

Erick G. Kaardal  
Forty Examples of Wins in Cases Involving Government or Public Law Issues  
(Draft 2 – September 1, 2020)

1. State Polling Place Regulation (U.S. Supreme Court)

Minnesota Voters Alliance v. Mansky

Supreme Court of the United States June 14, 2018 138 S.Ct. 1876 2018 WL 2973746 16-1435 232 Citing References

GOVERNMENT - Elections. Minnesota statute barring the wearing of political insignia inside polling place violated First Amendment's Free Speech Clause.

Background: Political organization, registered voter, and county election judge brought 1983 action against Minnesota Secretary of State and county election officials, asserting facial and as-applied First Amendment challenges to Minnesota statute prohibiting any person from wearing a political badge, political button, or other political insignia inside a polling place on election day. The United States District Court for the District of Minnesota, Joan N. Ericksen, J., 789 F.Supp.2d 1112, dismissed action for failure to state a claim. Plaintiffs appealed. The United States Court of Appeals for the Eighth Circuit, Benton, Circuit Judge, 708 F.3d 1051, affirmed in part, reversed in part, and remanded. On remand, the District Court, Ericksen, J., 62 F.Supp.3d 870, entered summary judgment for defendants on remaining facial challenge. Plaintiffs appealed. The Court of Appeals, Benton, Circuit Judge, 849 F.3d 749, affirmed. Certiorari was granted.

Holdings: The Supreme Court, Chief Justice Roberts, held that:

1 Minnesota's political apparel ban restricted form of expression protected by First Amendment;

2 a polling place in Minnesota qualifies as a nonpublic forum, for First Amendment purposes;

3 Minnesota's political apparel ban pursued permissible objective of setting polling place aside as island of calm in which voters could peacefully contemplate their choices; but

4 Minnesota's political apparel ban was not capable of reasoned application and thus violated Free Speech Clause; and

5 the Court would decline to certify to Minnesota Supreme Court question as to the statute's proper interpretation.

Reversed and remanded.

Justice Sotomayor filed dissenting opinion, in which Justice Breyer joined.

...Petitioners. Daniel P. Rogan , Minneapolis, MN, for Respondents. Erick G. Kaardal , Mohrman, Kaardal, & Erickson, P.A., Minneapolis, MN, J. David Breemer , Wencong Fa, Deborah...

2. State Judicial Elections Regulation (U.S. Supreme Court)

Republican Party of Minnesota v. White

Supreme Court of the United States June 27, 2002 536 U.S. 765 122 S.Ct. 2528 01-521 3,328 Citing References

JUDICIAL ADMINISTRATION - Judges. Canon prohibiting judicial candidates from announcing legal or political views violated First Amendment.

Candidate for judicial office, and various political groups, sued state boards and offices responsible for establishing judicial ethics, alleging that Minnesota Supreme Court's canon of judicial conduct, which prohibited candidates for judicial election from announcing their views on disputed legal or political issues, violated the First Amendment. The United States District Court for the District of Minnesota, 63 F.Supp.2d 967, Michael James Davis, J., upheld the validity of the canon, and plaintiffs appealed. The Court of Appeals, 247 F.3d 854, affirmed. Certiorari was granted. The Supreme Court, Justice Scalia, held that canon violated the First Amendment.

Reversed and remanded.

Justice O'Connor and Justice Kennedy filed concurring opinions.

Justice Stevens filed a dissenting opinion in which Justices Souter, Ginsburg, and Breyer joined.

Justice Ginsburg filed a dissenting opinion, in which Justices Stevens, Souter, and Breyer joined.

William F. Mohrman, Erick G. Kaardal , Mohrman & Kaardal, P.A., Minneapolis, MN, for petitioner Gregory Wersal

### 3. State school district campaign finance regulation (Minnesota Supreme Court)

Abrahamson v. St. Louis County School Dist.

Supreme Court of Minnesota. August 10, 2012 819 N.W.2d 129 2012 WL 3236801 A10-2162 71 Citing References

EDUCATION - Finance. School district was a corporation within the meaning of the Campaign Financial Reports Act and Fair Campaign Practices Act.

Background: Complainants brought action against school district and school board members, alleging that, prior to election ballot referendum, district and board violated Campaign Financial Reports Act and Fair Campaign Practices Act by failing to file required financial reports and by making false statements about the consequences of the referendum. The Office of Administrative Hearings (OAH) dismissed the complaint. Complainants appealed. The Court of Appeals, 802 N.W.2d 393, affirmed in part, reversed in part, and remanded. District petitioned for further review, which was granted.

Holdings: The Supreme Court, Page, J., held that:

1 school district was corporation within meaning of Campaign Financial reports Act and Fair Campaign Practices Act;

2 on issue of first impression, complainants established prima facie case that district made promotional statements;

3 claim alleging false statements was required to be filed within one year of publication of statement; and

4 publication of budget projection in support of ballot question did not constitute publication of a false statement.

Affirmed in part, reversed in part, and remanded.

Anderson, J., concurred separately and filed opinion.

Stras, J., concurred in part, dissented in part, and filed opinion in which Anderson, J., joined.

...prima facie violation of Minn.Stat. § 211B.06 Erick G. Kaardal , Mohrman & Kaardal, P.A., Minneapolis, MN, for respondents Abrahamson and Kotzian. Stephen M...

#### 4. State Constitutional Amendment Ballot Titles (Minnesota Supreme Court)

Limmer v. Ritchie

Supreme Court of Minnesota. August 27, 2012 819 N.W.2d 622 2012 WL 3642681 A12-1258, A12-1149 26 Citing References

GOVERNMENT - Elections. Secretary exceeded his authority by providing titles for proposed constitutional amendment ballot questions.

Background: Petitioners sought an order requiring the Secretary of State to use the titles designated by the Legislature for two proposed constitutional amendment ballot questions that would appear on general election ballot.

Holding: The Supreme Court held that Secretary of State exceeded his statutory authority by providing titles for questions printed on the ballot regarding proposed constitutional amendments that were different from those titles passed by the legislature.

Petitions granted.

Page, J., dissented with opinion, in which Paul H. Anderson, J., joined.

Paul H. Anderson, J., dissented with opinion, in which Page, J., joined.

#### 5. State Constitutional Amendment Ballot Question (Minnesota Supreme Court)

League of Women Voters Minnesota v. Ritchie

Supreme Court of Minnesota. August 27, 2012 819 N.W.2d 636 2012 WL 3643840 A12-0920 81 Citing References

GOVERNMENT - Elections. Ballot question for proposed "voter identification" amendment to State Constitution did not itself violate the Constitution.

Background: Petitioners filed suit against the Secretary of State seeking to enjoin the Secretary from placing on the general election ballot a question pertaining to the proposed voter identification and provisional ballot constitutional amendment. The State House of Representatives and the State senate, individual legislators, and nonprofit organization filed motions to intervene.

Holdings: The Supreme Court held that:

- 1 permissive intervention of House and Senate was appropriate;
- 2 non-profit organization was not entitled to intervene as of right;
- 3 Supreme Court had subject matter jurisdiction over the matter;
- 4 nonprofit organizations had standing to bring suit; and
- 5 ballot question on a proposed constitutional amendment implementing a photographic identification requirement for voters was not so unreasonable or misleading as to be a palpable evasion of requirement of State Constitution that constitutional amendments be submitted to a popular vote.

Petition denied.

Page, J., dissented, with opinion, in which Paul H. Anderson, J., joined.

Paul H. Anderson, J., dissented, with opinion.

...Law Center, PLLC, Alexandria, VA, for amicus curiae Minnesota

Majority. Erick G. Kaardal William F. Mohrman , Mohrman & Kaardal, P.A., Minneapolis, MN, for amici...

6. State Campaign Materials Disclaimer Requirement (Minnesota Court of Appeals)

Riley v. Jankowski

Court of Appeals of Minnesota. April 26, 2006 713 N.W.2d 379 2006 WL 1147945 A05-1125 53 Citing References

GOVERNMENT - Elections. Statute requiring a disclaimer on campaign literature was overbroad and unconstitutionally restricted pure speech.

Background: Voter filed complaints with the Office of Administrative Hearings (OAH) alleging that successful candidates in city council election prepared and disseminated false campaign materials and distributed campaign material without a required disclaimer. After the claims were joined and following a hearing, a panel of ALJs found that candidates violated campaign laws. Candidates filed certiorari appeal.

Holdings: The Court of Appeals, Peterson, J., held that:

- 1 administrative hearing process for complaints of campaign law violations did not violate the separation-of-powers doctrine;
- 2 candidates' rights to a jury trial were not violated by the administrative hearing process;
- 3 statutes establishing the administrative hearing process did not unconstitutionally intrude on candidates' First Amendment rights;
- 4 candidates did not act with actual malice when they accused incumbents of attempting to use their elected positions to profit illegally; and

5 statute requiring a disclaimer on campaign literature was overbroad and unconstitutionally restricted pure speech in violation of the First Amendment. Reversed.

...General, St. Paul, MN, for respondent Office of Administrative Hearings. Erick G. Kaardal William F. Mohrman Mohrman & Kaardal, P.A. , Minneapolis, MN, for relators...

7. State Ban on False Speech (U.S. Court of Appeals for Eighth Circuit)

281 Care Committee v. Arneson

United States Court of Appeals, Eighth Circuit. April 28, 2011 638 F.3d 621 2011 WL 1584724 10-1558 354 Citing References

GOVERNMENT - Elections. Knowingly false campaign speech is not categorically outside protection of First Amendment.

Background: Advocacy organizations sued Minnesota Attorney General and four county attorneys, alleging that their free speech rights were violated by provision of Minnesota Fair Campaign Practices Act (FCPA) making it a crime to knowingly or with reckless disregard for the truth make a false statement about a proposed ballot initiative. The United States District Court for the District of Minnesota, James M. Rosenbaum, J., 2010 WL 610935, dismissed complaint for lack of subject-matter jurisdiction, held in the alternative that it would dismiss complaint for failing to state a claim, and denied organizations' motion for summary judgment. Organizations appealed.

Holdings: The Court of Appeals, Beam, Circuit Judge, held that:

1 fact that statute had been infrequently enforced did not preclude organizations from having standing;

2 organizations alleged injury in fact sufficient to support standing;

3 organizations' alleged injury would be redressed by favorable decision, as required for standing;

4 organizations' challenge was ripe for adjudication;

5 *Ex Parte Young* doctrine precluded Eleventh Amendment bar against organizations' action; and

6 knowingly false campaign speech is not categorically outside the protection of the First Amendment.

Reversed in part, vacated in part, and remanded.

...tailored to meet a compelling government interest. U.S.C.A. Const.Amend.

1 Erick G. Kaardal , argued, William F. Mohrman , on the brief, Minneapolis, MN, for...

8. First Amendment claim against Sheriff (U.S. District Court for Northern District of Iowa)

Minten v. Weber

United States District Court, N.D. Iowa, Western Division. December 22, 2011 832 F.Supp.2d 1007 2011 WL 6754066 C11-4004-MWB 18 Citing References  
LABOR AND EMPLOYMENT - Public Employment. Deputy's offer to testify in federal lawsuit against sheriff related to matter of public concern and was protected speech.

Background: Deputy sheriff who was fired after he offered to testify in federal lawsuit concerning whether sheriff had violated First Amendment in denying two individuals nonprofessional permits to carry weapons filed First Amendment retaliatory discharge suit against sheriff. Parties cross-moved for summary judgment.

Holdings: The District Court, Mark W. Bennett, J., held that:

1 deputy was speaking as private citizen when he made offer to testify;

2 deputy's speech was about a matter of public concern;

3 *Pickering* balancing test favored deputy, whose speech was protected;

4 deputy's firing was adverse employment action;

5 deputy's protected speech was a motivating factor in sheriff's decision to fire him for insubordination; and

6 deputy would not have been fired for alternative reasons.

Plaintiff's motion granted; defendant's motion denied.

...point in sheriff's decision to fire him. U.S.C.A. Const.Amend.

1 Erick G. Kaardal Vincent J. Fahlander, Mohrman & Kaardal, PA, Minneapolis, MN, William F...

9. State DNR Commissioner changes lake name (Minnesota Supreme Court—pending)

Save Lake Calhoun v. Strommen

Court of Appeals of Minnesota. April 29, 2019 928 N.W.2d 377 2019 WL 1890576 A18-1007 2 Citing References

GOVERNMENT — Public Bodies. Department of Natural Resources exceeded its authority by changing lake name, in existence for over 40 years, without cooperating with county boards.

Background: After the Department of Natural Resources (DNR) approved a name change to lake, and petition for writ of certiorari made by association of residents and business owners surrounding lake opposing the name change was denied, the association petitioned for a writ of quo warranto. The District Court, Ramsey County, No. 62-CV-18-2891, Thomas Gilligan, Jr., J., granted DNR's motion to dismiss for failure to state a claim upon which relief can be granted. Association appealed.

Holdings: The Court of Appeals, Slieter, J., held that:

1 association had standing, as taxpayers, to petition for a writ of quo warranto;

2 when DNR changed name of lake, it engaged in an ongoing exercise of power, such that association stated a claim upon which relief could be granted; and

3 DNR exceeded its statutory authority when it changed the name of lake without cooperating with county boards.

Reversed and remanded.

...Ramsey County District Court, File No. 62 -CV-18-2891 Erick G. Kaardal ,  
Mohrman, Kaardal & Erickson, P.A., Minneapolis, Minnesota (for appellant) Keith  
Ellison...

10. First Amendment claim against Sheriff (U.S. District Court for Northern District of Iowa)

Dorr v. Weber

United States District Court, N.D. Iowa, Western Division. July 07, 2010 741

F.Supp.2d 1010 2010 WL 2710468 C 08-4093-MWB 21 Citing References

CIVIL RIGHTS - Free Speech. Sheriff violated First Amendment by denying application for concealed weapons permit based on applicant's protected activities.

Background: Applicants filed suit alleging that sheriff's decision to deny their applications for concealed weapons permits was in retaliation for exercising their First Amendment rights.

Holding: The District Court, Mark W. Bennett, J., held that sheriff violated applicant's First Amendment rights by denying his application for concealed weapons permit because applicant engaged in protected activity and because of community's reaction to his protected activities, but sheriff did not violate eighteen year old applicant's First Amendment rights where denial of his application was based on his concerns about providing a concealed weapons permit to an individual under 21 years of age.

Order in accordance with opinion.

...part, a discussion of the First Amendment. U.S.C.A. Const.Amend.

1 Erick G. Kaardal Vincent J. Fahlander , Mohrman & Kaardal, PA, Minneapolis, MN, William F...

11. City of St. Paul and City of Minneapolis violate landlords' rights by compelling distribution of voting materials to tenants in violation of First Amendment (U.S. District Court for District of Minnesota).

Minnesota Voters Alliance v. City of Saint Paul, 442 F.Supp.3d 1109 (D.Minn., 2020)

Landlords brought action against cities, alleging that city ordinances requiring landlords to provide voter-registration information to new tenants violated their First Amendment right to freedom of speech. Parties cross-moved for summary judgment.

Holdings: The District Court, Wilhelmina M. Wright, J., held that:

1 voter-registration flyers were government speech;

2 strict scrutiny analysis applied to determine constitutionality of ordinances;

3 cities identified compelling government interests served by ordinances; and 4 cities failed to demonstrate that ordinances were narrowly tailored to serve compelling government interest.  
Landlords' motion granted.

12. Breach of settlement agreement claim against federal government (U.S. Court of Appeals for Federal Circuit)

LaBatte v. United States

United States Court of Appeals, Federal Circuit. August 16, 2018 899 F.3d 1373 2018 WL 3893124 2017-2396 19 Citing References

NATIVE AMERICANS — Government Contracts. Finality provision in settlement agreement between Department of Agriculture and Native American farmers did not bar farmer's breach of contract claim.

Background: Native American farmer filed an action against government, alleging that the government breached a settlement agreement of a class action discrimination suit brought by Native American farmers against the Department of Agriculture and breached its duty of good faith and fair dealing, when government directed farmer's two witnesses, who were employees of the Bureau of Indian Affairs (BIA) to refrain from testifying and providing evidence on behalf of the farmer in support of his claim for settlement funds. The United States Court of Federal Claims, No. 1:16-cv-00798-BAF, Bohdan A. Futey, J., dismissed the action. Farmer appealed  
Holdings: The Court of Appeals, Dyk, Circuit Judge, held that:

1 finality provision in settlement agreement did not bar farmer's claims, and  
2 farmer stated plausible claims against government.

Reversed and remanded.

...1:16-cv-00798-BAF, Senior Judge Bohdan A. Futey Erick G. Kaardal , Mohrman, Kaardal & Erickson, P.A., Minneapolis, MN, argued for plaintiff-appellant...

13. Data Practices Act claim against Secretary of State (Minnesota Supreme Court – pending)

Cilek v. Office of Minnesota Secretary of State

Court of Appeals of Minnesota. April 15, 2019 927 N.W.2d 327 2019 WL 1591809 A18-1140 1 Citing Reference

GOVERNMENT — Records. Information contained in statewide voter registration system regarding voter status, reason for a challenge, and voter history, is public data.

Background: Voter rights group brought action against Office of Secretary of State, seeking production of information from state voter registration system. The District Court, Ramsey County, Jennifer Frisch, J., granted group's motion for summary judgment. Secretary appealed.



Holding: The Court of Appeals, Worke, J., held that data on registered voter status, reason for a challenge, and voter history on active, inactive, or deleted Minnesota voters are public data.

Affirmed.

...Ramsey County District Court, File No. 62 -CV-17-4692 Erick G. Kaardal ,  
Mohrman, Kaardal & Erickson, P.A., Minneapolis, Minnesota (for respondents)  
Keith Ellison...

14. Hobby Lobby – like claim against HHS-mandated insurance for abortifacients and contraception (U.S. Court of Appeals for Eighth Circuit)

*Annex Medical, Inc. v. Sebelius*

United States Court of Appeals, Eighth Circuit. February 01, 2013 Not Reported in F.3d 2013 WL 1276025 13-1118 95 Citing References

Appellants Annex Medical, Inc. and Stuart Lind have moved for a preliminary injunction pending appeal against enforcement of certain mandatory coverage provisions of the Patient Protection and Affordable Care Act of 2010. In their complaint filed in the district court, the appellants challenged provisions of the statute and implementing regulations...

...S. Kester Kaylan Lytle Phillips , Actright Legal Foundation, Plainfield, IN, Erick G. Kaardal , Mohrman & Kaardal, P.A., Minneapolis, MN, for Plaintiffs-Appellants. Kaylan Lytle...

15. School District campaign finance disclosures statute of limitations issue (Minnesota Court of Appeals)

*15. Minnesota Voters Alliance v. Anoka Hennepin School Dist.*

Court of Appeals of Minnesota. December 23, 2013 Not Reported in N.W.2d 2013 WL 6725847 A13-0769 3 Citing References

Relators challenge a decision of an administrative-law judge (ALJ) dismissing as untimely their complaint against respondent school district that alleged violations of the Minnesota Campaign Financial Reports Act, Minn.Stat. §§ 211A.01–.14 (2012), and the Minnesota Fair Campaign Practices Act, Minn.Stat. §§...

...2013. Office of Administrative Hearings, File No. 8–0325–030140. Erick G. Kaardal , Mohrman & Kaardal, P.A., Minneapolis, MN, for relators. Lori Swanson , Attorney...

16. Government-appointed guardian has limited powers to move ward into nursing home. (Minnesota Court of Appeals)

*In re Medworth*

Court of Appeals of Minnesota. April 22, 1997 562 N.W.2d 522 1997 WL 191826 C8-96-2030 25 Citing References

Conservator petitioned to relocate conservatee from her home to out-of-state congregate-living apartment. The District Court, Hennepin County, Ann L. Alton, J., granted petition. Conservatee appealed. The Court of Appeals, Short, J., held that trial court abused its discretion in granting relocation petition. Reversed.

Conservator petitioned to relocate conservatee from her home to out-of-state congregate-living apartment. The District Court, Hennepin County, Ann L. Alton, J., granted petition. Conservatee appealed. The Court of Appeals, Short, J., held that trial court abused its discretion in granting relocation petition. Reversed.

...to the extent necessary to provide needed care and services. Erick G. Kaardal Trimble & Associates, Ltd. , Minnetonka, for appellant Elvira Medworth. Timothy R...

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17. Government-appointed conservator held accountable. (Minnesota Court of Appeals)

In re Conservatorship of Kimel

Court of Appeals of Minnesota. December 09, 2003 Not Reported in N.W.2d 2003 WL 22889998 A03-35

In an order on an account in a conservatorship, the district court surcharged conservator Louise Bouta and her surety for breach of a fiduciary duty in Bouta's management of Thomas Kimel's estate. Bouta appeals on three grounds: that inadequate notice of the nature of the alleged breach and potential personal liability violated her...

...Hennepin County District Court, File No. P6001276; Thorwald Anderson , Judge. Erick G. Kaardal Mohrman & Kaardal, P.A. , Minneapolis, MN, for appellant Louise Bouta. Stephen...

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18. State Department of Employment and Economic Development unemployment benefits dispute.

Smith v. Department of Employment and Economic Development

Court of Appeals of Minnesota. March 16, 2015 Not Reported in N.W.2d 2015 WL 1128509 A14-0727

Relator Eunice Smith challenges a Minnesota Department of Employment and Economic Development (DEED) unemployment law judge's (ULJ) decision that she owes a debt recoverable under the Minnesota Revenue Recapture Act. We affirm. This is relator's second certiorari appeal concerning her application for and receipt of unemployment benefits for most...

...Department of Employment and Economic Development, File No. 32104537–2 Erick G. Kaardal , Mohrman, Kaardal & Erickson, P.A., Minneapolis, MN, for relator. Lee B...

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19. State on-line voter registration writ of quo warranto (Minnesota Court of Appeals)

Minnesota Voters Alliance v. State

Court of Appeals of Minnesota. May 26, 2015 Not Reported in N.W.2d 2015 WL 2457010 A14-1585 6 Citing References

Appellants challenge the district court's denial of their request for attorney fees under the Minnesota Equal Access to Justice Act (MEAJA), Minn.Stat. §§ 15.471–.474 (2014), after successfully obtaining a writ of quo warranto requiring respondents to discontinue online voter registration, arguing that the district court erred by...  
...Ramsey County District Court, File No. 62–CV–13–7718 Erick G. Kaardal , Mohrman, Kaardal & Erickson, P.A., Minneapolis, MN, for appellants. Lori Swanson...

20. Property owner incarcerated over land control issue (Minnesota Court of Appeals)

County of Isanti v. Kiefer

Court of Appeals of Minnesota. August 25, 2009 Not Reported in N.W.2d 2009 WL 2595890 A08-1714

REAL PROPERTY - Zoning and Planning. A vehicle parked on an owner's property was not in violation of a city ordinance.

...Sarah J. Sonsalla , Kennedy & Graven, Chtd., Minneapolis, MN, for respondent. Erick G. Kaardal , Mohrman & Kaardal, P.A., Minneapolis, MN, for relator. Considered and decided...

County termination of county administrator without proper notice (U.S. District Court for District of Minnesota)

21. Hebert v. Winona County

United States District Court, D. Minnesota. June 26, 2015 111 F.Supp.3d 970 2015 WL 3938194 CIV. 15-469 RHK/JJK 13 Citing References

LABOR AND EMPLOYMENT - Public Employment. Under Minnesota law, former county employee's claims against county for defamation and breach of contract could only be asserted in certiorari proceeding.

Background: Following termination, former county employee brought action against county and members of county board of commissioners, asserting that defendants violated his due process rights, discriminated against him on the basis of his marital status, breached his contract, and defamed him. Defendants removed case to federal court and subsequently filed motion to dismiss.

Holdings: The District Court, Richard H. Kyle, J., held that:

1 former employee was precluded from obtaining writ of mandamus as remedy for alleged violations of his rights to pre-termination and post-termination hearings; and 2 under Minnesota law, former employee's claims for defamation and breach of contract could only be asserted in certiorari proceeding.

Motion granted.

...certiorari. M.S.A. §§ 363A.08(2) 363A.33(1)(3) Erick G. Kaardal , Mohrman, Kaardal & Erickson, P.A., Minneapolis, MN, for Plaintiff. Cally R...

22. State regulation of on-reservation fireworks sales (Minnesota Court of Appeals) (pending)

Irv's Boomin' Fireworks, LLC v. Muhar

Court of Appeals of Minnesota. April 09, 2018 Not Reported in N.W. Rptr. 2018 WL 1702862 A17-1416 2 Citing References

Appellants Irving Seelye and Irv's Boomin' Fireworks, LLC, challenge the district court's denial of their motion for temporary injunctive relief to preclude respondent Itasca County Attorney's Office and its officers from enforcing Minnesota's fireworks law, codified at Minnesota Statutes sections 624.20 to 624.25 (2016), against appellants....

...Itasca County District Court, File No. 31-CV-17-1538 Erick G. Kaardal Vincent J. Fahlander , Mohrman, Kaardal & Erickson, P.A., Minneapolis, Minnesota (for...

23. Minnesota constitutional right to jury trial in civil case.

Storms v. Schneider

Court of Appeals of Minnesota. August 08, 2011 802 N.W.2d 824 2011 WL 3426034 A10-1876 33 Citing References

COMMERCIAL LAW - Replevin. Action seeking to recover religious statue from its creator was a replevin action for which a right to jury trial applied.

Background: Religious ceremony participant brought action to recover a religious statue from its creator with whom participant had an alleged agreement to purchase statue. The District Court, Ramsey County, Dale B. Lindman, J., denied creator's request for a jury trial, conducted a court trial, and decided in favor of participant. Creator appealed.

Holdings: The Court of Appeals, Johnson, C.J., held that:

1 a replevin action is an action at law giving rise to a right to a trial by jury, and  
2 participant's cause of action was a replevin action.

Reversed and remanded.

...Laurel J. Pugh , Bassford Remele, P.A., Minneapolis, MN, for respondent. Erick G. Kaardal William F. Mohrman , Mohrman & Kaardal, P.A., Minneapolis, MN, for appellant...

24. Tribal sovereign immunity does not apply to a tribal member or tribal employees (Minnesota Court of Appeal)

Shepherd v. Stade

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Court of Appeals of Minnesota. June 03, 2008 Not Reported in N.W.2d 2008 WL 2246259 A07-1220 7 Citing References

NATIVE AMERICANS - Parties. Tribe was neither a necessary nor indispensable party to a tortious interference claim against a tribal member by a former tribal employee.

...Scott County District Court, File No. 70-CV-07-6059. Erick G. Kaardal William F. Mohrman , Mohrman & Kaardal, P.A., Minneapolis, MN, for respondent...

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25. Right of boys to participate in high school competitive dance (U.S. District Court of District of Minnesota)

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D.M. by Bao Xiong v. Minnesota State High School League

United States District Court, D. Minnesota. September 27, 2018 335 F.Supp.3d 1136 2018 WL 4656275 CV 18-2140 (PAM/SER) 2 Citing References

EDUCATION — Extracurricular Activities. Male high school students were not entitled to preliminary injunction against enforcement of girls-only dance team rule.

Background: Male students brought action alleging that the Minnesota State High School League (MSHSL) rule that high school competitive dance team was a girls-only sport violated equal protection and Title IX. Students moved for preliminary injunction.

Holdings: The District Court, Paul A. Magnuson, J., held that:

1 students were not likely to success on the merits;

2 students showed irreparable harm; and

3 public interest and balance of equities did not support the grant of a preliminary injunction.

Motion denied.

...P. Thompson Timothy R. Snowball , Pacific Legal Foundation, Sacramento, CA, Erick G. Kaardal , Mohrman, Kaardal & Erickson, P.A., Minneapolis, MN, for Plaintiffs. Joseph A...

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26. Minnesota's criminal defamation statute is unconstitutionally overbroad.

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State v. Turner

Court of Appeals of Minnesota. May 26, 2015 864 N.W.2d 204 2015 WL 2456991 A14-1408 23 Citing References

CIVIL RIGHTS - Free Speech. Criminal defamation statute, which did not include truth as absolute bar or incorporate actual malice standard for public issues, was unconstitutionally overbroad.

Background: Defendant was convicted in the District Court, Isanti County, after a stipulated-facts trial, of criminal defamation for posting sexually explicit internet ads containing the cellular telephone numbers of defendant's former girlfriend and her minor daughter. Defendant appealed.

Holdings: The Court of Appeals, Reilly, J., held that:  
1 criminal defamation statute was unconstitutionally overbroad, and  
2 statute was not susceptible to a narrowing construction.  
Reversed.

...John Arechigo , Arechigo & Stokka, LLP, St. Paul, MN, for  
appellant. Erick G. Kaardal , Mohrman, Kaardal & Erickson, P.A., Minneapolis, MN;  
and Eugene Volokh , (pro...

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27. Even the Hennepin County Sheriff has to follow the campaign laws (Minnesota Court of Appeals)

Lewison v. Hutchinson

Court of Appeals of Minnesota. May 13, 2019 929 N.W.2d 444 2019 WL 2079487 A18-1700 1 Citing Reference

GOVERNMENT — Elections. Display of nonconforming lawn signs continually violated statute, and thus limitations period did not begin to run while signs remained up.

Background: Political candidate and his campaign committee appealed from decision of the Office of Administrative Hearings (OAH) determining that they prepared and disseminated campaign material without required disclaimer.

Holdings: The Court of Appeals, Bjorkman, J., held that:

1 statute that required campaign materials to include disclaimer did not impermissibly restrict right to free speech;  
2 public display of lawn signs without required disclaimer was continuing violation of statute requiring disclaimer; and  
3 substantial evidence supported OAH finding that candidate had disseminated nonconforming lawn signs for purpose of influencing voting at election.  
Affirmed.

...display. Office of Administrative Hearings, File No. 68-0325-35511 Erick G. Kaardal , Mohrman, Kaardal & Erickson, P.A., Minneapolis, Minnesota (for respondent Alex Lewison...

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- 28-34. Hobby Lobby cases (U.S. District Court for District of Minnesota)

Kaardal filed 7 of the 52 for-profit lawsuits filed nationwide pursuing the Religious Freedom Restoration Act claims against the federal Department of Health and Human Services for its HHS Mandate that employer-insurance cover abortifacients and contraception. All 7 of the case resulted in judgment for the plaintiffs and against the federal agency.

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35. Edina School District flag counter-protest case (U.S. District Court for District of Minnesota)
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In this case, the Edina School District terminated its Young Conservative Club because of its counter-protest against protesters at a Veterans Day Ceremony. After the First Amendment lawsuit in federal court was filed, the case settled restoring the Young Conservative Club to good standing.

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36. Nygard v. Orono (Hennepin County District Court)
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In this case, Orono's complete ban on small wind energy conversion systems (i.e. windmills) was struck down as violative of Minnesota's alternative energy statutes.

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37. Minnetrista (Office of Administrative Hearings)
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In this case, a group of Minnetrista Council Members, their campaign committees and others were found to be in violation of Minnesota's campaign finance laws.

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38. Amanda Weber (Morrison County District Court)
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In this case, Child Protection Services was required to return a seized child because there was insufficient evidence to justify such seizure.

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39. Wabasha District Court injunction (Wabasha County District Court)
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In this case, the Wabasha County Sheriff was enjoined from continuing a safe driving program because it violated Minnesota's uniform laws on issuing traffic tickets.

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40. Save Lake Curran (Ramsey County District Court)
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In this case, the Department of Natural Resources after over 1 year of litigation agreed to repair an outlet structure to restore a 600 acre duck pond.

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41. City of Lino Lakes (Office of Administrative Hearings)
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In this case, the City of Lino Lakes was held accountable for failing to disclose campaign spending on its campaign finance report.

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42. Eveleth-Gilbert School District and Virginia School District
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In this case, the school districts were held accountable for failing to disclose campaign spending on its campaign finance report.

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