

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

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Minnesota Voters Alliance, John Malone,  
Ronald D. Moey, Craig Bartlett, Karen  
Evelyn Mathias, and Daniel John Mathias,

Court File No. \_\_\_\_\_

**COMPLAINT**

Plaintiffs,

vs.

The City of Minneapolis, a municipality  
incorporated under the laws of the State of  
Minnesota, R.T. Rybak in his official capacity  
as Mayor, or his successor, Mark Ritchie, in  
his official capacity as the Secretary of State  
for the state of Minnesota or his successor,  
and Lori Swanson, in her official capacity as  
the Attorney General for the state of  
Minnesota, or her successor,

Defendants.

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**Introduction**

**The amendments to the Minneapolis City Charter regarding the  
conduct of elections and voting method are constitutionally flawed.**

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1. This is an action challenging the constitutionality of a City of Minneapolis Charter amendment that affects the conduct of elections and the voting method in Minneapolis, Minnesota. The amendment allows for the election of officers through the method referred to as Single Transferable Vote, also known as Ranked Choice Voting or Instant Runoff Voting. The effect of the methodology used infringes upon an individual's right to vote, right of association, and due process protected under the

Minnesota and United States Constitutions. In addition, the Minnesota Secretary of State's Office and Minnesota Attorney General's Office are obligated under state law to uphold citizens' rights embodied in the United States and Minnesota Constitutions but have failed to take action against the City of Minneapolis regarding its Charter amendment knowing the amendment provision is constitutionally flawed.

### **Jurisdiction**

2. Jurisdiction of this Court is conferred under Minn. Const. art. VI, Sec. 3, the Uniform Declaratory Judgments Act, Minn. Stat. §§ 555.01, et seq., 42 U.S.C. §§ 1983, 1988 and other applicable statutes.

### **Parties**

– Plaintiffs –

**An association and voters concerned about the constitutionality  
of Instant Runoff Voting seek court relief to cure the defects.**

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3. The Minnesota Voters Alliance is an association of citizens formed in the interest of liberty, transparency in government, and a well-informed electorate. The Alliance's primary issue involves Instant Runoff Voting. Its principal place of business is P.O. Box 4602 St. Paul, MN 55104

4. John Malone is a Minneapolis resident, taxpayer, and voter residing at 641 4<sup>th</sup> Street, NE, Minneapolis, Minnesota.

5. Ronald D. Moey is a Minneapolis resident, taxpayer, and voter residing at 5229 27<sup>th</sup> Avenue S., Minneapolis, Minnesota.

6. Craig Bartlett Minneapolis is a resident, taxpayer, and voter residing at 6128 5<sup>th</sup> Avenue S., Minneapolis, Minnesota.

7. Karen Evelyn Mathias is a Minneapolis resident, taxpayer, and voter residing at 5436 29<sup>th</sup> Avenue S., Minneapolis, Minnesota.

8. Daniel John Mathias is a Minneapolis resident, taxpayer, and voter residing at 5436 29<sup>th</sup> Avenue S., Minneapolis, Minnesota.

**– Defendants –**

**The parties responsible for not infringing the constitution and  
protecting the rights of the people.**

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9. The City of Minneapolis is a municipal corporation, incorporated under the laws of the State of Minnesota.

10. R.T. Rybak is the Mayor of the City of Minneapolis and is responsible for the administration of the law of Minneapolis.

11. The Minnesota Secretary of State, the Honorable Mark Ritchie, or his successor, is an executive officer created under Article 5, Section 1 of the Minnesota Constitution and is chosen by the voters of the state. The Secretary of State's Office is responsible for oversight of state-wide and local elections to ensure compliance with state election laws and regulations, including election law legalities and the integrity of election systems.

12. The Minnesota Attorney-General, the Honorable Lori Swanson, or her successor, is an executive officer created under Article 5, Section 1 of the Minnesota

Constitution and is chosen by the voters of the state. The Attorney General is responsible for the enforcement of laws within the state and to protect the public from unlawful acts, including unconstitutional actions or laws.

### **Factual Background**

**The conduct of elections and method of voting of candidates has changed with amendments to the Minneapolis City Charter.**

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13. The City of Minneapolis allows for the electors residing and voting within the City to choose the Mayor, members of the City Council, members of the Park and Recreation Board, members of the Library Board, and members of the Board of Estimate and Taxation in the election process.

14. In November 2006, the City of Minneapolis had on the ballot during the general election of that year a question that would result, if passed, in the amendment to the City's Charter.

15. The question on the ballot stated:

Should the City of Minneapolis adopt Single Transferable Vote, sometimes known as Ranked Choice Voting or Instant Runoff Voting, as the method for electing the Mayor, City Council, and members of the Park and Recreation Board, Library Board, and Board of Estimate and Taxation without a separate primary election with ballot format and rules for counting votes adopted by ordinance?

16. The ballot passed in November 2006.

17. The passage of the ballot caused the City of Minneapolis Charter to amend its Charter thereby affecting Chapter 2 for the election of officers, specifically provisions

governing Section 5A regarding the conduct of elections, and Section 5B regarding voting method.

18. Section 5B of the Minneapolis Charter now reads:

The elected officers shall be elected by the method of Single Transferable Vote, sometimes known as Ranked Choice Voting or Instant Runoff Voting. The City Council shall, by ordinance, establish the ballot format and rules for counting the votes. The method shall be used for the first municipal election after adoption and all subsequent elections unless the City Council certifies, by ordinance, no later than four months prior to the election, that the City will not be ready to implement the method in that election. Such certification must include the reasons why the City is not ready to implement the method.

19. During the election of 2006, John Malone, Ronald D. Moey, Laura L. Morales, Craig Bartlett, Karen Evelyn Mathias, and Daniel John Mathias voted individually once for the candidate for elective office of their choice found on the ballot. None of the candidates for elective office received a secondary vote or ranked vote.

20. Each candidate on the ballot in 2006 voted by the people and elected to office won by a plurality of votes counted.

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**The Single Transfer Vote (Instant Runoff Voting) scheme requires repetitive voting to rank candidates and a voter's first-choice is not a winner after receiving a plurality of votes.**

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21. Reference to "Single Transfer Vote" throughout this Complaint also includes "Ranked Choice Voting" or "Instant Runoff Voting" or any other identity given to the scheme regarding the conduct or election methodology as described and alleged in this Complaint.

22. Under the Single Transferred Vote scheme, there is no primary. During an election for a single-seat — using one election — the voter is required to rank candidates casting several “choice-votes” in order of preference rather than vote for one candidate. If no one candidate receives a majority of first-choice votes, the candidate with the least number of first-choice votes is eliminated and the second-choice votes on those ballots are transferred to the remaining candidates. This process is repeated until a 50 percent plus 1 majority is achieved.

23. Under the Single Transferred Vote scheme, during multi-seat elections, using one election — the voter is required to rank candidates casting several “choice-votes” in order of preference rather than casting one vote for each multi-seat-candidate separately. When a candidate exceeds the number of votes required to be elected, the surplus portion of each vote for that candidate is transferred proportionately to the next-ranked candidate on each ballot until a candidate exceeds the number of votes required to be elected. The threshold is derived from a formula based on the total number of voters and the number of seats to be filled.

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**The Minnesota Secretary of State voiced concern about the Minneapolis Charter amendments and the Attorney General questioned the constitutionality of the changes to the conduct of elections and voting method, but neither took action.**

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24. The Office of the Minnesota Secretary of State, through Mark Ritchie, raised concerns about the Minneapolis adopted Charter amendment governing Instant Runoff Voting with the Minnesota Attorney General’s Office in 2007.

25. The Minnesota Attorney General's Office issued an opinion in August 2007 finding the Minneapolis Instant Runoff Voting procedure constitutionally questionable and likely "not permitted in the general election" citing the opinion of the Minnesota Supreme Court decision in *Brown v. Smallwood*, 130 Minn. 429, 153 N.W. 953 (1915).

26. Despite the Attorney General's opinion referenced in paragraph 25 of this Complaint, the Minnesota Secretary of State's Office, responsible for ensuring the legality and integrity of elections and election systems, has not taken action challenging the Minneapolis Charter amendment governing Instant Runoff Voting.

27. The Minnesota Attorney General's Office, responsible for protecting the public from unconstitutional acts has not taken action challenging the Minneapolis Charter amendment governing Instant Runoff Voting despite its own opinion referenced in paragraph 25 of this Complaint.

**Uniform Declaratory Judgment Action  
Under Minn. Stat. §§ 555.01 et seq.**

**Minnesota statutes allow the courts to declare the Minneapolis  
Charter amendments unconstitutional.**

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28. Minnesota State Statute provides for an interested person affected by a statute, municipal ordinance, or franchise to have questions of its validity declared by a court of competent jurisdiction.

29. Minnesota Statute § 555.02 states:

Any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.

30. The Plaintiffs are interested persons who seek a declaration of the constitutionality of the City of Minneapolis Charter amendment affecting the conduct of elections and the method of elections through a method referred to as Single Transferable Vote, also known as Ranked Choice Voting or Instant Runoff Voting.

31. An actual controversy exists between Plaintiffs and the City of Minneapolis, the Mayor of Minneapolis, the Secretary of State, and the Attorney General regarding Plaintiffs' constitutional rights and the constitutional validity of the City's Charter amendment under the Minnesota and United States Constitutions.

32. The Plaintiffs seek this Court to render a declaratory judgment under the provisions of Minn. Stat. §§ 555.01, et seq. and declare that the City of Minneapolis Charter amendment affecting the conduct of elections and the method of elections through a method referred to as Single Transferable Vote, also known as Ranked Choice Voting or Instant Runoff Voting is an unconstitutional violation of the Minnesota and United States Constitutions.

## Claim I

### Violation of the Minnesota Constitution

The Minnesota Constitution enumerates the fundamental rights of the people to be free of impairment to associate and elect candidates of their choice with assurance that their vote is counted as cast.

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33. The allegations of the foregoing paragraphs are incorporated in their entirety by reference.

34. Article I of the Minnesota Constitution embodies the Bill of Rights for Minnesota citizens. Article 1, Section 2 states: “No member of this state shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers....”

35. Article I, Section 16 states: “The enumeration of rights in this constitution shall not deny or impair others retained by and inherent in the people.”

36. Article VII of the Minnesota Constitution also embodies the rights of Minnesota citizens regarding the elective franchise. Under Article VII, Section 1 “[e]very person 18 years of age or more who has been a citizen of the United States for three months and who has resided in the precinct for 30 days next preceding an election shall be entitled to vote in that precinct....”

37. Article VII, Section 6 of the Minnesota Constitution states that “[e]very person who by the provisions of this article is entitled to vote at any election and is 21 of age is eligible for any office elective by the people....”

38. The right to associate with others is a fundamental right under the Minnesota Constitution.

39. The right to vote and the assurance that the vote is counted as cast without impairment to or loss of a voter's first choice of electing the candidate of his or her choice is a fundamental right under the Minnesota Constitution.

40. Citizens in Minnesota eligible to vote may exercise their right to select a person to hold an office that requires an election by the people.

41. The Mayor of the City of Minneapolis is an office elected by the people.

42. The members of the Minneapolis City Council are offices elected by the people.

43. The members of the Minneapolis Park and Recreation Board are offices elected by the people.

44. The members of the Minneapolis Library Board are offices elected by the people.

45. The members of the Minneapolis Board of Estimate and Taxation are offices elected by the people.

46. The Minneapolis Charter amendment to affect the conduct of elections and the voting method through a method of Single Transferable Vote (Ranked Choice Voting or Instant Runoff Voting) violates Article I and Article VII of the Minnesota Constitution.

47. Under the Single Transferred Vote scheme there is no primary. During an election for a single-seat — using one election — the voter is required to rank candidates casting several “choice-votes” in order of preference rather than vote for one candidate. If no one candidate receives a majority of first-choice votes, the

candidate with the least number of first-choice votes is eliminated and the second-choice votes on those ballots are transferred to the remaining candidates. This process is repeated until a 50 percent plus 1 majority is achieved.

48. Under the Single Transferred Vote scheme, during multi-seat elections, using one election — the voter is required to rank candidates casting several “choice-votes” in order of preference rather than casting one vote for each multi-seat-candidate separately. When a candidate exceeds the number of votes required to be elected, the surplus portion of each vote for that candidate is transferred proportionately to the next-ranked candidate on each ballot until a candidate exceeds the number of votes required to be elected. The threshold is derived from a formula based on the total number of voters and the number of seats to be filled.

49. The voting methodology of the City of Minneapolis will dilute or threaten to interfere with the act of an individual citizen’s right to vote and assurance that the vote be counted as cast without impairment to or loss of a voter’s first choice of electing the candidate of his or her choice.

50. Despite the Attorney General’s opinion referenced in paragraph 25 of this Complaint, the Minnesota Secretary of State’s Office has failed to seek redress against the City of Minneapolis for the election method of Single Transferable Vote (Ranked Choice or Instant Runoff Voting) as amended in the City’s Charter for violating the applicable provisions of the Minnesota State Constitution.

51. The Minnesota Attorney General’s Office has failed to seek redress against the City of Minneapolis for the election method of Single Transferable Vote (Ranked

Choice or Instant Runoff Voting) as amended in the City's Charter for violating the applicable provisions of the Minnesota Constitution despite its own opinion referenced in paragraph 25 of this Complaint.

52. Plaintiffs have been and continue to be damaged because of the Defendants' constitutional violations and seek this Court to declare the Defendants' acts as unconstitutional under the Minnesota Constitution and grant any other relief deemed justified.

## Claim II

### Violation of the United States Constitution

**The United States Constitution enumerates the fundamental rights of the people to be free of impairment to associate and elect candidates of their choice with assurance that their vote is counted as cast.**

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53. The allegations of the foregoing paragraphs are incorporated in their entirety by reference.

54. The First Amendment of the United States Constitution protects the right of association as well as other rights.

55. The right to vote is a fundamental political right derived from the right of association as embodied within the First Amendment of the United States Constitution.

56. The First Amendment protects an individual citizen's right to vote and assurance that the vote be counted as cast without impairment to or loss of a voter's first choice of electing the candidate of his or her choice.

57. The Fourteenth Amendment of the United States Constitution protects the right of due process.

58. The Fourteenth Amendment of the United States Constitution protects the First Amendment protections of the right to vote and assurance that the vote be counted as cast without impairment to or loss of a voter's first choice of electing the candidate of his or her choice from state infringement.

59. An act that threatens to interfere with or dilute the act of voting for a candidate of an individual's choice violates the First and Fourteenth Amendments of the United States Constitution.

60. The City of Minneapolis Charter amendment affected the provisions governing the selection of elected officials under Section 5A, and the method of voting under Section 5B of the City Charter.

61. Under the Single Transferred Vote scheme there is no primary. During an election for a single-seat — using one election — the voter is required to rank candidates casting several “choice-votes” in order of preference rather than vote for one candidate. If no one candidate receives a majority of first-choice votes, the candidate with the least number of first-choice votes is eliminated and the second-choice votes on those ballots are transferred to the remaining candidates. This process is repeated until a 50 percent plus 1 majority is achieved.

62. Under the Single Transferred Vote scheme, during multi-seat elections, using one election — the voter is required to rank candidates casting several “choice-votes” in order of preference rather than casting one vote for each multi-seat-candidate

separately. When a candidate exceeds the number of votes required to be elected, the surplus portion of each vote for that candidate is transferred proportionately to the next-ranked candidate on each ballot until a candidate exceeds the number of votes required to be elected. The threshold is derived from a formula based on the total number of voters and the number of seats to be filled.

63. The voting methodology of the City of Minneapolis will dilute or threaten to interfere with the act of an individual citizen's right to vote and assurance that the vote be counted as cast without impairment to or loss of a voter's first choice of electing the candidate of his or her choice.

64. Despite the Attorney General's opinion referenced in paragraph 25 of this Complaint, the Minnesota Secretary of State's Office has failed to seek redress against the City of Minneapolis for the election method of Single Transferable Vote (Ranked Choice or Instant Runoff Voting) as amended in the City's Charter for violating the applicable provisions of the United States Constitution.

65. The Minnesota Attorney General's Office has failed to seek redress against the City of Minneapolis for the election method of Single Transferable Vote (Ranked Choice or Instant Runoff Voting) as amended in the City's Charter for violating the applicable provisions of the United States Constitution despite its own opinion referenced in paragraph 25 of this Complaint.

66. Plaintiffs have been and continue to be damaged because of the Defendants' constitutional violations and seek this Court to declare the Defendants' acts as

unconstitutional under the United States Constitution and grant any other relief deemed justified.

### Claim III

#### Violation of 42 U.S.C. § 1983

**The actions of the City of Minneapolis have violated the Civil Rights laws of the United States for which the Plaintiffs are entitled to relief.**

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67. The allegations of the foregoing paragraphs are incorporated in their entirety by reference.

68. Plaintiffs' right to vote for the candidate of her choice and the assurance that her vote be counted as cast without impairment to or loss of that first choice of electing a candidate is constitutionally protected under the First and Fourteenth Amendments to the United States Constitution.

69. The voting method identified as Single Transferable Vote (Ranked Choice Voting or Instant Runoff Voting) dilutes or threatens to interfere and does interfere with an individual citizen's act of voting.

70. The City of Minneapolis is unconstitutionally violating the rights of the Plaintiffs under the applicable provisions of the First and Fourteenth Amendments of the United States Constitution which are further protected under 42 U.S.C. § 1983.

71. Plaintiffs have been and continue to be damaged because of the Defendant City of Minneapolis' constitutional violations and seek this Court to declare the City acts as unconstitutional under the United States Constitution and grant any other relief deemed justified under 42 U.S.C. §§ 1983 and 1988.

## Prayer for Relief

This Court should find the actions of the City of Minneapolis unconstitutional, enjoin the City from exercising its desire to change the conduct of elections and voting methods, and award damages and attorney fees for violating Civil Rights laws.

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Wherefore, Plaintiffs Minnesota Voters Alliance, John Malone, Ronald D. Moey, Craig Bartlett, Karen Evelyn Mathias, and Daniel John Mathias respectively pray for judgment from this Court as follows:

1. For a declaratory judgment against the City of Minneapolis, a municipality incorporated under the laws of the State of Minnesota for violating the Plaintiffs' constitutional rights under the Minnesota Constitution;
2. Finding the City of Minneapolis Charter, Chapter 2, Sections 5A and 5B governing the conduct of elections and voting method as adopting the Single Transfer Vote a/k/a Ranked Choice, or Runoff Voting unconstitutional under the Minnesota Constitution;
3. For a declaratory judgment against the City of Minneapolis for violating the Plaintiffs' constitutional rights under the United States Constitution;
4. Finding the City of Minneapolis Charter, Chapter 2, Sections 5A and 5B governing the conduct of elections and voting method as adopting the Single Transfer Vote a/k/a Ranked Choice, or Runoff Voting unconstitutional under the United States Constitution;
5. Permanently enjoining the City of Minneapolis from instituting any process or procedure governing the conduct of elections and voting

method that uses or otherwise adopts the Single Transfer Vote a/k/a Ranked Choice, or Runoff Voting or other similar methodology contrary to the final findings and judgment of this Court;

6. For all litigation costs, costs, expenses, and expert witness fees allowed by law;
7. Finding the City of Minneapolis has violated the civil rights of the Plaintiffs under 42 U.S.C. § 1983.
8. For attorney fees as allowed under 42 U.S.C. §§ 1983, 1988, and any other fees and costs applicable by law for the unconstitutional actions of the City of Minneapolis against all Plaintiffs; and
9. For such other and further relief as this Court deems just and equitable.

**MOHRMAN & KAARDAL, P.A.**



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*Attorney for Plaintiffs*

Dated: December 20, 2007

## ACKNOWLEDGEMENT

The undersigned, hereby acknowledges that pursuant to Minn. Stat. § 549.21(1), costs, disbursements, and reasonable attorney fees and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find that the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the course of the proceedings; or committed fraud upon the Court.

**MOHRMAN & KAARDAL, P.A.**



Dated: December 20, 2007

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