STATE OF MINNESOTA | DISTRICT COURT

COUNTY OF OLMSTED | THIRD JUDICIAL DISTRICT
CASE TYPE: CIVIL OTHER

Al Franken for Senate Committee and
Al Franken,

Applicants,

vs.

Olmstead County, including its Auditor and its County Canvassing Board,

Respondents.

Case No. _____

REQUEST FOR EXPEDITED HEARING ON APPLICATION FOR CORRECTION OF ERRORS IN 2008 UNITED STATES SENATE ELECTION

To: Defendants and their counsel of record: Mark A. Ostrem, Olmsted County Attorney, 151 4th Street, S.E., Rochester, Minnesota 55904-3710.

Applicants request a hearing on their Application at the earliest available time determined by the Court, before a Judge of District Court and in a courtroom and at a date and time to be determined. As grounds for this request, Applicants state:

1. Applicants have made Application for correction of errors under Minnesota election law in connection with the 2008 general election. The errors may make a difference in the closest U.S. Senate race in Minnesota history.

2. The 2008 U.S. Senate election results are presently before the State Canvassing Board for recount and canvass. The State Canvassing Board has declared its intention to complete its work on or before Friday, December 19, 2008.

3. Applicants have notified the Olmsted County Canvassing Board of errors in the rejection of 27 specified accepted, uncounted absentee ballots. To date, the County Canvassing

Board has failed to act to correct those errors, and has advised that it will not address the issue of those ballots "until further notice."

4. This Application seeks an order that, on or before Thursday, December 18, the County Canvassing Board reconvene, inspect the 27 accepted, uncounted ballots, open and count such ballots, and, pursuant to Minn. Stat. § 204C.39 and its inherent authority to correct its mistakes, prepare an addendum to its regular report and furnish the same to the State Canvassing Board. If this relief is not granted, Applicants and the voters who cast the Erroneously Rejected Ballots will be irreparably harmed.

4. Accordingly, this Application seeks emergency relief and warrants expedited hearing and determination.

Dated: December 16, 2008

David L. Lillehaug (#63186)
Steven Z. Kaplan (#53739)
FREDRIKSON & BYRON, P.A.
200 South Sixth Street
Minneapolis, Minnesota 55402
Telephone: (612) 492-7000
Facsimile: (612) 492-7077

ATTORNEYS FOR APPLICANTS

ACKNOWLEDGEMENT

Applicants acknowledge that sanctions may be imposed under Minn. Stat. § 549.211.

Steven Z. Kaplan

4478187_1.DOC