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**KELLY LAWS, Appellant/Cross-Appellee, v. WILLIE GRAYEYES,
Appellee/Cross-Appellant. : BRIEF OF APPELLANT/CROSS-
APPELLEE KELLY LAWS**

Utah Supreme Court

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IN THE UTAH SUPREME COURT

KELLY LAWS,

Appellant/Cross-Appellee,

v.

WILLIE GRAYEYES,

Appellee/Cross-Appellant.

Appellate Case No. 20190088-SC

District Case No. SJ180700016

**BRIEF OF APPELLANT/CROSS-APPELLEE
KELLY LAWS**

**Appeal from a Final Judgment of the Honorable Don M. Torgerson, Seventh
Judicial District Court, State of Utah**

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JURISDICTIONAL STATEMENT

This Court has jurisdiction pursuant to Utah Code § 20A-4-406 and § 78A-3-102(3)(j).

INTRODUCTION

Election contests are important to ensure that only those persons “qualified” by statute are either on the ballot or elected. There are a number of legal requirements, but in this case, broadly speaking it is required that Mr. Grayeyes meet the residency requirements as required by statute. *See* Utah Code § 17-16-1; § 20A-2-105.

Appellant, Kelly Laws (“Laws”), is a registered voter who resided in the second district, which is one of the three districts in the County, each electing one commissioner. Appellee/Cross-Appellee Willie Grayeyes (“Grayeyes”), was elected to the Second District seat of the San Juan County Commission on November 6, 2018.

The clear and convincing evidence below established that Grayeyes did not have his primary place of residence in San Juan County for at least one year prior to his election in November 2018. In fact, the evidence below established that Grayeyes did not reside in any particular location, much less at a residence as defined in Utah law prior to his election. Although he claimed under oath that a particular house on Navajo Mountain was his, and provided precise survey coordinates to identify the house, he did not live there and it was not owned by him.

As a result of concerns about Grayeyes’ eligibility to serve as a San Juan County Commissioner, Laws initiated an action pursuant to Utah Code § 20A-4-403, which provides that a registered voter, such as Laws, can file an action in district court to challenge an office holder’s eligibility. That is precisely what Laws did. He availed

himself of a precise remedy authorized by statute. It was filed within the statutory timeframe required, and he otherwise met all the other requirements which gave him standing to take such an action. Furthermore, Utah law allows such a contest to be filed at any time an office holder fails to meet the eligibility requirements of the office that he or she occupies.¹ If eligibility is not met, the office holder immediately can no longer maintain that office. In other words, even though Laws met the statutory requirements which is that a lawsuit be filed within forty days after the completion of the election canvassing, any registered voter in the second district could still seek at any time to determine Grayeyes' eligibility and if he otherwise did not meet the residency requirements as more fully argued below, he would have to vacate his elected position.

It is respectfully submitted that the trial court erred in disregarding the express language of the residency statutes and also disregarded the clear and convincing evidence that Grayeyes did not reside in a single fixed habitation on Navajo Mountain. In a novel and unprecedented interpretation of the unambiguous residency language contained in the statute, the trial court determined that Grayeyes met the residency requirements based upon "a larger geographical area," that could encompass "various places," so long as the "geographical area" and the "various places" were contained in the same voting precinct. None of the foregoing language or concepts is contained in the relevant residency statute, and in this regard, the trial committed reversible error. The trial court's language use and

¹ Even though Utah Code § 20A-4-403 specifically requires an *election contest* to be brought within 40 days after the canvass, the language in Utah Code § 17-16-1 infers that a *residency challenge* can be brought against any person who holds a public office in the event they no longer satisfy its express requirements.

a framework that does not exist in the statute also confirms the fact that in so doing the trial court is conceding the fact that the evidence below did not establish a single fixed place of habitation constituting Grayeyes' principal place of residence. If it did, that would have been the trial court's determination.

STATEMENT OF ISSUES, STANDARDS OF REVIEW, AND PRESERVATION

ISSUE 1: Did the trial court err in interpreting the term "principal place of residence" defined in Utah Code § 20A-2-105(1)(a) to include a "larger geographical area" including "various places?" (R. 1685).

Standard of Review: The Utah Supreme Court reviews "questions of statutory interpretation for correctness, affording no deference to the district court's legal conclusions." *Marion Energy, Inc. v. KFJ Ranch Partnership*, 2011 UT 50, ¶ 12 (citing *State v. Gallegos*, 2007 UT 81, ¶ 8, 171 P.3d 426 (quotation marks omitted). *See also Stephens v. Bonneville Travel, Inc.*, 935 P.2d 518, 519 (Utah 1997).

Preservation: This issue was preserved by briefing and oral argument below. (R. 1402-05; 1512-15; 1516; 1628-31; 1673-75; 1685; 2109-11; 2113-14).

ISSUE 2: Did the trial court err in holding that the Laws Complaint is untimely? (R. 2680-81).

Standard of Review: Whether a complaint is timely filed "depends on the facts and circumstances of each particular case." *Supernova Media, Inc. v. Pia Anderson Dorius Reynard & Moss, LLC*, 2013 UT 7, ¶ 15, 297 P.3d 599 (citing *Jenner v. Real Estate Servs.*, 659 P.2d 1072, 1073-74 (Utah 1983)) (internal quotation marks omitted).

Because the question of timeliness requires consideration of both the applicable law and the surrounding circumstances, it is a mixed question of law and fact. *See id.*

“On mixed questions – involving application of a legal standard to a set of facts unique to a particular case – [an Appellate court’s] review is sometimes deferential and sometimes not.” *In re Adoption of Baby B*, 2012 UT 35, ¶ 42, 308 P.3d 382. To determine the proper standard of review for mixed questions of law and fact, this Court will apply the following factors:

(1) the degree of variety and complexity in the facts to which the legal rule is to be applied; (2) the degree to which a trial court’s application of the legal rule relies on facts observed by the trial judge, such as a witnesses appearance and demeanor, relevant to the application of the law that cannot be adequately reflected in the record available to appellate courts; and (3) other policy reasons that weigh for or against granting discretion to trial courts.

State v. Levin, 2006 UT 50. ¶ 25, 144 P.3d 1096.

Preservation: The issue was preserved by briefing and oral argument below. (R. 1527-28; 1620-21; 1637; 1667; 1679-1681; 2040-2044).

ISSUE 3: Did the trial court err in holding that the Laws Complaint is barred by the doctrine of laches? (R. 1681-82).

Standard of Review: “[T]he question of laches presents a mixed question of law and fact.” *Johnson v. Johnson*, 2014 UT 21, ¶ 8, 330 P.3d 704. *See also Veysey v. Veysey*, 2014 UT App 264, ¶ 6, 339 P.3d 131. For mixed questions of law and fact, “[appellate] review is sometimes deferential and sometimes not.” *In re Adoption of Baby B*, 2012 UT at ¶ 42. This Court will look to the *Levin* factors described above to determine the proper standard of review. *Id.*

Preservation: This issue was preserved by briefing and oral argument below. (R. 1506-1508; 1526-28; 1637; 1680; 1681-82; 1899-1900).

ISSUE 4: Was the trial court’s conclusion that Grayeyes is a resident of San Juan County against the clear and convincing evidence that was presented at trial? (R. 1682-85).

Standard of Review: “A trial court’s finding of fact will not be set aside unless clearly erroneous.” *Traco Steel Erectors, Inc. v. Comtrol, Inc.*, 2009 UT 81, ¶ 17, 222 P.3d 1164 (citing *Chen v. Stewart*, 2004 UT 82, ¶ 19, 100 P.3d 1177) (internal quotation marks omitted). “A finding of fact is clearly erroneous if, after resolving all disputes in the evidence in a light most favorable to the trial court’s determination, ... it is against the clear weight of evidence, or if the appellate court otherwise reaches a definite and firm conviction that a mistake has been made.” *AWD Sales and Services, Inc. v. Supranaturals, LLC*, 2010 UT App 202, ¶ 4 (citing *State v. Pena*, 869 P.2d 932, 936 (Utah 1994) and *State v. Walker*, 743 P.2d 191, 193 (Utah 1987)) (internal quotation marks omitted).

Preservation: This issue was preserved by briefing and oral argument below (R. 1640; 1665-66; 1667-1671; 1672-75; 1679; 1683-85; 1907-08; 2106-2116).

ISSUE 5: Did the trial court err in admitting and considering evidence related to cultural matters for determination of Grayeyes’ principal place of residence? (R.1685).

Standard of Review: Considering cultural matters as a means to evaluate the relevant factors listed in Utah Code § 20A-2-105(4), is a mixed question of law and fact. “On mixed questions – involving application of a legal standard to a set of facts unique to

a particular case – [Appellate courts] review is sometimes deferential and sometimes not.” *In re Adoption of Baby B*, 2012 UT at ¶ 42. Thus, this Court will apply the *Levin* factors described above to determine the proper standard of review.

Preservation: This issue was preserved by briefing and oral argument below. (R. 1672-73; 1685; 2145; 2148; 2176-77).

ISSUE 6: Did the trial court err in determining that the police report of San Juan County Sheriff’s Deputy Colby Turk and his full body camera footage was inadmissible as hearsay? (R. 1922-24).

Standard of Review: “[T]he trial court has a great deal of discretion in determining whether to admit or exclude evidence, and its ruling will not be overturned unless there is an abuse of discretion.” *Gorostieta v. Parkinson*, 2000 UT 99, ¶ 14, 17 P.3d 1110. This Court “will not reverse a trial court’s ruling on evidence unless the ruling was beyond the limits of reasonability.” *Daines v. Vincent*, 2008 UT 51, ¶ 20, 190 P.3d 1269 (citing *Jensen v. IHC Hosps., Inc.*, 2003 UT 51, ¶ 57, 82 P.3d 1076 (internal citation and quotations omitted)) (internal quotation marks omitted).

Preservation: This issue was preserved by briefing and oral argument below (R. 1631-32; 1637; 1904-06; 1912-26; 2032-2034).

STATEMENT OF THE CASE

I. Declaration of Candidacy and Investigation by Deputy Turk

On March 9, 2018, Grayeyes filed his Declaration of Candidacy for the office of San Juan County Commissioner for the 2018 general election. Trial Exhibit 11; (R. 17; 1410; 1975). In this declaration, Grayeyes swore that he resides “at 17 miles ... on Piute Mesa, Utah from Nav. Mtn. Chapter Hse.” Trial Exhibit 11; (R. 17; 1410; 1975).

In an additional declaration filed on April 19, 2018, Grayeyes swore under the penalty of perjury that “Navajo Mountain is his principal place of residence.” Trial Exhibit 13, ¶ 5; (R. 19; 1412). In addition to this declaration, Grayeyes also provided coordinates for the home he claims to reside at: 37.084477, -110.626033 and attached satellite imagery of the provided coordinates. Trial Exhibit 13, ¶ 8; (R. 23-24; 1416-17; 1979).

Grayeyes’ candidacy was first challenged by Wendy Black, when she sent a letter to San Juan County Clerk John David Nielson on March 20, 2018. Trial Exhibit 1; (R. 1123). Her complaint was then referred to the San Juan County Sheriff to investigate for potentially criminal activity.² (R. 1120).

Sheriff’s Deputy Colby Turk (“Turk”) was assigned to investigate Grayeyes’ residency. During his investigation, Turk visited the addresses that Grayeyes declared as

² The trial court became concerned with whether depute Turk had the authority to conduct his investigation. However, as is described below (*Infra* III, Sec. B), Turk had clear authority to be on the reservation because he was legally investigating potentially criminal conduct that Sheriff Eldridge assigned him to investigate.

his residence in both the Declaration of Candidacy and the April 19, 2018 Declaration. Trial Exhibits 2, 3, 4, 5, 6; (R. 1193; 1473). After his initial investigation on March 27, 2018, Turk was able to locate the house Grayeyes' declared as his residence on April 24, 2018. Trial Exhibits 6, 7; (R. 1473).

Turk was eventually put into contact with Grayeyes and a meeting took place between the two in Bluff, Utah on April 4, 2018. Trial Exhibit 8; (R. 9; 1400; 1670; 1958;1963-64). During the conversation, Turk questioned Grayeyes as to his residence . Grayeyes was unable to identify a fixed residence and even admitted that he did not live on Piute Mesa, as he previously declared. Trial Exhibit 8; (R. 10; 1401). Rather, Grayeyes claimed that he is on the road "almost all of the time" and that he stays with his sister 60-70% of the time. Trial Exhibit 8; (R. 9; 1400). Grayeyes further claimed that sometimes he will stay with his girlfriend who lives in Tuba City, AZ and that he as an office there. Trial Exhibit 8; (R. 9-10; 1400-01).

Turk put his findings from his initial investigation and a supplemental investigation into an investigative report and a supplemental investigative report, respectively. Add. N, O; (R. 39-48; 79).

After Turk's investigation concluded, Grayeyes' Declaration of Candidacy was revoked because his principal place of residence was not in San Juan County. (R. 1232-33).

II. Previous Federal Litigation and November 2018 Election

On June 20, 2018, Grayeyes filed a complaint and a motion for preliminary injunction against John David Nielson, the San Juan County Clerk, Kendall G. Laws, the

Attorney of San Juan County, Turk, and Wendy Black, seeking to enjoin the Defendants from excluding Grayeyes from the ballot for the open San Juan County Commissioner seat. (R. 228-441; 443-662).

U.S. District Court Judge David Nuffer issued his Memorandum Decision and Order, granting Grayeyes' motion for preliminary injunction on August 9, 2018. (R. 1225-44). As a result of Judge Nuffer's injunction, Grayeyes was put back on the ballot for the open San Juan County Commissioner seat.

On November 6, 2018, Grayeyes defeated Laws for the San Juan County Commissioner seat by a vote of 973 to 814. (R. 169). Additionally, the canvass of the election was completed on November 20, 2018. (R. 1500).

III. The Laws Complaint

Before the filing of his complaint with the trial court, Laws initially filed a formal complaint with the Lieutenant Governor's Office for the State of Utah, pursuant to Utah Code § 20A-1-803. Add. G. However, due to the fact that the Lieutenant Governor's Office did not immediately respond to Laws' complaint and in the consideration of the time constraints imposed by Utah Code § 20A-4-403's 40-day filing period to contest an election, Laws conducted due diligence and investigated whether he had a viable claim to contest Grayeyes' election to the San Juan County Commission.

Laws officially filed his complaint ("Laws Complaint") in the Seventh District Court for the State of Utah on December 28, 2018, alleging that Grayeyes was not a resident of San Juan County, Utah, thus, he was ineligible to run for or hold office as a San Juan County Commissioner. (R. 1-79; 1392-1477).

IV. Grayeyes' Pretrial Motions

From January 11, 2019 to January 14, 2019, Grayeyes filed a 12(b)(1) Motion to Dismiss for Lack of Subject Matter Jurisdiction, a 12(b)(6) Motion to Dismiss for Failure to State a Claim, a Motion in Limine to Exclude Evidence, and a Motion for Summary Judgment on Laches. (R. 98-1270).

Laws responded to Grayeyes' motions on January 17, 2019. (R. 1478-1529). Grayeyes also filed an additional Motion to Dismiss for Lack of Standing on January 18, 2019. (R. 1570-79). Laws responded to this additional motion on January 21, 2019. (R. 1619-26).

V. Bench Trial and January 29, 2019 Ruling and Order

A bench trial was conducted by the Honorable Don Torgerson on January 22, 2019. (R. 1882).³ During the trial, the court addressed the pretrial motions related to the dismissal of the Laws Complaint and reserved ruling on the motions until all evidence was presented. (R. 1690). Laws put on 5 witnesses. (R. 1884). Grayeyes put on 7 witnesses. (R. 1885-86). At the conclusion of the trial, the court requested that the parties to provide final briefing on their cases. (R. 2243). The parties did so. (R. 1647-77).

In its ruling, the trial court found that: 1) the Laws Complaint is untimely; 2) Laws' claim is barred by laches; and that 3) Grayeyes is a resident of San Juan County. Add. C; (R. 1690-95). In making his ruling on Grayeyes' residency, the trial court stated:

³ The evidence presented at trial will be discussed in further detail *infra*, Section II.

The Court is not persuaded by [Laws'] argument that a particular house is required for a person to have a principal place of residence. As long as the location where the person resides is within a voting precinct, the court believes the 'single location where a person's habitation is fixed' *could mean a larger geographical area and include various places, particularly for someone like Mr. Grayeyes who observes traditional cultural practices.* He may stay on Piute Mesa under a shade hut during the summer. Or at his daughter's cabin. Or at his sister's house in Navajo Mountain. *As long as those all fall within a single voting precinct, that geographical area is sufficient to be a principal place of residence.*

Add. C; (R. 1695) (emphasis added). Additionally, in making this determination, the trial court stated that Grayeyes is "also from Piute Mesa in a traditional sense – he was raised there, *his umbilical cord was buried there*, and his family counts the area as their place of origin." Add. C; (R. 1693) (emphasis added). Laws timely appealed this ruling on February 4, 2019. (R. 1698-1701).

VI. Post-Trial Application of Fees and Costs

While this action was pending before the Utah Supreme Court, Grayeyes filed an Application of Fees and Costs ("Application"). In this Application, Grayeyes argued that he was entitled to fees under 1) the bad faith doctrine; 2) the private attorney general doctrine; and 3) the substantial benefit doctrine. (R. 1710-29). Additionally, Grayeyes argued that his requested fees and costs were reasonable and asked the trial court to enter an order granting him fees and costs in the amount of \$271,271.99. (R. 1729-31). Laws did not respond to the Application (R. 2375).

The trial court made its ruling on the Application on June 20, 2019. (R. 2383). The trial court denied Grayeyes' Application in full. Add. E; (R. 2383). In this ruling, the trial court reiterated that the Laws Complaint *had merit* (Add. D; R. 2376) and the claims

contained in the complaint *had a basis in fact*. Add. D; (R. 2377) (emphasis added). The trial court also emphasized that “the Court’s central ruling - that Grayeyes was a resident *even though his ‘residence’ was located at multiple locations within the same voting district - appears to be a matter of first impression in Utah.*” Add. D; (R. 2377) (emphasis added).

Additionally, the trial court ruled that the private attorney doctrine did not apply to Grayeyes because it has been disavowed by the Legislature in Utah Code § 78B-5-825.5 and that the substantial benefit doctrine was inapplicable because Grayeyes was not acting in a representative capacity. Add. D; (R. 2378-82).

Grayeyes appealed the trial court’s order on June 25, 2019 and the appeals of both Laws and Grayeyes were consolidated into one matter. (R. 2385); *see also* Appellate Docket entry 7/1/19.

SUMMARY OF THE ARGUMENT

First, the trial court erred in its conclusion because it incorrectly interpreted the plain language of § 20A-2-105(4). In its interpretation the court read the statute to include “a larger geographical area” that can encompass “various places” within the same voting precinct. This is contrary to the express language the statute. By failing to correctly interpret Utah Code § 20A-2-105(4), the trial court’s January 29, 2019 Ruling and Order should be reversed.

Second, the trial court erred in holding that the Laws Complaint is untimely for three reasons. First, the trial court incorrectly held that Laws should’ve challenged Grayeyes’ residency under Utah Code § 20A-9-202(5) and § 20A-3-202.3. Second, Laws

timely filed his complaint within the statutorily provided 40-day time period. Third, the trial court erred in holding that Laws should have complied with Utah Code § 20A-9-202(5) and § 20A-3-202.3 because it reads in additional requirements to the statutes not expressly contained in its language.

Third, the trial court erred in holding that the Laws Complaint is barred by the doctrine of laches because the elements are not met. Laws exercised reasonable diligence in the filing his complaint on December 28, 2018, he filed within the statutorily provided time period, and Grayeyes was not unduly prejudiced by the filing of the Laws Complaint on December 28, 2019.

Fourth, the January 29, 2019 Ruling and Order should be reversed because the evidence presented at trial demonstrates, by clear and convincing evidence, that Grayeyes was not truthful about his principal place of residence in his Declaration of Candidacy and his April 19, 2018 Declaration, Harrison Ross resides at the residence Grayeyes claims as his principal place of residence, and Grayeyes is a resident of Arizona.

Fifth, the trial court abused its discretion in allowing into admission and considering in its ruling, evidence related to cultural matters, because this type of evidence is irrelevant to the trial court's factual determination and it is inconsistent with the concepts of the factors listed in Utah Code § 20A-2-105(4).

Sixth, the trial court abused its discretion in excluding the Turk report because it falls into the hearsay exceptions described in Utah Rules of Evidence 803(8) and 807.

ARGUMENT

I. The Trial Court’s January 29, 2019 Ruling and Order Should be Reversed Because its Conclusions are not Supported

The trial court’s January 29, 2019 Ruling and Order should be reversed because its conclusions are not supported by the trial evidence and re legally incorrect.

A. The Trial Court Erred in its Interpretation of Utah Code § 20A-2-105(1)(a)

“The ‘primary objective’ of statutory interpretation ‘is to ascertain the intent of the legislature.’” *Bagley v. Bagley*, 2016 UT 48, ¶ 10, 387 P.3d 1000 (citing *Penunuri v. Sundance Partners, Ltd.*, 2013 UT 22, ¶ 15, 301 P.3d 984). In ascertaining the intent of the legislature, “the best evidence of the legislature’s intent is the plain language of the statute itself.” *Marion Energy, Inc.*, 2011 UT at ¶ 14 (citing *State v. Miller*, 2008 UT 61, ¶ 18, 193 P.3d 92 (quoting *State ex rel. Z.C.*, 2007 UT 54, ¶ 6, 165 P.3d 1206)). Thus, the Court will first look “to the plain language of the statute.” *Bagley*, 2016 UT at ¶ 10.

In first looking to the language of the statute, this Court “presume[s] that the Legislature used each word advisedly” and “that the expression of one [term] should be interpreted as the exclusion of another ... [thereby] presuming all omissions to be purposeful.” *Id.* (citations omitted). When the intent of the Legislature can be ascertained “from the statutory terms alone, no other interpretive tools are needed, and [a court’s] task of statutory construction is typically at its end.” *Id.* (quotation marks omitted) (citations omitted).

Utah Code § 20A-2-105 defines a person’s principal place of residence to mean “the *single location* were a person’s *habitation* is *fixed* and to which, whenever the person is absent, the person has the intention of returning.” Utah Code § 20A-2-105(1)(a) (emphasis added). However, in its ruling, the trial court held that:

the Court is not persuaded by Petitioner’s argument that a particular house is required for a person to have a principal place of residence. As long as the location where the person resides is entirely within a voting precinct, *the Court believes the ‘single location where a person’s habitation is fixed’ could mean a larger geographical area and include various places.*

(R. 1695) (emphasis added). This interpretation is central to the trial court’s determination that Grayeyes’ principal place of residence is in San Juan County. (R. 2377). This interpretation is incorrect and contrary to the statute’s plain, unambiguous language.

A principal place of residence is clearly defined as being “a single location” where one’s “habitation” is “fixed.” Single does not mean “various” and fixed does not mean “place to place.” In construing the meanings of these words, we can look to the dictionary definitions of these words. *See GeoMetWatch Corp. v. Utah State Univ. Research Foundation*, 2018 UT 50, ¶ 21, 428 P.3d 1064). “Single” means “consisting of one as opposed to or in contract with many” and “consisting of only one in number.” *Merriam Webster Dictionary* definition for Single. Additionally, “location” means “a position or site occupied or available for occupancy.” *Merriam Webster Dictionary* definition for Location. When these words are put together, it is construed to mean **only one** position or site that can be occupied.

In addition to “single location,” § 20A-2-105(1)(a) includes the words “habitation” and “fixed.” “Habitation” means “a dwelling place” and “a home-stall.” *Black’s Law Dictionary* definition for Habitation. “Fixed” means “not subject to change or fluctuation,” “firmly set,” and “having a final or crystallized form.” *Merriam Webster Dictionary* definition for Fixed. In reading these two words together, it is clear that the Legislature intended “where a person’s habitation is fixed” to mean a person’s home that is not subject to change or fluctuation. Thus, it would seem that with combination of “single location,” “habitation,” and “fixed” in § 20A-2-105(1)(a), the Legislature intended that a person’s principal place of residence to mean the singular site of occupancy of a person’s physical home that is not subject to change.

The trial court’s interpretation of a “single location” that a person’s “habitation” is “fixed” to encompass a “larger geographical area” that includes “various places” within a voting precinct is contrary to the express language of Utah Code § 20A-2-105(1)(a). The trial court acknowledged the idea that its interpretation is a departure for the plain language of the statute in its June 20, 2019 Ruling. In this ruling, the trial court stated that

the Court’s central ruling – that Grayeyes was a resident even though his ‘residence’ was located at **multiple locations** within the same voting district – appears to be a matter of first impression in Utah and Laws would have no legal precedent to rely upon to anticipate the outcome before trial.

(R. 2377) (emphasis added). Thus, the trial court acknowledged its “multiple locations and residency” had no support in Utah law.

B. The Trial Court Erred in Holding that the Laws Complaint is Untimely

Timeliness is determined “under the facts and circumstances of each particular case.” *Supernova Media Inc.*, 2013 UT at ¶ 23. Laws filed his complaint pursuant to Utah Code § 20A-4-402 and 403. Under this statute, **any registered voter** can bring an election contest **within 40 days** of the official canvass on certain enumerated grounds. *See* Utah Code § 20A-4-403(1)(a) (emphasis added); Add. L. Of the enumerated grounds listed in § 20A-4-402, an election contest may be brought on the grounds that the “person declared elected was not eligible for the office at the time of the election” or that the candidate “is ineligible to serve in the office to which [they] are elected.” Utah Code § 20A-4-402(1)(b), (1)(g); Add. K.

The trial court erred in holding that the Laws Complaint is untimely for three reasons. First, the trial court, in its Ruling and Order, held that Laws should have challenged Grayeyes’ residency under Utah Code § 20A-9-202 and § 20A-3-202.3 prior to Grayeyes’ election to the San Juan County Commission.⁴ (R. 1690-91). However, these types of challenges are **not required by law** to occur in order to “preserve” an election contest under §§ 20A-4-402, 403.

Section 20A-9-202(5)(a) deals with challenges to a candidate’s Declaration of Candidacy, which must be filed with the clerk of the county or Lieutenant Governor

⁴ In the Ruling and Order, the trial court stated that “the Court must consider whether Laws ever challenged Grayeyes’ voter eligibility or declaration of candidacy in a way that would nullify his voter registration, thereby disqualifying him from candidacy and rendering him ‘not eligible for the office at the time of the election.’” (R. 1680). Nowhere is the statute does it make this a requirement for the filing of an election contest pursuant to §§ 20A-4-402, 403.

within 5 days of the declaration's filing. Utah Code § 20A-9-202(5); Add. M. At the time Grayeyes' Declaration of Candidacy was filed, there was a complaint before the San Juan County Clerk, objecting to Grayeyes' eligibility as a candidate. *See* Trial Exhibit 1. As a result of this complaint, Grayeyes was removed from the ballot for San Juan County Commissioner's seat. Grayeyes was not put back on the ballot until Judge Nuffer's August Ruling. (R. 1226-44). Thus, it would've been unnecessary for Laws' to challenge Grayeyes' residency because he was taken off the ballot and not put back on until two months before the election took place and objection to his Declaration of Candidacy could not have been made because the 5 day limitation period passed on March 20, 2018.

Additionally, a challenge pursuant to § 20A-3-202.3 is also inapplicable to Laws because it challenges a *voter's eligibility to vote*, not a candidate's eligibility to run for or hold office. *See* Utah Code § 20A-3-202.3; Add. I. Laws is not challenging Grayeyes' eligibility to vote, but rather, he is challenging Grayeyes' eligibility *to run or hold office* because his primary place of residence is not in San Juan County, Utah.

Second, Laws filed his complaint, challenging Grayeyes' eligibility to run or hold office as a San Juan Commissioner, because Grayeyes is not a resident of San Juan County.⁷ This challenge was made pursuant to Utah Code § 20A-404 and 403. Under § 20A-4-403, a registered voter may contest the results of an election if the complaint is

⁷ The filing of the Laws Complaint was a last resort. Laws filed an official complaint with the Lieutenant Governor's Office on November 27, 2018. The longer Laws waited to hear back from the Lieutenant Governor's Office, the more likely this litigation became. Laws finally received a response on his complaint on January 25, 2019, 4 days before the trial court issued its Ruling and Order and three days after the bench trial concluded. *See* Add. E.

filed “within 40 days after the canvass.” Utah Code § 20A-4-403; Add. L. The canvass for San Juan County was completed on November 20, 2018. Thus, the last day to file an election contest pursuant to this statute was December 30, 2018. The Laws Complaint was filed on December 28, 2018. This is squarely within the statutorily provided time period for filing an election contest pursuant to Utah Code § 20-4-403. Moreover, the trial court even found that Laws timely filed within the statutorily provided 40-day time period. (R. 1690, ¶ 12).

Third, the trial court in its Ruling and Order added additional requirements not included in the express language of sections 20A-4-402, 403. Essentially, the trial court held that since Laws did not challenge Grayeyes’ Declaration of Candidacy and did not challenge Grayeyes’ eligibility to vote, his complaint is untimely. If this Court does not reverse the trial court’s ruling, it will add additional requirements to Utah Code § 20A-4-402 and §20A-4-403.

Finally, the trial court’s June 20, 2019 undercuts the trial court’s conclusion that the Laws Complaint is untimely in its January 29, 2019 Ruling and Order. In its June 20 ruling, the trial court reasoned that:

Utah Code § 20a-4-403(1)(a) explicitly authorizes a ‘registered voter’ to contest the result of an election by filing a complaint within 40 days after the canvass. As a registered voter, ***Laws has standing and his complaint was timely.***

(R. 2376) (emphasis added). The trial court here explicitly stated that the Laws’ Complaint was timely filed. This is directly contradicting its January 29, 2019 Ruling and Order. By the trial court’s own later determination, the Laws Complaint was timely.

C. The Trial Court Erred in Holding that the Laws Complaint is Barred by the Doctrine of Laches

“The equitable doctrine of laches is founded upon considerations of time and inquiry.” *Insight Assets, Inc. v. Farias*, 2013 UT 47, ¶ 17, 321 P.3d 1021 (quotations omitted) (citations omitted). “Laches has two elements: (1) a party’s lack of diligence and (2) an injury resulting from that lack of diligence.” *Id.* at ¶ 19 (citing *Fundamentalist Church of Jesus Christ of Latter-Day Saints v. Lindberg*, 2010 UT 51, ¶ 27, 238 P.3d 1054).

The trial court held that “[w]here a party wants to challenge the election process, they are required to act at the earliest possible opportunity to avoid disrupting the election process.” (R. 1691). Because Laws has actual knowledge regarding the issue of Grayeyes’ residency as early as March 2018, the trial court held that Laws could have challenged Grayeyes’ Declaration of Candidacy under Utah Code § 20A-9-202(5) or his voter qualifications under § 20A-3-202.3. (R. 1692). Thus, Laws did not challenge the election at the earliest possible opportunity available to him. (R. 1692) The trial court further held that Laws’ delay is “prejudicial to important public interest concerns and the integrity of the election process.” (R. 1692).

The trial court erred in holding that the Laws Complaint is barred by the doctrine of laches for three reasons. First, Laws timely filed his complaint on December 28, 2018. This is in accordance with § 20A-4-403. Even though the doctrine of laches can still bar timely claims from being pursued, the fact that the Laws Complaint was timely filed, the fact that Laws used reasonable diligence in investigating his claim, and the fact there is a

lack of prejudice inflicted on the election process and the public's interest, Laws' claims should not be barred by the doctrine of laches.

Second, Laws' claim should not be barred based on the fact that he filed his late in the statutorily provided time period. The nature of the proceedings support this. Election contests are not normal proceedings. They happen on an extremely expedited timeframe. "Upon receipt of [a complaint] ... the chief judge shall issue an order: ... setting a date and time, not less than 10 nor more than 30 days from the date the [complaint] was filed to hear and determine the contest." Utah Code § 20A-4-404; Add Q. This leaves little to no opportunity for a petitioner to conduct discovery, investigate its claims further, and acquire evidence to support its claims. Thus, Laws' "delay" in filing his complaint until December 28, 2018 was reasonable.

Moreover, the Laws Complaint was not filed because he lost the election to Grayeyes. Laws received information "to cause [him] concern that whether Mr. Greyeyes was a resident, which cause [him] to start digging into it deeper personally and gathering up some information." R. 2043. Specifically, Laws testified that his reason for bringing the Laws Complaint was "totally about obeying by *[sic]* the laws of the State of Utah which we live" and "it had nothing to do with personal or anything else." (R. 2042-43).

Third, there is no harm, injury, or prejudice suffered by Grayeyes, to the election process nor to the public interest. §§ 20A-4-402, 403 are part of the election process and the Legislature provided for election contests to occur, specifically in scenarios such as this. Not only did the Legislature provide for election contests, it also provided for a fair process to fill any vacancy created by the challenging of the results of an election. § 20A-

1-508(2)(1), assures that any interim appointee must be of the “same political party of the prior office holder.” Utah Code § 20A-1-508(2)(a); Add. R.

There is no undue prejudice caused to Grayeyes in Laws filing the complaint on December 28, 2018. This is true because, as is contemplated by the statute, the final day for an election contest to be brought was December 30, 2018. Even if Laws had earlier opportunities to file, Grayeyes should have still been on notice that an election contest can occur within 40 days of the canvass.

The trial court erred in holding that the Laws Complaint is barred by the doctrine of laches. Laws exercised reasonable diligence and there is no prejudice suffered by Grayeyes, the election process, or to the people to have their votes count. None of the elements required under the doctrine of laches are present and the Laws Complaint should not be barred by the doctrine of laches.

II. The January 29, 2019 Ruling and Order Should be Reversed Because it is Against the Clear and Convincing Evidence Demonstrated in the Record

“[A] party challenging a factual finding or sufficiency of the evidence to support a [ruling and order] will almost certainly fail to carry its burden of persuasion on appeal if it fails to marshal.” *State v. Nielson*, 2014 UT 10, ¶ 42, 326 P.3d 645. Thus, “[a] party must marshal the evidence in support of the [ruling and order] and demonstrate that the evidence is insufficient when viewed in the light most favorable to the [trial court’s order].” *Harding v. Bell*, 2002 UT 108, ¶ 19, 57 P.3d 1093 (citing *State v. Boyd*, 2001 UT 30, ¶ 13, 25 P.3d 985 (internal quotations and citation omitted)) (internal quotations omitted).

This Court will be focused “on the ultimate question of whether the appellant has established a basis for overcoming a healthy dose of deference owed to factual findings ... and not whether there is a technical deficiency in marshaling meeting a default.” *Id.* ¶ 41. *See also Nebeker v. Orton*, 2019 UT App 23, ¶ 16, 438 P.3d 1053.

A. Marshal of All Evidence in the Record

The record of evidence from the January 22, 2019 Bench Trial is as follows:

Trial Witnesses:

1. Sheriff’s Deputy Colby Turk, Trial Exhibits 1-10; Add. N, O, P; (R. 1931-74):

Turk was called as the first witness to testify. (R. 1930) Turk testified that he was operating under the direction of Sheriff Eldredge in investigating Grayeyes’ residency. (R. 1933-34). Turk also testified to the steps he took in investigating Grayeyes’ residency on March 27, 2018 and April 24, 2018. Trial Exhibits 1-8; (R. 1934-74). Specifically, Turk described the conversation he had with Grayeyes on April 4, 2018. Trial Exhibit 8; Add. P; (R. 1958-59; 1967-72).

2. Delton Pugh, Trial Exhibit 16, 17; (R. 1984-2015): Delton Pugh (“Pugh”) works for “the aging waiver program” which takes care of elderly people over the age of 65, who qualify for a nursing home, but wish to remain in their homes. (R. 1986). His region covers Navajo Mountain and Piute Mesa in San Juan County. (R. 1987). Pugh is extremely familiar with the Piute Mesa area, and the area Grayeyes claims as his residence, due to his work with most residents of Piute Mesa, for the past 5 years. (R. 1988-99). During his testimony, Pugh identified the house in Trial Exhibit 5 as Harrison Ross’ house (R.199-92). Pugh hand drew a map of the Piute Mesa area from memory.

Trial Exhibit 16; (R. 2000-08). In his time working with Piute Mesa residents, Pugh has never met Grayeyes on Piute Mesa. (R. 2008). Pugh also identified the house Greyeyes claims as his residence (Trial Exhibit 5) as Harrison Ross' house. (R. 2013). Pugh also testified to the frequency of his visits to Piute Mesa (R. 2016), how many houses he visits at Piute Mesa (R. 2016), the house Grayeyes claims as his (R. 2017), the speed he drives at when passing the house in question (R. 2018), his knowledge of who owns the house (2018-19), land tenure within the Navajo Nation (2019), question of services available to residents on Piute Mesa (2021), Resident tendencies with traveling (2022-23), the Navajo Police force and cross-deputization. (2024).

3. Sheriff's Deputy Colby Turk, Trial Exhibits 18, 19, 20; (R. 2028-32): Turk was called to testify about how he is deputized as an officer to the Navajo Nation's police department (Trial Exhibit 18, R. 2029), the Cross-Commission Agreement between San Juan County and Navajo Nation (Trial Exhibit 19; 20229-30), and Turk's oath of office and code of ethics for Navajo Nation. Trial Exhibit 20; (R. 2031).

4. Kelly Laws, (R. 2038-69): Kelly Laws ("Laws") testified to his background and family life. (R. 2039-40). Laws testified to his reasons for initiating this litigation (R. 2040-42) and his knowledge of the concerns raised about Grayeyes' residency (R. 2044), and his interaction with Harrison Ross on September 5, 2018. (R. 2064-65). Laws additionally testified to when he learned of Wendy Black's complaint (R. 2045-46), his reasons for not filing a complaint in March 2018 (R. 2046), the Turk video (R. 2046-47), his knowledge of Judge Nuffer's ruling (2047-48), his reasoning for not filing a complaint after he learned of Judge Nuffer's ruling (R. 2048-50), his knowledge of any

complaints filed against Grayeyes following Judge Nuffer's August ruling (R. 2050), his concerns with filing a complaint in the district court before the election (R. 2050-51), his complaint filed in the Lieutenant Governor's Office (R. 2051-53), why there was a month separation between the filing of the Laws Complaint and the Lieutenant Governor Office's complaint (R. 2053-54), his filing of the Laws Complaint on December 28, 2018 (R. 2055), the verification of the Laws Complaint (R. 2055-56), and his personal knowledge of the facts alleged in the Laws Complaint (R. 2056-62).

5. Alex Bitsinnie, (R. 2069-95): Alex Bitsinnie ("Bitsinnie") testified that he is a resident of Piute Mesa. (R. 2070). He also testified to his past and present employment (R. 2071-73), his house on Piute Mesa, the documents he has in relation to his homesite lease (R. 2073-78), his familiarity with the people who live on Piute Mesa (R. 2078), if Grayeyes has a house on Piute Mesa (R. 2078), the last time he saw Grayeyes (R. 2078-79), whether he knows Harrison Ross (R. 2078-79), and what he knows concerning the ownership of the house Grayeyes claims as his residence. (R. 2079-2080). Bitsinnie formally introduce himself in Navajo (R. 2081). He also testified to where was born (R. 2082), his knowledge of the grazing committee (R. 2082), his knowledge of whether Harrison Ross has applied for a homesite lease on the Piute Mesa house (R. 2082-83), whether Grayeyes has applied for a homesite lease of the Piute Mesa house (R. 2083), whether there is a dispute regarding the Piute Mesa house (R. 2083), the structure of the Navajo Nation government (R. 2084-86), how often Grayeyes goes to Navajo Nation chapter meetings (R. 2086), Grayeyes relatives and where they live on Piute Mesa (R. 2087-2090), where he views the place he is from (R. 2090-91), where his mailing address

is (2091-92), what state his driver's license is from (R. 2092), and what people in the area normally do for mailing addresses and driver's licenses. (R. 2092-94).

6. Bradley David Bunker, Trial Exhibit 5, 13; (2095-2102): Bradley Bunker ("Bunker") testified to his employment as a land surveyor (R. 2096), whether he lives in San Juan County (R. 2096), and how long he has lived in San Juan County. (R. 2096). Bunker also testified to his review of the coordinates Grayeyes declared as his residence (R. 2096-97), the coordinates of the house in Exhibit 5 (R. 2098), how to locate specific coordinates using Google Earth (R. 2098-99), whether the coordinates listed in Trial Exhibit 5 match the coordinates given by Grayeyes in his April 19, 2018 Declaration (R. 2099-2102), and his expertise in dealing with coordinates in San Juan County. (R. 2101-02).

7. Lena Fowler, Trial Exhibit 26, (R. 2119-41): Lena Fowler ("Fowler") works as the Coconino County, Arizona, Supervisor for District 5 (R. 2119-21). Her district includes thirteen Navajo communities. (R. 2121). Fowler is a member of the Tayhee Navajo clan and is from Tonalea. (R. 2121). Fowler testified that she says she is from Tonalea because that is where her umbilical cord is buried. (R. 2121-22). Fowler testified that she checked with the Coconino County Recorder's Office and determined that Grayeyes was never registered to vote in Coconino County. (R. 2127). She testified that she has known Grayeyes for over 30 years. (R. 2129). Lena Fowler also testified to her understanding of the boundaries of Navajo Mountain and Paiute Mesa. (R. 2136-37), the house she owns houses in Tuba City, AZ and Flagstaff, AZ, and that she considers her Tuba City house to be her primary residence because that is where she goes back to, Tuba City is where her

children were raised and went to school, that is where she sleeps at night, and that is where her things are. (R. 2139).

8. Johnson Dennison, Trial Exhibit 27, (R. 2141-52): Johnson Dennison (“Dennison”) is a member of Navajo Nation (R. 2143) and testified to his personal background, including professional positions occupied with Navajo Nation. (R. 2143-45). Dennison testified about the Navajo cultural meaning of having one’s umbilical cord being buried in a location, and to Navajo cultural ideas of livestock. (R. 2144-51).

9. Herman Daniels, Trial Exhibit 28; (R. 2153-68): Herman Daniels (“Daniels”) testified to his Navajo background, his history of service on the Navajo Nation Council, and Grayeyes’ service on the Council. (R. 2153-56). Daniels testified that he considers Grayeyes to be a resident of San Juan County, Utah. (R. 2158). Daniels testified that he had been to Grayeyes’ home on Navajo Mountain approximately two years ago to ask Grayeyes questions about infrastructure on Navajo Mountain; however, Grayeyes was not home. (R. 2158-59). Daniels also testified about his visit to Grayeyes’ home. (R. 2160-61), how he could not remember any description of Grayeyes’ home, and that he had never been there before. (R. 2161-63). Daniels was shown Trial Exhibit 28 and testified that Trial Exhibit 28 was a picture of Grayeyes’ house. Trial Exhibit 28; (R. 2166-67). Trial Exhibit 28 is not the house Greyeyes claims to be his principal place of residence in his declarations. *Cf.* Trial Exhibit 5 to Trial Exhibit 28.

10. Peterson Zah, (R. 2169-91): Peterson Zah (“Zah”) testified to his Navajo background, his education, and his professional background. (R. 2169-72). Zah testified about his familiarity with Navajo culture and customs, including what it means in Navajo

custom to have one's umbilical cord buried at a location (R. 2172-79), and the cultural importance of livestock in the Navajo community. (R. 2179-80). Zah stated that he visited Grayeyes at his home approximately five years ago. (R. 2181-84). Zah also testified about his visit to Grayeyes' home (R. 2184-85) and whether Zah owns a home (R. 2185), and whether he considers his Window Rock home to be his primary residence. (R. 2185-87).

11. Russell Smallcanyon, Trial Exhibit 29, (R. 2193-2202): Russell Smallcanyon ("Smallcanyon") is a District Grazing Official from the Western Agency for the Navajo Mountain Community. (R. 2194-95). Smallcanyon testified that the Bureau of Indian Affairs issues grazing permits which are capacity limits for one's ranch or livestock (R. 2195), his duties as a Grazing Officer, the geographical location pertaining to Grayeyes' grazing permit and the last tally count he performed of the livestock at the Grayeyes grazing permit location. (R. 2197-2200). Smallcanyon testified about his inability to determine who takes care of the livestock located at the geographical location of Grayeyes' grazing permit. (R. 2200-02).

12. April Wilkerson (R. 2202-33): April Wilkerson ("Wilkerson") is the daughter of Grayeyes, and testified about her background, her family's background, and her education, including her schooling in Tuba City, Arizona. (R. 2202-05). Wilkerson testified that Grayeyes bought a double-wide trailer in Page, Arizona, for the family to live in, while the Grayeyes children went to school, that Grayeyes rarely stayed at the trailer, and that the family would travel to Navajo Mountain and stay with Grayeyes on the weekends. (R. 2206-07). Wilkerson testified that her mother died in March 1987 and

Grayeyes came to live with the children from 1987 to 1989. (R. 2207-08). Wilkerson testified that Grayeyes never lived in the Page trailer after 1989. (R. 2210). Wilkerson further testified that the trailer in Page is currently uninhabitable and that she and her sister, Navarina Boshane, had been paying property taxes on the trailer from 2016-present. (R. 2210). Wilkerson testified that when Grayeyes is in Navajo Mountain he stays with his sister in the NHA housing development, house number 5, or at a cabin in San Juan County, Utah, on Wilkerson's homesite lease. (R. 2212). Wilkerson testified about her understanding of a land dispute between Harrison Ross ("Ross") and Willie Grayeyes concerning houses on Piute Mesa previously occupied by her grandmother and Ross' mother, and how property is inherited at Navajo Nation. (R. 2213-14). Ross living in Wilkerson's grandmother's house and that he has been living there for more than one year. (R. 2215-16). Wilkerson testified about her family history, including where she and her siblings attended school in Arizona (R. 2217-21), Grayeyes being the record title owner of the trailer in Page, Arizona (R. 2221), the time that Grayeyes stays with his girlfriend in Tuba City, Arizona (R. 2224), the time that Grayeyes stays with his sister, Rose, at NHA housing development, house number five (R. 2230), and the time that Grayeyes stays at the cabin on Wilkerson's homesite lease. (R. 2230-32).

13. Navarina Boshane, (R. 2234-42): Navarina Boshane ("Boshane") is the daughter of Grayeyes, and testified about her personal background, including her education in Arizona public schools, her employment history (R. 2234-35), living at the trailer in Page, Arizona, traveling to Navajo Mountain on the weekends when she was young (R. 2235-37), and living in the Page, Arizona, trailer alone with her siblings, after

their mother died. (R. 2237). Boshane also testified that the Page, Arizona, trailer is currently uninhabitable, because it has been gutted out and needs to be redone. (R. 2239-40). She also testified that nobody has lived there since November 2018. (R. 2240). Boshane further testified that Grayeyes stays with his sister at NHA housing development, house number five, or at Wilkerson's cabin when he is in Navajo Mountain. (R. 2240). Boshane further testified about the condition of the trailer in Page, Arizona. (R. 2241). Boshane stated that the trailer is being remodeled. (R. 2241).

B. The Trial Court's January 29, 2019 Ruling and Order is Against the Clear Weight of Evidence

In determining a person's principal place of residence, the evidence to support a claim has to be clear and convincing. *See* Utah Code § 20A-2-105; Utah Code § 20A-3-202.3; Add. H, I. This standard of proof "implies something more than the usual requirement of a preponderance of the evidence, or greater weight of the evidence, and something less than proof beyond a reasonable doubt." *Essential Botanical Farms, LC, v. Kay*, 2011 UT 71, ¶ 24, 270 P.3d 430 (citing *Ault v. Holden*, 2002 UT 33, ¶ 15, 44 P.3d 781) (internal quotation marks omitted).

A person resides in Utah if "(i) their principal place of residence is within Utah; and (ii) the person has a present intention to maintain the person's principal place of residence in Utah permanently or indefinitely." Utah Code § 20A-2-105(3)(a); Add. H. Principal place of residence is defined as being "the single location where a person's habitation is fixed." Utah Code § 20A-2-105(1)(a); Add. H. Additionally, in inquiring into where a person's principal place of residence is located, a judge shall:

consider the following factors to the extent the ... judge determines the facts to be relevant: (a) where the person's family resides; (b) whether the person is single, married, separated, or divorced; (c) the age of the person; (d) where the person usually sleeps; (e) where the person's minor children attend school; (f) the location of the person's employment, income sources, or business pursuits; (g) the location of real property owned by the person; (h) the person's residence for purposed of taxation or tax exemption; and (i) other relevant factors.

Utah Code § 20A-2-105(4); Add. H. A person can only have *one place of residence*, and they do not lose their principal place of residence until they have established a new one.

Utah Code § 20A-2-105(4) (emphasis added); Add. H.

The heart of this case is that Grayeyes declared under oath, *on two separate occasions*, that he resides at a house located on Piute Mesa. In these declarations, Grayeyes described where this residence is located, and even provided the home's coordinates and satellite images. Trial Exhibits 11, 13. Laws has proven, by clear and convincing evidence, that Grayeyes does not reside at the home he claims as his residence (the "Piute Mesa Home") and that Grayeyes falsely declared and that he resides at the Piute Mesa Home.

The evidence at trial proves by clear and convincing evidence that Harrison Ross, not Grayeyes, resides at the Piute Mesa Home. For example, Delton Pugh, who provides services to most of the elderly residents on Piute Mesa (R. 1988), testified that Harrison Ross lives at the Piute Mesa home. (R. 1990-92; 2013). Laws also testified that when he visited the house on September 5, 2018, Harrison Ross stated that he lived there and Grayeyes does not. (R. 2064-65). Moreover, Alex Bitsinnie, who is a resident of Piute

Mesa and has lived there for 28 years (R. 2070), also testified that Harrison Ross lives at the Piute Mesa Home Grayeyes claims is his residence. (R. 2078-79).

In addition to *three separate witnesses* testifying that Grayeyes does not reside at the Piute Mesa home, Grayeyes admitted to Turk, on camera, the he does not live at the Piute Mesa Home. Trial Exhibit 8; (R. 1967-69; 2113).

Additionally, Grayeyes had the opportunity to testify on his own behalf or produce records showing that he lives at, or has a property interest in, the Piute Mesa Home. Given the strength of the evidence that demonstrates that Grayeyes does not live at the Piute Mesa Home, the clear inference is that Grayeyes chose not to testify because he could not truthfully rebut Laws' evidence, and he could not produce any documents pertaining to the Piute Mesa Home because either there are no records showing he has a property interest in the home, or they are adverse to him.⁸

⁸ See *Ralph Child Const. Co. v. State Tax Comm'n*, 12 Utah 2d 53, 61, 362 P.2d 422, 427 (1961) (“The rule is well established that where one is in possession of evidence and fails to produce it, an inference may be drawn that it is against his interest.”); 20 Am Jur 188, Evidence, § 183. 135 A.L.R. 1375 (“The general rule is well settled that where a party fails to produce, or to explain the omission of, relevant evidence within his control, the jury may infer that such evidence would be unfavorable to him.”); see *Kopeikin v. Merchants Mortg. & Tr. Corp.*, 679 P.2d 599 (Colo. 1984) (“where a party fails to testify regarding facts and circumstances which appear to be material to the case which the party is attempting to establish, the inference may be made that the party refrained from testifying because the truth, if made to appear, would not aid that party's contention.”); *Talich v. Marvel*, 115 Neb. 255, 212 N.W. 540, 542 (1927) (“In the trial of a civil action, after the plaintiff has introduced evidence tending to prove his case, if the defendant fails to testify to matters peculiarly within his knowledge necessary to his defense, a presumption exists that his testimony, if produced, would militate against his interest, which presumption may be considered by the court or jury trying the case, in determining the facts proved.”).

In an attempt to rebut Laws' clear and convincing evidence, Grayeyes attempted to establish that he is a San Juan County resident, by questioning witnesses about the Navajo cultural tradition of buying a newborn's umbilical cord at his or her place of birth. (R. 2121-22; 2145-49; 2174-78). However, Grayeyes' own witnesses undermined his position because they testified that the place where their umbilical cords are buried at their "spiritual homes" and they could distinguish their principal place of residence from their "spiritual home." (R. 2137-39; 2186-87).

Grayeyes also tries to establish that where his livestock are, that's where his principal place of residence is. Trial Exhibit 29; (R. 2149-51; 2179-80; 2188-89). However, the permit Grayeyes has was issued in 2001 and does not indicate where he lives. Trial Exhibit 29. Additionally, Grayeyes was not the person who applied for the permit; it was a gift from Tullie Grayeyes. Trial Exhibit 29.

Additionally, Grayeyes presented no evidence to show that he owns or rents any real property in Utah, nor has he produced any records, such as tax records, property records, identification cards, bills, or anything else that would show he lives in Utah.

It is clear, by clear and convincing evidence that Grayeyes does not reside and the residence he claims to reside at and he is a resident of Arizona. Thus, the trial court abused its discretion by failing to consider the totality of the record in making its January 29, 2018 Ruling and Order.

III. The Trial Court's January 29, 2019 Ruling and Order Should be Reversed Because the Trial Court Abused its Discretion

For the following reasons, the trial court's January 29, 2019 Ruling and Order should be reversed.

A. The Trial Court Erred in Admitting and Considering Cultural Matters as Relevant Evidence

Pursuant to Utah Code § 20A-2-105(4), a judge shall consider a list of nine factors in determining a person's principal place of residence. Even though the statute provides for the evaluation of "other relevant factors," the trial court erred in considering cultural matters, specifically related to the burial of umbilical cords as Navajo Tradition, throughout its analysis under § 20A-2-105(4); Add. H.

Per the Utah Rules of Evidence, a fact is relevant if "(a) it has a tendency to be more or less probable than it would be without the evidence, *and (b) the fact is of consequence in determining the action.*" Utah R. Evid. 401 (emphasis added). In deciding whether a fact is relevant, a trial court has broad discretion and the standard is set very low because even evidence with the "slightest probative value is relevant." *State v. Smedley*, 2003 UT App 79, ¶ 15, 67 P.3d 1005.

However, the trial court erred in allowing Grayeyes to provide evidence related to the traditional practices of Navajo Nation as a means to evaluate his principal place of residence because the cultural facts are *not of consequence* in determining the action and its admittance.

First, this evidence is not relevant to the determination of Grayeyes' principal place of residence because its use is inconsistent with the legislative intent of Utah Code

§ 20A-2-105(4). By providing a list of factors to be considered for a person's principal place of residence, the Legislature intended to focus a trial court's inquiry into facts that the Legislature considers to be relevant in determining a person's residency. The Legislature intended to ensure uniformity in determinations of a person's principal place of residence all the while giving trial courts some latitude in evaluating the specific facts of each case.

Second, consideration and admittance of evidence related to cultural matters is inconsistent with the concepts and express language of Utah Code § 20A-2-105(4). Evaluation of the factors listed in § 20A-2-105(4), include the admittance of evidence relevant to "where the person's minor children attend school," "the location of real property owned by the person," and "where the person usually sleeps." Utah Code § 20A-2-105(4); Add. H. Nowhere is there an indication that a person's cultural practices or personal beliefs are indicative of their principal place of residence. By allowing the trial court to consider evidence based on cultural matters, a problem will arise in the uniform application of this statute because the evaluation of cultural matters is very subjective and particular to a person's specific beliefs.

B. The Trial Court Erred in Excluding the Turk Report and His Full Body Camera Footage⁹

“[T]he trial court has a great deal of discretion in determining whether to admit or exclude evidence, and its ruling will not be overturned unless there is an abuse of discretion.” *Gorostieta v. Parkinson*, 2000 UT 99, ¶ 14, 17 P.3d 1110. This Court “will not reverse a trial court’s ruling on evidence unless the ruling was beyond the limits of reasonability.” *Daines v. Vincent*, 2008 UT 51, ¶ 20, 190 P.3d 1269 (citing *Jensen v. IHC Hosps., Inc.*, 2003 UT 51, ¶ 57, 82 P.3d 1076 (internal citation and quotations omitted)) (internal quotation marks omitted).

Hearsay is defined as “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Utah R. of Evid. 801. “Hearsay is not admissible unless it falls under a legally recognized exception.” *Salt Lake City v. Alires*, 2000 UT App 244, ¶ 27, 9 P.3d 769. Under rule 803 of the Utah Rules of Evidence, these exceptions include “(8) public records.” Utah R. Evid. 803(8).

The trial court abused its discretion in failing to admit the Turk report and the full accompanying body camera footage for two reasons. First, this evidence is ***admissible*** under Utah Rules of Evidence 803(8). For this exception to apply, two elements have to be met. First, it must set out: “(ii) the matter observed while under a legal duty to report

⁹ The initial Turk report is attached as Add. N. The supplemental Turk report is attached as Add. O. For the purposes of this brief, reference to the Turk report includes both the initial report and the supplemental report. Additionally, Turks full Body Camera video is attached as Add. P.

... a matter observed by law enforcement.” Utah R. Evid. 803(8). This first element was met because Turk’s investigation was a legally authorized investigation because Turk is cross-deputized, meaning he can conduct investigations on the Navajo reservation, and he was acting within a legal duty to report because he was legally investigating a complaint that was filed, contesting Grayeyes’ residency, within the limits of San Juan County.

Trial Exhibits 18, 19, 20; (R. 1918; 1919; 1920).

At oral arguments, the trial court took the position that this investigation was not legally authorized and there was no legal duty to report. (R. 1922). This is unreasonable in light of the circumstances. Turk is a cross-deputized officer, which allows him to investigate matters on the Navajo reservation. Trial Exhibits 18, 19, 20. He was investigating a matter that Sheriff Eldridge assigned him to investigate. (R. 1921-22). For the purpose of investigating this matter, Turk’s inquiry was specifically limited to investigating Grayeyes’ residency. (R. 1932-74). Additionally, it is uncontested that he is a law enforcement agent, squarely placing his report and body camera footage into 803(8).

Second, the evidence related to the Turk report and the full body camera footage is highly relevant and probative to the issue at hand. The report and footage contain statements made by individuals Turk questioned, who all *could not confirm* that Grayeyes lived at Navajo Mountain or Piute Mesa. Rather, the Turk report and the body camera footage demonstrate that Grayeyes’ residence is actually in Arizona. By excluding this evidence, the trial court prevented Laws from putting on highly probative

and relevant evidence to support the conclusion that Grayeyes' principal place of residence was located in Arizona. This is also unreasonable.

CONCLUSION

For the forgoing reasons, Laws respectfully requests that this Court reverse trial court's January 29, 2019 Ruling and Order and either declare the San Juan County Commissioner seat for the 2nd district as vacant or remand this case for further proceedings.

Respectfully submitted this 11th day of October 2019.

STIRBA, P.C.

/s/ Ciera Archuleta

Peter Stirba

Matthew Strout

Ciera Archuleta

Attorneys for Appellant/Cross-Appellee

Kelly Laws

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 24(a)(11)(A) of the Utah Rules of Appellate Procedure, I hereby certify that this Brief contains 10,523 words, exclusive of the items set forth in Rule 24(g)(2), and therefore complies with the limitations set forth in Rule 24(g)(1). I relied on the word count function in Microsoft Word to make this calculation.

Pursuant to Rule 24(a)(11)(B) of the Utah Rules of Appellate Procedure, I hereby certify that this Brief complies with Rule 21 governing public and private records.

/s/ Ciera Archuleta
Ciera Archuleta

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of October 2019, a true and correct copy of the foregoing **BRIEF OF APPELLANT/CROSS-APPELLEE KELLY LAWS** was electronically served on the following:

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I FURTHER HEREBY CERTIFY that the appropriate number of hard copies will be mailed or hand-delivered upon the Court and counsel within 7 days.

/s/ Ciera Archuleta

ADDENDUM

TAB	DOCUMENT
A	Amended Verified Complaint and Exhibits
B	January 29, 2019 Trial Court Ruling and Order
C	Application of Fees and Costs
D	June 20, 2019 Ruling and Order
E	Office of Lieutenant Governor Complaint and Response Letter
F	Utah Code § 17-16-1
G	Utah Code § 20A-1-803
H	Utah Code § 20A-2-105
I	Utah Code § 20A-3-202.3
J	Utah Code § 20A-3-202
K	Utah Code § 20A-4-402
L	Utah Code § 20A-4-403
M	Utah Code § 20A-9-202
N	San Juan County Sheriff's Deputy C. Turk Initial Report
O	San Juan County Sheriff's Deputy C. Turk Supplemental Report
P	Full Body Camera Footage From Sheriff's Deputy C. Turk
Q	Utah Code § 20A-4-404
R	Utah Code § 20A-1-508

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**IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH**

KELLY LAWS,

Petitioners,

v.

WILLIE GRAYEYES,

Respondent.

VERIFIED AMENDED COMPLAINT

Case No. 180700016

Judge: Don M. Torgerson

Petitioner Kelly Laws, by and through his undersigned counsel, Stirba, P.C., hereby complains and alleges as follows:

PARTIES

1. Petitioner Kelly Laws (“Mr. Laws”) is a resident and registered voter of San Juan County, State of Utah. Mr. Laws was the Republican Party candidate for the office of San Juan County Commissioner, District 2, in the 2018 general election.

2. Respondent Willie Grayeyes was the Democratic Party candidate for the office of San Juan County Commissioner, District 2, in the 2018 general election. After the election, Mr. Grayeyes was declared the winner.

3. Mr. Grayeyes is a resident of the State of Arizona, not of the State of Utah, thus he is ineligible to run for, or serve, as a San Juan County Commissioner.

JURISDICTION AND VENUE

4. Jurisdiction in this Court is proper pursuant to Utah Code Ann. §§ 78A-5-102(1) and 20A-4-403(1)(a).

5. Venue in San Juan County is proper pursuant to Utah Code Ann. § 20A-4-403(1)(a).

GENERAL ALLEGATIONS

6. On March 9, 2018, Mr. Grayeyes filed a Declaration of Candidacy for the office of San Juan County Commissioner, District 2 in the 2018 general election.¹

7. District 2 includes Navajo Mountain, which has a total population of approximately 350 people.

8. In his Declaration of Candidacy, Mr. Grayeyes swore that he resides near the Navajo Mountain Chapter House in Utah. Specifically, he stated, “I do solemnly swear that: I

¹ See Declaration of Candidacy, attached hereto as Exhibit A.

will meet the qualification to hold the office, both legally and constitutionally, if selected; I reside at 17 miles . . . on Paiute Mesa, Utah from Nav. Mtn. Chapter Hse.”²

9. Mr. Grayeyes subsequently executed another declaration, dated April 19, 2018, where he swore under penalty of perjury that he “maintain[s] [his] full-time residency at Navajo Mountain in San Juan County, Utah.”³

10. In the April 19, 2018 declaration, Mr. Grayeyes also swore that “Navajo Mountain is [his] principal place of residence” and that he has “lived in Navajo Mountain, Utah, almost [his] whole life.”⁴ Mr. Grayeyes provided the latitude/longitude coordinates for the home he claimed to reside at: 37.084477, -110.626033, and he swore that he has “resided at this home for at least 20 years”⁵

11. The above coordinates correspond to a home located near Piute Mesa in the Navajo Mountain area in Utah. The home was owned by Mr. Grayeye’s aunt before she passed away (hereafter, “Piute Mesa Home”).

12. Contrary to Mr. Grayeyes’ two sworn declarations, Mr. Grayeyes does not reside at the Piute Mesa Home. In fact, Mr. Grayeyes does not reside in Utah at all. Rather, he resides in Arizona.

² *Id.*
³ Declaration of Willie Grayeyes, at ¶ 4, attached hereto as Exhibit B.
⁴ *Id.* at ¶ 5-6.
⁵ *Id.* at ¶ 8, 10.

13. Mr. Grayeyes has an Arizona driver's license, which he previously renewed at least three times.⁶ Mr. Grayeyes does not have a Utah driver's license, which is required by Utah law to be obtained by anyone who claims to be a Utah resident.⁷

14. Not only does Mr. Grayeyes have an Arizona driver's license, but he also owns a home there. Mr. Grayeyes purchased a home in Page, Arizona in 1981 with his wife as joint tenants. Upon information and belief, Mr. Grayeyes and his wife raised their children there. Mr. Grayeyes' wife passed away in 1988, but Mr. Grayeyes still owns the home, and all property tax bills are sent to Mr. Grayeyes at his post office box in Page, Arizona.⁸

15. The property tax bills state that the home is classified as a "primary residence."⁹

16. In addition to owning a home in Page, Arizona, Mr. Grayeyes spends several months of the year in Tuba City, Arizona at a mobile home owned by his girlfriend, Victoria Bydone. Mr. Grayeyes also maintains an office in Tuba City.

17. Mr. Grayeyes owns a horse, which he keeps at the home of his uncle, Harry Nimrock. Mr. Nimrock lives in Arizona, and Mr. Grayeyes sometimes stays the night there.

18. An investigation conducted by San Juan County Deputy Colby Turk confirms the foregoing. Deputy Turk was assigned to investigate Mr. Grayeyes' residency after an objection

⁶ See License Report, attached hereto as Exhibit C.

⁷ See Request for MVR, attached hereto as Exhibit D (stating that the Utah Office of Driver License Services has no record of Mr. Grayeyes having a Utah driver's license); Utah Code § 53-3-202(1) (stating that Utah residents must get a Utah license to operate a motor vehicle in the state).

⁸ See Deed, attached hereto as Exhibit E; Property Tax Records, attached hereto as Exhibit

F.

⁹ See Exhibit F.

to Mr. Grayeyes' candidacy was filed by a resident of San Juan County on the grounds that Mr. Grayeyes lives in Arizona and is therefore not eligible to hold office in San Juan County.

19. On March 27, 2018, Deputy Turk spoke to numerous people in and around Navajo Mountain and Piute Mesa in Utah. These conversations were captured on Deputy Turk's department-issued body camera.

20. All of the individuals Deputy Turk spoke to in the Navajo Mountain area who knew where Mr. Grayeyes lives stated that he lives in Arizona and/or does not live in or around Navajo Mountain. None of them stated that Mr. Grayeyes lives in Navajo Mountain or anywhere else in Utah.

21. For example, the Community Services Coordinator for the Navajo Mountain Chapter House, Lorena Atene, told Deputy Turk that Mr. Grayeyes' "place of residence isn't here, it's in Tuba City," which is in Arizona. Ms. Atene further stated that Mr. Grayeyes is the secretary treasurer of the Navajo Mountain Chapter, but he "commutes back and forth" from Tuba City.¹⁰

22. Upon information and belief, Ms. Atene knows where Mr. Grayeyes lives because she knows Mr. Grayeyes and sees him at Navajo Mountain Chapter meetings.

23. Mr. Grayeyes' sister, Rose Johnson, told Deputy Turk that Mr. Grayeyes does not live in Utah. Deputy Turk met with Ms. Johnson at the Navajo Mountain Community School, which is where Ms. Johnson works. After introducing himself, Deputy Turk said to Ms. Johnson,

¹⁰ See Body Camera Footage, Video #2, at 1:44-2:32, attached hereto as Exhibit G. See also San Juan County Sheriff's Office Deputy Report for Incident 1803-0141, at page 3, attached hereto as Exhibit H.

“I was told that you could tell me where your brother Willie Grayeyes lives.” Ms. Johnson replied, “He live in Tuba...he live in the trailer.” Deputy Turk then asked, “In Tuba City?” Ms. Johnson replied, “Yeah.”¹¹

24. Deputy Turk asked Ms. Johnson how long Mr. Grayeyes has lived in Tuba City, and she said that she does not know. However, another school employee who was present for the conversation stated that Mr. Grayeyes has lived in Tuba City for “maybe two, three years.”¹²

25. Ms. Johnson then mentioned that when Mr. Grayeyes worked “at Inscription House, he would go back and forth to Tuba.”¹³ The Inscription House Chapter is located in Tonalea, Arizona.

26. Ms. Johnson then began speaking in Navajo and mentioned the name “Victoria.” Accordingly, upon information and belief, when Ms. Johnson stated that Mr. Grayeyes lives in a trailer in Tuba City, Arizona, she was referring to the trailer owned by Mr. Grayeyes’ girlfriend, Victoria Bydone.

27. Ms. Johnson added that sometimes Mr. Grayeyes stays at her house, which is located in Navajo Mountain, Utah, but “just for over two nights, then he go.”¹⁴

28. Earlier in the day, Deputy Turk had spoken to some of Ms. Johnson’s neighbors. Ms. Johnson lives in a housing development in Navajo Mountain where there are numerous homes that are in close proximity to one another, as shown below in Figure 1.

¹¹ Exhibit G, Video #7, at 2:19-2:39; Official Transcript of Electronic Recording (Rose Johnson, March 27, 2018), at 3:6-17, attached hereto as Exhibit I. *See also* Exhibit H, at page 5.

¹² Exhibit G, Video #7, at 4:30-4:54; Exhibit I, at 5:5-16. *See also* Exhibit H, at page 5.

¹³ Exhibit G, Video # 7, at 4:55-5:03; Exhibit I at 5:17-19.

¹⁴ Exhibit G, Video #7, at 5:30-5:40; Exhibit I at 6:9-16. *See also* Exhibit H, at page 5.



*Figure 1: View of neighborhood from out front of Rose Johnson's house.*¹⁵

29. One neighbor, who lives immediately next to Ms. Johnson, said that Mr. Grayeyes lives “somewhere in Tuba.”¹⁶ Later in the conversation, the neighbor once again stated that Mr. Grayeyes lives in Tuba City.¹⁷

30. A man who was standing outside of a house across the street from Ms. Johnson's home told Deputy Turk that Mr. Grayeyes “is from here” originally but “he doesn't live here.” Deputy Turk asked him if Mr. Grayeyes lives in Tuba City, and the man said, “yeah, he is from all over,” and he added that Mr. Grayeyes has houses in Page, Arizona and Cameron, Arizona.¹⁸

¹⁵ See Exhibit G, Video #3, at 3:38.

¹⁶ Exhibit G, Video #3, at 1:21-1:32. See also Exhibit H, at page 4.

¹⁷ Exhibit G, Video #3, at 1:54-2:00. See also Exhibit H, at page 4.

¹⁸ Exhibit G, Video #3, at 4:20-4:31, 5:58-6:26. Exhibit H, at page 4. Both Page and Cameron, Arizona are located in Coconino County. The Coconino County Recorder's Office has no record of Mr. Grayeyes owning a home in Cameron. However, Cameron is located on the

31. During the conversation described in paragraph 30, above, a woman came out of the house and said, “Once in a great while [Mr. Grayeyes] comes around,” but she stated that she does not know where he lives.¹⁹

32. Deputy Turk also spoke to other individuals elsewhere in the Navajo Mountain area. For example, a man named Leonard, who stated that he has lived in the area his entire life, said that Mr. Grayeyes does not live in the area.²⁰ In addition, Deputy Turk spoke to two individuals sitting in a truck parked in the vicinity of the Piute Mesa Home. They told Deputy Turk that they live a little bit south of where they were parked. Deputy Turk asked them if they know where Mr. Grayeyes lives, and they told him that the Grayeyes family has property in the area, but it is abandoned, and no one lives there. They also said that when Mr. Grayeyes comes to Navajo Mountain, he stays with his sister, Rose Johnson, but he does not live there.²¹

33. Alex and Sylvia Bitisinnie also reside near the Piute Mesa Home. Specifically, they live approximately two miles from it. Alex is a former president of the Navajo Mountain Chapter, and Sylvia is his wife. Alex and Sylvia know everyone who lives in Navajo Mountain. There is only one road going in and out of the area in which the Piute Mesa Home is located, thus they see everyone who comes and goes. Alex and Sylvia never see Mr. Grayeyes on the

Navajo Nation reservation, and the Navajo Nation maintains its own property records. Counsel for Petitioner requested any and all property records pertaining to Mr. Grayeyes from the Navajo Nation, but a Navajo Nation representative informed counsel that it would not respond to counsel’s request without a court order.

¹⁹ Exhibit G, Video #3, at 6:59-7:21; Exhibit H, at page 4.

²⁰ Exhibit G, Video # 6, at 2:12-3:08; Exhibit H, at page 5.

²¹ Exhibit G, Video #4, at 22:28-24:25; Exhibit H, at page 4.

road, around the Piute Mesa Home, or in the Navajo Mountain area in general. The last time that Alex saw Mr. Grayeyes was in Tuba City, Arizona.

34. On March 28, 2018, the Kayenta District Police contacted the San Juan County Sheriff's Department and stated that they had sent an officer out to Navajo Mountain the prior evening to check the area for Mr. Grayeyes, and they had been told that Mr. Grayeyes lives near a car wash in Tuba City, Arizona.²²

35. On April 4, 2018, Deputy Turk spoke to Mr. Grayeyes at the Twin Rocks Café in Bluff, Utah. Mr. Grayeyes admitted that he does not live at the Piute Mesa Home, which is contrary to what he averred in his two sworn declarations.

36. During their conversation, which was captured on Deputy Turk's body camera, Mr. Grayeyes stated that he is on the road "almost all the time" in his capacity as secretary treasurer for the Navajo Mountain Chapter. He stated that when he is in Utah, he stays with his sister, Rose Johnson. Mr. Grayeyes further claimed that he stays with his sister "60, 70 percent of the time."²³

37. Mr. Grayeyes' claim that he stays with his sister in Utah 60 to 70 percent of the time is contrary to his sister's statement that he stays with her for "just for over two nights, then he go."

38. During his conversation with Deputy Turk, Mr. Grayeyes also said that he sometimes stays with Victoria Bydone in Tuba City, Arizona, and that he has an office in Tuba

²² See Exhibit H, at page 6.

²³ Exhibit H, at page 7; Exhibit G, Video #10 at 5:51-6:00; Official Transcript of Electronic Recording (Willie Grayeyes, April 4, 2018), at 3:18-4:17, 7:23-8:19, attached hereto as Exhibit J.

City. Specifically, he said, “I have an office there [in Tuba City]. I travel from there to Navajo Mountain and – going all over the place. I don’t have a place . . . in Tuba, I just stay with a lady.”²⁴ Mr. Grayeyes then clarified that the “lady” he stays with is Victoria Bydone.²⁵

39. Mr. Grayeyes added that he sometimes stays with his uncle, Harry Nimrock, in Arizona because Mr. Grayeyes keeps his horse there.²⁶

40. Deputy Turk asked Mr. Grayeyes when he went to the Piute Mesa Home last. Mr. Grayeyes responded, “Probably in the fall when I hauled water out there for the cattle.”²⁷ Later in the conversation, Mr. Grayeyes added, “I don’t have the time to get the car back over there.”²⁸

41. Deputy Turk then said to Mr. Grayeyes, “You don’t live on Piute Mesa, you stay with your sister sometimes and stay with Victoria in Tuba City, and then you’re traveling around.” Mr. Grayeyes responded, “Yeah.”²⁹

42. At no point during the conversation did Mr. Grayeyes mention that he owns a home in Page, Arizona.

43. The car that Mr. Grayeyes drove to the meeting with Deputy Turk had an Arizona license plate and was registered to Victoria Bydone in Tuba City, Arizona.³⁰

44. On April 24, 2018, approximately three weeks after Deputy Turk spoke to Mr. Grayeyes, Deputy Turk went to the Piute Mesa Home. He had previously visited the home on

²⁴ Exhibit J, at 4:17-25. Exhibit G, Video #10, at 2:40-2:56; *See also* Exhibit H, at page.
²⁵ *See* Exhibit J at 5:1-5:8; Exhibit G, Video #10, at 2:55-2:58. *See also* Exhibit H, at page 7.

²⁶ Exhibit H, at page 7; Exhibit J, at 6:10-25; Exhibit G, Video #10, at 4:16-4:25.

²⁷ Exhibit J, at 6:5-9; Exhibit G, Video #10, at 4:03-4:10. *See also* Exhibit H, at page 7.

²⁸ Exhibit J at 9:19-23; Exhibit G, Video #10, at 7:14-7:18. *See also* Exhibit H, at page 7.

²⁹ Exhibit J at 10:19-24; Exhibit G, Video #10, at 7:22-7:31. *See also* Exhibit H, at page 7.

³⁰ Exhibit H, at page 7.

March 27, 2018, and no one was home.³¹ Similarly, on April 24, no one was home, and everything appeared the same as it had been before.³²

45. In light of the foregoing, Mr. Grayeyes is a resident of Arizona, not Utah. Accordingly, Petitioner Kelly Laws respectfully requests that the Court annul and set aside the election and declare the San Juan County Commissioner Seat for District 2 vacant.

FIRST CLAIM FOR RELIEF
Utah Code Ann. § 20A-4-402(1)(b) and (1)(g)

46. Petitioner incorporates by reference paragraphs 1-45, above, as if fully set forth herein.

47. The Utah Election Code provides the grounds for an election contest. An election contest can be brought by any individual registered to vote in the jurisdiction in which the election was held. Utah Code Ann. § 20A-4-402(1)(a) and (1)(b)(ii).

48. The election at issue in the present case was for the District 2 San Juan County Commissioner seat. Petitioner Kelly Laws is, and was at all relevant times, registered to vote in that county and district.

49. The Utah Election Code states that the election of any person to public office may be contested “when the person elected was not eligible for the office at the time of the election” or when “the candidate declared elected is ineligible to serve in the office to which the candidate was elected.” Utah Code Ann. § 20A-4-402(1)(b) and (1)(g).

³¹ See Exhibit G, Video #4, at 30:00-31:08.

³² See San Juan County Sheriff’s Office Law Supplemental Narrative, at page 1, attached hereto as Exhibit K. See also Exhibit G, Video # 11, at 0:00-7:14; Exhibit G, Video #12.

50. An individual is not eligible to run for or hold office if they do not meet the residency requirements for that office.

51. Utah Code Ann. § 17-16-1 provides the eligibility requirements for all county offices. It states, in relevant part, that a person filing a declaration of candidacy for a county office shall:

(a) be a United States citizen;

(b) . . . as of the date of the election, have been a resident *for at least one year* of the county . . . in which the person seeks office; and

(c) be a registered voter in the county . . . in which the person seeks office.

Id. (Emphasis added).

52. A county officer must remain a resident of the county for the duration of their term, and if they at any time establish their principal place of residence outside of the county, the office becomes “automatically vacant.” Utah Code § 17-16-1(2)(b).

53. The Utah Election Code empowers a court hearing an election contest to annul and set aside an election if it determines that the winning candidate was not eligible to run for or hold office, such as if the winning candidate is not a Utah resident. *See* Utah Code § 20A-4-404(4)(c).

54. An individual is a resident of Utah if: “(i) the person's principal place of residence is within Utah; and (ii) the person has a present intention to maintain the person's principal place of residence in Utah permanently or indefinitely.” Utah Code § 20A-2-105(3)(a).

55. A person’s principal place of residence is the “single location where a person’s habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.” § 20A-2-105(1)(a). A person can only have one principal place of residence at a time,

and they do not lose their principal place of residence until they have established a new one. § 20A-2-105(5). A person changes their principal place of residence if they act “affirmatively to move from the state or a precinct in the state” and have the “intent to remain in another state or precinct.” *Id.*

56. Courts consider any and all relevant factors in determining whether an individual is a resident of Utah, including, without limitation, where the individual usually sleeps, the location of real property owned by the individual, the individual’s residence for the purposes of taxation, and the state in which the individual holds a driver’s license.

57. Mr. Grayeyes’ was not eligible to run for, and is not eligible to serve as, a San Juan County Commissioner because his principal place of residence is not currently in Utah, nor was it in Utah for at least one year prior to the election.

58. Mr. Grayeyes has been an Arizona resident for nearly 40 years. He established his Arizona residency in 1981 when he purchased a home in Page, Arizona as a joint tenant with his late wife. Mr. Grayeyes still owns the home and pays property taxes on it. Mr. Grayeyes also sometimes stays with his girlfriend in Tuba City, Arizona. He also maintains an office in Tuba City.

59. Mr. Grayeyes owns a horse, which he keeps at his uncle’s house in Arizona. Mr. Grayeyes sometimes stays the night there.

60. Numerous individuals, including Mr. Grayeyes’ sister, confirmed in video-recorded conversations that Mr. Grayeyes lives in Arizona, not Utah. Indeed, Mr. Grayeyes admitted to Deputy Turk that he does not live at the Piute Mesa Home, contrary to the representations that Mr. Grayeyes made in two sworn declarations.

61. Mr. Grayeyes holds an Arizona license, which he previously renewed at least three times, and he has never held a Utah driver's license. If Mr. Grayeyes were a resident of Utah, he would be required by law to obtain a Utah driver's license to operate a vehicle on Utah roads. *See* Utah Code § 53-3-202(1).

62. The fact that Mr. Grayeyes sometimes stays with his sister, Rose Johnson, in Utah does not make him a Utah resident. Mr. Grayeyes' claim that he spends 60 to 70 percent of his time at Ms. Johnson's house is belied by Ms. Johnson's statement that he stays "just for over two nights." Moreover, Ms. Johnson's neighbors, as well as other individuals in the Navajo Mountain area, told Deputy Turk that Mr. Grayeyes lives in Arizona.

63. The foregoing evidence demonstrates that Mr. Grayeyes has been a long-established Arizona resident, and he has not "acted affirmatively" to move to Utah or otherwise establish residency in Utah.

64. In light of the foregoing, Mr. Grayeyes' principal place of residence was not in Utah one year before the election, at the time of the election, at the time he was declared the winner of the election, or at any other time. Accordingly, he is not a resident of Utah and was not eligible to run for San Juan County Commissioner and is not eligible to hold that office. Petitioner therefore respectfully requests that the Court annul and set aside the election and declare the San Juan County Commissioner seat for District 2 vacant.

PRAYER FOR RELIEF

WHEREFORE, Petitioner hereby demands that judgment be entered in his favor, and against Respondent, as follows:

A. For an order annulling and setting aside the election;

- B. For an order declaring that the office of San Juan County Commissioner, District 2 is vacant;
- C. For an order declaring that Mr. Grayeyes' principal place of residence is outside of Utah;
- D. For an order declaring that Mr. Grayeyes is ineligible to hold office in Utah;
- E. For all of Petitioners' costs and reasonable attorney's fees and expenses in connection with litigating this action as may be allowed at law or in equity;
- F. For such other and further relief as the Court deems just, equitable, or proper.

DATED: January 15, 2019

STIRBA, P.C.

/s/ Matthew Strout
Peter Stirba
Matthew Strout

Attorneys for Petitioner Kelly Laws

VERIFICATION

Pursuant to § 78B-18a-101 et seq. (2018), I, Kelly Laws, the Undersigned Petitioner, do hereby declare that the foregoing factual statements in the Verified Amended Complaint are true and correct to the best of my knowledge, information, and belief and further, I believe that any statements made on information are true.

I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Signed on the 15th day of January, 2019, at Monticello Utah.
City or other location, and state or country

Kelly G Laws

Printed name

Kelly G Laws

Signature

CERTIFICATE OF SERVICE

I hereby certify that on the 15^h day of January, 2019, a true and correct copy of the foregoing **VERIFIED AMENDED COMPLAINT**, was served by the method indicated below, to the following:

Steven C. Boos
Maynes, Bradford, Shipp & Sheftel, LLP
853 East Second Avenue, Suite 123
Durango, CO 81301
sboos@mbsslip.com
Attorney for Respondent

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Electronic Filing

David R. Irvine
Attorney and Counselor at Law
747 East South Temple Street, Suite 130
Salt Lake City, UT 84102
Drirvine@aol.com
Attorney for Respondent

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Electronic Filing

Alan L. Smith
Attorney and Counselor at Law
1169 East 4020 South
Salt Lake City, UT 84124
Alanakaed@aol.com
Attorney for Respondent

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Electronic Filing

Eric P. Swenson
1393 East Butler Avenue
Salt Lake City, UT 84102
e.swenson4@comcast.net
Attorney for Respondent

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Electronic Filing

/s/ Randy Torres

EXHIBIT A

DECLARATION OF CANDIDACY

by

Willie Grayeyes

(Print name of candidate exactly as it is to be printed on the Official Ballots)

for the office of San Juan County Commission 2nd Dist #2

STATE OF UTAH

County of San Juan

ss.

March 9, 2018 (Date)

I, Willie Grayeyes, declare my intention of becoming a candidate for the office of Commissioner for Dist #2 as a candidate for the Democratic party.

I do solemnly swear that I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at 17 miles SW Painted Mesa, Utah from Navajo Chapter Hse. Street, in the City or Town of Navajo Mtn Chapter comm., Utah, Zip Code 86044.

Phone No. [redacted]; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is

P.O. Box 10035, Tempe, Arizona 86044

Additional information:

[redacted]

e-mail Address

[Signature]

Signature of Candidate

Subscribed and sworn before me this

3/9/2018 (month/day/year)

Web Site

[Signature] Notary Public (or other officer qualified to administer oaths)

For Office Use

Date Certified by Party

Date Received

Certified by (Party)

Received by (Authorized Person)

EXHIBIT B

DECLARATION OF WILLIE GRAYEYES

I, WILLIE GRAYEYES, acting in accordance with 28 U.S.C. § 1746, do hereby declare and say:

1. My name is Willie Grayeyes.
2. I am an enrolled member of the Navajo Nation.
3. I reside in the Navajo Mountain Chapter.
4. I maintain my full-time residency at Navajo Mountain in San Juan County, Utah.
5. Navajo Mountain is my principal place of residence.
6. I have lived in Navajo Mountain, Utah, almost my whole life. My entire family and clan is from San Juan County, Utah.
7. I attended school at Navajo Mountain.
8. The latitude/longitude coordinates for my home are 37.084477, -110.626033. See Exhibits A and B, Satellite Imagery and Latitude/Longitude Coordinates for the Principal Residence of Willie Grayeyes.
9. My home is in a very rural location near Piute Mesa in Utah. There are only three houses in the immediate vicinity.
10. I have resided at this home for at least 20 years and intend to remain there permanently and indefinitely.
11. I maintain a Post Office Box in Tonalea, Arizona. The Post Box number is 10035, and the zip code is 86044.
12. Most people in the Navajo Mountain community maintain a mail box, subcontract post office, under Tonalea, Arizona, based on convenience (80 miles away) and the fact that Tonalea provides prompt and reliable post office service.

13. I serve as the Chair of the Board of Directors for Utah Diné Bikéyah.
14. I am the Chapter Official for Navajo Mountain, Utah.
15. I am currently the Secretary/Treasurer for Navajo Mountain Chapter.
16. I am Chairman of the School Board for Naatsis'aan Community School.
17. I have been a registered voter in San Juan County, Utah, since I turned 18.
18. I have voted in almost every primary and general election in San Juan County since 2000.
19. If San Juan County reviewed their own voter file that they maintain on me, they would find that I voted in the 2000 Primary and General Elections, the 2002 General Election, the 2006 General Election, the 2008 Primary and General Elections, the 2010 General Election, the 2012 General Election, the 2014 General Election, the 2015 General Election, and the 2016 Primary and General Elections.
20. I have never voted in any other state.
21. In 2012, I was certified as the Democratic candidate in the former San Juan County Commission District 1 by the Lieutenant Governor of the State of Utah based upon my residence in Utah and Navajo Mountain. Exhibit C, 2012 Partial List of Certified Democratic Candidates.
22. According to the Memorandum Decision and Order, Dkt. 441, dated December 21, 2017, I reside in the new, Court-ordered District 2 of the San Juan County Commission for the 2018 Primary and General elections.
23. On March 15, 2018, I filed with the San Juan County Clerk's Office as a Democratic candidate for Court-ordered County Commission District 2. Exhibit E, Court Ordered Election Districts for San Juan County Commission.

24. I was at Navajo Mountain on March 21, 2018, for a meeting at school and left afterward. The next day, on March 22, 2018, Maggie Holgate from the school called me to tell me that Sheriff was looking for me. Apparently, he talk with my sister, Rose Mary Johnson, regarding where I live. My sister indicated that she didn't specify where I lived to him at that time, but Investigator Turk later said that my sister said I lived somewhere else other than Navajo Mountain.

25. I called Mr. Turk after his visit to follow up and we agreed to meet in person.

26. At the San Juan County Democratic Convention on March 24, 2018, I was nominated as the Democratic candidate for the new, Court-ordered District 2 of the San Juan County Commission for the General Election in 2018.

27. On April 4, 2018, I met with Officer Turk from the San Juan County Sheriff's Department in Bluff, Utah. Mr. Turk told me that the purpose of his visit was to determine my permanent residence.

28. During that visit, I described to Mr. Turk where I lived, Mr. Turk told me that he was unable to locate my residence.

29. I received a letter from the San Juan County Clerk/Auditor, John David Nielson, dated March 28, 2018, stating that my right to vote and hold office in San Juan County, Utah, was challenged by Wendy Black, of Blanding, Utah.

30. I have never met, and do not personally know, Wendy Black.

31. The letter stated that the basis of Ms. Black's challenge was that my primary residence is not within San Juan County, Utah, but the State of Arizona.

32. I am not a resident of Arizona.

33. The letter states that I have an opportunity to refute the challenge.

34. The letter did not contain any evidence or provide a description of the facts and circumstances that formed the basis for Ms. Black's challenge.

35. I have not been provided with a copy of the affidavit Ms. Black was required to file as part of her challenge.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on April 19, 2018

BY:

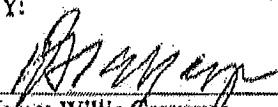

Name: Willie Grayeys





EXHIBIT C

Unit: 1Z15, DR - DL #: [REDACTED] 8435

[REDACTED] 8435.IMQ/Y	DOE [REDACTED] 1946	RCPT#:TC092946
NAME:WILLIE,,GRAYEYES	TONALEA	AZ 86044
ADDR:17 MILES NE OF NAVAJO MT CH HSE	SEX:M [REDACTED]	HAIR:WHT EYE:BRN
ISSUE DT:[REDACTED] 2016 EXP:[REDACTED] 2021	OLT:OPERATOR CLASS D	
[REDACTED] 8435	TONALEA	AZ 86044
MAIL:PO BOX 10035		
RESTRICT: CORRECTIVE LENS		
PREV LIC: [REDACTED] 8435	PREV ST: AZ	
[REDACTED] 8435	AZ	
[REDACTED] 9380	AZ	

EXHIBIT D

REQUEST FOR MVR

This form shall be used by persons making requests for a driving record (MVR - Motor Vehicle Record) under Utah Code Ann. § 53-3-104. An MVR shall be released by the division only to qualifying requesters pursuant to 'permissible uses' articulated in the federal Driver Privacy Protection Act (DPPA).

PERSON REQUESTING THE MVR

Please type or print all information.

Name of Requester [Redacted] Daytime telephone (801) 364-8300
Name of Company (if applicable) Stirba, P.C. Date of Request 12/17/18
Mailing Address 215 State St #750 Salt Lake City, UT 84111
Street City/State ZIP

Certification Statement: I certify under penalty of law that I am entitled to personal information from the requested driver record. I am aware that there are criminal and civil penalties for knowingly obtaining, disclosing, or using the personal information for a purpose not permitted under DPPA (18 U.S.C. §§ 2721-2724).

(Signature of person requesting driving record)

Fee of \$8.00 enclosed.

NO RECORD FOUND

PERSON TO WHOM THE MVR PERTAINS

The requester listed above requests access to driver record(s), including personal information as defined in 18 U.S.C. §§ 2721-2724, concerning the following person:

Name Grayeyes Willie 1946
Last (First) (Middle) (Date of Birth)

Driver License Number Address (if available)

DRIVER PRIVACY PROTECTION ACT PERMISSIBLE USES

- 1. For use by any government agency, including any court or law enforcement agency, in carrying out its functions.
4. For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.
6. For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.
8. For use by any licensed private investigative agency or licensed security service for any purpose permitted under DPPA. (Licensed private investigators or investigative agencies certified by the Utah Department of Public Safety).

DLD USE ONLY
Date received
DLD employee

DLD60a
Rev. 7-18

NO RECORD FOUND

OFFICE OF DRIVER LICENSE SERVICES
NO RECORD FOUND

RECEIVED
DEC 17 2018

REQUEST FOR MVR

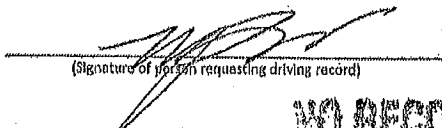
This form shall be used by persons making requests for a driving record (MVR - Motor Vehicle Record) under Utah Code Ann. § 53-3-104. An MVR shall be released by the division only to qualifying requesters pursuant to 'permissible uses' articulated in the federal Driver Privacy Protection Act (DPPA).

PERSON REQUESTING THE MVR

Please type or print all information.

Name of Requester [REDACTED] Daytime telephone (801) 364-8300
Name of Company (if applicable) Stirba, P.C. Date of Request 12/17/18
Mailing Address 215 State St #750 Salt Lake City, UT 84111
Street City/State ZIP

Certification Statement: I certify under penalty of law that I am entitled to personal information from the requested driver record. I am aware that there are criminal and civil penalties for knowingly obtaining, disclosing, or using the personal information for a purpose not permitted under DPPA (18 U.S.C. §§ 2721-2724).


(Signature of person requesting driving record)

Fee of \$8.00 enclosed.

NO RECORD FOUND

PERSON TO WHOM THE MVR PERTAINS

The requester listed above requests access to driver record(s), including personal information as defined in 18 U.S.C. §§ 2721-2724, concerning the following person:

Name Greeyes Willie [REDACTED] 1946
Last (First) (Middle) (Date of Birth)
Driver License Number _____ Address (if available) _____

DRIVER PRIVACY PROTECTION ACT PERMISSIBLE USES

- 1. For use by any government agency, including any court or law enforcement agency, in carrying out its functions.
- 4. For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.
- 6. For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.
- 8. For use by any licensed private investigative agency or licensed security service for any purpose permitted under DPPA. (Licensed private investigators or investigative agencies certified by the Utah Department of Public Safety).

NO RECORD FOUND

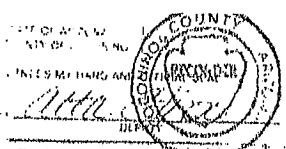
OFFICE OF DRIVER LICENSE SERVICES
NO RECORD FOUND

DLD USE ONLY
Date received
DLD employee

DLD60a
Rev. 7-18

RECEIVED
DEC 17 2018

EXHIBIT E



NOTED: CERTAIN THAT THE WITHIN DEED WAS FILED AND RECORDED IN COCONINO COUNTY STATE OF ARIZONA

HELEN E. RUDGERS
COCONINO COUNTY RECORDER

8047 500
PAGE 283
DATE MAY 20 1981 - 315
REQUEST OF MINNESOTA TITLE AND TRUST AGENCY

For Tax Purposes: Mr. & Mrs. Willie Grayeyes Box 1688 Tuba City, Arizona 86043	in DOCKET and indexed in DEEDS at the request of	Witness my hand and official seal, _____ County Recorder By _____ Deputy Recorder	Compared Photostated Fee:
When recorded, mail to: Minnesota Title & Trust Agency P.O. Box 1113 Page, Arizona 86040			

4728

Joint Tenancy Deed

For the consideration of Ten Dollars, and other valuable considerations, I or we, ROSCOE W. McDANIEL AND DOROTHY J. McDANIEL, husband and wife, do hereby convey to WILLIE GRAYEYES AND SUE ANN GRAYEYES, also known as S. GRAYEYES, husband and wife, not as tenants in common and not as community property estate, but as joint tenants with right of survivorship, the following described property situated in the County of Coconino, State of Arizona.

Lot 20, LAKE POWELL ESTATES UNIT THREE, as shown on the plat thereof recorded in Case 2, Map 262, records of Coconino County, Arizona.

EXCEPTING THEREFROM all minerals reserved to the Navajo Tribe by the Act of September 2, 1958 (72 Stat. 1686)

SUBJECT TO: Current taxes, assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions and restrictions as may appear of record.

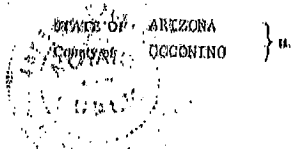
And I or we do warrant the title against all persons whatsoever, subject to the matters above set forth.

The grantees by signing the acceptance below evidence their intention to acquire said premises as joint tenants with the right of survivorship, and not as community property or as tenants in common.

Dated this 9 day of March, 1981

Accepted and approved:
Willie Grayeyes
WILLIE GRAYEYES
Sue Ann Grayeyes
SUE ANN GRAYEYES
Grantees

Roscoe W. McDaniel
ROSCOE W. McDANIEL
Dorothy J. McDaniel
DOROTHY J. McDANIEL
Grantors



This instrument was acknowledged before me this 9 day of March, 1981, by Roscoe W. McDaniel and Dorothy J. McDaniel

STATE OF ARIZONA }
County of COCONINO }

Gene E. Hooper
My commission will expire 6-20-82

This instrument was acknowledged before me this 2 day of March, 1981, by Willie Grayeyes and Sue Ann Grayeyes

Gene E. Hooper
My commission will expire June 14, 1982

2018
COCONINO COUNTY RECORDS

This document is a full, true and correct
copy of the original recorded in this office.
Attest December 24 2018
PATTY HANSEN
COCONINO COUNTY RECORDER
State of Arizona, County of Coconino
By: *[Signature]* Deputy

EXHIBIT F



Coconino County Treasurer

Account	Parcel Number	Receipt Date	Effective Date	Receipt Number
[REDACTED]	80038020	Nov 5, 2018	Nov 2, 2018	2018-11-05-99-110083

GRAYEYES WILLIE & SUE ANN JT
 PO BOX 762
 PAGE, AZ 86040

Site Address: 913 CATHEDRAL AVB
 Payor: MULTIPLE PAYORS - VPAY
 Legal Description: Subdivision: LAKE POWELL EST UNIT 03 Lot: 20 Sixteenths: NW Quarter: SW Section: 29 Township: 41N Range: 09E MBL HOME TITLE: 782/146 SERIAL: TU62293U YEAR: 1971 MAKE: ATCO SIZE: 24X43, SERIAL: TU62293X
 Payments Received: Batch Direct Deposit Multi-Account Payment

Payments Applied		Billed	Prior Payments	New Payments	Balance
Year	Charges				
2018	Tax Charge	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Balance Due as of Nov 2, 2018					

This document is a full, true and correct copy of the original on file in this office.
 Attest Dec. 19 2018
 SARAH BENATAR
 COCONINO COUNTY TREASURER
 State of Arizona, County of Coconino
 By Nancy Lopez Deputy



Statement of Taxes Due

COCONINO COUNTY TREASURER

Account Number [REDACTED] Parcel 80038020

Legal Description Subdivision: LAKE POWELL EST UNIT 03 Lot 20 Sixteenth NW Quarter SW Section 29 Township 41N Range 09E MBL HOME TITLE: 782146 SERIAL: TU622930 YEAR: 1971 MAKE: APCO SIZE: 24X43, SERIAL: TU62293X
Site Address 913 CATHEDRAL AVU

Account: [REDACTED]
 GRAYBYES WILLIE & SUE ANN JT
 PO BOX 762
 PAGE, AZ 86040

This document is a full, true and correct copy of the original on file in this office.

Attest Dec. 19 2018

SARAH BENATAR
 COCONINO COUNTY TREASURER
 State of Arizona, County of Coconino

By Nancy Tompkins Deputy

Year	Tax	Interest	Fees	Payments	Balance
Tax Charge					
2018	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2017	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2016	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2015	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2014	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2013	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2012	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2011	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2010	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2009	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total Tax Charge	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Grand Total Due as of 12/19/2018					

Tax Billed at 2018 Rates for Tax Area 0840 - SD#8 CITY OF PAGE/HOSP DIST PAGE

Authority	Tax Rate	Amount	Values	Actual	Assessed
FLOOD CONTROL DIST	0.0018080000	[REDACTED]	Total	[REDACTED]	[REDACTED]
Taxes Billed 2018	0.0018080000	[REDACTED]			

Tax Billed at 2018 Rates for Tax Area 0840 - SD#8 CITY OF PAGE/HOSP DIST PAGE

Authority	Tax Rate	Amount	Values	Actual	Assessed
COCONINO COUNTY	0.0033890000	[REDACTED]	PRIMARY RESIDENCE	[REDACTED]	[REDACTED]
ST SCHL EQUALIZATION	0.0047410000	[REDACTED]	PRIMARY RESIDENCE	[REDACTED]	[REDACTED]
SD#8 PAGE	0.0047410000	[REDACTED]	Total	[REDACTED]	[REDACTED]
COMMUNITY COLLEGE	0.0047410000	[REDACTED]			
SD#8 ADJACENT WAYS	0.0002680000	[REDACTED]			
Taxes Billed 2018	0.0568760000	[REDACTED]			

Tax Billed at 2018 Rates for Tax Area 0840 - SD#8 CITY OF PAGE/HOSP DIST PAGE

Authority	Tax Rate	Amount	Values	Actual	Assessed
SD#8 PAGE	0.0185730000	[REDACTED]	Total	[REDACTED]	[REDACTED]
Taxes Billed 2018	0.0185730000	[REDACTED]			

Tax Billed at 2018 Rates for Tax Area 0840 - SD#8 CITY OF PAGE/HOSP DIST PAGE



Statement of Taxes Due
COCONINO COUNTY TREASURER

Authority	Tax Rate	Amount	Values	Actual	Assessed
HOSP DIST PAGE	0.0112910000	[REDACTED]	PRIMARY RESIDENCE	[REDACTED]	[REDACTED]
FD ASSISTANCE FUND	0.0010000000		PRIMARY RESIDENCE		
LIBRARY DISTRICT	0.0025560000		PRIMARY RESIDENCE		
PUB HEALTH SERVICE	0.0023000000		Total		
JTED-CAVIAT	0.0005000000				
COMMUNITY COLLEGE	0.0012180000				
Taxes Billed 2018	0.0190650000				

Make payment to:
 Coconino County Treasurer 110 E. Cherry Avenue Flagstaff, AZ 86001 (1-877) 500-1818 (928) 679-6180

This document is a full, true and correct copy of the original on file in this office.
 Attest Dec. 19 2018
 SARAH BENATAR
 COCONINO COUNTY TREASURER
 State of Arizona, County of Coconino
 By Nancy Zepher Deputy

EXHIBIT G

On file with the court.

Petitioner incorporates Exhibit G to Petitioner's Complaint, Body Camera Footage, which is already on file with the Court. Petitioner will gladly re-file Exhibit G if deemed necessary by the Court.

EXHIBIT H



SAN JUAN COUNTY SHERIFF'S OFFICE

Deputy Report for Incident 1803-0141

Nature: False Info

Address: 17 MILES NE OF NAVAJO MT CH
HSE
Navajo Mountain UT 86044

Location: SJC

Offense Codes: FIPO

Received By: COLBY TURK

How Received: T

Agency: SJSO

Responding Officers: COLBY TURK

Responsible Officer: COLBY TURK

Disposition: CLO 03/28/18

When Reported: 13:03:43 03/23/18

Occurred Between: 13:03:43 03/23/18 and 13:03:43 03/23/18

Assigned To:

Detail:

Date Assigned: **/**/**

Status:

Status Date: **/**/**

Due Date: **/**/**

Complainant: 000035536

Last: BLACK

First: WENDY

Mid:

DOB:

Dr Lic:

Address:

Race: W

Sex: F

Phone:

City:

Offense Codes

Reported: FIPO False Information or Report

Observed: FIPO False Information or Report

Additional Offense: FIPO False Information or Report

Circumstances

Responding Officers:

Unit :

COLBY TURK

1Z15

Responsible Officer: COLBY TURK

Received By: COLBY TURK

Agency: SJSO

How Received: T Telephone

Last Radio Log: 14:54:15 03/23/18 24

When Reported: 13:03:43 03/23/18

Clearance:

Judicial Status:

Disposition: CLO Date: 03/28/18

Misc Entry:

Occurred between: 13:03:43 03/23/18

and: 13:03:43 03/23/18

Modus Operandi:

Description :

Method :

Involvements

Date	Type	Description	Relationship
------	------	-------------	--------------

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03/23/18	Name	GRAYEYES, WILLIE	Suspect
03/23/18	Name	BLACK, WENDY	Complainant
03/23/18	Cad Call	13:03:43 03/23/18 False Info	Initiating Call

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Narrative

INVESTIGATION NARRATIVE

RE: False Info

CASE #: 1803-0141

TFC Colby Turk

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SUSPECT(S): Willie Grayeyes

SYNOPSIS:

Wendy Black filed an official written complaint to the San Juan County Clerks Office stating that Willie Grayeyes who is running for San Juan County Commission does not live in San Juan County, Utah.

1. DESCRIPTION-TIME-LOCATION OF THE INCIDENT:

On 03/27/18, I met with Wendy Black at her house. Wendy told me that she had received information that Willie Grayeyes does not live in San Juan County, Utah and that he possibly lives in Arizona near the Utah border. Wendy told me that she and her husband went to the Navajo Mountain area to investigate it on 03/23/18 and said that they couldn't find where Mr. Grayeyes claimed he lived and she said that they talked to a young couple that lives in the area and that they told her that Willie Grayeyes lives in the Deshonto area.

The San Juan county clerk John David Nielson gave me a copy of Mr. Grayeyes declaration of candidacy form indicating Mr. Grayeyes put down that he lives 17 miles from the Navajo Mountain Chapter House on Painte Mesa. I also got a copy of directions from the clerk's office and possible GPS coordinates to the area that Mr. Grayeyes claimed he lived. The GPS coordinates are 37 Degrees 04' 16.17" North 110 Degrees 36' 48.01 West.

On 03/27/18, I went out to Navajo Mountain to confirm Mr. Grayeyes address in San Juan County, Utah. On my way out to Navajo Mountain, I stopped in the Navajo Tribal Utility Authority (NTUA) Office in Kayenta to see if I could confirm Mr. Grayeyes address with them from his utility payments. NTUA told me that they couldn't give me any information without a warrant but told me to check in with the chapter houses in the area and that they could help me.

I stopped and checked with the Inscription House Arizona Chapter House on a possible address for Willie Grayeyes. The Inscription House Chapter told me that Willie Grayeyes was a member of the Navajo Mountain Chapter House and that they would have the information there.

I checked with the Navajo Mountain Chapter House and spoke with Lorena Atene who is the Community Services Coordinator for the Navajo Mountain Chapter. I told Lorena that I was looking for Willie Grayeyes residence and she stated that he doesn't live in Navajo Mountain but lives in Tuba City, Arizona. She said Willie is a registered Chapter member and official in Navajo Mountain, but doesn't live in Navajo Mountain and he commutes back and forth. She said that he is the sitting Secretary Treasurer for the Chapter and travels up from Tuba City for the meetings. I asked if he gets mail there and Lorena said that he does but that their mail room is just a sub office of the Tonalea Post Office and it is the closet office to them and that is why they have a Tonalea PO Box address. Lorena gave me the name of Willie Grayeyes sister and told me I should speak to

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her. She showed me on a map where his sister Rose Johnson lives in the HUD Housing in Navajo Mountain. Lorena also showed me on a map that the Grayeyes family has some property across the canyon on Paiute Mesa but said as far as she knows Willie Grayeyes lives in Tuba City and commutes to Navajo Mountain.

Before I left the Navajo Mountain Chapter House, I reset the miles counter in my truck to zero to gauge how far I had gone from the Chapter House as I made my way out to the area that Willie Grayeyes said that he lives. On my way out to Paiute Mesa, I stopped and started knocking on doors in the area where Rose Johnson, Mr. Grayeyes sister, lives in a neighborhood just off the main road. I talked to a man who lives in house [REDACTED] and told him that I was looking for Rose Johnson or Willie Grayeyes. The man told me that Mr. Grayeyes lives in Tuba City. The man said that Rose was his neighbor in house [REDACTED] but that she probably wasn't home because her car was gone. I said to him, "but Willie lives in Tuba City?" and the man said yes. I walked over to house [REDACTED] and knocked on the door and didn't get an answer. I walked over to house [REDACTED] because I had seen someone standing outside. I talked with a man who didn't live at that specific house. I asked him if he knew where Willie Grayeyes lives and he said that Willie doesn't live there but is from there. I asked him if Willie lives in Tuba City and the man said yeah he is from all over, that he has houses in Page and Cameron, Arizona. He said that Willie is originally from Navajo Mountain but that he doesn't live there. He told me I should go ask Willie's Nephew [REDACTED] at the community school or Rosemary Johnson who also works at the school. A lady came out of the house that we were in front of and I asked her if she knew if Willie Grayeyes lives around here and she said he comes around every once and a great while and that she didn't know where he lived.

I left that neighborhood and drove up the road and came to a "T" intersection and took a right onto County Road 434, the Paiute Mesa Road. I drove through Paiute Canyon and up onto Paiute Mesa. I continued driving until I had reached 17 miles from where I started at the Navajo Mountain Chapter House. I turned on the body camera and filmed the area that I was in, that was approximately 17 miles from the Navajo Mountain Chapter House. I narrated what I could see which was nothing and I made verbal notes that I had passed some houses at mile 16 when I came out of the canyon. I drove down the road to about mile 17.7 and found the area of the GPS coordinates. There were no houses in the area just shade huts, a corral and an outhouse. I drove around in the area and didn't find any houses. I drove south down the main road towards a house that was approximately 19 miles from the Chapter House. I took a picture of the building. It looked rundown and the roof looked like it was about ready to fall in. I didn't see any signs of recent human activity in the area. I went up to the front door of the house and knocked on the door and didn't get an answer. I looked through the windows and saw building material stacked up in the house but nothing that looked like anyone had touched in awhile. I drove a little further south down the main road and saw a truck parked just off the main road with people sitting in the truck. I stopped and talked with them and asked them where Willie Grayeyes lives. They said that Willie didn't live anywhere around there. They told me that the Grayeyes family has some property in the area but that it was abandoned and no one lives there. They described the location of it to me and told me that it was on the north side of the road. I remembered passing the gate to the property as I came out of Paiute Canyon. They told me that when Willie comes to Navajo Mountain he stays with his sister Rose, but he doesn't live there. I asked them about the house that I had seen on the south side of the road when you come out of the canyon and they said that property belongs to Harrison Ross but that he wouldn't be around because he is at work. I asked them where they lived and they told me south of where we currently were. I asked them if there were more people further south down the

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road from them and they said yes, but that they were elderly people and only spoke Navajo. They told me they were the only young people living there on Paiute Mesa and that there were only probably a total of 12 people who lived up there. I left them and drove north up the road towards where they had told me the Grayeyes family had property but was abandoned,

I checked on the two houses that I had seen earlier that were on the south side of the road coming out of Paiute Canyon where Charmane and Byron told me Harrison Ross lived, but no one was around. I went to the property on the north side of the road and parked at the gate made from old ropes with reflectors on it. I did see a set of tire tracks coming and stopping at the same area that I parked at. I walked down into the property from where I parked and saw that there were two buildings on the property and some corrals. The corrals were empty and looked old and wore down and unusable in their current state. As I was walking down the road towards the house, I did notice an old set of boot tracks in the dirt but just one set. I walked up to the first house which I could tell it had been painted blue somewhat recently and I noticed that at bottom of the door, the jam was covered in sand and didn't appear to have been open in sometime. I knocked on the door and waited and didn't get an answer. In front of the house, lying on the ground knocked over, was a trash can that said property of the City of Prescott. I walked over to the second house and knocked on the door and didn't get an answer there either. I walked around the second house and looked in the windows that weren't blocked. In the first window I saw a Coleman camp light sitting on a table and in the second window I saw a bunch of kitchen items just piled up and thrown around. The house looked like it had been some time since someone had been/lived in it. I went and looked into the only partially unblocked window in the blue house and saw a couch and a bunch of boxes piled up in room. The houses looked more like storage units than living structures. I also noticed that the hook ups for power had been cut and I did not notice any signs in the area that indicated that someone lived there. There was no foot traffic or vehicle tracks. Everything appeared abandoned to me. I took some pictures of the area and left.

I drove down CR 486 which breaks off north east off of Paiute Mesa road and drove approximately 3 or 4 miles and came across a house there. I spoke to a man named Leonard and asked him if Willie Grayeyes lived around there any where. Leonard said no, that it has been a couple of years since Willie Grayeyes had lived in that area, I asked Leonard how long he had lived here and he told me all of his life.

I drove back to Navajo Mountain and went to the Community School and met with Rose Johnson who is Willie Grayeyes sister. I told her that I had been told that she could tell me where her brother Willie Grayeyes lives. She told me that he lived in Tuba City in a trailer. She said she would give me his phone number and as I was marking down his number, I asked her how long it had been since Willie had lived in Navajo Mountain. She told me it had been a long time. I wasn't sure if she understood my question. I had one of the ladies in the office ask her in Navajo how long has Willie lived in Tuba City. When the lady in the office asked, Rose said she didn't know and the office lady said she thought it had been two or three years. Rose said that Willie comes and stays with her for a day or two sometimes but doesn't live there.

I had dispatch contact Navajo PD in Tuba City to see if they had a current address for Willie Grayeyes. They told dispatch that they did not, but told dispatch to contact Kayenta district because they knew Grayeyes lived in their area. Kayenta district told dispatch that they had a record of Willie Grayeyes in their area and that they had an address for him at the same spot

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where I had checked the Grayeyes family property. Kayenta said that it has been years since they have sent anyone out to the property for anything. On 03/28/18 Kayenta dispatch contacted my dispatch and said that they had sent an officer out to Navajo Mountain yesterday evening to check the area for Willie Grayeyes and that they had been told also that Willie doesn't live in Navajo Mountain but that he lives behind the car wash in Tuba City.

On 03/30/18, I went to Tuba City to track down Willie Grayeyes, I first went to the Navajo Chapter House in Tuba City. The ladies in the main office that I talked to said they had heard his name before but didn't know where he lived. They told me I should check with the San Juan Southern Paiute Tribe Office in Tuba City. I asked the ladies about the car wash in Tuba City, they said that there was only one and that it was next to the KFC. I went to the area behind the car wash and started knocking on doors and talking to people asking them if they knew who Willie Grayeyes was and everyone that I talked to said they didn't know who he was. After spending about an hour in the neighborhood behind the car wash, I went to the Navajo PD Office and asked them if they could help me. Criminal Investigator Albert Nez said he would come and help me. The first place that CI Nez and I went was the Paiute Tribe Office. There we met with the President Carlene Yellowhair and her Vice President Candelora Lehi. They said that they know Willie Grayeyes, that he attends some of the same meetings as they do, but they didn't know where he lived, they just assumed he lived in Navajo Mountain because he represents that area at the meetings that they attend together. Carlene said that maybe Louise Tallman man who is part of the San Juan Southern Paiute Tribe Northern Council Member might know where Willie Grayeyes lives. Carlene called her and Louise told her she thinks that Willie lives either in Tuba City or Inscription House. Carlene then called another woman, Cecilia Long, who is a Paiute tribal elder and possible relative of Willie Grayeyes. Cecilia told Carlene that Willie lives next to the Church of Holiness in Tuba City in a red cinder block house.

CI Nez and I went to the Church of Holiness area and couldn't locate anyone to talk to while we were in the area we knocked on the doors to the houses that are located in the same compound as the Holiness church. CI Nez told me that the family that lives here with the church is the Bydone family. After leaving the area I dropped CI Nez off at the police station and called San Juan County Attorney Kendall Laws to give him an update of what I had found out. CA Laws told me that San Juan County Manager Kelly Pehrson had received an anonymous tip that Willie Grayeyes lives with his girlfriend Victoria Bydone in Tuba City.

I went back to the Church of Holiness around 1600 hours on 03/30/18 and talked to Lucida Johnson and asked her where I could find Willie Grayeyes. She said that he lived in the trailer on the other side of the road, but said if the blue or white car wasn't there then he wouldn't be home. I went to the trailer house that Lucida said to go to. There was no blue or white car there. I knocked on the door and waited, there was no answer. The home had numerous cats and dogs hanging around and they looked like they were well taken care of. I went back to the Church of Holiness and spoke to Lucida again and confirmed with her that I had gone to the right trailer house and I asked if Willie lived there with Victoria Bydone. She told me that I had gone to the right house and that he does live there with Victoria and added that Willie lives in Navajo Mountain. I stated that everyone in Navajo Mountain told me he lives here in Tuba City. Lucida chuckled and stated that he is everywhere on the rez because he is a councilman. I asked Lucida if she was related to Willie, she said yes that she was Victoria's mom. I stated, "so he is your son in law?" and she said "something like that". I left my card with Lucida and wrote my cell

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phone number on it and asked her to give it to Willie and to have him give me a call.

On 04/04/18, Willie Grayeyes contacted the Sheriff's Office and left a message for me to call him or that I could meet him in Bluff at Twin Rocks at 4 PM, I tried calling Mr. Grayeyes but he didn't answer and his voice mail wasn't set up so I sent him a text message saying that I got his message and that I would meet him in Bluff at Twin Rocks.

Willie Grayeyes arrived at Twin Rocks just after 4 PM, and I met with him. I asked Mr. Grayeyes to tell me what his physical address was and he said he stays a lot of times at house [redacted] in the NHA housing in Navajo Mountain. His sisters house. I asked him if he lives in Tuba City, he said that he has an office there and that he travels from there to Navajo Mountain and all over. Mr. Grayeyes said that he doesn't have a place in Tuba City but that he stays with a lady. I asked him if the lady was Victoria and Mr. Grayeyes said yes. I asked him if he had a residence that is his. Mr. Grayeyes said that he has an aunts house who has passed away on Paiute Mesa that's the first house off to the right once you come out of the canyon. I asked him when was the last time he was there. Mr. Grayeyes said he's been traveling and that its been quite awhile since he has been out to his house. I asked him again when he thought the last time he had been to the house on Paiute Mesa and he said in the fall when he took water out there for the cattle. I asked him since he hasn't been out there for so long where he has been staying. Mr. Grayeyes said that he sometimes stays at his uncle's house in Arizona, just south of the Utah border. His uncle's name is Harry Nimrock. I told Mr. Grayeyes that someone has challenged his residency and says he doesn't live in Utah. I told him that I've been to Navajo Mountain and Paiute Mesa and spoken to people there including his sister and everyone has told me that he lives in Tuba City or that he doesn't live in Navajo Mountain. I told him that I talked to his mother in law in Tuba city and that she told me that he lives there in Tuba with her daughter. I told him I'm trying to figure out where he lives. Mr. Grayeyes said "well house [redacted] that's where I live." I asked "with Rosa?" and he said yes that she is his blood sister. I asked Mr. Grayeyes when he stays there and he said about 60 to 70 percent of his time. I asked him where he stays the rest of the time and he said he is on the road the rest of the time. I told Mr. Grayeyes that on his declaration of candidacy that he put that his place of residence is 17 miles from the Navajo Mountain Chapter house on Paiute Mesa. I told Mr. Grayeyes that I drove 17 miles from the Chapter House and that there is nothing there. I told him that I talked to people on Paiute Mesa and that they told me that he doesn't live there. I stated so you don't live on Paiute Mesa. He said that he is busy doing things that he doesn't have time to get the car back there. I said so you don't live on Paiute Mesa, but you stay with your sister sometimes in Navajo Mountain. Mr. Grayeyes said yep and that is his birthright there on Paiute Mesa. I went over again that he doesn't live on Paiute Mesa and that he stays with his sister sometimes and Victoria in Tuba City sometimes and the rest of the time he is traveling. Mr. Grayeyes agreed with me that I was accurate.

2. EVIDENCE (ITEM, QTY, VALUE, ETC):

Pictures, body cam footage, declaration of candidacy form, copy of Arizona drivers license. Mr. Grayeyes does not have a Utah driver's license just an Arizona one. The day I met with Mr. Grayeyes I ran the license plate to the vehicle that he was driving, it had an Arizona listing of 231RSJ and is registered to Victoria Bydne in Tuba City, Arizona.

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Responsible LEO:

Approved by:

Date

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Supplement

Follow Up
1803-0141
TFC Colby Turk

On 04/24/18, I went to the location that Willie Grayeyes provided to the County Clerks Office, indicating where he resides in his response to his residency challenge.

The home that I visited is one of the homes that I visited the first time I was on Paiute mesa. Nothing immediately stood out to me as being different than how I remember it being the first time I had been there. The ground didn't have any recent tire tracks that would be consistent with someone living there. The tire tracks all appeared old. I didn't notice any foot tracks around either. I looked in the window of the house and saw that there was furniture and a TV and pictures and things in the home.

I loaded the GPS coordinates into my GPS that had been provided in Mr. Grayeyes response. The coordinates took me to a location about 250 feet away from the house into the trees but it was in the general area of the house. I documented the area by taking pictures. I took GPS coordinates at the house from the north side of the home they are N 37.08456, W 110.62524. I took pictures of the area and also had my body cam going while I was there.

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Name Involvements:

Suspect : 61841

Last: GRAYEYES

DOB:

First: WILLIE

Dr Lic:

Mid:

Address: 17 MILES NE OF NAVAJO MT
CH HSE

City: Tonalca, AZ 86044

Race: I

Sex: M

Phone:

Complainant : 000035536

Last: BLACK

DOB:

First: WENDY

Dr Lic:

Mid:

Address:

Race: W

Sex: F

Phone:

City: BLANDING, UT 84511

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EXHIBIT I

ROSE JOHNSON

March 27, 2018

OFFICIAL TRANSCRIPT OF ELECTRONIC RECORDING

Reporter: Lindsay Payeur, RPR

P R O C E E D I N G S

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OFFICER TURK: Hello.

FEMALE JANITOR: Hi.

OFFICER TURK: Am I okay to go inside?

FEMALE JANITOR: Go ahead.

OFFICER TURK: Okay.

(To secretary 1) Hi.

FEMALE SECRETARY 1: Hello.

OFFICER TURK: I'm looking for Rose Johnson. I'm wondering if I could talk to her.

FEMALE SECRETARY: Yeah. Let me see if I can find her.

OFFICER TURK: Whew. That light is, like, flickering.

(To secretary 2) So is this the same as the high school?

FEMALE SECRETARY 2: Huh-uh (negative).

OFFICER TURK: Where's the high school?

FEMALE SECRETARY 2: The high school is up on top of the hill.

OFFICER TURK: Oh.

FEMALE SECRETARY 2: And they are under San Juan School District from Blanding.

OFFICER TURK: But the community school

1 isn't?

2 FEMALE SECRETARY 2: No, it's not.

3 OFFICER TURK: Okay.

4 FEMALE SECRETARY 2: We're (inaudible).

5 OFFICER TURK: Okay.

6 (To Rose Johnson) Are you Rose?

7 ROSE JOHNSON: Yes.

8 OFFICER TURK: Colby Turk from the
9 sheriff's office.

10 ROSE JOHNSON: Uh-huh (affirmative).

11 OFFICER TURK: I was told that you could
12 tell me where your brother Willie Grayeyes lives.

13 ROSE JOHNSON: He live in Tuba.

14 OFFICER TURK: He lives in Tuba?

15 ROSE JOHNSON: He live in the trailer.

16 OFFICER TURK: In Tuba City?

17 ROSE JOHNSON: Yeah.

18 OFFICER TURK: Do you have that address?

19 ROSE JOHNSON: I don't have -- I got his
20 cell phone. Cell phone.

21 OFFICER TURK: You have his cell phone?

22 ROSE JOHNSON: Sometime you call but he
23 won't answer.

24 OFFICER TURK: Okay. Could I get that
25 number from you?

1 ROSE JOHNSON: Uh-huh (affirmative).
2 (Rose leaves to go get her cell phone.)
3 (Rose returns with cell phone.)
4 ROSE JOHNSON: Sometime he call and
5 sometime he don't. You do -- you can do it yourself.
6 OFFICER TURK: Oh.
7 ROSE JOHNSON: I'm not great at it.
8 OFFICER TURK: So how long has he lived
9 over in Tuba?
10 ROSE JOHNSON: I don't know.
11 OFFICER TURK: A long time?
12 ROSE JOHNSON: No. I live here.
13 OFFICER TURK: What's that?
14 ROSE JOHNSON: I live around here.
15 OFFICER TURK: Oh. No. Willie. How long
16 has Willie lived in Tuba City?
17 ROSE JOHNSON: I don't know how long. He
18 was in -- I don't know where he is.
19 OFFICER TURK: Has it been a long time?
20 ROSE JOHNSON: Uh-huh (affirmative).
21 (Officer Turk scrolls through Rose's cell
22 pone contacts.)
23 OFFICER TURK: Oop. Willie.
24 ROSE JOHNSON: Sometime he answer.
25 OFFICER TURK: Sometimes he answers?

CITICOURT
REPORTING GROUP

1 Okay. Can I have these ladies -- this
2 lady ask you a question for me in Navajo?

3 ROSE JOHNSON: (Rose nods head in the
4 affirmative.)

5 OFFICER TURK: (To secretary 1) I don't
6 speak Navajo. I was wondering if you could ask her a
7 question for me because she didn't understand me.

8 FEMALE SECRETARY 1: About?

9 OFFICER TURK: Will you ask her how long
10 Willie has lived in Tuba City?

11 FEMALE SECRETARY 1: (Speaking Navajo).

12 ROSE JOHNSON: I don't know.

13 FEMALE SECRETARY 1: Maybe two, three
14 years.

15 OFFICER TURK: Two or three years?

16 FEMALE SECRETARY 1: Yeah.

17 ROSE JOHNSON: (Inaudible) all this time.
18 When he was (inaudible), he would go back and forth
19 to Tuba. (Speaking Navajo). Victoria.

20 FEMALE SECRETARY 1: (Speaking Navajo).

21 ROSE JOHNSON: I don't know where he --

22 FEMALE SECRETARY 1: Yeah. He's all over,
23 but lately he's been staying in Tuba.

24 OFFICER TURK: Okay. All over, but --
25 but --

1 FEMALE SECRETARY 1: He stayed at the
2 (inaudible) house one -- about a year.

3 ROSE JOHNSON: And then he move back to
4 Tuba.

5 FEMALE SECRETARY 1: And then he --

6 ROSE JOHNSON: He don't live with Sarah
7 (phonetic) anymore.

8 OFFICER TURK: Who's Sarah?

9 ROSE JOHNSON: Sometime he come over here
10 at my house.

11 OFFICER TURK: And stays at your house?

12 ROSE JOHNSON: Yeah.

13 OFFICER TURK: But just for the night?

14 ROSE JOHNSON: Just for over two nights.

15 OFFICER TURK: Okay.

16 ROSE JOHNSON: Then he go.

17 FEMALE SECRETARY 1: Yeah. He lives in
18 Tuba right now.

19 OFFICER TURK: Okay.

20 ROSE JOHNSON: One time, I call him. I
21 thought he was around. He was in Washington.

22 OFFICER TURK: He's all over the place,
23 then.

24 ROSE JOHNSON: Yeah. He's all over the
25 place.

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OFFICER TURK: All right. Well, thank
you.

ROSE JOHNSON: Yeah.

OFFICER TURK: I'll give him a call.
Thank you, guys.

FEMALE SECRETARY 1: Uh-huh (affirmative).
(Video recording concluded.)



<p>1</p> <p>1 2:8,9 5:5,8,11,13,16,20,22 6:1,5,17 7:6</p> <hr/> <p>2</p> <p>2 2:16,18,20,23 3:2,4</p> <hr/> <p>A</p> <p>address 3:18 affirmative 3:10 4:1,20 5:4 7:6 ahead 2:6 answers 4:25 anymore 6:7</p> <hr/> <p>B</p> <p>back 5:18 6:3 Blanding 2:24 brother 3:12</p> <hr/> <p>C</p> <p>call 3:22 4:4 6:20 7:4 cell 3:20,21 4:2,3,21 City 3:16 4:16 5:10 Colby 3:8 community 2:25 concluded 7:7 contacts 4:22</p> <hr/> <p>D</p> <p>District 2:24</p> <hr/> <p>F</p> <p>FEMALE 2:4,6,9,12,18,20, 23 3:2,4 5:8,11,13,16,20,22 6:1,5,17 7:6 find 2:13 flickering 2:15</p> <hr/> <p>G</p> <p>give 7:4 Grayeyes 3:12 great 4:7 guys 7:5</p>	<p>H</p> <p>head 5:3 high 2:17,19,20 hill 2:21 house 6:2,10,11 Huh-uh 2:18</p> <hr/> <p>I</p> <p>Inaudible 3:4 5:17,18 6:2 inside 2:5</p> <hr/> <p>J</p> <p>JANITOR 2:4,6 Johnson 2:11 3:6,7,10,13, 15,17,19,22 4:1,4,7,10,12, 14,17,20,24 5:3,12,17,21 6:3,6,9,12,14,16,20,24 7:3 Juan 2:24</p> <hr/> <p>L</p> <p>ladles 5:1 lady 5:2 leaves 4:2 llght 2:14 live 3:13,15 4:12,14 6:6 lived 4:8,16 5:10 lives 3:12,14 6:17 long 4:8,11,15,17,19 5:9</p> <hr/> <p>M</p> <p>move 6:3</p> <hr/> <p>N</p> <p>Navajo 5:2,6,11,19,20 negative 2:18 night 6:13 nights 6:14 nods 5:3 number 3:25</p> <hr/> <p>O</p> <p>office 3:9 officer 2:3,5,7,10,14,19,22, 25 3:3,5,8,11,14,16,18,21, 24 4:6,8,11,13,15,19,21,23, 25 5:5,9,15,24 6:8,11,13,15, 19,22 7:1,4</p>	<p>Oop 4:23</p> <hr/> <p>P</p> <p>phone 3:20,21 4:2,3 phonetic 6:7 place 6:22,25 pone 4:22</p> <hr/> <p>Q</p> <p>question 5:2,7</p> <hr/> <p>R</p> <p>recording 7:7 returns 4:3 rose 2:10 3:6,7,10,13,15,17, 19,22 4:1,2,3,4,7,10,12,14, 17,20,24 5:3,12,17,21 6:3,6, 9,12,14,16,20,24 7:3 Rose's 4:21</p> <hr/> <p>S</p> <p>San 2:24 Sarah 6:6,8 school 2:17,19,20,24,25 scrolls 4:21 secretary 2:8,9,12,16,18, 20,23 3:2,4 5:5,8,11,13,16, 20,22 6:1,5,17 7:6 sheriff's 3:9 speak 5:6 speaking 5:11,19,20 stayed 6:1 staying 5:23 stays 6:11</p> <hr/> <p>T</p> <p>talk 2:11 thought 6:21 time 4:11,19 5:17 6:20 told 3:11 top 2:21 trailer 3:15 Tuba 3:13,14,16 4:9,16 5:10,19,23 6:4,18 Turk 2:3,5,7,10,14,19,22,25 3:3,5,8,11,14,16,18,21,24 4:6,8,11,13,15,19,21,23,25 5:5,9,15,24 6:8,11,13,15,19, 22 7:1,4</p>	<p>U</p> <p>Uh-huh 3:10 4:1,20 7:6 understand 5:7</p> <hr/> <p>V</p> <p>Victoria 5:19 video 7:7</p> <hr/> <p>W</p> <p>Washington 6:21 Whew 2:14 Willie 3:12 4:15,16,23 5:10 wondering 2:11 5:6</p> <hr/> <p>Y</p> <p>year 6:2 years 5:14,15</p>
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EXHIBIT J

WILLIE GRAYEYES

April 4, 2018

OFFICIAL TRANSCRIPT OF ELECTRONIC RECORDING

Reporter: Lindsay Payeur, RPR

P R O C E E D I N G S

1
2
3 OFFICER TURK: Mr. Grayeyes?

4 WILLIE GRAYEYES: Yeah. (Inaudible.)

5 OFFICER TURK: Nice to meet you finally.

6 WILLIE GRAYEYES: Yeah.

7 OFFICER TURK: You're a hard man to track
8 down.

9 WILLIE GRAYEYES: Yeah.

10 OFFICER TURK: So I'm Deputy Turk with the
11 sheriff's office.

12 WILLIE GRAYEYES: You want to go to
13 Washington with me?

14 OFFICER TURK: Washington? I'd love to go
15 to Washington.

16 WILLIE GRAYEYES: Next week.

17 OFFICER TURK: I'm actually going to North
18 Carolina and New York next week, so I can't go to
19 Washington.

20 WILLIE GRAYEYES: Well, they invited me to
21 New York, too, but --

22 OFFICER TURK: Okay. Yeah.

23 WILLIE GRAYEYES: -- it's too much -- too
24 much ambition.

25 OFFICER TURK: Do you have a minute so I

CITICOURT
~~CONFIDENTIAL~~

1 can talk to you?

2 WILLIE GRAYEYES: Yeah. Okay. Yeah.

3 OFFICER TURK: So let me get this -- so

4 your name's Willie Grayeyes, right?

5 WILLIE GRAYEYES: Yeah.

6 OFFICER TURK: Do you have a middle name?

7 WILLIE GRAYEYES: No.

8 OFFICER TURK: No?

9 WILLIE GRAYEYES: Just -- just plain

10 G-R-A-Y-E-Y-E-S.

11 OFFICER TURK: Okay.

12 WILLIE GRAYEYES: Yeah.

13 OFFICER TURK: Your date of birth?

14 WILLIE GRAYEYES: [REDACTED] 46.

15 OFFICER TURK: And I already have your

16 cell phone number, the [REDACTED] --

17 WILLIE GRAYEYES: Yeah.

18 OFFICER TURK: Okay. What's your physical

19 address?

20 WILLIE GRAYEYES: My physical address

21 is -- I -- I stay -- a lot of times, I go there at

22 the house number [REDACTED], the Navajo house up toward --

23 OFFICER TURK: Okay.

24 WILLIE GRAYEYES: -- the complex there.

25 OFFICER TURK: Where at?

CITICOURT
[REDACTED]

1 WILLIE GRAYEYES: The subdivision there.
2 OFFICER TURK: Where?
3 WILLIE GRAYEYES: Right on -- you've
4 probably been there. Did you drive out there one
5 time?
6 OFFICER TURK: To Navajo Mountain?
7 WILLIE GRAYEYES: Yeah.
8 OFFICER TURK: Yeah.
9 WILLIE GRAYEYES: Okay. You know where
10 the --
11 OFFICER TURK: Your sister's house?
12 WILLIE GRAYEYES: Yeah.
13 OFFICER TURK: Okay.
14 WILLIE GRAYEYES: Number [REDACTED]
15 OFFICER TURK: Okay.
16 WILLIE GRAYEYES: It's number [REDACTED].
17 OFFICER TURK: Oh, okay. Okay.
18 Do you live in Tuba?
19 WILLIE GRAYEYES: I was -- I trans-- I
20 have an office there. I travel from there to Navajo
21 Mountain and -- going all over the place. I don't
22 have a place --
23 OFFICER TURK: You don't have a place.
24 WILLIE GRAYEYES: -- in Tuba, I just stay
25 with a lady.

1 OFFICER TURK: Who? Victoria?
2 WILLIE GRAYEYES: Yeah.
3 OFFICER TURK: Oh. So she lives in Tuba.
4 WILLIE GRAYEYES: She -- she lives there.
5 She has --
6 OFFICER TURK: So you stay with Victoria
7 in Tuba.
8 WILLIE GRAYEYES: Yeah.
9 OFFICER TURK: So do you have -- so do you
10 have, like, a residence that would be your house?
11 WILLIE GRAYEYES: It is -- it was my
12 aunt's house. She passed away. It's on Piute Mesa,
13 which is another --
14 OFFICER TURK: I went out there.
15 WILLIE GRAYEYES: All the way --
16 there's -- as you come down, come down off the hill,
17 the first right turn, you'll see some house there.
18 OFFICER TURK: Yeah.
19 WILLIE GRAYEYES: That's my old gray
20 truck --
21 OFFICER TURK: Oh.
22 WILLIE GRAYEYES: -- sitting out there.
23 OFFICER TURK: Okay. When was the last
24 time you were out there?
25 WILLIE GRAYEYES: Recently, I've been -- I

CITICOURT
TRANSCRIPTION GROUP

1 travel too long, and it's been quite a while.
2 OFFICER TURK: Okay. So --
3 WILLIE GRAYEYES: So that's -- that's
4 where I (inaudible).
5 OFFICER TURK: So when do you think the
6 last time it was that you were out there in Navajo
7 Mountain, to the house?
8 WILLIE GRAYEYES: Probably in the fall
9 when I hauled water out there for the cattle.
10 OFFICER TURK: Okay. So where have you
11 been staying all this other time? In Tuba?
12 WILLIE GRAYEYES: No. Sometimes I stay at
13 my uncle's place, which is in Arizona there. I have
14 my horse there.
15 OFFICER TURK: Oh. Does your uncle --
16 your uncle's house, is it --
17 WILLIE GRAYEYES: It's before the state
18 line.
19 OFFICER TURK: Yeah. What's his name?
20 They told me his name --
21 WILLIE GRAYEYES: Harry.
22 OFFICER TURK: Harry, like, Neibaum
23 (phonetic)?
24 WILLIE GRAYEYES: Harry Nimrock
25 (phonetic).

1 OFFICER TURK: Nimrock. Okay.
2 WILLIE GRAYEYES: He's a hunter.
3 OFFICER TURK: Harry. Okay.
4 WILLIE GRAYEYES: Yeah.
5 OFFICER TURK: So I'll tell you what's
6 going on. Somebody sent in a challenge that says
7 that you don't live in Utah.
8 WILLIE GRAYEYES: Uh-huh (affirmative).
9 OFFICER TURK: So that's why I've been --
10 WILLIE GRAYEYES: I've been living --
11 OFFICER TURK: I've been to Navajo
12 Mountain, I went to Tuba. Everybody that I talked to
13 says that you live in Tuba City. Your sister said
14 you live in Tuba; everybody that lives up on Piute
15 Mesa that I talked to says you live in Tuba, or don't
16 live up there; and everybody I talked to in Navajo
17 Mountain says you live in Tuba City. And then I
18 talked to your mother-in-law, and she told me that
19 you live there in Tuba with Victoria.
20 WILLIE GRAYEYES: Yeah.
21 OFFICER TURK: So that's what I'm trying
22 to figure out, where exactly you live.
23 WILLIE GRAYEYES: Yeah. Well, house
24 number █. That's where I live.
25 OFFICER TURK: With Rose?

1 WILLIE GRAYEYES: Yeah. She's my blood
2 sister.

3 OFFICER TURK: Are you older or younger?

4 WILLIE GRAYEYES: I'm younger.

5 OFFICER TURK: You're younger?

6 WILLIE GRAYEYES: She's a year, two years
7 older.

8 OFFICER TURK: Okay. So how often -- when
9 do you stay there? Like, how often?

10 WILLIE GRAYEYES: Probably about 60, 70
11 percent of the time.

12 OFFICER TURK: And the rest of the time,
13 where are you at?

14 WILLIE GRAYEYES: Then I'm on the chapter
15 officials, I'm on the school board.

16 OFFICER TURK: Yeah.

17 WILLIE GRAYEYES: So I'm on the road
18 all -- almost all the time. That's the reason why I
19 said, "You want to go to D.C.?"

20 OFFICER TURK: Yeah.

21 WILLIE GRAYEYES: They cut me a plan to go
22 there.

23 OFFICER TURK: I'd like to go to D.C.
24 Well, maybe I'll -- well, how far is D.C. from New
25 York? Is it a long ways?

CITICOURT
RECORDING GROUP

1 WILLIE GRAYEYES: Not too far.

2 OFFICER TURK: Not too far? Maybe I'll
3 go. I'm going to go -- I have family that lives back
4 East. That's why I'm going.

5 WILLIE GRAYEYES: Oh.

6 OFFICER TURK: So on your -- on your
7 affidavit -- or not your affidavit but your
8 declaration of candidacy, you put that you live 17
9 miles from the chapter house --

10 WILLIE GRAYEYES: Yeah.

11 OFFICER TURK: -- out on Piute Mesa.

12 WILLIE GRAYEYES: By the chapter house.

13 OFFICER TURK: So I went 17 miles from the
14 chapter house. There's nothing there. And so I
15 started asking around, and people told me that you
16 don't live there but your family has property up
17 there.

18 WILLIE GRAYEYES: Uh-huh (affirmative).

19 OFFICER TURK: So you don't live on Piute
20 Mesa.

21 WILLIE GRAYEYES: Well, I'm busy doing a
22 lot of things. I don't have time to get the car back
23 over there.

24 OFFICER TURK: That's a rough road.

25 WILLIE GRAYEYES: Yeah. And I had a truck

CITICOURT
REPORTING GROUP

1 before, but --

2 OFFICER TURK: It broke down?

3 WILLIE GRAYEYES: -- that broke down.

4 OFFICER TURK: So you don't live on Piute

5 Mesa but you stay with your sister sometimes.

6 WILLIE GRAYEYES: Yeah.

7 OFFICER TURK: But you stay with Victoria

8 sometimes.

9 WILLIE GRAYEYES: That's where my first

10 wife is, right there on Piute Mesa.

11 OFFICER TURK: Sure.

12 WILLIE GRAYEYES: And I'll take you there.

13 The structure is still standing.

14 OFFICER TURK: Well, I went. I was going

15 around. It's a pretty area.

16 WILLIE GRAYEYES: Yeah.

17 OFFICER TURK: That's a beautiful area.

18 WILLIE GRAYEYES: Quiet. Yeah.

19 OFFICER TURK: But you don't live out

20 there all the time. You don't live on Piute Mesa,

21 you stay with your sister sometimes and stay with

22 Victoria in Tuba City, and then you're traveling

23 around --

24 WILLIE GRAYEYES: Yeah.

25 OFFICER TURK: -- everywhere, but Piute

CITICOURT
RECORDING

1 Mesa is your birthright.

2 WILLIE GRAYEYES: Is where my birthright
3 is.

4 OFFICER TURK: Okay. And you're a
5 registered chapter member in Navajo Mountain?

6 WILLIE GRAYEYES: Right. Yeah.

7 OFFICER TURK: You're the treasurer?

8 WILLIE GRAYEYES: I'm the secretary
9 treasurer.

10 OFFICER TURK: Secretary treasurer.

11 WILLIE GRAYEYES: And also school board
12 chair.

13 OFFICER TURK: Oh. Oh, okay. School
14 board chair.

15 WILLIE GRAYEYES: Chair of the school
16 board.

17 OFFICER TURK: I didn't know that.

18 But when you're traveling around, you stay
19 at your sister's house when you're in Navajo
20 Mountain.

21 WILLIE GRAYEYES: Right.

22 OFFICER TURK: Okay. So I left my cell
23 phone number with your mother-in-law.

24 WILLIE GRAYEYES: Yeah, I got it.

25 OFFICER TURK: Do you have it?

CITICOURT
TRANSCRIPTION GROUP

1 WILLIE GRAYEYES: I got it.

2 OFFICER TURK: And I have your number.

3 Do you have any other questions for me?

4 If I have any from you, let me know. Okay?

5 WILLIE GRAYEYES: I know they're trying to
6 dislocate me from the candidacy. That's about it.

7 But I have no reason to hide.

8 OFFICER TURK: Well, they're -- we're
9 trying to figure out -- well, my -- I'm trying to
10 figure out exactly where you live, where -- where you
11 get your mail, where you pay your bills.

12 WILLIE GRAYEYES: Well, I do my bills
13 online. So there's no --

14 OFFICER TURK: Well, do you pay -- where
15 do you pay bills for?

16 WILLIE GRAYEYES: I have a post office box
17 number, P.O. Box 10035, (inaudible), Arizona, 86044,
18 at Navajo Mountain, which is a contract post office
19 out of Arizona.

20 OFFICER TURK: Yeah.

21 WILLIE GRAYEYES: So -- hopefully someday
22 it will change.

23 OFFICER TURK: Yeah. I talked to somebody
24 there at the chapter house, and they said that's how
25 it works, because that's the closest post office --

CITICOURT
RECORDING

1 WILLIE GRAYEYES: Yeah.

2 OFFICER TURK: -- that they have a

3 substation there.

4 WILLIE GRAYEYES: (Inaudible.) I guess we

5 just go out to the south and go into Arizona.

6 OFFICER TURK: Yeah. Yeah.

7 WILLIE GRAYEYES: Hopefully they build the

8 road right here so we can travel in and out through

9 Utah.

10 OFFICER TURK: Yeah. Yeah. That would

11 make it a lot easier, huh?

12 WILLIE GRAYEYES: Yeah.

13 OFFICER TURK: When was the last time you

14 stayed at your sister's house?

15 WILLIE GRAYEYES: Last week.

16 (Wind interference increases.)

17 OFFICER TURK: (Inaudible.)

18 WILLIE GRAYEYES: (Inaudible.)

19 OFFICER TURK: (Inaudible.)

20 WILLIE GRAYEYES: (Inaudible.)

21 OFFICER TURK: Yeah.

22 WILLIE GRAYEYES: So what did she say?

23 OFFICE TURK: (Inaudible.)

24 WILLIE GRAYEYES: (Inaudible) accuse me of

25 some criminal charges? (Inaudible.)

1 OFFICER TURK: (Inaudible.)
2 WILLIE GRAYEYES: It is. It is.
3 (Inaudible.) (Inaudible) rather than build myself a
4 mansion.
5 OFFICER TURK: Yeah.
6 WILLIE GRAYEYES: I don't need a mansion.
7 (Inaudible.)
8 OFFICER TURK: Really?
9 WILLIE GRAYEYES: Yeah. (Inaudible.)
10 OFFICER TURK: For Jenny?
11 UNIDENTIFIED FEMALE: Yeah.
12 OFFICER TURK: They told me here, right
13 under the -- the --
14 UNIDENTIFIED FEMALE: Here?
15 OFFICER TURK: Outside, is what they said.
16 Out on the patio.
17 UNIDENTIFIED FEMALE: Oh.
18 OFFICER TURK: That's where I was trying
19 to find.
20 WILLIE GRAYEYES: Well --
21 OFFICER TURK: Okay. Well --
22 WILLIE GRAYEYES: I hope you put in a good
23 conclusion, then, for me.
24 OFFICER TURK: Well, I don't come up with
25 the conclusions, I just put down what information I

1 have.

2 WILLIE GRAYEYES: All right.

3 OFFICER TURK: My job isn't finding --
4 isn't getting the conclusion.

5 WILLIE GRAYEYES: All right.

6 OFFICER TURK: Nice to meet you finally.

7 WILLIE GRAYEYES: Yes.

8 OFFICER TURK: Okay.

9 WILLIE GRAYEYES: You were on time.

10 OFFICER TURK: I was early. I got here
11 about 3:30. Okay.

12 (Video recording concluded.)

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EXHIBIT K

05/07/18
13:34

SAN JUAN COUNTY SHERIFF'S OFFICE
Law Supplemental Narrative:

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Details

Incident Number 1803-0141
Sequence Number 1

Name COLBY TURK
Date 13:12:27 04/25/18

Narrative .
(See below)

=====

Narrative:
Follow Up
1803-0141
TFC Colby Turk

On 04/24/18, I went to the location that Willie Grayeyes provided to the County Clerks Office, indicating where he resides in his response to his residency challenge.

The home that I visited is one of the homes that I visited the first time I was on Paiute mesa. Nothing immediately stood out to me as being different than how I remember it being the first time I had been there. The ground didn't have any recent tire tracks that would be consistent with someone living there. The tire tracks all appeared old. I didn't notice any foot tracks around either. I looked in the window of the house and saw that there was furniture and a TV and pictures and things in the home.

I loaded the GPS coordinates into my GPS that had been provided in Mr. Grayeyes response. The coordinates took me to a location about 250 feet away from the house into the trees but it was in the general area of the house. I documented the area by taking pictures. I took GPS coordinates at the house from the north side of the home they are N 37.08456, W 110.62524. I took pictures of the area and also had my body cam going while I was there.

IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR GRAND COUNTY, STATE OF UTAH

KELLY LAWS,

Petitioner,

vs.

WILLIE GRAYEYES,

Respondent.

RULING and ORDER

Case No. 180700016

Judge Don M. Torgerson

Willie Grayeyes was elected to be a San Juan County Commissioner in the 2018 general election. His defeated opponent in the election, Kelly Laws, has contested the election result by alleging that Grayeyes is ineligible to serve in the office because he is not a resident of San Juan County. The Court conducted a trial on January 22, 2019 to determine the election contest. The Court has also reviewed the parties' written arguments and pretrial motions. Based on the evidence presented, the Court confirms the election result and rules in favor of Grayeyes, as set forth below.

BACKGROUND

The Navajo Mountain/Paiute Mesa community is located in a very remote part of San Juan County and is bisected by the Utah/Arizona border. The area is entirely within the Navajo Nation reservation.

From Monticello, Utah it takes approximately 4 1/2 hours to drive to Navajo Mountain, and a substantial portion of the route is in Arizona. Paiute Mesa is beyond Navajo Mountain and is accessed by crossing a steep canyon on unpaved roads. Although part of San Juan County, Navajo Mountain is much closer to services in Arizona, with travel times of approximately 2 hours from Tuba City, AZ and just under 3 hours from Page, AZ.

With the exception of a school, small senior center, and small health clinic, there are no services in the area. There are no gas stations, laundromats, libraries, or grocery stores. The closest groceries are 40 miles away at Inscription House, AZ. And all mail for the residents of Navajo Mountain/Paiute Mesa is routed through the post office in Tonalea, AZ, 66 miles away. Because the closest Department of Motor Vehicles is located in Arizona, most residents of Navajo Mountain/Paiute Mesa possess Arizona driver's licenses.

On August 9, 2018, Judge David Nuffer of the United States District Court for the District of Utah entered a preliminary injunction in Case No. 4:18-cv-00041 requiring San Juan County to place Grayeyes on the ballot. His residency had been challenged but Judge Nuffer never entered a final opinion about Grayeyes's residency.

FINDINGS OF FACT

1. Grayeyes is a resident of San Juan County living at Navajo Mountain/Paiute Mesa.
2. Grayeyes is a member of the Navajo Nation, has been active in tribal politics throughout his life, and travels often for that work.
3. Grayeyes has been a registered voter continuously in San Juan County since 1984. His voter registration has never been properly challenged.
4. Grayeyes has never been registered to vote in Arizona.
5. As a matter of convenience, Grayeyes has an Arizona driver's license and gets his mail from the post office located at Tonalea, AZ
6. Grayeyes owns an uninhabitable trailer in Page, AZ but has never lived there as his permanent residence. Although he does not have a primary house, he has always maintained his residence at Navajo Mountain/Paiute Mesa.
7. Grayeyes stays the night at Navajo Mountain/Paiute Mesa approximately 60%-80% of the time. He stays with his sister, under a shade hut, or at his daughter's cabin. Other times he is traveling and often stays with a girlfriend in Tuba City, AZ or with an uncle in Arizona.
8. Kelly Laws is a registered voter in San Juan County and was the opposing candidate in the election.

9. Laws knew about residency concerns for Grayeyes sometime in March 2018, as early as the neighborhood caucuses.

10. Laws was also aware of the preliminary injunction issued by Judge Nuffer near the time it was entered on August 9 or 10, 2018.

11. The Complaint filed in this case on December 28, 2018 which was the last business day for the Court within the 40-day statutory period.

12. Laws has never challenged Grayeyes's eligibility to vote or his declaration of candidacy for office.

RULING

I. Petitioner's challenge is untimely.

To file a declaration of candidacy for an election to office, an individual must (1) be a United States Citizen, (2) meet the legal requirements of the office, and (3) state their party affiliation.¹ And under Utah Code § 17-53-202, the legal requirements for the office of county commission are that the candidate be a registered voter of the county which the member represents, and have been a registered voter for at least one year immediately preceding the member's election.

Accordingly, the Court must consider whether Laws ever challenged Grayeyes's voter eligibility or declaration of candidacy in a way that would nullify his voter registration, thereby disqualifying him from candidacy and rendering him "not eligible for the office at the time of the election."²

Under Utah Code §20A-3-202.3, a person may challenge a voter's eligibility by following the strict requirements set forth in that statute.³ Most notably, the challenge must be made in writing and under oath, be delivered to the election official at least 45 days before the date of the election, and the challenge must be determined by the election officer before the day when early voting begins.

¹ Utah Code § 20A-9-201(1).

² Utah Code § 20A-4-402 (1)(b).

³ A voter challenge may also occur at the time of voting under Utah Code § 20A-9-202.5, but the facts of this case do not implicate that process.

Similarly, under Utah Code §20A-9-202(5), a declaration of candidacy is valid unless challenged in writing within five days after the last day for filing. If challenged, the objection must be determined within 48 hours.

Laws never challenged Grayeyes's voter eligibility nor his voter registration according to the required statutory process. Instead, he waited until after the election to challenge Grayeyes's "eligibility to serve in the office to which [he] was elected" under Utah Code § 20A-4-402 (1)(g). It is undisputed that Grayeyes was a registered voter of San Juan County for at least one year before the election, and that he is currently a registered voter of San Juan County. At the time of the election, he met all of the statutory requirements of the office. And he currently meets the statutory requirements of the office. Under Utah Code § 20A-4-402 (1)(b), Grayeyes was eligible for the office at the time of the election.

II. Petitioner's challenge is barred by laches.

Election controversies are equitable proceedings and a party who has failed to exercise reasonable diligence in asserting his rights might be denied relief.⁴ As noted by the Utah Supreme Court, "...equity aids the vigilant, not one who sleeps on his rights."⁵

Where a party wants to challenge the election process, they are required to act at the earliest possible opportunity to avoid disrupting the election process by interfering with the rights of absentee and other voters, candidates, political parties, and others who participate in the election process and spend money and effort toward conducting the election.⁶

In this case, Laws had actual knowledge about the issue of Grayeyes's residency as early as March 2018, when neighborhood caucuses were conducted. He was also aware of the litigation in Federal Court surrounding Grayeyes's residency, and knew that Judge Nuffer had issued a preliminary injunction on August 9, 2018 to compel San Juan County to put Grayeyes back on the ballot.

⁴ See *Ellis v. Swenson*, 16 P.3d 1233, 1239 (Utah 2000).

⁵ *Peck v. Monson*, 652 P.2d 1325, 1328 (Utah 1982) (Oaks, J., concurring).

⁶ See *In re Cook*, 882 P.2d 656, 659 (Utah 1994); *Clegg v. Bennion*, 247 P.2d 614 (Utah 1952); and *Williams v. Rhodes*, 393 U.S. 23 (1968).

Prior to the election, Laws could have challenged Grayeyes's declaration of candidacy under Utah Code § 20A-9-202(5) or his qualification to vote under §20A-3-202.3. And as Grayeyes's direct political opponent, he was one of the individuals most invested in the outcome of the election and had the most reason to conclusively determine the issue of Greyeyes's residency. Had Laws challenged Grayeyes's declaration of candidacy or qualification to vote, the issue would have been decided sometime before the first day of early voting.

But despite knowing about the issue of Greyeyes's residency for at least 7 months before the election, Laws delayed bringing his challenge until after the election was concluded. And, notably, his challenge wasn't actually filed until the last business day of the 40-day period when he could have brought the challenge. Instead of acting at his earliest possible opportunity, Laws acted at his very last possible opportunity. His reasons make sense — he did not want to spend money unnecessarily and he probably expected to win the election. But sensible reasons do not excuse his failure to act at the earliest possible opportunity where the public interest is concerned.

And his delay is prejudicial to important public interest concerns and the integrity of the election process. In supporting Grayeyes, the San Juan County Democratic Party spent at least \$20,000 and hundreds of hours of volunteer time. The Democratic Party was also unable to substitute and support a replacement candidate before the election. Ballots were printed. And some 1,787 votes were cast in the election that would be nullified if the election was not confirmed.

Laws could have challenged Grayeyes's declaration of candidacy and qualification to vote, thereby resolving the issue before public interest concerns became a problem. But considering the entirety of the election process, the Court concludes that Laws waited too long to bring his election challenge even though it was filed within the 40-day limit of Utah Code § 20A-4-403(1)(a).

III. Grayeyes is a resident of San Juan County and is eligible to serve.

As a "county officer", a county commissioner must maintain "residency" within the county in which he was elected during the officer's term of office.⁷ A person resides

⁷ Utah Code § 17-16-1(2)(a) and § 17-53-101(1)(a)(i).

in Utah if (1) the person’s principal place of residence is within Utah; and (2) the person has a present intention to maintain the person’s principal place of residence in Utah permanently or indefinitely.⁸ Finally, a “principal place of residence” means the single location where a person’s habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.⁹

In determining a person’s principal place of residence, the Court must consider the factors set forth in Utah Code § 20A-2-105(4).¹⁰ Not all of the factors are particularly helpful, but all are addressed below:

a. Where the person’s family resides:

Grayeyes has family throughout Utah and Arizona. Importantly, he has a sister in Navajo Mountain with whom he often stays the night. His daughter, April, has a cabin and he stays there too. He is also from Paiute Mesa in the traditional sense — he was raised there, his umbilical cord is buried there, and his family counts the area as their place of origin. And testimony introduced at trial by Petitioner, through Mr. Bitsinnie, indicated that Grayeyes is related to most residents at Paiute Mesa.

b. Whether the person is single, married, separated, or divorced:

Grayeyes is a widower. He has a girlfriend who lives in Tuba City where he sometimes spends the night, often once or twice per week.

c. The age of the person:

Grayeyes is an elderly gentleman of retirement age. And he maintains traditional Navajo cultural practices.

d. Where the person usually sleeps:

The Court considers this factor to be significant. The evidence produced at trial was not credibly refuted by Petitioner. According to the testimony, Grayeyes spends approximately 60% - 80% of his time on Navajo Mountain. He often stays with his sister, Rose, and at his daughter April’s cabin. He also spends time with a girlfriend in

⁸ Utah Code § 20A-2-105(3)(a).

⁹ Utah Code § 20A-2-105(1)(a).

¹⁰ Candidly, the Court is not entirely sure how to interpret § 20A-2-105(3)(c)(iv) as it might apply to the unique facts of this case. As it is unnecessary to a resolution of the issues, that question is best left alone for now.

Tuba City, AZ and he spends a lot of his time traveling. It is apparent that Grayeyes spends more time at Navajo Mountain than he does anywhere else.

e. Where the person's minor children attend school:

This factor is also significant. Grayeyes does not currently have minor children. When he did, they went to school primarily in Page, AZ. But the testimony showed that he did not generally reside in Page with them and they returned home on the weekends to work with him and visit him at Navajo Mountain. Grayeyes lived there to keep his livestock and maintain his employment in tribal politics.

f. The location of the person's employment, income sources, or business pursuits:

Grayeyes has spent much of his life involved with tribal politics, as a representative of Navajo Mountain. He traveled (and still travels) extensively in that role and is employed by the Navajo Mountain Chapter of the Navajo Nation. Additionally, he has historically maintained his livestock allotment on Paiute Mesa.

g. The location of real property owned by the person:

Grayeyes owns an uninhabitable trailer in Page, AZ. Petitioner believes this to be a clear indicator that Grayeyes lives in Arizona. But the testimony about the trailer was unrefuted at trial. It was purchased by Grayeyes and his wife to send their children to public school. His wife lived there with the children until her passing in 1987. At that time, Grayeyes moved to the trailer for the term of one school year ('87-'88) to help care for the children. Afterward, he returned to Navajo Mountain to live while the children raised themselves and each other. It was clear at trial that Grayeyes does not live at that trailer and has never lived there as a permanent residence.

It is unclear if Grayeyes is entitled to occupy other lands within the Navajo reservation. He has a grazing permit for Paiute Mesa that allots 15 grazing units. And there was testimony at trial that he may have a legitimate, but disputed, claim to a homesite on Paiute Mesa that is currently in the probate process in Navajo tribal court. But Petitioner did not provide evidence at trial explaining the complexities of Grayeyes's interest in Navajo trust land.

h. The person's residence for purposes of taxation or tax exemption:

This factor is largely irrelevant given Grayeyes's residency within the Navajo Nation reservation.

i. Other relevant factors.

Grayeyes has an Arizona driver's license, gets his mail from a post office in Arizona, buys groceries and gas in Arizona, and accesses critical services in Arizona. But so do all of the other Utah residents at Navajo Mountain/Paiute Mesa. His interactions with Arizona as a matter of convenience are not dispositive of his residency.

More importantly, Grayeyes has been a registered voter in San Juan County since 1984 and has consistently voted in every election since then without his voter registration ever being effectively challenged.

Considering the testimony at trial, in light of the statutory factors, the Court has no problem concluding that Grayeyes maintains his principal place of residence in San Juan County. First, it is apparent that Grayeyes spends more time in Navajo Mountain/Paiute Mesa than he does anywhere else. As much as 80% according to some testimony. He has consistently lived there throughout his life and continues to do so.

Second, he is connected to San Juan County as deeply as any resident of the County. In practice, he has always participated in the voting process in San Juan County. And his rich cultural history adds to his connection -- he has always returned to the area and will always intend to return to the area when he has travelled away.

Finally, the Court is not persuaded by Petitioner's argument that a particular house is required for a person to have a principal place of residence. As long as the location where the person resides is entirely within a voting precinct, the Court believes the "single location where a person's habitation is fixed" could mean a larger geographical area and include various places, particularly for someone like Mr. Grayeyes who observes traditional cultural practices. He may stay on Paiute Mesa under a shade hut during the summer. Or at his daughter's cabin. Or at his sister's house in Navajo Mountain. As long as those all fall within a single voting precinct, that geographical area is sufficient to be a principal place of residence.

CONCLUSION and ORDER

Having considered the testimony at trial and the arguments of the parties, the Court confirms the election result. Respondent will be awarded reasonable costs under Utah Code §20A-4-405 upon submitting appropriate verification.

Dated: 1/29/19

By: 
Don M. Torgerson
District Court Judge



CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 180700016 by the method and on the date specified.

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01/29/2019

/s/ CHAY DAVIS

Date: _____

Deputy Court Clerk

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IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH

KELLY LAWS,)	
)	
Petitioner,)	
)	
v.	)	RESPONDENT'S APPLICATION
)	FOR COSTS AND FEES
)	
)	Case No. SJ180700016
)	
WILLIE GRAYEYES,)	Judge: Don M. Torgerson
)	
Respondent.)	
)	

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Respondent Willie Grayeyes (sometimes called “Commissioner Grayeyes” or “Respondent”) respectfully submits this Application for the reimbursement of costs as well as the allowance and payment of attorneys’ fees.

MOTION/APPLICATION

STATEMENT OF RELIEF REQUESTED AND GROUNDS IN SUPPORT

Respondent is the duly elected commissioner for the San Juan County Commission, District Two. Petitioner Kelly Laws (sometimes called “Laws” or “Petitioner”) was Respondent’s opponent in the 2018 election for that office. After the election, Petitioner brought suit under Utah’s election contest statute, found at Utah Code, §§20A-4-402, *et seq.*, in an effort to unseat Commissioner Grayeyes, claiming that he was not a qualified candidate or a *bona fide* commissioner because, at all relevant times, he did not live in San Juan County.¹ That lawsuit failed for a variety of reasons, including untimeliness, laches, and a failure of proof on the residency question.

Respondent is entitled to recover his fees and costs based on the Substantial Benefit Doctrine. Respondent’s right of recovery is also based on the Private Attorney General Doctrine. Respondent may also be awarded fees and costs because Petitioner’s actions were in bad faith.

Respondent’s success in this litigation confirmed not only his status as commissioner but also the right of Native Americans, particularly in the Navajo Mountain area of San Juan County, to register as voters and otherwise participate in the democratic process, as well as the interests

¹ Based on identical facts, on November 30, 2018, filed a complaint, pursuant to Utah Code §20A-1-803, contesting the residency of Commissioner Grayeyes in a proceeding through the Lieutenant Governor. The Respondent has now filed a Motion to Dismiss that complaint based on the Court’s ruling in this case. Exhibit One.

of constituents who cast their ballots for Commissioner Grayeyes in the 2018 election.

Respondent did not choose to serve in a representative capacity in order to validate this right and these interests; this role was thrust upon him by Petitioner's lawsuit. But the cost to Respondent, in financial terms, including attorney fees, nevertheless has been substantial, showing that all those who serve as proxy for the concerns of others in litigation, whether as a matter of offense or defense, must pay the same freight.

By highlighting these economic costs in this Application, Respondent by no means wishes to understate the enormous harm which election contests wreak on other fronts. Any effort to "undo" an election may breed cynicism among voters. While the contest remains unresolved, citizens may doubt the legitimacy of actions taken by their elected commissioners, and this doubt may linger even after the contest is resolved favorably to one side or the other. These intangible harms are the inevitable outgrowths of Petitioner's actions in this matter. They are just as serious as the financial harm which this litigation has wrought upon Commissioner Grayeyes and all those who have assisted in his defense.

MEMORANDUM/ARGUMENT

I. INTRODUCTION

Utah's general jurisprudence respecting attorney fee awards follows the so-called "American Rule" and its exceptions. Under the American Rule, each side pays for its own lawyers in the absence of a contractual provision, statutory grant, or equitable circumstance. Respondent and Petitioner are not bound by any contract and nothing in Chapter Four of Title 20A explicitly authorizes an award of fees.²

² Section 20A-4-405(1)(a) requires the Court to award costs to Respondent, but it is not clear whether this term, "costs," includes "fees" as well. However, Utah has two bad faith fee statutes,

But there are several equitable exceptions which not only apply but also justify, even mandate, a fee award under the circumstances of this case. These include (a) an equitable exception for awarding fees to parties in interest who confer a substantial, non-monetary benefit upon an ascertainable group, (b) an equitable exception for awarding fees to parties in interest who in effect have served as so-called “private attorneys general,” and (c) an equitable exception in cases where a party is forced to defend himself against claims which are unmeritorious or vexatious in nature. Any one of these three theories is enough, standing alone, to warrant an award of fees in this case – against Petitioner and in favor of Respondent. We examine each theory in turn.

II. COMMISSIONER GRAYEYES IS ENTITLED TO FEES UNDER THE SUBSTANTIAL BENEFIT DOCTRINE

The American Rule holds that, absent an applicable exception, each side must pay its own counsel. There are exceptions to the rule, applicable in this case arising from the “inherent equitable power” of courts to award fees “where appropriate in the interest of justice and equity.” *LeVanger v. Highland Estates Properties Owners Ass’n, Inc.*, 2003 UT APP 377, ¶20, quoting from *Stewart v. Utah Pub. Serv. Comm’n*, 885 P.2d 759, 782 (Utah 1994). Moreover, the Utah Supreme Court, in *Injured Workers Association of Utah v. State of Utah*, 2016 UT 21, recently confirmed that this inherent equitable power is the exclusive province of the state judiciary and, therefore, cannot be abridged or modified by any legislative enactment.

The first such exception is called the Substantial Benefit Doctrine. Noting that this basis for equity awards of attorneys’ fees is “well recognized in Utah,” the *LeVanger* court extended

found at Utah Code, §20A-1-805(2) and Utah Code, §78B-5-825, with possible application to this proceeding, as discussed below.

its application to a suit enforcing the voting regulations of a homeowners' association. *LeVanger v. Highland Estates Properties Owners Ass'n, Inc.*, 2003 UT APP 377, ¶21. Pursuant to *LeVanger*, the doctrine applies when a party, acting in a representative capacity, is part of litigation which confers a substantial benefit, whether pecuniary or non-pecuniary in nature, on the members of an "ascertainable class or group." *Id.* at ¶20, citing to *Stewart v. Utah Pub. Serv. Comm'n*, 885 P.3d at 782-783 n. 18.

In *LeVanger*, a fee award was deemed appropriate because the homeowner litigant had benefited the homeowner association, including the individual members of that group, by ensuring the proper recognition of shareholder votes, as well as shareholder rights in relation to voting procedures. The homeowner litigant, in the Court's view, also had conferred a benefit "by vindicating statutory policy stressing 'the importance of fair and informed corporate suffrage.'" *LeVanger v. Highland Estates Properties Owners Ass'n, Inc.*, 2003 UT APP 377, ¶¶23-25 (citation omitted).

LeVanger supports an award of fees in our case. Petitioner's complaint had the legal effect of conscripting Respondent into service as a representative of at least two classes of concerned voters (discussed below). The fact that Respondent was a defendant, rather than a plaintiff, in the litigation, that this service in a representative capacity was thrust upon him after the election, rather than undertaken voluntarily beforehand, does not disqualify him as a proxy for those to whom his service was rendered. If anything, this accentuates the disinterested nature of his representative role because he stood his ground and undertook a defense of similarly situated voters and the citizens and groups which sought his election when it might have been easier to step down -- or let others assume the political risks connected with an uncertain candidacy -- and carry the economic burdens which invariably are associated with any legal

battle.³ Respondent's representative status becomes all the more apparent when we consider the class members upon whom his position in this litigation conferred a substantial benefit.

Commissioner Grayeyes conferred a substantial benefit upon two classes of concerned voters. The first consists of Native Americans in San Juan County who, for want of employment opportunities and essential services in Utah, must travel for work and benefits to Arizona. They regularly return to their community, of course, but the realities of life for a community intersected by the Utah/Arizona state line expose Navajo Nation members to voting challenges on residency grounds which Commissioner Grayeyes faced and fought back against in this lawsuit.⁴

³ The rules of procedure, which do not differentiate between representative parties which act as plaintiffs from representative parties which serve as defendants, also confirm this point. *LeVanger*, as noted above, was a shareholder derivative suit which conferred a substantial benefit upon the corporate entity and fellow shareholders, but corporate beneficiaries of derivative suits often are named involuntarily as plaintiffs with the shareholder suitors and just as often are named as defendants in such litigation. The class action rules of procedure likewise provide both for plaintiffs who are representative of a plaintiffs' class and defendants who serve as proxies for a defendants' class. And it may not be unimportant to note that other exceptions born of a court's inherent equitable power to award fees, such as the bad faith litigation rule, discussed below, are indifferent to the offensive or defensive status of the party seeking that award.

⁴ We have argued that, in the narrow context of Judge Shelby's redistricting decree, Respondent's vindication of residency status and voting rights for Native Americans is a substantial benefit for that "ascertainable group." But this substantial benefit also can be viewed (and grows in significance when seen) through the historical lens of voter suppression of Native Americans in San Juan County. This historical treatment largely is a matter of record.

Congress extended citizenship to Indians through its approval of the Indian Citizenship Act of 1924 (43 U.S. Stats. At Large, Ch. 233, p. 253 (1924); 8 U.S.C. §1401(b)).

Despite the extension of citizenship to Indians, many states, including Utah, continued systematically to disenfranchise Indians by denying them the right to vote.

Prior to 1957, a Utah statute, Section 20-2-14(11), U.C.A 1953 (repealed), denied Indians the right to vote, which San Juan County implemented by not registering Indians to vote and by denying them access to the ballot box, but when the constitutionality of that statute was

challenged in the United States Supreme Court, the Utah legislature repealed it and Utah became the last state to legally allow Indian voting. *Rothfels v. Southworth*, 356 P.2d 612 (Utah 1960) (interpreting Utah’s statutory scheme for Indian voter registration in the wake of this controversy).

The repeal of U.C.A. § 20-2-14(11) did not end impediments to Indian enfranchisement in Utah in general or in San Juan County in particular. Despite the fact that, following repeal, many Indians in the County registered to vote, legal action was needed to protect Indian voting rights when, in 1972, the County, through the office of the Clerk/Auditor, impeded Navajos from becoming candidates for the County Commission. In an action in federal court, *Yanito v. Barber*, 348 F. Supp. 587 (D. Utah 1972), an injunction against San Juan County was required to remove those impediments by ordering the Clerk/Auditor to place the two Navajo candidates on the ballot.

In addition, San Juan County diluted Indian voting strength through at-large election of County commissioners, a practice that was challenged in 1983 through a lawsuit filed in federal court by the United States Justice Department and in which the County agreed “that the process leading to the selection of [its] County Commissioners fails to comply fully with . . . Section 2 of the Voting Rights Act.” See *United States v. San Juan County, et al.*, No. C-83-1286W (D. Utah, April 4, 1984).

As a result of the 1983 litigation, the federal court entered a permanent injunction against San Juan County, required the County to adopt separate election districts for the election of commissioners, and a three-judge panel then certified the County for federal election examiners.

Race-based election discrimination by San Juan County did not end with the permanent injunction in *United States v. San Juan County*. Subsequent to the permanent injunction being entered in that case, the County adopted a three-member Commission election district plan where race was the predominant and controlling consideration, which had the effect of diluting Indian voting strength by packing Indians into one of the three election districts.

In addition, San Juan County failed to comply with the constitutional requirement to redraw election district boundaries for either the County Commission or the School Board following the decennial censuses in 1990, 2000, and 2010, despite the growth of the Indian population in the County.

By late 2011, both the Commission districting plan and the School Board districting plan violated the one-person, one-vote, requirement of the Equal Protection Clause.

San Juan County corrected the one-person, one vote, violation regarding its County Commission in late 2011, but left one of the three districts packed with an Indian voting age population of 98 percent. The County took no action regarding the School Board, leaving in place a plan with a 38 percent deviation, in clear violation of the Equal Protection Clause.

In January 2012, the Navajo Nation and several individual plaintiffs filed a lawsuit in federal

court challenging San Juan County's illegal districting plans. *See Navajo Nation, et al. v. San Juan County*, No. 2:12-cv-00039-RJS.

In late 2015, the District Court determined that San Juan County's School Board election districts violated the one-person, one-vote, mandate of the Equal Protection clause. *See Navajo Nation, et al. v. San Juan County, Utah*, 150 F. Supp. 3d 1253 (D. Utah 2015).

Following the Court's invalidation of the School Board election districts, San Juan County was allowed to draw and implement a remedial plan for the 2016 elections, subject to later challenge by the plaintiffs. John David Nielson, as Clerk/Auditor, failed to take any action to notify approximately 491 Indian voters that they were assigned to new precincts under the remedial plan, thereby creating an impediment to their right to vote.

In late 2016, a federal court determined that San Juan County had engaged in intentional racial discrimination and that the County Commission election districts violated the Equal Protection Clause due to the County's use of racial classifications in drawing those districts. *See Navajo Nation, et al. v. San Juan County, Utah*, 162 F. Supp. 3d 1162 (D. Utah 2016).

San Juan County was given an opportunity to draw a remedial plan for the County Commission election districts and submitted such a plan to the District Court.

In 2017, the plaintiffs challenged the remedial plans drawn by San Juan County for both the County Commission and the School Board. In July 2017, a federal court determined that the County's proposed remedial redistricting plans for its County Commission and School Board violated the Equal Protection Clause of the United States Constitution due to the County's use of racial classifications in drawing those districts. *See Navajo Nation, et al. v. San Juan County, Utah*, 266 F. Supp. 3d 1341 (D. Utah 2017). The County had once again committed intentional racial discrimination.

The District Court then engaged the services of a Special Master, Dr. Bernard Grofman, to draw lawful districting plans for the County Commission and the School Board.

The plan proposed for the County Commission districts created Indian voting majorities in two out of three of those districts and an Indian voting age population in Commission District 2 of 65 percent. San Juan County has objected vigorously to this change, characterizing it as discrimination against "white Republicans" in the County.

San Juan County Commissioner Phil Lyman reportedly threatened that the County simply would not comply with the Special Master's plans if it were adopted by the court, stating, "We're not going to pay any attention to them."

On December 21, 2017, the District Court adopted the Special Master's proposed plans, which created an Indian majority of 65 percent in Commission District 2. *Navajo Nation, et al. v. San Juan County, Utah*, No. 2:12-CV-00039, 2017 WL 6547635, at *1 (D. Utah Dec. 21, 2017).

A second group that received a substantial benefit from Commissioner Grayeyes were the Navajo people in his election district, and in San Juan County. He sought to improve their lot in life. His defense of this litigation assured his position on the County Commission to assert the interests of his constituents. In their commissioner they have a voice. Commissioner Grayeyes had to overcome this lawsuit's barriers and obstacles in the election process. This was not the

This most recent decision by Judge Shelby has upset local Republicans as the ruling elite in San Juan County, leading to an increase in racial rhetoric and political hyperbole. One commentator stated that “the result [of Judge Shelby’s decision] will be the creation of a welfare county of legalized plunder which will force us into involuntary servitude and slavery to the Navajo Nation.” The same commentator went on to demand that current San Juan County officials resist the Court’s decision.

At the 2018 Republican Convention, Robert Turk, a relative of deputy Turk who’s name has appeared in this litigation, complained that “we’ve been disenfranchised.” Others referred to Judge Shelby as “King Shelby,” and the Petitioner himself stated of Shelby that, “He’s stabbed the citizens of San Juan County in the heart the best he could[.]” Others complained that, since members of the Navajo Nation don’t pay property taxes, “nontaxpaying commissioners” would be in the driver’s seat and, moreover, that Navajo candidates like Commissioner Grayeyes, if elected, “wouldn’t show up for meetings, wouldn’t allocate funding to white towns, [and] wouldn’t understand how to govern the county.” Tanner, “‘We’ve been disenfranchised’: Republicans in San Juan County say redrawn voter districts unfairly favor Navajos,” *The Salt Lake Tribune*, April 8, 10, 2018. Likewise, at the 2018 Republican convention, Wendy Black (who filed a voter registration complaint against Commissioner Grayeyes) was overheard to say about Commissioner Grayeyes that “he’s going to be a drain on the system – he’s going to want money and a car.”

These comments are echoes of the opposition to Commissioner Grayeyes when he ran for a seat on the San Juan County Commission in 2012. Even then, his candidacy generated race-based fears and political rhetoric to the effect that, if elected, he would spend County funds for the benefit of the Navajo community. Commissioner Grayeyes’s opponents ran advertisements which stated that, “Willie Grayeyes is campaigning on promises that if he is elected he will use San Juan County money for projects on the reservation which are clearly the responsibility of the Federal Government or the Navajo Nation to finance.” The advertisement promised that the election of Commissioner Grayeyes’s opponent would ensure that County funds were not spent in the Navajo community. These and other details respecting the racial animus and political opposition of the ruling elite in San Juan County in relation to Commissioner Grayeyes and other Native Americans are documented in the Expert Witness Report of Dr. Daniel McCool in the case of *Navajo Nation v. San Juan County*, case no. 2:12-cv-0039-RS, dkt. no. 181 (D. Utah, August 18, 2015).

first time that Navajo candidates had to undertake this role, as history reminds us. *See Yanito v. Barber*, 348 F. Supp. 587, 589 (D. Utah, 1972) (Three-Judge Court). This bestowed upon these citizens a substantial benefit.

The third “ascertainable group” upon which Respondent conferred a substantial benefit in this litigation consists of all voters who cast ballots in the 2018 election and all citizens concerned with the electoral integrity of the democratic process. It is fair to say, and is also literally true, that Commissioner Grayeyes represents the voters in District Two. His efforts, in fighting this lawsuit and affirming the results of the 2018 election have made the votes of every one of these voter *count* when otherwise they would not have mattered. *LeVanger* held that this was a substantial benefit when conferred upon shareholders who care about “corporate suffrage.” That benefit surely doubles when the suffrage rights of all citizens in public, not merely private, elections are concerned.

Indeed, on this score, Petitioner is virtually estopped from disagreeing. At his Town Hall Meeting in Monticello on January 2, 2019, Laws argued that this was not a lawsuit about himself, but one that affected the rights of all voters in the county, insisting, on this account, that every civic-minded soul in the audience should contribute to his legal defense fund. Exhibit Two. As part of his trial testimony, Petitioner emphasized that his interest was in seeing that Utah’s election laws were honored and obeyed. Under the circumstances of this case, including Laws’s own admissions, the Respondent’s litigation defense conferred a substantial, non-monetary benefit, pushing back on what heretofore have been the discriminatory tendencies of a ruling elite, establishing a legal precedent for the definition of residency which will reduce challenges to many voters who live near Navajo Mountain, and vindicating the majority choice of the voting electorate in District Two in their election of Commissioner Grayeyes to a commission seat.

The significance of the benefits Commissioner Grayeyes has provided as a result of his defense of this lawsuit is reflected in other equitable principles. At least two Utah cases treating the related, but not identical, Private Attorney General Doctrine have ruled that litigation which results in the correction of election irregularities and upholds the rule of law in local government are matters of public interest which confer a societal benefit and warrant, on equitable grounds, an award of fees. These holdings support the same conclusion under the Substantial Benefit Doctrine. *See, Utahns for Better Dental Health-Davis, Inc.*, 2007 UT 97 and *Culbertson v. Board of County Commissioners of Salt Lake County*, 2008 UT APP 22.

III. COMMISSIONER GRAYEYES IS ENTITLED TO AN AWARD OF FEES UNDER THE PRIVATE ATTORNEY GENERAL DOCTRINE⁵

In *Stewart v. Utah Pub. Serv. Comm'n*, Utah recognized the validity of the Private Attorney General Doctrine (the “PAGD”) as an equitable basis upon which a court, in the exercise of its inherent power, could award attorney fees to a prevailing party. The PAGD is a close sibling, but not identical twin, of the Substantial Benefit Doctrine. Both arise from the inherent equity power of courts, although they serve different purposes and have distinctive elements requiring varying proofs. The PAGD incentivizes public interest lawsuits which further important society interests and which, but for the potential of PAGD awards, would not be brought by citizens who ordinarily do not have the financial ability to underwrite such litigation. The Substantial Benefit Doctrine, on the other hand, is predicated on the equitable assumption that the costs of achieving whatever “substantial benefit” was at issue should be

⁵ Respondent advises the Court that the Utah Legislature, in Utah Code, §78B-5-825.5, has attempted to outlaw the private attorney general doctrine in the state of Utah. The legislature’s intrusion into matters exclusively within the province of the judiciary fails, however, since §78B-5-825.5 clearly is unconstitutional under the recent ruling of the Utah Supreme Court in *Injured Workers Association of Utah v. State of Utah*, 2016 UT 21. *See Discussion, infra.*

allocated to the other litigant and/or an ascertainable class which otherwise might be unjustly enriched from that litigation's outcome.

Hence, the PAGD requires a showing that the litigant acting in the role of private attorney general does not have pecuniary means which are proportionate to the benefit sought and that the goal of the litigation is to vindicate an overriding public interest, whereas the Substantial Benefit Doctrine does not treat the pecuniary condition of any protagonist in the litigation and has the more modest objective of shifting the financial burden of litigation, in the name of equity, to the losing adversary or, where possible, those who benefit most of the lawsuit's outcome – when that benefit is “substantial.” *See generally, Woodland Hills Residents Association v. City Council of Los Angeles*, 593 P.2d 200 (Cal. 1979) (explaining differences between substantial benefit theory and the PAGD).⁶

⁶ A comparative reading of *Stewart* and *LeVanger* also demonstrates that the Substantial Benefit Doctrine and the PAGD are different bases upon which equitable awards of attorney fees may be justified. *Stewart* begins its analysis of the inherent power of courts to award fees on equitable grounds by discussing categories illustrating this point. The opinion adverts to the power of courts to award fees on equitable grounds when (i) litigants act in bad faith, (ii) where a few litigants create a monetary fund which benefits an entire class, (iii) where an heir brings suit for breach of trust and this litigation benefits all other beneficiaries of an estate, and (iv) the private attorney general doctrine. *Stewart, supra*, at 782-784. This list, however, is meant to be illustrative, not exhaustive. This is apparent from the logic of equity itself, which has inexhaustible, remedial resources to right wrongs and establish justice. *E.g., Culbertson v. Board of County Commissioners of Salt Lake County*, 2008 UT APP 22, ¶10. It likewise is shown by the fact that, in Utah, even after *Stewart*, equitable considerations continue to expand the range of cases in which fees may be awarded. *E.g., The Doctors' Company v. Drezga, MD*, 2009 UT 60. But, for purposes of our case, it is clear that the PAGD and Substantial Benefit Doctrine are distinct theories, from footnote 18 on page 783 of *Stewart*, wherein the Court says that “[a]nother expression of the inherent equitable power of a court to award attorney fees is recognized when a plaintiff's litigation confers a ‘substantial benefit on the members of an ascertainable class[]’” (citations omitted, emphasis supplied). This is the language and footnote which *LeVanger* cites when it extends the -- already “well-recognized in Utah” -- Substantial Benefit Doctrine in the context of shareholder derivative suits. Moreover, neither the majority opinion nor the dissent of Justice Jackson in *LeVanger* mention the PAGD aspect of the *Stewart* opinion. Indeed, any such mention might have been incongruous since the two doctrines, as noted above, have disparate elements and require different proofs.

In order to earn an award of fees under the PAGD, a litigant must show that (i) he is the prevailing party, (ii) he has vindicated a “societally important public policy,” and (iii) the costs necessary to achieve that result “transcend the [litigant’s] pecuniary interest to an extent requiring subsidization.” *Stewart v. Utah Pub. Serv. Comm’n*, 885 P.2d at 783 (citations omitted).⁷ Commissioner Grayeyes has made these showings in our case.

Commissioner Grayeyes is the prevailing party in the litigation against Laws. He has vindicated the “societally important public policy” of enfranchising an entire class of Native Americans and, in the process, the constitutionally significant values in fair voting apportionment which were the basis for Judge Shelby’s redistricting opinions in the first instance. *E.g., Utahns for Better Dental Health-Davis, Inc. v. Davis County Clerk*, 2007 UT 97 (PAGD authorizes fees where voting values and constitutional principles are defended).

Commissioner Grayeyes also struck a blow for the rule of law. *E.g., Culbertson v. Board of County Commissioners of Salt Lake County*, 2008 UT APP 22 (PAGD authorizes fees where rule of law is upheld in relation to local authorities who otherwise would have compromised that principle). Since the Lieutenant Governor had not acted on Laws's November 30th complaint, Commissioner Grayeyes was compelled to defend the Petitioner's allegations before this Court. Finally, the cost of this litigation is far in excess of anything which Respondent can afford, even if his salary as a commissioner is deemed to be a pecuniary factor in that overall equation. *Id.* at ¶17.

⁷ In addition, one of the equities mentioned in the *Stewart* opinion is the failure of other governmental bodies, in that case the Committee for Consumer Service, the Division of Public Utilities and the Public Service Commission itself, with regulatory jurisdiction to step up and protect the public.

In short, Commissioner Grayeyes not only fought his way, through a civil rights lawsuit in federal court, onto the ballot and won the election, but then preserved that victory in a second round of intense litigation with Laws, both through this case and a complaint to the Lieutenant Governor, which has not been withdrawn by Laws, is now subject to a motion to dismiss based on the Court's ruling in this case and remains unresolved.⁸ Commissioner Grayeyes has established an important precedent under the Utah elections code with peculiar benefit to a racially distinct minority in San Juan County and preserved the democratic choice by most voters in the 2018 election, after Judge Shelby's redistricting opinion, in what only can be characterized as an historic moment in Utah history. And this effort, without question, goes far beyond whatever pecuniary interest which Respondent may have in keeping his seat on the commission. To be sure, Commissioner Grayeyes will have a salary as commissioner. But this stipend is a pittance when weighed against the cost of conducting this litigation. What's more, the intangible benefits inherent in his victory surely are priceless, incapable of measurement with coin – the deterrence of voter suppression, the vindication of majority rule, the integrity of an electoral process, and upholding the principle that our country is governed through laws impartially administered rather than arbitrarily applied by men.

IV. COMMISSIONER GRAYEYES IS ENTITLED TO AN AWARD OF FEES UNDER THE BAD FAITH DOCTRINE

Commissioner Grayeyes also is entitled to an award of fees under the Bad Faith Doctrine. *Stewart* and its progeny have made it clear that courts have inherent equitable power to award

⁸ Utah Code § 20A-1-805 permits an award of attorneys' fees when a complaint contesting an election with the Lieutenant Governor is filed in bad faith. This can reasonably interpreted to mean that the legislature intended the award of attorneys' fees based on equitable principles such as bad faith in an election contest. This, along with the extraordinary lengths to which the Petitioner has gone in his quest to reverse the outcome of an election, feeds into each of the equitable bases for the award of fees discussed in this Application.

fees in circumstances where one party to the litigation has engaged in conduct which may be characterized as “in bad faith, vexatiously, wantonly, or for oppressive reasons.” *Stewart v. Utah Pub. Serv. Comm’n*, 885 P.2d at 782 (citation omitted, emphasis supplied). Utah has three separate versions of this bad faith basis for attorney fee awards, one under general equitable principles, and two others that are statutory in origin. *Stewart, supra*; Utah Code § 78B-5-825; Utah Code §20A-1-805. Still another principle supporting fees for bad faith can extend equity to include the fees incurred by Commissioner Grayeyes in his defense. In *Doctors’ Co. v. Drezga*, 218 P.3d 598, 608-609 (Utah 2009), the Court showed the extent of its equitable reach by holding an insurer responsible for a malpractice judgment and attorney’s fees incurred by the insured’s court-appointed counsel. The culpable doctor had absconded. A child had been hurt and the insurance company was using the doctor’s absence to manipulate the policy’s coverage. Under these circumstances, the demands of equity and justice required payment of the fees. *Id.*

The general principles articulated in *Stewart*, and expanded in *Drezga*, are far-ranging and adaptable to many different factual scenarios. They may be enlarged by statute, but -- in light of the Utah Supreme Court’s holding in *Injured Workers Association of Utah v. State of Utah*, 2016 UT 21 -- cannot be abrogated or undercut by any legislative enactment. The *Injured Workers* Court held that the state judiciary, under Art. VIII of the Utah Constitution, has the exclusive power to regulate fees and that, because of this clear mandate (together with the separation of powers language in Art. V of the Utah Constitution), the state legislature’s attempt to legislatively regulate attorney fee awards in the workman’s compensation statute was impermissible.

Because the holding in *Injured Workers*, we have viewed the two instances where the Utah legislature has attempted to codify or legislatively limit the principle of bad faith fee

awards as suggestive only and certainly not binding on this Court where they might run afoul of general equitable principles that should be the court's primary guides towards an outcome which is consistent with the interests of fairness and justice under the particular circumstances of this case.

Turning to those circumstances, Petitioner's suit in this case is permeated with bad faith because he knew or should have known that he was late in filing the complaint and guilty of laches in any event. He also knew or should have known that Commissioner Grayeyes had his principal place of residency in San Juan County and, in any case, did not produce an iota of relevant evidence to prove otherwise. This brings into question Petitioner's purpose and intent in bringing legal action against Commissioner Grayeyes.

There can be no question that Petitioner knew or should have known that he was fatally late in bringing this complaint. During caucuses, in March 2018, he was aware of the residency issues respecting Commissioner Grayeyes's candidacy, but did not timely file an objection at that earliest available opportunity under Utah Code, §20A-9-202(5). He also could not have been unaware that missing this deadline was a critical factor in Wendy Black's failed challenge to Commissioner Grayeyes's residency in April, since the false oath and backdating of the Black complaint in relation to that deadline achieved notoriety in the press and constitutional sanctions – including the reinstatement of Commissioner Grayeyes on the ballot -- in Judge Nuffer's court. Judge Nuffer's opinion, moreover, stressed the fact that, since there was no objection under §20A-9-202(5), the Grayeyes declaration of candidacy – including his oath of residency – remained valid throughout the relevant election cycle. But notwithstanding these well-known roadblocks on the questions of timeliness – and what undoubtedly must have been Mr. Laws' knowledge of what he knew or should have known about the timely processing of declarations of

candidacy, a critical *event* in the electoral process – Laws nevertheless served his complaint after ballots were canvassed; and on the day Commissioner Grayeyes was being sworn into office.

Even if the complaint had not been untimely filed, Laws was guilty of laches. He undoubtedly knew or should have known that laches would be an insurmountable obstacle in prosecuting this action. Utah has no fewer than four Supreme Court opinions directly on point, all with language clearly condemning the very course which Petitioner followed in bringing his complaint. But he persisted in filing tardily notwithstanding these facts. His brief in response to the laches argument doubled down on this bad faith. He attempted to lead the Court into error, arguing that he filed within the forty-day deadline of §20A-4-403(1)(a), implying that this statute trumped all concerns with laches, when he knew from a simple review of Respondent’s authorities that Utah’s jurisprudence on this score hold otherwise.

This Court noted and disapproved of this misuse of an important election-deadline. Ruling and Order of January 29, 2019, at 4-5 (“Instead of acting at his earliest possible opportunity, Laws acted at his very last possible opportunity”). Laws erroneously stated that Utah’s precedents on the equitable doctrine of laches in election contexts do not apply to Laws. His brief admitted the facts upon which laches is based, that he did not raise the residency concern at the earliest available opportunity and that he waited to see the election outcome before he went made his challenge. For lawyers who always are worried about pressing too hard against the boundaries of legitimate advocacy, it should be crystal clear, that the statements in Petitioner’s brief, and bringing this complaint in defiance of Utah’s precedents on the equitable doctrine of laches, are beyond the pale.

Petitioner had no case on the merits. It is clear from the context in which this suit was commenced, that Petitioner would have to show by clear and convincing evidence that

Commissioner Grayeyes had changed his principal place of residency from Navajo Mountain to another principal place of residency out of state. But Petitioner did not even attempt this proof. And his “evidence” that Commissioner Grayeyes had a residence in Arizona during the relevant times under the statute – Deputy Turk’s report, a driver’s license, documents respecting a 1981 mobile home in Page -- was either inadmissible or irrelevant.

Laws knew or had to know that Deputy Turk’s report was virtually useless as evidence of Commissioner Grayeyes’s residency, and the Court properly excluded it. The report was hearsay and, in most instances, hearsay upon hearsay. Even the hearsay, moreover, is from witnesses for whom no foundation could be laid respecting any personal knowledge of Commissioner Grayeyes’s residency at relevant times. Deputy Turk’s questions, in all events, weren’t keyed to the election code’s criteria for determining principal place of residency.

Laws also knew or had to know that Judge Nuffer already had ruled that Deputy Turk’s involvement as an investigator in connection with the Black complaint was illegal, a fact which tainted the entire report – rendering it without foundation -- in all events. The only admissible portion of that report, statements from Commissioner Grayeyes, showed that he resided with his sister in San Juan County 60% to 70% of the time.

But this is not all. Laws knew or had to be aware that Deputy Turk himself, in sworn testimony before Judge Nuffer, admitted that Commissioner Grayeyes had his residence at Navajo Mountain. This was evident in the audible portion of the Turk-Grayeyes recording that was played in open court during the trial. And Laws knew or had to be aware that the man who commissioned Turk illegally to conduct this investigation, namely, John David Nielson, the County Clerk, also in sworn testimony before Judge Nuffer, admitted that Commissioner Grayeyes had his residence at Navajo Mountain.

Finally, Laws knew or had to know that every election official in San Juan County from 1984 through 2018, although charged by statute to refuse registration and voting privileges in the absence of residency, had registered Commissioner Grayeyes as a San Juan County resident and allowed him to vote in San Juan County elections – and that the County Clerk in 2012 had permitted Commissioner Grayeyes to run for commissioner as a San Juan County resident. Even a cursory reading of relevant statutes would show that, under these circumstances, Commissioner Grayeyes could not establish residency for any political purpose in Arizona, because he was registered to vote and actually was voting in San Juan County, Utah.

Laws showed that Commissioner Grayeyes had an Arizona driver's license, but this fact, given the employment realities on the Navajo Nation, which was readily substantiated by a witness appearing on behalf of Petitioner, was hardly remarkable and largely irrelevant to the issue of residency. Utah's statute doesn't mention driver's licenses because it expressly contemplates that people, in the modern world, move about to find work. This common circumstance in the human condition does not cause a loss of residency in Utah. The county clerks in San Juan County, as local election officials, understand that members of the Navajo Nation living on the Utah side of the border have Arizona driver's licenses. Navajo law, which spans three states, requires tribal members to have a license, but not one tied to a specific state.

The last two county clerks, John David Nielson and Norman Johnson, have testified under oath in federal court proceedings to this reality and to the fact that an Arizona license is not a disqualifying event respecting Utah residency. Indeed, Neilson, through a Deputy Turk investigation in 2018, affirmatively ruled that a member of the Nation, Harvey Holliday, who owned an Arizona driver's license, nevertheless retained his Utah residency. And Mr. Laws's

own witness at the January 22 hearing, Mr. Bitsinnie, owned that Navajos residing at Navajo Mountain invariably have Arizona licenses.

Finally, Laws brought forth documents showing that, in 1981, Commissioner Grayeyes had acquired naked title to a mobile home in Page, Arizona. But there was nothing more to show that this trailer, broken down and uninhabitable, was relevant in any way to the 2018 election. Although it probably was unnecessary under the circumstances, Commissioner Grayeyes nevertheless, in an exercise of caution, put on his own witnesses to explain the circumstances behind the purchase of this mobile home and why that event had nothing to do with any residency in Arizona.

Anybody can file a complaint with surface plausibility, and that may be Laws's *mea culpa* in this case: He saw Deputy Turk's report, a driver's license, and the deed to a mobile home and "believed" that his complaint had merit. But mere "belief" based on a superficial analysis does not keep a litigant within the pale of good faith, when other circumstances, readily available or easily ascertained, would give pause to a reasonable person with non-vindictive motives. And this especially is true when those "other circumstances" are calculated to smash any reasonable "belief" to smithereens.

Even a cursory look at the Deputy Turk report, along with the Black complaint which ostensibly prompted that investigation, would have made a reasonable person instantly skeptical. A facial comparison of these documents shows that Black had said something that was very much in doubt, that she had not gone to Navajo Mountain in search of the Commissioner Grayeyes residence as claimed. And then, of course, there is the strange circumstance (which also is apparent from the face of these documents) of Nielson commissioning Deputy Turk to conduct an investigation before he even had a complaint in hand. And then, in addition, there is

the unanswered question – prompted by inspection of the face of that report – of what “crime” was Turk actually investigating. Laws may have known as time went by that a criminal case had been referred to Troy Rawlings, the Davis County Attorney, who had declined to prosecute, citing a complete lack of legitimate evidence. After Commissioner Grayeyes brought his case in federal court, it was revealed that Black’s complaint, the ostensible prompt for Deputy Turk’s report had been backdated and that both Black and Nielson had falsely stated under oath in its preparation and dating, casting further doubt on the evidentiary legitimacy of this investigative enterprise. The report also showed that the County Attorney, notwithstanding his purported recusal, due to the conflict of interest that his father was the candidate against Commissioner Grayeyes, from participating in any investigation of Commissioner Grayeyes, had in fact lent a hand in that endeavor. These questionable circumstances were on full display, publicly available with minimum effort and due diligence, for Laws to see before bringing this lawsuit against Respondent. And they are in addition to the fact that the content of the report itself had no admissible or qualitative evidence that Commissioner Grayeyes lived in Arizona.

With this evidence, Laws could not have acted in good faith. Rather, he acted in bad faith. His intentions are particularly manifest by how he and others acting for or with him constantly beat the drum of voter fraud and criminal registration in relation to Commissioner Grayeyes. In May 2018, the county communications director issued a press release which implied that Commissioner Grayeyes might be under criminal investigation. Laws himself joined this chorus when, on November 30, 2018, he filed a complaint against Grayeyes with the Office of Utah Lieutenant Governor, charging Commissioner Grayeyes with fraudulent conduct under the election code; and, on January 2nd, when he held his Town Hall Meeting, before

serving Commissioner Grayeyes with his complaint January 7th, by telling his crowd of supporters that it was high time to bring Commissioner Grayeyes's criminal behavior to a halt.

What is the crime which Petitioner accuses Commissioner Grayeyes of committing, the criminal conduct which, he claims, actuated the filing of the complaint in this proceeding? The only crime which possibly could fit this situation is found at Utah Code, §20A-2-401 -- which proscribes willfully registering to vote while knowing that you're not eligible to register to vote under Utah Code, §20A-2-101, the statute which makes residency a condition to register. There was no basis for these allegations.

Commissioner Grayeyes registered to vote in San Juan County in 1984 and has voted there regularly ever since. The county clerk is empowered to reject non-resident registrants, but he never has done that to Commissioner Grayeyes. The county clerk, as well as any other voter, can challenge a registrant's eligibility on residency grounds at any time, but for over 30 years, nobody in San Juan County made such a challenge against Commissioner Grayeyes. In 2012, the county clerk affirmed Commissioner Grayeyes's residency by allowing him, that year, to run for County commissioner. To believe, considering this history, that Commissioner Grayeyes "willfully" registered to vote while "knowing" that he lacked residency and therefore is guilty of criminal conduct and should be removed from office cannot be reasonably justified.

The circumstances indicate that Laws might have expected that Commissioner Grayeyes would be taken by surprise and that, under the accelerated time-table of the election contest statute,⁹ with his adversary off-balance, that an effective defense was unlikely. This would bring

⁹ Laws further accelerated the thirty-day time-table which starts running from the date the complaint is filed by waiting nearly 10 days before serving that complaint. The Court set trial for January 22nd. This gave Commissioner Grayeyes 15 days to prepare for trial with no indication what admissible evidence Laws possibly could present at that trial.

about untoward results. The will of the electorate would be nullified. Commissioner Grayeyes would be forced into an expensive and time-consuming battle. Commissioner Grayeyes's ability to function as an elected official would be undermined. With respect, this was bad faith litigation, and Mr. Laws should be ordered to pay for the consequences of his actions.

V. THE REQUESTED FEES AND COSTS ARE REASONABLE

Because this was an extremely time-intensive, expedited litigation, Respondent's team of lawyers, over at least a four-week period, December 2018 through February 2019, and continuing to the present, have spent 509.15 hours on this case at a market rate of \$450 an hour and 5 hours at half that hourly rate or \$250 an hour, 114.8 hours at a market rate of \$200 an hour and 10 hours at half that hourly rate or \$100 an hour, for a total of \$254,202.50, including after-accruing fees and costs. Counsel's declarations and attached exhibits substantiate these fees and are submitted as exhibits to this Application. In addition, costs in the amount of \$17,069.49 are substantiated by the exhibits attached to this Application. The total of requested fees and costs is \$271,271.99.

Commissioner Grayeyes was represented by attorneys who have extensive background in voting and election law, Indian affairs, and complex civil and criminal cases, including civil rights litigation. Two lawyers, Steven C. Boos and Eric P. Swenson, lived and practiced in San Juan County for many years. This experience was instrumental in evaluating the facts that were peculiarly local to Navajo Mountain, the focus of Petitioner's challenge to the residency of Commissioner Grayeyes. Both lawyers had substantial litigation experience involving matters important to the Navajo Mountain community. Counsel's knowledge of a lengthy and complicated history of voting and election practices in San Juan County was important.

Attorneys Smith and Irvine are attorneys well known for their years of consulting and litigation experience in voting and election matters.

This case was litigated on an expedited schedule. The Court ordered that all claims and defenses had to be tried on January 22, 2019, only 15 days after the complaint was served and without benefit of discovery. These matters involved a wide variety of statutory and equitable legal principles. Respondent's counsel were compelled to prepare for trial with very little opportunity to timely identify Petitioner's witnesses and learn about their testimony. The same limitations applied to demonstrative evidence, including exhibits. These problems required an extraordinary amount of work. The case involved extensive and complex motion practice on an expedited schedule. This also involved a heightened work load.

Counsel has submitted declarations specifying their hourly rate. The rates are reasonable in Utah's legal market.¹⁰ They are commensurate with hourly rates charged by attorneys with similar qualifications and experience.

Counsel's hours of legal work were reasonably expended in an expedited litigation setting. Work on all claims and defenses is, in counsels' experience, fully compensable. Reasonable efforts were undertaken to make task and time entries accurate and complete. Billing judgment was exercised to omit time and expense that would normally be absorbed in a law office's overhead, or to minimize whenever possible duplicative work. However, the complexity of the legal and factual issues raised in the motion practice and in anticipation of trial, and the expedited nature of their presentation, required substantial work and input from multiple lawyers. The same dynamic applied to trial preparation for witnesses and exhibits whose testimony and

¹⁰ The *Declaration of Erik Strindberg in Support of Plaintiffs' Motion for Attorneys' Fees and Costs* attesting to the reasonableness of the attorneys' billing rates and recently filed in the United States District Court is attached as Exhibit Three.

attributes were largely unknown. In addition, substantial work had to be undertaken to organize and prepare the witnesses and assure their attendance.

Commissioner Grayeyes prevailed on every aspect of his defense. The Court found that he is a resident of San Juan County, Utah. The Court confirmed his election. Significantly, the Court entered a ruling that Mr. Laws' delay in asserting his claims and taking other required action constitutes laches, an equitable doctrine that barred his claims.

CONCLUSION

For the reasons stated, Respondent's Motion should be granted. The Court should enter a judgment awarding Commissioner Grayeyes his costs of defending this action and a reasonable attorney's fee.

Dated this 8th day of February 2019.

/s/ Alan L. Smith
Alan L. Smith

/s/ David R. Irvine
David R. Irvine

MAYNES, BRADFORD, SHIPPS
& SHEFTEL, LLP

/s/ Steven C. Boos
Steven C. Boos

/s/ Eric P Swenson
Eric P. Swenson

Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of February 2019 I electronically filed the foregoing RESPONDENT'S APPLICATION FOR COSTS AND FEES with the Seventh Judicial District Court in and for San Juan County, State of Utah. Notice will be electronically mailed to the following individuals representing Petitioner Kelly Laws:

PETER STIRBA
MATTHEW STROUT
STIRBA, P.C.
215 S. State Street, Suite 750
P.O. Box 810
Salt Lake City, Utah 84110-0810
Telephone: (801) 364-8300
Fax: (801) 364-8355
Email: peter@stirba.com
mstrout@stirba.com

/s/ Suzanne P. Singley

Suzanne P. Singley

EXHIBIT ONE

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Attorneys for respondent Willie Grayeyes

TO THE HON. SPENCER J. COX
LIEUTENANT GOVERNOR, STATE OF UTAH

In the Matter of KELLY G. LAWS,)	
)	
Petitioner,	)	RESPONDENT GRAYEYES'S
	)	ANSWER and MOTION TO DISMISS
v.	)	PETITIONER'S 20A-1-803 COMPLAINT
)	
WILLIE GRAYEYES,)	
	)	Filed on November 30, 2018
Respondent.)	
)	

Respondent Willie Grayeyes (sometimes called "respondent") respectfully submits this Answer and Motion to Dismiss the petitioner's complaint filed on November 30, 2018. The complaint is attached as Exhibit 1.

ANSWER

1. Petitioner filed his petition/complaint pursuant to Utah Code, §20A-1-803.¹ The petition alleges: (1) that respondent does not live in San Juan County; and (2) that by filing as a candidate for the office of San Juan County Commissioner as a non-resident, respondent committed a fraudulent act in violation of Utah election law. If petitioner's allegations were correct, respondent could be charged with a Class B misdemeanor as provided by Utah Code, §20A-1-609(1)(a).

2. Respondent denies both allegations.

MOTION TO DISMISS

3. Respondent submits that petitioner's petition is precluded and barred as a matter of res judicata, lack of standing, failure to state a claim, and laches. On December 28, 2018, petitioner filed another complaint against respondent in the Seventh District Court for San Juan County, Case No. 180700016, which made the same general allegations as in the petition herein. This complaint was filed pursuant to Utah Code, §20A-4-403(1)(a). A copy of petitioner's district court complaint is attached as Exhibit 2.

4. Respondent filed his answer to the district court complaint on January 14, 2019, which set forth affirmative defenses, including without limitation, lack of standing, failure to state a claim under Utah Rules of Civil Procedure 12(b)(6), and laches. The answer responded

¹ Utah Code § 20A-1-803(1) requires that petitions filed thereunder be "verified petitions." Petitioner's petition is deficient on its face, as a matter of law, because it was not verified. As an unverified petition, the Lieutenant Governor lacks jurisdiction to process it. Verification means that the petitioner must affirm, under oath, that the facts as alleged in the petition are based upon his personal knowledge as well as true. In this matter, the petitioner lacked personal knowledge of the facts alleged, and the facts alleged have been found to be untrue or irrelevant by a court of law (*see*, Exhibit 9 hereto) insofar as respondent's Utah residency is concerned. The petition should be dismissed for lack of verification, as more fully argued in respondent's Exhibits 3 and 4 hereto.

to each of petitioner's allegations respecting lack of residency. Respondent's answer is attached as Exhibit 3. The answer as filed included 16 exhibits in excess of a hundred pages. In the interest of brevity respondent has not attached them to Exhibit 3, but they are all referenced in Exhibit 3 hereto, and respondent will provide all or any of them upon request.

5. Respondent also filed four pre-trial motions which attacked the bases for petitioner's complaint on various grounds, including (1) a motion to dismiss for want of verification, (2) a motion to dismiss for want of standing, (3) a motion to dismiss for failure to state a claim upon which relief may be granted, and (4) a motion for summary judgment on the ground of laches.² After petitioner responded to these motions, respondent filed replies as necessary or appropriate to these responses. Copies of Respondent's motion papers are attached as Exhibits 4, 5, 6, and 7. The motion for summary judgment on laches (Exhibit 7 hereto) was filed with three additional exhibits totaling 1,095 pages. In the interest of brevity respondent has not attached them to Exhibit 7, but they are all referenced in Exhibit 7 hereto, and respondent will provide all or any of them upon request.

6. A trial on the merits of petitioner's district court complaint was held on January 22, 2019. At the trial, the investigative report of Sheriff's Deputy Turk, referenced in Exhibit 1, was excluded from evidence as inadmissible hearsay obtained through an unauthorized investigation.

² The gravamen of respondent's laches defense is that petitioner could have and should have filed his petition or complaint many months prior to November 30, 2018, but he took no action on a timely basis. Petitioner could not have been unaware of respondent's candidacy after respondent filed as a candidate on March 9, 2018. He was himself a Republican candidate for the same position, and as stated in an article published in the San Juan Record on October 23, 2018, he has a long history of civic involvement in political and governmental affairs in San Juan County, including 20 years on the San Juan Transportation Special Service District and 18 years as a member of the Blanding City Council. His son, Kendall Laws is the San Juan County Attorney. He is not an unknowing, unaware political novice. A copy of the article he authored is attached as Exhibit 10.

7. Closing argument briefs were submitted on January 25, 2019, and a copy of respondent's brief is attached as Exhibit 8.

8. The decision of Judge Don M. Torgerson was issued on January 29, 2019, in which he found, based on the evidence produced by both sides at trial, as well as the arguments advanced in respondent's pre-trial motions, that respondent is and always has been a resident of Utah and San Juan County, and that petitioner's claims were untimely and barred by the doctrine of laches. Judge Torgerson confirmed the election and declined to set it aside as petitioner had requested in his complaint. A copy of the court's ruling is attached as Exhibit 9.

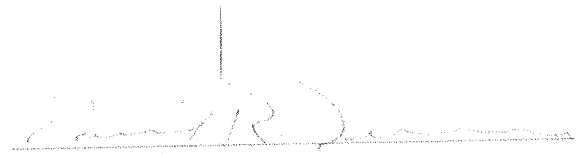
9. Respondent has been subjected to singular efforts to defeat his candidacy and election. He was wrongfully disqualified as a candidate by a county clerk who colluded with another candidate (who lost the Republican nomination to the Petitioner). He was required to defend his right to seek election as a San Juan County Commissioner in a federal civil rights case. He again had to defend his right to retain the office to which he had been elected in a second court case filed by petitioner. And petitioner Laws has yet a second time sought respondent's removal in the petition filed herein. Memory cannot recall another candidate in Utah who has had a more tortured path to elective office, perhaps save Brigham H. Roberts who was unseated by the House of Representatives in 1900 following his election to Congress.

10. The complaint herein should be dismissed for all the reasons advanced in Respondent's Exhibits 3 through 10. The complaint herein should be dismissed for the further reason that Judge Torgerson's decision, Exhibit 9, means that the question of respondent's residency has been decided and, therefore is a matter of res judicata insofar as the Office of Lieutenant Governor is concerned. *See, e.g., Mack v. Utah State Department of Commerce,*

2009 UT 47, ¶¶26-34. Since the matters complained of by petitioner have already been decided in respondent's favor following a trial before a district judge, respondent, by and through his counsel requests that the petition herein be dismissed forthwith.

11. In addition to the foregoing, respondent also demands that petitioner be required to pay respondent's attorneys' fees and costs, both for defending his right to office before Judge Torgerson and in seeking dismissal of this petition filed with the Lieutenant Governor. These fees and costs may be awarded by Judge Torgerson pursuant to Utah Code, §20A-1-805(2) and on other grounds, in equity or at law, as well. By seeking dismissal of the petition herein, petitioner does not waive his right to seek such fees and costs in any appropriate forum and on any available basis.

DATED this 4th day of February, 2019.




David R. Irvine
Stephen C. Boos
Alan L. Smith
Eric P. Swenson
Attorneys for Respondent Willie Grayeyes

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of February, 2019 I caused a true and correct copy of the foregoing ANSWER AND MOTION TO DISMISS PETITIONER'S 20A-1-803 COMPLAINT to be mailed electronically to the following:

Mr. Kelly Laws	Email: kellyglaws@gmail.com
Peter Stirba, Esq.	Email: peter@stirba.com
Matthew K. Strout, Esq.	Email: mstrout@stirba.com
Pamela A. Beatse	Email: pbeatselaw@gmail.com



David R. Irvine

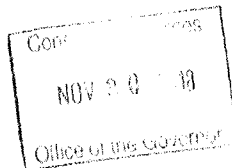
EXHIBIT 1

Received

NOV 30 2018

Spencer J. Cox
Lieutenant Governor

November 27, 2018



Spencer J. Cox
Lieutenant Governor's Office
350 North State St #220
Salt Lake City, UT 84103

Re: Request for Special Investigation and Filing of a Verified Petition, per Utah Code 20A-1-803

Lt. Governor Cox,

Utah Code section 20A-1-803 provides for a post-election challenge of an election by a registered voter, saying that the registered voter must file a petition with your office alleging a violation has been committed. Is there a special form that must be submitted? If not, let this letter serve as my petition of challenge that voter fraud has been committed by Willie Greyeyes in his bid for San Juan County Commissioner for District 2. Mr. Greyeyes does not live in the State of Utah, let alone San Juan County, as required by State Code and has therefore committed a "significant violation" of Utah Election Law.

I have attached verification of this allegation in the form of a report from a San Juan County Sheriff's Deputy who investigated this fraudulent act within days of Mr. Greyeyes' filing for candidacy. I understand that there is also body camera footage of this investigation, which was denied in my GRAMA request. However, I am sure you can get it from San Juan County as part of your investigation. I am confident that when you do your own investigation you will find numerous residents, many of whom live in Navajo Mountain where Mr. Greyeyes claimed to live, that will add first-hand knowledge of his fraudulent act and lack of residency.

Your subordinate, Justin Lee, has admitted to have said to a reporter that, "San Juan County should change their attitude on things since they continue to lose lawsuits." To be frank, San Juan County would change their attitude if the Lt Governor's office would support the citizens of San Juan County by protecting Utah's sovereignty, the sanctity of our, and your, elections, and if you will take your role under Utah State Law seriously and investigate this matter, rather than blame San Juan County for trying to uphold the State Law on their own.

I respectfully request an investigation, in accordance with Utah State Law, into Mr. Greyeyes' residency. If a specific form other than this letter is required, I respectfully request one be sent to me via email to ensure the process moves along quickly. My email address is kellyglaws@gmail.com. Your actions or lack thereof will be under great scrutiny. Under Utah Code section 20A-1-803, this is a time-sensitive investigation and your clock is ticking.

Respectfully Submitted,



Kelly G. Laws

*Resident and Registered Voter of Utah and San Juan County
Utah State and San Juan County Taxpayer
Candidate for San Juan County Commissioner District 2*

Cc: Governor Gary Herbert

EXHIBIT TWO

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ATTORNEYS FOR RESPONDENT

**IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH**

KELLY LAWS,
Petitioner,

vs.

WILLIE GRAYEYES,
Respondent.

**DECLARATION OF
LATAJ GAMBLE**

Case No. 180700016
Judge: Don M. Torgerson

LATAJ GAMBLE, under penalty of criminal perjury, testifies and declares:

1. I am a legal secretary with the law firm of Maynes, Bradford, Shipp and Sheftel, LLP.

2. I transcribed a recording of a town hall meeting conducted by Kelly Laws in Monticello, Utah, on January 2, 2019. The source of the recording is an audio file with the address: https://drive.google.com/file/d/1_oUHR0xJwSguSQHKRHYHYULRT71HZqFE/view

Kelly Laws: “gather some information and hopefully support the cause. Umm...I guess I’ll start at the very first. The very first was uh...we got divided by a federal judge, right? With uh, jurisdiction...with districting. The County reaches out to the Lieutenant Governor’s office and says, ‘we need help’. Lieutenant Governor’s office basically says, ‘You’re on your own’. So, John David done what he could do, work through it. Then we get to the point that uh, you get your candidates running for the positions and it’s brought to the attention that Willie Grayeyes does not live in San Juan County. The official petition was uh, a complaint was filed. The County, John David, asked the Lieutenant Governor’s office one more time. They said, ‘this is your problem. Take care of it’. So, the State basically washed their hands clean of it. John David takes care of it. Grayeyes and his friends have friends in high places in the federal court system and uh, anyhow, Willie gets put back on the ballot. So, that gets us to the point where we’re at. Uh, the Judge says that he was asked the question, ‘What are you gonna do about his residency?’ The Judge says, ‘Well, you’ll have to figure that out somewhere down the road’. So that’s what we’re doing now. We’re figuring it out down the road.”

“K, there’s two ways of going about this. This should be, if the Lieutenant Governor had done his job as he should under what he’s been paid big bucks for this would be Willie Grayeyes against the state of Utah. But the way it comes down, it is now Kelly Laws, San Juan County residents, against Willie Grayeyes and the state of Utah. Just that simple. And the reason for that is, there’s no law that governs this really, there’s, there’s, there’s two ways of challenging this. One of them is through the Lieutenant Governor’s office and one of them is through 7th District Court. Both ways has to be challenged by a registered voter within the district the alleged violation has occurred. The county can’t do it, the state’s already passed up their chance. The county tried to do it. State, Federal judge says, ‘you can’t do that, you guys cant do this’. Uh, the state wiped their hands clean of it and walked away from it. Okay, but...like I said, there’s two ways. One of them is through the Lieutenant Governor’s office and one’s through district court. Um, I’m not gonna bore you with all the legal parts of it, but uh... the Lieutenant Governor, he keeps wanting to point to 7th district court. He doesn’t wanna get his hands dirty. He’s lookin’ at being your Governor in 2020. 12,000 residents in San Juan County.....Let’s don’t make the wrong people made at us because San Juan County don’t matter. Uh, I’m gonna read you the letter. I felt like it was a good letter. ‘This is my petition to the Lieutenant Governor’s office. Lieutenant Governor, Utah Code section 20A-1-803 provides for post-election challenge with election by registered voters saying that the registered voter must file a petition with your office alleging violation has been committed. I ask you, is there a special form that must be submitted? If not, let this letter service as my petition of challenge that voter fraud has been committed by Willie Grayeyes in his bid for San Juan County Commissioner for District 2. Mr. Grayeyes does not live in the state of Utah, let alone San Juan County, as required by state code, and has therefore committed a significant violation of Utah election law. I have attached verification of this allegation in the form of report from San Juan County Sheriff’s Deputy investigated this fraudulent act within days of Mr. Grayeyes filing for candidacy. I understand that there is also bodycam footage of this investigation which was denied in my.....request. However, I am sure that you can get it from San Juan County as part of your investigation. I am confident that when you do your own investigation, you will find numerous residents, many of whom live in Navajo Mountain where Mr. Grayeyes claims...claim to live, that will add first hand knowledge of his

fraudulent act and lack of residency. Your subordinate, Justin Lee, has admitted to have said to reporter...to a reporter that San Juan County should change their attitude on things since they continue to lose lawsuits. To be frank, San Juan County would change their attitude if the Lieutenant Governor's office would support the citizens of San Juan County by protecting Utah's sovereignty, the sanctity of our and your elections, and if you'll take your role under Utah state laws seriously and investigate this matter rather than blame San Juan County for trying to uphold state law on their own. I respectfully request an investigation according to the Utah state law into Mr. Grayeyes residency. If a specific form, other than this is required, I respectfully request one be sent to me via email to ensure the process moves along quickly. I'll give you my email address. Your actions, or lack thereof, will be under great scrutiny under Utah code section 20A-1-803. This is a time sensitive investigation and your clock is ticking. Respectfully submitted, Kelly G. Laws, residents and registered voters of Utah and San Juan County, Utah State and San Juan County taxpayers, and candidate for San Juan County Commissioner District 2.'

They received that. They signed the certified mail letter on December, on November 30th. It was followed up with an email on December 5th, saying that they had received it and that they passed it on to their attorney [and that's probably where its sitting?]. They didn't want to get involved to start with. I don't think they'll get involved now. But it was a way, it was a petition that needed to be filed and it has been filed. The other one is through 7th district court. Uh, and that's where we're at tonight. There's uh, there's some thing that I want you to be aware of. There was, we had two attorneys that was gonna do this pro bono. They said that they would file the petition pro bono. Uh, I don't remember when it was but two weeks, three weeks...time is gone. Anyhow, they both conflicted out. They had conflicts of interest that they felt like would be more damning than helpful, so they conflicted out. I've been on the phone talking to an attorney, other than them, uh his name is Peter Stirba. Mr. Stirba, if you wanna know a little bit about him...I encourage you to go...google him. Uh, he passed the bar in 1976. He's been practicing law for 43 years.

Question: How do you spell his last name?

Laws: -Striba, S-T-I-R-B-A

He has his own law firm that he's had for 27 years. Peter is one of very few attorneys in the state of Utah that has argued a case on front of the United States Supreme Court and won, unanimously. Uh, he's no slouch. He's not cheap. He's a \$450 dollar an hour attorney. Uh, he has been generous enough because he feels like the cause is just and what we're up against, he's doing it for half that. So, that's what its cost us. Uh...I, uh...I had to give him \$5,000 dollars, as a retainer to get a start on it. That come outta my pocket and since then uh, we've spent, another \$25,000 dollars. I've had some pretty good response from the residents of San, of uh, of Blanding...some of them from Monticello. But uh, we've been able to meet that challenge so far. Because the estimate to get this to court is gonna be in the 50K...maybe more than that. The thing, the thing that is scary about this is there is no case law. This has never been tried. This has never been challenged in the history of the state of Utah. Uh, had honest people up until now, I take it, but I don't know. But anyhow, the point is, is, we are to the point...you know when I had

this meeting in Blanding, I had done to try to see if I had enough support to file the petition. Petition had to be filed by the 28th of December. 28th of December was the witching hour, if we hadn't filed it by then...Mr. Grayeyes walked in uncontested, and unchallenged, and nothing we could do about it. I had this meeting Friday before Christmas in Blanding and we had a pretty good response and I felt like the residents of San Juan County probably wants to be involved with this, they just didn't know it was happening. And so, I've been able to meet the financial obligations to this point, but they're escalating fast. Uh, so it was filed officially on Friday the 28th. So, it is in the hands of the 7th district court now.

Question: At 5 minutes to midnight?

Laws: -Yeah, five minutes to midnight.

Uh, we're to the point now that uh, I hope to get support from the rest of the county. That's really what this is about. I will hold my self to questions and answer them, but maybe...ask me what you want to know and I'll fill you in on anything from there. Uh, but...go ahead.

Question: Can you maybe just let people know where there is accounts that are set up and venmo, and uh...

Laws: -Okay, I opened an account its uh, its called Kelly Laws citizens for justice. Because I think that's what we're after here. This isn't about race. This isn't about what the media wants to make it in to. Because they seem to want to sell papers instead of tell the truth. A lot of them don't want to mess up a good story by putting in real facts. And so, this is about justice. And that's what we're after. Uh, anyhow, we have a Venmo account that you can put it in online. You can send it to me. You can actually go to the Zion's bank. It's a Zion's bank account. And probably ask them to put it into that account, and they'll probably put it in.

Question: If you fight this and it takes a while...if they go ahead and swear him in, or can they swear him in? And then they find that he's at fault, does the democratic side still have ...

Laws: Okay, there's, there's uh, been a couple of interesting things take place is the county had its meeting with the Lieutenant Governor's office, from my understanding, and the feeling there was there was more in favor that the Democratic party wouldn't get it than there was, then they would. Lieutenant Governor's office also wanted to say, well your investigation with Mr. Turk was against the law. You don't have the right to go down there. He had to get educated about Utah law, Navajo law, sovereign nation law. The fact that San Juan County does have the right, they do have the authority to go on the reservation and do all the investigating they want. They just can't make an arrest or remove anything from the reservation. Mr. Cox didn't even know that. He had to be schooled and go find out for himself, so that's how much help we're getting from the state side of it. The bottom is this: we'll go on, probably for quite a little while because, let's face it, if at the end of the day Willie is removed and let's say they appoint me as county commissioner, what do you think they're going to do? They're gonna appeal it, they're gonna appeal it. Because there is no state law that says what happens at that point. This case will most likely end up in the Utah supreme court before its done because you can bet your...legislators are not gonna step up and do what they need to do to create/fix the problem but if the supreme court

tells them that they have to they probably will. And so, its gonna be...its not gonna be over once he's removed. It's gonna go on until Utah supreme court says how this is going to happen from here on out. Uh, what's gonna happen if he gets removed? The judge is gonna decide that. Thank goodness its 7th district court judge instead of some federal judge. I asked Mr. Stirba when this started, is this there a chance the federal court system can come in and take this away from us? And he says, 'very remotely because', he quoted chapter and verse you know that basically as long as the state of Utah shows that they can take care of it, the federal system cannot intervene. So, its in 7th district court and that's probably where it will stay throughout its life. Uh, because, because of the law.

Question: Say you're sworn in and you're working along and then they contest this or whatever, you still have to personally represent yourself, financially, once you're a commissioner?

Laws: -I believe that's probably the way it is. Like I say, this is Kelly Laws against Willie Grayeyes and the state of Utah. When I say Kelly Laws, I'm including all of ya, that's one thing that I wanted to bring out. The other one had 26 names on the, on the suit, the petition. And there've been those that wanna be on the petition. If you're on the petition, you have a right to contact the attorney, you have the right to talk to him, you have the right to give him information, you have all this time and at \$200 bucks an hour, that gets damn expensive real fast. So, economics says, because it don't matter if there's 26 people on it or 1, the petition is the same but the cost can go sky high with that many people getting in contact with the attorneys.

Question: I sent a letter to the Lieutenant Governor explaining my concerns. They got back with me and they said what you just told me, and then I wrote an email back and said, if a petition isn't filed do you intend on doing anything? And I got a response back from them saying, well uh, if uh that happens, then we're gonna have our attorneys look at it and it'll go through the attorney general's office. So basically, I am very doubtful, like you said that, they're really interested in protecting the county and the electoral system here in the state of Utah. It's a political thing.

Laws: -It's very political. Gail Johnson told me when she was the county clerk, when we first got forced into districting, Val Oversen was the Lieutenant governor and she said that there was somebody from Val Oversen's office in the county, in her office for 6 months helping them work through that system. Difference between that and now. They was willing to help. We have Lieutenant governor that's got his eyes on something else besides justice. Bottom line.

Question: Let's say Grayeyes wins, the courts and all, is there any way that the local citizens here, if we get enough names on a petition, is there any power the citizens have whatsoever?

Laws: -Yeah, in 4 years when you vote again. I mean it's a, it's a doom and gloom story. I mean I'm gonna tell ya, its like this, There's no guarantees in what we're even trying to do. There's a good race gonna take place tomorrow, next week, we find out there's this race horse. We have to pay 50 grand for this race horse. We all decide we're gonna go together to buy this race horse. Because we know it can win. It gets to the starting block, it takes off and it gets almost to the finish line and then it falls over dead. That could be exactly what happens here. I wish I could give ya a better picture than that but the one thing I can promise ya, and I can promise ya without

any doubt in my mind, is if we do not fight the day will come we'll will say, "we wished we had of". Just that simple. There's no guarantee of how its gonna turn out, but I really feel confident in our attorney. I'm gonna give ya a little bit of information here. Like I say, he's practice law for a long time. He's the point of retiring and he called me last Friday, the Friday before we had the meeting in Blanding, and he painted a pretty bleak picture. And I says, what're you telling me? Do you wanna back out? He says, 'no, that's not what I'm telling you at all'. He says, 'I just want you to be aware that this is an uphill climb. The burden of proof is on us.' It's really interesting. We have to prove he doesn't live in the state of Utah, instead of him having to prove that he does. Interesting. The whole system is backwards. It's all, it's all come back and its really set up to where an individual hasn't got enough money to do it. How do you, you know, it goes uncontested. Maybe that's why its never been contested before. Maybe it's never happened before, I don't know. But I really feel like that we're at a crossroads in San Juan County and if we don't fight this until we get told by a court that this is the way it is, we will wish we had of. The day will come we'll say, 'we shoulda done it'. Did I see another hand somewhere?

Question: Any idea on the timeframe, if you know, when the petition is filed when they can get it going?

Laws: -Okay. When Willie is served, he has 5 days to respond to the court. And in that response, he can challenge me on any election violation that he thinks I might have committed. And it only can be on an election violation. So, if he challenges me then I have 10 days to provide the court with whatever he's accused me of. But once he has been, once he has been served the judge has anywhere from 10 days to thirty days to bring this to a head. So, realistically, by the end of January we'll know what's going to happen.

Question: Has he been served? **Laws:** The first level of it, the first phase of it.

Question: Has he been served yet?

Laws: -Uh, no. But its comin' real quick. I'm not gonna say what or when. That's something that. But it will happen real soon. One thing, you gotta know where he's at. I mean he's got four places he lives. With proof that he owns a house in Page, Arizona, he receives property tax on that house. It's mailed to that Post Office box in Page, Arizona, and he uh, is...declares that's his primary residency. There's house 1. He has a girlfriend that he's admitted to living with in Page, in Tuba City, and most people would talk to on Navajo Mountain says he lives in Tuba City. He has a house that he declares is his on Paiute Mesa that he swore twice, solemnly swore that this is my permanent residency. One of was when he filed for candidacy, just like I solemnly swore that I lived at 295 West 400 North, Blanding, Utah, and I have lived there for one year prior to my filing. He swore the same thing. We have a man that says, 'no, that's my house. I live there'. Uh, we have body cam information, we have a lot of stuff. I mean, but the burden of proof is still on us. I mean, Mr. Stirba wouldn't have went out to this point to finish his career out on something that he felt like was not a winnable suit. I feel pretty good about it.

Question: So, say Willie Grayeyes decides to reside in that residence now...

Laws: Don't matter

Question: So do we file. Okay. So it ha...

Laws: -He had a live there, he had a live there a year before and you know, proof of residency basically comes back to he shows its been lived in, he leaves his underwear there, he leaves his toothpaste there, toothbrush there. He maybe gone traveling around but it shows that he's comin' back to live there. Not somebody else livin' there.

Question: Isn't it boarded up?

Question: Kelly, doesn't he have a Arizona driver's license?

Laws: -Has an Arizona driver's license. The only vehicle that he drives is registered to his girlfriend. He doesn't own, he's never had a Utah driver's license.

Question: I'm not sure if I'm asking this right, but...has the attorney or anyone else think that they could find someone on the reservation with... Someone else: They've all been threatened... back to question: to bring this against him or are they all afraid to do that?

Laws: -Uh, the only thing I'm gonna give ya tonight. If any one of ya, if you want to, you can go on the court system and you can, this is the official petition that was signed against him. Uh, it spells out basically what I've told ya. There's things that's going on that I'm not gonna tell ya until after the point. The thing that Mr. Stirba made very clear and I want to make very clear, I know we have the meeting here, but the point of it is, is this case will be tried in the court of law. Not through Facebook, social media, newspapers, reporters asking questions. Bottom line is after I'm done here telling ya what, if anybody wants anything they can look Mr. Stirba up and he will answer their question. Because this case will be filed, will be fought in the court of law. And so, thus, my feeling is the Facebook, the social media that goes out, just leave it alone. There are gonna be plenty out there that wants to stir up and make it ugly. Leave 'em alone, let 'em look stupid because it will be in our favor when its done. My feeling.

Question: Kelly, do you know if the investigations pleaded by the county can then be used? The information gathered, is that evidence that's even available anymore? Or do we know?

Laws: -Yes. Uh, yeah. It's, it's...yeah, it can be used and it will be used. Colby Turk done a great job with his investigation. Uh, he's got at least 8 people. Most of 'em we have identified since then. Some of 'em are spelled out in here, in this official petition. Uhm, every one of 'em, I mean says that he lives in Page, Tuba City. I mean you're talking to people, 350-400 people maximum over there. What's Monticello got? How many people you got in Monticello? 2,000? If I ask you where somebody lived, could most of you say, 'well, he lives over here or somewhere over there'. Well 350 people, you talk to anyone down there, 'oh, he lives in Tuba City'. They all know where he lives. But, there is also intimidation, there's scare tactics, there's things people, I mean they're not really runnin' out to say, 'hey come talk to me', cuz then all of a sudden few times the roads get grated or the snow gets pushed for some reason they'll forget them. You know so it's, they're pretty quiet. Pretty tough to get stuff out of 'em. We have some good, we have some good help. Any other...I know we gotta have more questions than that.

Comment: -Eyes and ears.

Laws: -Yup. We still have 30 days. So anything you hear, anything you see, drop me an email. Drop me a text. Make a phone call. Uh, we've actually come up with several pretty good things. Since the Blanding meeting, that other people heard and seen, and we've acted upon it and we've found out that its beneficial to us. So, um... Joe, did you have your hand up?

Question: Kelly, do you have any sense of who you think's pulling the strings behind Mr. Grayeyes? I, I have a feeling that he is not...

Laws: -Anything I would say would be total speculation, just like you are. I do not believe that he's doing it himself. Uh, personally, I think he's been used, being used. I think he's gonna be left hanging out to dry and they'll walk away from him just like. But, that's my personal opinion. I have no fact on that, it's just my own thoughts.

Comment: Same social interest groups. The same special interest groups that are trying to come in and meddle in everything else in San Juan County.

Laws: -The thing that...you know, I'm gonna say a couple of things about that. I don't want any of you to think that I don't think that you haven't thought of this, but its just some points that I need to bring out. Okay, what happens when you have two commissioners that have never paid taxes? They, they don't understand how taxes works. It's free money. We can just, it's free money. Alright, what happens to your property tax when the county's out of money? It's gonna go up. That's the only thing that can happen. Ok? You know when I start talking about contributions, the bottom line is let's say you have a 200 thousand dollar house. Let's say it goes up 50 dollars a year. In four years from now, it's gone up 200 bucks. It'll never come back down. Now, the next four years, it goes up from there. What's gonna happen? Now, all of a sudden you decide, 'I can't afford to live here'. Kind of what's happening in Grand County and everybody's coming in to Spanish Valley. We can't afford the taxes, so they're coming in while our taxes go up. Where you gonna go? The difference between San Juan and Grand County is they still have a functioning county. All of a sudden, your house is worth 200 thousand dollars, you might have to sell for 65-70 thousand dollars, because who's gonna buy it? Everybody's gonna wanna abandon ship at the same time. I mean there's some things taking place here. Let's take a look at every issue that the county has fought for the last however many years. 4 years, 8 years, 10 years. Every environmental issue. We know that this has been fueled by the Bears Ears people, let's make it all wilderness, lets make it all a national monument. Whatever it is. Well what's gonna happen to them suits? You got two commissioners that don't wanna fight them. What's gonna happen? They're not gonna fight 'em no more. You take Elizabeth Valley line, you take Energy Fuels, you take these big mining, you know, claims or anything else. If that's the case, the BLM can get all their environmental friends they want to. Nobody's gonna challenge them. What's gonna happen to them? Are they gonna get an expansion? Are they gonna get to move on? Are they gonna stay in business? I mean, we're talkin' the tip of the iceberg if you really stop and think of what happens if we have, if this goes unchecked. I mean the bottom line is we gotta do all we can, within the law, to see that we can try to stop this from happening. Like I say, a 50 thousand dollar race horse might die on the finish line. I don't know. I can't promise you any different than that. But, I asked Mr. Stirba, too. I said, 'well, you tell me we don't have a snowball's chance in hell'. He says, 'oh no, no, no', He says, 'I'm not telling you that'. He says,

'you always have a snowball's chance in hell'. He says, 'the thing you needa realize, I do not like to lose'. I say at his age period and different things like that, I think he sees great hope here. That he's been very clear that its gonna be a long uphill battle. And I just want, each one you to remember that too. Uh, but anyhow...

Question: How did you find this attorney?

Laws: -What's that?

Question: How did you find this attorney?

Laws: -Uh, the bottom line, Mr. Stirba asserted how, represented Phil Lyman to start with in the Recapture and he also represented Ricky, Rick E. Eldridge in that case that was against him. So, he's very well aware of what's going on in San Juan County.

Question: Do we have anything that we could be working on within four years or whatever to change these boundaries around again to where we have any kind of representation?

Laws: -I know basically what everybody else knows that the county has had attorneys working on that, they've appealed it, it's gone to the 10th circuit court of appeals. We're waitin' on a, we're waitin' for a report back on that to see where that's at. I think...3 months that they had or something like that. So we may not hear anything on that until March.

Question: With the two county commissioners who are Democrats, will that change the status of that lawsuit since they will be in power. Can they just say, 'we're dropping it'?

Laws: -Well, I don't know if they can. But if they can, you know they will. You know that, I don't have an answer for you.

Question: What's your opinion on that? Will they drop it?

Laws: -If they can, I'm sure they would.

Question: So, it's my understanding though, correct me if I'm wrong. But if you've got umm, two commissioners that vote in favor of one and you vote in favor of going the other direction, is it true that the community can then come together and sign a petition and ask to be put to vote on the next ballot?

Laws: -I think we're asking questions here we'd all like to have an answer to but we don't have an answer at this point in time. Uh...

Question: But can he be sworn in while you're contesting it and where he can have that voting power?

Laws: -We could, we coulda filed an injunction. And I, and we discussed this and debated back and forth. First, we was going to and then we weren't. Then we were going to, then we decided not to. Because, if the judge, to throw this out to the judge and say, 'we want a injunction'. Let's say he denies it. Then is he gonna take the rest of the, the rest of the, the proof we have and take it on its merits and look at it completely? Or is he gonna let that bias his first opinion? So we

decided to leave it alone. Mr. Grayeyes will be sworn in Monday morning. It's just that simple. It might not be a good day, but he'll get sworn in.

Question: Can the county operate with just two commissioners, if he's a no-show?

Laws: -Well, the sad reality of it is that's up to a judge. The judge may say, 'well we're not gonna appoint nobody'. So that puts Mr. Adams and Mr. uh, Mr. Maryboy that they're gonna have to agree with each other and the county will just sit here and kinda float along. Or, he may appoint somebody and he may appoint him to fill the four years. He may appoint him to fill it till they have a special election in the Fall. They may fill it to a point, till they have two. I mean, we don't know. There is no case law from here forward. We are, we are (underground? On the ground?)

Comment: Well I just wanna make a comment. I just wanna make sure that we're clear though that this isn't about a Democrat being a commissioner, or about a Navajo being a commissioner, this about someone who, who is not valid to be on the ballot. I think we need to make sure that we keep that in mind.

Laws: -That's why I've called us citizens for justice. This is all this is about. To make sure Utah law is, is followed. That you do have to live in a permanent residence. You do have to be a resident of the county that you're running for commissioner, and you do have to live in that district. And that's what this is about. The rest of this is kinda, you know, talk about what's going on but the bottom line is does he live in San Juan County, Utah? Has he lived there for 12 months before he filed? No. And that's what we plan on proving. And that's all we can prove. And after that point, this then becomes new ground and its not gonna end when that happens. That's just gonna start the battle. And I like say, its you know I, I've been able to meet the first 30 thousand dollars of this suit, this petition, I don't wanna call it a suit, this petition. But we can expect it to go further than that. And if, I mean at some point in time, I'm not gonna mortgage my house and my farm and everything else for San Juan County. I'll just tell ya that right now. I'm not gonna do it. When it gets to the point that we have no more money, we're stopping. It's just that simple because I mean we got a lot of citizens in the county. Janet Wilcox made the comment, 'well, we have five hundred residents. Put a hundred dollars in and there's fifty thousand dollars'. We have several businesses, every business is gonna get hurt by it. We have two big mining operations, they're gonna get hurt drastically by it. I mean I don't think that, I really think that we're looking at a hundred thousand dollars before this is done. And it's gotta come from the citizens because its our battle. It's not, I'm the, I'm the damn fool here. I'm the one that's gonna get turned into whatever the media wants to paint. The rest of you are gonna get bumped into it, but they're not gonna call you by name like they're gonna call me and you know, and I've put a, I mean like I say, I've put five thousand dollars of my own, own money out of my own retirement to start this process. And I'm begging the citizens of San Juan County to pick it up and pick up the difference. And that's really, you know, I wanna give ya the information so you know what you're up against. But reality, it's every one of us' fight.

Comment: Kelly, one of the things that people need to kinda understand and know. Two years ago, uh when we filed uh before the court, uh on redistricting and said we thought that the judge

had made a mistake and it was unfair. I had just been elected for a four year term with his um, decision he took over the election process in San Juan County, from the State, from John David, from everybody else. And he said we're going to divide the county up by census blocks and he used the census blocks that were created in 2010. Some of those census blocks have one person in them or zero. And so, it just, it's impossible to describe what those census blocks really look like. They're, they're just, some of them are big and some of them are little, and some populated, and some not populated. Uhm, but he said because we redistricted, all three commissioners are going to run in 2018. So, even though I've been elected for a four-year term, I had to run again last year for a two-year term. He said, Commissioner Adams will be a two-year term, the other two will be a four-year term, but I'm, I'm even questioning that because we have a new census in 2020. Those census blocks are gonna change. So, based on the, on what's happened in the past, I would suspect that, that Judge Shelby (?) will want to redraw the districts according to the new census blocks and decide who's gonna run for what term and where those elections are gonna take place. It, you just can't imagine what an absolute fiasco is going on in San Juan County and again, like you say umm, the only people that give a damn about it seem to be the people in San Juan County. Nobody else.

Laws: -Most of 'em don't even know what's going on. They haven't got a clue. You can go as far away as Moab and you can talk to people that does not know this is happening to us.

Comment: You can talk to people in Blanding and Monticello, and they don't know what's going on.

Laws: -The other what, 15 to 20 percent Blanding of the voters and we wouldn't even be in this situation. But, the problem would still exist. You know, this is no bad. The problem has been brought to head, that you have to live where you say you live and live within the district you're running in, and if, let's say I'd won. This woulda went unchecked and come up again somewhere down the road. As it is, we have the opportunity to take this and take it to the Utah supreme court if that 's where it has to go, and put it to rest so it does not happen again. Yup, it's time. Bottom line, it's time to put up or shut up and that's kinda where, like I say, I've been as clear as I can. I'm not gonna mortgage my house, I'm not gonna take all my retirement out, I'm not gonna sell my farm when it get to where the funds aren't coming in to meet Mr. Stirba's expenses. I'm going to say. 'thank you, Mr. Striba, but San Juan County gave up and we're done'. And that's, that's the bottom line and I don't know how else. I mean I told the people, I'm sorry I'm being quite blunt even almost to the point of uh, being abrasive but my sense of humor's gone. We are to the point that this is do or die. We either fight or go home. It's not like a ball game. We can't call it a tie, we can't say we're going to take a time out, take a weather delay. The bottom line is we either fight it to the end or go home and some day wish we had of.

>Someone asks a question, it's unclear<

Laws: -Its been word of mouth is all it is. Uh, I'm sure they'll be a paper article...that people will...that this had happened. But uh...

Comment: I mean to get more funds in. Do you want people to understand that.

Laws: -Kim's been working on it. Jan Wilcox in Blanding has. Nicole Perkins has. Uh, I mean the bottom line...

-Comment: It's kinda what we need to know. What, what, what're we going to do? What are we willing to do? I mean, I think we can organize uh, either people going door to door, organized fund raisers, we can organize um but, there's got to be people that are willing to stand up and help do it. Um, because I think everybody's tired of hearing from me.

-Comment: This is unfair. Uh, like you say, something has to be done. I know all of us is broke and don't have a lot, but even if it's a dollar or two its better than nothing, Like you said, I know I haven't been here very long. I'm originally from North Carolina, but you know, my short time here I have noticed that every turn this county goes, we always end up getting crapped on. Regardless whether it be elections, whether it be environmental things, you now, its time that we say enough is enough and you know, leave us alone.

Laws: -And we have that opportunity right here to at least wise, clear up one part of it. Hopefully.

Comment: I think he made a good point about a dollar or two dollars, or twenty dollars, or whatever. When a text message is twenty-five bucks every time you send it, or an email is fifty. It, it adds up, and so five, ten, fifteen dollars that goes towards helping those text messages and those emails.

Laws: -That goes back to why I'm the only one on the suit, is because if they was gettin' an email or a text from twenty-six different people we could run up a lot of, a lot of unnecessary dollars. Not that their not important, not that their comments are not important, that's why if they come to me then I can combine them and we can control the cost somewhat.

Comment: I'm certainly not a rich person. If I was, I would...

Laws: -Like I told Mr. Stirba, if I had a million bucks, I'd have the case...(inaudible)

Comment: But I can afford maybe twenty-five dollars a month, for as long as it goes on. You know, or, and maybe other people can afford five or ten, you know, or and it's not like we have to come up with a lot of money at one time. We just need to support, be there to support you and support the other citizens that want, that want to help.

Laws: -Thank you.

Comment: What about settin' up a gofundme.

Laws: -We've got a Venmo. Gofundme takes percentages out of it. Venmo takes nothing.

Comment: Also, didn't the gofundme, you can't take it as a deduction?

>background discussion on gofundme<

Laws: -So there, we do have a Venmo account. We'll have to give that to ya, uh like I say if you go to Zions bank. I know Zions says if somebody brought a check in and said Kelly Laws

Citizens for Justice, they'd put it in my account. Uh, you can mail it to me. You can drop it by our house. Uh, maybe get it to Kim, she can give it to me.

Comment: I bet there's other people in Utah that would support.

Laws:-Well, and...

Comment: Other than San Juan County.

Laws: -I had a good discussion with Phil Lyman and he was going to reach out to uh, Mike, Mike Noel. You know we're trying to get it out that way because I think the more people that really understand what's going on, I think there's some deep pockets out there that will contribute to it, that'll help it out. I just, there's just a couple of things that I wanna tell ya from my heart. Instead of the political side of it. What I can paint on the reservation, there is a lot of good people down there. They are some dang good people down there. There are people down there that are doing the best they can with what they have. They want to live where they live because that's where they'll live forever. And I don't blame 'em. Most of us live in San Juan County cuz its where we was raised and you know I, my whole life, until the last twenty years gettin' to go work for a Salt Lake City company that pays me the same wages somebody in Salt Lake City gets, I'm one of few people that has that privilege but up till then, I figure it cost me ten to twenty thousand dollars a year to live in San Juan County. But I took that loss because I love San Juan County and that's the way these people are. And there are people down there that are as unhappy and disappointed with what's happened as we are. And they're just as scared and worried about what's happening as we are. They are in a situation of intimidation and bullying and they can change what they say and what they do because there really is no law down there. They are in a third world country and they're struggling. But I don't want anybody to leave here and think that this has anything to do with me against the Navajo people because they are some really, really good people. I know several of 'em that if they had run for county commissioner and won, I could support 'em wholeheartedly just like we have with Rebecca Benally. There are more Rebecca Benally's down there than just her. So keep that in mind. This is not a racial problem. This is a legality. There are good people down there. And the other is, it's been very humbling to see the money that has come in. When you have people bring you a check for a thousand dollars, bring you an envelope that has forty-five one-hundred dollar bills in it. We are fighting a just cause, people. There's people that are stepping up to it and that's what I've asked to come out of this meeting. I want you to spread the word. I don't want nobody to financially bankrupt their selves. But we're all in this together and I just appreciate those that have supported me this far in it. Like I say, it's very humbling to have people bring me that kind of money and trust you that you gonna put it where you say you gonna put it. But that's our only...

Comment: The same for people who give ten dollars, if that's all they...

Laws:-If that's all they got, that's ten dollars. But anyhow, if there's any other questions, I'll answer them, but otherwise, I'm done taking your time tonight. Uh, but I do need your contributions and the help to get the word out and around. Thank you.

EXHIBIT THREE

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ATTORNEYS FOR PLAINTIFFS

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

**WILLIE GRAYEYES, and TERRY
WHITEHAT,**

Plaintiffs,

v.

JOHN DAVID NELSON

Defendant.

**DECLARATION OF ERIK
STRINDBERG IN SUPPORT OF
PLAINTIFF'S MOTION FOR
ATTORNEYS' FEES AND COSTS**

Civil No. 4:18-CV-00041- DN

Judge David Nuffer

I, Erik Strindberg, state the following under penalty of perjury:

1. I am an attorney in good standing and am licensed to practice law in both Utah and Idaho and give this declaration from personal knowledge.
2. I am an attorney and a partner in the law firm of Strindberg and Scholnick, LLC. I am admitted to practice in both state and federal courts in Utah and Idaho, as well

as the U.S. Court of Appeals for the Tenth Circuit. I was admitted to the bar in the State of Utah in 1983 and have practiced continuously since then, slightly more than 34 years. I first was an associate and later a partner with the law firm of Prince, Yeates & Geldzahler. I then was a partner with the firm of Cohne, Rappaport & Segal and practiced there from approximately 1990 until the end of 2001. I then started the law firm of Strindberg & Scholnick in January of 2002, where I continue to maintain a full-time practice.

3. My practice focuses primarily on representing plaintiffs in employment law and civil rights matters. This includes claims for violation of Title VII of the Civil Rights Act, claims under the Americans with Disability Act, and the Age Discrimination in Employment Act. I also handle, and have handled, a good number of matters involving constitutional claims, including equal protection and due process claims. I also represent a number of public employee unions, including AFSCME, the Salt Lake Valley Law Enforcement Association, and the Professional firefighters of Utah.
4. Although I focus on employment issues, my practice (and that of my firm) regularly encompasses civil rights litigation arising under 42 U.S.C. §1983. For example, we regularly bring claims for procedural and substantive due process claims under the Fifth and Fourteenth Amendments of the U.S. Constitution. Additionally, we often bring discrimination claims under 42 U.S.C. §1983 alleging equal protection violations, which I understand is the very claim made by the plaintiffs in this litigation. We also regularly bring claims under 42 U.S.C. §1981, which similarly involve violation of constitutional rights. Additionally, I

was one of the lead attorneys in *Evans, et al v. State of Utah, et al*, Case no. 2:14-cv-55DAK, in which we successfully defended the marriage rights of same-sex couples, based on their right to due process, in the face of the State's efforts to retroactively strip them of their marriage rights. In short, my employment litigation practice regularly involves civil rights claims arising under the U.S. Constitution.

5. In the course of my practice I have become familiar with the prevailing market rates for attorneys and paralegals in this market. For example, my hourly rate for litigation matters is \$425 per hour. We also bill \$375 per hour for litigation work done by my partner Lauren Scholnick, who was admitted in 1995, and \$325 per hour for three other members of this firm who were admitted between 1998 and 2000.
6. One of my partners, Jonathan Thorne, who has practiced law for about 8 ½ years has a litigation rate of \$275 per hour, and an associate, Cameron Platt, who was just admitted to the bar, has a litigation rate of \$175 per hour. We also bill our paralegal Camille Marx, at \$125.00 per hour. I believe that these rates are consistent with what other firms in the area are charging for attorneys with similar years of practice.
7. I am aware that Mr. Boos, Mr. Swenson and Mr. Alan Smith represented the Plaintiffs in this matter. I am familiar with Mr. Swenson and am knowledgeable about his legal skills. Mr. Swenson and I litigated an employment discrimination matter on behalf of a Navajo client, against a college in San Juan County. We were extremely successful in that case and were able to effect a change in the

college's previously discriminatory hiring practices. I became familiar with and impressed by Mr. Swenson's legal skills during that litigation. In addition, it was very obvious that he had particular insight and knowledge about difficulties faced by Navajos in San Juan county and the discrimination that they experienced on a daily basis.

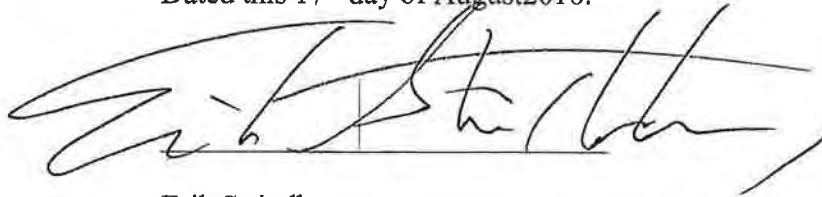
8. I have not met Mr. Boos, but have had the opportunity in this, and other litigation, to review his work product, and have been impressed with his legal skills, legal analysis, and legal writing. I do not know Mr. Smith personally, but am aware of his reputation in the legal community and have reviewed some of the written work he prepared in this litigation.
9. I have not litigated a case similar to this one, but from my experience with litigating constitutional claims I can attest to the difficulty of such litigation and the experience and skill that is necessary to be successful. In light of this, the load star rates being asked for by the Plaintiff's attorneys, \$450 per hour, seem to me reasonable and in-line with market rates for this general type of litigation.
10. I have reviewed the Complaint filed in this matter, as well as the Docket Sheet to determine what pleadings were filed and what other actions took place in this case. I have also reviewed a spread sheet showing the hours spent by each attorney on the case. It appears that notwithstanding the compressed time schedule (or perhaps because of it), and based on the need to file an extensive Complaint, conduct expedited discovery, respond to various motions, and to file and obtain a preliminary injunction, that it was necessary for the Plaintiffs' attorneys to spend a considerable bit of time successfully litigating the case.

Based on my own experience in conducting similar activities (i.e., filing a complaint, conducting expedited discovery, and filing and obtaining a preliminary injunction), the approximately 865 hours expended by Plaintiffs' attorneys does not seem unreasonable.

Further Declarant sayeth not.

Pursuant to 28 U.S.C. § 1746 I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and belief.

Dated this 17th day of August 2018.

A handwritten signature in black ink, appearing to read 'Erik Strindberg', written over a horizontal line.

Erik Strindberg

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Attorneys for Respondent Willie Grayeyes

IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH

KELLY LAWS,)	
)	
)	
Petitioner,	)	DECLARATION OF STEVEN C. BOOS
)	
v.)	
)	
WILLIE GRAYEYES,	)	Case No. SJ180700016
)	
Respondent.	)	Judge: Honorable Don M. Torgerson
)	

STEVEN C. BOOS declares:

Background

1. I am lead counsel for the Respondent in this matter, and I have personal knowledge of the facts stated in this Unsworn Declaration. I am over 18 years of age. I submit this Declaration pursuant to Utah Code Ann. § 78B-5-705.

2. I am a partner with the law firm of Maynes, Bradford, Shipps and Sheftel, LLP, in Durango, Colorado. I graduated from the University of California at San Francisco, Hastings College of the Law, in 1983. I am a member in good standing of the Arizona, California, Colorado, Navajo Nation, New Mexico, Southern Ute and Utah bars. I am also admitted to practice in the United States District Courts for Northern California, Arizona and Utah, the United State Court of Appeals for the 10th Circuit, the United States Court of Federal Claims and the United States Supreme Court.

3. My legal practice began at DNA – Peoples Legal Services in 1983, at its office in Mexican Hat, Utah. During my time with DNA, I served as a Managing Attorney, Senior Attorney and acting Director of Litigation. While at DNA, I practiced in a wide variety of areas, including complex criminal and civil litigation. Some of my cases involved representing indigent Navajo clients in cases where they had been deprived of rights guaranteed them by federal law through the actions of San Juan County, Utah. I also served as a judge of the Ute Mountain Ute Tribal Court from early 1989 through late 1990. After leaving DNA, I practiced as an attorney with the Navajo Nation Department of Justice, primarily conducting complex civil litigation on behalf of the Nation. In late 1995, I was appointed by the Navajo Nation Council to serve as the Chief Legislative Counsel of the Navajo Nation. I began work with the Maynes Firm in 2001, where I have conducted complex civil litigation on behalf of the Navajo Nation and the Southern Ute Indian Tribe (including one case for the Southern Ute Indian Tribe that went up on appeal to the United States Supreme Court), and have also advised in the areas of Indian gaming law, healthcare and general government operations.

4. My hourly rate for work conducted on behalf of the Southern Ute Indian Tribe is \$415.38. My hourly rate for work conducted in this matter was charged at \$450, which is

comparable to rates charged by firms in the Salt Lake City market for attorneys of my background and experience.

5. The current case is a complex election contest in an extremely accelerated proceeding and required extensive work to develop evidence and apply the facts to statutory and constitutional issues in this expedited litigation setting. Time was of the essence, as the complaint was filed on December 28, 2018, and the statute at issue required trial and disposition of the case by January 28, 2019. This matter has difficult claims and defenses that benefit from the work of attorneys with election, voting and civil rights expertise.

6. My background in San Juan County applying this discrete specialty includes work in *Benally v. San Juan County, et al.*, Civ. No. 4827 (7th Judicial District, San Juan County, 1987) (unlawful personal property taxation), *Rockwell v. San Juan County, et al.*, Civ. No. 4826 (7th Judicial District, San Juan County, 1987) (unlawful personal property use taxation of Indian-owned reservation-based property), *Meyers, et al. v. Board of Education of the San Juan School District, et al.*, 905 F.Supp. 1544 (D.Utah 1995) (education discrimination action on behalf of Indians in San Juan County, Utah) and *Navajo Nation v. San Juan County*, Case No. 2: 12-cv-00039-RS (D. Utah, 2018) (equal protection judgments and injunctions, redistricting of County Commission and School Board election districts, special election required; *see* 150 F. Supp. 3d 1253 (D. Utah 2015); 162 F. Supp. 3d 1162 (D. Utah 2016); 266 F. Supp. 3d 1341 (D. Utah 2017); and 2017 WL 6547635, at *1 (D. Utah Dec. 21, 2017)).

7. Eric Swenson also represents Respondent in this case. Mr. Swenson is a 1972 graduate of the Arizona State University College of Law. He is admitted to practice in the United States District Court for Utah, the Tenth Circuit Court of Appeals and the United States Supreme Court. He is a member in good standing of the Utah State Bar.

8. Since beginning his practice in 1972, Mr. Swenson has practiced in the areas of complex civil and criminal litigation, including class actions. He specializes in civil rights and Indian law. In the twenty-seven years Mr. Swenson practiced in San Juan County, Utah, he litigated many civil rights cases for Indians, including education, jury discrimination, employment discrimination, criminal and civil jurisdiction, trust fund, aboriginal and treaty rights claims, consumer rights, post-conviction relief and criminal justice reform. He received awards for civil rights work from the Utah State Bar Minority Bar Association and the Adam M. Duncan Award from the American Civil Liberties Union. Mr. Swenson also served on judicial advisory and nomination committees for the Utah Seventh Judicial District Court and Federal Magistrate for the United States District Court for Utah. He has served as an appellate justice for the Court of Appeals of the Pueblo of Pojoaque, New Mexico and is now in his twelfth year as an appellate justice for the federally funded Inter-Tribal Court of Appeals of Nevada. Mr. Swenson's hourly rate for this matter is \$450 per hour, which is comparable to rates charged by firms in the Salt Lake City market for attorneys of his background and experience.

9. Alan L. Smith also represents Respondent in this case. He graduated from the University of Utah Law School in 1976 and was admitted to the Utah State Bar in 1977 and has practiced law in Utah and in the Utah courts, state and federal, continuously during the past 41 years. Since 2007, Mr. Smith, often in conjunction with David R. Irvine, has devoted his practice to controversies requiring knowledge and application of Utah's election code. These have included nearly full-time retention as general counsel for an anti-voucher referendum and an ethics initiative which required analysis, application, and advice respecting Utah's election code. These involvements also have brought him into federal and state courts on many occasions in order to litigate issues under that election code, as well as the federal and state constitutions.

During his approximately 41 years of service as a lawyer in the state of Utah, Mr. Smith has had a wide range of experience in connection with civil litigation, much of which has involved treatment of constitutional and electoral issues. He has also served as an adjunct professor of business reorganization law at the J. Reuben Clark Law School at Brigham Young University. He also worked as general counsel to the Utah Public Service Commission, advising commission members on complex issues of administrative law and public utility regulation. Mr. Smith's hourly rate for this matter is \$450 per hour, which is comparable to rates charged by firms in the Salt Lake City market for attorneys of his background and experience.

10. David R. Irvine also represents Respondent in this case. He has been an attorney licensed to practice law in the State of Utah since 1972. He is also admitted to practice in the United States District Court for Utah, the Tenth Circuit Court of Appeals and the United States Supreme Court. Since 2000, Mr. Irvine has been involved as counsel in a variety of public interest actions, along with Alan Smith, challenging the constitutionality of various Utah legislative enactments, including a successful free speech challenge to the constitutionality of the nomination system for selecting Utah State School Board candidates, and various election law disputes. They have been counsel for various Utah ballot initiatives over a period of several years. As a consequence of these cumulative actions, Mr. Smith and Mr. Irvine have acquired a status as perceived experts in Utah election law and governmental ethics issues. Mr. Irvine's hourly rate for this matter is \$450 per hour, which is comparable to rates charged by local firms for attorneys of his background and experience.

11. Daniel McCarl also represents Respondent in this case. Mr. McCarl is a 2014 graduate of the University of Colorado law school and he is licensed in Colorado. Before joining the Maynes Firm in 2017, Mr. McCarl worked as an attorney for the Western Energy Project.

Since joining the Firm, among other things, Mr. McCarl worked with me on the election redistricting litigation concerning San Juan County: *Navajo Nation, et al. v. San Juan County*, Case No. 2:12-cv-00039- RJS-DPB. Mr. McCarl's hourly rate is \$200 per hour for this case, which is consistent with rates charged in Salt Lake City, Utah for an attorney of his experience.

12. Rhonda Tuni also represents Respondent in this case. Ms. Tuni is a graduate of Arizona Summit Law School and is licensed in New Mexico and the Navajo Nation. Before joining the Maynes firm in 2018, Ms. Tuni served as a District Court Judge of the Navajo Nation, assigned to the Ramah Judicial District in Ramah, New Mexico. Ms. Tuni has also served by designation as an Associate Justice of the Navajo Nation Supreme Court. Prior to Ms. Tuni's judicial service, she worked at the Navajo Nation Office of Legislative Counsel representing the Legislative Branch of the Navajo Nation. Ms. Tuni's hourly rate is \$200 per hour for this case, which is consistent with rates charged in Salt Lake City, Utah for an attorney of her experience.

13. Respondent also incurred costs for work performed by Suzanne Singley as a paralegal.

Basis for Award

14. The bases for the Court's award of costs and reasonable attorneys' fees are the provisions of UCA § 20A-4-405, the Substantial Benefit Doctrine, the Private Attorney General Doctrine and the Bad Faith Doctrine.

15. I have reviewed the billing records for the Respondent's counsel in this case, and, in particular, with regard to the attorneys' fees incurred by Respondent. I made a reasonable effort to make the task and time entries in my own billing records accurate and complete. I contemporaneously entered my time and task in my records; utilized a five-minute billing

segment rounded as close as possible to the tasks; and specified the tasks and time expended. I exercised reasonable billing judgment by omitting time and expense that I would normally absorb in my office overhead. This discount was applied though not specified in most billings. Mr. Swenson, Mr. Smith, Mr. Irvine, Mr. McCarl and Ms. Tuni handled their task and time entries in the same manner. In doing so, I arrived at a lodestar amount of fees calculated as the number of hours reasonably expended multiplied by a reasonable hourly rate. I have attached the billing records and declarations of the individual attorneys as exhibits.

16. Based on my time records, and the records of Respondent's attorneys and applying their respective hourly rates, which are reasonable prevailing market rates for the Utah, I have determined that the Respondent's counsel spent the following hours working on this matter:

Steven C. Boos – 131 hours at full hourly rate; 5 hours at half hourly rate;

Eric P. Swenson – 115.75 hours at full hourly rate;

Alan Smith – 172.5 hours at full hourly rate;

David Irvine – 89.9 hours at full hourly rate;

Dan McCarl – 73 hours at full hourly rate; 5 hours at half hourly rate;

Rhonda Tuni – 41.8 hours at full hourly rate; 5 hours at half hourly rate;

Total attorney fees are \$254,202.50.

Copies of my time summaries are attached to this declaration.

17. Respondent incurred costs of \$8569.49. Itemized statements of these costs have been submitted along with this declaration.

18. In addition, Respondent incurred costs for paralegal time as follows:

Suzanne Singley: 58 hours at \$125 per hour

Lataj Gamble: 10 hours at \$125 an hour

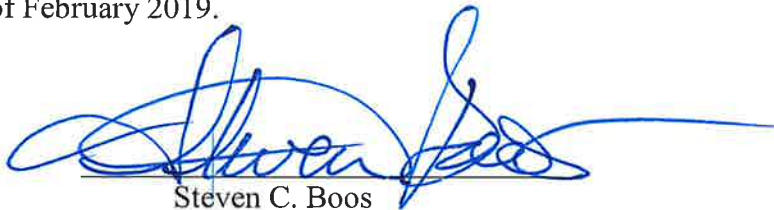
Total costs for paralegal and law clerk time is \$8500.

19. I have reviewed the costs incurred by Respondents in this case and all items are correct and have been necessarily incurred in the case and the services for which fees have been charged were actually and necessarily performed.

20. The Court should enter a fee award in Respondent's favor in the amount of \$254,202.50 and costs in the amount of \$17,069.49, for a total of \$271,271.99.

I declare under penalty of perjury under the laws of the United States of America and Utah that the foregoing is true and correct.

Executed on this 8th day of February 2019.



Steven C. Boos

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of February, 2019 I electronically filed the foregoing DECLARATION OF STEVEN C. BOOS with the Seventh Judicial District Court in and for San Juan County, State of Utah. Notice will be electronically mailed to the following individuals representing Petitioner Kelly Laws:

PETER STIRBA
MATTHEW STROUT
PAMELA BEATSE
STIRBA, P.C.

215 S. State Street, Suite 750
P.O. Box 810
Salt Lake City, Utah 84110-0810
(801) 364-8300 // Facsimile: (801) 364-8355
Email: peter@stirba.com
mstrout@stirba.com
pbeatse@stirba.com

/s/ Lataj Gamble
Lataj Gamble

MBSS

Maynes Bradford Shipps & Sheftel

835 East Second Avenue
Suite 123
Durango, CO 81301
Phone No.: (970) 247-1755
Fax: (970) 247-8827
Federal Tax ID: 84-0745133

Invoice as of 2/7/2019
Invoice no 2968

Willie Grayeyes

331-003 / Residency Dispute - 7th Judicial District Court

Professional Services	Hours	Amount
01/02/2019 SCB Email exchanges re: settlement.	0.90	405.00
01/03/2019 SCB Review materials re: Laws public meeting; Review copy of Complaint; begin research; Email exchanges re: Complaint.	2.80	1,260.00
01/04/2019 SCB Research; Email exchanges with E. Swenson, D. Irvine and A. Smith; Conference call with same; Contact J. Mejia re: Arizona post office boxes; Phone conference with W. Grayeyes re: new complaint.	4.00	1,800.00
01/06/2019 SCB Email exchanges re: Complaint and service of process.	1.50	675.00
01/07/2019 SCB Review documents as served; Review Clerk's docket history; Email exchanges re: same; Meet with client; Email exchanges re: discovery issues.	3.10	1,395.00
01/08/2019 DFM Legal research re: expedited/accelerated discovery in UT state courts, Utah R. Civ. P. 16.	3.50	700.00
01/08/2019 SCB Research; Email exchanges re: discovery issues; Draft Entry of Appearance; Phone conference with W. Grayeyes re: Page property; Draft declaration.	3.80	1,710.00
01/09/2019 SCB Conference call with D. Begay; Email exchanges and research re: 12 (b)(1) issue; Research re: expedited discovery; Email re: same; conference with DFM re: same; Finalize affidavit re: Page property; File Entry of Appearance; review Notice of Trial.	4.50	2,025.00
01/09/2019 DFM Legal research re: expedited/accelerated discovery in UT state courts, Utah R. Civ. P. 16; e-mail SCB findings and conclusions.	6.25	1,250.00
01/10/2019 DFM Review draft motion for expedited discovery.	0.25	50.00
01/10/2019 DFM Review Utah R. Civ. P. rules re: permissible locations for depositions.	0.75	150.00

MBSS

01/10/2019	SCB	Draft D. Begay affidavit; Email exchanges re: same; email exchanges re: 12(b)(1) motion; Begin trial preparation; Research articles re: Grayeyes v. Nielson; Conference call and email exchange re: L. Gorman affidavit; Email exchanges and research re: laches motion; Draft motion for expedited discovery and email exchanges re: same; Review cell phone subpoena; Conference call and email exchanges re: order of filing motions; Conference call with W. Grayeyes re: subpoena; Conference with SPS re: her declaration; Email exchange with J. Adakai re; Irvine request for subpoena. .	6.10	2,745.00
01/11/2019	DFM	Research re: limits on discovery, particularly with regard to "relevant" materials under Utah R. Civ. P. 26(b)(1) and grounds for objecting to/quashing subpoenas under Utah R. Civ. P. 45; e-mail conclusions and findings to SCB.	5.75	1,150.00
01/11/2019	DFM	Review, edit Respondent's motion to dismiss for lack of a verified complaint.	0.50	100.00
01/11/2019	SCB	Review and revise 12(b)(1) motion; Email re: same; research and email exchanges re: 12(b)(1) motion; Email exchanges re: burden of proof; Trial preparation; Locate H. Holiday materials; Response to subpoena and request to accept service; Email exchanges re: same; research and draft objections to subpoena; Trial preparation; Organize materials from Grayeyes v. Nielson; Review and revise Laches motion.	4.60	2,070.00
01/12/2019	SCB	Email exchanges re: motion in limine.	0.30	135.00
01/13/2019	SCB	Review and revise laches motion; Email exchanges re: same; Draft Motion to Shorten Time; Review objections to subpoena and email exchanges re: same; Email exchanges re: Motion in Limine; Review and revise 12(b)(1) motion; Email exchanges re: same.	6.00	2,700.00
01/14/2019	DFM	Research re: UT state court authority to accelerate motions response deadlines.	2.50	500.00
01/14/2019	SCB	Finalize 12(b)(1) motion; Finalize laches motion; Email exchanges re: both mothers; Review and revise Answer; Email exchanges re: same; finalize Answer; Finalize subpoena objections; Finalize motion in limine; Finalize motion to shorten time; Finalize Singley declaration; Email exchanges on all of the foregoing; Trial preparation and organize potential exhibits.	9.00	4,050.00
01/15/2019	DFM	Phone conference with SCB, E. Swenson, A. Smith, D. Irvine re: next steps in case/litigation.	1.00	200.00
01/15/2019	SCB	Conference call with attorneys re: next steps; Review Amended Complaint; Review 12(b)(1) response; email W. Grayeyes; Research and email exchanges re: Motion to Strike Amended Complaint; Review Motion to Compel Discovery.	5.60	2,520.00
01/16/2019	SCB	Email exchanges re: task list; Draft Motion for Telephonic Status Conference; Begin drafting Reply in Support of laches motion; Review and Revise Motion in Limine reply; Email exchanges re: same; Conference call with opposing counsel trial preparation and locate excerpts from J.D. Nielson deposition; Conference call with attorneys re: telephonic status conference.	5.80	2,610.00

MBSS

01/16/2019	DFM	Research re: A. Smith's questions re: admissibility of evidence, including Respondent's AZ property records and depositions from previous, separate court proceedings.	4.75	950.00
01/16/2019	DFM	Conference with SCB re: holding in Maxfield case.	0.25	50.00
01/17/2019	SCB	Telephonic status conference; Email exchanges with A. Wilkerson; Create witness list and contact witnesses; Create exhibit list; General trial preparation; Conference call with W. Grayeyes; Review, revise and file Response to Motion to Compel Discovery; Finalize Motion in Limine Reply; Email exchanges re: same; Finalize Laches Motion Reply; Finalize 12(b)(6) reply; Conference call with attorneys re: trial preparation.	7.30	3,285.00
01/17/2019	DFM	Legal research re: admissibility of evidence, exhibits from pleadings [5.75]; call with SCB, E. Swenson, D. Irving, A. Smith [1.0].	6.75	1,350.00
01/17/2019	RLT	Review Utah Rules of Evidence re: Evidence admissibility.	1.80	360.00
01/17/2019	RLT	Review all Respondents and Petitioners evidence and witness listing.	2.70	540.00
01/17/2019	RLT	Teleconference re W. Grayeyes.	0.50	100.00
01/17/2019	RLT	Update re: W. Grayeyes residency dispute with SCB.	0.50	100.00
01/18/2019	RLT	Review Utah Rules of Evidence, evidence listing and potential witnesses.	3.10	620.00
01/18/2019	RLT	Research NNC re: Drivers Licenses and residency status.	0.30	60.00
01/18/2019	RLT	Research W. Grayeyes previous case ruling re: investigation.	0.30	60.00
01/18/2019	SCB	Trial preparation; Contact witnesses; Draft Reply in Support of Subpoena objections; Review withdrawal of Motion to Compel Discovery and email exchanges re: same; Review and revise Motion to Dismiss re: Standing; Email exchanges re: same; Finalize witness and exhibit list; Review Petitioner's exhibit/witness list; Research same; email exchanges re: same.	4.50	2,025.00
01/18/2019	DFM	Legal research re: admissibility of evidence, including exhibits from pleadings, under Utah Rules of Evidence & Utah Rules of Civil Procedure.	6.75	1,350.00
01/18/2019	RLT	Teleconference re: trial preparations.	1.00	200.00
01/18/2019	RLT	Research Arizona Revised Statutes and MVR website.	0.50	100.00
01/18/2019	RLT	Review Navajo case law re: residency.	2.80	560.00
01/18/2019	RLT	Call with M. Maryboy re: witness for the trial.	0.60	120.00
01/18/2019	RLT	Research interpreter statutes to prepare for trial.	0.20	40.00
01/18/2019	RLT	Teleconference with Navajo Nation Attorney General D. McPaul.	0.70	140.00
01/19/2019	DFM	Legal research re: admissibility of evidence, including exhibits from pleadings, under Utah Rules of Evidence & Utah Rules of Civil Procedure [5.25]; call with SCB, E. Swenson, R. Tuni re: conclusions and findings re: admissibility of evidence [1.25].	6.50	1,300.00
01/19/2019	SCB	Trial preparation; Prepare Motion to Take Telephonic Testimony; Conference call with W. Grayeyes.	6.00	2,700.00

MBSS

01/20/2019	SCB	Trial preparation.	3.00	1,350.00
01/21/2019	DFM	Travel to Monticello for hearing.	2.50	250.00
01/21/2019	SCB	Travel to Monticello.	2.50	562.50
01/21/2019	SCB	Trial preparation; Meet with witnesses; Review Opposition to Telephonic Testimony.	4.20	1,890.00
01/21/2019	RLT	Travel to Monticello, Utah.	2.50	250.00
01/21/2019	RLT	Organize exhibits, pertinent documents and witnesses.	1.50	300.00
01/21/2019	RLT	Meeting re: trial prep.	2.00	400.00
01/21/2019	DFM	Additional legal research re: admissibility of evidence at upcoming hearing.	5.75	1,150.00
01/21/2019	RLT	Review entire filings and responses re: W. Grayeyes case.	2.80	560.00
01/22/2019	DFM	Travel from Monticello to Durango after hearing.	2.50	250.00
01/22/2019	RLT	Organize witnesses and attend trial.	8.60	1,720.00
01/22/2019	RLT	Organize witnesses and attend trial.	8.60	1,720.00
01/22/2019	SCB	Return travel.	2.50	562.50
01/22/2019	SCB	Trial preparation; Trial.	11.00	4,950.00
01/22/2019	RLT	Travel back to Durango, Colorado.	2.50	250.00
01/22/2019	DFM	Attend evidentiary hearing.	8.25	1,650.00
01/23/2019	SCB	Email exchanges re: trial; Email exchanges re: written closing argument; Draft memo re: written closing argument; conference call with attorneys re: written closing argument; Research re: same.	2.60	1,170.00
01/23/2019	DFM	Call with SCB, RLT, A. Smith, D. Irvine re: hearing and final brief.	1.00	200.00
01/23/2019	DFM	For final brief, research re: meaning of "primary residence" designation in AZ property records as well as residency requirements for AZ public schools; Email findings, conclusions to co-counsel.	4.25	850.00
01/24/2019	SCB	Email exchanges re: written closing argument; Email exchanges re: trial transcript.	0.40	180.00
01/25/2019	DFM	Review, edit draft of final brief.	1.00	200.00
01/25/2019	SCB	Review and revise written closing argument; Email exchanges re: same; Conference call with attorneys re: same; Finalize and file written closing argument.	3.60	1,620.00
01/26/2019	SCB	Email exchanges re: fees/costs petition.	1.60	720.00
01/28/2019	SCB	Email exchanges and research re: fees/costs; Begin organizing fees/costs materials.	3.00	1,350.00
01/29/2019	RLT	Research costs via Westlaw and Moore's Federal Practice.	1.20	240.00
01/30/2019	SCB	Review Order; Email exchanges re: same; Conference call with attorneys re: same; Conference call with W. Grayeyes re: fees application; Draft declarations for fee petition.	6.00	2,700.00

MBSS

01/30/2019	RLT	Insert bio in fee petition and start declaration.	1.00	200.00
01/31/2019	SCB	Draft fees declarations; Email exchanges re: same; Research and email exchanges re: fee petition.	3.80	1,710.00
02/01/2019	SCB	Research and email exchanges re: fees.	1.20	540.00
02/01/2019	DFM	Draft, edit declaration for attorney's fees motion.	1.00	200.00
02/03/2019	SCB	Review response to Lt. Governor complaint and email exchange re: same.	0.70	315.00
02/04/2019	SCB	Organize materials for fee petition; review and email exchanges re: Lt. Governor response; review Notice of Appeal; Research and email exchanges re: same.	2.60	1,170.00
02/04/2019	RLT	Draft and insert bio in fee declaration.	0.20	40.00
02/04/2019	DFM	Research re: trial court j/d over collateral matters pending appeal; e-mail S. Boos re: same.	0.50	100.00
02/05/2019	SCB	Organize materials for fee petition; email exchanges re: petition; draft Judgment.	3.10	1,395.00
02/06/2019	RLT	Draft fee declaration.	0.90	180.00
02/06/2019	SCB	Organize fee application materials; review draft petition; email exchanges re: same; draft Motion to Dismiss appeal; email exchanges re: same.	3.00	1,350.00
02/06/2019	DFM	Research re: final judgment rule and unresolved questions as to attorney fees and costs; edit Motion to Dismiss.	3.75	750.00
02/07/2019	DFM	E-mail S. Boos w/ findings, conclusions w/r/t final judgment rule along w/ edited copy of Motion to Dismiss.	0.50	100.00
02/07/2019	SCB	Review and revise fees application; review and revise fees declarations; revise Motion to Dismiss appeal; email exchanges re: same; draft Motion for Overlength brief.	5.40	2,430.00
02/07/2019	DFM	Additional research on final judgment rule to inform Motion to Dismiss.	1.50	300.00
Sub-total Fees:				\$84,035.00

Expenses	Units	Price	Amount
01/04/2019 7th District Court - Monticello: Copy of Complaint in Laws v. Grayeyes.	1.00	5.00	5.00
01/07/2019 SCB and RLT lunch on return from Monticello.	1.00	46.66	46.66
01/07/2019 Vehicle rental re: SCB trip to Monticello to meet with client.	1.00	167.18	167.18
01/22/2019 SCB, DFM and SPS dinner re: trial in Monticello.	1.00	67.82	67.82
01/22/2019 SCB, DFM, SPS and ES lunch re: trial in Monticello.	1.00	34.95	34.95
01/22/2019 Witness fees and travel.	1.00	2,458.77	2,458.77
01/22/2019 RLT hotel in Monticello, 1/21/19 - 1/22/19.	1.00	190.67	190.67
01/22/2019 SCB hotel in Monticello, 1/21/19 - 1/22/19.	1.00	190.67	190.67

MBSS

01/22/2019 Vehicle rental re: 1/21/19 - 1/22/19 trip to Monticello.	1.00	112.34	112.34
01/22/2019 SPS hotel in Monticello, 1/21/19 - 1/22/19.	1.00	190.67	190.67
01/22/2019 DFM hotel in Monticello, 1/21/19 - 1/22/19.	1.00	190.67	190.67
01/23/2019 Paralegal services (58 hrs @ \$125).	1.00	7,250.00	7,250.00
01/30/2019 Westlaw research for January.	1.00	4,914.09	4,914.09
02/07/2019 Paralegal services (transcription).	1.00	1,250.00	1,250.00
Sub-total Expenses:		\$17,069.49	

Total Current Billing: \$101,104.49

Total Now Due: \$101,104.49

Rate Summary

Steven C. Boos	131.00 hours at \$450.00/hr	\$58,950.00
Rhonda L. Tuni	41.80 hours at \$200.00/hr	\$8,360.00
Rhonda L. Tuni	5.00 hours at \$100.00/hr	\$500.00
Daniel F. McCarl	5.00 hours at \$100.00/hr	\$500.00
Steven C. Boos	5.00 hours at \$225.00/hr	\$1,125.00
Daniel F. McCarl	73.00 hours at \$200.00/hr	\$14,600.00
Total hours:	260.80	\$84,035.00

#34361

7TH DISTRICT COURT- MONTICELLO

01/04/19 10:11 Clerk: chayd
Receipt Number: 20190040001
Payor: BOOS, STEVEN

Received:
MC \$ 5.00

Case 180700016 Miscellaneous
Judge: TORGERSON, DON M
Defendant: GRAYEYES, WILLIE
LAWS, KELLY VS GRAYEYES, WILLIE
COPY FEE. \$ 5.00

copy of Complaint

Note: COPY FEE

Sign by Steve
STEVEN BOOS

***** SAVE THIS RECEIPT *****

SUB card - not sure who client is
(maybe Grayeyes on a new matter)

Donna Shenk

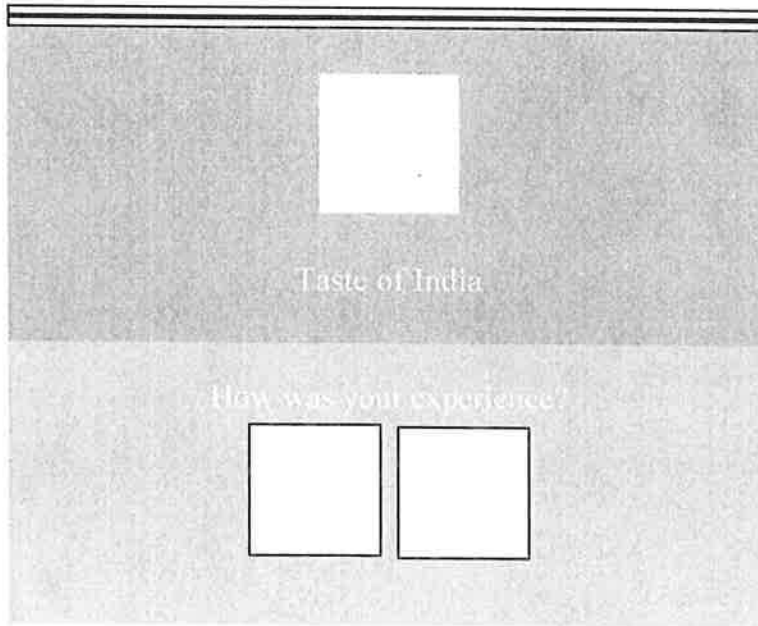
34362

From: Steve Boos
Sent: Monday, January 07, 2019 2:40 PM
To: Donna Shenk
Subject: FW: Receipt from Taste of India

Lunch with Rhonda on the way back from Monticello

From: Taste of India via Square [mailto:receipts@messaging.squareup.com]
Sent: Monday, January 07, 2019 1:20 PM
To: Steve Boos <sboos@mbsslip.com>
Subject: Receipt from Taste of India

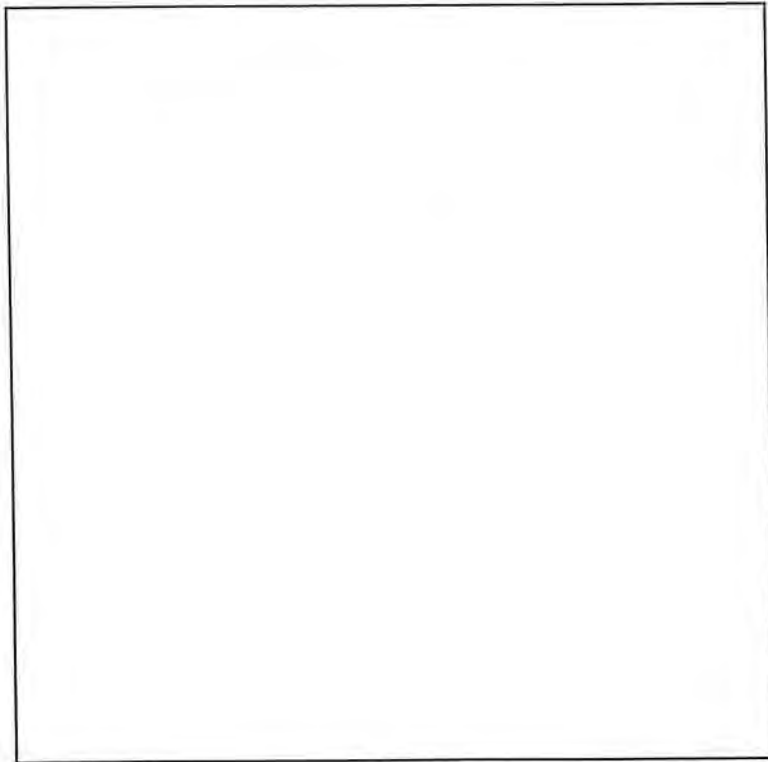
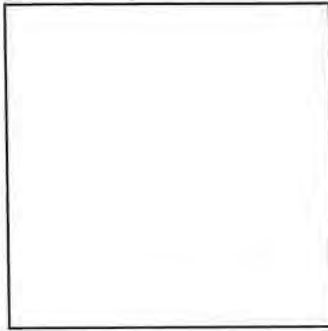
Square automatically sends receipts to the email address you used at any Square seller. [Learn more](#)



\$46.66

▪	
—Vegetable Samosa	\$4.99—
Lamb Vindaloo	\$13.99
Chefs Special	\$7.25

Lunch Special	\$9.99
▪	
Purchase Subtotal	\$36.22
Hospital Tax (0.4%)	\$0.14
Colo. Tax (2.9%)	\$1.05
Cortez Sales Tax (4.05%)	\$1.47
Tip	\$7.78
▪	
Total	\$46.66



Taste of India
1013 E MAIN ST
CORTEZ, CO 81321-3324
970-564-9897



Inn at the Canyons
 533 N. Main Street
 Monticello - 84535
 Utah, United States
 Phone: +1435-587-2458
 Fax: 435-587-2191
 Email: info@monticellocanyonlandsinn.com
 Website: monticellocanyonlandsinn.com

#34363

Invoice

Res ID: 011828355

Check-in: Jan 21, 2019

Check-out: Jan 23, 2019

Folio #INV17994

Guest Details

Guest Name: Steve Boos (P2075B)
Address:
Phone: 970-247-1755
Email: sboos@mbsllp.com

Reservation Details

Created On: Jan 18, 2019
Stay Details: Double Queen (115)
 Jan 21-Jan 23(2 Nights)
 Seasonal Rate
Room(s)/Person(s): 1 Room(s)/1 (1 Adults)
Amount: \$ 169.98
 (\$ 169.98 + tax) = \$ 201.69

Date	Description-References	Amount	Tax	Payment
1 Jan, 21 2019	Paid by Steve Boos with MasterCard (XXXXXXXXXXXX8404)			\$ 190.67
2 Jan 21, 2019	Seasonal Rate Room Rent Double Queen /115	\$ 84.99	\$ 10.34	
3 Jan 22, 2019	Seasonal Rate Room Rent Double Queen /115	\$ 84.99	\$ 10.34	
Total		\$ 169.98	\$ 20.69	\$ 190.67

Total \$ 169.98
Occupancy Tax \$ 20.69
VAT \$ 0.00
Total With Tax \$ 190.67
Total Paid \$ 190.67
Balance \$ 0.00

\$572.01 -

SCB
 DFM
 SPS

Crayeyes 331-003
 rooms for 1/22 trial



Inn at the Canyons
 533 N. Main Street
 Monticello - 84535
 Utah, United States
 Phone: +1435-587-2458
 Fax: 435-587-2191
 Email: info@monticellocanyonlandsinn.com
 Website: monticellocanyonlandsinn.com

#34364

Invoice

Res ID: 012128393

Check-In: Jan 21, 2019

Check-out: Jan 23, 2019

Folio #INV17988

Guest Details

Guest Name: Suzanne Singley (P20793)
Address:
Phone: 970-247-1755
Email: ssingley@mbsllp.com

Reservation Details

Created On: Jan 21, 2019
Stay Details: Double Queen (104)
 Jan 21-Jan 23(2 Nights)
Room(s)/Person(s): 1 Room(s)/1 (1 Adults)
Amount: \$ 169.98

Date	Description-References	Amount	Tax	Payment
1	Jan, 21 2019 Paid by Suzanne Singley with MasterCard (XXXXXXXXXXXX8404)			\$ 190.67
2	Jan 21, 2019 Seasonal Rate Room Rent Double Queen /104	\$ 84.99	\$ 10.34	
3	Jan 22, 2019 Seasonal Rate Room Rent Double Queen /104	\$ 84.99	\$ 10.34	
Total		\$ 169.98	\$ 20.69	\$ 190.67

Total \$ 169.98
Occupancy Tax \$ 20.69
VAT \$ 0.00
Total With Tax \$ 190.67
Total Paid \$ 190.67
Balance \$ 0.00



Inn at the Canyons
 533 N. Main Street
 Monticello - 84535
 Utah, United States
Phone: +1435-587-2458
Fax: 435-587-2191
Email: info@monticellocanyonlandsinn.com
Website: monticellocanyonlandsinn.com

#34366

Invoice

Res ID: 012128396

Check-In: Jan 21, 2019

Check-out: Jan 23, 2019

Folio #INV17989

Guest Details

Guest Name: Dan Mccarl (P20796)
Address:
Phone: 970-247-1755
Email: dmccarl@mbssllp.com

Reservation Details

Created On: Jan 21, 2019
Stay Details: Double Queen (108)
 Jan 21-Jan 23(2 Nights)
 Seasonal Rate
Room(s)/Person(s): 1 Room(s)/1 (1 Adults)
Amount: \$ 169.98
 \$ 190.67 (incl. tax) \$ 20.69

Date	Description-References	Amount	Tax	Payment
1 Jan, 21 2019	Paid by Dan Mccarl with MasterCard (XXXXXXXXXXXX8404)			\$ 190.67
2 Jan 21, 2019	Seasonal Rate Room Rent Double Queen /108	\$ 84.99	\$ 10.34	
3 Jan 22, 2019	Seasonal Rate Room Rent Double Queen /108	\$ 84.99	\$ 10.34	
Total		\$ 169.98	\$ 20.69	\$ 190.67

Total \$ 169.98
Occupancy Tax \$ 20.69
VAT \$ 0.00
Total With Tax \$ 190.67
Total Paid \$ 190.67
Balance \$ 0.00

#34367



Bank of America Business Advantage

RHONDA TUNI

TOTAL PAYMENTS AND OTHER CREDITS TO YOUR CARD 01/23 2010

Cardholder Statement

Purchases and Other Charges

01/07 01/05
01/15 01/13
01/23 01/21

INN AT THE CANYONS MONTICELLO UT

not book, pens, pencils

55483829006091005565242
05436849014100054320747
85450939022704379785609

190.67

Grayeyes case? yes

Suzanne Singley

#34368

From: Customerservice@enterprise.com
Sent: Friday, January 25, 2019 12:01 PM
To: Suzanne Singley
Subject: ENTERPRISE RENTAL AGREEMENT 4MT7P3

EAN HOLDINGS, LLC, 26977 HIGHWAY 160, DURANGO, CO 813017964 (970) 259-2101

RENTAL AGREEMENT REF# 399792 4MT7P3

SUMMARY OF CHARGES

Charge Description	Date	Quantity	Per	Rate	Total
RENTER SINGLEY, SUZANNE	TIME & DISTANCE	01/21 - 01/25	4	DAY	\$42.99 \$171.96
	REFUELING CHARGE	01/21 - 01/25			\$0.00
ADDITIONAL DRIVER BOOS, STEVEN	SATELLITE RADIO	01/21 - 01/25	4	DAY	\$5.99 \$23.96
	Subtotal:				\$195.92
	Taxes & Surcharges				
	COLORADO OWNERSHIP TAX	01/21 - 01/25		2%	\$3.94
	COLORADO ROAD SAFETY PROGRAM FEE	01/21 - 01/25	4	DAY	\$2.00 \$8.00
	SALES TAX	01/21 - 01/25		7.9%	\$15.58
	VEHICLE LICENSE RECOVERY FEE	01/21 - 01/25	4	DAY	\$0.31 \$1.24
	Total Charges:				\$224.68
	Bill-To / Deposits				
	DEPOSITS				(\$224.68)

DATE & TIME OUT
01/21/2019 02:22 PM
DATE & TIME IN
01/25/2019 08:00 AM
BILLING CYCLE
24-HOUR
VEH
#1 2018 DODG GCAR GT
VIN# 2C4RDGEG1JR284188
LIC# 315SRQ
MILES DRIVEN 714

Total Amount Due

\$0.00

PAYMENT INFORMATION
AMOUNT PAID
\$224.68

TYPE
Mastercard

CREDIT CARD NUMBER
xxxxxxxxxxxx0372

\$112.34 - Grayeyes 331-003 - hearing in Monticello

\$112.34 -

#34369

1/20 Lunch 331-003
Crawfords trial
SCB, DFM, SPS, E. Swenson

Subway#18721-0 Phone 435-587-2757
433 N Main St
Monticello, Utah, 84535
Served by: 33 1/22/2019 12:30:44 pm
Term ID-Trans# 1/A-154315

Qty	Size	Item	Price
1		TkyBcnGuac Salad	7.50
1		-Fresh Value Meal (21-1)	2.55
		- -21oz Fountain Drink	
		- -Chips	
1	12"	Veggie Patty Sub	7.25
1	12"	Turkey Sub	7.29
1	6"	Turkey Sub	4.79
2		21oz Fountain Drink	3.18

Sub Total 32.56
 Sales Tax (7.35%) 2.39
 Total (Eat In) 34.95
 Credit Card 34.95
 Change 0.00

Approval No: 08867J
 Reference No: 902219868877
 Card Issuer: Mastercard
 Account No: *****0372
 Acquired: Contact_EMV
 Amount: \$34.95
 Application: MASTERCARD
 AID: A0000000041010
 TVR: 8000008000
 TSI: 6800
 Date/Time: 1/22/2019 12:30:36 PM

Signature:

SPS card

I agree to pay above total amount according to the Card Issuer Agreement.

CUSTOMER COPY

Host Order ID: 746-182-1531513

Hungry for more? Let us know how we did today by taking our 1 minute survey at www.subwaylistens.com, and receive a Subprise offer to use with your next purchase.

#34370

1/22 Dinner
Crawfords trial
BURRO PANCHO
SCB 125 E MAIN ST
DFM CORTEZ, CO 81321 SPS

01/22/2019 20:33:08

331-003 CREDIT CARD

MC SALE

Card # XXXXXXXXXXXX0372
 Chip Card: MASTERCARD
 AID: A0000000041010
 ATC: 0024
 TC: B17B54F88AE8EE1D
 SEQ #: 14
 Batch #: 1304
 INVOICE 19
 SERVER 0004
 Approval Code: 01165J
 Entry Method: Chip Read
 Mode: Issuer

PRE-TIP AMT \$55.82

TIP 12-

TOTAL AMOUNT 67.82

SPS card
CUSTOMER COPY

Account: MAYNES BRADFORD SHIPPS & SHEFTEL, DURANGO CO (1000606517)
Date Range: January 01, 2019 - January 31, 2019
Report Format: Summary-Account by Client by User by Day (Targeted)
Products: Westlaw, Westlaw Retired
Content Families: All Content Families

#34371
331-003

Account by Client by User by Day	Database Time	Transactions	Docs/Lines	Connect Time	Standard Charge	Special Pricing Charge	Tax Amount	Total Charge
Account: 1000606517								
Client 331-003								
User Name MCCARL,DAN (16482753)								
Day 01/09/2019								
Totals for Included		65			3,107.00 USD	1,113.32 USD	0.00 USD	1,113.32 USD
Totals for Day 01/09/2019		65			3,107.00 USD	1,113.32 USD	0.00 USD	1,113.32 USD
Day 01/10/2019								
Totals for Included		6			210.00 USD	75.25 USD	0.00 USD	75.25 USD
Totals for Day 01/10/2019		6			210.00 USD	75.25 USD	0.00 USD	75.25 USD
Day 01/11/2019								
Totals for Included		27			1,673.00 USD	599.48 USD	0.00 USD	599.48 USD
Totals for Day 01/11/2019		27			1,673.00 USD	599.48 USD	0.00 USD	599.48 USD
Day 01/14/2019								
Totals for Included		36			1,364.00 USD	488.76 USD	0.00 USD	488.76 USD
Totals for Day 01/14/2019		36			1,364.00 USD	488.76 USD	0.00 USD	488.76 USD
Day 01/16/2019								
Totals for Included		18			1,046.00 USD	374.81 USD	0.00 USD	374.81 USD
Totals for Day 01/16/2019		18			1,046.00 USD	374.81 USD	0.00 USD	374.81 USD
Day 01/17/2019								
Totals for Included		21			1,255.00 USD	449.70 USD	0.00 USD	449.70 USD
Totals for Day 01/17/2019		21			1,255.00 USD	449.70 USD	0.00 USD	449.70 USD
Day 01/18/2019								
Totals for Included		22			1,082.00 USD	387.71 USD	0.00 USD	387.71 USD
Totals for Day 01/18/2019		22			1,082.00 USD	387.71 USD	0.00 USD	387.71 USD
Day 01/19/2019								
Totals for Included		8			488.00 USD	174.86 USD	0.00 USD	174.86 USD
Totals for Day 01/19/2019		8			488.00 USD	174.86 USD	0.00 USD	174.86 USD
Day 01/21/2019								
Totals for Included		30			1,258.00 USD	450.78 USD	0.00 USD	450.78 USD
Totals for Day 01/21/2019		30			1,258.00 USD	450.78 USD	0.00 USD	450.78 USD
Day 01/23/2019								
Totals for Included		15			525.00 USD	188.12 USD	0.00 USD	188.12 USD
Totals for Day 01/23/2019		15			525.00 USD	188.12 USD	0.00 USD	188.12 USD
Day 01/24/2019								
Totals for Included		2			70.00 USD	25.08 USD	0.00 USD	25.08 USD
Totals for Day 01/24/2019		2			70.00 USD	25.08 USD	0.00 USD	25.08 USD
Day 01/30/2019								
Totals for Included		3			313.00 USD	112.16 USD	0.00 USD	112.16 USD
Totals for Day 01/30/2019		3			313.00 USD	112.16 USD	0.00 USD	112.16 USD
Totals for User Name MCCARL,DAN (16482753)								
		253			12,391.00 USD	4,440.03 USD	0.00 USD	4,440.03 USD
User Name TUNI,RHONDA (17524701)								
Day 01/19/2019								
Totals for Included		6			210.00 USD	75.25 USD	0.00 USD	75.25 USD
Totals for Day 01/19/2019		6			210.00 USD	75.25 USD	0.00 USD	75.25 USD
Day 01/21/2019								
Totals for Included		3			105.00 USD	37.62 USD	0.00 USD	37.62 USD
Totals for Day 01/21/2019		3			105.00 USD	37.62 USD	0.00 USD	37.62 USD
Day 01/30/2019								
Totals for Included		8			1,008.00 USD	361.19 USD	0.00 USD	361.19 USD
Totals for Day 01/30/2019		8			1,008.00 USD	361.19 USD	0.00 USD	361.19 USD
Totals for User Name TUNI,RHONDA (17524701)								
		17			1,323.00 USD	474.07 USD	0.00 USD	474.07 USD
Totals for Client 331-003								
		270			13,714.00 USD	4,914.09 USD	0.00 USD	4,914.09 USD
Totals for Account: 1000606517								
		270			13,714.00 USD	4,914.09 USD	0.00 USD	4,914.09 USD
Report Totals - Included								
		270			13,714.00 USD	4,914.09 USD	0.00 USD	4,914.09 USD
Report Totals								
		270			13,714.00 USD	4,914.09 USD	0.00 USD	4,914.09 USD

Trans # 34388 ✓

2/5/2019

Gmail - Hotels.com booking confirmation 155181880619 - Rodeway Inn & Suites - Monticello



Drew Cooper <drewwattscooper@gmail.com>

Hotels.com booking confirmation 155181880619 - Rodeway Inn & Suites - Monticello

2 messages

Hotels.com <confirmation@mail.hotels.com>
To: Drewwattscooper@gmail.com

Mon, Jan 21, 2019 at 2:22 PM

✓ Dear Harve, your booking is guaranteed and all paid for.

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Rodeway Inn & Suites

649 N Main St
Monticello
84535
UT
US
+14355872489



Hotels.com confirmation number	155181880619
Check-in	Monday, January 21, 2019 (3 PM-11:30 PM local time)
Check-out	Tuesday, January 22, 2019 (Before 11 AM local time)
Your stay	1 night, 1 room
Cancellation policy	See cancellation policy below
Amount paid	\$44.86
	See full payment details below



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Rodeway Inn & Suites

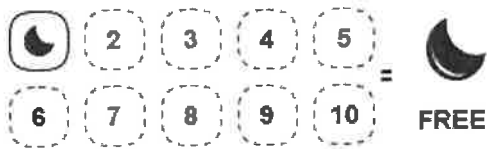
649 N Main St
Monticello
84535
UT
US
+14355872489



Hotels.com confirmation number	155102636745
Check-in	Monday, January 21, 2019 (3 PM-11:30 PM local time)
Check-out	Tuesday, January 22, 2019 (Before 11 AM local time)
Your stay	1 night, 1 room
Cancellation policy	Free cancellation until 01/20/19 16:00 (GMT-07:00)

Amount paid **\$50.48**

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You could be on your way to getting 1 free night

Collect 10 nights, get 1 free. Just sign up and we'll add 1 night after your stay

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Hotel Details

Rodeway Inn & Suites
649 N Main St, Monticello, 84535, UT, US
Phone: +14355872489



Drew Cooper <drewwattscooper@gmail.com>

Hotels.com booking confirmation 155102308884 - Rodeway Inn & Suites - Monticello

2 messages

Hotels.com <confirmation@mail.hotels.com>
To: drewwattscooper@gmail.com

Fri, Jan 18, 2019 at 5:05 PM

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649 N Main St
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84535
UT
US
+14355872489



Hotels.com confirmation number 155102308884

Check-in Monday, January 21, 2019 (3 PM-11:30 PM local time)

Check-out Tuesday, January 22, 2019 (Before 11 AM local time)

Your stay 1 night, 1 room

Cancellation policy Free cancellation until 01/20/19 16:00 (GMT-07:00)

Amount paid **\$50.48**

See full payment details below




Drew Cooper <drewwattscooper@gmail.com>

Hotels.com booking confirmation 155102358382 - Rodeway Inn & Suites - Monticello

3 messages

Hotels.com <confirmation@mail.hotels.com>
To: drewwattscooper@gmail.com

Fri, Jan 18, 2019 at 5:07 PM

 Dear April, your booking is guaranteed and all paid for.



Manage booking



Print receipt



Book again



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Download for free

Rodeway Inn & Suites

649 N Main St
Monticello
84535
UT
US
+14355872489



Hotels.com confirmation number	155102358382
Check-in	Monday, January 21, 2019 (3 PM-11:30 PM local time)
Check-out	Tuesday, January 22, 2019 (Before 11 AM local time)
Your stay	1 night, 2 rooms
Cancellation policy	Free cancellation until 01/20/19 16:00 (GMT-07:00)
Amount paid	\$100.96

See full payment details below

2. I practiced in Utah for forty-seven years in complex civil and criminal litigation, including class actions and civil rights cases. I have experience in a variety of fields, though I primarily specialize in civil rights litigation. Many of these cases were filed in the U.S. District Court for Utah or the Seventh Judicial District Court for Utah, and involved civil rights in education; consumer protection, law enforcement and police misconduct; the judiciary, including jury discrimination; employment, including hiring and working conditions; governmental services, including a welfare benefits federal case that had residency issues at Navajo Mountain; attempts on behalf of Navajo medicine men and the Navajo Mountain unit of local Navajo government, the Navajo Mountain Chapter, to protect native spiritual and cultural sites at a National Monument near Navajo Mountain (*see Badoni v. Higginson*, 455 F. Supp. 641 (D. Utah 1977), *aff'd* 638 F.2d 172 (10th Cir. 1980)); election and voting rights, *infra*; and post-conviction relief. I was also involved in numerous federal and state appeals in civil and criminal cases.

3. I received awards for my civil rights work from the Utah State Bar Minority Bar Association; and the Adam M. Duncan Award from the American Civil Liberties Union. I also have extensive experience in criminal law as a public defender, private defense practice, prosecutor and appellate justice. I served on a Pre-Adjudication Committee of the Utah Task Force on Racial and Ethnic Fairness in the Legal System, and advisory and nomination committees for the Seventh Judicial District Court for Utah and United States Magistrate for the U.S. District Court for Utah. I specialize in Native American law and litigated extensively representing Indian tribes or tribal members in the Four Corners area of Utah, Arizona, New Mexico and Colorado, including San Juan County, Utah, for approximately twenty-seven years, and for the last nineteen years in Salt Lake City, Utah. I served on the board of directors of an Indian health care organization for six years; appointed as an appellate justice for the Court of Appeals of the Pueblo of Pojoaque, New Mexico; and am now in my fifteenth year as an appellate justice for the federally funded Inter-Tribal Court of Appeals of Nevada hearing civil and criminal appeals from tribal courts. I am certified by the United States Department of Interior, Bureau of Indian Affairs, to preside in

civil and criminal cases as a magistrate in federal Courts of Indian Offenses. These positions allow private practice. I continue to work in my fields of interest, including this case, *Laws v. Grayeyes*.

4. My work occasionally involved attorney fee and cost applications for civil rights cases in the U.S. District Court for Utah. I also received a substantial settlement in 1996 for fees and costs for a civil rights case in the Seventh Judicial District Court. I am acquainted with the hourly market rate for civil rights attorneys in Utah. Experienced civil rights lawyers in the United States District Court for Utah bill hourly at the rate of \$400 - \$450.00 an hour. In *Navajo Nation v. San Juan County*, Case No. 2:12-cv-00039-RS, appeal pending in the Tenth Circuit Court of Appeals, I bill \$325.00 an hour. I recently was a consultant to an expert witness retained by government-defendants opposing a fee application in a civil rights action in federal Court, Judge Jenkins presiding. I billed a discounted hourly rate of \$275.00 for review of litigation records and drafting of expert submissions regarding hourly rate and reasonableness of attorney time and expense.

5. I associated with attorney Steven C. Boos in a wide range of matters for over 30 years. I know he is a lawyer in good standing of the Arizona, California, Colorado, Navajo Nation, New Mexico, Southern Ute and Utah bars. Mr. Boos is an excellent litigator. He is highly qualified in complex civil and criminal litigation. In my opinion, his skills were very apparent in the trial of *Laws v. Grayeyes*. He practiced in San Juan County and is now a litigator with his current firm in Durango, Colorado, Maynes, Bradford, Shipps & Sheftel, since 2001. He provides legal services to the Southern Ute Indian Tribe for an hourly rate of \$415.38. In the present case he bills \$450.00 an hour. My work in this case was conditioned on being compensated commensurate with Mr. Boos' hourly rate of \$450.00.

6. I associated with attorneys David Irvine and Alan Smith. They are attorneys in good standing in the State of Utah. They have considerable experience in many areas of the law requiring complex civil litigation. Both lawyers are recognized experts in Utah election law and have consulted and litigated extensively in this complicated field. I reviewed the hourly rates charged by both lawyers and find them to be reasonable because of their exceptional experience and skills.

7. *Laws v. Grayeyes* is a complex case that required extensive work to develop evidence and apply the facts to statutory and legal issues in an expedited litigation setting. Time was of the essence. Our Client, Mr. Grayeyes, had been sworn into office for the San Juan County Commission and was exercising governmental functions that could be imperiled by a challenge to his voting and candidacy rights. Discovery and motion practice had to be expedited and the complexity of the claims and procedural challenges required multiple attorneys. In my experience it is difficult in Utah to find qualified counsel on short notice with the requisite specialties and support infrastructure, and who can risk the uncertainties of being compensated for the substantial time and resources necessary to navigate the complex substantive and procedural twists and turns of this case where the breadth of claims and defenses would be tried in the month of January, 2019, and followed by substantial work post-trial, including an appeal.

8. This matter has difficult claims and defenses that benefit from the work of attorneys with election, voting and civil rights expertise. Co-counsel in *Cox v. Grayeyes*, Alan L. Smith, David R. Irvine and Steven C. Boos, have extensive experience and expertise in election and civil rights law. My background in practicing law in San Juan County for nearly thirty years applying this discrete specialty included work in *Yanito v. Barber*, 348 F. Supp. 587 (D. Utah, 1972) (reinstatement of Navajo county commission candidates on the ballot), *United States v. San Juan County*, Case Numbers C-83-1286 & C-83-1287 (D. Utah 1984) (consent judgments and injunctions, Voting Rights Act, reformation of at-large county commission election, institution of Navajo bilingual and other ameliorative voting procedures) and *Navajo Nation v. San Juan County*, Case No. 2:12-cv-00039-RS (D. Utah, 2018) (equal protection judgments and injunctions, redistricting of County Commission and School Board election districts, special election required, *see* 150 F. Supp. 3d 1253 (D. Utah 2015); 162 F. Supp. 3d 1162 (D. Utah 2016); 266 F. Supp. 3d 1341 (D. Utah 2017); and 2017 WL 6547635, at *1 (D. Utah Dec. 21, 2017)).

9. Some of the defenses asserted on behalf of Mr. Grayeyes required historical experience and knowledge of election and voting practices unique to San Juan County. This expertise was applied in other cases. My experience enabled the successful litigation in federal court that resulted in the Court's ordering

of the construction of a high school at Navajo Mountain. This case required extensive involvement and familiarity with the residents at Navajo Mountain, their socio-economic circumstances, and the nature and function of civic and governmental affairs important to their community. Residency and eligibility for Utah education services at Navajo Mountain was important since the community spanned the Utah/Arizona line. A critical ruling in a case was a federal court ruling and judgment that the San Juan County School District had a duty to provide public education services to Indians on the Navajo Reservation, and Navajo Mountain in particular. *Meyers, et al. v. Board of Education of the San Juan School District, et al.*, 905 F. Supp. 1544 (D. Utah 1995). *Meyers* received favorable commentary since it implicated the education rights of all Native Americans throughout the United States. *Meyers v. Board of Education: The Brown v. Board of Education of Indian Country*, Lawrence R. Baca, 2004 Univ. of Illinois Law Review, 1155. Bond elections in the span of the three decades I practiced in San Juan County were regularly held to fund court-ordered school construction. Mr. Boos was involved in many of these cases. The election issues benefitted from our experience and specialties.

10. Mr. Grayeyes' defense implicated a wide variety of statutory and equitable legal principles. His defense involved difficult fields of law that have a common core of law and facts. Evidence regarding statutory and equitable issues are important to every claim and defense. Dealing with this evidence was very difficult given the expedited nature of the case. Counsel had to prepare for examination and cross examination of witnesses, and the introduction of exhibits and demonstrative evidence by both sides, without having adequate notice of the witnesses and evidence. There was not a reasonable opportunity to properly prepare motion practice and trial presentation because of the short time frame in which the case had to be resolved. In my experience, work on inter-related claims and defenses under these circumstances is fully compensable. Mr. Grayeyes prevailed on every critical aspect of his defense. Judgment was entered in favor of Mr. Grayeyes he is in fact a Utah resident. The Court also confirmed his election to the San Juan County Commission. In my experience, work regarding these matters is fully compensable.

11. My right to an award of attorney fees in in this case is based on broad principles of law and equity, and Utah rules of practice and procedure, including applicable case law and Rule 73, Utah Rules of Civil Procedure. Mr. Grayeyes was the prevailing party. The Court's ruling and judgment materially altered the legal relationship of the parties by providing complete relief to Mr. Grayeyes. The Court's decision also provided substantial benefits. Mr. Grayeyes benefitted personally because his victory confirmed his right to be a candidate, to vote, and to serve and be compensated for his service on the San Juan County Commission. His constituents in Commission Election District Two benefitted because their choice of candidate in the election as a result of their voting and canvassing of votes was upheld and confirmed. Some of these constituents are, like Mr. Grayeyes, members of the Navajo Nation. Mr. Grayeyes successful election enabled him to address social, economic and governmental issues important to the welfare of this constituency. All San Juan County residents benefitted from being served by a County Commission that is lawfully constituted in accordance with the law.

12. My accounting for time reasonably expended is attached as Exhibit A, current to February 7, 2019, plus after-accruing time and costs, to be determined in future billings. I billed for 115.75 hours reasonably expended at the rate of \$450.00. This hourly rate is commensurate with rates charged in Utah by attorneys with similar qualifications and experience. The total is \$52,087.50. Costs were billed in the amount of \$1,227.10. The total billing for time and costs is \$53,314.60. I undertook reasonable efforts to make the task and time entries in my billing records accurate and complete. I contemporaneously entered my time and task in my records; utilized a five-minute billing segment rounded as close as possible to the task; and specified the task and time expended. I exercised reasonable billing judgment by omitting time and expense that I would normally absorb in my office overhead, or to minimize when possible duplicative work performed by other counsel, though this was difficult given the need in this expedited case to focus the talents of multiple counsel on complex issues.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated February 7, 2019.



Eric P. Swenson

Attorney for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2019, I electronically filed the foregoing Declaration of Eric P. Swenson with the Seventh Judicial District Court in and for San Juan County, State of Utah. Notice will be electronically mailed to the following individuals representing Petitioner Kelly Laws:

PETER STIRBA
MATTHEW STROUT
PAMELA BEATSE
STIRBA, P.C.
215 S. State Street, Suite 750
P.O. Box 810
Salt Lake City, Utah 84110-0810
Telephone: (801) 364-8300
Fax: (801) 364-8355
Email: peter@stirba.com
mstrout@stirba.com

s/ Suzanne P. Singley

Suzanne P. Singley

Exhibit A To
 Declaration of
 Eric P. Swenson
 Laws v. Grayeyes
 Time and Costs
 1.3.19 - 2.7.19

1/3/19 Review E Mails & Complaint, Exhibits	60
1/4/19 E Mails w/Counsel re: Litigation and Lt. Governor Proceeding (20); Conference Call w/Counsel re: Issues, Strategy (60)	80
1/7/19 Review Filing Documents, E Mails re: Statute of Limitations, Call From Attorney Boos, Filing & Motion Issues (15)	15
1/8/18 E Mails re: Appearances, Call From Attorney Boos, Discovery (10); E Mails re: Verification & Laches Issues (10)	20
1/9/19 Research & Research Memos & E Mails to Counsel, Verification Issues, Exhaustion Issues, Primary Jurisdiction Issues, Amending Complaint, Election Code Violations, Procedure, Election Contest, Procedure, Burden of Proof, Laches	500
1/10/19: Research & E Mails to Counsel, and E Mail Research Memos, re: Primary Jurisdiction, Verification Non-Utah Precedents, Judicial Notice of Records, Pleadings & Facts, Laches, Factual Issues, Assembling Facts, Records, Witnesses and Declarations, Waiver Issues re: Jurisdiction (250); Discovery Requests & Call From Attorney Boos (10); Review E Mails & Laches Drafts & Documents	250
1/11/18 Review Laches Declaration, Call From SH re: Laches Issues, E Mails to Counsel re: Laches Issues, Exhibits (30); Research & E Mail Research Memo to Counsel re: Burden of Proof, Standard of Evidence (50); Review Dismissal Motion re: Verification, Research Case Law & Procedural Rules, & Calls & E Mails to Counsel re: Refining Issues (60); E Mail re: Motion in Limine, Election-Date-Specific Evidence, Issues (5); Review Laches Motion, Memorandum (60)	205
1/12/19 Review of 2d Laches Motion, Memo, E Mail Counsel (20); Research & Drafting of Limine Evidence Motion (120); Review Failure to State A Claim Issues (90); Check Organization & Filing Status, Strategy, Review Counsel Comments & Research (0)	230

- 1/13/19 Research & Drafting of Limine Motion, Review Counsel E Mails re: Issues (185); Laches Motion: Call to Attorney Boos re: Issues, Review Draft & E Mail Counsel, Issues and Suggestions (30); Review Motion to Dismiss, Failure to State a Claim, E Mail Counsel, Issues and Suggestions (60); Review Motion to Shorten Responses, E Mail Counsel re: Time & Pleading Issues (15); Review Grayeyes Subpoena & Draft Objection, E Mail Counsel re: Issues (25); Further Review of Laches, Expedite Motions, Failure to State a Claim, Limine Issue: Re Election Code (30); Research re: Quash Grayeyes Subpoena, E Mail Counsel re: Revisions & Issues (60); Review Issues re: Answer (15); Check Organization & Filing Status, Strategy, Review Counsel Comments (0) 420
- 1/14/19: Call From Attorney Boos, Timing & Dating Issues re: Limine & Failure to State Claim Issues, Review Counsel's Research & Comments (30); Check Organization & Filing Status, Strategy, Review Counsel Comments (0); Research Amendment to Pleadings Issues, E Mail Counsel (40); Review & Revise Failure to State a Claim Last Draft (20); Review and Revise Subpoena Objection Last Draft (20); Review & Revise Answer Draft, Issues E Mail to Counsel (60); Review County Democratic Declaration for Laches Motion, E Mail Issues to Counsel (10); Review Further Draft of Answer, E Mail Issues to Counsel (20); Review Court Scheduling, E Mails to Counsel (5) 205
- 1/15/19 Call From Attorney Boos, Trial & Motion Strategy, Witness & Evidence Preparation (15); Review Amended Complaint, Motion Response, E Mail Counsel (10); Conference Call w/Counsel, Trial Exhibits, Witnesses, Issues re: Petitioner's Responsive Briefs and Motions (60); Research and Drafting of Limine Reply Memorandum (110); Further Review of Laches Reply, Discovery Motion, Motion to Dismiss & Misc. Responses (60); File Organization, E Filing Compliance (0) 255
- 1/16/19 E Mails re: Petitioner's Witness (5); Review & Revise Draft of Limine Reply Memo, E Mail Counsel w/Issues (60); Call From Attorney Boos, Summary Judgment Issues, Subpoena & Motion re: Discovery Response Issues, Trial Witnesses, Exhibits (15); Research & Draft Discovery Motion Response (60); Review Pretrial Hearing Motion & Call to Attorney Boos re: Issues (15); Call from Boos, Scheduling & Evidentiary Issues (10); Call w/ Counsel, Pretrial Hearing, Motion & Trial Issues, Discovery Interlocutory Appeal, Standing, Laches (65) 170
- 1/17/19 Review & Revise Laches Reply Memo, E Mail Counsel (15);

Review Failure to State a Claim, Reply Memo, E Mail Counsel (15); Review Witnesses & Exhibits (10); Telephone Pretrial Hearing (30); Conference Call w/Counsel re: Trial Preparation, Motion Preparation & Issues (20); Revise Limine Reply Brief (70); Research Standing, Motion to Dismiss (60); Call From Attorney Boos, Witness & Organization, Limine Motion Reply, Issues (15)	225
1/18/19 Research Indian Domicile Federal Standards & Cases, E Mail Counsel re: Issues (30); Review Subpoena Reply Draft, Petitioner's Discovery Withdrawal, E Mail Counsel (15); Travel and Scheduling Work (0); Further Revision of Limine Reply (90); Research re: Mootness Issues, Review Standing Draft, E Mail Counsel (50); Work on Exhibits and Lists, Call re: Witness; E Mail Counsel (30); Calls re: Petitioner Witness Identification & Location (20); Call From Attorney Boos, Documents Admission, Witness Location and Interview, Burden of Proof, Residency, Admission of Affidavits in Lieu of Live Testimony (35); Review Democratic Party Amicus Brief (5)	275
1/19/19 Review Exhibits & Witness Documents & Trial Preparation Conference with Attorneys Boos, et al (120); Review Adakai & Rawlings Telephone Hearing Motion, E Mail Counsel (10)	130
1/20/19 Travel (0); Judicial Notice Research, E Mail Counsel (40); Deposition & Other Admissibility Hearsay Issues (40); Interview Client, Witnesses & Trail Preparation (120)	200
1/22/19 Witness Interview & Trial Preparation w/Counsel (60); Trial (600)	660
1/23/19 Review Issues & E Mails w/Counsel re: Post Trial Brief (60)	60
1/24/19 Research re: Arizona Residency, Voting, Election & Services Issues, E Mail Research Memo to Counsel (180); Research Arizona Personal Property & Real Property Tax Differences & Residency, Non Residency Issues, Supreme Court Law re: Domicile, E Mail Research Memo to Counsel (100); Review Attorney Smith Draft, (30)	310
1/25/19 Review Attorney Irvine Draft Corrections, Review & Revise Draft & E Mail Revisions to Attorney Smith (40); Review Final Draft (30); E Mails re: Service, Filing, Transcript, Fees & Costs (0)	70

1/26/19 Research Fee and Costs Issues, Private Attorney General & Other Statutory and Equity Issues, E Mails w/Counsel re: Issues, Tactics & Strategy re: Fee Application, Bad Faith Research (240)	240
1/27/18 Review Case Law & Statutes, E Mail Research Issues and Check List (60); Appeal Issues: Research Sufficiency of Evidence Marshal Rule, E Mail Research Memo to Counsel (80); Research Statute & Appellate Rules of Review & Construction (60); Research & Review Bad Faith Issues re: Costs and Fees, Statutory & Equity Principles, Review American Rule Exceptions re: Research of Attorney Smith (60); Review Election Code, Case Law re: Fees Included in Costs (75); Research Common Fund & Substantial Benefit Doctrines, E Mail Counsel re: Research Memo (85); Research Fee Factors Procedural Issues, Appellate Issues (60)	480
1/28/19 E Mails re: Decision Status (0); Research E Mail, Fee Basics (30)	30
1/29/19 Research & E Mails re: Rules 54, 68 (60)	60
1/30/19 Conference Call w/Counsel, Fees, Appeal Issues (60); Research re: Bad Faith, Costs & Fees History, Equity & Common Law Fee Issues, Substantial Benefits Doctrine (120)	180
1/31/19 Research Procedural and Statutory Issues, Common Law Doctrines re: Fees and Costs (60); Bad Faith Research & E Mails to Counsel re: Issues (60); Further Research re: Discovery, Fee Factors, Rule 73 (70); Draft of EPS Fee Declaration (30)	220
2/1/19 Review Reciprocal Fees Act, Cases, E Mail Counsel re: Issues (60); Research Community Issue Case Law, E Mail Counsel (60); Research Equitable Fee Award Non-Utah Cases, E Mail Counsel (60)	180
2/2/19 Research Substantil Benefits Cases, E Mail Counsel	30
2/4/19 Review Appeal, E Mails re Appeal Issues (5); Research Finality of Judgment-Appeal Issues, E Mail Counsel (60)	65
2/5/19 Call From Attorney Boos, Issues & Procedure re: Fees, Appeal Motion, Judgment (30); E Mail Counsel, Assignments (5)	35
2/6/19 Research & Revise Fee Application, E Mails to Counsel (250); Research & E Mail Memo re: Issues, Case Law, Rules of Finality of Judgment (30); Review Attorney Irvine Revisions (10)	290

2/7/19 Further Review of Attorney Irvine Revisions, E Mail Latest Draft to Counsel, Call From Attorney Boos, Fee Issues, Judgment Draft, Attorney Fee Declarations (20); Review Attorney Smith Declarations, Cost & Time Entries (5); Review Proposed Judgment, E Mail Counsel re: Revisions & Final Judgment Issues (10); Revise EPS Declaration & E Mail Counsel re: Changes (20); Review Proposed Judgment, E Mail Counsel, Revisions (5); Review of Revised Fee Motion (15) 75

2/7/19 Summary: 6,945 or 115.75 Hours x \$450.00, Total: \$52,087.50
Costs: \$1,227.10¹
Total Due: \$53,314.60

¹Travel, 1/20/19 - 1/23/19, San Juan County. 4 Days Per Diem @ 149.00, \$596.00; Motel: \$286.00; and Mileage, 595 x .58, \$345.10. Total: \$1,227.10.

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835 East Second Avenue, Suite 123
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(970) 247-1755 / Facsimile: (970) 247-8827
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WILLIE GRAYEYES

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**IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH**

KELLY LAWS,

Petitioner

v.

WILLIE GRAYEYES,

Respondent.

DECLARATION OF DAVID R. IRVINE

Civil No. SJ180700016

Judge: Don M. Torgerson

DAVID R. IRVINE declares:

1. I am an attorney licensed to practice law in the State of Utah since 1971. I am also admitted to practice in the United States District Court for Utah, the Tenth Circuit Court of Appeals and the United States Supreme Court.

2. Beginning in 1973, I served four terms in the Utah legislature, and I have acquired a depth of experience in Utah political matters and broad public policy issues over the ensuing 46

years. My primary field of legal practice for 40 years has been public utilities law. I served for six years as a Commissioner on the Utah Public Service Commission, and in that capacity adjudicated complex and often controversial regulatory disputes and rate cases for all of Utah's regulated telephone, electric, and natural gas public utilities. Since 1985, I have represented independent telecommunications companies and special service districts in ratemaking and administrative law and policy matters before the Utah Public Service Commission, the Federal Communications Commission, and in complex civil litigation between local exchange carriers and long-distance carriers in federal courts. I have been significantly involved in two cases against the State of Utah which resulted in settlements for the plaintiffs in amounts of more than \$90 million each; the first was over several failed thrift companies regulated by the State of Utah, and the second was litigation over Utah's mis-management of the Navajo Trust Fund. It has been my experience after 47 years practicing law that collaborative work produces the best and most successful client outcomes in complicated cases.

3. Since 2000, I have also been involved as counsel in a variety of public interest actions, along with Alan Smith and Janet Jenson, challenging the constitutionality of various Utah legislative enactments, including a successful federal free speech challenge to the constitutionality of the nomination system for selecting Utah State School Board candidates, and various election law disputes. I have been counsel for various Utah ballot initiatives over a period of several years, and one of those, with Janet Jenson, became *Utahns for Better Dental Health v. Davis County Clerk*, 175 P.3d 1036 Utah 2008), cited in Respondent's Application for Costs and Fees, which resulted in a substantial fee award over the issue of an improper ballot referendum challenging water fluoridation. This case, which made two trips to the appellate courts, was one of only a small handful of fee awards ever authorized in Utah under the private

attorney general doctrine – a singular equity doctrine applied where a lack of pecuniary interest disincentivizes plaintiffs and attorneys from bringing cases where issues of broad and significant societal importance could be vindicated. The fee amount was sizeable enough (and the fluoridation issue sufficiently galling to conservative legislators), that the legislature in 2009 enacted a statute prohibiting Utah courts from making fee awards under that particular equity doctrine. Alan Smith and I have been looking for the right case to challenge the constitutionality of that statute, and we believe we found it in a successful district court challenge to the constitutionality of a 2016 legislative statute making state school board elections partisan. That case is presently before the Utah Supreme Court on the State's appeal. As a consequence of these cumulative actions and others since 2000, Mr. Smith and I have acquired a reputation as perceived experts in election law and governmental ethics issues such that we are often and regularly sought out by candidates seeking to resolve election and ethics disputes, as well as by journalists and commentators to opine about such matters.

4. Because of the complexities of the Utah Election Code and the unusual circumstances surrounding the efforts of Mr. Grayeyes to become a candidate for the San Juan County Commission, Mr. Steve Boos and Mr. Eric Swenson, both of whom are exceptional and highly experienced litigators, requested that Mr. Alan Smith and I associate with them in representing Mr. Grayeyes's in the federal civil rights litigation that successfully reinstated him as a candidate after he had been unlawfully disqualified by the San Juan County Clerk. Mr. Grayeyes went on to win the election in November 2018.

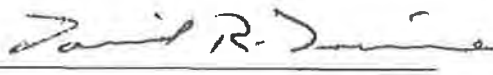
5. In the instant matter and after the election, petitioner Laws filed two separate actions to invalidate the election of Mr. Grayeyes, and he was placed in jeopardy by a complaint made to the Lieutenant Governor pursuant to Utah Code § 20A-1-803 (to which we have filed an answer

and a motion to dismiss), and a complaint with this Court pursuant to § 20A-4-402, *et seq.* The latter process imposes a severe burden on a respondent, because it shortens the time from filing to hearing to only thirty days. That short time in which to respond was exacerbated by petitioner's delaying service until January 7, 2019. Although the complaint was filed on December 28, 2018, it was not served for ten days. The Court set a trial for January 22, 2019, leaving Mr. Grayeyes only fifteen days to prepare his defense. The combined efforts of four lawyers were prudent and necessary to prepare for trial and draft all of the motions and memoranda, essential to the professional defense of Mr. Grayeyes within a highly condensed period of time. Had we all not quickly agreed to do so, and had we not worked jointly, it is unlikely that Mr. Grayeyes would have been able to secure counsel at all, let alone secure the decision that vindicated the legitimacy of his candidacy. This was a landmark decision for reasons that go beyond Mr. Grayeyes's individual circumstances.

6. I bill at \$450 an hour in matters of this nature and attendant risk. I undertook reasonable efforts to make the task and time entries in my billing records accurate and complete. I contemporaneously entered my time and task in my records; utilized a six-minute billing segment rounded as close as possible to the task; and specified the task and time expended. I exercised reasonable billing judgment by omitting time and expense that I would normally absorb in my office overhead. A copy of my time summary is attached to this declaration.

7. I declare under penalty of perjury pursuant to the laws of the State of Utah that the foregoing is true and correct.

Executed on this 8th day of February, 2019.



David R. Irvine

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of February, 2019 I electronically filed the foregoing DECLARATION OF DAVID R. IRVINE with the Seventh Judicial District Court in and for San Juan County, State of Utah. Notice will be electronically mailed to the following individuals representing Petitioner Kelly Laws:

PETER STIRBA
MATTHEW STROUT
PAMELA BEATSE
STIRBA, P.C.
215 S. State Street, Suite 750
P.O. Box 810
Salt Lake City, Utah 84110-0810
(801) 364-8300 // Facsimile: (801) 364-8355
Email: peter@stirba.com
mstrout@stirba.com
pbeatse@stirba.com

/s/ Lataj Gamble

Lataj Gamble

DRI TIME BILLING: GRAYEYES 2 CASE
2/7/2019

- 1/3/19 1.5 Review 20A-4-402 complaint and exhibits filed by Kelly Laws against Willie Grayeyes. Email exchange w/all counsel re issues of concern, and conflicts check.
- 1/4/19 3.1 Confer w/Alan Smith (ALS) regarding complaint issues; conference call w/all counsel re complaint issues and response strategies; research fee recovery issues.
- 1/7/19 2.6 20A-4 library case research per ALS request.
- 1/8/19 4.7 Review and respond to counsel e-mail exchanges; review Maxwell and Laycock cases; draft counsel memo re lack of complaint verification.
- 1/9/19 3.5 Review and respond to counsel e-mail exchanges; confer w/ALS re answer issues and strategies; exchange counsel memos re exhaustion of remedies and EPS case research.
- 1/10/19 3.4 Review and respond to counsel e-mails on case issues and strategy.
2.7 Research Laycock and election code re candidate substitution; draft memo to Utah State Democratic Chair inviting preparation and filing of amicus brief; draft memos to San Juan County Democratic Chair and Vice Chair requesting assistance by Declaration w/laches motion.
3.1 E-mail exchanges w/San Juan Democratic officers requesting information for declaration; Draft joint declaration for review and approval.
- 1/11/19 1.3 Review and respond to counsel e-mails; revise joint declaration per requests from James Adakai;
1.8 Review and respond to counsel e-mails; final review of 12(b)(1) motion to dismiss.
- 1/12/9 3.1 Review and respond to counsel e-mails; review and edit laches motion drafts.
1.0 Respond to e-mail messages from Daisy Thomas re amicus counsel; memo to Scott Young per Thomas request.
- 1/13/19 2.2 Review and respond to counsel e-mail exchanges re motion memo drafts in circulation.
- 1/14/19 5.5 Review and respond to counsel e-mails; final edits on motions and answer.
- 1/15/19 1.1 Review and respond to counsel e-mails; calls to Stewart Gollan and Trent Ricks re Questions about Utah Democratic Party amicus brief.
2.1 Review Laws motion objections; confer w/ALS regarding same.
1.0 Conference call w/counsel re case status and filings to be made re Laws amended complaint, and motion objections.
- 1/16/19 0.9 Review and respond to counsel e-mails; review and edit motion in limine and reply memo to motion to quash subpoena, and motion for immediate telephone conference w/Judge Torgerson.
0.6 Review and edit initial laches reply memo.
2.3 Confer w/ALS re laches reply memo; conference call w/counsel re court conference Call scheduled for 1/17.
- 1/17/19 1.3 Review and edit laches reply memo.
3.1 Confer w/ALS re 20A residency definition problems; prepare for conference call w/court;

Court conference call re trial issues and motions to be resolved; conference call w/counsel regarding next steps; scheduling memos to S.Gollan and J.Adakai re amicus deadline and trial appearance.

1.4 Review limine motion reply and respond to counsel; review e-mail regarding April Grayeyes testimony and respond to counsel.

1/18/19 0.5 Review and comment on filed Democratic Party amicus brief.
2.5 Review and respond to counsel e-mails re reply memo on motion to quash; review and edit reply memo on standing.
1.4 Draft memo re Troy Rawlings testimony; respond to counsel e-mails.

1/21/19 0.5 Respond to e-mails re Rawlings and Adakai testimony.
0.5 Research deposition admissibility.
0.4 Review and respond to counsel re Laws objection to telephonic trial testimony.

1/22/19 1.5 Review and respond to counsel e-mails re trial proceedings and research tasks for preparation of closing argument brief.

1/23/19 0.5 Review and respond to counsel e-mails re trial report and San Juan Record report. Confer w/ALS re cases for closing argument brief.
1.0 Review Boos e-mail re cases on Navajo residency cases and respond to counsel.
0.9 Conference call w/counsel about closing argument brief and points to be made.
0.8 Respond to media inquiries about trial.
0.8 Review and respond to counsel e-mails re closing brief.

1/24/19 2.3 Review and edit initial draft of closing brief.

1/25/19 1.3 Review and edit drafts of closing brief; confer w/ALS; respond to counsel e-mails.

1/28/19 1.5 Draft memo to counsel re Stewart case and public attorney general doctrine.

1/29/19 2.5 Review Court ruling; draft memos on ruling for media, amicus lawyers, Democratic Party officers, state legislators interested in Grayeyes case; re-draft news release for Navajo Nation re ruling.

1/30/19 1.0 Confer w/counsel and ALS re drafting a fee application.
2.0 Draft answer and motion to dismiss Laws 20A-1-803 complaint to Lieutenant Governor.

1/31/19 0.5 Review ALS edits to LG answer and motion; Review Mack case.
1.5 Review and respond to counsel e-mails and cases re LG answer.

2/1/19 2.0 Confer w/ALS re LG answer and motion to dismiss; revise draft.
3.0 Prepare exhibits.

2/2/19 1.6 Memo to counsel re laches exhibits.

2/4/19 1.1 Memo to counsel re Richards timeline.

2/5/19 1.8 Review and edit fee motion, memo to counsel; finalize and file LG answer.

2/6/19 5.3 Prepare fee application.

2/7/19 0.9 Review and respond to counsel e-mails re final draft of fee motion.

TOTAL HOURS 89.9

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Attorneys for Respondent Willie Grayeyes

IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH

KELLY LAWS,)	
)	
)	
Petitioner,	)	DECLARATION OF
	)	ALAN L. SMITH
v.)	
)	
WILLIE GRAYEYES,	)	Case No. SJ180700016
)	
Respondent.	)	Judge: Honorable Don M. Torgerson
)	

ALAN L. SMITH, under penalty of criminal perjury, testifies and declares:

1. I am counsel for Respondent in this matter, and I have personal knowledge of the facts stated in this Declaration. I am over 18 years of age. I am making this Declaration in connection with a fee application pursuant to Rule 73 of the Utah Rules of Civil Procedure.

2. I graduated from the University of Utah Law School in 1976 and was admitted to the Utah State Bar in 1977 and have practiced law in Utah and in the Utah courts, state and federal, continuously ever since. My practice began with a law firm known as Irvine, Smith & Mabey (I was not the named Smith). ISM practiced business law with an emphasis on securities regulation.

3. During those early years of practice, I gained courtroom experience, mostly in federal court, doing securities related litigation. One of my most memorable (and enjoyable) experiences was a month-long jury trial before the Honorable Aldon Anderson, partnering with attorneys Adam Duncan and Ralph Mabey. When Mr. Mabey was appointed to the federal bench, he asked me to be his law clerk where I served for approximately three years, after which we both left public service and went back to private practice with the Salt Lake branch of LeBoeuf, Lamb, Leiby & MacRae, a national law firm where I served as a partner for a number of years. There also I conducted or participated in complex civil litigation in the federal courts on many occasions, including without limitation restructuring proceedings for the Sweetwater Resorts, the Brian Head Resort, the Public Service Company of New Hampshire (including the Seabrook Nuclear Power Plant where I represented the non-PSNH public utilities which partnered in the Seabrook consortium), Baldwin-United (representing the insurance commissioners from the states of Indiana and Arkansas), and A H. Robbins (which also entailed the mass tort litigation over the Dalkon Shield). All of these involvements of course required many hours of litigation related work and/or time in court.

4. During this period I also served as an adjunct professor of business reorganization law at the J. Reuben Clark Law School at Brigham Young University. In between these various tours of duty, I also worked as general counsel to the Utah Public Service Commission, advising

commission members on complex issues of administrative law and public utility regulation (which explains much of the insolvency law, administrative law, and litigation related experience which I could bring to bear in the Seabrook and Baldwin-United cases).

5. I have been a solo practitioner since 1989, and, since 2007, have had nearly full-time involvement with public interest groups and political candidates in controversies requiring knowledge and application of Utah's elections code. This effort has included retention as general counsel for an anti-voucher referendum and an ethics initiative which required analysis, application, and advice respecting Utah's elections code. I also have served in an advisory capacity and as a member of the legal team on the Better Boundaries initiative which gained admittance to the ballot for the 2018 election and passed by popular majority last fall. Some of these involvements also have brought me back to federal and state courts in order to litigate issues under that elections code as well as our federal and state constitutions. For example, our legal team in the ethics initiative (Mr. David Irvine and myself) obtained a preliminary injunction from Judge Waddoups in the United States District Court for the District of Utah preventing disclosure of initiative signatures under the public records provisions of chapter 7 of title 20A of the Utah Code. During this period I also have been engaged by several public interest groups and political candidates in connection with challenges to different legislative enactments and election-related statutes under Utah's elections code, including two successful challenges, on federal and state constitutional grounds, to the manner in which candidates are selected for service on the Utah State Board of Education. Last summer, I was part of the legal team which brought suit against San Juan County in order to obtain (and we did obtain) an injunctive decree to put Mr. Willie Grayeyes on the ballot for election to the San Juan County Commission in District 2. In short, through my approximately 40 years of service as a lawyer in

the state of Utah, I have had a wide range of experience in connection with civil litigation, much of which has involved treatment of constitutional and electoral issues.

6. I have attached my daily time log which I have kept in connection with this litigation, *Laws v. Grayeyes*. I usually give more detail in my time log, but this case has been so time-intensive, with constant, daily pressure to meet deadlines and accelerate work, that I haven't been able to log time with as much particularity as I ordinarily do. I accordingly reserve the right to supplement my time log in order to provide more detail, especially should the Court believe that this is necessary or advisable, and in order to give the Court a better view of the enormous amount of work which was undertaken in connection with Respondent's defense in this matter. I also believe that, in supplying this supplementary detail, my time log will reflect that even more time than presently is reflected here was spent in work on this case.

7. I have worked continuously on this matter, since January 4, 2019, on nearly a daily basis. The urgency of the effort has required me to give shorter shrift to other clients and matters during this time frame. I was the principal drafts-person for an answer to the complaint, as well as 5 motions to dismiss or for summary judgment. I also was the primary drafts-person for a post-trial brief and the motion and memorandum respecting our fee application. During the course of this effort, I have filled 6 large accordion files with e-mail communications, research materials, evidentiary materials, and pleadings. This is in addition to the 3 large files of research matter under Utah's election code and respecting residency related issues which I had shipped -- on an emergency basis -- from Salt Lake City to New Jersey where I presently am working. From January 4, 2019, through February 5, 2019, I have worked a total of 172.50 hours on this matter, or a little more than 40 hours per week. I record my time contemporaneously with the work that I'm doing on a daily basis, marking it down in quarter-hour increments, but rounding

down for each task to the next lowest quarter-hour increment. As I've already indicated above, I reserve the right to supplement my time log, showing with greater particularity the work which has been done and I believe that, through this supplementation, I will be able to show that even more hours were spent on this case. In addition to the above, I reserve the right to supplement, not only my hours, but also this fee application, because Petitioner recently has appealed this Court's ruling and I will be part of the team which opposes that appeal (indeed, we already have begun to spend time on that opposition, time which isn't reflected in this fee application), and more hours must be spent in defeating Petitioner's claims at the appellate level.

8. Mr. Steven Boos, who was the lead attorney in our representation of Respondent in this matter, is a very skilled litigation manager and he took care to ensure that tasks were divided and allocated among counsel so as to prevent any duplication of primary efforts, although for caution's sake, and as a matter of good practice, the work of individual lawyers on our team generally was reviewed and corrected by other lawyers on the team. Under this manner of administration, I am confident that economies of scale were achieved without sacrificing the precept that more heads and many eyes will a better work product make. Moreover, I believe that having six attorneys on our team was not overstaffing, not only because Mr. Boos was careful in his non-duplicative allocation of tasks among all members of our team, but also because, as the Court is aware, this litigation was incredibly time-sensitive and conducted on an expedited basis – and because we were opposed by the Stirba Law Firm which had many lawyers working on different aspect of the Petitioner's case.

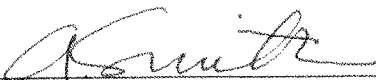
9. I have billed my time in connection with this representation at \$450 dollars an hour. I believe that this rate is warranted for several reasons, including (1) the fact that this rate is comparable in Utah's market with rates charged by other lawyers with like years of practice,

knowledge, and experience, (2) the fact that this was an urgent matter which displaced other work for which I could have billed during the period in question, (3) the fact that this sort of litigation essentially is contingency fee litigation, dependent upon a successful outcome, and (4) the fact that this litigation was favorable to Respondent – as well as those citizens who voted for him in last year’s election – in preserving his seat on the San Juan County Commission.

10. As indicated above, because of the exigencies of this litigation, I was forced to ship research materials from my home office in Salt Lake City to my present location in New Jersey. The cost of that shipping was \$235.75. A true and correct copy of the shipping receipt is attached.

I declare under penalty of perjury under the laws of the state of Utah that the foregoing is true and correct.

Executed this 27th day of February, 2019.



Alan L. Smith

ALS Daily Time Log – Grayeyes/Laws election contest on residency issue

January 4, 2019, 2.0 hours, t/c with all hands re issues and strategies, t/c with Dave Irvine re same, t/cs with paralegal help re shipment of files.

January 5, 2018, 3.0 hours, e-mail exchanges with members of legal team, researching election contest issues and residency related issues.

January 7, 2019, 2.0 hours, t/c with Dave Irvine re issues and strategies, drafting motion papers.

January 8, 2019, 8.0 hours, e-mail exchanges with members of legal team throughout the day, drafting motion papers, revising same.

January 9, 2019, 11.0 hours, e-mail exchanges with legal team throughout the day, drafting motion papers or pleadings, making revisions.

January 11, 2019, 11.0 hours, e-mail exchanges with legal team throughout the day, drafting motion papers or pleadings, making revisions, reviewing drafts from other members of legal team, reviewing opposition papers, t/c with criminal law expert re evidentiary issues associated with Tucker report.

January 12, 2019, 10.0 hours, e-mail exchanges with legal team throughout the day, drafting motion papers or pleadings, making revisions, reviewing drafts from other members of legal team, reviewing opposition papers.

January 13, 2019, 11.0 hours, e-mail exchanges with legal team throughout the day, drafting motion papers or pleadings, making revisions, reviewing drafts from other members of legal team, reviewing opposition papers.

January 14, 2019, 14.5 hours, e-mail exchanges with legal team throughout the day, drafting motion papers or pleadings, t/c with Dave Irvine re same, further drafting of motion papers or pleadings, reviewing drafts from other members of legal team, reviewing opposition papers.

January 15, 2019, 5.0 hours, e-mail exchanges with members of legal team throughout the day, drafting motion papers or pleadings, making revisions, reviewing drafts from other members of legal team, reviewing opposition papers, t/c with team members.

January 16, 2019, 12.0 hours, e-mail exchanges with members of legal team throughout the day, drafting motion papers or pleadings, making revisions, reviewing drafts from other members of legal team, review of opposition papers, t/c with legal team, t/c with Dave Irvine.

January 17, 2019, 14.5 hours, e-mail exchanges with members of legal team throughout the day, drafting motion papers or pleadings, t/c with Dan Boyer, criminal law guru re evidentiary issues,

t/c with Dave Irvine, conference call with judge and all lawyers, t/c with members of legal team, further drafting motion papers.

January 18, 2019, 9.0 hours, e-mail exchanges with members of legal team throughout the day, drafting motion papers, making revisions.

January 23, 2019, 7.25 hours, t/c with legal team re trial debriefing, t/c with Dave Irvine re drafting issues connected with post-trial brief, t/c with Dave Irvine re same, e-mail exchanges with team members throughout the day, starting drafting effort re post-trial brief.

January 24, 2019, 12.5 hours, e-mail exchanges with legal team throughout day, drafting post-trial brief.

January 25, 2019, 7.0 hours, e-mail exchanges with legal team for most of day, drafting post-trial brief, t/c with Dave Irvine re same, t/c with Dave Irvine re same, t/c with Steve Boos re same.

January 30, 2019, 1.5 hours, t/c with legal team re strategy going forward, mainly re application for costs and fees, t/c with Dave Irvine re Grayeyes issues.

January 31, 2019, 4.0 hours, reading cases re fee application, e-mail exchanges with legal team for much of day.

February 1, 2019, 5.25 hours, t/c with Dave Irvine re motion to LG and fee application issues generally, t/c with Dave Irvine re same, reading cases re fee application, beginning draft of fee application.

February 2, 2019, 6.0 hours, continuing draft of fee application, e-mail exchanges with legal team for much of day on various issues.

February 3, 2019, 6.0 hours, continuing draft of fee application, e-mail exchanges with legal team throughout the day on various issues.

February 4, 2019, 4.5 hours, continuing work of fee application, review of notice of appeal filing by petitioner, e-mail exchanges with legal team for balance of day re same and related issues.

February 5, 2019, 5.5 hours, e-mail exchanges with legal team re appeal questions and related issues, continued work on fee application.

2/7/2019

Re: Alan's mailing address

From: Dave Adams <dave_adams@outlook.com>
To: Alan Smith <alanakaed@aol.com>
Subject: Re: Alan's mailing address
Date: Fri, Jan 4, 2019 3:11 pm

It's on its way.

Due Monday by 3pm

FedEx tracking # 784807285069

\$235.74

Apparently federal law now requires the sending address to match the sender's photo id, so the package is coming from my place:

2408 Elizabeth St #6
SLC, UT
84106





On Jan 4, 2019, at 2:39 PM, Alan Smith <alanakaed@aol.com> wrote:

Alan Smith
 102 Christopher Columbus Drive, Apt. PH04
 Jersey City, New Jersey 07302

Phone number is 801.262.0555 for sender and receiver

E-Mail for payment receipt and delivery-related messages is: Alanakaed@aol.com

2. I graduated from the University of Colorado Law School in May 2014. I was admitted to the Colorado State Bar in November 2014 and remain in good standing. During law school, I clerked for several law firms as well as the U.S. Department of Justice. Before law school, I completed a B.A. and M.A. in Mathematics, also at the University of Colorado.

3. After graduating from law school, I accepted a two-year fellowship with a non-profit conservation group, the Western Energy Project, based out of Denver. After completing my fellowship, I continued working with the Western Energy Project for an additional year in the position of Staff Attorney. My work there was focused on federal public land and natural resources law.

4. In October 2017, I joined Maynes, Bradford, Shipps & Sheftel, LLP as an Associate Attorney. My practice has focused on water and American Indian law. Before assisting Mr. Boos with his work on this case, I assisted him in *Navajo Nation, et al. v. San Juan County*, Case No. 2:12-cv-00039-RJS-DPB and *Grayeyes v. Cox*, Case No. 4:18-cv-00041-DN.

5. I have worked on this case since November 12, 2018. From November 12, 2018 through February 7, 2019, I worked a total of 78.00 hours. In recording my time, I exercised reasonable billing judgment by omitting time and expense that I would not normally bill to a paying client. I recorded my time contemporaneously and on a daily basis, marking it down in quarter hour increments, but rounding down for each task to the next lowest quarter hour increment.

6. As my time records reflect, I have contributed to this case primarily by conducting legal research. I also edited court and litigation documents.

7. I have billed my time in this matter at a rate of \$200 dollars an hour and \$100 dollars an hour for travel time. I believe this rate is consistent with, if not below, the rate of attorneys in the Utah legal community with similar background and experience.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED on this 7th day of February, 2019.



Daniel McCarl

2. I am an associate with the law firm of Maynes, Bradford, Shipp and Sheftel, LLP, in Durango, Colorado. I graduated from Arizona Summit Law School in Phoenix, Arizona in 2014. I am a member in good standing in the Navajo Nation and New Mexico bars.

3. My legal practice started at the Office of Legislative Counsel in Window Rock, Arizona in 2016. While at Office of Legislative Counsel I delivered legal advice to the 23rd Navajo Nation Council in coordination with the Navajo Department of Justice and other attorneys representing the Navajo Nation. Prepared legislation and resolutions for consideration by the Navajo Nation Council as well as maintaining and codifying the Navajo Nation Code. I delivered legal advice to the divisions, departments and programs under the legislative branch involving various areas of the law, such as employment, contract, grants, tax, water, land rights, environmental related issues, civil rights and criminal law. Additionally, I prepared and drafted legal pleadings, briefs, resolutions and correspondences representing the Navajo Nation. Thereafter, I was appointed as a District Court Judge and was immediately requested to assist the Navajo Supreme Court for a few months before I was assigned to the Ramah Judicial District in Ramah, New Mexico. As a District Court Judge I presided over civil, criminal and family court cases. I heard and decided cases within the jurisdiction of the Navajo Nation courts. At the same time, the Chief Justice continued to assign me to Navajo Supreme Court cases as an Associate Justice by designation. As an Associate Justice by designation I reviewed the case history, drafted opinions, dismissals, or memorandum decisions for circulation. I wrote two published Navajo Supreme Court opinions, two unpublished memorandum decisions and several orders. I started working with the Maynes firm in 2018 advising clients in the areas of healthcare, employment, gaming, and Indian law.

4. My hourly rate for work conducted in this matter was charged at \$200.00, which is comparable to rates charged by firms in the Salt Lake City market for attorneys of my background and experience.

5. My accounting for time reasonably expended is attached as Exhibit A, current to February 8, 2019. I billed for 41.8 hours reasonably expended at the rate of \$200.00, for a total of \$8,360.00. Costs were billed in the amount of \$500.00. I undertook reasonable efforts to make the task and time entries in my billing records accurate and complete. I contemporaneously entered my time and task in my records; utilized a five-minute billing segment rounded as close as possible to the task; and specified the task and time expended. I exercised reasonable billing judgment by omitting time and expense that I would normally absorb in my office overhead, or to minimize when possible duplicative work performed by other counsel, though this was difficult given the need in this expedited case to focus the talents of multiple counsel on complex issues.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated February 7, 2019.



Rhonda L. Tuni

Attorney for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2019, I electronically filed the foregoing Declaration of Rhonda L. Tuni with the Seventh Judicial District Court in and for San Juan County, State of Utah. Notice will be electronically mailed to the following individuals representing Petitioner Kelly Laws:

PETER STIRBA
MATTHEW STROUT
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Telephone: (801) 364-8300
Fax: (801) 364-8355
Email: peter@stirba.com
mstrout@stirba.com

/s/ Suzanne P. Singley

Suzanne P. Singley

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Salt Lake City, Utah 84102
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ATTORNEYS FOR PLAINTIFFS

**IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH**

KELLY LAWS,
Petitioner,

vs.

WILLIE GRAYEYES,
Respondent.

**DECLARATION OF
SUZANNE P. SINGLEY**

Case No. 180700016
Judge: Don M. Torgerson

SUZANNE P. SINGLEY, under penalty of criminal perjury, testifies and declares:

1. I am a legal secretary with the law firm of Maynes, Bradford, Shipps and Sheftel, LLP.

2. I assisted as a paralegal in this case, preparing and organizing materials in connection with the trial in this matter, as well as attending and assisting at the trial, held on January 22, 2019, in Monticello, Utah.

3. In connection with my efforts, I worked a total of 58 hours providing paralegal assistance.


DATED this 8th day of February, 2019.


Suzanne P. Singley

STATE OF COLORADO)
) ss.
County of La Plata)

Subscribed and sworn to before me this 8th day of February, 2019, by Suzanne P. Singley

WITNESS my hand and official seal.

My commission expires: 4-29-2021 
Notary Public

LINDA A WINTERS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20054017310
MY COMMISSION EXPIRES 4-29-2021

IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH

<p>KELLY LAWS, Petitioner, vs. WILLIE GRAYEYES, Respondent.</p>	<p>ORDER DENYING APPLICATION FOR ATTORNEY FEES AND COSTS Case No. 180700016 Judge Don M. Torgerson</p>
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This matter is before the Court on *Respondent's Motion Respecting Scheduling Procedures for Resolution of Attorney Fee Dispute* and his request for attorney fees contained in *Respondent's Application for Costs and Fees*. Since Respondent has fully briefed his position, the Court rules without additional briefing or argument.

PROCEDURAL BACKGROUND

After Laws filed his notice of appeal of the Court's *Ruling and Order* dated 1/29/19, Grayeyes requested attorney fees for this case based on three equitable doctrines: bad faith, private attorney general, and substantial benefit. Laws has not yet responded to the original request for fees because litigation over attorney fees was stayed while the Utah Supreme Court considered Grayeyes's motion to dismiss or suspend the appeal.

Grayeyes has now asked to lift the stay and permit discovery so he can investigate his bad faith assertion and gather evidence of Laws's subjective intent in filing this case. Laws objects to the request for a discovery schedule, arguing primarily that the rules of procedure do not permit post-trial discovery for the attorney fee dispute.

The Court does not decide whether discovery is available after trial to investigate a bad faith claim for attorney fees. Instead, having considered Grayeyes's briefing, the Court concludes that there is no basis to award attorney fees in this case.

RULING

I. Attorney fees for Bad Faith are not awarded because Laws’s case had merit.

Before awarding attorney fees for bad faith, the Court must find that the action was both “...without merit and not brought or asserted in good faith.”¹ If a court determines that an action has merit, it is unnecessary to determine if it was brought in bad faith, since both requirements must be met before fees may be assessed.² And for an action to be without merit, the claims must be more than just unsuccessful — they must be so deficient that the party could not have reasonably believed the claims to have a basis in law and fact.³

In the Court’s assessment, Grayeyes conflates his bad faith and merit arguments. He primarily focuses on Laws’s intent, arguing that Laws knew or should have known (1) that his evidence was superficial and would be insufficient to prevail at trial, (2) the defense of laches was insurmountable, and (3) that his belief in his case was based on such thin analytical reasoning that a reasonable person with non-vindictive motives would be skeptical of its propriety. In fact, the 8 ½ pages of Grayeyes’s overlength brief devoted to bad faith primarily argue Law’s motives and purposes in filing suit. But Laws’s purpose and motive is not relevant to determining whether his case had merit. And Laws’s claims had merit.

First, his claim was based on a reasonable interpretation of the statute. Utah Code § 20A-4-403(1)(a) explicitly authorizes a “registered voter” to contest the result of an election by filing a complaint within 40 days after the canvass. As a registered voter, Laws had standing and his complaint was timely. He also alleged grounds under Section 20A-4-402(1)(g) —that Grayeyes was not a resident of San Juan County, a continuing requirement to be eligible for office.

¹ Utah Code §78B-5-825.

² See *Utah Telecom. Open Infrastructure Agency v. Hogan*, 294 P.3d 645, 651 (Utah Ct.App. 2013).

³ *Verdi Energy Group, Inc. v. Nelson*, 326 P.3d 104, 115 (Utah Ct.App. 2014).

Second, Laws's claims had a basis in fact. In support of his belief that Grayeyes was not a resident of San Juan County, Laws presented credible supporting evidence. For example, the only real property that Grayeyes owns is a house located in Arizona. Grayeyes dates a woman from Arizona and often stays overnight at her house. Grayeyes has an Arizona driver's license, gets his mail in Arizona, and registers his vehicles in Arizona. Grayeyes does not have a physical house at Navajo Mountain and stays at several different locations. Some people who live at Navajo Mountain do not believe Grayeyes lives there. And some people who visit Navajo Mountain regularly have not seen him during their visits.

The proof Laws presented at trial supported his belief that Grayeyes was not a resident of San Juan County. And although his proof was ultimately outweighed by other, more compelling evidence in the case, it does not diminish the overall merit of his claim. Moreover, the Court's central ruling — that Grayeyes was a resident even though his "residence" was located at multiple locations within the same voting district— appears to be a matter of first impression in Utah and Laws would have had no legal precedent to rely upon to anticipate that outcome before trial.

Grayeyes argues that there are two other, separate grounds for him to recover bad faith fees in this case: (1) he asserts that Utah Code §20A-1-805 permits fees when a bad faith complaint is filed with the Lieutenant Governor, and he argues for the extension of that statute to all election contests; and (2) he asserts that general equitable principles allow for fees when a litigant has acted in bad faith, under *Stewart v. Utah Pub. Serv. Comm'n.*⁴

Utah Code §20A-1-805 allows for attorney fees when a petition alleging an election code violation is filed with the Lieutenant Governor, if the petition was filed in bad faith. But importantly, the plain language of the statute specifically limits the recovery of fees to actions brought under Part 8 of Chapter 1, and even provides a unique definition of bad faith in § 802(1). The Court believes those provision are intentionally limiting. And there is no indication that the Legislature intended the provision to extend to non-governmental actors under Chapter 4, Part 4 of the Election

⁴ *Stewart v. Utah Pub. Serv. Comm'n.*, 885 P.2d 759, 782 (Utah 1994).

Code. If the Legislature wanted to extend that same definition of bad faith to Chapter 4, it would have explicitly included that language in the statute.

Finally, Grayeyes asserts that a Court has a general equitable authority to award fees when a litigant acts “...in bad faith, vexatiously, wantonly, or for oppressive reasons.”⁵ Importantly, the quoted phrase is not the decision of the *Stewart* case. Instead, it is simply a restatement from Moore’s Federal Practice (2d ed. 1972), cited by the *Stewart* court to support its decision to award attorney fees under the substantial benefit doctrine (discussed below). The Court does not find a general statement about inherent equitable power to be persuasive when considering bad faith. Instead, the Court concludes that the only basis for recovery of bad faith attorney fees in this case is under the bad faith statute. And since Grayeyes does not meet the requirements for recovery under the statute, his request for bad faith attorney fees must be denied.

II. The Private Attorney General Doctrine has been disavowed by the Legislature.

Grayeyes next argues that he should be awarded attorney fees under the private attorney general doctrine. He recognizes that the Legislature has explicitly disallowed that doctrine by statute but argues that the statute is unconstitutional. As explained below, the statute is binding upon the Court.

In 2009, the Legislature enacted Utah Code §78B-5-825.5: “A court may not award attorney fees under the private attorney general doctrine in any action filed after May 12, 2009.”

Grayeyes argues that the statute is unconstitutional under the ruling in *Injured Worker’s Association of Utah v. State of Utah*, 2016 UT 21. In that case, the Utah Supreme Court determined that the Labor Commission’s mandatory attorney-fee schedule, imposed in worker’s compensation cases, was unconstitutional because the fee limits encroached on the Supreme Court’s exclusive authority to govern and regulate the practice of law. In short, the amount of an attorney’s fee is a matter of negotiation between an attorney and her client, constrained by the rules of professional conduct and

⁵ See *Stewart* at 782; *Respondent’s Application for Costs and Fees*, pg.14 ¶ 1.

measured by reasonableness. And only the Utah Supreme Court — not the Legislature — may regulate those fees:

Grayeyes argues that *Injured Workers Ass'n. of Utah* also prohibits the Legislature from restricting a court's inherent equitable power to award fees "in the interest of justice and equity."⁶ He believes that is also an improper regulation of the practice of law. But the Court disagrees with his interpretation of the case. *Injured Workers Ass'n. of Utah* is about the Utah Supreme Court's exclusive authority to regulate attorney fees between attorneys and their clients. But this case is not about restricting fees between Grayeyes and HIS counsel. It concerns Grayeyes's ability to extract attorney fees from an opposing party.

Nevertheless, the issue is raised — may the Legislature, by statute, bar a "doctrine" for attorney fees that has existed under the court's inherent equitable power to award fees "in the interest of justice and equity?"⁷ The private attorney general doctrine is one of those. It is a judge-made guideline to help courts exercise their inherent equitable powers. Under the doctrine, fees have been awarded when a case vindicated a strong or societally important public policy and the cost of doing so outweighed a party's own pecuniary interest.⁸

The Court does not believe that the Legislature has constrained the court's equitable authority simply by disallowing fees under the private attorney general doctrine. The umbrella considerations of "justice and equity" are not limited by removing the subset of private attorney general considerations.

And the Court finds that this case does not warrant attorney fees in the interest of justice and equity. It is apparent to the Court that Grayeyes believes his election is significant for Native Americans because there is now a Navajo majority on the San Juan County Commission. And history may confirm his view. But while the Court is certainly aware of the historical tension in San Juan County between Native American citizens and others in the County, those considerations were not part of the Court's analysis at trial and this is not a civil rights case.

⁶ See *Rehn v. Christensen*, 392 P.3d 872, 880 (Utah Ct.App. 2017).

⁷ See *Rehn v. Christensen*, 392 P.3d 872, 880 (Utah Ct.App. 2017).

⁸ See *Stewart* at 783.

Instead, this case is specific to one person and his qualification for office based on his residency. Evidence about his cultural background was marginally relevant to the question of residency. But the Court's analysis would have been the same if he had simply lived at the division of voting districts, rather than the division of Utah and Arizona. This was a straightforward election challenge authorized by statute. And if the Legislature intended for attorney fees to be awarded in this type of case, it would have explicitly said so.

III. The Substantial Benefit Doctrine does not apply in this case.

Grayeyes also contends that, by fighting for his seat on the County Commission in this litigation, he was acting in a representative capacity for three separate classes of voters: (1) all Native Americans in San Juan County; (2) the Navajo people within his voting district; and (3) all voters in San Juan County who participated in the election. Thus, by prevailing and retaining his elected position, the litigation conferred a substantial benefit upon the members of those groups, entitling him to attorney fees. Those benefits include preventing discrimination and voter suppression against Native Americans, giving every voter a voice, and vindicating the candidate chosen by a majority of voters.

The Court may award attorney fees under the substantial benefit doctrine if a litigant, proceeding in a representative capacity, obtains a decision that confers a substantial benefit upon members of an ascertainable class or group.⁹ In *LeVanger*, for example, a member of a homeowner's association sued the association for improperly amending the covenants, restrictions, and conditions of the association. The litigation provided a substantial benefit because it enforced the same rights of all shareholders in the homeowner's association.¹⁰ Similarly, in *Stewart*, certain telephone users challenged a Utah Public Service Commission order that affected the rates charged by a public

⁹ *LeVanger v. Highland Estates Properties Owners Ass'n, Inc.*, 80 P.3d 569, 575 (Utah Ct.App. 2003).

¹⁰ *Id.* at 577.

utility.¹¹ Plaintiffs' action benefitted all telephone users by enforcing better rates and they would not have received the benefit, but for the action of the representative users.

The commonality among substantial benefit fee cases is that a representative of a group participates in the litigation as if all other members of the group were parties to the same case. In other words, any member of the group could be substituted for the litigant and they would benefit the exact same way. By awarding fees to one, it limits the overall fees, because similarly-situated litigants could have filed the same lawsuit and obtained the same outcome.

In support of his argument for fees, Grayeyes includes many pages of footnotes and attachments that detail some of the history of Native American disenfranchisement in San Juan County. Given that history, he believes his confirmed membership on the County Commission provides a substantial benefit because, (1) he can give Native Americans a better voice; (2) it encourages Native Americans living in Utah, but traveling for work in other states, to run for political office; and (3) it ensured that the voters in his voting district are represented by their elected candidate.

In evaluating those claimed benefits, the Court must determine whether Grayeyes was a representative of a class and whether that class received a substantial benefit from the litigation. And the Court concludes that neither factor is met.

First, Grayeyes is not a representative of an ascertainable group because there are no similarly-situated defendants that would benefit from this litigation. This case turns on the fact-specific inquiry into whether Grayeyes is a resident of San Juan County. His home, his property ownership, his living habits, his out-of-state contacts, his travel practices, and his experiences are all unique to him and are the critical factors in determining his residency. There is no similarly-situated person. And the determination that he is a resident is not transferable to the next political candidate whose residency is challenged. Moreover, only Grayeyes was elected by a majority of voters in his voting district. And only he gets to be the Commissioner by having his election confirmed. This is not like a homeowner association, corporate proxy suit, or election irregularity that affected a group of people in the same way.

¹¹ *Stewart v. Utah Pub. Serv. Comm'n.*, 885 P.2d 759, 782 (Utah 1994).

Second, it remains to be seen if Grayeyes's position on the County Commission will benefit the groups he identifies. Perhaps he'll be a remarkable commissioner who unites opposing factions in the community for the betterment of all. Or maybe he'll be a terrible commissioner who polarizes and disenfranchises his constituents. Presumably, every candidate for public office believes their tenure will benefit their voters.

But the benefits Grayeyes claims are not the type of benefit contemplated by the substantial benefit doctrine. The doctrine requires that the benefit be obviously quantifiable and that the group benefit the same way. And the Court cannot confirm all of Grayeyes's constituents as County Commissioners at the conclusion of this case.

IV. Grayeyes has not incurred recoverable costs.

Taxable costs are "...those fees which are required to be paid to the court and to witnesses, and for which the statutes authorize to be included in the judgment."¹² Other expenses of litigation, though necessary, are not taxable as costs.¹³

Grayeyes has requested \$17,069.49 as costs in this case.¹⁴ Consistent with *Frampton*, the Court has carefully reviewed the memorandum of costs and concludes that the majority of claimed expenses are litigation expenses and are not recoverable as costs. Lunches, hotels, vehicle rentals, online research, and transcription for trial preparation fall within that category. Similarly, the \$8,500 claimed for paralegal and law clerk services are something between trial preparation expenses and attorney fees — necessary for trial but not recoverable.

Grayeyes's only expense entry that is potentially taxable as costs is the "Witness Fees and Travel" amount of \$2,458.77. Grayeyes has not provided any itemization for those expenses. Additionally, Grayeyes did not file any subpoenas in the case indicating that those fees were actually paid pursuant to subpoena.

¹² *Frampton v. Wilson*, 605 P.2d 771, 774 (Utah 1980).

¹³ *Id.*

¹⁴ See pp. 5-6 of the billing records attached to the Declaration of Steven C. Boos, included with *Respondent's Application for Costs and Fees*.

Witness fees may be taxed as costs in the amount permitted by statute.¹⁵ Under Rule 45(b)(2) U.R.C.P., a party serving a subpoena must tender the witness fee for one day's attendance and the mileage allowed by law. Currently, the daily fee for a witness is \$18.50 plus \$1 for each four miles in excess of 50 miles actually and necessarily traveled in going only.¹⁶

Because Grayeyes has failed to provide sufficient proof supporting his claim for witness fees and travel, and the amount demanded far exceeds the highest possible amount that might be awarded in this case, the Court denies those fees as taxable costs.

ORDER

Because there is no statutory or equitable basis to award attorney fees and there is insufficient proof of any taxable costs, Respondent's application for attorney fees and costs is denied.

Dated: 6/20/19

By: 
Don M. Torgerson
District Court Judge



¹⁵ *Young v. State*, 16 P.3d 549, 554 (Utah 2000).

¹⁶ Utah Code §78B-1-119(1).

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 180700016 by the method and on the date specified.

MANUAL EMAIL: STEVEN C BOOS sboos@mbssllp.com
MANUAL EMAIL: DAVID IRVINE DRIRVINE@AOL.COM
MANUAL EMAIL: ALAN L SMITH alanakaed@aol.com
MANUAL EMAIL: PETER STIRBA peter@stirba.com
MANUAL EMAIL: MATTHEW STROUT MSTROUT@STIRBA.COM
MANUAL EMAIL: ERIC SWENSON E.SWENSON4@COMCAST.NET

06/21/2019

/s/ CHAY DAVIS

Date: _____

Deputy Court Clerk

November 27, 2018

Spencer J. Cox
Lieutenant Governor's Office
350 North State St #220
Salt Lake City, UT 84103

Re: Request for Special Investigation and Filing of a Verified Petition, per Utah Code 20A-1-803

Lt. Governor Cox,

Utah Code section 20A-1-803 provides for a post-election challenge of an election by a registered voter, saying that the registered voter must file a petition with your office alleging a violation has been committed. Is there a special form that must be submitted? If not, let this letter serve as my petition of challenge that voter fraud has been committed by Willie Greyeyes in his bid for San Juan County Commissioner for District 2. Mr. Greyeyes does not live in the State of Utah, let alone San Juan County, as required by State Code and has therefore committed a "significant violation" of Utah Election Law.

I have attached verification of this allegation in the form of a report from a San Juan County Sheriff's Deputy who investigated this fraudulent act within days of Mr. Greyeyes' filing for candidacy. I understand that there is also body camera footage of this investigation, which was denied in my GRAMA request. However, I am sure you can get it from San Juan County as part of your investigation. I am confident that when you do your own investigation you will find numerous residents, many of whom live in Navajo Mountain where Mr. Greyeyes claimed to live, that will add first-hand knowledge of his fraudulent act and lack of residency.

Your subordinate, Justin Lee, has admitted to have said to a reporter that, "San Juan County should change their attitude on things since they continue to lose lawsuits." To be frank, San Juan County would change their attitude if the Lt Governor's office would support the citizens of San Juan County by protecting Utah's sovereignty, the sanctity of our, and your, elections, and if you will take your role under Utah State Law seriously and investigate this matter, rather than blame San Juan County for trying to uphold the State Law on their own.

I respectfully request an investigation, in accordance with Utah State Law, into Mr. Greyeyes' residency. If a specific form other than this letter is required, I respectfully request one be sent to me via email to ensure the process moves along quickly. My email address is kellyglaws@gmail.com. Your actions or lack thereof will be under great scrutiny. Under Utah Code section 20A-1-803, this is a time-sensitive investigation and your clock is ticking.

Respectfully Submitted,

Kelly G. Laws
Resident and Registered Voter of Utah and San Juan County
Utah State and San Juan County Taxpayer
Candidate for San Juan County Commissioner District 2

Cc: Governor Gary Herbert



Kelly Laws <kellyglaws@gmail.com>

Request for Special Investigation2 messages

Justin Lee <justinlee@utah.gov>
To: kellyglaws@gmail.com

Tue, Dec 4, 2018 at 9:16 AM

Dear Mr. Laws,

I want to let you know our office has received your request for a special investigation and our attorney is currently reviewing it. There is no additional form that needs to be submitted.

Sincerely,

Justin Lee
Director of Elections
Office of the Lieutenant Governor
State of Utah
801.538.1129
justinlee@utah.gov

Kelly Laws <kellyglaws@gmail.com>
To: Justin Lee <justinlee@utah.gov>

Tue, Dec 4, 2018 at 10:00 AM

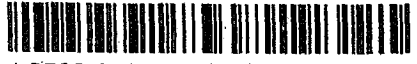
Thank you for the update.

[Quoted text hidden]

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Spencer J. Cox
 Lieutenant Governor's Office
 Utah State Capitol Complex
 350 N. State Street, Suite 220
 PO Box 142325
 Salt Lake City, Ut. 84114-2325



9590 9402 3679 7335 1724 67

2. Article Number (Transfer from envelope label)
 7018 1130 0000 9984 5754

COMPLETE THIS SECTION ON DELIVERY

A. Signature **Received**
 Agent
 Addressee

B. Received by (Printed Name)
 M. J. Cox
 C. Date of Delivery
 07/09/2016

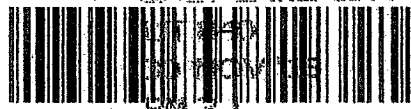
D. Is delivery address different from item 1? Yes
 No
 If YES, enter delivery address below:

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery
 - Priority Mail Express®

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

USPS TRACKING#



9590 9402 3679 7335 1724 67

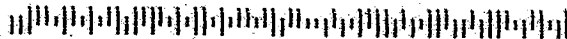


First-Class Mail
 Postage & Fees Paid
 USPS
 Permit No. G-10

United States
 Postal Service

* Sender: Please print your name, address, and ZIP+4® in this box*

Kelly G. Laws
 295 W. 400 N.
 Blanding, Ut
 84511



STATE OF UTAH
OFFICE OF THE LIEUTENANT GOVERNOR



SPENCER J. COX
LIEUTENANT GOVERNOR

January 25, 2019

Mr. Kelly G. Laws
295 West 400 North
Blanding, UT 84511

Dear Mr. Laws:

My office has received your letter dated November 27, 2018 challenging the election of Willie Greyeyes to the San Juan County Commission. My office considers your letter a "verified petition" under Utah Code 20A-1-803 and, as the "reviewing official" under that statute, I hereby respond to your petition.

The petition asserts that Mr. Greyeyes committed "voter fraud" in that he "does not live in the state of Utah . . ." and concludes that Greyeyes has "therefore committed a 'significant violation' of Utah Election Law."

As the reviewing official, my office is tasked under 20A-1-803 to "gather information" and, considering several listed factors, "determine whether, in the discretion of the reviewing official, a special investigation is necessary." See 20A-1-803(4)(a). To that end, this office has received and gathered information that may be material to the claims raised in your petition. The information includes the documents submitted with your petition, other documents that were filed as exhibits and on record in the previous federal lawsuit, *Greyeyes v. Cox*, USDC no 4:18-cv-00041 ("federal lawsuit"). More recently, the office has also received copies of the Complaint and exhibits filed in your lawsuit in 7th District Court, *Laws v Willie Greyeyes*, Case no. 180700016 ("state lawsuit").

Among the several factors the reviewing official may consider under the statute is "whether the alleged violation should be addressed in, or is being adequately addressed in, another forum . . ." 20A-1-803(4)(b)(vi). Utah Elections Code specifically provides a right of action in the state courts for challenging the eligibility of a candidate or elected official to hold office. See 20A-4-403. You have also invoked that process through your recent state lawsuit. Both the -803 process and the state lawsuit you have filed, if taken to their procedural conclusion, ultimately place the assessment and determination of the issues before the district court. By providing a specific statute and right of action in 20A-4-403, it is clear the legislature intended these types of issues to be resolved under that statute, as opposed to 20A-1-803. Furthermore, the lawsuit you have commenced under 20A-4-403 statutorily provides for a more speedy resolution in court. Because the -403 process is less cumbersome than the "special counsel-investigation-lawsuit" procedure contemplated in -803, your pending civil lawsuit under -403 is the more appropriate forum and will more adequately address and determine the issues you have asserted.

In light of this conclusion the questions you raise in the petition are properly before and will be adequately addressed by the district court in the pending state lawsuit. As reviewing official, I have therefore determined that appointment of special counsel is not necessary. Accordingly, the process triggered under 20A-1-803 is concluded. This conclusion does not preclude, nor should it in any way affect the pending state lawsuit you have filed pursuant to 20A-4-403.

Sincerely,

A handwritten signature in black ink, appearing to read "Spencer J. Cox". The signature is fluid and cursive, with a large initial "S" and a stylized "Cox" at the end.

Spencer J. Cox
Lieutenant Governor

West's Utah Code Annotated
Title 17. Counties
Chapter 16. County Officers
Part 1. General Provisions

U.C.A. 1953 § 17-16-1

§ 17-16-1. Eligibility and residency requirements for county, district, precinct, or prosecution district office

Currentness

(1) A person filing a declaration of candidacy for a county, district, precinct, or prosecution district office shall:

(a) be a United States citizen;

(b) except as provided in [Section 20A-1-509.2](#) with respect to the office of county attorney or district attorney, as of the date of the election, have been a resident for at least one year of the county, district, precinct, or prosecution district in which the person seeks office; and

(c) be a registered voter in the county, district, precinct, or prosecution district in which the person seeks office.

(2)(a) A county, district, precinct, or prosecution district officer shall maintain residency within the county, district, precinct, or prosecution district in which the officer was elected during the officer's term of office.

(b) If a county, district, precinct, or prosecution district officer establishes the officer's principal place of residence as provided in [Section 20A-2-105](#) outside the county, district, precinct, or prosecution district in which the officer was elected, the office is automatically vacant.

Credits

Laws 1981, c. 109, § 1; Laws 1990, c. 32, § 3; Laws 1993, c. 38, § 9; Laws 1993, c. 94, § 3; Laws 1994, c. 12, § 9; Laws 1994, c. 147, § 80; Laws 1997, c. 139, § 2, eff. May 5, 1997; Laws 1999, c. 206, § 1, eff. May 3, 1999; Laws 2013, c. 237, § 2, eff. May 14, 2013.

Notes of Decisions (7)

U.C.A. 1953 § 17-16-1, UT ST § 17-16-1
Current through 2019 General Session.

West's Utah Code Annotated
Title 20a. Election Code
Chapter 1. General Provisions
Part 8. Civil Action for Election Code Violation

U.C.A. 1953 § 20A-1-803

§ 20A-1-803. Verified petition by registered voter--Receiving and reviewing official--Special investigation--Special counsel--Civil action

Currentness

- (1) A registered voter may file a verified petition alleging a violation of any provision of this title, if the registered voter:
 - (a) has information relating to the alleged violation;
 - (b) the allegation is against a candidate for whom the registered voter had the right to vote, a personal campaign committee of that candidate, or a member of a personal campaign committee of that candidate.
- (2) The registered voter described in Subsection (1) shall file the verified petition with the receiving official.
- (3) If the receiving official determines, in writing, that the receiving official has a conflict of interest in relation to taking an action required in this part, the receiving official shall:
 - (a) designate as the reviewing official an individual who does not have a conflict of interest, in the following order of precedence:
 - (i) the attorney general;
 - (ii) the state auditor;
 - (iii) the state treasurer; or
 - (iv) the governor; and
 - (b) forward the petition to the reviewing official for further action.
- (4)(a) The reviewing official shall gather information and determine whether, in the discretion of the reviewing official, a special investigation is necessary.

(b) In making the determination described in Subsection (4)(a), the reviewing official may consider the following:

- (i) whether, based on the information available to the reviewing official, the reviewing official is able to determine that a violation did not occur;
- (ii) the seriousness of the alleged violation;
- (iii) whether the alleged violation was intentional or accidental;
- (iv) whether the alleged violation could be resolved informally;
- (v) whether the petition is frivolous or filed for the purpose of harassment;
- (vi) whether the alleged violation should be addressed in, or is being adequately addressed in, another forum, including a criminal investigation or proceeding;
- (vii) whether additional investigation, as part of a civil proceeding in relation to the petition, is desirable;
- (viii) the likelihood that an action, based on the allegations, is likely to be successful; or
- (ix) other criteria relevant to making the determination.

(5) If the reviewing official determines that a special investigation is necessary, the reviewing official shall:

- (a) except as provided in Subsection (5)(b), refer the information to the attorney general, who shall appoint special counsel; or
- (b) if the verified petition alleges that the attorney general violated a provision of this title, or if the reviewing official determines that the Office of the Attorney General has a conflict of interest in relation to the verified petition, appoint a person who is not an employee of the Office of the Attorney General as special counsel, in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(6) The special counsel:

- (a) shall review the petition and any evidence relative to determining whether a defendant committed a violation of a provision of this title;

(b) may interview individuals or gather additional evidence relative to determining whether a defendant committed a violation of a provision of this title;

(c) shall advise the reviewing official whether, in the opinion of the special counsel, sufficient evidence exists to establish that a defendant committed a significant violation of a provision of this title; and

(d) shall, within three days after the day on which the special counsel complies with Subsection (6)(c), prepare and provide to the reviewing official a document that:

(i) states whether, in the opinion of the special counsel, sufficient evidence exists to establish that a defendant committed at least one significant violation of a provision of this title; and

(ii) if the special counsel is of the opinion that sufficient evidence exists to establish that a defendant committed at least one significant violation of a provision of this title:

(A) states the name of each defendant for which, in the opinion of the special counsel, sufficient evidence exists to establish that the defendant committed at least one significant violation of a provision of this title;

(B) states each provision of this title for which, in the opinion of the special counsel, sufficient evidence exists to establish that the defendant violated; and

(C) may not include a description of the evidence supporting the opinion of the special counsel.

(7) The reviewing official shall:

(a) within three days after the day on which the reviewing official receives the document described in Subsection (6)(d), post a conspicuous link to the document on the home page of the reviewing official's website; and

(b) within seven days after the day on which the special counsel complies with Subsection (6)(c):

(i) determine whether, in the opinion of the reviewing official, sufficient evidence exists to establish that a defendant committed a significant violation of a provision of this title; and

(ii) if the reviewing official is of the opinion that sufficient evidence exists to establish that a defendant committed at least one significant violation of a provision of this title, direct the special counsel to file a civil action and serve summons in accordance with the Utah Rules of Civil Procedure:

(A) against each defendant for whom the reviewing official determines that sufficient evidence exists that the defendant committed a significant violation of this title; and

(B) that includes each significant violation for which the reviewing official determines that sufficient evidence exists.

(8)(a) The purpose of the civil action described in Subsection (7)(b)(ii) is to determine whether a defendant committed a significant violation of a provision of this title.

(b) For a civil action described in Subsection (7)(b)(ii), the complaint may include an allegation of any violation of a provision of this title by a defendant, regardless of whether the violation is alleged in the petition.

(c) The special counsel may amend the complaint at any time after the complaint is filed, including by adding allegations to the complaint or amending allegations already made in the complaint, if the court determines that the amendment will not violate the due process rights of the defendant against whom the added or amended allegation is made.

(9)(a) An action brought under this section shall:

(i) be heard without a jury, with the court determining all issues of fact and issues of law; and

(ii) have precedence over any other civil actions.

(b) The court shall schedule discovery and hearings, and shall otherwise conduct proceedings relating to an action brought under this section, in an expedited manner while preserving the rights of the parties and the integrity of the proceedings.

Credits

[Laws 2014, c. 254, § 3, eff. May 13, 2014.](#)

U.C.A. 1953 § 20A-1-803, UT ST § 20A-1-803

Current through 2019 General Session.

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West's Utah Code Annotated
Title 20a. Election Code
Chapter 2. Voter Registration
Part 1. General Voter Registration Requirements (Refs & Annos)

U.C.A. 1953 § 20A-2-105

§ 20A-2-105. Determining residency

Currentness

(1) As used in this section:

(a) “Principal place of residence” means the single location where a person's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.

(b) “Resident” means a person whose principal place of residence is within a specific voting precinct in Utah.

(2) Election officials and judges shall apply the standards and requirements of this section when determining whether a person is a resident for purposes of interpreting this title or the Utah Constitution.

(3)(a) A person resides in Utah if:

(i) the person's principal place of residence is within Utah; and

(ii) the person has a present intention to maintain the person's principal place of residence in Utah permanently or indefinitely.

(b) A person resides within a particular voting precinct if, as of the date of registering to vote, the person's principal place of residence is in that voting precinct.

(c) A person's principal place of residence does not change solely because the person is present in Utah, present in a voting precinct, absent from Utah, or absent from the person's voting precinct because the person is:

(i) employed in the service of the United States or of Utah;

(ii) a student at an institution of learning;

(iii) incarcerated in prison or jail; or

(iv) residing upon an Indian or military reservation.

(d)(i) A member of the armed forces of the United States is not a resident of Utah merely because that member is stationed at a military facility within Utah.

(ii) In order to be a resident of Utah, a member of the armed forces described in this Subsection (3)(d) shall meet the other requirements of this section.

(e)(i) Except as provided in Subsection (3)(e)(ii) or (iii), a person has not lost the person's principal place of residence in Utah or a precinct if that person moves to a foreign country, another state, or another voting precinct within Utah, for temporary purposes with the intention of returning.

(ii) If a person leaves the state or a voting precinct and votes in another state or voting precinct, the person is no longer a resident of the state or voting precinct that the person left.

(iii) A person loses the person's principal place of residence in Utah or in a precinct, if, after the person moves to another state or another precinct under Subsection (3)(e)(i), the person forms the intent of making the other state or precinct the person's principal place of residence.

(f) A person is not a resident of a county or voting precinct if that person comes for temporary purposes and does not intend to make that county or voting precinct the person's principal place of residence.

(g) A person loses the person's principal place of residence in Utah or in a precinct if the person moves to another state or precinct with the intention of making the other state or precinct the person's principal place of residence.

(h) If a person moves to another state or precinct with the intent of remaining there for an indefinite time as the person's principal place of residence, the person loses the person's residence in Utah, or in the precinct, even though the person intends to return at some future time.

(4) An election official or judge shall, in determining a person's principal place of residence, consider the following factors, to the extent that the election official or judge determines the factors to be relevant:

(a) where the person's family resides;

(b) whether the person is single, married, separated, or divorced;

(c) the age of the person;

- (d) where the person usually sleeps;
 - (e) where the person's minor children attend school;
 - (f) the location of the person's employment, income sources, or business pursuits;
 - (g) the location of real property owned by the person;
 - (h) the person's residence for purposes of taxation or tax exemption; and
 - (i) other relevant factors.
- (5)(a) A person has changed the person's principal place of residence if the person:
- (i) acts affirmatively to move from the state or a precinct in the state; and
 - (ii) has the intent to remain in another state or precinct.
- (b) A person may not have more than one principal place of residence.
- (c) A person does not lose the person's principal place of residence until the person establishes another principal place of residence.
- (6) In computing the period that a person is a resident, a person shall:
- (a) include the day on which the person establishes the person's principal place of residence; and
 - (b) exclude the day of the next election.
- (7)(a) There is a rebuttable presumption that a person's principal place of residence is in Utah and in the voting precinct claimed by the person if the person makes an oath or affirmation upon a registration application form that the person's principal place of residence is in Utah and in the voting precinct claimed by the person.
- (b) The election officers and election officials shall allow a person described in Subsection (7)(a) to register and vote unless, upon a challenge by a registrar or some other person, it is shown by law or by clear and convincing evidence that:
- (i) the person's principal place of residence is not in Utah; or

(ii) the person is incarcerated in prison or jail and did not, before the person was incarcerated in prison or jail, establish the person's principal place of residence in the voting precinct.

(8)(a) The criteria described in this section for establishing a person's principal place of residence for voting purposes do not apply in relation to the person's location while the person is incarcerated in prison or jail.

(b) For voting registration purposes, the principal place of residence of a person incarcerated in prison or jail is the state and voting precinct where the person's principal place of residence was located before incarceration.

(9) If a person's principal place of residence is a residential parcel of one acre in size or smaller that is divided by the boundary line between two or more counties, that person shall be considered a resident of the county in which a majority of the residential parcel lies.

Credits

Laws 1993, c. 1, § 54; Laws 1996, 2nd Sp.Sess., c. 3, § 4, eff. April 30, 1996; Laws 2002, c. 64, § 1, eff. March 15, 2002; Laws 2007, c. 285, § 3, eff. April 30, 2007; Laws 2008, c. 276, § 7, eff. May 5, 2008; Laws 2011, c. 297, § 75, eff. May 10, 2011; Laws 2014, c. 260, § 1, eff. May 13, 2014.

Notes of Decisions (8)

U.C.A. 1953 § 20A-2-105, UT ST § 20A-2-105
Current through 2019 General Session.

West's Utah Code Annotated
Title 20a. Election Code
Chapter 3. Voting
Part 2. Watchers and Challenges to Voters

U.C.A. 1953 § 20A-3-202.3

§ 20A-3-202.3. Pre-election challenges to a voter's eligibility in writing--Procedure--Form of challenge

Effective: May 8, 2018

[Currentness](#)

(1)(a) A person may challenge an individual's eligibility to vote by filing a written statement with the election officer in accordance with Subsection (1)(b) that:

(i) lists the name and address of the person filing the challenge;

(ii) for each individual who is challenged:

(A) identifies the name of the challenged individual;

(B) lists the last known address or telephone number of the challenged individual;

(C) provides the basis for the challenge, as provided under [Section 20A-3-202](#);

(D) provides facts and circumstances supporting the basis provided; and

(E) may include supporting documents, affidavits, or other evidence; and

(iii) includes a signed affidavit, which is subject to penalties of perjury, swearing that:

(A) the filer exercised due diligence to personally verify the facts and circumstances establishing the basis for the challenge; and

(B) according to the filer's personal knowledge and belief, the basis for the challenge under [Section 20A-3-202](#) for each challenged individual is valid.

(b) A person that files a written statement under Subsection (1)(a) shall file the written statement during the election officer's regular business hours:

(i) at least 45 days before the day of the election; or

(ii) if the challenge is to an individual who registered to vote between the day that is 45 days before the election and the day of the election:

(A) on or before the day of the election; and

(B) before the individual's ballot is removed from a ballot envelope or otherwise separated from any information that could be used to identify the ballot as the individual's ballot.

(c) The challenge may not be based on unsupported allegations or allegations by an anonymous person.

(d) An election officer may require a person that files a challenge under this section to file the challenge on a form provided by the election officer that meets the requirements of this section.

(2) If the challenge is not in the proper form, is incomplete, or if the basis for the challenge does not meet the requirements of this part, the election officer shall dismiss the challenge and notify the filer in writing of the reasons for the dismissal.

(3)(a) Upon receipt of a challenge that meets the requirements for filing under this section, the election officer shall attempt to notify each challenged individual in accordance with Subsection (3)(b):

(i) at least 28 days before the date of the election, if the election officer receives the challenge under Subsection (1)(b)(i); or

(ii) within one business day, if the election officer receives the challenge under Subsection (1)(b)(ii).

(b) The election officer shall attempt to notify each challenged individual:

(i) that a challenge has been filed against the challenged individual;

(ii) that the challenged individual may be required to cast a provisional ballot at the time the individual votes if the individual votes in person;

(iii) if the election is being conducted entirely by absentee ballot or if the individual is otherwise registered to vote by absentee ballot, that if the individual votes by absentee ballot, the individual's ballot will be treated as a provisional ballot unless the challenge is resolved;

(iv) of the basis for the challenge, which may include providing a copy of the challenge the filer filed with the election officer; and

(v) that the challenged individual may submit information, a sworn statement, supporting documents, affidavits, or other evidence supporting the challenged individual's eligibility to vote in the election to the election officer no later than:

(A) 21 days before the date of the election, if the election officer receives the challenge under Subsection (1)(b)(i); or

(B) five days before the day on which the canvass is held, if the election officer receives the challenge under Subsection (1)(b)(ii).

(4)(a) The election officer shall determine whether each challenged individual is eligible to vote before the day on which:

(i) early voting commences, if the election officer receives the challenge under Subsection (1)(b)(i); or

(ii) the canvass is held, if the election officer receives the challenge under Subsection (1)(b)(ii).

(b)(i) The filer has the burden to prove, by clear and convincing evidence, that the basis for challenging the individual's eligibility to vote is valid.

(ii) The election officer shall resolve the challenge based on the available facts and information submitted, which may include voter registration records and other documents or information available to the election officer.

(5) A person who files a challenge in accordance with the requirements of this section is subject to criminal penalties for false statements as provided under [Sections 76-8-503](#) and [76-8-504](#) and any other applicable criminal provision.

(6)(a) A challenged individual may appeal an election officer's decision regarding the individual's eligibility to vote to the district court having jurisdiction over the location where the challenge was filed.

(b) The district court shall uphold the decision of the election officer unless the district court determines that the decision was arbitrary, capricious, or unlawful.

(c) In making the district court's determination, the district court's review is limited to:

(i) the information filed under Subsection (1)(a) by the filer;

(ii) the information submitted under Subsection (3)(b)(v) by the challenged individual; and

(iii) any additional facts and information used by the election official to determine whether the challenged individual is eligible to vote, as indicated by the election official.

(7) A challenged individual may register to vote or change the location of the individual's voter registration if otherwise permitted by law.

(8) A document pertaining to a challenge filed under this section is a public record.

Credits

Laws 2010, c. 83, § 4, eff. May 11, 2010; Laws 2015, c. 19, § 1, eff. May 12, 2015; Laws 2018, c. 195, § 2, eff. May 8, 2018; Laws 2018, c. 274, § 5, eff. May 8, 2018.

U.C.A. 1953 § 20A-3-202.3, UT ST § 20A-3-202.3
Current through 2019 General Session.

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West's Utah Code Annotated
Title 20a. Election Code
Chapter 3. Voting
Part 2. Watchers and Challenges to Voters

U.C.A. 1953 § 20A-3-202

§ 20A-3-202. Challenges to a voter's eligibility--Basis for challenge--Procedures

Effective: May 14, 2019

[Currentness](#)

- (1) A person may challenge an individual's eligibility to vote on any of the following grounds:
- (a) the individual is not the individual in whose name the individual tries to vote;
 - (b) the individual is not a resident of Utah;
 - (c) the individual is not a citizen of the United States;
 - (d) the individual has not or will not have resided in Utah for 30 days immediately before the date of the election;
 - (e) the individual's principal place of residence is not in the voting precinct that the individual claims;
 - (f) the individual's principal place of residence is not in the geographic boundaries of the election area;
 - (g) the individual has already voted in the election;
 - (h) the individual is not at least 18 years of age;
 - (i) the individual has been convicted of a misdemeanor for an offense under this title and the individual's right to vote in an election has not been restored under [Section 20A-2-101.3](#);
 - (j) the individual is a convicted felon and the voter's right to vote in an election has not been restored under [Section 20A-2-101.5](#); or
 - (k) in a regular primary election or presidential primary election, the individual does not meet the political party affiliation requirements for the ballot the individual seeks to vote.

(2) A person who challenges an individual's right to vote in an election shall make the challenge in accordance with:

(a) [Section 20A-3-202.3](#), for a challenge that is not made in person at the time an individual votes; or

(b) [Section 20A-3-202.5](#), for challenges made in person at the time an individual votes.

Credits

Laws 1993, c. 1, § 72; Laws 1993, c. 228, § 8; Laws 1994, c. 2, § 4; Laws 1994, c. 311, § 14; Laws 1996, 2nd Sp.Sess., c. 3, § 10, eff. April 30, 1996; Laws 1997, c. 183, § 7, eff. May 5, 1997; Laws 1998, c. 266, § 5, eff. Jan. 1, 1999; Laws 2000, c. 328, § 7, eff. July 1, 2000; Laws 2005, c. 105, § 77, eff. May 2, 2005; Laws 2006, c. 15, § 3, eff. May 1, 2006; Laws 2006, c. 326, § 10, eff. May 1, 2006; Laws 2007, c. 75, § 11, eff. April 30, 2007; Laws 2010, c. 83, § 3, eff. May 11, 2010; Laws 2011, c. 395, § 4, eff. May 10, 2011; Laws 2012, c. 251, § 4, eff. May 8, 2012; Laws 2018, c. 195, § 1, eff. May 8, 2018; Laws 2018, c. 274, § 4, eff. May 8, 2018; Laws 2019, c. 433, § 11, eff. May 14, 2019.

U.C.A. 1953 § 20A-3-202, UT ST § 20A-3-202

Current through 2019 General Session.

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West's Utah Code Annotated
Title 20a. Election Code
Chapter 4. Election Returns and Election Contests
Part 4. Recounts and Election Contests (Refs & Annos)

U.C.A. 1953 § 20A-4-402

§ 20A-4-402. Election contests--Grounds

Currentness

(1) The election or nomination of any person to any public office, and the declared result of the vote on any ballot proposition or bond proposition submitted to a vote of the people may be contested according to the procedures established in this part only:

(a) for malconduct, fraud, or corruption on the part of the judges of election at any polling place, or of any board of canvassers, or any judge or member of the board sufficient to change the result;

(b) when the person declared elected was not eligible for the office at the time of the election;

(c) when the person declared elected has:

(i) given or offered to any registered voter, judge, or canvasser of the election any bribe or reward in money, property, or anything of value for the purpose of influencing the election; or

(ii) committed any other offense against the elective franchise;

(d) when illegal votes have been received or legal votes have been rejected at the polls sufficient to change the result;

(e) for any error of any board of canvassers or judges of election in counting the votes or declaring the result of the election, if the error would change the result;

(f) when the election result would change because a sufficient number of ballots containing uncorrected errors or omissions have been received at the polls;

(g) when the candidate declared elected is ineligible to serve in the office to which the candidate was elected;

(h) when an election judge or clerk was a party to malconduct, fraud, or corruption sufficient to change the result of the election; and

(i) for any other cause that shows that another person was legally elected.

(2) Any irregularity or improper conduct by the election judges does not void an election unless the irregularity or improper conduct would result in the election of a person who did not receive the highest number of legal votes.

(3) When any election held for any office is contested because of any irregularity or improper conduct on the part of a judge of any voting precinct, a court, upon proof of the irregularity or improper conduct may not set aside the election unless the irregularity or improper conduct would change the result for that office.

Credits

[Laws 1993, c. 1, § 116](#); [Laws 2005, c. 105, § 82](#), eff. May 2, 2005.

[Notes of Decisions \(49\)](#)

U.C.A. 1953 § 20A-4-402, UT ST § 20A-4-402

Current through 2019 General Session.

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West's Utah Code Annotated
Title 20a. Election Code
Chapter 4. Election Returns and Election Contests
Part 4. Recounts and Election Contests (Refs & Annos)

U.C.A. 1953 § 20A-4-403

§ 20A-4-403. Election contest--Petition and response

Currentness

(1)(a) In contesting the results of all elections, except for primary elections and bond elections, a registered voter shall contest the right of any person declared elected to any office by filing a verified written complaint with the district court of the county in which he resides within 40 days after the canvass.

(b) The complaint shall include:

(i) the name of the party contesting the election;

(ii) a statement that the party is a registered voter in the jurisdiction in which the election was held;

(iii) the name of the person whose right to the office is contested;

(iv) the office to which that person was ostensibly elected;

(v) one or more of the grounds for an election contest specified in [Section 20A-4-402](#);

(vi) the person who was purportedly elected to the office as respondent; and

(vii) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all persons who allegedly cast illegal votes or whose legal vote was rejected.

(c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:

(i) illegal votes were given in one or more specified voting precincts to a person whose election is contested, which, if taken from him, would reduce the number of his legal votes below the number of legal votes given to some other person for the same office; or

(ii) that legal votes for another person were rejected, which, if counted, would raise the number of legal votes for that person above the number of legal votes cast for the person whose election is contested.

(d)(i) The court may not take or receive evidence of any of the votes described in Subsection (1)(c) unless the party contesting the election delivers to the opposite party, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which he intends to prove at trial.

(ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.

(2)(a) In contesting the results of a primary election, when contesting the petition nominating an independent candidate, or when challenging any person, election officer, election official, board, or convention for failing to nominate a person, a registered voter shall contest the right of any person declared nominated to any office by filing a verified written complaint within 10 days after the date of the canvass for the primary election, after the date of filing of the petition, or after the date of the convention, respectively, with:

(i) the district court of the county in which he resides if he is contesting a nomination made only by voters from that county; or

(ii) the Utah Supreme Court, if he is contesting a nomination made by voters in more than one county.

(b) The complaint shall include:

(i) the name of the party contesting the nomination;

(ii) a statement that the contesting party is a registered voter in the jurisdiction in which the election was held;

(iii) the name of the person whose right to nomination is contested or the name of the person who failed to have their name placed in nomination;

(iv) the office to which that person was nominated or should have been nominated;

(v) one or more of the grounds for an election contest specified in Subsection (1);

(vi) the person who was purportedly nominated to the office as respondent; and

(vii) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all persons who allegedly cast illegal votes or whose legal vote was rejected.

(c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:

(i) illegal votes were given to a person whose election is contested, which, if taken from him, would reduce the number of his legal votes below the number of legal votes given to some other person for the same office; or

(ii) legal votes for another person were rejected, which, if counted, would raise the number of legal votes for that person above the number of legal votes cast for the person whose election is contested.

(d)(i) The court may not take or receive evidence of any the votes described in Subsection (2)(c), unless the party contesting the election delivers to the opposite party, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which he intends to prove at trial.

(ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.

(3)(a) In contesting the results of a bond election, a registered voter shall contest the validity of the declared results by filing a verified written complaint with the district court of the county in which he resides within 40 days after the date of the official finding entered under [Section 11-14-207](#).

(b) The complaint shall include:

(i) the name of the party contesting the election;

(ii) a statement that the party is a registered voter in the jurisdiction in which the election was held;

(iii) the bond proposition that is the subject of the contest;

(iv) one or more of the grounds for an election contest specified in [Section 20A-4-402](#); and

(v) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all persons who allegedly cast illegal votes or whose legal vote was rejected.

(c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:

(i) illegal votes were counted in one or more specified voting precincts which, if taken out of the count, would change the declared result of the vote on the proposition; or

(ii) legal votes were rejected in one or more specified voting precincts, which, if counted, would change the declared result of the vote on the proposition.

(d)(i) The court may not take or receive evidence of any of the votes described in Subsection (3)(c) unless the party contesting the election delivers to the opposite party, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which he intends to prove at trial.

(ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.

(4) The court may not reject any statement of the grounds of contest or dismiss the proceedings because of lack of form, if the grounds of the contest are alleged with such certainty as will advise the defendant of the particular proceeding or cause for which the election is contested.

(5)(a) The petitioner shall serve a copy of the petition on the respondent.

(b)(i) If the petitioner cannot obtain personal service of the petition on the respondent, the petitioner may serve the respondent by leaving a copy of the petition with the clerk of the court with which the petition was filed.

(ii) The clerk shall make diligent inquiry and attempt to inform the respondent that he has five days to answer the complaint.

(c) The respondent shall answer the petition within five days after the service.

(d) If the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the defendant shall set forth in the answer the name and address of all persons whom the defendant believes were properly or improperly admitted or denied the vote.

(e) If the answer contains a counterclaim, the petitioner shall file a reply within 10 days after service of the counterclaim.

(6)(a) The provisions of this Subsection (6) provide additional requirements that apply to municipal election contests that are in addition to the other requirements of this section governing election contest.

(b) Municipal election contests shall be filed, tried, and determined in the district court of the county in which the municipality is located.

(c)(i) As a condition precedent to filing a municipal election contest, the petitioner shall file a written affidavit of intention to contest the election with the clerk of the court within seven days after the votes are canvassed.

(ii) The affidavit shall include:

(A) the petitioner's name;

(B) the fact that the petitioner is a qualified voter of the municipality;

(C) the respondent's name;

(D) the elective office contested;

(E) the time of election; and

(F) the grounds for the contest.

(d)(i) Before the district court takes jurisdiction of a municipal election contest, the petitioner shall file a bond with the clerk of the court with the sureties required by the court.

(ii) The bond shall name the respondent as obligee and be conditioned for the payment of all costs incurred by the respondent if the respondent prevails.

Credits

[Laws 1993, c. 1, § 117](#); [Laws 2005, c. 105, § 83, eff. May 2, 2005](#); [Laws 2007, c. 238, § 1, eff. April 30, 2007](#).

Editors' Notes

VALIDITY

<For validity of § 20A-4-403(2)(a), see [Brown v. Cox 387 P. 3rd 1040, 830 Utah Adv. Rep. 12, 2017 UT 3 \(2017\)](#). >

[Notes of Decisions \(13\)](#)

U.C.A. 1953 § 20A-4-403, UT ST § 20A-4-403
Current through 2019 General Session.

West's Utah Code Annotated
Title 20a. Election Code
Chapter 9. Candidate Qualifications and Nominating Procedures
Part 2. Candidate Qualifications and Declarations of Candidacy

U.C.A. 1953 § 20A-9-202

§ 20A-9-202. Declarations of candidacy for regular general elections

Effective: May 14, 2019

[Currentness](#)

(1)(a) An individual seeking to become a candidate for an elective office that is to be filled at the next regular general election shall:

(i) except as provided in Subsection (1)(b), file a declaration of candidacy in person with the filing officer on or after January 1 of the regular general election year, and, if applicable, before the individual circulates nomination petitions under [Section 20A-9-405](#); and

(ii) pay the filing fee.

(b) Subject to Subsection 20A-9-201(7)(b), an individual may designate an agent to file a declaration of candidacy with the filing officer if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the filing officer;

(iii) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other; and

(iv) the individual provides the filing officer with an email address to which the filing officer may send the individual the copies described in Subsection 20A-9-201(5).

(c) Each county clerk who receives a declaration of candidacy from a candidate for multicounty office shall transmit the filing fee and a copy of the candidate's declaration of candidacy to the lieutenant governor within one business day after the candidate files the declaration of candidacy.

(d) Each day during the filing period, each county clerk shall notify the lieutenant governor electronically or by telephone of candidates who have filed a declaration of candidacy with the county clerk.

(e) Each individual seeking the office of lieutenant governor, the office of district attorney, or the office of president or vice president of the United States shall comply with the specific declaration of candidacy requirements established by this section.

(2)(a) Each individual intending to become a candidate for the office of district attorney within a multicounty prosecution district that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after January 1 of the regular general election year, and before the individual circulates nomination petitions under [Section 20A-9-405](#); and

(ii) pay the filing fee.

(b) The designated clerk shall provide to the county clerk of each county in the prosecution district a certified copy of each declaration of candidacy filed for the office of district attorney.

(3)(a) Before 5 p.m. no later than the first Monday after the third Saturday in April, each lieutenant governor candidate shall:

(i) file a declaration of candidacy with the lieutenant governor;

(ii) pay the filing fee; and

(iii) submit a letter from a candidate for governor who has received certification for the primary-election ballot under [Section 20A-9-403](#) that names the lieutenant governor candidate as a joint-ticket running mate.

(b)(i) A candidate for lieutenant governor who fails to timely file is disqualified.

(ii) If a candidate for lieutenant governor is disqualified, another candidate may file to replace the disqualified candidate.

(4) Before 5 p.m. no later than August 31, each registered political party shall:

(a) certify the names of the political party's candidates for president and vice president of the United States to the lieutenant governor; or

(b) provide written authorization for the lieutenant governor to accept the certification of candidates for president and vice president of the United States from the national office of the registered political party.

(5)(a) A declaration of candidacy filed under this section is valid unless a written objection is filed with the clerk or lieutenant governor before 5 p.m. within five days after the last day for filing.

(b) If an objection is made, the clerk or lieutenant governor shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after it is filed.

(c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the problem by amending the declaration or petition before 5 p.m. within three days after the day on which the objection is sustained or by filing a new declaration before 5 p.m. within three days after the day on which the objection is sustained.

(d)(i) The clerk's or lieutenant governor's decision upon objections to form is final.

(ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable by a district court if prompt application is made to the court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(6) Any person who filed a declaration of candidacy may withdraw as a candidate by filing a written affidavit with the clerk.

(7)(a) Except for a candidate who is certified by a registered political party under Subsection (4), and except as provided in [Section 20A-9-504](#), before 5 p.m. no later than August 31 of a general election year, each individual running as a candidate for vice president of the United States shall:

(i) file a declaration of candidacy, in person or via a designated agent, on a form developed by the lieutenant governor, that:

(A) contains the individual's name, address, and telephone number;

(B) states that the individual meets the qualifications for the office of vice president of the United States;

(C) names the presidential candidate, who has qualified for the general election ballot, with which the individual is running as a joint-ticket running mate;

(D) states that the individual agrees to be the running mate of the presidential candidate described in Subsection (7)(a)(i)(C); and

(E) contains any other necessary information identified by the lieutenant governor;

(ii) pay the filing fee, if applicable; and

(iii) submit a letter from the presidential candidate described in Subsection (7)(a)(i)(C) that names the individual as a joint-ticket running mate as a vice presidential candidate.

(b) A designated agent described in Subsection (7)(a)(i) may not sign the declaration of candidacy.

(c) A vice presidential candidate who fails to meet the requirements described in this Subsection (7) may not appear on the general election ballot.

Credits

Laws 1994, c. 1, § 54; Laws 1994, c. 21, § 40; Laws 1995, c. 152, § 11, eff. May 1, 1995; Laws 1995, c. 340, § 24, eff. May 1, 1995; Laws 1996, c. 79, § 36, eff. April 29, 1996; Laws 1996, c. 258, § 12, eff. March 15, 1996; Laws 1997, c. 24, § 12, eff. Feb. 26, 1997; Laws 1997, c. 182, § 5, eff. May 5, 1997; Laws 1997, c. 184, § 1, eff. May 5, 1997; Laws 1999, c. 45, § 27, eff. March 15, 1999; Laws 2004, c. 146, § 1, eff. May 3, 2004; Laws 2005, c. 71, § 16, eff. May 2, 2005; Laws 2008, c. 225, § 20, eff. May 5, 2008; Laws 2009, c. 119, § 2, eff. May 12, 2009; Laws 2011, c. 327, § 12, eff. Jan. 1, 2012; Laws 2013, c. 317, § 4, eff. May 14, 2013; Laws 2014, c. 17, § 12, eff. Jan. 1, 2015; Laws 2015, c. 296, § 9, eff. May 12, 2015; Laws 2017, c. 63, § 2, eff. May 9, 2017; Laws 2018, c. 11, § 6, eff. Feb. 21, 2018; Laws 2019, c. 255, § 83, eff. May 14, 2019.

Notes of Decisions (8)

U.C.A. 1953 § 20A-9-202, UT ST § 20A-9-202
Current through 2019 General Session.

End of Document

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SAN JUAN COUNTY SHERIFF'S OFFICE

Deputy Report for Incident 1803-0141

Nature: False Info

Address: 17 MILES NE OF NAVAJO MT CH
HSE

Location: SJC

Navajo Mountain UT 86044

Offense Codes: FIPO

Received By: COLBY TURK

How Received: T

Agency: SJSO

Responding Officers: COLBY TURK

Responsible Officer: COLBY TURK

Disposition: CLO 03/28/18

When Reported: 13:03:43 03/23/18

Occurred Between: 13:03:43 03/23/18 and 13:03:43 03/23/18

Assigned To:

Detail:

Date Assigned: **/**/**

Status:

Status Date: **/**/**

Due Date: **/**/**

Complainant: 000035536

Last: BLACK

First: WENDY

Mid:

DOB: 02/20/65

Dr Lic:

Address: 486 WEST 100 SOUTH

Race: W

Sex: F

Phone: (435)459-1970

City: BLANDING, UT 84511

Offense Codes

Reported: FIPO False Information or Report

Observed: FIPO False Information or Report

Additional Offense: FIPO False Information or Report

Circumstances

Responding Officers:

Unit :

COLBY TURK

1Z15

Responsible Officer: COLBY TURK

Agency: SJSO

Received By: COLBY TURK

Last Radio Log: 14:54:15 03/23/18 24

How Received: T Telephone

Clearance:

When Reported: 13:03:43 03/23/18

Disposition: CLO **Date:** 03/28/18

Judicial Status:

Occurred between: 13:03:43 03/23/18

Misc Entry:

and: 13:03:43 03/23/18

Modus Operandi:

Description :

Method :

Involvements

Date

Type

Description

Relationship

03/23/18	Name	GRAYEYES, WILLIE	Suspect
03/23/18	Name	BLACK, WENDY	Complainant
03/23/18	Cad Call	13:03:43 03/23/18 False Info	Initiating Call

Narrative

INVESTIGATION NARRATIVE

RE: False Info

CASE #: 1803-0141

TFC Colby Turk

SUSPECT(S): Willie Grayeyes

SYNOPSIS:

Wendy Black filed an official written complaint to the San Juan County Clerks Office stating that Willie Grayeyes who is running for San Juan County Commission does not live in San Juan County, Utah.

1. DESCRIPTION-TIME-LOCATION OF THE INCIDENT:

On 03/27/18, I met with Wendy Black at her house. Wendy told me that she had received information that Willie Grayeyes does not live in San Juan County, Utah and that he possibly lives in Arizona near the Utah border. Wendy told me that she and her husband went to the Navajo Mountain area to investigate it on 03/23/18 and said that they couldn't find where Mr. Grayeyes claimed he lived and she said that they talked to a young couple that lives in the area and that they told her that Willie Grayeyes lives in the Deshonto area.

The San Juan county clerk John David Nielson gave me a copy of Mr. Grayeyes declaration of candidacy form indicating Mr. Grayeyes put down that he lives 17 miles from the Navajo Mountain Chapter House on Paiute Mesa. I also got a copy of directions from the clerk's office and possible GPS coordinates to the area that Mr. Grayeyes claimed he lived. The GPS coordinates are 37 Degrees 04' 16.17" North 110 Degrees 36' 48.01 West.

On 03/27/18, I went out to Navajo Mountain to confirm Mr. Grayeyes address in San Juan County, Utah. On my way out to Navajo Mountain, I stopped in the Navajo Tribal Utility Authority (NTUA) Office in Kayenta to see if I could confirm Mr. Grayeyes address with them from his utility payments. NTUA told me that they couldn't give me any information without a warrant but told me to check in with the chapter houses in the area and that they could help me.

I stopped and checked with the Inscription House Arizona Chapter House on a possible address for Willie Grayeyes. The Inscription House Chapter told me that Willie Grayeyes was a member of the Navajo Mountain Chapter House and that they would have the information there.

I checked with the Navajo Mountain Chapter house and spoke with Lorena Atene who is the Community Services Coordinator for the Navajo Mountain Chapter. I told Lorena that I was looking for Willie Grayeyes residence and she stated that he doesn't live in Navajo Mountain but lives in Tuba City, Arizona. She said Willie is a registered Chapter member and official in Navajo Mountain, but doesn't live in Navajo Mountain and he commutes back and forth. She said that he is the sitting Secretary Treasurer for the Chapter and travels up from Tuba City for the meetings. I asked if he gets mail there and Lorena said that he does but that their mail room is just a sub office of the Tonalea Post Office and it is the closet office to them and that is why they have a Tonalea PO Box address . Lorena gave me the name of Willie Grayeyes sister and told me I should speak to

her. She showed me on a map where his sister Rose Johnson lives in the HUD Housing in Navajo Mountain. Lorena also showed me on a map that the Grayeyes family has some property across the canyon on Paiute Mesa but said as far as she knows Willie Grayeyes lives in Tuba City and commutes to Navajo Mountain.

Before I left the Navajo Mountain Chapter House, I reset the miles counter in my truck to zero to gage how far I had gone from the Chapter House as I made my way out to the area that Willie Grayeyes said that he lives. On my way out to Paiute Mesa, I stopped and started knocking on doors in the area where Rose Johnson, Mr. Grayeyes sister, lives in a neighborhood just off the main road. I talked to a man who lives in house #6 and told him that I was looking for Rose Johnson or Willie Grayeyes. The man told me that Mr. Grayeyes lives in Tuba City. The man said that Rose was his neighbor in house #5, but that she probably wasn't home because her car was gone. I said to him, "but Willie lives in Tuba City?" and the man said yes. I walked over to house #5 and knocked on the door and didn't get an answer. I walked over to house #11 because I had seen someone standing outside. I talked with a man who didn't live at that specific house. I asked him if he knew where Willie Grayeyes lives and he said that Willie doesn't live there but is from there. I asked him if Willie lives in Tuba City and the man said yeah he is from all over, that he has houses in Page and Cameron, Arizona. He said that Willie is originally from Navajo Mountain but that he doesn't live there. He told me I should go ask Willie's Nephew Darrell Grayeyes at the community school or Rosemary Johnson who also works at the school. A lady came out of the house that we were in front of and I asked her if she knew if Willie Grayeyes lives around here and she said he comes around every once and a great while and that she didn't know where he lived.

I left that neighborhood and drove up the road and came to a "T" intersection and took a right onto County Road 434, the Paiute Mesa Road. I drove through Paiute Canyon and up onto Paiute Mesa. I continued driving until I had reached 17 miles from where I started at the Navajo Mountain Chapter House. I turned on the body camera and filmed the area that I was in, that was approximately 17 miles from the Navajo Mountain Chapter House. I narrated what I could see which was nothing and I made verbal notes that I had passed some houses at mile 16 when I came out of the canyon. I drove down the road to about mile 17.7 and found the area of the GPS coordinates. There were no houses in the area just shade huts, a corral and an outhouse. I drove around in the area and didn't find any houses. I drove south down the main road towards a house that was approximately 19 miles from the Chapter House. I took a picture of the building. It looked rundown and the roof looked like it was about ready to fall in. I didn't see any signs of recent human activity in the area. I went up to the front door of the house and knocked on the door and didn't get an answer. I looked through the windows and saw building material stacked up in the house but nothing that looked like anyone had touched in awhile. I drove a little further south down the main road and saw a truck parked just off the main road with people sitting in the truck. I stopped and talked with them and asked them where Willie Grayeyes lives. They said that Willie didn't live anywhere around there. They told me that the Grayeyes family has some property in the area but that it was abandoned and no one lives there. They described the location of it to me and told me that it was on the north side of the road. I remembered passing the gate to the property as I came out of Paiute Canyon. They told me that when Willie comes to Navajo Mountain he stays with his sister Rose, but he doesn't live there. I asked them about the house that I had seen on the south side of the road when you come out of the canyon and they said that property belongs to Harrison Ross but that he wouldn't be around because he is at work. I asked them where they lived and they told me south of where we currently were. I asked them if there were more people further south down the

road from them and they said yes, but that they were elderly people and only spoke Navajo. They told me they were the only young people living there on Paiute Mesa and that there were only probably a total of 12 people who lived up there. I left them and drove north up the road towards where they had told me the Grayeyes family had property but was abandoned.

I checked on the two houses that I had seen earlier that were on the south side of the road coming out of Paiute Canyon where Charmane and Byron told me Harrison Ross lived, but no one was around. I went to the property on the north side of the road and parked at the gate made from old ropes with reflectors on it. I did see a set of tire tracks coming and stopping at the same area that I parked at. I walked down into the property from where I parked and saw that there were two buildings on the property and some corrals. The corrals were empty and looked old and wore down and unusable in their current state. As I was walking down the road towards the house, I did notice an old set of boot tracks in the dirt but just one set. I walked up to the first house which I could tell it had been painted blue somewhat recently and I noticed that at bottom of the door, the jam was covered in sand and didn't appear to have been open in sometime. I knocked on the door and waited and didn't get an answer. In front of the house, lying on the ground knocked over, was a trash can that said property of the City of Prescott. I walked over to the second house and knocked on the door and didn't get an answer there either. I walked around the second house and looked in the windows that weren't blocked. In the first window I saw a Coleman camp light sitting on a table and in the second window I saw a bunch of kitchen items just piled up and thrown around. The house looked like it had been some time since someone had been/lived in it. I went and looked into the only partially unblocked window in the blue house and saw a couch and a bunch of boxes piled up in room. The houses looked more like storage units than living structures. I also noticed that the hook ups for power had been cut and I did not notice any signs in the area that indicated that someone lived there. There was no foot traffic or vehicle tracks. Everything appeared abandoned to me. I took some pictures of the area and left.

I drove down CR 486 which breaks off north east off of Paiute Mesa road and drove approximately 3 or 4 miles and came across a house there. I spoke to a man named Leonard and asked him if Willie Grayeyes lived around there any where. Leonard said no, that it has been a couple of years since Willie Grayeyes had lived in that area, I asked Leonard how long he had lived here and he told me all of his life.

I drove back to Navajo Mountain and went to the Community School and met with Rose Johnson who is Willie Grayeyes sister. I told her that I had been told that she could tell me where her brother Willie Grayeyes lives. She told me that he lived in Tuba City in a trailer. She said she would give me his phone number and as I was marking down his number, I asked her how long it had been since Willie had lived in Navajo Mountain. She told me it had been a long time. I wasn't sure if she understood my question. I had one of the ladies in the office ask her in Navajo how long has Willie lived in Tuba City. When the lady in the office asked, Rose said she didn't know and the office lady said she thought it had been two or three years. Rose said that Willie comes and stays with her for a day or two sometimes but doesn't live there.

I had dispatch contact Navajo PD in Tuba City to see if they had a current address for Willie Grayeyes. They told dispatch that they did not, but told dispatch to contact Kayenta district because they knew Grayeyes lived in their area. Kayenta district told dispatch that they had a record of Willie Grayeyes in their area and that they had an address for him at the same spot

where I had checked the Grayeyes family property. Kayenta said that it has been years since they have sent anyone out to the property for anything. On 03/28/18 Kayenta dispatch contacted my dispatch and said that they had sent an officer out to Navajo Mountain yesterday evening to check the area for Willie Grayeyes and that they had been told also that Willie doesn't live in Navajo Mountain but that he lives behind the car wash in Tuba City.

On 03/30/18, I went to Tuba City to track down Willie Grayeyes, I first went to the Navajo Chapter House in Tuba City. The ladies in the main office that I talked to said they had heard his name before but didn't know where he lived. They told me I should check with the San Juan Southern Paiute Tribe Office in Tuba City. I asked the ladies about the car wash in Tuba City, they said that there was only one and that it was next to the KFC. I went to the area behind the car wash and started knocking on doors and talking to people asking them if they knew who Willie Grayeyes was and everyone that I talked to said they didn't know who he was. After spending about an hour in the neighborhood behind the car wash, I went to the Navajo PD Office and asked them if they could help me. Criminal Investigator Albert Nez said he would come and help me. The first place that CI Nez and I went was the Paiute Tribe Office. There we met with the President Carlene Yellowhair and her Vice President Candelora Lehi. They said that they know Willie Grayeyes, that he attends some of the same meetings as they do, but they didn't know where he lived, they just assumed he lived in Navajo Mountain because he represents that area at the meetings that they attend together. Carlene said that maybe Louise Tallman man who is part of the San Juan Southern Paiute Tribe Northern Council Member might know where Willie Grayeyes lives. Carlene called her and Louise told her she thinks that Willie lives either in Tuba City or Inscription House. Carlene then called another woman, Cecilia Long, who is a Paiute tribal elder and possible relative of Willie Grayeyes. Cecilia told Carlene that Willie lives next to the Church of Holiness in Tuba City in a red cinder block house.

CI Nez and I went to the Church of Holiness area and couldn't locate anyone to talk to while we were in the area we knocked on the doors to the houses that are located in the same compound as the Holiness church. CI Nez told me that the family that lives here with the church is the Bydone family. After leaving the area I dropped CI Nez off at the police station and called San Juan County Attorney Kendall Laws to give him an update of what I had found out. CA Laws told me that San Juan County Manager Kelly Pehrson had received an anonymous tip that Willie Grayeyes lives with his girlfriend Victoria Bydone in Tuba City.

I went back to the Church of Holiness around 1600 hours on 03/30/18 and talked to Lucida Johnson and asked her where I could find Willie Grayeyes. She said that he lived in the trailer on the other side of the road, but said if the blue or white car wasn't there then he wouldn't be home. I went to the trailer house that Lucida said to go to. There was no blue or white car there. I knocked on the door and waited, there was no answer. The home had numerous cats and dogs hanging around and they looked like they were well taken care of. I went back to the Church of Holiness and spoke to Lucida again and confirmed with her that I had gone to the right trailer house and I asked if Willie lived there with Victoria Bydone. She told me that I had gone to the right house and that he does live there with Victoria and added that Willie lives in Navajo Mountain. I stated that everyone in Navajo Mountain told me he lives here in Tuba City. Lucida chuckled and stated that he is everywhere on the rez because he is a councilman. I asked Lucida if she was related to Willie, she said yes that she was Victoria's mom. I stated, "so he is your son in law?" and she said "something like that". I left my card with Lucida and wrote my cell

phone number on it and asked her to give it to Willie and to have him give me a call.

On 04/04/18, Willie Grayeyes contacted the Sheriff's Office and left a message for me to call him or that I could meet him in Bluff at Twin Rocks at 4 PM, I tried calling Mr. Grayeyes but he didn't answer and his voice mail wasn't set up so I sent him a text message saying that I got his message and that I would meet him in Bluff at Twin Rocks.

Willie Grayeyes arrived at Twin Rocks just after 4 PM, and I met with him. I asked Mr. Grayeyes to tell me what his physical address was and he said he stays a lot of times at house #5 in the NHA housing in Navajo Mountain. His sisters house. I asked him if he lives in Tuba City, he said that he has an office there and that he travels from there to Navajo Mountain and all over. Mr. Grayeyes said that he doesn't have a place in Tuba City but that he stays with a lady. I asked him if the lady was Victoria and Mr. Grayeyes said yes. I asked him if he had a residence that is his. Mr. Grayeyes said that he has an aunts house who has passed away on Paiute Mesa that's the first house off to the right once you come out of the canyon. I asked him when was the last time he was there. Mr. Grayeyes said he's been traveling and that its been quite awhile since he has been out to his house. I asked him again when he thought the last time he had been to the house on Paiute Mesa and he said in the fall when he took water out there for the cattle. I asked him since he hasn't been out there for so long where he has been staying. Mr. Grayeyes said that he sometimes stays at his uncle's house in Arizona, just south of the Utah border. His uncle's name is Harry Nimrock. I told Mr. Grayeyes that someone has challenged his residency and says he doesn't live in Utah. I told him that I've been to Navajo Mountain and Paiute Mesa and spoken to people there including his sister and everyone has told me that he lives in Tuba City or that he doesn't live in Navajo Mountain. I told him that I talked to his mother in law in Tuba city and that she told me that he lives there in Tuba with her daughter. I told him I'm trying to figure out where he lives. Mr. Grayeyes said "well house #5 that's where I live." I asked "with Rose?" and he said yes that she is his blood sister. I asked Mr. Grayeyes when he stays there and he said about 60 to 70 percent of his time. I asked him where he stays the rest of the time and he said he is on the road the rest of the time. I told Mr. Grayeyes that on his declaration of candidacy that he put that his place of residence is 17 miles from the Navajo Mountain Chapter house on Paiute Mesa. I told Mr. Grayeyes that I drove 17 miles from the Chapter House and that there is nothing there. I told him that I talked to people on Paiute Mesa and that they told me that he doesn't live there. I stated so you don't live on Paiute Mesa. He said that he is busy doing things that he doesn't have time to get the car back there. I said so you don't live on Paiute Mesa, but you stay with your sister sometimes in Navajo Mountain. Mr. Grayeyes said yep and that is his birthright there on Paiute Mesa. I went over again that he doesn't live on Paiute Mesa and that he stays with his sister sometimes and Victoria in Tuba City sometimes and the rest of the time he is traveling. Mr. Grayeyes agreed with me that I was accurate.

2. EVIDENCE (ITEM, QTY, VALUE, ETC):

Pictures, body cam footage, declaration of candidacy form, copy of Arizona drives license. Mr. Grayeyes does not have a Utah driver's license just an Arizona one. The day I met with Mr. Grayeyes I ran the license plate to the vehicle that he was driving, it had an Arizona listing of 231RSJ and is registered to Victoria Bydone in Tuba City, Arizona.

Responsible LEO:

Approved by:

Date

Name Involvements:

Suspect : 61841

Last: GRAYEYES

DOB: 03/15/46

Race: I **Sex:** M

First: WILLIE

Dr Lic: D04728435

Phone: (928)614-1281

Mid:

Address: 17 MILES NE OF NAVAJO MT
CH HSE

City: Tonalea, AZ 86044

Complainant : 000035536

Last: BLACK

DOB: 02/20/65

Race: W **Sex:** F

First: WENDY

Dr Lic:

Phone: (435)459-1970

Mid:

Address: 486 WEST 100 SOUTH

City: BLANDING, UT 84511

























79° E
Moab
UT

37°4'15" N 110°36'50" W

5920 ft Elevation



A Navajo Mountain Chapter House
Co Rd 488, Tonalea, UT 86044

B Thumb Rock
Utah 86044

Co Rd 434

21.6 miles, 1 h 11 min

A Navajo Mountain Chapter House

1. Head east on Co Rd 488 toward
Co Rd 473

0.3 mi

2. Turn left onto Co Rd 434/Piute
Creek Rd

2.5 mi

3. Continue onto **Co Rd 434**

1.0 mi

4. Turn **right**

0.6 mi

5. Continue onto **Co Rd 434**

1.2 mi

6. Continue straight to stay on **Co Rd 434**

10.6 mi

7. Turn **right** onto **Piute Creek Rd**

0.5 mi

8. Continue onto **Paiute Creek Rd**

0.7 mi

9. Continue onto **Piute Creek Rd**

4.2 mi

BThumb Rock



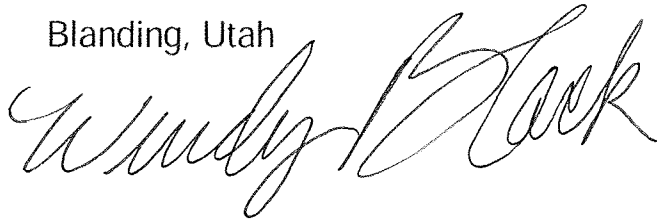
March 20,2018

Dear County Clerk and whomever it concerns,

I would like to formally challenge the validity of Willie Greyeyes being able to run for San Juan County, Utah Commissioner. It has been brought to my attention that he may live outside of the county and state of Utah. My concern is as a challenger for this commission seat.

Wendy Black

Blanding, Utah

A handwritten signature in cursive script that reads "Wendy Black". The signature is written in black ink and is positioned below the typed name and address.



Election Issues

Johnson, Norman <njohnson@sanjuancounty.org>
To: Williegrayeyes@yahoo.com

Mon, Oct 29, 2012 at 12:24 PM

Willie I need your financial report by 5:00 PM tomorrow October 30th
also I need to know your Physical Address in Utah for our records. Please call me
435-587-3223 - Norman

M39 @ 504-516-9742

12:20 PM 10-29-12

Willie called @ 1:20 PM
Lives 17 miles from Mopra House
on Pine Mesa, Utah just north
of Thumb Rock



Directions to Co Rd 488
17.7 mi – about 1 hour 4 mins





Co Rd 434/Piute Creek Rd

1. Head **north** on **Co Rd 434/Piute Creek Rd**
Continue to follow Co Rd 434
About 6 mins
go 1.5 mi
total 1.5 mi
2. Turn left toward **Co Rd 434/Piute Creek Rd**
About 6 mins
go 1.6 mi
total 3.0 mi
3. Continue straight onto **Co Rd 434/Piute Creek Rd**
Continue to follow Co Rd 434
About 42 mins
go 10.8 mi
total 13.8 mi
4. Turn left to stay on **Co Rd 434**
About 9 mins
go 3.5 mi
total 17.3 mi
5. Turn right onto **Co Rd 488**
About 1 min
go 0.3 mi
total 17.7 mi



Co Rd 488

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2012 Google

Directions weren't right? Please find your route on maps.google.com and click "Report a problem" at the bottom left.

Unit: 1Z15, DR - DL #: D04728435

OLN/D04728435.IMQ/Y		
NAME:WILLIE,,GRAYEYES	DOB:03/15/1946	RCPT#:TC092946
ADDR:17 MILES NE OF NAVAJO MT CH HSE	TONALEA	AZ 86044
ISSUE DT:03/11/2016	EXP:03/15/2021	SEX:M HGT:506 WGT:175 HAIR:WHT EYE:BRN
OLN:D04728435	SSN:585099380	OLT:OPERATOR CLASS D
MAIL:PO BOX 10035	TONALEA	AZ 86044
RESTRICT: CORRECTIVE LENS		
PREV LIC: D04728435	PREV ST: AZ	
D04728435	AZ	
585099380	AZ	

DECLARATION OF CANDIDACY

by

Willie Grayeyes

(Print name of candidate exactly as it is to be printed on the Official Ballots)

for the office of San Juan County Commission Seat #2

STATE OF UTAH

County of San Juan

ss.

March 9, 2018
(Date)

I, Willie Grayeyes, declare my intention of becoming a candidate for the office of Commissioner for Dist #2 as a candidate for the Democratic

party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at 17 miles ^{N. on 6310} from Painted Mesa, Utah from Navajo Chapter Hse. Street, in the City or Town of Navajo with Chapter comm., Utah, Zip Code 86044, Phone No. 928 614 1281; I will not knowingly violate any law governing campaigns and elections; I will file all

campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is

P.O. Box 10035, Tonalea, Arizona 86044

Additional information:

Williegrayeyes@yahoo.com
e-mail Address

Web Site

[Signature]
Signature of Candidate

Subscribed and sworn before me this 3/9/2018
(month/day/year)

[Signature]
Notary Public (or other officer qualified to administer oath)

For Office Use

Date Certified by Party

Date Received

Certified by _____

(Party)

Received by _____

(Authorized Person)

05/07/18
13:34

SAN JUAN COUNTY SHERIFF'S OFFICE
Law Supplemental Narrative:

336
Page: 1

Details

Incident Number 1803-0141 Name COLBY TURK
Sequence Number 1 Date 13:12:27 04/25/18

Narrative
(See below)

= = = = =

Narrative:
Follow Up _____
1803-0141
TFC Colby Turk

On 04/24/18, I went to the location that Willie Grayeyes provided to the County Clerks Office, indicating where he resides in his response to his residency challenge.

The home that I visited is one of the homes that I visited the first time I was on Paiute mesa. Nothing immediately stood out to me as being different than how I remember it being the first time I had been there. The ground didn't have any recent tire tracks that would be consistent with someone living there. The tire tracks all appeared old. I didn't notice any foot tracks around either. I looked in the window of the house and saw that there was furniture and a TV and pictures and things in the home.

I loaded the GPS coordinates into my GPS that had been provided in Mr. Grayeyes response. The coordinates took me to a location about 250 feet away from the house into the trees but it was in the general area of the house. I documented the area by taking pictures. I took GPS coordinates at the house from the north side of the home they are N 37.08456, W 110.62524. I took pictures of the area and also had my body cam going while I was there.

























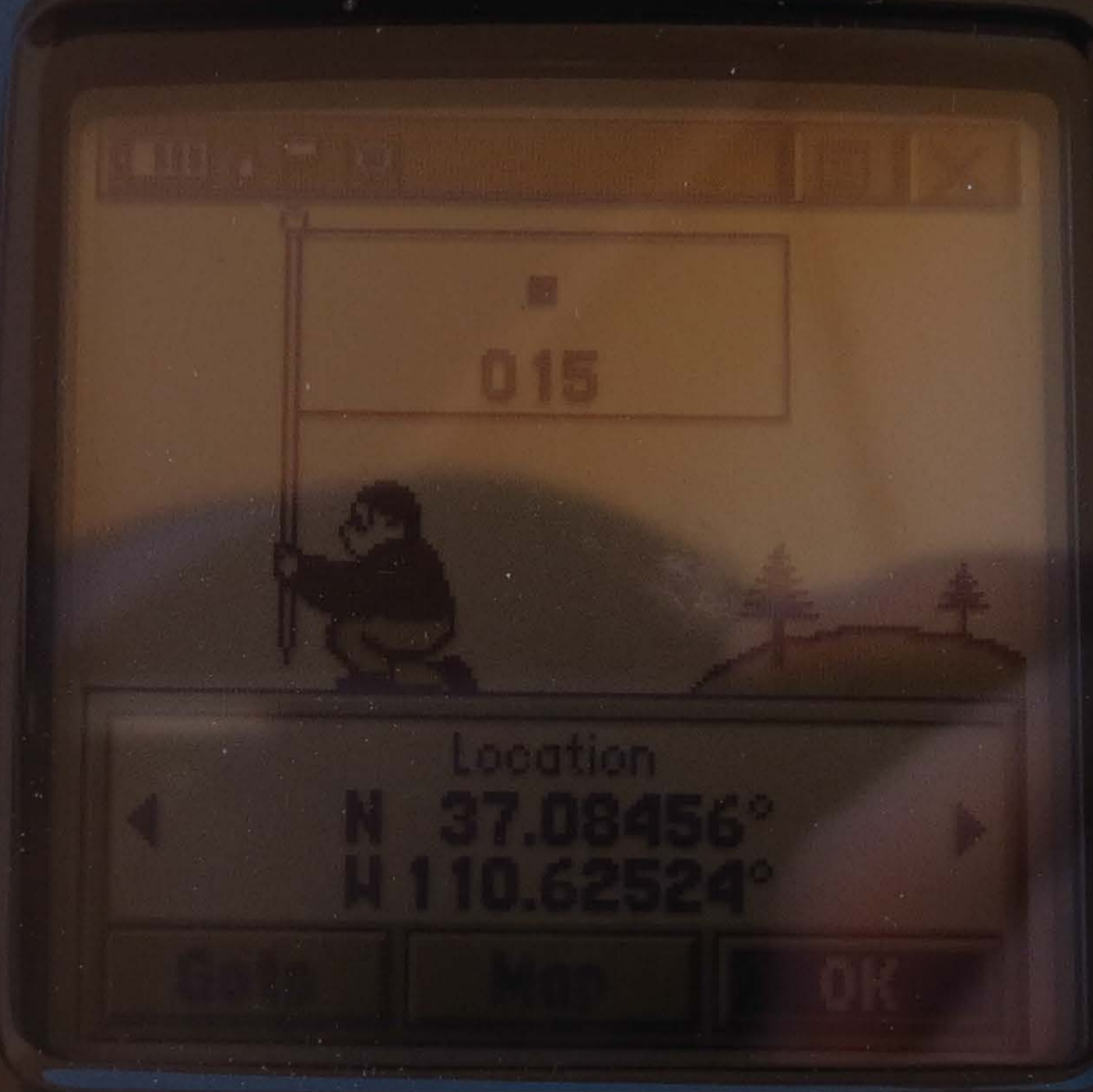






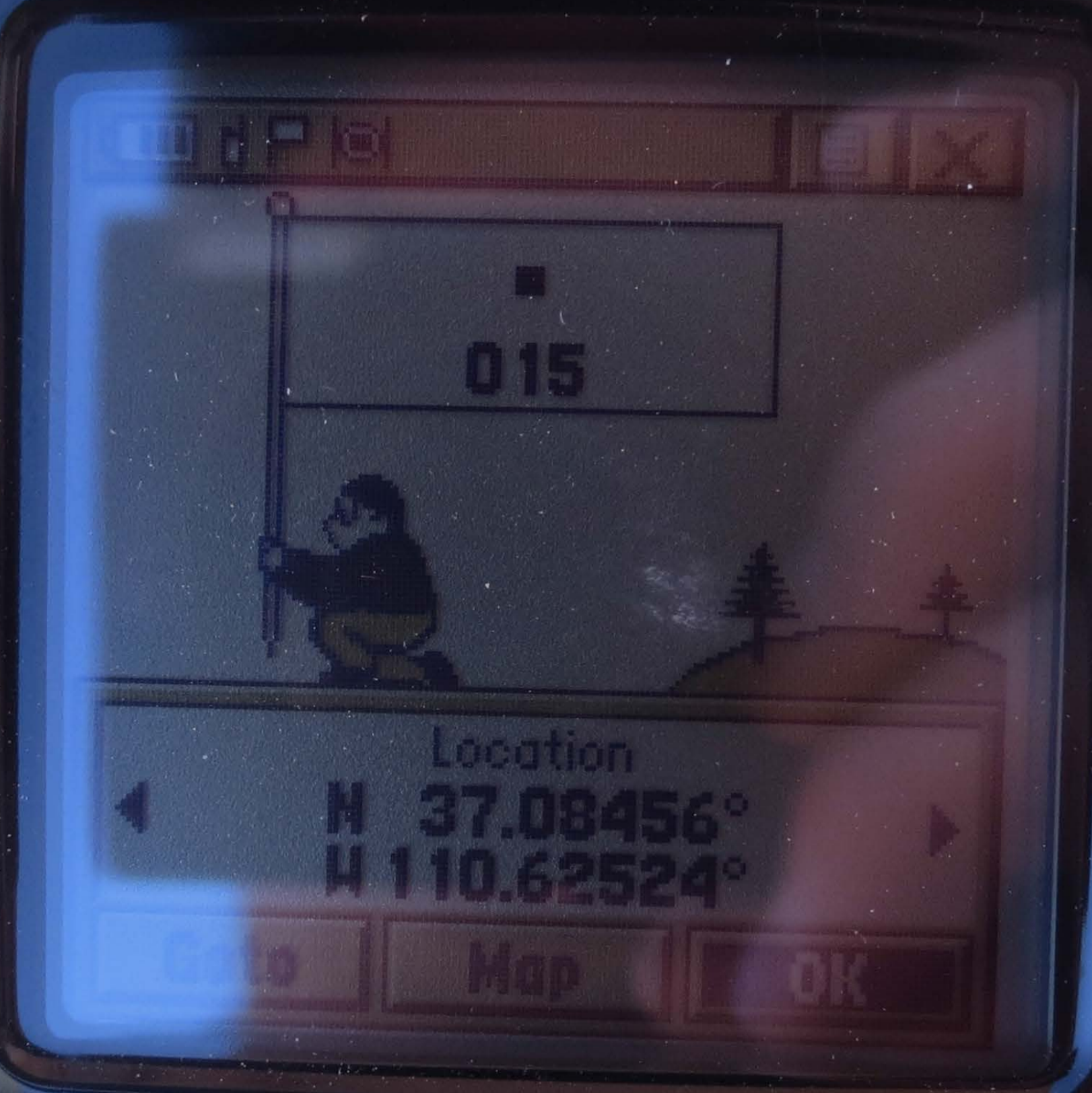


Mrino 120



GARMIN

Mrino 120



GARMIN

015



Location

N 37.08456°

W 110.62529°



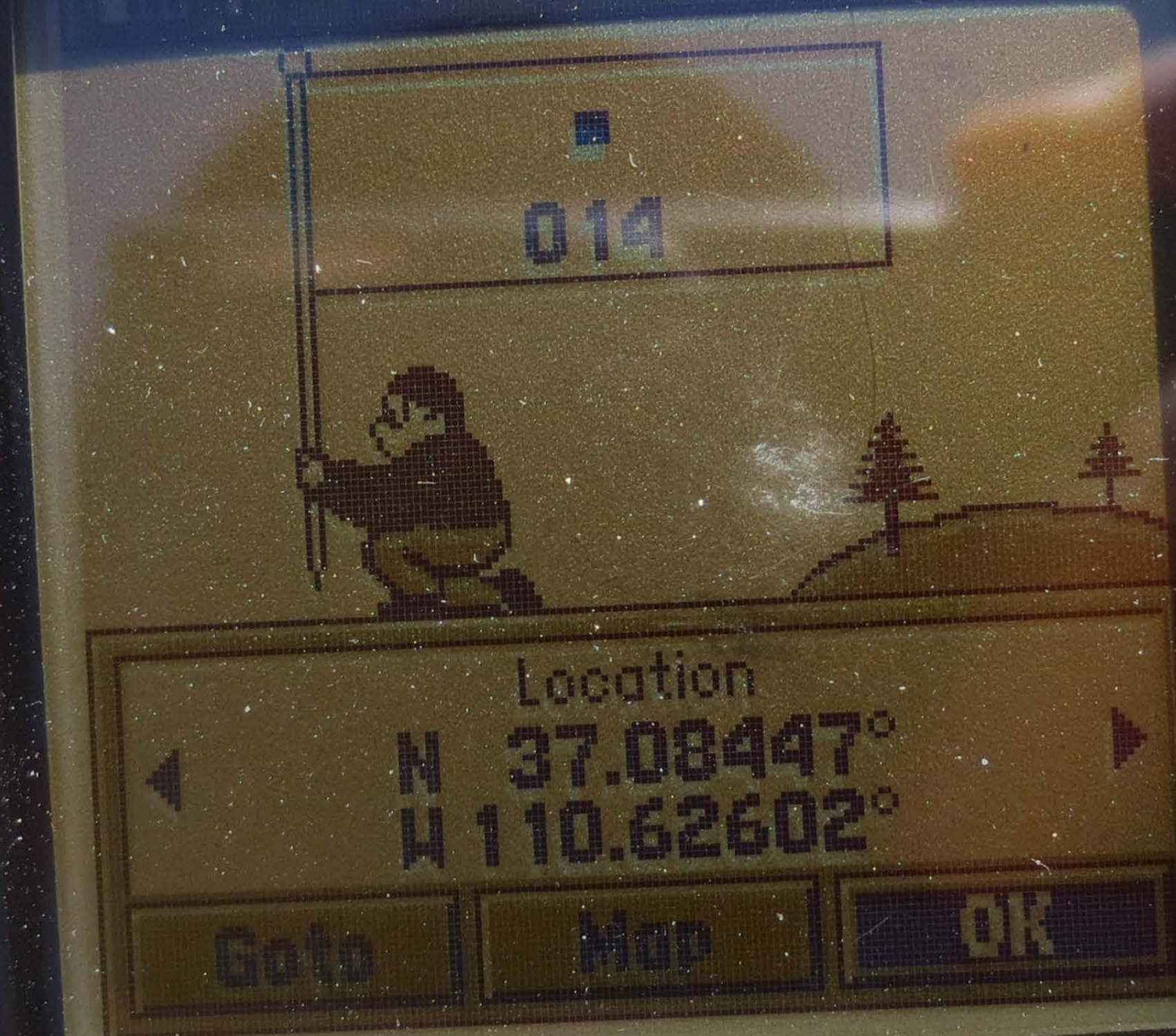
Exit

Map

OK

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 rino 120



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ADDENDUM P

Full Body Camera Footage From
Sheriff's Deputy C. Turk

(DVD to follow with hard copies of
brief)

West's Utah Code Annotated
Title 20a. Election Code
Chapter 4. Election Returns and Election Contests
Part 4. Recounts and Election Contests (Refs & Annos)

U.C.A. 1953 § 20A-4-404

§ 20A-4-404. Election contest--Calendaring and disposition

Currentness

- (1)(a) Upon receipt of the petition, the clerk shall inform the chief judge of the court having jurisdiction.
- (b) The chief judge shall issue an order:
- (i) assigning the case to a district court judge, if the district court has jurisdiction; and
 - (ii) setting a date and time, not less than 10 nor more than 30 days from the date the petition was filed to hear and determine the contest.
- (c) The clerk shall:
- (i) issue a subpoena for the person whose right to the office is contested to appear at the time and place specified in the order; and
 - (ii) cause the subpoena to be served.
- (2) The court shall meet at the time and place designated to determine the contest.
- (3)(a) If it is necessary for the court to inspect the ballots of any voting precinct in order to determine any election contest the judge may order the proper officer to produce them.
- (b) The judge shall:
- (i) open and inspect the ballots in open court in the presence of the parties or their attorneys; and
 - (ii) immediately after the inspection, seal them in an envelope and return them, by mail or otherwise, to their legal custodian.

(4)(a) If the petition, response, or counterclaim alleges an error in the canvass sufficient to change the result, the court may order and conduct a recount of the ballots or vote tabulation.

(b) The court may also require the production of any documents, records, and other evidence necessary to enable it to determine the legality or illegality of any vote cast or counted.

(c)(i) After all the evidence in the contest is submitted, the court shall enter its judgment, either confirming the election result or annulling and setting aside the election.

(ii) If the court determines that a person other than the one declared elected received the highest number of legal votes, the court shall declare that person elected.

Credits

[Laws 1993, c. 1, § 118.](#)

[Notes of Decisions \(10\)](#)

U.C.A. 1953 § 20A-4-404, UT ST § 20A-4-404

Current through 2019 General Session.

End of Document

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West's Utah Code Annotated
Title 20a. Election Code
Chapter 1. General Provisions
Part 5. Candidate Vacancy and Vacancy and Temporary Absence in Elected Office

U.C.A. 1953 § 20A-1-508

§ 20A-1-508. Midterm vacancies in county elected offices--Temporary manager--Interim replacement

Effective: May 14, 2019

[Currentness](#)

(1) As used in this section:

(a)(i) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(ii) "County offices" does not include the office of county attorney, district attorney, or judge.

(b) "Party liaison" means the political party officer designated to serve as a liaison with each county legislative body on all matters relating to the political party's relationship with a county as required by [Section 20A-8-401](#).

(2)(a) Except as provided in Subsection (2)(d), until a county legislative body appoints an interim replacement to fill a vacant county office under Subsection (3), the following shall temporarily discharge the duties of the county office as a temporary manager:

(i) for a county office with one chief deputy, the chief deputy;

(ii) for a county office with more than one chief deputy:

(A) the chief deputy with the most cumulative time served as a chief deputy for the county office; or

(B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's chief deputies to discharge the duties of the county office in the event the county officer vacates the office, the designated chief deputy; or

(iii) for a county office without a chief deputy:

(A) if one management-level employee serving under the county office has a higher-seniority management level than any other employee serving under the county office, that management-level employee;

(B) if two or more management-level employees serving under the county office have the same and highest-seniority management level, the highest-seniority management-level employee with the most cumulative time served in the employee's current position; or

(C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's employees to discharge the county officer's duties in the event the county officer vacates the office, the designated employee.

(b) Except as provided in Subsection (2)(c), a temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office holds the powers and duties of the county office until the county legislative body appoints an interim replacement under Subsection (3).

(c) The temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office:

(i) may not take an oath of office for the county office as a temporary manager;

(ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, and the county's budget ordinances and policies;

(iii) unless approved by the county legislative body, may not change the compensation of an employee;

(iv) unless approved by the county legislative body, may not promote or demote an employee or change an employee's job title;

(v) may terminate an employee only if the termination is conducted in accordance with:

(A) personnel rules described in Subsection 17-33-5(3) that are approved by the county legislative body; and

(B) applicable law;

(vi) unless approved by the county legislative body, may not exceed by more than 5% an expenditure that was planned before the county office for which the temporary manager discharges duties was vacated;

(vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or compensation; and

(viii) if approved by the county legislative body, may receive a performance award after:

(A) the county legislative body appoints an interim replacement under Subsection (3); and

(B) the interim replacement is sworn into office.

(d) This Subsection (2) does not apply to a vacancy in the office of county legislative body member.

(3)(a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this Subsection (3).

(b)(i) To appoint an interim replacement, the county legislative body shall, within 10 days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison of the same political party of the prior office holder and invite that party liaison to submit the name of an individual to fill the vacancy.

(ii) That party liaison shall, before 5 p.m. within 30 days after the day on which the liaison receives the notice described in Subsection (3)(b)(i), or if the party liaison does not receive the notice, before 5 p.m. within 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual the party selects in accordance with the party's constitution or bylaws to serve as the interim replacement.

(iii) The county legislative body shall, no later than five days after the day on which a party liaison submits the name of the individual to serve as the interim replacement, appoint the individual to serve out the unexpired term.

(c)(i) If the county legislative body fails to appoint an interim replacement to fill the vacancy in accordance with Subsection (3)(b)(iii), the county clerk shall, no later than five days after the day of the deadline described in Subsection (3)(b)(iii), send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 days after the day on which the governor receives the letter described in Subsection (3)

(c)(i), appoint the individual named by the party liaison as an interim replacement to fill the vacancy.

(d) An individual appointed as interim replacement under this Subsection (3) shall hold office until a successor is elected and has qualified.

(4)(a) The requirements of this Subsection (4) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the election at which the officeholder was elected but before the second Friday in March of the next even-numbered year.

(b)(i) When the conditions described in Subsection (4)(a) are met, the county clerk shall as soon as practicable, but no later than 180 days before the next regular general election, notify the public and each registered political party that the vacancy exists.

(ii) An individual intending to become a party candidate for the vacant office shall file a declaration of candidacy in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) An individual who is nominated as a party candidate, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(5)(a) The requirements of this Subsection (5) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs on or after the second Friday in March of the next even-numbered year but more than 75 days before the regular primary election.

(b) When the conditions described in Subsection (5)(a) are met, the county clerk shall as soon as practicable, but no later than 70 days before the next regular primary election, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines described in Subsection (5)(c)(i) and the deadlines established under Subsection (5)(d)(ii).

(c)(i) An individual intending to become a party candidate for a vacant office shall, within five days after the day on which the notice is given, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(ii) The county central committee of each party shall:

(A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(B) certify the name of the candidate or candidates to the county clerk as soon as practicable, but before 5 p.m. no later than 60 days before the day of the regular primary election.

(d)(i) Except as provided in Subsection (5)(d)(ii), an individual intending to become a candidate for a vacant office who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in [Section 20A-9-502](#) with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(ii)(A) The county clerk shall establish, in the clerk's reasonable discretion, a deadline that is before 5 p.m. no later than 65 days before the day of the next regular general election by which an individual who is not affiliated with a registered political party is required to submit a certificate of nomination under Subsection (5)(d)(i).

(B) The county clerk shall establish the deadline described in Subsection (5)(d)(ii)(A) in a manner that gives an unaffiliated candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is nominated as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(6)(a) The requirements of this Subsection (6) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of two years or more; and

(ii) when 75 days or less remain before the day of the regular primary election but more than 65 days remain before the day of the regular general election.

(b) When the conditions described in Subsection (6)(a) are met, the county clerk shall, as soon as practicable, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines established under Subsection (6)(d).

(c)(i) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(A), the county central committee of each registered political party that wishes to submit a candidate for the office shall certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(ii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(B), a candidate who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in [Section 20A-9-502](#) with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(iii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(C), a write-in candidate shall submit to the county clerk a declaration of candidacy described in [Section 20A-9-601](#).

(d)(i) The county clerk shall establish, in the clerk's reasonable discretion, deadlines that are before 5 p.m. no later than 65 days before the day of the next regular general election by which:

(A) a registered political party is required to certify a name under Subsection (6)(c)(i);

(B) an individual who does not wish to affiliate with a registered political party is required to submit a certificate of nomination under Subsection (6)(c)(ii); and

(C) a write-in candidate is required to submit a declaration of candidacy under Subsection (6)(c)(iii).

(ii) The county clerk shall establish deadlines under Subsection (6)(d)(i) in a manner that gives an unaffiliated candidate or a write-in candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is certified as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(7)(a) The requirements of this Subsection (7) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of less than two years; or

(ii) if the vacant office has an unexpired term of two years or more but 65 days or less remain before the day of the next regular general election.

(b)(i) When the conditions described in Subsection (7)(a) are met, the county legislative body shall as soon as practicable, but no later than 10 days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison of the same political party as the prior office holder and invite that party liaison to submit the name of an individual to fill the vacancy.

(ii) That party liaison shall, before 5 p.m. within 30 days after the day on which the party liaison receives the notice described in Subsection (7)(b)(i), or if the party liaison does not receive the notice, before 5 p.m. no later than 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual to fill the vacancy.

(iii) The county legislative body shall, no later than five days after the day on which a party liaison submits the name of the individual to fill the vacancy, appoint the individual to serve out the unexpired term.

(c)(i) If the county legislative body fails to appoint an individual to fill the vacancy in accordance with Subsection (7)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint an individual to fill the vacancy within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 days after the day on which the governor receives the letter described in Subsection (7)(c)(i), appoint the individual named by the party liaison to fill the vacancy.

(d) An individual appointed to fill the vacancy under this Subsection (7) shall hold office until a successor is elected and has qualified.

(8) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

(9) Nothing in this section prohibits a candidate that does not wish to affiliate with a political party from filing a certificate of nomination for a vacant office within the same time limits as a candidate that is affiliated with a political party.

(10)(a) Each individual elected under Subsection (4), (5), or (6) to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the individual who created the vacancy and until a successor is elected and qualified.

(b) Nothing in this section may be construed to contradict or alter the provisions of [Section 17-16-6](#).

Credits

Laws 1993, c. 228, § 4; Laws 1994, c. 1, § 7; Laws 1996, c. 79, § 32, eff. April 29, 1996; Laws 1997, c. 139, § 6, eff. May 5, 1997; Laws 2006, c. 39, § 2, eff. May 1, 2006; Laws 2010, c. 197, § 4, eff. May 11, 2010; Laws 2011, c. 35, § 1, eff. May 10, 2011; Laws 2011, c. 297, § 71, eff. May 10, 2011; Laws 2011, c. 327, § 4, eff. Jan. 1, 2012; Laws 2017, c. 54, § 4, eff. May 9, 2017; Laws 2018, c. 68, § 36, eff. March 15, 2018; Laws 2018, c. 199, § 1, eff. May 8, 2018; Laws 2019, c. 212, § 1, eff. May 14, 2019; Laws 2019, c. 255, § 33, eff. May 14, 2019.

U.C.A. 1953 § 20A-1-508, UT ST § 20A-1-508

Current through 2019 General Session.

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