

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

Case Type: Civil Other/Misc.

Rene Rodriguez and Craig Johnson,

Court File No.: 62-CV-20-5601

Contestants,

v.

**CONTESTEE BETTY MCCOLLUM'S
ANSWER TO NOTICE OF CONTEST**

Steve Simon, only in his official capacity as
the Minnesota Secretary of State, and Betty
McCollum, Congressional candidate,

Contestees.

Contestee Representative Betty McCollum (“Contestee”), by and through her attorneys, submit the following Answer to Contestants’ Notice of Election Contest Under Minnesota Statutes Chapter 209 (the “Contest”). Contestee responds to the allegations in the Contest as follows:

INTRODUCTION¹

Paragraph 1 of the Introduction contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

Paragraph 2 of the Introduction contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

¹ Contestants have failed to comply with Minn. R. Civ. P. 10.02, which requires “[a]ll averments of claim or defense shall be made in numbered paragraphs,” in the Introduction section of the Contest. Contestee has therefore added paragraph numbers in responding to this section. Further, for ease of comparison, Contestee recites the headings used in the Contest. These headings are not allegations to which a response is required. To the extent a response is required, Contestee denies the allegations.

Paragraph 3 of the Introduction contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

Paragraph 4 of the Introduction contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

Paragraph 5 of the Introduction contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations in Paragraph 6 of the Introduction and therefore denies the same. Paragraph 6 of the Introduction otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

Contestee is without sufficient information or knowledge with which to form a belief as to the number of absentee ballots or the actions of the Secretary of State discussed in Paragraph 7 of the Introduction and therefore denies the same. Paragraph 7 of the Introduction otherwise contain mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

Contestee is without sufficient information or knowledge with which to form a belief as to actions of the State Canvassing Board discussed in Paragraph 8 of the Introduction and therefore denies the same. Paragraph 8 otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies

the allegations.

Paragraph 9 of the Introduction contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

Paragraph 10 of the Introduction contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

Paragraph 11 of the Introduction contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

Paragraph 12 of the Introduction contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations in this paragraph regarding the actions of the “Minnesota state officials” and the Minnesota Ballot Boards discussed in Paragraph 13 of the Introduction and therefore denies the same. Paragraph 13 of the Introduction otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations in this paragraph regarding the actions of the “entire world” discussed in Paragraph 14 of the Introduction and therefore denies the same. Paragraph 14 of the Introduction otherwise contains mere characterizations, legal contentions, and conclusions to

which no response is required. To the extent a response is required, Contestee denies the allegations.

Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations Paragraph 15 of the Introduction and therefore denies the same. Footnote 3 contains mere characterizations, legal contentions, and conclusions to which no response is required.

Paragraph 16 of the Introduction contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

Paragraph 17 of the Introduction contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

PARTIES

Contestants

1. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations in Paragraph 1 and therefore denies the same.
2. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations in Paragraph 2 and therefore denies the same.

Contestees

3. Contestee admits that Contestee Steve Simon is the Minnesota Secretary of State. Paragraph 3 otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required.
4. Contestee admits the allegations in Paragraph 4.

STANDING

5. Paragraph 5 and the unnumbered paragraph immediately following it contain mere characterizations, legal contentions, and conclusions to which no response is required.

JURISDICTION

6. Paragraph 6 contains mere characterizations, legal contentions, and conclusions to which no response is required.

7. Paragraph 7 contains mere characterizations, legal contentions, and conclusions to which no response is required.

8. Paragraph 8 contains mere characterizations, legal contentions, and conclusions to which no response is required.

STATEMENT OF FACTS

I. Federal and State Constitutional Protections for Free and Public Elections

10. Paragraph 10 contains mere characterizations, legal contentions, and conclusions to which no response is required.²

11. Contestee admits the allegations in Paragraph 11.

12. Paragraph 12 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

13. Contestee denies the allegations in first sentence of Paragraph 13. Paragraph 13 otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

14. Contestee admits that the National Association for the Advancement of Colored

² The Contest omits Paragraph 9.

People Minnesota-Dakotas Area State Conference, Susan Bergquist, and Eleanor Wagner entered into a stipulation and partial consent decree with Minnesota Secretary of State Steve Simon on July 23, 2020. Paragraph 14 otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

15. Contestee admits the allegations in Paragraph 15 to the extent that a consent decree was entered on August 3, 2020 waiving the witness requirement for the November 3, 2020 general election.

II. The Secretary of State is responsible for the Oversight and implementation of the election law system in Minnesota.

16. Paragraph 16 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

17. Paragraph 17 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

18. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the Secretary of State's and the County Ballot Board's actions discussed in Paragraph 18 and therefore denies the same. Paragraph 18 otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

19. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the Secretary of State's actions discussed in Paragraph 19 and therefore denies the same. Paragraph 19 otherwise contains mere characterizations, legal

contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

20. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of footnote 14 and Steven Drazkowski's, Jeremy Munson's, or John Huot's actions discussed in Paragraph 20 and therefore denies the same. Paragraph 20 otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

21. Paragraph 21 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

22. Paragraph 22 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

III. Postelection Review (PER)

23. Paragraph 23 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

24. Paragraph 24 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

25. Paragraph 25 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

26. Paragraph 26 contains mere characterizations, legal contentions, and conclusions

to which no response is required. To the extent a response is required, Contestee denies the allegations.

27. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of footnote 19 and therefore denies the same. Paragraph 27 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

28. Paragraph 28 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

29. Paragraph 29 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

30. Paragraph 30 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

IV. Actual PER Process

31. Contestee denies the allegation in the first sentence of Paragraph 31. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the remaining allegations in Paragraph 31 and therefore denies the same.

32. Paragraph 32 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

33. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations in Paragraph 33 and therefore denies the same.

34. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations in Paragraph 34 and therefore denies the same.

35. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations in Paragraph 35 and therefore denies the same.

36. Paragraph 36 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

37. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations in Paragraph 37 and therefore denies the same.

38. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations in Paragraph 38 and therefore denies the same.

39. Contestee denies the allegation that a new, 520-pound Dominion voting machine was delivered by FEDEX to Dakota County after the election and prior to the County's postelection review or that the alleged "receipt" referenced in this paragraph and purportedly attached as cited in footnote 26 reflects such a delivery. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the remaining allegations in Paragraph 39 and therefore denies the same.

40. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations in Paragraph 40 and therefore denies the same.

41. The allegations Paragraph 41 regarding preservation of "election materials" contain mere characterizations, legal contentions, and conclusions to which no response is required. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the remaining allegations in Paragraph 41 and therefore denies the same.

42. Contestee is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations in Paragraph 42 and therefore denies the same.

43. Contestee admits that Dakota County is one of the 87 counties in Minnesota. Paragraph 43 otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

LEGAL ARGUMENT

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

44. Paragraph 44 contains mere characterizations, legal contentions, and conclusions to which no response is required.

45. Paragraph 45 contains mere characterizations, legal contentions, and conclusions to which no response is required.

46. Paragraph 46 contains mere characterizations, legal contentions, and conclusions to which no response is required.

47. Paragraph 47 contains mere characterizations, legal contentions, and conclusions to which no response is required.

48. Paragraph 48 contains mere characterizations, legal contentions, and conclusions to which no response is required.

49. Paragraph 49 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

50. Contestee is without sufficient information or knowledge with which to form a

belief as to the truth or falsity of the allegations in the last two sentences of Paragraph 50 and therefore denies the same. Paragraph 50 otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

51. Paragraph 51 contains mere characterizations, legal contentions, and conclusions to which no response is required.

52. Paragraph 52 contains mere characterizations, legal contentions, and conclusions to which no response is required.

53. Paragraph 53 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

54. Paragraph 54 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

Violation Of The Separation Of Powers
Minn. Const. Article III

55. Paragraph 55 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

56. Paragraph 56 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

57. Paragraph 57 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the

allegations.

58. Paragraph 58 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

59. Paragraph 59 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

60. Paragraph 60 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations. To the extent a response is required, Contestee denies the allegations.

61. Paragraph 61 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations. To the extent a response is required, Contestee denies the allegations.

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

62. Paragraph 62 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

63. Paragraph 63 contains mere characterizations, legal contentions, and conclusions to which no response is required.

64. Paragraph 64 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

65. Paragraph 65 contains mere characterizations, legal contentions, and conclusions

to which no response is required. To the extent a response is required, Contestee denies the allegations. To the extent a response is required, Contestee denies the allegations.

66. Paragraph 66 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

CONCLUSION

67. Paragraph 67 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

68. Paragraph 68 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Contestee denies the allegations.

AFFIRMATIVE DEFENSES

Contestee sets forth her affirmative defenses without assuming the burden of proving any fact, issue, or element of a cause of action where such burden properly belongs to Contestants. Moreover, nothing stated here is intended or shall be construed as an admission that any particular issue or subject matter is relevant to the allegations in the Complaint. Contestee reserve the right to amend or supplement their affirmative defenses as additional facts concerning defenses become known.

Contestee alleges as follows:

Lack of jurisdiction over Contestee.

Contestants are precluded from seeking relief in this action.

Contestants fail to state a claim on which relief can be granted.

Contestants' claim is barred by the doctrine of laches.

PRAYER FOR RELIEF

WHEREFORE, Contestees respectfully request that this Court:

- A. Deny that Contestants are entitled to any relief;
- B. Dismiss this Contest in its entirety, with prejudice; and
- C. Grant such other and further relief as the Court may deem just and proper.

DATED: December 8, 2020

LOCKRIDGE GRINDAL NAUEN P.L.L.P.

s/Charles N. Nauen

Charles N. Nauen (#121216)

David J. Zoll (#0330681)

Kristen G. Marttila (#346007)

Rachel A. Kitze Collins (#0396555)

100 Washington Avenue South, Suite 2200

Minneapolis, MN 55401

(612) 339-6900

cnnauen@locklaw.com

djzoll@locklaw.com

kgmarttila@locklaw.com

rakitzecollins@locklaw.com

Marc E. Elias (*pro hac vice* pending)

Daniel C. Osher (*pro hac vice* pending)

PERKINS COIE LLP

700 Thirteenth Street NW, Suite 800

Washington, D.C. 20005-3960

Kevin J. Hamilton (*pro hac vice* pending)

Abha Khanna (*pro hac vice* pending)

Reina Almon-Griffin (*pro hac vice* pending)

Nitika Arora (*pro hac vice* pending)

Jonathan P. Hawley (*pro hac vice* pending)

PERKINS COIE LLP

1201 Third Avenue, Suite 4900

Seattle, WA 98101-3099

Torryn Taylor Rodgers (*pro hac vice* pending)

PERKINS COIE LLP

505 Howard Street, Suite 1000

San Francisco, CA 94105

Attorneys for Contestee Betty McCollum