

JAN 21 2009

DISTRICT COURT

STATE OF MINNESOTA

By AW Deputy

SECOND JUDICIAL DISTRICT

COUNTY OF RAMSEY

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

District Court File No. 62-CV-09-56

Cullen Sheehan and Norm Coleman,

Contestants,

vs.

Al Franken,

Contestees.

Dennis Peterson, et. al.,

Petitioners,

Supreme Court File No. A09-65

vs.

Mark Ritchie, Minnesota Secretary of State, et. al.,

Respondents.

**PETITIONERS' MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR  
SUMMARY JUDGMENT**

**I. INTRODUCTION**

On January 13, 2009, 64 individual voters filed a petition pursuant to Minn. Stat. § 204B.44 with the Minnesota Supreme Court to have their votes counted in the November 4, 2008, general election for United States Senator from the State of Minnesota. Petitioners each submitted an absentee ballot which met the requirements of Minnesota election law but were either erroneously rejected by local election officials or objected to by the Coleman campaign.

On January 16, 2009, the Supreme Court issued an Order referring the Petition for “consideration and decision by the three-judge district court panel” as part of the above-captioned matter. Dennis Peterson, et. al. v. Mark Ritchie, Minnesota Secretary of State, et. al., No. A09-65, Order (Minn. Jan. 16, 2009).

The facts as they relate to Petitioners are not in dispute and there is no basis under Minnesota law to refuse to count Petitioners’ properly cast absentee ballots. Accordingly, Petitioners request an Order granting summary judgment in their favor and directing that their absentee ballots be opened and counted.

## **II. STATEMENT OF THE ISSUES**

1. Whether Petitioners’ absentee ballots cast in the general election held on November 4, 2008, for the purpose of electing a United States Senator from the State of Minnesota should be opened and counted.

## **III. STATEMENT OF THE RECORD**

This motion is based on the following documents

1. Petition by Certain Minnesota Voters to Have Their Votes Counted Pursuant to Minn. Stat. § 204B.44; and
2. Affidavit of Charles N. Nauen and attached exhibits.

## **IV. STATEMENT OF UNDISPUTED MATERIAL FACTS**

In the interest of economy and avoiding unnecessary repetition, the relevant facts are set forth separately, for each Petitioner, below. These facts are based upon documents, affidavits, or declarations made under penalty of perjury and are not, to Petitioners’ knowledge, disputed.

## **V. ARGUMENT**

“The right to vote \* \* \* is a fundamental and personal right essential to the preservation of self-government.” Erlandson v. Kiffmeyer, 659 N.W.2d 724, 730 (Minn. 2003) (*quoting State ex. rel. South St. Paul v. Hetherington*, 61 N.W.2d 737, 741 (1953)). Minnesota allows residents

who cannot vote in person to exercise this fundamental right by casting an absentee ballot and the courts endeavor “to avoid disenfranchising ‘the very people that the absentee voter laws are intended to benefit.’” Coleman v. Ritchie, 758 N.W.2d. 306, 310 (Minn. 2008) (dissent) (*citing Erlandson*, 659 N.W.2d at 734).

Minnesota election law provides that an absentee ballot must be “accepted” where, upon examination of the return envelope, the election judges are satisfied that:

- (1) the voter’s name and address on the return envelope are the same as the information provided on the absentee ballot application;
- (2) the voter’s signature on the return envelope is the genuine signature of the individual who made the application for ballots and the certificate has been completed as prescribed in the directions for casting an absentee ballot, except that if a person other than the voter applied for the absentee ballot under applicable Minnesota Rules, the signature is not required to match;
- (3) the voter is registered and eligible to vote in the precinct or has included a properly completed voter registration application in the return envelope; and
- (4) the voter has not already voted at election, either in person or by absentee ballot.

Minn. Stat. § 203B.12, subd. 2. The law is unequivocal that “[t]here is *no other reason* for rejecting an absentee ballot.” Id. (emphasis added).

Prior to the December 29, 2008, deadline for identifying absentee ballots which may have been improperly rejected, the Franken campaign submitted to the Respondent Counties affidavits or declarations signed by 30 Petitioners, demonstrating that their absentee ballots were properly cast and were improperly rejected. Affidavit of Charles N. Nauen (“Nauen Aff.”) at ¶ 3. The Franken campaign also provided to the Counties verified copies of Minnesota Secretary of State Voter Lookup forms for an additional 21 Petitioners, demonstrating that the Petitioners were registered to vote at the time of the November 4, 2008, general election and, thus, that their

ballots were improperly rejected. Id. at ¶ 4. Notwithstanding, none of these votes were counted in the November 4, 2008, general election. *See Id.* at ¶ 5-7.

For the remaining 13 Petitioners, the Respondent Counties identified their absentee ballots as having been improperly rejected. Id. at ¶ 8. Yet ballots cast by these Petitioners were not included in the administrative recount because they were objected to by the Coleman campaign in the process established by the Minnesota Supreme Court's December 18, 2008 Order and implemented by the Secretary of State.

As set forth in the following sections, Petitioners' absentee ballots in the November 4, 2008, general election satisfied the four requirements set forth in Minn. Stat. § 203B.12, subd. 2 and should have been accepted, opened, and counted.<sup>1</sup>

**A. Carlton County Ballot**

1. Brenda Rengo

Carlton County rejected Brenda Rengo's absentee ballot on the ground that she did not include a voter registration card with her return envelope or was not registered to vote in the precinct. Nauen Aff. Ex. 4-A (Envelope); Ex. 4-B (Carlton County Rejected Ballots). Brenda Rengo resided at 191 Wildwood Drive, Esko, MN at the time of the November 4, 2008, general election. Nauen Aff. Ex. 4-A (Envelope). This is the same address that appears in Ms. Rengo's voter registration records with the Minnesota Secretary of State. Nauen Aff. Ex. 4-C (SOS Voter Lookup). Ms. Rengo was not required to provide a voter registration card because she was registered to vote in the precinct where she resided. Minn. Stat. § 203B.12, subd. 2(3). Ms.

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<sup>1</sup> The ballots will be organized by County. There are eight general categories of reasons that the absentee ballots were rejected: (1) the ballot was delivered to the wrong precinct; (2) the dates of signatures of the voter and the witness on the return envelopes do not match; (3) the absentee ballot applications are missing; (4) the petitioner allegedly already voted; (5) there is no signature on the ballot application or return envelope; (6) the county identified registrations issues; (7) the signatures on ballot application and return envelope are not the same; and (8) other/unspecified reasons. *See* Nauen Aff. Ex. 1.

Rengo's absentee ballot complies with the four requirements established in Minn. Stat. § 203B.12.

**B. Cass County Ballot**

1. Shirley Vandyck

Cass County identified Shirley Vandyck's absentee ballot as having been improperly rejected. Nauen Aff. at ¶ 8. Nonetheless, Ms. Vandyck's absentee ballot was not counted due to an objection by representatives of the Coleman campaign. Nauen Aff. at ¶ 8. Cass County initially rejected Ms. Vandyck's absentee ballot on the ground that the signature on the ballot application and the signature on the return envelope were not the same. Nauen Aff. Ex. 5 (Envelope). Ms. Vandyck suffers from Lou Gehrig's disease and requested that her daughter complete the absentee ballot application on her behalf. Minnesota law allows an individual who is physically unable to sign his or her name to direct another to sign on his or her behalf. Minn. Stat. § 645.44, subd. 14. Ms. Vandyck signed the certification on the return envelope and her son signed as the witness. Nauen Aff. Ex. 5 (Envelope). Ms. Vandyck's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12.

**C. Clay County Ballot**

1. Jeffrey Dustin

Clay County rejected Jeffrey Dustin's absentee ballot on the ground that he had allegedly already voted in the election. Nauen Aff. Ex. 6-A (Clay County List of Rejected Ballots). However, Mr. Dustin signed a declaration under penalty of perjury stating that his absentee ballot was the only ballot he cast in the November 4, 2008, general election. Nauen Aff. Ex. 6-B (Dustin Decl.). Mr. Dustin's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. Ex. 6-C (SOS Voter Lookup).

**D. Crow Wing County Ballot**

1. Douglas Stange

Crow Wing County rejected Douglas Stange's absentee ballot on the ground that the signatures on the return envelope and the absentee ballot application were not the same. Nauen Aff. Ex. 7-A (Crow Wing County List of Rejected Absentee). Mr. Stange signed an affidavit stating that he signed both the absentee ballot application and the return envelope with his genuine signature. Nauen Aff. Ex. 7-B (Stange Aff.). Mr. Stange's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 7-C (SOS Voter Lookup).

**E. Dakota County Ballots**

1. Jennifer Bartholomay

Dakota County rejected Jennifer Bartholomay's absentee ballot on the ground that the signatures on the return envelope and the absentee ballot application were not the same. Nauen Aff. Ex. 8-A (Envelope). Ms. Bartholomay signed a declaration under penalty of perjury stating that she signed both the absentee ballot application and the return envelope with her genuine signature. Nauen Aff. Ex. 8-B (Barhtolomay Decl.). Ms. Bartholomay's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 8-C (Ballot Application.); Ex. 8-D (SOS Voter Lookup).

2. Arvid Blackbird

Dakota County identified Arvid Blackbird's absentee ballot as having been improperly rejected. Nauen Aff. at ¶ 8. Nonetheless, Mr. Blackbird's absentee ballot was not counted due to an objection by representatives of the Coleman campaign. Nauen Aff. at ¶ 8. Dakota County initially rejected Mr. Blackbird's absentee ballot because it was sent to a precinct other than the precinct where Mr. Blackbird was registered to vote. Nauen Aff. Ex. 9-A (Envelope). The

county auditor or municipal clerk is responsible for delivering the absentee ballot applications and return envelopes to the appropriate polling locations for review and counting. Minn. Stat. §§ 203B.08, subd. 3; 203B.10. The fact that Dakota County apparently sent Mr. Blackbird's ballot to the wrong precinct is not a sufficient basis for rejecting Mr. Blackbird's absentee ballot. Johnson v. Trnka, 154 N.W.2d 185, 187 (Minn. 1967) ("No person should be deprived of his right to vote because of the neglect or carelessness of election officials unless that conduct has been carried to such an extent as to affect the true outcome of the election and put the results in doubt"). Mr. Blackbird's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12.

3. Harold Buck

Dakota County rejected Harold Buck's absentee ballot on the ground that he was not registered to vote. Nauen Aff. Ex. 10-A (Dakota County Rejected Absentee Ballots). Mr. Buck has been registered to vote since at least 1987 and was eligible to vote in the November 2008 general election. Nauen Aff. Ex. 10-B (SOS Voter Lookup); Ex. 10-C (Buck Decl.). Mr. Buck's wife, Marcia Buck, served as an election judge for the November 2008 general election. An absentee ballot was mailed, unsolicited, to his wife at their home address. Nauen Aff. Ex. 10-C (Buck Decl.). Since Mrs. Buck was serving as an election judge and, therefore, could vote by absentee ballot when she completed her election judge training, Mr. Buck used the absentee ballot mailed to his wife to cast his vote. Id. Mr. and Mrs. Buck reviewed the ballot and the return envelope and determined that there were not markings indicating that the ballot could not be used by Mr. Buck. Id. Mr. Buck marked the absentee ballot in the manner prescribed by the directions sent with the ballot, completed and signed the eligibility certificate, and had it witnessed by his wife. Id. Ms. Buck hand-delivered Mr. Buck's absentee ballot and return envelope to Burnsville City Hall following her election judge training. Id. Mr. Buck's absentee

ballot substantially complies with the four requirements of Minn. Stat. § 203B.12. *See Starr v. Gross*, 431 N.W.2d 911, 915 (Minn. Ct. App. 1989) (mere failure to comply with technical requirements, absent some evidence of fraud, will not invalidate a vote).

4. Laurence Engebretson

Dakota County rejected Laurence Engebretson's absentee ballot on the ground that the signatures on the return envelope and the absentee ballot application were not the same. Nauen Aff. Ex. 11-A (Envelope). Mr. Engebretson signed a declaration under penalty of perjury stating that he signed both the absentee ballot application and the return envelope with his genuine signature. Nauen Aff. Ex. 11-B (Engebretson Decl.). Mr. Engebretson's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 11-C (Ballot Application); Ex. 11-D. (SOS Voter Lookup).

5. Kim Falde

Dakota County identified Kim Falde's absentee ballot as having been improperly rejected. Nauen Aff. at ¶ 8. Nonetheless, Ms. Falde's absentee ballot was not counted due to an objection by representatives of the Coleman campaign. Nauen Aff. at ¶ 8. Dakota County initially rejected Ms. Falde's absentee ballot because she had not signed the certification on the return envelope. Nauen Aff. Ex. 12-A (Envelope). Ms. Falde voted by absentee ballot, in person, at the Apple Valley City Hall and a city election official signed the return envelope as a witness. Nauen Aff. Ex. 12-B (Falde Decl.). Ms. Falde reasonably relied on the election official to call any errors or omissions in the certification to her attention. *See* Minn. R. 8210.2200, subp. 2 (directing a county auditor or municipal clerk that receives a hand delivered absentee ballot to verify that the voter's certificate is properly completed); Nauen Aff. Ex. 12-B (Falde Decl.) Moreover, the fact that an election official certified that Ms. Falde showed her the blank ballots before voting, that Ms. Falde marked the ballots in private, and that Ms. Falde enclosed

and sealed the ballots in the secrecy envelope eliminates any concerns that may otherwise arise when a voter does not sign the return envelope. Ms. Falde's absentee ballot substantially complies with the four requirements set forth in Minn. Stat. § 203B.12. *See Starr*, 431 N.W.2d at 915; *see also* Nauen Aff. Ex. 12-C (Ballot Application).

6. Caitlin Heinz

Dakota County rejected Caitlin Heinz's absentee ballot because she did not include a new voter registration card with the return envelope. Nauen Aff. Ex. 13-A (Envelope). Ms. Heinz signed a declaration under penalty of perjury stating she completed the voter registration application, completed her absentee ballot, and enclosed the voter registration application in the secrecy envelope with her absentee ballot. Nauen Aff. Ex. 13-B (Heinz Decl.). Mr. Heinz's absentee ballot complies the four requirements set forth in Minn. Stat. § 203B.12. *See Starr*, 431 N.W.2d at 951, *see also* Nauen Aff. Ex. 13-C (SOS Voter Lookup).

7. Brian Johnson

Dakota County initially stated that it rejected Brian Johnson's ballot because there was no absentee ballot application. Nauen Aff. Ex. 14-A (Envelope). Later, Dakota County indicated that it had rejected Mr. Johnson's absentee ballot because he did not satisfy the requirements of Minn. Stat. § 203B.12, subd. 2(3). Nauen Aff. Ex. 14-B (Dakota County Rejected Absentee Ballots). Mr. Johnson voted by absentee ballot, in person, at the Dakota County Government Center in Apple Valley, MN. Nauen Aff. Ex. 14-A (Envelope). Mr. Johnson completed, signed, and dated an absentee ballot and the certification on the return envelope on October 31, 2009. Nauen Aff. Ex. 14-C (Ballot Application). Mr. Johnson resided at 1980 Timber Wolf Trail, Eagan, MN at the time of the November 4, 2008, general election. Nauen Aff. Ex. 14-A (Envelope); Ex. 14-B (Ballot Application) This is the same address that appears in Mr. Johnson's voter registration records with the Minnesota Secretary of State Nauen Aff. Ex. 14-D

(SOS Voter Lookup). Mr. Johnson was not required to provide a new voter registration card because he was registered to vote in the precinct where he resided at the time of the November 4, 2008, general election. Minn. Stat. § 203B.12, subd. 2(3). Mr. Johnson's ballot complies with the requirements established in Minn. Stat. § 203B.12.

8. Katie Kaszynski

Dakota County rejected Katie Kaszynski's absentee ballot on the ground that the signatures on the return envelope and Ms. Kaszynski's "voter registration" were not the same. Nauen Aff. Ex. 15-A (Envelope). There is no requirement that the signature on the return envelope match the signature on any "voter registration" materials. Moreover, Ms. Kaszynski signed a declaration under penalty or perjury stating that she signed the absentee ballot application and the certification on the return envelope with her genuine signature. Nauen Aff. Ex. 15-B (Kaszynski Decl.). Ms. Kaszynski's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 15-C (Ballot Application); Ex. 15-D (SOS Voter Lookup).

9. Mary Koenigsberger

Dakota County rejected Mary Koenigsberger's absentee ballot on the ground that the signatures on the return envelope and the absentee ballot application were not the same. Nauen Aff. Ex. 16-A (Envelope). Ms. Koenigsberger signed a declaration under penalty of perjury stating that she signed both the absentee ballot application and the return envelope with her genuine signature. Nauen Aff. Ex. 16-B (Koenigsberger Decl.). Ms. Koenigsberger's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 16-C (Ballot Application); Ex. 16-D (SOS Voter Lookup).

10. Leona Quinlan

Dakota County rejected Leona Quinlan's absentee ballot on the ground that the signatures on the absentee ballot application and the return envelope were not the same. Nauen Aff. Ex. 17-A (Envelope). Ms. Quinlan and her husband Thomas Quinlan voted by absentee ballot, in person, at the Northern Dakota County Government Center and placed their ballots in and signed the certifications on the envelopes provided by the county official. Nauen Aff. Ex. 17-B (L. Quinlan Declaration). The county official completed and signed the witness information on the return envelopes. Id. The return envelope provided to and signed by Ms. Quinlan had a sticker affixed to it with her husband's name and their home address. Id.; Nauen Aff. Ex. 17-C (T. Quinlan Envelope). Ms. Quinlan signed both her absentee ballot application and the return envelope provided to her with her genuine signature. Nauen Aff. Ex. 17-B (L. Quinlan Declaration). Ms. Quinlan relied upon the county official to provide her with the correct envelope for her absentee ballot and substantially complied with the requirements of Minnesota election law. *See* Starr v. Gross, 431 N.W.2d at 915; Minn. R. 8210.2200, subp. 2. Ms. Quinlan's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 17-D (Ballot Application); Ex. 17-E (SOS Voter Lookup).

11. Thomas Quinlan

Dakota County rejected Thomas Quinlan's absentee ballot on the ground that the signatures on the absentee ballot application and the return envelope were not the same. Nauen Aff. Ex. 18-A (Envelope). Mr. Quinlan and his wife Leona Quinlan voted by absentee ballot, in person, at the Northern Dakota County Government Center and placed their ballots in and signed the certifications on the envelopes provided by the county official. Nauen Aff. Ex. 18-B (T. Quinlan Declaration). The county official completed and signed the witness information on the return envelopes. Id. The return envelope provided to and signed by Mr. Quinlan had a sticker

affixed to it with his wife's name and their home address. Id.; Nauen Aff. Ex. 18-C (L. Quinlan Envelope). Mr. Quinlan signed both his absentee ballot application and the return envelope provided to him with his genuine signature. Nauen Aff. Ex. 18-B (T. Quinlan Declaration). Mr. Quinlan relied upon the county official to provide him with the correct envelope for his absentee ballot and substantially complied with the requirements of Minnesota election law. *See Starr v. Gross*, 431 N.W.2d at 915; Minn. R. 8210.2200, subp. 2. Mr. Quinlan's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 18-D (Ballot Application); Ex. 18-E (SOS Voter Lookup).

12. Charles Quinn

Dakota County identified Mr. Quinn's absentee ballot as having been improperly rejected. Nauen Aff. at ¶ 8. Nonetheless, Mr. Quinn's absentee ballot was not counted due to an objection by representatives of the Coleman campaign. Nauen Aff. at ¶ 8. Dakota County initially rejected Charles Quinn's absentee ballot because Mr. Quinn had not signed the certification on the return envelope. Nauen Aff. Ex. 19-A (Envelope). Mr. Quinn voted by absentee ballot, in person, at the Apple Valley City Hall and a city election official signed the return envelope as a witness. Nauen Aff. Ex. 19-B (Quinn Decl.). Mr. Quinn reasonably relied on the election official to call any errors or omissions in the certification to his attention. *See* Minn. R. 8210.2200, subp. 2; Nauen Aff. Ex. 19-B (Quinn Decl.). Moreover, the fact that an election official certified that Mr. Quinn showed her the blank ballots before voting, that Mr. Quinn marked the ballots in private, and that Mr. Quinn enclosed and sealed the ballots in the secrecy envelope eliminates any concerns that may otherwise arise when a voter does not sign the return envelope. Mr. Quinn's absentee ballot substantially complies with the four requirements set forth in Minn. Stat. § 203B.12. *See Starr v. Gross*, 431 N.W.2d at 915; *see also* Nauen Aff. Ex. 19-C (Ballot Application).

13. Gerald Ratzlaff

Dakota County rejected Gerald Ratzlaff's absentee ballot on the ground that there was no absentee ballot application. Nauen Aff. Ex. 20-A (Envelope). Mr. Ratzlaff signed a declaration under penalty of perjury stating that he applied for and received his absentee ballot, in person, at the Eagan City Hall and marked his ballot at home. Nauen Aff. Ex. 20-B (G. Ratzlaff Decl.). The county auditor or municipal clerk is responsible for delivering the absentee ballot applications and return envelopes to the appropriate polling locations for review and counting. Minn. Stat. §§ 203B.08, subd. 3; 203B.10. The fact that Dakota County cannot locate Mr. Ratzlaff's absentee ballot application is not a sufficient reason to reject his ballot. Johnson, 154 N.W.2d at 187. Mr. Ratzlaff's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 20-C (SOS Voter Lookup).

14. Joan Ratzlaff

Dakota County rejected Joan Ratzlaff's absentee ballot on the ground that there was no absentee ballot application. Nauen Aff. Ex. 21-A (Envelope). Ms. Ratzlaff signed a declaration under penalty of perjury stating that she applied for and received her absentee ballot, in person, at the Eagan City Hall and marked her ballot at home. Nauen Aff. Ex. 21-B (J. Ratzlaff Decl.). The county auditor or municipal clerk is responsible for delivering the absentee ballot applications and return envelopes to the appropriate polling locations for review and counting. Minn. Stat. §§ 203B.08, subd. 3; 203B.10. The fact that Dakota County cannot locate Ms. Ratzlaff's absentee ballot application is not a sufficient reason to reject her ballot. Johnson, 154 N.W.2d at 187. Ms. Ratzlaff's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 21-C (SOS Voter Lookup).

15. Christy Revsbeck

Dakota County rejected Christy Revsbeck's absentee ballot on the ground that she did not include a voter registration card with her return envelope or was not registered to vote in the precinct. Nauen Aff. Ex. 22-A (Envelope). Ms. Revsbeck resided at 16631 Isosceles Avenue, Lakeville, MN at the time of the November 4, 2008, general election and this address was printed on a label affixed to her return envelope. Nauen Aff. Ex. 22-A (Envelope). This is the same address that appears in Ms. Revsbeck's voter registration records with the Minnesota Secretary of State. Nauen Aff. Ex. 22-B (SOS Voter Lookup). Ms. Revsbeck was not required to provide a new voter registration card because she was registered to vote in the precinct where she resided. Minn. Stat. § 203B.12, subd. 2(3). Ms. Revsbeck's absentee ballot complies with the requirements established in Minn. Stat. § 203B.12.

16. Roxana Saad

Dakota County indentified Ms. Saad's absentee ballot as having been improperly rejected. Nauen Aff. Ex. 23-A (SOS Letter). Nonetheless, Ms. Saad's ballot was not counted due to an objection by representatives of Norm Coleman. Id. Dakota County initially rejected Ms. Saad's absentee ballot on the ground that the voter registration information was incomplete. Nauen Aff. Ex. 23-B (Envelope). Ms. Saad enclosed a completed voter registration application with her absentee ballot, in the secrecy envelope, as instructed by Dakota County election officials. Nauen Aff. Ex. 23-C (Saad Decl.). Ms. Saad's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12.

**F. Hennepin County Ballots**

1. Donald Applebee

Hennepin County rejected Donald Applebee's absentee ballot on the ground that he did not include a voter registration card with his return envelope. Nauen Aff. Ex. 24-A (Envelope).

Mr. Applebee's address of 2302 Cedar Ridge, Minnetonka, MN is printed on a label affixed to his return envelope. Id. Mr. Applebee's voter registration records with the Minnesota Secretary of State include an address of 1501 Wilshire Drive, Minnetonka, MN. Nauen Aff. Ex. 24-B (SOS Voter Lookup). A new voter registration card is required only where the voter is not registered to vote in the precinct where he or she resides. Minn. Stat. § 203B.12 2(3). Both addresses for Mr. Applebee are located in the Minnetonka W-2 P-C (2130) precinct. Nauen Aff. Ex. 24-C (Polling Place Finder). Mr. Applebee was registered to vote in the precinct where he resided at the time of the November 4, 2008, general election. Mr. Applebee's absentee ballot complies with the requirements established in Minn. Stat. § 203B.12.

2. Donelda Applebee

Hennepin County rejected Donelda Applebee's absentee ballot on the ground that she did not include a voter registration card with her return envelope. Nauen Aff. Ex. 25-A (Envelope). Ms. Applebee's address of 2302 Cedar Ridge, Minnetonka, MN is printed on a label affixed to her return envelope. Id. Ms. Applebee's voter registration records with the Minnesota Secretary of State include an address of 1501 Wilshire Drive, Minnetonka, MN. Nauen Aff. Ex. 25-B (SOS Voter Lookup). A new voter registration card is required only where the voter is not registered to vote in the precinct where he or she resides. Minn. Stat. § 203B.12 2(3). Both addresses for Ms. Applebee are located in the Minnetonka W-2 P-C (2130) precinct. Nauen Aff. Ex. 25-C (Polling Place Finder). Ms. Applebee was registered to vote in the precinct where she resided at the time of the November 4, 2008, general election. Ms. Applebee's ballot complies with the requirements established in Minn. Stat. § 203B.12.

3. Marilyn Borgen

Hennepin County identified Marilyn Borgen's absentee ballot as having been improperly rejected. Nauen Aff. at ¶ 8. Nonetheless, Ms. Borgen's absentee ballot was not counted due to

an objection by representatives of the Coleman campaign. Nauen Aff. at ¶ 8. Hennepin County initially rejected Marilyn Borgen's absentee ballot because Ms. Borgen had not signed her absentee ballot application. Nauen Aff. Ex. 26-A (Envelope). Ms. Borgen reasonably relied on the county or municipal election officials to review her application for completeness before issuing an absentee ballot to Ms. Borgen. Ms. Borgen's absentee ballot substantially complies with the four requirements set forth in Minn. Stat. § 203B.12. See Starr, 431 N.W.2d at 915.

4. Jordan Brandt

Hennepin County rejected Jordan Brandt's absentee ballot on the ground that he allegedly had already voted in the election. Nauen Aff. Ex. 27-A (Hennepin County List of Rejected Ballots). However, Mr. Brandt signed a declaration under penalty of perjury stating that his absentee ballot was the only ballot he cast in the November 4, 2008, general election. Nauen Aff. Ex. 27-B (Brandt Decl.). Mr. Brandt's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. See also Nauen Aff. Ex. 27-C (Ballot Application); Ex. 27-D (SOS Voter Lookup).

5. Kourtney Dropps

Hennepin County rejected Kourtney Dropps's absentee ballot on the ground that she did not provide proof of residence. Nauen Aff. Ex. 28-A (Envelope). Ms. Dropps resided at 17222 81st Avenue North, Maple Grove, MN at the time of the November 4, 2008, general election. Id. This is the same address that appears in Ms. Dropp's voter registration records with the Minnesota Secretary of State. Nauen Aff. Ex. 28-B (SOS Voter Lookup). Ms. Dropps has been registered to vote since June 13, 2008. Id. Ms. Dropps was not required to provide a new voter registration card because she was registered to vote in the precinct where she resided. Minn. Stat. § 203B.12, subd. 2(3). Ms. Dropp's absentee ballot complies with the requirements established in Minn. Stat. § 203B.12.

6. Dennis Erickson

Hennepin County rejected Dennis Erickson's absentee ballot on the ground that he allegedly had already voted in the election. Nauen Aff. Ex. 29-A (Envelope). However, Mr. Erickson signed a declaration under penalty of perjury stating that his absentee ballot was the only ballot he cast in the November 4, 2008, general election. Nauen Aff. Ex. 29-B (Erickson Declaration). Mr. Erickson's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also*, Nauen Aff. Ex. 29-C (SOS Voter Lookup).

7. Hannah Gorski

Hennepin County rejected Hannah Gorski's absentee ballot on the ground that the signatures on the return envelope and the absentee ballot application were not the same. Nauen Aff. Ex. 30-A (Envelope). Ms. Gorski signed a declaration under penalty of perjury stating that she signed both the absentee ballot application and the return envelope with her genuine signature. Nauen Aff. Ex. 30-B (Gorski Decl.). Ms. Gorski's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 30-C (Ballot Application); Ex. 30-D (SOS Voter Lookup).

8. Gloria Kervina

Hennepin County identified Gloriva Kervina's absentee ballot as having been improperly rejected. Nauen Aff. at ¶ 8. Nonetheless, Ms. Kervina's absentee ballot was not counted due to an objection by representatives of the Coleman campaign. Nauen Aff. at ¶ 8. Hennepin County initially rejected Ms. Kervina's absentee ballot because Ms. Kervina had not signed her absentee ballot application. Nauen Aff. Ex. 31-A (Envelope); Ex. 31-B (Ballot Application). An authorized employee of the City of Bloomington's Clerk's Office signed as a witness on Ms. Kervina's return envelope. *Id.* Ms. Kervina reasonably relied on the election official to witness her voting and to call any errors or omissions in the application or certification to her attention.

*See* Minn. R. 8210.2200 subp. 2; Nauen Ex. 31-C (Kervina Decl.). Moreover, the fact that an election official certified that Ms. Kervina showed her the blank ballots before voting, that Ms. Kervina marked the ballots in private, and that Ms. Kervina enclosed and sealed the ballots in the secrecy envelope eliminates any concerns that may otherwise arise when a voter does not sign the absentee ballot application. Ms. Kervina's absentee ballot substantially complies with the four requirements set forth in Minn. Stat. § 203B.12. *See* Starr v. Gross, 431 N.W.2d at 915.

9. Craig Lindquist

Hennepin County rejected Craig Lindquist's absentee ballot on the ground that he did not include a new voter registration application with his return envelope. Nauen Aff. Ex. 32-A (Envelope). Mr. Lindquist's address of 210 West Grant Street, Apartment 207, Minneapolis, MN is written on his absentee ballot application and is printed on a label affixed to his return envelope. Nauen Aff. Ex. 32-A (Envelope); Ex. 32-B (Ballot Application). Mr. Lindquist's voter registration information with the Secretary of State identifies his address as 210 Grant Street West, Apartment 717, Minneapolis, MN. Nauen Aff. Ex. 32-C (SOS Voter Lookup). Both addresses for Mr. Lindquist are located at the same address with different apartment numbers. Accordingly, Mr. Lindquist was not required to provide a new voter registration card because he was registered to vote in the precinct where he resided at the time of the November 4, 2008, general election. Mr. Lindquist's absentee ballot complies with the requirements established in Minn. Stat. § 203B.12.

10. Phyllis Mathiowetz

Hennepin County identified Phyllis Mathiowetz's absentee ballot as having been improperly rejected. Nauen Aff. at ¶ 8. Nonetheless, Ms. Mathiowetz's absentee ballot was not counted due to an objection by representatives of the Coleman campaign. Nauen Aff. at ¶ 8. Hennepin County initially rejected Ms. Mathiowetz's absentee ballot because Ms. Mathiowetz

had not signed her absentee ballot application. Nauen Aff. Ex. 33-A (Envelope); Ex. 33-B (Application). Ms. Mathiowetz applied for and completed her absentee ballot in person at the Hopkins City Hall. Nauen Aff. Ex. 33-C (Mathiowetz Decl.). Ms. Mathiowetz reasonably relied on the city or county election officials to review her application for completeness. Id. Ms. Mathiowetz's absentee ballot substantially complies with the four requirements set forth in Minn. Stat. § 203B.12. *See Starr v. Gross*, 431 N.W.2d at 915.

11. Greg McCool

Hennepin County identified Greg McCool's absentee ballot as having been improperly rejected. Nauen Aff. at ¶ 8. Nonetheless, Mr. McCool's absentee ballot was not counted due to an objection by representatives of the Coleman campaign. Nauen Aff. at ¶ 8. Hennepin County initially rejected Mr. McCool's absentee ballot on the ground that he was not registered to vote. Nauen Aff. Ex. 34-A (Envelope). Mr. McCool's voter registration information lists an address of 9374 Rosewood Lane North, Maple Grove, MN. Nauen Aff. Ex. 34-B (SOS Voter Lookup). This same address appears on a label affixed to Mr. McCool's return envelope; however, Mr. McCool's name is misspelled as "Greg Mc Curl." Nauen Aff. Ex. 34-A (Envelope). Mr. McCool did not notice the misspelling of his name on the label affixed to his absentee ballot. Nauen Aff. Ex. 34-C (McCool Declaration). There is no one by the name of "Greg McCurl" residing at 9374 Rosewood Lane North, Maple Grove, MN. Id. The administrative error of misspelling Mr. McCool's name on the label affixed to his return envelope is not a sufficient basis for rejecting his absentee ballot. Johnson, 154 N.W.2d at 187. Mr. McCool's absentee ballot substantially complies with the requirements established in Minn. Stat. § 203B.12. *See Starr v. Gross*, 431 N.W.2d at 915.

12. Michael Misterek

Hennepin County rejected Michael Misterek's absentee ballot because he did not include a new voter registration card with the return envelope. Nauen Aff. Ex. 35-A (Hennepin County Rejected Absentee Ballots). Mr. Misterek signed a declaration under penalty of perjury stating that he enclosed a new voter registration card in the envelope with his absentee ballot. Nauen Aff. Ex. 35-B (Misterek Decl.). Mr. Misterek substantially complied with the requirements of Minnesota voting law. *See Starr v. Gross*, 431 N.W.2d at 915. Mr. Misterek's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 35-C (Ballot Application); Ex. 35-D (Envelope); 35-E (SOS Voter Lookup).

13. Rebekah Nelson

Hennepin County rejected Rebekah Nelson's absentee ballot on the ground that the signatures on the return envelope and the absentee ballot application were not the same. Nauen Aff. Ex. 36-A (Envelope). Ms. Nelson signed a declaration under penalty of perjury stating that she signed both the absentee ballot application and the return envelope with her genuine signature. Nauen Aff. Ex. 36-B (Nelson Decl.). Ms. Nelson's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 36-C (Ballot Application); Ex. 36-D (SOS Voter Lookup).

14. Karen Robitz

Hennepin County rejected Karen Robitz's absentee ballot on the ground that the signatures on the return envelope and the absentee ballot application were not the same. Nauen Aff. Ex. 37-A (Envelope). Ms. Robitz signed a declaration under penalty of perjury stating that she signed both the absentee ballot application and the return envelope with her genuine signature. Nauen Aff. Ex. 37-B (Robitz Decl.). Ms. Robitz's absentee ballot satisfies the four

requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 37-C (Ballot Application); Ex. 37-D (SOS Lookup).

15. Todd Toner

Hennepin County rejected Todd Toner's absentee ballot on the ground that he allegedly had already voted in the election. Nauen Aff. Ex. 38-A (Hennepin County List of Rejected Ballots). However, Mr. Toner signed a declaration under penalty of perjury stating that his absentee ballot was the only ballot he cast in the November 4, 2008, general election. Nauen Aff. Ex. 38-B (Toner Declaration). Mr. Toner's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 38-C (SOS Voter Lookup).

16. Audrey Verlo

Hennepin County rejected Audrey Verlo's absentee ballot on the ground that she did not include a voter registration card. Nauen Aff. Ex. 39-A (Envelope and Ballot Application). Ms. Verlo was registered to vote at 8008 Bass Lake Road, Apt. 712, New Hope, MN. Nauen Aff. Ex. 39-B (SOS Voter Lookup). At the time of the November 4, 2008, general election, Ms. Verlo resided at 8008 Bass Lake Road, Apt. 123, New Hope, MN (another apartment at the same address). Nauen Aff. Ex. 39-C (Verlo Decl.). Ms. Verlo was not required to provide a voter registration card because she was registered to vote in the precinct where she resided. Minn. Stat. § 203B.12, subd. 2(3). Ms. Verlo's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12.

**G. Kittson County Ballots**

1. Debra Erickson

Kittson County rejected Debra Erickson's absentee ballot on the ground that the signatures on the return envelope and the absentee ballot application were not the same. Nauen Aff. Ex. 40-A (Envelope). Ms. Erickson signed a declaration under penalty of perjury stating

that she signed both the absentee ballot application and the return envelope with her genuine signature. Nauen Aff. 40-B (Erickson Declaration). Ms. Erickson's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 40-C (Ballot Application); Ex. 40-D (SOS Voter Lookup).

## **H. Lac Qui Parle County Ballots**

### **1. Christopher Ludvigson**

Lac Qui Parle County identified Christopher Ludvigson's absentee ballot as having been improperly rejected. Nauen Aff. at ¶ 8. Nonetheless, Mr. Ludvigson's absentee ballot was not counted due to an objection by representatives of the Coleman campaign. Nauen Aff. at ¶ 8. Lac Qui Parle County initially rejected Mr. Ludvigson's absentee ballot because there was no absentee ballot application. Nauen Aff. Ex.41-A (Envelope). The notations on the return envelope detailing the reasons that Mr. Ludvigson's ballot was rejected state: "Court House (sic) Error! Misplaced voter application." *Id.* The county auditor or municipal clerk is responsible for delivering the absentee ballot applications and return envelopes to the appropriate polling locations for review and counting. Minn. Stat. §§ 203B.08, subd. 3; 203B.10. The fact that Lac Qui Parle County apparently misplaced Mr. Ludvigson's absentee ballot application is not a sufficient basis for rejecting Mr Ludvigson's absentee ballot. *Johnson*, 154 N.W.2d at 187. Mr. Ludvigson's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 41-B (Ludvigson Decl.); Ex. 41-C (SOS Voter Lookup).

### **2. Hubert Redepenning**

Lac Qui Parle County identified Hubert Redepenning's absentee ballot as having been improperly rejected. Nauen Aff. at ¶ 8. Nonetheless, Mr. Redepenning's absentee ballot was not counted due to an objection by representatives of the Coleman campaign. Nauen Aff. at ¶ 8. Lac Qui Parle County initially rejected Mr. Redepenning's absentee ballot on the ground that the

signatures on the return envelope and the absentee ballot application were not the same. Nauen Aff. Ex. 42-A (Envelope). Mr. Redepenning signed a declaration under penalty of perjury stating that he signed both the absentee ballot application and the return envelope with his genuine signature. Nauen Aff. Ex. 42-B (Redepenning Declaration). Mr. Redepenning's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 42-C (Ballot Application).

## **I. Lake County Ballots**

### **1. Eila Nelson**

Lake County rejected Eila Nelson's absentee ballot for an unspecified reason. Nauen Aff. Ex. 43-A (Lake County Absentee Ballot Report). Ms. Nelson submitted an application to vote by absentee ballot in the November 4, 2008, general election at her local courthouse. Nauen Aff. Ex. 43-B (E. Nelson Decl.). While at the courthouse, Ms. Nelson received the absentee ballot and completed it pursuant to the instructions provided with the absentee ballot form. *Id.* Ms. Nelson completed the eligibility certificate on the back of the absentee ballot return envelope and signed it with her genuine signature. *Id.* Ms. Nelson was registered and eligible to vote, in the precinct where she resided, in the November 4, 2008, general election. *Id.*; Nauen Aff. Ex. 43-C (SOS Voter Lookup). Ms. Nelson did not cast any other vote in the November 4, 2008, general election. Nauen Aff. Ex. 43-B (E. Nelson Decl.). Mr. Nelson's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12.

## **J. Morrison County Ballot**

### **1. Robert Girtz**

Morrison County rejected Robert Girtz's absentee ballot on the ground that he allegedly had already voted in the election. Nauen Aff. Ex. 44-A (Envelope). However, Mr. Girtz signed a declaration under the penalty of perjury stating that his absentee ballot was the only ballot he

cast in the November 4, 2008, general election. Nauen Aff. Ex. 44-B (Girtz Declaration). Mr. Girtz's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12.

**K. Olmsted County Ballots**

1. Richard Haefner

Olmsted County rejected Richard Haefner's absentee ballot because he did not include a new voter registration card with the return envelope. Nauen Aff. Ex. 45-A (Ballot Application). Mr. Haefner signed an affidavit stating that he provided a new voter registration card to the clerk at the time he applied, in person, for the absentee ballot. Nauen Aff. Ex. 45-B (Haefner Aff.). Mr. Haefner's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 45-C (Envelope); Ex. 45-D (SOS Voter Lookup).

**L. Pine County Ballots**

1. Judith Conlow

Pine County appears to have rejected Judith Conlow's absentee ballot on the ground that it was delivered to the wrong precinct. Nauen Aff. Ex. 46-A (County Auditor Letter). Ms. Conlow completed her absentee ballot and returned the ballot to Pine County using the envelope provided with the ballot. Nauen Aff. Ex. 46-B (Conlow Declaration). The county auditor or municipal clerk is responsible for delivering the absentee ballot applications and return envelopes to the appropriate polling locations for review and counting. Minn. Stat. §§ 203B.08, subd. 3; 203B.10. The fact that Pine County may have mistakenly delivered Ms. Conlow's absentee ballot to the wrong precinct for review and counting is not a sufficient basis for excluding Ms. Conlow's ballot. Johnson, 154 N.W.2d at 187. Ms. Conlow's absentee ballot satisfies the four requirements of Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 46-C (SOS Voter Lookup).

**M. Pope County Ballots**

1. Donna Mortenson

Pope County rejected Donna Mortenson's absentee ballot on the ground that she did not include a voter registration card. Nauen Aff. Ex. 47-A (Envelope). Minnesota law requires a voter registration card only where the voter is not registered to vote in the precinct where he or she resides. Ms. Mortenson was registered to vote at 501 5th Street, Apt. 53, Glenwood, MN. Nauen Aff. Ex. 47-B (SOS Voter Lookup). At the time of the November 4, 2008, general election, Ms. Mortenson resided at 501 5th Street, Apt. 34, Glenwood, MN (another apartment at the same address). Nauen Aff. Ex. 47-C (Mortenson Decl.). Ms. Mortenson was not required to provide a new voter registration card because she was registered to vote in the precinct where she resided. Minn. Stat. § 203B.12, subd. 2(3). Ms. Mortenson's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 47-D (Ballot Application).

**N. Ramsey County Ballots**

1. Catherine Brigham

Ramsey County rejected Catherine Brigham's absentee ballot on the ground that she did not include a voter registration card with her return envelope. Nauen Aff. Ex. 48-A (Envelope). Ms. Brigham resided at 3441 Willow Avenue, Apartment 204, White Bear Lake, MN at the time of the November 4, 2008, general election. Nauen Aff. Ex. 48-B (Ballot Application). The same address is listed in Ms. Brigham's voter registration information with the Minnesota Secretary of State. Nauen Aff. Ex. 48-C (SOS Voter Lookup). Ms. Brigham was not required to provide a new voter registration card because she was registered to vote in the precinct where she resided. Minn. Stat. § 203B.12, subd. 2(3). Ms. Brigham's absentee ballot complies with the requirements established in Minn. Stat. § 203B.12. In fact, Ramsey County Elections Manager

Joe Mansky testified that Ms. Brigham's ballot was properly cast and should not have been rejected. Nauen Aff. Ex. 49 (Mansky Dep.) at 123:23-130:12.

2. Emma Bruggeman

Ramsey County rejected Emma Bruggeman's absentee ballot on the ground that she did not include a voter registration card with her return envelope. Nauen Aff. Ex. 50-A (Envelope). Ms. Bruggeman resided at 1077 Linwood Avenue, St. Paul, MN at the time of the November 4, 2008, general election. Nauen Aff. Ex. 50-B (Ballot Application). The same address is listed in Ms. Bruggeman's voter registration information with the Minnesota Secretary of State. Nauen Aff. Ex. 50-C (SOS Voter Lookup). Ms. Bruggeman was not required to provide a new voter registration card because she was registered to vote in the precinct where she resided. Minn. Stat. § 203B.12, sub. 2(3). Ms. Bruggeman's absentee ballot complies with the requirements established in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 49 (Mansky Dep.) at 129:13-130:23.

3. Ursela Cowan

Ramsey County rejected Ursela Cowan's absentee ballot because she had not signed the return envelope. A sticker with Ms. Cowan's name and address had been erroneously placed over the area on the return envelope that was to be completed by the voter. Nauen Aff. Ex. 51-A (Envelope); Ex. 49 (Mansky Dep.) at 148:17-24. Ms. Cowan did not realize that she was required to sign the return envelope due to the placement of this sticker. Nauen Aff. Ex. 51-B (Cowan Declaration). Diane Liebig witnessed Ms. Cowan completing the absentee ballot, as required by Minnesota law, and signed the return envelope. Nauen Aff. Ex. 51-A (Envelope) and Ex. 51-B (Cowan Declaration). Ms. Cowan substantially complied with the requirements set forth in Minn. Stat. § 203B.12. *See Starr v. Gross*, 431 N.W.2d at 915; *see also* Nauen Aff. Ex. 51-C (Ballot Application); Ex. 49 (Mansky Dep.) at 147:5-149:18.

4. Josephine Garcia

Ramsey County rejected Josephine Garcia's absentee ballot on the ground that the signatures on the return envelope and the absentee ballot application were not the same. Nauen Aff. Ex. 52-A (Envelope). Minnesota law allows an individual who is physically unable to sign his or her name to direct another to sign on his or her behalf. Minn. Stat. § 645.44, subd. 14. Ms. Garcia signed a declaration under penalty of perjury stating that she directed her son to sign her name on the absentee ballot application, that she considered this to be her genuine signature, and that she signed the return envelope. Nauen Aff. Ex. 52-B (Garcia Decl.). Ms. Garcia's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 52-C (Ballot Application).

5. Sophia Hall

Ramsey County rejected Sophia Hall's absentee ballot on the ground that she did not register to vote after moving to a new apartment. Nauen Aff. Ex. 53-A (Envelope). Ms. Hall resided at 3700 Foss Road, Apartment 248-2, St Anthony, MN at the time of the November 4, 2008, general election. Nauen Aff. Ex. 53-A (Envelope); Ex. 53-B (Ballot Application). Ms. Hall's voter registration information with the Minnesota Secretary of State identifies her address as 3700 Foss Road, Apartment 1, Saint Anthony, MN (a different apartment at the same address). Nauen Aff. Ex. 53-C (SOS Voter Lookup). Ms. Hall was not required to provide a new voter registration card because she was registered to vote in the precinct where she resided at the time of the November 4, 2008, general election. Minn. Stat. § 203B.12, subd. 2(3). Ms. Hall's absentee ballot complies with the requirements established in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 49 (Mansky Dep.) at 131:2-131:16; Nauen Aff. Ex. 3 (Mansky e-mail).

6. Alexis Horan

Ramsey County rejected Alexis Horan's absentee ballot on the ground that she did not include a voter registration card with her return envelope. Nauen Aff. Ex. 54-A (Envelope); Ex. 54-B (Saint Paul Precinct 3-12 Election Day Absentee Ballot Rejections). Ms. Horan resided at 2221 Youngman Avenue, Apartment 102, St. Paul, MN at the time of the November 4, 2008, general election. Nauen Aff. Ex. 54-A (Envelope); Ex. 54-C (Ballot Application). The same address is identified in Ms. Horan's voter registration information with the Minnesota Secretary of State. Nauen Aff. Ex. 54-D (SOS Voter Lookup). Ms. Horan was not required to provide a new voter registration card because she was registered to vote in the precinct where she resided at the time of the November 4, 2008, general election. Minn. Stat. § 203B.12, subd. 2(3). Ms. Horan's absentee ballot complies with the requirements established in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 49 (Mansky Dep.) at 131:20-132:23.

7. Michael Liebig

Ramsey County rejected Michael Liebig's absentee ballot on the ground that he did not include a voter registration application with his return envelope. Nauen Aff. Ex. 55-A (Envelope). Mr. Liebig resided at 701 Marshall Avenue, Saint Paul, MN at the time of the November 4, 2008 general election. Nauen Aff. Ex. 55-A (Envelope); Ex. 55-B (Ballot Application). The same address is identified in Mr. Liebig's voter registration information with the Minnesota Secretary of State. Nauen Aff. Ex. 55-C (SOS Voter Lookup). Mr. Liebig was not required to provide a new voter registration card because he was registered to vote in the precinct where he resided. Minn. Stat. § 203B.12, subd. 2(3). Mr. Liebig's absentee ballot complies with the requirements established in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 49 (Mansky Dep.) at 133:20-133:25; Ex. 3 (Mansky e-mail).

8. Tempest Moore

Ramsey County rejected Tempest Moore's absentee ballot on the ground that she did not include a proof a residence with her return envelope. Nauen Aff. Ex. 56-A (Envelope). Ms. Moore resided at 530 Saint Peter Street, Apartment 612, St. Paul, MN at the time of the November 4, 2008, general election. Nauen Aff. Ex. 56-A (Envelope); Ex. 56-B (Ballot Application). This same address is included in Ms. Moore's voter registration information with the Minnesota Secretary of State. Nauen Aff. Ex. 56-C (SOS Voter Lookup). Ms. Moore was not required to provide a new voter registration card or proof of residence because she was registered to vote in the precinct where she resided. Minn. Stat. § 203B.12, subd. 2(3). Ms. Moore's absentee ballot complies with the requirements established in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 49 (Mansky Dep.) at 134:16-136:18.

9. John Robertus

Ramsey County rejected Mr. Robertus's ballot because there was no driver's license number listed on the return envelope. Nauen Aff. Ex. 57-A (Envelope). Mr. Robertus signed a declaration under penalty of perjury stating that he provided to the City Clerk a statement from his assisted living facility, not his driver's license, as proof of residence when he applied for his absentee ballot in person. Nauen Aff. Ex. 57-B (Robertus Declaration). Mr. Robertus's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 57-C (Ballot Application); Ex. 57-D (SOS Voter Lookup). *See also* Nauen Aff. Ex. 49 (Mansky Dep.) at 144:4-145:13.

10. Walter Thompson

Ramsey County rejected Mr. Thompson's absentee ballot on the ground that the signatures on the return envelope and the absentee ballot application were not the same. Nauen Aff. Ex. 58-A (Envelope). Mr. Thompson is blind and ill which makes it difficult to sign

documents. Nauen Aff. Ex. 58-B (W. Thompson Declaration). Therefore, Mr. Thompson's wife Loretta Thompson, who has power of attorney for Mr. Thompson, signed the absentee ballot application on his behalf and at his direction. Nauen Aff. Ex. 58-B (W. Thompson Declaration); Ex. 58-C (L. Thompson Declaration). However, Mr. and Ms. Thompson felt that it was important for Mr. Thompson to sign the certificate. Id. Therefore, Ms. Thompson guided her husband's hand as he signed the certificate. Id. Minnesota Law allows an individual who is physically unable to sign his or her name to direct another to sign on his or her behalf. Minn. Stat. § 645.44, subd. 14. Mr. Thompson's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 58-D (Ballot Application).

**O. Saint Louis County Ballots**

1. Mary Bell

Saint Louis County identified Mary Bell's absentee ballot as having been improperly rejected. Nauen Aff. at ¶ 8. Nonetheless, Ms. Bell's absentee was not ballot counted due to an objection by representatives of the Coleman campaign. Nauen Aff. at ¶ 8. The basis of the objection was that the dates next to Ms. Bell's signature and her witness's signature did not match. Nauen Aff. at ¶ 9; Ex. 59-A (Envelope). There is no requirement in Minnesota election law that the dates of the signatures for the voter and the witness match or that any dates appear on the return envelope. Ms. Bell's ballot satisfies the four requirements set forth in Minn. Stat. § 213B.12. *See also* Nauen Aff. Ex. 59-B (Bell Decl.).

2. Phyllis Jarvis

Saint Louis County rejected Phyllis Jarvis's absentee ballot on the ground that she did not include a voter registration card with her return envelope. Nauen Aff. Ex. 60-A (Envelope). Ms. Jarvis resided at 3220 8th Avenue East, Apartment 414, Hibbing, MN at the time of the November 4, 2008, general election. Id. Ms. Jarvis's voter registration information with the

Minnesota Secretary of State identifies her address as 600 East 40th Street, Apartment 104, Hibbing, MN. Nauen Aff. Ex. 60-B (SOS Voter Lookup). Both addresses for Ms. Jarvis are located in the Hibbing P-11 (0665) precinct. Nauen Aff. Ex. 60-C (Polling Place Finder). Ms. Jarvis was not required to provide a new voter registration card because she was registered to vote in the precinct where she resided at the time of the November 4, 2008, general election. Ms. Jarvis's ballot complies with the requirements established in Minn. Stat. § 203B.12.

3. Dennis Peterson

Saint Louis County identified Dennis Peterson's absentee ballot as having been improperly rejected. Nauen Aff. Ex. 61-A (SOS Letter). Nonetheless, Mr. Peterson's absentee ballot was not counted due to an objection by representatives of the Coleman campaign that he had not properly completed the certification on the return envelope. *Id.* Mr. Peterson submitted his application for an absentee ballot at the County Auditor's Office in Virginia, MN. Nauen Aff. Ex. 61-B (Peterson Aff.). Mr. Peterson received and completed his absentee ballot at the County Auditor's Office and a Saint Louis County Deputy Auditor signed as a witness on Mr. Peterson's return envelope. *Id.* Pursuant to the Deputy Auditor's instruction, Mr. Peterson did not write his address when he completed the certification on the return envelope and reasonably relied on the Deputy Auditor to witness his voting and to call any errors or omissions in the certification to his attention. *See* Minn. R. 8210.2200 subp. 2; Nauen Aff. Ex. 61-B (Peterson Aff.). Mr. Peterson's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 61-C (Envelope).

4. June Srok

Saint Louis County identified June Srok's absentee ballot as having been improperly rejected. Nauen Aff. at ¶ 8. Nonetheless, Ms. Srok's absentee ballot was not counted due to an objection by representatives of the Coleman campaign. Nauen Aff. at ¶ 8. The basis of the

objection was that the dates next to Ms. Srok's signature and her witness's signature did not match. Nauen Aff. at ¶ 9; Ex. 62-A (Envelope). There is no requirement in Minnesota election law that the dates of the signatures for the voter and the witness match or that any dates appear on the return envelope. Ms. Srok's ballot satisfies the four requirements set forth in Minn. Stat. § 213B.12.

5. Carole Treloar

Saint Louis County rejected Carole Treloar's absentee ballot on the ground that she did not include a voter registration card with her return envelope. Nauen Aff. Ex. 63-A (Envelope). Ms. Treloar resided at 10 First Street NE, Apartment 201, Chisholm, MN at the time of the November 4, 2008, general election. *Id.* Ms. Treloar's voter registration information with the Minnesota Secretary of State identifies her address as 420 2nd Street NW, Chisholm, MN. Nauen Aff. Ex. 63-B (SOS Voter Lookup). Both addresses are located in the Chisholm Precinct (Precinct No. 0100). Nauen Aff. Ex. 63-C (Polling Place Finder). Ms. Treloar was not required to provide a new voter registration card because she was registered to vote in the precinct where she resided at the time of the November 4, 2008, general election. Ms. Treloar's absentee ballot complies with the requirements established in Minn. Stat. § 203B.12.

**P. Stearns County Ballots**

1. Lora West

Stearns County identified Lora West's absentee ballot as having been improperly rejected. Nauen Aff. at ¶ 8. Nonetheless, Ms. West's absentee ballot was not counted due to an objection by representatives of the Coleman campaign. Nauen Aff. at ¶ 8. Stearns County initially rejected Ms. West's absentee ballot because it was a replacement ballot. Nauen Aff. Ex. 64 (Envelope and Voter Log). The roster from Ms. West's precinct indicates that she did not cast any other ballot in the election. *Id.*; *See* Minn. Stat. § 203B.12, subd. 3 (directing election judges

to note all accepted absentee ballots on the polling place roster by marking “AB” by the voter’s name). Ms. West’s ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12.

**Q. Washington County Ballots**

1. Ross Grandlienard

Washington County rejected Ross Grandlienard’s absentee ballot on the ground that the signatures on the return envelope and the absentee ballot application were not the same. Nauen Aff. Ex. 65-A (Envelope). Mr. Grandlienard signed an affidavit stating that he signed both the absentee ballot application and the return envelope with his genuine signature. Nauen Aff. Ex. 65-B (Grandlienard Aff.). Mr. Grandlienard’s absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 65-C (SOS Voter Lookup).

2. Evelyn Koehnen

Washington County rejected Evelyn Koehnen’s absentee ballot because it was sent to Woodbury P-3 Precinct rather than Oakdale P-3 Precinct. Nauen Aff. Ex. 66-A (Washington County List of Rejected Absentee Ballots). Ms. Koehnen completed and signed the certification on her return envelope on November 3, 2008. Nauen Aff. Ex. 66-B (Envelope); Ex. 66-C (Koehnen Decl.). Ms. Koehnen completed her absentee ballot in the presence of a county official and provided the completed ballot and return envelope to Washington County at that time. Nauen Aff. Ex. 66-C (Koehnen Decl.). The fact that Washington County apparently sent Ms. Koehnen’s ballot to the wrong precinct for review and counting is not a sufficient basis for rejecting Ms. Koehnen’s absentee ballot. Johnson, 154 N.W.2d at 187. Ms. Koehnen’s absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. Nauen Aff. Ex. 66-D (SOS Voter Lookup).

**R. Winona County Ballots**

1. Orin Ottman

Winona County rejected Orin Ottman's absentee ballot on the ground that he was not registered to vote. Nauen Aff. Ex. 67-A (Envelope). The address of 525 Bluff Avenue, St. Charles, MN was written on Mr. Ottman's application for an absentee ballot and the address of "525 Bluff Avenue" was written on Mr. Ottman's return envelope. Nauen Aff. Ex. 67-A (Envelope); Ex. 67-B (Ballot Application). The same address is identified in Mr. Ottman's voter registration information with the Minnesota Secretary of State. Nauen Aff. Ex. 67-C (SOS Voter Lookup). Moreover, Mr. Ottman was identified as a "Registered Voter" in the section of his absentee ballot application designated for "Election Office Use Only." Nauen Aff. Ex. 67-B (Ballot Application). Mr. Ottman was registered to vote in the precinct where he resided. Mr. Ottman's absentee ballot complies with the requirements established in Minn. Stat. § 203B.12.

2. Ryan Stoa

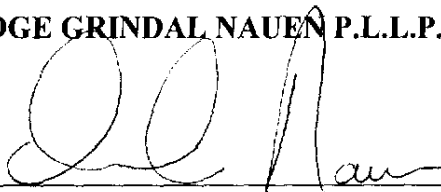
Winona County rejected Mr. Stoa's absentee ballot on the ground that the signatures on the return envelope and the absentee ballot application were not the same. Nauen Aff. Ex. 68-A (Envelope). Mr. Stoa signed a declaration under penalty of perjury stating that he signed both the absentee ballot application and the return envelope with his genuine signature. Nauen Aff. Ex. 68-B (Stoa Decl.). Mr. Stoa's absentee ballot satisfies the four requirements set forth in Minn. Stat. § 203B.12. *See also* Nauen Aff. Ex. 68-C (Ballot Application).

**VI. CONCLUSION**

Petitioners' absentee ballots complied with the four requirements for acceptance set forth in Minn. Stat. § 203B.12, subd. 2 and, therefore, were erroneously rejected by Respondents or objected to by the Coleman campaign. Because there are no disputed issues of material fact, Petitioners respectfully asks this Court to correct these errors by entering an order directing that Petitioners' absentee ballots in the November 4, 2008, general election shall be opened and counted.

Date: January 21, 2009

**LOCKRIDGE GRINDAL NAUEN P.L.L.P.**

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