

IN THE SUPREME COURT OF OHIO

The Ohio Manufacturers' Association, et al.,	:	
	:	
Relators,	:	Case No. _____
	:	
v.	:	Original Action Under Article II,
	:	Section 1g of the Ohio Constitution
Ohioans for Drug Price Relief Act, et al.,	:	
	:	
Respondents.	:	

**APPENDIX 27
TO
CHALLENGE TO INITIATIVE PETITION
UNDER ARTICLE II, SECTION 1g OF THE OHIO CONSTITUTION**

Kurtis A. Tunnell (0038569)
Counsel of Record
Anne Marie Sferra (0030855)
Nelson M. Reid (0068434)
James P. Schuck (0072356)
BRICKER & ECKLER LLP
100 South Third Street
Columbus, Ohio 43215
(614) 227-2300 (Telephone)
(614) 227-2390 (Facsimile)
ktunnell@bricker.com
asferra@bricker.com
nreid@bricker.com
jschuck@bricker.com

Counsel for Relators

Transcript of Proceedings from Cuyahoga County Board of Elections O

Respectfully submitted,

/s/ Anne Marie Sferra
Kurtis A. Tunnell (0038569)
Counsel of Record
Anne Marie Sferra (0030855)
Nelson M. Reid (0068434)
James P. Schuck (0072356)
BRICKER & ECKLER LLP
100 South Third Street
Columbus, Ohio 43215
(614) 227-2300 (Telephone)
(614) 227-2390 (Facsimile)
ktunnell@bricker.com
asferra@bricker.com
nreid@bricker.com
jschuck@bricker.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served via personal service on

February 29, 2016 upon:

Hon. Jon Husted
Ohio Secretary of State
180 East Broad Street, 16th Floor
Columbus, Ohio 43215

Hon. Mike DeWine, Esq.
Ohio Attorney General
30 E. Broad Street, 14th Floor
Columbus, Ohio 43215

William S. Booth
1243 Wilson Drive
Dayton, Ohio 45402

Daniel L. Darland
3811 N. Main Street
Dayton, Ohio 45405

Tracy L. Jones
5903 Bear Creek Drive
Bedford Heights, Ohio 44146

LaTonya D. Thurman
2618 N. Cassady Ave.
Columbus, Ohio 43219

Donald J. McTigue, Esq.
McTigue & Colombo LLC
545 East Town Street
Columbus, Ohio 43215

/s/ Anne Marie Sferra
Anne Marie Sferra (0030855)

EXHIBIT O

Transcript of Proceeding from Cuyahoga County Board of Elections

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE BOARD OF ELECTIONS
CUYAHOGA COUNTY

-----:
:
In the Matter of: :
:
RE-REVIEW OF OHIO DRUG PRICE :
RELIEF ACT PART-PETITIONS :
:
-----:

Cuyahoga County Board of Elections
2925 Euclid Avenue
4th Floor
Cleveland, Ohio 44115

CHAIRMAN: Inajo Davis Chappel, Chairwoman, Recused
 Eben O. (Sandy) McNair, IV, Acting Chair

BOARD: Pat McDonald, Director
 Anthony W. Perlatti, Deputy Director
 Robert S. Frost, Board Member
 Jeff Hastings, Board Member
 Brendan Doyle, Board Attorney
 Matthew W. Clever, Board Secretary
 Linda Walker, Secretary

ALSO PRESENT:

 William Mason
 Donald McTigue

1 PROCEEDINGS

2 *****

3 MR. McNAIR: Greg, why don't you
4 have the other witnesses come in so we have
5 everybody together when we begin. Have them
6 all come in, please.

7 MR. MASON: Mr. Chairman, I
8 would only suggest that you keep the witnesses
9 separate as we bring them in to question
10 them --

11 MR. McNAIR: We will have
12 sequestration of witnesses if that's your
13 concern but I want to have some preliminary
14 discussion and I want all the witnesses to
15 benefit from that. If you guys have a
16 different thought, we'll talk that through.

17 Greg, could you get a list of
18 everybody's name, please?

19 Welcome. Thank you all for coming in
20 response to subpoenas. We, very much
21 appreciate it. I want to just talk,
22 generally, about how we're going to proceed so
23 you all understand that and then we're going
24 to ask you again, to step out and then we're
25 going to have you come in, one at a time, and

1 answer our questions, assuming that that's
2 agreeable to my colleagues up here.

3 First, I want to confirm as between
4 counsel, that opposing counsel has everything
5 that's been given to the Board. The one thing
6 I'm aware that Mr. Mason does not have is an
7 email that I was just given when I got up here
8 and we're having copies of that made so he'll
9 have that. I just want to make sure that you
10 each have whatever anybody's given to us.

11 MR. McTIGUE: Mr. Chairman, if
12 that's the email from my office from this
13 morning --

14 MR. McNAIR: Yes.

15 MR. McTIGUE: -- Mr. Mason was
16 copied on it. It's on his phone.

17 MR. McNAIR: We'll give him a hard
18 copy.

19 In terms of people that have been
20 subpoenaed as witnesses, we're going to have
21 sequestration of witnesses, which means, as I
22 said, you'll come in one at a time. You'll
23 testify; you're welcome to stay or you can go
24 after you testify. If you leave, please don't
25 talk to any of the other witnesses about what

1 your testimony was here. Does everybody
2 understand that? Okay.

3 I'm inclined to start with the
4 circulators and then go to the representatives
5 from the circulating companies, then any
6 witnesses the attorneys have, and then,
7 finally, arguments by counsel. The witnesses
8 will be sworn, they'll be asked questions by
9 the Board members, then by counsel, McTigue
10 first, Mr. Mason second. Counsel will present
11 whatever witnesses they have, Mr. Mason first,
12 Mr. McTigue second and each will have the
13 opportunity to cross examine, redirect,
14 recross etcetera. Is that approach acceptable
15 to my colleagues?

16 MR. HASTINGS: Yes.

17 MR. FROST: Yes, it is.

18 MR. McNAIR: Is that acceptable to
19 counsel?

20 MR. MASON: Yes.

21 MR. McTIGUE: Yes, that's fine. I
22 just want to state for the record, it sounds
23 like this is a formal hearing involving the
24 parties, but I didn't get any notice of it
25 being a hearing. I didn't know this was a

1 hearing, per se, but the last thing I want to
2 do is hold up the process.

3 MR. McNAIR: I think we made it
4 reasonably clear that what we wanted to do was
5 try to get some facts and some testimony here
6 today, so --

7 MR. McTIGUE: I perceived it as a
8 Board investigation.

9 MR. McNAIR: It is a Board
10 investigation. In fairness to counsel, I
11 thought you would want to participate and
12 assist us to the extent that you want to make
13 the arguments that you want.

14 MR. McTIGUE: I appreciate that.

15 MR. McNAIR: Is there some other
16 accommodation you would ask of us?

17 MR. McTIGUE: No.

18 MR. McNAIR: Let's have all of the
19 witnesses leave, please. And then, Greg, if
20 you could just bring them in one at a time, in
21 no particular order, but as long as we have
22 the names of the individuals, that would be
23 helpful.

24 (Witnesses leave room.)

25 MR. McDONALD: Greg, we want to make

1 sure the circulators are first.

2 MR. McNAIR: Thanks, Pat.

3 Welcome. Would you state your name for
4 the record, please?

5 MS. MOORE: Vikki Moore.

6 VIKKI MOORE,
7 of lawful age, being first duly sworn, was examined
8 and testified as follows:

9 DIRECT EXAMINATION

10 By Mr. McNair:

11 Q Where do you live?

12 A 125 E. 156th Street and Lakeshore.

13 Q You circulated some petitions?

14 A Yes. I got some with me; you want them?

15 Q I'm sorry. Would you speak up a little
16 because I'm a little --

17 A I got some petitions now; you want them?

18 Q I want to see if I can find your records here,
19 on our list. You're on Tab L.

20 What our staff has told us is that you
21 circulated 23 part-petitions. Does that sound
22 about right?

23 A Yes.

24 Q There are three of those where you signed the
25 circulator form saying that you had witnessed

1 28 signatures but there were at least three
2 that were, substantially, less than that. Are
3 you aware of that?

4 A I don't know.

5 MR. McNAIR: Do we have these
6 part-petitions for review or no? We're
7 getting those.

8 Q How did you learn about the Ohio Drug Price
9 Relief Act initiative?

10 A They had those signatures in the store to call
11 that number if you wanted to work.

12 Q So you signed up to do this, correct?

13 A Yes.

14 Q Who is your employer?

15 A Jason.

16 Q Jason?

17 A Yes.

18 Q That was the person that hired you?

19 A That's the one we went to to see about signing
20 'em.

21 Q Do you know his last name?

22 A No.

23 Q Did you get paid by any company?

24 A Board of Elections.

25 Q By who?

1 A The Board of Elections, I think.

2 Q That's as best you know?

3 A Yes.

4 Q And who did you think who was paying you to do
5 this?

6 A The Board of Elections.

7 Q You thought the Board of Elections was paying
8 you?

9 A Yes, sir.

10 Q What was your basis for thinking that?

11 A 'Cause that's who he said we were working for,
12 the Board of Elections, getting signatures to
13 get the prescription drug prices lower,
14 lowered down.

15 Q I'm sorry, I didn't understand.

16 A To get the prescription prices lowered down.

17 Q Did you get any instructions as to how you
18 should fill out the part-petitions?

19 A Just ask them if they're a registered voter
20 and have them sign they're a registered voter.

21 Q And if they said yes, then have them fill it
22 out?

23 A Yes.

24 MR. McNAIR: Betty, do we have
25 those part-petitions?

1 MS. EDWARDS: I'll get them.

2 MR. McNAIR: We just have one
3 copy?

4 MR. CLEVER: We made a copy of
5 each of the part-petitions for each of the
6 circulators. We only made one copy. Their
7 quite voluminous for some of the circulators.

8 MR. McNAIR: The Board members are
9 gong to need a copy of the three we've
10 identified. The witness is going to need it
11 and the lawyers are going to need it. Can you
12 -- let's get that going, please?

13 MR. McDONALD: The three of the four
14 witnesses that we have?

15 MR. McNAIR: I just want the ones
16 that staff has highlighted are at issue so
17 that everybody can have a common conversation
18 about this.

19 Q Where did you go to get signatures?

20 A I went out Lakeshore. I went out Lakewood for
21 one, some hospitals. I went different places,
22 all over.

23 Q Did you go anywhere outside of Cuyahoga
24 County?

25 A Would Lakewood be one of them?

1 Q Lakewood, no. You're still in Cuyahoga County
2 if you're in Lakewood.

3 A Okay. No.

4 MR. McNAIR: I want to wait until
5 we get the documents. Let's take a brief four
6 or five-minute recess.

7 (Recess taken.)

8 *****

9 (Other matter heard.)

10 MR. McNAIR: Ms. Moore, would you
11 mind stepping back up to the mic?

12 You have before you what I'm going to
13 mark as Board Exhibit 1.

14 (Board Exhibit 1 marked
15 for identification.)

16 If you would turn to the last page of
17 that Exhibit.

18 MR. HASTINGS: Could I suggest,
19 Mr. McNair, that maybe someone from staff just
20 assist her, make sure she's looking at the
21 right documents?

22 MR. McNAIR: Sure. Betty. Thank
23 you.

24 Q Ms. Moore, you see the last page where it
25 appears that there's a signature, Vikki L.

1 Moore; do you see that?

2 A Yes.

3 Q Is that your signature?

4 A Yes.

5 Q Did you fill out everything on this page, this
6 last page?

7 A Yes.

8 Q So you filled out, it says at the top, I,
9 Vikki L. Moore; is that your handwriting?

10 A Yes.

11 Q And then it says, 28; do you see that number?

12 A Yes.

13 Q So you filled out this entire page?

14 A Yes.

15 Q When did you do that, relative to getting the
16 signatures; did you do it before you got --

17 A The day I was turning them in, he had us do
18 them.

19 Q Was it after you got all of the signatures in?

20 A Yes.

21 Q Do you remember how many signatures were on
22 this part-petition?

23 A No.

24 Q The number 28, why would you put 28 there?

25 A Because he had us count them.

1 Q So you counted them and then you put the 28
2 there?

3 A Yes.

4 Q Yes?

5 A Yes.

6 Q If you go to the third page where there starts
7 to be signatures and then the next several
8 pages, these are the signature that you
9 gathered?

10 Betty, it's the first page of the
11 signatures, the third page of the document.

12 Ms. Moore, you gathered those
13 signatures?

14 A Yes.

15 Q Those people signed this part-petition in
16 front of you?

17 A Yes, and then some of them might of had me to
18 sign it because they couldn't write. I got
19 their permission.

20 Q Say that again.

21 A If they couldn't write, they asked me to write
22 it for them.

23 Q But did they sign their own names to the
24 petition?

25 A The majority of them, yes. They asked me to

1 do it for them.

2 Q Did you signed the names for some of these
3 people?

4 A Yes.

5 Q All right, well, you shouldn't do that. Do
6 you know you're not suppose to do that?

7 A That's what I told them but they said if they
8 gave me permission, it was all right.

9 Q If you look at that first page where there are
10 the signatures, in the middle, do you see
11 where there are all those black lines there?
12 It looks like that relates to the third person
13 and the fourth person that signed; do you see
14 that?

15 A Yes.

16 Q Did you cross those names out?

17 A No.

18 Q When you signed the petition, did you make any
19 indication not to count the third signature or
20 the fourth signature?

21 A No.

22 Q Do you know who crossed out these names?

23 A The one when we turned them in, they checked
24 and, I guess, they crossed them out.

25 Q They crossed them out. And did they cross

1 them out in front of you?

2 A No.

3 Q So, how do you know that they crossed them out

4 if they didn't do it --

5 A Because they weren't crossed out when I handed

6 them in.

7 Q Okay. Fair enough. So, when you handed in

8 this document, it was all filled out with all

9 the names?

10 A Yes, sir.

11 Q No cross-outs?

12 A No.

13 Q Did you cross out any of the names on this

14 document?

15 A No.

16 Q Did you indicate, in any way, on this document

17 that any of these names should not be counted?

18 A No.

19 Q How do you know somebody else did it?

20 A Because when I turned them in, it was just

21 like a full paper with all signatures.

22 Q Is this the first time you've seen the cross-

23 outs?

24 A Yes.

25 Q Do you know who crossed out the names?

1 A No, sir.

2 Q I just want to confirm that all the cross-outs
3 -- just take a minute and look at the document
4 -- that all of these cross-outs were not done
5 by you.

6 A No.

7 Q So what I said was correct, correct, right;
8 you didn't do any of these cross-outs?

9 A No, I didn't.

10 Q You didn't see anybody do these cross-outs,
11 correct?

12 A No. Correct.

13 Q How was it that you were paid? Were you paid
14 by the hour; were you paid petition? Tell me
15 about that.

16 A We got a dollar per name.

17 Q You got a dollar per name.

18 A Yes, sir.

19 Q You would then add them up and if you had,
20 say, 28 names, you would get paid \$28 for that
21 petition?

22 A Yeah, if they went through, he said.

23 Q Sorry?

24 A If they went through. If they were registered
25 voters and if their name would go through,

1 then we'd get paid for them.

2 Q So you got paid for every good name?

3 A Right.

4 Q How did you know that you weren't getting
5 cheated on that deal?

6 A You didn't.

7 Q So you just had to trust them?

8 A Right. We counted one thing. When you get
9 paid you get paid for another thing.

10 By Mr. Hastings:

11 Q Ms. Moore, when you were paid? Were you paid
12 immediately when you turned --

13 A No. If I turned them in on a Thursday, I got
14 paid the next Thursday. They gave you a
15 receipt saying how many they expected. One
16 time they gave me a receipt saying 204, but
17 then I turned around and got paid \$141.

18 Q So you knew how many signatures you turned in,
19 correct, because that's what you'd expect to
20 get paid the next week.

21 A Right.

22 Q But you got paid less because not all the
23 signatures were good?

24 A Right. That's what he told me.

25 MR. McNAIR: Now, I want to turn

1 and ask our staff a question, so you can just
2 listen for a minute.

3 MS. MOORE: Okay.

4 MR. McNAIR: Pat, on this one, I
5 see this is -- which one of these is this on
6 our list, of the three? I can't figure that
7 out.

8 MR. McDONALD: I think it's 997.

9 MR. McNAIR: 997.

10 MR. HASTINGS: What's the first one?

11 MR. McNAIR: How do I know it's --
12 oh, it's here, section. Thanks.

13 When our staff found that there were 11
14 signatures, they, obviously, they didn't look
15 and see that, in fact, apparently, there were,
16 in fact, 28 signatures on this? I mean, as
17 best as I can tell, when I look at the side,
18 everyone that's crossed out has got some kind
19 of information on there, right? I mean, down
20 to 28, there's something there on 28.

21 MR. McDONALD: Right.

22 MR. McNAIR: So, we were just
23 looking at, kind of, the net number. The
24 information we have so far, doesn't, at least
25 to me, indicate the separate situation that

1 the Secretary of State has addressed, where
2 there are two signatures, actually just two
3 signatures and that 28 number on the last
4 page, right?

5 MR. McDONALD: That's correct.

6 MR. McNAIR: Thank you. That's
7 helpful.

8 MR. HASTINGS: Can I ask a question?

9 MR. McNAIR: Yes, please.

10 MR. HASTINGS: And maybe Betty or
11 Pat can answer. On Page 5 of this document,
12 there seems to be some redacted lines there,
13 17 through 20, but it's not blacked out. Is
14 there a reason it's in white or is that just
15 the way it's copied?

16 MR. CLEVER: I believe that's just
17 a copy.

18 MR. HASTINGS: Just the way it was
19 copied. Okay. Thank you.

20 MR. McNAIR: Is that true? That
21 almost looks to me like that's tape across
22 there. I don't know.

23 MR. CLEVER: I can pull the
24 original part-petition if you'd like. They're
25 back here. What part-partition are we

1 talking?

2 MR. McNAIR: 997.

3 MR. HASTINGS: The reason I ask,
4 it's clearly redacted but it seems to be a
5 different method. That's all. I'm wondering,
6 is there a different method they used.

7 MR. FROST: Can I --

8 MR. McNAIR: Yes, please.

9 By Mr. Frost:

10 Q Ms. Moore, when Mr. McNair asked you earlier
11 about signing for other individuals, you said
12 they had given you permission? Can you tell
13 me who gave you permission to sign for others?

14 A The person I was getting the signature for,
15 they said they couldn't write and they asked
16 me to do it; and I said I ain't supposed to do
17 it but they said but I'm giving you permission
18 to do it so it wouldn't be no forgery.

19 Q As you look at this part-petition, are you
20 able to see any where you know that that you
21 signed for other individuals?

22 A No. (Unintelligible) sign his name, I might
23 fill the rest of this in, you know?

24 MR. McNAIR: I have the original.
25 I want to represent for the record that while

1 they are crossed out, you can actually see
2 that there are signatures, at least in my
3 view, for everyone that's crossed out. For
4 this part-petition, it's my view anyway, that
5 there are 28 signatures on this part-petition,
6 which would, again, make Ms. Moore's
7 certification that there were 28, correct at
8 the time she signed this document, based upon
9 her testimony that she didn't cross any of
10 these out and that, apparently, occurred after
11 she made the submission.

12 MR. FROST: I concur and that's
13 what we've heard and that's what that exhibit
14 reflects.

15 MR. McNAIR: Thank you, Mr. Frost.
16 Do we have the other copies?

17 MR. McDONALD: Yes.

18 MR. CLEVER: I believe they're
19 right there.

20 MR. McNAIR: Oh, I'm sorry. Okay.
21 Betty, can you show Ms. Moore 1563?
22 I'm going to mark that as Board Exhibit 2.

23 (Board Exhibit 2 marked
24 for identification.)

25 By Mr. McNair:

1 Q Ms. Moore, we're just going to go through the
2 same exercise on these other two part-
3 petitions that we went through on the first
4 one, okay?

5 A Okay.

6 Q If you go to the last page. My question is,
7 is all of the information that's written
8 there, from the top where it has Vikki L.
9 Moore, 28 and the signatures, is that all your
10 handwriting?

11 A Yes, sir.

12 Q At the time that you completed this part-
13 petition, were there, in fact, 28 signatures
14 on this part-petition as best you know? Take
15 a minute to look at the document if you would.

16 A Yes.

17 Q If you go, again, to the third page of that
18 document which is the first page where there
19 are signatures, you see where there are cross-
20 outs there?

21 A Yes.

22 Q Is your testimony the same as to this petition
23 as to the others?

24 A Yes, sir.

25 Q So then, you didn't do any of these cross-

1 outs?

2 A No, sir.

3 Q You never saw any of these cross-outs,
4 correct?

5 A Correct.

6 Q And you don't know who, in fact, crossed out
7 these names; is that fair to say?

8 A Right.

9 By Mr. Hastings:

10 Q Ms. Moore, could you look at the last page
11 again, please? Did you sign this when you
12 brought the petitions back in to your boss's
13 place?

14 A Yes.

15 Q Where was that at? Did you go to Jason's
16 place?

17 A That building across the street.

18 Q Across the street from here?

19 A Yes. It was down in the basement.

20 Q That's where you bring your petitions?

21 A Yes, sir.

22 Q Is it at that location where you would sign
23 the petitions then?

24 A Yes, it is.

25 Q You never signed them any other place then

1 when you brought them back?

2 A Just right there.

3 Q Do you remember that when you signed, did you
4 put the number in at the same time when you
5 signed?

6 A He asked us to count them up and then do them.

7 Q So you placed the number there at the same
8 time?

9 A Yes.

10 Q Thank you.

11 MR. McNAIR: Betty, would you show
12 Ms. Moore petition 1666, I'll mark as Board
13 Exhibit 3.

14 (Board Exhibit 3 marked
15 for identification.)

16 By Mr. McNair:

17 Q Ms. Moore, again, if you would look at the
18 last page. My question's the same as before;
19 did you complete that page?

20 A Yes.

21 Q You did that after you got all the signatures?

22 A No. Before I turned them in, he asked me to
23 do it in front of him.

24 Q You did it in front of him after you got the
25 signatures.

1 A Right.

2 Q On this one, again, if you would go to the
3 first page where there are signatures and
4 then, if you would look at the other pages,
5 there are a number of cross-outs; you would
6 agree with me?

7 A That's right.

8 Q Is that right; a number of cross-outs?

9 A I guess. I didn't cross them out.

10 Q Okay, but you see on this document, there are
11 a number of cross-outs. You agree that there
12 are cross-outs?

13 A Yes.

14 Q And you didn't do any of those cross-outs?

15 A No, sir.

16 Q When you signed the last page of this
17 Exhibits, there were no cross-outs, correct?

18 A No cross-outs.

19 MR. McNAIR: Counsel, are there
20 are any questions you think I should ask that
21 have not been asked?

22 MR. DOYLE: Not at this point,
23 no.

24 MR. HASTINGS: No.

25 MR. FROST: No.

1 MR. McNAIR: So, the Board
2 members, at this point, don't have any other
3 questions. I am going to allow the lawyers to
4 ask questions if they choose to do so.

5 Mr. McTigue, do you have any questions
6 you want to ask? If you do so, I'd like you
7 to come to the other podium, please.

8 MR. McTIGUE: Could I see the
9 originals, first?

10 MR. McNAIR: Yes, you may.

11 Matt, can you get those? Show them
12 both to Mr. McTigue and Mr. Mason at the same
13 time, please.

14 Ms. Moore, if you want to sit down for
15 a minute, if that would be easier for you.

16 Ms. Moore, would you like some water or
17 something?

18 MS. MOORE: Thank you, yes.

19 MR. McNAIR: Yes. Okay.

20 (Off record.)

21 (On record.)

22 MR. McNAIR: Mr. McTigue?

23 MR. McTIGUE: I don't have any
24 questions.

25 MR. McNAIR: Okay. Thank you.

1 Jus let the record reflect both Mr. McTigue
2 and Mr. Mason looked at the original petitions
3 that copies of which have been marked as Board
4 Exhibits.

5 Mr. Mason.

6 MR. MASON: Thank you,
7 Mr. McNair.

8 CROSS EXAMINATION

9 By Mr. Mason:

10 Q Ms. Moore, just a couple questions for you.

11 Do you have copies of petitions that
12 you made before you submitted them so you can
13 keep your records?

14 A No, sir.

15 Q Thank you.

16 If you could go to all three petitions
17 and look at the last page where you signed
18 your name?

19 A Yes.

20 Q Up at the top where you put in the number of
21 petitions, the number 28?

22 A Yes.

23 Q Look at your signature down at the bottom,
24 your handwriting down at the bottom where you
25 signed your name and your address.

1 A Yes.

2 Q Would you agree that that signature of your
3 address, 125 East 156th Street, doesn't really
4 look like the same handwriting at number 28;
5 would you agree with that?

6 A No. Well that 28, he might have put it in.
7 Because when I first signed it, we didn't put
8 the numbers in. Afterwards when we started
9 coming in he said, count them up and put the
10 numbers on the back. I like to write them on
11 the front.

12 Q Right. I guess I'm asking, would you agree
13 that that looks like a different handwriting
14 where number 28 is?

15 A Yes.

16 Q So is it possible that they filled that number
17 in for you?

18 A Yes.

19 Q The last question that I have, and I don't
20 even like asking it but I have to, you've had
21 some history with the criminal justice system,
22 have you not?

23 A Yes.

24 Q Are you a convicted felon?

25 A Yeah, years ago me and (unintelligible.)

1 MR. McTIGUE: I'm going to object
2 for the record.

3 MR. McNAIR: I'm sorry.
4 Mr. McTigue, would you say the objection,
5 please?

6 MR. McTIGUE: Yes, I'm objecting.
7 This is outside the scope of the Directive
8 2016-01, which is what we're here for. If he
9 wants to protest whether convicted felons can
10 circulate petitions, he can go to the Supreme
11 Court and protest the petition, but that's not
12 why we're here today.

13 MR. McNAIR: Thank you for that
14 objection. It is my understanding, Brendan, I
15 look to you on this, that the question that
16 Mr. Mason has raised, the jurisdiction for
17 that is in the Ohio Supreme Court and not
18 here?

19 MR. DOYLE: That is correct.

20 MR. McNAIR: I'm going to sustain
21 the objection because it is not an issue that
22 we can decide. If you want to make a proffer
23 not withstanding that, go ahead.

24 MR. MASON: Yes, I would just say
25 that if any of the petitioners or circulators

1 have a felony conviction and they are
2 currently still on probation or community
3 control, that makes them ineligible to
4 circulate petitions. I think it's a valid
5 question that you should be asking them, this
6 Board should be asking. The root of this
7 conversation is all about getting to the truth
8 and find the truth and moving forward and
9 deciding, whether or not, these petitions were
10 circulated validly so you can certify them and
11 tell the Secretary of State that these
12 petitions are verified and the people who
13 circulated them could circulate them.

14 I know you're asking to parse this
15 issue but it goes to the heart of your issue
16 today and to not hear those questions and
17 ignore the fact that she and many others may
18 be felons, and there are many others who are
19 felons, who circulate these petitions.

20 MR. McNAIR: Okay, but my concern
21 is that's not our jurisdiction. I don't want
22 to be stepping on the jurisdiction of the Ohio
23 Supreme Court.

24 MR. MASON: Right and I would
25 suggest to you that as your job and your duty

1 is to investigate and look over these
2 petitions to insure that they're valid, that
3 part of your determination to determine to
4 determine if they are valid or not is if the
5 person who circulated them is a convicted
6 felon, is on probation, then that petition is
7 not valid. It's not for the Supreme Court to
8 decide that. It's for you to decide.

9 MS. MOORE: I'm not on probation.

10 MR. HASTINGS: I was going to ask
11 that Ms. Moore. So you're not on community
12 control sanctioned probation?

13 MS. MOORE: No. That happened
14 way back in '80, whatever.

15 MR. MASON: Okay, so then it
16 doesn't matter with this one.

17 MR. McNAIR: Please continue,
18 Mr. Mason.

19 MR. MASON: That was my next
20 question, thank you and that's my last
21 question.

22 MR. McNAIR: Thank you.
23 Mr. McTigue, do you have any further
24 questions?

25 MR. McTIGUE: No.

1 MR. McNAIR: Do my colleagues have
2 any questions?

3 MR. HASTINGS: No.

4 MR. McNAIR: Ms. Moore, thank you,
5 very much, for coming down here. I know this
6 is a pretty stressful situation for you. You
7 were very good to help us. You're welcome to
8 stay and you're welcome to go. So, thank you
9 and have a good day.

10 MS. MOORE: Thank you.

11 (Witness excused.)

12 MR. McDONALD: We're bringing in Ken
13 Woolfolk. He just had one petition.

14 MR. McNAIR: Okay, very good.

15 (Discussion off the record.)

16 MR. McDONALD: This is actually
17 Kristen Reese.

18 MR. PERLATTI: This is Reese,
19 actually.

20 MR. HASTINGS: What number is that?

21 MR. PERLATTI: This is letter N, as
22 in Nancy.

23 MR. McNAIR: This is N?

24 MR. PERLATTI: This is actually
25 Kristen Reese.

1 MR. McNAIR: Okay.

2 Ms. Reese, welcome.

3 MS. REESE: Thank you.

4 MR. McNAIR: Thank you for coming.

5 I'm sure this is a stressful situation for you

6 and we just want to ask you some questions,

7 okay?

8 MR. HASTINGS: Do you want to swear

9 her in?

10 MR. McNAIR: Yes, I am.

11 Ms. Reese, would you raise your right hand,

12 please?

13 KRISTEN REESE,

14 of lawful age, having been previously sworn, was

15 examined and testified as follows:

16 DIRECT EXAMINATION

17 By Mr. McNair:

18 Q Just state your name for the record, please.

19 A Kristen Annette Reese.

20 Q You circulated some petitions?

21 A Yes.

22 MR. McNAIR: I'm going to mark as

23 Board Exhibit 4, the one that's in front of

24 you.

25 (Board Exhibit 4 marked

1 for identification.)

2 Q Will you look at the last page, please?

3 A Yes.

4 Q Where it has a signature block, where it says
5 sign, it says Kristen Reese; do you see that?

6 A Yes.

7 Q Is that your signature?

8 A Yes.

9 Q Did you fill everything out that's below that
10 in handwriting? The address --

11 A Yes.

12 Q Yes?

13 A Yes.

14 Q Did you fill everything out, in terms of the
15 statement, the name "I, Kristen Reese"; do you
16 see that?

17 A Yes, and then 28 signatures. Wait a minute, I
18 don't think I did that.

19 Q I'm sorry, you don't think you did what?

20 A Yeah, the 28 signatures -- is this a full
21 book? Yes.

22 Q Did you fill in the number 28?

23 A If it was a full book, yes. If it's not a
24 full book, no, I did not, because what I do is
25 I will count the signatures and then put the

1 number on the back of the page when I sign it,
2 you know. So, I don't know about that.

3 Q So, I think maybe I was a little unfair to
4 you. So why don't you take a minute and look
5 at the entire document?

6 A All right.

7 Q Just take your time.

8 A I didn't do that.

9 Q I heard you say, you didn't do that. What is
10 it that you're referring to in the document?

11 A This crossing out of this stuff.

12 Q The names?

13 A Yes.

14 Q So, let's start there, then. If you go to the
15 third page, that's where the first names
16 begin, right?

17 A Uh-huh.

18 Q Number 3 looks like it's crossed out; do you
19 see that?

20 A Yes.

21 Q Did you do that?

22 A No.

23 Q Then there are other cross outs a couple of
24 pages later for 15, 16, 17; do you see that?

25 A Yes.

1 Q Did you do that?

2 A No, I did not.

3 Q So let's just stay with this for a minute.

4 Let's look at No. 15.

5 A Okay.

6 Q It's true of 16 and 17, there's kind of a

7 squiggly line there and then there's, looks

8 like a magic marker over that.

9 A Right.

10 Q Do you see that?

11 A Yes, I do.

12 Q Did you do any of that?

13 A No, I did not, sir.

14 Q You didn't do the magic marker?

15 A No, I did not do the squiggly line. No, I did

16 not do the magic marker.

17 Q All right. So, when you handed this in, you

18 had, it looks like here, you had 17 names;

19 would you agree with me?

20 A Yes.

21 Q And none of them were crossed out?

22 A No.

23 Q Then what I want you to do is then go to the

24 last page and what we're trying to figure out

25 here is why there's that number 28, and how

1 that 28 got there. Can you help us with that?
2 A I really cannot, sir, because I don't know how
3 that happened, because we was getting paid
4 according to the signature, by the signature.
5 So if -- as a matter of fact, I don't even
6 think I would have turned in one with 17,
7 because they want at least 20. These are my
8 people though, because I know Patty Ross.
9 This is mine. This last page -- and this is
10 my signature. I don't know about this 28
11 though. But I didn't make those squiggly
12 lines, so I don't know about that.

13 By Mr. Hastings:

14 Q Ms. Reese, if I can ask you, so where would
15 you bring your petitions to? Do you remember
16 the location you were asked to bring them to?

17 A Yes.

18 Q Where was that?

19 A 30th and -- 3030 Euclid.

20 Q Down in the basement?

21 A Yes.

22 Q Who would be there? Who did you work for; do
23 you remember his or her name?

24 A Dustin.

25 Q Dustin?

1 A Uh-huh.

2 Q Would you bring in one petition at a time or
3 would you have many petitions that had been
4 completed?

5 A I would have many petitions, because I had
6 another job, so I wasn't really -- the most I
7 had this petition, like, five books at a time.

8 Q If you can remember, when you walked in, had
9 you signed the petition yet or did you sign it
10 when you were there?

11 A I would sign them in the car, like on the way
12 in there, I would sign them. But I don't know
13 about this, because, you know, maybe I filled
14 the back out first and I don't know. I don't
15 know about that.

16 Q But do you remember who would put that number,
17 as Mr. McNair asked that, 28? Would you count
18 them and put the number in yourself?

19 A I would certainly. That's what I would do,
20 because I wouldn't turn in, you know, a not
21 full -- because it wouldn't pass, so why would
22 I waste the time to pass in a not filled out
23 petition.

24 Q Did anybody tell you not to fill in that
25 number, just to leave it blank, and they'd do

1 it; do you remember?

2 A No, I don't remember nobody telling me that,
3 no.

4 By Mr. McNair:

5 Q What instructions did you receive in terms of
6 filling out these petitions?

7 A So, fill out the petition, I put Cuyahoga at
8 the top; I count the signatures, because 28 is
9 a full book. 28 signatures, I have a full
10 book, I put 28 on the back. I print my name
11 right here, I, Kristen Reese, declare, and
12 then I sign right here, this information.
13 That's it though. That's all, and why is
14 there two staples in here? I don't know.

15 Q Were you given any instructions by the company
16 who was paying you to do this? What did they
17 tell you?

18 A They said, fill the petition out, get the
19 signatures, and bring a full book, don't bring
20 nothing less than 21.

21 Q As far as you recall, with respect to the last
22 page on all the petitions, you filled out all
23 that information?

24 A Yes. You know what, this part might -- you
25 know what, this 28 might have been my fault,

1 because I might have filled it out before and
2 in the shuffle turned it in. I don't know,
3 but that's my handwriting.

4 Q Okay, I'll note that staff tells us that you
5 turned in 17 in total. Does that sound about
6 right?

7 A Uh-huh, but I know I definitely didn't get
8 paid for this 28.

9 Q Tell me again, how is it that you got paid?

10 A A dollar a signature.

11 Q For each valid signature?

12 A Yes.

13 Q Who told you that?

14 A When they hired me, that's what they said.

15 Q Who hired you?

16 A DRW Campaign.

17 Q Where did they hire you?

18 A On 3030 Euclid, over there.

19 Q Did you go down and meet them?

20 A Yes, and I had orientation, and yes.

21 Q Who ran that orientation?

22 A Dustin.

23 Q Do you know Dustin's last name?

24 A No, I do not. I don't recall it right now.

25 Q So how would you know that they wouldn't cheat

1 you, in terms of the number of valid
2 signatures you had?

3 A I didn't. All I could do was do as they asked
4 me, bring them back. Because when I went out
5 to do the petition, I would ask the people,
6 are you a registered voter; have you moved
7 since you last registered; have you signed
8 this petition before.

9 Q How did you know to ask all those questions?

10 A Because that's what they told me to ask,
11 because I wanted it to be valid, because if it
12 wasn't valid, I wasn't going to get paid for
13 the signature.

14 Q Do you remember anything else they told you
15 about any other instructions they gave you?

16 A Let me think. No. They told me how to
17 circulate the petition, what to say. You
18 know, they told me what it was about and I put
19 it in my own words.

20 Q All these signatures were done in front of you
21 by voters?

22 A Yes.

23 MR. McNAIR: I'm going to just
24 look at my notes and see if my colleagues have
25 any other questions.

1 THE WITNESS: Okay. But I know, if
2 that if they checked this right, if they
3 checked this and they paid by the signature,
4 and they saw that it wasn't 28 signatures, why
5 would they let it go with this 28 on the back?
6 I mean, you know? They have to go through
7 this, right, because they check the signatures
8 for validity, right, and they count them
9 because they pay by the signature. So if they
10 saw there wasn't 28 in there, why didn't they
11 not turn it in or call me, or why didn't they
12 change this? Okay, that's fine.

13 MR. McNAIR: I'm not sure the
14 answer to your question either.

15 Mr. McTigue, do you have any questions
16 of the witness?

17 MR. McTIGUE: No, questions.

18 MR. McNAIR: Mr. Mason?

19 MR. MASON: Thank you.

20 CROSS EXAMINATION

21 By Mr. Mason:

22 Q Ms. Reese, can you look on the last page where
23 the signature page is?

24 A Yes.

25 Q Look at the whole, all your writing. Do you

1 see there's probably about five locations on
2 those signature lines, the address and then
3 where there's a number of eight?

4 A Yes.

5 Q Do you see that? Look at all the number eight
6 section on the address for DRW Campaigns. Do
7 you see the zip code with the number eight
8 there?

9 A Right.

10 Q See how that eight looks?

11 A That's right.

12 Q Look at the number eight underneath your name,
13 there's two eights on your address, that 818;
14 do you see those eights, and then the eight on
15 the zip for you? Would you agree that that
16 looks like a different eight than where the
17 number 28 is?

18 A Okay, so I ain't losing my mind. I didn't
19 write that.

20 Q That's my next question. Isn't it possible
21 that somebody else put that 28, other than
22 you?

23 A Right, I didn't write that.

24 Q Would you agree that's not your handwriting,
25 the number 28?

1 A I don't think so, but you know, like I said,
2 it's not my handwriting. That's not how I
3 make an eight.

4 Q I would agree with that. Thank you.

5 My last question, and I hate asking
6 this, you've been involved with the criminal
7 justice system and have a felony conviction;
8 do you not?

9 A Yes.

10 MR. McTIGUE: Objection.

11 MR. MASON: Thank you.

12 MR. McNAIR: I'm sorry. There was
13 the objection and I missed the answer.

14 A I would -- objection, I don't know, what does
15 that mean? Answer the question?

16 MR. McNAIR: Yes. I just missed
17 the response back and forth. There was an
18 objection. I didn't rule on the objection.
19 I've talked to my colleagues here. We're
20 going to let you answer that question.

21 A Okay. Yes, I have.

22 REDIRECT EXAMINATION

23 By Mr. Hastings:

24 Q Are you on probation or community controls
25 right now, Ms. Reese?

1 A No, I'm not.

2 Q This happened long ago?

3 A Yes.

4 MR. HASTINGS: Thank you.

5 MR. McNAIR: So, you're good, I
6 think.

7 THE WITNESS: Uh-huh, that was my
8 understanding. That was my understanding that
9 I can, as long as I wasn't on probation or
10 parole as the current, you know.

11 By Mr. McNair:

12 Q Were you asked those questions before you
13 circulated petitions?

14 A Yes.

15 Q When you took these petitions out, was there
16 anything written on the back of them before
17 you started?

18 A No.

19 Q This 28 now, based upon Mr. Mason's questions,
20 do you think that is or is not your
21 handwriting?

22 A That is not my handwriting.

23 Q That is not your handwriting. Generally
24 speaking, and this is a bit of an unfair
25 question because we don't have the other

1 documents in front of us, but generally
2 speaking with respect to the other part-
3 petitions, would you put that number in there?

4 A No, I would not, sir.

5 Q You would not?

6 A I would not. I mean, if it was full?

7 Q Yes.

8 A If it was a full book and I was filling this
9 out, yes, I would.

10 Q Then you would sign it?

11 A Yes, I would.

12 MR. McNAIR: Thank you.

13 By Mr. Hastings:

14 Q Ms. Reese, you said if it was a full book
15 you'd put in the 28 yourself?

16 A Yes.

17 Q But if it was a partial book, like this one,
18 you wouldn't put in the number?

19 A No, I wouldn't. I would put in the number,
20 but I don't know how they got this. I don't
21 know. Maybe I wasn't supposed to turn that in
22 or something and I didn't fill that part out
23 and somebody just filled it out. I don't know
24 how that worked.

25 MR. HASTINGS: Thank you.

1 THE WITNESS: Because they said
2 don't turn in a book under 20. So this got
3 17.

4 By Mr. McNair:

5 Q I just want to go back to Mr. Hastings'
6 question. When you filled out this last page,
7 you did this down in the basement where you
8 had been hired, where you turned these in, or
9 no?

10 A Most of the time, I did.

11 Q What about this one; do you remember?

12 A No, I do not.

13 MR. McNAIR: Thank you, Ms. Reese.
14 Any other questions?

15 (No response.)

16 MR. McNAIR: Thank you, very much.
17 We very much appreciate you coming down. It
18 was very helpful to us. I'm sorry for the
19 inconvenience. You're welcome to stay, but
20 you're also welcome to go.

21 THE WITNESS: Okay, thank you.

22 (Witness excused.)

23 MR. HASTINGS: Sandy, did you mark
24 that as Exhibit 4?

25 MR. McNAIR: I did, yes, Board

1 Exhibit 4. Yes.

2 Mr. Woolfolk, welcome. Would you come
3 over here by the microphone, please?

4 Ms. Edwards is going to help go through the
5 documents so that you don't have to do that
6 yourself, okay?

7 MR. WOOLFOLK: Yes, sir.

8 MR. McNAIR: Thanks a lot for
9 coming down. Was the coffee okay?

10 MR. WOOLFOLK: Yeah, it was really
11 good, nice and sweet.

12 MR. McNAIR: Will you raise your
13 right hand, please?

14 KENNETH WOOLFOLK,
15 of lawful age, having been previously sworn, was
16 examined and testified as follows:

17 DIRECT EXAMINATION

18 By Mr. McNair:

19 Q Please state your name for the record?

20 A Kenneth Woolfolk.

21 Q You circulated some petitions recently?

22 A Yes, sir.

23 Q Tell us how it was that you came to do that?

24 A Well, what I did was, I was going to the store
25 right across the street from me every day and

1 I kept seeing these little pink square little
2 cards with their number on them, so I was just
3 like, let me just call, because I kept seeing
4 them. I'm like, a job, I needed to get some
5 money. So I called it and went up there with
6 a few other guys, and they asked them a few
7 questions about do they have felonies and
8 stuff like that. One of the guys said, yeah,
9 he got a felony and they said, it don't
10 matter, you can still do it. They gave me my
11 paperwork. I signed up and they told me to
12 come in the next day and gave me my forms and
13 everything, and told me to go out and collect
14 signatures anywhere to go as long as it's not
15 certain gas stations not to go to, because
16 they'll kick us off, but that was about it.

17 Q Can you tell me a little bit more
18 specifically, if you can, what instructions
19 they gave you, in terms of filling out these
20 petitions? How were you supposed to go about
21 that?

22 A What they told me was to do, they said, walk
23 up to people and ask them are they a
24 registered voter, and if they are a registered
25 voter, you can have them sign the petition.

1 Q Then you would get these petitions signed,
2 right, people would sign them?

3 A Yes, we'd go out and ask people, are you a
4 registered voter and are you -- you know, do
5 you still live at where you currently
6 registered at to vote, and then we'd have them
7 sign the paper.

8 Q Then you'd, at some point, you'd turn them in?

9 A Yes, sir.

10 Q Where would you turn them in?

11 A We turned them in on Euclid, right across the
12 street from this building.

13 Q All the ones you had signed out, did the
14 voters sign them in front of you?

15 A Yeah, they wrote them right in front of me.

16 Q So there are a couple that have been brought
17 to our attention that we'd just like to go
18 over with you, okay?

19 A (No response.)

20 MR. McNAIR: So the first one,
21 Betty, is 1085. I'm going to mark that as
22 Board Exhibit 5.

23 (Board Exhibit 5 marked
24 for identification.)

25 Q Mr. Woolfolk, if you would just take a minute

1 and look through that, and then I'm going to
2 ask you a couple of questions, okay?

3 The first question I want to ask you is
4 on the last page. It says, I and then it has
5 your name printed; do you see that?

6 A Yes, sir.

7 Q Did you do that?

8 A Yes, sir.

9 Q Then it has a blank for the number of
10 signatures; do you see that?

11 A Yes, sir.

12 Q Did you fill that in?

13 A We were supposed to, yes, sir.

14 Q Is that your handwriting, as best you know?

15 A Yes, sir.

16 Q If you recall. If you don't recall, then just
17 tell me you don't recall. I want to get your
18 best recollection.

19 A The best I can recall, because the last time I
20 looked at this form, there wasn't any black
21 marks written out, and a few applications I
22 brung (sic) into them, they never accepted for
23 some reason; I don't know why.

24 Q Okay. That's all helpful for us to know, but
25 if I can just bring you back to this number,

1 do you recall if that's your handwriting
2 there?

3 A This part looks like it, but that 28, I'm not
4 sure, you know.

5 Q I guess my question is: Is that a 28 or is
6 that a different number?

7 A It look like it's a 28 or 18. I'm not really
8 sure.

9 Q I would agree with you that it's not clear,
10 and I would just note for the record that on
11 the last signature on this petition, is No.
12 18.

13 A Oh, yeah, it is No. 18.

14 Q To me it is not clear. One might read it one
15 way or the other, but one could certainly read
16 it as an 18.

17 A Yeah, it's an 18. That was the last one on
18 the sheet. Yeah, it's an 18.

19 Q Is that your signature in the middle of the
20 page?

21 A Yes, sir, the bottom part?

22 Q Yes.

23 A Yes, sir.

24 Q Then you filled out the address; that's all
25 your handwriting?

- 1 A Yeah, everything's my handwriting.
- 2 Q You made a comment about strike-outs. So if
3 you'll go to the third page, which is the
4 first page where there's signatures; do you
5 see that?
- 6 A Yes, sir.
- 7 Q At the bottom, it looks like a name's been
8 crossed out; do you see that?
- 9 A Yes, sir.
- 10 Q Did you do that?
- 11 A I don't recall. When I turned in my papers, I
12 don't recall it being like that on there.
- 13 Q So when you turned them in, there were just
14 the signatures?
- 15 A Yes.
- 16 Q Then if you go to the second page, there's a
17 big black line through that page; do you see
18 that?
- 19 A Yes, sir.
- 20 Q Did you do that?
- 21 A No, sir.
- 22 Q Then if you go to the next page, there's one
23 that's crossed out; did you do that?
- 24 A No, sir.
- 25 Q Given that, apparently, a page got skipped,

1 signatures 8 through 14; do you see that?

2 A Yes, sir.

3 Q So even though the last signature was on 18,
4 there weren't 18 signatures on this --

5 A Oh, yeah. Yes.

6 Q Today, do you have a specific recollection of
7 signing the last page on this part-petition?

8 A Yes, I remember -- the last page, I remember
9 signing the last, because when I signed this
10 one -- I think I remember now. When I signed
11 this one, I asked the supervisor lady how you
12 do it and she told me just to write down the
13 last number that you did on the back and fill
14 it out.

15 Q So does that refresh your recollection as to
16 what number that is?

17 A The last number on there was 18. That's the
18 one I wrote down. She said, whatever number
19 that you stopped at. When I probably was
20 doing this application, we'd be outside in the
21 cold, so like when we flip it, we don't pay
22 attention to what number it's on. So it was
23 on that page, so that's the one that we signed
24 up, because I ain't looked at the numbers when
25 we was out there.

1 Q You said you were looking for a job, so you
2 took this job?

3 A Yes, sir.

4 Q How did you get paid?

5 A They paid us every Monday and Thursday.

6 Q How much money did you get paid?

7 A We only got a dollar per signature.

8 Q Was that a dollar per valid signature?

9 A A dollar per valid signature.

10 Q So did you have to rely on them to tell you
11 how many signatures were valid or not?

12 A Yes, sir.

13 MR. McNAIR: Any questions?

14 Mr. Frost:

15 Q Mr. Woolfolk, you mentioned before there were
16 some you didn't get paid for, some that you
17 turned in?

18 A Yes.

19 Q Did they give you any reasons why you wouldn't
20 get paid for certain ones?

21 A Well, the paper that I brung in before, what I
22 had was it was like the back of it, like this
23 part, right there in back of it, and I set it
24 on my heater with my pen, and my pen had just
25 melted on it a tad bit, and all you had to do

1 was just pull it off, and they said that was
2 the reason why I couldn't get paid for that,
3 because the back part had a pen stuck to it
4 from the heater, melted onto the paper right
5 there.

6 Q Did they have any other instructions for you
7 that you had to get a certain number of
8 signatures?

9 A They said they wanted the whole packet done,
10 at least about up to about like 23, up to 23
11 or 25 done, you know, that they accept the
12 packet or you would have to keep the packet
13 and go out and fill it up.

14 MR. FROST: Thank you.

15 By Mr. Hastings:

16 Q Who did you work for, if you remember? Do you
17 remember the boss' name, Mr. Woolfolk?

18 A His name was Dustin Wefel.

19 Q You would sign these, Mr. Woolfolk, when you
20 brought the petitions in across the street, is
21 that when you would sign them at that time?

22 A Yes.

23 Q It's your recollection that you would count
24 the names and put the number up there?

25 A Yeah, I would count it and then they would

1 give it to somebody else to double-check and
2 then they would use the other person's
3 counting over mine. Like I would count it and
4 they'd have somebody else recount it and put
5 it on there, and then that's what he'd pay us
6 out of their calculation.

7 Q Who would put the number down there, you or
8 the second person that counted?

9 A I would put my number on here, but they have a
10 separate where he would go through it, and
11 then they have another thing, and they'd give
12 it to Dustin, and he would just take what they
13 wrote down, and that's how we got paid.

14 Q That's occurring right when you're there?

15 A Yes.

16 Q So you know how much you're going to get paid
17 right that moment, or when you come back the
18 next --

19 A Well, when I come in there and we fill it out,
20 like, say like she was the counter lady, we'd
21 give it to her and she would go through, and
22 then she'd write it down. Then she'd put it
23 on a paper, on a sticky note, and then we'd
24 give it to Dustin. He'd sit there. He'd just
25 look at what she wrote and then he'd write a

1 receipt for us and we'd bring it back in that
2 Monday or Thursday.

3 Q I'm sorry, he'd write a receipt?

4 A Yes.

5 Q With what? What would be on the receipt?

6 A With the number of signatures that I had
7 altogether for that day I brung in.

8 Q Did he tell you that's the number of good
9 signatures or that's just the number of
10 signatures?

11 A He would tell me that's just the number of
12 signatures I brung in. He would never tell me
13 if they was valid or not, because when I got
14 my check, they never equaled the receipt that
15 he gave me.

16 Q That you got. I see. So they must have
17 checked later after you left, whether they're
18 good?

19 A Yes.

20 Q They didn't check right in front in you,
21 correct?

22 A I mean, they did check, but still, when they
23 checked, when he wrote the receipt, I still
24 never got the same amount that the receipt
25 said.

1 Q So you might count 28, they might put on the
2 receipt 26, and you may only get paid for 20,
3 right?

4 A Yes. Something like that, yeah. The last
5 week I turned in my paperwork, I never got
6 paid for. And that's when they closed it down
7 and the job was over with.

8 MR. HASTINGS: Thank you.

9 By Mr. McNair:

10 Q Did you ever see anybody make the cross-outs
11 on Board Exhibit 5 that are on there now? For
12 example, the bottom of Page 3, were you ever
13 present when anybody crossed out any of these
14 names?

15 A The only guy that I know was doing it, I
16 forgot his name. He was doing the same stuff
17 that we was doing, but they would hire
18 somebody else to recount them. Like that guy,
19 he'd be there and he'd mark all the ones that
20 he felt was invalid or whatever, and then they
21 would give it to Dustin.

22 Q I'm not clear about that answer. Were they
23 making a decision as to which names were
24 invalid when you were there?

25 A Yes. The guy that, you know, he hired for

1 that, they would do it. They would look
2 through it and that's not valid and they'd
3 cross it out and do all that stuff.

4 Q So did you see them cross out names on your
5 part-petition when you were there?

6 A Yes, I did. Yes, I seen them cross out
7 certain ones.

8 By Mr. Hastings:

9 Q Do you remember, Mr. Woolfolk, was it a big
10 black magic marker type thing they were using;
11 do you remember?

12 A Yes.

13 Q When you were dropping off your petitions, how
14 long would you be there?

15 A Sometimes, we'd have to wait 30 minutes. He'd
16 do other people. An hour. It all depends on
17 how many people come back that day and who's
18 first and whatever. Sometimes it can be about
19 45 minutes.

20 Q Were you told to come back between certain
21 hours?

22 A Some days. They would change the time up and
23 be like, come back an hour from now, or
24 something like that.

25 Q Would you come back when you felt you had

1 enough petitions to submit or did you have to
2 come back every day?

3 A We back every Monday and Thursday, but if you
4 felt like you don't have enough, they'd tell
5 you, you can keep going and bring them back
6 Thursday, so you'd have more signatures.

7 By Mr. McNair:

8 Q Mr. Woolfolk I'd like you to now look at the
9 one that's marked 1371, that I'm going to mark
10 as Board Exhibit 6.

11 (Board Exhibit 6 marked
12 for identification.)

13 Q If you'd go to the last page, is that your
14 signature on the last page?

15 A Yes, sir.

16 Q Did you fill out that last page, all the
17 information there?

18 A Yes, I filled out all that information there.

19 Q I'm sorry?

20 A Yes, I did.

21 Q Did you put that number 28 there?

22 A Yes, sir.

23 Q You would agree with me that there is a
24 signature on No. 28?

25 A Yes, sir.

1 Q And the page before that is blank?

2 A Yes, sir.

3 Q Then the page before that is partially blank?

4 A Yes, sir.

5 Q So this doesn't include 28 signatures. Was
6 that difference just a mistake?

7 A How many on there altogether? Yeah, that's
8 how she told me to write it. She said, if you
9 missed any, whatever last one you stopped at,
10 that's what you write on it.

11 Q So you would go to whatever the last signature
12 was on the document, you'd look at that
13 number, and that's the number you'd put on the
14 last page?

15 A Yes, sir.

16 Q Okay, and that's what you did here?

17 A Yes.

18 Q Again, if you look at Page 3, which is the
19 first page where there's signatures, No. 5 is
20 crossed out. Did you do that?

21 A No, I did not.

22 Q If you go to the end, if you go past the first
23 page, past the signature page, it says full
24 text of law; do you see that? In the margin,
25 there's something. Is that your handwriting?

1 A It may be. Yeah, I think that is mine.

2 Q Do you know what that says?

3 A Network, strategy. I think it be strategy
4 network.

5 Q Does it say Crystal?

6 A I believe so.

7 Q Do you know who that was or is that a person?

8 A No, that was just, I think another job or
9 something I had was calling in.

10 MR. McNAIR: Do my colleagues have
11 any questions on that?

12 (No response.)

13 MR. McNAIR: Let's go to 1432.
14 I'll mark that as Board Exhibit 7.

15 (Board Exhibit 7 marked
16 for identification.)

17 Q If look at the last page, Mr. Woolfolk, is
18 that all your handwriting?

19 A Yes, sir.

20 Q Is that number 28, did you fill that out?

21 A Yes, sir.

22 Q Then if you go, help me with this one, because
23 I go to the 28th signature on this one; it's
24 blank. So this really only has, including the
25 one that's marked out, has only four

1 signatures on it, right?

2 A Uh-huh.

3 Q So can you help explain to us why there are
4 four signatures, but you've got the number 28
5 on the last page?

6 A The only thing I can say is either -- let me
7 see. Only thing I can say is either skiing
8 through it because I have so many packets and
9 didn't actually get to count them all or
10 whatever, or what could have happened was that
11 these got turned in before they should have
12 been turned in, because I wasn't completed
13 with it, like I actually probably made an
14 accident signing the back of something before
15 it was supposed to get turned in and it wasn't
16 supposed to get turned in, and it got turned
17 in. Or this is probably one of the packets
18 that wasn't supposed to get turned in but it
19 got turned in anyway. But I don't know why
20 they accepted it, when it wasn't a whole
21 finished complete packet.

22 Q So as far as you know it was a mistake?

23 A Yes, sir.

24 By Mr. Hastings:

25 Q Mr. Woolfolk, did anybody ever tell you, just

1 put in 28, regardless of how many signatures;
2 do you recall?

3 A No. She just said, just type in the number
4 wherever you stopped at. If you stopped at
5 four or five, that's the last numbers, put in
6 five. If you stopped at 18, put in 18.

7 MR. HASTINGS: Thank you.

8 MR. McNAIR: Let's go to 1677,
9 Betty, Board Exhibit 8.

10 By Mr. McNair:

11 Q Mr. Woolfolk, last page again, you filled that
12 all out?

13 A Yes, sir.

14 Q And you filled out the 28?

15 A Yes, sir.

16 Q If I go to the last signature on this
17 document, there's a signature on 28; is that
18 right?

19 A Yes, sir.

20 Q On the first page of the signatures, there
21 aren't any. There's a black line with an
22 arrow going up and down; do you see that?

23 A Yes, sir.

24 Q Did you do that?

25 A No, I did not.

1 Q Same thing with the second page; did you do
2 that?

3 A No, I did not.

4 Q Then if you look at the next page, 18 and 21,
5 did you cross those out?

6 A No, I did not.

7 Q Again, your view is you filled this out
8 correctly, based upon what you were told,
9 which was to put the number on the last page
10 that corresponded to the last signature in the
11 part-petition?

12 A Yes, sir. Where the last number I stopped at,
13 that's the number I put in.

14 By Mr. Frost:

15 Q A question I have, Mr. Woolfolk, on this one,
16 do you recall filling out the statement at the
17 end and turning in ones where there whole
18 pages blank, like this one?

19 A Do I remember turning it in with whole pages
20 blank?

21 Q Uh-huh.

22 A Let me see. Really not, because I made sure
23 like when I did a whole 28, I did a whole 28.
24 I did a whole packet, like. I made sure, like
25 I said, that one could have been a mistake or

1 somebody could have took out my sheets and
2 replaced them with another sheet. But for
3 what I know, I go out and get 28 every day.
4 That was the only way that I was going to get
5 a good paycheck.

6 MR. FROST: Thank you.

7 MR. McNAIR: The last one I've
8 marked as Board Exhibit 9, which is 1756.

9 (Board Exhibit 9 marked
10 for identification.)

11 By Mr. McNair:

12 Q Again, you filled out the last page?

13 A Yes, sir.

14 Q You filled out that 28?

15 A Yes, sir.

16 Q There are a bunch of check marks on this page
17 that we haven't seen before. Did you make
18 those check marks?

19 A No, I did not.

20 Q Then, if you'll go to the last line, the
21 signature page, that's signed, No. 28,
22 correct?

23 A Yes, sir.

24 Q That's why you would have put 28 on the last
25 page?

1 A Yes, sir.

2 Q There are several cross-outs on this document,
3 as well. You didn't do any of those?

4 A No, I did not.

5 Q Again, the line going down on the first page
6 where there's signature lines, you didn't put
7 that line with the arrow; is that right?

8 A No, I did not.

9 MR. McNAIR: Counsel is there any
10 other questions?

11 MR. FROST: I have a question on
12 this one.

13 MR. McNAIR: Yes?

14 MR. FROST: On Exhibit 9, the
15 section that's marked as 1756. Do we have the
16 original of this one?

17 MR. CLEVER: They're on the rack.

18 MR. FROST: We might need the
19 original.

20 By Mr. Frost:

21 Q Mr. Woolfolk, I'm looking at the first page of
22 signatures, which is really the third page of
23 the exhibit, line 1. It looks like there was
24 a signature there, but it's all blocked out.

25 A Right.

1 Q Can you see though, down in the bottom right
2 of that section 1, where there's a date? Can
3 you make out what that date was there?

4 A It looks like it's 10-15-15.

5 Q That's what, I think, it looks like as well,
6 but I wanted to see what it looked like to
7 you. Can you turn to the next page, the rest
8 of that page is blank, but for the blank marks
9 on it that have been crossed out; so the next
10 line with a signature on it is signature
11 eight. That one isn't blocked out and you can
12 see the date there. What's the date on Line
13 8? On the second page of signatures.

14 A It looks like it's -- I believe it's 14, it
15 just look like a nine. That's my handwriting
16 be like that sometimes. I guess their
17 handwriting be like that out there in the cold
18 like that sometimes, because a lot of people
19 couldn't write. It was so freezing out there,
20 so that was just sloppy writing.

21 MR. FROST: This is why I wanted
22 to get the original. Betty, if I can get you
23 the original. Let me show it to my fellow
24 Board members first.

25 It looks like the date and some other

1 things were crossed out with a different pen,
2 as opposed to the marker which was used. I
3 just want to ask him about that crossing out.

4 By Mr. Frost:

5 Q Going back to that first line of signatures
6 where it's No. 1 and it's blacked out with a
7 marker, but does it appear to you that that
8 date I was referring to and even some of the
9 others, were crossed out with a black pen or
10 something other than the black marker which
11 was used?

12 A You said, does it look like it was marked out
13 with a pen?

14 Q Yeah.

15 A Then a marker then that was used?

16 Q Right.

17 A Yes, it looked like it was marked out with a
18 pen.

19 Q Those pens marks blocking out that date and
20 some of the others, did you make those; do you
21 recall?

22 A No.

23 MR. FROST: Thank you.

24 MR. McNAIR: Jeff, you okay?

25 MR. HASTINGS: No questions.

1 MR. McNAIR: Mr. McTigue?

2 MR. McTIGUE: No questions.

3 MR. McNAIR: Mr. Mason?

4 MR. MASON: Thank you.

5 CROSS EXAMINATION

6 By Mr. Mason:

7 Q Mr. Woolfolk, I want to thank you for coming
8 down here today. I think you have been
9 helpful as to what took place in the
10 circulation. One starting question, though.
11 When you were to approach people and ask them
12 for a signature on these petitions, what did
13 you ask them?

14 A I just walked up to them, like, how are you
15 doing, sir? Are you a registered voter? Do
16 you still live at the address that you
17 registered to vote at? And that would be it,
18 and I'm like, would you like to sign my
19 petition? It'll only take a few seconds.

20 Q Did you tell them what the petition was for?

21 A Yeah, I tell them the petition is to lower the
22 cost of pharmaceutical medication in Ohio.

23 Q Was that the instruction you were given?

24 A Yes, sir.

25 Q Thank you. Look at the bottom of the last

1 page of any one of those petitions. Let's
2 just start with the last one, if you would.
3 At the bottom, it says, whoever commits
4 election falsification is guilty of a felony
5 in the first degree. Did they make you aware
6 of that when you were filling this out, if
7 there was any falsification, that it was a
8 felony?

9 A No. What they just said was, you know, if you
10 register registered voters, asked them if
11 they're registered voters, tell them it's to
12 lower the price of prescriptions, and that was
13 it. They just said sign the back. This is
14 the way that we get paid if we sign the back.

15 Q Now, take all five of those last pages, on the
16 last row, you have the number of signatures
17 that went in, and if you could, just put them
18 all together so you can look at that last line
19 where you put the number of petitions in.

20 A Yes, sir.

21 Q And look at all five of those signatures if
22 you would. Four of those five have a
23 signature of 28 in there, correct?

24 A Yes, sir.

25 Q And one of them has, the first one, has 18.

1 A Yeah, one of them has 18.

2 Q You recognize that handwriting on all five of
3 those petitions?

4 A Yes, sir.

5 Q Are you absolutely certain that that is your
6 signature?

7 A Yes, sir, because I remember when I wrote
8 them. I was either in a car, or you know, on
9 my way back to the place.

10 Q I'm going to ask you, on the second petition,
11 the first one being 18, then the second
12 petition, that number 28, does that look like
13 anything like the 28 on the last section?

14 A Let me see.

15 MR. DOYLE: Could we be clear
16 about which petition that we're referring to?

17 MR. MASON: All right. We're
18 discussing petition 1371 and petition 1756.

19 Q Would you agree that they don't look like
20 that's the same signature?

21 A They don't look the same, but that's how --
22 when I write sometimes, I write neater
23 sometimes and sometimes I write big and fat
24 and sloppy. I got a bad handwriting, so
25 sometimes I practice with my handwriting to

1 make it look better, but you know, it's really
2 my handwriting.

3 Q Do you have any felony convictions?

4 A No.

5 MR. McTIGUE: Objection.

6 MR. McNAIR: Wait. I'll not the
7 objection, and I'm sorry, what was the
8 response?

9 THE WITNESS: What I said?

10 MR. McNAIR: Yes.

11 THE WITNESS: I said, I got sloppy
12 handwriting so sometimes I try to work on my
13 handwriting. No, I don't have no felony
14 convictions.

15 MR. McNAIR: Thank you. Anything
16 else?

17 Mr. Woolfolk, thank you very much for
18 coming down. This is very helpful to us. I'm
19 sorry that we inconvenienced you. I know it's
20 probably pretty stressful for you, so thank
21 you. You're free to stay, you're free to go,
22 but, again, you performed a public service,
23 for us today, so thank you, very much.

24 THE WITNESS: Appreciate it.

25 (Witness excused.)

1 MR. McNAIR: Mr. Jones, would you
2 please come up here to the mic?

3 MR. JONES: How are you doing
4 today?

5 MR. McNAIR: I'm doing well. How
6 are you doing?

7 MR. JONES: I'm alright.

8 MR. McNAIR: Thank you for coming
9 down. We're going to ask you some questions.
10 It'll be low key. If you're a little bit
11 stressed, I understand that, but just make
12 sure you understand the question and give us
13 an answer, and we'll all be good, okay?

14 MR. JONES: All right.

15 DEVAE JONES,
16 of lawful age, having been first duly sworn, was
17 examined and testified as follows:

18 DIRECT EXAMINATION

19 By Mr. McNair:

20 Q Would you please state your name for the
21 record?

22 A My name's DeVae T. Jones.

23 Q Did you circulate some petitions?

24 A Yes, sir, and I also didn't get paid for them.

25 Q You didn't get paid for them? Well, we'll get

1 to that, okay. I just need to find you in my
2 book here.

3 MR. PERLATTI: Letter J.

4 MR. McNAIR: Thank you.

5 Q So our staff has told us that you circulated
6 64 part-petitions; does that sound about
7 right?

8 A What did you say?

9 Q That you circulated about 64 of these part-
10 petitions?

11 A I circulated almost close to 1,000 of them.

12 Q Okay. Well, we have, apparently, 64 were
13 turned in to our office. So we'll get to
14 that.

15 How is it that you came about to
16 circulate these petitions?

17 A I found -- you said, how did I come across the
18 job?

19 Q Yes, how did you come across the job?

20 A I had this one lady, she was like an older
21 lady. I was looking for a job at the time at
22 the moment, she told me about it. I called
23 Haley, her number was on a little pink piece
24 of paper, a 440 number. I don't remember the
25 rest of the number, but she got her cell phone

1 changed and she was down there, not even
2 taking care of business with somebody else,
3 like with another dude. And the other dude
4 was throwing papers all over the parking lot.
5 I don't know what that was about.

6 Yeah, I came across the job. I think
7 her name was Whitney. Something like that. I
8 think it was Whitney.

9 Q Where did you go to get this job?

10 A Right across the street. Right there --
11 what's that, 3030, inside the building. You
12 walk in the building and go to the basement.

13 Q Do you know who you met there?

14 A Dustin and I met Hayden, first. Then I met
15 his girlfriend, Amber, I think.

16 Q Were they all working for the company?

17 A Yes, they was working for this company he
18 made, DWR.

19 Q What was the name of the company?

20 A DRW or DWR Campaigns. Something like that.

21 Q Tell us what happened the first day you went
22 in there, in terms to get the job.

23 A The first day I went in there, they taught me
24 how to circulate the petitions, like, come up
25 to the person, like, hey, how are you doing,

1 are you a registered voter. If they say, yes,
2 ask them if they'd like to my petition
3 pertaining to blase, blase, such and such.

4 Q Did they give you any other instructions in
5 terms of how you should circulate the
6 petitions?

7 A No, not really. They just put me out there
8 because I was talking to them, really, like
9 regular people and I know how to just go up to
10 somebody and ask them just a simple question.

11 Q How were you paid?

12 A I was paid through check and then sometimes
13 they'd pay me through cash.

14 Q What was the basis of the payment? I mean,
15 how did you determine how much you got paid?

16 A You said, the basis of the payment? It was
17 based on -- well, the lady out there, she just
18 said they didn't have no validity. What's
19 that program? I'm like, if you all didn't
20 have no validity program how did you all do
21 validity. You see what I'm saying? Like,
22 I don't get that part. Like if you all didn't
23 have no validity program, like, how did you
24 all did you do validity? And then, hold on
25 one second, my bad, I'm sorry. Then we went

1 down on the third floor, there was an older
2 lady, she helped me out, and he couldn't even
3 find me in the system, and I was in the
4 system. He was doing his job wrong, and I was
5 doing my job right. He messed up on the count
6 on the validity.

7 Q Did you get paid by the hour?

8 A No, I didn't get paid by the hour. I got paid
9 by the signature.

10 Q So you got paid for each valid signature?

11 A Yeah, each valid signature.

12 Q How much did you get paid for each valid
13 signature?

14 A One paycheck I had -- the first paycheck I had
15 was 265, and then it went down. I brought in
16 the same amount, 374 different people. I kept
17 going to different people and he kept telling
18 me, it's probably, you know, some people, they
19 just trying to help people out. He said, they
20 probably signed it more than once. But I know
21 some of the signatures probably would have
22 been, like, invalid.

23 Q So did you get paid a certain amount for each
24 valid signature?

25 A Yes, we would get paid a dollar per signature.

1 Q A dollar per signature, okay.

2 A Yeah, and then when he took me down to Florida
3 -- he took me down to Florida and we had,
4 like, four different petitions. One petition
5 got cancelled, and then the other petition --

6 Q Okay, I know you're being helpful to us, but I
7 don't want to talk about what happened in
8 Florida. I want to try and figure out what
9 happened here, all right?

10 A All right.

11 Q So what I want to do is, we want to go over a
12 couple of the petitions with you. Betty,
13 let's start with 1641, and I'm going to mark
14 that as Board Exhibit 10.

15 (Board Exhibit 10 marked
16 for identification.)

17 Q Just take a minute, if you would, Mr. Jones,
18 and look through that and I'm going to ask you
19 some questions, and the other Board members
20 may have questions as well.

21 So I want you to look at the last page,
22 and do you see at the top, it looks like your
23 name is printed there?

24 A Yeah, it says, I, DeVae T. Jones declare under
25 penalties of --

1 Q That's right. That's where I'm looking. Did
2 you fill that out?

3 A Yes.

4 Q You filled out your name?

5 A Yes, I filled out, only this information on
6 the back cover.

7 Q You filled it all out?

8 A No, only on this back cover.

9 Q On the back cover?

10 A Yeah, only on the back cover.

11 Q You see where there's a line where you're
12 supposed to put the number of signatures? Do
13 you see that?

14 A Yeah. They told me just put 28.

15 Q They told you --

16 A Yeah, because you see where I marked it out,
17 I had 27 at first. But he told me to put the
18 whole 28, unless he was trying to do some type
19 of scam. You feel me? I don't really know
20 how it goes.

21 Q Who told you to put 28?

22 A Dustin.

23 Q Dustin.

24 A Yeah, Wefel.

25 Q Is that 28, do you see that 28 there?

- 1 A Yeah, I see it right here.
- 2 Q Is that your handwriting or is that Dustin's
3 handwriting?
- 4 A Right here this is my handwriting right here
5 on the back of it where it says 27, 28.
- 6 Q You did that?
- 7 A Yeah, I did that.
- 8 Q Is that your signature down below?
- 9 A Yes, sir.
- 10 Q Did you fill out the address? Is that your
11 handwriting there, as well?
- 12 A Yes.
- 13 Q I want to turn and look at the actual, where
14 the signatures are.
- 15 A Okay.
- 16 Q So if you look at the first page, it's all
17 blacked out; do you see that?
- 18 A Yeah, he said it wasn't legible, so he told me
19 to do it with a black marker.
- 20 Q Okay. Who --
- 21 A They was like real sloppy, like you couldn't
22 read it, and I ain't know. I just get
23 signatures.
- 24 Q Did you cross these names out?
- 25 A Yes, he had me cross these out.

1 Q He had you do it?

2 A Yeah, he had me mark them.

3 Q So he told you these were bad names and you
4 cross them out?

5 A Yes, sir.

6 Q So you did that on Page 1?

7 A Yeah, I did that on Page 1.

8 Q Then Page 2, you see they're crossed out?

9 A And there's three right there, and I marked
10 them down.

11 Q You did those?

12 A Yeah, that's what I'm saying. He told me to
13 put -- and then there's another one right
14 here. He told me to put the whole 28. Like
15 at first it was if you don't have 15 or 21 to
16 a packet, you wouldn't be able to get that out
17 of something -- I forgot what all he said
18 though, but I remember just like a little bit
19 of it.

20 Q So you made the cross-outs on the second page?

21 A On all these papers, I made all the cross-outs
22 on my papers.

23 By Mr. Hastings:

24 Q Mr. Jones, let me just ask, you did that
25 because Dustin told you to?

1 A Yeah, Dustin told me to.

2 Q You understood that by crossing those out,
3 that was less money you were going to get
4 paid, right?

5 A Yeah, that's what I'm saying. Yeah, some of
6 the signatures was sloppy too, and you all
7 probably wouldn't ever have been able to read
8 them, so.

9 Q Did you ask him, why are you having me do
10 this?

11 A Yeah, I asked him. Yeah, he said because
12 either they was either sloppy or they wasn't
13 eligible, but I know there's somebody out
14 there that can really read people's writing,
15 even the worst handwriting.

16 Q So he asked you to do it, and you did it?

17 A Yeah, yeah, and I did it.

18 Q You did it right there when you got in there?

19 A Right there on the spot.

20 Q He didn't do a lot of research or leave and
21 come back, he just looked at it very quickly?

22 A Yeah, he just looked at it, go through them.
23 I think he'll just look at the name, see if
24 it's registered. You see how it says, U.S.,
25 like right here, I have people they made

1 mistakes, but it says U.S. and start putting
2 the count.

3 MS. EDWARDS: No. 15.

4 A Yeah, 15 and same thing right here.

5 MS. EDWARDS: 16.

6 A Yeah. He told me to put them in there too.
7 He just told me if they ain't fill it out all
8 the way, put it in. The only thing I couldn't
9 do was do their signature and their first name
10 and their address. That's what he told me.

11 By Mr. McNair:

12 Q Thank you. I want to just make sure I got the
13 sequence. You would take this petition out.
14 You would go ask the questions. People would
15 sign them in front of you.

16 A Yes.

17 Q Were all the signatures of all the petitions,
18 were those from people who you saw sign them?

19 A Yes.

20 Q Then you would take it back across the street
21 here, correct?

22 A Yes.

23 Q Then you would fill out the back portion?

24 A Yeah, just only the back portion.

25 Q Then you would hand it to Dustin?

1 A Yes, sir.

2 Q Then you and Dustin would go through and he
3 would tell you which ones to cross out and you
4 would cross them out?

5 A Yeah.

6 Q So, would you agree with me, that before all
7 these cross outs occurred on this exhibit,
8 there were 28 signatures?

9 A Can you repeat that?

10 Q Yeah. The exhibit that you have in front of
11 you, before there were all these cross-outs,
12 there were, in fact, 28 signatures?

13 A Oh, yes, sir.

14 Q Therefore, 28 on the back of the page was the
15 correct number?

16 A Yeah. So what's this pertain to?

17 Q That's what we're trying to figure out.
18 You're being very helpful. Everything's fine,
19 okay?

20 A Okay.

21 By Mr. Hastings:

22 Q Mr. Jones, when you would bring in the
23 petitions, were there other people with you
24 sometimes that you'd go down there with?

25 A You said was there other people with me?

1 Yeah, we had a little team too. He said
2 I could make me a little team too.

3 Q They'd come down with you and you turned yours
4 in, they'd bring in theirs?

5 A Yes, sir.

6 Q Did the same thing happen? Did you see them,
7 the members of your team, scratch out names;
8 do you remember?

9 A Yes, they us do it separate, just because
10 something could be like in our favor, because
11 I don't know he really was trying to work the
12 work system. I was just trying to get a job
13 to get some money. I got a daughter.

14 Q So you saw other people do what you did when
15 you --

16 A No, he told me, he told me personally -- he
17 told everybody, we'll all come down there.
18 We'll meet up at 3:00 across the street.
19 We'll sit down there for two or three hours
20 while him checking our papers and going over
21 and crossing our names out. Then we'll get
22 paid, and then it'll be time for us to leave,
23 and then we'll go back out there. He'll give
24 us another stack of papers.

25 Q Would they give you a receipt, Mr. Jones, and

1 say this is how many signatures you turned in?

2 A Yeah, I got all the receipts at the house; all
3 of them.

4 Q So the number on the receipt, was it the same
5 amount of money you got paid all the time, or
6 no?

7 A No, it was always a different amount of money.

8 Q It was less?

9 A Yeah, it kept getting lesser and lesser and
10 lesser and lesser. I think they spent it all
11 on their honeymoon and went somewhere. They
12 left us in Florida. Like, that's what I'm
13 saying. I took a job with them. They left us
14 in Florida with no money to get nothing to
15 eat, none of that. My mom had to pay for me
16 to get back.

17 Q Mr. Jones, thank you. It's good to know that.
18 So you bring in signatures, thinking you have
19 28, then, if I'm understanding correctly, then
20 Dustin would say, you really only got 14 on
21 here?

22 A Right.

23 Q And you'd get a receipt for that?

24 A Right.

25 Q Then you'd get a check for maybe \$10 for that

1 one petition, because for some reason?

2 A Right, because some of them, probably, they
3 can't even read them, that's why I probably
4 think they marked out some of them, but most
5 of them, it shouldn't be that way. It was
6 like I had 10 packets full of signatures of
7 different people. I'd go all across Ohio to
8 get the signatures, and he telling me most of
9 them ain't like eligible. Then when I did my
10 little research and the lady was downstairs, I
11 think it's third floor where you can go look
12 yourself up in the computer. You can find
13 your address. I think that's what it is. A
14 computer downstairs, it's a database where you
15 can go get your voter's registration, where
16 you've registered to vote at, if I'm not
17 mistaken.

18 MS. EDWARDS: It's on the second
19 floor in the John Q. Public database, where
20 you can check signatures and check to see if
21 people are registered.

22 A Yeah, and then he wasn't doing it right. The
23 lady had to come over there to correct him,
24 and he got mad at her, and told her she wasn't
25 doing it right. How you going to tell her.

1 She just looked me up and found me in the
2 system and you couldn't even find me.

3 Q Who's him?

4 A Dustin Wefel.

5 Q Who's the him?

6 A Dustin.

7 Q So Dustin would come over here and check them?

8 A Yeah, Dustin would. He said he'll come over
9 here. But he only took me across the street,
10 because he thought like how's he getting this
11 many signatures. I'm just talking to people,
12 that's all I'm doing. I guess he was trying
13 to question my work.

14 By Mr. McNair:

15 Q I didn't follow this. Dustin would come over
16 here and sometimes you would come over here
17 with him?

18 A Yeah.

19 Q Please. He would check the names; is that
20 right, on the computer?

21 A Yes.

22 Q If he found that there was not a correct name,
23 did you see him cross that name out on the
24 part --

25 A No, he had me to cross out myself.

1 Q Did he have you do that only on your part-
2 petitions, only on your documents?

3 A No. Everybody else's. He made everybody else
4 do that.

5 Q So you guys were kind of like a team.

6 A Yeah.

7 Q He would check and he would say, cross that
8 one out; is that right?

9 A Yeah. It'd be like say we a grade, he show up
10 to work like a classroom. We'd swap people's
11 papers to make sure everybody did it right,
12 just to go over it. To make sure everybody
13 got it right.

14 Q So you were crossing out names on documents
15 that were other people went and got the
16 signatures?

17 A Yeah. We went and crossed out their's on
18 their own papers. We'll just go over it and
19 check them first and tell them you ain't like
20 --

21 Q So you were helping him check those names and
22 cross off ones that weren't registered,
23 correct?

24 A Yeah.

25 Q Those petitions that you were crossing names

1 out that weren't yours, were they filled out
2 on the back?

3 A Can you repeat that again?

4 Q Sure. Let's say I had a petition and I had
5 given it to him, so you guys had my petition.
6 Would I have filled out the back? Was mine
7 all filled out?

8 A No, you wouldn't have to fill out the back.
9 I'd just have to fill out the back and you'd
10 have to fill out the information right here.
11 You'd have to fill out all the information in
12 Box 15, and if you ain't fill out all the
13 information in Box 15, say if you forgot to
14 put your count --

15 Q Sir, what I'm trying to understand is, did you
16 cross out the names on part-petitions where
17 you did not fill out the back?

18 A Oh, no. I only crossed things out on here, on
19 my papers.

20 Q You only crossed out the ones that you
21 completed; is that right?

22 A Yes, sir.

23 MR. McNAIR: Thank you, that was
24 clarifying to me. I'm going to move on to
25 1588, Board Exhibit 11.

1 Q Mr. Jones, that's your signature on the last
2 page?

3 A Yes, sir.

4 Q You completed everything on the last page?

5 A Yes, sir.

6 Q And it says that there are 24 signatures. Am
7 I reading that correctly?

8 A Yeah, that's what --

9 Q Please.

10 A My bad, I'm sorry.

11 Q Is that your handwriting, that 24?

12 A Yes, sir.

13 Q Did you cross out all the various strike-outs
14 that are in this document?

15 A Yes, sir.

16 MR. McNAIR: I don't have any more
17 questions on that.

18 By Mr. Frost:

19 Q Mr. Jones, on this one that we're looking at,
20 there's a signature at Line 28 on the last
21 page of signatures?

22 A You said it's a signature?

23 Q Is there a signature on Line 28?

24 A Yeah.

25 Q Above that 27 has a signature, correct?

1 A Yes.

2 Q 26 looks like it had a signature, but it got
3 blacked out?

4 A Yes, sir.

5 Q And 25 had a signature?

6 A Yes.

7 Q Do you know why you would have filled in 24 on
8 the back when you had signatures down to Line
9 28?

10 A Because that's what I was just saying, he was
11 changing his mind. That's what I'm saying.
12 First he would tell us to put 24 and then when
13 we'd come back another week, he'd tell us to
14 put 28, put 28, put 28, put 28.

15 MR. FROST: Thank you.

16 MR. McNAIR: 1554, Board Exhibit
17 12.

18 (Board Exhibit 12 marked
19 for identification.)

20 By Mr. McNair:

21 Q Mr. Jones, did you fill out the last page on
22 that document?

23 A Yes, sir.

24 Q Including striking out your name on the line
25 and putting --

1 A Yeah this one's my first. This one right here
2 is when I first started. I didn't know where
3 to put my name right here, whether to put my
4 name. What day it was on here? We should
5 have put the date. As a matter of fact, the
6 date is on here.

7 Q Why did you put 27 on the last page; do you
8 know?

9 A Huh? What you say?

10 Q You put 27 signatures on the last page,
11 correct?

12 A Yes, I did. He had me cross that out.

13 Q If I go down to Line 27 on the signatures,
14 there's a signature there, correct? Do you
15 know was there a signature on 28 that got
16 crossed off?

17 A Yeah, I knew about that one.

18 Q I'm sorry?

19 A I said, yes, I knew about that.

20 Q Do you recall specifically, today, that there
21 was a signature on Line 28 on this document?

22 A Yeah, but it wasn't all the way filled out.

23 Q So why did you put 27?

24 A Because he told me to. I was just doing the
25 work. I was just listening.

1 MR. McNAIR: Any other questions
2 on Board Exhibit 12?

3 (No response.)

4 MR. McNAIR: 1308 is Board Exhibit
5 13.

6 (Board Exhibit 13 marked
7 for identification.)

8 Q Mr. Jones, are you the one that filled out all
9 of the information on the back page, the last
10 page?

11 A Yes, sir.

12 Q Were there 28 signatures in this document, as
13 far as you know?

14 A Yes, sir.

15 Q Yes?

16 A Yes.

17 MR. McNAIR: I don't have any more
18 questions?

19 By Mr. Hastings:

20 Q Mr. Jones, on that last exhibit on the first
21 page, No. 1.

22 A No. 1.

23 Q So you marked that one?

24 A Yeah, I did all that with a black magic
25 marker.

1 Q Dustin asked you to?

2 A Yeah.

3 Q Did Dustin just look at it and say, we can't
4 read these names and told you to mark them
5 off?

6 A Yeah, yeah, he said just mark them off;
7 they're not legible for real.

8 MR. HASTINGS: Thank you.

9 MR. McNAIR: Mr. McTigue?

10 MR. McTIGUE: No questions.

11 MR. McNAIR: Mr. Mason.

12 MR. MASON: Yes, one second
13 please.

14 CROSS EXAMINATION

15 By Mr. Mason:

16 Q You had started off, Mr. Hastings had asked
17 you a question -- Mr. Hastings is the one on
18 the left -- had asked you a question, and you
19 stated that the lady out there told you, and
20 then you went off on another subject. What
21 lady out there are you referring to?

22 A Um, I don't know her name exactly. If I knew
23 her name exactly, I would tell you.

24 Q What does she look like?

25 A She's light skinned.

1 Q Was she wearing red, a red outfit?

2 A Yes, she was wearing red. I think she works
3 for you all or something.

4 Q No, she doesn't work for me.

5 A Yeah, she just told me she works for you all.

6 Q What else did she tell you while you were out
7 in the hallway?

8 A What else she tell me?

9 Q Yes.

10 A She wasn't telling me nothing. She was just
11 telling me about what she did.

12 MR. McNAIR: Sir, can you speak --
13 I know you're answering Mr. Mason's questions.
14 Can you speak into the mic and speak to us,
15 because we also need to hear.

16 THE WITNESS: Speak into the mic.
17 My bad, I'm sorry about that.

18 A She was telling me about what petitions she
19 did and when she had went to Florida. That's
20 all, basically, what she was saying. She said
21 she had worked for you all, and I was asking
22 her, I'm like -- she said that you all didn't
23 have no validity program to check the
24 validity, and I'm like, if you all didn't have
25 no validity program to check the signatures,

1 how was they going to be validated, and how is
2 there a validity if you all have no software
3 or program to use to check validity.

4 MR. McNAIR: Thank you.

5 Q What else did she tell you?

6 A That's it.

7 Q So you circulated a lot of petitions over the
8 Summer, Fall; is that correct?

9 A Yes, sir.

10 Q You became one of the stars; didn't you?

11 A Yes.

12 Q You were on the team?

13 A Yeah, I became of their top.

14 Q You're one of their recruiters?

15 A Yeah.

16 Q You're one of the trainers?

17 A Yes.

18 Q You know the whole game, right?

19 A Yes, sir.

20 Q But you got paid the same as everybody else?

21 A No, some type of people he was paying under
22 the table.

23 Q What do you mean by that?

24 A He's have some people come work for him all
25 the way from Michigan to come out here, you

1 know, and they'd be paid differently from us.

2 Q What do you mean by that, though?

3 A He'd like play some favoritism, like, say he
4 like her, he don't like him, he like him a
5 little bit, but he going to keep talking to
6 him the same way, trying to -- you know,
7 people be trying to mess with people's minds.

8 Q Let's stick with that paid under the table.

9 MR. McTIGUE: Mr. Chairman, I'm
10 just going to make an objection to the line of
11 questions. Again, I understand it's
12 interesting, okay, and in another forum maybe
13 it should be pursued further, but it's
14 certainly outside of the scope of the
15 Directive, which is two issues. Otherwise we
16 could go over every single thing related to
17 that could be an issue on circulation of a
18 petition.

19 MR. McNAIR: Okay.

20 MR. MASON: I would submit to you
21 that there is evidence, and we're hearing it
22 here today, that there's a systematic pattern
23 of falsing petitions, a pattern of correcting,
24 a pattern of the team getting together and
25 crossing out petitions. This very question

1 drives right into what DRW was doing. If they
2 were committing election fraud and they were
3 giving people cash, they were committing
4 crimes, and we should ask about those
5 questions, because they will bear out on all
6 of these petitions on the ultimate question of
7 whether you believe something right or wrong
8 was happening. I suggest to you that if that
9 stuff's going on, anything's possible that
10 they would do.

11 MR. McNAIR: Okay. I'm going to
12 sustain the object because --

13 THE WITNESS: (Inaudible.)

14 MR. McNAIR: Sir, please. I'm
15 going to sustain the objection because whether
16 people were getting paid under the table or
17 not, I don't think goes to the issues for this
18 hearing. So, Mr. Mason, please continue.

19 By Mr. Mason:

20 Q Prior to coming here today, did you talk to
21 anybody else on the team?

22 A Yes, I talked to Haley and she found -- she
23 would have this little dude, I guess it was
24 her man --

25 Q Her man, meaning?

1 A Her fiance or something. Her fiance was
2 throwing the papers all across the parking
3 lot. He through all of the petitions across
4 the parking lot.

5 Q Did you talk to Dustin before you came here?

6 A Well, that's the thing too. Dustin was
7 leaving and coming back and forth from here to
8 Michigan, telling us one thing when somebody
9 then here tell us, oh, I'm just going to pay
10 you to stay.

11 Q I'm sorry. But I'm referring to today's
12 hearing, not about any of the other stuff.

13 A No, I ain't talked to him ever since.

14 Q Have you talked to anybody in regards to
15 today's hearing?

16 A Oh, no.

17 Q When you went down onto the second floor, how
18 many times did you go down to the second floor
19 to check signatures?

20 A We only went twice.

21 Q Two times?

22 A Two times.

23 Q How many part-petitions and petitions did you
24 turn in over the whole --

25 A Man, all together it'd be like I turned in

1 like almost 100 of these packets, almost 100
2 of these packets.

3 Q When did you check those petitions?

4 A That day, I take them home first, because what
5 I would do, he said I could either be paid
6 Monday or Thursday, so I would wait a whole
7 week. I'd stack up all the papers and then
8 take them in Thursday. At the house, I'd go
9 over them myself and then I'd go in there.
10 He'd tell me to mark them off.

11 MR. McNAIR: Sir, please speak to
12 us, so I can hear.

13 THE WITNESS: Oh my bad. I'm
14 sorry, I keep doing it.

15 A He told me, it's kind of I'm a shy person, you
16 know.

17 MR. McNAIR: We're you taking your
18 part-petitions home?

19 THE WITNESS: Yeah, I was taking
20 mine home, making sure they're double-checked
21 before I just turned them in, making sure how
22 many I had counted.

23 MR. McNAIR: Thank you. Anything
24 else?

25 MR. MASON: Yes.

1 By Mr. Mason:

2 Q On the last page of these petitions, you're
3 aware that it says on the bottom, that whoever
4 commits election falsification is guilty of a
5 felony in the fourth degree; are you familiar
6 with that?

7 A No, I didn't read that. I just was --

8 Q You never read that?

9 A No, I just was getting them signed because it
10 was a little job. It was easy.

11 Q So are you aware of that or aren't you aware
12 of that?

13 A Now I'm aware of it.

14 Q You're swearing to these gentlemen, you're
15 telling the truth about --

16 A I swear to God I'm telling the truth.

17 Q And that it's a crime to lie to them right
18 now; you know that?

19 A Yeah, that's a big crime. I know.

20 Q Let's go back to the questions I asked you
21 about who you spoke to before you came to this
22 hearing today?

23 A Oh, nobody. I spoke with no one.

24 Q Just the lady out in the hallway?

25 A Just the lady out there, that's all.

1 Q How about last week, did you talk to anybody?

2 A Yeah, but I wasn't even really talking to her.
3 She was like waiting by herself.

4 Q Who's she?

5 A The lady out there. She like waiting --

6 Q No, no, no. Last week did you speak to
7 anybody --

8 A Oh, no, sir.

9 MR. McNAIR: About coming here, I
10 don't want generally who did you speak to
11 about coming here.

12 A The only person I talked with was the person
13 in my hospital. I was just in the hospital
14 yesterday. I just got released yesterday.

15 Q So what person is that? Who was that?

16 A It was at Charity Hospital.

17 Q No, no, not the hospital. What person did you
18 speak with? I'm sorry.

19 A Just the people at Charity Hospital.

20 Q Nobody on your team, is what I'm getting to?

21 A Nobody.

22 Q You've not talked to any of your members on
23 the team or the guys who took you to Florida;
24 you haven't talked to any of them since the
25 time you were in Florida?

1 A I haven't talked to none of them since I was
2 in Florida.

3 Q Thank you. Now these petitions, in
4 particular, petition 1308, the last page, see
5 where it says where the number of petitions;
6 there's number 28 there?

7 A Yeah, and that it has some marking up there.

8 Q Yeah, that looks like that was scribbled out,
9 in my opinion, six times.

10 A Yeah, he told me to scribble it out because
11 what I'd do is, first I had the number
12 (unintelligible) then it would be like 13.
13 Then I had -- he had say just put the whole 27
14 instead. Like at first, when I came and
15 started working, he told me to re-correct the
16 other page --

17 Q What do you mean by the first time when you
18 came; what do you mean by that?

19 A The first time I came, he'll tell me to put 14
20 instead of the whole 28; put 14 instead of the
21 whole 28. Then when I come back the next
22 time, he'd just tell me to put the whole 28.
23 Like he was saying he was trying to commit
24 some fraud-type stuff.

25 Q He was committing fraud by asking you to do

1 that?

2 A Yeah.

3 MR. McTIGUE: Objection, calls for
4 a legal conclusion.

5 Q Well, you thought what he was doing was
6 illegal?

7 A Yeah, basically.

8 Q And you did it anyway?

9 A No, I told me mother to come get me so I could
10 stop doing these petitions because I wasn't
11 getting paid. I would get no food.

12 Q You're referring to that, like at the
13 beginning, when we first started, right?

14 A Yes, sir.

15 Q That's how all these scribblings got on that?

16 A Yeah, I ain't know that at first until we got
17 to Florida until they started being fishy.

18 Q I don't want to know about Florida. I just
19 want to know about Cuyahoga County.

20 A Oh yeah, when I was up here. All right. I'll
21 pay attention (inaudible).

22 Q Let me ask you another better question. Open
23 up that same part-petition, and go to the
24 second page --

25 MS. EDWARDS: 1308?

1 MR. MASON: 1308, yes.

2 Q -- and look at the sixth signature.

3 A All right. One, two, three, six, right here.

4 Q Do you see the date on there, 10; what's the
5 date?

6 A You said what's the date?

7 Q Yeah.

8 A You can't see the date.

9 Q You can't see the date?

10 MS. EDWARDS: Are you on 1308?

11 Q Yeah, 1308. Line signature No. 6.

12 A You can't see no date.

13 Q Oh, I'm sorry, it's No. 8. I'm sorry.

14 A No. 8. All right, 10/18/15.

15 Q I'm looking at the third page, or the first
16 page in which there's clear signatures, which
17 I believe begins with No. 8. What is the date
18 for the signature on No. 8?

19 A 10/18/15.

20 Q October 18, 2015, correct?

21 A Yes, sir.

22 Q When did you begin circulating petitions? I
23 thought you stated earlier, you started doing
24 it in the Summertime.

25 A You said what?

1 Q When did you first circulate your first
2 petition?

3 A I think it was like end of, I think, the end
4 of June.

5 Q So you've been doing this for six months?

6 A Yeah.

7 Q You're pretty good; you're a veteran, right?

8 A I wouldn't say all that.

9 Q Well, you just testified that this was one of
10 the first petitions and that that's why
11 there's so many scribbling out on there,
12 because you were correcting it, because you
13 really didn't know what you were doing at that
14 time; that's what I inferred from it; is that
15 correct?

16 A Right, correct.

17 Q Well, this petition was signed on October
18 18th, which was five months after you've been
19 out circulating and joining the team; is that
20 right?

21 A Yes, sir.

22 Q So that's not a fair statement that you just
23 made now, is it?

24 A No.

25 Q So what is it; why do we have these seven or

1 six scribble outs on that last page?

2 A Because he'll tell us to mark them out,
3 because they're not legible.

4 Q Okay. So tell me if I'm wrong, but it looks
5 like there's six times you have dates on
6 there. He told you six times to change the
7 date?

8 A Yeah.

9 Q How did that happen?

10 A Well, we'll come in and sit down and talk with
11 him, and go over it, and review the papers.

12 Q So you did that on this petition six different
13 times?

14 A Yeah, right here, this one -- there's a couple
15 of them --

16 Q I want to talk about this one.

17 A Yeah.

18 Q You did that six times?

19 A Yeah, to make sure.

20 Q Tell us how that happened.

21 A Because I'll go over it myself and sometimes I
22 make a mistake myself. You know, like
23 everybody make mistakes. You go over it, you
24 probably think you got one you counted, you'd
25 be like, one, two, three, four, five, six, but

1 it'd be really seven.

2 Q Okay, so then you'd scribble that one out?

3 A Yeah.

4 Q And then you'd turn the petition in?

5 A Right.

6 Q So how did you get it back to scribble it out
7 again?

8 A I'd go over it. He'll keep -- I'll go back
9 over it myself.

10 Q You expect us to believe that?

11 A You should.

12 MR. McNAIR: Mr. Mason, would you
13 move on please?

14 MR. MASON: Yeah.

15 Q Okay, so you did that on six occasions, huh?

16 A Yes, sir.

17 Q Re-scribbled out this petition and re-looked
18 at it and re-added them up?

19 MR. McNAIR: Mr. Mason, please
20 move on.

21 MR. MASON: All right.

22 Q Each time you turned in your petitions, you
23 sat down there for two to three hours?

24 A Yes, because I had to wait on my paycheck.

25 Q They paid you immediately right after that?

1 A Yes, sir, and then I go to the bank and cash
2 it (inaudible).

3 THE WITNESS: Excuse me, can I say
4 something?

5 MR. McNAIR: I'm sorry?

6 THE WITNESS: I said, can I say
7 something?

8 MR. McNAIR: If it's responsive to
9 a question that's been asked and it will fill
10 out your answer, then yes, you may.

11 THE WITNESS: I wanted to know how
12 would I be able to get paid for the signatures
13 that I didn't get paid for?

14 MR. McNAIR: That's an issue that,
15 unfortunately, we cannot address. You'll have
16 to speak to somebody else about that.

17 THE WITNESS: Do you know who I'll
18 have to go through?

19 MR. McNAIR: I can't really
20 counsel you on that.

21 By Mr. Mason:

22 Q Mr. Jones, have you been convicted of any
23 felonies?

24 MR. McTIGUE: Objection.

25 MR. McNAIR: Fair enough.

1 MR. MASON: One last question,
2 unless you're going to let him answer that.

3 MR. McNAIR: I will let him answer
4 it.

5 A I have, but they've been marked down as
6 misdemeanors.

7 Q What were those for?

8 MR. McTIGUE: Objection.

9 A One was for assault -- excuse me why --

10 MR. McTIGUE: Objection. What does
11 it matter what it was for? It's a
12 misdemeanor.

13 THE WITNESS: Yeah.

14 MR. McNAIR: Fair enough. I
15 assume Mr. Mason's trying to press him to make
16 sure he's being accurate. Fair enough. Let's
17 move on.

18 MR. MASON: Last question.

19 Q The magic marker. Where did you get the magic
20 marker to strike out those?

21 A They'd supply us with the magic marker.
22 They'd come in with a box. It's still
23 probably like two or three printers in the
24 storage over there if you go check, if you all
25 get the keys.

1 Q I just want to talk about the magic markers.
2 So they had these wide magic markers that they
3 used to strike these petitions?

4 A Yes. First, I remember, the first time we
5 went, first time we went there, they'd do it
6 their selves, but then they start telling us
7 to do it after like --

8 Q So they did strike some of those petitions?

9 A Yeah, after they got familiar with our faces,
10 you feel like --

11 Q Let me just make sure, I don't want to put
12 words in your mouth. They struck some of
13 those petitions for you?

14 A Yes, sir, at the beginning.

15 Q How many petitions do you think they did for
16 you?

17 A Like my first whole packet. My first turn-in
18 was what, 14 packets. So that's like 14 times
19 28.

20 Q 14 petitions, and they did that for you?

21 A Right.

22 Q Would you be surprised if I told you that
23 those same black magic markers were used all
24 over the State of Ohio to do the exact same
25 thing?

1 MR. McTIGUE: Objection.

2 MR. McNAIR: No, not that
3 question.

4 MR. MASON: No further questions.

5 MR. McNAIR: Thank you. Anything
6 else?

7 (No response.)

8 MR. McNAIR: Mr. Jones, thank you
9 very much for coming down. I'm sorry you just
10 got out for whatever medical issue you had and
11 had to come down here. I very much appreciate
12 your help. So have a good day.

13 (Witness excused.)

14 MR. McDONALD: We have one more, but
15 she's not a circulator. She is a
16 representative, I'm assuming. She was one of
17 the Ohio Petitioning Partners.

18 MR. McNAIR: Okay, but before we
19 do, I think we're going to take a five minute
20 break, ten minute break.

21 (Recess taken.)

22 MR. McNAIR: Ms. Louder, welcome.
23 Would you come up to the microphone, please?

24 PAMELA LAUTER
25 Of lawful age, having been first duly sworn, was

1 examined and testified as follows:

2 DIRECT EXAMINATION

3 By Mr. McNair:

4 Q Would you please state your name for the
5 record?

6 A Pamela J. Lauter.

7 Q Ms. Lauter, I understand that you have a
8 relationship with one of the companies that
9 circulated petitions in this matter?

10 A Which company?

11 Q A particular company?

12 A Yes.

13 Q A company.

14 A Yes.

15 Q Tell us a little bit about your company and
16 what you did, in terms of circulating
17 petitions with respect to this particular
18 issue.

19 A I'm not understanding what you mean exactly.
20 I am Ohio Petitioning Partners. So I was a
21 coordinator for the Youngstown area and I also
22 collected signatures in Cuyahoga County.

23 Q How long have you been in business?

24 A My LLC has been in business, it'll be two
25 years in March. I personally have been a

1 petitioner since 2007.

2 Q How is it that your company became involved in
3 this petition drive?

4 A I work on lots of different issues. When
5 there's a State-wide petition that goes on in
6 the state, I, you know, I'm usually involved
7 in some way, shape or form if, in fact, I'm in
8 the state. Sometimes I'm working outside of
9 the state, so...

10 Q I want to focus, principally, on your work in
11 Cuyahoga County.

12 A Okay.

13 Q I don't know, how many petitions did you
14 submit to this agency; do you know?

15 A Quite frankly, probably the least amount of
16 anybody, because my main concentration was to
17 run the Youngstown office. So until,
18 probably, until like October, I wasn't even in
19 the Cuyahoga County area, except this is where
20 I live, obviously. I was driving back and
21 forth to Youngstown.

22 Once I left the Youngstown office, I
23 did some collecting of signatures here and
24 there, but I was not a coordinator in Cuyahoga
25 County, I was a coordinator in Toledo, and I

1 was only a petitioner in Cuyahoga County.

2 Q So does your company have the same approach to
3 trying to get petitioners, circulators, from
4 one county to another? Do you have the same
5 process by which you go about trying to find
6 circulators?

7 A I basically look for the circulators to be
8 local within the county that I'm in. I'm not
9 a person that has people travel around to
10 different counties or any of those kind of
11 things. When I'm in a county, I prefer to
12 hire the people that live there in that
13 county.

14 Q How do you go about hiring those people?

15 A Newspaper ads, Craigslist, sometimes they're
16 flyers, sometimes they're little tickets that
17 we leave on a little counter at a convenience
18 store or gas station that says, if you're
19 looking for work, now hiring.

20 Q If somebody responds positively, do you
21 typically have an in-person interview?

22 A Yes. They come to what's called an
23 orientation where we talk to them about what
24 the petition drive is, what qualifies a person
25 as a signer; things of that nature.

1 Q Do you give them anything in writing about
2 instructions?

3 A Not if they're not going to carry the
4 petition. If they carry the petition, they
5 get something in writing from me in regards to
6 instructions of what to do and how to do it,
7 absolutely.

8 Q Did you have instruction with respect to this
9 petition drive?

10 A For my Youngstown people, absolutely,
11 absolutely.

12 Q To the extent that there was anybody in
13 Cuyahoga, you would have given them the same
14 instructions?

15 A Anybody that works for me gets the very same
16 paperwork, the very same independent
17 contracting agreement, the very same statement
18 of the law, that you have to be a registered
19 voter to sign, you can't use P.O. Boxes; those
20 kinds of issues, absolutely.

21 Q Would you produce whatever those documents are
22 to us for our review?

23 A I don't have them with me. I can absolutely
24 -- sure, positively.

25 Q So what I would like to see and my colleagues

1 may want to see additional materials, but I
2 would like kind of the standard packet that
3 you have, in terms of if there's material
4 related to the orientation, what you say in
5 the orientation.

6 A Okay.

7 Q What you give circulators, what a typical
8 circulator signs to work with you.

9 A Okay.

10 Q How do you compensate the circulators?

11 A They're paid based on the number of signatures
12 that they get on the ratio of the validity
13 that they bring in.

14 Q On the ration of the validity that they bring
15 in?

16 A Here's the example.

17 Q Yes, good.

18 A This is the example that I would give to you
19 if you were coming in to potentially work for
20 me. I would say this: If, in fact, you bring
21 100 signatures, and at least 75 percent of
22 those signatures are valid, which means they
23 are registered to vote, they are registered to
24 vote in the address in which that they put on
25 that form, then we give 100 percent pay.

1 Because we know in this business and in this
2 industry that knowingly or unknowingly, some
3 people are just not going to tell you the
4 truth, for whatever reason. Maybe they don't
5 remember it, maybe they don't know it, or
6 maybe they just don't want to tell it to you.

7 So we know that there's about a 25 --
8 usually the ratio is about 20 percent of
9 people, for whatever reason, don't tell you
10 the truth. So we give that leeway, okay. So
11 I tell you as a potential petitioner, if
12 you're bringing me 100 signatures and 75
13 percent of those signatures are valid, we're
14 going to be able to pay you on 100 percent of
15 those signatures, because we know you've asked
16 everybody every question, you did your due
17 diligence.

18 However, if you bring me 100 signatures
19 and only 50 of those signatures are good, then
20 I'm going to say, how come you didn't ask them
21 if they moved since they voted, or when the
22 last time was that they voted; how come you
23 didn't do your due diligence and asked them
24 the questions that we told you, you needed to
25 ask to make sure this person was a registered

1 voter. And then they get paid accordingly.

2 MR. McNAIR: I want to stop for a
3 minute and try to get some help from staff
4 here. There are two issues that the Secretary
5 has asked us to look at, as I understand it.
6 One is these kind of bold strike-outs, and the
7 second is the disparity between the number of
8 signatures on the petition, and the number
9 that the circulator has verified. What kinds
10 of problems have we had with this company
11 regarding those two issues? Do we know?

12 MR. PERLATTI: With this company on
13 this drive or just in general?

14 MR. McNAIR: Well, this drive,
15 first of all.

16 MR. PERLATTI: I don't know if this
17 a 100 percent correct statement, but I don't
18 think we dismissed very many petitions at all
19 for the number of signatures exceeding the
20 number in the circulator clause.

21 MR. McNAIR: What about the
22 strike-out issue?

23 MR. PERLATTI: As far as did this
24 company's petitions have strike-outs?

25 MR. McNAIR: Yes.

1 MR. PERLATTI: That, I don't know
2 that answer.

3 Q So, when you get a petition, is it your normal
4 procedure to review that petition, at least
5 superficially, when somebody brings that
6 in? What is that process?

7 A I'm sorry, I misunderstand.

8 Q You've hired me to be a circulator. I bring
9 in five part-petitions. What do you do with
10 those?

11 A Well, usually, we don't take part-petitions
12 unless they have a certain number. We always
13 ask that the petitioner tries to bring us a
14 full book. What happens if they don't bring
15 us a full book; is that what you're asking?

16 Q Let's start with a full book. It's a full
17 book, I bring it to you; what happens next?

18 A That could depend on a number of things. If
19 you come into a turn-in and you're the first
20 one to come into a turn-in, and there's not a
21 lot of other people in the office, especially
22 if you're not a seasoned professional, you
23 haven't petitioned many times before, say
24 you're new. This is your first time you've
25 ever turned in. Nobody else is in the office.

1 I then have the time where I can sit down and
2 go through your pages with you and say, hey,
3 listen, you got a P.O. Box here, people can't
4 have P.O. Boxes on here. You got this guy
5 here is from Summit County, you can't include
6 Summit County, because you know this is a
7 Cuyahoga County book. You can't intermix your
8 stuff.

9 What happens once turn-in is full swing
10 underway and there's 30 people in the office
11 at one time, does everybody get that
12 individual attention each and every time? I
13 can't say yes. I would say absolutely not.

14 Q So you just take them, the people leave, and
15 then do you check them later?

16 A What happens when they first come in for turn-
17 in, I very loudly will say, everybody make
18 sure you're checking your work before you turn
19 it in. No P.O. Boxes, no out of counties, da
20 da da da. Do these people listen? Some yes,
21 some no. Some just turn them in thinking
22 maybe we never going to look at them and
23 they're just going to get paid and we're never
24 going to go through the pages and see that
25 they've got five people from two different

1 counties. You understand what I'm saying?

2 Q So for the person that does listen, and say,
3 look, I've got two bad P.O. Boxes, I got an
4 out of county; what do I do?

5 A Sometimes they'll bring the paperwork in and
6 have already lined it through. Some people,
7 unfortunately, are very lazy, and instead of
8 taking that time at home to do that stuff when
9 they should, they put it upon administration
10 to do that for them, because they don't want
11 to do it; they don't want to take the time to
12 do it. So they may bring me 28, but they'll
13 say on their receipt, they only have 21
14 signatures because they know that seven of
15 them don't count some way; they're either from
16 the wrong county, they're from a P.O. Box, or
17 something of that nature.

18 Q So then, do you have them cross them out? Do
19 you cross them out? What do you do with those
20 ones?

21 A They are supposed to cross them out. They are
22 supposed to have done all of that work before
23 they bring their turn-in. But if they flop
24 that turn-in in and somebody doesn't realize
25 that they have not gone through their work and

1 done what they're supposed to, somebody has to
2 do that for payroll purposes. Somebody has to
3 do that purging, so the people are not getting
4 paid on signatures that are not going to
5 count.

6 Q So your staff goes through and checks them,
7 and then if they're bad, what do you do?

8 A And it's usually myself, actually. If they
9 are from Summit County and they are not from
10 Cuyahoga County, a line can go through it.

11 Q You'll put a line through it?

12 A I put a line through it. Or, depending on the
13 contractor that hires me as a subcontractor,
14 and the guidelines that they set before, some
15 companies want to use a black washable marker
16 and they use a washable marker purposely, so
17 that everything can be seen behind it, so that
18 anybody looking at it knows why it's been
19 stricken, because they can still read
20 everything that is behind that -- and that's
21 just for simplicity purposes of when you're
22 processing a mass amount of paperwork, that
23 you're able to go through the pages, flip
24 through them quickly, and know that there are
25 five black stripes, so you know that the

1 balance is what gets paid out on. That's the
2 only purpose for that is for purging, for
3 purposes of payroll.

4 Q So you've doing this since 2007?

5 A Yes.

6 Q You've been doing it for your own company and
7 you also have your own company act as a
8 subcontractor for other companies?

9 A Correct.

10 Q And you've also done this on your own or
11 something, before you formed your current
12 company?

13 A Correct. And every contractor that I've
14 worked for has a different rule. Some
15 contractors may say, don't line out a thing,
16 and others will say, strike out the ones. So
17 I'm doing what I am being told to do by the
18 contractor or the subcontractor or whomever
19 has enlisted me to continue the process.

20 Q So since 2007, how many of these contractors
21 or subcontractors have you worked for?

22 A In just this state or all over the country?

23 Q Just Ohio.

24 A Probably, maybe six.

25 Q Do you remember how many of those used the

1 strike-outs and how many said don't strike-
2 out?

3 A I would say one company said don't strike-out.
4 The others have all said, you got to do a
5 strike-out.

6 Q Why do they do that? What's your
7 understanding as to why they do that?

8 A It's for purging purposes, so that we don't
9 accidentally pay people on signatures that are
10 not any good. So when you come and do your
11 turn-in, I give you a receipt that says rough
12 count, which means this is a good idea between
13 you and me, at a glance, of how many
14 signatures that you have. But once somebody
15 goes through and starts doing the scrutinizing
16 page by page, to do the validity and all of
17 the other things inside that deck that need to
18 be done, that's when you go, oh, everybody
19 missed this guy from Summit County or
20 everybody missed this one that was in here.
21 It happens.

22 Q So on this drive, if I work for you and I was
23 80 percent to the good, and I brought in 24
24 signatures, how much would you pay me?

25 A If as long as you're over that 75 or that 70

1 percent, whatever the contractor puts on it;
2 sometimes it's 70, sometimes it's 75 --

3 Q I'm taking your hypothetical --

4 A If all 24 signatures, you've got 80 percent
5 validity, you're getting paid for 24
6 signatures.

7 Q How much am I getting paid per signature?

8 A It depends on the petition drive. All
9 petition drives are different. It also
10 depends on what county you're working in,
11 because different counties pay different
12 amounts for different purposes.

13 Q Is all of that laid out in the contract I
14 would sign with you?

15 A The original price for the original petition
16 usually is, but the reason why you can't put
17 it all in there is because things change.
18 Because as you're in a petition, suddenly you
19 might have thought a county was qualified
20 that's not qualified, and suddenly there's
21 something on the board when you come in for
22 turn-in that says, for the next two weeks, you
23 get \$2 a signature if you work in this county
24 instead of this county.

25 Q Okay.

1 A So everybody's aware when there has been a
2 price change, they just may not be aware in
3 that way in their contract because it
4 fluctuates and it changes, sometimes, every
5 two or three days, depending on where we are
6 in the petition drive and the nature of the
7 petition.

8 MR. McNAIR: I'm going to look at
9 my notes. I'm going to ask my colleagues if
10 they have some questions. And staff, as well,
11 of course.

12 MR. McDONALD: To answer your
13 question, besides Ms. Lauter, there was three
14 other circulators that submitted petitions,
15 and they were all balanced. There was no
16 difference between the number on the
17 circulatory clause and the --

18 MR. McNAIR: So no issues, with
19 respect to this company, no issues that the
20 directive has asked us to focus on?

21 MR. McDONALD: Well, there are
22 blacked out lines.

23 MR. McNAIR: Blacked out lines,
24 okay.

25 MR. McDONALD: But no disparity

1 between the number and the amount.

2 By Mr. McNair:

3 Q That would be consistent with what you said,
4 is that you are blacking out the lines, so
5 that you know, in terms of an accountability
6 perspective, how much to pay people?

7 A Correct.

8 Q Then do you keep copies of all of the
9 petitions that you --

10 A Oh, heavens to Murgatroyd, no, that would be
11 insanity. No, that would be a daunting task.
12 Just the fact that the State makes them have
13 to be scanned in is a daunting task. No,
14 nobody would go to that trouble.

15 Q Okay.

16 A Now, if it's a local option, I might keep
17 copies of it for my marketing purposes, but on
18 a statewide that would just be insane.

19 Q For the other folks that we had here, none of
20 whom, I think, worked with you, we spent some
21 time about the last page where they fill it
22 out --

23 THE WITNESS: I'm having a hard
24 time standing, is there a chair.

25 MR. McNAIR: Yes, certainly.

1 THE WITNESS: Thank you, so much.

2 MR. McNAIR: Do you want to sit
3 down?

4 THE WITNESS: I'm off my feet. I'm
5 good now. Yeah, I'm okay now.

6 Q Do you ever fill out any part of the last page
7 of the petitions?

8 A What do you mean the last page? They have to
9 fill out their circulator statement. I may
10 fill out the name of my company, only because
11 I get so tired of people doing it wrong and I
12 don't want the wrong information in there,
13 because -- you know, like I'll have people
14 spell the name of the company wrong. So I
15 much rather put the name of the company in
16 there myself, because I actually know how to
17 spell it and I know the address, and I don't
18 make any mistakes.

19 Q Okay, but on the statement, you have them
20 print their name?

21 A Oh, absolutely. Everybody has to print their
22 own name and sign their own name. Absolutely.

23 Q You have them put the number of signatures or
24 do you ever -- how does that work?

25 A When I first hire you, I will beg you and I

1 will beg you over and over, please don't put a
2 number in there, until we sit down together and
3 do it the first time, so you don't do it
4 wrong. What happens when they bring in the
5 paperwork, I turn it over, low and behold,
6 they've put a number in there. Sometimes,
7 it's a right number, sometimes it's the wrong
8 number.

9 Q If you sit down with them, and you find out
10 it's the wrong number, then what do you do?

11 A Well, it needs to be changed at that point.
12 They need to initial it, they need to strike
13 out what they put on it, and they need to put
14 the correct number on there.

15 Q Do you ever put the number in, in advance?

16 A Never. No, no. I tell them not even to sign
17 -- I teach them you cannot even sign your name
18 on the back of that -- because it never fails,
19 I'm in an orientation and somebody wants to
20 jump ahead of the world, and they want to whip
21 out their pen and they want to start signing
22 the back, do not sign the back of that
23 declaration. Well, why not? Because that
24 declaration says you have overseen all the
25 signatures that have gone inside there. Are

1 there any signatures in there yet? No. What
2 are you signing it for? You haven't overseen
3 any signatures. You can't put that in, in
4 advance. You have to do it in the end. Now,
5 can they print their name in that slot in
6 advance, so that nobody walks off and steals
7 their paperwork, sure. But they cannot
8 legally sign off on the back of that, in my
9 mind, until that book is filled, done and is
10 ready to be turned in.

11 Q Who paid your company?

12 A PCI paid my company, another political
13 campaigning organization.

14 Q Do you have a contract with PCI?

15 A I do not.

16 Q So where are the terms and conditions of your
17 agreement with PCI?

18 A There isn't any.

19 Q Is it verbal?

20 A It's just, we do business together and we turn
21 in signatures, we get paid. I've never had an
22 issue with that company that I've needed to
23 force them to sign any type of a contract with
24 me. They do always though, get a 1099 from
25 me, they always get the W-9 from me, you know,

1 my Social Security and that type of stuff.
2 But do I sign an independent contracting
3 agreement with them, like I have my individual
4 petitioners? Not necessarily. Sometimes I
5 do, sometimes I don't. It depends on what
6 area we're in, I don't know. I won't say I
7 always have. I will say, at one point,
8 I have, so if that continues, I don't feel
9 like I need to sign one for every project, in
10 other words. You understand what I'm saying.
11 When I signed one with them years ago, I'm
12 saying that that still continues to be in
13 effect as of today.

14 Q So they don't give you any specific
15 instructions about what you need to do in
16 terms of how you treat the circulators you
17 hire, because you've had this ongoing business
18 relationship with them?

19 A No, they can't, and one of the reasons why is
20 when you're an independent contractor, you can
21 only tell people certain things, before they
22 can be potentially deemed as an employee by
23 the State. So, unfortunately, contractors and
24 subcontractors alike, have come to the
25 practice of you have to give the things that

1 are lawful, but you can't tell them when to
2 work, where to work, how to work, how long to
3 work, any of those kind of things because once
4 you do that, now you're into a completely
5 different realm of a situation.

6 Q I'm trying to understand if they give you any
7 specific instructions about how you are to
8 conduct your business, in terms of, you must
9 tell people these kind of things, in terms of
10 complying with the law.

11 A They will give us, like on this one
12 specifically, they gave us talking points.

13 Q With the other documents that you were going
14 to give us, can you give us those talking
15 points as well?

16 A I'll do my best. I don't know if I still have
17 them all, because once a drive is over, I try
18 to get rid of all that paperwork, otherwise
19 I've got nothing but old paperwork for all
20 over the place.

21 Q Do you have any other paperwork from them? We
22 would like to see that as well.

23 A Okay.

24 MR. McNAIR: Thank you. I'll see
25 what my colleagues have.

1 MR. FROST: Everything I had, you
2 then got to.

3 By Mr. Hastings:

4 Q Ms. Lauter, just specifically with Cuyahoga
5 County, so I understand. Did you employ
6 individuals to circulate petitions for this
7 pharmaceutical petition drive in the Fall?

8 A Maybe I only had -- I might have had two or
9 three people that did a few signatures in
10 Cuyahoga County, but it wasn't my main focus.
11 My main focus was in Youngstown. Cuyahoga
12 County was run by someone else. So if I was
13 hiring out of Cuyahoga, I would kind of be
14 breaching into somebody else's territory, and
15 that's not what I like to do as a business
16 practice. If I might have had a couple people
17 that still worked for me that wanted to
18 collect in Cuyahoga County, I cleared it with
19 the coordinator that was handling Cuyahoga
20 County. That's how I had a couple of people
21 work in Cuyahoga County.

22 Q So who would pay these individuals that
23 circulated?

24 A I did.

25 Q But who would pay you?

- 1 A I would be paid by PCI.
- 2 Q And PCI hired you to focus on Youngstown?
- 3 A Correct.
- 4 Q But you kind of did a few --
- 5 A Here's what you have to understand.
- 6 Everybody's an independent contractor, okay?
- 7 Regardless of what PCI likes or doesn't like,
- 8 I could have done whatever I wanted to do. I
- 9 just choose to be respectful of the fact that
- 10 I'm not walking on somebody else's territory,
- 11 and I wouldn't want him to walk on mine. But
- 12 there's no thing that states that I can't hire
- 13 anybody here or I can't hire anybody there.
- 14 We're independent contractors. We can hire
- 15 anybody wherever we want.
- 16 Q So PCI?
- 17 A Uh-huh.
- 18 Q Did they hire somebody to work Cuyahoga
- 19 County; do you know?
- 20 A Yes.
- 21 Q Who did they hire, if you know?
- 22 A That is DRW Campaigns.
- 23 Q So PCI employed them to do Cuyahoga County?
- 24 A Correct.
- 25 Q Do you know about DRW Campaigns? Are you

1 familiar with their operations?

2 A I've worked with them before, yes.

3 Q They've hired you, DRW Campaigns?

4 A Not on this drive. Yes and no, I did
5 administrative work for them; so I guess you
6 would say yes.

7 Q Do you know a gentleman named Dustin that
8 works for them?

9 A Yes, that's who owns DRW Campaigns.

10 Q Does he live in Cleveland; if you know?

11 A No, he lives in Michigan.

12 Q He lives in Michigan. I see.

13 A Actually, I'm probably one of the only
14 coordinators in the dang-gone state that lives
15 in the state. Most of the time, a statewide
16 petition drive, the coordinators come from
17 other states.

18 Q Are you aware that the State law only permits
19 either the circulator, an attorney in fact, or
20 the individual that signed, to mark out the
21 petition? Do you understand that's the law in
22 Ohio?

23 A Well, yes and no. Here was my understanding,
24 and obviously, I may or may not be right on
25 this. My understanding was if you, ma'am,

1 have decided you did not want your name to
2 appear on the petition, for whatever personal
3 reason you decided after you signed it, then
4 you or I would have to strike it out. But if
5 it never counted in the first place, in other
6 words, if she comes up to me, or he comes up
7 to me, and we're signing in Cuyahoga, and I
8 realize when you put your county, that you put
9 down Lake County, oh God, I'm so sorry, you've
10 got the wrong county in the wrong book. Let
11 me get you the right book, and her and I both
12 know that that doesn't count, because it's in
13 the wrong book.

14 Q Shouldn't State election officials make that
15 determination?

16 A Well, now see, that's where there was a grey
17 area that maybe we were all taught improperly
18 from the beginning.

19 Q Who taught you that?

20 A I can't even tell you who taught me this back
21 in the beginning, it's been so long ago.
22 Actually, we are in the business of making
23 every signature count, not getting rid of ones
24 that don't count. So the last thing we want
25 to do is strike off anything, ever.

1 Q I wouldn't strike off anything any more.

2 A Yeah, well, believe me, it'll never happen
3 again. You know, it's a grey area of
4 misunderstanding, is what that is.

5 Q It's pretty clear, actually.

6 A Huh?

7 Q It's pretty clear.

8 A Well, if you look at it that way, but when
9 you're taught by somebody, you know, it's like
10 anything else. If you're taught to repair a
11 dishwasher incorrectly, you didn't know you
12 were being taught wrong.

13 Q So how many petitions do you think you and the
14 people you employed here in Cuyahoga County
15 may have submitted for this campaign? A
16 dozen, two dozen?

17 A I couldn't even tell you. I really couldn't
18 even tell you.

19 MR. McDONALD: About two dozen.

20 Q When you were in Youngstown doing this, when
21 people brought in petitions, would you sit
22 down with markers and actually strike out
23 names?

24 A Yes, because my office was not very busy, and
25 I would actually sit down right there with

1 them and say, you know, I can't count this one
2 or I can't count that one. You know, because
3 my main goal was to get them to do their work
4 right, and to stop making these mistakes, for
5 everybody's purpose.

6 Q You made a statement earlier that if you've
7 got 75 percent of your signatures were valid
8 on a petition, that you would be paid 100
9 percent. So if I have 75 percent valid,
10 I have 28 signatures on my petition, and 75
11 percent of them are valid, would I get paid
12 \$28, a dollar for each signature?

13 A If that's what the agreement is, yes. If
14 you're in an outside county and the agreement
15 was \$1.50 a signature or \$3, or whatever it
16 was, yes.

17 Q But that's what you mean when you say 100
18 percent, I wouldn't get paid \$24, I'd be paid
19 \$28, because I had over 75 percent?

20 A If all 28 signatures in that book were all
21 from the right county, didn't have any P.O.
22 Boxes and didn't have any reason to be
23 excluded by the State in the end, yes. But if
24 there were four from Summit County on a
25 Cuyahoga County book, we know the State's not

1 going to accept those, so we can't pay you on
2 those and the client's not going to pay us on
3 those.

4 MR. HASTINGS: Thank you. I don't
5 have any further questions.

6 MR. FROST: I have a couple now.

7 By Mr. Frost:

8 Q Ms. Lauter, who contacted you, originally,
9 about a petition circulating effort for the
10 Ohio Drug Price Relief?

11 A They didn't contact me, I contacted them.

12 Q So how did you hear about it?

13 A I'm one of these people that pays very close
14 attention to the Attorney General's website,
15 and when I see that something's going up for
16 ballot language approval, I get right on the
17 phone, call the Committee to Represent and
18 find out how to get involved. It's my
19 business.

20 Q We all heard the discussion about whether
21 there was a written contract or set terms, and
22 I know it was kind of fluid, but in general,
23 are you paid in the same manner, on some ratio
24 of valid signatures overall that you --

25 A That's right.

1 Q You said, I believe, that you did
2 administrative work for DRW on this petition
3 drive; is that correct?

4 A Yes.

5 Q What would that administrative work consist
6 of?

7 A I took care of some of their turn-ins, taking
8 care of the people turning in their paperwork,
9 making sure they got new paperwork, and making
10 sure they got their paychecks.

11 MR. FROST: Thank you.

12 MR. McNAIR: We're going to let
13 counsel see if they have any questions of you.
14 Would you like to sit down for a moment?

15 THE WITNESS: Yes, please.

16 MR. McNAIR: Mr. McTigue?

17 MR. McTIGUE: No questions.

18 MR. McNAIR: Mr. Mason?

19 MR. MASON: Of course I have
20 questions.

21 CROSS EXAMINATION

22 By Mr. Mason:

23 Q Pamela, thank you for coming here today.
24 You're being very helpful to us understanding
25 this whole process. On some of the petitions

1 that I've seen, there's completely blank
2 pages, but then you flip back to the last
3 page, there's the last page filled out, so it
4 looks like the last ten signatures are filled
5 out on the last page, and it's got a number 28
6 in there; is that a scam that the circulators
7 are trying to pull?

8 A No.

9 Q What do you think?

10 A In some cases, that may be, but it doesn't
11 happen enough where we would consider that.
12 What happens in some cases is, people have
13 more than one petition on their board. They
14 may think that they're flipping to the next
15 page, when they're actually completely flipped
16 to another petition, because they've got more
17 than one board going; they're busy; they've
18 got three people standing in front of them,
19 signing at one time. That's also happened to
20 me. Say there's a book of 36, and I might
21 have gotten to the end of my day, and oh, I
22 got three books full, and I'm all excited, and
23 then I go back and I realize I've missed an
24 entire blank page, because I was moving too
25 fast.

1 But we were always under the
2 understanding that the number that we put on
3 the back is the last attempted signature. So,
4 say, for example, you were signing on No. 30,
5 and some little kid came up and grabbed the
6 little pen off the table or whatever, and
7 decided, while you were standing right in
8 front of them, scribbled all over No. 36.
9 Okay, now in our minds, we told the last
10 attempted signature is what that number should
11 be, to protect the validity of the rest of the
12 deck, so it doesn't get thrown out. We now
13 change that number from 32 to 36, or the last
14 place somebody made an attempt to sign.

15 Q Yes, so as you are the President of your
16 company and the companies that hire you,
17 that's a policy, a decision you had made, how
18 to carry out your business?

19 A No, we thought that that is the way that it
20 was supposed to be done. We thought that the
21 way that it was supposed to be done in order
22 for the whole deck not to be thrown out, is to
23 make sure that the number that you put there,
24 is the last attempted signature. We've been
25 told on more than one occasion from Board of

1 Elections even, we would prefer you put the
2 furthest number out than the shorter number.
3 In other words, they've said they'd prefer to
4 see a 36 instead of a 32, because the 36 is
5 where the last slot was on the page.

6 Q Okay, so that's how you instruct your
7 employees or the people working for you to
8 conduct business? That's a decision you made
9 to tell them how to operate?

10 A Yes.

11 Q PCI, what does that stand for?

12 A Political Consultants Incorporated, I think.
13 Don?

14 MR. McNAIR: Ma'am, the questions
15 are really testing what you know. So if you
16 don't know, you can say you don't know. But
17 if you can answer Mr. Mason's questions, that
18 would be helpful.

19 THE WITNESS: I'm sorry. I've
20 never done this before.

21 Q What is Dustin's last name?

22 A Wefel.

23 Q How do you spell that, if you know?

24 A I think it's W-e-f-e-l.

25 Q He lives in Michigan, as you believe?

1 A Yes.

2 Q He circulates all over the country,
3 circulating petitions?

4 A Yes.

5 Q You worked for Dustin on this project, in
6 Mahoning County, granted, but you worked for
7 Dustin?

8 A No, no, no, no.

9 Q I'm sorry?

10 A No, when I did administrative duties for
11 Dustin, that was here in Cuyahoga County
12 because he had to leave to go work on another
13 project, so I helped continue moving things
14 through the office here in Cuyahoga.

15 Q Did you strike signatures for Dustin?

16 A No.

17 Q How many times do you think you did that in
18 Cuyahoga County?

19 A I have no clue.

20 Q I want a guess.

21 A Oy vey.

22 Q 10,000?

23 A No.

24 Q 2,000?

25 A No, I would say in the hundreds, maybe.

- 1 Q Hundreds?
- 2 A Yeah, because I only did it for a few weeks.
- 3 Q Hundreds of petitions?
- 4 A No, no, no, signatures. Probably maybe 300 or
5 400.
- 6 Q Other people working for DRW at your side, to
7 your left or your right on any given day, it
8 was their policy or was their instruction to
9 you as an employee for them, to do exactly
10 that, is to strike those petitions?
- 11 A If they didn't count, yes, they were supposed
12 to mark them off, absolutely.
- 13 Q So somebody other than the circulator was
14 striking the petitions?
- 15 A That would be me.
- 16 Q Yes.
- 17 A Yes.
- 18 Q You or somebody just like you for DRW, were
19 told to strike those petitions?
- 20 A Exactly. If they were from the wrong county
21 -- it's called purging the deck.
- 22 Q I don't want to get into the why. You were
23 instructed to do that, correct?
- 24 A Yes.
- 25 Q It was DRW's project for the State of Ohio to

1 do this, or they just had a section --

2 A DRW was a subcontractor, just like me. PCI
3 was the head contractor for the State of Ohio.

4 Q Do you know whether or not it was PCI's
5 instruction to do that method of striking
6 signatures?

7 A I believe that it was.

8 Q You've worked for PCI in the past?

9 A Correct.

10 Q Is that what they've asked you to do?

11 A Yes.

12 Q In the past?

13 A Yes.

14 Q Have they ever told you to do anything
15 different?

16 A No.

17 Q So it would be fair to say that that's their
18 policy, that's what they want you to do --

19 A Yes.

20 Q -- to strike petitions? Signatures on
21 petitions?

22 A The invalid ones, yes.

23 MR. MASON: Yes, exactly. I'm
24 certainly not asking if you're striking --

25 No further questions.

1 MR. McNAIR: Any other questions?

2 (No response.)

3 MR. McNAIR: Ms. Lauter, thank you
4 very much for coming down. I know it took
5 time from your busy day. It's a public
6 service that you performed today. You're
7 welcome to stay, but you can go, and I'm sure
8 that's probably what you'd like to do.

9 (Witness excused.)

10 MR. McNAIR: Mr. McTigue, do you
11 have any witnesses?

12 MR. McTIGUE: No.

13 MR. McNAIR: Mr. Mason?

14 MR. MASON: No.

15 MR. McNAIR: What I'd like to do
16 now, as long as my colleagues are okay with
17 this, is I'd like to hear from counsel about
18 what we've heard today. I'd like to get their
19 input and thoughts. But before we do that, we
20 had two staff people spoke to circulators.
21 While it's not clear how competent that
22 information is, I'd like to hear from those
23 people.

24 Tony, can we start with you? Can you
25 come up to the mic, please?

1 MR. KALOGER: Good morning. Tony
2 Kaloger, Assistant Manager of the Registration
3 Department.

4 MR. McNAIR: It's not that we
5 don't believe anything that you would say,
6 it's just that it's from somebody else. So if
7 you could fill us in on that.

8 MR. KALOGER: This morning, we
9 received a call from Rasheada Green. She
10 tried to contact Brendan Doyle. He wasn't in
11 at the time, so I took her call and took some
12 information.

13 I asked her just some general
14 questions, as far as the training and the
15 procedure involved with the petition
16 gathering.

17 MR. McNAIR: She is Tab H, behind
18 what we have. So she put in 24 part-petitions
19 with varying signatures, versus what was on
20 the back page. On our list, where it says
21 actual signatures, that's a net number, right
22 Pat, that's after the strike-throughs?

23 MR. McDONALD: Yes.

24 MR. McNAIR: So we don't know, as
25 we look at this, whether or not, in fact,

1 there were the numbers that she says on the
2 last page.

3 MR. KALOGER: We do have copies of
4 her part-petitions. But it looked like,
5 actually, she did not have a circulator issue,
6 as far as the number of signatures. She wrote
7 the number that was the last signature used.
8 She used that procedure.

9 I asked her about the training, she
10 said it was brief. They were instructed to
11 ask the voter if they were registered, if they
12 were a resident of Cuyahoga County, and to put
13 down their last address. She did say that the
14 company instructed them not to turn in any
15 part-petitions until they had 22 or more
16 signatures. I asked her, what happens if you
17 didn't have enough, if you didn't have 22.
18 She said, we were just to hold on and continue
19 to gather signatures until the next pay
20 period.

21 I asked her about if she crossed out
22 any signatures on the part-petitions herself.
23 She said, sometimes she did. I asked her, did
24 you use a thick magic marker or did you just
25 use a pen, a black pen. She said, she just

1 used a black pen.

2 I asked her about the back circulator
3 page, at what point were they instructed to
4 fill it out. She said, she would put her name
5 on it at the beginning, but she didn't put the
6 number until the end.

7 MR. McNAIR: What about signing
8 it; when did she do that; do you know?

9 MR. KALOGER: Signed the part-
10 petition?

11 MR. McNAIR: Yes.

12 MR. KALOGER: We didn't, actually,
13 didn't specify. She said she just put her
14 name on --

15 MR. McNAIR: So you just focused
16 on the top part.

17 MR. KALOGER: -- so it could have
18 been the printed name or not. Then as far as
19 the circulator's statement, the number, she
20 said what they were told, whatever was the
21 last line that you completed, write that
22 number down.

23 I told her we did have some part-
24 petitions. I didn't know at the time, what
25 category she fell in. I said that maybe there

1 were two signatures, but 28 was written on the
2 back, and she just kept saying, well, I didn't
3 turn them in unless they had 22 or over.
4 Looking back at her part-petitions, she
5 actually was pretty good with her circulator
6 statement, as I said. The reason she was on
7 our list, was because she did have a lot that
8 were blacked out on a few part-petitions.

9 MR. McNAIR: Okay. Any questions
10 for Tony?

11 (No response.)

12 MR. McNAIR: Tony, thanks a lot.

13 MR. KALOGER: Okay.

14 MR. McNAIR: Brendan.

15 MR. DOYLE: I had a conversation
16 with Leagrady Harris, who lives in Euclid
17 Beach Villa on the east side. He could not be
18 here, because he is on disability and confined
19 to a wheelchair, and couldn't find any
20 transportation.

21 He said he found out about this
22 petition drive when he was at a grocery store.
23 Someone was asking for his signature. He
24 asked if she was doing that and was getting
25 paid. She said yes, and he got the

1 information for the organization. He couldn't
2 remember the organization, but he said it was
3 located at 3030 Euclid Avenue.

4 He said that he filled out a W2 form
5 when he went there. They gave him
6 instructions regarding who was permitted to
7 sign the petitions. He said that he would go
8 out and get petitions, mainly on the east
9 side. He would go to grocery stores,
10 hospitals. He's disabled, so he was often
11 going to hospitals. He said that when he
12 would bring the petitions back to the location
13 at 3030 Euclid, that he would then fill out
14 the back page. He would sign it, fill out the
15 information, and count the signatures and put
16 the number on the circulator statement at that
17 time.

18 He did say that he did not cross out
19 voters, that the organization crossed them
20 out. He said because he had a lot of people
21 from Lake County who were on his petitions,
22 because of the fact that he was going to a
23 hospital that's out there. He said that he
24 would get paid a week later, after he had
25 turned in his petition.

1 MR. McNAIR: Thank you. I'm
2 inclined to hear from counsel, unless there's
3 a different thought.

4 MR. MASON: On that issue?

5 MR. McNAIR: No, I think over all.
6 So we have two podiums. Why don't you each
7 approach a podium if you want to do that or
8 you can talk from there. Whatever you want.
9 We get a better recording at the podium, so
10 would you please come to the podium.

11 We would like to hear, given what we've
12 heard today, what conclusions or wisdom you
13 want to impart upon us. Mr. Mason, why don't
14 we start with you?

15 MR. MASON: Thank you. First, I
16 just want to say, thanks for taking the time
17 and the effort, to put in to learn about what
18 is that's happened. I know this is the last
19 thing on earth that you want to be doing. But
20 the fact of the matter is, that there's been
21 some issues raised that are very serious, with
22 regards to how these petitions were
23 circulated. I know throughout the State, it's
24 being treated a little bit differently by each
25 county, but the fact that you have taken the

1 time to subpoena witnesses, and bring them in
2 here and to hear them, you're light years
3 ahead of what those other counties have
4 decided to do, because they don't know what
5 happened. They're just kind of -- a lot of
6 them recertified and sent them back, and just
7 really don't know what took place. So I want
8 to thank you for the time and for
9 you, Brendan, for taking and organizing
10 because it would not have happened.

11 Having said that, I submitted to you
12 folks a brief, yesterday. It's dated January
13 19th. It just pretty much lays it out. I
14 haven't heard anything today that would make
15 me think anything differently that we laid out
16 in that brief. Certainly, this has been a
17 concerted effort throughout the State of Ohio,
18 in Cuyahoga County, and in all 88 counties,
19 that systematically miscounted, attested
20 falsely to petitions, unexplained alterations,
21 but maybe now we have explanations to those,
22 and had ineligible felony circulators
23 operating.

24 Now, you've only brought in -- there
25 was only 14 circulators that were subpoenaed

1 out of 150, so you just have a little sample
2 of what was going on out there. Out of the
3 individuals who came in here and testified
4 today, I believe three of them have felony
5 convictions. I believe at least one, and I
6 can't verify whether they were on probation,
7 but at least one of them is on probation. So
8 there's a lot going on, and but for your
9 actions, we wouldn't even be able to go
10 further.

11 But I would suggest to you that what
12 has been happening throughout this petition
13 drive has been election falsification on a
14 grand scale. As you know, you're entrusted
15 with this opportunity or this duty, to
16 investigate all of these matters, and you've
17 done that today and I appreciate it. My
18 concerns have always been is that the
19 petitions, they fall short. Many of the
20 petitions attest to false information. The
21 part-petitions have been altered and we know
22 that they've been altered, because now we've
23 heard from Pamela, who just said that's their
24 policy. That's what they do. They strike
25 them things out, contrary to Ohio law, but

1 that's what they do.

2 Like I said, some of the petitions were
3 circulated by a felon. So one thing that we
4 haven't touched on, and I just want to give a
5 little bit more information, is that there's
6 other guys and circulators who are out there,
7 who have been doing things that are even more
8 questionable about the things you've heard
9 today. Larry Boyce, who circulated petitions
10 in this county, circulated on August 31st,
11 which is a Monday. He collected signatures
12 for Cuyahoga County voters on part-petitions.
13 He also collected and submitted part-petitions
14 for the same day from voters in seven other
15 counties for the exact same things; in Seneca
16 County, Ottawa County, Summit County, Lorain
17 County, Erie, Sandusky and Huron; all on the
18 same day.

19 It was a pattern, as we look through
20 these petitions, it was pattern that he did
21 for 30 days. Every single day, he was
22 submitting from seven or eight different
23 counties. It might be possible, but I would
24 submit to you that it's pretty questionable
25 whether he could do this. In fact, Mr. Boyce

1 appears to have convictions for car jacking
2 and kidnapping, robbery, and again, I don't
3 know whether he's on probation or not, which
4 is one disqualifier, but certainly --

5 MR. McNAIR: I'm sorry. It would
6 be helpful to me if you could maybe focus on
7 what we heard today.

8 MR. MASON: I wanted to point out
9 to you the things you didn't hear, just to
10 give you the grand scheme of what's been going
11 on, and there's three or four other folks,
12 just like Mr. Boyce; Haley Stroman, Linda
13 Herbald and Linda Berger, did the exact same
14 thing in our county. We didn't touch those
15 petitions because that's not what you looked
16 at. But the fact of the matter is, they
17 turned in petitions in multiple counties for
18 the very same day. I submit to you, that's
19 pretty hard to do and probably didn't happen
20 that way.

21 MR. McNAIR: The petitions that we
22 saw today, and I want us to have some
23 discussion about this, I guess. But the
24 petitions that we saw today, one of the
25 issues, right, is the discrepancy between

1 what's that number on the last page and what
2 the signatures are. My recollection is, all
3 of those were accounted for, except for that
4 one fellow who said he couldn't account for
5 that one discrepancy. But otherwise, all of
6 the numbers on the back, added up to what was
7 on the front, if you assume that they were
8 told, rightly or wrongly, but the idea was,
9 you just write the number for the last
10 signature. If you accept that principal, all
11 of those part-petitions were correct, save
12 one.

13 Do you agree with that conclusion?

14 MR. MASON: I can't say for all.
15 I don't know whether it was. I didn't keep
16 track that way.

17 MR. McNAIR: You don't necessarily
18 disagree?

19 MR. MASON: But certainly, I
20 would say the vast majority were that way,
21 yes. Yes, I would agree with that.

22 MR. McNAIR: Now, what we don't
23 know as an agency, I guess, because the data
24 we got before, this really kind of changes my
25 view of that data we got at the last Board

1 meeting, because there would be shown all
2 these discrepancies, and now as I look at it,
3 there really aren't those discrepancies. Yet,
4 Pat, Tony, staff, do we still have the
5 situation that is not explained by what we
6 heard today, that is to say, we have the
7 situation where we have a number of part-
8 petitions that have only two signatures in
9 places 1 and 2, and 28 on the last page.

10 MR. McDONALD: We do have a few of
11 those?

12 MR. McNAIR: A few or we don't
13 know. So that's just one question. Let's let
14 Mr. Mason finish, in fairness to him.

15 MR. MASON: I think I know where
16 you're drawing to if that was the way they
17 conducted it, but because they have four
18 signatures on a petition or 20 petitions, and
19 were told to put 28, and that's what they
20 believed to be done, I would suggest to you
21 that that doesn't make it okay. That would be
22 my suggestion. It's still -- they're supposed
23 to verify the number of signatures that they
24 had signed, and put that in the box. They
25 didn't miscount, they didn't do what the law

1 says is okay for you do if you make a mistake.
2 It wasn't a mistake. That was how they were
3 instructed how to do it by their employer, is
4 to put that number in on the last page. That
5 was not a mistake. That was directed for them
6 to do that. So I suggest to you, those should
7 be invalidated.

8 MR. McNAIR: Personally, I
9 disagree with that.

10 MR. MASON: Okay.

11 MR. McNAIR: My own view is, maybe
12 those instructions were wrong. I don't hear
13 anything about voter fraud or anything in that
14 regard. So I'm, personally, not concerned
15 about those. What I am much more concerned
16 about is where there are two signatures only,
17 on 1 and 2, if we have those situations, and
18 they say 28. I understand your argument to
19 invalidate those. I'd like to hear from
20 Mr. McTigue about why we should not invalidate
21 those. So I'd like to go back and forth a
22 little bit.

23 MR. MASON: I don't have any
24 problem. I just want to draw to your
25 attention --

1 MR. McNAIR: Fair enough. Go
2 ahead.

3 MR. MASON: There are some that
4 have two, there's some that have three,
5 there's some that have every single number
6 going up to 28; there's part-petitions that
7 way, just so you know.

8 MR. McNAIR: Right. So what I'm
9 grappling with is what's the burden of proof?
10 Where does that go? As I look at the case
11 law, this notion of -- there's flexibility in
12 the joint. Some have called it this
13 arithmetic rule or something. But if they say
14 28 and there's 26, that's close enough. There
15 is some room for error. As you point out,
16 Mr. Mason, well where is the limit, and is
17 there a limit. I think maybe Mr. McTigue is
18 going to tell us there's not a limit, I don't
19 know. But that's really what I want to
20 explore. The cases as I saw, the three main
21 Ohio Supreme Court cases, we have no number,
22 one that's too high and one that's too low.
23 My own reading of those cases is none of those
24 cases give us a lot of guidance for the
25 problem we have here today that we got to try

1 and figure out.

2 MR. MASON: I would suggest to
3 you that the Supreme Court has stated, I
4 believe it's one of our Board of Election's
5 decision from 1976, that those statements must
6 be strictly complied with. So unless it's a
7 mistake in counting, okay. But what was
8 happening here, what you heard, was not a
9 mistake, that's what they were directed to do.

10 MR. McNAIR: Perhaps mistakenly.

11 Mr. McTigue?

12 MR. McTIGUE: Well, we're here and
13 the Board is conducting this hearing because
14 of the Directive 2016-01. So with regard to
15 this subject, the heading in the Directive on
16 Page 2, Pre-affixing the number of signatures
17 witnessed on a circulator's statement. So
18 apparently the Secretary of State's reason for
19 sending the petitions back to the Boards is
20 for you to determine if there's evidence of
21 pre-affixing the circulator number.

22 The Secretary's basically saying, that
23 when you write 28 and there's only 2, and it's
24 done a lot, that might indicate that someone
25 just took a blank petition, filled out 28,

1 pre-affixed the number and then went out,
2 maybe got two signatures, or 14 or whatever.
3 So the Secretary's concerned about a false
4 circulator statement. It has to do with the
5 pre-affixing of signatures. I'm sorry, the
6 pre-affixing of the number. That's what this
7 was sent back on. We don't have any evidence
8 that anybody pre-affixed the number. Not one
9 word of evidence on that. In fact the
10 evidence is all to the contrary, that the
11 number was filled in after the petitions were
12 brought into the office.

13 We then have some further explanation
14 about why the number might be higher. The
15 most common, almost the uniform answer, being
16 what's already been noted, which is that they
17 would put whatever the last number was the
18 last line that had anything on it. The main
19 point here is that none of that indicates any
20 pre-affixing, which is presumably why the
21 Secretary of State sent this back. I mean
22 this was his own directive, that's the
23 heading.

24 If we go beyond the directive, and get
25 into the question of can the number be higher,

1 and under what circumstances can it be higher
2 and higher by how much, I think that what the
3 law is in this, is that there has to be some
4 sort of rational explanation for the number
5 being higher. I think it's also useful to
6 understand the whole history here. The Courts
7 didn't create the rule about it's okay for the
8 number to be higher. The Secretary of State
9 way back, I don't remember if it was Sherrod
10 Brown or Bob Taft, when this came in. At some
11 early point, the Secretary of State started
12 advising Boards that it was okay for the
13 number to be higher, but not lower. There was
14 never any discussion about arithmetic error.

15 So we have about 30 years of consistent
16 advice. People relying upon the fact that the
17 number can be higher. Now, I think Secretary
18 of State Husted raises a valid issue, a
19 concern, that if you have a lot of petitions
20 where just the last available line on a
21 petition is filled in, and it's not the last
22 line that has any signatures on it. It might
23 be a legitimate concern about what's going,
24 especially if it happens a lot, that it might
25 indicate that this was not an isolated error.

1 But that's not what we have here. What we
2 have here is people filling in a number, based
3 on the last line that has anything on it.

4 MR. McNAIR: Let me just stop you.
5 That's what we have here today in this
6 hearing. Mr. Mason makes, I think, a fair
7 point. That the slice of evidence that we've
8 had today, over all of the petitions that came
9 in, is a very, very thin slice. My
10 understanding is that we have petitions that
11 -- Tony, am I right on this, where there are
12 only two signatures and there's a 28 at the
13 bottom. Is that right?

14 MR. KALOGER: Yes.

15 MR. McNAIR: So that is not
16 explained by what we heard today. What we
17 heard today was a different basket of
18 petitions, and I'm reasonably satisfied that
19 those have been explained. But there's this
20 different basket, we didn't have evidence on
21 it today. Many of us are lawyers here, we can
22 come up with a hypothetical that might be
23 reasonable. But Mr. McTigue, I agree with
24 you. I think it is a rule of reason, based
25 upon all the facts and circumstances, subject

1 to what our lawyers tell us. That just seems
2 to me to be unreasonable that there could be
3 just two signatures and somebody is attesting
4 to the fact that there are 28.

5 Where that line is, back to Mr. Mason's
6 point, I don't know. But it seems to me, two
7 is on the wrong side of that line. So if you
8 can address that concern, I'd appreciate it.

9 MR. McTIGUE: Sure. To address
10 that, and again, I don't know how many issues
11 we're talking about that Tony might have. But
12 I understand your point, Mr. Chairman, when
13 there's a large discrepancy between the number
14 on the petition and whatever the last line is
15 that was filled in. Again, to take your
16 example where you say there's only two
17 signatures. If the two signatures are on
18 Lines 1 and 2, is that part of your example?

19 MR. McNAIR: Yeah, this one
20 they're on, there's three signatures; one of
21 which is crossed out. You don't have this in
22 front of you, but it doesn't matter, you can
23 understand the hypo. There are four
24 signatures, one of which is crossed out, and
25 this petitioner says 28.

1 MR. McTIGUE: Can I ask, what line
2 are the signatures on?

3 MR. McNAIR: What line is the --

4 MR. HASTINGS: One, two, three and
5 four.

6 MR. McNAIR: One, two, three and
7 four. Four is the last one.

8 MR. McTIGUE: Okay, because I want
9 to --

10 MR. McNAIR: There's not anything,
11 nothing, on the rest of that page, the next
12 page, the next page, the next page; they're
13 all blank, and yet it says 28.

14 MR. McTIGUE: Thank you. The
15 reason I was asking for that clarification, is
16 because I think in order to answer your
17 question and also be consistent, with what
18 I've already said, we'd have to talk about
19 where the discrepancy on a circulator's
20 statement is between, not the total number of
21 signatures, but the last line that has
22 anything written on it.

23 MR. McNAIR: I take that. I'm
24 okay if there's only four signatures and the
25 last one's on 28. I understand that argument.

1 But here, four is the last one; five to 28 is
2 blank --

3 MR. McTIGUE: I'm prefacing it, so
4 that I can then answer.

5 MR. McNAIR: Okay.

6 MR. McTIGUE: I wanted to make sure
7 that whatever I ended up saying in this regard
8 would be misconstrued as part of this written
9 record, which, of course, could end up in some
10 litigation. So I want to be very clear.

11 So in a situation like that, granted,
12 it raises a concern about whether the number
13 was pre-affixed. It certainly -- it's not
14 working a scam on elections officials, because
15 elections officials are only going to count
16 the two or three signatures that are there.
17 Is it an attempt to scam the company that is
18 paying them, the company is checking the
19 signatures as we heard.

20 So what the reason for it is, we have
21 to ask ourselves why is it there. Well, maybe
22 it has to do with 30 years of the Secretary of
23 State saying it's okay for the number to be
24 higher, without providing any qualification to
25 that advice. So maybe people have come to

1 rely upon that. And I don't have any problem
2 with the Secretary of State changing the rules
3 going forward, but just make it clear to
4 people. Because this comes back to what I was
5 saying about understanding the history here.
6 This whole thing started, not this thing about
7 it's okay for the number being higher; didn't
8 start because of the Ohio General Assembly;
9 didn't start because of any Court case; it
10 started because the Secretary of State, in
11 exercising, apparently, discretion in advising
12 Boards, told Boards it was okay for the number
13 to be higher, without any further
14 qualifications. So maybe people came to rely
15 on it.

16 Now, what are you supposed to do. I'm
17 sure the question is yes, okay, that's a nice
18 history lesson. But what are we supposed to
19 do here, because the Secretary of State has
20 sent it back to us? The Secretary of State, I
21 believe, in this Directive, is changing the
22 rules in the middle of the game. He mentions
23 the Russ case, mentioning arithmetic error.
24 If you actually go read that, the Court was
25 speculating that perhaps that is why the

1 Secretary of State has this rule. The Court
2 didn't create a rule about it's okay to have
3 arithmetic error. The Court was speculating
4 about why the Secretary of State has told
5 Boards that it's okay for the number to be
6 higher. In fact, in the Russ case, that
7 wasn't even the facts. The facts in the Russ
8 case was that the number was lower, the number
9 of signatures. Again, that's part of history.

10 Coming to what you have to decide, I
11 would say, that this is something of a
12 quagmire here for you, because it is changing
13 the rules. But perhaps you can deal with it,
14 by dealing with what the Directive -- what
15 apparently the Directive is asking you to
16 determine, which is, is there evidence of
17 pre-affixing the number in the circulator
18 statement. There is no evidence of
19 pre-affixing. Maybe the Secretary of State
20 wants more than that, but that's not, I think,
21 how the Directive is headed. If he wants to
22 change the rules going forward, fine.

23 But right now, you have to deal with
24 this Directive, and the heading of this part
25 of the Directive is about pre-affixing a

1 number, and you don't have any evidence of
2 that. So my recommendation would be that you,
3 in good faith, can say that we looked at the
4 Directive, we took evidence and we don't have
5 evidence of pre-affixing.

6 Now, I agree with you. I know what
7 you're thinking, but it just doesn't look
8 right. It's odd to have these, and yes,
9 that's true. But maybe it's there because of
10 30 years of consistent advice by the chief
11 election officials to people who circulate
12 petitions.

13 MR. McNAIR: I'm concerned about
14 the holding and the Citizen's For Responsible
15 Taxation case. They said that this statute,
16 while it doesn't expressly mandate a correct
17 signature total, but only if the error does
18 not promote fraud. And if we say, as long as
19 the number is higher, then it does seem to me
20 that there's an argument that does promote
21 fraud, because then these things will be
22 circulated with the 28 in them and exactly the
23 kind of concern that somebody will go along
24 and they'll leave it at the grocery store,
25 whatever, and they'll fill it in and, they'll

1 say, now it's fifteen, but that's okay. That
2 it seems to me is a problem and there's no
3 case that's like this, I don't think, where
4 there's been such, if it's true -- I want to
5 go back and look at these numbers -- but
6 there's such blatant disparity between the
7 number, in some cases, not here today, but in
8 some cases between the number and the
9 signatures and what they're signing. I guess
10 for us to approve that, seems to me, I think
11 we may well be promoting fraud. Certainly
12 we're promoting inaccuracy. We're putting our
13 stamp of approval on inaccuracy. That does
14 not seem to me something that a Board should
15 do. But I've been speaking a lot.

16 MR. McDONALD: The petition I gave
17 you was from a gentleman that spoke here
18 today.

19 MR. FROST: So, Exhibit 7, Board
20 Exhibit 7. Do you mind if I ask a couple of
21 questions --

22 MR. McNAIR: No.

23 MR. FROST: -- although,
24 Mr. Mason, after we go through it, I might
25 turn to you to get your thought on it. But

1 Board Exhibit 7, which was circulated by
2 Mr. Woolfolk, who was here earlier, has on the
3 circulator statement, the number 28 and this
4 was one of the ones where there was a big
5 discrepancy. The last line with the signature
6 on it is line 4. There's line 1 and that
7 whole block 1 is marked out. Then there's
8 signatures on lines 2, 3 and 4 and nothing on
9 the subsequent pages.

10 My question, Mr. McTigue, is really
11 this: I think what I've heard you say -- let
12 me know if I'm summarizing correctly -- it's
13 one thing if there are the circulator goes and
14 gets 28 signatures and addresses and
15 everything. It's filled out on all 28 lines
16 and puts 28 in, even if some are invalid.
17 They put 28 and they gathered 28, even if some
18 are marked out beforehand. They've gone
19 through and gotten 28 and putting the number
20 28 in it. That's one circumstance and there
21 doesn't seem to be any concern there, at least
22 on the circulator statement number.

23 Another situation might be where
24 circulator starts the part-petition, gets
25 some, leaves some blank, but ends up with the

1 last signature being on line 28 and puts in
2 28. And you're saying that also there's a
3 rational explanation and not much cause for
4 concern, also; is that correct?

5 MR. McTIGUE: Correct.

6 MR. FROST: Now, this is where I
7 may be incorrect. But I thought I heard you
8 say that you would view differently an
9 instance like this, where they've only gone to
10 line 4 and still put 28, but that may cause
11 more concern, or at least head-scratching of
12 why they would do it. But the only
13 explanation I've heard is it's based on 30
14 years of instruction of just writing a bigger
15 number; is that it? What would be your
16 concerns if you're checking this with four
17 lines filled in and 28 written?

18 MR. McTIGUE: Mr. Frost, in a
19 situation like that, I think there are two
20 ways that that happened. I collected four
21 signatures and I stopped collecting and then I
22 signed my circulator statement, but I put 28
23 because the Secretary of State's office says
24 the number could be higher and the signatures
25 are going to be checked anyway.

1 Or, and from my perceptive that does
2 not promote fraud in any way.

3 MR. FROST: Then what's the
4 purpose of putting any number in?

5 MR. McTIGUE: I don't know what the
6 purpose would be, to tell you the truth. Who
7 knows what's going through their head except
8 that -- if you have directions from the
9 Secretary of State's office that says that the
10 number can be higher, period. That's all it
11 says.

12 MR. FROST: Let me interrupt, if
13 I may?

14 MR. McTIGUE: Sure.

15 MR. FROST: Before you get to
16 your other example or other interpretation.

17 So, if that's a possible
18 interpretation, if you were advising a
19 petition gathering effort, would you advise
20 them to go ahead and print the number 28 on
21 the circulator statement if there's 28 lines
22 for signatures?

23 MR. McTIGUE: No, I would not
24 advise that because I don't want to cause the
25 client extra money in legal fees to deal with

1 whoever is opposing the ballot issue. And,
2 quite frankly, it doesn't make -- from a
3 petition business point of view -- it doesn't
4 make that much sense to do it.

5 Let me explain because I work closely
6 with a lot of different petition firms. In
7 order to get through the door of the Secretary
8 of State's office on a state-wide petition,
9 you have to have on the face of the petition x
10 number of signatures overall, of whether it's
11 10 percent from state-wide on a Constitutional
12 amendment and you have to have x percentage
13 from 44 counties on the face. And we're not
14 talking about numbers in the circulator
15 statement. We're talking about lines filled
16 out. That's what gets you through the door.
17 If you don't have that many, then that
18 petition doesn't go anywhere. It doesn't go
19 to the boards to be checked. So from a
20 business standpoint, it doesn't make a whole
21 lot of sense to put in 28.

22 I can tell you that that is not the
23 number that the companies I work with use as
24 they track their progress in meeting the
25 minimum thresholds for being able to get

1 through the door with their petitions.

2 MR. FROST: I interrupted you.
3 You were going to say either one
4 interpretation or another.

5 MR. McTIGUE: Well, there's two
6 things that went on. Either I put in the 28
7 after I circulated or I put in the 28 before I
8 circulated. I think that that could be a
9 problem because presumably I also signed it.
10 I put in 28, signed it and then maybe somebody
11 else then circulated it and got four
12 signatures.

13 I think in that situation, which is,
14 what the concern is, the Secretary of State's
15 expressing about pre-affixing the number.
16 That could create some opportunities for
17 mischief in terms of who the actual circulator
18 is.

19 I do want to, for the record, though
20 say, I think it's hard to say that that's
21 petition fraud when every signature is
22 checked. But, nevertheless, you have the
23 requirement, in other words, how important the
24 circulator statement is in terms of protecting
25 against fraud when Ohio follows a policy,

1 unlike some other states, where Ohio follows a
2 policy of actually validating every single
3 signature. I think that kind of calls into
4 question how important the circulator
5 statement is. But that's for people higher
6 than me to ultimately decide. So, therefor,
7 there may be some legitimate concern about the
8 pre-affixing from that standpoint.

9 MR. FROST: You've focused on
10 that. You've summarized or concluded that the
11 reason for the Directive on this issue is
12 overconcern by the Secretary of pre-affixing
13 that number. But is it possible that the
14 Secretary has other or additional concerns?
15 For example, is it possible that the reason
16 for the Directive is that simply writing in 28
17 when there are 4 signatures renders the
18 circulator statement meaningless?

19 MR. McTIGUE: Well, I think then,
20 why does the Secretary of State have a rule
21 that the number can be higher? At what point
22 is it meaningless? I'd also like to point out
23 that the Chairman made some comment that there
24 seems to be a lot of -- and the Secretary of
25 State uses the phrase, I think -- a striking

1 number, a large number of petitions or part-
2 petitions with this issue.

3 I would venture to say that you
4 probably would see this on almost any other
5 previous state-wide ballot issue petition,
6 especially when once you start to actually go
7 in and examine more closely how many petitions
8 have a discrepancy. It's just that this is
9 the one, this is the petition, where the
10 opposition did analysis, sent a letter to the
11 Secretary of State with spreadsheets and the
12 Secretary of State decided to have the boards
13 re-examine because of the large number of
14 instances that they felt.

15 But let me point something out. The
16 spreadsheet that came with the letter from
17 pharma's counsel or law firm, that had a list
18 of part-petitions with circulators number and
19 then the number of signatures and the
20 difference, they in that column on the number
21 of signatures, they did not include signatures
22 that had been struck out. So, once you
23 actually factor in signatures that have been
24 struck out, there aren't nearly as many part-
25 petitions with a discrepancy or the

1 discrepancy becomes much smaller.

2 Last time I was here, last week, Tony
3 Kaloger had done a spreadsheet, that I have a
4 copy of, which he took into consideration the
5 number of signatures that are struck out for
6 purposes of determining what the discrepancy
7 is. You'll see when you look at this, you
8 have far fewer petitions where there is a
9 large discrepancy between the number of total
10 signatures on that petition and the number on
11 the circulator statement.

12 MR. FROST: Is there a number at
13 which the discrepancy should give us concern?

14 MR. McTIGUE: I think, Mr. Frost, I
15 don't know that I can answer that any better
16 than you can. The Secretary of State hasn't
17 given any guidance to the boards on how to
18 answer that question. Is it okay to be 2, 4,
19 5, 10? I think harping back to the last time
20 I was here, what if it was -- is it only, like
21 if it's the same circulator and he has a
22 discrepancy of 5 or more times. How do you
23 determine this? How do you determine where
24 based on the evidence you have that this was
25 done, I guess, intentionally? I don't know.

1 I don't know how to advise you where to draw
2 that line. The best that I can do to try to
3 help on this point is to say, the Secretary of
4 State's Directive seems to be about, what his
5 biggest concern is about the pre-affixing and
6 you don't really have any evidence of
7 pre-affixing.

8 MR. FROST: Would you acknowledge
9 -- maybe you can't answer this, but -- I've
10 given my hypothetical and you argued against
11 my hypothetical, would you acknowledge that
12 the Secretary may have other concerns instead
13 of or in addition to the issue of
14 pre-affixing.

15 MR. McTIGUE: The Secretary may
16 have other concerns. I don't know what they
17 are.

18 MR. FROST: I don't have any
19 other questions for Mr. McTigue, but I do want
20 to let Mr. Mason respond to any of that if
21 he'd like to.

22 MR. MASON: Certainly, just real
23 quickly. I think the statute that's in place
24 with regards to that statement is telling and
25 it doesn't require that it would be fraud or

1 anything like that. It says, no initiative or
2 part-petition is properly verified if it
3 appears on its face thereof. So, on its face,
4 that the circulator's statement is false in
5 any respect. That's all it says. That's the
6 statute. Not the Directive from the Secretary
7 of State. The statute says, if on its face
8 it's not accurate --

9 MR. McNAIR: No, false.

10 MR. MASON: Or false.

11 MR. McNAIR: That's different than
12 not accurate, right?

13 MR. MASON: Right, I'm sorry,
14 false.

15 I would submit to you that every one of
16 those petitions are false. How they became
17 false is a matter of issue, but they're false.
18 They're not accurate at all.

19 MR. McNAIR: I would disagree that
20 false equals inaccurate. I would say what is
21 clear from the Ohio Supreme Court is that a
22 small arithmetic difference clearly does not
23 in and of itself, it may be error, but that's
24 an insufficient basis for throwing out the
25 part-petition.

1 If I'm understanding your argument
2 correctly, I think it's trying to make too
3 hard a point.

4 MR. MASON: I'm just suggesting
5 the evidence that you heard today from those
6 witnesses, it wasn't arithmetic error that
7 they put on there. They didn't add it up
8 wrong. They were instructed wrong, but that
9 wasn't an arithmetic error. They put in the
10 number that they were told to put in by their
11 organizers. They statute says if it's wrong
12 on its face then it's wrong.

13 Then I'd like to address his comments
14 about the Secretary of State and his
15 intentions. I would submit to you that the
16 Secretary of State, this was a pretty bold
17 step to reissue, to send these petitions back
18 to these boards and ask them to review it. It
19 probably hasn't happened before. So to
20 suggest that all he's looking for is to make
21 sure that there was no pre-affixing is kind of
22 shading it the wrong way because I'm certain
23 that he's taking his responsibilities to the
24 fullest. And that is to make sure that there
25 is no electionary fraud, falsification taking

1 place there. However you get to that. My
2 guess is that all he's trying to do is to get
3 to that answer. It's not just to figure out
4 whether or not they were pre-affixed. They
5 may be the Directive, but I am certain, having
6 being a prosecutor for 30 years that you ask
7 one question because you have 10 in the
8 background. And I'm sure that's what he's
9 doing.

10 MR. McNAIR: I don't want to
11 accept the premise, but let's accept it for a
12 minute. I didn't hear any election fraud
13 today. If you think that we did, I'd be
14 interested in knowing what you think we heard
15 that constituted election fraud.

16 MR. MASON: With respect to the
17 signed petitions?

18 MR. McNAIR: Anything that we
19 heard today, that would be helpful to me.

20 MR. MASON: I think the altered
21 petitions is fraud. They struck those
22 petitions. They're not entitled to do that.
23 They did that in a systematic way throughout
24 the State of Ohio.

25 MR. McNAIR: Any other questions?

1 MR. HASTINGS: No, not for these
2 gentlemen.

3 MR. FROST: Are we going to
4 discuss further today or a different time,
5 what is your plan?

6 MR. McNAIR: I don't know. We're
7 going to talk about that as soon as -- I want
8 to make sure that we're done.

9 MR. FROST: I have some thoughts
10 probably once we're done with counsel and the
11 rest, but I do want to still discuss.

12 MR. McNAIR: Brendan, do you have
13 any questions you want to ask of counsel?

14 MR. DOYLE: One question would be
15 with regards to the striking out of the
16 signatures and sort of putting the issue of
17 the circulator statement to the side, the
18 authority for invalidating an entire part-
19 petition for an invalid strike-through, a
20 strike-through that's not done by the
21 circulator, the signer or an attorney on
22 behalf of the signer. What specific authority
23 there is for invalidating the entire part-
24 petition?

25 MR. MASON: I would suggest to

1 you that it's in the 2016-01 Directive from
2 the Secretary of State. And I would also say
3 think about that question that you asked. I
4 know that I wasn't here, but I know that Don
5 raised that last week about that all you can
6 do is send this off to the County prosecutor
7 and let him prosecute somebody for doing this.
8 How does that sound in your stomach that you
9 know that petitions were altered, struck out,
10 the total numbers that were put in place were
11 the wrong numbers, that they were circulated
12 by felons who aren't eligible to circulate
13 them. He didn't catch that in the first round
14 through and I don't blame anybody for not
15 looking in them, but they weren't caught. But
16 to suggest that the only thing you could do
17 now -- to say, well, we've got to call the
18 prosecutor and let him come in and do
19 something -- I would say to you that that's
20 not persuing the duties that you have been
21 granted as members of the Board of Elections
22 here in Cuyahoga County and all other Board of
23 Elections. You have a duty to make sure that
24 these things, these initiatives, these
25 petitions that get on the ballot are valid and

1 verified. That's really the very foundation
2 of this country. That's why we are so great
3 because we have this whole process and this
4 check and balance to get there is needed. To
5 suggest that somebody did it and you didn't
6 catch it, even though we know it's wrong, it's
7 okay and we're going to put it on the ballot.
8 I can't believe that any one of you would say
9 that's okay.

10 MR. McNAIR: Is there a particular
11 part in the Directive, Mr. Mason, that you
12 want to refer us to respond to the discussion
13 that was asked.

14 MR. MASON: I would just suggest
15 that first, the code section, 3519.06, no
16 part-petition is properly verified if it
17 appears on the face thereof by satisfaction of
18 that the statement was altered. Start with
19 that.

20 You look at the code. The code says
21 that it can't be altered. We know -- and I'm
22 not going to get into it -- but only three
23 people who can strike those, the circulator,
24 the signer or an attorney-in-fact for them.
25 You've ample testimony that it was a

1 systematic approach with the circulating
2 companies to strike those petitions. All of
3 those petitions should be stricken because we
4 know it doesn't comply with the code.

5 MR. DOYLE: Code 3519.06 refers
6 to the circulator statement and erasures and
7 delineations to the circulator statement but
8 not to the invalidating or strike through of
9 any signature on the petition. I guess, what
10 part of 3519.06 would you point us to in terms
11 of granting authority for invalidating the
12 entire part-petition when it seems to me that
13 that section refers only to circulator
14 statements.

15 MR. MASON: I think it applies to
16 the altered petitions also, absolutely.

17 MR. McNAIR: I will give you each
18 two minutes for closing statements or less.

19 Mr. McTigue why don't we start with
20 you?

21 MR. McTIGUE: I was going to
22 address that issue of the struck signatures as
23 well.

24 MR. McNAIR: But in fairness,
25 you've had more time than Mr. Mason so keep it

1 brief.

2 MR. McTIGUE: I agree with
3 Mr. Doyle on that. First of all the Secretary
4 of State's Directive doesn't point to anything
5 that would give you authority to throw out
6 part-petitions on that basis. He asked you to
7 examine it, but there's nothing in there and
8 Mr. Mason can't point to that fact. The brief
9 that Mr. Mason filed cites 3519.06, which
10 isn't the citing Directive.

11 And as Mr. Doyle points out, that
12 section clearly is referring to altering the
13 circulator statement. That's really all I
14 wanted to say with regard to that. Clearly
15 it's striking out the signatures, for the
16 record, I'll state again as I did last time I
17 was here, I disagree that only those two
18 people under law can strike signatures, but
19 the Secretary of State feels otherwise and
20 we're going to follow that.

21 But the bigger point is, okay what do
22 we do with a petition where someone else
23 strikes signatures. Again, you can report
24 back that you examined that, but there doesn't
25 seem to be a legal basis for throwing out the

1 additional part-petitions whose signatures
2 weren't counted in the first place. Thank
3 you.

4 MR. McNAIR: Mr. Mason, do you
5 have a couple of closing comments, or you
6 don't?

7 MR. MASON: Really quick, I will
8 be. I just want to give the scope of what
9 we're talking about here. Throughout the
10 State of Ohio there's 6,280 part-petition that
11 have been altered or 129,000 signatures. In
12 our county, there's 1442 part-petitions or
13 32,861 signatures that have been altered.
14 Your work on this issue will swing whether
15 this thing makes it to the ballot or not. I
16 suggest to you that you take time -- I don't
17 think you have to come to a conclusion today
18 because I don't think you have all the answers
19 yet. We know, and we can certainly supply
20 them to you, that there are more felons who
21 have circulated petitions who are on probation
22 that I know of -- and I don't know about all
23 of them -- that would make a difference in
24 that count also. But I think you should take
25 your time and go back and rethink about this a

1 little bit more and maybe -- I don't know if
2 you need to hear from anybody else -- but
3 certainly with regards to the felon
4 petitioners, take your time and make sure you
5 get it right.

6 MR. McNAIR: I just want to hear
7 from Mr. McTigue about the delay and how that
8 affects your situation.

9 MR. McTIGUE: Well, without
10 judicial relief, assuming that the Secretary
11 of State gets reports back from the boards by
12 January 29 and he certifies in the next
13 business day after that, it's February 1st and
14 he certifies that there are, assuming that we
15 have sufficient signatures from 44 counties.
16 He transmits them all that day, we've
17 essentially lost a month out of the 2 months
18 that we have to try to make the ballot in
19 2016.

20 There's an argument by the State that
21 we don't necessarily have a Constitutional
22 right to be on this year's ballot, however,
23 the response to that is we have a right to
24 try. The Constitution anticipates that the
25 General Assembly is going to receive this law

1 on the first day of the session. So, it does
2 severely impact our ability to, and perhaps
3 even make it a nullity to try to make the
4 ballot in 2016.

5 MR. McNAIR: But is our delay
6 here, if we were to delay a couple of days
7 here, --

8 MR. McTIGUE: I'm sorry. I have a
9 big delay in my --

10 MR. McNAIR: -- the question
11 wasn't clear. Fair enough, because you've got
12 your eye on the prize. But if there's an
13 additional delay here, how does that affect
14 you?

15 MR. McTIGUE: It does effect us and
16 it affects us in this way. If we know today
17 what Cuyahoga County is doing, which I think a
18 large number of signatures are from here -- if
19 we can know how many additional signatures
20 Cuyahoga County is invalidating, we can then
21 pretty much forecast whether we need to gear
22 up for a ten day supplemental period. The
23 Ohio Constitution was changed in 2008 to
24 severely restrict the ability to file
25 supplemental signatures. So, we will be

1 impacted by delay here in terms of us being
2 able to anticipate and get ready to do
3 supplemental signatures.

4 MR. McNAIR: Thank you. Thank you
5 both. Very good arguments by both sides.
6 Thank you.

7 MR. MASON: Thank you.

8 MR. McNAIR: So, what's your
9 thought?

10 MR. FROST: One thought I had is,
11 we saw a number of part-petitions here today,
12 a number of exhibits we looked at and you had
13 summarized it overall of what we saw and we're
14 seeing if there was 28. A lot of times we
15 were seeing 28 lines filled, or at least the
16 last line filled was 28 even if there were a
17 number of them skipped.

18 I do want to point out that in addition
19 to this Exhibit 7, which was a more dramatic
20 example, I want to remind you of this, Kristen
21 Reese's. This was Exhibit 4. This was one
22 where, if you remember, Ms. Reese had said she
23 had written in the 28, but when you had her go
24 back, and there's signatures to number 17, she
25 herself was confused as to why she would have

1 written 28 with it only going to 17. She then
2 questioned herself whether she'd even written
3 the 28 and why she would have even turned in
4 one with as few as 17.

5 MR. McNAIR: Right.

6 MR. FROST: I don't know what
7 that proves. I'm just pointing that out.
8 That was the other major discrepancy from the
9 general ones that we saw.

10 MR. McNAIR: Okay, good. I
11 appreciate that. My sense is that on
12 Mr. Woolfolk if we had -- we went through 1,
13 2, 3, 4, 5 of his and it was just that one
14 that we discussed that was really off. I
15 thought he had some explanation about that,
16 that he's filling out a lot of these and he
17 made a mistake. To me, that's what I'm trying
18 to grapple with, that somebody comes to us.
19 They've got two petitions. And they both got
20 two signatures and they both say 28. That's a
21 pretty big problem.

22 You've got somebody like Woolfolk
23 that's got 72 petitions. He's got one that's
24 hard to explain and he says, well, I was
25 filling out a lot of them. I made a mistake.

1 That's a different kind of, in my mind,
2 arithmetic mistake that what the court talked
3 about. Right? That's kind of taking it up a
4 level from the petition where there's 28 and
5 you're talking about all of the petitions and
6 he's got one or two wrong. So, I think, well,
7 we should apply a rule of reasonableness.

8 And then I think about, really, how
9 does that rule of reasonableness get applied
10 in a way that is equal, has equal protection
11 across what we're doing here. That's what I'm
12 grappling with.

13 I agree with Mr. McTigue. I don't know
14 how to counsel us.

15 MR. FROST: One thing I'll say
16 and I've heard a lot of very learned
17 thoughtful interpretation from both of these
18 attorneys. And there was something you said,
19 I think at one time to Mr. McTigue and another
20 to Mr. Mason that, as advocates, they're both
21 going to the far extreme of their position and
22 maybe taking it a little too far each way. I
23 think the accuracy or determination of where
24 we need to be is somewhere in between. And I
25 respect that, that's their jobs as advocates,

1 is to push all the way to the end and stand by
2 their position. I think there is an argument
3 to be made that there's a reasonableness
4 level. If you write down 28 and it turned
5 out, you looked at it wrong, it's not really a
6 math error, but there's different types of
7 you've made a mistake and there were only 26.
8 That's inaccurate, but it may not be false, to
9 use your distinction that you were saying
10 before that false may not be inaccurate.

11 So, there is a level at which though,
12 coming in with four and writing 28,
13 pre-affixed or not, may give rise to a
14 potential for fraud. So, that's where I was
15 going with my questions to Mr. McTigue. Well,
16 the heading in the Directive says,
17 pre-affixing of the number in the circulator
18 statement -- we're taught in legal
19 construction to ignore headings -- when you
20 read the text of what the Secretary says in
21 the Directive. It says that there's at least
22 two instances of potential fraud. There may
23 be others. We're being asked to de vine a lot
24 here of reading between the lines.

25 But one thing I've come to the

1 conclusion of, for my own sake, is that
2 there's a reason these two instances of
3 irregularity are combined together in one
4 Directive and that is because they make the
5 certification, the proper certification of an
6 issue or candidate to the ballot more
7 difficult to assure that it's done properly.
8 If we allow petition companies to go through
9 after the fact and strike through signatures
10 -- and there are very valid reasons why they
11 would want to do so to make sure they pay
12 properly but also because there are certain
13 defects where if that signature or that date
14 or county or other things even appear, you may
15 end up losing all the signatures after it or
16 possibly the entire petition.

17 So, there's a rationale why they want
18 to strike that out and make it illegible, make
19 that not even a signature, which is how we
20 treat it. If it's fully blacked out, that's
21 not even a signature. There's a rationale,
22 but that may not be proper. The law doesn't
23 say you can do that. The question is, the
24 law doesn't say that you can't. And if you
25 can't, we're not sure the law says what impact

1 that has. But, if you get to the second
2 question then of, is there fraud then in how
3 you determine the number -- I pointed out the
4 one instance for a reason. Maybe I'm the only
5 one thinking this illogically, but it made
6 sense to me. On Exhibit 9, which was
7 circulated by Mr. Woolfolk, same as Exhibit 7,
8 on the first signature block, Number 1, it had
9 been mostly marked out with a marker, but you
10 can still see there was a date there of what
11 looked to me like October 15, 2015, and it
12 looked to the circulator, Mr. Woolfolk, like
13 October 15, 2015.

14 The next signature was October 14,
15 2015. Now if that October 15 one were left
16 there and not fully blocked out, you would run
17 the danger -- and I'm not going to draw the
18 legal conclusion -- but you would run the
19 danger of every signature after that on the
20 petition being invalidated. If you have 10/14
21 after that, now that they're not
22 chronological, you may lose now this entire
23 petition. So, the circulating company, quite
24 rationally thought, well, we need to strike
25 that out. We need to draw an arrow to show

1 the rest of that page was blank, which maybe
2 with good intention. They're not looking to
3 have somebody go in and fill these other ones
4 either. It's not necessarily a fraudulent
5 reason. They're trying to quality control. I
6 get it. But then the question becomes, well,
7 what's the right number to put in here. Now
8 they, apparently, according to Mr. Woolfolk's
9 testimony, he'd been instructed, general rule,
10 write 28 in if you've gotten to line 28. He
11 said, look, I'm doing it fast. I look back,
12 last one I'm on is 28, so I wrote 28 in the
13 back.

14 So, we look at this and because line 1
15 is pretty effectively blocked out, we don't
16 rule that the October 14 ones that follow it
17 are invalid. We certify all those as valid,
18 that at least where a person's registered and
19 the right address and all of that and we come
20 up with, whatever we had for Mr. Woolfolk, 12
21 valid signatures on here instead of zero.
22 That's standard procedure. Looks like our
23 staff did it right way according to standard
24 operating procedures when all this began. But
25 again, I point that out for a reason because

1 when I turn to Exhibits 11 and 12, this is
2 where I start to get concerned with how these
3 issues get wrapped up in together.

4 You don't necessarily have to go back
5 and see them. I can summarize them pretty
6 quickly. On Exhibit 11, this is Mr. Jones, he
7 said there were 24 signatures, but 28 lines
8 were filled, but seven were blocked out.
9 What's the right number there? Is the right
10 number 28, because he got to 28? Is the right
11 number 21, because seven were effectively
12 blocked out? I don't know. Because of the
13 standard rule that 28 is more than 21, we had
14 28 lines filled, seven blocked out, there's 21
15 we're looking at to validate -- 24 is greater
16 than 21, excuse me. We go through, we try to
17 certify this. We came up with some number on
18 this that were valid, I'm not even necessarily
19 relevant.

20 In Exhibit 12, a similar instance.
21 Mr. Jones had written in 27. It was filled
22 all the way to line 28, but on this one there
23 were 10 that are blocked out. Again, what
24 should he have written? Should he have
25 written 28? On both of these, if you follow

1 the rule that you go to the last line you had
2 signatures on, then he wrote a number that's
3 too small. He wrote a number 27 here, number
4 24 here. He had signatures all the way down
5 to 28. If he had signatures to 28, he should
6 have written 28. Then who did the blocking
7 out afterwards and did they do the blocking
8 out afterwards to make sure that they got
9 under the number that he wrote? Does that
10 make any sense?

11 MR. McNAIR: My sense was he said
12 that the did the blocking out when he was
13 there. Frankly, I found him to be very
14 confused and his testimony to be very
15 confusing. Frankly, I didn't put very little
16 weight. As to the first one, --

17 MR. FROST: Let me finish my
18 thought. We'll go to back to the other one.

19 MR. McNAIR: Sure.

20 MR. FROST: I'll make it a
21 hypothetical instead of Mr. Jones, because he
22 was quite confused, but whatever weight I give
23 the testimony, the documents still speak for
24 themselves.

25 So, my hypothetical that I come up with

1 having seen this, is that it's not outlandish
2 to think, if the circulator went out and
3 gathered signatures and they gathered from 28
4 individuals and there were 28 lines filled and
5 they wrote 24. Then the quality control, the
6 petition gathering company, says, we've got a
7 lower number than the number of signatures.
8 So, while maybe none of these ones we're
9 looking at are out of county, or out of
10 chronological order or have any other defect,
11 we need to cross enough of them to get under
12 24. I think that's a conceivable
13 hypothetical.

14 Mr. Jones told us that sometimes he
15 crossed them out, sometimes Dustin crossed
16 them out, sometimes he was helping, sometimes
17 he wasn't. That's one of then reasons I'm
18 thinking that we're looking at this together,
19 is that the sloppiness that is allowed with
20 what had been the current rules that existed
21 before lead to these issues being intertwined.
22 So, one thing I think Mr. Mason is right on is
23 that this is a bold and clarifying step from
24 the Secretary of State to give more clarity.
25 One thing I think Mr. McTigue is right on is

1 that perhaps this is being done because this
2 hadn't been the rule for 30 years. So how are
3 we to operate before the date this Directive
4 came out?

5 The sloppiness that could be
6 engendered, that we've seen on display here
7 today, I believe, can give rise to fraud or
8 the potential for fraud in the signature
9 gathering effort. I will allow though, I
10 didn't hear come here today in our fact
11 gathering that led me to believe that anyone
12 had pre-affixed of 28 or anything else either
13 before starting to gather or when they
14 finished gathering signatures. It appears
15 that however inaccurate these numbers were
16 written in at the time they were doing their
17 turn-ins.

18 MR. McNAIR: I would just say that
19 on Exhibit 9, my take-away was, the first one,
20 he thought it was the 15th. It turned out it
21 was the 14th. He simply missed that page.
22 You can see here, he's got 15 here and they're
23 remarked 14. I didn't see anything other than
24 confusion about what the date was.

25 MR. McDONALD: We would not be

1 allowed to invalidate that based off the
2 Directive that it was out of sequence.

3 MR. FROST: Correct. I agree
4 with you. I'm saying I think our staff did it
5 entirely right. I think that that petition
6 was reviewed appropriately. I use it to point
7 out that there's a very real reason beyond
8 which how much do they pay people that the
9 petition gathering company wants to block out
10 signatures. If an individual went out and
11 just skipped Page 1, they didn't even use it.
12 They started on Page 2. Then they went back
13 and they got a signature on Page 1, after
14 later in chronological order and hands it in,
15 turns it in in that way, the petition
16 gathering company in their quality control
17 wants to block that out so we can do exactly
18 what we did. They have that incentive to do
19 so otherwise they're going to lose all the
20 signatures. I'm just pointing it out that
21 there are multiple reasons why the petition
22 gathering company has the reason to want to do
23 the blocking out. The question is should they
24 be allowed to.

25 MR. McNAIR: I'm sorry. I missed

1 that. I thought Pat said they wouldn't.

2 MR. FROST: Not on that one
3 because it was blocked out.

4 MR. PERLATTI: Even if it wasn't
5 blocked out, dates can be out of order and
6 still valid signature if everything else is
7 correct with that line.

8 MR. McNAIR: So, if I did it in
9 the exact opposite order, if I started at 28
10 and filled it up in reverse chronological
11 order, you're telling me that we would count
12 that?

13 MR. PERLATTI: Yes.

14 MR. HASTINGS: Yes, we would. It's
15 in the election's manual.

16 MR. McNAIR: Okay. I'm just
17 trying to understand that.

18 MR. HASTINGS: Could we start
19 bringing this to a close?

20 It is the Directive that brings us here
21 and it is a bold statement as Mr. Mason points
22 out. We had an evidentiary hearing and the
23 evidence that we have here, in addition to not
24 finding any evidence of pre-affixing, if you
25 go deeper, as Mr. Frost points out, we didn't

1 hear any evidence of fraud resulting from
2 signatures being placed in a part-petition
3 after the circulator executed the affirmation,
4 which is going a little deeper into what this
5 Directive talks about.

6 And I didn't see any direct evidence in
7 regards to fraud resulting from a circulator
8 executing an affirmation with a number that is
9 too close to or corresponds with a number of
10 pre-printed blank lines. In other words,
11 there were rational explanations. You've got
12 to take the sophistication of the individuals
13 that have been hired to do this and what their
14 understanding is into light. So, I don't find
15 cause for fraud, while there are some outliers
16 there in regards to concerns you have with two
17 signatures in 28, it doesn't rise to the level
18 for me. And without any further evidence to
19 comment on it, to say those shouldn't be
20 certified on a re-review.

21 Then I get to the second aspect of
22 this, where we did hear evidence of systematic
23 striking, that would appear on its face to be
24 prohibited by law. I don't know what the
25 remedy to that is other than to bring these

1 petition companies and say, you can't do this
2 until you understand that you're not allowed
3 to mark these up because all sorts of
4 nefarious thoughts could come through, or
5 actions could come through, as Mr. Frost
6 pointed out. Now, the one woman we heard
7 speak about what she does. She admitted she
8 did it. She said I did it simply purely to
9 get the right number for purposes of who I'm
10 going to pay. I got the sense that she was
11 genuine about that. I didn't hear any other
12 testimony in regards to that.

13 The question becomes what's clearly
14 systematic striking in contrary to the code
15 section. What's the remedy for that? I don't
16 know and I don't believe anybody around this
17 table knows and I'm certainly not going to
18 decide that it's to disenfranchise this 26,000
19 people in this county that signed these
20 petitions. There's no question that they're
21 valid voters. And so, therefore, based on the
22 evidence we've heard today, I would ask the
23 director to re-review the petitions he's been
24 asked. But unless there's anything that's
25 different -- the only thing I would ask, I

1 think, there is evidence and I think we should
2 look at it now even though it's after the
3 fact, of at least one individual that's been
4 pointed out, Antoine Ramon Woods, that may
5 well be a convicted felon, on probation -- and
6 I think Mr. Doyle can find that out through
7 his colleagues fairly easily, to verify that
8 to a reasonable preponderance of the evidence
9 -- that we may well not want to certify his
10 petitions on a second go around just because
11 of that evidence that's been presented to us.

12 So, I'm of the feeling to ask the Board
13 to proceed in that regard and in that light.
14 I'm going to bet the house to odds, there
15 isn't a county in the state that's done a more
16 thorough investigative hearing on this matter
17 than this county itself and we came up with a
18 lot of great information that will be useful
19 for the Secretary going forward how to counsel
20 his boards in regards to numbers that clearly
21 have been loose and lack over the last 20 or
22 30 years as well as what to do with the
23 striking of petitions in that regard.

24 So, those are my thoughts and feelings
25 and I kind make a motion in that regard.

1 MR. McNAIR: I'll second the
2 motion, at least for purpose of discussion.
3 Member Hastings has asked Pat to task you and
4 the agencies with some additional work as I
5 understand the motion.

6 What's the turnaround time on that?

7 MR. McDONALD: If I understand his
8 task, it's basically on the one individual
9 where the evidence has brought forward to see
10 if he is still on probation with the felony
11 and then to not validate his signatures.

12 MR. HASTINGS: Because the law
13 wouldn't permit you to, correct?

14 MR. McDONALD: Right.

15 MR. McNAIR: How long would that
16 take?

17 MR. McDONALD: That would not take
18 long, a couple days.

19 MR. McNAIR: It would take a
20 couple days?

21 MR. McDONALD: By the time he, if he
22 gives me that information. What are you
23 looking for it to be done? I could get it
24 done in a couple hours.

25 MR. HASTINGS: Do it tomorrow, then.

1 MR. PERLATTI: Ultimately --

2 MR. McNAIR: If we could meet.

3 MR. PERLATTI: -- if they're
4 rejected, I think, registration has to go in
5 though to Tony or Betty, they have to go into
6 each of those signatures and undo what they
7 did just to get the correct number. It's not
8 just do the math on paper. There is computer
9 work that has to be done to get to where we
10 need to be.

11 MR. HASTINGS: I don't know that we
12 need to meet. Pat re-certifies petitions
13 without the Board needing to do that.

14 MR. McNAIR: So we need to do
15 that.

16 MR. HASTINGS: We need to give him
17 direction after this meeting of what to do and
18 we don't have to meet again. If my colleagues
19 are on board with me in that regard.

20 MR. MASON: With regards to the
21 felony issue, certainly there's one
22 individual, with regards to the felony issues
23 of the circulators, we've identified 27
24 individuals that have felony convictions. We
25 were not able to ascertain whether or not they

1 were on probation or not. So, I would suggest
2 that you look at all of them and if they're on
3 probation then do the same as you probably
4 would do with Mr. Woods.

5 MR. HASTINGS: If those names were
6 in front of us, I know for a fact, it's not
7 going to take that long because you can just
8 look on the docket, see what their sentence
9 was and you can fairly quickly determine if
10 they were on probation while they were
11 circulating. That could be done in a couple
12 of hours.

13 MR. McNAIR: Could be done this
14 afternoon.

15 MR. HASTINGS: Yes, this afternoon.
16 Then give that information to Pat and his
17 staff could proceed accordingly.

18 MR. McNAIR: I don't recall before
19 that the audience can make a friendly
20 amendment, but it seems to me that that's
21 what's been proposed; is that what you're
22 saying?

23 MR. HASTINGS: Yes, it makes sense.
24 If I put on notice as a Board member that
25 there's potentially are felons and the names

1 are provided to us, then I think we can do
2 that. I wouldn't expect our staff to run CCH
3 checks every time a petition comes in.

4 MR. FROST: I think I may have a
5 friendly amendment as well, it might be two.
6 There's two different issues here. You're
7 addressing the felon issue which is a third.
8 We did hear evidence today that someone other
9 than the individuals allowed by law struck
10 through signatures, but we don't have any
11 direction that that invalidates full
12 petitions. We also had some contradictory
13 evidence. It's not just where you see a thick
14 black marker that we can draw an assumption
15 that that was not the circulator, as Mr. Jones
16 testimony exhibited. I don't want to say made
17 clear, but it exhibited the possibility it may
18 have been the circulator even if we see a
19 thick black marker or other writing implement
20 other than what they're filling out their
21 circulator statement with.

22 But we also did have evidence that
23 there were signatures that were struck by the
24 petition gathering company or someone other
25 than the circulator. I think our reading of

1 that is that it doesn't reduce the number that
2 we would certify. We would still operate
3 under the prior rules. But I do think we need
4 to acknowledge that we did find because that's
5 what we were asked to do, to conduct a review
6 to determine whether or not a signature was
7 improperly removed in violation of 3501.38(g)
8 and/or (h), and I think we did have evidence.
9 But it doesn't affect our direction to staff
10 on how to re-certify. It doesn't reduce the
11 number.

12 I also would ask that the staff would
13 finalize and prepare a summary. The summary
14 that we had last week, it was very helpful but
15 only as far as it went. Mr. McTigue referred
16 to later that the summary that Mr. Kaloger had
17 prepared showing the discrepancy between the
18 number written in the circulator statement and
19 the number of signatures that were submitted
20 without regard to whether or not those
21 signatures were blacked out. So, in other
22 words, if they wrote in 28 and there were 28
23 lines filled before the blacking out process,
24 the striking out process, I think, that
25 summary should be prepared and made part of

1 our record, once we're done with the rest of
2 the re-certification on any other issues.

3 MR. HASTINGS: We should share with
4 the Secretary, I agree with you, our findings.
5 So, the more information we provide him,
6 that's fine with me.

7 MR. FROST: That to me is the
8 relevant discrepancy, not the discrepancy
9 between the number written and the ultimate
10 number of valid, but the discrepancy between
11 the number that was written and how many lines
12 have been filled in that gathering effort by
13 that circulator. Again, I'm not saying, I'm
14 not changing a motion that it would then
15 reduce our number that we're certifying.

16 MR. McNAIR: On the evidentiary
17 issues, I would prefer not to put those in the
18 motion because I think what we should do, is
19 we should provide a separate report, summary
20 to the Secretary of State about what we found
21 here today that would include as an exhibit
22 the document you just suggested. But I think
23 would also give some both quantitative and
24 qualitative character without making somebody
25 suffer through and reading the transcript on

1 this in terms of what we found here today.

2 I would do that separately from the
3 motion. The other thing is that I don't know
4 that I agree with the legal conclusion you
5 reach about the strike-out and I prefer not to
6 make that part of the motion.

7 MR. FROST: Okay. Well, my
8 concern is that we have a Directive saying
9 that we are to conduct a re-review, quote, to
10 determine whether or not the evidence on the
11 part-petitions themselves in each county is
12 such that the Board determines a signature was
13 improperly removed in violation of RC 3501.38
14 (g) and/or (h).

15 Now, we had a hearing today or we took
16 evidence today. Whether or not it's a
17 separate motion, I would like us to find that
18 the evidence shows that in Cuyahoga County
19 signatures were improperly removed in
20 violation of RC 3501.38(g) and (h). That's
21 what we heard today and we need to put that on
22 the record that we find that we heard that
23 today.

24 MR. McNAIR: I disagree with that
25 legal conclusion. I don't know if I can

1 disagree with that legal conclusion because
2 the Secretary of State has directed me that I
3 may not. That's something I would like
4 guidance from Brendan on. Then that starts to
5 get to be more complicated. That's why I was
6 suggesting that we bifurcate that issue and
7 that we actually have a more thorough report.
8 My view of some of these election cases more
9 generally is that -- I don't know if this is
10 going to be litigated or not -- but the courts
11 don't have enough grist for their mill and, I
12 think, for that reason get it wrong. I think
13 as to your point, we should give the Secretary
14 of State as much grist as we can in terms of
15 what we've done here today and report out.

16 For me, we've heard from this woman,
17 who's been in this business for I don't know
18 how long. Whether she's right or wrong, I
19 accepted her testimony that at least she
20 thought it was a gray area, that she didn't
21 think that they weren't doing anything wrong.
22 Whether it is or it isn't, that's, I think, is
23 an important fact to give to the Secretary of
24 State to say, look, the industry is acting in
25 this way and there's a substantial part of

1 this industry that thinks that that's okay.
2 This is something we really want to get
3 addressed before the presidential.

4 I think that takes more time. That
5 will take another week or so to get that
6 report, but I'd rather get it to him right
7 than to get it to him quickly.

8 This motion I would say, let's get this
9 done. Let's do what Jeff said. Let's get the
10 thing certified and let's move on.

11 MR. FROST: So, we had
12 Mr. Hastings initial motion. We had the
13 friendly amendment from counsel. Assuming we
14 bifurcate the issue for the time being so we
15 can deal with this motion on determining
16 whether or not signatures were improperly
17 removed, do we have agreement that as part of
18 this motion we're going to prepare that
19 summary about the discrepancies in terms of
20 number in the circulator statement and number
21 of signatures. That that would be part of
22 what we send down to the Secretary.

23 MR. McNAIR: As part of this
24 motion or separately?

25 MR. HASTINGS: Here's what I'd

1 suggest.

2 He needs direction from the Board about
3 what am I to look at when I re-certify because
4 we can tell him, anything that's struck but,
5 you don't re-certify. But we're not doing
6 that. I think the motion I've made and if
7 you've got a second is re-certify, but take a
8 double look at people that were felons. And
9 if they're felons and on probation, then your
10 number is going to be different potentially.
11 But other than that, get that done by the 29th
12 or as soon as you can -- and I know you and
13 the staff will -- that's my motion. I think
14 it's very appropriate to follow Rob's
15 suggestion or yours, Sandy, and I'm going to
16 make another motion that we get a little
17 report together and send down the exhibits and
18 the evidence that we found, so you have it
19 because you need it to going forward. So, I
20 think we should take two little steps there.

21 MR. McNAIR: So, are you ready to
22 call the first question?

23 MR. HASTINGS: Sure.

24 MR. McNAIR: All in favor?

25 MR. HASTINGS: Aye.

1 MR. FROST: Aye.

2 MR. McNAIR: Aye.

3 The second motion?

4 MR. FROST: So, the second one
5 I'd like to address is: I move that we find
6 the evidence today showed that there were
7 signatures in the Ohio Drug Price Relief Act
8 part-petition submitted in Cuyahoga County
9 where signatures were improperly removed in
10 violation of Revised Code 3501.38(g) and (h),
11 that that would be a finding of this Board.

12 MR. McNAIR: I think I disagree
13 with that.

14 MR. FROST: I move that, that we
15 make that finding.

16 MR. HASTINGS: I will second that
17 and open that for discussion purposes.

18 It's pretty clear to me that it was
19 systematic striking and the law doesn't permit
20 anybody other than those individuals to do it.

21 MR. McNAIR: I don't know that
22 this is in fact what the law is. That seems
23 to be what the Secretary of State is saying
24 the law is. I don't necessarily agree with
25 that. My question is do I have to agree with

1 that based upon this Directive.

2 MR. HASTINGS: What if that was
3 amended. I don't know that we have to come to
4 a conclusion of a violation of law, but that
5 we found that there was systematic striking by
6 these petition services.

7 MR. McNAIR: Yes, and that's a
8 correct finding of fact. It was not done by
9 either --

10 MR. FROST: That's actually a
11 better motion and more precisely. I'll take
12 that as a friendly amendment that we find that
13 we heard evidence that signatures were removed
14 or struck systematically by individuals other
15 than the signor, the circulator or the
16 attorney-in-fact.

17 MR. HASTINGS: That's a fair --

18 MR. McNAIR: Okay.

19 MR. HASTINGS: I second that.

20 MR. McNAIR: Any further
21 discussion on that?

22 MR. HASTINGS: No.

23 MR. McNAIR: I'll call the
24 question. All in favor?

25 MR. HASTINGS: Aye.

1 MR. FROST: Aye.

2 MR. McNAIR: Aye.

3 Now what about this report. I'll make
4 a motion --

5 MR. HASTINGS: That you draft it?

6 MR. McNAIR: No. -- that we with
7 reasonable dispatch prepare a report that will
8 accurately reflect in summary fashion what
9 occurred today and what we found in terms of
10 findings of fact and we attach whatever
11 appropriate exhibits but specifically we
12 attach the report that Mr. Frost referred to,
13 which is a re-statement of the numbers of
14 signings where the last signature was versus
15 what the number was certified.

16 MR. McDONALD: This is the last
17 lined used, one, so this is what they put in,
18 28 and there was no blank lines.

19 MR. McNAIR: So do we have this
20 thing?

21 MR. McDONALD: Yes. This is what we
22 gave last time. Don said that we correct it.

23 MR. McNAIR: So, I'll just say
24 that whatever exhibits we view as appropriate
25 --

1 MR. HASTINGS: I would just submit
2 all of the exhibits, that they all be
3 included.

4 MR. McNAIR: Okay, but I didn't
5 know if Rob wanted something in addition, but
6 maybe we have this exhibit. But including
7 this exhibit that contains the information
8 that Member Frost requested.

9 MR. FROST: That appears to be
10 the one. That's the one that Tony Kaloger had
11 prepared. That's the same as what we were
12 provided last week?

13 MR. McDONALD: Correct.

14 MR. McNAIR: So, that's my motion.
15 Any discussion? All in favor?

16 MR. HASTINGS: Aye.

17 MR. FROST: Aye.

18 MR. McNAIR: Aye.

19 Is there anything else for the good of
20 the order?

21 I move that we adjourn.

22 MR. HASTINGS: Second.

23 MR. McNAIR: All in favor?

24 MR. HASTINGS: Aye.

25 MR. FROST: Aye.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. McNAIR: Aye. Thank you all.
Bill, Don, thank you for your efforts.

(Meeting adjourned at 2:17 p.m.)

- - -

