

STATE OF MINNESOTA
SPECIAL REDISTRICTING PANEL
A11-152

OFFICE OF
APPELLATE COURTS

JUN 4 2012

FILED

Sara Hippert, Dave Greer, Linda Markowitz, Dee Dee Larson, Ben Maas, Gregg Peppin, Randy Penrod and Charles Roulet, individually and on behalf of all citizens and voting residents of Minnesota similarly situated,

**WRIGHT COUNTY AUDITOR
ROBERT HIIVALA'S
MEMORANDUM IN OPPOSITION TO
MOTION FOR ATTORNEY FEES
FROM THE HIPPERT PLAINTIFFS
AND MARTIN INTERVENORS.**

Petitioners,

and

Kenneth Martin, Lynn Wilson, Timothy O'Brien, Irene Peralez, Josie Johnson, Jane Krentz, Mark Altenburg, and Debra Hasskamp, individually and on behalf of all citizens of Minnesota Similarly situated,

Plaintiff Intervenors,

and

Audrey Britton, David Bly, Cary Coop, and John McIntosh, Individually and on behalf of all citizens of Minnesota Similarly situated,

Plaintiff Intervenors,

vs.

Mark Ritchie, Secretary of State of Minnesota; and Robert Hiivala, Wright County Auditor, individually and on behalf of all Minnesota County Chief Election Officers,

Respondents/Defendants.

This memorandum is being submitted in opposition to the attorney fee requests made by the Hippert Plaintiffs and the Martin Intervenors. The Britton Intervenors specifically omitted Defendant Robert Hiivala from their request for attorney fees and as such Defendant Hiivala does not take a position with regards to their motion and application for costs.

I. DEFENDANT ROBERT HIIVALA AGREES WITH THE ARGUMENTS PRESENTED BY THE SECRETARY RITCHIE.

Defendant Robert Hiivala agrees with and adopts the arguments presented by the Secretary of State in opposing the motions presented by the Hippert Plaintiffs and the Martin Intervenors. In an effort to minimize duplication of the arguments Defendant Hiivala incorporates those arguments related to the Hippert Plaintiffs and the Martin Intervenors herein by reference.

II. IF ATTORNEY FEES ARE AWARDED THE COURT SHOULD ONLY, IN THE INTEREST OF JUSTICE AND EQUITY, ASSESS THE FEES UPON THE SECRETARY OF STATE.

Defendant Hiivala to the extent this court allows attorney fees would request, in the interests of justice and equity, that the fees only be imposed on the Secretary of State. The Court's work on this file has created a benefit for all of the citizens in Minnesota not just those people living in Wright County, and assessing these fees on Wright County would create an unjust result for the citizens in Wright County.

The 2010 U.S. Census reported that the State of Minnesota has a population of 5,303,925 people. Wright County had a population of 124,700 people or about 2 percent of the entire population of the State of Minnesota. If this Court imposes the fees requested by the Hippert and Martin parties Wright County would be required to pay up to \$538,116.51 in costs and fees. This is an unreasonable amount to impose on such a small segment of the population of Minnesota. The costs of this case, if any are imposed, should be assessed to all citizens and not just those located in Wright County. Wright County was brought into this case as a nominal party and only for purposes of ensuring that any order issued by the Court could be imposed on all County Auditors across the State.

Wright County, while being very fiscally prudent does not have unlimited reserves. Unlike the State of Minnesota, Wright County is not able to impose taxes on income. Wright County receives a majority of its funding from its local property tax levy. County funding sources also include a mixture of federal and state sources but these funds are generally earmarked to specific programs or projects.

If the full amount of these fees are entered as a judgment against Defendant Hiivala the Wright County property tax levy would have to be increased by 1.06%. *Aff. R. Hiivala* ¶ 6 (June 1, 2012). Additionally, if this Court imposes an attorney fee judgment upon the citizens of Wright County it could have a negative impact on our bond ratings with Standard & Poors and Moody's. This negative impact would result in higher bonding costs and higher property tax costs over the next several years.

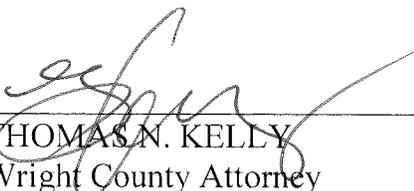
CONCLUSION

The interest of justice and equity require this court to impose these attorney fees on all persons living in the State of Minnesota. The only way to equitably distribute these fees is to impose them only on the Secretary of State as his budget is set by the legislature with an allocation from the State's general fund. The results produced by this Court have benefited everyone in Minnesota not just those people living in Wright County. Imposing this fee on Wright County would have a significant impact on our property tax levy and it could have a negative impact on our bond rating. As such, Defendant Robert Hiivala in the interests of justice and equity requests that this court, if it is going to impose a fee award, only impose it on the Secretary of State.

Respectfully Submitted,

THOMAS N. KELLY, COUNTY ATTORNEY
WRIGHT COUNTY, MINNESOTA

Date: June 1, 2012



THOMAS N. KELLY
Wright County Attorney
Attorney Reg. No.: 150241

GREG T. KRYZER
Assistant Wright County Attorney
Attorney Reg. No.: 346512

Wright County Government Center
10 2nd Street N.W.
Suite 400
Buffalo, MN 55313
Telephone (763) 682-7340
Facsimile (763) 682-7700

STATE OF MINNESOTA
SPECIAL REDISTRICTING PANEL
A11-152

OFFICE OF
APPELLATE COURTS

JUN 4 2012

FILED

Sara Hippert, Dave Greer, Linda Markowitz, Dee Dee Larson, Ben Maas, Gregg Peppin, Randy Penrod and Charles Roulet, individually and on behalf of all citizens and voting residents of Minnesota similarly situated,

**AFFIDAVIT OF
WRIGHT COUNTY
AUDITOR/TREASURER
ROBERT J. HIIVALA**

Petitioners,

and

Kenneth Martin, Lynn Wilson, Timothy O'Brien, Irene Peralez, Josie Johnson, Jane Krentz, Mark Altenburg, and Debra Hasskamp, individually and on behalf of all citizens of Minnesota Similarly situated,

Plaintiff Intervenors,

and

Audrey Britton, David Bly, Cary Coop, and John McIntosh, Individually and on behalf of all citizens of Minnesota Similarly situated,

Plaintiff Intervenors,

vs.

Mark Ritchie, Secretary of State of Minnesota; and Robert Hiivala, Wright County Auditor, individually and on behalf of all Minnesota County Chief Election Officers,

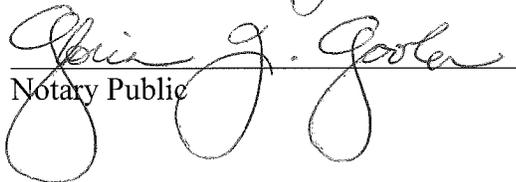
Respondents/Defendants.

FURTHER YOUR AFFIANT SAYTH NOT.



Robert J. Hiivala

Signed and Subscribed to before me
this 1st day of June, 2012



Notary Public

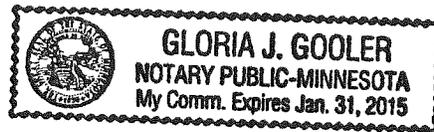


EXHIBIT A

**BOARD OF COUNTY COMMISSIONERS
WRIGHT COUNTY, MINNESOTA**

Date: December 13, 2011 Resolution No. 11-53
 Motion by Commissioner Eichelberg Seconded by Commissioner Thelen

RESOLUTION

BE IT RESOLVED that the Wright County Board of Commissioners hereby establishes the 2012 Budget as follows:

GENERAL REVENUE	\$ 50,782,771
ROAD & BRIDGE	18,253,905
HUMAN SERVICES	23,704,100
DEBT SERVICE	7,427,924
LAKE PULASKI L.I.D.	35,000
MINK-SOMERS L.I.D.	<u>13,420</u>
TOTAL BUDGET	\$100,217,120

BE IT FURTHER RESOLVED that the Wright County Board of Commissioners hereby establishes the 2012 Certified Taxable Levy as follows:

<u>BUDGET</u>	<u>AMOUNT</u>
GENERAL REVENUE	\$24,692,972
ROAD AND BRIDGE	\$ 7,542,864
HUMAN SERVICES	<u>\$ 9,107,500</u>
 SUB-TOTAL	\$41,343,336
LESS: COUNTY PROGRAM AID	-\$ 3,354,458
NET TAXABLE LEVY	\$37,988,878
PLUS SPECIAL LEVIES:	
CORRECTIONS	\$ 6,498,197
DEBT SERVICE	\$ 7,427,924
MATCHING REQUIREMENTS	\$ 406,600
LAKE PULASKI LID	\$ 35,000
MINK-SOMERS LID	<u>\$ 13,420</u>
 SUB-TOTAL:	\$52,370,019
LESS: UNFILLED VACANCIES	- \$ 500,000
TRANSFER FROM RESERVES	- <u>\$1,296,000</u>
TOTAL CERTIFIED TAXABLE LEVY	\$ 50,574,019

	YES		NO
THELEN	<u> X </u>	THELEN	_____
SAWATZKE	<u> X </u>	SAWATZKE	_____
RUSSEK	<u> X </u>	RUSSEK	_____
EICHELBERG	<u> X </u>	EICHELBERG	_____
MATTSON	<u> X </u>	MATTSON	_____

STATE OF MINNESOTA)

County of Wright) ss.

I, Richard Norman, duly appointed, qualified, and acting Clerk to the County Board for the County of Wright, State of Minnesota, do hereby certify that I have compared the forgoing copy of a resolution or motion with the original minutes of the proceedings of the Board of Commissioners, Wright County, Minnesota, at their session held on the 13th of December, 2011, now on file in my office, and have found the same to be true and correct copy thereof.

Witness my hand and official seal at Buffalo, Minnesota, this 13th day of December, 2011

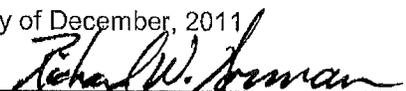

 County Coordinator

EXHIBIT B

Moffsoft FreeCalc
Tape

538,116.51
50,574,019.00 ÷

0.010640176925627 =

Date: 6/1/2012
Time: 10:14:50 AM

www.moffsoft.com

Tony P. Trimble
Matthew W. Haapoja
Trimble & Associates, Ltd.
10201 Wayzata Boulevard, Suite 130
Minneapolis, MN 55305
trimblelegals@earthlink.net
mwhaapoja@aol.com

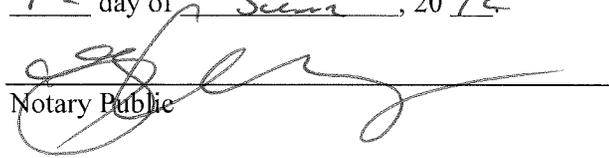
Weinblatt & Gaylord
Suite 300 Kellogg Square
111 East Kellogg Blvd.
Saint Paul, MN 55101
alan@weglaw.com
jay@weglaw.com

Eric J. Magnuson
Elizabeth Brama
Michael Wilhelm
Briggs & Morgan
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402
MWilhelm@Briggs.com
emagnuson@briggs.com
EBrama@Briggs.com

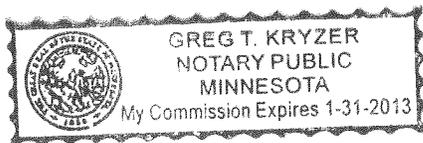


Kristi L. Chrissis

Subscribed and sworn to before me this
1st day of June, 20 12



Notary Public





**OFFICE OF
WRIGHT COUNTY ATTORNEY
Thomas N. Kelly**

Wright County Government Center
10 2nd Street NW, Room 400
Buffalo, Minnesota 55313-1189

Phone: (763) 682-7340
Toll Free: 1-800-362-3667 Fax: (763) 682-7700

Chief Deputy Attorney
Brian J. Asleson
Chief of Criminal Division
Brian A. Lutes
**Victim/Witness
Assistance Coordinator**
Jenny Paripovich
Paralegal
Michelle Sandquist
Office Manager
Cindy Hohl

Assistants

Anne L. Mohaupt
Terry D. Frazier
Scott M. Sandberg
Mark A. Erickson
Elizabeth M. Larson
Aaron D. Duis
Karen L. Wolff
Shane E. Simonds
Thomera R. Karvel
Kari L. Willis
Greg T. Kryzer
Amy M. Busse

June 1, 2012

OFFICE OF
APPELLATE COURTS

JUN 4 2012

FILED

Bridget Gernander
Clerk of Appellate Courts
305 Minnesota Judicial Center
25 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155-6102

**RE: Sara Hippert, et. al. v. Mark Ritchie, et. al.
Ct. File No.: A11-152**

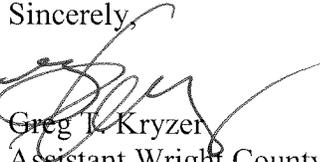
Dear Ms. Gernander:

Enclosed for filing in the above captioned matter, please find an original and nine copies of the following documents:

1. Wright County Auditor Robert Hiiivala's Memorandum in Opposition to Motion for Attorney Fees From the Hippert Plaintiffs and Martin Intervenors.
2. Affidavit of Wright County Auditor/Treasurer Robert J. Hiiivala.
3. Affidavit of Service

By copy of this letter, service by electronic mail and United State Mail is made on Counsel of record.

Sincerely,


Greg T. Kryzer
Assistant Wright County Attorney

Cc: Michael C. Wilhelm
Eric J. Magnuson
Elizabeth M. Brama
Tony Trimble
Matthew W. Haapoja
Alan I. Gilbert
Kristyn Anderson
Alan W. Weinblatt
Jay Benanav
David L. Lillehaug
Christopher A. Stafford
Marc E. Elias
Kevin J. Hamilton
William Stafford
