

**STATE OF MINNESOTA**

**DISTRICT COURT**

**COUNTY OF OLNSTED**

**THIRD JUDICIAL DISTRICT**

Court File No. \_\_\_\_\_

Minnesota Voters Alliance, the Republican Party of Minnesota, Duane Quam, Thomas M. Blondell, Larry F. Mattson, and Wayne Delano Harris, on behalf of themselves and all others similarly situated,

Petitioners,

**PETITION FOR A  
WRIT OF MANDAMUS**

vs.

County of Olmsted, Minnesota, its Board of Commissioners, and Mark Krupski, Director of Property Records and Licensing or their successors,

Respondents.

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## INTRODUCTION

The Respondents County of Olmsted, its Board of Commissioners, and its Director of Property Records and Licensing, or their successors, have failed to comply with legislative statutory mandates regarding county ballot board election judges. Ignoring specific legislative mandates for party balance of election judges and using staff, improperly designated as deputy county auditors, of the County's Property Records and Licensing Department to accept or reject absentee ballots, Olmsted County governmental officials have acted contrary to the Legislature's express public policy demanding party balance for election judges in performing their expressed statutory duties. The County's actions must be compelled to comply with their mandatory statutory duties.

The Petitioners Minnesota Voters Alliance, Republican Party of Minnesota, Duane Quam, Thomas M. Blondell, Larry F. Mattson, and Wayne Delano Harris, petition this Court for a writ of mandamus, under Minnesota Statutes §§ 586.01, et. seq. The writ is sought to compel the Olmsted County Board of Commissioners and the County's Property Records and Licensing Director, to comply with the governing provisions of Minnesota Statutes § 203B.121, subdivisions 1 and 2 and § 204B.21, subdivision 2 for the County's ballot board. In this regard, the County Board of Commissioners, as a matter of policy for the November 2020 general election, has failed to act as the appointing authority regarding its mandatory statutory duties:

- to appoint election judges to the Olmsted County ballot board, Minn. Stat. § 203B.121, subd. 1;
- to exhaust all major political party lists regarding appointments to the Olmsted County ballot board, Minn. Stat. § 204B.21, subd. 2;

- to obtain from the Board’s appointed ballot board members, a statement of their major party affiliation or a statement of non-major party affiliation, Minn. Stat. § 204B.21, subd. 2; and
- to ensure that deputy county auditors serving on the county ballot board meet the mandatory statutory requirements of deputy county auditors under Minnesota Statutes § 384.08.

The Director of Property Records and Licensing, as a matter of policy for the November 2020 general election, failed to act in accordance with the mandates of § 203B.121 that expressly provides for ballot board election judge duties. Here, the Director failed to act as to his mandatory statutory duties:

- to ensure that election judges who accept or reject absentee ballots are from different major political parties, Minn. Stat. § 203B.121, subdivision 2;
- to obtain from each individual, before their appointment as an election judge to the ballot board, a statement of their major party affiliation or a statement of non-party affiliation, Minn. Stat. § 204B.21;
- to exclude from serving on the ballot board any individual who fails to provide a statement of their major party affiliation or a statement of non-party affiliation as an election judge, Minn. Stat. § 204B.21;
- to prohibit either temporary, part-time, or permanent Property Records and Licensing staff from serving as ballot board members wherein governing statutes for ballot boards mandate that only ballot board election judges or deputy county auditors serving as election judges are to accept or reject absentee ballots and perform other prescribed statutory duties, Minn. Stat. § 203B.121, subd. 2; and
- to ensure that deputy county auditors serving on the county ballot board meet the mandatory statutory requirements of deputy county auditors under Minnesota Statutes § 384.08.

The writ is needed to require Olmsted County, through its Board of Commissioners, and the Director of Property Records and Licensing, to act in accordance with the legislative

mandates for the county's ballot board under Minnesota Statutes § 203B.121. No other legal remedy is available to immediately correct the actions of these County officials.

## **JURISDICTION**

Jurisdiction of the district court over this petition for a writ of mandamus is conferred under Article VI, § 3 of the Minnesota Constitution and Minnesota chapter 586. Minnesota Statutes §§ 117.045 and 586.01 statutorily confer the district court's jurisdiction. There are no other alternative remedies at law for the relief requested.

This Court also has jurisdiction over class actions under Rule 23 of the Minnesota Rules of Civil Procedure.

## **PARTIES**

### **Petitioner Minnesota Voters Alliance**

1. The Minnesota Voters Alliance is an organization with members who seek to ensure, as part of their association objectives, public confidence in the integrity of Minnesota's elections, in election results and election systems, processes, procedures, and enforcement, and also that public officials act in accordance with the law in exercising their obligations to the people of the State of Minnesota. Its membership also includes election judges of major Minnesota political parties. The Minnesota Voters Alliance also works to protect the rights of its members whenever laws, statutes, rules, regulations, or government actions threaten or impede implied or expressed rights or privileges afforded to them under our constitutions or laws or both. Its membership includes candidates seeking elective offices.

**Petitioner Republican Party of Minnesota**

2. The Republican Party of Minnesota is a major political party. The Republican Party does present to the Secretary of State a list of Republican Party members who desire to be election judges. As part of this process, the Republican Party has expectations that as a major party, members will be appointed as election judges to ballot boards including the Olmsted County ballot board to ensure major political party balance when absentee ballots are accepted or rejected, as required by law under Minnesota Statutes § 203B.121 and as the Legislature specifically intended.

**Petitioner Duane Quam, Ramsey County Commissioner Candidate**

3. Duane Quam is presently a candidate for elected office as a Minnesota House of Representative for District 25A in Olmsted County in the November 2020 general election. He is a member of the Minnesota Voters Alliance. Quam resides in Olmsted County, Minnesota, and is an eligible and registered voter. He plans to vote absentee due to the current COVID-19 health crisis.

4. Nevertheless, if elected to office, Quam will have a legal right or privilege to take the public office as a result of the election outcome. In light of the COVID-19 health crisis and the Governor's Executive Orders, Quam anticipates that many of his supporters, as a necessity, will resort to absentee balloting to cast their ballots.

5. Because the Olmsted County ballot board will play a significant role in the upcoming election contest, for any governmental entity or election official not to abide by the mandatory requirements of the law can and will have an effect on the outcome of the election and any deviation from the election laws will undermine the credibility of the

November election result. Notably, failing to follow the laws related to the acceptance, rejection, and counting of absentee ballots in Olmsted County can have a direct impact on Quam's legal right or privilege to take public office as a result of the election outcome.

6. In this November's election, Quam intends to vote absentee. But, he believes voting absentee may not bring to him the same level of certainty that his vote will be properly tabulated and will not undergo a process of rejection where at the polling place any uncertainty can be immediately addressed. By this petition, he invokes his right to have his absentee ballot processed in full compliance with the laws for tabulating absentee ballots because those laws reduce additional risk that his ballot may be improperly rejected.

**Petitioners Thomas M. Blondell, Larry F. Mattson, and  
Wayne Delano Harris**

7. Thomas M. Blondell, Larry F. Mattson, and Wayne Delano Harris are election judges and are on major political party lists for selection with Olmsted County as election judges for the 2020 general election. All are registered eligible voters who reside in Olmsted County and are members of the Minnesota Voters Alliance.

8. Blondell, Mattson, and Harris also seek appointment, as election judges, to the Olmsted County ballot board under Minnesota Statutes § 203B.121, subdivision 1. However, appointment to the ballot board by Board of Commissioners is denied when, contrary to § 203B.121, subdivision 1, appointments are made solely by the Director of Property Records and Licensing and the Board of Commissioners appoints staff of the Property Records and Licensing Department to the ballot board—inappropriately—and doing so without regard to party list exhaustion. That process, established by the Olmsted County for the 2020 primary elections is the same process is being used in 2020 general elections. Blondell, Mattson, and

Harris are denied the opportunity to seek Board of Commissioners appointment to the ballot board, by the Board's misapplication of the law and by the Director of Property Records and Licensing, and, thereby, are prevented from the possibility of performing the duties of the ballot board, including accepting and rejecting absentee ballots. Minn. Stat. § 203B.121, subd. 2. Instead, the County Board and Director of Property Records and Licensing have staff, or temporary staff, do the accepting or rejecting of absentee ballots.

**Respondent County of Ramsey Board of Commissioners**

9. The Olmsted County Board of Commissioners, acting for the County of Olmsted, is the county governing body under Minnesota Statutes § 203B.121, subdivision 1 that, by ordinance or resolution, establishes a ballot board. Under subdivision 1, the board is responsible for handling absentee ballots.

10. The Olmsted County ballot board is required to include election judges trained in handling absentee ballots and appointed in accordance with §§ 204B.19 to 204B.22. The Board of Commissioners, as the appointing authority, must appoint election judges to the board. Minn. Stat. § 204B.21, subd. 1.

**Respondent Olmsted County Director of Property Records and Licensing, Mark Krupski**

11. Mark Krupski is the Director of Property Records and Licensing for Olmsted County. Krupski is responsible for all matters relating or regarding elections within the jurisdiction of Olmsted County for the November 2020 general elections.

12. Krupski is responsible for the administrative and management support of the Board of Commissioners' appointed ballot board and all individuals engaged by him as the Director of Property Records and Licensing for all duties related to the election processes.



**Attached documents relevant to the Petition identified as Exhibits 1 - 4.**

13. Attached as **Exhibit 1** is a copy of Olmsted County Board of Commissioners “Request for County Board Action” memorandum and attached Resolution 20-139 dated July 21, 2020. The approved Resolution authorized, among other election related matters, the 2020 County ballot board (referred to as the “Absentee Ballot Board”). The resolution is identified as the “July 21st Resolution” throughout this Petition.

14. Attached as **Exhibit 2** is a copy of the 2013 House of Representatives House File No. 979.

15. Attached as **Exhibit 3** is a copy of the House Research Bill Summary dated March 7, 2013.

16. Attached as **Exhibit 4** is a copy of Minnesota Session Laws—2013, Regular Session.

**FACTUAL BACKGROUND**

**I. Minnesota voters may cast a vote by absentee ballot.**

17. Minnesota will hold general elections on November 3, 2020.

18. Prior to the date of the election, eligible Minnesota voters will be allowed the privilege to vote by absentee ballot.

**II. The Olmsted County Board of Commissioners establishes the ballot board for absentee ballots.**

19. In Olmsted County, Minnesota, the absentee ballot process will include a ballot board. Minn. Stat. § 203B.121.

20. Under Minnesota Statutes § 203B.121 subdivision 1, the governing body of each county and municipality, as the governing authority, is to establish a ballot board.

21. The governing body in Olmsted County is the Olmsted County Board of Commissioners and thus, is the policy-determining body of the county.

22. The Olmsted County Board of Commissioners establishes the ballot board. Minn. Stat. §203B.121, subd. 1.

23. On July 21, 2020, the Olmsted County Board of Commissioners passed a resolution that established the County's ballot board, referred to as the "Absentee Ballot Board." *See* Exhibit 1.

24. Minnesota Statutes § 203B.121, subdivision 1 states that the ballot board "must consist of a sufficient number of election judges...and *appointed* as provided in sections 204B.19 to 204B.22." Emphasis added.

25. The July 21st Resolution provided that all members of the Olmsted County ballot board be all Property Records and Licensing Department staff for election purposes who have been appointed by the Director of the Department whom he appointed as "deputy county auditors." *See* Exhibit 1.

26. Olmsted County does not have a "county auditor." The position was abolished under Olmsted County Resolution 98-131, enacted in December of 1998. The abolished Auditor-Treasurer duties are now performed by the Director of Property Records and Licensing and a Chief Financial Officer. Olmsted Cty Resol. (Minn.) 98-121 (1998).

27. Under Resolution 98-131, the Director of Property Records and Licensing "shall have the responsibilities formerly performed by the county auditor and which are related to land records, taxation, collection of all property taxes, licenses and elections." *Id.*

28. Resolution 98-131 also stated that “[t]he Director of Property Records and Licensing and any deputy authorized by the said Director may sign documents of said department and any which have been by law or custom signed by the County Auditor.” *Id.*

29. However, even if Krupski, as Director of Property Records and Licensing is the equivalent of a “county auditor,” he did not legally appoint and cannot appoint the entire Property Records and Licensing Department staff as “deputy county auditors.” *See* Exhibit 1.

30. Moreover, the Olmsted Board of Commissioners cannot appoint *only* deputy county auditors to serve on the ballot board “to perform the task” presumably to accept or reject absentee ballots under § 203B.121, subdivision 2. *See* Exhibit 1.

31. In addition, there is no evidence that the Krupski appointments of the entire Property Records and Licensing Department staff as “deputy county auditors,” met the statutory requirements of Minnesota Statutes § 384.08 in all respects.

32. While the Board of Commissioners are able to appoint deputy county auditors to the ballot board there are limitations and statutory guidelines that must be adhered to before and after those appointments.

### **III. Election judges must be on the ballot board.**

33. Under Minnesota Statutes § 203B.121, subdivision 1(a), the Legislature mandated as to who “must” be on the ballot board: “the board must consist of a sufficient number of election judges trained in the handling of absentee ballots and appointed as provided in sections 204B.19 to 204B.22.” Sections 204B.19 to 204B.22 govern election judges, from qualifications to numbers required:

- § 204B.19 refers to election judge qualifications;
- § 204B.195 refers to time off from work to serve as an election judge;
- § 204B.20 refers to the head election judge and duties;
- § 204B.21 refers to the appointment of election judges; and
- § 204B.22 refers to the number of election judges required.

34. Although the statutes identified apply to precincts, the statutes are applicable to the appointment of election judges to the ballot board. Minn. Stat. § 203B.121, subd. 1.

35. The Olmsted County July 21st Resolution (Exhibit 1) acknowledged that §§ 204B.19 to 204B.22 are applicable to ballot board appointments.

36. The phrase “sufficient number of election judges” in § 203B.121, subdivision 1 refers to the minimum number of election judges needed to carry out the mandated duties under § 203B.121, subdivision 2. The minimum number is found under §204B.21, subdivision 2:

“At least two election judges...must be affiliated with different major political parties.”

37. The “sufficient number” is consistent with one provision of Minnesota Rule 8210.2450 regarding election judges reviewing absentee ballots:

“Two or more ballot board members from different major political parties must review the absentee ballots returned....”

38. Therefore, only election judges from different major political parties must review absentee ballots. Minn. Stat. § 203B.121, subd. 2.

**IV. Section 204B.19 allows for any eligible voter to be appointed an election judge provided other qualifications are met.**

39. Election judges are statutorily defined under Minnesota Statutes § 204B.19, subdivision 1, as “any individual who is eligible to vote in this state is qualified to be appointed as an election judge.”

40. Under Minnesota Statutes § 204B.19, subdivision 4, “the appointing authority may establish additional qualifications which are not inconsistent with the provisions of this section and which relate to the ability of an individual to perform the duties of an election judge. The appointing authority may examine any individual who seeks appointment as an election judge to determine whether the individual meets any qualification established under this section.”

41. The Olmsted County Board of Commissioners has no other additional qualifications for election judges.

42. Under Minnesota Statutes § 204B.21, subdivision 2, election judges are to be *appointed* by the governing body, here, the Olmsted County Board of Commissioners.

43. Minnesota Statutes § 204B.21, subdivision 2, describes how election judges are to be appointed by the appointing authority. Under subdivision 1, in the first instance, major political party lists<sup>1</sup> are provided to the Secretary of State, who in turn provides them to the county auditor. Minn. Stat. § 204B.21, subd. 1.

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<sup>1</sup> In Minnesota, there are four major political parties; the Minnesota Democratic–Farmer–Labor Party (DFL), the Republican Party of Minnesota, Grassroots-Legalize Cannabis Party, and the Legal Marijuana Now Party. Minn. Sec. of State; <https://www.sos.state.mn.us/elections-voting/how-elections-work/political-parties/> (last visited June 16, 2020).

44. As provided in § 204B.21, subdivision 2, the appointment of election judges is made from the major political party lists. If no lists are furnished or if the lists are exhausted, the appointing authority may appoint other individuals who meet the qualifications to serve as an election judge. *Id.* See also, Minn. Stat. § 204B.19.

45. If an individual is appointed from a source other than the furnished major political party lists as required under § 204B.21, subdivision 1, that individual “must provide to the appointing authority the individual’s major political party affiliation or a statement that the individual does not affiliate with any major political party.” Minn. Stat. § 204B.21, subd. 2. An individual who refuses to provide the statement of party affiliation or non-party affiliation “must not be appointed as an election judge.” *Id.*

46. Therefore, only upon the exhaustion of election judges identified from major political party lists for purposes of appointments to the ballot board, may deputy county auditors be appointed.

47. Nevertheless, when a deputy county auditor is appointed to the ballot board, the person is considered as an election judge and is required to follow the legislative mandates of § 204B.21, including the disclosure of their respective major political party affiliation or a statement of non-affiliation.

48. There is no evidence that Kruski provided that information of the deputy county clerks to the Board of Commissioners prior to their appointment.

49. There is no evidence that Kruski obtained that statutorily mandated statement of major political party affiliation or statement of non-affiliation from the appointed deputy county clerks to comply with § 203B.121, subdivision 2 to accept or reject absentee ballots.

**V. Only statutorily qualified deputy county auditors may serve on the county ballot board.**

50. Minnesota Statutes § 203B.121, subdivision 1, allows, under certain circumstances, deputy county auditors to serve on a county ballot board. First, deputy county auditors may serve *after* the exhaustion of major political party lists of election judges who are appointed as ballot board members.

51. Second, only qualified deputy county auditors may serve on the county ballot board. A qualified deputy county auditor is statutorily defined under Minnesota Statutes § 384.08.

52. Section 384.08 allows Mark Krupski, Director of Property Records and Licensing, by a “certificate in writing” to appoint deputies.” There is no evidence Krupski provided the “certificate in writing.”

53. The appointed deputies,” *before* entering their duties,” must “record with the county recorder” those certificates. The certificates are to be endorsed with their “oaths of office.” Minn. Stat. § 384.08. There is no evidence that Krupski has done so.

54. Section 384.08 also states the duties of the county deputy auditor:

Such deputies may sign all papers and do all other things which county auditors may do.

55. In addition, § 384.08 mandates that the county auditor “require bonds of their deputies in such amount and with such sureties as they deem proper, shall be responsible for their acts, and may revoke their appointment at pleasure.”

56. There is no evidence Krupski’s appointed deputy county auditors have that authority since the Board of Commissioners’ July 21st Resolution states that the deputy

county auditors are appointed only in the capacity of election judges under §§ 204B.19 to 204B.22 to perform election judge tasks.

57. There is no evidence Krupski has exhausted the major political party lists of election judges as appointments to the ballot board. Instead, the Board of Commissioners, as a matter of public policy—with the Director of Property Records and Licensing—use department staff to supplant, substitute, replace, or exchange election judges from major political party lists with “deputy county auditors.”

58. When legally appropriate, if a “deputy county auditor” is appointed and serves on a ballot board, the person must serve as an “election judge” regardless of the title “deputy county auditor.” If the person is to perform the duties of an election judge under § 203B.121, subdivision 2, such as accepting or rejecting absentee ballots, the person must disclose their major political party affiliation. If they do not, the person may not act as an election judge under subdivision 2 and may not be given duties to accept or reject absentee ballots. However, election judges not qualified to perform duties under § 203B.121, subdivision 2, could perform other duties as outlined under the statute, such as counting ballots. *See e.g.*, Minn. Stat. § 203B.121, subd. 5.

59. In short, the appointments of the Olmsted County Board of Commissioners and the Director of Property Records and Licensing Department’s entire county staff as “deputy county auditors” failed to meet the requirements of § 384.08 to be appointed “deputy county auditors,” and they cannot serve as election judge members on the County’s ballot board.



60. None of the Board of Commissioner appointments of county staff identified as “deputy county auditors” in the July 21st Resolution for the specific assignments related to elections may serve as ballot board members under § 203B.121.

61. Meanwhile, without waiving any argument presented as it pertains to the Legislature’s specific designation of “deputy county auditors,” there is no provision under § 203B.121 that allows other county auditor or other county staff, who are not a bona fide “deputy county auditor,” either permanent or temporary employees, to serve on the ballot board or otherwise perform the duties of election judges. In other words, a person designated as a staff person or employee of the county auditor’s office *may not* either serve on the ballot board *or* perform any duty of an election judge mandated under § 203B.121, subdivision 2.

**VI. If there is any statutory ambiguity under § 203B.121, subdivision 1, regarding a qualified “deputy county auditor” as requiring the disclosure of the person’s major political party affiliation, legislative history resolves that issue.**

62. When the Legislature first enacted § 203B.121, staff of any county or municipality could be appointed to the ballot board provided they were trained as election judges:

The governing body of each county, municipality, and school district with responsibility to accept and reject absentee ballots must, by ordinance or resolution, establish a ballot board. The board must consist of a sufficient number of election judges trained in the handling of absentee ballots and appointed as provided in sections 204B.19 to 204B.22. The board may include staff trained as election judges.<sup>2</sup>

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<sup>2</sup> § 203B.121, subd. 1(a); Minn. Sess. Laws–2010, Reg. Sess. Ch. 194 Minn. Laws (original underlining).

63. There is nothing in the statute then, as now, that exempts any appointee to the ballot board from disclosing their party affiliation. To do so, would defeat the purpose of the intended party balance sought.

64. “Staff trained as election judges” appeared explicit in 2010, that the duties performed under § 203B.121, subdivision 2, required the disclosure of the person’s party affiliation. That training, as a matter of course, had to include the accepting and rejecting of absentee ballots as directed under the first provision of the ballot board election judge duties under § 203B.121, subdivision 1:

The governing body of each county, municipality...with the responsibility to accept and reject absentee ballots....

65. Notably, the statutory provision also mandates a prerequisite—a sufficient number of election judges appointed in accordance with statutes §§ 204B.19 to 204B.22. In short, in 2010, the ballot board could include staff, but not until there were at least two election judges—appointed as to the requirements of the identified statutes.

66. Even so, the elements of those statutes §§ 204B.19 to 204B.22 would have applied to the staff. For instance, § 204B.21 is explicit:

If no lists have been furnished or if *additional* election judges are required...the *appointing authority* may *appoint* other individuals who meet the qualifications to serve as an election judge.<sup>3</sup>

67. Thus, in 2010, staff were election judges and as election judges, they would still be required to be appointed by the appointing authority—because of the exhaustion of major political party lists or when lists were not furnished.

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<sup>3</sup> Minn. Stat. § 204B.21, subd. 2.

68. Further, in 2010, the staff would be required to disclose their major political party affiliation in accordance with § 204B.21, subdivision 2, as they are being appointed “from a source other than the list,” here, county or city staff:

An individual who is appointed from a source other than the list furnished pursuant to ...must provide the appointing authority the individual’s major political party affiliation or a statement that the individual does not affiliate with any major political party.

69. Section 203B.121, subdivision 2, in 2010, provided two types of sources from which appointees could be obtained to serve on the ballot board as it is the explicit duty of the appointing authority to “establish a ballot board.”<sup>4</sup>

70. The establishment of the ballot board necessarily requires the make-up of the board, that is, appointments to the board.

71. Again, the appointing authority has two sources to establish the board—identified election judges from major political party lists or from another source if no party lists are provided or are exhausted. But, nothing in 2010 suggests that the staff—trained as election judges – were exempt from party affiliation disclosures.

72. This was affirmed three years later. In 2013, the Minnesota House of Representatives introduced House File No. 979 which explicitly sought to exempt staff from disclosing party affiliations:

Election judges performing duties in this section must be of different major political parties, unless they are staff of the county auditor, municipal clerk....<sup>5</sup>

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<sup>4</sup> Minn. Stat. § 203B.121, subd. 1.

<sup>5</sup> Minn. House File No. 979; li. 6.30 (2013);

[https://www.revisor.mn.gov/bills/text.php?number=HF979&type=bill&version=1&session=ls88&session\\_year=2013&session\\_number=0](https://www.revisor.mn.gov/bills/text.php?number=HF979&type=bill&version=1&session=ls88&session_year=2013&session_number=0) (last visited July 27, 2020).

73. As the House Research Bill Summary stated, section 12 of House File No. 979 meant to exempt party affiliation disclosure as necessary in complying with mandated duties under § 203B.121, subdivision 2 to accept or reject absentee ballots of election judges from different major political parties:

Exempt[] staff of the county auditor, municipal clerk, and school district clerk from party affiliation requirements that otherwise apply to election judges serving on an absentee ballot board.<sup>6</sup>

74. The exemption was never enacted.

75. Little has changed from 2010's original enactment of § 203B.121 to the present. The provision identifying "staff" as a second source as members of the ballot board was amended in 2013. The provision narrowed the second source for the appointing authority to specific identified individuals who are staff of the county—deputy county clerks:

The board may include ~~staff trained as election judges~~ deputy county auditors or deputy city clerks who have received training in the processing and counting of absentee ballots.<sup>7</sup>

76. As previously noted, deputy county clerks are defined under Minnesota Statutes § 384.08. While their "official" day-to-day duties relate specifically to their particular office, the title does not translate to service on a ballot board. For example, under § 384.08, duties may include "sign[ing] of all papers and do all other things which county auditors may do." First, a county auditor does not and cannot serve on a ballot board—and, serving on a ballot board is certainly not "another thing" that county auditors do.

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<sup>6</sup> House Research Bill Summary (Mar. 7, 2013); <https://www.house.leg.state.mn.us/hrd/bs/88/HF0979.pdf> (last visited July 27, 2020).

<sup>7</sup> Minn. Sess. Laws—2013, Reg. Sess. Ch. 131, §17 (2013).

77. Second, serving on a ballot board is not a “thing” a county auditor does, even in an election year. Thus, the title “deputy county auditor” is nothing more than an identifier for a second source from which the appointing authority may choose from. And as a second source, the deputy county auditor is in fact an “election judge” as found under §204B.21, performing the statutory duties of election judges under § 203B.121, subdivisions 2 through 5 as members of the ballot board.

78. Nevertheless, the amendment to § 203B.121, subdivision 1, eliminating the general “staff” designation of the pre-2013 statute has become more restrictive as to who may be appointed to the ballot board as members by the appointing authority.

79. The remaining part of the statutory phrase, “received training in the processing and counting of absentee ballots” describes the duties of election judges under § 203B.121, subdivision 2. Nowhere does the provision exempt county deputy auditors from disclosing their major political party affiliation.

## **VII. Specific statutory mandates govern accepting or rejecting absentee ballots.**

**Party partisan election judges perform the duties of accepting or rejecting absentee ballots since the Legislature requires party balance for those decisions which excludes all county officials and staff.**

80. Under Minnesota Statutes § 203B.121, subdivision 1, a sufficient number of election judges must be appointed to a ballot board to perform the duties under subdivision 2 who are trained in the handling of absentee ballots “*and appointed as provided in sections 204B.19 to 204B.22.*” Emphasis added.

81. Election judges performing the statutory duties under § 203B.121, subdivision 2, must be from two different major political parties:

“Election judges performing the duties in this section must be of different major political parties....”

82. Under Minnesota Statutes § 204B.21, subdivision 2, election judges are to be first selected from previously provided major political party lists. Minn. Stat. § 204B.21.

83. Further, under § 204B.21, subdivision 2, “if no lists have been furnished or if additional election judges are required after all listed names in that municipality have been exhausted, the appointing authority may appoint other individuals who meet the qualifications to serve as an election judge.” The appointing authority is the Olmsted County Board of Commissioners.

84. Therefore, until the major political party lists are exhausted, no other ballot board member may be appointed as an election judge, including deputy county auditors to serve on a ballot board. Furthermore, there is no provision under § 203B.121 that allows a county auditor official, staff person, or another employee of the county auditor’s office, here the Property Records and Licensing Department, to either be appointed to the ballot board or do any work prescribed expressly to an election judge.

85. The Minnesota Republican Party did submit a list of election judges to the Secretary of State. The Secretary did forward a list of Republican Party election judges to Olmsted County, to the Director of Property Records and Licensing.

86. Meanwhile, even if a deputy county auditor is appointed to the ballot board, the person must meet all requirements of an election judge, including the mandates found in Minnesota Statutes § 204B.21.

87. Even if a “deputy county auditor” is appointed by the Olmsted County Board of Commissioners—presuming Krupski followed all mandates under § 384.08—the person must still meet all requirements of an election judge, including the disclosure of the person’s affiliation with a major political party *before* she may perform any duty prescribed under § 203B.121, subdivision 2 in accepting or rejecting absentee ballots wherein the statutory mandate requires persons from two different major political parties to perform those duties.

88. Under § 204B.21, subdivision 2, “an individual who is appointed from a source other than the list furnished pursuant to [§204B.21] subdivision 1 *must* provide to the appointing authority the individual’s major political party affiliation or a statement that the individual does not affiliate with a major political party.” Emphasis added. An individual who refuses to provide their major political party affiliation or a statement that the individual does not affiliate with a major political party “*must not* be appointed as an election judge.” *Id.* Emphasis added.

89. “Must” means “be obligated to; should...used to insist on something.” Oxford American Desk Dictionary & Thesaurus 523 (3rd ed. Oxford University Press (2010)).

90. Minnesota Statutes § 203B.121, subdivision 2, defining the duties of ballot board election judges, requires that they “*must be* of different major political parties....” Emphasis added. The mandate reflects the Legislature’s intent to ensure party balance in the performance of duties related to the decision-making process to accept or reject absentee ballots. Minn. Stat. § 203B.121, subd. 1.

91. Further, while a “deputy county auditor” may swear as an employee of the County Auditor’s Office to be non-partisan, the mandate of the Legislature requires the disclosure of the person’s major political party affiliation when a deputy county auditor is appointed to the ballot board and hence, is acting as an election judge in the acceptance or rejection of absentee ballots or other duties under § 203B.121, subdivision 2. As § 203B.121, subdivision 2 mandates, only election judges from different major political parties may accept or reject absentee ballots. Hence, there can be no claim that non-partisanship is acceptable to perform election judge duties under § 203B.121, subdivision 2.

92. However, should there be appointed an election judge to the ballot board who has provided a statement of non-major party affiliation, the individual may do limited election judge duties as prescribed elsewhere in the statute, under, for instance, § 203B.121, subdivision 5 (*e.g.*, counting ballots). Non-partisanship is *not* an option for duties mandated under subdivision 2.

93. The oath for election judges, found under Minnesota Statutes § 204B.24, taken before assuming the duties of the office, relates *only* to the acceptable and expected *performance* of the election judge, for example: “I will perform my duties in a fair and impartial manner and not attempt to create an advantage for *my party* or for any candidate.” (Emphasis added.) The oath *is not* a statement of an election judge’s major political party affiliation or non-major political party affiliation.

94. For Olmsted County, party partisanship of election judges to accept or reject absentee ballots for ballot boards is an expressed legislative public policy as mandated under §203B.121, subdivision 2.



95. Section 203B.121, subdivision 2, mandates that election judges perform specific duties related to absentee ballots upon the county's receipt of those ballots:

Upon receipt from the county auditor, municipal clerk...[of absentee ballots] two or more members of the ballot board shall examine each return envelope and *shall* mark it accepted or rejected in the manner provided *in this subdivision*.<sup>8</sup>

96. "Subdivision" refers to § 203B.121, subdivision 2.

*Election judges* performing the duties in this section *must* be of *different major political parties*, unless they are exempt from that requirement under section 205.075, subdivision 4, or section 205A.10, subdivision 2.<sup>9</sup>

Emphasis added.

97. "Section" refers to § 203B.121, subdivision 2.

98. Section 203B.121, subdivision 2 mandates that election judges are to handle the decisions regarding the accepting or rejecting of absentee ballots.

99. Thus, for instance, even if Olmsted County had actual bona fide deputy county auditors on a ballot board (which it does not) who had been appointed *after* all major political party lists were exhausted, whenever deputy county auditors are processing absentee ballots engaged in accepting or rejecting absentee ballots, they are acting as election judges.

100. Because appointed deputy county auditors are acting as election judges, *all* ballot board election judges performing these and all other duties under §203B.121, subdivision 2 *must* be from *different major political parties*. Therefore, at the time of a deputy county auditor's appointment to the ballot board, the deputy county auditor must state, as

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<sup>8</sup> Emphasis added.

<sup>9</sup> *Id.*

mandated under § 204B.21, subdivision 2, their major political party affiliation or non-major party affiliation, otherwise they cannot serve as election judges on the ballot board or carry out the mandate of the Legislature of accepting or rejecting absentee ballots as political party partisans. There are no exemptions for deputy county auditors, even if Olmsted County had legally legitimate deputy county auditors.

**VIII. When the Legislature provides for an exception to the law, it expressly states the exception.**

**Only in a few instances has the Legislature expressly excused party balance for election judge duties.**

101. It is expressed legislative policy to allow for and to mandate party partisanship on county ballot boards in the accepting and rejecting of absentee ballots.

102. Section 203B.121, subdivision 2, also references § 205.075, subdivision 4 and § 205A.10, subdivision 2. They are not applicable for county ballot boards. For example, § 205.075, subdivision 4, refers to general town elections. Party balance for duties performed by election judges is excused *if* not in conjunction with statewide elections:

The provisions of sections 204B.19, subdivision 5; 204B.21, subdivision 2; 204C.15; 204C.19; 206.83; and 206.86, subdivision 2, *relating to party balance* in the appointment of judges and to duties to be performed by judges of different major political parties *do not apply* to a town election *not held in conjunction with a statewide election*.

Emphasis added.

103. Likewise, § 205A.10, subdivision 2, governs school district elections. Party balance for duties performed by election judges is excused *if* not in conjunction with statewide elections.

For school district elections *not held in conjunction with a statewide election*, the school board shall appoint election judges as provided in section 204B.21, subdivision 2. The provisions of sections 204B.19, subdivision 5; 204B.21, subdivision 2; 204C.15; 204C.19; 206.83; and 206.86, subdivision 2, *relating to party balance* in appointment of judges and to duties to be performed by judges of different major political parties *do not apply* to school district elections not held in conjunction with a statewide election.

Emphasis added.

104. As §§ 205.075, subdivision 4 and 205A.10, subdivision 2 show, when the Legislature seeks to have an exception to party partisanship, it explicitly states the exception.

105. Another example of an exception to party partisanship, as a matter of legislative public policy, is found in the ballot board for military and oversea absentee ballots, which is under the exclusive control of the counties. (The Olmsted County July 21st Resolution does not relate to the military and overseas absentee ballot board.)

106. The governing statute for the ballot board of military and overseas absentee ballots is § 203B.23. Subdivision 1 specifically excludes the need for election judge party balance:

The county auditor must establish an absentee ballot board for ballots issued under sections 203B.16 to 203B.27. The board may consist of staff trained as election judges, in which case, *the board is exempt* from sections 204B.19, subdivision 5, and 204C.15, *relating to party balance in appointment of judges and to duties to be performed* by judges of different major political parties.

Emphasis added.

107. If the ballot board contains election judges who have stated they are not affiliated with a major political party, they may nonetheless perform duties that do not

require party partisanship, such as that found under 203B.121, subdivision 5, which involves other duties including counting.

**IX. The legislative history of § 203B.121 reflects the Legislature’s efforts to ensure party balance of all appointees and to eliminate the use of “staff” to serve on ballot boards.**

108. In 2013, the Legislature considered allowing staff of the county auditor, municipal clerk, or school district clerk to be exempt from party affiliation requirements that otherwise apply to election judges serving on an absentee ballot board. *See* Exhibit 2, House File No. 979, li. 6.30:

Election judges performing the duties in this section [§ 203B.121, subd. 2] must be of different major political parties, unless they are staff of the county auditor, municipal clerk, or school district clerk, or are exempt from that requirement under section 205.075, subdivision 4, or section 205A.10, subdivision 2.

Original underlining. *See also* and Exhibit 3, House Research Summary for H.F. 979, § 12 (Mar. 7, 2013)

109. However, the suggested amendment was never adopted or enacted into law. *See* Exhibit 4, Minn. Session Laws-2013, Regular Session.

110. The legislative mandate of party balance remains intact for the election task of accepting or rejecting absentee ballots under § 203B.121, subdivision 2, for *all* election judges, including duly and legally appointed deputy county auditors who perform election judge duties under that same provision.

111. Moreover, under the July 21st Resolution, the Olmsted County Board of Commissioners references to §§ 204B.19 through 204B.22, reflect its intent to incorporate and adopt the Legislature’s intent regarding ballot boards under Minnesota Statutes §

203B.121, which means any duly and legally appointed deputy county auditor must disclose their major political party affiliation to perform the duties of accepting or rejecting absentee ballots under §203B.121, subdivision 2 and ensure party balance in the performance of those duties.

112. As a matter of policy, the Olmsted County Board of Commissioners and the Director of Property Records and Licensing failed to appoint election judges to the ballot board to perform those duties reflecting party balance and hence, legislative party partisanship in accordance with Minnesota Statutes § 203B.121, subdivision 2 and § 204B.21, subdivision 2.

113. In addition, the Board of Commissioners or the Director of Property Records and Licensing, or both, failed to obtain the major political party affiliation of each election judge or statement of non-party affiliation to comply with the mandates of § 203B.121, subdivision 2. Failure to make the party affiliation, or non-affiliation, disclosure to the appointing authority, excludes the individual as an election judge as the Legislature has mandated:

An individual who refuses to provide the individual's major political party affiliation or a statement that the individual does not affiliate with a major political party *must not* be appointed as an election judge.

Minn. Stat. § 204B.21, subd. 2. Emphasis added.

114. The Olmsted County Board of Commissioners and the Director of Property Records and Licensing failed to comply with the legislative mandates for Olmsted County's ballot board.

**X. The County Director of Property Records and Licensing allows staff, either temporary or permanent employees, to perform duties specifically delegated to election judges of different major political parties under § 203B.121, subdivision 2.**

115. There is no provision under § 203B.121, subdivisions 1 and 2 that allows either county staff—whether full-time, part-time, or temporary—to serve on a county ballot board to accept or reject absentee ballots. Those duties are expressly assigned to election judges from different major political parties:

Election judges performing the duties in this section [subdivision 2] must be of different political parties, unless they are exempt from that requirement under section 205.075, subdivision 4, or section 205A.10, subdivision 2.

Minn. Stat. §203B.121, subd. 2.

116. In addition, only the Olmsted County Board of Commissioners, as the appointing authority, can within the 25-day period before the election, authorize the appointment of additional election judges to the ballot board, and only if a determination of the need for additional election judges is made by the appointing authority:

The appointments shall be made at least 25 days before the election at which the election judges will serve, except that the appointing authority may pass a resolution authorizing the appointment of additional election judges within the 25 days before the election if the appointing authority determines that additional election judges will be required.

Minn. Stat. § 204B.21, subd. 2.

117. For the 2020 primary election, Kruski has appointed temporary “deputy county auditors” to administer and perform the duties specifically mandated for election judges. Those temporary “deputy county auditors” do not meet the qualifications of “county

auditors” under Minnesota statutory law. Therefore, it is contrary to the law for them to serve on the County’s ballot board *and* to accept or reject absentee ballots for the primary election. Nevertheless, Kruspki will use his adopted policy for the November 2020 general election despite it being contrary to the law. Minn. Stat. § 203B.121, subd. 2.

118. Kruspki has no authority to appoint members to the County’s ballot board who are not qualified to do so.

119. Throughout 2020 to the present, Kruspki, as Director of Property Records and Licensing, fails to comply with the election laws under Minnesota Statutes §§ 203B.121 and 204B.21 despite the July 21st Resolution implying the compliance with the legislative mandates of Minnesota statutes including §§ 203B.121 and 204B.21.

120. Kruspki’s conduct is contrary to legislative mandates found within the election laws governing county ballot boards.

121. As previously stated, the Legislature will expressly state ballot board exemptions or exceptions. As an example, under Minnesota Statutes § 203B.23, the appointment of absentee ballot board members for ballots from overseas and military individuals, may include “staff trained as election judges, in which case, *the board is exempt* from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in appointment of judges and to duties to be performed by judges of different major political parties.” Emphasis added.

122. Likewise, Minnesota Statutes § 204B.45 governing mail balloting for certain towns and cities located outside the metropolitan area, with few exceptions, allows for a

ballot board to be appointed by an auditor or clerk to examine mail and absentee ballot return envelopes to mark them “accepted” or “rejected.”

123. Under § 204B.45, the ballot board may consist of deputy county auditors or deputy municipal clerks “who have received training in the processing and counting of mail ballots, who need not be affiliated with a major political party.” No similar exemptions or exceptions are found under § 203B.121. Section 204B.45 does not apply to Olmsted County.

124. For the 2020 primary elections, Krupski did not have election judges from different political parties accept or reject absentee ballots and has expressed that in the 2020 general election it is his continuing policy not do so, regardless of the requisites of statutory law. Minn. Stat. § 203B.121, subd. 2.

125. For the 2020 primary elections, the Olmsted County Board of Commissioner appointed members to the ballot board deputy county auditors appointed by Krupski who included the entire staff of the Property Records and Licensing Department, without meeting the mandates of §384.08 for deputy county auditors. Therefore, Krupski and the Board allowed “staff” to act and do the duties contemplated as those exclusively delegated to election judges by the Legislature under § 203B.121. Moreover, neither the Board nor Krupski obtained all appointees to the ballot board their respective major political party affiliations or statements that the individuals did not affiliate with any major political party.

126. By the July 21st Resolution, the Board of Commissioners and Krupski have identified and adopted a policy for all elections in 2020, first carried through in the August 2020 primaries and now the November 2020 general elections.



127. “Mandamus is an extraordinary legal remedy.”<sup>10</sup>

128. “The authority to issue a writ of mandamus is statutory.”<sup>11</sup> The two primary uses of mandamus are (1) to compel the performance of an official duty clearly imposed by law and (2) to compel the exercise of discretion when that exercise is required by law.<sup>12</sup>

129. However, a writ of mandamus does not control the particular manner in which a duty is to be performed and does not dictate how discretion is to be exercised.<sup>13</sup>

130. In addition, a writ of mandamus “shall not issue in any case where there is a plain, speedy, and adequate remedy in the ordinary course of law.”<sup>14</sup>

131. The Petitioner Republican Party of Minnesota seeks a writ of mandamus as a major political party to ensure Olmsted County, its Board of Commissioners and the Olmsted County Director of Property Records and Licensing perform the legislative mandates of Minnesota Statutes §§ 203B.121 and 204B.21 which the Respondents have affirmed they will not follow.

132. The Republican Party of Minnesota, as a major political party, has a specific interest under § 203B.121, subdivision 2, in that, the statute mandates that the accepting or

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<sup>10</sup> *Mendota Golf, LLP v. City of Mendota Heights*, 708 N.W.2d 162, 171 (Minn. 2006) quoting *State v. Pero*, 590 N.W.2d 319, 323 (Minn. 1999).

<sup>11</sup> *Id.*, *State v. Wilson*, 632 N.W.2d 225, 227 (Minn. 2001); see Minn. Stat. §§ 586.01–586.12 (2004).

<sup>12</sup> *Mendota Golf, LLP*, 708 N.W.2d at 171, citing Minn. Stat. § 586.01; *N. States Power Co. v. Minn. Metro. Council*, 684 N.W.2d 485, 491 (Minn. 2004).

<sup>13</sup> *Mendota Golf, LLP*, 708 N.W.2d at 171, citing e.g., *State v. Davis*, 592 N.W.2d 457, 459 (Minn. 1999); *State ex rel. S. St. Paul v. Hetherington*, 240 Minn. 298, 301, 61 N.W.2d 737, 740 (1953); *State ex rel. Laurisch v. Pohl*, 214 Minn. 221, 226, 8 N.W.2d 227, 231 (1943).

<sup>14</sup> *Mendota Golf, LLP*, 708 N.W.2d at 171, quoting Minn. Stat. § 586.02.

rejecting of absentee ballots must be reviewed by election judges from two different major political parties.

133. The Petitioner Minnesota Voters Alliance seeks a writ of mandamus as an association consisting of Olmsted County election judges and members of a major political party to ensure the Olmsted County, its Board of Commissioners and the Olmsted County Director of Property Records and Licensing perform the legislative mandates of Minnesota Statutes §§ 203B.121 and 204B.21 which the Respondents have affirmed they will not follow.

134. The Petitioners Thomas M. Blondell, Larry F. Mattson, and Wayne Delano Harris submit this petition on behalf of themselves and all others similarly situated as election judges as for all allegations and claims asserted, under all applicable provisions of Rules 23.01 and 23.02 of the Minnesota Rules of Civil Procedure governing class actions.

135. The proposed class of election judges the Petitioners Thomas M. Blondell, Larry F. Mattson, and Wayne Delano Harris seek to represent is composed of election judges on major political party lists who seek appointment by the Olmsted County Board of Commissioners and further seek appointment by the Olmsted County Director of Property Records and Licensing as ballot board members under Minnesota Statutes § 203B.121. Alternatively, should it be found that any of the Petitioners' allegations or claims could not be certified as a whole, then the Petitioners seek certification of any subclass so identified.

136. The class of election judges satisfies all requirements under Rule 23.01 and Rule 23.02 of the Minnesota Rules of Civil Procedure, including, but not limited to, the

elements commonly known as numerosity, commonality, typicality, adequacy, and superiority.

- a. The proposed class is so numerous that joinder of all members is impracticable, since the election judges will number in the hundreds many of which are yet to be named and determined to be appointed as election judges.
- b. The claims of the proposed class share common questions of law or fact. The named Respondents have engaged in a common course of misconduct regarding the ballot board appointments and duties under Minnesota Statutes § 203B.121 that affect all potential members of the board which are to be appointed as election judges. The Olmsted County Director of Property Records and Licensing, Mark Krupski, in particular has not identified, to the Olmsted County Board of Commissioners the major party affiliations or their statements of non-affiliation of election judges as required by law (albeit not public data per statutory law but, nonetheless, a necessary disclosure to the Board of Commissioners), among other things as indicated above. The common course of misconduct and resultant injury to the Petitioners and the other members of the proposed class and the commonality of remedies available demonstrate the propriety of class certification.

- c. The claims of the proposed Class Representatives are typical of the class. Each Petitioner is an election judge and is on a major political party list. Their allegations and claims arise out of the same misconduct perpetrated by each Respondent against the Petitioner election judge and other members of the proposed class. Thus, Petitioners' theories and evidence will be practically identical to those underlying the claims of the other members of the proposed class.
- d. The Petitioners will fairly and adequately protect the interests of the proposed class. The Petitioners have no adverse or conflicting interests, and have retained experienced and competent counsel to adequately litigate a class action.
- e. In addition, adjudication by individual members of the proposed class would create a risk of inconsistent adjudications with respect to individual members of the class, and as a practical matter, would be dispositive of the interests of other members not parties to the adjudications. If Petitioners prevail against Respondents, the claims of the other members of the proposed class would be substantially affected.
- f. Further, the common questions of law or fact predominate over any questions affecting individual proposed class members, and the class action is superior to other available methods.

Adjudication of this proposed class action in a single forum would obviate the potential for inconsistent results for the proposed class members. The Petitioners are not aware of any difficulties likely to be encountered in managing this litigation as a class action.

- g. Proper and sufficient notice of this action may be provided to the proposed class members through actual notice to participants as election judges as contacted through the information kept on record by all major political parties and the Olmsted County Director of Property Records and Licensing.
- h. The Petitioner election judges are suffering statutory harm as a result of Respondents' illegal conduct. Election judges on major political party lists are not selected as required in the first instance for the statutory duties under Minnesota Statutes § 203B.121. Absent representative action, the members of the proposed class will continue to suffer the statutory harm embodied within the statutory commands imposed upon the Olmsted County Board of Commissioners and the Olmsted County Director of Property Records and Licensing if the violations of the law are allowed to continue with impunity.

## Claim

137. The preceding paragraphs are incorporated in their entirety by reference as if fully restated to support the claim asserted.

138. The Olmsted County Board of Commissioners is acting contrary to Minnesota Statutes § 203B.121, subdivision 1, that states the Board of Commissioners must establish a ballot board that consists of a sufficient number of election judges. The Board of Commissioners did not appoint election judges to the ballot board for the 2020 primary elections and as a matter of policy will not appoint election judges to the ballot board for the November 2020 general election.

139. Instead, the Olmsted Board of Commissioners appointed, exclusively, so-called appointed “deputy county auditors” of Mark Krupski, Director of Olmsted County’s Property Records and Licensing Department. The “deputy county auditors” are the entire staff of the Department.

140. Krupski failed to follow the mandates of §384.08 to properly and legally appoint the Department’s entire staff as “deputy county auditors.”

141. Furthermore, Krupski failed to follow the mandates under § 204B.21. The statute required each person serving in the capacity of an election judge to perform the duties of an election judge under § 203B.121, subdivision 2, to disclose their respective major political party affiliation or statement of non-party affiliation.

142. Minnesota Statutes § 203B.121 states that the ballot board may include deputy county auditors as election judges.

143. Provided party lists have been exhausted, any other individual, if he or she qualifies as an election judge, may be appointed as an election judge to the Olmsted County ballot board. This also includes deputy county auditors. Before a deputy county auditor is appointed to the Olmsted County ballot board, the provided major political party lists must be exhausted.

144. Even if a person could be considered as a deputy county auditor serving on the Olmsted County's ballot board, they must act and make the necessary statutory disclosures as required under Minnesota Statutes § 204B.21 and perform election judge duties as statutorily mandated under § 203B.121, subdivision 2.

145. There is no provision under Minnesota Statutes § 203B.121 that allows for the appointment of any other County staff person to the ballot board by either the Board of Commissioners, or the Director of Property Records and Licensing, regardless of whether the person is designated as "full-time staff" or "temporary staff," to accept or reject absentee ballots.

146. Because the Director of Property Records and Licensing failed to properly follow Minnesota law for the designation of persons to be deputy county auditors, they can only be found to be either "full-time staff" or "temporary staff" and cannot accept or reject absentee ballots, yet, the Director allows them to act as ballot board appointed election judges. This is contrary to the law. Moreover, only election judges from different major political parties may accept or reject absentee ballots.

147. The Olmsted County Board of Commissioners and the Director of Property Records and Licensing failed to require that at least two election judges from different major political parties accept or reject absentee ballots. This is contrary to the law.

148. If appointed to the ballot board, all election judges must declare their party affiliations or provide statements of non-affiliation if they are to perform the duties of election judges as described under § 204B.21 as directed by §203B.121, subdivision 1.

149. Failure to act in compliance with the statutory requirements of Minnesota Statutes §§ 203B.121, subdivisions 1 and 2, and § 204B.21, is contrary to the legislative intent of the statutes as expressed within those statutes as it relates to fair elections and fair election processes. The Legislature expressly provided for party balance—partisanship—for duties related to the acceptance or rejection of absentee ballots.

150. There is no other statutory mechanism to challenge and direct the offending Olmsted County officials to adhere to their specific duties imposed under §§ 203B.121 and 204B.21.

151. The alleged harms and their irreversible potential impacts on the November 2020 elections are significant and cannot be remedied after they have occurred.

152. The Minnesota Voters Alliance seeks as part of its association objectives, public confidence in the integrity of Minnesota’s elections, in election results and election systems, processes, procedures, and enforcement, and also that public officials act in accordance with the law in exercising their obligations to the people of the State of Minnesota.



153. The Minnesota Voters Alliance membership also includes election judges of major Minnesota political parties. The Voters Alliance also works to protect the rights of its members whenever laws, statutes, rules, regulations, or government actions threaten or impede implied or expressed rights or privileges afforded to them under our constitutions or laws or both. Its membership includes candidates seeking elective offices.

154. The Republican Party of Minnesota has expectations that as a major political party, members will be appointed as election judges to ballot boards including in Olmsted County to ensure major political party balance when absentee ballots are accepted or rejected, as required by law under Minnesota Statutes § 203B.121 and as the Legislature specifically intended.

155. Furthermore, the Republican Party of Minnesota, as a major political party, has an interest in the compliance of Minnesota Statutes § 203B.121, subdivision 2 in the acceptance or rejection of absentee ballots, which requires at least two election judges from different major political parties accept or reject absentee ballots.

156. The Republican Party of Minnesota, as a major political party, also has an interest that the Legislature's public policy of party-balance be achieved and maintained as reflected in Minnesota Statutes § 203B.121, subdivision 2 and § 204B.21.

157. Because the ballot board in Olmsted County will play a significant role in the upcoming election contest, for any governmental entity or election official to fail to comply with the mandatory requirements of the law can and will have an effect on the outcome of the election and any deviation from the election laws will undermine the credibility of the November election result. As a result, County officials' actions that are contrary to the law

will directly affect the members of the Minnesota Voters Alliance and the Republican Party of Minnesota.

158. Duane Quam is presently a candidate for elected office in the Minnesota House of Representatives, District 25A in Olmsted County in the November 2020 general election. He is a member of the Minnesota Voters Alliance. Quam resides in Olmsted County and is an eligible and registered voter. He plans to vote absentee.

159. Quam has a particular interest as a candidate for elected public office because the ballot board in Olmsted County will play a significant role in the upcoming general election contest, for any governmental entity or election official not to abide by the mandatory requirements of the law can and will have an effect on the outcome of the election and any deviation from the election laws will undermine the credibility of the November election result. Notably, failing to act in compliance with the laws related to the acceptance, rejection, and counting of absentee ballots in Olmsted County can have a direct impact on Quam's legal right or privilege to take the public office as a result of the election outcome.

160. Thomas M. Blondell, Larry F. Mattson, and Wayne Delano Harris are election judges and are on a major political party list for selection with Olmsted County for the 2020 general election. Blondell, Mattson, and Harris are registered eligible voters and reside in Olmsted County. They also seek appointment, as election judges, to the Olmsted County ballot board under Minnesota Statutes § 203B.121, subdivision 1.

161. However, appointment to the ballot board by the Olmsted County Board of Commissioners is denied to Thomas M. Blondell, Larry F. Mattson, and Wayne Delano

Harris when, contrary to § 203B.121, subdivision 1, appointments are made to populate the ballot board solely with “county deputy auditors” by the Director of Property Records and Licensing presumably in accordance with § 384.08, without regard to any major political party list exhaustion, for the 2020 primary election. That same process is being used in 2020 for the November 2020 general election. They are denied the opportunity to seek Board of Commissioner appointment to the ballot board by the Director of Property Records and Licensing.

162. Thomas M. Blondell, Larry F. Mattson, and Wayne Delano Harris are election judges and are on a major political party list for selection with Olmsted County for the 2020 general election. Blondell, Mattson, and Harris are registered eligible voters and reside in Olmsted County. They also seek appointment, as election judges, to the Olmsted County ballot board under Minnesota Statutes § 203B.121, subdivision 1.

### **Relief Requested**

The Petitioners Minnesota Voters Alliance, the Republican Party of Minnesota, Thomas M. Blondell, Larry F. Mattson, and Wayne Delano Harris respectfully request judgment against Ramsey County, the Ramsey County Board of Commissioners, and the County Auditor from this Court:

1. Granting the writ of mandamus;
2. Directing the Olmsted County Board of Commissioners to appoint election judges to the Olmsted County ballot board in accordance with Minnesota Statutes §§203B.121, subdivision 1 and 204B.21;

3. Directing the Olmsted County Board of Commissioners, if additional election judges are necessary, to adhere to the provisions of Minnesota Statutes § 204B.21, subdivision 2, regarding the need for a determination of the election judge requirement for additional judges;

4. Directing that Mark Krupski, Director of Property Records and Licensing, ensure he complies with §384.08 for each deputy county auditor before any appointment to the ballot board and that he obtain from each person election judge before their appointment by the Olmsted County Board of Commissioners, a statement of their major political party affiliation or a statement of non-major political affiliation;

5. That if the current members of the Olmsted County ballot board are legally appointed deputy county auditors by that Mark Krupski, Director of Property Records and Licensing, obtain from each person election judge before their appointment by the Olmsted County Board of Commissioners, a statement of their major political party affiliation or a statement of non-major political affiliation.

6. Directing the Mark Krupski, Director of Property Records and Licensing to adhere to the provisions of Minnesota Statutes § 203B.121 under which staff of the Property Records and Licensing Department, whether full-time, part-time, or temporary, (a) may not serve on the Olmsted County ballot board; and (b) may not perform any duties of election judges as provided under § 203B.121, subdivision 2;

7. Directing Mark Krupski, Director of Property Records and Licensing for Olmsted County, that only when the major political party lists are exhausted as required under § 204B.21, may he then request the County Board of Commissioners to appoint other

election judges to the ballot board to perform the statutory duties found under § 203B.121, provided those individuals have complied with the mandates of § 204B.21 governing election judges; and

8. Directing Mark Krupski, Director of Property Records and Licensing to adhere to the provisions of Minnesota Statutes § 203B.121, subdivision 2, in which at least two ballot board election judges are to accept or reject absentee ballots, who are also from different major political parties.

Dated: July 30, 2020

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