

1 Code No. 4185

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5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE
6 OF NEVADA, IN AND FOR THE COUNTY OF WASHOE
7 THE HONORABLE SCOTT N. FREEMAN, DISTRICT JUDGE

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9 LAWRENCE GARVEY, an Case No. CV25-02319
individual; and ROBERT PAYTON,

10 an individual; Dept. No. 9

11 Plaintiffs,

12 v.

13 CLUB TAHOE RESORT OWNERS
ASSOCIATION, INC., a Nevada
nonprofit corporation; et al.,

14 Defendants.

15 _____/

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17 TRANSCRIPT OF PROCEEDINGS
18 MOTION FOR PRELIMINARY INJUNCTION
19 Wednesday, April 1, 2026
20 Reno, Nevada

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22 Reported by: Brandi P. Smith

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Also present:
Gayle Kern, Association General Counsel
Keith Wilson, Association Board President

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1 RENO, NEVADA - WEDNESDAY, APRIL 1, 2026 - 10:55 A.M.

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5 THE COURT: Please be seated. We're on
6 the record in CV25-02319, Garvey vs. Club Tahoe, et
7 al.

8 Appearances, please, we'll start with the
9 plaintiff.

10 MR. HASKIN: Good morning, Your Honor.
11 Richard Haskin and Madison Wedderspoon appearing as
12 counsel on behalf of the plaintiffs. Also with me
13 today are Larry Garvey and Robert Payton, the actual
14 plaintiffs in the case, along with other homeowners
15 from the association.

16 THE COURT: Very good. Thank you.
17 Welcome to Department 9 here in Reno.

18 MR. SELERT: Good morning, Your Honor.
19 Whitney Selert on behalf of Club Tahoe Resort.

20 THE COURT: Very good. Welcome to
21 Department 9. Who else do you have?

22 MR. SELERT: I have Gayle Kern with me and
23 the president of the association's board, Keith
24 Wilson.

1 THE COURT: Very good. Is Ms. Kern
2 representing --

3 Are you representing anybody today,
4 Ms. Kern?

5 MS. KERN: I'm not an attorney of record.
6 I'm general counsel to the association.

7 THE COURT: You're at counsel table for
8 that purpose?

9 MR. SELERT: That's the only reason.

10 MS. KERN: Yes, Your Honor. Mr. Selert
11 just requested that I --

12 THE COURT: All right. Thank you. You
13 may be seated. A couple disclosures. I used to
14 live in Incline. My ex-wife helped develop the pool
15 at the rec center. I'm very familiar with the area.
16 I'm uniquely qualified to hear this case.

17 That being said, I'll hear from the
18 plaintiffs first.

19 MR. HASKIN: Yes, Your Honor. Thank you.
20 And I won't bore the Court, as I know you've read
21 the papers, everything that's in them, but just want
22 to go through this case how I see it.

23 THE COURT: Sure. You never bore me. But
24 let me share with you, because you haven't appeared

1 before me before, I've read everything.

2 MR. HASKIN: I figured you had, Your
3 Honor.

4 THE COURT: What's helpful is if you want
5 to hit the high notes upon which you believe you'll
6 be successful in the case, I say the same thing for
7 the defendants as well, because I've read
8 everything.

9 Go ahead.

10 MR. HASKIN: Great. Your Honor, I view
11 this case in three parts, and I'll approach it from
12 the first part for the injunction attacking what I
13 think is the most crucial element here today, which
14 is likelihood of success on the merits. I'm going
15 to break that down into three parts and the way I
16 see it.

17 So the way I view this case is in three
18 distinct parts. The first are the petitions, the
19 notice is second, and the third is the actual
20 election. So I'm going to break it down like that.

21 With respect to the petitions -- and, Your
22 Honor, this is unique because this is not a
23 traditional NRS 116 association. We're dealing with
24 a timeshare. Totally different code, none of that

1 code really applies in this case, as I'm sure Your
2 Honor can appreciate.

3 But what does apply are two things. One,
4 the governing documents, which in this case there
5 are CC and Rs, but they're really scant, it's really
6 the bylaws. The second part is NRS Chapter 82,
7 dealing with nonprofit corporations.

8 With respect to the petitions, if we're
9 going to look at that part first, that's governed by
10 Bylaws Article 4, Section 4, which requires that if
11 you're going to petition for a recall, you need at
12 least 15 percent of the membership. In this case,
13 770 signed petitions were gathered, equating to
14 roughly 18.6 percent of the membership, well over
15 the 15 percent requirement.

16 Those petitions were gathered by the
17 homeowners. They were then FedEx-delivered to the
18 association on September 18, 2025, a signed FedEx
19 receipt dated September 20, 2025, by a Kevin K. for
20 the association accepting the receipt of those
21 petitions. So we met the first part of this, which
22 is the petitions. Okay?

23 The second part we go to is now the
24 notice. That's where it becomes a little more

1 complicated. The notice was originally supposed to
2 be effectuated by the board itself. Pursuant to
3 Article 4, Section 2, the board, not should, not
4 can, but must call a meeting when presented with the
5 requisite number of petitions. In this case, we
6 exceeded the requisite number of petitions. The
7 board received the petitions, the board then
8 completely ignored them, and they completely ignored
9 the homeowners. So after the petitions are sent,
10 nothing. Okay? After the petitions are sent, three
11 more demands are made to the board to circulate a
12 notice of special meeting. They did nothing, no
13 retort, no response.

14 So in response to the no response, what
15 the homeowners did is turn to NRS 82.336(1) that
16 gives the members themselves a right to call a
17 special meeting. That's exactly what they did. So
18 the meeting is noticed by the homeowners themselves
19 on October 11, 2025. They give notice for a
20 October 25, 2025, meeting which provides the
21 sufficient 14 days notice.

22 So then we go to the election itself. The
23 election takes place on October 25, 202- -- yeah,
24 October 25, 2025, 14 days after the notice. That's

1 pursuant to Bylaws Article 5, Section 3. A
2 two-thirds vote is required to recall the board.
3 They receive a 641 to zero vote. It's a unanimous
4 vote, well over, obviously, the two-thirds threshold
5 that's required by the bylaws, and the election
6 happens.

7 The board is notified of the election
8 results. The board refuses to step down.

9 THE COURT: You are referring to a special
10 meeting -- you're talking about the special meeting
11 that occurred on October 25th?

12 MR. HASKIN: Yes.

13 THE COURT: Is that the meeting where the
14 homeowner's association attempted to go to the
15 association clubhouse --

16 MR. HASKIN: Yes, Your Honor.

17 THE COURT: -- but it was locked out and
18 they had to --

19 MR. HASKIN: Yes.

20 THE COURT: Let me just finish. I'm
21 making my record.

22 -- that they were locked out and they had
23 to find someplace else to have the meeting because
24 they couldn't use their own clubhouse to hold the

1 meeting. Is that correct?

2 MR. HASKIN: That is correct, Your Honor.

3 THE COURT: I just want to make sure I
4 read that correctly. Go ahead.

5 MR. HASKIN: They did. And that comes to
6 the next point, Your Honor, because if we look at
7 this and break it down where we have petitions,
8 satisfied, we have notice, satisfied, we have an
9 election, 641 to zero recall, the board has done
10 everything in its power to thwart that election.

11 THE COURT: The board that was in
12 existence at the time before the special meeting?

13 MR. HASKIN: Your Honor, we have referred
14 to it as the "former board," and I believe that's
15 what it is. The former board did everything it
16 could to thwart this election from start to finish.
17 When it got the petitions, which it got, their only
18 argument is somehow that they didn't receive the
19 petitions. That's baloney. They don't have any
20 sworn testimony to that effect.

21 Not only that, Your Honor, I -- because
22 preliminary injunction hearings can be evidentiary
23 hearings, I brought with me today Robert Payton, who
24 had a recent conversation with the infamous Kevin

1 K., found out who that was, and he acknowledged that
2 he did, indeed, sign for those petitions. They
3 ended up in the clubhouse.

4 THE COURT: Still might be hearsay if you
5 don't have the infamous Kevin K. physically present.

6 MR. HASKIN: Well, I don't think it's
7 hearsay, Your Honor. I believe it's a party
8 admission because he is an employee of the
9 association, and he was delegated with the duty to
10 sign for documents as they came into the clubhouse.

11 THE COURT: All right. I haven't heard
12 from the defense yet. I'll see what their position
13 is. Go ahead.

14 MR. HASKIN: Sure thing. He had that
15 conversation, Your Honor, I believe on March 12th
16 with Kevin K.

17 Regardless, the evidence we've presented
18 is a declaration from Dusk Bennett. Mr. Bennett was
19 the one who gathered the petitions and FedExed the
20 petitions, and then who presented the receipt, which
21 is in the Court's record.

22 In addition to ignoring the petitions,
23 what they did next was they failed to call the
24 special meeting. Okay? Then when they failed to

1 call the special meeting, the homeowners called it.
2 The night before the election, they notified the
3 homeowners that they could not use the association's
4 facilities to hold that special meeting.

5 THE COURT: I just said that. Go ahead.

6 MR. HASKIN: So the association members,
7 using their own ingenuity, found an alternative
8 location and directed people to conduct the vote.
9 The vote was had, the election was had.

10 Look, actions have consequences. The
11 actions of this board propelled those consequences,
12 they overwhelmingly led to a recall election. And
13 elections have consequences, that's why we're here
14 today, because there are people sitting behind me
15 that voted to recall the board, and the board is,
16 because they just happen to be sitting in power,
17 refused to relinquish it.

18 THE COURT: I understand.

19 MR. HASKIN: If we're going to look to the
20 factors for the injunction, Your Honor, I believe we
21 went through the likelihood of success. With
22 respect to immediate and irreparable harm, there's
23 two competing boards right now, so I think
24 there's -- and there's no monetary damages that are

1 involved in this case.

2 THE COURT: I understand.

3 MR. HASKIN: I think that that addresses
4 that issue.

5 If we're balancing the equities, Your
6 Honor, there are no hardships, hardships to the
7 defendants in this case. This is a voluntary
8 position, they're not losing their livelihood. They
9 are simply having to acknowledge the results of a
10 recall election. Balancing it in favor of my
11 clients, they rightfully won a fair election, and
12 they are being denied the opportunity to serve on
13 the board.

14 In terms of the public interest factor --
15 and I think this is a big one, Your Honor, that
16 can't be ignored -- there are several cases, and
17 whether you want to look to -- you know, whether
18 it's Citizens United vs. FEC and and how the
19 sanctity of elections is announced in that decision.
20 There are other cases, Your Honor, that deal with
21 HOA elections having the same kind of sanctity and
22 respect from the government and from the association
23 members that is afforded to any public official and
24 public officer. We need to observe the sanctity of

1 elections, and that promotes the public interest in
2 this case.

3 The only thing we're asking, Your Honor,
4 is that this Court simply, for lack of a better
5 term, certify a recall election that was held with
6 the proper number of petitions, it was properly
7 noticed, and the vote was 641 to zero. Even despite
8 all of the efforts taken by the former board to
9 thwart that election, these homeowners, with their
10 willpower, still made it happen.

11 That's it, Your Honor.

12 THE COURT: That's not really it. You're
13 not going to sit down yet.

14 MR. HASKIN: Okay.

15 THE COURT: You gave me a section related
16 to an alternative request for special master. I
17 want you to develop that for me.

18 MR. HASKIN: Sure. And, Your Honor,
19 that's how we view it, as an alternative for the
20 Court.

21 THE COURT: I saw that.

22 MR. HASKIN: Yeah, I didn't want to leave
23 the Court empty-handed, in case you viewed this as
24 just a big mess.

1 THE COURT: I'm going to make a record.

2 MR. HASKIN: Yeah.

3 THE COURT: You didn't leave me
4 empty-handed. I read your pleadings, that was a
5 very interesting alternative. You were about to sit
6 down, I'd like you to expand that.

7 MR. HASKIN: Sure.

8 THE COURT: Whether it's an alternative or
9 not, that's still part of your argument, I want to
10 hear it.

11 MR. HASKIN: Well, Your Honor, I'm drawing
12 from my own experience in that, and I have had,
13 let's say, messy situations like this in the past
14 that I've addressed. In those cases, what I have
15 proposed and used was the appointment of a
16 third-party neutral as a special master to oversee
17 the administration of a new election pursuant to the
18 bylaws and our --

19 THE COURT: And wouldn't -- while they're
20 waiting for the special election per your request,
21 also oversee the business of the timeshare
22 association, if you will, so bills are paid,
23 management companies are paid, if the business
24 continues on until that special election could

1 occur, with that particular court assistance
2 oversight. Is that correct?

3 MR. HASKIN: That is correct, Your Honor.

4 THE COURT: So, theoretically, you would
5 be requesting an expansion --

6 What are we handing out?

7 THE CLERK: Your Honor, Ms. Roxanne --

8 THE COURT: I did not authorize that to be
9 handed out now. Pick those up, please. Thank you.
10 Please continue.

11 MR. HASKIN: Yeah.

12 THE COURT: My point was an expansion of
13 the idea that under the circumstances, they would
14 have authority not only to hold a special election
15 but also to oversee the business until it was
16 handled. Is that correct?

17 MR. HASKIN: That would be correct, Your
18 Honor, yes.

19 THE COURT: All right. Thank you so much.
20 Anything else you want to add on that?

21 MR. HASKIN: Yeah, I do, Your Honor. If
22 we go that route, if Your Honor chooses to go that
23 route, the current management company in place is a
24 company called "GPR," the only thing we would ask is

1 that GPR not be permitted to be that third-party
2 neutral.

3 THE COURT: I understand that, yes.

4 MR. HASKIN: Yeah. Okay.

5 THE COURT: In my view, they'd be a
6 vendor, somebody who would be paid to do their job
7 of management, but they'd be responsible to,
8 potentially, a special master.

9 MR. HASKIN: And the last thing I'll add,
10 Your Honor, just to give Your Honor some flexibility
11 in thought, when I've done this in the past, I've
12 done it two ways. I've used a third-party
13 management company, like a GPR competitor, and -- I
14 didn't like it either, I can tell from Your Honor --
15 the second thing I did was use a attorney who
16 specializes in homeowners association.

17 THE COURT: I got someone else in mind, if
18 I'm going to follow that, but I want you to expand
19 on that. Fair, reasonable alternative request by
20 you.

21 MR. HASKIN: I thought so, Your Honor,
22 I -- the only thing is -- and I can tell, you're
23 probably going to make a face at me -- they do view
24 that as an alternative. I think, frankly, that the

1 election --

2 THE COURT: I understand.

3 MR. HASKIN: -- in this case is so, kind
4 of, straightforward and linear in how it happened.

5 THE COURT: I didn't realize my faces were
6 so famous, but I guess they are.

7 MR. HASKIN: They are becoming famous to
8 me this morning, Your Honor.

9 THE COURT: You can ask anybody in town.
10 Anyway, I appreciate that.

11 MR. HASKIN: Okay. Thank you, Your Honor.

12 THE COURT: I'll give you a chance to
13 respond.

14 MR. SELERT: Thank you, Your Honor. I
15 guess the best way to sum this case up in the
16 association's position is that there's a right way
17 to do things, and there's a wrong way to do things.

18 I offered, November 3rd, a week after this
19 special election, to hold another interim election,
20 rule compliance, to satisfy whatever gripes they
21 have about the April 2025 election and moot all
22 this. Rejected that, full confidence they had in
23 their recall election. And I'll tell you why that's
24 wrong.

1 Your Honor, you know, it was almost a year
2 to the date that you were deciding the Tricom
3 litigation where the association found itself in the
4 super untenable and unenviable position of having
5 fired its former manager because it wasn't doing a
6 good job.

7 THE COURT: And the former manager
8 wouldn't leave.

9 MR. SELERT: They wouldn't leave. And so
10 they wouldn't leave, and not only that, they sued
11 the association, so the association is getting beat
12 up on two fronts. We go to the American Arbitration
13 Association, emergency measures arbitrator gives us
14 an order telling Tricom to give back your other --
15 vacate the premises, give back all their property so
16 we could retain a new manager and get the
17 association righted. It there was a reason we
18 terminated the contract with Tricom. Right? And
19 then once we got that order, did they do that? No.
20 They came to this court and tried to set aside that
21 order, and it took us until August to get that set
22 aside.

23 In the meantime, we have the governing
24 documents requiring an annual election and an annual

1 meeting at the last week -- the last weekend of
2 April. And so without Tricom's assistance and no
3 other choice, we had to hold that election as best
4 we could, and that's what the board did as best they
5 could.

6 So it is an undisputed fact that, for
7 right or wrong, that election was held and a board
8 was seated and that board included two of the
9 members that are on the new recall board and that
10 they were in place and performing that function.

11 THE COURT: Does your client have any
12 objection to a new election done with the
13 appropriate oversee to see what the position of the
14 homeowner association is?

15 MR. SELERT: We've been offering it since
16 November, because my clients have no dog in the
17 fight, they're not paid, as they mentioned.

18 I will tell you this much about that: On
19 a preliminary injunction motion, you know, the
20 standard is to preserve the status quo until
21 competing claims can get sorted.

22 THE COURT: I understand.

23 MR. SELERT: In this case, the competing
24 claims are pretty suspect. And I got to give them

1 points for ingenuity, but I got to take those points
2 back because they could have followed the right
3 procedure. They claim they sent this petition to
4 the Court and FedExed it. When you really look at
5 the documents, you can't really connect those dots.

6 THE COURT: Your position that -- is it
7 your position that your clients didn't receive the
8 petitions?

9 MR. SELERT: That's correct.

10 THE COURT: I just want to make sure I
11 understand.

12 MR. SELERT: That evidence is in the
13 record, and I brought these two witnesses for
14 evidentiary purposes in case Your Honor was
15 interested in taking evidence on that point.

16 THE COURT: I was going to say, there's
17 always a challenge because if I allow that --

18 I apologize, Ms. Kern. The acoustics in
19 this courtroom are terrible. If somebody coughs, I
20 can't hear anything.

21 MS. KERN: Sorry.

22 THE COURT: That's okay. If you need some
23 water or anything, ma'am, please have some.

24 What I was going to say is the challenge

1 in that is that if I make a decision today related
2 to who's right on that, everybody's going to live
3 with that decision. And so there's always been a
4 challenge that I have to make a credibility call as
5 to whether or not your side is correct on receiving
6 the petition or not, because both sides want me to
7 make factual findings related to who's right for the
8 purposes of if I find your right, you win the
9 injunction, if I find they're right, they win the
10 injunction. So it's very interesting piece of
11 litigation.

12 That's why I asked, does your side object
13 to a new special election done in accordance with
14 the bylaws where it takes away your objections by
15 way of the fact that it's established that the
16 correct amount of percentage of timeshare owners
17 participated, you -- knowing of your work, I've read
18 your pleadings, I know you know your work -- agree
19 that everything's been filed according to what it's
20 supposed to do, it takes away your objection, it
21 takes away plaintiffs' objections, and it's done the
22 way it should be?

23 And if -- frankly, if it's unanimous, it's
24 unanimous, if it's not unanimous, you still count

1 the votes, but at least there'll be a board that's
2 not spending money figuring out who the right board
3 is.

4 Do you have an objection to that?

5 MR. SELERT: We offered that exact thing
6 last year.

7 THE COURT: So the answer is you have no
8 objection to it?

9 MR. SELERT: That's correct.

10 THE COURT: Thank you.

11 MR. SELERT: But I will say on the point
12 of the preliminary injunction and standards at
13 issue, that I think both parties are in agreement
14 that there's irreparable harm being done to the
15 association. That harm extends now to the point
16 that GPR, which would be the entity, every
17 management company's entity that facilitates both
18 the annual meeting and the election, they're in the
19 position now where they don't know who to talk to,
20 and we can't even comply with the requirements of
21 the annual election in April, just due to sheer
22 timing because of this.

23 THE COURT: I understand.

24 MR. SELERT: Now, it should not escape the

1 Court's notice that in the record, not only do we
2 dispute ever having received the FedEx package of
3 this petition, but they never produced it. We
4 requested it, I don't know how many times, more than
5 a dozen times since October 9th, which was well
6 before the election, all the way up through these
7 pleadings. I never saw this petition until it was
8 attached to their reply brief. Why they would hold
9 it back for that long is hard to explain, other than
10 to escape any real scrutiny or analysis.

11 And when you look at that, I've only had a
12 chance to go through parts of it, there are lots of
13 reasons why even that petition, assuming that it was
14 FedExed, and you can't even make that assumption
15 because the package they took a picture of doesn't
16 even have the tracking number of the FedEx label,
17 you can't tell what was delivered. We don't know
18 what Kevin K. accepted or what he did with it.

19 And for the record, Kevin K. is not an
20 employee of the association's; he's an employee of
21 GPR. So what happened to this thing? I don't know.

22 What I do know is that the association
23 never got the petition. As early as October 8th,
24 when Mr. -- board members Becker and Ogden

1 represented that there was a petition, we started
2 requesting it, immediately, the same day, the next
3 day, the day after that, the day after that.

4 Where's the petition?

5 What should have happened is the petition
6 gets presented to the board, the board takes the
7 petition, gives it to its association manager, who
8 then verifies that the members are, in fact,
9 members.

10 THE COURT: I understand.

11 MR. SELERT: There's a process.

12 THE COURT: I understand.

13 MR. SELERT: The process wasn't followed.
14 We outlined to them the defects in that process, and
15 they went ahead with the election anyway.

16 THE COURT: I understand.

17 MR. SELERT: So the association has never
18 even been given the opportunity to evaluate whether
19 the petition has merit. And on its face, it
20 doesn't. The petition doesn't even request a
21 special meaning.

22 THE COURT: I'm going to slow you down.

23 MR. SELERT: Yeah.

24 THE COURT: Your argument, appropriately,

1 as a good advocate, is convincing me that I should
2 find in favor of you for the preliminary injunction.

3 I am going to stop you there and you're
4 going to answer this question: What's your position
5 on the alternative request for a special master to
6 do this, in my view, the right way, oversee the
7 association and the facility until the proper people
8 are in place? What's your position on that?

9 MR. SELERT: My position is twofold. I
10 agree in principle. The second point is it's
11 frustrating because we offered that exact release
12 some six months ago. Right?

13 And let me just tell you why that's
14 frustrating, because we could have had this
15 resolved, but no, we have to spend all this time,
16 all this litigation, just to get to a point where
17 all my client was ever going to do was put out the
18 request for the special meeting, see if people
19 wanted it, put out the right notice for the
20 election, get the right candidates, facilitate the
21 vote.

22 THE COURT: Well, you know, as an
23 experienced attorney as you are, sometimes you have
24 to get to me for everybody to be where you need to

1 be sometimes.

2 MR. SELERT: Yes.

3 THE COURT: And that's where you found
4 yourself.

5 MR. SELERT: Well, I guess, while I
6 understand the Court's inclination to maybe grant
7 the special master request, there's part of me that
8 says that's really rewarding the other side for what
9 I view as dilatory practices. Where was this
10 petition months ago? Why wait to your reply brief
11 to attach that? You've been the victim of that kind
12 of sandbagging and it's not okay.

13 Your Honor's been deprived of the
14 opportunity for us to give you any meaningful
15 analysis on that petition, which, just for your
16 edification, and I can put it in the record, the
17 numbers, if you go through the petition, you'll find
18 dates where the petition was signed after it was
19 allegedly FedExed.

20 So I'm just asking, for purpose of
21 preliminary injunction, that you preserve the status
22 quo so my client can do what it would have done to
23 begin with all the way back in November.

24 THE COURT: I understand.

1 MR. SELERT: To let them have some, you
2 know, authority or ability to interfere with what
3 would otherwise be the lawful function of this
4 association is to reward them for, frankly, being
5 dilatory.

6 THE COURT: I understand. Just to answer
7 my question, is it true that the clubhouse was
8 locked, they had to find some other place to have
9 their meeting?

10 MR. SELERT: Yes. Because they had called
11 this special meeting outside of the requirements of
12 the governing document.

13 THE COURT: So somebody made a decision to
14 lock them out as opposed to letting them use their
15 facility --

16 MR. SELERT: Because it's not --

17 THE COURT: I'm not done yet. Let me make
18 my record.

19 So somebody locked them out, made the
20 decision to lock them out so they couldn't use their
21 facility for whatever they chose to do, because it
22 was viewed as a improper special meeting so they
23 were locked out?

24 MR. SELERT: It was not a board-sanctioned

1 meeting.

2 THE COURT: So it was locked out. Is that
3 correct?

4 MR. SELERT: I assume so.

5 THE COURT: Okay. I just want you to make
6 your representations as an officer of the court. I
7 just want to make sure I understand those facts.

8 MR. SELERT: Right.

9 THE COURT: Those are troubling facts.
10 But I understand what you're saying.

11 MR. SELERT: Well, I understand, Your
12 Honor, and I don't -- I assume if you put yourself
13 in a position of --

14 THE COURT: I'm not focused on you. I
15 want to ask what your clients did. I'm not blaming
16 you.

17 MR. SELERT: I don't take it personal.
18 But I would say, had I been in a position of board
19 counsel and I had just spent, I don't know how many
20 days and emails explaining what the defect was and
21 the process they were trying to pull to engineer
22 this election and that they refuse to cure those
23 defects and wanted to proceed anyway, I don't think
24 I'd give them the room to do that.

1 THE COURT: I don't think it'd be your
2 right to. If I paid my dues, I could use the room
3 for what I wanted to. And I don't think that
4 anybody has the ability to lock anybody out. So
5 that was a troubling fact for me. You can justify
6 it any way you want. That's how the Court looks at
7 it. That's the way I find it. So that's a problem,
8 but it is not substantively going to make my
9 decision in this case.

10 But that type of behavior is very
11 troubling to the Court because if you're -- if you
12 are a member of that organization and a paying-dues
13 timeshare owner, you can -- I'm looking at you right
14 now -- you can use the room for whatever you want
15 and can't be locked out. That is a problematic fact
16 that I'm not directing that you, Counsel, but I'm
17 making my record accordingly. That was very
18 troubling to me.

19 MR. SELERT: I get that. And had it been
20 a volleyball game or a ping pong game or a party for
21 my son, you'd be absolutely right. But to hold a
22 board-sanctioned event or an event that is
23 purporting to exercise the authority in the name of
24 the board when it's not, that's different. That's

1 my only point, Your Honor.

2 THE COURT: You've advocated accordingly.

3 MR. SELERT: The other thing I would point
4 out is that that decision was made by GPR, not the
5 board's of -- the association's board. GPR is the
6 management company who has control over that.
7 They -- I think at that time, all they knew was that
8 there was a recall board or some kind of election
9 wanting to be -- some activity wanted to be held in
10 the name of the association and the sitting board
11 was -- had not authorized that.

12 THE COURT: I understand what you're
13 saying. No, I understand your answer. I shared my
14 concern. Anything else you want to tell me?

15 MR. SELERT: No, Your Honor.

16 THE COURT: Okay. I certainly want to
17 make sure that you have the ability, if I've not
18 done so, to argue your own motion for preliminary
19 junction. You're actually standing in your capacity
20 as opposing theirs. Is there anything else you want
21 to tell me related to your motion for preliminary
22 junction?

23 MR. SELERT: A couple of minor points on
24 that. One, we filed that motion first. So that was

1 filed before their motion, and it was submitted,
2 frankly, before their motion was filed because they
3 did not respond timely. So despite an extension on
4 that basis alone, it could have been granted. I
5 understand, Your Honor, rightly, as I would, would
6 prefer to resolve it on the merits.

7 THE COURT: Thank you.

8 MR. SELERT: On the merits, I would just
9 say that on the likelihood of success on the merits,
10 that this recall election was invalid, I think that
11 has been clearly demonstrated, and even minor
12 scrutiny in the record shows that to be the case.
13 The petition was not delivered. The petition that
14 we finally got to see attached to the reply brief
15 doesn't even call for a special meeting, so it's
16 noncompliant. The request for the special meeting
17 by the two board members doesn't satisfy the
18 requirements of the governing documents, which
19 requires a quorum.

20 They refused to cure that, refused to
21 provide copies of the petition. They gave us a --
22 all we have in the record right now is a form of the
23 notice that was allegedly sent to the members. We
24 have no evidence or verification that that notice

1 was sent to all the members.

2 So if it was sent to 670 or whatever, the
3 people who felt like you, then no wonder it's a
4 unanimous vote. But that seems a little odd that
5 you would have a unanimous vote. I think anybody
6 who'd been paying attention to the operation of this
7 association during the time that Tricom was manager
8 and what this board's been through just trying to
9 get any manager in place would, maybe, sympathize a
10 little differently.

11 So on the merits, I think we've proven a
12 likelihood of success that that recall election did
13 not follow or comply with the government documents.
14 The irreparable harm element, they've conceded, but
15 it's entirely because of them that GPR won't deal
16 with anybody. They don't know what to do.

17 THE COURT: I understand. I'll give you
18 another chance to speak after I get their sort of
19 reply, I suppose.

20 MR. SELERT: Fair enough.

21 THE COURT: I'll hear from you now.

22 MR. HASKIN: Yes, Your Honor. I'm going
23 to go back to the petitions quick. First of all,
24 the evidence in the record in -- and I'm going to

1 belabor this point, so I apologize, Your Honor. The
2 only evidence in the record is a declaration from
3 the person who gathered the petitions, who FedExed
4 the petitions, who attached a receipt that the
5 petitions were delivered. That's it.

6 There is no evidence, zero, that they did
7 not receive the petitions. There's not a
8 declaration from any board member that says we
9 didn't receive them, just a declaration from GPR
10 saying we didn't receive them.

11 THE COURT: So you agree with me that the
12 opposition by the defendants is a technical one.
13 Your position is, is that the petition was
14 appropriately garnered, gathered, served, and opened
15 the door for the ability to have your special
16 meeting. Correct?

17 MR. HASKIN: Correct.

18 THE COURT: Their position is they never
19 received it, that it was illegally -- I won't say
20 "illegally," I'll say in a properly reviewed, didn't
21 receive, meeting wasn't held correctly, and they're
22 attempting to hold on to power. Would you agree
23 with that?

24 MR. HASKIN: I do agree with that.

1 THE COURT: Okay. So they filed a
2 restraining order to have me agree with them, right,
3 because they find technical defects in -- they're
4 trying to convince me there are technical defects in
5 holding the special meeting. I've already
6 indicated, somewhat aggressively, my feelings on
7 them locking you out of the board meeting. I find
8 that not to be substantive, but an example that's in
9 your favor that there was a thwarting going on. But
10 that's not the point.

11 The point is, doesn't it all kind of shift
12 gears that if you have clients that are adamant
13 about changing the board, they should not be adverse
14 to doing it again, so I don't have to make the call.
15 Because if I make the call and find in favor of the
16 defendants, you lose, and you're stuck with that
17 board. And if I make the call in favor of you, then
18 they lose, they're stuck with the new board.

19 But to me, it makes sense that both
20 sides -- I'm sort of hearing both sides saying --
21 frustration from the defense counsel that he's made
22 this proposal before, I'm not finding that one way
23 or another, I'm just saying I'm hearing is good
24 advocacy, that he was coming from a common sense

1 approach, said: Judge, I hear what you're saying,
2 but I try to give -- I tried to ask them months
3 ago -- potentially for a special master months ago
4 to have this done right.

5 I'm not hearing anything adverse from the
6 defense. Am I correct, sir? Other than dilatory
7 tactics, you're on my page, correct, you want it
8 done right?

9 MR. SELERT: Correct. From the outset.

10 THE COURT: Thank you. So that's what I'm
11 hearing.

12 Do you have any objection to that?

13 MR. HASKIN: I don't, Your Honor. Let me
14 shift away from the petitions, because I understand
15 Your Honor wants to go that direction.

16 THE COURT: Yeah.

17 MR. HASKIN: With respect to the
18 efforts -- and I -- a lot of those discussions were
19 had during settlement communications, so they are
20 privileged, frankly, but it was our office that
21 suggested the special master, not theirs.

22 THE COURT: Okay.

23 MR. HASKIN: I understand, Your Honor, but
24 they keep going back to the fact that they've been

1 sandbagged and I'm engaged in dilatory tactics. We
2 had this discussion months ago, and what held it up
3 was their insistence to use GPR as the special
4 master. I can't, in good advocacy, ever agree to
5 use GPR as the special master, as I'm sure Your
6 Honor could appreciate.

7 THE COURT: I wouldn't appoint GPR as a
8 special master. It's off the table.

9 MR. HASKIN: And that's why we're here,
10 Your Honor. And that's why we offered this as an
11 alternative solution in our pleadings.

12 THE COURT: And that's why I turned to you
13 first. It is no reflection on the defense at all,
14 but I thought that was a very reasonable suggestion,
15 and it makes sense to the Court almost on every
16 level.

17 The paperwork that I had, now, Ms. Clerk,
18 is what I need. I'm going to take those. Thank
19 you.

20 All right. Let me tell you -- first of
21 all, I want to make sure I'm not cutting you off.
22 Anything you want to tell me?

23 MR. HASKIN: Your Honor, unless there's
24 something you'd like us to address with respect to

1 their preliminary injunction, I don't think so, Your
2 Honor. I think I'm done.

3 THE COURT: You know where I'm coming
4 from.

5 MR. HASKIN: I know where you're coming
6 from and where you're going.

7 THE COURT: I was just about to say it, so
8 you know where I'm coming from.

9 Do you want to add anything?

10 MR. SELERT: Your Honor, I do, but I --

11 THE COURT: Say whatever you want.

12 MR. SELERT: Well, I -- you know, I would
13 just say no offer to do this was made until after we
14 filed a preliminary injunction motion. We had to
15 file that because the association was not being
16 managed and could not be managed and harm was
17 accumulating.

18 THE COURT: I get it.

19 MR. SELERT: Had they agreed to that back
20 then, we would already be done with this interim
21 election.

22 One thing I will say about GPR is they
23 would have been the entity to facilitate the
24 election because that's their job. They are a

1 professional management company, that's what they
2 do, that's why you have them. Someone's got to
3 verify the roles. They've got to make sure proper
4 notice gets out and it's timely and it's sufficient,
5 and they got to set up meeting, all the things.
6 Right? And that so that's their job. We're already
7 paying them to do that.

8 Why we couldn't have just asked, and, in
9 fact, I did ask back in November, why don't we just
10 do this? And that's -- they had full faith and
11 confidence in the results of the election back then,
12 and that's why we didn't get it done.

13 Now they know, and I think the Court would
14 appreciate, if you really got down to it, that they
15 cannot justify that recall election. I get the
16 intent, I know it was in good faith, I know they
17 wanted to engineer this recall.

18 But like I said at the outset, there's a
19 right way to do that and a wrong way. They just
20 didn't do the right way, even though Ms. Kern mapped
21 it out for them, here's what you do in advance of
22 the election, they went ahead anyway. And so here
23 we are.

24 THE COURT: I get it. All right.

1 Submitted?

2 MR. SELERT: Yes.

3 THE COURT: Submitted?

4 MR. HASKIN: Submitted, Your Honor.

5 THE COURT: Thank you. Everybody knows
6 what I'm going to do. I'm going to appoint a
7 special master. The special master is going to
8 be -- I'm granting your alternative request, for the
9 record, plaintiffs. I'm not going to rule on the
10 preliminary injunctions or injunctive relief. I'm
11 not finding for one side or the other in this
12 regard.

13 I'm going to order the special master to
14 hold the election. I have no objection with the
15 representative from the plaintiffs and no objection
16 to you, Ms. Kern, as counsel for your clients,
17 overseeing, make sure it's done according to the
18 bylaws. There'll be a special election. And also,
19 my special master will oversee the business of --
20 what do want to to call it? -- the club until the
21 association is in place.

22 I'm going to appoint former Incline
23 Justice of the Peace, Alan Tirus to that. I'm now
24 going to provide you with his resume. That's what

1 the documents were that I wasn't allowing you to see
2 before. I allow them to be presented now. Former
3 Judge Tirus has provided us his resume. I've
4 already talked to him in anticipation of this, and
5 he has agreed to undertake this order.

6 I'll prepare the order. The associate
7 will pay his fees, according to Rule 53. And I'm
8 going to encourage everybody to get this done as
9 soon as possible, get it done as soon as possible so
10 the new association board is in place. All the
11 appropriate rules by the bylaws will be followed so
12 there is no dispute. And my order is that this will
13 be done as soon as practicable.

14 For the purposes of this time, for
15 everyone's understanding, I am going to afford
16 former Judge Tirus the authority as a court master.
17 As a consequence, if there's going to be any
18 activities affirmatively done, it is -- the status
19 quo is going to be through Judge Tirus. So if
20 somebody said, well, who's got the power, what has
21 Judge Freeman done, it is remaining in place as it
22 is, however, subject to Judge Tirus's supervision.

23 So my suggestion is that counsel contact
24 Judge Tirus as soon as possible and get this on with

1 the appropriate notices, with appropriate petition
2 signatures, whatever needs to be done to remove the
3 objections from both sides and get a governing
4 association in as soon as possible. That is my
5 order.

6 Any questions from the plaintiffs?

7 MR. HASKIN: None from the plaintiffs,
8 Your Honor.

9 THE COURT: Any questions from the
10 defense?

11 MR. SELERT: To be clear, Your Honor, when
12 you say you're going to maintain the status quo
13 under Judge Tirus --

14 THE COURT: There's not going to be any
15 activity by your association. It's going to be
16 through Judge Tirus.

17 MR. SELERT: That's what I wanted to know,
18 whether or not my board has any --

19 THE COURT: None.

20 MR. SELERT: -- obligation under the
21 statute, because that was one of our major concerns
22 with this whole thing, these guys cannot just hand
23 over power to someone without --

24 THE COURT: None.

1 MR. SELERT: Okay.

2 THE COURT: It's going to be through --
3 that's what a special master is.

4 MR. SELERT: Understood.

5 THE COURT: So everybody's clear, there'll
6 be nothing affirmative done by the current board or
7 the recall board. There is no board as far as I'm
8 concerned at this time. And Judge Tirus will do an
9 election, we'll get a new board in place, and we'll
10 make sure that everybody is where they're supposed
11 to be so everybody can enjoy their timeshares.

12 Anything further?

13 MR. HASKIN: Nothing from the plaintiffs,
14 Your Honor.

15 THE COURT: Any further?

16 MR. SELERT: Nothing, Your Honor.

17 THE COURT: You have his phone number,
18 he's expecting your call. I'll have a formal order.

19 We'll be in recess. Thank you, everyone,
20 for your excellent arguments, excellent briefs.

21 (Proceedings concluded at 11:33 a.m.)
22
23
24

1 STATE OF NEVADA)
) ss.
2 COUNTY OF WASHOE)

3
4 I, Brandi P. Smith, do hereby certify:

5 I was present in Department No. 9 of the above
6 court on April 1, 2026, at the hour of 10:55 a.m. of
7 said day, and I then and there took verbatim notes
8 of the proceedings had and testimony given therein
9 in the case of State of Nevada, Plaintiff, v.
10 Garvey, et al. v. Club Tahoe, et al., Defendant,
11 Case No. CV25-02319.

12 That the foregoing transcript is a true and
13 correct transcript of my said notes so taken as
14 aforesaid, and is a true and correct statement of
15 the proceedings had and testimony given in the
16 above-entitled action to the best of my knowledge,
17 skill, and ability.

18
19 DATED: At Reno, Nevada, on the 21st day of April,
20 2026.

21 /S/ Brandi P. Smith

22 _____
23 Brandi P. Smith
24

[053f - agreed]

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