

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

JW, as parent and legal guardian of AW, a minor,
SH, as parent and legal guardian of LH, a minor,
and DB, as parent and legal guardian of BB, a
minor, and JD, as parent and legal guardian of
ZD, a minor,

Case Type: Civil Other/Miscellaneous
Case No: 27-CV-20-11479

Plaintiffs,

AMENDED COMPLAINT

vs.

Minnesota State High School League,

Defendant.

Plaintiffs JW, as parent and legal guardian of AW, SH, as parent and legal guardian of LH, DB, as parent and legal guardian of BB, and JD, as parent and legal guardian of ZD (collectively, “Plaintiffs”) for their Complaint against Defendant Minnesota State High School League (the “MSHSL” or the “League”), state and allege as follows:

INTRODUCTION

1. The MSHSL and its Board did not learn any lesson from their ill-conceived attempt to cancel fall high school football and volleyball seasons in August. Even after reversing its decisions on September 21, the Board has continued to ignore the law and the most recent and relevant evidence and guidance from the Department of Health and Department of Education.

2. While allowing football and volleyball to play, the Board arbitrarily limited football spectators to 250 and banned volleyball spectators altogether. The Board and League staff either never reviewed or they reviewed and ignored recent MDE and MDH guidance expressly allowed 250 or more spectators at indoor athletic events and up to 1,500 spectators outdoors.

3. The MSHSL has also ignored this lawsuit and the law. Like its dictates on August 4, the Board's most recent mandates violate the League's governing documents and Minnesota law. Meanwhile, the League's attempts to justify its unlawful acts have no support in law or logic.

4. The Board may not ignore its Representative Assembly elected from its member high schools based on alleged complications that the Board is allowed to circumvent in case of emergency. Even more remarkably, the League alleges that "the Representative Assembly cannot" review and discuss "guidance from state, federal, and medical experts" and that the Board has particular expertise in this field. In reality, the only reason the Representative Assembly "cannot" review any guidance is because the Board cancelled its meeting. And, of course, the Board has not demonstrated any inclination to actually review relevant guidance or evidence.

5. Plaintiffs' goal was and remains simply to hold the MSHSL to its own advertised beliefs and enforce its own rules and Bylaws. Compliance with "League rules **is essential for all** . . .," even the League itself. Plaintiffs, their families, and thousands of others, will be dramatically harmed by the League's arbitrary and unlawful actions. Plaintiffs seek relief from the Court to prevent further harm.

THE PARTIES

6. Plaintiff AW lives with her parents in Rockford, Minnesota. She recently began her senior year at an MSHSL-member high school where she has been on the honor roll.

7. AW has played volleyball since second grade and has played for club teams and for her high school. She was elected captain of her high school volleyball team and is very excited to play during the 2020-2021 school year. AW has also played golf since elementary school and has played for her high school golf team in addition to volleyball. She looks forward to playing golf for her high school this spring.

8. Plaintiff LH lives with his parents in Cold Spring, Minnesota. He recently began his senior year at an MSHSL-member high school where he has been on the honor roll.

9. LH has played football, basketball, and baseball since elementary school. He was elected as one of the captains of his football team and looks forward to playing football, basketball, and baseball for his high school during the 2020-2021 school year.

10. Plaintiff BB lives with his parents in Richmond, Minnesota. He recently began his junior year at an MSHSL-member high school where he has been on the honor roll.

11. BB has played football since the fourth grade and baseball since the second grade. He looks forward to playing both football and baseball during the 2020-2021 school year.

12. Plaintiff ZD lives with her parents in Starbuck, MN. ZD recently began her senior year at an MSHSL-member high school where she has been on the honor roll. ZD is President of her school's student council and was accepted as a member of the National Honor Society in her junior year of high school. ZD was diagnosed with Type 1 diabetes when she was nine years old. This has not prevented her participation in athletics.

13. ZD has played volleyball since elementary school and has played for club teams and for her high school. She was elected captain of her high school volleyball team for her senior year and is excited to play during the 2020-2021 school year.

14. ZD has also played softball since elementary school and has played for club teams and for her high school. She was elected captain of her high school softball team for her senior year and is excited to play during the 2020-2021 school year. ZD has also been a member of her high school's trap shooting team in addition to participating in volleyball and softball.

15. Defendant Minnesota State High School League is a Minnesota nonprofit corporation and a voluntary association of high schools. The League's Registered Office Address

is 2100 Freeway Blvd., Brooklyn Center, MN 55430.

16. The League advertises its “Beliefs” that:

- “Collaborative relationships with parents enhance a school's opportunity to positively impact student success.”
- “Positive role models and an active involvement in a student's life by parents and others are critical to student success.” and
- “Compliance with school, community and League rules is essential for all activity participants.” (**Exhibit 1 attached hereto (“Ex. 1”).**)

17. Participation statistics collected by the National Federation of State High School Associations (“NFSHSA”) show that during the 2018-2019 school year: 16,398 girls participated in high school volleyball, 23,815 boys participated in 11-man high school football. In total, approximately 233,000 Minnesota students participate in League athletics and activities. The MSHSL is a member of NFSHSA.

JURISDICTION AND VENUE

18. This Court has jurisdiction over this matter pursuant to Minn. Stat. § 484.01 and Minn. Stat. § 555.01, *et seq.*

19. This Court has personal jurisdiction over the League because it is a domestic nonprofit corporation.

20. Venue is proper pursuant to Minn. Stat. § 549.02.

THE LEAGUE’S GOVERNANCE

21. The League is a Minnesota nonprofit corporation and voluntary association of high schools “whose governing boards have delegated their control of extracurricular activities” to the League. Minn. Stat. § 128C.01, subd. 1.

22. The League exercises authority delegated to it by its members, Minnesota public and private high schools. It also fulfills certain duties and has certain powers authorized pursuant

to Minn. Stat. §§ 128C.01-128C.24. Among other statutory duties, the League is required to “establish, conduct, and regulate championship high school tournament activities.” Minn. Stat. § 128C.05, subd. 1.

23. The League is governed by articles of incorporation (the “Articles”), corporate bylaws (referred to by the League, and hereinafter, as its “Constitution”), and regulations and rules governing eligibility for, and conduct of, athletics, members, and student athletes (referred to by the League, and hereinafter, as its “Bylaws”).

24. The League’s Articles, Constitution, and Bylaws are published on the League’s website in its “Official Handbook.” This published Official Handbook states, “The most current version of the Official Handbook is always posted on the League website — www.MSHSL.org.”

(Ex. 1.)

25. The League’s Articles list the League’s “educational purposes,” which include:

1. To provide, promote, extend, manage and administer a program of activities for youth of the schools of the state on district, region and state levels in the fields of athletics . . . on a competitive basis
2. To establish uniform and equitable rules for youth in inter-school activities.

3. To serve the best interests of member schools and their students by providing a medium of cooperation and coordination in educational fields of endeavor and a series of related activities on a state-wide basis, which they individually could not achieve or accomplish for their students and which aid and assist the schools in maintaining a constantly improved program.

26. The League’s Articles provide that the “general management of the affairs” of the League is vested in the League’s Board of Directors (the “Board”), however, the Board’s authority is expressly “subject to the limitations imposed by the Constitution”

27. The Board consists of twenty members, including four members appointed by Minnesota's Governor, two members appointed by the Minnesota Association of Secondary School Principals, and fourteen members elected according to the League's Constitution.

28. The Board has created five subcommittees, including an "Executive Committee" made up of the Board's President, Board's Vice President, and the chairs of the other four Board subcommittees. The League's Executive Director, Erich Martens ("Executive Director Martens"), is the "Staff Liaison" to the Executive Committee.

29. The League's Constitution also establishes a "Representative Assembly" made up of 48 elected representatives of member high schools from across the State of Minnesota. According to the Constitution, the "Representative Assembly is the legislative body of the . . . League in making and changing [the League's B]ylaws."

30. The Constitution requires the League to hold an annual meeting of the Representative Assembly in "May of each school year or as determined by the Board of Directors." The purpose of the annual meeting is, among other things, to allow the Representative Assembly to review League activities, finances and concerns and to consider and vote on amendments and resolutions, including amendments to the League's Bylaws.

31. Section 215 of the Constitution sets forth the requirements to amend the League's Bylaws. According to Constitution Section 215, Bylaws may be amended in one of two ways.

32. Constitution Sections 215.01-215.03 describe the process by which the League Bylaws may be permanently amended at the Representative Assembly's scheduled annual meeting. The process for proposing amendments at the Representative Assembly's annual meeting normally begins in the previous October when proposed Bylaw changes are submitted to the League's Executive Director. Nonetheless, the Board may ask that the Representative Assembly

to consider and vote on a potential Bylaw amendment at the Assembly's annual meeting without following the longer timeline if there is an "emergency" according to Constitution Section 215.03.

33. In case of an emergency, the Board may also ask the Representative Assembly to vote on Bylaw amendments outside of an annual meeting according to Constitution Section 215.05. This section provides a process by which the Representative Assembly may consider and approve temporary Bylaw amendments by mail, without meeting. If at least two-thirds of the Representative Assembly vote in favor of such an amendment, the amendment is immediately effective. However, such temporary amendment only remains in effect until the next regular meeting of the Representative Assembly, at which time the amendment must be resubmitted for action by the Representative Assembly.

34. The Board has no authority to amend the League's Bylaws. Any permanent or temporary amendment to the League's Bylaws must be approved by the Representative Assembly.

35. Member schools have never granted the League authority to control school property or otherwise dictate attendees at sporting events. Minnesota Statutes mandate that the boards of each individual public school

must have the general charge of the business of the district, the school houses, and of the interests of the schools thereof. The board's authority to govern, manage, and control the district; to carry out its duties and responsibilities; and to conduct the business of the district includes implied powers in addition to any specific powers granted by the legislature.

Minn. Stat. § 123B.02, subd. 1. Similarly, "It is the duty and the function of [every public school] district to furnish school facilities to every child of school age residing in any part of the district."

Id. § 123B.02, subd. 2. Consistent with these duties, each Minnesota public school "board may authorize the use of any schoolhouses in the district for . . . public meetings, . . . and other

community purposes that, in its judgment, will not interfere with their use for school purposes.”
Id. § 123B.51.

**THE LEAGUE’S ACTIONS AND THE BOARD’S ATTEMPTS
TO AMEND THE LEAGUE’S BYLAWS IN 2020**

36. On March 13, Minnesota Governor Tim Walz issued Executive Order 20-01, which declared a peacetime emergency related to the 2019 coronavirus (“COVID-19”).

37. On March 13, the League announced that until April 6:

- Participation in spring sports and activities is limited to practice and tryouts only; [and]
- Scrimmages, competitions, practices, training sessions or participation with other member school programs is not allowed.

(Ex. 2.)

38. On March 15, Governor Walz issued Executive Order 20-02 ordering the temporary closure of public schools.

39. On March 19, the MSHSL’s Executive Committee held an “emergency” meeting.

According to the minutes of this meeting:

[Then-Board Vice President] Novak moved and [Board member] DeClerk-Thompson voted to postpone the May 12 Representative Assembly Meeting. A roll call vote [of only the Executive Committee] was taken and the motion passed by unanimous voice vote.

(Ex. 3)

40. On April 23, the League announced that spring high school athletics and fine arts were cancelled for the remainder of the spring season. **(Ex. 4.)** The Board had not authorized this action—apparently League staff acted on their own initiative.

41. The Board met on April 24, using Zoom remote web conferencing. According to meeting minutes, the Board discussed the annual Representative Assembly meeting as follows:

Executive Director Martens stated there are factors which indicate that the Representative Assembly Meeting should be held face-to-face because of group caucuses and voting on the proposed amendments [to the League’s Bylaws]. An early June meeting was discussed but would need to be held prior to July 31. Novak moved and White seconded to table setting a date for the Representative Assembly Meeting. The motion passed by a roll call vote.

(Ex. 5.) The Minutes do not indicate why Executive Director Martens apparently believed that the Board and Executive Committee could caucus and vote during Zoom remote meetings, but the Representative Assemble should be required to meet face-to face. Nor do the Minutes indicate how requiring face-to-face meetings could be consistent with Constitution Section 215.05, which allows the Representative Assembly “[i]n case of an emergency” to consider and vote on amendments to the League’s Bylaws “by mail” without any meeting.

42. During the April 24, meeting, the Board voted to set tournament and start dates for the 2020-2021 athletic seasons (hereinafter, the “April Tournament Schedule”), including approving the following tournaments:

<i>Sponsored Activity</i>	<i>Weeks/ Games</i>	<i>Start Dates</i>	<i>Tournament Dates</i>
FALL			
Girls’ Tennis	11 / 16	Aug. 17	Oct. 27-30
Soccer	12 / 16	Aug. 17	QF: Oct. 27 – 29 Final: Nov. 2, 4 – 5
Cross Country Running	12 / 10	Aug. 17	Nov. 7
Football	15 / 9	Aug. 17	QF: Nov. 12-14 SF: Nov. 19-21 Prep Bowl: Nov. 27-28
Girls’ Volleyball	13 / 17	Aug. 17	Nov. 12-14
Girls’ Swimming & Diving	14 / 16	Aug. 17	Nov. 18-20
Adapted Soccer	12 / 16	Aug. 31	Nov. 20-21

(Id.)

43. The League did not hold any meeting of the Representative Assembly during the 2019-2020 school year as required by the League’s Constitution. The League has not held an annual meeting of the Assembly since May 2019.

44. On or about May 24, the League updated and posted a document titled “Volleyball Rules, Policies, and Bylaws.” This document was posted on the MSHSL’s website and remains on the site as of the date of this Amended Complaint. It states, in relevant part:

See the MSHSL Official Handbook Bylaw 501 for information regarding:

- Maximum Number of Contests

See the MSHSL Official Handbook Bylaw 502 for information regarding:

- Daily and Season Player Participation Limitations

CONTEST RULES

Refer to Bylaw 402 . . .

END OF SEASON

Refer to Bylaw 411 . . . [and]

Bylaw 409-2 specifically states that, “School officials shall be held responsible for the proper conduct of teams, team members, students and home spectators regardless of where the contest is being held.”

(Ex. 6.)

45. At a May 28 Executive Committee meeting there was a “[r]ecommendation to move Representative Assembly meeting to November 2020 due to COVID-19 pandemic.” The Executive Committee then voted “to move meeting to November.” **(Ex. 7.)**

46. On June 1, the Board met again. At this meeting, the Board ratified setting the date of the Representative Assembly meeting for November 17. The Board also discussed proposed Bylaw amendments and voted to forward two proposed amendments “to the Representative Assembly for their consideration.” **(Ex. 8.)**

47. The Board discussed returning to participation in sports at its July 14 Board meeting. According to the minutes, League staff planned “for an August 17th [fall sports] start date and is having daily discussions regarding contingency plans.” At the meeting, Board members were informed that League “staff will wait for information from the Governor regarding the reopening of schools and the three options being considered: distance learning, in-person learning, or a hybrid model.” The Board then voted to approve League “staff identifying a Task Force to include the Board Eligibility Committee and representatives from member schools to provide feedback and recommendations to League staff regarding return to participation.” (Ex. 9.)

48. League staff identified and recruited school representatives to participate on what the League deemed its Return to Participation Task Force (the “Task Force”). The Task force met by Zoom on July 16, July 22, July 27, July 29, and July 31. During its meetings, the Task Force discussed possible alternatives for returning to participation in the League’s fall sports, girls’ tennis, soccer, cross country, running, football, girls’ volleyball, girls’ swimming and diving, and adapted soccer.

49. At its July 22 meeting, the Task Force reviewed the requirements of League Bylaws 501 and 502 that set requirements for the length of each sports’ seasons, weeks of practice, weeks of tournaments, maximum number of contests, and daily and season player participation rules. At this meeting and others, the Task Force discussed modified fall sports schedules that the Task Force might recommend in relation to a return to participation for fall sports. (Ex. 10.)

50. As it met, the Task Force was asked by League staff or the Task Force Chair to develop two alternative models for returning to participation in fall sports. The Task Force’s discussions of regarding the two alternatives indicated a clear preference that all fall sports should

begin in August and have a season in the fall of 2020. However, the Task Force was never asked to provide its preference or rank the alternative proposals for each sport.

51. On July 30, Governor Walz issued Executive Order 20-82 that, together with the MDE’s “Safe Learning Plan 2020-21,” allowed Minnesota’s return to school in the fall to be based on localized decisions aligning with the current statistical situation and mitigation measures available in each school district.

52. On July 30, the League issued a press release noting Executive Order 20-82 and describing the Task Force’s work. It stated, in relevant part:

Minnesota Gov. Tim Walz’s announcement today the Minnesota State High School League’s Return to Participation Task Force will continue its work in developing programming options for the 2020-2021 school year to present to the League’s Board of Directors for final consideration and approval.

The task force, authorized by the Board of Directors at its meeting on July 14, consists of activities administrators from throughout Minnesota and is assisted by League staff. This group will present options for return to participation for member schools’ implementation of co-curricular activities on Tuesday, Aug. 4 during the board’s next scheduled meeting.

(Ex. 11.)

53. On or about August 3, the League updated a document titled “Football Rules, Policies, and Bylaws.” This document was posted on the MSHSL’s website and remains on the site as of the date of this Amended Complaint. It states, in relevant part:

See the MSHSL Official Handbook Bylaw 501 for information regarding:

- Maximum Number of Contests

See the MSHSL Official Handbook Bylaw 502 for information regarding:

- Daily and Season Player Participation Limitations

CONTEST RULES

Refer to Bylaw 402 . . .

END OF SEASON

Refer to Bylaw 411 . . . [and]

Bylaw 409-2 specifically states that, “School officials shall be held responsible for the proper conduct of teams, team members, students and home spectators regardless of where the contest is being held.”

(Ex. 12.)

54. Also on August 3, the Board convened another workshop via Zoom. The agenda for this workshop stated the Board would discuss the “Return to Participation Task Force . . . and Recommendations.” **(Ex. 13.)**

55. Later on August 3, the Board’s Executive Committee met. The Executive Committee discussed issues related to return to participation in fall sports. **(Ex. 14.)** The following day, the Board was informed that the Executive Committee had considered “guidance from the Minnesota Department of Health” (“MDH”). However, the full Board was not informed of what the MDH told the Executive Committee, nor was any copy of such guidance provided to the Board.

56. On August 4, the Board met for its official meeting beginning at 9:00 a.m. The meeting occurred via Zoom web conference. As a result, members of the Board had access to their computers or other devices to receive email during the Board meeting.

57. Before the Board took (or purported to take) any actions on August 4 regarding the return to participation in fall sports, Executive Director Martens sent a memorandum to the Board by email at 9:54 a.m. Metadata associated with the document indicates the memo was last modified at 8:54 a.m., before the Board meeting began. Martens’ memorandum stated, in relevant part:

The MSHSL Board of Directors, in recognizing the risks that are associated with both fine arts and athletic opportunities as well as the benefits that participation in these same activities provides, should only consider a plan to move forward with the initiation of fall sports at the beginning of the 2020-2021 school year, with the following requirements as a minimum:

- **Due to the high levels of risk involved in the sports of Football and Girls Volleyball, these sports will be delayed until a spring season.** This will require the further development of flexed seasons through the winter and spring to provide opportunities for participation in multiple activities with minimal overlap of seasons.

This memorandum also stated that the “the Executive Committee of the MSHSL Board of Directors has reviewed **all of the information presented at this time,**” but explained that the full Board only “reviewed the **prepared** options” (Ex. 15 (emphasis added).)

58. At its August 4 meeting, the Board voted to move fall volleyball and football seasons to a new, shortened spring season in 2021. A Board member made a motion to “move football to the spring under the option 2 of the task force.” There was little discussion regarding this motion. The Board was not informed that a second option was only included by the Task Force at the direction of League staff or the Task Force’s Chair. Nor was the Board informed that the consensus of the Task Force was that football should begin on August 17, along with all other sports. A Board member did acknowledge that moving football “is going to displace spring sports and so I understand the gravity of the decision we are about to make. And how it impacts more than just football players and coaches, clearly. . . . It is going to impact when we can start spring sports and how long those spring sports go” This did not prevent the Board from voting to approve the motion to move football to the spring.

59. After voting to move the sports to spring seasons, the Board approved fall 2020 practice periods for football and volleyball. The Board did not provide any explanation of how this was consistent with moving the sports to the spring or why two weeks was safe, but two months or any other period was unsafe.

60. During the Board’s discussion of fall sports, a Board member candidly acknowledged the Board’s decisions would disproportionately impact lower income students whose

families could not afford to participate in club sports. He also acknowledged that the Board was aware that students with higher incomes would participate in sports through club opportunities.

61. After the August 4 Board meeting ended, the League posted a press release regarding the Board's decisions (the "August 4 Press Release"). This document stated:

The decisions to provide seasons for Girls Tennis, Boys and Girls Cross Country, Boys and Girls Soccer and Girls Swimming and Diving beginning on Aug. 17 and move competition in Football and Girls Volleyball to a spring season were made based on:

- Governor Walz's Executive Order 20-82 declaring that the return to learning would be a localized decision aligning with the current statistical situation and mitigation measures available in each district,
- The Minnesota Department of Education's specific plan for returning to learning for the 2020-2021 school year,
- The Minnesota Department of Health's Guidance for Youth Sports along with the National Federation of High Schools Return to Sports document,
- The MSHSL Return to Participation Task Force multiple frameworks for returning to participation,
- Review of and feedback from lead physicians from the MSHSL Sports Medicine Advisory Committee.

(Ex. 16.)

62. These bullet points are not accurate. Of the listed information, the Board had only received information related to the Task Force in advance of, or related to, the August 4 Board meeting. And the document they received related to the Task Force showed two options for each sport, but did not explain how those options came to be listed, nor did the document explain the Task Force's consensus that all sports, including volleyball and football, should begin August 17.

63. The Board did not review any guidance from the MDH or Minnesota Department of Education ("MDE") in advance of its August 4 decisions related to football and volleyball. During the Board's discussion on August 4, a Board member admitted that the Board had not received or reviewed MDH guidance when he asked if the Board would "get any guidance from

the Minnesota Department of Health, or have we?” This did not prevent the Board from voting to cancel volleyball and football’s fall seasons.

64. The League’s August 4 Press Release included bullet points describing “minimum” requirements for fall sports. These bullet points were nearly identical to Executive Director Martens’ memorandum, written before the Board’s meeting even began. The Board had not actually voted on all of the bullet points. The following is a comparison between Martens’ memo written before the Board meeting and the August 4 Press Release posted after the meeting:

- All aspects of athletics including meetings, practices, competitions, transportation, and facility usage must align with the requirements of the Minnesota Department of Education plan for return to learning, must follow the requirements from the Minnesota Department of Health’s Guidance on Youth Sports, and must include the required actions identified in the Governor’s Executive Orders.
- Schools that choose to offer fall athletics (including ~~cross-country, soccer, girls swim and dive, and girls tennis~~ [Girls Tennis, Boys and Girls Cross Country, Boys and Girls Soccer and Girls Swimming and Diving](#)) may begin practice on Monday, August 17th. For schools that are required by localized metrics to be in a distance learning mode, practices are limited to virtual contact only.
- ~~Due to the high levels of risk involved in the sports of~~ Football and Girls Volleyball, ~~these sports~~ will be delayed until a spring season. This will require ~~the further~~ [development of flexed work in scheduling](#) seasons through the winter and spring to provide opportunities for participation in multiple activities with minimal overlap of seasons.
 - ~~□ Return to Participation for Adapted Soccer will be addressed through collaborative planning with the Minnesota Adapted Athletics Association and the MSHSL.~~
 - ~~□ Return to participation for all MSHSL Category II activities will be determined through activity specific planning and will be in alignment with the Return to Learning Plan provided by MDE.~~
- The first week of practice should focus on implementing effective protocols and routines for pre-participation screenings, effective social distancing, compliance with all health recommendations, establishment of pod limits of 25 or less, and additional actions

that mitigate the spread of disease and enhance safety of students and coaches.

- Athletic programs must follow the identified protocols for students or coaches who have tested positive, are experiencing symptoms consistent with a COVID-19 diagnosis, or have had exposure to an individual who has been diagnosed with COVID-19.
- The first day of competition is the later date of Monday, August 24th or the first possible date of competition as identified in the 500 series of MSHSL Bylaws per each activity.
- Interscholastic scrimmages will not be allowed.
- The number of teams involved in a competition will be limited ~~to no more than 3 teams at any one meet or competition.~~
- Season length will be reduced to 80% or less of the limit identified in Bylaw 501.
- The number of competitions will be reduced to 70% or less of the limit identified in Bylaw 501.
- Competitions must be held with local opponents, defined as teams within a conference, district or section, or are identified as local by school administration.
- Competitions held with opponents from other states are required to meet the following:
 - ~~Full compliance with all requirements of the MSHSL and MDH.~~
 - ~~Opponents from other states may not exceed a distance greater than 75 miles from the Minnesota member school.~~

(Compare Ex. 15 with Ex. 16.)

65. The Board has not changed the published April Tournament Schedule. The Official Handbook published on the League's website still lists the dates set by the Board on April 24.

66. The League's Official Handbook continues to list numerous League Bylaws that conflict with the Board's decisions on and after August 4. The Board has had ample time to request that the Representative Assembly consider changes to League Bylaws either through a scheduled meeting or available emergency amendment procedures. However, the Board has not done so.

**IN ACCEPTING THE RESULT DICTATED BY LEAGUE STAFF,
THE BOARD IGNORED RELEVANT INFORMATION**

67. In issuing its decisions on August 4, the Board did not request, receive, or review any information or testimony:

- from students or parents, coaches, or medical professionals;
- regarding the risk of COVID-19 for student athletes;
- about any risks or problems that cancelling fall sports may cause for student athletes or the families; or
- related to COVID-19 data from the numerous sports and activities in which Minnesota high school students participated during May, June, and July 2020, including club volleyball, club indoor swimming, football camps, and numerous other indoor and outdoor activities.

68. In contrast to the Board’s decision-making, the South Dakota High School Activities Association convened a task force regarding fall sports and activities that:

- included at least four doctors and medical representatives;
- publicly listed, and did not conceal, participation of specific state agency officials and school representatives;
- considered the importance of “Keeping Students Active and Involved” and research and data regarding “the impact of school closures and sport cancellations on the health of adolescent athletes . . .”; and
- allowed football and volleyball to play. (Ex. 17.)

**THE BOARD REVERSES ITS UNLAWFUL AUGUST 4 DECISIONS,
BUT CONTINUES ITS ARBITRARY AND UNLAWFUL DECISION-MAKING**

69. On September 16, the Board held a workshop by Zoom web conference. During the workshop, the MDH shared information with the Board. This was the first time the MDH shared information with the MSHSL at a public meeting or ever with the full Board.

70. On September 21, the Board held a special meeting to reconsider its decisions to cancel fall football and volleyball seasons. At this meeting, the Board voted to reverse its August 4 decisions and to allow football and volleyball to play in the fall. The Board also purported to require member high schools to exclude spectators from all indoor athletic events (such as volleyball games) and to limit spectators to no more than 250 at any outdoor event (such as football or soccer games). (**Ex. 18.**)

71. According to the League’s press release issued after the September 21 meeting, the Board “stressed that all aspects of athletics, including practices, competitions, transportation, and facility usage must align with the requirements of the Minnesota Department of Education Return to Learning models, must follow the requirements from the Minnesota Department of Health’s Guidance on Youth Sports, and must include the required actions identified in the Governor’s Executive Orders.” (*Id.*) The Board’s September 21 mandates were summarized in a document posted on October 2. (**Ex. 19.**) Even a cursory review of the Board’s September 21 mandates demonstrates that they fail to meet any of the three criteria allegedly “stressed” by the Board.

72. The Board’s September 21 mandates ignored the MDE’s most recent guidance. On September 16, 2020, the MDE published updated “2020-21 Planning Guidance for Minnesota Public Schools” (the “September 16 MDE Guidance”), stating in relevant part:

Facility Access and Community Rentals

Public schools serve as a primary facility provider for youth and adult organizations and providers in Minnesota. Facility users may use indoor and outdoor facilities so long as they follow state guidance

Athletic Facilities

As outlined in [Executive Order 20-74](#), gymnasiums, fitness centers, recreation centers and other athletic facilities may open if they can ensure adherence to the applicable [Stay Safe MN guidance](#). Schools operating these facilities must create and follow a [COVID-19 Preparedness Plan](#). Outdoor facilities may be used as long as they follow MDH guidance.

Indoor Meetings and Other Non-School Uses

For indoor meetings or events held by an outside organization in school facilities, the [seated entertainment and meeting venue guidance](#) must be followed, and a [preparedness plan](#) must be developed and shared on your district or school's website. The occupancy limits are set at 25% capacity, not to exceed 250 participants.

Indoor Meetings and Other Non-School Uses

For indoor meetings or events held by an outside organization in school facilities, the [seated entertainment and meeting venue guidance](#) [Ex. 21, below] must be followed, and a [preparedness plan](#) must be developed and shared on your district or school's website. The occupancy limits are set at 25% capacity, not to exceed 250 participants.

(Ex. 20. (emphasis and hyperlinks in original).)

73. The Board's September 21 actions ignored the MDH's most recent guidance on youth sports. On September 18, the MDH published updated "COVID-19 Sports Guidance for Youth and Adults." (Ex. 21.) This September 18 guidance did not prohibit sports or spectators and merely cross-referenced the MDH's "Facility and venue guidance," including "Stay Safe Guidance for Entertainment" posted at "staysafe.mn.gov/industryguidance/entertainment.jsp".

74. Similarly, on September 21 the MDH published updated guidance regarding indoor and outdoor events related to "Seated Entertainment & Meetings" guidance (hereinafter, the "September 21 MDH Event Guidance") at the same website cross-referenced in the September 16 MDE Guidance and by the MDH on September 18: staysafe.mn.gov/industryguidance/entertainment.jsp (Ex. 22.)

75. The chart below shows differences between October 2 MSHSL Rules and the September 21 MDH Event Guidance:

Issue	September 21 MDH Event Guidance	September 21 MSHSL Board Actions
Indoor Spectator Limit	<p>“Indoor . . . venues must reduce occupant capacity to no greater than 25%, not to exceed 250 patrons[while allowing for] required social distancing” or</p> <p>“If separate occupant capacities are provided for individual areas within a single venue . . . then the venue must reduce occupant capacity to 25% for each individual area, and not to exceed 250 patrons for each individual area.”</p>	<p>“No spectators are allowed at indoor venues”</p>
Outdoor Spectator Limit	<p>“25% for the entire venue, not to exceed 250 patrons unless “Sections” are properly established in accordance with this guidance (See “Sections” below)” or</p> <p>If “Sections” are established, venue occupancy may “25% for each individual [Section] area, not to exceed 250 patrons for each [Section], and not to exceed 1,500 patrons for the entire venue.</p>	<p>“Outdoor venues may host up to 250 guests or 25% of the venue capacity, whichever is less. This limit is for anyone not essential to the competition.”</p>
Concessions	<p>Allowed (e.g., “Ensure . . . concession-counters, and drink-dispensers are separated to allow patrons to socially distance from one-another.”)</p>	<p>“Concessions cannot be provided or sold.”</p>
Medical Personnel	<p>“First-Aid/Medical Areas: Establish a designated medical isolation area for workers and/or patrons who become sick or symptomatic consistent with COVID-19 while at the venue.”</p>	<p>“The number of medical personnel should not exceed the number that has been used in past years.”</p>

(Exs. 19, 22 (emphasis added).)

76. The Board’s September 21 decisions related to volleyball and football, like the Board’s August 4 decisions, directly contradicted applicable League Bylaws. The following chart shows some of the Board’s attempted amendments to applicable volleyball Bylaws:

September 21 Board Volleyball Actions	Conflicting Bylaw(s)
Season start date: September 28	“SEASON BEGINS On the 13th Monday preceding the finals of the state tournament.” Bylaw 520.00(1). August 17, according to April Tournament Schedule.
First contest date: October 8	“Two weeks of practice shall be provided prior to the first contest.” Bylaw 520.00(1). August 31 according to April Tournament Schedule.
Total season length: 11 weeks	Total season length: 13 weeks. Bylaw 501.00
Maximum number of contests: 14 (regular season)	Maximum number of contests: 17 (regular season) plus state tournament. Bylaw 520.00(3)(A).
Duals only. No Invitationals or tournaments	Invitationals and tournaments: allowed. Bylaws 501.00, 502.00, 411.00(1), 411.00(2), 411.00(8).
Opponents: Conference, Section, local teams only	Opponents outside of “Conference, Section, local teams” allowed. Bylaws 411.00(1), 411.00(2), 411.00(8).
No spectators allowed at any volleyball matches	<p>“Conduct of . . . Spectators School officials shall be held responsible for the proper conduct of . . . home spectators.” Bylaw 409.00(2).</p> <p>“All contests in which member schools participate shall be scheduled and arranged by the official representative of the schools concerned. Contests may be scheduled and played only when all of the Bylaws of the League are observed.” Bylaw 411.00(1).</p>

(Exs. 19, 1.)

77. The Board’s September 21 decisions related to football also directly contradicted applicable Bylaws. The following chart shows some of the Board’s attempted amendments to applicable volleyball Bylaws:

September 21 Board Football Decisions	Conflicting Bylaw(s) Shown in Official Handbook Posted on the League’s Website
Season start date: September 28	“SEASON BEGINS Practice may begin on the 15th Monday preceding the finals of the state tournament.” Bylaw 508.00(1). August 17, according to April Tournament Schedule.
Acclimatization period 11 days	Acclimatization period 14 days Bylaw 508.00(2)(A).
First contest date: October 9	“Day 18 [after season begins]: First date on which interscholastic contests are allowed.” Bylaw 508.00(2)(A)(9). September 4, according to April Tournament Schedule.
Total season length: 9 weeks	Total season length: 15 weeks. Bylaw 501.00
Maximum number of contests: 6 (regular season)	Maximum number of contests: 9 (regular season) plus state tournament. Bylaw 502.00.
Spectators limited to 250	“School officials shall be held responsible for the proper conduct of . . . home spectators.” Bylaw 409.00(2). “All contests in which member schools participate shall be scheduled and arranged by the official representative of the schools concerned.” Bylaw 411.00(1).

(Exs. 18, 1.)

78. At a Board meeting on October 1, the Board discussed five topics that were on the agenda for the Representative Assembly meeting scheduled for November 17. The Board did not propose that the Representative Assembly consider or vote on any Board decision contradicting and purporting to amend, the League’s Bylaws. To the contrary, at this meeting the Board purported to amend League Bylaws related to various winter sports. **(Ex. 23.)**

79. The MSHSL alleges that the Representative Assembly should not consider amendments to the League’s Bylaws because the “Board has the ability to review [information and expert guidance regarding COVID-19] and dialogue in a way that the Representative Assembly cannot.” (Sept. 18, 2020, Affidavit of Erich K. Martens (“Martens Affidavit”) ¶41.)

80. Similarly, the MSHSL has alleged that the Board “is able to respond in a more meaningful way than the Representative Assembly” at least in part because, allegedly, “the

Representative Assembly relies on significant layers of review before it meets to vote on proposed bylaw amendments.” (Martens Affidavit ¶40.)

81. The MSHSL also has alleged that the League’s “ability to take action in a timely manner and provide governance to member schools based on the ever-changing regulations and requirements . . . is made difficult to do in a meaningful way through the Representative Assembly process.” (Martens Affidavit ¶40.)

82. The MSHSL has not explained why or how the League was prevented from holding one or more meetings of the Representative Assembly in or any time after May 2020 to provide the Assembly with whatever information it might need to amend the League’s Bylaws in accordance with the League’s Constitution.

83. The MSHSL has also not explained why or how the League was prevented from utilizing the emergency Bylaw amendment procedures provided in Section 215 of the League’s Constitution that allow prompt Bylaw amendments in case of emergency.

84. The MDH, MDE, and MSHSL are apparently unaware of their failure to communicate. On September 24, ZD’s parent, JD, sent an email to the MDH asking why spectators were not allowed to attend high school volleyball games. On September 28, an MDH representative from the “COVID-19 Public Inquiry Group” responded, stating “The restriction on spectators at indoor sporting events is related to the school visitation policy, which is a policy determined by the Minnesota Department of Education (MDE).” (Ex. 24.)

85. On September 25, JD had emailed the MDE asking similar questions to those posed to the MDH on September 24. On October 1, an attorney from the MDE responded, stating:

Over the last several months, the Minnesota State High School League (MSHSL), Minnesota Department of Education (MDE), and Minnesota Department of Health (MDH) have been partnering to ensure all students, including student athletes, are safe during the COVID-19 pandemic. Based

upon health guidance from MDH, as well as MDE’s Safe Learning Plan (attached to this email) the MSHSL’s Board of Directors originally voted in August 2020 to postpone volleyball and football until the 20-21 spring season.

On September 21, 2020, the MSHSL’s Board of Directors voted to allow volleyball and football for abbreviated fall seasons, with particular rules in effect for each. . . . As you described, among these rules is the requirement that spectators not be allowed at volleyball matches.

(Ex. 25.) The attachment to the MDE’s email was the MDE’s Safe Learning Plan “Updated September 3, 2020.” The attached document did not reference any limitations on school visits or athletic or other events. The MDE representative did not attach or reference the updated September 16 MDE Guidance in her October 1 email.

86. On October 1, Martens responded to a similar inquiry JD sent to MSHSL Board members, stating that MSHSL’s decisions regarding spectators were based on MDH and MDE recommendations and that “The MSHSL continues to work directly with state agencies in focusing on providing activity and athletic opportunities for our students in the safest manner possible” (Ex. 26.)

87. Apparently, neither the MSHSL, nor the MDE, nor the MDH were aware that the MDE’s September 16 Guidance and the September 21 MDH Event Guidance expressly allowed high schools to host volleyball games indoors with 250 or more spectators, and football games outdoors with sections accommodating up to 1,500 spectators.

**THE IMPACT OF THE BOARD’S DECISIONS
ON MINNESOTA STUDENT ATHLETES AND THEIR FAMILIES**

88. Each year that AW, LH, BB, and ZD have played high school athletics, the League has required them and their parents or guardians to sign an “MSHSL Eligibility Brochure.” (2020-2021 Brochure). Among other provisions, the Eligibility Brochure instructs parents to “REVIEW

the following rules with your son or daughter. Your role in stressing the value of following these rules cannot be overstated.” (Ex. 27 (emphasis in original).)

89. The Eligibility Brochure includes a two-page summary of a number of League Bylaws and requires each student to affirm:

As a student participating in my school’s interscholastic activities, I understand and accept the following responsibilities:

D. I will respect and obey the rules of my school and the laws of my community, state and country.

E. I will show respect to those who are responsible for enforcing the rules of my school and the laws of my community, state and country.

Regardless of my age I agree to follow all of the MSHSL Bylaws in order to be eligible to represent my school in League-sponsored activities.

I further understand that a member school of the MSHSL must adhere to all of the rules and regulations that pertain to the League athletics/activities a school may sponsor and that local rules may be more stringent, and penalties more severe, than MSHSL rules.

(*Id.*)

90. Each of the Plaintiffs had significant concerns related to the Board’s decisions on August 4 and their resulting impact on each of their sports. Plaintiffs concerns have continued as a result of the Board’s actions on September 21 purportedly banning spectators at volleyball and to limit football spectators to 250.

91. AW’s, LH’s, BB’s, and ZD’s parents have faithfully attended their games since they began playing sports. The presence of their parents, friends and classmates, and other spectators is part of what makes high school sports special.

92. The League’s decision to refuse to allow any spectators at high school volleyball games is particularly difficult for AW, ZD, and their parents. AW and ZD value having their

parents present to cheer for them. They are also aware of club volleyball and basketball games that have occurred after September 21 in Minnesota high school gyms with spectators.

93. AW's parents have faithfully attended her volleyball games throughout her years of playing. Last year, AW's parents attended all home and away high school games in the fall of 2019. AW and her parents are certain that AW's high school could and would safely accommodate spectators at volleyball games if allowed to do so by the League.

94. ZD's parents have attended nearly all of ZD's hundreds of games and tournaments since she began playing volleyball and softball in elementary school. In the limited circumstances when her parents could not be present, ZD's family has ensured that one of her siblings or her grandparents were present for every one of ZD's hundreds of games and tournaments since she began playing volleyball and softball in elementary school.. ZD and her parents are certain that ZD's high school could and would safely accommodate spectators at volleyball games if allowed to do so by the League.

95. In addition to their moral support, ZD relies on her parents to monitor her blood sugar levels during volleyball games. ZD utilizes a wireless blood sugar monitor that allows her or her parents to monitor her blood sugar levels through a smartphone. ZD has no difficulty monitoring her glucose during practices because it is easy to take breaks to check her monitor or if she feels that her blood sugar levels may be too high or too low. During games this is much more difficult.

96. ZD plays all positions in volleyball and normally plays all or nearly all of each high school game. She has played in and has never missed a high school volleyball or softball game. ZD cannot control breaks during games in the same way she can during practice. She has, at times, attempted to continue playing to avoid disrupting games even when she feels that her blood sugar

levels may be too high or too low. Because ZD lives in a rural area, some high school gyms at which volleyball games occur do not allow ZD or her parents to monitor her blood sugar levels remotely. ZD's high school, along with the majority of schools where she played away games, does not have paramedics or other trained medical personnel present during volleyball games who might have training or be able to assist ZD if she had any problem due to her diabetes.

97. ZD relies on her parents to monitor her blood sugar levels during volleyball games using her remote monitor when allowed or based on her parents' (or other experienced family member's) ability to visually perceive when ZD's blood sugar levels are too high or too low. Without proper monitoring ZD's diabetes could cause serious complications and health risks. However, ZD has never experienced a serious problem during a volleyball game as a result of her parents' attendance at games.

98. In response to concerns regarding monitoring ZD's blood sugar levels during volleyball games, the attorney from the MDE stated "concerns about your daughter's diabetes care can be addressed by her school team" instead of her parents. (Ex. 25.) This is not true. None of ZD's teammates or coaches is qualified to visually monitor ZD's blood sugar, nor do they have time to monitor her blood sugar using her remote monitor during games in those gyms that have the requisite cellular signal.

99. Medical experts do not believe that type 1 diabetes carries the same heightened risk as type 2 diabetes with respect to COVID-19, particularly in athletic, younger people like ZD. ZD and her parents are confident that she can continue to play high school sports if her glucose levels are monitored.

100. LH and BB are also very concerned about the MSHSL's arbitrary spectator levels. While the League has allowed attendance of up to 250 spectators at football games, this is far fewer

than the up to 1,500 allowed by the MDH. Every high school at which LH and BB play has home and away stands and endzone areas that would allow for numerous sections. If their school (and opponents' schools) are only allowed 250 spectators, tickets for football games could easily be used up with immediate family members of the home team. This is unfair to grandparents, friends, visitors, and community members who would be able to attend football games if the MSHSL followed the September 21 MDH Event Guidance.

101. To be clear, AW, LH, BB, and ZD do not seek to mandate that any person watch their games if they are uncomfortable or believe it is unsafe. However, they are confident their families and friends would attend their games, and could attend safely if the League simply followed the September 21 MDH Event Guidance instead of arbitrarily making determinations regarding health risks.

CLAIMS FOR RELIEF
COUNT I
VIOLATION OF MINN. STAT. CHAPTER 317A
PURSUANT TO MINN. STAT. § 8.31, subd. 3a

102. Plaintiffs incorporate by reference each and every preceding paragraph of this Complaint and reallege the same as if fully set forth herein.

103. The MSHSL is a nonprofit corporation subject to the provisions of the Nonprofit Corporation Act, Minn. Stat. § 317A.01, *et seq.*

104. The League and its Board's powers are "subject to limitations provided in applicable federal or state law or in its articles or bylaw." Minn. Stat. § 317A.161, subd. 1.

105. "The attorney general has the powers in sections 8.31 and 501B.40 and 501B.41, to supervise and investigate corporations under [Chapter 317A] and to bring proceedings to secure compliance." Minn. Stat. § 317A.813.

106. “A court may grant equitable relief in an action by the attorney general when it is established that: . . . the corporation has engaged in an unauthorized act, contract, conveyance, or transfer or has exceeded its powers” Minn. Stat. § 317A,751 subd. 5(5).

107. The League has never been granted authority to control or dictate the number of spectators or whether to allow concession on school property.

108. The League has no power to contradict Minn. Stat. §§ 123B.02, subds. 1-2 and 123B.51 and attempt to control school districts’ property.

109. The League’s attempts to control spectators and concessions exceed the League’s and the Board’s authority.

110. The Constitution is the law adopted by the corporation for the regulation of its actions and the rights and duties of its members. The League’s Board of Directors must follow the League’s Constitution.

111. Section 215 of the League’s Constitution sets forth the requirements to amend the League’s Bylaws. According to Section 215, Bylaws may be only amended by the Representative Assembly.

112. The Board’s actions on August 4, September 21, and October 1 attempted to amend the Bylaws of the League as set forth above.

113. Because the Board did not follow the procedures mandated by the Constitution, its purported action to amend the Bylaws was illegal, void, and of no force and effect.

114. Plaintiffs have been harmed and are continuing to suffer harm as a result of the Board’s action.

115. Plaintiffs have authority to bring this claim under Minn. Stat. § 8.31, subd. 3a, Minnesota’s private attorney general statute, because they have been harmed by the League’s

conduct and pursuing this claim provides a public benefit as it would benefit all high school athletes in Minnesota and their parents and because the public benefits by the lawful exercise of power by corporate boards within their assigned powers and duties. The relief Plaintiffs seek protects athletes, their parents, and the League's corporate form.

116. Plaintiffs are entitled to a declaration that Defendant's purported amendments to the League's Bylaws, including, without limitation, purported changes to the Bylaws for volleyball and football, and limitations on spectators at high school athletic events are null and void, an injunction ordering Defendants to follow the League's own Constitution and Bylaws, and damages, including attorneys' fees and costs under Minn. Stat. § 8.31, subd. 3a.

COUNT II
EQUITABLE ESTOPPEL

117. Plaintiffs incorporate by reference each and every preceding paragraph of this Complaint and reallege the same as if fully set forth herein.

118. The League requires each student athlete, including each of the Plaintiffs, to promise they will follow League rules and the League's governing documents.

119. The League has promised that it believes "Compliance with school, community and League rules is essential for all activity participants."

120. The League has similarly promised:

4. To provide, promote, extend, manage and administer a program of activities for youth of the schools of the state on district, region and state levels in the fields of athletics . . . on a competitive basis
5. To establish uniform and equitable rules for youth in inter-school activities.

6. To serve the best interests of member schools and their students by providing a medium of cooperation and coordination in educational fields of endeavor and a series of related activities on a state-wide basis, which they individually could not achieve or accomplish for

their students and which aid and assist the schools in maintaining a constantly improved program.

121. The League has also promised that it believes

- “Collaborative relationships with parents enhance a school's opportunity to positively impact student success.”
- “Positive role models and an active involvement in a student's life by parents and others are critical to student success.” and
- “Compliance with school, community and League rules is essential for all activity participants.”

122. The League has promised that its most recent governing documents are posted in the Official Handbook and that the League will follow its governing documents.

123. Student athletes, their parents and coaches, and their communities rely on high school sports as a bedrock of their communities.

124. Plaintiffs reasonably relied on the League’s promises for years by preparing and training to participate in football and volleyball competitions through their high school, by their leadership of their teams, and by their consistent compliance with the League’s rules.

125. The League and its Board acted wrongfully by cancelling football and volleyball, and by imposing other amendments to the Bylaws on member schools without following the League’s Constitution which requires the approval of the Representative Assembly.

126. Serious injustice and harm to Plaintiffs and others will result if the League is not immediately estopped and enjoined from imposing such unlawful Bylaw amendments on member schools, including unwarranted cancellation or limitation of high school sports and/or confusion regarding the status of such sports by member schools.

COUNT III
DECLARATORY JUDGMENT
PURSUANT TO MINN. STAT. §§ 555.01, *et seq.*

127. Plaintiffs incorporate by reference each and every preceding paragraph of this Complaint and reallege the same as if fully set forth herein.

128. The League has created an actual, substantial, and immediate controversy between the parties, who have adverse legal interests, that warrants declaratory relief by asserting that the Board is entitled to amend the League's Bylaws, ignoring the provisions of the League's Constitution, and by negatively impacting thousands of student athletes and/or creating confusion regarding the status of football, volleyball, and other sports.

129. The Board has no authority to amend the Bylaws under the League's Articles or Constitution.

130. The Board's actions on August 4, purported to amend numerous Bylaw provisions and such actions are, therefore, illegal, null, and void.

131. Member schools are not bound by the Board's August 4 decisions related to football, volleyball, and other Bylaw changes.

132. To amend the Bylaws, the League must follow the procedures set forth in Constitution Section 215, which require the League's Representative Assembly to vote either at its annual meeting or, in case of emergency, by mail.

133. Pursuant to the Minnesota Uniform Declaratory Judgment Act, Minn. Stat. §§ 555.01, *et seq.*, Plaintiffs are entitled to, and hereby requests that the Court enter, a judgment declaring the parties' legal rights, status, and other legal relations with respect to the issues set forth in paragraphs 118-122.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests that the Court enter judgment as follows:

A. Declaring that:

- i. the Board has no authority to amend the Bylaws under the League's Articles or Constitution;
- ii. the Board's actions on August 4, September 1, and October 1 purporting to amend numerous Bylaw provisions and purporting to control and dictate the number of spectators, concessions, and other uses of school property exceeded the Board's authority;
- iii. the Board's actions on August 4, September 1, and October 1 purporting to amend numerous Bylaw provisions and purporting to control and dictate the number of spectators, concessions, and other uses of school property are illegal, null, and void;
- iv. League Member schools are not bound by the Board's actions on August 4, September 1, and October 1 purporting to amend numerous Bylaw provisions and purporting to control and dictate the number of spectators, concessions, and other uses of school property; and
- v. to amend the Bylaws, the League must follow the procedures set forth in Constitution Section 215, which require the League's Representative Assembly to vote either at its annual meeting or, in case of emergency, by mail;

B. Awarding Plaintiffs' costs and attorneys' fees, including pursuant to Minn. Stat.

§ 8.31, subd. 3a;

C. Granting temporary and permanent injunctive relief; and

D. Ordering such other and further relief as the Court deems equitable, just, and proper.

Dated: October 5, 2020

SAUL EWING ARNSTEIN & LEHR LLP

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ATTORNEYS FOR PLAINTIFFS

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.

Dated: October 5, 2020

s/Samuel W. Diehl
Samuel W. Diehl