

**EXHIBIT 5**

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DISTRICT COURT  
DENVER COUNTY  
COLORADO  
1437 Bannock Street  
Denver, CO 80202

\*FOR COURT USE ONLY\*

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LORENA GARCIA,

Petitioner,

vs.

Case No. 2020CV031467  
Division/Room 280

JENA GRISWOLD IN HER OFFICIAL  
CAPACITY AS SECRETARY OF  
STATE,

Respondent.

---

For Petitioner:

Amy Lenore Padden, Esq.

For Respondent:

Leeann Morrill, Esq.

Emily Burke Buckley, Esq.

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The matter came on for hearing on April 30, 2020, before the HONORABLE CHRISTOPHER BAUMANN, Judge of the Denver County District Court, and the following proceedings were had.

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P R O C E E D I N G S

THE COURT: Okay. We are going to go on the record in 20CV31467. And Ms. Padden appears for Petitioner and we have Ms. Buckley and Ms. Morrill for Respondent. Ms. Garcia is also present on the line.

All right. Well, I have some really bad news for the parties, unfortunately. Last night, when we finished at 9:23, we checked our FTR before we left for the evening to make sure that there were no issues and for whatever reason, our FTR stopped recording at about 2:39 p.m. yesterday. So that is about seven hours of testimony that is not recorded.

So, I knew that last night, so I've had about 10 hours to be upset about it, and I'm still sick about it. My microphone was working, everybody could hear me, I actually mute my computer microphone because it will get feedback, so, my microphone was working because everybody could hear me on WebEx and our FTR machine was counting with the time on, but it just didn't record.

And so 2:39 was in the middle of Ms. Wheeler's testimony. So I think I'm glad I found now -- found out now that this is what happened so that we can fix the problem by taking testimony again. I know that is not ideal for anybody. It's more time, it's more attorneys fees, it's more everything. I can't apologize enough.

I don't know what happened. But we don't have a

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recording of the testimony yesterday, so, my suggestion is that we retake testimony in Ms. Garcia's case and then we can contact Ms. Athanasiou and take testimony in her case as well in Ms. Wheeler's case, either later this afternoon or tomorrow morning.

I don't know if the parties are prepared to start taking testimony again in Ms. Garcia's case right now or if the parties need some time to get their witnesses together and questions together, but I think that's the only way to fix the problem, is to take testimony again, which I know nobody really wants to do because we worked so hard yesterday to do it, but I think that's the only way to fix the problem.

So Ms. Padden, do you have a preference as to when we start taking additional testimony or we can do it now? My 9:00 I've asked to move to a different day or we can come back this afternoon if you need some time to kind of reset and get witnesses together and try to do Ms. Athanasiou's case tomorrow morning. I'm open to suggestions.

So Ms. Padden?

MS. PADDEN: Your Honor, I would need some time to clear the rest of my day. So -- and also check the availability of witnesses. Obviously, Ms. Garcia's available now, I don't know if she is available all day. I'm wondering if we could take a brief recess to determine that issue.

THE COURT: Okay.

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MS. PADDEEN: There are number of things on my calendar today that I'm just going to have to clear. Starting at 10:00 a.m.

THE COURT: Okay. All right. Ms. Morrill or Ms. Buckley, do you have a preference on how we move forward?

MS. BUCKLEY: Your Honor, I would say that I think the Secretary's greatest concern is that obviously we have an immovable May 7th content certification deadline, as well as very short appeal deadlines that we're all working under, depending on when you issue your final decision, which we appreciate you've endeavored to do right away as quickly as possible. A significant sorrow that I have is given that the court had no way of knowing that the FTR -- that the FTR appeared to be recording during all of yesterday's hearing, what -- what confidence or what can we do to ensure that this isn't going to happen again, that we don't go through all of the witnesses and essentially all of two proceedings again in a repeat and then only to find out that the FTR continues to malfunction?

Is there a backup system that the Court can employ in addition to the FTR that would help, you know, sort of balance or has this happened before and if so, has the Court's FTR specialist been able to, you know, get into the electronic recording and resurrect it?

I know it's all digital, it's all beyond me, and

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escapes me, but I know there are people who have these qualifications and abilities. So those are I guess those are some questions I have.

THE COURT: So we asked our FTR specialist to look at it this morning. I don't think he or she has been in yet. We did test the system again this morning to see if it was recording and capturing what we were saying. And it was.

As far as a double backup, what I would suggest is -- I would authorize the attorneys in this case to record the WebEx. I know that previously I haven't allowed that. I don't think any of my colleagues have. But I would simply ask the attorneys to record the WebEx and subject to further court order, it couldn't be disseminated or shared in any way, but if for some reason we had an FTR issue, then we would at least have a recording that way and we can figure out how to get that on the FTR.

So I'm confident if we do the testimony again today that we would have a backup on the WebEx and we would just check the recording periodically, along the way.

MS. BUCKLEY: Thank you, Your Honor. The other thing I would add is we will figure out how to to be available to make Mr. Albin available. He cannot hear. I'm getting messages from him that he cannot hear the proceedings right now, so I would like to confirm what I'm offering, is that we can say that he will be available when needed.

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But I do want to proceed in the same order that we have, where he, you know, we -- the Plaintiffs do their cases in chief and then, you know, the Secretary does her, you know, defense and response.

THE COURT: Okay. That's fine with me.

MS. MORRILL: So is there any way we can help Mr. Albin to hear and be part of this? I'll ask him to call. I'll send him a text and ask him to call the courtroom in addition to being on WebEx.

THE COURT: Okay. I'm showing --

MS. MORRILL: And see if that works.

THE COURT: I'm showing -- I'm still showing him as a participant, but I take it he can't hear me as well? Mr. Albin?

MS. MORRILL: That's what he's saying.

MR. ALBIN: I can hear intermittently, so I've probably only caught about 20 percent of the conversation so far.

THE COURT: Okay. I'm fine with you calling in. I know we've done that before with some other participants, so if you want to hang up and just call in. We can try that way.

MR. ALBIN: Okay. Can I just say is it possible that I get contacted right before I'm going to testify, because I'm unfortunately trying to certify the ballot for 400 candidates, so I don't have the time to kind of sit here and



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wait. Is that possible?

THE COURT: Absolutely. Of course.

MR. ALBIN: Okay.

THE COURT: All right. So Ms. Buckley, Ms. Morrill, what's your availability today?

MS. MORRILL: We will clear our schedule to reconvene as soon humanly possible.

THE COURT: All right. Ms. Padden, then do you want to take a short recess and talk to your client and then we'll go off the record and we'll check to make sure that we're recording right now. And if we're having an issue we will let everybody know. Okay?

MS. PADDEN: Okay. That sounds good. Yeah, and I need to make sure that I can clear everything. There may be a possibility that I'll need to take a short break at some point in the afternoon about one thing that may not be able to be rescheduled.

THE COURT: All right.

MS. PADDEN: But let me see what I can do.

THE COURT: Okay. Let's take a 15 minute recess then and come back on at 8:55.

MS. MORRILL: Thank you, Your Honor.

MS. PADDEN: Okay.

THE COURT: And I'm going to go ahead - I'm going to end the meeting and I'm going to shut everything down

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and then we're going to check the FTR to make sure that it's recording and then we'll come back on the record. Okay?

MS. MORRILL: Okay. Thank you.

MS. PADDEN: Thank you.

THE COURT: All right. I apologize. I'm sorry for the bad news.

(Off record)

THE COURT: Okay. We are back on the record in 20CV31467. Ms. Padden appears on behalf of the Petitioner, Ms. Garcia. Ms. Garcia is present as well and Ms. Buckley and Ms. Morrill are back.

So scheduling I guess I'll start with Ms. Padden. What can you tell the Court?

MS. PADDEN: Yes, Your Honor. So I have something at 10:00 I'm trying to get moved, but I haven't gotten confirmation yet and I have a call at 11:00 a.m. that I simply cannot move. And then I can clear off my calendar pretty much the rest of the day, other than I also have something at 2:45, that I'm not clear whether I can move or not. It would only be about 25 minutes, so maybe if I can't move it we can take a brief recess.

The other issue is (indiscernible) are both available. We have not been able to get a hold of Mr. Meisner. As the Court may recall, he's got a new baby and usually stays up all night and then sleeps in the morning. But I think if we

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were to start, you know, maybe at noon, he would be -- that's not a problem, he should be available then. And I should be -- wrap up my 11:00 a.m. commitment at that point.

If that works for the Court and Counsel.

THE COURT: All right. Ms. Buckley or Ms. Morrill?

MS. BUCKLEY: Your Honor, we've cleared our schedules. We are available to start whenever the Court deems appropriate.

THE COURT: Okay. So Ms. Padden is requesting to start at noon. I can do that as well. I can tell the parties, my clerk reached out to Ms. Athanasiou as well and she would be available today anytime after 4:00, and anytime tomorrow morning. So, I would prefer to do it today.

I know nobody is looking forward to a long night again, but, she can start at 4:00. So I think if we started Ms. Garcia at noon and took the next case at 4:00, then I should be able to issue rulings today. I'll do it from the bench and we would be completed today.

So does that work for you, Ms. Buckley or Ms. Morrill?

MS. BUCKLEY: Your Honor, I would just say that we would endeavor to meet that four-hour window. But my recollection of the Plaintiff's case in chief is that it was, you know, substantially all of that. So I think if we go back

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and look at the time, that they're going to put on the four same witnesses and try to get in the same exhibits, we're going to have the same record to make yesterday and I don't want to shortchange the Secretary to be able to make the record that she needs in this trial and time permitting, we will be able to start Ms. Wheeler's hearing at 4:00 p.m.

So my suggestion is, you know, while Ms. Padden is trying to rearrange her schedule and line up her witnesses, that she consider what she's going to present at the hearing this afternoon and so we can plan accordingly. Because I think realistically, she's going to put on all the same evidence, all the same witnesses, we're going to -- it's going to take longer than 4:00 p.m. And we might want to schedule Ms. Athanasiou for tomorrow morning.

THE COURT: My -- I'm not sure what time we stopped yesterday. I think we started at 1:30 and my recollection is we started Ms. Garcia's case a little after 5:00. Well, I think if we started at noon Ms. -- we started at 5:30 last night, and I think we finished at I think 9:23. That would be about four hours.

MS. BUCKLEY: And we were only at the beginning of, Judge, Joel Albin's testimony. He had not been --

THE COURT: That's true. That's true.

MS. BUCKLEY: Right. So it was over -- by our count it was over four and a half hours yesterday for just

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Garcia and we only started Mr. Albin's direct testimony and had not gone through that and no cross-examination and then any, you know, rebuttal so I'm just concerned where we're going to end up.

THE COURT: Sure. I mean, the other option is we can start testimony in Ms. Garcia's case now, Ms. Padden, and just take breaks. But if you would prefer to call your case from beginning to end, I'm not going to insist one way or the other. I'll leave it up to you.

MS. PADDEN: Yes, Your Honor. I would prefer to call it from beginning to end.

THE COURT: All right.

MS. PADDEN: we can possibly start at 11:30 if -- if I can get off my 11:00 a.m. at that time.

THE COURT: All right. And your 11:00 a.m., is that a hearing or is that like a phone conference?

MS. PADDEN: It's a phone conference.

THE COURT: Okay. All right. Why don't we plan on starting at 11:30?

MS. PADDEN: Okay.

THE COURT: We'll plan on starting at 11:30 and let's schedule Ms. Athanasiou and Ms. Wheeler to start at 4:00. And if they have to wait a little bit for us to start, that's fine. Ms. Garcia and everybody had to wait yesterday on them, so if they have to wait a little bit on the other end, then

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that's fine. Let's plan on starting this case at 11:30 and plan on starting Ms. Wheeler's case at 4:00. Okay?

MS. BUCKLEY: Your Honor --

THE COURT: And just so the parties --

MS. BUCKLEY: -- that's --

THE COURT: Hold on. And just so the parties know, in Ms. Wheeler's case as I stated, we did capture an hour of testimony in her case, so it ended at 2:39 p.m. with Ms. Wheeler in cross-examination and it was a series of questions about members of the Colorado Assembly proposing amendments and if she was familiar with how a bill becomes a law. The last response that was picked up was, I think there was an objection, essentially non-responsive objection. And I stated that she could only respond to questions that Ms. Buckley asked her. I think it was Ms. Buckley that was asking her questions. So, that's kind of where we ended with her.

So I don't anticipate Ms. Wheeler's testimony taking as long as it did yesterday. I don't think we need to go over any ground that we covered yesterday that's recorded, unless somebody disagrees. No? Okay.

MS. BUCKLEY: Ms. Athanasiou, Ms. Wheeler's Counsel, is not on the phone right now, so she may (indiscernible), but --

THE COURT: And Ms. Buckley, I didn't pick up the beginning of what you said.

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MS. BUCKLEY: Your Honor, I'm just noting for the record that Ms. Wheeler's counsel's not on the phone right now. I recall that she did have some redirect and so I don't know if she needed to finish up or whether Ms. Wheeler should testify again or not. We do not think that any testimony that was recorded from Ms. Wheeler should be -- need to be repeated, but she's not weighed in yet.

THE COURT: Okay. All right. Then we will be in recess and we'll call Ms. Garcia's case again at 11:30 and proceed until we're finished.

MS. PADDEN: Your Honor, I do have one -- if I may -- just one. And I don't know if the Secretary's in a position to stipulate (indiscernible) but they didn't Ms. Wheeler's case. I did send over those screenshots last night. (indiscernible) for sure.

THE COURT: Okay.

MS. BUCKLEY: No.

THE COURT: I'll let them decide. I don't know if they're going to have time to look at those or if Mr. Albin will have time. It sounds like he is a lot going on, so-- as does everybody.

MS. BUCKLEY: That's correct, Your Honor. We will not have time to review 222 signatures either as counsel or through a witness to stipulate to.

THE COURT: All right. Let's go ahead and

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disconnect. And I'll see everybody at 11:30.

MS. BUCKLEY: Okay. Thank you.

THE COURT: All right. Thank you.

MS. PADDEN: Thank you.

(Off record)

THE COURT: Okay. We are on the record in 20CV31467. Ms. Padden appears on behalf of Ms. Garcia who is also present. Ms. Buckley and Ms. Morrill appear on behalf of the Respondent Secretary.

All right. Ms. Padden, any preliminary issues that you would like to discuss?

MS. PADDEN: No, Your Honor.

THE COURT: All right. Ms. Morrill, Ms. Buckley, any preliminary issues you would like to discuss?

MS. BUCKLEY: Yes, Your Honor. This is --

MS. PADDEN: I just have one thing before you go, which is if we were inclined to record this proceeding, Your Honor, and you are inclined to authorize that, how would we do so using WebEx?

THE COURT: So do you have the control buttons; the mute button, the video button, there's a button that has a red dot that says recorder. You see that?

MS. PADDEN: That is not among my buttons.

THE COURT: Any other party see that?

MS. BUCKLEY: Yeah, it is not an option for me



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either.

THE COURT: Okay. All right. Given the technical issues that we had yesterday then, I will record on my end, and do you have the record button as well? Just me as the host? Okay.

MS. PADDEEN: Okay, thank you, Your Honor.

THE COURT: Going to record to my computer is what it says. All right. Can the parties still hear me?

MS. BUCKLEY: Yes, Your Honor.

MS. PADDEEN: Yes, Your Honor.

THE COURT: Okay. All right. I think it's recording. There's a green line moving up and down every time I talk, so.

MS. PADDEEN: I have an icon in my upper right hand corner that it's recording.

THE COURT: Okay. Yep. I see that as well. All right. Any preliminary issues then on behalf of Respondent?

MS. BUCKLEY: Yes, Your Honor. This is Emily Buckley on behalf of the Respondent. We would like to leave the jurisdictional argument up to the Court's consideration at the outset of the proceedings, in the event the ruling on this jurisdictional issue will streamline the proceedings before the Court today.

THE COURT: Okay, go ahead.

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MS. BUCKLEY: Your Honor, the Secretary argues that the Court lacks jurisdiction under Section 113, to consider Ms. Garcia's late challenge to over 220 signatures. To allow her to proceed with this challenge would violate the express requirement of notice to the official, which includes an opportunity to be heard, in Section 1-113(1). Section 113 proceedings or summary proceedings in which a party is required to defend on short notice claim (indiscernible) in a petition, without discovery or time to conduct additional factual investigation.

This year, Secretary, has defended or is presently defending, six Section 113 cases within the last few weeks at both the District Court and appellate level. This is not unusual for the Secretary in an election year. In fact, it is quite common. And the timeframe for Section 113 petitions is governed not only by the short statutory timeframe within 113 for filing for appeal, but also by State in Federal statute which dictates that the ballot content must be certified and balance must be mailed to overseas and absentee voters within a particular time.

And as in every election year, the Secretary staff is already working every waking hour on certifying measures for the ballot and assisting County clerks with ballot content and other important election issues. And the General Assembly is no doubt aware of all these constraints and is

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aware of what section 113 declares all parties to do. And in construing Section 113, the Court must effectuate the General Assembly's intent here to ensure that notice and opportunity to be heard is given the true meaning here and the Secretary is allowed an opportunity to have notices of what the claims are and to be heard on those claims.

In this case, Ms. Garcia's petition filed on April 24th did not notify the Secretary of a challenge to or an objection to any specific or individual signatures in the petition. Instead, Ms. Garcia requested a review of signatures that were determined to be invalid, including a review of signatures for which the applicable congressional district could not be determined. This generalized request for relief did not provide sufficient notice under the Rules of Civil Procedure that Ms. Garcia intended to challenge the specific signatures and therefore, the claim is simply -- the claim that she is advancing before this court now is simply not preserved.

Now, the Secretary, due to the insufficiency determination as to Ms. Garcia's petition on April 20th, under Section 1-4-909(1.5), Ms. Garcia has five days, which is until April 25th, to challenge the Secretary's determination that her petition was insufficient.

Here, April 25th fell on a weekend, so in fact, her filing deadline was April 27th. And Ms. Garcia could have timely amended or even filed her petition on April 27th to take

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advantage of those additional times and she could've asserted the 200 -- over 200 signatures as a discrete claim before in that petition. And had she done so, that would've provided the secretary notice of the claim that she is bringing here today, but she did not.

And for that reason, the Court lacks jurisdiction to consider this untimely claim which the Secretary first learned of on the morning of the hearing, which was initially yesterday morning at approximately nine in the morning. And the Secretary asks the Court to dismiss for lack of jurisdiction this challenge to the over 200 signatures.

THE COURT: Okay. Thank you.

MS. BUCKLEY: Thank you.

THE COURT: All right. Ms. Padden, would you like to respond and make a record?

MS. PADDEN: Yes, Your Honor. First of all, Your Honor already resolved this issue yesterday. There is no new information, but again, Section 113 talks about notice. The federal -- or the Colorado Rules of Civil Procedure just requires short and plain statement of the claim. There's nothing in 113 that requires the petitioner to identify specific signatures that she is challenging. And it would be inappropriate for the court not to allow her to be heard, specifically under the circumstances.

The Secretary took over a month to review the

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petitioner's signatures, but the petitioner had no control over that. The signatures were submitted on March 17 and the review was not completed until April 20th. We did act as quickly as possible. We did file our appeal (indiscernible) earlier when we first appeared in front of the Court for status conference telephonically on Tuesday, I Your Honor, (indiscernible) submit details about those signatures by 10:00 a.m. yesterday. We did so. We filed them shortly before 9:00 a.m. and served them on the Secretary of State shortly after 9:00 a.m. by email.

And Section 909 (indiscernible) for review of the determination by the Secretary of the State. And we require (indiscernible) petition itself identify the specific signatures that are being challenged and that's the purpose of the hearing.

THE COURT: Okay. Having heard that record, the Court will deny the request from the Respondent. The Court notes that petition signatures are were submitted on March 17th 2020. The statement of insufficiency issued on April 20th, 2020. The petition was timely filed on April 24th, 2020.

In that petition in paragraph 82, Ms. Garcia did indicate that she as an alternate argument would be challenging any rejected signatures. The Court would also note that the challenge is to 222 signatures out of a total of 9,428 signatures that have at this point been declared valid at this point in time with 9,428 total balance signatures, that is 89.7

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percent of the requested -- or I'm sorry, the threshold for total number of valid signatures.

If the Court were to somehow deem all 222 signatures to be valid, that would raise that total to 9,650 or 91.9 percent, Ms. Garcia would still be short 850 signatures.

I just point that out to kind of put into context I think the somewhat marginal difference between declaring all of those signatures to be valid or having none of them declared to be valid. Statistically under the Court's previous rulings, I don't think that a difference between 89.7 percent or 91.9 percent is going to frankly, prejudice either party in how the Court resolves this issue.

And I know that as well not to say that this is not an important issue, but to give some context to my belief that I'm endeavoring to give both parties every opportunity to make a record on any of these challenged signatures and to declare any challenged signatures that may have been stated as invalid to potentially be declared valid, to give intent to the voter that signed the petition. So I'm trying to juggle all those issues, understanding that everybody's on a very compressed timeframe and is really struggling to get everything done in a timely manner. I certainly understand that, but this is the only opportunity Ms. Garcia has to establish the record on these signatures, so I will allow her to do so.

MS. BUCKLEY: Thank you, Your Honor.

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THE COURT: With that (indiscernible) is there any additional record you would like to make on that particular issue?

MS. BUCKLEY: Your Honor, no. No additional record. Just to say that we understand the content of your ruling and maintain our objection.

THE COURT: All right. Thank you. All right. Any other preliminary issues on behalf of Respondent?

MS. BUCKLEY: No, Your Honor.

THE COURT: Okay. All right then, Ms. Padden, would you like to call your first witness?

MS. PADDEN: Yes, Your Honor we would call Ms. Banyai-Becker.

THE COURT: All right. Ms. Banyai-Becker correct Banyai-Becker, can you hear me? Ms. Banyai-Becker, are you there? Can you hear me?

MS. BANYAI-BECKER: Yes. Can you hear me?

THE COURT: I can hear you now, yes. All right. I'm going to swear you in, so if you will raise your right hand for me, please?

MS. BANYAI-BECKER: My hand is raised.

(Oath administered)

THE WITNESS: Yes.

THE COURT: All right. Ms. Padden, go ahead.

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HAYLEY BANYAI-BECKER

called as a witness on behalf of the Petitioner, having been first duly sworn, to testify upon her oath as follows on:

DIRECT EXAMINATION

BY MS. PADDEN:

Q Good morning. Could you please state and spell your last them for the record?

A Last name?

Q Actually full name.

A Hayley Banyai-Becker, H-a-y-l-e-y B-a-n-y-a-i-B-e-c-k-e-r.

Q And are you currently employed?

A Yes.

Q Where you employed?

A Lorena Garcia for U.S. Senate campaign.

Q And what is your position with the campaign?

A Field manager.

Q And how long a beep in the field manager for the campaign?

A Since September 2019.

Q And in your role as the field manager, were you involved in the petition gathering process to get Lorena Garcia's name on the primary (indiscernible) for U.S. Senate?

A Yes.

Q And what was your involvement in that process?



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A I helped organize the field plan for it, organized all of the volunteers, and also collected signatures myself.

Q And please describe to us what the field plan was for the signature gathering process.

A So we had -- What we knew we had to collect the 10,500 signatures, valid signatures, so we had recruited volunteers all across the state that were in different little networks of their area and helped -- and we planned out different events like they were -- we would try to get them to go to to collect signatures, as well as planned out like daily goals and weekly goals for how many signatures we needed in each area to make sure that we actually met the threshold we needed.

Q And how many volunteers would the campaign recruit to assist with this signature gathering process?

A I think the final total we had was 192.

Q Okay. And how are those volunteers organized?

A We had them organized somewhat by congressional district, but it works out better that they were just kind of in the area that they were in as we know some of those congressional districts are pretty spread out. So we had different groups, like one for the Denver Metro area like Boulder County, and then others across the state up in northern Colorado, southern Colorado ,(indiscernible) and like Glenwood Springs, Pueblo County area. And they all had messages where

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they all talk to each other and we could communicate with them as a group. Yeah.

Q Did you have volunteers who resided in (indiscernible) congressional districts are not?

A Yes. We had between I think almost 20 to 35 in each of the seven congressional districts.

Q Did you ever have volunteers from one congressional district go to another one to assist with getting signatures?

A Yes. Some of our volunteers that were more active or had days off work or something would travel around with like me, or the campaign manager, and go if we needed extra in certain areas at the time to meet our goals for that day or that week, then we would head down to those areas.

Q And were you involved in training the volunteers?

A Can you repeat that again?

Q Yes. Were you involved in training the volunteers?

A Yes, I was.

Q And what did that training involve?

A We had formal training as the first couple weeks and a little bit before the petition period started, where we had full slideshows with all the slides from the Secretary of States training that they gave to our campaign manager and we used those to train all the petitioners on the legal aspects of collecting signatures, as well as we added slides to the slideshow to train them on what we needed from the campaign and

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just like our campaign morals and stuff.

Q And did you yourself collect signatures as a manager?

A Yes, I did.

Q And approximately how many did you collect?

A I collected almost 2000 on my own.

Q And did you train volunteers to present to collect signatures?

A Yes, we did do a lot of events. Some of those events were our most successful times collecting. And as I said, there were a lot of events going on around that time with the presidential primaries and presidential candidates coming to town and stuff, so we always planned for those events and had as many volunteers come as possible.

Q And before -- let's say before the state of emergency (indiscernible) or not?

A We did. Sometimes we would play in group canvases that would be more fun, especially if we were going down to -- or going to an area outside of the metro area and if the candidate was actually coming with us, we would do that. But we mostly did events beforehand, before the state of emergency.

Q And were you involved in tracking the signatures the way they were coming in?

A No. We had other volunteers tracking.

Q Okay. And how about after the Governor issued the state of emergency, what, if anything, happened to the number

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of volunteers you had having collect signatures?

A Yeah, it did significantly drop a lot of our volunteers stopped right away because they had pre-existing conditions and they were worried about collecting, so they basically just stopped at that point, didn't want to collect at all anymore. We had some other volunteers who were -- just felt like morally wrong going on trying to collect from other people during that time, so they had stopped collecting. And yeah, the numbers dropped quite a bit.

Q Can you estimate what the percentage look like?

A Maybe we lost like 1/3 about, of our volunteers.

Q Okay. And then how about in the weekend before the petitions were due? What was the status of how many volunteers you had at that point in time?

A I think we only had like 1/5 or so of our original volunteers or less than that in our last weekend. By then every -- mostly everyone felt morally wrong going out or was too scared. I mean even the ones that -- even the people that did go out, we all felt really -- like we were doing something wrong.

Q What, if anything, did the campaign due to -- what, if any, changes did the campaign make to the field plan after the Governor issued his state of emergency?

A Yeah, so we switched everything to door-to-door because that lowered the amount of people we were in contact

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with, as well as it -- it made us be in less contact with people, but it also made it so that we were not able to collect as many signatures. And then we also had all of our volunteers that could find any sanitation stuff start using hand sanitizer or wipes or gloves as they were collecting, to clean up the pens in between houses, and stuff like that.

Q Were any events that were scheduled to take place the weekend before the signatures were due that were canceled?

A Yes. There was going to be a big St. Patrick's Day parade in a few of the districts that we needed more signatures from them that we were hoping to get more from.

Q In which districts were those?

A There was a huge St. Patrick's Day parade in Colorado Springs that I think -- that attendance was a way significantly larger than any of the other bigger events that we had done (indiscernible) of the time. As well is there was a big one in Denver that we were hoping to get signatures from. Those are like CD6, CD7, individuals. And there was one in the other side of the state in Grand Junction as well.

Q Did you personally collect any signatures on the weekend before the petitions were due?

A Yes, I did.

Q And tell me what your experience was in doing that.

A We had one -- or we had like one or two final canvasses planned where we just tried to get everyone who was

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willing and felt safe enough to come out and collect. Oh, another thing a lot of volunteers stopped doing was we would skip doors of anyone that was over like 75 years old.

Q And what area did you remember canvassing the weekend before the petitions were due?

A Can't remember where I was on Saturday. Sunday I was in Longmont, which is CD4, and we had a canvass there. I think that weekend we had also canvasses planned in Pueblo and Colorado Springs as well. And I think we did have one in Aurora on Saturday if I remember correctly.

Q And what approximately was the rate at which you are getting the signatures on those days?

A Way lower than normal. We had -- normally I could go like 7 to 8 signatures an hour from knocking doors and that's from like -- may be like 10 people answer the door then seven or eight I will actually sign. And that final weekend, I think I remember just constantly looking at the clock and realizing that literally only one or two people were answering, even opening their door per hour, and that I would be lucky if even one of them would actually sign.

Q And then were you involved in the effort to collect the completed signature package from volunteers during days before the filing deadline?

A Yes.

Q And what was your involvement in that?

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A I was collecting a lot of the packages that were in the Denver Metro area on that Monday/Tuesday. I was driving around collecting packets that were typically already -- yeah, they were all already notarized, as well as I was doing a lot of the organizing and planning to get other people out to pick up packets or to get our volunteer notaries to different people's locations to notarize for them.

Q And what were the interactions with the volunteers like during those days?

A It was really difficult. A lot of them -- a lot of the ones that we didn't have until that point was already because of the affects of coronavirus, where we were like not to the last second were they responding or going to the bank, because they were too scared and didn't want to. A lot -- a few people we had to explain their legal obligation to getting their packet back to us, which made them -- a few people go to the bank at the last second or allowed us to send our volunteer notaries to them. But there was a couple people that didn't want to leave their house and wouldn't let us bring a notary to them, even after hearing their legal obligation to get it back to us, so those packets we didn't get to turn in and, yeah.

Q Was there a point in time where the campaign heard or you heard about a possible extension to (indiscernible) deadline?

A Yeah. I don't remember exactly what day but we were

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all following what the legislature was doing and I was getting updates from people that there was going to be something added into the bill where they changed or gave both (indiscernible) party options from the assembly, they -- we were getting word that they were going to put something in there to help the petitioners as well to make an equitable (indiscernible) and then we heard that the Senate pulled that out last minute and they did not put anything back into solve the problem.

Q And before the time that the Governor issued the state of emergency, was -- were signatures coming in evenly (indiscernible) as a seven congressional districts or not?

A No, not at all.

Q Okay.

A Do you want me to expand on that?

Q Yes, please.

A So, me, especially because most of our petition collecting the first few weeks was all at events, it really just was dependent on what events were going on. So the bigger events like the presidential rallies and the Bernie rally when he was in town, we collected like over a thousand signatures in just those few hours of the rally, where -- and that was on a Sunday and where like other Sundays, even if we had like three or four group canvasses going on across the state, we still weren't even collecting nearly that amount. And then of course, during the week, all of our volunteers -- most of our



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volunteers have normal jobs and stuff, so the signature count during the week was always lower, too, unless there happened to be a bigger event at nighttime.

Q And prior to the onset of COVID-19, did the campaign have any expectations about whether the signature gathering rate would either decrease or stay the same as you approached the filing deadline?

A We 100% knew that the signatures like ability to collect would have increased in those last couple of weeks just because -- I mean, we all have campaign experience, so we know that volunteers love to show up at the last minute and suddenly put in a ton of work at the very end. And I know that we had volunteers that were willing to do that and would have been there, if it hadn't been for coronavirus. So yeah, we definitely expected to be collecting a lot more in that final week with everyone on board.

MS. PADDEN: Okay. Thank you. I don't have any further questions.

THE COURT: All right. Thank you. Any cross-examination?

MS. BUCKLEY: No, Your Honor. No cross-examination of Ms. Banyai-Becker by the Respondent.

THE COURT: Okay. Ms. Banyai-Becker, your testimony is complete. Thank you. You're welcome to stay on the line or disconnect.

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THE WITNESS: Okay. I'll disconnect, thank you,  
Your Honor.

THE COURT: Okay. Thank you. Okay. Ms.  
Padden, your next witness.

MS. PADDEN: Our next witness will be  
(Indiscernible) Linett. (indiscernible), call-in, so.

MS. GARCIA: Yes, I just told her and she says  
okay.

THE COURT: All right. Who is DBC?  
(Pause)

MS. LINETT: All right. Ms. Linett, can you see  
and hear me okay?

MS. LINETT: Yes. Can you hear me?

THE COURT: I can. I can hear you now. All  
right. Ms. Linett, before you testify I'm going to swear you  
in, so if you'll raise your right hand again please?

(Oath administered)

THE WITNESS: Yes, I do.

THE COURT: Okay. All right. Direct  
examination?

AMELIA LINETT

called as a witness on behalf of the Respondent, having been  
first duly sworn, did testify upon her oath as follows on:

DIRECT EXAMINATION

BY MS. PADDEN:

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Q Good afternoon, Ms. Linett. Can you please state and spell your full name for the record?

A Amelia Linett, A-m-e-l-i-a L-i-n-e-t-t.

Q And do you have a position with Lorena for Colorado campaign?

A Yes, I'm the (indiscernible) outreach coordinator.

Q And is that a paid or unpaid position?

A It's unpaid.

Q And in that position, were you involved in signature gathering to get Ms. Garcia's name on the primary ballot?

A Yes, I was.

Q And what was your involvement in that effort?

A Part of it was like organizing everyone at events and like, (indiscernible) volunteers, but mostly it was just me (indiscernible) signatures out; at people's doors, outside of buildings, that sort of thing.

Q And how frequently did you collect signatures during the 57 day collection period?

A It was the vast majority of days. I would say like 50 out of the 57 days I was collecting.

Q And did you -- where did you collect signatures for the campaign?

A Did you say where?

Q Yes.

A Mostly I was outside of public buildings, so like the

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libraries, DMVs, YMCAs, rec centers, (indiscernible).

Q And --

A (Indiscernible). Sorry.

Q I'm sorry, what was?

A And at people's doors (indiscernible).

Q So let's talk about outside public buildings first.

Which public building -- or which locations did you go outside of public buildings and what was your success rate at those locations?

A I went to libraries in like Boulder, Arvada, Longmont, other places as well that I can't remember. It was pretty good. It was usually like 12 -- 10 to 15 probably per hour (indiscernible), be more, but.

Q Okay. And then how about door-to-door?

A Door-to-door was usually 10 per hour on a good day.

Q And what kind of events did you collect signatures at?

A Some of them were different, like rallies for other campaigns like Bernie Sanders or Elizabeth Warren. Other ones were like Senate candidate forums where all the candidates were there. And they had different like debate (indiscernible) where a lot of people (indiscernible).

Q And after people began to get concerned about the coronavirus in Colorado, what, if anything, did you observe about your ability to get signatures?

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A It definitely became more difficult because like (indiscernible) a lot of those buildings closed, so we just couldn't collect outside of libraries or DMV's or anything. And then as to the people's doors, people wouldn't come to the door and didn't want to engage once they saw that it was a petitioner.

Q Do you recall any specific experiences you had going door to door in the weekend before the signatures were due?

A Yes. So in Colorado Springs there was one time I went knocked on someone's door and there was a couple there they both got like pretty upset and kind of yelled at me for like trying to pass around a pen even though we were asking people (indiscernible) they didn't want to touch any of the materials that I had (indiscernible) and do any normal like signature collection. Another man that same day got angry at me (indiscernible) self imposed quarantine and said that we shouldn't be collecting signatures right now because people were trying to (indiscernible).

Q And what -- what was your average signature collection rate going door to door in those few days before the signatures were filed?

A It depends on the day, but it was definitely lower. That one day Colorado Springs I think I got like five per hour. There was another day a few days later in Longmont where I got five over the course of two hours. So it was pretty difficult.

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Q And had you planned to go to any events in the weekend before the signatures were due that had been canceled?

A Yes. The main one was St. Patrick's Day, the parade. There was also going to be a big (indiscernible) debate that was happening on the 16th. There was going to be a candidate forum that we would collect that, but yeah, St. Patrick's was the main event that we were going to collect a lot of signatures at.

Q Did you have any involvement in collecting completed petitions from petition volunteers?

A No. I mean, I drove around with Hayley, because (indiscernible) most of the time (indiscernible) that.

Q And were you involved in reviewing the signatures after the campaign received the insufficiency notice?

A Yeah, I sure was.

Q And I think there was a little bit of confusion about the (indiscernible). Could you -- well, first of all, did you screenshot any information when you are undertaking (indiscernible)?

A Yes, I did. I screenshotted the voter registration information, congressional district address and name. I put it into a PowerPoint and then saved that PowerPoint as a PDF in our folder.

Q And was that -- the book or information you are referring to, was that the information in (indiscernible)?

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A Yeah.

MS. PADDEN: I don't have any further questions.

THE COURT: All right. Any cross-examination?

MS. BUCKLEY: No, Your Honor.

THE COURT: All right. Ms. Linett, your testimony is complete. Thank you. You're welcome to stay on the line or disconnect.

THE WITNESS: Okay. Thank you so much.

THE COURT: All right. Have a good day.

THE WITNESS: You too, Your Honor.

THE COURT: All right. Ms. Padden, your next witness.

MS. PADDEN: We'll call Ms. Garcia.

THE COURT: All right. Ms. Garcia, I'm going to unmute you. All right. And if you'll raise your right hand for me, please. All right.

(Oath administered)

THE WITNESS: I do.

THE COURT: All right.

LORENA GARCIA

called as a witness on her own behalf as Petitioner, having been first duly sworn, did testify upon her oath as follows on:

DIRECT EXAMINATION

BY MS. PADDEN:

**EXHIBIT 5**

Q Good afternoon. Could you please state and spell your full name for the record?

A Yes. My name is Lorena Garcia and it's L-o-r-e-n-a G-a-r-c-i-a.

Q And are you currently employed?

A I am. I am the Executive Director of the Colorado Statewide Parent Coalition.

Q And what's your position there? Or -- you already said that; sorry. How long we've been working in that position?

A Since March of 2018.

Q Okay. And what did you do before that?

A I was the Executive Director of Namlo International.

Q And are you currently a candidate for U.S. Senate?

A I am. I have been running for U.S. Senate since November of 2018.

Q Okay. And out of the remaining candidates in the field (indiscernible) order that you filed to run for U.S. Senate?

A I was the first to file to run.

Q And have you been working full-time while you have been running for this office?

A Yes.

Q And can you tell the Court a little bit about (indiscernible) for your campaign and what type of campaign



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that you are running?

A Yeah. So we intended to run a people centered campaign, a grassroots campaign, where all of our efforts would rely predominantly on volunteers with minimal staff. And that was for multiple reasons, that we really want this to be a campaign that was led by the folks that we were trying to reach, as well as understanding that as a grassroots candidate we would not be able to raise the funds to have a full full staff that more traditional establishment candidates have.

Q How much money did you raise as of your last filing period?

A Since the last filing period, \$110,000.

Q Okay. And were you able to hire staff?

A Yes.

Q And what staff did you ultimately hire?

A So I hired a campaign manager in April of last year and then I hired a field manager in September of last year and then hired a southern Colorado field manager in January of this year.

Q And why did you decide to hire a southern Colorado field manager?

A Because we were working -- we were getting ready to engage in our petition collection and we wanted to make sure that we had somebody who was able to help coordinate volunteers and help with the strategy in southern Colorado, that was

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familiar with that area.

Q And what area in southern Colorado was the individual located?

A He lived in Pueblo, so (indiscernible).

Q And which congressional district is Pueblo in?

A Congressional District 3.

Q And do you have a social media presence?

A We do. We have presence on Facebook, Twitter, Instagram, and TikTok.

Q And can you tell the Court approximately how many followers you have?

A Yes. Facebook we have over 3000 followers. On Twitter, we have close to 5000. On Instagram, we have about 1100, I think (indiscernible). And I don't know what we have on TikTok.

Q And have you been able to build a list of email contacts?

A Yes. We have a growing list of over 31,000 email contacts that by and large are self subscribers.

Q And prior to getting your petition gathering to get your name on the ballot, did you have any significant expenses associated with that process, other than hiring staff?

A Yes. We chose to purchase a voter activation network. We were one of three candidates that purchased the VAN.

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Q And how much was that?

A It was \$20,000.

Q And how did you intend to use the VAN during the course of the campaign?

A Well, the voter activation network is a database of enhanced voter information, so it's basically the way that the VAN works is it takes the voter file from the Secretary of State and imports it into a system that also (indiscernible) information from magazine subscriptions and other things to help build like a complete -- well, as complete as possible, a profile of a voter. And that allows us to target people in our campaigning.

For example, whether we believe that based on somebody's profile if they are more likely to support our progressive platform versus another candidates platform. And being able to use the VAN in that way, we can narrow things down by neighborhood, by street, by age, by affiliation, and what we were able to do with that in this for petition gathering is build walk lists that our volunteers could use to go door-to-door to people who were actual registered Democrats and that fit the profile of being registered for at least 29 days before they signed.

Q Okay. And so can you tell the Court a little more about your (indiscernible) plan to collect signatures in order to get your name on the ballot?

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A Yeah. So similar to our campaign, our focus was on relying on our supporters and our volunteers to collect enough (indiscernible) signatures that we needed to get on the ballot. And we knew that we would need volunteers in other congressional districts and we successfully recruited volunteers in every congressional district. And we had our -- the paid staff, my campaign manager and my two field managers, as well as Amelia, our unpaid intern, were also expected to collect a certain amount of signatures in their efforts as well. And we were focused specifically on getting the easiest districts out of the way, so Denver and Boulder.

Also, because that's where the majority of our volunteers were at the beginning of this effort. And we also knew that we needed to start right away on the harder districts, and so we had -- we had our volunteers take advantage of events that were in those areas, the volunteers that wanted to door knock they would door knock, and after we got CD1 and CD2 for the most part completed, we left the rest of that to our volunteers so that our staff and our other super volunteers could go around the state collecting other areas as well, so that we could makeup where we were running behind.

We knew that there were going to be specific districts that were going to be exceptionally difficult because of the dramatic reduction in registered Democrats in those areas. For example, in CD5 and CD6 we knew that those were

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going to be really difficult districts, but we still -- we still did everything we could to make sure that we got the signatures that we needed. We knew that we would also have to do a combination of door knocking, site based and events, and whether it's attend events or plan our own events, and so we did that in every district.

Some districts we relied more on door knocking than we did on events or site based. For example, in CD5, El Paso County, Fremont County, that area we -- we focused more on attending events that we knew would draw democrats, so democratic house district meetings, those types of things, as well as door knocking. And in CD6, we had our volunteers focused on more in the areas where we knew there were more registered Democrats, if they wanted to be at libraries or in front of DMVs, and so we really were trying to target and be very targeted in where we were. It wasn't just a throw spaghetti on the wall and see what sticks type of effort.

Q Okay. And when was the first day on which you were permitted to begin collecting signatures?

A January 21st.

Q And did you start on that day?

A We absolutely did.

Q Okay. And when did you submit your signatures?

A March 17th.

Q Okay. How -- would you describe how the signature

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gathering was going early on during that 57 day timeframe?

A Yeah. I mean, we had, you know, at the beginning we had -- we had less volunteers trained, we were very clear that we only wanted -- we only allowed our volunteers to collect signatures if they had gone through the training, so we started pretty -- pretty slow, because we didn't have as many people in the field on the ground yet. We probably had about 35 volunteers at that point of people we had trained beforehand. And then we started to see an uptick because of more volunteers on the ground.

There were days that were just terrible days to collect. If you remember, if you recall, we had some of our worst days where we couldn't really -- or coldest days where we couldn't stand outside of libraries, so we would have to -- we would have to readjust our -- our campaign strategy. But the weather in Colorado, you know, as we -- as we know, is very unpredictable. It did not -- given that we know that it's unpredictable, we also had contingency plans. And we knew that it wasn't -- the weather wasn't going to impede our efforts too much.

And then, as we kept going, things started -- people starting getting even more excited and more people were joining the campaign, more people were joining our volunteer base, and we were seeing a really solid growth in our petition collections all over the state, until COVID-19 came. And when

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COVID-19 hit Colorado, immediately we saw a decline in our volunteers who were able to collect --

Q I'm sorry, let me --

A Okay.

Q Sorry, I'm just going to interrupt you because I want to just dig in a little deeper on a couple of these things. So early on in the campaign, were you collecting (indiscernible) number of signatures each day or did it vary depending on the day of the week?

A No, I mean, each -- it depended on the day of the week, it depended on where we were, depended -- I mean, it's impossible to collect the same number of signatures every single day.

You know, we could have -- you want to set your benchmarks for sure, but we also understood that our benchmarks had to be adjusted depending on how many volunteers committed to a day or not. Also depending on what county we were in.

In Denver, we could easily tell our volunteer hey, I need 30 on your -- in your three hour shift in front of a library, get 60 signatures, and they would do it.

In Colorado Springs, we would have to adjust that dramatically and say hey, in your three hour shift in front of the library, in front of the (indiscernible) campus in Colorado Springs, at least try and get 20. And so it really depended on what congressional district we were in and the number of people

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we had in the field.

Q And how about like the weekly pace at which signatures were coming in? Did that increase, decrease, a constant, fluctuate? How -- what was that like?

A It fluctuated as well. It wasn't constant. There were some weeks where we had a much greater rate of collection just because we had more people were available, because the weather was incredibly beautiful. And then we also had weeks where we were pretty (indiscernible) and we had pretty bad weeks as well.

Q And what about as you were going into the final weeks of the signature gathering? Did you anticipate that that rate of collection would stay the same, go up, go down?

A We actually were planning on completing the -- the remaining signatures in that last week by relying on (indiscernible) the last two weeks essentially, relying on caucus, relying on St. Patrick's Day, and on door knocking. The plan that we had set we were pretty excited about. We had -- we had about 75 volunteers signed up to -- to be at caucus sites and caucus was a dismal turnout, so -- so we thought okay, we're going to have to rethink this and we -- when we were planning on St. Patrick's Day parades, when St. Patrick's Day was essentially cancelled because large gatherings were cancelled, at that point, you know, that was still a few days away from St. Patrick's Day, and so we immediately shifted all



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of our team to door knocking, which was also just as difficult. And but we had a plan that we would have -- that would have not only completed the signature collecting, but given us a really strong cushion, because we understand that the validity of the (indiscernible).

Q And why was -- why did you think getting signatures at the caucus sites would be fruitful?

A Well, given prior caucuses, we were expecting more people to show up and they're all re -- you have to be registered Democrat to caucus. And so we were expecting that to be easier. I mean, with the few that did show up in my own caucus, there were maybe 30 people, we were able to get about 24 signatures out of those 38. Some had already signed and some had signed someone else's petition, so we didn't want their signature.

But you know, it was -- by that small amount of -- of turnout, which it should have been probably (indiscernible) more, we were planning on having a better day.

Q And then so you mentioned in the two -- well, tell me what happened in the -- what you observed in the two weeks prior to the March 17th deadline as far as your volunteers' willingness to collect signatures and the success rate they were having?

A The willingness and even just the morale, started -- started to drop dramatically because I mean, people -- people

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were being -- they were doing their best and they were getting -- I mean, they're being not -- they weren't having success. People weren't answering the doors, people were -- you know walking around them at any sites that were still open. Volunteers themselves were saying that they didn't want to collect anymore because they -- either they were at risk or their family was at risk.

There was another candidate that also put out this massive blast about how horrible it is for anyone to continue collecting signatures, and so when she did that, that also fed into people's fear, rightly so, which made it even harder for us as a -- as a campaign that was stuck with this ethical dilemma of do we continue to collect and put people at risk, or do we just stop and hope that there's some form of relief somewhere. And given what happened at the legislature, we knew that there wasn't going to be any relief for -- looking at public health framework for -- for candidates and issue ballot initiatives that were wanting to go the petition route.

So it was really difficult. It was challenging, you know? We -- it was a really hard thing specifically for me as a candidate to reconcile that our state failed us in providing any remedy and so we had to continue going forward.

Q Were you concerned about the health and wellbeing of your volunteers?

A I was concerned about the health and wellbeing of my

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volunteers, of the people at the doors that we were going to. I was concerned -- I was concerned that when action could have been taken, it wasn't. And given that and given all of the energy that we had put into this campaign and that we had put into -- and -- and knowing how close we were, I mean, if weren't anywhere close like other candidates, we would have just stopped and we would have said there's no point in putting anyone else at risk. But we were so so close and we didn't have the protection from the State to stop. And our volunteers, some of them -- a lot -- a lot of them, not most of them by any means, but a lot of them still wanted to keep going. And so we did.

Q Did you have concerns about your own health or the health of your family?

A I did. Absolutely. My wife is immunocompromised and the idea of going out everyday and being in contact with hundreds of people and coming home, it was scary. We had, even before all of the CDC recommendations, we had a really strict regimen in our own house of how I entered the house so that I wouldn't risk getting her sick. And we even self-quarantined from each other because we understood that you can be a carrier without having symptoms, and so we made sure to stay apart from each other. And we just took a lot of precaution. It was -- it was stressful, it was scary, it was tense, it was a really horrible experience.

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Q And did you stop collecting signatures at some point in time prior to the March 17th deadline?

A We did. Sunday afternoon, we -- I just called off all of our volunteers because at that point it was just, you know, the risks just continued to get higher and the return rate was just dropping so low. And so, you know it was -- at that point you think do I risk the health of my -- of my supporters, my volunteers, for 50 additional signatures that we might get or not? And at that point I was like just stop, and let's just focus on getting all of our petitions in.

Q Okay. And did you -- were you yourself personally collecting signatures on that weekend, I think it was the 14th and 15th?

A I was, yes.

Q And what were your experiences like on those two days?

A People weren't opening the doors. There were some people that opened the doors that would listen and you know, I had several people that were very kind. They said I'll vote for you, but I'm not going to sign your petition because I don't want to get sick. And there were folks that -- the majority that didn't open their door. You know, you would expect since everyone's supposed to stay home, a greater door open rate, but there was complete opposite.

I personally did not -- I -- thank goodness I didn't

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get yelled at like other volunteers did, but you know, it just -- people were (indiscernible) to sign.

Q So after you -- well, strike that. Were you -- can you tell us what the process was for collecting the outstanding petitions from the signature gatherers in the last few days before you filed them?

A So Chris and Hayley were mostly in charge of that. And what they did is they would -- they called through all of our circulators and set up a time -- they first made sure that they all had access to a notary. We had a few volunteer notaries that were willing to travel the state to notarize whatever was left. We also had congressional district captains where there was a lead volunteer that would collect all of the petitions in that area and bring them back.

For example, like in CD3 where it's all the Western Slope and Pueblo, we had three different captains; there was one in Grand Junction, one in Glenwood Springs, and one in Pueblo. And so, people were -- it was really difficult specifically in CD3 and the mountain areas, because they had a complete shutdown early on. Eagle County, Garfield County, were hit really hard and so they -- they weren't even able to get their petitions notarized. Banks had resorted to drive-thru only and a lot of the notaries in banks, for example, were -- weren't comfortable notarizing something through a window. So we had some of our petitioners having to drive around when

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they were supposed to be staying home.

And then we had some -- some -- when they -- when they finally did get to Denver, people brought the petitions, they either dropped them off at my house in my mailbox, outside the door. I have a porch outside, and so I brought in all the petitions and left them on the porch and I was masked up and I had gloves and I would sit outside because I didn't want to bring Corona-infested petitions into our house, specifically from like what was at that time Colorado's hotspot of Garfield County.

And so we're sitting out -- I'm -- I'm sitting outside making sure that I'm putting together all the requirements that are necessary for submission, which is a list of circulators and the notaries and just making sure everything is ready to be turned in appropriately. And just all day long, all day long, we were just getting petitions dropped off and petitions dropped off.

Q Were you able to ultimately collect all the outstanding petitions that you were aware of?

A No. We were not.

Q And do you know approximately how many you were not able to collect?

A We're thinking somewhere around 30, but we're not really sure. Based on what we (indiscernible) checked out and the petitions that we brought back, we're -- we think it's 30.

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Q Okay. So after you turned in your petitions on March 17th, were you given the opportunity to cure anything involving them?

A Yes. We were. So we had an opportunity to cure 19 packets. We had to cure those -- we had to get those affidavits cured. And so we were able to do that because we had a fantastic -- a fantastic volunteer that -- that went around to do those affidavits and we got every single one back.

Q Okay. And how about signatures themselves? Were you given the opportunity to cure any of those?

A Yes. We -- we only had a few signatures that we could cure and we were -- the basis of curing those signatures was just a signature mismatch. We cured one as it was just really difficult to reach those individuals. We were able to find them through the VAN and the ones that had phone numbers, we would call them asking if they would be willing to sign an affidavit to cure. Several were, but they didn't have access to a printer and a scanner, so that just made it difficult. And then we also weren't about to go out to their homes.

Q And what did you ultimately hear back from the Secretary of State about whether or not your petitions were sufficient?

A That we were insufficient. We got the ruling on April 20th.

Q Okay. And after that time, did you -- would the

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campaign have the opportunity to review any of the rejected signatures to determine whether or not the campaign believed that they were valid?

A Yes. So we -- when we accepted the -- when we got the -- the notification for insufficiency, we requested the line by line report and we went through -- we noticed that there was 1,714 signatures that were rejected because they were not specifically assigned to a congressional district. In other words, their registration just simply could not be found.

So we decided to go through those 1700 signatures to see if we could find them using the VAN. And so we -- me and my team went through every single one of those signatures and we were able to identify over 200 signatures that actually could be ruled as sufficient.

Q And have you had an opportunity to review a document that summarizes those (indiscernible) signatures?

A I have, yes.

MS. PADDEN: Okay. And Your Honor, we had previously designated as an Exhibit 1, it's the spreadsheet.

THE COURT: Right. Exhibit 1.

MS. PADDEN: Right.

BY MS. PADDEN:

Q And Ms. Garcia, as -- when you reviewed exhibit -- well, have you had an opportunity to review the information that's contained within Exhibit 1?



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A I did. I was one of the folks that was initially -- initially going through all of the rejected signatures and then I also did another run through of all of the signatures that we had determined as -- according to our estimation of valids, and so I went back through and looked at all of them.

Q Okay. And when you looked at all of them, what did you do in particular?

A I just doublechecked to make sure that what we had on the list were in fact signatures we could argue for validity. I did that by looking at the VAN, looking at the scanned images from the Secretary of State, just to make sure that -- that what we were submitting was in fact signatures that should hold muster.

MS. PADDEEN: And Your Honor, I move for admission of Exhibit Number 1.

THE COURT: All right. Any voir dire or objection to 1?

MS. BUCKLEY: Yes, Your Honor. I'd like to conduct some additional voir dire.

THE COURT: Okay. Go ahead.

MS. BUCKLEY: To Exhibit 1.

VOIR DIRE EXAMINATION

BY MS. BUCKLEY:

Q Ms. Garcia, what is Exhibit 1 -- let me rephrase. Ms. Garcia, what document does Exhibit 1 summarize?

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A It takes all of the -- from the spreadsheet that we got from the Secretary of State listing every single signature. I think it's called the adjudicated report; is that correct? Taking that document, it's pulling line by line all of the signatures that we reviewed using that document, alongside the scanned copies of the petitions that we received from the Secretary of State, and the information that we have in the voter activation network. And so, this summary is taking all of that information and putting it there to -- to illustrate that these names are ones that should be reviewed and counted as valid.

Q Okay. And when you refer to information and scans, is that collected in any particular manner by you or your campaign staff?

A Yes. So in order to prove that these folks are in fact eligible voters that are eligible to have signed the petitions based on what they wrote on their -- on the petition or their intent.

We took screenshots of the voter activation network where it shows their address and what their voter registration is, what their affiliation date is compared to the date that they signed.

Q And are those screenshots many in number?

A Yeah. They're one per -- they're at least one per name.

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Q And so at least one per name would be at least over 220?

A Uh-huh (affirmative).

Q And in some cases are there more screenshots per name?

A Yes. And that's because in order to show -- the way that the layout in voter activation network is, in order to show that a sig -- that a -- that a signer was in fact (indiscernible) as a Democrat at least 29 days prior to signing, we had to do a screenshot first of their name and their address, along with the (indiscernible) their VAN ID number, and then we had to take a secondary screenshot that had their statistic information, which is their voter registration information, along with their voter activation number, so we could prove that it's two pictures for one person.

Q What's the voter activation number?

A The voter activation number is basically the number that's assigned -- that is assigned to each voter inside VAN. We -- the -- that's obvious on the -- on the -- on the screen. We also can identify a voter in VAN with their actual voter ID number, but that's not obvious to find to be able to show that both pictures are for one person.

Q Okay. So the VAN number is assigned by the voter activation network entity?

A Yes.

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Q Okay.

A It's their identifier.

Q Okay.

MS. BUCKLEY: I have no further voir dire, but I would like to make an objection to admissibility of Exhibit 1.

THE COURT: Okay. Objection -- go ahead.

MS. BUCKLEY: My objection is based on the fact that this spreadsheet is proffered as a summary of the content of voluminous records which likely cannot be conveniently examined in court. My objection is on the basis that the originals or duplicates have not been made available for examination (indiscernible) --

THE COURT: Ms. Buckley, I lost you for about 10 seconds.

MS. BUCKLEY: I --

THE COURT: So if you can just rewind a little bit. You were talking about duplicates not being made available and then you froze up.

MS. BUCKLEY: Yeah. Okay. So -- so (indiscernible) pause for a second. I notice I'm having a (indiscernible).

THE COURT: That's okay.

MS. BUCKLEY: Okay. I'll proceed. And please let me know if (indiscernible). And so they're being proffered under Rule (indiscernible), which allows summaries of

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voluminous materials to be made -- to be presented in the form of a chart which we have here, so long as the duplicates or copy -- or copies of the originals are made available for examination or copying at a reasonable time and place. And that has not occurred in this case.

Yesterday morning, my co-counsel -- Ms. Padden notified us via email that she intended to produce to us such a chart and My co-counsel Ms. Morrill, replied an email -- and Ms. Padden did offer to provide the underlying materials of which the chart was a summary. Ms. Morrill replied via email approximately quarter to 9:00 that we do need to see those underlying materials and (indiscernible) through what very -- what may be and is likely a good faith mistake, misread that email, but the fact is that we were not provided with copies of such materials (indiscernible) understanding of what those materials were until over 12 hours later, last night at just before 11:00 p.m., we were provided with a link to the underlying documents.

There has not been reasonable time -- that is not a reasonable time and place. I did a curs -- or tried to do a cursory review to confirm that the chart was indeed a summary of those materials, you know, in the late hours of last night, in-between 2:00 and 3:00 in the morning, and frankly, I -- there were names on the summary chart that I cannot find in the VAN records that have been proffered and so I -- I cannot

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confirm and have not been able to confirm that -- that I have been provided with the underlying materials of which the chart purports to be a summary of. And on that basis, I have to object.

I understand that there was a good faith mistake by Ms. Padden, but the prejudice for a good faith mistake should not fall on the party that did not make a mistake. We timely requested access to those materials and re-urged that request yesterday during our hearing. You know, if it must unfortunately fall on one party, it should fall on the party who made the mistake in the first place.

And so, had we had an opportunity to review, you know, these documents and the VAN documents, which I will proffer for you that Mr. Albin will testify to the Secretary does not use the VAN network, and Ms. Garcia has already testified that the VAN network contains information outside of data provided by the Secretary of State, including magazine subscriptions, it cannot be said that the Secretary had access to these materials and I personally have not been able to verify that this chart is indeed a summary of those materials. And had I been able to verify that for the Court, which I did try to do last night, I would not be lodging this objection.

THE COURT: Okay. Thank you. Ms. Padden, do you want to respond and make a record as well?

MS. PADDEN: Sure. As I explained to the Court

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(indiscernible), I was misreading the email and my apologies. This chart is based on the underlying petitions that the Secretary of State obviously has and that we got them from them and then also the VAN information.

The Secretary has access to frankly more than what's available in VAN. We heard that in the (indiscernible) case, that the Secretary of State has the voting records that contains information that the campaign is not privy to. And so this is the information that is available in VAN.

We do not have access to the Secretary of State's -- I can't remember what the acronym is for the system, I'm blanking on it right now, I'm tired, but in any event, so this simply summarizes (indiscernible). I did -- I sent those to her last night, that would have frankly given the same amount of time to repair if I had sent them yesterday morning before the 1:30 hearing yesterday, so, you know, I think they are in the same position as they would have been then.

But we -- we are all prejudiced by how quickly this is happening. And it's not fair to not allow Ms. Garcia's rights to be heard and things are happening that are beyond our control and we're all trying to meet that May 7th deadline for the ballots to be certified. And you know, when the Secretary of State took over a month to review her petitions, we wouldn't be up against that deadline if that review had been completed in a more timely manner.

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THE COURT: Okay.

MS. BUCKLEY: Your Honor, may I very briefly respond just to raise an objection. Ms. Padden's argument assumes facts not in evidence in this case. It pertains to the proceeding in Ms. Wheeler's case, and we are not saying that Ms. Garcia, you know, our jurisdictional objection aside, should not be heard in this case. We're just simply saying the exhibit shouldn't be admitted.

She clearly has the right to be heard in this proceeding and we are (indiscernible) and is here to testify as to that.

THE COURT: Okay. All right. I appreciate everybody's position and as I've stated before, I don't envy the position that anybody is in. It's a quick turnaround for all parties involved and I'm sensitive to the fact that you were up so late last night reviewing them and I'm -- I'm not trying to create any unfairness to either side or push back on either side, I'm really not. But my concern is hearing this testimony and drawing whatever conclusions I can from that testimony based on what I judge to be the credibility of Ms. Garcia and consider the cross-examination that is made with her and also to consider the testimony of Mr. Albin and ultimately decide whether or not I have enough information to rely on their testimony and also what's presented in Exhibit 1.

So I'm going to admit Exhibit 1. I will



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ultimately decide what weight, if any, to give it based on the additional information that I hear. And part of my prejudice analysis is -- is the reason why I gave those numbers at the beginning of this hearing when you were talking about this in a -- before the hearing started.

And I'll also note -- I noted at that time that even if all these signatures are deemed to be valid, she still falls short of the threshold. And I will also note that if all of these signatures are deemed to be valid as well, that Ms. Garcia still falls short of the mathematical formula that the Secretary's asking me to adopt. Even under that proposal, even if I were to conclude that all of these invalid signatures are somehow valid, she still wouldn't survive the test that the Secretary's asking me to adopt.

And as I've stated in previous orders, I'm not adopting that analysis, but even if I were to do so under that analysis, she would still fail. So I'm putting people in difficult positions, I understand that, but I don't think it is unfairly prejudicing the Secretary in this regard.

So Exhibit 1 will be admitted.

(Petitioner's Exhibit 1 admitted)

MS. PADDEN: Thank you, Your Honor. If I could address one of Your Honor's points just briefly to explain -- (indiscernible) right now, we have no idea what the Supreme Court is going to do in the (indiscernible) case, and Ms.

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Garcia right now is just below 90 percent. And (indiscernible) say 90 percent, it would be malpractice for me not to pursue these signatures and that's why we (indiscernible) to do it, and we appreciate that this is very stressful on everyone and we're all exhausted.

THE COURT: Yeah, I don't --

MS. PADDEN: (Indiscernible).

THE COURT: I understand that. I'm not trying to say you shouldn't be raising this issue, it is more of a when we're trying to establish what prejudice, if any, there is to a party, that's the -- that's the closeness that we're talking about with regards to these signatures.

I don't fault you for doing it. You -- you're doing it in the interest of your client, and I respect that, so that's -- that's why we're doing it.

MS. PADDEN: Yes. Okay. Thank you, Your Honor.

THE COURT: Okay.

DIRECT EXAMINATION CONTINUED

BY MS. PADDEN:

Q Ms. Garcia, do you have Exhibit 1 in front of you?

A In one second.

Q Okay.

A Yes. I have it right here.

Q Okay.

A Okay. Yep. Yes.

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Q Okay. And so could you explain to me what you did when you reviewed these -- I believe there's 223 -- 222 entries?

A Yes. So I went through and would find the signer name, and then I would go to the section number and the line number in the PDF that were -- that were provided by the Secretary of State. And I would see what it had on that PDF.

And so, for example, in this first one where it says Emily Hansen (ph) or the signer actually says Emily Garner (ph), I would check the PDF and it says Emily Garner. So I would go online to the voter activation network and I would look for an Emily Garner at this address. And what I would -- what I found and what I would find is what I would write or confirm or add or subtract from the list.

Q Okay. And just for the record, the first line is actually (indiscernible)?

A Yes, sorry.

Q (Indiscernible), page 7, line 52, Emily Garner and you just explained that. So the next two lines do not have any information listed either in the corrected name column, Column E, the corrected address column, Column G, or in Column N. What significance does that have to you for the next three entries?

A It's because there is nothing to correct. What they had in the -- what they had written in the actual petition is

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what it showed in the voter file. And so based on that, I -- you know we -- I also looked at the date of affiliation, because that's a -- that's a disqualifier if a signer is not affiliated at least 29 days in advance of the date that they sign, it's invalid. So I would look at the date of affiliation and if that fell in line based on the information that is available to me, I couldn't understand why they were deemed as invalid, so they just don't have anything in there.

Q Okay. And is that true throughout the whole chart if there's no information in Columns E, G or N, that you were not able to determine why that signature was rejected?

A Yes. For -- for the most part that I can remember, I'm sure that if we go through this or when we go through this, there's some that might -- my memory might spark if there's not anything written. Other than that yeah, that's essentially what it is because there's nothing to write.

Q Okay. And the next one for which there's something written is line 6 at section 33, page (indiscernible) line 5, Estrella (indiscernible). Do you see that?

A Yes.

Q And what information is provided there?

A So this person on the scanner, she actually wrote her entire her name which is Estrella (ph), and I actually know this person and so it was easy for me to find her.

Q Okay. And did you -- do you recall whether or not

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you collected her signature personally?

A I did personally collect hers.

Q Okay. The next one for which I see any notation is line 9 of section 39, page 2, line 5, Daryl Kaplan (ph).

A Yes. If I can just (indiscernible) go up to line 7 really quick and just cross that one out.

Q Okay.

A That one actually should not be on this list, because she had affiliated after signing, so she shouldn't even be on this list, so I apologize for that.

Q Okay.

THE COURT: Give me the number and the name.

MS. PADDEN: So line 7 --

THE COURT: I don't have the line numbers unfortunately. I just start with section numbers.

MS. PADDEN: Okay. Section 336, page 5, line 36, (Indiscernible) Gordon (ph).

THE COURT: So that's being withdrawn?

MS. PADDEN: Withdrawn.

THE COURT: Okay.

BY MS. PADDEN:

Q And then we'll next go to line 9 of the document, which is section 39, page 2, (Indiscernible).

A Yeah. This one he -- he wrote Saint as an ST in his petition, but the voter activation network reads it as Saint

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spelled S-a-i-n-t, so it's the same street, same person, just different abbreviation; he used an abbreviation.

Q Okay. The next one (indiscernible) entry is line 13 in the document.

A Yes. There was a scanner misread and she wrote 55 High Lake (ph) and --

Q Okay. Hold on a second. Let me give the section and page and line numbers.

A Oh, my apologies. Yes.

Q So section -- this is line 13 in the document, section 105, page 6, line 42.

THE COURT: And give me the name.

MS. PADDEN: I'm sorry. Irene Rickert (ph).

BY MS. PADDEN:

Q Okay. And Ms. Garcia, what do you see this (indiscernible) about this voter?

A So this voter wrote her address as 55 High Lake Drive, which is the correct address, and the scanner misread it as 55 Hugh Lake.

Q And the next one for which there's an entry is the following line, line 14, section 105, page 7, line 51, there is no signer's name in the Secretary of State block and what do you see for this entry?

A So the scanner revealed that a (indiscernible) that has this address as well is who actually signed it, he wrote

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his name Barak Elgie (ph) in the name space of the petition, and the scanner just couldn't read it.

Q And the next one (indiscernible) entry is line (indiscernible) section 47, page 3, line 19, Amy Viejos (ph).

A Yes. Amy Viejos had wrote 12 -- 212 School Avenue (ph) and that's what it shows in the petition and the scanner missed an l. If I may also strike line 16, section 139, page 3, line 15.

Q Is that an affiliation?

A It is, yep.

THE COURT: All right. That's being withdrawn.

THE WITNESS: Yes.

MS. BUCKLEY: Your Honor, may I ask that we clarify for the record the name of that signer just so we're all clear on which name is being withdrawn?

THE COURT: Yes. Ms. Garcia, can you state that?

THE WITNESS: Yes. In the -- in the document listed it's a Jonah Gurlack (ph).

BY MS. PADDEN:

Q Okay. So returning back to line 23, this is section 47, page 3, line 20, Dennis McGraw (ph).

A Yes. He wrote in his petition 20 Carlisle Place (ph). The scanner picked up 20 Carilie Place. So the scanner misread his street name. However, this individual lives on 22

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Carlisle Place, but we are confident that this person intended to sign the petition and just wrote a bad number.

Q And (indiscernible) that chart?

A Basically showing that -- that in the voter file it's in the wrong address, because his wife Susan McGraw, lives at 20 Carlisle Place.

Q And then the next one that I see an entry for is line 25 of the document, it's section 58, page 5, line 35, where the Secretary of State has the name it's Erlando, E-r-l-a-n-d-o (Indiscernible). Would you agree?

A Uh-huh (affirmative).

Q And what did you learn about this signature?

A This is actually Orlando (Indiscernible) at this address, and is a registered voter, and eligible elector.

Q So Orlando with an O?

A Uh-huh (affirmative).

Q And the next one is the following line, it's line number 26, section 58, page 5, line 38, the signer's name is (Indiscernible)?

A Yes. This person wrote 1612 in the -- in the petition and the scan -- scanned image (indiscernible) 1612, but the scanner picked up 1412, and she is an eligible elector.

Q Okay. And then going down (indiscernible) -- yes, going down two lines, line 28, that's section 60, page 7, line 55, Charlotte Vigil (ph)?



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A Yes. This person wrote 420 Goodnight Avenue (ph), the voter registration filed in VAN showed that she actually lives at 418 Goodnight Avenue. We also show in the VAN that there was a recent update to the voter file based on the Secretary of State's voter file on April 15th, which we (indiscernible) miswrote her address.

THE COURT: I -- Ms. Garcia, you were garbled that last response.

THE WITNESS: I'm saying that we're not sure based on the recent update to the VAN based on the update from the Secretary of State's voter file if -- if she in fact moved recently or if she just wrote her address wrong.

THE COURT: Okay.

BY MS. PADDEN:

Q And then the following line there's also entries (indiscernible) line 29 of the document, section 100, page 3, line 11, Monica (Indiscernible)?

A Yes. And this is actually -- she did not include whether it was a street or a court or a lane, and so she lives -- her correct address is 306 Second Street, and I believe we have written Lane, so that's also incorrect, but it's Second Street. And based on the scan in the -- the scan of the petition, like I said, it's just 306 Second which is a viable address, and so there's no other reason why she -- it should be thrown out.

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Q Okay. The next one I see is line 35 in the document, it's section 165, page 6, line 46, (indiscernible) signer name as (Indiscernible) Way (indiscernible). What did you learn about this individual?

A This person actually wrote (Indiscernible) Way, W-a-y, and that's reflected in the scans. There was also line 30, section 103, page 4, line 22, Adrianna Martinez (ph).

Q Uh-huh (affirmative).

A She -- we should strike that one as well, because her signature is missing from the scan.

Q Okay.

THE COURT: All right. That's withdrawn.

MS. PADDEN: That's withdrawn.

BY MS. PADDEN:

Q Okay. And then after Mr. Conway, the next one I see is line 37 in the document, it's section 177, page 5, line 40, Tony Carston (ph)?

A Yes. What she -- what she wrote in the -- on the petition as reflected in the scans is 1606 Grand Avenue, not 1602. And that is her correct address and she is an eligible elector.

Q The next one is line 38, it's section 178, page 2, line 7, Sue Coyle (ph)?

A Yes.

Q Tell me about her.

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A She signed Sue Coyle, which according to the voter file is her middle name. Her first full name is Joanna Sue Coyle (ph).

Q And then the line immediately after that, line 39, section 178, page 3, line 11, Eleanor J. Scott (ph). What did you learn about this?

A That Eleanor put her address and apartment number as 431B South Third Street, and the voter file wasn't able to find that, but when you actually put it 431 South Third Street, Apartment B, you can find her as an eligible elector.

Q The next one is line 40, section 178, page 3, line 16, Brandon Jones (ph). What did you learn about that individual?

A This is another middle case, middle name signer. His full name in the voter file is Michael Brandon Jones (ph) and he does live at this address and is an eligible elector.

Q The next one we jump down a couple lines to line 43, section 181, page 2, line 1, Omar (Indiscernible).

A Yes. So there are two Omars that live at this household. So the first one we concluded was Omar Robert Enrique Sevilla (ph) and that's because there was an R, and the other one that didn't have any other defining middle name we associated as Omar Alonso Sevilla (ph), the other Omar that was at that address. They're both eligible electors.

Q And so those are two separate signatures on those two

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pages at those two lines?

A Yes. They are separate signatures, they have separate handwriting. They're reflected as two different individuals on the scanner -- on the scanned petitions.

Q And the next one is line 45 at section 181, page 2, line 10, Sarah R. (Indiscernible). What did you find about that individual?

A Yes. So she lives at 411 Meadow Court and she unfortunately wrote 411 Meadow Drive. But she is an eligible elector that does live in this -- at this place.

Q And the next line is line 46 at section 181, page 7, line 52, Delia Malone (ph)? What did you find?

A Delia Malone wrote Redstone as her city, which is also a town, however, it's wrapped into Carbondale, and so the voter activation network has her city as Carbondale.

Q The next one is the following line -- sorry, line 47, section 187, page 3, line 16, Irene Rieter (ph).

A Yes. This is a typo on our part. That 760 Broadway and the corrected address should be 760 Broadway the way we know how to spell it; B-r-o-a-d-w-a-y. And that is the correct address where she is registered. And that is also what the scanned petitions reflect.

Q Okay. The next one is line 48 in the document, it's petition section 188, page 3, line 11, Mia Sanchez (ph). What did you learn about this individual?

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A So Mia Sanchez has a second last name, which is Gonzales (ph), and while she signed Mia Sanchez, she's a registered voter as Mia Gonzales Sanchez at that address.

Q And the next one's the next line, line 49, section 188, page 3, line 13, Janelle (Indiscernible)? Is it (Indiscernible)?

A Yeah, so this was a mistake in the reading of the scan. It picked up an extra "e" in Janelle, so it added J-e-a-n instead of it as written in the petition as J-a-n-e-l-l-e. And she is residing at that address and is registered vote -- is an eligible registered voter and elector.

Q The next one's on (indiscernible) line 50, it's section 192, page 3, line 13, Christina Lujan (ph)?

A Yeah. Her last name again similar to the one above is -- she has two last names, which is Hicks Lujan (ph) and she only signed with Lujan. But she does live there and she's an eligible elector.

Q The next one is the following line, line 51, section 192, page 4, line 22, (Indiscernible).

A Yeah. So this person signed as Lu Anne Rigilaro (ph), but the scanner picked up at -- as Luanne and when we found her on the voter network, her name is Lucille Anne Rigilaro (ph) that lives at that district -- in that address and is an eligible elector. She just chose to sign with a nickname or a (indiscernible).

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Q Okay. The next one is the following line, line 52, it's section 192, page 4, line (indiscernible), Carmen N. Ortiz (ph). What did you learn about this person?

A This is another case of two last names and she is registered as a Carmen Romero Ortiz, but she signed without the Romero. And she does live there.

Q The next one, the following line, it's Section 193, page 3, line 13, Libby Abeyta (ph) is what the Secretary of State's scan says. What did you learn about this person?

A Her name is actually Linda Abeyta (ph) and the scan petition -- the scanned petitions reflects a Linda.

Q The actual hard copy itself?

A Yes.

Q Next one is the following line 54, it's section 193, page 5, line 40, Joe Castro (ph). What did you learn about this individual?

A Joe Castro wrote in the petition 1723 Craig (ph), Pueblo. The scanner somehow read it as Gareg (ph), although, he is registered as a Democrat at 1723 Craig, Pueblo.

Q The next one is the following line, line 55 at section 200, page 2, line 9, Coleen Circa (ph).

Q Yeah. She wrote in the petition 691 South Union Avenue (ph). For some reason the scanner has recorded 691 South Harem Avenue (ph), but she is registered there and she is a eligible elector. And that the lines following I don't think

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(indiscernible) in, but it should be struck as well, and that's section 200, page 3, line 20, (Indiscernible) Arellano (ph).

Q Okay. That's line 56 in the document?

A Yes.

Q Got that one.

THE COURT: All right. That's withdrawn.

MS. PADDEN: Yes. Section 200, line 20. Did you get that, Your Honor?

THE COURT: I did. And that's being withdrawn why?

THE WITNESS: Because on the scanner her address was actually crossed out. It's correct, but it was crossed out, and that invalidates a signer.

THE COURT: Okay.

BY MS. PADDEN:

Q The next one is line 57 (indiscernible), it's section 200, page 7, line 58, Felipe Reyes (ph). What do you recall about that individual?

A So this person wrote 2328 East Evans Avenue, which is his -- which is his address and he is registered to vote there, and the scanner picked up 2324. So it confused a 4 for an 8.

Q Okay. Next one is the following line, line 58, (indiscernible) section 201, page 5, line 38, the name is Peg J. Hovet (ph). What did you find about this person?

A So this person is registered as a Margaret J. Hovet

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and there's (indiscernible) woman living in that household and registered in that area. And so -- in that household, excuse me. And so we just are assuming that it -- that she signed with a nickname Peg.

Q Okay. The next one that I see which is a comment is line 68, are there any before line 68 that you (indiscernible) withdrawn?

A Yes. Line 59.

Q Okay.

A Section 204, page 2, line 9, Mivalena Archuleta (ph).

Q Okay.

A And this is a affiliation disqualification.

Q Okay.

MS. PADDEN: Your Honor, we withdraw that one.

THE COURT: How do you know that?

THE WITNESS: Because in the voter file it shows that she affiliated within -- she wasn't affiliated as a registered Democrat 29 days at least prior to signing the petition.

BY MS. PADDEN:

Q So we are down to line 68 next. That's section 44, page 4, line 25, Jordan Bengold (ph). What did you learn about this individual?

A That the scanner mistook a 7 for a 2 and he actually lives at 7464 Glenridge Drive -- Glenridge Drive (ph), Castle



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Pines, and is a registered elector. And the address is (indiscernible) on the scan.

Q Okay. The next one I see (indiscernible) two lines down it's line 70, it's section 55, page 4, line 21, Mateo Flores (ph). What did you learn about this individual?

A This person lives at 2700 (Indiscernible) C Street, however, wrote lot 156, but he is registered at lot 146. So we believe it was just a mistake on his part.

Q And then skipping down to line 72.

A If I may really quick --

Q Yep.

A -- move to line 63, section number 263, page 4, (indiscernible).

Q Uh-huh (affirmative).

A So Denise M. Dawson (ph), I know her. And she signed as Dawson, however, she's still registered as Denise Scanlan (ph) which is her maiden name.

Q Okay. So this is someone you know personally?

A Yes.

Q Did you personally collect her signature?

A No, but I personally directed her to a circulator in Grand Junction to sign.

Q Okay. All right. So then moving down -- let's see -- I think we're on line 72, which is section 58, page 3, line 17, Rebecca W. Meyer (ph). What did you learn about this

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individual?

A That she actually signed as Rebecca N. Meyer and the scanner picked it up as a W, but she is registered as Rebecca N. Meyer in the voter file living at this address and is a registered elector -- or an eligible elector; excuse me.

Q Okay. And then I believe the voter line (indiscernible) was one that we went through yesterday.

A Correct.

MS. PADDEN: And that -- so that's -- for the record, that's section 68 -- I'm sorry -- yes, section 68, page 4, line 28, (Indiscernible). That one is withdrawn.

THE COURT: Okay.

BY MS. PADDEN:

Q The next one is (indiscernible), line 75 in the document, section 105, page 4, line 30, Veda Franks (ph). What did you learn about that person?

A Yeah. So the scan actually has it written as Veda Franks (ph). It looks like her pen was dying, but it's Veda Franks. And in the -- in the voter activation network, it shows that Aveda Franks (ph) is registered and lives at this address, so we believe that was just another scanner mistake.

Q And then the next one (indiscernible) entry is Y81, are there any in there that need to be withdrawn or (indiscernible), 81?

A There is a Kim Coats (ph) which is right above line

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81, line 80.

Q Oh, you're correct; I missed that one. Okay. So let's go to that. Line 80, section (indiscernible), page 5, line 32, Kim Coats. What did you learn about this individual?

A That she signed using her mailing address, but she is still registered to vote at 1205 Pace Street (ph) and that you can see both addresses on the voter file that belong to her.

Q The next one is the following line, it's (indiscernible), section 125, page 7, line 53, Kimberly Clough, but it's just the name Kimberly in the Secretary of State box. What did you learn about that individual?

A Yeah, the scanner didn't pick up her last name as Clough, C-l-o-u-g-h, and she is a registered elector at 102 Alex Court (ph), in Milliken.

Q And it looks like we're skipping down to line 83, section (indiscernible), page 7, line 56, Anne (Indiscernible). What did you learn about this individual?

A The "u" in her name is actually an "a" and she is Anne Blastingane (ph) that lives at this address and is an eligible elector.

Q Then let's go down --

A We need to strike one.

Q Okay.

A Which is on line 84, section number 147, page 7, line 57, Angel Sanchez (ph), affiliated too close to the date of

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signing.

Q Okay. And then the next one is line 86, at section 184, page 2, line 3, Sally Vochella (ph). Do you know this individual?

A Yes. And Sally Vochella I know her and she actually lives at 437 Pekin Drive in Johnstown, and wrote 435. So she lives at 437 and wrote 435.

Q Did you personally get her signature?

A I did not personally get her signature, although, I was at a candidate event, she ran up to me and gave me a big hug and said I just signed your petition. So I'm sure she (indiscernible).

Q Okay.

A I also -- the individual above Sally is Joshua Spelling (ph).

Q Uh-huh (affirmative).

A That is also another individual that I know and he was also a circulator for us. Yesterday I believe I was calling him Joshua (Indiscernible) which is embarrassing, but he should be a valid signature. He affiliated as a Democrat on January 21st of 2020 and signed on January -- or on February 24th, 2020, which is over 29 days of being a Democrat.

Q And then moving on to line 87, at section 184, page 5, line 34, (Indiscernible). What did you learn about that individual?

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A Yeah. So the scanner thought that his address was 4738 when in fact he -- he wrote and lives at 4238 15th Street in Greeley. And so he is in fact an eligible elector at the correct address that he wrote in the scans on the petition that's reflected on the scans.

Q And the next line is line 88 at section 191, page 5, line 31, Karen McCormick (ph). Do you know Ms. McCormick?

A I do, yes. And she signed as Karen McCormick. Her voter registration file shows that she registered as Karen McCormick Terry (ph).

Q And did you personally get her signature or have those communications with her about signing it?

A I did not personally get her signature. And no, I did not get a personal communication from her when she signed it. I did get from the person who did collect her signature a text message saying I just got Karen's signature.

Q Okay. And has Ms. McCormick (indiscernible) for office?

A Uh-huh (affirmative).

Q Okay. The next line is line 81, (indiscernible), page 5, line 36, Caitlyn Larson (ph). What did you learn about this person?

A That what is written in the -- in the petition is indeed what is reflected in the scans. It's correct. We can't figure out a reason why she shouldn't be counted.

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Q Okay. And then --

A The one following --

Q Yes.

A -- John Edward (ph) (indiscernible) 31, 537, I did not get this signature, but I was on the phone consulting with the person who did collect the signature, because he's a -- he was an elderly man that had -- had tremors, he signed it, you can read it, but he did write 5 -- he wrote 730 Pikes Peak -- or Pikes View Drive, when he lives at 530 Pikes View Drive.

Q And then the next one for which there's an entry in this chart is (indiscernible). Do you see anything between the one you just talked about, John Edward, line 90, up until line (indiscernible), withdraw?

A Not withdrawn, but more folks. So for example, line 93, 239 -- section 239, page 2, line 9, Rita M. Valdez (ph) is -- she goes by Rita, but it's actually Mary Rita Valdez (ph).

Q And do you know her personally?

A I do.

Q Okay. And did you get that signature or have any communications with her about that?

A I did not, no.

Q Okay. Anything else until we get down to line 120?

A Yeah. The next line is Jeremy W. Spalding (ph). And I don't know why this is not written or reflected in the -- in the documents, but he has -- his -- the scanner picked up 2508,

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but he actually lives at 1508.

THE COURT: What's the number? I'm --

THE WITNESS: Oh, I'm sorry.

THE COURT: I see it.

THE WITNESS: It's section 239, page 3, line 15, Jeremy Spalding.

THE COURT: Okay. I'm there.

THE WITNESS: And this is one of the -- sorry. This is one of our circulator's best friends so I specifically remember this one.

THE COURT: And you were saying he lived -- you were offering something about his address?

THE WITNESS: Yes. So the scanner thought his 1, because he did the whole like 1 with the line on it, and the little funky thing -- anyway, it's -- instead of being 2508, it's 1508, and the scanner picked it up as a 2.

BY MS. PADDEN:

Q And then the next one I see is (indiscernible), do you see anything else before that?

A Nope.

Q Okay. And then I believe line 120 -- well, we went through that yesterday (indiscernible), so --

A Yeah.

MS. PADDEN: We withdraw line 120 of the document, it's section 7, page 2, line 4.

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THE COURT: Theodore Leininger (ph)?

MS. PADDEN: Yes.

THE COURT: All right. That's withdrawn.

MS. PADDEN: Yes.

BY MS. PADDEN:

Q And the following line is line 121, section 9, page 5, line 40, Jacqueline Mesas (ph). What have you learned about this person?

A Her registered address is 8014 Hunter Peak. She wrote 8140 Hunter Peak. Just a dyslexic mistake.

Q Okay. And then the following one is another one that we withdrew yesterday.

MS. PADDEN: So Your Honor, we withdraw (indiscernible) 22 of the document, it's section 10, page 2, line 1, Carolyn J. (Indiscernible).

THE COURT: Okay. That's withdrawn.

BY MS. PADDEN:

Q And the next one I see is line 124, it's section 15, page 4, line 29, (indiscernible) Brizarri (ph).

A (Indiscernible).

Q (Indiscernible). What did you learn about this individual?

A This individual used their mailing address. Their voting address is 2731 Scotchbroom Point in Colorado Springs. Both addresses are attributed to him in the voter file, so we



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know that this person is an eligible elector, he just wrote what -- he wrote the wrong address.

Q This next line in line 125, it's section 15, page 5, line 32, Whitney Crocket (ph). What did you learn about that individual?

A So this one is actually Whitney Pipp (ph) lives at this address. However, this is one that I would suggest that -- to withdraw.

Q Okay.

THE COURT: That's withdrawn.

MS. PADDEN: Thank you, Your Honor.

BY MS. PADDEN:

Q All right. We're on -- the next one is line 127, it's section 17, page 5, line 33, Ria Barria (ph). What did you learn about this person?

A So her actual name is Riannan Barria (ph) and so she signed with her name shortened as Ria. She also lives on campus and so she wrote 1121 and her record was actually updated on 4/15, so we're not able to see the -- if she moved or if she had at some point lived at 1010 Austin Bluff or if she'd recently moved. So this is a -- one that we would -- we were questioning and we would, like all of these, for the Secretary of State to review.

Q The next one is the following line, it's line 128, section 19, page 2, line 4, Natasha M. Philips (ph).

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A So this is another one where Natasha M. (indiscernible) signed with her married name and her maiden name is still up.

Q The following one is the following line, line 129 at section 20, page 3, line 14, Janie Driska (ph). What did you learn about that individuals?

A Yeah, she signed with her middle name Janie, and her full name as registered -- as a registered voter is Martha Jane Driska.

Q Okay. On line, the following line, line 130, at section 121, page 4, line 26, Eleanor R. Bee (ph).

A Yeah, this is 3122 Buena Ventura Street (ph), and her correct address is 3122 E. Buena Ventura Street, and she is an eligible elector at this address.

Q The next one is line 131 at section 29, page 2, line 10, (Indiscernible). What did you learn about this person?

A So this is another student that lives on campus and wrote 902 North Cascade Avenue, but he -- where he gets his mail, however, he's registered at 930 North Cascade Avenue, so we believe he just didn't update his voter registration when he moved, like most college kids.

Q The next line is line 132 in the document, it's section 42, page 2, line 2, Anna M. Squires (ph). What did you learn about that individual?

A Yeah. So Anna M. Squires I believe this is actually

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backwards. So if I remember correctly in the scan she wrote 25 West Cimarron Street, and her actual address is 1025 West Cimarron Avenue, in Colorado Springs. So this one is just a mistake in completing her address. That's what I got.

Q Okay. The next one is line 133, it's section 42, page 3, line 12, Janine Morris (ph).

A Yeah, this is an interesting one. So the scan that we have from the Secretary of State compared to the spreadsheet that we got from the Secretary of State, the spreadsheet had 2646 East Yampa Street, but that wasn't anywhere near what was even allegedly written in the scan, and what was written in the scan was 3450 Parkmore Village Drive (ph). And that is correct. That's the correct address in -- in the voter file, and she is an eligible elector. So we're not quite sure how the -- how the scan turned 3450 Parkmore into 2646 East Yampa.

Q And then the following line, line 134, it's documented at page 46, line 3 -- I'm sorry, section 46, page 3, line 12, Hannah P. Runyon (ph). What did you learn about this individual?

A First, she used her mailing address to register to vote. However, looking at her voter file, both her mailing and her voter registration addresses are attributed to her and she is an eligible elector.

Q Okay. The next one is line 134, it's section 46, page 3, line -- oh no, we just did that one, didn't we? Sorry.

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A Yeah, we just did that one.

Q Okay. My eyes are crossing at this point. The next one is line 135, it's section 47, page 6, line 43, Renaldo Valdez (ph).

A Yeah, he -- he just misspelled Bridgewood (ph), but he does live at 3485 Bridgewood Lane.

Q The next one is line 136. It's section 47, page 6, line 46, (Indiscernible). What did you learn about this individual?

A Yes. So this person as well has two last names and signed with only one as (Indiscernible), even though his voter registration file says (Indiscernible). And he is registered at this place.

Q Okay. The next one is line 137, it's section 47, page 6, line 48, (Indiscernible). What did you learn about this person?

A So (Indiscernible) chose to sign with a nickname as Kit instead of Katherine, and Kit is a very -- it's a well known nickname for Katherine, so there's no reason to assume this person is not who she says she is.

Q The next one is line 138, it's petition -- section 50, page 3, line 16, Maxwell (Indiscernible) Cruz. What did you learn about this person?

A Yeah. So as far as we can find, this person might actually be somebody who has selected some confidential

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information that we are not privy to, because we can only find his mailing address on file, which is the address that he signed for, and his voting (indiscernible) date is correct, his affiliation is correct, but it does not list voter registration address, just mailing address.

Q The next line is line 139, it's section 54, page 7, line 55, Kyle (indiscernible). What did you learn about this person?

A What this person is actually Lawson (ph) not Larson (ph). So there's a mistake in the -- the r versus the w. And this person unaffiliated after signing, and so, the Secretary of State has better information where they can check the actual affiliation prior to affiliating and prove that he was a registered Democrat.

Q The next line is line 140, it's section 59, page 2, line 8, Wren Josephs (ph). And there's no address listed in the Secretary of State column F. What did you learn about this petition signature?

A So based on the scans from the Secretary of State, his address was written as 3390 East Parade Circle, and that matches the voter file for (Indiscernible) Lynn Josephs (ph) at 3390 East Parade Circle and she is an eligible elector.

Q Okay. The next one is line 141, section 62, page 7, line 55, the first initial V and (indiscernible) the last name, starting with a Z. What did you learn about this person?

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A So this person actually wrote (Indiscernible) and the scan misread that as V (Indiscernible). And he also wrote 6795 in his address and his address is actually 8975.

Q The following line is line 142, Section 67, page 6, line 48, Charisma Johnston -- or Johnson. What did you learn about this person?

A Yes. Charisma Harrington Johnson (ph) is her official name as listed in the voter file and she just did not write the Harrington, and she does live at 6542 Alliance Loop in Colorado Springs.

Q Okay. The next one is line 143, section 74, page 5, line 31, Blake Shaner (ph). What did you learn about this person?

A The scan actually reads Dale Shaner (ph) and so this was just a misread (indiscernible) Craig Lane (ph), Manitou Springs.

Q Okay. And the next one I see (indiscernible) two lines down, line 145, and that's section 87, page 4, line 22, Cambria Parker (ph). What did you learn about this person?

A So this person's signature and written name on the scan actually says Bria (ph) Parker and when we searched for Bria Parker at 8331 Howard Circle, we found a Cabria (ph) Parker. So we believe that Cabria just signed as Bria. And she is an eligible elector.

Q Okay. The next one is line -- I'm sorry, on line

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148, section 101, page 2, line 4, Connie Chung (ph). What did you learn about this person?

A So Connie Chung is somebody who another strange mystery on the scanner. And so she wrote 2540 West Pikes Peak Avenue and the scanner reported 527 West Kiowa (ph) Street. But she's actually a registered elector at the address where she wrote on the scan.

Q Okay. And if we skip down -- skip down to the next one, its line 150, section 10, page 2, line 7, John E. Johnson (ph). What did you learn about that petition?

A Yeah, the scan has the address as 1112 East 6th Street or 1112 A East 6th Street. The scan confused a one for a zero. I can see why, but it is a 1. And then it wasn't picking up when the A is before the street. And so when we re-write 1112 East 6th Street, Apartment A, we find John E. Johnson at that address as an eligible elector.

Q Okay. The next one, line 151, section 104, page 6, line 41, Catherine Barr (ph), what did you learn about this individual?

A Catherine Barr confuse -- was con -- the scan confused her N as a W -- no -- yes, her N as a W. So it was actually 1708 North Tejon Street and she is an eligible elector.

Q The next line is line 152 at section 160, page 4, line 26, Vince Enreddy (ph). What did you learn about this

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individual?

A So this person wrote 310 Scott Lane, but his actual address is 3810 Scott Lane. We believe it was just a -- a simple mistake in completing his address with the 8.

Q And then the next one is line 154, that's two lines down.

A Yes.

Q It's section 189, page 4, line 29, the name written in the Secretary of State's column is (Indiscernible). What did you learn about this person?

A This isn't -- she actually wrote Sarah in the scan and the scan picked up Sally. But if you look at the scans, she -- it says Sarah. And she is an eligible elector at this address.

Q Okay. Next one is line 156 two lines down, section 195, page (indiscernible), line 21, Howard R. Moy (ph). What did you learn about this person?

A That the -- that the address on the Secretary of State's document was 24 West Rio Grande, Colorado Springs. His correct address is 25 West Rio Grande, Colorado Springs. If I remember correctly -- I apologize, I don't have some notes on this and I'm having a hard time remembering this. I think that he actually did write 24 West Rio Grande, but in fact lived at 25, and so, again, a (indiscernible) mistake on an address.

Q And then skipping down the next line is line 162,



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which we withdrew yesterday, but do you see anything else before you get to line 162?

A 157.

Q Uh-huh (affirmative).

A Section 195, page 4, line 28, (Indiscernible). I'm calling this one out because he was also (indiscernible) illegible and missing information, but he had nothing missing in his, because he had two (indiscernible) why his -- his signature would have been thrown out, which would be not found and also missing illegible. But he is an eligible elector at that address.

MS. PADDEN: Okay. All right. And then (indiscernible) yesterday we withdrew and should we withdraw again line 162, section 5, page 2, line 7, Mylon Miller (ph) because of the date of (indiscernible).

THE COURT: Okay. Withdrawn.

BY MS. PADDEN:

Q Okay. Then the next one I see is line 165, it's section 73, line 6 -- I'm sorry, section 73, page 6, line 44, scanner had this listed as Alana (Indiscernible) with a (indiscernible). Do you know Ms. Stuben Siegal (ph)?

A I do. I know her very well. And she was also a circulator of ours and she -- the scanner just mistook her D for a P.

Q Okay. And she's registered at that address?

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A At that address as a Democrat for many, many years.

Q Okay. And then the next one is Evangelina M. (Indiscernible). And (indiscernible), the next one is line 60, the following line, line 166, section 81, page 5, line 37, Evangelina Eillers (ph), and what did you learn about that person?

A So Evangelina's written last name in the scan is Eillers (ph) and the scanner picked up an extra I somehow, but she is Evangelina Eillers, registered at this address and is an eligible elector.

Q And then the next one is (indiscernible) -- I'm sorry, line 69, section 93, page 3, line 16, (indiscernible) Hyatt (ph) and there is an assisted by (indiscernible). Do you see that?

A Yeah. And we believe the reason why this signature was thrown out was because Jeffrey Hyatt who lived at the same address according to the voter file did not add his address under assisted address and did not write the date. But Clarissa (ph) Hyatt's information is 100 percent correct and she was assisted by her husband that lives at the same address.

Q The following line is line 170, section 109, page 5, line 38, Keith Parker (ph).

A Yeah, but the scanner picked up 14772, but upon inspection of the scans it's 14 (indiscernible) is Kentucky, and that's his correct address and he's a registered elector.

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Q Okay. The next one that I see is line 174 in the document, section 161, page 4, line 21, Luke A. McDowd (ph), and what did you learn about this person?

A The scan (indiscernible) as one singular last name and but he wrote McDowd as two different words and that is what is listed in the voter file. And so he is an eligible elector.

Q Okay. The next one (indiscernible) is line 193, do you see anything before we get to that one?

A Yes. Which one were we on?

Q We were going next to line 193.

A Yeah, 189.

Q Okay. So line 189, section 332, page 6, line 45, (Indiscernible) and what do you know about this individual?

A This -- her name is actually Wendy.

Q Okay.

A And the scanner picked up a (indiscernible) instead of a y.

Q Okay. And then moving on to line 193 in the document, it's section 69, page 2, line 2, there is another name in the Secretary of State's column, and what did you learn about this signature?

A The scans provided by the Secretary of State show that a Guy Franks (ph) filled out that line, as well as entered their address at 2260 Fast Moore (ph) Drive, Lakewood, and those match the scans as well as the voter file, so this person

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should have their signature accepted.

Q Next one is line 194, it's section (indiscernible), page 2, line 5, (indiscernible) Thompson. (Indiscernible).

A So this person, the scanner picked up the number sign in their signature line as 4206, but they actually wrote the pound sign 206, and so this person -- this address actually is legitimate, this person does live there, and they are an eligible elector.

Q Okay. Move on to the next line, line 195, section 84, page 7, line 57. The Secretary of State column is (Indiscernible). What did you -- what did you learn about this person?

A This person wrote Noah Stumbah (ph) and so the name was just messed up in the scan, but the scan document itself shows Noah Stumbah and also, the address is 9595 not 79 -- not 7598.

Q Next line is a blank (indiscernible) 196, section 86, page 4, line 29, (Indiscernible) Cisnero (ph). What did you learn about this person?

A Yeah. She wrote her address as 7851 Olive Street. The scanner picked up 8851 and she is an eligible elector at that address.

Q And the next one I see is line 199, it's section 165, page 3, line 19, Alyssa (Indiscernible). What do you know about this person?

**EXHIBIT 5**

A Well, her name is actually Aletta Cazatti (ph) and it's written as Aletta Cazatti in the document in the scans sent by the Secretary of State. And also, it -- the scans mistook a 7 -- a 2 for a 7. And also they're ac -- as written in the scans, she is Aletta Cazatti at 5112 West (Indiscernible) Circle in Westminster and is an eligible elector.

Q Okay. The next one is line 201, it's section 167, page 3, line 16, Gordon Altercott (ph). What do you know about this person?

A Yeah. This one the address as written in the document is 9338 and it was misread by the scanner as 9538.

Q Okay. And then I don't see any other notes in here through line 220. Do you have any additional information about any of these other lines in-between? The one we just spoke about and line 220?

A Let's see. From my recollection, starting at the bottom, (Indiscernible), line 220, 348, section 3, line 19, we could not find any reason why this person would be rejected and so we just found their registration.

The same goes for two lines up with Shawn King (ph). That one particularly stands out because of the name Shawn King and that is line 320, section (indiscernible), line 217 -- line 217, section 320, page 4, signature line 25.

(Indiscernible) and Shaunna Avilar (ph) also, we

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could not find any reason why their signatures were -- were kicked out. And that's the best that my memory can recollect at this point.

Q Okay. And then let's focus down to the (indiscernible) three lines here. So we already talked about line 225, section 93, page -- that can't be right -- it (indiscernible). So it's section 93, page 3, line 16, and we talked -- it was already included above --

A Uh-huh (affirmative).

Q --- (indiscernible) here and we've already talked about her.

MS. PADDEN: So Your Honor, just for the record, we'll withdraw that line 225, because the entry appears above in the section above.

THE COURT: Right. And that was section 93?

MS. PADDEN: Page 3, line 16, but we're not withdrawing that entry all together, it's just counted up above.

THE COURT: Right.

MS. PADDEN: So it appears in the document twice.

THE COURT: Got it.

BY MS. PADDEN:

Q And so the two remaining ones here, one is line 224 is section 60, page 314, what did you learn about that person?

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A So this person's signature was thrown out because the individual who assisted in (indiscernible) did not add the date of signing when they assisted her. We -- we just don't think that's really fair, so we would like the Secretary of State to reconsider that.

Q Okay. And then the last one is line 226, it's section 33, page 6, line 41, James Erbeck (ph). What did you learn about this one?

A We couldn't find any single reason why this signature would have been thrown out, both the signer -- the signer is an eligible elector and the way that the person did the assisted by was to a "T".

Q Okay. And do you personally know any of those individuals listed here in Exhibit 1 other than the folks you've already talked about today, such as Ms. (Indiscernible)?

A Let's see. Yes. I know Sally Brotella (ph). I know Joshua Stallings (ph). I know -- I know several folks. I just have to go through and remember -- go line by line.

(Indiscernible) Cabrera, Emily Garner (ph), and some of these folks I know because they're connected to people I know. Do you want me to say who those are, too?

Q Well, just name the ones that you (indiscernible).

A Okay. Also, Karen McCormick, Rita Valdez -- Mary Rita Valdez (ph). Alice Garcia is one of my mom's students that I've met a few times.

**EXHIBIT 5**

Q And what line number is that?

A That is 251 -- oh, it's line 96, section 251, page 5, line 37. Yeah, I think that's about it.

Q Okay. Thank you.

MS. PADDEN: Your Honor, I have a little bit more for this witness, but I'm wondering if we might have -- take a comfort break. (Indiscernible) out of water and my mouth is really dry.

THE COURT: Okay. Let's go ahead and take a five minute recess and you're welcome to stay connected and we'll be back at 2:17.

MS. PADDEN: Thank you.

THE COURT: Yeah, 2:17.

(Off record)

THE COURT: Okay. We're back on the record in 20CV31467. Ms. Padden, can you hear me okay?

MS. PADDEN: Yes, Your Honor. Can you hear me?

THE COURT: I can. And Ms. Buckley and Ms. Morrill, can you see and hear me okay?

MS. BUCKLEY: This is Ms. Buckley and I can see and hear you.

THE COURT: Okay. And Ms. Morrill, are you there as well?

(No response)

THE COURT: I show she's still connected, Ms.



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Buckley. She may have stepped away. I don't think --

MS. BUCKLEY: Yeah. I just let her know that we can't see or hear her right now, so (indiscernible) wait for her to come back (indiscernible).

THE COURT: Okay. We'll go ahead and wait.

(Pause)

THE COURT: Okay. Ms. Morrill, I can see you. Can you hear me?

MS. MORRILL: Yes, Your Honor.

THE COURT: All right. Ms. Morrill's back. I'm going to go ahead and mute you. Unmute yourself whenever you need to. Ms. Buckley's here, Ms. Padden's here, Ms. Garcia's here. So Ms. Padden, when you're ready.

MS. PADDEN: Okay. Thank you, Your Honor.

BY MS. PADDEN:

Q A few more questions, Ms. Garcia. And I apologize if I (indiscernible) earlier. I'm having a little trouble remembering what I asked you yesterday versus today. About how many signatures did you yourself get?

A Over nine hundred -- I think 961.

Q And what did you feel the response was when you as a candidate were trying to get a signature for your own petition?

A Pretty good. I mean, I think as a candidate I just have better -- a better success rate, just being the candidate asking.

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Q And did we already talk about canvassing the week -- the weekend before the due date? Did we talk about that today already or was that yesterday? I don't remember.

A (Indiscernible) was today. Yeah, I think I did.

Q Okay. And then (indiscernible) actually this earlier, but what made you decide to run for U.S. Senate in the first place?

A I decided to run for U.S. Senate because my -- my career in leading nonprofit organizations and social justice nonprofit organizations, has given me direct experience in seeing the impact of our national agencies and of our courts. And the folks that serve on our courts and the folks that serve on our courts and the folks that serve as heads of our national agencies, they're confirmed or denied by the U.S. Senate. And when laws and policy -- laws take forever to pass at the congressional level for the most part, an agency head can make rules and regulations that have direct impact on people's lives. And if there aren't people in those seats who are intending to uphold the mission of those agencies, then it only causes pain and destruction within the agencies and in people's lives. And so that's why I decided to run for U.S. Senate.

Q Okay. And have you ever run for office before?

A I have not.

Q Okay. So those -- all the supporters and followers you've been able to garner just over the course of this race?

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A Yes. Amazing.

Q Yes. Okay. And then I'm going to switch gears a little bit. How did you feel about the way that your team dealt with the crisis that COVID-19 presented?

A I think we did as best as we could. Excuse me. We had -- our team was just as positive as they could be, as understanding as they could be. We had circulators that -- you know that were going out everyday. One in particular, one of our volunteers, quit her job, quit her gig economy work to help us collect signatures fulltime on a volunteer basis for the full two months. I mean, it was just incredible and when COVID-19 hit, the -- that energy and the way that they responded was with compassion and with understanding and with still as much passion as they could in such a crisis, knowing that their health was at risk, their family's health was at risk.

MS. PADDEN: Okay. I don't have any further questions. Thank you.

THE COURT: Okay. Any cross-examination?

MS. BUCKLEY: Yes. And this is Ms. Buckley for the record. I do have a few questions on cross for Ms. Garcia.

THE COURT: Okay. Go ahead.

MS. BUCKLEY: Okay.

CROSS-EXAMINATION

BY MS. BUCKLEY:

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Q Ms. Garcia, before we get too far afield from the -- what's been labeled as Exhibit 1, could I ask you to look at that again?

A Yes.

Q Okay. And then before I get into any individual entries, does VAN reveal a registered voter's marital status?

A Yes, it does. It has relationship.

Q Okay. And so it has -- does it have who they're -- who that person is married to?

A Uh-huh (affirmative).

Q Okay. Got it. And does it have other familiar relationships like mother/daughter or --

A I don't think it does.

Q Okay. And then frequently is the voter registration updated in VAN?

A As I understand it, in non-election years, so in off years, it's monthly. In election years, it's every two weeks to every week.

Q Okay. And you alluded to a (indiscernible) that you saw on April 15th, 2020; is that correct?

A Correct.

Q And in -- (indiscernible) checking it today, is that kind of the most recent update that you've noticed?

A Yes.

Q So I want to draw your attention to a few -- just a

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few lines I promise in this spreadsheet. And the first two lines I want to draw your attention to are spreadsheet lines 43 and 44, petition 81, page 2, signature lines 1 and 2, and then both of those names that we have here are Omar Sarabia (ph) -- excuse me, Omar Sarabia. Did you find that in the spreadsheet yet?

A Yes.

Q And then if I could draw your attention to still looking at those same lines, column N of your spreadsheet for those two lines. And can you tell me what's written there?

A Nothing.

Q And in other entries of this spreadsheet there -- is there additional information?

A Yes. Some have -- usually have voter registration (indiscernible).

Q In looking at these two gentlemen, can you determine why the Secretary of State determined that their signatures were -- or rejected their signatures, looking at your spreadsheet?

A No.

Q And I know you've looked at these closely and you have a really good memory, so I just wanted to ask you, if I were to tell you that in the master accept/reject spreadsheet the Secretary of State determined that those -- these gentlemen were not eligible to sign the petition, would that ring any

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bells for you?

A It wouldn't right now, unh-unh. I'd have to trust you on that.

Q Okay. One unfortunately that I have to draw your attention to, Secretary's Exhibit B, which is the master accept/reject report. (Indiscernible) have that document. And --

A I don't think I have that.

MS. BUCKLEY: Ms. Padden, is that a document (indiscernible) --

MS. PADDEN: Yes.

THE WITNESS: Okay.

MS. PADDEN: It'll take me a minute to pull it up.

(Pause)

MS. PADDEN: All right. Ms. Buckley, do you recall if you or Ms. Morrill was the one who emailed that to me?

MS. BUCKLEY: I'm sorry, I didn't catch that question.

MS. PADDEN: Do you recall whether it was you or Ms. Morrill who emailed that to me? (Indiscernible).

MS. BUCKLEY: Yeah. So it was me and I emailed it to --

MS. PADDEN: Okay.

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MS. BUCKLEY: -- addressed to you, Amy -- or Ms. Padden, and then also Benjamin (Indiscernible).

MS. PADDEN: Okay. Yes.

MS. BUCKLEY: On --

MS. PADDEN: Yes, I have it.

MS. BUCKLEY: Okay.

MS. PADDEN: You should have it shortly, Ms. Garcia.

THE WITNESS: Okay.

(Pause)

THE WITNESS: It's the exhibit spreadsheet?

BY MS. BUCKLEY:

Q It should be labeled Garcia Exhibit B, and it's a -- it's the signer (indiscernible) adjudication report from the Secretary of State's office.

A Okay.

Q Okay. Great. If we could look at the entries for those Omar Sarabia and that is at spreadsheet line 6797 and 6798. (Indiscernible) complete lines there. I would suggest that (indiscernible) want to follow along, do a Control F search for Sarabia, S-a-r-a-b-i-a is the fastest way to find it. But for the record, this is spreadsheet line 6797, section 181, page 2, line 1, Omar Sarabia. And then also document line 6798, section 181, page 2, line 2, also Omar Sarabia.

MS. BUCKLEY: If Ms. Garcia and also Ms. Padden

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can confirm when they're there, as well as the Court, too.

MS. PADDEN: I'm there.

THE WITNESS: It's just taking a minute to load.

(Pause)

THE WITNESS: Okay. I am --

BY MS. BUCKLEY:

Q Okay. Great. If you could look across for those respective spreadsheet lines, (indiscernible) --

MS. BUCKLEY: I'm sorry to interrupt. There's a lot of feedback from your headphone, and I just -- and I will give you plenty of time to object if you want to, but if you wouldn't mind muting yourself.

THE COURT: I just muted her.

MS. BUCKLEY: Okay. Thank you. Thank you.

Appreciate it.

BY MS. BUCKLEY:

Q If you'll look across from those -- for those Mr. Sarabias to column O in the document, can you tell me what's shown there?

A Signer not eligible to sign petition.

Q And do you know why these signers weren't eligible to sign the petition?

A No, I don't. We were unable to identify reasons why they would be unable based on the information in the (indiscernible).



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Q You cut out there for a second. I just want to let you fill that in again.

A I said no, we didn't know why they were listed as not eligible to sign because we couldn't find anything in the voter activation network that would make them ineligible to sign.

Q Okay. So you don't have access to information that would either way show why that person wasn't -- was not eligible to sign, correct?

A Correct. Based on the rules of what makes a person eligible to sign, they meet those rules.

Q As far as you can determine from looking at VAN, right?

A Sure.

Q Okay. Let's go to the next entry, and I'm referring back now to Ms. Garcia's Exhibit 1 again. And I want to direct your attention to line -- spreadsheet line 96, petition section 251, page 5, signer line 37, Alice Garcia.

A Uh-huh (affirmative).

Q And it's your testimony that Ms. Garcia is a student of your mother's, correct?

A Uh-huh (affirmative).

Q And do you know where Ms. Garcia lives?

A In Longmont.

Q Do you know her specific address based on your personal knowledge?

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A Yes, it's 1203 Gay Street (ph), Longmont.

Q And do you know that from your -- from your review of the petition that you submitted --

A Yes.

Q Okay. But not in your -- she didn't mention her address to you in your personal interactions, right?

A No.

Q And are you privy to information about her voter registration?

A I am.

Q How so?

A Because I can look her up in the voter activation network.

Q Okay. And did you do so here?

A I did. Absolutely.

Q Okay. And so she -- is she one of the individuals who you believe should have been counted because you couldn't find a reason for her rejection?

A Yes. Although, what I did not write in here is that her middle -- she signed with her middle name as Alice. Her first name is Elizabeth.

Q Okay. And then moving down to spreadsheet line 128, section 19, page 2, line 4, Natasha Philip (ph). Do you know Natasha Philip personally?

A I do not.

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Q Do you -- there's a -- next to the (indiscernible) name, there is a column E, and could you read me what's in column E?

A Yeah. Natasha M. Miller.

Q I think it says Natash, right?

A That's a typo.

Q That's what I assumed, I just wanted to clarify.

A Yeah. Yeah, it says Natash, yes.

Q But do you personally know whether this Natasha Philip goes by Natasha Miller or not?

A I don't.

Q And then down to spreadsheet line 136, section 47, page 6, line 46, (indiscernible), are you there?

A Uh-huh (affirmative).

Q Okay. Could you read across that line to column N?

A Either voter reg has wrong name or signer only used first and middle name or first and part of last name. Clearly says Baltazar Rosas (ph) not Mayo (ph).

Q And who -- is that the information that your campaign -- at -- you or campaign member added in here?

A Yes.

Q So it sounds like there's a couple of assumptions that your -- that there's some speculation here as to how (indiscernible); is that right?

A Say -- can you repeat the question?

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Q Yeah. I'll actually withdraw and rephrase it because it was not a great question. Do you or anyone in your campaign staff know Baltazar Rosas?

A No.

Q So do you know whether Baltazar Rosas Mayo and Baltazar Rosas are the same person for certain?

A Well, there's only one Baltazar Rosas listed in the VAN or the voter activation network. There's not more than one Baltazar Rosas in any voter activation -- in voter file that obviously we have access to.

Q Right. And if a person doesn't appear in VAN, does not mean that they're not a real person?

A No, it doesn't, but the -- the chances of more than one person being named Baltazar Rosas in Colorado is very slim. Baltazar is not a very common name and it's very common for people of Hispanic descent to have two names and only use one.

Q Have you done a (indiscernible) exercise on this particular question?

A No, that's just lived experience as a Latina.

Q And it's possible that someone can exist in Colorado and not be a registered voter, right?

A Sure, but to live at that address and to put that exact address where there is a registered voter and to not use half of that last name, that just seems like a stretch.

Q So in your view, there's no way it could be

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father/son relationship?

A I guess. This person's 58 years old or 59; he's in his 50s.

Q That doesn't preclude him from having a living father.

A Right. No, that's what I'm saying. I'm agreeing with you. Yeah, you're right. He could have a living father or a living son.

Q I'll move on to the next one, which is spreadsheet line 138, petition 50, page 3, at signature line 16, Maxwell J. Faruj (ph).

A I'm there.

Q And here, you testified that you could not find a registered voting address for this individual, right?

A Right. Which is why we are -- we are specifically asking the Secretary of State to review this one again because according to the Secretary of State, this person just simply was not found and we were able to find them with a mailing address.

Q Okay. Do you agree at this point in time the Secretary of State has potentially better information on Mr. Faruj than you're able to find?

A I -- I'm not going to say yes to that, because we've clearly found several mistakes that the Secretary of State's processes have made.

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Q Right. And I'm not asking generally for -- for you to say that at all. I'm just (indiscernible) specifically on Mr. Faruj, that you would ask the Secretary of State to do another review here, right?

A Right. And so that's well within our rights, which is why we're asking for a review of this one again.

Q And then I want to turn to the next line as document line 139, petition (indiscernible) 4, page 7, line 55.

A Uh-huh (affirmative).

Q Here the -- that signer is Kyle D. Larsen (ph). The Secretary of State's data says it's Kyle D. Larsen, right?

A Right.

Q You found a Kyle D. Lawson at the same address, right?

A We found from the petition that there's a Kyle D. Lawson at this address and that the Secretary of State's scanner misread Lawson for Larsen.

Q And you noticed that Mr. Lawson was registered as an affiliated after signing, right?

A Right.

Q And you don't know his voter registration at the time that -- or let me rephrase. You don't know whether he was a registered Democrat at the time he signed the petition?

A Correct. Which is another reason why we want the Secretary of State to review this one again.

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Q And I will take you down to spreadsheet line 144, petition section 87, page 3, line 11, Kenneth Allen (ph).

A I'm there.

Q Can you read what is written in column R of that line?

A Column R of line 144?

Q Yeah.

A I don't see anything.

Q Oh, excuse me. Can you read what's written in column N -- or M, rather?

A Nothing.

Q And in -- elsewhere in the document in column M, you might have information about voter registration not found, for example, right?

A Sure. Yep.

Q And so looking at your spreadsheet, can you tell why the Secretary of State rejected Mr. Allen's signature here?

A No. I cannot.

Q Can I direct you back to Exhibit -- Secretary of State's Exhibit B and (indiscernible) locate Mr. Allen's entry and I will take a minute to get there myself. Okay. (Indiscernible) do a Control F search for Kenneth Allen and you will get there immediately. And I am looking at document spreadsheet line number 3,644, section 87, page 3, line 11, Kenneth Allen.

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A Can you say that again?

Q Absolutely. I'm looking at spreadsheet line 3644, section 87, page 3, line 11, Kenneth Allen.

(Pause)

Q Ms. Garcia, are you there yet?

A Almost.

Q Okay.

A My spreadsheet's a little frozen.

Q Take your time and let us know when you're there.

A Got it.

Q And can you read what is written here in column N?

A It is -- invalid signer date.

Q And do you have anything that would suggest that Mr. Allen did not sign on a valid date here?

A I believe if I'm looking at it, now that you're bringing it up, just looking at the line number, that he signed on 11. If he had an invalid signer date, he would have been ruled ineligible. I'm having a hard time remembering, because what is also allowed is if there's an invalid signer date within two valid signer dates, that the Secretary of State will rule that invalid. Does that make sense?

Q You remember for certain?

A I -- that's the thing, I do not.

Q Okay.

A I don't remember for certain right now if -- if we



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found that his signature was between two valid signer dates.

Q Okay. Okay. And I don't have any further questions about Exhibit 1 at this point, so we can all put that aside. Okay. And then I just have a few additional questions for you. Your campaign planned to have your highest rate of signature collection (indiscernible). Okay.

A What?

Q I heard a phone call coming through.

A Oh.

Q I'm not sure what that was. (Indiscernible) but I will restart my question. So your campaign planned to have your highest rate of signature collection in the last two weeks of the signature collection window, right?

A Yeah. I think compared to had been collecting, yeah, we were hoping to get a boost of another like 2500 signatures in that last two weeks. I don't think that's too far higher than what we had been collecting before.

Q Do you agree that your petition alleges that you were planning to have your highest rate of signature collection in the last two weeks of the signature collection window?

A Yes.

Q And you'll agree that there are some risks in gathering -- you know, a great deal of signatures in the last two weeks that are just inherent risks?

A Absolutely there is risk in everything. And whether

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we tried to collect all the signatures in the beginning versus at the end.

Q Yeah. And you expected to gather a significant number of signatures at the March 14th St. Patrick's Day parade in Denver, right?

A Yes.

Q And --

A And -- and other places; sorry.

Q Thanks. I appreciate that. And I believe you did have an opportunity to testify to that and Ms. Padden can certainly ask you more on redirect, but I'll just ask that you try and answer my questions.

And in advance, you couldn't know for certain whether it would snow on March 14th, right?

A We would have a very good educated idea based on weather, The Weather Channel and all of that, at least 14 days in advance.

Q Right. But those are forecasts and a forecast -- I'm sorry, go ahead.

A Yeah.

Q And a forecast is a prediction?

A Yes. And a pretty accurate prediction.

Q Although you have said that weather can be uncertain in Colorado.

A Yes, but not to the point of not expecting a blizzard

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on March 14th and days in advance knowing there's going to be a blizzard. And we might expect a -- an afternoon rain or something.

Q And you couldn't know for certain the number of CD6 voters who might show up to the parade on March 14th, right?

A That's correct.

Q And you couldn't know for certain the number of CD5 voters who might show up to the parade on March 14th?

A That's correct.

Q And Denver is in CD1.

A We wouldn't expect to collect CD5 signatures in Denver. We were expecting to collect those in Colorado Springs in CD5.

Q And you already had high number of signatures from CD1 before March 14th?

A Yes.

Q Was your campaign checking the validity of any signatures while you were collecting?

A Yes. We were checking them daily ongoing so we could keep as accurate of a count as we could.

Q And did you have a anticipated invalidity rate?

A We expected about a 70 percent, 75 percent validity rate.

Q And did you have any plans to reduce that validity -- invalidity rate?

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A Yes. Which is why we also had plans and we started shifting our canvasses to doors even before COVID-19.

Q And you made the decision to stop collecting signatures on March -- Sunday, March 15th, right?

A Correct.

Q And so your campaign did not collect any signatures on March 17th?

A No, we did not.

Q And what time on the 17th did you turn in your signatures?

A We showed up, I believe, at 8:00 a.m. and we turned them in around 8:30, sometime between 8:00 and 8:30 a.m.

Q Okay.

MS. BUCKLEY: Just one minute, please.

THE COURT: Okay.

(Pause)

BY MS. BUCKLEY:

Q Okay. I don't have any further questions at this time. Thank you, Ms. Garcia.

A Thank you.

THE COURT: Any redirect?

MS. PADDEN: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MS. PADDEN:

Q Ms. Garcia, do you still have on your screen the

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Secretary's exhibit, I think it was the (indiscernible) report?

A I closed it. Do I need to open it again?

Q If you could, please.

A Sure. My dogs are barking, so I'm going to mute while I open it.

Q Okay.

(Pause)

A Okay. It's open.

Q Okay. I'm going to ask you to turn to line 3232, Kenneth Allen that Ms. Buckley was asking questions about.

A Okay.

Q And can you tell -- can you read to the Court what section, page, and line number Mr. Allen's signature appears in your petition?

A Shoot. Did the -- what were -- what was the line number you said for Kenneth Allen?

Q 3232.

A The line I'm seeing is David Kazmir (ph). Hold on.

MS. BUCKLEY: Your Honor, may I offer the (indiscernible) for Kenneth Allen?

THE COURT: Yes.

MS. BUCKLEY: I'm seeing section line number 64 -- oh excuse me, 3644.

THE WITNESS: Okay. I'm there.

BY MS. PADDEN:

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Q Okay. And so, can you read those section, page and line number of Mr. Allen's signature?

A Section 87, page 3, line 11.

Q Okay. And then immediately above that, is there entry for like 3643?

A Yes. For Elena Morrison (ph).

Q Okay. And is that in the same or different section as Mr. Allen?

A It's in the same section.

Q Okay. And what's the page number and line number of Ms. Morrison's signature?

A Page 2, line 10.

Q Okay. And then do you know whether or not the lines are consecutively numbered so they start on page 1 and go straight through to page (indiscernible)?

A Yeah, the signatures start on page 2 and go straight through page 7 consecutively lines starting number 1 through line number 6 -- 60, I mean.

Q Okay. So (indiscernible) can you tell whether Ms. Morrison signed the petition on the line immediately preceding when Mr. Allen signed?

A Yes, she did.

Q And what is the date of Ms. Morrison's signature?

A March 10th, 2020.

Q Okay. And then if you go to line 3645 immediately

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below Mr. Allen's?

A That's March 10th, 2020.

Q Right. And what's the section, page and line number for that signer?

A Section 87, page 3, line 12.

Q And what's the signer name?

A Gizelle Rivera (ph).

Q Okay. So can you tell from this spreadsheet whether or not Mr. Allen's signature was in-between two signatures that had the same date?

A Yes. It was.

Q And was it your understanding that those -- signatures such as those would be considered valid?

A Yes.

MS. PADDEN: Okay. Those are all the questions I have.

THE COURT: All right. Any recross based on those questions?

MS. BUCKLEY: Just a minute, Your Honor.

THE COURT: Okay.

MS. BUCKLEY: No, Your Honor. No recross.

THE COURT: All right. Ms. Garcia, your testimony is complete. Thank you.

THE WITNESS: Thank you.

THE COURT: All right. Ms. Padden, do you have

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another witness?

MS. PADDEN: We do, Your Honor. We call (Indiscernible) Meisner. I just texted him to call in, so he should be on the phone momentarily.

THE COURT: Okay.

(Pause)

MR. MEISNER: This is witness Chris Meisner.

THE COURT: All right. Mr. Meisner -- I'm not seeing him on my -- oh, there he is.

MS. PADDEN: Okay.

THE COURT: All right. Mr. Meisner, we're ready for your testimony, so I'm going to have you raise your right hand.

(Oath administered)

THE WITNESS: I do.

THE COURT: Okay. All right. Ms. Padden.

CHRIS MEISNER

called as a witness on behalf of the Petitioner, having been first duly sworn, did testify upon his oath as follows on:

DIRECT EXAMINATION

BY MS. PADDEN:

Q Good afternoon, Mr. Meisner. Can you please state and spell your full name for the record?

A Yep. Chris Meisner, C-h-r-i-s M-e-i-s-n-e-r.

Q And are you currently employed?



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A Yes.

Q Where do you work?

A I'm the campaign manager for Lorena For Colorado.

Q And for how long have you been working for Lorena For Colorado?

A Since April of 2019.

Q And do you have (indiscernible) working on other campaigns?

A No, not currently.

Q I mean, do you have experience in the past working on other campaigns?

A Oh.

Q (Indiscernible) a little bit.

A No worries. Yep.

Q What type of campaign work have you done prior to joining the Lorena Garcia campaign?

A So I've been a canvasser, a field manager, an assistant director and director, as well as a campaign manager.

Q And have you been involved in petition gathering efforts before in connection with those campaigns?

A Yes, I have.

Q And can you tell us a little more about that?

A So I was a field manager working on behalf of Field Works that was contracted out to collect signatures for Phil Weiser for Attorney General in 2018. I was also a field

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manager for Rocky Mountain Voter Outreach helping collect and train staff to collect signatures for the Jefferson County School Board recall. And then I was also the director for a petition campaign running two ballot initiatives in Arkansas in 2016.

Q Okay. And let's talk a little more about the work that you did for Field Works and Mr. Weiser's campaign. When did you start working for Field Works and then -- you know, in support of Mr. Weiser's campaign?

A That was in February of 2018.

Q And were you involved in efforts to get Mr. Weiser on the primary ballot for Attorney General in 2018?

A Yes.

Q And what were your duties in your job at Field Works during that time?

A So primarily signature gathering and then checking in with anybody who was (indiscernible) just to make sure that signature gathering was going as planned.

Q And in what areas did you collect signatures during that timeframe?

A I collected in CD7, CD4, CD6, and CD5.

Q But not in CDs 1 and 2?

A No. They were already completed by the time I joined the campaign in February.

Q And during the time that you were working for Field

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Works, were signatures being gathered at the same rate during weekdays as compared to weekends, for example?

A No. And just in general, there were -- signature gathering was never a constant rate. It typically depended on how many events that were going on and then I would say that -- especially for my own personal signature gathering because I typically went to the libraries and department of motor vehicles and other public locations where there's typically heavy foot traffic, I would say those locations weekdays tended to be better. And then days where I'd go out and petition at like grocery stores, I would say that weekends were better. So it all depended on the location for where signature gathering was better or worse for the day.

Q Okay. And -- I just lost my train of thought. Did you also go door to door during the time that you were working for Field Works?

A With that one, no. We never -- at least nobody in my staff ever did door to door. I don't believe anybody -- I don't believe we ever did door to door for that campaign. I don't remember having (indiscernible) or any lists set up for door knocking. It was all (indiscernible).

Q Were there events that you went to to get signatures?

A Yes. So the biggest one was the Freestone County caucus and then there were also -- there were also some events down in Colorado Springs and Parker. I don't remember the

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exact name of the events, but I definitely remember being down the Main Street area in Parker and then it was a park that was near the library that I was working at where -- where I had gathered signatures at an event out in the park.

Q And during the time that -- well first, how long did you work with Field Works collecting signatures for Mr. Weiser's campaign?

A I don't know exactly, but I -- I'd say it was about a month, maybe a little longer.

Q Okay. And did the number of individuals working at Field Works vary over that people -- over that period of time? I'm just talking about the folks working in support (indiscernible) his campaign.

A Yes. Yeah. Field Works, there was definitely a ramp up to hire more signature gatherers as -- as we approached the end date to really maximize and try to get signatures turned in as fast as possible.

Q Okay. And was that your experience on other signature gathering campaigns that you participated in?

A Yes. Yep. So whether it was closer to the actual end date or we typically had a lot of in-office verification going on. So as we (indiscernible) approached a roughly 70 percent validity rate for -- for what -- where we were expecting to be, we would ramp up our -- our efforts and try to get across the finish line.

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Q Okay. And on any of the campaigns in which you've worked, were there any sort of incentives offered to the canvassers during the latter parts of the signature gathering campaign?

A Yeah. So when I was working at Rocky Mountain Voter Outreach, we always offered higher signature per signature incentives over a certain threshold. So sometimes that threshold was 10 signatures and then every additional signature after that would garner additional dollar. And then with Field Works, where -- their biggest need was drivers, so they offered a lot of driver incentives.

So when I first joined the campaign, it was one \$10 Conoco gas card per canvass shift. And then towards the end, it was two of those. So it -- essentially a \$10 bonus for driving and taking on more shifts.

Q And in your experience, was there a variation in the number of shifts available as (indiscernible) closer to the deadline for a signature campaign?

A Yes, for sure. As we got closer, they would always try and hire more staff, take on more shifts, and get people to commit to longer shifts.

Q And during the time you worked for Field Works in support of Mr. Weiser's campaign, were the signatures coming in from the (indiscernible) congressional districts at the same rate during the time that you were working there?

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A No. I would say that the whole reason why CD1 and CD2 were knocked out was because they're the densest areas with the most -- a higher volume of Democrats. It was definitely easier to collect signatures there. And then, at least in my experience, (indiscernible) rates, Congressional District 7 was then or next district that we knocked out at a higher rate. And then our efforts were really focused on Congressional Districts 5 and 4 towards the end (indiscernible) lower signature gathering rates.

Q All right. I'm going to (indiscernible) a little bit. What are your responsibilities as the campaign manager for the Lorena For Colorado campaign?

A So developing campaign strategies, recruiting volunteers, assisting in fundraising from finding prospective donors to also sending out emails and creating call lists for the candidate. Overall outreach of volunteers via emails, listing events on our -- identifying our events to be listed on the campaign website, drafting and posting on social media. And then also helping in overseeing volunteer outreach, so drafting scripts, putting together phone banks. You know, before COVID-19, it was creating walk lists, helping with the targeting to identify voters with the highest propensity to support our campaign. And then also helping to train staff for anything that required training.

Q Okay. And were you involved in the efforts to

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collect signatures in order to get Ms. Garcia on the ballot?

A Absolutely. I -- I was responsible for submitting all of the information to the Secretary of State's office to get us started and get our format approval, our petition entity license, as well as participate in the training to the Secretary of State's training to train our staff and volunteers. And then I also put together a PowerPoint presentation to assist in that training that was based off of the Secretary of State's training that I received and then also look at the signatures, identifying locations to send circulators out to, and creating walk lists for targeted efforts for any door to door canvassing.

Q Okay. And were you involved in putting together the field plan to get the signatures around the state?

A Yes.

Q And could you tell the Court a little bit about the field plan?

A Yep. It was similar to what Field Works had implemented. We -- the goal was to really get our densest, easiest districts, first. So congressional districts 1 and 2. And then we also had a plan of having in-office validity. So we had our staff of volunteers taking pictures of completed packets each day, at least to the, you know, our best efforts. And then we had volunteers who were validating signatures so we had an idea of where we were at in each congressional district.

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And then from there it was really focusing on efforts in any congressional districts where we were falling behind and really trying to focus on knocking out a couple districts at a time. But we also had a southern -- we had hired a southern Colorado field manager who was really responsible for collecting signatures in Congressional Districts 3 and 5. So while their main throughout the campaign was collecting signatures in those areas, after we knocked out Congressional Districts 1 and 2, then our focus is really setting our sights on Congressional Districts 4, 6 and 7.

Q Okay. And then were you involved in submitting the petition format to the Secretary of State?

A I was.

Q And was that done in advance of the January 21st when you could first start circulating the petition?

A Yes. We were -- we got approval I believe on January 7th, 2020.

Q Okay. And then can you tell us how the signature gathering efforts were doing in the first two weeks after you could start circulating petitions in January?

A So that was, you know, January was probably our slowest because that was when we were still doing a lot of training of volunteers which we kind of pulled our staff away from for being able to gather signatures at the highest rate. But right from day one, you know, we had a signature gathering



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party to get signatures, as well as conduct a -- a big training in the Denver area for volunteers to -- who were willing to gather signatures.

Q Okay. And then how about going into February, how was the signature gathering going at that point?

A February was -- was definitely better, because we had more volunteers trained, we had more time for staff to -- to focus on our signature gathering efforts, and there were also some -- some pretty big high profile events that we were able to take advantage of, such as the Bernie Sanders and Elizabeth Warren rallies, which were -- which were really good events for us, both in terms of overall signature collection and valid signatures for those days.

Q Okay. And what was the campaign doing to track the validity rates, if anything, of the petitions that they were being collected?

A So we were taking pictures of completed section packets that we sent in to a secure email address, a secure (indiscernible) email address. And then we had volunteers who were validating those signatures using the voter action network, also known as VAN. Using the correct lookup tool and comparing the signatures there we received to the information in VAN.

Q Okay.

A And we were using a pretty strict process trying to

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identify any errors that might get the signatures thrown out according to what the Secretary of State's office told us.

Q Okay. And were you tracking the congressional districts from which the signatures were coming -- that were coming in the door?

A Yes.

Q And how would you describe the break-up among congressional districts of the signatures that were coming in in January and February? Were they coming in in even rates spread across the districts, uneven?

A No, I -- yeah, definitely uneven. You know, it was -- you know, it all depended on day-to-day. So again, like those big rallies we had a much higher signature gathering threshold. So if I can take a second to confer with one of my spreadsheets.

MS. PADDEN: Ms. Buckley is waving her hand.

MS. BUCKLEY: Objection. The witness cannot testify as to other documents. Ms. Padden knows (indiscernible) something (indiscernible).

THE COURT: Sustained.

MS. PADDEN: Yeah. Okay.

THE WITNESS: Okay. So --

BY MS. PADDEN:

Q Hold on.

A Oh, sorry.

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Q Mr. Meisner -- sorry, hold on. The objection was sustained, so I need to ask you a different question.

So if -- are you able to recall the details about the manner in which the signatures were coming in throughout various congressional districts?

A Yes. You know, it was -- it would all depend on events that were going on in days for each congressional district, so -- so like for the Bernie Sanders and Elizabeth Warren rally, we were able to collect a large number of signatures in the Denver Metro area, but then we were also -- there was a Trump rally -- a Trump strike rally going on in Colorado Springs, so like that day we were able to collect a higher number than usual for Congressional District 5.

And we had a -- several large group canvasses that we were able to put together, specifically one in Pueblo for Congressional District 3. That day we had close to 20 people knocking doors for us, so that was a very successful day for Congressional District 3. So there were certainly days that -- that yielded higher signature collections.

Q Okay. And then how about just generally the signature rate overall day-to-day. Were there particular days of the week that you saw more signatures coming in as opposed to others?

A Again, it -- it really varied. I would say that it's similar to when I was working at Field Works. It all depended

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on the locations where we could get people out to and for the day of the week. So again, like county libraries, DMVs, these were typically most successful for our weekday gathering, and then -- and then for events, they were typically scheduled over weekends, so -- so then those weekends would certainly garner higher support for that.

Q And then let's kind of focus our attention on early March. Did you see any change in the rate in which signatures were being returned back to the campaign in early March?

A Sure. So from March, we were -- if my memory serves me correct, we were collecting around 333 signatures on average per day compared to just 185 signatures per day.

Q Okay.

A So that represented about a 45 percent decrease in our daily average signature gathering.

Q And did you have any (indiscernible) to collect signatures at any events that were taking place in March?

A Yes. So I believe March 7th was the day for the county caucuses, the precinct caucuses. So you know, our original plan was to have all hands on deck for volunteers showing up for those and collecting signatures. But because of -- because of COVID-19 we not only had a lot of volunteers who -- who were originally planning on collecting at caucuses not collecting, but the overall caucus turnout was (indiscernible) compared to the 2018 midterm election.

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And then we also had -- we were also planning on collecting on the St. Patrick's Day parade, both in Denver and Colorado Springs. I believe that day was set up for March 14th and then there was a -- the Denver area labor federation forum that was set up I believe for Saturday, March 15th. I'm not positive on that date, and so we were also starting to identify concerts and any other events that would have essentially had lines form, so a high volume of people with lines to increase our chances of collecting signatures.

Q Okay. And did you personally go out and collect any signatures in the days before the campaign (indiscernible) signatures to the Secretary of State?

A Yeah, I -- I collected close to a thousand signatures personally --

Q And --

A -- for the campaign.

Q And in the weekend or a few days before the March 17th deadline, were you collecting any signatures then?

A No, we had halted all petition collecting on I believe it was the 15th or the 16th due to the COVID-19 outbreak and really wanting to ensure that we got any completed packets back to us, knowing that we were going to have difficulties getting those packets back.

Q Right. And we'll talk about that just in a second. But did you have a major life event (indiscernible) the

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signature gathering process?

A For me personally, yeah. I -- I had a baby.

Q Right.

A Which certainly for the week following that, you know, I was in the hospital with my wife and you know, I was adjusting to being a new father.

Q Right. But then was there a period of time where you had your baby and before the campaign stopped collecting signatures, that you personally went out and got these signatures?

A Yes. I went out for one day doing door to door canvassing and not only was my signature gathering (indiscernible) far lower than typical, I would say I had been averaging about seven or eight signatures an hour prior to the -- the COVID outbreak, and then that day that I went out, I only collected seven signatures over an entire three hour shift. And then, after that I stopped collecting because -- because I felt really guilty. It was tough to go out there putting myself at extreme risk for contracting the virus going door to door and being in contact with people and potentially putting both my wife and my baby at risk of contracting the virus.

Q Okay. And let's talk about the efforts to collect the outstanding petitions before they were submitted to the Secretary of State. Were you involved in those efforts?

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A I was involved in devising the strategy which shifted from what was largely a site-based strategy to a highly targeted door to door strategy. And trying to recruit volunteers to show up (indiscernible) clearing canvasses.

Q Okay. And then what about getting the petition packets, completed packets back from the volunteer circulators? Were you involved in that?

A For sure. I -- I did a lot of -- I receive -- I was a large part of receiving packets throughout the Denver Metro area and contacted people to get them set up with notaries, meeting people to collect their completed packets and doing our best to follow all the CDC guidelines of social distancing, maintaining six feet distance, wearing a mask, gloves, and having hand sanitizer available, as well as encouraging people to -- to use their own pens if there were any outstanding notarizations that needed to be completed.

Q And how did those efforts to receive the completed petition packets and get them notarized, how did that go in the few days before you submitted them to the Secretary of State?

A It was certainly a struggle. There were a few people where we had to cite statutory law to remind them of what they committed to as being a volunteer circulator and then there were at least two volunteers to my recollection who did not turn in completed packets. And that was (indiscernible) contact with. There were a number of people who we never heard

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back from, so I still don't know if there were outstanding packets.

Q Okay. And then after the -- after the campaign submitted the petition packets to the Secretary of State, were you given an opportunity to cure any of those packets (indiscernible) and were you involved in that?

A Yes. There were both packet -- we had 19 packets that required curing from 11 -- 11 different circulators. I was -- I was the one who reached out to all those individuals and -- and either (indiscernible) people who couldn't make it to banks, helping them get set up with one of our volunteer notaries who could come out and meet them, and then also for signatures we had 14 curable signatures based on signature mismatches and we got one of those returned. And I believe it was Amelia Linett, our youth board -- youth outreach coordinator, who was the one who actually contacted that -- that one signature and then I was responsible for returning it back to the Secretary of State's office, all the completed packets and that signature.

Q Okay. And then turning to -- once the signatures -- or once you got the insufficiency notice from the Secretary of State, were you involved in reviewing the signatures that had been rejected?

A Yes. And I was also responsible for getting the list of reviewable signatures that we then divvied out to -- to our



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staff for review, using the VAN.

Q Okay. And then we're not going to go through Exhibit 1 because we've already gone through it with Ms. Garcia, so we won't -- will not do that again today. You were involved in compiling that information that's contained in Exhibit 1 that you did speak about through your testimony yesterday?

A Yes. I compiled the spreadsheet, broke it up into the different sections from the voter registrations that weren't found, as well as any assisted signatures that were rejected, hel -- also, any that were signed by multiple candidates who had turned in before us and removing all of those folks, and then also identifying any invalid or invalid signers, typically people who weren't registered to vote or registered with unaffiliated or with a different party, and then also any multiple signers to our own petitions.

Q Okay.

MS. PADDEN: One moment, please. I don't have any further questions.

THE COURT: All right. Thank you. Any cross-examination.

MS. BUCKLEY: Yes, Your Honor. This is Ms. Buckley.

CROSS-EXAMINATION

BY MS. BUCKLEY:

Q Hi, Mr. Meisner. Your plan as campaign manager was

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to circulate petitions up until March 17th?

A Correct.

Q And you were planning for your highest rate of signature collection for the last two weeks of the signature collection window?

A Well, you broke up at the very end there.

Q Sorry, I thought I'd try without a microphone to see if it was better. But so you were planning on having your highest rate of signature collection in the last few weeks of the signature collection period, correct?

A Correct, because of more -- having more volunteers and doing our final push efforts.

Q Okay. And then March 1st through March 9th the campaign averaged 333 reviewable signatures per day, right?

A Correct.

Q And then you saw a downward turn to signature gathering starting March 10th, right?

A Correct.

Q And from March 10th through March 17th, you were averaging just 183 reviewable signatures per day, right?

A Yes, something around that, yep.

Q And then when you worked with Field Works, you worked with paid circulators, right?

A That's correct.

Q And Ms. Garcia had an entirely volunteer force of

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circulators, right?

A Yep.

Q And you did not serve as the Weiser campaign manager, right?

A Nope.

Q And you didn't work directly for Phil Weiser's campaign, right?

A No, we were a third party contract.

MS. BUCKLEY: Thank you so much. No further questions.

THE COURT: All right. Any redirect?

MS. PADDEN: No, Your Honor.

THE COURT: All right. Mr. Meisner, thank you for your testimony today. You're welcome --

THE WITNESS: Thank you.

THE COURT: -- to remain on the line or disconnect.

THE WITNESS: All right. If you don't mind, I'd like to stay on.

THE COURT: Okay. That's fine. I'm going to go ahead and mute you.

THE WITNESS: Great. Thank you.

THE COURT: Thank you. All right. Ms. Padden, any additional witnesses on behalf of Petitioner?

MS. PADDEN: No, Your Honor.

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THE COURT: All right. And Ms. Buckley or Ms. Morrill, any witnesses on behalf of Respondent?

MS. BUCKLEY: Yes, Your Honor. I know Ms. Morrill wants to call Joel Albin.

THE COURT: Okay. All right. Mr. Albin, can you see and hear me okay?

MR. ALBIN: Yes, I can.

THE COURT: All right. I'm going to swear you in. If you'll raise your right hand, please.

(Oath administered)

THE WITNESS: I do.

THE COURT: All right. Thank you.

JOEL ALBIN

called as a witness on behalf of the Respondent, having been first duly sworn, did testify upon his oath as follows on:

DIRECT EXAMINATION

BY MS. MORRILL:

Q Good afternoon, Mr. Albin. Would you please state and spell your full name for the record?

A Sure. Joel Christopher Albin, A-l-b as in boy-i-n.

Q And where are you currently employed, Mr. Albin?

A Colorado Secretary of State's office.

Q How long have you been employed there?

A A little over 10 years.

Q What is your current title?

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A Ballot access manager.

Q How long have you held that title?

A A little over five years.

Q And for the other five years, what were you doing for the Secretary of State?

A I was also working in ballot access.

Q Can you describe what the ballot access team does for the Court, please?

A Yes. We assist candidates and initiative proponents in attempting to access the ballot. For petitions, we would approve petition formats, receive petitions, adjudicate those petitions, determine whether they're sufficient, insufficient, and then for those candidates who have met all the statutory requirements, we would certify them to the ballot.

Q And have you been doing that work substantially the entire time that you've been employed with the Secretary's office?

A Yes.

Q And approximately how many petitions, candidate initiative, any type of petition where you're processing, have you been involved in?

A I've done about a little over 200 candidate petitions and probably over 30 initiative petitions.

Q And in your experience -- well, I guess one of the questions I have is -- before that is when verifying candidate

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petitions, what are you checking for? Can you describe the Court what -- the Court through that process of what your team is doing when it is verifying a candidate petition that is submitted to the Secretary's office?

A Sure. So we're going through and adjudicating all the lines and making sure that they're valid. And a valid line in the case for a major party candidate petition would be that the signer is living within the district that the candidate is running in, that the signer is correctly affiliated with the same party as the candidate. We're looking to see that they've signed the petition during the circulation period. We're also looking to see if there are any duplicates as well in the petition which would cause us to reject those particular lines. And lastly, we do also review the signatures as well and attempt to match those signatures to the signatures in the voter registration record.

Q And when you reject a signature that has appeared on a petition, is it -- is that referred to as an invalid signature?

A Yes.

Q And then when you accept a signature, it's referred to as a valid signature?

A Yes.

Q Is the Secretary authorized to count any invalid signatures towards a candidate's petition?

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A No.

Q Is there any flexibility under statute or rule for your team to make an exception to that?

A No.

Q Let's talk more specifically about candidate petitions for major party candidates for the office of U.S. Senate. What are the -- what is the number of total signatures -- total valid signature I should say, minimum total valid signatures, needed to petition onto the ballot as a major party candidate for U.S. Senate?

A So they would need a total of 10,500 valid lines and that would be 1,500 valid lines in each one of the seven congressional districts.

Q And with respect to your experience verifying, processing candidate petitions, is it the case that candidates every turn in exactly 10,500 signatures with one -- exactly 1,500 signatures per district and count 100 percent validity rate in order to make the ballot? Has that been your experience?

A No.

Q And why is that?

A There's simply -- to have 100 percent validity rate would be nearly impossible, because of there are so many reasons to end up rejecting lines. If you are standing out front of a King Soopers and you have a signer come up, it's

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very possible they might not be correctly affiliated with your party, they may write so sloppily unfortunately in the signer line that we can't read it and therefore can't verify it in the voter registration record.

Q In your decade of processing petitions for the Secretary's office, have you observed any trend or average in the validity rate of signatures for candidate petitions?

A Yeah, there's roughly an 80 percent validity rate for candidate petitions.

Q Meaning that the other 20 percent are invalid?

A Correct.

Q Going back to the 10,500 minimum valid signature requirement for major party candidates for U.S. Senate, I refer to that as a threshold requirement. Will you understand me if I do that throughout the rest of this examination?

A Yes.

Q And similarly, the 1500 valid signature per congressional district requirement, I refer to as a distribution requirement. Will you understand me if I -- if I use that term throughout?

A Yes.

Q Does the Secretary's office have any discretion or authority to waive the threshold requirement for a candidate?

A No.

Q Would you have any authority to waive the



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distribution requirement for candidates?

A No.

Q With respect to the distribution requirement, I want to talk to you a little bit about your understanding of what that takes to accomplish in the state of Colorado. First of all, are you familiar with voter registrations generally for the state of Colorado?

A Yes.

Q And does the Secretary's office in fact routinely publish voter registration data through her website every -- every I think month it is?

A Yes, we publish on the first day of every month the updated voter registration information.

Q And that data is broken down by congressional district as well as, you know, other -- other types of breakdowns, but the one we'll focus on today is congressional districts.

Are you aware of that?

A Yes.

Q And among that data there is roughly speaking, a breakdown for those registered electors who are registered Democrats, registered Republicans or registered as unaffiliated, within each congressional district; is that right?

A Yes.

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Q So what is your understanding of the -- where there are more registered Democrats in Colorado's congressional districts? Do you have an understanding about that based on your knowledge of voter registration data?

A Yes. Districts 1 and 2 are heavily democratic. District 7 is also -- has quite a few more Democrats than Republicans. And then Districts 3, 4, and 5 are heavily Republican.

Q And what about District 6? What is District 6?

A District 6 leans a little democratic, but it's pretty close.

Q So turning back to the major party candidate -- I'm sorry, major party prospective candidates for U.S. Senate in the Democratic Party. How many individuals were attempting to petition onto the ballot for the democratic candidate for U.S. Senate?

A We had four total candidates who were attempting to get on, four democratic candidates.

Q And who were those individuals?

A Mr. Hickenlooper, Bray, Garcia and Warren; sorry.

Q And of those candidates, how many of them submitted petitions to the Secretary's office for review and verification?

A So all four of those did.

Q And do you recall the order in which they submitted

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to your office?

A Yes. It was Mr. Hickenlooper, Ms. Bray, Ms. Garcia and then Ms. Warren.

Q And that order is in order of first to last?

A Correct.

Q And what was the period in which candidates, major party candidates for U.S. Senate had to circulate their candidate petitions this year?

A January 21st to March 17th.

Q And you would agree that that's a 57-day period?

A Correct.

Q And did all four candidates, democratic candidates for U.S. Senate, play by that same 57-day window?

A Yes.

Q Of the four candidates who submitted their petitions for verification, how many submitted more than 10,500 total signatures, raw signatures so to speak, for your office to review?

A Yes, Mr. Hickenlooper and Ms. Garcia.

Q And does that mean that Ms. Bray and Ms. Warren turned in under 10,500 for review?

A Yes, they did.

Q And which, if any, of the four candidates strictly complied with the threshold requirement?

A Just one, Mr. Hickenlooper.

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Q And which of the four candidates, if any, strictly complied with the distribution requirement?

A Just one, Mr. Hickenlooper.

Q And as a result of that fact, Mr. Albin, did the Secretary issue statements of insufficiency to the other three candidates?

A Yes.

Q Including Ms. Garcia?

A Yes.

Q Let's turn specifically turn to her candidate petition and that statement of insufficiency. This has been marked for identification as Secretary of State hearing Exhibit A.

MS. MORRILL: And Your Honor, I realize we did this at the outset of take one of this hearing yesterday where we moved the admission of A, B, C, and D, but I don't know if that's on the recording or if we did that afterwards. My memory -- I think we did it at the outset of both as a housekeeping matter at the outset of both hearings and so it should be captured in the FTR from yesterday, but I just want to make sure that we're all in agreement about that.

THE COURT: Let's just do it now just to be safe. So yesterday by stipulation the Court admitted Petitioner's A, B -- I'm sorry, Respondent's A, B, C, and D.

Any objection, Ms. Padden, in doing that today?

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MS. PADDEN: No, Your Honor.

THE COURT: All right. Without objection, Respondent's A, B, C, and D will be admitted.

(Respondent's Exhibits A, B, C, and D admitted)

MS. MORRILL: Okay. Thank you.

BY MS. MORRILL:

Q Mr. Alvin, looking at Secretary of State hearing Exhibit A, this is the statement of insufficiency that the Secretary's office issued to Ms. Garcia; is that right?

A Yes.

Q When did it do so?

A They submitted their petition on April 20th.

Q Did --

A Oh, our statement of insufficiency? Oh, I'm sorry, yes. We issued our statement of insufficiency on April 20th. They submitted their petition on March 17th.

Q And was anything else issued to Ms. Garcia's campaign on April 20th when the statement of insufficiency issued?

A Yes. We gave them also the -- what we would call the signer line adjudication report, which lists out the reasons why we had either accepted or rejected the lines.

Q And did the Secretary's office also provide Ms. Garcia's campaign with copies of or scanned images of the actual petition sections bearing the signatures?

A Yes.

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Q And do you know when that occurred?

A Within a few days, but no, I don't know the exact date that they received it.

Q Okay. So looking at the statement of insufficiency, am I correct in my understanding that Ms. Garcia turned in a total of 13,812 signatures to review?

A Yes. We found 13,812 reviewable lines.

Q Okay. And upon reviewing those signatures, am I also correct that you determined that a total of 4,384 signatures were invalid?

A Yes.

Q Would you agree that if you divide the number of total invalid signatures by the total number of submitted signatures, that you would arrive at an invalidity rate for Ms. Garcia's candidate petition?

A Yes.

Q And what is that invalidity rate?

A Be about 32 percent.

Q And back to your earlier testimony, in your experience I think -- I recall you testifying that the average invalidity rate for candidate petitions is 20 percent?

A Correct.

Q And so would you agree that Ms. Garcia's candidate petition had a substantially higher invalidity rate than the average candidate petition?

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A Yes.

Q And would you also agree that if you applied the average candidate petition invalidity rate of 20 percent to the total number of signatures that Ms. Garcia submitted for review and verification, that she would have submitted a sufficient number of valid signatures to your office to meet the threshold requirement?

A Yes.

Q And for the record, that number would have been 11,049 -- we'll say 11,050 rounding up to the nearest whole number, signatures, which means she would have cleared the threshold requirement?

A Yes.

Q Also looking at the statement of insufficiency again, Secretary of State hearing Exhibit A, how did Ms. Garcia do with respect to distribution requirement?

A She made the 1500 limit in Congressional Districts 1 and 2. In Congressional Districts 3 through 7 she failed to reach the 1500 level -- or threshold.

Q And looking at the -- or recalling back to your testimony about the voter registration data in the breakdown across congressional districts, did I understand you correctly as saying that there are a very high number of registered Democrats in Congressional District 7?

A Yes.

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Q And a closely even number of Democrats and Republicans in Congressional District 6?

A Yes.

Q But you would agree that Ms. Garcia did substantially better in terms of raw number of signatures submitted for your office's verification from Congressional District 3, for example; is that right?

A Yes, compared to 4, 5, 6 or 7, yes. s

Q And am I remembering correctly that Congressional District 3 is a Republican stronghold within the state of Colorado?

A Yes.

Q Let's talk about duplicate signatures. The -- earlier when you testified about the verification process, you mentioned that one of the -- one of the ways that a signature could end up being rejected for being invalid is because of the duplicate. Can you explain further to the Court what a duplicate signature is?

A Sure. There's two different types of duplicate signatures. There's what I would call an internal duplicate. So for example, if the voter had signed Ms. Garcia's petition twice, one of those would be considered invalid because of a duplicate.

We also have external duplicates. If there is a candidate who -- for the same office who submitted a petition



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prior to you, any accepted lines in those petitions will be considered duplicates if they also signed a future petition for that same office.

Q And when you're processing the latter type of duplicates, Mr. Albin, does the Secretary's office pay attention to the point in time, basically who is the first in time candidate who collects the signature of a registered elector, who also might sign another candidate petition later in time? Or is there some way the office processes those duplicates?

A We do not pay attention to when the signer actually signed. It all depends upon when the candidate submits their petition. So it's really a first come first serve process for the candidates. The first candidate who submits is going to get those accepted lines. Everybody who submits after it is going to get potential duplicates.

Q And is that process and -- and method for counting for and assigning duplicates a process in statute and rule?

A Yes.

Q And as a result, does the Secretary have any authority or discretion to deviate from -- from that process?

A No.

Q And with specific respect to Ms. Garcia's candidate petition, she turned that in on March 17th, that was the deadline, correct?

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A Correct.

Q And how many duplicates did she have, meaning mul -- the same signer who signed multiple candidate petitions for the same office?

A Over 600.

Q And were those over 600 signatures rejected by the Secretary's office?

A Yes.

Q Let's turn now to what has been marked as Exhibit 1, that is the summary document prepared by Ms. Garcia's team to engage in -- in, you know, for purposes of this litigation. Do you have that?

A Is that -- that's the one that's title Challengeable Signature?

Q Yes.

A Yes.

Q When did you first see a copy of this spreadsheet, Mr. Albin?

A It would have been yesterday at sometime after 9:00 a.m.

Q And who provided it to you?

A I believe either yourself -- basically Attorney General's office provided it.

Q And when do you understand, if any understanding, of -- of when we received that document provided to you?

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A Within the previous half hour.

Q And were you able to, beginning at approximately 9:00 a.m. yesterday, in advance of the 1:30 p.m. hearing in this matter, were you able to conduct an investigation and basically a review of that summary and -- to determine whether you would be able to potentially stipulate to the rehabilitation or the acceptance of any rejected signatures listed in the spreadsheet?

A No, I was not able to.

Q And why not?

A Unfortunately, on that morning we did have a lot drawing that took up about two hours of my time. I'm referring to a lot drawing for ballot order on the ballot. Ms. Garcia's team was aware of that. We had sent them an email to invite them or a surrogate to come and view that. And we are attempting to certify the ballot at the moment, so we've got about 400 candidates we're dealing with attempting to make sure that they meet all the qualifications and requirements to get on the ballot.

Q And at the time that you received the Exhibit 1 yesterday morning, did you receive any documentation underlying Exhibit 1? In other words, the documentation that Ms. Garcia's team used to compile and prepare the information summarized in Exhibit 1. Was any of that included?

A No.

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Q And were you present during Ms. Garcia's testimony and Mr. Meisner's testimony today that -- that in compiling that summary, they utilized data in a database known as the voter access network?

A Yes.

Q Do you -- well, first of all, had -- before their testimony, had you heard of or ever utilized the voter access network yourself?

A No.

Q Do you currently as an employee of the Secretary's office, is it something that you have access to, to use when you're -- your team is verifying candidate petitions?

A No.

Q Do you understand it to be a publicly available database that anyone can find online and utilize?

A That's what I understand.

Q But again, have you ever used it yourself?

A No.

Q And did you ever receive any of the underlying documentation that was used to compile the summary in Exhibit 1?

A Yes.

Q And when did you receive that information?

A This morning at I think a little after 6:00 a.m.

Q And who provided it to you?

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A The Attorney General's office.

Q At this time I'd ask you to look at what has been marked as Secretary of State's hearing Exhibit F. And that was sent to you, along with Mr. (Indiscernible) and Ms. Padden and Ms. Buckley this morning.

A And so I've got the email open, I'm not quite sure what you're asking me to look at.

Q I just want to make sure that you have it open and everyone else does, and then I'll ask you some questions about it. Are you there?

A So I'm not quite sure. Are you -- the SharePoint document or?

Q No, no, just the -- what's been marked as hearing Exhibit F, the email.

A Okay. So yes, I have the email.

Q Okay. That's what we're talking about now.

A Okay.

Q So do you recognize this document, Mr. Albin?

A Yes.

Q And what is it?

A This is just an email that I received from you this morning.

Q And is this the email that you testified earlier contained the SharePoint link to the underlying documentation for the Exhibit 1?

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A Yes.

Q And it in fact consistent with your testimony was sent around 6:00 a.m.?

A Correct.

Q Today?

A Yes.

Q Okay.

MS. MORRILL: Your Honor, I would move the admission of hearing Exhibit F.

THE COURT: All right. Ms. Padden, any voir dire or objection to Exhibit F?

MS. PADDEN: No, Your Honor.

THE COURT: All right. Exhibit --

MS. PADDEN: No objection.

THE COURT: All right. No objection, then Exhibit F will be admitted.

MS. MORRILL: Thank you, Your Honor.

(Respondent's Exhibit F admitted)

BY MS. MORRILL:

Q So Mr. Albin, when you received the SharePoint, the link to the SharePoint data, to underline the Exhibit 1, did you have an opportunity to review it before we convened at 8:30 a.m. this morning?

A No.

Q And why not?

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A Simply had other work to do at that point. Did not have time to do it.

Q And after we convened at 8:30 a.m. this morning, you're aware that we recessed shortly thereafter due to technical difficulties with the recording that we discovered early this morning or the -- the Court discovered yesterday, but we discovered this morning as parties and witnesses; is that right?

A Yes.

Q And so we had a recess until 11:30 a.m. until we reconvened on the record in this proceeding. Were you able to review the SharePoint data and -- so the VAN data, during that period of time?

A No.

Q And why not?

A Again, mainly because of yesterday's hearing I was well behind in my work, so I had to contact a lot of candidates, answer a lot of emails.

Q And in addition to the lot drawing, what specifically is keeping you busy with respect to ballot access and candidates at this time?

A Sure. So we're processing all the documents that are submitted by candidates who go through the Assembly. So that includes looking over all the documents, making sure they are complete, notifying the candidates that either they have

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completed all the documentation or if there are missing documents, also have to look up all the candidates to make sure that they meet all the statutory requirements of living in the correct district, that they're the correct age to be in office, that they are correctly affiliated. So doing a lot of checking on candidates.

Q And how many candidates are we talking about, Mr. Albin?

A Four hundred candidates.

Q And when does this work need to be completed by?

A May 7th.

Q And is there any room in that deadline for the Secretary's office?

A No.

Q So returning to Exhibit 1, the spreadsheet. You would agree -- prepared by Ms. Garcia's team, you would agree that that spreadsheet contains roughly 222 signature lines that she has asked the Court to review in this proceeding?

A Yes.

Q And are the -- is that commonly known sort of in the ballot access challenge world as a line by line challenge?

A Yes.

Q Have you seen a copy of Ms. Garcia's petition for relief to this Court?

A I don't think so.



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Q Would it refresh your recollection if I asked you to look at the email I sent you with that document?

A Okay.

Q That would have been this morning as well.

A Okay. I found that email and I see the attachment, so I'm opening it. So I have that open.

Q Thank you. So having -- refresh yourself. Do you recall whether or not Ms. Garcia's petition for relief to this Court listed any or all of the 222 signatures<sup>1</sup> that appear on Exhibit 1?

A No, it does not.

Q I'd like you to turn now to what has been marked as Secretary of State's hearing Exhibit E. And let me know when you have that in front of you.

A What is hearing Exhibit E?

Q It's the (indiscernible).

A Okay.

MS. MORRILL: And this too, Your Honor, was emailed to Mr. (Indiscernible) and Ms. Padden this morning in advance of the -- this hearing at 8:30.

THE COURT: Right. I have it.

THE WITNESS: (Indiscernible) it open.

MS. MORRILL: Or maybe it was in advance of when we reconvened at 11:30. I think that's a more correct statement on my part.

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THE WITNESS: Yes, I have that open.

BY MS. MORRILL:

Q Okay. Thank you. Do you recognize this document?  
Have you reviewed this document before?

A Not since I actually just had received it in email.  
I was working at the Secretary of State's at that time and I do  
recognize the name of Jennifer Colken (ph).

Q And who was Jennifer Colken in relation to Exhibit E?

A Sure. So she was the Plaintiff and we had reviewed  
-- the Secretary of State's office had reviewed her petition  
and found it invalid and so she was challenging that decision  
by our office.

Q And was Ms. Colken's challenge a line by line  
challenge to the Secretary's verification of her candidate  
petition?

A Yes. I believe that that was what she was -- asked  
for, yes.

MS. MORRILL: Your Honor, I would move the  
admission of Exhibit E.

THE COURT: All right. Ms. Padden, any voir  
dire or objection to E?

MS. PADDEN: No, Your Honor.

THE COURT: Okay. Without objection, Exhibit E  
will be admitted.

MS. MORRILL: Thank you, Your Honor.

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(Respondent's Exhibit E admitted)

BY MS. MORRILL:

Q Mr. Albin, looking at page -- let's see -- 3 of the -- of the Secretary of State hearing Exhibit E, specifically drawing your attention to paragraphs 13 through 15 of Ms. Colken's exhibit, would you agree that in filing her petition for relief to the Denver District Court in this 2010 proceeding, that first of all, she was doing so under CRS §1-4-909(1.5)?

A Yes.

Q And is that your understanding of what Ms. Garcia is doing here today as well?

A Yes.

Q Would you also agree that in 2010 when Ms. Colken was pursuing her line by line challenge, that her complaint contained exhibits attached thereto and part of the hearing exhibit for today, that set forth exactly which signatures she was seeking a line by line review of and the basis for her belief that those signatures were valid?

A Yes.

Q We'll turn away from Exhibits E and F, Mr. Albin, for now and go back to Plaintiff's Exhibit Number 1. And I want to ask you again, you -- you were present and listening to Ms. Garcia's testimony regarding her position on why many of the signatures listed on Exhibit 1 were improperly rejected by the

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Secretary's office; is that correct?

A Yes.

Q Do you agree with her testimony?

A There are pieces of it that I don't agree with.

Q And what are those pieces?

A Well, I think one of the issues was the amount of guessing that was going in to determining whether these lines should be valid or not. For example, Ms. Garcia might say we might all agree that there was a signer line where the signer wrote 101 Walnut Street, and then we look in the voter registrant record and we find the signer has written it 201 Walnut Street. Our office by law has no choice but to reject that line. Ms. Garcia would have us make a leap in logic that that voter -- that line should be valid and that the signer himself didn't know well enough to write down their own correct address, but that she as a reviewer knew better than that voter, and that we should go ahead and count that line.

Q And were you present during the many instances in which Ms. Garcia's testimony to paraphrase but it's fairly accurate because I wrote it down, that the scanner misread what the signers wrote. Do you recall that?

A Yes.

Q Can you describe for the Court what the process is by which petitions are -- are or are not scanned and how that works?

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A Sure. So the petitions are scanned. However, I think there might be a misunderstanding of that, the fact that that information is then automatically populated. It is true that the system does have the ability to automatically populate it and it does it for about 20 percent of the lines.

For the 80 percent other of the lines, the -- the system just isn't sophisticated enough to be able to populate that data, so when somebody's coming to review a line, 80 percent of the time that line is going to be blank, and so that information is going to be typed in by a human being looking at the petition.

The other 20 percent of the time when the -- the system has populated, that information is still looked at by a human being. They look at it if the scanning information is incorrect, in other words, it doesn't match the information, they will erase that information and then type it in correctly.

So every line is touched by -- by a human being and typed in.

Q And does that human touch for 100 percent of the lines on a candidate's petition that is being reviewed by the Secretary's office, does that touch happen before the member of your team then proceeds to adjudicate the signature, meaning determine whether it's valid or not?

A No. So it would be at the same time. So the person who's reviewing the line would get that line, and they'd look

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at it, and again, 80 percent of the time they've got nothing there and they are there to adjudicate that line. The other 20 percent of the time, they would look and -- and see if that information is correct. And if it isn't, they would erase it and then go ahead and adjudicate that line.

Q Okay. But am I understanding correctly that the order is human review of either what the scanned information is or if there is no scanned information, human input of the you know, information based on what the human reads on the petition, and then once that is in the adjudication report, proceed to search for a voter who's registered under that information?

A Yes. So they're doing it all at the same time. So that one person is going ahead and entering that information and adjudicating that line, so they'll be typing in the information into the user interface that's tied to the voter registrant record and -- and going through and adjudicating on line, and then every rejected line gets a second review by a manager.

Q And does that mean that two humans look at every rejected line on a candidate's petition?

A Yes. So two humans would look at every rejected line and then if there's a line where the signature didn't match, in other words, there's a signature mismatch, and if the first two people couldn't agree that there was a match, we would even do

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a third review at that point to see if there's a third person who thought that the signatures matched.

Q What about for rejection (indiscernible) other than signature mismatch, for all of the other reasons that a signature might be rejected that are not related to a mismatch. Is -- are there two humans reviewing that rejected signature line?

A Yes.

Q And again, these are paid professionals I assume who are -- who do this for a living?

A Yes. So we work with IDS, Integrated Document Solutions, they are a state agency. They're the same folks who do tax returns. And they've done this for us for over a decade.

Q With respect to the adjudication of actual signature lines, what information does the ballot access team use to adjudicate the signature validity, besides not -- not talking about mismatch of signatures here of -- of the actual signatures compared to voter registration, but say for -- you know, where a voter registration is not found?

A Yeah, so we're making just a comparison to the voter registration record.

Q And is that record contained in a database that is known as SCORE?

A Yes.

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Q So turning back to Ms. Garcia and her team's review of the signatures listed on Exhibit 1. Do you feel that she accounts for the proper way to adjudicate somebody who may have signed -- who may be registered under their full name, but signed using their middle name? Or that she believed signed using their middle name?

A Yes. I can only say the way that we would adjudicate a line. We have to see a first name and a last name that matches in the voter registration record. We have some discretion to allow variances in first names.

So for example, we would not reject a record if the voter was registered as Robert James, but he wrote on his petition Bob James. So we will allow common variances like that on a first name. But if somebody just wrote down their middle name and their last name, we would reject that one.

Q And you heard and I know you don't have access to the VAN database and you only saw the VAN documentation this morning, so I'm not going to ask you specific questions about, you know, the underlying documentation for the signatures in Exhibit 1, but just generally, can you explain to the Court how the data, voter registration data in the SCORE database may be different than the -- the data in the VAN database?

A Yeah, it sounded like from testimony this morning that the VAN data is not only the voter registrant database, but they have added additional data to it as well, which I



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think makes sense for them for attempting to find voters and doing politicking and like that. That makes absolute sense. I don't think it makes for a very good database then for actually checking voter registration at that point, because you have changed the data from the voter registration database and you're no longer checking just that data. So you've muddied the waters.

Q And with respect to the SCORE data on voter registration, is SCORE a real-time database, Mr. Albin?

A Yes.

Q And what does that mean?

A That means it continually gets updated. Every second is a potential for that to get updated by a county with new voter registration information.

Q And does the SCORE database contain history for each individual who has been a registered voter in Colorado at one point or another?

A It does. So it would show changes in registration. So for example, if you changed your party, it would show on exactly what date you changed your party. If you had changed your address, it would show exactly what day you had changed your address. So any updates would be shown.

Q Are you aware of any publicly accessible database for voter registration information that is as current and comprehensive as SCORE?

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A No.

Q Could you explain to the Court what would be the significance of having access to constantly updated voter registration information when trying to determine whether a signature on a petition was valid or invalid?

A Sure. So it's very important. For example, let's say you had a signer who signed a petition on January 31st. On that particular date they were not a registered voter. In our system, we are notified, our software notifies us and would let us know that hey, on this particular date, this person wasn't a registered voter, so we would end up rejecting that line. If you don't have access to that information and let's say that voter then goes ahead and registers to vote on February 15th, a few weeks later, and you're looking at the database and your most current database is April 15th, it's going to look at that data and say oh, this person's a registered voter, I'm going to accept that line, and all along that line should have been rejected because the person didn't meet the statutory requirements of being registered with the party for 29 days prior to signing.

Q Mr. Albin, do you recall Ms. Garcia's testimony on direct examination as to the frequency of when she was accessing the VAN voter registration information? It might have been on cross-examination.

A Yes.

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Q And what was that time period?

A I believe it was April 15th.

Q And so is it your professional opinion as a -- an experienced candidate petition signature verification processor, that many of these signatures contained in Exhibit 1 that were rejected as voter registration not found were in fact for individuals who were not registered voters at the time they signed Ms. Garcia's candidate petition?

A That is certainly a high possibility.

Q So as you sit here today, having heard Ms. Garcia's testimony, and her beliefs and assumptions regarding her -- based on her review of the signatures on her petition in comparison with the VAN database information, are you prepared to accept or stipulate to the validity of any of the signatures that she has identified for this Court as subject to a line by line review?

A No, I wouldn't stipulate as to any of them being valid.

MS. MORRILL: Your Honor, may I have a moment, please?

THE COURT: Yes.

MS. MORRILL: Thank you.

(Pause)

MS. MORRILL: Thank you, Your Honor. No further questions.

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THE COURT: All right. Any cross-examination?

MS. PADDEN: Yes, Your Honor.

CROSS-EXAMINATION

BY MS. PADDEN:

Q Hi, Mr. Albin. I'm Amy Padden. I'm representing Ms. Garcia. Thank you for being here with us today. I know this is a very stressful time for everybody and in your office in particular, so I appreciate that.

So a couple of questions about your background. Have you ever worked on a candidate campaign?

A No.

Q Have you ever been involved in any signature gathering efforts?

A No.

Q And part of the Secretary's duties in implementing the election code is to try to give weight to the intent of the elector; is that true?

MS. MORRILL: Objection. Calls for a legal conclusion.

THE COURT: Overruled.

THE WITNESS: So I -- without having you repeat the question, I would say that in statute we have some specific statutory requirements that we have to follow. Actually, don't (indiscernible); can you repeat it?

BY MS. PADDEN:

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Q Sure. Isn't part of the Secretary's duties in implementing the election laws to implement the intent of the elector or the intent of the voter?

MS. MORRILL: Objection. Calls for a legal conclusion.

THE COURT: All right. Same ruling. Overruled.

THE WITNESS: I don't know the answer to that.

MS. PADDEN: Okay.

BY MS. PADDEN:

Q And I apologize for jumping around here, but I didn't want to re-tread anything you've already covered. You mentioned that there is voter registration information published on the Secretary of State's website or I guess it's information about how to obtain that information on the Secretary's website. Do you recall that testimony?

A Yes.

Q Okay. I believe that you said that it's updated monthly. Do you remember that?

A Yes.

Q Okay. And is there a cost associated with obtaining that information?

A No.

Q Okay. And what format is it available in?

A So just to correct, I think we're talking about perhaps two different types of data.

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Q Okay.

A So one thing that we post on our website and that's available to the public no charge at all is a breakdown of all the different voter registration information in general, so it would be, for example, there is a thousand Republicans in Grand County. So just general information like that. It's not granular all the way down to telling specific information about a voter. So that's the information that's published once a month that's on the website.

If you want to actually get information on individual voters, you do have to pay a \$50 fee to be able to get that information, correct.

Q Okay. And for the \$50 fee, is that just for a particular geographic area, is that for the entire voter information for the entire state?

A The entire state.

Q Okay. And that's only \$50?

A Yes.

Q I did see on the Secretary of State's website that there was some information that was available that costs \$1,000. How does that differ from what's available for \$50?

A Unfortunately I'm not the person who sends out all that data, so I'm not exactly certain. It might be more to do with the frequency of the times that you get that information. The \$50 fee is only for a one-time load of data. But the truth

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is, I -- I don't know what the difference is.

Q Okay. Is it possible for a member of the public to get access to the SCORE database you've been talking about?

A If they pay a fee, they can get limited information (indiscernible).

Q But not the full information that you at the Secretary of State's office has access to?

A That's correct.

Q And how -- what is the fee to get access to the SCORE information?

A Again, if you were just asking for a one-time load of data, voter registration data, it's a \$50 fee.

Q Okay. And so I guess I would (indiscernible) is that the same as the information that's advertised on your website or is that different?

A I don't know what you mean by advertised on the website; sorry.

Q Okay. So I'm looking at the Secretary of State's website for info center/(indiscernible)/elections, and there's a thing that says election data. Have you seen this website before?

A Yes, but it's been a while.

Q Okay. So there's something called the election cycle subscription service and the fee for that is \$1000.

A All right. So my understanding of that would be if

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you're paying \$1,000, you would get frequent reports of elections data then if you requested that.

Q Okay. But is that different than the SCORE?

A No, that's coming from SCORE.

Q SCORE, okay. So that's a subset of the information that's available in SCORE?

A Yes. Correct.

Q Okay. Great. Candidates and other members of the public cannot get access to the information that you have available in SCORE? I mean, the -- other than what's available to the public, you have additional information that the public and candidates cannot access.

A Yes. So we would have some additional data, yes.

Q Okay. And in this case, Ms. Garcia's team asked for the signature line adjudication report; is that correct?

A Yes.

Q Do you routinely provide that to candidates whose petitions are found insufficient or do they have to ask for that information?

A They do have to request it.

Q And do you inform the candidates of the availability of that information or do they have to know to ask for it?

A No, we let them know that.

Q Okay. And Ms. Morrill asked you a little bit about the validity rates that you typically see and you said they



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were approximately 80 percent?

A Yes.

Q And have you ever done anything to compare the validity rates between campaigns that are mainly -- have volunteers gathering signatures as opposed to campaigns that mainly have paid signature gatherers?

A No.

Q Would it surprise you if the signature gathering validity rate is typically lower among volunteers as opposed to paid canvassers?

MS. MORRILL: Objection, foundation.

THE COURT: Sustained. You can establish additional foundation.

MS. PADDEN: Okay.

BY MS. PADDEN:

Q (Indiscernible) any difference between the petition gathering rate between volunteer signature gatherers -- sorry; the validity rate between volunteer signature gatherers and paid signature gatherers?

A I don't know.

Q Okay. Moving on to Ms. Garcia's insufficiency statement. You mentioned that Ms. Garcia gathered quite a lot of signatures in CD3. Do you recall that testimony?

A Yes.

Q And she did that despite the fact that that is a

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fairly Republican district?

A Yes.

Q Now, I understand that you haven't had the opportunity to review the signatures that are at issue in Exhibit Number 1.

A Correct.

Q So you've had the opportunity to review the signatures that Ms. Wheeler had submitted in connection with her petition, correct?

A Yes.

Q And how long after you got her list of signatures were you able to determine which ones of those you would be able to stipulate to?

MS. MORRILL: Objection, relevance.

THE COURT: Restate the question again? Just say it again. I didn't -- want to make sure I caught it.

MS. PADDEN: Yes.

BY MS. PADDEN:

Q I said how long after you got the list of the signatures that were at issue in the Wheeler petition were you able to review them and determine whether or not you would be able to stipulate to any of them.

THE COURT: All right.

MS. MORRILL: Objection, relevance.

THE COURT: Objection was relevance. Sustained.

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MS. PADDEN: Okay.

BY MS. PADDEN:

Q Now, when you receive a -- or (indiscernible) you receive a list of signatures that the candidate is challenging the validity of, how do you determine whether or not you will stipulate to the validity of those signatures?

A We would process them similarly to how we would do any other petition. We would review them in -- in SCORE, the voter registration database.

Q Okay. Would you review them in VAN?

A No.

Q Okay. Did you need (indiscernible) time was an issue, but did you need access to the VAN information in order to review the validity of Ms. Garcia's petition?

A It would have been helpful, because I would have been able to see exactly what the protesters were looking at when you reviewed those particular lines. But would it have been absolutely necessary, no.

Q And you wouldn't have relied on that VAN information alone (indiscernible)?

A No.

Q You would have had to go into SCORE yourself and see what was in SCORE before you would determine whether a signature was valid or not, correct?

A Correct. I wouldn't have just looked at the scan --

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at the -- the VAN information and then made a determination, correct.

Q Okay. And when you do that, did you then provide candidates with the SCORE information that you used to determine whether or not a signature is valid?

A Yes, we could do that. We've done it many different ways depending upon the -- the court case. Sometimes we present another spreadsheet that shows how we adjudicated that particular line.

Q And so you have experience in reviewing signatures that have been challenged by candidates in petitions such as these?

A Yes.

Q And would you agree that -- strike that. Are there occasions when you have found signatures that were initially rejected (indiscernible) your office that you later determined that they were valid (indiscernible) petition proceedings?

MS. MORRILL: Objection. I'm sorry. I'm going to object to the relevance.

THE COURT: All right. Objection's relevance. Sustained.

BY MS. PADDEN:

Q You described the process by which the petitions are scanned and also scanned by individuals, correct?

A Yes.

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Q And would you agree that despite those processes that some times errors are made and you will later determine that a signature was in fact valid that was initially invalid?

A Yes.

Q For example, a nine might be scanned as a four. Would you agree with that?

A I wouldn't use the word scanned. I would say that yes, it's possible that somebody who's looking at the petition might -- there might be varying interpretations of what a particular number is, what particular letters are, that is correct.

Q And I believe when Ms. Morrill was asking you about Ms. Garcia's testimony regarding Exhibit Number 1, you said that you -- you didn't agree with some of it. Do you recall that?

A Yes.

Q So I take it that there were parts of it that you agree with?

A Yes.

Q Okay. And do you remember (indiscernible) the parts that you agreed with?

A No. I'm just saying that I don't 100 percent disagree with what Ms. Garcia had to say.

Q One thing you mentioned is that you have some discretion to consider nicknames or shortened names or first

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names?

A Yes.

Q And so, do you recall Ms. Garcia testifying about a name that was rejected by the Secretary of State as Peg J Hovet, the registration was under Margaret J. Hovet?

A I'm sorry, I don't recall that specific.

Q Okay. Do you still have Exhibit Number 1 in front of you?

A I do.

Q If you could turn to line 58. For the record, this is section number 201, (indiscernible), line 38.

A Okay. I've got it.

Q Okay. And do you see in column D which is what the Secretary of State chart had as Peg J. Hovet?

A Yeah, so the signer wrote Peg J. Hovet on the petition, yes.

Q Right.

A Okay.

Q And then Ms. Garcia testified that when she checked the VAN, they had -- that voter was listed as Margaret J. Hovet.

A Okay.

Q Is that the type of signature that you would have the discretion to accept Peg as a nickname or a shortened name for Margaret?

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A Yes, we would have the discretion to accept that.

Q Okay. Now, Ms. Morrill asked you some questions about Respondent's Exhibit E. (Indiscernible) that was the petition of (indiscernible) candidate?

A Yes.

Q And in that petition, the petitioner listed the lines of specific signatures she was challenging, correct?

A Yes.

Q And that candidate was a candidate for the State House (Indiscernible)?

A Yes.

Q And what are the signature requirements for a candidate for State House?

A One thousand.

Q Okay. And so that's less than 10 percent of the requirements for U.S. Senate for 10,500, correct?

A Yes.

Q Okay. And when you issue an insufficiency notice to a candidate, do you tell them they're required to identify -- well, strike that. Do you tell them that they have five days within which to file a petition with the district court, correct?

A Yes.

Q Do you inform them that they need to identify particular signatures by line that they are challenging?

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A No.

Q And is there any such requirement anywhere in the Secretary of State's rules or the applicable statutes that you're aware of?

A A requirement that we notify?

Q No. A requirement that the candidate lists line by line the signatures that they are challenging when they file a petition?

A I understand. No.

Q Okay. And do you recall being forwarded an email that Mr. Meisner had sent to Jeffrey Munson, asking what the process was for challenging the validity of specific signatures in Ms. Garcia's petition?

A No.

Q Okay.

MS. PADDEN: Your Honor, I'd like to mark as -- sorry, Exhibit 2. I need to forward this to the parties. I just got it. I didn't intend -- I didn't even know it existed (indiscernible), given the testimony here.

THE COURT: Is this the email he said he just didn't receive?

MS. PADDEN: That he didn't recall receiving, yes.

THE COURT: Are you trying to get it to him to refresh his recollection?



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MS. PADDEN: Either that or to impeach him.

THE COURT: Okay.

MS. PADDEN: I would do --

THE COURT: You're going to have to email it to the parties and email it to the Court. Everybody --

MS. PADDEN: Yes, I can do that.

THE COURT: -- that's on the line for Ms. Wheeler's case, thank you for being patient. We're trying to finish up. And we're doing the best we can.

(Pause)

MS. PADDEN: Okay. Your Honor, I just sent it to your law clerk and to Counsel for the Secretary. If they could forward it to the witness.

THE COURT: All right.

(Pause)

MS. BUCKLEY: Your Honor -- Ms. Padden, can you mute your microphone? There's a lot of feedback. Thank you. Your Honor, I received Ms. Padden's email just now, I forwarded it to Mr. Albin. Hopefully it will come through to his inbox. It looks like he's nodding his head and he may have it.

THE COURT: Okay.

THE WITNESS: Yep, I have it.

THE COURT: I have it as -- excuse me, I have it as well. All right. So Ms. Padden, you may continue your questions.

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BY MS. PADDEN:

Q Mr. Albin, now that you've looked at a copy of this, does this (indiscernible) refresh your recollection as to whether you were forwarded an email that Mr. Meisner sent to Mr. Munson at the Secretary's office?

A (No audible response).

Q And does this (indiscernible) a true and correct copy of the email that you received and the response that you gave to Mr. Meisner?

A Yes.

MS. PADDEN: Your Honor, I'd move Exhibit 2 into evidence.

THE COURT: Any voir dire or objection to 2?

MS. MORRILL: If I could just have one moment to review it in full, Your Honor. I have not done so.

THE COURT: Okay.

MS. MORRILL: Thank you.

(Pause)

MS. MORRILL: Thank you, Your Honor. I have reviewed it and do not object.

THE COURT: All right. Exhibit 2 is admitted without objection.

(Petitioner's Exhibit 2 admitted)

BY MS. PADDEN:

Q And so in the original email that Mr. Meisner sent to

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Mr. Munson, do you see that he asked what the protocol was for verifying any signatures that had been rejected by the Secretary of State?

A Uh-huh (affirmative). Yes.

Q And that he also indicated that they were going to be using VAN to do so and there they could screenshot the information. Do you see that?

A Yes.

Q He also asked what else the Secretary of State would need for verification. Do you see that?

A Yes.

Q And he asked what are the acceptable formats and how they should be returned to you. Do you see that?

A Yes.

Q And whether they should hold off on sending the verified signatures in bulk or send them as they did them. Do you see that?

A Yes.

Q Okay. And then you responded that you were not sure what he was requesting. Do you see that?

A Yes.

Q And just for the record, the original email that Mr. Meisner sent to Mr. Munson is dated Monday, April 20th, at 3:14 p.m.?

A Yes.

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Q And that was the same day that the Secretary of State issued the insufficiency notice?

A Yes.

Q Okay. And then you respond just a short time later at 3:28 p.m. that same day?

A Yes.

Q Okay. And then you also informed Mr. Meisner that you would not do an additional review until the attorneys informed you that a protest had been filed, which has now been done, that's why we're here. Right?

A Yes.

Q And you said and the protocols established were an additional line by line review by the attorneys (indiscernible). Do you see that?

A Yes.

Q So nowhere in here did you inform Mr. Meisner that it was a requirement that the campaign identify the specific signatures that they were challenging in the petition itself.

A I did not comment on that, no.

Q Okay. And so approximately how many lawsuits have you testified in where a candidate has requested a line by line review of certain signatures?

A Well, this is the first lawsuit that I have testified in.

Q And you testified in Ms. Wheeler's lawsuit yesterday?

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A If that counts, yes. You're right.

Q Okay. And so that was the first one?

A Yes.

Q Well, and I guess you're going to have to testify again today. Have you been involved in reviewing any line by line challenges by any other candidates that have filed a petition for review?

A Yes. Occasionally we will get from the Attorney General's office a list of challenged lines that we go ahead and review, yes.

Q Okay. And can you say approximately what the revise rate is at that point? How many of the signatures review you end up (indiscernible) --

MS. MORRILL: Objection, relevance.

THE COURT: Overruled.

THE WITNESS: I could not.

BY MS. PADDEN:

Q Okay. Do you recall how many of Ms. Wheeler's signatures you ended up stipulating to?

MS. MORRILL: Objection, relevance. Assumes facts not in evidence.

THE COURT: Sustained.

BY MS. PADDEN:

Q When you do one of those line by line reviews, approximately how long does it take you to review each

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signature line and look up the information on SCORE and compare it?

MS. MORRILL: Objection, relevance.

THE COURT: Overruled.

THE WITNESS: It can vary greatly, depending upon how much information we're given. I would say probably a safe bet is two minutes a line.

BY MS. PADDEN:

Q And you did mention that former Governor Hickenlooper was the (indiscernible) met the -- both the threshold and the distribution requirements for U.S. Senate in this cycle?

A Yes, correct.

Q Are you aware how -- of how much money Mr. -- Governor Hickenlooper paid canvassers in order to obtain those signatures?

A No.

MS. PADDEN: I don't have any further questions, Your Honor.

THE COURT: All right. Thank you. Any redirect?

MS. MORRILL: Limited to Exhibit 2, Your Honor.

THE COURT: Okay. Go ahead.

REDIRECT EXAMINATION

BY MS. MORRILL:

Q Mr. Albin, returning your attention to Exhibit Number

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2. You see in your response to Mr. Meisner's April 20th email the statement after you say I'm not sure what you're requesting, you indicate our office has completed review of the petition. What were you trying to communicate to Mr. Meisner by that statement, (indiscernible)?

A Sure. I was a little confused on what he was asking, I guess perhaps he asked so many questions all at once. What I thought he was requesting for us to do was right at this moment he was going to provide us a list of lines that he wanted to challenge, and I was attempting to communicate to him simply that that isn't how, unfortunately, the process works, that we were done at that point reviewing the petition, we couldn't have anymore comment on those lines until there was a challenge.

Q And by a challenge, are you referencing this court challenge?

A Yes.

Q And so, when Ms. Garcia testified on her -- in direct and cross-exam (indiscernible), that she was asking the Secretary's office to review the validity of these signatures on Exhibit 1, do you understand that that is what's being asked here as opposed to having the Court review the validity -- the appropriateness of the Secretary's rejection of those signatures?

A Yes. That's how I understood it.

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Q And so does the Secretary, once she has issued and taking Ms. Garcia's case specifically, once she has issued a statement of insufficiency to a candidate regarding their candidate petition, and determined that they will not be on the ballot, does she have the power to review or accept additional signatures outside of the court determining that they were inappropriately rejected or do parties reaching factual stipulations in a court proceeding, if they're able to, depending on the circumstances?

A No, we don't have any authority to make any changes until a court would tell us to make a change.

MS. MORRILL: Thank you. Nothing further.

THE COURT: All right. Thank you. Any recross?

MS. PADDEN: Just very briefly, Your Honor.

RE CROSS-EXAMINATION

BY MS. PADDEN:

Q One of the concerns that Ms. Garcia mentioned that Ms. Morrill just alluded to was that there were some voters who are considered confidential voters and that -- their address, for example, is unavailable to the public; is that correct?

A Yes.

Q And so has Ms. Garcia identified at least one person that (indiscernible) a mailing address and not a physical address? Do you recall that testimony?

A I don't.



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Q Okay. In any event, if there was a confidential voter who was a signature that was rejected by your office, is there any way that the camp -- or -- strike that -- the (indiscernible) campaign could ask to or could get information about whether or not that signature was valid would be by going to court and having the Court (indiscernible) that information, correct?

A Yes.

MS. PADDEN: Nothing further. All right. Thank you. All right. Mr. Albin, your testimony is complete. Thank you. All right. Any additional witnesses for Respondent?

MS. BUCKLEY: No, Your Honor. The Secretary rests.

THE COURT: All right. Any rebuttal by Petitioner?

MS. PADDEN: No, Your Honor.

THE COURT: All right. Then just a couple housekeeping before any final statements. Exhibits E and F obviously were admitted today as well. So if I could have the Petitioner -- or I'm sorry, Respondent, upload Exhibits A, B, C, D, E and F by noon tomorrow, I would appreciate it.

MS. BUCKLEY: Yes, Your Honor.

THE COURT: And then I believe Petitioner's Exhibits 1 and 2 were admitted today. So if Petitioner can upload Exhibits 1 and 2 by noon tomorrow, I would appreciate it

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as well.

And we had discussed yesterday, but we haven't discussed today, a potential filing of stipulated facts and I checked this morning, that hasn't been filed, I know for good reason, but do the parties intend on still filing a stipulated -- stipulation?

MS. BUCKLEY: Yes, Your Honor. The Secretary's still open to proceeding with a stipulation that she had proposed and received some requested changes. I indicated I think on the record at the outset of yesterday's hearing that the -- those changes, Ms. Garcia's changes, were acceptable and that we would get that finalized and filed with the Court, so we can also do that by noon tomorrow as well.

THE COURT: Okay. That's fine with me. Ms. Padden, does that timeframe work for you as well?

MS. PADDEN: Yes, Your Honor.

THE COURT: Okay. So if you'll file any stipulated facts by noon tomorrow. All right. With that out of the way then, Ms. Padden, any final comments that you would like to make?

MS. BUCKLEY: Your Honor --

THE COURT: Or I'm sorry, Ms. Buckley. Can you hear me?

MS. BUCKLEY: Your Honor, I can hear you. I have a dog problem. But I was going to ask for a short five

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minute comfort break if possible.

THE COURT: Oh, that works. I need -- I was going to take a short recess anyway. I have to do a little bit of math, so let's take five minutes. I'll stay probably right here, but everybody else is welcome to leave; 5:12 or so. So we'll be in recess on this case and then everybody on Ms. Wheeler's case, thank you for being patient. We've kind of switched roles today. Yesterday I know you were going first and the other parties were waiting and now you're in the same boat today, so I appreciate you being patient.

(Off record)

THE COURT: All right. We are back on the record in 20CV31467. All parties and Counsel are present.

All right. Ms. Padden, any final statements you'd like to make for the Court?

MS. PADDEN: Yes, Your Honor. Just briefly.

Your Honor, based on Your Honor's prior decision in the Ferrigno Warren case, (indiscernible) personal requirements as well as with the distribution requirements, she has 89.7 percent valid signatures, even without including any that the Court may find valid today. Ms. Ferrigno Warren only had 315 valid signatures in CD3 and 314 in CD4, and Ms. Garcia has more than three times that amount. And therefore, Ms. Garcia has complied under the circumstances (indiscernible) -- under the circumstances. And we would as that you order that

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she be placed on the ballot.

We would further ask that you reject the Secretary's proposed formula. It does not comply with the (indiscernible) standards and also doesn't reflect the realities of running a campaign. (Indiscernible) standards, the (indiscernible) of non-compliance, the other two factors require, you know, consideration of good faith efforts and whether the purpose of the statute is substantially achieved. And a pure numeric formula just does not meet those goals.

You've heard lots of testimony today as to why that formula (indiscernible) work in the reality of a campaign, (indiscernible) testimony of why the Secretary of State (indiscernible) that that formula makes sense in a campaign environment and therefore, we would ask the Court to reject the Secretary's (indiscernible) request to use that formal because it just does not -- it does not reflect the realities of how campaigns work and the manner in which they obtain signatures, the timing of that, as well as the (indiscernible) distribution.

And lastly, Your Honor, we would drop the equal protection claim. I know Your Honor has found that it lacks jurisdiction over that claim and the implications and we would withdraw that claim at this time.

THE COURT: Okay. Thank you. All right. I'm going to mute you, Ms. Padden. All right. Ms. Morrill or Ms.

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Buckley, any final comments?

MS. BUCKLEY: Yes, Your Honor. This is Ms. Buckley. Initially and for the sake of preservation, I re-urge our argument that under Section 113, the Court lacks jurisdiction to consider Ms. Garcia's claim that the Secretary improperly rejected 222 signatures and it -- just for the sake of preservation, but in doing so, I also wanted to incorporate my oral -- earlier oral argument and also refer the Court to the Secretary's Exhibit (indiscernible), which provides support for the timeframe in which the Secretary's team learned of this challenge, and Exhibit E, which illustrates how a similar claim should be raised in a Section 113 (indiscernible). I understand Your Honor has ruled on that issue.

Next, I wanted to address the merits of those signatures presented in this spreadsheet Exhibit 1. By my count, Ms. Garcia has withdrawn 12 of those, so we're down to 200 that have been offered and Ms. Garcia has offered testimony on 93 of those signatures and there is -- I will agree that there is information before the Court as to those 93 on which the Court may weigh and determine how to appropriately weigh the (indiscernible) and assumptions by Ms. Garcia's campaign against Mr. Albin's testimony as to how the Secretary's team, including a team of two trained reviewers reviews those signatures here.

But as to the remaining signatures and I count

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107, which there was no testimony as to and there is no -- there are no annotations from Ms. Garcia's campaign (indiscernible) in the Exhibit 1. There's just no factual information before the Court on which the Court could possibly base a determination as to whether those signatures have substantially complied or not.

By contrast, Ms. Garcia has provided some specifics as to why a particular signature should or should not be counted in her view and those are always very factually specific and can't be broadly generalized. We just can't know the basis for inclusion of 107 on the spreadsheet.

And so there's no basis from the record for the Court to make a factual finding as to why signatures that were rejected were actually complied with -- actually complied with the election code as to those 107. And Petitioner does bear the burden of proof in this particular instance and she has not met her burden here by not providing line by line testimony of those 107.

THE COURT: Okay.

MS. BUCKLEY: And lastly, I would urge the Court to abandon its 50 percent test for the reasons stated in my brief and I incorporate those here in full and urge the Court that in this particular case -- rather, urge the Court to consider that the testimony here has shown that there are different ways to run a campaign and there are different

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strategies for how to gather signatures and those vary across candidates, they vary due to numerous reasons, including a candidate's preferred strategy. And we need to determine what is a fair and reasonable way to assess (indiscernible) on a whole in order to meet the substantial compliance test. And we don't then substantial compliance test to, you know, meet every (indiscernible) of candidates of how a candidate might proceed here. We need a fair way to assess what is reasonable here across the board and what constitutes substantial compliance across the board. And that is why we urge Your Honor to look at the Secretary's test here.

I will also add that although here Ms. Garcia turned in a total of 13,812 signatures for review, which is over 3,000 -- over 3,000 over the number needed statewide, but she did here have an invalidity rate of 32 percent, which is resulted in her petition being deemed insufficient. If her campaign had adopted a strategy that result in a higher number of valid signatures, such that she was closer to the 20 percent average rates that Mr. Albin testified to, she would have had approximately 11,050 valid signatures. And in that case she would have met the threshold requirement and possibly would have strictly complied with the district by district distribution requirement.

So I think weighing the invalidity problems here, as well as the COVID-19 problems here, it's important in

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assessing the overall strategy at issue here and further supports the adoption and consideration of a neutral strategy that truly tries to isolate the effects of COVID-19 here.

And for those reasons, we urge the Court to consider the Secretary's -- consider and adopt the Secretary's strategy even though as Your Honor has previously recognized, it would have unfortunate consequences here for Ms. Garcia and even if the additional signatures were added, would not enable her to make the ballot under the Secretary's strategy.

The Colorado Supreme Court recognized in Kuhn v. Williams sometimes the application of law in the ballot access context does have disappointing or harsh results.

Nevertheless, we urge the Court to -- to rule as the Secretary has requested before the Court today and also add that we thank the Court and the Court's staff and law clerk for the consideration its shown all parties in these proceedings.

Thank you.

THE COURT: All right. Just give me one moment, okay?

(Pause)

THE COURT: Just confirming numbers. I'll unmute Ms. Padden and ask you to weigh in, and then also Ms. Buckley if that's okay with Ms. Morrill. I just want to doublecheck that in the first congressional district there was one signature that was withdrawn. Is that what the parties



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show? Ms. Padden?

MS. PADDEN: I don't have it broken down by congressional district, so let me look. I apologize.

THE COURT: Ms. Buckley?

MS. BUCKLEY: Your Honor, yes. That's what we show; one signature withdrawn, Kristin Gorman (ph).

THE COURT: That's what I show as well.

MS. PADDEN: Kristin Gorman. I'm just looking to see if there are others. I think that's correct.

THE COURT: All right. And I show in the second congressional district there was one that was withdrawn and that was Jonah Gurlack.

MS. BUCKLEY: Secretary agrees.

MS. PADDEN: Yes, Your Honor.

THE COURT: Okay. In the third congressional district I show that three were withdrawn; Adrianna Martinez, looks like Elleteria Arriano (ph), and Magdalena Archuleta (ph).

MS. PADDEN: I believe that's correct, Your Honor.

MS. BUCKLEY: Secretary agrees.

THE COURT: And in the fourth congressional district I show that two were withdrawn and it looks like it's Ananda Razo (ph) and Angel Chavez (ph).

MS. PADDEN: That looks correct to me, Your

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Honor.

MS. BUCKLEY: The Secretary agrees.

THE COURT: In the fifth congressional district I show that three signatures were withdrawn; Theodore Leininger (ph), Carolyn Potts Metzger (ph) and Whitney Crockett (ph).

MS. PADDEEN: I believe that's correct, Your Honor.

MS. BUCKLEY: The Secretary agrees.

THE COURT: In the sixth congressional district there was one that was withdrawn and that is Milan Miller (ph).

MS. PADDEEN: Correct, Your Honor.

MS. BUCKLEY: Secretary agrees.

THE COURT: And then the seventh, I show one was withdrawn -- I don't know if it was withdrawn. That was a duplicate, right? That was --

MS. PADDEEN: Right.

THE COURT: -- Erisa Hyatt (ph).

MS. PADDEEN: Correct, Your Honor.

MS. BUCKLEY: Yes, Your Honor. I'm just seeing that (indiscernible).

THE COURT: All right. Just give me just one moment again.

(Pause)

THE COURT: Okay. Thank you for your patience. That's a lot of math. I'm going to go ahead and mute

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everybody.

All right. After considering the testimony today, the Court enters the following order and I'll make some additional findings of fact here in a moment. I will state at the outset, however, that I did find -- that I do find that all witnesses that testified were credible witnesses. There may have been some discrepancies between their testimony at times, but I have found every witness in this case to be credible, conscientious, doing the best that they can for themselves, their campaign, and for their agencies. So I have no concerns with any of the witnesses that have testified.

Ms. Garcia seeks to be on the upcoming 2020 Democratic Primary ballot as a candidate for United States Senate. To be on the ballot, Ms. Garcia is required either to collect by petition at least 1,500 valid signatures from each of Colorado's congressional -- seven congressional districts for a total of at least 10,500 valid signatures or to proceed through the Democratic Party's caucus and assembly process.

Ms. Garcia chose to proceed by petition. As such, the deadline for submitting her petition to the Colorado Secretary of State was March 17th, 2020. Ms. Garcia timely filed her petition that day.

The petition contained 13,812 reviewable signature lines. The Secretary subsequently reviewed the petition and issued a statement of insufficiency on April 20th,

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2020. The statement reveals Ms. Garcia collected 9,428 valid signatures or 89.7 percent of the required number of valid signatures. In a moment, the Court will add to that total.

The Court has considered Exhibit 1, also the Exhibits D and E, the testimony of Ms. Garcia, Mr. Meisner, and also Mr. Albin, and in doing so, the Court is mindful that pursuant to Section 1-4-911, Ms. Garcia has the burden of sustaining her protest by a preponderance of the evidence.

Based on the evidence presented and in light of the standard, the Court finds Ms. Garcia has met this burden. With regards to most of the 222 signatures that she submitted, she did withdraw a number of signatures, so with regards to the remaining signatures, I do find that she satisfied a preponderance standard and has met her burden of proof.

I make this finding just given the very detailed line by line examination that she undertook and also her campaign manager and other staff members. Mr. Albin obviously was not able to do that over the course of the last day or so and I understand why he is rejecting certain signatures; it's based on their rules and protocol and I have no issues with that. I think he certainly followed his agency's directives to the best of his ability.

But we're talking about over 13,000 signatures and this has come down to 222 of those signatures, a little less now that some have been withdrawn. So we're not talking

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about a large number of signatures. But based on the testimony that's been presented, I do find that Ms. Garcia has carried her burden.

A lot of the signatures that were addressed specifically contain minor errors in spelling and house numbers. I did pay particular attention to whether or not names were common names or rather unique names in deciding whether or not somebody could be confused with another person. I do not find that any of the names that were testified to specifically were common names at all, that they were all sufficiently unique that for ones where there was misspellings and -- and nicknames being used, that based on the evidence, I find those signatures to be valid.

The Court recognizes that some judgment has to be exercised by everyone reviewing these signatures from the Secretary's staff members, to Ms. Garcia, her campaign manager, her other staff members, and also the Court. And so based on this evidence, I can't find that -- take issue with Ms. Garcia's review that some of these signatures should have been declared valid.

More specifically, and I'll just lay this out now, and just so the record's clear, what I'm going to do is I'm going to state what the statement of insufficiency says and then I'm going to note how many signatures for that congressional district based on the testimony I find to exist

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now.

In the first congressional district, the statement of insufficiency had 1,978 valid signatures. This is 131.8 percent of the necessary total. I have added to that six additional signatures, for a total of 1,984, which is 132.2 percent of the required total.

With regards to the second congressional district, the statement states 1,566. That's 104.4 percent. I find that there were 1,579 valid signatures, for a total of 105.2 percent.

The third congressional district statements states 1,417, that's 94.4 percent. I find that there were 1,460 valid signatures for a total of 97.3 percent.

In the fourth congressional district, the statement lists 1,143 valid signatures. That's 76.2 percent of the necessary total. I'm finding that there were 1,193 total valid signatures, 79.5 percent.

In the fifth congressional district, 1,042 signatures are on the statement. That's 69.4 percent. I'm finding that there are 1,081 valid signatures for 72 percent.

In the sixth congressional district, 1,053 signatures are on the statement, that's 70.2 percent. I'm finding that there were 1,085 valid signatures, for 72.3 percent.

And then in the seventh congressional district,

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I'm finding that there were a total of 1,229 on the statement, that's 81.9 percent. And I'm finding that there were 1,257 valid signatures in that district, for a total of 83.8 percent.

If you add up all of those particular totals, it comes out to 9,639 total valid signatures or 91.8 percent. I will note at this point and in a moment I'm going to talk about again the threshold that I use, but in my part of my previous orders I've indicated that perhaps one criticism of the method in which I have adopted in this case and Ms. Ferrigno Warren's case and Ms. Bray's case is that there is a possibility that a candidate could load up on petitions in one or more congressional districts that would somehow skew the results to some extent.

That is an issue here to some extent and so what I have done is I have awarded -- well, I haven't awarded, those were my findings with regards to the total number of valid signatures. But if you take away the possibility of overloading in one particular district, and just give the required number for let's say the first district of 1,500 signatures and in the second district 1,500 signatures, and then adding the signatures that were in the remaining districts as I've just stated; 1,460 in the third, 1,093 in the fourth, 1,081 in the fifth, 1,085 in the sixth, and 1,257 in the seventh, if you add up all of those numbers, that comes out to 9,076 votes or 86.4 percent of the total. So what I've done

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there is I've simply recognized that she collected a lot more signatures than she needed -- well, not a lot, but enough, in the first and second district, to skew that total up a little bit, and I brought it down to a more realistic number that does address district by district.

All right. With that in mind, the Court first addresses the jurisdictional challenge raised by the Secretary in her hearing brief. The Secretary asserts that this Court does not have jurisdiction to resolve this dispute under Section 1-1-113, because on the face of an obvious deficiency and the number of petition signatures collected by Ms. Garcia, the Secretary's determination of insufficiency is required by the election code, and therefore, does not amount to a breach or neglect of her duties or other wrongful act under the code.

The Court disagrees. In doing so, the Court considers the decision of *Kuhn v. Williams*, 418 P.3d 478, Colorado Supreme Court decision 2018 and Section 1-4-909(1.5).

The statute provides that if the election official determines that a petition is insufficient, the candidate named in the petition may petition the district court within five days for a review of the determination pursuant to Section 1-1-113. Ms. Garcia alleges her petition is not insufficient and substantially complies with the election code, despite containing a deficient number of signatures.

While the merits of this argument are subject to



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further analysis by the Court, were the Court to agree with Ms. Garcia that her petition is sufficient, the Secretary would create a breach or neglect of her duty by not certifying the candidate to the ballot. As such, the Court finds that Ms. Garcia is not precluded by the election code from bringing the issue before the Court. This conclusion is consistent with the broad language of Section 1-1-113 that provides in part: When any controversy arises between any official, charged with any duty or function under this code, and any candidate, alleging that a person charges with a duty under this code has committed or is about to commit a breach or neglect of duty or other wrongful act, upon a finding of good cause the district court shall issue an order requiring substantial compliance with the provisions of this code.

As emphasized above, Ms. Garcia has alleged the Secretary's in violation of the election code. Therefore, based on this allegation, the Court has jurisdiction to hear and resolve the dispute.

The equal protection challenge has been withdrawn. Therefore, the crux of this dispute is whether the Court should order the Secretary to place Ms. Garcia on the 2020 Democratic Primary ballot as a candidate for United States Senate, even though she failed to collect the required number of valid signatures to petition onto the ballot.

As noted in previous orders and related cases,

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the Court has struggled with this question. The Court's concerns will not be repeated in this oral ruling, but such concerns remain.

With that said, the Court considers the following three factors set forth by the Colorado Supreme Court in *Loonan v. Woodley*, 882 P.2d 1380, Colorado Supreme Court 1994 and *Fabec v Beck*, 922 P.2d 330, Colorado Supreme Court 1996, to determine whether Ms. Garcia has substantially complied with the code's statutory requirements.

One, the extent of non-compliance;

Two, the purpose of the applicable provisions and whether that purpose is substantially achieved despite the non-compliance;

And whether there was a good faith effort to comply or whether non-compliance is based on a conscious decision to mislead the electorate.

The Court will address each of these factors in turn.

First, concerning the extent of non-compliance in this matter. The Court finds Ms. Garcia collected a total of 9,639 valid signatures from across the state. This represents 91.8 percent of the total number of valid signatures required by Section 1-4-801(2)(c)(2). Taking away what I call over-votes in the first and second congressional districts and simply limiting those to 1,500 votes per that district, if you

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add up all the votes in each congressional district, at or below that 1500 threshold, she's collected 9,076 signatures or 86.4 percent.

The Court finds that Ms. Garcia had a well-planned strategy to use volunteers to collect the required number of signatures and including two hired staff. Those efforts have been detailed in the testimony today. Following Governor Polis' declaration of a state of emergency on March 10th, 2020, petition circulators experienced a sharp decline in their ability to gather signatures and Ms. Garcia and her volunteers stopped collecting signatures altogether on Sunday, March 15th.

Prior to Sunday, March 15th, the week prior to Sunday, March 15th, collection efforts decreased significantly per the testimony of Ms. Linett who testified and also the testimony of Ms. Banyai-Becker. Also, Mr. Meisner discussed his difficulties in collecting signatures and also his personal concern with his health and the health of his newborn child. And even as campaign manager for Ms. Garcia, he felt like he was not able to collect signatures on her behalf.

Second, concerning whether the purpose of the signature requirement was substantially achieved despite the non-compliance. Ms. Garcia collected 89.7 -- I'm sorry, 91.8 percent of the required number of valid signatures. This achievement suggests Ms. Garcia has a significant modicum of

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support for her candidacy. Consistent with previous orders, the Court believes a 50 percent threshold is a reasonable one and that it strikes a balance between still requiring Ms. Garcia to demonstrate significant public support and acknowledging that through no fault of her own, she was forced to operate within an environment much more onerous through contacting, let alone persuading, potential electors to express that support. In the Court's judgment, a candidate who still manages to collect at least one-half of the required valid number of signatures from an electorate absorbed within a global pandemic, has shown he or she enjoys enough public support to justify putting the candidate on a primary ballot.

While argument can be made that even a 50 percent threshold is still too lenient, the Court notes that such a standard or more precisely, just over the standard, often is used within the legal and political systems to mark whether a claim, proposition, candidate, et cetera, enjoys enough support to be considered proven, legitimate, electable, or successful.

Ms. Garcia exceeded this 50 percent threshold. Although the Court declines to use the mathematical formula proposed by the Secretary for the reasons stated in previous orders and related cases, the Court nonetheless notes that even under the Secretary's proposed formula, Ms. Garcia would not be successful because she did not gather at least 1,284 signatures

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-- did not gather at least 1,284 of the required number of valid signatures in each congressional district.

The Court finds that the per day average proposed by the Secretary is unworkable in this pandemic. The testimony was clear and credible from everyone that testified in this case that signature collection does not proceed forward on a per day average, that they fluctuate between districts and on any given day and on any given week.

In this particular case, the testimony was credible that there was to be a push in the final two weeks of the collection signature window and this is consistent with renewed focus and genuine effort on signature collection, energy among the circulators with a deadline approaching, and also additional volunteers being willing to support the candidate in those final couple of weeks.

And then finally third, concerning whether there was a good faith effort to comply or whether non-compliance was based on a conscious decision to mislead the electorate, the Court is convinced Ms. Garcia made a good faith effort to comply with the signature requirements. Ms. Garcia and her campaign team developed a sound strategy for collecting the required number of signatures.

Ms. Garcia decided to run for U.S. Senate in June of 2018. She's raised over \$110,000. She has a list of 1500 volunteers. She had approximately 192 volunteer

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circulators. She has three staff members, one unpaid intern, plus a candidate collecting signatures.

She purchased the voter activation network to identify potential electors and to focus her efforts, circulation efforts. She began collecting on the first day of the collection window, stopped collecting on Sunday, March 15th. Ms. Garcia experienced the same issues as other petition candidates in trying to collect signatures during the pandemic. They faced individuals not opening their doors even though they were at home. She faced notarization issues with circulators who were afraid to leave their home, go to the bank to get a notary. Events were cancelled including a St. Patrick's Day parade in which they hoped to gather a significant number of signatures. And public places closed; libraries closed, DMVs closed, places that you would typically gather signatures were not available after March 10th, the declared state of emergency.

In conclusion, consistent with the principle that the election code be liberally construed to permit ballot access, and after considering the three factors set forth in *Loonan v. Woodley* and *Fabec v. Beck*, the Court finds all three factors weigh in favor of granting the relief requested by Ms. Garcia.

The Court thus concludes that Ms. Garcia has substantially complied with the election code's signature

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requirements. Accordingly, the Court orders the Secretary of State to place Ms. Garcia on the 2020 Democratic Primary ballot as a candidate for United States Senate.

All right. Ms. Padden, any additional comments, issues, you would like the Court to address?

MS. PADDEN: No, Your Honor. Thank you very much for your time. We appreciate it.

THE COURT: All right. Ms. Morrill, any additional record, comments, issues, you would like the Court to address?

MS. MORRILL: No, Your Honor.

THE COURT: All right. And Ms. Buckley, any additional issues, comments, record, you'd like to make or issues you'd like the Court to address?

MS. BUCKLEY: No, Your Honor.

THE COURT: All right. Again, I appreciate everybody's work on this case and I know it's been a long two days and again, I apologize for our technical issues last night and having you come back and offer testimony again. So my apologies again, but thank you for the work you did in this case. I'll consider this matter to be resolved.

MS. PADDEN: Thank you, Your Honor.

MS. BUCKLEY: Thank you.

THE COURT: Thank you.

(Proceedings concluded at 6:04 p.m.)

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TRANSCRIBER'S CERTIFICATION

STATE OF TEXAS            )  
  )     SS.  
COUNTY OF HARRIS        )

I, Kimberly C. McCright, CET, do hereby certify that I have listened to the electronic recording of the foregoing; further that the foregoing transcript pages 1 through 223, were reduced to typewritten form from an electronic recording of the proceedings held April 30, 2020, in the Denver County District Court, Lorena Garcia vs. Jena Griswold, In Her Official Capacity as Secretary of State, and that the foregoing is an accurate record of the proceedings as above transcribed in this matter on the date set forth.

DATED this 4th day of May, 2020.

/s/ Kimberly C. McCright

Kimberly C. McCright, CET