

David J. Zoll
djzoll@locklaw.com
612-596-4028



MINNEAPOLIS
100 Washington Avenue South
Suite 2200
Minneapolis, MN 55401-2179
P: 612.339.6900

January 13, 2025

VIA ODYSSEY AND E-MAIL

Hon. Tracy Perzel
First Judicial District
Dakota County Courthouse
1560 Highway 55
Hastings, MN 55033

Re: *Paul v. Tabke*, Court File No. 70-cv-24-17210

Dear Judge Perzel:

We write in brief response to the letter submitted this morning by counsel for Contestant Aaron Paul. The letter misstates the Court's authority in this election contest.

As explained in Representative Tabke's December 27, 2024 response brief, this Court's decision is purely advisory. *Scheibel v. Pavlak*, 282 N.W.2d 843, 848 (Minn. 1979) ("In short, we have no jurisdiction to issue a final and binding decision in this matter, and our opinion by statute will be and by the Minnesota Constitution must only be advisory to the House of Representatives.") Accordingly, the Court does not have the authority to enjoin Representative Tabke from taking the oath of office and serving as a member of the Minnesota House.

Moreover, section 209.10 contemplates that the individual who is the subject of an election contest will be seated, and serving in the legislature, at the time the contest is ultimately decided. Minn. Stat. § 209.10, subd. 5(d) (noting that when the legislature decides a contest, "[n]o party to the contest may vote upon any question relating thereto.") Indeed, Robert Pavlak served in the Minnesota House for four months prior to his removal on a 67-66 vote by the remaining legislators following the Minnesota Supreme Court's ruling in the appeal of the election contest.¹

The administration of the oath of office to Representative Tabke in no way impinges upon the Court's ability to perform its role in this election contest.

Thank you.

Sincerely,

LOCKRIDGE GRINDAL NAUEN PLLP

s/David J. Zoll

David J. Zoll

c: Counsel of Record (via Odyssey)

¹ See *The year the House was tied, and how the two parties made peace ... until they didn't*, Public Information Services – Minnesota House of Representatives, (May 11, 2020), available at: <https://www.house.mn.gov/sessiondaily/Story/15307> (last visited Jan. 13, 2025).