

STATE OF MINNESOTA

March 30, 2021

IN DISTRICT COURT

COUNTY OF CLAY

SEVENTH JUDICIAL DISTRICT

Edwin Hahn, Janine Hanson, Laurie Christianson,
Lisa Hahn, Marilyn Proulx, Ronald White,
John Kowalski, and Janine Kowalski,

Court File No. 14-CV-20-4033

Contestants,

vs.

**ORDER AND
MEMORANDUM**

Steve Simon, only in his official capacity as
Minnesota Secretary of State, Lori Johnson, only
in her official capacity as the Auditor-Treasurer for
Clay County, and Heather Keeler,

Contestees.

The above-entitled matter came on before the Honorable Timothy M. Churchwell, Judge of District Court, at the Douglas County Courthouse in Alexandria, Minnesota, for consideration of two post-judgment issues: (1) the parties against whom costs and disbursements shall be taxed; and (2) whether the \$250.00 inspection bond should be credited towards paying those costs. This is an election contest under Minnesota Statutes, Chapter 209.

Contestant, Edwin Hahn, is not represented by counsel.

Contestant, Janine Hanson, is not represented by counsel.

Contestant, Laurie Christianson, is not represented by counsel.

Contestant, Lisa Hahn, is not represented by counsel.

Contestant, Marilyn Proulx, is not represented by counsel.

Contestant, Ronald White, is not represented by counsel.

Contestant, John Kowalski, is not represented by counsel.

Contestant, Janine Kowalski, is not represented by counsel.

Contestee, Steve Simon, is represented by his attorney, Nathan J. Hartshorn, Assistant Attorney General, Office of the Minnesota Attorney General.

Contestee, Lori Johnson, is represented by her attorney, Brian J. Melton, Clay County Attorney.

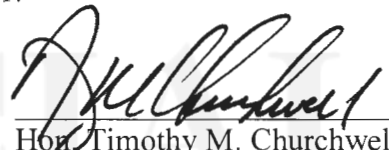
Contestee, Heather Keeler, is represented by her attorney, Charles N. Nauen, of Lockridge, Grindal, & Nauen, PLLP.

Based upon the prior orders, motions, affidavits, and relevant law, together with all of the file and record herein, the Court hereby makes the following:

ORDER

1. Costs and disbursements which have been allowed for Contestees Steve Simon and Heather Keeler shall be collectively taxed against Contestant Edwin Hahn.
2. The \$250.00 inspection bond shall be returned to Contestant Edwin Hahn.
3. The attached memorandum is hereby incorporated by reference.

It is so **ORDERED** this 30th day of March, 2021.


Hon. Timothy M. Churchwell
Judge of District Court

MEMORANDUM

Introduction

On November 30, 2020, Contestants filed a Notice of Election Contest pursuant to Minnesota Statutes, Chapter 209. By Order dated December 14, 2020, this Court dismissed the matter with prejudice as to all three Contestees. Dismissal was affirmed on appeal (Court File No. A20-1654).

Costs and Disbursements

On March 25, 2021, the Clay County Court Administrator approved requests by Contestees Heather Keeler and Steve Simon for costs and disbursements as permitted by paragraph 6 of the Order dated December 14, 2020. Contestees Steve Simon and Heather Keeler promptly filed an Identification of Judgment Debtor in which they identified all Contestants herein as the judgment debtors. The issue now is against which Contestants the costs and disbursements should be taxed.

Upon review, the Court finds and concludes such costs and disbursements shall be taxed against Contestant Edwin Hahn. The Rules of Civil Procedure require every pleading filed in Minnesota courts to bear the signature and state the address, telephone number, and e-mail address, if any, of at least one attorney of record or, if the party is self-represented, of the party. Minn. R. Civ. Proc., Rule 11.01. The Notice of Contest contains only a telephone number and e-mail address of one individual filing it, Contestant Hahn, who is not an attorney. *Notice of Contest at 21*. Because Contestant Hahn is not an attorney, he cannot represent the other seven contestants. Minn. Stat. § 481.02, subd. 1; *In re Conservatorship of Riebel*, 625 N.W.2d 480, 481 (Minn. 2001) (“Although a person who is not a licensed attorney may represent themselves in court, they may not represent others.”). Thus, the remaining Contestants were not properly before the Court. Because Contestant Hahn was the only Contestant properly before the Court, costs and disbursements shall be taxed against him. *See, In re Trust Created by Hill*, 499 N.W.2d 475, 494

(Minn. App. 1993) (stating the court has discretion in apportioning costs among parties in multi-party suits).

Inspection Bond

On December 7, 2020, Contestants posted a \$250.00 “inspection bond” to cover the costs of ballot inspection. After a contest has been instituted, either party may have the ballots inspected before preparing for trial. Minn. Stat. § 209.06, subd. 1. The party applying for the inspection shall file with the court administrator of district court a bond in the sum of \$250.00 to cover the administrative costs and expenses of the inspection if that party loses the contest. Minn. Stat. § 209.06, subd. 2. The issue before the Court is whether this bond should be applied to the costs and disbursements taxed against Contestant Hahn.

For several reasons, the Court finds and concludes this bond shall be returned to Contestant Hahn. First, the purpose of the inspection bond is to cover the costs of the ballot inspection, which, in this case, never occurred. Second, the Court is not aware of any authority by which the inspection bond can be applied to outstanding amounts due and owing. Third, neither Contestee has made an application to credit this sum towards their costs and disbursements. Accordingly, the Court finds it proper to return the bond to Contestant Hahn.

TMC