

ORIGINAL

STATE OF MINNESOTA
SPECIAL REDISTRICTING PANEL
A11-152

OFFICE OF
APPELLATE COURTS

SEP 19 2011

FILED

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

Petitioners,

and

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

Plaintiff Intervenors,

and

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

Plaintiff Intervenors,

vs.

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

Respondents/Defendants.

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APPELLATE COURTS

**ANSWER OF DEFENDANT
ROBERT HIIVALA TO BRITTON
COMPLAINT IN INTERVENTION**

Defendant Robert Hiivala, Wright County Auditor, for his answer to the Britton Intervenors' Complaint, states and alleges as follows:

1. Except as hereinafter admitted, qualified or otherwise responded to, denies each and every allegation of the Complaint.

2. States that the allegations in Paragraphs 1, 3, 6-12, 20, 22-25, and 32 assert legal conclusions or legal assertions to which no response is required.

3. State that Defendant Hiivala is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 of the Complaint and therefore deny the same.

4. The allegations alleged in paragraph 4 are directed toward other Defendants, and not towards Defendant Hiivala. Accordingly, no response is required by Defendant Hiivala. Defendant Hiivala also states that Minnesota Statutes Chapters 200 through 211B speak for themselves.

5. With respect to the allegations in paragraphs 5, admit the individual named holds the positions described and that they have statutory duties related to elections, and the Court is referred to the official text of the statutory provisions the paragraph seeks to describe.

6. As to the allegations in Paragraph 13, states that the 2010 United States Census speaks for itself. Defendant Hiivala further objects that the allegations in Paragraph 13 lack foundation and call for speculation, and accordingly denies the same. Defendant Hiivala further states that the allegations in Paragraph 13 assert legal conclusions to which no response is required. Defendant Hiivala further states that the

2011 Minnesota Legislative session adjourned without a reapportionment bill being enacted into law.

7. As to the allegations in Paragraph 14, states that the 2010 United States Census speaks for itself.

8. State that Defendant Hiivala is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 15 of the Complaint.

9. As to the allegations in Paragraph 16, states that the 2010 United States Census speaks for itself. Defendant Hiivala further objects that the allegations in Paragraph 16 assert legal conclusions to which no response is required.

10. Defendant Hiivala further objects that the allegations in Paragraph 17 lack foundation and call for speculation, and accordingly denies the same. Defendant Hiivala further states that the allegations in Paragraph 17 assert legal conclusions to which no response is required. Defendant Hiivala further states that the 2011 Minnesota Legislative session adjourned without a reapportionment bill being enacted into law.

11. State that Defendant Hiivala is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18 of the Complaint. Defendant Hiivala further objects that the allegations in Paragraph 18 lack foundation and call for speculation, and accordingly denies the same. Defendant Hiivala further states that the allegations in Paragraph 18 assert legal conclusions to which no response is required.

12. Defendant Hiivala objects to the allegations in Paragraphs 19, 19(a), 19(b), 19(c), and 19(d) lack foundation and call for speculation. Defendant Hiivala further

states that the allegations in Paragraphs 19, 19(a), 19(b), 19(c), and 19(d) assert legal conclusions to which no response is required.

13. As to the reallegations in Paragraph 21, Defendant Hiivala realleges the answers already given for paragraphs 1 through 5.

14. As to the allegations in Paragraph 26, states that the 2010 United States Census speaks for itself. Defendant Hiivala further states that the allegations in Paragraph 26 assert legal conclusions to which no response is required. Defendant Hiivala further states that the 2011 Minnesota Legislative session adjourned without a reapportionment bill being enacted into law

15. As to the allegations in Paragraph 27, states that the 2010 United States Census Speaks for itself.

16. As to the allegations in Paragraph 28, states that the 2010 United States Census speaks for itself. Defendant Hiivala further objects that the allegations in Paragraph 28 lack foundation and call for speculation, and accordingly denies the same. Defendant Hiivala further states that the allegations in Paragraph 28 assert legal conclusions to which no response is required.

17. As to the allegations in Paragraph 29, states that the 2010 United States Census speaks for itself. Defendant Hiivala further objects that the allegations in Paragraph 29 lack foundation and call for speculation, and accordingly denies the same. Defendant Hiivala further states that the allegations in Paragraph 29 assert legal conclusions to which no response is required. Defendant Hiivala further states that the

2011 Minnesota Legislative session adjourned without a reapportionment bill being enacted into law.

18. State that Defendant Hiivala is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 30 of the Complaint.

19. Objects that the allegations in Paragraphs 31, 31(a), 31(b), 31(c), and 31(d) lack foundation and call for speculation, and accordingly denies the same. Defendant Hiivala further states that the allegations in Paragraphs 31, 31(a), 31(b), 31(c), and 31(d) assert legal conclusions to which no response is required.

AFFIRMATIVE DEFENSES

19. Alleges that the Britton Intervenors' Complaint fails, in whole or in part, to state a claim upon which relief may be granted.

20. Alleges affirmatively that Defendant Hiivala has no liability for claims pursuant to 42 U.S.C. §1983 as alleged in Britton Intervenors' Complaint, and further denies that it has any customs, practices or policies that violate any person's constitutional rights as alleged in Britton Intervenors' Complaint.

21. Alleges any other matter constituting an avoidance or affirmative defense to Britton Intervenors' Complaint.

22. Injuries or damages sustained by Plaintiffs, if any, were due to, caused by, contributed to, or brought about as the result of the conduct of third persons for whom this answering Defendant does not bear liability.

23. The Britton Intervenor's claims are not ripe because they have suffered no injury in fact.

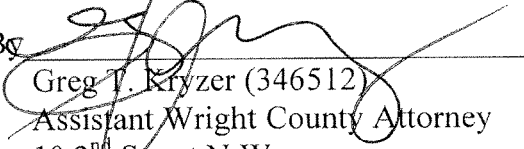
WHEREFORE, Defendant asks for an Order of the Court as follows:

1. Dismissing Plaintiffs' Complaint and granting Defendant judgment in its favor.
2. Awarding Defendant all costs, disbursements and attorney's fees pursuant to 42 U.S.C. § 1988.
3. For such other and further relief as this Court deems just and equitable.

Dated: September 14, 2011

THOMAS N. KELLY
Wright County Attorney

By



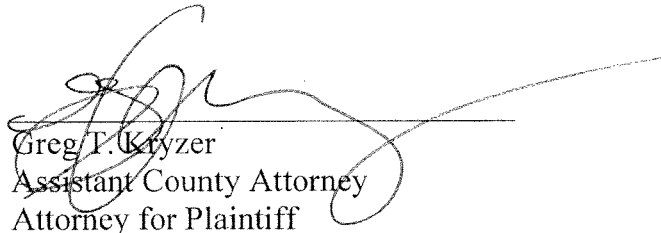
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Attorney for Defendant Robert Hiivala,
Wright County Auditor

ACKNOWLEDGMENT

The undersigned acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded to the opposing party or parties pursuant to M.S. 549.21, Subd. 2.

Dated: September 14, 2011



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Attorney for Plaintiff
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