

1 Case No. 11 OC 00042 1B

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ALAN GLOVER
CLERK

BY Alan Glover
CLERK

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

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

11 Plaintiffs,

12 and

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

15 Plaintiff-Intervenors

16 vs.

17 ROSS MILLER, in his capacity as Secretary of
18 State for the State of Nevada,

18 Defendant.

**ORDER APPOINTING SPECIAL
MASTERS, ESTABLISHING
SEQUENCE OF EVENTS
AND DEADLINES**

19
20 The Court on July 12, 2011 issued an Order Directing Parties to Provide
21 Information to the Court and setting intervenor deadline. On July 20, 2011, the Plaintiffs
22 duly filed their Recommendations on Special Masters and briefs on various issues. The
23 Defendant, Secretary of State additionally, on July 20, 2011, filed its Recommendation for
24 Special Masters.

25 First, the Court duly appreciates the parties input into the selection of Special
26 Masters and the names provided contain many qualified and appropriate suggestions. As
27 the Court indicated at its initial hearing, it was and is the intent of the Court to attempt to
28 remove politics from this process to the extent possible. The Court is not naive and

1 understands that no matter who is appointed as Special Master, there will be criticism and
2 comments, whether justified or not.

3 **1. Special Masters recommendations.**

4 IT IS ORDERED that the Court shall refer the matter to a panel of Special Masters.
5 The Court hereby appoints the following individuals to act as the Special Masters and they
6 have agreed to act in this capacity: Alan Glover, Carson City Clerk Recorder, Thomas
7 Sheets, Esq., Las Vegas, Nevada, and Robert Erickson, formerly with the Legislature
8 Counsel Bureau. Any party may object to the appointment of a person as a Special Master
9 pursuant to the grounds set forth in NRCP 53(a)(2).

10 IT IS FURTHER ORDERED that to expedite this matter, the Court will receive
11 briefing and hold a hearing on the legal issues, as described below, so that the Court may
12 instruct the appointed Special Masters.

13 IT IS FURTHER ORDERED that the Special Masters, if allowed by their current
14 jobs, will be compensated for their time, pursuant to NRCP 53; and, as determined by the
15 Court.

16 **2. Legal issues and briefing schedule.**

17 IT IS ORDERED that the following legal issues will be determined by the Court
18 prior to referral to the Special Masters:

19 (1) population requirements for U.S. Congressional and Nevada state legislative
20 redistricting maps;

21 (2) traditional redistricting criteria to be used — (e.g.a) Contiguous Districts, (b)
22 Preserving County/Political Boundaries, (c) Preserving Communities of Interest), (d)
23 Compactness;

24 (3) appropriate starting point consideration of prior maps proposed in the
25 legislative process, or base map, for the redistricting process if any;

26 (4) factors, if any, to consider for representational fairness (e.g. election results the
27 panel of Special Masters may use, requisite level of representational fairness, if any, that
28 the new districts must meet, and considerations of incumbency);

1 (5) application of Section 2 of the Voting Rights Act of 1965, to include whether
2 the Act requires the creation of a majority-minority congressional district and any other
3 majority-minority legislative districts in Nevada.

4 IT IS FURTHER ORDERED that each party shall submit briefing on resolution of
5 these five legal issues and proposed directives to the Special Masters. In accordance with
6 the local rules each party shall submit a proposed order with its briefing with the specific
7 proposed court directives to the Special Masters if the party's position is accepted. These
8 briefs are due within twenty (20) judicial days of the entry of this order. Thereafter, the
9 parties shall have ten (10) judicial days following service of the briefs to respond to the
10 other parties' briefs. Any replies shall thereafter be due five (5) judicial days following
11 service of the responding briefs.

12 IT IS FURTHER ORDERED that the hearing on the five legal issues shall be held
13 on September 19, 2011 at 1:30 p.m.

14 IT IS FURTHER ORDERED that each party will be allowed to present expert
15 testimony to the Court in regard to the legal issues. This testimony may be permitted by
16 way of expert report, affidavit, videotaped deposition or testifying before the Court. The
17 parties shall be limited to a maximum of two experts. Any reports, affidavits, or videos to
18 be filed with the Court will need to be filed ten (10) days prior to the hearing date and
19 provided to opposing parties at that time, who may file any response thereto five (5) days
20 prior to the hearing.

21 **3. Special master proceedings and directives.**

22 IT IS ORDERED that the process and hearings with the Special Masters shall be
23 governed by NRCP 53 and Rule 5 FJDCR.

24 IT IS FURTHER ORDERED that once the legal issues outlined above have been
25 resolved by the Court, the matter of drawing maps and related issues shall be referenced to
26 the panel of Special Masters with an order to set the NRCP 53(d)(1) meeting.

27 IT IS FURTHER ORDERED that the reference to Special Masters shall contain the
28 Court's directives on legal issues as noted previously, a directive to hold at least one

1 hearing with the parties' own experts as authorized by NRCP 53, and a directive to prepare
2 a Special Masters' report by a date certain for presentation to the Court. The specific
3 schedule will be determined by the Court in consultation with the Special Masters.

4 IT IS FURTHER ORDERED that the Special Masters may, in accordance with
5 NRCP 53 and at their discretion, hold up to two additional hearings with the parties and
6 their expert witnesses, as needed, in the panel's discretion to facilitate the Special Masters'
7 understanding of the parties' positions and the completion of their report.

8 All hearings with the parties held by the Special Masters shall be open to the
9 public. Prior to a party presenting any testimony or information to the Special Masters, the
10 parties shall comply with NRCP 26 governing expert witness testimony, reports,
11 deposition, and discovery. More specifically, the parties shall produce and serve an expert
12 report five (5) judicial days prior to the party's initial hearing with experts before the
13 Special Masters. Parties may depose an expert who produces a report or otherwise
14 provides testimony or information to the Special Masters at a reasonably and mutually
15 convenient time for the parties and the expert, however, the depositions of all the experts
16 who the parties wish to depose shall conclude no later than five (5) judicial days before the
17 time set forth below for the parties to submit their motions to revise the Special Masters'
18 report.

19 IT IS FURTHER ORDERED that the Court requests that the Nevada Legislature
20 Counsel Bureau provide technical assistance to the Special Masters by making Brian Davie
21 and Kathy Steinle available to provide demographic information and computer program
22 assistance .

23 IT IS FURTHER ORDERED that once the Special Masters have presented their
24 report to the Court (including proposed redistricting maps), and served the parties with the
25 report, the parties will have ten (10) judicial days after service of the report to file and
26 serve a motion, with supporting evidence, including expert witness testimony/report and/or
27 declarations of witnesses, concerning any suggested revisions to the Special Masters'
28 report (including proposed maps). The parties shall have five (5) judicial days after

1 service to respond to other parties' motion. The parties shall have five (5) judicial days
2 after service of the responses to file and serve a reply.

3 IT IS FURTHER ORDERED that the Court may hold a hearing on the parties'
4 motions to revise the Special Masters' report within ten (10) days after the replies are due.

5 IT IS FURTHER ORDERED that the Court will take appropriate action based on
6 the Special Masters' report and the evidence presented by the parties, which may include a
7 subsequent referral to the Special Masters or a final determination on any matter by the
8 Court.

9 **4. Discovery procedures.**

10 IT IS ORDERED that Discovery will be allowed subject to NRCP 26, but the Court
11 cautions the parties that timing and efficiency are critical in this case. The Court does not
12 see the need for discovery among the parties other than the expert reports and testimony
13 indicated above. The Court admonishes the parties to act accordingly and not to
14 needlessly delay the case or engage in unnecessary discovery. Any discovery disputes
15 shall be heard on an expedited basis by the Court.

16 DATED this 31st day of August, 2011.

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

I hereby certify that on the 3rd day of August, 2011, I faxed a copy of the

foregoing Order as follows:

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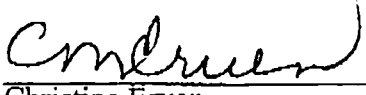
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