

STATE OF MINNESOTA

OFFICE OF  
APPELLATE COURTS

DISTRICT COURT

COUNTY OF RAMSEY

JAN 12 2010

SECOND JUDICIAL DISTRICT

**FILED**

**NOTICE OF APPEAL TO  
COURT OF APPEALS**

Deanna Brayton, Darlene Bullock, Forough  
Mahabady, Debra Branley, Marlene Griffin and  
Evelyn Bernhagen, on behalf of themselves and  
all others similarly situated,

Plaintiffs,

vs.

A10-64

Trial Court Case No.  
62-CV-09-11693

Chief Judge Kathleen R. Gearin

Tim Pawlenty, Governor of the State of Minnesota,  
Thomas Hanson, Commissioner, Minnesota  
Department of Management and Budget, Cal  
Ludeman, Minnesota Department of Human  
Services, and Ward Einess, Commissioner,  
Minnesota Department of Revenue,

Date Judgment Entered:  
January 8, 2010

Defendants.

TO: Clerk of Appellate Courts, 305 Minnesota Judicial Center, 25 Rev. Dr. Martin Luther  
King Jr. Blvd., St. Paul, Minnesota 55155.

PLEASE TAKE NOTICE that the above-named defendants appeal to the Court of  
Appeals of the State of Minnesota from the judgment of the court entered on the date shown.

GALEN ROBINSON  
DAVID GASSOWAY  
Mid-Minnesota Legal Assistance  
430 First Avenue North, Suite 300  
Minneapolis, Minnesota 55401  
(612) 332-1441

RALONDA J. MASON  
Mid-Minnesota Legal Assistance  
830 W. St. Germain, Suite 300  
P.O. Box 886  
St. Cloud, Minnesota 56302  
(320) 253-0121

ATTORNEYS FOR PLAINTIFFS

Dated: January 12, 2010

LORI SWANSON  
Attorney General  
State of Minnesota



ALAN I. GILBERT  
Solicitor General  
Atty. Reg. No. 0034678

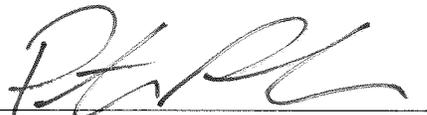
JOHN S. GARRY  
Assistant Attorney General  
Atty. Reg. No. 0208899

JEFFREY J. HARRINGTON  
Assistant Attorney General  
Atty. Reg. No. 0327980

445 Minnesota Street, Suite 1100  
St. Paul, Minnesota 55101-2128  
(651) 757-1450

ATTORNEYS FOR DEFENDANTS

Dated: January 12, 2010



PATRICK D. ROBBEN  
General Counsel to Governor Tim Pawlenty  
Office of Governor  
Atty. Reg. No. 0284166

130 State Capitol  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
St Paul, Minnesota 55155  
(651) 282-3705

ATTORNEY FOR DEFENDANT  
GOVERNOR TIM PAWLENTY

AG: #2567031-v1



**AFFIDAVIT OF FILING BY U.S. MAIL**

**Re: *Brayton et al. v. Pawlenty, et al.***  
**Ramsey County Court File No. 62-CV-09-11693**  
**Appellate Court Case No. \_\_\_\_\_**

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF RAMSEY    )

BARBARA FEHRMAN, being first duly sworn, deposes and says:

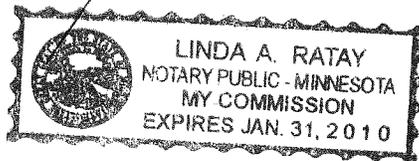
That at the City of St. Paul, County of Ramsey and State of Minnesota, on January 12, 2010, she caused to be to be filed with the trial court administrator a true and correct copy of Notice of Appeal to Court of Appeals, by depositing the same in the United States mail at said city and state, properly enveloped with prepaid first class postage, and addressed to:

Court Administrator  
600 Ramsey County Courthouse  
15 Kellogg Boulevard West  
St. Paul, MN 55102

  
BARBARA FEHRMAN

Subscribed and sworn to before me on  
this 12<sup>th</sup> day of January, 2010.

  
\_\_\_\_\_  
NOTARY PUBLIC



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State of Minnesota  
Ramsey County

District Court  
Second Judicial District

Court File Number: **62-CV-09-11693**

Case Type: Civil Other/Misc.

### Notice of Entry of Judgment

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**In Re: Deanna Brayton, Darlene Bullock, Forough Mahabady, Debra Branley, Marlene Griffin and Evelyn Bernhagen on behalf of themselves and all others similiarly situated vs Tim Pawlenty, Governor of the State of Minnesota, Thomas Hanson, Commissioner, Minnesota Department of Management and Budget, Cal Ludeman, Minnesota Department of Human Services, and Ward Einess, Commissioner, Minnesota Department of Revenue**

Pursuant to: The Stipulation and Order for Entry of Final Partial Judgment, Judge Kathleen R. Gearin dated January 8, 2010.

You are notified that judgment was entered on January 08, 2010.

Dated: January 8, 2010

cc :Galen Robinson; Alan I Gilbert;  
Patrick Dean Robben

Lynae K. E. Olson  
Court Administrator

By: *Linda Graska*  
Deputy Court Administrator  
Ramsey County District Court  
15 West Kellogg Boulevard Room 600  
St Paul MN 55102



\*62-CV-09-11693\*



\*NOENJUDG\*

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STATE OF MINNESOTA  
COUNTY OF RAMSEY

**FILED**  
**Court Administrator**  
JAN 08 2010  
By CUX Deputy

DISTRICT COURT  
SECOND JUDICIAL DISTRICT  
Case Type: Other Civil

Deanna Brayton, Darlene Bullock, Forough Mahabady, Debra Branley, Marlene Griffin and Evelyn Bernhagen, on behalf of themselves and all others similarly situated,

Court File No. 62-CV-09-11693  
Chief Judge Kathleen R. Gearin

Plaintiffs,

**STIPULATION AND ORDER  
FOR ENTRY OF  
FINAL PARTIAL JUDGMENT**

vs.

Tim Pawlenty, Governor of the State of Minnesota, Thomas Hanson, Commissioner, Minnesota Department of Management and Budget, Cal Ludeman, Minnesota Department of Human Services, and Ward Einess, Commissioner, Minnesota Department of Revenue,

Defendants.

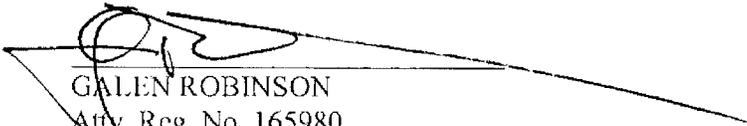
**STIPULATION**

The parties in the above-entitled action, through their undersigned counsel, hereby stipulate to issuance of the attached Order for Entry of Final Partial Judgment. The parties agree that the Order satisfies Minn. R. Civ. P. 54.02 and that the resulting final partial judgment is appealable as of right under Minn. R. Civ. App. P. 103.03(a).

Nothing in this Stipulation or the attached Order constitutes an admission or acknowledgment by Defendants that any of the unallotments that have been or may be challenged in this or any other lawsuit are unlawful.

Dated: January 8, 2010

MID-MINNESOTA LEGAL ASSISTANCE



GALEN ROBINSON  
Atty. Reg. No. 165980

DAVID GASSOWAY  
Atty. Reg. No. 389526

430 First Avenue North, Suite 300  
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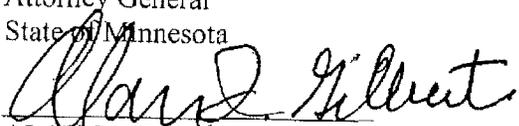
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St. Cloud, Minnesota 56302  
(320) 253-0121

ATTORNEYS FOR PLAINTIFFS

Dated: January 8, 2010

LORI SWANSON  
Attorney General  
State of Minnesota

  
ALAN I. GILBERT  
Solicitor General  
Atty. Reg. No. 0034678

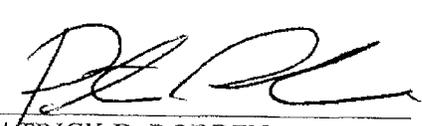
JOHN S. GARRY  
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Assistant Attorney General  
Atty. Reg. No. 0327980

445 Minnesota Street, Suite 1100  
St. Paul, Minnesota 55101-2128  
(651) 757-1450

ATTORNEYS FOR DEFENDANTS

Dated: January 8<sup>th</sup>, 2010

  
PATRICK D. ROBBEN  
General Counsel to Governor Tim Pawlenty  
Office of Governor  
Atty. Reg. No. 0284166

130 State Capitol  
75 Rev. Dr Martin Luther King Jr. Blvd.  
St Paul, MN 55155  
(651) 282-3705

ATTORNEY FOR DEFENDANT  
GOVERNOR TIM PAWLENTY

## ORDER FOR ENTRY OF FINAL PARTIAL JUDGMENT

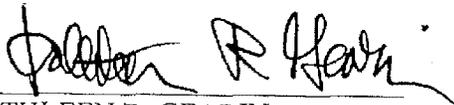
Based on the Court's Order filed December 30, 2009, and the foregoing Stipulation of the parties, and in accordance with Minn. R. Civ. P. 54.02,

### IT IS HEREBY ORDERED:

1. Pursuant to the Court's Order of December 30, 2009, and the reasoning set forth therein, Defendants' motion to dismiss is denied with respect to Plaintiffs' claim that the unallotment of funding for the Minnesota Supplemental Aid-Special Diet ("MSA-SD") program is unlawful.
2. Also pursuant to the Court's Order of December 30, 2009, the unallotment of funding for the MSA-SD program that was approved in July 2009 and took effect November 1, 2009, is unlawful and void. Defendants shall immediately restore the funding with respect to that unallotment, if not done so already.
3. There is no just reason for delay of entry of judgment on Plaintiffs' claim that the unallotment of funding for the MSA-SD program is unlawful. Immediate appellate review of this claim is appropriate and in the public interest. The claim implicates the lawfulness of other unallotments made for the current biennium. An expeditious final judicial decision of the claim will assist the executive and legislative branches in determining their respective authority regarding the State's current budget crisis.
4. This Order does not prohibit either the Governor or the Legislature from the exercise of their legitimate constitutional power in light of the current budget issues facing the State or from bringing a motion that the issues in this lawsuit have been rendered moot.

THERE BEING NO JUST REASON FOR DELAY, LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 8, 2010

  
KATHLEEN R. GEARIN  
Chief Judge of District Court

STATE OF MINNESOTA  
COUNTY OF RAMSEY

DISTRICT COURT  
SECOND JUDICIAL DISTRICT

COURT FILE: 62-CV-09-11693

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JUDGMENT

The foregoing shall constitute the judgment  
of the court.

Entered: 1/8/2010 LYNÆ K.E. OLSON  
Court Administrator

By Linda Grasse  
Deputy Clerk

LYNÆ K.E. OLSON, Court Administrator, Ramsey  
County, State of Minnesota, does hereby certify that  
the attached instrument is a true and correct copy  
of the original on file and of record in my office.

Dated this 11<sup>th</sup> day of January

LYNÆ K.E. OLSON, Court Administrator

By [Signature] Deputy

File No. \_\_\_\_\_



# STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

LORI SWANSON  
ATTORNEY GENERAL

SUITE 1100  
445 MINNESOTA STREET  
ST. PAUL, MN 55101-2128  
TELEPHONE: (651) 282-5700

January 12, 2010

Court Administrator  
600 Ramsey County Courthouse  
15 Kellogg Boulevard West  
St. Paul, MN 55102

Re: *Brayton, et al. v. Pawlenty, et al.*  
Court File No. 62-CV-09-11693  
Chief Judge Kathleen Gearin

Dear Court Administrator:

Enclosed herewith for filing as provided in Minn. R. Civ. App. P. 103.01, subd. 1, please find a copy of Notice of Appeal to Court of Appeals. Pursuant to Minn. R. Civ. App. P. 107.02(e), no cost bond is required of these Appellants.

Very truly yours,

A handwritten signature in black ink that reads "Alan I. Gilbert".

ALAN I. GILBERT  
Solicitor General

(651) 757-1450

Enclosure

cc: Galen Robinson  
Frederick Grittner, Clerk of Appellate Courts

AG: #2567188-v1





STATE OF MINNESOTA  
OFFICE OF THE ATTORNEY GENERAL

LORI SWANSON  
ATTORNEY GENERAL

SUITE 1100  
445 MINNESOTA STREET  
ST. PAUL, MN 55101-2128  
TELEPHONE: (651) 282-5700

January 12, 2010

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

Hand Delivered

OFFICE OF  
APPELLATE COURTS

Re: *Brayton et al. v. Pawlenty, et al.*  
Ramsey County Court File No. 62-CV-09-11693  
Appellate Court Case No. \_\_\_\_\_

h JAN 12 2010  
FILED

Dear Mr. Grittner:

Enclosed herewith for filing in the above-captioned matter, please find:

1. The original and two copies of Notice of Appeal to Court of Appeals.
2. A certified copy of the judgment from which the appeal is taken.
3. The original and two copies of Appellants' Statement of the Case.
4. An affidavit of service on counsel for Respondents.
5. An affidavit of filing with the trial court administrator.

Pursuant to Minn. R. Civ. App. P. 103.01, subd. 3(d), no filing fee is required.

Very truly yours,

ALAN I. GILBERT  
Solicitor General

(651) 757-1450

Enclosures

cc: Galen Robinson

AG: #2567079-v1

