

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

CHRIS BROOKS, FRANCIS RENCOUNTRE,)
GLORIA RED EAGLE, SHARON CONDEN,)
JACQUELINE GARNIER, JENNIFER RED)
OWL, EDWINA WESTON, MICHELLE)
WESTON, MONETTE TWO EAGLE, MARK)
A. MESTETH, STACY TWO LANCE, HARRY)
BROWN, ELEANOR WESTON, DAWN)
BLACK BULL, CLARICE MESTETH,)
DONOVAN L. STEELE, EILEEN JANIS,)
LEONA LITTLE HAWK, EVAN)
RENCOUNTRE, CECIL LITTLE HAWK, SR.,)
LINDA RED CLOUD, LORETTA LITTLE)
HAWK, FAITH TWO EAGLE, EDMOND)
MESTETH, AND ELMER KILLS BACK, JR.,)

Plaintiff(s),)

v.)

JASON GANT, IN HIS OFFICIAL CAPACITY)
AS SOUTH DAKOTA SECRETARY OF)
STATE, SHANNON COUNTY, SOUTH)
DAKOTA, FALL RIVER COUNTY, SOUTH)
DAKOTA, SHANNON COUNTY BOARD OF)
COMMISSIONERS, JOE FALKENBUERG,)
ANNE CASSENS, MICHAEL P. ORTNER,)
DEB RUSSELL, AND JOE ALLEN IN THEIR)
OFFICIAL CAPACITY AS MEMBERS OF)
THE COUNTY BOARD OF COMMISSIONS)
FOR FALL RIVER COUNTY, SOUTH)
DAKOTA, BRYAN J. KEHN, DELORIS)
HAGMAN, EUGENIO B. WHITE HAWK,)
WENDELL YELLOW BULL, AND Lyla)
HUTCHINSON IN THEIR OFFICIAL)
CAPACITY AS MEMBERS OF THE COUNTY)
BOARD OF COMMISSIONERS FOR)
SHANNON COUNTY, SOUTH DAKOTA, SUE)
GANJE, IN HER OFFICIAL CAPACITY AS)
THE COUNTY AUDITOR FOR SHANNON)
AND FALL RIVER COUNTIES, AND JAMES)
SWORD, IN HIS OFFICIAL CAPACITY AS)
ATTORNEY FOR SHANNON AND FALL)
RIVER COUNTIES,)

Defendant(s).)

Case No.: 12-5003

**DEFENDANT SUE GANJE'S
SUPPLEMENTAL ANSWERS AND
RESPONSES TO PLAINTIFF'S
FIRST SET OF
INTERROGATORIES, REQUESTS
FOR PRODUCTION OF
DOCUMENTS AND REQUESTS
FOR ADMISSIONS FOR
DEFENDANT SUE GANJE IN HER
OFFICIAL CAPACITY AS
COUNTY AUDITOR FOR
SHANNON AND FALL RIVER
COUNTIES**

EX 5

TO: PLAINTIFFS AND THEIR ATTORNEY OF RECORD, STEVEN D. SANDVEN.

Defendant, Sue Ganje, in her official capacity as County Auditor for Shannon and Fall River Counties, and through Counsel Sara Frankenstein of Gunderson, Palmer, Nelson & Ashmore, LLP, supplements her answers and responses as follows:

SUPPLEMENTAL ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 2: State the days, hours, and location(s) for absentee voting conducted at satellite location(s) in Shannon County for the following elections:

- (a) 2004 primary election;
- (b) 2004 general election;
- (c) 2006 primary election;
- (d) 2006 general election;
- (e) 2008 primary election;
- (f) 2008 general election;
- (g) 2010 primary election; and
- (h) 2010 general election.

SUPPLEMENTAL ANSWER:

- (a) No early voting satellite for the primary.
- (b) Mondays, Tuesdays, and Wednesdays from 10:00 a.m. to 3:00 p.m. MST at the Sacred Heart Church Hall in Pine Ridge on Oct. 12, 13, 18, 19, 21, 25, 26, 27, Nov. 1, 2; and also Thursdays and Fridays from 10:00 a.m. to 3:00 p.m. MST at the Our Lady of Sorrows Church in Kyle on Oct. 14, 15, 20, 22, 28, and 29.
- (c) None.
- (d) None.
- (e) May 21, 08 at Pine Ridge CAP Office from 10:00am to 3:00pm; and May 28 in Kyle at the Oglala Lakota College from 10:00 to 3:00pm.
- (f) Pine Ridge CAP Office Oct. 23 from 10:00-3:00, and on Oct. 24 in Kyle at Oglala Lakota College from 10:00-3:00pm.
- (g) None.
- (h) Twenty-two days -- Sept. 28, 29, 30, Oct. 1, 4, 5, 6, 7, 8, 12, 13, 14, 15, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, and Nov. 1; all at the old hospital in Pine Ridge, for hours of 10:30 to 4:00 for each of the 22 days.

INTERROGATORY NO. 3: State the number, location and method (mail or in person) of absentee ballots cast by Shannon County voters during the following elections:

- (a) 2004 primary election;
- (b) 2004 general election;
- (c) 2006 primary election;
- (d) 2006 general election;
- (e) 2008 primary election;
- (f) 2008 general election;
- (g) 2010 primary election; and

(h) 2010 general election.

SUPPLEMENTAL ANSWER:

- (a) 12 mailed, 47 in-office.
- (b) 1189 satellite, 484 in-office or mailed.
- (c) No records.
- (d) 34 mailed, 35 in-office.
- (e) 4 mailed, 5 in-office at courthouse, 85 in Pine Ridge or Kyle.
- (f) 448 satellite in Pine Ridge or Kyle.
- (g) 3 mailed, 5 in-office.
- (h) 435 satellite in Pine Ridge, 31 in-office, 22 mailed.

INTERROGATORY NO. 4: State the cost, funding source and notice procedure for absentee voting conducted at satellite location(s) in Shannon County for the following elections:

- (a) 2004 primary election;
- (b) 2004 general election;
- (c) 2006 primary election;
- (d) 2006 general election;
- (e) 2008 primary election;
- (f) 2008 general election;
- (g) 2010 primary election; and
- (h) 2010 general election.

SUPPLEMENTAL ANSWER:

- (a) None.
- (b) Cost at estimated at least at \$12,000 identifiable at this time. Not all records are available anymore. Funding source included Four Directions, which paid \$15,000. No notices were kept, but notices were sent to KILI Radio, Bennett County Booster, Lakota Country Times, and posted around Shannon County.
- (c) None.
- (d) None.
- (e) \$842 identifiable at this time. Not all records, such as mileage and wages, are available anymore.
- (f) \$950 identifiable at this time. Not all records, such as mileage and wages, are available anymore.
- (g) N/A
- (h) The cost for early voting in 2010 was \$5,229.48. This included expenses for supplies, office equipment, meals, mileage, laptop computers, some publishing costs, and overtime costs. This did not include any regular 8-hour day employee expenses. The majority of the publishing was through posters distributed and posted through out the county, and KILI radio public service announcements. In 2012, rent for 2010 was paid by Shannon County in the amount of \$1,500 to the Oglala Sioux Tribe for the early vote office at the old Hospital, and Shannon County reimbursed Fall River County in the amount of \$1,054.90 for one employee's overtime costs, that was not

submitted in 2010. The total cost for 2010 early voting, after the amounts that were paid by Shannon County in 2012, came to \$7,784.38.

SUPPLEMENTAL RESPONSES TO PLAINTIFFS' REQUESTS FOR ADMISSIONS

REQUEST NO. 20: Admit that in 2004, of the 6,520 registered voters residing in Shannon County 56.98 % cast their ballots and 1673 were cast by absentee ballot.

SUPPLEMENTAL RESPONSE: The question does not indicate whether you are referencing the primary or general election in 2004, and the facts listed above are a mix primary and general election numbers.

Admit that 1673 absentee ballots were cast in Shannon County in the general 2004 election, according to the SOS website.

Admit that voter turnout was 56.98% in Shannon County in the general election, according to the SOS website.

The total voter registration for Shannon County in 2004 for the primary election was 6524, and 7984 for the general election, according to the SOS website.

REQUEST NO. 21: Admit that in the 2004 general election in Shannon County, 36.78% of the votes cast were absentee ballots, compared to 23.96% statewide.

SUPPLEMENTAL RESPONSE: Admit, according to the SOS website.

REQUEST NO. 22: Admit that in the 2004 general election in Shannon County, turnout was 56.98% compared to a statewide average of 78.63%.

SUPPLEMENTAL RESPONSE: Admit, according to the SOS website.

REQUEST NO. 24: Admit that in the 2006 election, of the 2459 registered voters in Shannon County, 31.34% cast their ballots and only 69 did so by absentee ballot through the mail or by voting early at the Fall River County Auditor's Office.

SUPPLEMENTAL RESPONSE: The question does not indicate whether it is referencing primary or general election numbers.

There were 7722 active registered voters for the 2006 primary election in Shannon County, according to the SOS website.

There were 7826 active registered voters for the 2006 general election in Shannon County, according to the SOS website.

In the 2006 general election, the Shannon County turnout rate was 31.34%, according to the SOS website.

In the 2006 general election, 69 Shannon County voters cast absentee ballots, according to the SOS website.

REQUEST NO. 25: Admit that in the 2006 election, 2.81% of Shannon County's votes were absentee or early votes in 2006, compared to a statewide average of 27.35%.

SUPPLEMENTAL RESPONSE: The question does not indicate whether it is referencing primary or general election numbers.

Admit that for the 2006 general election, 2.81% of Shannon County's votes were cast absentee, and the statewide average for the same election was 27.35%, according to the SOS website.

REQUEST NO. 26: Admit that in the 2006 general election in Shannon County, turnout was 31.34% compared to 67.26% statewide.

SUPPLEMENTAL RESPONSE: Admit, according to the SOS website.

REQUEST NO. 27: Admit that in the 2008 general election, of the 8,042 registered voters in Shannon County, 3425 cast their ballots, for a turnout rate of 42.59%.

SUPPLEMENTAL RESPONSE: Admit, according to the information available on the Secretary of State's website.

REQUEST NO. 28: Admit that in Shannon County in 2008, 13.1% of the votes were absentee ballots, either by mail, early voting in Shannon County, or early voting at the Fall River County Auditor's Office.

SUPPLEMENTAL RESPONSE: The question does not indicate whether it is referencing primary or general election numbers.

Admit that in Shannon County for the general 2008 election, the absentee ballot count was 448 in Shannon County, with a percent of people voting absentee being 13.10%, according to the SOS website.

REQUEST NO. 30: Admit that in the 2008 general election, turnout was 42.59% in Shannon County compared to 73.02% statewide.

SUPPLEMENTAL RESPONSE: Admit, according to the SOS website.

REQUEST NO. 32: Admit that in the 2010 midterm general election, Shannon County turnout was 34.9% compared to 62.27% statewide.

SUPPLEMENTAL RESPONSE: We do not know what you mean by the word "midterm." Admit that in the 2012 general election, Shannon County's voter turnout was 34.9%, and the statewide average was 62.27%, according to the SOS website.

Dated this 13th day of July, 2012.



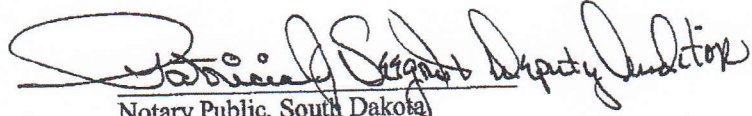
Sue Ganje

State of South Dakota

County of Saskatoon) ss.

On this 13th day of July, 2012, before me, the undersigned officer, personally appeared Sue Ganje, known to me or satisfactorily proven to the person whose name is subscribed to the forgoing document and acknowledged that she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public, South Dakota

(SEAL)

My Commission Expires:

AS TO THE RESPONSES TO REQUESTS FOR ADMISSIONS:

Dated: July 13, 2012.

GUNDERSON, PALMER, NELSON
& ASHMORE, LLP

By: _____

Sara Frankenstein

Attorney for Defendants:

Shannon County, Fall River County,
Fall River Board of Commissions, Joe
Falkenburg, Anne Cassens, Michael P. Ortner,
Deb Russell, Joe Allen, Shannon County Board
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Hagman, Eugenio B. White Hawk, Wendell
Yellow Bull, and Lyla Hutchison, Sue Ganje
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CERTIFICATE OF SERVICE

I hereby certify on July 13, 2012, a true and correct copy of **DEFENDANT SUE GANJE'S SUPPLEMENTAL ANSWERS AND RESPONSES TO PLAINTIFF'S FIRST (1ST) SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS AND REQUESTS FOR ADMISSIONS FOR DEFENDANT SUE GANJE IN HER OFFICIAL CAPACITY AS COUNTY AUDITOR FOR SHANNON AND FALL RIVER COUNTIES** was served in the manner set forth below:

- X U.S. Mail
Overnight Delivery
Hand Delivery
Facsimile
- X E-mail


upon the following individuals:

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Attorney for Defendant, Jason Gant

By: _____


Sara Frankenstein