

HAND DELIVERED

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MONTANA OFFICE OF  
POLITICAL PRACTICES  
2012 JUN 20 AM 10:31

Commissioner Jim Murry  
Montana Office of Political Practices  
P.O. Box 202401  
1205 8<sup>th</sup> Avenue  
Helena, MT 59620-2401

**RE: Formal Election Law Complaint Against Brian Kahn, a Helena and Lewis and Clark County, Montana, lawyer.**

**Via Hand Delivery: Montana Office of Political Practices, 1205 8<sup>th</sup> Ave., Helena, MT. Delivery Receipt Requested.**

Dear Commissioner Murry:

As per the following, I wish to submit a formal complaint to your office alleging violation of Montana Election Laws and Regulations described in this complaint.

This complaint is submitted in compliance with Montana statutes found in Montana Code Annotated 2011, Title 13 Elections, and also in compliance with 14-10-307- ARM. Additional applicable information comes from the Commissioner of Political Practices as found on the Secretary of State's Office website <http://www.montanafairelections.com/>, under the Fair Election Center.

The Fair Elections Center website quotes Secretary of State Linda McCulloch that every Montanan has a right to an elections process that is "open, honest, fair, and accurate" and that citizens and voters play a critical role in maintaining a fair election process for all Montanans.

My name is Dr. Daniel O'Neill and I was a 2012 Republican candidate for Senate District 37 in Butte-Silver Bow County. My address is 2085 Beacon Road, Butte, MT 59701. My campaign literature referred to me as Dan "D.J." O'Neill.

I am a fourth generation Butte, Montana native. I attended Carroll College, earning a bachelor's degree in biology in 1977. I spent a year working as a clerk for Secretary of the U.S. Senate Stanley Kinnitt in Washington, D.C. when Senator Mike Mansfield (D-MT) was senate majority leader. This allowed me to work with all branches of government. After the year, I went to University of Pacific Dental School in San Francisco. I operated a successful private dental practice in Butte for 30 years. I am a Lieutenant Colonel in the Montana Army National Guard, a combat veteran

of Afghanistan as a dentist, and the Guard's state dental officer. I will complete the Army's Command General Staff College, Fort Leavenworth, Kansas, in the summer of 2013. I am now a volunteer health and dental care consultant in the public health sector, mainly working to improve rural Montana and Montana Indian tribe healthcare.

The facts and allegations contained in this complaint reveal the very kind of intimidation, excess of authority, bullying, and arrogance that the election laws of this state are designed to guard against and protect. The dubious actions on the part of Mr. Brian Kahn, a lawyer, are nothing short of intentional and reprehensible. They are violations of Montana's highly regarded and long-standing election laws, which allow Montana voters to determine, for themselves and without obstruction, which candidates and issues best espouse their own interests in our representative form of government. Deprivation of this ability to vote without confrontation by the party herein named warrants the full measure of the authority vested in your office.

#### **I. Violator:**

Brian Kahn, lawyer, of Helena, Lewis and Clark County, Montana, 430 Monroe Avenue, Helena, MT 59601-6173. Telephone (406-449-4129).

#### **II. Factual Basis for Complaint:**

As a Butte native and a Republican political candidate, I can relate that Helena Lawyer Brian Kahn, a Democrat, attempted to impede my voting Tuesday, November 6, 2012 at the main Butte Civic Center polling place in Butte-Silver Bow County, Montana.

According to Mr. Kahn's own words in a Sunday, November 11, 2012 Opinion Editorial (Op-ed) column in the Montana Standard, Butte's daily newspaper, he was in Butte as a self-described "legal observer." (**Exhibit A.**) No such position exists in Montana Election law, but I can testify that Kahn did more than just observe. As I was standing in line waiting to vote, Kahn accosted me, insinuating that I had been too long in the Civic Center.

Let's start at the beginning.

According to Mr. Kahn's Op-ed, he arrived in Butte around 6 a.m. And according to Butte-Silver Bow Clerk and Recorder Sally Hollis, who was Election Administrator (MCA 2011: 13-1-301) for the day, he introduced himself to her before voting started at 7 a.m. A candidate, group of

candidates or any group having an interest in the election may request the Election Administrator to allow additional poll-watchers at any **precinct**. The Election Administrator shall grant such requests if the number of poll-watchers at the polling place will not interfere with election procedures (*MCA 2011: 13-13-121*).

Brian Kahn viewed himself as a "legal observer" but the term "observer" does not exist in Montana election laws. The Montana Secretary of State's office says in an email from Lisa Kimmet, election director, dated Thursday, November 15, 2012, and addressed to Cort Freeman:

"I don't find the word observers in Title 13. I believe generally, observers and poll-watchers are used synonymously. We have poll watchers at every presidential election, and generally have "additional poll-watchers" from the parties, candidates, etc. It is those additional poll-watchers that may be called observers."

But under Montana Election Laws additional poll-watchers are limited to watching a precinct. (*MCA 2011: 13-13-121*). That leaves the term "legal observer" as being made up and undefined. There were 40 precincts in the Butte Civic Center Arena. Each precinct had a table with three election judges, one of whom was selected as chief judge, and two poll watchers. The election judges were in charge of the ballots. The chief election judge was in charge of the precinct.

When I walked into the Civic Center around 11 a.m., I intended to vote and leave. The ballots were in the Civic Center Arena and I headed in that direction. I saw a couple of friends in the hallway between the Civic Center lobby and the arena space where voting was taking place. These were very brief encounters. I then proceeded to get my ballot from my precinct desk on the south side of the arena. There was a line. Time in the Civic Center so far was about 7 minutes.

When I picked up my ballot, there were no open voting booths on the south side, and so I walked around to the north side of the arena, figuring a booth would open sooner there. They were full also, but I ran into Dr. Michael Driscoll, semi-retired Radiologist, his wife Laura Lee, and Dr. Lawrence LaRock, semi-retired Optometrist. They are all from Butte and long-time colleagues of mine. We spent maybe 10 minutes catching up on medical news in Butte. I have attached supporting affidavits to this effect – **Exhibits B, C, and D.**

Then Ms. Jean Ruppert, described as a Republican observer, approached and notified me that two people complained I was "campaigning." Surprised, but

not wanting to give that impression, I started to say goodbye to my colleagues. Then Butte-Silver Bow Clerk and Recorder Sally Hollis, the Election Administrator for the election, approached me and wished me well. I told her somebody complained that I was electioneering. She didn't know about the complaints and didn't say anything. So I shrugged the incident off, saw an opening for a booth, and got in line. Time elapsed in the Civic Center: maybe 20 minutes.

A person may not do any electioneering on election day within any polling place (*MCA 2011: 13-35-211*). This includes such things as soliciting voters, asking for votes, or asking voters if they intended to vote or had voted for or against a candidate or a ballot initiative. People also can't wear campaign paraphernalia, such as hats, buttons or badges.

There are no Montana election law rules for people shaking hands with friends, making small talk, or spending time at polling places. I wasn't obstructing the polling place or electioneering so who lodged the complaints? Brian Kahn apparently complained because I was talking to my colleagues and spending too much time in the Civic Center. But I was not soliciting for votes or for voter information and there are no time limits for persons (including candidates) in polling places.

I want to emphasize that Mr. Kahn had absolutely no authority here in Butte's Civic Center. This was confirmed by the Secretary of State's office. Butte-Silver Bow Clerk and Recorder Sally Hollis, as the Election Administrator, was the ultimate person of authority overseeing the election process. Kahn did not take his concerns to her.

But Kahn did approach me while I waited for an empty voting booth. He asked, "How long have you been here?"

I thought to myself, what business is it of yours? But I answered about 15 or 20 minutes.

"You've been here 35 minutes," Kahn said.

My response was to the point. Then, a booth opened up and I went and voted. After I voted, I left, but it was an unpleasant experience.

Kahn violated state election law by coming up to me in the voter line and obstructing me by asking questions. He had no authority to do that. The Montana Secretary of State's office says "observers" (additional poll watchers) have no authority whatsoever and they shouldn't be prominent in a polling place. Yet other poll watchers, approved by Election Administrator

Hollis, said Mr. Kahn was front and center, making his presence felt throughout the voting venue.

I wrote my experience in detail in an Op-ed piece in the Montana Standard Sunday, November 18, to contrast Brian Kahn's article. I include my article as **Exhibit E**.

### **III. Legal References Pertaining To Violations**

Mr. Kahn broke numerous Montana Election Laws despite his being an attorney who described himself as a "legal observer." He should have known better.

*MCA-2011: 13-35-103, **Violations as misdemeanor.*** A person who **knowingly** violates a provision of election laws of this state for which no other penalty is specified is guilty of a misdemeanor.

*MCA-2011: 12-35-211, **Electioneering*** – soliciting information from electors. (1) A person may not do any electioneering on election day .... which aids or promotes the success or defeat of any candidate. (2) A person may not solicit from elector information regarding voting.

*MCA 13-35-218, **Coercion or undue influence of voters. (1,3,4,5)***

(1) A person, directly or indirectly, individually or through any other person, in order to induce or compel a person to vote or refrain from voting for any candidate, the ticket of any political party, or any ballot issue before the people may not: (a) use or threaten to use any force, coercion, violence, restraint, or undue influence against any person; or (b) inflict or threaten to inflict, individually or with any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person.

(3) A person may not, by abduction, duress or any fraudulent contrivance, impede or prevent the free exercise of the franchise by any voter at any election or compel, induce, or prevail upon any elector to give or refrain from giving the elector's vote at any election.

(4) A person may not in any manner, interfere with any voter lawfully exercising the right to vote at an election in order to prevent the election from being fairly held and lawfully conducted.

(5) A person on election day may not obstruct the doors or entries of any polling place or engage in any solicitation of a voter within the room where votes are being cast or elsewhere in any manner that in any way interferes

with the election process or obstructs the access of voters to or from the polling place.

*MCA 13-35-235. **Incorrect election procedures information.*** (1) A person may not knowingly or purposely disseminate to any elector information about election procedures that is incorrect or misleading or gives the impression that the information has been officially disseminated by an election administrator.

(2) A person who violates this section is guilty of a misdemeanor.

#### **IV. Office of Political Practices -- Frequently Asked Questions.**

Q: What is "ELECTIONEERING?"

A: Electioneering means soliciting support or opposition to a candidate or issue to be voted on at the polling place in question. Electioneering includes personal persuasion and the display or distribution of campaign materials. (44.10.311 ARM)

Q: Can Candidates Be Present in the Polling Place? Can they work the polls?

A: These statutes do not prohibit candidates in the polling place – they prohibit electioneering (which includes campaigning) in or about the polling place

#### **V. Claims**

Brian Kahn, lawyer of Helena, Lewis and Clark County, Montana is a self-described expert in election law, proclaiming he is a "legal observer" of elections. I take him at his word as found in an Opinion Editorial in The Montana Standard, a daily local newspaper of Butte, Montana, of November 11, 2012. (Exhibit A) His Op-ed also was picked up in November 2012 by the Huffington Post and that publication's Onenewspage.com, achieving much wider distribution.

#### **A. Violations as misdemeanor**

A person who **knowingly** violates a provision of election laws of this state for which no other penalty is specified is guilty of a misdemeanor.

- I claim that Brian Kahn knowingly violated a provision of election law by confronting me as I stood in line to cast my ballot in the November 6, 2012 election. In this instance, Brian Kahn would be considered a poll-watcher, or in his parlance, a "legal observer." In his duty as a

poll-watcher, he should have been station and remained at a precinct. But Brian Kahn approached me in the voting line thus knowingly and fraudulently acting in contravention or violation of the provision of election law *MCA 2011:13-13-121*, which deals with additional poll-watchers and their duties described under *MCA 2011:13-13-120*.

**B. Electioneering – soliciting information from electors. *MCA:13-35-211*, 44.10.311 ARM, Office of Political Practices Q & A, and *MCA:13-35-218(5)***

Of interest in this section: A person may not do any electioneering on election day within any polling place .... Which aids or promotes the success or defeat of any candidate or ballot issue to be voted upon at the election. Electioneering doesn't apply to Candidates only, but can apply to any person in the polling place.

- I claim that Brian Kahn knew that I was a Republican candidate for a Butte-Silver Bow County Senate Seat, and he, being a Democrat, attempted to influence the outcome of my election by insinuating that I had a time limit to be in the polling place.

As an attorney and a self-described expert in Montana election laws, Kahn should have known and probably did know that there are no time limits for candidates in polling places (Section IV above Q & A from Office of Political Practices).

- I claim it was Brian Kahn who was electioneering in the Butte Civic Center by: (1) Not staying at a precinct as required of additional poll-watchers, (2) Believing himself to be a "legal observer" for which there is no definition under state law (3) Moving throughout the polling place, and (4) Trying to intimidate me in the voting line in order make me leave the Butte Civic Center for whatever reason he thought this might help Democrat candidates.

**D. Coercion or undue influence of voters. *MCA 13-35-218 (1(a),3,4,5)***

(1) A person, directly or indirectly, individually or through any other person, in order to induce or compel a person to vote or refrain from voting for any candidate, the ticket of any political party, or any ballot issue before the people may not: (a) use or threaten to use any force, coercion, violence, restraint, or undue influence against any person; or (b) inflict or threaten to inflict, individually or with any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person.

- I claim under 1a above Brian Kahn attempted to threaten and coerce by asking when I was in line to vote how long I had been in the Civic Center. He knew or should have known as an attorney and as a self-described "legal observer" that there are no time limits for candidates to be in polling places.

(3) A person may not, by abduction, duress or any fraudulent contrivance, impede or prevent the free exercise of the franchise by any voter at any election or compel, induce, or prevail upon any elector to give or refrain from giving the elector's vote at any election.

- I claim Brian Kahn impeded my ability to vote my ballot through duress and fraudulent contrivance by questioning me while I was in line to vote and insinuating that I had a time limit to be in the Butte Civic Center polling place.

(4) A person may not in any manner, interfere with any voter lawfully exercising the right to vote at an election in order to prevent the election from being fairly held and lawfully conducted.

- I claim Brian Kahn interfered with me, a voter, because I am a Republican and Kahn, a Democrat, wanted to promote Democrat candidates.

(5) A person on election day may not obstruct the doors or entries of any polling place or engage in any solicitation of a voter within the room where votes are being cast or elsewhere in any manner that in any way interferes with the election process or obstructs the access of voters to or from the polling place.

- I claim Brian Kahn interfered with the election process and wrongly solicited information from me when I was in line to vote in the room where votes were being cast.

#### **E. Incorrect election procedures information MCA 13-35-235.**

(1) A person may not knowingly or purposely disseminate to any elector information about election procedures that is incorrect or misleading or gives the impression that the information has been officially disseminated by an election administrator. (2) A person who violates this section is guilty of a misdemeanor.

- I claim Brian Kahn knowingly and purposely disseminated to me information regarding time limits for candidates in polling places that

did not conform to election procedures, was incorrect or misleading, while giving the impression the information was official by the election administrator. Election administrator Sally Hollis met Brian Kahn and allowed him to be an "additional poll-watcher" and nothing more. His confronting me was to disseminate misleading information.

## **VI. Conclusions**

I am filing this complaint because what may take place at one polling place could happen elsewhere in Montana. This is not a sour grapes effort because I lost an election. The fact my post-election advertisements appeared in print (Montana Standard) or was pending (Butte Weekly) before Kahn's Op-ed attest to the fact that I was content with the election outcome. **(Exhibits F, G)**. This complaint is for ensuring the integrity of state election laws.

Disregard of Montana Election laws, knowingly or unknowingly, whether to further the ends of one political party or another, or one candidate or another, from local or state-wide or national races, fails to provide the unhindered certainty of our voting heritage in Montana and the United States of one man, one vote.

Accosting electors waiting to vote is prohibited under Montana Election law. Kahn, a lawyer, violated this main principle, but he also violated numerous other election law criteria in the process. He describes himself as an election "legal observer" yet no such designation or definition exists in Montana Election law. However, his self-description means he considers himself an election law "expert" and this allowed him to influence others in the Butte Civic Center while having no authority himself.

Also, Montana Election law is significantly county and precinct specific. Overall authority for the election process resides with the Election Administrator (usually the county clerk and recorder) and, at the precinct level, authority resides with either the Election Administrator or the Chief Election Judge of each precinct, who must by law be from the county. For the Butte Civic Center polling place that means Butte-Silver Bow County. However, Brian Kahn was from Helena, Lewis and Clark County, Montana, and had no authority whatsoever. Therefore, if he believed the election process was flawed or if he thought there were election law infractions, his obligation would have been to notify Sally Hollis the Election Administrator or a precinct Chief Election Judge, not to take things into his own hands. Kahn introduced himself to Hollis the morning of the election and so he knew the chain of command.

Brian Kahn's intention not to follow Montana Election laws but to make sure his personal political proclivities as a Democrat were front and center in the Butte Civic Center polling place harmed not only me, a Republican, but, by extension, could have influenced others witnessing his activities. This is what Montana Election laws guard against.

I have attached affidavits testifying to the verification of claims herein. If you need any additional assistance in your investigation, please contact me. Thank you.

**VII. Summary:**

**From the details in this complaint, and realizing there may be additional issues not listed here, I accuse Brian Kahn, in whole or in part, of:**

1. Knowingly violating several provisions of Montana's election laws, *MCA:13-13-121 and MCA:13-13-120,*
2. Electioneering, *MCA:13-35-211, 44.10.311 ARM, Q & A from Secretary of State's Office of Political Practices, and MCA:13-35-218(5),*
3. Coercing or undue influencing of voters, *MCA 13-35-218 (1(a),3,4,5), and*
4. Disseminating incorrect or misleading information, *MCA 13-35-235.*

**The above being true and correct I, Daniel O'Neill, candidate for Senate District 37, Butte-Silver Bow County do here by truly and sincerely affix my signature hereto as follows on this date:**

This 20 day of February, 2013;

A handwritten signature in black ink that reads "Daniel 'DJ' O'Neill, Candidate MT SD-37". The signature is written in a cursive style and is positioned above a solid horizontal line.

**Daniel "DJ" O'Neill, Candidate MT SD-37**

**VERIFICATION**

STATE OF MONTANA )

: SS.

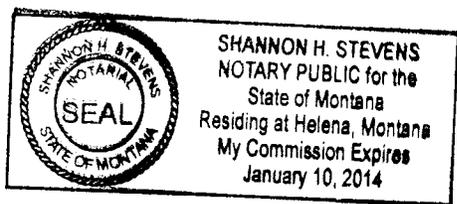
*Lewis & Clark*  
County of ~~Butte-Silver Bow~~)

Daniel O'Neill, being first duly sworn, deposes and says as follows:

That he is the Complainant in the above entitled case, that he has read the complaint, knows the contents thereof, and that the facts and matters contained therein are true, accurate and complete to the best of his knowledge and belief. Further, as to any facts that are stated as facts, to which he has personal knowledge, the same are here by verified as being true. Still further the signature on the Complaint is the signature of DANIEL O'NEILL.

On this 20<sup>th</sup> day of February 2013, before me, a notary public, personally appeared Daniel O'Neill, known to me to be this person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

*Shannon H. Stevens*



Shannon H. Stevens

Notary Public for the State of Montana  
Residing at Helena  
My commission expires 1-10-2014

The **MONTANA STANDARD**  
mtstandard.com

## Observing Butte's election day



NOVEMBER 11, 2012 12:08 PM • BY BRIAN KAHN

Election day, it was six in the morning and pitch dark as I passed the Berkeley Pit mine. A mile wide and half as deep, its terraced walls leach metal into the toxic lake below. The mining has stopped, but pumps will run forever to treat the effluent. Still, there are deaths: A flock of snow geese stopped there to rest, and took a drink. Flying south, they fell dead from the skies, their insides burned. Arco, corporate heir to the copper barons, initially denied responsibility.

The list of casualties from Butte mines is long. Hungry, tenacious people came from around the world to dig copper in the tunnel mines. Hundreds died trying, but the survivors built Butte. Owner greed, ruthlessness treatment of workers, and company control of the press and government radicalized the people. Strikes came. The Wobblies – the socialist International Workers of the World – sent in

organizers. One, Frank Little, was kidnapped by company goons in August, 1917, then tortured and lynched. In death, he helped build Butte's unions.

Driving up Harrison Street I passed Fran Johnson's Sport Shop. Inlaid brick at the building's top still reads: SOCIALIST HALL.

They're not many socialists left in Butte, and globalization plus boom/bust copper prices have broken union power. But Butte remains. Decades of hard living and hard times birthed a hard-nosed, passionate, and compassionate community. Defying logic, it's unwilling to die.

By election day Montanans had endured an unprecedented deluge of out-of-state campaign money. More than \$40 million, mostly for attack ads, flooded our state of one million people. The strategy was doubly sinister: First, incessant attacks create false "truth", changing votes. Second, they demoralize people, making them cynics about democracy, gutting their will to vote. Both effects benefit the conscienceless interests funding the attacks.

So I arrived at the Civic Center not knowing what I'd find – civic engagement or apathy. The hall reflects Butte's spirit of 60 years past. In 1948 town leaders urged citizens to

approve a \$995,000 bond — \$9.6 million in today's money. They did, 7,165 votes to 4,357, and on March 19, 1952, the huge building was dedicated by crowds of citizens, a deluge of American flags, and Butte's two high school marching bands.

My job for the day was "legal observer," a lawyer helping assure that all who were entitled to vote got to do so. In Butte, a fully unnecessary job: Though the polls didn't open until 7 a.m., the lights were already on, the election staff and volunteers at tables serving 40 precincts, 88 polling booths in the middle of the floor and more tables for overflow. Inside and out, people were lining up to vote. They were almost all Caucasian, descendants of Irish, German, Slovakian, Polish and Russian immigrants. Old, middle aged and young, mothers with infants kicking softly on their hips, fathers carrying babies in bassinets. Throughout the day they came, freshly washed, well-haired and bald, wearing baseball caps, sweatshirts, short skirts, working clothes, running shoes and hard-worn boots, men with earrings and women with scarves, old people with tremors and others using walkers — patient, quiet, good-natured, and determined to vote.

Both Republicans and Democrats had poll watchers. Unlike Washington and much of the nation, they worked together to make sure things worked right. A Republican watcher came to me, concerned — a staffer of a Democratic candidate was introducing student observers to the poll workers; the Republicans had been told it was inappropriate for relatives of candidates to do that work. I spoke to the staffer and she agreed to leave. Before going, she said to the Republican, "Are we OK now?" "Yes," was the reply. "You know this is not personal. You know I care for you."

For six and a half hours I watched the people vote. They got their ballots from volunteers who knew what they were doing and treated their neighbors with friendly respect. Then the citizens walked to the center of the great floor, waiting for others to finish voting, stepping forward when a cubicle became vacant.

They opened their envelopes, and leaned intently and earnestly into their assigned and accepted task.

The ballot was long, from County Clerk and Recorder to President of the United States, plus five initiatives, and the voters of Butte took their time as relatives or neighbors held their infants, and children played on the floor.

I looked at their backs from where I sat — forty at a time, all day long. And watching, realized: These were the American citizens of Butte, Montana, engaged in an act of sober hope, and sacred, secular prayer.

— Brian Kahn hosts "Home Ground" radio. A lawyer, he is author of "Read Common Sense: Using Our Founding Values to Reclaim our Nation for the 99%," and winner of the Montana Governor's Award for the Humanities. He lives in Helena.

Affidavit of J. Michael Driscoll, M.D.

My name is J Michael Driscoll. I am 67 years old, am a retired Radiologist, and currently reside at 805 W. Broadway, Butte, Silver Bow County, Montana.

I can confirm that on November 6, 2012, I saw, met and spoke to Dr. Daniel O'Neill on election day inside the Butte Civic Center polling place and that our conversation was about the medical community in Butte and that Dr. O'Neill did not solicit my vote, did not ask if I were going to vote or had voted for or against a candidate or a ballot initiative. The conversation of pleasantries lasted less than 10 minutes.

I can confirm that the information herein is true, correct and complete.

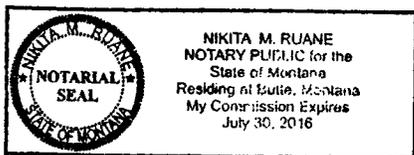
J Michael Driscoll

J. Michael Driscoll, M.D. (print)

J. Michael Driscoll

J. Michael Driscoll, M.D. (signature)

On this 27<sup>th</sup> day of November, 2012, before me, a notary public, personally appeared J. Michael Driscoll, M.D., known to me to be this person whose name is subscribed to the herein instrument, and acknowledged to me that he executed the same



Nikita M Ruane

Notary Public for the State of Montana  
Residing at Butte, Montana  
My commission expires July 30, 2016

AFFIDAVIT OF LORILEE DRISCOLL

My name is Lorilee Driscoll. I am 67 years old, am a housewife and mother, and currently reside at 805 W. Broadway, Butte, Silver Bow County, Montana.

I can confirm that on November 6, 2012, I saw, met and spoke to Dr. Daniel O'Neill on election day inside the Butte Civic Center polling place and that our conversation was about the medical community in Butte and that Dr. O'Neill did not solicit my vote, did not ask if I were going to vote or had voted for or against a candidate or a ballot initiative. The conversation of pleasantries lasted less than 10 minutes.

I can confirm that the information herein is true, correct and complete.

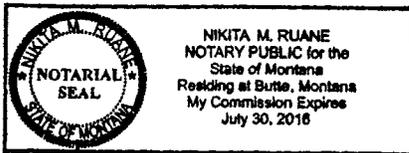
Lorilee Driscoll

Lorilee Driscoll (print)

Lorilee Driscoll

Lorilee Driscoll (signature)

On this 27 day of November, 2012, before me, a notary public, personally appeared Lorilee Driscoll, known to me to be this person whose name is subscribed to the herein instrument, and acknowledged to me that she executed the same.



Nikita M. Ruane  
Notary Public for the State of Montana  
Residing at Butte, Montana  
My commission expires July 30, 2016

AFFIDAVIT OF LAWRENCE O. LAROCK

My name is Lawrence O. LaRock. I am 70 years old, am a semi-retired optometrist, and currently reside at 1230 W. Aluminum St., Butte, Silver Bow County, Montana.

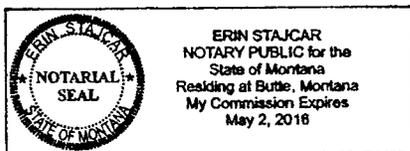
I can confirm that on November 6, 2012, I saw, met and spoke to Dr. Daniel O'Neill on election day inside the Butte Civic Center polling place and that our conversation was about the medical community in Butte and that Dr. O'Neill did not solicit my vote, did not ask if I were going to vote or had voted for or against a candidate or a ballot initiative. The conversation of pleasantries lasted less than 10 minutes.

I can confirm that the information herein is true, correct and complete.

Lawrence O. LaRock  
Lawrence O. LaRock (print)

*Lawrence O. LaRock*  
Lawrence O. LaRock (signature)

On this 27 day of November, 2012, before me, a notary public, personally appeared Lawrence O. LaRock, known to me to be this person whose name is subscribed to the herein instrument, and acknowledged to me that he executed the same.



\_\_\_\_\_  
*Erin Stajcar*

Notary Public for the State of Montana  
Residing at Butte, MT  
My commission expires 5/2/2016

# EXHIBIT E

The MONTANA STANDARD  
mtstandard.com

## All wasn't rosy at Butte polling station



NOVEMBER 18, 2012 12:15 AM • BY DAN O'NEILL

As a Butte native and a political candidate, I would like to comment on Helena Lawyer Brian Kahn's Sunday, Nov. 11, column on "observing" election day in Butte. There is more to this story.

Kahn writes he was in Butte as self-described "legal observer." He was one of several lawyers from Lewis and Clark County who were "observing."

I can testify that Kahn did more than just observe. As I was standing in line waiting to vote, Kahn accosted me, insinuating that I had been too long in the Civic Center.

It was just arrogant bluster meant to intimidate, but let's start at the beginning.

When I walked into the Civic Center, I intended to vote and leave. I saw friends and well-wishers. We shook hands and exchanged common courtesies. Then, I was told by an election representative that two complaints had been lodged against me for "electioneering."

A person may not do any electioneering on election day within any polling place. This includes such things as people asking voters if they intended to vote or had voted for or against a candidate. People also can't wear campaign paraphernalia, such as hats or buttons.

There are no Montana election law rules for people shaking hands with friends, making small talk, or spending time at polling places.

I wasn't obstructing the polling place or electioneering so who lodged the complaints? Kahn complained apparently because I was talking and shaking hands. But I was not soliciting voter information so I shrugged it off.

Later, according to the Secretary of State's office, Kahn had absolutely no authority here. Butte-Silver Bow Clerk and Recorder Sally Hollis, as the Election Administrator, was the ultimate person of authority overseeing the election process.

Kahn did not take his concerns to her. But Kahn did approach me while I waited for an empty voting booth and asked, "How long have you been here?"

I thought to myself, what business is it of yours? But I answered about 15 or 20 minutes.

"You've been here 35 minutes," Kahn said.

My response was all Butte; you fill in the blanks. Then, a booth opened up and I went and voted, thinking about my last election in 2010.

I was then a Butte-Silver Bow absentee voter casting a ballot from a combat post in Afghanistan. It just so happened that my Montana vote coincided with an Afghan national election.

In that election, the Afghanistan voters risked getting shot or blown up by terrorists. Threats to family were common. I thought then how fortunate we are in the United States. One would not expect to be harassed at home.

Kahn changed that notion. He may have violated state election law by coming up to me in the voter line and obstructing me by asking questions. He had no authority to do that.

The Montana Secretary of State's office says "observers" have no authority whatsoever and they shouldn't be prominent in a polling place. Yet the Helena lawyers, all Democrats, were front and center, making their presence felt.

How did that happen when the election administrator runs the election and election judges and poll watchers with certain duties must be from the county where the election is taking place? Let me suggest that Butte can do very well on its own.

How I was treated and what happened here makes me rethink the benefits of same day registration when so much hangs in the balance and political entities seek an advantage. What are the plusses and minuses?

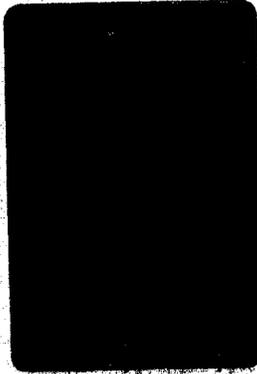
I may be a Republican, but I would stick up for any Democrat if what happened to me ever happened to them.

— Dan "D.J." O'Neill of Butte, was the Republican candidate for Senate District 37, won by Democrat Jon Sesso.

# EXHIBIT F

MONTANA STANDARD AD 11/11/2012

11/11/2012 Mt. Standard TX 902



## Dan O'Neill Says Thank You

I would like to thank all of the Senate District-37 citizens and voters who supported my run for the senate, and I extend my congratulations to my opponent.

As a first time candidate, the experience was rewarding to have so many people encouraging my candidacy, especially my stand on Montana family values. Special thanks to colleagues in the military and health care.

Many others have stepped forward to serve their communities and not been successful the first time. Who knows what the future will bring?

I owe it to my supporters, not only to say thank you for all that you did, but also to tell you my enthusiasm for serving Butte-Silver Bow in some capacity in the future is not diminished.

*Dan O'Neill*

Printed by: Friends of Dan O'Neill for SD 37, PO Box 1471, Butte MT 59712-1471

EXHIBIT G

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