

A12-0920

JUN - 8 2012

STATE OF MINNESOTA
IN SUPREME COURT

FILED

League of Women Voters Minnesota;
Common Cause, a District of Columbia nonprofit corporation;
Jewish Community Action, a Minnesota nonprofit corporation;
Gabriel Herbers; Shannon Doty; Gretchen Nickence;
John Harper Ritten; and Kathryn Ibur,

Petitioners,

vs.

Mark Ritchie, in his capacity as Secretary of State of the
State of Minnesota, and not in his individual capacity,

Respondent.

**CITIZENS FOR ELECTION INTEGRITY – MINNESOTA'S
REQUEST FOR LEAVE TO PARTICIPATE AS *AMICUS CURIAE***

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**ATTORNEYS FOR CITIZENS FOR
ELECTION INTEGRITY –
MINNESOTA**

Citizens for Election Integrity -- Minnesota ("CEIMN") hereby requests leave to participate in this appeal as amicus curiae and to file a brief in support of Petitioners urging this Court to strike the ballot question pertaining to the Voter Identification and Provisional Ballot Amendment ("proposed amendment") from the November 2012 election ballot and enjoin Respondent from placing the ballot question on the November 2012 election ballot. Minn. R. App. P. 127 and 129.01.¹ CEIMN's interest in this appeal is public in nature. CEIMN wishes to file an amicus brief to provide its perspective concerning the fatal infirmities of the proposed ballot question. Its brief would explain why the ballot question is so misleading that it fails to provide voters an opportunity to properly consider the actual proposed amendment, and how granting Petitioners' petition would help safeguard the integrity of Minnesota's election process.

BACKGROUND

CEIMN is a nonprofit, nonpartisan organization that advocates for verifiable, transparent, and accurate elections in Minnesota and across the country. It was formed shortly after the 2004 election after learning of reports in Ohio of electronic voting

¹ Minn. R. Civ. App. P. 129 does not explicitly contemplate requests for leave to participate as amicus curiae in original-jurisdiction cases brought under Minn. Stat. § 204B.44 (2010). CEIMN thus alternatively considers this a Rule 127 motion for request for leave to participate in the event that Rule 129 is not directly applicable.

Given that Petitioners filed their petition and brief at the same time on May 30, 2012, it is not clear under Rule 129 when CEIMN would file its brief if the Court allows it to participate as amicus curiae. But CEIMN is aware of the June 1, 2012 scheduling order issued by the Court in this case and would endeavor to work within that timeline so that the determination of this matter would not be delayed by its participation.

problems, the disenfranchisement of minority voters, discarded ballots, and other voting irregularities. Its initial program was the observation of the Ohio presidential recount.

Since 2004, CEIMN:

- has advocated for post-election audits in Minnesota and across the United States;
- organized six state-wide, non-partisan observations of post-election audits and recounts in Minnesota;
- written a report – *Facts About Ineligible Voting and Voter Fraud in Minnesota* – based on data from Minnesota County Attorneys (November 2010) that determined that a photo ID requirement will not improve the integrity of Minnesota's elections; and
- advocated against the implementation of a photo ID requirement.

CEIMN's activities include:

- educating others about election systems;
- researching and reporting concerns connected to its mission;
- encouraging citizen participation in the election process;
- partnering with other election-integrity groups; and
- advocating for election reform that will improve the system and that will not disenfranchise voters.

CEIMN's efforts are part of a national voting rights movement committed to restoring the integrity of our electoral system through:

- implementation of voter verified paper ballots as the legal ballot of record for all elections;
- accurate recording, counting, and reporting of all votes properly cast;
- consistent enforcement of election procedures to ensure that all eligible voters can vote without difficulty;

- public oversight and nonpartisan administration of the election system; and
- random hand-counts of ballots that are part of post-election audits.

DISCUSSION

CEIMN has been on the frontline addressing issues raised by the proposed amendment since the Minnesota state legislature first considered legislation to require that voters present photo identification at the polling place. Its executive director testified before the Senate Committee on Local Government and Elections, as well as the House Government Operations and Elections Committee, concerning the proposed amendment.

CEIMN has been active in researching whether the proposed amendment would improve the integrity of Minnesota's elections, what effects the proposed amendment would have on voters in Minnesota, and what effects similar voter-identification requirements have had in other states. It would like to assist the Court in ruling on the issues raised by Petitioners by providing additional background, expertise, and context in which to understand the issues raised in Petitioners' brief additional to what Petitioners have already provided.

For example, CEIMN would like to offer the Court information about the need for ballot voters to properly consider the proposed amendment's provision requiring that all voters be subject to "substantially equivalent identity and eligibility verification," and the impact on Minnesota voters of that provision. CEIMN is knowledgeable about and has produced reports concerning Minnesota's current election system and how the current system encourages high voter participation. It has documented ways in which the proposed amendment will impact the current election system, including a voter's ability

to register to vote on election day and the use of mail-in voting procedures utilized in many rural precincts across Minnesota. These impacts make the proposed amendment's provision requiring "substantially equivalent identity and eligibility verification" material to a citizen's decision as to whether to vote in favor or against the proposed amendment. The information CEIMN will provide will help inform the Court's decision on whether the ballot language unconstitutionally misleads the voter by not including any reference to this material provision of the proposed amendment.

As another example, CEIMN would like to provide details on the impact the creation of a provisional voting system, which has never been utilized in Minnesota but is mandated by the proposed amendment, would have on the public interest, voters, the State of Minnesota, and local government authorities. CEIMN has studied the costs and other effects provisional voting has had in other states that already have a provisional voting system in place, and can provide information on what impacts Minnesotans can expect from the creation of a provisional voting system. This will help the Court determine whether the fact that the ballot question omits any mention of the proposed amendment's creation of a provisional balloting system, a system which will have tremendous impact on voters and the public interest, it is likely to unconstitutionally mislead voters about the meaning or essential purpose of the proposed constitutional amendment.

CONCLUSION

CEIMN requests leave to participate in this appeal as *amicus curiae* and to file a brief in support of Petitioner urging this Court to strike the proposed Voter Identification

and Provisional Ballot Amendment ballot question from the November 2012 ballot and enjoin Respondent from placing the question on the ballot. CEIMN hopes to provide its perspective about issues including the significance of the omission of the provisional-balloting issue from the ballot question and the inadequacy of the question's description of the substantially equivalent identity requirement, and to explain why this Court, in the interests of Minnesota's election integrity, should prevent this question from being included on the November 2012 ballot.

DATED: 6/8/12

LINDQUIST & VENNUM PLLP

By 

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**ATTORNEYS FOR CITIZENS FOR
ELECTION INTEGRITY –
MINNESOTA**

AFFIDAVIT OF SERVICE VIA U. S. MAIL

JUN - 8 2012

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

FILED

Amy Beth Crawford, of the City of Coon Rapids, County of Anoka, in the State of Minnesota, being duly sworn on oath says: that on the 8th day of June, 2012, she served the following:

1. Citizens for Election Integrity – Minnesota’s Request for Leave to Participate as *Amicus Curiae*; and
2. Affidavit of Service Via E-Mail & U.S. Mail

upon the persons listed below:

William Z. Pentelovitch
Richard G. Wilson
Justin H. Perl
Wayne S. Moskowitz
Alain M. Baudry
Catherine Ahlin-Halverson
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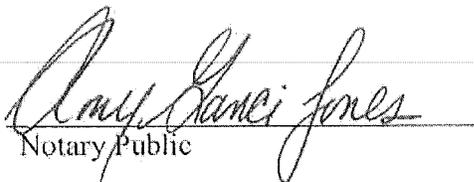
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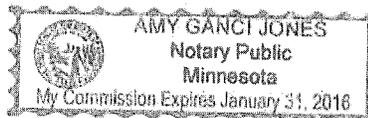
League of Women Voters Minnesota, et al. v. Mark Ritchie
Court File No.: A12-0920
PAGE 2 - AFFIDAVIT OF SERVICE VIA E-MAIL & U.S. MAIL, CONT'D.

by mailing copies of the above-listed documents enclosed in an envelope, postage prepaid, and by depositing the same in the post office at Minneapolis, Minnesota, directed to said persons at the last known addresses listed above, and by e-mailing copies to the e-mail addresses listed above.


Amy Beth Crawford

Subscribed and sworn to before me
this 8th day of June, 2012.


Notary Public



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June 8, 2012

OFFICE OF
APPELLATE COURTS

JUN - 8 2012

FILED

Via E-Mail & U.S. Mail

Clerk of Court
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25 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155-6102

**Re: League of Women Voters Minnesota, et al. v. Mark Ritchie
Court File No.: A12-0920**

Dear Clerk of Court:

I am enclosing the following for filing on behalf of Citizens for Election Integrity -- Minnesota:

1. One (1) original and three (3) copies of Citizens for Election Integrity -- Minnesota's Request for Leave to Participate as *Amicus Curiae*; and
2. Affidavit of Service.

By copy of this letter and its attachments, the same is being served upon opposing counsel.
Please call if you have questions.

Regards,

LINDQUIST & VENNUM PLLP


Paul A. Banker

PAB/abc
Enclosures

cc: (w/enclosures; via E-Mail & U.S. Mail)
William Z. Pentelovitch
Teresa Nelson
Laughlin McDonald / Jon Sherman
Kristyn Marie Anderson / Alan I. Gilbert