

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

Case No.: 12-5003

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).)

**DEFENDANT SUE GANJE'S
ANSWERS AND RESPONSES TO
PLAINTIFFS' RESUBMISSION OF
CERTAIN QUESTIONS IN THE
FIRST SET OF REQUESTS FOR
ADMISSIONS AND SUBMISSION
OF REQUESTS FOR ADMISSIONS
FOR DEFENDANT SUE GANJE IN
HER OFFICIAL CAPACITY AS
COUNTY AUDITORY FOR
SHANNON AND FALL RIVER
COUNTIES**

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, answers as follows:

RESPONSES TO PLAINTIFFS' RESUBMITTED 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.

REQUESTS FOR ADMISSIONS

REQUEST NO. 52: Admit that early voting makes it easier for people to vote in elections.

RESPONSE: Admit that early voting can make voting more convenient for some people. Cannot admit or deny whether early voting is easier than voting on election day for some or all people.

REQUEST NO. 53: Admit that early voting has benefited the voters of Fall River County when offered.

RESPONSE: Admit that early voting can make voting more convenient for some Fall River County voters.

REQUEST NO. 54: Admit that early voting has benefited the voters of Shannon County when offered in Fall River County.

RESPONSE: Admit that early voting can make voting more convenient for some Shannon County voters however offered in general.

REQUEST NO. 55: Admit that early voting has benefited the voters of Shannon County when offered in Shannon County.

RESPONSE: Admit that early voting can make voting more convenient for some Shannon County voters however offered in general.

**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,
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CERTIFICATE OF SERVICE

I hereby certify on July 13, 2012, a true and correct copy of **DEFENDANT SUE GANJE'S ANSWERS AND RESPONSES TO PLAINTIFFS' RESUBMISSION OF CERTAIN QUESTIONS IN THE FIRST SET OF REQUESTS FOR ADMISSIONS AND SUBMISSION OF REQUESTS FOR ADMISSIONS FOR DEFENDANT SUE GANJE IN HER OFFICIAL CAPACITY AS COUNTY AUDITORY 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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By: 
Sara Frankenstein