

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CLAY

SEVENTH JUDICIAL DISTRICT

CASE TYPE: Civil Other/Misc.

Court File No. _____

Edwin Hahn, Janine Hanson, Laurie
Christianson, Lisa Hahn, Marilyn
Proulx, Ronald White, John Kowalski
Janine Kowalski,

Contestants,

v.

Steve Simon, only in his official capacity
as the Minnesota Secretary of State,
Lori Johnson, only in her official capacity
as the Auditor-Treasurer for Clay County,
Heather Keeler,

Contestees.

**NOTICE OF ELECTION CONTEST UNDER
MINNESOTA STATUTES CHAPTER 209**

INTRODUCTION

Contestants file this Notice of Contest under Minn. Stat. §209 because there were irregularities in the conduct of the November 3, 2020 state general election and the canvass of absentee ballot votes. This contest is brought over the question of who received the largest number of votes legally cast, and on the grounds of deliberate, serious, and material violations of Minnesota Election Law.

Required by Minn. Stat. §209.06, the contestants request an inspection of ballots, as the case cannot properly be prepared for trial without an inspection of the ballots and designating all precincts within Legislative District 04A, Clay County. The contestants assert, through chain-of-custody, a legitimate ballot includes absentee registrations, absentee ballot envelopes, in-person, and same-day registration records.

The Help America Vote Act of 2002 or HAVA, is a United States federal law and was signed into law by President Bush on October 29, 2002. The bill was drafted (at least in part) in reaction to the controversy surrounding the 2000 U.S. presidential election, when almost two million ballots were disqualified because they registered multiple votes or none when run through vote-counting machines.

As a result of HAVA requirements, recording, qualifying, and tracking every voter and registration, has been mandated by United States federal law. To demonstrate compliance with HAVA, and for transparency in election governance, the Minnesota Secretary of State shall, upon request, in any election, provide:

1. The application, record, status, and number of first time voters.
2. The application, record, status, and number of provisional ballots.

HAVA mandates that any new registrant (voters who have not registered to vote prior to

2002 or voters re-registering in a different county or location since that time) must provide either a driver's license or the last four digits of his or her social security number at the time of registration. A provisional ballot will not be counted in the results unless the voter's identity is confirmed in a timely manner. Additionally, every voter is entitled to know if their vote was counted or not. The law facilitates this by requiring each state to develop a system whereby provisional voters may access information as to the status of their provisional vote at no cost.

Despite being put on notice of serious violations of Minnesota Election Law, the 2020 State Canvassing Board certified Minnesota's election results on November 24, 2020.¹ Contestants bring this action to ensure election integrity in the November 3, 2020 election in Legislative District 04A, Clay County. The citizens of Legislative District 04A deserve fair elections, untainted by violations of the United States Constitution, the Minnesota Constitution, and Minnesota Election Law. According to the Minnesota Secretary of State website, there were 26,575 registered voters in the November 3, 2020 Legislative District 04A election. The Secretary of State website states that there were 21,204 votes cast, making the voter turnout an unprecedented 80 percent.² According to the Secretary of State's website, there were 13,807 applications for absentee ballots, with 12,587 accepted and no reported rejections in Legislative District 04A.

¹ See *Tyler Kistner, et al. v. Steve Simon, et al.*, Case No. A20-1486, filed on November 24, 2020 with the Minnesota Supreme Court under Minn. Stat. § 204B.44, requesting the court to enjoin the State Canvassing Board from certifying the election.

² Minnesota General Election voter turnout was 79.9 percent. United States Elections Project, www.electproject.org/2020g.

The validity of the results of the November 3, 2020 election in Legislative District 04A, Clay County are at stake as the result of the Secretary's actions in handling the absentee ballots contrary to Minnesota Election Law. The Secretary changed the process for handling absentee ballots. As a result, the inclusion and tabulation of absentee ballots is improper and must be corrected or not be permitted. To allow otherwise would erode the sacred and basic rights of Minnesota citizens in Legislative District 04A, Clay County (and throughout the state) under the United States Constitution and the Minnesota Constitution to participate and rely upon a free and fair election.

In 2016, there were 674,566 accepted absentee ballots in Minnesota. Each of these were properly witnessed. In 2020, there were nearly two million accepted absentee ballots none requiring a witness. This sudden, massive increase in absentee ballots adversely impacted the ability of the canvassing boards and Secretary to complete their duties in a manner that maintained voter trust and election integrity.³

Minnesota state officials intentionally created a campaign to increase early voting. These same officials had a responsibility to ensure the safeguards that existed at the polling places would be present at the Ballot Boards. These officials had an obligation to ensure the county Ballot Boards were aware of and followed Minnesota Election Law to ensure each eligible voter was treated equally. However, the Ballot Boards in Legislative District 04A, Clay County failed to utilize election judges of different major political parties as required by Minn. Stat. § 203B.121, subd. 2(a). These officials were

³ See Affidavit of Kowalski. There is anecdotal evidence that some absentee applications requested by Republican voters were rejected for not having a witness signature and that the return envelopes were designated "R" and "D" presumably for Republican and Democrat.

responsible to ensure the absentee ballots were properly accepted or rejected in accordance with Minn. Stat. § 203B.121, subd. 2(b). The Ballot Boards in Clay County failed to allow bipartisan review of the absentee return envelopes to determine if they should be accepted or rejected.⁴

In the past three weeks, the entire world has been following the news about the alleged tampering with voting machines. Minnesota has many areas that use these machines, including Clay County. There are many examples of similar vote count anomalies in Minnesota as well as issues with systems being down or experiencing unexplained so-called “glitches” during the night allowing for the alteration of vote counts.

Minnesota candidates for office and voters have come forward with affidavits detailing concerns and observations about the ignored and failed election processes in counties across the state. There are issues related to the lack of transparency, procedures, observers, and election judge access, voter intimidation, lost ballots, lost absentee envelopes, missing election materials and questionable ballots. There are concerns about voting equipment transmitting results during the early counting period and on election day.

Minnesota voters, regardless of party affiliation, have the right to know election results are accurate and each eligible voter is treated the same. Minnesota citizens

⁴ See Affidavit of Janine Hanson.

attempted to participate in the postelection reviews, hoping to learn our voting systems were secure. They saw the opposite -- our voting system has crashed in many areas of the state, including Clay County.

PARTIES

Contestants

1. **Edwin Hahn** ran for the State Representative seat in District 04A in the November 3, 2020 election.

2. **Janine Hanson, Laurie Christianson, Lisa Hahn, Marilyn Proulx, Ronald White, John Kowalski, Janine Kowalski,** are eligible voters and taxpayers in Minnesota. As such, each one of these individuals have standing to challenge the officials' certification of the Clay County election results based on illegal votes counted, legal votes not counted, counting errors and illegalities to nullify any election result.

3. All Contestants have standing under Minn. Stat. § 209.02 because they are either a candidate or an eligible voter in the November 3, 2020 election.

Contestees

4. **Minnesota Secretary of State Steve Simon** is a constitutional executive officer sued only in his official capacity. As the chief election official in Minnesota, the Secretary of State partners up with local election professionals to administer elections and adopt rules to administer elections. The Secretary acts on behalf of the State of Minnesota in exercising his duties regarding federal, state, county, and local elections, promulgating and executing elections laws within the State. The election process includes the registration process for persons seeking to vote in any election within the

State. The Secretary is the statewide election officer responsible for the policies relating to the conduct of elections within the State. The Secretary is also a member of the 2020 State Canvassing Board who certified the election on November 24, 2020.

5. **Lori Johnson**, is the elections official for Clay County, appointed by the Clay County Auditor and/or Steve Simon.

6. **Heather Keeler** ran for the State Representative seat in District 04A in the November 3, 2020 election.

STANDING

Contestants have standing to bring this election contest under Minn. Stat. Ch. 209 because “any eligible voter, including a candidate, may contest . . . the election of any person for whom the voter had the right to vote if that person is . . . elected to the senate or the house or representatives of the United States, or to a statewide . . . legislative . . . office[.]” Minn. Stat. § 209.02.

STATEMENT OF FACTS

I. Federal Constitutional Protections for Free and Public Elections

Free, fair, and transparent public elections are crucial to democracy – a government of the people, by the people, and for the people. The Elections Clause of the United States Constitution states that “[t]he Times, Places, and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof.⁵ U.S. Const. Art. I, § 4, cl 1. The Legislature is “the representative body which makes the laws of the people.”⁶

⁵ U.S. Const. Art. I, § 4, cl 1.

⁶ *Smiley v. Holm*, 285 U.S. 355, 365 (1932).

In 2020, activist groups filed multiple lawsuits against Minnesota Secretary of State Steve Simon. The most consequential of these suits sought to remove the witness requirement for ALL voters because a small number of voters apparently feared having physical contact with a person to witness the ballot.

Consequently, the parties entered into an overly broad stipulated settlement agreement limited to the August 11 primary election, approved by the assigned judge, on June 17, 2020, to waive the witness requirement on all absentee ballots, thus allowing anyone who intercepted an absentee ballot to return it without fear of rejection. On August 3, 2020, a second agreement was entered into and approved without legislative oversight or consideration: The agreement was extended to include the general election on November 3, 2020.

II. Postelection Review (PER)

County Auditors must perform a postelection review (PER) of the state general election. Minn. Stat. § 204C.33 requires each county canvassing board to set the date time and location of the PER at its canvass of the state primary. Minn. Stat. § 206.89, subd. 2, requires the county canvassing board to select, by lot, the required number of precincts to be reviewed at its canvass following the general election. Selecting the precincts by lot gives the appearance of randomness so as to add credibility to the process.

As soon as the canvassing board determines the location, date and time of the PER and the selected precincts, the Secretary of State must be notified. This notice allows voters the opportunity to participate in the PER process by properly observing the county boards review of the election results to ensure the law was followed.

PERs are governed by Minnesota's Open Meeting Law under Minn. Stat. § 13D.01 which requires all meetings, including executive sessions, must be open to the public when the meetings are required by law to transact public business. The public's right to be informed about the events occurring in the meeting will be weighed against the government's interest in closing the meeting to the public.⁷ This law is liberally construed to protect the public's right to full access to the decision-making process of public bodies governed by statute.⁸ The purpose of the Open Meeting Law is to assure public's right to information, and give public opportunity to express its views.⁹

The attendees at the PER must be able to view the process in a meaningful manner that allows them to see and hear the information being verified. If the public is are not given adequate access, there is no point to the process; it is rendered meaningless.

The PER must include the votes cast for President or Governor; United States Senator; and United States Representative. The PER may include review of votes cast for down ticket candidates. The PER must be conducted by postelection review official who may be assisted by election judges designated by the postelection review official for

⁷ *Berglund v. City of Maplewood, MN*, D.Minn.2001, 173 F.Supp.2d 935, affirmed 50 Fed.Appx. 805, 2002 WL 31609767, cert. denied 123 S.Ct. 2655, 539 U.S. 965, 156 L.Ed.2d 667.

⁸ *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 1983, 332 N.W.2d 1.

⁹ *Mankato Free Press Co. v. City of North Mankato*, App.1997, 563 N.W.2d 291.

this purpose. Election judge qualifications are statutory. Election judges used in the PER must be properly trained. Minn. Stat. § 204B.25 requires election judges be trained in accordance with the rules established by the Secretary of State. To serve as an election judge, a person must successfully complete a basic training course that meets the requirements of Minn. Rule part 8240.1600.

The PER must comply with the party balance requirement of Minn. Stat. § 204B.19. No more than half of the election judges in a precinct may be members of the same major political party unless the election board consists of an odd number of election judges, in which case the number of election judges who are members of the same major political party may be one more than half the number of election judges in that precinct.

The PER must consist of a manual count of the polling place ballots and absentee ballots used in the precincts selected and must be performed in the manner provided by Minn. Stat. § 204C.21. The PER requires the public be allowed to observe the counting of the ballots to confirm the process as required by statute is being followed. The PER must be conducted in the manner provided for recounts under Minn. Stat. § 204C.361 to the extent practicable.

The Secretary of State must adopt rules according to the Administrative Procedure Act establishing uniform recount procedures. Minn. Rule part 8235.0800 establishes that ballots must be segregated by precinct and returned to sealed containers according to precinct when not being counted to maintain the segregation of ballots by precinct.

III. Actual PER Process

The State's PER process was a disaster. Many counties had completely different procedures. Some counties used elections judges as required, some did not. Numerous affidavits from voters indicate that there was little to no transparency. Ramsey County, without notice, changed its PER date from November 14, 2020, to November 16, 2020 after people showed up to observe the PER on November 14, 2020. Hennepin County closed its doors the night before the PER and performed it via YouTube with only one camera which only displayed one precinct without any sound. These are just a few of the irregularities and lack of transparency in the PER process for the November 3, 2020 election.¹¹

Clay County performed its PER contrary to Minnesota Election Law. Lori Johnson, Auditor-Treasurer for Clay County, oversaw the PER. Ms. Johnson initially restricted the number of observers to 4, and later allowed 9, having on-duty law enforcement turn away a 10th observer, a candidate.¹² Clay County also failed to present the absentee ballot envelopes and applications during the PER.¹³

When asked if Clay County had party balance for the counters as required by Minn. Stat. §§ 206.89, subd. 3, and 204B.19, Ms. Johnson stated she did not have any election judges as she was only using her staff. She stated she did not designate any election judges.¹⁴

¹¹ See Affidavit of Laurie Christianson.

¹² See Affidavit of Ronald White.

¹³ See Affidavit of Janine Hanson.

¹⁴ See Affidavits of Laurie Christianson, Ronald White, Janine Hanson.

Ms. Johnson refused to allow the public to meaningfully observe the counting process by instructing the public to stand twenty feet from any table which did not allow the public to see the ballots in any meaningful way even though the counters were within a few feet of each other. After the public vocally protested the process, Ms. Johnson restricted the public to stand six feet from any table which did not allow the public to see the ballots in any meaningful way even though the counters were within a few feet of each other.

A Post Election Review guide is available on the Secretary’s website.¹⁵ When comparing the Secretary’s guide to Ms. Johnson actions, Ms. Johnson failed to follow the required procedures as follows:

Page(s)	Section	Irregularities and Violations
10	7.2	Failed to require party balance review of the ballots as required by Minn. Stat. sections 206.89, subd. 3, and 204B.19.
11	7.3	Failed to allow public view of the ballots by requiring 6 foot distance from the precinct tables.
24	Appendix B	Failed to have election judges sign the post-election review worksheets.

¹⁵ See <https://www.sos.state.mn.us/media/2701/post-election-review-guide.pdf>.

LEGAL ARGUMENT

First Amendment and Equal Protection U.S. Const. amend. XIV, 42 U.S.C. § 1983, Minn. Const. Article I

The right of a qualified citizen to vote in a state election involving federal candidates is recognized as a fundamental right under the Fourteenth Amendment of the United States Constitution, which prohibits a state from “deny[ing] to any person within its jurisdiction the equal protection under the laws.”²¹

The equal enforcement of election laws is necessary to preserve our most basic and fundamental rights. The requirement of equal protection is particularly stringently enforced as to laws that affect the exercise of fundamental rights, including the right to vote.

The Equal Protection Clause requires states to “avoid arbitrary and disparate treatment of the members of its electorate.”²² Each citizen “has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction.”²³ “Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person’s vote over that of another.”²⁴ Among other things, this requires “specific rules designed to ensure uniform treatment” in order to prevent “arbitrary and disparate treatment to voters.”²⁵

²¹ U.S. Const. Amend. XIV, § 1.

²² *Charfauros v. Bd. of Elections*, 249 F.3d 941, 951 (9th Cir. 2001 (quoting *Bush*, 531 U.S. at 105).

²³ *Dunn v. Bloomstein*, 405 U.S. 330, 336 (1972).

²⁴ *Bush*, 531 U.S. at 104-05.

²⁵ *Id.* at 106-07.

“The right to vote extends to all phases of the voting process, from being permitted to place one’s vote in the ballot box to having that vote actually counted. Thus, the right to vote applies equally to the initial allocation of the franchise as well as the manner of its exercise. Once the right to vote is granted, a state may not draw distinctions between voters that are inconsistent with the guarantees of the Fourteenth Amendment’s equal protection clause.”²⁶

“[T]reating voters differently” thus “violate[s] the Equal Protection Clause” when the disparate treatment is the result of arbitrary, ad hoc processes.²⁷ Indeed, a “minimum requirement for non-arbitrary treatment of voters [is] necessary to secure the fundamental right [to vote].”²⁸

The Secretary is not part of the Minnesota Legislature and cannot exercise legislative power to enact rules or regulations regarding the handling of absentee ballots that are contrary to Minnesota Election Law. The Secretary is not allowed to treat absentee ballot voters differently than polling place voters.

By entering into two stipulated settlement agreements with the activist groups to alter the process for handling and accepting absentee ballots, the Secretary unilaterally, and without authority, altered Minnesota Election Law. As a result of the Secretary’s usurpation of legislative power, the longstanding witness requirements, well-known to Minnesota voters, were removed.

²⁶ *Pierce v. Allegheny County Bd. of Elections*, 324 F.Supp.2d 684, 695 (W.D. Pa. 2003) (citations and quotations omitted).

²⁷ *Charfauros*, 249 F.3d at 954.

²⁸ *Bush*, 531 U.S. at 105.

Absentee ballots were processed differently by Clay County's ballot boards with regard to acceptance or rejection because there was no witness requirement to verify the person who cast the ballot was in fact the registered voter. The election process has been altered in a manner that removes the most important check on voter security. The envelopes for the absentee ballots were not counted, or even shown to exist, at the Clay County PER.

The rules and regulations created by the two settlement agreements between the Secretary and the activist groups created an overly broad, arbitrary, disparate, and ad hoc process meant to ensure every ballot was counted, whether legal or not. Whether absentee voters were sent ballots automatically or after requesting them, any person could fill them out and mail them back. The witness requirement served to protect the actual voter from having their individual vote stolen and the legal voters from having the vote diluted by illegal voters. The witness is as close to an election judge as possible in the community. The removal of the witness requirement opened the door to the unchecked opportunity for illegal votes to be counted in all of our local, state and federal elections. The November 3, 2020 election has been tainted by the intentional actions of activist groups and complicit government officials.

Voters who cast their ballots in person are subject to a much higher level of scrutiny than absentee voters. Additionally, the burden of going to vote in person was made more difficult by the state's choosing to combine precincts, thereby increasing wait times. This disparate treatment created by removing all safeguards and requirements for the cooperative voters who voted from home is not justified by, and is not necessary to promote, any substantial or compelling state interest.

Violation of the Separation of Powers Minn. Const. Article III

At the heart of the integrity of election law is the goal of preserving the ability of voters to participate in genuine elections, thereby fostering public confidence throughout the election process. From voter registration, to the casting of votes, the counting of ballots and the PER, our election system must be free of partisanship. When citizens go to the polls to cast their vote, they aspire not only to elect their leaders, but to choose a direction for their state. However, the integrity of an election can be jeopardized and public confidence can be undermined when election officials exercise or exceed powers they do not possess.

The separation of powers doctrine's role in this electoral process is significant. "Under the Separation of Powers Clause, no branch can usurp or diminish the role of another branch.²⁹ The three branches of state government are both co-dependent and independent of each other. While they must find ways to cooperate, no one branch can unilaterally control, coerce, or restrain the action, or non-action of any of the others in the exercise of any official power or duty conferred by the Constitution, or by valid law, involving the exercise of discretion.

Similarly, the Minnesota Constitution states "the powers of government shall be divided into three distinct departments: legislative, executive and judicial. No person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others except in instances expressly provided in this constitution."³⁰

Article III bars any department from assuming or asserting any "inherent powers" – powers not "expressly" given—that properly belong to either of the other

departments.³¹ No “department can control, coerce, or restrain the action or inaction of either of the others in the exercise of any official power or duty conferred by the Constitution.”³²

The Minnesota Supreme Court has been steadfast in upholding the separation of powers.³³ The authority of the Secretary to alter or amend Minnesota Election Law is

²⁹ See Minn. Const. art. III, § 1; *Brayton v. Pawlenty*, 768 N.W.2d 357, 365 (Minn. 2010).

³⁰ Minn. Const. Art. III.

³¹ *Brayton*, 768 N.W.2d at 365.

³² *Id.*

³³ See, e.g., *Sharood v. Hatfield*, 296 Minn. 416, 210 N.W.2d 275, 279 (1973).

vested with the state legislature unless “a provision of the Minnesota Election Law cannot be implemented as a result of an order of a state or federal court[.]”³⁴

Here, the provisions of the Minnesota Election Law could only be amended by the state legislature. The Governor had the authority to call a special session to seek an amendment to Minnesota Election Law and declined to do so. Multiple Federal Courts of Appeals have now ruled there is no pandemic exception to the Constitution and have made it clear the state legislators are vested with the authority to create election law, including the Eighth Circuit.³⁵

The Secretary and various election officials have violated the separation of powers doctrine by obliterating election law through sham court processes and blatant refusal to administer and follow long-standing Minnesota Election Law.

Due Process
U.S. Const. amend. XIV, 42 U.S.C. § 1983
Minn. Const. Article I

Voting is a fundamental right protected by the Fourteenth Amendment to the U.S. Constitution. The Fourteenth Amendment protects the right to vote from conduct by state officials that undermine the fundamental fairness of the electoral process.³⁶ “Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person’s vote over that of another.”³⁷ Among other things, this requires “specific rules designed to ensure uniform treatment” in order to prevent

³⁴ Minn. Stat. § 204B.47.

³⁵ *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020).

³⁶ *See Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994); *Griffin v. Burns*, 570 F.2d 1065, 1077-78 (1st Cir. 1978).

³⁷ *Bush*, 531 U.S. at 104-05.

“arbitrary and disparate treatment to voters.”³⁸ “[T]reating voters differently” thus “violate[s] the Equal Protection Clause” when the disparate treatment is the result of arbitrary, ad hoc processes.³⁹ Indeed, a “minimum requirement for non-arbitrary treatment of voters [is] necessary to secure the fundamental right [to vote].”⁴⁰

In statewide and federal elections conducted in Minnesota, including without limitation, the November 3, 2020 general election, all candidates, political parties, and voters, have a vested interest in being present and having meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every county and precinct and that it is otherwise free, fair and transparent.

The Secretary has a duty to guard against deprivation of the right to vote and to ensure that all candidates, political parties, and voters, have meaningful access to observe and monitor the electoral process, including the November 3, 2020 general election and Clay County’s PER in order to ensure that the electoral process is properly administered in every precinct and is otherwise free, fair and transparent.

Rather than heeding these mandates and duties, the Secretary and Ms. Johnson arbitrarily and capriciously denied the public, including a candidate, to meaningfully observe and monitor the electoral process in the PER.

RELIEF REQUESTED

Contestants seek (1) the application, record, status, and number of first time voters. (2) the application, record, status, and number of provisional ballots. (3) guarding of the absentee ballots and all related election materials pursuant to Minn. Stat. § 209.05;

³⁸ *Id.* at 106-07.

³⁹ *Charfauros*, 249 F.3d at 954.

⁴⁰ *Bush*, 531 U.S. at 105.

(4) inspection of the absentee ballots under Minn. Stat. § 209.06 and all election materials related to the ballots including: (a) all return envelopes by precinct; (b) all absentee ballot applications by precinct; (c) all voter registration applications by precinct; (d) all documents to support the absentee ballots that were rejected but later cured; (e) description of the procedures followed for the security, sealing, and storage of absentee ballots (f) all information regarding the chain of custody for all absentee ballots and envelopes; (g) the reconciliation of all absentee ballot requests including the applications, whether they were returned, whether they were rejected or accepted; (h) voting machine tapes to support the absentee ballot count by precinct including the cutoff of election day receipts of absentee ballots; (5) guarding of the voting machines, as well as the ability to inspect the machines; (6) all information regarding the voting machines including the purchase order, bill of lading, shipping invoices, instruction manual, training protocols, software used and version of the software, maintenance reports, specifications, and when they were used; (7) a list of all voting systems used in Legislative District 04A, Clay County; (8) the names and political affiliation of all persons who served on the Ballot Boards in Legislative District 04A, Clay County, and any training they may have received and oaths administered; (9) the names of all of the PER counters, their party affiliation, their employer, their training, if any, for the PER, and any oaths they swore to prior to performing the PER.

CONCLUSION

Every illegitimate absentee ballot cast in the November 3, 2020 election disenfranchises one legitimate vote. This cannot be tolerated and Contestants respectfully request that this court remedy this injustice by allowing a true count of the legally cast votes by the eligible voters in Legislative District 04A, Clay County.

DATED: November 30, 2020.

CONTESTANTS

By: /s/ Edwin Hahn

Edwin Hahn

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By: /s/ Lisa Hahn

Lisa Hahn

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By: /s/ John J Kowalski

John J Kowalski

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By: /s/ Ronald White

Ronald White

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Moorhead, MN 56560

JOHN KOWALSKI, being first duly sworn on oath states as follows:

1. I am over the age of 18 and competent to testify herein. I am a registered voter in the state of Minnesota.
2. I have personal knowledge of the facts stated herein and know them to be true and correct.
3. I received an absentee ballot. 1 week later my wife received hers. We both sent our ballots by mail on the same day. Her ballot was received on election day.
4. My ballot, as of today, has no record of being received. Today, I called to verify and was told, "A record of (John Kowalski's) absentee ballot could not be found."
5. I was never informed of the status of my ballot. If it was rejected, they needed to contact me. I was never contacted.
6. My daughter and son-in-law experienced a similar issue of their vote not counting, also from the State of Minnesota.

FURTHER YOUR AFFIANT SAYETH NAUGHT

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: 11/30/2020

/s/ John Kowalski

John Kowalski

JANINE HANSON, being first duly sworn on oath states as follows:

1. I am over the age of 18 and competent to testify herein. I am a registered voter in the state of Minnesota.
2. I have personal knowledge of the facts stated herein and know them to be true and correct.
3. I volunteered as a Republican Election Judge at First Presbyterian Church for the November 3rd, 2020 election.
4. I volunteered as a Republican public observer for the Post Election Review conducted at the Clay County Courthouse on Tuesday, November 17th, 2020.
5. As an election judge, I observed issues with our Election Judge Training, specifically regarding Same Day Registration.
6. Our trainers did not point out to look for “status check” on I.D. cards to check citizenship status. They also did not take time to go over the process of what to do if someone was identified as a non-citizen and tried to register to vote on Election Day.
7. I know to look for this only because of my own research of Election Law. Other election judges may not be aware of this since it is not brought to attention in the Election Judge training.
8. I, Janine Hanson, a head election judge, did not participate in the absentee ballot board process, so I did not have an opportunity to observe the processing of the absentee/mail-in ballots nor validate the envelopes they came in. The other Republican election judges I know also did not observe the count of absentee/mail-in ballots nor validate the return envelopes of absentee/mail-in ballots on Election Day nor before Election Day.

9. Shortly after 3:00pm, Amy McDonnell, with the City of Moorhead, came to the polling location where I was an Election Judge. She stated, "I'm going to update the poll pads for the absentee ballots that came in on Election Day by 3:00pm."
10. Absentee ballots that came in prior to election day were already counted and loaded in the system.
11. During the Post Election Review, I could not clearly see the names on the ballots and could not verify the markings due to being told to stand 6 feet away from where the ballots were being counted.
12. Absentee ballot return envelopes were not brought into the room. There was no comparison of absentee ballot return envelopes to the number of absentee ballots.

FURTHER YOUR AFFIANT SAYETH NAUGHT

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: 11/30/2020

/s/ Janine Hanson

Janine Hanson

**STATE OF MINNESOTA
7th Judicial District
Clay County Court
Case File No. _____**

Edwin Hahn, Janine Hanson, Laurie Christianson, Lisa Hahn, Marilyn Proulx, Ronald White,
John Kowalski, Janine Kowalski,

Petitioners,

vs.

Steve Simon, only in his official capacity as the Minnesota Secretary of State,
Lori Johnson, only in her official capacity as the Auditor-Treasurer for Clay County, Heather
Keeler,

Respondents

AFFIDAVIT OF LAURIE CHRISTIANSON

STATE OF MINNESOTA)
) ss.
COUNTY OF CLAY)

LAURIE CHRISTIANSON, being first duly sworn on oath states as follows:

1. I am over the age of 18 and competent to testify herein. I am a registered voter in the state of Minnesota.
2. I have personal knowledge of the facts stated herein and know them to be true and correct.
3. I volunteered as a Republican Election Judge at the Moorhead Center Mall for the November 3rd, 2020 election.

4. I volunteered as a Republican public observer for the Post Election Review conducted at the Clay County Courthouse on Tuesday, November 17th, 2020.
5. I did not participate in the count of absentee ballots, nor evaluate the return envelopes they came in. Other election judges who I know also did not participate in the count of absentee ballots, nor evaluate the return envelopes they came in.
6. Lori Johnson, Clay County Auditor, stated, "Our staff count the Absentee/ Mail-in Ballots." She made it clear that election judges were NOT counting the Absentee Ballots nor checking the return envelopes they come in.
7. 2020 Minnesota Statute 203B.121 BALLOT BOARDS states proper procedures for the handling of absentee ballots and envelopes.
8. During the Post Election Review, I observed 6 staff members of the Courthouse counting 6 piles of ballots at the same time. I, as an election judge, was not asked or notified to take part in this process, nor were the other election judges I know.
9. Party Balance requirements for election judges for the Post Election Review were not met according to 2020 Minnesota Statute 206.89 POSTELECTION REVIEW OF VOTING SYSTEMS - Subdivision 3.
10. During this post election review, I did not see initials on the absentee ballots.
11. Envelopes of the absentee ballots were not brought into the room for review.

FURTHER YOUR AFFIANT SAYETH NAUGHT

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: 11/30/2020

/s/ Laurie Christianson

Laurie Christianson

MARILYN PROULX, being first duly sworn on oath states as follows:

1. I am over the age of 18 and competent to testify herein. I am a registered voter in the state of Minnesota.
2. I have personal knowledge of the facts stated herein and know them to be true and correct.
3. I volunteered as a Republican public observer for the Post Election Review conducted at the Clay County Courthouse on Tuesday, November 17th, 2020.
4. On Tuesday, November 17th, 2020 around 1:30pm, I personally observed the following:, I, along with other observers, were told where to stand to watch the review. At first, we were approximately 20 feet away from the tables. I asked to move closer. They allowed us to move up to approximately 6 feet away from the tables with ballots.
5. We all had a hard time seeing the names on the ballots and how they were marked.
6. There were 6 people counting ballots at the same time. 3 precincts were being counted with two piles for each precinct - one for in person ballots; - one for absentee ballots.
7. I was not able to see initials on the absentee ballots.
8. No envelopes of the absentee ballots were brought out for viewing or counting.

FURTHER YOUR AFFIANT SAYETH NAUGHT

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: 11/30/2020

/s/ Marilyn Proulx

Marilyn Proulx

RONALD WHITE, being first duly sworn on oath states as follows:

1. I am over the age of 18 and competent to testify herein. I am a registered voter in the state of Minnesota.
2. I have personal knowledge of the facts stated herein and know them to be true and correct.
3. I volunteered as a Republican public observer for the Post Election Review conducted at the Clay County Courthouse on Tuesday, November 17th, 2020.
4. At 1:30pm on November 17th, 2020, I was among nine private citizens who gathered at the Clay County, MN courthouse in Moorhead, MN to observe the Post-election Review of ballots cast in the General Election. I was initially denied entry to the courthouse, as my name was "not on a select list", according to the officers at the entrance to the courthouse. I explained that I had registered the night before to be present, but the officers said they would only allow entrance to those people who were on the "list". However, I was later told that "there's room for one more person upstairs" and so I entered the courthouse and was directed to a room on the 3rd floor. Once upstairs, I counted seven reviewers (including the Auditor) and nine observers (including myself).
5. Initially, we were told that we must remain at a far distance from the reviewers, which made it impossible to clearly see what was transpiring. After a few people objected, the Auditor of Clay County allowed us all to move a few feet nearer, but we were still kept at a distance from which it was impossible to view the ballots clearly or to decipher what was on them. Thus, I was able to see reviewers counting sheets of paper and placing them in stacks and piles, but I could not in any way verify what was on those sheets of paper.

6. I did observe that there were no absentee ballot envelopes anywhere to be seen, neither were there any apparent attempts to verify signatures or in any way guarantee the validity of any ballots. I also noted that the reviewers, according to a statement made by the Auditor, were all staff members and were not official representatives of any political party.
7. The entire review was conducted very quickly and without any apparent attempts made to validate or inspect any ballots for genuineness or acceptability, with the possible exception of one single ballot which the Auditor told those of us gathered was cast for Joe Biden. She said that the machine had rejected it because the mark for Biden was partially outside of the oval. She said that she was likewise not going to count the ballot because "this is an audit, not a recount". That ballot was set aside and not included in any official tallies, evidently.
8. On October 28th, 2020, I went to the office of the African American Development Association in Moorhead, MN to speak with a man I had talked to over the phone. When I arrived there I was told that he was out of the office.
9. I made small conversation with the woman in the office who told me that he was away. She mentioned that she had moved to Minnesota two weeks prior to care for her sister, who was ill. She said that she had come from Washington State, but that she "would never want to live in Fargo or Moorhead because it's too cold". I commented on how beautiful it is in Minnesota, but she laughed and shook her head "no" and said she wouldn't want to live here and wanted to return to Washington.
10. She then asked me if she could vote in Minnesota. I told her that I understood there to be certain residency requirements and voter registration regulations, and encouraged her to research these laws at the Minnesota Secretary of State's website.
11. She smiled and said that she was sure there "are ways to do things" and said she was looking forward to voting in the General Election.

12. I once more stated that there are specific requirements in place, and again suggested she should look into the voting laws. At that she changed the subject and the conversation moved on. I was left feeling uncomfortable at the thought of someone taking such a cavalier attitude to potentially circumventing established voting laws in my state.

FURTHER YOUR AFFIANT SAYETH NAUGHT

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: 11/30/2020

/s/ Ronald White

Ronald White

EDWIN HAHN, being first duly sworn on oath states as follows:

1. I am over the age of 18 and competent to testify herein. I am a registered voter in the state of Minnesota.
2. I have personal knowledge of the facts stated herein and know them to be true and correct.
3. I have sent a copy of the NOTICE OF ELECTION CONTEST UNDER MINNESOTA STATUTES CHAPTER 209 to the contestee(s) by certified mail.

FURTHER YOUR AFFIANT SAYETH NAUGHT

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: 11/30/2020

/s/ Edwin Hahn

Edwin Hahn