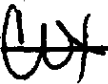


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FILED
Court Administrator

STATE OF MINNESOTA
COUNTY OF RAMSEY

JAN 21 2009

By  Deputy

DISTRICT COURT
SECOND JUDICIAL DISTRICT
Case Type: CIVIL OTHER

File No. 62-CV-09-56

In the Matter of the Contest of General
Election held on November 4, 2008, for the
purpose of electing a United States Senator
from the State of Minnesota,

Cullen Sheehan and Norm Coleman,

Contestants,

v.

Al Franken,

Contestee.

**CONTESTANTS' NOTICE OF
MOTION AND MOTION FOR
ORDER DIRECTING COUNTIES
AND MUNICIPALITIES
POSSESSING ORIGINAL
REJECTED ABSENTEE
BALLOTS TO DEPOSIT
ORIGINALS WITH THE COURT**

To: Contestee Al Franken, by and through his attorneys David Lillehaug, Esq.,
Fredrikson & Byron, P.A., Suite 4000, 200 South Sixth Street, Minneapolis, MN
55402, and Minnesota County Auditors and Municipality City Clerks

PLEASE TAKE NOTICE that pursuant to Minnesota Rule of Civil Procedure 1
and Minnesota Rule of Evidence 1002, Contestants Cullen Sheehan and Norm Coleman
hereby bring a Motion for Order Directing Counties and Municipalities Possessing
Original Rejected Absentee Ballots to Deposit Originals with the Court, before the
Honorable Elizabeth A. Hayden, the Honorable Kurt J. Marben, and the Honorable
Denise D. Reilly, to be heard at a date and time to be determined, if necessary, at the
Ramsey County Courthouse, 15 W. Kellogg Blvd., St. Paul, MN 55102.

The grounds for Contestants' motion are as follows:

1. There are approximately 12,000 absentee ballots that were rejected by local election officials in connection with the November 4, 2008 election. These rejected absentee ballots have not been counted in the election for United States Senator from the State of Minnesota.

2. As indicated in both Contestants' Notice of Contest (*see* Notice, ¶¶ 10-11), and Contestee's Counterclaims (*see* Counterclaims, ¶¶ 3-5), the parties contend that certain of the rejected absentee ballots were erroneously rejected and not counted on election day or during the administrative recount.

3. The original rejected absentee ballot envelopes are in the possession of county auditors and city clerks.

4. The parties possess only copies of the rejected absentee ballot envelopes.

5. For the purposes of offering original evidence at trial and, more importantly, to expedite the counting of votes where the Court finds that certain rejected absentee ballots were, in fact, erroneously rejected and not previously counted, the Court should have in its possession the original rejected absentee ballot envelopes.

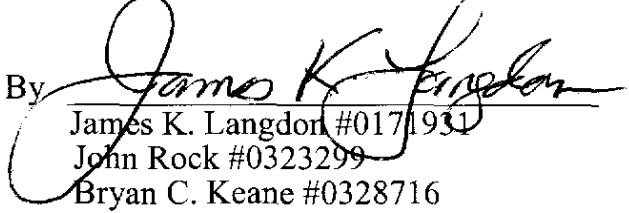
6. An order from this Court is necessary to ensure a uniform procedure for the Court's receipt of the original rejected absentee ballot envelopes.

Accordingly, Contestants respectfully request that the Court grant their Motion, and direct all county auditors, municipal clerks, and other local election officials who are in possession of original rejected absentee ballot envelopes from the November 4, 2008 election to deposit those original rejected absentee ballots with the Ramsey County Court Administrator by January 23, 2009.

Dated: January 17, 2009

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Attorneys for Contestants
Cullen Sheehan and Norm Coleman

AFFIDAVIT OF SERVICE VIA EMAIL

STATE OF MINNESOTA)
)ss.
COUNTY OF HENNEPIN)

Sherry Leboeuf, being first duly sworn on oath, deposes and states that on the 17th day of January, 2009, she served the Contestants' Notice of Motion and Motion for Order Directing Counties and Municipalities Possessing Original Rejected Absentee Ballots to Deposit Original with the Court and the Proposed Order by sending a true and correct copy via email:

The Honorable Elizabeth A. Hayden
Judge, Seventh Judicial District
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725 Courthouse Square
St. Cloud, MN 56303
elizabeth.hayden@courts.state.mn.us

The Honorable Kurt J. Marben
Judge, Ninth Judicial District
Pennington County Courthouse
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Thief River Falls, MN 56701
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The Honorable Denise D. Reilly
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the last known email addresses of said addressees.

Subscribed and sworn to before me this
17th day of January, 2009

Dianna L. Breymeier
Notary Public

Sherry Selway

