

STATE OF MINNESOTA

DISTRICT COURT

WASHINGTON COUNTY

TENTH JUDICIAL DISTRICT

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In the Matter of the Contest of the general 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,

Case Type: Election Contest

**Notice of Contest and Election Contest  
Under Minnesota Statute § 209.021**

Canvass Completed November 25, 2015

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

Contestants,

vs.

South Washington Schools,  
Independent School District No. 833,

Contestee.

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To: Dayna Bentsdahl, Clerk of the School District for South Washington County Schools, Independent School District No. 833, for the contestee South Washington County Schools, 8400 East Paint Douglas Road South, Cottage Grove, Minnesota 55016;

Katie Schwartz, Clerk for the School Board, South Washington County Schools, Independent School District No. 833, for the contestee South Washington County Schools, 8400 East Paint Douglas Road South, Cottage Grove, Minnesota 55016;

Kevin Corbid, Washington County Auditor, Washington County Government Center, 14949 62nd Street North, Stillwater, Minnesota, 55082.

PLEASE TAKE NOTICE that under Minnesota Statute § 209.021, that Contestants Susan Richardson, Andrea Mayer-Bruestle, and Leilani Holmstadt, give notice and contest the election that resulted in the passage of a ballot question for the approval of a school district bond issue for the South Washington County Schools, Independent School District No. 833. The election was held on November 3, 2015. The meeting of the Independent School District 833, South Washington County Canvassing Board was held on Wednesday, November 25, 2015.

### INTRODUCTION

1. Contestants challenge the Canvassing Board's determination of five ballots as "non-votes" because the original ballots show the intent of those voters as "No" votes. The incorrect actions of the Canvassing Board caused the favorable outcome of the School District Ballot Question 2 seeking approval of the authorization for the District to issue general obligation building bonds in the amount not to exceed \$96 million. Guiding statutory principles under Minnesota Statute §§ 204C.22 in determining a voter's intent were not followed by the Canvassing Board members, including but not limited to specifically, that "a ballot shall not be rejected for a technical error that does not make it *impossible* to determine the voter's intent." (Emphasis added).
2. The Canvassing Board, in evaluating the contested five ballots, did not ascertain from the ballot itself without speculating or making efforts to determine the voter's intent in a manner other than provided by statute. Further, the Canvassing Board did not properly apply the canons of construction in making its determination, instead finding the five

ballots as “ambiguous” or “non-votes.” The Canvassing Board never made a finding for each of the five ballots that it was “impossible” to determine the intent of the voter.

3. Had the Canvassing Board found the contested five ballots as “no votes” the election result would have defeated the Ballot Question 2 for a bond issuance not to exceed \$96 million because of a tie.
4. Consequently, the South Washington County Canvassing Board erred in its determinations and therefore, the five contested ballots must be considered as “no” votes. The final vote total must be declared: 6,840 voting “yes,” and 6,840 voting “no.” Because of the tie, the election contest for the School District Ballot Question 2 must be declared defeated.

#### **PARTIES, JURISDICTION, AND VENUE**

5. Contestant Susan Richardson is registered and is an eligible voter residing in Washington County, and within the contestee South Washington County School District, Independent School District 833. Richardson voted in the election held on November 3, 2014. Minn. Stat. § 209.02.
6. Contestant Andrea Mayer-Bruestle is registered and is an eligible voter residing in Washington County, and within the contestee South Washington County School District, Independent School District 833. Mayer-Bruestle voted in the election held on November 3, 2014. Minn. Stat. § 209.02.
7. Contestant Leilani Holmstadt is registered and is an eligible voter residing in Washington County, and within the contestee South Washington County School District,

Independent School District 833. Holmstadt voted in the election held on November 3, 2014. Minn. Stat. § 209.02.

8. Contestee South Washington County Schools, Independent School District 833 is the governmental entity that caused the ballot bond question at issue in this contest to be placed on the ballot for electors who reside within the boundaries of the School District. The School District boundaries are within Washington County and consist of all or part of the communities of Cottage Grove, Newport, St. Paul Park, Woodbury, Afton, Denmark and Grey Cloud Island Townships.
9. The Contestee South Washington County Schools, Independent School District 833, is subject to suit under Minnesota Chapter 209 governing election contests.
10. This Court has jurisdiction and venue for this contest. Under Minnesota Statute § 209.021, subds. 2 and 3, a notice of contest is to be filed with the court administrator of the district court in the county where the question appeared on the ballot. The ballot question was not a state-wide question.
11. Subject matter jurisdiction is proper under Minnesota Statute § 209.02 based upon the facts asserted in this petition revealing the South Washington County Canvassing Board had erred in the interpretation of certain ballots as “ambiguous” or as a “non-vote” when the ballots actually show the voter’s intent as a “no” vote against the School District’s Ballot Question 2. Further, the Canvass Board failed to apply the statutory principles of Minnesota Statute § 204C.22 governing the determination of a voter’s intent to the five ballots. In addition, the Board failed to make any finding that it was *impossible* to

determine the voter's intent for each of the five contested ballots; instead, the Canvassing Board identified the five ballots as "ambiguous" or as "non-votes."

### **FACTUAL BACKGROUND**

**I. The November 3, 2015 bond election required a recount and ultimately a Canvassing Board review of 18 challenged voter ballots.**

12. On November 3, 2015, the South Washington County Schools, Independent School District 833 ("School District 833") sought the passage of a general obligation school building bonds issuance not to exceed \$96 million:

If School District Question 1 is approved, shall the school board of Independent School District No. 833 (South Washington County Schools) also be authorized to issue its general obligation school building bonds in an amount not to exceed \$96,000,000 to provide funds for the acquisition of land for and the construction and equipping of a new middle school facility; the repair, renovation, remodeling, upgrading, equipping and repurposing of the existing Olman Middle School site and facility for use as an elementary school; and the construction of additions and improvements to other existing middle school sites and facilities?

13. During the general election held on November 3, 2015, the School District Ballot Question 2 passed 6839 (voted "yes") to 6820 (voted "no"), a margin of 19 votes. A recount was held on November 20, 2015. The results for School District Ballot Question No. 2 were the same, 6840 to 6822, a margin of 18 votes.

14. About an hour and one-half into the recount, Carol Peterson, the Washington County Elections Supervisor, declared that all ballots with markings outside the oval but near the "no" would be "automatically" marked as challenged.

15. Ballot nos. 9, 16 and 18 reflect names of supporters to defeat the ballot, yet their names appear as having “challenged” the ballots. They did not.
16. During the recount of November 20, 2015, 19 ballots were challenged. Those ballots were the subject of a convened Canvassing Board that met five days later on Wednesday, November 25, 2015.
17. The members of the South Washington County Canvassing Board included:
  - Ron Kath, Chair of the South Washington County School District Board;
  - Katie Schwartz, Clerk of the South Washington County School District Board;
  - Kim Blaeser, Woodbury City Clerk (Woodbury Mayor delegated her authority to Ms. Blaeser to serve on the Canvassing Board);
  - Annette Fritz, Washington County Court Administrator, Stillwater, Minnesota; and
  - Kevin Corbid, Washington County Auditor-Treasurer, Stillwater, Minnesota.
18. On Wednesday morning, the South Washington County Canvassing Board convened. 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. A challenge to one ballot was withdrawn since it was impossible to determine the intent of that particular voter. The letter is attached as **Exhibit A**. Copies of the excerpted challenged ballots were attached as **Exhibits 1-19**.

19. When copies of the challenged ballots were requested, only portions of each entire ballot were replicated for review prior to the Canvassing Board's meeting on November 25th. Nevertheless, the portion provided included the front of each ballot inclusive of all School District ballot questions.
20. The Kaardal letter reflected the request of his then clients Susan Richardson and Andrea Mayer-Bruestle to correct the election judges' "obvious error in not counting challenged ballots #2 through #19 as 'no' votes." *See Exhibit A.*
21. The Kaardal letter reflected the significance of the result of the challenged 18 votes in that it would directly affect the outcome of the election, namely, defeating the School District Ballot Question 2 regarding the general obligation bond issuance of no more than \$96 million: "If the School District (sic) Canvassing Board were to count challenged ballots #2 through #19 as 'no' votes, since the vote differential to date is 18 votes in favor of the ballot question, the ballot question election would fail because of a tie vote: 6,840 vote in favor and 6,840 votes against." *See Exhibit A.*
22. The School District did not dispute that a tie vote would defeat Ballot Question 2 at the Canvassing Board meeting on November 25, 2015.
23. The School District will not dispute that a tie vote would defeat Ballot Question 2.
24. Through paragraphs of Kaardal's letter identified as "A" through "S" under the sub-heading "II," are found specific arguments applied to each ballot as to why that specific ballot should be counted as a "no" vote, except for Exhibit 1 which was withdrawn. *See Exhibit A.* There is no dispute the Canvassing Board members received the Kaardal letter.

25. The Kaardal letter reflected that Minnesota election laws apply to school district elections under Minnesota Statute § 205A.02: “Except as provided by law, the Minnesota Election Law applies to school district elections.” *See Exhibit A.* The School District did not dispute this proposition; neither did the Canvassing Board dispute this proposition at the Canvassing Board meeting on November 25, 2015.
26. The School District will not dispute that Minnesota Election Law applies to school district elections.
27. The Kaardal letter reflected that the Canvassing Board is statutorily authorized to correct obvious errors under Minnesota Statute § 204C.39: “A county canvassing board may determine by a majority vote that the election judges have made an obvious error in counting or recording the votes....” *See Exhibit A.* The School District did not dispute this proposition; neither did the Canvassing Board at the Canvassing Board dispute this proposition meeting on November 25, 2015.
28. The School District will not dispute that a county canvassing board may determine by a majority vote that the election judges have made an obvious error in counting or recording the votes.
29. The Kaardal letter reflected that principles in determining a voter’s intent must be discerned from the face of the ballot as governed under Minnesota Statute § 204C.22:

Subdivision 1. Ballot valid if intent determinable.

A ballot shall not be rejected for a technical error that does not make it impossible to determine the voter's intent. In determining intent the principles contained in this section apply.

Subd. 2. From face of ballot only.



Intent shall be ascertained only from the face of the ballot.

\* \* \*

Subd. 3a. Votes yes and no.

If a voter votes both yes and no on a question, no vote may be counted for that question, but the rest of the ballot must be counted if possible.

\* \* \*

Subd. 6. Mark out of place.

If a mark (X) is made out of its proper place, but so near a name or space as to indicate clearly the voter's intent, the vote shall be counted.

\* \* \*

Subd. 10. Different marks.

If a voter uniformly uses a mark other than (X) which clearly indicates an intent to mark a name or to mark yes or no on a question, and the voter does not use (X) anywhere else on the ballot, a vote shall be counted for each candidate or response to a question marked. If a voter uses two or more distinct marks, such as (X) and some other mark, a vote shall be counted for each candidate or response to a question marked, unless the ballot is marked by distinguishing characteristics that make the entire ballot defective as provided in subdivision 13.

Subd. 11. Attempted erasures.

If the names of two candidates have been marked, and an attempt has been made to erase or obliterate one of the marks, a vote shall be counted for the remaining marked candidate. If an attempt has been made to obliterate a write-in name a vote shall be counted for the remaining write-in name or marked candidate.

\* \* \*

Subd. 13. Identifying ballot.

If a ballot is marked by distinguishing characteristics in a manner making it evident that the voter intended to identify the ballot, the entire ballot is defective.

The School District did not dispute these propositions; neither did the Canvassing Board dispute these propositions at the Canvassing Board meeting on November 25, 2015.

**II. The Canvassing Board decides that five ballots are “non-votes.”**

30. On Wednesday November 25th, the Washington County Canvassing Board met to review the 19 challenged ballots.

**A. Ballot No. 1 is withdrawn.**

31. Richardson and Mayer-Bruestle withdraw their challenge to Ballot 1. *See Exhibit 1.* The ballot was not counted.

32. Of the 18 remaining ballots, 13 were counted as “no” votes and are not at issue here. This would include ballot nos. 3, 4, 5, 6, 7, 8, 10, 12, 13, 14, 15, 17 and 19. *See Exhibits 3, 4, 5, 6, 7, 8, 10, 12, 13, 14, 15, 17 and 19.* However, some of these ballots will be used for demonstrative purposes.

33. Five ballots were determined by the Canvassing Board as “non-votes” and, therefore, were not counted. This included ballot nos. 2, 9, 11, 16, and 18. *See Exhibits 2, 9, 11, 16, and 18.*

**B. Ballot No. 2 is challenged, but the Canvassing Board determines it as a “non-vote” — referring to it as “ambiguous” – but it is *not* impossible to discern the voter’s intent from the face of the ballot.**

**The published unofficial minutes of the Canvassing Board inaccurately reflects motions made on disputed ballots.**

34. Richardson and Mayer-Bruestle challenged Ballot No. 2 through Kaardal’s letter under paragraph “B” which reflected the basis for the challenge of the election judges not to count the ballot as a “no” vote:

Ballot no. 2 has the letter “o” in “NO” filled out rather than the oval. Based on Minnesota Statute § 204C.22, subd. 6, “If a mark (X) is made out of its proper place, but so near a name or space as to indicate clearly the voter’s intent, the vote shall be counted.” Here the voter’s intent is clearly indicated by the voter having filled out the oval space in “NO” which is “so near” “NO” to indicate clearly the voter’s intent to vote “no.” It was an obvious error for the election judges not to count ballot no. 2 as a “no” vote.

35. Members of the Canvassing Board debated on this particular ballot inappropriately speculating on how the voter, for instance, was able to fill in the oval correctly on one part of the ballot but not on the ballot questions when multiple directions are provided to the voters prior to being handed a ballot and on the ballot itself. *See e.g.* 19:00-21:00 Canvassing Board Meeting Recording, **Exhibit B.**

36. The Canvassing Board voted on Ballot No. 2, **Exhibit 2**, finding it “ambiguous” and not a “no” vote by a 3-2 vote. *See e.g.* 23:51: Canvassing Board Meeting Recording, **Exhibit B;**

- Kim Blaeser: Yes
- Kevin Corbid: No
- Annette Fritz: No

- Ron Krath: Yes
- Katie Schwartz: Yes

37. Ballot No. 2 was not counted.

38. The Canvassing Board did not make a findings that it was “impossible” to determine the voter’s intent.

39. The mark of the voter on Ballot No. 2, while made out of its proper place, was so near the space as to indicate clearly the intent of the voter; it should have been counted as a “no” vote.

40. Not counting Ballot No. 2 as a “no” vote was in error.

41. The marking on School District Ballot Question 2 is consistent with the manner in which the voter marked his or her vote on all ballot questions as “no” votes:

ISD 833 Referendum Question #1  
 Precinct: 20 - 1st Precinct  
 Challenged Before: NO  
 Challenged by: 1st Precinct

**GENERAL ELECTION BALLOT**  
**INDEPENDENT SCHOOL DISTRICT NO. 833**  
**(SOUTH WASHINGTON COUNTY SCHOOLS)**  
**NOVEMBER 3, 2015**

**INSTRUCTIONS TO VOTERS:**  
 To vote accurately fill in the oval next to your answer for the question.

SCHOOL DISTRICT OFFICES	SCHOOL DISTRICT QUESTIONS
<b>SCHOOL BOARD MEMBER - VOTE FOR UP TO THREE</b> <input type="radio"/> MICHELLE WHITE <input type="radio"/> DEAN BARTON <input type="radio"/> JOE SLAYN <input type="radio"/> MOLLY LUTZ <input type="radio"/> PATRICIA BRIDGEMAN <input type="radio"/> ANDREA MAYER-GHUESTLE <input type="radio"/> RON KRATH <input type="radio"/> <u>NO</u> <input type="radio"/> <u>NO</u> <input type="radio"/> <u>NO</u>	<b>SCHOOL DISTRICT BALLOT QUESTION 1 - APPROVAL OF SCHOOL DISTRICT BOND ISSUE</b> If School District Question 1 is approved, shall the school board of Independent School District No. 833 (South Washington County Schools) also be authorized to issue its general obligation school bonding bonds in an amount not to exceed \$50,000,000 to provide funds for the acquisition and betterment of school sites and facilities, including the acquisition of land for and the construction and equipping of a new middle school building, the repair, renovation, remodeling, upgrading, equipping and resurfacing of the existing Climen Middle School site and facility for use as an elementary school and the construction of outdoor and improvements to other existing middle school sites and facilities? <input type="radio"/> YES <input type="radio"/> NO BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.
<b>SCHOOL DISTRICT QUESTIONS</b> To vote for a question, fill in the oval next to the word "YES" on that question. To vote against a question, fill in the oval next to the word "NO" on that question. <b>SCHOOL DISTRICT BALLOT QUESTION 2 - APPROVAL OF SCHOOL DISTRICT BOND ISSUE</b> The board of Independent School District No. 833 (South Washington County Schools) has proposed to increase its general education revenue by \$320 per pupil. The proposed new referendum revenue authorization would be applicable for ten years, beginning with bonds payable in 2018, unless otherwise revoked or reduced as provided by law. Shall the increase in the revenue proposed by the board of Independent School District No. 833 be approved? <input type="radio"/> YES <input type="radio"/> NO BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.	<b>SCHOOL DISTRICT BALLOT QUESTION 2 - APPROVAL OF SCHOOL DISTRICT BOND ISSUE</b> If School District Question 1 and School District Question 2 are approved, shall the school board of Independent School District No. 833 (South Washington County Schools) also be authorized to issue its general obligation school building bonds in an amount not to exceed \$10,000,000 to provide funds for the acquisition and betterment of school sites and facilities, including the construction and equipping of outdoor and improvements to the three existing high school sites and facilities and to the fourteen existing elementary school sites and facilities? <input type="radio"/> YES <input type="radio"/> NO BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.

ISD 833 Woodbury PA, PA

EXHIBIT  
2

See Exhibit 2.

42. The Canvassing Board erred when it failed to count the Ballot No. 2 as a “no” vote.
43. It is not “impossible” to discern the intent of the voter on Ballot No. 2 under Minn. Stat. § 204C.22, subd. 6.
44. It is not impossible to discern the intent of the voter of Ballot No. 2 as a “no” vote.
45. Ballot No. 2 must be counted as a “no” vote.
46. The unofficial minutes of the Canvassing Board inaccurately reflects the actual motion made and voted upon by the Board. **Exhibit C.** The minutes reflect the motion made was a “non-vote:”

“Katie Schwartz motioned to accept this ballot as a non-vote....”

*See Exhibit C.*

47. The motion voted upon was actually a “motion to accept the ballot as ambiguous and as not a ‘no’ vote.” 23:51 Canvassing Board Meeting Recording, **Exhibit B.**
48. The word “ambiguity” is not reflected in the Kaardal letter where he identifies Minnesota Statute § 204C.22 and subdivisions 1, 2, 3a, 6, 10, 11, and 13.
49. Nevertheless, the Canvassing Board’s determination of Ballot No. 2 is inconsistent with its decision to accept Ballot No. 15 as a “no” vote for School District Ballot Question No. 2.
50. The Canvassing Board counted Ballot No. 15 as a “no” vote. *See Exhibit 15; Exhibit C.*
51. It was not impossible to discern the intent of the voter regarding Ballot No. 15, thus the Canvassing Board was correct to count the ballot as a “no” vote.
52. Ballot No. 2 and Ballot No. 15 are marked exactly the same. *Compare Exhibit 2 with Exhibit 15.*

ISD 833 Referendum Question #1  
 Precinct: 2  
 Challenged Ballot # 2  
 Challenged by: 1

**GENERAL ELECTION BALLOT**  
**INDEPENDENT SCHOOL DISTRICT NO. 833**  
**(SOUTH WASHINGTON COUNTY SCHOOLS)**  
**NOVEMBER 3, 2015**

**INSTRUCTIONS TO VOTERS:**  
 To vote, complete 12 in the circle next to your choice for the 12

SCHOOL DISTRICT OFFICES	SCHOOL DISTRICT QUESTIONS
<b>SCHOOL BOARD MEMBER - VOTE FOR UP TO THREE</b>	<b>SCHOOL DISTRICT BALLOT QUESTION 1 - APPROVAL OF SCHOOL DISTRICT BOND ISSUE</b>
<input type="radio"/> MICHELLE WHITE <input type="radio"/> DEAN BARTON <input type="radio"/> JOE BLAVIN <input type="radio"/> HOLLY LITZ <input type="radio"/> PATRICIA DRISCOLL <input type="radio"/> ANDREA MAYER-BRUESTLE <input type="radio"/> RON KATH <input type="radio"/> MISSA FAY <input type="radio"/> MICKI FAY <input type="radio"/> ANNE FAY	<p>If School District Question 1 is approved, shall the school board of Independent School District No. 833 (South Washington County Schools) also be authorized to issue its general obligation school building bonds in an amount not to exceed \$80,000,000 to provide funds for the acquisition and betterment of school sites and facilities, including the acquisition of land for and the construction and equipping of a new middle school facility; the repair, renovation, remodeling, upgrading, equipping and reupholstering of the existing Olman Middle School site and facility for use as an elementary school; and the construction of additional and improvements to other existing middle school sites and facilities?</p> <input type="radio"/> YES <input type="radio"/> NO
<p>BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.</p>	
<b>SCHOOL DISTRICT QUESTIONS</b>	<b>SCHOOL DISTRICT BALLOT QUESTION 2 - APPROVAL OF SCHOOL DISTRICT BOND ISSUE</b>
<p>To vote for a question, fill in the oval next to the word "YES" on that question. To vote against a question, fill in the oval next to the word "NO" on that question.</p> <p><b>SCHOOL DISTRICT BALLOT QUESTION 1 - APPROVAL OF SCHOOL DISTRICT REFERENDUM REVENUE AUTHORIZATION</b></p> <p>The board of Independent School District No. 833 (South Washington County Schools) has proposed to increase its general education revenue by \$225 per pupil. The proposed new referendum revenue authorization would be applicable for ten years, beginning with the year 2018, unless otherwise revised or reduced as provided by law. Shall the increase in the revenue proposed by the board of Independent School District No. 833 be approved?</p> <input type="radio"/> YES <input type="radio"/> NO	<p>If School District Question 1 and School District Question 2 are approved, shall the school board of Independent School District No. 833 (South Washington County Schools) also be authorized to issue its general obligation school building bonds in an amount not to exceed \$40,000,000 to provide funds for the acquisition and betterment of school sites and facilities, including the construction and equipping of additional and improvements to the three existing high school sites and facilities and to the fourteen existing elementary school sites and facilities?</p> <input type="radio"/> YES <input type="radio"/> NO
<p>BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.</p>	
<p>ISD 833 Woodbury Pl, P3, P4</p> <div style="border: 1px solid black; padding: 5px; display: inline-block;">EXHIBIT 2</div>	

Exhibit 2

ISD 833 Referendum Question #2  
 Precinct: 15  
 Challenged Ballot # 15  
 Challenged by: 1

**GENERAL ELECTION BALLOT**  
**INDEPENDENT SCHOOL DISTRICT NO. 833**  
**(SOUTH WASHINGTON COUNTY SCHOOLS)**  
**NOVEMBER 3, 2015**

**INSTRUCTIONS TO VOTERS:**  
 To vote, complete 12 in the circle next to your choice for the 12

SCHOOL DISTRICT OFFICES	SCHOOL DISTRICT QUESTIONS
<b>SCHOOL BOARD MEMBER - VOTE FOR UP TO THREE</b>	<b>SCHOOL DISTRICT BALLOT QUESTION 1 - APPROVAL OF SCHOOL DISTRICT BOND ISSUE</b>
<input type="radio"/> DEAN BARTON <input type="radio"/> JOE BLAVIN <input type="radio"/> HOLLY LITZ <input type="radio"/> PATRICIA DRISCOLL <input type="radio"/> ANDREA MAYER-BRUESTLE <input type="radio"/> RON KATH <input type="radio"/> MICHELLE WHITE <input type="radio"/> MISSA FAY <input type="radio"/> MICKI FAY <input type="radio"/> ANNE FAY	<p>If School District Question 1 is approved, shall the school board of Independent School District No. 833 (South Washington County Schools) also be authorized to issue its general obligation school building bonds in an amount not to exceed \$80,000,000 to provide funds for the acquisition and betterment of school sites and facilities, including the acquisition of land for and the construction and equipping of a new middle school facility; the repair, renovation, remodeling, upgrading, equipping and reupholstering of the existing Olman Middle School site and facility for use as an elementary school; and the construction of additional and improvements to other existing middle school sites and facilities?</p> <input type="radio"/> YES <input type="radio"/> NO
<p>BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.</p>	
<b>SCHOOL DISTRICT QUESTIONS</b>	<b>SCHOOL DISTRICT BALLOT QUESTION 2 - APPROVAL OF SCHOOL DISTRICT BOND ISSUE</b>
<p>To vote for a question, fill in the oval next to the word "YES" on that question. To vote against a question, fill in the oval next to the word "NO" on that question.</p> <p><b>SCHOOL DISTRICT BALLOT QUESTION 1 - APPROVAL OF SCHOOL DISTRICT REFERENDUM REVENUE AUTHORIZATION</b></p> <p>The board of Independent School District No. 833 (South Washington County Schools) has proposed to increase its general education revenue by \$225 per pupil. The proposed new referendum revenue authorization would be applicable for ten years, beginning with the year 2018, unless otherwise revised or reduced as provided by law. Shall the increase in the revenue proposed by the board of Independent School District No. 833 be approved?</p> <input type="radio"/> YES <input type="radio"/> NO	<p>If School District Question 1 and School District Question 2 are approved, shall the school board of Independent School District No. 833 (South Washington County Schools) also be authorized to issue its general obligation school building bonds in an amount not to exceed \$40,000,000 to provide funds for the acquisition and betterment of school sites and facilities, including the construction and equipping of additional and improvements to the three existing high school sites and facilities and to the fourteen existing elementary school sites and facilities?</p> <input type="radio"/> YES <input type="radio"/> NO
<p>BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.</p>	
<p>ISD 833 Cottage Grove Pl, P3, P4, District</p> <div style="border: 1px solid black; padding: 5px; display: inline-block;">EXHIBIT 15</div>	

Exhibit 15

53. Ballot No. 2 should be counted, like that of Ballot No. 15, as a "no" vote.

54. The Canvassing Board's decision not to count Ballot No. 2 as a "no" vote should be reversed.

55. The Ballot No. 2 should be counted as a "no" vote.

C. Ballot No. 9 is challenged, but the Canvassing Board determines it as a “non-vote” — referring to it as “ambiguous” — but it is *not* impossible to discern the voter’s intent from the face of the ballot.

The published unofficial minutes of the Canvassing Board inaccurately reflects motions made on disputed ballots.

56. Richardson and Mayer-Bruestle challenged Ballot No. 9 through Kaardal’s letter under paragraph “K” which reflected the basis for the challenge of the election judges not to count the ballot as a “no” vote:

Ballot no. 9 has the letter “o” in “NO” filled out rather than the oval. Based on Minnesota Statute § 204C.22, subd. 6, “If a mark (X) is made out of its proper place, but so near a name or space as to indicate clearly the voter’s intent, the vote shall be counted.” Here the voter’s intent is clearly indicated by the voter having filled out the oval space in “NO” which is “so near” “NO” to indicate clearly the voter’s intent to vote “no.” It was an obvious error for the election judges not to count ballot no. 9 as a “no” vote.

*See Exhibit A.*

57. On School District Ballot Question 2, the voter filled in the letter “O” of “NO” instead of the oval to the left of “NO.”

58. The Canvassing Board voted on Ballot No. 9, **Exhibit 9**, finding it “ambiguous” and not a “no” vote by a 3-2 vote. *See* 1.06:00 Canvassing Board Meeting Recording, **Exhibit B**;

- Kim Blaeser: Yes
- Kevin Corbid: No
- Annette Fritz: No
- Ron Kath: Yes
- Katie Schwartz: Yes

59. Ballot No. 9 was not counted.

60. The Canvassing Board did not make a finding that it was “impossible” to determine the voter’s intent.

61. The mark of the voter on Ballot No. 9 while made out of its proper place, was so near the space as to indicate clearly the intent of the voter; it should have been counted as a “no” vote:

GD 833 Referendum Question #2  
Account Precinct: P2  
Challenged Ballot #: 7  
Challenged by: Katie Schwartz

**GENERAL ELECTION BALLOT**  
**INDEPENDENT SCHOOL DISTRICT NO. 833**  
**(SOUTH WASHINGTON COUNTY SCHOOLS)**  
**NOVEMBER 3, 2015**

**INSTRUCTIONS TO VOTERS:**  
To vote, mark an X in the oval next to your choice for the

SCHOOL DISTRICT OFFICES	SCHOOL DISTRICT QUESTIONS
<b>SCHOOL BOARD MEMBER: VOTER UP TO THREE:</b> <input type="radio"/> RON KATH <input checked="" type="radio"/> MICHELLE WITTE <input type="radio"/> DEAN BARTON <input type="radio"/> JOE BLAVIN <input type="radio"/> MOLLY LITZ <input type="radio"/> PATRICIA DISCOLL <input checked="" type="radio"/> ANDREA BAYER-BRUENTLE <input type="radio"/> Mark Fee <input type="radio"/> Mark Fee	<b>SCHOOL DISTRICT BALLOT QUESTION 2: APPROVAL OF SCHOOL DISTRICT BOND ISSUE:</b> If School District Question 1 is approved, shall the school board of Independent School District No. 833 (South Washington County Schools) also be authorized to issue its general obligation school building bonds in an amount not to exceed \$95,000,000 to provide funds for the acquisition and betterment of school sites and facilities, including the acquisition of land for and the construction and equipping of a new middle school facility, the renovation, remodeling, upgrading, equipping and repurposing of the existing Cliven Middle School site and facility for use as an elementary school and the construction of additions and improvements to other existing middle school sites and facilities? <input type="radio"/> YES <input type="radio"/> NO <input type="radio"/> NP
<b>SCHOOL DISTRICT QUESTIONS</b> To vote for a question, fill in the oval next to the word "YES" on that question. To vote against a question, fill in the oval next to the word "NO" on that question.	<b>SCHOOL DISTRICT BALLOT QUESTION 1: APPROVAL OF SCHOOL DISTRICT REFERENDUM REVENUE AUTHORIZATION:</b> The board of Independent School District No. 833 (South Washington County Schools) has petitioned to increase its general education revenue by \$553 per pupil. The proposed new referendum revenue authorization would be applicable for six years, beginning with those payable in 2016, unless otherwise revised or reduced as provided by law. Shall the increase in the revenue proposed by the board of Independent School District No. 833 be approved? <input type="radio"/> YES <input checked="" type="radio"/> NO

BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.

BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.

BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.

EXHIBIT  
9

SD 833 November 17, 75, P18, P11

See Exhibit 9.

62. Not counting Ballot No. 9 as a “no” vote was in error.

63. The unofficial minutes of the Canvassing Board inaccurately reflects the actual motion made and voted upon by the Board. Exhibit C. The minutes reflect the motion made was a “non-vote:”

“Katie Schwartz motioned to accept this ballot as a non-vote....”



*See Exhibit C.*

64. The motion voted upon was actually a “motion to leave as ambiguous.” *See* 1.06:00

Canvassing Board Meeting Recording, **Exhibit B.**

65. The word “ambiguity” is not reflected in the Kaardal letter where he identifies Minnesota

Statute § 204C.22 and subdivisions 1, 2, 3a, 6, 10, 11, and 13.

66. It is not impossible to discern the intent of the voter.

67. The Canvassing Board did not determine the intent of the voter as “impossible” to

discern.

68. The Canvassing Board’s decision not to count Ballot 9 as a “no” vote should be

reversed.

69. The Ballot No. 9 should be counted as a “no” vote.

**D. The voter’s crossing through a “yes” oval and filling out of a  
“no” oval is a “no” vote as found in Ballot No. 11.**

70. Richardson and Mayer-Bruestle challenged Ballot No. 11 through Kaardal’s letter under

paragraph “K” which reflected the basis for the challenge of the election judges not to

count the ballot as a “no” vote:

Ballot no. 11 has both ovals filled in for question 2, but an “X” through the “yes” oval. Notably, the face of the ballot has three ovals filled out for candidates, has an oval filled out for “no” on question 3 and has similar markings on question 1 as to question 2: both ovals filled in, but an “X” through the “yes” oval. Minnesota Statute § 204C.22, subd. 11 states on attempted erasures, Subd. 11:

Attempted erasures. If the names of two candidates have been marked, and an attempt has been made to erase or obliterate one of the marks, a vote shall be counted for the remaining marked candidate.

Here, the voter has attempted to obliterate the "yes" oval by drawing an "X" on it; under these circumstances, subdivision 11 requires that the remaining marked oval for "no" be counted. It was obvious error for the election judges not to count ballot no. 11 as a "no" vote.

See Exhibit A.

71. The "X" through the filled in "yes" oval is an attempt to obliterate that mark.

72. The Kaardal letter states that when there is an attempt to obliterate one of the marks, "a vote shall be counted for the [other marked oval]." See Exhibit A.

73. It is not impossible to discern the intent of the voter regarding Ballot No. 11:

11 OFFICIAL BALLOT Judge <i>Reed</i> Judge <i>J. V.</i>		ISD 833 Referendum Question #2 Recount Precinct: <i>P-5 Woodbury</i> Challenged Ballot #: <i>11</i> Challenged by: <i>Michelle Witte</i>	
<b>GENERAL ELECTION BALLOT</b> <b>INDEPENDENT SCHOOL DISTRICT</b> <b>(SOUTH WASHINGTON COUNTY SCHOOLS)</b> <b>NOVEMBER 3, 2015</b>			
<b>INSTRUCTIONS TO VOTERS:</b> To vote, completely fill in the oval(s) next to your choice(s) like this: ●			
<b>SCHOOL DISTRICT OFFICES</b>		<b>SCHOOL DISTRICT QUESTIONS</b>	
<b>SCHOOL BOARD MEMBER</b> VOTE FOR UP TO THREE:		<b>SCHOOL DISTRICT BALLOT QUESTION 2</b> <b>APPROVAL OF SCHOOL DISTRICT BOND ISSUE</b>	
<input checked="" type="radio"/> MOLLY LUTZ <input type="radio"/> PATRICIA DRISCOLL <input type="radio"/> ANDREA MAYER-BRUESTLE <input type="radio"/> RON KATH <input checked="" type="radio"/> MICHELLE WITTE <input type="radio"/> DEAN BARTON <input checked="" type="radio"/> JOE SLAVIN <input type="radio"/> Write, if any <input type="radio"/> Write, if any <input type="radio"/> Write, if any		If School District Question 1 is approved, shall the school board of Independent School District No. 833 (South Washington County Schools) also be authorized to issue its general obligation school building bonds in an amount not to exceed \$98,000,000 to provide funds for the acquisition and betterment of school sites and facilities, including the acquisition of land for and the construction and equipping of a new middle school facility; the repair, renovation, remodeling, upgrading, equipping and repurposing of the existing Otman Middle School site and facility for use as an elementary school; and the construction of additions and improvements to other existing middle school sites and facilities?  <input checked="" type="radio"/> YES <input checked="" type="radio"/> NO  BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.	
<b>SCHOOL DISTRICT QUESTIONS</b>		<b>SCHOOL DISTRICT BALLOT QUESTION 3</b> <b>APPROVAL OF SCHOOL DISTRICT BOND ISSUE</b>	
To vote for a question, fill in the oval next to the word "YES" on that question. To vote against a question, fill in the oval next to the word "NO" on that question.		If School District Question 1 and School District Question 2 are approved, shall the school board of Independent School District No. 833 (South Washington County Schools) also be authorized to issue its general obligation school building bonds in an amount not to exceed \$46,500,000 to provide funds for the acquisition and betterment of school sites and facilities, including the construction and equipping of additions and improvements to the three existing high school sites and facilities and to the fourteen existing elementary school sites and facilities?  <input type="radio"/> YES <input checked="" type="radio"/> NO  BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.	
<b>SCHOOL DISTRICT BALLOT QUESTION 1</b> <b>APPROVAL OF SCHOOL DISTRICT REFERENDUM REVENUE AUTHORIZATION</b>		BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.	
The board of Independent School District No. 833 (South Washington County Schools) has proposed to increase its general education revenue by \$525 per pupil. The proposed new referendum revenue authorization would be applicable for ten years, beginning with taxes payable in 2016, unless otherwise revoked or reduced as provided by law. Shall the increase in the revenue proposed by the board of Independent School District No. 833 be approved?  <input checked="" type="radio"/> YES <input type="radio"/> NO			
BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.		<b>EXHIBIT</b> <i>11</i>	
ISD 833 Newport, Woodbury P14, P15, P16			

*See Exhibit 11.*

74. The Canvassing Board also allowed testimony of Carol Peterson, election judge supervisor, regarding Ballot No. 11 as to what happened at the recount and desire to have the ballot not counted as a “non-vote.” *See* 1.20:30 Canvassing Board Meeting Recording, **Exhibit B**.
75. To the contrary, Kaardal’s letter reflects Minnesota Statute § 204C.22, subd. 2 and the quote from that subdivision as “Intent shall be ascertained only from the face of the ballot.”
76. The Canvassing Board’s decision to allow the testimony of Carol Peterson regarding remarks or other statements made concerning Ballot No. 11 was violative.
77. The Canvassing Board erred when it did not count Ballot No. 11 as a “no” vote regarding the School District Ballot Question 2.
78. The Canvassing Board’s decision not to count Ballot No. 11 as a “no” vote should be reversed.
79. Ballot No. 11 should be counted as a “no” vote.

**E. Ballot No. 16 is challenged, but the Canvassing Board determines it as a “non-vote” — referring to it as “ambiguous” — but, it is *not* impossible to discern the voter’s intent from the face of the ballot.**

**The published unofficial minutes of the Canvassing Board inaccurately reflects motions made on disputed ballots.**

80. Richardson and Mayer-Bruestle challenged Ballot No. 16 through Kaardal’s letter under paragraph “P” which reflected the basis for the challenge of the election judges not to count the ballot as a “no” vote:

Ballot no. 16 has the letter “o” in “NO” filled out rather than the oval. Based on Minnesota Statute § 204C.22, subd. 6, “If a mark (X) is made out of its proper place, but so near a name or space as to indicate clearly the voter’s intent, the vote shall be counted.” Here the voter’s intent is clearly indicated by the voter having filled out the oval space in “NO” which is “so near” “NO” to indicate clearly the voter’s intent to vote “no.” It was an obvious error for the election judges not to count ballot no. 16 as a “no” vote.

*See Exhibit A.*

81. On School District Ballot Question 2, the voter filled in the letter “O” of “NO” instead of the oval to the left of “NO.”

82. The Canvassing Board voted on Ballot No. 16, **Exhibit 16**, finding it “ambiguous” and not a “no” vote by a 3-2 vote. *See* 1.06:00 Canvassing Board Meeting Recording, **Exhibit B**;

- Kim Blaeser: Yes
- Kevin Corbid: No
- Annette Fritz: No
- Ron Kath: Yes
- Katie Schwartz: Yes

83. Ballot No. 16 was not counted.

84. The Canvassing Board did not make a finding that it was “impossible” to determine the voter’s intent.

85. The mark of the voter on Ballot No. 16, while made out of its proper place, was so near the space as to indicate clearly the intent of the voter; it should have been counted as a “no” vote:

ISD 833 Referendum Question #2  
Precinct: 116  
Challenged Ballot #: 11616

**GENERAL ELECTION BALLOT**  
**INDEPENDENT SCHOOL DISTRICT NO. 833**  
**(SOUTH WASHINGTON COUNTY SCHOOLS)**  
**NOVEMBER 3, 2015**

**INSTRUCTIONS TO VOTERS:**  
To vote, complete #1 in the voting area to your choosing the YES.

SCHOOL DISTRICT OFFICES	SCHOOL DISTRICT QUESTIONS
<b>SCHOOL BOARD MEMBER - VOTE (X) UP TO THREE</b> <input type="radio"/> DEAN BARTON <input type="radio"/> JOE BLAVIN <input type="radio"/> MOLLY LUTZ <input type="radio"/> PATRICIA DRISCOLL <input type="radio"/> ANDREA MAYER-BRUETLE <input type="radio"/> RON KATH <input type="radio"/> MICHELLE WHITE <input type="radio"/> [blank] <input type="radio"/> [blank] <input type="radio"/> [blank]	<b>SCHOOL DISTRICT BALLOT QUESTION 2</b> <b>APPROVAL OF SCHOOL DISTRICT BOND ISSUE</b> If School District Question 1 is approved, shall the school board of Independent School District No. 833 (South Washington County Schools) also be authorized to issue its general obligation school building bonds in an amount not to exceed \$98,000,000 to provide funds for the acquisition and betterment of school sites and facilities, including the acquisition of land for and the construction and equipping of a new middle school facility; the repair, renovation, remodeling, upgrading, reconfiguring and repurposing of the existing Garret Middle School site and facility for use as an elementary school; and the construction of additions and improvements to other existing middle school sites and facilities? <input type="radio"/> YES <input checked="" type="radio"/> NO <b>BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.</b>
<b>SCHOOL DISTRICT QUESTIONS</b> To vote for a question, fill in the oval next to the word "YES" on that question. To vote against a question, fill in the oval next to the word "NO" on that question.	<b>SCHOOL DISTRICT BALLOT QUESTION 1</b> <b>APPROVAL OF SCHOOL DISTRICT REFERENDUM REVENUE AUTHORIZATION</b> The board of Independent School District No. 833 (South Washington County Schools) has proposed to increase its general education revenue by \$25 per pupil. The proposed new referendum revenue authorization would be applicable for ten years, beginning with fiscal year 2016, unless otherwise revised or reduced as provided by law. Shall the increase in the revenue proposed by the board of Independent School District No. 833 be approved? <input type="radio"/> YES <input checked="" type="radio"/> NO <b>BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.</b>

EXHIBIT  
116

(SLS 833) Cottage Grove #7, PL, PA, Denmark

See Exhibit 16.

- 86. Not counting Ballot No. 16 as a “no” vote was in error.
- 87. The Canvassing Board’s decision not to count Ballot 16 as a “no” vote should be reversed.
- 88. The unofficial minutes of the Canvassing Board inaccurately reflects the actual motion made and voted upon by the Board. Exhibit C. The minutes reflect the motion made was a “non-vote:”

“Katie Schwartz motioned to accept this ballot as a non-vote....”

See Exhibit C.

- 89. The motion voted upon was actually a “motion to keep the ballot as ambiguous.” See 1.43:21 Canvassing Board Meeting Recording, Exhibit B.
- 90. The word “ambiguity” is not reflected in the Kaardal letter where he identifies Minnesota Statute § 204C.22 and subdivisions 1, 2, 3a, 6, 10, 11, and 13.

91. It is not impossible to discern the intent of the voter.
92. The Canvassing Board did not determine the intent of the voter as impossible to discern.
93. The Canvassing Board's decision not to count Ballot No. 16 as a "no" vote should be reversed.
94. The Ballot No. 16 should be counted as a "no" vote.

**F. Ballot No. 18 is challenged, but the Canvassing Board determines it as a "non-vote" — referring to it as "ambiguous" — but, it is *not* impossible to discern the voter's intent from the face of the ballot.**

95. Richardson and Mayer-Bruestle challenged Ballot No. 18 through Kaardal's letter under paragraph "R" which reflected the basis for the challenge of the election judges not to count the ballot as a "no" vote:

Ballot no. 18 has the letters "n" and "o" in "NO" filled out rather than the oval. Based on Minnesota Statute § 204C.22, subd. 6, "If a mark (X) is made out of its proper place, but so near a name or space as to indicate clearly the voter's intent, the vote shall be counted." Here the voter's intent is clearly indicated by the voter having filled out the oval space in "NO" which is "so near" "NO" to indicate clearly the voter's intent to vote "no." It was an obvious error for the election judges not to count ballot no. 18 as a "no" vote.

96. On School District Ballot Question 2, the voter covered the word "NO" right next to the oval for a "no" vote found just left of the word "NO."
97. The Canvassing Board voted on Ballot No. 18, **Exhibit 18** as a "non vote." and not a "no" vote. *See* 1.54:50 Canvassing Board Meeting Recording, **Exhibit B**;

- Kim Blaeser: Yes
- Kevin Corbid: No
- Annette Fritz: No
- Ron Kath: Yes
- Katie Schwartz: Yes

98. Ballot No. 18 was not counted.

99. The Canvassing Board did not make a finding that it was “impossible” to determine the voter’s intent.

100. The mark of the voter on Ballot No. 18, while made out of its proper place, was so near the space as to indicate clearly the intent of the voter; it should have been counted as a “no” vote:

ISD 833 Referendum Question #1  
Precinct: 53400000104  
Challenged Ballot #: 18  
Challenged by: [illegible]

**OFFICIAL BALLOT**  
**GENERAL ELECTION BALLOT**  
**INDEPENDENT SCHOOL DISTRICT NO. 833**  
**(SOUTH WASHINGTON COUNTY SCHOOLS)**  
**NOVEMBER 3, 2015**

**INSTRUCTIONS TO VOTERS:**  
To vote correctly fill in the circles next to your choices like this:

SCHOOL DISTRICT QUESTIONS	SCHOOL DISTRICT QUESTIONS
<b>SCHOOL DISTRICT BALLOT QUESTION 1: APPROVAL OF SCHOOL DISTRICT REFERENDUM REVENUE AUTHORIZATION</b> The board of Independent School District No. 833 (South Washington County Schools) has proposed to increase its general education revenue by \$225 per page. The proposed new referendum revenue authorization would be applicable for ten years, beginning with taxes payable in 2016, unless otherwise revised or rescinded as provided by law. Shall the increase in the revenue proposed by the board of Independent School District No. 833 be approved? <input type="radio"/> YES <input checked="" type="radio"/> NO BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.	<b>SCHOOL DISTRICT BALLOT QUESTION 2: APPROVAL OF SCHOOL DISTRICT BOND ISSUE</b> If School District Question 1 and School District Question 2 are approved, shall the school board of Independent School District No. 833 (South Washington County Schools) and be authorized to issue its general obligation school building bonds in an amount not to exceed \$48,500,000 to provide funds for the acquisition and betterment of school sites and facilities, including the construction and equipping of buildings and improvements to the three existing high school sites and facilities and to the fourteen existing elementary school sites and facilities? <input type="radio"/> YES <input checked="" type="radio"/> NO BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.
<b>SCHOOL DISTRICT BALLOT QUESTION 2: APPROVAL OF SCHOOL DISTRICT BOND ISSUE</b> If School District Question 1 is approved, shall the school board of Independent School District No. 833 (South Washington County Schools) also be authorized to issue its general obligation school building bonds in an amount not to exceed \$38,000,000 to provide funds for the acquisition and betterment of school sites and facilities, including the acquisition of land for and the construction and equipping of a new middle school facility; the repair, renovation, remodeling, upgrading, equipping and modernizing of the existing Owen Middle School site and facility for use as an elementary school, and the construction of additions and improvements to other existing middle school sites and facilities? <input type="radio"/> YES <input checked="" type="radio"/> NO BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.	

VOTE FRONT AND BACK OF BALLOT  
St. Paul, Pa. 24

EXHIBIT  
18

See Exhibit 18.

101. Not counting Ballot No. 18 as a “no” vote was in error.

102. The Ballot No. 18 should be counted as a “no” vote.

**III. Waiver of a surety bond is justified under the circumstances of this election contest.**

103. The Contestants Richardson, Mayer-Bruestle and Holmstadt, while filing a cash bond of a minimum of \$5,000, nevertheless, should not be required to file any surety bond under the circumstances of this election contest. There is a reasonable likelihood of success that the Contestants will prevail. Minn. Stat. § 209.07, subd. 4. The South Washington County Canvassing Board made fundamental errors by failing to follow Minnesota Statute § 204C.22 to discern the intent of each voter on the five ballots at issue. The Canvassing Board made no finding of impossibility of discerning intent and improperly determined ballots as “ambiguous.” Ambiguity is not referenced in the governing statutory provisions under § 204C.22. Thus, considering the matters as set forth in this notice of contest, the Contestants should not be required to post a bond or bear any further costs relating to the Contest.

**RELIEF REQUESTED**

WHEREFORE, the Contestants request this Court for an order and judgment as follows:

1. As to the School District Ballot Question No. 2, this Court reverse the South Washington County Canvassing Board decision regarding the identified Ballot No. 2 as ambiguous or a non-vote and that Ballot No. 2 be counted as a “no” vote;
2. As to the School District Ballot Question No. 2, this Court reverse the South Washington County Canvassing Board decision regarding the identified Ballot No. 9 as ambiguous or a non-vote and that Ballot No. 9 be counted as a “no” vote;



3. As to the School District Ballot Question No. 2, this Court reverse the South Washington County Canvassing Board decision regarding the identified Ballot No. 11 as ambiguous or a non-vote and that Ballot No. 11 be counted as a “no” vote;
4. As to the School District Ballot Question No. 2, this Court reverse the South Washington County Canvassing Board decision regarding the identified Ballot No. 16 as ambiguous or a non-vote and that Ballot No. 16 be counted as a “no” vote;
5. As to the School District Ballot Question No. 2, this Court reverse the South Washington County Canvassing Board decision regarding the identified Ballot No. 18 as a non-vote and that Ballot No. 18 be counted as a “no” vote;
6. That the ballots identified as Ballot Nos. 2, 9, 11, 16, and 18 be added to and counted to the most recent total of “no” votes to reflect a corrected total of 6,840 “no” votes against School District Ballot Question No. 2;
7. That this Court declare a tie vote of 6,840 “yes” votes and 6,480 “no” votes regarding the School District Question No. 2;
8. That this Court declare School District Question No. 2 as defeated;
9. Find that the South Washington County Canvassing Board vote results regarding School District Question No. 2 as invalid and declare that its certification of the election results regarding School District Question No. 2 as of November 25, 2015 as invalid;
10. That this Court require the South Washington County Canvassing Board to reconvene within 10 days of the date of this order to add the five ballots as “no” votes to the final total of “no” votes, and certify the School District Question No. 2 election as a tie vote and thus defeated;

11. Order that no surety bond is required in this case because of the reasonable likelihood that Contestants will prevail and that filing the bond would impose an undue hardship on Contestants; and
12. That the Court order such other and further relief as it deems just and proper to the Contestants.

Dated: December 2, 2015



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*Attorneys for Contestants*

**ACKNOWLEDGMENT**

The undersigned hereby acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. §549.211, Subd. 3, to the party against whom the allegations in this pleading are asserted.



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Erick G. Kaardal