

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Douglas Benson, Duane Gajewski,
Jessica Dykhuis, Lindzi Campbell, Sean
Campbell, Thomas Trisko and John
Rittman,

Case Type: Other Civil
Court File No. 27 CV 10-11697

Plaintiffs,

v.

Jill Alverson, in her official capacity as
the Hennepin County Local Registrar,

**NOTICE OF
INTERVENTION**

Defendant,

and

Minnesota Family Council,

Defendant-Intervenor.

TO: Plaintiffs above-named and their attorney, Peter James Nickitas, Esq., of Peter J. Nickitas Law Office, LLC, 431 South Seventh Street, Suite 2446, Minneapolis, Minnesota 55415; and

Defendant above-named and her attorney, Michael O. Freeman, Hennepin County Attorney, Hennepin County Government Center, Room 2300, 300 South Sixth Street, Minneapolis, Minnesota 55487:

PLEASE TAKE NOTICE that Minnesota Family Council ("MFC") seeks to intervene in the above-captioned matter pursuant to Minn. R. Civ. P. 24.01 and 24.02.

MFC is entitled to intervene as of right under Minn. R. Civ. P. 24.01. MFC possesses multiple interests in the Minnesota statutes that are challenged by Plaintiffs' lawsuit, and disposition of this action will impair MFC's ability to protect those interests. Additionally, the existing parties do not adequately represent MFC's interests in this case.

Alternatively, MFC should be granted permissive intervention under Minn. R. Civ. P. 24.02. MFC's arguments and defenses have questions of fact and law in common with Plaintiffs' claims. And MFC's intervention will not unduly delay or prejudice the adjudication of the rights of the existing parties.

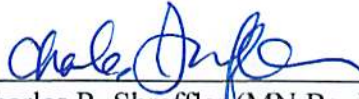
As required by Minn. R. Civ. P. 24.03, this notice is accompanied by a pleading, in the form of an answer, setting forth the reasons for the claim of entitlement to intervention and the nature and extent of the defenses for which intervention is sought.

Please be advised that pursuant to Minn. R. Civ. P. 24.03, in the absence of an objection by one of the existing parties within thirty (30) days after service of this notice, MFC's intervention shall be deemed to have been accomplished.

But as directed under Minn. R. Civ. P. 24.03, in case of such objection, MFC will move the Court, within thirty (30) days following that objection, for leave to intervene in this action to assert the defenses and arguments found in the accompanying pleading.

DATED: June 2, 2010

SHREFFLER LAW, PLLC

By: 
Charles R. Shreffler (MN Bar No. 183295)
2700 30th Ave. So.
Minneapolis, MN 55406
Tel: (612) 872-8000
Fax: (651) 925-0080
chuck@chucklaw.com

-and-

ALLIANCE DEFENSE FUND

Brian W. Raum (NY Bar No. 2856102)*
James A. Campbell (AZ Bar No. 026737)*
15100 N. 90th Street
Scottsdale, AZ 85260
Tel: (480) 444-0020
Fax: (480) 444-0028
braum@telladf.org
jcampbell@telladf.org

Jordan W. Lorence (MN Bar No. 125210)
801 G Street, NW, Suite 509
Washington, D.C. 20001
Tel: (202) 393-8690
Fax: (480) 444-0028
jlorence@telladf.org

Attorneys for Minnesota Family Council

**Pro hac vice motion forthcoming*

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**INTERVENOR'S
PROPOSED ANSWER**

Defendant,

and

Minnesota Family Council,

Defendant-Intervenor.

Minnesota Family Council, for its answer to Plaintiffs' Complaint, denies each and every matter, fact, and allegation in the Complaint except as hereinafter admitted, qualified, or explained.

BASIS FOR INTERVENTION

1. Minnesota Family Council ("MFC") is the largest nonprofit, nonpartisan, pro-family organization in the State of Minnesota; it has approximately 175,000 constituents throughout the State.

2. MFC is entitled to intervene in this action as of right under Minn. R. Civ. P. 24.01.

3. MFC helped draft, and was the principal organization that supported and lobbied for, the legislative measure challenged in Plaintiffs' Complaint—Minnesota's Defense of Marriage Act, Laws of Minnesota 1997, Chapter 203, Article 10.

4. The disposition of Plaintiffs' lawsuit will impair MFC's ability to protect its interest in Minnesota's Defense of Marriage Act.

5. Additionally, MFC has a particularized interest in furthering its mission, which is to strengthen the families of Minnesota by, among other things, ensuring that marriage is and continues to remain the union of one man and one woman.

6. Plaintiffs' lawsuit threatens to interfere substantially with MFC's mission and impede/impact the operation of MFC's organization.

7. MFC contends that the existing parties do not adequately represent its unique and particularized interests in this case.

8. As a result, MFC asserts that it is entitled to intervene as of right under Minn. R. Civ. P. 24.01.

9. Alternatively, MFC should be granted permissive intervention under Minn. R. Civ. P. 24.02.

10. MFC's arguments and defenses have questions of fact and law in common with Plaintiffs' claims.

11. MFC's intervention will not unduly delay or prejudice the adjudication of the rights of the existing parties.

12. As a result, MFC asserts that it should be granted permissive intervention under Minn. R. Civ. P. 24.02.

ANSWER TO PLAINTIFFS' GENERAL AND INTRODUCTORY ALLEGATIONS

1. MFC has insufficient knowledge and information to admit or deny the allegations in Paragraph 1 of Plaintiffs' Complaint, and therefore it denies those allegations.

2. MFC has insufficient knowledge and information to admit or deny the allegations in

Paragraph 2 of Plaintiffs' Complaint, and therefore it denies those allegations.

3. MFC has insufficient knowledge and information to admit or deny the allegations in Paragraph 3 of Plaintiffs' Complaint, and therefore it denies those allegations.

4. MFC has insufficient knowledge and information to admit or deny the allegations in Paragraph 4 of Plaintiffs' Complaint, and therefore it denies those allegations.

5. MFC has insufficient knowledge and information to admit or deny the allegations concerning Defendant Jill Alverson in Paragraph 5 of Plaintiffs' Complaint, and therefore it denies those allegations.

6. No response is required to the legal conclusions regarding jurisdiction and venue contained in Paragraph 6 of Plaintiffs' Complaint. But to the extent that a response is required, MFC admits that, based on the allegations in the Complaint, venue is proper in Hennepin County, but denies that this Court has jurisdiction to issue the relief that Plaintiffs request.

7. MFC admits the allegations in Paragraph 7 of Plaintiffs' Complaint.

8. MFC admits the allegations in Paragraph 8 of Plaintiffs' Complaint.

9. MFC admits the allegations in Paragraph 9 of Plaintiffs' Complaint.

10. MFC admits the allegations in Paragraph 10 of Plaintiffs' Complaint.

11. MFC admits the allegations in Paragraph 11 of Plaintiffs' Complaint.

12. MFC has insufficient knowledge and information to admit or deny the allegations in Paragraph 12 of Plaintiffs' Complaint, and therefore it denies those allegations.

13. MFC has insufficient knowledge and information to admit or deny the allegations in Paragraph 13 of Plaintiffs' Complaint, and therefore it denies those allegations.

14. MFC has insufficient knowledge and information to admit or deny the allegations in Paragraph 14 of Plaintiffs' Complaint, and therefore it denies those allegations.

15. MFC has insufficient knowledge and information to admit or deny the allegations in Paragraph 15 of Plaintiffs' Complaint, and therefore it denies those allegations.

16. MFC denies the allegations in Paragraph 16 of Plaintiffs' Complaint.

ANSWER TO PLAINTIFFS' COUNT I

17. In response to Paragraph 17 of Plaintiffs' Complaint, MFC restates its responses to Paragraphs 1 through 16 above.

18. MFC admits the allegations in Paragraph 18 of Plaintiffs' Complaint.

19. MFC denies the allegations in Paragraph 19 of Plaintiffs' Complaint.

20. MFC denies the allegations in Paragraph 20 of Plaintiffs' Complaint.

21. MFC denies the allegations in Paragraph 21 of Plaintiffs' Complaint.

22. MFC denies the allegations in Paragraph 22 of Plaintiffs' Complaint.

23. MFC denies the allegations in Paragraph 23 of Plaintiffs' Complaint.

ANSWER TO PLAINTIFFS' COUNT II

24. In response to Paragraph 24 of Plaintiffs' Complaint, MFC restates its responses to Paragraphs 1 through 23 above.

25. MFC denies the allegations in Paragraph 25 of Plaintiffs' Complaint.

ANSWER TO PLAINTIFFS' COUNT III

26. In response to Paragraph 26 of Plaintiffs' Complaint, MFC restates its responses to Paragraphs 1 through 25 above.

27. MFC admits the allegations in Paragraph 27 of Plaintiffs' Complaint.

28. MFC denies the allegations in Paragraph 28 of Plaintiffs' Complaint.

29. MFC denies the allegations in Paragraph 29 of Plaintiffs' Complaint.

30. MFC denies the allegations in Paragraph 30 of Plaintiffs' Complaint.

31. MFC denies the allegations in Paragraph 31 of Plaintiffs' Complaint.

32. MFC denies the allegations in Paragraph 32 of Plaintiffs' Complaint.

33. MFC denies the allegations in Paragraph 33 of Plaintiffs' Complaint.

ANSWER TO PLAINTIFFS' COUNT IV

34. In response to Paragraph 34 of Plaintiffs' Complaint, MFC restates its responses to Paragraphs 1 through 33 above.

35. MFC denies the allegations in Paragraph 35 of Plaintiffs' Complaint.

36. MFC denies the allegations in Paragraph 36 of Plaintiffs' Complaint.

ANSWER TO PLAINTIFFS' COUNT V

37. In response to Paragraph 37 of Plaintiffs' Complaint, MFC restates its responses to Paragraphs 1 through 36 above.

38. MFC denies the allegations in Paragraph 38 of Plaintiffs' Complaint.

39. MFC denies the allegations in Paragraph 39 of Plaintiffs' Complaint.

40. MFC denies the allegations in Paragraph 40 of Plaintiffs' Complaint.

ANSWER TO PLAINTIFFS' REQUEST FOR RELIEF

41. In response to Paragraph 41 of Plaintiffs' Complaint, MFC restates its responses to Paragraphs 1 through 40 above.

42. In response to Paragraph 42 of Plaintiffs' Complaint, MFC acknowledges that Plaintiffs have made allegations indicating that they believe their constitutional rights have been violated, but denies that Plaintiffs have sufficiently pled a "real and genuine dispute . . . between the parties" or stated allegations showing that they are entitled to the relief they seek.

43. In response to Paragraph 43 of Plaintiffs' Complaint, MFC acknowledges that Plaintiffs have made allegations indicating that they believe their constitutional rights have been

violated, but denies that Plaintiffs have stated allegations showing that they are entitled to the relief they seek under the Uniform Declaratory Judgment Act, Minn. Stat. § 555.01 *et seq.*

44. MFC denies the allegations in Paragraph 44 of Plaintiffs' Complaint.

45. MFC denies the allegations in Paragraph 45 of Plaintiffs' Complaint.

46. The remainder of Plaintiffs' Complaint is a prayer for relief that does not require a response. But to the extent that a response is required, MFC denies that Plaintiffs are entitled to the relief they request.

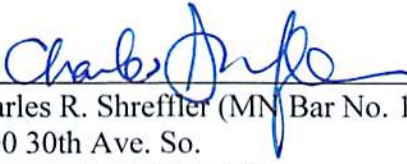
AFFIRMATIVE DEFENSES

1. Plaintiffs have failed to state a claim upon which relief can be granted.
2. Plaintiffs lack standing to assert the claims in their Complaint.
3. Plaintiffs' claims are barred by the applicable statutes of limitations.
4. Plaintiffs' claims are barred by the equitable doctrines of laches, estoppel, unclean hands, and/or waiver.

WHEREFORE, MFC respectfully requests that the Court dismiss Plaintiffs' claims with prejudice; deny Plaintiffs' prayer for relief; and grant such other relief as the Court deems just and equitable.

DATED: June 2, 2010

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Charles R. Shreffler (MN Bar No. 183295)
2700 30th Ave. So.
Minneapolis, MN 55406
Tel: (612) 872-8000
Fax: (651) 925-0080
chuck@chucklaw.com

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Brian W. Raum (NY Bar No. 2856102)*
James A. Campbell (AZ Bar No. 026737)*
15100 N. 90th Street
Scottsdale, AZ 85260
Tel: (480) 444-0020
Fax: (480) 444-0028
braum@telladf.org
jcampbell@telladf.org

Jordan W. Lorence (MN Bar No. 125210)
801 G Street, NW, Suite 509
Washington, D.C. 20001
Tel: (202) 393-8690
Fax: (480) 444-0028
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ACKNOWLEDGMENT PURSUANT TO MINN. STAT. § 549.211

The undersigned hereby acknowledges that sanctions may be imposed under Minn. Stat. § 549.211 for conduct violating Subsection 2 of that Statute.

Dated: June 2, 2010



Charles R. Shreffler (MN Bar No. 183295)