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1

2 BY MR. SANDVEN:

3 Q. Name, please.

4 A. Linda, L-i-n-d-a, McCulloch,

5 M-c-c-u-l-l-o-c-h.

6 Q. And it's 9:08. Do you agree with the concept

7 that all Montana citizens should be afforded equal

8 opportunities to participate in the political process

9 regardless of race or minority language status?

10 A. I do.

11 Q. Do you agree that you, as the State's top

12 election official, have an obligation to ensure that

13 all Montana citizens have equal opportunities to

14 participate in the political process regardless of race

15 or minority language status?

16 A. Yes, I do.

17 Q. Do you agree that as the State's top election

18 official, you have a duty to ensure that elections are

19 conducted in conformity with state law?

20 A. Yes, I do.

21 Q. The United States constitution?

22 A. Yes.

23 Q. The Voting Rights Act?

24 A. Yes.

25 Q. Have you ever read Section 2 of the voting

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1 Rights Act?

2 A. Yes. It's been a long time ago.

3 Q. Do you understand what, if anything, the

4 Voting Rights Act requires in terms of performance of

5 your duties as Secretary of State?

6 A. I can't tell you by name. But generally

7 speaking, yes.

8 Q. What is your understanding of your

9 responsibilities in administering the Voting Rights Act

10 in the state of Montana?

11 A. To give a fair, accurate, and honest

12 elections.

13 Q. Anything else?

14 A. For all people.

15 Q. Anything else?

16 A. I can't think of anything else right now.

17 Q. Is it your position in this lawsuit that you

18 have no authority to investigate the issues of

19 inequality raised by the plaintiffs?

20 MR. QUINTANA: Objection. Calls for a legal

21 conclusion.

22 BY MR. SANDVEN:

23 Q. Answer the question.

24 A. Would you repeat it?

25 Q. Is it your position in this lawsuit that you

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1 have no authority to investigate the issues of

2 inequality raised by the plaintiffs?

3 A. I have no investigatory authority under state

4 law.

5 Q. You have no investigatory authority to

6 issue -- to investigate issues of inequality raised by

7 the plaintiffs in this voting rights lawsuit?

8 A. That's correct.

9 Q. Is it your position in this lawsuit that you

10 have no authority to do anything to facilitate a

11 remedy?

12 MR. QUINTANA: Objection. Calls for a legal

13 conclusion.

14 BY MR. SANDVEN:

15 Q. Answer the question.

16 A. I'm not a lawyer.

17 Q. Is it your position in this lawsuit that you

18 have no authority to do anything to facilitate a

19 remedy? I'm asking you.

20 A. I make my staff available, and I've issued

21 guidance to the county election officials, how to open

22 a satellite office.

23 Q. And what are the authorities that you've

24 delegated to your staff regarding the establishment of

25 a satellite office?

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1 A. We've issued guidance in that responsibility.  
 2 And the responsibility for the opening of the satellite  
 3 offices is up to the counties.  
 4 Q. All right. If I heard you correctly, it is  
 5 your position that in this lawsuit you have no  
 6 authority to investigate the issues of inequality  
 7 raised by the plaintiffs. You said you have no  
 8 investigative authority; correct?  
 9 A. I don't have any investigative authority  
 10 and -- under the Secretary of State's office.  
 11 Q. You can't investigate election issues?  
 12 A. We have election issues. We place those with  
 13 the county attorney or the county sheriff's department.  
 14 Q. But it -- but you don't investigate any  
 15 election offices in your office?  
 16 MR. QUINTANA: Objection. Asked and  
 17 answered.  
 18 BY MR. SANDVEN:  
 19 Q. Answer it.  
 20 A. I've answered it.  
 21 Q. Your answer is no?  
 22 A. I've answered it.  
 23 Q. What are the constitutional or statutory  
 24 provisions that limit your ability to investigate the  
 25 issues of inequality raised by the plaintiffs?

1 A. You know, Mr. Sandven, you're getting into  
 2 legal issues and attorney issues. I'm the Secretary of  
 3 State. I'm an elementary schoolteacher so --  
 4 Q. So you don't know?  
 5 A. You're way above my pay grade.  
 6 Q. You don't any of any constitutional or  
 7 statutory provision that goes ahead and restricts your  
 8 ability to investigate a election issue?  
 9 A. You're you way above me.  
 10 Q. So the answer is no?  
 11 A. The answer is I cannot answer that.  
 12 Q. Okay. Do you agree that Indians in Montana  
 13 have historically been subject to official state  
 14 discrimination?  
 15 MR. QUINTANA: Objection. Calls for a legal  
 16 conclusion. Objection. Argumentative.  
 17 BY MR. SANDVEN:  
 18 Q. Go ahead and answer.  
 19 A. I don't know historically, so...  
 20 Q. You don't know whether or not there's been a  
 21 history of official state discrimination against  
 22 Indians in the state of Montana?  
 23 A. There has been a discrimination issue.  
 24 Q. Describe.  
 25 A. Historically, they were kept from voting.

1 Q. Recognizing that you have no investigatory  
 2 authority, have you done anything to gather information  
 3 so that you can make your own determination about  
 4 whether the plaintiffs in this case are being provided  
 5 with equal opportunities to participate in the  
 6 political process?  
 7 A. Can you clarify that question?  
 8 Q. I'll read it again. Recognizing that you  
 9 have no investigatory authority -- your testimony --  
 10 have you done anything to gather information so that  
 11 you can make your own on determination about whether  
 12 the plaintiffs in this case are being provided with  
 13 equal opportunities to participate in the political  
 14 process?  
 15 A. We requested a letter of advice or an opinion  
 16 from the Attorney General's office.  
 17 Q. In addition to the letter of advice, have you  
 18 done anything?  
 19 A. We issued guidance to the counties for how to  
 20 make satellite offices work.  
 21 Q. In addition to your issuance of your election  
 22 advisory, have you done anything?  
 23 A. I've made my staff available to the county  
 24 offices so that they can make satellite offices  
 25 available.

1 Q. How have you made your staff available?  
 2 A. I've let the counties know.  
 3 Q. How have you let the counties know?  
 4 A. My staff has done that.  
 5 Q. Which staff members have done it, and how  
 6 have they done it?  
 7 A. My election staff.  
 8 Q. Who?  
 9 MR. QUINTANA: You can drink your coffee.  
 10 BY MR. SANDVEN:  
 11 Q. Who on your election staff, and what have  
 12 they done?  
 13 A. I'm not aware of that. But my elections  
 14 deputy would be more likely to be able to answer this  
 15 question.  
 16 Q. So you're not aware of any outreach by  
 17 election staff to county officials?  
 18 A. The election staff is in almost daily  
 19 communication with the county offices.  
 20 Q. All right. Back to the question in dealing  
 21 with the official state discrimination. Anything else,  
 22 on your understanding, on the history of official  
 23 discrimination in the state of Montana besides what  
 24 you've already described?  
 25 A. I'm not aware of any during my

1 administration.

2 Q. Ever researched or kind of looked into the

3 history of discrimination against Indians in the state

4 of Montana?

5 A. I just -- during my administration there has

6 not been any.

7 Q. All right. Have you ever read *Windy Boy v.*

8 *County of Big Horn*? Were you aware of that case?

9 A. Mr. Sandven, I'm not an attorney. I'm the

10 secretary of state.

11 Q. That was a pretty important case. I was

12 wondering if you were aware of it. If you'd ever read

13 it or heard of it. Have you ever heard of *Windy Boy v.*

14 *County of Big Horn*?

15 A. I'm not aware of it.

16 Q. Never heard of it?

17 A. Not that I recall. But there's been a lot of

18 attorney action in this case. So...

19 Q. I'm deposing you. I'm asking what you know.

20 All right. So you have no knowledge, never read, never

21 heard of *Windy Boy v. County of Big Horn* case that was

22 decided here in the state of Montana, the first Section

23 2 challenge in Montana?

24 MR. QUINTANA: Objection. Asked and

25 answered.

1 Q. What do you generally know?

2 A. I know the overview of the case.

3 Q. What do you know about the overview of the

4 case?

5 A. I generally know about the case.

6 Q. What is your understanding of the overview of

7 the case?

8 A. I generally know about the case.

9 Q. Do you know about the case *Albin v. Rosebud*

10 *County Commissioners*?

11 A. Mr. Sandven, again, I repeat that I am not an

12 attorney. I'm the Secretary of State. And I have

13 oversight over all the divisions of this office which

14 include, but not limited to, the elections division.

15 Q. Historically, Indians were kept from voting,

16 is that all you know about the history of official

17 discrimination against Indians in the state of Montana?

18 A. Yes.

19 Q. Do you know when Indians were given the right

20 to vote?

21 A. I can't remember the exact date.

22 Q. Anything about -- do you know anything about

23 official actions to keep Indians from voting?

24 A. I know that they were generally kept from

25 voting.

1 BY MR. SANDVEN:

2 Q. No? Never heard of it?

3 A. I don't recall it.

4 Q. All right. Same questions for *United States*

5 *v. Blaine County* of Montana where there was an

6 extensive evidence -- finding of extensive evidence of

7 official discrimination by federal, state, and local

8 governments against Montana's American Indian

9 population? Ever read or hear about that case, *United*

10 *States v. Blaine County*?

11 A. Yes.

12 Q. What do you know about that case?

13 A. I generally know about that case.

14 Q. What do you know about that case generally?

15 A. I generally know about that case.

16 Q. What do you mean by generally? What do you

17 know? Can you remember one thing here today?

18 A. I generally know about that case.

19 Q. What does generally know mean to you?

20 A. I generally know about that case.

21 Q. Are you declining to answer my question?

22 A. No, I answered it several times.

23 Q. What do you generally know about the case,

24 *United States v. Blaine County*?

25 A. I generally know about the case.

1 Q. Until when?

2 A. I don't remember.

3 Q. Last decade?

4 A. I don't remember.

5 Q. No idea if it was this century?

6 A. I don't remember.

7 Q. What, if anything, have you done to determine

8 whether Indians on the three reservations have

9 opportunities to participate in early voting and late

10 registration equal to those of nonIndians living off

11 reservation?

12 A. I know that Indians had the same rights and

13 privileges of voting in elections that nonIndians do.

14 Q. And here's my question: What, if anything,

15 have you done to determine whether Indians on the three

16 reservations have opportunities to participate in early

17 voting and late registration equal to those of

18 nonIndians living off reservation? What have you done

19 to make that determination? If any?

20 A. I've made my staff available.

21 Q. All right.

22 A. My election staff available.

23 Q. Please describe how and when and who on your

24 election staff you've made available to determine

25 whether Indians on the three reservations have

1 opportunities to participate in early voting and late  
2 registration equal to those of nonIndians living off  
3 reservation?  
4 A. I've made my entire election staff available.  
5 Q. What were your directives to your election  
6 staff regarding this issue?  
7 A. To make themselves available to the counties  
8 and the tribes when needed.  
9 Q. To make them available for what?  
10 A. For elections and all parts of elections.  
11 Q. Anything specific to my question to determine  
12 whether Indians on the three reservations have  
13 opportunities to participate in early voting and late  
14 registration equal to those of nonIndians?  
15 A. I've answered that.  
16 Q. No, I asked what specific directive have you  
17 given your staff to make that determination?  
18 A. I've given my staff the direction to make  
19 themselves available to the county election offices.  
20 Q. Nothing specific to determining whether  
21 Indians on the three reservations have opportunities to  
22 participate in early voting and late registration equal  
23 to those of nonIndians?  
24 A. They have been directed to give equal access  
25 to all voters in Montana.

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1 Q. When was the last time they were directed to  
2 do that?  
3 A. I don't recall.  
4 Q. Last couple years?  
5 A. Yes.  
6 Q. When?  
7 A. I don't recall.  
8 MR. QUINTANA: Objection. Asked and  
9 answered.  
10 BY MR. SANDVEN:  
11 Q. You can't provide one specific directive that  
12 you've done to determine whether Indians -- to  
13 determine whether Indians on the three reservations  
14 have opportunities to participate in early voting and  
15 late registration, have you?  
16 A. I've gone before the legislature.  
17 Q. What year?  
18 A. 2013, 2011, 2009. And opposed every effort  
19 to roll back late election day voter day registration.  
20 I've opposed photo ID. I've opposed every measure to  
21 roll back elections in Montana.  
22 Q. Were any of your directives to election staff  
23 to ensure there's equal access to elections? Were any  
24 of those directives put in writing?  
25 A. I don't recall.

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1 Q. You can't remember a single writing, a single  
2 document, a single memorandum that you went ahead and  
3 gave to anyone in your election department to ensure  
4 there's equal elections?  
5 A. I tend to talk to my staff.  
6 Q. So, no, you don't remember a single thing you  
7 put in writing?  
8 A. I can't recall.  
9 Q. Have you established a task force to  
10 determine whether Indians on these three reservations  
11 have equal access?  
12 A. No.  
13 Q. Have you done any studies?  
14 A. No.  
15 Q. Have you done any investigation?  
16 MR. QUINTANA: Objection. Asked and  
17 answered. You can answer.  
18 THE WITNESS: But you just objected.  
19 BY MR. SANDVEN:  
20 Q. Answer the question.  
21 A. What's the question again?  
22 Q. In regards to have you done anything to  
23 determine whether Indians on the three reservations, in  
24 making your determination, have you done any  
25 investigation?

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1 No?  
2 A. I'm thinking. Can you repeat the question  
3 again.  
4 Q. Have -- in making your determination whether  
5 Indians on the three reservations have opportunities to  
6 participate in early voting and late registration equal  
7 to those of nonIndians living off reservation, have you  
8 done any investigation?  
9 A. I don't recall.  
10 Q. Can't remember anything?  
11 Do you have an understanding of why you're a  
12 defendant in this lawsuit?  
13 A. No.  
14 Q. Did you read the court's order?  
15 A. Yes.  
16 Q. That's sitting in front of you?  
17 A. Yes.  
18 Q. Still don't understand?  
19 A. I still don't understand.  
20 Q. You have no understanding of why you're still  
21 in this lawsuit?  
22 A. No.  
23 Q. Have you made a determination one way or the  
24 other as to whether Indians on the three reservations  
25 have opportunities to participate in early voting and

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1 late registration equal to those of nonIndians living  
2 off reservation?  
3 A. They have the same access to early voting  
4 that nonIndians do.  
5 Q. That's what you determined?  
6 A. You just asked me the question, and I  
7 answered it.  
8 Q. All right. Based on what facts did you make  
9 that determination?  
10 A. Because everyone has to go to the county  
11 offices for late voter registration, Indian or  
12 nonIndian.  
13 Q. So it doesn't matter if it's harder for one  
14 group of people than another?  
15 A. It does matter. And I am in favor of  
16 satellite offices.  
17 Q. Why are you in favor of at satellite offices?  
18 A. Because they make voting more accessible to  
19 everyone.  
20 Q. What are you basing that on?  
21 A. My knowledge as the chief election officer.  
22 Q. Please describe your knowledge --  
23 MR. QUINTANA: Let her answer.  
24 BY MR. SANDVEN:  
25

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1 Q. -- as chief election officer specific to the  
2 establishment of satellite offices.  
3 MR. QUINTANA: You can answer.  
4 A. My knowledge of the election offices and my  
5 knowledge of the distance that they have to go to vote  
6 in early elections.  
7 BY MR. SANDVEN:  
8 Q. You stated there's been no discrimination  
9 against Indians in the voting context since you have  
10 been secretary of state?  
11 A. That's correct.  
12 Q. How do you know that if you believe that you  
13 have no investigatory authority or haven't done any  
14 investigation?  
15 A. I pay attention.  
16 Q. How do you pay attention?  
17 A. I visit the reservations. No one has brought  
18 up any issue to me.  
19 Q. Assuming opportunities are not equal, what,  
20 if anything, have you done to determine whether there  
21 is a feasible remedy?  
22 A. Can you state that question again and clarify  
23 it?  
24 Q. Assuming opportunities are not equal, what,  
25 if anything, have you done to determine whether there's

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1 a feasible remedy?  
2 A. I've -- I follow the Attorney General's  
3 directive, and then I issue guidance to the county  
4 offices on how to make the satellite offices available  
5 to all 56 counties.  
6 Q. All right. Have you established a task force  
7 on the establishment of satellite voting location?  
8 A. No, I didn't need to.  
9 Q. Any studies?  
10 A. No.  
11 Q. Any investigations?  
12 MR. QUINTANA: Objection. Asked and  
13 answered.  
14 BY MR. SANDVEN:  
15 Q. Go ahead.  
16 A. What was the question?  
17 BY MR. SANDVEN:  
18 Q. Regarding the establishment of satellite  
19 offices on reservation, have you done any investigation  
20 on the need?  
21 A. I pretty well know Montana, so that was my  
22 investigation.  
23 Q. Any requests for funds?  
24 A. There was no one to request funds from.  
25 Q. Why do you think the establishment of

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1 satellite offices, what you stated early, will make  
2 late registration and in-person absentee balloting more  
3 accessible for Indians living on these three  
4 reservations?  
5 A. Because they won't have to drive as far.  
6 Q. Why do you think driving distance matters?  
7 A. Because, generally speaking, it's -- gas --  
8 the cost of gas is a problem.  
9 Q. Anything else?  
10 A. And many folks don't have access to an  
11 automobile.  
12 Q. Anything else?  
13 A. Not that I can think of now.  
14 Q. Did you ever read the Webster report that was  
15 offered at trial that was submitted in the statement of  
16 interest from the United States Department of Justice?  
17 A. No, I didn't.  
18 Q. You talked earlier about going to the  
19 legislature regarding election issues?  
20 A. Uh-huh.  
21 Q. You advocated to the legislature on vote by  
22 mail; correct?  
23 A. That's correct.  
24 Q. That was opposed by the tribes; correct?  
25 A. It wasn't opposed by the tribes.

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1 Q. It was not opposed by federally recognized  
 2 Indian tribes in the state of Montana?  
 3 A. When I initially had the bill in 2011, no  
 4 tribes opposed it. And some of the tribes came in -- I  
 5 believe some of the tribes came in and supported it.  
 6 Q. You stated earlier, I am in favor of  
 7 satellite offices. Is it your official determination  
 8 that satellite offices would make it easier for Indians  
 9 to vote?  
 10 A. Yes.  
 11 Q. What have you -- what, if anything, have you  
 12 done to investigate whether excuses offered by the  
 13 counties are legitimate?  
 14 MR. QUINTANA: Objection. Argumentative.  
 15 BY MR. SANDVEN:  
 16 Q. Answer.  
 17 A. When the court case was filed in 2012, I  
 18 believe the counties found that they just didn't have  
 19 enough time to put it all in place. And I believe --  
 20 you know, I believe the cost was an issue, that  
 21 quickly, to come up with money for two people in the  
 22 satellite offices.  
 23 BY MR. SANDVEN:  
 24 Q. Right. My question is: What, if anything,  
 25 have you done to investigate whether the excuses

1 offered by the counties are legitimate, whether they  
 2 have anything to them?  
 3 A. I think they were legitimate in 2012.  
 4 Q. Do you think they are legitimate today? They  
 5 have had a couple years before the '14 election;  
 6 correct?  
 7 A. I think for the most part they're not  
 8 legitimate, but I do think they have some issues.  
 9 Q. What excuses do you think offered by county  
 10 defendants do you think are not legitimate?  
 11 A. Cost and issuing the ballot sequentially,  
 12 although, we issued guidance to get around that.  
 13 Q. All right. Why do you think that the county  
 14 defendants' cost excuse is not legitimate?  
 15 A. I think given enough time, they can plan for  
 16 that cost a little better than they could in 2012.  
 17 Q. And on the issuing ballots sequentially or  
 18 not issuing duplicative ballots, are those concerns --  
 19 why do you think those are no longer a legitimate  
 20 excuse?  
 21 A. Well, because we issued guidance that they  
 22 can still -- they can still sequentially issue the  
 23 ballots. Montana Votes will issue the ballot. And  
 24 then they have to write over the number on the ballot  
 25 in the satellite office and go in sequential order.

1 (Exhibit P9 identified)  
 2 Q. So looking at -- looking at your Election  
 3 Advisory that's marked Exhibit P9, in front of you, the  
 4 options that are laid out, option 1 on page 2, option 2  
 5 on page 3, you believe those were viable alternatives  
 6 to address the sequential balloting concerns?  
 7 A. What was the question?  
 8 Q. In looking at your Election Advisory that was  
 9 issued, Plaintiffs' Exhibit 9, what you issued on  
 10 August 28th, 2012, you provided two options: The first  
 11 option on addressing sequential balloting concerns is  
 12 found on the bottom of page 2 of your Election  
 13 Advisory. Option 2, provided by you, is on the top of  
 14 page 3. You consider those viable options for the  
 15 counties addressing sequential balloting concerns?  
 16 A. Yes, I do.  
 17 Q. What have you done to investigate the county  
 18 excuses regarding buildings? Do you think those are  
 19 legitimate?  
 20 A. I haven't done anything.  
 21 Q. You haven't done any investigation on the  
 22 county excuses on buildings, locations for satellite  
 23 voting locations?  
 24 A. I think they can find adequate locations.  
 25 Q. Why do you think that, Secretary of State?

1 A. Because I've visited all the reservations,  
 2 and I believe there are buildings available.  
 3 Q. All right. One of the concerns -- could  
 4 Montana Votes system be reprogrammed to go ahead and  
 5 address the sequential balloting concerns where there  
 6 didn't have to be physical strikeout procedures?  
 7 A. It isn't -- the Montana Votes system isn't  
 8 the issue.  
 9 Q. What is the issue?  
 10 A. The issue is sequentially issuing them so  
 11 that -- from satellite office to the county clerk's  
 12 office. I've recently become aware of machines that  
 13 issue ballots sequentially from different locations.  
 14 I'm not familiar with this. I've not seen them  
 15 proposed. But we put that in our letter to the Glacier  
 16 County.  
 17 Q. All right. So on addressing sequential  
 18 balloting concerns raised by the county, do you know  
 19 whether or not the Montana Votes system could be  
 20 reprogrammed to take care of that concern?  
 21 A. The Montana Votes system isn't the issue.  
 22 Montana Votes will issue them sequentially.  
 23 Q. Okay. What is the machine you just described  
 24 that will go ahead and ensure or address the sequential  
 25 balloting concerns from the counties?

1 A. I'm not sure what it's called. But it's a  
2 ballot issuing system where you can have two machines.  
3 It doesn't take the place of Montana Votes. But you  
4 can have them in the satellite office and the clerk's  
5 office, and they will actually issue the ballots in a  
6 sequential manner.  
7 Q. How much do one of those machines cost?  
8 A. I think they are about -- I think they are  
9 about 15,000.  
10 Q. What makes you think that those machines will  
11 address the counties' sequential balloting concerns?  
12 A. My election deputy tells me they will. She  
13 knows more about it than I do.  
14 Q. When did you learn about these machines?  
15 A. Last week, week before, when we issued the  
16 letter to the Glacier County.  
17 Q. You learned approximately two weeks ago about  
18 these machines that could address the county --  
19 A. Uh-huh.  
20 Q. -- concerns on sequential balloting?  
21 A. Uh-huh.  
22 MR. QUINTANA: Just say yes.  
23 A. Yes.  
24 BY MR. SANDVEN:  
25

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1 Q. All right. What is METAC used for?  
2 A. It's the advisory counsel to the secretary of  
3 state. It's the Montana Advisory -- Montana Elections  
4 Technical Advisory Council.  
5 Q. You would agree with me that voting is a  
6 fundamental right?  
7 A. Yes.  
8 Q. Do you believe that absentee voting and other  
9 methods of early voting is considered convenience  
10 voting?  
11 A. Yes.  
12 Q. Is the same-day registration and early voting  
13 an issuance of convenience for voters in Montana?  
14 A. Yes.  
15 Q. You would agree with me that the method of  
16 voting that's available to Montana voters, for example,  
17 early voting, implicates the fundamental right to vote?  
18 MR. QUINTANA: Objection. Calls for a legal  
19 conclusion.  
20 BY MR. SANDVEN:  
21 Q. Answer.  
22 A. Could you repeat the question?  
23 Q. You would agree with me that the methods of  
24 voting available to Montana voters, including early  
25 voting, implicates the fundamental right to vote?

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1 A. Yes.  
2 Q. All right. Back to the questions on METAC.  
3 Have you ever put the sequential balloting concerns on  
4 the agenda for METAC, any METAC meeting, since this  
5 litigation was commenced?  
6 A. No, because Montana Votes isn't the issue.  
7 Q. No, my question is: Have you ever put  
8 sequential balloting concerns raised by the counties,  
9 on the agenda at any METAC voting -- at any METAC  
10 meeting?  
11 A. No.  
12 Q. Why not?  
13 A. Because it wasn't necessary.  
14 Q. How can you say it's not necessary when you  
15 knew that the counties were complaining about the  
16 options you provided in your April 28th -- or your  
17 Exhibit P9?  
18 You knew the counties were concerned about  
19 sequential balloting; correct?  
20 A. That's correct.  
21 Q. And you've known that since the general  
22 election of 2012; correct?  
23 A. That's correct.  
24 Q. So why wouldn't you put it on the agenda for  
25 one of the quarterly or twice-a-year METAC meetings to

UNCERTIFIED ROUGH DRAFT

1 go ahead and address this county concern?  
2 A. Because Montana Votes wasn't the issue.  
3 Q. I didn't ask that. I asked why you didn't  
4 put sequential balloting on the concerns -- on the  
5 METAC agenda?  
6 A. Because Montana votes wasn't the issue.  
7 Q. Okay. Why is it really important to you that  
8 Montana Votes isn't the issue? Why are you making that  
9 distinction?  
10 I keep asking the question why you didn't put  
11 the broad issue of sequential balloting concerns on the  
12 agenda for the METAC meeting. Why didn't you do that?  
13 A. Because METAC advises me. And they advised  
14 me that Montana Votes is not the issue with satellite  
15 offices.  
16 Q. Do the machines you describe work with  
17 Montana Votes?  
18 A. I don't know. That would be a question for  
19 my elections deputy.  
20 Q. Do you know when your election staff was  
21 directed to go ahead and research whether or not these  
22 new machines that you described will work with the  
23 Montana Votes system?  
24 MR. QUINTANA: Objection. Assumes facts not  
25 in evidence.

UNCERTIFIED ROUGH DRAFT

1 BY MR. SANDVEN:  
 2 Q. Go ahead and answer.  
 3 A. When we wrote the Glacier County letter.  
 4 Q. So a couple weeks ago?  
 5 A. Uh-huh.  
 6 Q. Do you support the plaintiffs' request for  
 7 satellite office on legal grounds?  
 8 MR. QUINTANA: Objection. Calls for a legal  
 9 conclusion.  
 10 A. I'm not an attorney.  
 11 BY MR. SANDVEN:  
 12 Q. Do you think, legally, there's the authority  
 13 to establish satellite offices.  
 14 A. Yes.  
 15 Q. All right. Do you support it on political  
 16 grounds?  
 17 A. What do you mean?  
 18 Q. You don't know what political means?  
 19 A. I want to know what you mean by political.  
 20 Q. Do you support plaintiffs' request for  
 21 satellite offices on philosophical grounds?  
 22 A. I believe that voting should be accessible to  
 23 everyone and should be as easy as possible for  
 24 everyone. Therefore, I support satellite offices.  
 25 Q. What about the practical grounds, dealing

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1 with cost, technology, and those factors, the  
 2 get-it-done stuff?  
 3 A. I think that's up to the county offices. The  
 4 Attorney General's letter made it clear that the county  
 5 offices of -- the county commissioners get to decide on  
 6 satellite offices.  
 7 Q. You have the authority to go ahead and make  
 8 rules that ensure a uniform procedure for registration  
 9 at satellite offices?  
 10 A. We sent out guidance to the counties.  
 11 Q. My question is: You have the authority to  
 12 make rules that ensure a uniform procedure for  
 13 registration at satellite offices; you have that  
 14 authority?  
 15 A. I think. Rulemaking is very distinctive to  
 16 certain areas in the law. So I think I do.  
 17 Q. You're not sure whether you have the  
 18 authority to make rules that ensure a uniform procedure  
 19 for registration at satellite offices?  
 20 A. I think we do.  
 21 Q. All right. The Attorney General has  
 22 determined that it is legal to use satellite in-person  
 23 early registration offices; correct?  
 24 A. By the counties' determination, yes.  
 25 Q. One more time: The Attorney General has

UNCERTIFIED ROUGH DRAFT

1 determined that it is legal to out satellite in-person  
 2 early registration, that it's legal to establish  
 3 satellite in-person early registration offices;  
 4 correct?  
 5 A. Correct.  
 6 Q. You have the authority to prescribe a  
 7 registration form for use in satellite offices;  
 8 correct?  
 9 MR. QUINTANA: Objection. Misstates the law.  
 10 BY MR. SANDVEN:  
 11 Q. Answer the question. You have the authority  
 12 to --  
 13 A. Mr.  
 14 Q. -- prescribe a registration form for use in  
 15 satellite offices; correct?  
 16 A. Mr. Sandven, you don't need to take that tone  
 17 with me. This is just a friendly deposition.  
 18 Q. You have the authority to make rules that  
 19 ensure uniform procedure for registration at a  
 20 satellite office; correct?  
 21 A. Correct.  
 22 Q. You have the authority to prescribe  
 23 registration forms for use in satellite offices;  
 24 correct?  
 25 MR. QUINTANA: Objection. Misstates the law.

UNCERTIFIED ROUGH DRAFT

1 BY MR. SANDVEN:  
 2 Q. Go ahead and answer the question. I'm asking  
 3 if you know what your authority is on prescribing a  
 4 registration form for use in satellite offices.  
 5 A. The -- we go to the legislature for changes  
 6 in the registration form. So that's prescribed by the  
 7 legislature through statute.  
 8 Q. All right. Doesn't Montana Administrative  
 9 Rule 44.3.2004 Voter Registration Application provide  
 10 that election administrative shall use the voter  
 11 registration application substantially in the most  
 12 updated form prescribed by you, the Secretary of State?  
 13 MR. QUINTANA: Do you have a copy of the  
 14 rule?  
 15 BY MR. SANDVEN:  
 16 Q. You don't know what the rule is? You didn't  
 17 know that?  
 18 A. Again, I administer oversight over all the  
 19 offices, including but not limited to elections.  
 20 Q. County election administrators may designate  
 21 places for return of late registration forms and  
 22 ballots other than at the county courthouse, including  
 23 satellite offices; correct?  
 24 A. Can you restate that?  
 25 Q. County election administrators may designate

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1 places for return of late registration forms and  
 2 ballots other than at the county courthouse, including  
 3 satellite offices; correct?  
 4 A. They can designate another office to be the  
 5 clerk and recorders office during that time.  
 6 Q. Including satellite offices; correct?  
 7 A. I'm not sure.  
 8 Q. Why would you go ahead and do Election  
 9 Advisory, P9, regarding the establishment of satellite  
 10 offices if you weren't sure they could form a satellite  
 11 office?  
 12 A. You're asking me very specific questions that  
 13 my elections deputy can better answer.  
 14 Q. So you don't know?  
 15 A. I'm not -- I'm not clear.  
 16 Q. Have you done anything to encourage the  
 17 county commissioners to establish satellite offices?  
 18 A. We answered the letter to the Glacier County  
 19 commissioners.  
 20 Q. All right.  
 21 A. And that's the only county commission we've  
 22 heard from.  
 23 Q. Right. My question is: Have you done  
 24 anything to encourage the county commissioners to  
 25 establish satellite offices?

*UNCERTIFIED ROUGH DRAFT*

1 A. We've issued guidance to county clerks on how  
 2 to make satellite offices work.  
 3 Q. So you're referencing your Election Advisory.  
 4 Plaintiffs' Exhibit 9?  
 5 A. Let me see which one it is. Yes.  
 6 Q. All right. So between August 28th, 2012, and  
 7 2 weeks ago, when you went ahead and responded to  
 8 Glacier County, have you done anything else to  
 9 encourage the county commissioners to establish  
 10 satellite offices?  
 11 A. Not that I recall.  
 12 (Exhibit P25 marked)  
 13 BY MR. SANDVEN:  
 14 Q. Do you have Exhibit 25 in front of you? This  
 15 is your April 16th, 2013, letter to the Tribal Leaders  
 16 Organization.  
 17 A. Yes.  
 18 Q. All right. This is a letter where you  
 19 promised to do a bunch of things regarding  
 20 establishment of satellite voting locations; correct?  
 21 MR. QUINTANA: And we've objected to it  
 22 before. And I'll just keep that standing objection  
 23 to --  
 24 BY MR. SANDVEN:  
 25 Q. Go ahead and answer the question.

*UNCERTIFIED ROUGH DRAFT*

1 MR. QUINTANA: Let me finish my objection.  
 2 Part of settlement negotiations and relevance.  
 3 Now you can answer.  
 4 A. This was a letter in response to the  
 5 settlement offer, and it was never responded to.  
 6 BY MR. SANDVEN:  
 7 Q. All right. Have you done anything that you  
 8 promised to do to the Montana and Wyoming Tribal  
 9 Leaders Council on April 16th, 2013, in this Exhibit  
 10 marked P25? There's eight paragraphs.  
 11 A. It was a settlement offer response that was  
 12 never responded to.  
 13 Q. Little confused. Because Montana and Wyoming  
 14 Tribal Leaders Council isn't a party to this, and I  
 15 don't think this is considered settlement negotiations.  
 16 But let me go through the questions.  
 17 You promised the -- in paragraph 1, the  
 18 Secretary of State shall convene a panel of tribal  
 19 leaders to advise the Secretary of State on election  
 20 issues. Have you done that?  
 21 A. This was a response to a settlement offer  
 22 that was never responded to.  
 23 Q. Paragraph 1, you state, "The Secretary of  
 24 State shall convene a panel of tribal leaders to advise  
 25 the Secretary of State on election issues." Have you

*UNCERTIFIED ROUGH DRAFT*

1 done that?  
 2 A. This was a response to a settlement --  
 3 Q. Answer the question.  
 4 A. This was a response to a settlement letter  
 5 that was never responded to.  
 6 Q. All right. I'm just asking you, right now:  
 7 Have you ever convened a panel of tribal leaders to  
 8 advise the Secretary of State on election issues?  
 9 A. This was a letter in response to --  
 10 Q. I'm not referring to the letter.  
 11 MR. QUINTANA: Let her answer the question.  
 12 A. But you're pointing to it, so it's a  
 13 response.  
 14 BY MR. SANDVEN:  
 15 Q. All right. I'll look at you. Have you ever  
 16 convened a panel of tribal leaders to advise the  
 17 Secretary of State on election issues? Have you ever  
 18 done that?  
 19 A. I have not.  
 20 Q. Why not?  
 21 A. This was a response to a letter --  
 22 Q. That's not what I'm asking.  
 23 A. This was a response to a settlement offer  
 24 letter that was never responded to.  
 25 Q. Why haven't you ever convened a panel of

*UNCERTIFIED ROUGH DRAFT*

1 tribal leaders to advise the Secretary of State on  
2 election issues?  
3 A. This was a response to a letter that was  
4 never responded to.  
5 Q. All right. You just answered the question  
6 that you've never convened this panel. Forget the  
7 April 16th letter. Why haven't you done it?  
8 A. We're doing the April 16th letter.  
9 Q. No, we're not. I'm not referencing Exhibit  
10 P25. I'm asking you: why haven't you ever convened a  
11 panel of tribal leaders to go ahead for addressing  
12 election issues?  
13 A. Because this is a letter in response to a  
14 settlement issue --  
15 Q. Are you refusing to answer the question?  
16 A. No, I'm answering it.  
17 Q. But it's your testimony that you never went  
18 ahead and formed any kind of panel or committee with  
19 the tribes to go ahead and address any kind of election  
20 issues during your administration?  
21 A. This is a letter in response to a settlement  
22 offer that was never responded to.  
23 Q. All right. Have you ever done anything to go  
24 ahead and facilitate communication between county  
25 officials and tribal officials regarding the

UNCERTIFIED ROUGH DRAFT

1 establishment of satellite offices locations on  
2 reservation?  
3 A. No, I haven't.  
4 Q. Why not?  
5 A. Because I haven't.  
6 Q. Why not? Don't have a reason?  
7 A. This is a response to a settlement offer that  
8 was never responded to.  
9 Q. All right. I'm not asking about the  
10 settlement offer.  
11 A. I made --  
12 Q. I'm asking why.  
13 A. I made these offers in response to a  
14 settlement offer that was never responded to.  
15 Q. I'm asking you why, in your tenure as Montana  
16 Secretary of State, that you've never done anything to  
17 facilitate communication between the tribal officials  
18 and the county officials regarding the establishment of  
19 satellite offices.  
20 A. Because the tribal officials have never asked  
21 me to.  
22 Q. All right. So in your opinion, it's up to  
23 the tribal officials to initiate the communication  
24 regarding the establishment of satellite voting  
25 locations on reservation?

UNCERTIFIED ROUGH DRAFT

1 MR. QUINTANA: Objection. Vague.  
2 A. It's one means.  
3 BY MR. SANDVEN:  
4 Q. When you saw that the tribal leaders weren't  
5 doing the desired outreach or the desired initiation  
6 that you just described, why didn't you go out on your  
7 own and say, hey, how can we work on some of these  
8 election issues? Or how can we work on some of these  
9 satellite office issues? Why didn't you do that?  
10 A. I never heard from the tribes that satellite  
11 offices were an issue.  
12 Q. You never knew that until when?  
13 A. Until Tom Rodgers, from Washington, D.C., and  
14 Brett Healy, from South Dakota, met with us. And I  
15 still have never heard from the tribal leaders that it  
16 was an issue.  
17 Q. You didn't know they were designees of the  
18 tribes?  
19 A. No.  
20 Q. Are you saying that absent some kind of  
21 settlement in this litigation, you will never convene a  
22 panel?  
23 A. No, I'm not saying that.  
24 Q. What are you saying? When will you convene a  
25 panel? What will it take?

UNCERTIFIED ROUGH DRAFT

1 A. I don't know.  
2 Q. You don't know what it will take for you to  
3 convene a panel to address election issues in Indian  
4 country?  
5 A. When I see there's a need for it.  
6 Q. What will it take for you to see a need?  
7 A. The tribes contacting me.  
8 Q. Absent a court order, you won't convene a  
9 panel of tribal leaders to advise the Secretary of  
10 State on election issues?  
11 A. I don't know.  
12 Q. Absent a court order, you won't reach out to  
13 federally recognized tribes in Montana and county  
14 officials to facilitate the placement of satellite  
15 election office?  
16 A. I continue to make my staff available and  
17 have sent out guidance to the county offices on how to  
18 make satellite offices available.  
19 Q. You won't do anything else, absent a court  
20 order, on that issue?  
21 A. Perhaps.  
22 Q. What's perhaps contingent upon, ma'am?  
23 A. It's not contingent upon anything.  
24 Q. You said perhaps. What's the qualifier?  
25 What do you mean?

UNCERTIFIED ROUGH DRAFT

1 A. I don't know.

2 Q. Absent a court order, you won't go ahead and

3 have full and meaningful technical assistance to tribes

4 and local government officials to establish satellite

5 offices?

6 A. I continue to make my staff available.

7 Q. Absent a court order, you won't encourage

8 election administrators and local county officials to

9 reach out to tribes to establish satellite election

10 offices?

11 A. I will continue to encourage them to.

12 Q. What have you done to encourage them so far,

13 in addition to the Election Advisory that was issued in

14 2012 and the letter to Glacier County two weeks ago?

15 What in -- what other encouragement has there been

16 other than what's described?

17 A. Those have been the means.

18 Q. Anything else?

19 A. No.

20 Q. Absent a court order, will you designate one

21 of your senior staff to act as liaison with tribal

22 governments on tribal election issues?

23 A. Yes.

24 Q. When?

25 A. I don't know that.

*UNCERTIFIED ROUGH DRAFT*

1 Q. Why not?

2 A. As now, all of our personal staff have been

3 ordered to -- or have been -- know that they have to

4 respond to tribes.

5 Q. This lawsuit wasn't enough notice for you

6 that satellite offices are being requested on the

7 reservation?

8 A. Yes, it was.

9 Q. Why have you done so little since then?

10 A. I don't think I've done so little since then.

11 Q. Why not? What have you done, in addition to

12 the Election Advisory -- or since the lawsuit was

13 initiated? The only thing I've heard you do, is to go

14 ahead two weeks ago and start working with Glacier

15 County. What else have you done?

16 MR. QUINTANA: Objection. Asked and

17 answered.

18 BY MR. SANDVEN:

19 Q. Go ahead.

20 MR. QUINTANA: You can answer.

21 THE WITNESS: I know. I forget the question.

22 A. What's the question?

23 BY MR. SANDVEN:

24 Q. The only thing that you've done that I've

25 heard so far, since this lawsuit was initiated, was two

*UNCERTIFIED ROUGH DRAFT*

1 weeks ago, write a letter to Glacier County. What else

2 have you done?

3 A. I work with my election staff continuously,

4 several times a day, to make sure that they run

5 elections accurately and fairly and honestly.

6 Q. I'm asking what specifically you've done in

7 the last couple years -- or since this litigation was

8 commenced specific to the establishment of satellite

9 offices on reservation besides the memorandum that you

10 just described that was -- that you issued a couple

11 weeks ago to Glacier County. What else have you done

12 specific to the establishment of satellite voting

13 locations on reservation?

14 A. I issued the guidance to the counties on how

15 to make satellite offices work.

16 Q. That was before the litigation. I'm asking

17 about since the litigation was commenced.

18 A. I issued the guidance to the counties on

19 satellite offices, how to make them work.

20 Q. Right.

21 A. It didn't change. I mean, how to make it

22 work still works now. I mean, it didn't matter when

23 it was issued, it would be the same thing we would

24 issue.

25 Q. Right. One more time. My question -- you

*UNCERTIFIED ROUGH DRAFT*

1 know when this litigation started; right?

2 A. Uh-huh.

3 Q. All right. Besides the Glacier County

4 memorandum that you described that you sent out a

5 couple weeks ago, what have you done since this

6 litigation was initiated in the general election 2012,

7 specific to establishment of satellite voting locations

8 on reservation?

9 A. I had already issued the guidance to the

10 counties. And that guidance would still hold up.

11 Q. All right. So besides the Election Advisory

12 issued before the litigation started and the memo to

13 Glacier County a couple weeks ago, you've done nothing

14 else to go ahead and work with counties on

15 establishment of a satellite voting location on

16 reservation?

17 A. I've made sure the elections run fairly,

18 honestly, and accurately during this time.

19 Q. Didn't tribal leaders ask you with Northern

20 Cheyenne tribal resolution dated May 2nd, 2000, letter,

21 didn't those Montana/Wyoming tribal leaders ask you to

22 help with establishment of satellite voting locations

23 on reservation for the tribes in Montana?

24 MR. QUINTANA: If we're going to refer to

25 evidence, do you have a copy?

*UNCERTIFIED ROUGH DRAFT*

1 MR. SANDVEN: No.  
 2 BY MR. SANDVEN:  
 3 Q. Do you remember that?  
 4 A. The Attorney General's letter specifically  
 5 said that counties have the right to open up satellite  
 6 offices. I can't make the counties open up satellite  
 7 offices. I can issue them guidance in that manner.  
 8 (Exhibit P56 marked)  
 9 BY MR. SANDVEN:  
 10 Q. You have Exhibit P56 in front of you, ma'am?  
 11 A. Which one?  
 12 Q. P56?  
 13 A. It doesn't have a P in front of it.  
 14 Q. Do you have a 56?  
 15 A. Yeah.  
 16 Q. All right. You've got a resolution from  
 17 Northern Cheyenne reservation dated March 17th. It  
 18 looks like unanimous vote from the Northern Cheyenne  
 19 Tribal Council. When did you get this resolution?  
 20 A. After the 17th. I don't remember exactly  
 21 when.  
 22 Q. Do you plan on responding to this and helping  
 23 Northern Cheyenne get that -- establish a satellite  
 24 voting location?  
 25 A. Yes, I do.

UNCERTIFIED ROUGH DRAFT

1 Q. When you do plan on starting?  
 2 A. I don't know yet.  
 3 Q. Why don't you know?  
 4 A. I have to check my schedule.  
 5 Q. Any idea of when you can start working or  
 6 responding to this Northern Cheyenne Tribal Council  
 7 resolution?  
 8 A. I have to check my schedule.  
 9 Q. And you haven't been able to check your  
 10 schedule since receiving this?  
 11 A. I haven't been able to free up my schedule.  
 12 Q. What's your understanding of this tribal  
 13 council resolution? What's your understanding of what  
 14 they are asking you to do?  
 15 A. It's my understanding -- and, again, I would  
 16 to read -- do you want me to take the time to read all  
 17 three pages of it right now?  
 18 Q. You haven't tread before?  
 19 A. I have. But, you know, on the record, I  
 20 can't answer a question until I've reviewed the whole  
 21 thing.  
 22 Q. If the counties in this lawsuit are running  
 23 elections in violation of the U.S. Constitution or the  
 24 Voting Rights Act, do you have the authority to ensure  
 25 that their practices you are brought into compliance?

UNCERTIFIED ROUGH DRAFT

1 MR. QUINTANA: Objection. Hypothetical.  
 2 Objection. Asks for a legal conclusion.  
 3 BY MR. SANDVEN:  
 4 Q. Answer. I'll read it again.  
 5 A. Okay.  
 6 Q. If the counties are running elections, the  
 7 three counties in this litigation, that's violating --  
 8 if they're running elections in a manner that's  
 9 violating the U.S. Constitution or the Voting Rights  
 10 Act, do you, as Montana Secretary of State, have the  
 11 authority to ensure that their practices are brought  
 12 into compliance?  
 13 A. Yes.  
 14 Q. How do you do it?  
 15 A. Through issuing directives to the county.  
 16 Q. And you have the authority to do that?  
 17 A. I have the authority to do that.  
 18 Do you want me to read through and review  
 19 this three-page --  
 20 Q. No, thank you.  
 21 A. Okay.  
 22 Q. I asked you some questions earlier about the  
 23 authority of the county election administrators having  
 24 the authority to designate places for return of late  
 25 registration forms and ballots other than at the county

UNCERTIFIED ROUGH DRAFT

1 courthouse. I wasn't clear on whether or not you  
 2 thought that included the establishment of satellite  
 3 offices. Can you clarify now, please.  
 4 A. Counties have the authority to -- county  
 5 commissioners have the authority to open a satellite  
 6 office according to Judge Malloy. According to the  
 7 Attorney General.  
 8 Q. And you're in complete agreement with that?  
 9 A. Yes. I have to be. He's the top attorney  
 10 for the state.  
 11 Q. Okay. So back to the question on running  
 12 elections in violation of the U.S. Constitution or  
 13 Voting Rights, your authorities, so you have the  
 14 authority to go ahead and issue a directive bringing  
 15 the conduct into compliance; correct?  
 16 MR. QUINTANA: Objection. Calls for a legal  
 17 conclusion.  
 18 BY MR. SANDVEN:  
 19 Q. Go ahead.  
 20 A. Can you answer -- ask the question again?  
 21 Q. I thought I heard you answer, yes, that you  
 22 do have the authority to issue directives to ensure  
 23 that the counties are running elections in violation of  
 24 the Constitution or the Voting Rights Act?  
 25 A. Yes.

UNCERTIFIED ROUGH DRAFT

1 Q. All right. why do you do that here?  
 2 A. why haven't I done it -- well, Judge Malloy  
 3 just issued his order.  
 4 Q. All right. Do you plan on issuing an  
 5 election advisory or a directive in response to Judge  
 6 Malloy's order?  
 7 A. I have to check with my counsel.  
 8 Q. All right. Before Judge Malloy -- go to page  
 9 11 of his order.  
 10 A. Of Judge Malloy's order?  
 11 Q. Yes.  
 12 A. Which one is that?  
 13 Q. It's the document at the top, document 153,  
 14 filed on 3/26/14.  
 15 A. Okay.  
 16 Q. Go to page 11.  
 17 A. Okay.  
 18 Q. All right. In the last paragraph on page 11,  
 19 Judge Malloy states that, "The Secretary has the power  
 20 under Montana law, to issue directives to election  
 21 administrators which would require compliance of  
 22 requested action." Did you know you had that  
 23 authority?  
 24 A. Yes. Because of Judge Malloy's letter.  
 25 Q. You didn't know it until you got that?

UNCERTIFIED ROUGH DRAFT

1 A. I didn't know that I could -- that satellite  
 2 offices were within my purview.  
 3 Q. why not?  
 4 A. Because the Attorney General's letter stated  
 5 that county commissioners have the authority to open a  
 6 satellite office; that I don't.  
 7 Q. Right. And did you know that, in the next  
 8 sentence of Judge Malloy's letter where he states, "The  
 9 Secretary has the responsibility to obtain and maintain  
 10 uniformity in the application, operation,  
 11 interpretation of election laws," did you know that you  
 12 had that authority before getting this letter?  
 13 A. Yes.  
 14 Q. why weren't you concerned with the  
 15 establishment of satellite voting locations, that there  
 16 was more uniformity in how they were done?  
 17 A. That's why I issued the guidance to the  
 18 counties for opening satellite offices.  
 19 Q. why did you just issue that one Election  
 20 Advisory? You didn't intend that they use the  
 21 strikeout paper method indefinitely, did you?  
 22 A. Yes. Until the mechanics of it become  
 23 available, until the machines become available.  
 24 Q. Right. And what did you do to get the  
 25 mechanics or the machines -- besides what you did two

UNCERTIFIED ROUGH DRAFT

1 weeks ago, what did you do between two weeks ago when  
 2 you started talking about machines with Glacier County  
 3 on addressing sequential balloting concerns and the  
 4 time you did your one and only Election Advisory  
 5 regarding satellite voting locations? what did you do  
 6 during that period to address the mechanics and  
 7 technical issues you just described?  
 8 A. I stand by the guidance that we sent out to  
 9 counties at that time. I think it was in August of  
 10 2012. That still stands.  
 11 MR. QUINTANA: And, Mr. Sandven, it's  
 12 10:06 you got two minutes.  
 13 BY MR. SANDVEN:  
 14 Q. All right. I've got four minutes according  
 15 to my clock.  
 16 A. whose clock are we using?  
 17 MR. QUINTANA: we started at 9:08. It's  
 18 10:06.  
 19 THE WITNESS: whose clock are we using?  
 20 BY MR. SANDVEN:  
 21 Q. we'll go a couple more questions.  
 22 A. whose clock are we using?  
 23 MR. QUINTANA: we're using this one.  
 24 Go ahead and proceed.  
 25 BY MR. SANDVEN:

UNCERTIFIED ROUGH DRAFT

1 Q. On the Election Advisory that you went ahead  
 2 and issued in 2012, until two weeks ago, your talk on  
 3 the machines, you did nothing to go ahead and address  
 4 the mechanical and technical concerns that you just  
 5 described that were raised by the counties regarding  
 6 the issuance of sequential balloting, using your  
 7 options in your Election Advisory; correct?  
 8 A. I issued guidance to counties in August of  
 9 2012. That guidance to counties still hold true now.  
 10 Q. Right. But that was kind of a short-term  
 11 fix, wasn't it?  
 12 A. No. That is the fix.  
 13 Q. You intended -- you intended that the  
 14 strikeout on paper method would be the method used by  
 15 counties at satellite offices indefinitely?  
 16 A. Until some mechanism presented itself.  
 17 Q. But you did nothing to research whether a  
 18 mechanism presented itself until a couple weeks ago,  
 19 did you?  
 20 A. I didn't research it; my elections deputy  
 21 did. You'd have to ask her.  
 22 Q. Do you have any idea when they first started  
 23 researching the mechanics issue that you just  
 24 described?  
 25 A. I think shortly before we issued the letter

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1 to the counties.  
 2 Q. Two, three weeks ago?  
 3 A. Yes. But you'd have to ask my elections  
 4 deputy to --  
 5 Q. Why didn't your election staff do more, from  
 6 the time you issued the election advisory until two or  
 7 three weeks ago, to work out the mechanics?  
 8 A. You have to understand, Mr. Sandven, that I  
 9 have a very small election staff. They work very hard  
 10 every single day. And they do as much as they can.  
 11 Q. Do you recall the first time that you went  
 12 ahead and asked your election staff to go ahead and  
 13 work on some of the mechanics after this litigation was  
 14 initiated?  
 15 A. I -- I'm sorry. Again.  
 16 MR. SANDVEN: Can you read back the question?  
 17 And that's it.  
 18 (The record was read as  
 19 requested.)  
 20 A. I have asked them continuously to work on the  
 21 issue.  
 22 BY MR. SANDVEN:  
 23 Q. Of mechanics associated with sequential  
 24 balloting at a satellite voting location?  
 25 A. All phases of -- all forms of this.

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1 Q. All forms of -- what is this?  
 2 A. All forms of making satellite offices  
 3 available.  
 4 Q. You've done that continuously?  
 5 A. Yeah.  
 6 Q. But your election staff hasn't responded  
 7 until three weeks ago?  
 8 A. I think that's the first that they knew of  
 9 these machines. They've not been at any of our NASS  
 10 conferences to be able to review.  
 11 MR. QUINTANA: All right, Mr. Sandven, your  
 12 hour is up.  
 13 MR. SANDVEN: Thank you, ma'am.  
 14 (Proceedings concluded at  
 15 10:10 a.m., March 7, 2014.)  
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1 DEPONENT'S CERTIFICATE  
 2 I, Linda McCulloch, do hereby certify, under  
 3 penalty of perjury, that I have read the foregoing  
 4 transcript of my testimony consisting of # pages  
 5 pages, taken on March 7, 2014, and that the same is,  
 6 with any changes noted below, a full, true, and correct  
 7 record of my deposition.  
 8 PAGE LINE CORRECTION REASON FOR CORRECTION  
 9 \_\_\_\_\_  
 10 \_\_\_\_\_  
 11 \_\_\_\_\_  
 12 \_\_\_\_\_  
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 25 \_\_\_\_\_

Linda McCulloch Date \_\_\_\_\_

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1 CERTIFICATE  
 2  
 3  
 4 State of Montana  
 5 County of county where depo was taken  
 6  
 7 I, Vonni R. Bray, RPR, CRR, freelance court  
 8 reporter and notary public for the State of Montana, do  
 9 hereby certify that I did report the foregoing  
 10 deposition after having duly sworn LINDA MCCULLOCH.  
 11 IN WITNESS WHEREOF, I have hereunto set my  
 12 hand and seal this day of Month , 2014.  
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