

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

EILEEN JANIS AND KIM COLHOFF,)
)
 Plaintiff(s),)
)
 v.)
)
 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. MADEN, 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,)
)
 Defendant(s).)

Case No.: 09-5019

**DEFENDANT SUE GANJE'S
RULE 12(b)(6) MOTION TO
DISMISS**

Defendant, Sue Ganje, by and through her counsel of record Sara Frankenstein of Gunderson, Palmer, Nelson & Ashmore, LLC, pursuant to Fed. R. Civ. P. 12(b)(6), hereby moves to dismiss Plaintiffs' Voting Rights Act ("VRA") claims, Counts 6 and 7 of Plaintiffs' Complaint (Docket No. 1).

Dismissal is appropriate under Fed. R. Civ. P. 12(b)(6), as Plaintiffs' Complaint fails to set forth facts sufficient to raise claims upon which relief can be granted.

Dated: September 11, 2009.

GUNDERSON, PALMER, NELSON
& ASHMORE, LLP

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CERTIFICATE OF SERVICE

I hereby certify on September 11, 2009, a true and correct copy of **DEFENDANT SUE GANJE'S RULE 12(b)(6) MOTION TO DISMISS** was served electronically through the CM/ECF system upon the following individuals:

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By: */s/Sara Frankenstein*
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