

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Minnesota Voters Alliance, Mary Amlaw,
Ken Wendling, and Tim Kirk,

Court File No.: 0:23-cv-2774 (NEB/TNL)

Plaintiffs,

vs.

Keith Ellison, in his official capacity as
Attorney General, and Brad Johnson, in his
official capacity as Anoka County
Attorney,

**THE ANOKA COUNTY
ATTORNEY'S SEPARATE ANSWER
TO AMENDED COMPLAINT AND
COUNTERCLAIM**

Defendants.

Defendant Brad Johnson, in his official capacity as Anoka County Attorney, hereby submits this Answer to Amended Complaint along with Johnson's Counterclaim. Johnson denies each and every allegation of the Amended Complaint except as expressly admitted, qualified, or otherwise answered below. If Johnson states that he lacks knowledge or information sufficient to form a belief as to the truth of an allegation, then he denies that allegation.

1. With respect to the allegations contained in Paragraph 1, Johnson states that the Minnesota Constitution and the court's decision in *Schroeder v. Simon* speak for themselves. Johnson denies any characterization that is inconsistent with the terms of those documents. Johnson denies the remainder of the allegations contained in Paragraph 1 of the Amended Complaint.

2. With respect to the allegations contained in Paragraph 2, Johnson states that the court's decision in *Schroeder v. Simon* speaks for itself. Johnson denies any characterization that is inconsistent with the terms of that decision.

3. With respect to the allegations contained in Paragraph 3, Johnson is without knowledge or information sufficient to form a belief as to what Plaintiffs subjectively believe. Johnson admits that Plaintiffs have commenced the referenced lawsuit in Anoka County District Court.

4. With respect to the allegations contained in Paragraph 4, Johnson states that Plaintiffs' state court lawsuit speaks for itself. Johnson denies Plaintiffs' interpretation of Minnesota state law and denies the remainder of the allegations contained in Paragraph 4.

5. With respect to the allegations contained in Paragraph 5, Johnson is without knowledge or information sufficient to form a belief as to Plaintiffs' intention to speak in the future or the manner in which Plaintiffs interpret Minnesota law. Johnson denies Plaintiffs' interpretation of Minnesota state law and denies the remainder of the allegations contained in Paragraph 5.

6. Paragraph 6 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced law speaks for itself and denies any characterization of that law contained in Paragraph 6.

7. Paragraph 7 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced law speaks for itself and denies any characterization of that law contained in Paragraph 7.

8. Paragraph 8 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced law speaks for itself and denies any characterization of that law contained in Paragraph 8.

9. Paragraph 9 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced law speaks for itself and denies any characterization of that law contained in Paragraph 9.

10. Paragraph 10 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced law speaks for itself and denies any characterization of that law contained in Paragraph 10.

11. Paragraph 11 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced law speaks for itself and denies any characterization of that law contained in Paragraph 11.

12. Paragraph 12 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced law speaks for itself and denies any characterization of that law contained in Paragraph 12.

13. With respect to the allegations contained in Paragraph 13, Johnson states that the referenced law speaks for itself and denies any characterization of that law. Johnson is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations regarding the steps necessary to defend against an action commenced under the statute.

14. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14.

15. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15.

16. With respect to Paragraph 16, Johnson states that Plaintiffs are making arguments rather than stating allegations of fact. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations and arguments contained in Paragraph 16.

17. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17.

18. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18.

19. With respect to the allegations contained in Paragraph 19, Johnson admits that he has filed a counterclaim in this action, states that the counterclaim speaks for itself, and denies Plaintiffs' characterization of that counterclaim. Johnson denies that he is a party to Plaintiffs' state court action and denies that he has taken any positions in connection with that case. Johnson denies the remainder of the allegations contained in Paragraph 19.

20. Johnson denies the allegations contained in Paragraph 20.

21. Paragraph 21 contains allegations of law to which no responsive pleading is required.

22. Johnson acknowledges the relief sought by Plaintiffs through Paragraph 22 but denies that Plaintiffs are entitled to receive such relief.

PARTIES

23. With respect to the allegations contained in Paragraph 23 of the Amended Complaint, Johnson admits that the Minnesota Voters Alliance has commenced a lawsuit in state court challenging the legislature's 2023 amendments to Minnesota Statute § 201.014. Johnson is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 23.

24. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24.

25. With respect to the allegations contained in Paragraph 25, Plaintiffs' allegations regarding the Minnesota Voters Alliance's standing to pursue this action are allegations of law to which no responsive pleading is required. Johnson lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 25.

26. With respect to the allegations contained in Paragraph 26, Johnson admits that Amlaw is a resident of Anoka County who is active in state and local politics. Johnson is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 26.

27. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27.

28. With respect to the allegations contained in Paragraph 28, Johnson admits that Wendling is an Anoka County resident who is active in state and local politics. Johnson admits that Wendling is currently a City of Spring Lake Park City Council member

and that Wendling previously ran for the Minnesota House of Representatives. Johnson is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 28.

29. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29.

30. With respect to the allegations contained in Paragraph 30, Johnson admits that Kirk is an Anoka County resident. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 30.

31. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 31.

32. Johnson admits the allegations contained in Paragraph 32 of the Amended Complaint.

33. Johnson states that Paragraph 33 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced law speaks for itself and denies any characterization of that law contained in Paragraph 33.

34. Johnson admits the allegations contained in Paragraph 34 of the Amended Complaint.

35. Johnson states that Paragraph 35 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced law speaks for itself and denies any characterization of that law contained in Paragraph 35.

JURISDICTION AND VENUE

36. Johnson states that Paragraph 36 contains allegations of law to which no responsive pleading is required.

37. Johnson states that Paragraph 37 contains allegations of law to which no responsive pleading is required. Defendant Johnson admits that he resides in the state of Minnesota, within the District of Minnesota.

38. Johnson states that Paragraph 38 contains allegations of law to which no responsive pleading is required.

39. Johnson states that Paragraph 39 contains allegations of law to which no responsive pleading is required.

STATEMENT OF THE CLAIM

40. Johnson admits the allegations contained in Paragraph 40.

41. With respect to the allegations contained in Paragraph 41, Johnson states that the referenced statute speaks for itself and denies any characterization of that statute.

42. Paragraph 42 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced statute speaks for itself and denies any characterization of that statute that is inconsistent with its terms.

43. Paragraph 43 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced statute speaks for itself and denies any characterization of that statute that is inconsistent with its terms.

44. Paragraph 44 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced statute speaks for itself and denies any characterization of that statute that is inconsistent with its terms.

45. Paragraph 45 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced statute speaks for itself and denies any characterization of that statute that is inconsistent with its terms.

46. Paragraph 46 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced statute speaks for itself and denies any characterization of that statute that is inconsistent with its terms.

47. Paragraph 47 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced statute speaks for itself and denies any characterization of that statute that is inconsistent with its terms.

48. Paragraph 48 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced statute speaks for itself and denies any characterization of that statute that is inconsistent with its terms.

49. Paragraph 49 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced statute speaks for itself and denies any characterization of that statute that is inconsistent with its terms.

50. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 50.

51. Paragraph 51 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced statute speaks for itself and denies any characterization of that statute that is inconsistent with its terms.

52. Paragraph 52 contains allegations of law to which no responsive pleading is required. Johnson states that the referenced statute speaks for itself and denies any characterization of that statute that is inconsistent with its terms.

53. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 53.

54. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 54.

55. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 55.

56. With respect to the allegations contained in Paragraph 56, Johnson acknowledges that Plaintiffs commenced the referenced lawsuit in state court. Johnson states that Plaintiffs' lawsuit speaks for itself and denies any characterization of that lawsuit.

57. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 57 of the Amended Complaint.

58. With respect to the allegations contained in Paragraph 58, Johnson is without knowledge or information sufficient to form a belief as to what information Plaintiffs intend to convey in the future. Johnson denies that Plaintiffs' past speech relates only to

the “interrelation of the Minnesota Constitution and the Felon Voting Law.” Johnson denies the remainder of the allegations contained in Paragraph 58.

59. With respect to the allegations contained in Paragraph 59, Johnson is without knowledge or information sufficient to form a belief as to whether Plaintiffs hold their beliefs in good faith. Johnson denies Plaintiffs’ allegation that they “do not intend to impede or prevent any person from lawfully exercising the right to vote.”

60. Johnson denies the allegations contained in Paragraph 60.

61. Johnson denies the allegations contained in Paragraph 61.

62. Johnson denies the allegations contained in Paragraph 62.

63. Johnson denies the allegations contained in Paragraph 63.

64. Johnson denies the allegations contained in Paragraph 64.

65. Johnson denies the allegations contained in Paragraph 65.

66. With respect to the allegations contained in Paragraph 66, Johnson is without knowledge or information sufficient to form a belief as to whether Plaintiffs “firmly believe their opinions about the interrelationship between the Minnesota Constitution and the Felon Voting Law to be true.”

67. Johnson denies the allegations contained in Paragraph 67.

68. With respect to the allegations contained in Paragraph 68, Johnson states that the referenced statute speaks for itself and denies any characterization of that statute that is inconsistent with its terms.

69. With respect to the allegations contained in Paragraph 69, Johnson states that his counterclaim speaks for itself and denies any characterization of that counterclaim.

70. Johnson denies the allegations contained in Paragraph 70.

71. With respect to the allegations contained in Paragraph 71, Johnson states that the referenced statute speaks for itself and denies any characterization of that statute.

72. With respect to the allegations contained in Paragraph 72, Johnson states that the referenced statute speaks for itself and denies any characterization of that statute.

73. Paragraph 73 contains allegations of law to which no responsive pleading is required. To the extent Paragraph 73 contains allegations of fact, Johnson denies those allegations.

74. Paragraph 74 contains allegations of law to which no responsive pleading is required. To the extent Paragraph 74 contains allegations of fact, Johnson denies those allegations.

75. Johnson denies the allegations contained in Paragraph 75.

76. Johnson denies the allegations contained in Paragraph 76.

77. With respect to the allegations contained in Paragraph 77, Johnson lacks knowledge or information sufficient to form a belief as to Plaintiffs' subjective beliefs about the state of Minnesota law or their intention to speak regarding those beliefs. The remainder of Paragraph 77 contains allegations of law to which no responsive pleading is required.

78. Johnson denies the allegations contained in Paragraph 78 of the Amended Complaint.

79. With respect to the allegations contained in Paragraph 79, Johnson states that the cited statute speaks for itself. Johnson denies any characterization of that statute that

is inconsistent with its terms. Johnson admits that the referenced statute confers on him the ability and obligation to enforce the statute.

80. Johnson is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 80 of the Amended Complaint.

81. Johnson denies the allegations contained in Paragraph 81.

82. Johnson denies the allegations contained in Paragraph 82.

83. Johnson denies the allegations contained in Paragraph 83.

84. Johnson denies the allegations contained in Paragraph 84.

85. Johnson denies the allegations contained in Paragraph 85.

86. Johnson denies the allegations contained in Paragraph 86.

87. With respect to the allegations contained in Paragraph 87, Johnson admits that he filed a counterclaim in this case and states that counterclaim speaks for itself. Johnson denies the remainder of the allegations contained in Paragraph 87.

88. Johnson denies the allegations contained in Paragraph 88.

89. Johnson denies the allegations contained in Paragraph 89.

90. Johnson denies the allegations contained in Paragraph 90.

91. Johnson denies the allegations contained in Paragraph 91.

92. Johnson denies the allegations contained in Paragraph 92.

93. Johnson states that Paragraph 93 contains allegations of law to which no responsive pleading is required.

94. With respect to the allegations contained in Paragraph 94, Johnson states that the cited statute speaks for itself. Johnson denies any characterization of that statute that is inconsistent with its terms.

95. With respect to the allegations contained in Paragraph 95, Johnson acknowledges the relief sought by Plaintiffs but denies that Plaintiffs are entitled to receive such relief.

96. With respect to the allegations contained in Paragraph 96, Johnson acknowledges the relief sought by Plaintiffs but denies that Plaintiffs are entitled to receive such relief.

97. With respect to the allegations contained in Paragraph 97, Johnson acknowledges Plaintiffs' request for a trial by jury. Johnson states that whether Plaintiffs are entitled to trial by jury is an issue of law to which no responsive pleading is required.

CAUSES OF ACTION

Count One

First Amendment Freedom of Speech—Overbreadth

98. Johnson incorporates herein by reference the preceding paragraphs of this Answer.

99. With respect to the allegations contained in Paragraph 99, Johnson states that the First Amendment speaks for itself. Johnson denies any characterization of that amendment that is inconsistent with its terms.

100. Johnson states that Paragraph 100 contains allegations of law to which no responsive pleading is required.

101. Johnson states that Paragraph 101 contains allegations of law to which no responsive pleading is required.

102. Johnson denies the allegations contained in Paragraph 102 of the Amended Complaint.

103. With respect to the allegations contained in Paragraph 103, Johnson states that the statute speaks for itself. Johnson denies any characterization of that statute that is inconsistent with its terms.

104. Johnson denies the allegations contained in Paragraph 104.

105. Johnson denies the allegations contained in Paragraph 105.

106. Johnson denies the allegations contained in Paragraph 106.

COUNT TWO

First Amendment Freedom of Speech—Content and Viewpoint Discrimination

107. Johnson incorporates herein by reference the preceding paragraphs of this Answer.

108. Paragraph 108 contains allegations of law to which no responsive pleading is required.

109. Paragraph 109 contains allegations of law to which no responsive pleading is required.

110. With respect to the allegations contained in Paragraph 110, Johnson states that the statute speaks for itself. Johnson denies any characterization of that statute that is inconsistent with its terms.

111. With respect to the allegations contained in Paragraph 111, Johnson states that the statute speaks for itself. Johnson denies any characterization of that statute that is inconsistent with its terms.

112. Johnson denies the allegations contained in Paragraph 112.

113. Johnson denies the allegation contained in Paragraph 113.

114. Johnson denies the allegations contained in Paragraph 114.

115. Johnson denies the allegations contained in Paragraph 115.

116. Johnson denies the allegations contained in Paragraph 116.

COUNT THREE

First Amendment Freedom of Speech—Vagueness Procedural Due Process—Vagueness

117. Johnson incorporates herein by reference the preceding paragraphs of this Answer.

118. Paragraph 118 contains allegations of law to which no responsive pleading is required.

119. Paragraph 119 contains allegations of law to which no responsive pleading is required.

120. Johnson denies the allegations contained in Paragraph 120 of the Amended Complaint.

121. Johnson denies the allegations contained in Paragraph 121 of the Amended Complaint.

122. Johnson denies the allegations contained in Paragraph 122 of the Amended Complaint.

123. Johnson denies the allegations contained in Paragraph 123 of the Amended Complaint.

124. Johnson denies the allegations contained in Paragraph 124 of the Amended Complaint.

125. Johnson denies the allegations contained in Paragraph 125.

126. Johnson denies the allegations contained in Paragraph 126.

127. Johnson denies the allegations contained in Paragraph 127.

128. Johnson denies the allegations contained in Paragraph 128.

129. Johnson denies the allegations contained in Paragraph 129.

130. Johnson denies the allegations contained in Paragraph 130.

131. Johnson denies the allegations contained in Paragraph 131.

132. Johnson denies the allegations contained in Paragraph 132.

133. Johnson denies the allegations contained in Paragraph 133.

COUNT FOUR

First Amendment Freedom of Speech—Prior Restraint

134. Johnson incorporates herein by reference the preceding paragraphs of this Answer.

135. Paragraph 135 contains allegations of law to which no responsive pleading is required.

136. Johnson denies the allegations contained in Paragraph 136.

137. With respect to the allegations contained in Paragraph 137, Johnson states that this paragraph contains allegations of law to which no responsive pleading is required. Johnson admits that some categories of speech are not protected by the First Amendment. Johnson denies the remainder of the allegations contained in Paragraph 137.

138. With respect to the allegations contained in Paragraph 138, Johnson states that the statute speaks for itself. Johnson denies any characterization of that statute that is inconsistent with its terms.

139. Johnson denies the allegations contained in Paragraph 139.

140. Johnson denies the allegations contained in Paragraph 140.

141. Johnson denies the allegations contained in Paragraph 141.

142. Johnson denies the allegations contained in Paragraph 142.

143. Johnson denies the allegations contained in Paragraph 143.

AFFIRMATIVE AND OTHER DEFENSES

1. One or more of Plaintiffs' claims fails to state a claim upon which relief can be granted against Johnson.

2. Plaintiffs lack standing to pursue one or more of their claims, and therefore this Court lacks subject matter jurisdiction to adjudicate those claims.

3. One or more of Plaintiffs' claims is not ripe for adjudication.

4. Because Plaintiffs challenge the constitutionality of a law passed by the Minnesota legislature, Johnson is not a proper defendant.

5. Plaintiffs' claims under 42 U.S.C. § 1983 fail because Plaintiffs have not alleged the existence of a municipal policy adopted by Anoka County.

6. Plaintiffs' claims may be barred by some or all of the affirmative defenses set forth in Rule 8(c) of the Federal Rules of Civil Procedure, which are incorporated herein by reference.

7. Johnson is immune from liability under the doctrines of qualified immunity, official immunity, vicarious immunity, prosecutorial immunity, and/or statutory immunity among other forms of immunity as discovery may support.

8. Johnson cannot be held liable in his official capacity for enforcing a law passed by the Minnesota legislature.

9. Johnson reserves the right to assert additional affirmative defenses as this matter proceeds.

10. Johnson denies each and every material allegation that would purport to support a claim of liability against him.

WHEREFORE, Johnson asks the Court to dismiss this action, to deny the relief sought by Plaintiffs, to enter judgment in Johnson's favor, to award Johnson in his official capacity on behalf of the Anoka County Attorney's Office his costs, disbursements, and attorneys' fees incurred in this action, and to order such other or further relief as the Court may deem just and equitable.

AMENDED COUNTERCLAIM

Defendant Brad Johnson, in his official capacity as the Anoka County Attorney, brings this Amended Counterclaim against Minnesota Voters Alliance ("MVA"), Mary Amlaw, Ken Wendling, and Tim Kirk (collectively, the "Counterclaim Defendants").

PARTIES

1. Anoka County is a political subdivision of the state of Minnesota. Brad Johnson is the duly-elected Anoka County Attorney.

2. As Anoka County Attorney, Johnson has the authority and responsibility to enforce specific criminal and civil laws enacted by the Minnesota legislature as those laws apply to the residents of Anoka County and conduct or actions occurring within Anoka County.

3. According to Paragraph 23 of its Amended Complaint, Counterclaim Defendant MVA is an organization that engages in advocacy surrounding issues related to the elections process in Minnesota. Upon information and belief, some of that advocacy occurs or will occur in Anoka County.

4. According to Paragraph 26 of her Amended Complaint, Counterclaim Defendant Amlaw is a resident of Anoka County. Amlaw alleges that she “believes, says, and will continue to believe and say, within the State of Minnesota and within Anoka County, that felons still serving their sentences are not eligible to register to vote or vote under the Minnesota Constitution because the Felon Voting Law is unconstitutional.” The statements that form the basis of this Counterclaim thus directly affect the residents of Anoka County.

5. According to Paragraph 28 of his Amended Complaint, Counterclaim Defendant Wendling is a resident of Anoka County and a member of the Spring Lake Park City Council. Wendling alleges that he “believes, says, and will continue to believe and say, within the State of Minnesota and within Anoka County, that felons still serving their

sentences are not eligible to register to vote or vote under the Minnesota Constitution because the Felon Voting Law is unconstitutional.” The statements that form the basis of this Counterclaim thus directly affect the residents of Anoka County.

6. According to Paragraph 30 of his Amended Complaint, Counterclaim Defendant Kirk is a resident of Anoka County. Kirk alleges that he “believes, says, and will continue to believe and say, within the State of Minnesota and within Anoka County, that felons still serving their sentences are not eligible to register to vote or vote under the Minnesota Constitution because the Felon Voting Law is unconstitutional.” The statements that form the basis of this Counterclaim thus directly affect the residents of Anoka County.

JURISDICTION AND VENUE

7. This Court has personal jurisdiction over all Counterclaim Defendants because those defendants all reside within Minnesota and the conduct at issue in this Counterclaim has occurred and will continue to occur in Minnesota.

8. This Court has subject matter jurisdiction to decide this Counterclaim because this Counterclaim arises out of the same transactions and occurrences that form the basis of the Amended Complaint filed in this case, making this a mandatory counterclaim under Fed. R. Civ. Proc. 13(a). This Court has supplemental jurisdiction to decide the state claims alleged in this Counterclaim to the extent this Court has jurisdiction to resolve the federal claims alleged in the Amended Complaint.

9. Venue is proper in this Court because a substantial portion of the events giving rise to the claims alleged occurred in the District of Minnesota.

JOHNSON IS ENTITLED TO AN ORDER RESTRAINING THE COUNTERCLAIM DEFENDANTS FROM VIOLATING MINN. STAT. § 211B.075

10. New Minnesota Statute Section 211B.075 became effective as of June 15, 2023. That statute is entitled “Intimidation and Interference with the Voting Process; Penalties.”

11. Subdivision 1 of Section 211B.075 provides:

Subdivision 1.

Intimidation.

(a) A person may not directly or indirectly use or threaten force, coercion, violence, restraint, damage, harm, or loss, including loss of employment or economic reprisal against:

(1) any person with the intent to compel that person to register or abstain from registering to vote, vote or abstain from voting, or vote for or against a candidate or ballot question; or

(2) any person with the intent to impede that person's efforts to encourage another to cast a ballot or assist another in registering to vote, traveling to a polling place, casting a ballot, or participating in any other aspect of the election process.

(b) Notwithstanding paragraph (a), in a civil action brought to prevent and restrain violations of this subdivision or to require the payment of civil penalties, the plaintiff must demonstrate that the action or attempted action would cause a reasonable person to feel intimidated. The plaintiff does not need to show that the defendant intended to cause the victim to feel intimidated.

12. Subdivision 2 of Section 211B.075 provides:

Subdivision 2.

Deceptive practices.

(a) No person may, within 60 days of an election, cause information to be transmitted by any means that the person:

(1) intends to impede or prevent another person from exercising the right to vote; and

(2) knows to be materially false.

(b) The prohibition in this subdivision includes but is not limited to information regarding the time, place, or manner of holding an election; the qualifications for or restrictions on voter eligibility at an election; and threats to physical safety associated with casting a ballot.

13. Subdivision 3 of Section 211B.075 provides:

Subdivision 3.

Interference with registration or voting.

No person may intentionally hinder, interfere with, or prevent another person from voting, registering to vote, or aiding another person in casting a ballot or registering to vote.

14. Subdivision 4 of Section 211B.075 provides:

Subdivision 4.

Vicarious liability; conspiracy.

A person may be held vicariously liable for any damages resulting from the violation of this section and may be identified in an order restraining violations of this section if that person:

(1) intentionally aids, advises, hires, counsels, abets, incites, compels, or coerces a person to violate any provision of this section or attempts to aid, advise, hire, counsel, abet, incite, compel, or coerce a person to violate any provision of this section; or

(2) conspires, combines, agrees, or arranges with another to either commit a violation of this section or aid, advise, hire, counsel, abet, incite, compel, or coerce a third person to violate any provision of this section.

15. Subdivision 5 of Section 211B.075 imposes both civil and criminal penalties on anyone who violates any of the preceding four subdivisions. Most relevant for purposes of the present action, Subdivision 5(b) provides that “a county attorney...may bring a civil

action to prevent or restrain a violation of this section if there is a reasonable basis to believe that an individual or entity is committing or intends to commit a prohibited act.”

16. According to Subdivision 5(c), a county attorney may also bring an action to “recover damages, together with costs of investigation and reasonable attorney fees, and receive other equitable relief as determined by the court.” In addition to all other damages, a court may also impose a civil penalty of up to \$1,000 for each violation.

17. Plaintiffs filed their original Complaint on September 11, 2023. Plaintiffs attached verifications to that Complaint through which the MVA, Amlaw, Wendling, and Kirk all testified that the factual allegations they made were true and correct. The MVA’s verification provided that:

I verify under penalty of perjury that the factual statements in this Complaint concerning Minnesota Voters Alliance, its activities, and its intentions are true and correct.

The verifications submitted by Amlaw, Wendling, and Kirk provided that:

I verify under penalty of perjury that the factual statements in this Complaint concerning myself, my activities, and my intentions are true and correct.

18. After receiving County Attorney Johnson’s Counterclaim, the Counterclaim Defendants submitted an Amended Complaint through which they attempted to soften some of the verified factual allegations they made in their original Complaint. Because Counterclaim Defendants verified those original statements under penalty of perjury, however, those statements represent admissions that cannot be withdrawn through a subsequent pleading. Counterclaim Defendants cannot “un-say” the statements that they originally verified they had already made and intended to continue making in the future.

19. Counterclaim Defendants alleged and admitted in their original Complaint that they have violated in the past (and plan to continue violating in the future) Section 211B.075 by falsely claiming that “felons still serving their sentences do not have a right to vote in Minnesota.” (ECF 1, ¶ 12). Counterclaim Defendants alleged and admitted that they “intend to continue to speak...as to their view of the Minnesota Constitution: felons who have not served their full sentences, or otherwise had their sentences discharged, cannot legally vote.” (ECF 1, ¶ 3).

20. While Counterclaim Defendants may believe that Minnesota law **should** prohibit felons from voting, it is clear that Counterclaim Defendants understand that Minnesota law currently **does** allow felons to vote.

21. Effective June 1, 2023, Minnesota Statute Section 201.014 restored the right to vote to those individuals with a felony conviction during any period when they are not incarcerated for the offense. Section 201.014 provides:

Subdivision 2a.

Felony conviction; restoration of civil right to vote.

An individual who is ineligible to vote because of a felony conviction has the civil right to vote restored during any period when the individual is not incarcerated for the offense. If the individual is later incarcerated for the offense, the individual's civil right to vote is lost only during that period of incarceration. For purposes of this subdivision only, an individual on work release under section 241.26 or 244.065 or an individual released under section 631.425 is not deemed to be incarcerated.

22. According to Minnesota Secretary of State Steve Simon, Section 201.014 is estimated to restore voting rights to at least 55,000 Minnesotans. Upon information and belief, some of those individuals reside in Anoka County.

23. Counterclaim Defendants know that felons can presently legally vote in Minnesota because they have filed a separate lawsuit challenging the constitutionality of that very statute. *See Minnesota Voters Alliance, Mary Amlaw, Ken Wendling, and Tim Kirk v. Tom Hunt et al.*, Minn. Dist. Ct. File No. 02-CV-23-3416.

24. In their state court lawsuit, Counterclaim Defendants admit that the statements they have made and plan to make in the future regarding the voting rights of an individual previously convicted of a felony are directly contrary to existing Minnesota law. Counterclaim Defendants admitted in their original Complaint that they have said (and plan to continue saying): “felons who have not served their full sentences, or otherwise had their sentences discharged, cannot legally vote.” (ECF 1, ¶ 3). In their state court Complaint, however, the Counterclaim Defendants admit that Section 201.014 “purports to restore the right to vote to those convicted of felony crimes who have not completed their sentence and are still on supervised release or probation.” (State Court Complaint, ¶ 12). A copy of Counterclaim Defendants’ state court Complaint is attached as Exhibit A.

25. After receiving County Attorney Johnson’s Counterclaim, the Counterclaim Defendants filed an Amended Complaint in which they tried to recharacterize the false statements contained in their original Complaint as merely academic legal arguments. Counterclaim Defendants now contend that they actually intend to say that “felons still serving their sentences do not have a right to vote in Minnesota **because the Minnesota Constitution preempts the Felon Voting Law.**” (ECF 13, ¶ 18). Plaintiffs also intend to say that “those still serving felony sentences do not have the right to vote in Minnesota because the Felon Voting Law is unconstitutional, and the Constitution is supreme law in

Minnesota.” (ECF 13, ¶ 67). Those statements are just as false as the statements contained in Plaintiffs’ original Complaint and will have the same effect on voters previously convicted of a felony.

26. As Plaintiffs well know, a statute enacted by the Minnesota legislature has the full force of law until such time as a court finds that law to be unconstitutional. Even if Plaintiffs believe that Section 201.014 should be found unconstitutional, it is not the case that felons in Minnesota **currently** do not have the right to vote.

27. The statement that “felons who have not served their full sentences, or otherwise had their sentences discharged, cannot legally vote” is a materially false statement under existing Minnesota law, as is the statement “felons still serving their sentences do not have a right to vote in Minnesota because the Minnesota Constitution preempts the Felon Voting Law.” Those statements are intended to, and actually will, interfere with the ability of convicted felons to exercise their lawful right to vote.

28. Minnesota is holding its 2023 elections on November 7, 2023. Anoka County residents will have the opportunity to cast their votes in a number of races on that date.

29. Upon information and belief, there is a group of Anoka County residents who were previously convicted of felonies who have had their voting rights restored by virtue of Minnesota Statute Section 201.014. Those residents are able to exercise their right to vote in the November 7 election as a matter of law.

30. It is clear that Counterclaim Defendants are committing and/or intend to commit a prohibited act under Section 211B.075 by making materially false statements about the ability of individuals with a felony conviction to register to vote and cast a vote.

31. As the County Attorney for the county in which the individual Counterclaim Defendants reside and the county in which Counterclaim Defendant MVA has made or intends to make and publish in the future its materially false statements, Johnson is authorized to commence a civil action against Counterclaim Defendants under Section 211B.075, Subd. 5.

COUNT I

VIOLATION OF MINN. STAT. § 211B.075

32. Johnson incorporates herein by reference the preceding paragraphs of this Counterclaim.

33. Counterclaim Defendants have alleged that they have said, and plan to continue saying, that “felons still serving their sentences do not have a right to vote in Minnesota” and “felons still serving their sentences do not have a right to vote in Minnesota because the Minnesota Constitution preempts the Felon Voting Law.”

34. Those statements (and other statements that Counterclaim Defendants have made or intend to make in the future) are materially false under Minnesota law.

35. Subdivision 1 of Minn. Stat. Section 211B.075 prohibits a person from directly or indirectly threatening “damage, harm, or loss” against any person with the intent to compel that person to abstain from registering to vote or voting.

36. Counterclaim Defendants' materially false statements about the right of individuals previously convicted of a felony to register to vote and vote in Minnesota violate Subdivision 1, because a reasonable person previously convicted of a felony but no longer incarcerated could be misled and/or would feel intimidated by Counterclaim Defendants' false statements about that person's eligibility to vote.

37. Subdivision 2 of Section 211B.075 prohibits a person, within 60 days of an election, from transmitting information (1) intended to impede or prevent another person from exercising the right to vote, (2) which the person knows to be materially false. Subdivision 2 specifically prohibits the dissemination of information regarding "the qualifications for or restrictions on voter eligibility."

38. Counterclaim Defendants' materially false statements constitute a deceptive practice under Subdivision 2, as Counterclaim Defendants have made those and similar statements (and allege an intention to continue making those statements and other similar statements) within 60 days of an election.

39. Subdivision 3 of Section 211B.075 provides that "no person may intentionally hinder, interfere with, or prevent another person from voting, registering to vote, or aiding another person in casting a ballot or registering to vote."

40. Counterclaim Defendants' materially false statements hinder, interfere with, or prevent another person from registering to vote within the meaning of the statute by interfering with the right to vote granted to individuals previously convicted of felonies. Counterclaim Defendants' actual and intended statements interfere with those individuals' right to register and vote.

41. Subdivision 4 of Section 211B.075 provides that a person or entity may be held vicariously liable for violations of Section 211B.075 under defined circumstances.

42. Counterclaim Defendants have conspired, combined, agreed, or arranged with each other to disseminate, and have expressed an intention to continue conspiring, combining, agreeing, or arranging with each other in the future to disseminate, materially false statements about the rights of individuals previously convicted of a felony to vote in Minnesota.

43. Subdivision 5 of Section 211B.075 provides that a county attorney “may bring a civil action to prevent or restrain a violation of this section if there is a reasonable basis to believe that an individual or entity is committing or intends to commit a prohibited act.”

44. The allegations made by Counterclaim Defendants in their Complaint and Amended Complaint show that they are committing and intend to commit in the future an act prohibited by the statute. Johnson is entitled to an order restraining Counterclaim Defendants from current and future violations of the statute.

45. Pursuant to Subdivision 5(c), a county attorney may also bring a civil action to recover damages, along with costs of investigation and reasonable attorney fees. In addition to those damages, this Court may impose a civil penalty of up to \$1,000 for each violation.

46. Johnson asks this Court to (1) order Counterclaim Defendants to refrain from making false statements concerning the eligibility to vote of individuals previously convicted of a felony, (2) award damages against Counterclaim Defendants and require

Counterclaim Defendants to compensate Johnson for investigation costs and attorney fees incurred in connection with this action, and (3) impose a civil penalty of \$1,000 for each violation of the statute committed by Counterclaim Defendants.

WHEREFORE, Johnson asks this Court to enter an order:

1. Restraining Counterclaim Defendants (jointly and severally) from violating the provisions of Section 275B.011 in the future;
2. Assessing damages against Counterclaim Defendants (jointly and severally) for violations of Section 275B.011;
3. Awarding Johnson, in his capacity as Anoka County Attorney, his costs of investigation and attorneys' fees;
4. Imposing a civil penalty of \$1,000 for each violation of the statute committed by the Counterclaim Defendants; and
5. Granting any further relief that the Court finds just and equitable.

BRAD JOHNSON
ANOKA COUNTY ATTORNEY

Dated: October 30, 2023

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