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FILED  
Court Administrator

STATE OF MINNESOTA

DISTRICT COURT

JAN 22 2009

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

By CW Deputy

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

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

Cullen Sheehan and Norm Coleman,

Contestants,

vs.

Al Franken,

Contestees,

Dennis Peterson, et. al.,

Petitioners,

Supreme Court File No. A09-65

vs.

Mark Ritchie, Minnesota Secretary of State, et. al.,

Respondents.

**PETITIONERS' AMENDED NOTICE OF MOTION  
AND MOTION FOR SUMMARY JUDGMENT**

PLEASE TAKE NOTICE that, pursuant to the Order of the Minnesota Supreme Court dated January 16, 2009 referring this Minn. Stat. § 204B.44 Petition to this Court and this Court's Scheduling Order dated January 16, 2009 in the above-captioned matter, on the 23rd day of January, 2009 at 9:00 a.m., or as soon thereafter as the parties may be heard, Petitioners Dennis Peterson, et. al. ("Petitioners"), through their attorneys, Lockridge Grindal Nauen P.L.L.P., will move, and hereby move, this Court, the Honorable Elizabeth A. Hayden, the

Honorable Kurt J. Marben, and the Honorable Denise D. Reilly, presiding, at the Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Boulevard, St. Paul, State of Minnesota, for the entry of an order granting summary judgment in their favor pursuant to Rule 56 of the Minnesota Rules of Civil Procedure.

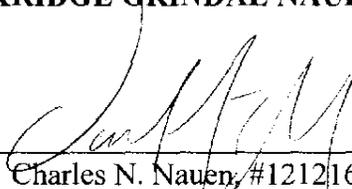
Petitioners respectfully request this Court grant judgment as a matter of law in their favor as follows:

1. Directing that Petitioners' absentee ballots shall be opened and counted immediately, and the total be declared and certified, for such use as might be appropriate by the United States Senate, this Court in the above-captioned matter, or any other proper use under law; and
2. Granting Petitioners such other relief as the Court deems just and appropriate.

Date: January 22, 2009

**LOCKRIDGE GRINDAL NAUEN P.L.L.P.**

By: \_\_\_\_\_

  
Charles N. Nauen, #121216  
William A. Gengler, #210626  
David J. Zoll, #0330681

100 Washington Avenue South, Suite 2200  
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**ATTORNEYS FOR PETITIONERS**

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

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

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Respondents.

**PETITIONERS' AFFIDAVIT OF SERVICE**

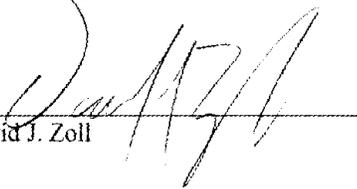
STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF HENNEPIN )

David J. Zoll, being first duly sworn, on oath deposes and states that on the 22<sup>nd</sup> day of January, 2009, he served by E-Mail, copies of the attached:

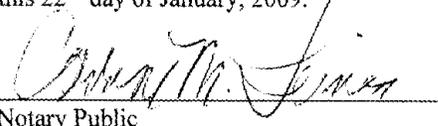
1. Declaration of Shirley VanDyck (corresponds to Exhibit 5 and Paragraph 11 of the Affidavit of Charles N. Nauen filed on January 21, 2009);
2. Declaration of Marilyn Borgen (corresponds to Exhibit 26 and Paragraph 32 of the Affidavit of Charles N. Nauen filed on January 21, 2009); and

3. Petitioners' Amended Notice of Motion.

Upon the parties on the attached list at the addresses therein stated.

  
\_\_\_\_\_  
David J. Zoll

Subscribed and sworn to before me  
this 22<sup>nd</sup> day of January, 2009.

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



**COURT FILE NO. 62-CV-09-56**  
**Petitioners' Service List**

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