

Plaintiffs' Exhibit 9

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1 specifically just at election time, and they
2 only want to be a registration agent at
3 election time, usually they don't go through
4 the 50.

5 Q If I'm an agent and I come into the
6 County Clerk's Office -- into your office and
7 pick up 50 forms, when can I come back and pick
8 up another 50?

9 A When you bring me the other ones back.

10 Q So when I bring you the other ones
11 back?

12 A When you bring 'em back -- if you've
13 filled 'em all out, or if you've registered
14 everybody or you've given 'em out or whatever,
15 come by and get 'em.

16 Q What if I haven't filled 'em all out?

17 A Then I ask that you do finish filling
18 out those 50. Now, if you come in and you
19 explain to me, well, I'm going out of town to
20 Lake Arthur or Dexter and I'm know I'm going to
21 need more than that, then I don't have a
22 problem giving you more than 50.

23 Q So you would -- so one of the factors,
24 I guess, you would consider in giving somebody
25 more than 50 is if they're going to be out of

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1 town for a while, and they've requested more?

2 A Yeah. I mean -- just -- yes.

3 Q Are there any other factors that would
4 lend you to say, yes, you can have more than
5 50?

6 A If they're having a rally or something
7 like that, and they say, well, I know I'm going
8 to do more than this. Yeah, that's fine.

9 Because the ones -- the third-party
10 registrants we have here that we all know. We
11 know them, and they're really easy to work
12 with, so we -- I mean, when it comes to giving
13 them extra forms, we know they're going to use
14 'em.

15 Now third parties that come from out
16 of state and places like that, when they come
17 in -- they -- if they come in and they have --
18 we issue them their 50, and then they come back
19 the next day and they don't have any forms to
20 turn in and they say, I want 50 more. No, I
21 want the other ones back prior to me issuing
22 you more forms because I can't account for
23 those other forms that you've taken.

24 And they should have those forms to
25 turn in. If they're in there asking for more

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1 forms, then they've already filled out the
2 other ones. I need them back within 48 hours.

3 Q So if I wanted to turn back around and
4 come -- so I got my 50 forms, sorry, and I want
5 to come back tomorrow and get more -- 50 more
6 forms I have to account for the 50 I've already
7 taken?

8 A Yes. I need you to account for the 50
9 that you've already taken, and what has gone on
10 with those.

11 Q Are you the only person in your office
12 who's in charge of determining how many forms
13 an agent will get?

14 A No.

15 Q Who else?

16 A Rhoda, Mark. And we don't limit
17 anybody on forms when they come in. I mean, if
18 they need registration forms, we'll give 'em to
19 'em. I'm not saying that we won't give them
20 the forms. I'm saying that we want them to
21 account for the forms that are out there. We
22 would like to keep track of what we have
23 outside of the office.

24 And with the expense of 'em and
25 everything, a lot of times we don't get a whole

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1 Q But it goes the other way as well? If
2 an individual voter asks for help from an
3 agent --

4 A Uh-huh. They are assisting that person
5 to register to vote as soon as that person
6 comes up and says, I want to register to vote,
7 they can't turn down anybody. They have to
8 register everybody that comes up to 'em.

9 Q Does handing out the forms place
10 registration agents under the laws'
11 requirements?

12 A Well, if they're handing out forms and
13 everything, they're responsible for those
14 forms. Those numbers are responsible --
15 they're responsible for those.

16 Now whether they get turned back in or
17 not, you know, that's the voter -- if they're
18 handing 'em out that's why we want to have
19 something in place to say, hey, I gave this to
20 somebody and they have it. It's in their
21 hands, they're responsible for it. Now that
22 takes the responsibility off of your
23 third-party register.

24 Q I have a few questions about the
25 penalties under the laws. Are you aware of any

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1 stuff like that. It's not our determination.

2 Q Okay. What if the voters filled out
3 the forms on Monday, and they were dropped in
4 the mailbox -- so they dated it Monday, and
5 then they were dropped in the mailbox, and they
6 weren't postmarked by the postal service until
7 Thursday. In that situation you could tell,
8 right, that it took more than 48 hours to get
9 postmarked?

10 A Well, when that -- you know, we would
11 get ahold of that voter agent and ask 'em why
12 is this this way? If they say, hey, I dropped
13 that in the mail on Monday. Okay. I mean, I'm
14 willing to give 'em the benefit of the doubt.
15 If they've been bringing in their forms on time
16 and stuff like, then all of a sudden one time
17 they just -- they don't, I can see giving 'em
18 the benefit of the doubt that, you know,
19 they're not lying to us.

20 Q Okay. But would you consider it a
21 violation.

22 A Because -- I don't -- me, personally?
23 No. Because it's not the fault of that
24 registration agent if the post office is not
25 doing their job. So I would say no --

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1 Q Okay.

2 A -- in that case.

3 Q Do you think people in your office

4 would also say that it wasn't a violation?

5 A Yes.

6 Q And is this based on conversations
7 you've had with them?

8 A Yes.

9 Q Do you think that the Secretary of
10 State's Office would view this as a violation?

11 A I can't speak to what they would say.

12 Q Do they ever go over hypotheticals with
13 you during any of the trainings in connection
14 with the 48-hour rule?

15 A No.

16 MS. THORN: I think we're okay.
17 Scott, do you have any questions?

18 MR. FUQUA: No, I don't.

19 MS. THORN: Okay. We're done.

20 (Deposition concluded at 1:32.)

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1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF NEW MEXICO

3

4 AMERICA ASSOCIATION OF PEOPLE
5 WITH DISABILITIES, FEDERATION
6 OF AMERICAN WOMEN'S CLUBS
7 OVERSEAS, INC., NEW MEXICO
8 PUBLIC INTEREST RESEARCH GROUP
9 EDUCATION FUND, and SOUTHWEST
10 ORGANIZING PROJECT,

11 Plaintiffs,

12 vs. Case no. CIV-08-00702

13 MARY HERRERA, in her capacity
14 as Secretary of State,

15

16 Defendant.

17

18

19 CERTIFICATE OF COMPLETION OF DEPOSITION

20

21 I, GINA R. GRUBEN, RPR, NM CCR #43, TX

22 CSR #2987, DO HEREBY CERTIFY that on the 27th

23 day of January, 2010, the deposition of Jess

24 Douglas Shaw was taken before me at the request

25 of The Plaintiff, and sealed original thereof

retained by:

26 MS. JESSICA THORN, ESQ.
27 MR. ADAM GOLDSTEIN, ESQ.
28 O'MELVENY & MYERS LLP
29 1625 EYE STREET, NW
30 WASHINGTON, D.C. 20006-4001
31 202-383-5300

32

33 I FURTHER CERTIFY that copies of this

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1 certificate have been mailed or delivered to
2 Counsel of record, and parties not represented
3 by counsel.

4 I FURTHER CERTIFY that examination of
5 this transcript and signature of the witness
6 was REQUESTED by the witness and all parties
7 present. On the 22nd day of February, 2010, a
8 letter was delivered to Jess Shaw regarding
9 signature of the witness.

10 I FURTHER CERTIFY that the
11 recoverable cost of the original and one copy
12 of the deposition, including exhibits to Ms.
13 Thorn is \$848.25.

14 I FURTHER CERTIFY that I did
15 administer the oath to the witness herein prior
16 to the taking of this deposition, that I did
17 thereafter report in stenographic shorthand the
18 questions and answers set forth herein, and the
19 foregoing is a true and correct transcript of
20 the proceeding had upon the taking of this
21 deposition to the best of my ability.

22 I FURTHER CERTIFY that I am neither
23 employed by nor related to nor contracted with
24 (unless excepted by the rules) any of the
25 parties or attorneys in this case, and that I

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1 have no interest whatsoever in the final
2 disposition of this case in any court.

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5

GINA R. GRUBEN, CCR-RPR
NM CCR #43; TX CSR #2987;
GINA GRUBEN, INC.
COURT REPORTING SERVICES
1008 PLAZA DEL SOL
ROSWELL, NM 88203
gina@courtreportersite.com
575-623-4462
LICENSES EXPIRE: 12/31/10

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