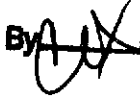


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FILED
Court Administrator

FEB 26 2009

By  Deputy

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT
Case Type: CIVIL OTHER

File No. 62-CV-09-56

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

Cullen Sheehan and Norm Coleman,

Contestants,

**CONTESTANTS' OPPOSITION
TO MOTION IN LIMINE TO
EXCLUDE CERTIFICATIONS**

v.

Al Franken,

Contestee.

Contestants believe that the requests sent to counties and municipalities were appropriate and the responses are admissible evidence, and we are content to rely on oral argument and the authorities provided to the Court at that time. We write merely to inform the Court that if it has any hesitancy regarding the appropriateness of the requests under the Data Practices Act or the admissibility of the certifications received in response thereto, Contestants will be happy to accommodate those concerns in a fashion designed to minimize the burden on local election officials. Our goal is to provide the evidence the Court requires in order to establish that the rejected absentee ballots at issue in this case are indeed legally cast votes that should be included in the Court's calculation, pursuant to Minn. Stat. § 209.12, of which party received the highest number of legally cast votes and is therefore entitled to receive the certificate of election.

If the Court prefers, Contestants could serve election officials with a subpoena seeking the following:

1. A copy of any and all documents which confirm that the absentee ballot has not been counted or a certification that diligent search has failed to disclose any evidence that the ballot was counted;
2. A copy of the voter's absentee ballot application or a certification that diligent search has failed to disclose any evidence that there is an application in the records;
3. A copy of any and all registration records related to the voter;
4. A copy of that page of the election day roster from the precinct in which the voter was registered to vote showing the voter's name and the absence of a signature or AB marking, reflecting that the voter did not vote in that precinct on election day or a certification that diligent search has failed to disclose any evidence that the voter voted in person on election day or by another absentee ballot in the precinct in which he or she was registered;
5. A copy of any and all registration records related to the witness; and
6. A copy of any documentation reflecting the date on which the absentee ballot envelope was received or a certification that diligent search has failed to disclose any evidence that the absentee ballot envelope was received too late to have been counted on election day.

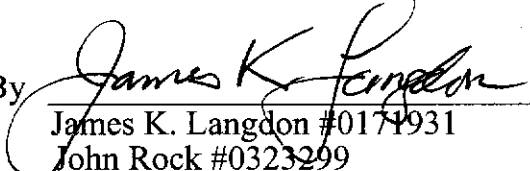
So long as Contestee would agree not to challenge foundation, which is obviously present, such an approach would provide the available evidence to the Court without having to burden local officials with having to come to St. Paul to testify regarding matters about which there can be no reasonable dispute. Short of such an approach Contestants would have no choice but to call scores more officials to testify.

For these reasons, as well as those asserted in oral argument, Contestants respectfully request that Contestee's motion be denied.

Dated: February 25, 2009

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AFFIDAVIT OF SERVICE VIA EMAIL

STATE OF MINNESOTA)
)ss.
COUNTY OF HENNEPIN)

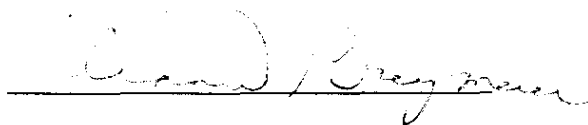
Dianna Breymeier, being first duly sworn on oath, deposes and states that on the 25th day of February, 2009, she served the following:

Contestants' Opposition to Motion in Limine to Exclude Certifications


by sending true and correct copies via email to:

'elizabeth.hayden@courts.state.mn.us'; 'kurt.marben@courts.state.mn.us';
'denise.reilly@courts.state.mn.us' 'Christopher.Channing@courts.state.mn.us';
'Jennifer.hobbs@courts.state.mn.us'; 'fiona.ruthven@courts.state.mn.us';
'angella.erickson@courts.state.mn.us'; 'michael.baker@courts.state.mn.us';
'dlillehaug@fredlaw.com'; 'frankenperkinsattys@perkinscoie.com';

the last known email addresses of said addressees.



Subscribed and sworn to before me this
25th day of February, 2009


Notary Public

