

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

EILEEN JANIS and KIM COLHOFF, )

Civ. 09-5019

Plaintiffs, )

v. )

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)

CHRIS NELSON, In his 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 official capacities )  
as Members of the State Board of )  
Elections; and SUE GANJE, in her )  
official capacity as Auditor for )  
Shannon County, )

Defendants. )

COME NOW the undersigned counsel and moves this Court to dismiss State Defendants, Chris Nelson, Paula Jones, Gail Brock, Christopher W. Madsen, Richard Casey, Karen M. Layher and Linda Lea M. Viken (State Defendants) from this action, or alternatively to grant State Defendants Judgment on the Pleadings, on the grounds that Plaintiffs' Complaint fail to plead sufficient facts to state a claim to relief against the State Defendants'. Fed. R. Civ. P.8(1)(2), 12(b)(6) and 12(c).

State Defendants further move this Court to toll discovery pending final disposition of the State Defendants' Motions.

A brief in support of State's Motion is attached.

Dated this 12th day of June, 2009.

Respectfully submitted,

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ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I hereby certify on 12th day of June, 2009, a true and correct copy of the **Motion to Dismiss or in the Alternative, Motion for Judgment on the Pleadings and to Toll Discovery Pending Disposition of State Motions and Brief in Support of Motion to Dismiss** thereof was served electronically through the CM/ECF system upon the following individuals:

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