

STATE OF MINNESOTA  
COURT OF ADMINISTRATIVE HEARINGS

Bernhard Penner

Complainant

**PRIMA FACIE ORDER  
FOR DISMISSAL**

v.

Nathan Wesenberg

Respondent

On March 16, 2026, Bernhard Penner (Complainant) filed a Fair Campaign Practices Complaint (Complaint) with the Court of Administrative Hearings. The Complaint alleges that Nathan Wesenberg's (Respondent) actions at an endorsement convention on February 21, 2026, violated Minn. Stat. § 211B.07 (2024) of the Fair Campaign Practices Act.<sup>1</sup> The Chief Administrative Law Judge assigned the matter to Administrative Law Judge Megan J. McKenzie on March 16, 2026.

After reviewing the Complaint, Judge McKenzie has determined that the Complaint does not set forth a prima facie violation of Minn. Stat. § 211B.07. For the reasons detailed in the Memorandum below, the Complaint is dismissed.

Based upon the Complaint and the supporting filings, and for the reasons set out in the accompanying Memorandum, the Judge hereby issues the following:

**ORDER**

The Complaint filed by Bernhard Penner against Nathan Wesenberg is **DISMISSED**.

Dated: March 23, 2026

  
MEGAN J. MCKENZIE  
Administrative Law Judge

**NOTICE**

Under Minn. Stat. § 211B.36, subd. 5 (2024), this Order is the final decision in this matter and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63-.69 (2024).

<sup>1</sup> Minn. Stat. §§ 211A.01-.14, 211B.01-.37 (2024).

## MEMORANDUM

Complainant is a candidate for the District 10A seat in the Minnesota House of Representatives in the upcoming November 3, 2026 general election.<sup>2</sup> Complainant is running as a Republican and participated in a local Endorsement Convention, or caucus, for the political party held on February 21, 2026.<sup>3</sup> At approximately noon during the Convention, Complainant was standing in the entryway to a gymnasium near his Campaign table, wearing a t-shirt that identified him with his last name.<sup>4</sup> At that point he was discussing the endorsement process with two other participants.<sup>5</sup>

The Complaint alleges that during the Convention Respondent approached Complainant and firmly grabbed his arm before warning him “[j]ust leave it alone, let’s not do that here.”<sup>6</sup> Complainant’s campaign manager, Kirsten Smith, and at least two other people were present and witnessed this.<sup>7</sup> The Complaint alleges that Respondent’s grip and statement “were both intended as a warning” and had a “fear/startle effect” on Complainant.<sup>8</sup> Complainant’s campaign manager intervened, informing Respondent that “if he had any issues he could talk to her.”<sup>9</sup> As a result Complainant was able to continue his conversation.<sup>10</sup>

The Complainant submits 11 exhibits showing emails, letters, and prepared statements that provide background and context for the events leading up to the events on February 21, 2026.<sup>11</sup> This background information indicates Complainant believes that Respondent’s statement to Complainant was in reference to an ongoing dispute between Complainant’s campaign and another Republican candidate for the District 10A seat, Mark Streimer.<sup>12</sup>

### I. Standard for Prima Facie Determinations

To establish a prima facie violation of the Fair Campaign Practices Act, a complainant must allege sufficient facts to show that a violation of law has occurred.<sup>13</sup> The complaining party must submit evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of Minn. Stat. §§ 211A.01-.14, 211B.01-.37.<sup>14</sup>

For purposes of a prima facie determination, the Court must accept the facts that are alleged in the Complaint as true, without independent substantiation, provided that

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<sup>2</sup> Complaint at 3.

<sup>3</sup> Complaint at 3.

<sup>4</sup> Complaint at 3.

<sup>5</sup> Complaint at 3.

<sup>6</sup> Complaint at 3.

<sup>7</sup> Complaint at 3.

<sup>8</sup> Complaint at 3.

<sup>9</sup> Complaint at 3.

<sup>10</sup> Complaint at 3.

<sup>11</sup> Complaint at 5-20.

<sup>12</sup> Complaint at 5-15.

<sup>13</sup> See Minn. Stat. § 211B.32, subd. 3.

<sup>14</sup> *Barry v. St. Anthony-New Brighton Indep. Sch. Dist.* 282, 781 N.W.2d 898, 902 (Minn. Ct. App. 2010).

those facts are not patently false or inherently incredible.<sup>15</sup> In determining whether a complaint alleges sufficient facts to state a prima facie case, reasonable inferences must be drawn in the light most favorable to the Complainant.<sup>16</sup>

A complaint must be dismissed if it does not include evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of Minn. Stat. §§ 211A.01-.14, 211B.01-.37.<sup>17</sup>

## II. Analysis

A person may not directly or indirectly use or threaten force, coercion, violence, restraint, damage, harm, loss, including loss of employment or economic reprisal, undue influence, or temporal or spiritual injury against an individual to compel the individual to vote for or against a candidate or ballot question. Abduction, duress, or fraud may not be used to obstruct or prevent the free exercise of the right to vote of a voter at a primary or election, or compel a voter to vote at a primary or election. Violation of this section is a gross misdemeanor.

In *Menne v. Phillips* the Minnesota Court of Appeals examined what is required to support a violation of Minn. Stat. § 211B.07.<sup>18</sup> In the case, an incumbent office holder had distributed flyers stating that if lawn signs supporting his opponent were left up “it would not go unnoticed in the future.”<sup>19</sup> The Court of Appeals found that there must be a clear relationship between a party’s coercive behavior and voters casting a ballot in a particular way.<sup>20</sup> The opinion concluded that the flyers’ “[v]aguely ominous-sounding language, without more, does not amount to a violation of section 211B.07.”<sup>21</sup>

The Complaint makes clear that there is conflict between Complainant, Respondent, and another candidate for the District 10A House seat. The allegations in the Complaint, however, are limited to Respondent grabbing Complainant by the arm and telling him not to talk about something. While this alleged behavior may have been inappropriate or unwarranted, it does not involve anything that can be understood as being intended to compel an individual to vote for or against a candidate.

Finally, the Fair Campaign Practices Act defines a “candidate” as “an individual who seeks nomination or election” to a statewide office, A seat in the Minnesota House of Representatives falls under this definition.<sup>22</sup> The Complaint, however, relates solely to the February 21, 2026 Endorsing Convention for Minnesota Senate District 10 and House of Representative Districts 10A and 10B.<sup>23</sup> An “endorsing convention” does not determine whether an individual is nominated for, or elected to, a particular office as defined under

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<sup>15</sup> *Id.*

<sup>16</sup> *Abrahamson v. St. Louis Cty. Sch. Dist.*, 819 N.W.2d 129, 136 (Minn. 2012).

<sup>17</sup> *Barry*, 781 N.W.2d at 902.

<sup>18</sup> *Menne v. Phillips*, No. A07-0564, 2008 WL 2102721 (Minn. Ct. App. May 20, 2008).

<sup>19</sup> *Id.* at \*2-3.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Minn. Stat. § 211B.01, subd. 3.

<sup>23</sup> Complaint at 2.

Minn. Stat. § 211B.01, subd. 3.<sup>24</sup> Instead the February 21, 2026 Endorsing Convention was a process by which a major political party determines which candidates receive an endorsement from the political party.<sup>25</sup> As a result, the delegates' voting during the February 21, 2026, Endorsing Convention did not involve voting for or against Complainant as a candidate seeking a nomination or election under Minn. Stat. 211B.07. This means that the February 21, 2026, endorsement process is not subject to the protections of that statute. Nothing in the Complaint alleges that Respondent's actions relate to voting in a primary or general election. As a result the Complaint fails to set forth a prima facie violation of chapter 211B.<sup>26</sup>

### III. Conclusion

Based on the foregoing, the Judge finds that the Complainant has not set forth a prima facie violation of Minn. Stat. § 211B.07 on the part of the Respondent. Accordingly, the Complaint is **DISMISSED**.

**M. J. M.**

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<sup>24</sup> See, e.g. Minn. Stat. § 200.02, subd. 2 (2024) (defining, for the purposes of election laws generally, "General Election" as the election whereby the voters of the state "choose by public ballot public officials or presidential electors.") and Minn. Stat. § 200.02, subd. 3 (2024) (defining, for the purpose of election laws generally, a "Primary" as "an election at which the voters of the state or any of its subdivisions choose by ballot the nominees for the offices to be filled at a general election.").

<sup>25</sup> See, e.g. Minn. Stat. §§ 202A.001-.20 (2024) (202A is the chapter of Minnesota's election laws that controls Caucuses and Conventions.).

<sup>26</sup> Minn. Stat. § 211B.33.