Masters considered the same or similar types of issues and criteria which the court  
13 directed be considered by the Special Masters with respect to Congressional redistricting and  
14 which has been previously referenced herein..

#### 15 **IV. CONCLUSION**

16 As was mentioned previously the Nevada Supreme Court referenced the paramount  
17 importance of considering the general public's interest in seeing that the redistricting issues were  
18 expediently considered. When as in this instance our elected officials are unable, for whatever  
19 reason, to complete duties of material import to the constituents who elected them, the result is  
20 often to look to the courts for an answer. In Nevada those State courts from which guidance is  
21 sought are presided over by judges who are also duly elected public officials.

22 We Special Masters to the best of our abilities, relying upon our diverse qualifications and  
23 backgrounds, endeavored to consider all of the information presented to us by all litigating and  
24 interested parties and to fully consider redistricting materials developed and derived during the



1 2011 Legislative session. We considered and applied what we were instructed and what we  
2 understood the law to require. With that in mind we endeavored to develop for the benefit of all  
3 Nevada constituents what we consider to be the fair, impartial and representative congressional  
4 and legislative redistricting recommendations which we are now submitting to this court.

5         The State’s Supreme Court will likely ultimately determine legal, jurisdictional and  
6 procedural requirements and whether the work that has been done by the Special Masters is of  
7 assistance in seeing that redistricting issues were expediently considered. Notwithstanding that,  
8 the Special Masters appreciate this district court’s confidence in their ability to wade through a  
9 series of complex legal and factual issues on a comprehensive, impartial, and non-partisan basis. It  
10 has been our privilege to contribute to the public good through our work on the redistricting issues  
11 that this court assigned to us. We hope that our submission and report has met the court’s  
12 expectations. As three long time Nevada registered voters who care deeply about fairness in the  
13 electoral process, thank you for allowing us the honor to work on this matter.

14         Dated this 14<sup>th</sup> day of October, 2011.

15  
16 **THE SPECIAL MASTERS**

17  
18 \_\_\_\_\_  
19 Thomas R. Sheets, Chair

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21 \_\_\_\_\_  
22 Robert E. Erickson

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24 \_\_\_\_\_  
Alan H. Glover