

EXHIBIT 4

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<p>IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO</p> <p>CELIA VALDEZ, et al., Plaintiffs, vs. NO: 1:09-CV-00668 JCH/DJS MARY HERRERA, in her official capacity as New Mexico Secretary of State, et al., Defendants.</p> <p>DEPOSITION OF ROCHELLE SUE RADLOFF April 26, 2010 1:36 p.m. 3280 Bridge Boulevard, SW Albuquerque, New Mexico</p> <p>PURSUANT TO THE FEDERAL RULES OF CIVIL PROCEDURE, this deposition was: TAKEN BY: MR. BRIAN MALONEY Attorney for the Plaintiffs</p> <p>REPORTED BY: Cynthia C. Chapman, RMR, NM CCR #219 Bean & Associates, Inc. Professional Court Reporting Service 201 Third Street, NW, Suite 1630 Albuquerque, New Mexico 87102</p> <p>Job No.: 387H (CC)</p>	<p style="text-align: center;">I N D E X</p> <p style="text-align: center;">PAGE</p> <p>EXAMINATION OF ROCHELLE SUE RADLOFF By Mr. Maloney 4</p> <p>CERTIFICATE OF COMPLETION OF DEPOSITION 90</p> <p>WITNESS SIGNATURE/CORRECTION PAGE 92</p> <p style="text-align: center;">EXHIBITS MARKED OR FORMALLY IDENTIFIED</p> <p>Exhibit 1 Application Processing Flow Chart 24</p> <p>Exhibit 2 ISD Interdepartmental Memorandum, 28 ISD-GI 08-01</p> <p>Exhibit 3 County Office Voter Registration Report 42</p> <p>Exhibit 4 Declination Form 64</p> <p>Exhibit 5 Table, Number of Registrations 82 Completed and Sent to County Clerk</p> <p>Exhibit 6 Table, Voter Registrations 83</p>

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<p style="text-align: center;">A P P E A R A N C E S</p> <p>For the Plaintiffs:</p> <p>ROBERT A. KENGLE, ESQ. BRIAN MALONEY, ESQ. LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW 1401 New York Avenue, NW, Suite 400 Washington, D.C. 20005 Phone: 202.662.8600 Fax: 202.783.0857 E-mail: bkengle@lawyerscommittee.org E-mail: bmaloney@lawyerscommittee.org</p> <p>For the Defendants/Counterclaimants:</p> <p>ADRIAN TERRY, AAG ELAINE P. LUJAN, AAG OFFICE OF NEW MEXICO ATTORNEY GENERAL Villagra Building 408 Galisteo Street Santa Fe, New Mexico 87501 Phone: 505.827.6000 Fax: 505.827.5826 E-mail: aterry@nmag.gov E-mail: elujan@nmag.gov</p>	<p style="text-align: center;">ROCHELLE SUE RADLOFF, after having been first duly sworn under oath, was questioned and testified as follows:</p> <p style="text-align: center;">E X A M I N A T I O N</p> <p>BY MR. MALONEY:</p> <p>Q. Good morning -- or good afternoon now. Would you state your full name for the record.</p> <p>A. Rochelle Sue Radloff.</p> <p>Q. And would you spell your first and last names?</p> <p>A. Sure. Rochelle. R-O-C-H-E-L-L-E. Radloff, R-A-D-L-O-F-F.</p> <p>Q. Thank you. And what's your date of birth?</p> <p>A. 11/30/1969.</p> <p>Q. And what is your current position?</p> <p>A. County director.</p> <p>Q. My name is Brian Maloney. And this is Robert Kengle. We're both attorneys with the lawyers committee for civil rights, and we're representing the plaintiffs in the case of Valdez v. Herrera, currently in the U.S. District Court for the District of New Mexico. Have you ever had your deposition taken before?</p> <p>A. I don't believe so.</p> <p>Q. Okay. So I think we'll just start by</p>

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1 A. ISD-GI 08-01.
 2 Q. Beyond those letters and numbers, can you
 3 describe what that is.
 4 A. It is the National Voter Registration Act
 5 requirements for our offices.
 6 Q. Okay. And did you receive this?
 7 A. Yes.
 8 Q. And how did you receive it?
 9 A. Most likely, via e-mail.
 10 Q. And when you got this, what did you do
 11 with it?
 12 A. Read it. Probably printed it out.
 13 Q. Did you distribute it to the other
 14 employees in the office at all?
 15 A. I'm sure I forwarded it to the supervisors
 16 at the southeast office.
 17 Q. Okay. Do you do any training yourself in
 18 the office?
 19 A. Yes.
 20 Q. Did you ever use this document for
 21 training at all?
 22 A. Yes.
 23 Q. You said that this document contained the
 24 National Voter Registration Act procedures for HSD.
 25 Is that right?

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1 A. Yes.
 2 Q. Did you ever receive any other voter
 3 registration guidance before you received this memo?
 4 A. Yes.
 5 Q. What did you receive?
 6 A. When I was first hired, my supervisor,
 7 when she trained me, told me about voter
 8 registration in our offices and that we need to
 9 offer it to everyone.
 10 Q. Okay. So that was just a verbal
 11 discussion?
 12 A. (Indicates.)
 13 Q. Or did you get any documents?
 14 A. I don't remember getting any documents.
 15 It was verbal.
 16 Q. Okay. So, as far as documents go, did you
 17 receive any other documents before you received this
 18 one?
 19 A. Not that I recall.
 20 Q. Okay. Before you received -- I guess when
 21 did you receive this document?
 22 A. I'm guessing January 22nd, 2008.
 23 Q. Okay. That's the date on the document?
 24 A. Yes.
 25 Q. Before you received this in January 2008,

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1 how did you know what your responsibilities were and
 2 the responsibility of the employees in the office
 3 were with regard to voter registration?
 4 A. From verbal direction by my direct
 5 supervisor.
 6 Q. Okay. And that's Ms. Espinosa?
 7 A. Yes.
 8 Q. Do you have any regular meetings with your
 9 regional manager?
 10 A. Yes.
 11 Q. How often do those happen?
 12 A. Probably monthly.
 13 Q. Okay. Do they happen every month or not
 14 every month?
 15 A. Almost every month. Mainly, when -- when
 16 necessary, which is about monthly.
 17 Q. Okay. Do you ever discuss voter
 18 registration issues at those meetings?
 19 A. Yes.
 20 Q. About how often?
 21 A. Recently, almost every time.
 22 Q. Recently, since when?
 23 A. Probably the past five or six months.
 24 Q. Okay. And before that, about how often
 25 would you talk about voter registration?

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1 A. I'd say about every third meeting,
 2 quarterly.
 3 Q. Quarterly?
 4 A. Uh-huh.
 5 Q. Would you turn to Page 4 of Exhibit 2.
 6 A. (Witness complies.)
 7 Q. Under where it says, "Division
 8 Coordinator," the second -- second sentence there
 9 says, "The ISD field offices are requested to
 10 provide ISD central office the following by
 11 providing the following information to
 12 Ms. Gonzales." And then it lists two things below
 13 there.
 14 Whose responsibility is it to send that
 15 information to Ms. Gonzales?
 16 A. The admin that I spoke of prior to that,
 17 Consuelo Lucero.
 18 Q. And do you know if she actually sends that
 19 information every month to Ms. Gonzales?
 20 A. Well, to correct, it actually is a
 21 different person now. We send them to Rachel
 22 Moskowitz.
 23 Q. So the contact at the central office has
 24 changed since this was sent out?
 25 A. Yes.

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1 Q. Okay. Does anyone besides you do any
 2 training in the office?
 3 A. Yes.
 4 Q. Who would do additional training besides
 5 you?
 6 A. Supervisors may be asked to do training
 7 over policy and procedure. And there are regional
 8 trainers for the Albuquerque area that are called in
 9 to do training for us.
 10 Q. Okay. Do the -- do the regional trainers
 11 or the supervisors a level below you do different
 12 types of training than you do, or is there overlap
 13 in the material that you cover?
 14 A. There would be overlap between the
 15 supervisors and myself. The regional trainers,
 16 there would be overlap. But, primarily, they train
 17 brand new employees and then do re- -- the refresher
 18 training that they provide in the offices to all new
 19 and existing employees would be overlap.
 20 Q. Okay. So you would say -- strike that.
 21 Who all has -- who has the responsibility
 22 for doing voter registration training?
 23 A. I would say I have the responsibility to
 24 provide it or coordinate someone else to provide it
 25 for me.

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1 Q. Okay. Is there any other way that
 2 employees are trained with regard to voter
 3 registration, other than the statewide trainers,
 4 yourself, or the other supervisors?
 5 A. No.
 6 Q. Are you familiar with management
 7 evaluations, as far as that's concerned, with --
 8 within HSD?
 9 A. Yes.
 10 Q. Okay. Do you conduct management
 11 evaluations of other employees?
 12 A. Yes, of the supervisors I supervise.
 13 Q. Okay. And does someone else do a
 14 management evaluation of your work?
 15 A. Yes. My supervisor, Rita Espinosa.
 16 Q. Okay. And is that management evaluation a
 17 written evaluation?
 18 A. Yes.
 19 Q. Does that management evaluation include
 20 anything with regard to voter registration?
 21 A. Not specifically written, no.
 22 Q. Okay. So neither your management
 23 evaluation of the supervisors below you nor
 24 Ms. Espinosa's evaluation of you, neither of those
 25 includes any written voter registration evaluation?

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1 A. Not specifically. We're reviewed in a
 2 more general way.
 3 Q. Do you ever personally monitor employees
 4 going through the benefit application process?
 5 A. Not recently.
 6 Q. But you have in the past?
 7 A. Yes.
 8 Q. How long ago was the last time?
 9 A. Probably when I was in training myself, I
 10 observed interviewers and eligibility workers
 11 conducting business with their clients.
 12 Q. Okay. So that would have been when you
 13 started as a county director in -- was that '99?
 14 I'm sorry. 2006?
 15 A. Correct.
 16 Q. I don't know where I came up with '99.
 17 So, since then, you haven't observed anyone going
 18 through the application process?
 19 A. Not the entire application process. There
 20 are times that I spend time up in our front area
 21 behind the lobby. And so I listen in on bits and
 22 pieces. But not a complete sit down and observe.
 23 Q. Okay. Do you ever monitor any phone
 24 interviews that take place?
 25 A. I would say no.

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1 Q. Does anyone else personally monitor the
 2 benefit application process?
 3 A. Yes. The supervisors directly below me
 4 are more involved in that level of supervision of
 5 the eligibility workers.
 6 Q. Okay. Do you ever have any meetings with
 7 the other office managers, either in Albuquerque or
 8 statewide?
 9 A. We have, in the past, had statewide county
 10 director meetings.
 11 Q. How long ago was that?
 12 A. I think the last CODA meeting -- and I
 13 don't know what "CODA" stands for -- but it's the
 14 group of county directors that get together and do,
 15 like, a little conference, two-day conference. And
 16 I think that was probably -- the last one was
 17 probably in 2008, the fall of 2008.
 18 Q. Okay. And you implied that that no longer
 19 happens or that that just hasn't happened in a
 20 while?
 21 A. It hasn't happened due to budget issues.
 22 Q. Okay. So there are no plans for that to
 23 happen again?
 24 A. Not that I'm aware of at this time.
 25 Q. Okay. Did you ever discuss voter

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1 Q. Okay. And independent of the Quality
2 Assessment Bureau's evaluation and the management
3 evaluation, have you ever determined that the office
4 was deficient with regard to voter registration in
5 any way?

6 A. No.

7 Q. Do you ever have meetings with the -- with
8 your -- I'm sorry. Strike that.

9 Do you ever have meetings with the other
10 county directors in your region?

11 A. Yes. During our meetings with the
12 regional operations manager that I spoke of earlier.

13 Q. And how often do those happen?

14 A. Approximately monthly.

15 Q. Okay. I'm sorry if we covered this
16 already. We've gone on for a little while, and I
17 might be forgetting what we started with. But
18 what's discussed during these meetings?

19 A. We review the GIs that have been sent to
20 us. We review any new policy changes, procedure
21 changes. We get updates from the regional
22 operations manager that maybe she receives from her
23 meetings with central office, and discuss any -- any
24 issues that we're having at the offices.

25 Q. And --

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1 Q. About how often?

2 A. Lately, we've been discussing it at every
3 meeting. Prior to that, we discussed it every
4 few -- few meetings, like quarterly.

5 Q. And do you ever have -- I think I did ask
6 about this earlier. But do you ever have meetings
7 with the other county directors?

8 A. Yes. They're included in those meetings
9 with the regional operations manager.

10 Q. So when you meet with the regional
11 manager, included in that meeting are the other
12 county directors for this region?

13 A. Yes.

14 Q. And this is Region 3. Right?

15 A. Yes.

16 Q. And did the regional manager ever bring to
17 your attention any problems as far as voter
18 registration is concerned?

19 A. We would review it, the statewide
20 spreadsheet. And she would -- you know, if she saw
21 a decline, she would ask, "What's going on? Is it
22 time to do more training?" Or, "You know, good job.
23 It looks like you guys are doing well."

24 So that's kind of the context in which it
25 was discussed.

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1 MR. MALONEY: Do you mind if we take a
2 break for a little while?

3 THE WITNESS: No.

4 MR. MALONEY: Five-minute break?

5 (A recess was taken from 3:06 p.m.
6 to 3:34 p.m.)

7 Q. (By Mr. Maloney) So before we took a
8 break, I was asking about the interactions that you
9 have with the regional manager.

10 A. Uh-huh.

11 Q. And I think you said that you have a
12 meeting with the regional manager roughly once a
13 month? Was that right?

14 A. Yes.

15 Q. Okay. And what's discussed at those
16 meetings?

17 A. Primarily, it's just an exchange of
18 information. She passes information down. We ask
19 her questions and ask for problem-solving assistance
20 with issues we're having in the office. So mainly
21 exchanging information.

22 Q. Okay. Do you ever talk about voter
23 registration at those meetings with your regional
24 manager?

25 A. Yes. We do.

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1 Q. Okay. Were you ever asked to do anything
2 specific as a result of those meetings?

3 A. Yes. Rita would -- if the numbers were
4 low, would tell us all that we needed to provide
5 training.

6 Q. Anything other than training?

7 A. No.

8 MR. MALONEY: I've got another exhibit
9 that I'd like to ask you about.

10 (Exhibit 4 marked.)

11 Q. (By Mr. Maloney) And the reporter has just
12 handed you what's been marked as Exhibit 4. Is
13 that -- are you familiar with that document?

14 A. Yes. It's the declination form.

15 Q. And is that document still used in this
16 office?

17 A. Yes. It is used when a client comes in
18 that's not here to apply or recertify, that's in to
19 bring proof or an address change or something like
20 that.

21 Q. Okay. So this document is not used for
22 any client that's coming in to apply for benefits or
23 to recertify?

24 A. No. Because it's on the application.

25 Q. Okay. Now, you said that this document is

16 (Pages 61 to 64)

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1 on.
 2 Q. What years are those?
 3 A. 2005, 2006 were low. 2007. And then the
 4 numbers improved in 2008 through the election in
 5 '08. And then they went down again. And then they
 6 decreased again at the southwest office when I came
 7 to this office, as previously stated, because of the
 8 phone interviews.
 9 Q. Okay. And when did you say the phone
 10 interviews began? I'm sorry. Just to explain.
 11 Towards the end of 2008 and 2009, there's a sheet
 12 for forms handed out and then forms sent to the
 13 county clerk. That might be what you're confused
 14 about.
 15 A. Oh, okay. I'm sorry. Could you repeat
 16 the question?
 17 Q. When did the phone interviews begin?
 18 A. I started discussing them when I was --
 19 when I transferred to this office, that we needed to
 20 do more phone interviews versus face-to-face
 21 interviews. The office was primarily doing all
 22 face-to-face, even though we had a waiver to do
 23 phone interviews.
 24 Q. Is that something that was an initiative
 25 that you started, or is that something that is

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1 statewide?
 2 A. As far as I know, that's a statewide --
 3 it's a waiver for the entire state that allows us to
 4 do phone interviews for new applications and
 5 recertifications.
 6 Q. But I guess that push to do more of the
 7 phone interviews and take advantage of that waiver,
 8 is that something that you started, or is that
 9 something that is a statewide initiative to take
 10 advantage of the opportunity for that waiver more?
 11 A. It's something that I think is important.
 12 But it wasn't something that I came up with. I
 13 do -- I do ask the offices that I'm working with
 14 to -- to do as many phone interviews as they can to
 15 reduce the burden on the client and the office. But
 16 it is something that my supervisor had told me, it
 17 would be important to try to do as many phone
 18 interviews as we can.
 19 Q. Okay. And when would you say that change
 20 occurred? When you came to this office?
 21 A. For this office, yes. The southeast
 22 office, when I was there when the waiver started, we
 23 started working on the phone interviews at that
 24 office as well.
 25 Q. And when did the waiver first become

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1 available?
 2 A. I have no idea.
 3 Q. Okay. So it's not something that has
 4 changed over the last six months is what you're
 5 saying?
 6 A. No. It was prior to that.
 7 Q. Okay. And those -- I guess you spoke
 8 generally about the numbers in those two exhibits
 9 that you were reviewing. Do you recognize any of
 10 those areas that would have been a concern to you at
 11 the time when you first reviewed them?
 12 A. Referring to the last two pages? Or the
 13 whole --
 14 Q. Referring to both of those exhibits.
 15 MR. TERRY: I'm sorry. Could you repeat
 16 the question?
 17 Q. In reviewing the numbers on those two
 18 exhibits for the offices where you were the county
 19 director during that time period, are there any
 20 sequences of numbers that would have caused concern
 21 for you at the time you originally reviewed them?
 22 Does that make sense?
 23 A. Yes. The one I would say --
 24 MR. TERRY: I'm glad she understands.
 25 A. -- that would concern me would be the

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1 number of forms handed out on the very last page.
 2 Q. For 2009?
 3 A. For 2009. And my concern would be as how
 4 we were collecting that data to make sure that those
 5 numbers were accurate.
 6 Q. So that's the number "265" for 2009?
 7 A. Actually, primarily, just focusing on
 8 months of July, August, and September.
 9 Q. Where those numbers are 19, 11 and zero?
 10 A. Correct.
 11 Q. And are there any other areas here where
 12 you would have been concerned at the time that you
 13 first reviewed them?
 14 A. I think the numbers early on at the
 15 southeast office, 2006, 2007 --
 16 Q. Which ones would you have been --
 17 A. -- would have been concerning. The
 18 whole -- the whole years, the whole time frame.
 19 Q. And did you take any action during that
 20 time with regard to those numbers?
 21 A. I -- honestly, I don't recall.
 22 MR. MALONEY: Okay. And I think that I
 23 have no further questions. Adrian, do you have any
 24 questions?
 25 MR. TERRY: I have no questions, sir.