

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION

HILDA GONZALEZ GARZA, ROSBELL §
BARRERA, AND MARIO MASCORRO, JR., §
Plaintiffs, §

V.

CIVIL ACTION NO. 7:18-CV-00046

STARR COUNTY, TEXAS;
OMAR ESCOBAR, in his official capacity
as District Attorney for the 229th Judicial
District; VICTOR CANALES JR.,
in his official capacity as County Attorney
for Starr County; ELOY VERA, in his
official capacity as County Judge for
Starr County; JAIME ALVAREZ, in his
official capacity as Starr County
Commissioner for Precinct 1; RAUL PEÑA,
III, in his official capacity as Starr County
Commissioner for Precinct 2; ELOY GARZA,
in his official capacity as Starr County
Commissioner for Precinct 3; RUBEN D.
SAENZ, in his official capacity for Starr
County Commissioner for Precinct 4;
RENE “ORTA” FUENTES, in his official
capacity as Sheriff for Starr County.

Defendants.

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

[Before the policies, people would say] we were like vultures out there . . . sitting there waiting for somebody to come to kind of bounce on them and ask for their vote

Deposition of Defendant Eloy Vera, p.88, ll.11-13.

Q. . . . the regulations and the use policy, they're good for the community?

A. As it is right now with the 25 June revision, yes.

Deposition of Plaintiff Rosbell Barrera, p.57, ll.22-23, p.58, ll.2-2

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COME NOW, Defendants, STARR COUNTY, TEXAS; OMAR ESCOBAR, in his official capacity as District Attorney for the 229th Judicial District; VICTOR CANALES JR., in his official capacity as County Attorney for Starr County; ELOY VERA, in his official capacity as County Judge for Starr County; JAIME ALVAREZ, in his official capacity as Starr County Commissioner for Precinct 1; RAUL PEÑA, III, in his official capacity as Starr County Commissioner for Precinct 2; ELOY GARZA, in his official capacity as Starr County Commissioner for Precinct 3; RUBEN D. SAENZ, in his official capacity for Starr County Commissioner for Precinct 4; RENE “ORTA” FUENTES, in his official capacity as Sheriff for Starr County, and file this their Motion for Summary Judgment, and respectfully show unto the Court the following:

I. FACTUAL BACKGROUND

1. In December 2017, after realizing that every race for county office would be contested in the March 2018 primary, County Attorney Victor Canales and District Attorney Omar Escobar decided that Starr County had to address the election period “circus” created by political campaigns barbecuing and setting tents on county property. County officials had already spoken about the need for order and civility in a process that had been overrun by politiquera harassment and chicken plates. On January 8, 2018 and February 12, 2018, District Attorney Omar Escobar and County Attorney Victor Canales, respectively, presented to the Starr County Commissioners Court the proposed drafts they prepared to address electioneering issues and adopt a uniform policy for the operation and management of county property.

2. After the filing of this lawsuit, and pursuant to the Court’s first order on Plaintiff’s [First] Application for Temporary Restraining Order, Starr County continued with the process of drafting and enacting policies and regulations that would address the concerns that began the process in December 2017. There is no evidence that would show this process was improper, political, or unconstitutional; there is sufficient evidence to find that Starr County officials have simply sought greater, harassment-free access to polls and the preservation of county property.

3. Plaintiffs complain about the Starr County Building and Property Use Policy [hereinafter

“Use Policy”] and the Starr County Electioneering Regulations [hereinafter “Electioneering Regulations”] properly enacted by the Commissioners’ Court on June 25, 2018. They allege that the Use Policy and Electioneering Regulations violate the First Amendment, the Fourteenth Amendment, and the Texas Elections Code, and constitute *ultra vires* acts. Plaintiffs allege they fear arrest or fines in exercising their constitutional rights.

4. Starr County’s Use Policy states that County buildings and facilities are “to be primarily used for official county functions and their intended purposes.” (Doc. 67, Ex. A at § 3(a)). Simply put, a courthouse is to be used as a courthouse, a park as a park, a hospital as a hospital, et cetera. However, the County has decided to make certain buildings and facilities available for private use through a permitting process which is set forth in the Use Policy and requires that an applicant over the age of twenty-one complete, no less than thirty days before intended use, a *one* page form along with a “Release of Liability” and the tender of applicable after-hour fees and a deposit. *See* (Doc. 67, Ex. A at §§ 3(b), 5, 6, 7, 8). The Use Policy also allows for the waiver of after-hour fees. (Doc. 67, Ex. A at § 8(e)). The Use Policy also makes clear that there are exemptions and exclusions in the use of Starr County properties: facilities may not be reserved on County holidays, parking lots and parking zones may not be reserved, signs may not be affixed to buildings and on grounds, and the only facilities available for reservation are: Starr County Courthouse, Starr County Fairgrounds, El Cenizo Community Center, La Rosita Library, Starr County Annex Conference Room, and Zarate Park Community Center. (Doc. 67, Ex. A at §§ 3(e), 11, 9(e) and Attach. A). When deemed necessary by the County, certain uses of County property will require the presence of a licensed peace officer or security services. (Doc. 67, Ex. A at § 9(h)). The Use Policy specifically exempts from this permitting process all public spaces, including sidewalks, parks, cemeteries and memorials, and affirmatively states that “[p]eaceful picketing and leafletting in [these] public spaces is permissible.” (Doc. 67, Ex. A at §§ 12(a), (c)). The Use Policy also excludes “passive expressions of speech and access to buildings and facilities for personal business or to obtain county services” from the term “use.” (Doc. 67, Ex. A at § 3(c)).

5. The Use Policy’s Attachment B sets out a more detailed policy concerning the use of the

Starr County Courthouse. The Courthouse greens have been deemed public spaces “available at all times for public use.” (Doc. 67, Ex. A at Attach. B, § (i)(d)). The posting of personal announcements at the Courthouse is limited to the area designated by Commissioners’ Court. (Doc. 67, Ex. A at Attach. B, § (vi)). The Use Policy also prohibits setting signs or displays *into* the Courthouse greens. (Doc. 67, Ex. A at Attach. B, § (i)(b), (c)). The County also reserves the right to impose additional restrictions on the use of the Courthouse “with the primary focus of maintaining and protecting the historical structure.” (Doc. 67, Ex. A at Attach. B, § (xii)(a)).

6. Starr County’s Electioneering Regulations were enacted, in part, “to ensure that a polling place location is sufficiently available during a voting period” and “[t]o protect the voter and the integrity of the election process.” (Doc. 67, Ex. B at § 1(c)). To that end, Starr County has prohibited loitering and actively engaging in electioneering on sidewalks leading up to the entry of buildings on properties serving as polling locations. (Doc. 67, Ex. B at § 4(f)). Excluding limitations for firefighting and law enforcement, the protection of access to polling sites, and unimpeded access to rights of way and easements,¹ the Electioneering Regulations do not prohibit electioneering elsewhere outside the 100-foot buffer zone created by state law; all parks and grassy areas remain available for electioneering—their status as public spaces under the Use Policy is unaffected. *See generally* (Doc. 67, Ex. B at § 4). Recognizing the limitations on space for electioneering at certain locations, Starr County has included an exception to the electioneering prohibition on sidewalks and other off-limit areas under the Use Policy by specifically creating “Designated Areas for Electioneering,” which allow electioneering on certain sidewalks and in a parking area. (Doc. 67, Ex. B at § 2(b)).

II. STANDARD OF REVIEW

7. Federal Rule of Civil Procedure 56(c) provides a summary judgment is mandated when the pleadings, depositions, answers to interrogatories, admissions, and affidavits show that “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.”

¹ Section 4(h) of the Electioneering Regulations includes a prohibition related to sound amplification devices, but merely incorporates the prohibition already in existence under Texas Election Code § 61.004.

Fed. R. Civ. P. 56(c). By its very terms, the rule permits summary judgment even if the parties disagree as to some facts. *Anderson v. Liberty Lobby*, 477 U.S. 242, 247-48 (1986). Summary judgment is precluded under Rule 56(c) only when the facts in dispute might affect the outcome of the suit under governing law and the dispute is genuine. *Id.* at 248. Should it appear that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law, the district court should grant summary judgment. *Speaks v. Trihora Lloyd P.T.*, 838 F.2d 1436, 1438-39 (5th Cir. 1988).

8. The movant need not disprove the non-moving party's claims in order to secure a summary judgment. Summary judgment is proper whenever the movant demonstrates "an absence of evidence to support the non-moving party's case." *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986); *accord Slaughter v. Allstate Ins. Co.*, 803 F.2d 857, 860 (5th Cir. 1986). Thus, the defendant is entitled to summary judgment when the plaintiff "fails to make a showing sufficient to establish the existence of an element essential to the plaintiff's case, and on which [the plaintiff], will bear the burden of proof at trial." *Celotex*, 477 U.S. at 322; *accord Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986) (the burden is not on the moving party to produce evidence showing the absence of genuine issue of material fact). *See also Reese v. Anderson*, 926 F.2d 494, 498 (5th Cir. 1991); *International Ass'n of Machinists and Aerospace Workers No. 2504 v. International Mfg. Co.*, 812 F.2d 219, 222 (5th Cir. 1987) ("[M]ere conclusory allegations are not competent summary judgment evidence, and they are therefore insufficient to defeat or support a motion for summary judgment"); *Anderson*, 477 U.S. at 249-50 (holding that "there is no issue for trial unless there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party . . . If the evidence is merely colorable, or is not significantly probative, summary judgment may be granted.").

III. AUTHORITIES AND ARGUMENT

A. Justifications for Enactment of the Policies and Regulations

9. "It is a familiar principle of constitutional law that [courts] will not strike down an otherwise constitutional statute on the basis of an alleged illicit legislative motive." *United States v. O'Brien*,

391 U.S. 367, 383 (1968). “The decisions of [the Supreme Court] from the beginning lend no support whatever to the assumption that the judiciary may restrain the exercise of lawful power on the assumption that a wrongful purpose or motive has caused the power to be exerted.” *McCray v. United States*, 195 U.S. 27, 56 (1904) *quoted in United States v. O'Brien*, 391 U.S. 367, 383 (1968). In reversing a court of appeals for focusing on the “motivating factor” in the enactment of a city ordinance, the Supreme Court stated “[t]his view of the law was rejected in *United States v. O'Brien*.” *Renton v. Playtime Theatres*, 475 U.S. 41, 47 (1986) (citing *O'Brien*, 391 U.S. at 383); *see Bailey v. Callaghan*, 715 F.3d 956, 960 (6th Cir. 2013) (citing *O'Brien*, 391 U.S. at 383); *see also Wis. Educ. Ass'n Council v. Walker*, 705 F.3d 640, 649-50 (7th Cir. 2013) (rejecting the invitation “to infer some invidious legislative intention”). Courts in the Southern District of Texas have found that “statements by [legislative] members are *relevant* to, but not *dispositive* of, the issue of the [governmental entity’s] intent as an entity.” *N.W. Enters. v. City of Houston*, 27 F. Supp. 2d 754, 864 (S.D. Tex. 1998) (emphasis in original).

10. Furthermore, “the case law does not support the argument that specific empirical studies are required to document the extent of[] problems before content-neutral regulations are permissible.” *Lauder, Inc. v. City of Houston*, 751 F. Supp. 2d 920, 931 (S.D. Tex. 2010). “Studies, anecdotes pertaining to different locales, history, consensus, and simple common sense may serve as evidence that the proposed activity will endanger significant interests[; i]n the case of safety restrictions, for example, the regulating body need not wait until someone is injured before promulgating regulations.” *Lauder, Inc. v. City of Houston*, 751 F. Supp. 2d 920, 931-32 (S.D. Tex. 2010) (citing *United Brotherhood of Carpenters & Joiners of Am. Local 586 v. NLRB*, 540 F.3d 957, 967-68 (9th Cir. 2008)).

11. Commissioners Eloy Garza and Ruben Saenz took no part in drafting any of the regulations and policies at issue in this case. *See* (Ex. A at pp. 61, 89; Ex. J at pp. 20, 21). And Commissioners Jaime Alvarez and Raul Pena played a minimal role prior to the drafting of the policies and regulations in simply raising issues and concerns with elected officials regarding electioneering—particularly at the Starr County Courthouse. *See* (Ex. D at pp. 25-27, 70-71, 75-76;

Ex. H at pp. 21, 27, 33-34, 104-05). County Judge Eloy Vera also had no part in drafting the regulations and policies; he simply recalled that the proposals gained steam to address ridding polling locations from campaign “buzzards” and to centralize control of buildings after learning that commissioners would lease, rent or allow the use of county properties under their control with no accountability. *See* (Ex. B at pp. 83-84, 93-94); *see also* (Ex. D at pp. 26, 76, 79). The County Judge and the Commissioners discussed at length in their depositions that there were concerns concerning electioneering that led to the eventual adoption of the policies and regulations presented to Commissioners Court. *See* (Exs. A, B, D, H, and J). And those that voted in favor of the policies and regulations have also pointed out that the policies and regulations have been well-received by the citizens of Starr County and have had an important part in increasing voter turn-out. *See id.*; *see also* (Exs. L, M and N)².

12. The drafting of the policies and regulations, and their eventual submission to Commissioners Court, was the work of District Attorney Omar Escobar and County Attorney Victor Canales. The policies and regulations were “borne out of a conversation” between Escobar and Canales concerning the “unprecedented election cycle” in which every race on the primary ballot was contested for the first time in 25 years. (Ex. K at p. 54); *see* (Ex. G at p. 94, 96-97). Escobar and Canales discussed how they could keep order, and Escobar took on the task of drafting the policies and regulations. (Ex. K at p. 55). Escobar knew first-hand how contentious electioneering in Starr County can become because during a previous election his campaign signs had been set on fire. (Ex. G at p. 15). Both Canales and Escobar detailed the issues that had arisen in the past during election periods, and Escobar drafted the policies and regulations in an attempt to address those concerns, and to provide a uniform policy that would protect county property from being mismanaged or used for personal gain—a concern that was raised after one of the county’s properties was leased to a school district and the written lease agreement was executed without the County Judge or Commissioners Court’s

² 11,918 ballots were cast in the general election of 2018—after the enactment of the June 25, 2018 Use Policy and Electioneering Regulations. This number exceeds the number of ballots cast in the 2016 general election—a year in which citizens voted for President of the United States—and the number doubles the number of ballots cast in the 2014 midterm election. Starr County and its officials attribute these results in part to the elimination of the Courthouse “Circus.”

approval and before the County Attorney's review. *See generally* (Exs. K and G).

13. In their depositions, (Exs. A, B, D, G, H, J, and K), the County Judge, Commissioners, County Attorney and District Attorney all described the "circus" that electioneering at the Starr County Courthouse had become. From "chicken gate" and wet towels thrown in barbecue pits to smoke out rivals, to catcalling and "politiqueras" descending like vultures on voters, Starr County officials took action to bring order to the voting process while providing a uniform management and operating policy for county property.

14. Plaintiffs cannot prove that the policies and regulations were enacted for an improper, unlawful or unconstitutional purpose. Plaintiff Mario Mascorro, Jr. simply cannot articulate a purpose for which the policies and regulations were enacted. *See* (Ex. F). Plaintiff Hilda Gonzalez-Garza could only allege 1) that the involvement of the District Attorney and the timing of the policies' enactment was suspect, and 2) that the motivation behind the enactment was to prevent incumbents from electioneering—despite the fact that the policies and regulations apply to all individuals without preferential treatment for anyone. *See* (Ex. C). Gonzalez-Garza testified that she had no other indication of what District Attorney Omar Escobar's motivations were in being involved in the process. (Ex. C at p. 125). Gonzalez-Garza makes much of the incumbents' access to polling locations inside the 100-foot buffer zone during election periods because their offices are located inside polling locations, but state law controls the activities of individuals inside the 100-foot buffer zone. (Ex. C at pp. 148-49). And Gonzalez-Garza argues that the County Judge could, speculatively, order subordinates not to enforce the policies and regulations in favor of certain candidates—but this does not go to the question of the justification or motivation, much less the constitutionality, of the policies and regulations. Finally, Rossbell Barrera alleges that District Attorney Omar Escobar promoted the policies and regulations to help County Judge Eloy Vera's campaign because "they were running low on money." (Ex. I at p. 20). But Barrera admitted that he was speculating (Ex. I at p. 27). In fact, Vera's opponent, Leticia Garza-Galvan, scoffed at Barrera's supposition that the motivation behind enactment of the policies and regulations was related to campaign funds. (Ex. E at p.17). Garza-Galvan admitted that she did not even file a campaign

finance report until after Starr County enacted the January 8, 2018 Electioneering Order. *See* (Ex. E). In the end, Plaintiff Barrera testified that the policies and regulations were good for democracy and that there were no political undertones to the enactment of the regulations:

Q. Okay. So, it was a good thing for the democratic process not to have the tents and the barbecue pits in the parking lot?

A. I would say yes.

(Ex. I at p. 37).

Q. [Aside from the speculation of Omar Escobar's involvement,] [d]o you see any other political undertones to the passing of these regulations?

A. No.

(Ex. I at p. 57).

Q. So, other than the particular issues that we've discussed[,] as they stand now, the regulations and the use policy, they're good for the community?

[Objection.]³

A. As it is right now with the 25 June revision, yes.

(Ex. I at pp. 57-58).

15. To the extent Plaintiffs may argue that the policies and regulations were enacted to influence the elections in favor of incumbents, the deposition testimony shows that two of the Defendants did not support the incumbent County Judge Eloy Vera, *see* (Ex. K at p. 113; Ex. E at p. 11), and one even published an ad in support of Judge Vera's challenger, Leticia Garza-Galvan, *see* (Ex. E). If Canales and Alvarez did not truly believe the policies and regulations were in the best interest of the County and were instead to be used to target political rivals, neither would have participated in the drafting and eventual enactment of such policies and regulations. There is simply no evidence that

³ Counsel for Plaintiffs objected on the grounds that the question had been asked and answered, but a review of the transcript does not reveal that the question had been asked. Therefore, Plaintiffs' objection should be overruled.

the Use Policy and Electioneering Regulations were enacted for political purposes or to undermine or help any particular candidate.

B. Dismissal of Individual Defendants

16. Plaintiffs have failed to allege any facts in support of a claim against District Attorney Omar Escobar, County Attorney Victor Canales, Jr., and Sheriff Rene “Orta” Fuentes that would entitle Plaintiffs to any relief. The Use Policy and Electioneering Regulations have been enacted by Starr County’s legislative body, which consists of the County Judge and the County Commissioners, and they are enforced by the County Judge. Defendants Escobar, Canales and Fuentes did not enact or enforce the complained of legislation. Therefore, these Defendants should be dismissed; Plaintiffs can prove no set of facts in support of claims against these Defendants

C. Use Policy

i. Constitutionality of the Use Policy under the First Amendment

17. Plaintiffs allege that the Use Policy violates their freedom of speech and their right to assemble peaceably. (Doc. 63, para. 116, 124). They contend the following in support of their claims:

- a. No reservations may be made on County holidays. (Doc. 63, para. 2, 55, 76).
- b. The County imposes a “burdensome permit application process,” (Doc. 63, para.2), and its “onerous requirements” include that an applicant be at least 21 years-old, that he fill out a one-page form, that he tender a deposit and cover after-hour fees, that he execute a release, and that the application be notarized, (Doc. 63, para. 58-61).
- c. The County Judge’s denial of an application cannot be appealed. (Doc. 63, para. 63).
- d. An application is needed to use the Courthouse greens. (Doc. 63, para. 63)
- e. The County Judge has “unfettered discretion” to determine the deposit amount for use of the Courthouse and to waive after-hour fees. (Doc. 63, para. 67-69)
- f. A peace officer or security services may be required to be present at an event. (Doc. 63, para. 70).
- g. The County retains the right to modify the Use Policy. (Doc. 63, para. 71).
- h. Unattended signs may not be placed on grassy areas, lawns and sidewalks. (Doc. 63,

- para. 74).
- i. The County may impose additional restrictions for use of the County Courthouse “on a case by case basis.” (Doc. 63, para. 72).
 - j. Personal or community notices to be posted in the Courthouse may only be posted in an area designated by the County. (Doc. 63, para. 73).
 - k. Parking lots and parking zones cannot be used for anything other than parking. (Doc. 63, para. 80).
 - l. Those under the age of twenty-one cannot speak or assemble on county-owned property. (Doc. 63, para. 66, 104).
18. When considering enjoining the enforcement of a statute, ordinance or policy enacted by a democratically elected body, “every reasonable construction must be resorted to in order to save [it] from unconstitutionality.” *National Federation of Independent Business v. Sebelius*, 567 U.S. 519, 563 (2012) *quoted in Voting for Am., Inc. v. Andrade*, 488 F. App’x 890, 895 (5th Cir. 2012). Furthermore, the interpretation of those charged with enforcing an ordinance and policy must be accorded some meaningful weight. *Cf. Andrade*, 488 F. App’x at 895; *see Bellotti v. Baird*, 428 U.S. 132, 143 (1976). To construe ordinances, the courts consider first the language of the ordinance, using definitions prescribed by the legislative body and any technical or particular meaning of words; otherwise, the ordinance is construed according to the plain and common meaning of words, *unless* a contrary intention is apparent from the context or unless such a construction leads to absurd results. *City of Rockwall v. Hughes*, 246 S.W.3d 621, 625-26 (Tex. 2008) (citations omitted) (emphasis added). It is presumed that the legislative body “intended a just and reasonable result”. *City of Rockwall*, 246 S.W.3d at 626 (citation omitted).
19. In scrutinizing the Use Policy in this case, the Court must first determine the predominate purpose in enacting regulations involving the freedom of speech and the right to assemble peaceably. “If [] the government's predominate purpose is unrelated to the suppression of expression, such that the regulation can be justified without reference to the content of the regulated speech, then intermediate scrutiny applies.” *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546, 554 (5th Cir.

2006) (quoting *Clark v. Cmty. for Creative Non-Violence*, 468 U.S. 288, 293 (1984)). “The principal inquiry in determining content neutrality, in speech cases generally and in time, place, or manner cases in particular, is whether the government has adopted a regulation of speech because of disagreement with the message it conveys.” *Ward*, 491 U.S. at 791. “A regulation that serves purposes unrelated to the content of expression is deemed neutral, even if it has an incidental effect on some speakers or messages but not others.” *Id.* In this case, the County decided to adopt the Use Policy to address the maintenance and safety concerns that arise from the use of County facilities at all times, regardless of polling stations and voting periods. The County’s Use Policy regulates the use of County property without reference to the content of speech; it is neutral concerning any speaker’s point of view. The Use Policy is a neutral policy of general applicability which allows the County to develop, maintain and control its facilities to support County operations and services, in addition to safeguarding the safety of employees and citizens, and mitigating blight, distraction and nuisance. No court has found that these are not compelling government interests. Therefore, intermediate scrutiny applies.

20. Under intermediate scrutiny, “[1)] the government may impose reasonable restrictions on the time, place, or manner of protected speech, provided [2)] the restrictions are justified without reference to the content of the regulated speech, [3)] that they are narrowly tailored to serve a significant governmental interest, and [4)] that they leave open ample alternative channels for communication of the information.” *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) (quoting *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984)) (internal quotations omitted). Here, 1) the County’s Use Policy regulates activities on County property, 2) including but not limited to electioneering, 3) for the safety of pedestrians in parking zones, to allow County buildings to be used for their primary and intended purposes, and to maintain County property free from blight and nuisance, and 4) encourages the use of areas not otherwise available to citizens through a permit and protects freedom of speech and the right to assemble peaceably in traditional public fora.

21. Moreover, “the First Amendment does not guarantee access to government property simply

because it is owned or controlled by the government.” *United States Postal Service v. Greenburgh Civic Assns.*, 453 U.S. 114, 129 (1981). Rather, the “existence of a right of access to public property and the standard by which limitations upon such a right must be evaluated differ depending on the character of the property at issue.” *Perry Education Assn. v. Perry Local Educators' Assn.*, 460 U.S. 37, 44 (1983). Plaintiffs argue that the restrictions on speech on all county property should be treated the same, but there is no precedent for such a position.

22. Public property which is not by tradition or designation a forum for public communication may be reserved by the State “for its intended purposes, communicative or otherwise, as long as the regulation on speech is reasonable and not an effort to suppress expression merely because public officials oppose the speaker's view.” *Perry Education Assn.*, 460 U.S. at 46. Public forums include those places “which by long tradition or by government fiat have been devoted to assembly and debate,” such as parks, streets, and sidewalks. *Id.* at 45; *cf. Members of City Council v. Taxpayers for Vincent*, 466 U.S. 789, 814 (1984). “[O]n government property that has not been made a public forum, not all speech is equally situated, and the State may draw distinctions which relate to the special purpose for which the property is used.” *Id.* at 54. “There is little doubt that in some circumstances the government may ban the entry on to public property that is not a ‘public forum’ of all persons except those who have legitimate business on the premises. *United States v. Grace*, 461 U.S. 171, 178(1983). Moreover, “[t]he incidental restriction on expression which results from the City's attempt to [eliminate visual clutter] is considered justified as a reasonable regulation of the time, place, or manner of expression if it is narrowly tailored to serve that interest.” *Taxpayers for Vincent*, 466 U.S. at 808 (citations omitted).

23. None of the concerns identified by Plaintiffs rise to the level of constitutional violations. The Use Policy explicitly provides for the right to assemble peaceably and the freedom of speech in traditional public fora:

The term “use” in this Policy excludes passive expressions of speech (Doc. 67, Ex. A at § 3(c)).

Sidewalks on County property and County Parks, Cemeteries and Memorials are considered “Public Spaces.” Permitting is NOT

required for the use of Public Spaces.
(Doc. 67, Ex. A at § 12(a)).

Peaceful picketing and leafletting in Public Spaces is permissible.
(Doc. 67, Ex. A at § 12(c)).

And the application process for the Starr County facilities available for reservation passes constitutional muster.

24. The Starr County Courthouse and Courthouse Annex greens and sidewalks are available for public use, and the interior spaces of the Courthouse and the Annex conference room have been made available to public use so long as there is no conflict with the regular use of the spaces for Starr County offices and courts. The Starr County Fairgrounds is an event center; which necessarily requires reservations and the orderly process which the application process outlined in the Use Policy provides. The La Rosita Library and the community centers at El Cenizo Park and Zarate Park are used for public events and is made available for public use, but it requires the orderly process outlined in the Use Policy.

25. Plaintiffs have alleged no facts that would support finding that the application process to use these spaces is unconstitutional. The Supreme Court has recognized that government, in order to regulate competing uses of public forums, may impose a permit requirement on those wishing to use the fora. *See Cox v. New Hampshire*, 312 U.S. 569, 575-76 (1941) (finding that considerations of time, place and manner to conserve the public convenience are permissible). “[S]tate imposed registration and permit requirements are not unconstitutional per se.” *Poe v. Humble*, 554 F. Supp. 233, 237 (S.D. Tex. 1983) (citing *Cantwell v. Connecticut*, 310 U.S. 296, 306 (1940); *International Society for Krishna Consciousness, Inc. v. City of Houston*, 689 F.2d 541 (5th Cir.1982)). In this case, Starr County has explicitly provided for the reservation of the facilities in the Use Policy’s Attachment A through the reservation and application process with the right to refuse use of the facilities only when “the proposed event conflicts with the intended use of a building, is in conflict with established policies or law, or is in conflict with any other confirmed reservation.” (Doc. 67, Ex. A at § 3(a)). This time, place, and manner regulation is constitutionally permissible: it does not restrict or forbid speech based on its content, it is narrowly tailored to preserve County property by

allowing use of premises for their intended purposes, and leaves ample alternatives for communication of information through the use of public spaces—all of which surround these facilities, *i.e.*, sidewalks and greens, and parks. This application process survives intermediate scrutiny.

26. Plaintiffs contend that the application process is “burdensome” and the requirements “onerous,” but allege no facts or present any law to support such conclusory statements. They contend that a *one* page application, with a notarized release of liability, (Doc. 67, Ex. C), is a burden and that requiring a deposit that protects the County’s property interests and the assessment of after-hour fees to cover the salary of County employees to supervise and allow access to the premises is onerous. But such contention is unsupported by facts or law. This simple process cannot be considered a burden considering that the County has to protect property, prevent or limit exposure to liability, determine the propriety of functions in certain fora, and allow for an orderly process to grant citizens access to County facilities. On the contrary, the Supreme Court and the Fifth Circuit Court of Appeals have held on numerous occasions that requesting basic information and requiring fees are permissible so long as they do not vary according to the applicant’s speech. *See Forsyth County v Nationalist Movement*, 505 U.S. 123 (1992); *Poe v. Humble*, 554 F. Supp. 233, 237 (S.D. Tex. 1983) (finding “A municipality may constitutionally impose some informational registration requirements . . .”).

27. Plaintiffs also contend that the prohibition of reservations on County holidays is a constitutional violation, but this time restriction is unrelated to the regulation of speech, is narrowly tailored to serve the governmental interest in preserving the resources that would have to be spent on keeping the facilities open and operating at a time when they would typically be closed, and Plaintiffs have sidewalks, parks and greens available for use. *Cf. Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989). This provision survives intermediate scrutiny.

28. Plaintiffs also mistakenly assume that the application process applies to the Courthouse greens, but the Use Policy deems the Courthouse greens as public spaces “available at all times for public use.” (Doc. 67, Ex. A at Attach. B, § (i)(d)). Plaintiffs’ assertion is unfounded.

29. Plaintiffs complain that the County judge has “unfettered discretion.” (Doc. 63, para. 67-69, 72). According to Plaintiffs this “unfettered discretion” includes the discretion to determine the deposit amount for use of the Courthouse, the discretion to waive after-hour fees, the discretion to impose additional restrictions, and the discretion to deny an application. But contrary to Plaintiffs’ assertion, the Use Policy does not provide the County Judge with “unfettered discretion.” The Use Policy provides the County Judge the discretion to waive fees if the community at large is receiving a valuable service in return. (Doc. 67, Ex. A at § 8(e)). The Use Policy makes clear that the deposit amount for use of the Courthouse must be “based on the risk of damage or destruction to county property and its historical preservation.” (Doc. 67, Ex. A at Attach. B, § (xii)(a)). The Use Policy also reserves the County’s right to impose additional restrictions on the use of the Courthouse but such discretion must be exercised “with the primary focus of maintaining and protecting the historical structure.” (Doc. 67, Ex. A at Attach. B, § (xii)(a)). The Use Policy provides the guidance necessary for the County to exercise discretion. The exercise of discretion is unrelated to the regulation of speech, it is focused on the preservation of the Courthouse and making events available for the community that would otherwise not be available; this discretion is narrowly tailored to serve the governmental interest in preserving property and providing community services, and the potential restrictions of this limited use of discretion do not foreclose Plaintiffs’ use of parks and greens. *Cf. Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989). These provisions survive intermediate scrutiny.

30. Plaintiffs also complain that the County may require a peace officer or security services to be present at an event. (Doc. 63, para. 70). But they fail to identify any facts or law that would support finding that such a requirement would be unconstitutional. Surely they will not argue that large demonstrations may at times require the presence of law enforcement to keep the peace. The County has the obligation to maintain the peace and dispatch law enforcement to any of its premises to maintain order and peace, and help preserve property. The undersigned has not found any legal precedent that would support finding such a provision would be unconstitutional.

31. Plaintiffs complain that the County retains the right to modify the Use Policy. (Doc. 63, para.

71). This language in the Use Policy is surplusage, because the County can always modify a legislative act, and Plaintiffs cannot enjoin such a right.

32. Despite the Court's pronouncement on the matter early in the case, Plaintiffs continue to assert that it is unconstitutional to declare that parking lots and parking zones cannot be used for anything other than parking. (Doc. 63, para. 80). Parking lots and parking zones are not traditional public fora and the County has specifically declared they are not public fora. Therefore, parking lots and parking zones may be reserved by the County for their intended purposes. *See Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 107 (2001) (quoting *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788, 806 (1985)); *see also Perry Educ. Ass'n v. Perry Local Educator's Ass'n*, 460 U.S. 37, 46 (1983).

33. Plaintiffs further contend that the prohibitions of placing unattended signs on grassy areas, lawns or sidewalks, and of posting personal or community notices in areas other than those designated by the County in the Courthouse are unconstitutional. (Doc. 63, para. 73-74). But the County's Use Policy does not prohibit peaceful picketing or leafletting on public spaces, and designates a space to posting of personal and community notices in the Courthouse. "The incidental restriction on expression which results from the City's attempt to [eliminate visual clutter] is considered justified as a reasonable regulation of the time, place, or manner of expression if it is narrowly tailored to serve that interest." *Taxpayers for Vincent*, 466 U.S. at 808 (citations omitted). Moreover, the County has an interest in maintaining sidewalks clear for the safety of pedestrians and in making sure that lawns and greens are always available for active citizen use and not exclusively for the speech of the first to "claim" an area as his own for as long as a sign remains. Furthermore, the County has the right to protect the lawns and vegetation from destruction. These restrictions cannot be considered unconstitutional.

34. Finally, Plaintiff Mario Mascorro, Jr. complains that the age-restriction on the permit application forbids him from speaking or assembling on county-owned property, (Doc. 63, para. 66), but Plaintiff Mascorro makes a short leap of logic. The requirement that applicants be 21-years-old or older, also discussed *infra*, does not impose an age requirement for the exercise of First

Amendment rights on County property. This particular requirement has only been included in the application process and solely for the protection of County property and assets, to allow the County to hold someone of a mature age responsible for losses and damages to County property. Plaintiff Mascorro may exercise his First Amendment rights on any sidewalk, park, green or memorial without an application, and, in the areas of the six County buildings that require an application, Plaintiff Mascorro may easily reserve space with the help of a sponsor. There are other means of expression, and the restriction is minimal compared to the County's interest in preserving public property.

ii. Constitutionality of the Use Policy under the Fourteenth Amendment

35. Plaintiff Mario Mascorro, Jr. contends the Use Policy violates the Equal Protection Clause because of the age restriction on permit applications. (Doc. 63, para.131). But,

the [Supreme] Court has held that the Fourteenth Amendment permits the States a wide scope of discretion in enacting laws which affect some groups of citizens differently than others. The constitutional safeguard is offended only if the classification rests on grounds wholly irrelevant to the achievement of the State's objective. State legislatures are presumed to have acted within their constitutional power despite the fact that, in practice, their laws result in some inequality. A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it.

McGowan v. Maryland, 366 U.S. 420, 425 (1961). Therefore, a rational basis standard is used to review the challenge to the Use Policy's application restriction, and the restriction "must be upheld against equal protection challenge if there is any reasonably conceivable state of facts that could provide a rational basis for the classification." *FCC v. Beach Commc'ns, Inc.*, 508 U.S. 307, 313 (1993). Plaintiff "ha[s] the burden to negative every conceivable basis which might support it." *Id.* at 315 (citation and internal quotations omitted). What's more, "[w]hen applying rational basis doctrine to a dismissal for failure to state a claim, a legislative classification must be treated as valid if a court is able to hypothesize a legitimate purpose to support the action." *Glass v. Paxton*, No. 17-50641, 2018 U.S. App. LEXIS 22843, at *26-27 (5th Cir. 2018) (quoting *Mahone v. Addicks Util. Dist. of Harris Cnty.*, 836 F.2d 921, 934 (5th Cir. 1988) (internal quotations omitted). "[T]he task of hypothesizing necessarily renders less important the actual reasons which the state may have had for

making the challenged classification.” *Mahone*, 836 F.2d at 936.

36. Here, the County has determined that only applicants of a mature age can be responsible for losses to property; that 18- or 19-year-olds who have just finished high school do not have the financial means for being responsible for damages. The County has found that the age of maturity is 21-years. This is not an unreasonable finding; in fact, the age of 21 is commonly used, and court-approved, as a minimum age in many legislative acts. *See Baccus v. Karger*, 692 F. Supp. 290, 293 (S.D.N.Y. 1988) (upholding requirement that bar applicants be at least 21-years-old because of state interest to gauge maturity and fitness); *NRA of Am., Inc. v. McCraw*, 719 F.3d 338, 350 (5th Cir. 2013) (upholding the Texas scheme for gun purchases with age restrictions); *see also Oregon v. Mitchell*, 400 U.S. 112 (1970) (invalidating federal statute lowering state minimum age requirement for voting from 21 to 18 years of age). The Court should similarly conclude that the Use Policy’s age restriction passes constitutional muster.

iii. The Use Policy in light of the Texas Election Code

37. When County buildings are used as a polling place, the Texas Election Code prohibits electioneering within 100 feet of the entrance of the buildings. In this case, the County properties that are used as polling places are El Cenizo Park, La Rosita Community Center, La Victoria Community Center (or Zarate Park) and Starr County Courthouse. The Use Policy incidentally restricts the use of these properties outside the 100-foot buffer zone by prohibiting the use of parking lots at these locations and by prohibiting the staking of signs into the grounds, nothing more. These incidental restrictions, to the extent they regulate time, place and manner of electioneering, are reasonable. *Cf. Members of City Council v. Taxpayers for Vincent*, 466 U.S. 789, 814 (1984).

D. Electioneering Regulations

i. Constitutionality of the Electioneering Regulations

38. Plaintiffs allege that the Electioneering Regulations violate their freedom of speech and their right to assemble peaceably. (Doc. 63, para. 116, 124). They contend the following in support of their claim:

a. Electioneering is prohibited on sidewalks, lawns, and grassy areas outside the 100-foot

- perimeter of a polling location. (Doc. 63, para.3).
- b. There are no “Designated Areas for Electioneering” at La Victoria Park. (Doc. 63, para. 93-94).
 - c. Electioneering that obstructs fire truck sight lines is prohibited. (Doc. 63, para. 88).
 - d. Electioneering on driveways is prohibited. (Doc. 63, para. 88).
 - e. Electioneering that obstructs vision of drivers and increases traffic congestion is prohibited. (Doc. 63, para. 88).
 - f. Electioneering on easements and rights-of-way is prohibited. (Doc. 63, para. 88).
39. In public fora, the County may enforce a content-based exclusion to communicative activity by showing “that its regulation is necessary to serve a compelling state interest and that it is narrowly drawn to achieve that end.” *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37, 45,(1983). The Electioneering Regulations have several purposes: to allow uninterrupted access to polling locations by restricting loitering and electioneering on certain sidewalks, to prevent the obstruction of firefighting and law enforcement activities, and to provide citizens with areas for electioneering when they would otherwise have no opportunity to electioneer absent an exception.
40. The County has a compelling interest in protecting voter access to polls by restricting active electioneering on sidewalks leading from the street and parking lots to the entrance of polling locations, and to protect citizen and employee access to buildings located on County property where voting takes place. *See* (Doc. 67, Ex. B at § 4(f)). This restriction has been narrowly tailored by its application to polling locations and only during voting periods, and does not extend to lawns and grassy areas adjacent to sidewalks which provide areas for electioneering. *See generally* (Doc. 67, Ex. B). This prohibition has also been narrowly tailored by allowing passive expressions of speech. *See* (Doc. 67, Ex. B at § 4(f)). Furthermore, where this restriction extends to sidewalks that are not typically used for accessing polling locations or county buildings, the County has created an exception to the rule by creating Designated Areas of Electioneering on such sidewalks. *See* (Doc. 67, Ex. B at §§ 2(b), 4(f)). This restriction does not apply to La Rosita Community Center because all sidewalks are within the 100-foot buffer zone under State law. *See* (Doc. 67, Ex. B, La Rosita

Map).

41. As applied to La Victoria Park, the only sidewalks at issue are those leading to the entrance of the Community Center from the parking lot—more than 200-feet away from the polling location—and the sidewalks surrounding County buildings. *See* (Doc. 67, Ex. B, La Victoria Map). The County has a compelling interest in providing citizens and employees unimpeded, safe access to the Community Center and County offices that are not serving as polling locations. Not only are most sidewalks at Zarate Park more than 200-feet away from the polling location, Zarate Park has big, open spaces in the vicinity of the designated polling location that provide plenty of opportunity to electioneer—outside the 100-foot buffer zone under State law. *See id.* Plaintiffs complain that there are no “Designated Areas for Electioneering” at Zarate Park, but none are necessary because there are no restrictions on electioneering on these expansive spaces at the park—the designation of areas for electioneering is an exception to the rules restricting active electioneering on certain sidewalks and parking zones. *See* (Doc. 67, Ex. B at § 2(b)).

42. As applied to El Cenizo, the sidewalks at issue are those at the entrance of the property and those that are just immediately outside the entrance of County offices. *See* (Doc. 67, Ex. B, La Victoria Map). The County has a compelling interest in allowing citizens and employees unimpeded, safe access to the County offices that are not serving as polling locations. And the County has specifically excluded the sidewalks at the entrance of the property from this electioneering restriction by making them Designated Areas for Electioneering to provide citizens the opportunity to electioneer in a property where few areas for electioneering are available. *See id.*; *United States v. Kokinda*, 497 U.S. 720, 727 (1990) (distinguishing a sidewalk leading from a parking area to the front door from a sidewalk running parallel to a public street); *cf. Schirmer v. Edwards*, 2 F.3d 117, 121(5th Cir. 1993) (concluding that the government has a compelling interest in protecting its citizens’ right to vote and allowing a 600-foot electioneering-free buffer zone). Through the exception to the rule, the County has narrowly tailored the restriction on active speech.

43. Finally, as applied to the Starr County Courthouse, the sidewalks at issue are only those on the north and south side of the Courthouse, that lead from the main public parking areas in the north

and south to the entrance of the polling location. *See* (Doc. 67, Ex. B, Courthouse Map). The County has specifically excluded the sidewalks on the east and west of the Courthouse by making them Designated Areas for Electioneering, and has not prohibited electioneering on the Courthouse greens, giving citizens ample space for electioneering and reaching voters on streets leading to the Courthouse parking lot and voters walking into the Courthouse. *See id.* The County has a compelling interest in providing uninterrupted access to polling locations, and has found that the best way to do so at the County Courthouse is by restricting active electioneering on the north and south sidewalks. This restriction has been narrowly tailored by allowing electioneering on other sidewalks and by not extending the prohibition to the green areas that are adjacent to the sidewalks that are covered by the restriction. The County has not prohibited electioneering on sidewalks that run parallel to public passageways that would not obstruct access to polling locations. *See United States v. Kokinda*, 497 U.S. 720, 727 (1990) (distinguishing a sidewalk leading from a parking area to the front door from a sidewalk running parallel to a public street); *cf. Schirmer v. Edwards*, 2 F.3d 117, 121(5th Cir. 1993) (concluding that the government has a compelling interest in protecting its citizens' right to vote and allowing a 600-foot electioneering-free buffer zone); *see also Burson v. Freeman*, 504 U.S. 191, 214-16 (1992) (Scalia, J., concurring) (stating that areas adjacent to functioning polling places are not quintessential public forums and that "sidewalks around polling places have traditionally *not* been devoted to assembly and debate").

44. As far as the restrictions on electioneering that obstructs fire truck sight lines and electioneering on driveways, (Doc. 67, Ex. B at §§ 4(i), (j)), the County has a compelling interest in providing firefighters safe, unobstructed ingress and egress from fire stations, as well as protecting drivers that may be in the vicinity of an exiting fire truck during an emergency. The safe ingress and egress of buildings is also a compelling interest, and County officials should have the ability to redirect electioneering activities that impede safe access to buildings. *Cf. Adderly v. Florida*, 385 U.S. 39, 47 (1966) (finding no unconstitutional deprivation of rights where sheriff objected to presence on part of jail grounds reserved for jail uses). There are several alternatives to electioneering on County properties that serve as polling locations, and the use of driveways would be unnecessary and

unsafe. Plaintiffs cannot present any set of facts under which their electioneering activities within 15-feet of the fire station and driveways would outweigh the County's interest in the safety of citizens.

45. At two locations, El Cenizo and the Courthouse, the County has created Designated Areas for Electioneering on sidewalks adjacent to public roadways. *See* (Doc. 67, Ex. B, Maps of El Cenizo and Courthouse). These public roadways lead to parking lots at El Cenizo and the Courthouse, and vehicles approaching these parking lots must be attentive to entrances in order to access polling locations—and County offices—and maintain the natural flow of traffic. The drivers exiting the El Cenizo and Courthouse parking lots also need to have unobstructed views of traffic to safely merge onto the road. Furthermore, the drivers on the public roadway leading to and from El Cenizo may be traveling at speeds of 50 m.p.h.—the speed limit—and the County has an interest in ensuring that they not be distracted, especially when electioneering activities may obstruct the vision of vehicles entering or exiting parking lots. The County has a compelling interest in preventing unsafe obstructions to drivers and citizens traversing roads or sidewalks adjacent to County property used as polling locations during voting periods, and in ensuring the safety of all drivers and those that are attempting to enter County property. The County has restricted electioneering narrowly to that end. Plaintiffs have failed to allege any set of facts that would support finding a constitutional violation.

46. Finally, Plaintiffs complain that electioneering on easements and rights-of-way is prohibited. (Doc. 67, Ex. B at § 4(m)). But the County cannot interfere with the use of easements and rights of way. By definition, easements and rights of way are privileges provided for others to use County property, and the County cannot impose a separate use, or rescind or abrogate the rights vested in the owner of an easement or right of way. On this basis, the County has the obligation to protect such rights by limiting electioneering. What's more, Plaintiffs have failed to identify any set of facts that would indicate they have or will suffer an injury related to such a restriction; they have failed to identify the easement or right of way that is so essential to their electioneering that they cannot otherwise carry out in the Designated Areas for Electioneering at La Rosita, El Cenizo and the Courthouse, or greens and lawns at the Courthouse and La Victoria.

47. Two county properties typically used as polling locations were inadvertently omitted from the maps attached to the Electioneering Regulations which identify the 100-foot buffer zone and Designated Areas for Electioneering. But the omission of these maps have no effect on the application of the Electioneering Regulations because the 100-foot buffer zone is dictated by state law and the primary purpose for the maps is to identify the Designated Areas for Electioneering—which do not exist at these two locations unless, and until, so designated by Commissioners Court.

48. The Electioneering Regulations have been narrowly tailored to address the County’s compelling interests during voting periods and pass constitutional muster. Plaintiffs can prove no set of facts in support of their contention that their First Amendment rights have or will be violated by the enforcement of these regulations.

ii. The Electioneering Regulations in light of the Texas Election Code

49. Pursuant to Section 61.003(a-1) of the Texas Election Code, the County has the authority to “enact reasonable regulations concerning the time, place, and manner of electioneering.” The County has decided to do so through its Electioneering Regulations. Defendants hereby incorporate by reference Paragraphs 38 through 48, which support the reasonableness of the regulations enacted by Starr County. Moreover, Defendants would show that the Texas Secretary of State’s Election Advisory Opinion No. 2017-14 supports the County’s Electioneering Regulations by providing, as an example, the authority to “prohibit[] electioneering on sidewalks or driveways to keep them clear for pedestrians and traffic.” (Doc. 14, Ex. B). The Electioneering Regulations do precisely what the Texas Secretary of State has declared as reasonable under the Texas Election Code. Therefore, the Electioneering Regulations do not violate the Texas Election Code.

E. The Commissioners acted within their authority, not *ultra vires*

50. To assert an *ultra vires* claim, a suit must not complain of a government officer’s exercise of discretion, but of “*either* an officer’s failure to perform a ministerial act *or* an officer’s exercise of [] *limited* discretion without reference to or in conflict with the constraints of the law.” *Houston Belt & Terminal Ry. Co. v. City of Houston*, 487 S.W.3d 154, 163 (Tex. 2016) (emphasis in original). Here, Plaintiffs have failed to identify the ministerial act(s) or exercise of limited discretion

that are *ultra vires*.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendants, STARR COUNTY, TEXAS; OMAR ESCOBAR, in his official capacity as District Attorney for the 229th Judicial District; VICTOR CANALES JR., in his official capacity as County Attorney for Starr County; ELOY VERA, in his official capacity as County Judge for Starr County; JAIME ALVAREZ, in his official capacity as Starr County Commissioner for Precinct 1; RAUL PEÑA, III, in his official capacity as Starr County Commissioner for Precinct 2; ELOY GARZA, in his official capacity as Starr County Commissioner for Precinct 3; RUBEN D. SAENZ, in his official capacity for Starr County Commissioner for Precinct 4; RENE “ORTA” FUENTES, in his official capacity as Sheriff for Starr County, pray that this Court grant their Motion for Summary Judgment, enter judgment dismissing all of Plaintiffs’ claims, order that Defendants recover all costs incurred herein, including attorney’s fees, and grant Defendants such other and further relief, at law or in equity, to which they may show themselves to be justly entitled.

Respectfully submitted,

By: /s/ Ysmael D. Fonseca
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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF CONFERENCE

Pursuant to LR 7.1 D, a certificate of conference is not required.

/s/ Ysmael D. Fonseca
Ysmael D. Fonseca

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of March, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Via CM/ECF
Ms. Nina Peralez
Ms. Alejandra Avila
Mexican American Legal Defense
and Educational Fund
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Via CM/ECF
Mr. Efren C. Olivares
Ms. Rebecca Harrison Stevens
Texas Civil Rights Project
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Alamo, Texas 78516

Via CM/ECF
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Rio Grande City, Texas 78582

/s/ Ysmael D. Fonseca
Ysmael D. Fonseca

Deposition of Eloy Garza

January 7, 2019

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

HILDA GONZALEZ GARZA, {
ET AL {
V. { CIVIL ACTION NO.:
STARR COUNTY, TEXAS, ET AL { 7:18-CV-00046

ORAL DEPOSITION OF

ELOY GARZA

JANUARY 7, 2019

ORAL DEPOSITION OF ELOY GARZA, produced as a
witness at the instance of the Plaintiffs and duly sworn,
was taken in the above-styled and numbered cause on
January 8, 2019 from 9:17 a.m. to 11:53 p.m., before Maria
E. Amador, Certified Shorthand Reporter in and for the
State of Texas, reported by computerized stenotype
machine, at Starr County Annex Conference Room, 100 N. FM
3167, Rio Grande City, Texas, pursuant to the Federal
Rules of Civil Procedure and the provisions stated on the
record or attached hereto.

Deposition of Eloy Garza

January 7, 2019

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1 Are you aware of any health and safety
2 problems that have been caused by electioneering in Starr
3 County?

4 A. None, whatsoever.

5 Q. Are you aware of any problems like preventing
6 county operations as a result of electioneering?

7 A. No, ma'am.

8 Q. Have you ever been aware of any breach of the
9 peace, any disruptions to the peace as a result of
10 electioneering in Starr County?

11 A. Well, not in my precinct. I don't know about the
12 rest of the polling places.

13 Q. Have you ever heard of any breach of the peace in
14 any other polling place?

15 A. Oh, yes.

16 Q. Okay. Tell me about that.

17 A. Well, I heard, you know, problems they had
18 especially in the courthouse when they used to have the
19 early voting there. A lot of people fighting among the
20 places or trying to get across and that kind of stuff.

21 Q. Well, tell me a little more about that in detail.
22 First of all, have you ever seen any problems at other
23 polling places yourself, personally, with your own eyes?

24 A. Yeah, first at the courthouse there were people
25 there that would park for two, three weeks prior to the

Deposition of Eloy Garza

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1 election to make sure they would secure the place to the
2 center of the entrance of the courthouse where the people
3 would walk to to vote.

4 Q. So they parked in the park lot outside the 100
5 foot line; is that right?

6 A. Yeah, in the parking area, yes. They leave their
7 truck there 24 hours at least some of them up to two weeks
8 prior to the early voting to starting of the early voting.

9 Q. Okay. And did you ever see that with your own
10 eyes?

11 A. Yes.

12 Q. And you mentioned that they were parking there
13 ahead of time to get a good spot --

14 A. Yes.

15 Q. -- now tell me about that.

16 A. That is correct, yes. They would park there
17 right in the parking lot. They would leave their trucks
18 there for like I said at least one up to two weeks so they
19 can secure that area to put their tent there for the early
20 voting and the election day.

21 Q. Did parking a truck or a car there, did that
22 create any problems for the county?

23 A. Oh, yes, ma'am.

24 Q. Okay. Tell me about that.

25 A. Well, they were always there parked and people

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1 that wanted to do business at the courthouse would have to
2 pard farther away to come to the courthouse.

3 Q. And you mentioned a tent. Tell me about how this
4 tent thing works?

5 A. Well, when you go out there getting ready for the
6 early voting, you know, you put a day before you put up
7 your tent to make sure you have a shade, make sure you
8 have paperwork that you're going to hand out to people
9 sample ballots or whatever, you know, but those are done
10 like in my precinct we do it a day prior to the election
11 and after 5:00 versus the courthouse that they would be
12 there, trucks would be parked there one week, two weeks so
13 that they wouldn't take away their spot.

14 Q. So the comparison that you're making is that in
15 your opinion it is a problem for people to park their cars
16 in the parking lot of the courthouse well in advance of
17 the start of voting and get ready to put up the tent and
18 chairs for the voting days versus in your precinct where
19 people come and put up their tent and chairs after 5 p.m.
20 the day before voting starts?

21 A. That is correct.

22 Q. Let's go forward to the start of voting. Once
23 the voting starts, have you ever seen any problems with
24 people having tents and chairs in the parking lot of the
25 county courthouse during voting. Is there a problem with

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1 Q. Now in the county courthouse, are you aware of
2 any problems of people physically getting to the polling
3 place?

4 A. No, ma'am. Well, kind of because there's so many
5 people out there that they cover the whole parking area.

6 Q. I see, at the county courthouse?

7 A. At the county courthouse.

8 Q. Do you see think that would be a problem for a
9 voter walking up to the door?

10 A. They're not a problem, but you have to walk
11 through every time you go through there, you know, you go
12 from one side to the other.

13 Q. I see. So if a voter is walking to vote at the
14 county courthouse the voter has to pass tents and chairs
15 and people before they go --

16 A. There's a walkway, but you see people well of
17 course asking for your vote. That's it.

18 Q. And this all happens outside the 100 foot
19 perimeter?

20 A. Yeah. Well, it should. I haven't been there for
21 the longest years in that area.

22 Q. Do you think that -- so if I've got you straight
23 your understanding at the county courthouse is that there
24 is a pathway to get to the door of the poling place?

25 A. Right.

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1 A. Well, if you're going to do away with the parking
2 lot especially when they have to be outside of the parking
3 lot.

4 Q. Okay. So the lawns, the sidewalks that's okay
5 for handing out literature; is that right?

6 A. That is correct.

7 Q. And now if somebody wanted to hold up a sign that
8 said "Vote for Garza."

9 A. No problem whatsoever.

10 Q. Okay. And the person could do that on the
11 sidewalks or lawns; is that right?

12 A. Right.

13 Q. Do you think people should be able to stand in
14 the parking lot and give out materials and hold a sign
15 saying "Vote for Garza."

16 A. In the courthouse?

17 Q. At the courthouse.

18 A. Well, probably there's a little island there I
19 wouldn't have any problem there holding a sign out there,
20 you know, in the middle of the island they have there.

21 Q. Is there an island now or you're just thinking set
22 up an island?

23 A. No. I don't think so there's an island there,
24 no. I'm wrong. I don't think there's an island there.

25 Q. Okay. Okay.

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1 A. I think it would be a problem because you have
2 cars coming in and out there.

3 Q. You think there would be a problem?

4 A. Yeah, I mean, to avoid somebody getting hurt,
5 somebody parked there. Somebody running over someone.

6 Q. Well, we want to make sure people stay safe for
7 sure.

8 A. Right.

9 Q. Okay. So if I can sum up what we've discussed:
10 At the county courthouse, for voting, you think it's
11 reasonable to have people stay out of the parking lot for
12 electioneering, but that you think that people should be
13 able to hold signs and pass out literature on the county
14 courthouse grounds, whether that's sidewalks or lawns; is
15 that right?

16 A. I would say yes.

17 Q. And would it be fair to say that most of your
18 concern around the county house courthouse and
19 electioneering has to do with trucks parked, tents, chairs
20 and barbecues?

21 A. That is correct.

22 Q. Okay.

23 A. As long as you stay 100 feet from the entrance of
24 the courthouse I don't have a problem with someone passing
25 out flyers or holding up a sign or whatever.

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1 A. Before you go to the next question, I need to go
2 to bathroom.

3 Q. Yes. I was just going to suggest the same thing.
4 You and I are on the same wave length.

5 (Off the record from 10:43 a.m. to 10:50 a.m.)

6 Q. (By Ms. Perales) We're going to look next at the
7 building and property use policy. Commissioner, I'm
8 handing what's been marked Deposition Exhibit Number 5.

9 Can you -- do you recognize this as the Starr County
10 building and property use policy?

11 (Exhibit Number 5 was marked for
12 identification.)

13 A. I've seen it, like I said, and they just hand it
14 to us when we're in commissioner's court and the line item
15 comes up for a vote.

16 Q. What is your understanding of what the building
17 and property use policy does?

18 A. Okay. The building property use policy what I
19 understand what they intended to do when they wrote this
20 policy is to prevent from me I have two pavilions where
21 the elections are held for early voting. That pavilion I
22 build it for people to have and say they want to have a
23 birthday party, a quinceanera, I live in the rural area,
24 very low income people, you know, they don't have money to
25 go pay for a wedding or rent a big hall to do parties.

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1 approve or don't approve?

2 A. We have not had one yet that stopped in the
3 commissioner's court, no.

4 Q. Okay. Do you know if the county judge has the
5 authority by himself to approve a permit?

6 A. I don't know. Based on the policy it has to go
7 through commissioner's court.

8 Q. Okay. Okay. Have you ever heard of anybody --
9 okay. Well let me point you to the provision, okay. I'm
10 going to ask you to go to page -- let me take this away
11 from you because this is the old electioneering. I'm
12 going to ask you to go to page 3 which close to the front.

13 A. Okay.

14 Q. Now this is a page that has section 6 application
15 process on it and I'd like to ask you to read to me what
16 this sentence says right here, 6D?

17 A. Applicant must be at least 21 years of age.

18 Q. Yes. Do you understand that this means that
19 somebody who is under the age of 21 cannot apply for a
20 permit to use the county properties that are in this
21 policy?

22 A. Yes, based on this.

23 Q. Okay. Are you aware of any problems or damage to
24 county property that was caused by people under age 21
25 that we would need to have a policy that says you have to

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1 be 21?

2 A. Not that I'm aware of cause -- going back to
3 county property parks we do have damages by young people
4 age of 15, 12. We used to have a lot of vandalism.

5 Q. At the parks?

6 A. Yes.

7 Q. Do you understand that parks are excluded from
8 this policy, the property use policy. The parks you can
9 use without a permit?

10 A. Right.

11 Q. So this policy would not address vandalism in the
12 parks?

13 A. No.

14 Q. I'm going to talk with you a little bit about
15 what you have to do to get a permit under the policy. We
16 talked about that you have to be 21 to do it. Can you
17 also see on this page it's the same page, page 3. Some
18 okay.

19 Yes. In this first section there would it be
20 fair to say that the Starr County Judge is the building
21 and facility manager and that he is the one that considers
22 all the applications that he is the authority who approves
23 or rejects a permit application?

24 A. That's what it says there.

25 Q. That's what it says, okay. And in this policy do

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1 or letters or E-mails between the two of you when let's
2 say when you were talking about this policy?

3 A. No.

4 Q. When you said earlier in the deposition that you
5 had a conversation with the county judge about some
6 negative impacts that you thought some negative impacts of
7 this policy, how did you have that conversation? Did you
8 have it verbally?

9 A. Yeah, verbally.

10 Q. Okay. You had mentioned earlier that when you
11 were asked to vote on the building and property use policy
12 and the building and property use and the electioneering
13 regulation that you saw them at the meeting and then you
14 voted or didn't vote?

15 A. I didn't vote and some I voted, some I went
16 against it.

17 Q. But you were there?

18 A. Yes.

19 Q. Did you ever see any drafts, earlier drafts?

20 A. No.

21 Q. Did you see them before the meeting so you can
22 look them over and share your results?

23 A. No.

24 Q. How did you know that this electioneering
25 regulation hearing was coming down the pike or did it just

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF Texas
3 MCALLEN DIVISION

3 HILDA GONZALEZ GARZA, {
4 ET AL {
5 V. { CIVIL ACTION NO.:
6 STARR COUNTY, Texas, ET AL { 7:18-CV-00046

9 *****

10 ORAL DEPOSITION OF

11 ELOY VERA

12 JANUARY 23, 2019

13 *****

16 ORAL DEPOSITION OF ELOY VERA, produced as a
17 witness at the instance of the Plaintiffs and duly sworn,
18 was taken in the above-styled and numbered cause on
19 January 23, 2019 from 9:12 a.m. to 2:28 p.m., before Maria
20 E. Amador, Certified Shorthand Reporter in and for the
21 State of Texas, reported by computerized stenotype
22 machine, at Starr County Annex Conference Room, 100 N. FM
23 3167, Rio Grande City, Texas, pursuant to the Federal
24 Rules of Civil Procedure and the provisions stated on the
25 record or attached hereto.

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1 however, the property goes into other things, buildings
2 that we own. I don't know if you're from here or know
3 about Starr County, but Starr County is very economically
4 deprived so we don't have very many buildings that
5 affordable to our people quincernearas or some of these
6 other things. So our buildings were being used for that
7 and we had absolutely no policy, no control. We couldn't
8 call for security or anything so I think this was a great
9 enhancement to that. Now we have a policy where everyone
10 is treated the same. Everyone has the same requirements.

11 Q. Would it be correct to say that prior to the
12 county adopting the Building and Property Use Policy that
13 each commissioner separately decided on when to allow use
14 of a building that might be in that commissioner's
15 precinct?

16 A. Pretty much.

17 Q. And was that a problem?

18 A. I think it is and that's just my opinion. I
19 think it is because these buildings are not owned by the
20 commissioner, they're owned by the county and anything
21 that's owned by the county needs court approval and a lot
22 of times they were not being brought to commissioner's
23 court for approval. Some would charge rent some would not
24 so, you know, one would charge 50 dollars for one person,
25 a 100 dollars for the next, so I think this gave us a more

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1 uniform -- what's done on the east side of the county is
2 done on the north, the west, wherever.

3 Q. Okay. I'm going to hand you two more papers that
4 are related to this case. They are marked as Exhibit 3
5 and 4 and they are what are known as answers to
6 interrogatories. One is from Eloy Vera and one is from
7 Starr County, so I'll ask you to just take a moment and
8 look through those.

9 (Exhibit Numbers 3 and 4 were marked
10 for identification.)

11 A. Can I answer a couple of calls?

12 MR. FONSECA: Would you like to take a break?

13 A. Yes.

14 Q. (Ms. Perales) You want to take a break? There's
15 no question on the table so if you want to take a break,
16 we can definitely take a break.

17 (Off the record.)

18 Q. (Ms. Perales) We're back on the record.

19 A. Okay.

20 Q. Go ahead and take a minute or two to review these
21 two documents.

22 Let me know when you're ready.

23 A. Okay.

24 Q. Okay. Do you recognize these as the answers of
25 you Eloy Vera and the answers of Starr County to some

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1 lots are used for electioneering tents, barbecue pits,
2 etc.

3 Do you see that there?

4 A. Yes, ma'am.

5 Q. Tell me a little bit about that in your own
6 words, can you help me understand what you mean by the
7 hindering of the courthouse activities?

8 A. Okay. I guess our parking is limited at the
9 courthouse and most of the public parking is on the north
10 side of the courthouse and that's where people go in to
11 vote. We have elections there also. I don't know if
12 you've been out there, but most of the time that parking
13 lot is pretty full without elections. So when elections
14 are going on we lose 70 percent of our parking just to
15 people with barbecue pits, people hanging out there
16 supporting one side or the other however many parties.

17 So it creates chaos for people especially
18 when the courts are going on. We have two district courts
19 and one county court at law. If all three are going on
20 there's no parking whatsoever unless you park three blocks
21 away. So it does very difficult to conduct regular
22 business at the courthouse.

23 Q. Okay. Let's take a look at bullet number 2.

24 A. Uh-huh.

25 Q. And that says quote, chicken thrown to the ground

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1 at parking lot at the courthouse quote, unquote. Do you
2 see that?

3 A. Yes, ma'am.

4 Q. Tell me about that. I have heard a little bit
5 that, I would like to hear more about that.

6 A. I wasn't there when it happened. I heard about
7 it afterwards, but my understanding is that the crews that
8 go and barbecue or whatever, saw a barbecue pit there and
9 they thought it was the group they were supporting, so
10 they lit up the barbecue pit and start to barbecue
11 chicken. Well, it belonged to the other group so when
12 they got there they got into an altercation and they took
13 the chicken out, threw it on the paving and it caused
14 some -- well, there were a lot of people upset at that.

15 Q. I understand. So it was a case of mistaken
16 identity of a barbecue pit?

17 A. Pretty much. I mean, I wasn't there but that's
18 what I understand.

19 Q. Do you know when this happened?

20 A. No, ma'am. I don't recall.

21 Q. Do you think it was within the past 10 years?

22 A. Yes, yes.

23 Q. Okay. Was it within the past five years?

24 A. I want to say that it was within the past --
25 yeah, four or five years.

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1 following the parking spaces. It's not a straight shot,
2 now it is.

3 Q. Uh-huh.

4 A. But it wasn't. So it was very different for them
5 to weave through barbecue pits and tents and everything
6 else to get to the courthouse cause there was no parking
7 here they had to park back over here.

8 Q. So I'm trying to separate the availability of
9 parking spots from the issue of walking to the polling
10 place door if you will.

11 A. Sure.

12 Q. Now in this discussion that we've been having
13 right here on the map you've described barbecue pits and
14 tents that are set up on the north parking lot of the
15 courthouse outside the 100-foot buffer zone; is that
16 correct?

17 A. Correct.

18 Q. And what you're saying is that voters have to
19 walk through at the tents and barbecue pits that are
20 outside the 100-foot buffer zone; is that right?

21 A. Not all the voters cause some voters will park on
22 the side to avoid going through the politicians they'll
23 park here and they'll go through the sidewalk to vote.
24 However all these parking spaces here, you know, are also
25 used by politicians cause their support groups park in

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1 here.

2 Q. Yes.

3 A. Now we would block off so many spaces right here
4 for people going to vote. But these spaces were being
5 used by people taking people to vote.

6 Q. Okay.

7 A. So if I was going out on my own, it was very
8 difficult for me to find a place to park.

9 Q. Okay.

10 A. The boulevard has parking spaces back here so
11 that's the reason I say that most people park between the
12 courthouse and the jail and then they have to walk through
13 barbecue pits and tents and everything else to get to the
14 courthouse and that was the reason that they would bitch
15 about.

16 Q. Okay. That's a technical legal word that we use
17 all the time in my office.

18 A. I'm sorry. They slip out every once in a while.

19 Q. You mentioned entrances to the polling place on
20 the north side. Is there also an entrance to the Starr
21 County courthouse on the front steps?

22 A. Yes, ma'am.

23 Q. Okay. Do voters sometimes enter through the
24 front steps?

25 A. Yes, ma'am.

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1 Q. Can they generally avoid the politicians if the
2 voters enter the south steps?

3 A. However on the south steps we have no handicap
4 ramps, but they can. And also on the boulevard they can
5 park there. This here is the school, so those parking
6 spaces are taken by the school. This is a church. So
7 parking is very limited around the courthouse.

8 Q. Okay. Are there entrances on both the east and
9 west side of the courthouse?

10 A. No, ma'am.

11 Q. Are there any entrances on the east or west side?

12 A. There's entrances but it's a sally port for our
13 juvenile detention, so it's not open to the public.

14 Q. And that's on the --

15 A. Both on the east and west.

16 Q. East and west as well, there's no entrance.

17 A. Yeah. There's no entrance. There is an entrance
18 but it's not open to the public. We have our juvenile
19 detention in the basement of the courthouse.

20 Q. Uh-huh.

21 A. So those entrances are used by the juvenile
22 department and our juveniles this is where they go and
23 they play during the day.

24 Q. Okay.

25 A. It's not open to the public.

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1 Q. Trash and smoke problems. Tell me about that in
2 your own words. What's the problem associated with that?

3 A. Okay. Even though we tell them or we used to
4 tell them when they had the barbecue pits there that they
5 had to clean up afterwards every day. They would the
6 leave the trailers there, the barbecue trailers they would
7 leave everything there and there'd be paper, soft drink
8 cans all over the place. Our custodians would have to go
9 out there early in the morning and clean up. The smoke if
10 they're prevailing winds which are from the southeast of
11 course it blows it to our neighbors over here and into the
12 jail. If it were northern coming of course it all goes
13 into the courthouse. I mean you have six, eight barbecue
14 pits out there burning. There's quite a bit of smoke.

15 Q. Have you ever smelled smoke from the courthouse
16 when you've been inside the courthouse?

17 A. Yes, ma'am.

18 Q. It makes you hungry?

19 A. Maybe the first day. After the first day you're
20 tired of chicken.

21 Q. You made me feel bad when you said it blew
22 towards the jail. I thought about the people in jail
23 smelling that.

24 A. Well, I don't know if it gets into the jail the
25 cell areas, but I know it gets into the offices, the front

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1 reference to quote, many verbal attacks and verbal
2 complaints, unquote.

3 A. Uh-huh.

4 Q. And you had mentioned before in some of your
5 testimony the words harassment and intimidation. So I'd
6 like to talk about that more specifically for a moment.
7 So we're going to put aside the signs and barbecue pits
8 and the tents. And just talk about what you mean by
9 harassment and intimidation of voters. Can you explain
10 that to me?

11 A. Yeah. People that go vote usually I think just
12 want to go vote and leave. Starr County is a small
13 community and most everyone knows everyone so a lot of our
14 people just want to go in there and vote and leave. They
15 don't want to show any indication of how they're going to
16 vote. But even if you want to do that and it's happened
17 to me when I'm not running the last thing I want to do is
18 get involved but I could park along here and walk up the
19 sidewalk and they're all lined up here and they start
20 screaming, hey judge don't forget to help us out and me
21 and my wife before we go in there, you know, I don't like
22 that and there's a local doctor that says his wife will
23 not vote because of that. These are professional people,
24 after this he made it a point to call to thank us for
25 doing that, you know my wife was so happy I got her to

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1 vote.

2 Harassment that's to the voter. People
3 come in there's people that are from both groups or sides
4 or three or four however many groups it happens to have
5 and the ladies will bring votes some of the others will
6 try to talk to the car they'll get into altercations and
7 it just it wasn't very conducive the way things were being
8 done.

9 Q. Okay. So would it be fair to say then that when
10 you talk about the atmosphere outside the courthouse where
11 campaigns are calling out to voters.

12 A. Uh-huh.

13 Q. That your concern includes the area outside the
14 100-foot buffer zone. At least let me re-ask that because
15 I want to get to activity outside the 100-foot buffer
16 zone.

17 A. Uh-huh.

18 Q. So would it be fair to say that your concerns
19 calling out to voters is occurring outside the 100-foot
20 buffer zone?

21 A. Not now.

22 Q. Okay, yes. I want to make sure that we're clear
23 that in the past, what was concerning is about
24 electioneering was campaign people calling out to voters
25 outside the 100-foot buffer zone?

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1 lives or the physical safety of the voters?

2 A. No.

3 Q. So when you talk about threatened and intimidated
4 do you mean simply that a voter who was walking to the
5 polling place and seeing people calling out and asking for
6 the votes that your concern is that the voter would feel
7 threatened or intimidated?

8 A. Yes and again this is not a life-threatening
9 situation. It's a threat that they feel, if I don't say
10 hi or if I don't do this, you know, depending on where
11 they work my job might be in danger, I might run the risk
12 of losing a friend because they're close to these people
13 and this other friend is close to these other. Those kind
14 of threats not necessarily life threatening.

15 Q. I see. Have you ever heard of an incident where
16 a voter was -- no scratch that.

17 I think you, you answered fully there. Let
18 me look through these questions. When you talk about the
19 voters entering the polling place, besides election day
20 itself, was the atmosphere that concerned you around
21 electioneering happened during early voting as well?

22 A. Yes.

23 Q. And we had a conversation about the courthouse,
24 we've been looking at the map of the courthouse, can you
25 think of any incidents about electioneering that caused

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1 A. I think it's just cleaner if people know you
2 can't be anywhere inside the courthouse property rather
3 than I can be here, I can't be over there, I can't be over
4 there. I think that would be more confusing to the people
5 actually being out there, one. The other thing is people
6 going to do business in the courthouse use those
7 sidewalks, that's the way they get to the stairs to get in
8 without having a hundred people outside where they have to
9 walk on the street.

10 Q. And so in the past do you think that in these
11 beige areas on the map --

12 A. Uh-huh.

13 Q. -- that voters could not walk down the sidewalk?

14 A. In the past?

15 Q. Yes. In the past?

16 A. No. Cause they couldn't walk anywhere in here
17 because it'd be full of people.

18 Q. So you definitely indicated that the parking lot
19 would be full of people but just with respect to these
20 beige colored sidewalks outside the 100-foot buffer zone,
21 did you have a specific concern about those beige colored
22 sidewalks in the past?

23 A. Your question was in the past.

24 Q. Yes.

25 A. In the past we didn't because in the past I

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1 presented by someone or if we brought it up, I don't
2 recall but then it picked up steam about we need to do
3 something to control this and then our county attorney and
4 district attorney started drafting something and they
5 presented it to us. I think you saw Victor Canales,
6 Mr. Canales presenting some of it you know it wasn't just
7 one-time shot. It went back and forth until we agreed
8 that that is what we wanted.

9 Q. So just focusing on the first version which was
10 adopted by the commissioner's court in January of 2018.

11 A. Okay.

12 Q. Do you recall having meetings, open meetings,
13 where the commissioners were discussing the
14 electioneering?

15 A. In commissioner's court meetings, open meetings.

16 Q. Do you remember which commissioner spoke out
17 about electioneering before January or...

18 A. Like I said I don't recall if it was something
19 that was presented to us that we should look at or if it
20 was initiated by us. I don't recall.

21 Q. When you say presented to you as something you
22 should look at, do you mean by either the county attorney
23 or the district attorney?

24 A. It could have been them again, I don't recall.
25 Either they presented something to us saying, hey, we

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1 recommend y'all look into this or it could have been us
2 saying what can we do to control some of this stuff.

3 Q. Okay.

4 A. And then they come up with this.

5 Q. Did you personally initiate -- now I'm going to
6 ask you a question just as yourself.

7 A. Okay.

8 Q. Judge Vera.

9 A. Okay.

10 Q. Did you personally raise this issue during
11 commissioner's court?

12 A. I don't recall. I'm trying to think if it was me
13 cause I was all for it but I don't recall if I brought it
14 up or -- cause everywhere I would go people would complain
15 to me about our elections, you know, that we were like
16 buzzards sitting there waiting for them you know. So I
17 don't know if I brought it up, someone rattled my chain or
18 something, you know, or if it was legal counsel that
19 brought it up you know I don't know.

20 Q. Okay. I'm going to follow up on the buzzard part
21 of this.

22 A. Okay.

23 Q. By asking whether before the policy, before the
24 electioneering regulation came into effect, what sorts of
25 electioneering activities that you did personally or your

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1 A. Not to my knowledge.

2 Q. When you were electioneering in the past, did a
3 voter ever come up to you and say I feel harassed or
4 intimidated by this scene outside the polling place?

5 A. Constantly.

6 Q. So you yourself were part of this scene and a
7 voter would say I don't like this?

8 A. Yes.

9 Q. Okay. And what would they express to you
10 specifically?

11 A. Like we were like vultures out there like I like
12 sitting there waiting for somebody to come to kind of
13 bounce on them and ask for their vote whatever. My belief
14 is that people that go to the polls their minds are
15 already made up as to who they're going to vote for so if
16 anything if they waive at me I'll waive at them, that's
17 it; however, that's not the general thinking of most
18 people. They would complain of how they couldn't vote
19 without having 10 to 12 people talking to them when they
20 didn't want to.

21 Q. Okay. And when you say that the voter was
22 complaining about talking to people and going through
23 them. These are campaign workers who are making a last
24 minute pitch for their political support?

25 A. Correct. And some related to people that run for

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1 A. Yes, ma'am.

2 Q. Okay. Can you tell me how this policy came into
3 existence? How did this come about --

4 A. Okay. It came about the same time as we had the
5 election -- electioneering policy and prior to this the
6 buildings owned by the county were pretty much used at the
7 discretion of each commissioner and there was no uniform
8 method or reasoning behind the use of these buildings, so
9 in order to have better control and use of our facilities
10 this policy was enacted.

11 Q. When you say buildings and facilities, was this
12 basically a policy aimed at the use of structures that are
13 owned by the county?

14 A. No. Property also which would be parks, parking
15 lots any property or building or structure.

16 Q. Okay. Did you initiate, did you make the request
17 for this policy? Did you initiate the request personally
18 for this policy?

19 A. I don't recall. I don't recall. And the reason I
20 say that I did have an issue sometime back and it was a
21 heated discussion that we had in court cause the school
22 district sometimes we use their buildings, sometimes they
23 use ours, we use the city's, whatever. We kind of use
24 each other's buildings but we always ask the government
25 body permission to use. Well, the school district in Rio

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1 Grande posted in the paper that they were going to have
2 elections in our buildings. That's the first time we
3 heard of it, no one had ever approached us. So they said
4 well we asked Commissioner Garza. Well it needs to go
5 court. We'll certainly lend it to you but it has to come
6 through the court. Well, it became a real hot issue
7 because the commissioner felt those are my buildings I
8 said no they belong to the county. They're not yours. So
9 I know I had a big issue with that.

10 Q. Do you recall when that was?

11 A. It was a school election.

12 Q. Was it within the past five years?

13 A. It was pretty close to five years.

14 Q. Okay.

15 A. So I don't know if I requested it or not, but I
16 know I had a problem with that because we needed something
17 that better delineated and I said Commissioner Garza, most
18 commissioners felt the same way, it's my building I built
19 it. Yeah, but it was money from people from all the over
20 the county. So to answer your question, I don't know if I
21 initiated it or not.

22 Q. Okay. Okay. You mentioned before that this
23 approximately policy governs the use of county structures
24 as well as parks and other properties; is that correct?

25 A. Uh-huh, correct.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

HILDA GONZALEZ GARZA, ET AL.,)
)
 PLAINTIFFS,)
) CIVIL ACTION NO.
 VS.) 7:18-CV-00046
)
 STARR COUNTY, TEXAS, ET AL.,)
)
 DEFENDANTS.)

ORAL DEPOSITION OF

HILDA GONZALEZ GARZA

February 14, 2019

ORAL DEPOSITION of HILDA GONZALEZ GARZA, produced as a witness at the instance of the Defendants, and duly sworn, was taken in the above-styled and numbered cause on the 14th day of February, 2019, from 9:22 a.m. to 12:33 p.m., before Anica Diaz, CSR, RPR, CRR in and for the State of Texas, reported by stenograph, at the Starr County Courthouse Annex Conference Room, Suite 211, 100 North FM 3167, Rio Grande City, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

1 But at that same time I also agree that it depends, I
2 guess, what political alliance you're -- you're aligned
3 with, with regards to that prosecutor or that
4 individual.

5 Q. Okay. And has there been any evidence of that?

6 A. No, there hasn't.

7 Q. Okay. Now --

8 A. At least not with regards to this, no.

9 Q. The electioneering and the use policies?

10 A. Correct.

11 Q. Let's talk about politics.

12 A. Okay.

13 Q. Is there a political motivation for the filing or
14 the enacting of these policies?

15 A. I believe that there is.

16 Q. What is that motivation?

17 A. I think the motivation was to limit incumbents
18 from -- from non-incumbents from electioneering.

19 Q. Okay. Any other political motivation?

20 A. I'm sure that, potentially, Mr. Escobar may have
21 had a political motivation on this.

22 Q. Okay.

23 A. I wouldn't be able to go into the specifics, but
24 I'm sure that there might have been a motivation, yes.

25 Q. Okay. Well, you mentioned it.

1 A. Yes.

2 Q. So, what makes you say that?

3 A. Well, I think at this point in time, you know,
4 the fact that it happened in February, on the eve of a
5 primary, then I think he had a motivation to do this.

6 And the fact that it was the district attorney
7 that was, in essence, advising the Commissioners' Court
8 when it's the responsibility of the county attorney, I
9 don't believe that's one of the designated, I guess,
10 areas or responsibilities of the district attorney to
11 advise the Commissioners' Court. I believe that falls
12 on county attorney. That leads me to believe that it
13 may have been politically motivated at this time --

14 Q. Okay.

15 A. -- for that reason.

16 Q. Other than the fact that the district attorney
17 was involved in proposing these regulations, is there
18 anything else that would indicate that there was a
19 political motive from Mr. Escobar?

20 A. Well, I think the timing.

21 Q. And the timing. So, the timing --

22 A. It would have been the timing and the fact that
23 he took initiative at this point in time. And the fact
24 that it was, basically, like I said, on that first
25 meeting, I didn't see any of the commissioners that had

1 Q. Okay.

2 A. -- there.

3 Q. And they decided to take action on it?

4 A. Yes.

5 Q. Okay. Whether they read it or not, that's their
6 prerogative?

7 A. That -- that is true. That is their prerogative
8 at that point in time.

9 Q. Okay. Okay. So, going back to Mr. Escobar's
10 political motivations. The timing -- you have an issue
11 with the timing and the fact that he was involved --

12 A. Correct.

13 Q. -- with the process?

14 A. Correct.

15 Q. You have no other indication of what his motives
16 are?

17 A. Not at this point in time, no, sir.

18 Q. Okay. You testified earlier that you, yourself,
19 had -- have asked to be put on the agenda --

20 A. Yes.

21 Q. -- or to put items on the agenda --

22 A. Correct.

23 Q. -- to talk to Commissioners' Court --

24 A. Correct.

25 Q. -- about several issues --

1 Q. The sheriff wasn't on the ballot?

2 A. No. I think the sheriff runs in 2020 as well.

3 Q. Okay. So, half the Defendants were not on the
4 ballot?

5 A. Right.

6 Q. Okay. We touched briefly at the begin of your
7 deposition on the power of the incumbency.

8 A. Right.

9 Q. And the fact that you believe that these
10 regulations affect non-incumbents?

11 A. More than anything, yes.

12 Q. Okay. Because at a polling location like the
13 courthouse, they're there all the time?

14 A. Correct.

15 Q. And by "they" I mean the county judge, the
16 district attorney.

17 A. Elected officials.

18 Q. Elected officials. In this last election it
19 would have been -- the only one with an office in the
20 courthouse was the county judge?

21 A. The county judge, yes.

22 Q. Okay. Because neither the Commissioner Pena nor
23 Commissioner Saenz have offices at the courthouse?

24 A. Correct.

25 Q. So, let's just focus on courthouse for now.

1 out, there's really no way of enforcing it?

2 A. Correct.

3 Q. So, these regulations apply during the voting
4 period --

5 A. Correct.

6 Q. -- outside the 100-foot buffer zone?

7 A. Correct.

8 Q. And that applies equally to incumbents and
9 non-incumbents?

10 A. Okay.

11 Q. Would you agree with me?

12 A. I don't necessarily agree with you on that.

13 Q. Okay. How outside the 100-foot buffer zone does
14 it apply only to non-incumbents and not just the
15 incumbents?

16 A. I would say that at that point in time, because
17 of the fact that he has the extension of the -- the
18 courthouse, I guess, officers or things of that nature,
19 they turn to him for guidance. And for that particular
20 reason he could dictate whether it was to be enforced or
21 not enforced, or if there was a misinterpretation in the
22 enforcement, or make -- choose, at that point in time,
23 whether to enforce or not enforce. That discretion that
24 you discussed.

25 Q. It -- does the county judge have that discretion?

1 of assumptions. I think for a normal or a reasonable
2 person and for a non-attorney, if there was a
3 non-attorney, I think those are reasonable presumptions
4 for them.

5 Even for me, as an attorney, to make these
6 assessments, even though I can read these documents, I
7 still would hesitate. So, I can see why, you know, a
8 non-attorney would even hesitate even further.

9 Q. Okay. So, outside the 100-foot buffer zone
10 during voting periods, the fact that you believe the
11 county judge has the discretion on how to apply these
12 regulations --

13 A. Uh-huh.

14 Q. -- to non-incumbents, how else are non-incumbents
15 affected by these regulations?

16 A. I think non-incumbents might be affected as well
17 as any other electioneering that they do, whether it'd
18 be to try to assist a voter, to potentially take voters
19 to the polls. I think they would be affected.

20 Q. And outside county property?

21 A. Well, yes. Well, outside -- well, within
22 the -- the county property.

23 Q. Within county property, but before you get to the
24 100-foot buffer?

25 A. Yes.

1 Q. Okay. Taking -- how would these regulations or
2 the use policy affect non-incumbents in helping voters?

3 A. Well, because, remember, you can't loiter. And
4 if there's an incumbent that's outside, or if there's an
5 incumbent that wants to go and assist a voter, he has to
6 travel from wherever he is outside the county property
7 to come and assist a voter.

8 Q. Okay. And he can't -- he or she can't do that
9 from the lawn or the designated areas for --

10 A. Well, that's what I'm saying, you would consider
11 that to be loitering if they're in the lawn area.

12 Q. But the prohibition is only asked -- the
13 loiter -- the loitering prohibition is only on sidewalks
14 on the north and the south of the courthouse.

15 A. But that's what I'm saying, but how do you -- how
16 do you know where the distinction is? You have part of
17 the sidewalk. There is no marker there on the sidewalk
18 during election day or during early voting that on this
19 part -- you know, you have it that it's on the west on
20 the east said that you can electioneer and not on the
21 north and the south.

22 So, like I said, they don't go and mark
23 the -- the sidewalk to fully tell the voter or the
24 candidate, you know, if you step over here you can't, if
25 you step over there you can't.

1 A. Or the reproduction of those copies are -- are
2 bad. Because, I mean, you do have some copies here that
3 are not very bright or that you can tell.

4 So, that has happened before when I've asked
5 Ms. Reyna to provide those for me. Or she'll tell me,
6 Hilda, I have a copy but it's not the signed copy.

7 Q. But Ms. Reyna is always willing to assist?

8 A. She has been accommodating, as long as it's from
9 8:00 to 5:00, yes, she has.

10 Q. Okay. Looking at the other polling locations,
11 not just the courthouse. Let's -- you can turn to the
12 maps.

13 A. Okay.

14 Q. Looking at La Rosita, let's start with the first
15 one there.

16 A. Okay.

17 Q. Other than the obvious fact that the commissioner
18 has access to -- can walk within the 100-foot buffer
19 zone --

20 A. Right.

21 Q. -- how are non-incumbents treated differently
22 than incumbents outside the 100-foot buffer zone?

23 A. Other than that, that the incumbent would have
24 his office there, that would be the incumbent
25 commissioner potentially would have access to it.

1 And if you are a non-incumbent you would have to,
2 you know, try to get a location there, I guess, on the
3 green area. First come, first serve, potentially.

4 Q. Okay. You'd agree with me that if these green
5 areas -- these shaded green areas on the -- on the map
6 weren't there, that there'd be no place for
7 electioneering at La Rosita?

8 A. That's correct.

9 Q. Do you believe this accomodation is reasonable or
10 helpful to the citizens?

11 A. I think some -- part of that regulation is -- is
12 helpful.

13 Q. Okay. When you say "part," what other part
14 isn't?

15 A. Are you still saying that I cannot go with a
16 T-shirt or something loiter on the parking lot?

17 Q. You cannot loiter on the parking lot.

18 A. Okay. So, tech -- you know, that's the portion
19 that I would have an issue with --

20 Q. Okay.

21 A. -- if I'm going back and forth, especially from
22 the green area to -- you know, even outside or going
23 across, you know, I would have an issue with that.

24 Q. Okay. Now, just so we're clear, having T-shirts,
25 wearing T-shirts, are not considered electioneering.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

HILDA GONZALEZ GARZA, ET AL.,)
 Plaintiffs,)

VS.)
) CIVIL ACTION NO.
STARR COUNTY, TEXAS, ET AL.) 7:18-CV-00046
 Defendants.)

ORAL DEPOSITION OF

JAIME ALVAREZ

January 14, 2019

Volume 01

ORAL DEPOSITION OF JAIME ALVAREZ, produced as a witness at the instance of the Plaintiffs, and duly sworn, was taken in the above-styled and -numbered cause on the 14th day of January, 2019, from 2:51 p.m. to time ^ a.m. ^ p.m., before Veronica Jones, CSR in and for the State of Texas, reported by machine shorthand, at the offices of STARR COUNTY COURTHOUSE ANNEX, 100 N. FM 3167, Rio Grand City, Texas, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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1 electioneering?

2 A. Repeat the question.

3 Q. So, I guess first of all let me rephrase the
4 question to make sure I get a full understanding. What
5 exactly do you believe is a issue with the barbecue pits
6 in the parking lots?

7 A. Some parking lots are restricted in the space
8 that is available to conduct the every day operations of
9 the county government.

10 Q. And which ones?

11 A. The courthouse, La Rositas, and El Cenizo.

12 Q. Okay. So, is it correct to say that it's your
13 opinion that the barbecue pits in the parking lots
14 are -- strike that question. Aside from the barbecue
15 pits in the parking lots, is there any -- are you aware
16 of any other incidents in county property related to
17 electioneering?

18 A. I don't understand the question.

19 Q. So, can you explain to me what do you understand
20 about how does this case relate to the barbecue pits and
21 the parking lots?

22 A. The lack of space in the parking lots.

23 Q. So, is it your understanding that this case is
24 about the lack of space in the parking lots as a result
25 of the barbecue pits?

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1 A. Not only the barbecues, it's also tents, it's
2 also signs, political signs. Whatever comes with the
3 propaganda of a campaign.

4 Q. Okay. So, if I understand correctly you believe
5 that this case is about the lack of space in the parking
6 lot as a result of barbecue pits and tents and the
7 posting of signs?

8 A. Yes, ma'am.

9 Q. Okay. And you also mentioned sidewalks. What is
10 your understanding of how this case relates to
11 sidewalks?

12 A. The sidewalks, when people would go vote they
13 were obstructed with campaign propaganda and that was
14 the problem there, or campaign workers or whatever the
15 case may be.

16 Q. Okay. So, when you mentioned when people would
17 go vote they would be struck with campaign propaganda,
18 what do you mean by that?

19 A. Repeat the question.

20 Q. You mentioned that people were being obstructed
21 in the sidewalk, can you elaborate what you mean by
22 that?

23 A. That campaign staffers are in the way --
24 sidewalks are meant to be a walkway, they're not meant
25 to be a propaganda area. People have to have access

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1 to -- to a sidewalk, that's usually about no more than
2 five feet wide.

3 Q. Okay. Can you first explain to me if you ever
4 witnessed first-hand a voter being obstructed in the
5 sidewalk?

6 A. Yes, ma'am.

7 Q. Can you describe this incident for me?

8 A. No, ma'am.

9 Q. Do you recall when it took place?

10 A. No, ma'am.

11 Q. So, when you mentioned that you have first-hand
12 knowledge, are you saying you can remember the incident?

13 A. I can say that I've witnessed it, to give you
14 exact date, exact persons no I can't.

15 Q. Can you explain to me generally what happened?

16 A. People are obstructed from having access to the
17 sidewalk.

18 Q. And for the incident that you observed, can you
19 explain to me how many people were involved
20 approximately?

21 A. Impossible, ma'am.

22 Q. Was it one person?

23 A. No. Impossible to answer that question.

24 Q. Can you tell me how many times have you seen this
25 incident occur?

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1 workers on the sidewalks? Is there anything else that
2 you can recall in relation to electioneering?

3 A. Yes, ma'am. La Rosita is a place of business
4 where there's a library, the precinct, the fire
5 department, a nutrition center, there's a head start
6 school there, there's a food pantry and there's a JP
7 office. And with all this that we had mentioned, it was
8 almost impossible to conduct county government there.

9 Q. Okay. And was that because people were using the
10 parking lot?

11 A. They were using the parking lot, they were using
12 everywhere they could.

13 Q. What do you mean by everywhere they could?

14 A. What ever space was available for them to pick,
15 it was first come first serve. And some people didn't
16 come with ten by ten, ten, they come with a 50 by 50,
17 10.

18 Q. Okay. So, I want to go back to what you
19 mentioned about the campaign workers on the sidewalks.
20 Can you describe for me what you mean by obstruction of
21 the sidewalks? For example, were the voters able to
22 enter the polling place?

23 A. They were able to enter, but they had to go to
24 a -- through a gauntlet or a maze of campaign workers
25 and candidates and whatever, cooks, whatever.

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1 Q. Last year I'm sorry. I'm still in 2018.
2 June 25, 2018. To your knowledge, who was involved in
3 the drafting of these regulations?

4 A. To my knowledge who was involved in the drafting
5 of this electioneering regulations, Mr. Victor Canales,
6 the county attorney and Mr. Mark Escobar the district
7 attorney.

8 Q. Okay. Now, help me understand how this issue
9 came up for a vote. Do you recall if this came up for a
10 vote because a citizen was concerned about
11 electioneering?

12 A. Can you repeat the question.

13 Q. I want to understand how this issue came up to
14 pass. Do you recall what prompted the Commissioner's
15 Court to adopt this series of regulations?

16 A. I can answer for myself, that the -- the citizens
17 that we represent the constituency voters were
18 complaining that -- about all this obstacles so they
19 could go vote.

20 Q. Okay. When you say citizens who were
21 complaining, did any of those citizens complain to you
22 personally?

23 A. Yes, ma'am.

24 Q. Do you know the names of the --

25 A. No, ma'am.

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1 Q. People who complained to you?

2 A. No, ma'am.

3 Q. Is that information that you recorded anywhere?

4 A. No, ma'am.

5 Q. So, is it fair to say that you cannot recall how
6 this issue came about?

7 A. I thought I answered that question.

8 Q. And I am rephrasing a different question. Is it
9 correct to say that you do not recall who specifically
10 complained to you about electioneering in Starr County?

11 A. Who specifically, no, ma'am.

12 Q. Now, when you received these complaints, did you
13 raise this issue to the Commissioner's Court?

14 A. It was discussed, maybe not in the Commissioner's
15 Court but with a certain commissioner or -- or a certain
16 individual.

17 Q. And who exactly is the commissioner that you
18 discussed it with?

19 A. At the time, Commissioner Garza was one of them.
20 Judge Vera was another one.

21 Q. Any others?

22 A. Commissioner Omar Escobar.

23 Q. Okay. So Mr. Garza, County Judge Vera, Mr.
24 Escobar, anybody else in the county?

25 A. Not that I recall.

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1 Q. And after you raised this issue with Mr. Garza,
2 Mr. Vela and Mr. Escobar, then what happened?

3 A. It was -- I don't recall exactly but it was
4 placed on the agenda, I don't know if it was more than
5 one time but it was placed on the agenda. But then we
6 had to discuss it and figure out what could be done.
7 That's where Mr. Victor Canales, Mr. Escobar Garza -- I
8 mean Omar Escobar decided to draft something for us.

9 Q. And was it you -- did you -- did you have any
10 input in the drafting of the document?

11 A. No, ma'am.

12 Q. Do you know who drafted the regulations?

13 A. I thought I answered that question.

14 Q. You mentioned that the county attorney and Mr.
15 Escobar were involved in reviewing the regulations, but
16 I'm asking a different question. To your knowledge do
17 you know who drafted the regulations?

18 A. No, ma'am.

19 Q. When you raised your concerns with Mr. Garza, Mr.
20 Vela and Mr. Escobar, what was your proposed solution to
21 this problem?

22 A. Commissioner Garza and myself, we eat lunch
23 regularly. And I remember telling him that we needed
24 some kind of control over these parking lots so we
25 wouldn't obstruct the operation of county government.

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1 And if a candidate had done his homework, we didn't need
2 all this election and electioneering going on in -- in
3 those areas.

4 Q. And when you say those areas, do you mean the
5 parking lots?

6 A. Parking lots, sidewalks, whatever else.

7 Q. Now, you mentioned that if a candidate had done
8 his homework, he would know that he wouldn't be able to
9 do those things. Can you explain to me what you meant
10 by that?

11 A. If a candidate has done his homework campaigning,
12 his staff, his volunteers, his staff doesn't have to be
13 electioneering and obstructing the operation of the
14 courthouse or the precinct buildings.

15 Q. And when you say obstruct, how were these
16 campaign workers obstructing the operations of the
17 courthouse?

18 A. I answered that question several questions ago,
19 ma'am. Through huge tents, barbecue pits, and so on and
20 so forth.

21 Q. So in your opinion, how would this problem --
22 could be solved?

23 A. In my opinion -- repeat the question.

24 Q. Yes. You talked about barbecue pits and tents
25 and some campaign workers obstructing operations of

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1 Q. At that one polling place? Okay. Do you ever go
2 down to the courthouse to ask people for their votes?

3 A. No, ma'am, I have staff that goes.

4 Q. Okay. Okay. And so, personally you testified
5 earlier that you witnessed problems with electioneering
6 at La Rosita, have you witnessed problems with
7 electioneering at Escobares?

8 A. Escobares will never have a problem because the
9 county owns no more than 15 feet from where they vote.
10 The people have to stand on the street on the paving, on
11 the -- on the street that belongs to the city of
12 Escobares.

13 Q. And when you say the people have to stand do you
14 mean the campaigners?

15 A. Yes, ma'am.

16 Q. Does that cause any problems?

17 A. I never go but I hear from people that help me
18 during my elections that it gets congested.

19 Q. And is that with respect to parking?

20 A. Of course.

21 Q. Okay. Okay. Have you ever personally seen
22 problems on the sidewalks with electioneering at the
23 courthouse?

24 A. I don't recall the date and the election, but I
25 got runned over. I got runned over by doing whatever

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1 everybody else was doing, electioneering. Coming off a
2 sidewalk, this innocent lady didn't see me and I got
3 runned over by a pickup truck. Luckily I got bruised
4 but I didn't get hurt.

5 Q. Was that because you were coming off the sidewalk
6 into the parking lot?

7 A. Yes, ma'am.

8 Q. And were you there asking people for their votes?

9 A. Yes, ma'am.

10 Q. You must have gotten some votes after that just
11 for sympathy?

12 A. I've done my job campaigning.

13 Q. That was a --

14 A. I never want people to vote for me because of
15 sympathy.

16 Q. That's okay it was just a joke. You don't have
17 to answer that.

18 A. I don't think we're here to joke, ma'am.

19 Q. Good. I'm glad. Now, with respect to the
20 courthouse in addition to you getting hit by the pickup
21 truck, can you think of any other times that you've
22 personally witnessed a problem of electioneering at the
23 courthouse?

24 A. I would have to go back many years, ma'am,
25 because when -- my family has been in politics for seven

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1 care of that we don't have that problem no more.

2 Q. All right. When you had your concern, before the
3 regulation came around when you were worried about this,
4 you mentioned a gauntlet. And I want to get a little
5 more detail from you about what that was for you and why
6 you were concerned about it. What did the voter have to
7 do to get through?

8 A. Sometimes the voter would have to get aggressive
9 so people would let them go through.

10 Q. Okay. And campaign workers were doing what
11 exactly?

12 A. Campaigning.

13 Q. Okay. And what did that include?

14 A. Campaigning.

15 Q. Okay. But what actions specifically?

16 A. Whatever you can imagine at the campaign it is.

17 Q. So --

18 A. Everybody have a different method of campaigning.

19 Q. Okay. Give me an example.

20 A. Asking for the vote.

21 Q. Okay. So, saying verbally can you vote for --
22 vote for commissioner Alvarez today. Something like
23 that, right?

24 A. Yes, ma'am.

25 Q. Okay. What else?

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1 Q. I see, they would be holding the chicken. Did
2 you ever block a voter from going into the polling
3 place?

4 A. Me, not personally.

5 Q. Did any of your campaign workers ever block a
6 voter from going into the polling place?

7 A. I hope not.

8 Q. Okay. Did you ever see one of your campaign
9 workers block a voter?

10 A. No, ma'am.

11 Q. Did you ever see another campaign worker block a
12 voter?

13 A. In my time I've seen some voters being blocked.

14 Q. And what did the voter do?

15 A. Some got intimidated, some got aggressive.

16 Q. I see. And did they ultimately pass by and go
17 into the polling place?

18 A. Yes, ma'am.

19 Q. And when you say got aggressive, what do you
20 mean?

21 A. Get out of my face, get out of my way, let me
22 vote.

23 Q. Okay. And did these types of activities occur
24 outside the 100-foot perimeter?

25 A. Sometimes we did get within the 100-foot

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1 your behavior and your campaign staff behavior as well?

2 A. And I'm glad they did.

3 Q. Okay. So, you mentioned earlier that you spend
4 election day at La Rosita and I'm curious to know what
5 are you doing there at La Rosita.

6 A. Working on my campaign.

7 Q. Okay. And tell me what that looks like, exactly.

8 A. My campaign, how it looks like.

9 Q. Now, tell me what it looks like when you're
10 working on your campaign. Now, that we have
11 the electioneering regulations and you're at La Rosita
12 on election day, what exactly are you doing?

13 A. I'm standing there outside the county limit.

14 Q. Where exactly do you stand at La Rosita?

15 A. The cake shop.

16 Q. Cake shop?

17 A. Next door.

18 Q. Okay.

19 A. Private property.

20 Q. And what are you doing as you stand outside the
21 cake shop?

22 A. Just being visual.

23 Q. Are you wearing a campaign T-shirt?

24 A. I never have.

25 Q. Okay. Are you holding a sign?

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1 very present at that moment?

2 A. I can say that this issue had been rooting up
3 since many years ago, many years ago as the county got
4 larger in population the problem got more serious.

5 Q. So why now?

6 A. And why not now, ma'am?

7 Q. But it -- yes, but you're answering my question
8 with a question. So, do you have an idea of why January
9 of 2018 became that moment or --

10 A. It had to be sometime. Everything happens
11 sometime.

12 Q. Okay. So, you can't think of any specific event
13 that triggered --

14 A. No, ma'am.

15 Q. Okay. Thank you. Commissioner the court
16 reporter has handed you what has been marked deposition
17 Exhibit Number 6, do you recognize this document?

18 A. Yes, ma'am.

19 Q. Tell me what this is.

20 A. This is a Starr County building and property use
21 policy.

22 Q. Okay. Do you know who drafted this policy?

23 A. As far as I know, ma'am, it was the county
24 attorney.

25 Q. Okay. Did you play any role in the drafting of

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1 this policy?

2 A. No, ma'am.

3 Q. Okay. When was the first time --

4 A. Let me backtrack.

5 Q. Okay.

6 A. Besides being introduced in commissioner court
7 that was my role.

8 Q. That was my next question. Did you see a draft
9 of this policy before it was introduced for a vote in
10 Commissioner's Court?

11 A. Yes, ma'am.

12 Q. And what did you do with the draft that you saw?

13 A. I read through it and I felt that it would almost
14 not apply to the La Rosita because La Rosita doesn't
15 have a reason to issue permits because does nothing to
16 rent or to lend to people there.

17 Q. So, did you feel that it didn't apply to you?

18 A. I felt that it did not apply to La Rosita.

19 Q. And when did you first review a draft of the
20 billing and property use policy, was it before the
21 Commissioner's Court meeting?

22 A. I would say so, ma'am. I don't recall exactly
23 but I would say so.

24 Q. Okay. Do you remember who gave you the draft to
25 look over?

Deposition of Jaime Alvarez

January 14, 2019

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1 A. Usually these things are placed on our box and
2 the secretary picks it up, takes it to my office and
3 place it on my desk.

4 Q. Okay. And so, would it have been the week of the
5 meeting where you were asked to vote on it or earlier?

6 A. I hope that everything is placed and we read it
7 before we vote on it. If not how can we make a
8 conscious vote?

9 Q. Do you remember when you were first given a draft
10 of this whether it was --

11 A. I don't remember, ma'am.

12 Q. Was it more than a week ahead of the vote?

13 A. I do not remember.

14 Q. Okay. But you remember when it was handed out at
15 the Commissioner's Court meeting that you had seen it
16 before?

17 A. I would have to say yes, ma'am.

18 Q. Okay. Okay. Besides La Rosita, because you
19 mentioned it a minute ago, are there any other county
20 properties in your precinct that might be a place where
21 people would want to gather?

22 A. I do have in Garceno -- the precinct it's never
23 I. The precinct has in Garceno a park, which it is
24 right now at this time it has been closed for about a
25 year.

Deposition of Jaime Alvarez

January 14, 2019

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1 Q. Okay. So is there a fence around it?

2 A. Yes, ma'am.

3 Q. Okay. And can people get into the Escobares Park
4 right now?

5 A. It's an empty lot, there's no park.

6 Q. Okay. So, there's no picnic tables or anything
7 like that?

8 A. There's a couple of picnic tables that stay there
9 but there's nothing, there's no park.

10 Q. Can people physically enter that space?

11 A. Yes, ma'am.

12 Q. So, if somebody wanted to get in there, they
13 wanted to have a birthday party or something, what could
14 they do to go in there and use it for a birthday party?

15 A. That situation has never arose because.

16 Q. Are there barbecue pits there?

17 A. I -- no, ma'am. Well, there's one that's
18 nonserviceable -- well no, shouldn't be because we took
19 it out. My order was to take it out.

20 Q. Okay.

21 A. Unless they left it there. My order for the
22 picnic tables to come out of there too.

23 Q. Okay. But they happen to be there at the moment?

24 A. Yes, ma'am.

25 Q. Okay. Did you make any suggestions for the

Deposition of Jaime Alvarez

January 14, 2019

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1 property use policy before or during the drafting?

2 A. Even though I say I'm a county commissioner, but
3 I did not make suggestions because the properties within
4 precinct one would not be affected, for the exception of
5 Garceno park, which is closed.

6 Q. When did -- did you -- prior to this policy
7 coming into affect, did you have any concerns about the
8 way county property was being used?

9 A. Yes, ma'am.

10 Q. Okay. Tell me what those concerns were?

11 A. My concerns are that county property is being
12 used for different events, for example, quincineras,
13 wedding, birthday parties. And we are competing with a
14 private industry. And the private industry has no
15 chance of keeping up with us because we're using tax
16 payers' money to upkeep those buildings while they're
17 using their own money. And that is my concern is that
18 county property should not be allowed to be used in this
19 matter.

20 Yes, it's a community service but let's
21 build something like Palmer Pavilion or something other
22 than just trying to make political favors.

23 Q. Okay. So, you have a concern that local
24 businesses are at a disadvantage?

25 A. Yes, ma'am.

Deposition of Jaime Alvarez

January 14, 2019

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1 Q. And that was since 2016; is that right?

2 A. 2017, actually when I took over.

3 Q. That's right. You were elected in 2016 and you
4 took office in 2017?

5 A. Yes, ma'am.

6 Q. Okay. And so, the concerns that you had about
7 the facilities in precinct one, you were able to address
8 that by deciding that precinct one would not allow
9 parties anymore in those facilities; is that right?

10 A. Yes, that's correct.

11 Q. Now, did you have concerns about other county
12 spaces that were outside precinct one?

13 A. I've always had concerns, but the commissioners
14 would make their concerns be heard according to their
15 needs or their views.

16 Q. So, would it be fair to say then that each
17 commissioner dealt with private parties in his own
18 individual way?

19 A. Yes, ma'am.

20 Q. Did you have a concern that private parties were
21 happening on county facilities in other precincts
22 besides yours?

23 A. With a proper permit it's not happen right now.

24 Q. Sure, but I'm talking about before, before we had
25 this policy. Did you have a concern that other

Deposition of Jaime Alvarez

January 14, 2019

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1 commissioners were allowing private parties in their
2 precinct's county facilities?

3 A. Yes, ma'am, I had some concern.

4 Q. Can you name a specific facility where you had
5 that concern?

6 A. No, I cannot name specific. I just had concerns
7 that money coming in for rent should be accounted for
8 and all those little things.

9 Q. Did you have a worry that in the other precincts,
10 commissioner precincts that money was coming in for
11 rentals and it wasn't being properly accounted?

12 A. No, I didn't have a concern but as long as -- now
13 it's been taken care of because they have to go to the
14 courthouse and actually get -- well here get a permit.

15 Q. Sure but before I just want to zero in --

16 A. I don't know what they were doing, ma'am.

17 Q. Okay. So, you didn't have any specific concerns,
18 you just had concerns --

19 A. Yes, ma'am.

20 Q. About other precincts?

21 A. Yes, ma'am.

22 Q. Okay. Now, I want to ask you some questions
23 about this policy. Now that we have this policy for
24 using county facilities, what do you understand the
25 process to be? You mentioned a minute ago about going

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

HILDA GONZALEZ GARZA, ET AL.,)
)
 PLAINTIFFS,)
) CIVIL ACTION NO.
 VS.) 7:18-CV-00046
)
 STARR COUNTY, TEXAS, ET AL.,)
)
 DEFENDANTS.)

ORAL DEPOSITION OF
LETICIA GARZA-GALVAN

February 28, 2019

ORAL DEPOSITION of LETICIA GARZA-GALVAN, produced as a witness at the instance of the Defendants, and duly sworn, was taken in the above-styled and numbered cause on the 28th day of February, 2019, from 10:15 a.m. to 11:29 a.m., before Anica Diaz, CSR, RPR, CRR in and for the State of Texas, reported by stenograph, at the Starr County Courthouse Annex Conference Room, Suite 211, 100 North FM 3167, Rio Grande City, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

1 target of Starr County's Use Policy and Electioneering
2 Regulations, including texts, voice messages, e-mails
3 and social media posts."

4 Did you bring any documents related to that
5 request?

6 A. I'm not currently on the Commissioners' Court or
7 anything like that where I would be able to have any
8 evidence of that, so.

9 Q. Okay. Very well. So, what is it that you
10 brought today, Ms. Galvan?

11 A. Just pictures relating to my campaign.

12 Q. Okay. If you could see those, please.

13 A. Yes, sir.

14 (Exhibit No. 2 marked.)

15 Q. (By Mr. Fonseca) And we'll go ahead and mark
16 these all as Exhibit 2. I'll keep it in the folder.

17 Do you need these back?

18 A. No, sir.

19 MR. FONSECA: Have you had a chance to see
20 them?

21 MR. OLIVARES: Yes. Yes.

22 Q. (By Mr. Fonseca) Did any of the commissioners
23 support your campaign?

24 A. I'm sure they did.

25 Q. I see there's a photograph here with Commissioner

1 Alvarez.

2 A. Yes.

3 Q. He supported your campaign?

4 A. Support in what way? In his vote, I -- I believe
5 I had his vote.

6 Q. Okay.

7 A. But I'm -- again, I'm not in the actual place
8 where they vote, so I -- I think that I did have his
9 vote.

10 Q. Okay. You have here in one of these pictures an
11 ad that states "To the voters of La Rosita, Escobares,
12 El Sauz and all of Starr County, after months of
13 consideration and carefully observing the political
14 campaigns, I've decided that these candidates are the
15 proper candidates to move our county in the right
16 direction."

17 And it's purportedly signed by your Starr County
18 Commissioner Precinct 1 Jaime Alvarez.

19 A. Yes.

20 Q. And I believe you're in the center of that
21 picture, correct?

22 A. Yes.

23 Q. Is this an ad that -- that you printed or that
24 you produced?

25 A. Commissioner Alvarez.

1 incumbents, you know, were getting ready to lose, I
2 guess, their power, if you can use -- you can say. And
3 then all of a sudden this ordinance comes out.

4 So, you know, I mean, why -- why change it now?
5 I understand they contacted city officials as well,
6 trying to pass the same ordinance with the cities. So,
7 it was just at a very convenient time.

8 Q. Okay. Other than the timing of -- of the
9 ordinance enactment, is there any other -- anything else
10 that would indicate or that would tell us what the
11 intent was for -- or the justification for passing these
12 ordinances?

13 A. Like I said, I think it was just the power. You
14 know, they just couldn't take losing the power, losing
15 control of the county.

16 Q. Okay. Who -- the Defendants in this case are the
17 commissioners, the county judge, the sheriff, the
18 district attorney, and the county attorney. Who, of
19 those people, were the ones that were afraid of losing
20 power?

21 A. I think pretty much all of them. I do think that
22 this was pretty much initiated by the district attorney.

23 Q. Okay. But were all of them on the ballot?

24 A. From what I remember -- from what I recall, it
25 was the county judge; and a commissioner, one

1 were up for reelection, the people that actually had the
2 power to pass this ordinance were the county judge and
3 Commissioner Pena, those were the only two that were up
4 for election?

5 A. No. Ruben Saenz, as well.

6 Q. And Ruben Saenz, okay.

7 A. Or pretty much the majority.

8 Q. The majority?

9 A. Yes.

10 Q. Okay. Mr. Barrera testified that the -- one of
11 the motivating factors for kicking people out of the
12 parking lot at the courthouse was because the county
13 judge believed that you had more money than him and
14 wanted to keep you from having barbecues and tents on
15 the parking lot. Do you believe that to be true?

16 A. No. I don't know that it had anything to do with
17 money.

18 Q. Well, if we look at the courthouse as a polling
19 place --

20 A. Uh-huh.

21 Q. -- if you have -- don't have the parking lot and
22 the south side is property that belongs to the church,
23 and then there is the Knights of Columbus building on
24 the east side, would you have access to setting up in
25 front of the other buildings surrounding the courthouse?

1 That's why I was like, okay, where is this coming from?

2 But now you're asking as a team and as a group.

3 I can't tell you if his comment is accurate as a team.

4 In regards to me, I can answer for me. I can't tell you
5 what the team, or what the group, or what everybody
6 filed on their financial statements.

7 Q. Okay.

8 A. Or when they filed their financial statements.

9 MR. FONSECA: I'm going to object as being
10 nonresponsive.

11 Q. (By Mr. Fonseca) My question -- and I'll -- I'll
12 state it again, Ms. Galvan, is the district attorney and
13 the county judge did not know what you had in your
14 campaign at the time that they passed the electioneering
15 ordinance, is that correct?

16 MR. OLIVARES: Objection.

17 A. That is correct.

18 Q. (By Mr. Fonseca) What was your understanding of
19 what the ordinance did?

20 A. Pretty much prohibited people from going into the
21 county property.

22 Q. For electioneering?

23 A. For electioneering.

24 Q. Later they passed a Building and Use Policy. Do
25 you -- did you know about that?

1 I mean, other than that, I just -- like I say, I
2 mean, it's pretty much a change that they requested
3 right before a highly contested race.

4 Q. Okay. Other than -- than the obvious fact that
5 their employees are displaying magnets and bumper
6 stickers in support of the incumbents, is there
7 anything -- anything else that the county judge and the
8 commissioners did to specifically target you?

9 A. It's like I say, sir, I'm not part of the
10 Commissioners' Court. I don't know what they discussed,
11 you know, while they were there, or their reasoning
12 behind any of this. All I know is what was in the
13 newspapers, and what we were told we could do and what
14 we could not do.

15 Q. Okay. So, you cannot testify as to what the
16 justification for these ordinances are?

17 A. All I can say is, it was done at a very
18 convenient time for them.

19 Q. Okay. Have you reviewed the regulations as they
20 stand today?

21 A. No.

22 Q. And The Building and Property Use Policy, have
23 you seen it?

24 A. No, sir.

25 (Exhibit No. 5 marked.)

1 Q. Okay.

2 A. Salineno -- I don't know what it's called
3 there -- maybe community center as well, and the Starr
4 County Courthouse.

5 Q. Okay.

6 A. For the Saturday voting.

7 Q. Right, okay. So, if he needed a permit to use
8 the Salineno Community Center, would you have sought the
9 permit for him if he asked?

10 A. I think he had somebody to do it for him. I
11 mean, I don't see why I would necessarily be the one to
12 go get it. I mean, I wasn't a treasurer or anything
13 particular to that.

14 But if -- if he asked me to do it and it was
15 something that we needed to -- to follow and make sure
16 we did it right, I wouldn't have a problem.

17 Q. Okay.

18 A. That doesn't mean I agree with it.

19 Q. You don't have to.

20 A. Okay.

21 Q. But if -- I'm just going through the
22 hypothetical. If he asked you, would you? And you've
23 already stated yes.

24 A. (Witness nods head.)

25 Q. All right, Ms. Galvan. I think my last question

1 is -- and just to make sure that I understand your
2 testimony --

3 A. Uh-huh.

4 Q. -- is that you have no evidence of -- of why the
5 county enacted these policies and regulations, other
6 than a suspicion based on the timing of the enactment,
7 is that a correct statement?

8 A. Yes.

9 MR. FONSECA: Those are all my questions. I
10 pass the witness.

11 MR. OLIVARES: We'll reserve our questions
12 for trial. Thank you.

13 MR. FONSECA: That's all.

14 (Proceedings concluded at 11:29 a.m.)

15

16 *--*SIGNATURE REQUESTED BY WITNESS*--*

17

18

19

20

21

22

23

24

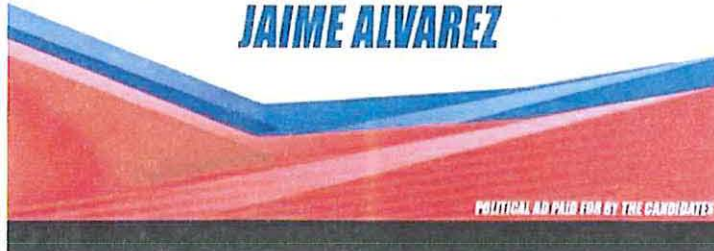
25



**TO THE VOTERS OF *LA ROSITA, ESCOBARES, EL SAUZ* AND
ALL OF *STARR COUNTY*;**

**AFTER MONTHS OF CONSIDERATION AND CAREFULLY OBSERVING
THE POLITICAL CAMPAIGNS, I HAVE DECIDED THAT THESE
CANDIDATES ARE THE PROPER CANDIDATES TO MOVE OUR
COUNTY IN THE RIGHT DIRECTION.**

**YOUR STARR COUNTY COMMISSIONER PCT. 1,
*JAIME ALVAREZ***



**CANDIDATE / OFFICEHOLDER
CAMPAIGN FINANCE REPORT****FORM C/OH
COVER SHEET PG 1**

The C/OH Instruction Guide explains how to complete this form.

1 Filer ID (Ethics Commission Filers)**2** Total pages filed:**3** CANDIDATE /
OFFICEHOLDER
NAME

MS (MRS) / MR

FIRST

MI

NICKNAME

LAST

SUFFIX

Leticia
Letty Garza-Galvan**OFFICE USE ONLY**

Date Received

4 CANDIDATE /
OFFICEHOLDER
MAILING
ADDRESS

ADDRESS / PO BOX;

APT / SUITE #;

CITY;

STATE;

ZIP CODE

495 Dr. Mario Ramirez
Roma, Texas 78584☐ Change of Address**5** CANDIDATE/
OFFICEHOLDER
PHONE

AREA CODE

PHONE NUMBER

EXTENSION

(956) 735-9099

Date Hand-delivered or Date Postmarked

6 CAMPAIGN
TREASURER
NAME

MS (MRS) / MR

FIRST

MI

NICKNAME

LAST

SUFFIX

Leticia
Letty Garza-Galvan

Receipt #

Amount \$

Date Processed

Date Imaged

7 CAMPAIGN
TREASURER
ADDRESS

STREET ADDRESS (NO PO BOX PLEASE);

APT / SUITE #;

CITY;

STATE;

ZIP CODE

1603 N. Grant St.
Roma, TX 78584

(Residence or Business)

8 CAMPAIGN
TREASURER
PHONE

AREA CODE

PHONE NUMBER

EXTENSION

(956) 735-9099

9 REPORT TYPE☒ January 15☐ 30th day before election☐ Runoff☐ 15th day after campaign
treasurer appointment
(Officeholder Only)☐ July 15☐ 8th day before election☐ Exceeded \$500 limit☐ Final Report (Attach C/OH - FR)**10** PERIOD
COVERED

Month

Day

Year

09/20/2017

THROUGH

Month

Day

Year

01/15/2018

11 ELECTION

ELECTION DATE

Month

Day

Year

03/06/2018

ELECTION TYPE

☒ Primary☐ Runoff☐ Other
Description☐ General☐ Special**12** OFFICE

OFFICE HELD (if any)

Roma ISD School
Board**13** OFFICE SOUGHT (if known)

Starr County Judge

GO TO PAGE 2

COPY

Galvan

EXHIBIT NO. 3

2/28/19
Hill & Romero

Ethics Commission

www.ethics.state.tx.us

RECEIVED JAN 16 2019

Revised 9/8/2015

SUBTOTALS - C/OH**FORM C/OH
COVER SHEET PG 3**

19 FILER NAME

Leticia Garza - Galvan

20 Filer ID (Ethics Commission Filers)

21 SCHEDULE SUBTOTALS
NAME OF SCHEDULESUBTOTAL
AMOUNT

1.	<input checked="" type="checkbox"/> SCHEDULE A1: MONETARY POLITICAL CONTRIBUTIONS	\$ 26,550. ⁰⁰
2.	<input type="checkbox"/> SCHEDULE A2: NON-MONETARY (IN-KIND) POLITICAL CONTRIBUTIONS	\$ 0
3.	<input type="checkbox"/> SCHEDULE B: PLEDGED CONTRIBUTIONS	\$ 0
4.	<input checked="" type="checkbox"/> SCHEDULE E: LOANS	\$ 25,000. ⁰⁰
5.	<input checked="" type="checkbox"/> SCHEDULE F1: POLITICAL EXPENDITURES MADE FROM POLITICAL CONTRIBUTIONS	\$ 39,159. ¹²
6.	<input type="checkbox"/> SCHEDULE F2: UNPAID INCURRED OBLIGATIONS	\$ 0
7.	<input type="checkbox"/> SCHEDULE F3: PURCHASE OF INVESTMENTS MADE FROM POLITICAL CONTRIBUTIONS	\$ 0
8.	<input type="checkbox"/> SCHEDULE F4: EXPENDITURES MADE BY CREDIT CARD	\$ 0
9.	<input type="checkbox"/> SCHEDULE G: POLITICAL EXPENDITURES MADE FROM PERSONAL FUNDS	\$ 0
10.	<input type="checkbox"/> SCHEDULE H: PAYMENT MADE FROM POLITICAL CONTRIBUTIONS TO A BUSINESS OF C/OH	\$ 0
11.	<input type="checkbox"/> SCHEDULE I: NON-POLITICAL EXPENDITURES MADE FROM POLITICAL CONTRIBUTIONS	\$ 0
12.	<input type="checkbox"/> SCHEDULE K: INTEREST, CREDITS, GAINS, REFUNDS, AND CONTRIBUTIONS RETURNED TO FILER	\$ 0

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION

HILDA GONZALEZ GARZA, ET AL	}	
Plaintiffs,	}	
	}	Civil Action No.
VS.	}	7:18-CV-00046
	}	
STARR COUNTY, TEXAS, ET AL	}	
Defendants.	}	

ORAL DEPOSITION OF

MARIO MASCORRO, JR.

FEBRUARY 26, 2019

ORAL DEPOSITION OF MARIO MASCORRO, JR., produced as a witness at the instance of the Defendants, and duly sworn, was taken in the above-styled and numbered cause on the 26th day of February, 2019, from 2:33 p.m. to 3:24 p.m., before Tracie L. Carbajal, CSR in and for the State of Texas, reported by machine shorthand, at the Starr County Courthouse Annex Conference Room, located at 100 North FM 3167, Suite 211, Rio Grande City, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions attached hereto.

1 mostly responsible for planning and requesting permits
2 or anything that I need.

3 Q. Okay. I understand that, but what would be the
4 problem with your dad filling out an application?

5 A. No, there wouldn't be a problem, but I wanted to
6 do it myself because I'm the candidate.

7 Q. Okay. It's not -- it's not a matter of him not
8 wanting to do it; it's just that you wanted to do it?

9 A. Yes.

10 Q. Why do you believe that the County enacted these
11 policies and regulations?

12 A. I don't know.

13 Q. Do you believe you were a target by any of the
14 Commissioners, District Attorney, the County Attorney,
15 the County Judge or the Sheriff?

16 A. No.

17 Q. Do you believe that the Commissioners, the County
18 Judge, the Sheriff, the District Attorney or the County
19 Attorney were targeting other political candidates?

20 A. No. I don't know.

21 Q. Is it no or I don't know?

22 A. Well, I don't know their purpose for what they
23 do.

24 Q. Do you have reason to believe that they would, in
25 fact, have enacted these policies to target someone?

1 A. Well, I don't know. I don't know their -- the
2 purpose for what they do, so I don't know.

3 Q. So there's nothing that would indicate to you,
4 make you think or believe that the defendants in this
5 case were doing something against a particular
6 candidate?

7 A. Well, maybe they could have, but, no, I don't
8 know.

9 Q. When you say "maybe they could have," why do you
10 say maybe?

11 A. Well, because I don't know their reasoning for
12 what they do and the laws they pass or all of that, the
13 restrictions.

14 Q. Have you read the policy and the regulations?

15 A. No. I've gone over it with my lawyers, but I
16 haven't read it all.

17 Q. Okay. If the County got rid of the 21 age or
18 more requirement and allowed campaigning on parking
19 lots, is there anything else about the policies or
20 regulations that you would ask the court to change?

21 A. Yes.

22 Q. What?

23 A. They were the ones that my lawyers submitted to
24 you in the documents.

25 Q. I know exactly what your lawyers are alleging,

Deposition of Omar Escobar

January 30, 2019

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

HILDA GONZALEZ GARZA,
ET AL

§
§

vs.

§
§

CASE NO. 7:18-CV-00046

STARR COUNTY, TEXAS,
ET AL

§
§

§

ORAL DEPOSITION OF OMAR ESCOBAR

January 30, 2019

ORAL DEPOSITION OF OMAR ESCOBAR, produced
as a witness at the instance of the Plaintiff and
duly sworn, was taken in the above-styled and
numbered cause on the 30th day of January, 2019,
from 9:28 a.m. to 3:18 p.m., before Annette E.
Escobar, Certified Shorthand Reporter in and for the
State of Texas, reported by computerized stenotype
machine at the offices of Starr County Courthouse
Annex Conference Room, 100 N. FM 3167, Rio Grande
City, Texas, pursuant to the Federal Rules of Civil
Procedure and the provisions stated on the record or
attached hereto.

Deposition of Omar Escobar

January 30, 2019

Page 15

1 A. Correct.

2 Q. And then you were elected in 2012; is that
3 right?

4 A. 2012, take office January 1, 2013.

5 Q. When you ran for district attorney in
6 2012, was that a what we call a vacant seat in
7 election terminology?

8 A. No, it wasn't vacant.

9 Q. So there was an incumbent?

10 A. Yes.

11 Q. Did you challenge the incumbent in the
12 primary election?

13 A. Yes.

14 Q. Obviously you won your primary election?

15 A. Yes.

16 Q. Was that a close primary? Let me ask you
17 first, was it a hotly contested primary?

18 A. Well, they burned my signs at one point.

19 Q. Well, literally hotly contested?

20 A. Yes. I don't know if that's what you were
21 referring to.

22 Q. Well, I didn't have that information?

23 A. You have it now.

24 Q. I do. So you would say it was a
25 vigorously contested primary election?

Deposition of Omar Escobar

January 30, 2019

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1 incorrect.

2 Q. Now, with respect to Interrogatory
3 Number 5?

4 A. Okay.

5 Q. Since you don't want to change your
6 answer, would it be fair to say that you are not
7 able to provide answers to the questions that we
8 asked for in Interrogatory Number 5, other than the
9 general answer that you gave us?

10 A. Right, because I don't have specific
11 dates. But having been a part of the process, I
12 know what we've been -- what I've seen and what I've
13 experienced, but I don't have specific dates and
14 times and that type of -- you know, those
15 individualized answers that you have there -- or
16 that you are requesting there.

17 Q. Okay. So with respect to the type of
18 activities, your answer mentions verbal arguments.
19 Is there any other type of activity that you're
20 aware of other than verbal arguments that have
21 been -- caused concern related to electioneering?

22 A. Well, you have that, the verbal arguments.
23 We also have -- so I was at the courthouse when -- I
24 think I was there when the whole chicken gate
25 happened. That one was also -- I didn't personally

Deposition of Omar Escobar

January 30, 2019

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1 see that, but I remember a little bit of a
2 commotion. But that also, that also happened. But
3 again we already talked about.

4 So generalized arguments, that's
5 going to -- those are common about who can cross the
6 hundred foot line and that kind of stuff. That
7 stuff with the chicken where they got into an
8 argument, the chicken gets thrown over.

9 Aside from that, I don't know --
10 that's all I can recall right now of concern,
11 because we're really talking about parking, like the
12 parking areas. So those are pretty much the areas
13 that I do know.

14 The one thing I will tell you about
15 these parking areas is that there's -- during
16 election periods is that there's a lot more foot
17 traffic during election periods than there otherwise
18 would be at any of these county locations, and that
19 goes without saying. But there's cars going all
20 over the place and there's cars going in and out of
21 the parking lot and there's people all over the
22 place.

23 Now, has anybody been hit that I know
24 of, not yet. But I've always thought it was only a
25 matter of time because that -- there are people just

Deposition of Omar Escobar

January 30, 2019

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1 backing out, especially people that are backing out,
2 they're going in. And there's just a lot of
3 traffic, of people traffic. When you have a lot of
4 people walking around, people and vehicles don't mix
5 very well, especially at high rates of speed.
6 That's the other thing that I've always noticed
7 during voting periods.

8 So that's why -- but those are the
9 main things -- if we can say anything, those are the
10 main things, some of the arguments and this, the
11 vehicular traffic that is interacting with people in
12 the parking areas walking all over the place. That
13 has also been a concern.

14 Because it's not just people, you
15 have kids, you have children that are with their
16 parents will sometimes run off, because it's not
17 just adults, there's kids all over the place that
18 will walk around also in the parking lots. And
19 those are even more difficult to see when you're
20 reversing and when you're -- or driving up and down.
21 So that is -- that does become a concern. It's just
22 the level of travel during periods and there's
23 people coming in and out.

24 Aside from those things, I don't know
25 if there's anything else. I couldn't point you to

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1 anything specific. It's just my general knowledge
2 having been involved from my personal experience in
3 these elections, now two elections, I can tell you
4 that those are the things that concern me. That's
5 at the courthouse.

6 I think maybe Commissioner Alvarez
7 could have touched on this, but -- or somebody else,
8 I don't know. But I know -- and there's a reason
9 why I don't like to go to the Alvarez, the one in La
10 Rosita. That one is just -- there's a bunch of
11 government -- you have a fire station, you have a
12 TMC, you have a library. There's a panty, there's a
13 JP, there's a commissioner.

14 You have five or six different
15 entities or areas there, and it's just one little
16 parking area. And that one I know because I've been
17 there also, that during voting periods, especially
18 election day, it's right off of 83 and traffic,
19 like, will actually halt. Eighty-three, you got
20 vehicles going over 50, 60, 70 miles an hour.
21 Vehicles stop because the parking lot gets full. It
22 just gets completely congested. And there's people
23 -- like, that one is the most dangerous of the
24 locations, that one at La Rosita.

25 Q. Let me ask you a couple of clarifying

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1 to transact business at the courthouse, they are
2 also up and down in that area.

3 Q. Okay.

4 A. But for the most part, you're going to
5 find election workers, election volunteers and
6 people -- voters going in and out of the courthouse.
7 It becomes a lot of traffic, a lot of foot traffic
8 in that area.

9 Q. Okay. Would it be correct to say that
10 during chicken gate, the dispute was between
11 individuals who were working for rival campaigns?

12 A. I'm going to say just rival campaigns. It
13 was rival campaign-related, yes.

14 Q. Okay. When you talk about campaign
15 volunteers and workers moving around the parking
16 lots, can you help describe for me what exactly
17 they're doing while they're moving around the
18 parking lot. If you're suggesting that they don't
19 stay under the tents, what exactly are the campaign
20 people doing?

21 A. They might try to engage the voter, maybe
22 give them a sample ballot, maybe just talk to them.

23 Q. Okay.

24 A. Otherwise just engage somebody there. And
25 I don't know if it's a voter or somebody who's just

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1 going into the building, but they're trying to
2 engage the person. And its happening all over the
3 parking lot. Just as they're trying to get down
4 from the vehicle or there's somebody trying to open
5 the door, there's already people on you trying to,
6 you know -- and sometimes you might have both sides
7 or however many sides converge on a particular.

8 Q. Okay.

9 A. So it's the act of trying to, let's say,
10 engage a voter, that they're trying to grab their
11 attention. That's the point.

12 Q. Okay. And this type of activity of
13 attempting to engage the voter or --

14 A. Or whoever is going into the courthouse.
15 It might not be a voter. Somebody might just be
16 trying to get up there and file a document. They
17 will approach, hey, can you vote for. But there's
18 crisscross -- I mean, they're all over the parking
19 lot.

20 Q. And this is typically occurring outside
21 the hundred-foot buffer zone, correct?

22 A. Well, that's the problem. That's the
23 problem. It's not just within the hundred-foot
24 buffer zone. It's typically happening outside of
25 the hundred-foot buffer zone, but a lot of times it

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1 volunteers are yelling at them in proximity to them?

2 A. Well, it could be -- so you're -- if
3 you're outside the hundred foot and you want to get
4 the attention of somebody who's in the hundred-foot
5 buffer zone, there's going to be some yelling to get
6 the attention.

7 Q. Okay.

8 A. Sometimes they'll get approached. Are
9 they going to go up right to the voter and yell, no.
10 I've -- I seem to remember a couple of disputes
11 where one worker is trying to -- there will be
12 disputes between rival volunteers, election workers
13 as to who's going to assist the voter. And that
14 gets really interesting. That can get very, very
15 interesting. No, that's my voter. No, that's my
16 voter. And so, no, and then there's no. So people
17 get -- voters get understandably upset. I don't
18 want people fighting over me. That will happen.
19 That happens.

20 Q. Okay. Have you ever seen a voter
21 threatened by a campaign worker with physical
22 injury?

23 A. Threatened with physical injury. Have I
24 seen it personally, no. Not -- have I seen it
25 personally, no. No. No.

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1 don't like the pressure that's put on them. Like
2 people even if they're a hundred feet away, they're
3 yelling at them this and that.

4 And so the difficulty -- see, this is
5 not going to happen so much in larger metropolitan
6 areas like in Bexar County. Now, you're going to
7 have electioneering in Bexar County. The difference
8 and the distinction is this. Is it that in small
9 counties, a lot of people know each other, okay.
10 And/or they're more likely to know each other, so
11 they're going to have two sides and they're yelling,
12 hey, vote for this one.

13 And if you don't turn and give a
14 thumbs up to the right side, it's almost like they
15 know whether they voted for you or not. And if a
16 particular side may think that, then, hey, well,
17 what happened? So a lot of voters don't want to go
18 through that process of getting -- being eyeballed
19 and stood out there and getting yelled at. You can
20 see this -- if you had been there at any of these,
21 you can see this where voters -- a lot of voters
22 will just kind of go through the sidewalk, and they
23 don't want to turn to see anybody. Just go in, get
24 out and vote and leave, even though they might know
25 those factions.

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1 That's why when I say when you say
2 it's admirable, most voters would say, no, it's not
3 admirable. We want to be left alone. We just want
4 to vote.

5 Q. When you say comments you would hear, is
6 it your testimony that you personally; have heard
7 comments from voters along the lines of what you
8 just described?

9 A. Sure. I think I'm going to say every
10 single -- most every single elected official would
11 have had heard that from a voter at some point or
12 another. I don't know -- it would be very rare. I
13 think most us have heard it. Hey, do we have to go
14 through this, and that's going to be the most common
15 thing that I have heard from the community is that,
16 that particular. They want to vote, they want to
17 exercise their right to vote. But they just don't
18 want to through the ringer where everybody is there.
19 It's just a mountain of people and they all want
20 your vote.

21 That, you're not going to see in
22 Bexar County as often. It's not that way. In Bexar
23 County who knows each other, they don't. But in
24 small towns, the pressure that is brought to bear on
25 your local voters can become immense. That's the

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1 Q. You made a thumbs up?

2 A. Yeah, thumbs up. Like, I'm going to vote
3 for you. The other side just saw you. It's not
4 uncommon for them to recall, hey, that person. And
5 this is going to be more pronounced in smaller
6 communities, it's going to happen.

7 And so it can be any number of
8 things. Maybe they just don't want to be seen.
9 They don't want to be walking in HEB and come up
10 with a person they voted against and be told, hey,
11 you voted against me because they know each other.
12 There's a lot of people that know each other.

13 Q. And that the person might say you voted
14 against me because they saw the voter give a thumbs
15 up to somebody else?

16 A. That's right. That's right. It's a
17 simple -- just a simple gesture can be counted as,
18 no, he's with that other person, no, he's with me.
19 And you'll make assumptions about that particular
20 voter. And then you go and call them, hey, call a
21 relative or they might -- you know, and say, hey,
22 what happened, why didn't you vote for -- did he
23 vote for us, is he with us.

24 People just don't want to be examined
25 about who they voted for. And that's the process

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1 Q. It was an earlier version. It's not what
2 we marked as Exhibit 5?

3 A. No. No.

4 Q. Okay. So I want to --

5 A. That's the one that was stricken by the
6 court, right.

7 Q. Well --

8 A. That's the earlier version.

9 Q. There was an earlier version.

10 A. Right.

11 Q. Maybe it would be easier instead of
12 working backwards, work forwards.

13 Can you explain to me -- we just
14 looked at an exhibit where there were some lists of
15 documents, including electioneering -- I think what
16 it was called at that time resolution -- from late
17 2017. So maybe if we start at the beginning of the
18 process.

19 What can you tell me about how the
20 electioneering regulation came into existence or
21 came to be?

22 A. The resolution. So let's --

23 Q. Yes, electioneering --

24 A. Let's agree to distinguish this.

25 Q. Okay.

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1 A. The first one is what I'll call a
2 resolution. That was stricken by the court.

3 These are the regulations.

4 Q. I see.

5 A. So the first draft is the election
6 resolution. Okay?

7 Q. Okay.

8 A. And that was merely an acknowledgment
9 after discussion with Victor Canales and myself that
10 we were probably looking at having -- keeping in
11 mind what we just discussed about how voters, they
12 get -- you know, the kind of pressure and whatnot.

13 I had spoken to Victor regarding this
14 particular matter. And at that time, I knew that
15 Texas -- the Texas Election Code did provide for
16 regulations or did provide the governing body
17 authority to enact regulations as time, place and
18 manner of where electioneering can happen and not
19 happen. There was, of course, very little guidance
20 as we can tell at that time as to how or who would
21 be dealing with any of these regulations because
22 that statute is fairly new.

23 61.003 is very new. So I was
24 looking for guidance as far as that and sort of more
25 an open discussion with Victor about this. I

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1 remember I did go online and I did sort of a general
2 search of regulations of -- from -- but all you're
3 going to see was basically from municipalities, not
4 necessarily counties. So there was not a lot that I
5 could find for counties.

6 But you kind of -- so for cities, I
7 think Election Code 85 would apply. So -- but it's
8 the same language, it's the exact same language. So
9 I looked to some of those, and they would have been
10 online. Those would not have been drafts. Those
11 were just online in the municipal codes and I kind
12 of looked at what they had. But none of them have
13 been really tested in the courts. They were just
14 pursuant to the election code.

15 So that sort of began a discussion
16 with Victor as to whether it would be appropriate to
17 at least draft some, propose some to see if it might
18 make voting a little bit more, I guess you could
19 say, easier for the voters to come into the polling
20 location without having to go -- put a little bit
21 of, let's say -- not say distance, but a little bit
22 more order than what we had at the polling
23 locations.

24 So those were the initial ideas.
25 That sort of what gave rise to that resolution. But

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1 there was very little guidance as to any of it. And
2 I remember during the first draft -- and I may have
3 just copied and pasted from -- because all of it is
4 online. So if you go to the municipal codes, all
5 the cities that have some, and they all have
6 different kinds of regulations. Like, there's
7 nothing standard.

8 So I remember it was sort of a
9 hastily drafted resolution. And I sort of called
10 Victor over and we talked about it. And I have a
11 bit of a reservation as to the language because I
12 wasn't sure. And I kind of -- I know Victor looked
13 at it and also thought there was -- the question I
14 had was the enforceability of the resolution. So we
15 were back and forth. But I know he visited my
16 office on more than -- maybe a couple of times in
17 drafting that resolution.

18 Q. Okay. And just to make it easier for you,
19 I don't want to force you to testify from pure
20 memory since I have the original version of the
21 policy here on electioneering.

22 A. Right.

23 (Exhibit marked for identification as
24 Deposition Exhibit Number 6.)

25 Q (By Ms. Perales) I've marked it as Exhibit

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1 Number 6. You have it now in front of you. I
2 notice if you go in a couple of pages, it has a date
3 of January 8, 2018; is that right?

4 A. Right. Well, that's when it would have
5 been presented.

6 Q. And is this what you have been referring
7 to as the electioneering resolution?

8 A. Right.

9 Q. Okay. And let me ask you a couple of
10 questions about what you described to me a moment
11 ago.

12 Would it be correct to say, then,
13 that you came up with the idea of an electioneering
14 resolution and brought it to Mr. Canales?

15 A. Right. It would be fair to say that.

16 Q. Okay. And did you come up with this idea
17 because you had been thinking about it or did you
18 come up with this idea because somebody asked you to
19 work on it?

20 A. Well, no. No, No, I'm the one that had
21 the idea about it.

22 Q. Okay.

23 A. But it was becoming clear that there was
24 going to be a lot of contested races, probably more
25 contested races than in the past 20, 30 years in

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1 Starr County.

2 Q. When you mean more contested races, you
3 mean for the --

4 A. Primary.

5 Q. -- March 2018?

6 A. Right. So the more contested races you
7 have, the more people you're going to have around
8 polling locations. So there was no -- there's no
9 order. All you had was the hundred foot, and that
10 was it.

11 I remember coming across this, I
12 can't tell you when, but I remember looking at the
13 provisions of the Texas Election Code that did allow
14 for regulating time, place and manner during
15 electioneering periods. But there wasn't a lot of
16 guidance. This is just the idea that we're tossing
17 around and we're just trying to put something
18 together that will at the very least begin the
19 discussion of the process. That something is better
20 than nothing at this point.

21 Q. You mentioned a moment ago that to the
22 extent that you had a concern it might have been
23 about enforceability. I wanted to ask you what you
24 meant by the word enforceability. Did you mean
25 legally enforceable, or did you mean like getting

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1 your providing the electioneering resolution to the
2 commissioner's court, can you identify for me any
3 time in the past since you've become district
4 attorney when you have prepared a resolution or
5 regulations for the commissioner's court's adoption?

6 A. No, not previous to that, no.

7 Q. Okay. What is your recollection of the
8 reaction of the commissioners when the resolution
9 was presented to them for adoption on January 8?
10 Was there any reaction? I know they voted.

11 A. On that particular day?

12 Q. Yeah.

13 A. This was my -- this is a little bit of my
14 thought process and sort of my concern. First off,
15 nothing like this had been tried in Starr County
16 before. Again, the statute was new. I think this
17 particular statute may have been passed in 2011 or
18 2013. I don't remember. But it's relatively new.

19 So the thing with these regulations,
20 you have to understand that my thought process is
21 that there was nothing -- there are no rules at all
22 governing the use of -- and that's how -- we'll get
23 to that discussion later, I guess. But it was a
24 free for all. To me, it was just a free for all on
25 county property. It's a free for all.

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1 So for a commissioner's court,
2 including the county judge, to vote for these type
3 of regulations would be in essence to vote against
4 their own interests, okay. In the absence of
5 regulations, in the absence of rules of policies,
6 what you have is arbitrariness, complete
7 arbitrariness. And my concern at some point becomes
8 that we pass these regulations and somebody may have
9 some objections to it. Because like I said, in the
10 absence of governing rules, a commissioner can do
11 pretty much whatever he wants in the property, and
12 there's nobody that can really question it, what
13 rules are. The same thing for a county judge. They
14 can do whatever they want regarding anything on
15 property. So it's subject to the whim of any
16 particular person in the absence of regulations.

17 Now you had something that was going
18 limit how that was going to work. It was going to
19 limit their discretion that had been exercised in
20 the past, unfettered discretion almost. As far as
21 property, the way property was used.

22 So that to me, even though it just
23 meant for electioneering, it was going to mean
24 losing a certain amount of authority that they
25 otherwise would have had individually over property.

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1 Now you have rules that are governing it.

2 However, like I say, in-artfully
3 drawn is what I said. But there was now something
4 on the table. I didn't think -- I didn't know that
5 everybody was going to -- I was concerned maybe
6 somebody would say no. And that was their authority
7 somebody could have voted against it. They could
8 have shot it down.

9 So my concern was that now you were
10 -- this was curtailing on property, because we're
11 talking about county property and voting locations.
12 It was curtailing otherwise unfettered discretion.
13 We need to understand that.

14 Q. Was it also curtailing not only the use of
15 the property by the commissioners themselves who
16 were in office, but use of the property by
17 campaigning that might have been challenging those
18 offices as well?

19 A. Well, it's uniform. The regulations were
20 uniform. So they were going apply to everybody.
21 And I don't know, I don't know that would have, you
22 know, helped or hurt any particular side because
23 they were uniform. It was going to apply to
24 everybody. There could be no exceptions. There
25 were not going to be exceptions for one side or the

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1 other. This is what needs to be done.

2 Q. Right.

3 A. But like I said, your question was their
4 reaction. I wasn't sure that this was going to be,
5 you know, met with complete unanimous adoption
6 because it curtails your authority.

7 Q. I asked my previous question poorly. What
8 I was trying to get at is when you talked about the
9 situation prior to the resolution in which there
10 were sort of unregulated use of county property for
11 electioneering, this was the case for both
12 incumbents and challenging candidates; is that
13 correct?

14 A. Yes. You want me to -- let me expand on
15 that.

16 Q. Yes.

17 A. Yes. The unfettered -- are you asking
18 whether the unfettered discretion applied to
19 everybody? That's not what I'm trying to say.
20 That's completely the opposite, and I'll explain it
21 to you.

22 Q. No, I meant just for electioneering
23 outside the polling place, whether the situation
24 where it was people were using the property --

25 A. Yes.

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1 Q. -- outside the hundred-foot buffer zone --

2 A. Right.

3 Q. -- sort of however they chose, put up a
4 tent, put up a chair, whatever, that this was
5 occurring both by incumbents in office as well as
6 other candidates as well.

7 A. Yes, but let me give you an example. And
8 Victor know this, a lot of us know this. Before the
9 election before -- I don't know, I'm not going to
10 say this particular election, maybe it was a
11 previous election, not 2018, but a previous
12 election.

13 So a week before early voting, you're
14 going to see these strange vehicles parked a week in
15 advance. And they're parked overnight, like three
16 or four, five. And those vehicles are parked there
17 to in some way reserve a location. Those vehicles
18 are staying there a week in advance or a weekend in
19 advance or days in advance and otherwise taking up
20 parking spaces. So then you ask yourself, well, how
21 much is too much? Does that mean I can go park a
22 caravan of vehicles three weeks before an election
23 because I want to reserve this particular space?
24 There were no rules, zero.

25 And so in some cases I believe county

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1 vehicles were being used to -- so here you had an
2 incumbent or you had somebody in office, in power,
3 using government vehicles to reserve places. And
4 who is going to question that?

5 And one of them, I think, there were
6 some county vehicles and there were some people that
7 worked for the county that would go and park their
8 vehicles to reserve their spots. So you can see
9 where somebody who was in office has a natural
10 advantage or maybe the county judge who doesn't like
11 something on a particular lawn or whatever, there
12 were no rules or regulations but could say no.

13 Q. Is it also the case that somebody who is
14 not in office could also park a car in advance to,
15 quote, unquote, reserve that spot?

16 A. They could so long as the other person,
17 maybe the incumbent, didn't take up whatever they
18 wanted. That, they could, they could subject to
19 availability.

20 Q. Okay.

21 A. If they wanted to.

22 Q. Okay.

23 A. But I'm going tell you right now, when
24 there are no rules, where there are no regulations,
25 the person in power is going to have the upper hand.

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1 That's just common knowledge. It's going to happen.
2 And so the work -- I know that there were county
3 vehicles that were parked in advance.

4 Now, can the other side do it,
5 possibly. But, you know, the person is using
6 government vehicles to do this and there's no
7 prohibition against it.

8 Q. In your race against Mr. Silva in 2012 in
9 the primary --

10 A. Right.

11 Q. -- would you say that each of you was
12 doing electioneering such as using the parking lots
13 to offer food to voters?

14 A. Yes.

15 Q. Okay. Both of you were using the parking
16 lots --

17 A. Right.

18 Q. -- to --

19 A. Correct.

20 Q. -- wave at voters and do the thumbs up
21 sign?

22 A. Absolutely. So if these rules were
23 enacted, it would affect me and him both. It's
24 against my interests and his.

25 Q. So would it be fair to say, then, that you

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1 were surprised and pleased when the commissioner's
2 court adopted electioneering resolution?

3 A. Yeah. You could say that I thought it was
4 a good thing. I thought it was a good thing for the
5 voters.

6 Q. Okay. We've been talking a lot about
7 electioneering without coming to a common definition
8 of the term. So I was wondering if you would agree
9 with me that the term electioneering means
10 activities in support of a particular side in a
11 campaign?

12 A. A particular side or a particular
13 viewpoint, sure.

14 Q. When there's some voting to be done on
15 that?

16 A. Right. Right, exactly.

17 Q. Okay. Would you agree with me, then,
18 that -- now we're going to put aside the original
19 electioneering resolution.

20 A. Yeah, this is not even relevant. It was
21 stricken down by the court.

22 Q. You are -- yes, let's bring ourselves to
23 the -- to today.

24 A. Yes.

25 Q. After the commissioner's court adopted

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1 any of this area outside of the hundred feet.

2 Q. Okay.

3 A. Where you're going to have problems is
4 going to be in what has been designated as parking
5 areas, if there are any parking zones. That's where
6 you're going to have issues.

7 But outside of that -- see, these
8 green areas, you can consider the green areas as
9 carve outs to the exception or there are going to be
10 exceptions to the rule.

11 Q. Understood.

12 A. So you are carving out exceptions to the
13 rule -- to the rule that you can't use this for
14 anything other than parking, you're carving out an
15 exception, you are designating this area.

16 Q. For the record, you are now pointing back
17 to the La Rosita map which does has green designated
18 zones?

19 A. Right. Exactly. Because if you think
20 about it, if the county did not carve out any areas,
21 there would be no electioneering at that location.

22 Q. Sure. Now to the extent that La Victoria
23 does have parking zones, none of those have been
24 carved out for -- as an electioneering designated
25 area by the regulations, correct?

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1 A. January, February.

2 Q. -- Exhibit 9 --

3 A. Okay.

4 Q. -- are you the author of this policy?

5 A. Yes.

6 Q. And not to test your memory too much, but
7 was this policy -- did you present this policy to
8 the Starr County Commission for adoption?

9 A. It would have been the same process as the
10 electioneering regulations.

11 Q. Okay.

12 A. So we drafted -- before drafting it, I did
13 speak to a couple of commissioners. I would have
14 spoken to the county judge, for sure, because it
15 was -- there was nothing of its sort. So I could
16 have conferred and then I would have drafted and
17 then presented.

18 Q. Okay. Did you present this to the county
19 commission after they had already adopted the
20 electioneering resolution?

21 A. Yes.

22 Q. So the electioneering resolution first?

23 A. Correct.

24 Q. And then property use policy second?

25 A. Correct.

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1 what we would consider like a community center,
2 which is an enclosed building with air conditioning
3 and all that kind of stuff. Off the top of my head,
4 I don't know -- there's a pavilion, but I don't know
5 if it's like the other community centers.

6 Q. Okay. So if I want to use one of the
7 community centers, El Cenizo Park Community Center
8 to host a birthday party, this policy, Exhibit 8,
9 will regulate how I go about using that property,
10 right?

11 A. Right.

12 Q. Would it be fair to say that -- like the
13 electioneering regulation that the property use
14 policy is an idea that you had that then was -- came
15 to fruition here in Starr County?

16 A. Let's talk about that.

17 Q. Okay.

18 A. When we, when we -- maybe I got into that
19 first here in federal court, maybe I did not. Let
20 me expand on that.

21 When I was considering the
22 electioneering resolution, okay, at the same time as
23 I was considering the resolution, it came to mind --
24 and I think it was shortly after we had considered
25 it or had already considered and been adopted, I

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1 remember that there was a -- looking out my window
2 because I have an office on the third floor of the
3 courthouse, okay. And I remember looking out my
4 window and there was a person parked with a trailer,
5 a cattle trailer inside the parking lot on the far
6 northern edge of the parking lot.

7 So at that point, I began to consider
8 sort of this process of, okay, well, what keeps a
9 person from parking a cattle trailer in our parking
10 lot. And I began that discussion with Victor. And
11 I said, what keeps me from doing that? And his
12 answer was, well, nothing, nothing does. And so
13 from there started a larger discussion, then larger
14 process to try to look for a go by of policies that
15 maybe other entities have used regarding the use of
16 properties.

17 So take that in context also with
18 this fact that at one point, Commissioner Eloy Garza
19 at a previous election actually rented out on his
20 own authority, apparently, the community center in
21 El Cenizo. Had no authority to do that. But
22 entered a lease with RGCCISD for an election. On
23 what authority?

24 So the county property is owned by
25 the county. But the county acts as a governing

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1 body, not an individual, at least that's the way
2 it's supposed to be. But there was zero
3 regulations. There was nothing. It was completely
4 arbitrary. No, nothing. Okay. So that began this
5 process of how do we begin to define how public
6 property is to be used, because we didn't have
7 anything.

8 So one of the things -- and if you
9 look at this policy, one of the things that I found
10 was Denton County had some policies. And if you
11 begin to look at this, you begin to see the outline
12 of a lot of what they have was used as a go by. And
13 so I would have just looked on their website, got
14 some of their policies and then that sort of set the
15 stage. That's where it began. So it begins with
16 the thought of what do we have. There's nothing
17 here.

18 So presumably I can go park an RV
19 before these regulations and there was nobody could
20 tell me anything. The judge on his own could tell
21 me to move my vehicle. And if I asked him on what
22 authority, he was going to be in a bind to explain
23 to me why I could not particularly -- or park
24 whatever I wanted there. And so that's how you end
25 up with parking with trailers and vehicles a week

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1 before and all this kind of -- it was a free for
2 all. There were no rules, complete arbitrariness.
3 And what would happen is that, well, you could see a
4 situation where the county judge usually could tell
5 somebody that they don't belong there, but there
6 were no regulations to say otherwise.

7 So that's how this process began. So
8 when we start looking at electioneering regulations,
9 we naturally are going to go into how property can
10 be used and a larger question is to how property can
11 be used. And that's how we get to the regulations
12 themselves.

13 Q. Okay. A couple of follow-up questions
14 with what you just said.

15 A. Okay. Sure.

16 Q. First of all on the horse trailer --

17 A. It was a cattle trailer.

18 Q. Cattle trailer, I'm sorry.

19 When you looked out your window and
20 saw the cattle trailer, was it parked there because
21 somebody was reserving space for electioneering?

22 A. No. I don't know. I didn't even check.
23 All I saw was that the vehicle was there and it was
24 parked, like, right across a whole bunch of -- it
25 was on the northern edge. But it was not during --

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1 it was not during an election period, that's for
2 sure. It was way before. Had to be in January.
3 And I remember calling Mr. Canales and asking him
4 what prevents me from parking a cattle trailer right
5 here. And the answer was crickets. It was like
6 nothing.

7 Q. So on the cattle trailer, you feel fairly
8 certain that it was not being parked in the parking
9 lot related to electioneering?

10 A. I'm fairly positive of that, that's for
11 sure.

12 Q. Because it was January?

13 A. It was January. It was just there.

14 The larger issue was, well, who gets
15 to use county property when and how. There's
16 nothing. So I wasn't -- just at that point, I
17 wasn't just focused on electioneering. Now it's the
18 broader question.

19 Q. How long was the cattle trailer parked in
20 the parking lot?

21 A. I don't know. At least for a couple of
22 hours. From what I can see, one or two hours. I
23 know. That's what started the process of, okay,
24 what prevents people from doing this.

25 Q. If the cattle trailer was in the

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1 courthouse parking lot for a couple of hours, is it
2 possible that somebody came driving the cattle
3 trailer to do some business with the county and
4 parked it in the parking lot and then left with it?

5 A. I don't know. I have no idea. All I know
6 is that it was in the parking lot.

7 Q. Okay. Now, you mentioned an incident
8 involving Commissioner Eloy Garza giving permission
9 for the local school district to use one of the
10 facilities in his precinct for voting for an
11 election; is that right?

12 A. Right. Well, actually he signed a lease.

13 Q. He signed a lease?

14 A. A written lease.

15 Q. So, then, as a result, the school district
16 paid Starr County to use the facility?

17 A. I don't know that money was exchanged.
18 All I know is he entered into a written agreement.

19 Q. That was to use a community center in his
20 precinct?

21 A. Right, that's correct.

22 Q. And that was bothersome to you from a
23 legal perspective; is that right?

24 A. Well, when we start considering this -- I
25 start to back and start asking myself, you know

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1 what, how did he rent that community center, on what
2 authority. So this starts and it starts this
3 broader question and followup questions as to how is
4 this, any of this governed. And it's, okay, every
5 commissioner does what he wants, when he wants,
6 where he wants with the buildings.

7 We have since learned that -- and I
8 can't tell you -- like, after this policy -- these
9 policies were being -- after they were adopted, I
10 don't know if they were before or during the
11 adoption, but I know that Commissioner Garza did
12 rent out the building, did rent out the community
13 center before any of these -- actually, before any
14 of these policies were in effect, he rented them
15 out. There's two persons in this annex building
16 that are renting out the building without having
17 these policies in place. One works at the county
18 judge's office and one works over here at the
19 auditor's office who can say, yeah, he rented the
20 building, actually rented the building. On what
21 authority? There was none. These policies did not
22 exist.

23 I think in one case, one person I
24 think at the county judge's office even paid a
25 deposit. Where was the accountability?

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1 you look on the very first page of the policy in
2 section 3, which is entitled Use of County Property.
3 If you read in that paragraph A, you will get to a
4 sentence that begins with the word: However. Do
5 you see that there?

6 A. Yes.

7 Q. Can you read that one to me, read me that
8 sentence?

9 A. Yes. However, the building facilities
10 listed in attachment A may be made available to
11 other users on a limited fee basis for events that
12 support a public purpose, benefit, service, training
13 or interest to Starr County residents that otherwise
14 would not occur without the facility being
15 available.

16 Q. Thank you.

17 And if Starr County owns a building
18 or a facility that is not listed in attachment A --

19 A. Okay.

20 Q. -- does that mean it's not available for
21 reservation?

22 A. Not to me. Of course, I'm the one helping
23 draft this. But not to me. The general idea is
24 that the commissioner's court acting as a whole gets
25 to decide how property is used. And the way most

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1 commissioners have developed this or they seem to
2 think that they own the buildings in their precinct,
3 like, they have an ownership interest as though they
4 were private owners of it. And it sort of clarifies
5 that the commissioner's court as a whole gets to
6 decide how buildings are to be used, especially for
7 a private purpose not any one commissioner.

8 So that will sort of -- that's sort
9 of the outline. So if there are buildings
10 outside -- presumably outside of this -- nothing
11 prevents a person from coming and asking for
12 permission to use that, and submitting that to the
13 commissioner's court for consideration.

14 It just sets out that the
15 commissioner's court determines the use of the
16 buildings, not any one individual.

17 Q. Okay. Would it be fair to say that in the
18 current property use policy, that the decision
19 whether or not to grant a permit to use county
20 property is in the hands of the county judge?

21 A. Yes. But not without -- not unfettered
22 discretion.

23 Q. You just mentioned before about it being
24 submitted to the commissioner's court. That would
25 be something that the county judge would decide to

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1 prepared the policy -- we talked about how you got
2 these yellow circles onto the maps --

3 A. Yes.

4 Q. -- which is, by the way, a level of
5 technological competence that I lack. I was going
6 to ask you earlier how you got the green-shaded
7 areas on to the map?

8 A. Yes, same thing. If you go into the
9 Google Earth application, it allows you to create
10 different shapes and then allows you to shade within
11 those shapes. So it's not, not that difficult. You
12 just have to create the shapes.

13 Q. Okay. And then did you personally create
14 the green areas on the map of the courthouse that
15 are labeled electioneering area?

16 A. Yes, I did.

17 Q. Okay. Now, tell me how you -- why did you
18 decide to shade the green sidewalks and then not
19 shade the sidewalks on the north and south side of
20 the courthouse that are outside the hundred-foot
21 buffer?

22 A. Okay. So remember that -- there's a
23 couple of things we need to cover here.

24 So remember the pump -- when we were
25 talking about the Secretary of State, you brought up

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1 the Secretary of State, you are familiar with an
2 election advisory that was attached, maybe you're
3 not, but the election advisory was attached to our
4 original order or referenced in the original order.

5 So the Secretary of State tasked by,
6 and actually given authority by legislative act and
7 by statute, they have the authority to actually
8 interpret all election laws. That's how we get
9 election advisories.

10 So their interpretation regarding
11 64 -- 61 of the Texas Election Code, they can
12 regulate time, place and manner. So they cite the
13 law plainly and then they attempt to give us an
14 example of what a reasonable regulation might be.

15 And as one of the examples that they
16 give in the election advisory is that you can
17 prohibit -- and this is coming from them -- that you
18 can prohibit electioneering on sidewalks.

19 So the idea, and it's not that
20 difficult. I mean, if you have a bunch of people
21 electioneering here and they're stopping, they tend
22 to use the sidewalks. And the one regulation they
23 give as well to allow the voter egress and ingress
24 to the voting location.

25 So if you look at this particular

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1 map, what we did in the electioneering regulations,
2 what they say is that you cannot electioneer on
3 sidewalks. Okay. The idea being, of course, that
4 you don't want to obstruct pedestrians going in and
5 out of the location and otherwise using the
6 sidewalks. Now, this is coming from the Secretary
7 of State.

8 So what I did was, I said, well,
9 these are the locations that time and experience
10 have shown most people use to get into the buildings
11 here on the north side and on the south side. So
12 people will park all along these areas here and
13 here, use the sidewalks to get in and out, okay, all
14 of these sidewalks to get in and out. But these
15 areas here are very rarely used to get to the
16 location.

17 Q. And by -- when you talk about rarely used
18 areas, you're talking about the areas you've
19 designated in green on the east and west?

20 A. In green. Correct.

21 So to sort of address the issue of a
22 first amendment problem, okay, and whether or not
23 persons were given this right to electioneer or
24 whatnot, all we did was just created an exception.
25 All these areas are now available for

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1 electioneering.

2 If you have ever been to this
3 location here, most persons are going to enter from
4 the west and then head north and then come to the
5 parking lot. But you've got traffic coming all
6 around. You've got different areas of access. So
7 anybody standing here in all of these areas would be
8 able to make contact with pretty much all of the
9 voters. If you are in this area, you will see
10 everybody coming in from this area, and anybody
11 driving in from this area, you can pretty much see
12 all areas.

13 So the idea was, okay, we are
14 excluding electioneering on all sidewalks based on
15 guidance from the Secretary of State's office. And
16 we are excepting that general rule. We're creating
17 exceptions here and here to give persons a
18 reasonable opportunity to electioneer in some
19 proximity to the courthouse.

20 Now, what isn't shown is that these
21 areas outside of these circles --

22 Q. Outside the buffer zone?

23 A. Right, outside the buffer zones these are
24 greens, okay, courthouse greens. But these green,
25 these areas are also defined as public spaces in the

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF TEXAS
3 MCALLEN DIVISION

3 HILDA GONZALEZ GARZA, \$
4 ET AL \$

5 vs. \$

CASE NO. 7:18-CV-00046

6 STARR COUNTY, TEXAS, \$
7 ET AL \$

11 ORAL DEPOSITION OF RAUL PENA

12 January 15, 2019

14 ORAL DEPOSITION OF RAUL PENA, produced as
15 a witness at the instance of the Plaintiff and duly
16 sworn, was taken in the above-styled and numbered
17 cause on the 15th day of January, 2019, from
18 9:12 a.m. to 11:19 a.m., before Annette E. Escobar
19 , Certified Shorthand Reporter in and for the State
20 of Texas, reported by computerized stenotype machine
21 at the offices of Starr County Courthouse Annex
22 Conference Room, 100 N. FM 3167, Rio Grande City,
23 Texas, pursuant to the Federal Rules of Civil
24 Procedure and the provisions stated on the record or
25 attached hereto.

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1 meeting?

2 A. No, I don't. But they send them to me.
3 They come bring stuff to the county courthouse or
4 the annex, and anything there for me, they'll just
5 take it to me.

6 Q. All right. And does that come to you in
7 paper or by e-mail?

8 A. No, paper.

9 Q. Paper.

10 So do you know generally how early
11 you saw a draft of the electioneering regulation
12 before the commissioners voted on it?

13 A. Yeah, I saw it, like, when they send out
14 the -- they send us usually the agenda two, three
15 days before. That's where I saw it.

16 Q. So would it be fair to say, then, that you
17 didn't participate in forming that policy before you
18 saw it?

19 A. No, ma'am.

20 Q. So would it be fair to say you didn't help
21 draft any of the sections?

22 A. No, ma'am.

23 Q. Did you have any input in what the policy
24 said before you saw the draft?

25 A. No, ma'am.

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1 A. Correct.

2 Q. Okay. So now we have a good sense about
3 electioneering.

4 And I'm going to return now to an
5 answer that you gave me earlier when you said you
6 had in the past expressed concerns about
7 electioneering. Tell me what those concerns were
8 that you had expressed in the past.

9 A. Well, since -- I mean, I had never ran an
10 election. But I've -- like you said, I've always
11 seen how elections are run. And the courthouse gets
12 very -- how do you call it? During election time,
13 the courthouse gets very -- I'm looking for a word
14 here. Hold on. It's, like, sort of very tense when
15 elections start coming up.

16 Q. Okay. I'm going to explore some detail
17 about that. Tell me what makes it tense at the
18 courthouse during election time.

19 A. Well, the thing is that the courthouse
20 houses several offices there, okay. And it gets
21 kind of chaos when you have an election because then
22 everybody wants to be right off those hundred feet,
23 right where the hundred feet ends. They want to be
24 there electioneering with their signs, with their
25 T-post having their big signs, barbecuing. I mean,

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1 you've got to give more respect to an election.
2 Wherever it is, you have to give some sort of
3 respect.

4 And I saw the concern that many
5 people would take it like a -- you know what, we
6 have elections, there's no more courthouse, let's go
7 do our election. So there was not the respect that
8 the courthouse needed. That's why I expressed my
9 concerns about it.

10 Q. And who did you express your concerns to?

11 A. I spoke with the county judge and I told
12 him.

13 Q. And when you had that conversation, was it
14 because the county judge had reached out to you to
15 talk about how you felt about electioneering or was
16 it you reaching out to the county judge?

17 A. No, I think it was me reaching out,
18 exploring those concerns.

19 See, my election, yes, whenever I'm
20 running for an election, they can come vote over
21 here in the courthouse. But my election is in Roma,
22 Precinct 2, that's where they elect most of the
23 people go out there, and that's my area. But the
24 county doesn't have anything to do with it because
25 it's in the City of Roma.

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1 zone. But sometimes I would see people going in
2 there in the buffer zone on both sides, both
3 parties. But I don't know what they were doing.
4 Many say they were going to the restroom. I cannot
5 tell you otherwise.

6 Q. Okay. Got it.

7 And did you feel that when
8 electioneering was going on at the courthouse, that
9 voters still had physical access to the polling
10 place, meaning the voter could walk through and
11 physically get to the door?

12 A. Yes, ma'am.

13 Q. Okay. And did you ever have a concern
14 that a voter was going to be threatened with
15 violence while entering the polling place?

16 A. No, ma'am.

17 Q. Okay. Was there anything else going on
18 outside the courthouse that gave you concern other
19 than campaign workers and candidates calling out to
20 the voters?

21 A. Well, like I stated before, the courthouse
22 has several offices. Many people didn't have a
23 place to park. They had to park real far away.
24 Look at the parking lot we have right now. You had
25 an election, people had to get away from there, park

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1 elsewhere because all the parking lot was taken care
2 of.

3 Q. And tell me what was in the parking lot?

4 A. Well, you had your campaign rallies -- not
5 campaign rallies, but the campaign tents and people
6 barbecuing, political workers, campaign -- all them
7 there, so it was full.

8 Q. Okay. And was it the parking lots where
9 voters were -- okay. Let me back up because I want
10 to ask the question right.

11 So would it be fair to say that you
12 had a concern that there was a shortage of parking
13 for voters in the parking lot because there were
14 campaign tents and barbecues set up there?

15 A. No, there was a shortage for the employees
16 of the courthouse.

17 Q. Okay. Now I understand.

18 Now, shifting away from the parking
19 lots on to the sidewalks. Was there any concern
20 that you had regarding people walking on the
21 sidewalks of the county courthouse who were going in
22 to vote or going in to work?

23 A. No, ma'am.

24 Q. Did you have any concerns about anything
25 that might have been happening in the grassy lawns

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1 just go inside and vote.

2 Q. I got it. How about outside the buffer
3 zone?

4 A. Outside the buffer zone, well, what do you
5 mean? Explain or give me -- rephrase your question.

6 Q. Okay. So we know that --

7 A. Let's say for example --

8 Q. Yes.

9 A. -- I'm driving this road.

10 Q. Yes. So let's say you're driving down the
11 street along the east or west side of the
12 courthouse, you're outside the hundred-foot buffer
13 zone.

14 A. Okay.

15 Q. For you, what is a good solution to your
16 concerns about electioneering? That there be no
17 people?

18 A. No, people can be there up with their
19 signs. But I would not like the people to stop
20 cars, stopping them, because you never know an
21 accident might happen. And you already distracted
22 the driver because you want to give them a leaflet,
23 oh, vote for Nina, here. That's uncalled. I mean,
24 I don't feel that's correct.

25 Q. Got it.

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1 A. And if they don't want to stop, don't stop
2 them. And I did see people stopping cars.

3 Q. Okay. So to summarize, then. It's
4 important to you to make sure that electioneering
5 stay outside the hundred-foot buffer, that the
6 parking lots remain clear for parking, that drivers
7 be allowed to drive by without campaign workers
8 trying to stop them?

9 A. Correct.

10 Q. Now, what about people who are entering
11 the polling place and they're still outside the
12 hundred-foot zone?

13 A. Well, if you call them and they stop,
14 that's fine. But if they don't want to turn, I
15 don't think people should be calling at them, hey,
16 stop, stop, stop.

17 Q. Okay. So for a voter who's walking into
18 the polling place, would your solution then be -- so
19 this is outside the hundred feet?

20 A. Uh-huh.

21 Q. Your solution would be that candidates and
22 campaign workers should not be calling out to the
23 voters?

24 A. Well, what I should -- what I believe is
25 if you want to hand them out a leaflet, that's it,

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1 here, people might park over here and across here.
2 This is my concern, here nobody is going to enter
3 the courthouse through this side or this side.
4 They're going to enter the front or the back.

5 So here you have a road. Well,
6 people are going to see you don't have nobody
7 campaigning, well, they cross easily. Here, you
8 have many people everywhere screaming at them,
9 harassing them or insinuating, and an accident is
10 going to take place.

11 Q. Okay. So --

12 A. I don't think it's fair to wait for an
13 accident to happen. That's how I feel.

14 Q. Okay. So because it's hard for us to
15 transfer some of the meaning when the court reporter
16 is taking it down, and you've mentioned here and you
17 and I are having a perfectly good conversation
18 because we're both looking at the map. But if I can
19 summarize, then, the green-shaded areas to the east
20 and the west of the courthouse that you have
21 indicated, you said are areas where voters are less
22 likely to be entering the polling place; is that
23 right?

24 A. It's a walkway.

25 Q. It's a walkway. But it's not close to

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1 Do you see in paragraph E where it
2 says: County facilities are not available for
3 reservation and permitting on county holidays. Do
4 you see that?

5 A. Yes, ma'am.

6 Q. So I presume, then, that it means that
7 somebody cannot hold a quinceñera or a birthday
8 party in the Salineno Community Center on a county
9 holiday; is that right?

10 A. That's what it states, ma'am.

11 Q. Do you agree with that or do you think
12 that if somebody has made a prior reservation, they
13 should be able to use --

14 A. No, ma'am, I agree with it.

15 Q. You agree?

16 A. Yes, ma'am.

17 Q. And why is that?

18 A. Because we have county employees cleaning
19 them up. If it's going to be closed, who's going to
20 clean up the mess? That's why.

21 Q. What if it's an open park, like the
22 pavilion at Fronton. Do you send employees out
23 every time there is an event afterwards?

24 A. No, people for the most part in a park,
25 they tend to clean up for themselves.

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1 Q. When you communicate with other members of
2 the court -- you mentioned before you don't use
3 e-mail; is that right?

4 A. That's correct.

5 Q. Do you speak to them or communicate with
6 them in other ways? Do you write things up for
7 them?

8 A. No. When we have commissioners court, we
9 discuss things there, that's it.

10 Q. Okay. Do you ever find yourself, like,
11 calling a single commissioner on the phone to talk
12 about something ahead of time?

13 A. Sometimes I do ask questions.

14 Q. The same for the county judge?

15 A. Same county judge.

16 Q. But do you ever create anything in writing
17 about those?

18 A. No. No, ma'am.

19 Q. Before you voted on the electioneering
20 regulation, did you review any materials besides the
21 regulation itself?

22 A. No, ma'am.

23 Q. Okay. And I'm going to ask the same
24 question for the property use policy.

25 Did you review any written materials

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1 before you voted on the property use policy?

2 A. No, ma'am.

3 Q. Okay. So nobody gave you written
4 information, like police reports or historical
5 accounts or anything like that?

6 A. No, ma'am.

7 Q. Okay. I've reached the end of my outline.
8 And I wanted to know if there were any answers that
9 you gave today that you feel you want to either
10 correct or add to?

11 A. No, at this time. We're okay.

12 Q. Okay. And have you given your answers
13 today of your own free will?

14 A. Yes, ma'am.

15 Q. Okay.

16 MS. PERALES: I pass the witness.

17 MR. SABO: All right. We're out of
18 here.

19 MS. PERALES: This deposition is
20 concluded.

21 THE COURT REPORTER: Are you wanting
22 a copy of the transcript?

23 MR. SABO: Yes.

24

25 (Proceedings concluded at 11:19 a.m.)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

HILDA GONZALEZ GARZA, ET AL.,)	
)	
PLAINTIFFS,)	
)	CIVIL ACTION NO.
VS.)	7:18-CV-00046
)	
STARR COUNTY, TEXAS, ET AL.,)	
)	
DEFENDANTS.)	

ORAL DEPOSITION OF

ROSS BARRERA

February 14, 2019

ORAL DEPOSITION of ROSS BARRERA, produced as a witness at the instance of the Defendants, and duly sworn, was taken in the above-styled and numbered cause on the 14th day of February, 2019, from 1:01 p.m. to 2:31 p.m., before Anica Diaz, CSR, RPR, CRR in and for the State of Texas, reported by stenograph, at the Starr County Courthouse Annex Conference Room, Suite 211, 100 North FM 3167, Rio Grande City, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

1 regulations, in your opinion?

2 A. I think the district attorney had something to do
3 with it.

4 Q. Okay. So, the district attorney -- but what
5 about the district attorney doing this or drafting this
6 was?

7 A. Yeah. This is -- this is -- he authored this,
8 and the district attorney has two other counties he
9 worries about, why just Starr County?

10 Q. Okay.

11 A. So, it led people to believe that it was
12 political for him to do it.

13 Q. Okay.

14 A. Because he was with the Vera camp.

15 Q. He's a supporter of Judge Vera?

16 A. Absolutely.

17 Q. Okay.

18 A. Yeah.

19 Q. But what -- what did these policies do to help
20 Judge Vera?

21 A. I think what it was is that -- what I heard from
22 the Judy Solis's and the other people that were
23 running -- the democratic that they were running low on
24 money, the Veras. The Veras.

25 Q. The Vera camp?

1 A. So, that's why I say her.

2 Q. I've heard, and please correct me if I'm wrong,
3 that the -- the buildings surrounding the courthouse,
4 with the exception of the Immaculate Conception School,
5 the church, and the Knights of Columbus, are mostly
6 owned by the Garza Galvan camp.

7 Because you have Chuy Alvarez, and you have
8 Mascorro, and then you have the other building on
9 the -- on the other corner, I forgot -- I forget whose
10 it is. But it's my understanding that the buildings
11 surrounding the north and the west side of the
12 courthouse are political supporters of the Garza Galvan
13 clan.

14 A. They were this time around, yeah.

15 Q. This time around?

16 A. Yeah, because they flip.

17 Q. So, by -- wouldn't you agree with me that by
18 getting rid of the parking lot as a place for
19 electioneering, that in fact what the policies did was
20 give the Garza Galvan camp more space on the outside to
21 use for electioneering?

22 A. It could be, yes.

23 Q. Because we didn't have any Eloy Garza supporters
24 that owned buildings around the courthouse, correct?

25 A. Sort of. Because the front of the building, it

1 belongs to the city, the avenue.

2 Q. Okay.

3 A. And they actually got permission to use that.

4 Q. Okay.

5 A. Which is a very, very visible area in front of
6 the church.

7 Q. Right.

8 A. So, they paid, I think, \$100 to use it for the
9 whole month.

10 Q. Okay.

11 A. So, they had that little avenue in front, and
12 then they had the avenue in the back.

13 Q. Okay.

14 A. Which is where the cars drive all around.

15 Q. So, they were able to find alternate locations?

16 A. So, in my view, it was a balance.

17 Q. Okay.

18 A. But, in my opinion, it still goes back to the
19 fact, what happened to the other counties? Why not the
20 other counties? Why just us? Why is the emphasis just
21 here, that the -- the author of this resolution --

22 Q. Oh.

23 A. -- focus on just Starr County?

24 Q. I get you. Okay. So, why did Mr. Escobar focus
25 on Starr County is your question?

1 A. Yes, yes. And if we would have been part of the
2 planning process or all this, but we don't have an
3 answer. The only answer that I have is, it was
4 politically motivated.

5 Q. Okay. And you -- and you believe -- and I don't
6 want to put words in your mouth just from what you're
7 telling me -- is that Mr. Escobar was finding a way to
8 support Judge Vera's campaign?

9 A. To show some allegiance because he's
10 getting -- getting ready for his re-election in 2020. I
11 don't know. Nobody knows why he did this without even,
12 you know --

13 Q. So, you're speculating?

14 A. You can say that, yes.

15 Q. Let's look at what the policy actually says.

16 A. Uh-huh.

17 Q. And here is your copy. Exhibit 2. If you look
18 at on Page 3, Section 6, it states an application
19 process. Feel free to take a look at it and let me know
20 when you're done. You can read Section 5 too, it also
21 relates to Section 6.

22 A. Okay.

23 Q. So, you understand that this policy -- and you
24 can look at page -- on Page 7, it states the date on
25 which it was enacted, the 25th day of June.

1 parking situation on the back of the courthouse, in my
2 opinion, has never been an issue for voters. There's
3 always plenty of parking. So, but yes, parking is for
4 parking. I got that.

5 Q. What about not just voters but people attending
6 hearings at the courthouse?

7 A. Usually, during election day, those are kind
8 of -- you don't have any of that going on at that
9 business, so it's only the election.

10 Q. Okay.

11 A. Most employees are given the day off.

12 Q. It's usually considered a county holiday?

13 A. Yes, an election day. Now, on early voting, like
14 I said, it's -- it's dead, maybe 120, 100 people show up
15 a day. Because I ran one of the elections this time
16 around and it's -- it's not that busy.

17 Q. Okay.

18 A. The busy day is election day. People wait until
19 the last minute.

20 Q. Okay. But the courthouse may be busy in other
21 business, you recognize that?

22 A. During the early voting, yes.

23 Q. Okay.

24 A. Yes.

25 Q. I've had to dodge the park -- the tents and the

1 barbecue pits.

2 A. Yeah. People are intimidated by those because
3 you don't want to say you're not voting for them.

4 Q. So, would you say, in your opinion, is it a good
5 thing to keep the barbecue pits out of the parking lot?

6 A. Yes. Oh, I've been advocating for that for
7 years, but it wasn't benefit to a certain party. So,
8 now it is, so.

9 Q. Okay. You've been advocating for
10 years -- who -- who have you been advocating to?

11 A. Just verbally on social media and to other folks.
12 I said, people -- and, you know, people said, have you
13 gone -- have you gone to vote? Oh, yeah, man, they're
14 going to harass you when you walk in, you know. That's
15 what I mean.

16 And I said, Yeah, those things need to be either
17 removed, or move them out somewhere else, or not have
18 them at all.

19 Here in the Valley, it's very different, you have
20 to have -- here, the candidate gives you the plate. Up
21 north, you have to pay for a plate to go to a campaign.
22 That's the difference.

23 Q. Right. So, do you think that having the barbecue
24 pits and the tents was -- was -- had a negative impact
25 on voting?

1 A. No. No. I think removing those was -- I don't
2 think it was either or. It was more of an ease to a lot
3 of the professional people who actually vote. Not by a
4 certain party, but who actually vote independently, and
5 they do not want to be harassed.

6 Q. Okay. So, it was a good thing for the democratic
7 process not to have the tents and the barbecue pits in
8 the parking lot?

9 A. I would say yes.

10 Q. If you look at Page 9 of the policy, which lists
11 the facilities that are available for reservation, okay?
12 And I'll represent to you that the Starr County
13 fairgrounds aren't actually county property and that was
14 included by mistake. The rest of those --

15 A. That's school property.

16 Q. Correct. Are there any other buildings that
17 should be -- that you believe should be rented out or
18 allowed to be used?

19 A. Yeah. I think we need to clarify annex.

20 Q. Okay. It says -- it had -- No. 5 has a
21 conference room.

22 A. Oh, okay, yeah. Because, yeah, you could have
23 meetings here after hours or something, yes.

24 Q. Okay. Is there any other building or facility
25 that --

1 A. I would allow the folks who designed to come up
2 with a plan, and ask folks where you think it would be a
3 best place to serve both camps.

4 Q. If this entire area north of the building
5 considered a park and people could electioneer there,
6 would that be reasonable?

7 A. Yes.

8 Q. Okay. Do you know if this is considered a park?

9 A. What this?

10 Q. Yes. North of the -- of these -- of the
11 community -- of the --

12 A. It is. It is. It is.

13 Q. Yeah.

14 A. Yeah. Just a safety thing there that I saw.

15 Q. Okay. Have you applied for any permits to use
16 county property?

17 A. No.

18 Q. Other than -- you testified earlier that you
19 believe these policies were put in place to help County
20 Judge Vera against his opponent, Ms. Garza Galvan,
21 correct?

22 A. Uh-huh, yes.

23 Q. And that was based on conversations with people
24 in the community?

25 A. Yes.

1 Q. And that's based on your belief that the district
2 attorney was supporting Judge Vera?

3 A. Yes.

4 Q. Do you see any other political undertones to the
5 passing of these regulations?

6 A. No.

7 Q. Do you believe there are any other -- there's
8 another basis for passing these regulations?

9 A. Not at this -- with the revision right now,
10 revision 3, I think this is good.

11 And, my opinion, this should have been done off
12 season. You don't change the rules during the election
13 process. So, this could have been done this year. It
14 would have been great. Get a committee together, get
15 local folks to come in and do this. It would have been
16 great.

17 But during the election, you don't change the
18 rules and surprise everybody. I mean, who came up with
19 that? The DA, that's -- that's on him. But -- that's
20 what got this we're at right now.

21 Q. So, other than the particular issues that we've
22 discussed as they stand now, the regulations and the use
23 policy, they're good for the community?

24 MR. OLIVARES: Objection. Has been asked
25 and answered, and all the arguments are in the

1 pleadings. We've been over this.

2 A. As it is right now with the 25 June revision,
3 yes.

4 Q. (By Mr. Fonseca) Very well. Those are all my
5 questions, Mr. Barrera.

6 A. No questions, just one last comment on --

7 Q. No, I'm saying, I don't have anymore questions.
8 There's no question before you.

9 MR. FONSECA: I don't know if Mr. Olivares
10 has any questions for you.

11 MR. OLIVARES: Yes, can we take a quick
12 break?

13 (Break was taken at 2:28 p.m.-2:29 p.m.)

14 EXAMINATION

15 BY MR. OLIVARES:

16 Q. Go ahead.

17 A. Okay. So, yeah, so one last comment. It's just
18 that -- just an observation that I made. When -- when
19 this started back in the Spring of 2018, we did have the
20 Memorial Day event at -- at the cemetery -- the county
21 cemetery. And the observation that I made was that
22 never have I seen Omar Escobar show up to any events
23 that I've run, and he shows up to this one with four
24 armed personnel in his own county vehicle. And in a
25 laughing gesture says, Oh, they're going to come and

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

HILDA GONZALEZ GARZA, {
ET AL {
V. { CIVIL ACTION NO.:
{ 7:18-CV-00046
STARR COUNTY, TEXAS, ET AL {

ORAL DEPOSITION OF

RUBEN D. SAENZ

January 8, 2019

ORAL DEPOSITION OF RUBEN D. SAENZ, produced
as a witness at the instance of the Plaintiffs and duly
sworn, was taken in the above-styled and numbered cause on
January 8, 2019 from 9:10 a.m. to 12:33 p.m., before Maria
E. Amador, Certified Shorthand Reporter in and for the
State of Texas, reported by computerized stenotype
machine, at Starr County Annex Conference Room, 100 N. FM
3167, Rio Grande City, Texas, pursuant to the Federal
Rules of Civil Procedure and the provisions stated on the
record or attached hereto.

Deposition of Ruben Saenz

January 8, 2019

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1 discovery. Subject to and without waiving such subject,
2 damage to courthouse lawn, lots of smoke and trash, lawn
3 damage due to stakes used to tie down political signs.

4 Do you see that?

5 A. Yes.

6 Q. Can you tell me what you meant by damage to
7 courthouse lawn caused by electioneering on Starr County?

8 A. When the election was going on, the people would
9 bring lawn chairs and tents and nailed, put some stakes
10 for them not to blow away and have barbecue pits.

11 Q. Okay.

12 A. On the --

13 Q. On the courthouse lawn?

14 A. On the courthouse lawn.

15 Q. So is it fair to say that the issue that you are
16 describing at the courthouse deals with lawns, tents and
17 barbecue pits?

18 A. Can you repeat the question?

19 Q. Is it correct to say that what you just
20 described, if I understand correctly, is that you are
21 describing damage to lawns --

22 A. Yes.

23 Q. -- barbecue pits and tents that people were
24 putting on the lawns?

25 A. Yes.

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1 incident in 2016 with the barbecue pits, no Starr County
2 residents were physically hurt?

3 A. Yes.

4 Q. They were not?

5 A. They were not.

6 Q. Would it be correct that during this incident in
7 2016 there were no traffic accidents?

8 A. No.

9 Q. There were no traffic accidents?

10 A. That I know of, no.

11 Q. Would it be correct to say that during this
12 incident in 2016 there were no damage to county property?

13 A. No.

14 Q. There was no damage to county property?

15 A. No.

16 Q. Would it be correct to say also that during this
17 incident in 2016 you are not aware of any drivers in cars
18 becoming distracted?

19 A. I don't recall.

20 Q. Would you agree that the incident that you're
21 concerned about in 2016 did not involve an individual
22 intimidating a voter?

23 A. There was some intimidation of voters.

24 Q. Okay. Can you explain to me what you mean?

25 A. When a voter approaches the courthouse or

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1 approached the courthouse, the people working for the
2 politiqueros would approach the voters to replace their
3 vote, and they felt they were intimidated by not allowing
4 them to do their own voting on their own.

5 Q. Okay. So if I understand correctly, you think
6 that a person approaching a voter to ask them to vote in a
7 certain manner is voter intimidation?

8 A. Yes.

9 Q. Would you agree that peaceful campaigning allows
10 residents to make informed decisions about their voting?

11 A. Yes.

12 Q. So if you go up to a voter and say, Please Vote
13 for Commissioner Saenz, I would like to have your vote, do
14 you believe that is voter intimidation?

15 A. No.

16 Q. To your knowledge, were these politiqueras that
17 you were talking about threatening the voters that they
18 were talking to?

19 A. No.

20 Q. I am going to hand you now what we are going to
21 mark as Exhibit Number 4.

22 (Marked for identification as Deposition
23 Exhibit Number 4.)

24 Q. (By Ms. Avila) Commissioner, do you recognize
25 this document Exhibit Number 4?

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January 8, 2019

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1 A. No, I don't.

2 Q. Would you agree with me if I told you about this
3 document is the electioneering regulations adopted by the
4 county commissioners?

5 A. I would agree.

6 Q. And if we turn to page one, two, three, four,
7 five --

8 A. Five.

9 Q. -- with the signature pages.

10 A. Yes.

11 Q. Do you recognize the signature that's over the
12 name Commissioner Ruben Saenz?

13 A. That's it.

14 Q. Is that your signature?

15 A. Yes, it is.

16 Q. Did you vote in favor of these regulations?

17 A. Yes, I did.

18 Q. To your knowledge, who was involved in the
19 drafting of these regulations?

20 A. I don't know if it was the county attorney or the
21 district attorney.

22 Q. Did you play any role in the drafting of these
23 regulations?

24 A. No, ma'am.

25 Q. You just voted for them at the commissioner's

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1 hearing?

2 A. That's correct.

3 Q. Do you know who proposed the adoption of these
4 regulations?

5 A. No.

6 Q. Do you remember how these regulations came about?

7 A. No, I don't.

8 Q. Do you remember there being any discussion at the
9 commissioners court prior to the adoption of these
10 elections about the need to regulate electioneering?

11 A. I don't recall. I don't remember.

12 Q. Now, let's talk specifically about this policy.
13 In your opinion, what does this regulation
14 regulate?

15 A. It regulates the people from approaching the
16 voters and the distance from the courthouse sidewalks and
17 the parking lot.

18 Q. Okay. And I'm going to come back to that.
19 Would you agree with me that this policy is
20 limited to regulating the activity of electioneering?

21 A. Yes.

22 Q. What does the term "electioneering" mean to you?

23 A. Campaigning on the property of the courthouse.

24 Q. Does it include campaigning?

25 A. Campaigning.

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1 of those sidewalks are outside of the one hundred foot
2 marker?

3 A. They're outside.

4 Q. Okay. And those sidewalks that are outside of
5 the one hundred foot marker, what is your understanding of
6 whether people can or cannot electioneer?

7 A. Cannot. Cannot.

8 Q. They cannot electioneer there?

9 A. Yes.

10 Q. Okay. Why do you think it's important to
11 prohibit people from electioneering on the sidewalk?

12 A. Repeat the question.

13 Q. Why do you think it is important to prohibit
14 electioneering on the sidewalk?

15 A. Safety of the voters when they're approached by
16 traffic or the politiqueras.

17 Q. Okay. And why is it that banning electioneering
18 on a sidewalk prevents voters from running into traffic
19 accidents?

20 A. Safety.

21 Q. Can you explain to me what you mean by that?

22 A. Cars approach the voting place, the politiqueras
23 and they approach the people that are coming into to vote
24 and many times they cannot see where they're going to park
25 and they can reverse and they can hit someone.

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1 Q. Okay. Is it your opinion that if I stand on the
2 sidewalk with a sign that says, Vote Commissioner Saenz I
3 am causing or increasing the chances of a traffic
4 accident?

5 A. If there's a lot of people, yes.

6 Q. But if I just stand alone with a sign on the
7 sidewalk --

8 A. No.

9 Q. -- do you think I can cause a traffic accident?

10 A. No.

11 Q. So would it be correct to say that your concern
12 is with multiple standing on a sidewalk --

13 A. Yes.

14 Q. -- electioneering?

15 A. Yes.

16 Q. So when you say safety of voters on the sidewalk,
17 what do you mean by that?

18 A. People crowded when they go to vote and cars
19 pulling in and out of that area, in that area.

20 Q. Do you think people are safe from cars when they
21 stand on the sidewalk?

22 A. On the sidewalk, yes, but not on the road.

23 Q. Is your safety concern with the parking lot?

24 A. Yes.

25 Q. Is your safety concern with cars driving in and

Deposition of Ruben Saenz

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1 out of the parking lot?

2 A. Yes.

3 Q. Would you agree that you're not concerned about a
4 person just standing on the sidewalk screaming, Vote for
5 Commissioner Saenz?

6 A. No.

7 Q. That's not your concern, right?

8 A. No.

9 Q. And it's also not your concern that a person
10 stands on the sidewalk passing out signs saying, Vote for
11 Commissioner Saenz?

12 A. No.

13 Q. Do you agree that your concern could be solved by
14 prohibiting electioneering only on the parking lot?

15 A. Yes.

16 Q. Now, I want to go back to the map of La Rosita.

17 A. La Rosita.

18 Q. Okay. Putting the map of La Rosita on the side
19 for a second, have you ever been to La Rosita?

20 A. Many years ago, not lately.

21 Q. And do you recall based on that one time that you
22 visited what it looks like generally?

23 A. Like here on the map. Fire department, nutrition
24 center, offices -- parking lot for the equipment.

25 Q. So the map that you have in front of you of La

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1 Q. To your knowledge, who was involved in the
2 drafting of this policy?

3 A. I don't know.

4 Q. Were you in any way involved in the drafting of
5 this policy?

6 A. No.

7 Q. How did you become aware of this policy?

8 A. Commissioner's court.

9 Q. At the commissioner's court hearing?

10 A. Yes.

11 Q. Did you have a chance to review any drafts before
12 you voted on this policy?

13 A. No.

14 Q. What do you understand is the purpose of this
15 policy?

16 A. For the use of county properties. Limited use of
17 county properties, I believe.

18 Q. Okay. Is it your understanding that this policy
19 applies all year?

20 A. Yes.

21 Q. Do you believe -- actually, strike that.

22 Is it your understanding that this policy
23 applies to all county property?

24 A. Yes.

25 Q. It's not limited to polling locations, right?

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1 A. Right. Correct.

2 Q. Would it be correct to say that the policy
3 requires a permit for use of county properties?

4 A. I'm not sure of a permit.

5 Q. You're not aware of a permit that requires to be
6 used for county property?

7 A. No.

8 Q. Do you agree that the policy regulates use of not
9 just the buildings, but also all of the surrounding
10 property?

11 A. Yes.

12 Q. In your opinion, what does this policy
13 accomplish?

14 A. It regulates the use of county property.

15 Q. And how does it regulate the use of county
16 property?

17 A. By setting the policy.

18 Q. What is the reason for this policy?

19 A. To better control the buildings and the county
20 properties, my understanding.

21 Q. And when you say better control, what do you mean
22 by that?

23 A. I will say nobody can use them if they don't have
24 permission or a permit, like it says here. I haven't read
25 this and I'm just seeing it right now.

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

HILDA GONZALEZ GARZA, \$
ET AL \$
vs. \$ CASE NO. 7:18-CV-00046
STARR COUNTY, TEXAS, \$
ET AL \$

ORAL DEPOSITION OF VICTOR CANALES

January 31, 2019

ORAL DEPOSITION OF VICTOR CANALES,
produced as a witness at the instance of the
Plaintiff and duly sworn, was taken in the
above-styled and numbered cause on the 31st day of
January, 2019, from 9:31 a.m. to 12:46 p.m., before
Annette E. Escobar, Certified Shorthand Reporter in
and for the State of Texas, reported by computerized
stenotype machine at the offices of Starr County
Courthouse Annex Conference Room, 100 N. FM 3167,
Rio Grande City, Texas, pursuant to the Federal
Rules of Civil Procedure and the provisions stated
on the record or attached hereto.

Deposition of Victor Canales

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1 rather large, even though we are a small county
2 population-wise we're large in land, and my office
3 is very small. And so most everything is
4 reactionary. We don't as a normal course always
5 start everything. We react most of the time. But
6 there are instances when we do some proactive things
7 depending on what I notice or they notice.

8 Q. And I think I understand this fairly well
9 from what I've learned in yesterday's deposition.
10 But would it be correct to say that the
11 electioneering resolution which became the
12 electioneering regulation was not an initiative of
13 your office?

14 A. It was -- depending on how you
15 characterize it. It was borne out of conversation
16 between myself and Omar, our DA, because of the
17 unprecedented election cycle we were about to go
18 through.

19 We sat down, we were discussing as to
20 how are we going to be able to get through this next
21 three months, you know, especially the two weeks
22 ramping up into the actual election when every
23 single -- every possible race is being contested.
24 That I had never heard of. It may have happened in
25 the past, but it had never happened in the 25 years

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1 that I seen politics and being involved with them.
2 And so the sheer breath of it caused me great pause,
3 great concern and especially with the rhetoric and
4 the voluntarily that it had been ramping over the
5 previous election cycles.

6 We sat down and we were talking about
7 how we were going to keep some assemblance of order,
8 essentially, during the whole early election period,
9 the whole election, in general, just to keep order,
10 frankly. That's kind of where it came from and grew
11 from.

12 So to say that it was his own
13 initiative, I guess he did the heavy lifting, let's
14 put it that way.

15 Q. Would it be fair to say that the district
16 attorney drafted the electioneering resolution and
17 then drafted the electioneering regulation?

18 A. That's accurate.

19 Q. Okay. And was it the district attorney
20 who presented it at the meeting of the commissioners
21 court?

22 A. The initial one I believe I was out of
23 town so, yes.

24 Q. Is it also correct to say that the
25 district attorney drafted the property building use

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1 policies?

2 A. Yes.

3 Q. All right. He presented them to the
4 commissioners court?

5 A. I believe I may have presented those. I'm
6 not certain. I can't recall, but I may have
7 presented those.

8 Q. With respect to the electioneering
9 regulations was it the case that the district
10 attorney came from his office into your office and
11 initiated that conversation?

12 A. No, I believe I went over there to his
13 office to initiate the conversation.

14 Q. Okay. And if there's some inconsistency
15 between your testimony --

16 A. Well --

17 Q. -- who should I --

18 A. Well, the question -- I guess the question
19 if you're being specific about, hey, I want to do
20 this, this is what I think we should do, okay, then,
21 yeah, he would have initiated that one. But the
22 nexus where we talked about how can we do it, in his
23 mentioning, hey, I think I've seen it, I've heard
24 it, there's a Secretary of State memorandum or
25 something like that might give us some sort of

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1 authority, that's a conversation that I initiated,
2 but he ended up talking about that. So it's hard to
3 get the nexus of what you're asking.

4 If it's when did he propose, this is
5 how we're going to do it, he would have been the one
6 who started that conversation, yes.

7 Q. Okay.

8 A. And it's more along the lines, hey, come
9 over here. He rarely goes to my office. I go to
10 his.

11 Q. Okay. You mentioned that you had
12 following politics in Starr County or involved in
13 politics for 25 years, and I realized I forgot to
14 ask you if you had been involved in any political
15 campaigns either as a supporter or volunteer prior
16 to your run for county attorney in 2004?

17 A. When you say -- I don't believe in local
18 elections as a supporter of anything local. Maybe
19 with the governor, I remember going with my mother
20 to Austin to protest the TCAT and that kind of
21 stuff, but never as far as local races here locally,
22 no, I don't believe so.

23 Q. Did you serve on any boards or commissions
24 prior to 2004?

25 A. I was, I believe, on the Boys and Girls

Deposition of Victor Canales

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1 Q. Okay. So would it be fair to say then
2 what you know about the chicken throwing incident is
3 based on what you heard from other people?

4 A. That is correct.

5 Q. And did you hear from anybody during --
6 well, did you talk to anybody who actually saw the
7 chicken throwing incident?

8 A. I don't believe so.

9 Q. Okay. Did you hear whether there was a,
10 like, physical blows?

11 A. I never heard that they actually came to
12 physical blows, no.

13 Q. So what you understand is that chicken was
14 thrown to the ground and what beyond that?

15 A. A lot of yelling, screaming at each other,
16 moving of the pits themselves. Yeah.

17 Q. Okay. So did the person who's chicken was
18 on the wrong grill end up setting up future chicken
19 plates on a different grill?

20 A. I wouldn't know.

21 Q. You describe also a further accident where
22 a candidate's surrogates were throwing wet towels
23 into a barbecue pit to create smoke and that smoke
24 was directed at the opposing party's tent with fans.

25 Did you personally witness that?

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1 A. No.

2 Q. And how did you come to know about it?

3 A. Same way. I heard about the chicken
4 throwing incident, basically third parties.

5 Q. Do you know whether anybody was injured as
6 a result of the wet towels and smoke incident?

7 A. That would depend on what you would
8 consider an injury, because according to the older
9 folk that were there -- or according to a candidate
10 that the people that were there that they were being
11 injured because they were inhaling smoke and they
12 were very upset. They were coughing or having
13 problems breathing because they were colder. So did
14 they seek medical help, I don't know. But like I
15 said, it would depend on what you would characterize
16 as an injury.

17 Q. Okay. Do you remember who told you about
18 the smoke incident?

19 A. It was the talk of the town. I heard from
20 multiple places. I couldn't tell you or give you
21 specific individuals because I probably heard it
22 from multiple individuals about the different -- and
23 I mentioned it in my answer, calling it a circus
24 environment. It becomes the talk of the town during
25 the early vote, anything that happens at the scene.

Deposition of Victor Canales

January 31, 2019

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1 And there's just so many smaller incidents that
2 occur that you just -- some of them you remember
3 when you need to, you know, and some of them you
4 just remember after the fact. There's one or two
5 other incidents that I remember from this particular
6 election cycle that I remember occurred as well that
7 I didn't include in here, which involve the looking
8 at, cat calling, the wife of another surrogate, and
9 people getting upset, and a physical fight almost
10 occurring. Things of that nature. They're just
11 little incidents. There are so many that are --
12 they're not -- they're, I guess, by social morays,
13 they're not outrageous as throwing of chicken and
14 lighting up and having old people inhale smoke, but
15 it becomes so commonplace, you just lump all of them
16 together.

17 Q. Okay. What year -- it says here that the
18 chicken throwing incident happened in 2015; is that
19 correct?

20 A. Yes.

21 Q. All right. And you mention a mayoral
22 candidate. So this would have been the spring of
23 2015 for the odd-year elections; is that right?

24 A. I truthfully could not tell you at what
25 point. It sounds like you may be right, but I don't

Deposition of Victor Canales

January 31, 2019

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1 between questions. Absolutely, let's take a break.

2 (Short break taken at 10:53 a.m.)

3 (Deposition resumed at 11:03 a.m.)

4 MS. PERALES: We're back on the
5 record after a short break.

6 Q (By Ms. Perales) And I'm going to continue
7 to ask you questions about your answer to
8 Interrogatory Number 4 and about some of the
9 incidents that you can remember.

10 We have talked about the chicken
11 throwing incident of 2015, the blowing barbecue
12 smoke incident in 2015 and a catcalling incident.

13 Can you tell me if you can recall any
14 other incidents that caused you concern about
15 electioneering?

16 A. The last four to six years during every
17 election inevitably there are arguments between
18 parties about who is crossing the hundred-foot line,
19 who's walking into the hundred-foot line wearing
20 garb that is electioneering, what candidate is
21 talking to people inside the hundred-foot line.

22 It is just a never ending finger
23 pointing environment, and yelling matches. We --
24 the next logical step is -- had these orders not
25 been passed, the next logical step was going to be a

Deposition of Victor Canales

January 31, 2019

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1 brawl at some point, because that's what it was
2 ramping up and escalating into.

3 Q. Would it fair to say there had not yet
4 been any brawls or physical fights prior to January
5 of 2018?

6 A. To the best of my knowledge, that is
7 correct.

8 Q. Okay. Can you think of any other
9 incidents as I make my list?

10 A. As specific incidents, as I mentioned,
11 they had been ramping up over the years and these
12 were the most -- because of their very nature of
13 what they were, almost the hilarity, the funny side
14 is what stands out in my mind.

15 Q. Now, do you know if the sheriff ever
16 posted deputies at the courthouse to help enforce
17 the one hundred-foot buffer zone?

18 A. I don't know that they're there to enforce
19 the hundred-foot buffer. I know they're there to
20 enforce the peace.

21 Q. And have they been effective in enforcing
22 the peace?

23 A. As much as they could be, yes.

24 Q. Is there a time when the sheriff's
25 deputies were inadequate to enforce the peace?

Deposition of Victor Canales

January 31, 2019

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1 A. No.

2 Q. Now, you've mentioned some incidents at
3 the courthouse, and so I wanted to ask you if you
4 can recall any incidents of electioneering that
5 caused you concern at polling places other than the
6 courthouse?

7 A. Yes. At La Rosita we often have the same
8 arguments about people going in and wearing
9 electioneering garb, wearing -- the same litany that
10 I mentioned about going in there wearing
11 electioneering garb, candidates talking to people
12 inside the hundred-foot marker, who's standing
13 where, what are they doing where they're standing,
14 people are yelling at them, those kinds of --
15 they're intimidating the voter. Those incidents
16 happened La Rosita as well.

17 And we've had complaints that
18 commissioners intimidating voters in El Cenizo as
19 well.

20 Q. Let's talk about your use of the term
21 "intimidating" and we'll start at La Rosita.

22 A. The word I used was that the commissioner
23 was intimidating. That's what the reports were to
24 us. I don't know if he was actually, in fact,
25 intimidating, I don't know. That was what was used

Deposition of Victor Canales

January 31, 2019

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1 by the complainants.

2 Q. Do you know what they were referring to
3 when they used the word "intimidating."

4 A. His presence, talking to people, yelling
5 at people, chiding people as they walked to the
6 polls.

7 Q. When you say yelling at them and chiding
8 them, do you mean calling out to them and reminding
9 them to support him?

10 A. No, telling them -- yelling at them, like,
11 kind of sort of making fun of them for supporting
12 the opposing party.

13 Q. I see. So the commissioner who was the
14 incumbent running for reelection would call out to
15 voters and make fun of them for supporting somebody
16 else?

17 A. Not necessarily if he was running.

18 Q. I see.

19 A. It was just as a standard thing.
20 Sometimes he -- I think the couple of cycles he's
21 been unopposed. But he runs a tight shop there.
22 And he would chide people that were not supporting
23 his candidates, if you will.

24 Q. I see. The candidates that he supported?

25 A. Uh-huh.

Deposition of Victor Canales

January 31, 2019

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1 building and electioneering.

2 Have you ever gotten a complaint like
3 that?

4 A. Yes. Not in my official capacity and
5 never in writing.

6 Q. Okay.

7 A. That's one of the things as a prosecutor
8 people love to complain about all sorts of things.
9 The minute you ask them to put their name on the
10 line, put it in writing, submit it to you
11 officially, people just won't do it. They don't
12 want to be involved.

13 Q. So is it the case, then, that you've never
14 received a written complaint about violation of the
15 hundred-foot buffer zone?

16 A. Correct.

17 Q. Do you require a written complaint to move
18 forward on a misdemeanor investigation?

19 A. Do I require as a matter of law or just as
20 my own policy?

21 Q. Your policy.

22 A. Yes.

23 Q. And then with respect to La Rosita and
24 what was happening, your understanding was that you
25 got verbal complaints about voter intimidation that

Deposition of Victor Canales

January 31, 2019

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1 involved only electioneering inside the hundred-foot
2 buffer zone at La Rosita?

3 A. In the manner in which you just asked, I
4 would have to say no. We also got reports outside
5 the hundred foot. But specifics, I cannot recall.

6 But there's been all sorts of intimidation.

7 A car parks, it's very much like
8 flies to sugar. I mean, just everybody just
9 converges on that car, whether it's inside the
10 hundred foot or outside the hundred foot, they just
11 converge like flies. I'm sorry for my lack -- and I
12 think you know where I'm going with this. I'm sorry
13 for my lack of eloquence, but it's like flies on
14 shit. They just attack to where the car parks. And
15 so many times that's the kind of intimidation that
16 we're talking about.

17 Whether it's actual intimidation by
18 the legal definition of intimidation, I don't know
19 because we never had a written complaint about it.
20 But people complain about that they feel intimidated
21 because they just pounce on them when they show up.

22 Q. Okay. And when campaign supporters are
23 coming to the car as it parks at the polling place,
24 the campaign supporters are offering their
25 assistance or encouraging the voters to vote for

Deposition of Victor Canales

January 31, 2019

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1 Q. Okay. And so the county can have a big
2 piece of property like this big piece of property,
3 cut the grass so that it doesn't become overgrown,
4 but it is not a park in your view?

5 A. Personally, that is correct.

6 Q. Okay. We're going to put the Falcon
7 County Park away for now.

8 A. Can I have a two-minute break?

9 Q. Of course.

10 (Short break taken at.

11 (Exhibit marked for identification as
12 Deposition Exhibit Number 6.)

13 Q (By Ms. Perales) Okay. Mr. Canales, I'm
14 going to hand you Deposition Exhibit Number 6.

15 A. Okay.

16 Q. Do you recognize this as the current
17 version of the Starr County electioneering
18 regulations?

19 A. I believe so.

20 Q. Okay. Now, with respect to the
21 electioneering regulations we have in front of us
22 and the preceding electioneering resolution, did you
23 draft any portion of these documents?

24 A. No.

25 Q. Did you make any changes into the document

Deposition of Victor Canales

January 31, 2019

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1 yourself?

2 A. Document Exhibit Number 6, no.

3 Q. And the electioneering resolution, did you
4 make changes into that document?

5 A. I recall making very sort of stylistic
6 changes, not substantive. That was the purpose of
7 the e-mails that were shot back and forth, the one
8 or two -- that's why I was surprised there were so
9 many. I thought there was only one, to be honest,
10 off the top of my head. Because most of the time,
11 what would happen was that I'd be in conversation
12 with him he'd recall that he had drafted something
13 new and he asked me to look at it, and he would hand
14 me a copy of it and asked me to bring it back to
15 them if there were any changes that I wanted or need
16 to make.

17 Q. And on the resolution, you were given a
18 hard copy and make your changes in pen?

19 A. Correct.

20 Q. What does the term "electioneering" mean
21 to you?

22 A. Advocating for either a person or a idea
23 that's being voted on.

24 Q. Do you agree electioneering includes
25 handing out campaign literature?

Deposition of Victor Canales

January 31, 2019

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1 Q. Oh, okay. I see. And did you provide any
2 endorsements in that race?

3 A. Public, no.

4 Q. First I'll ask you about public.

5 A. Not public.

6 Q. Did you provide any resources, like
7 funding or chicken or fish for one side or the
8 other?

9 A. I don't believe so. I don't think I did.
10 Not money.

11 Q. Did you talk to any friends on behalf of
12 any one particular candidate?

13 A. Yes, I did. And it was not Judge Vera.

14 Q. Okay. You anticipated my next question.

15 MS. PERALES: Lets go ahead and mark
16 the building and property use policy.

17 (Exhibit marked for identification as
18 Deposition Exhibit Number 7.)

19 Q (By Ms. Perales) I'm going to hand you
20 what's been marked as Deposition Exhibit Number 7
21 and ask you to take a look at it.

22 Tell me if you recognize this.

23 A. Yes, I do.

24 Q. If you look at page seven, tell me if you
25 recognize this as the current version of the

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SUMMARY REPORT

RUN DATE:09/04/18 03:17 PM

ELECTION SUMMARY

GENERAL AND SPECIAL ELECTION
STARR COUNTY, TEXAS
NOVEMBER 4, 2014

	VOTES	PERCENT
PRECINCTS COUNTED (OF 10)	10	100.00
REGISTERED VOTERS - TOTAL	0	
BALLOTS CAST - TOTAL	5,422	
STRAIGHT PARTY		
VOTE FOR 1		
REPUBLICAN PARTY (REP)	463	12.47
DEMOCRATIC PARTY (DEM)	3,210	86.43
LIBERTARIAN PARTY (LIB)	26	.70
GREEN PARTY (GRN)	15	.40
United States Senator		
VOTE FOR 1		
John Cornyn (REP)	961	19.34
David M. Alameel (DEM)	3,795	76.39
Rebecca Paddock (LIB)	96	1.93
Emily "Spicybrown" Sanchez (GRN)	110	2.21
WRITE-IN	6	.12
United States Rep, District 28		
VOTE FOR 1		
Henry Cuellar (DEM)	4,536	96.22
William Aikens (LIB)	130	2.76
Michael D. Cary (GRN)	48	1.02
Governor		
VOTE FOR 1		
Greg Abbott (REP)	1,104	21.29
Wendy R. Davis (DEM)	4,008	77.30
Kathie Glass (LIB)	45	.87
Brandon Parmer (GRN)	24	.46
WRITE-IN	4	.08
Lieutenant Governor		
VOTE FOR 1		
Dan Patrick (REP)	759	14.95
Leticia Van de Putte (DEM)	4,253	83.77
Robert D. Butler (LIB)	52	1.02
Chandrankantha Courtney (GRN)	13	.26
Attorney General		
VOTE FOR 1		
Ken Paxton (REP)	799	16.17
Sam Houston (DEM)	3,989	80.75
Jamie Balagia (LIB)	114	2.31
Jamar Osborne (GRN)	38	.77

§SUMMARY REPORT

	VOTES	PERCENT
Comptroller of Public Accounts		
VOTE FOR 1		
Glenn Hegar (REP)	832	16.93
Mike Collier (DEM)	3,952	80.42
Ben Sanders (LIB)	88	1.79
Deb Shafro (GRN)	42	.85
Commissioner of the General Land Office		
VOTE FOR 1		
George P. Bush (REP)	1,077	21.69
John Cook (DEM)	3,761	75.73
Justin Knight (LIB)	64	1.29
Valerie Alessi (GRN)	64	1.29
Commissioner of Agriculture		
VOTE FOR 1		
Sid Miller (REP)	797	16.28
Jim Hogan (DEM)	3,953	80.72
David (Rocky) Palmquist (LIB)	86	1.76
Kenneth Kendrick (GRN)	61	1.25
Railroad Commissioner		
VOTE FOR 1		
Ryan Sitton (REP)	808	16.41
Steve Brown (DEM)	3,810	77.36
Mark A. Miller (LIB)	68	1.38
Martina Salinas (GRN)	239	4.85
Chief Justice, Supreme Court		
VOTE FOR 1		
Nathan Hecht (REP)	844	17.23
William Moody (DEM)	3,982	81.28
Tom Oxford (LIB)	73	1.49
Justice, Supreme Court, Place 6, Unexp		
VOTE FOR 1		
Jeff Brown (REP)	897	18.45
Lawrence Edward Meyers (DEM)	3,880	79.82
Mark Ash (LIB)	84	1.73
Justice, Supreme Court, Place 7		
VOTE FOR 1		
Jeff Boyd (REP)	769	15.70
Gina Benavides (DEM)	4,043	82.53
Don Fulton (LIB)	59	1.20
Charles E. Waterbury (GRN)	28	.57

GENERAL AND SPECIAL ELECTION

ELECTION SUMMARY
STARR COUNTY, TEXAS
NOVEMBER 4, 2014

RUN DATE:09/04/18 03:17 PM

	VOTES	PERCENT
Justice, Supreme Court, Place 8		
VOTE FOR 1		
Phil Johnson (REP)	1,237	66.04
RS Roberto Koelsch (LIB)	430	22.96
Jim Chisolm (GRN)	206	11.00
Judge, Court of Crim Appeals, Pl 3		
VOTE FOR 1		
Bert Richardson (REP)	855	17.63
John Granberg (DEM)	3,894	80.29
Mark W. Bennett (LIB)	101	2.08
Judge, Court of Crim Appeals, Pl 4		
VOTE FOR 1		
Kevin Patrick Yeary (REP)	1,139	59.66
Quanah Parker (LIB)	340	17.81
Judith Sanders-Castro (GRN)	430	22.52
Judge, Court of Crim Appeals, Pl 9		
VOTE FOR 1		
David Newell (REP)	1,228	65.08
William Bryan Strange, III (LIB)	428	22.68
George Joseph Altgelt (GRN)	231	12.24
Member, State BoE, Dist 3		
VOTE FOR 1		
Dave Mundy (REP)	719	14.72
Marisa B. Perez (DEM)	4,080	83.50
Josh Morales (LIB)	87	1.78
State Representative, District 31		
VOTE FOR 1		
Ryan Guillen (DEM)	4,460	100.00
Chief Justice, 4th CT of Appeals DIST		
VOTE FOR 1		
Sandee Bryan Marion (REP)	761	15.60
Irene Rios (DEM)	4,117	84.40
District Judge, 229th Judicial District		
VOTE FOR 1		
Ana Lisa Garza (DEM)	4,311	100.00
County Judge		
VOTE FOR 1		
Eloy Vera (DEM)	4,328	100.00

§SUMMARY REPORT

GENERAL AND SPECIAL ELECTION

Page 2

	VOTES	PERCENT
Judge, County Court at Law		
VOTE FOR 1		
Romero Molina (DEM)	4,286	100.00
District Clerk		
VOTE FOR 1		
Eloy R. Garcia (DEM)	4,288	100.00
County Clerk		
VOTE FOR 1		
Dennis David Gonzalez (DEM)	4,358	100.00
County Treasurer		
VOTE FOR 1		
Fernando Peña (DEM)	4,287	100.00
County Commissioner, Precinct No. 2		
VOTE FOR 1		
Raul "Roy" Peña Jr. (DEM)	1,754	100.00
County Commissioner, Precinct No. 4		
VOTE FOR 1		
Ruben D. Saenz (DEM)	1,122	100.00
Justice of the Peace, Precinct No. 1		
VOTE FOR 1		
Jesus (Jesse) Barrera, Jr. (DEM)	581	100.00
Justice of the Peace, Precinct No. 2		
VOTE FOR 1		
Rene Adrian Barrera (REP)	320	17.04
Ramiro "Coach" Guillen (DEM)	1,558	82.96
Justice of the Peace, Precinct No. 3		
VOTE FOR 1		
Salvador "Chacho" Zarate (DEM)	359	100.00
Justice of the Peace, Precinct No. 4		
VOTE FOR 1		
Martin "M.M." Martinez Jr. (DEM)	926	100.00
Justice of the Peace, Precinct No. 5		
VOTE FOR 1		
Antonia S. Trevino (DEM)	213	100.00

ELECTION SUMMARY
STARR COUNTY, TEXAS
NOVEMBER 4, 2014

RUN DATE:09/04/18 03:17 PM

VOTES PERCENT

Justice of the Peace, PCT 6

VOTE FOR 1

Ramon De La Cruz (DEM)	316	100.00
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Justice of the Peace, PCT 7

VOTE FOR 1

Raul Vidal (DEM)	154	100.00
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Justice of the Peace, PCT 8

VOTE FOR 1

Ricardo I. Peña (DEM)	211	100.00
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Constable, Place No. 5

VOTE FOR 1

Richard Garza (DEM)	203	100.00
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PROPOSED CONSTITUTIONAL AMENDMENT

VOTE FOR 1

For	1,760	84.74
Against	317	15.26

-E

ELECTION SUMMARY

-E-12a007c067F-(s0p16.66h3b6T-&a00L
SUMMARY REPORT

General Election
Starr County, Texas
November 8, 2016

OFFICIAL RESULTS

Run Date:09/05/18 08:41 AM

	VOTES	PERCENT
PRECINCTS COUNTED (OF 10)	10	100.00
REGISTERED VOTERS - TOTAL	0	
BALLOTS CAST - TOTAL	11,851	
Straight Party		
Vote for 1		
Republican Party (REP)	1,200	15.79
Democratic Party (DEM)	6,263	82.42
Libertarian Party (LIB)	89	1.17
Green Party (GRN)	47	.62
President and Vice President		
Vote for 1		
Donald J. Trump / Mike Pence (REP)	2,224	18.91
Hillary Clinton / Tim Kaine (DEM)	9,289	78.97
Gary Johnson / William Weld (LIB)	159	1.35
Jill Stein / Ajamu Baraka (GRN)	68	.58
WRITE-IN	23	.20
United States Representative, District 28		
Vote for 1		
Zeffen Hardin (REP)	1,326	12.83
Henry Cuellar (DEM)	8,866	85.80
Michael D. Cary (GRN)	141	1.36
Railroad Commissioner		
Vote for 1		
Wayne Christian (REP)	1,625	16.39
Grady Yarbrough (DEM)	7,212	72.76
Mark Miller (LIB)	251	2.53
Martina Salinas (GRN)	824	8.31
Justice, Supreme Court, Place 3		
Vote for 1		
Debra Lehrmann (REP)	1,743	17.65
Mike Westergren (DEM)	7,197	72.87
Kathie Glass (LIB)	203	2.06
Rodolfo Rivera Munoz (GRN)	734	7.43
Justice, Supreme Court, Place 5		
Vote for 1		
Paul Green (REP)	1,666	16.82
Dori Contreras Garza (DEM)	7,989	80.67
Tom Oxford (LIB)	162	1.64
Charles E. Waterbury (GRN)	86	.87

	VOTES	PERCENT
Justice, Supreme Court, Place 9		
Vote for 1		
Eva Guzman (REP)	2,440	24.59
Savannah Robinson (DEM)	7,209	72.66
Don Fulton (LIB)	161	1.62
Jim Chisholm (GRN)	112	1.13
Judge, Court of Criminal Appeals, Place 2		
Vote for 1		
Mary Lou Keel (REP)	1,871	19.02
Lawrence "Larry" Meyers (DEM)	7,573	77.00
Mark Ash (LIB)	219	2.23
Adam King Blackwell Reposa (GRN)	172	1.75
Judge, Court of Criminal Appeals, Place 5		
Vote for 1		
Scott Walker (REP)	1,734	17.61
Betsy Johnson (DEM)	7,465	75.83
William Bryan Strange, III (LIB)	154	1.56
Judith Sanders-Castro (GRN)	492	5.00
Judge, Court of Criminal Appeals, Place 6		
Vote for 1		
Michael E. Keasler (REP)	1,832	18.66
Robert Burns (DEM)	7,702	78.45
Mark W. Bennett (LIB)	284	2.89
State Senator, District 21		
Vote for 1		
Judith Zaffirini (DEM)	8,648	100.00
State Representative, District 31		
Vote for 1		
Ryan Guillen (DEM)	8,860	100.00
Justice, 4th Court of Appeals District, Place 6		
Vote for 1		
Jason Pulliam (REP)	1,557	16.04
Irene Rios (DEM)	8,151	83.96
District Judge, 381st Judicial District		
Vote for 1		
Jose Luis Garza (DEM)	8,597	100.00

District Attorney, 229th Judicial District

ELECTION SUMMARY

Vote for 1

Omar Escobar (DEM) 8,489 100.00

OFFICIAL RESULTS

SUMMARY REPORT

General Election
Starr County, Texas
November 8, 2016

Run Date:09/05/18 08:41 AM

	VOTES	PERCENT
County Attorney Vote for 1 Victor Canales, Jr. (DEM)	8,484	100.00
Sheriff Vote for 1 Rene "Orta" Fuentes (DEM)	8,609	100.00
County Tax Assessor-Collector Vote for 1 Ameida Salinas (DEM).	8,388	100.00
County Commissioner, Precinct No. 1 Vote for 1 Jaime M. Alvarez (DEM)	2,077	100.00
County Commissioner, Precinct No. 3 Vote for 1 Eloy Garza (DEM)	1,962	100.00
Justice of the Peace, Precinct No. 8 Vote for 1 Jose Francisco "Kiko" Perez Jr. (DEM) .	484	100.00
Constable, Precinct No. 1 Vote for 1 Daniel "Danny" Muniz (DEM).	1,557	100.00
Constable, Precinct No. 2 Vote for 1 Emilio Montalvo III (DEM)	1,834	100.00
Constable, Precinct No. 3 Vote for 1 Santiago "Chago" Zarate (DEM).	1,082	100.00
Constable, Precinct No. 4 Vote for 1 Jaime Eli Martinez (DEM)	2,145	98.17
WRITE-IN.	40	1.83

Constable, Precinct No. 7

Vote for 1

Sonny Gonzalez (DEM). 266 100.00

Constable, Precinct No. 8

Vote for 1

Fermin Orta (DEM). 467 100.00

Constable, Precinct No. 6

ELECTION SUMMARY

Vote for 1	
Jose "Papa Joe" Garza (DEM)	890 100.00
-E	

SUMMARY REPORT

JUN 15:11/13/18 04:54 PM

	VOTES	PERCENT
PRECINCTS COUNTED (OF 10)	10	100.00
REGISTERED VOTERS - TOTAL	0	
BALLOTS CAST - TOTAL	11,918	
BALLOTS CAST - BLANK	18	.15

Straight Party

(VOTE FOR) 1		
Republican Party (REP)	1,237	17.78
Democratic Party (DEM)	5,592	80.39
Libertarian Party (LIB)	127	1.83

United States Senator

(VOTE FOR) 1		
Ted Cruz (REP)	2,443	22.65
Beto O'Rourke (DEM)	8,273	76.72
Neal M. Dikeman (LIB)	68	.63

US Representative, District 28

(VOTE FOR) 1		
Henry Cuellar (DEM)	9,151	95.60
Arthur Thomas IV (LIB)	421	4.40

Governor

(VOTE FOR) 1		
Greg Abbott (REP)	3,217	31.29
Lupe Valdez (DEM)	6,968	67.78
Mark Jay Tippetts (LIB)	95	.92

Lieutenant Governor

(VOTE FOR) 1		
Dan Patrick (REP)	2,234	23.01
Mike Collier (DEM)	7,270	74.87
Kerry Douglas McKennon (LIB)	206	2.12

Attorney General

(VOTE FOR) 1		
Ken Paxton (REP)	2,075	21.34
Justin Nelson (DEM)	7,372	75.81
Michael Ray Harris (LIB)	277	2.85

Comptroller of Public Accounts

(VOTE FOR) 1		
Glenn Hegar (REP)	2,117	22.07
Joi Chevalier (DEM)	6,941	72.37
Ben Sanders (LIB)	533	5.56

Comm of the General Land Office

(VOTE FOR) 1		
G. P. Bush (REP)	2,542	26.03
Miguel Suazo (DEM)	7,016	71.84
Matt Pina (LIB)	208	2.13

VOTES PERCENT

Commissioner of Agriculture

(VOTE FOR) 1		
Sid Miller (REP)	2,037	21.13
Kim Olson (DEM)	7,288	75.59
Richard Carpenter (LIB)	317	3.29

Railroad Commissioner

(VOTE FOR) 1		
Christi Craddick (REP)	1,950	20.22
Roman McAllen (DEM)	7,399	76.71
Mike Wright (LIB)	296	3.07

Justice, Supreme Court, Pl 2

(VOTE FOR) 1		
Jimmy Blacklock (REP)	2,227	23.27
Steven Kirkland (DEM)	7,342	76.73

Justice, Supreme Court, Pl 4

(VOTE FOR) 1		
John Devine (REP)	2,288	24.02
R.K. Sandill (DEM)	7,237	75.98

Justice, Supreme Court, Pl 6

(VOTE FOR) 1		
Jeff Brown (REP)	2,244	23.53
Kathy Cheng (DEM)	7,291	76.47

Presiding Judge, Ct of Crim App

(VOTE FOR) 1		
Sharon Keller (REP)	1,981	20.55
Maria T. (Terri) Jackson (DEM)	7,469	77.46
William Bryan Strange III (LIB)	192	1.99

Judge, Ct of Crim App, Pl 7

(VOTE FOR) 1		
Barbara Parker Hervey (REP)	2,217	23.06
Ramona Franklin (DEM)	7,398	76.94

Judge, Ct of Crim App, Pl 8

(VOTE FOR) 1		
Michelle Slaughter (REP)	3,269	57.74
Mark Ash (LIB)	2,393	42.26

Member, St Board of Edu, Dist 3

(VOTE FOR) 1		
Marisa B. Perez (DEM)	8,355	100.00

State Representative, Dist 31

(VOTE FOR) 1		
Ryan Guillen (DEM)	8,931	100.00