

STATE OF MINNESOTA
IN SUPREME COURT
No. _____

FILED

January 14, 2025

OFFICE OF
APPELLATE COURTS

Melissa Hortman, Jamie Long, Athena
Hollins

Petitioners,

v.

Lisa Demuth, Harry Niska, Paul
Anderson,

Respondents.

**PETITION FOR WRIT OF
QUO WARRANTO**

To: The Supreme Court of the State of Minnesota

Pursuant to Minn. Stat. § 480.04, Petitioners, Representatives Melissa Hortman, Jamie Long, and Athena Hollins petition the Supreme Court of the State of Minnesota for a Writ of Quo Warranto to Respondents, Representatives Lisa Demuth, Harry Niska, and Paul Anderson, and request an Order from this Court declaring that Respondents acted unlawfully on January 14, 2025, when they purported to organize the House, elect a Speaker of the Minnesota House of Representatives, and took other actions in the absence of a quorum. Petitioners state and allege as follows:

INTRODUCTION

1. On January 14, 2025, the Minnesota House of Representatives convened with only 67 members—less than the quorum needed to conduct business and elect a Speaker. Because there was no quorum, Secretary of State Steve Simon, who was presiding in accordance with Minnesota law, adjourned the House. Notwithstanding the

lack of the quorum and the adjournment, the Republican members of the House, in blatant disregard of the Minnesota Constitution, unlawfully purported to, among other things, nominate a new presiding officer, declared the presence of a quorum, and purported to elect Respondent Demuth as Speaker of the House of Representatives. These ultra vires actions were improper, unlawful, and without legal effect, and must be declared null and void by this Court.

2. These actions taken by Respondents Demuth, Niska, and Anderson were beyond their lawful authority under the Minnesota Constitution, Minnesota law, Legislative and House rules, and traditional customs. All of the actions taken after Secretary Simon adjourned the House, including Respondent Demuth's election as Speaker of the House, were improper and unlawful.

3. The Court should issue a writ of quo warranto, which is a writ that may be used to challenge official action not authorized by law, and to determine whether a person purporting to exercise power is legally entitled to do so. *Save Lake Calhoun v. Strommen*, 943 N.W.2d 171, 174 (Minn. 2020); *see also State ex rel. Palmer v. Perpich*, 182 N.W.2d 182 (Minn. 1971).

4. In addition, the Court should find and declare that the actions taken by Respondents Demuth, Niska, and Anderson were unlawful and therefore have no legal effect, and declare that any actions that resulted from purportedly organizing the House or Respondent Demuth's unlawful election as Speaker of the House from January 14, 2025 are also null and void and without legal effect.

5. The Court should further immediately enjoin Respondents from taking any further action pursuant to the unlawful authority that they have claimed for themselves, and declare that no lawful action may be taken until a quorum of at least 68 members of the House lawfully convenes.

PARTIES

6. Petitioner Melissa Hortman is the Representative from District 34B. She served as Speaker of the House from 2019 through 2024, and is the Democratic-Farmer-Labor Party's ("DFL's") Speaker-Designate for the 2025-2026 Legislative Session.

7. Petitioner Jamie Long is the Representative from District 61B. He served as the Minnesota House Majority Leader from 2022 through 2024.

8. Petitioner Athena Hollins is the Representative from District 66B, and served as the Minnesota House Majority Whip from 2022 through 2024.

9. Respondent Lisa Demuth is the Representative from District 13A and was purportedly elected Speaker of the House on January 14, 2025. Representative Demuth's nomination and election as Speaker was unlawful because there was no quorum present on January 14, 2025. Any actions she took subsequent to her purported election are therefore without lawful authority.

10. Respondent Harry Niska is the Representative from District 31A and the purported House Majority Leader. On January 14, 2025, after Secretary of State Simon had adjourned the House, Respondent Niska made a purported motion to appoint a new chair and appeal Secretary of State Simon's decision regarding a quorum, both of which were unlawful.

11. Respondent Paul Anderson is the Representative from District 12A. On January 14, 2025, after Secretary of State Simon had adjourned the House, Respondent Anderson unlawfully accepted the nomination to be the new chair, unlawfully determined that a quorum was present, unlawfully solicited nominations for Speaker of the House, unlawfully declared that Lisa Demuth had been nominated and elected Speaker of the House, and unlawfully swore her in as Speaker of the House.

JURISDICTION

12. This Court has original jurisdiction over this matter pursuant to Minn. Stat § 480.04, which states, “the court shall have the power to issue to all ... individuals ... writs of ... quo warranto ... that are necessary to the execution of the laws and the furtherance of justice.” The Court also has jurisdiction under Article VI, § 2, and Minn. Stat. § 555.01.

13. Petitioners are cognizant that in the cases of *Save Lake Calhoun v. Strommen*, 943 N.W.2d 171, 174 (Minn. 2020) and *Rice v. Connolly*, 488 N.W.2d 241, 244 (Minn. 1992), this Court indicated that the proper procedure for filing a writ of quo warranto was to file in the first instance in the district court. However, in *Rice v. Connolly*, the Court stated that it will exercise its discretion to retain original jurisdiction in such cases in “the most exigent of circumstances.” 488 N.W.2d at 244. This qualifies as the most exigent circumstance, where a minority of legislators unlawfully seized control of the House of Representatives, and will act, unchecked, upon the authority they claimed for themselves, until enjoined by this Court. In addition, there are no factual issues in dispute that require the district court to decide this matter in the first instance. This power grab was done in

plain view, and the Court need only rule on the legal issues regarding the lack of a quorum. The Court should therefore exercise its original jurisdiction over this matter.

14. This Court has personal jurisdiction over Defendants because they are residents of Minnesota.

STANDING

15. Petitioner Melissa Hortman is the Representative for House District 34B, the former Speaker of the Minnesota House of Representatives, and the Speaker-Designate for the DFL.

16. Petitioner Hortman has suffered an injury-in-fact due to Respondent's unlawful actions. After the election, when the voters of Minnesota sent an equal number of Democrats and Republicans to the Minnesota House, Petitioner Hortman and Respondent Demuth initially negotiated a power-sharing agreement, which included designating Petitioner Hortman and Respondent Demuth both as speaker-designates, and naming co-chairs (one DFL member and one Republican member) for each House committee), and putting equal numbers of Democrats and Republicans on each committee.¹

17. After the election contest which resulted in a vacancy in District 40B, Respondent Demuth abandoned their negotiated agreement and declared her intent to seize control in the House, notwithstanding the pending Special Election on January 28, 2025, which is expected to return the House to a 67-67 tie.

¹Minnesota Legislature, *House committee, division co-chairs announced for 2025-26*, <https://www.house.mn.gov/sessiondaily/Story/18423> (Nov. 25, 2024).

18. By seizing control of the Minnesota House of Representatives without lawful authority, Respondents have deprived Petitioner Hortman and the other leaders of the DFL the opportunity to represent the interests of their constituents in the Minnesota House of Representatives.

19. Petitioner Jamie Long has suffered an injury-in-fact due to Respondent's unlawful actions. Petitioner Long had been named the Co-Chair of the Rules and Legislative Administration Committee in the power-sharing agreement, which has now been abandoned by Respondents.²

20. Petitioner Athena Hollins has suffered an injury-in-fact due to Respondent's unlawful actions. The power sharing agreement also resulted in committee assignments, including assignments for Petitioner Hollins to the Public Safety Finance and Policy Committee and the Energy Finance and Policy Committee, which can now be abandoned by Respondents.³

21. Respondents' unlawful actions purporting to elect a Speaker of the House in the absence of the constitutionally mandated quorum deprived Petitioners of the opportunity to vote upon the leadership of the Minnesota House. This illegal action, if not corrected, will prejudice Petitioners' ability to advance legislation and will call into question the legitimacy of every action taken by the Minnesota House following this unsanctioned and unlawful election of a Speaker of the House.

² *Id.*

³ Minnesota Legislature, *House members receive committee assignments for 2025-2026 biennium*, <https://www.house.mn.gov/SessionDaily/Story/18425> (Dec. 11, 2024).

FACTUAL ALLEGATIONS

22. The Minnesota House of Representatives is composed of 134 members. Minn. Stat. § 2.021.

23. At the General Election on November 5, 2024, all 134 House seats were up for election.

24. At the conclusion of the election, 67 Republicans and 67 DFLers had been elected to the House of Representatives.

25. On November 20, 2024, an election contest was brought against the Representative-Elect for House District 40B.

26. After the district court issued an order in the election contest, the Representative-Elect chose to resign his seat in the House, creating a vacancy in the District. A Special Election to fill the seat is scheduled for January 28, 2025.

27. Pursuant to statute, the Legislature was scheduled to convene on January 14, 2025.

28. Under Minnesota law, the Secretary of State presides over the House until a speaker is elected. Minn. Stat. § 5.05.

29. On Tuesday, January 14, 2025, at 12:04 p.m., Secretary of State Steve Simon called the House to Order, pursuant to Minnesota Statute sections 3.05 and 5.05.

30. At 12:06 p.m., Simon appointed Representative Peggy Scott as clerk pro tem.

31. A prayer was then offered by the House Chaplain.

32. The pledge of allegiance was recited at 12:09 p.m.

33. The clerk pro tem then called the roll by legislative district.

34. Simon then called upon Chief Judge Jennifer Frisch of the Minnesota Court of Appeals to administer the oath of office to the Members-Elect.

35. At 12:28 p.m., Secretary of State Steve Simon called upon the clerk to take the roll to determine if a quorum was present.

36. The members voted from their desks.

37. At 12:29, the clerk closed the roll.

38. Secretary Simon determined there were 67 members present, and therefore that there was no quorum. Secretary Simon declared that, because there was no quorum, there was no further business that the House could conduct and that the house was adjourned. Secretary Simon stepped down from the dais, but did not leave the House Chamber.

39. After Secretary Simon adjourned the House and as he was stepping down from the dais, Respondent Niska made an improper motion to appeal the ruling of no quorum. The members raised their hands in favor of the motion.

40. At that point, Respondent Niska made a purported motion to remove the Secretary and replace him with Respondent Paul Anderson. The Republican members present voted unanimously in favor of the motion. Respondent Anderson took over as Chair.

41. Respondent Niska then made another purported motion to rule the previous chair's adjournment out of order. The motion passed unanimously.

42. Respondent Niska then renewed his appeal regarding the issue of the quorum. The clerk took the roll again, and Respondent Anderson declared that a quorum was present.

43. Respondent Anderson then called for nominations for Speaker of the House.

44. Respondent Anderson called on Representative Dave Baker, who nominated Respondent Lisa Demuth as Speaker of the Minnesota House. Representative Spencer Igo seconded the nomination.

45. The roll was called, and 67 members voted in favor.

46. Respondent Anderson administered the Oath of Office to Respondent Demuth.

PETITION

47. Respondent Demuth's purported nomination and election as Speaker of the House, and the actions leading up to it by Respondents Anderson and Niska, were unlawful, because there was no quorum on January 14, 2025. A quorum is required for the legislature to conduct business and for the House of Representatives to elect a speaker. *See* Minn. Stat. § 3.06; *see also Palmer*, 182 N.W.2d at 183.

48. The Minnesota Constitution states that a quorum is a "majority" of the "house." Minn. Const. Art. IV, sec. 13.

49. "Majority" means a number equaling more than half of the total. Merriam-Webster, *Majority*, <https://www.merriam-webster.com/dictionary/majority> (last visited Jan. 14, 2025).

50. The House of Representatives is “compose[d]” of a “number of members” that “shall be prescribed by law.” Minn. Const. Art. IV, sec. 2.

51. Under Minnesota law, the House of Representatives is composed of 134 members. Minn. Stat. § 2.021.

52. This means that 68 members compose a majority of the house, because that is the lowest number that is more than half of the total number of representatives prescribed by law.

53. Various other provisions of the Constitution, law, and case law support this interpretation.

54. First, the Supreme Court has interpreted other provisions of the Constitution that require a certain proportion of “the house” to take action, to refer to the whole membership of the house without regard to vacancies. In *State v. Wagner*, 153 N.W. 749 (Minn. 1915), the Minnesota Supreme Court interpreted Article 4, section 20⁴ of the Constitution, which provides: “Every bill shall be read on three different days in each separate house, unless, in case of urgency, two-thirds of the house where such bill is depending shall deem it expedient to dispense with this rule.” The Court first concluded that “two-thirds of the house,” meant “two-thirds of the whole membership of the house.” *See also State v. Gould*, 17 N.W. 276, 277 (Minn. 1883) (interpreting the requirement of a two-thirds vote to override a veto to mean “two thirds of all the members thereof”).

⁴ This provision is now found in Article IV, Section 19.

55. Second, as compared to Article IV, section 13 of the Minnesota Constitution, which refers to “the house” as a whole entity, other sections of the constitution refer to individual legislative members.

56. For example, Article IV, section 22 of the Minnesota Constitution states: “No law shall be passed unless voted for by a majority of all the *members elected to each house* of the legislature.” (emphasis added). Thus, under section 22, a bill may be passed by a majority of those *elected*; i.e., it may account for vacancies in the House.

57. Similarly, Article VIII, section 1 of the Minnesota Constitution states: “No person shall be convicted without the concurrence of two-thirds of the senators present.” Under this provision, two-thirds of the senators who appear for the proceeding may vote to convict in impeachment proceedings.

58. The use of different language in these provisions must be given meaning. The Supreme Court has clearly stated that “it is presumed that if the Constitution’s authors used two different words, they intended two different meanings.” *Torgelson v. Real Property Known as 17138 880th Ave.*, 749 N.W.2d 24, 27 (Minn. 2008) (citing *Urban v. Am. Legion Dep’t of Minn.*, 723 N.W.2d 1, 5 (Minn. 2006)). If the authors of the Constitution wanted to allow for a majority of the *elected* or *present* members to constitute a quorum to convene the House, it would have said so.

59. Third, other provisions of law demonstrate that when the legislature wanted to permit a smaller number of legislators to operate, they know how to do so. For example, in Minnesota Statutes sections 3.93 through 3.96, the legislature defined conditions under which it may continue to operate in the event of an “attack,” which is defined as an action

or series of actions taken by an enemy of the United States resulting in “substantial damage or injury to persons or property in this state.” Minn. Stat. § 3.93. In these extraordinary circumstances, “the quorum requirement for the legislature is a majority of the members of each house who convene for the session,” and the usual proportion of votes required to pass bills is satisfied by the equivalent proportion of members that have convened. Minn. Stat. § 3.96. In other words, when a violent attack by an enemy of the United States has occurred, the legislature has recognized an exception to the usual quorum rule, and permits essentially any number of members to constitute a quorum and conduct business in order to ensure the continuity of the legislature. These extraordinary measures that apply in extraordinary circumstances further demonstrate that the legislature knew how to draft exceptions when it wanted to, and in no way undermine or conflict with the Constitutional provisions at issue here.

60. Finally, Mason’s Legislative Manual, a leading treatise on legislative policy and procedure, states that the majority of jurisdictions to have considered this issue recognize that “the number of which such assembly *may* consist and not the number of which it does in fact exist, at the time in question, is the number of the assembly, and the number necessary to constitute a quorum is to be reckoned accordingly.” *Mason’s Legislative Manual*, § 501. Importantly, Minnesota House Rule 5.04 states that Mason’s Manual of Legislative Procedure governs the House in all applicable cases if it is not inconsistent with these Rules, the Joint Rules of the Senate and House of Representatives, or established custom and usage.

61. Based on all of these authorities, no quorum was present on January 14, 2025. In the absence of a quorum, the members that were present were not permitted to transact business, make motions, nominate, or elect a speaker, or take any of the other actions that they took or plan to take. *See* Minn. Stat. § 3.06. A writ of quo warranto must be issued to stop this unlawful exercise of power. *See Palmer*, 182 N.W.2d at 183.

62. Without a speaker, the plain language of Minn. Stat. § 5.05 provides that the Secretary of State remains the presiding officer. *See also* Minn. Stat. § 3.05.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays this Court:

- a. Grant the Petition for Writ of Quo Warranto;
- b. Issue an order immediately enjoining Respondents from transacting any business, making any motions, making any nominations or electing any leaders until a quorum of at least 68 members convene;
- c. Issue an order declaring that Respondents acted unlawfully when they purported to take any actions following adjournment of the House by Secretary of State Steve Simon on January 14, 2025;
- d. Issue an order declaring that all actions purportedly taken by the Minnesota House in the absence of a quorum of at least 68 members have been taken without lawful authority and are therefore null and void;
- e. Award Petitioners all costs associated with the Petition, the issuance of the writ of quo warranto, and any enforcement action necessary regarding this Court's order; and

f. For any other relief this Court may deem appropriate.

Dated: January 14, 2025

LOCKRIDGE GRINDAL NAUEN PLLP

s/David J. Zoll

Charles N. Nauen (#121216)

David J. Zoll (#0330681)

Rachel A. Kitze Collins (#0396555)

100 Washington Avenue South, Suite 2200

Minneapolis, MN 55401-2159

(612) 339-6900

cnnauen@locklaw.com

djzoll@locklaw.com

rakitzeollins@locklaw.com

ATTORNEYS FOR PETITIONERS

CERTIFICATION OF BRIEF LENGTH

I hereby certify that this brief conforms to the requirements of Minn. R. Civ. App. P. 132.01, subs.1 and 3, for a brief produced with a proportional 13-point font. The length of this brief is **3,043** words. This brief was prepared using Microsoft Word 365.

s/David J. Zoll

David J. Zoll (#0330681)