

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Dan McGrath, Minnesota Majority,
Complainants,

ORDER

v.

Minnesota Secretary of State,
Respondent.

Appearances: Erick G. Kaardal, Mohrman & Kaardal, P.A., appeared on behalf of Dan McGrath individually and the Minnesota Majority (Complainants). Nathan J. Hartshorn, Assistant Attorney General, appeared on behalf of the Minnesota Secretary of State (Respondent).

This proceeding was brought under Minn. Stat. § 200.04,^[1] which governs Help America Vote Act (HAVA)^[2] Complaints. The Complaint was filed with the Secretary of State on January 3, 2011. The Secretary of State filed his response on January 24, 2011. Complainants filed their request for hearing before the Office of Administrative Hearings on February 4, 2011.

On February 17, 2011, Respondent served and filed a Notice of Motion and Motion to Dismiss, or in the Alternative for Summary Disposition (Motion). Complainants filed their Response to the Motion on February 28, 2011. Respondent filed his Reply on March 2, 2011.

For the reasons more fully set forth in the accompanying Memorandum,
IT IS HEREBY ORDERED:

1. To the extent that the Complaint alleges violations by Minnesota counties, such claims are outside the jurisdiction of the Administrative Law Judge, as set forth in Minn. Stat. § 200.04, and are DISMISSED.

2. Respondent's Motion for Summary Disposition is GRANTED. Complainants have failed to allege facts to support a claim that the Secretary of State violated HAVA or the state laws enacted to implement it.

3. Complainants' Motion to Compel Discovery is DENIED. Complainants have failed to explain how the requested discovery would lead to any information relevant to their alleged claims against the Secretary of State.

4. Since all claims have been dismissed, the hearing scheduled for March 10 and March 14, 2011 is cancelled.

Dated this 7th day of March 2011.

s/Beverly Jones Heydinger
BEVERLY JONES HEYDINGER
Administrative Law Judge

MEMORANDUM

This case was filed with the Secretary of State by Dan McGrath, President of the Minnesota Majority, on his own behalf and on behalf of the organization. Interpreted in a manner most favorable to Complainants, it alleges that the Secretary of State has not implemented a centralized statewide voter information registration list in the manner required by HAVA and state law. It also alleges that the Secretary of State did not post each voter's voting history within six weeks following the 2008 and 2010 General Elections, as required by state law. The Complainants have failed to state any claims that violate HAVA or that implicate the Secretary of State's administration of Minnesota's voter registration system. Accordingly, all claims must be dismissed.

Help America Vote Act (HAVA)

HAVA § 303 (a)(1)(A), requires each State, acting through the chief State election official, to implement a statewide voter registration system that meets certain criteria. The Complainants allege that HAVA has been violated because certain counties did not enter voter registration data on an expedited basis and because the Secretary of State failed to provide support to Minnesota counties so that they could complete expedited entry of the voter registration information. Section 303 (a)(1)(A) states in relevant part:

Each state, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter information registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each [such voter].

Section 303 (a)(1)(A)(vi) provides that:

All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.

Section 303(a)(1)(A)(vii) further provides that:

The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in (vi).

The Secretary of State is Minnesota's chief State election official and he oversees the State's voter information registration list. Minnesota's voter registration system is referred to as the Statewide Voter Registration System (SVRS).

Description of the Claims

In Claim 1, the Complaint alleged that Respondent violated § 303 (a)(1)(A)(vi) because information about persons who registered to vote on the day of the November 2, 2010, General Election was not entered into the SVRS on an expedited basis.

One of the state statutes passed to implement HAVA in Minnesota, Minn. Stat. § 201.121, requires the county auditors to enter the voter registration applications completed on election day into the SVRS within 42 days following the election, unless the county auditor notifies the Secretary of State that the deadline will not be met. Because all counties had not completed the entry of data by December 14, 2010, 42 days after the election, Claim 1 of the Complaint alleges that voter registration information was not entered on an expedited basis as required by HAVA.

Claim 1 also asserted a violation of Minn. Stat. § 201.171, which requires that the county auditor post the voting history for every person who voted within six weeks following the election.

Claim 2 alleged that Respondent violated § 303(a)(1)(A)(vii), because he failed to provide the support necessary for the counties to complete the expedited entry of data. The stated basis for Claim 2 was that the counties' failure to complete updates of the SVRS within 42 days of the General Election was evidence of the Respondent's failure to provide necessary support.

Claim 3 alleged that the Respondent violated Minn. Stat. § 201.171 because the voting history for every voter who participated in the 2008 General Election was not posted to SVRS within six weeks following the election, and that Respondent violated Minn. Stat. § 201.121 because voter registration information obtained on election day 2008 was not posted to SVRS within 42 days. Claim 3 also alleged that, as of September 2010, fewer voter histories were posted for the 2008 General Election than votes certified by the canvassing board for that election, and that the discrepancy was evidence that the SVRS was still incomplete.

In support of its Motion, Respondent asserts that the Complaint fails to state a claim against the Secretary of State under HAVA, and that, as a matter of law, all of the claims as alleged are outside the subject matter jurisdiction of this tribunal.

Jurisdiction Under Minn. Stat. § 200.04, Subd. 3

HAVA § 402 (a)(1) requires a state that accepts federal funds under the act to establish an administrative complaint procedure that meets certain specified criteria and that allows any person who believes that there has been a violation of HAVA to file a complaint. The complainant must have the opportunity to have a hearing on the record, and if there is a violation, the state must provide an appropriate remedy. If there is no violation, the state shall dismiss the complaint and publish the results.^[3]

To implement this requirement, the Minnesota Legislature enacted Minn. Stat. § 200.04. By its terms, it applies to complaints regarding the administration of HAVA, “including complaints about voting system standards, computerized statewide registration lists and equipment, voter registration requirements, and other features of state implementation of that act.”^[4]

Section 200.04 sets forth two sets of procedures. Pursuant to § 200.04, subd. 2, complaints that “pertain to a town, city, school, or county employee or official” are to be addressed by the Secretary of State. Pursuant to § 200.04, subd 3, complaints pertaining to the secretary of state are to be forwarded to the Office of Administrative Hearings (OAH). If the Secretary of State does not resolve the matter within 20 days, OAH must provide the complainant with an opportunity for a hearing on the record.^[5]

The Complaint filed in this case stated: “Because this complaint involves the secretary of state, it must be forwarded to the Office of Administrative Hearings within 3 days,” citing Minn. Stat. § 200.04. No county employees or officials were named in the Complaint. The Complaint also stated: “If the secretary of state does not reach agreement on a remedial plan with complainant, Minnesota Majority, within 20 days of receipt of this complaint, a hearing on the record in the Office of Administrative Hearings is requested.”

When notified by OAH that the Secretary of State had responded to the complaint and no remedial plan had been developed, the Complainants requested a hearing before OAH. Thus, a fair reading is that the Complaint pertained to the Secretary of State, and the provisions of subdivision 3 apply.

In its Complaint, the Complainants set forth the remedial plan that they are seeking. All but two of the elements of the plan are directed to the Secretary of State. However, Complainants also included a request that the counties be directed to create and implement a plan to immediately complete the update of their voter registration updates and voter history for the 2010 general election,

and that the counties be directed to submit that plan to the Complainants and this office.

In its Motion, Respondent asserts that, to the extent that the Complaint alleges that counties failed to comply with HAVA, the claims are outside the jurisdiction of OAH. Respondent asserts that Claim 2 should be dismissed because the Complaint fails to allege in what way the Secretary of State failed to provide the counties with the support necessary to expedite entry of voter registration information.

To the extent that the Complaint alleged that the voting histories have not been posted, Respondent argues that the responsibility to post voting histories is not linked to any provision of HAVA, and that it is the county auditors who are responsible for the posting. To the extent that the Complaint attempts to draw a comparison between the number of posted voting histories and the number of certified ballots in any election, the Respondent asserts that, as a matter of law, there is no correlation between the two numbers. Because certain information included in the SVRS is not public, and because the list of eligible voters in any precinct is continually in flux, the voter history will never match up identically to the number of votes cast. Thus, Respondent asserts, there is no basis in the law to conclude that such a discrepancy between the SVRS and the number of certified ballots would violate either HAVA or the state laws implementing it.

The Complainants' response to Respondent's motion recharacterizes the Complaint as one that pertained to both the counties and the Secretary of State and asks OAH to resolve all of those claims.

This Office lacks jurisdiction under § 200.04 to adjudicate claims against county employees or officials, and, moreover, no county employee or official was named in the Complaint. Any claims that allege violations by the counties and requests for relief that are directed to the counties must be dismissed from this proceeding as beyond the scope of OAH's jurisdiction. If the Complainants believe that county employees or officials violated HAVA, they may file a Complaint with the Secretary of State pursuant to Minn. Stat. § 200.04, subd. 2. Although the Complainants allege that it would be a denial of due process to avoid resolving all of their allegations, OAH only has the authority to resolve the claims that are within its jurisdiction.

Thus, in deciding the Respondent's motion, it is necessary to determine whether there is a factual or legal basis for proceeding to hearing concerning HAVA claims against the Secretary of State.

Standards for Motion to Dismiss or for Summary Judgment

Respondent has moved to dismiss the claims, or the in the alternative, for summary disposition or summary judgment. Respondent has provided affidavits

and exhibits attached thereto in support of its Motion. Under the rules governing civil and administrative motions, if matters outside the pleadings are presented in connection with a motion to dismiss, the motion shall be treated as one for summary disposition.^[6] Summary disposition is the administrative equivalent of summary judgment. Summary disposition is appropriate where there is no genuine issue as to any material fact and one party is entitled to judgment as a matter of law.^[7] The Office of Administrative Hearings has generally followed the summary judgment standards developed in judicial courts in considering motions for summary disposition.^[8] A genuine issue is one that is not sham or frivolous. A material fact is a fact whose resolution will affect the result or outcome of the case.^[9]

The moving party has the initial burden of showing the absence of a genuine issue concerning any material fact. To successfully resist a motion for summary judgment, the non-moving party must show that there are specific facts in dispute which have a bearing on the outcome of the case.^[10] The nonmoving party must establish the existence of a genuine issue of material fact by substantial evidence; general averments are not enough to meet the nonmoving party's burden under Minn. R. Civ. P. 56.05.^[11] The evidence presented to defeat a summary judgment motion, however, need not be in a form that would be admissible at trial.^[12]

When considering a motion for summary judgment, the Court must view the facts in the light most favorable to the non-moving party.^[13] All doubts and factual inferences must be resolved against the moving party.^[14] If reasonable minds could differ as to the import of the evidence, judgment as a matter of law should not be granted.^[15]

Statewide Voter Registration System (SVRS)

The Minnesota Legislature has enacted certain statutes to implement HAVA. Thus, one must examine HAVA, the implementing statutes, and the Secretary of State's compliance with them, to determine if the HAVA requirements have been met.

The SVRS is the statewide, centralized voter registration implemented in Minnesota to comply with HAVA. Minnesota Statute § 201.021 establishes a permanent system of voter registration by county, with a "single, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state, and assigns a unique identifier to each legally registered voter in the state." The Secretary of State is responsible for "defining, maintaining, and administering the centralized system."^[16]

Counties are responsible for voter registration.^[17] The Secretary of State provides counties with the infrastructure to record voter registration and other voting records, which includes centralized computers that host the SVRS and the software and network.^[18] The SVRS includes information about persons currently registered to vote and persons who are not registered, and it is used to create voter rosters.

The county auditor prepares and maintains a current list of registered voters in each precinct of the county. A master list is created by entering each completed voter registration application received by the county auditor into the SVRS.^[19] Other provisions of the law direct the Secretary of State to maintain the master list and verify its accuracy.^[20]

By virtue of enacting these provisions, Minnesota has assured that there is “a single, uniform, official, centralized, interactive computerized statewide voter registration list, defined, maintained, and administered at the state level” with information about every legally registered voter.^[21]

HAVA § 303 (a)(1)(A)(vi) requires that local election officials enter all voter registration information into the computerized list “on an expedited basis at the time the information is provided to the local official.”

To comply with this provision, the Legislature enacted Minn. Stat. § 201.121, which requires that the county auditor enter completed voter registration applications into the statewide registration system. Registrations completed before election day must be entered within ten days after submission to the county auditor, and “[v]oter registration applications completed on election day must be entered into the statewide registration system within 42 days after the election, unless the county auditor notifies the secretary of state before the 42-day deadline has expired that the deadline will not be met.”^[22]

In support of its Motion, the Secretary of State provided the following factual information, which was not disputed by the Complainants. In 2010, Minnesotans cast 2,123,369 votes in the November General Election. Of these votes, 227,857 were cast by persons who registered at the polls on election day.^[23] By December 14, 2010, all counties had completed data entry of voting history for pre-registered persons who voted in the November election; nineteen counties notified the Secretary of State that they would not complete the processing of election-day registrations by that date.^[24] Eleven of those counties completed data entry by January 3, 2011, the date this Complaint was filed; as of February 17, 2011, all nineteen counties had completed entry of election-day registrants into the system.^[25]

At this time, the Secretary of State is unaware of any county that has not entered registrations or voter histories from the 2008 or 2010 elections into the SVRS, and the Complainants have not offered any evidence to the contrary.^[26]

Claim 1

Claim 1 of the Complaint alleged that Respondent did not enter the information on an expedited basis because nineteen enumerated counties did not update SVRS with new voter registrations within 42 days of the 2010 General Election. Apparently, Complainants concede that entering the data within 42 days meets the definition of “an expedited basis,” since they do not argue that completion of the task within 42 days fails to comply with HAVA. Rather, without citing any authority, they argue that HAVA does not permit any exception to the 42-day requirement.

HAVA does not set a deadline by which the SVRS updates must be made. Rather, it requires the State to have a process in place for entering the information on an “expedited basis.” The State has implemented HAVA by enacting a statute to require prompt entry of the data. It sets a goal of 42 days for entry of the data, but it allows an extension for counties that provide notice that they can not meet that timeline. Nothing in § 303 (a)(1)(A)(vi) would seem to prohibit the State’s method of implementation of the HAVA standard.

The Complaint alleged no facts that would support a claim that any one of the counties did not act in an expeditious manner, apart from the failure to complete all of the data entry within 42 days. The Affidavit of Gary Poser states that all of the data was entered by February 17, 2011.^[27] Complainants have offered no evidence to place this fact in dispute. The Secretary of State asserts, without contradiction by the Complainants, that the counties gave high priority to entering the data as quickly as reasonably possible. By the date of the Complaint, eleven of the remaining nineteen counties had completed the data entry. The final two counties, Hennepin County and Stearns County, completed the data entry by February 15, 2011.^[28] In Hennepin County, 59,466 voters registered on the day of the election. At an estimated five minutes per entry, Hennepin County required 4,955 staff hours to complete the data entry.^[29]

If the Complainants have a basis to make a claim that any county did not act on an expedited basis, it may name the appropriate county official who failed to do so and file the claim with the Secretary of State. However, in order to state a claim under this provision against the Secretary of State, the Complaint would have to allege some facts that, if proven, would demonstrate that the Secretary of State failed to implement, maintain or administer the SVRS in such a way that the counties could complete data entry on an expedited basis. There could be circumstances where the Secretary of State’s oversight of the SVRS was insufficient to expedite the entry of election-day voter registration. However, the Complaint alleges no facts, apart from the failure to complete the task within 42 days, that, if proven, would show that the Secretary of State failed to meet his duties. There is no claim based on information from any county that the SVRS

was inadequate in any way to handle a county's data entry on an expedited basis.

Section 303 (a)(1)(A)(vi) requirement assures that the state's election official implement a statewide data entry that is adequate to permit data to be entered in an expedited manner. The Complainants have failed to come forth with any claim that the Secretary of State failed to do so.^[30]

Nor have Complainants offered any legal support for the argument that Minnesota's statute fails to comply with HAVA. Complainants argue that "expedited basis" means "right now" or "immediately," and their Complaint states that any extension is not permissible. The state statute clearly allows for an extension, and Complainants have cited no legal authority for the proposition that allowing an extension is a *per se* violation of HAVA. In their response to the Motion, Complainants argue that there can be no extension beyond the end of the calendar year, but cite no authority for that proposition, or reference any statute that sets a calendar-year deadline. There is such a reference in Minn. Stat. § 201.171, which states that: "After the close of the calendar year, the secretary of state shall determine if any registrants have not voted during the preceding four years. The secretary of state shall perform list maintenance by changing the status of those registrants to "inactive" in the statewide registration system." There is nothing in this statute that dictates when the secretary of state must complete this maintenance of the voter registration list. Rather, it sets the timeline for looking back to the preceding four years.

Although the Complainants argue that HAVA does not permit any extension of the 42-day limit beyond the end of the calendar year, there is no basis in HAVA or state law for that assertion. It requires only that the State have an expedited process. The uncontroverted facts show that the State has such a process. Thus, Complainants' claim that the Secretary of State has failed to implement a expedited process that complies with HAVA for implementing voter registrations is unsupported by the law or by any factual claim and must be dismissed.

Claim 1 also alleged that Minn. Stat. § 201.171 requires that the voting history of each participant in the 2010 General Election number must be posted within six weeks of the election. It also asserted that the number of posted voter histories does not match the number of certified ballots. These claims are beyond the scope of this proceeding. Nothing in HAVA § 303 (a)(1)(A) requires that the state election official post voter history, nor have Complainants cited any other provision of HAVA that requires it. Section 201.171 is not a provision of state law that addresses "voting system standards, computerized statewide registration lists and equipment, voter registration requirements, [or] other features of state implementation of [HAVA]." Also, Minnesota's statute requires the county auditor, not the Secretary of State, to post the voting history. For all of

these reasons, the portion of Claim 1 that alleges a violation of § 201.171 must be dismissed.

Moreover, as the Secretary of State explains, the publicly available list of voters and voting history does not include all persons on the SVRS. Although the Complainants argue that the discrepancy is illogical, the Secretary has cited several statutes that explain it.^[31] Minnesota Statute § 201.091, subd. 1, specifically states that the complete SVRS list “may only be made available to public officials for purposes related to election administration, jury selection, and in response to a law enforcement inquiry concerning a violation of or failure to comply with any criminal statute or state or local tax statute.” This is consistent with HAVA § 303 (a)(1)(A)(v) and (viii), which require that the state’s computerized list be available to any state election official and must serve as the official voter registration list.

Complainants also argue in their response to the motion that if an ineligible person voted, HAVA was violated. However, they cite no authority for that proposition.

Claim 1 fails to state a legal claim or allege disputed material facts sufficient to withstand the Respondent’s motion for summary disposition.

Claim 2

Claim 2 alleged that Respondent violated § 303(a)(1)(A)(vii), which states that, in implementing the statewide voter information registration list: “[t]he chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in (vi).” The stated basis for Claim 2 was that the counties’ failure to complete updates of the SVRS within 42 days was evidence of the Respondent’s failure to provide necessary support. There were no allegation made, or evidence offered in response to the Respondent’s motion, that identified what support the Respondent failed to provide or how that lack of support impeded the ability of any county to enter election-day registrations into the SVRS on an expedited basis.

Since the failure of all counties to complete an update of the voter registration list within 42 days does not violate HAVA, and there was no allegation of what support was missing, there is no basis to conclude that the Secretary of State failed to provide the required support, and Claim 2 must be dismissed.

Claim 3

Claim 3 alleged that the Respondent violated Minn. Stat. § 201.171 because the names of every voter who participated in the 2008 General Election were not posted to SVRS within six weeks following the election, and that Respondent violated Minn. Stat. § 201.121 because voter registration information obtained on election day 2008 was not posted to SVRS within 42 days.

It is not clear from the Complaint or from Complainants' Response to the Motion whether this claim is restating Claim 1 for a different election or whether it is an attempt to bring a separate claim for violation of state law, separate from HAVA. For the 2008 General Election, December 17, 2008, was 42 days or six weeks after the election. For the reasons stated above, Minn. Stat. § 201.121, does not require the counties to complete input of new voter registration within 42 days. Also, as explained above, section 201.171 requires the county auditor, not the Secretary of State, to post the voting history, and there are statutory provisions that explain the difference between the number of posted voter histories and the votes certified. Any claim that a county auditor failed to post voter history within six weeks of the election is beyond the scope of this proceeding.

Because all three claims alleged in the complaint have been dismissed, no hearing will be held. Complainants have been given the opportunity to have a hearing on the record, but their claims are insufficient to warrant such a hearing.

Other Claims

In their response to the Respondent's motion, the Complainants make several additional claims not raised in the Complaint. For example, they claim that if felons voted in the 2008 and 2010 elections then HAVA was violated. The inference is that the SVRS must be inaccurate if a felon voted, and inaccuracies in the SVRS violate HAVA. However, neither the Complaint nor the response to the Motion specifies what provision of HAVA requires a perfect SVRS. Rather, HAVA compels certain checks of the system to test its accuracy.^[32] Complainants go farther and allege that such inaccuracies may have led to incorrect results in certain close elections. However, election challenges are clearly beyond the scope of this proceeding.

Motion to Compel Discovery

In order to pursue their claim that the posted voting histories do not match the certified number of votes cast, the Complainants seek an order to compel the Respondent to turn over the complete SVRS master list. Complainants have not provided any basis to justify that request in this proceeding. The availability and accuracy of the voting history is outside the scope of this proceeding, and it is

clear as a matter of law that the publicly available voting history will not match the number of certified votes cast in the election.

Moreover, the public is not entitled to receive the complete SVRS master list. The information in the SVRS master list “may only be made available to public officials for purposes related to election administration, jury selection, and in response to a law enforcement inquiry concerning a violation of or failure to comply with any criminal statute or state or local tax statute.”^[33] Complainants offer to submit to a Protective Order so that they can review the master list to determine if the numbers on the list for each precinct match with the number of certified votes cast in the 2008 and 2010 elections. However, even if they received the lists and found that there was a discrepancy in the numbers, the Respondent has pointed out several legal bases for such a discrepancy. The Complainants have failed to point out what provision of HAVA would be violated if there was a discrepancy between the SVRS and the number of certified votes cast. If the intent of comparing the data is to bring into question the results certified by the canvassing board in past elections, such election challenges are clearly beyond the scope of this proceeding. Thus, there is no basis to compel the production of the SVRS master list. Since the discovery the Complainants seek cannot lead to any information relevant to a HAVA claim made in their Complaint, there is no basis to grant their Motion to Compel Discovery.

B.J.H.

^[1] Minnesota Statutes are cited to the 2010 edition.

^[2] HAVA was enacted in 2002, Pub. L. 107-252, codified at 42 U.S.C. § 15481 *et seq.* The parties refer to sections of the Public Law and those references will be used herein.

^[3] HAVA § 402(a)(2)(A)-(G).

^[4] Minn. Stat. § 200.04, subd. 1.

^[5] Minn. Stat. §§ 200.04, subd. 3(c) and (d).

^[6] See Minn. R. Civ. P. 12.03; Minn R. 1400.5500 K.

^[7] *Sauter v. Sauter*, 70 N.W.2d 351, 353 (Minn. 1955); Minn. Rule pt. 1400.5500 K; Minn.R.Civ.P. 56.03.

^[8] See Minn. Rules, pt. 1400.6600.

^[9] *Illinois Farmers Insurance Co. v. Tapemark Co.*, 273 N.W.2d 630, 634 (Minn. 1978); *Highland Chateau v. Minnesota Department of Public Welfare*, 356 N.W.2d 804, 808 (Minn. App. 1984).

^[10] *Thiele v. Stich*, 425 N.W.2d 580, 583 (Minn. 1988); *Hunt v. IBM Mid America Employees Federal*, 384 N.W.2d 853, 855 (Minn. 1986).

^[11] *Id.*; *Murphy v. Country House, Inc.*, 307 Minn. 344, 351-52, 240 N.W.2d 507, 512 (Minn. 1976); *Carlisle v. City of Minneapolis*, 437 N.W.2d 712, 75 (Minn. App. 1988).

^[12] *Carlisle v. City of Minneapolis*, 437 N.W.2d at 715 (citing, *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986)).

^[13] *Ostendorf v. Kenyon*, 347 N.W.2d 834 (Minn. App. 1984).

^[14] See, e.g., *Celotex*, 477 U.S. at 325; *Thiele v. Stich*, 425 N.W.2d 580, 583 (Minn. 1988); *Greaton v. Enich*, 185 N.W.2d 876, 878 (Minn. 1971); *Thompson v. Campbell*, 845 F. Supp. 665, 672 (D. Minn. 1994).

^[15] *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250-51 (1986).

^[16] Minn. Stat. § 201.021.

- ^[17] Minn. Stat. § 201.081.
- ^[18] Minn. Stat. § 201.022; Affidavit of Gary Poser (Poser Aff.) at para. 7.
- ^[19] Minn. Stat. § 201.091, subd. 1.
- ^[20] Minn. Stat. §§ 201.091; 201.121.
- ^[21] *Compare United States v. Alabama*, 2:06-cv-392-WKW (Middle Dist. Alab., June 6, 2006) (Finding violation of HAVA because Alabama failed to have a centralized statewide voter registration system or method to assure uniform registration procedures throughout the state).
- ^[22] Minn. Stat. § 201.121, subd. 1.
- ^[23] Poser Aff. at para. 14.
- ^[24] Poser Aff. paras. 18, 19.
- ^[25] Poser Aff. para. 20 and Ex. 3, showing completion of the last two counties, Hennepin and Stearns, on Feb. 15, 2011. Ex. 3 also shows that 11 of the 19 counties had completed their data entry by Jan. 3, 2011, the date that the Complaint was filed.
- ^[26] Poser Aff. paras. 21, 22.
- ^[27] Poser Aff., para. 20, 21.
- ^[28] Poser Aff., Ex. 3.
- ^[29] Poser Aff., paras. 14, 15.
- ^[30] See Minn. R. Civ. P. 56.05 (the nonmoving party must establish the existence of a genuine issue of material fact by substantial evidence; general averments are not enough to meet the nonmoving party's burden).
- ^[31] See e.g., Minn. Stat. § 201.091, subd. 4 (“Upon receipt of a statement signed by the voter that withholding the voter’s name from the public information list is required for the safety of the voter or the voter’s family, the secretary of state and county auditor must withhold from the public information list the name of a registered voter.”) See also, Minn. Stat. § 201.13, requiring designation of “inactive voters” and deletion of deceased voters, persons moving out of state and persons requesting to be deleted from registration; Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff *et seq.*, allowing certain persons to vote in Minnesota federal elections who are not eligible to register as Minnesota voters; “Safe at Home,” Minn. Stat. § 5B.06, protecting name and location of persons participating in the program.
- ^[32] See, e.g., Minn. Stat. § 201.121, which directs the county auditor to check registration information.
- ^[33] Minn. Stat. § 201.091, subd. 1.