

# **PLAINTIFFS' EXHIBIT 8**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

No. CIV 08-00702 JOB

AMERICAN ASSOCIATION OF PEOPLE )  
WITH DISABILITIES, FEDERATION OF )  
AMERICAN WOMEN'S CLUBS OVERSEAS, )  
INC., NEW MEXICO PUBLIC INTEREST )  
RESEARCH GROUP EDUCATION FUND, and )  
SOUTHWEST ORGANIZING PROJECT, )

Plaintiffs, )

vs. )

MARY HERRERA, in her capacity as )  
Secretary of State, )

Defendant. )

DEPOSITION OF MAGGIE TOULOUSE OLIVER

February 17, 2010  
9:02 a.m.  
201 3rd Street NW, Suite 2200  
Albuquerque, NM 87102

PURSUANT TO THE FEDERAL RULES OF CIVIL PROCEDURE,  
this deposition was:

TAKEN BY: ADAM C. GOLDSTEIN, ESQ.  
ATTORNEY FOR THE PLAINTIFFS

REPORTED BY: KATHLEEN H. O'DONNELL, RPR  
NEW MEXICO CCR #75  
CUMBRE COURT REPORTING  
2019 Galisteo, Suite A-1  
Santa Fe, NM 87505

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1 one in a couple of years, but I have seen one before.  
 2 Q. I'm going to mark as Exhibit 2 a document  
 3 that has the Bates designation SOS13 and SOS14.  
 4 (Deposition Exhibit No. 2 was marked.)  
 5 Q. BY MR. GOLDSTEIN: Are you familiar with  
 6 Exhibit 2?  
 7 A. Yes.  
 8 Q. Can you describe it for the record?  
 9 A. This appears to be a federal voter  
 10 registration form.  
 11 Q. Do you know whether Bernalillo County  
 12 accepts this form?  
 13 A. We do.  
 14 Q. Do you have any sense for how many  
 15 prospective voters register to vote in Bernalillo  
 16 County using this form?  
 17 A. My sense is that it's not very many.  
 18 Q. Can I ask what your sense is coming from?  
 19 A. It's coming from, frankly, anecdotally, my  
 20 visual -- let me think of a better way to say this.  
 21 From seeing physical piles of and stacks of voter  
 22 registration cards, from personally having processed  
 23 piles and stacks of voter registration cards, the  
 24 vast majority of them, in my personal experience, has  
 25 been New Mexico voter registration forms as opposed

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1 to federal voter registration forms.  
 2 Q. Do you have an estimate for what percentage  
 3 of the forms are Exhibit 2?  
 4 A. I would say in a stack of 50, that one or  
 5 maybe two would be federal forms.  
 6 Q. So approximately two to four percent in  
 7 Bernalillo County use Exhibit 2 as opposed to  
 8 Exhibit 1?  
 9 A. That would be my anecdotal assessment.  
 10 Q. Do you know whether Bernalillo County is  
 11 required to accept Exhibit 2?  
 12 A. Yes, we are.  
 13 Q. Have you been given any training as to  
 14 whether you're required to accept Exhibit 2?  
 15 A. Training in what sense, or what context?  
 16 Q. Have you ever been formally advised that you  
 17 are required to accept a voter registration  
 18 application that uses Exhibit 2?  
 19 A. I have not been formally advised, no. I am  
 20 aware, however, that that is the law.  
 21 Q. How are you aware that that's the law?  
 22 A. Based on -- well, I have read the law  
 23 before. I don't recall a lot of the specifics,  
 24 obviously, again verbatim of the law, but I do recall  
 25 the general gist. And in conversations that I've had

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1 with staff who are also familiar with the law, and  
 2 possibly with my attorney. I don't recall  
 3 specifically.  
 4 Q. When you say staff, are you referring to  
 5 Bernalillo County Clerk staff?  
 6 A. Yes.  
 7 Q. And would that be the 25 to 26 people you  
 8 had discussed earlier?  
 9 A. I would be specifically referring to the  
 10 former election administrator, Jamie Diaz.  
 11 Q. Mr. or Ms. Diaz?  
 12 A. Mr.  
 13 Q. When did Mr. Diaz serve as the election  
 14 administrator?  
 15 A. Correct me if I'm wrong, but between --  
 16 well, his most recent term was between 2001 and  
 17 December of 2009. And then there was a brief  
 18 interlude where he wasn't, and I don't know for how  
 19 long that was, and then he was with the office for  
 20 some years before that.  
 21 Q. And Mr. Diaz, that's with the Bernalillo  
 22 County Clerk's office?  
 23 A. That's correct.  
 24 Q. Have you ever had any conversations with  
 25 anyone in the Secretary of State's office regarding

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1 Exhibit 2?  
 2 A. Not that I can recall.  
 3 Q. Have you ever discouraged anyone from  
 4 registering to vote using Exhibit 2?  
 5 A. Yes, in the sense that the -- when the  
 6 New Mexico form is available, it is preferable to my  
 7 office because it's physically more durable and it's  
 8 easier for us to maintain.  
 9 And if we get a form that's printed off the  
 10 Internet, say exactly as this is here today, in the  
 11 process of it being filled out and either  
 12 hand-delivered to our office, maintained by some  
 13 third-party in the interim, or mailed, oftentimes  
 14 these, you know, flimsy pieces of paper can get torn  
 15 up by the mail-processing system, end up underneath  
 16 somebody's desk, stepped on, ripped, whatever. By  
 17 the time it gets to our office, it could be  
 18 problematic, or in the course of being processed in  
 19 our office, it could also be ripped, stepped on,  
 20 et cetera. And we also have to, you know, take a  
 21 glue stick, attach it to, you know, something more  
 22 substantial in order to maintain it in our filing  
 23 system or, again, it will get -- you know. So really  
 24 mainly for purposes of the integrity of the document,  
 25 but not for any other reason.

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1 Q. And for purposes of the record, in case it  
 2 wasn't clear, in light of that conversation, it  
 3 probably makes sense to note that Exhibit 1 is  
 4 actually a color copy --  
 5 A. Right.  
 6 Q. -- of the New Mexico state registration  
 7 form. Is it your testimony that the actual form  
 8 itself is a different material?  
 9 A. It's printed on a more durable stock,  
 10 correct. And I'm not sure the specific number or  
 11 whatever, but it's a light card stock.  
 12 MR. LANDERS: Not to degrade your photocopy.  
 13 A. Which is a beautiful representation, by the  
 14 way.  
 15 Q. BY MR. GOLDSTEIN: Thank you. We try.  
 16 A. Yeah, you did good.  
 17 Q. So you mentioned you actually had  
 18 discouraged someone from registering using Exhibit 2  
 19 because of the durability issues. Can you describe  
 20 the context of that conversation?  
 21 A. I can't remember a specific conversation. I  
 22 just know I do recall saying to people in the past  
 23 that if at all possible, it's better for them. They  
 24 can call our office and we'll send them one versus  
 25 them printing one off the Internet. That that would

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1 be, you know, ideal. However, in situations where  
 2 that's not an option, obviously the federal form is  
 3 perfectly acceptable and we will accept it and  
 4 process it.  
 5 Q. Do you have a sense for how many people  
 6 you've had that conversation with?  
 7 A. A couple.  
 8 Q. So fewer than 10 probably?  
 9 A. Oh, yeah.  
 10 Q. Do you know whether people in your office  
 11 advise the community the same way regarding Exhibit 2  
 12 versus Exhibit 1?  
 13 MR. LANDERS: Let me just state objection to  
 14 the form.  
 15 THE WITNESS: Pardon?  
 16 MR. LANDERS: I'm stating objection to the  
 17 form. You can answer the question, if you can.  
 18 THE WITNESS: An objection to the form of  
 19 the question?  
 20 MR. LANDERS: Yes.  
 21 A. I honestly -- I have not instructed them to  
 22 do so, and I don't know -- I couldn't tell you  
 23 whether that's actually happened.  
 24 Q. BY MR. GOLDSTEIN: And to make sure I  
 25 understand, there's nothing about the substance that

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1 would be provided in Exhibit 2 that has prompted you  
 2 to encourage people to use Exhibit 1. It's strictly  
 3 an issue of the material that Exhibit 1 exists on?  
 4 A. Yes. And I'm just reviewing the form, yeah.  
 5 And, again, let me be specific that I have encouraged  
 6 where the option is available; in other words, where  
 7 it's just as easy to fill out Exhibit 1 as it is  
 8 Exhibit 2, that they should do it with Exhibit 1.  
 9 But certainly I've never encouraged somebody to wait  
 10 or not register to vote because they didn't have  
 11 access to register -- to Exhibit 1 rather than using  
 12 Exhibit 2. That would never be something that I  
 13 would do.  
 14 Q. Thank you.  
 15 A. Yeah.  
 16 Q. Are you aware of whether any other county  
 17 clerk office has similarly recommended that people  
 18 register using the New Mexico state form as opposed  
 19 to the federal form?  
 20 A. No.  
 21 Q. Have you had any conversations with any  
 22 other county clerk office members?  
 23 A. Pertaining, again, to the durability issue,  
 24 we've all chatted about the problematic nature of  
 25 having a flimsy piece of paper come into the office

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1 and maintaining that. But, again, not about the form  
 2 itself in terms of its content or us being able to  
 3 process a registration based on that content, no.  
 4 Q. Do you know whether anyone from the  
 5 Secretary of State's office has advised anyone  
 6 regarding Exhibit 2 versus Exhibit 1?  
 7 A. I don't.  
 8 Q. Have you ever had any conversations with  
 9 anyone in the Secretary of State's office regarding  
 10 the federal form as opposed to the New Mexico state  
 11 form?  
 12 A. Not that I can recall.  
 13 Q. You had talked a bit earlier about how  
 14 Bernalillo County processes a voter application. Do  
 15 you process the federal form any differently from the  
 16 New Mexico state form?  
 17 A. The main exception would be in terms of  
 18 before it gets filed away, we literally glue-stick  
 19 these to card stock before we put them in the file.  
 20 But that would be really the only exception in terms  
 21 of the steps of the process.  
 22 Q. Do you subject the federal form to any  
 23 additional scrutiny as compared to the New Mexico  
 24 state form?  
 25 A. Not in and of itself. I would guess, I