

STATE OF MINNESOTA  
IN SUPREME COURT  
No. A24-\_\_\_\_\_

**FILED**

December 13, 2024

**OFFICE OF  
APPELLATE COURTS**

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Paul Wikstrom,

Contestant,

v.

Curtis Johnson,

Contestee.

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**INDEX TO ADDENDUM ATTACHED TO  
CONTESTEE'S APPEAL OF ORDER DENYING MOTION TO DISMISS**

Amended Order and Memorandum regarding Motion to Dismiss, ..... ADD-1  
Motion for Default and Motion in Limine, dated December 7, 2024

Notice of Election Contest, dated November 20, 2024 ..... ADD-15

Exhibit 5 attached to Notice of Election Contest ..... ADD-34

STATE OF MINNESOTA  
COUNTY OF RAMSEY

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DISTRICT COURT  
SECOND JUDICIAL DISTRICT

Paul Wikstrom,  
Contestant,

Case No.: 62-CV-24-7378  
The Honorable Leonardo Castro

v.

Curtis Johnson,  
Contestee.

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**AMENDED ORDER  
MOTION TO DISMISS, MOTION FOR  
DEFAULT, AND MOTION *IN LIMINE***


<sup>1</sup>The above-entitled matter came before the Honorable Leonardo Castro for a hearing on Contestee's Motion to Dismiss, Contestant's Motion for Default, and Contestant's Motion *in Limine* on December 3, 2024. Nicholas Morgan, Esq., appeared on behalf of Contestant. Rachel Kitzte Collins, Esq., Charles Nauen, Esq., and David Zoll, Esq., appeared on behalf of Contestee. Based upon the submission of the parties, the arguments of counsel, and all the files, records, and proceedings herein, the Court issues the following Order and memorandum:

**IT IS HEREBY ORDERED:**

1. Contestee's Motion to Dismiss is **DENIED**.
2. Contestant's Motion for Default Judgment is **DENIED**.
3. Contestant's Motion *in Limine* is **DENIED**.
4. Contestee's Answer is deemed to be timely filed.
5. Contestee will not be precluded from introducing evidence in defense of any and all claims alleged by Contestant.
6. The attached memorandum is incorporated.

**SO ORDERED.**

Dated: December 7, 2024

  
\_\_\_\_\_  
Castro, Leonardo (Judge)  
Dec 8, 2024 8:24 AM  
Leonardo Castro  
District Court Judge

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<sup>1</sup> This Amended Order rectifies a scrivener's error in the original Order, issued on December 4, 2024; on page 6, a reference to "Minn. Stat. § 204B.22" has been corrected to read, "Minn. Stat. § 204B.44."

## MEMORANDUM

### **Factual Allegations<sup>2</sup>**

1. Curtis Johnson, Contestee, owns a house in Little Canada, Minnesota, where he has historically resided with his family. (Compl. ¶ 9.) That house is outside the boundaries of State House of Representatives District 40B. (*Id.*)

2. In January 2024, Mr. Johnson registered a political committee in support of his race for the Minnesota State House of Representatives for District 40B. (*Id.* ¶ 8.)

3. Mr. Johnson has stated that in March 2024, he signed a lease for Apartment 103A at Rosedale Estates, 2735 Rice Street in Roseville, MN. (Compl. ¶ 10; Contestee’s Mot. Dismiss.)<sup>3</sup> That apartment is within the House District 40B boundary. (Compl. ¶ 10.)

4. Mr. Johnson registered to be on the Minnesota State primary ballot and filed his affidavit of candidacy under Minn. Stat. § 204B.06, subd. 1 on May 21, 2024. (*Id.* ¶ 13.)

5. While door knocking as a candidate for House District 40B, Contestant, Paul Wikstrom, “encountered former Roseville City Council Member Robert Willmus,” who claimed “that [Curtis Johnson] doesn’t live in the district and leased the Rice Street apartment in order to make it appear that he lived in the district.” (Compl. ¶ 14.)

6. In an article by the Pioneer Press on October 28, 2024, Mr. Wikstrom is quoted as saying that “he suspected since May that Johnson didn’t live in the Rice Street apartment complex on his candidacy paperwork, but decided to look into it more” upon a conversation with a voter. (Contestant’s Ex. 5 at 4.)

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<sup>2</sup> For the purposes of this motion only, this Court takes the allegations of the Complaint as true. *See Bodah v. Lakeville Motor Express, Inc.*, 663 N.W.2d 550, 553 (Minn. 2003).

<sup>3</sup> The Court cites to the Contestee’s Memorandum in Support of his Motion to Dismiss generally because there are no page numbers included in the memorandum.

7. “Beginning on August 31, 2024, members of the Paul Wikstrom campaign team volunteered their time to determine Johnson’s physical whereabouts as to his residency, keeping records of Johnson’s movements.” (*Id.* ¶ 15.) The team observed “comings and goings” from Mr. Johnson’s Little Canada home and Roseville apartment, took many photographs of both locations, and conducted other various investigative endeavors over the course of many weeks. (*See id.* ¶¶ 15–44.)

8. The general election for the Minnesota House of Representatives District 40B occurred on November 5, 2024. (*See id.* ¶ 56.)

9. The canvass of the general election for House District 40B was completed on November 13, 2024. (*See id.* ¶ 56.)

10. On November 20, 2024, Mr. Wikstrom filed and served a “Notice of Election Contest Under Minnesota Statute 209.02,” along with various affidavits and exhibits. That Complaint alleges that the evidence gathered by Mr. Wikstrom’s team demonstrates that Mr. Johnson “resided every day from his filing of the affidavit of candidacy to October 15, 2024 . . . at his Little Canada home.” (Compl. ¶ 58.)

11. On November 27, Mr. Johnson filed and served a Notice of Motion and Motion to Dismiss the election contest.

12. Mr. Johnson moved to dismiss the election contest on two bases: first, on the basis of laches, asserting that Mr. Wikstrom waited too long to bring the contest after developing a suspicion about Mr. Johnson’s residency; and second, because a residency-based challenge is an inappropriate basis for a challenge occurring after the general election.

13. Mr. Wikstrom, in turn, moved for a default judgment based on the fact that Mr. Johnson did not file an answer required under Minn. Stat. § 209.03, subdivision 2. Mr. Wikstrom

also filed a motion *in limine* to exclude evidence “regarding Contestee maintaining residence the thirty days prior to the general election” as not relevant because the claim under Minn. Stat. § 204B.06, subd. 1(3) was waived due to a lack of an answer from Mr. Johnson.

14. At a hearing on December 3, 2024, the Court heard argument on Contestee’s Motion to Dismiss, and Contestant’s Motion for Default and Motion *in Limine*. At that hearing, the Court ordered Mr. Johnson to file both an answer and a response to Mr. Wikstrom’s motions by the end of that day. Mr. Johnson timely filed both.

**I. Contestee’s Motion to Dismiss**

**a. *Motion to Dismiss Standard***

“Any eligible voter, including a candidate, may contest” the election of a person “for whom the voter had the right to vote if that person is declared nominated or elected” to a legislative office. Minn. Stat. § 209.02, subd. 1. Such a contest may be brought, among other reasons, “on the grounds of deliberate, serious, and material violations of the Minnesota Election Law.” *Id.*

“A contestee may move to dismiss under Minn. R. Civ. P. 12.02(e) for failure to state a claim upon which relief can be granted to challenge the legal sufficiency of the grounds on which the election contest is based.” *Bergstrom v. McEwen*, 960 N.W.2d 556, 563 (Minn. 2021) (citations omitted).

In considering a motion to dismiss pursuant to Minn. R. Civ. P. 12.02(e), the court looks only at the pleadings, accepts the facts alleged in the complaint as true, and construes all reasonable inferences from the facts alleged in favor of the nonmoving party. *Hansen v. U.S. Bank Nat’l Ass’n*, 934 N.W.2d 319, 325 (Minn. 2019). However, the court does not accept any legal conclusions included in the complaint. *Bahr v. Capella Univ.*, 788 N.W.2d 76, 80 (Minn. 2010). These general pleading standards hold true for an election contest, which must also “specify the grounds on which

the contest will be made.” *Bergstrom*, 960 N.W.2d at 563 (citing Minn. Stat. § 209.021, subd. 1).

***b. Laches***

Laches is an equitable doctrine, meant to “prevent one who has not been diligent in asserting a known right from recovering at the expense of one who has been prejudiced by the delay.” *Winters v. Kiffmeyer*, 650 N.W.2d 167, 169 (Minn. 2002). The relevant inquiry in a laches analysis is whether there was an “unreasonable delay” in the petitioner asserting a “known right,” which in turn results in “prejudice to others.” *Id.* at 170 (quoting *Fetsch v. Holm*, 52 N.W.2d 113, 115 (Minn. 1962)).

When evaluating whether a delay was unreasonable in residency challenges, some delay in filing may be excused “because the challenger to a residency claim bears the burden of proof.” *Monaghan v. Simon*, 888 N.W.2d 324 (Minn. 2016) (citing *Moe v. Alsop*, 180 N.W.2d 255, 260 (1970)). Accordingly, in residency challenges, there is a tension between diligently avoiding unreasonable delay and taking enough time to conduct an adequate investigation. *See id.* at 330.

The crucial issue in a laches analysis is that of prejudice; if the prejudice from a delay is not substantial enough to dismiss a challenge based on laches, the court need not decide whether a delay was unreasonable. *See id.*

Minnesota Statute § 204B.13, subdivision 2, provides that:

[I]n the case of a vacancy in nomination for a partisan office that occurs after the 79th day before the general election, the general election ballot shall remain unchanged, but the county and state canvassing board must not certify the vote totals for that office from the general election, and the office must be filled with a special election.

Such a special election shall take place on the second Tuesday of the following February.

*Id.* at subd. 7.

The question in this case, then, is this: did Mr. Wikstrom unreasonably delay bringing a residency-based challenge—post-general election, under Minn. Stat. § 209.02, rather than pre-

general election under Minn. Stat. § 204B.44—and if so, did that delay cause prejudice to others sufficient for dismissal on the basis of laches?

In this case, the Complaint alleges that Mr. Wikstrom first initiated an investigation into Mr. Johnson’s residency only after an encounter with a voter while door knocking in the district. In his affidavit, Mr. Wikstrom states that this encounter occurs “[o]n or about September 7<sup>th</sup>, 2024.” The Complaint states that “on August 31, 2024,” Mr. Wikstrom’s team began investigating Mr. Johnson’s residency. A Pioneer Press article, published on October 28, 2024—and filed as an exhibit by Mr. Wikstrom—states that Mr. Wikstrom said that he had “suspected since May” of 2024 that Mr. Johnson did not live in District 40B, but only decided to “look into” it further upon a conversation with the voter. It is not entirely clear, therefore, when exactly Mr. Wikstrom first had a “known right.”

Mr. Johnson asserts that the Minnesota Supreme Court’s decision in *Monaghan v. Simon* established that a petitioner’s “known right” to challenge a candidate’s eligibility based on residency begins upon the candidate’s filing of an affidavit of candidacy; this assertion misreads *Monaghan v. Simon*. 888 N.W.2d 324 (Minn. 2016).

In *Monaghan*, the court stated that there “*could not be* a known right” to challenge the contestant’s residency until the affidavit of residency was filed. *Id.* at 330 (emphasis added). This analysis was in the context of suspicion surrounding the candidate’s residency that allegedly arose *before* the relevant candidate had filed an affidavit of candidacy. *See id.* Therefore, rather than establishing—as Mr. Johnson contends—that a timer on any potential petitioner’s right to a residency-based claim begins counting down upon a contestant’s affidavit of candidacy, the court in *Monaghan* established that if a petitioner had knowledge of a potential residency-based challenge prior to the affidavit of candidacy being filed, their known right to challenge that

contestant's eligibility only begins upon the filing of the affidavit. *See id.*

In this case, if Mr. Wikstrom had reason to suspect Mr. Johnson did not live in the district prior to Mr. Johnson filed his affidavit of candidacy on May 21, 2024, his known right to bring a residency-based challenge would have begun on May 21, 2024, upon Mr. Johnson's filing.

Under the Minnesota Supreme Court's analysis in *Monaghan*, this Court struggles to see how Mr. Wikstrom's case—or any other residency-based challenge, for that matter—could be dismissed on the basis of laches.

The petitioner in *Monaghan* “waited approximately 2 months” after the date the relevant candidate filed their affidavit of candidacy on May 31, 2016, to bring a petition under Minn. Stat. § 204B.44. *Id.* at 330. The court reasoned that “some of that delay may be excused because the challenger to a residency claim bears the burden of proof,” but also acknowledged that a lack of investigation in June on the petitioner's part could be unreasonable. *See id.* Nevertheless, the court refused to decide whether the petitioner's delay was unreasonable because the court's determination on the contestant's eligibility came down on September 8, 2016, within the 79-day period outlined in 204B.13 which therefore triggered the remedy of a special February election. *Id.* The court concluded that “[e]ven if the petitioner unreasonably delayed in bringing the petition, the availability of the remedy [of a February special election] in Minn. Stat. § 204B.13 mitigates any prejudice,” and declined to dismiss the challenge on the basis of laches. *Id.* at 331.

The petitioner in *Monaghan* brought a challenge under 204B.13 significantly sooner than Mr. Wikstrom would have in this case (considering that his investigation spanned from August 31, 2024 to October 2024), and the court in that case still declined to evaluate unreasonableness because the applicable remedy under Minn. Stat. § 204B.13 eliminated prejudice to others. This was true even though, within the timeline of *Monaghan*, the petitioner's challenge and the



evidentiary hearing occurred *outside* of the 79-day period leading up to the general election, because the Minnesota Supreme Court’s determination of the candidate’s ineligibility occurred within that 79-day period.

Even if, *arguendo*, Mr. Wikstrom had a suspicion about Mr. Johnson’s residency upon the latter’s filing of his affidavit of candidacy on May 21, 2024—and therefore would have had a known right to bring the challenge—it is impossible to say with certainty whether an appropriate investigative period, an evidentiary hearing based on a 204B.44 claim, *and* a determination from the Minnesota Supreme Court could have occurred before that 79-day period began on August 18, 2024.

Therefore, even when viewing the facts in the light most favorable to Mr. Johnson—which is the opposite of this Court’s duty at the motion to dismiss stage—it seems impossible that a laches claim could succeed in this case. Whether Mr. Wikstrom’s delay was reasonable or unreasonable, the remedy under a Section 204B.44 challenge in this case would have been the same as the remedy under his Section 209.02 challenge: a special election in February of 2025. Like in *Monaghan*, the remedy provided in Minn. Stat. § 204B.13 mitigates any prejudice resulting from Mr. Wikstrom’s delay in bringing a residency-based challenge. Therefore, this Court declines to dismiss the challenge on the basis of laches.

***c. Jurisdiction***

Mr. Johnson also contends that the contest should be dismissed because the eligibility of a candidate is an “improper basis for an election contest.” (Contestee’s Mem. Mot. Dismiss.) His argument, in sum, is this: because Minnesota Statute section 204B.44 provides an avenue by which petitioners can challenge the ineligibility of candidates, and because there is no caselaw dealing

with a challenge under Minnesota Statute 209.02 based on residency, such a challenge is improper.

Unless the statute specifically says so, it defies logic to say that by creating one avenue for a particular challenge, the Legislature meant to exclude all other avenues. It is true that Mr. Wikstrom could have challenged Mr. Johnson's eligibility based on residency under a Minn. Stat. § 244B.44 claim. It is also true that Minn. Stat. § 209.02 allows election contests based on "the grounds of deliberate, serious, and material violations of Minnesota Election Law."

The Minnesota Constitution requires that "representatives shall be qualified voters of the state, and shall have resided . . . six months immediately preceding the election in the district from which elected." Minn. Const. art. IV, § 6. Minnesota election law also requires a candidate to confirm that they ". . . will have maintained residence in the district from which the candidate seeks election for 30 days before the general election." Minn. Stat. § 204B.06, subd. 1(3).

Mr. Wikstrom alleges that Mr. Johnson did not live in his Roseville Apartment for the six months leading up to the election. Mr. Wikstrom's claim is therefore based not only on a violation of statutory election law, but also of a constitutional requirement. If substantiated by evidence, this claim means that Mr. Johnson intentionally deceived the voters of House District 40B and disregarded the integrity of the democratic process. This no doubt qualifies as a "deliberate, serious, and material violation[] of Minnesota Election Law" under Minn. Stat. § 209.02. The fact that Mr. Wikstrom *could have* brought the claim under Minn. Stat. § 204B.44 prior to the general election does not preclude him from bringing it under Minn. Stat. § 209.02 now.

Therefore, Mr. Johnson's motion to dismiss the contest for lack of jurisdiction is denied.

## **II. Contestant's Motion for Default Judgment & Motion in Limine**

On December 2, 2024, Mr. Wikstrom filed a Motion for Default Judgment and a Motion

*in Limine*. The motions were heard on December 3, 2024. Mr. Wikstrom argued that Mr. Johnson's failure to file an Answer to the Notice of Election Contest as required by Minn. Stat. § 209.03, was fatal to Mr. Johnson's defense because the statutory mandate has no exceptions and requires that default judgment be entered in Mr. Wikstrom's favor. In the alternative, Mr. Wikstrom moved this Court for a partial default judgment, arguing that because Mr. Johnson did not address the alleged violation and claim under Minn. Stat. § 204B.06, subd. 1(3), in his Motion to Dismiss, Mr. Johnson has waived any challenge to the claim.

In his Motion *in Limine*, Mr. Wikstrom argues that if the default judgment is denied, Mr. Johnson should be prohibited from filing an Answer and prohibited from introducing any other evidence seeking to challenge Mr. Wikstrom's claims regarding violations of Minn. Stat. § 204B.06, subd. 1(3). Instead, the hearing should solely focus on Mr. Wikstrom's claim, as the Contestant, that Mr. Johnson violated Minn. Stat. § 204B.06, subd. 4a(4), limiting Mr. Johnson to addressing that single claim.

At the conclusion of the hearing, this Court requested that Mr. Johnson file, by the end of the day, his response to Mr. Wikstrom's Motion for Default Judgment and Motion *in Limine*. Additionally, the Court requested that Mr. Johnson file his Answer to the Notice of Election Contest by end of day. Mr. Johnson complied with the Court's requests, and timely filed the responses and Answer.

#### ***a. Default Judgment***

Default judgements under Minnesota Rule of Civil Procedure 55 are permitted, "when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend within the time allowed therefor by these rules or by statute." The Minnesota Court of Appeals has held that "otherwise defend" includes filing a Rule 12 or other defensive motion.

*Black v. Rimmer*, 700 N.W.2d 521, 525 (Minn. Ct. App. 2005).

Under Minn. Stat. § 209.03 subd. 2:

For all other election contests<sup>4</sup> the contestee’s answer to the notice of contest must be filed and served on the contestant. The answer must so far as practicable conform to the rules for pleading in civil actions . . . If the contest relates to a general or special election, service of the answer must be made within seven days after service of the notice of contest. The contestee’s answer must be served in the same manner as the answer in a civil action or in the manner the court may order. Any other notices must be served in the manner and within the times the court may order.

Although an election contest is a “special proceeding,” the Rules of Civil Procedure govern unless those rules are inconsistent with the procedures in the statute. *Bergstrom v. McEwen*, 960 N.W.2d 556, 563 (Minn. 2021) (quoting *Franson v. Carlson*, 137 N.W.2d 835, 839 (Minn 1965)). Mr. Wikstrom argues that because the statute requires the filing of an answer within seven days, the rules pertaining to filing a motion to dismiss in lieu of answer cannot apply. This Court disagrees. Mr. Johnson filed a motion to dismiss Mr. Wikstrom’s election contest on the basis that it was barred by laches and improper under the election contest laws. The Minnesota Supreme Court has specifically stated that contestees may move to dismiss to challenge the legal sufficiency of an election contest. *Bergstrom v. McEwen*, 960 N.W.2d 556, 562–63 (Minn. 2021). The distinction between the rule and the statute, as it relates to service of an answer, is simply the expedited procedure contained in the Statute, i.e., 7 days vs. 21 days. *See* Rule of Civil Procedure 12.01. The rules of civil procedure and the statute are not inconsistent as it relates to filing a motion to dismiss in lieu of an answer. Mr. Wikstrom’s argument that Chapter 209’s use of the word “answer” forecloses the ability of a contestee to move to dismiss in lieu of an answer and prohibits the Court from deciding threshold issues prior to an evidentiary hearing, has no basis in the law. To accept this as true, this Court would have to conclude that only the procedural rules contained

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<sup>4</sup> Refers to “all other contests” other than vote count. *See* Minn. Stat. § 209.03 subd.1.

in the statute apply to election cases, which, as previously noted, is inconsistent with prior precedent. *See Bergstrom*, 960 N.W.2d at 563.

Mr. Johnson filed his motion to dismiss seven days after the Notice of Election Contest was filed and included with the motion a detailed declaration that responded to the substance of the factual allegations made in the Contest, putting Mr. Wikstrom on notice of Mr. Johnson's defenses in this matter.

Although the declaration does not serve as a substitute for an answer, this Court finds no prejudice to Mr. Wikstrom because the declaration contains substantially more factual information than an answer would have produced. Additionally, Mr. Wikstrom's argument that failing to file an answer deprived him of Mr. Johnson's witnesses and exhibits is flawed. That information would not have been provided in an answer. Moreover, this Court ordered that witness and exhibit lists would be exchanged no later than December 3, 2024; Mr. Wikstrom did not object to this timeline. In short, Mr. Johnson has "otherwise defended" this action and there is no prejudice to Mr. Wikstrom. Therefore, the motion for a default judgment is denied in its entirety.

***b. Motion in Limine***

Mr. Wikstrom moves this Court to grant his Motion *in Limine* requesting that at the evidentiary hearing to be held on thursday, December 5, 2024, Mr. Johnson be prohibited from introducing any evidence seeking to challenge Mr. Wikstrom's claims regarding violations of Minn. Stat. § 204B.06, subd. 1(3). He argues that any evidence produced by Mr. Johnson that he maintained residence in the district in the thirty days leading up to the general election is not relevant to the evidentiary hearing because the claim was waived due to a lack of answer. Mr. Wikstrom suggests the hearing should solely focus on his claim that Mr. Johnson violated Minn.

Stat. § 204B.06, subd. 4a(4), limiting Mr. Johnson to addressing that single claim.

The question of whether to admit or exclude evidence is within the district court's discretion. *In re Conservatorship of Smith*, 655 N.W.2d 814, 820 (Minn. Ct. App. 2003) (Citing *Kroning v. State Farm Auto. Ins. Co.*, 567 N.W.2d 42, 45–46 (Minn.1997)). “Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Minn. R. Evid. 401. Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. Minn. R. Evid. 403.

Mr. Wikstrom must prove by clear and convincing evidence that Mr. Johnson failed to reside in the district for the six months preceding the election. *See Monaghan v. Simon*, 888 N.W.2d 324, 331 (Minn. 2016); Minn. Stat. § 204B.06, subd. 4a(4). Mr. Wikstrom's motion *in limine* seeks to prevent the admission of evidence regarding Mr. Johnson's residency status during the 30 days prior to the general election, because Mr. Johnson's motion to dismiss did not specifically cite Minn. Stat. § 204B.06, subd. 1(3). Chapter 204B.06, subd. 1(3) prescribes the form that the affidavit of candidacy shall take, including the statement that the candidate “will have maintained residence in the district from which the candidate seeks election for 30 days before the general election.”

Review of Mr. Johnson's motion to dismiss and declaration clearly show that he addressed his residency status during the entire six-month period prior to the general election. The six-months prior to the general election requirement is the constitutional period of time that a prospective legislator must maintain residency in the district they seek to represent. *See* Minn.

Const. Art. IV, § 6. As counsel for Mr. Johnson argued at the hearing, the thirty days mentioned in the affidavit of candidacy are subsumed within those six months.

This Court finds no logical, procedural, or evidentiary reason to exclude evidence regarding the last 30 days before the general election. It is clearly relevant to the claims being made and there is no chance that the Court will be confused by the inclusion of such evidence. To grant such a motion would be akin to granting Mr. Wikstrom a partial default, which this Court has already rejected. The evidence is relevant to demonstrating that Mr. Johnson resided in the district throughout the entire six-month period prior to the general election. Therefore, the motion *in limine* is denied.

LC

STATE OF MINNESOTA  
COUNTY OF RAMSEY

DISTRICT COURT  
SECOND JUDICIAL DISTRICT

Paul Wikstrom,  
  
Contestant,  
v.

CASE NO.: \_\_\_\_\_

Curtis Johnson,  
  
Contestee.

NOTICE OF  
ELECTION CONTEST  
Minn. Stat. § 209.02

**NOTICE OF ELECTION CONTEST UNDER MINNESOTA STATUTE § 209.02**

TO: The Honorable Judges of the above-named Court, Curtis Johnson, Contestee, Tracy West, County Auditor and Director of Property Tax, Records and Election Services, and Steve Simon, Secretary of State of Minnesota,

PLEASE TAKE NOTICE, that, pursuant to Minn. Stat. § 209.02, Paul Wikstrom, the above named contestant, does hereby contest the election for the office of State Representative for State House District 40B held on November 5, 2024 (“Election Day”) and does hereby appeal from the decision of the Ramsey County Canvassing Board in declaring Curtis Johnson, Contestee herein, to have been elected to that office and entitled to a Certificate of Election and does object to and request invalidation of any Certificate of Election prepared or issued by the County Auditor.

Paul Wikstrom, Contestant herein, by and through his undersigned attorney of record, states and allege upon knowledge, information and belief as follows:



## INTRODUCTION

Paul Wikstrom (“Contestant”), pursuant to Minn. Stat. § 209.02, submits this Notice of Election Contest to the Ramsey County District Court of the State of Minnesota to contest the election of Contestee Curtis Johnson (“Contestee”) as the next Representative for State House District 40B. Contestee failed to establish residency and remain in the district six months prior to the general election or maintain residency 30 days prior to the general election. Contestee falsely claimed residency within the district for which he sought elective office, intending to affect the voting at the election. Johnson’s actions violate both Minnesota Election Law and the Minnesota Constitution’s residency mandate for candidates to state legislative office. Finally, Johnson falsely represented his residency in his affidavit of candidacy, attesting to the Secretary of State and the voters within State House District 40B that he resided in the district and was an eligible candidate to be elected to state legislative office.

## JURISDICTION

1. This Court has jurisdiction under Minn. Stat. § 209.02, which establishes the procedures for and governing notices of election contests: “[a]ny eligible voter, including a candidate” may file an election contest regarding the “nomination or election of any person for whom the voter had the right to vote if that person is declared nominated or elected to...a ... legislative... office[.]” The contest may be brought “on the grounds of deliberate, serious, and material violations of the Minnesota Election Law.”

2. Under Minn. Stat. § 209.021, for contests relating a state legislative office, “the contestant shall file the notice of contest with the court administrator of district court in the county where the Contestee maintains residence.”

3. Curtis Johnson is a resident of Ramsey County.

4. House District 40B comprises portions of the cities of Shoreview and Roseville.

The entirety of House District 40B is located within Ramsey County. See Ex. 257.

5. This Notice of Election Contest has been served<sup>1</sup> within the seven-day period commencing from November 13, 2024 (to November 20, 2024), to contest Johnson's election under procedures established under Minn. Stat. § 209.021: "The contestant shall serve notice of the contest on the parties...within seven days after the canvass is completed in the case of a ...general election."

### **PARTIES**

6. Contestant Paul Wikstrom resides at 200 Bridge Street, Shoreview, Minnesota, 55126. His residency is within the designated Minnesota House of Representatives District 40B. Wikstrom is also a registered voter and eligible to vote for the Representative to the Minnesota State Legislature from House District 40B. Wikstrom did cast a ballot in the general election of November 5, 2024.

7. Contestee Curtis Johnson resides at 3084 Payne Avenue, Little Canada, Minnesota, 55117. His residency is within Ramsey County. Johnson's residency in Little Canada is not within the boundaries of District 40B as designated for an elected seat within the Minnesota House of Representatives. See Ex. 270 and 257.

### **FACTUAL BACKGROUND**

#### **I. Curtis Johnson failed to comply with the Minnesota Constitution or statutes to seek election to state legislative office for House District 40B.**

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<sup>1</sup> Service to Contestee's claimed address at Rosedale Estates, 2735 Rice Street, Roseville, Minnesota 55113 by certified mail is not an admission of any kind that it is Johnson's "last known address" under Minn. Stat. § 209.021, subd. 3.

8. Curtis Johnson registered a political committee, Curtis Johnson for MN House, in support of his candidacy for election to the Minnesota State House of Representatives for District 40B on January 17, 2024.<sup>2</sup> See Ex. 269.

9. Johnson, married with a spouse and at least one adult child, owns a house at 3084 Payne Avenue, Little Canada, Minnesota, 55117. Although this residency is within Ramsey County, it is outside the boundaries of State House of Representatives District 40B. The Little Canada property is homesteaded. This was confirmed on November 13, 2024. See Ex. 270. For Legislative Map of 40B see Ex. 257.

10. Upon information and belief, Curtis Johnson claimed he signed a lease in March 2024 for an apartment at Rosedale Estates, 2735 Rice Street, Roseville, Minnesota, 55113. The apartment complex is inside the House District 40B boundary. See Exs.5-7; 271.

11. An examination of the apartment complex directory indicates he leased Apartment #103. The specific apartment number is not indicated on Johnson's Affidavit of Candidacy filed with the Minnesota Secretary of State. See Exs. 252 and 268.

12. Apartment No. 103 at Rosedale Estates is 450 square feet with a studio apartment layout. See Exs. 253-256.

13. On May 21, 2024, Curtis Johnson registered to be on the Minnesota State primary ballot and filed his affidavit of candidacy under Minn. Stat. § 204B.06, subd. 1. Section 3 of subdivision 1, requires candidates to attest that they "will have maintained residence in the district from which the candidate seeks election for 30 days before the general election." See. Ex. 252 (Handwritten).

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<sup>2</sup> <https://cfb.mn.gov/reports-and-data/viewers/campaign-finance/candidates/19046/2024/>. (Last visited on November 13, 2024).

14. Contestant, while door knocking in support of his candidacy to win election to represent House District 40B, encountered former Roseville City Council Member Robert Willmus. Contestant recalls Mr. Willmus stating to him the claim that Contestee doesn't live in the district and leased the Rice Street apartment in order to make it appear he lived in the district. Following this interaction, Wikstrom gathered his campaign team to investigate the whereabouts of Contestee to confirm Contestee was residing in Rosedale Estates at 2735 Rice Street in Roseville, Minnesota in compliance with state law and the Constitution. See Wikstrom Aff. ¶¶ 5-6.

15. Beginning on August 31, 2024, members of the Paul Wikstrom campaign team volunteered their time to determine Johnson's physical whereabouts as to his residency, keeping records of Johnson's movements. Their investigation focused both on his Little Canada home and his claimed Roseville apartment. The team observed comings and goings from each address from August 31, 2024, through November 11, 2024. The investigative team took photos and observed the locations at both Johnson's apartment and his Little Canada home over 60 times during this period. See Exs. 1-271; Guthrie Aff., Spears Aff., Bakeman Aff. Kristin Bakeman Aff., Kruse Aff., and Nordstrom Aff.

16. From September 16 to October 15, 2024, the team made a daily survey of Johnson's whereabouts from public vantage points and took photographs of each residence each day to determine Johnson's true residency. These findings are reported in detail in the affidavits supporting this petition and as further described below between August 31, 2024, and November 11, 2024. See Exs. 24-145; Guthrie Aff., Spears Aff., Bakeman Aff. Kristin Bakeman Aff., Kruse Aff., and Nordstrom Aff.

17. Chris Bakeman is a resident of House District 40B and a part of the investigative team into Contestee's physical residency. Mr. Bakeman personally sought to determine Johnson's physical whereabouts as to his residency on the following days:

|                            |                             |                        |
|----------------------------|-----------------------------|------------------------|
| 8.31.2024 Ex. 8-19         | 9.9.2024 Ex. 20-23          | 9.16.2024 Ex. 24-27    |
| 9.17.2024 Ex. 28-30;32-33  | 9.18.2024 Ex. 34-45         | 9.19.2024 Ex. 39-40    |
| 9.20.2024 Ex. 41-42        | 9.21.2024 Ex. 45-46         | 9.23.2024 Ex. 49-50    |
| 9.24.2024 Ex. 53-54        | 9.25.2024 Ex. 58-59         | 9.26.2024 Ex. 63       |
| 9.27.2024 Ex. 66           | 9.28.2024 Ex. 69            | 9.29.2024 Ex. 74-77    |
| 9.30.2024 Ex. 79           | 10.1.2024 Ex. 83            | 10.2.2024 Ex. 92       |
| 10.3.2024 Ex. 94           | 10.4.2024 Ex. 97            | 10.7.2024 Ex. 102      |
| 10.8.2024 Ex. 103-113      | 10.9.2024 Ex. 114, 116-118  | 10.10.2024 Ex. 120-124 |
| 10.11.2024 Ex. 125-128     | 10.12.2024 Ex. 129-132      | 10.13.2024 Ex. 133-136 |
| 10.14.2024 Ex. 137-139     | 10.15.2024 Ex. 140-145      | 10.16.2024 Ex. 146-148 |
| 10.17.2024 Ex. 149-153     | 10.18.2024 Ex. 154, 157-160 | 10.19.2024 Ex. 161-165 |
| 10.20.2024 Ex. 166-171     | 10.21.2024 Ex. 172-174,     | 10.22.2024 Ex. 175-85  |
| 10.23.2024 Ex. 186-187     | 10.24.2024 Ex. 189-196      | 10.25.2024 Ex 197-198  |
| 10.26.2024 Ex. 200         | 10.27.2024 Ex. 203-204      | 10.28.2024 Ex. 207     |
| 10.29.2024 Ex. 209-214     | 10.30.2024 Ex. 215-218      | 10.31.2024 Ex. 222     |
| 11.1.2024 Ex. 228; 230-231 | 11.3.2024 Ex. 236           | 11.4.2024 Ex. 240      |
| 11.7.2024 Ex. 241          | 11.8.2024 Ex. 242           | 11.9.2024 Ex. 245      |
| 11.10.2024 Ex. 246         |                             |                        |

18. Chris Bakeman observed and took photos to establish the Johnson family owns and operates three vehicles: a red Toyota Venza, a gray Mitsubishi Outlander, and a blue Mitsubishi Mirage. Johnson primarily drives the Mitsubishi Mirage. See Daily Exhibits listed above and Bakeman Aff.

19. Starting September 16, 2024, members of the investigatory team conducted a daily survey of Johnson's physical whereabouts as to his residency, primarily by volunteer Chris Bakeman. The survey focused on the Johnson primary residence in Little Canada. See Exs. 24-27 and Bakeman Aff.

20. Starting September 16 through October 15, photos were taken every day by the investigative team that revealed that all three Johnson vehicles, including Johnson's Mitsubishi

Mirage, were parked at the Johnson Little Canada house driveway every morning and every evening. See Bakeman Aff. ¶¶ 6-32

21. Mr. Bakeman also took extended observation of the POD delivered to the Johnson's Little Canada residence. A POD is a transportable storage unit that can also be used when moving. See Bakeman Aff. ¶¶ 34-39; 41-57.

22. Kristin Bakeman is a resident of House District 40B and a part of the Johnson investigative team. She sought to determine Johnson's physical whereabouts as to his residency on the following days:

|                        |
|------------------------|
| 10.18.2024 Ex. 155-156 |
|------------------------|

23. Ms. Bakeman observed and recorded the appearance of a POD on the Contestee's Little Canada Property. See Ex. 204-205 and Kristin Bakeman Aff. ¶ 4.

24. Denise Kruse is a resident of House District 40B and a part of the Johnson investigative team. She sought to determine Johnson's physical whereabouts as to his residency on the following days:

|                        |                           |                        |
|------------------------|---------------------------|------------------------|
| 9.17.2024 Ex. 31       | 9.18.2024 Ex. 36-38       | 9.19.2024 Ex. 39-40    |
| 9.20.2024 Ex. 43-44    | 9.21.2024 Ex. 47          | 9.22.2024 Ex. 48       |
| 9.23.2024 Ex. 51-52    | 9.24.2024 Ex. 55-57       | 9.25.2024 Ex. 60-62    |
| 9.26.2024 Ex. 64-65    | 9.27.2024 Ex. 67-68       | 9.28.2024 Ex. 70       |
| 9.29.2024 Ex. 78       | 9.30.2024 Ex. 80-81       | 10.1.2024 Ex. 82-87    |
| 10.2.2024 Ex. 90-91    | 10.3.2024 Ex. 93          | 10.4.2024 Ex. 96       |
| 10.30.2024 Ex. 219-221 | 10.31.2024 Ex. 223-226, 4 | 11.1.2024 Ex. 229      |
| 11.2.2024 Ex. 232-235  | 11.3.2024 Ex. 237-239     | 11.11.2024 Ex. 247-248 |

25. Ms. Kruse observed and confirmed the Mitsubishi Mirage's location out in front of the Little Canada residence during the September 16-October 15, 2024, period. She also observed Apartment 103 at Rosedale Estates and the fact that no lights were ever observed on in

the apartment complex. See Exs. 31, 36-40, 43-44, 47-48, 51-52, 55-57, 60-62, 64-65, 67-68, 70, 78, 80-87, 90-91, 93, 96 and Kruse Aff. ¶¶ 4-21.

26. Elizabeth Guthrie is a resident of House District 40B and a part of the investigative team. She sought to determine Johnson's physical whereabouts as to his residency on the following days:

|                        |                        |
|------------------------|------------------------|
| 10.4.2024 Ex. 95, 98   | 10.5.2024 Ex. 99       |
| 10.6.2024 Ex. 100-101  | 10.25.2024 Ex. 199     |
| 10.26.2024 Ex. 201-202 | 10.27.2024 Ex. 205-206 |
| 10.28.2024 Ex. 208     | 11.8.2024 Ex. 243      |
| 11.9.2024 Ex. 244      | 11.10.2024 Ex. 271-272 |
| 11.11.2024 Ex. 247-248 |                        |

27. Ms. Guthrie confirmed the POD remained on the Contestee's Little Canada Property as well as additional documented evidence that lights were never turned on in Apartment 103 at Rosedale Estates. See listed Exhibits and Guthrie Aff. ¶¶ 11-19.

28. Christofer Sears is a resident of House District 40A and a part of the investigative team. He sought to determine Johnson's physical whereabouts as to his residency on the following days:

|                            |                   |
|----------------------------|-------------------|
| 10.1.2024 Ex. 84-86; 88-89 | 10.9.2024 Ex. 115 |
| 10.23.2024 Ex. 188         |                   |

29. On October 1, 2024, Chris Sears took photos of the door for Apartment 103. At the time the photos were taken, Johnson's car was parked at his Little Canada residence. The Apartment door was dusty and lacked evidence of any recent activity or markings indicating dust being wiped away from use. Sears put tape on the lower portion of the door on the left-hand side under the door handle about 9-10 inches from the floor. Mr. Sears did this to see if the tape would still be there, undisturbed, at a future visit. See 84-86; 88-89 and Sears Aff. ¶ 4.

30. Sears was able to identify the exterior window for Apartment #103 due to uniquely bent blinds in the apartment window. It is the second window in based on the blinds and the building layout. *Id.*

31. On October 9, 2024, Sears went to the Rosedale Estates to drop off campaign literature for Congressional District 4 candidate May Lor Xiong and House District 40B candidate Paul Wikstrom. When dropping off the literature in front of Apartment #103 he observed the tape he left on October 1, 2024, was still present and undisturbed on the door frame. Sear states that the nature of how he placed the tape ensured that any activity to enter Apartment #103 would have disturbed the tape. See Ex. 115 and Sears Aff. ¶ 5.

32. Prior to the investigation team beginning their search, Curtis Johnson's neighbor, Julie Nordstrom, who resides at 3071 Payne Avenue, Little Canada, Minnesota 55117, observed Contestee Johnson nearly every day from May 5, 2024, to October 15, 2024. See Nordstrom Aff. ¶ 5.

33. Ms. Nordstrom observed on most weekdays that Mr. Johnson would leave his home in Little Canada before 9 a.m. and return to his home in Little Canada around 6 p.m. in a blue Mitsubishi Mirage. *Id.*

34. Ms. Nordstrom also observed him engaged in many life activities in and around his Little Canada home on the weekends. See Nordstrom Aff. ¶ 6.

35. On October 15, 2024, Contestant released a video summarizing his investigative team's findings regarding Contestee's failure to move or have the intention to move within the boundaries of House District 40B. Soon thereafter, investigation team member Chris Bakeman went by Johnson's Little Canada house and captured video footage of Contestee quickly packing



his Mitsubishi Mirage with household items and leaving his Little Canada home. See Exs. 140 – 145, 251, Wikstrom Affidavit ¶ 8 and Bakeman Aff. ¶ 33

36. After October 15, 2024, Ms. Nordstrom, Contestee Johnson's neighbor observed a change in his behavior and a few days later a POD used for moving or storage showed up on his property. She observed Mr. Johnson frequently leave in his blue Mitsubishi Mirage after 11 p.m. and then return to the Little Canada home early in the morning. See Nordstrom Aff. ¶ 8.

37. After October 15, Johnson no longer parked his Mitsubishi Mirage in front of his Little Canada home. See Exs. 140 – 145 and Bakeman Aff. ¶ 33.

38. On October 18, 2024, Jill Johnson, wife of Curtis Johnson, accepted delivery of a POD portable container, utilized for either moving or storage, to be placed outside the Johnson home in Little Canada. See Exs. 154, 157 – 160 and Bakeman Aff. ¶ 36.

39. On October 19, 2024, Ms. Johnson is captured on video by investigator Chris Bakeman being unresponsive to questions about moving away from her Little Canada home. See Exs. 161 – 165 and Bakeman Aff. ¶ 37.

40. On October 20, 2024, Chris Bakeman captured exterior photos of Apartment 103 from the outdoors. The apartment is easily seen from Rice Street. Although it was at night and dark (at around 10:00 p.m.), no lights were on in the apartment. Additionally, the photos confirmed the directory at Rosedale Estates continued to list Contestee at Apartment #103. See Exs. 166-171 and Bakeman Aff. ¶ 38.

41. On October 21, 2024, certain investigative team members attempted to bring a welcome basket to the Rosedale Estates apartment, Apartment No. 103. The team rang the directory, which Curtis Johnson picked from the Apartment #103 directory. An e-mail from

Rosedale Estates staff confirmed the directory connects to the resident's cell phone. See Exs. 172-174 and Bakeman Aff. ¶¶ 39-42.

42. Based upon Chris Bakeman's experiences at ISD 623 School Board Meetings, Parades and Campaign Ads, Mr. Bakeman could confirm that Curtis Johnson's voice answered when the buzzer was pushed. After announcing delivery of the welcome basket, Mr. Johnson disconnected from the conversation and hung up. Mr. Bakeman made a transcript of this conversation. *Id.*

43. On October 22, 2024, Chris Bakeman went back to Apartment #103. He took photos of the door and noticed that the tape placed by Chris Sears was still on the door. It appeared that the door may have been utilized but the tape had never been removed or strongly disturbed. Mr. Sears stated in his affidavit that the tape was not inconspicuous and would have been removed has someone resided at the apartment. Again, there were no lights visible from Apartment #103 from the exterior of the apartment. See Exs. 175-185, Bakeman Aff. ¶ 43. Sears Aff. ¶¶ 4-5.

44. On October 24, 2024, Chris Bakeman went to Apartment #103 around 4:30 p.m. The door to the apartment ends about an inch above the floor, so he was able to obtain a view of the interior of the apartment with his camera phone. While only able to distinctly view half of the apartment, that half of the apartment was completely bare. There was no furniture visible, nothing hanging on the walls, and no personal papers or books on the floor. See Exs. 189-196, Bakeman Aff. ¶ 45.

45. On October 29, 2024, Chris Bakeman again returned to Apartment #103 to drop off literature in the building for Paul Wikstrom. He again took photos and video underneath the door. Again, the door to the apartment ends about an inch above the floor, so he was able to

obtain a view of the interior of the apartment with his camera phone. While only able to distinctly view half of the apartment, that half of the apartment was completely bare. There was no furniture visible, nothing hanging on the walls, and no personal papers or books on the floor. See Exs. 209 – 214, Bakeman Aff. ¶ 50.

46. On October 31, 2024, Denise Kruse called Xcel Energy to determine whether electricity was hooked up to Apartment #103. While she did not get the name of the employee from customer service, she got the impression that Apartment #103 in Rosedale Estates did not have an individual meter hook up and that no current account existed for the apartment. Further, an e-mail from the apartment complex confirmed that each resident sets up their own Xcel account. See Ex. 4 and Kruse Aff. ¶ 40.

47. On November 1, 2024, Denise Kruse called Xcel Energy again and talked to an employee named Cassandra. Cassandra provided Ms. Kruse the impression that no individual meter was hooked up to Apartment #103, the apartment linked to Curtis Johnson on the Rosedale Estates resident directory, and that Xcel considered the apartment a demonstration apartment used for showings. See Ex. 4 and Kruse Aff. ¶ 41.

48. The evening of November 1, 2024, Chris Bakeman went by the apartment complex and there was no light emanating from the Apartment #103 window.

49. On November 11, 2024, Denise Kruse called Comcast Xfinity and spoke with Leonardo on the Customer Service Line. Ms. Kruse was given the impression that there had been no activity Xfinity internet or cable account at Apartment #103 since June of 2023. See Ex. 261 and Kruse Aff. ¶ 42.

50. On November 11, 2024, Denise Kruse called Century Link and spoke with Derrick on their Customer Service line. Ms. Kruse was given the impression that Century Link did not have an account or provide service for Apartment #103. See Ex. 262 and Kruse Aff. ¶ 43.

51. On the morning of Thursday, November 14, 2024, Denise Kruse called Xcel Energy. After speaking with a customer service representative, Ms. Kruse was given the impression that there was no power hooked up at apartment #103 at 2735 Rice Street Roseville, MN 55113 and that the unit was listed as a demonstration apartment and the meter was removed in January 2024. See Ex. 263 and Kruse Aff. ¶ 44.

52. On the morning of Monday, November 18, 2024, Denise Kruse called Xcel Energy. After speaking with a customer service representative, Ms. Kruse was given the impression that there was no power hooked up at apartment #103 at 2735 Rice Street Roseville, MN 55113 and that the unit was listed as a demonstration apartment and the meter was removed in January 2024. See Ex. 264 and Kruse Aff. ¶ 45.

53. On the afternoon of Monday, November 18, 2024, Denise Kruse called Comcast Xfinity. After speaking with customer service representative Cynthia, Ms. Kruse was given the impression that there was no internet hooked up at apartment #103 at 2735 Rice Street Roseville, MN 55113. See Ex. 265 and Kruse Aff. ¶ 46.

54. On the afternoon of Monday, November 18, 2024, Denise Kruse called Century Link. After speaking with customer service representative Lariza, Ms. Kruse was given the impression that there was no internet hooked up at apartment #103 at 2735 Rice Street Roseville, MN 55113. See Ex. 266 and Kruse Aff. ¶ 47.

### CLAIM 1

**Because Johnson is not a resident of Minnesota House District 40B and was not a resident six months prior to the general election, in violation of Minn.**

**Stat. 204B.06 Subd. 4a(4) and the Minnesota Constitution, he cannot claim entitlement to the election certificate for State House District 40B.**

55. All previous paragraphs are incorporated for this claim as if fully repeated.

56. Contestee Curtis Johnson was not a resident within the boundaries of House District 40B six months prior to the November 5, 2024, general election.

57. Contestee Johnson resides at 3084 Payne Avenue, Little Canada, Minnesota, 55117. His residency is within Ramsey County. Johnson's residency in Little Canada is not within the boundaries of District 40B as designated for an elected seat within the Minnesota House of Representatives.

58. Contestee Johnson does not reside in House District 40B. Evidence detailed above, demonstrates that he resided every day from his filing of the affidavit of candidacy to October 15, 2024 (less than 30 days prior to Election Day) at his Little Canada home. Evidence detailed above further reveals that he has not hooked up utilities to a studio apartment he purportedly leased, and he continues not to have utility service. Evidence detailed above further reveals that he has not spent time at the Roseville apartment in any way that would indicate residency there.

59. Minnesota Constitution, art. IV, § 6 establishes residency requirements for state representatives, including the mandate that the candidate as a "qualified voter" reside within the district elective office is sought for six months immediately preceding the election. Article IV, § 6 states: "Senators and representatives shall be qualified voters of the state and shall have resided one year in the state and six months immediately preceding the election in the district from which elected."<sup>3</sup>

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<sup>3</sup> The legislature has not adopted a definition of "residency" for evaluating candidate qualifications. *See Piepho v. Bruns*, 652 N.W.2d 40, 43 (Minn. 2002). The Minnesota Supreme

60. Minnesota Statutes § 204B.06, subd. 4a(4) states in part as follows:

“for...representative in the legislature, that on the day of the general or special election to fill the office the candidate will have maintained residence not less than one year in the state and not less than six months in the legislative district from which the candidate seeks election.”<sup>4</sup>

61. Contestee Johnson’s behavior reveals that he deliberately failed to establish residency and remain in the district six months prior to the general election. Contestee falsely claimed residency within the district for which he sought elective office and intended to affect the voting at the election. Johnson’s actions reveal and establish a violation of the Minnesota Constitution mandates under art. IV, § 6, and Minn. Stat. § 204B.06, subd. 4a(4).<sup>5</sup>

62. Likewise, Contestee Johnson’s behavior is a serious violation of Minnesota election law, and the state constitutional mandate for residency in the legislative district for which a candidate seeks elected office is a mandatory requirement under the Minnesota

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Court determined, “[n]onetheless, in deciding what factors best implement the constitutional directive in Minn. Const., art. IV, § 6, that elected representatives reside in the district from which elected, we naturally focus on physical presence and intent, as we have done in the voter residency context.

<sup>4</sup> The Court in *Piepho* opined that, “the concept of residency is captured and perhaps best summarized by Minn. Stat. § 200.031(i) (2000): ‘The mere intention to acquire a new residence, is not sufficient to acquire a new residence, unless the individual moves to that location; moving to a new location is not sufficient to acquire a new residence unless the individual intends to remain there.’ [...] As the provision quoted above demonstrates, neither factor is determinative—each informs the other. That is, intent can be demonstrated in many ways, including but not limited to physical presence, and we consider physical presence to the extent that it manifests intent to reside in the district.” 652 N.W.2d at 43.

<sup>5</sup> “[I]t is necessary to determine whether the violation was a serious, deliberate, and material violation of the provisions of Minnesota election law as required by Minn. St. 209.02, subd. 1. For a violation to be “deliberate,” it must be intended to affect the voting at the election. *See, Effertz v. Schimelpfenig*, 207 Minn. 324, 291 N.W. 286 (1940).” *Schmitt v. McLaughlin*, 275 N.W.2d 587, 591 (Minn. 1979).

Constitution. Johnson's actions reveal and establish a violation of the Minnesota Constitution mandates under art. IV, § 6, and Minn. Stat. § 204B.06, subd. 4a(4).

63. Finally, Contestee Johnson's behavior establishes a material violation of election laws because he falsely represented to the Secretary of State in his affidavit of candidacy regarding his residency, and to the voters within State House District 40B that he resided in the District, representing to the electorate he was an eligible candidate to be elected to that 40B office.<sup>6</sup> Johnson's actions reveal and establish a violation of the Minnesota Constitution mandates under art. IV, § 6, and Minn. Stat. § 204B.06, subd. 4a(4).

## CLAIM 2

**Because Johnson is not a resident of Minnesota House District 40B and did not reside in the district for 30 days prior to the General Election, showing he never intended to do so when he falsely attested to residency in violation of Minn. Stat. 204B.06 Subd. 1(3), he cannot claim entitlement to the election certificate for State House District 40B.**

64. All previous paragraphs are incorporated for this claim as if fully repeated.

65. Contestee Curtis Johnson did not maintain residency within the boundaries of House District 40B thirty days prior to the November 5, 2024, general election.

66. Contestee Johnson resides at 3084 Payne Avenue, Little Canada, Minnesota, 55117. His residency is within Ramsey County. Johnson's residency in Little Canada is not within the boundaries of District 40B as designated for an elected seat within the Minnesota House of Representatives.

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<sup>6</sup> "As to materiality, there is no question that for a candidate to imply that he has the support of a political party, which support he does not in fact have, is a material violation of the provisions of Minnesota election law." *Schmitt v. McLaughlin*, 275 N.W.2d 587, 591 (Minn. 1979)

67. Minnesota Statutes § 204B.06, subd. 1(3) is accurately quoted in part as follows: an affidavit of candidacy will require a candidate for office to attest they "...will have maintained residence in the district from which the candidate seeks election for 30 days before the general election."

68. Contestee Johnson's behavior reveals that he deliberately failed to establish residency and maintain residency for 30 days prior to Election Day and never intended to establish residency within House District 40B for 30 days before Election Day. Contestee falsely claimed residency within the district for which he sought elective office, whose false statement was intended to affect the voting at the election. Johnson's actions reveal and establish a violation of Minn. Stat. § 204B.06, subd. 1(3).

69. Likewise, Contestee Johnson's behavior is a serious violation of Minnesota election law. The state constitution and statutes mandate residency for a certain time-period in the legislative district for which a candidate seeks elected office. The Minnesota Election Law requires a candidate to swear under oath that he will maintain residency in the legislative district to which he seeks elected office. The requirement of a sworn oath to uphold the residency requirements of this law demonstrates that it is an integral and serious part of Minnesota Election Law. To swear falsely is a serious violation of election law. Johnson's actions reveal and establish a violation of Minn. Stat. § 204B.06, subd. 1(3).

70. Finally, Contestee Johnson's behavior establishes a material violation of election laws because he falsely represented to the Secretary of State in his affidavit of candidacy regarding his residency, and to the voters within State House District 40B that he resided in the district, representing to the electorate he was an eligible candidate to be elected to that 40B office. Johnson's actions reveal and establish a violation of Minn. Stat. § 204B.06, subd. 1(3).



**PRAYER FOR RELIEF**

71. Contestant respectfully requests that the Court invalidate and revoke any certificate of election issued to Johnson because of his deliberate, serious, and material violation of Minnesota election law.

72. The procedures for these proceedings and this Notice of Election Contest are found under Minnesota Statutes § 209.

73. The Contestee has seven days after service of this Notice of Election Contest to answer under Minn. Stat. § 209.03.

74. The Contestant Wikstrom respectfully requests a hearing on the Notice of Election Contest within 15 days after the filing of this Notice. Minn. Stat. § 209.10, subd. 3.

75. The Contestant Wikstrom respectfully requests the Court to provide a decision as required under Minn. Stat. § 209.10, subd. 3, and *Scheibel v. Pavlak*, 282 N.W.2d 843 (Minn. 1979), unless appealed to the State Supreme Court, to the Minnesota State House of Representatives by the first day of the next legislative session recommending that Curtis Johnson not be recognized as the duly elected representative for District 40B, and that any election certificate issued to Johnson by the Secretary of State be nullified or found invalid because of his deliberate, serious and material failure to follow Minnesota Election Law.

76. Therefore, the Contestant Wikstrom is entitled to a decree that the election result for the Minnesota House of Representatives for District 40B is invalid nullifying the county auditor's election certificate declaring the Contestee Johnson as "elected" or other such appropriate relief. This includes, within the decree, for the Court to declare that the Secretary of State may not prepare and sign the certificate of election of Johnson and deliver the original to

the elected candidate on demand or to the Chief of Clerk for the Minnesota House of Representatives.

77. As a result, this Court should find and declare that the Contestee, based upon the findings of fact and conclusions of law, did violate Minnesota election law and that an election certificate from the Secretary of State cannot be issued to Curtis Johnson as the elected candidate to serve as a member of the Minnesota House of Representatives for State House District 40B.

78. Granting Contestant such other and further relief as the Court deems just and appropriate.

Dated: 11/20/2024

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# Exhibit 5



NEWS > POLITICS

## Roseville area candidate for Minnesota House challenged by opponent on residency

Curtis Johnson has owned a house with his wife in Little Canada since 2017, and says he got an apartment in District 40B this spring



People wait in line to cast their ballots during early voting at the Ramsey County Library in Roseville on Wednesday, Oct. 23, 2024. (John Autey / Pioneer Press)

UPDATED: November 1, 2024 at 6:54 PM CST

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A candidate running for a Roseville area Minnesota House seat is facing questions from his opponent about whether he lives in the district he hopes to represent.

Republican candidate for House District 40B Paul Wikstrom claims his Democratic-Farmer-Labor opponent Curtis Johnson does not live at the Roseville address he listed on candidate paperwork and still resides at his home in nearby Little Canada.

Johnson, a member of the Roseville School Board, has owned a house with his wife in Little Canada since 2017, and says he got an apartment in District 40B this spring. It's about a mile and a half southwest of his family's home. Legislative candidates must live in their district for six months before an election to be eligible to run.

Asked about the apartment early last week, Johnson initially declined to provide information on his residency other than an affirmation that he lived in Roseville and that he had signed a lease for the apartment in March.

"I'm gonna say this once and that's all I'm going to say. I live in the district. I don't know why he's saying all this other stuff," said Johnson, who hung up on the Pioneer Press when asked for more details.

At an Oct. 22 school board meeting he continued declining to answer questions about his



Curtis Johnson. (Courtesy of the candidate)



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## District includes Roseville, parts of Shoreview

Johnson and Wickstrom are vying for a seat held by outgoing DFL Rep. Jaime Becker-Finn of Roseville. District 40B includes Roseville and parts of Shoreview.

Johnson's house in Little Canada is not listed for sale, though he has told other news outlets he and his wife intend to sell. In a statement issued to the Star Tribune last Friday, Johnson said he got an apartment on Rice Street in Roseville as he and his wife searched for a new house in the district, and he didn't want to move his family before they found an ideal property.

Volunteers for Wikstrom's campaign say they have been monitoring Johnson's home and apartment over the past month or so, gathering video and photographic evidence they claim can prove Johnson never actually moved. Earlier this month they released a campaign advertisement featuring video of Johnson at his Little Canada address, implying he didn't stay at his apartment.

"I feel that there is an ethical responsibility to inform the voters if we know," said Wickstrom, adding he's "very confident" his campaign has a case to substantiate that Johnson is a resident of Little Canada.

That evidence could be used to challenge Johnson's eligibility in the Minnesota Supreme Court, though Wikstrom won't say whether he plans to file a petition. He claimed it's difficult to make any challenges in court once





Paul Wikstrom. (Courtesy of the candidate)

Wikstrom said he suspected since May that Johnson didn't live in the Rice Street apartment complex on his candidacy paperwork, but decided to look into it more after a voter whose door he knocked on told him it was rumored in local political circles that Johnson hadn't actually moved to District 40B.

### Past cases

Candidates have been removed from the ballot for residency reasons before. In 2016, the state Supreme Court disqualified Chisago County GOP Rep. Bob Barrett after activists gathered evidence that [Barrett did not actually live in the Taylors Falls rental home](#) listed on his candidate paperwork. To prove it, they visited the property 30 times over 15 days, the Pioneer Press reported at the time.

Because Barrett was disqualified less than 80 days before the election, state law required a February special election. Results of the election where Barrett's name was on the ballot were nullified.

Candidates often fend off residency challenges, which aren't uncommon in an election year. In 2022, GOP Sen. Torrey Westrom faced an unsuccessful challenge from an opponent who claimed he didn't live in Alexandria. Redistricting that year meant Westrom's original Elbow Lake home was no longer in his old district, so Westrom moved to avoid running against a fellow Republican senator.

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