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FILED  
Court Administrator

FEB - 6 2009

By [Signature] Deputy

STATE OF MINNESOTA  
COUNTY OF RAMSEY

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  
from the State of Minnesota,

Court File No. 62-CV-09-56

Cullen Sheehan and Norm Coleman,

Contestants,

v.

Al Franken,

Contestee.

**CONTESTANTS' RESPONSE TO  
MOTION TO AMEND ANSWER  
AND COUNTERCLAIM**

Contestants agree that Contestee should be granted leave to amend his counterclaims to include additional wrongly rejected absentee ballots so long as all similarly situated rejected absentee ballots—that is, those that reasonably fall within the same category—are subject to review by the Court to determine if they too are legally cast votes. Contestants have endeavored to include all similarly situated ballots within each and every category presented to the Court, in their summary judgment motion and at trial, and welcome all efforts to ensure that legally cast votes are counted.

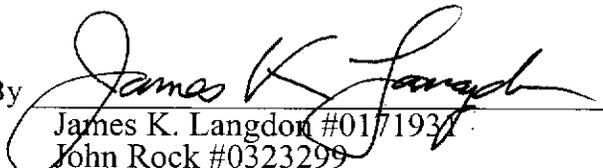
As to the timing of any amendment, Contestants respectfully request that Contestee be required to identify any additional rejected absentee ballots before the Court

makes any rulings regarding which, if any, of the rejected absentee ballots identified by Contestants should be counted.

Dated: February 6, 2009

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Attorneys for Contestants  
Cullen Sheehan and Norm Coleman

**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 6<sup>th</sup> day of February, 2009, she served the following:

Contestants' Response to Motion to Amend Answer and Counterclaim

by sending true and correct copies via email to:

The Honorable Elizabeth A. Hayden  
elizabeth.hayden@courts.state.mn.us

The Honorable Kurt J. Marben  
kurt.marben@courts.state.mn.us

The Honorable Denise D. Reilly  
denise.reilly@courts.state.mn.us

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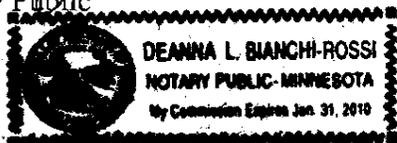
Kevin J. Hamilton, Esq.  
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Suite 4800  
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[frankenperkinsattys@perkinscoie.com](mailto:frankenperkinsattys@perkinscoie.com)

the last known email addresses of said addressees.

Subscribed and sworn to before me this  
6<sup>th</sup> day of February, 2009



  
\_\_\_\_\_  
Notary Public



**AFFIDAVIT OF SERVICE – PERSONAL AND VIA EMAIL**

STATE OF MINNESOTA    )  
  )ss.  
COUNTY OF HENNEPIN    )

James K. Langdon, being first duly sworn on oath, deposes and states that on the 27<sup>th</sup> day of January, 2009, he served the attached:

Contestant's Motion in Limine to Exclude Evidence of Each Campaign's Prior Position Regarding When and How Rejected Absentee Ballots Should be Reviewed

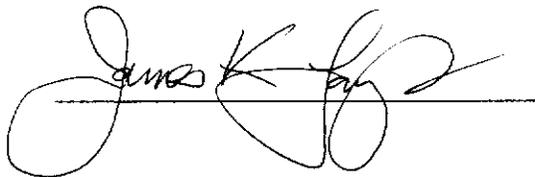
by sending a true and correct copy via email to:

'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'; 'dlillehaug@fredlaw.com';  
'frankenperkinsattys@perkinscoie.com'; 'cnauen@locklaw.com';

and by handing to and leaving with each of the following a true and correct copy thereof at the Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, MN 55155-1500, in the County of Ramsey, State of Minnesota:

David L. Lillehaug, Esq.  
Kevin J. Hamilton, Esq.  
ATTORNEYS FOR CONTESTEE

Subscribed and sworn to before me this  
5<sup>th</sup> day of February , 2009



  
Notary Public

