

**Court File No. T – 633-12**

**FEDERAL COURT OF CANADA**

**AND BETWEEN:**

**KEN FERANCE AND PEGGY WALSH CRAIG**

**Applicants**

**-and-**

**ATTORNEY GENERAL OF CANADA, MARC MAYRAND  
(CHIEF ELECTORAL OFFICER), DIANNE JAMES MALLORY  
(RETURNING OFFICER FOR NIPISSING-TIMISKAMING), JAY ASPIN, SCOTT  
EDWARD DALEY, RONA ECKERT, ANTHONY ROTA**

**Respondents**

**Court File No. T – 635-12**

**FEDERAL COURT OF CANADA**

**AND BETWEEN:**

**THOMAS JOHN PARLEE**

**Applicant**

**-and-**

**ATTORNEY GENERAL OF CANADA, MARC MAYRAND  
(CHIEF ELECTORAL OFFICER), SUSAN J. EDELMAN (RETURNING OFFICER  
FOR YUKON), RYAN LEEF, LARRY BAGNELL, KEVIN BARR, JOHN STREICKER**

**Respondents**

*(Style Of Cause Continued)*

**Court File No. T – 621-12**

FEDERAL COURT OF CANADA

AND BETWEEN:

**JEFF REID**

Applicant

-and-

**ATTORNEY GENERAL OF CANADA, MARC MAYRAND (THE CHIEF ELECTORAL OFFICER), LAUREL DUPONT (RETURNING OFFICER FOR ELMWOOD-TRANSCONA), JIM MALOWAY, ILONA NIEMCZYK, LAWRENCE TOET, ELLEN YOUNG**

Respondents

**Court File No. T-619-12**

FEDERAL COURT OF CANADA

AND BETWEEN:

**SANDRA McEWING and BILL KERR**

Applicants

-and-

**ATTORNEY GENERAL OF CANADA, MARC MAYRAND (THE CHIEF ELECTORAL OFFICER), JOHANNA GAIL DENESIUK (RETURNING OFFICER FOR WINNIPEG SOUTH CENTRE), JOYCE BATEMAN, ANITA NEVILLE, DENNIS LEWYCKY, JOSHUA MCNEIL, LYNDON B. FROESE, MATT HENDERSON**

Respondents

*(Style Of Cause Continued)*

**Court File No. T – 634-12**

**FEDERAL COURT OF CANADA**

**B E T W E E N:**

**YVONNE KAFKA**

**Applicant**

**-and-**

**ATTORNEY GENERAL OF CANADA, MARC MAYRAND (CHIEF ELECTORAL OFFICER), ALEXANDER GORDON (RETURNING OFFICER FOR VANCOUVER ISLAND NORTH), JOHN DUNCAN, MIKE HOLLAND, RONNA-RAE LEONARD, SUE MOEN, FRANK MARTIN, JASON DRAPER**

**Respondents**

**Court File No. T – 620-12**

**FEDERAL COURT OF CANADA**

**AND B E T W E E N:**

**KAY BURKHART**

**Applicant**

**-and-**

**ATTORNEY GENERAL OF CANADA, MARC MAYRAND (CHIEF ELECTORAL OFFICER), DIANNE CELESTINE ZIMMERMAN (RETURNING OFFICER FOR SASKATOON-ROSETOWN-BIGGAR), KELLY BLOCK, LEE REANEY, VICKI STRELIOFF, NETTIE WIEBE**

**Respondents**

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**REPLY AFFIDAVIT OF FRANK L. GRAVES  
(sworn December 3, 2012)**

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I, Frank L. Graves, of the City of Ottawa, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I make this affidavit in reply to the sur-reply affidavit of Ruth Corbin sworn August 31, 2012.
2. On August 23, 2012, I swore an affidavit replying to the responding affidavit of Dr. Corbin, sworn August 8, 2012. Attached as Exhibit "A3" to that affidavit was a PowerPoint presentation I had prepared concerning the use of interactive voice response (IVR) technology.
3. In that PowerPoint the following statement is made:

" IVR is good for short polls and for population seeding a panel, BUT live follow-up is crucial:

- verification
- explanation
- create dossier of key demographics"

4. At paragraph 40 of her sur-reply Corbin says this:

The Graves Reply reinforces the problems created by methodological flaws. The PowerPoint presentation in Exhibit A3 of the Graves Reply contains several promotional statements about the Interactive Voice Response technology employed in the Ekos survey, and at the same time acknowledges the controversies that surround this relatively new technology. The Powerpoint presentation advises that "live follow-up is crucial" to verify identities and obtain explanations, yet the Ekos survey has omitted this "crucial" step. The presentation acknowledges certain distortions in who answers IVR surveys, compared to the normal population, distortions confirmed in the Ekos survey, yet Mr. Graves' interpretation has failed to adjust for them.

5. In reviewing her evidence I took the thrust of her criticism to be that the absence of live call backs would call into question the survey results because of “certain distortions in who answers IVR surveys, compared to the normal population”. I addressed this concern about the reliability and representativeness of the survey, as did Dr. Nevitte; however neither of us commented on the specific question of “live follow up”, and no questions were asked on this specific point during cross-examination. .
6. However, in assisting Counsel to prepare for oral argument, I have become aware that the aforementioned statement is being relied upon for a broader purpose, and reflects a misapprehension about the intent and meaning of my statement. I concede that my statement may be read otherwise, but my comment about the crucial need for live follow up was intended only to apply to “population seeding a panel” not to short polls, for the following reasons.
7. The term “population seeding a panel” refers to the very specific process of recruiting and incorporating respondents into an ongoing panel. Unlike a one-time survey, a panel is a large group of respondents maintained in a computer data base, that we return to on an ongoing basis to answer subsequent surveys. Our panel, Probit, is a random probability panel of respondents who have agreed to be included in a series of future surveys. It is not unusual for a panelist to participate in dozens and sometimes over a hundred subsequent surveys. The reasons that a live interviewer is crucial in the case of seeding a population (probability) panel are as follows: 1) it is impossible to accurately get the full contact information for subsequent surveys simply from the IVR interview (by touchpad). Most critically, we need to collect email addresses which cannot be keyed in on a

telephone pad. We also collect other contact information such as address and a fuller range of demographic data which would not be collected in IVR. In fact, none of these data could or should be collected in a short IVR survey but they are absolutely essential to adding a member to a panel. 2) The live interview also explains the terms and agreement of panel membership and answers frequent questions about responsibilities, incentives and privacy. These also require an interactive context between a live interviewer and the future panelist.

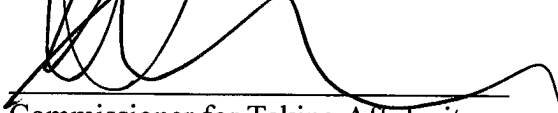
8. IVR, linked to random telephone sampling is an excellent methodology for short surveys. By short we typically mean less than three minutes, which typically allows about 20 closed ended questions that can be keyed in via the touchpad on the telephone. Our experimental testing shows that respondents will not tolerate much longer interviews (particularly in the case of cell phones) because the attention spans are limited in this type of interview and keying responses begins to get burdensome. There are several reasons that the live verification procedures used in 100% of our panel recruitment are neither necessary nor even applicable in the case of a small sample of IVR respondents. It should be noted that even in the case of live interviewer telephone surveys neither the Marketing Research and Intelligence Association (MRIA) nor the Government of Canada OC require the use of live verification. Even in the case of live interviewers, live monitoring is an acceptable alternative and it is very rare to see live verification even in the case of live interviews. There are NO requirements for live verification in the MRIA guidelines for IVR.
9. The principal reason why live verification makes no sense in the case of IVR is that both live monitoring and live verification are done to ensure that the interviewer actually

conducts the interview, and does so according to proper script and protocols. These oversight tools ensure that interviewers do not cheat or ad lib in ways that would damage the integrity of the data they are collecting. In the case of the IVR method, all interviews are completed by a robot which obviously cannot cheat or ad lib.

10. To the best of my knowledge, the majority of interviews in North America are now done with on line methods that preclude even the possibility of live verification (as the researchers don't have phone numbers and never speak with respondents). In fact, excellent data quality can be achieved using proper sampling and call backs and there is really no need nor requirement for the very dated and increasingly rare application of live verification.
11. In the EKOS report that was prepared for these proceedings, I note under the heading "caveats" that "The study was completed within a very short time period and there can be further refinements to the analysis and additional lines of new data collection and analysis are recommended to extend and refine this analysis." Live call back to some of the responders might be part of that process, for example, to seek explanations as to why some of those responding did not vote in the 2011 election. Indeed, given the nature and scale of the impugned activities at issue, a far more extensive survey could be conducted to ascertain the precise character and full extent of such activity, but such a study would likely take several months to carry out and cost in the six figure range.
12. To be perfectly clear, however, live calls backs are not required to validate the responses of an IVR survey such as this one. As Dr. Nevitte confirms, the processes of screening, weighting data, automated call backs and sound questionnaire design are adequate and

sufficient to ensure the accuracy and reliability of the responses received to the EKOS survey.

SWORN BEFORE ME at the City of )  
Ottawa, in the Province of Ontario on )  
December 3, 2012. )

  
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Commissioner for Taking Affidavits

  
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FRANK L. GRAVES