congressional district, we believe that that's
in the first congressional district.

VICE CHAIRMAN LONG: So the position of
your challenger here is that the certification
number of five and three is correct --

MR. PATTON: That's correct.

VICE CHAIRMAN LONG: -- and that the
error's on the front side?

MR. PATTON: That's true. And that's
how -- how we arrived at the 498 number. And I
believe maybe some other independent review
arrived at a 497 number, perhaps, because they
just reviewed the front page and not the actual
certified page.

VICE CHAIRMAN LONG: Has your challenger or
have you added with an adding machine the
certifications on the second pages of all these
petitions?

MR. PATTON: Yes, we have.

VICE CHAIRMAN LONG: That's where you came
up with what number?

MR. PATTON: 498.

VICE CHAIRMAN LONG: So it's your
contention that the certification says 498, and
that's how many they've certified by adding the
totals?

MR. PATTON: Yes.

VICE CHAIRMAN LONG: And that the signature verification bears that out?

MR. PATTON: Yes, with this one discrepancy for the front page.

VICE CHAIRMAN LONG: With that amendment, if I went through and counted the ones that have a -- do or should have a 1 beside them, then there would be 498?

MR. PATTON: Correct.

VICE CHAIRMAN LONG: This is not a complicated issue, I believe.

COMMISSION MEMBER KLUTZ: Just a clarification on the SVRS. You said that at least three names on the SVRS were not -- were they not certified on the petitions, or their names weren't on there at all?

MR. PATTON: There were two that were not certified, and there was one that we could not find their name anywhere on any petitions.

COMMISSION MEMBER KLUTZ: Two were not certified on the petition here?

MR. PATTON: Correct.

COMMISSION MEMBER KLUTZ: And then one name
was in the SVRS, but not anywhere in the
petitions that you found?

MR. PATTON: Correct.

CHAIRMAN BENNETT: Okay.

MR. BROOKS: Mr. Chairman, could I make one
little suggestion?

CHAIRMAN BENNETT: Yes.

MR. BROOKS: If we can get an agreement
from the Stutzman campaign that the page that we
just went through, the person who had a
clerical -- or the voter registration person had
a clerical error, and that it should have been
in District 1, and that that is -- we're all on
the same page now with 498?

COMMISSION MEMBER KLUTZ: You're --

CHAIRMAN BENNETT: You're asking for a
stipulation?

COMMISSION MEMBER KLUTZ: -- asking him to
stipulate?

MR. BROOKS: Yeah, or just on the record.

I've got to tell you why we've got a certain
number of people that are -- that I believe are
certified that they're not counting. So if I've
got to make this argument again, I will.

But if they acknowledge that that should be
counted, then I've got one less set of documents
to go through for you.

CHAIRMAN BENNETT: Mr. Bopp?

MR. BOPP: Our view -- and this has been
the view of the Commission. In particular, I'm
prepared to read the segment about the Nader
campaign, that certification is up to the
counties, and that you receive these
certifications, and your job is to count the
certifications, certified signatures.

If they want to dispute the county's
certification, in the Nader case, for instance,
they were advised by counsel for the Commission
that if they had a problem with the failure of
the voter registration people in the counties to
certify signatures that they were required to
certify, then their beef is with the counties,
and then they could bring suit, or they could --
you know.

And the second thing which we have alleged
in our submission here is that if they want to
bring that before this Commission, you know, we
believe it's precluded by law. But if they want
to bring it before this Commission, they have to
challenge the failure to certify certain names.
The question, I think, before the
Commission on whether it's 497 or 498 is which
side of the form do you rely upon? Do you rely
upon the back side, which provides the clerk's
signature about the certification? And in that
case, it would be 498.
Or do you rely on the front side, where
they designate these certified signatures, which
would be 497?
So I don't see anything in the law that
tells me which side of this form -- which each
side contains a certification, in a different
way, obviously -- but which side of the form you
rely upon.
But if you do rely upon -- the Commission
relies upon the back side, well, then, it's 498.
It's --
MR. BROOKS: May I --
MR. BOOP: -- a legal issue --
MR. BROOKS: -- comment?
CHAIRMAN BENNETT: Response?
MR. BROOKS: Let me start by saying that
this notion that the SVRS is somehow not an
official source of information for purposes of
this inquiry is silly.
The same people who pull -- procedurally, the voter registration people sit there. They get your petition. They pull up names -- the name. They see it on the voter registration screen in the SVRS.

They then -- if the name is in there and they're going to certify it, they're doing two things. One is to make some notation on this petition. Two is to write it on the back. But three, they enter it right there at that time.

This is not like some random number. The very same people who filled out the front and the back of every one of these petitions also entered this data into the SVRS, which is an official set of documents entered by the same people.

So the notion that we somehow can't look at the SVRS and look at this in total to figure out what the intent was is silly. And there is no such restriction on your ability to look at those things and determine whether it makes sense. I believe it will make sense when we're done.

But I just want to dispel this notion that the actual information entered by the actual
people who filled these out is somehow irrelevant or not official.

CHAIRMAN BENNETT: I assume you'll have some evidence to present --

MR. BROOKS: I do.

CHAIRMAN BENNETT: -- in your case? So --

MR. BROOKS: I do. So as I understand it -- not to interrupt -- but then Mr. Bopp is not going to say that we're 498?

MR. BOPP: I think it's a legal question, and we're not -- and we don't -- we don't know a legal answer to that question, on whether or not the Commission should rely on the first page or the back page.

And I don't know a precedent for that. That's going to be what you're going to have to decide, I think. I'm not going to preempt that.

CHAIRMAN BENNETT: So is there anything more that should be presented on behalf of the challengers, any of the challengers, with regard to this count of 500 signatures?

MR. BOPP: Yes. We have a witness.

CHAIRMAN BENNETT: Mr. Patton, do you have a witness?

MR. BOPP: Oh, I'm sorry.
CHAIRMAN BENNETT: Go ahead.

MR. PATTON: If we're asking for stipulations, do we have a stipulation that if they're not on the SVRS, that they do not count? Because with all due respect, I don't believe I said that you shouldn't look at it. I said that the most reliable information is the actual petitions.

MR. BROOKS: I'm not going to assert that there are more than 501 certified names and signatures. Is that your question?

MR. PATTON: Well, no. I --

MR. BROOKS: But my point was that in determining whether or not there are 500 or 501, or whatever, that the SVRS is important information that should be considered by this Commission because it's entered by the very same people that filled this form out. In fact, it's done.

And let's just say -- Mr. Long has been doing this for a long time, I know. If we expect clerks and voter registration people to never make any mistakes, you know, we're living in a dream world.

So this is a great example right here,
where the Democrat party understands that that
person was in Congressional District 1. Well,
that person should have been certified. End of
discussion.

And it was in the back. It's also on the
SVRS list. It's a shame that the Stutzman
campaign can't admit that somebody who was
actually in the first congressional district
shouldn't be counted, even though their name's
on the SVRS. But we can come to that later.

So I'm not going to argue that there were
more than 501 certifications, if that's your
question.

MR. PATTON: My question was, would you
stipulate that if their name is not on the SVRS,
that they should not be counted?

MR. BROOKS: I'm not going to make an
argument for anybody whose name is not on the
SVRS list --

MR. PATTON: And that's a stipulation?

MR. BROOKS: -- or for certification,
setting aside the argument that there may be
some people that should have been certified that
weren't.

My point is, when you're talking about
certified, I'm going to argue that -- I'm not
going to argue that anybody that is not on the
SVRS list was certified. I may argue at a later
point that there are people that weren't
certified that should have been.
I'm not trying to be tricky.
MR. PATTON: And that's why you should have
filed a CAN-1. But you didn't.
MR. BROOKS: I'm --
CHAIRMAN BENNETT: Well, let's --
MR. BROOKS: -- a CAN-1 against my 501
being --
CHAIRMAN BENNETT: Let's get on with some
evidence here.
MR. PATTON: No witnesses.
CHAIRMAN BENNETT: No witnesses.
Mr. Bopp, do you have a witness?
MR. BOPP: Yes. I call Jodi Lohrman,
please.
(Exhibits 1-Stutzman and 2-Stutzman were
marked for identification.)
MR. BOPP: And you have been sworn?
MS. LOHRMAN: I have been.
MR. BOPP: Would you state your full name,
please.

MR. BOPP: Where are you employed?

MS. LOHRMAN: I'm employed with Stutzman for Senate.

MR. BOPP: And what's your responsibility?

MS. LOHRMAN: I'm his outreach coordinator for the campaign.

MR. BOPP: Now, are you active in the Republican party?

MS. LOHRMAN: I am. I am county chair in Clay County. I'm former district chair of the Republican party. I used to sit on the state committee, and I used to be a staff person for the Indiana Republican Party.

MR. BOPP: Now, as county chairman, have you had any responsibilities with circulating petitions in your county for this election?

MS. LOHRMAN: I have. And I even collected signatures for all of the U.S. Senate candidates; not just for Marlin Stutzman, but also for Todd Young and for Eric Holcomb.

MR. BOPP: Have you had experience with candidates filing a declaration of candidacy that you thought was invalid or they didn't
qualify in some way?

MS. LOHRMAN: Yes. At a local level as county chair, I have.

MR. BOPP: And what do you do in those cases?

MS. LOHRMAN: In those cases I have talked with those candidates. I have not had to issue a formal challenge because they withdrew their candidacy themselves.

MR. BOPP: And why did you file this challenge?

MS. LOHRMAN: I filed this challenge because I went in to count, along with Josh Kelley, our campaign manager, and Alex Johnson. And we went to the Election Commission last Friday morning, February 12, and we each individually counted the signatures in the first district for Todd Young.

MR. BOPP: Did you create a record for that?

MS. LOHRMAN: I did.

MR. BOPP: And did you bring that record with you?

MS. LOHRMAN: I did.

MR. BOPP: And I have copies of the page of
her notebook for everyone.

Would you pass those up to the Commission, please.

And for purposes of identification, could we mark this as Exhibit 3? We have submitted Exhibits 1 and 2.

(Exhibit 3-Stutzman was marked for identification.)

MR. BOPP: Is Exhibit 3 a record of the counts that you made on February 12 --

MS. LOHRMAN: Yes, it is.

MR. BOPP: -- when you went to the Election Division?

MS. LOHRMAN: Yes, it is.

MR. BOPP: And when you got to the Division, who did you talk to about getting a copy of the original petition?

MS. LOHRMAN: It was Dale Simmons.

MR. BOPP: What was your conversation with him? What was your discussion?

MS. LOHRMAN: Well, at one point in the conversation, we discussed whose responsibility it was to make sure that the proper number of signatures were submitted.

And Dale responded to the three of us that
it is up to the individual campaigns to count
and make sure that they submit, physically, at
the time of filing, the number of 500-plus for
each congressional district.

He informed us that the Election Commission
does not count and they do not verify, the
Election Commission, itself, at the time of
filing, the number of signatures.

MR. BOPP: So there had to be on these
petitions a minimum of 500 per congressional
district of certified signatures?

MS. LOHRMAN: That is correct.

MR. BOPP: Now, did he also provide you the
original petitions?

MS. LOHRMAN: Yes.

MR. BOPP: For Todd Young?

MS. LOHRMAN: Yes.

MR. BOPP: All right. Now, there are, of
course, three counties in the first
congressional district. And on the top of your
record, you have LaPorte County.

Now, before we get to the totals, I note
that you have signaled here that there was one
petition that you saw a discrepancy?

MS. LOHRMAN: Correct.
MR. BOPP: And what was that?

MS. LOHRMAN: I used the first person's name to sign the signature to signify that particular petition, and that was Thomas Cashbaugh.

MR. BOPP: And what did you find on the front and what did you find on the back?

MS. LOHRMAN: On the front, there were four that were marked that they resided in District 1, and four that resided in District 2.

MR. BOPP: Now, did you next proceed to count all the signatures that were submitted, whether they were certified or not?

MS. LOHRMAN: I did.

MR. BOPP: And that number is?

MS. LOHRMAN: In LaPorte County -- do you want them by county, or do you want them by total?

Okay, the total that was submitted to LaPorte County was 71, total submitted to Lake County was 393, and total submitted to Porter County was 154.

MR. BOPP: Now, did you also count -- and you mentioned you were assisted by two other people?
MS. LOHRMAN: Correct.

MR. BOPP: Did they also count and cross-verify?

MS. LOHRMAN: Yes.

MR. BOPP: All right. How many certified signatures on the front did you identify?

MS. LOHRMAN: 497.

MR. BOPP: I'm sorry. For each --

MS. LOHRMAN: In total? Oh, okay, for --

MR. BOPP: For each county, how many?

MS. LOHRMAN: In LaPorte County, District 1, 22; in Lake County, we got 344; and in Porter County, 131.

MR. BOPP: And then, if you would, I guess, add in the back side of that one, instead of 497, which you testified to already, you would have had 498; is that right?

MS. LOHRMAN: That is correct.

MR. BOPP: All right. I have no further questions.

CHAIRMAN BENNETT: Any cross-examination?

MR. BROOKS: A couple of quick questions.

Would you describe what it is you did to determine whether somebody was certified or not?

MS. LOHRMAN: Yes. In the last column --
well, in the last two columns, they would mark
whether the person was certified, or whatever.
And then also, too, the count on the back.

MR. BROOKS: So would you have counted one
that said "duplicate," for example?

MS. LOHRMAN: No.

MR. BROOKS: Or one that was just blank?

MS. LOHRMAN: No.

MR. BROOKS: So going back to

Mr. Neiswinger, the one that was listed as
Congressional District 2, if you were to find
out that Mr. Neiswinger was entered by the voter
registration team or person into the SVRS system
so that he's listed as a certified voter, and
you were to find out that, in fact,
Mr. Neiswinger was in the first congressional
district, I assume you would agree that he
should be counted toward the number of certified
petitioners, correct?

MS. LOHRMAN: No. Since there's a
discrepancy, I would want to actually see that.

MR. BROOKS: I'm not saying that you
wouldn't want to see it.

I'm saying if it is shown that his name is
on the SVRS list as being certified, and it
would be shown conclusively that he was in the first congressional district, would you not agree that he should be certified?

MS. LOHRMAN: No, I would not, with that.

MR. BROOKS: Okay. So I just noticed on Marlin Stutzman's website where he was saying that he absolutely didn't want to disenfranchise anybody.

But you're saying here today that Mr. Neiswinger, through no fault of his own, a clerk made a clerical error and entered one, he would disenfranchise him, even though he was clearly qualified to sign this petition?

MR. BOPP: That's argumentative. She's --

MR. BROOKS: No, I think --

MR. BOPP: -- asked and answered the question --

MR. BROOKS: -- we need to know that --

MR. BOPP: -- for final argument.

CHAIRMAN BENNETT: You've made your objection.

You may answer the question.

MS. LOHRMAN: I would want to see it firsthand instead of relying on that --

MR. BROOKS: Fair enough. But I'm not
going to get to ask you the question again.

I'm asking you to assume that he's on the list, and that I can produce a voter registration record that shows he's in Congressional District 1. So --

MS. LOHRMAN: I -- I don't --

MR. BROOKS: -- if that's true --

MS. LOHRMAN: I don't feel comfortable assuming. I would want to know --

MR. BROOKS: Would you please direct her --

MS. LOHRMAN: -- that before I --

MR. BROOKS: -- that assumption?

CHAIRMAN BENNETT: Well, he can ask you a hypothetical question, and you can assume what he says is true. You don't have to agree with it, but you can assume, for purposes of your answer, that what he's saying is true, and you can answer the hypothetical question.

MS. LOHRMAN: If I saw with my own eyes and knew it to be true, then yes, it should count.

MR. BROOKS: And if there was a blank -- well, let me strike that.

When you went through all these petitions and you counted, did you notice that there was either a precinct designation, which generally
means that they're certified, or a reason for
rejection?

MS. LOHRMAN: Can I -- can I have like an
eexample of what you're referring to so I can
look at it? Because I don't feel comfortable
answering without actually knowing what it is
that you're talking about.

MR. BROOKS: Well, let me -- you didn't --
after going through all of these where there
were, what, well over 600 submittals, you claim
there's only 497, or perhaps 498, you can't tell
this Commission that you noticed that there were
reasons for rejection?

MS. LOHRMAN: Oh, yes. I noticed that
they wrote down notations of why they were being
rejected.

MR. BROOKS: So in most cases you can
expect to see a list of a precinct, which is an
indication of certification, or a reason for
rejection, right?

MS. LOHRMAN: Yes.

MR. BROOKS: Did you -- would you have
counted one that was blank that didn't have a
reason for rejection or a precinct?

MS. LOHRMAN: I -- I'll be honest. I
don't -- I don't remember seeing one of those.

MR. BROOKS: If there was a blank, and that
name was on the SVRS list as a certified voter
and was qualified by being a registered voter,
would you agree that that ought to be counted
toward the number of certified petitions?

MR. BOPP: You know, that's really a vague
question. She --

MR. BROOKS: I can ask it again, if it was
a bad question.

MR. BOPP: Certified by whom? It should
have been certified by the county voter
registration people if the guy was a bona fide
registered voter. Well, of course, the voter
registration people could have done that. But
that's not -- you know, he didn't file a CAN-1
about that.

MR. BROOKS: I don't have to file a CAN-1.

CHAIRMAN BENNETT: Yeah, we don't need that
argument. Just make an objection to the
question, and we can move on.

MR. BOPP: Yeah. It doesn't say that --
certified that -- by whom it should have been
certified --

MR. BROOKS: Well, yeah. The name is
listed as certified by voter registration on the
SVRS. So I would submit to you that there's --
there is evidence of certification.

But I'm asking her, if that name is on
there as listed as should have been certified,
or was certified by the local voter registration
people, and there was a blank, and the guy was a
perfectly qualified voter, would you not agree
that that should be counted as a certified
voter?

MR. BOPP: That's a compound question.

MR. BROOKS: Do you want me to slow it down
for you? I'd be happy --

MR. BOPP: No. I want you to ask --

MR. BROOKS: If she doesn't understand --

MR. BOPP: -- your questions in a way --

MR. BROOKS: -- tell me she doesn't
understand the question.

MR. BOPP: She's not a lawyer.

MR. BROOKS: If she doesn't understand my
question -- you don't have to be a lawyer.

Do you understand the question? I'm happy
to ask it again.

MS. LOHRMAN: No, based on what -- what we
were told at the Election Division, that it is
MR. BROOKS: No, I understand that you're looking at the signature forms. Are you saying that the Election Division told you that the SVRS list is not an official record?

MS. LOHRMAN: Yes.

MR. BROOKS: Could we ask Mr. Simmons to address that? I mean obviously, it's the SVRS system. It is an official record.

MR. SIMMONS: The SVRS is an official record of voters in Indiana. There's a statute that backs that up. But --

MR. BROOKS: And to -- and to the extent that the voter registration --

MR. BOPP: He didn't finish his answer.

MR. SIMMONS: No, that was the end of the answer.

We have a statute, 3-7-26.3. It says that the Statewide Voter Registration System has the official list of registered voters in Indiana.

MR. BROOKS: Sure. And to the extent that the voter registration entered that they had them up on the screen, looked at their name on the petition, and that they were certified is
also an official record, correct?

MR. SIMMONS: Well, it is a record we keep in the SVRS, the Statewide Voter Registration System.

MR. BROOKS: Sure.

MR. SIMMONS: So I'm not sure what -- I think that's up to the Commission to determine what that significance is.

MR. BROOKS: Fair enough.

CHAIRMAN BENNETT: In fairness, let me ask Angela if she wants to respond to the comments.

MS. NUSSMEYER: Sure. I think the report you're referring to is the petition signature count report that the Statewide Voter Registration System creates?

MR. BROOKS: Yes, ma'am.

MS. NUSSMEYER: Okay. It's been my understanding since I started -- and I've only been with the division now for about five or six months -- but anytime I circulated that document, I was to instruct anyone who was looking at it that it is not an official record of the office; that it is there purely for assistance to campaigns and others who want to get an idea of where their signature counts
MR. BROOKS: It's not an official record of the Election Division because you don't have the data. I've got that.

But it's an official record of what the voter registration people did. The voter registration office enters those names.

MS. NUSSMEYER: But not every -- not every county participates in using SVRS in this way.

MR. BROOKS: I get that. But in this case, all three of our counties did. So --

MS. NUSSMEYER: I'll take your word.

MR. BROOKS: That's fine. But I guess what I'm saying is, when you say it's not an official record of your office, you're saying that because you -- your office doesn't enter it. You're not saying that it's not an official record as entered by the voter registration, right? Because they did enter it.

MS. NUSSMEYER: Them or their staff, sure.

MR. BROOKS: Right, okay.

MS. NUSSMEYER: But is it an official document that I would stand behind as a co-director? No, it is not.

MR. BROOKS: But you did just say that you
give it to candidates so they'll know what the count is, right?

MS. NUSSMEYER: An unofficial count, correct. And all of my disclaimer language to my candidates was, anything filed with the office, what matters is the paper record that is filed with the Election Division.

VICE CHAIRMAN LONG: Well, she also does that when she circulates it to me.

MR. BROOKS: I'm sorry?

VICE CHAIRMAN LONG: She also puts that disclaimer on it when she sends it out to Commission members. I ask her --

MR. BROOKS: Sure.

VICE CHAIRMAN LONG: -- so I can stay up on it myself.

MR. BROOKS: Sure. And I'll come back and address that situation.

CHAIRMAN BENNETT: Go ahead.

MR. BROOKS: Now, you've got -- if the voter registration officials enter the name onto the voter registration system as having been certified, and that voter was a registered voter, I'm asking you if you could see that, would you want to disenfranchise that person, or
would you want to consider them to be certified?

MS. LOHRMAN: I feel like -- I'm not a clerk. That's not a decision for me to make. I feel like that this is -- this is a question for the Commission.

MR. BROOKS: Well, do you --

MS. LOHRMAN: Is that something I -- I --

MR. BROOKS: You made the count.

CHAIRMAN BENNETT: You can answer for yourself.

MR. BROOKS: Yeah.

MS. LOHRMAN: I just would want to know for sure that I -- that everything was --

COMMISSION MEMBER KLUTZ: The purpose of this question --

MR. BROOKS: Assume that.

COMMISSION MEMBER KLUTZ: He's saying you're assuming that the person is registered to vote.

MS. LOHRMAN: Yes.

COMMISSION MEMBER KLUTZ: I'm very curious for your answer.

MS. LOHRMAN: If they're registered to vote, if they've gone through the election --

COMMISSION MEMBER KLUTZ: Yes.
MS. LOHRMAN: -- have been verified, yes.

COMMISSION MEMBER KLUTZ: And it's blank, but everything else is factual, yes, it counts? I'm just clarifying what I thought I heard you say.

MS. LOHRMAN: I -- if it's blank, then how can you tell what the count is? I mean except for what's on the back. I guess that's what the provision of the back is.

MR. BROOKS: It's only a question about do you disenfranchise this person, or do you think it should be certified when you know that they're on the SVRS list, and you know that they're properly registered and qualified to sign this petition, and be certified. What --

VICE CHAIRMAN LONG: What possible difference can it make today what she thinks? You're beating this horse to death, and I'm really anxious to --

MR. BROOKS: All right. I'll --

VICE CHAIRMAN LONG: It's a -- it's a count. What she thinks doesn't --

MR. BROOKS: I'll stop.

VICE CHAIRMAN LONG: -- control us.

MR. BROOKS: I'll stop, okay.
MS. LOHRMAN: Thank you.

CHAIRMAN BENNETT: Anything else? Any other questions?

MR. BROOKS: No. I just -- I think -- I didn't get a chance to cross-examine because you didn't really have a witness.

But I'll just ask you guys. Did you guys make an effort to figure out from the SVRS system the names that you found out where they were and whether or not they were registered or would have been qualified?

MR. PATTON: There were, as I believe I stated, two names on the SVRS document. And I believe the co-director stated the actual name of that document. It's not the whole SVRS.

There were two names on this document that the names were also on the petition, but were not certified.

MR. BROOKS: Yeah. I guess I'm just asking, for those two names, did you make any effort to figure out whether they were registered voters who qualified?

MR. PATTON: I did not. And then there was one name on the SVRS --

MR. BROOKS: I understand.
MR. PATTON: -- that was not on any petitions. And again, you did not determine whether or not she was registered because her name was even not on any petitions.

MR. BROOKS: Right. I understand.

MR. BOPP: Could we have a little more evidence on our submission?

CHAIRMAN BENNETT: Are you finished with this witness?

MR. BOPP: Yes.

MR. PATTON: I don't have any cross-examination.

CHAIRMAN BENNETT: Okay. So next witness?

MR. BOPP: Thank you. I want to now circulate what should be marked as Exhibit 4.

COMMISSION MEMBER KLUTZ: Exhibit 4?

MR. BOPP: Yes, 4.

(Exhibit 4-Stutzman was marked for identification.)

MR. BOPP: This is the printout from the SVRS system which comes from the module that county voter registration people can voluntarily use to create a record of the number of signatures that they have -- that they have certified.
You will note at the bottom left, this was taken -- this printout occurred on February 8, 2016. And it reports on the total number of signatures in that system of voters that had been certified by the county, all right?

And you'll see under Todd Young that in Lake County, they certified that this record or printout says there were 357 signatures that were certified by the counties. Now -- and then 24 for LaPorte, and then 124 for Porter.

Now, you just received testimony of somebody that has actually counted what was submitted by the campaign with the declaration of candidacy, which was a total of either, if you look at the front side, 497; if you look at the back side, 498. She also gave you the specific totals for county.

Now, let's compare that. Let's compare what the candidate actually submitted, which we contend is the legal requirement and the only document that you should consult.

For Lake County, this printout says 357. But what was presented to this Commission is 344, all right? So that is 13. It's off by 13.
LaPorte, it says 24. Now, if you agree
it's 22 or 23, because of that one anomaly, it's
also wrong by one or two.

And if you look at Porter, it says 120.
But if you count the petitions, as she did,
there's 131. So there's actually 11 more
submitted by the candidate on the petition, the
certified petition, than this report suggests.

So what we have is a totally unreliable
system that -- where voter registration people
voluntarily enter this information.

We then have the law that says not to go
create -- you know, look at this printout,
which, as can be, has already been demonstrated,
is totally wrong in every respect. Every figure
regarding the Congressional District 1 and Young
by this printout is wrong. Every one. But
we -- but to rely upon the actual certified
petitions themselves, that's what the law
requires, to be filed with the candidacy.

Now, this issue of this printout came up
during the McCain challenge in 2008. And the
minutes of this Election Commission on March 12,
2008, has a description by Tobin McClamroch, the
lawyer for McCain, a description of this module
for which this printout occurs.

And he says the voter registration system
has a module attached to it that provides for an
opportunity for information at the county level
to be submitted directly to the state. That
system, in my view, is outside the framework,
the statutory framework for how you're supposed
to be certified on the state level.

And let me explain this to you. The
process is very simple in this. It's set forth
in Indiana law. It's cited, 3-8-3-1, which is
this. The candidates are responsible for going
out between January 1 and the 10 days before the
filing deadline to have the petition signed.

And then 10 days before the filing
deadline, for a declaration of candidacy, they
are to submit those to the county voter
registration boards. And then, for the purpose
of certifying, for the voter registration boards
to certify those, that then happens. These are
certified.

It is then the responsibility of the
candidate to take those petitions to the
Election Division here in Indianapolis. There
is a module that -- attached to the Statewide
Voter Registration System, that allows, on a voluntary basis, for a number of certifications to be tracked up. And the Division understands that a lot more than I do. But that information is recorded directly. But it is voluntary, and it is outside the statutory framework.

As he would characterize it, he said it's a voluntary, nonstatutory tracking software that simply gives the candidate some idea.

But it is so outside of the statutory requirement that it is -- that we have already heard that the Election Division instructs candidates, and would have instructed them, that this printout is not to be relied upon.

And so his point about this printout that shows 501, yeah, it does. Well, that is demonstrably false information. And all they had to do to find out whether they had submitted enough certified petitions is count the petitions. That's it.

This is just like, "Well, you know, my birthday is -- you know, I'll only be 29, but I'm running for United States Senate, and it's only a couple days beforehand."

It's the rule of law. It's, what, 15 other
candidates fulfilled these requirements. They take the law seriously. They understand that it's all about the petitions and certified petitions, that it has nothing to do with this aid, at most, that is provided by the computer.

We have no further evidence.

CHAIRMAN BENNETT: Anything else from any of the petitioners?

MR. PATTON: No, sir.

CHAIRMAN BENNETT: We would ask for the respondents, now, to --

MR. BROOKS: Yeah. I mean we have a problem, now, because in terms of the amount of evidence, the Stutzman campaign is sitting over there saying that the report is totally unreliable because they counted 11 votes too short in Lake County, and 11 votes too many in Porter County, which means not that this report is unreliable. It means the Stutzman campaign can't -- isn't capable of keeping track of which signatures are in which county.

I mean I'm sitting here, and -- prepared to agree with the Democrat party, who obviously spent a lot more time with this than the Stutzman campaign.
But these numbers are simply -- they're just wrong. They add up, but she's counted 11 too many in Porter and 11 too few in Lake County. That's what's unreliable.

So now what do we have to do? Go through all of those again because they can't keep track of the counties?

I don't know. Do you guys have a -- I have your chart that says how many certified signatures were in Porter. It says 120. I agree with that. And it also says 120 on the SVRS. So I'm prepared to go through and show you the evidence on the three.

But if we're going to consider that, because the Stutzman campaign can't keep track of what county is what county, that we've got to go back and prove the right numbers, is silly.

MR. PATTON: If you're asking me --

MR. BROOKS: That's not a --

MR. PATTON: If you're asking me a question, I guess --

MR. BROOKS: Yeah.

MR. PATTON: -- my answer is, are you the pot or the kettle?

MR. BROOKS: The question is, do you not
agree that what you wrote on here is what you verified?

You submitted to the Commission a list of what you believe the certified petitions are. And it's -- while they offered this, I'm suggesting that based on the criteria you used, you were right.

Before you want to know whether I'm the pot or the kettle, I'm trying to say you're right.

MR. PATTON: About the 497 or 498?

MR. BROOKS: No. I'm saying that the way -- by the way you count, that I get how you got the --

MR. PATTON: Are you -- are you --

MR. BROOKS: Yeah.

MR. PATTON: So the document you're referencing --

MR. BROOKS: Yeah. All I'm saying --

MR. PATTON: -- certified petitions --

MR. BROOKS: That's what --

MR. PATTON: -- you're agreeing with us that it's 498 total?

MR. BROOKS: I'm agreeing with you, by the way you count, how you got to 498.

I believe there are three more votes which
I'm going to do, which --

MR. PATTON: Which I --

MR. BROOKS: I think the ones you counted were certified, but you didn't count three more.

But that's not my point for purposes of going forward.

MR. PATTON: But are you --

MR. BROOKS: I'm trying to --

MR. PATTON: -- asking me a question? I'm trying to figure that out.

MR. BROOKS: I've asked you a question.

I'll ask it again.

MR. PATTON: When you quit talking, I'll answer it.

We stand by the documents that were attached to the CAN-1.

MR. BROOKS: Right. So here's the question. What do we want to do? Do you have documentation other than this? Because the Stutzman campaign has said there are 11 too few, 11 votes fewer in Lake County than you counted, and 11 more votes in Porter County than you counted, and are using that as a basis to say that the SVRS system is screwed up.

So we can only do this one of two ways, it
seems to me. And I'm asking you for your help because I'm agreeing with you.

We can sit down and pull out Porter County and go through and manually count, and manually count the ones in Lake County.

Or, if you have something else that's of assistance, otherwise, that's what we're going to have to do, because the Stutzman campaign can't keep track of what votes are in what county.

MR. BOPP: We'd be perfectly happy for this Commission to pull out the original petitions and count the front and then count the back.

And we have -- our -- the only person that has yet to testify that they have performed that count with three other people says it's 497 on the front and 498 on the back.

I understand the petitions are part of the record, right, the original petitions?

MR. BROOKS: No one with the Stutzman --

MR. BOPP: And I am perfectly happy for you to count. The Election Division has not performed that count. They never perform that count.

CHAIRMAN BENNETT: Is there any reason that
we shouldn't hear the rest of your evidence before we decide this question?

MR. BROOKS: Well, I can give you the rest of my evidence on the three that I think are not included in theirs that should be counted.

But in order to rebut their irresponsible statement, the Stutzman's irresponsible statement that the SVRS is totally inaccurate, because of this count, because they couldn't keep track of the counties, the only way I can do that is to go -- have you go back through and count, which I think is a sad exercise. But they're making the allegation.

CHAIRMAN BENNETT: But if you accept the 497, and you have three more that should have been counted --

MR. BROOKS: I've got four. I've got --

CHAIRMAN BENNETT: That would solve the problem, wouldn't it, without having to recount everything?

MR. BROOKS: It would solve the problem, except for the attack on the accuracy of the SVRS system, which is what they're claiming, because their counts are so radically different than the Democrats' count and my count.
VICE CHAIRMAN LONG: I just counted the ones from LaPorte County, and my count agreed with hers.

MR. BROOKS: In LaPorte? Well, there's no -- we're not disputing -- the two that are way off are Lake and Porter.

VICE CHAIRMAN LONG: Well, it doesn't matter. If it's off, it's off. Miss is as good as a mile. If there's 22, it should have said 22. If there's 24, it should have said 24.

MR. BROOKS: No, no. I get that.

But what they're saying is that there are only 344 signatures, certified signatures in Lake. There are 355 by their count, and I'm going to introduce some evidence to show that it's higher.

VICE CHAIRMAN LONG: I would recommend that you do that. The Chairman has said it -- it's academic. If you've got enough to get you over the top of 500, that's what I'd want to hear, or what I would want to be presented if I were a congressman.

MR. BROOKS: I've got it.

VICE CHAIRMAN LONG: You can do what you want to do.
MR. BROOKS: Well, let me first go to one we've already talked about.

(Discussion off the record.)

MR. BROOKS: At some point I'll find the box.

Let me start with a case that we referred to earlier, where the congressional district was listed as 2, and it's 5 on the back. So let me give you -- how do you want me to mark these?

CHAIRMAN BENNETT: Young 1, Young 2.

MR. BROOKS: Okay.

(Exhibits 1-Young and 2-Young were marked for identification.)

CHAIRMAN BENNETT: Is this Young 1?

MR. BROOKS: Yes, except I'm going to run out. So I have printouts which I'm planning to give you more of.

COMMISSION MEMBER KLUTZ: Mr. Bopp, I want to make sure, when you say the petition has been submitted into evidence, you have -- your client has 51 numbers representing the 51 petitions. And in my packet I have 53 petitions for Lake County. And I just want to make sure I have -- we're all looking at the same book.

Your numbers aren't designated by petition
number, or any other thing. So the only thing I can do --

MS. LOHRMAN: There were no petition numbers on the --

COMMISSION MEMBER KLUTZ: Okay, there's no designation. All I know is -- and check me out, but I counted 51 separate numbers.

When I go through my petitions, I have 53 petitions in Lake County.

VICE CHAIRMAN LONG: As do I.

MS. LOHRMAN: You know, I'll be honest. I don't have an answer for that. It could be that I combined two. That's why I'm anxious to see the count, too, because --

COMMISSION MEMBER KLUTZ: What other --

MS. LOHRMAN: -- I know --

COMMISSION MEMBER KLUTZ: What other counties did you combine?

MS. LOHRMAN: Oh, it could have been --

COMMISSION MEMBER KLUTZ: What other counties did you --

MS. LOHRMAN: I'm not even confident I did that. I'm just offering that as an explanation for why -- and that's why I --

MR. BROOKS: I've got the same number in
Lake as she's got in Porter. She's got 11 petitions from Porter that should be in Lake, because --

COMMISSION MEMBER KLUTZ: That's how come the Porter number is so much off?

MR. BROOKS: Exactly.

COMMISSION MEMBER KLUTZ: So that's why you're saying -- at the end of the day, that's why we're off, the 498, 497 number?

MR. BROOKS: Yeah. And my point there is that they can't use her inability to keep track of what county is --

COMMISSION MEMBER KLUTZ: Yeah, I heard that. I --

MR. BROOKS: -- SVRS system --

COMMISSION MEMBER KLUTZ: I heard that.

MR. BROOKS: That's all I'm saying.

COMMISSION MEMBER KLUTZ: But on a more kind note, what we're all saying is, we have these petitions. And whether they're in the right county or not, at the end of the day, it's 497, 498, according to both of the counties?

MR. BROOKS: Yeah, I understand that. All I just want to say is that the SVRS system is right. I'm going to say it's right altogether.
I understand that the Democrats cite two, three other names.

What I've done is give you a page. We've got three different variations of the SVRS data with the names. Some of them I have a statewide number, but it doesn't break out LaPorte. I have this number, this page that I just gave you, which doesn't have -- you know, but nevertheless, the names are all the same.

CHAIRMAN BENNETT: Is the page you just handed out to be labeled Young Exhibit 2?

MR. BROOKS: Yes. I'm sorry.

(Exhibits 3-Young, 4-Young, and 5-Young were marked for identification.)

MR. BROOKS: This is 3.

CHAIRMAN BENNETT: And this is No. 4?

MR. BROOKS: Yes. And this is 5.

So in Exhibits Young 1 through 5, what you've got is the page that shows that the congressional district was listed as No. 2.

Your Exhibits 2, 3, and 4 are three variants of the way we had the data from the SVRS system spit out. But it's all the same data. And I'm just giving it to you to show you that that name is listed by the voter.
registration officials as someone that was
certified for LaPorte County in Congressional
District 1.

And the last one, No. 5, is the SVRS sheet
showing Mr. Neiswinger as being registered in --
on the first page -- I think I highlighted it --
it says he lives in Congressional District 1.

So we believe that that moves the number
from the 497 that the Stutzman people indicated,
and that I think is now consistent with what the
Democrat party says.

CHAIRMAN BENNETT: Moves it from 497 to
what?

MR. BROOKS: Pardon?

CHAIRMAN BENNETT: You say it moves the
number from 497 to what?

MR. BROOKS: From their 497 to the 498,
that the Democrats are. So we're short three to
get to 501 now.

CHAIRMAN BENNETT: Okay.

(Exhibit 6-Young was marked for
identification.)

MR. BROOKS: I'll give you what's now been
marked as Young 6. And I believe you will note
that this is on the LaPorte petition.
And unlike -- and you'll see that where it's highlighted, it doesn't have a precinct designation, nor does it have a rejection, and that it's blank.

COMMISSION MEMBER KLUTZ: Mr. Brooks, so everything, 1 through 5, all pertains to --

MR. BROOKS: To Mr. Neiswinger, if I'm saying it right.

MS. NUSSMEYER: It's LaPorte 11 in your packet, I believe, No. 7.

(Exhibits 7-Young, 8-Young, 9-Young, and 10-Young were marked for identification.)

MR. BROOKS: This is similar to the other package, No. 7. This is No. 8, this is No. 9, this is No. 10.

So again, with respect to Mr. Bross (phonetically), who was not counted in the certified count by either the Democrats or the Stutzman campaign, you'll see that this person was entered into the SVRS system as having been certified.

And you will also see that -- from the voter registration page, that he is a registered voter in Congressional District 1, and therefore should have been certified.
This is actually very similar to, in a sense, to the last one we did, Mr. Neiswinger, who, there's a minor clerical error in listing the wrong congressional district.

This is a minor clerical error because they didn't write yes or no, right or wrong, in the blank. But we know that they entered him into the SVRS system as having been certified.

COMMISSION MEMBER OVERHOLT: May I ask a question of Matt? Mr. Chairman, is it all right if I ask a question of Matt?

CHAIRMAN BENNETT: Yes.

COMMISSION MEMBER OVERHOLT: What does it mean that -- when it says, "Inactive due to VLM 2014 statewide mailing list," on this report, apparently, from the Statewide Voter Registration System? What does that mean?

MR. KOCHEVAR: Mr. Chairman, Members of the Commission, what it means when it says, "Inactive, VLM 2014," it means that during our Voter List Maintenance Program that was conducted in 2014, a statewide program, this person was -- when it went through the entire process, was deemed under law to be made inactive.
Essentially, they were sent a first mailing, which got returned by the United States Postal Service. They were sent a second mailing in which they were asked to verify that the information in their voter registration record was correct.

And due to whatever reason, either they did not return that card or it was returned and not filled out in a certain way, the law requires that their designation be made inactive.

COMMISSION MEMBER OVERHOLT: So does that mean that if someone is made inactive, that they have to re-register?

MR. KOCHEVAR: No. They are still considered a registered voter in this state. There are a number of ways that they can be removed from inactive status to active status.

COMMISSION MEMBER OVERHOLT: So they're still qualified to -- okay.

MR. SIMMONS: And I concur with that analysis, Mr. Chairman.

CHAIRMAN BENNETT: Thank you.

(Exhibit 11-Young was marked for identification.)

MR. BROOKS: This is 11.
CHAIRMAN BENNETT: I'm trying to keep a
tally here. If Mr. Bross is counted, what does
that take our count to?

MR. BROOKS: 499.

CHAIRMAN BENNETT: Okay.

MR. BROOKS: And I'll just draw your
attention to Robert Wozniak (phonetically), who
obviously is highlighted. You'll see that it
says D-U, and a question mark, which is a
duplicate indication, with the question mark
after it.

VICE CHAIRMAN LONG: Where is the question
mark? That looks like a "P" to me. Where I
come from, that's a "P."

COMMISSION MEMBER OVERHOLT: I would agree
it's a duplicate.

MR. BROOKS: It looks, to me, like a
question mark. Either way, I'll address that.

This is 12.

(Exhibit 12-Young was marked for
identification.)

MS. NUSSMEYER: Mr. Chairman, I believe
that's Page 32 in your packet of materials.

It's Lake County 32.

VICE CHAIRMAN LONG: Lake 32.
MS. NUSSMEYER: It's right next to the county name at the top. You'll see a 45 off to the corner there.

VICE CHAIRMAN LONG: Yeah.

MS. NUSSMEYER: I believe that's the corresponding page.

(Exhibits 13-Young and 14-Young were marked for identification.)

MR. BROOKS: This is 13. This is 14.

So what you will see from this series of exhibits regarding Mr. Wozniak from Lake County is that he is definitely listed on the SVRS system as having been certified by the local voter registration people. He is qualified as a -- because of voter registration.

But there is no duplicate in there. So unfortunately, I can't prove a negative. You'll have to look through there.

But there is no original signature.

There's not another signature for Mr. Wozniak in the Lake County petitions.

COMMISSION MEMBER KLUTZ: The review process is certainly different for us, though.

MR. BROOKS: Pardon?

COMMISSION MEMBER KLUTZ: The review
process is certainly different for us than the
other one, where we can --

MR. BROOKS: Yeah. Because it says "duplication," and the indication, we know that voter registration certified him. But there is no duplicate.

There's another possibility to this, and I'm going to come to this in a second. And I'll just tell you what it is, and I've got a fair amount of evidence to supply you.

Lake County Voter Registration numbered their pages, which, unfortunately, is not the same numbering system that Mr. Zody used, just because it would have been simpler.

But in the lower right-hand corner of every page -- it's in the original that's in blue -- is numbered. There were 54 pages turned over to our campaign, according to Lake County. And I'll get you an affidavit on all of that momentarily. But I'm just using it as an example to explain here.

And the 54th page does not have a number on it because it came in after the first batch of 54. But I'm going to give you an affidavit that tells you what voter's on that last page so it
will be easy to find. It's the only one without
a number of 1 through 54 on it.

What you will find is that there is no
page 51. It is missing. And the -- and again,
I'm going to come through this in a little more
full detail when I get to the next one.

But there were two -- presumably two
certified votes on that petition. One was
Mr. Melcher, who they've indicated they couldn't
find on the petitions. And the reason is, that
page is gone.

The other possibility -- the reason I raise
it now in the context of Mr. Wozniak is because
there's a possibility that his original was
there on that page, and was counted, which is
why it's entered on the SVRS system.

But in any event, whether he had an
original on Page 51, or they just thought it
might have been a duplicate and there wasn't, he
is entitled to be counted. He was certified by
the local board people. He's qualified.

And either there was a duplicate and it
should have been counted anyway, or there wasn't
a duplicate and it was counted. Either way, I
believe that gets you to 500.
COMMISSION MEMBER OVERHOLT: It sounds like you just argued that he ought to be counted twice, then.

MR. BROOKS: No, I'm not arguing that.

COMMISSION MEMBER OVERHOLT: Well, that's what it sounded like.

MR. BROOKS: No. I think --

COMMISSION MEMBER OVERHOLT: Because if he was a duplicate, then that means he was on there twice.

MR. BROOKS: No. There's one of two things that happened, I think, here. Either there was not another one -- if you look through there, there is not another Robert Wozniak signature. So what's in your hands would indicate that it was not a duplicate, because it's the only one there.

The other possibility is that it's on the missing Page 51, and it was counted on that page.

So either way, he gets the count. Whether it's because he wasn't a duplicate and the voter registration certified him, or he was on the other one. But either way, he's been certified. He's eligible and should be counted.
Are you guys wanting to page through to see if you can find Wozniak? Like I said, I can't prove a negative for you. I don't believe he's on there twice.

CHAIRMAN BENNETT: Well, I think it's --

MR. BROOKS: In fact, I'm certain --

CHAIRMAN BENNETT: -- responsibility --

MR. BROOKS: -- of it.

CHAIRMAN BENNETT: If anybody finds it, let me know.

I think the petitioners do have access to the materials. They can look as well. So I'd ask everybody involved in the room to thumb through and see if we find Wozniak twice.

MR. BROOKS: What number are we on, Dale?

MR. SIMMONS: I've got 15.

(Exhibit 15-Young was marked for identification.)

MR. BROOKS: And this is 16 and 17.

(Exhibits 16-Young and 17-Young were marked for identification.)

MR. BROOKS: The two affidavits I've given you contain, largely, the same information, but it's from -- I wanted you to have it from two different members of the voter registration.
office in Lake County.

   But essentially, to summarize, without
going through and giving you all the names,
there were 53 pages that were turned in at once.
They were numbered. Then the names on the
petitions were looked up on the SVRS, which is
just what I told you.

   Then they marked them on the petition.
They checked them on the SVRS system, finished
up the back side.

   Then one additional sheet came in. You'll
notice that on No. 17 of both petitions, it
tells you the name of the voters. It's a single
voter that was certified that came in on the
single page after the first 53 pages.

   So when we get to numbering these Lake
County petitions, as I said, there's one that
doesn't have a number on it. But it is that
last page because it's got that voter on it.

   And both of them are certifying to you that
the verified signature petitions was 357, and
the number entered into the SVRS system was 357,
which is two more than were counted by the
Democrats and two more than counted by the
Stutzman campaign, subject to their one that had
Congessional District 1 on it.

So you now have sworn testimony that that
was the number. It also importantly tells us
that they numbered those pages, and that there
were 54 pages total.

Now, I can give you a copy of -- if it's
simpler, of the numbered pages in order, as
numbered by Lake County, but also with
Mr. Zody's numbering on it. I don't know if
that helps you.

But at the end of the day, you'll have to
look through. And if you've got them in the
right order, you will see there's a gap.

There's a missing Page 51.

CHAIRMAN BENNETT: And what is the
importance of that missing page?

MR. BROOKS: Well, it's my contention that
you've got -- in Lake County, you've got two
more names certified than the Democrats counted
and the Stutzman campaign counted.

And so it's certified those names, but you
can't find -- one of them was a duplicate. So
we can find it. It doesn't matter if it's on
that page.

But the last one I'm going to come to in a
second is Casey Melcher, who was certified, but is not on there. And we believe it would have to be because page 51 is missing. I think it's likely that the original of Mr. Wozniak is on there, too, but it -- like I said, for counting purposes, it doesn't matter. He was certified. He either gets counted once, because it was not a duplicate, or he needs to get counted once on the page that's missing. He gets counted once, and that's all we're counting.

CHAIRMAN BENNETT: Wozniak gets us to 500. And then these affidavits...

MR. BROOKS: Those are just procedural so that you understand where I'm getting up to for my argument that Casey Melcher should also be included, and that's your 501. And I'm trying to give you a chain of custody.

(Exhibit 18-Young was marked for identification.)

MR. BROOKS: This is 18. Young Exhibit 18 is an affidavit from Trevor Foughty, who's the campaign manager for the Todd Young campaign. And basically, it outlines where -- what happened to those petitions when we picked them up from Lake County. They went to a young lady
named Rachel Kantrowitz, and then were given to
Trevor.

Trevor went through the number of certified
signatures and counted the pages and verified
that there were 501 -- or not 501 -- 357, before
he turned them in to the State, because he had
found out that there weren't 357, which is --
combined with the other two counties, gets to
501, they wouldn't have turned them in at that
point, because these were turned in in January,
all very early.

So basically, this is saying that
Mr. Foughty went through, all 54 pages were
there. There were 357 certified petitioners --
or -- yeah, petitioners. And then he delivered
them to the Election Division.

And I will just comment on that, just
briefly. I mean if you've been through a few
elections, you'll get, occasionally, something
that falls into the category of "stuff happens,"
sometimes more colorfully put.

So can I say for sure what happened to that
Page 51? I cannot. But I think Dale can attest
to you that these petitions were handled
multiple times. They were reviewed by the
Democrats. Copies were made. The press
reviewed them. The staff scanned them.

So in this process, you know, without
alleging any nefarious activities, so Page 51
got stuck to Page 50 when they were copying, or
it fell out. I mean things ...

But the fact of the matter is, the evidence
in front of you, the sworn testimony is that
there were 54 pages, and you have a missing
page. And the extra two names on the SVRS
system are from Lake County. So it all meshes
in, except for the mystery of where Page 51
disappeared to.

(Exhibits 19-Young, 20-Young, 21-Young, and
22-Young were marked for identification.)

MR. BROOKS: This is 19, 20, 21, and 22.

So with respect to Mr. Melcher, which is
the last several exhibits that I've given you,
you can see plainly that the voter registration
people entered Mr. Melcher's name into the SVRS
system as having been certified. And you can
see from the voter registration that he is
qualified.

And again, I wish I could give you Page 51
to show you where he signed in on the petition,
but that page is missing. So I'm going to give
you my copy of -- I think ...

(Discussion off the record.)

MR. BROOKS: I'll go ahead and make this an
exhibit because it may help.

(Exhibit 23-Young was marked for
identification.)

MR. BROOKS: So I'm just going to give you
one copy. You guys have this. All I've done
with this is take Mr. Zody's Lake County
petitions -- his are numbered up here.

But the number that matters is this number
in the lower right-hand corner. So I have
reordered these by the numbering system that was
used by Lake County.

But if you want to cross-reference where
you might elsewhere find it, it's up in the
upper right-hand corner.

And again, it's a matter of going through
and making sure that Page 51 is not in there.
But I'd be really delighted if one of you did
find it.

I've got one more exhibit to give you.

Unfortunately, I don't have a hard copy of it.
So what I'm going to do is show you a screenshot
of it. And I will give you an original of it, and other copies. It's actually very short. It's just an affidavit from Brad King indicating, consistent with Mr. Foughty's affidavit, that before we filed, that he informed Mr. Foughty, Trevor Foughty that ...

(Discussion off the record.)

(Exhibit 24-Young was marked for identification.)

MR. BROOKS: In any event -- in any event, Exhibit 24, I only have one.

MR. PATTON: Can I show it to him real quick? And then you guys can circulate it.

Sorry. I apologize.

(Discussion off the record.)

MR. BROOKS: That is all of the evidence that I have. I'm happy to -- I know I asked counsel for the Democrat party questions, and he was kind enough to answer them. I'm happy to, even though I'm not a witness, answer questions that the other parties may have, if that's helpful.

And then at this point I believe that it's appropriate to determine that there were 500 -- in excess of 500 -- 500 or more legitimate
names. Every single one that is on that SVRS system is accounted for, subject, sort of, to the fact that Page 51 is missing.

So we know he's qualified, and we know that the voter registration people entered him into the system as having been certified.

So that gets us up to 501, and I believe is dispositive of the case. And I'm happy to make an argument on that -- on that point, a short one, subject to if counsel for either party is going to ask me a question.

CHAIRMAN BENNETT: Yeah. I suppose, procedurally, there's a cross-examination opportunity here, if anybody wants to.

Otherwise, we probably should proceed to final arguments.

MR. PATTON: I do have some questions.

CHAIRMAN BENNETT: Okay. Proceed.

MR. PATTON: Mr. Brooks, on Young Exhibit 6 of LaPorte County, the David Bross petition, would you agree with me that only four voters were certified in the first congressional district?

MR. BROOKS: Yeah, I believe that's the case. And I might -- well, the voter -- the
SVRS says there were 24, and that would -- if that was added in, it would bring it up to 24.

MR. PATTON: But you would agree with me that on your exhibit, Young Exhibit 6, there's only four certified signatures?

MR. BROOKS: There is -- on that exhibit, it would not -- is that the one with a blank? Yeah, that one doesn't have an indication whether it was certified or rejected.

MR. PATTON: And so if you know, when the Young campaign received this CAN-4 form back from the LaPorte County Clerk's Office saying that there was only four certified signatures, did they question that determination, or otherwise try to get the LaPorte County clerks to amend their determination?

MR. BROOKS: Each of the different people that picked up those --

MR. PATTON: If you know.

MR. BROOKS: Well, I do know. Each of the people that picked up -- it wasn't the same person that picked up from each county -- confirmed with the county registration people how many certified petitions there were. And they relied on that.
And those numbers are consistent with
our -- with what is in the SVRS.

MR. PATTON: Okay. So you never disputed
this form with the LaPorte County Clerk's Office
to say, "You should have counted this one when
you didn't"?

MR. BROOKS: That's correct.

MR. PATTON: And with regard to Young
Exhibit 11, Robert Wozniak, where it has "dup.",
same question. If you know, did the Young
campaign ever dispute the -- that determination
from the Lake County Board of Election Voter
Registration?

MR. BROOKS: That's the same situation.
The Young campaign asked the clerk's office how
many certified petitions there were. They were
told the answer to that question. They
confirmed that in the SVRS system, and those
numbers match.

MR. PATTON: And would you agree with me
that it would be a good practice of any campaign
to keep records of documents that they turn over
to the voter registration office?

MR. BROOKS: I'm only doing -- I would
assume -- I would argue that some would keep
records, I suppose.

MR. PATTON: And when those records were received back from the voter register office, would you also agree with me that it would be a good practice to compare what was received back from the voter registration office with a copy of what you gave them?

MR. BROOKS: Perhaps.

MR. PATTON: And also, when the documents are ultimately turned in to the Election Division, would you agree with me that it's also a good practice to keep a record and a photocopy of all the documents that were turned over to the Election Division before they're looked over by the Democratic party, the Stutzman campaign, and the media?

MR. BROOKS: Perhaps. But we're not in custody of those documents.

MR. PATTON: So if the --

MR. BROOKS: The document that is missing was -- occurred out of our hands.

MR. PATTON: So that --

MR. BROOKS: Had -- had Lake County not numbered the pages, we would not know. But fortunately, we know for certain that a page is
MR. PATTON: And you argued that there's been a lot of human error on some of these things.

Couldn't there also be human error in the chronology of numbering these pages?

MR. BROOKS: Not according to the sworn testimony of the Lake County Voter Registration officials.

MR. PATTON: And so if this missing page had been photocopied by the Young campaign, you would have a copy, a photocopy -- maybe not the original, but a photocopy -- to share with us.

MR. BROOKS: Or, in the alternative, when the Democratic party was reviewing it, they could have made photocopies. And then we'd have one if it got lost at a later point.

MR. PATTON: But ultimately, the documents began with the Young campaign before they were turned over to any voter registration office, correct?

MR. BROOKS: They began -- that's -- well, yeah, of course.

MR. PATTON: They began with the petition carriers for the Young campaign?
MR. BROOKS: Of course, yeah.

MR. PATTON: And so you're asking the Commission to essentially certify at least two signatures that we don't even have a copy of --

MR. BROOKS: No, that's not true.

MR. PATTON: -- Mr. Melcher --

MR. BROOKS: That's not true. You've got a copy of the signature of Mr. Wozniak.

MR. PATTON: Do we have a copy of the signature of Mr. Melcher?

MR. BROOKS: No.

MR. PATTON: And the copy of the signature for Mr. Wozniak is not certified, correct?

MR. BROOKS: It's listed as a duplicate, but it's not --

MR. PATTON: It's not certified, though, correct?

MR. BROOKS: -- duplicate.

And it is certified because it's on the SVRS list.

CHAIRMAN BENNETT: Let me interpose this question. At this point in time, has anybody found the Wozniak duplication?

COMMISSION MEMBER OVERHOLT: No.

CHAIRMAN BENNETT: Well, let me ask
everyone here to look. I'm curious if anyone
has seen that.
So no one has seen the duplicate signature
for Mr. Wozniak.
Anything further?
MR. PATTON: And would you agree with me
it's the responsibility of the campaign and the
candidate to actually submit the correct number
of -- or the 500 or more certified signatures,
and not the responsibility of the election
officials in the counties?
MR. BROOKS: No, I don't agree with that.
This Commission has long ruled that it is
not the responsibility of the campaigns to go
back and try to verify numbers and documents
that were done by the voter registration.
In fact, when I get to my argument, I'll
give you a couple of quotes on it.
MR. PATTON: And with regards to this last
exhibit from Brad King, the affidavit, doesn't
that affidavit indicate that that 501 signatures
is just based on the SVRS document that was
created, but not on the -- that the 501 is not
based on the actual certified signatures on the
petitions?
1    MR. BROOKS: Well, I think we've been
2    through this about five times.
3    MR. PATTON: I'm asking you about your
4    exhibit.
5    MR. BROOKS: No. I've said there is -- if
6    you're asking about the Melcher signature, there
7    isn't one.
8    MR. PATTON: If I may approach and see
9    Exhibit 24, the Brad King exhibit?
10   Doesn't Mr. King's Paragraph 4 say that the
11   total certified signatures for the Todd Young
12   campaign, as reflected on the SVRS, not as
13   reflected on the --
14   MR. BROOKS: Of course it says that.
15   Everybody here can read it. I've said nothing
16   different.
17   MR. PATTON: No further questions.
18   MR. BOPP: I have no questions.
19   CHAIRMAN BENNETT: No questions, you say?
20   MR. BOPP: No questions.
21   CHAIRMAN BENNETT: Anything else before
22   final summations?
23   COMMISSION MEMBER KLUTZ: Yes.
24   CHAIRMAN BENNETT: Go ahead.
25   COMMISSION MEMBER KLUTZ: Young Exhibit 1,
Neiswinger. What was your -- you're stating here that he was incorrectly listed in Congressional District 2? Is that your position on this one?

MR. BROOKS: Yes. That was -- yes.

COMMISSION MEMBER KLUTZ: So he is situated similarly as Bross in LaPorte?

MR. BROOKS: No. Bross, I believe, is the one that had a blank. And I can look back. But you've got three situations. One says the wrong congressional district, one is a blank, and one said duplicate when it wasn't.

CHAIRMAN BENNETT: Bross was blank.

MR. BROOKS: But all of those names were on the SVRS as certified by the local voter registration.

CHAIRMAN BENNETT: Any other questions?

(No response.)

CHAIRMAN BENNETT: Hearing none, why don't we have, if petitioners would like, a brief summation from both petitioners, and then we'll hear from the candidate.

MR. BROOKS: All right.

MR. BOPP: Thank you. If you look at the statute, your job is very simple. There's
1 clearly a division of responsibility.
2 Your responsibility, when there's a sworn
3 statement that has been filed, a CAN-1 as we
4 have done, is to, quote, "Determine the validity
5 of the questioned declaration of candidacy."
6 MR. BROOKS: I'm sorry. Where are you
7 reading from?
8 MR. BOPP: 3-8-1-2, subsection (f).
9 "Determine the validity of the questioned
10 declaration of candidacy."
11 COMMISSION MEMBER KLUTZ: Mr. Young's
12 declaration of candidacy?
13 MR. BOPP: Yes. And in this case it's
14 Mr. Young's, filed on January 21.
15 Now, that section goes on into subsection
16 (a), which says -- or subsection (g), where it
17 says that, "The Commission shall deny a filing
18 if the Commission determines that the candidate
19 had not complied with the applicable
20 requirements for the candidate set forth in
21 this -- in this title."
22 And that title is that he is to file a
23 declaration of candidacy. And in this case,
24 under Section 3-8-2-8, a declaration of
25 candidacy for the office of the United States
Senate must be accompanied by a petition signed by at least 4,500 voters in this state, including at least 500 voters from each congressional district.

So did he file with his declaration of candidacy on January 25 a petition which included 500 voters from each congressional district?

Now, the statute could have imposed that duty on you. It could have said, "You go determine whether or not a particular name on the petition is a registered voter at the time the petition was filed." But, of course, it doesn't.

Under 3-8-2-9, it says that the voter registration office in the county where the petitioner is registered must certify whether each petitioner is a voter at the residence address listed in the petition at the time the petition is being processed.

The voter registration office must certify that the person is a registered voter. And it tells that that certification must accompany and be part of the petition.

So the petition is to be filed. The person
who certifies whether or not the person is a voter is the voter registration office. And that's it.

Now, obviously, there's a big problem with the Young campaign. And it's their gross negligence that they want you to fix.

Every other candidate that does voter petitions knows that there is human error in this process. They work with the voter registration offices. They actually look at the petitions once they are certified. They actually count how many certified petitions -- or certified signatures there are on these petitions.

And if they don't have enough, you know, and if they're concerned about being too close to the line, they distribute more signatures -- petitions. They present more petitions to the county for certification.

They could have done that up until February 2. If they would have bothered, I suppose, (1) to make a copy of the petitions that they were filing, which they have not presented to you, but still claiming there's a page with two voters you're to count. But
apparently, they didn't make copies of what they
submitted to the Election Division.

So now they're saying, I guess, they didn't
forget or they didn't -- you know, maybe you are
the ones that screwed up, and that you're to be
blamed, and you're -- you know, rather than
their failure to ensure that what they presented
met the legal requirements.

So that's the first thing that they want
to do. They want to make it your job to certify
signatures with the -- and not the voter
registration offices.

The second thing they want to do is to
substitute the certified petitions for this new
Statewide Voter Registration Computer System
that has information on it, certainly, with
respect to certification of signatures.

But as has been explained, it's purely
voluntary. It does not constitute a
certification of how many signatures are
presented on the petition, as opposed to what is
being manipulated by the -- the voter
registration people to do this on a volunteer
basis. They are not required to use that module
that generates that report. They're not
required to use it.

And if you would count the number of
signatures that have actually been certified and
presented to you and filed with the election
board, you would find that each county's number
that was in the system is actually wrong in
terms of comparing the certified signatures with
this voluntary, unofficial process of
generating -- it may be helpful information to a
campaign, but it's not -- it's not meeting their
legal requirements.

Now, they had until February 22 to get
around to counting their signatures that were
verified on their petitions. And they have
found out they have 497, or look at the back
side, they had 498.

So they had two more weeks to fix that
problem. They could have passed around
petitions. They could have filed them with the
voter registration by February 2.

And then they could have filed, as in the
Santorum case, a supplemental declaration of
candidacy with those additional petitions. And
they would -- then, if they were over 500, they
would have met the statutory requirements.
Now, in the Nader case in 2000 -- in 2000 -- in the minutes of August 24, you know, the chairman explained to the Nader campaign -- and this is a write-in candidate -- they had a big job of getting a lot of signatures around the state.

They said -- the chair clarified that it is not the Commission or the Election Division that certifies the number of valid signatures on a candidate's petition. He states that the county clerk certifies the number of valid signatures, and that the Commission accepts the certification.

Now, if he wanted to contest what the Commission -- what the -- the results of the certifications of their petitions, he could have gone to the counties and said, "Wait a second. You didn't deal with this one," or, "Wait a second. Where is this page?"

You know, these are the problems -- he wants you to think that whatever the counties did or for whatever reason that they did it, that it was wrong, when we don't even know why they said it was a duplicate. Was there a name change by the person? Does anybody know that?
I don't know. But they did it for a reason.

Why wasn't there this page that could have just been misnumbering -- why wasn't that submitted? You know, why were other people simply not dealt with?

These are all things that the candidate has a responsibility to go to the applicable party, who, under the statute, has the responsibility to certify whether or not these names on the petition are -- are registered voters, not the Commission.

So they had ample time to simply get around to figuring out that they had a problem, which is they were doggone close to the line and that they better at least count their own petitions. But instead, they come here, and, in my view, make a farce of the process.

This is the rule of law. How many candidates have fulfilled this obligation over all these years, at the expense of -- both financial and attention of their staff and their field people, to make sure that the county -- that they get sufficient certified signatures from the counties?

Why wouldn't it be just fine for the next
person running for secretary of state to just not have any certified signatures? Why not file, like the Stutzman campaign in -- in Congressional District 1 had over 700 names on their petitions. Why don't they just file those with the Election Division?

CHAIRMAN BENNETT: One minute.

MR. BOPP: Thank you.

Why don't they just file that with the Election Division, and then make somebody come in and challenge them? And then, of course, attack them in the press for their own failures. And then say, "Well, see, here's thousands of voter registration records that we want to show you now that shows that if we would have gotten around to having them certify these, and if we had bothered to count, you know, we -- here, you should certify them." That's what they're doing here.

That is an unacceptable inversion of the process, the rule of law. The counties are to certify.

Their job is to file enough certified signatures not to have you fix their problems. That's what they're asking you to do.
CHAIRMAN BENNETT: Thank you, Mr. Bopp.

Any summation from the Democratic Party?

MR. PATTON: Thank you. The CAN-4 form is a two-sided form. The certification is on the back. When you count up the number of certified signatures from Lake County, LaPorte County, and Porter County, it's 498.

You don't have to count the front of every page. The Young campaign could have just looked at the back page and counted up and arrived at that 498 number.

They want to rely on this SVRS, and, out of thin air, come up with a few more signatures that aren't there.

As Mr. Bopp said, it's not your job to certify signatures. That's the job of the local officials. The local officials certified 498 signatures.

The Young campaign wants you to certify signatures that we don't even have. Not one of these duplicates, not one of these -- that's -- there's no designation made. A signature that's not even on a piece of paper that we have. And they're asking you to certify that to get to the 500.