

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

FILED

SEP 21 2018

Matthew Thibault  
CLERK

G Matt Johnson, Lora Hubbel

Plaintiffs,

vs.

HONORABLE SHANTEL KREBS,  
in her official capacity as SECRETARY  
OF STATE, *et al.*,

Defendants,

Civil Action No. 4:18-cv-04108  
Affidavit for the Plaintiffs

Affidavit of Joel Bergan, Past Chair of the Constitution Party of South Dakota

20076 450<sup>th</sup> Ave  
Arlington, SD  
Kingsbury County,  
South Dakota

1). On July 21, 2018 in Chamberlain, SD I called a legal and required meeting to establish a Board for the Constitution Party of South Dakota. Prior notice was given and after opening the meeting I appointed Gordon Howie as Vice Chair and then resigned. At that point Gordon Howie became the Chair of the Constitution Party and took over the meeting. Matt Johnson was appointed as the Vice Chair, Lora Hubbel was appointed as the Secretary and I was appointed to a new position as the Past Chair. Treasurer Lori Stacey was not there to give a requested full report of all accounts, funds and party records and was replaced by Janette McIntyre. All positions were deemed voting members.

2). The record shows and I concur, that our bylaw conflicted with state law which said we are to have our nominating convention within 60 days of the primary election. We determined that the bylaws will be made more concise and complete in an upcoming meeting but for then we determined that the bylaw applied to the first convention on July 14 and not the August 14 convention.

3). I assumed that the new Constitution Party Chair (Gordon Howie) had been filed with the Secretary of State's office and was surprised when I was the only Board member to receive papers from the Sheriff regarding the Lawsuit filed August 1st by Dan Lederman and the Republican Party, namely, a Writ of Prohibition to keep our Candidates off the

ballot. I talked by phone and texted a few times to Gordon Howie in early August and I was told that he was in contact with Secretary of State, Shantel Krebs.

4). Since we (Constitution Party) and the Sec of State were the defendants in the upcoming lawsuit, I was told we were on the same side and to follow her advice. Gordon Howie stated that we were not to file anything to the Secretary of State's office until after the lawsuit. This included the change of Chair position that occurred at the board meeting on July 21<sup>st</sup>.

5). I had said we ought to have our own lawyer and have someone at the hearing. We tried unsuccessfully to secure a lawyer and I was told by Gordon Howie that we should not be at the hearing because the Attorney General's office would represent us.

6). On August 1, 2018 I called home about 10pm and my wife said the Sheriff was there to serve papers for the Dan Lederman/Republican Lawsuit. She was upset that the Sheriff came to our home so late at night when she was there alone. Then I talked to the Sheriff on my wife's phone and he told me that he had told the server, Attorney Justin Bell that he knew I was on the road and was not at home. Justin Bell said to serve the papers anyway, even that late at night. Two more times after that, the Sheriff was at my home with papers for this lawsuit and each time I also received them in the mail a few days later.

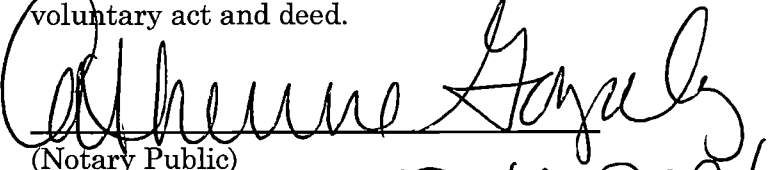
However, when I was subpoenaed by the petitioners to be at the hearing to refute the accusations, I was improperly served by regular mail, post marked August 15, 2018 for the hearing the next day, August 16, 2018. The Sheriff did not serve this subpoena. This letter was my only notice to attend the hearing and the subpoena did not reach me until days after the hearing was over. I suspect all parties knew I was on the road working and would be unable to attend on such improper short notice.

I swear or affirm that the above is true, correct and accurate to the best of my knowledge, information and belief.

Signed  (Joel Bergan)

Date: 9/21/18

I, the undersigned Notary Public, do hereby affirm that Joel Bergan personally appeared before me on the 21 day of September, 2018, and signed the above Affidavit as his free and voluntary act and deed.

  
(Notary Public)

My commission expires 12-10-2021



## AFFIDAVIT

State of South Dakota

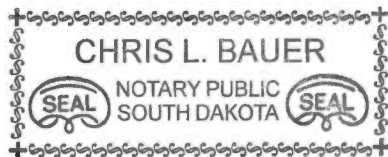
Minnehaha County

Lora Hubbel, being duly sworn, deposes and states that she has read the filings for Federal Civil Case Number 4:18-cv-04108 to date as of September 20, 2018 and knows the contents thereof, and the facts stated therein are true, correct and accurate to the best of her own knowledge, information and belief.



Lora Hubbel

Subscribed and sworn to before me this 21<sup>st</sup> day of September, 2018



Notary Public

My commission expires: 7/3/2021

## AFFIDAVIT

State of South Dakota

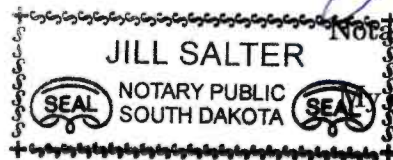
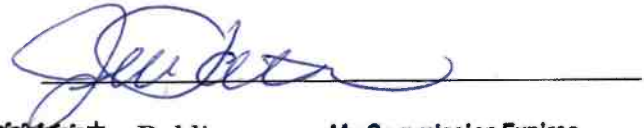
Minnehaha County

G Matt Johnson, being duly sworn, deposes and states that he has read the filings for Federal Civil Case Number 4:18-cv-04108 to date as of September 20, 2018 and knows the contents thereof, and the facts stated therein are true, correct and accurate to the best of his own knowledge, information and belief.



G Matt Johnson

Subscribed and sworn to before me this 21<sup>st</sup> day of September, 2018



Notary Public

My Commission Expires  
October 20, 2020

My commission expires: \_\_\_\_\_