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Trial on the Merits, Volume 6
July 12, 2010

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P R O C E E D I N G S

THE COURT: All right. Let me ask everyone who has been called as a witness, if you will stand and raise your right hand, I'll administer the oath to you.

(Interpreter translating)

(Witnesses sworn)

THE COURT: You may be seated.

THE BAILIFF: Everybody except for you folks, step back outside, please. Anyone that's a witness needs to get up and come back outside, please.

THE COURT: Okay. You may call your first witness.

MS. WOERTENDYKE: We're calling Jesse Varelas. He does speak English. This is the gentleman that had the stroke.

THE COURT: And how do you spell the last name?

MS. WOERTENDYKE: It's V-A-R-E-L-A-S, okay, and he is on page 12, number 16.

THE COURT: Okay. You may proceed.

MR. WYDE: Yes, Your Honor. May I have just a moment? I apologize, sir.

THE COURT: I guess my first question is, does Mr. -- is it Varelas -- I'm sorry, how do you pronounce the last name?

1 MS. VARELAS: Varelas.

2 THE COURT: Does he speak English?

3 MS. VARELAS: Yes.

4 JESSE VARELAS,
5 having been first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. WYDE:

8 Q. Good morning, Mr. Varelas.

9 A. Good morning.

10 Q. How are you doing?

11 A. Fine.

12 Q. You were subpoenaed to come to court not
13 because of anything you did or because anybody thinks
14 you've done anything wrong, okay?

15 A. Okay.

16 Q. My name's Dan Wyde, I'm the one that signed the
17 subpoena. So I apologize, but this is the only way we
18 could present your comments to the Court.

19 A. Okay.

20 Q. Yes, sir. Do you recall, sir, back in February
21 of this year getting a green envelope like this one?

22 A. Yes, I do.

23 Q. Okay. That is what's referred to as an
24 absentee or a ballot by mail.

25 A. Right.

1 Q. Okay?

2 A. Uh-huh.

3 Q. When I use those terms, do you know what those
4 mean, or do you have an understanding?

5 A. Yes.

6 Q. Okay. And inside of that envelope is generally
7 one of these brown ones.

8 A. Yes.

9 Q. Okay. When you got the green envelope in the
10 mail -- or I should ask, did you receive it in the mail,
11 or did someone bring it by, if you remember?

12 A. Okay. Can I say --

13 Q. Yes, sir.

14 A. Okay. Now, before, beginning about three weeks
15 or something like that --

16 Q. Uh-huh.

17 A. -- the man asked if I was -- how do I say -- he
18 said if we had the --

19 MS. VARELAS: Envelope.

20 A. -- the envelope, and I said, no, and he said,
21 well, okay, you're going to go get -- you're going to
22 have --

23 THE COURT: Let me --

24 A. -- the mail --

25 THE COURT: -- stop for a second. I

1 understand that the witness has suffered a stroke, is
2 that correct --

3 MS. VARELAS: Yes.

4 THE COURT: -- which affects his ability to
5 speak?

6 MS. VARELAS: Correct.

7 THE COURT: And so I'm going to ask the
8 attorneys to ask questions that require yes or no
9 answers.

10 MR. WYDE: Yes, sir. Yes, sir.

11 THE WITNESS: (Raising his hand)

12 THE COURT: Yes, sir.

13 THE WITNESS: Sir, but I can understand,
14 but I can't -- it can't come out.

15 THE COURT: Yes, sir, I understand that.

16 THE WITNESS: Okay. I'm sorry.

17 THE COURT: Thank you. That's fine.

18 THE WITNESS: Okay.

19 A. Okay.

20 Q. (BY MR. WYDE) Mr. Varelas --

21 A. Yeah.

22 Q. -- may I suggest, I'll ask you a question, and
23 if the answer's yes, if you'll hold up a one --

24 THE COURT: I think he can answer yes or
25 no.

1 MS. VARELAS: Yeah, he can do yes or no.

2 MR. WYDE: Okay.

3 MS. VARELAS: So he's going to ask you
4 questions, and yes or no.

5 THE WITNESS: Okay.

6 MS. VARELAS: Okay.

7 Q. (BY MR. WYDE) Did you request a mail-in
8 ballot, if you remember, yes or no?

9 A. No.

10 Q. Okay.

11 A. I don't remember.

12 Q. Okay. Do you recall someone coming by your
13 home asking you to sign this kind of a piece of paper
14 down here in the right-hand corner, yes or no, if you
15 can?

16 A. No.

17 Q. Okay. Did it come in the mail to you, if you
18 remember, yes or no?

19 A. Yes.

20 Q. Yes?

21 A. Yes.

22 Q. Okay. Is that your signature in the lower
23 right-hand column?

24 A. Yes.

25 Q. Okay. When -- after the green envelope came to

1 your home --

2 A. Right.

3 Q. -- did somebody come by and want to talk to you
4 about how to vote, yes or no?

5 A. Okay. We --

6 Q. More than one person?

7 A. No, just one, but it was -- he came to the
8 house and --

9 Q. He came to the house?

10 A. Yeah.

11 Q. Did you let him in the house?

12 A. Did I let him in because --

13 Q. No, just tell us yes or no, if you --

14 A. Yes.

15 Q. Yes, okay. Do you know the person's name, or
16 do you remember their name, yes or no?

17 A. I don't -- no.

18 Q. No, okay. Was it an African-American person,
19 yes or no?

20 A. Yes.

21 Q. Yes?

22 A. Hispanic.

23 Q. Okay. Was it a Hispanic person?

24 A. Yes.

25 Q. Okay. So one Hispanic person?

1 A. Yes.

2 Q. All right. And did they tell you they were
3 with the Sepulveda campaign?

4 A. No.

5 Q. No? Did they tell you they were with the
6 Medrano campaign?

7 A. No.

8 Q. All right. Was your daughter with you when
9 they came to the house?

10 A. No.

11 Q. Okay. Was anybody else with you when they came
12 to the house?

13 A. My -- my --

14 MS. VARELAS: Mother.

15 Q. Your mother?

16 MS. VARELAS: No, his wife.

17 Q. (BY MR. WYDE) Your wife?

18 A. Yeah.

19 Q. Okay. Is she here today?

20 A. No.

21 Q. All right. And when the person came with you,
22 did they go over or talk to you about the different
23 people on the ballot?

24 A. He --

25 MS. VARELAS: Yes or no.

1 Q. Did they suggest who to vote for in any of the
2 races?

3 A. Oh, okay.

4 MS. VARELAS: Yes or no.

5 A. Yes.

6 Q. (BY MR. WYDE) All right. And did you mark the
7 ballot, or did they mark the ballot for you?

8 A. No, myself.

9 Q. You marked it?

10 A. Yes.

11 Q. All right. Did they suggest different people
12 for you to vote for, yes or no, if you can?

13 A. Yes.

14 Q. Okay. Did you give them the papers after you
15 marked the ballot?

16 A. Yes.

17 Q. Okay. Is that your signature, Mr. Varelas?

18 A. Yes.

19 MR. WYDE: Did I pronounce that correctly?

20 MS. VARELAS: Varelas.

21 MR. WYDE: Varelas?

22 MS. VARELAS: Uh-huh.

23 Q. (BY MR. WYDE) Mr. Varelas, that's your
24 signature?

25 A. Yeah.

1 Q. Okay. And you gave them the election papers --

2 A. Yes.

3 Q. -- after you marked it?

4 A. Yes.

5 Q. Was the ballot -- was the back open --

6 A. Yes.

7 Q. -- or closed?

8 A. No.

9 Q. Open?

10 A. It was open.

11 Q. Open?

12 A. (Moving head up and down)

13 Q. When you gave it to the person?

14 A. Yes, when I --

15 Q. Okay. You're saying he sealed it?

16 A. I think so, yes, sir.

17 (Contestant's Exhibit No. 98 marked.)

18 THE COURT: Counsel, I would like to have
19 asked one question, and that is whether or not the
20 suggestions or the recommendation of candidates was made
21 while he was marking his ballot.

22 MR. WYDE: Yes, Your Honor.

23 Q. (BY MR. WYDE) Mr. Varelas, when the person
24 that was there while you were marking the ballot, did
25 they make suggestions at the time you were marking --

1 making your choices?

2 A. No, because I had some stuff -- how do you
3 say --

4 MS. VARELAS: Sepulveda?

5 THE WITNESS: Yeah.

6 MS. VARELAS: Mark?

7 THE WITNESS: Yeah.

8 A. And then -- or that's not what I wanted, and
9 then I --

10 MS. VARELAS: You didn't finish it?

11 THE WITNESS: Yeah.

12 MS. VARELAS: He didn't finish his
13 ballot -- all of it, as far as we understood, when he
14 was signing it.

15 Q. (BY MR. WYDE) If I understand your comments
16 correctly, Mr. Varelas, you were wanting to vote for
17 Sepulveda?

18 A. Yes.

19 Q. But the other person didn't want you to vote
20 for Sepulveda?

21 A. Well, I mean, that's what they told me to put
22 because he asked what I -- and I told him that I had --
23 his name --

24 MS. VARELAS: Sepulveda.

25 Q. Uh-huh.

1 A. And he said, well, that's not what I want to
2 do, I don't know.

3 Q. (BY MR. WYDE) That's not what he wanted you to
4 do?

5 A. Yeah, but it's already -- because I'm --

6 Q. You had already marked it?

7 A. Yes.

8 Q. Okay. But he's the one who supposedly sealed
9 it?

10 A. Yes, I believe so.

11 Q. He supposedly sealed the envelope?

12 A. Yes.

13 Q. Okay. Is that a yes or a no?

14 A. I would say he --

15 MS. VARELAS: Did he seal the envelope, yes
16 or no.

17 A. Maybe -- I don't --

18 Q. Don't remember?

19 A. Don't remember.

20 Q. Okay.

21 MR. WYDE: Judge, did I do what the Court
22 asked me to do?

23 THE COURT: Yes.

24 MR. WYDE: Okay. We'll offer, I believe,
25 what's Contestant's 98.

1 MR. RICH: No objection, Your Honor.

2 THE COURT: Admitted.

3 MR. WYDE: And I don't have any other
4 questions of Mr. Varelas.

5 THE COURT: Mr. Rich.

6 MR. RICH: No, no questions, Your Honor.

7 THE COURT: Thank you, you may be finally
8 excused.

9 MS. VARELAS: Thank you.

10 THE REPORTER: Ma'am, can you tell me your
11 name?

12 MS. VARELAS: Jessica, same last name.

13 THE REPORTER: Okay. Thank you.

14 MS. VARELAS: Uh-huh.

15 MS. WOERTENDYKE: Judge, Ms. Solis, his
16 daughter, stepped forward and said that he had also had
17 a stroke.

18 THE COURT: Okay.

19 MS. WOERTENDYKE: We wanted -- I wanted to
20 go ahead and call him. She wants to sit in here with
21 him. Now, I don't know how bad his stroke was, okay?

22 THE COURT: Okay.

23 MS. WOERTENDYKE: So we're going to call
24 Solis -- Epifanio Solis. He's number 17 on your list.
25 He's number 17 on the list. He's on page 12, number 5

1 on the other list.

2 THE COURT: Is this Mr. Thomas?

3 THE BAILIFF: No, Mr. Solis.

4 THE COURT: Solis.

5 THE BAILIFF: S-O-L-I-S.

6 MS. WOERTENDYKE: He's number 17 on your
7 witness list, sir, and he's on page 12, number 5, on the
8 other list.

9 THE COURT: Right.

10 MS. WOERTENDYKE: Okay.

11 THE COURT: Just a second. Let me catch up
12 here.

13 THE REPORTER: Ma'am, can you tell me your
14 name?

15 MS. SAAVEDRA: Belinda Saavedra.

16 THE REPORTER: Can you spell your last
17 name?

18 MS. SAAVEDRA: S-A-A-V, as in Vicki,
19 -E-D-R-A.

20 THE REPORTER: Thank you.

21 MS. SAAVEDRA: It's Saavedra, but I'm so
22 used to saying Saavedra, so --

23 MR. WYDE: Ma'am, if you want to be
24 referred to as Cleopatra, we'll call you Cleopatra. Is
25 this your father?

1 MS. SAAVEDRA: Yes, it is.

2 THE COURT: And the previous witness, what
3 number was he on there?

4 MS. WOERTENDYKE: He was number -- he was
5 on page 12, number 16.

6 THE COURT: No, I mean on our list for
7 today.

8 MS. WOERTENDYKE: Oh, on our list, he was
9 number 18.

10 THE COURT: 18, okay.

11 MS. WOERTENDYKE: Okay? And I will mark
12 your list, sir.

13 THE COURT: All right.

14 MR. WYDE: May I?

15 THE COURT: You may.

16 EPIFANIO SOLIS,
17 having been first duly sworn, testified through the duly
18 sworn interpreter as follows:

19 DIRECT EXAMINATION

20 BY MR. WYDE:

21 Q. Good morning, Mr. Solis.

22 MS. SAAVEDRA: Can you say buenos dias?

23 THE COURT: Does he --

24 MS. SAAVEDRA: Say buenos dias.

25 THE COURT: Well, let's have the

1 translator.

2 MR. WYDE: Okay. I wasn't sure.

3 THE COURT: Yes. All right.

4 MR. WYDE: This lady's going to translate
5 for your husband, so that'll take the burden off you.

6 MS. SAAVEDRA: Okay. This is my father.

7 MR. WYDE: Oh, excuse me, your father.

8 Q. (BY MR. WYDE) Mr. Solis, do you remember
9 earlier this year getting a green package in the mail
10 like the one in front of you?

11 A. No.

12 Q. Okay. Mr. Solis, do you recall or do you
13 remember earlier this year someone coming by your home
14 wanting to talk to you about voting?

15 A. No.

16 Q. Had you ever voted absentee or by mail before,
17 Mr. Solis?

18 A. No.

19 Q. Okay.

20 THE COURT: Counsel --

21 MR. WYDE: Yes, sir.

22 THE COURT: -- why don't we go ahead and
23 just see if that's his signature, first of all, and if
24 it's not, then --

25 MR. WYDE: May I do that through the

1 overhead?

2 THE COURT: You may.

3 Q. (BY MR. WYDE) Mr. Solis, does this look like
4 your signature?

5 A. No.

6 Q. The top one is not your signature?

7 MS. SAAVEDRA: He knows his --

8 A. My signature sometimes is -- but the bottom
9 one, that is mine, right? The signature on the bottom
10 is mine.

11 Q. Okay. But the signature on top is not yours;
12 is that correct?

13 A. No, I don't think so.

14 Q. Okay.

15 A. No.

16 Q. Do you recall --

17 MR. WYDE: I apologize, Judge, but in the
18 interest of time, did the Court want me to continue?

19 THE COURT: No.

20 MR. WYDE: Then I will not.

21 THE COURT: Any questions, Mr. Rich?

22 MR. RICH: No questions, Your Honor.

23 THE COURT: Thank you. You may be finally
24 excused.

25 (Contestant's Exhibit No. 99 marked.)

1 MS. WOERTENDYKE: Your Honor, the next one
2 is going to be Garcia -- Raul Garcia, okay, he's number
3 3. Raul Garcia, number 3, Rosalie Garcia, number 4 --

4 THE COURT: Okay.

5 MS. WOERTENDYKE: -- are here. Milburn
6 Haywood is deceased.

7 THE COURT: Okay.

8 MS. WOERTENDYKE: And then I've got Ester,
9 and it's number 8. I murdered these names.

10 THE COURT: Okay.

11 MS. WOERTENDYKE: Number 9 is here.

12 THE COURT: 8's here, 9's here.

13 MS. WOERTENDYKE: 10's here and 11 is here.
14 11's name is A-N-A, it's not A-N-N-A, okay? And then we
15 just took care of these two. There's also a Rosalie
16 Hall, she's actually number 5 this afternoon, but she's
17 here this morning.

18 THE COURT: All right.

19 MS. WOERTENDYKE: Okay. And Mr. Raul's on
20 page -- Raul is here on page 9, number 32.

21 THE COURT: Mr. Garcia, did you understand
22 when I administered the oath to you before?

23 (Interpreter translating)

24 THE WITNESS: Yes.

25 THE COURT: Thank you. I'm sorry, what did

1 you tell -- me what page and --

2 MS. WOERTENDYKE: He's number -- on page 9,
3 number 32.

4 THE COURT: Thank you.

5 MR. WYDE: For the record, Your Honor, we
6 would offer Contestant's 99, the previous witness'
7 application and carrier envelope.

8 THE COURT: What number is that?

9 MR. WYDE: 99.

10 MR. RICH: No objection.

11 THE COURT: Admitted.

12 RAUL GARCIA,

13 having been first duly sworn, testified through the duly
14 sworn interpreter as follows:

15 DIRECT EXAMINATION

16 BY MR. WYDE:

17 Q. Mr. Garcia, is this your signature here on this
18 copy of a form?

19 A. Yes.

20 Q. Yes, sir. And do you recall requesting one of
21 these green envelopes that have election papers in them?
22 Do you recall asking for that?

23 A. No, my head is not real clear.

24 Q. I understand. May I ask, sir, how old you are?

25 A. 72.

1 Q. Thank you. Did someone come by your home back
2 when these green papers arrived or shortly thereafter
3 and ask if they could talk to you about voting?

4 A. Yes.

5 Q. Was it a male or a female?

6 A. It was a male.

7 Q. African-American, Hispanic, or Caucasian?

8 A. Hispanic.

9 Q. Did he tell you his name?

10 A. Yes, but I don't remember.

11 Q. Was it Estrada?

12 A. I don't remember.

13 Q. Okay. When the person came by, did you sit
14 down and make your choices for the different candidates?
15 Is that when you voted?

16 A. Yes.

17 Q. Okay. And when you -- did you mark the
18 choices, or did the other person mark the choices for
19 you?

20 A. He marked them, but he asked me who I wanted to
21 vote for.

22 Q. Okay. Was the -- were the papers in Spanish?

23 A. I don't remember.

24 Q. Okay. Are you able to read Spanish?

25 A. Yes.

1 THE COURT: Let me ask the counsel
2 something. My understanding is that if a person was
3 assisted by marking the ballot and they did not list
4 that by law, that is not to be counted. Is there any
5 difference of opinion on that?

6 MR. RICH: That is the literal reading of
7 the law.

8 THE COURT: That's the literal, okay. And
9 I probably am going to follow the literal reading of the
10 law.

11 MR. WYDE: Yes, sir. My only concern was
12 that if somebody had assisted someone else, that --
13 there is, you know --

14 THE COURT: I understand, but we don't have
15 it listed, so -- and we don't know who it is, so --

16 MR. WYDE: Yes, sir.

17 THE COURT: I understand there's a limit on
18 how many you can assist.

19 (Contestant's Exhibit No. 100 marked.)

20 MR. WYDE: We'll offer Contestant's 100.

21 MR. RICH: No objection, Your Honor.

22 THE COURT: Admitted.

23 MR. WYDE: No further questions.

24 THE COURT: Any questions?

25 MR. RICH: No questions, Your Honor.

1 THE COURT: Thank you. You may be finally
2 excused.

3 MS. WOERTENDYKE: And that's Rose Garcia,
4 not Rosalie Garcia.

5 THE BAILIFF: Rose?

6 MS. WOERTENDYKE: Uh-huh. She is on page
7 9, number 34, and it is Rose and not Rosalie.

8 THE COURT: Thank you Mr. Wyde, you are now
9 getting right where I want you to go.

10 MR. WYDE: Hey, Judge, another two weeks
11 and I'll have it down pat. For the record, I went to
12 remedial law school. I apologize. I don't have any
13 redeeming qualities other than the fact that I admit my
14 shortcomings, so -- may I have just a moment?

15 THE COURT: You may.

16 ROSE GARCIA,
17 having been first duly sworn, testified through the duly
18 sworn interpreter as follows:

19 DIRECT EXAMINATION

20 BY MR. WYDE:

21 Q. Ms. Olivares --

22 THE COURT: No, Garcia.

23 Q. Ms. Garcia, I was testing to see if you knew
24 who you were.

25 A. Okay.

1 Q. Ms. Garcia, do you live at 4815 Belmont?

2 A. Yes.

3 Q. May I show you what -- show you this piece of
4 paper? Is that your signature, Ms. Garcia?

5 A. Yes, sir.

6 Q. Okay. Ms. Garcia, is this your signature on
7 what is a copy of --

8 A. No.

9 Q. Is there any question about that second
10 signature on the envelope -- envelope that is -- that
11 would cause you any question at all that that's not your
12 signature?

13 A. No, there is no doubt. May I explain?

14 Q. Yes, ma'am.

15 A. I authorized my husband to sign that paper.

16 Q. Okay. Was -- did anyone come by your house and
17 offer to visit with you or your husband about the
18 different people running for offices?

19 A. Yes.

20 Q. Okay. Were you there when the different
21 choices were made for the people who were running for
22 office?

23 A. Yes.

24 Q. Did your husband make the choices, did you make
25 the choices, or did the other person make the choices?

1 A. On my ballot, I did. On his ballot, he did.

2 Q. Okay.

3 A. But I forgot to sign it, so he called me on the
4 telephone and I told him to go ahead and sign it.

5 Q. Okay. When -- after the papers were filled
6 out, did your husband or yourself give them to anyone?

7 A. Yes.

8 Q. Do you remember the person's name?

9 A. No.

10 Q. Had the person ever come around before to talk
11 to you about voting?

12 A. Yes, we have had in the problem -- in the past
13 many problems going to vote because we went to one
14 place, they told us to go to another place, and then
15 they told us to go to another place, and so it was very
16 difficult to go from one place to the other to the other
17 to the other, so we were -- two young guys called us on
18 the telephone and asked us if we had voted, and we said
19 no. So somebody told us that someone could come by and
20 pick us up so that we could go to the place where we
21 needed to go vote.

22 So I remember that first, they took my
23 husband. Since I wasn't there, later on, they came back
24 to take me and they took me to like Samuell Park, but
25 they -- all they did was take me. I went in to vote.

1 Q. Do you remember voting at Samuell Park?

2 A. Yes. I think I was voting for Mr. Clinton, I
3 think that was at that time.

4 Q. Okay. This year, there were three elections,
5 one in March -- early March -- one in April, and one in
6 May. Does that jog your memory?

7 A. I remember that there was one, but I don't
8 remember having voted. I didn't vote.

9 Q. Okay. When you filled out the papers that I'm
10 showing you now, if I suggested to you that this top
11 paper is the application that is necessary to get the
12 green envelope, and then this is the signature -- the
13 bottom signature is what the put on the brown envelope
14 that comes in the green envelope -- these papers have to
15 do with the March election --

16 A. Okay.

17 Q. -- did -- do you remember filling out the
18 choices for the -- this year in February, or do you not
19 remember?

20 A. No, it's -- yes, I do. It's just that I forgot
21 to sign.

22 Q. Okay. Now, the person that came by or that
23 took the envelope, did your husband give that person
24 your envelope?

25 A. I imagine so. I was working. So that he

1 wouldn't have to go back another time, I told him, go
2 ahead and sign it and give it to him.

3 Q. Okay. And did your husband suggest or indicate
4 to you that he gave his papers, his election papers, to
5 this person also?

6 A. Yes.

7 Q. And you weren't there when the papers were
8 given to the person?

9 A. No.

10 Q. When you gave the papers or you left the papers
11 and then you went to work, was the envelope open, if you
12 recall?

13 A. Yes, it was open.

14 (Contestant's Exhibit No. 101 marked.)

15 MR. WYDE: We'll offer Contestant's 101 to
16 Mr. Rich.

17 MR. RICH: No objection, Your Honor.

18 THE COURT: Admitted.

19 MR. WYDE: No further questions.

20 CROSS-EXAMINATION

21 BY MR. RICH:

22 Q. Ms. Garcia, I have just a couple of questions
23 for you. Thank you for coming and thank you for voting.
24 It's very important.

25 The question that I have, before you went

1 to work on the day that you gave your husband permission
2 to sign your name, had you voted your ballot?

3 A. Yes.

4 Q. And do you know if your husband had already,
5 marked his ballot before you went to work that day?

6 A. Yes, we both did it together.

7 Q. Okay. And again, you were not there at your
8 home when these young people helped by taking your
9 ballots, correct?

10 A. No.

11 Q. Do you know whether or not your husband licked
12 the envelope and closed the envelope before he gave it
13 to these young people?

14 A. Before this occasion, we had already sealed the
15 envelope, and this one, I would imagine it was the same
16 because that's when it says there that we have to seal
17 it.

18 Q. Okay.

19 A. We were not going to give it open.

20 Q. Okay. Thank you very much.

21 MR. WYDE: We'll offer Contestant's 101.
22 No further questions.

23 MR. RICH: No objection.

24 THE COURT: Admitted. One question, was
25 there anyone besides you and your husband at your home

1 at the time that you marked your ballot?

2 THE WITNESS: No.

3 THE COURT: Thank you. You may be finally
4 excused.

5 THE WITNESS: Okay. Thank you.

6 MR. RICH: Gracias.

7 MS. WOERTENDYKE: Okay.

8 MR. WYDE: Is her husband here?

9 THE INTERPRETER: He's the gentleman that
10 had testified before.

11 MS. WOERTENDYKE: That's Raul.

12 MR. RICH: He's already testified.

13 MR. WYDE: Oh, okay.

14 THE INTERPRETER: He's the gentleman that
15 testified right before her.

16 THE BAILIFF: I have a Maria Guadalupe
17 Hernandez. Do you want Maria Guadalupe?

18 MS. WOERTENDYKE: Yeah, let's do -- why
19 don't we do Ester. Isn't Ester next on the list?
20 You're saying Guadalupe.

21 THE BAILIFF: No, I'm saying Maria
22 Guadalupe Hernandez is here now.

23 MS. WOERTENDYKE: Oh, she is?

24 THE BAILIFF: Yeah.

25 MS. WOERTENDYKE: Okay. Then let's go

1 ahead and do Maria Hernandez. Okay. And she's number 7
2 on the list. She's page 10, number 21. Give me just a
3 minute.

4 THE COURT: Let me ask her to raise her
5 right hand first and --

6 (Interpreter translating)

7 THE COURT: If you'll raise your right
8 hand.

9 (Witness sworn)

10 THE COURT: Thank you. You may be seated.

11 MR. WYDE: Can we have just a second?

12 THE COURT: (Moving head up and down)

13 MR. WYDE: Is it -- ma'am, is your name
14 Maria Guadalupe Hernandez?

15 THE WITNESS: Yes.

16 MR. WYDE: Okay.

17 MS. WOERTENDYKE: I've been looking for the
18 wrong one. Sorry about that.

19 MR. WYDE: It's okay. Judge, if we may, we
20 have it under Maria, and I -- because I think it got --
21 it didn't get pulled. Thank you.

22 MS. WOERTENDYKE: Sorry about that. Judge,
23 I apologize.

24 THE COURT: That's fine.

25 MR. WYDE: May we --

1 THE COURT: We'll blame it on Mr. Wyde
2 anyway.

3 MR. WYDE: May we offer Contestant's 101?
4 I think, Mr. Rich, we had already tendered this one to
5 you. This was the --

6 MR. RICH: It's already been admitted.

7 MR. WYDE: Okay.

8 THE COURT: Yes.

9 MARIA HERNANDEZ,
10 having been first duly sworn, testified through the duly
11 sworn interpreter as follows:

12 DIRECT EXAMINATION

13 BY MR. WYDE:

14 Q. Good morning, Ms. Hernandez.

15 A. Good morning.

16 Q. Thank you for being here. No one is suggesting
17 that you've done anything wrong or improper.

18 A. Okay.

19 Q. Ms. Hernandez, is this your signature here on
20 the piece of white paper down here at the bottom right?

21 A. Yes.

22 Q. And Ms. Hernandez, is this your signature on
23 this envelope or this one here on the -- that I'm
24 pointing to now on the projector?

25 A. It doesn't look like the other one, but yes.

1 Q. Well, that's why I'm asking you. I'm trying to
2 find out if -- the signatures do not look alike to me,
3 but I'm trying to make sure that no one signed your name
4 to -- on either one of these pieces of paper.

5 A. All I signed was one, and I didn't sign
6 anything else.

7 Q. Okay. And would that be the top one, or would
8 that be the bottom one?

9 A. Not even the top one looks like --

10 Q. Neither one of these signature look like yours?

11 A. It seems to me that they don't. All I signed
12 was one, but I didn't sign anything else.

13 (Contestant's Exhibit No. 102 marked.)

14 MR. WYDE: We'll offer Contestant's 102 to
15 Mr. Rich.

16 MR. RICH: No objection, Your Honor.

17 THE COURT: Admitted.

18 MR. WYDE: No further questions, Your
19 Honor.

20 CROSS-EXAMINATION

21 BY MR. RICH:

22 Q. Ms. Hernandez, I just have a few questions.
23 Thank you for coming.

24 Do you remember voting in February of this
25 year for the March election?

1 A. Yes, I was sent some papers so that I would
2 vote. I filled them out and I sent them, but it was
3 just one.

4 Q. Did you send them yourself; do you remember?

5 A. I gave them to my daughter so that she could
6 send them.

7 Q. Okay. And --

8 MR. RICH: May I approach, Your Honor?

9 THE COURT: You may.

10 MR. RICH: Thank you.

11 Q. (BY MR. RICH) Ms. Hernandez, I just want to
12 show you a signature. Is that your signature, or is
13 that your daughter signing your name?

14 A. My daughter didn't sign it. I signed it. I
15 don't write my name with this letter. Can I write for
16 you my handwriting?

17 Q. No, that's fine.

18 A. I don't -- I don't write my name with that type
19 of let -- those types of letters.

20 Q. Okay. What is your daughter's name?

21 A. Estella Hernandez. She's right there
22 (pointing).

23 Q. Okay.

24 MR. RICH: Hi.

25 Your Honor, we might want Ms. Hernandez to

1 step out for a moment.

2 THE COURT: Okay. Would you mind stepping
3 outside for a moment?

4 UNIDENTIFIED PERSON: Me?

5 THE COURT: Yes.

6 UNIDENTIFIED PERSON: Okay.

7 THE COURT: We may need you as a witness.

8 UNIDENTIFIED PERSON: Okay.

9 MR. RICH: May I approach, Your Honor?

10 THE COURT: Yes.

11 MR. RICH: This is their affidavit, and
12 that's what I asked her just to compare.

13 Q. (BY MR. RICH) Did you mark your own ballot,
14 senora, or did your daughter help you?

15 A. I signed it.

16 Q. Okay. Do you remember closing the envelope
17 after you voted?

18 A. She closed it. I gave it to her so that she
19 could send it.

20 Q. Okay. And did you see your daughter close the
21 envelope?

22 A. Yes, I did see her seal it.

23 Q. Okay. And do you know if your daughter went to
24 the mailbox with your ballot?

25 A. Well, that, I don't know, because she took it

1 with her to work because she was going to mail it from
2 work.

3 Q. Oh, okay. Okay. Thank you very much.

4 MR. RICH: I have no other questions.

5 THE WITNESS: Is that it?

6 THE COURT: Anything further?

7 MR. WYDE: Yes, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. WYDE:

10 Q. Ms. Hernandez, this piece of paper that has the
11 name, Maria Guadalupe Hernandez, and it says, daughter
12 of, do you think your daughter signed on this piece of
13 paper for you?

14 A. Well, I don't know. I didn't see her sign, but
15 what I'm telling you is that that's not how -- that's
16 not the handwriting that I do my -- I write my name in.

17 Q. Yes, ma'am. This signature with your name,
18 even though it's not your signature, was done on
19 April 3rd of this year. Do you recall someone coming to
20 your house to visit with you in April of this year?

21 A. I don't remember.

22 Q. Yes, ma'am. If this is your daughter's
23 signature, Ms. Hernandez, if that is your daughter's
24 signature here on the lower piece of paper, do you
25 agree, ma'am, that it doesn't match the signature right

1 above it?

2 A. Mine is the one on top because I don't write
3 Maria complete. I just put the M.

4 Q. Yes, ma'am. And if this is your signature on
5 the top, do you agree that, as you told me before, that
6 is not your signature on the envelope?

7 A. That one is mine.

8 Q. Are both of these your signatures?

9 A. Yes, because they're written with the same
10 handwriting. I don't write like that, Guadalupe.

11 Q. Okay. I didn't understand your answer,
12 Ms. Hernandez, and I'm not trying to trick you or
13 anything. I'm just trying to find out if you -- if both
14 of these signatures are yours or if both of them are
15 not.

16 A. Well, the one on top is.

17 Q. Yes, ma'am. But the one on the bottom is or is
18 not?

19 A. Well, it looks like it. It looks like mine,
20 but I just signed one time. I didn't sign so many
21 times.

22 Q. Yes, ma'am. And the signature here on the
23 bottom, if you will, do you think that's the same as the
24 signature here in the middle?

25 MR. RICH: Your Honor, it's been asked and

1 answered.

2 THE COURT: Sustained. Counsel, let me
3 suggest that if we have a question, we can get the
4 daughter in and ask her --

5 MR. WYDE: That'd be fine. No further
6 questions.

7 MR. RICH: Gracias, senora.

8 THE COURT: You may be finally excused.
9 Thank you.

10 MS. WOERTENDYKE: Do you want the daughter?

11 MR. WYDE: I'd be happy to.

12 THE COURT: Let's bring the daughter in.

13 THE BAILIFF: What's her name?

14 MS. WOERTENDYKE: Her name is Estella
15 Hernandez.

16 THE COURT: I think the attorneys had a
17 couple of questions to clear up some confusion.

18 THE WITNESS: Okay.

19 THE COURT: Would you raise your right
20 hand, please?

21 THE WITNESS: Okay.

22 (Witness sworn)

23 THE COURT: Thank you.

24 ESTELLA HERNANDEZ,
25 having been first duly sworn, testified as follows:

DIRECT EXAMINATION

1
2 BY MR. WYDE:

3 Q. Please tell us your name.

4 A. Estella Hernandez.

5 Q. Estella?

6 A. My married name is Orneolas.

7 Q. Orneolas? And is that your mom that just
8 testified --

9 A. Yes.

10 Q. -- Ms. Hernandez?

11 A. Uh-huh.

12 Q. Let me ask you, if I can, Ms. Orneolas, do you
13 remember receiving -- do you live with your mother, by
14 any chance?

15 A. No, I don't.

16 Q. Okay. Do you know or do you handle your
17 mother's affairs at all?

18 A. Yes, I do.

19 Q. Okay. Does this look like your mom's signature
20 down here on the lower right?

21 A. Is this part of the voting ballot, or what is
22 this?

23 Q. Yes, ma'am, this is an application for --

24 A. To do what?

25 Q. For a ballot by mail.

1 A. That she requested one?

2 Q. Well, I don't know. I'm just asking if this is
3 her signature, to your knowledge?

4 A. It doesn't appear to be her signature because
5 all she signed was the one when she voted. I don't
6 recognize this here.

7 Q. Okay. So this does not appear to be her
8 signature?

9 A. (Moving head side to side)

10 Q. Is that correct?

11 A. Yes, as far as -- to my knowledge, from what I
12 can tell.

13 Q. Yes, ma'am. And if I can, this is your
14 signature, correct, where somebody came by back on
15 April 3rd at the house and gave your mom the subpoena
16 and said, hey, we'd like for her to come to court and
17 explain, if she can, what she remembered?

18 A. I was not there when she was subpoenaed. She
19 just showed me the paper later that week.

20 Q. Was --

21 A. So I don't know.

22 Q. Do you have a sister -- another daughter?

23 A. Yeah, my sister.

24 Q. Okay.

25 A. That might have been her.

1 Q. Okay. So this is not your signature and not
2 your mom's signature?

3 A. Huh-uh, no.

4 Q. Possibly your sister or her other daughter?

5 A. Yeah, my sister.

6 Q. Okay. And you were suggesting that this is
7 your mom's signature?

8 A. Yes, uh-huh.

9 Q. Were you there when she signed it?

10 A. (Moving head up and down)

11 Q. Was the envelope open or closed? And that
12 would be the brown envelope in front of you.

13 A. When she signed outside the envelope?

14 Q. Yes, ma'am.

15 A. It was closed.

16 Q. Okay.

17 A. As far as I can remember.

18 Q. Did you -- did you close it, or did she close
19 it, if you recall?

20 A. I don't remember.

21 Q. Okay. And did you then take the envelope to
22 mail it?

23 A. (Moving head up and down)

24 Q. Is that a yes?

25 A. Yes, uh-huh.

1 Q. I'll just ask you, does the top signature and
2 the bottom signature look like hers?

3 A. Do both of them -- are both of them her
4 signatures is what you're asking me?

5 Q. In your opinion, yes, ma'am.

6 A. I can't say that they are. I don't know. I
7 mean, I just know she signed the envelope, and I don't
8 know where that other signature -- I don't remember that
9 other page.

10 Q. Yes, ma'am.

11 MR. WYDE: We'll offer 102 if we hadn't
12 previously and --

13 MR. RICH: It's already been offered and
14 admitted.

15 CROSS-EXAMINATION

16 BY MR. RICH:

17 Q. Ms. Orneolas, I just have one or two questions.
18 I will represent to you that your mom, when she was
19 testifying --

20 A. Uh-huh.

21 Q. -- identified both of these signatures as hers,
22 both this one and this one.

23 A. Okay. Well, that might be the case. Like I
24 said, I'm not -- I don't live there with her.

25 Q. Okay.

1 A. I don't know.

2 Q. All right.

3 A. I just know the one that was mailed in.

4 Q. Thank you for bringing her down.

5 A. Oh, okay.

6 Q. And I'm sorry that you had to be asked to
7 leave. That's just part of the procedure.

8 A. Oh, that's fine.

9 Q. Okay.

10 THE WITNESS: So is this all she will be
11 hearing about this?

12 THE COURT: Yes, that's my understanding.
13 Any other questions?

14 MR. WYDE: No, Your Honor.

15 THE COURT: All right. Thank you. You're
16 finally excused.

17 THE WITNESS: Thank you so much.

18 THE REPORTER: Ma'am, can you spell your
19 last name for me?

20 THE WITNESS: O-R-N-E-O-L-A-S.

21 THE REPORTER: Thank you.

22 MS. WOERTENDYKE: Okay. Now we're
23 calling -- it's going to be number 8 on the witness
24 list.

25 THE BAILIFF: Ester went to the restroom,

1 Your Honor. Go to the next one?

2 MS. WOERTENDYKE: We can.

3 THE BAILIFF: Oh, here she is.

4 MS. WOERTENDYKE: Okay. She's back. And
5 she's on page 11, number 12, on the other list.

6 MR. RICH: What page on the pleading?

7 MS. WOERTENDYKE: 11, number 12.

8 ESTER OLIVARES,

9 having been first duly sworn, testified through the duly
10 sworn interpreter as follows:

11 DIRECT EXAMINATION

12 BY MR. WYDE:

13 Q. Good morning, Ms. Olivares.

14 A. Good morning.

15 Q. Thank you for being here.

16 A. Okay.

17 Q. No one asked you to come, Ms. Olivares, because
18 of anything you did, or no one's suggesting you've done
19 anything wrong. Ms. Olivares, is this -- does this
20 appear to be your signature, ma'am?

21 A. Yes.

22 Q. Okay. And does this signature on this envelope
23 down here -- or the copy of the envelope, is that your
24 signature that I'm pointing to now?

25 A. Yes.

1 Q. Okay. When you received the election papers in
2 the green envelope -- do you remember receiving the
3 green envelope?

4 A. Yes.

5 Q. And was that this year in the spring?

6 A. Yes.

7 Q. Had you ever received election papers in the
8 mail like that before?

9 A. By mail, I don't remember.

10 Q. All right. And when the papers came, did
11 anyone contact you by phone or come to your home to talk
12 to you about the papers?

13 A. No, I was asked if I had already had them
14 prepared and if I had already signed it. I told them
15 that I had not signed them yet, and so the man, he told
16 me that he would help me, and if I wanted to, that he
17 could take them and he would bring them.

18 Q. Did the man help you when you made your
19 choices?

20 A. Yes.

21 Q. And did you mark the choices, or did the man
22 mark the choices for you?

23 A. It was the man.

24 Q. The man marked the paper?

25 A. Yes. All I did was sign.

1 Q. Yes, ma'am. Did the man take the papers after
2 they were marked?

3 A. Yes.

4 (Contestant's Exhibit No. 103 marked.)

5 MR. WYDE: We'll offer Contestant's 103.

6 MR. RICH: No objection, Your Honor.

7 THE COURT: Admitted.

8 MR. WYDE: No further questions, Your
9 Honor.

10 MR. RICH: No questions, Your Honor.

11 THE COURT: Thank you. You may be finally
12 excused.

13 THE WITNESS: Okay. Thank you very much.

14 MR. RICH: Gracias, senora.

15 THE BAILIFF: Avrelia Ontiveros.

16 MS. WOERTENDYKE: Okay. She's going to be
17 number 9 on the list. She's on page 11, number 14.

18 AVRELIA ONTIVEROS,
19 having been first duly sworn, testified through the duly
20 sworn interpreter as follows:

21 DIRECT EXAMINATION

22 BY MR. WYDE:

23 Q. Good morning, Ms. Ontiveros.

24 A. Good morning.

25 Q. Thank you for being here.

1 A. You're welcome.

2 Q. In case you're nervous, let me say that no one
3 is here to suggest that you've done anything wrong.

4 A. Thank you.

5 Q. Yes, ma'am. Is your first name Avrelia?

6 A. Avrelia Ontiveros.

7 Q. Yes, ma'am. Ms. Ontiveros, is this your
8 signature here on this copy of a piece of paper?

9 A. Yes.

10 Q. And Ms. Ontiveros, is this your signature on
11 the second piece of paper down here at the bottom?

12 A. Yes.

13 Q. Do you remember receiving, Ms. Ontiveros, a
14 green envelope like the one in front of you with some
15 election papers probably in February of this year?

16 A. Yes.

17 Q. And Ms. Ontiveros, had you ever voted by mail
18 in the past?

19 A. Never.

20 Q. Ms. Ontiveros, did a Hispanic male come by,
21 maybe he was a little bit older, in his 60s, and talk to
22 you about the voting?

23 A. Yes.

24 Q. Okay. Had you marked or made your choices
25 before the gentleman came by?

1 A. No.

2 Q. When the gentleman came by, Ms. Ontiveros, did
3 he make -- talk to you about the choices while you were
4 making any of the choices?

5 A. No.

6 Q. What did the gentleman say to you when he came
7 by?

8 A. Well, when he came by my house, he asked me if
9 I had already gotten my papers, and I said, well, let me
10 check my mail because he already knew that they were
11 coming in the mail. And so he said to me, if you want
12 me to, I will help you fill it out so you don't have to
13 send it by mail.

14 Q. Yes, ma'am. And did he help you?

15 A. Yes. I told him, yes, so thank you very much.

16 Q. How did he help you?

17 A. So he just opened it there and he asked me, who
18 do you want to vote, and I told him, you just go ahead
19 and put down whoever you want.

20 Q. And after that, what did you do or what did he
21 do with the choices?

22 A. Well, that, I don't know because all I did was
23 sign, and then he told -- and then he took that paper,
24 and then he told me, just sign, and then the rest of it,
25 he threw in the garbage.