

Gerald Thomas Daugherty

D-1-GN-13-003876

77

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

CAUSE NO. D-1-GN-13-003876

SAVE OUR SPRINGS ALLIANCE, § IN THE DISTRICT COURT
INC. §

Plaintiff, §

V. § 53RD JUDICIAL DISTRICT

GERALD DAUGHERTY §
In His Official Capacity as §
Travis County Commissioner §
for Precinct 3 §

Defendant. § TRAVIS COUNTY, TEXAS

REPORTER'S CERTIFICATION
ORAL DEPOSITION OF GERALD THOMAS DAUGHERTY
FEBRUARY 20, 2014

I, Shelly M. Tucker, RPR, CRR, Certified
Shorthand Reporter in and for the State of Texas, hereby
certify to the following:

That the witness, GERALD THOMAS DAUGHERTY, was
duly sworn by the officer and that the transcript of the
oral deposition is a true record of the testimony given
by the witness;

That the deposition transcript was submitted on
February 26, 2014 to the witness or to the attorney
for the witness for examination, signature and return to
me by March 19, 2014.

That the amount of time used by each party at
the deposition is as follows:

1 Mr. Bunch - 2 hours, 5 minutes
2 Mr. Nelson - 3 minutes

3 That pursuant to information given to the
4 deposition officer at the time said testimony was taken,
5 the following includes counsel for all parties of record:

6 FOR THE PLAINTIFF:

7 MR. WILLIAM G. BUNCH
8 MR. ADAM R. ABRAMS
9 SAVE OUR SPRINGS ALLIANCE, INC.
10 905 West Oltorf, Suite A
11 Austin, Texas 78704
12 Telephone: 512-477-2320
13 Fax: 512-477-6410
14 E-mail: bill@sosalliance.org
15 adam@sosalliance.org

16 FOR THE DEFENDANT:

17 MR. ANTHONY J. NELSON
18 MR. ANDREW M. WILLIAMS
19 ASSISTANT TRAVIS COUNTY ATTORNEY
20 314 West 11th Street, Suite 420
21 Austin, Texas 78701
22 Telephone: 512-854-9513
23 Fax: 512-854-4808
24 E-mail: tony.nelson@co.travis.tx.us
25 andrew.williams@co.travis.tx.us

19 I further certify that I am neither counsel for,
20 related to, nor employed by any of the parties or
21 attorneys in the action in which this proceeding was
22 taken, and further that I am not financially or otherwise
23 interested in the outcome of the action.

24 Further certification requirements pursuant to
25 Rule 203 of TRCP will be certified to after they have

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

occurred.

Certified to by me this _____ day of February,
2014.



Shelly M. Tucker
SHELLY M. TUCKER, RPR, CRR
Texas CSR 4419
Expires 12/31/14
DepoTexas - Austin
Firm Registration No. 17
805 West 10th Street, Suite 400
Austin, Texas 78701
FAX (512) 478-2782

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

FURTHER CERTIFICATION PURSUANT TO RULE 203

The original deposition ^{signature pages} ~~was~~ was not returned to the deposition officer on March 19, 2014;

If returned, the attached Changes and Corrections page contains any changes and the reasons therefor;

If returned, the original deposition was delivered to Mr. William G. Bunch, Custodial Attorney;

That \$ 661.95 is the deposition officer's charges to the Plaintiff for preparing the original deposition transcript and any copies of exhibits;

That the deposition was delivered in accordance with Rule 203.3, and that a copy of this certificate was served on all parties shown herein and filed with the Clerk.

Certified to by me this 21st day of March, 2014.

Shelly M. Tucker
SHELLY M. TUCKER, RPR, CRR
Texas CSR 4419
Expires 12/31/14
DepoTexas - Austin
Firm Registration No. 17
805 West 10th Street, Suite 400
Austin, Texas 78701
FAX (512) 478-2782

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

CHANGES AND CORRECTIONS

WITNESS NAME: GERALD THOMAS DAUGHERTY

DEPOSITION DATE: FEBRUARY 20, 2014

Reason Codes: (1) to clarify the record; (2) to conform to the facts; (3) to correct a transcription error; (4) other (please explain).

PAGE LINE CHANGE REASON CODE

12 13 "Correct." Change to "Correct. I believe I took it, but don't have a specific recollection of the course." Code (1), (2)

13 18 "I did." Change to "I watched it on the Precinct 3 Commissioner's Office laptop in the conference room due to sound issues with the computer in my office. Code (1), (2)

13 25 "I do." Change to "I'm not really sure that I am the "official custodian of records" for my office. I think as an elected official I could be the "official custodian," but I don't know whether I am the "official custodian or not. Travis County has a Records Management Department, which may also be the "official custodian." Code (1), (2)-

14 4 "I don't think so." Change to "Yes." Code (1), (2)

20 21 Add "Mr. Strickland worked for me as a temporary employee from June 11, 2013 through September 4, 2013."

Code (4)-employee records checked

1 CHANGES AND CORRECTIONS

2 WITNESS NAME: GERALD THOMAS DAUGHERTY

3 DEPOSITION DATE: FEBRUARY 20, 2014

4 Reason Codes: (1) to clarify the record; (2) to conform
5 to the facts; (3) to correct a transcription error; (4)
6 other (please explain).

7 PAGE LINE CHANGE REASON CODE

8 20 25 "I think so. I don't recall specifically the time

9 Jim really started working for us." Change to "Jim worked for
10 my office as a temporary employee from June 11, 2013 through
11 September 4, 2013." Code (1), (2), (4) -

12 employee records checked.

13 21 1 "I think so. I don't recall specifically the time

14 Jim really started working for us." Change to "Jim worked for
15 my office as a temporary employee from June 11, 2013 through
16 September 4, 2013." Code (1), (2), (4) -

17 employee records checked.

18 21 6-8 "Oh. Well, he was gone by that time. And quite frankly,

19 I mean, what he did in the office, he probably wouldn't have

20 known anything about it." Change to "Strickland started after

21 the date range provided in the request so he would not have had

22 anything responsive to the request." Code (1), (2), (4) -

23 employment records checked, clarification of Response.

24 22 7 Add: "He was not involved because he started working

25 for me after the date range provided in the request."

1 CHANGES AND CORRECTIONS

2 WITNESS NAME: GERALD THOMAS DAUGHERTY

3 DEPOSITION DATE: FEBRUARY 20, 2014

4 Reason Codes: (1) to clarify the record; (2) to conform
5 to the facts; (3) to correct a transcription error; (4)
6 other (please explain).

7 PAGE LINE CHANGE REASON CODE

8 Code (1), (2), (4) employment

9 records checked.

10 23 22 "No." Change to "It is correct that her work for
11 me was not related to a campaign." Code (1), (2), (4) -12 The question was confusing as asked, and contained a double
13 negative, so I needed to clarify my response.14 26 8 "My understanding was that notice was not
15 required." Code (1), (2)16 30 21 "Yes." Change to "Yes, it is possible I may have
17 used my wife's computer to view some emails." Code (1), (2)18 34 21 "I don't think so." Change to "In addition to the
19 information included in my discovery response to Interrogatory
20 No. 6, I omitted from my explanation of the process by which
21 the accounts identified in interrogatory 4 and 5 were searched
22 or queried to determine if there are any documents
23 responsive to the PIR is the fact that I searched my emails
24 on my personal computer at home to look for potentially
25 responsive documents and forwarded

1 CHANGES AND CORRECTIONS

2 WITNESS NAME: GERALD THOMAS DAUGHERTY

3 DEPOSITION DATE: FEBRUARY 20, 2014

4 Reason Codes: (1) to clarify the record; (2) to conform
 5 to the facts; (3) to correct a transcription error; (4)
 6 other (please explain).

7	PAGE	LINE	CHANGE	REASON CODE
8			those that I found to Barabara Smith to be included	
9			in our response to the PIR. I am not sure whether I instructed	
10			my staff to search their personal emails. I was	
11			unaware of any information that they might have on their	
12			personal emails that might be responsive." Code (1), (2), (4) -	
13			Supplementing my response to Interrogatory No. 6	
14	36	12	"Probably." Change to "Possibly, but not that I am	
15			aware of." Code (1), (2)	
16	37	11-12	Add "I do not have an email addresses for	
17			Commissioner Conley other than his county email address.	
18			Code (1), (2)	
19	38	2-3	Add "I do not have an email address for	
20			Commissioner Mark Jones other than his County email."	
21			Code (1), (2)	
22	38	12	"No." Change to "No, I'm not sure if I did."	
23			Code (1), (2)	
24	38	15	"Then no." Change to "I'm not sure whether I did or	
25			not." Code (1), (2)	

1 CHANGES AND CORRECTIONS

2 WITNESS NAME: GERALD THOMAS DAUGHERTY

3 DEPOSITION DATE: FEBRUARY 20, 2014

4 Reason Codes: (1) to clarify the record; (2) to conform
5 to the facts; (3) to correct a transcription error; (4)
6 other (please explain).

6

7 PAGE LINE CHANGE REASON CODE

8 40 1 "No." Change to "It was my understanding it was
9 done under my predecessor." Code (1), (2)10 41 1 "Yes." Change to "No, if you mean permanently
11 delete emails." Code (1), (2), (4) -

12 Change is consistent with my testimony at page 50 line 24-

13 page 51, line 11 where I explained that I believe all

14 electronic communications are retrievable-that is they are

15 not destroyed but simply moved to another folder or location.

16 I used the term "delete" because that is the key you press to
17 accomplish the task of moving the message.18 41 14 "I delete them." Change to "No, I hit the delete
19 button to move the email to the deleted items folder."

20 Code (1), (2), (4) -Change

21 is consistent with my testimony at page 50 line 24-page

22 51 line 11 where I explained that I believe all electronic

23 communications are retrievable - that is they are not

24 destroyed but simply moved to another folder or location

25 location. I use the term "delete" because that is the key

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

CHANGES AND CORRECTIONS

WITNESS NAME: GERALD THOMAS DAUGHERTY

DEPOSITION DATE: FEBRUARY 20, 2014

Reason Codes: (1) to clarify the record; (2) to conform to the facts; (3) to correct a transcription error; (4) other (please explain).

PAGE	LINE	CHANGE	REASON CODE
------	------	--------	-------------

you press to accomplish the task of moving the message."

42	6	"No." Change to "Yes, I believe I did."	Code (1), (2) -
----	---	---	-----------------

Clarify to time frame.

43	2-3	"I think I knew that it was public information that is County business." Change to	
----	-----	--	--

"I'm not sure that when I took office again in

January 2013 I understood that electronic communications

regarding government business on my personal accounts

was public information but after I watched the AG training

43	6	"That's right." Change to "I'm not sure I understood	
----	---	--	--

43	6	that when I took office again in 2013."	Code (1), (2)
----	---	---	---------------

45	15	"Yes." Change to "No."	Code (1), (2), (4) - The
----	----	------------------------	--------------------------

response to Interrogatory No. 12 was accurate. I was confused

by the question.

45	17-18	"I would get you all of the texts, all of the	
----	-------	---	--

phone log, I mean give it to you." Change to "There is nothing

about the Response to Interrogatory No. 12 I would change."

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

CHANGES AND CORRECTIONS

WITNESS NAME: GERALD THOMAS DAUGHERTY

DEPOSITION DATE: FEBRUARY 20, 2014

Reason Codes: (1) to clarify the record; (2) to conform to the facts; (3) to correct a transcription error; (4) other (please explain).

PAGE	LINE	CHANGE	REASON CODE
			Code (1), (2), (4) -The
		response to Interrogatory No. 12 was accurate. I was confused	
		by the question. I thought you were asking what I would do	
		differently in responding to the PIR.	

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

SIGNATURE

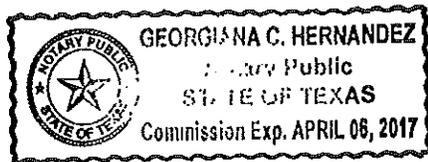
I have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted on the previous page.

Gerald Thomas Daugherty
GERALD THOMAS DAUGHERTY

STATE OF TEXAS
COUNTY OF TRAVIS

Before me, Georgiana C. Hernandez on this day personally appears GERALD THOMAS DAUGHERTY, known to me (or proved to me under oath or through Travis County ID.) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 19th day of March, 2014.



Georgiana C. Hernandez
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

COMMISSION EXPIRES: April 06, 2017