

Indiana Election Commission
Minutes
February 24, 2012

Members Present: Daniel A. Dumezich, Chairman of the Indiana Election Commission ("Commission"); S. Anthony Long, Vice Chairman of the Commission; Sarah Steele Riordan, member; Bryce Bennett, member; Liane Groth Hulka (proxy for Commissioner Riordan).

Members Absent: None.

Staff Attending: Trent Deckard, Co-Director, Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); J. Bradley King, Co-Director of the Election Division; Leslie Barnes, Co-General Counsel of the Election Division; Dale Simmons, Co-General Counsel of the Election Division; Abbey Taylor, Campaign Finance staff, Election Division; Michelle Thompson, Campaign Finance staff, Election Division.

Also Attending: Mr. Eric Bohnet; Mr. Beau Branson; Mr. Andy Buroker; Mr. Leonard Compton; Mr. Randy Connor; Mr. Don Crossley; Mr. John Cunningham; Mr. Dwight Fish; Mr. Don Frommeyer; Mr. Maurice Fuller; Mr. Bart Gadau; Ms. Candace Grass; Mr. Tom Hand; Mr. Richard Hardaway; Mr. Keith R. Hardin; Mr. Chris Harrell; Mr. Damon Harris; Mr. Michael Harrison; Mr. Eric Holmes; Mr. Chris Hons; Ms. Sandi Huddleston; Mr. Thomas John; Mr. Scott Kainrath; Mr. Edward Kesler; Ms. Charlene King; Mr. James Leich; Mr. Bill Levin; Mr. Toby McClamroch; Ms. Cindy Mowery; Mr. Paul Ogden; Mr. Shawn Olson; Mr. H. Onochie; Mr. Kevin Patmore; Mr. Earl "Dan" Pool; Mr. Ben Prickel; Mr. Dennis Reeves; Mr. Mark Scherer; Mr. Leonard Sedigh; Mr. Perry Sheetz; Mr. Philip Smith; Mr. Robert Starkey; Mr. Dale Stickel; Mr. David Stockdale; Dr. Orly Taitz; Mr. John "Jack" Thar; Mr. Robert Thayer; Mr. Wayne Turner; Mr. Jim Wallace; Ms. Kim Wishall.

1. Call to Order

The Chair called the February 24, 2012 meeting of the Commission to order at 9:00 a.m. in the Chamber of the Indiana House of Representatives in the State House, at 200 West Washington Street, Indianapolis, Indiana.

The Chair noted that proper notice of the meeting had been given, as required by state law. A copy of the meeting notice, agenda, and designations of proxy are incorporated by reference in these minutes. *[Copies of all documents incorporated by reference are available for public inspection and copying at the Election Division Office.]*

2. Transaction of Business

The Commission transacted the business set forth in the Transcript of Proceedings prepared by Ms. Rhonda J. Hobbs, RPR, of Connor+Associates Reporting. A copy of this document is incorporated by reference in these minutes.

The following corrections of scrivener's errors in this document are approved by the Commission:

Page 11, line 7, replace “.(?” with “.)”.

Page 12, line 10, replace “formal” with “former”.

Page 16, line 1, replace “Morgan” with “Marion”.

Page 20, line 13, replace “Keen” with “King”.

Page 24, line 16, replace “affirmed” with “infirm”.

Page 28, line 25, replace “anymore” with “any more”.

Page 30, line 18, replace “stark can I” with “Starkey”.

Page 31, line 2, replace “Roobs” with “Roob’s”.

Page 35, line 5, replace “Voter’s” with “Voter”.

Page 37, line 24, replace “term turned them” with “turned”.

Page 57, line 25, replace “Sandy” with “Sandi”.

Page 64, line 17, replace “mike” with “mic”.

Page 64, line 25, replace “Republic” with “Republican”.

Page 66, line 9, replace “t he” with “the”.

Page 70, line 4, replace “Griter” with “Grider”.

Page 73, line 4, replace “district” with “distinct”.

Page 76, line 8, replace “McClamrock” with “McClamroch”.

Page 76, line 9, replace “McClamrock” with “McClamroch”.

Page 84, line 12, replace “say” with “se”.

Page 85, line 21, replace “An” with “And”.

Page 90, line 20, replace “get” with “great”.

Page 91, line 18, replace “error, we error” with “error, we err”.

Page 95, line 14, replace "McClamrock" with "McClamroch".

Page 96, line 6, replace "McClamrock" with "McClamroch".

Page 96, line 11, replace "McClamrock" with "McClamroch".

Page 96, line 15, replace "McClamrock" with "McClamroch".

Page 98, line 24, replace "superceded" with "superseded".

Page 99, line 18, replace "mike" with "mic".

Page 104, line 14, replace "Hear" with "Hearing".

Page 105, line 7, replace "Republic" with "Republican".

Page 105, line 18, replace "cott" with "Scott".

Page 112, line 21, replace "and you" with "a".

Page 114, line 9, replace "My is" with "My name is".

Page 116, line 19, replace "Situare" with "Swihart".

Page 126, line 12, replace "Whitehouse" with "White House".

Page 128, line 4, replace "you're" with "your".

Page 136, line 10, replace "Bonnet" with "Bohnet".

Page 137, line 9, replace "in our" with "are".

Page 137, line 11, replace "then." with "in".

Page 137, line 11, replace "Thorn" with "Thornton".

Page 145, line 13, replace "ask" with "asked".

Page 148, line 12, replace "Sitting" with "sitting".

Page 153, line 15, replace "lat" with "law".

Page 159, line 22, replace "Coates" with "Coats's".

Page 171, line 24, replace "to" with "went to".

Page 184, line 21, replace “and Rule” with “Enrolled”.

Page 186, line 21, replace “deposit” with “got to”.

Page 225, line 1, replace “mike” with “mic”.

Page 255, line 5, replace “9:00o’clock” with “9:00 o’clock”.

Page 267, line 25, replace “part” with “park”.

Page 276, line 4, replace “Bloomberg” with “Boonville”.

Page 276, line 15, replace “yous aid” with “you said”.

Page 292, line 17, replace “diminimus” with “de minimus”.

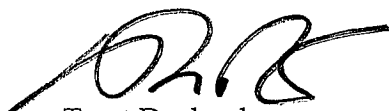
Page 292, line 18, replace both references to “non-diminimus” with “non-de minimus”.

Page 297, line 7, replace “about half value” with “for about half”.

3. Adjournment

There being no further items on the Commission’s agenda, the Chair entertained a motion to adjourn. Mr. Long moved, seconded by Ms. Riordan, that the Commission do now adjourn. The Chair called the question, and declared that with four members voting “aye” (Mr. Dumezich, Mr. Long, Ms. Riordan, and Mr. Bennett), and no Commission member voting “no,” the motion was adopted. The Commission then adjourned at 3:18 p.m.

Respectfully submitted,

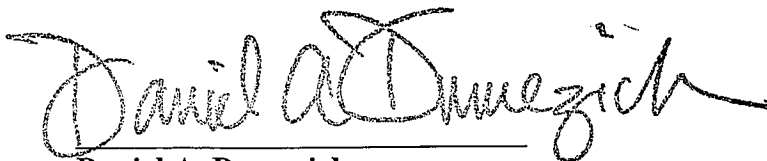


Trent Deckard
Co-Director



J. Bradley King
Co-Director

APPROVED:



Daniel A. Dumezich
Chairman

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INDIANA ELECTION COMMISSION
PUBLIC SESSION AGENDA

Conducted On: Friday, February 24, 2012

Location: Indiana Statehouse
House Chambers
200 West Washington Street
Indianapolis, Indiana 46204

A STENOGRAPHIC RECORD BY:
Rhonda J. Hobbs, RPR
Notary Public
Stenographic Reporter

Connor Reporting, Inc.
1650 One American Square
Indianapolis, IN 46282
(317) 236-6022

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A P P E A R A N C E S

INDIANA ELECTION COMMISSION:

- Mr. Daniel Dumezich - Chairman
- Mr. Anthony Long - Vice Chairman
- Ms. Sarah Riordan - Commission Member
- Mr. Bryce Bennett - Commission Member
- Ms. Liane Groth Hulka - (Proxy for Commission Member Sarah Riordan)

INDIANA ELECTION DIVISION STAFF:

- Mr. Dale Simmons - Co-Legal Counsel
- Ms. Leslie Barnes - Co-Legal Counsel
- Mr. Bradley King - Co-Director
- Mr. Trent Deckard - Co-Director
- Ms. Michelle Thompson - Campaign Finance
- Ms. Abbey Taylor - Campaign Finance

1 CHAIRMAN D. DUMEZICH: This meeting of the
2 Indiana Election Commission is called to order.
3 The following members of the commission are
4 present. I'm the Chairman, Dan Dumezich, the
5 Vice Chairman is to my left, Anthony Long, and
6 to his left is Member Sarah Riordan. To my far
7 right is Bryce Bennett. The Indiana Election
8 Staff Co-Directors are Trent Deckard and Brad
9 King. Co-General Counsel is Leslie Barnes and
10 Dale Simmons. The court reporter is Rhonda
11 Hobbs and she is from Connor & Associates, and
12 she is seated in the balcony.

13 First of all, I'd like to thank the Members of
14 the Indiana House of Representatives for their
15 courtesy in making the House Chambers available for
16 this meeting and also for broadcasting it on the
17 internet. Certainly, one of the things that we
18 pride ourself in is transparency in government, and
19 because of the good efforts of the House staff,
20 we're able to get this done today.

21 Before we begin I want to remind everyone on
22 behalf of the court reporter, identify yourself
23 when you begin to speak. Also, speak close to a
24 microphone so she can pick it up, spell your name
25 when identifying yourself, and speak clearly. Do

1 not speak at the same time others are speaking
2 because it makes her job nearly impossible.

3 At this time I request Mr. Deckard and
4 Mr. King to confirm that the commission meeting has
5 been properly noticed Indiana Open Door Law.

6 MR. B. KING: Thank you. Mr. Chairman and
7 Members of the Commission, this meeting has been
8 properly noticed under the Open Door Law.

9 CHAIRMAN D. DUMEZICH: I recognize Mr.
10 Deckard and Mr. King to present minutes of the
11 December 5th Indiana Election Commission meeting
12 and the Lake County Redistricting Meeting.

13 MR. B. KING: Mr. Chairman and Members of
14 the Commission, copies of the December 5th, 2011
15 Indiana Election Commission meeting and the
16 December 5th, 2011 Lake Redistricting Commission
17 Meeting have been reviewed by Mr. Deckard and
18 myself and are presented with your
19 recommendation for approval.

20 CHAIRMAN D. DUMEZICH: Is there a motion to
21 approve these minutes as presented?

22 VICE CHAIR A. LONG: So moved.

23 CHAIRMAN D. DUMEZICH: Is there a second?

24 COMMISSION MEMBER S. RIORDAN: Second.

25 CHAIRMAN D. DUMEZICH: Any discussion?

1 (No response.)

2 CHAIRMAN D. DUMEZICH: Hearing none, all in
3 favor say aye?

4 THE COMMISSION: Aye.

5 CHAIRMAN D. DUMEZICH: All opposed, nay?

6 (No response.)

7 CHAIRMAN D. DUMEZICH: The ayes have it and
8 the motion is approved and the minutes are
9 adopted. So approval of forms, I recognize Mr.
10 Deckard and Mr. King to present Order 2012-1 for
11 the approval of election forms.

12 MR. B. KING: Thank you. Mr. Chairman and
13 Members of the Commission, in your binders are
14 copies of Order 2012-1. Each year the
15 commission approves election forms for use
16 throughout the state. One form, the Voter's
17 Bill of Rights has been updated to show 2012
18 dates and add provisions that are applicable to
19 general elections. The co-directors would
20 recommend your approval.

21 CHAIRMAN D. DUMEZICH: For purposes of
22 discussion, is there a motion to approve the
23 forms as presented?

24 VICE CHAIR A. LONG: So moved to approve
25 the forms as presented for Order 2012-1.

1 CHAIRMAN D. DUMEZICH: Is there a second?

2 COMMISSION MEMBER S. RIORDAN: Second.

3 CHAIRMAN D. DUMEZICH: Okay. Hearing a
4 second, any discussion?

5 (No response.)

6 CHAIRMAN D. DUMEZICH: If there's no
7 discussion, the question on adoption of the
8 forms -- Order 2012-1 as presented, all in
9 favor, say aye?

10 THE COMMISSION: Aye.

11 CHAIRMAN D. DUMEZICH: All opposed, nay?

12 (No response.)

13 CHAIRMAN D. DUMEZICH: The ayes have it,
14 and Order 2012-1 is approved. Use of signature
15 stamps, is there a motion to authorize the
16 election division staff to affix each member's
17 signature stamp with a final copy of this order
18 and other orders approved by the commission at
19 this meeting?

20 VICE CHAIR A. LONG: So moved.

21 CHAIRMAN D. DUMEZICH: Second?

22 COMMISSION MEMBER B. BENNETT: Second.

23 CHAIRMAN D. DUMEZICH: Any discussion?

24 (No response.)

25 CHAIRMAN D. DUMEZICH: Hearing none, all in

1 favor of the question of the adoption of the
2 motion, all in favor say aye?

3 THE COMMISSION: Aye.

4 CHAIRMAN D. DUMEZICH: Opposed, nay?

5 (No response.)

6 CHAIRMAN D. DUMEZICH: The ayes have it.

7 The motion is approved. Adoption of candidate
8 challenge hearing procedures. I want everybody
9 to pay close attention to this, and that way, we
10 can get through this as quickly as possible and
11 everybody will get the opportunity to be heard.

12 In the past the Commission has followed
13 certain procedures for conducting candidate
14 challenge hearings, and I move that the Commission
15 use the following procedures today as we have in
16 the past;

17 A) When each candidate challenge is called,
18 the hearing will begin by recognizing election
19 division staff to provide information about the
20 documents provided to the commission members,
21 including the candidate challenge forms and the
22 notice given to the candidate and challenger;

23 B) Unless there is an objection, the documents
24 provided to the Commission by the Election Division
25 will be entered into the record of this meeting;

1 C) After the Election Division Staff completes
2 its presentation, the challenger will be recognized
3 first, except as when there is more than one person
4 that has challenged the same candidate.

5 The challenger may present their case for no
6 more than 10 minutes unless the Commission, or
7 excuse me, no more than five minutes, unless the
8 Commission votes to allow additional time for the
9 presenter.

10 This is a critical part of this, when we --
11 everybody that has a challenge will get a chance to
12 speak, but I don't want to hear the same thing over
13 again. So to the extent that your grounds that you
14 have brought your challenge under to the extent
15 that someone has already talked about and already
16 brought those things up, please do not under any
17 circumstance repeat them. Only add new information
18 regarding your challenge.

19 Can you hear me up there?

20 THE REPORTER: Yes.

21 CHAIRMAN D. DUMEZICH: We're good?

22 THE REPORTER: Yes.

23 CHAIRMAN D. DUMEZICH: Commission members
24 may ask questions during the presentation, but
25 the time spent answering these questions will

1 not be counted against the presenter's time.
2 The Election Division may signal the chair when
3 the presenter's time is up. If the presenter
4 offers additional documents or other physical
5 evidence not previously received by the
6 Commission, than the original must be provided
7 to the Election Division, and it's to Dale
8 Simmons -- where's Dale -- down here on the
9 end -- to preserve for the record.

10 In the case where more than one person has
11 challenged the same candidate -- again, I'm going
12 to repeat this so everybody's got it down, the
13 Commission will begin in the front of the room and
14 recognize the challenger, the physical challenger
15 present. The first challenger may present their
16 case for no more than five minutes, unless the
17 Commission allows additional time for the
18 presenter.

19 Each subsequent challenger will be given a
20 maximum of two minutes to present new or different
21 evidence in the matter. Again, do not repeat the
22 evidence previously presented other than to simply
23 affirm the previously presented evidence as true or
24 accurate. The candidate or the candidate's
25 authorized representative will then be recognized

1 following the last presentation by a challenger.

2 The candidate may present their case for no
3 more than five minutes unless the Commission votes
4 to allow additional time to the presenter.
5 Following each presentation by challenger, the
6 candidate may cross-examine the challenger.

7 Following the presentation by a candidate, a
8 challenger may cross-examine the candidate. The
9 cross-examination, in all cases, is limited to two
10 minutes unless the Commission votes to allow
11 additional time.

12 The cross-examination must be limited to
13 questions regarding the statements made by the
14 presenter. In cases where more than one person has
15 challenged the same candidate, the Commission may
16 after presentation by the challenger and the
17 candidate dismiss any cause -- dismiss the cause of
18 any challenger who has failed to satisfy -- who has
19 failed to appear or testify before the Commission.

20 The Commission may consolidate the remaining
21 causes for the Commission to make the same
22 determination in all the remaining cases. Is there
23 a second to my motion for the Commission to adopt
24 these procedures?

25 COMMISSION MEMBER B. BENNETT: Second.

1 CHAIRMAN D. DUMEZICH: Any objection from
2 the commission members or the individual present
3 to these procedures?

4 (No response.)

5 CHAIRMAN D. DUMEZICH: Hearing none, any
6 further discussion by the members?

7 (No response.)

8 CHAIRMAN D. DUMEZICH: No further
9 discussion, the question on adoption of the
10 motion, all in favor say aye?

11 THE COMMISSION: Aye.

12 CHAIRMAN D. DUMEZICH: All opposed, nay?

13 (No response.)

14 CHAIRMAN D. DUMEZICH: The ayes have it and
15 the motion is approved. Everyone present who
16 plans to testify before the Indiana Election
17 Commission regarding any matter today, including
18 voting system matters, please stand for
19 administration of the oath. I will recognize
20 Dale Simmons to administer the oath.

21 (The participants complied.)

22 MR. D. SIMMONS: Please raise your right
23 hand and say I do after the administration of
24 the oath: Do you solemnly or affirm under the
25 penalties of perjury that the testimony you're

1 about to give the Indiana Election Commission is
2 the truth, the whole truth, and nothing but the
3 truth, say I do?

4 THE PARTICIPANTS: I do.

5 CHAIRMAN D. DUMEZICH: We will now begin
6 consideration of candidate challenges. I would
7 remind everyone to identify yourself when you
8 begin speaking. In response to written requests
9 filed by the Commission by a distinguished
10 formal member of this body, we'll begin with
11 consideration of Cause 2012-169 in the matter of
12 the Challenge to Jim Wallace, Candidate for the
13 Republican Party, Nomination for Governor. Tom
14 John.

15 MR. T. JOHN: Good morning.

16 CHAIRMAN D. DUMEZICH: First of all, have
17 to speak into the microphone to make sure that
18 we get it on the record. Please identify
19 yourself.

20 MR. T. JOHN: Tom John with Ice Miller
21 representing E. Mitchell Roob, initially, I
22 would request from the Commission 20 minutes for
23 presentation. We have three witnesses and a
24 number of documents to illustrate the reason for
25 a challenge so we want to make sure we make the

1 case, or what you can give me.

2 VICE CHAIR A. LONG: I would see -- get
3 your documents out here and submit them and see
4 if we run out of time before you can you speak
5 up so we can hear you.

6 (Participant from the audience spoke.)

7 CHAIRMAN D. DUMEZICH: We're going to start
8 with giving him five minutes and see if he needs
9 additional time after that. You know what,
10 let's reserve these benches for people that are
11 doing presentations.

12 MR. T. JOHN: I will restrict to one
13 witness and be as quick as I can.

14 CHAIRMAN D. DUMEZICH: Okay.

15 MR. T. JOHN: But initially, is there an
16 Election Division presentation prior to this of
17 the ballots of Mr. Wallace?

18 CHAIRMAN D. DUMEZICH: No.

19 MR. T. JOHN: I thought you said in the
20 procedure there would be.

21 CHAIRMAN D. DUMEZICH: Are we going to
22 present the documents?

23 MR. B. KING: You have the documents here.

24 CHAIRMAN D. DUMEZICH: Yeah, we do. We
25 have them here.

1 VICE CHAIR A. LONG: Did we get a report
2 from (not talking into microphone.)

3 CHAIRMAN D. DUMEZICH: Brad.

4 MR. B. KING: Mr. Chairman, Members of the
5 Commission, we have brought the petitions filed
6 in the Candidacy of Jim Wallace for Governor.
7 They have been secured since their filing in the
8 Election Division and are available for
9 inspection by candidates or other interested
10 parties.

11 VICE CHAIR A. LONG: Can I -- may I ask a
12 question of the staff, have you all -- may I?

13 CHAIRMAN D. DUMEZICH: No, go ahead.

14 VICE CHAIR A. LONG: Have you all -- I
15 don't know how they -- the certification in the
16 7th Congressional District, is that certified in
17 one certification or in multiple certifications?

18 MR. T. JOHN: Commissioner Long, I can
19 answer that. There are a number of
20 certifications but there was a final
21 certification with final numbers so there is
22 only one salient certification.

23 VICE CHAIR A. LONG: How many people are
24 Marion County certified as adopted signatures on
25 the petition from the 7th District?

1 MR. B. KING: Mr. Chairman, Members of the
2 Commission, the Election Division in these
3 meters acts as administrative support staff for
4 the Election Commission. I believe that my
5 Democratic Counterpart, Mr. Deckard, conducted
6 an informal survey of the petitions under
7 bipartisan supervision, but the Election
8 Division as a body does not have an official
9 count.

10 CHAIRMAN D. DUMEZICH: We do, however, have
11 the -- have the petitions, so Mr. John and Mr.
12 Wallace can make their case; correct -- they're
13 here?

14 MR. B. KING: That is correct, Mr.
15 Chairman.

16 CHAIRMAN D. DUMEZICH: Okay. So with that
17 in mind, we're not going to have a presentation
18 from the staff. I turn it over to Mr. John.

19 MR. T. JOHN: Thank you, sir.

20

21 CHARLENE KING

22 QUESTIONS BY THOMAS A. JOHN:

23 Q Could you introduce yourself, please?

24 A Charlene King.

25 Q And what is your employer?

1 A Morgan County Voter's Registration, Chief
2 Deputy, Republican.

3 CHAIRMAN D. DUMEZICH: Could you spell your
4 name for the record, please?

5 MS. C. KING: C-H-A-R-L-E-N-E, King,
6 K-I-N-G.

7 Q And I've placed a document in front of you
8 listed as Exhibit C, could you identify that,
9 please -- the document that I placed in front of
10 you, could you tell me what it is?

11 A It's a certification for Jim Wallace, 486
12 registered voters in the 7th Congressional.

13 Q And do you know whether that was the final
14 certification of voters from Marion County?

15 A This was the final.

16 CHAIRMAN D. DUMEZICH: Mr. John, have you
17 given one of these to Dale for the record?

18 MR. T. JOHN: I'll give her the original
19 and then I'll pass it to him.

20 CHAIRMAN D. DUMEZICH: Okay.

21 Q So I've given you two additional documents.
22 Could you tell me -- beginning with Exhibit D,
23 could you, please, tell me what that document
24 is, and then Exhibit E and explain the
25 difference?

1 A Exhibit D says Ashley Stevens.

2 CHAIRMAN D. DUMEZICH: Let's wait until we
3 get these in front of us.

4 A Ashley Stevens did not have an address.

5 Q Well, what is the document -- actually, let's
6 start with what the general document is?

7 A Okay. It is a petition where Wallace's people
8 filled out a petition and sent it in to our
9 office.

10 Q Okay.

11 A And once we did these, we made copies of
12 everything that we had, so they came back and I
13 guess to double check some extra ones, and when
14 they came back with the same document, there
15 was -- they had written their address in there
16 but our copy shows there's no address in this.
17 So we believe that he put different addresses in
18 there after he took a certification back.

19 Q And so to clarify, Exhibit D is a true and
20 accurate copy of the document that you returned
21 to Mr. Wallace after an initial certification?

22 A Yes, sir, it is.

23 Q And Exhibit E is a document that you then
24 received later when he came back to you for --
25 asking additional certification questions?

1 A That's correct.

2 Q So it was altered. Does it appear that the
3 handwritten that is used in Exhibit E is similar
4 to the handwriting of the rest of the Ashley
5 Stevens?

6 A Yes, sir. Yes, it does.

7 Q The address is the same?

8 A No, there's no address on D.

9 Q No, in Exhibit E, --

10 A Exhibit E, okay.

11 Q -- I'll refer you to that -- the address, is
12 that written in the same hand as the rest of the
13 line for Ashley Stevens?

14 A I don't believe so.

15 Q Okay. And a little bit, how long have you
16 worked with the Marion county Voter
17 Registration?

18 A Twenty-four -- 23, 24 years.

19 Q So about how many petitions have you reviewed
20 over the years?

21 A Too many to count. A whole lot. Every time we
22 have the petitions, then I do the petitions
23 along with the other staff. When he came back
24 to get the petitions, we asked the gentleman
25 about this write-in. He said he would let Mr.

1 Wallace know.

2 CHAIRMAN D. DUMEZICH: Back to the
3 question. This signature, is this included in
4 the February 10th letter, in the 486?

5 MS. C. KING: No.

6 CHAIRMAN D. DUMEZICH: It is not.

7 Q I'm going to hand you Exhibit P, Q, R, S, and T,
8 for you to review initially.

9 CHAIRMAN D. DUMEZICH: And again, you are
10 giving copies to Dale as well; right?

11 MR. T. JOHN: I'm getting ready to.

12 A Mr. John, can I ask you a question?

13 Q Yes.

14 A What's the basic nature of your challenge; in
15 brass tacks, what are you talking about?

16 Q Our basic premise is simply this, that you're
17 required to have 500 signatures in each
18 Congressional district. We've already shown
19 proof that there were 486, however, there is
20 significant other evidence which calls into
21 question the nature of the signatures that were
22 submitted, whether or not the 486 is a true and
23 correct number, and so I would request from the
24 commission that no leeway be given to say
25 somebody that's close enough, that not getting

1 500, it's still in the interest of the ballot
2 because I'd argue there's a lack of clean hands
3 on behalf of Mr. Wallace.

4 A Okay, so backing up a lit bit. You're focusing
5 in on the 7th Congressional District; right?

6 Q There is also a question as to the 2nd
7 Congressional District, there are 496 signatures
8 filed in that.

9 A And do you intend to introduce evidence
10 concerning the 2nd District?

11 Q Yes, if I have time.

12 A Okay. I'm just trying to connect up, and Ms.
13 Keen is the -- one of the Republican deputies in
14 the Marion County Voter Board of Registration
15 and Marion County is in the 7th Congressional
16 District; right?

17 Q Correct.

18 A So that's' kind of where we're going right now?

19 Q Right now.

20 CHAIRMAN D. DUMEZICH: But as a point of
21 clarification, the signature that we're looking
22 at was not included in the 486?

23 MR. T. JOHN: It was not, but this goes to
24 my point that there shouldn't be any sort of
25 equitable...

1 CHAIRMAN D. DUMEZICH: Well, it would
2 seem -- it would seem to me that there was a
3 procedure in place and they caught the
4 questionable signatures. So I'm willing to go
5 and say that he has 486 good signatures based
6 on -- based on the representation made in the
7 February 10th letter with that in mind.

8 MR. T. JOHN: Well, the...

9 VICE CHAIR A. LONG: (Indiscernible).

10 CHAIRMAN D. DUMEZICH: Yeah, he is.

11 MR. T. JOHN: The next set of documents is
12 a series of documents that actually were
13 counted, but after review, the -- it's clear
14 that the signatures don't match and they
15 shouldn't have been counted.

16 CHAIRMAN D. DUMEZICH: And are those
17 signatures included in the 486?

18 MR. T. JOHN: They are.

19 CHAIRMAN D. DUMEZICH: Okay.

20 A And when you say signatures don't match, can you
21 tell us, specifically, what you're talking
22 about, what they don't match and what you mean
23 by that?

24 Q Absolutely. On the page there's a signature
25 page and this (indiscernible).

1 CHAIRMAN D. DUMEZICH: Again, you're going
2 to have to speak by microphone to make sure that
3 they're picking it up.

4 Q And so I would direct your attention to Exhibits
5 P, Q, R, S and T. Now as I was researching
6 this, I had asked you to compare some signatures
7 based on that petition that is Exhibit T. Can
8 you tell me what your assessment when you
9 reviewed that petition was?

10 A The signatures didn't match what they had
11 written on this petition nor do the birthdays
12 match. We ran all them off on the SVRS and none
13 of them matched.

14 Q And did you -- as you look at that petition, did
15 you note anything as to the commonality of
16 handwriting on that petition among the different
17 lines that had been filled out?

18 A Well, we thought this and several pages, that
19 they were done all by the same person.

20 Q And so can you then go through and make an
21 actual comparison to illustrate for the record
22 and the board, Exhibit P is what line on Exhibit
23 T and comparing this?

24 A Timothy Brown is on Line 1.

25 CHAIRMAN D. DUMEZICH: Under T.

1 Q And as you look at those two signatures, do you
2 see them having been signed by the same person?

3 A No, I do not.

4 Q Do you think there's any question of that?

5 A No, sir.

6 Q Moving to Exhibit Q which is Jerry Steward and
7 comparing that to on Line 6 of the petition,
8 could you tell me your assessment of that?

9 A I would say that was not the same signature.

10 COMMISSION MEMBER B. BENNETT: The same
11 signature as what?

12 MR. T. JOHN: If you compare -- here is the
13 signature.

14 MR. J. WALLACE: Mr. Chairman?

15 CHAIRMAN D. DUMEZICH: Yeah.

16 MR. J. WALLACE: May we have...

17 CHAIRMAN D. DUMEZICH: Certainly. Mr.
18 John, after you're done with that can you give
19 Mr. Wallace a copy of the exhibits?

20 MR. T. JOHN: Okay.

21 Q So would you go through the next two and make
22 your comparison of -- and could you tell me a
23 little bit about why you don't think the
24 signatures match, what in your experience?

25 A Well, again, because all the same -- it looked

1 like the same page and they look a little bit
2 different when you go through the document. I
3 mean, I know people's handwriting change, but I
4 don't think it's changed this much.

5 For instance, Timothy Brown, there's no
6 comparison to me. I mean, he's the one that does
7 it and I don't think it's the same thing. They're
8 not even close.

9 Q Does it appear to you the change in handwriting
10 would be because -- between the time the person
11 filed their voter registration documents and the
12 time that they signed this petition, they were
13 subject to age or infirmity or some other
14 problem which -- I'll ask it this way: Which
15 handwriting do you believe looks more aged or
16 affirmed?

17 A Well, on this handwriting, I think it all looks
18 the same.

19 Q No, between -- I'm sorry.

20 CHAIRMAN D. DUMEZICH: I think we can make
21 the observations from what we have in front of
22 us.

23 MR. T. JOHN: Fair enough.

24 CHAIRMAN D. DUMEZICH: You have one minute
25 to wrap it up.

1 MR. T. JOHN: Simply put, then I will
2 argue -- I swore under oath, too. So I will
3 point the signatures to the signatures in the
4 2nd district by using Mr. Wallace's own count.
5 There's also the failure to meet the 500
6 signature requirement of the 2nd District, there
7 are 496.

8 This is a case where clearly, in two of the
9 nine congressional districts, he's failed to meet
10 the very clear requirement in Indiana Statute that
11 you have 500 signatures per congressional district.
12 In addition, many of the other issues that we've
13 just barely scratched the surface of here indicate
14 that there's lack of clean hands which would
15 promote any sort of leniency to this candidate. We
16 have clear laws, and that's what this commission
17 should construe, and Mr. Wallace should not be on
18 the ballot in 2012.

19 CHAIRMAN D. DUMEZICH: Okay. Mr. Wallace,
20 would you like to take the opportunity to
21 cross-examine the witness?

22 MR. J. WALLACE: Yes, if I can confirm.

23 CHAIRMAN D. DUMEZICH: You have to come up.
24 You have to speak into the mike, sir. Scoot on
25 over, Mr. John.

1

2 QUESTIONS BY MR. JIM WALLACE:

3 Q Just a couple of quick questions, if I may, to
4 confirm my understanding. You had mentioned
5 that this was the final certification that
6 Mr. John presented?

7 A Yes, sir.

8 Q It's my understanding that you issued a
9 subsequent certification for the presidential
10 candidate, Rick Santorum, late yesterday. I
11 believe we saw it on Twitter at 4:09.

12 A Okay.

13 Q Are you commonly in the practice of just issuing
14 final certifications after the date that they're
15 required?

16 A I don't know how to answer that.

17 Q Were we afforded that opportunity?

18 A I'm sorry?

19 Q Were we afforded that opportunity?

20 A Yes, because we went over --

21 Q We were not notified of that so I'd like to
22 register a point of issue here that this is not
23 the final certification, that in fact,
24 additional testing had been done for at least
25 one other candidate. We were not notified or

1 offered the opportunity to present other
2 evidence so --

3 A You was notified.

4 Q -- my point -- I'm asking the questions. Thank
5 you.

6 VICE CHAIR A. LONG: The question is beyond
7 your statement.

8 CHAIRMAN D. DUMEZICH: Yeah, I think
9 your -- confine this portion of your
10 presentation to a cross-examination of this
11 witness. You'll have the opportunity to speak
12 to your case-in-chief when you're done with
13 this.

14 MR. J. WALLACE: Thank you.

15 Q With regard to the signature of Ashley Stevens,
16 I think we had already clarified that that
17 wasn't included in the total?

18 A Okay.

19 MR. J. WALLACE: And I guess I'm not quite
20 sure how to phrase this question, but on what
21 basis are you alleging that the entire 1,282
22 signatures should be invalidated? You had
23 mentioned that we should be granted no leniency
24 because there are some errors that occurred in
25 some of the signatures. Can, please, elaborate

1 on that because I'm having trouble following the
2 logic that on the basis one isolated event that
3 all 1,282 should be eliminated?

4 CHAIRMAN D. DUMEZICH: Mr. Wallace, that's
5 the witness, not Mr. John.

6 MR. J. WALLACE: Okay. Am I allowed to...

7 CHAIRMAN D. DUMEZICH: You're allowed to
8 make an argument incorporating the comments of
9 Mr. John but questioning Mr. John is not
10 appropriate so...

11 MR. J. WALLACE: Okay.

12 CHAIRMAN D. DUMEZICH: If you'd like to
13 call him as a witness during your case-in-chief,
14 you can do so.

15 MR. J. WALLACE: Okay. I appreciate the
16 latitude, Mr. Chairman. As you all know, I'm
17 not an attorney.

18 THE WITNESS: Can I answer one of his
19 questions?

20 CHAIRMAN D. DUMEZICH: Yes, please.

21 MS. C. KING: He was given the opportunity.
22 He did bring some of these back and we did go
23 over and checked and checked and checked them
24 quite a few times. I have done this myself and
25 checked them and we didn't come up with anymore.

1 Matter of fact, we probably should have took
2 some away.

3 MR. J. WALLACE: No. I appreciate your
4 diligence and the difficulty that you have
5 working within the voter information portal, but
6 I'll reserve my comments for my part of the
7 case.

8 CHAIRMAN D. DUMEZICH: Okay. Are you done
9 questioning the witness? I mean...

10 Q I had just one further question. Mr. John had
11 mentioned that there were apparently a shortage
12 of four signatures in the 2nd Congressional
13 District. Did you participate in the review of
14 those signatures as well?

15 A Yes, I did.

16 Q In the 2nd Congressional District?

17 A Oh, no, no, no. I didn't understand what you
18 were saying.

19 MR. J. WALLACE: All right. That's all I
20 have.

21 CHAIRMAN D. DUMEZICH: Do we have the
22 certification for the 2nd Congressional
23 District?

24 MR. T. JOHN: You need to remember that
25 it's unique in Marion County where you have one

1 county that certifies for an entire
2 congressional district, otherwise each county
3 does it piecemeal and you have to add up all the
4 certifications to reach that.

5 VICE CHAIR A. LONG: You need to give a
6 copy to Dale down here.

7 MR. T. JOHN: Those are going to be handed
8 to him by the witness.

9 VICE CHAIR A. LONG: Those are the
10 originals?

11 MR. T. JOHN: Those are the originals.

12 CHAIRMAN D. DUMEZICH: At this time do you
13 rest your case, John?

14 MR. T. JOHN: In the interest of
15 expediency, yes.

16 CHAIRMAN D. DUMEZICH: Mr. Wallace?

17 MR. J. WALLACE: Thank you. If I can ask
18 Bob stark can I with our campaign to join me up
19 here. We will need to use that seat, ma'am?

20 MS. C. KING: Am I done?

21 CHAIRMAN D. DUMEZICH: For now. Thank you
22 for your time.

23 MR. J. WALLACE: Thank you, Mr. Chairman
24 and Members of the Commission. I appreciate the
25 opportunity to appear before you today and I

1 appreciate the opportunity to address my old
2 friend Mitch Roobs' challenge to our petition
3 count.

4 Just by way of background, I'd like to remind
5 everybody that we submitted nearly twice the number
6 of signatures necessary in all districts around the
7 state, and while there are issues of mechanics with
8 how the voter information portal in Marion County
9 might work for testing those signatures, and
10 there's abundant case law and administrative
11 history before this body for granting some leniency
12 with regard to how the signatures are verified.

13 I agree with counsel for the challenger that
14 there's probably a very expedient way to deal with
15 this and it's to simply show that there are 14
16 signatures that meet the test and then bring us
17 over the total of 500.

18 In Marion County, by way of background, we
19 submitted 1,282 signatures. We collected nearly
20 three times the number needed, but based on our
21 analysis of prior -- prior certifications, we
22 are aware that Marion County approves an average
23 of about 38 percent of the signatures presented
24 where the average in all the eight other
25 congressional districts is 81 percent.

1 So obviously, there there's an issue that
2 we were aware of and others were aware of so we
3 sought to compensate for that by producing a
4 greater number of signatures.

5 The initial certification by the Marion
6 County Clerk's Office announced on Wednesday,
7 February 7th was 389 signatures. That -- upon
8 subsequent review, we identified, approximately,
9 70 some odd signatures, that they simply failed
10 to count -- they were approved but they missed
11 them.

12 So by the same token that the counsel for
13 the challenger would argue that leniency
14 shouldn't be granted to us, we think additional
15 scrutiny should be given to the Marion County
16 Clerk's Office -- not because of their lack of
17 diligence, but because of the system with which
18 they errantly have to certify these signatures,
19 and I'm happy to go into that, but that's
20 probably not the purview of this hearing.

21 So 486 signatures were certified. It's our
22 opinion that it's the sole matter then that of
23 the 796 remaining, are there 14 that were
24 incorrectly not certified, and in the interest
25 of expediency, we would like to embrace that and

1 go down a list of those.

2 But as a side note based on our review, the
3 Commission should probably know that we began
4 independent validation on Friday, the 10th,
5 after we received the information from the
6 Marion County Clerk's Office shortly before noon
7 and identified very quickly 200 valid registered
8 voters in the county that have a valid mailing
9 address or residential address meeting the
10 requirements of Indiana Code 3-5-6-2.

11 We stopped counting at that point because
12 it became apparent that there was a flaw in how
13 the Marion County voter information portal
14 allows them to certify signatures. For the
15 Commission, however, we have identified 14
16 signatures that -- for which there is absolutely
17 no reason they should not have been certified.

18 They fall under the category of the same 70
19 or odd that were reported as -- that were not
20 counted in the original total on February 7th,
21 and I'd like to introduce this as an exhibit.
22 I'm not sure how you want to record that. I'll
23 keep one of those there.

24 CHAIRMAN D. DUMEZICH: One has to go to
25 Dale down on the end.

1 MR. J. WALLACE: What we are passing out is
2 a list of 14 randomly identified voters who by
3 virtue of the process of the voter information
4 portal has been disenfranchised. If you'd like
5 to, I'd be happy to go through all 796 of these.
6 We are on the ballot, as the law states, and
7 it's up to the challenger to invalidate 797 of
8 these signatures.

9 However, it will be instructive, I think, for
10 the Commission, and it may short circuit the
11 process if we just look at these is 4, and
12 let's -- if you have questions, I'll happy to go
13 down the path any way you'd like, but otherwise,
14 I'll begin with these.

15 These 14 signatures are identified by
16 petition -- the petition page number which was
17 marked by the Marion County Clerk's Office and by
18 record number which is the number of the signature
19 on the petition page.

20 The name is identified of the voter and the
21 registration ID corresponding to their valid
22 registration in Marion County is also provided. We
23 would stop there. The addition of that 14 meets
24 the standard of 500 required to be certified in the
25 7th District. As I said, if you'd like, I'd be

1 happy to go through all 796 of them. We brought
2 our computer.

3 CHAIRMAN D. DUMEZICH: One is -- one would
4 have thought you went through the 796 of them
5 with the Marion County Board of Voter's
6 Registration so they could have analyzed your
7 signatures and come forward with something that
8 resembles this letter that has a much greater
9 amount on that.

10 MR. J. WALLACE: I appreciate that.

11 CHAIRMAN D. DUMEZICH: But that -- that was
12 not your task; right?

13 MR. J. WALLACE: No, no, I appreciate it,
14 Mr. Chairman, and we did. Each of these 14 were
15 submitted for review to the Marion County
16 Election Board on Wednesday, February 7th. Each
17 of them -- and they were again incorrectly not
18 certified.

19 What's quite disturbing about this is for a
20 number of these -- I can categorize these by, you
21 know, mechanical reason they weren't, if it pleases
22 the Commission. What's troubling about this in
23 many instances, they happen to be the spouse of a
24 person validly registered at the same address with
25 the same information whose spouse was accepted but

1 the partner was not.

2 So again, when we talk about sufficiency and
3 adequacy, I'm quite disturbed by the fact that
4 Charles and Barbara Gill living at the same address
5 had Charles Gill being accepted and Barbara Gill
6 not.

7 As I said, there's a number of instances like
8 that, which frankly, are -- I have all the sympathy
9 in the world for the Marion County Election Board
10 for having to deal with the voter information
11 portal, but it simply doesn't provide the
12 information necessary to verify some of these.

13 CHAIRMAN D. DUMEZICH: Okay.

14 MR. J. WALLACE: We can find each one of
15 these in the record, and as I've said, we've
16 identified the voter registration number that
17 corresponds to just these 14. With that, I
18 would conclude and take the Commission's
19 questions or cross-examination.

20 CHAIRMAN D. DUMEZICH: Mr. John.

21 MR. T. JOHN: I would (indiscernible).

22 CHAIRMAN D. DUMEZICH: So you've stated
23 your case?

24 MR. J. WALLACE: Yes, we have. Again, I
25 would just like to reiterate that there are a

1 number of issues with regard to how Marion
2 County certifies these that appear to be
3 inconsistent with application of Indiana Code
4 3-5-6.

5 VICE CHAIR A. LONG: Well, did you...

6 MR. J. WALLACE: I delivered them. I
7 believe Mr. Starkey was one of them that
8 actually sat down with them.

9 VICE CHAIR A. LONG: I'm anxious to know
10 what the reason you've been given as to why they
11 pointed -- first of all, as you alluded earlier,
12 that you were not given a chance
13 (indiscernible), and said hey, would you
14 recertify and give us another count, and I would
15 like to know No. 1, who at the Marion County
16 Board spoke to these 14 that you offered, and
17 No. 2, what reasons were given why Barbara Gill
18 was not accepted and her husband was?

19 MR. J. WALLACE: Well, to explain...

20 VICE CHAIR A. LONG: That's an answer.
21 Somebody said something. It doesn't need to be
22 explained. Those were the words of this person
23 that sit there and said it.

24 MR. STARKEY: Yes, we had term turned them
25 in Wednesday some additional -- no, I take that

1 back.

2 MR. J. WALLACE: We had actually turned in
3 several -- we had actually turned in several
4 hundred prior to the 7th which were the only
5 ones we were afforded the opportunity to rebut.

6 VICE CHAIR A. LONG: I'm just asking why
7 you took them, you pointed them out, you asked
8 them to look at it again, and they refused to
9 certify them, somebody's got to say, I would
10 have thought, why they didn't get picked?

11 MR. J. WALLACE: We weren't afforded that
12 opportunity, sir.

13 CHAIRMAN D. DUMEZICH: I don't believe
14 that's the case.

15 MR. STARKEY: I'll use the example of
16 Charles and Barbara Gill, where one was a
17 married couple, one was certified and one was
18 not certified on the sheet that I just handed
19 you, you'll find that is Petition 164. She is
20 Record 2. Her husband was Record 1. He was
21 certified, she was not, and we do not have an
22 explanation as to why.

23 CHAIRMAN D. DUMEZICH: No one told you why.

24 MR. STARKEY: No. No. A quick background
25 on that. This was at, I would say, about 11:00

1 on Friday, with noon being the deadline that we
2 had to get from the County Building to the
3 Statehouse to turn that in, so it was simply a
4 matter of time. We didn't realize after that
5 Friday we had the opportunity to get that in.

6 COMMISSION MEMBER B. BENNETT: Did you
7 offer the Marion county Election Board a
8 petition or testimony from Mrs. Gill, Barbara
9 Gill?

10 MR. STARKEY: No.

11 COMMISSION MEMBER B. BENNETT: Is she
12 available to testify today?

13 MR. STARKEY: No.

14 CHAIRMAN D. DUMEZICH: She's not available
15 or you did not ask her?

16 MR. STARKEY: I did not have her.

17 COMMISSION MEMBER S. RIORDAN: I have a
18 couple of questions in term of chronology. When
19 did you -- did you take all of your petitions to
20 Marion County in at one time?

21 MR. STARKEY: No.

22 COMMISSION MEMBER S. RIORDAN: You took
23 them over in sequence?

24 MR. J. WALLACE: Approximately, three
25 batches of 170, and another 400 that just got us

1 over the 500, and then we turned in about a
2 thousand -- 800 to a thousand on the 6th, I
3 believe it was.

4 COMMISSION MEMBER S. RIORDAN: On the 6th
5 of February?

6 MR. J. WALLACE: The 6th and the 7th, yes.

7 COMMISSION MEMBER S. RIORDAN: And what was
8 the deadline for turning them into Marion
9 County?

10 MR. J. WALLACE: Noon on the 7th.

11 COMMISSION MEMBER S. RIORDAN: So you had
12 how many in by noon on the 7th to Marion County?

13 MR. J. WALLACE: 1,282.

14 COMMISSION MEMBER S. RIORDAN: And they
15 only certified, of that 1,284, 486; correct?

16 MR. J. WALLACE: Actually, no. They only
17 certified 389. They failed to count,
18 approximately, 70 that we found upon immediate
19 review.

20 COMMISSION MEMBER S. RIORDAN: And you
21 brought that to their attention how, in writing
22 or calling over or...

23 MR. J. WALLACE: Friday morning -- after we
24 received the documents, we brought it to their
25 attention first thing Friday morning.

1 COMMISSION MEMBER S. RIORDAN: And what was
2 the response and who did it come from?

3 MR. J. WALLACE: It was -- I'll defer to
4 Mr. Starkey.

5 MR. STARKEY: When we turned them in in the
6 morning, I believe it was the woman who preceded
7 me in this chair.

8 CHAIRMAN D. DUMEZICH: Mrs. King.

9 MR. STARKEY: Correct. We turned them into
10 her and explained, you know, where we had
11 some -- we had initially reviewed some of them,
12 you know, saying that we believe they were
13 incorrectly not certified.

14 COMMISSION MEMBER S. RIORDAN: And what was
15 the response?

16 MR. STARKEY: They said they would review
17 them. This was about eight in the morning on
18 Friday.

19 COMMISSION MEMBER S. RIORDAN: And what was
20 the date on Friday again?

21 MR. J. WALLACE: The 10th.

22 COMMISSION MEMBER S. RIORDAN: The 10th.
23 So you went in at 8:00 o'clock or so in the
24 morning --

25 MR. STARKEY: Yes, we were there first

1 thing.

2 COMMISSION MEMBER S. RIORDAN: -- on Friday
3 the 10th?

4 MR. STARKEY: Correct.

5 COMMISSION MEMBER S. RIORDAN: And then
6 this certification letter dated, which is Mr.
7 John's Exhibit C, was issued on February 10th at
8 11:11 a.m.?

9 MR. STARKEY: Yes.

10 COMMISSION MEMBER S. RIORDAN: How many
11 incorrectly non-certified petitions did you
12 bring to their attention that morning?

13 MR. J. WALLACE: Thirty-seven.

14 MR. STARKEY: We brought 37 to their
15 attention, and of those -- they looked at those
16 and they certified 20 of them.

17 COMMISSION MEMBER S. RIORDAN: But you
18 still had over 1,200 before them at that time?

19 MR. STARKEY: Right.

20 MR. J. WALLACE: The 14 presented here fall
21 into three categories that may be helpful for
22 the Commission to consider, all of them covered
23 by Indiana Code 3-5-6. Kimberly Palmer/Bartley,
24 for example, got married or divorced, we're not
25 sure, but her name changed from that reflected

1 in the county record, but she's otherwise
2 validly registered at that address.

3 A number of these are minor variations in
4 birth date -- minor variations in address, such as
5 a number transposition, and a number of them -- a
6 couple of them actually reflect the mailing address
7 which is one of the two forms of addresses that can
8 be submitted on the petition, but which --

9 MR. T. JOHN: A moment, please.

10 MR. J. WALLACE: If I may finish my...

11 MR. T. JOHN: I copied the records from
12 the -- from the Election Commission's file and
13 there was no Petition A, B or C, and so I'd like
14 a copy of those, if there's going to be
15 testimony related to them.

16 MR. J. WALLACE: That is correct, and the
17 reason we had to use letters is because we did
18 not have -- we still do not have copies of the
19 petitions that are considered late. The
20 petitions that were considered and added to the
21 total at 11:11 a.m. on Friday, we still have not
22 been able to review.

23 CHAIRMAN D. DUMEZICH: You didn't make
24 copies of the submissions?

25 MR. J. WALLACE: No. We -- at the late

1 hour that we got them, we took them immediately
2 to the Secretary of State's office.

3 CHAIRMAN D. DUMEZICH: When you say got
4 them, who did you get them from?

5 MR. STARKEY: We got them from...

6 MR. J. WALLACE: The Marion County Clerk's
7 Office.

8 MR. STARKEY: Yeah, the Marion County
9 Clerk's Office at -- shortly before the 11:11 --
10 well, no, at 11:11 is when they handed me that
11 certification, and like I said, between the, you
12 know, picking up the certification at 11:11,
13 making it to the Statehouse, we didn't copy it.

14 CHAIRMAN D. DUMEZICH: Now you rest your
15 case so we can go to a rebuttal here?

16 MR. T. JOHN: I may have a cross.

17 CHAIRMAN D. DUMEZICH: And who will you be
18 cross-examining?

19 MR. T. JOHN: I'll start with Mr. Wallace,
20 just three questions. When were Petitions A, B
21 and C filed in Marion County?

22 MR. J. WALLACE: I'm not aware of that
23 date.

24 MR. STARKEY: That, I don't know.

25 MR. T. JOHN: So you have no copies of

1 these petitions that you're asking the
2 Commission to consider?

3 MR. J. WALLACE: These are copies -- for A,
4 B and C these are copies for what we submitted
5 so we're not sure what the final disposition of
6 the Election Board was.

7 MR. T. JOHN: And when were those
8 submitted?

9 MR. STARKEY: I can answer that. Because
10 we had so many, Marion County was kind enough to
11 number all of the pages at the bottom of them.
12 In between collecting them back, there were some
13 that we were not able to scan or photocopy for
14 ourselves after they had numbered them so we did
15 not have some of them with a number on them.
16 They are turned in. We just simply -- for A, B
17 and C, we put that in there for our tracking.

18 CHAIRMAN D. DUMEZICH: Okay.

19 MR. T. JOHN: When you say turned in,
20 turned in to the Election Commission?

21 MR. STARKEY: Yes.

22 MR. T. JOHN: When were they turned in?

23 MR. STARKEY: The receipt stamp is January
24 20th of 2012.

25 MR. T. JOHN: To the Election Commission?

1 MR. STARKEY: Oh, I'm sorry, to the County.

2 MR. T. JOHN: And when were they turned in
3 to the Election Commission?

4 MR. STARKEY: They were all turned in on
5 the same day, on the 11th.

6 MR. T. JOHN: They were turned in on the
7 same day?

8 MR. STARKEY: Yes.

9 MR. T. JOHN: So my review of the case --
10 so I wasn't clear that you actually did that.
11 Sorry about that.

12 CHAIRMAN D. DUMEZICH: Okay. Any other
13 questions?

14 MR. T. JOHN: No.

15 CHAIRMAN D. DUMEZICH: Would you like to do
16 your rebuttal and keep it to like one minute?

17 MR. T. JOHN: Then what I would do is
18 rather than take up the court's time, many of
19 the incorrectly, not certified items raised, I
20 actually have addressed in here in position.
21 I'll just submit this document for review with
22 the Commission.

23 But the fact is the law is clear, that a
24 petition requires more than just have a name of a
25 voter. It requires it to have a voter's signature

1 that matches the records in voter registration. It
2 requires the name to be printed legible and it
3 requires a resident's mailing address, not a P.O.
4 Box, not -- it has to be an actual indication of
5 where that person's residence is. That residence
6 has to match the voter file. It can't be another
7 residence that doesn't match that person's voter
8 registration.

9 In many of these cases that have just been
10 raised, there's cases where the person's voter
11 registration had not been updated. Maybe they are
12 voter of the county, but the fact is we have rules,
13 and once again, at some point, if you quit
14 following the rules -- we have a challenge later
15 this afternoon where somebody filed for a
16 presidential candidate with one signature. At what
17 point do we say good enough is good enough and not
18 just follow the rules to the letter of the law?

19 So I would submit this document in opposition
20 and leave it, the tabs on it for the Commission to
21 be able to ascertain the printouts from voter
22 registration which show the actual voter
23 registration address of each of these people and
24 why they were denied. Some of them also, there are
25 notes there, either signatures did not the match,

1 there wasn't a signature, or in fact, there wasn't
2 an address.

3 CHAIRMAN D. DUMEZICH: Thank you. Before I
4 close the record, I want to make sure that all
5 the documents that have been presented to the
6 Commission have been provided to Dale Simmons so
7 we can close the record.

8 MR. J. WALLACE: Mr. Chairman, will we have
9 a moment to rebut his rebuttal?

10 CHAIRMAN D. DUMEZICH: You have 30 seconds.
11 Our five minutes have turned into an hour.

12 MR. J. WALLACE: I would agree with counsel
13 for the challenger, we do have rules. Indiana
14 Code 3-8-2-9 says that the county must certify
15 that each petitioner is a voter of the county.
16 We've identified over 700 which are voters of
17 Marion County.

18 Because of the mechanics of the voter
19 information portal, they do not capture the
20 information for young, elderly, low-income mobile
21 voters who change an address before Marion County
22 is able to update their records. So the bulk of
23 those will simply be a voter who is disenfranchised
24 by virtue of the inability of the system to keep up
25 with their location.

1 The rules with 3 -- with regard to 3-5-6 are
2 quite clear as well: A reasonable doubt must be
3 resolved in favor of the registered voter. And as
4 I mentioned, case law and abundant history of this
5 body favors that ruling. We've addressed in those
6 14 and would be happy to address to the
7 satisfaction of the Commission any variations of
8 the name -- I pointed out one, minor variations in
9 the address, which are the bulk of those, and
10 substantial variations in the address simply
11 because they put their mailing address, not the
12 residence, or not the registered address.

13 The form clearly states that the undersigned
14 represents that they reside at the address after
15 the individual's signature. A vagary in the law
16 exists whereas the certification process asks them
17 to place their registered address, and that is what
18 Marion County checks, what the form asks for is
19 their residence address.

20 In most counties that we have gone through
21 this certification process with, they check both.
22 In Marion County, at least in the process that I
23 observed with the Republican Election Board
24 members, they do not check that. Thank you.

25 CHAIRMAN D. DUMEZICH: Once again, we'd

1 like to close the record in Cause No. 2012-169.

2 COMMISSION MEMBER S. RIORDAN: Can I just
3 ask one more question before you do that, Mr.
4 Chairman?

5 CHAIRMAN D. DUMEZICH: Certainly.

6 COMMISSION MEMBER S. RIORDAN: Mr. Wallace,
7 how many signatures did you submit in the 2nd
8 Congressional District?

9 MR. J. WALLACE: I'm not sure we have that
10 number.

11 MR. STARKEY: I can tell you that we -- one
12 moment here -- I can tell that you our records
13 show that we had 505 certified with an 93
14 percent acceptance rate.

15 COMMISSION MEMBER S. RIORDAN: I don't
16 understand what that means. Your records of
17 certification, how many were certified by the
18 various county boards of voter registration in
19 the 2nd?

20 MR. STARKEY: 505.

21 COMMISSION MEMBER S. RIORDAN: 505?

22 MR. STARKEY: Correct.

23 COMMISSION MEMBER S. RIORDAN: Mr. John, do
24 you dispute that?

25 MR. T. JOHN: Well, based on my review -- I

1 mean, I'm human, that's possible, but I counted
2 them twice, and by my review, in the 2nd
3 District, there were 19 in Laporte, 203 in
4 Elkhart, 29 in Kosciusko, 70 in Fulton, 65 in
5 Miami.

6 COMMISSION MEMBER S. RIORDAN: How many,
7 I'm sorry?

8 MR. T. JOHN: Sixty-five in Miami, 50 in
9 Pulaski, 24 in St. Joe, 7 in Starke, and 9 in
10 Wabash.

11 CHAIRMAN D. DUMEZICH: Which comes out to?

12 MR. T. JOHN: 476.

13 CHAIRMAN D. DUMEZICH: And the
14 certifications, do we have similar letters from
15 each county with respect to the 2nd District?

16 MR. T. JOHN: I'm sorry, could you repeat
17 that?

18 CHAIRMAN D. DUMEZICH: Do we have
19 documentation similar to this for these
20 counties?

21 MR. T. JOHN: No, that -- it's actually
22 unusual. Once again, Marion County, because
23 we're bigger and because we have the sole
24 congressional district, oftentimes what you see
25 in these forms is on the back of each form it'll

1 be certified how many registered voters there
2 are for that form so you'll have to go through
3 and count them all.

4 But I actually -- when I made those numbers,
5 those are actually from the stickies which I then
6 went and verified from the Wallace campaign on the
7 outside of their documents that they filed.

8 COMMISSION MEMBER S. RIORDAN: How did you
9 get to 505?

10 MR. STARKEY: I don't have the county
11 breakdown in front of me right now.

12 MR. J. WALLACE: I can get that, if you'd
13 like that at a recess. I can give you the
14 competing numbers. I have a spreadsheet on our
15 computer.

16 CHAIRMAN D. DUMEZICH: I think we're
17 calculating it here with the records.

18 COMMISSION MEMBER S. RIORDAN: The
19 Democratic staff have totaled up what they've
20 calculated to be the certified signatures from
21 the 2nd Congressional District county by county,
22 and that was by hand review of the petitions --

23 MR. T. DECKARD: 516.

24 COMMISSION MEMBER S. RIORDAN: -- and they
25 have 516.

1 CHAIRMAN D. DUMEZICH: Well, and I have
2 feeling this is going to -- regardless of the
3 way we come out, it's...

4 MR. T. JOHN: However you come out, it is
5 what it is.

6 CHAIRMAN D. DUMEZICH: Yeah. Closing the
7 record. I'll entertain a motion for the
8 purposes of discussion.

9 VICE CHAIR A. LONG: Discussion, I'll move
10 to sustain the challenge.

11 CHAIRMAN D. DUMEZICH: Do I hear a second?

12 COMMISSION MEMBER B. BENNETT: Second.

13 CHAIRMAN D. DUMEZICH: Okay. Here's the
14 way I see -- I see the case. You've come
15 forward, brought these petitions forward, you've
16 been challenged. I think they have met their
17 burden of proof coming forward by presenting
18 this.

19 I haven't heard any testimony today that would
20 lead me to believe that the 486 is not an accurate
21 count. The fact that you went back and talked to
22 them and worked through this and worked with them
23 on Thursday, indicates to me that what they believe
24 to be the accurate count is reflected on this
25 February 10th letter in dealing with the 7th

1 District.

2 So I would -- I would vote to sustain the
3 challenge.

4 VICE CHAIR A. LONG: And I thought this was
5 going to be clear, and it is because of the 2nd
6 District and the presentation that was made
7 there. The desire to error, if at all, on the
8 side of a conclusion for the candidates, we'd
9 ask for counsel, and it's my belief that one
10 side of the aisle over here has maybe a
11 different number than 516, and I mean, it is, I
12 guess what it is, but that doesn't answer the
13 question.

14 I think my biggest problem, Mr. Wallace, you
15 raised really serious concerns in my mind. I don't
16 understand how a voter registration office can get
17 petitions, and most of us have been involved in
18 these over the years in our various districts, and
19 there could be that many wrong. I mean, I'm
20 just -- I'm astounded by that. That raises
21 credibility in my mind about the Marion County
22 Voter Registration's record keeping, and not the
23 personnel that labors through all these things and
24 do these.

25 But I think the thing that troubles me is we

1 have an official document certified by the Marion
2 County Voter Registration that says 486 votes in
3 the 7th District. In order -- and I think that
4 carries today for the challenger, and in order to
5 rebut that, I think you would have -- maybe this is
6 a lawyer thinking the way I approach things, but I
7 think that you would have had to dissected those
8 petitions, bring affidavits, bring voter
9 registration forms for the 15 or 20 or however many
10 you felt you needed to get over the hump in order
11 to successfully rebut that, and unfortunately,
12 you've not done that.

13 I am extremely concerned as a member of this
14 commission, and I'll be asking our staff if there's
15 some vehicle we have to investigate the situation
16 regarding rejection of that many signatures. It's
17 very troublesome to me.

18 CHAIRMAN D. DUMEZICH: Well, and...

19 VICE CHAIR A. LONG: And I vote to sustain
20 the challenge, and I'm not trying to demean the
21 staff -- Miss King came here, and I wouldn't
22 work in the clerk's office or the voter
23 registration office at this time of year for
24 anything. This -- I'm not convinced you got 500
25 signatures in the 7th District. I'm not really

1 sure right now in the 2nd, but the law says
2 you've got to have 500, and I don't think you
3 got them.

4 CHAIRMAN D. DUMEZICH: Commissioner Long
5 has expressed his -- I guess the record keeping
6 in Marion County that he's unhappy with, and
7 obviously, we're unhappy with it as well, but I
8 think there's also another point to be made
9 here. For such a large fallout, I think there
10 has to be some problem in the collection process
11 as well.

12 VICE CHAIR A. LONG: Could be.

13 CHAIRMAN D. DUMEZICH: That's the other
14 side of this, so I don't think it all rests on
15 poor record keeping of Marion County. In light
16 of some of the things that we've seen on this
17 petition, I think that more internal control
18 would have been well suited.

19 I know that sometimes people who are your
20 supporters get over-exuberant and maybe do a little
21 bit more with the petitions than they should, and
22 it would appear to me that some of the signatures
23 that I saw today have that over-exuberance.

24 VICE CHAIR A. LONG: And I concur with
25 that.

1 CHAIRMAN D. DUMEZICH: A signature may
2 change but someone born in 1947 certainly
3 doesn't think he was born in...

4 VICE CHAIR A. LONG: '91.

5 CHAIRMAN D. DUMEZICH: '91. While there is
6 a motion on the floor to sustain the challenge,
7 all in favor of that motion, and I had a second
8 as well, so all in favor of the motion, indicate
9 by saying aye?

10 THE COMMISSION: Aye.

11 CHAIRMAN D. DUMEZICH: All opposed?

12 COMMISSION MEMBER S. RIORDAN: Nay.

13 CHAIRMAN D. DUMEZICH: The vote is 3-1.

14 The challenge is upheld and the Election
15 Division is directed not to include the name of
16 the candidate in the certified list of
17 candidates to be printed on the ballot.

18 MR. T. JOHN: Thank you for your time.

19 CHAIRMAN D. DUMEZICH: Leonard Compton
20 challenge. The next proceeding that will be
21 considered is Cause No. 2012-174, which has been
22 filed in the matter of the challenge to Leonard
23 Compton, candidate for Republican nomination for
24 the State of Indiana Representative, District
25 47. The challenger is Sandy Huddleston. Do we

1 have anything to be presented by our -- by our
2 staff in this matter or can I turn it over to
3 Miss Huddleton?

4 MR. B. KING: Mr. Chairman and Members of
5 the Commission, the documents concerning this
6 matter are in the Commission's binder and under
7 the procedural rules have been admitted into
8 evidence.

9 CHAIRMAN D. DUMEZICH: With that?

10 UNIDENTIFIED SPEAKER: (Indiscernible.)

11 CHAIRMAN D. DUMEZICH: Go grab him. Let's
12 see if we can stick more to the five-minute
13 thing. With that, let's -- please, just quickly
14 present your case for the record.

15 MS. S. HUDDLESTON: I will. Thank you very
16 much to the Board for hearing my petition this
17 morning, and I will take a very limited amount
18 of time.

19 I am a resident of the State Representative
20 District 57, and as such, was going through all of
21 the candidate filings in Johnson County and
22 realized that on Mr. Compton's Candidate 2 form
23 that he filed to be a primary candidate that he did
24 mark in his most recent election -- primary
25 election he had voted as a Republican because he's

1 filing as a Republican, and I noticed and I did
2 check his voter registration.

3 I do have a certified copy now from the county
4 clerk certifying his voting record that in his most
5 recent Primary election in 2008, he did vote as a
6 Democrat, and in 2008, in the General Election, and
7 2010, he voted in the General Election with no
8 further primary election record voting as a
9 Republican.

10 And so on his candidate form he should have
11 checked under No. 3 -- by virtue of Indiana Code
12 3-8-2-7, he should have checked the third option
13 and then should have contacted the county chairman,
14 which I am the county chairman of Johnson County
15 for the Republican Party.

16 I had no contact with him and I would have
17 looked at the record and reviewed it all and had a
18 conversation with him and possibly could have
19 signed the form that is required, if he had chosen
20 to properly identify that he voted as a Democrat in
21 the last election.

22 So I would submit to the Board that under the
23 Indiana Code and the fact that he did not sign --
24 did not check the proper thing, that he is not a
25 valid candidate for the Republican.

1 CHAIRMAN D. DUMEZICH: Nor did he follow
2 proper procedures to get an affidavit done?

3 MS. S. HUDDLESTON: Correct.

4 CHAIRMAN D. DUMEZICH: Can you, please,
5 present that to Mr. Simmons for the record?

6 MS. S. HUDDLESTON: Yes?

7 CHAIRMAN D. DUMEZICH: Is that your case?

8 MS. S. HUDDLESTON: Yes, sir.

9 MR. P. OGDEN: My name is Paul Ogden. I'm
10 the attorney for Mr. Compton, Leonard Compton,
11 who is a candidate for House District 47. We
12 have (indiscernible).

13 CHAIRMAN D. DUMEZICH: Maybe not. Your
14 microphone is...

15 MR. P. OGDEN: Can you hear me now?

16 CHAIRMAN D. DUMEZICH: There you go.

17 MR. P. OGDEN: Thanks. It was not on. We
18 do not have object to the -- we stipulate to the
19 facts within the record, but I have some legal
20 argument that I will present within -- just take
21 a couple of minutes, Your Honor, it won't be --
22 Your Honor, I mean, Mr. Chairman, it won't be as
23 long as the previous presentation -- I promise
24 you that, sir.

25 If you look up on the board, there's a name up

1 there, Ellspermann, who was before the Election
2 Commission in 2010, who faced a similar situation,
3 where she had voted in the Democratic Primary in
4 2008, which a lot of Republicans were doing. A lot
5 of Republicans were crossing over because of the
6 interest in the presidential election.

7 She crossed over and that issue came before
8 the Election Commission. She went out and was able
9 to get the required certification after the fact,
10 after the filing deadline. Still the challenge
11 went before the Election Commission and the
12 Commission deadlocked 2-2, which means that she was
13 on the ballot.

14 In this case, Mr. Compton had no opportunity
15 to get the same certification because the person
16 who's challenging him is the same person who is the
17 county chairman, who you have to get the
18 certification from, and there are three other
19 candidates in House District 47. That is -- so
20 there is some precedent, though. The case Wyatt v.
21 Wheeler is not -- from 2010 is not exactly on
22 point, I admit that.

23 But however, if you look at the -- there's a
24 case out of the United States Supreme Court --
25 moving onto the second part, we would like to make

1 a constitutional challenge to this particular
2 statute citing Kusper v. Pontikes, 414 U.S. 51
3 (1973).

4 The United States Court dealt with the
5 situation where there was an Illinois law that said
6 you had to wait 23 months to switch from one party
7 to another. It was challenged under the 1st
8 Amendment, 14th Amendment, political association
9 rights which are given credible protection, and the
10 United States Supreme Court struck that down in
11 terms of crossing over.

12 I know this is somewhat of a different
13 situation. This is not a voter going from one
14 primary to another, but a candidate, but the free
15 association rights in the 1st Amendment and the
16 14th Amendment are given maximum protection.

17 CHAIRMAN D. DUMEZICH: I'm not really
18 inclined to rule that the statute is
19 constitutional based on the fact that I don't
20 have any brief in front of me.

21 MR. P. OGDEN: Your Honor, I did put
22 together my brief. It's not an extensive brief.

23 CHAIRMAN D. DUMEZICH: Give it to them.

24 MR. P. OGDEN: So it's the 1st and 14th
25 Amendment, and it is something that just because

1 of the nature of the administrative process, if
2 we don't raise this here, we go to another
3 level, we can't bring it up again. So I'd ask
4 you to take a look at that case and make a
5 ruling based on that case and apply it to this
6 type of situation.

7 In this particular statute while -- if you
8 look at Illinois, it was 23 months. In Indiana,
9 there is no time limit at all, plus it gives one
10 person, the county chairman an absolute veto on
11 whether a candidate goes on a ballot. It goes much
12 further than the Illinois statute which was
13 determined to be unconstitutional, so I'd ask you
14 to take a look at that.

15 I'd also ask to make another constitutional
16 challenge, this time under Indiana's Constitution
17 of Privileges and Immunities Act. Two classes of
18 candidates are created, those Republican candidates
19 who voted in the last primary being a Republican
20 primary, other -- a Republican candidate who their
21 last race was, or last race they voted in was a
22 Democratic primary.

23 Indiana law, the constitution requires that
24 you treat those classifications equally. In
25 particular, I would point out that any -- under the

1 case Collins v. Day 644 N.E. 2nd (Ind. 1994), the
2 most significant requirement under the privileges
3 and immunities clause is that any privileged
4 classification must be open to any and all persons
5 who share the inherent characteristics which
6 distinguish and justify the classification, with
7 the special treatment afforded to any particular
8 classification extended equally to all such
9 persons.

10 Again, the problem with the statute is there's
11 no time limit and you get one person absolute veto.

12 VICE CHAIR A. LONG: The statute,
13 (indiscernible), it prevents him from the
14 statute as it is written.

15 MR. P. OGDEN: It prevents him from -- the
16 statute as it is written.

17 CHAIRMAN D. DUMEZICH: Your mike.

18 VICE CHAIR A. LONG: I'm sorry. The
19 question was -- forgive me, I -- the question
20 is: Does the statute prevent him from being a
21 candidate for office or for being a candidate as
22 a Republican for the office?

23 MR. P. OGDEN: It prevents him from, in
24 this election, being a candidate for -- as a
25 Republic candidate running in the Republican

1 primary. The problem is there's no time limit.

2 It could have been 1980 was his last primary,

3 plus you give the chairman an absolute veto.

4 CHAIRMAN D. DUMEZICH: Let me pose a

5 question to you: Did you vote in the Republican

6 primary in '06?

7 MR. L. COMPTON: I'm sorry?

8 CHAIRMAN D. DUMEZICH: Did you vote in the

9 Republican primary in '06?

10 MR. L. COMPTON: I believe I did.

11 CHAIRMAN D. DUMEZICH: Do we have his...

12 MR. L. COMPTON: I believe Miss Huddleston

13 has the...

14 CHAIRMAN D. DUMEZICH: May I see a copy of

15 the record?

16 MS. S. HUDDLESTON: The certification that

17 I gave to Mr. Simmons shows that in 2000, 2002

18 he voted in General; 2004, he voted in the

19 Republican Primary; 2004 General Election; 2006,

20 General Election; 2008, he voted in the Democrat

21 Primary; and then in 2008 and '10, General

22 Election.

23 MR. P. OGDEN: And Your Honor, we

24 stipulate...

25 CHAIRMAN D. DUMEZICH: The last time you

1 voted in a Republican Primary, according to your
2 record, was '04?

3 MS. S. HUDDLESTON: Yes.

4 MR. L. COMPTON: That would be correct.

5 CHAIRMAN D. DUMEZICH: Eight years ago.

6 MR. L. COMPTON: Yes.

7 CHAIRMAN D. DUMEZICH: Okay.

8 MR. P. OGDEN: Your Honor -- Mr. Chairman,
9 I would point out that he hasn't voted in t he
10 Democratic Primary for four years so...

11 CHAIRMAN D. DUMEZICH: Do we have any more
12 questions?

13 (No response.)

14 CHAIRMAN D. DUMEZICH: With that, I'll
15 entertain a motion.

16 MS. S. HUDDLESTON: Do I have time to do a
17 rebuttal, sir, just very quickly?

18 CHAIRMAN D. DUMEZICH: Yes, 30 seconds.

19 MS. S. HUDDLESTON: Okay. My rebuttal is
20 that he checked the wrong mark in saying that he
21 voted in the most recent primary, he voted as a
22 Republican, and at the bottom it says that he is
23 certifying that this is correct.

24 He knew that he voted in the Democrat Primary.

25 I am very available. I realize that people voted

1 in '08 sometimes for a reason in the Republican, or
2 in the Democratic Primary. I've also certified and
3 let some of these people vote and be candidates for
4 the Republican Primary since that point. He also
5 had opportunity in 2010 to vote in the Republican
6 Primary, and he did not.

7 CHAIRMAN D. DUMEZICH: Have you -- prior to
8 this challenge, had you ever met Mr. Compton?

9 MS. S. HUDDLESTON: No, sir.

10 MR. P. OGDEN: Mr. Chairman, the Petitioner
11 has sort of alleged that he almost committed
12 perjury by signing the way he did, and my client
13 just wanted to respond to that very briefly.

14 CHAIRMAN D. DUMEZICH: Okay.

15 MR. L. COMPTON: On the day that I filled
16 this application out, I truly had to await -- I
17 for got about it, and I would have bet -- if we
18 had a family farm, I would have bet the family
19 farm that was correct.

20 Upon last Saturday, when I opened up the
21 objections, and in discussing it with my wife, I
22 recall vividly what 2008 was all about. That may
23 not have been morally correct, but I felt at the
24 time it was strategically correct, so at any rate I
25 had -- and I'm on the road a lot and I have not --

1 I don't vote in a lot of primaries. I am on the
2 road. I could vote absentee ballot, but I assure
3 this group assembled here today --

4 CHAIRMAN D. DUMEZICH: I just want to make
5 sure the record is clear. When you filled out
6 that form, you really believed that you had
7 voted in the Republican Primary?

8 THE COMMISSION: Yes, sir.

9 CHAIRMAN D. DUMEZICH: That's -- you should
10 stop right there.

11 MR. P. OGDEN: Thank you, Mr. Chairman.

12 MS. S. HUDDLESTON: And I take him at his
13 word, too.

14 CHAIRMAN D. DUMEZICH: With that, close the
15 record in Cause No. -- unless there's any other
16 questions -- in Cause No. 2002-174. The record
17 is now closed. I'd entertain a motion in this
18 matter.

19 COMMISSION MEMBER B. BENNETT: I move to
20 sustain the challenge.

21 CHAIRMAN D. DUMEZICH: Okay. Do I hear a
22 second?

23 VICE CHAIR A. LONG: And I second it.

24 CHAIRMAN D. DUMEZICH: Open for
25 discussion -- at the end of the day there is a

1 remedy, and the remedy is fairly simple, and for
2 whatever reason, faulty memory, he didn't take
3 the remedy that he had, and that's why I think
4 the statute is constitutional as well.

5 So with that in mind, those are the points
6 that I'd like to make. One, I think the statute is
7 constitutional; two, there was a way to remedy --
8 the fact that he voted in '08 in the Democratic
9 Primary, he did not do that, and then he made a
10 mistake on the form, strike 4.

11 VICE CHAIR A. LONG: If he had stayed a
12 Democrat...

13 CHAIRMAN D. DUMEZICH: Absolutely, and I'm
14 glad that there are people coming over to our
15 side. Hearing a second, all in favor of the
16 motion to uphold the challenge, indicate by
17 saying aye?

18 THE COMMISSION: Aye.

19 CHAIRMAN D. DUMEZICH: All opposed, nay?

20 (No response.)

21 CHAIRMAN D. DUMEZICH: 4-0, the ayes have
22 it. The Election Division is directed not to
23 include the name of this candidate on the
24 certified list of candidates to be printed on
25 the ballot. Next.

1 MR. L. COMPTON: I thank you for your time.

2 CHAIRMAN D. DUMEZICH: Thank you. Chris
3 Grider challenge. In the matter of the
4 challenge to Christopher A. Griter, candidate
5 for the Democratic Party Nomination for Indiana
6 State Representative, District 10. At this time
7 does the Election Commission Staff have any
8 documents that they would like to put into the
9 record?

10 MR. B. KING: Mr. Chairman and Members of
11 the Commission, the documents in this cause has
12 been provided to the members in their binders
13 and pursuant to the procedural rules have been
14 admitted into evidence.

15 CHAIRMAN D. DUMEZICH: Okay. I recognize
16 the challenger, Keith R. Hardin.

17 MR. K. HARDIN: Good morning.

18 CHAIRMAN D. DUMEZICH: You are?

19 MR. K. HARDIN: I'm Keith Hardin. Last
20 name is H-A-R-D-I-N.

21 CHAIRMAN D. DUMEZICH: Okay. Is this your
22 counsel to the left of you?

23 MR. K. HARDIN: At times. I filed the
24 challenge against Christopher Grider who lives
25 at 862 Glendale Drive, Franklin, Indiana. I am

1 a resident in District 58 and Mr. Grider lives
2 in District 47, so I don't need five minutes.

3 CHAIRMAN D. DUMEZICH: Okay. Is Mr. Grider
4 present?

5 (No response.)

6 CHAIRMAN D. DUMEZICH: He is not. Quickly
7 state your case.

8 MR. K. HARDIN: I do have a copy of the
9 financial information that he filed where he
10 listed his address at 862 Glendale Drive,
11 Franklin, Indiana. Also, a copy of the voting
12 information for Mr. Grider which states that he
13 is in Franklin Precinct 14 for voting and
14 registered to vote there on 1/31 of 2008.

15 I also have a copy of the representative
16 district map which clearly shows that the City of
17 Franklin is not in District 58 for which he filed,
18 it is in District 47, and a Google map of his
19 address in Franklin, Indiana.

20 CHAIRMAN D. DUMEZICH: Okay.

21 MR. K. HARDIN: Thank you.

22 CHAIRMAN D. DUMEZICH: So your position is
23 in summary?

24 MR. K. HARDIN: My position is that as a
25 resident of District 58, he does not live in my

1 district and should not be allowed to register
2 to, or should not register to file to vote --
3 I'm sorry, file to run for representative in
4 District 58. He filed in an improper district.

5 CHAIRMAN D. DUMEZICH: Okay. Any
6 questions?

7 (No response.)

8 CHAIRMAN D. DUMEZICH: I'll entertain a
9 motion to close the record.

10 COMMISSION MEMBER B. BENNETT: I'll move to
11 sustain the challenge?

12 CHAIRMAN D. DUMEZICH: Do I hear a second?

13 VICE CHAIR A. LONG: I second.

14 CHAIRMAN D. DUMEZICH: Okay. Any
15 discussion?

16 (No response.)

17 CHAIRMAN D. DUMEZICH: Hearing none,
18 there's a motion on the floor to uphold the
19 challenge in the matter of Christopher A.
20 Grider, Candidate for Democratic Nomination for
21 the State of Indiana, District 58, all in favor
22 of the motion, indicate by saying aye?

23 THE COMMISSION: Aye.

24 CHAIRMAN D. DUMEZICH: All opposed,
25 indicate by saying nay?

1 (No response.)

2 CHAIRMAN D. DUMEZICH: 4-0, the ayes have
3 it. The Election Division is directed not to
4 include the name of this candidate in the
5 certified list of candidates to be printed on
6 the ballot. Mike Pence, Candidate for
7 Republican nomination for Governor, Cause No.
8 2012-168. The challenger is Jason Sharp.

9 COMMISSION MEMBER S. RIORDAN: Mr.
10 Chairman, if I may. I am partner in the law
11 firm of Frost Brown Todd, and my colleague, Mr.
12 Wheeler, is representing the challenged
13 candidate, and so for that reason, I have a
14 clear conflict of interest and have to recuse
15 myself on the panel for purposes of this
16 challenge, and I have appointed a proxy, Liane
17 Groth Hulka, who will take my seat.

18 CHAIRMAN D. DUMEZICH: I accept your proxy.
19 Just so everybody's clear, the reason she is
20 recusing herself is because she has a district
21 pecuniary interest in this. That's one of the
22 few grounds where people do recuse themselves on
23 this commission; isn't that so, Mr. Wheeler?

24 MR. T. WHEELER: In my five years it was,
25 Mr. Chairman.

1 CHAIRMAN D. DUMEZICH: Where's our
2 challenger?

3 MR. T. WHEELER: We've been looking for the
4 challenger. We have not seen him thus far.

5 CHAIRMAN D. DUMEZICH: The challenger is...

6 MR. T. WHEELER: Jason Sharp.

7 CHAIRMAN D. DUMEZICH: Jason Sharp, Jason
8 Sharp, Jason Sharp -- he's not here. He can't
9 present his case.

10 MR. T. WHEELER: Mr. Chairman, we would
11 move to dismiss the challenge based upon the
12 fact that the challenger has not attended the
13 hearing. It's my understanding that notice was
14 sent to Mr. Sharp at his listed address by the
15 Election Commission. His listed address is 125
16 Mystic Springs Drive, Greenfield, Indiana,
17 46143.

18 VICE CHAIR A. LONG: Is there a report on
19 that?

20 CHAIRMAN D. DUMEZICH: Yeah, let's get a
21 report.

22 MR. B. KING: Mr. Chairman, and Members of
23 the Commission, yes, that is correct. Notice
24 was sent to the challenger at the address
25 indicated on the CAN-1 challenge form.

1 VICE CHAIR A. LONG: I move we dismiss the
2 challenge.

3 CHAIRMAN D. DUMEZICH: There's a motion on
4 the floor to dismiss.

5 COMMISSION MEMBER B. BENNETT: Second.

6 CHAIRMAN D. DUMEZICH: I have a second, any
7 discussion?

8 (No response.)

9 CHAIRMAN D. DUMEZICH: Hearing none, all in
10 favor of the motion to dismiss, indicate by
11 saying aye?

12 THE COMMISSION: Aye.

13 CHAIRMAN D. DUMEZICH: Opposed, nay?

14 (No response.)

15 CHAIRMAN D. DUMEZICH: 4-0, the ayes have
16 it.

17 MR. T. WHEELER: Thank you, Mr. Chairman.

18 CHAIRMAN D. DUMEZICH: The Election
19 Commission is directed to include the name of
20 this candidate in the certified list of
21 candidates to be printed on the ballot.

22 The next proceeding will be the consideration
23 of Cause No. 2012-129 through 157 which have been
24 filed in the matter of the challenge to Rick
25 Santorum, candidate for the Republican Party

1 nomination for President of the United States.

2 Since there will be more than one individual
3 who has filed challenges against this candidate,
4 we'll begin in the front of the room on the right
5 side and work over, and you'll have your
6 opportunity to come up and state your case.

7 So I'd recognize the first challenger, and
8 Toby McClamrock, you are representing?

9 MR. T. McCLAMROCK: Mr. Santorum.

10 CHAIRMAN D. DUMEZICH: If you have filed a
11 challenge against Mr. Santorum, please raise
12 your hand?

13 (Challengers complied.)

14 CHAIRMAN D. DUMEZICH: Okay, you're first.
15 Come on up. What we're going to do is do the
16 next row and then we'll go to this row back and
17 forth so everybody will have their say.

18 VICE CHAIR A. LONG: Mr. Chairman, if
19 you'll remind me, because of the multiple
20 challenges, the rule that we adopted earlier...

21 CHAIRMAN D. DUMEZICH: Once a person has
22 stated a cause you may add to that or contradict
23 it. There is no reason to state the cause
24 again. So you can merely say that the grounds
25 for my challenge have been previously stated

1 with the exception of blank and blank, okay.

2 Sir, please state your name for the record?

3 MR. B. BRANSON: My name is Beau Branson,
4 B-R-A-N-S-O-N. It was reported in several
5 newspapers and other media outlets that Mr.
6 Santorum did not receive enough signatures in
7 District 7.

8 I believe I have several articles, and I could
9 submit them, if you want, but on February 6th, I
10 show that he had 476 so he's 24 short. The paper
11 reported he submitted 49. It's not clear whether
12 those were extras that were submitted after the
13 deadline or if they just directed the Board of
14 Elections to 49 signatures, in particular, that
15 were maybe incorrectly disqualified.

16 The papers report that Cindy Mowery said
17 she -- essentially, she would take a look at the
18 extra signatures but doubted that they would have
19 any effect. She said they -- she didn't think they
20 mattered. On the afternoon of February 6th, she
21 stated in the papers based on the arguments heard
22 from Mr. Santorum's attorneys, sounded unlikely
23 that it would change anything. Then in the evening
24 it was reported that had she said those signatures
25 were deemed invalid.

1 It appears from one newspaper story that all
2 49 of them were still deemed invalid. And then on
3 February 10th somehow, the report was that there
4 were 492 signatures so he was only 8 short. It's
5 not clear where the extra 16 came from. If I
6 could, maybe I could call Miss Mowery to the stand
7 to ask her that.

8 CHAIRMAN D. DUMEZICH: If she's here, call
9 her.

10 VICE CHAIR A. LONG: Is she here?

11 CHAIRMAN D. DUMEZICH: I don't know.

12 MR. B. BRANSON: And I'll try to make that
13 as brief as possible.

14 CHAIRMAN D. DUMEZICH: Okay. Could you
15 scoot over, Toby so she could...

16 MR. B. BRANSON: So there seems to be some
17 discrepancy between saying there were -- all 489
18 of those were still deemed to be invalid, but
19 then later there were apparently 16 of them that
20 were deemed valid. Then just yesterday, it
21 turns out he has exactly the right number as of
22 5:09 yesterday so I don't know what the
23 procedure is.

24 CHAIRMAN D. DUMEZICH: Before you start --
25 you've stated your case. I understand your

1 ground. For point of clarification, just so
2 everybody is aware of this, I am the State
3 Chairman for Romney for President. Having said
4 that, I don't -- I do not believe I have to
5 recuse myself, because frankly, the only time
6 you recuse yourself here is when you are a
7 pecuniary interest or something you have
8 personally done that's the subject of the
9 investigation.

10 And the reason it's quite simple, we are all
11 political appointees. I don't think you could find
12 a person that would be willing to sit up here that
13 isn't in favor of one candidate or another. I
14 don't believe that affects my judgment in any
15 material way in this matter. Anybody that would
16 like to make an objection to that, please feel free
17 to do so.

18 (No response.)

19 MR. B. BRANSON: I have no objection.

20 CHAIRMAN D. DUMEZICH: Okay. With that in
21 mind, please question the witness.

22 COMMISSION MEMBER S. RIORDAN: Mr. Chairman,
23 has Miss Mowery been sworn in?

24 MS. C. MOWERY: Yes.

25 CHAIRMAN D. DUMEZICH: Can you state your

1 name for the record and spell it?

2 MS. C. MOWERY: Sure. Cindy Mowery,

3 C-I-N-D-Y, M-O-W-E-R-Y.

4 CHAIRMAN D. DUMEZICH: And what do you do

5 for a living?

6 MS. C. MOWERY: I'm the Republican Board

7 Member for the Marion County Board of

8 Registration.

9 CINDY MOWERY

10 QUESTIONS BY BEAU BRANSON:

11 Q So the reports and papers say -- they indicate
12 that -- well, first of all, how many -- how many
13 signatures were originally filed -- it was 486;
14 correct, or 476 or...

15 CHAIRMAN D. DUMEZICH: Maybe you could just
16 tell us in the chronology of events here.

17 A I can't give you exact numbers because I don't
18 have them right in front of me, but I will tell
19 you that we worked with the Santorum group
20 several times. They stayed in constant contact
21 with us about where they were on signatures, and
22 if they had questions, they brought them back
23 in. We went over and over those petitions.

24 A lot of issues with the petitions were with
25 regard to legibility -- what I may be able to read

1 may not be what you're able to read. So what we
2 did was took the consensus of the Democrat board
3 member and myself and the Republican chief deputy,
4 Charlene King, because she worked directly with
5 those petitions, and then if three of us that we
6 could read it, and in fact, acknowledge that
7 signature to be correct, then we counted it.

8 CHAIRMAN D. DUMEZICH: And these signatures
9 that you were reviewing and re-reviewing and
10 looking at and checking, they were all -- were
11 they all turned in at the appropriate time?

12 MS. C. MOWERY: Absolutely. Anything that
13 they brought back to Marion County Board of
14 Voter Registration were originally submitted.
15 They would bring petitions back for re-review.
16 We accepted nothing after the deadline.

17 VICE CHAIR A. LONG: The specific number
18 was...

19 MS. C. MOWERY: Yes.

20 **Q** Could I ask when that certification occurred?

21 **A** Yesterday morning.

22 **Q** Yesterday morning.

23 And what is the deadline by law for the
24 final certification?

25 **A** I don't believe that voter registration has a

1 specific deadline. I know that the deadline to
2 submit to the Secretary of State's Office for
3 the candidate is February the 10th, but as far
4 as a certification by the board of registration
5 I'm not certain that there is a deadline.

6 VICE CHAIR A. LONG: You're saying the
7 candidate files the (indiscernible) after that
8 date?

9 MS. C. MOWERY: Absolutely.

10 VICE CHAIR A. LONG: Okay.

11 MS. C. MOWERY: We just want to do the
12 right thing. If there's a question on something
13 that Marion County Board of Voter Registration
14 has done, we want to take another look at it and
15 make absolutely certain that we've done the
16 right and proper and legal thing.

17 Q Okay. Could I ask, what explains -- so in the
18 papers, at least, you're reported as saying
19 we'll take a look at it -- I can read -- you
20 looked at the additional signatures. It says
21 Mowery says that the County stands by its
22 original decision. Doesn't think any new
23 signatures will change that decision. It
24 says -- they quote you as saying we don't
25 believe that they're valid but we'll take a

1 second look. Then you -- it says that you told
2 the Associated Press on the evening of February
3 6th that the signatures were deemed invalid and
4 Santorum will still not appear on the State's
5 ballot.

6 In this article, it says Cindy Mowery,
7 Republican, says the signature is still invalid.
8 Quote, I don't think any of these signatures
9 they brought in mattered, Mowery said. As of
10 Monday afternoon, said based on their arguments,
11 decided the County's earlier decision to
12 disqualify him from the ballot will likely
13 stand.

14 So what exactly changed? I mean, it
15 appears that you went over this with him and
16 reviewed it and decided they were still invalid,
17 and then just yesterday, decided that they were
18 valid so could you explain kind of what changed?

19 A We went over them many times. Every group of
20 signatures that they wanted us to review, I
21 reviewed. My comments I made to the media, they
22 were absolutely correct, with the signatures
23 that they provided at the time. They kept going
24 back over their petitions trying to find new
25 names, new questions -- you know, whatever they

1 could find to bring to our attention, and again,
2 we looked at every one of them carefully and got
3 a consensus of the group whether we agreed or
4 not.

5 Q So to clarify, they originally brought in
6 additional 4_ -- not an additional, but they
7 brought in 49 that they thought were incorrectly
8 deemed invalid?

9 A Yes.

10 Q Later, they brought in another batch that they
11 identified as incorrectly disqualified?

12 A Not another batch, per say, but another set of
13 signatures that were already not -- what we
14 thought were not registered but...

15 Q Distinct from the original 49?

16 A Yes.

17 Q Okay. I understand. And I guess I'll rest
18 after this, but earlier, we had a case where
19 someone mentioned -- I guess it was the first
20 case that we heard, a gentleman mentioned that
21 there was a deadline for the county to issue a
22 final certification.

23 And it sounds like you're not aware of any
24 such deadline, but earlier, it seemed that there
25 was such a deadline?

1 A Mr. Wallace had the same opportunities as any
2 candidate with petitions that came into the
3 Marion County Board of Registration. Now
4 whether he followed up to find out what could be
5 done and what couldn't be done, that rests with
6 him, but the candidates that had a review came
7 in and talked to us.

8 CHAIRMAN D. DUMEZICH: We're going to stay
9 within the parameters of the law and they law
10 does not give them a deadline when to report to
11 us. If she walked in here this morning and said
12 this is the certification, that would be valid
13 under the law, okay?

14 MR. B. BRANSON: Okay.

15 VICE CHAIR A. LONG: I'm going to have
16 another question for you once he's done.

17 CHAIRMAN D. DUMEZICH: You're not going
18 anywhere.

19 MR. B. BRANSON: I apologize. You may be
20 up here.

21 VICE CHAIR A. LONG: An ma'am, would you
22 look at this document, please?

23 CHAIRMAN D. DUMEZICH: Whoever has that
24 phone ringing, please turn it off.

25 MS. C. MOWERY: Yes.

1 VICE CHAIR A. LONG: Do you recognize that?

2 MS. C. MOWERY: I certainly do.

3 VICE CHAIR A. LONG: What is this?

4 MS. C. MOWERY: It's a certification of 500
5 valid signatures in Congressional District 7
6 certified by the Marion County Board of Voter
7 Registration by both the Republican and Democrat
8 board members.

9 VICE CHAIR A. LONG: I would -- I'm not
10 here representing anyone because of the order of
11 things, and we got this certification
12 referenced, I'm -- while you were here to
13 identify it, I wanted to -- this was tendered to
14 us as part of Senator Santorum's submission, and
15 I want to have it identified.

16 CHAIRMAN D. DUMEZICH: Yeah, this is
17 Exhibit A. It's on the letterhead of the Marion
18 County Board of Voter Registration, and it's
19 addressed to The Honorable Jerry Bonnett,
20 Interim Secretary of State. It says Dear Mr.
21 Bonnett: The Marion County Board of Voter
22 Registration has found, based upon further
23 review, eight errors that should have been
24 included in the certification for Rick Santorum.
25 Therefore, as of this writing, we are hereby

1 certifying a total of 500 registered voters in
2 Congressional District 7 and 263 voters in
3 Congressional District 5. Witness our hand and
4 seal this 23rd day of February, 2012, in
5 Indianapolis, Indiana, and it is signed by you;
6 correct?

7 MS. C. MOWERY: Yes.

8 CHAIRMAN D. DUMEZICH: And signed by
9 LaDonna Freeman, the Democratic Board Member;
10 correct?

11 MS. C. MOWERY: Yes.

12 Q And to clarify, there were exactly eight
13 signatures, or you just stopped once you found
14 the requisite number?

15 A We have looked at, I believe 14 or 15 total
16 signatures this week, maybe up to 20 -- I'm not
17 exactly sure what that is, but we know for
18 certain that there are eight that should have
19 been counted.

20 Q At least eight?

21 A Yes.

22 CHAIRMAN D. DUMEZICH: Okay. Sir?

23 MR. B. BRANSON: I don't have any further
24 questions.

25 CHAIRMAN D. DUMEZICH: Let's go through all

1 of them and then give you a chance to do the
2 rebuttal. Next person that filed a challenge
3 for Mr. Santorum, is there anybody in this row?

4 (No response.)

5 CHAIRMAN D. DUMEZICH: Second row?

6 (No response.)

7 CHAIRMAN D. DUMEZICH: Third row -- come on
8 down. Please state your name for the record,
9 sir?

10 MR. P. SMITH: Philip Smith, last name is
11 S-M-I-T-H.

12 CHAIRMAN D. DUMEZICH: Tell me how your
13 challenge differs from the challenge we've just
14 heard?

15 MR. P. SMITH: Well, again, MY question,
16 where did the eight come from? Why did they
17 stop at 50, not 500, not 501, not 503? It
18 seemed like an odd number to me. Another thing
19 I question this has a stamp on it, do the
20 signatures that you guys have to stamp them, has
21 the date and time when you got the signatures so
22 that we know they came in before the deadline.

23 CHAIRMAN D. DUMEZICH: He's asking with
24 respect to your internal procedures, how do you
25 know that these signatures were tendered to you

1 in a timely fashion?

2 MR. P. SMITH: Correct.

3 MS. C. MOWERY: We receive them in with a
4 date stamp.

5 MR. P. SMITH: I have no other questions.

6 CHAIRMAN D. DUMEZICH: Do you have any
7 other questions?

8 MR. P. SMITH: No.

9 CHAIRMAN D. DUMEZICH: Okay. Third row,
10 anybody -- any Rick Santorum challenger in the
11 third row -- yep, come on down. Ask your
12 question, sir, but please identify yourself for
13 the record?

14 MR. P. SHEETZ: Perry Sheetz. Thank you --
15 S-H-E-E-T-Z, I'm sorry. The question that I
16 have concerning what's taken place this morning
17 really involves the process of filing
18 challenges. I had to file a challenge, a CAN-1
19 is what it's called, to protest him being on the
20 ballot, and at this point in time, I'm told that
21 he is legally on the ballot. I'm questioning --

22 CHAIRMAN D. DUMEZICH: He's on the ballot
23 unless your challenge would be successful.

24 MR. P. SHEETZ: Okay.

25 CHAIRMAN D. DUMEZICH: At the conclusion of

1 the hearing, I would say these magic words and
2 say hey, guys, take him off the ballot.

3 MR. P. SHEETZ: Okay.

4 CHAIRMAN D. DUMEZICH: But it's only if we
5 find in your favor. Otherwise, he's on -- he
6 would stay on unless, unless a challenge is
7 successful.

8 MR. P. SHEETZ: But my challenge had to be
9 entered by X date so we could have this meeting,
10 but the Marion County Democratic, or Republican
11 Party is allowed to have til this date or next
12 week to certify results? I'm not sure how the
13 process can work.

14 CHAIRMAN D. DUMEZICH: This meeting.

15 MR. P. SHEETZ: Okay. So the signature
16 deadline would be today?

17 VICE CHAIR A. LONG: No, the certification
18 deadline that these folks, and I -- more
19 sympathy to them -- I didn't mean -- the staff
20 do a get job, but there's hundreds and hundreds
21 of these and they all come in a lot of times at
22 once and they go back and do the best they can,
23 and somebody comes in this is -- you know, I
24 believe this one should have been counted and it
25 wasn't.

1 They look at it, they all agree, three -- they
2 said there's procedures, there's three people, and
3 if they all agree, they counted it and said we
4 should have counted this and we didn't, and they do
5 that all up until the time we have the hearing, and
6 there's nothing in the law to prevent that.

7 CHAIRMAN D. DUMEZICH: And I'm going to
8 close the record and that will be the evidence
9 for this hearing. If someone should decide to
10 take this ruling of this august commission to a
11 higher level, at that point a judge would do it
12 and he would open it up and he could take new
13 evidence at that time, whatever he thinks is
14 germane for the case, if it's relevant. That's
15 all.

16 We're just trying to do the best job we have
17 with the information in front of us. When we
18 error, we error to give people valid access because
19 the idea is that we don't ever want to be the
20 people that take away or disenfranchise somebody.

21 MR. P. SHEETZ: And I can accept that
22 because I've been on the other side of the coin.
23 So I'm just trying to play by the rules that
24 everyone should have to play by.

25 VICE CHAIR A. LONG: And you have.

1 CHAIRMAN D. DUMEZICH: Do you have anything
2 else?

3 MR. P. SHEETZ: No, that's it. Thank you.

4 CHAIRMAN D. DUMEZICH: Fourth row here?

5 VICE CHAIR A. LONG: I think that's another
6 third row.

7 CHAIRMAN D. DUMEZICH: Another third row,
8 I'm sorry. We're just trying to get it right.
9 Sir, please state your name for the record?

10 MR. R. THAYER: Robert Thayer. I only have
11 one question. This is under IC 3-8-3-2. There
12 is a provision that says that the residence --
13 this subsection applies to a petition filed
14 during the period beginning on the date that a
15 congressional district plan has been adopted
16 under IC 3-3. Can someone tell me what part of
17 IC 3-3 creates the deadline?

18 VICE CHAIR A. LONG: Deadline for what?

19 CHAIRMAN D. DUMEZICH: Yeah, I'm confused.
20 I don't have that.

21 MR. R. THAYER: The subsection -- this
22 subsection -- Under IC 3-8-3-2, who created the
23 deadline petition?

24 CHAIRMAN D. DUMEZICH: Are you questioning
25 whether they gathered signatures from the new

1 congressional districts or the old congressional
2 districts, is that your question?

3 MR. R. THAYER: No, my question is the --
4 the subsection applies during the period
5 beginning on the date that a congressional
6 district plan has been adopted under IC 3-3.
7 I'm simply asking what...

8 CHAIRMAN D. DUMEZICH: The statute sets it
9 at January 31st to file with the county and the
10 10th to file it with us.

11 MR. R. THAYER: I beg your pardon?

12 CHAIRMAN D. DUMEZICH: January 31st, okay,
13 is when it's set for the county; is that your
14 question -- is that the statute?

15 VICE CHAIR A. LONG: I think he's asking
16 about the district. What statute are you
17 referring to, the one you've got highlighted
18 there on your page?

19 MR. R. THAYER: This subsection applies to
20 a petition filed during the period.

21 CHAIRMAN D. DUMEZICH: Right now, the
22 record reflects that everything was done in a
23 timely fashion. If you have a question to say
24 it was not done in a timely fashion, that's
25 already been explored by other individuals.

1 So I'd like to sit down and parse the statute
2 with you but we have like a hundred people in here
3 and I don't think it's a line of questioning that
4 hasn't been explored already, sir.

5 So with that in mind, maybe you could talk to
6 him after it's over and explain it to him.

7 MR. B. KING: Yes.

8 CHAIRMAN D. DUMEZICH: The election staff
9 will talk to you and go through it with you.

10 MR. R. THAYER: Okay.

11 CHAIRMAN D. DUMEZICH: Any other questions?

12 MR. R. THAYER: No. Thank you.

13 CHAIRMAN D. DUMEZICH: Fourth row, anybody
14 in the fourth row -- left side, fourth row?

15 (No response.)

16 CHAIRMAN D. DUMEZICH: Right side, fourth
17 row?

18 (No response.)

19 CHAIRMAN D. DUMEZICH: Left side fifth row?
20 Any other challengers of Mr. Santorum who have
21 something that they would like to add?

22 (No response.)

23 VICE CHAIR A. LONG: That's any row.

24 CHAIRMAN D. DUMEZICH: Sixth row, right
25 left side?

1 (No response.)

2 CHAIRMAN D. DUMEZICH: Seventh row?

3 (No response.)

4 CHAIRMAN D. DUMEZICH: Eighth row?

5 (No response.)

6 CHAIRMAN D. DUMEZICH: Okay. Is there
7 anybody else who is a challenger to Rick
8 Santorum who would like the opportunity to
9 present their challenge, anyone at all?

10 (No response.)

11 CHAIRMAN D. DUMEZICH: Okay. With that in
12 mind, Mr. McClamrock, you can state your case,
13 sir.

14 MR. T. McCLAMROCK: Mr. Chairman, Members
15 of the Commission, my name is Toby McClamrock.
16 I'm with the law firm of Bingham Greenebaum
17 Doll. I represent Mr. Santorum. Mr. Santorum
18 has properly filed, pursuant to Indiana Code
19 Section 3-8-3-2, a request to be placed on the
20 ballot and petitions, and assuming that the
21 certification that Cindy Mowery just
22 authenticated, we think that the challengers
23 have not met their burden of proof, that's
24 presented a proper challenge, and therefore,
25 unless you disagree with me, we have no evidence

1 to present.

2 CHAIRMAN D. DUMEZICH: And that Exhibit A
3 is already in the record; correct?

4 VICE CHAIR A. LONG: You're asking that be
5 included in the record?

6 MR. T. McCLAMROCK: I guess I should say
7 that. I'm happy to authenticate that further,
8 if you would like.

9 VICE CHAIR A. LONG: Offer it, as far as
10 I'm concerned.

11 MR. T. McCLAMROCK: We'll offer that into
12 evidence as authenticated by Commissioner Long.

13 CHAIRMAN D. DUMEZICH: And Mr. Simmons will
14 accept it.

15 MR. T. McCLAMROCK: I do want to say that
16 Cindy Mowery and LaDonna Freeman and Charlene
17 King who testified earlier in the Wallace matter
18 did an outstanding job in a professional manner
19 and we appreciate their cooperation. Thank you.

20 CHAIRMAN D. DUMEZICH: Okay. Is there
21 anyone who would like to have any rebuttal to
22 the case as presented by Mr. McClamrock?

23 MR. B. BRANSON: This is not such a
24 rebuttal but I have...

25 CHAIRMAN D. DUMEZICH: State your name.

1 MR. B. BRANSON: Beau Branson.

2 CHAIRMAN D. DUMEZICH: Spell it for the
3 record?

4 MR. B. BRANSON: B-R-A-N-S-O-N. It's not a
5 rebuttal, but I just wondered if copies will be
6 available to the public of the relevant CAN-38
7 forms, and if we could have those annotated as
8 to which signatures were changed from valid to,
9 or invalid to valid.

10 CHAIRMAN D. DUMEZICH: Anything that's
11 public record you can get. We're not going to
12 undertake any further activity.

13 MR. B. BRANSON: So there won't be
14 any annotation as to which signatures?

15 CHAIRMAN D. DUMEZICH: Well, whatever is on
16 the form is on the form.

17 MR. B. BRANSON: That sounds like a no.

18 VICE CHAIR A. LONG: I would suspect that
19 information is available as to which ones are
20 validated.

21 CHAIRMAN D. DUMEZICH: They'll show you the
22 ones that are validated, but I can't speak to
23 their procedures of whether they would have
24 chronologically kept a record of the evolution
25 of the process.

1 MR. B. BRANSON: Okay. So there's no
2 record of that process?

3 CHAIRMAN D. DUMEZICH: No, I didn't say
4 that. I said I don't know what their record
5 would be, but whatever they have, you can access
6 because it's a public document.

7 MR. R. THAYER: Robert Thayer again,
8 T-H-A-Y-E-R. I was unable to finish what I was
9 attempting to say under IC 3-8-3-2. There's --

10 CHAIRMAN D. DUMEZICH: At this point in
11 time you can only rebut what Mr. McClamroch has
12 said. Procedurally, you can't put on anymore --
13 anything -- you can't talk about anything he
14 didn't talk about.

15 MR. R. THAYER: Yet I was pretty much cut
16 off in my presentation, and I would beg to
17 continue it just one more line.

18 CHAIRMAN D. DUMEZICH: Okay.

19 MR. R. THAYER: The first one is the
20 beginning date and then the second one is ending
21 on the date, that part of the Act -- Act or
22 Order issued under IC 3-3-2 says previously
23 congressional district plans repealed are
24 superceded. I'm just asking for a specific
25 deadline date for the petitions and it isn't

1 designated here.

2 CHAIRMAN D. DUMEZICH: January 31st is the
3 specific deadline.

4 MR. R. THAYER: Is the specific deadline
5 for presenting them?

6 CHAIRMAN D. DUMEZICH: Presenting the
7 petitions to the counties.

8 MR. R. THAYER: Okay.

9 CHAIRMAN D. DUMEZICH: So that answers your
10 question, sir.

11 MR. R. THAYER: Thank you.

12 CHAIRMAN D. DUMEZICH: And just to
13 reiterate, every one of those the 500 signatures
14 were present on that date and in your control?

15 MS. C. MOWERY: Yes.

16 MR. B. BRANSON: Is there any verification?

17 CHAIRMAN D. DUMEZICH: You've got to speak
18 into the mike.

19 MR. B. BRANSON: Is there any proof of the
20 500 signatures?

21 CHAIRMAN D. DUMEZICH: Absolutely.

22 MR. B. BRANSON: Can we see the count?

23 CHAIRMAN D. DUMEZICH: Absolutely. Those
24 are public documents and they've been available
25 at the Indiana Election...

1 MR. B. BRANSON: Apparently, they weren't
2 there yesterday because they just came out with
3 eight more so they weren't there yesterday.

4 CHAIRMAN D. DUMEZICH: But the -- but the
5 petitions were there.

6 MR. R. THAYER: But apparently, they
7 couldn't...

8 CHAIRMAN D. DUMEZICH: Well, they weren't
9 copied so -- in any event, you can review them
10 in that location. That's Room what, 204?

11 MR. B. KING: E204.

12 MR. B. BRANSON: Thank you.

13 CHAIRMAN D. DUMEZICH: Very good. Anybody
14 else?

15 (No response.)

16 CHAIRMAN D. DUMEZICH: I'd like to close
17 the record in Cause Nos. 2012-129 through 157.

18 VICE CHAIR A. LONG: Move to deny the
19 challenge.

20 CHAIRMAN D. DUMEZICH: Do I hear a --
21 there's a motion on the floor to deny the
22 challenge.

23 COMMISSION MEMBER B. BENNETT: Yeah, I
24 would second the motion to deny each and all of
25 the challenges that have been made.