

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

EILEEN JANIS and KIM COLHOFF,  
Plaintiffs,

v.

CHRIS NELSON, in his individual  
and official capacity as Secretary of  
State of South Dakota, and as a  
Member of the State Board of  
Elections; MATT McCAULLEY,  
CINDY SCHULTZ, CHRISTOPHER  
W. MADSEN, RICHARD CASEY,  
KAREN M. LAYHER, and LINDA LEA  
M. VIKEN, in their individual and  
official capacities as Members of the  
State Board of Elections; SUE  
GANJE, in her official capacity and  
individual capacity as Auditor for  
Shannon County; LA FAWN  
CONROY, in her individual and  
official capacity as a poll worker for  
Shannon County,  
Defendants.

Civ. 09-5019

STATE DEFENDANTS' AMENDED  
MOTION TO DISMISS, OR IN THE  
ALTERNATIVE, MOTION FOR  
JUDGMENT ON THE PLEADINGS AND  
TO TOLL DISCOVERY PENDING  
DISPOSITION OF STATE MOTIONS  
(Federal Rules Civil Procedure  
8(a)(2), 12(b)(6) and 12(c))

COME NOW Defendants Chris Nelson, Matt McCaulley, Cindy  
Schultz, Christopher W. Madsen, Richard Casey, Karen M. Layher, and  
Linda Lea Viken, (hereinafter referred to as "State Defendants"), and  
submit this Amended Motion to Dismiss, or in the Alternative, Motion for  
Judgment on the Pleadings, on the grounds that Plaintiffs' First  
Amended Complaint fails to plead sufficient facts to state a claim for  
relief against the State Defendants. Fed. R. Civ. P. 8(a)(2), 12(b)(6) and  
12(c). State Defendants further move that this Court toll discovery  
pending final disposition of the State Defendants' motions.

The purpose of this amended motion is to reassert and supplement State Defendants' arguments for dismissal in light of the filing of the First Amended Complaint and to join in motions to dismiss filed by Defendant Ganje.

Dated this 4th day of November, 2009.

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CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2009, a true and correct copy of State Defendants' Amended Motion to Dismiss, or in the Alternative, Motion for Judgment on the Pleadings and to Toll Discovery Pending Disposition of State Motions was served electronically through the CM/ECF system upon the following persons:

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