

STATE OF MINNESOTA
IN THE SUPREME COURT

No. A120920

OFFICE OF
APPELLATE COURTS

JUN - 8 2012

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.

AFFIDAVIT OF DAN MCGRATH

I, Dan McGrath, being duly sworn, hereby depose and state as follows:

1. I am the Executive Director of Minnesota Majority Inc., a non-profit corporation established to promote traditional values in state and federal public policy through grassroots education and activism on the part of its members.
2. Minnesota Majority maintains an active volunteer base. In addition to conducting research, the organization attends local events to educate voters on key issues. One of the key legislative issues that Minnesota Majority focuses on is reducing voter fraud in Minnesota elections.

3. Numerous polls have shown that voter ID is a proposal that has strong support among all political parties and demographic groups.
4. Prior to the 2008 general election, Minnesota Majority conducted a review of Minnesota's voter records and discovered a number of apparent irregularities, including double voting, vacant and non-deliverable addresses used in voter registrations, deceased people remaining on voter registration lists, felons newly registered to vote, duplicate voter registration records, deficient voter registration records and numerous others.
5. Minnesota Majority communicated a number of these concerns in a letter to Minnesota Secretary of State Mark Ritchie on October 16, 2008. Secretary Ritchie responded by convening a press conference, surrounding himself with a number of county election officials and assured voters that Minnesota had the best electoral system in the nation. His formal response letter was received on October 23, 2008 and it was largely dismissive of the discoveries.
6. The Secretary of State's office said it was not its job to investigate election problems and suggested contacting the county attorneys in the counties in which these problems occurred. On October 31, 2008, Minnesota Majority forwarded the evidence it found of potential voter fraud to 30 county attorneys and 30 county auditors and requested an investigation of these irregularities. Fewer than half of the county attorneys responded to the request and those that did were largely dismissive of the concerns.
7. Minnesota Majority also sent certified letters to the US Justice Department on November 17, 2008 and again on October 5, 2009, requesting a formal investigation into what it believed to be violations of the Help America Vote Act by Secretary Ritchie. Both letters went unanswered.

8. In October 2010, Minnesota Majority launched its Election Integrity Watch Program. The project's objective is to improve the overall integrity of elections in Minnesota by training thousands of voters on how to spot voter fraud and what to do about it when they do.

9. In addition to speaking with local groups about its research and findings concerning voter fraud in Minnesota, Minnesota Majority appeared on numerous radio programs throughout the state including WCCO, KKMS, KSTP, and AM1280. Minnesota Majority also participated in interviews with Channel 5 News, KARE-11 News, Channel 4 News, Fox 9 TV, Fox News Channel, SCCTV and other television and radio stations. Its research has been featured by a number of major news organizations, including Fox News, The Washington Examiner, the Wall Street Journal, Pioneer Press, KSTP, KMSP and the Star Tribune.

10. Minnesota Majority began working with Representative Mary Kiffmeyer to construct and promote the 21st Century Voter ID Bill (S.F. No. 509) in November 2010. Minnesota Majority representatives testified at the House Government Operations and Elections Committee hearing, the House State Government Finance Committee, the House Ways and Means Committee, the Senate Local Government and Elections Committee, the Senate Finance Committee, the Senate Rules Committee and other legislative committees in favor of the bill. It also met with legislators to provide expert advice and research for the legislation.

11. The 21st Century Voter ID bill received a final passage vote on May 6, 2011. On May 29, 2011, Governor Drayton vetoed the bill, claiming it lacked bi-partisan involvement.

12. Soon after the Governor's veto, Minnesota Majority began working with Representative Kiffmeyer on a voter identification Constitutional Amendment, which provides for Voter ID requirements similar to the 21st Century Vote ID bill. In addition to meeting with senators and representatives to consult on the Amendment, Minnesota Majority testified at the Senate Finance

Committee and the Senate Committee on State Government Innovation and Veterans hearings in favor of the Amendment.

13. On April 4, 2012, the Minnesota Legislature approved the Voter Identification Amendment.

14. I am aware that a coalition of petitioners has filed a Petition with the Supreme Court of Minnesota seeking to have the ballot question pertaining to the Amendment struck and to prevent the Secretary of State from placing the Amendment on the November 2012 ballot.

15. I am aware that the sole-named Respondent in the Petition, Minnesota Secretary of State Mark Ritchie, has publically opposed the Amendment since its outset. He testified against it before the Minnesota Legislature multiple times and has published numerous op-eds against the Amendment.¹ I have personally witnessed the Secretary's testimony and have read his op-eds.

16. Due to the Secretary of State's vigorous public opposition to the Amendment, I do not believe he will be able to adequately defend Petitioners' challenge to the Amendment.

17. Given its significant investment of time, attention and money toward the enactment of the Amendment, Minnesota Majority has a substantial and direct interest in the outcome of this matter. Thus, even if the Respondent defends the Amendment, Minnesota Majority has a substantial interest in intervening in this matter to protect and defend its interests.

¹ See e.g., Written Testimony for the Senate State Government Innovation and Veterans Committee; Office of Minnesota Secretary of State Mark Ritchie (February 29, 2012) (available at <http://www.senate.mn/senators/26Parry/committee/Committee%20Documents/Februar%2022%202012/Written%20Testimony%20for%20SF%201577.pdf>) (last visited June 6, 2012); Secretary of State Mark Ritchie, Op-Ed., *Swift Action Needed to Save Same Day Registration*, Mar. 28, 2012, (available at <http://www.sos.state.mn.us/index.aspx?recordid=607&page=10>); *Secretary of State Mark Ritchie's Statement Regarding House Taking Up Constitutional Amendment On the Floor Today*, Mar. 03, 2012, (available at [ww.sos.state.mn.us/index.aspx?recordid=603&page=10](http://www.sos.state.mn.us/index.aspx?recordid=603&page=10)); News Release; *Secretary of State Mark Ritchie Urges Senate Not to Rush to Pass the Amendment to Eliminate Same-Day Registration*, Mar. 21, 2012, (available at <http://www.sos.state.mn.us/index.aspx?recordid=609&page=10>)

I swear under the penalty of perjury under the laws of the State of Minnesota that the factual statements in this Affidavit are true and correct to the best of my knowledge and understanding.

Executed on June 7th, 2012.

A handwritten signature in black ink, appearing to read "Dan McGrath". The signature is stylized and somewhat cursive, with a prominent "D" and "M".

Dan McGrath
Executive Director, Minnesota Majority, Inc.

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Petitioners,

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individual capacity,

Respondent.

MOTION FOR ADMISSION *PRO HAC VICE*

I, Nathan J. Marcusen, an active member in good standing of the bar of the State of Minnesota, move that this Court admit *pro hac vice* J. Christian Adams, an attorney admitted to practice in the trial courts of Virginia and South Carolina, Kaylan L. Phillips, an attorney admitted to practice in the trial courts of Indiana and Oklahoma, Noel Johnson an attorney admitted to practice in the trial courts of Wisconsin, and Zachary S. Kester, an attorney admitted to practice in the trial courts of Indiana, who will be counsel for the Proposed Intervenor Minnesota Majority, Inc. in this case.

I am aware that Rule 5 of the Minnesota General Rules of Practice requires me to (1) sign all pleadings in this case, (2) be present in person or by telephone at the proceeding at which this Motion is

heard, and (3) be present in person or by telephone at all subsequent proceedings in this case unless the Court, in its discretion, conducts the proceedings without the presence of Minnesota counsel.

In support of this Motion, I am attaching as "Exhibit 1" the attorney affidavits required by Minn. R. Civ. App. 143.05, subd. 1.

Respectfully submitted,

BOWMAN AND BROOKE LLP



DATED: June 8, 2012.

Nathan J. Marcusen (#0386875)
150 South Fifth Street, Suite 3000
Minneapolis, MN 55402
Tel: 612-339-8682
Fax: 612-672-3200
Email: nathan.marcusen@bowmanandbrooke.com

***Local Counsel for Proposed Intervenor
Minnesota Majority, Inc.***

EXHIBIT 1

Affidavit of J. Christian Adams

SUPREME COURT OF MINNESOTA

J. Christian Adams, being duly sworn, states the following under oath:

I am currently admitted to practice and in good standing in the highest court of the following states, but not admitted to the bar of this Court:

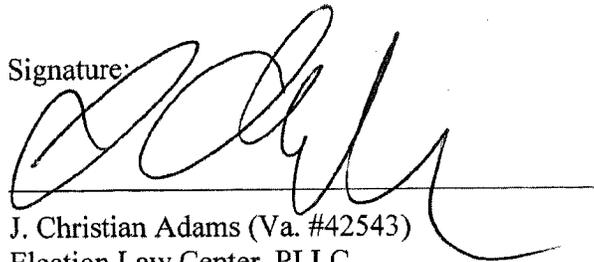
State	License #	Status	Admission Date
Virginia	42543	Active in Good Standing	01/18/1999
South Carolina	7136	Active in Good Standing	05/16/1994

I understand that if this Court grants me admission pro hac vice, Rule 5 of the Minnesota General Rules of Practice requires the Minnesota lawyer bringing this Motion to (1) sign all pleadings in this case, (2) be present in person or by telephone at the proceeding at which this Motion is heard, and (3) be present in person or by telephone at all subsequent proceedings in this case unless the Court, in its discretion, conducts the proceedings without the presence of Minnesota counsel.

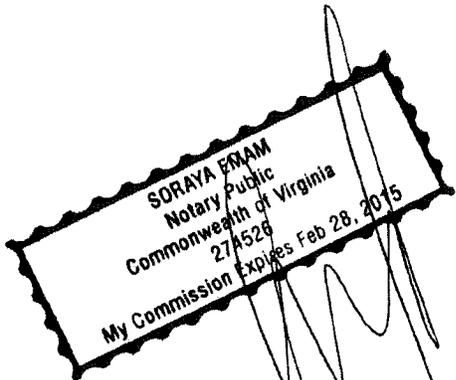
I also understand that Rule 5 of the Minnesota General Rules of Practice specifies that by appearing pursuant to that rule I am subject to the disciplinary rules and regulations governing Minnesota lawyers and that by applying to appear or appearing in any action I am subject to the jurisdiction of the Minnesota courts.

June 6, 2012

Signature:



J. Christian Adams (Va. #42543)
Election Law Center, PLLC
300 N Washington St., Suite 405
Alexandria, VA 2314
Tel: 703-963-8611
Fax: 703-740-1773
Email: adams@electionlawcenter.com



City / County of Alexandria
Commonwealth of VA
The foregoing acknowledgment was acknowledged
before me this 6 day of June
2012 by J. Christian Adams
(Name of person seeking acknowledgment)
Notary Public [Signature]
My Commission Expires: 2/28/2015

Affidavit of Kaylan L. Phillips

SUPREME COURT OF MINNESOTA

Kaylan L. Phillips, being duly sworn, states the following under oath:

I am currently admitted to practice and in good standing in the highest court of the following states, but not admitted to the bar of this Court:

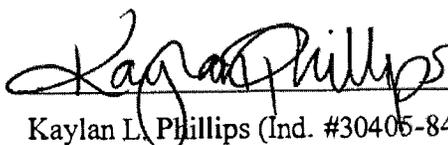
State	License #	Status	Admission Date
Indiana	30405-84	Active in Good Standing	05/14/2012
Oklahoma	22219	Active in Good Standing	09/25/2008

I understand that if this Court grants me admission pro hac vice, Rule 5 of the Minnesota General Rules of Practice requires the Minnesota lawyer bringing this Motion to (1) sign all pleadings in this case, (2) be present in person or by telephone at the proceeding at which this Motion is heard, and (3) be present in person or by telephone at all subsequent proceedings in this case unless the Court, in its discretion, conducts the proceedings without the presence of Minnesota counsel.

I also understand that Rule 5 of the Minnesota General Rules of Practice specifies that by appearing pursuant to that rule I am subject to the disciplinary rules and regulations governing Minnesota lawyers and that by applying to appear or appearing in any action I am subject to the jurisdiction of the Minnesota courts.

June 6, 2012

Signature:



Kaylan L. Phillips (Ind. #30405-84)
ActRight Legal Foundation
2029 K Street NW, Suite 300
Washington, DC 20006
Tel: 202-683-9405
Fax: 888-815-5641
Email: kphillips@actright.com

STATE OF INDIANA)
) SS:
COUNTY OF HENDRICKS)

Subscribed and sworn to before me this 6th day of June, 2012. A Notary Public in and for the County of Hendricks, Indiana.



Shawna Lynne Powell
Shawna Lynne Powell

My Commission Expires: May 7, 2020

Affidavit of Noel H. Johnson

SUPREME COURT OF MINNESOTA

Noel H. Johnson, being duly sworn, states the following under oath:

I am currently admitted to practice and in good standing in the highest court of the following states, but not admitted to the bar of this Court:

State	License #	Status	Admission Date
Wisconsin	1068004	Active in Good Standing	05/24/2010

I understand that if this Court grants me admission pro hac vice, Rule 5 of the Minnesota General Rules of Practice requires the Minnesota lawyer bringing this Motion to (1) sign all pleadings in this case, (2) be present in person or by telephone at the proceeding at which this Motion is heard, and (3) be present in person or by telephone at all subsequent proceedings in this case unless the Court, in its discretion, conducts the proceedings without the presence of Minnesota counsel.

I also understand that Rule 5 of the Minnesota General Rules of Practice specifies that by appearing pursuant to that rule I am subject to the disciplinary rules and regulations governing Minnesota lawyers and that by applying to appear or appearing in any action I am subject to the jurisdiction of the Minnesota courts.

June 6, 2012

Signature:



Noel H. Johnson (Wisc. #1068004)
ActRight Legal Foundation
2029 K Street NW, Suite 300
Washington, DC 20006
Tel: 202-683-9405
Fax: 888-815-5641
Email: njohnson@actright.com

STATE OF INDIANA)
) SS:
COUNTY OF HENDRICKS)

Subscribed and sworn to before me this 6th day of June, 2012. A Notary Public in and for the County of Hendricks, Indiana.



Shawna Lynne Powell
Shawna Lynne Powell

My Commission Expires: May 7, 2020

Affidavit of Zachary S. Kester

SUPREME COURT OF MINNESOTA

Zachary S. Kester, being duly sworn, states the following under oath:

I am currently admitted to practice and in good standing in the highest court of the following states, but not admitted to the bar of this Court:

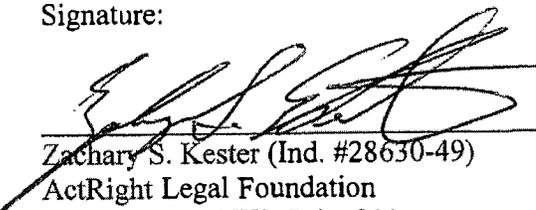
State	License #	Status	Admission Date
Indiana	28630-49	Active in Good Standing	10/16/2009

I understand that if this Court grants me admission pro hac vice, Rule 5 of the Minnesota General Rules of Practice requires the Minnesota lawyer bringing this Motion to (1) sign all pleadings in this case, (2) be present in person or by telephone at the proceeding at which this Motion is heard, and (3) be present in person or by telephone at all subsequent proceedings in this case unless the Court, in its discretion, conducts the proceedings without the presence of Minnesota counsel.

I also understand that Rule 5 of the Minnesota General Rules of Practice specifies that by appearing pursuant to that rule I am subject to the disciplinary rules and regulations governing Minnesota lawyers and that by applying to appear or appearing in any action I am subject to the jurisdiction of the Minnesota courts.

June 6, 2012

Signature:


Zachary S. Kester (Ind. #28630-49)

ActRight Legal Foundation
2029 K Street NW, Suite 300
Washington, DC 20006
Tel: 202-683-9405
Fax: 888-815-5641
Email: zkester@actright.com

STATE OF INDIANA)
) SS:
COUNTY OF HENDRICKS)

Subscribed and sworn to before me this 6th day of June, 2012. A Notary Public in and for the County of Hendricks, Indiana.



Shawna Lynne Powell
Shawna Lynne Powell

My Commission Expires: May 7, 2020

Bowman and Brooke LLP

Attorneys at Law

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Minneapolis, MN 55402
Phone: 612.339.8682
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OFFICE OF
APPELLATE COURTS

JUN 08 2012

FILED

June 8, 2012

VIA MESSENGER

Clerk of Court
Minnesota Supreme Court
305 Minnesota Judicial Center
25 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155

ORIGINAL

Re: *League of Women Voters Minnesota et al. v. Mark Ritchie*
Court File No.: A120920

Dear Clerk:

I enclose for filing in the above-referenced case the original and four (4) copies of the following documents:

1. Motion to Intervene, Motion for Expedited Consideration, and Memorandum in Support;
2. Affidavit of Dan McGrath; and
3. Motion for Admission *Pro Hac Vice*, with Exhibit 1.

By copy of this letter and its attachments, all counsel of record are hereby served with the same.

Sincerely yours,

BOWMAN AND BROOKE LLP

Nathan J. Marcusen

By _____
Nathan J. Marcusen

NJM/djd
Enclosure

Cc: All Counsel of Record on Attached Affidavit of Service (w/enc.)

MINNEAPOLIS

PHOENIX

DETROIT

SAN JOSE

LOS ANGELES

RICHMOND

COLUMBIA

DALLAS

AUSTIN

AFFIDAVIT OF SERVICE VIA EMAIL AND U.S. MAIL

League of Women Voters Minnesota, et al. v. Mark Ritchie, et al.
Court Case No. A120920

**OFFICE OF
APPELLATE COURTS**

JUN - 8 2012

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

FILED

Deborah J. Daninger, being first duly sworn, deposes and says that on the 8th day of June, 2012, she served the following documents:

1. Motion to Intervene, Motion for Expedited Consideration, and Memorandum in Support;
2. Affidavit of Dan McGrath; and
3. Motion for Admission Pro Hac Vice, with Exhibit 1

upon:

William Z. Pentelovitch
Richard G. Wilson
Justin H. Perl
Wayne S. Moskowitz
Alain M. Baudry
Catherine Ahlin-Halverson
MASON EDELMAN BORMAN & BRAND LLP
3300 Wells Fargo Center
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rich.wilson@maslon.com;
justin.perl@maslon.com;
wayne.moskowitz@maslon.com;
alain.baudry@maslon.com; and
catherine.ahlin@maslon.com

Alan I. Gilbert, Solicitor General
Kristyn Marie Anderson, Asst. Atty. General
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and al.gilbert@ag.state.mn.us

Teresa Nelson
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St. Paul, MN 55114-1879
Email: tnelson@aclu-mn.org

M. Laughlin McDonald
Jon Sherman
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION, INC.
230 Peachtree Street, Suite 1440
Atlanta, GA 30303
Email: lmcdonald@aclu.org and
jsherman@aclu.org

by emailing a true and correct copy of the foregoing documents to them at their respective email addresses listed above and by depositing a true and correct copy, directed to them at their

respective addresses listed above, in the U.S. Mail at 150 South Fifth Street, Minneapolis, Minnesota.

Deborah J. Daninger
Deborah J. Daninger

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

Holly K. Campbell
Notary Public

