

DEC 16 2008

FILED

STATE OF MINNESOTA
IN THE SUPREME COURT
Court File No. A08-2169

Norm Coleman, et al.,)
)
Petitioners,)
)
v.)
)
Mark Ritchie, Minnesota Secretary of)
State, the Minnesota State Canvassing)
Board, Isanti County Canvassing Board,)
et al.,)
)
Respondents.)

MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF

COMES NOW Lawyers Democracy Fund and moves for leave to file an amicus curiae brief in the above-referenced matter. In support, the Lawyers Democracy Fund states as follows:

1. The Lawyers Democracy Fund is a non-profit, tax-exempt organization under § 501(c)(4) of the Internal Revenue Code. The mission of the Fund is to promote fair and honest elections in accordance with the governing statutes and regulations. To that end, the Fund seeks to ensure that all properly cast ballots are counted and that no fraudulent or improperly cast ballots are counted.¹

¹ No counsel for a party authored this brief in whole or in part, and no person or entity other than amicus contributed monetarily to this brief. Ms. Smith has participated in some of the election and recount activities in connection with this election. She is not, however, counsel to Mr. Coleman or any other party in this case.

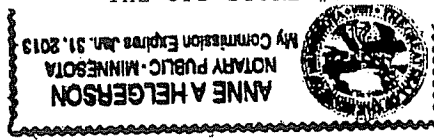
2. Resolution of this case greatly interests the Lawyers Democracy Fund. It is concerned that the Respondents' course of action will result in the uneven and disparate treatment of voters. The Lawyers Democracy Fund believes that the issues concerning rejected absentee ballots cannot be fairly and lawfully addressed in the ad hoc, inconsistent process being contemplated by the State Canvassing Board. Accordingly, the Lawyers Democracy Fund opposes the actions being taken by Respondents. An amicus curiae brief is desirable for several reasons. First, the amicus has a broader interest than the parties, and can provide a viewpoint that will not necessarily be represented by the parties. Second, since Respondents' actions implicate the federal Equal Protection clause, resolution of this case will have national implications, and may affect the manner in which state and federal courts and election officials approach such issues in the future.

3. The Petition initiating this lawsuit was filed on Friday, December 12, 2008. On Monday, December 15, 2008, this Court entered its scheduling order directing Petitioners and Respondents to file briefs and reply briefs on Tuesday, December 16, 2008. By the filing and service of this Motion, Lawyers Democracy Fund is giving notice to the parties of its intent to file its amicus brief in this case. Minn. R. Civ. App. P. 129.01. Accordingly, in the circumstances of this case, this Motion and the accompanying brief are being timely filed for the Court's consideration.

4. The Lawyers Democracy Fund's brief is being provisionally tendered to this Court with this Motion.

5. This Motion is made in the interest of justice and is not intended to unduly delay or hinder these proceedings.

WHEREFORE, the Lawyers Democracy Fund respectfully requests that this Court grant it leave to file its amicus curiae brief and grant such other relief as may be just and proper in the circumstances.



Handwritten signature and date 12-16-08

JEF-216629-1

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Handwritten signature

See service list attached hereto as Exhibit A.

I hereby certify that a true and accurate copy of the foregoing was served by email or facsimile transmission and United States mail, postage prepaid, this 16th day of December, 2008, to:

CERTIFICATE OF SERVICE

ATTORNEYS FOR LAWYERS DEMOCRACY FUND

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By: Handwritten signature

Respectfully submitted,

EXHIBIT A – SERVICE LIST

These parties were served by United States mail postage prepaid:

Office of the Secretary of State The Honorable Mark Ritchie 60 Empire Drive, Suite 100 St Paul, MN 55103	State Canvassing Board The Honorable Mark Ritchie 60 Empire Drive, Suite 100 St. Paul, MN 55103
Isanti County Canvassing Board Terry Treichel Isanti County Government Center 555 18th Avenue S.W. Cambridge, MN 55008	Office of the Attorney General The Honorable Lori Swanson 1400 Bremer Tower 445 Minnesota Street St. Paul, MN 55101
William Z. Pentelovitch Maslon Edelman Borman & Brand, LLP 3300 Wells Fargo Center 90 South Seventh Street Minneapolis, MN 55402	David Lillehaug Fredrickson & Byron, P.A. 200 South Sixth Street Suite 4000 Minneapolis, MN 55402-1425
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These parties were served by email:

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n@co.winona.mn.us;cindy.schultz@co.mcleod.mn.us;cwcauditor@co.crow-
wing.mn.us;denise.cooper@co.kanabec.mn.us;dennis.distad@co.freeborn.mn.us;djfreed@co.chi
sago.mn.us;auditor@co.sherburne.mn.us;dicklichd@co.stlouis.mn.us;auditor@co.watonwan.mn.
us;donna.quandt@co.pope.mn.us;doug@co.mower.mn.us;rcelections@co.rice.mn.us;frank.tho
mpson@co.mahnomen.mn.us;gerald.amiot@co.polk.mn.us;gloria.rolfs@co.rock.mn.us;hwinter
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mn.us;elections@co.dakota.mn.us;john_h@co.lakeofthewoods.mn.us;john.thompson@co.fariba
ult.mn.us;jclauson@co.chippewa.mn.us;elections@co.ramsey.mn.us;joyce.steinhoff@co.pipesto
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ey@co.cook.mn.us;doug.storey@state.mn.us;don.ryan@co.crow-
wing.mn.us;dodge.admin@co.dodge.mn.us;kwagner@co.fillmore.mn.us;craig.nelson@co.freebo
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December 16, 2008

VIA FACSIMILE

Frederick K. Grittner
Clerk of the Appellate Courts
305 Minnesota Judicial Center
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155-6102

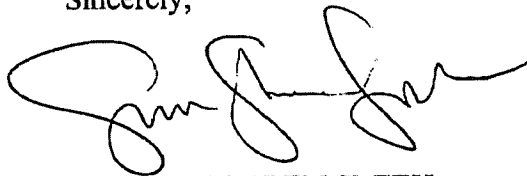
Re: Norm Coleman, et al., v. Mark Ritchie, et al.,
Minnesota Supreme Court Case No. A08-2169

Dear Mr. Grittner:

Enclosed for filing in the above-referenced case are the Lawyers Democracy Fund's Motion for Leave to File Amicus Curiae Brief, Amicus Curiae Brief and Motions for Pro Hac Vice Admission and supporting affidavits for Harvey M. Tettlebaum and Mark G. Arnold.

Pursuant to the Court's December 15th order and due to the time constraints for this expedited case, pleadings with original signatures will be filed under separate cover.

Sincerely,



SUSAN SHOGREN SMITH

Enclosures

cc: Roger L. Magnuson (w/ enclosures)
Alan Gilbert (w/ enclosures)
Mary R. Vasaly (w/ enclosures)
Harvey M. Tettlebaum (w/ enclosures)
Mark G. Arnold (w/ enclosures)