

1 Case No. 11 OC 00042 1B  
2 Dept. No. I

REC'D & FILED  
21 SEP 21 PM 3:03  
ALAN GLOVER  
BY *Alan Glover* CLERK  
DEPUTY

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;

11 Plaintiffs,

ORDER Re: REDISTRICTING

12 and

13 KEN KING, an individual; SANCY KING, an  
14 individual; ALLEN ROSOFF, an individual,  
15 and the NEVADA REPUBLICAN PARTY

16 and

17 ALEX GARZA, an individual,

18 and

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

21 Plaintiff-Intervenors,

22 vs.

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

25 Defendant.

\_\_\_\_\_ /

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

28 ///

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.

27 ///

28 ///

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).

28 ///

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.

28 ///

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

28 ///

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.

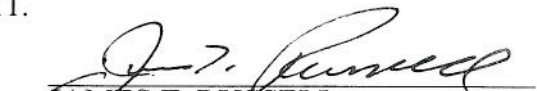


1 IT IS HEREBY ORDERED that the Special Masters shall provide their report and  
2 the redistricting maps to the Court no later than October 21, 2011. The Court will then  
3 release the Special Masters' report and the redistricting maps to the public.

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 21~~st~~ day of September, 2011.

18   
19 JAMES T. RUSSELL  
20 District Court Judge  
21  
22  
23  
24  
25  
26  
27  
28

1 CERTIFICATE OF SERVICE

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

4 Bradley S. Schrager, Esq.  
3773 Howard Hughes Parkway Third Floor South  
5 Las Vegas NV 89169

6 Matthew Griffin, Esq.  
1400 S Virginia Suite A  
7 Reno NV 89502

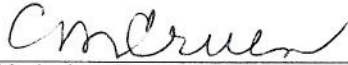
8 Kevin Benson, Esq.  
Attorney General's Office  
9 100 N. Carson Street  
Carson City NV 89701

10 Mark A. Hutchison, Esq.  
11 Jacob A. Reynolds, Esq.  
10080 West Alta Drive #200  
12 Las Vegas NV 89145

13 Marc E. Elias, Esq.  
Kevin J. Hamilton, Esq.  
14 700 Thirteenth Street NW  
Washington DC 20005-3960 1

15 David R. Koch, Esq.  
16 Daniel H. Stewart, Esq.  
Koch & Scow LLC  
17 11500 S. Eastern Avenue, Suite 210  
Henderson NV 89052

18 Denise Pifer, Esq.  
19 3821 West Charleston Blvd. #250  
Las Vegas NV 89102

20   
21 Christine Erven  
22 Judicial Assistant, Department 1  
23  
24  
25  
26  
27  
28