

Page 18

1 Q. So is your statement there are no facts
 2 in the affidavit that support that 7 to 10
 3 percent crossover effect number other than your
 4 instincts and experience?
 5 A. Hence the word "figure."
 6 Q. All right. I'm going to ask you about
 7 some senators and ask you whether or not they
 8 are, in your view, Republicans.
 9 Senator Goedde, G-o-e-d-d-e?
 10 A. Whether he is a Republican?
 11 Q. Yes, sir.
 12 A. His positive actions where he has run
 13 as a Republican, he delineates himself as a
 14 Republican.
 15 Q. Do you consider him --
 16 A. My interpretation of him with his
 17 voting records, I would call him a "RINO."
 18 Q. Meaning, a "Republican in name only"?
 19 A. Yes. That's my interpretation.
 20 Q. Thank you. How about then-Senator
 21 Little, now Lieutenant Governor Little?
 22 A. He's got a little work to do, in my
 23 humble opinion.
 24 Q. Is he a Republican or not?
 25 A. His positive actions -- he delineates

Page 19

1 himself as a Republican. My interpretation, the
 2 jury's still out.
 3 Q. I see. How about Senator McGee?
 4 A. From the Caldwell area?
 5 Q. Yes, sir.
 6 A. I'd give him a jury-still-out
 7 classification, again, my interpretation only.
 8 Q. He, of course, ran as a Republican; is
 9 that correct?
 10 A. He has made positive moves and runs as
 11 a Republican, yes.
 12 Q. How about Senator Bart Davis; is he a
 13 Republican?
 14 A. Bart Davis is interesting. I wouldn't
 15 have a clue what he is.
 16 Q. I see. And he, nonetheless, has run as
 17 a Republican and been elected as a Republican?
 18 A. Um-hmm.
 19 Q. I'm sorry, your answer is? You have to
 20 answer yes or no, sir.
 21 A. Well, I just affirmed that he had run
 22 as a Republican.
 23 MR. SMITH: I'm going to object, for
 24 the record, to Paragraph 7 as a conclusion and an
 25 unsupported opinion.

Page 20

1 With respect to Paragraph 8
 2 Mr. Troupis, there, apparently, is supposed to be
 3 an Exhibit A.
 4 MR. TROUPIS: There was on the original
 5 one that was submitted. It was a transcript of
 6 two radio ads, but it wasn't transcribed. They
 7 were audio, and they were submitted with the
 8 original.
 9 MR. SMITH: I gotcha.
 10 Okay, that concludes my examination.
 11 Mr. Kresky?
 12
 13 EXAMINATION
 14 QUESTIONS BY MR. KRESKY:
 15 Q. Good afternoon, Mr. Maxwell.
 16 A. Hello.
 17 Q. So, I take it, the objective of the IRP
 18 in this lawsuit is to institute partisan
 19 registration, correct?
 20 A. Closed primaries, party registration;
 21 you can go a variety of ways to do that, as many
 22 states have.
 23 Q. And if you have partisan registration,
 24 then a voter has to declare himself or herself a
 25 Republican at some point in the process in order


Page 21

1 to participate in the primary, correct?
 2 A. Affirmative, yes.
 3 Q. And then only those people who declare
 4 themselves such could participate, right?
 5 A. Yes.
 6 Q. And, I take it, that Mr. Bastian
 7 declared himself a Republican in order to run in
 8 a Republican Primary, correct?
 9 A. Yes.
 10 Q. And he had to do so sometime before the
 11 day of the election, correct?
 12 A. Yes.
 13 Q. I'm not that familiar with the Idaho
 14 election code. Do you know how many days before
 15 you have to declare your candidacy in a
 16 particular primary?
 17 A. I'll give you a rough estimation. I
 18 believe it opens up in March, is a guess, and on
 19 your declaration of candidacy you write down
 20 which party you choose to run under or
 21 Independent.
 22 Q. March 5th for a May primary, correct?
 23 A. Yes.
 24 Q. Thank you.
 25 A. I might be off, but that's the general

Summary of Comments on Maxwell Deposition.ptx

Page: 6

 Number: 1 Author: user Subject: Sticky Note Date: 10/2/2010 4:27:01 PM
Objection to Maxwell Affidavit

 Author: lwinmill Subject: Sticky Note Date: 10/12/2010 7:28:42 AM
Sustained. Conclusory and unsupported opinon.

Page 30

1 crossovers would not be voting in the primary to
2 skew the numbers.

3 Q. But you said your people did appeal to
4 the conservative base and they ran conservative
5 campaigns, so I don't see --

6 A. Yes. And the counter to the crossover
7 was additional campaign activity to overcome for
8 the deficits, basically a mathematical deficit in
9 the voting.

10 What they needed to do was more GOTV,
11 i.e., that is, "Get Out The Vote" in political
12 vernacular, in order to overcome that 7 to 10
13 percent mathematical deficit.

14 Q. Sir, are you saying that the
15 US District Court should order Idaho to institute
16 partisan registration so that your guys don't
17 have to work as hard in their "Get Out The Vote"
18 efforts?

19 A. I'm not an attorney, but the Federal
20 Court, in my humble opinion, should order it done
21 for party registration for the mere fact that the
22 Republican Central Committee has voted to do so
23 under the First Amendment rights.

24 And, frankly, why they choose to do
25 that, it is, in my opinion, of no concern to the

Page 31

1 court. They've chosen to exercise their First
2 Amendment rights, period.

3 Q. So you think the Federal Court should
4 take its direction from the Republican Party; is
5 that what you're saying?

6 A. No. The Federal Court should get
7 direction from the Constitution of the United
8 States.

9 Q. Which should do what the Republican
10 Party wants; is that what the Constitution says?

11 A. My interpretation of the First
12 Amendment and --

13 MR. SMITH: I think, Harry, we can
14 stipulate Mr. Maxwell's not an attorney.

15 MR. TROUPIS: Yes.

16 MR. KRESKY: Okay. I have no further
17 questions.

18 MR. TROUPIS: I've just got one.

19


20 EXAMINATION

21 QUESTIONS BY MR. TROUPIS:

22 Q. Mr. Maxwell, you refer to this 7 to 10
23 percent -- your gut feeling that there's about a
24 7 to 10 percent crossover; is that right?

25 A. Yes. That's in my affidavit.

Page 32



1 Q. Would you be surprised to know that
2 Professors Alvarez and Nagler concluded that
3 virtually all of the scholarly research in the
4 area supports that there is, on average, 10
5 percent crossover in all open primary contested
6 elections?

7 MR. SMITH: Objection, calls for
8 speculation. Also, it calls for a response that
9 is immaterial to any issue in the case.

10 Q. (BY MR. TROUPIS) Mr. Maxwell, would
11 you be surprised to know that at least Professors
12 Alvarez and Nagler state that the scholarly
13 research bears you out on your gut feeling?

14 A. Well, I don't know how to answer yes or
15 no. I'm pleased to know that their numbers and
16 their game theories, or whatever mathematics
17 they've done, confirm my gut feeling, yes.

18 Q. Thanks.

19 MR. TROUPIS: I don't have any further
20 questions. We'll have him read and sign.

21 MR. SMITH: Okay.

22 MR. TROUPIS: Mr. Maxwell, we're going
23 to have the transcript provided to you so you can
24 review it and make any corrections that you want,
25 ask you to sign it under penalty of perjury; is

Page 33

1 that okay?

2 THE WITNESS: That's fine.

3 MR. SMITH: Mr. Maxwell, thanks very
4 much for your time. And you will be receiving
5 the deposition for review, and sign promptly.
6 Thanks again.
7 (Deposition concluded at 12:00 p.m.)
8 (Signature requested.)

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 Number: 1 Author: user Subject: Sticky Note Date: 10/3/2010 4:49:56 PM
Objection to deposition question

 Author: lwinmill Subject: Sticky Note Date: 10/12/2010 7:29:35 AM
Overruled.