

The Franken campaign began to follow-up on these reports to determine the accuracy of such reports and concluded that there were some number of erroneously rejected absentee ballots. We argued consistently and strenuously for inclusion in the recount of all erroneously rejected absentees.

3. Based on information received from absentee voters whose ballots had been erroneously rejected, the Franken campaign began to collect statements and affidavits from Minnesota voters. We collected almost 200 such affidavits and submitted them to appropriate election officials in the counties throughout the state and to the Minnesota Secretary of State.

4. In my capacity as an attorney for the Franken campaign, I appeared in several locations during the week of December 29 through January 2, to participate in the absentee ballot review ordered by the Minnesota Supreme Court. Under the Court's order, either campaign could in effect veto the inclusion of any absentee ballot in the final recount totals.

5. I observed legal representatives for the Norm Coleman for Senate campaign object to the inclusion of numerous absentee ballots in the final recount totals. Such objections had the effect of removing these ballots from the count in the State Canvass Board's certified recount totals.

6. For example, Coleman legal representatives objected to and removed from recount totals one Carver County UOCAVA (military or overseas) ballot due to alleged inadequate voter registration although I was prepared to accept the ballot on behalf of the Franken campaign. Similarly, Coleman legal representatives objected to and removed from recount totals six Scott County absentee ballots due to alleged signature mismatches although I was prepared to accept these ballots on behalf of the Franken campaign. Coleman legal representatives objected to and removed from inclusion in the recount one Sherburne County

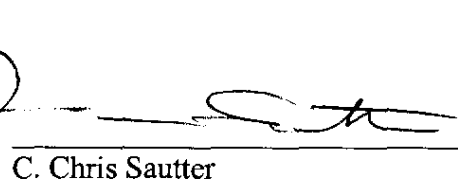
ballot due to an alleged signature problem, although I was prepared to allow inclusion of this ballot on behalf of the Franken campaign. Thirty-six Dakota County absentee ballots were objected to and rejected by Coleman County legal representatives for alleged registration deficiencies and alleged signature mismatches, although I was prepared to accept and offered these ballots for inclusion in the recount.

7. During the ballot review, Coleman legal representatives objected to the inclusion of ballots in which the dates were missing or allegedly improper, even though there is no legal requirement that such dates be included. During the ballot review, Coleman legal representatives consistently expressed opposition and objected to including in the recount absentee ballots on technical grounds even though such ballots substantially complied with Minnesota law.

8. Contestant in his motion for summary judgment mischaracterizes both how absentee ballots have been treated and the existence of absentee ballot categories in which ballots received disparate treatment. In fact, election officials opened and counted certain ballots because they, upon further review, concluded these ballots were erroneously rejected. Thus, for example, approximately 27 ballots which were originally rejected for signature mismatch were accepted after close scrutiny showed the two signatures did match. Likewise, some 133 ballots initially rejected for lack of registration were accepted because election officials found these voters were, in fact, registered.

Subscribed and sworn to before me
this 22nd day of January, 2009


Notary Public


C. Chris Sautter

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