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61 Examples of Election Integrity Lawfare Successes

1. Polling place restrictions on voter apparel. U.S. Supreme Court decision in *Minnesota Voters Alliance v. Mansky*, 138 S.Ct. 1876 (2018). Background: Political organization, registered voter, and county election judge brought 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 Supreme Court, held that: Minnesota's political apparel ban restricted form of expression protected by First Amendment; a polling place in Minnesota qualifies as a nonpublic forum, for First Amendment purposes; 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, Minnesota's political apparel ban was not capable of reasoned application and thus violated Free Speech Clause.
2. Judicial campaign restriction on a candidate announcing their views on disputed legal and political issues. U.S. Supreme Court decision in *Republican Party of Minnesota v. White*, 536 U.S. 765, 122 S.Ct. 2528 (2002). Background: 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 U.S. Supreme Court held that the canon violated the First Amendment.
3. Judicial campaign restriction on a candidate identifying with a political party. U.S. Court of Appeals decision in *Republican Party of Minnesota v. White*, 416 F.3d 738 (8th Cir. 2005). Background: 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 identifying with a political party violated the First Amendment. The U.S. Court of Appeals held that the canon violated the First Amendment.
4. Judicial campaign restriction on a candidate attending a political gathering. U.S. Court of Appeals decision in *Republican Party of Minnesota v. White*, 416 F.3d 738 (8th Cir. 2005). Background: 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 attending a political gathering violated the First Amendment. The U.S. Court of Appeals held that canon violated the First Amendment.

5. Judicial campaign restriction on a candidate seeking, accepting or using political party endorsements. U.S. Court of Appeals decision in *Republican Party of Minnesota v. White*, 416 F.3d 738 (8th Cir. 2005). Background: 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 seeking, accepting or using political party endorsements violated the First Amendment. The U.S. Court of Appeals held that canon violated the First Amendment.
6. Judicial campaign restriction on a candidate personally soliciting political contributions. U.S. Court of Appeals decision in *Republican Party of Minnesota v. White*, 416 F.3d 738 (8th Cir. 2005). Background: 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 personally soliciting political contributions violated the First Amendment. The Supreme Court held that canon violated the First Amendment.
7. State school district not disclosing and reporting promotional campaign statements assuming it was not a corporation under the Minnesota Campaign Financial Reports Act. The Minnesota Supreme Court in *Abrahamson v. St. Louis County School Dist.*, 819 N.W.2d 129 (2012). 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 by failing to file required financial reports. The Office of Administrative Hearings (OAH) dismissed the complaint. 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. The Minnesota Supreme Court held, in part, that: school district was a corporation within meaning of Campaign Financial Reports Act; and, on issue of first impression, complainants established prima facie case that district made promotional statements which needed to be reported.
8. Secretary of State legally unauthorized to initiate state on-line voter registration system. Ramsey County District Court, Minnesota decision in File No. 62-CV-13-7718 (Apr. 18, 2014), referred to in decision by Minnesota Court of Appeals, 2015 WL 2457010. Background: Political group sued Secretary of State for writ of quo warranto to prevent legally unauthorized on-line voter registration by Secretary of States. The Minnesota state court issued the writ of quo warranto requiring Secretary of State to discontinue the legally unauthorized online voter registration system.
9. Statutory disclaimer requirement applied to anonymous political literature compelling disclosure of publisher of political literature. The Minnesota Court of Appeals in *Riley v. Jankowski*, 713 N.W.2d 379 (2006). 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. The Court of Appeals reversed the decision holding that the statute requiring a disclaimer on campaign literature was overbroad and unconstitutionally restricted pure speech in violation of the First Amendment.

10. Statutory ban on false political speech authorizes administrative complaints against truthful political statements. The United States Court of Appeals in *281 Care Committee v. Arneson*, 766 F.3d 774 (8th Cir. 2014). 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, 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. The U.S. Court of Appeals, Beam, Circuit Judge, 638 F.3d 621, reversed in part, vacated in part, and remanded. On remand, the United States District Court for the District of Minnesota denied organizations' motion for summary judgment, granted of summary judgment in favor of defendants, and dismissed all claims with prejudice. Organizations appealed. The U.S. Court of Appeals held, in part, that: organizations alleged injury in fact sufficient to support standing; statute making it a crime to make false statement about proposed ballot initiative was subject to strict scrutiny; and statute was not narrowly tailored to meet a compelling government interest.
11. Secretary of State exceeded authority in writing ballot titles for proposed constitutional amendment restricting marriage to a man and a woman. The Minnesota Supreme Court in *Limmer v. Ritchie*, 819 N.W.2d 622 2012 WL (2012). 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.
12. State legislature had not exceeded its authority in writing a proposed constitutional amendment requiring voter identification. The Minnesota Supreme Court in *League of Women Voters Minnesota v. Ritchie*, 819 N.W.2d 636 (2012). 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. The Minnesota Supreme Court held, in part, that: 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.

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13. City of St. Paul, Minnesota, compelling landlords to provide voter registration materials to tenants. The U.S. District Court in *Minnesota Voters Alliance v. City of Saint Paul and City of Minneapolis*, 442 F.Supp.3d 1109 (D.Minn. 2020). Background: 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. The U.S. District Court held that: voter-registration flyers were government speech; strict scrutiny analysis applied to determine constitutionality of ordinances; cities identified compelling government interests served by ordinances; and cities failed to demonstrate that ordinances were narrowly tailored to serve compelling government interest.
 14. City of Minneapolis, Minnesota, compelling landlords to provide voter registration materials to tenants. The U.S. District Court in *Minnesota Voters Alliance v. City of Saint Paul and City of Minneapolis*, 442 F.Supp.3d 1109 (D.Minn. 2020). Background: 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. The U.S. District Court held that: voter-registration flyers were government speech; strict scrutiny analysis applied to determine constitutionality of ordinances; cities identified compelling government interests served by ordinances; and cities failed to demonstrate that ordinances were narrowly tailored to serve compelling government interest.
 15. City of East Lansing, Michigan, compelling landlords to provide voter registration materials to tenants. Complaint filed in U.S. District Court, Case No. 23-0278 USDC-MI(W) (2023). Background: Landlord filed complaint against City of East Lansing, Michigan, alleging that city ordinances requiring landlords to provide voter-registration information to new tenants violated their First Amendment right to freedom of speech. Instead of answering the complaint, the landlord offered to repeal the constitutionally offensive ordinance. The City of East Lansing repealed the ordinance in April of 2023.
 16. City of Ypsilanti, Michigan, compelling landlords to provide voter registration materials to tenants. Complaint filed in U.S. District Court, Case No. 23-11116 USDC-MI(E) (2023). Background: Landlord filed complaint against City of Ypsilanti, Michigan, alleging that city ordinances requiring landlords to provide voter-

registration information to new tenants violated their First Amendment right to freedom of speech. Instead of answering the complaint, the landlord offered to repeal the constitutionally offensive ordinance. The City of Ypsilanti repealed the ordinance in July of 2023.

16. Display of nonconforming lawn signs continually violated statute. The Minnesota Court of Appeals in *Lewison v. Hutchinson*, 929 N.W.2d 444 (2019).
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. The Court of Appeals held that: statute that required campaign materials to include disclaimer did not impermissibly restrict right to free speech; public display of lawn signs without required disclaimer was continuing violation of statute requiring disclaimer; and substantial evidence supported OAH finding that candidate had disseminated nonconforming lawn signs for purpose of influencing voting at election.
17. City of Milwaukee, Wisconsin, uses absentee ballot drop boxes in 2020 and subsequent elections. Complaint filed in Wisconsin Elections Commission EL 21-31 and subsequent appeal to Milwaukee County Circuit Court, Case No. 2022-CV-3361.
Background: Milwaukee resident filed administrative complaint in Wisconsin Elections Commission against use of absentee ballot drop boxes which were funded by Center for Tech and Civic Life. The Wisconsin Elections Commission dismissed complaint. Milwaukee resident took appeal to Milwaukee County Circuit Court. While appeal was pending, the Wisconsin Supreme Court in the *Teigen v. Wisconsin Elections Commission*, 2022 WI 64 (Jul. 8, 2022) case ruled that the absentee ballot drop boxes were not legally authorized. Subsequently, the City of Milwaukee changed its policy not to use absentee ballot drop boxes. Then, the case was dismissed as moot.
18. City of Madison, Wisconsin, uses absentee ballot drop boxes in 2020 and subsequent elections. Complaint filed in Wisconsin Elections Commission EL 21-33 and subsequent appeal to Dane County Circuit Court, Case No. 2022-CV-1258.
Background: Madison resident filed administrative complaint in Wisconsin Elections Commission against use of absentee ballot drop boxes which were funded by Center for Tech and Civic Life. The Wisconsin Elections Commission dismissed complaint. Green Bay resident took appeal to Dane County Circuit Court. While appeal was pending, the Wisconsin Supreme Court in the *Teigen v. Wisconsin Elections Commission*, 2022 WI 64 (Jul. 8, 2022) case ruled that the absentee ballot drop boxes were not legally authorized. Subsequently, the City of Madison changed its policy not to use absentee ballot drop boxes. Then, the case was dismissed as moot.

19. City of Racine, Wisconsin, uses absentee ballot drop boxes in 2020 and subsequent elections. Complaint filed in Wisconsin Elections Commission EL 21-30 and subsequent appeal to Racine County Circuit Court, Case No. 2022-CV-0594. Background: Racine resident filed administrative complaint in Wisconsin Elections Commission against use of absentee ballot drop boxes which were funded by Center for Tech and Civic Life. The Wisconsin Elections Commission dismissed complaint. Racine resident took appeal to Racine County Circuit Court. While appeal was pending, the Wisconsin Supreme Court in the *Teigen v. Wisconsin Elections Commission*, 2022 WI 64 (Jul. 8, 2022) ruled that the absentee ballot drop boxes were not legally authorized. Subsequently, the City of Racine changed its policy not to use absentee ballot drop boxes. Then, the case was dismissed as moot.
20. City of Kenosha, Wisconsin, uses absentee ballot drop boxes in 2020 and subsequent elections. Complaint filed in Wisconsin Elections Commission EL 21-29 and subsequent appeal to Kenosha County Circuit Court, Case No. 2022-CV-0543. Background: Kenosha resident filed administrative complaint in Wisconsin Elections Commission against use of absentee ballot drop boxes which were funded by Center for Tech and Civic Life. The Wisconsin Elections Commission dismissed complaint. Kenosha resident took appeal to Kenosha County Circuit Court. While appeal was pending, the Wisconsin Supreme Court in the *Teigen v. Wisconsin Elections Commission*, 2022 WI 64 (Jul. 8, 2022) case ruled that the absentee ballot drop boxes were not legally authorized. Subsequently, the City of Kenosha changed its policy not to use absentee ballot drop boxes. Then, the case was dismissed as moot.
21. City of Green Bay, Wisconsin, uses absentee ballot drop boxes in 2020 and subsequent elections. Complaint filed in Wisconsin Elections Commission EL 21-24 and subsequent appeal to Brown County Circuit Court, Case No. 2022-CV-0612. Background: Green Bay resident filed administrative complaint in Wisconsin Elections Commission against use of absentee ballot drop boxes which were funded by Center for Tech and Civic Life. The Wisconsin Elections Commission dismissed complaint. Green Bay resident took appeal to Brown County Circuit Court. While appeal was pending, the Wisconsin Supreme Court in the *Teigen v. Wisconsin Elections Commission*, 2022 WI 64 (Jul. 8, 2022) case ruled that the absentee ballot drop boxes were not legally authorized. Subsequently, the City of Green Bay changed its policy not to use absentee ballot drop boxes. Then, the case was dismissed as moot.
22. School District campaign finance disclosures statute of limitations issue. The Court in *Minnesota Voters Alliance v. Anoka Hennepin School Dist.*, 2013 WL 6725847 (2013). Background: Relators, in part, challenged 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). Plaintiffs won that part of the appeal. The Court of Appeals held that the limitations period on a claim that the school district failed to meet its reporting obligations would not run until reports were required to be filed and concluded that the ALJ erred by determining that relators' financial-reporting claim was untimely.

23. City council members through committee indiscriminately violate campaign finance laws. The Minnesota Office of Administrative Hearings in *Shannon Bruce v. Our Minnetrista, et al.*, Case No. OAH 71-0325-35774 (2019). Background: Minnetrista, Minnesota resident brought claim that City Council member through “Our Minnetrista” organization were violating campaign finance laws. The Office of Administrative Hearings made the following findings as noted in the findings of fact and conclusions of law and order, filed June 7, 2019. In voting districts with less than 100,000 residents cannot accept more than \$600 in contributions from an individual or committee. Our Minnetrista is a committee and handled all of contributions and disbursements for the campaigns for Mortenson, Thoele, Whalen and Tschumperlin, and therefore the candidates violated the law. Our Minnetrista, specifically Kolb and Danielson, were ordered to pay a fine of \$2,000. Mortenson was ordered to pay a fine of \$1,200 — \$600 for 2014 and \$600 for 2018. Thoele and Whalen were ordered to pay a fine of \$600 for the 2014 election. Tschumperlin was ordered to pay a fine of \$600 for the 2018 election.

24. City promotes charter amendment without filing campaign finance report. Minnesota Office of Administrative Hearings in *Mike Trebus v. City of Lino Lakes, et al.*, City of Lino Lakes, Case No. OAH 48-0325-31026 (Office of Administrative Hearings) (2014). Background: Lino Lakes, Minnesota, resident filed an administrative complaint against the City of Lino Lake for promoting a charter amendment without filing a campaign finance report. The OAH held that the city’s flyer was promotional and the city had violated campaign finance law by not filing a report.

25. School promotes bond referendum without filing campaign finance report. The Minnesota Office of Administrative Hearings in *Concerned Citizens of the Eveleth-Gilbert and Virginia School Districts, Complainant, vs. Eveleth-Gilbert and Virginia School Districts*, OAH 82-0325-36868 (Office of Administrative Hearings)(2020). Background: Eveleth-Gilbert and Virginia school district resident filed an administrative complaint against the school district for promoting a bond referendum without filing a campaign finance report. The OAH held that the city’s flyer was promotional and the city had violated campaign finance law by not filing a report.

26. Dane County Clerk investigation and report of court-adjudicated ineligible wards voting. After two administrative complaints filed with WEC and multiple Open Records Act lawsuits, the Dane County Clerk recognized a problem needed to be fixed with ineligible wards voting in Dane County. The Dane County Clerk's survey showed approximately 300 ballots cast in recent elections by court-adjudicated ineligible wards. A March 25, 2023 accounting of the investigation and report is found on the internet here: <https://wisconsinwatch.org/2023/03/dane-county-election-review-finds-dozens-of-ineligible-voters-who-cast-ballots/>
27. Wisconsin Office of Special Counsel Report re: 2020 election. The Wisconsin Office of Special Counsel Interim Report dated March 1, 2022. This report incorporated many election integrity elements previously investigated and reported including Center for Tech and Civic Life election grants to Milwaukee, Madison, Kenosha, Racine and Green Bay; legally unauthorized absentee ballot drop boxes; court-adjudicated ineligible wards voting.
- 28-52 State legislative victories banning private money in election administration. Pre-2020 election lawsuits were filed in Pennsylvania, Michigan, Wisconsin, Minnesota, Iowa, Texas, Georgia and South Carolina to prevent private funding of election administration by Center for Tech and Civic Life in the 2020 election. After the elections, the lawsuits were dismissed on jurisdictional grounds or voluntarily withdrawn. However, after the election, the following 25 states adopted bans on private money funding election administration: Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and West Virginia. Four of those states where the lawsuits had been filed: Georgia, Iowa, Pennsylvania and South Carolina.
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- 53-61. State administrative victories withdrawing from the private non-profit Electronic Registration Information Center (ERIC). Since 2020 election, there has been an education plan informing state election officials that contracting with ERIC and sharing driver data violate the federal Driver Privacy Protection Act. In 2022, Administrative HAVA (Help America Vote Act) complaints were filed in Pennsylvania, Michigan, Wisconsin and Minnesota claiming the respective state's contracts violate the Driver Privacy Protection Act. The administrative complaints were dismissed or withdrawn. However, since the 2020 election, the following 9 states have withdrawn from ERIC: Louisiana, Alabama, Missouri, Florida, West Virginia, Iowa, Ohio, Virginia, and Texas. ERIC has only 24 states left.