

STATE OF MINNESOTA
COUNTY OF RAMSEY

FILED
Court Administrator
JUN 27 2011
By [Signature] Deputy

DISTRICT COURT
SECOND JUDICIAL DISTRICT
Case Type: Civil

Court File No.: 62-CV-11-5203

In Re Temporary Funding of Core
Functions of the Executive Branch of
the State of Minnesota

**ORDER DENYING
MEDIATION**

The above-entitled matter came on before the undersigned as Chief Judge of the Second Judicial District of the State of Minnesota pursuant to a motion for the Court to order mandatory mediation between the legislative and executive branches.

David L. Lillehaug, Esquire, appeared on behalf of Governor Mark Dayton.

Thomas S. Bottern, Esquire, appeared on behalf of the Minnesota Senate.

Eric J. Magnuson, Esquire, appeared on behalf of the Minnesota House of Representatives.

Lori Swanson, Attorney General, appeared on behalf of the State of Minnesota.

Frederic W. Knaak, Esquire, appeared on behalf of Senators Roger Chamberlain, Scott Newman, Sean Nienow, and Warren Limmer.

Based upon the files, pleadings, and proceedings herein, the Court makes the following Order:

1. The motion for the Court to order the executive branch and the legislative branch to engage in mandatory mediation is denied as it would violate separation of powers principles.
2. The motion to stay the proceedings pending mediation is denied.
3. The attached memorandum is incorporated into this order.

DATED:

BY THE COURT:



Honorable Kathleen Gearin
Chief Judge, Second Judicial District

MEMORANDUM

In denying the Governor's request to order the executive branch and the legislative branch to engage in mediation, the Court relied upon the separation of powers principles contained in Article III, Section 1 of the Minnesota Constitution. That article states, "no person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others except in the instances expressly provided in this Constitution." The Court also relied on the following language in *State ex. rel. Birkeland v. Christianson*, 229 N.W. 313, 314 (Minn. 1930), "the three departments of state government, the legislative, executive, and judicial, are independent of each other. Neither department can control, coerce, or restrain the action or nonaction of either of the others in the exercise of any official power or duty conferred by the Constitution, or by valid law, involving the exercise of discretion." The give and take necessary to reach a compromise resulting in a budget that the Governor will sign requires both branches to exercise discretion.

