

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WRIGHT

TENTH JUDICIAL DISTRICT

Court File No.: 86-CV-11-433

Case Type: Civil Other/Misc.

Sara Hippert, Dave Greer, Linda Markowitz, Dee Dee Larson, Ben Maas, Gregg Peppin, Randy Penrod and Charles Roulet, individually and on behalf of all citizens and voting residents of Minnesota similarly situated,

Plaintiffs,

v.

Mark Ritchie, Secretary of State of Minnesota; and Robert Hiivala, Wright County Auditor, individually and on behalf of all Minnesota County Chief Election Officers,

Defendants.

**ANSWER OF DEFENDANT  
ROBERT HIIVALA**

Defendant Robert Hiivala, Wright County Auditor, for his answer to the Complaint, states and alleges as follows:

1. Except as hereinafter admitted, qualified or otherwise responded to, denies each and every allegation of the Complaint.
2. Admits the allegations in paragraphs 1 and 2.
3. State that Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 3 and 4 and therefore denies the same.



4. Defendant admits the allegations in paragraphs 5 as to the individual named and that he holds the position described and that he has statutory duties related to elections, and the Court is referred to the official text of the statutory provisions the paragraph seeks to describe.

5. Defendant admits the allegations in paragraphs 6 as to the individual named and that he holds the position described and that he has statutory duties related to elections, and the Court is referred to the official text of the statutory provisions the paragraph seeks to describe. The Defendant denies the remainder of the allegations contained in paragraph 6 and asserts that they make legal conclusions to which no response is required.

6. As to the reallegation set forth in Paragraph 7, Defendant realleges the answers given in Paragraphs 1 through 5 above.

7. The allegations in paragraphs 8, 9, and 10 cite specific provisions of the Minnesota Constitution, and the Court is referred to the official text of the constitutional provisions the paragraphs seeks to describe.

8. The allegations in paragraphs 11 and 12 make legal conclusions and legal assertions to which no response is required. Defendant Hiivala further refers the Court to the official text of the constitutional provisions the paragraphs seeks to describe.

9. Objects that the allegations in Paragraphs 13, 16, and 17 lack foundation and call for speculation, and accordingly denies the same. Defendant Hiivala further states that the allegations in paragraphs 13, 16, and 17 assert legal conclusions to which no response is required.

10. The allegations in paragraphs 14 asserts a legal conclusion to which no response is required, and the Court is referred to the official text of the Court Order the paragraph seeks to describe.

11. As to the allegations in Paragraph 15 states that the 2010 United States Census speaks for itself. Defendant Hiivala further objects that the allegations in Paragraph 15 lack foundation and call for speculation, and accordingly denies the same. Defendant Hiivala further states that the allegations in Paragraph 15 assert legal conclusions to which no response is required.

12. The allegations in paragraphs 18 and 19 are speculative and as such the Defendant denies the allegations. Defendant Hiivala further states that the allegations in paragraphs 18 and 19 assert legal conclusions to which no response is required.

13. As to the reallegation set forth in Paragraph 20, Defendant realleges the answers given in Paragraphs 1 through 12 above.

14. The allegations in paragraphs 21 and 22 cite specific provisions of the United States Constitution, and the Court is referred to the official text of the constitutional provisions the paragraphs seeks to describe.

15. The allegations in paragraphs 23 and 24 assert legal conclusions to which no response is required. Defendant Hiivala further refers the Court to the official text of the constitutional provisions the paragraphs seeks to describe.

16. The allegation in paragraph 25 makes legal conclusions and legal assertions to which no response is required.

17. As to the allegations in Paragraph 26, which directly reference the 2010 United States Census, states that the 2010 United States Census speaks for itself. Defendant Hiivala further objects to the remaining allegations in Paragraph 26 as asserting legal conclusions to which no response is required.

18. The allegations in paragraphs 27, 29, 30 and 32 lack foundation and call for speculation, and accordingly Defendant Hiivala denies the same. Defendant Hiivala further states that the allegations in Paragraphs 27, 29, 30 and 32 assert legal conclusions to which no response is required.

19. The allegations in paragraphs 28 and 32 assert legal conclusions to which no response is required.

20. As to the reallegation set forth in Paragraph 33, Defendant realleges the answers given in Paragraphs 1 through 19 above.

21. The allegations in paragraphs 34, 35, and 36 cite specific provisions of the United States Constitution, and the Court is referred to the official text of the constitutional provisions the paragraphs seeks to describe.

22. The allegations in paragraph 37 assert legal conclusions to which no response is required. Defendant Hiivala further refers the Court to the official text of the constitutional provisions the paragraphs seeks to describe.

23. The allegations in paragraphs 38 and 39 cite specific provisions of the Minnesota Constitution, and the Court is referred to the official text of the constitutional provisions the paragraphs seeks to describe.

24. The allegations in paragraph 40 make legal conclusions and legal assertions to which no response is required.

25. As to the allegations in Paragraph 41, which directly reference the 2010 United States Census, states that the 2010 United States Census speaks for itself. Defendant Hiivala further objects to the remaining allegations in Paragraph 41 as asserting legal conclusions to which no response is required.

26. The allegations in paragraphs 42, 44 and 45 lack foundation and call for speculation, and accordingly Defendant Hiivala denies the same. Defendant Hiivala further states that the allegations in paragraph 42, 44 and 45 assert legal conclusions to which no response is required.

27. The allegations in paragraphs 43, 46, and 47 assert legal conclusions to which no response is required.

#### **AFFIRMATIVE DEFENSES**

28. Alleges that Plaintiffs' Complaint fails, in whole or in part, to state a claim upon which relief may be granted.

29. Alleges that this Court should abstain or defer from acting based on abstention doctrines and federal/state comity.

30. Alleges affirmatively that it has no liability for claims pursuant to 42 U.S.C. §1983 as alleged in Plaintiffs' Complaint, and further denies that it has any customs, practices or policies that violate any person's constitutional rights as alleged in Plaintiffs' Complaint.

31. Alleges any other matter constituting an avoidance or affirmative defense to Plaintiffs' Complaint.

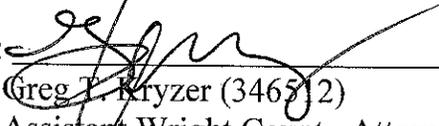
32. Injuries or damages sustained by Plaintiffs, if any, were due to, caused by, contributed to, or brought about as the result of the conduct of third persons for whom this answering Defendant does not bear liability.

WHEREFORE, Defendant asks for an Order of the Court as follows:

1. Dismissing Plaintiffs' Complaint and granting Defendant judgment in its favor.
2. Awarding Defendant all costs, disbursements and attorney's fees pursuant to 42 U.S.C. § 1988.
3. For such other and further relief as this Court deems just and equitable.

THOMAS N. KELLY  
Wright County Attorney

Dated: February 10, 2011

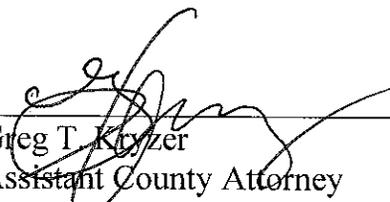
By:   
Greg T. Kryzer (346512)  
Assistant Wright County Attorney  
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Attorney for Defendant Robert Hiivala,  
Wright County Auditor

**ACKNOWLEDGMENT**

The undersigned acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded to the opposing party or parties pursuant to M.S. 549.21, Subd. 2.

Dated: Feb. 10, 2011

  
\_\_\_\_\_  
Greg T. Kryzer  
Assistant County Attorney  
Attorney for Plaintiff  
Wright County Government Center  
10 2nd St. NW  
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STATE OF MINNESOTA )  
 ) SS  
COUNTY OF WRIGHT )

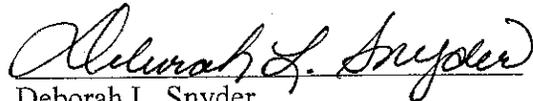
I, the undersigned, hereby certify that on the 10th day of February, 2011, I mailed to:

Mr. Alan I. Gilbert  
Solicitor General  
Office of the Attorney General  
Suite 1100, 445 Minnesota Street  
St. Paul, MN 55101-2128

Mr. Tony P. Trimble, Esq.  
10201 Wayzata Blvd., Suite 130  
Minnetonka, MN 55305

Re: Sara Hippert, et al. vs. Mark Ritchie, et al.  
Court File No. CV-11-433

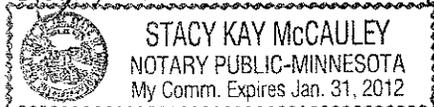
a true and correct copy of the Answer of Defendant, Robert Hiivala by enclosing the same in sealed envelopes and depositing it in the United States Mail at Buffalo, Minnesota, in said County, postage prepaid.

  
Deborah L. Snyder

Subscribed and sworn to before me

this 10<sup>th</sup> day of February, 20 11.

  
Notary Public



**FILED**  
10-7-11  
DISTRICT COURT  
WRIGHT COUNTY, MINNESOTA  
by MA

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