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ST. PAUL, MINNESOTA

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

PAULA M OVERBY

Case No. 20-cv-2250
(To be assigned by Clerk of District Court)

Plaintiff,

v.

STEVE SIMON, in his official capacity
as Minnesota Secretary of State, and
TIMOTHY WALZ, in his official capacity
as Governor of Minnesota,

DEMAND FOR JURY TRIAL
YES ___ NO X

Defendant.

AMENDED COMPLAINT

PARTIES

1. List your name, address and telephone number. Do the same for any additional plaintiffs.

a. Plaintiff

Name	Paula Mirare Overby
Street Address	836 Cliff Road
County, City	Dakota. Eagan
State & Zip Code	MN 55123
Telephone Number	651-410-0911

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U.S. DISTRICT COURT ST. PAUL

2. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are

identical to those contained in the above caption.

a. Defendant No. 1

Name Steve Simon, as Minnesota Secretary of State
Street Address Secretary of State's Office
100 Rev. Dr. Martin Luther King Jr. Blvd.
County, City Ramsey, St Paul
State & Zip Code MN 55155

b. Defendant No. 2

Name Timothy Walz as Govenor
Street Address Office of Governor Tim Walz & Lt. Governor Peggy Flanagan
130 State Capitol
75 Rev Dr. Martin Luther King Jr. Blvd.
County, City Ramsy, St Paul
State & Zip Code MN 55155

c. Defendant No. 3

Name _____
Street Address _____
County, City _____
State & Zip Code _____

NOTE: IF THERE ARE ADDITIONAL PLAINTIFFS OR DEFENDANTS, PLEASE PROVIDE THEIR NAMES AND ADDRESSES ON A SEPARATE SHEET OF PAPER.

Check here if additional sheets of paper are attached:

Please label the attached sheets of paper to correspond to the appropriate numbered paragraph above (e.g., Additional Defendants 2.d., 2.e., etc.)

JURISDICTION

Federal courts are courts of limited jurisdiction. Generally, two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount of damages is more than \$75,000 is a diversity of citizenship case.

3. What is the basis for federal court jurisdiction? *(check all that apply)*

- Federal Question
- Diversity of Citizenship

4. If the basis for jurisdiction is Federal Question, which Federal Constitutional, statutory or treaty right is at issue? List all that apply.

28 U.S.C. §§ 2201, 2202; 2 U.S.C. § 7; Const. Amend. I and XIV, 42 U.S.C. § 1983

5. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party? Each Plaintiff must be diverse from each Defendant for diversity jurisdiction.

Plaintiff Name: State of Citizenship:

Defendant No. 1: State of Citizenship:

Defendant No. 2: State of Citizenship:

Attach additional sheets of paper as necessary and label this information as paragraph 5.

Check here if additional sheets of paper are attached.

6. What is the basis for venue in the District of Minnesota? *(check all that apply)*

- G Defendant(s) reside in Minnesota**
- G Facts alleged below primarily occurred in Minnesota**
- G Other: explain**

STATEMENT OF THE CLAIM

Describe in the space provided below the basic facts of your claim. The description of facts should include a specific explanation of how, where, and when each of the defendants named in the caption violated the law, and how you were harmed. Each paragraph must be numbered separately, beginning with number 7. Please write each single set of circumstances in a separately numbered paragraph.

7. Amended pursuant to Federal Rule of Procedure 15.

8. This case involves a provision in Minnesota state law that calls for a special election for public office in Minnesota if a major political party candidate nominated to run in a coming election dies after the 79th day before the election. Minn. Stat. § 204B.13 (the “Postponement Provisions” or “Provisions”). The Legal Marijuana Now party (LMNP) candidate passed away on September 21st, invoking this special provision, requiring the secretary of state to register a new candidate for the LMNP and the Governor to issue a writ calling for a special election.

9. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343 because it arises under the Constitution and laws of the United States and involves a federal election.

10. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a substantial part of the events that give rise to Plaintiffs’ claims will occur here and because the Defendant resides in this District.

11. This Court has authority to enter a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

12. The LMNP appointed a new candidate, Plaintiff Paula Overby, to replace Adam Weeks the deceased candidate according to laws of the state of Minnesota but her name has not been placed on the ballot for the Nov 3 general election. That was the process in place in Minnesota prior to the passage of Minn. Stat. § 204B.13 (the “Postponement Provisions”) which allows for a more orderly process. There as been no writ to schedule a special election.

Attach additional sheets of paper as necessary.

Check here if additional sheets of paper are attached:

Please label the attached sheets of paper to as Additional Facts and continue to number the paragraphs consecutively.

REQUEST FOR RELIEF

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking.

a) A declaration that Minnesota may hold a special election as prescribed in Minn.

Stat. § 204B.13

b) Requiring the Governor to issue a writ calling for a special election to be conducted on the second Tuesday in February of 2021 as defined in Minn. Stat. § 204B.13


c) Requiring the Secretary of state to register the candidacy of Paula Overby, dully and lawfully appointed by the Legal Marijuana Party.

d) Awarding Plaintiffs their costs, disbursements, and reasonable attorneys' fees incurred in bringing this action pursuant to any and all applicable laws; and

e) Granting such other and further relief as the Court deems just and proper.

Date: 11/02/2020

Signature of Plaintiff



Paula Overby, Pro se

Mailing Address

835 Cliff Road
Eagan, MN 55123

Telephone Number

651-410-0911

Email

paula.overby@comcast.net

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide his/her mailing address and telephone number. Attach additional sheets of paper as necessary.