STATE OF MINNESOTA
IN SUPREME COURT
Case File No. _____

Tyler Kistner, Gene Rechtzigel, Rich Draheim, Steve Drazkowski, Jeremy Munson, Tim Miller, Calvin Bahr, Erik Mortensen, Dan Hall, Jose W. Jimenez, Sandra A. Jimenez, Tomas Settell, Megan Olson, Leilani Holmstadt, Pam Myhra, Roz Peterson, Lucia Vogel, Jennifer Zielinski, Diane Napper, Alexander Deputie, Charlotte Smith, Fern Smith, Mariah Delapaz, Cynthia Londquist, Lisa Pohlman, Nora L. Felton, Deborah Coxe, Jane L. Volz, Paul Staut, Kathleen Hagen, Janine Kusnierek, Greg Buck, Don Bumgarner, Amy Bruno, and Kathleen Nydegger,

Petitioners,

vs.

Steve Simon, only in his official capacity as the Minnesota Secretary of State and member of the State Canvassing Board, Margaret H. Chutich, only in her official capacity as a member of the State Canvasing Board, Gordon L. Moore, III, only in his official capacity as a member of the State Canvasing Board, Regina Chu, only in her official capacity as a member of the State Canvasing Board, and Christian Sande, only in his official capacity of a member of the State Canvasing Board,

Respondents.

PETITION TO CORRECT ERRORS AND OMISSIONS
Under Minnesota Statute § 204B.44

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A. The PER must be conducted in public and is governed by Minnesota's Open Meeting Law (OML).
B. The requirement that the process be public is meant to ensure the public has total visual and auditory access to the information being reviewed.

IV. The PER must include the votes cast for President or Governor; United States Senator; and United States Representative.

V. The PER must be conducted by postelection review official who may be assisted by election judges designated by the postelection review official for this purpose.
A. Election judge qualifications are statutory.

VI. The PER must comply with the party balance requirement of MN Stat. § 204B.19.

VII. The PER must consist of a manual count of the ballots used in the precincts selected and must be performed in the manner prescribed by MN Stat. § 204C.21.

VIII. The PER must be conducted in the manner provided for recounts under MN Stat. § 204C.361 to the extent practicable.

IX. The Secretary of State shall adopt rules according to the Administrative Procedure Act establishing uniform recount procedures.
A. Each county is required to follow the rules for recounts established by the Secretary of State when completing the PER
B. The rules must be uniform, as applied to voters across the state to avoid violating the equal protection or uniformity clause of the Minnesota Constitution.

X. The Office of the Secretary of State is responsible for maintaining a statewide voter registration system.
A. County officials must uniformly adhere to state law as they engage in process to update the voter database with Change of Addresses, deceased voters, verification of eligibility and same-day registration

XI. Not all persons have the right to vote under Minnesota's Constitution and, therefore, the right may not be presumed
A. Consistent with Article I, Section 2, the restriction on the right to vote is a result of state actions

XII. The Office of the Minnesota Secretary of State initiated the campaign "Investing in Democracy" (IID) to enhance the security of Minnesota's election cybersecurity and to modernize and secure the Statewide Voter Registration System (SVRS).

XIII. The PER Process across the state was fraught with inconsistency, missing information and efforts to exclude the public from engaging on meaningful observation.

XIV. The IID program hired a Cyber Navigator, an expert dedicated to assist counties and local governments with election related cybersecurity.

A. Counties across Minnesota used equipment provided by Dominion Voting Systems, or other electronic systems providers, that connect to the internet, a secure intranet system, or both.

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A. The Secretary of State does not have the authority to use the Judicial system to usurp legislative will.

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INTRODUCTION

The American people have become increasingly polarized along political lines and are now are more visibly and vocally divided than has been apparent in generations. The vitriol and distrust between the people and elected officials of opposing parties has continued to grow for many reasons, which in isolation may not be relevant, but taken in totality create a singular truth: The importance of election integrity and security has never been more important to the stability of our Republic than it is in this moment.

The 2020 elections needed to be above reproach. Funds were provided by the federal government under the CARES Act to support the state's efforts to enhance security. The Secretary of State's duty to prepare the county, city and local officials to fulfill their responsibilities to administer the election is clear. There should never be excuses made for inconsistent, non-secure, and sloppy administration of elections. This year, with such clear stakes, the consequences for mismanagement must be dire.

In addition to the growing political discord, the federal, state and local governments and American citizens have faced unprecedented challenges in 2020 as a result of COVID-19. Sadly, this virus has been used as a wedge to increase the partisan divide. More damaging, Minnesota Democrats have used COVID-19 as a

tool to alter long-standing election law and procedure, after the Republican controlled Senate refused to consent to the changes.

Because the Democrats were unable to secure the elimination of election laws that created barriers to fraudulent voting, Democrat advocacy groups filed multiple lawsuits against Democrat Minnesota Secretary of State Steve Simon. Several of these lawsuits were randomly assigned to a Ramsey County judge who happened to have been the state political director for Democrat Senator Amy Klobuchar. The most consequential of these suits sought to remove the witness requirement for ALL voters because a small number of voters feared having physical contact with a person to witness the ballot. Consequently, the Democrats entered into an overly broad stipulated settlement agreement limited to the August 11 primary election, approved by the assigned judge, on June 17, 2020, to waive the witness requirement on all absentee ballots, thus allowing anyone who intercepted an absentee ballot to return it without fear of rejection. On August 3, a second agreement was entered into and approved without legislative oversight or consideration: The agreement was extended to include the general election on November 3, 2020.

In 2016, there were 674,566 accepted Absentee & Mail-in ballots. Each of these were properly witnessed. In 2020, there were 1,909, 277 accepted Absentee & Mail Ballots, none requiring a witness. This sudden, massive increase in Absentee and Mail ballots altered the election process and adversely impacted the ability of

the canvassing boards and Secretary of State to complete their duties in a manner that maintained voter trust and election integrity.

While Minnesotans watched people riot and protest without consequence, they were warned voting in person would be dangerous. They were told they could go to restaurants and bars but they should mail in their vote to avoid getting sick. People were told they could wear masks and socially distance and safely go to grocery and retail stores but voting in person was dangerous.

Minnesota state officials intentionally created a campaign to increase early voting. These same officials had a responsibility to ensure the safeguards that existed at the polling places would be present at the ballot boards. These officials had an obligation to ensure the county ballot boards were aware of and followed Minnesota election laws and rules. These officials were responsible to ensure that the PER completed by each county follow uniform procedures.

State officials failed Minnesota voters.

In the past two weeks, the entire world has been following the news about the alleged tampering with Dominion voting machines. Minnesota has many areas that use these machines. There are many examples of similar vote count anomalies in Minnesota as well as issues with systems being down or experiencing unexplained "glitches" during the night allowing for the alteration of vote counts.

Minnesota candidates for office and voters have come forward with affidavits detailing concerns and observations about the ignored and failed election processes in counties across the state. There are issues related to procedure, observer and election judge access, voter intimidation, lost ballots, lost Absentee envelopes, missing election materials and questionable ballots. There are concerns about voting equipment transmitting results during the early counting period and on election day.

Minnesota voters, regardless of party affiliation, have the right to know election results are accurate. Minnesota citizens attempted to participate in the PER, hoping to learn our voting system was secure. They saw the opposite- our voting system has crashed in many areas of the state.

If this Court does not take action to prevent the certification of the Minnesota election until a complete, bi-partisan statewide audit of the election occurs, including election materials, occurs, our election system, and the trust of the voters, will be irreparably harmed.

ISSUES PRESENTED

I

The PER is performed in public to allow the county auditor, in view of the public, to confirm the election conformed to the state's election laws and rules and that the results recorded are valid. Following the PER, the county auditor reports the results to the county canvassing board for certification if there are no fatal findings.

> Whether the county auditor and county canvassing boards have the absolute discretion to ignore state law and rules during the election process and when completing the PER. Whether the PER is merely a rubberstamp process with only one outcome possible or a legitimate inquiry into the validity of the elections held across a county. Whether the county canvassing board engages in any oversight of the county auditor prior to certifying the election results. Whether canvassing boards have a statutory duty to ensure the laws were followed and the elections results presented are valid before being certified.

II

The Minnesota Secretary of State has a statutory duty to ensure election laws are implemented and enforced in a uniform manner across the state to ensure voters are treated equally under the law.

> Whether the Secretary of State can engage in broad rewriting of election law through partisan litigation after the legislature has declined to act on his recommendations. Whether the Secretary of State has a duty to update regulations and election information, including technology used throughout the state. Whether the Secretary of State must provide clear guidance about the processes that must be followed by the county canvassing boards, including those related to the PER, across the state to ensure that each county completes the PER using uniform standards. Whether the Secretary of State has a duty to intervene when a county is failing to comply with election law. Whether election results that cannot be publicly verified because of systemic, disparate treatment of voters across the state must not be certified until a full audit, in compliance with Minnesota election law, has been completed.

RELIEF REQUESTED

Petitioners seek an immediate temporary restraining order (TRO) enjoining the 2020 State Canvassing Board from certifying the November 3, 2020 election.

This petition seeks relief under Minnesota Statute § 204.B.44, subd. (a)(4) against the Secretary of State and the Minnesota State Canvassing Board, who are charged with canvassing and certifying the results of all statewide elections, including state and federal offices, state constitutional amendment ballot questions, and state legislative and judicial offices that overlap more than one county, and who will likely certify county canvassing reports that certified election results that have not yet been subject to a Postelection Review that fully complies with Minnesota Election law, are fraudulent and include ballots that cannot be verified.

Petitioners seek an injunction against the Secretary of State and the Minnesota State Canvassing Board requiring them to:

- Ensure every county has completed a PER in full compliance with MN Stat. §206.89;
- Ensure every county complied with MN Stat. 13D.01 so the public has full access to the PER process;
    - The public and monitors designated by the Republican Party and other major parties have the right to be present to meaningfully observe all aspects of the PER, including but not limited to, the transfer and receipt of the ballots, the tapes from the voting machines, the entry of tabulation of the resulting vote counts, the

absentee envelopes and absentee certifications; the information gathered by the ballot boards during the 45 days leading up to November 3, 2020;

- The Petitioners, the Republican Party and the other major parties receive at least 24 hours notice prior to any election activity;

- Ensure every county has retained possession of ALL required election materials, including the outer envelopes, as required under Minnesota election law;

And Order

- The 87 County Canvassing Boards to complete a full canvass of all of the elections, including the down ballot races for state candidates, in their jurisdiction

- The PER to include all election materials in the canvass, including data from all machines used to count ballots

- The review of all ballots cast in Minnesota be read by two persons agreed to by Petitioners, or an identified proxy, and the other major parties, with said readings being overseen by Republican Party-designated monitors any others so designated by the Court; and

- Every table used for PER be video-streamed with audio or be available for viewing online; and

- The Plaintiffs and the Republican Party be provided with the opportunity to confirm, in person, the existence of all ballot envelopes; to observe a complete count of the outer envelopes and to verify postmarks on those envelopes; to compare voter signatures on outer envelopes, voter registration documents, and requests for absentee ballots or other voting records as necessary; to observe all items mentioned previously and any other election materials in the possession of the Secretary of State and/or any Minnesota County, City, Township or their agents.

PARTIES

PETITIONERS

1. **Tyler Kistner** ran for office for the U.S. Representative seat in Minnesota Congressional District 2 in the November 3, 2020 election.

2. **Gene Rechtzigel** ran for office for the U.S. Representative seat in Minnesota Congressional District 4 in the November 3, 2020 election.

3. **Senator Rich Draheim** ran for reelection for the State Senate seat in District 20 in the November 3, 2020 election and resumes office on January 5, 2021. He has served in this capacity since 2017.

4. **Representative Steve Drazkowski** ran for reelection in for the State House seat in District 21B in the November 3, 2020 election and resumes office on January 5, 2021. He has served in this capacity since 2007.

5. **Representative Jeremy Munson** ran for reelection for the State House seat in District 23B in the November 3, 2020 election and resumes office on January 5, 2021. He has served in this capacity since 2018.

6. **Representative Tim Miller** ran for reelection for the State House seat in District 17A in the November 3, 2020 election and resumes office on January 5, 2021. He has served in this capacity since 2015.

7. **Representative Calvin Bahr** ran for reelection for the State House seat in District 31B and resumes office on January 5, 2021. He has served in this capacity since 2017.

8. **Representative Erik Mortensen** ran for the State House seat in District 23B in the November 3, 2020 election and assumes office on January 5, 2021.

9. **Senator Dan Hall** ran for reelection for the State Senate seat in District 56 in the November 3, 2020 election. He has served in this capacity since 2011 and his term ends on January 4, 2021.

10. **Jose W. Jimenez** ran for office for the State Senate seat in District 57 in the November 3, 2020 election.

11. **Sandra A. Jimenez** ran for office or the State House seat in District 57B in the November 3, 2020 election.

12. **Tomas Settell** ran for office for the State Senate seat in District 52 in the November 3, 2020 election.

13. **Megan Olson** ran for office for the State House seat in District 57A in the November 3, 2020 election.

14. **Leilani Holmstadt** ran for office for the State Senate seat in District 54 in the November 3, 2020 election.

15. **Pam Myhra** ran for office for the State House seat in District 56A in the November 3, 2020 election.

16. **Roz Peterson** ran for office for the State House seat in District 56B in the November 3, 2020 election.

17. **Lucia Vogel** ran for office for the State Senate seat in District 41 in the November 3, 2020 election.

18. **Jennifer Zielinski** ran for office for the State Senate seat in District 61 in the November 3, 2020 election.

19. **Diane Napper** ran for office for the State Senate seat in District 63 in the November 3, 2020 election.

20. **Alexander Deputie** ran for office for the State Senate seat in District 67 in the November 3, 2020 election.

21. **Charlotte Smith** ran for office for the State House seat in District 40B in the November 3, 2020 election.

22. **Fern Smith** ran for office for the State House seat in District 51B in the November 3, 2020 election.

23. **Mariah Delapaz** ran for office for the State House seat in District 52A in the November 3, 2020 election.

24. **Cynthia Londquist** ran for office for the State House seat in District 52B in the November 3, 2020 election.

25. **Lisa Pohlman** ran for the State House seat in District 61B in the November 3, 2020 election.

26. **Nora L. Felton, Deborah Coxe, Jane L. Volz, Paul Staut, Kathleen Hagen, Janine Kusnierek, Greg Buck, Don Bumgarner, Amy Bruno, and Kathleen Nydegger**, are private adult citizens who are registered to vote in Minnesota and participated in the voting process in the November 3, 2020 election. As registered voters and residents of the State of Minnesota, these Petitioners have standing to bring this action.

RESPONDENTS

27. **Minnesota Secretary of State Steve Simon** is a constitutional executive officer sued only in his official capacity. As the chief elections official in Minnesota, the Secretary of State partners up with local election professionals to administer elections and adopt rules to administer elections. The Secretary acts on behalf of the State of Minnesota in exercising his duties regarding federal, state, county, and local elections, promulgating and exercising and executing elections laws within the State. The election process includes the registration process for persons seeking to vote in any election within the State. The Secretary is the statewide election officer responsible for the policies relating to the conduct of elections within the State. Duties of the office also include that "the Secretary of State shall prepare and publish a volume containing all state general laws relating to

elections. The attorney general shall provide annotations to the Secretary of State for this volume. The Secretary of State may prepare and transmit to the county auditors and municipal clerks detailed written instructions for complying with election laws relating to the conduct of elections, conduct of voter registration and voting procedures."[1]

The Secretary of State is responsible for defining, maintaining, and administering the permanent, centralized, interactive, computerized statewide voter registration list of every legally registered voter in the state and is charged with assigning a unique identifier to each legally registered voter in the state.[2] The Secretary of State makes permanent rules necessary to administer the voter registration system.[3]

The Secretary is the statewide election officer responsible for the policies relating to the conduct of elections within the State. The Secretary's office continually receives information from other governmental entities or agencies, departments, and the judiciary regarding a person's citizenship status, whether a felon or if the felon has had his or her civil rights restored, of if a person has otherwise lost their right to vote by court order. Likewise, the Secretary of State

[1] Minn. Stat. § 204B.27
[2] Minn. Stat. § 201.021.
[3] Minn. Stat. § 201.022, subd. 2.

provides the defendant counties with information regarding the eligibility of persons to vote.[4]

The Secretary is also a member of the 2020 State Canvassing Board.

28. **Margaret H. Chutich** is an Associate Justice of the Minnesota Supreme Court and a member of the 2020 State Canvasing Board. She is sued only in her official capacity as a member of the State Canvassing Board.

29. **Gordon L. Moore, III**, is an Associate Justice of the Minnesota Supreme Court and a member of the 2020 State Canvasing Board. He is sued only in his official capacity as a member of the State Canvassing Board.

30. **Regina Chu** is a Judge in the Fourth Judicial District Court and a member of the 2020 State Canvassing Board. She is sued only in her official capacity as a member of the State Canvassing Board.

31. **Christian Sande** is a Judge in the Fourth Judicial District and a member of the 2020 Canvassing Board. He is sued only in his official capacity as a member of the State Canvasing Board.

[4] See Minn. Stat.§§ 201.13, 201.15, 201.155, 201.157, and 201.158.

JURISDICTION

I. The Supreme Court has proper jurisdiction to issue injunctive relief under Minnesota Statute § 204B.44.

1. The court's jurisdiction is proper under Minnesota Statute § 204B.44, governing election errors and omissions.

2. Minnesota Statute § 204B.44 (a)(4) governing errors and omissions states that any individual may file a petition in the manner provided in this section for the correction of any wrongful act, omission, or error of any election judge, municipal clerk, county auditor, canvassing board or any of its members, the Secretary of State, or any other individual charged with any duty concerning an election. The Court has subject matter jurisdiction because of the power of the Court to "hear and determine cases that are presented to the court."[5] The court's authority to hear and determine a case depends upon the claims made.[6]

3. The Petitioners argue the wrongful acts of state and county election officials and election judges, who are charged with the responsibility to safeguard our entire election process, undermined those processes and engaged in conduct before the elections, throughout the election period and during the postelection

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[5] *State v. Losh,* 755 N.W.2d 736, 739 (Minn. 2008).

[6] *See Robinette v. Price*, 214 Minn. 521, 526, 8 N.W.2d 800, 804 (1943) (describing our jurisdiction as the authority to "hear and determine a particular class of actions" (emphasis added)). *League of Women Voters Minnesota v. Ritchie*, 819 N.W.2d 636,643 (Minn. 2012).

review which, at a minimum, calls into question the accuracy of the results and more likely alters the results of races across the state. The egregious conduct of the state officials and county canvassers requires the Court to intercede. The circumstances of the 2020 general election require the entire statewide election to be reviewed in a bi-partisan manner.

4. Original jurisdiction exists because this petition relates to a duty breached by state and county officials in relation to a specific election.[7]

5. This petition does not challenge an election law properly passed by the legislature, but rather the failures of state and county officials to enforce the law in this specific election and a stipulated settlement agreement made between Democrat activists, the Democrat Secretary of State and a well-connected political staffer who became a district court judge to alter the law for the 2020 general election.[8]

6. Because of the extreme political division in the state, the public interest in ensuring the fairness and integrity of this Minnesota election is exceptionally high. This division supports the need for the Court to exercise original jurisdiction over this petition.

II. The legislature has granted standing under Minnesota Statute § 204B.44 to "any individual" which is inclusive of the Petitioners.

[7] *Clark v. Pawlenty,* 755 N.W.2d 293, 299 (Minn.2008).
[8] *Minn. Majority*, No. A09-0950, Order at 1, 5.

7. The Petitioners have standing.

8. Minnesota Statute § 204B.44 provides that "[a]ny individual may file a petition in the manner provided in this section for the correction of any of the following errors, omissions, or wrongful acts which have occurred or are about to occur." This statutory provision constitutes a legislative grant of standing, making the individual petitioners proper parties to this lawsuit.

FACTUAL BACKGROUND

I. The State Canvassing Board will meet on Tuesday, November 24, 2020, the third Tuesday following the general election held November 3, 2020 with the intention of certifying Minnesota's election results.

A. The 5 members of the state canvassing board will compile a report using the reported results of the 87 county canvassing boards and certify the correctness of the statewide results.

9. The state canvassing board meets in public to create the statewide report.

10. The statewide canvassing board has a duty to ensure the veracity before it certifies the correctness of the report.

II. County Auditors must perform a "postelection review" (PER) of the state general election.

A. The county canvassing boards must meet between the third and tenth days following the general election and select the required number of precincts to be reviewed, by lot

11. Minnesota Statute § 204C.33 requires each county canvassing board to set the date time and location of the PER at its canvass of the state primary.

12. Minnesota Statute § 206.89 Subd. 2 requires the county canvassing board to select, by lot, the required number of precincts to be reviewed at its canvass following the general election.

13. Selecting the precincts by lot gives the appearance of randomness so as to add credibility to the process.

B. The county auditor must notify the Secretary of State of the precincts that have been chosen for review and the time and place the postelection review for that county will be conducted, as soon as the decisions are made.

14. As soon as the canvassing board determines the location, date and time of the PER and the selected precincts, the Secretary of State must be notified. This notice allows voters the opportunity to participate in the PER process by properly observing the county boards review of the election results to ensure the law was followed.

III. The Secretary of State must post the date, time and location of the PER in each county, as well as the precincts to be reviewed, on the office website as soon as received.

A. The PER must be conducted in public and is governed by Minnesota's Open Meeting Law (OML).

15. The PERs are governed by the OML in MN Stat. 13D.01 requires all meetings, including executive sessions, must be open to the public when the meetings are required by law to transact public business.

16. The public's right to be informed about the events occurring in the meeting will be weighed against the governments interest in closing the meeting to the public.[9]

17. The law will be liberally construed to protect the public's right to full access to the decision-making process of public bodies governed by statute.[10]

18. The purpose of the OML is to assure public's right to information, and give public opportunity to express its views. [11]

B. The requirement a process be public is meant to ensure the public has total visual and auditory access to the information being reviewed

19. The public have the right to tape record proceedings of **meetings** where such transcription will not have a significantly adverse effect on the order of the proceedings or impinge on constitutionally protected rights and neither the public body nor any member thereof may prohibit dissemination or broadcast of the tapes.[12]

20. The attendees at the PER must be able to view the process in a manner that allows them to see and hear the information being verified. If they are not given adequate access, there is no point to the process.

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[9] Berglund v. City of Maplewood, MN, D.Minn.2001, 173 F.Supp.2d 935, affirmed 50 Fed.Appx. 805, 2002 WL 31609767, certiorari denied 123 S.Ct. 2655, 539 U.S. 965, 156 L.Ed.2d 667.

[10] *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 1983, 332 N.W.2d 1.

[11] *Mankato Free Press Co. v. City of North Mankato,* App.1997, 563 N.W.2d 291.

[12] *Op.Atty.Gen*. 63a-5, Dec. 4, 1972.

IV. The PER must include the votes cast for President or Governor; United States Senator; and United States Representative.

21. The PER may include review of votes cast for down ticket candidates.

V. The PER must be conducted by postelection review official who may be assisted by election judges designated by the postelection review official for this purpose.

A. Election judge qualifications are statutory.

22. Election judges used in the PER must be properly trained.

23. MN Stat. § 204B.25 requires election judges be trained in accordance with the rules established by the Secretary of State.

24. To serve as an election judge, a person must successfully complete a basic training course that meets the requirements of MN Stat. § 8240.1600.

VI. The PER must comply with the party balance requirement of MN Stat. § 204B.19.

25. No more than half of the election judges in a precinct may be members of the same major political party unless the election board consists of an odd number of election judges, in which case the number of election judges who are members of the same major political party may be one more than half the number of election judges in that precinct.

VII. The PER must consist of a manual count of the ballots used in the precincts selected and must be performed in the manner provided by MN Stat. § 204C.21.

26. The PER requires the public be allowed to observe the counting of the ballots to confirm the process as required by statute is being followed.

VIII. The PER must be conducted in the manner provided for recounts under MN Stat. § 204C.361 to the extent practicable.

27. The Secretary of State must adopt rules according to the Administrative Procedure Act establishing uniform recount procedures.

28. MN Stat. § 8235.0800 establishes that ballots must be segregated by precinct and returned to sealed containers according to precinct when not being counted to maintain the segregation of ballots by precinct.

IX. The Secretary of State shall adopt rules according to the Administrative Procedure Act establishing uniform recount procedures.

A. Each county is required to follow the rules for recounts established by the Secretary of State when completing the PER.

29. The purposes of the Administrative Procedure Act include increasing public accountability of administrative agencies, ensuring a uniform minimum procedure and increasing public access to government information.

30. The intention of the Administrative Procedure Act is to create a more efficient, economical and effective government administration.

31. The Administrative Procedure Act provides a means for oversight of powers and duties delegated to administrative agencies.

B. The rules must be uniform, as applied to voters across the state to avoid violating the equal protection or uniformity clause of the Minnesota Constitution.

32. State action is necessary to trigger equal protection analysis.[13]

33. Regardless of whether the right to vote is explicitly stated or its existence is implied, the right to vote is considered fundamental under both the U.S. Constitution and the Minnesota Constitution.[14]

34. The unequal application of a statute to those entitled to equal treatment is not a denial of equal protection unless intentional or purposeful discrimination is shown.[15]

35. The waiving of election law and rules to allow for votes to be cast, without any safeguards to prevent a third party from casting an illegal vote, is intentionally overbroad and is meant to encourage conduct that violates the law and could influence an election.

X. The Office of the Secretary of State is responsible for maintaining a statewide voter registration system.

A. County officials must uniformly adhere to state law as they engage in a process to update the voter database with regards to change of addresses,

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[13] *Claude v. Collins, App.1993, 507 N.W.2d 452*, review granted, reversed 518 N.W.2d 836.

[14] *Kahn v Griffen***,** 701 N.W.2d 815.

[15] *Matter of Griepentrog*, App.2016, 888 N.W.2d 478.

deceased voters, verification of eligibility and same-day registration.

36. The witness requirement on absentee ballots has long been a check on absentee ballots to ensure the voter is both a living voter who resides at the address used on the registration and is in fact the person who cast the ballot.

37. The November 2020 election saw an unprecedented number of Absentee and Mail in votes: just over 675,000 ballots accepted in 2016 and nearly 1.9 million in 2020.

38. The regular and accurate purging of ineligible, deceased and fraudulent voters, by county and state officials, is necessary to protect election integrity.

XI. Not all persons have the right to vote under Minnesota's Constitution and, therefore, the right may not be presumed.

A. Consistent with Article I, Section 2, the restriction on the right to vote is a result of state actions.

39. Persons under guardianship, felons and people determined to be legally incompetent may not be eligible to vote.

40. Minnesota laws prevent virtually all challenges to a voter registration.

41. The Secretary of State must have thorough security measure in place to identify fraudulent addresses, deceased voters, fraudulent names, voters registered at duplicate addresses in in multiple states, voters using maiden and married names for example.

42. Knowingly submitting a false voter registration, attempting to register to a false voter, or aiding and abetting in those efforts is a felony.

43. The executive branch has the authority to prosecute of voter fraud.

44. The Federal Constitution confers the authority to make rules regarding federal elections on the state legislature, not the judicial or the executive branch.[16]

45. Over the past several election cycles, state officials have increasingly encouraged voters to cast ballots Absentee or by Mail and there is has been an increasing number of these voters in every election cycle.

46. In late Winter/ early Spring 2020, the COVID-19 virus led to the MN Secretary of State pushing for mandatory Mail-In voting. The Legislature rejected his proposal.

47. Democrat activists sued the Secretary of State seeking the waiving of the witness requirement on all Absentee and Mail ballots due to COVID-19. The plaintiffs argued it was too dangerous to have a witness sign the ballot form.

48. The Secretary of State entered into two stipulated settlement agreements to waive the witness requirement- one dated June 17, 2020 waived the witness requirement for the August 2020 primary and the second dated August 3, 2020 waived the witness requirement for the November 3, 2020 general election.

[16] *Republican Party of Pennsylvania v. Boockvar*, 20-542, 2020 WL 6304626 (U.S. Oct. 28, 2020).

49. The Secretary of State claims there are 4,118,462 Minnesotans eligible to vote and 3,589,653 were registered to vote at 7am on election day.

50. 87% of eligible Minnesotans were registered to vote before 11/3/2020.

51. Approximately 90% of MN registered voters cast ballots in the general election in 2020.

52. Absentee and Mail-In voters cast 9% of ballots in 2012 and 23% of ballots in 2016. They were witnessed.

53. Absentee and Mail-In ballots accounted for nearly 60% of the 2020 ballots in MN. The witness requirement was removed so these ballots were not witnessed.

XII. The Office of the Minnesota Secretary of State announced the campaign "Investing in Democracy" (IID) to enhance security Minnesota's election cybersecurity and to modernize and secure the Statewide Voter Registration System (SVRS).

54. There are examples of Absentee Ballots being mailed to addresses across Minnesota despite the fact the voter does not live at that residence.

55. There are state and national concerns about the use of technology, including internet and intranet communications, undermining the security of elections.

56. There is evidence the electronic communications were compromised on more than one occasion during the counting of ballots cast in the general election.

57. There is the possibility the high-speed scanners and related software could have been accessed directly to alter voting totals in Minnesota.

XIII. The PER Process across the state was fraught with inconsistency, missing information and efforts to exclude the public from engaging on meaningful observation.

58. The State's PER process was totally inconsistent from one county to the next.

59. The counties had completely different procedures.

60. Some counties used elections judges as required, some did not. It was not clear who the judges were, if they were election judges or simply staff brought in to participate in the process.

61. Numerous affidavits from voters indicate that there was little to no transparency.

A. Ramsey County, without notice, changed its PER date from November 14, 2020, to November 16, 2020. A group of people showed up at the location listed on the Secretary of State website to observe the PER and nobody was there.

B. Hennepin County closed its doors the night before the PER and performed it via YouTube with only one camera. The camera displayed only one precinct without any sound. The images were not clear

enough to This is just a few of the irregularities and lack of transparency in the PER process for the November 3, 2020 election.[17]

62. Dakota County's post-election review hand-written results from the PER do not match the reported results to the Secretary of State.[18] Dakota County also FAILED to separate the Absenteeand Mail-In ballots from the polling place votes.[19] Dakota County failed to follow the rules prescribed by the Secretary of State as follows:

A. Mr. Lokken, Dakota County Elections Director, failed to follow the process and procedures of the Minnesota Secretary of State's post-election review guide as follows:[20]

Page(s)	Section	Description
9-10	7.1.2	Failed to hand-write the blank for office, over/defective for office and totals on the worksheet.
10	7.2	Failed to allow the party balance requirement of Minn. Stat. 204B.19.
11	7.3	Failed to allow public view of the ballots by requiring 6 foot distance from table.

[17] *See* Affidavits of Jane L. Volz, Nora L. Feltman (who witnessed ballots being delivered to the Dakota County PER in a large white purse, brown cardboard boxes, and manilla envelopes, all unsealed); Paul V. Staut, Kathleen Hagen, Kathleen Nydegger, Amy Bruno, Don Bumgarner, and Deborah Coxe.
[18] *See* Affidavit of Jane L. Volz, Exhibits B & C.
[19] *See* Volz Affidavit.
[20] *Id.*

11	7.4	Never really explained the process and the roles of review officials and staff.
11	8	Failed to count absentee/mail ballots separately from polling place ballots--"Polling place ballots and Absentee/Mail Ballots will be counted separately."
16	11.1	Failed to fully explain the differences in the counts.
17	11.2.1	Failed to "input two sets of results into ERS" for polling place results and absentee/mail in ballot votes.
20	11.2.2	Failed to proof the results and actually changed them from the worksheets fill out by the counters for the blank for office and over/under votes and did not explain the differences.
24	Appendix B	Failed to have three election judges to each team and to have election judges sign the post-election review worksheets
MS § 204B.40		Failed to retain post-election review worksheets in violation of rule that all "election materials" be preserved for at least 22 months.

XIV. The IID program hired a Cyber Navigator, an expert dedicated to assist counties and local governments with election related cybersecurity.

A. Counties across Minnesota used equipment provided by Dominion, or other electronic systems providers, that connect to the internet, a secure intranet system, or both.

63. Dominion Voting Systems is currently being investigated because of allegations of election tampering across the United States and in other countries.

XV. The authority to alter Minnesota election law related to federal candidates is vested in the state legislature.

A. The Secretary of State does not have the authority to use the judicial system to usurp legislative will.

64. As noted, the United States Constitution confers the authority to make rules regarding federal elections on the state legislature, not the judicial or the executive branch.[21]

B. The Governor had the authority to call a special session to seek legislative changes to election law related to the pandemic.

65. The MN Governor called 4 special sessions to address the pandemic in June 2020, July 2020, August 2020 and September 2020.

66. The legislature did not waive the witness requirement for Absentee or Mail-In ballots.

C. The United States Supreme Court has indicated support for the position that there is no pandemic exception to the Constitution.

[21] *Republican Party of Pennsylvania v. Boockvar*, 20-542, 2020 WL 6304626 (U.S. Oct. 28, 2020).

67. In a concurrence to deny an application to vacate a stay in *Democratic Nat'l Comm. v. Wisconsin State Legislature,* 20A66, 2020 WL 6275871 (U.S. Oct. 26, 2020), Chief Justice Roberts indicated that state lawmakers have the authority to alter election law, not judges.

68. Justices Gorsuch and Kavanaugh concurred, in the same decision,

> "The **Constitution** provides that state legislatures—not federal judges, not state judges, not state governors, not other state officials—bear primary responsibility for setting election rules. Art. I, § 4, cl. 1. And the **Constitution** provides a second layer of protection too. If state rules need revision, Congress is free to alter them. *Ibid.* ("The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations ... "). Nothing in our founding document contemplates the kind of judicial intervention that took place here, nor is there precedent for it in 230 years of this Court's decisions."

69. In an opinion issued October 29, 2020 a 3- judge panel of the United States Court of Appeals in the Eighth Circuit concluded MN Secretary of State Simon's effort to alter election law related to extending the deadline for receipt of Absentee and Mail-In was outside his authority. The Court stated:

> "Thus, the Secretary's attempt to re-write the laws governing the deadlines for mail-in ballots in the 2020

Minnesota Presidential election is invalid. However well-intentioned and appropriate from a policy perspective in the context of a pandemic during a Presidential election, it is not the province of a state executive official to re-write the state's election code, at least as it pertains to selection of Presidential electors….

The rule of law, as established by the United States Constitution and the Minnesota Legislature, dictates these rules must be followed notwithstanding the Secretary's instructions to the contrary. There is no pandemic exception to the Constitution. *See Democratic Nat'l Comm. v. Wis. State Legislature*, No. 20A66, —— U.S. –––, —— S.Ct. ——, ——, —— L.Ed.2d ——, 2020 WL 6275871, at *4 (Oct. 26, 2020)"[22]

[22] *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020).

LEGAL ARGUMENT

CLAIM I

First Amendment and Equal Protection
U.S. Const. amend. XIV, 42 U.S.C. § 1983,
Minn. Const. Article I

70. Petitioners incorporate by reference and re-allege all prior paragraphs of this Petition and the paragraphs in the counts below as though set forth fully herein.

71. The right of a qualified citizen to vote in a state election involving federal candidates is recognized as a fundamental right under the Fourteenth Amendment of the United States Constitution, which prohibits a state from "deny[ing] to any person within its jurisdiction the equal protection under the laws."[23]

72. The equal enforcement of election laws is necessary to preserve our most basic and fundamental rights.

73. The requirement of equal protection is particularly stringently enforced as to laws that affect the exercise of fundamental rights, including the right to vote.

[23] U.S. Const. Amend. XIV, § 1.

74. The Equal Protection Clause requires states to "'avoid arbitrary and disparate treatment of the members of its electorate.'"[24]

75. Each citizen "has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction."[25]

76. "Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another."[26] Among other things, this requires "specific rules designed to ensure uniform treatment" in order to prevent "arbitrary and disparate treatment to voters."[27]

77. "The right to vote extends to all phases of the voting process, form being permitted to place one's vote in the ballot box to having that vote actually counted. Thus, the right to vote applies equally to the initial allocation of the franchise as well as the manner of its exercise. Once the right to vote is granted, a state may not draw distinctions between voters that are inconsistent with the guarantees of the Fourteenth Amendment's equal protection clause."[28]

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[24] *Charfauros v. Bd. of Elections*, 249 F.3d 941, 951 (9th Cir. 2001 (quoting *Bush*, 531 U.S. at 105).
[25] *Dunn v. Bloomstein*, 405 U.S. 330, 336 (1972).
[26] *Bush*, 531 U.S. at 104-05.
[27] *Id*. at 106-07.
[28] *Pierce v. Allegheny County Bd. of Elections*, 324 F.Supp.2d 684, 695 (W.D. Pa. 2003) (citations and quotations omitted).

78. "[T]reating voters differently" thus "violate[s] the Equal Protection Clause" when the disparate treatment is the result of arbitrary, ad hoc processes.[29] Indeed, a "minimum requirement for non-arbitrary treatment of voters [is] necessary to secure the fundamental right [to vote]."[30]

79. Respondent, Steve Simon, is not part of the Minnesota Legislature and cannot exercise legislative power to enact rules or regulations regarding the handling of absentee/mail in ballots that are contrary to Minnesota Statutes.

80. By entering into two stipulated settlement agreements with Democrat advocacy groups to alter the process for handling and accepting absentee and mail in ballots, Steve Simon unilaterally, and without authority, altered Minnesota Election Law.

81. As a result of the Secretary of State's usurpation of legislative power, the longstanding witness requirements, well-known to Minnesota voters, were removed. Absentee and Mail-In ballots were processed differently by the county ballot boards, overseen by county officials, with regard to acceptance or rejection because there was no witness requirement to verify the person who cast the ballot was in fact the registered voter. The election process has been altered in a manner that removes the most important check on voter security. Further, the Absentee and

[29] *Charfauros*, 249 F.3d at 954.
[30] *Bush*, 531 U.S. at 105.

Mail-In ballots were not segregated from the ballots cast at the precinct. The envelopes for the Absentee and Mail-In Ballots were not counted, or even shown to exist, at the vast majority of the PERs. The Minnesota Legislature created the PER process, which is clearly laid out in Minnesota Election Law. Unfortunately, the PER has no teeth because the MN Secretary of State Simon has removed them.

82. Further, MN Stat. § 206.89 Subd 3 requires the county auditor, or if so delegated the municipal clerk, to conduct the PER. This subdivision also allows the PER review official to designate election judges to assist in this process. As election judges, they should all have been properly trained to be election judges. These election judges must meet the party balance requirement mandated in MN Statute § 204B.19. The PERs observed did not allow for the observers to receive complete information about the qualifications or party status of the election judges who assisted in the PER process. The PER process is required to be open so as to allow Minnesota voters the opportunity to confirm the election was administered in a fair, non-partisan manner. By manipulating the law and not allowing public information to flow to the people, a single political party, the Democrat Party, has undermined the integrity of Minnesota's elections. Minnesota Law has been ignored across the state.

83. The rules and regulations created by the two settlement agreements between Steve Simon and the Democrats created an overly broad, arbitrary,

disparate, and ad hoc process meant to ensure every ballot was counted, whether legal or not. Whether Absentee and Mail-In voters were sent ballots automatically or after requesting them, any person could fill them out and mail them back. The witness requirement served to protect the actual voter from having their individual vote stolen and the legal voters from having the vote diluted by illegal voters. The witness is as close to an election judge as is possible in the community. The removal of the witness requirement opened Minnesota's door to the unchecked opportunity for illegal votes to be counted in all of our local, state and federal elections. The November 3, 2020 elections have been tainted by the intentional actions of Democrats and complicit government officials. They are responsible for the consequences.

84. Voters who cast their ballots in person are subject to a higher level of scrutiny than Absentee or Mail-In voters. Additionally, the burden of going to vote in person was made more difficult by the state's choosing to combine precincts, thereby increasing wait times. This disparate treatment created by removing all safeguards and requirements for the cooperative voters who voted from home is not justified by, and is not necessary to promote, any substantial or compelling state interest.

85. Secretary of State Simon created an overly broad agreement to remove a requirement for all voters when he could have created a specific remedy for the very small number of people who legitimately struggle to safely find a witness.

86. The foregoing injuries, burdens, and infringements that were caused by Steve Simon's intention and unnecessary conduct violated the Equal Protection Clause of the Fourteenth Amendment and Article I of the Minnesota Constitution.

87. The foregoing violations occurred as a consequence of Steve Simon acting under color of state law. Accordingly, Petitioners are entitled to declaratory and injunctive relief against Respondents under the Minnesota Declaratory Judgment Act, Minn. Stat. Chapter 555 pursuant to 42 U.S.C. § 1983 and Article 1 of the Minnesota Constitution.

88. As a result of Steve Simon's unauthorized actions and disparate treatment of absentee ballots, this Court should enter an order, declaration, and/or injunction to prohibit the Respondents from certifying the results of the 2020 general election in Minnesota and to order a statewide recount that must be conducted using Minnesota election law. This recount should require a complete review of ALL election materials and be completed with representatives from all major parties present in a meaningful way as intended by the legislature.

89. Alternatively, this Court should enter an order, declaration, and/or injunction prohibiting Respondents from certifying the results of the 2020 general

election if those results include the tabulation of defective absentee ballots, regardless of whether said ballots were cured.

90. Alternatively, this Court should enter an order, declaration, and/or injunction that the results of the 2020 general election in Minnesota are defective as a result of the above-described constitutional violations, and that Respondents are required to cure said deficiencies in a matter consistent with federal and Minnesota law, and without the taint of the procedures described by the settlement agreements and the violations of the PER process statewide.

91. Alternatively, this Court should enter an order for a new statewide election, on a specific day, using the traditional precincts available to voters to be scheduled at the soonest possible date.

92. Petitioners have no adequate remedy at law and will suffer serious and irreparable harm unless the relief herein is granted.

COUNT II

Violation of the Separation of Powers
Minn. Const. Article III

93. Petitioners incorporate by reference and re-allege all prior paragraphs of this Petition and the paragraphs in the counts below as though set forth fully herein.

94. At the heart of the integrity of election law is the goal of preserving the ability of voters to participate in genuine elections, thereby fostering public

confidence throughout the election process. From voter registration, to the casting of votes, to the counting of ballots, through the PER our election system must be free of partisanship. When citizens go to the polls to cast their vote, they aspire not only to elect their leaders, but to choose a direction for their state.

95. However, the integrity of an election can be jeopardized and public confidence can be undermined when election officials exercise or exceed powers they do not possess.

96. The separation of powers doctrine is familiar to this Court, but bears repeating because of the significance of the doctrine's role in this electoral process which provides "Under the Separation of Powers Clause, no branch can usurp or diminish the role of another branch.[31]

97. The three branches of state government are both co-dependent and independent of each other. While they must find ways to cooperate, no one branch can unilaterally control, coerce, or restrain the action, or non-action of any 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.

98. The Minnesota Constitution states "the powers of government shall be divided into three distinct departments: legislative, executive and judicial. No

[31] *See* Minn. Const. art. III, § 1; *Brayton v. Pawlenty*, 768 N.W.2d 357, 365 (Minn. 2010).

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 instances expressly provided in this constitution."[32]

99. Article III bars any department from assuming or asserting any "inherent powers" – powers not "expressly" given—that properly belong to either of the other departments.[33] No "department can control, coerce, or restrain the action or inaction of either of the others in the exercise of any official power or duty conferred by the Constitution.[34]

100. The Minnesota Supreme Court has been steadfast in upholding the separation of powers.[35]

101. The Secretary of State has NO authority to disregard the intent of the Legislature and alter or amend Minnesota Election Law as that authority is vested with the state legislature. The Secretary may only adopt alternative election procedures if "a provision of the Minnesota Election Law cannot be implemented as a result of an order of a state or federal court[.]"[36] Examples include the sudden need to keep polls open because of severe weather or an equipment failure.

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[32] Minn. Const. Art. III.
[33] *Brayton*, 768 N.W.2d at 365.
[34] *Id.*
[35] *See, e.g., Sharood v. Hatfield*, 296 Minn. 416, 210 N.W.2d 275, 279 (1973).
[36] Minn. Stat. § 204B.47.

102. In the Spring of 2020, the Legislature was fully aware of the COVID-19 challenges and chose to NOT alter the witness requirement for Absentee and Mail-In ballots.

103. The Governor had the authority to call a special session to seek an alteration to Minnesota Election Law. In fact, there were four special sessions between June and September 2020 during which time the legislature could have passed legislation to remove the requirement. The Legislature chose NOT to remove the requirement.

104. Multiple Federal Courts of Appeals have now ruled there is no pandemic exception to the Constitution and have made it clear the state legislators are vested with the authority to create election law, including the Eighth Circuit.[37]

105. The Secretary of State and various election officials across Minnesota including county canvassers have violated the separation of powers doctrine by obliterating election law through sham court processes and blatant refusal to administer and follow long-standing election law. This case is ripe for adjudication under Minn. Stat. § 204B.44.

106. The Secretary of State and county election officials, including election judges, have and will continue to usurp the Minnesota legislature's authority by failing to follow Minnesota Election Law if they are not ordered to cease.

[37] *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020).

107. This Court should enter an order, declaration, and/or injunction finding the results of the 2020 general election in Minnesota are defective as a result of the Secretary of State's intentional usurpation of the Minnesota legislature's authority, the Respondents violated the separation of powers doctrine, and that Respondents are required to cure said deficiencies in a matter consistent with federal and Minnesota law. The cure must be free of the taint of the overly broad stipulated settlement agreements and overcome the numerous violations of the PER process.

108. Alternatively, this Court should enter an order, declaration, and/or injunction that the results of the 2020 general election in Minnesota are defective as a result of the above-described constitutional violations, and that Respondents are required to cure said deficiencies in a matter consistent with federal and Minnesota law, and without the taint of the procedures described by the settlement agreements and the violations of PER.

COUNT III

Due Process
U.S. Const. amend. XIV, 42 U.S.C. § 1983
Minn. Const. Article I

109. Petitioners incorporate by reference and re-allege all prior paragraphs of this Petition and the paragraphs in the counts below as though set forth fully herein.

110. Voting is a fundamental right protected by the Fourteenth Amendment to the U.S. Constitution.

111. The Fourteenth Amendment protects the right to vote from conduct by state officials which seriously undermines the fundamental fairness of the electoral process.[38] "Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another."[39] Among other things, this requires "specific rules designed to ensure uniform treatment" in order to prevent "arbitrary and disparate treatment to voters."[40]

112. "[T]reating voters differently" thus "violate[s] the Equal Protection Clause" when the disparate treatment is the result of arbitrary, ad hoc processes.[41] Indeed, a "minimum requirement for non-arbitrary treatment of voters [is] necessary to secure the fundamental right [to vote]."[42]

113. In statewide and federal elections conducted in the State of Minnesota, including without limitation, the November 3, 2020 general election, all candidates, political parties, and voters, including without limitation, Petitioners, have a vested

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[38] See *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994); *Griffin v. Burns*, 570 F.2d 1065, 1077-78 (1st Cir. 1978).
[39] *Bush*, 531 U.S. at 104-05.
[40] *Id*. at 106-07.
[41] *Charfauros*, 249 F.3d at 954.
[42] *Bush*, 531 U.S. at 105.

interest in being present and having meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every county and precinct and that it is otherwise free, fair and transparent.

114. Respondents have a duty to guard against deprivation of the right to vote and to ensure that all candidates, political parties, and voters, have meaningful access to observe and monitor the electoral process, including without limitation, the November 3, 2020 general election and the PER in order to ensure that the electoral process is properly administered in every county and precinct and is otherwise free, fair and transparent.

115. Rather than heeding these mandates and duties, Secretary of State Simon arbitrarily and capriciously denied, or allowed County Officials to deny, the public, including candidates, to meaningfully observe and monitor the electoral process, as is further set forth in the affidavits.

116. The Secretary of State is vested with the responsibility to ensure federal and state laws are implemented uniformly, across Minnesota. It is his duty to ensure the laws are followed and to develop rules, regulations, policies and general guidance as needed to support the people and entities who are charges with managing the election process. Secretary of State Simon intentionally and/or arbitrarily and capriciously denied Petitioners access to and/or obstructed actual observation and monitoring of the PERs through a failure to properly train the county canvassers, a

failure to monitor the processes and a failure to ensure that uniform standards of reviewing election materials were clear to all parties involved in the process.

117. At multiple PERs across the state, the ballots were presented in containers that were not secure, were personal containers and were not uniform, raising serious concerns about chain of custody. Election materials were not included in many of the PERs, including outer envelopes, spoiled ballots and information sheets. The Absentee and Mail-In ballots seemed to be combined with the other ballots. Many observers reported seeing large stacks of ballots only being placed in one pile however they could not hear the judges or see the ballots well enough to know which candidate was the recipient of the votes. The PER process is intended to allow the public to engage in the election system in a meaningful way to build trust in and knowledge about the election system. The 2020 election has undermined the trust of the election system.

118. The Secretary of State, has acted, and will continue to act in conjunction with many of the county canvassing boards, in nefarious ways if the Minnesota State Canvassing Board certifies the election on November 24, 2020. The Secretary of State acted under the color of state law to violate the right to vote and the due process rights of voters and candidates as secured by the Fourteenth Amendment to the United States Constitution.

119. As a result of these improper actions described herein, this Court should enter an order, declaration, and or injunction requiring as follows

A. That the PER of the November 3, 2020 elections, be repeated in every county, consistent with this Court's declaration including the review of all election materials and all data that can be pulled from the voting equipment;

B. That the PER include down ballot races for state candidates;

C. That the public and the monitors designated by the Republican Party and other major parties have the right to be present to meaningfully observe all aspects of the PER, including but not limited to, the transfer and receipt of the ballots, the tapes from the voting machines, the entry of tabulation of the resulting vote counts, the absentee envelopes and absentee certifications; the information gathered by the ballot boards during the 45 days leading up to November 3, 2020.

D. That Petitioners and the Republican Party be given at least 24 hours written notice prior to any election activity;

E. That all ballots cast in Minnesota be read by two persons agreed to by Petitioners or an identified proxy, and the other major parties, with said readings being overseen by Republican Party-designated monitors any

others so designated by the Court; and that every table used for PER be video-streamed with audio or be available for viewing online.

F. That the Plaintiffs and the Republican Party be provided with the opportunity to confirm, in person, the existence of all ballot envelopes; to observe a complete count of the outer envelopes and to verify postmarks on those envelopes; to compare voter signatures on outer envelopes, voter registration documents, and requests for absentee ballots or other voting records as necessary; to observe all items mentioned previously and any other election materials in the possession of the Secretary of State and/or any Minnesota County, City, Township or their agents.

120. Petitioners have no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted.

RELIEF REQUESTED

Petitioners seek an immediate temporary restraining order (TRO) enjoining the 2020 State Canvassing Board from certifying the November 3, 2020 election.

This petition seeks relief under Minnesota Statute § 204.B.44, subd. (a)(4) against the Secretary of State and the Minnesota State Canvassing Board, who are charged with canvassing and certifying the results of all statewide elections, including state and federal offices, state constitutional amendment ballot questions, and state legislative and judicial offices that overlap more than one county, and who will likely certify county canvassing reports that certified election results that have not yet been subject to a Postelection Review that fully complies with Minnesota Election law, are fraudulent and include ballots that cannot be verified.

Petitioners seek an injunction against the Secretary of State and the Minnesota State Canvassing Board requiring them to:

- Ensure every county has completed a PER in full compliance with MN Stat. §206.89;
- Ensure every county complied with MN Stat. 13D.01 so the public has full access to the PER process;
    - The public and monitors designated by the Republican Party and other major parties have the right to be present to meaningfully observe all aspects of the PER, including but not limited to, the transfer and receipt of the ballots, the tapes from the voting machines, the entry of tabulation of the resulting vote counts, the absentee envelopes and absentee certifications; the information

gathered by the ballot boards during the 45 days leading up to November 3, 2020;

- The Petitioners, the Republican Party and the other major parties receive at least 24 hours notice prior to any election activity;

- Ensure every county has retained possession of ALL required election materials, including the outer envelopes, as required under Minnesota election law;

And Order

- The 87 County Canvassing Boards to complete a full canvass of all of the elections, including the down ballot races for state candidates, in their jurisdiction

- The PER to include all election materials in the canvass, including data from all machines used to count ballots

- The review of all ballots cast in Minnesota be read by two persons agreed to by Petitioners, or an identified proxy, and the other major parties, with said readings being overseen by Republican Party-designated monitors any others so designated by the Court; and

- Every table used for PER be video-streamed with audio or be available for viewing online; and

- The Plaintiffs and the Republican Party be provided with the opportunity to confirm, in person, the existence of all ballot envelopes; to observe a complete count of the outer envelopes and to verify postmarks on those envelopes; to compare voter signatures on outer envelopes, voter registration documents, and requests for absentee ballots or other voting records as necessary; to observe all items mentioned previously and any other election materials in the possession of the Secretary of State and/or any Minnesota County, City, Township or their agents.

CONCLUSION

This Court must take action to prevent the certification of the Minnesota election of November 3, 2020 until a complete, bi-partisan, statewide audit of the election occurs. This audit must be comprehensive and include a review of all election materials and our election system. Illegal voters cannot themselves be disenfranchised but they can and do disenfranchise legal voters. Legal Minnesota voters will be disenfranchised if the illegal votes are allowed to remain in the count. The voters' trust in our electoral system will be irreparably harmed if the actions of those who sought to undermine our election system are ignored.

Election laws will eventually need to be strengthened but we are at a tipping point in which Minnesota voters, regardless of party affiliation, have the right to expect that the country that founded fair and secure elections can still have them today.

Ignoring for one more election cycle the actions of those in the Executive branch who would violate the separation of powers would send a dangerous signal to our electorate and to the people. If our highest court condones such blatant and egregious violations of law and abuses of power, the faith in our judicial system will crumble.

Many Minnesota citizens attempted to participate in the PER audit process to demonstrate that the right to vote and our elections still matter. These people each hoped to observe a lawful process that sought the truth of what happened during our nearly 7-week election process. Even though they and many others experienced the dark side of our election system on and since November 3, 2020, our Founding Fathers would be proud to know that this Court did its part to restore integrity in our election system and to protect our individual right to vote and our collective belief in the principle of one person, one vote.

Dated: November 23, 2020

/s/Susan Shogren Smith
Susan Shogren Smith
(Atty # 0340467)
Shogren Smith Law
600 62nd Avenue North
Brooklyn Center, MN 55430
612-812-8160
Email: shogrensmithlaw@protonmail.com
Attorney for Petitioners

I declare under penalty of perjury that everything I have stated in this document is true and correct.

11/23/2020	Hennepin County, MN	/s/Susan Shogren Smith
Date	Location	Name

Acknowledgment Required by Minn. Stat. § 549.211, Subd. 2

The undersigned hereby acknowledges that, pursuant to Minn. Stat. § 549.211, costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass, or committed a fraud upon the Court.

Dated November 23, 2020

_____/s/ Susan Shogren Smith _____

Susan Shogren Smith (Atty # 0340467)
Shogren Smith Law
600 62nd Avenue North
Brooklyn Center, MN 55430
612-812-8160
Email: shogrensmithlaw@protonmail.com
Attorney for Petitioners

Affidavit Index

STATE OF MINNESOTA
IN SUPREME COURT
Case File No. _____

Tyler Kistner, Gene Rechtzigel, Rich Draheim, Steve Drazkowski, Jeremy Munson, Tim Miller, Calvin Bahr, Erik Mortenson, Dan Hall, Jose W. Jimenez, Sandra A. Jimenez, Tomas Settell, Megan Olson, Leilani Holmstadt, Pam Myhra, Roz Peterson, Lucia Vogel, Jennifer Zielinski, Diane Napper, Alexander Deputie, Charlotte Smith, Fern Smith, Mariah De La Paz, Cynthia Londquist, Lisa Pohlman, Nora L. Felton, Deborah Coxe, Jane L. Volz, Paul Staut, Kathleen Hagen, Janine Kusnierek, Greg Buck, Don Bumgarner, Amy Bruno, and Kathleen Nydegger,

Petitioners,

vs.

Steve Simon, only in his official capacity as the Minnesota Secretary of State and member of the State Canvassing Board, Margaret H. Chutich, only in her official capacity as a member of the State Canvasing Board, Gordon L. Moore, III, only in his official capacity as a member of the State Canvasing Board, Regina Chu, only in her official capacity as a member of the State Canvasing Board, and Christian Sande, only in his official capacity of a member of the State Canvasing Board,

Respondents.

AFFIDAVIT OF JANE L. VOLZ

STATE OF MINNESOTA)
) ss.
COUNTY OF SCOTT)

JANE L. VOLZ, being first duly sworn on oath states as follows:

1. I am a licensed Minnesota attorney in good standing, admitted in 1996, and a witness in the above-referenced matter.

2. I have personal knowledge of the facts stated herein and know them to be true and correct.

3. I am a registered voter in the State of Minnesota.

4. I respectfully submit this affidavit in support of a temporary restraining order enjoining the Minnesota Secretary of State, Steve Simon, and the state canvassing board from certifying the results of the November 3, 2020 state general election for violations of Minn. Stat. § 206.89, subd. 3, the post-election review of voting systems.

5. I personally attended the post-election reviews for Dakota and Scott Counties. I attended the Hennepin County post-election review by watching a live-stream camera set up at the Hennepin County Government Center as Hennepin County had closed its government center from the public on November 20th, the day of the post-election review.

DAKOTA COUNTY

6. I arrived at the Dakota County administration building around 8:45 a.m. on Monday, November 16, 2020.

7. Andy Lokken, the elections director for Dakota County, managed the review.

8. I asked Mr. Lokken if he had party balance for the counters as provided by Minn. Stat. §§ 206.89, subd. 3, and 204B.18. He stated he did not have any election judges as he was only using his staff and he did not designate any election judges. He said the counters were his staff and city staff. However, after getting the names of various counters, Christina Gevara, claimed she *was* an election judge. She was counting for West St. Paul and according to a web search, works for Metro State University.

9. Mr. Lokken refused to allow me and other members of the public to meaningfully observe the counting process by requiring us to stand six feet from any table which did not allow us to see the ballots even though the counters were within a few feet of each other.

10. Mr. Lokken refused to separate the polling place ballots from the absentee and mail in ballots and had his staff mix them together.

11. Ballots were delivered to the Dakota County in a variety of

ways and were not in sealed transfer cases. There were ballots brought in in brown boxes with clear packing tape, ballots in a blue plastic tote, and ballots in plastic bags. Boxes and bags of ballots were delivered throughout the morning.

12. While we were not allowed to stand within six feet of the tables, when all of the precincts were finished except for Eagan, I was allowed to observe a little closer as Mr. Lokken decided to spread out the Eagan count into two tables. I still could not see the votes on the ballots themselves. However, I could see the different piles of votes for the U.S. Representative races. A large pile of ballots was set on the table to review. The pile was perfectly squared up like it came out of a box of a ream of paper. The pile had slight fold marks on them as if they were put through a folding machine but were laid out flat like they came out of a machine with an identical crease that ran through the pile in the same direction. Nearly every single ballot in that pile was for Angie Craig.

13. In a ballot tote next to the Eagan precinct count, I noticed a FEDEX receipt for a 520 pound Dominion voting machine that was, according to the receipt, delivered to Hastings on November 11, 2020, well after the November 3, 2020 general election, but prior to the post-election review. Attached as Exhibit A is a copy of those FEDEX receipts.

14. Mr. Lokken told me he would give me a copy of all of the worksheets at the end of the day. When all of the counting was done, he refused to give me a copy claiming they were his "notes". He said, however, he would email them to me if I gave him my email address. I gave him my email address.

15. The next morning on November 17, 2020, I emailed Mr. Lokken reminding him to email me a copy of the worksheets. He stated in an email to me: "I recycled them yesterday and they are no longer available."

16. Mr. Lokken then emailed me a computer generated tally that does not match the I-Phone pictures I took of some of the worksheet totals. In particular, he eliminated many of the blank for office totals and the total votes for many of the candidates do not match the handwritten worksheets. Attached as Exhibit B, is a true and correct copy of my pictures of several of the worksheets. Attached as Exhibit C, is a true and correct copy of the computer generated tally provided by Mr. Lokken.

17. Mr. Lokken provided a post-election review guide. Attached as Exhibit D is a true and correct copy of the Post-Election Review Guide that can also be found on the Minnesota Secretary of State website.

18. Mr. Lokken failed to follow the process and procedures of the Minnesota Secretary of State's post-election review guide as follows:

Page(s)	Section	Description
9-10	7.1.2	Failed to hand-write the blank for office, over/defective for office and totals on the worksheet.
10	7.2	Failed to allow the party balance requirement of Minn. Stat. 204B.19.
11	7.3	Failed to allow public view of the ballots by requiring 6 foot distance from table.
11	7.4	Never really explained the process and the roles of review officials and staff.
11	8	Failed to count absentee/mail ballots separately from polling place ballots--"Polling place ballots and Absentee/Mail Ballots will be counted separately."
16	11.1	Failed to fully explain the differences in the counts.
17	11.2.1	Failed to "input two sets of results into ERS" for polling place results and absentee/mail in ballot votes.
20	11.2.2	Failed to proof the results and actually changed them from the worksheets fill out by the counters for the blank for office and over/under votes and did not explain the differences.
24	Appendix B	Failed to have three election judges to each team and to have election judges sign the post-election review worksheets
MS § 204B.40		Failed to retain post-election review worksheets in violation of rule that all "election materials" be preserved for at least 22 months.

SCOTT COUNTY

19. I attended the Scott County post-election review on November 19th in Shakopee, Minnesota. I arrived at around 8:45 a.m. but the government center was locked. Finally someone let us in. Julie Hanson, a property and customer service manager at Scott County, was the election director for the review. There were three precincts to review and 17 public observers arrived. However, Ms. Hanson only allowed two observers at a time in the room and with the required social distancing of Ms. Hanson; I could not see the ballots. Ms. Hanson claimed that there was a county rule that no more than ten people could be in a room. The counts were performed by election judges with party balance and city and township clerks. The election judges were told the review would take about two hours. However, the counters for a Savage precinct could not get the totals to match the worksheets after numerous hand counts. Later, a staff person walked in the room with a pile of ballots that were not secured in any sealed transfer cases.

20. Because they couldn't get the count done by three o'clock, Ms. Hanson called four additional staff destroying the two party reviews. One

city employee (Savage Police Department) and informed me she was a Democrat.

21. Ms. Hanson said she would email me the compiled results but she has never sent them and her email states she is out of the office until November 30, 2020.

HENNEPIN COUNTY

22. On November 19, 2020, Hennepin County announced it will no longer have walk in services beginning on November 20, 2020. I was informed that the only way to observe the post-election review which was to occur on November 20, 2020 was to watch it remotely. After numerous emails and phone calls, I finally received a link to the review at Hennepin County. However, only one precinct, Eden Prairie P-13 of the 13 precincts to be audited could be seen on camera. This camera was too far away to see any information on the ballots or what races they were counting. There was no sound. When asked for additional cameras, Lydia at Hennepin County said there was only one camera available. Then later in the day, Hennepin County added another camera as they expanded to another room. The counting did not end until after 8:00 p.m. When asked for a list of the people counting the ballots, I was told to make a data practices request.

23. Hennepin County did send me a post-election review worksheet. However, the worksheet already had the under votes and over vote totals. The Minnesota Secretary of State post-election review guide states that those numbers cannot be populated in the worksheet through its ERS, Election Reporting System and must be handwritten in. Attached as Exhibit E, is a copy of one page of Hennepin County's post-election review worksheet.

24. Attached as Exhibit F is a true and correct copy of the list of PER locations and times that is on the Minnesota Secretary of State's website.

FURTHER YOUR AFFIANT SAYETH NAUGHT

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: November 23, 2020

/S/ Jane L. Volz
Jane L. Volz

Precinct: 4830 - WEST ST PAUL W-2 P-2 Polling Place

Vice President & Vice President — Hand — Explained

Post Election Review Worksheet

State General Election
Tuesday, November 3, 2020

County - Dakota

Printed: 11/13/2020 11:39 AM
Printed By: lokan19

Precinct: 1830 - EAGAN P-13 Polling Place

Office: U.S. Senator

Polling — Hand — Explained

Freight Bill Number: 7341489212 — BOL/NBR Number: — DATE: 11/11/2020

Consignee
DAKOTA COUNTY
1580 HIGHWAY 55
HASTINGS
MN 55033-2343 US

Trailer # 231187

Shipper
DOMINION VOTING SYSTEMS INC
2010 REDBUD BLVD
STE: 110
MCKINNEY
TX 75069-8258 US

FedEx Freight Priority

PIECES	PKG	H/U	HM	DESCRIPTION	WEIGHT(LBS)	NMFC	PCF	CLASS	RATE	TOTAL CHARGES
2				PO# 7672312 398821332479 COMPUTERS AND COMPONENTS DO NOT PUT OTHER FRT ON TOP DO NOT BREAK SHRINK WRAP : LIFTGATE DELIVERY-PPD APPOINTMENT DELIVERY ** NOTIFY CHARGE : INSIDE DELIVERY PREPAID FUEL SURCHG LTL SHPT21.00% 2-40688-FXF-6 LT 11124 *FXF PZONE901/07/19 APPOINTMENT FROM 08:00 TO 15:00 APPT 111620 15:00SETUP111220 10:18 EX LEAH US (651)438-4533	520			100		

PREPAID - WILL INVOICE THIRD PARTY

BY ACCEPTING THE SHIPMENT, YOU AGREE TO BE FULLY RESPONSIBLE FOR ANY ADDITIONAL APPLICABLE CHARGES FOR DELIVERY SERVICES RENDERED INCLUDING BUT NOT LIMITED TO DETENTION ** CHARGES SUBJECT TO CHANGE **

Bill of Lading Number 7672312

P.O. Number 7672312

Page

CONSIGNEE DELIVERY RECEIPT

Delv. Driver & #:

Date:	Arrive:	Depart:
# of Skids:	# of Pcs:	OS&D #:

Shipment received in apparent good order with wrap intact unless otherwise noted.

Received by: _____

☐Over ☐Damage Exceptions:
☐Short ☐Wrap Broken

FedEx Freight

P.O. BOX 840
HARRISON, AR 72602-084

fedex.com 1.866.39

fedex.com/fastfreight

WRITE-IN**	0			
Totals				

A

DATE: 11/11/2020

Shipper
DOMINION VOTING SYSTEMS INC
2010 REDBUD BLVD
STE: 110
MCKINNEY
TX 75069-8258 US

FedEx Freight Priority

WGT(LBS)	NMFC	PCF	CLASS	RATE	TOTAL CHARGES
520			100		

11124
00
10:18

ARTY
ONAL
TO DETENTION

Bill of Lading Number 7672312 — 0.00

P.O. Number 7672312

Page 1 of 2

d.

FedEx Freight

P.O. BOX 840
HARRISON, AR 72602-0840

fedex.com 1.866.393.4585

fedex.com/fastfreight

...orksheet
...al Election
...ovember 3, 2020
...kota

Printed: 11/13/2020 11:39 AM
Printed By: lokan19

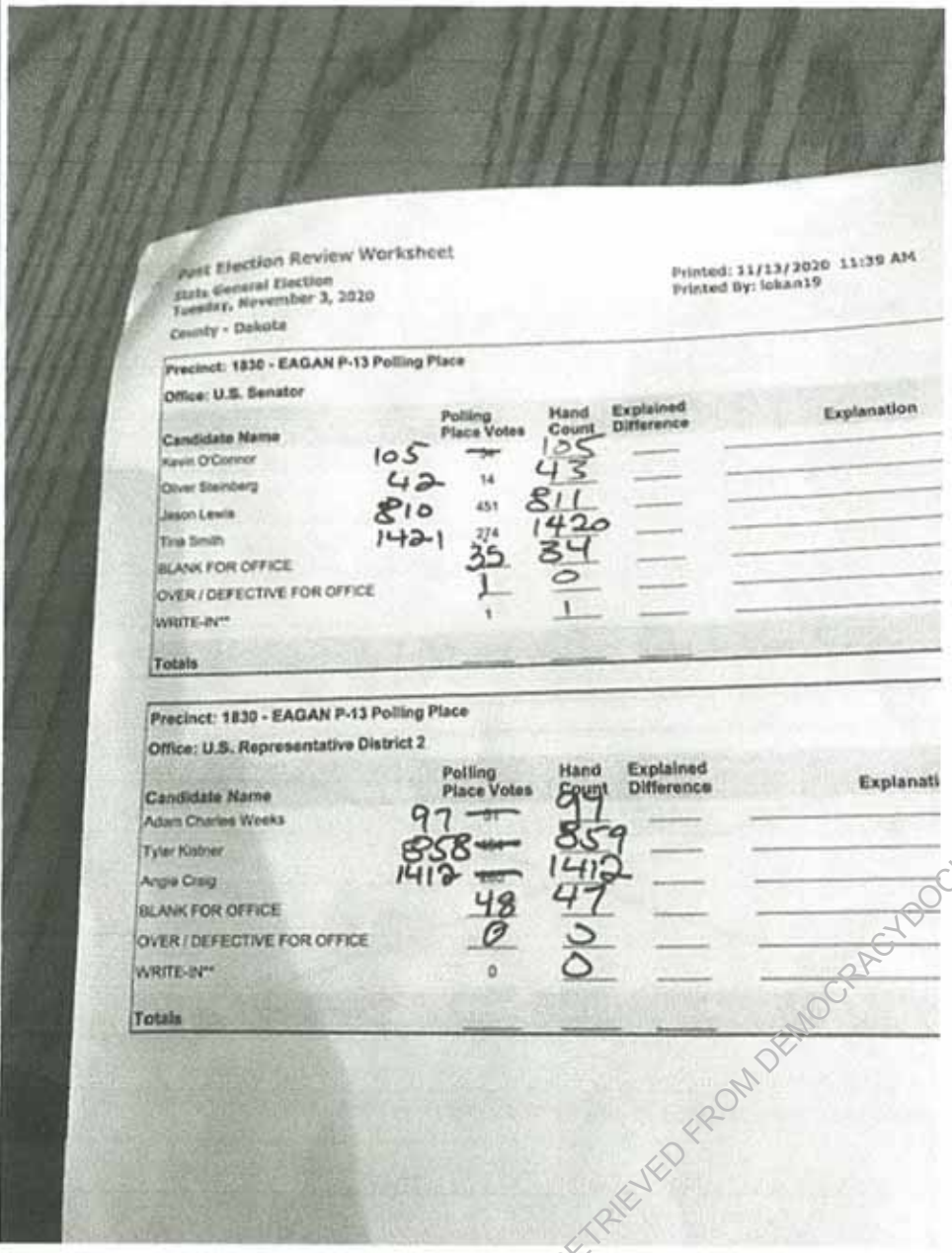
...0 - EAGAN P-13 Polling Place
...enator

...me	Polling Place Votes	Hand Count	Explained Difference	Explanation
	54			

4600 0082 5039 5248

49 0655 7781

...planation



Post Election Review Worksheet
State General Election
Tuesday, November 3, 2020
County - Dakota

Printed: 11/13/2020 11:39 AM
Printed By: lokan19

Precinct: 1830 - EAGAN P-13 Polling Place

Office: U.S. Senator

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	105 ~~91~~	105		
Oliver Steinberg	42 14	43		
Jason Lewis	810 451	811		
Tina Smith	1421 274	1420		
BLANK FOR OFFICE	35	34		
OVER / DEFECTIVE FOR OFFICE	1	0		
WRITE-IN**	1	1		
Totals				

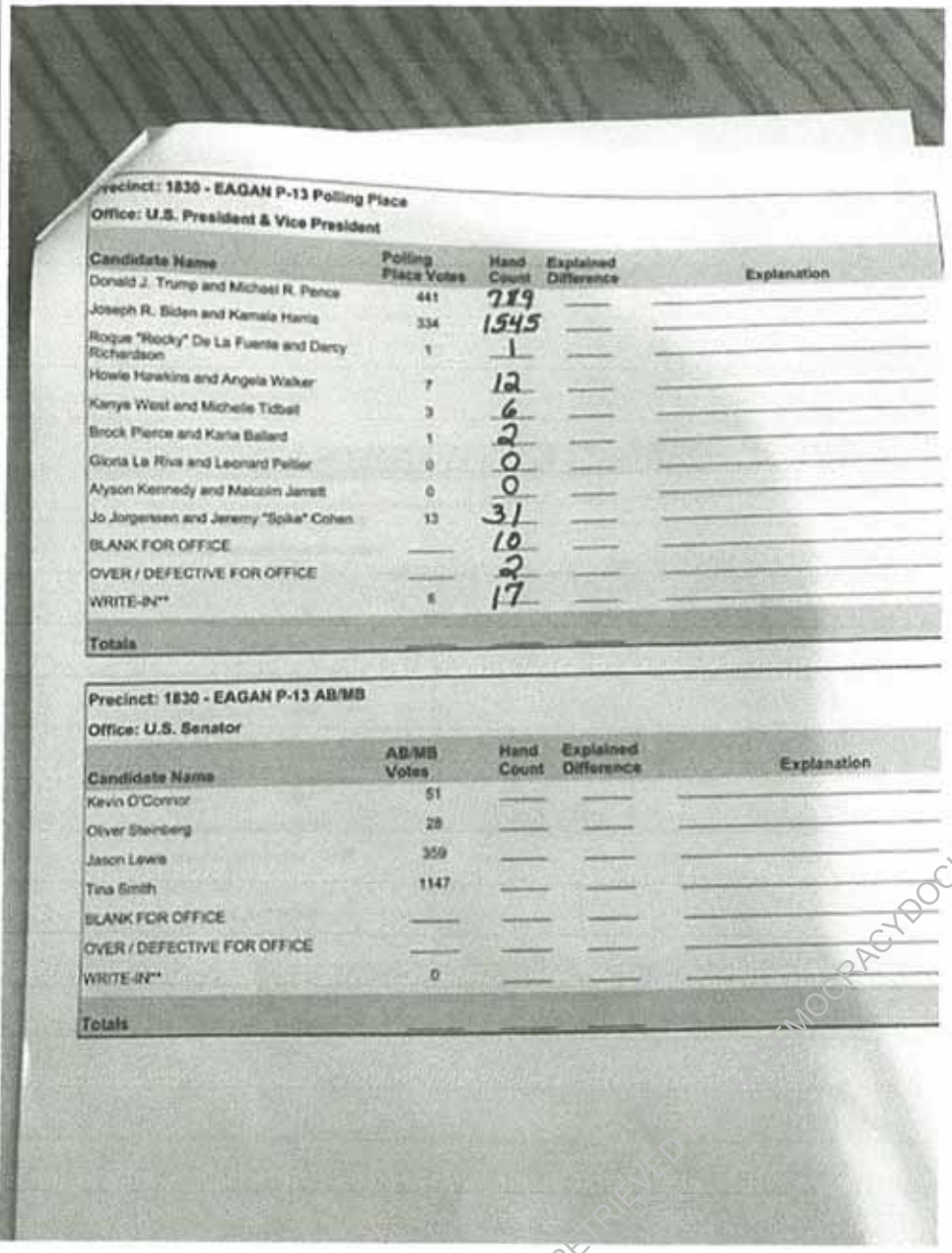
Precinct: 1830 - EAGAN P-13 Polling Place

Office: U.S. Representative District 2

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanati
Adam Charles Weeks	97 ~~91~~	94		
Tyler Kistner	858 ~~[illegible]~~	859		
Angie Craig	1412 ~~[illegible]~~	1412		
BLANK FOR OFFICE	48	47		
OVER / DEFECTIVE FOR OFFICE	0	0		
WRITE-IN**	0	0		
Totals				

B

1



Precinct: 1830 - EAGAN P-13 Polling Place

Office: U.S. President & Vice President

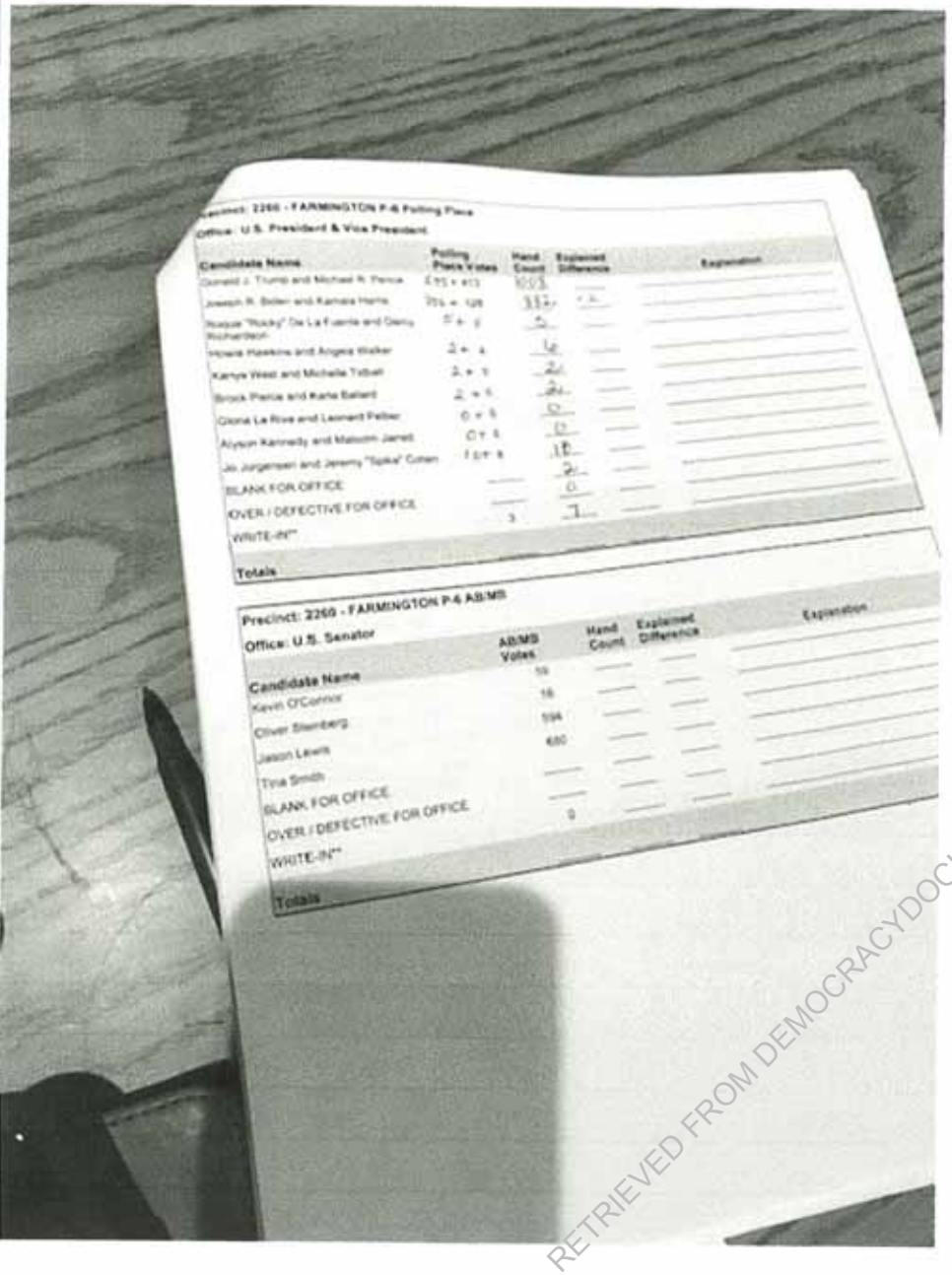
Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Donald J. Trump and Michael R. Pence	441	789	____	
Joseph R. Biden and Kamala Harris	334	1545	____	
Roque "Rocky" De La Fuente and Darcy Richardson	1	1	____	
Howie Hawkins and Angela Walker	7	12	____	
Kanye West and Michelle Tidball	3	6	____	
Brock Pierce and Karla Ballard	1	2	____	
Gloria La Riva and Leonard Peltier	0	0	____	
Alyson Kennedy and Malcolm Jarrett	0	0	____	
Jo Jorgensen and Jeremy "Spike" Cohen	13	31	____	
BLANK FOR OFFICE	____	10	____	
OVER / DEFECTIVE FOR OFFICE	____	2	____	
WRITE-IN**	6	17	____	
Totals				

Precinct: 1830 - EAGAN P-13 AB/MB

Office: U.S. Senator

Candidate Name	AB/MB Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	51	____	____	
Oliver Steinberg	28	____	____	
Jason Lewis	359	____	____	
Tina Smith	1147	____	____	
BLANK FOR OFFICE	____	____	____	
OVER / DEFECTIVE FOR OFFICE	____	____	____	
WRITE-IN**	0	____	____	
Totals				

2



Precinct: 2260 - FARMINGTON P-6 Polling Place

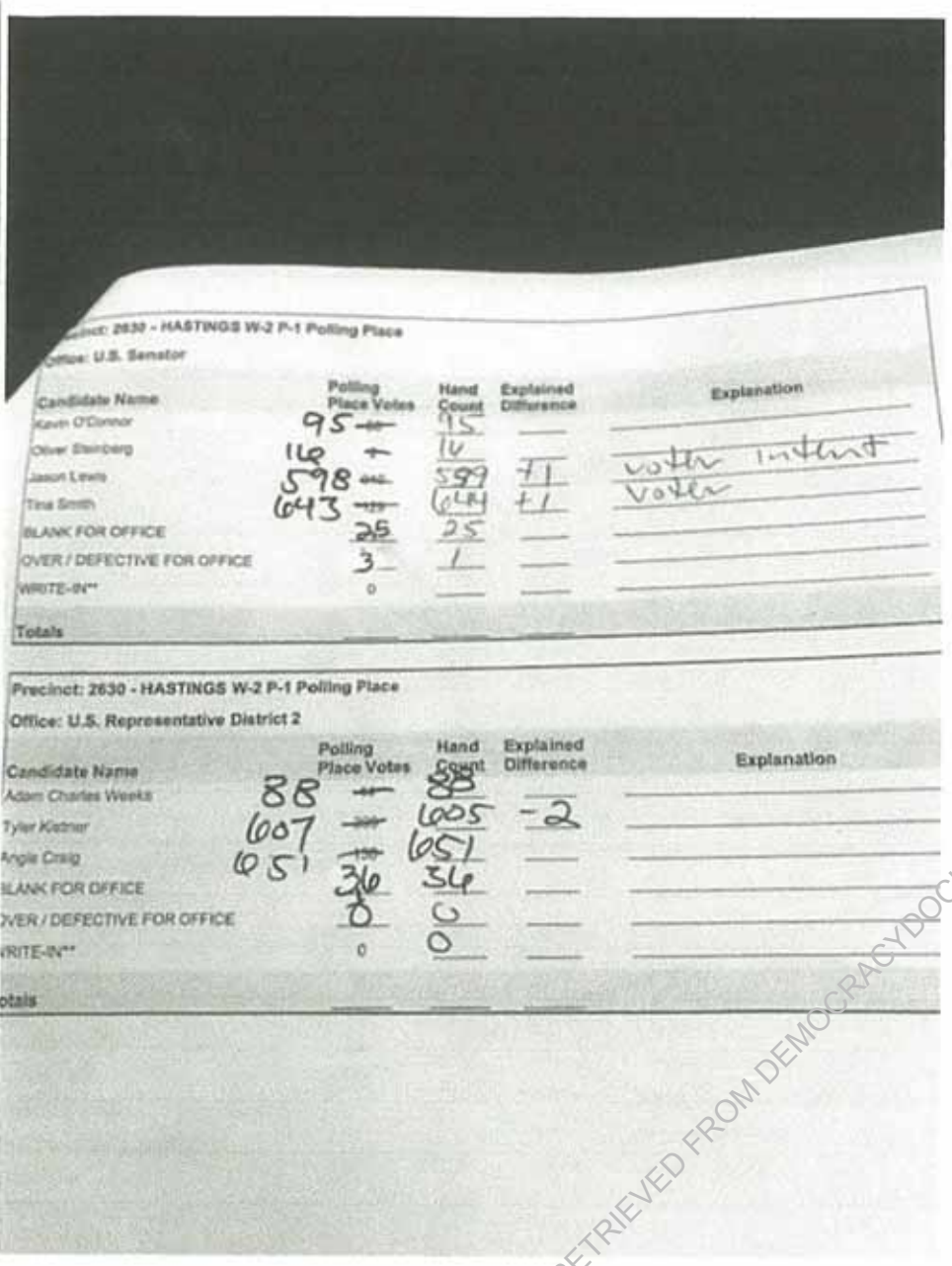
Office: U.S. President & Vice President

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Donald J. Trump and Michael R. Pence	455 + 413	1003		
Joseph R. Biden and Kamala Harris	314 + 128	337	+ 1	
Roque "Rocky" De La Fuente and Darcy Richardson	5 + 1	2		
Howie Hawkins and Angela Walker	2 + 1	4		
Kanye West and Michelle Tidball	2 + 1	2		
Brock Pierce and Karla Ballard	2 + 1	2		
Gloria La Riva and Leonard Peltier	0 + 1	0		
Alyson Kennedy and Malcolm Jarrett	0 + 1	0		
Jo Jorgensen and Jeremy "Spike" Cohen	7 + 1	11		
BLANK FOR OFFICE		2		
OVER / DEFECTIVE FOR OFFICE		0		
WRITE-IN**	3	7		
Totals				

Precinct: 2260 - FARMINGTON P-6 AB/MS

Office: U.S. Senator

Candidate Name	AB/MS Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	10			
Oliver Steinberg	18			
Jason Lewis	594			
Tina Smith	680			
BLANK FOR OFFICE				
OVER / DEFECTIVE FOR OFFICE	0			
WRITE-IN**				
Totals				



Precinct: 2630 - HASTINGS W-2 P-1 Polling Place

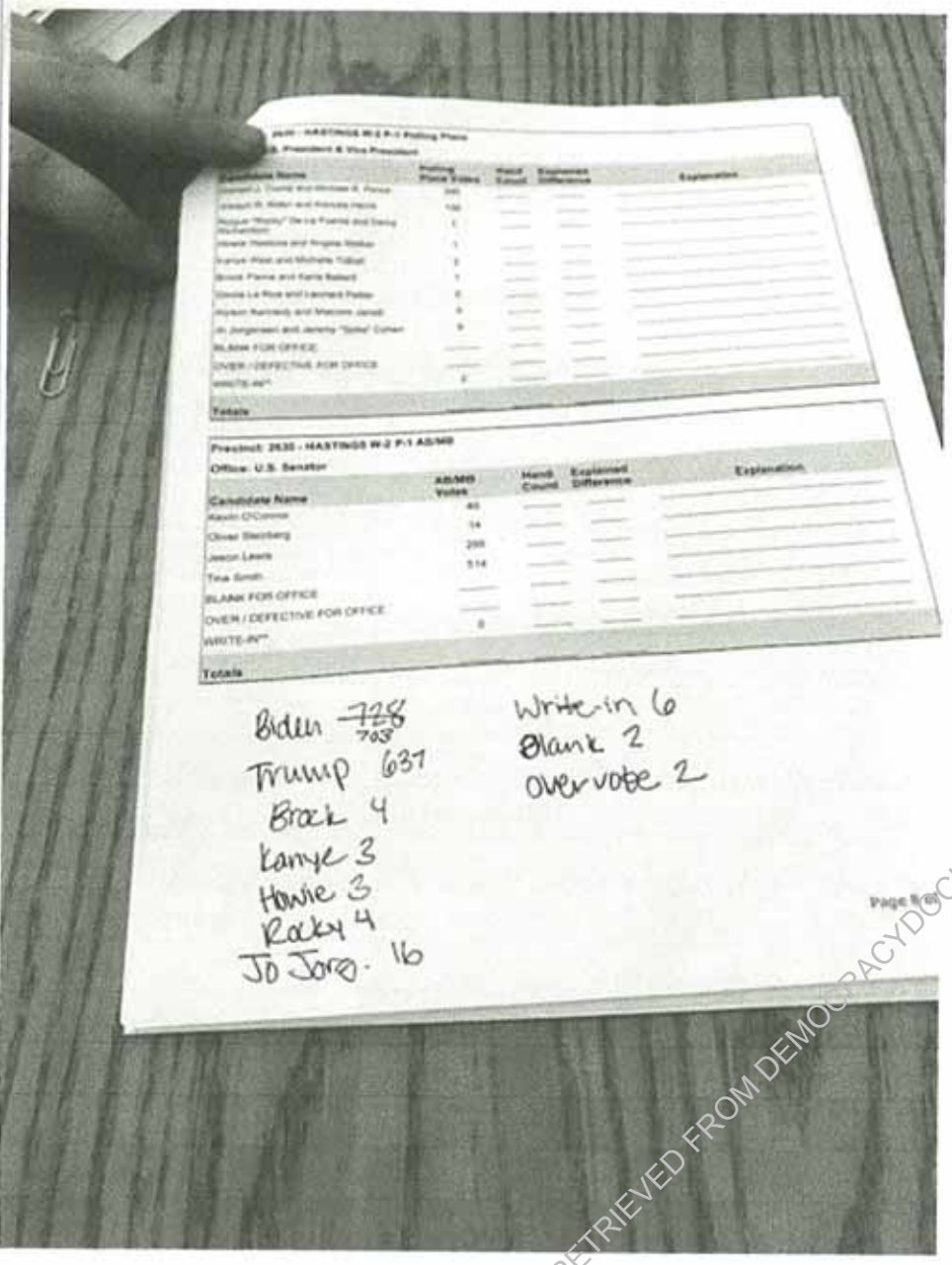
Office: U.S. Senator

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	95 ~~95~~	95		
Oliver Steinberg	16 ~~16~~	14		voter intent
Jason Lewis	598 ~~598~~	599	+1	voter
Tina Smith	643 ~~643~~	644	+1	voter
BLANK FOR OFFICE	~~25~~ 25	25		
OVER / DEFECTIVE FOR OFFICE	~~3~~ 3	1		
WRITE-IN**	0			
Totals				

Precinct: 2630 - HASTINGS W-2 P-1 Polling Place

Office: U.S. Representative District 2

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Adam Charles Weeks	88 ~~88~~	88		
Tyler Kistner	607 ~~607~~	605	-2	
Angie Craig	651 ~~651~~	651		
BLANK FOR OFFICE	~~36~~ 36	36		
OVER / DEFECTIVE FOR OFFICE	~~0~~ 0	0		
WRITE-IN**	0	0		
Totals				



Precinct: 2630 - HASTINGS W-2 P-1 AS/MB

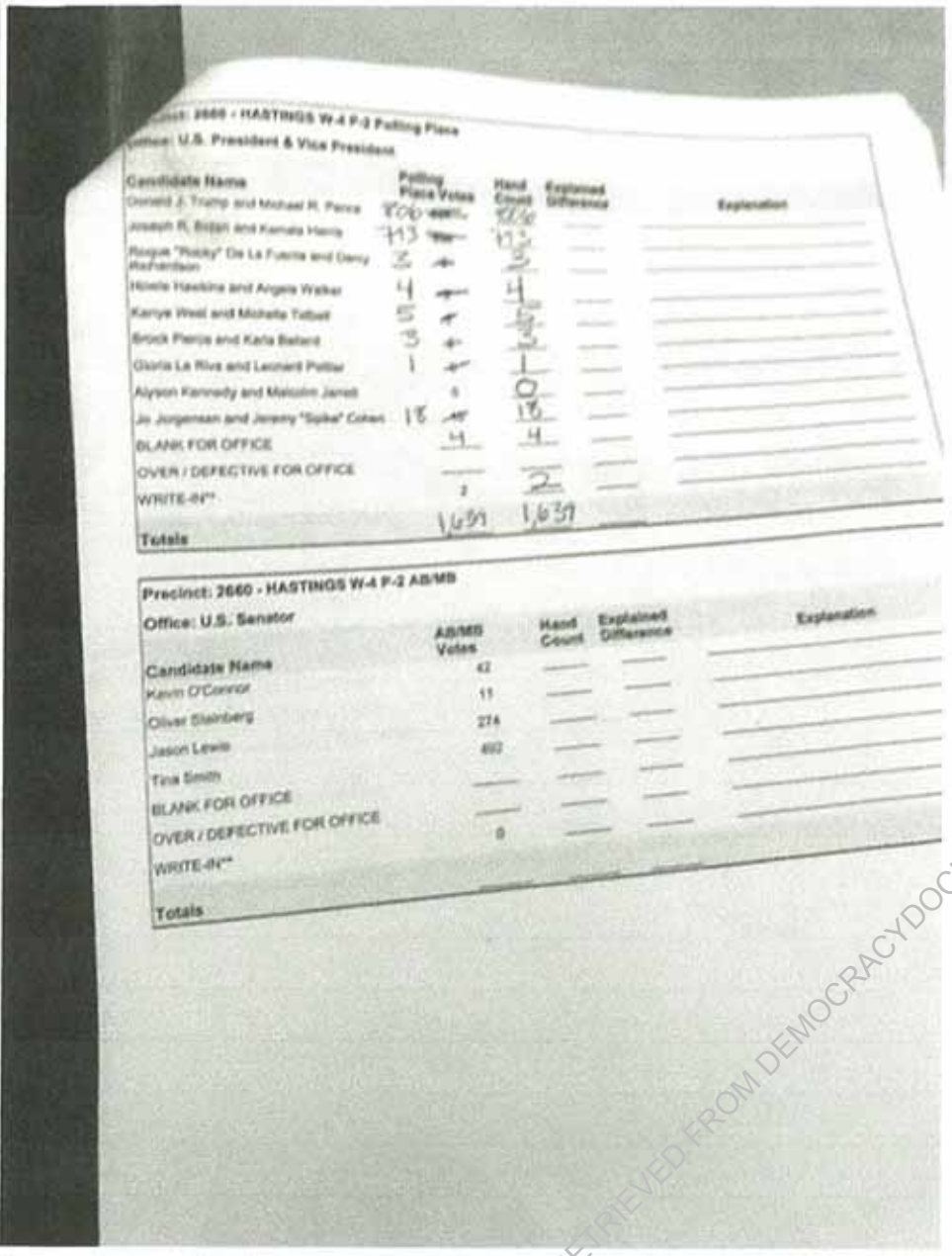
Office: U.S. Senator

Candidate Name	AB/MB Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	40			
Oliver Steinberg	14			
Jason Lewis	288			
Tina Smith	514			
BLANK FOR OFFICE				
OVER / DEFECTIVE FOR OFFICE				
WRITE-IN**	8			
Totals				

Biden ~~728~~ 703
Trump 637
Brock 4
Kanye 3
Howie 3
Rocky 4
Jo Jorgenson 16

Write-in 6
Blank 2
Overvote 2

Page 8 of



Precinct: 2660 - HASTINGS W-4 F-2 Polling Place

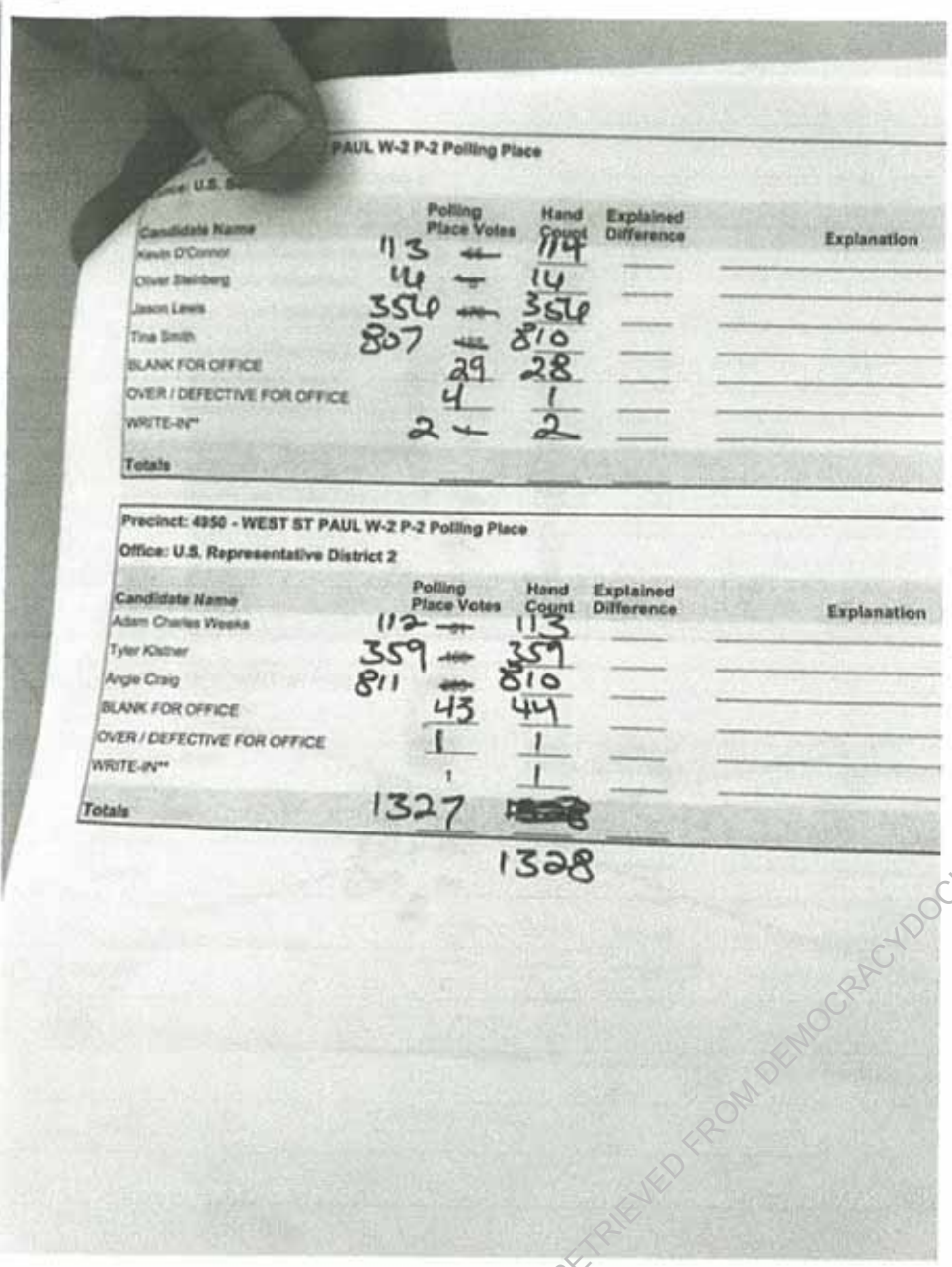
Office: U.S. President & Vice President

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Donald J. Trump and Michael R. Pence	806	806		
Joseph R. Biden and Kamala Harris	793	793		
Roque "Rocky" De La Fuente and Darcy Richardson	3	3		
Howie Hawkins and Angela Walker	4	4		
Kanye West and Michelle Tidball	5	5		
Brock Pierce and Karla Ballard	3	3		
Gloria La Riva and Leonard Peltier	1	1		
Alyson Kennedy and Malcolm Jarrett	0	0		
Jo Jorgensen and Jeremy "Spike" Cohen	18	18		
BLANK FOR OFFICE	4	4		
OVER / DEFECTIVE FOR OFFICE				
WRITE-IN**	2	2		
Totals	1,639	1,639		

Precinct: 2660 - HASTINGS W-4 F-2 AB/MB

Office: U.S. Senator

Candidate Name	AB/MB Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	42			
Oliver Steinberg	11			
Jason Lewis	274			
Tina Smith	492			
BLANK FOR OFFICE				
OVER / DEFECTIVE FOR OFFICE				
WRITE-IN**	0			
Totals				



PAUL W-2 P-2 Polling Place

Office: U.S. S...

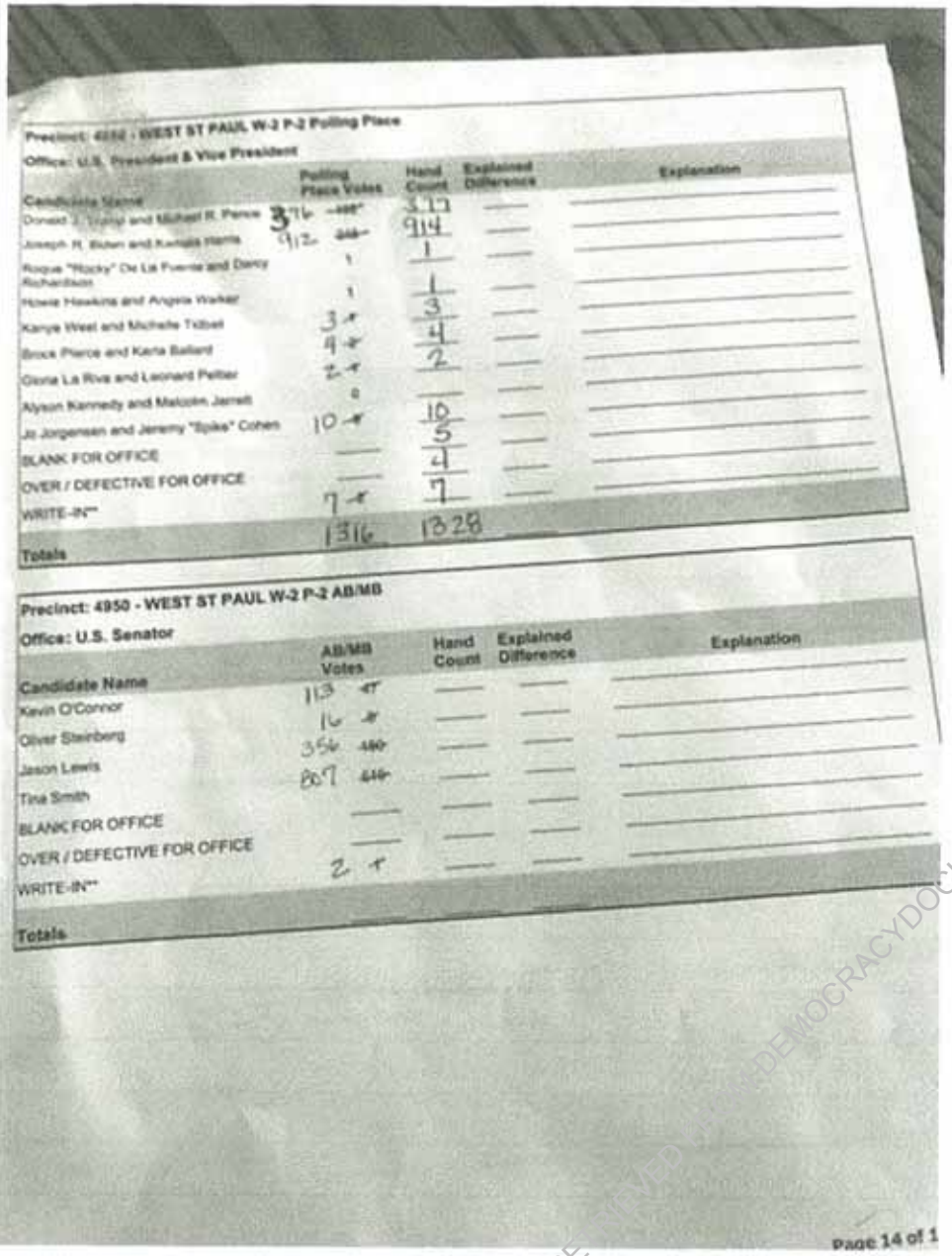
Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	113 ~~46~~	114		
Oliver Steinberg	4 ~~1~~	14		
Jason Lewis	356 ~~[illegible]~~	356		
Tina Smith	807 ~~[illegible]~~	810		
BLANK FOR OFFICE	29	28		
OVER / DEFECTIVE FOR OFFICE	4	1		
WRITE-IN**	2 ~~1~~	2		
Totals				

Precinct: 4950 - WEST ST PAUL W-2 P-2 Polling Place

Office: U.S. Representative District 2

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Adam Charles Weeks	112 ~~91~~	113		
Tyler Kistner	359 ~~160~~	359		
Angie Craig	811 ~~[illegible]~~	810		
BLANK FOR OFFICE	43	44		
OVER / DEFECTIVE FOR OFFICE	1	1		
WRITE-IN**	1	1		
Totals	1327	~~[illegible]~~		

1328



Precinct: 4950 - WEST ST PAUL W-2 P-2 Polling Place

Office: U.S. President & Vice President

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Donald J. Trump and Michael R. Pence	376 ~~408~~	377		
Joseph R. Biden and Kamala Harris	912 ~~948~~	914		
Roque "Rocky" De La Fuente and Darcy Richardson	1	1		
Howie Hawkins and Angela Walker	1	1		
Kanye West and Michelle Tidball	3	3		
Brock Pierce and Karla Ballard	4	4		
Gloria La Riva and Leonard Peltier	2	2		
Alyson Kennedy and Malcolm Jarrett	0			
Jo Jorgensen and Jeremy "Spike" Cohen	10	10		
BLANK FOR OFFICE		5		
OVER / DEFECTIVE FOR OFFICE		4		
WRITE-IN**	7	7		
Totals	1316	1328		

Precinct: 4950 - WEST ST PAUL W-2 P-2 AB/MB

Office: U.S. Senator

Candidate Name	AB/MB Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	113 ~~47~~			
Oliver Steinberg	16			
Jason Lewis	356 ~~480~~			
Tina Smith	869 ~~446~~			
BLANK FOR OFFICE				
OVER / DEFECTIVE FOR OFFICE				
WRITE-IN**	2			
Totals				

Page 14 of 1

Precinct: 4950 - WEST ST PAUL W-2 P-2 Polling Place

Office: U.S. President & Vice President

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
Donald J. Trump and Michael R. Pence	376 ~~-402~~	378		
Joseph R. Biden and Kamala Harris	912 ~~-948~~	914		
Roque "Rocky" De La Fuente and Darcy Richardson	1	1		
Howie Hawkins and Angela Walker	1	1		
Kanye West and Michelle Tidball	3	3		
Brock Pierce and Karla Ballard	4	4		
Gloria La Riva and Leonard Peltier	2	2		
Alyson Kennedy and Malcolm Jarrett	0			
Jo Jorgensen and Jeremy "Spike" Cohen	10	10		
BLANK FOR OFFICE		5		
OVER / DEFECTIVE FOR OFFICE		4		
WRITE-IN**	7	7		
Totals	1316	1328		

Precinct: 4950 - WEST ST PAUL W-2 P-2 AB/MB

Office: U.S. Senator

Candidate Name	AB/MB Votes	Hand Count	Explained Difference	Explanation
Kevin O'Connor	113 ~~-47~~			
Oliver Steinberg	16			
Jason Lewis	356 ~~-180~~			
Tina Smith	807 ~~-519~~			
BLANK FOR OFFICE				
OVER / DEFECTIVE FOR OFFICE				
WRITE-IN**	2			
Totals				

Post Election Review Results

State General Election
Tuesday, November 3, 2020

Printed: 11/17/2020 11:07 AM
Printed By: lokan19

County - Dakota

Precinct: 1830 - EAGAN P-13 — **Dakota County**

Office: U.S. Senator

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Kevin O'Connor	105	105	0	0	0	
Oliver Steinberg	42	42	0	0	0	
Jason Lewis	810	810	0	0	0	
Tina Smith	1421	1420	1	1	0	
BLANK FOR OFFICE	0	0	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	1	1	0	0	0	
Totals	**2379**	**2378**	**1**	**1**	**0**	

Final Results			
	Difference of not more than 0.5%	0%	ACCEPTABLE

Precinct: 1830 - EAGAN P-13 — **Dakota County**

Office: U.S. Representative District 2

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Adam Charles Weeks	97	97	0	0	0	
Tyler Kistner	858	856	2	2	0	
Angie Craig	1412	1412	0	0	0	
BLANK FOR OFFICE	0	0	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	0	0	0	0	0	
Totals	**2367**	**2365**	**2**	**2**	**0**	

Final Results			
	Difference of not more than 0.5%	0%	ACCEPTABLE

AFF-22

Precinct: 1830 - EAGAN P-13 — **Dakota County**

Office: U.S. President & Vice President

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Donald J. Trump and Michael R. Pence	788	789	1	1	0	PP: voter intent
Joseph R. Biden and Kamala Harris	1544	1545	1	1	0	PP: voter intent
Roque "Rocky" De La Fuente and Darcy Richardson	1	1	0	0	0	
Howie Hawkins and Angela Walker	12	12	0	0	0	
Kanye West and Michelle Tidball	6	6	0	0	0	
Brock Pierce and Karla Ballard	2	2	0	0	0	
Gloria La Riva and Leonard Peltier	0	0	0	0	0	
Alyson Kennedy and Malcolm Jarrett	0	0	0	0	0	
Jo Jorgensen and Jeremy "Spike" Cohen	31	31	0	0	0	
BLANK FOR OFFICE	23	23	0	0	0	
OVER / DEFECTIVE FOR OFFICE	4	4	0	0	0	
WRITE-IN**	16	16	0	0	0	
Totals	**2427**	**2429**	**2**	**2**	**0**	

Final Results	**Difference of not more than 0.5%**	**0%**	**ACCEPTABLE**

AFF-23

Precinct: 2260 - FARMINGTON P-6 — **Dakota County**

Office: U.S. Senator

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Kevin O'Connor	107	107	0	0	0	
Oliver Steinberg	22	22	0	0	0	
Jason Lewis	975	975	0	0	0	
Tina Smith	783	781	2	2	0	PP: voter intent
BLANK FOR OFFICE	47	47	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	0	0	0	0	0	
Totals	**1934**	**1932**	**2**	**2**	**0**	

Final Results	Difference of not more than 0.5%	0%	ACCEPTABLE

Precinct: 2260 - FARMINGTON P-6 — **Dakota County**

Office: U.S. Representative District 2

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Adam Charles Weeks	100	100	0	0	0	
Tyler Kistner	1009	1007	2	2	0	PP: voter intent
Angie Craig	763	763	0	0	0	
BLANK FOR OFFICE	59	59	0	0	0	
OVER / DEFECTIVE FOR OFFICE	2	2	0	0	0	
WRITE-IN**	1	2	1	1	0	PP: voter intent
Totals	**1934**	**1933**	**3**	**3**	**0**	

Final Results	Difference of not more than 0.5%	0%	ACCEPTABLE

Precinct: 2260 - FARMINGTON P-6 | **Dakota County**

Office: U.S. President & Vice President

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Donald J. Trump and Michael R. Pence	1008	1008	0	0	0	
Joseph R. Biden and Kamala Harris	884	882	2	2	0	PP: voter intent
Roque "Rocky" De La Fuente and Darcy Richardson	5	5	0	0	0	
Howie Hawkins and Angela Walker	6	6	0	0	0	
Kanye West and Michelle Tidball	2	2	0	0	0	
Brock Pierce and Karla Ballard	2	2	0	0	0	
Gloria La Riva and Leonard Peltier	0	0	0	0	0	
Alyson Kennedy and Malcolm Jarrett	0	0	0	0	0	
Jo Jorgensen and Jeremy "Spike" Cohen	18	18	0	0	0	
BLANK FOR OFFICE	0	0	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	7	11	4	4	0	PP: voter intent
Totals	**1932**	**1934**	**6**	**6**	**0**	

Final Results	**Difference of not more than 0.5%**	**0%**	**ACCEPTABLE**

AFF-25

Precinct: 2630 - HASTINGS W-2 P-1 — **Dakota County**

Office: U.S. Senator

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Kevin O'Connor	95	95	0	0	0	
Oliver Steinberg	16	16	0	0	0	
Jason Lewis	598	598	0	0	0	
Tina Smith	643	643	0	0	0	
BLANK FOR OFFICE	25	25	0	0	0	
OVER / DEFECTIVE FOR OFFICE	3	1	2	2	0	PP: voter intent
WRITE-IN**	0	0	0	0	0	
Totals	**1380**	**1378**	**2**	**2**	**0**	

Final Results	Difference of not more than 0.5%	0%	ACCEPTABLE

Precinct: 2630 - HASTINGS W-2 P-1 — **Dakota County**

Office: U.S. Representative District 2

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Adam Charles Weeks	88	88	0	0	0	
Tyler Kistner	605	605	0	0	0	
Angie Craig	651	651	0	0	0	
BLANK FOR OFFICE	36	36	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	0	0	0	0	0	
Totals	**1380**	**1380**	**0**	**0**	**0**	

Final Results	Difference of not more than 0.5%	0%	ACCEPTABLE

AFF-26

Precinct: 2630 - HASTINGS W-2 P-1 — **Dakota County**

Office: U.S. President & Vice President

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Donald J. Trump and Michael R. Pence	637	637	0	0	0	
Joseph R. Biden and Kamala Harris	702	703	1	1	0	PP: voter intent
Roque "Rocky" De La Fuente and Darcy Richardson	4	4	0	0	0	
Howie Hawkins and Angela Walker	3	3	0	0	0	
Kanye West and Michelle Tidball	3	3	0	0	0	
Brock Pierce and Karla Ballard	4	4	0	0	0	
Gloria La Riva and Leonard Peltier	0	0	0	0	0	
Alyson Kennedy and Malcolm Jarrett	0	0	0	0	0	
Jo Jorgensen and Jeremy "Spike" Cohen	16	16	0	0	0	
BLANK FOR OFFICE	3	2	1	1	0	PP: voter intent
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	6	6	0	0	0	
Totals	**1378**	**1378**	**2**	**2**	**0**	

Final Results	Difference of not more than 0.5%	0%	ACCEPTABLE

Precinct: 2660 - HASTINGS W-4 P-2 — **Dakota County**

Office: U.S. Senator

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Kevin O'Connor	121	121	0	0	0	
Oliver Steinberg	36	36	0	0	0	
Jason Lewis	743	743	0	0	0	
Tina Smith	710	710	0	0	0	
BLANK FOR OFFICE	29	29	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	0	0	0	0	0	
Totals	**1639**	**1639**	**0**	**0**	**0**	

Final Results	Difference of not more than 0.5%	0%	ACCEPTABLE

Precinct: 2660 - HASTINGS W-4 P-2 — **Dakota County**

Office: U.S. Representative District 2

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Adam Charles Weeks	114	114	0	0	0	
Tyler Kistner	741	741	0	0	0	
Angie Craig	747	747	0	0	0	
BLANK FOR OFFICE	36	36	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	1	1	0	0	0	
Totals	**1639**	**1639**	**0**	**0**	**0**	

Final Results	Difference of not more than 0.5%	0%	ACCEPTABLE

AFF-28

Precinct: 2660 - HASTINGS W-4 P-2 **Dakota County**

Office: U.S. President & Vice President

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Donald J. Trump and Michael R. Pence	806	806	0	0	0	
Joseph R. Biden and Kamala Harris	793	793	0	0	0	
Roque "Rocky" De La Fuente and Darcy Richardson	3	3	0	0	0	
Howie Hawkins and Angela Walker	4	4	0	0	0	
Kanye West and Michelle Tidball	5	5	0	0	0	
Brock Pierce and Karla Ballard	3	3	0	0	0	
Gloria La Riva and Leonard Peltier	1	1	0	0	0	
Alyson Kennedy and Malcolm Jarrett	0	0	0	0	0	
Jo Jorgensen and Jeremy "Spike" Cohen	18	18	0	0	0	
BLANK FOR OFFICE	0	0	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	2	2	0	0	0	
Totals	**1635**	**1635**	**0**	**0**	**0**	

Final Results	**Difference of not more than 0.5%**	**0%**	**ACCEPTABLE**

AFF-29

Precinct: 4950 - WEST ST PAUL W-2 P-2 — **Dakota County**

Office: U.S. Senator

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Kevin O'Connor	113	67	48	0	1	
Oliver Steinberg	16	8	8	0	0	
Jason Lewis	356	176	180	0	0	
Tina Smith	807	191	622	3	0	PP: voter intent
BLANK FOR OFFICE	29	28	1	1	0	PP: voter intent
OVER / DEFECTIVE FOR OFFICE	4	1	3	3	0	PP: voter intent
WRITE-IN**	2	1	1	0	0	
Totals	**1327**	**472**	**863**	**7**	**1**	

Final Results			
	Difference of not more than 0.5%	0.2118%	ACCEPTABLE

Precinct: 4950 - WEST ST PAUL W-2 P-2 — **Dakota County**

Office: U.S. Representative District 2

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Adam Charles Weeks	112	62	52	1	0	PP: voter intent
Tyler Kistner	359	168	191	0	0	
Angie Craig	811	204	607	1	0	PP: voter intent
BLANK FOR OFFICE	43	44	1	1	0	PP: voter intent
OVER / DEFECTIVE FOR OFFICE	1	1	0	0	0	
WRITE-IN**	1	1	0	0	0	
Totals	**1327**	**480**	**851**	**3**	**0**	

Final Results			
	Difference of not more than 0.5%	0%	ACCEPTABLE

AFF-30

Precinct: 4950 - WEST ST PAUL W-2 P-2 — **Dakota County**

Office: U.S. President & Vice President

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
Donald J. Trump and Michael R. Pence	376	193	185	1	0	PP: voter intent
Joseph R. Biden and Kamala Harris	912	247	669	2	0	PP: voter intent
Roque "Rocky" De La Fuente and Darcy Richardson	1	1	0	0	0	
Howie Hawkins and Angela Walker	1	1	0	0	0	
Kanye West and Michelle Tidball	3	1	2	0	0	
Brock Pierce and Karla Ballard	4	2	2	0	0	
Gloria La Riva and Leonard Peltier	2	1	1	0	0	
Alyson Kennedy and Malcolm Jarrett	0	0	0	0	0	
Jo Jorgensen and Jeremy "Spike" Cohen	10	8	2	0	0	
BLANK FOR OFFICE	4	5	1	1	0	PP: voter intent
OVER / DEFECTIVE FOR OFFICE	7	4	3	3	0	PP: voter intent
WRITE-IN**	7	2	3	0	0	
Totals	**1327**	**465**	**870**	**7**	**0**	

Final Results	**Difference of not more than 0.5%**	**0%**	**ACCEPTABLE**

* Total Unadjusted Difference is the sum of Unadjusted Difference for polling place votes and Unadjusted Difference for absentee/mail ballot votes. It will not always equal the difference between Total Votes and Total Hand Counted Votes.

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2018
Post-Election Review Guide

Office of the Minnesota Secretary of State
180 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155
Phone: (651) 215-1440
Toll Free: 1-877-600-8683
Minnesota Relay Service: 1-800-627-3529
Email: elections.dept@state.mn.us
Website: http://www.sos.state.mn.us

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TABLE OF CONTENTS

1.0 INTRODUCTION

This guide is designed for election officials and their staff who may conduct a post-election review of voting systems (PER). This guide should be used along with the Office of the Minnesota Secretary of State (OSS) publication "Minnesota Election Laws." Citations in this guide refer to the Minnesota election laws (M.S. citations) or rules (M.R. citations). Full text of the Minnesota election laws and rules can be found at the Minnesota Office of the Revisor of Statutes (https://www.revisor.mn.gov/). If using an electronic version of this guide, simply click on the citations to retrieve current statute or rule.

Portions of this guide contain procedures based on best practices, rather than statute or rule. If employing these portions, do not consider the information to hold the same authority as that information governed by federal or state law.

This guide focuses solely on the processes and procedures related to the PER. Please contact this office if you have comments on how this publication could better support the needs of election administrators. For a more comprehensive view of election administration in Minnesota refer to the following election guides: County Auditor Election Guide, City Clerk Election Guide, Township Clerk Election Guide, and School District Clerk Election Guide. These guides can be found at the OSS Election Guides webpage located at (https://www.sos.state.mn.us/election-administration-campaigns/election-administration/election-guides/).

2.0 WHAT - IS THE PER

The post-election equipment review or post-election review (PER) is a manual recount (or "audit") of randomly-selected precincts for specific offices following each state general election. The review compares the hand count of the ballots with the results from the electronic voting system to determine if counting accuracy of the voting system meets a defined standard. (See section 6.0.)

The PER is mandated for the offices of President or Governor; United States Senator and United States Representative. However, if one of these offices is the subject of a recount (as provided in M.S. 204C.35, subdivision 1), no review is required for that office. The PER official may conduct a post-election review of the votes cast for additional offices as well. *(M.S. 206.89, subd. 2a; 206.89, subd. 3)*

Note: In 2018, the offices to be reviewed include two U.S. Senate offices, in addition to Governor, and U.S. Representative.

The review official must submit the results of the review in writing to the county auditor. The auditor must then immediately submit the results of the post-election review electronically or in writing to the secretary of state not later than two days before the State Canvassing Board meets to canvass the state general election. *(M.S. 206.89, subd. 6)*

2.1 REVIEW NOTIFICATION

The county auditor must notify the Secretary of State of:

- the location, date and time of the PER
- the precincts chosen for the PER

See sections 4.3 and 5.1.1 for process steps.

For the PER, at least four precincts must be selected within each congressional district statewide. If the county selection process has not resulted in this condition being met, the Secretary of State may require counties to select by lot additional precincts to meet the congressional district requirement.

3.0 WHO – CONDUCTS THE PER

The county auditor is the PER official unless the auditor designates the municipal clerk as the PER official within 24 hours after the canvass of the state general election. *(M.S. 206.89, subd. 1)*

3.1 REVIEW EXPENSES

The cost of conducting the PER must be allocated as follows:

- The governing body responsible for each precinct selected for review must pay the costs incurred for the initial review and any needed additional reviews at the precinct and county levels.
- If a district-wide review must be conducted, the Secretary of State must reimburse local units of government for the costs of the district-wide review; and
- The vendor of the voting system must pay any costs incurred by the Secretary of State to examine and recertify the voting system. *(M.S. 206.89, subd. 9)*

4.0 WHEN AND WHERE – IS THE PER HELD

The date, time and place of the post-election review of the state general election is set at the canvass of the state primary by each county canvassing board. *(M.S. 206.89, subd. 2)*

4.1 DATE OF PER

The date selected by the county canvassing board must be within a statutorily defined time period: The PER must not begin before the 11th day after the state general election. The PER must be completed no later than the 18th day after the state general election, two days before the meeting of the State Canvassing Board. *(M.S. 206.89, subd. 2)*

Consider the following factors when selecting a date for the PER:

- Does it allow for the time necessary for escalation if escalation is called for
- Where does it fall in relation to holidays and weekends

See Appendix A for an example Determination of Post Election Review for use at the canvass board meeting.

4.2 LOCATION OF PER – FACILITIES, ACCESSIBILITY AND EQUIPMENT

All post-election reviews must be accessible to the public. Each election jurisdiction where a review is conducted shall make adequate accessible space and all necessary equipment and facilities available without charge to the review official or body conducting the review. *(M.S. 206.89, subd. 3; M.R. 8235.0600)*

4.3 LDT NOTIFICATION

The county auditor must immediately notify OSS of the PER **Location, Date and Time** (LDT) set at the primary canvass. Instructions on how to notify OSS will be provided to county election administrators. The post-election review details for each county will be posted on the OSS Post-Election Reviews webpage (http://www.sos.state.mn.us/elections-voting/how-elections-work/post-election-reviews/). *(M.S. 206.89, subd. 2)*

5.0 WHICH – PRECINCTS ARE PART OF THE PER

At the canvass of the state general election, the county canvassing board must select the precincts to be reviewed by lot. The number of precincts that must be selected is determined by the size of a county's registered voter population. Refer to the table directly below.

Registered Voter Count	Number of Precincts to Review
<50,000	At least 2
50,000 – 100,000	At least 3
>100,000	At least 4 or 3% of total number of precincts, whichever is greater

The ballots to be reviewed for a precinct must include **both** the ballots counted at the precinct's polling place and the absentee ballots counted centrally by a ballot board for that precinct. At least one precinct

selected must have had more than 150 votes cast at the state general election. (The count of votes cast is the combined total of polling place votes and absentee votes.) *(M.S. 206.89, subd. 2)*

If the required number of precincts have been drawn and none have more than 150 votes cast, an additional precinct with at least 150 votes cast must be selected. To do this, remove the precincts where less than 150 votes were cast from the pool of undrawn precincts. Draw an additional precinct from this narrowed pool. Include this precinct with those already selected.

5.1 NOTIFICATION OF PRECINCTS SELECTED

The county auditor must notify the Secretary of State of the precincts chosen for the PER. Notification to OSS is made by marking the precincts selected for review in the Election Reporting System (ERS). See section 5.1.1 for the steps to specify the precincts in ERS.

As indicated in section 2.1, Statewide at least four precincts must be selected within each congressional district. If the county selection process has not resulted in this condition being met, the Secretary of State may require counties to select additional precincts by lot to meet the congressional district requirement.

5.1.1 ERS Steps

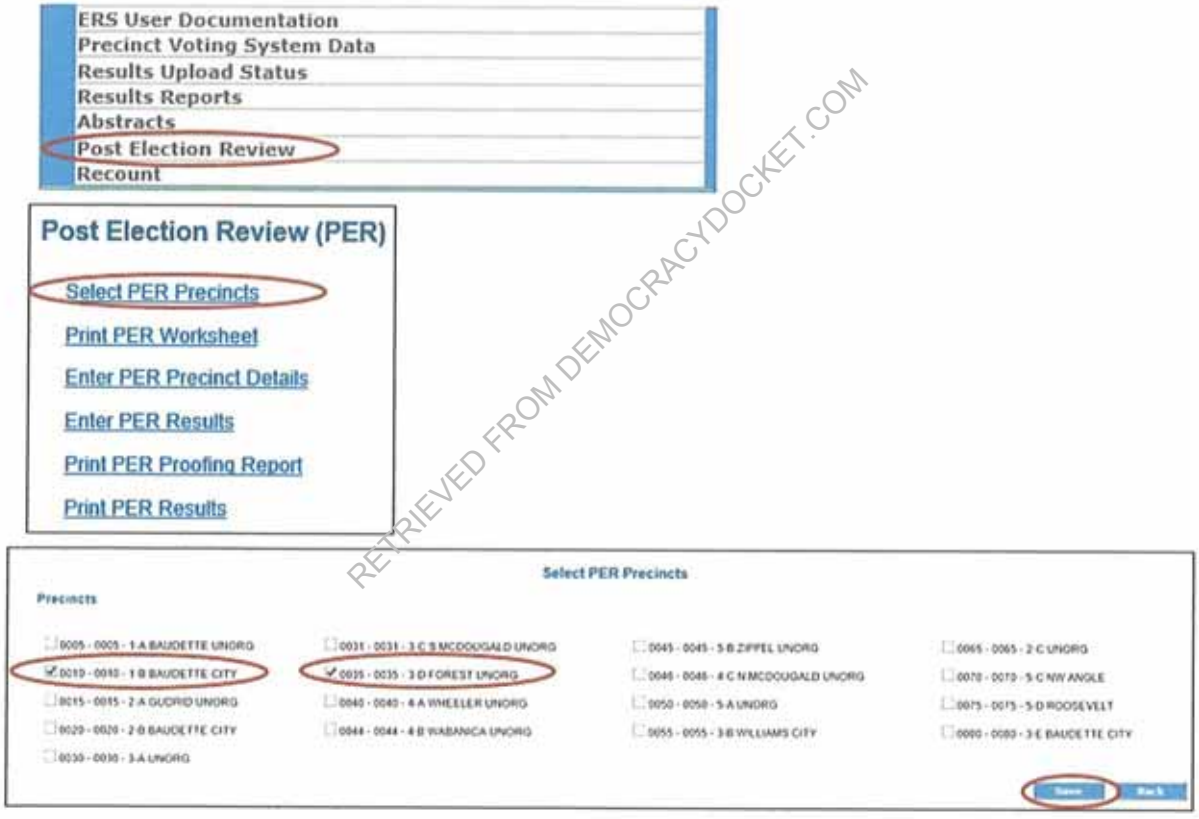


Figure 1 Selecting the PER precincts in ERS

6.0 STANDARD OF ACCEPTABLE PERFORMANCE BY A VOTING SYSTEM

As stated above, the PER compares the hand count of the ballots with the results from the electronic voting system to determine if counting accuracy of the voting system meets a defined standard. The comparison of the results from the voting system and the manual count done during the PER must be accurate to within one-half of one percent or not more than two votes in precincts where 400 or fewer voters cast ballots. This does not include valid votes marked outside of the vote targets on the ballot or

votes marked by an unreadable manual marking device that cannot be read by the electronic voting system.

6.1 ADDITIONAL REVIEW

If the PER in one of the reviewed precincts reveals a difference greater than one-half of one percent or greater than two votes in a precinct where 400 or fewer voters cast ballots, then a second level of review is necessary.

6.1.1 Level Two Review – Additional Precincts in County

When a second level of review is required, the PER official must, within two days, conduct an additional review of the races of President or Governor; U.S. Senator; and U.S. Representative in at least three precincts in the same jurisdiction where the discrepancy was discovered. If all precincts in that jurisdiction have been reviewed, the county auditor must immediately and publically select by lot at least three additional precincts for review. The review official must complete the additional review within two days after the precincts are selected and report the results immediately to the county auditor.

If the level two review indicates a difference in any of the reviewed precincts that is greater than one-half of one percent, or greater than two votes in a precinct where 400 or fewer voters cast ballots, then a third level of review is necessary.

6.1.2 Level Three Review – All Remaining Precincts in County

When a third level of review is necessary, the county auditor must conduct a review of the ballots from all remaining precincts in the county for the races of President or Governor; U.S. Senator; and U.S. Representative. This review must be completed and the results must be reported to the secretary of state within one week after the level two review is completed.

If the results from the countywide reviews from one or more counties together comprise more than 10 percent of the total number of people voting in the election clearly indicate that an error in vote counting has occurred, then a fourth level of review is necessary.

6.1.3 Level Four Review – All Precincts in District

The secretary of state must notify the PER official of each county in the district that they must conduct manual recounts of all ballots in the district for the affected office. This manual recount is conducted using the procedure found in M.S. 204C.35. This review must be completed and the results reported to the appropriate canvassing board within two weeks after the PER official received notice from the secretary of state. *(M.S. 206.89, subd. 5)*

7.0 GENERAL PROCEDURES

This portion of the guide contains procedures based on best practices, rather than statute or rule. If employing these portions, do not consider the information to hold the same authority as that information governed by federal and state law. At the opening of a review, the review official or legal advisor shall present the procedures contained in this rule for review.

7.1 PREPARE AND ORGANIZE

7.1.1 Election Materials

The custodian of the ballots shall provide to the review official the precinct summary statements, the precinct boxes or containers containing the sealed envelopes of voted ballots, and any other election materials requested by the review official. It is a good practice to have the original summary statements and results tapes/reports for the precincts (both polling place and absentee) available for public review. The ballot containers should be delivered to the post-election review official at the counting location by

two election judges not of the same political party, or by two election officials, or by a combination of election judges and officials.

Ballots and election materials may only be handled by the post-election review official or their staff. If the post-election review official needs to leave the room during the review, they must designate a deputy to preside over the review while they are absent.

7.1.2 Administrative Materials

Prior to the review, prepare a review packet with a checklist. Have all forms, exhibits, supplies and contact information organized to ensure that all information given to individuals is provided in a consistent format. This will save time and allow the focus to be election specific.

Worksheets should be prepared for each precinct selected for the review. These worksheets can be printed from ERS. Each precinct will have two worksheets – one for polling place votes and one for absentee/mail ballot votes. Follow the process steps directly below to print the worksheets.

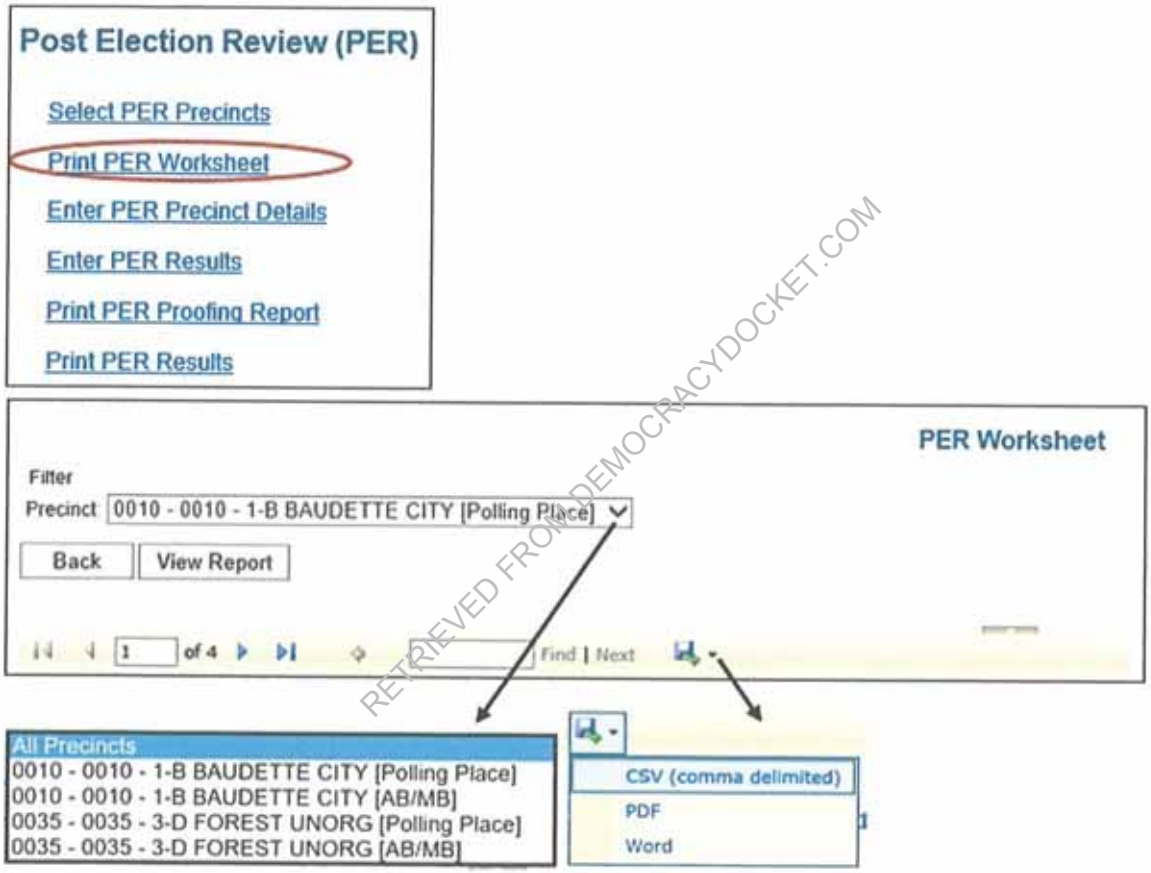


Figure 2 Printing PER Worksheets in ERS

A worksheet will only contain vote totals for one counter group: The Polling Place worksheet will display only results from the polling place while the Absentee/Mail Ballot worksheet will display only AB/MB results.

The following vote counts are not available in ERS and **will not be** populated in the Worksheet:

- Undervotes (Blanks)
- Overvotes
- Totals

Instead, blank lines will be printed. Using the precinct's election night summary statement, **hand-write these counts on the precinct's worksheet(s) before beginning the PER.** See Figure 6 below.

Post Election Review Worksheet

State General Election
Tuesday, November 6, 2012

Printed: 10/22/2014 8:29 AM
Printed By: kf601

County - Nicollet, Precinct - 10076

Precinct: 0125 - ST PETER W-1 P-2 Polling Place

Office: U.S. President & Vice President

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
MITT ROMNEY AND PAUL RYAN	522			
BARACK OBAMA AND JOE BIDEN	818			
GARY JOHNSON AND JIM GRAY	17			
JAMES HARRIS AND MAURA DELUCA	1			
VIRGIL GOODE AND JIM CLYMER	1			
DEAN MORSTAD AND JOSH FRANKE-HYLAND	0			
JILL STEIN AND CHERI HONKALA	12			
JIM CARLSON AND GEORGE MCMAHON	2			
PETA LINDSAY AND YARI OSORIO	2			
ROSS C. "ROCKY" ANDERSON AND LUIS J. RODRIGUEZ	1			
BLANK FOR OFFICE				
OVER / DEFECTIVE FOR OFFICE				
WRITE-IN**	5			
Totals				

Hand enter from election night summary statement

Figure 3 Example Polling Place Votes PER Worksheet

The PER Worksheets contain the certified results for a given precinct. It is a good practice to have additional copies of the Worksheets available for public review.

7.1.3 Facilities

Setting up the facilities is important. In addition to setting up the room where the review takes place, remember to consider security needs and parking availability for those involved in the process. Set up the review room so there is a staging area, counting area and viewing area. This set-up should take into account the planned workflow (e.g. bringing and removing election materials and well as the location of unlocked bathrooms). Be sure to set up the necessary number of counting tables.

Badges should be provided which identify the people present and their role in the post-election review. Only those people directly involved in the review should be present within the reviewing area. These individuals are limited to the review officials and legal advisor and officials of the election jurisdiction. However, the public and press must be admitted into the room where the review is being conducted to observe proceedings from outside the review area.

7.2 STAFFING AND TRAINING

The post-election review official may be assisted by election judges designated by the official for this purpose. When designating election judges, it is a good practice to include some alternate or standby judges who can be called to step in if an emergency substitution is needed on the day of the review. (E.g. if an election judge is fails to show up for the PER.)

The party balance requirement of M.S. 204B.19 applies to election judges designated for the review. Schedule the training/information dissemination session for staff. Keep your team informed.

Bring as many staff as necessary to the review. Require name badges for all authorized personnel. Establish firm guidelines for release of all information both to the media and between staff members.

7.3 OBSERVATION

The post-election review official shall arrange the counting of ballots so that the public can view the ballots as they are recounted. The official shall ensure that this public observation does not interfere with the counting or security of the ballots. If other election materials are handled or examined by the review officials, the participants may observe them. Be cognizant of the chain of custody of the ballots as cases are collected from secure storage, as they await review in the PER location, and as they are returned to secure storage. Open the sealed containers only when the review team and observers are present. Keep all ballot access in full view. The review official shall prepare a summary of the review by precinct. *(M.R. 8235.0700)*

7.4 MANAGING THE PROCESS

The post-election review official is in charge. Acknowledge everyone present (your team, legal counsels, election officials, public and press); everyone has a role. Always explain what is about to occur and explain why. Be completely thorough and transparent. Never hold a private conversation with only one of the parties. Always appear in control of yourself and the situation. Be sure to answer any questions and address the concerns of any observer.

Orally review with all present:

- Roles of review officials, observers and staff.
- Procedures for the review including the sorting and counting processes.

If observers have concerns or suggestions, listen. Make sure the actions of officials and staff in the review fills the process with accountability, credibility and trust. Make a defendable decision and carry it out consistently.

8.0 EXAMPLE INSTRUCTIONS

Provide the team with the following instructions:

- This is a post-election review held pursuant to M.S. 206.89.
- It is **not** to determine:
  - who was eligible to vote;
  - if campaign laws were violated;
  - if absentee or mail ballots were properly accepted.
- It is **not** – except for reviewing the ballots – to determine if judges did things right.
- It is simply to physically recount the ballots **for the races included in the post-election review**.

It is an opportunity for everyone, particularly the election officials, to satisfy themselves that ballots were, in fact, counted properly. If it is found that judges have counted votes wrong or the machine counted them wrong, you need to be aware that this is not unusual and that is why we have the review law. Normally any errors by judges or the machine are random errors and generally offset one another. Characteristically what we find is that a slight change one way in one precinct is balance by a corresponding change in the other direction in another precinct. Normally the results of the election are not changed by these adjustments, but it does happen.

Only the review official handles ballots unless they specifically instruct another to handle them. Make any concerns regarding the process known immediately to review official. Ballots will be reviewed by precinct. We will count one precinct at a time, maintaining the separation of ballots by precinct and by counter group. (Polling place ballots and Absentee/Mail Ballots will be counted separately.) The review official, however, may review more than one precinct at a time in physically separate location within the room in which the review is administered.

Process Overview:

- Ballots will be removed from the sealed case(s) and staff will turn all ballots so they are facing in the same direction, with the same side up.
- The review official will separate the ballots into several piles:
    - One for each candidate;
    - One for write-ins, and
    - One for blank or defective or marked outside of the target area for the offices being reviewed.
- Voter intent will be determined pursuant to M.S. 204C.22
- Staff will count the ballots by piling the ballots in groups of 25.
- Counts will be recorded for each precinct counter group on the review worksheet and summary statement.
- After counting, the ballots must be resealed in the transfer case. (Polling Place and Absentee ballots for a precinct may be sealed together in a single case.)

See Appendix B for a printer-friendly procedures sheet.

9.0 COUNTING BALLOTS

Ballots must be reviewed on a precinct by precinct basis, first to determine votes cast for the affected offices (see section 10.0), then to determine if additional steps are required (see section 11.0). The post-election review official shall open the sealed envelopes and review them in accordance with M.S. 204C.41.

When conducting the review, the total number of ballots counted for the PER offices in a given precinct must be equal, (i.e. the total ballots counted for Governor, the total ballots counted for U.S. Senator, and the total ballots counted for U.S. Representative should all be the same). Whenever there is a discrepancy among the total number of ballots counted for each office in a given precinct, the ballots should be recounted. If there is any doubt about a precinct's results, count again. If the manual count differs from the original results, you may want to have a different review team count again, looking in piles for incorrectly sorted ballots.

After the count of votes (both Polling Place and Absentee/Mail Ballot) for the precinct has been determined, all ballots will be resealed in the ballot envelopes and returned with the other election materials to the custodian of the ballots. (Absentee and Polling Place ballots may be sealed together in a single precinct transfer case.) (M.S. 204C.361; M.R. 8235.0800)

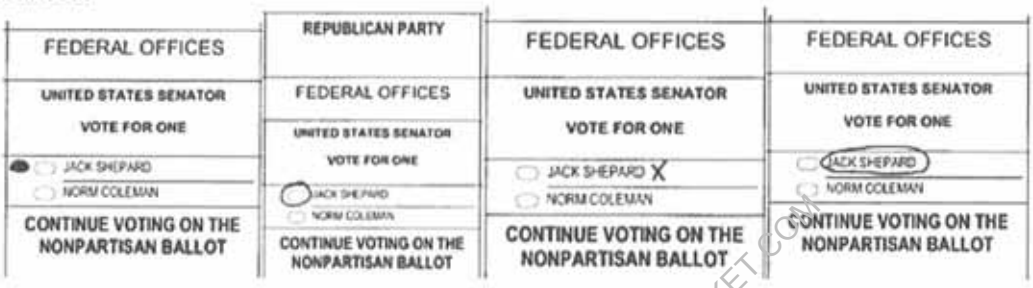
10.0 DETERMINING VOTER INTENT

Minnesota law requires that every effort be made to accurately count all votes on a ballot. This means that a ballot or vote must not be rejected for a technicality if it is possible to determine what the voter intended, even though the voter may have made a mistake or the ballot is damaged. Intent is determined only from the face of the ballot. Use the following rules to decide voter intent:

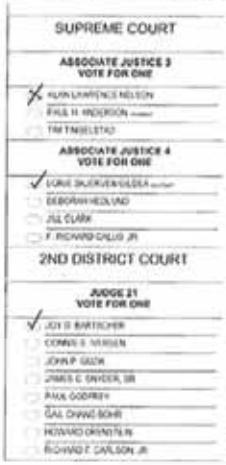
10.1 COUNTED

- If a name is written in the proper place but the write-in target is not marked, count the vote for that individual.

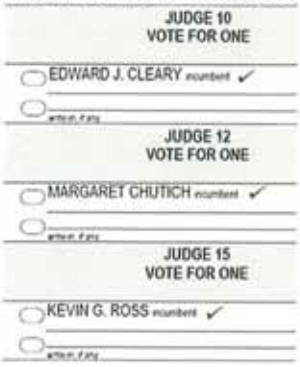
- A mark made out of place but close enough to a name or line to determine voter intent is to be counted.



- If two or more different marks are used by the voter, count them, provided the marks do not mark the ballot with distinguishing characteristics where the voter's intent is to identify the ballot.

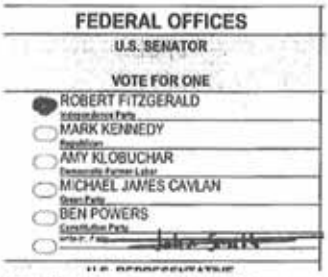


- If the voter uniformly uses a mark other than ● to mark their ballot which clearly indicates an intent to mark a name or mark yes or no on a question, count those offices.



- If marks are made next to two candidates and an attempt was made to erase one of the two, vote is counted for the remaining marked candidate.

- If an attempt is made to obliterate a write-in name, a vote is counted for the remaining write-in name or marked candidate.



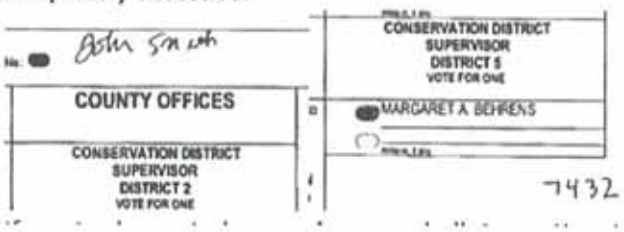
- A write-in candidate for governor or lieutenant governor is counted as a vote for a team of candidates including lieutenant governor.
- Count all printed names with a mark made opposite them and all names written-in, not exceeding the number to be elected for that office.
- Misspellings for names written-in must be counted if intent can be determined.
- If the voter's choice can only be determined for some of the offices on the ballot, only count those offices on the ballot.
- A ballot cannot be rejected because it is slightly soiled or defaced.
- A ballot that has one or more blank offices is not defective

It is a good practice to keep questionable ballots at the top of counted stacks.

10.2 NOT COUNTED

- If the voter has marked more candidates than to be elected or nominated for that office, ballot is defective for that particular office. (All other offices on the ballot are counted if possible.)

- If the voter used an identifying mark or mark with the intent to identify the ballot, the ballot is completely defective.



- If a voter has voted yes and no on a ballot question, that question is not counted, but the rest of the ballot must be counted if possible.
- If marks are made opposite of more printed candidates or write-ins allowed for an office, the ballot is defective for that particular office.
- If the number of candidates for an office is equal to the number of individuals to be elected to that office, and the voter has not marked any name, no vote is counted for any candidate for that office.
- A specific office is considered blank when no name or response to a question is marked and no name is written-in. *(M.S. 204C.22)*

11.0 DETERMINING RESULTS

11.1 ADJUSTMENTS TO MEET POST-ELECTION REVIEW STANDARDS

M.S. 206.89 sets out the following standards for excluding ballots from the post-election review:

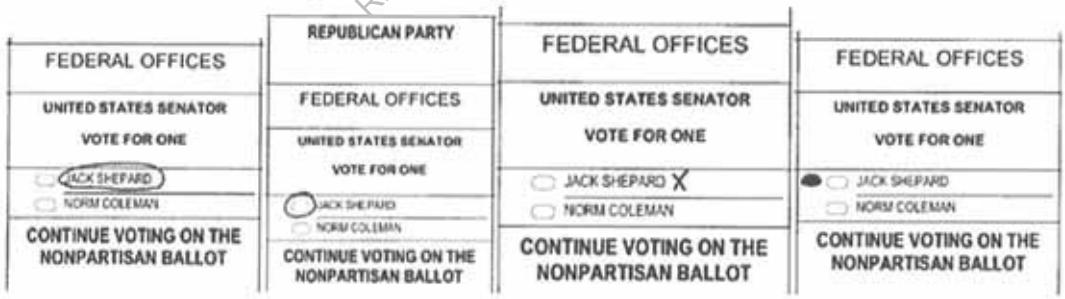
"Valid votes that have been marked by the voter outside the vote targets or using a manual marking device that cannot be read by the voting system must not be included in making the determination whether the voting system has met the standard of acceptable performance for any precinct."

The votes marked in the following examples taken from section 10.1 above, would likely be exceptions included in the "Explained Difference" column on the PER worksheet. The ballot counter cannot determine voter intent in these cases, so these votes do not count against the standard of acceptable performance.

11.1.1 Examples to Determine Explained Differences

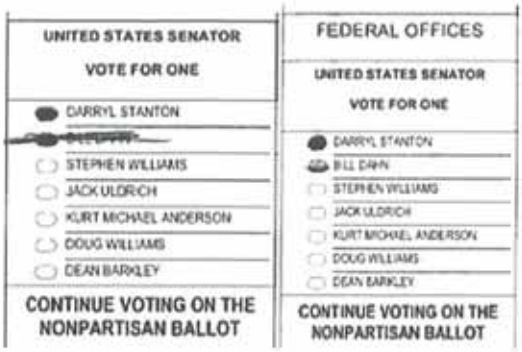
Marks Outside Target

These marks would not likely be counted by the ballot tabulator.



Possible Overvotes

The ballot counter would not likely have counted these votes, but would have recorded them as overvotes.



The cases above were marked in such a way that they could not be properly read by the electronic voting system. Those votes that appear unreadable by the electronic voting system are included for the candidates in the "Hand Counted Votes" column based on voter intent. Unreadable votes, however, do not count against the standard of acceptable performance of the voting system and are also reported in the "Explained Differences" column if applicable. (M.S. 206.89)

Precinct: 0125 - ST PETER W-1 P-2 Polling Place

Office: U.S. Senator

Candidate Name	Polling Place Votes	Hand Count	Explained Difference	Explanation
STEPHEN WILLIAMS	43	45	1	Stray mark recorded as overvote
KURT BILLS	304	305		Voter intent outside of target
AMY KLOBUCHAR	973	973		
TIM DAVIS	19	19		
MICHAEL CAVLAN	2			
BLANK FOR OFFICE	5	3	1	Vote for Bills outside of target
OVER / DEFECTIVE FOR OFFICE	4	3	1	Stray mark not overvote, for Williams
WRITE-IN**	1	2		
Totals	1352	1352	4	

Precinct: 0125 - ST PETER W-1 P-2 AB/MB

Office: U.S. Senator

Candidate Name	AB/MB Votes	Hand Count	Explained Difference	Explanation
STEPHEN WILLIAMS	1	1		
KURT BILLS	40	40		
AMY KLOBUCHAR	119	119		
TIM DAVIS	1	1		
MICHAEL CAVLAN	1	1		
BLANK FOR OFFICE	4	3	1	Write-in candidate name provided, oval unmarked
OVER / DEFECTIVE FOR OFFICE	2	2		
WRITE-IN**	0	1	1	Candidate name written-in, oval not marked
Totals	168	168	2	

Figure 4 Example PER Worksheets for Polling Place and AB/MB Votes with review counts and explained differences

11.2 COMPARISON OF RESULTS

Once the ballots that are unreadable by the electronic voting system are noted in the "Explained Differences" column, any remaining differences between the results of the hand tally with the reported results for the precinct will be calculated in the "Adjusted Differences" column. The county must immediately input the results of the post-election review into ERS (but no later than two days before the State Canvassing Board meets to canvass the election). Any revision to the vote totals for these offices will be incorporated into the official results for those precincts.

11.2.1 PER Results Entry

The county will input two sets of results per precinct into ERS – one for polling place votes, one for absentee/mail ballot votes. Follow the process steps directly below to input results.

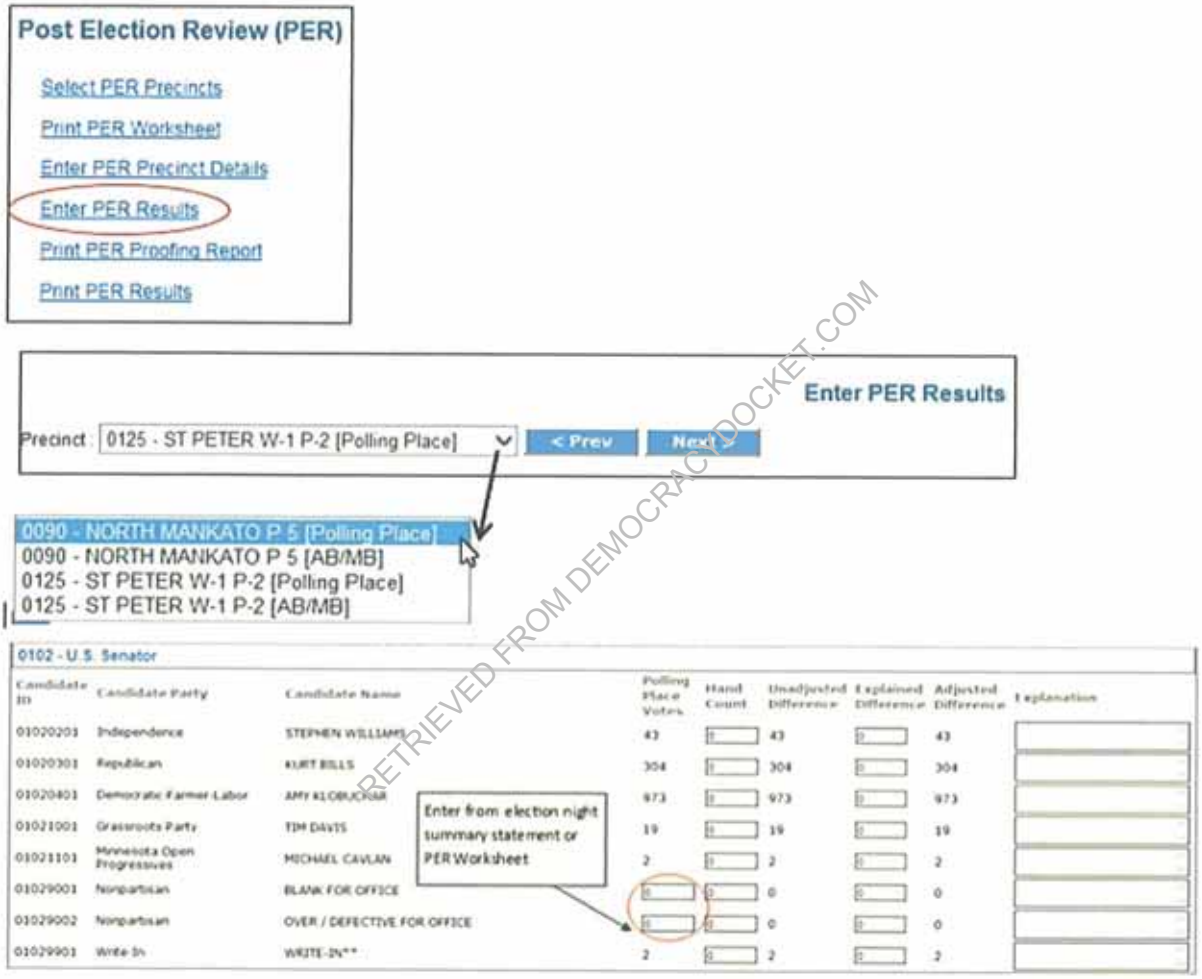


Figure 5 Entering PER Results in ERS

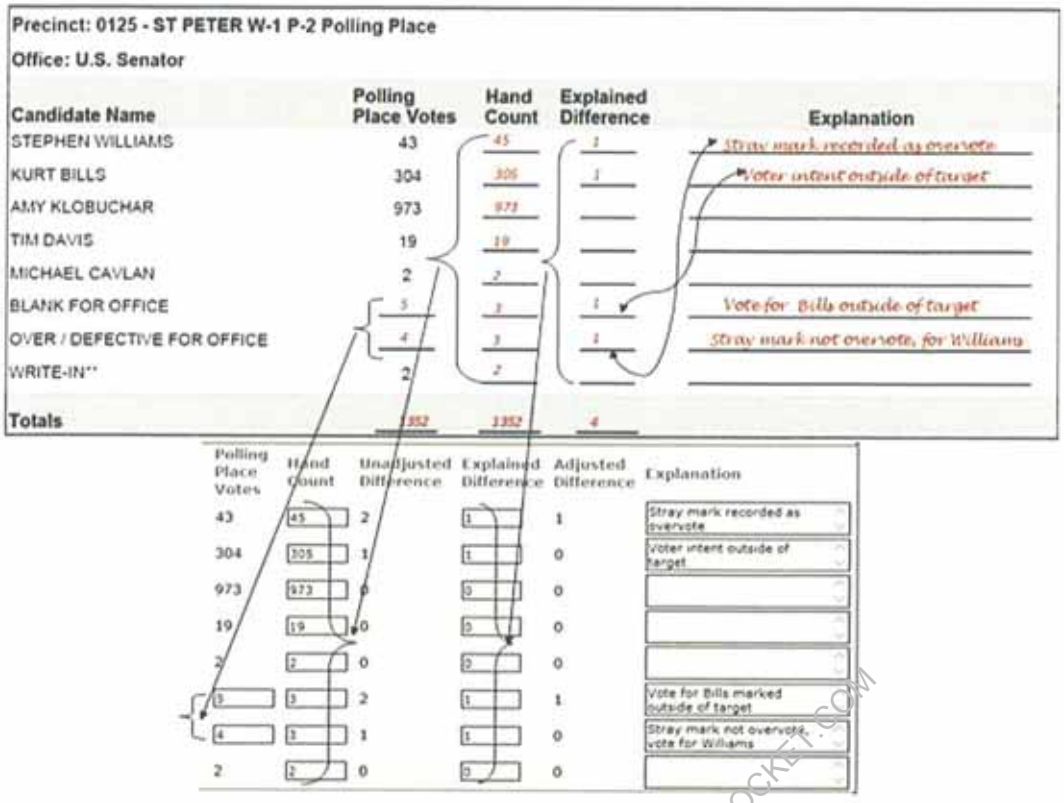


Figure 6 Inputting PER Polling Place Worksheet data into ERS PER Results Entry Screen

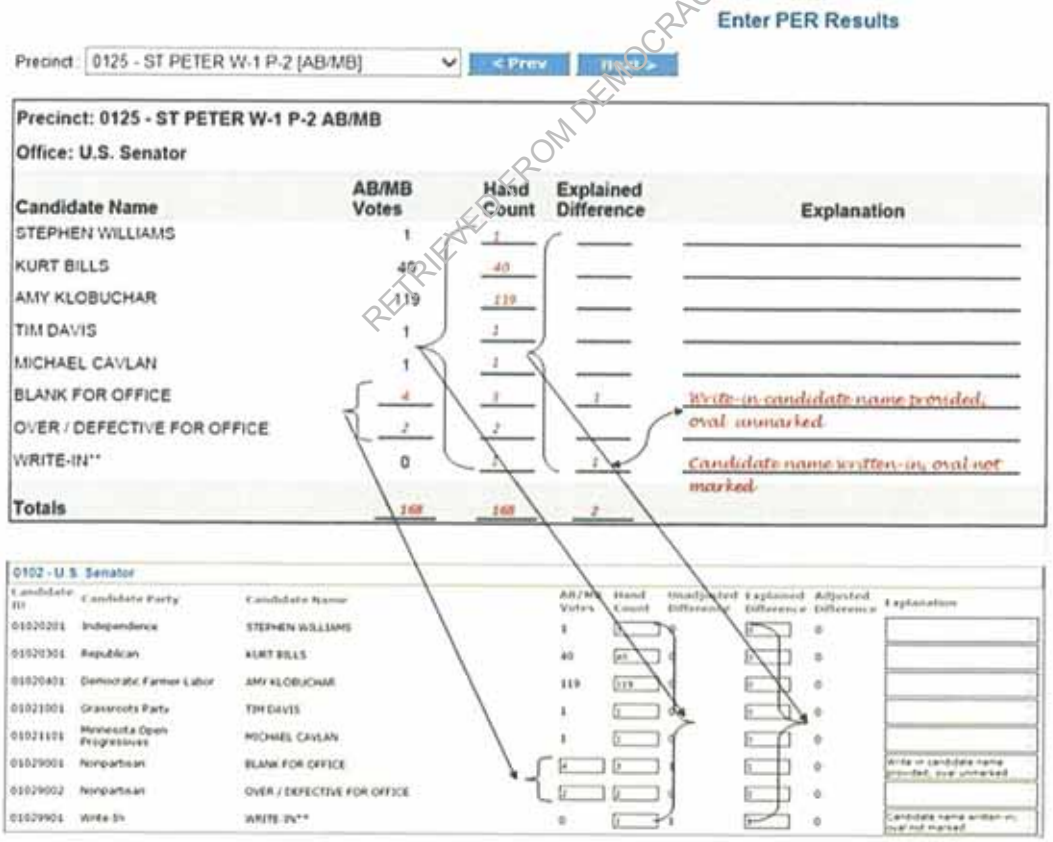
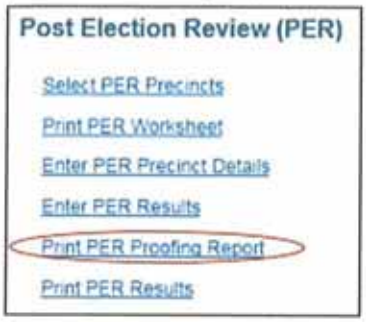
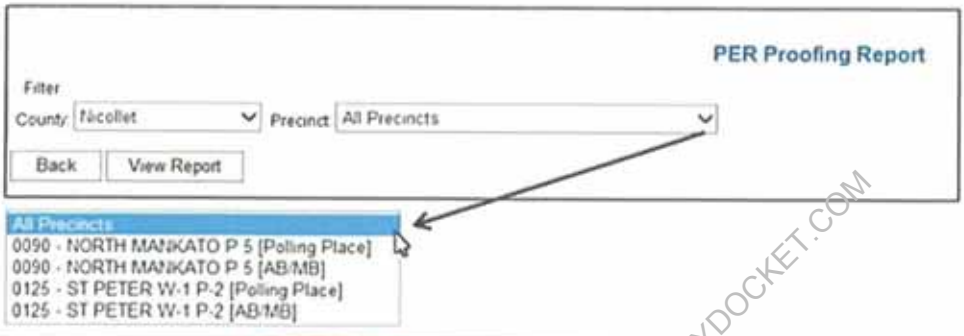


Figure 7 Inputting PER AB/MB Worksheet data into ERS PER Results Entry Screen

11.2.2 PER Results Proofing

To proof the entry of polling place and AB/MB vote totals in ERS, counties should print and review the PER Proofing Report for accuracy. The report can be printed to include all precincts or by individual precinct counter group. Follow the process steps directly below to print the Proofing Report.





Precinct: 0125 - ST PETER W-1 P-2 Polling Place — Nicollet County

Office: U.S. Senator

Candidate Name	Polling Place Votes	Hand-Counted Votes	Unadjusted Difference	Explained Difference	Adjusted Difference	Explanation
STEPHEN WILLIAMS	43	45	2	1	1	Stray mark recorded as overvote
KURT BILLS	304	305	1	1	0	Voter intent outside of target
AMY KLOBUCHAR	973	973	0	0	0	
TIM DAVIS	19	19	0	0	0	
MICHAEL CAVLAN	2	2	0	0	0	
BLANK FOR OFFICE	5	3	2	1	1	Vote for Bills marked outside of target
OVER / DEFECTIVE FOR OFFICE	4	5	1	1	0	Stray mark not overvote, vote for Williams
WRITE-IN**	2	2	0	0	0	
Totals	1352	1352	6	4	2	

Precinct: 0125 - ST PETER W-1 P-2 AB/MB — Nicollet County

Office: U.S. Senator

Candidate Name	AB/MB Votes	Hand-Counted Votes	Unadjusted Difference	Explained Difference	Adjusted Difference	Explanation
STEPHEN WILLIAMS	1	1	0	0	0	
KURT BILLS	40	40	0	0	0	
AMY KLOBUCHAR	119	119	0	0	0	
TIM DAVIS	1	1	0	0	0	
MICHAEL CAVLAN	1	1	0	0	0	
BLANK FOR OFFICE	4	3	1	1	0	Write-in candidate name provided, oval unmarked
OVER / DEFECTIVE FOR OFFICE	2	2	0	0	0	
WRITE-IN**	0	1	1	1	0	Candidate name written-in, oval not marked
Totals	168	168	2	2	0	

Figure 8 Printing the PER Proofing Report in ERS

Proofing Tips:

- Ensure BLANK FOR OFFICE and OVER/DEFECTIVE FOR OFFICE votes are entered for all offices.
- Ensure the votes totals for the PER offices within each counter group are equal (e.g. the Polling Place Totals for U.S. President and U.S. Representative are the same.) See Figure 15 below for an example.
- Ensure that a descriptive Explanation is included where needed. See Figure 16 on page 21 for an example.

The number of ballots counted for a given precinct counter group should not change between offices.

In the example to the right, hand-counted votes for Governor & Lt. Governor are less than the votes counted for the other two offices. This cannot occur.

Possible Ways to Resolve:

- Check for missing Blank for Office vote or Over/ Defective
- Count office again to check vote totals

Precinct: 0090 - NORTH MANKATO Polling Place — Nicollet County

Office: U.S. Senator

Candidate Name	Polling Place Votes	Hand-Counted Votes	Unadjusted Difference	Explained Difference	Adjusted Difference	Explanation
STEVE CARLSON	11	11	0	0	0	
MIKE MCFADDEN	136	136	0	0	0	
AL FRANKEN	141	141	0	0	0	
HEATHER JOHNSON	3	3	0	0	0	
BLANK FOR OFFICE	3	3	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	0	0	0	0	0	
Totals	294	294	0	0	0	

Precinct: 0090 - NORTH MANKATO Polling Place — Nicollet County

Office: U.S. Representative District 1

Candidate Name	Polling Place Votes	Hand-Counted Votes	Unadjusted Difference	Explained Difference	Adjusted Difference	Explanation
JIM HAGEDORN	137	137	0	0	0	
TIM WALZ	152	152	0	0	0	
BLANK FOR OFFICE	5	5	0	0	0	
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	0	0	0	0	0	
Totals	294	294	0	0	0	

Precinct: 0090 - NORTH MANKATO Polling Place — Nicollet County

Office: Governor & Lt Governor

Candidate Name	Polling Place Votes	Hand-Counted Votes	Unadjusted Difference	Explained Difference	Adjusted Difference	Explanation
HANNAH NICOLLET AND TIM GIESEKE	27	27	0	0	0	
JEFF JOHNSON AND BILL KUISLE	141	141	0	0	0	
MARK DAYTON AND TINA SMITH	120	121	1	0	1	Oval not completely filled
CHRIS HOLBROOK AND CHRIS DOCK	2	2	0	0	0	
CHRIS WRIGHT AND DAVID DANIELS	2	2	0	0	0	
BLANK FOR OFFICE	1	0	1	0	1	Oval not completely filled
OVER / DEFECTIVE FOR OFFICE	0	0	0	0	0	
WRITE-IN**	0	0	0	0	0	
Totals	293	293	2	0	2	

Figure 9 Example of Total Votes in need of correction

Precinct: 0550 - GILBERT — St. Louis County

Office: Governor & Lt Governor

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
HANNAH NICOLLET AND TIM GIESEKE	29	30	1	1	0	PP Voter intent overvote was vote for Nicollet & Gieseke. AB/MB
JEFF JOHNSON AND BILL KUISLE	243	243	0	0	0	AB/MB
MARK DAYTON AND TINA SMITH	477	477	0	0	0	AB/MB
CHRIS HOLBROOK AND CHRIS DOCK	11	11	0	0	0	AB/MB
CHRIS WRIGHT AND DAVID DANIELS	12	12	0	0	0	
BLANK FOR OFFICE	6	6	0	0	0	
OVER / DEFECTIVE FOR OFFICE	1	0	1	1	0	PP Voter intent counted as overvote but was vote for Nicollet & Gieseke
WRITE-IN**	0	0	0	0	0	
Totals	779	779	2	2	0	

Figure 10 Example of PER Explanations

ERS will automatically determine if the PER results meet the standard of acceptable performance or if the Adjusted Difference is greater than one-half of one percent and additional review is necessary.

11.2.3 Submitting PER Results to OSS

The county auditor must print the PER Results Report and proof for accuracy and acceptability. To print the Results Report, follow the steps directly below.

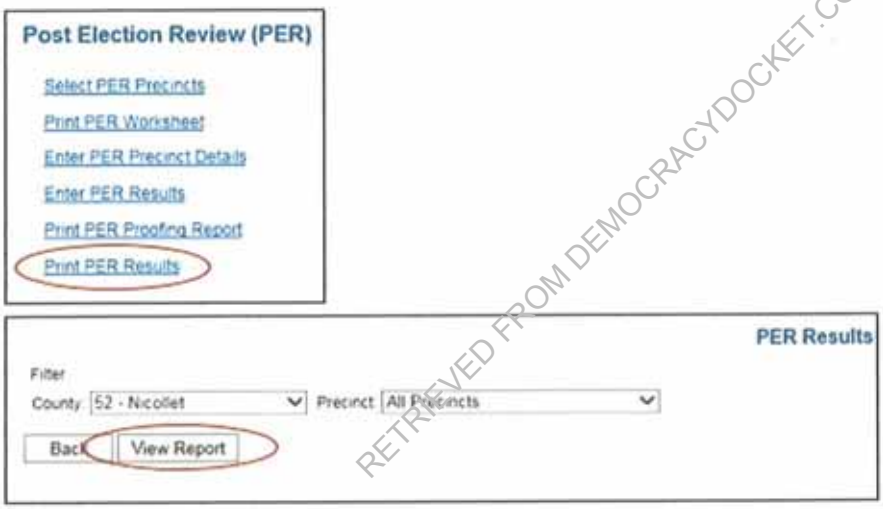


Figure 11 Printing the PER Results in ERS

Precinct: 0125 - ST PETER W-1 P-2 — Nicollet County

Office: U.S. Senator

Candidate Name	Total Votes	Total Hand-Counted Votes	Total Unadjusted Difference *	Total Explained Difference	Total Adjusted Difference	Explanation
STEPHEN WILLIAMS	44	45	2	1	1	PP: Stray mark recorded as overvote.
KURT BILLS	344	345	1	1	0	PP: Voter intent outside of target.
AMY KLOBUCHAR	1092	1092	0	0	0	
TIM DAVIS	20	20	0	0	0	
MICHAEL CAVLAN	3	3	0	0	0	
BLANK FOR OFFICE	9	6	3	2	1	PP: Vote for Bills marked outside of target; AB/MB: Write-in candidate name provided; oval unmarked
OVER / DEFECTIVE FOR OFFICE	6	5	1	1	0	PP: Stray mark not overvote, vote for Williams.
WRITE-IN**	2	3	1	1	0	AB/MB: Candidate name written-in; oval not marked
Totals	**1520**	**1520**	**8**	**6**	**2**	
Final Results					**0.1315%**	**ACCEPTABLE**

Figure 12 Example PER Results

If the Final Results indicate that acceptable performance has been met, sign, scan/email *or* fax the report to OSS.

Note: There is not a designated signature line on the PER Results report. Simply sign in the space below the Final Results.

If the PER Results Report indicates *Unacceptable* and the county must escalate to a second level of review, contact OSS.

12.0 STATE CANVASSING BOARD AND REPORTING PER RESULTS

The Secretary of State shall report the results of the review at the meeting of the State Canvassing Board to canvass the state general election. *(M.S. 206.89, subd. 6)*

If the post-election review results in a change in the number of votes counted for any candidates, the revised vote totals must be incorporated in the official results for those precincts. *(M.S. 206.89, subd. 7)*

The OSS will post individual precinct results from the post-election review at the Post-Election Reviews webpage (http://www.sos.state.mn.us/elections-voting/how-elections-work/post-election-reviews/).

APPENDIX A – SAMPLE DETERMINATION OF POST ELECTION REVIEW

Determination of Post Election Review in [insert county name] County

On [date of canvass board meeting] at [time of canvass board.] this Canvas Board is setting the date of this Post Election Review to:

[Day], November [Date], [Year] at [Time] at the [Location]

as provided in M.S. 206.89, subd. 3,

_____
[NAME OF CANVASS BOARD MEMBER]

_____
[NAME OF CANVASS BOARD MEMBER]

_____
[NAME OF CANVASS BOARD MEMBER]

_____
[NAME OF CANVASS BOARD MEMBER]

_____
[NAME OF CANVASS BOARD MEMBER]

Subscribed and sworn to before me
This [Date of Canvass Board Meeting].

_____
Notary Public

APPENDIX B – PROCEDURES FOR CONDUCTING POST-ELECTION REVIEW

1. Organize teams – one for each precinct to be reviewed.
2. Assign three election judges to each team.
3. Review the provisions of M.S. 204C.21 and 204C. 22.
4. Open sealed transfer cases and remove voted ballots.
5. The review must be conducted of the votes cast for President or Governor, U.S. Senator and U.S. Representative. The election judge will then take the ballots from each counter group in turn and separate them into piles. There should be one pile for Republican candidate, one for DFL candidate, one pile for each minor party candidate, one pile for all write-in candidates, one pile for ballots blank for that office, one pile of for ballots defective for that office, one pile for completely defective ballots.
6. The election judge will set aside any ballots that are obviously: a) marked outside the target but close enough to the candidate's name to determine the voter's intent or b) marked with a pen or pencil that obviously cannot be read; this could be red ink, yellow ink, mark not dark enough, mark not in scan path, etc.
7. After all ballots have been piled, the election judges will count the ballots in each pile, by groups of 25.
8. The election judge will then record the results on the post-election review worksheet that already has the election day totals.
9. The election judges will note any differences due to the criteria in 6(a) and 6(b), plus any other factors that may have caused a change, such as poor duplication of ballot, excessively folded or torn ballot, etc.
10. Repeat this process for U.S. Senator and U.S. Representative.
11. When both polling place and absentee/mail ballots are counted for the precinct reseal ballots into transfer cases.
12. Have election judges sign post-election review worksheet.
13. If changes are greater than 2 votes in a precinct where 400 or fewer votes cast ballot and cannot be explained due to the criteria in 6(a) or 6(b) or 9, make preparations to schedule a review of additional precincts.
14. Immediately transmit results to the secretary of state.

Office of the Minnesota Secretary of State

Elections Division

2018 Post Election Review Guide

Updated 06/01/2018

County	Date	Time	Location	Address 1	Address 2	City	State	Zipcode
Aitkin	17-Nov-20	9:00 AM	Govt Center Board Room	307 2nd St SW		Aitkin	MN	56431
Anoka	16-Nov-20	9:00 AM	Suite W130	Anoka County Govt Ctr	2100 3rd Ave	Anoka	MN	55303
Becker	18-Nov-20	9:00 AM		Becker County Courthouse	915 Lake Ave	Detroit Lakes	MN	56501
Beltrami	18-Nov-20	10:00 AM	Beltrami County Administration Bldg	701 Minnesota Ave NW		Bemidji	MN	56601
Benton	18-Nov-20	10:00 AM	Benton County	531 Dewey St		Foley	MN	56329
Big Stone	18-Nov-20	9:00 AM		Big Stone County Courthouse	20 2nd St SE	Ortonville	MN	56278
Blue Earth	16-Nov-20	12:00 PM	3rd Floor Conference Room	Blue Earth County Historic Courthouse	204 S 5th St	Mankato	MN	56001
Brown	16-Nov-20	10:00 AM	Brown County Courthouse	15 South Washington St		New Ulm	MN	56073
Carlton	18-Nov-20	10:00 AM	Large Conference Room	Carlton County Transportation Building	1630 Hwy 61	Carlton	MN	55718
Carver	17-Nov-20	9:00 AM	Township Hall Conference Room	Carver County Govt Ctr - Administration Bldgd	600 E 4th St	Chaska	MN	55318
Cass	16-Nov-20	1:00 PM		Cass County Courthouse	303 Minnesota Ave W	Walker	MN	56484
Chippewa	16-Nov-20	3:00 PM	Chippewa County Courthouse	629 N 11th St		Montevideo	MN	56265
Chisago	17-Nov-20	8:30 AM	Chisago County Govt Ctr	Room 150B	313 N Main St	Center City	MN	55012
Clay	17-Nov-20	1:30 PM	Clay County Courthouse	807 N 11th St		Moorhead	MN	56560
Clearwater	16-Nov-20	9:00 AM	Clearwater County Courthouse	Commissioners Room	213 Main AVE N	Bagley	MN	56621
Cook	16-Nov-20	10:00 AM	Cook County Courthouse		411 West 2nd St	Grand Marais	MN	55604
Cottonwood	17-Nov-20	2:00 PM	Cottonwood County Courthouse		900 3rd Ave	Windom	MN	56101
Crow Wing	17-Nov-20	9:00 AM	Elections Office	Historic Courthouse	326 Laurel St	Brainerd	MN	56401
Dakota	16-Nov-20	9:00 AM	Conference Room 1A	Dakota County Admin Ctr	1590 Hwy 55	Hastings	MN	55033
Dodge	19-Nov-20	9:00 AM		Dodge County Govt Services Bldg	721 Main Street N	Mantorville	MN	55955
Douglas	16-Nov-20	9:00 AM	County Board Room	Douglas County Courthouse	305 8th Ave W	Alexandria	MN	56308
Faribault	18-Nov-20	9:00 AM	Courthouse Boardroom	Fairbault County Courthouse	415 North Main	Blue Earth	MN	56013
Fillmore	18-Nov-20	10:00 AM	Conference Room 102U	Fillmore County Courthouse	101 Fillmore St E	Preston	MN	55965
Freeborn	16-Nov-20	10:00 AM	Freeborn Room	Freeborn County Govt Ctr	411 Broadway Ave S	Albert Lea	MN	56007
Goodhue	16-Nov-20	9:00 AM	Room 201	Goodhue County Govt Ctr	509 W 5th St	Red Wing	MN	55066
Grant	16-Nov-20	10:00 AM	Commissioner's Room	Grant County Courthouse	10 2nd St NE	Elbow Lake	MN	56531
Hennepin	20-Nov-20	10:00 AM	8th Floor	Hennepin County Absentee Ballot Ctr	701 4th Ave S	Minneapolis	MN	55417
Houston	18-Nov-20	1:00 PM	Basement - Old Commissioners' Room	Houston County Courthouse	304 South Marshall St	Caledonia	MN	55921
Hubbard	19-Nov-20	10:00 AM	Hubbard County Courthouse	301 Court Ave		Park Rapids	MN	56470
Isanti	17-Nov-20	9:00 AM	Isanti County Govt Ctr	555 18th Ave SW		Cambridge	MN	55008
Itasca	16-Nov-20	2:00 PM	Itasca County Boardroom	Itasca County Courthouse	123 NE 4th St	Grand Rapids	MN	55744
Jackson	16-Nov-20	1:00 PM	Jackson County Courthouse Board Room	405 4th St		Jackson	MN	56143
Kanabec	19-Nov-20	9:00 AM	Room 3 & 4	Kanabec County Courthouse	18 North Vine St	Mora	MN	55051
Kandiyohi	16-Nov-20	1:00 PM	County Office Building	400 Benson Ave SW		Willmar	MN	56201
Kittson	18-Nov-20	2:00 PM		Kittson County Courthouse	410 5th St SE	Hallock	MN	56728
Koochiching	13-Nov-20	2:00 PM	Koochiching County Board Room	715 4th St		International Falls	MN	56649
Lac qui Parle	16-Nov-20	9:00 AM	Multi Media Room	Lac qui Parle Courthouse	600 6th St	Madison	MN	56256
Lake	18-Nov-20	9:00 AM	Lake County Law Enforcement Center	613 3rd Ave		Two Harbors	MN	55616
Lake of the Woods	16-Nov-20	10:00 AM	Commissioners Room, Ste 260	206 8th Ave SE		Baudette	MN	56623
Le Sueur	16-Nov-20	10:00 AM	Le Sueur County Courthouse	88 S Park Ave		Le Center	MN	56057
Lincoln	18-Nov-20	2:00 PM	Assembly Room	Lincoln County Courthouse	319 N Rebecca St	Ivanhoe	MN	56142
Lyon	19-Nov-20	9:00 AM	Commissioner Room	Lyon County Govt Ctr	607 West Main St	Marshall	MN	56258
Mahnomen	16-Nov-20	10:00 AM	Mahnomen County Courthouse	311 North Main St		Mahnomen	MN	56557
Marshall	16-Nov-20	10:00 AM		Marshall County Courthouse	208 E Colvin Ave	Warren	MN	56762
Martin	18-Nov-20	9:00 AM	Martin County Courthouse	Sisseton Room	201 Lake Ave	Fairmont	MN	56031
McLeod	16-Nov-20	10:00 AM	Large Conference Room	McLeod County North Complex	2391 Hennepin Ave N	Glencoe	MN	55336

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Meeker	16-Nov-20	9:00 AM	Meeker County Courthouse		325 N Sibley Ave	Litchfield	MN	55355
Mille Lacs	18-Nov-20	1:00 PM	Board Room	Mille Lacs County Historic Courthouse	635 2nd St SE	Milaca	MN	56353
Morrison	16-Nov-20	2:00 PM	Morrison County Board Room	Morrison County Govt Ctr	213 SE 1st Ave	Little Falls	MN	56345
Mower	16-Nov-20	9:30 AM	Austin City Council Chambers		500 4th Ave NE	Austin	MN	55912
Murray	16-Nov-20	9:00 AM	Commissioner Room	Murray County Govt Ctr	2500 28th St	Slayton	MN	56172
Nicollet	17-Nov-20	9:00 AM	Nicollet County Govt Ctr	501 S Minnesota Ave		St. Peter	MN	50682
Nobles	17-Nov-20	11:00 AM	Executive Conf Room	Nobles County Govt Center	315 10th St	Worthington	MN	56187
Norman	17-Nov-20	2:00 PM	Board Room	Norman County Courthouse	16 3rd Ave E	Ada	MN	56510
Olmsted	20-Nov-20	2:00 PM	Olmsted County	2122 Campus Drive SE, Suite 300		Rochester	MN	55904
Otter Tail	16-Nov-20	10:00 AM	Govt Services Ctr	510 Fir Ave W		Fergus Falls	MN	56537
Pennington	16-Nov-20	10:00 AM	Pennington County Courthouse		101 Main Ave N	Thief River Falls	MN	56701
Pine	17-Nov-20	9:00 AM		Pine County Courthouse	635 Northridge Dr NW	Pine City	MN	55063
Pipestone	20-Nov-20	2:00 PM	Pipestone County Courthouse	416 S Hiwatha Ave S		Pipestone	MN	56164
Polk	16-Nov-20	10:00 AM	Polk County Govt Ctr	612 N Broadway		Crookston	MN	56716
Pope	16-Nov-20	9:00 AM	Pope County Courthouse	Community Room	130 E Minnesota Ave	Glenwood	MN	56334
Ramsey	14-Nov-20	9:00 AM	Ramsey County Plato Building		90 W Plato Blvd	St. Paul	MN	55107
Red Lake	17-Nov-20	11:00 AM	Board Room	Red Lake County Courthouse	124 Langevin Ave	Red Lake Falls	MN	56750
Redwood	16-Nov-20	2:00 PM	Govt Ctr Board Room	403 S Mill St		Redwood Falls	MN	56283
Renville	16-Nov-20	10:00 AM		Renville County Court House	500 E DePue Ave	Olivia	MN	56277
Rice	20-Nov-20	9:00 AM	Rice County Govt Services Bldg	County Board Room	320 3rd St NW	Faribault	MN	55021
Rock	17-Nov-20	2:00 PM	Rock County Courthouse	204 E Brown St		Luverne	MN	56156
Roseau	17-Nov-20	10:30 AM	Roseau County Courthouse	606 5th Ave SW		Roseau	MN	56751
Scott	19-Nov-20	9:00 AM	Scott County Elections	200 4th Ave W		Shakopee	MN	55379
Sherburne	19-Nov-20	8:00 AM	Sherburne County Govt Ctr	Maple Room	13880 Business Center Dr	Elk River	MN	55330
Sibley	20-Nov-20	1:00 PM	Sibley County Service Ctr	111 8th St		Gaylord	MN	55334
St. Louis	16-Nov-20	10:00 AM	Commissioners Boardroom	Duluth Courthouse	100 N 5th Ave W	Duluth	MN	55802
Stearns	17-Nov-20	9:00 AM	Stearns County Service Center	3301 County Rd 138		Waite Park	MN	56387
Steele	16-Nov-20	10:00 AM	Steele County Administration Center	Board Room	630 Florence Ave	Owatonna	MN	55060
Stevens	16-Nov-20	10:00 AM		Stevens County Courthouse	400 Colorado Ave	Morris	MN	56267
Swift	17-Nov-20	9:00 AM	Swift County Courthouse	301 14th St N		Benson	MN	56215
Todd	18-Nov-20	1:00 PM	Main Street Govt Center	347 Central Ave		Long Prairie	MN	56347
Traverse	18-Nov-20	1:00 PM	Courthouse Annex	Traverse County Courthouse	702 2nd Ave N	Wheaton	MN	56296
Wabasha	19-Nov-20	9:00 AM	Auditor/Treasurer's Office	Wabasha County Courthouse	625 Jefferson Ave	Wabasha	MN	55981
Wadena	20-Nov-20	10:00 AM	Courthouse Auditorium	Wadena County Courthouse	415 Jefferson St S	Wadena	MN	56482
Waseca	18-Nov-20	9:00 AM	Waseca County Courthouse	307 N State St		Waseca	MN	56093
Washington	11/16 & 11/17 (if needed)	8:00 AM	Lower Level Rooms 13, 14 & 16	Washington County Govt Center	14949 62nd St N	Stillwater	MN	55082
Watonwan	18-Nov-20	10:00 AM	Watonwan County Courthouse	710 2nd Ave S		St. James	MN	56081
Wilkin	16-Nov-20	9:30 AM	Wilkin County Recycling Center	515 8th St S		Breckenridge	MN	56520
Winona	16-Nov-20	10:30 AM	Winona County Govt Center	202 W 3rd St		Winona	MN	55987
Wright	18-Nov-20	9:00 AM	Wright County Govt Ctr	10 2nd St NW		Buffalo	MN	55313
Yellow Medicine	17-Nov-20	10:00 AM	Yellow Medicine County Govt Ctr	County Board Room	180 8th Ave	Granite Falls	MN	56241

STATE OF MINNESOTA
IN SUPREME COURT
Case File No. _____

Tyler Kistner, Gene Rechtzigel, Rich Draheim, Steve Drazkowski, Jeremy Munson, Tim Miller, Calvin Bahr, Erik Mortenson, Dan Hall, Jose W. Jimenez, Sandra A. Jimenez, Tomas Settell, Megan Olson, Leilani Holmstadt, Pam Myhra, Roz Peterson, Lucia Vogel, Jennifer Zielinski, Diane Napper, Alexander Deputie, Charlotte Smith, Fern Smith, Mariah De La Paz, Cynthia Londquist, Lisa Pohlman, Nora L. Felton, Deborah Coxe, Jane L. Volz, Paul Staut, Kathleen Hagen, Janine Kusnierek, Greg Buck, Don Bumgarner, Amy Bruno, and Kathleen Nydegger,

Petitioners,

vs.

Steve Simon, only in his official capacity as the Minnesota Secretary of State and member of the State Canvassing Board, Margaret H. Chutich, only in her official capacity as a member of the State Canvasing Board, Gordon L. Moore, III, only in his official capacity as a member of the State Canvasing Board, Regina Chu, only in her official capacity as a member of the State Canvasing Board, and Christian Sande, only in his official capacity of a member of the State Canvasing Board,

Respondents.

AFFIDAVIT OF NORA L. FELTMAN

STATE OF MINNESOTA)
) ss.
COUNTY OF GOODHUE)

NORA L. FELTON, being first duly sworn on oath states as follows:

1. I am over the age of 18 years and competent to testify herein. I am a registered voter in the State of Minnesota.

2. I have personal knowledge of the facts stated herein and know them to be true and correct.

3. I respectfully submit this affidavit in support of a temporary restraining order enjoining the Minnesota Secretary of State, Steve Simon, and the state canvassing board from certifying the results of the November 3, 2020 state general election for violations of Minn. Stat. § 206.89, subd. 3, the post-election review of voting systems.

4. I personally attended the post-election reviews for Dakota, Rice, and Olmstead Counties. I attempted to attend the review at Ramsey County on Saturday, November, 14th at 9:00 a.m. but Ramsey County changed the date without notice.

DAKOTA COUNTY

5. I arrived at the area immediately outside the Dakota County Commissioners' chambers in Hastings at 8:50 a.m. where 20 people were standing in the second-floor lobby. There were two tables there for counting

ballots. The south table was for West St. Paul and had one sorter, one stacker, and three observers. Four were apparently Dakota County or City employees and one person was a librarian at Metro State University. The north table was for a Hastings precinct and had one sorter, one stacker and one observer that were apparently Dakota County staff. The sorters and stackers became the counters once the ballots were divided between the candidates. These people sat close to each other maintaining no more than three feet of social distancing.

6. Elections Director, Andrew Lokken, ignored the crowd of observers at first. Then Tomas Settell asked Mr. Lokken about distributing the crowd so each post-election review table was represented by DFL and GOP election judges. Mr. Lokken stated he did not care about party affiliations and that nothing would happen until everyone spread out to a six foot social distancing requirement. Someone noted that we were all wearing masks and if we spread out we wouldn't be able to hear Mr. Lokken's instructions. Mr. Lokken stated he wasn't going to instruct anyone except those doing the counting. He began distributing the sealed white ballot boxes between the two tables. The West St. Paul table began counting ballots immediately and the Hastings table waited for instructions. The sorter for the West St. Paul table, later identified as Chris Gevara, kept complaining that observers were not maintaining a six feet of social distancing. Tomas

Settell pointed out that she wasn't either. Ms. Gevara then complained to Mr. Settell that he smelled of essential oils and she was not able to tolerate the smell. Mr. Settell insisted wasn't wearing anything scented and asked what essential oils had to do with counting ballots. Ms. Gevara complained to Mr. Lokken that Mr. Settell was harassing her. Mr. Settell retreated and Deb Coxe joined in reviewing the West St. Paul table. Ms. Coxe tried to take video but Ms. Gevara accused her of photographing ballots so she stopped.

7. At 9:31 a.m. a couple of guys came bustling in from along the hallway south of the Dakota County Chambers carrying two brown cardboard boxes with one large manila envelope on top, followed by a dark haired lady with a huge white purse. They set the pile down between the Hastings and the West St. Paul tables in the lobby outside the chambers.

8. After the dark haired woman carrying the purse spoke with Mr. Lokken, the two unsecured brown cardboard boxes and manila envelope were taken back into the Dakota County Chamber. As they were heading back, the woman with the purse pulled out a 4-inch pile of ballots out of her large white purse and set them on top of the brown cardboard boxes next to the counting table. I asked her who she was and she said she was "Julie" from the City of Hastings but refused to provide her last name. Attached are true and correct copies of the photographs I took of the purse full of ballots and the two brown cardboard boxes with the manila envelope on top.

9. I returned to my spot between the Hastings and West St. Paul tables and observed for the next two hours. I witnessed 33 ballots marked ONLY with an "X" or a check mark for Biden. I asked whether the machine could read them and someone at the table told me that as long as 29 percent of the oval was filled in, the ballot could be read and recorded. I requested that those ballots be put aside in case the count was off at the end. They did not. Rather they just kept them scattered throughout the pile as they came in. Apparently the count for President for that table was spot on.

10. The smaller of the two unsecured brown cardboard boxes was returned to the Hastings table in the lobby. They told me they were mail-in ballots. Very few in the box were for President Trump. There appeared to be a vote for President Trump for every 20 to 25 Biden votes. Prior to these ballots arriving, President Trump had a five inch stack compared to Biden's two inch stack. But by the time the stack of ballots from the brown cardboard box was counted, President Trump lost by around 65 votes. I left at noon.

RICE COUNTY

11. I attended Rice County post-election review on Friday, November 20, 2020, at 8:53 a.m. All 8 observers were required to remain seated behind a line of blue tape that FACED the tables. While the very North and South tables were only 6 feet away, the ballots were kept flat on table so they couldn't be view from the front of the tables. The middle table

was about 12 feet away and the back one in NE corner was almost 20 feet away. When we complained that we couldn't see the ballots, Denise Anderson, the person in charge, grabbed a stack and held them above her head saying, "see, see, these are the ballots--you can see them." She went on to explain that this process was for the county and not us. I left soon after as it was obvious that we were not welcome and would receive no accommodations for our requests for transparency.

OLMSTEAD COUNTY

12. I attended the Olmsted County post-election review at 2:00 p.m. on November 20, 2020. The ballots were in white envelopes and did not appear to have any seals or formal labels. The observers were required to stand behind Plexiglas that was approximately 8 feet from the closest end of the tables, but staff sat at the far ends (as shown in photos) adding another 3 feet or more. A dark haired lady named Katie Smith was in charge; helped by a young man named Luke Turner. The sorter/counters would not identify themselves, but I could see they wore lanyards similar to Katie and Luke. When asked if they were county employees, they would not respond. Later, when asked if they were equally balanced between DFL and GOP, they hid, or removed entirely, their lanyards. I could not observe the ballot counting and sorting in any meaningful way. It appeared they did not follow protocol as each person merely took a portion of the ballots and started dividing them

out and, later, forming their own stacks of 25.

RAMSEY COUNTY

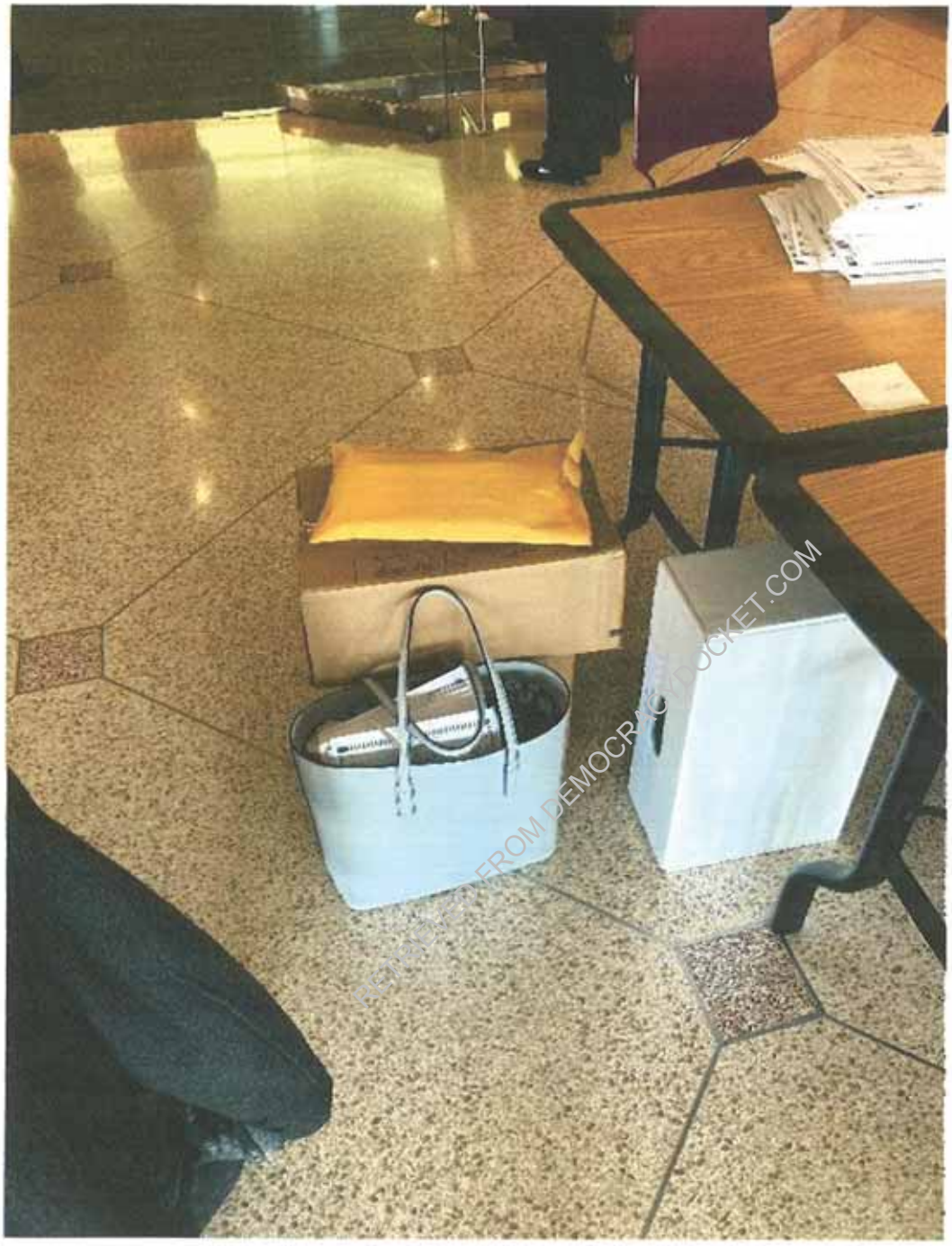
13. On the morning of Saturday November 14, 2020, I went to St. Paul to observe the Ramsey County post-election review. Eight other people were there as well. We were denied access and told by three apparent Ramsey County employees that the post-election review would be Monday, November 16th, the same day as Dakota County so I could not attend. There was no notice for this change.

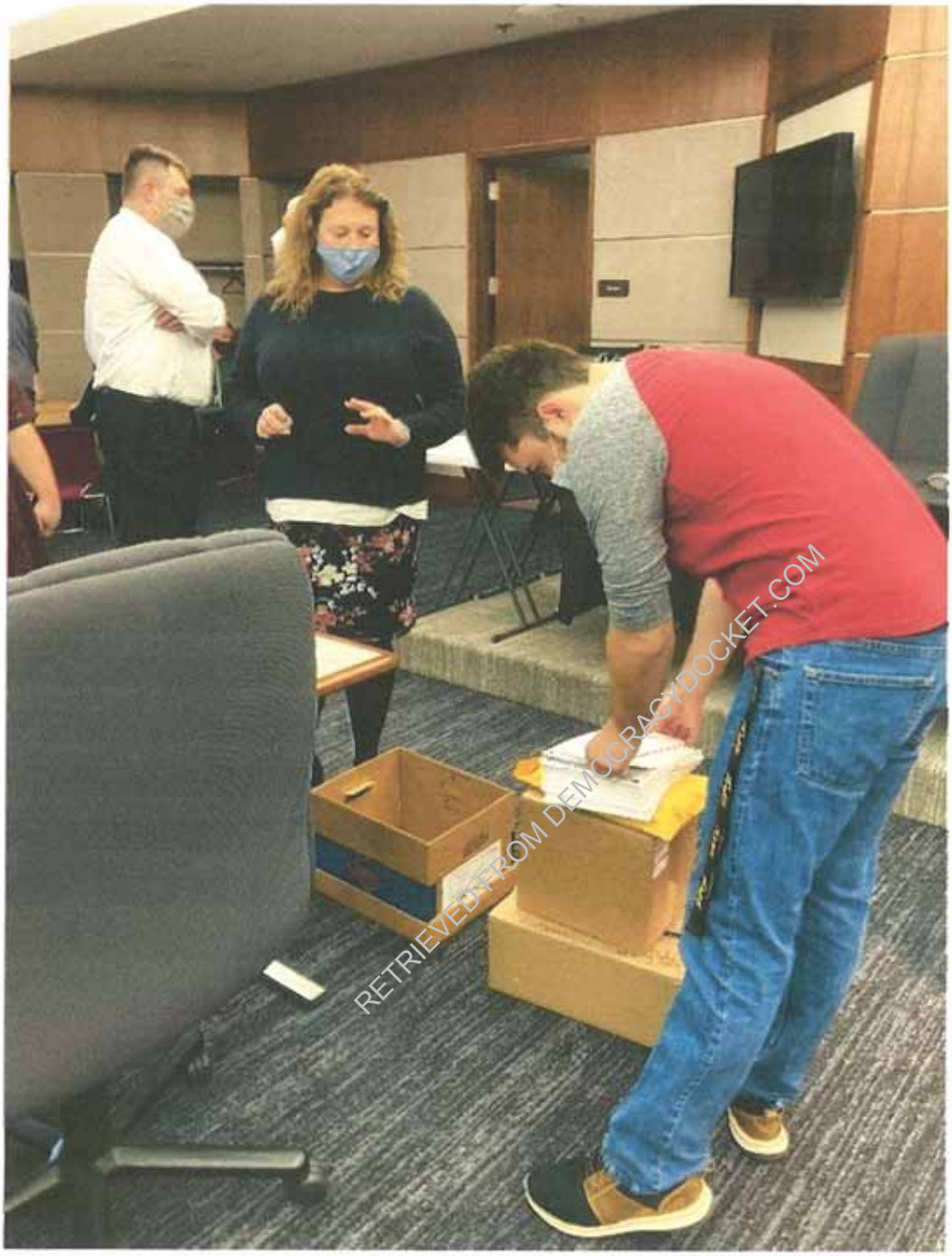
FURTHER YOUR AFFIANT SAYETH NAUGHT

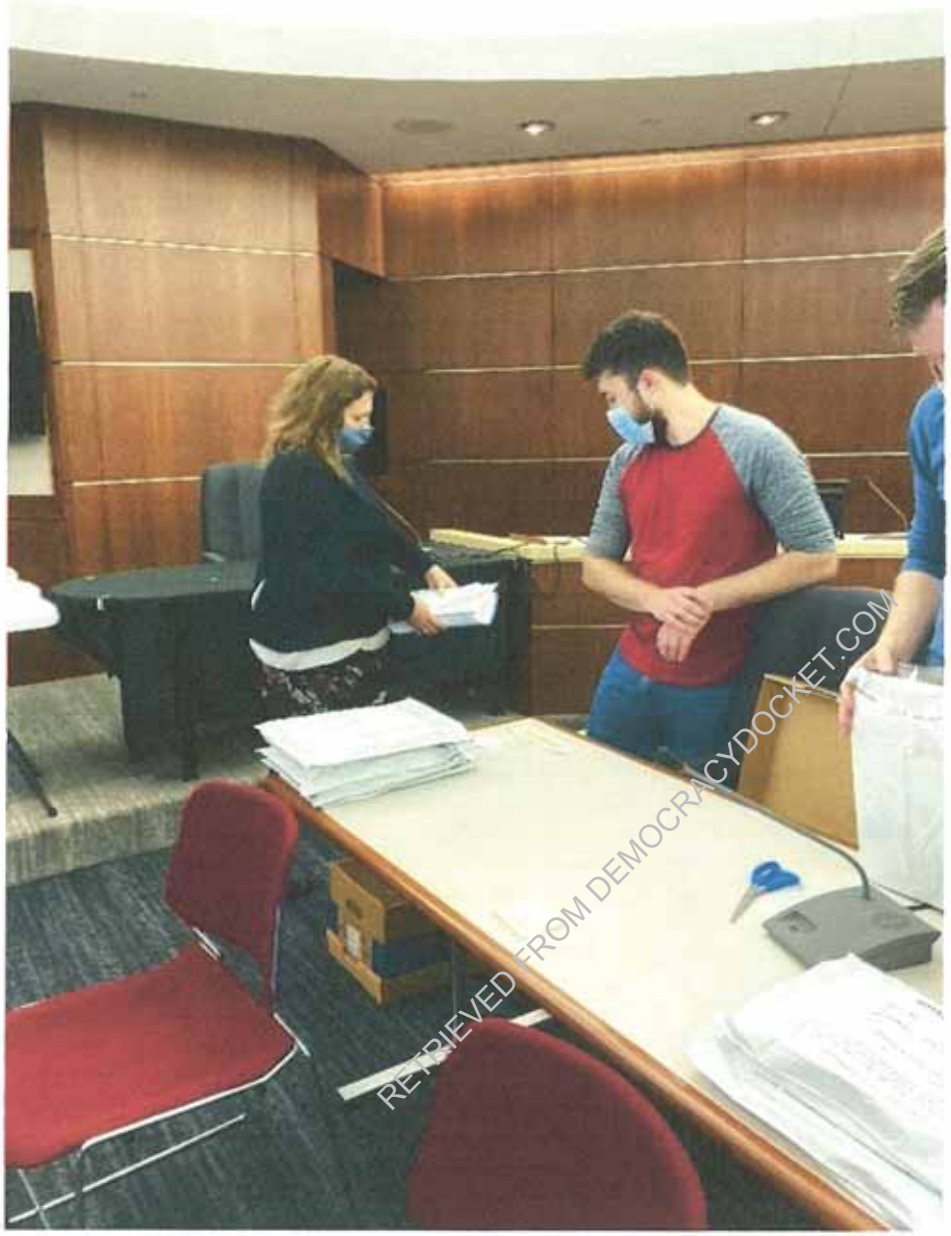
I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: November 23, 2020

/s/ Nora L. Feltman
Nora L. Feltman







STATE OF MINNESOTA
IN SUPREME COURT
Case File No. _____

Tyler Kistner, Gene Rechtzigel, Rich Draheim, Steve Drazkowski, Jeremy Munson, Tim Miller, Calvin Bahr, Erik Mortenson, Dan Hall, Jose W. Jimenez, Sandra A. Jimenez, Tomas Settell, Megan Olson, Leilani Holmstadt, Pam Myhra, Roz Peterson, Lucia Vogel, Jennifer Zielinski, Diane Napper, Alexander Deputie, Charlotte Smith, Fern Smith, Mariah De La Paz, Cynthia Londquist, Lisa Pohlman, Nora L. Felton, Deborah Coxe, Jane L. Volz, Paul Staut, Kathleen Hagen, Janine Kusnierek, Greg Buck, Don Bumgarner, Amy Bruno, and Kathleen Nydegger,

Petitioners,

vs.

Steve Simon, only in his official capacity as the Minnesota Secretary of State and member of the State Canvassing Board, Margaret H. Chutich, only in her official capacity as a member of the State Canvasing Board, Gordon L. Moore, III, only in his official capacity as a member of the State Canvasing Board, Regina Chu, only in her official capacity as a member of the State Canvasing Board, and Christian Sande, only in his official capacity of a member of the State Canvasing Board,

Respondents.

AFFIDAVIT OF PAUL V. STAUT

STATE OF MINNESOTA)
) ss.
COUNTY OF CARVER)

PAUL V. STAUT, being first duly sworn on oath states as follows:

1. I am over the age of 18 years and competent to testify herein. I am a registered voter in the State of Minnesota.

2. I have personal knowledge of the facts stated herein and know them to be true and correct.

3. I respectfully submit this affidavit in support of a temporary restraining order enjoining the Minnesota Secretary of State, Steve Simon, and the state canvassing board from certifying the results of the November 3, 2020 state general election for violations of Minn. Stat. § 206.89, subd. 3, the post-election review (PER) of voting systems and the ballot boards.

4. I planned on attending the PER for Hennepin County. I contacted the Hennepin County Elections office by telephone on Wednesday, November 18, 2020 to verify the location and time for the PER as was posted by the Secretary of State on its website. I also called to inquire about which precincts were chosen for the PER because there was no information on the Secretary of State's website which I believed was required law.

5. In my first call to the Elections number as listed on the website (612-348-5151) I was transferred to Terry Garner (phonetic) who said she was the Supervisor of Voter Registration. She could not answer my questions and took my name and number and said she would get back to me. I then called the same number and asked for Ginny Gelms who is listed as the Election Official contact. My call went to her voicemail and I left a message with my questions and asked for a call back. Finally, I called again and asked for Jim Howitt who was listed as the Absentee Ballot Contact. Lance Pemberton answered the phone and when I asked for Jim Howitt, he said yes this is his office. I asked my question and he confirmed time and location which was still as listed on the website. He then was also able to email to me the list of precincts to be reviewed while I was still on the line.

6. We hung up and a few minutes later I received another email from Mr. Pemberton informing me he just found out in-person observation would not be allowed due to Covid and instead they would live stream the PER. The email also stated to simply "reply to this email" and I would be sent a link when the PER began on Friday.

7. At 10:00 am on November 20, 2020 I did receive an email with a YouTube link. When I tuned into this link what I saw was not acceptable to provide transparency to the PER process of Hennepin County.

First the observers view was a single, stationary view. From this view the observer could only see the first table which had a placard for Eden Prairie

8. This is all the detail that could be made out I have no idea where the papers they were shuffling came from let alone confirm they were actual ballots or that the people handling purported ballots were Election Judges of a different party. For tables farther in the background, nothing other than two people was visible.

9. In the two previous PERs I had seen, Carver and Scott counties, the Election Official running the PER started the process by explaining both to the Election Judges working as well as to the observers, what the process was, what it was not and the safeguards used to ensure fairness and transparency. It was my understanding that this overview and explanation was a part of the process and required by law.

10. In the Hennepin PER, no such explanation was observed and even if it were it would be meaningless as the live stream provided NO sound! There was no such opportunity for transparency as there was no way to ask questions or get verification of what was happening. As soon as I realized there was no sound I inquired with a reply to an email asking how we could ask questions? I got no response. Also, I did not know what numbers they were trying to match the ballots to.

11. At 11:30 am, I was copied on an email to another observer who had asked for the count worksheets. At no point during the day did I see any of these worksheets being filled out with the counts they were purportedly doing.

12. Around 3:30 pm an email with another link was received for an additional area that had been set up to count. This link was to another camera and was as or more irrelevant then the first. Nothing of relevance could be seen, no precincts that were being counted, no viewable confirmation of actual ballots, no recording of results and no sound.

13. It is Sunday night November 22, 2020 and I have not been provided any results and my initial inquiry of how and to whom I am to ask questions has not been addressed.

14. The Hennepin County PER did not satisfy the intended purpose and was not transparent in any way, shape, manner or form. The people of Hennepin County and this State expect way more!

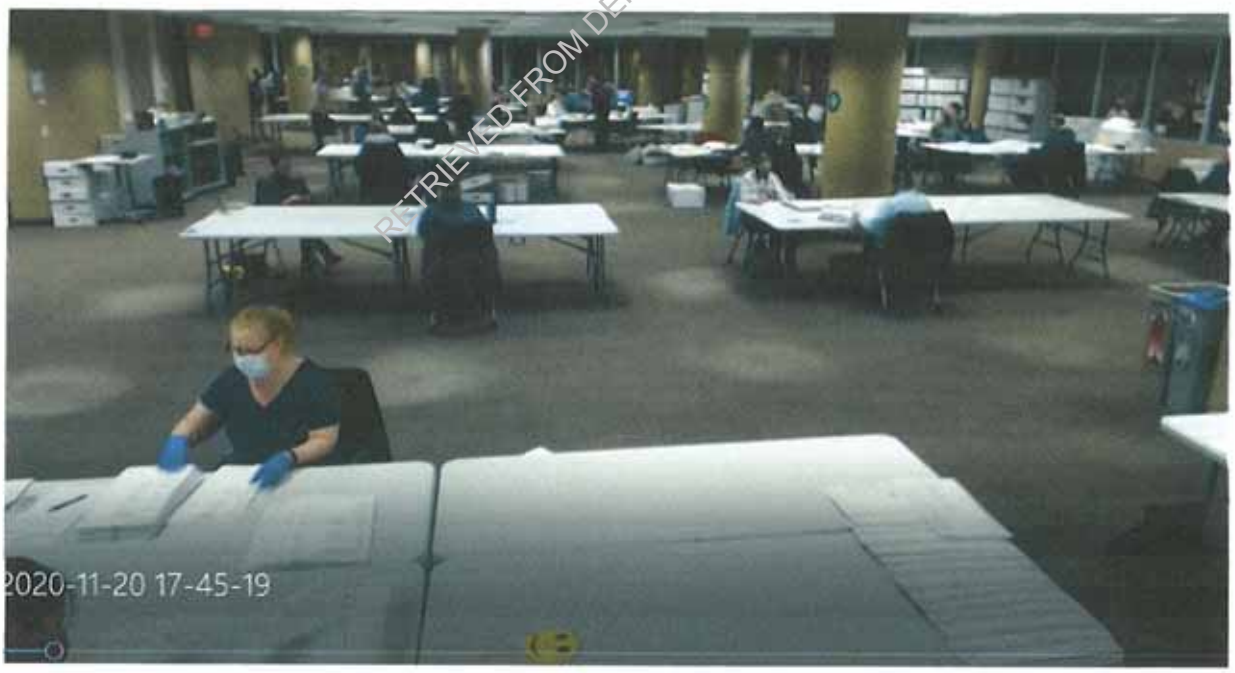
15. Attached are true and correct copies of the photographs I took of my computer screen while watching the Hennepin County PER by YouTube.

FURTHER YOUR AFFIANT SAYETH NAUGHT

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: November 23, 2020

/s/ Paul V. Staut
Paul V. Staut



STATE OF MINNESOTA
IN SUPREME COURT
Case File No. _____

Tyler Kistner, Gene Rechtzigel, Rich Draheim, Steve Drazkowski, Jeremy Munson, Tim Miller, Calvin Bahr, Erik Mortenson, Dan Hall, Jose W. Jimenez, Sandra A. Jimenez, Tomas Settell, Megan Olson, Leilani Holmstadt, Pam Myhra, Roz Peterson, Lucia Vogel, Jennifer Zielinski, Diane Napper, Alexander Deputie, Charlotte Smith, Fern Smith, Mariah De La Paz, Cynthia Londquist, Lisa Pohlman, Nora L. Felton, Deborah Coxe, Jane L. Volz, Paul Staut, Kathleen Hagen, Janine Kusnierek, Greg Buck, Don Bumgarner, Amy Bruno, and Kathleen Nydegger,

Petitioners,

vs.

Steve Simon, only in his official capacity as the Minnesota Secretary of State and member of the State Canvassing Board, Margaret H. Chutich, only in her official capacity as a member of the State Canvasing Board, Gordon L. Moore, III, only in his official capacity as a member of the State Canvasing Board, Regina Chu, only in her official capacity as a member of the State Canvasing Board, and Christian Sande, only in his official capacity of a member of the State Canvasing Board,

Respondents.

AFFIDAVIT OF KATHLEEN HAGEN

STATE OF MINNESOTA)
) ss.
COUNTY OF RICE)

KATHLEEN HAGEN, being first duly sworn on oath states as follows:

1. I am over the age of 18 years and competent to testify herein. I am a registered voter in the State of Minnesota.

2. I have personal knowledge of the facts stated herein and know them to be true and correct.

3. I respectfully submit this affidavit in support of a temporary restraining order enjoining the Minnesota Secretary of State, Steve Simon, and the state canvassing board from certifying the results of the November 3, 2020 state general election for violations of Minn. Stat. § 206.89, subd. 3, the post-election review (PER) of voting systems and the ballot boards.

4. I volunteered to be a Republican public observer for the Post Election Review (PER) conducted at the Rice County Government Center in Faribault, MN on Friday, November 20, 2020. I personally observed as well as took pictures of the facility and the room's set up for conducting a hand count of two Rice County precincts' polling places and absentee/mail in ballots.

5. Since the observers were required to stay behind a blue tape line on one side of the room, it was not possible for any of the observers to see the markings on any ballots. I arrived early to the Rice County Government Center and entered the building with the Election Judges that had been recruited to hand count ballots that day. I sat in one of the chairs set up for public observers but was then asked to leave the room until after the volunteer Election Judges had been trained. I was not allowed to observe their training.

6. When I requested information about the envelopes that ballots arrived in and how they were confirmed to be from legal voters the Director of Elections, Denise Anderson, said that signatures are no longer required by orders from Secretary of State, Steve Simon. She then refused to answer any further questions about the mail in ballot envelopes and their current location.

7. I am also an Election Judge in Rice County. During Election Judge Training in the May, July and September of 2020, I asked if the absentee ballots were being accepted and counted by Balanced Ballot Boards and was told by the Director of Elections that she is not required to use a Balanced Board because she and her staff are trained to open and process the absentee ballots themselves.

8. As observers, we noticed that some of the absentee ballots looked like flat sheets of paper, without any fold lines. We expected to see fold lines in ballots that had gone through the mail. We were told that some of the absentee ballots were from early onsite voting at the Rice County Government Center. The mail in absentee ballots had been comingled with the onsite early voting ballots.

9. Since: (1) there were no observers or a Balanced Ballot Board involved with receiving and reviewing absentee ballot envelops at the time that mail in ballots were accepted or rejected; (2) the requirement for a witness signature was eliminated unconstitutionally and unilaterally by the Secretary of State, without Legislature approval; (3) the current status of the envelopes from mail in ballots is unknown and they may have been destroyed; and (4) the mail in ballots were comingled with the walk-in early voting ballots it is not possible to confirm or audit whether or not or how many ballots were legally cast, or how many were illegally cast.

10. As an election judge in one of the Rice County Townships that uses DS200 voting machines, I am also concerned that our Election Judges are trained to sign the voting machine's "zero tape" at the beginning of the day, before polls open. And then after the polls close, we are trained to sign the tape that runs after the poll is closed. The Election Judges do not count

votes on ballots that night, so we are only signing that the tape printed and that the total number of voters matches the number of ballots and ballot receipts that were processed on election day. We are NOT signing off on the accuracy of the vote counting done by the vote scanning and counting machine.

FURTHER YOUR AFFIANT SAYETH NAUGHT

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: November 23, 2020

/s/ Kathleen Hagen
Kathleen Hagen

STATE OF MINNESOTA
IN SUPREME COURT
Case File No. _____

Tyler Kistner, Gene Rechtzigel, Rich Draheim, Steve Drazkowski, Jeremy Munson, Tim Miller, Calvin Bahr, Erik Mortenson, Dan Hall, Jose W. Jimenez, Sandra A. Jimenez, Tomas Settell, Megan Olson, Leilani Holmstadt, Pam Myhra, Roz Peterson, Lucia Vogel, Jennifer Zielinski, Diane Napper, Alexander Deputie, Charlotte Smith, Fern Smith, Mariah De La Paz, Cynthia Londquist, Lisa Pohlman, Nora L. Felton, Deborah Coxe, Jane L. Volz, Paul Staut, Kathleen Hagen, Janine Kusnierek, Greg Buck, Don Bumgarner, Amy Bruno, and Kathleen Nydegger,

Petitioners,

vs.

Steve Simon, only in his official capacity as the Minnesota Secretary of State and member of the State Canvassing Board, Margaret H. Chutich, only in her official capacity as a member of the State Canvasing Board, Gordon L. Moore, III, only in his official capacity as a member of the State Canvasing Board, Regina Chu, only in her official capacity as a member of the State Canvasing Board, and Christian Sande, only in his official capacity of a member of the State Canvasing Board,

Respondents.

AFFIDAVIT OF KATHLEEN NYDEGGER

STATE OF MINNESOTA)
) ss.
COUNTY OF RICE)

KATHLEEN NYDEGGER, being first duly sworn on oath states as follows:

1. I am over the age of 18 years and competent to testify herein. I am a registered voter in the State of Minnesota.

2. I have personal knowledge of the facts stated herein and know them to be true and correct.

3. I respectfully submit this affidavit in support of a temporary restraining order enjoining the Minnesota Secretary of State, Steve Simon, and the state canvassing board from certifying the results of the November 3, 2020 state general election for violations of Minn. Stat. § 206.89, subd. 3, the post-election review (PER) of voting systems and the ballot boards.

4. On October 31, 2020, around 11:30 a.m., I personally observed the following: I was working on the Ramsey County Elections Absentee Ballot (AB) Board, located at 90 Plato Blvd., West, St. Paul, Minnesota and witnessed the crash of the SVRS (State Voter Registration System) and the inability of Election workers to process Absentee Ballots on October 31st, Halloween. The SVRS was brought back up at roughly 3:30 p.m. that same

day.

FURTHER YOUR AFFIANT SAYETH NAUGHT

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: November 23, 2020

/s/ Kathleen Nydegger
Kathleen Nydegger

STATE OF MINNESOTA
IN SUPREME COURT
Case File No. _____

Tyler Kistner, Gene Rechtzigel, Rich Draheim, Steve Drazkowski, Jeremy Munson, Tim Miller, Calvin Bahr, Erik Mortenson, Dan Hall, Jose W. Jimenez, Sandra A. Jimenez, Tomas Settell, Megan Olson, Leilani Holmstadt, Pam Myhra, Roz Peterson, Lucia Vogel, Jennifer Zielinski, Diane Napper, Alexander Deputie, Charlotte Smith, Fern Smith, Mariah De La Paz, Cynthia Londquist, Lisa Pohlman, Nora L. Felton, Deborah Coxe, Jane L. Volz, Paul Staut, Kathleen Hagen, Janine Kusnierek, Greg Buck, Don Bumgarner, Amy Bruno, and Kathleen Nydegger,

Petitioners,

vs.

Steve Simon, only in his official capacity as the Minnesota Secretary of State and member of the State Canvassing Board, Margaret H. Chutich, only in her official capacity as a member of the State Canvasing Board, Gordon L. Moore, III, only in his official capacity as a member of the State Canvasing Board, Regina Chu, only in her official capacity as a member of the State Canvasing Board, and Christian Sande, only in his official capacity of a member of the State Canvasing Board,

Respondents.

AFFIDAVIT OF AMY BRUNO

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

AMY BRUNO, being first duly sworn on oath states as follows:

1. I am over the age of 18 years and competent to testify herein. I am a registered voter in the State of Minnesota.

2. I have personal knowledge of the facts stated herein and know them to be true and correct.

3. I respectfully submit this affidavit in support of a temporary restraining order enjoining the Minnesota Secretary of State, Steve Simon, and the state canvassing board from certifying the results of the November 3, 2020 state general election for violations of Minn. Stat. § 206.89, subd. 3, the post-election review of voting systems.

4. I volunteered to be a Republican public observer for the Post Election Review (PER) conducted at the Hennepin County Government Building with two friends, Mike and Valerie Harrington on Monday, November 20, 2020.

5. I walked into the Hennepin County Government Building, with two friends Mike and Valerie Harrington, in which the Hennepin County Elections Office is located. We approached the elections office at

approximately 11:00 am and saw two workers going through copy boxes of Large envelopes outside inserting things into them and moving things around. The office itself was closed and caged in.

6. We knocked on the door and a dark-haired woman came to the door. I asked about observing the election audit and where it was being held. She informed us it would only be live streamed due to Covid and gave me a business card with an email. She told me her name was Nicole and gave me no further information that I recall until we spoke again to her later.

7. I was told by a fellow republican, who had been there earlier that the audit was being held on the 8th floor of the building, and they said they were denied access. Mike, Valerie and I went to the 8th floor and could find no evidence of an audit taking place. We went back downstairs, I emailed for the livestream link, and when I didn't get a response, I approached with Valerie the Elections Office again.

8. Nicole came and spoke to us again. I asked her again where the audit was and insisted that according to MN Statue 206.89 we had a right to observe in person the audit and that it should be public. And I asked for the elections manager. She refused to give connect us with the elections manager and said we were harassing her and threatened to get security.

9. Security came and I informed them that they were doing something illegal by not letting us observe and gave them the MN Statue.

Security officers were Goley and Bird. Officer Goley went to elections office and obtained a business card for us for elections manager Gina Gelms.

FURTHER YOUR AFFIANT SAYETH NAUGHT

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: November 23, 2020

/s/ Amy Bruno
Amy Bruno

STATE OF MINNESOTA
IN SUPREME COURT
Case File No. _____

Tyler Kistner, Gene Rechtzigel, Rich Draheim, Steve Drazkowski, Jeremy Munson, Tim Miller, Calvin Bahr, Erik Mortenson, Dan Hall, Jose W. Jimenez, Sandra A. Jimenez, Tomas Settell, Megan Olson, Leilani Holmstadt, Pam Myhra, Roz Peterson, Lucia Vogel, Jennifer Zielinski, Diane Napper, Alexander Deputie, Charlotte Smith, Fern Smith, Mariah De La Paz, Cynthia Londquist, Lisa Pohlman, Nora L. Felton, Deborah Coxe, Jane L. Volz, Paul Staut, Kathleen Hagen, Janine Kusnierek, Greg Buck, Don Bumgarner, Amy Bruno, and Kathleen Nydegger,

Petitioners,

vs.

Steve Simon, only in his official capacity as the Minnesota Secretary of State and member of the State Canvassing Board, Margaret H. Chutich, only in her official capacity as a member of the State Canvasing Board, Gordon L. Moore, III, only in his official capacity as a member of the State Canvasing Board, Regina Chu, only in her official capacity as a member of the State Canvasing Board, and Christian Sande, only in his official capacity of a member of the State Canvasing Board,

Respondents.

AFFIDAVIT OF DON BUMGARNER

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

DON BUMGARNER, being first duly sworn on oath states as follows:

1. I am over the age of 18 years and competent to testify herein. I am a registered voter in the State of Minnesota.

2. I have personal knowledge of the facts stated herein and know them to be true and correct.

3. I respectfully submit this affidavit in support of a temporary restraining order enjoining the Minnesota Secretary of State, Steve Simon, and the state canvassing board from certifying the results of the November 3, 2020 state general election for violations of Minn. Stat. § 206.89, subd. 3, the post-election review (PER) of voting systems and the ballot boards.

4. I personally observed the early absentee voting at the Roseville Public Library.

5. At the end of the day, after counting the absentee ballots dropped off at the library, they were placed in a bin with plastic seals. I asked the Head Election Judge, Merrie Zakaras, "Where do these go now?" She replied to this effect, I take them home with me and then drop them off

at Plato location at 7:15 AM the next morning.

6. At a later date, Ms. Zakaras stated that she dropped them off at a secure location and then picked up the next morning from the secure location and dropped them off at the Plato location.

7. I was under the impression that any ballot transfer had to be done by representatives of the two major parties in order to ensure the integrity of the transfers. I'm wondering if this practice is being done all over Minnesota without two representatives from two different political parties.

FURTHER YOUR AFFIANT SAYETH NAUGHT

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: November 23, 2020

/s/ Don Bumgarner
Don Bumgarner

STATE OF MINNESOTA
IN SUPREME COURT
Case File No. _____

Tyler Kistner, Gene Rechtzigel, Rich Draheim, Steve Drazkowski, Jeremy Munson, Tim Miller, Calvin Bahr, Erik Mortenson, Dan Hall, Jose W. Jimenez, Sandra A. Jimenez, Tomas Settell, Megan Olson, Leilani Holmstadt, Pam Myhra, Roz Peterson, Lucia Vogel, Jennifer Zielinski, Diane Napper, Alexander Deputie, Charlotte Smith, Fern Smith, Mariah De La Paz, Cynthia Londquist, Lisa Pohlman, Nora L. Felton, Deborah Coxe, Jane L. Volz, Paul Staut, Kathleen Hagen, Janine Kusnierek, Greg Buck, Don Bumgarner, Amy Bruno, and Kathleen Nydegger,

Petitioners,

vs.

Steve Simon, only in his official capacity as the Minnesota Secretary of State and member of the State Canvassing Board, Margaret H. Chutich, only in her official capacity as a member of the State Canvasing Board, Gordon L. Moore, III, only in his official capacity as a member of the State Canvasing Board, Regina Chu, only in her official capacity as a member of the State Canvasing Board, and Christian Sande, only in his official capacity of a member of the State Canvasing Board,

Respondents.

AFFIDAVIT OF DEBORAH COXE

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

Deborah Coxe, being first duly sworn on oath states as follows:

1. I am over the age of 18 years and competent to testify herein. I am a registered voter in the State of Minnesota.

2. I have personal knowledge of the facts stated herein and know them to be true and correct.

3. I respectfully submit this affidavit in support of a temporary restraining order enjoining the Minnesota Secretary of State, Steve Simon, and the state canvassing board from certifying the results of the November 3, 2020 state general election for violations of Minn. Stat. § 206.89, subd. 3, the post-election review of voting systems.

4. I volunteered to be a Republican public observer for the Post Election Review (PER) conducted at the Dakota County Hastings Government Center on Monday, November 16, 2020.

3. I personally observed as well as took pictures of boxes of ballots that came unsealed in regular brown packing boxes, as well as blue plastic "tubs" that were not properly sealed with tape.

4. When I requested to see votes totaled for each precinct, Andy Lokken, the Elections Director, refused to allow me to see the hand tallied votes for each precinct. I personally observed from a distance Andy Lokken manually crossing out and writing in different amounts for various precincts. However, due to distancing, I was unable to identify exactly what he was doing because he refused to allow me to observe close enough to actually see what he was doing.

5. Andy Lokken also directed all counting tables to commingle all of their ballots so absentee ballots were not counted separately at any of the five tables he set up. There is no way there could be an accurate count of absentee ballots because of the commingling.

6. Given the commingling of the ballots and the lack of accessibility to final tallies, I was unable to tell if any of the counting was accurate or the tally was proper.

7. I personally attended the post-election reviews for Dakota, Rice, and Olmstead Counties. I attempted to attend the review at Ramsey County on Saturday, November, 14th at 9:00 a.m. but Ramsey County changed date without notice.

FURTHER YOUR AFFIANT SAYETH NAUGHT

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: November 22, 2020

/s/ Deborah Coxe
Deborah Coxe