

117.

**FILED
Court Administrator**

**STATE OF MINNESOTA
COUNTY OF RAMSEY**

FEB 10 2009

**DISTRICT COURT
SECOND JUDICIAL DISTRICT**

In the Matter of the Contest of General Election
held on November 4, 2008, for the purpose of
electing a United States Senator for the State of
Minnesota

By CNC Deputy

District Court File No. 62-CV-09-56

Cullen Sheehan and Norm Coleman,

**ORDER ESTABLISHING HEARING
ON MOTIONS**

Contestants,

vs.

Al Franken,

Contestees,

IT IS HEREBY ORDERED:

A. In order to streamline proceedings in this action, the parties are directed to submit briefing by 4:00 p.m. on Wednesday, February 11, 2009 on whether the ballots in the following categories are not legally cast under relevant law:

1. An absentee ballot returned by a non-registered voter in an absentee ballot return envelope on which no box in the proof of residence portion of the absentee ballot return envelope is checked by the witness.
2. An absentee ballot submitted by a voter in an absentee ballot return envelope on which the voter's address is not the same as the information provided on the absentee ballot application.
3. An absentee ballot submitted by a voter in an absentee ballot return envelope in which the witness certification on the absentee ballot return envelope is signed by a person identified as a notary public but no notarial seal or stamp is affixed to the absentee ballot return envelope.
4. An absentee ballot cast by a non-registered voter who has not submitted proper voter registration materials even if the voter was not issued registration materials due to official error.
5. An absentee ballot cast by a voter registered and eligible to vote in a precinct who was issued a ballot for the wrong precinct due to official error.

6. A UOCAVA ballot submitted where there is no evidence that the voter submitted a Federal Post Card Application or absentee ballot application.
7. An absentee ballot submitted by a voter in an absentee ballot return envelope in which the voter failed to sign the certificate of eligibility on the absentee ballot return envelope where a sticker placed by election officials obstructs (either fully or partially) the certification or signature block.
8. An absentee ballot cast by a voter whose absentee ballot application does not contain a signature.
9. An absentee ballot cast by a voter where there is no independent evidence that the voter completed an absentee ballot application.
10. An absentee ballot submitted by a non-registered voter who failed to sign voter-registration materials.
11. An absentee ballot cast by a voter whose absentee ballot application was signed by another unless the absentee ballot application was signed by another individual in accordance with Minn. Stat. § 645.44, subd. 14.
12. An absentee ballot in an absentee ballot return envelope in which the witness certification is signed by a non-notary witness who failed to provide a street address.
13. A UOCAVA ballot received late.
14. An absentee ballot dropped off in-person by the voter on Election Day.
15. An absentee ballot dropped off by a proper agent on Election Day but after the statutory deadline for delivery.
16. An absentee ballot within a non-registered voter absentee ballot return envelope on which the voter failed to sign the certification's signature box but did sign the absentee ballot return envelope elsewhere.
17. An absentee ballot cast by a voter who was not registered to vote in the precinct encompassing the voter's address on the absentee ballot return envelope and absentee ballot application.
18. A ballot cast by a non-registered voter who has failed to register to vote.
19. A ballot cast by a voter not registered to vote within the precinct in which he or she resides.

B. Hearing on the parties' submissions shall be at 1:00 p.m. on Thursday, February 12, 2009.

C. Hearing on Contestants' Motion for Class Certification and Contestee's Motion in Limine to Exclude Testimony of Professor King Banian shall proceed thereafter.

Dated: February 10, 2009

Elizabeth A. Hayden
Elizabeth A. Hayden
Judge, District Court

Kurt J. Marben
Kurt J. Marben
Judge, District Court

Denise D. Reilly
Denise D. Reilly
Judge, District Court