

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WASHINGTON

TENTH JUDICIAL DISTRICT

CASE TYPE: OTHER CIVIL

In the Matter of the Contest of the special election held on November 3, 2015, for the purpose of the passage of a ballot question for South Washington County Schools, Independent School District No. 833, Washington County, Minnesota,

Canvass Completed November 25, 2015

Susan Richardson, Andrea Mayer-Bruestle, and Leilani Holmstadt,

Contestants,

v.

South Washington Schools,
Independent School District No. 833,

Contestee.

Court File No.: 82-cv-15-5639

ANSWER

Comes now Contestee, Independent School District No. 833, South Washington County Schools ("School District"), as and for its Answer to Notice of Contest and Election Contest Under Minnesota Statute § 209.021 ("Notice of Contest"), admits, denies and alleges as follows:

1. That except as hereinafter specifically admitted, the School District hereby denies each and every allegation, claim, matter and thing contained in the Notice of Contest herein.

2. That as for the allegations contained in Paragraphs 5, 6, 7, 14, 15, and 103, the School District without sufficient knowledge or information upon which to form a belief thereon and, therefore denies the same and puts Contestants to their strict burden of proof.

3. That as for the allegations contained in Paragraph 8, the School District denies that it is the proper Contestee in this action and admits each and every other allegation contained therein.

4. That as for the allegations contained in Paragraph 10, the School District admits that Minnesota Statutes § 209.021, subs. 2 and 3 speak for themselves; that the ballot question appeared on the ballot within the boundaries of the School District in Washington County; that the ballot question was not a state-wide question; and the School District denies each and every other allegation contained therein.

5. That as for the allegations contained in Paragraph 11, the School District admits that Minnesota Statutes § 209.02 and 204C.22 speak for themselves and denies each and every other allegation contained therein.

6. That as for the allegations contained in Paragraphs 12, 16, 22, 23, 31, 33, 37, 50, 59, 83, and 98, the School District admits each and every allegation contained therein.

7. That as for the allegations contained in Paragraphs 9, 26, 28, 38, 39, 40, 41, 42, 43, 44, 45, 48, 49, 51, 52, 53, 54, 55, 57, 60, 61, 62, 65, 66, 67, 68, 69, 71, 73, 76, 77, 78, 79, 81, 84, 85, 86, 87, 91, 92, 93, 94, 96, 99, 100, 101, and 102 the School District denies each and every allegation contained therein.

8. That as for the allegations contained in Paragraph 13, the School District denies that “[t]he results for School District Ballot Question No. 2 were the same” and admits each and every other allegation contained therein.

9. That as for the allegations contained in Paragraph 17, the School District admits that the individuals listed were members of the School District Canvassing Board and denies each and every other allegation contained therein.

10. That as for the allegations contained in Paragraph 18, the School District admits that on Wednesday morning, the School District Canvassing Board convened; that the day before, on November 24, 2015, Erick G. Kaardal, counsel for his clients Susan Richardson and Andrea Mayer-Bruestle, sent a letter to the Canvassing Board members outlining arguments as to why 18 of the 19 challenged ballots should be declared and counted as “no” votes; that a challenge to one ballot was withdrawn since it was impossible to determine the intent of that particular voter; that the letter is attached as Exhibit A; that copies of the excerpted challenged ballots were attached as Exhibits 1-19; and the School District denies each and every other allegation contained therein.

11. That as for the allegations contained in Paragraphs 20, 21, 24, 25, 27, 29, 34, 56, 70, 72, 75, 80 and 95, the School District admits that the “Kaardal letter,” which was an inappropriate ex-parte communication with the Canvassing Board, speaks for itself and the School District denies each and every other allegation contained therein.

12. That as for the allegations contained in Paragraphs 1, 2, 3, 4, 19, and 90, the School District denies each and every allegation contained therein as they constitute argument to which no response is required.

13. That as for the allegations contained in Paragraph 30, the School District admits that the School District Canvassing Board met on November 25, 2015 and reviewed the 19 challenged ballots and denies each and every other allegation contained therein.

14. That as for the allegations contained in Paragraph 32, the School District admits that challenged ballots 3, 4, 5, 6, 7, 8, 10, 12, 13, 14, 15, 17 and 19 were determined by the Canvassing Board to be “no” votes and denies each and every other allegation contained therein.

15. That as for the allegations contained in Paragraph 35, 47, 58, 64, 74, 82, 89, and 97, the School District admits that the video record of the canvassing meeting held on November 25, 2015 (Exhibit B attached to the Notice of Contest) speaks for itself and denies each and every other allegation contained therein.

16. That as for the allegations contained in Paragraphs 36, 46, 63, and 88, the School District admits that the Canvassing Board meeting minutes (Exhibit C attached to the Notice of Contest) speaks for itself and denies each and every other allegation contained therein.

17. The School District affirmatively alleges that while the present action is pending and it is not able to proceed with the sale of bonds authorized by voter approval of Question 2, the School District will suffer additional costs and damages for said delay and, as a result, the School District will move this Court for an order requiring Contestants to file an additional surety bond in order to continue this action for the protection of the taxpayers.

AFFIRMATIVE DEFENSES

1. Contestants fail to state a claim upon which relief can be granted.
2. Contestants failed to name the clerk of the School District as the Contestee which required by Minnesota Statutes Section 209.021, subd. 3.
3. This Court lacks jurisdiction over the subject matter of the Notice of Contest.

WHEREFORE, the School District requests an Order of the Court as follows:

1. Dismissing the Notice of Election Contest in its entirety and entering judgment with prejudice in favor of the School District;
2. Affirm the decisions of the School District Canvassing Board that Challenged Ballots 2, 9, 11, 16 and 18 were non-votes and therefore not counted;
3. Affirm passage of School District Question 2; and
4. Award the School District its costs of the election contest; and
5. For such other and further relief as this Court deems just and equitable.

Dated: December 9, 2015

KNUTSON, FLYNN & DEANS, P.A.

By: /s/ Michelle D. Kenney
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ACKNOWLEDGEMENT

The undersigned hereby acknowledges that costs, disbursements and reasonable attorney and witness fees may be imposed should this pleading be found in violation of Minn. Stat. § 549.211.

/s/ Michelle D. Kenney
Michelle D. Kenney