

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

EILEEN JANIS AND KIM COLHOFF,)
))
Plaintiff(s),)
))
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. MADEN,)
RICHARD CASEY, KAREN M. LAYHER,)
AND LINDA LEA M. VIKEN, IN THEIR)
INDIVIDUAL AND OFFICIAL CAPACITIES)
AS MEMBERS OF THE STATE BOARD OF)
ELECTIONS; AND SUE GANJE, IN HER)
OFFICIAL AND INDIVIDUAL CAPACITY AS)
AUDITOR FOR SHANNON COUNTY; AND)
LA FAWN CONROY, IN HER INDIVIDUAL)
AND OFFICIAL CAPACITY AS A POLL)
WORKER FOR SHANNON COUNTY,)
))
Defendant(s).)

Case No.: 09-5019

**DEFENDANT GANJE’S
REPLY TO PLAINTIFFS’
OPPOSITION TO GANJE’S
MOTION FOR PROTECTIVE
ORDER**

Defendant, Sue Ganje, by and through her counsel of record, Sara Frankenstein of Gunderson, Palmer, Nelson & Ashmore, LLP, hereby submits this Reply to Plaintiffs’ Opposition to Defendant Ganje’s Motion for Protective Order.

Plaintiffs’ Opposition invoked Docket No. 77, the arguments made in response to State Defendants’ Motion for Protective Order. First, Plaintiffs argue that the State Defendants waived their right to object to Plaintiffs’ discovery requests. This argument does not apply to Defendant Sue Ganje (“Ganje”), as Ganje’s Responses were timely. Moreover, Plaintiffs have not argued that Ganje has waived her right to object to Plaintiffs’ discovery requests.

Next, Plaintiffs argue that the discovery they seek is within the scope of the litigation. Ganje already addressed this issue numerous times, and incorporates by reference her legal arguments contained in Docket Nos. 62, 63, 68, 74, 75, and 76.

Plaintiffs further argue that *State* Defendants are the best sources for obtaining the information Plaintiffs seek. Interestingly, in Docket No. 73, Plaintiffs argue that *Ganje* is the best source for such information. If any party to this action is the best source for obtaining statewide voting and criminal justice information, it is the State Defendants.

In addition, Plaintiffs argue that Defendants have not established that providing Plaintiffs with the information they seek will cause them undue burden or expense. To the contrary, Ganje has argued this numerous times. See Docket Nos. 62, 63, 68, 74, 75, and 76.

The Court should carefully review the questions Ganje did in fact respond to, and those which Ganje cannot answer as she does not have such information. Such responses by Ganje differ from the State Defendants' responses.

For the reasons set forth herein and in numerous previous pleadings, Defendant Sue Ganje requests the Court to file a protective order with regard to the previously-indicated discovery requests. Defendant Ganje agrees with Plaintiffs in that all deadlines, including expert reports and discovery, should be moved in order to comply with the Court's protective order.

Dated: October 27, 2009.

GUNDERSON, PALMER, NELSON
& ASHMORE, LLP

By: *s/Sara Frankenstein*

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CERTIFICATE OF SERVICE

I hereby certify on October 27, 2009, a true and correct copy of **DEFENDANT GANJE'S REPLY TO PLAINTIFFS' OPPOSITION TO MOTION FOR PROTECTIVE ORDER** was served electronically through the CM/ECF system upon the following individuals:

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By: ./s/Sara Frankenstein
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